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Selected Subjects

Banks, Banking
Federal Reserve System
Claims
Defense Department
Color Additives
Food and Drug Administration
Crop Insurance
Federal Crop Insurance Corporation
Endangered and Threatened Wildlife
Fish and Wildlife Service
Ethylene Dibromide
Occupational Safety and Health Administration
Fisheries
National Oceanic and Atmospheric Administration
Food Assistance Programs
Food and Nutrition Service
Income Taxes
Internal Revenue Service
Indians—Business and Finance
Indian Affairs Bureau
Maritime Carriers
Federal Maritime Commission
Marketing Agreements
Agricultural Marketing Service

CONTINUED INSIDE

Selected Subjects

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Medicare
Health Care Financing Administration
Natural Gas
Federal Energy Regulatory Commission
Occupational Safety and Health
Occupational Safety and Health Administration
Postal Service
Postal Service
Radiation Protection
Environmental Protection Agency
Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 196
Friday, October 7, 1983

The President
PROCLAMATIONS
45753 Myasthenia Gravis Awareness Week (Proc. 5114)

Executive Agencies

Agricultural Marketing Service
RULES
45755 Lemons grown in Ariz. and Calif.
PROPOSED RULES
45786 Grapefruit grown in Calif.; referendum

Agriculture Department
See Agricultural Marketing Service; Federal Crop Insurance Corporation; Federal Grain Inspection Service; Food and Nutrition Service; Food Safety and Inspection Service; Forest Service.

Army Department
NOTICES
Meetings:
45820 Medical Research and Development Advisory Committee

Arts and Humanities, National Foundation
NOTICES
Meetings:
45858 Humanities Advisory Panel

Bonneville Power Administration
NOTICES
45829 Average system cost methodology for electric power sales, reconsultation; inquiry

Census Bureau
NOTICES
Meetings:
45812 American Economic Association Advisory Committee

Civil Aeronautics Board
RULES
Fees and charges for special services:
45758 Foreign air carriers; waiver of filing-fee requirements
NOTICES
45811 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
45867 Meetings; Sunshine Act (2 documents)

Civil Rights Commission
NOTICES
45867 Meetings; Sunshine Act

Coast Guard
PROPOSED RULES
Inland waterways navigation regulations:
45798 Lake Huron to Lake Erie, connecting waters; hearing and extension of time

Commerce Department
See also Census Bureau; Economic Development Administration; Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
45819 Chicago Board of Trade; exchange speculative position limits

Community Planning and Development, Office of Assistant Secretary
RULES
Community development block grants:
45760 Program administration; correction

Defense Department
See also Army Department.
PROPOSED RULES
Civilian health and medical program of uniformed services (CHAMPUS):
45791 Federal claims collection

Economic Development Administration
NOTICES
Senior Executive Service:
45812 Performance Review/Executive Resources Board; membership

Economic Regulatory Administration
NOTICES
Consent orders:
45830 Fletcher Oil & Refining Co. Inc.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
45831 Detroit Edison Co.
45832 Shepard Oil, Inc.

Employment and Training Administration
NOTICES
Adjustment assistance:
45857 American Motors Corp.
45857 Smith-Jones, Inc.
45857 Westinghouse Electric Corp.
Emergency jobs appropriations act:
45858 Civil jurisdictions classified as high unemployment areas; additions to list

Employment Standards Administration
NOTICES
45900 Minimun wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Del., Hawaii, Idaho, Iowa, Ind., La., Mich., Mont., Nev., N.C., N. Mex., Okla., Oreg., Pa., Tex., Wash., and Wis.

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
RULES
45760 Procurement; correction
NOTICES
Environmental statements; availability, etc.:
45820 Canonsburg, Pa.; remedial actions at former vitro rare metals plant site
Floodplain and wetlands environmental review determinations; availability, etc.:
45823 Canonsburg, Pa.; remedial actions at former vitro rare metals plant site
Meetings:
45823 National Petroleum Council
45827 Power marketing administration; interest rate formula

Environmental Protection Agency
RULES
Radiation protection programs:
45926 Uranium and thorium mill tailings, health and environmental standards; licensed commercial processing sites
Toxic substances:
45765 Records and reports of allegations of significant adverse reactions to health or environment; meeting
PROPOSED RULES
Water pollution contol:
45798 Ocean dumping; Gulf of Mexico, site designation
NOTICES
Environmental statements; availability, etc.:
45840 Agency statements; weekly receipts
45839, 45840 Agency statements; weekly receipts; correction (2 documents)
Air quality criteria:
45840 Lead; external review draft; availability; correction
Toxic and hazardous substances control:
45840 Confidential information and data transfer to contractors (ICF Inc. et al.)
45842 Premanufacture notices receipts
45841 Premanufacture notification requirements; test marketing exemption applications
Water pollution; discharge of pollutants (NPDES):
45841 Alaska; hearing

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
45782 Table grapes

Federal Deposit Insurance Corporation
NOTICES
45867, 45868 Meetings; Sunshine Act (3 documents)

Federal Election Commission
NOTICES
45869 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
45758 Incremental pricing; Phase II, temporary stay of effective date
PROPOSED RULES
Natural Gas Policy Act:
45787 Incremental pricing; Phase II, continuation of stay
NOTICES
Hearings, etc.:
45833 K N Energy, Inc.
45836, 45837 Oklahoma Corp. Commission et al. (2 documents)
45833 Natural Gas Pipeline Co. of America
45834 Northwest Pipeline Corp.
45835 Southern Natural Gas Co.
45834 Southwest Gas Corp.
45835, 45836 United Gas Pipe Line Co. (3 documents)
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
45837 Greenwood Mills, Inc.
45837 Kern River Cogeneration Co.
45838 Owens-Illinois, Inc.
45838 Pelican Management Inc.
45838 Piru Creek Solar-Hydro
45838 Prest Enterprises, Inc.
45839 South Fork Hydroelectric Association
Natural Gas Policy Act:
45950 Jurisdictional agency determinations

Federal Grain Inspection Service
NOTICES
Meetings:
45810 Advisory Committee

Federal Maritime Commission
PROPOSED RULES
45800 Shipping in U.S./Philippines trade; actions to adjust unfavorable conditions

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
45756 Technical amendments; early withdrawal penalties, etc.
NOTICES
Applications, etc.:
45845 Banks of Iowa, Inc., et al.
45846 Howard Bancorp et al.
45846 Midwest Financial Group, Inc.
45846 River Region Bancshares, Inc.
Bank holding companies; proposed de novo nonbank activities:
45845 Bank of New England Corp. et al.
Meetings:
45844 Consumer Advisory Council
45869 Meetings; Sunshine Act (3 documents)

Fish and Wildlife Service
RULES
Endangered Species Convention:
45775 American ginseng
NOTICES
45854 Endangered and treateded species permit applications

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
45760 Amoxicillin trihydrate for oral suspension; correction

Color additives:
45760 FD&C Yellow No. 5; provisional listing

Food and Nutrition Service
PROPOSED RULES
Child nutrition programs:
45779 Child care food program; claim and report submission

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
45755 Export inspection and certification; reimbursable services

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
45812, 45813 Michigan (2 documents)
45814 Texas

Forest Service
NOTICES
Land and resource management plans; roadless are review, etc.:
45810 Cleveland National Forest, Calif.

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration; National Institutes of Health.
NOTICES
45847 Agency information collection activities under OMB review

Health Care Financing Administration
RULES
Medicare
45766 Provider Reimbursement Review Board; expedited administrative review

Hearings and Appeals Office, Energy Department
NOTICES
Remedial orders:
45[illegible] Objections filed (2 documents)

Historic Preservation, Advisory Council
NOTICES
45810 Meetings

Housing and Urban Development Department
See Community Planning and Development, Office of Assistant Secretary.

Indian Affairs Bureau
PROPOSED RULES
45789 Licensed Indian traders and Bureau employees contracting and trading with Indians

Interior Department
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service.
NOTICES
Meetings:
45849 Oil Shale Environmental Advisory Board

Internal Revenue Service
RULES
Income taxes:
45761 Group-term life insurance

International Trade Administration
NOTICES
Antidumping:
45816 Chloropicrin from China; postponement
45816 Forged undercarriage components from Italy
45815 Potassium permanganate from China; postponement
Scientific articles; duty free entry:
45815 Purdue University
45814 University of Health Sciences

International Trade Commission
NOTICES
45869 Meetings; Sunshine Act

Interstate Commerce Commission
RULES
Motor carriers:
45775 Property carriers; liability insurance; minimum amounts for bodily injury and property damage; correction
NOTICES
Motor carriers:
45855 Compensated intercorporate hauling operations; intent to engage in
Railroad operation, acquisition, construction, etc.:
45855 Anthracite Railway, Inc.
45856 Transkentucky Transportation Railroad, Inc.
Railroad services abandonment:
45856 Oregon Short Line Railroad Co. et al.

Justice Department
See National Institute of Justice.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.
NOTICES
45856 Agency information collection activities under OMB review

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
45850 Uinta-Southwestern Utah Coal Region, Colo. and Utah
Leasing of public lands:
45852 Alaska
Meetings:
45851 Eastern States Known Geologic Structure Data Base
45851 Lewistown District Grazing Advisory Board
45853 National Public Lands Advisory Council
45851 Shoshone District Advisory Council
Oil and gas leases:
45852 Wyoming
Resource management plans:
45849 Lahontan Resource Area, Nev.
Sale of public lands:
45852, 45853 Idaho (2 documents)

Survey plat filings:
45851 California
45854 Wyoming

Maritime Administration
NOTICES
Meetings:
45866 Maritime Advisory Committee

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
45855 Texaco U.S.A.

National Institute of Justice
NOTICES
Meetings:
45856 Advisory Board

National Institutes of Health
NOTICES
Committees; establishment renewals, terminations, etc.:
45849 Arthritis National Advisory Board et al.
Meetings:
45848 Allergy and Infectious Diseases Institute, National; Scientific Counselors Board
45848 Heart, Lung, and Blood Research Review Committees
45847 Neurological and Communicative Disorders and Stroke Scientific Counselors Board
45848 Research Manpower Review Committee

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
45804, 45806 Bering Sea and Aleutian Islands groundfish; foreign fishing (2 documents)
NOTICES
Coastal zone management program:
45817 California; hearing and extension of comment time

National Science Foundation
NOTICES
Meetings:
45859, 45860 Atmospheric Sciences Advisory Committee (2 documents)
45861 Behavioral and Neural Sciences Advisory Panel
45860 Ocean Sciences Advisory Committee
45859–45861 Physiology, Cellular, and Molecular Biology Advisory Panel (3 documents)

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
45787 Backfitting process for power reactors; advance notice; correction
NOTICES
Applications, etc.:
45861 Commonwealth Edison Co. et al.
45862 Florida Power & Light Co.
Meetings:
45861 Reactor Safeguards Advisory Committee

Occupational Safety and Health Administration
PROPOSED RULES
Construction health and safety standards:
45872 Electrical standards
Occupational health and safety standards:
45956 Ethylene dibromide; occupational exposure

Postal Service
RULES
Domestic Mail Manual:
45762 ZIP + 4; discounts, etc.; interim
NOTICES
Mail classification schedules:
45864 ZIP + 4 first-class subclasses

State Department
NOTICES
Meetings:
45865 Historical Diplomatic Documentation Advisory Committee
45865 Shipping Coordinating Committee

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
45818 Philippines
Textile consultation; review of trade:
45819 Hungary; withdrawn

Transportation Department
See Coast Guard; Maritime Administration.

Treasury Department
See also Internal Revenue Service.
NOTICES
45866 Agency information collection activities under OMB review

Veterans Administration
NOTICES
45866 Privacy Act; systems of records

Separate Parts in This Issue

Part II
45872 Department of Labor, Occupational Safety and Health Administration

Part III
45900 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part IV
45926 Environmental Protection Agency

Part V
45950 Department of Energy, Federal Energy Regulatory Commission

Part VI
45956 Department of Labor, Occupational Safety and Health Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5114 45753

7 CFR
910 45755
Proposed Rules:
226 45779
441 45782
904 45786

9 CFR
350 45755
362 45755

10 CFR
Proposed Rules:
50 45787

12 CFR
217 45756

14 CFR
389 45758

18 CFR
282 45758
Proposed Rules:
282 45787

21 CFR
81 45760
540 45760

24 CFR
570 45760

25 CFR
Proposed Rules:
140 45789

26 CFR
1 45761

29 CFR
Proposed Rules:
1910 45956
1926 45872

32 CFR
Proposed Rules:
199 45791

33 CFR
Proposed Rules:
162 45798

39 CFR
111 45761

40 CFR
192 45926
717 45765
Proposed Rules:
228 45798

41 CFR
9–4 45766
9–51 45766

42 CFR
405 45766

46 CFR
Proposed Rules:
508 45800

49 CFR
1043 45775

50 CFR
23 45775
Proposed Rules:
611 (2 documents) 45804, 45806

VOL
48
ISS
1
9
6
OC
7
1983
UMI

Federal Register
Vol. 48, No. 196
Friday, October 7, 1983

Presidential Documents

Title 3—

The President

Proclamation 5114 of October 5, 1983

Myasthenia Gravis Awareness Week, 1983

By the President of the United States of America

A Proclamation

Americans with myasthenia gravis cannot move about freely, as most of us can. This chronic neuromuscular disease, which has no known cause, produces progressive muscular weakness and abnormally rapid fatigue of the voluntary muscles. Myasthenia gravis can also result in a life-threatening medical crisis, particularly when a patient's throat muscles are affected.

Myasthenia gravis can strike any person, at any age, at any time. At least 100,000 people have been diagnosed as having this disorder, and scientists estimate that another 100,000 persons with myasthenia gravis have not yet been diagnosed.

In the past, myasthenia gravis patients died or were severely incapacitated by their weakened muscles. Several forms of treatment developed by scientists in private and Federal research institutions have led to improved management of the disease. Research supported by the Myasthenia Gravis Foundation, Inc., in collaboration with the Neurological Institute of the National Institutes of Health, has made important contributions to the management of this neurological disorder. Today, myasthenia gravis patients can expect to lead nearly normal lives.

Although much has been learned about myasthenia gravis, we still do not have the means to prevent this crippling disease. In order that the public should be made aware of the suffering endured by those who have the disease, the Congress, by Senate Joint Resolution 140, has authorized and requested the President to proclaim the week of October 2 through October 8, 1983, as "Myasthenia Gravis Awareness Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 2, 1983, as Myasthenia Gravis Awareness Week. I call upon all government agencies, health organizations, and the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of October, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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VOL
48
ISS
1
9
6
OC
7
1983
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Rules and Regulations

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Friday, October 7, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendant of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 432]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 240,000 cartons during the period October 9–15, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 9, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on October 4, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act.

Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.732 is added as follows:

§ 910.732 Lemon regulation 432.

The quantity of lemons grown in California and Arizona which may be handled during the period October 9, 1983, through October 15, 1983, is established at 240,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 6, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-27602 Filed 10-6-83; 11:23 am]
BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 350 and 362

[Docket No. 83-026N]

Reimbursable Services for Export Inspection and Certification; Notice of Policy

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Rule related notice.

SUMMARY: This notice reiterates the policy of the Food Safety and Inspection Service (FSIS) regarding reimbursable services for export inspection and certification of meat and poultry products. This is necessary in order to advise exporters that, due to an increasing demand for special inspection requirements being placed by importing countries upon U.S. meat and poultry products destined for export, their costs for qualifying such products for export could increase.

FOR FURTHER INFORMATION CONTACT: Mr. L. G. Skufe, Director, Resource Management and Analysis Staff, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. (202) 447–5261.

SUPPLEMENTARY INFORMATION: Mandatory inspection by U.S. Government inspectors of meat and poultry slaughtered and/or processed at official establishments is provided for under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products, and the ordinary costs of providing for it are borne by the Government. However, other than ordinary costs for these inspection services may be incurred to accommodate the business needs of particular establishments; i.e., furnishing services on official holidays or on an overtime basis. These costs are recoverable by FSIS, and are set forth in

§ 307.5 of the Federal meat inspection regulations (9 CFR 307.5) and § 381.38 of the poultry products inspection regulations (9 CFR 381.38).

From time to time, special inspection requirements are placed by importing countries upon meat and poultry products that are not within the scope of mandatory inspection, such as those to meet certain religious or foreign importers' specifications. Therefore, FSIS also provides a range of voluntary inspection and certification services, the costs of which are totally recoverable by FSIS. These services are provided under Subchapter B of FSIS regulations, Voluntary Inspection and Certification Service of Meat and Poultry (9 CFR Part 350 *et seq.*), and assist in the marketing of various animal products and byproducts not covered under mandatory inspection.

Sections 350.3 and 362.2 of Subchapter B (9 CFR 350.3 and 362.2) describe, in part, the certification services available for any person intending to export meat or poultry products. The fees charged for these services, as well as other voluntary services, are set forth in §§ 350.7(c) and 362.5 (9 CFR 350.7(c) and 362.5(c)).

There appears to be an increase in the number of special inspection requirements being placed by importing countries upon U.S. meat and poultry products that are to be exported. By this notice, FSIS is emphasizing to exporters that the cost of meeting these requirements is the exporter's responsibility, and that any increased inspection cost required to make products eligible for export will be passed on to the exporter requesting these services.

Done at Washington, DC, on October 3, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-27384 Filed 10-6-83; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0483]

Interest on Deposits; Regulation Q; Technical Amendments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical amendments.

SUMMARY: Pursuant to its authority under section 19 of the Federal Reserve Act, as amended, the Board has amended Regulation Q—Interest on Deposits (12 CFR Part 217) to incorporate rules of the Depository Institutions Deregulation Committee ("DIDC"), adopted pursuant to the Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96-221). The amendments to Regulation Q are technical in nature and conform the Board's rules to those of the DIDC.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Paul S. Pilecki, Senior Counsel (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96-221) transfers to the DIDC the authority conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) upon the Board (and the similar authorities of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, which are contained in other statutes) to establish rules concerning the payment of interest on deposit accounts.

The Board has amended its Regulation Q to bring it into conformity with actions taken by the DIDC. The following table presents the regulatory provisions that have been affected by the DIDC's actions:

DIDC rule	Regulatory provision amended
1204.103—Penalty for Early Withdrawals.	217.4(d).
1204.123—Payment of Interest on Time Deposits Issued on or after October 1, 1983.	217.1(h), 217.7 (a), (b), (d), (h).
1204.121—Seven to 31-Day Time Deposits.	217.7(e).

DIDC rule repealed	Regulatory provision amended
1204.104—26 Week Money Market Time Deposits of Less Than $100,000.	217.6(i), 217.7(f).
1204.106—Time Deposits of Less Than $100,000 with Maturities of 2½ Years to Less Than 4 years.	217.7(g).
1204.112—Time Deposits of Less Than $100,000.	217.7(b).
1204.114—Phaseout of Finders Fees.	217.147.
1204.116—Tax-Exempt Savings Certificates.	217.3(a), 217.7(i).
1204.118—Individual Retirement Accounts and Keogh (H.R. 10) Plan Deposits of Less Than $100,000.	217.7(e).
1204.119—Time Deposits of Less Than $100,000 with Original Maturities of 3½ Years or More.	217.7(k).
1204.120—91-Day Time Deposits of Less Than $100,000.	217.6(i), 217.7(j).

Because of the technical nature of amendments conforming Regulation Q to actions of the DIDC, the Board finds that application of the notice and public participation provisions of 5 U.S.C. 553 to these actions is unnecessary and contrary to the public interest, and that good cause exists for making these actions effective October 1, 1983.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

PART 217—[AMENDED]

Pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461, 371a, and 371b), the Board amends Regulation Q (12 CFR Part 217), effective October 1, 1983, as follows:

1. Section 217.1 is amended in paragraph (b)(1)(iii) by removing "217.7(l)" and inserting "217.7(e)" in its place, in paragraph (e)(4) by removing "217.7(m)" and inserting "217.7(g)" in its place, and by revising paragraph (h) to read as follows:

§ 217.1 Definitions.

* * * * *

(h) *Obligations issued by the parent bank holding company of a member bank.* (1) For purposes of this part, the "deposits" of a member bank also includes an obligation that is (i) required to be registered with the Securities and Exchange Commission under the Securities Act of 1933; (ii) issued or guaranteed in whole or in part as to principal and interest by the member bank's parent which is a bank holding company under the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841-50), regardless of the use of proceeds; and (iii)(A) issued in a denomination of less than $100,000 and with a stated maturity, notice period or redemption period of less than seven days or (B) issued in a denomination of less than $2,500 and with a stated maturity, notice period, or redemption period of seven to thirty-one days.

(2) The term "deposits" does not include those obligations of a bank holding company that are subject to interest rate limitations imposed pursuant to Public Law 89-597.

* * * * *

2. Section 217.3 is amended in paragraph (f) by removing "217.7(l)" and inserting "217.7(e)" in its place and by revising the second sentence of paragraph (a) to read as follows:

§ 217.3 Interest on time and savings deposits.

(a) * * * The effects of compounding of interest may be disregarded in ascertaining the rate of interest paid. * * *

3. Section 217.4 is amended in paragraph (f) by removing "217.7(l)(2)" and inserting "217.7(e)(2)" in its place, and paragraph (d) by revising subparagraph (1)(iii) introductory text, by adding new subparagraphs (1)(iii) (D) and (E) and by adding new subparagraph (1)(iv), and by revising the last sentence of subparagraph (6) to read as follows:

§ 217.4 Payment of time deposits before maturity.

* * * * *

(d) * * *

(1) * * *

(iii) The following minimum early withdrawal penalty shall apply to time deposit contracts entered into, renewed, or extended between June 2, 1980, and September 30, 1983, and that have not been renewed or extended on or after October 1, 1983: * * *

(D) Notwithstanding subparagraphs (A) and (B), where a time deposit in an amount of $2,500 to less than $100,000, with an original maturity of 91 days, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount equal to at least all interest earned on the amount withdrawn.

(E) Notwithstanding subparagraph (A), where a nonnegotiable time deposit subject to an initial deposit of $2,500 or more, with an original maturity or required notice period of seven to 31 days, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount equal to at least the greater of

(*1*) All interest earned on the amount withdrawn from the most recent date of deposit, date of maturity, or date on which notice of withdrawal was given, or

(*2*) All interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or required notice period.

(iv) The following minimum early withdrawal penalty shall apply to time deposit contracts entered into, renewed, or extended on or after October 1, 1983:

(A) Where a time deposit with an original maturity or required notice period of seven to 31 days, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to the greater of (*1*) all interest earned on the amount withdrawn from the most recent of the date of deposit, date of maturity, or date on which notice of withdrawal was given, or (*2*) all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or the required notice period.

(B) Where a time deposit with an original maturity or required notice period of 32 days to one year, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to one month's interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

(C) Where a time deposit with an original maturity or required notice period of more than one year, or any portion thereof, is paid before maturity, the depositor shall forfeit an amount at least equal to three months' interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple) interest rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

* * * * *

(6) * * * Except as provided in subparagraphs (1)(iii)(E) and (1)(iv)(A), when a time deposit is payable only after notice, for funds on deposit for at least the notice period, the penalty for early withdrawal shall be imposed for at least the notice period.

* * * * *

§ 217.5 [Amended]

4. Paragraph (c)(1) of § 217.5 is amended by removing "217.7(m)" and inserting "217.7(g)" in its place.

§ 217.6 [Amended]

5. Section 217.6 is amended by removing paragraph (i).

6. Section 217.7 is amended by revising paragraphs (a), (b), (c)(1) introductory text and (d); by removing paragraphs (e), (f), (g), (i), (j) and (k); by redesignating paragraph (m) as paragraph (g) and paragraph (h) as paragraph (f); redesignated paragraph (g) is amended in subparagraph (1) by removing "(m)(2)" in both places that it appears and by inserting "(g)(2)" in its place, and by redesignating paragraph (l) as paragraph (e) and by revising newly designated paragraphs (e)(1) and (e)(3) to read as follows:

§ 217.7 Supplement: Maximum Rates of Interest Payable by Member Banks on Time and Savings Deposits.

* * * * *

(a) *Time deposits of $100,000 or more, or with original maturities or required notice periods of 32 days or more, or IBF time deposits.* (1) There is no maximum rate of interest presently prescribed on any time deposit of $100,000 or more, or with an original maturity or required notice period of 32 days or more, or on IBF time deposits issued under section 217.1(l).

(2) Except for IBF time deposits, a member bank may permit additional deposits to be made to any time deposit with an original maturity or required notice period of 32 days or more at any time prior to its maturity or expiration of notice period without extending the maturity or required notice period of the entire balance in the account.

(b) *Time deposits with original maturities or required notice periods of seven to 31 days.* No member bank shall pay interest on any time deposit of less than $2,500 with an original maturity or required notice period of 31 days or less at a rate in excess of 5¼ percent.

(c) *Savings deposits.* (1) Except as provided in paragraph (g) no member bank shall pay interest at a rate in excess of 5¼ percent on any savings deposit.

* * * * *

(d) *Governmental unit time deposits.* Except as provided in paragraphs (a) and (e) and notwithstanding paragraph (b), no member bank shall pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, the United States, any state of the United States, or any county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof in excess of 8 percent.

(e) *Seven- to 31-doy time deposits of $2,500 or more.* (1) Notwithstanding paragraph (d), a member bank may pay interest at any rate as agreed to by the depositor on any time deposit of $2,500 or more, with a maturity or required notice period of not less than seven days nor more than 31 days. However, a member bank shall not pay interest in excess of the ceiling rate for regular savings deposits or accounts on any day the balance in a time deposit issued under this paragraph is less than $2,500.

* * * * *

(3) Where all or any part of a time deposit issued under this paragraph is withdrawn within one business day after the maturity date of the deposit or the date of expiration of notice of withdrawal, no early withdrawal penalty is required to be applied on the amount withdrawn.

* * * * *

5. Section 217.147 is revised to read as follows:

§ 217.147 Premiums, finders fees, prepayment of interest and payment of interest in merchandise.

For regulatory provisions relating to premiums, finders fees, prepayment of

VOL
48
ISS
1
9
6
OC
7
1983
UMI

interest and payment of interest in merchandise refer to 12 CFR 1204.109, 1204.110 and 1204.111.

By order of the Board of Governors, October 3, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-27351 Filed 10-6-83; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 389

Fees and Charges for Special Services; Waiver of Filing-Fee Requirements

AGENCY: Civil Aeronautics Board.

ACTION: Waiver of filing-fee requirements under 14 CFR Part 389.

SUMMARY: Following requests on behalf of certain foreign carriers, the Director, Bureau of International Aviation, acting under delegated authority, has waived the requirements of Part 389 of the Board's Organization Regulations to the extent necessary to relieve the carriers of Taiwan (by letter dated 8/26/83) and Jordan (by letter dated 9/27/83), from paying the filing fees set forth in § 389.25.

EFFECTIVE DATE: Each action was effective immediately on the date of the letter and the filing of a petition for review will not alter its effectiveness.

FOR FURTHER INFORMATION CONTACT: Allen Brown, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board: (202) 673-5134.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27441 Filed 10-6-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM 80-10-000]

Order Granting Temporary Stay of Effective Date for 60 Days of Phase II of the Incremental Pricing Program of the Natural Gas Policy Act

Issued: October 5, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting temporary stay of effective date of Order No. 80.

SUMMARY: On May 6, 1980, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 80, 45 FR 31,622 (May 13, 1980)) to implement Phase II of the incremental pricing program of the Natural Gas Policy Act (NGPA). That program was, among other things, intended by Congress to shield residential and commercial natural gas users from the higher prices permitted by the NGPA. Phase II expanded those subject to the program's surcharge pricing mechanism to include other industrial users in addition to the large industrial facilities using gas as boiler fuel covered by Phase I. Several persons filed petitions for rulemaking and for stay of the October 15, 1983, effective date of the final rule. The Commission grants petitioners' request to stay the effective date of Order No. 80. This order stays the effective date for sixty days. Elsewhere in this issue, the Commission proposes to extend the stay for a period no longer than 120 days or until Commission completes its reconsideration of Order No. 80, whichever is earlier.

DATES: The order to stay the effective date of Order No. 80 until December 14, 1983, is effective October 5, 1983.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing this order to stay for sixty days the effective date of the final regulations promulgated in Order No. 80.[1] Those regulations expand the scope of the incremental pricing program in accordance with section 202 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980). Absent Commission action, Order No. 80 would become effective October 15, 1983. The Commission is also proposing to extend the stay for an additional 120 days or until the Commission completes reconsideration of the regulations in Order No. 80, whichever is earlier.

The Commission has received petitions for rulemaking and stay of the effective date of Order No. 80 from the American Gas Association and Indicated Industrial Consumers, and jointly from Interstate Natural Gas Association of America, Petrochemical Energy Group, and United Distribution Companies. Petitioners request the Commission to reopen the rulemaking proceedings in this docket and to stay the final rule pending the outcome of the reopened proceedings. For the reasons discussed below, the Commission grants petitioners' request for a temporary stay of the effective date of Order No. 80 for sixty days. In addition, the Commission requests comments on a proposal to extend the stay for an additional 120 days, or until the Commission completes its reconsideration of the final rule in light of the decision of the United States Court of Appeals for the District of Columbia Circuit in *Consumer Energy Council of America* v. *Federal Energy Regulatory Commission*,[2] whichever is earlier.

II. Background

Under Title II of the NGPA, Congress established an incremental pricing program which, among other things, was intended to shield residential and commercial natural gas users from the higher natural gas prices permitted by Title I of the NGPA. Under this program, the "incremental costs" of natural gas were to be passed through from interstate pipelines to certain industrial users by means of a surcharge pricing mechanism.

The Commission issued regulations to implement the incremental pricing program in two phases. The first phase was implemented by regulations issued on September 28, 1979 (44 FR 57,728, October 5, 1979).[3] Under those regulations, only large industrial facilities that use natural gas as boiler fuel are subject to incremental pricing.

Section 202 of Title II required the Commission to promulgate a second phase (Phase II) rule by May 9, 1980, amending the scope of the incremental pricing program to include other industrial users. Section 202 also directed the Commission to submit the Phase II rule to Congress for review. The rule would not become effective if disapproved by either House within a thirty-day review period.

On May 6, 1980, the Commission issued the Phase II rule (Order No. 80) as required by the NGPA. That rule extended the incremental pricing program to all industrial users except those exempted specifically by the NGPA and applied to all industrial gas consumption exceeding 300 Mcf per day. It also set a uniform price ceiling for natural gas sold to industrial users at the price of high sulfur No. 6 residual fuel oil.

In the order, the Commission stated:

> The Commission believes that it was neither requested nor authorized to second-guess the social and economic judgments that the Congress made in enacting Title II. The role of the Commission under Section 202 is more limited. Instead, the Commission is instructed to bring its technical expertise to bear on the design of a workable Phase II rule that can best advance the purposes set by the Congress. It is up to the Congress to decide whether this Phase II submittal meets adequately the social and economic goals of the incremental pricing program or, indeed, whether those goals are still appropriate.[4]

Order No. 80 was submitted to Congress pursuant to section 202(c) of the NGPA, and was to become effective ninety days following the expiration of the thirty-day review period if neither House of Congress passed a resolution of disapproval. On May 20, 1980, the House of Representatives passed a resolution of disapproval of the Phase II rule by a vote of 369-34.

Subsequent to that vote, the Commission received one application for rehearing of the final rule. The applicant argued that the legislative veto provision of section 202 was unconstitutional and asked the Commission to make the Phase II rule effective at the end of the ninety days following the thirty-day Congressional review period.

On August 1, 1980, the Commission denied the application for rehearing and revoked Order No. 80.[5] In the August 1 order the Commission explained that in the event the legislative veto provision was held unconstitutional, the Phase II rule should not become effective because the Commission had relied upon Congress to examine the social and economic benefits of extending the incremental pricing program, and had not "independently evaluated whether the Phase II rule meets the social and economic goals of the Title II incremental pricing program."[6]

Subsequently, several persons sought judicial review of the constitutionality of the legislative veto provision and the Commission's revocation of the Phase II rule. The D.C. Circuit held the legislative veto provision of section 202(c) of the NGPA is severable from section 202 and unconstitutional. The court also held that the Commission's revocation of the Phase II rule was invalid because the Commission did not provide adequate notice and opportunity for comment, and ordered that the rule take effect thirty days from the date of the court's decision. The court stated, however, that the Commission "may consider whether to amend the substance of the rule or, in order to provide time for sufficient consideration, whether to postpone the effective date further."[7]

On July 6, 1983, the United States Supreme Court affirmed the decision of the D.C. Circuit, and, on September 9, 1983, denied rehearing of its decision. Accordingly, on September 15, 1983, the D.C. Circuit issued its mandate. As a result, absent Commission action, Order No. 80 will become effective October 15, 1983.

III. Further Proceedings and Temporary Stay of Effective Date

The petitions for rulemaking and stay request the Commission to reopen the record in the Phase II proceeding so the Commission may evaluate the need to amend or revoke the Phase II rule. Pending the outcome of such a proceeding, petitioners ask the Commission to stay the effectiveness of the Order No. 80 regulations.

The Commission agrees with petitioners that the Phase II rule should be reconsidered and intends to thoroughly reassess it in light of the relevant judicial opinions and a complete and updated record, as well as current market conditions. The Commission intends to issue a notice of proposed rulemaking within the next sixty days to reopen the rulemaking proceeding this docket and to request public comment on various alternatives that may be available to it, including revocation of the Phase II rule[8] or amendments to the rule which would limit its applicability or better serve the purposes of Title II of the NGPA. In addition, comments will be requested on the extent of the Commission's authority under Title II, including its exemptive authority under section 206(d), and whether the Commission is now required to promulgate a Phase II rule.

The Commission believes that it would be in the public interest to stay the effective date of the Phase II rule for sixty days while it receives comments on whether to further stay the effective date until Order No. 80 is reconsidered by the Commission. While the court permitted a thirty-day delay in the effective date of Order No. 80, the Commission believes that this does not allow sufficient time either from a practical standpoint or under the Administrative Procedure Act, 5 U.S.C. 551, *et seq.*, for adequate notice and opportunity for comment and reconsideration of the matter.[9] If the rule were to take effect on October 15, 1983, pipelines, distributors, and industrial users would be faced with an enormous administrative burden which may be unwarranted if the rule is ultimately modified or revoked. At the same time, allowing the rule to go into effect would not result in a counterbalancing benefit to the residential and commercial users that the incremental pricing program was designed to protect. For the most part, oil prices are below, or comparable to, natural gas prices so that the incremental surcharges that would be flowed back to consumers would be minimal, if any at all. On balance, the rule would not result in any beneficial effects at this time.

For these reasons, the Commission finds that the public interest requires a stay for sixty days of the effective date of Order No. 80 and that good cause exists to make this order effective immediately. Furthermore, the Commission proposes to extend the stay for an additional 120 days after December 13, 1983 or until it completes its reconsideration of the final regulations in Order No. 80, whichever is earlier. Comments are requested on this proposal.

Accordingly, the petitions for rulemaking and stay are granted to the extent they request a stay of the effective date of Order No. 80. Thus, the final regulations in Order No. 80 will become effective December 14, 1983, unless the Commission extends the stay as proposed.

IV. Comment Procedures

The Commission invites all interested persons to submit written data, views, or arguments concerning its proposal to extend the stay of the regulations in Order No. 80 for an additional 120 days or until it completes its reconsideration of those regulations. In addition, any interested person may request in writing that a public hearing be held for the oral presentation of data, views, and arguments on whether the stay should be extended. All comments and all requests for a public hearing should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,

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[1] Order No. 80, issued May 6, 1980, Docket No. RM80-10, 45 FR 31,622 (May 13, 1980).

[2] 673 F.2d 425 (D.C. Cir. 1982); *aff'd mem. sub nom.* Process Gas Consumers Group v. Consumer Energy Council of America, 51 U.S.L.W. 3935 (U.S. July 6, 1983), *reh. denied* 52 U.S.L.W. 3187 (U.S. Sept. 9, 1983).

[3] The regulations issued on September 28th were contained in two dockets, Docket Nos. RM79-14 and RM79-21.

[4] 45 FR at 31,622.

[5] Order Denying Rehearing and Revoking Amendments made by Order No. 80, issued August 1, 1980, Docket No. RM80-10, 45 FR 54,741 (Aug. 18, 1980).

[6] 45 FR at 54,742.

[7] 673 F.2d at 479.

[8] *See generally* Motor Vehicle Manufacturers Association of the United States v. State Farm Mutual Automobile Insurance Co., 51 U.S.L.W. 4953 (U.S. June 24, 1983).

VOL 48 ISS 196 OCT 7 1983 UMI

D.C. 20426 on or before October 28, 1983, and should refer to Docket No. RM80–10–000. An original and fourteen copies should be filed. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Commission will schedule a public hearing if it receives any requests for the oral presentation of comments.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83–27536 Filed 10–6–83; 9:57 am]

BILLING CODE 6417–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N–0366]

Provisional Listing or FD&C Yellow No. 5 in Externally Applied Drugs and in Cosmetics and of Its Lakes in Food and Ingested Drugs; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Yellow No. 5 for use in coloring externally applied drugs and cosmetics and of the lakes of FD&C Yellow No. 5 for use in coloring food and ingested drugs. The new closing date will be December 5, 1983. This brief postponement will provide additional time for the agency to complete its review and consider the scientific and legal aspects of the results of the toxicological studies and other data on FD&C Yellow No. 5. Additionally, during this brief postponement, after completing its review of these data, the agency will prepare the appropriate **Federal Register** document(s).

DATES: Effective October 7, 1983, the new closing date for FD&C Yellow No. 5 will be December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of October 7, 1983, for the provisional listing of the use FD&C Yellow No. 5 in externally applied drugs and in cosmetics and for the provisional listing of the use of the lakes of FD&C Yellow No. 5 in food and ingested drugs by a rule published in the **Federal Register** of March 27, 1981 (46 FR 18954). The October 7, 1983 closing date was established to provide time for completion of new chronic studies and of FDA's review and evaluation of the data concerning the provisionally listed uses of FD&C Yellow No. 5 and its lakes. FDA expected that this closing date would provide time for the agency to prepare and to publish a regulation in the **Federal Register** regarding FDA's final decision on the petition for the permanent listing of the aforementioned uses of this color additive and its lakes. The regulation set forth below will postpone the October 7, 1983 closing date for the provisionally listed uses until December 5, 1983.

FDA's review and evaluation of the data relevant to the provisionally listed uses of FD&C Yellow No. 5 have required more time than anticipated. The agency therefore concludes that the brief extension of the closing date to December 5, 1983, is necessary. This brief postponement will provide time for the agency to complete its review and prepare the appropriate **Federal Register** document(s). The agency concludes that no harm to the public health will result from this brief extension.

Because of the short time until the October 7, 1983 closing date, FDA concludes that notice and public procedure on this regulation are impracticable, and that good cause exists for issuing this postponement as a final rule. This regulation will permit the provisionally listed uses of this color additive and its lakes to continue uninterrupted until December 5, 1983. To prevent any interruption in the provisional listing of FD&C Yellow No. 5 and its lakes and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on October 7, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing dates for "FD&C Yellow No. 5" in paragraph (a) to read "December 5, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "FD&C Yellow No. 5" in paragraph (d) to read "December 5, 1983."

Effective date.—This final rule is effective October 7, 1983.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: September 29, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–27367 Filed 10–6–83; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Amoxicillin Trihydrate for Oral Suspension

Correction

In FR Doc. 83–25291 appearing on page 41579 in the issue of Friday, September 16, 1983, the "**EFFECTIVE DATE**" should have read "September 16, 1983".

BILLING CODE 1505–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R–83–1005]

Community Development Block Grants

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Correction to a final rule.

SUMMARY: In a document published in the **Federal Register** on September 23, 1983 (48 FR 43538), HUD published a final rule which amends regulations governing the Community Development Block Grant (CDBG) program to reflect changes made in the Housing and Community Development Act of 1974 by the Housing and Community Development amendments of 1980 (Pub. L. 96–399) and the Housing and Community Development amendments of 1981 (Pub. L. 97–35). The Department made an error in the amendatory language of item 8. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755–7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a final rule document published on September 23, 1983 (48 FR 43538) on page 43574, in the middle column, HUD erred in its amendatory language on item 8. This document corrects the error. Accordingly, the amendatory language for item number 8 is corrected to read as follows:

8. Subpart O of Part 570 is amended by adding § 570.901, to read as follows:

Dated: September 30, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83–27350 Filed 10–6–83; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7917]

Income Tax; Taxable Years Beginning After December 31, 1953; Group-Term Life Insurance; Definition of a Policy

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains regulations relating to group-term life insurance provided to employees; specifically, it contains provisions relating to the definition of "policy" and restrictions on permanent benefits provided under a policy of group-term life insurance, but does not contain provisions relating to evidence of insurability. The Service has concluded that the definition of policy and the restrictions on permanent benefits added to the regulations in 1974 were broader than necessary. The regulations will help employers and others determine when insurance is group-term life insurance excludable from the income of insured employees.

EFFECTIVE DATE: The amendments provided in these regulations are effective for insurance provided in taxable years beginning after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Phoebe A. Mix of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention CC:LR:T, 202–566–3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1982, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 79 of the Internal Revenue Code of 1954 (47 FR 44343). A public hearing was held January 19, 1983. After consideration of all comments regarding the proposed amendments, this Treasury decision is adopted.

Definition of Policy

These regulations modify the definition of a policy added to the regulations by T.D. 7623 in 1979. These changes exempt certain mass-marketed insurance benefits from the requirements that generally apply when an insurer provides group-term life insurance and other benefits to a group of employees and permit an employer to treat two or more term insurance benefits as separate policies if the premiums are properly allocated among the benefits. One comment urged that the effective date of the amended definition of a policy be revised. The comment stated that the proposed definition was in response to ambiguities in the definition provided in the amendments to the section 79 regulations published May 1979. The comment stated that those amendments created unfair, arbitrary and harsh results in some situations and therefore suggested that the effective date for the new definition be moved back to May 1979 or that the definition of a policy in effect before the May 1979 amendments be made applicable for the May 1979–December 1982 period.

In response to the suggestion that the effective date of the proposed definition of a policy be revised to provide relief for policies covered by the May 1979 amendments, these regulations provide that the amended definition applies to all insurance to which the May 1979 amendments apply.

Permanent Benefits and Under 10 Rules

These regulations also reverse the rule provided in T.D. 7623 under which policies that include a permanent benefit do not qualify under section 79 unless the employee may decline or drop the permanent benefit without affecting the employee's term coverage. Finally, the regulations limit the extent to which the employees declining insurance are considered to receive such insurance for purposes of the under 10 rules.

Evidence of Insurability

Proposed § 1.79–1(g), relating to evidence of insurability is not being adopted at this time. This paragraph will remain outstanding as a proposed regulation because the Treasury Department is still evaluating the issue of evidence of insurability. If paragraph (g) is adopted as a Treasury decision the effective date for that paragraph will be no earlier than thirty days after the date the Treasury decision is published in the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service has concluded that these regulations are interpretative and that the notice and public procedure requirement of 5 U.S.C. 553 do not apply. Accordingly, these regulations are not subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of this regulation is Phoebe A. Mix of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation on matters of both substance and style.

List of Subjects in 26 CFR 1.61–1 through 1.281–1

Income taxes, Taxable income, Deductions, Exemptions.

Amendments to the Income Tax Regulations

Accordingly, the following amendments are made to 26 CFR Part 1:

PART 1—[AMENDED]

Paragraph 1. Section 1.79–0 is amended by adding two sentences at the end of the definition of policy. The introductory text of the section is set not

for the convenience of the reader and the definition of policy is revised to read as follows:

§ 1.79.0 Group-term life insurance—definitions of certain terms.

The following definitions apply for purposes of section 79, this section, and §§ 1.79–1, 1.79–2, and 1.79–3.

* * * * *

Policy. The term "policy" includes two or more obligations of an insurer (or its affiliates) that are sold in conjunction. Obligations that are offered or available to members of a group of employees are sold in conjunction if they are offered or available because of the employment relationship. The actuarial sufficiency of the premium charged for each obligation is not taken into account in determining whether the obligations are sold in conjunction. In addition, obligations may be sold in conjunction even if the obligations are contained in separate documents, each document is filed with and approved by the applicable state insurance commission, or each obligation is independent of any other obligation. Thus, a group of individual contracts under which life insurance is provided to a group of employees may be a policy. Similarly, two benefits provided to a group of employees, one term life insurance and the other a permanent benefit, may be a policy, even if one of the benefits is provided only to employees who decline the other benefit. However, an employer may elect to treat two or more obligations each of which provides no permanent benefits as separate policies if the premiums are properly allocated among such policies. An employer also may elect to treat an obligation which provides permanent benefits as a separate policy if—

(a) The insurer sells the obligation directly to the employee who pays the full cost thereof;

(b) The participation of the employer with respect to sales of the obligation to employees is limited to selection of the insurer and the type of coverage and to sales assistance activities such as providing employee lists to the insurer, permitting the insurer to use the employer's premises for solicitation, and collecting premiums through payroll deduction;

(c) The insurer sells the obligation on the same terms and in substantial amounts to individuals who do not purchase (and whose employers do not purchase) any other obligation from the insurer; and

(d) No employer-provided benefit is conditioned on purchase of the obligation.

Par. 2. Section 1.79–1 is amended by revising paragraphs (b) and (c)(5), removing and reserving paragraph (g), and adding a new paragraph (h) to read as follows:

§ 1.79–1 Group-term life insurance—general rules.

* * * * *

(b) *May group-term life insurance be combined with other benefits?* No part of the life insurance provided under a policy that provides a permanent benefit is group-term life insurance unless—

(1) The policy or the employer designates in writing the part of the death benefit provided to each employee that is group-term life insurance; and

(2) The part of the death benefit that is provided to an employee and designated as the group-term life insurance benefit for any policy year is not less than the difference between the total death benefit provided under the policy and the employee's deemed death benefit (DDB) at the end of the policy year determined under paragraph (d)(3) of this section.

(c) *May a group include fewer than 10 employees?* * * *

(5) For purposes of paragraph (c) (1) and (2) of this section, insurance is considered to be provided to an employee who elects not to receive insurance unless, in order to receive the insurance, the employee is required to contribute to the cost of benefits other than term life insurance. Thus, if an employee could receive term life insurance by contributing to its cost, the employee is taken into account in determining whether the insurance is provided to 10 or more employees even if such employee elects not to receive the insurance. However, an employee who must contribute to the cost of permanent benefits to obtain term life insurance is not taken into account in determining whether the term life insurance is provided to 10 or more employees unless the term life insurance is actually provided to such employee.

* * * * *

(g) [Reserved.]

(h) *Effective date.* Section 1.79–0 applies to insurance provided in employee taxable years beginning on or after January 1, 1977 (except as provided in 26 CFR 1.79–1(g) (revised as of April 1, 1983) with respect to insurance provided in employee taxable years beginning in 1977). Sections 1.79–1 through 1.79–3 apply to insurance provided in employee taxable years beginning after December 31, 1982. See 26 CFR 1.79–1 through 1.79–3 (revised as of April 1, 1983) for rules applicable to insurance provided in employee taxable years beginning before January 1, 1983.

Dated: September 21, 1983.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

John E. Chapoton,

Assistant Secretary for Tax Policy.

[FR Doc. 83–27325 Filed 10–6–83; 8:45 am]

BILLING CODE 4830–01–M

POSTAL SERVICE

39 CFR Part 111

Interim Regulations Implementing ZIP+4 Discounts and Invitation for Comments

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: Effective October 9, 1983, discounted rates will be available for bulk mailings of First-Class Mail addressed with proper ZIP+4 codes and prepared and tendered in accordance with other eligibility requirements. Interim implementing regulations have been developed and are set forth below for comment and suggested revision prior to adoption in final form.

DATES: The interim regulations will take effect on October 9, 1983. Comments must be received on or before November 7, 1983.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260–5360. Copies of all written comments will be available for public inspection and copying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8430, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ernest Collins, Office of Mail Classification, (202) 245–4749.

SUPPLEMENTARY INFORMATION: On October 3, 1983, the Governors of the Postal Service approved a recommended decision of the Postal Rate Commission, and ordered into effect changes in the Domestic Mail Classification Schedule and in Rate Schedule A–1, which provide for discounts on regular First-Class Mail and First-Class post cards bearing ZIP+4 codes, and meeting a number of other eligibility requirements. On the same date the Board of Governors determined that the approved changes will take effect at 12:01 a.m. on October 9, 1983. A notice of these changes is published separately in this issue of the **Federal Register.**

Generally, a discount of 0.5 cent is to be allowed on ZIP+4 First-Class Mail presorted to 3- and 5-digit ZIP Code destinations, and a discount of 0.9 cent is to be allowed on nonpresorted ZIP+4 First-Class Mail. The eligibility requirements are as follows:

(1) Nonpresorted ZIP+4 mail must be tendered in mailings of 250 pieces, each of which must meet all eligibility requirements as to ZIP+4 code, markings, machinability, and OCR-readability. Presorted ZIP+4 mail must be tendered in mailings of 500 pieces, each of which meets all eligibility requirements as to ZIP+4 code, markings, machinability, and OCR-readability. A ZIP+4 discount is not available for carrier route First-Class Mail, but carrier route mail meeting all ZIP+4 eligibility requirements may be counted toward the minimum quantities.

(2) The address on each piece must include a correct ZIP+4 code.

(3) Each piece must be marked "ZIP+4" or "ZIP+4 Presort," as appropriate.

(4) Postage must be paid by meter or by permit imprint.

(5) Mailings must be presented in trays at locations and times designated by the postmaster. A mailing statement must be submitted with each mailing.

Note.—ZIP+4 discounts are not available for business reply and registered mail.

ZIP+4 rates are available on a strictly voluntary basis to mailers who convert their mailing lists to ZIP+4 codes and meet other eligibility requirements. The following are interim regulations for inclusion in the Domestic Mail Manual. After completion of a period for public comment and suggested revisions, ending on November 7, 1983, final regulations will be published.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comment on the following interim addition to the Domestic Mail Manual, which is incorporated by reference in the **Federal Register.** See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

An appropriate amendment to 39 CFR 111.3 to reflect the following changes will be published when a final rule is adopted.

(39 U.S.C. 401(a), 403)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

PART 111—[AMENDED]

Chapter 3—First Class Mail

310 Rates and Fees

(See Exhibit 310)

Subparts E and F are relettered F and G respectively, and a new Subpart E is inserted, as follows:

Exhibit 310

E. ZIP+4 First-Class Mail

To mail at the ZIP+4 presort rate, the presort annual fee of $40 must be paid. (Payment of one $40 fee allows the mailer to mail qualifying matter at all First-Class presort rates including Carrier Route presort.

Full rate First-Class letters and post cards and Presorted First-Class letters and post cards may qualify for the ZIP+4 postage rate.

Rates	Postage rate unit	Nonpresorted	Presorted	Carrier route
ZIP+4 Rate cards.	Piece	12.1	11.5	*11
ZIP+4 Rate Letters.	First ounce	19.1	16.5	*18
	Each additional ounce.	17	17	*16

NOTE.—Carrier route First-Class Mail meeting the requirements for ZIP+4 mail counts toward the minimum volume requirement for a ZIP+4 mailing, although there is no distinct ZIP+4 carrier route mail rate.

All pieces in ZIP+4 mailings must bear a ZIP+4 Code.

320 Classification

* * * * *

Parts 324–326

Parts 324 (First-Class Zone Rated (Priority Mail), and 325 (E–COM Service) are renumbered 325 and 326 respectively, and a new Part 324 is inserted as follows:

324—ZIP+4 First-Class Mail

ZIP+4 First-Class Mail consists of First-Class letters and post cards which are part of a mailing of at least 500 pieces of a ZIP+4 presort mailing or at least 250 pieces of a ZIP+4 nonpresort mailing, and the pieces meet all of the following criteria:

A. Each piece in a mailing must bear the correct ZIP+4 code.

B. Postage must be paid by permit imprint or meter stamp.

C. Each First-Class letter piece must meet the following machinability criteria:

(1) Its length must be at least 5 inches and not more than 11½ inches.

(2) Its height must be at least 3½ inches and not more than 6⅛ inches.

(3) Its thickness must be at least .007 of an inch and not more than ¼ of an inch.

(4) Its aspect ratio must fall between 1 to 1.3 and 1 to 2.5.

D. Each First-Class post card must meet the following criteria:

(1) Its length must be at least 5 inches and not more than 6 inches.

(2) Its height must be at least 3½ inches and not more than 4¼ inches.

(3) Its thickness must be at least .007 of an inch and not more than .0095 of an inch.

E. Bar Code Clear Zone.

No printing or markings whatsoever can be placed within an imaginary rectangle on the front of the mail piece formed by the following boundaries:

(1) ⅝ of an inch from the botton edge;

(2) 4½ inches from the right edge;

(3) The bottom edge;

(4) The right edge.

F. OCR Readability.

(1) Mandatory Requirements:

(a) The entire city/state/ZIP+4 code line of the address must be visible and must be located within an imaginary rectangle, which is the OCR read area, on the front of the mail piece formed by the following boundaries:

(i) 1 inch from the left edge.

(ii) 1 inch from the right edge.

(iii) ⅝ inch from the bottom edge (bottom line of rectangle).

(iv) 2¼ inches from the bottom edge (top line of rectangle).

(b) No extraneous printing or markings (other than the address) shall be placed within the OCR read area below the delivery address.

(c) The address must be machine printed with uniform character size and line spacing.

(d) A reasonable degree of color contrast must be maintained between the address and the background of the mail piece. Black ink on a white background is strongly preferred, but other color combinations may be used. Brilliant colors and reverse printing are not permitted.

Note.—The Postal Service may treat as unacceptable any mail piece with color combinations which do not provide a print reflectance difference of at least 40 percent measured at a wavelength of 650 manometers.

(2) Nonmandatory Guidelines.

In order to insure that highest degree of address readability, mailers are encouraged to conform with as many of the following guidelines as possible:

VOL
48
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(a) Maintain a uniform left margin for the name and address.

(b) Use the standard two-letter state abbreviation.

(c) Do not use italic, artistic, cyrillic, and script-like fonts. Characters or numbers should not touch or overlap within a word of the ZIP+4 code.

(d) Use upper case characters.

(e) Use line spacing of 6 lines per inch.

(f) Use a character pitch in the range of 7 to 12 characters per inch. Note: total character space may be conserved by eliminating punctuation in the address.

(g) Use a uniform character height in the range of .08 or (1.28/16 or 2.56/32 or 5.12/64) of an inch to .20 (or 3.2/16 or 6.4/32 or 12.8/64) of an inch.

(h) Use a character height to width ratio of 1.1:1 or 1.7:1.

(i) Use 1 to 2 character spaces between words, except that the space between the last character of the state name or abbrevation and the first digit of the ZIP+4 code should be 2 to 5 character spaces.

(j) Use a space between address lines no less than .025 of an inch (1 millimeter). The space is the vertical distance from the bottom most point of either an upper or lower case character to the highest point reached by the tallest character in the line below.

(k) Maintain a character and line skew of the address relative to the bottom edge of the mail piece of no more than plus or minus five degrees.

Part 361—Addressing

A new section 361.4 is added, as follows:

361.4 ZIP+4 First-Class Mail

The address of each piece must include the ZIP+4 code.

Part 362—Marking Requirements

A new 362.4 is added, as follows:

362.4—ZIP+4 First-Class Mail

All pieces which are mailed at the ZIP+4 rate must be marked ZIP+4. If the pieces mailed at the ZIP+4 rates are presorted, they must be endorsed ZIP+4 Presort.

a. When a permit imprint is used, the identification "ZIP+4" or "ZIP+4 Presort," as applicable, must be part of the permit imprint or printed or rubber stamped by the mailer above the address and immediately below or to the left of the permit imprint.

b. When a meter stamp is used, the identification "ZIP+4" or "ZIP+4 Presort," as applicable, must be printed or rubber stamped by the mailer above the address and immediately below or to the left of the meter stamp.

c. The appropriate marking may be printed by a postage meter, special slug, ad plate, or other suitable means which will ensure a legible endorsement.

Part 368—ZIP+4 First-Class Mail

A new Part 368 is added, as follows:

368—ZIP+4 First-Class Mail

368.1—General Requirements

.11—Machinability

Each piece must meet the criteria in 324(c) or 324(d), as appropriate.

.12—OCR Readability

Each piece must meet the OCR readability requirements in 324.

368.2—Nonpresorted ZIP+4 Mail

.21—Sortation and Packaging Requirements (None).

.22—Traying Requirements

Nonpresorted ZIP+4 Mail must be presented for mailing in trays bearing labels endorsed "ZIP+4."

368.3—Presorted ZIP+4 First-Class Mail

.31—Packaging Requirements

.311—When to Make Packages

When there are 10 or more pieces to the same carrier route and the pieces qualify for the carrier route First-Class rate, they must be secured as a package and labeled in accordance with the requirements in 367.3.

When there are 10 or more pieces to the same 5-digit ZIP Code destination and/or 50 or more pieces to the same 3-digit ZIP Code prefix destination, they must be secured as a package by the mailer. Rubber bands are the only acceptable means of securing packages of trayed mail.

.312—Rubber Bands

Rubber bands will be provided by the Postal Service and must be used by mailers to secure packages of ZIP+4 Presort Mail under the following conditions:

a. Packages must be secured with rubber bands.

b. Packages should not exceed approximately 4 inches in thickness.

c. Packages up to one inch in thickness must be secured with one rubber band around the girth. Packages between one and four inches in thickness must be secured with two rubber bands, the first around the length and the second around the girth.

.313—Exceptions to Packaging

The packaging requirements for ZIP+4 Presort First-Class Mail left over after filling trays described in 368.3 through 368.4 may be waived when the use of separating tabs is approved by the local postmaster.

.314—Labeling of Packages

Package labels must be used to identify the makeup of ZIP+4 Presort packages of mail:

a. Place coded pressure sensitive labels in the lower left corner within one inch of the left edge on the address side of top piece in the package. NOTE: Pressure sensitive labels will be provided by the Postal Service.

b. Do not date package labels.

368.32—Traying

Packages must be made up into trays in accordance with 368.4. Two letter state abbreviations must be used on labels.

368.4—Sortation Requirements for Qualifying ZIP+4 Pieces

368.41—Carrier Route Packages and Trays

Qualifying carrier route packages and trays must be prepared and labeled in accordance with the requirements in 367.4.

.42—5-Digit ZIP Code Delivery Unit Packages and Trays

.421—Packages

When there are 10 or more pieces, but less than a full tray, addressed to the same 5-digit ZIP Code delivery unit, they must be prepared, by the mailer, in packages of 10 or more pieces and the packages should not be more than 4 inches in thickness. The pieces in the packages must be faced in the same direction and secured with one or two rubber bands around each package as provided by 368.312. Red label D must be affixed to the left corner within one inch of the left edge on the address side of the top piece in each package.

.422—Trays

When there is enough mail for the same 5-digit ZIP Code delivery unit to fill a tray (approximately 500 pieces), a direct 5-digit tray must be prepared. Mail left over after filling direct trays must be bundled and placed in the appropriate unique 3-digit city or SCF mail tray with the same first three digits. A tray label must be firmly affixed to the end of the tray. Direct 5-digit trays or containers must be labeled in the following manner:

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

Philadelphia PA 19118

FCM ZIP+4 Presorted

FR JC Company Boston MA

.43—Unique 3-Digit City Packages and Trays

.431—Packages

When there are 50 or more pieces, but less than a full tray, remaining for a city with a unique 3-digit ZIP Code prefix after the 5-digit ZIP Code delivery unit packages required by 368.422 have been prepared, they must be made up as unique 3-digit city packages and must be secured with one or two rubber bands as provided by 368.312. Cities with unique 3-digit ZIP Code prefixes are listed in Exhibit 122.633. Yellow label C must be affixed to the left of the address side of the top piece of each package within one inch of the left edge of the address side of the top piece.

.432—Trays

Unique 3-digit city mail plus any packages for 5-digit ZIP Code delivery units within those cities not trayed, as provided for by 368.422, must be prepared in unique 3-digit city trays. A unique 3-digit city tray label must be firmly affixed to the end of each tray. Unique 3-digit trays must be labeled in the following manner:

Line 1: City, State, 3-Digit Destination
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

Philadelphia PA 191

FCM ZIP+4 Presorted

FR Q Mailers Balto MD

Note.— Mail left over after filling trays must be bundled in the packages and placed in an SCF tray.

.44—3-Digit Packages and SCF Trays

.441—Packages

When there are 50 or more pieces, but less than a full tray, remaining for the same 3-digit ZIP Code prefix after the packages required by 367.422 and 367.431 have been prepared, they must be bundled as packages to that 3-digit ZIP Code prefix. The pieces in the packages must be faced in the same direction and secured with one or two rubber bands as provided by 368.312. Green label 3 must be affixed to the left of the address on the top piece in each package within one inch of the left edge of the address side of the top piece.

.442—Trays

3-digit packages plus any 5-digit and unique 3-digit city packages not trayed, as provided for by 367.422 and 367.432 and which are destined for the same SCF must be prepared in SCF trays. An SCF tray label must be firmly affixed to the end of each tray. SCF trays must be labeled in the following manner:

Line 1: SCF, State Lowest 3-Digit Served by the SCF
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

SCF Philadelphia PA 190

FCM ZIP+4 Presorted

FR Q Mailers Balto MD

ZIP+4 Presorted mail left over after filling SCF trays must be bundled. It is recommended, but not required, that these be placed in area distribution center (ADC) trays. If ADC trays are not prepared, bundles must be placed in mixed ADC trays.

.45—Area Distribution Center Trays

It is recommended, but not required, that packages remaining after traying, in accordance with 367.422, 367.432 and 367.442 be sorted to ADC's and placed in ADC trays (See Exhibit 367.24). A tray label in the format shown below must be firmly affixed to the end of the tray.

Line 1: Area Distribution Center, Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

Dis St. Paul MN 550

FCM ZIP+4 Presorted

FR Q Mailers Balto MD

.46—Mixed ADC Trays

Packages remaining after traying in accordance with 367.422, 367.432, 367.442 and 367.45 must be prepared in mixed ADC trays. A mixed ADC tray label in the following format must be firmly affixed to the end of the tray:

Line 1: Area Distribution Center, Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:

DIS St. Paul MN 550

ZIP+4 Presorted Mixed ADC

FR Q Mailers St. Paul MN

.47—Nonqualifying Pieces

All nonqualifying pieces in a ZIP+4 Presort mailing are residual and are subject to full First-Class ZIP+4 rates. See Exhibit 310. Nonqualifying pieces must be trayed, sorted and prepared according to 367.5.

.48—Separation of Rate Categories

When a mailing consists of more than one rate category (i.e., ZIP+4 presort, non-presort ZIP+4, or carrier route First-Class), trays for each rate category must be physically separated by rate category at the time of mailing.

Part 372—Matter Mailed at ZIP+4, Presort First-Class and First-Class Carrier Route Rates

The first line of 372.1 is changed to read "Matter mailed at the presort or ZIP+4 rates must be deposited at."

Part 382—ZIP+4, Presort and Carrier Route Rates

Title is changed to read "ZIP+4, Presort and Carrier Route Rates."

The first two lines of section 382.4 (Mailing Statement) are changed to read, "Mailers who qualify for the First-Class presort rate or ZIP+4 rates (see 323 and 324) must complete and submit one of the following mail-."

[FR Doc. 83-27437 Filed 10-6-83; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 717

[OPTS-83001C; BH-FRL 2446-1]

Records and Reports of Allegations of Significant Adverse Reactions to Health and the Environment; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice; Notice of open meeting.

SUMMARY: EPA will hold an open meeting to explain in detail the rule on recordkeeping and reporting of allegations of adverse reactions required under section 8(c) of the Toxic Substances Control Act which was published in the **Federal Register** of August 22, 1983 (48 FR 38178).

DATES: The meeting will take place on Thursday, November 10, 1983, with registration at 8:00 a.m., the first session at 9:00 a.m., and adjournment by 2:00 p.m. Registration is required before October 20, 1983.

ADDRESS: This meeting will be held at the Twin Bridges Marriott Hotel, 333 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460; toll free: (800-424-9065); in Washington, D.C.: (554-1404); outside the USA: (Operator-202-554-1404).

To Register: Telephone the TSCA Assistance toll free number (800-424-9065); in Washington, D.C.: (544-1404); outside the USA: (Operator-202-554-1404).

A block of rooms has been reserved at the Twin Bridges Marriott Hotel for the night of November 9, 1983. To reserve a room, telephone (202-628-4200) before October 20, 1983. Mention the EPA 8(c) seminar.

SUPPLEMENTARY INFORMATION: Final rules, published in the **Federal Register** of August 22, 1983 (48 FR 38178) under the Toxic Substances Control Act, require manufacturers and certain processors of chemical substances and mixtures to keep records of significant adverse reactions to health or the environment alleged to have been caused by a substance or mixture. EPA may also inspect and require reporting of such records. This meeting provides a forum for industry, public interest groups, union representatives, trade associations, and other interested parties to ask questions and discuss the rule requirements. Three industry representatives will tell how their companies plan to keep 8(c) records.

Dated: September 29, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-27982 Filed 10-6-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

Office of the Secretary

41 CFR Parts 9-4 and 9-51

Amendments to Procurement Regulations; Correction

Correction

In FR Doc. 83-26513 beginning on page 44785 of the issue of Friday, September 30, 1983, make the following corrections:

1. On page 44786, the first column, in § 9-4.909, the first sentence of paragraph "1." should have read as follows:

1. On page 16457, in the third column, two lines from the bottom of the first paragraph; the words ", 9-4.909 (f) and (g) are removed." are added after the word "revised".

2. In the same column, the amendment to § 9-51.101 should have read as follows:

§ 9-51.101 [Corrected]

2. On page 16456, third column, in section 9-51.101, the drafter erroneously removed paragraphs (a) (1) and (2). Paragraphs (a) (2) and (3) should have been removed. The text of paragraph (a) (1) is restored. The corrected text of *Change 7.9* should read as set forth below:

Change 7.9

Section 9-51.101(a) (2) and (3) are removed as they involve organizations, Resource Applications and Energy Technology, which no longer exist. Therefore, Section 9-51.101 is amended by removing and reserving paragraphs (a) (2) and (3) as follows:

§ 9-51.101 General instructions regarding submissions to Headquarters

(a) * * *

(1) The offices at Schenectady and Pittsburgh will communicate through the Director, Division of Naval Reactors.

(2)-(3) [Reserved]

* * * * *

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Administrator's Review of Provider Reimbursement Review Board Decisions

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations set forth several changes in the procedures relating to the Administrator's review of Provider Reimbursement Review Board (the Board) decisions. These regulations: (1) Specify procedures and criteria for the Administrator's review of Board decisions; (2) authorize the Administrator to remand cases to the Board; (3) specify that the Administrator may review a Board's decision concerning jurisdiction to hear a case; and (4) clarify the time period available to a provider seeking judicial review if the Administrator declines to review a Board decision. The purpose of this final rule is to inform providers of criteria used by the Administrator in reviewing decisions and to clarify procedures and policies that have been identified through experience as subject to differing interpretations.

EFFECTIVE DATE: December 6, 1983.

FOR FURTHER INFORMATION CONTACT: Irwin Cohen, the Attorney Advisor, Health Care Financing Administration, (301) 594-5132.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, the amount paid to a provider of services is the reasonable cost of items and services furnished to beneficiaries. To be reimbursed for covered services, a provider must file a cost report with its fiscal intermediary who determines the amount of reimbursement. If a provider is dissatisfied with the amount of reimbursement (or if the intermediary does not make its determination within 12 months after receiving a cost report), the provider has the right to request a hearing before one or more hearing officers designated by the intermediary (42 CFR 405.1811), or before the Provider Reimbursement Review Board (the Board) if the amount in controversy is $10,000 or more (42 CFR 405.1835).

The Board was established by Section 1878 of the Social Security Act (the Act), 42 U.S.C. 1395oo. Regulations implementing that provision and prescribing procedures for determinations and decisions, and related matters, are published at 42 CFR 405.1801-405.1889.

Section 1878(f) of the Act authorizes the Secretary to reverse, affirm, or modify a decision of the Board. This review authority has been delegated to the Administrator of HCFA (42 FR 13262, March 9, 1977, and 42 FR 57351, November 2, 1977). The Administrator in turn re-delegated this authority to the Deputy Administrator. "Interim Procedures" governing the Administrator's review of Board decisions were published on September 6, 1977 (42 FR 44599), but have not been made a part of the regulations. If a provider is dissatisfied with the Administrator's decision (or the Board's decision if it is not reviewed by the Administrator), the provider may request review of the final agency decision by a United States district court. A determination or decision made at any level in this process is "final" unless it is appealed within specified time limits. (See 42 CFR 405.1811(a), 405.1841, 405.1677.)

II. Current Experience

Each Board decision is examined by HCFA staff in order to recommend to the Administrator whether he or she should exercise the authority to reverse, affirm, or modify the decision. This examination is presently conducted for the Administrator by HCFA's Office of the Attorney Advisor.

Since January 1976, the HCFA Administrator has declined to review the Board's decision in about 54 percent of the issues decided by the Board. The Administrator has affirmed about 25 percent and has reversed or modified about 21 percent. Recently, providers have sought judicial review in a growing number of cases in which the Board or the Administrator ruled against the provider. As of January 25, 1983, there were 247 cases pending in the Federal district courts.

Based on our experience gained over the last seven years and concerns expressed by the provider community

about the Administrator's review process, we have examined a number of areas where improvements or clarifications in the current procedures appear to be needed. An additional source of information was the consideration of comments obtained as a result of the Notice of Proposed Rulemaking published in the **Federal Register** on February 14, 1980 (45 FR 9953). This proposed rule invited public comment on several proposals involving the Board and also included proposed changes concerning the Administrator's review of Board decisions. (Final rules concerning proposed changes in Board procedures are still under consideration and will be published in other documents.)

III. Purpose of the Regulation

Our overall objective in making the changes set forth in this final rule is to improve the effectiveness of the Administrator's review of Board decisions, while safeguarding the rights and interests of providers. We have attempted to develop a process which is open, even-handed, and responsive to the needs of all parties. We have sought to avoid unnecessary delays in the process and, wherever possible, to place disputed issues in the forum where they can be resolved most effectively and expeditiously.

We believe, however, that a proper assessment of these procedures must rest on an understanding that while the Board was created by Congress to provide an unbiased forum for fact-finding and issue resolution with respect to individual controversies, it is designed to do this within the context of the law and regulations. It is not designed to substitute or replicate independent judicial review, which is specifically authorized upon completion of the administrative appeals process.

We are issuing these changes as a final rule because all the significant changes were proposed in the Notice of Proposed Rulemaking (NPRM) referred to in section II above. The only modifications to the NPRM either were based on public comments or more fully describe procedures already established.

Procedures for Administrator's Review

Section 1878(f)(1) of the Act provides, in part, that a decision of the Board shall be final unless the Secretary, on his or her own motion, and within 60 days after the provider of services is notified of the Board's decision, reverses, affirms, or modifies the Board's decision.

This provision is implemented in our current regulations in § 405.1875, but detail is lacking. HCFA published interim procedures for the Administrator's review (42 FR 44599, September 6, 1977) which supplied some of the detail needed by parties to Board hearings. The February 1980 **Federal Register** notice proposed placing in regulations many of the interim procedures and explained our proposed changes. This rule supersedes the interim procedures and finalizes several proposed changes.

Generally, these amendments will: (1) Make it clear that any party to a Board hearing or HCFA may request the Administrator to review a decision of the Board; (2) provide that the Administrator could decide to review a Board decision without having been asked to do so by any of the parties or HCFA; (3) provide the criteria the Administrator will apply in deciding whether to review a Board decision; (4) provide that the Administrator will promptly notify the parties of a decision to review or not to review a Board decision; (5) provide for written submissions by the parties upon receipt of the Administrator's notice to review a Board decision; (6) prohibit *ex parte* communications with the Administrator by a party or by a HCFA component other than the Office of the Attorney Advisor about a Board decision under review; (7) provide that a party need not send a copy of material prepared for the Administrator to HCFA, unless HCFA has previously submitted written material to the Administrator, with a copy sent to each party; and (8) clarify that submittal of a request for *review* will not automatically cause the Administrator to review a case.

As stated in the proposed rule, our intent is to focus the Administrator's review on a smaller precentage of the Board's decisions by creating a uniform review threshold and by requiring a party desiring review to make a showing that such a review is warranted. In the notice of proposed rulemaking, we suggested superseding those interim procedures that accord HCFA the opportunity to submit exceptions to the Board's decision or proposed findings of fact or conclusions of law, and supporting reasons for the exceptions or proposed findings and conclusions. This proposal, however, was a conforming change which was made consistent with our proposal to substitute the Bureau of Program Policy, HCFA for the intermediary as the party in Board hearings. Because we are not now finalizing that proposal to make HCFA a party in Board hearings, the final rule in § 405.1875 continues HCFA's right to request the Administrator to affirm, modify, reverse or remand a Board decision and to make additional, written submissions. The Director, Bureau of Eligibility, Reimbursement and Coverage (BERC), formerly the Bureau of Program Policy, has the authority to make such requests on behalf of HCFA in actions involving the Administrator's review of Board decisions. Copies of the written submissions that must be sent to "HCFA" should be mailed to BERC, 100 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207. (Copies must be sent to HCFA if HCFA has requested review or commented about a decision under review by the Administrator.)

The final rule provides that a request to remand may include new and substantial evidence concerning issues presented to the Board or new issues that have arisen since the case was presented to the Board.

Additionally, we are making a conforming change in § 405.1871, to provide that the Board will also send HCFA a copy of its final decision at the same time copies are sent to the Administrator and to the parties.

Contrary to our proposal, we do not have the authority under the statute to allow a provider 60 days to seek judicial review after notification that the Administrator will not review a Board decision. The statute requires, in this case, that any request for court review be filed within 60 days of the provider's receipt of the Board decision.

IV. Analysis and Response to Comments on the NPRM

Fifty-one commentors expressed general dissatisfaction with the main features of the proposed rule, which included details of the operation of the Board, as well as the Administrator's review of Board decisions. The tenor of many comments was that many of the changes would limit further the independent authority and integrity of the Board by extending and strengthening HCFA's control over the administrative appeals process. In the discussion that follows, we attempt to address, point-by-point, the specific comments concerning the Administrator's review of Board decisions in order to provide the clearest possible picture of how we intend these changes to work.

a. Definition of Administrator

In commenting on the proposed procedures for Administrator's review, six commentors stated their objections to the definition of "Administrator" in the proposed § 405.1801(a). The commentors pointed out that the definition appeared to permit unlimited

redelegation of the Administrator's review authority. It was not our intent to permit unlimited delegation. Consequently, we are revising § 405.1801(a) to define "Administrator" as meaning the "Administrator or Deputy Administrator of HCFA". [See Section F.60.b of the Statement of Organization, Functions, and Delegations of Authority, Federal Register of November 2, 1977, 42 FR 57351.)

b. Elimination of the Administrator's Review

Five commentors suggested the elimination of the Administrator's review process to permit providers to seek immediate judicial review of the Board decision. We do not agree with the comment. Section 1878 of the Social Security Act (42 U.S.C. 1395oo) provides that the Secretary may review Board decisions on his or her own motion. Congress clearly did not intend for the Department to refrain from reviewing Board decisions or to do so only upon requests of providers.

Section 1878(f)(1) of the Act gives providers the authority to obtain judicial review of any final Board decision. This, however, will not prevent review by the Administrator. As a practical matter, we believe the continued exercise of review authority is both necessary and appropriate in applying the Medicare principles of reimbursement to provider claims. However, we believe that we can streamline the process and limit the occasions for Administrator's review through the use of threshold criteria.

c. Review of Final Decisions Only

Seven commentors stated that the language in the proposed § 405.1875(a) is so broad as to allow review of Board decisions made during the conduct of prehearing and hearing proceedings; for example rulings on discovery motions. To address this concern, we are revising the regulations to provide that the Administrator may review any "final" decision of the Board with one exception.

Under § 405.1842 a provider may request that a hearing by the Board be bypassed in order to obtain judicial review of any action of the fiscal intermediary that involves a question of law, regulation, or HCFA Ruling relevant to the matters in controversy that the Board is without authority to decide. The Board's determination concerning its authority is not subject to the Administrator's review under § 405.1875(a). However, if there is to be judicial review, the Office of the Attorney Advisor will examine the case only for the purpose of determining whether there are any unresolved factual issues in dispute that are within the authority of the Board to decide. If there are unresolved factual issues, an appropriate motion to remand the case to the Board for further action will be filed with the Court.

d. Review Role of HCFA Staff

One commentor stated that the meaning of the word "review" may be misunderstood, since Board decisions would also be "reviewed" by designated HCFA staff (that is, the Office of the Attorney Advisor) in order to recommend whether the Administrator's authority should be exercised. Another commentor stated that the review role of the staff should be reflected in the regulation.

We agree with these comments and are clarifying § 405.1875(a) by including an explanation of the role of the Office of Attorney Advisor (to the Administrator) in the evaluation of Board decisions. Also, the regulation makes it clear that decisionmaking authority is reserved to the Administrator and the Deputy Administrator.

e. Provider Requests for Review

Two commentors stated their view that the Administrator should conduct a review of the Board's decision whenever a provider requests that it be done. We do not accept this comment. As stated above, all parties and HCFA have equal rights in this respect and will be required to make a showing that review is warranted. The criteria we have adopted should focus review on a smaller percentage of the Board's decisions. The denial of a provider's request for review does not limit the provider's rights to additional review. The provider may, if it wishes, still seek judicial review of any matter in the Board's decision with which it is dissatisfied. However, because of this comment, we are revising the introductory sentence in § 405.1875(c) to clarify that the criteria for deciding whether to review will apply whether or not a party or HCFA has requested review.

One commentor asked why we included a provision for provider requests to the Administrator to review a Board decision. The commentor indicated that the provision seemed unnecessarily cumbersome and suggested that the Administrator should decide whether to review a decision and then simply notify the parties accordingly. We do not agree with the comment. The amendment is intended to provide the parties and HCFA an equal opportunity to call to the Administrator's attention their views concerning the need for a review of the Board's decision. We believe such requests should prove administratively useful in the review process. However, the Administrator will apply the criteria discussed below in deciding whether to review and will not agree to review merely because it has been requested.

f. Time Period for Requesting Review

Six commentors noted that the provisions in § 405.1875 (b) and (c), as proposed, permit the parties to file a request for review and to make other written submissions to the Administrator within a 15-day period. The commentors indicated that the provisions should be clarified to identify whether the materials must be mailed or actually filed within the stated time period. The use of the date of mailing was suggested. Another commentor stated that the provisions did not provide a method of determining the running of the various time periods provided for in the proposed rule. We are clarifying the regulation to respond to these comments. The time periods provided for in the law begin with the receipt by the provider of a Board decision or an Administrator's decision. Therefore, it is appropriate to establish a means for all interested persons to determine this date and, thus, other applicable time periods. To accomplish this, we are revising § 405.1801(a) to provide that the date of receipt will be the date on the return receipt of "return receipt requested" mail. The date of filing and the date for submitting materials will be satisfied by mailing materials within the prescribed period (as evidenced by the postmark) or hand-delivery of the materials (§ 405.1801(a)). Unless otherwise specified in the regulations, these two definitions will apply to all of 42 CFR Part 405, Subpart R, not just to the Administrator's review process.

g. Criterion—Board Decision Is Not Supported by Substantial Evidence

One commentor stated that a determination as to whether a Board decision is supported by substantial evidence cannot be made without a thorough review of the record—a mere threshold review will not suffice. The commentor proposed that § 405.1875(c)(2) be deleted. We do not agree with this comment. First, the Administrator will normally rely on the parties and HCFA to point out the need and basis for the review. Also, under § 405.1875(a), the Attorney-Advisor will thoroughly analyze the case record in order to assist the Administrator in deciding whether to exercise this review authority. Therefore, the Administrator can decide to review a case on his or her conclusion that it *appears* the Board's decision is not supported by substantial evidence. The material submitted by the parties and HCFA, after notification of the Administrator's decision to review, may then demonstrate that there is substantial evidence, in which case the Administrator could affirm the Board decision. A provider dissatisfied with a Board decision, as affirmed by the Administrator, may still assert its argument in district court that the Administrator's decision is not supported by substantial evidence.

h. Criterion—Significant Unsolved Policy Issue

Four commentors stated that the criterion in § 405.1875(c)(3), under which the Administrator will consider whether it appears that the Board's decision involves a significant unresolved policy issue and review is likely to lead to an HCFA Ruling or a proposed regulation, seems to invite retroactive, *ad hoc* rulemaking. In response to this comment, we are revising this provision to clarify our intent. As revised, the Administrator will review a Board decision under this criterion when it appears that existing HCFA rules or policy instructions are in need of technical clarifications that will be of assistance to providers and the Board in understanding policy.

i. Criterion—Jurisdiction and Authority of the Board

We have added § 405.1875(c)(4) in order to clarify that when the Administrator is reviewing a Board decision to determine whether the Board has incorrectly assumed or denied jurisdiction (as specifically provided for in § 405.1875(a)), the Administrator will also consider whether the Board has incorrectly extended its authority beyond that allowed by statute, regulation, or HCFA Ruling. For example, although the Board may disagree with the provisions of a particular Medicare regulation, the Board cannot overrule the regulation; its decision must conform with the regulation.

Similarly, the Administrator will consider whether a decision of the Board that conflicts with a provision in a Medicare manual conforms with the requirements under the statute, regulations or HCFA Rulings.

j. Criterion—Board Decision Needs Clarity

We have added § 405.1875(c)(5), under which the Administrator will consider whether the decision of the Board requires clarification or amplification, or needs an alternative legal basis for the decision. This provision does not give the Administrator any additional basis for reviewing a Board decision because the prior § 405.1875 provided for the Administrator's review of any decision of the Board. We are adding § 405.1875(c)(5), as well as all of the other review criteria in § 405.1875(c), so that providers will be aware of the criteria that the Administrator will generally apply in deciding whether to review a Board decision.

k. Time Period for Requesting Review

Six commentors stated that the 15-day time periods for requesting review after receipt of the Board decision (§ 405.1875(b)) and for submitting materials to the Administrator after notification that the Administrator will review (§ 405.1875(e)(1)) are both too short. They noted that the parties would have the same 15-day period in which to rebut another party or HCFA's request for review of written submissions. It was suggested that the time periods be deleted or that additional time be provided.

We could not accept this comment and still assure completion of "own motion" review within 60 days. Although the 15-day time limits in paragraph (b) and (e) of § 405.1875 are short, they are necessarily so because the Administrator has only 60 day to complete his or her review. In view of the 60-days limit, we believe the 15-day response times are reasonable. The regulation does not preclude a party or HCFA from submitting a rebuttal to any material submitted to the Administrator, so long as the rebuttal is submitted within the prescribed 15-day period.

l. Time Period for Notification That Administrator Will Review a Board Decision

Six commentors suggested that § 405.1875(d) be revised to provide a specific time period during which the Administrator must advise the parties of his or her decision whether to review a decision of the Board. We do not agree with the comment. As stated in the proposed rule, we intend to notify the parties promptly of the Administrator's decision. The establishment of a specific time period would be inappropriate, since the Administrator must assure full consideration of requests from the parties or HCFA for a review of the Board decision. Because, generally, our action will be taken within 60 days (that is, allowing the parties and HCFA 15 days to request review; notifying the parties and HCFA that the Administrator will review; allowing another 15 days for submission of supporting materials; and then considering and making the final agency decision), it necessarily follows that prompt notification will be made. Therefore, in most cases the parties can expect to be notified of the decision to review by the 45th day. The Administrator will take administrative measures to assure prompt notification.

m. Supporting Views or Exceptions to the Board Decision May Be Submitted to the Administrator

One commentor stated that § 405.1875(e) should be revised to make it clear that a party may submit a brief supporting the Board's decision. We accept this comment and are revising § 405.1875(e)(1)(ii) to provide that a party or HCFA may submit supporting views or exceptions to the Board decision. Unless a party or HCFA is requesting a remand action, a request for review and any supporting information must be limited to issues the Administrator has decided to review and confined to the record of the Board hearing.

n. Written Submissions to the Administrator Will Be Sent Simultaneously to HCFA and the Parties

One commentor suggested that § 405.1875(e)(4), requiring a party to send copies of its written submissions to the Administrator promptly to all other parties, be revised to provide that such action be done "simultanepusly" rather than "promptly". It was also suggested that a party be required to certify that it has complied with this requirement. We are accepting the suggested wording change and are revising the regulation accordingly. The same rule shall apply to requests and submissions by HCFA.

o. Prohibition of Ex Parte Communications With the Adminstrator

Nine commentors stated that § 405.1875(f) in the NPRM should be revised to prohibit *ex parte* communications during the entire appeals process. Because this document only involves the Administrator's review, we are not addressing that change now. However, we intend to specifically prohibit *ex parte* communications with the Board when we revise regulations involving Board procedures. The new regulation section § 405.1875(f) prohibits *ex parte*

communications with the Administrator once the Board has issued a final decision. The regulation also requires that all communications contain a certification that a copy of the communication has been served to all other parties and HCFA, as appropriate.

A party must send a copy of any communication with the Administrator to HCFA (specifically, to the Director, Bureau of Eligibility, Reimbursement and Coverage) only if HCFA has already—

(1) Requested that the Administrator review a Board decision;

(2) Responded to a request for review; or

(3) Submitted material after the Administrator has announced that he or she will review a Board decision.

For example, when requesting that the Administrator review a Board decision, a party need not send a copy of that request to HCFA unless the party has received a copy of HCFA's request for the Administrator's review of the Board decision.

One commentor stated that there was no penalty for a violation of the prohibition against *ex parte* communication. The commentor suggested that a violation by a HCFA employee should be recorded in personnel files and that *ex parte* contacts be noted as part of the record and communicated to the parties. We do not accept the comment. We believe the Administrator's refusal to consider the content of any such communication or contact should be sufficient to discourage this practice.

p. Standards for the Administrator's Decisions

Two commentors stated that there is a need for standards in § 405.1875(g) that will govern how the Administrator will decide cases on review. The commentors indicate that the failure to specify which kinds of Board decisions might be reversed is surprising in view of our stated purpose in the NPRM to heighten the importance of Board decisions, promote a stronger, more self-reliant Board and promote greater public confidence in the overall adjudication process. We do not agree with this comment. In our view, the criteria for deciding whether to review, in paragraph (c) of this section, provides clear guidance as to the actions the Administrator may take on review. Also, we believe the establishment of specific standards for reversal would be unnecessarily restrictive. Having considered the criteria and having decided to review, the Administrator must retain sufficient latitude to decide whether to reverse or to take other appropriate action in regard to the particular Board decision.

q. Administrator's Decision Within 60 Days of Provider's Receipt of Board Decision

One commentor stated that § 405.1875(g) should say that the Administrator will render a decision within 60 days after the provider receives the Board decision and that it will be mailed shortly thereafter, but not necessarily within the 60 days. We accept this comment. We are revising § 405.1875(g) to provide that the Administrator will render his or her decision within 60 days after the provider received notification of the Board decision and mail the decision shortly thereafter.

r. Evidence that the Administrator Will Consider

One commentor stated that § 405.1875(g) should state that any decision of the Administrator other than remand "must" be confined to the record of the Board, rather than "will" be confined. We do not accept this comment. "Will" and "must" have specific connotations in our regulations ("must" and "shall" are synonymous) because our general practice is to use "will" to represent a promise or commitment to action on the part of a HCFA or HHS employee. We use "must" or "shall" to impose requirements on others.

We have changed the language proposed in § 405.1875(g) to reflect the fact that in making any decision, including remand, the Administrator will consider: (1) The record of the Board; (2) Information contained in a request for review under § 405.1875(b); (3) Written submissions under § 405.1875(e)(i) in response to the Administrator's decision to review; and (4) Generally known facts that are not subject to reasonable dispute.

The Administrator may rely on prior decisions of the Board, the Administrator and the Courts, and other applicable law, whether or not cited by the parties and HCFA.

Additionally, in considering a request for remand, the Administrator will also consider submittals of new, substantial evidence concerning issues presented to the Board and new issues that have arisen since the case was presented to the Board.

IV. Remands to the Board by the Administrator

As noted above, section 1878(f)(1) of the Social Security Act authorizes the Secretary to reverse, affirm, or modify a decision of the Board provided he or she does so within 60 days. The current regulations do not explicitly authorize the Administrator to remand a case to the Board. However, the U.S. District Court for the District of Columbia concluded that the Secretary's authority inherently includes remanding a case to the Board for further action consistent with the statute and regulations. *Gulf Coast Home Health Services, Inc. v. Califano*, No. 77–1507 (D.D.C. (October 10, 1978)); CCH Medicare-Medicaid Guide, ¶29,250.

In taking the above described position, the Court indicated that reviewing bodies, including administrative reviewers, are generally considered to have inherent power to remand to the initial decisionmaker, absent an explicit statutory ban.

In the NPRM, we proposed to amend the regulations to provide for the remand of a case to the Board by the Administrator. A decision by the Administrator to remand a case would have to be made within 60 days after the provider received notice of the Board's decision. The Administrator's remand would vacate the Board's decision. After remand, the Board would render a new decision which would be final, unless the Administrator exercised his or her review authority. The remand action would not be a final agency decision and would not be subject to judicial review. Also, the Administrator would have the same right to review a decision of the Board after remand as and original Board decision.

a. Request for Remand Not Limited to Record of the Board

Five commentors objected to the provisions in §§ 405.1875 (e) and (g) allowing requests for remand and Administrator decisions regarding remands to go beyond the certified record of the Board. Some suggested that requests not confined to the record of the Board should be accepted only upon a showing of good cause. We do not agree with these comments. The essential purpose of the remand authority is to have the Board consider additional evidence or issues essential to a full development of the record. Typically, the basis for a remand will not be in the record and the Administrator will not be in a position to exercise this authority properly if the parties cannot bring the issue to his or her attention. However, this is the only purpose for which material not in the record could be presented to the Administrator. Also, since a remand is warranted only where significant new evidence or new issues are to be considered, we do not believe that further restrictions, for example, requiring a showing of "good cause", are necessary.

b. Request for Remand Must Be Made Within 15 Days of Receipt of Administrator's Decision To Review

Four commentors indicated that it was not clear whether a party's request for remand must be submitted within the same 15-day period for requesting the Administrator to review a Board decision (§ 405.1875(b)). We are revising § 405.1875(e)(3) to make it clear that a request for remand by a party or HCFA must be submitted within 15 days of the receipt of the Administrator's decision to review a Board decision.

C. Board May Develop Additional Facts

One commentor indicated that a remand action by the Administrator should not be used to direct a different Board decision. Also, it was suggested that the remand action direct the development of further facts or suggest the applicability of the law or regulations other than those considered by the Board. We accept this comment and are revising §405.1875(h) to clarify that a remand action by the Administrator may direct the Board to take further action with respect to the development of additional facts, new issues, or the applicability of laws, regulations or HCFA Rulings other than those considered by the Board.

d. Administrator's Power To Remand

Eighteen commentors stated that there was no statutory authority or apparent statutory authority for a remand action by the Administrator. The commentors suggested that the proposal did one or more of the following: it interfered with the Board's decisionmaking authority; it delayed or prevented the provider from seeking judicial review; or it improperly extended the applicable 60-day period for Administrator's review.

We do not agree with the comments. We hold to the view expressed by the court in *Gulf Coast* that, absent an explicit statutory ban, the Administrator has the inherent power to remand to the previous decision maker. The court's ruling is especially applicable to the Administrator's review of Board decisions. The purpose of the Administrator's review is not to undertake a new hearing and it must not be used to retry the case. A decision not to review, or to affirm, reverse, or modify a Board decision must be confined to the record of the Board. Thus, we believe that it would be unreasonable to require or expect the Administrator to make a decision when he or she believes that there are additional facts to be considered, new issues to be developed, or law, regulations or HCFA Rulings to be considered other than those already considered, that might affect the outcome. In such cases, further development of the case is best done before the Board where the evidence and issues can be tested in adversary proceedings, with adequate time for a fully considered determination based on the additional findings. The only way this can be accomplished is through the use of remand.

With respect to the views expressed by the commentors, we believe the provision for remand also recognizes that, upon receipt of a Board decision, a party or HCFA may become aware of significant new evidence or new issues that have arisen since it presented the case to the Board. Thus, the party or HCFA has the opportunity to call this to the attention of the Administrator, while it is still possible to take corrective action. The opportunity to perfect a case at the administrative level will benefit all parties and HCFA. However, we believe that it is inappropriate to remand a case for another Board hearing in certain circumstances that could have been prevented by a party or are best resolved without another Board hearing. Therefore, the following are not acceptable bases for a remand:

1. Presentation of evidence existing at the time of the Board hearing that was known or could reasonably have been known;

2. Introduction of a favorable court case that was either not available in print at the time of the Board hearing or was decided after the Board hearing;

3. Change of a party's representative before the Board;

4. Presentation of an alternative legal basis concerning an issue in dispute; or

5. Attempted retraction of a waiver of a right made before or at the Board hearing.

While we expect the need for remands to the Board to arise only rarely, such remands should result in final decisions that consider all relevant facts and issues. Moreover, proper use of this remand authority should expedite a final resolution of the case. If a case went directly to court, rather than being remanded to the Board by the Administrator, it is possible that the court would identify the same shortcomings in the development of the case and would remand it to the Board. However, in such a case, considerable delay would have likely occurred before the Court reached its conclusion to remand. In this situation, a remand by the Administrator would have substantially expedited the case.

e. The Board Has Authority for Scheduling Remand Actions

Twenty-eight commentors objected to the remand provision because there were no time limits within which the Board would be required to act and because the provision permits multiple remands. Thus, there is the potential for extended delays in the provider's opportunity to seek judicial review. Two other commentors stated that a remand should be a final decision which is subject to judicial review. We do not accept these comments. In our view, case management is a responsibility of the Board and we fully expect that the Board will deal with remands on a prompt and, where possible, priority basis. Nonetheless, we are revising § 405.1875(h) to state formally that the Board shall take appropriate action with respect to remands. We wish to say clearly and unequivocally that we do not intend to use the regulation to extend the administrative appeals process or to delay a provider's opportunity to seek judicial review. Our goal is precisely the opposite.

f. Limits on Remand Decisions

Sixteen commentors objected to the remand provision because there were no applicable standards or criteria for determining when remand may be requested or for limiting the Administrator's remand authority. Also, there was no requirement for the Administrator to state the reasons for remand. We have revised the language in § 405.1875(h) to explain fully the limits of a remand decision by the Administrator. The new language describes generally accepted administrative hearing authority and procedures that are already being used. This section now clarifies that: (1) A remand vacates the Board's decision; (2) The Administrator may direct the Board to develop additional facts or new issues, or to consider laws or regulations that have not been applied; and (3) The Board's new decision will constitute a final decision subject to the Administrator's review.

V. Review of Board's Decision About its Jurisdiction

Under current regulations at § 405.1873, the Board decides all questions relating to its jurisdiction to hear a case. The regulations did not specify whether the Administrator and the courts may review a Board finding of no jurisdiction, since there is no final Board decision preceded by a "hearing".

In *Cleveland Memorial Hospital v. Califano*, 444 F. Supp. 125 (E.D.N.C. 1978), the court held that a decision by

VOL 48 ISS 196 OCT 7 1983 UMI

the Board denying jurisdiction is a "final decision," reviewable by the court. Otherwise, the court reasoned, the Board could effectively preclude any judicial review of its decisions simply by denying jurisdiction of those claims which it deems to be non-meritorious.

We think the court's conclusion is equally applicable to the question of whether the Administrator has authority to review a Board dismissal for lack of jurisdiction. We have therefore revised § 405.1875(c)(4) to provide clearly for such review authority. If a Board dismissal for lack of jurisdiction were overturned by a court, we think the court would normally remand the case through the Secretary to the Board for a hearing, rather than decide the case on its merits. We believe that a procedure whereby the Administrator may review a Board's dismissal and remand the case to the Board if the Administrator concludes the Board does have jurisdiction, will expedite the entire adjudicative process.

Sixteen commentors supported the basic provision. Another commentor supported the provision, but suggested that it be expanded to include review of Board decisions that it does have jurisdiction to hear a case. We accept this comment and are revising § 405.1875(c)(4) to clarify that such decisions of the Board may also be reviewed by the Administrator.

Five commentors stated that a decision of the Board that it lacks jurisdiction should be the final administrative decision and that the courts should decide any disputed question of jurisdiction. We do not accept this comment. In our view, the Administrator's ability to review a Board decision relating to its jurisdiction to grant a hearing is a proper exercise of the review authority granted under section 1878 of the Act. Also, as a practical matter, we expect that the Administrator's review of such decisions will be of benefit to the parties to the decision, since they can expect a prompt review decision, thereby possibly avoiding unnecessary and lengthy judicial actions.

VI. Timing of Judicial Review After Administrator Declines Review

As noted above, section 1878(f) of the Act gives the Secretary 60 days after the provider is notified of a Board decision in which to affirm, modify or reverse that decision. The same section of the Act, however, also gives the provider just 60 days after being notified of the Board decision, or 60 days after receiving the Secretary's affirmance, modification or reversal, in which to seek judicial review. There is a good deal of concern and confusion because the Secretary's 60 days to act runs concurrently with the provider's 60 days to seek judicial review if the Secretary does not act. If the Administrator (acting for the Secretary) did not act promptly in deciding not to review a Board decision, a provider would be obliged to file a lawsuit (which may well turn out to be unnecessary) or take the risk that it will lose its right to judicial review. We expect to avoid this situation by notifying the provider promptly when the Administrator has declined review.

a. Sixty Days to Seek Review After Notification the Administrator Will Not Review

In the NPRM, we proposed to amend § 405.1877 to allow a provider 60 days in which to seek judicial review from the date it receives notification that the Administrator has declined review.

Nine commentors supported the basic proposal; however, one commentor urged that it include a specific statement that HCFA will not oppose a provider's seeking judicial review on the basis that the statutory time limit has expired.

We now believe that we do not have the authority under the statute to allow a provider 60 days to seek judicial review after notification that the Administrator will not review a Board decision. Section 1878(f)(1) of the Act provides that, to obtain judicial review of Board decision, a provider must file a civil motion within 60 days after notification of the Board's decision. However, section 1878(f)(1) of the Act contains an exception and allows an additional time period if the Administrator "reverses, affirms, or modifies the Board's decision". However, because an Administrator's decision not to review a Board decision cannot be considered a reversal, affirmance, or modification, HCFA does not have any authority to extend the time period the statute allows for a court appeal. Therefore, if the Administrator declines to review a Board decision, the provider must file its appeal within 60 days of its receipt of the decision of the Board.

b. Sixty Days to Seek Review if Administrator Foils to Make a Final Decision After Announcing that He or She Would Review a Board Decision

Three commentors observed that the proposed regulation fails to state the provider has 60 days in which to seek judicial review from the date the Administrator's time for taking action expires. We accept the comment and are revising the regulation to make clear HCFA's interpretation of the statute that the failure of the Administrator to make a final decision within 60 days after the Administrator has notified the parties and HCFA that he or she has decided to review a Board decision constitutes an affirmation of the decision by the Board. In this situation, the provider has 60 days from the date the Administrator's time for taking action expired, in which to seek judicial review of the Board decision because section 1878(f)(1) of the Act allows a provider 60 days to seek judicial review after the Administrator affirms a Board decision. For example, if the 60 day period during which the Administrator may take action expires on July 1, and the Administrator notifies the parties and HCFA that he or she has decided to review a Board decision and then fails to make a final decision before that date, then HCFA will interpret the statute to mean that the provider will have until the following August 30th (that is, 60 days) to request judicial review.

c. General Concerns

Eleven commentors expressed the following general concerns about the authority for the proposal: (1) If the statute is not clear, it should be amended; (2) the regulation would not be binding on a U.S. Attorney or on the judiciary; (3) there is no guarantee that another interested party would refrain from issuing a challenge on the basis that the time limit had expired; (4) the provision represents an attempt to rewrite the statute. The majority of the commentors indicated that a better solution would be to require that notice of the Administrator's decision whether or not to review be issued within a specified period following the Board's decision.

We do not accept these comments and suggestions. We recognize that a regulatory interpretation of the statute would not necessarily bind a court. It would, however, bind HCFA and as a practical matter, its legal representative, the Department of Justice. Pending a clarifying change in the law, we believe that the proposed interpretation is a useful interim measure. Moreover, we do not believe that setting an arbitrary time limit, of less than 60 days, in which the Administrator must decide whether to review a Board decision would offer a realistic solution to providers' concerns about abbreviated judicial appeal deadlines.

VII. Regulatory Impact Analyses

Executive Order 12291

We have determined that this final rule does not meet the criteria for a major rule that are set forth in section 1(b) of Executive Order 12291. That is, this rule will not:

(1) Have an annual effect on the economy of $100 million or more (our estimate is that this rule will have a negligible economic impact in FY 83);

(2) Cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions, or

(3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic export markets.

Because we do not expect this final rule to increase or decrease the number or complexity of cases that the Administrator reviews, there will be no additional costs to providers or the Federal government under this final rule.

Regulatory Flexibility Analysis

The Secretary certifies, under section 605(b) of the Regulatory Flexibility Act, Pub. L. 96-353, that this final rule that sets forth several changes in the procedures relating to the Administrator's review of Board decisions will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's certification is that the revised rule will neither increase nor decrease the number or complexity of review decisions made by the Administrator. Therefore, this rule will not have a significant economic impact on anyone.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405, Subpart R is amended as set forth below: Subpart R—Provider Reimbursement Determination and Appeals, is amended as follows:

1. The table of contents for Subpart R is amended by revising the title of § 405.1875 to read as follows:

Subpart R—Provider Reimbursement Determinations and Appeals

* * * * *

Sec.
405.1875 Administrator's review.

* * * * *

2. The authority citation for Subpart R is revised to read as follows:

Authority: Secs. 205, 1102, 1814(b), 1815(a), 1833, 1861(v), 1871, 1872, 1878 and 1886 of the Social Security Act (42 U.S.C. 405, 1302, 1395f(b), 1395g(a), 1395l, 1395x(v), 1395hh, 1395ii, 1395oo and 1395ww).

3. In § 405.1801, paragraph (a) is revised by placing the definitions in alphabetical order, adding definitions for "Administrator", "Administrator's review", "Date of filing" and "Date of receipt", and removing the definition for "Secretary's review" to read as follows:

§ 405.1801 Introduction.

(a) *Definitions.* As used in this subpart: "Administrator" means the Administrator or Deputy Administrator of HCFA.

"Administrator's review" means that review provided for in section 1878(f) of the Act (42 U.S.C. 1395oo(f)) and § 405.1875.

"Board" means the Provider Reimbursement Review Board established in accordance with section 1878 of the Act (42 U.S.C. 1395oo) and § 405.1845.

"Board hearing" means that hearing provided for in section 1878(a) of the Act (42 U.S.C. 1395oo(a)), and § 405.1835.

"Date of filing" and "date of submission of materials" mean the day of the mailing (as evidenced by the postmark) or hand-delivery of materials, unless otherwise defined in this subpart.

"Date of receipt" means the date on the return receipt of "return receipt requested" mail, unless otherwise defined in this subpart.

"Intermediary determination" means the following:

(1) With respect to a provider of services that has filed a cost report under §§ 405.406 and 405.453(f), the term means a determination of the amount of total reimbursement due the provider for items and services furnished to beneficiaries for which reimbursement may be made on a reasonable cost basis under Medicare for the period covered by the cost report.

(2) With respect to a hospital that has filed a cost report and receives payments for inpatient hospital services based on reasonable cost subject to the target rate system (§ 405.463), the term includes a determination of the total amount of payment due the hospital under that system for the period covered by the cost report.

(3) With respect to a hospital that receives payments for inpatient hospital services under the prospective payment system (§§ 405.470–405.477), the term includes a determination of the total amount of payment due the hospital under that system for the hospital's cost reporting period covered by the determination.

(4) For purposes of appeal to the Provider Reimbursement Review Board, the term is synonymous with the phrases "intermediary's final determination" and "final determination of the Secretary", as those phrases are used in section 1878(a) of the Act.

(5) For purposes of § 405.374 concerning claims collection activities, the term does not include an action by HCFA with respect to a compromise of a Medicare overpayment claim, or termination or suspension of collection action on an overpayment claim, against a provider or physician or other supplier.

"Intermediary hearing" means that hearing provided for in § 405.1809.

* * * * *

4. Section 405.1871 is amended by revising paragraph (a) as follows:

§ 405.1871 Board hearing decision and notice.

(a) The Board shall, as soon as practicable after the conclusion of its hearing, render a written decision based upon the record made at such hearing, the record established in support of the determination of the intermediary (see § 405.1803), and such other evidence as may be obtained or received by the Board. Such Board decision shall be supported by substantial evidence when the record of the Board hearing is viewed as a whole and shall cite applicable law, regulations, and HCFA Rulings. A copy of the decision shall be mailed to all parties to the hearing at their last known addresses and, at the same time, to the Administrator and HCFA.

* * * * *

5. Section 405.1875 is revised to read as follows:

§ 405.1875 Administrator's review.

(a) *General rule.* (1) Except for a Board determination under § 405.1842 that it lacks the authority to decide an issue, the Administrator, at his or her discretion, may review any final decision of the Board, including a decision under § 405.1873 about the Board's jurisdiction to grant a hearing. The Administrator may exercise this discretion on his or her own motion, in response to a request from a party to a

VOL
48
ISS
1
96
OC
7
1983
UMI

Board hearing or in response to a request from HCFA.

(2) The Office of the Attorney Advisory will examine the Board's decisions, the requests made by a party or HCFA and any submission made in accordance with the provisions of this section in order to assist the Administrator in deciding whether to exercise this review authority.

(b) *Request for review.* A party or HCFA requesting the Administrator to review a Board decision must file a written request with the Administrator within 15 days of the receipt of the Board decision.

(c) *Criteria for deciding whether to review.* In deciding whether to review a Board decision, either on his or her own motion or in response to a request from a party to the hearing or HCFA, the Administrator will normally consider whether it appears that:

(1) The Board made an erroneous interpretation of law, regulation or HCFA Ruling;

(2) The Board's decision is not supported by substantial evidence; or

(3) The case presents a significant policy issue having a basis in law and regulations, and review is likely to lead to the issuance of a HCFA Ruling or other directive needed to clarify a statutory or regulatory provision;

(4) The Board has incorrectly assumed or denied jurisdiction or extended its authority to a degree not provided for by statute, regulation or HCFA Ruling; and

(5) The decision of the Board requires clarification, amplification, or an alternative legal basis for the decision.

(d) *Decision to review.* (1) Whether or not a party or HCFA has requested review, the Administrator will promptly notify the parties and HCFA whether he or she has decided to review a decision of the Board and, if so, will indicate the particular issues he or she will consider.

(2) The Administrator may decline to review a case or any issue in a case even if a party has filed a written request for review under paragraph (b) of this section.

(e) *Written submissions.* (1) Within 15 days of receipt of a notice that the Administrator has decided to review a Board decision, a party or HCFA may submit to the Administrator, in writing:

(i) Proposed findings and conclusions;

(ii) Supporting views or exceptions to the Board decision;

(iii) Supporting reasons for the exceptions and proposed findings; and

(iv) A rebuttal of the other party's request for review or other submissions already filed with the Administrator.

(2) These submissions shall be limited to issues the Administrator has decided to review and confined to the record of the Board hearing.

(3) A party or HCFA, within 15 days of a receipt of a notice that the Administrator has decided to review a decision, may also request that the decision be remanded and state reasons for doing so. Reasons for a request to remand may including new, substantial evidence concerning—

(i) Issues presented to the Board; and

(ii) New issues that have arisen since the case was presented to the Board.

(4) A copy of any written submission made under this paragraph shall be sent simultaneously to each other party to the Board hearing and to HCFA, if HCFA has previously—

(i) Requested that the Administrator review a Board decision or filed a written submission in response to a party's request for review.

(ii) Responded to a party's request for review; or

(iii) Submitted material after the Administrator has announced that he or she will review a Board decision.

(f) *Ex parte communications prohibited.* All communications from any of the parties or HCFA about a Board decision being reviewed by the Administrator must be in writing and must contain a certification that copies have been served on the parties and HCFA, as appropriate. The Administrator will not consider any communication that does not meet these requirements or is not submitted within the required time limits.

(g) *Administrator's decision.* (1) If the Administrator has notified the parties and HCFA that he or she has decided to review a Board decision, the Administrator will affirm, reverse, modify or remand the case.

(2) The Administrator will make this decision within 60 days after the provider received notification of the Board decision and will promptly mail a copy of the decision to each party and to HCFA.

(3) Any decision other than to remand will be confined to—

(i) The record of the Board, as forwarded by the Board;

(ii) Any materials submitted under paragraphs (b) or (e) of this section; and

(iii) Generally known facts that are not subject to reasonable dispute.

(4) The Administrator may rely on prior decisions of the Board, the Administrator and the courts, and other applicable law, whether or not cited by the parties and HCFA.

(h) *Remand.* (1) A remand to the Board by the Administrator vacates the Board's decision.

(2) The Administrator may direct the Board to take further action with respect to the development of additional facts or new issues, or to consider the applicability of laws or regulations other than those considered by the Board. The following are not acceptable bases for remand—

(i) Presentation of evidence existing at the time of the Board hearing that was known or reasonably could have been known;

(ii) Introduction of a favorable court case that was either not available in print at the time of the Board hearing or was decided after the Board hearing;

(iii) Change of a party's representation before the Board;

(iv) Presentation of an alternative legal basis concerning an issue in dispute; or

(v) Attempted retraction of a waiver of a right made before or at the Board hearing.

(3) After remand, the Board will take the action requested in the remand action and issue a new decision.

(4) The new decision will be final unless the Administrator reverses, affirms, modifies, or again remands the decision in accordance with the provisions of the section.

6. Section 405.1877 is amended by revising paragraph (a), redesignating paragraphs (b) through (e) as (d) through (g), respectively and adding new paragraphs (b) and (c) to read as follows:

§ 405.1877 Judicial review.

(a) *General rule.* Section 1878(f) of the Act permits a provider to obtain judicial review of a final decision of the Board, or of a reversal, affirmation, or modification by the Administrator of a Board decision, by filing a civil action pursuant to the Federal Rules of Civil Procedure within 60 days of the date on which the provider received notice of—

(1) A final decision by the Board; or

(2) Any reversal, affirmance, or modification by the Administrator.

The Board's decision is not final if the Administrator reverses, affirms or modifies the decision within 60 days of the date on which the provider received notice of the decision.

(b) *Administrator declines to review a Board decision.* If the Administrator declines to review a Board decision, the provider must file its appeal within 60 days of receipt of the decision of the Board.

(c) *Administrator does not act after reviewing a Board decision.* If the Administrator notifies the parties that he or she has decided to review a Board decision and then does not make a decision within the 60 days allotted for his or her review, this subsequent inaction constitutes an affirmance allowing a provider an additional 60 days in which to file for judicial review, beginning with the date the Administrator's time expires for taking action under § 405.1875(g)(2).

* * * * * *

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medicare Insurance)

Dated: May 11, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 19, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-27300 Filed 10-6-83; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC-5; Sub-1]

Motor Carriers of Property Minimum Amounts of Bodily Injury and Property Damage Liability Insurance; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Modification of final rules; correction.

SUMMARY: At 48 FR 43331, September 23, 1983, the Commission adopted final rules to implement statutory requirements by adopting minimum amounts of insurance at levels prescribed by the Secretary of Transportation for for-hire interstate motor carriers of property regulated by the Commission. That notice contained 2 inadvertent errors, which this notice corrects.

FOR FURTHER INFORMATION CONTACT: Alice K. Ramsay, (202) 275-0854

or

Delores Patterson, (202)275-0898.

The notice published at 40 FR 43331, is corrected as follows:

(1) Amendatory instruction (1), on page 43333, is corrected by changing the heading of § 1043.2 to read as follows:

§ 1043.2 Security for the protection of the public: Minimum limits.

(2) Amendatory instruction (2), on page 43334, is removed, and amendatory instructions (3) and (4) are corrected by redesignating them as instructions (2) and (3).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-27428 Filed 10-6-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of American Ginseng Harvested in 1983 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final findings and rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a treaty regulating the international trade of certain wildlife and plant species. Exports of wildlife or plants listed in Appendix II of CITES may occur if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species, and if a Management Authority is satisfied that the wildlife or plants were not obtained in violation of laws for their protection. American ginseng *(Panax quinquefolius)* is listed on CITES' Appendix II.

This notice announces final findings by the Scientific and Management Authorities for the United States concerning the export of American ginseng *(Panax quinquefolius).* These are final determinations for the States that have satisfied the Service's requirements on the export of specimens taken in the 1983 harvest season. Such findings are made on a State-by-State basis.

DATE: These findings are effective on October 7, 1983. The comment period remains open until December 31, 1983, for States that have not yet satisfied the Service's requirements.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Material received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, Room 536, 1717 H Street, NW., Washington, D.C., or at the Federal Wildlife Permit Office, Room 621, 1000 N. Glebe Road, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: Scientific Authority: Dr. Richard L. Jachowski, Chief, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone (202) 653-5948.

Management Authority: Mr. Thomas J. Parisot, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203, Telephone (703) 235-1937.

Ginseng Export Program: Mr. S Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203, Telephone (703) 235-2418.

SUPPLEMENTARY INFORMATION: This is the last of three noticies concerning the Service's findings on export of American ginseng *(Panax quinquefolius)* taken in the 1983 season.

The first notice (48 FR 26651; June 9, 1983) announced the Service's intention to develop findings on export of 1983 ginseng and invited comment on the guidelines that it proposed to use in making such findings. The second notice (48 FR 40750; September 9, 1983) announced the proposed export findings for ginseng on a State-by-State basis. The present notice establishes final export findings for States that have satisfied the Service's requirements for current information about American ginseng population status, management, harvest and State controls. The comment period remains open for States that have not yet satisfied the Service's requirements for such information.

Information Considered

For American ginseng, the Service sought the following information in its August 31, 1982, proposal regarding each affected State:

1. Historic, present, and potential distribution of ginseng on a county basis, using county outline maps, and indicating the source(s) and accuracy of this information. Include also the distribution of preferred habitat on a regional or statewide basis, indicating recent trends in loss or protection of habitat.

2. Approximate number or density of ginseng populations per county or region and the approximate number of all known ginseng localities in the State, including also the source of this information.

3. Average population size (i.e., "stand" or "patch") or local abundance of wild ginseng on a county or regional basis in the State, indicating the source(s), general reliability and accuracy of the information. Include also any changes from previous years or differences from historical population sizes.

VOL
48
ISS
1
96
OC
7
1983
UMI

4. An assessment of population trends on a county or regional basis indicating whether populations of ginseng are believed to be increasing, decreasing, stable, extirpated or unknown. Include source(s) and general reliability and accuracy of this information.

5. Assessment of harvest intensity on a county or regional basis indicating whether the relative intensity is heavy, moderate, light, none, or unknown, and any changes from previous years. Provide also the known or estimated number of ginseng collectors in the State.

6. A county map showing those counties in which ginseng is reported to be commercially cultivated. Include figures on the amount of cultivated ginseng reported to be harvested annually and certified for export from the State.

7. Average number of roots per pound harvested, preferably on a county or regional basis or, if these are not available, on a statewide basis. Include also an assessment of any trend in root sizes or number of roots per pound over previous years.

8. Describe the State's current research program on ginseng and its progress, including a summary of results so far obtained.

9. Describe harvest practices, including regulations on length of harvest season, any harvest restrictions such as size and age of collected plants, and any seed planting requirements.

10. Information concerning, or a copy of, State law or regulation on: (a) State registration of dealers (cost of registration, season or operation for dealers), (b) dealer maintenance of records, (c) dealer reporting system of ginseng commerce, (d) State certification of legal ginseng take, (e) samples of current year dealer license, and (f) samples of diggers license, if any, giving cost of license and dates of harvest season.

11. Describe State official certification system for wild and cultivated ginseng legally harvested within the State, including controls to minimize uncertified ginseng from moving into or from the State. A sample of current year export certificate must be on file in the Federal Wildlife Permit Office.

12. Name, address, and telephone number of the State staff person to contact concerning those information needs.

Scientific Authority Advice

American ginseng (*Panax quinquefolius*) is listed on CITES Appendix II. CITES regulates international trade in species included in Appendix II through a system of permits issued by designated Management Authorities in each party nation. Export permits for Appendix II species are to be issued only if a Management Authority receives advice from a Scientific Authority that the export will not be detrimental to the survival of the species.

The Endangered Species Act of 1973, as amended in 1979, designates the Secretary of the Interior as both Management Authority and Scientific Authority of the United States for purposes of CITES. These functions are carried out by the Fish and Wildlife Service. Management Authority responsibilities are delegated to the Associate Director—Federal Assistance. Scientific Authority responsibilities are delegated to the Associate Director—Research.

Criteria for Scientific Authority advice were elaborated in the May 26, 1981, Federal Register. Advice on the export of American ginseng and other Appendix II species addressed in these findings is given in a general way, applicable to any specimens harvested in particular States in a given season, rather than on a permit-by-permit basis. The reasons for this practice are that (1) the individual exporters who apply for permits are unable to supply much information about the sources of specimens or the effect of their harvest on the populations of the species, (2) the species in question are subject to the commercial exploitation, and it would be burdensome to both the industry and the Service to make separate Scientific Authority decisions on each of the many permits, and (3) the development of general advice on a State-by-State basis enables the Service to conduct a comprehensive review of the status of the species in question and the effect of international trade on its survival.

Advice based on such a review is more meaningful than it would be if it were based only on information supplied in connection with individual permit requests.

General criteria used by the Service in determining if export will not be detrimental to the survival of a species are as follows:

1. Whether similar export has occurred in the past and has not reduced the numbers or distribution of the species, nor caused signs of ecological or behavorial stress within the species, or in other species of the affected ecosystem.

2. Whether life history parameters of the species and the structure and function of its ecosystem indicate that the present frequency of export will not appreciably reduce the number or distribution of the species nor cause signs of ecological or behavioral stress within the species or in other species of the affected ecosystem.

3. Whether such export is expected to increase, decrease, or remain constant in frequency.

The Service is applying these criteria in advising on whether export of ginseng will not be detrimental to the survival of the species by evaluating (1) information from each State on past, present, and potential geographic distribution, relative frequency, local abundance, population trends, and harvest intensities on a county-by-county basis, and (2) State research and management programs for this species, including a limited harvest season.

As described in the June 9, 1983, notice (48 FR 26651), the Service is using information compiled beginning in 1977 to justify multi-year findings under CITES. Even though multi-year findings are made, the Service will continue to monitor the status of ginseng each year, and will retain the option of revising the findings at any time if new information shows compelling reason for a change.

The Office of the Scientific Authority has determined that the export of ginseng harvested in the following States during the 1982–84 seasons will not be detrimental to the survival of the species: Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Management Authority Findings

Exports of Appendix II species are to be allowed under CITES only if a Scientific Authority has advised that they will not be detrimental to the survival of the species, and if a Management Authority is satisfied that the animals or plants were not obtained in contravention of laws for their protection.

Management Authority criteria for approval of American ginseng exports, on a State-by-State basis, are that the State has adopted the following regulatory measures: (1) State registration of dealers purchasing ginseng in the State, (2) Requirements that such dealers maintain records of their commerce in ginseng and report their ginseng commerce to the State at specified intervals, and (3) Certification by State officials of ginseng shipped from the State, to authenticate that the ginseng was lawfully taken from wild or cultivated sources within the State.

In 1980, the Service announced that the Management Authority would approve export of artificially propagated ginseng only from the States approved

for export of wild-collected ginseng because they had the programs necessary to document the source of the plants (45 FR 80444; December 4, 1980). The Service is continuing this practice, but it will also approve the export of artificially propagated ginseng from other States if they can provide similar documentation to minimize the risk that wild-collected plants are exported as cultivated.

Furthermore, in the notice of August 31, 1982 (47 FR 38369–38373), the Service explained that it was strengthening the "Certification of Legal Take" requirement for ginseng moved from the State or origin. This was done because experience has shown the value of a State official personally inspecting and certifying ginseng leaving the State of origin. It is by such an inspection of ginseng roots and records of ginseng commerce that the State official can document that the roots in question were legally taken from the wild or were artifically propagated in that State.

Recognizing that certain States might not be able to implement such a certification program in time for the 1982 season, the Service announced in its notice of October 4, 1982 (47 FR 43701) that other forms of State certification, that had been approved for the 1981 harvest season, would be accepted only for the 1982 harvest season.

Beginning with the 1983 harvest season, all States seeking export approval for their wild or cultivated American ginseng were required to have a legally mandated ginseng program that includes, among items discussed in "Information Considered," provisions for a State official to examine and certify all ginseng moved from the State of origin. This certification must include verification of the State of origin, legal taking, year of take, weight of shipment, whether wild or artifically propagated, date of certification, shipment number, dealer's State registration number, and signatures of both the dealer and State offcial certifying the ginseng.

It was decided to grant multi-year export approval (1982–84) only to those States having a current ginseng program that included a State inspection and certification system and otherwise satisfied the criteria of both the Scientific and Management Authorities. Those States are Georgia, Kentucky, Minnesota, North Carolina, Vermont (artifically propagated only), and Virginia. States satisfying all criteria of both the Scientific and Management Authorities, except for the State inspection and certification system, were granted export approval only for the 1982 season. States approved only for 1982 export may not be granted further approval until a legally mandated ginseng program is developed. Those States were Arkansas, Illinois, Indiana, Iowa, Maryland, Ohio, Missouri, Tennessee, West Virginia, and Wisconsin.

Export Approval

The Service approves export of ginseng lawfully taken during the 1982–84 seasons in the following States, on the grounds that both Scientific Authority and Management Authority criteria have been met: Arkansas, Georgia, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Vermont (artifically propagated only), Virginia, West Virginia, and Wisconsin (wild only).

The Service approves export of ginseng lawfully taken during the 1982 (only) season in the following State : Illinois.

The Service approves export of ginseng lawfully taken during the 1982 and 1983 (only) seasons in the following States: Indiana, Tennessee, and Wisconsin (artifically propagated only).

The Service does not grant general approval for exports of American ginseng taken from any other State during the 1982–84 harvest seasons. For all other States not named above, either the taking of American ginseng was not allowed by the State during the 1982 season, the species did not occur in the State, or the State did not provide the Service with information on which to base Scientific Authority and Management Authority findings. The Service does not grant general approval for international export of American ginseng from such States.

Information from States and records of the Service's evaluation of this information are available for public inspection at the Office of the Scientific Authority (for Scientific Authority advice) or at the Federal Wildlife Permit Office (for Management Authority findings).

The Service holds the view that every attempt should be made to provide the public with the greatest possible opportunity to comment on regulations. On June 9, 1983, the Service published a preliminary notice (48 FR 26651) of its intent to propose findings on American ginseng and other Appendix II species taken during the upcoming harvest season, providing the largest period possible for public comment. On September 9, 1983, the Service published proposed findings (48 FR 40750) for this species, limiting the comment period to 15 days in the opinion that a longer period would be impractical and contrary to the public interest. (See also notice of correction dated September 20, 1983 (48 FR 42840).) It was also recognized that time would be of the essence to publish final findings at the close of that comment period.

The findings announced in this notice are effective immediately. It is the Service's opinion that a delay in the effective date of these regulations after this final rulemaking is published could effect the harvest season already begun in several States and adversely impact State conservation programs for this species by, for example, reducing compliance with State certification and documentation requirements. The Service, therefore, finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, for these frameworks to take effect immediately upon publication. Further, these final findings operate to relieve export restrictions for American ginseng harvested from certain States during specified seasons. An additional reason why these findings may take effect immediately. See 5 U.S.C. 553(d)(1).

Based on a review and evaluation of information contained in the attached Environmental Impact Assessment, I have determined that the final findings on the export of American ginseng taken in the 1983 and 1984 seasons are not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an Environmental Impact Statement on these final findings is not required.

This rule is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.; 87 Stat. 884 as amended), and was prepared by S Ronald Singer, Federal Wildlife Permit Office, telephone (703) 235–2418.

Note.—The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). For ginseng, exporters normally derive their product from the ginseng harvest in a number of States. Therefore, the approval or disapproval of export from any one State would not significantly effect the industry. Furthermore, without this finding and rule, export of American ginseng would be totally disallowed from the United States.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

Accordingly, Part 23 of Title 50, Code of Federal Regulations, is amended as set forty below:

VOL 48 ISS 196 OCT 7 1983 UMI

PART 23—ENDANGERED SPECIES CONVENTION

Subpart F—Export of Certain Species

1. In § 23.51 revise paragraph (e) to read as follows:

§ 23.51 American ginseng (Panax quinquefolius)

* * * * *

(e) 1982 through 1984 harvests:

Arkansas, Georgia, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Vermont (artificially propagated only), Virginia, West Virginia, and Wisconsin (wild only).

1982 harvest only: Illinois.

1982–1983 harvest only: Indiana, Tennessee, and Wisconsin (artificially propagated only).

Conditions on findings: Roots must be documented as to State or origin and season of collecting. Wild and artifically propagated roots must be certified by the State as legally collected and such certification must be presented upon export.

Dated: September 30, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-27498 Filed 10-6-83; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 48, No. 196
Friday, October 7, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Claim and Report Submission

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Child Care Food Program (CCFP) regulations to mandate the submission of claims to State agencies within 60 days of the claiming month and the submission of Program reports by State agencies to the Department within 90 days of the month covered by the report. Exceptions to these limits may be granted at the discretion of the Food and Nutrition Service (FNS). Moreover, this rule proposes to permit sponsoring organizations of day care homes to establish deadlines for their homes to submit meal counts and menu records. Finally, this proposal specifies appeal rights in the case of requests for exceptions. This proposal will have the effect of ensuring timely and accurate reporting of participation data.

Interested parties are invited to comment on this proposal.

DATES: Comments must be received on or before December 6, 1983 to be assured of consideration in the final rule.

ADDRESS: Written comments should be sent to Stanley C. Garnett, Acting Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett at the above address or by telephone at (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classifications: This rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or the ability of U.S. enterprises to compete with foreign based enterprises. This rule has also been reviewed with regard to the requirements of Public Law 96-354. The Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

Background

The CCFP is authorized by Section 17 of the National School Lunch Act (NSLA). Public Law 97-370, the 1983 Agriculture appropriations act, mandated that "* * * only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the claiming month shall be eligible for reimbursement from funds appropriated under this Act." That act further stipulated that "States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month." Finally, Public Law 97-370 further provided that "Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary."

This provision was included in Public Law 97-370 because, in the past, the Department has experienced serious delays in receiving complete and accurate participation data for the CCFP. Timely and accurate reporting is the key to the CCFP's cash management system. Such reporting enables the Department to monitor Program activity closely throughout the fiscal year and provides the basis for accurately projecting Program obligations and cash needs levels on a month-to-month basis. It also allows for the expeditious closeout of fiscal year Program accounts, thus assisting cash management efforts for the following year.

On May 10, 1983, the Department published a final rule (48 FR 2096) implementing these provisions for Fiscal Year 1983. The final rule was effective only for Fiscal Year 1983. However, the Department considers that the circumstances which occasioned the claim and report submission provision in Public Law 97-370 must not be allowed to repeat. Therefore, the Department is now proposing the following permanent amendments to the CCFP regulations, to be effective during Fiscal Year 1984 and thereafter.

1. Deadlines for Submission of Final Claims and Reports

The Department is proposing that State agencies submit their final monthly reports on participation in the CCFP (FNS 44) within 90 days after the end of the month covered by the report. Recognizing that State agencies must receive complete claims in a timely manner in order to submit the required monthly reports, the Department further proposes to require institution to submit their final claims to the State agency within 60 days of the month covered by the claim. These time limits are the same as those for Fiscal Year 1983 and are intended to enable both State agencies and institutions to deal with delays that may occur from time to time, while still ensuring that the Department receives the necessary data in a timely manner. The Department is proposing to base the deadlines on the dates the Claims for Reimbursement or Program Operations Reports are postmarked and/or submitted to the State agencies or FNS, as appropriate. The language "postmarked and/or submitted" would allow institutions or State agencies to either mail or deliver these documents.

Institutions and State agencies are cautioned that claims which are not submitted within 60 days of the claiming month shall not be paid, and States shall not be authorized to draw funds from the CCFP letter of credit for meals which are not reported within 90 days of the month in which they were served, unless FNS grants an exception. Moveover, while 60 days is the maximum amount of time to be allowed to institutions for claim submission, the Department wishes to emphasize that State agencies will have the discretion to establish earlier time limits, if they so elect.

These proposed rules also revise the deadline for submission of final

Financial Status Reports (SF–269s) by State agencies. It is proposed that these reports be postmarked and/or submitted to FNS within 120 days after the end of the fiscal year instead of the current 150 days. The revised deadline would allow State agencies 60 days, after claims for reimbursement for the last month of the fiscal year are due, in which to finalize payments and close program accounts for the fiscal year. When the current 150 day deadline was established, claims for reimbursement were due 90 days after the end of the fiscal year. This allowed State agencies 60 days in which to finalize their program activities. The proposed 120 day deadline for the final SF–269 would maintain this 60 day time period for State agencies and provide a more timely program closeout.

2. Adjustments

The Department expects that all claims and reports submitted by the 60th and 90th days respectively will be final and will contain the most accurate data available at the time of submission. Nevertheless, the Department recognizes that adjustments may need to be made on occasion. With respect to both claims and reports, downward adjustments reflecting the fact that all or part of a final claim was no properly payable shall always be made, regardless of when the overpayment is discovered. Such adjustments may be required by the findings of audits or reviews or they may be due to the discovery of errors in the final claims.

This requirement does not represent a change in policy. The current regulations require the recovery of funds that were not properly payable, and the Department considers such a mandate essential to sound management. Moreover, when overpayments are collected, it is equally important to adjust the report filed by the State agency. By the same token, final reports which overstate the number of meals served shall be adjusted downward immediately, regardless of when the overstatement is discovered.

Upward adjustments to final claims and reports will be made on the following basis. If a claim has been submitted within the 60 day time limit, the State agency may, if it elects, make upward adjustments as long as these adjustments are completed in time to be reflected in the final FNS–44 report for the claim month, due within 90 days of the claim month. Such adjustments may be made on the basis of either a request submitted by the institution, or the State's discovery that a valid claim had been underpaid. After the 90 day time limit for submission of the final FNS–44 Report, no upward adjustments to either claims or reports can be made unless FNS grants an exception.

3. Exceptions

Exceptions to the deadlines for submitting both claims and reports and for making upward adjustments, except as specified above, may be granted only by FNS on a case-by-case basis. As noted above, the State agency may elect to make upward adjustments to claims after the 60th day has passed, provided that the claim was properly submitted by the 60th day and that the adjustment can be made in time to be reflected in the State's final FNS–44 Report. For example, an institution properly submits its claim on the 58th day after the claiming month. Subsequent to this submission, the institution discovers that additional meals could be claimed for that month. A request for an upward adjustment is submitted to the State agency on the 80th day after the claiming month. Since the request has been sumitted in sufficient time to be reflected in the State's final FNS–44, the State agency may elect to approve the upward adjustment without referring to FNS. The same principle would apply if the State agency discovered that it had inadvertently underpaid the institution.

However, the State agency is not required to act on requests for upward adjustments submitted after the 60 day claiming deadline but prior to the 90 day reporting deadline. If the State agency does not wish to approve such an adjustment, the upward adjustment can be made only if FNS grants an exception to the 60 day deadline for submitting claims. Moreover, if a request for an upward adjustment is not submitted in time to be included in the State's final FNS–44, *only* FNS can grant an exception, since it would also be necessary to grant the State an exception to the 90 day reporting deadline. Finally, if a claim is submitted after the 60 day deadline, the claim can be paid *only* if FNS grants an exception.

In order to receive an exception from FNS, it will be incumbent upon the institution to demonstrate that an exception is justified. The Department considers that the 60 day time limit for submission of claims allows institutions sufficient time to prepare and submit final claims based on actual data. FNS will apply the same criterion to requests from States for exceptions to the 90 day reporting limit.

4. Sanctions

The Department also wishes to emphasize that if State agencies consistently submit inaccurate data which later requires adjustments, corrective action may be required in accordance with 7 CFR Part 235. As noted above, the Department will approve upward adjustments to reports after the submission deadline only if the State can demonstrate that an exception to the 90 day limit is justified. In the case of downward adjustments, modifications must always be made. However, if the downward adjustment is needed because of an error on the State's part or because the State agency submitted estimated data on its final report, the Department may require the State agency to take appropriate corrective action to ensure that this situation does not continue. In this regard, the Department also wishes to remind State agencies that the failure to submit accurate final reports within 90 days may also result in sanctions against the State. The maximum sanction which may be imposed could result in the loss of up to one hundred percent of the funds to which a State agency would be entitled during a fiscal year under Part 235 for the administration of the CCFP.

5. Appeals

Because of the nature of the exception process, disapprovals by FNS of requests for exceptions will not be subject to review by State hearing officials or, in the case of Regional Office administered programs (ROAPs), by the FNS Administrative Review Staff. Section 17(e) of the National School Lunch Act requires that a fair hearing be given to any institution aggrieved by *State* action. Section 16(b) of the *Child Nutrition Act* authorizes the Secretary of Agriculture to settle, adjust, compromise or deny any claim arising under that Act or the *National School Lunch Act*. This authority has been delegated to the Administrator of FNS and FNS Regional Administrators and is not subject to delegation to States. Because the final decision concerning the exception request will not be "State action," no appeal is required by Section 17. Institutions may appeal the decision by State agency not to forward an exception request for a final decision, since in these instances the appeals would involve administrative decisions which are "State action."

6. Sponsor Agreements

Finally, the Department recognizes that sponsoring organizations of day care homes may have difficulty meeting the 60 day time limit for submission of claims if they do not receive records from their homes in a timely fashion. Therefore, the Department is proposing to permit sponsors to establish time limits for their homes to submit

appropriate records. Any due dates would need to be approved by the State agency and stated in the written agreement which sponsors execute with their day care providers.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, the Department is proposing to amend 7 CFR Part 226 as follows:

PART 226—CHILD CARE FOOD PROGRAM

1. Section 226.6 is amended by adding a new paragraph (j)(11), to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(j) *Institution appeal procedures.* * * *

(11) Appeals shall not be allowed on decisions made by FNS on requests for exceptions to the claim submission deadlines stated in § 226.10(c).

* * * * *

2. Section 226.7(d) is revised to read as follows:

§ 226.7 State agency responsibilities for financial management.

* * * * *

(d) *Reports.* Each State agency shall submit to FNS a final report of Child Care Food Program Operations (FNS–44) for each month no more than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is not postmarked and/or submitted within this time limit unless FNS grants an exception. Upward adjustments to a State's report shall not be made after 90 days from the month covered by the report unless an exception is granted by FNS. Downward adjustments shall always be made regardless of when it is determined that such adjustments need to be made. Each State agency shall also submit to FNS a quarterly Financial Status Report (SF–269) on the use of Program funds. Such reports shall be submitted no later than 30 days after the end of each fiscal year quarter. Obligations shall be reported only for the fiscal year in which they occur. A final Financial Status Report for each fiscal year shall be submitted to FNS within 120 days after the end of the fiscal year. FNS shall not be responsible for reimbursing unpaid Program obligations reported later than 120 days after the close of the fiscal year in which they were incurred.

* * * * *

3. In § 226.10, paragraphs (c), (d) and (e), are revised to read as follows:

§ 226.10 Program payment procedures.

* * * * *

(c) Claims for reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the Reports of Child Care Food Program Operations required under § 226.7(d). In submitting a claim for reimbursement, each institution shall certify that the claim is correct and that records are available to support the claim. Independent proprietary Title XX centers for months in which not less than 25 percent of enrolled children were Title XX beneficiaries shall submit the percentages of enrolled children receiving Title XX benefits for the month covered by the claim. Sponsoring organizations of such centers shall submit the percentage of enrolled children receiving Title XX benefits for each center for the claim month. Sponsoring organizations of such centers shall not include in any claim those centers in which less than 25 percent of enrolled children were Title XX beneficiaries for the month claimed.

(d) All records to support the claim shall be retained for a period of three years after the date of submission of the final claim for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three year period as long as may be required for the resolution of the issues raised by the audit. All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the State agency, of the Department, and of the U.S. General Accounting Office for audit or review, at a reasonable time and place.

(e) If the first or last month of Program operations for any fiscal year contains 10 operating days or less, such month may be added to the Claim for Reimbursement for the appropriate adjacent month. However, Claims for Reimbursement may not combine operations occurring during the ending month of a fiscal year with the beginning month of the next fiscal year. A final Claim for Reimbursement shall be postmarked and/or submitted to the State agency not later than 60 days following the last day of the month covered by the claim. State agencies may establish shorter deadlines at their discretion. Claims not filed within 60 days shall not be paid unless FNS determines that an exception should be granted. The State agency shall promptly take corrective action with respect to any Claim for Reimbursement as determined necessary through its claim review process or otherwise. In taking such corrective action, State agencies may make upward adjustments in amounts claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the claim month and are reflected in the final Report of Child Care Food Program operations (FNS–44) for the claim month as required under 226.7(d). Downward adjustments in amounts claimed shall always be made regardless of when it is determined that such adjustments are necessary. Upward adjustments in amounts claimed which are not reflected in the final FNS–44 for the claim month cannot be made unless an exception is granted by FNS.

* * * * *

4. In § 226.18, a new paragraph (b)(10) is added to read as follows:

§ 226.18 Day care home provisions.

* * * * *

(b) * * *

(10) If the State agency has approved a time limit for submission of meal records by day care homes, that time limit shall be stated in the agreement.

* * * * *

Although this rule does establish certain reporting deadlines, the actual reporting or recordkeeping requirements associated with the rule have not been changed. The requirements for the Child Care Food Program Claim Form (FNS–82) were approved by the Office of Managment and Budget (OMB) for use through September 1985 (0584–0055). The monthly report Form (FNS–44) and the form used to adjust this report (FNS–44A) were approved by OMB for use through August 1985 (0584–0078).

(Sec. 2, Pub. L. 95–627, 92 Stat. 3603, 42 U.S.C. 1766 and Pub. L. 97–35)

Dated: October 3, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83–27445 Filed 10–6–83; 8:45 am]

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VOL
48
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Federal Crop Insurance Corporation

7 CFR Part 441

Proposed Table Grape Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby issues a new part in Chapter IV of Title 7 of the Code of Federal Regulations to prescribe procedures for insuring table grapes effective for the 1984 and succeeding crop years. The intended effect of this rule is to provide insurance for table grapes as a separate commodity from wine grapes. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 6, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). It has been determined under such procedures that this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981); (2) this action will not increase the Federal paperwork burden on individuals, small businesses, and other persons; and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as defined in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

FCIC is soliciting comments on this rule for 60 days after publication in the **Federal Register**. All written comments made pursuant to this action will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

Background

The grape crop insurance program is presently applicable to growers of both wine and table grapes; however, experience has indicated that, in order for there to be an equitable application, there should be separate regulations prescribing the procedures for insuring table grapes. This judgement has evolved from discussions with producers and processors where such grapes are produced. With the proposal of a table grape crop insurance program, FCIC is responding to many requests for such a program.

List of Subjects in 7 CFR Part 441

Crop insurance, Table grapes.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to issue a new Part 441 in Chapter IV of Title 7 of the Code of Federal Regulations, effective for the 1984 and succeeding crop years, to be known as 7 CFR Part 441—Table Grape Crop Insurance Regulations, to read as follows:

PART 441—TABLE GRAPE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

441.1 Availability of table grape insurance.
441.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
441.3 OMB control numbers.
441.4 Creditors.
441.5 Good faith reliance on misrepresentation.
441.6 The contract.
441.7 The application and policy.
Appendix A—Counties Designated for Table Grape Crop Insurance

Authority: Sections 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1984 and Succeeding Crop Years

§ 441.1 Availability of table grape insurance.

Insurance shall be offered under the provisions of this subpart on table grapes in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which table grape insurance will be offered.

§ 441.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for table grapes which shall be shown on the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 441.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 441) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 441.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary tansfer shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 441.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the table grape insurance contract, whenever—

(a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and;

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 441.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the table grape crop as provided in the policy. The contract shall consists of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the service offices.

§ 441.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the table grape crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the service office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1984 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a table grape contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1983 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Table Grape Insurance Policy are as follows:

DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

Table Grape Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of loss.*

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Wildlife;
(4) Earthquake;
(5) Volcanic eruption;
(6) Or direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6). Direct Mediterranean Fruit Fly damage shall be actual physical damage to the grapes on the unit which, as determined by us, causes such grapes to be unmarketable and shall not include unmarketability of such grapes as a direct result of a quarantine, boycott, or refusal to accept the grapes by any entity without regard to actual physical damage to such grapes.

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good table grape management practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, Acreage, and Share Insured.*

a. The crop insured shall be any insurable variety of grapes which are grown for harvest as table grapes and which are grown on insured acreage on which the cultural practices to produce table grapes are carried out, as determined by us, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be grapes grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured grapes at the time insurance attaches.

d. We do not insure any acreage:

(1) Which the vines, after being set out, have not reached the number of growing seasons designated in the actuarial table;

(2) Which has not produced an average of 150 lugs of table grapes per acre; or

(3) Which does not have acceptable records of production or with less than 90 percent stand of bearing vines based on the original planting pattern, unless inspected by us and considered acceptable and we agree in writing to insure such acreage.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good grape irrigation practice at the time insurance attaches; and

(2) Any loss of production caused by failure to carry out a good grape irrigation practice, except failure of the water supply from an unavoidable cause occurring after the insurance attaches, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to time insurance attaches.

3. *Report of Acreage, Share, Yield, and Where Applicable, Practice.*

You shall report on our form:

a. All the acreage of grapes in the county on which cultural practices to produce table grapes are carried out in which you have a share;

b. The practice;

c. Your share at the time insurance attaches;

d. The number of bearing vines (if less than 90 percent of a stand based on the original planting pattern); and

e. The most recent year's production records for insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any grapes grown in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.*

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual Premium.

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the vineyard operation; or

(3) Your contract if you stop vineyard operations in one county and start vineyard operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for Debt.*

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance Period.*

Insurance attaches on February 1 and ends on the earliest of:

a. Total destruction of the grapes on the unit;

b. Discontinuance of cultural practice(s), as determined by us, to produce table grapes;

c. The date harvest should have started on the unit, as determined by us, on any acreage which will not be harvested as table grapes;

d. Discontinuance of harvesting of table grapes on the unit;

e. Final adjustment of a loss; or

f. October 31 of the calendar year in which the grapes are normally harvested.

8. *Notice of Damage or Loss.*

a. In case of damage or probable loss:

(1) You must give us written notice if during the period before harvest, the grapes on any unit are damaged and you decide not to further care for or harvest any part of them.

(2) You must give us notice:

a. At least 15 days before the beginning of harvest if you anticipate a loss on any unit; or

b. Immediately, if damage occurs within 15 days prior to harvest or during harvest.

(3) If you are going to claim an indemnity on any unit notice shall be given not later than 48 hours:

(a) After total destruction of the grapes on the unit;

(b) After discontinuance of harvest on the unit; or

(c) Discontinuance of cultural practice(s) to produce table grapes; or

(d) Before harvest would normally start if any acreage on the unit is not to be harvested as table grapes.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the grapes on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the grapes which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for Indemnity.*

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the grapes on the unit;

(2) Discontinuance of harvesting as table grapes on the unit;

(3) The date harvest should have started on the unit, as determined by us, on any acreage which will not be harvested as table grapes;

(4) Final harvest of the unit; or

(5) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of grapes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of grapes to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium determined to be due, the indemnity shall be reduce proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Mature grape production:

(a) Which, due to insurable causes, does not grade No. 1 or better, or would not meet these requirements if properly handled, in accordance with the Official United States Standards, shall be adjusted by:

(i) Dividing the value per lug of such grapes, as determined by us, by the price per lug of U.S. No. 1 grapes; and

(ii) Multiplying the result by the number of lugs of such grapes.

The applicable price for No. 1 grapes shall be the week ending price for the district as reported by the Federal State Market Service, Fresno, California on the earlier of: The week before the loss is adjusted or the week before such grapes were sold.

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes, failure to follow recognized good table grape management practices and any change in management practices (Green Drop);

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of grapes becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) If any grapes are harvested before normal maturity, the production of such grapes shall be increased by the factor obtained by dividing the price per lug received for such grapes by the price per lug for fully matured grapes, as determined by us.

(5) We may determine the amount of production of any unharvested grapes on the basis of field appraisals conducted after harvest was discontinued.

(6) When you have elected to exclude hail and fire as insured causes of loss and the grapes are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the grapes are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or Fraud.*

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Share.*

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.*

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation. (Recovery of loss from a third party.)*

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.*

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all grapes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of Contract: Cancellation and Termination.*

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemnity claim shall be the date you sign such claim; or

(2) if deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State, California: Cancellation and termination date, January 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs

VOL 48 ISS 196 OCT 7 1983 UMI

after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract Changes.*

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by October 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of Terms.*

For the purposes of grape crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding grape insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches and extending through normal harvest time and shall be designated by the calendar year in which the grapes are normally harvested.

e. "Harvest" means picking the grapes from the vines.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Lug" means 22 pounds of table grapes in the Coachella Valley district, California, and 23 pounds in all other California districts.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Table grapes" means the grapes which are grown for commercial sales as fresh grapes, on acreage which the cultural practices to produce fresh marketable grapes were carried out.

l. "Tenant" means a person who rents land from another person for a share of the grapes or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of grapes in the county, located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the grapes on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive Headings.*

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.*

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. *Notices.*

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A—Counties Designated for Table Grape Crop Insurance

The following counties are designated for Table Grape Crop Insurance under the provisions of 7 CFR 441.1.

California: Fresno, Kern, Kings, Madera, Mendocino, Merced, Monterey, Napa, Riverside, San Benito, San Bernadino, San Joaquin, San Luis Obispo, Sonoma, Stanislaus, and Tulare.

Done in Washington, D.C. on June 20, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: October 3, 1983.

[FR Doc. 83-27427 Filed 10-6-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 904

Grapefruit Grown in a Designated Area in California; Order Directing That a Referendum be Conducted, Determination of Representative Period for Voter Eligibility, and Designation of Referendum Agents To Conduct the Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among growers of grapefruit grown in a designated area in California, to determine whether they favor termination of the marketing order program.

DATES: Representative period, September 1, 1982 through August 31, 1983.

ADDRESSES: See information contained in supplementary information.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291, and has been designated a "non-major" rule. This action is required to determine whether growers favor termination of the marketing order for grapefruit grown in the production area as specified in the order.

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among the growers who, during the period September 1, 1982 through August 31, 1983 (which period is hereby determined to be a representative period for the purposes of such referendum), were engaged in the production area in the production of grapefruit covered by the marketing order to ascertain whether termination of the marketing order is favored by the growers.

Roland G. Harris and John H. Clark, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 845 South Figueroa, Suite 540, Los Angeles, California 90017, telephone (213) 688-3190, are hereby designated as referendum agents of the Secretary of Agriculture to conduct the referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruit, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR Part 900.400 *et seq.*).

Copies of the text of the aforesaid marketing order may be examined in the office of the referendum agents or the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agents and from their appointees.

List of Subjects in 7 CFR Part 904

Marketing orders, Grapefruit, California.

Dated: October 3, 1983.

John R. Block,

Secretary.

[FR Doc. 83-27383 Filed 10-6-83; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Revision of Backfitting Process for Power Reactors; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Correction to advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission is initiating a rulemaking for the purpose of establishing requirements for the long-term management of its process for the imposition of new regulatory requirements for power reactors. This process, commonly referred to as "backfitting", can include both plant specific changes and generic changes that are proposed to be applied to one or more classes of power reactors.

FOR FURTHER INFORMATION CONTACT: William M. Shields, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: 301-492-8693.

The **Federal Register** dated Wednesday, September 28, 1983, page 44218, Column 3, under the subheading: Separate Views of Commissioner Roberts, Sentence 1, should read as follows: "I do not believe that this advance notice * * * process."

Dated at Washington, D.C. this 4th day of October, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-27432 Filed 10-6-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM80-10-000]

Proposal Continuing Stay for an Additional 120 Days of Phase II of the Incremental Pricing Program of the Natural Gas Policy Act

Issued: October 5, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed continuation of stay for an additional 120 days of Order No. 80.

SUMMARY: On May 6, 1980, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 80, 45 FR 31,622 (May 13, 1980)) to implement Phase II of the incremental pricing program of the Natural Gas Policy Act (NGPA). That program was, among other things, intended by Congress to shield residential and commercial natural gas users from the higher prices permitted by the NGPA. Phase II expanded those subject to the program's surcharge pricing mechanism to include other industrial users in addition to the large industrial facilities using gas as boiler fuel covered by Phase I. Several persons filed petitions for rulemaking and for stay of the October 15, 1983, effective date of the final rule. The Commission granted petitioners' request to stay the effective date of Order No. 80 by a separate document published elsewhere in this issue. That order stays the effective date for sixty days. The Commmission here proposes to extend the stay for an additional 120 days or until Commission completes its reconsideration of Order No. 80, whichever is earlier.

DATES: Comments and requests for a public hearing on the proposal to extend the stay must be received on or before October 28, 1983.

ADDRESS: Comments and requests for a public hearing must be submitted in writing to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should refer to Docket No. RM80-10-000. An original and fourteen copies must be filed.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Order Granting a Stay of Effective Date of Order No. 80 for 60 Days and Proposing Continuation of Stay for an Additional 120 Days

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing this order to stay for sixty days the effective date of the final regulations promulgated in Order No. 80.[1] Those regulations expand the scope of the incremental pricing program in accordance with section 202 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980). Absent Commission action, Order No. 80 would become effective October 15, 1983. The Commission is also proposing to extend the stay for an additional 120 days or until the Commission completes reconsideration of the regulations in Order No. 80, whichever is earlier.

The Commission has received petitions for rulemaking and stay of the effective date of Order No. 80 from the American Gas Association and Indicated Industrial Consumers, and jointly from Interstate Natural Gas Association of America, Petrochemical Energy Group, and United Distribution Companies. Petitioners request the Commission to reopen the rulemaking proceedings in this docket and to stay the final rule pending the outcome of the reopened proceedings. For the reasons discussed below, the Commission grants petitioners' request for a temporary stay of the effective date of Order No. 80 for sixty days. In addition, the Commission requests comments on a proposal to extend the stay for an additional 120 days, or until the Commission completes its reconsideration of the final rule in light of the decision of the United States Court of Appeals for the District of Columbia Circuit in *Consumer Energy Council of America v. Federal Energy Regulatory Commission*,[2] whichever is earlier.

[1] Order No. 80, issued May 6, 1980, Docket No. RM80-10, 45 FR 31,622 (May 13, 1980).

[2] 673 F. 2d 425 (D.C. Cir. 1982); *aff'd mem. sub nom.* Process Gas Consumers Group v. Consumer Energy Council of America, 51 U.S.L.W. 3935 (U.S. July 6, 1983), *reh. denied* 52 U.S.L.W. 3187 (U.S. Sept. 9, 1983).

VOL
48
ISS
1
96
OC
7
1983
UMI

II. Background

Under Title II of the NGPA, Congress established an incremental pricing program which, among other things, was intended to shield residential and commercial natural gas users from the higher natural gas prices permitted by Title I of the NGPA. Under this program, the "incremental costs" of natural gas were to be passed through from interstate pipelines to certain industrial users by means of a surcharge pricing mechanism.

The Commission issued regulations to implement the incremental pricing program in two phases. The first phase was implemented by regulations issued on September 28, 1979 (44 FR 57,726, October 5, 1979).[3] Under those regulations, only large industrial facilities that use natural gas as boiler fuel are subject to incremental pricing.

Section 202 of Title II required the Commission to promulgate a second phase (Phase II) rule by May 9, 1980, amending the scope of the incremental pricing program to include other industrial users. Section 202 also directed the Commission to submit the Phase II rule to Congress for review. The rule would not become effective if disapproved by either House within a thirty-day review period.

On May 8, 1980, the Commission issued the Phase II rule (Order No. 80) as required by the NGPA. That rule extended the incremental pricing program to all industrial users except those exempted specifically by the NGPA and applied to all industrial gas consumption exceeding 300 Mcf per day. It also set a uniform price ceiling for natural gas sold to industrial users at the price of high sulfur No. 6 residual fuel oil. In the order the Commission stated:

> The Commission believes that it was neither requested or authorized to second-guess the social and economic judgments that the Congress made in enacting Title II. The role of the Commission under Section 202 is more limited. Instead, the Commission is instructed to bring its technical expertise to bear on the design of a workable Phase II rule that can best advance the purposes set by the Congress. It is up to the Congress to decide whether this Phase II submittal meets adequately the social and economic goals of the incremental pricing program or, indeed, whether those goals are still appropriate.[4]

Order No. 80 was submitted to Congress pursuant to section 202(c) of the NGPA, and was to become effective ninety days following the expiration of the thirty-day review period if neither House of Congress passed a resolution of disapproval. On May 20, 1980, the House of Representatives passed a resolution of disapproval of the Phase II rule by a vote of 369–34.

Subsequent to that vote, the Commission received one application for rehearing of the final rule. The applicant argued that the legislative veto provision of section 202 was unconstitutional and asked the Commission to make the Phase II rule effective at the end of the ninety days following the thirty-day Congressional review period.

On August 1, 1980, the Commission denied the application for rehearing and revoked Order No. 80.[5] In the August 1 order the Commission explained that in the event the legislative veto provision was held unconstitutional, the Phase II rule should not become effective because the Commission had relied upon Congress to examine the social and economic benefits of extending the incremental pricing program, and had not "independently evaluated whether the Phase II rule meets the social and economic goals of the Title II incremental pricing program."[6]

Subsequently several persons sought judicial review of the constitutionality of the legislative veto provision and the Commission's revocation of the Phase II rule. The D.C. Circuit held the legislative veto provision of section 202(c) of the NGPA is severable from section 202 and unconstitutional. The court also held that the Commission's revocation of the Phase II rule was invalid because the Commission did not provide adequate notice and opportunity for comment, and ordered that the rule take effect thirty days from the date of the court's decision. The court stated, however, that the Commission "may consider whether to amend the substance of the rule or, in order to provide time for sufficient consideration, whether to postpone the effective date further."[7]

On July 6, 1983, the United States Supreme Court affirmed the decision of the D.C. Circuit, and, on September 9, 1983, denied rehearing of its decision. Accordingly, on September 15, 1983, the D.C. Circuit issued its mandate. As a result, absent Commission action, Order No. 80 will become effective October 15, 1983.

III. Further Proceedings and Temporary Stay of Effective Date

The petitions for rulemaking and stay request the Commission to reopen the record in the Phase II proceeding so the Commission may evaluate the need to amend or revoke the Phase II rule. Pending the outcome of such a proceeding, petitioners ask the Commission to stay the effectiveness of the Order No. 80 regulations.

The Commission agrees with petitioners that the Phase II rule should be reconsidered and intends to thoroughly reassess it in light of the relevent judicial opinions and a complete and updated record, as well as current market conditions. The Commisson intends to issue a notice of proposed rulemaking within the next sixty days to reopen the rulemaking proceeding in this docket and to request public comment on various alternatives that may be available to it, including revocation of the Phase II rule or amendments to the rule which would limit its applicability or better serve the purposes of Title II of the NGPA. In addition, comments will be requested on the extent of the Commission's authority under Title II, including its exemptive authority under section 206(d), and whether the Commission is now required to promulgate a Phase II rule.

The Commission believes that it would be in the public interest to stay the effective date of the Phase II rule for sixty days while it receives comments on whether to further stay the effective date until Order No. 80 is reconsidered by the Commission. While the court permitted a thirty-day delay in the effective date of Order No. 80, the Commission believes that this does not allow sufficient time either from a practical standpoint or under the Administrative Procedure Act, 5 U.S.C. 551, *et seq.*, for adequate notice and opportunity for comment and reconsideration of the matter.[8] If the rule were to take effect on October 15, 1983, pipelines, distributors, and industrial users would be faced with an enormous administrative burden which may be unwarranted if the rule is ultimately modified or revoked. At the same time, allowing the rule to go into effect would not result in a counterbalancing benefit to the residential and commercial users that the incremental pricing program was designed to protect. For the most part, oil prices are below, or comparable to, natural gas prices so that the incremental surcharges that would be flowed back to consumers would be minimal, if any at all. On balance, the rule would not result in any beneficial effects at this time.

For these reasons, the Commission finds that the public interest requires a stay for sixty days of the effective date of Order No. 80 and that good cause exists to make this order effective immediately. Futhermore, the Commission proposes to extend the stay for an additional 120 days after December 13, 1983 or until it completes its reconsideration of the final regulations in Order No. 80, whichever is earlier. Comments are requested on this proposal.

Accordingly, the petitions for rulemaking and stay are granted to the extent they request a stay of the effective date of Order No. 80. Thus, the final regulations in Order No. 80 will become effective December 14, 1983, unless the Commission extends the stay as proposed.

IV. Comment Procedures

The Commission invites all interested persons to submit written data, views, or arguments concerning its proposal to extend the stay of the regulations in Order No. 80 for an additional 120 days or until it completes its reconsideration of those regulations. In addition, any interested person may request in writing that a public hearing be held for the oral presentation of data, views, and arguments on whether the stay should be extended. All comments and all requests for a public hearing should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before October 28, 1983 and should refer to Docket No. RM80–10–000. An original and fourteen copies should be filed. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Commission will schedule a public hearing if it receives any requests for the oral presentation of comments.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-27590 Filed 10-6-83; 9:57 am]

BILLING CODE 6717-01-M

[3] The regulations issued on September 28th were contained in two dockets, Docket Nos. RM79-14 and RM79-21.

[4] 45 FR at 31,622.

[5] Order Denying Rehearing and Revoking Amendments made by Order No. 80, issued August 1, 1980, Docket No. RM80-10, 45 FR 54,741 (Aug. 18, 1980).

[6] 45 FR at 54,742.

[7] 673 F.2d at 479.

[8] *See generally* Motor Vehicle Manufacturers Association of the United States v. State Farm Mutual Automobile Insurance Co., 51 U.S.L.W. 4953 (U.S. June 24, 1983).

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 140

Licensed Indian Traders and Bureau of Indian Affairs Employees Contracting and Trading With Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is publishing a proposed rule which permits certain contracting and trading between employees of the Bureau of Indian Affairs and Indians.

DATE: Comments must be received on or before November 7, 1983.

ADDRESS: Send written comments to John W. Fritz, Deputy Assistant Secretary—Indian Affairs (Operations), Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: John G. Combs, Bureau of Indian Affairs, Division of Personnel Management, telephone number (202) 343–8718.

SUPPLEMENTARY INFORMATION: Public Law 96–277 (94 Stat 544; 18 U.S.C. 437) repealed certain previous laws (25 U.S.C. 68, 68a, 87a and 441) dating back to the Indian Intercourse Act of 1834 (4 Stat. 38; 25 U.S.C. 68) governing trading between Federal employees and Indians. These laws were inflexible and did not take into account modern conditions. The current law gives the President, who delegated his authority by Executive Order No. 12328 to the Secretary of the Interior and the Secretary of Health and Human Services, respectively, authority to regulate trade between employees of the Bureau of Indian Affairs and the Indian Health Service and Indians.

This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by the Departmental Manual, 209 DM 8.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed rule.

This document prescribes the conditions on which trade between employees of the Bureau of Indian Affairs and Indians is permitted. The recipients of benefits under the proposed regulation will be individuals. Typical transactions allowed by the proposed regulation include the sale or exchange of real estate, homes, automobiles, farming equipment, and personal property. All transactions would be for the personal use of the individuals involved since commercial purchasing and reselling is specifically prohibited by 18 U.S.C. 437.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Department of the Interior has determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3504(h).

The primary author of this document is Dan E. Squier, Bureau of Indian Affairs, telephone number (202) 343–8718.

List of Subjects in 25 CFR Part 140

Indians, Business and industry, penalties.

Accordingly, Part 140 of Chapter I of Title 25 of the Code of Federal Regulations is proposed to be amended as follows:

PART 140—LICENSED INDIAN TRADERS AND BUREAU OF INDIAN AFFAIRS EMPLOYEES CONTRACTING AND TRADING WITH INDIANS

1. The authority and cross reference sections under the Table of Sections are revised to read as follows:

Authority: Section 5, 19 Stat. 200, sec. 1, 31 Stat. 1066 as amended; 25 U.S.C. 261, 262; 94 Stat. 544 18 U.S.C. 437 unless otherwise noted.

Cross Reference: For law and order regulations on Indian Reservations, see Part 11 of this chapter. For regulations pertaining to business practices on Navajo, Hopi and Zuni reservations, see Part 141 of this chapter. For regulations relating to Interests in Trading With Indians, see 43 CFR 20.735–28, Employee Responsibilities and Conduct.

2. Section 140.5 is revised to read as follows:

§ 140.5 Bureau of Indian Affairs employees not to contract or trade with Indians except in certain cases.

(a) Definitions of terms as used in this part:

(1) "Indian" means any member of an Indian tribe recognized as eligible for the services provided by the Bureau of

VOL
48
ISS
1
9
6
OC
7
1983
UMI

Indian Affairs who is residing on a Federal Indian Reservation, on land held in trust by the United States for Indians, or on land subject to a restriction against alienation imposed by the United States. The term shall also include any such tribe and any Indian owned or controlled organization located on such a reservation or land.

(2) "Bureau" or the "Bureau of Indian Affairs" means the Bureau of Indian Affairs and the Office of the Assistant Secretary for Indian Affairs, both in the Department of the Interior.

(3) "Employee" means an officer, employee, or agent of the Bureau of Indian Affairs.

(4) "Secretary" means the Secretary of the Interior.

(5) "Contract" means any agreement made or under negotiation with any Indian for the purchase, transportation or delivery of goods or supplies from any Indian.

(6) "Trading" means buying, selling, bartering, renting, leasing, permitting and any other transaction involving the acquisition of property or services.

(b) With the exceptions provided in subsection (b) of Section 437 of Title 18, the United States Code Section 437 provides that whoever, being an officer, employee, or agent of the Bureau of Indian Affairs, has (other than as a lawful representative of the United States) any interest, in such officer, employee, or agent's name, or in the name of another person where such officer, employee, or agent benefits or appears to benefit from such interest:

(1) In any contract made or under negotiation with any Indian, for the purchase, transportation or delivery of goods or supplies for any Indian, or

(2) In any purchase or sale of any service or real or personal property (or any interest therein) from or to any Indian, or colludes with any person attempting to obtain any such contract, purchase, or sale, shall be fined not more then $5,000 or imprisoned not more than six months or both, and shall be removed from office, notwithstanding any other provision of law concerning termination from Federal employment.

(c) The further subsections of this section authorize certain employees contracting and trading with Indians as authorized by the exceptions in Section 437 of Title 18, United States Code. All such contracting and trading is subject to the express provision of Section 437 that none of the sales or purchases so authorized may be made if the purpose of any such sale, trade, or purchase is that of commercially selling, reselling, trading, or bartering such property.

(d)(1) Under authority granted by Section 437(b)(1) of Title 18, United States Code, employees of the Bureau of Indian Affairs may with the approval of an authorized officer of the Bureau, as designated in (d)(2) of this section, purchase from or sell to an Indian any service or any real or personal property, not held in trust by the United States or subject to a restriction against alienation imposed by the United States, or any interest in such property. In addition, employees may purchase from Indians without approval from an authorized officer of the Bureau any non-trust or unrestricted personal property for home use or consumption the value of which property does not exceed $1,000. Employees may also purchase motor vehicles for their personal use from Indians or sell their personal motor vehicles to Indians without obtaining approval of such purchases or sales from an authorized officer of the Bureau.

(2) As used in paragraph (d)(1) of this section an authorized officer of the Bureau of Indian Affairs for employees on reservations and in agencies or in field service units shall be the superintendent or other officer in charge of the unit in which the employee is employed. The authorized officer for the superintendent or officer in charge is his or her immediate supervisor. The authorized officer for employees in area offices is the Area Director, and the authorized officer for an Area Director is his or her immediate supervisor. The authorized officer for employees in the Central Office is the Deputy Assistant Secretary—Indian Affairs (Operations).

(e) No employee of the Bureau of Indian Affairs may have any interest in any purchase or sale involving property or funds which are either held in trust by the United States for Indians or which are purchased, sold, utilized, or received in connection with a contract or grant to an Indian from the Bureau if such employee is employed in the office or installation of the Bureau which recommends, approves, executes, or administers such transaction, grant, or contract on behalf of the United States, except that, as authorized by Section 437(b)(1) of Title 18, United States Code an employee of the Bureau may have such an interest if such purchase or sale is approved by an authorized officer of the Bureau, as designated in paragraphs (e) (3) to (5) of this section, and the conditions in paragraph (e) (1) and (2) of this section are satisfied to the extent to which they are applicable to the transaction concerned:

(1) The conveyance or granting of any interest in property held in trust or subject to restriction against alienation imposed by the United States is otherwise authorized by law.

(2) Trading by employees with Indians which involves property or funds which are either held in trust by the United States or are subject to restrictions against alienation imposed by the United States must be conducted on the basis of sealed bid or public auction. If the trading involves leases or sales of trust or restricted Indian land it must be conducted on the basis of sealed bids. Such requirements for sealed bid or public auction may only be waived by the Assistant Secretary for Indian Affairs on the basis of a full report showing:

(i) The need for the transaction,

(ii) The benefits accruing to both parties, and

(iii) That the consideration for the proposed transaction shall be not less than the fair market value of the trust or restricted property or interest therein, unless the employee is involved in a transaction in accordance with 25 CFR 152.25 (c) or (d) or 25 CFR 162.5(b) (1), (2), or (3).

(iv) An affidavit as follows shall accompany each proposed transaction: "I (name) (title), swear (or affirm) that I have not exercised any undue influence nor used any special knowledge received by reason of my employment in the Bureau in obtaining the (grantor's, purchaser's, vendor's) consent to the instant transaction."

(3) The authorized officer of the Bureau for employees employed on reservations, in agencies or service units is one who is not a relative by blood or marriage of the employee, and is not employed at the employee's reservation, agency or service unit. That officer must also be employed at not less than one grade level higher than such employee at the Washington, District of Columbia, Central Office or at an Area Office other than that with authority over the employee's reservation, agency, or service unit.

(4) The authorized officer of the Bureau for employees employed in Area offices is one who is not a relative by blood or marriage of the employee, is not employed at the employee's area office, and must be employed at not less than one grade level higher than the employee at the Washington, District of Columbia, Central Office.

(5) The authorized officer of the Bureau for employees employed at the Washington, District of Columbia, Central Office is the Secretary.

(f) Except as provided in subsection (b)(2) of Section 437 of Title 18, United States Code as implemented by this section, nothing in the cited law shall be construed as preventing any employee of the Bureau who is an Indian, of whatever degree of Indian blood, from obtaining or receiving any benefit or benefits made available to Indians generally or to any member of his or her particular tribe, under any Act of Congress, nor to prevent any such employee who is an Indian from being a member of or receiving benefits by reason of his or her membership in any Indian tribe, corporation, or cooperative association organized by Indians, when authorized under such rules and regulations as the Secretary or his/her designee has prescribed or shall prescribe.

§ 140.6 [Removed]

3. Section 140.6 is revoked.

John W. Fritz,

Acting Assistant Secretary for Indian Affairs.

[FR Doc. 83-27369 Filed 10-6-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R, Amendment]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Federal Medical Care Recovery Act, Chapter IX

AGENCY: Defense.

ACTION: Proposed amendment of final rule.

SUMMARY: This would amend Chapter IX of the CHAMPUS Regulation, DoD 6010.8-R, by consolidating all federal claims provisions into one Chapter. Federal claims arise when the government has a right to recover money or property from an individual, partnership, association, corporation, governmental body or other legal entity, foreign or domestic, except an instrumentality of the United States. This amendment will clarify the specific procedures and criteria used in the assertion, collection or compromise of federal claims and the suspension or termination of collection action in such claims arising under the operation of CHAMPUS. The title of Chapter IX will be changed from "Federal Medical Care Recovery Act" to "Federal Claims Collection."

When appropriate, these provisions would avoid the expense of court proceedings for both the government and the debtor. These provisions also will reduce administrative handling, provide greater flexibility to recovery effort, and aid in the timely settlement of outstanding federal claims. This change will facilitate the use of the Regulation by CHAMPUS fiscal intermediaries, Uniformed Service claims officers and by the general public.

DATES: Written comments must be received on or before November 7, 1983. This proposed amendment will become effective 30 days from the date of its final publication.

ADDRESS: Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Policy Division, Aurora, CO 80045.

FOR FURTHER INFORMATION CONTACT:

Tariq Saeed, Policy Branch, OCHAMPUS, telephone (303) 361-3587.

Robert L. Shepherd, Assistant General Counsel, OCHAMPUS, telephone (303) 361-8506.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the **Federal Register** on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8-R, "Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

As originally published, § 199.15 addressed only claims collection activities under the CHAMPUS for third-party liability claims arising under the Federal Medical Care Recovery Act. Claims activities arising under other statutory or contractual grounds were addressed only in the most general terms in other Sections of the regulation. Since the original publication of DoD 6010.8-R, the desirability of consolidating all federal claims provisions into one Chapter and including the specific procedures and criteria used in the assertion, collection or compromise of federal claims and the suspension or termination of collection action on such claims has become evident. This change is intended to facilitate the use of the regulation by those charged with its implementation, including CHAMPUS fiscal intermediaries, Uniformed Service claims officers and by the general public. It also is intended to provide direct and ready access by the general public to the procedures followed by responsible claims asserting authorities in the collection, compromise or settlement of federal claims arising under the operation of the CHAMPUS.

The Federal Claims Collection Act of 1966 (31 U.S.C. 951-953) authorizes the Secretary of Defense, under regulations issued by him, to compromise, or to suspend or terminate collection activities on certain claims under the programs of the Department. The claim must not exceed $20,000, exclusive of interest, and there must be no indications of fraud in connection with the claim. CHAMPUS fiscal intermediaries are required to collect erroneous payments made to beneficiaries, providers, physicians and other suppliers of services by requesting refunds and, if necessary, offsetting such erroneous payments against current payments due or against future claims when possible. However, attempts to recover these erroneous payments are sometimes more time-consuming and costly than is justified by the circumstances. This § 199.15 specifies an alternative to costly and time-consuming collection activities and referrals to other government agencies for additional collection efforts. It allows the Director, OCHAMPUS, or a designee, under authority delegated by the Secretary to negotiate a compromise settlement, or to suspend or terminate collection activities when this is in the government's best interest. When appropriate, compromise, suspension, or termination will avoid the expense of court proceedings for both the government and the debtor. These provisions also will reduce administrative handling, provide greater flexibility to recovery efforts, and aid in the timely settlement of outstanding federal claims.

This amended § 199.15 includes the following major provisions:

- Procedures for the assertion of claims arising under the Federal Medical Care Recovery Act (FMCRA) are set out. That statute provides that when the United States furnishes medical care to a person who is injured or suffers a disease under circumstances creating tort liability in a third party to pay damages for that care, the United States has the right to recover from the third person the reasonable value of the care it provides. Responsibility for effecting recoveries under that statute is vested in the Director, OCHAMPUS. Such claims are to be initially identified by CHAMPUS fiscal intermediaries and referred by them to responsible legal offices of the Uniformed Services for assertion and collection. A claim in excess of $40,000 may be compromised, settled, waived or released only with the prior approval of the Department of Justice.

- The obligations of persons receiving medical care under CHAMPUS where potential third-party liability under the FMCRA exists are specified.

- The conditions for settlement and waiver of FMCRA claims are set out.

VOL
48
ISS
1
96
OC
7
1983
UMI

• Specific reporting requirements concerning the number of claims referred for collection and the dollar amounts collected under the FMCRA are established.

• Procedures for the collection by recoupment or offset of erroneous CHAMPUS payments are specified. These provisions are promulgated under the authority of the Federal Claims Collection Act of 1966. Erroneous CHAMPUS payments can arise as the result of mathematical errors, payments for care provided to ineligible persons, payments for care which is not an authorized benefit and payments for duplicate claims and other similar circumstances. The first and preferred method of effecting recoupment of these claims is through a voluntary refund in response to a written request or demand for payment. Failing this, collection can be effected, in appropriate cases, by offset against other monies owed by the United States to the debtor and ultimately by referral to appropriate federal agencies for legal action.

• The regulation recognizes that circumstances may arise when claims other than those arising under the Federal Medical Care Recovery Act or from erroneous CHAMPUS payments will be asserted. Examples of these include property damage claims, worker's compensation claims, and insurance claims. The general responsibility for the identification and initial investigation of such claims is vested in CHAMPUS fiscal intermediaries. The responsibility for the evaluation and assertion of these claims is vested in the Director, OCHAMPUS, or a designee.

• Standards for the compromise or the suspension or termination of collection action for claims that do not exceed $20,000 are established. Such compromises, suspensions, or terminations are based principally on an evaluation of the debtor's ability to pay the full amount of the claim within a reasonable time or a determination that the cost of collection action or litigation will exceed the likely amount of recovery (termination), or would not justify enforced collection of the full amount (compromise). The factors that the Director, OCHAMPUS, or a designee, considers in determining the government's inability to enforce collection of the entire claim include the debtor's age, health, assets, present and potential income and possible concealment or improper transfer of assets. If the debtor is deceased, the available assets of the estate will be considered taking into account any liens or superior claims. These provisions conform with the Federal Claims Collection Standards issued jointly by the Attorney General and Comptroller General of the United States under the Federal Claims Collection Act. These joint standards are codified at 4 CFR Part 101, *et seq.*

• An action taken under this Section is not a CHAMPUS fiscal intermediary or OCHAMPUS initial determination for the purpose of invoking the appeals procedure set out in § 199.16 of this regulation. The compromise of any claim asserted under this Section shall be final and conclusive on the debtor and the United States in the absence of fraud, misrepresentation, or mutual mistake of fact. Failure of the Director, OCHAMPUS, or a designee, or any other claims asserting authority under this Section to comply with any provision of these regulations shall not be available as a defense to any debtor. This section does not create a right to have any claim compromised, or collection activities concerning any claim terminated or suspended.

• Conforming changes to other Sections of the regulation have been made to insure consistency with the provisions of this section.

This amendment is being published for proposed rulemaking at the same time as it is being coordinated within the Department of Defense, with the Department of Health and Human Services and with other interested agencies, in order that consideration of both internal and external comments and publication of the final rulemaking document can be expedited.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

PART 199—[AMENDED]

Accordingly, it is proposed to amend 32 CFR, Chapter I, Part 199, as follows:

1. 32 CFR 199.10(a)(8) is revised to read as follows:

§ 199.10 Basic program benefits.

(a) * * *

(8) *Double coverage and third party recoveries.* CHAMPUS claims involving double coverage or the possibility that the United States can recover all or a part of its expenses from a third party, are specifically subject to the provisions of § 199.14, "Double Coverage" or § 199.15, "Federal Claims Collection," as appropriate.

* * * * *

2. 32 CFR 199.13(j) is revised to read as follows:

§ 199.13 Claims submission, review and payment.

* * * * *

(j) *Erroneous payments and recoupment*—(1) *Erroneous payments.* Erroneous payments are expenditures of government funds which are not authorized by law or regulation. Such payments are to be recouped under the provisions of § 199.15, "Federal Claims Collection," of this part.

(2) *Claims denials resulting from clarification or change in law or regulation.* In those instances where claims review results in a finding of denial of benefits previously allowed but currently denied due to a clarification or interpretation of law or this regulation, or due to a change in this regulation, no recoupment action need be taken to recover funds expended prior to the effective date of such clarification, interpretation, or change.

* * * * *

3. Section 199.15 is revised to read as follows:

* * * * *

§ 199.15 Federal claims collection.

(a) *General.* Federal claims arise when the government has a right to recover money or property from an individual, partnership, association, corporation, governmental body or other legal entity, foreign or domestic, except an instrumentality of the United States. A claim against several joint debtors or tortfeasors (parties liable for damages) arising from a single incident or transaction is considered to be one claim. It is the purpose of this section to prescribe procedures for investigation, determination, assertion, collection, compromise, waiver and termination of claims in favor of the United States arising out of administration of the Civilian Health and Medical Program of the Uniformed Services.

(b) *Authority.*—(1) *Federal statutory authority.* The following federal statutes provide the basic authority under which claims may be asserted pursuant to this section.

(i) The Federal Claims Collection Act (31 U.S.C. 951–953) is a statute enacted to avoid unnecessary litigation. This statute is implemented by joint regulations issued by the General Accounting Office and the Department of Justice, 4 CFR Parts 101–105. Thereunder, the heads of federal agencies or their designees are required to attempt collection of all claims of the United States for money or property arising out of the activities of their respective agencies. These officials may, with respect to claims that do not exceed $20,000, exclusive of interest, and in conformity with the standards promulgated in the joint regulations, compromise, suspend, or terminate collection action on such claims.

(ii) The Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) is a statute enacted for the recovery of reasonable value of medical care furnished by the United States to a person who is injured or suffers a disease under circumstances creating tort liability in some third person. This Act is implemented by Executive Order 11060 and an Attorney General Regulation, 28 CFR Part 43.

(2) *Other authority.* Occasionally, federal claims may arise which are grounded, at least in part, in authority other than the federal statutes referenced above. These include, but are not limited to, claims arising under:

(i) State worker's compensation laws.

(ii) State hospital lien laws.

(iii) Contract rights under terms of insurance policies.

(c) *Policy.* The governmental policy of avoiding unnecessary litigation in the collection of claims by the United States for money or property necessitates aggressive agency collection action. The Director, OCHAMPUS, or a designee, will insure that claims asserting personnel are adequately supported to take timely and effective action. Claims arising out of any incident which has or probably will generate a claim in favor of the government will not be compromised now will collection action be terminated by any person not authorized to take final action on the government's claim. By the Act of July 18, 1966 (28 U.S.C. 2415–2416), Congress established a statute of limitation applicable to the government in areas where previously neither limitations nor laches were available as a defense. Claims falling within the provisions of this statute will be processed expeditiously to the General Accounting Office or the Department of Justice, as appropriate, without attempting administrative collection action is such action cannot be accomplished in sufficient time to preclude the running of the statute of limitations.

(d) *Appealability.* This section describes the procedures to be followed in the recovery and collection of federal claims in favor of the United States arising from the operation of the CHAMPUS. Actions taken under this section are not initial determinations for the purpose of the appeal procedures of § 199.16 of this part. However, the proper exercise of the right to appeal benefit or provider status determinations under the procedures set forth in § 199.16 may affect the processing of federal claims arising under this section. Those appeal procedures afford a CHAMPUS beneficiary or participating provider an opportunity for administrative appellate review in cases in which benefits have been denied and in which there is a significant factual dispute. For example, a fiscal intermediary may erroneously make payment for services which are excluded as CHAMPUS benefits because they are determined to be not medically necessary. In that event recoupment action will be initiated by the fiscal intermediary at the same time the fiscal intermediary will offer an administrative appeal as provided in § 199.16 of this part on the medical necessity issue raised by the adverse benefit determination. The recoupment action and the administrative appeal are separate actions. However, in an appropriate case, pendency of the appeal may provide a basis for the suspension of collection in the recoupment. Obviously, if the appeal is resolved entirely in favor of the appealing party, that would provide a basis for the termination of collection action in the recoupment case.

(e) *Delegation.* Subject to the limitations imposed by law or contained in this section, the authority to assert, settle, compromise or to suspend or terminate collection action on claims arising hereunder has been delegated to the Director, OCHAMPUS, or a designee.

(f) *Federal Medical Care Recovery Act claims*—(1) *General.* The Federal Medical Care Recovery Act (FMCRA) (42 U.S.C. 2651–2653) provides that in any case in which the United States is authorized or required by law to furnish hospital, medical, surgical or dental care and treatment to a person who is injured or suffers a disease under circumstances creating tort liability in some third person to pay damages for that care, the United States has a right to recover from the third person the reasonable value of the care and treatment furnished or to be furnished.

(2) *Obligations of persons receiving treatment.* To insure the expeditious and efficient processing of Federal Medical Care Recovery Act claims, any person furnished care and treatment under CHAMPUS, his or her guardian, personal representative, counsel, estate, dependents or survivors may be required:

(i) To provide complete information regarding the circumstances surrounding an injury as a condition precedent to the processing of a CHAMPUS claim involving possible third-party liability.

(ii) To assign in writing to the United States his or her claim or cause of action against the third person to the extent of the reasonable value of the care and treatment furnished, or to be furnished, or any portion thereof;

(iii) To furnish such additional information as may be requested concerning the circumstances giving rise to the injury or desease for which care and treatment are being given and concerning any action instituted or to be instituted by or against a third person;

(iv) To notify the General Counsel, OCHAMPUS, the responsible CHAMPUS fiscal intermediary or the recovery judge advocate or other legal officer who is representing the interests of the government at the time, of a settlement with, or an offer of settlement from a third person; and,

(v) To cooperate in the prosecution of all claims and actions by the United States against such third person.

(3) *Responsibility for recovery.* The Director, OCHAMPUS, or a designee, is responsible for supervising and administering recoveries under the Federal Medical Care Recovery Act. Generally, federal claims arising under this statute will be processed as follows:

(i) *Identification and referral of Federal Medical Care Recovery Act Claims—(a) CHAMPUS fiscal intermediaries.* In most cases where medical care is provided by civilian providers and payment for such care has been made by a CHAMPUS fiscal intermediary, initial identification of potential third-party liability will be to the CHAMPUS fiscal intermediary. In such cases, the CHAMPUS fiscal intermediary is responsible for conducting a preliminary investigation and referring the case to designated appropriate legal officers of the Uniformed Services.

(b) *Initial Identification by other agencies.* Occasionally, cases involving potential third-party liability may be initially identified by offices, agencies or individuals other than a CHAMPUS fiscal intermediary. When this occurs, these cases should be initially referred to the General Counsel, OCHAMPUS, Aurora, CO 80045 for evaluation. If appropriate, the General Counsel may refer the case to the fiscal intermediary or the designated Uniformed Service legal office for action.

(ii) *Processing CHAMPUS claims.* When the CHAMPUS fiscal intermediary initially identifies a claim as involving potential third-party liability, it shall request additional information concerning circumstances of the injury or disease from the beneficiary or other responsible party unless adequate information is submitted with the claim. The information normally is obtained by

requesting the beneficiary to complete a personal injury questionnaire. The CHAMPUS claim will be suspended and no payment issued pending receipt of the third-party liability information. If the requested third-party liability information is not received, the claim will be denied. Of course, a CHAMPUS beneficiary may expedite the processing of his or her CHAMPUS claim by submitting a completed third-party liability questionnaire with the first claim for treatment of an accidental injury. Third-party liability information normally is required only once concerning any single accidental injury. Once the third-party liability information pertaining to a single incident or episode of care is received, subsequent claims associated with the same incident or episode of care may be processed to payment in the usual manner. If, however, the requested third-party liability information is not received, subsequent claims involving the same incident or episode of care will be suspended or denied as stated above.

(iii) *Ascertaining total potential liability.* It is essential that the legal office responsible for asserting the claim against the third-party receive from the CHAMPUS fiscal intermediary a report of all amounts expended by the United States for care resulting from the incident upon which potential liability in the third party is based. Prior to assertion and final settlement of a claim, it will be necessary for the responsible legal office to secure from the CHAMPUS fiscal intermediary updated information to insure that all amounts expended under CHAMPUS are included in the government's claim. It is equally important that information on future medical payments be obtained through the investigative process and included as a part of the government's claim. No CHAMPUS-related claim will be settled, compromised or waived without full consideration being given to the possible future medical payment aspects of the individual case.

(4) *Representing the government's interest.* The government's right to recover the amounts expended for the patient's medical care is independent of the right the patient has to assert a claim against the third person for damages. The existence of the government's right, however, is dependent upon establishing the liability of the third person under ordinary principles of law.

(i) Frequently, collection actions under the Federal Medical Care Recovery Act must be referred to the Department of Justice for litigation. This is usually necessary because either the administrative collection action has been unsuccessful or the injured party has initiated suit and the government must be joined to protect its interests. When such referrals are made by a Uniformed Service legal office, notice of the referral will be provided to the General Counsel, OCHAMPUS . The General Counsel, OCHAMPUS, will assist in the coordination of the case with the Department of Justice and insure tht the position of OCHAMPUS is presented.

(ii) The attorney for the injured beneficiary may be requested to represent the interests of the government and join both claims in a single action against the third person. Such representation of the government's interest normally must be made at no expense to the government. However, when such representation of the government's interest is undertaken by the injured party's attorney for the government, offices and agencies involved will extend full cooperation to the injured party's attorney to insure that the government's interests are fully protected. The coordination of CHAMPUS matters in cases involving CHAMPUS claims with private attorneys representing the interest of the government is the responsibility of the General Counsel, OCHAMPUS. If the attorney representing the injured beneficiary does not wish to join the government's claim with that of his or her client, and court action is required to recover the amount expended for the patient's medical care, intervention or an independent suit may be initiated by the United States for the reasonable value of the care or treatment provided.

(5) *Automobile or other medical payment insurance, no-fault insurance, or uninsured motorist insurance.* Payment may not be made under CHAMPUS for any medical service or supply to the extent that payment has been made or can reasonably be expected to be made for the service or supply under an automobile or medical payment insurance policy or plan (including a self-insured plan), uninsured motorist insurance, no-fault insurance or other forms of medical payments protection. Based upon the results of the investigation described in paragraph (a)(3)(ii) of this section, the fiscal intermediary will segregate all claims involving treatment of personal injuries for which it is apparent that such other insurance is available. These claims will be processed initially as double coverage claims under the provisions of § 199.14 of this part. Any CHAMPUS payments made after the double coverage provisions have been fully complied with will be considered for possible third-party liability recovery under the provisions of this section.

(6) *Worker's compensation claims.* Based upon the results of the investigation described in paragraph (a)(3)(ii) of this section, the fiscal intermediary will segregate all claims involving treatment of work-related injuries. These claims will be processed initially as double coverage claims under § 199.14 of this part dealing with worker's compensation claims. Any CHAMPUS payments made after the double coverage provisions have been fully complied with will be considered for possible third-party liability recovery under the provisions of this section.

(7) *Settlement and waiver of claims.* (i) Uniformed Services legal offices may, within the limits established for them by their respective departments, *(a)* accept the full amount of a claim and execute a release therefor, *(b)* compromise or settle and execute a release of any claim, not in excess of $40,000, which has been referred to it under the provisions of this section, or *(c)* waive, and in this connection, release any claim not in excess of $40,000 in whole or in part, either for the convenience of the government, or if it is determined that collection would result in undue hardship upon the person who suffered the disease or injury resulting in the care and treatment provided under the CHAMPUS.

(ii) A claim in excess of $40,000 may be compromised, settled, waived and released only with the prior approval of the Department of Justice. The Department of Justice shall also be consulted in all cases involving *(a)* unusual circumstances, *(b)* a new point of law which may serve as a precedent, or *(c)* a policy question where there is or may be a difference of views between federal departments and agencies.

(iii) The authority of compromise, settlement, waiver and release granted under this paragraph shall not be exercised in any case in which *(a)* the claim of the United States for such care and treatment has been referred to the Department of Justice, or *(b)* a suit by the third party has been instituted against the United States or the individual who received or is receiving the care and treatment described herein and the suit arises out of the occurrence which gave rise to the third-party claim of the United States.

(8) *Reporting requirements.* The Department of Defense is required to submit an annual report to the Attorney General stating the number and dollar amount of claims asserted against, and the number and dollar amount of recoveries from third persons for third-party federal claims arising from the operation of the CHAMPUS. To facilitate the preparation of this report and to maintain program integrity, the following reporting requirements are established:

(i) Each CHAMPUS fiscal intermediary shall submit on or before January 31 of each year an annual report to the Director, OCHAMPUS, or a designee, covering the 12 calendar months of the previous year. This report shall contain, as a minimum, the number and total dollar amount of claims investigated as potential third-party liability cases; the number and dollar amount of claims referred to Uniformed Services claims offices for further investigation and collection, these latter figures are to be itemized by the individual claims offices to which the cases are referred.

(ii) By January 31 of each year, each Uniformed Service claims office which originates or receives and processes third-party liability FMCRA cases which involve medical care or treatment under CHAMPUS will submit an annual report covering the 12 calendar months of the previous year, to the appropriate Uniformed Service claims authority, setting forth, as a minimum, the number and dollar amount of claims involving CHAMPUS payments received from CHAMPUS fiscal intermediaries, the number and dollar amount of claims involving CHAMPUS payments received from other sources, and the number and dollar amount of claims actually asserted against, and the dollar amount of recoveries from, third persons. A consolidated report, itemized by individual claims offices, shall be provided no later than February 28 of each year, by each Uniformed Service to the Director, OCHAMPUS, or a designee.

(g) *Recoupment of Erroneous Payments*—(1) *Erroneous payments.* Erroneous payments are expenditures of government funds which are not authorized by law or regulation. Examples which are sometimes encountered in the administration of the CHAMPUS include mathematical errors, payment for care provided to an ineligible person, payment for care which is not an authorized benefit, payment for duplicate claims, inaccurate application of the deductible or co-payment, payment for services which were not medically necessary, and false claims.

(2) *Scope.* (i) This section and the sections following contain requirements and procedures for the assertion, collection or compromise of, and the suspension or termination of collection action on claims for erroneous payments against a sponsor, beneficiary, provider, physician or other supplier of services under the CHAMPUS. These provisions are adopted pursuant to the Federal Claims Collection Act (31 U.S.C. 951–953) which requires each agency of the U.S. Government (pursuant to regulations jointly promulgated by the Attorney General and the Comptroller General) to attempt collection of federal claims in favor of the United States arising out of the activities of the agency.

(ii) As used herein, "debtor" means a sponsor, beneficiary, provider, physician, other supplier of services or supplies, or any other person who has for any reason been erroneously paid under the CHAMPUS. It includes an individual, partnership, corporation, professional corporation or association, estate, trust, or any other legal entity.

(3) *Other health insurance claims.* Claims arising from erroneous CHAMPUS payments in situations where the beneficiary has entitlement to insurance, medical service, health and medical plan, or other government program, through employment, by law, through membership in an organization, or as a student, or through the purchase of a private insurance or health plan, shall be recouped under one of the following procedures:

(i) Where the other health insurance plan has not already made benefit payments to the beneficiary or provider, a claim for direct reimbursement will be asserted against the plan, pursuant to the fiscal intermediary's coordination of benefit procedures.

(ii) If the other health insurance plan has made its benefit payment prior to receiving the CHAMPUS request for reimbusement, the recoupment procedures set forth in this section will be followed.

(4) *Claims denials due to clarification or change.* In those instances where claim review results in the denial of benefits previously provided but now denied due to a change, clarification or interpretation of the public law or this regulation, no recoupment action need be taken to recover funds expended prior to the effective date of such change, clarification, or interpretation.

(5) *Good faith payment.* (i) The Department of Defense, through the Defense Enrollement Eligibility Reporting System (DEERS), is responsbile for establishing and maintaining a file listing persons eligible to receive benefits under CHAMPUS. However, it is the responsibility of the Uniformed Services to provide eligible CHAMPUS beneficiaries with accurate and appropriate means of identification. When sources of civilian medicial care exercise reasonable care and precaution in identifying persons claiming to be eligible CHAMPUS beneficiaries and furnish otherwise covered services and supplies to such persons in good faith, CHAMPUS benefits may be paid subject to prior approval by the Director,OCHAMPUS, or a designee, notwithstanding the fact that the person receiving the services and supplies is subsequently determined to be ineligible for benefits. Good faith payments will not be authorized for services and supplies provided by a civilian source of medical care as the result of its own careless identification procedures.

(ii) When it is determined that a person was not a CHAMPUS beneficiary, the CHAMPUS fiscal intermediary and the civilian source of medical care are expected to make all reasonable efforts to obtain payment or recoup the amount of the good faith payment from the person who erroneously claimed to be a CHAMPUS beneficiary. Recoupments of good faith payments initiated by the CHAMPUS fiscal intermediary will be processed pursuant to the provisions of this section. When good faith payments are made by CHAMPUS as the result of (*a*) the issuance of erroneous identification cards, or (*b*) the failure to retrieve identification cards in a timely manner from those persons no longer eligible for CHAMPUS benefits, or (*c*) failure to retrieve outdated identification cards and issue new cards when a person's status changes (such as a change from active duty dependent to dependent of a retiree), it is the responsibility of the Uniformed Service to refund such amounts to CHAMPUS when reasonable efforts to recover the good faith payment are unsuccessful. Refunds by the Uniformed Services shall be made under procedures established by the Director, OCHAMPUS, or a designee.

(6) *Recoupment procedures.* (i) When an erroneous payment is discovered, the CHAMPUS fiscal intermediary normally will be required to take the initial action to effect recoupment. Such action will be in accordance with the provisions of this regulation and the fiscal intermediary's CHAMPUS contract and will include demands for refund or an offset against any other CHAMPUS payment becoming due the debtor. When the efforts of the CHAMPUS fiscal intermediary to effect recoupment are not successful within a reasonable time, recoupment cases will be referred to the General Counsel, OCHAMPUS, for further action in accordance with the provisions of this section. All requests to debtors for refund or notices of intent to offset shall be writing.

(ii) *Demand for payment.* In all cases, the CHAMPUS fiscal intermediary or OCHAMPUS shall make appropriate written demands upon the debtor in terms which inform the debtor of the consequences of his failure to cooperate. The initial written demand should inform the debtor of the basis for the indebtedness, that interest on the debt at the current rate as determined by the Director, OCHAMPUS, or a designee, will begin to accrue 30 days from the date of the initial demand notification, that payment of the indebtedness is due within 30 days of the date of the initial demand notification and that failure to make payment within the 30-day notice period may result in the reporting of the delinquent debt to commercial credit bureaus. The debtor also should be informed that collection by offset against current or subsequent claims may be taken. Individual CHAMPUS beneficiaries will be notified also that they may request reconsideration of a CHAMPUS recoupment claim based upon an inability to pay. Two written demands, at 30-day intervals, normally will be made by the CHAMPUS fiscal intermediary unless a response to the first demand indicates that further demand would be futile or unless prompt suit or attachment is required in anticipation of the departure of the debtor, of his removal or transfer of assets, or the running of the statute of limitations. There should be no undue time lag in responding to any communication received from the debtor. If these initial efforts at collection are not productive or if immediate legal action on the claim appears necessary, the claim either will be referred by the CHAMPUS fiscal intermediary to the General Counsel, OCHAMPUS, or the CHAMPUS fiscal intermediary will prepare a final notice informing the debtor that the debt is to be offset in whole or in part. When a case is referred to the General Counsel, OCHAMPUS, a third written demand normally will be prepared unless from the record such demand appears futile or otherwise inappropriate.

(iii) *Collection by offset.* Collections by offset will be undertaken administratively on claims which are liquidated or certain in amount in every instance in which this is feasible. The determinations of indebtedness made for recoupment of erroneous CHAMPUS payments rarely involve issues of credibility or veracity. Erroneous CHAMPUS payments most frequently arise from claims submitted by individuals ineligible for CHAMPUS benefits; from claims submitted for services or supplies not covered by CHAMPUS; from claims in which there have been other insurance payments which reduce the CHAMPUS liability and from claims from participating providers in which payment is initially erroneously made to the beneficiary. While these recoupment claims normally involve the resolution of factual questions, these resolutions nearly always require only reference to the documentary evidence compiled in the investigation and processing of the claim. The appeals system described in § 199.16 of this part affords a CHAMPUS beneficiary or participating provider an opportunity for an oral hearing before a hearing officer in cases in which benefits have been denied and in which there is a significant factual dispute. Further, there is no statutory provision for the waiver of indebtedness arising from erroneous CHAMPUS payments, other than the provisions of the Federal Claims Collection Act which allow for the compromise of claims or the termination of collection action under certain circumstances specified in paragraph (h) of this section. Consequently, the pre-offset oral hearing requirements of the Federal Claims Collection Standards (4 CFR 102.3) do not apply to the recoupment of erroneous CHAMPUS payments. CHAMPUS fiscal intermediaries may take administrative action to offset erroneous payments against other current CHAMPUS payments owing a debtor. Payments on the claims of a debtor pending at or filed subsequent to the time collection action is initiated should be suspended pending the outcome of the collection action so that these funds will be available for offset. All or any part of a debt may be offset depending upon the amount available for offset. Only the cases in which no possibility of offset arises within 60 days of the initiation of collection action and on which other collection efforts have been unsuccessful or in which the debtor seeks relief from the indebtedness will be referred to the General Counsel, OCHAMPUS, by the CHAMPUS fiscal intermediary.

(iv) *Collection of installments.* CHAMPUS recoupment claims should be collected in one lump sum whenever possible. However, if the debtor is financially unable to pay the debt in one lump sum, payment may be accepted in regular installments by the CHAMPUS fiscal intermediary or the General Counsel, OCHAMPUS. Installment payments normally will be required on at least a monthly basis and their size will bear a reasonable relation to the size of the debt and the debtor's ability to pay. A CHAMPUS fiscal intermediary should not enter into installment agreements which extend beyond 24 months. OCHAMPUS installment agreements normally should liquidate the government's claim within 3 years. Installment payments of less than $10 per month normally will not be accepted. Any installment agreement with a debtor should include an executed confess-judgment note, comparable to the Department of Justice Form USA–70a.

(v) *Interest.* Interest should be charged on delinquent CHAMPUS recoupment debts and debts collected in installments in accordance with instructions issued by the Director, OCHAMPUS, or a designee. CHAMPUS recoupment claims are considered delinquent at the time they are forwarded to the General Counsel, OCHAMPUS, for collection. When a debt is paid in installments, the installment payments first will be applied to the payment of accrued interest and then to principal, in accordance with the so-called "U.S. Rule."

(vi) *Referral to other federal agencies.* When a debtor is employed by the U.S. Government or is a member or retired member of a Uniformed Service, and collection by offset cannot be accomplished, and there has been no positive response to a demand for payment within 60 days, the Director, OCHAMPUS, or a designee, will contact the employing agency for the purpose of arranging with the debtor for payment of the indebtedness by allotment or otherwise in accordance with section 206 of Executive Order 11222 of May 8, 1965.

(vii) *Referral to debt collection agencies.* Pursuant to the provisions of the Federal Claims Collection Standards (4 CFR 102.5), the Director, OCHAMPUS, or a designee, is authorized to enter into contracts for collection services, including contracts with private collection agencies for the purpose of supplementing and strengthening the collection efforts of the Department of Defense in recouping erroneous CHAMPUS payments. Such contracts will supplement but not replace the basic collection program described herein. The authority to resolve disputes, compromise claims, terminate collection action and initiate legal action may not be delegated in such contracts but will be retained by the Director, OCHAMPUS, or a designee. Individuals or firms that enter into contracts for collection services pursuant to this paragraph are subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a, federal and state laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act, 15 U.S.C. 1692.

(viii) *Referrals to credit bureaus.* The Director, OCHAMPUS, or a designee, is authorized to provide for the reporting of delinquent debts to commercial credit bureaus. Delinquent debts are those which are not paid or for which satisfactory payment arrangements are not made by the due date specified in the initial notification of indebtedness. These referrals may be made only after publication of a "routine use" for the disclosures involved as required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a. Procedures developed for such referrals must also insure that an accounting of the disclosures is kept which is available to the debtor; that the credit bureaus are provided with corrections and annotations of disagreements by the debtor; and that reasonable efforts are made to assure that the information to be reported is accurate, complete, timely and relevant. Prior to the reporting of any information concerning a delinquent debt to a commercial credit bureau, the debtor must be advised that such reporting will take place within a specified time period unless the debtor makes satisfactory payment arrangement or demonstrates some basis on which the debt is legitimately disputed.

(h) *Compromise, Suspension or Termination of Collection Action*—(1) *Basic considerations.* Federal claims against the debtor and in favor of the United States arising out of the administration of the CHAMPUS may be compromised or collection action thereon may be suspended or terminated if:

(i) The claim does not exceed $20,000 (or $40,000 in the case of claims arising under the Medical Care Recovery Act), exclusive of interest; and

(ii) There is not indication of fraud, the filing of a false claim or misrepresentation on the part of the debtor or any director, partner, manager or other party having an interest in the claim.

(2) *Authority.* CHAMPUS fiscal intermediaries are not authorized to compromise or to suspend or terminate collection action on federal CHAMPUS claims. Only the General Counsel, OCHAMPUS, or a designee, and Uniformed Service legal officers, acting under the provisions of this Section, are so authorized.

(3) *Basis for compromise.* A claim may be compromised for one or more of the following reasons:

(i) The debtor or the estate of a debtor does not have the present or prospective ability to pay the full amount within a reasonable time;

(ii) The debtor refuses to pay the claim in full and the United States is unable to collect the full amount within a reasonable time by legal proceedings;

(iii) There is real doubt the United States can prove its case in court for the full amount claimed either because of the legal issues involved or a bona fide dispute as to the facts; or

(iv) The cost of collecting the claim does not justify enforced collection of the full amount.

(4) *Basis for termination.* Collection action may be terminated for one or more of the following reasons:

(i) The United States cannot collect or enforce collection of any significant sum from the debtor giving due regard to the judicial remedies available to the government, the debtor's future financial prospects and the exemptions available to the debtor under state and federal law;

(ii) The debtor cannot be located, there is no security to be liquidated, the statue of limitations has run and the prospects of collecting by offset notwithstanding the bar of the statute of limitations are too remote to justify retention of the claim;

(iii) The cost of further collection action is likely to exceed any recovery;

(iv) It is determined that the claim is without merit; or

(v) Evidence necessary to substantiate the claim cannot be produced or the necessary witnesses are unavailable and efforts to induce voluntary payment are unavailing.

(5) *Basis for suspension.* Collection action may be suspended for either of the following reasons if future collection action may be sufficiently productive to justify periodic review and action on the claim giving consideration to its size and the amount which may be realized thereon:

(i) The debtor cannot be located; or

(ii) The debtor is unable to make payments on the claim or to fulfill an acceptable compromise.

(6) *Factors considered.* In determining whether a claim will be compromised, or collection action terminated or suspended, the responsible CHAMPUS collection authority will consider the following factors:

(i) Age and health of the debtor, present and potential income, inheritance prospects, possible concealment or fraudulent transfer of assets and the availability of assets or income which may be realized upon by enforced collection proceedings;

(ii) Applicability of exemptions available to a debtor under state or federal law;

(iii) Uncertainty as to the price which collateral or other property may bring at forced sale; or

(iv) The probability of proving the claim in court, the probability of full or partial recovery, the availability of necessary evidence and related pragmatic considerations.

(7) *Amount of compromise.* The amount acceptable in compromise will be reasonable in relation to the amount that can be recovered by enforced collection proceedings. Consideration shall be given to the following:

(i) The exemptions available to the debtor under state and federal law;

(ii) The time necessary to collect the debt;

(iii) The litigative probabilities involved; and

(iv) The administrative and litigative costs of collection where the cost of collecting the claim is a basis for compromise.

(8) *Payment of compromised claims*—(i) *Time and manner.* Payment of the amount that CHAMPUS has agreed to accept as a compromise in full settlement of a CHAMPUS claim must be made within the time and in the manner prescribed in the compromise agreement. Any such compromised claim is not settled until the full payment of the compromised amount has been made within the time and in the manner prescribed.

(ii) *Failure to pay the compromised amount.* Failure of any debtor to make payment as provided in the compromise agreement will have the effect of reinstating the full amount of the original claim, less any amounts paid prior to the default.

(9) *Effect of compromise, or suspension or termination of collection action.* Any action taken under this section regarding the compromise of a federal claim, or suspension or termination of collection action on a federal claim is not an initial determination for purpose of the appeal procedures of § 199.16 of this part.

(i) *Referrals for Collection*—(1) *Prompt referral.* Federal claims on which collection action has been taken in accordance with the provisions of this section and which cannot be collected or compromised or on which collection action cannot be suspended or terminated, as provided herein, will be referred by the Director, OCHAMPUS, or a designee, for collecton as provided in the joint Federal Claims Collection Standards Issued by the General Accounting Office and the Department

of Justice. Such referrals will be made as early as possible consistent with aggressive collection action by CHAMPUS fiscal intermediaries and OCHAMPUS and well within the statute of limitations.

(2) *Report of prior collection actions.* The Director, OCHAMPUS, or a designee, will prepare a report of prior collection actions for each case referred for collection under the provisions of this section. This report will include, as a minimum, the following:

(i) Reasonable current credit data or other adequate assurance indicating that there is a reasonable prospect of effecting enforced collections from the debtor. Such credit data may take the form of a commercial credit report, an agency investigative report, an individual debtor's own sworn financial statement executed under penalty of perjury or an audited balance sheet of a corporate or other business entity.

(ii) A brief summary of the actions previously taken to collect or compromise the claim.

(3) *Preservation of evidence.* The Director, OCHAMPUS, or a designee, will take such action as is necessary to insure that all files, records and exhibits on claims referred hereunder are preserved.

(j) *Claims Involving Indications of Fraud, Filing of False Claims or Misrepresentation.* Any case in which there is an indication of fraud, filing of false claims or misrepresentation will be promptly referred to the Director, OCHAMPUS, or a designee, for processing. The Director, OCHAMPUS, or a designee, will investigate and evaluate the case and either refer the case to the appropriate investigative law enforcement agency or return the claim for other appropriate administrative action, including collection action under this section. Payment on all CHAMPUS beneficiary or provider claims in which fraud, filing false claims or misrepresentation is suspected will be suspended until payment or denial of the claim is authorized by the Director, OCHAMPUS, or a designee. Collection action on all federal claims in which a suspicion of fraud, misrepresentation or filing false claims arises will be suspended pending referral to the appropriate law enforcement agencies by the Director, OCHAMPUS, or a designee. Only the Department of Justice has authority to compromise or terminate collection action on such claims.

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

October 3, 1983.

[FR Doc. 83-27322 Filed 10-6-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 162

[CGD 78-151]

Inland Waterways Navigation Regulations; Connecting Waters From Lake Huron to Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Notice of hearing on a proposed rule and extension of comment period.

SUMMARY: On June 6, 1983, the Coast Guard published proposed rules (48 FR 25231) that would amend the existing inland waterways navigation regulations for the connecting waters from Lake Huron to Lake Eire. The purpose of the action is to modernize and simplify the requirements, and make them compatible with the requirements of the Canadian Coast Guard in the Canadian portion of the waterway. The Coast Guard received a number of comments concerning the proposed rule, including one which requested a public hearing. In view of this, the Coast Guard will hold a public hearing in Detroit, Michigan. In addition, the Coast Guard will extend the comment period beyond the date of the public hearing.

DATES: The public hearing will be held on November 15, 1983. The hearing will begin at 10:00 a.m. and end at 4:00 p.m. Comments must be received on or before November 30, 1983.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. The public hearing will be held at the following location: Westin Hotel, Renaissance Center, Detroit, Michigan, 48243 in the Richard B. room.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. LaRue, Jr., (202) 426-4958.

SUPPLEMENTARY INFORMATION: Comments received to date have dealt mainly with the communication, traffic, and speed rules in the proposed regulations. The Coast Guard will accept further comments on all provisions of the rulemaking. In addition, because the subject of alternative radiotelephone channels has been raised in the comments, and to take full advantage of the public hearing, the Coast Guard will accept comments on radiotelephone communications in general on the Great Lakes.

Dated: September 30, 1983.

R. L. Brown,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 83-27362 Filed 10-6-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[WH-FRL 2435-7]

Ocean Dumping; Proposed Designation of Site; Gulf of Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate the existing dredged material disposal site located in the Gulf of Mexico offshore of Galveston Harbor as an EPA approved ocean dumping site for the dumping of dredged material. This action is necessary to provide an ocean dumping site for the current and future disposal of this material.

DATE: Comments must be received on or before November 21, 1983.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

The Environmental Impact Statement (EIS) is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, DC

EPA Region VI, 1201 Elm Street, Dallas, Texas

U.S. Army Corps of Engineers Library, Galveston District, 400 Barracuda, Galveston, Texas

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereafter "the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.) and was last extended on February 7, 1983 (48 FR 5557 et seq.). That list established this site as an interim site.

The purpose of this notice is to provide the public with an opportunity to comment on the proposed final designation, as an EPA Approved Ocean Dumping Site, of a site in the Gulf of Mexico offshore of Galveston Harbor for the continuing disposal of dredged material.

The location of the dredged material disposal site is approximately 3.7 nautical miles southeast of Galveston Island, positioned approximately in a rectangle with coordinates as follows:

29° 18' 00" N., 94° 39' 30" W.; 29° 15' 54" N., 94° 37' 06" W.; 29° 14' 24" N., 94° 38' 42" W., 29° 16' 54" N., 94° 41' 30" W.

The site occupies an area of approximately 6.6 square nautical miles. Water depths within this area range from 10 to 15.5 meters. This site has been used for dredged material disposal since at least 1931. The average annual disposal rate since 1958 has been less than 2 million cubic yards.

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., ("NEPA") requires that Federal agencies prepare an EIS on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. 39 FR 16186.

EPA has prepared a draft and final EIS entitled "Environmental Impact Statement (EIS) for the Galveston, Texas Dredged Material Disposal Site Designation." On July 30, 1982, a notice of availability of the draft EIS for public review and comment was published in the **Federal Register** (47 FR 33001). The public comment period on his draft EIS closed September 13, 1982. On November 26, 1982, a notice of availability of the final EIS for public review and comment was published in the **Federal Register** (47 FR 53477). The public comment period on the final EIS closed December 27, 1982. No additional comments were received.

The EIS evaluated ocean alternatives to the continued use of the Galveston dredged material disposal site. There alternatives include no action and three general ocean environments off Galveston which were considered as potentially suitable areas in which to locate an ocean disposal site: the shallow-water area, including the proposed site, the mid-shelf area, where no specific site was located, and the deepwater area more than 90 nautical miles southwest of Galveston.

The alternatives are each within separate major marine environments off Galveston. The shallow-water area (including the proposed site) is a high-energy environment heavily influenced by wave action, coastal or nearshore processes, agricultural runoff, and storms. The deepwater and mid-shelf areas are low-energy environments influenced primarily by offshore and shelf currents.

Appendix A of the draft EIS evaluated and compared the environmental and economic characteristics of the three areas using the ocean dumping site selection criteria. Some of the more important of these criteria in relation to the three potentially suitable disposal areas are discussed below.

Location in relation to breeding, spawning, nursery, feeding or passage areas of living resources in adult or juvenile phases.

The entire shelf region supports valuable commercial fish and shrimp fisheries. Areas off the shelf support a relatively insignificant commercial fishery. The proposed site is in the vicinity of Galveston Bay, an important nursery area for a number of commercially important species of fish and shrimp. These species are typical of nearshore western Gulf waters; therefore, the proposed site represents only a small portion of their geographic range.

The mid-shelf area supports valuable commercial fish and shrimp fisheries. The brown shrimp grounds and several offshore banks that represent valuable fishery resources areas exist there.

The deepwater area may be a feeding area for oceanic fish. However, there are no well-defined migratory pathways in the area. This area was selected in order to avoid shallow-water habitats of valuable shellfish and finfish.

Location in relation to beaches and other amenity areas.

The proposed site is about 3.7 nautical miles southeast of the nearest land, Galveston Island. Prevailing southwesterly bottom currents carry the dumped material away from Galveston and the local beaches. The disposal of dredged material will not have a significant adverse impact on free-swimming finfish and shellfish of the area.

The mid-shelf and deepwater areas are located more than 20 nautical miles and 53 nautical miles respectively from the nearest land. Therefore, disposal would have no significant adverse impact on beaches and other coastal and nearshore amenities.

Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.

Prevailing bottom currents at the proposed site flow south and southwest under normal conditions. Shoaling caused by disposal of dredged material in the high-energy shallow water area is not expected to be a concern. Temporary mounds form, but little evidence exists of significant long-term accumulation or mounding of material deposited at the proposed site.

The effects of disposal at mid-shelf sites have not been extensively studied because the mid-shelf region does not contain many disposal sites, and few studies have been undertaken with respect to the fate of dredged material deposited on the open shelf. However, existing information indicates most material falls to the bottom immediately after disposal. Although there is some turbidity of short duration, the material is dispersed over a wide area. Current direction is generally in a southwesterly direction.

Shoaling is less likely to occur in deep water than shallow water due to spreading and dispersion of the sediment as particles settle to the bottom.

For a more complete discussion of the ocean dumping site selection criteria considered, interested persons should examine pages A-7 through A-24 of the EIS. The summary contained in Appendix A recommends that the interim (proposed) site be designated for continuing use. This recommendation is based on several factors. The proposed site has received material dredged from the Galveston Bay Channel System since at least 1931. Past studies which are cited in the EIS have not discerned any significant adverse impacts from

VOL 48 ISS 196 OCT 7 1983 UMI

disposal at the proposed site and have determined that this is a high-energy erosional zone which can generally accept large volumes of dredged material with little apparent net change to the bottom.

Active oil and gas exploration and drilling occur in the mid-shelf area off Galveston. Fixed structures, such as platforms, and the supply vessels servicing them, would present navigational hazards to the hopper dredges used in channel maintenance. In addition, disposal at a mid-depth site would be more likely to have a long-term effect on the benthos than would disposal at a shallow-water site.

The primary reason against recommending designation of a deepwater site is transportation costs. It is estimated that dredging costs would increase 279 to 298 percent if the disposal area were changed to that location.

The final EIS includes the Agency's assessment of the four comments received during the comment period on the draft EIS. Comments correcting facts presented in the draft EIS were incorporated in the text and the changes noted in the final EIS. Specific comments which could not be appropriately treated as text changes were responded to point by point in the final EIS, following the letters of comment.

Based on the information reported in the EIS, EPA proposes to designate the existing Galveston site for continuing use for the ocean disposal of dredged material where the applicant has demonstrated compliance with EPA's ocean dumping criteria. The EIS is available for inspection at the addresses given above.

The designation of the existing Galveston dredged material disposal site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Management authority of this site will be delegated to the Regional Administrator of EPA Region VI. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Authority: 33 U.S.C. Sections 1412 and 1418.

Dated: September 27, 1983.

Tudor Davies, Jr.,

Acting Assistant Administrator for Water.

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by removing paragraph (D), the Galveston Dredged Material Disposal Site, from paragraph (a)(1)(i) of § 228.12 and adding to § 228.12(b) an ocean dumping site for Region VI. Section 228,12 is amended by adding a paragraph (6)(20) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(20) Galveston Dredged Material Site—Region VI

Location: 29d, 18' 00"N., 94d 39' eo"W., 29d 15' 54"N., 94d 37' 06"W.; 29d 14' 24."N., 94d 36' 42"W.; 29d 16' 54"N., 94d 41' 30"W.

Size: 6.6 square nautical miles.

Depth: Ranges from 10 to 15.5 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Galveston, Texas, area.

[FR Doc. 83-27390 Filed 10-6-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 506

[Docket No. 83-45]

Actions To Adjust or Meet Conditions Unfavorable To Shipping in the United States/Republic of the Philippines Trade

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission, in response to alleged unfavorable conditions in the foreign oceanborne trades between the United States and the Republic of the Philippines, proposed rules suspending the tariffs of Philippine carriers in those trades or, alternatively, barring access of Philippine carriers to United States ports and cargoes unless these carriers obtain authorization from the United States Government. Should unfavorable conditions be found to exist, the effect of the proposed rules would be to adjust or meet those conditions by imposing burdens on Philippine flag carriers equal to those imposed on non-Philippine carriers by Philippine laws and regulatons.

DATE: Comments on or before December 5, 1983 (original and 15 copies).

ADDRESS: Send comments to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of section 19(1)(b), Merchant Marine Act, 1920, (46 U.S.C. 878), as implemented by Commission General Order No. 33 (46 CFR Part 506), the Federal Maritime Commission (hereinafter referred to as the Commission) is authorized and directed to make rules and regulations affecting shipping in the foreign trade of the United States in order to adjust or meet

general or special conditions unfavorable to shipping in the foreign trade of the United States and which arise out of, or result from, foreign laws, rules or regulations, or from competitive methods or practices employed by owners, operators, agents or masters of vessels of a foreign country.

The types of conditions which the Commission generally presumes to be unfavorable to shipping in the foreign trade of the United States are set forth in 46 CFR 506.3. Among these are conditions which: (1) Preclude or tend to preclude vessels in the foreign trade of the United States from competing in the trade on the same basis as any other vessel; (2) reserve substantial cargoes to the national flag or other vessels and fail to provide, on reasonable terms, for effective and equal access to such cargo by vessels in the foreign trade of the United States; and (3) are discriminatory or unfair as between carriers, shippers, exporters, importers, or ports or between exporters from the United States and their foreign competitors (46 CFR 506.3 (a), (b) and (d)).

The Commission has received numerous complaints from U.S. shippers and exporters regarding conditions in the U.S./Philippines trades. Other shipper complaints concerning these trades have been forwarded to the Commission by the U.S. Department of State. In addition, some comments filed by third flag carriers and others in connection with a proposed equal access agreement between U.S. and Philippine flag carriers (Agreement No. 10461) cited certain potential adverse conditions in these trades. These persons contend that actions taken by the Government of the Republic of the Philippines (R.O.P.) have created actual or potential unfavorable conditions. Recent communications allege a worsening of conditions, particularly in the U.S. export trade with the Philippines. Although the Commission has not received a formal petition for rulemaking under section 19, a number of these persons request that the Commission, on its own motion, take action under section 19 to remedy the alleged unfavorable trade conditions.

These complaints arise out of the enactment, implementation and enforcement by the Philippine Government of a comprehensive cargo sharing regime. Presidential Decree No. 1466 (P.D. 1466), issued on June 11, 1978, reserves all Philippine Government cargo for transport by Philippine flag carriers. Government cargo is defined as that cargo which is sold, purchased, financed or guaranteed by the Philippine Government. The requirement for transport of government cargo by Philippine flag carriers may be waived for a number of reasons including reciprocal treatment by the government of the bilateral trading partner and unavailability of a Philippine flag vessel at "reasonable freight rates" or within a "reasonable period of time." Recently, the Philippine Government has taken actions which impose a cargo sharing regime on all liner cargo not covered by P.D. 1466.

On January 19, 1982, the Philippine Government promulgated Executive Order No. 769, *Concerning the Shipment of Sea-Borne Import and Export Cargoes of the Philippines*, which reserves 60 percent of all non-government cargo in the Philippine export and import liner cargo trade for flag carriers of the Philippines and that of the bilateral partner. Such cargo is to be shared equally by the bilateral trading partners. Cross traders may compete for the remaining unreserved cargo. Executive Order No. 769 further empowers the Maritime Industry Authority (MARINA) to issue rules and regulations to implement this 40-40-20 formula. Other Philippine Government agencies, including the Central Bank of the Philippines, are also directed to implement Executive Order No. 769.

On June 1, 1982, MARINA published general rules and regulations implementing Executive Order No. 769. The rules establish a comprehensive regulatory mechanism governing both the Philippine export and import trades. Section 2 requires ocean carriers serving Philippine ports to provide information concerning freight rates and other conditions of carriage.

Section 5 authorizes MARINA to require that carriers providing service from foreign countries to Philippine ports notify MARINA of any general rate increase at least 150 days prior to its effective date. Section 7 provides that MARINA be given at least 15 days notice of any supplements to rates. Section 8 gives MARINA the power to nullify provisions of any liner transport agreement which contravenes certain obligations under the rules. Section 9 provides that in the event a liner transport agreement is nullified the previously effective rates will apply. Section 11 authorizes MARINA to prohibit the charging of rates, whether higher or lower, which it determines may seriously disturb ocean transportation. Section 12 confers broad authority upon MARINA to set cargo sharing rules for the trade from any specific country to Philippine ports. It authorizes MARINA to determine a maximum or minimum number of sailings, a maximum or minimum capacity for each ship participating in the specified trade, and the type of ship to be used for each line participating in the specified trade. Sections 16 through 25 authorize MARINA to require vessels serving Philippine ports to obtain a license. Such a license may be granted subject to certain conditions regarding number of sailings, vessel capacity, type of ship to be used, and rates to be charged. Sections 26 through 28 set forth rules regarding foreign laws and regulations. Subject to certain exceptions, these rules declare that there shall be no compliance with measures or decisions of a foreign state concerning ocean transportation to or from the Philippines with regard to pricing, conditions of carriage, number of sailings, vessel capacity or cargo sharing. Section 46 provides that MARINA may impose sanctions and administrative fines not to exceed the cost of freight covered by a particular violation.

On July 22, 1982, MARINA put into effect Memorandum Order No. 3 containing special rules which apply exclusively to export and import cargoes in the U.S./Philippine trades. Section 4 of Memorandum Order No. 3 contemplates the formation of a pooling agreement to fulfill the 40-40 bilateral shares. Section 5 provides that the requirement on the use of Philippine and U.S. flag carriers may be waived, upon written request, where service of a Philippine or U.S. flag carrier is not available (1) at "reasonable freight rates" or (2) within a "reasonable period of time". "Reasonable freight rates" are determined by comparison with the prevailing rate in the trade and with the prevailing rate offered by shipping lines in similar distance trade routes in the region. "Reasonable period of time" means that a national flag vessel will be available within eight days from scheduled date of loading. Section 6 authorizes MARINA to gather information in order to monitor compliance with the 40-40-20 cargo sharing formula. Section 9 incorporates by reference the MARINA rules implementing Executive Order No. 769.

On October 8, 1982, the Central Bank of the Philippines issued a memorandum containing rules and regulations which apply only to import liner cargo exported from the United States to the Philippines not covered by P.D. 1466. Section 1 of the Central Bank Memorandum defines liner cargo as "cargo to be loaded or loaded [sic] on regularly scheduled common carriers." Section 3 provides that the 40-40 bilateral sheres of the Philippines and

VOL
48
ISS
1
9
6
OC
7
1983
UMI

the United States should first be filled during the year. Section 4 provides that waivers may be obtained from MARINA or from the nearest Philippine consulate in the United States when national flag service is not available at reasonable freight rates or within a reasonable time. Section 5 requires all letters of credit covering liner cargoes from the United States to state that the cargo is to be shipped through national flag vessels of the Philippines or the United States, unless the prescribed waiver is secured. Section 6 provides that in the case of importations under "documents against acceptance" or "open account" arrangements, the importer shall instruct the exporter/shipper that shipment shall be effected through Philippine or U.S. flag vessels unless the prescribed waiver is secured. Section 7 states that import liner cargo from the United States which is not shipped through Philippine or U.S. flag vessels shall not be issued release certificates unless the prescribed waiver is secured. Section 8 provides for sanctions in accordance with Rule XII of the regulations implementing Executive Order No. 769.

Shippers and exporters contend that the Philippine Government recently has required a stricter adherence to its waiver regulation and may be applying the penalty provision which would subject a carrier which offloads cargo from the U.S. in the Philippines without a waiver to a fine equal to the freight rate. Some shippers state that they have experienced delays and other difficulties in obtaining a waiver. One shipper alleges that he was informed that waivers would no longer be available at the port of New York. Another shipper indicated that availability of a lower freight rate is not accepted as a valid reason for granting a waiver.

These shippers and exporters assert that these governmental actions to enforce the cargo sharing formula through a system of waivers has already had a deleterious effect on the export trade. Shippers allege that enforcement of the waiver system has affected the routing of cargo and reduced the quality of service. One shipper complained that Philippine carriers do not have the capability to offer needed intermodal service and that no Philippine flag service is available at the most convenient port. The unavailability of service at certain ports allegedly increases inland shipping charges. Shippers also complain that Philippine regulations deprive them of the services of non-conference third flag carriers, forcing them to pay the higher conference rates. Shippers complain that Philippine regulations have disrupted long-standing commercial relationships, imposed bureaucratic delays, and resulted in higher costs—all of which have eroded the ability of U.S. exporters to compete in the international marketplace. One shipper alleges that the Philippine laws have already resulted in a loss of exports. Finally, shippers state that their foreign competitors are not burdened by the same restrictions.

The Commission has also received comment on the potential impact of the Philippine cargo reservation laws and regulations on third flag carriers. Comments filed in connection with Agreement No. 10461 express concern by third flag carriers that full implementation of the Philippine cargo reservation law would result in loss of cargo and revenues, as all third flag carriers serving the trade would be restricted to an aggregate 20 percent share. These carriers point out that the definition of government preference cargo is so expansive as to potentially embrace all of the cargo in the trade. Moreover, these carriers note that under the Central Bank rules, they may not begin to carry their 20 percent share in a given year until national flag lines have achieved their 80 percent quota. This allegedly leaves third flag carriers in a commercially unfeasible position. These carriers further point out that at the present time Philippine laws appear to be implemented only in the U.S./Philippines trades. Moreover, they note that U.S. flag carriers have been granted automatic waivers while third flag carriers must comply with the regulations. They also point out that in certain port ranges, i.e. Atlantic Coast ports, third flag operators provide the vast majority of sailings. The effect of implementation may therefore be immediately to restrict service and ultimately to close the trade to third flag carriers.

One comment filed in connection with Agreement No. 10461 by a freight forwarded alleges other deleterious effects associated with the Philippine waiver system. According to the forwarder, Philippine flag vessels are in some instances being positioned so as to eliminate the possibility of satisfying the "reasonable time period" requirement for the granting of a waiver. The forwarder alleges that the eight day availability clause makes it impossible for another flag line to be used. This forwarder also alleges that applications for waivers are first reviewed by a representative of the Maritime Company of the Philippines before being considered by the Philippines Consulate for formal approval. This representative attests to the availability or non-availability of a Philippine flag vessel within the specific period. According to the forwarder, the recommendation of the Maritime Company agent is always adopted by the Consulate. The eight day availability requirement allegedly causes unnecessary delays in shipment which result in loss of interest, unnecessary backlogs in exporter warehouses, and increased warehousing costs. The waiver system means that those shippers who use a letter of credit are impeded from receiving funds due when cargo cannot be shipped as soon as it is ready.

On the basis of the information available at this time, the Commission has reason to believe that unfavorable conditions may exist in the foreign oceanborne trades between the United States and the Republic of the Philippines. The combined effect of the various Philippine cargo preference measures is to impose a comprehensive network of restrictions on the foreign oceanborne commerce of the United States. As we have noted recently in our analysis of trade conditions in the U.S./Venezuelan trades, we do not question the sovereign right of a foreign government to impose conditions on its own domestic commerce.[1] Many nations, including the United States, have legitimate interests in promoting the economic well-being of their maritime commerce. However, it is not reasonable to expect the export commerce of the United States to bear the burden of the economic costs of the carrier promotion policies of the Republic of the Philippines. The record available to us at this time indicates that the Philippine Government, without consultation with or consent by the United States, has imposed restrictions on the movement of United States origin goods to that country—restrictions which have not been imposed by the United States on Philippine exports to this country. Moreover, the laws and regulations promulgated by the Philippine Government represent an attempt to impose unilaterally a strict 40–40–20 cargo sharing formula on the trade of the United States. Executive Order No. 769 explicitly states that its purpose is to carry out the cargo sharing formula of the UNCTAD Liner Code. The United States Government has rejected the UNCTAD Liner Code as contrary to the trade policies of the United States. United States policy

[1] *See* Docket No. 82–58, *Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade*, Interim Report on Current Status of Proceeding, February 25, 1983, pp. 5–6.

opposes the imposition of such cargo reservation formulas upon its foreign trade.

Subsequent actions of the Philippine Government in implementing Executive Order No. 769 are aimed solely at the trade with the United States. The burden of these regulations, particularly the waiver provision, is not imposed on other foreign countries trading with the Philippines. Such a regulatory regime would appear to disadvantage U.S. shippers and exporters competing with those in other countries. The eight-day availability requirement for a waiver is imposed upon shipments from U.S. ports. Complaining shippers have alleged that exports from the Philippines are not burdened by this eight day delay. Finally, the Central Bank Memorandum applies only to shipments from the United States. Failure to comply with the Central Bank regulations may result in heavy fines being imposed on U.S. export shipments. Similar restrictions are not applied to shipments from the Philippines.

The complaints received from shippers and exporters indicate that the deleterious effects of these laws and regulations may already be felt in U.S. export trade. Shippers and exporters may be deprived of their right to select a carrier of their choice, prevented from obtaining specialized transportation services such as intermodal service, forced to pay higher freight rates and bear other unnecessary costs, handicapped by delay, and impaired in their ability to compete with foreign companies.

If the conditions described by shippers, third-flag carriers and others were to be established by probative evidence, then such conditions could be found to be unfavorable under sections 506.3 (a), (b) and (d) (46 CFR 506.3 (a), (b) and (d)). As a direct result of Philippine cargo reservation laws and regulations, conditions may exist which: (1) Preclude or tend to preclude non-Philippine flag carriers from competing in the trade on the same basis as any other carrier; (2) fail to provide, on reasonable terms, for effective and equal access to cargo by carriers serving the trade; and (3) discriminate against U.S. shippers and exporters by hindering their ability to compete in international markets. No such restrictions or unfavorable conditions have been imposed by the United States on Philippine flag carriers.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920 and the Commission's General Order No. 33, this agency will initiate, on its own motion, a rulemaking proceeding for the purpose of: (1) Determining whether, in fact, unfavorable conditions exist in the foreign oceanborne trade between the United States and the Republic of the Philippines; and (2) if such conditions are found to exist, fashioning an appropriate remedy. In the interest of providing the Commission with the most complete information available, interested parties are encouraged to comment on the accompanying proposed regulation. All factual assertions should be attested to and accompanied by supporting documentation where possible.

The accompanying proposed rule states two alternative remedies should unfavorable conditions be found to exist: (1) Suspension of the tariffs of Philippine carriers in the affected trades; or (2) restriction of access of Philippine carriers to United States ports and cargoes except with the authorization of the United States Government. Comments on the relative merits of these proposed alternatives is invited. Although these proposed rules deal only with the export trade, the Commission also invites comments on the possibility that tariffs covering transportation from the Philippines to the United States trade may also be suspended.

Interested parties are given until December 5, 1983 to file comments on the proposed rule. Factual submissions relating to conditions in the United States/Philippines trade, where relevant, should inlcude statistics showing present or prospective cargo loss, loss of customers, reduction in sailings or other impact on service, reduction in volume of exports, impact on freight rates, and costs incurred through delay in shipment. To the extent possible, such factual submissions should be supported by sworn documents and affidavits.

List of Subjects in 46 CFR Part 506

Maritime carriers, Tariffs.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)), Reorganization Plan No. 7 of 1961 (75 Stat. 840), and Commission General Order No. 33 (46 CFR Part 506) it is proposed to add a Part 506 to 46 CFR to read as follows:

PART 506—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE UNITED STATES/PHILIPPINES TRADE

§ 506.1 Conditions unfavorable to shipping in the foreign trade with the Philippines.

The Federal Maritime Commission has determined that the Government of the Republic of the Philippines has created conditions unfavorable to shipping in the foreign trade of the United States by enacting, implementing and enforcing laws and regulations which unreasonably restrict vessels of non-Philippine flag registry from competing in the ocean trade between the United States and the Philippines on the same basis as Philippine carriers, and additionally deny effective and equal access to cargoes in the trade. Moreover, the laws and regulations at issue unilaterally allocate and reserve export liner cargoes from the United States for carriage by Philippine flag vessels. Philippine regulations provide for a waiver system whereby non-Philippine and non-U.S. flag vessels may carry reserved cargo in the event of nonavailability of vessels. The enforcement of the waiver system and its accompanying penalties and fines discriminates against U.S. shippers and exporters, restricts their opportunities to select a carrier of their own choice, and hampers their ability to compete in international markets, thus resulting in further conditions unfavorable to the foreign trade of the United States.

§ 506.2 [Option A] Tariffs of Philippine flag carriers suspended.

(a) On a date 30 days from the issuance of a final rule, the following tariffs and all amendments thereto, insofar as they relate to the trade from the United States to the Republic of the Philippines, are suspended in full:

(1) National Galleon Shipping Corporation.

Tariff FMC 72 From U.S. Atlantic, Gulf and Pacific Coast Ports and Ports in Canada to Ports in Indonesia and Malaysia (Tariff filed under the name of Galleon Shipping Corporation)

Tariff FMC 75 From United States Atlantic and Gulf Ports to Worldwide Ports

Tariff FMC 79 From U.S. Atlantic and Gulf Ports to Ports in Philippines, Taiwan, Hong Kong, Korea, Japan and Peoples Republic of China

Tariff FMC 81 From U.S. Pacific Coasts Ports, Overland Common Points and Interior Points to Ports in the Republic of the Philippines, Hong Kong, Taiwan, Korea

Tariff FMC 84 From Interior Points in the United States to Ports in the Far East

(2) Maritime Company of the Philippines.

Tariff FMC 20 Between Ports in Hawaii and Ports in the Far East

Tariff FMC 23 From Pacific Coast Ports and OCP Points in the United States to Ports in the Republic of the Philippines, Taiwan and Other Ports

VOL 48 ISS 196 OCT 7 1983 UMI

Tariff FMC 24 Between United States Atlantic, Gulf and Great Lakes and Ports Worldwide

(b) Tariffs which may be filed by or on behalf of the carriers mentioned in paragraph (a) of this section in the ocean trade from the United States to the Philippines shall also be suspended.

(c) Moreover, all affected conference or rate agreement tariffs shall be amended to reflect the suspensions enumerated in paragraph (a) of this section. Operation by any carrier under suspended, cancelled or rejected tariffs shall subject said carriers to all applicable remedies and penalties provided by law.

§ 506.2 [Option B] Philippine flag carriers without "authorized" status—suspension of tariffs.

(a) On a date 30 days from the issuance of a final rule, the following tariffs and all amendments thereto, insofar as they relate to the trade from the United States to the Philippines, shall be suspended in full, unless the enumerated Philippine flag carriers first obtain "authorized" status pursuant to paragraph (b) of this section:

(1) National Galleon Shipping Corporation.

Tariff FMC 72 From U.S. Atlantic, Gulf and Pacific Coast Ports and Ports in Canada to Ports in Indonesia and Malaysia (Tariff filed under the name of Galleon Shipping Corporation)

Tariff FMC 75 From United States Atlantic and Gulf Ports to Worldwide Ports

Tariff FMC 79 From U.S. Atlantic and Gulf Ports to Ports in Philippines, Taiwan, Hong Kong, Korea, Japan and Peoples Republic of China

Tariff FMC 81 From U.S. Pacific Coast Ports, Overland Common Points and Interior Points to Ports in the Republic of the Philippines, Hong Kong, Taiwan, Korea

Tariff FMC 84 From Interior Points in the United States to Ports in the Far East

2. Maritime Company of the Philippines.

Tariff FMC 20 Between Ports in Hawaii and Ports in the Far East

Tariff FMC 23 From Pacific Coast Ports and OCP Points in the United States to ports in the Republic of the Philippines, Taiwan and Other Ports

Tariff FMC 24 Between United States Atlantic, Gulf and Great Lakes and Ports Worldwide

Tariffs which may be filed by or on behalf of the above-mentioned carriers in the ocean trade from the United States to the Philippines shall also be suspended if the conditions of paragraph (b) of this section are not met. In the event of suspension of tariffs pursuant to this paragraph, all affected conference or rate agreement tariffs shall be amended to reflect said suspensions. Operation by any carrier under suspended, cancelled or rejected tariffs shall subject said carrier to all applicable remedies and penalties provided by law.

(b) In order to avoid suspension of its tariffs pursuant to paragraph (a) of this section, each Philippine flag carrier enumerated in paragraph (a) of this section must secure the "authorized" status from the Federal Maritime Commission prior to the effective date of this rule. "Authorized" status shall be conferred upon a Philippine flag carrier only upon the carrier's submission to the Commission of a certificate from the government of the Philippines stating unequivocally that no law, regulation or practice of the Government of the Philippines will (1) preclude or tend to preclude vessels of U.S. or third flag registry from competing in the United States/Philippines ocean trade on the same basis as any other vessel; (2) result in less than effective and equal access by U.S. flag and third flag carriers to cargo designated as reserved under Executive Order No. 769; or (3) otherwise discriminate against U.S. shippers, exporters or importers.

(c) Upon conferment of "authorized" status, it shall be the Commission's practice to obtain periodic reports containing carriage statistics in the United States/Philippines ocean trade in order to monitor the conditions in the trade.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-27250 Filed 10-6-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30906-184]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule prescribing 1984 and 1985 limits for the salmon prohibited species catch in the Bering Sea and Aleutian Islands area foreign trawl fishery. These limits are proposed under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) and are intended to reduce the incidental catch and unnecessary mortality of salmon in foreign groundfish operations while still allowing the foreign fisheries an opportunity to harvest their groundfish allocations.

DATE: Comments on the proposed salmon catch limits are invited until November 4, 1983.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Copies of the regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) prepared for Amendment 3 to the FMP, which addresses this regulatory change, may be obtained by contacting the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson (Regional Plan Coordinator), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The FMP was developed by the North Pacific Fishery Management Council (Council) and is implemented by rules appearing at 50 CFR 611.93. Eight amendments to the FMP have been adopted by the Council under authority of the Magnuson Fishery Conservation and Magnuson Act (Magnuson Act). One of those amendments (Amendment 3) was implemented July 4, 1983 (48 FR 24719), and established a five-year (1982–1986) schedule for reduction of prohibited species catch (PSC) limits for salmon, Pacific halibut, king crab, and Tanner crab in the foreign trawl fishery. The annual PSCs established for these species are apportioned to foreign nations in proportion to each nation's groundfish allocation. When U.S. observer information, or other reported statistics that are considered reliable, indicate that trawl vessels of a particular nation have caught incidentally that nation's specified portion of the PSC for one of the above species, those vessels will be subject to a significant time-area closure in order to reduce or eliminate further taking of that species in the Bering Sea and Aleutian Islands area. The preamble to the proposed rule for Amendment 3 (48 FR 10383; March 11, 1983) thoroughly discussed the need and justification for the amendment; it also discussed the procedure for apportionment of PSCs to foreign nations, considerations for adjustments of PSCs, exemptions to PSC regulations, and additional incentives to reduce the catch of prohibited species in foreign groundfish fisheries.

The rule implementing Amendment 3 indicated salmon PSC figures only for 1981 [1] 1982, and 1983, with the objective of achieving a 75 percent reduction from the 1981 salmon PSC level by 1986. A complete review of the salmon PSC program was to be conducted by the Council in 1983 to determine further reductions in salmon PSC levels for 1984 and 1985 for purposes of achieving the 1986 PSC limit. The Council conducted such a review at its May 1983 meeting and adopted a salmon PSC limit of 38,441 fish for 1984 and a limit of 27,957 fish for 1985. The 1986 PSC limit was unchanged and remains at 17,473 fish. When conducting its review, the Council considered the status of the salmon resource, the evidence to date that a 75 percent reduction of the salmon PSC limit is attaintable and should not impede foreign groundfish operations, and the economic and technological reasonableness of the 75 percent reduction goal by 1986.

The salmon PSC figures adopted for 1984 and 1985 reflect salmon PSC levels that were negotiated between representatives for those western Alaska residents who depend on the salmon resource and the Japanese trawl industry, the principle harvester of Bering Sea groundfish. NOAA now proposes to implement the Council's 1984 and 1985 salmon PSC limits by inserting them into the reserved portions of Table 2 in 50 CFR 611.93.

Classification

The Alaska Regional Director of the National Marine Fisheries Service (Regional Director) has determined that this proposed rule is necessary and appropriate for conservation and management of fishery resources, and that it is consistent with the Magnuson Act and other applicable law. He has also determined that this rule will not have a significant impact on the quality of the human environment. The environmental impact statement (EIS) prepared on the original FMP also addressed Amendment 3 and consequently covered this action. The EIS was filed with the Environmental Protection Agency on November 20, 1981. Accordingly, neither a supplement to the EIS nor an environmental assessment is required. A copy of the EIS is available from the Council at the address listed above.

The Regional Director has further determined that approval and implementation of this rule will be carried out in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

The NOAA Administrator has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the analysis presented below and on the regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) prepared by the Council for the rule implementing Amendment 3 to the FMP. You may obtain a copy of the RIR/FRFA from the Council at the address listed above.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities; therefore, no regulatory flexibility analysis is required under provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The RIR/FRFA prepared for Amendment 3 discuses the assumptions and methodology employed in estimating the discounted loss in gross earnings to domestic salmon fishermen caused by imposition of salmon PSC levels. Applications of these assumptions and methodologies to the salmon PSC levels now proposed indicate that they will result in direct and measurable losses to domestic salmon fishermen in subsequent seasons. The discounted present exvessel value of the loss to domesic salmon fishermen as a result of the 1984, 1985, and 1986 salmon PSCs are estimated to be $567,305, $412,584, and $257,863, respectively. These estimated losses compare very favorably with the discounted present value loss to domestic fishermen which would accrue *each* season absent the salmon PSC reduction schedule. That loss to domestic salmon fishermen, in discounted present value terms, was estimated to be approximately $1.19 million at the exvessel level, *per year*. The difference between this annual loss and each of the PSC schedule losses estimated for 1984–1986 constitute the savings attributable to the salmon PSC limits, or $622,695, $777,416, and $932,197, respectively. In 1982, $4,968 commercial salmon permits were fished in the western Alaska fisheries. Assuming the same number of permits continue to be fished, the savings that would accrue to each of these permit holders as a result of the 1984–1986 salmon PSC limits would approximate only $125, $156, and $188, respectively. These values assume only a commercial exploitation of western Alaska salmon.

These gross exvessel savings (benefits) are attainable without imposition of significant costs on the foreign fishery. That is, the salmon PSC limits are fully attainable without significant adverse impacts on the foreign fleets' ability to harvest their groundfish allocations. Therefore, the prescribed salmon PSC schedule allows full and complete achievement of the Council's expressed objectives for Amendment 3 and this action, as articulated in the RIR/FRFA prepared on the amendment.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: October 4, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For reasons set out in the preamble, 50 CFR Parf 611 is proposed to be amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.93(c)(2)(ii)(D), Table 2 is revised to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

TABLE 2.—TARGET REDUCTION SCHEDULE OF SALMON PROHIBITED SPECIES CATCHES BASED ON THE AVERAGE 1977-1980 FOREIGN TRAWL SALMON INCIDENTAL CATCH

Year	Total salmon [1]
Base numbers: 1977-80	80,000
Reduced catch levels:	
1981	69,893
1982	58,409
1983	48,925

[1] An amendment to the preliminary fishery management plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific (46 FR 60002, December 8, 1981) established a chinook salmon PSC of 65,000 fish.

TABLE 2.—TARGET REDUCTION SCHEDULE OF SALMON PROHIBITED SPECIES CATCHES BASED ON THE AVERAGE 1977–1980 FOREIGN TRAWL SALMON INCIDENTAL CATCH—Continued

Year	Total salmon[1]
1984	36,441
1985	27,857
1986	17,473

[1] Total salmon numbers are calculated on the assumption that 93 percent of the incidentally-caught salmon are chinook.

* * * * *

[FR Doc. 83-27462 Filed 10-5-83; 8:45 am]

50 CFR Part 611

[Docket No. 31004-196]

Foreign Fishing, Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 6 to the fishery management plan for the groundfish fishery in the Bering Sea and Aleutian Islands area. This amendment would establish a domestic fishery development zone in the Bering Sea and would prohibit all foreign harvesting of groundfish in that zone. This action is intended to provide a sanctuary for U.S. fishing vessels in a productive fishing area of the Bering Sea and to encourage the expansion of the U.S. groundfish fishery.

DATE: Comments on the amendment, proposed rule, and environmental assessment are invited until November 18, 1983.

ADDRESS: Comments may be mailed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, or delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska. Individual copies of the amendment, the environmental assessment and the regulatory impact review/initial regulatory flexibility analysis may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, telephone 907–274–4563.

FOR FURTHER INFORMATION CONTACT: Jeffrey Povolny (Groundfish Plan Coordinator, North Pacific Fishery Management Council), 907–274–4563.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) was implemented on January 1, 1982 (46 FR 63295, December 31, 1981), by the NOAA Assistant Administrator for Fisheries (Assistant Administrator) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Nine amendments to the FMP have been adopted by the North Pacific Fishery Management Council (Council). Five of these amendments have been implemented: Amendment 1a and 2 (47 FR 1295), Amendment 4 (48 FR 21336), Amendment 3 (48 FR 24719), and Amendment 7 (48 FR 34982).

Amendment 6 to the FMP is the subject of this action and was adopted by the Council on September 23, 1982. The amendment proposes the establishment of a domestic fishery development zone (FDZ) in the Bering Sea where only U.S. fishing vessels would be allowed to harvest groundfish. Because the FDZ is known to be a productive fishing area, its establishment would encourage the development of the U.S. groundfish industry.

The FDZ (Figure 1) is located just north and west of Unimak Pass and is bounded by straight lines joining the following coordinates:

55°16′ N. latitude, 166°10′ W. longitude (westernmost corner of Bristol Bay Pot Sanctuary),

54°00′ N. latitude, 166°10′ W. longitude (Unalga Island), and

54°35′ N. latitude, 164°55′42″ W. longitude (Cape Sarichef Light).

The FDZ covers approximately 2,342 square miles and includes the continental shelf just north and west of Unimak Pass. This is only about 0.4% of the total fishery conservation zone area (approximately 630,000 square miles) under the jurisdiction of the FMP.

The FDZ would be reserved for use by domestic fishing vessels—including those delivering to shore-based processors, U.S. catcher/processors, and foreign processing vessels involved in U.S. joint venture operations. All foreign harvest operations would be excluded year-round from the FDZ.

Development of a domestic groundfish fishery has been relatively slow in the Bering Sea and Aleutian Islands region. Yet this region has great potential for supporting a large domestic groundfish fishery. The present optimum yield (OY) of commercial groundfish species in the region is between 1.4–2.0 million metric tons (mt). Historically, most of the catch has been taken by foreign fisheries; only in the past two years has U.S. production exceeded 50,000 mt from the Bering Sea.

The FDZ proposed in Amendment 6 is a very productive fishing area in relatively close proximity to the only three developed harbors in the Bering Sea (Unalaska, Akutan and Sand Point) that have shore-based processing facilities. Over the past three years domestic fisheries for groundfish in the Bering Sea region (both shore-based and joint venture) have enjoyed some success. However, they are at a developmental stage and have difficulty competing effectively with foreign vessels on the same fishing ground at the same time because U.S. boats are generally much smaller than the foreign fishing vessels and are easily preempted from the fishing grounds. Creation of the FDZ will effectively remove a six-month-per-year foreign fishery from the zone, since the area is part of the Winter Halibut Savings Area, which is currently closed to foreign trawling from December 1 to May 31.

Foreign catches in the FDZ from 1977 to 1980 averaged 73,046 mt, or approximately 6% of the average 1977–80 foreign catch in the Bering Sea of 1,300,063 mt. In 1981 domestic joint venture catches from the FDZ were about 12,167 mt. In addition, a portion of the 1981 domestically processed catch of 8,851 mt came from the FDZ. In 1982 domestic joint venture catches from the FDZ were about 18,963 mt, in addition to a portion of the U.S.-processed catch of 20,863 mt. It is not possible to determine how much of this catch actually comes from the FDZ, but most of it is Pacific cod which has been relatively abundant in this area.

Developing U.S. groundfish fisheries, both JVP and DAP, are expected to benefit from the establishment of the FDZ in the following ways:

(1) Operating efficiency of domestic vessels would increase because they could operate without interference or conflict with foreign vessels in the same physical space for groundfish species;

(2) The proposed FDZ is within the most productive fishing area in the Bering Sea and Aleutian Islands area and domestic catch rates for pollock and Pacific cod in the FDZ should increase when foreign effort is removed. Such increases, however, would diminish as U.S. fishermen are attracted to the FDZ by higher returns and domestic effort in the zone increases;

(3) Costs of production to the U.S. groundfish industry would be reduced because of increased operating efficiency due to less crowding and improved groundfish catch rates; and

(4) The location of the FDZ is a logical choice due to its proximity to shoreside processing and support facilities, compared to equally productive areas further distant. This location complements the sanctuary for developing U.S. fisheries established south of Unimak Pass in the Gulf of Alaska, known as the Davidson Bank.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97–453, requires the Secretary of Commerce (Secretary) to publish proposed regulations within 30 days of his receipt of an amendment and regulations from a Council. At this time the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council has prepared an environmental assessment (EA) for Amendment 6 and has preliminarily concluded that no significant impact on the human environment would result if the amendment were implemented. You may obtain a copy of the environmental assessment from the Council at the address listed above; public comments are invited.

The NOAA Administrator has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291 (E.O. 12291), but that the proposed rule, if implemented, would have a significant beneficial effect on small entities within the meaning of the Regulatory Flexibility Act. These determinations were based upon the socioeconomic effects of the proposed rule as analyzed in the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared by the Council. A summary of this analysis follows. A copy of the RIR/IRFA may be obtained from the Council at the address listed above.

If the proposed rule is implemented, the primary sources of benefits to domestic groundfish fishermen will be improvements in operating efficiency, or the amount of time a vessel spends fishing in a fixed season, and improved catch rates. Furthermore, the crowding problem in the FDZ due to competition between domestic and foreign vessels will be reduced with the removal of foreign effort.

While it was possible to estimate how a given improvement in operating efficiency (from reduced crowding) will benefit domestic fishermen, it was not possible to estimate how much domestic operating efficiency will improve with a reduction in foreign effort in the FDZ. Thus, it was not possible to provide a quantitative measure of this source of benefit.

The benefit to domestic fishermen of improved catch rates resulting from the removal of foreign effort from the FDZ is the reduced average cost of production for domestic fishing vessels, times tonnage landed. Under the methodology employed in the RIR/IRFA, these net benefits to U.S. pollock fishermen were conservatively estimated to range from $866,000 to $1,782,000. These benefits are viewed as short-term because an influx of domestic effort into the FDZ to supplant the expelled foreign effort will reduce marginal catch rates and the catch differential, until eventually an equilibrium of catch rates recurs and a redistribution of effort or new investment will serve to dissipate initial net benefits.

No information is available to infer what improved prospects (either in operating efficiency or catch rates) may result for Pacific cod fishermen from creation of the FDZ, since cod catches reported from that specific area are by-catches from foreign fleets targeting on pollock and from a limited U.S. joint venture operation targeting on Pacific cod in 1982. Benefits similar to those accruing to pollock operations may be expected to result to cod fishermen; if this proves to be the case, the net benefits presented above are low estimates.

Establishing the FDZ could affect the ability of shore-based processors to compete with at-sea processors. Most at-sea processing is provided now by foreign processing vessels in joint ventures with U.S. vessels fishing for pollock. U.S. shore-based processors are mainly receiving Pacific cod. If there were a shortage of catcher vessels, and active competition for their services, an increase in catch rates for pollock would make at-sea delivery relatively more attractive for harvesting vessels. Barring constraints on the daily quantities which a vessel can deliver, the increased catch rates would result in a larger increase in gross earnings to participants in joint ventures because more time can be spent fishing. Thus, this increase might force a shore-based processor to offer a higher price to his fishermen to compensate for the lower total catch which results, in part, from having to travel greater distances to deliver shoreside.

Currently, Competition for the services of catcher vessels is not intense, nor is it expected to be in the

near future because of the generally distressed state of Alaska's shellfish fisheries and the resulting attractiveness of the groundfish fisheries to U.S. crab and shrimp fishermen. Therefore, short-term increases in catch rates for pollock and cod resulting from the creation of the FDZ probably will not force shore-based processors to increase their price to attract deliveries of product. Nevertheless, the effects of a catch rate increase on the price offered by shore-based processors under conditions of excess demand for catcher vessels was examined as a worst-case scenario. This analysis showed that even in this remote circumstance, and (even less likely) if as much as 50 percent of the FDZ catch were purchased by shore-based processors, a net benefit of $298,000 would result.

Creation of the FDZ should not affect retail prices for consumers. The predicted increase in domestic groundfish catch as a result of the establishment of the FDZ represents less than one percent of the portion of world groundfish supply which comes from the Bering Sea. (Bering Sea groundfish catch represents about three percent of the world groundfish catch each year.) Therefore, no change in retail price is expected.

This proposed rule is exempt from the procedures of E.O. 12291 under Section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with the explanation of why it is not possible to follow procedures of the order.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. After review by the responsible State agencies under Section 307 of the Coastal Zone Management Act, the State of Alaska concurred in the Council's determination of consistency.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: October 4, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 611 is proposed to be amended as follows:

PART 621—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.93 paragraph (c)(2)(iii)(C) is revised, (c)(2)(iii)(D) is redesignated as (c)(2)(ii)(E), and a new Figure 1 and new paragraphs (c)(2)(ii)(D) and (c)(3)(iii) are added to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(c) * * *
(2) * * *
(ii) * * *

(C) From December 1 through May 31 in the Winter Halibut Savings Area, which is the area bounded by straight lines connecting the following coordinates in the order listed (see Figure 1):

54°00′ N. latitude, 166°10′ W. longitude (Unalga Island)
52°48′ N. latitude, 170°10′ W. longitude
53°30′ N. latitude, 170°00′ W. longitude
55°30′ N. latitude, 166°47′ W. longitude
56°00′ N. latitude, 167°45′ W. longitude
56°00′ N. latitude, 166°00′ W. longitude
56°30′ N. latitude, 163°00′ W. longitude
56°30′ N. latitude, 166°00′ W. longitude
56°20′ N. latitude, 163°00′ W. longitude
55°16′ N. latitude, 166°10′ W. longitude
54°00′ N. latitude, 166°10′ W. longitude (Unalga Island)

(D) At all times in the Fishery Development Zone which is the area enclosed by straight lines connecting the following coordinates (see Figure 1):

54°36′ N. latitude, 164°55′42″ W. longitude (Cape Sarichef light)
55°16′ N. latitude, 166°10′ W. longitude
54°00′ N. latitude, 166°10′ W. longitude (Unalga Island)

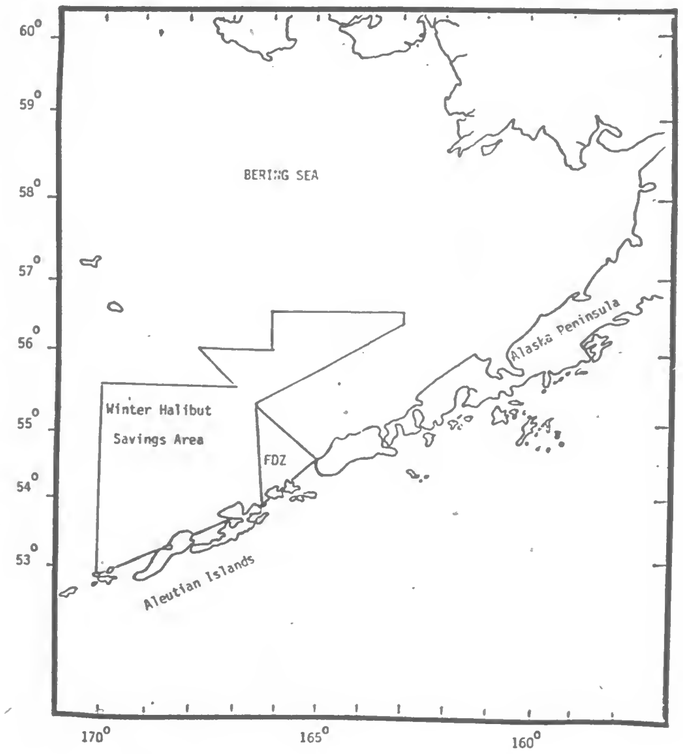


Figure 1.--Location of the Winter Halibut Savings Area and the U.S. Fishery Development Zone (FDZ) within the Bering Sea and Aleutian Islands area.

(E) * * *
(3) * * *

(iii) Longlining by foreign vessels is prohibited at all times in the Fishery Development Zone which is the area designated under paragraph (c)(2)(ii)(D) of this section.

* * * * *

[FR Doc. 83–27461 Filed 10–4–83; 5:07 pm]
BILLING CODE 3410–22–M

VOL 48 ISS 196 OCT 7 1983 UMI

Notices

Federal Register
Vol. 48, No. 196
Friday, October 7, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with § 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Advisory Council on Historic Preservation will meet in the West Council Room, Old Post Office, 1100 Pennsylvania Avenue, Washington, D.C. 20004.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol, the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, Transportation; the General Services Administrator; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor, a Mayor, and eight non-Federal members appointed by the President.

The Agenda for the meeting includes the following:

Call to order
Chairman's Welcome
Swearing in Ceremony
Order of Business
Consideration of Minutes of August 29–30, 1983, Meeting
I. Report of the Executive Director
II. Regulations Review Report
III. Panel Report: Interstate Highway 210, Mobile, Alabama
IV. New Business

DATE: The meeting will begin at 9:00 a.m., Monday, October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, Room 809, Washington, D.C. 20004, 202–786–0503.

Dated: October 4, 1983.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 83–27435 Filed 10–6–83; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Federal Grain Inspection Service Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.
Date: October 26, 1983.
Place: Doubletree Hotel, 10100 College Boulevard, Overland Park, Kansas 66210.
Time: 8:30 a.m.
Purpose: To provide advice to the Administrator of the Federal Grain Inspection Service on the efficient and economical implementation of the U.S. Grain Standards Act of 1976, to assure the normal movement of grain in an orderly and timely manner.

The agenda includes: (1) FY 1983 financial report and projections for FY 1984; (2) grain moisture issue; (3) proposed fee adjustment; (4) status of corn, wheat, and sunflower standards; and (5) other matters.

The meeting will be open to the public. Public participation will be limited unless otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting or submit written statements before or at the meeting should contact Dr. Kenneth A. Gilles, Administrator, FGIS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–0219.

Dated: October 4, 1983.

D. R. Galliart,
Acting Administrator.

[FR Doc. 83–27511 Filed 10–6–83; 8:45 am]
BILLING CODE 3410–EN–M

Forest Service

Land and Resource Management Plan, Cleveland National Forest, Orange, Riverside, and San Diego Counties, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a national environmental impact statement in January 1979. This environmental impact statement documented the results of a review of 62 million acreas of roadless and undeveloped areas within the 190 million acre national forest system. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for wilderness and which should be used for other purposes.

In the Pacific Southwest Region RARE II dealt with over 6 million areas located in California only. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979 the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to manage 46 areas in California for other than wilderness. In October 1982, the United States Court of Appeals for the ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically to only 46 roadless areas in California, it sets binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October 1982 court decision, national forest roadless areas studied for wilderness potential during RARE II will be reevaluated. This notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II wilderness and nonwilderness areas during the forest planning process.

On the Cleveland National Forest roadless areas not considered for wilderness during RARE II because of earlier consideration under the NEPA process will also be reconsidered. A small area which could form an addition to a BLM proposed wilderness adjacent to the Forest will be considered for wilderness for the first time.

The revaluation of 13 roadless areas on the Cleveland National Forest will be done as part of the Forest's land and resource management plan. During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in the area previously recommended for wilderness, and management for other uses will continue in areas recommended for nonwilderness.

On the Cleveland National Forest 1 roadless area containing 13,100 acres was recommended for wilderness, 2 roadless areas of 12,000 acres were recommended for non-wilderness, and 3 areas totalling 18,700 acres were recommended for further planning during RARE II. Six areas totalling 93,500 acres were recommended for non-wilderness in planning efforts prior to RARE II and one area of 1600 acres has potential for addition to a BLM wilderness proposal. These areas will now be reevaluated for wilderness. They include:

Name	RARE II	Gross acres	Net NF acres
1. Coldwater	No	9,000	9,000
2. Trabuto-Hot Springs	No	22,800	22,800
3. Wildhorse	No	10,800	10,800
4. San Mateo Canyon	No	25,800	24,700
5. Cuica Valley	No	14,800	14,800
6. Barker Valley	No	11,600	11,400
7. Caliente	FP	5,900	5,900
8. Eagle Peak	NW	6,800	6,800
9. Sill Hill	FP	5,200	5,200
10. No Name	NW	5,200	5,200
11. Pine Creek	W	13,100	13,100
12. Hauser Canyon	FP	9,000	7,840
13. Sawtooth Mtn. Addition.	No	1,800	1,800

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be an open house from 10 a.m. to 4 p.m. on November 16, 1883, in room 2S16 in the Federal Building, 880 Front Street, San Diego, CA to further explain, discuss, and gather information about the roadless areas and the reevaluation process.

For further information about the proposed reevaluation contact: Phil Winkel, 880 Front Street, Room 6–S–5, San Diego, California, Phone (619) 293–5191.

Dated: September 28, 1983.

Charles R. Marlow III,
Acting Forest Supervisor, Cleveland National Forest.

[FR Doc. 83–27359 Filed 10–6–83; 8:45 am]
BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended September 30, 1983; Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Sept. 26, 1983	41721	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Application of Eastern Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for amendment of its certificate of public convenience and necessity for Route 131 so as to authorize service as follows over a new segment: Between the terminal point Miami, Florida, the intermediate points San Juan, Puerto Rico and Panama City, Panama, and the coterminal points Rio de Janeiro and Sao Paulo, Brazil.
Sept. 26, 1983	41725	Conforming Applications, Motions to Modify Scope and Answers may be filed by October 24, 1983. Pacific Air Express, Inc., c/o Stephen A. Alterman, 1050 Seventeenth Street, N.W. 12th Floor, Washington, D.C. 20036. Application of Pacific Air Express, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity which will authorize it to engage in scheduled and charter air transportation of property and mail between and among the islands of the State of Hawaii.
Sept. 30 1983	41732	Conforming Applications, Motions to Modify Scope and Answers may be filed by October 26, 1983. Armstrong Air Service, Inc., c/o Richard K. Armstrong, P.O. Box 204, Dillingham, Alaska 99576. Application of Armstrong Air Service, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Dillingham and the terminal point New Stuyehok, Alaska.
Sept. 30, 1983	41342	Conforming Applications, Motions to Modify Scope and Answers may be filed by October 28, 1983 Polynesian Airlines (Holdings) Limited and Polynesian Airlines (Operations) Limited, c/o Robert D. Paskin, Squire, Sanders & Dempsey, 1201 Pennsylvania Ave., N.W., Washington, D.C. 20004. Supplement No. 1 to the Joint Application of Polynesian Airlines (Holdings) Limited and Polynesian Airlines (Operations) Limited for a foreign air carrier permit. Answers may be filed by October 28, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83–27442 Filed 10–6–83; 8:45 am]
BILLING CODE 6320–01–M

VOL 48 ISS 196 OCT 7 1983 UMI

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of the American Economic Association; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, as amended by Pub. L. 94–409), notice is hereby given that the Census Advisory Committee of the American Economic Association will convene on October 28, 1983, at 9:15 a.m. in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Economic Association advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning economic surveys and censuses; reviews major aspects of the Bureau's programs; and advises on the role of analysis within the Bureau.

The Committee is composed of 15 members of the American Economic Association.

The agenda for the meeting, which is scheduled to adjourn at 3:45 p.m., is: (1) Introductory remarks by the Acting Director, Bureau of the Census, including staff changes and major budget/program developments; (2) election of the chairperson-elect; (3) proposed programs in the service industries; (4) after-tax and discretionary income; (5) West German census postponement—implications for U.S. censuses and surveys; (6) preliminary work on confidentiality research; (7) update on planning the 1990 census; (8) economic censuses monograph program; (9) general discussion and recommendations; and (10) plans and date for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days before the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. Barry Rappaport, Bureau of the Census, Room 3061, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763–5483.

Dated: October 3, 1983.

C. L. Kincannon,
Acting Director, Bureau of the Census.

[FR Doc. 83–27433 Filed 10–6–83; 8:45 am]
BILLING CODE 3510–07–M

Economic Development Administration

Redesignation and Membership Change of SES Performance Review/Executive Resources Board

The purpose of this notice is to document the designation of members on the Executive Resources and Performance Review Board (ERPRB). The purpose of the Board is to review performance agreements, performance appraisals and ratings, recommendations for certain personnel actions and other related materials, and to make appropriate recommendations to EDA's SES appointing authority concerning such matters in a manner that will assure fair and equitable treatment of senior executives and the organizations of which they are member. No change is made to the function of the Board.

Robert M. Hill, Director, Seattle Regional Office, Economic Development Administration, Seattle, Washington, Term expires: January 15, 1985

George William Dick, Deputy Assistant Secretary for Economic Development, Economic Development Administration, Washington, D.C., Term expires: Chair; no expiration of term until further notice.

Craig M. Smith, Director, Philadelphia Regional Office, Economic Development Administration, Philadelphia, PA, Term expires: January 1986

Charles W. Coss, Director, Office of Public Works, Economic Development Administration, Washington, D.C., Term expires: January 1986

Edward M. Levin, Jr., Chief Counsel, Economic Development Administration, Washington, D.C., Term expires: January 1986

Joseph B. Swanner, Director Austin Regional Office, Economic Development Administration, Austin, Texas, Term expires: January 1986

Beverly Milkman, Director, Office of Planning, Technical Assistance, Research, and Evaluation, Economic Development Administration, Washington, D.C., Term expires: January 1986

Edward Jeep, Director, Chicago Regional Office, Economic Development Administration, Chicago, Illinois, Term expires: January 1986

John E. Corrigan, Deputy Assistant Secretary for Operations, Economic Development Administration, Washington, D.C., Term expires: January 1986

Lyle Ryter, Deputy Assistant Secretary for Trade Adjustment Assistance, International Trade Administration, Washington, D.C., Term expires: January 1986

Hugh L. Brennan, Director, Procurement and Federal Assistance, Office of the Secretary, Washington, D.C., Term expires: January 1986

Mr. Alan Cecilio, as Personnel Office, will serve as Executive Secretary to the Board. Persons desiring further information about the ERPRB or its membership may contact Mr. Cecilio, Personnel Officer, Economic Development Administration, Washington, D.C. 20230, telephone 202–377–3203.

Dated: September 27, 1983.

Carlos C. Campbell,
Assistant Secretary for Economic Development.

[FR Doc. 83–27464 Filed 10–6–83; 8:45 am]
BILLING CODE 3510–24–M

Foreign-Trade Zones Board

[Order No. 221]

Resolution and Order Approving Application of Greater Detroit Foreign-Trade Zone, Inc., for Special-Purpose Subzone in Wixom, Michigan, Adjacent to Detroit Customs Port of Entry

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 70, filed with the Foreign-Trade Zones Board (the Board) on September 24, 1982, requesting special-purpose subzone status for Ford Motor Corporation's auto assembly plant in Wixom, Michigan, adjacent to the Detroit Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Wixom, Michigan, Adjacent to the Detroit Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 70, has made application (filed September 24, 1982, Docket 22–82, 47 FR 44128) in due and proper form to the Board requesting a special-purpose subzone for Ford Motor Corporation's automobile assembly plant in Wixom, Michigan, adjacent to the Detroit Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed September 24, 1982, the Board hereby authorized the establishment of a subzone at the Wixom, Michigan auto assembly plant of Ford Motor Corporation, designated on the records of the Board as Foreign-Trade Subzone No. 70D at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act, and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to an throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 29th day of September 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,
Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternotes.

Attest:

John J. DePonte, Jr.,
Executive Secretary.

[FR Doc. 83–27467 Filed 10–6–83; 8:45 am]
BILLING CODE 3510–25–M

[Order No. 222]

Resolution and Order Approving Application of Greater Detroit Foreign-Trade Zone, Inc., for Special-Purpose Subzone in Dearborn, Michigan, Within Detroit Customs Port of Entry

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 70, filed with the Foreign-Trade Zones Board (the Board) on April 21, 1983, requesting special-purpose subzone status for Ford Motor Corporation's auto assembly plant in Dearborn, Michigan, within the Detroit Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority—To Establish a Foreign-Trade Subzone in Dearborn, Michigan, Within the Detroit Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit wil result;

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 70, has made application (filed April 21, 1983, Docket 11–83, 48 FR 19920) in due and proper form to the Board requesting a special-purpose subzone at Ford Motor Corporation's automobile assembly plant in Dearborn, Michigan, within the Detroit Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed April 21, 1983, the Board hereby authorizes the establishment of a subzone at Ford's auto assembly plant in Dearborn, Michigan, designated on the records of the Board as Foreign-Trade Subzone No. 70E at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits

VOL 48 ISS 196 OCT 7 1983 UMI

shall be obtained from Federal, State, and minicipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 29th day of September 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternotes.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-27469 Filed 10-6-83; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 226]

Approval for Expansion of Foreign-Trade Zone No. 62, Brownsville, Texas, Within Brownsville Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board's regulations (15 CFR Part 400); the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Brownsville Navigation District (BND), a Texas public corporation, Grantee of Foreign-Trade Zone No. 62, which presently covers 2,000 acres, has applied to the Board for authority to expand the area approved for possible zone activity to include an additional 19,000 acres of BND property within the Brownsville Customs port of entry;

Whereas, the application was accepted for filing on July 26, 1982, and notice inviting public comment as given in the **Federal Register** on August 13, 1982 (Doc. 15–82, 47 FR 35226), with additional notice extending the comment period given on October 12, 1982 (47 FR 44806);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval with a restriction that any activation of approved zone space beyond a total of 2,000 acres would require further Foreign-Trade Zones Board approval;

Whereas, the expansion is necessary to provide greater flexibility in extending zone procedures to firms within BND's port complex; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed July 26, 1982 (Docket No. 15–82) subject to the restriction that any activation of approved zone space beyond 2,000 acres requires further Board approval. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is further subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 30th day of September 1983.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternotes, Foreign-Trade Zones Board.

Attest:

John J. DaPonte Jr.,

Executive Secretary

[FR Doc. 83-27470 Filed 10-6-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; University of Health Sciences, Chicago Medical School

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with §§ 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–318. Applicant: University of Health Sciences, The Chicago Medical School, 3333 Green Bay Road, North Chicago, IL 60064. Instrument: Electron Microscope EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: Research studies:

(1) Ultrastructure of the normal and cancerous human liver;

(2) The hose-parasite relationship between the human and the trypanosome;

(3) Ultrastructural and pharmacological aspects of transneuronal plasticity in the central nervous system and the effects of aging related hormonal modulation of this process;

(4) Description of the biochemical and morphological changes in the uterus which accompany the implantation of the mammalian embryo;

(5) Changes in chromosomal structure through the cell cycle, elucidating the structure and role of the chromosomal scaffold found in mammalian cells;

(6) Biochemical regulation of phosphofructokinase;

(7) Description of the biochemical and physiological aspects of the process of sleep;

(8) Description of the morphological changes accompanying oogenesis in the fruit fly *Drosophila melanogaster* and the biochemical and morphological aspects of mucus secretion in a model system, the Pacific hagfish; and

(9) The process of mitosis from the perspective of the mitotic apparatus.

Application received by Commissioner of Customs: September 23, 1983.

Docket No. 83–319. Applicant: University of Health Sciences, The Chicago Medical School, 3333 Green Bay Road, North Chicago, IL 60064. Instrument: Electron Microscope EM 10 CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: Research studies:

(1) The host-parasite relationship between the human and trypanosome;

(2) Ultrastructural and pharmacological aspects of transneuronal plasticity in the central nervous system and the effects of aging related hormonal modulation of this process;

(3) Description of the biochemical and morphological changes in the uterus which accompany the implantation of the mammalian embryo;

(4) Changes in chromosomal structure through the cell cycle, elucidating the structure and role of the chromosomal scaffold found in mammalian cells;

(5) Biochemical regulation of phosphofructokinase;

(6) Description of the biochemical and physiological aspects of the process of sleep;

(7) Description of the morphological changes accompanying oogenesis in the fruit fly *Drosophila melanogaster* and the biochemical and morphological aspects of mucus secretion in a model system, the Pacific hagfish; and

(8) The process of mitosis from the perspective of the mitotic apparatus.

The article will also be used for teaching purposes in the course Biochemistry 5151—Electron Microscopy. Application received by Commissioner of Customs: September 23, 1983.

(Catolog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-27465 Filed 10-6-83; 8:45 am]

BILLING CODE 3510-25-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Purdue University

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517). A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No.: 83–197. Applicant: Purdue University, West Lafayette, IN 47907. Instrument: Free Flow Electrophoresis Apparatus, Model VAP5, complete with Peristaltic Pump, Tubings and Necessary Accessories. Manufacturer: Bender and Hobein GMBH, West Germany. Intended use of instrument: See notice on page 23877 in the **Federal Register** of May 27, 1983.

Comments: No comments ahve been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument separates subfractions of cell organelles without serious biological modification. The National Institutes of Health advises in its memorandum dated September 7, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Program Manager, Florence Agreement Program, Statutory Import Programs Staff.

[FR Doc. 83-27466 Filed 10-6-83; 8:45 am]

BILLING CODE 3510-25-M

Postponement of Final Determination; Potassium Permanganate From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Postponement of Final Antidumping Determination: Potassium Permanganate from the People's Republic of China.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from the China National Chemicals Import and Export Corporation (SINOCHEM) that the final determination be postponed until not later than 135 days after the date of publication of the preliminary determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)); and that the Department has determined to postpone its final determination as to whether sales of potassium permanganate from the People's Republic of China have occurred at less than fair value, until not later than December 22, 1983.

SINOCHEM is qualified to make this request since it is the exporter who accounts for virtually all of the merchandise which is the subject of this investigation. The additional time is necessary to obtain information requested by the Department. We have considered the positions presented by all parties to the investigation regarding postponement of the final determination and have determined that the additional time is necessary.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Jr., Office of Investigations, Import Administration, Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone (202) 377–4929.

SUPPLEMENTARY INFORMATION: On March 18, 1983, the Department published a notice in the **Federal Register** (48 FR 11482) that it was initiating under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether potassium permanganate from the People's Republic of China is being, or is likely to be, sold at less than fair value.

The Department published an affirmative preliminary determination on August 9, 1983 (48 FR 36175). The notice stated that if this investigation proceeded normally we would make a final determination by October 17, 1983. On September 9, 1983, a notice of postponement of the final determination until November 22, 1983, was published in the **Federal Register** (48 FR 40771) pursuant to a request by counsel for SINOCHEM, the only known exporter to the United States of the product under investigation, that the Department postpone the final determination until 105 days after the date of its preliminary determination. Counsel for SINOCHEM has now requested that the Department extend the period for the final determination until 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. Section 735(a)(2) of the Act provides that the Department may postpone its final

VOL 48 ISS 196 OCT 7 1983 UMI

determination concerning sales at less than fair value if exporters who account for a significant proportion of the merchandise which is the subject of the investigation request an extension after an affirmative preliminary determination.

Accordingly, the Department will issue a final determination in this case not later than December 22, 1983. This notice is published pursuant to section 735(d) of the Act.

Dated: September 30, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-27307 Filed 10-6-83; 8:45 am]

BILLING CODE 3510-25-M

Postponement of Final Determination and Postponement of Hearing; Chloropicrin From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Postponement of Final Antidumping Determination and Postponement of Hearing: Chloropicrin from the People's Republic of China.

SUMMARY: This notice informs the public that the Department of Commerce has received a request from China National Chemicals Import and Export Corporation (Sinochem) that the final determination be postponed until not later than 135 days after the date of the preliminary determination, as provided for in § 353.44(b) of the Department of Commerce Reglations (19 CFR 353.44(b)), and that the Department will postpone its final determination as to whether chloropicrin from the People's Republic of China has been sold at less than fair value until not later than February 1, 1984.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Ready or John Brinkman, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; Telephone (202) 377–2613 or 377–4929.

SUPPLEMENTARY INFORMATION: On May 2, 1983, the Department of Commerce published notice in the **Federal Register** (48 FR 19765) that it was initiating under Section 732(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether chloropicrin from the People's Republic of China is being, or is likely to be, sold at less than fair value. The Department published an affirmative preliminary determination on September 19, 1983 (48 FR 41799). The notice stated that if this investigation proceeded normally we would make a final determination by November 28, 1983. Section 735(a)(2) of the Act provides that the Department of Commerce may postpone its final determination concerning sales at less than fair value if an exporter who accounts for a significant proportion of the merchandise which is the subject of the investigation requests an extension after an affirmative preliminary determination. Sinochem is qualified to make such a request since it accounts for one hundred percent of the exports of the merchandise. The additional time is necessary to enable Sinochem to obtain and submit to the Department of Commerce additional facts and information. Accordingly, the Department will issue a final determination in this case not later than February 1, 1984.

The hearing originally scheduled for October 25, 1983, at 10:00 a.m., in room 3708, has been postponed. The new hearing date is December 14, 1983, at 10:00 a.m., in Conference Room "D", Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by December 7, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published pursuant to section 735(d) of the Act.

Dated: September 30, 1983.

Alan E. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-27308 Filed 10-6-83; 8:45 am]

BILLING CODE 3510-DS-M

Preliminary Determination of Sales at Not Less Than Fair Value; Forged Undercarriage Components From Italy

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determination of Sales at Not Less than Fair Value: Forged Undercarriage Components from Italy.

SUMMARY: We have preliminarily determined that forged undercarriage components from Italy are not being, nor are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination.

If this investigation proceeds normally, we will make a final determination by December 19, 1983.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–3962.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that forged undercarriage components from Italy are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

Case History

On April 29, 1983, we received a petition from Counsel for Jernberg Forgings Co., Lindell Drop Forge Co., Portec. Inc., Presrite Corp., Presrite of Jefferson, Inc., Walco Metal Forming Group, and Walker Forge, Inc. filed on behalf of the U.S. Industry producing forged undercarriage components. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioners alleged that forged undercarriage components from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 24, 1983 (47 FR 23288).

On June 13, 1983, the ITC determined that there is a reasonable indication that imports of semifinished forged undercarriage links and rollers are materially injuring a U.S. industry. The ITC also determined that there is no reasonable indication that semifinished forged undercarriage segments and finished forged undercarriage links, rollers and segments are materially injuring U.S. industries.

Petitioners had specifically alleged that sales by Berco S.p.A. (Berco), Industria Meccanica e Stampaggio S.p.A. (IMES) and Italtractor ITM S.p.A. (Italtractor) had been made in the United States at less than fair value. However, since IMES is the only known exporter to the United States of semifinished forged undercarriage links and rollers, we limited our investigation to IMES.

On June 27, 1983, we presented an antidumping questionnaire to counsel for IMES. On August 26, 1983, we received IMES's response to the questionnaire.

Scope of Investigation

For purposes of this investigation, the term "forged undercarriage components" covers semifinished forged undercarriage links and rollers for crawler-mounted machinery. The merchandise is currently classifiable under item numbers 664.08, 692.34 and 692.35 of the *Tariff Schedules of the United States Annotated 1983.*

Since IMES is the only known exporter of this merchandise to the United States, we limited our investigation to this one firm. We investigated all sales of forged undercarriage components made by IMES during the period November 1, 1982, through April 30, 1983.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less then fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by IMES because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price for each United States sale on the packed, f.o.b. factor price to unrelated customers in the United States.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we calculated foreign market value based on IMES's prices for export to a country other than the United States (a "third country"). IMES had insufficient home market sales to form the basis for fair value comparisons. We used IMES's sales prices to the United Kingdon because we believe it to be the third country with sales of the most similar forged undercarriage components to those sold in the United States and because it was the third country with the largest sales volume of the merchandise subject to this investigation.

Although petitioners alleged that IMES made sales to third countries at less then the cost of producing this merchandise within the meaning of section 773(b) of the Act, the information submitted by IMES indicates that there are sufficient sales of this merchandise in the United Kingdom sold at prices above the cost of production to form a viable basis for fair value comparisons.

For IMES, we calculated third country price on the basis of the f.o.b. factory price to unrelated customers in the United Kingdom. We made adjustments for differences in merchandise based on differences in steel costs in accordance with section 773(a)(4)(C) of the Act, and for differences in credit terms pursuant to section 773(a)(4)(B) of the Act. We also adjusted for differences in packing in accordance with section 773(a)(1) of the Act.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 15, 1983, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, addresss, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by November 8, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Dated: October 3, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-27395 Filed 10-6-83; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Exxon Company, U.S.A. From California Coastal Commission Objection

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of Public Hearing and Extension of Comment Period.

SUMMARY: This notice sets forth the date and location of a public hearing to be held on the appeal filed by Exxon Company, U.S.A. (Exxon) with the Secretary of Commerce to override an objection by the California Coastal Commission to Exxon's certification that the proposed drilling of a maximum of three wells on the Southwest one-quarter of lease OCS–P 0467 as stated in Exxon's Outer Continental Shelf Oil and Gas Exploration Plan for the Santa Rosa Unit in the Santa Barbara Channel is consistent with the California Coastal Management Program. This notice also extends the close of the public comment period.

The appeal was filed on August 26, 1983, pursuant to Section 307(c)(3) (A) and (B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3) (A) and (B), and implementing regulations at 15 CFR Part 930, Subpart H. Notice of the appeal was published in the **Federal Register** on September 9, 1983 (48 FR 40771).

This public hearing is authorized by 15 CFR 930.129 and will be conducted by the National Oceanic and Atmospheric Administration (NOAA) for the purpose of receiving comments from interested persons and organizations on whether Exxon's Oil and Gas Exploration Plan complies with the regulatory criteria, as set forth in 15 CFR 930.121 and 930.122, to be considered by the Secretary in deciding whether to override the consistency objection of the California Coastal Commission under Sections 307(c)(3) (A) and (B) of the CZMA. The Secretary shall override the state's objection if he finds that one of two tests have been met. To meet the first

test, four criteria must be satisfied: (a) The activity furthers one or more of the competing national objectives or purposes contained in Sections 302 and 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the state management program. To meet the second test, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed.

The hearing will be held on Tuesday, November 8, 1983, in the Mural Room, Santa Barbara County Courthouse at Anacapa and Anapamu, Santa Barbara, California. Interested persons may testify at the hearing which will begin at 10:00 a.m. and continue until completion late that afternoon. NOAA will provide an opportunity at the beginning of the session for Exxon and the California Coastal Commission to present a brief summary of their positions.

Persons wishing to testify at the hearing may make their requests at the hearing or in advance by mail to: Peter L. Tweedt, Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven Street, NW., Washington, D.C. 20235. Requests will be honored in the order in which they are received. Presentations will be limited to a maximum of 5 minutes. This time allotment, however, may be extended before the hearing when the number of speakers can be determined. Additional written testimony may be submitted until the close of the public comment period.

The public comment is extended to November 15, 1983, in order to accommodate the public hearing schedule and to provide an opportunity for persons to respond to comments received at the public hearing. Written comments must be submitted to Peter L. Tweedt at the above address and copies provided to: 1. James C. Dale, Exxon Company, U.S.A., P.O. Box 4279, Houston, Texas 77001;

2. William Travis, California Coastal Commission, 631 Howard Street, San Francisco, CA 94105; and

3. William Grant, Minerals Management Service, Pacific OCS Region, 1340 W. 6th Street, Los Angeles, CA 90017.

Written comments and oral testimony will receive equal consideration.

Access to Exxon's Notice of Appeal and accompanying public information are available to the public at the following locations during normal working hours:

1. California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, 94105.

2. Office of Ocean and Resource Management, National Oceanic and Atomospheric Administration, Department of Commerce, Room 328A, Page 1 Building, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

3. Minerals Management Service, Pacific OCS Region, Public Information Room, 1340 W. 6th Street, Los Angeles, CA 90017.

4. Santa Barbara Public Library, 40 E. Anapamu, Santa Barbara, CA 93101.

The California Coastal Commission was granted an extension until October 25, 1983, in which to submit detailed comments in response to Exxon's appeal, pursuant to 15 CFDR 930.125 and 930.126. The public information contained in the detailed comments to be submitted by the California Coastal Commission and the Minerals Management Service will be available for public inspection at the above addresses no later than October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard C. Cody, Attorney Advisor, Office of General Counsel for Ocean Services (202–254–7512), or Nan Evans, Senior Policy Analyst, Office of Ocean and Coastal Resource Management (202–634–4249).

SUPPLEMENTARY INFORMATION: For a more detailed description of Exxon's appeal, see **SUPPLEMENTARY INFORMATION** published in the **Federal Register**, September 9, 1983 (48 FR 40771).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: October 5, 1983.

K. E. Taggart,

Assistant Administrator, National Ocean Service.

[FR Doc. 83–27583 Filed 10–6–83; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Additional Import Control Limits and Applying Flexibility to Certain Cotton, Wool and Man-Made Fiber Textile Products from the Philippines

October 4, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs, to be effective on October 11, 1983. For further information contact Carl Ruths, (202/377–5423)

Background

A CITA directive dated December 22, 1982 (47 FR 57986) established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, if exported during the twelve-month period which began on January 1, 1983. In the letter published below, additional control limits are being established for Cateogries 338/339, 352 pt., 447, 634, 638/639, 640, 647, 648 pt., and 652 pt. during the same twelve-month period. Also, under the provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982 between the Governments of the United States and the Republic of the Philippines flexibility (swing, carryover, and carryforward) is being applied variously, to the levels for Categories 333/334, 335 pt., 336 pt., 341, 347, 445/446, 635 pt., 636 pt., 640, 641 pt., 645/646 pt., 647, 648, and 638/639.

Carryforward applied to the limits for Categories 333/334, 335 pt., 341 pt., 445/446, 635, 645/646 pt., and 648 pt. will, to the extent used in 1983, be deducted from the limits established for these categories in 1984. The newly controlled limit for Category 338/339 has also been adjusted to include swing and carryover. The levels for Categories 447, 640, 647, and 648 pt. have been reduced to account for swing applied to other categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 4, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter further amends, but does not cancel, the letter of December 22, 1982, which directed you to prohibit entry into the United States of certain specified categories of textile products, produced or manufactured in the Philippines.

Effective on October 11, 1983, paragraph 1 of the directive of December 22, 1982 is hereby further amended to include levels of restraint for the following categories:

Category	Twelve-month level of restraint [1] (dozen)
338/339	944,465
352 pt.[2]	87,925
447	5,905
634	198,129
638/639	851,001
640	93,439
647	64,873
648 pt.[3]	164,597
652 pt.[4]	576,234

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1982.
[2] In Category 352 all T.S.U.S.A. numbers except 378.0550, 378.0571, 378.1035, and 383.2030.
[3] In Category 648, only T.S.U.S.A. numbers 381.1940, 383.2250, 383.6146, and 383.9071.
[4] In Category 652, all T.S.U.S.A. numbers except 378.6530.

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1983 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Custom Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Also effective on October 11, 1983, paragraph 1 of the directive of December 22, 1982 is further amended to include adjusted levels of restraint for the following categories: [1]

Category	Twelve-month adjusted level of restraint [1] (dozen)
333/334	81,613
335 pt.[2]	40,093
336 pt.[3]	21,964
341 pt.[4]	75,853
341 pt.[5]	105,257
347	302,211
445/446	20,489

[1] The levels of restraint have not been adjusted to reflect any imports after December 21, 1982.
[2] In Category 335, all T.S.U.S.A. numbers except 383.3300, 383.3405, 383.3410, 383.3415, 383.3445, 383.3448, 383.3460, 383.3480 and 383.3485.
[3] In Category 336, all T.S.U.S.A. numbers except 383.0306, 383.0615, 383.2920, 383.4816, 383.4820 and 383.4823.
[4] In Category 341, only T.S.U.S.A. numbers except 383.0506, 383.4704, 383.4707, and 383.4711.
[5] In Category 341, all T.S.U.S.A. numbers in the category except those listed in footnote 3.

Category	Twelve-month adjusted level of restraint [1] (dozen)
635 pt.[2]	245,181
636 pt.[3]	49,533
641 pt.[4]	215,086
645/646 pt.[5]	98,535
648 pt.[6]	63,329

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1982.
[2] In Category 635, all T.S.U.S.A. numbers except 383.6116 and 383.8117.
[3] In Category 636, all T.S.U.S.A. numbers except 383.2018, 383.8822, 383.2315, and 383.9230.
[4] In Category 641, all T.S.U.S.A. numbers except 383.2215 and 383.9030.
[5] In Category 645/646 pt., all T.S.U.S.A. numbers except 383.1857 and 383.8070.
[6] In Category 648, all T.S.U.S.A. numbers except 383.1940, 383.8146, 383.2250, and 383.9071.

[1] The agreement, provides, in part, that (1) specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–27463 Filed 10–6–83; 8:45 am]

BILLING CODE 3510–DR–M

Withdrawal of Call for Consultations With the Government of the Hungarian People's Republic on Trade in Category 434 (Men's and Boys' Other Coats)

October 3, 1983.

On July 21, 1983 a notice was published in the **Federal Register** (48 FR 33331) announcing that on June 29, 1983 the Government of the United States, under Article 3 and Annex B of the Arrangement Regarding International Trade in Textiles, had requested the Government of the Hungarian People's Republic to enter into consultations concerning exports to the United States of men's and boys' other wool coats in Category 434, produced or manufactured in Hungary. The purpose of this notice is to announce that, based on consideration of additional information about domestic market conditions in the men's and boys' wool coat sector, the United States Government has concluded that there is no need to discuss exports of these goods from Hungary at this time and has so notified the Government of the Hungarian People's Republic. Should it become necessary to discuss this trade at a later date, further notice will be published in the **Federal Register.**

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–27468 Filed 10–6–83; 8:45 am]

BILLING CODE 3510–DR–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Rules Relating to Exchange Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed adoption of contract market rules.

SUMMARY: The Chicago Board of Trade ("CBT") has submitted to the Commission proposed rules setting speculative position limits for currently designated contract markets pursuant to Commission Rules 1.61 and 1.41, 17 CFR 1.61 and 1.41 (1982), and Section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (1982). The Commodity Futures Trading Commission ("Commission") has determined that for currently designated contracts, initial exchange proposals to set speculative limits are potentially of major economic significance. Accordingly, the Commission has determined that publication of these proposals is in the public interest, that receipt of public comment will assist the Commission in its consideration of the exchange submissions, and that publication is consistent with the purposes of the Commodity Exchange Act.

SUPPLEMENTARY INFORMATION: The CBT has submitted to the Commission pursuant to Commission Rules 1.61 and 1.41, 17 CFR 1.61 and 1.41 (1982) and Section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (1982) proposed exchange rules setting speculative position limits in eleven designated contract markets. These are: gold, GNMA–CDRs, U.S. Treasury bonds, 90-day commercial paper, 30-day commercial paper, short-term U.S. Treasury notes (2-year), long-term U.S. Treasury notes (6½–10 year), U.S. Treasury notes (4–6 year), domestic CDs, U.S. Treasury bills, and plywood.[1]

[1] In addition, seven other domestic boards of trade have submitted for Commission approval

Continued

The Commission, in accordance with Section 5a(12) of the Act, has determined that the proposed rules setting exchange speculative position limits on currently designated contracts are potentially of major economic significance.[2] Accordingly, the Commission seeks to receive comments from interested persons with respect to these proposed exchange rules. The CBT's speculative limit proposal will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies can be obtained through the Office of the secretariat by mail at the above adress or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of these proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for compies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed exchange rules should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by November 7, 1983. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on October 4, 1983.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 83-27404 Filed 10-6-83; 8:45 am]

BILLING CODE 6351-01-M

speculative position limits for currently designated contract markets. The proposed rules submitted by the Chicago Merchantile Exchange, the Commodity Exchange, Inc., the New York Futures Exchange, the MidAmerica Commodity Exchange and the New York Merchantile Exchange have already been published in the **Federal Register** on July 20, 1982 (47 FR 31417); correction, 47 FR 34615 (August 10, 1982); 47 FR 56537 (December 17, 1982); 48 FR 30425 (July 1, 1983). The staff of the Commission will be reviewing the remaining two proposals following its consideration of this proposal.

[2] This determination is based upon a finding that the initial impostition of speculative position limits for designated contract markets which currently do not have such limits may be of economic significance to those currently trading in a contact which has no existing speculative limits. However, the Commission believes that the subsequent adjustment of existing exchange speculative limits generally would not be of major economic significance.

DEPARTMENT OF DEFENSE

Department of the Army

Medical Research and Development Advisory Committee; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Blood Preservation and Substitutes Group.

Date of Meeting: October 30, 1983.

Time and Place: 0830 hrs, Sheraton Center, 811 7th Avenue and 52nd Street, New York City, New York.

Proposed Agenda: This meeting will be open to the public from 0830 to 1015 hrs on 30 October for the administrtive review and discussion of the scientific research program of the Blood Preservation and Substitutes Group, Letterman Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1015 to 1200 hrs and from 1300 to 1700 hrs for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ryan Neville, Assistant Director, Research Contract Management, Letteman Army Institute of Research, Presidio of San Francisco, CA 94129 (415/561–4367) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83-27364 Filed 10-6-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Office of the Secretary

National Environmental Policy Act; Record of Decision for Remedial Actions at the Former Vitro Rare Metals Plant Site, Canonsburg, Pennsylvania

AGENCY: Department of Energy.

ACTION: Decision to stabilize residual radioactive wastes in place at the expanded Canonsburg and Burrell Township sites.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1505) implementing the procedural provisions of the National Environmental Policy Act (NEPA) and the Department of Energy's (DOE) guidelines for compliance with NEPA (45 FR 20694, March 28, 1980), the Office of Assistant Secretary for Nuclear Energy of DOE is issuing a Record of Decision on the environmental impact statement (EIS) prepared for remedial Actions at the Former Vitro Rare Metals Plant Site. DOE is also issuing concurrently a floodplain statement of findings for the proposed actions pursuant to Executive Order 11988 and 10 CFR 1022.18.

Background

On November 8, 1978, the Uranium Mill Tailings Radiation Control Act (UMTRCA), Pub. L. 95–604, was enacted reflecting an express Congressional finding that uranium mill tailings located at inactive processing sites may pose a potential health hazard to the public. DOE has designated 24 inactive processing sites for remedial action under Title I of UMTRCA, including the former Vitro Rare Metals Plant Site at Canonsburg, Pennsylvania (44 FR 74892).

UMTRCA charges the Environmental Protection Agency (EPA) with the responsibility for promulgating remedial action standards for inactive mill sites. The purpose of these standards is to protect the public health and safety and the environment from radiological and nonradiological hazards associated with residual radioactive materials at the sites. The final standards (40 CFR Part 192) were promulagated on Juriary 5, 1983, with an effective date of March 7, 1983. The DOE has selected and will execute a plan of remedial action that will satisfy the EPA standards. Under UMTRCA, the DOE and the Commonwealth of Pennsylvania entered into a cooperative agreement effective September 5, 1980, for remedial action at the Canonsburg site and associated vicinity properties, including the Burrell Township site. Under the agreement, the Commonwealth must concur with the remedial action plan to be developed for the site, the Commonwealth aquires the designated Canonsburg site, and DOE and the Commonwealth will cost-share the remedial action at a 90:10 ratio, with the Commonwealth paying ten percent of remedial action costs.

All remedial actions must be selected and performed with the concurrence of the Nuclear Regulatory Commission (NRC). In conformance with the UMTRCA, the required NRC concurrence with the selection and performance of proposed remedial actions and the licensing of the long-term maintenance and surveillance of disposal sites will be for the purpose of ensuring compliance with the standards set by the EPA.

Project Description

From 1942 through 1957, Vitro Manufacturing Company conducted uranium-processing operations at an 18.5-acre site in Canonsburg, Washington County, Pennsylvania and sold the uranium to the Atomic Energy Commission (AEC). Process wastes from these operations were stored on the site during this period. From 1956 to 1957, with the approval of the AEC and the Pennsylvania Railroad, approximately 11,600 tons of the estimated total 300,000 tons of residual radioactive materials were moved from the Vitro site to a railroad landfill located in Burrell Township, Indiana County, Pennsylvania. The Vitro property was sold in 1962 and developed in 1966 as Canon Industrial Park. At various times contaminated soils and building materials were removed from the Vitro property and used in local construction projects. It is estimated that about 110 properties in the vicinity of the Canonsburg site have been affected by these construction activities.

The purpose of the remedial action is to stabilize the residual redioactive wastes presently located at the Canonsburg site and at the Burrell Township site in a manner that complies with EPA stantards (40 CFR Part 192) and other applicable Federal, State, and local laws. Although the Canonsburg site as designated encompasses 18.5 acres, DOE plans to purchase the residences along Ward Avenue and George Street and the former Georges Pottery property on George Street, which will expand the Canonsburg disposal site to about 30 acres. In addition, while the Burrell Township site to about 30 acres. In addition, while the Burrell Township site has been designated a vicinity property, it is DOE's intent to acquire and maintain title to the property after completion of the remedial action.

At the expanded Canonsburg site, the principal feature of the proposed action is the consolidation of the more contaminated soils (i.e., material with radium-226 concentrations which are or could become greater tha 100 picocuries per gram of soil) into a lined encapsulation cell to control radon exhalation and to protect the ground water. The remaining contaminated materials on the site will be buried under a minimum of 2 feet of clean fill.

The completed encapsulation cell will encompass about 6 acres. The cell will be constructed with a clayey soil liner on the bottom and a low permeability cover. The top of the embankment will be about 20 feet above the elevation of the existing granes with a maximum of 1 vertical to 5 horizontal side slopes. The bottom of the encapsulation cell will be placed above the 100-year floodplain.

The residential area north of the abandoned Washington-Canonsburg Street Railway right-of-way and along George Street will require little remedial action except for demolition or removal of the residential buildings. The buildings will be demolished (leaving foundations in place) and the debris will be spread over the remainder of the expanded site. Distrubed areas will be covered with clean soil for revegetation.

After completion of the cell, the remainder of the expanded site (excluding the former residential areas) will be covered with a minimum of 2 feet of clean fill, contoured for drainage, and revegetated. Strabane Avenue will be decontamiated and repaved. Chain link fences with warning signs will enclose the site while leaving access over Strabane Avenue open to the public.

At the Burrell Township site the completed stabilized area will encompass about 4 acres in the northwest portion of the site. Soil will be brought from elsewhere on the property or from the immediate area to form a low permeability cover over the top. The surface will be graded to maximize runoff and vegetated to minimize erosion. Chain link fences with warning signs will enclose the portion of the final site containing buried radioactively contaminated wastes.

Description of Alternatives

The following alternatives were considered in detail by DOE in reaching its decision to stabilize the residual radioactive wastes in place.

1. No action: This alternative consists of performing no remedial action; however, radon exhalation and external gamma radiation at the Canonsburg and Burrell Township sites exceed EPA standards. This alternative is unacceptable since UMTRCA directs DOE to ensure that the completed remedial action is in compliance with EPA standards.

2. Decontamination of the Burrell site, transfer of the Burrell site's residual radioactive wastes to the Canonsburg site, and stabilization of both the Canonsburg and Burrell sites' wastes at the Canonsburg site.

All residual radioactive wastes at the Burrell and Canonsburg sites would be stabilized at the Canonsburg site. The Canon Industrial Park's buildings would be demolished, and the contaminated portions buried with other radioactive residues. Seven nearby houses (six on Ward Avenue and one on George Street) and the Georges Pottery buildings would also be demolished. The EPA standards (40 CFR Part 192) would be met by moving from the Burrell site all materials not meeting the EPA soil contamination standard and encapsulating this material with the more contaminated portion of the Canonsburg site residues at the Canonsburg site. The encapsulation process would consist of placing the residual radioactive mateial in a disposal area that would be lined—top, sides, and bottom—with a relatively impermeable material to control contaminant migration and infiltration of precipitation. The remainder of the Canonsburg site's residual radioactive material, including material with radium–226 concentrations less than 100 pico-curies per gram of soil, would be stabilized in place by covering the entire site with a minimum of two feet of clean fill.

3. Decontamination of both the Canonsburg and Burrell sites, and disposal of all of the wastes at the Hanover site.

All materials with radium-226 concentrations in excess of the EPA standards would be removed from the Canonsburg and Burrell sties. Work at the Burrell site would be the same as under Alternative 2. At the Canonsburg site, however, a greater amount of material would have to be excavated and handled during decontamination than during stabilization-in-place. The residual radioactive wastes would be encapsulated at the Hanover site by methods similar to those described for the Canonsburg site under Alternative 2.

After project completion, the Canonsburg and Burrell sites would be available for unrestricted use, while ownership of the Hanover site would be transferred to the DOE.

4. Decontamination of the Canonsburg site, disposal of its wastes at the Hanover site, the stabilization of the Burrell site's contaminated material at the Burrell site.

This alternative would be the same as Alternative 3 for the Canonsburg and Hanover sites, and Alternative 2 for the Burrell site.

Additional remedial-action alternatives were identified but eliminated from further consideration because they do not represent

VOL 48 ISS 196 OCT 7 1983 UMI

reasonable alternatives (See Section 3.1.6 of the final EIS).

Basis for Decision

Pursuant to the requirements of UMTRCA, EPA identified the environmental and health problems posed by inactive uranium mill tailings sites. EPA determined that the most significant public health risks associated with inactive tailings were posed by exposure to people living and working in structures contaminated by relocated tailings. As a result of these conclusions, prevention of misuse and dipersal of tailings is the primary objective of the EPA standards. Accordingly, long-term stability was emphasized in the development and promulgation of the rules. This is consistent with the guidance provided by the legislative history of Pub. L. 95–604 which stresses the importance of avoiding remedial actions which would be effective only for a short period of time and which would require future Congressional consideration.

The EPA standard-setting process distinguished "passive controls," such as thick earthen and rock covers, from "active controls" such as semi-permanent covers. The standard is framed as a longevity requirement which recognizes the difficulty in predicting very long-term performance with a high degree of confidence. Therefore, a design objective of 1000 years was established with a minimum period of 200 years; a time span which is more consistent with engineering experience.

In establishing standards, EPA determined that the radon emission limitation could be achieved by well-designed thick earthen covers. These control techniques would also be compatible with those required to meet the longevity standard.

The standards recognize the need for institutional controls such as custodial maintenance, surveillance, and emergency response measures. In its preamble to the rules, EPA calls for such controls to be provided as an essential backup to the primary passive controls. The potential for contamination of ground water and surface water is to be addressed on a site-specific basis.

It is the intent of DOE to meet EPA standards for remedial action at the expanded Canonsburg site and the Burrell Township site. It is clear from the EIS that each action alternative (i.e., alternatives other than no action) will meet the EPA standards. It is also evident that none of the action alternatives is so clearly environmentally superior that it can be identified as environmentally preferable. The offsite alternatives, Alternatives 3 and 4, would relocate the radioactivity contaminated material in a less populated area, and would remove all radioactively contaminated material from the floodplain of Chartiers Creek. On the other hand, the EIS indicates that transportation impacts and health impacts to remedial action workers and the public are somewhat less for the stabilization-in-place alternative. Further, it has been shown to be far less costly than the other alternatives. Any environmental advantages of the offsite alternatives are minor.

Considerations in the Implementation of the Decision

DOE is aware of the many concerns that have been expressed about the environmental and health impacts from the remedial action. In implementing its decision, DOE will comply with applicable Federal, state, and local regulations to avoid or minimize health and environmental impacts.

One such area of regulatory concern is addressed in various floodplain protection legislation. Accordingly, because construction activity, portions of the disposal site, and residual radioactive wastes are located within the 100-year floodplain, as delineated on the appropriate Department of Housing and Urban Development floodplain map, DOE has prepared a floodplain assessment (Appendix J, Final EIS) pursuant to Executive Order 11988 and DOE's floodplain management regulations (10 CFR Part 1022). Alternatives to this proposed action were identified, environmental impacts evaluated, and mitigation measures were proposed. In the floodplain statement of findings, being issued concurrently with this Record of Decision, DOE has determined that no practicable alternative exists to the proposed construction in the floodplain.

The proposed action includes all practicable measures to minimize harm to the floodplain. These measures include:

- Locating the bottom of the encapsulation cell above the 100-year floodplain.
- Encapsulating wastes above the 500-year floodplain.
- Locating the cell such that it is not subject to erosive effects from the 1000-year flood.
- Providing additional rock protection to above the 1000-year flood level.
- Designing the cell so that velocities from the probable maximum flood will not affect cell integrity.
- Locating a buried rock structure along the Creek to preclude lateral migration into the site.
- Covering the limited quantity of buried wastes remaining in the floodplain with an additional minimum of 2 feet of clean fill.
- Revegetating the site.

In summary, all practicable means to minimize harm to the floodplain have been taken into account in the proposed action.

The following monitoring and mitigation measures will also be employed to avoid or minimize impacts during the remedial action:

- Radiaton release—The release of contaminated particulates will be reduced by dampening contaminated material with water, by stopping contaminated material-handling operations during adverse weather conditions and by using trucks with tight-fitting tailgates and covers when the material is to be moved.

The off-site transportation of radioactively contaminated material will be controlled by the use of decontamination facilities (e.g., truck wash stations) to clean trucks and vehicles before they leave the site. All waste-water streams will be monitored and treated before off-site disposal, and all disturbed areas will be isolated from surface-water systems by erosion-control methods.

Human exposure to residual radioactive material will be reduced by relocating the residents of the seven houses and the tenants of the former Georges Pottery from the expanded Canonsburg site, by restricting access, and by providing the monitoring and protective equipment necessary for use by the remedial action workers.

- Air emission—Construction areas and roads will be sprayed during the remedial-action period with a dust suppresant. Contaminated material will not be transported in open trucks. No material will be disrupted during adverse weather conditons.
- Water contamination—To prevent possible flooding of the sites during excavation and handling of the contaminated material, protective dikes isolating the disturbed material from surface-water systems will be installed. The construction of a collecting and settling basin and an associated waste-water treatment plant will permit the collection and treatment of waste water resulting from washing vehicles and equipment. Contaminated storm water that might collect in excavations or as runoff from the contaminated areas and ground water pumped from the Canonsburg site will also be routed through this facility before it is discharged to Chartiers Creek. All effluent water will be monitored and treated to meet National Pollutant Discharge Elimination System water-quality criteria before being discharged to Chartiers Creek. The sediment from the sedimentation basin and the resins and residues from the waste-water treatment plant will be buried on the site.
- Transportation networks—Whenever feasible, the high-capacity, primary road networks will be used to minimize the possiblity of damage to the transportation network and to minimize congestion that could be a nuisance to the local populace. Where possible, truck traffic through the Borough of Canonsburg will be scheduled to avoid school zones during school activity times, and congested areas during peak use times. A truck haul road is planned along the railroad right-of-way to minimize traffic increases on local streets.

Details for the monitoring plans and mitigations specified above will be contained in several documents scheduled for publication prior to remedial action. These include the Remedial Action Plan (includes the Health and Safety Plan, Radiological Support Plan, Conceptual Design), Site Design Criteria, final design and specifications, and the UMTRA Project Health and Safety Plan.

Conclusions

After consideration of all reasonable project alternatives, DOE has decided to proceed with stabilization-in-place for residual radioactive materials at the expanded Canonsburg site and at the Burrell Township site.

Issued in Washington, D.C. on September 21, 1983.

Thomas A. Dillon,

Principal Deputy Assistant Secretary for Nuclear Energy, Department of Energy.

[FR Doc. 83–26864 Filed 10–3–83; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery will meet in October 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Miscible Displacement Task Group meeting follows:

The Miscible Displacement Task Group will hold its tenth meeting on Tuesday and Wednesday, October 25 and 26, 1983, starting at 9:00 a.m. each day, in Room 1603, Mobile Exploration and Production Services, Inc., 7200 North Stemmons Freeway, Dallas, Texas.

The tentative agenda for the Miscible Displacement Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Miscible Displacement Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Miscible Displacement Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 3, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–27449 Filed 10–6–83; 8:45 am]

BILLING CODE 6450–01–M

Floodplain Statement of Findings; Remedial Action at the Former Vitro Rare Metals Plant Site at Canonsburg, Pennsylvania

Under authority granted by the Uranium Mill Trailings Radiation Control Act of 1978 (Pub. L. 95–604 dated November 8, 1978), the U.S. Department of Energy (the Department) proposes to clean up the radioactive residues remaining at the inactive uranium mill trailings site located in Canonsburg, Washington County, Pennsylvania, and at an associated vicinity property in Burrell Township, Indiana County, Pennsylvania. The proposed remedial actions will move and stabilize the radioactive residues according to a plan that has the concurrence of the U.S. Nuclear Regulatory Commission and is in conformance with the U.S. Environmental Protection Agency Standards for Cleanup of Inactive Uranium Processing Sites (40 CFR Part 192).

Most of the radioactively contaminated material at Canonsburg is currently below the water table in an area that is partially within the 100-year floodplain of Chartiers Creek and lies totally within the 500-year floodplain (see Attachment A). All the alternatives except no action, therefore, involve earthmoving and construction activities within the 100-year flooplain.

Although the Burrell site lies within the Corps of Engineers flood easement for the Conemaugh Dam, the only actions required within the 100-year floodplain of the Conemaugh River will be the removal of a low earthen dam on the site and the draining of the ponds formed by the dam. If remedial action is to be carried out, there is no practicable alternative to conducting earthmoving and construction activities within the floodplain.

The action proposed by the Department involves the relocation of most of the contaminated materials now at Canonsburg into an encapsulation cell above the elevation of the 100-year floodplain. This will be accomplished by filling in a small area of the floodplain to raise that area above the level of the 100-year floodplain and by constructing the encapsulation cell there as shown in Attachment B. The small amounts of residues that will not be encapsulated are less radioactive; they will be left in place and covered with a thick layer of soil. If the radioactively contaminated material is stabilized on the site, there is no practicable alternative to locating a part of the encapsulation cell on fill in a small portion of the 100-year floodplain.

The Department examined five alternatives for the remedial actions on the *Final Environmental Impact Statement, Remedial Action at the Vitro Rare Metals Plant Site, Canonsburg, Washington County, Pennsylvania*, DOE/EIS–0096–F. The Department's proposed action is stabilization of the Canonsburg site's radioactively contaminated materials at the expanded Canonsburg site and the Burrell site's

radioactively contaminated materials at the Burrell site. The four additional alternatives analyzed in the environmental impact statement (EIS) are: (1) No action; (2) decontamination of the Burrell site, transfer of the Burrell site's radioactively contaminated materials to the Canonsburg site, and stabilization of both the Canonsburg and the Burrell sites' radioactively contaminated materials at the expanded Canonsburg site; (3) decontamination of both the Canonsburg and the Burrell sites, and disposal of all of the radioactively contaminated materials at a third site in Hanover Township, Washington County; (4) decontamination of the Canonsburg site, disposal of its radioactively contaminated materials at the Hanover site, and stabilization of the Burrell site's radioactively contaminated materials at the Burrell site.

Pursuant to 10 CFR 1022, the Department prepared a floodplain assessment that is incorporated in the final EIS (Appendix J).

During the construction period of the remedical action the construction area will be protected by a temporary flood control berm. To prevent the contamination of surface waters by the radioactive residues, provision will be made to collect possibly contaminated waters in a sedimentation pond (cross section shown in Attachment B) and to treat them to National Pollutant Discharge Elimination System standards before their release into Chartiers Creek. The buried riprap wall is to prevent Chartiers Creek from migrating laterally into the site, and the thickened covering of pit run rock on the encapsulation area is to protect the capsule from possible erosion under extreme flood conditions.

All the actions will be designed to conform to applicable state and local floodplain protection standards. Before actual construction begins, all applicable permits, such as those required under the Dam Safety and Encroachment Act of 1978, will be obtained from the Pennsylvania Department of Environmental Resources and other agencies having jurisdiction.

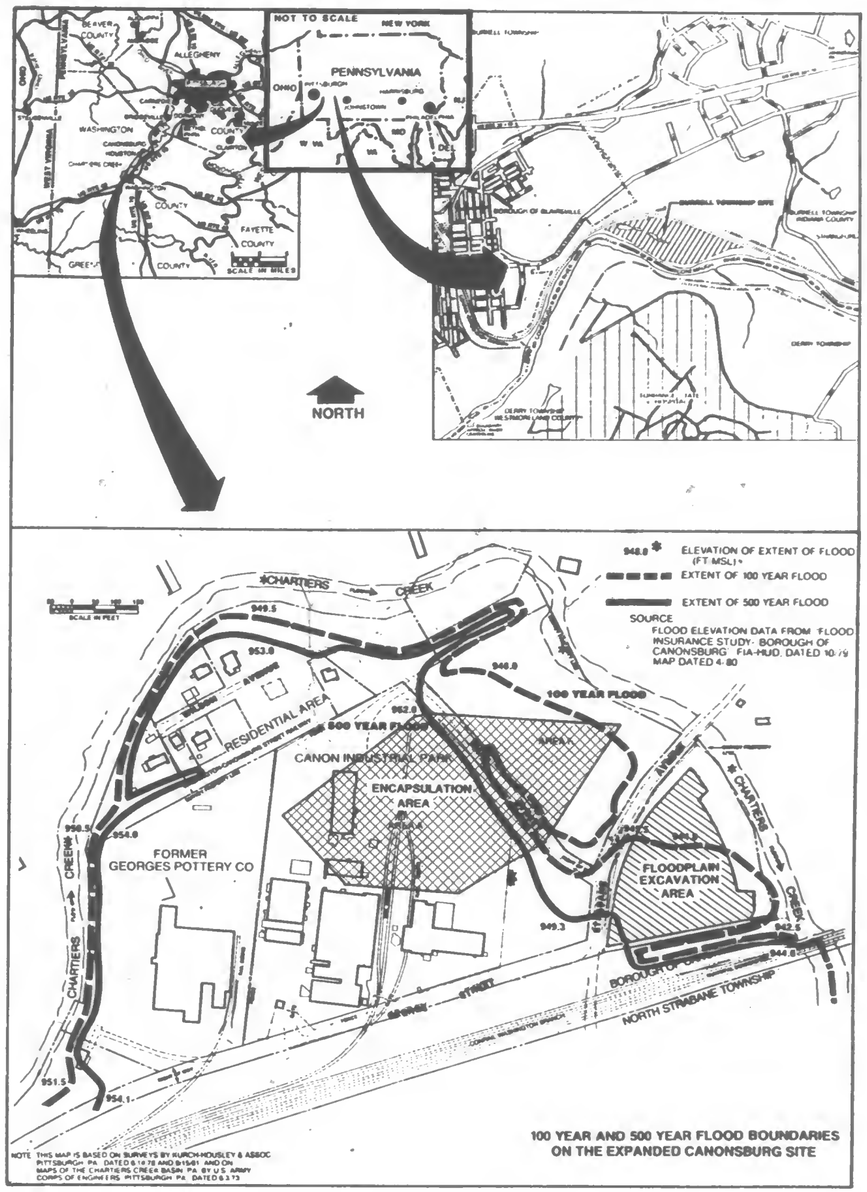
The Department has determined that the offsite alternatives (3) and (4) are not practicable, in that they entail much higher costs for minimal environmental benefits. On the basis of the floodplain assessment the Department has determined that, for stabilizing the radioactively contaminated material on the site, there is no practicable alternative to the proposed construction in the floodplain and that the proposed action has been designed to minimize potential harm to or within the floodplain.

Issued in Washington, D.C. on September 16, 1983.

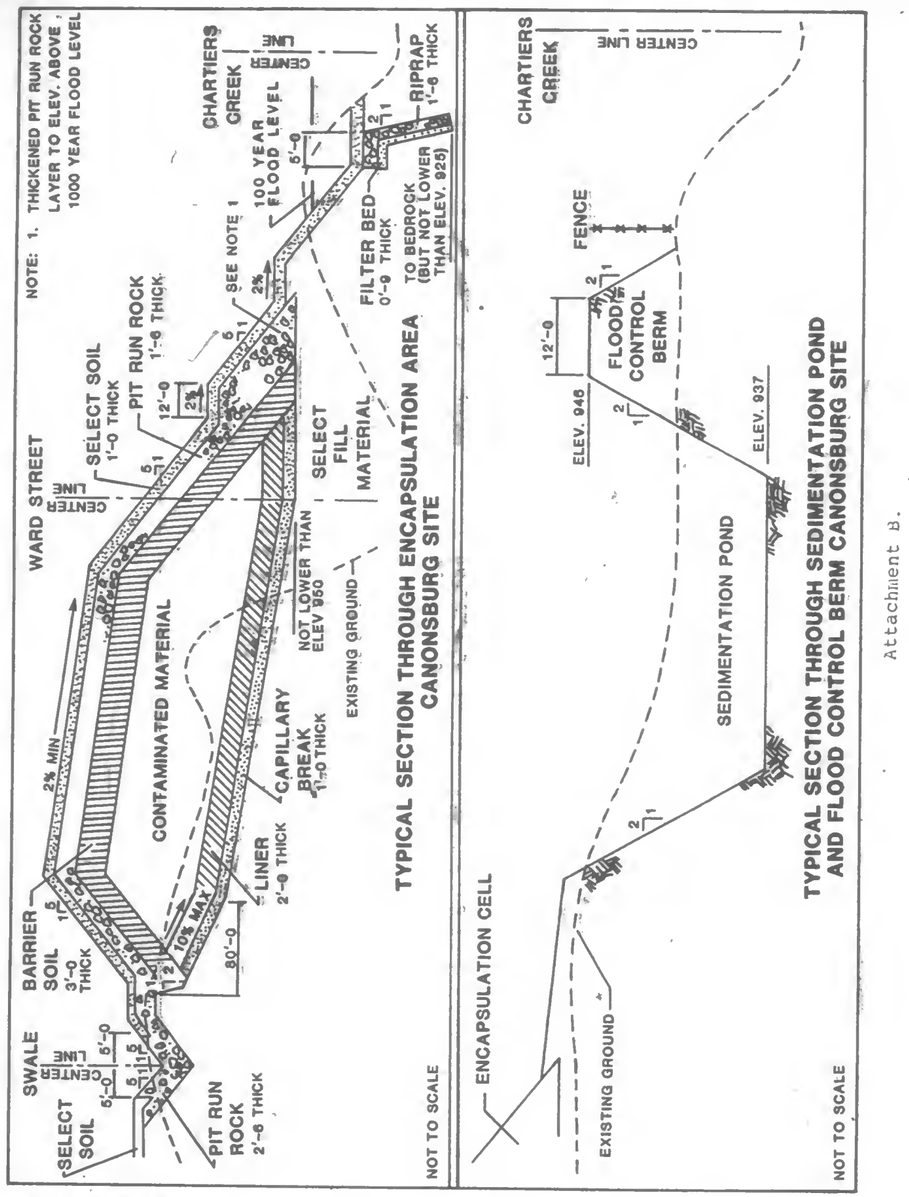
William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

BILLING CODE 6450-01-M



Attachment A.



Attachment B.

[FR Doc. 83-26985 Filed 10-6-83; 8:45 am]
BILLING CODE 6450-01-C

Interest Rate Formula for Power Marketing Administrations

AGENCY: Department of Energy.

ACTION: Notice of Change in Formula for Determining Power Repayment Interest Rates.

SUMMARY: Notice is given that the Department of Energy has adopted a new formula for determining interest rates to be used, unless otherwise provided by law, by the Alaska Power Administration, Bonneville Power Administration, Southeastern Power Administration, Southwestern Power Administration, and Western Area Power Administration, referred to collectively as PMAs. The new formula will be used in computing interest during construction and interest expense on the unpaid balance of the costs of new Federal power facilities financed with appropriations, unless a different interest rate is prescribed by law, and will be used in computing interest on deferred or unpaid annual expense. New Federal power facilities include additions, betterments and replacements. The facilities are those constructed by the PMAs, the Corps of Engineers, the Bureau of Reclamation, and the United States Section, International Boundary and Water Commission, United States and Mexico. The interest rate is to be used in power repayment studies for ratemaking purposes.

The new formula will make the applicable interest rate equal to the average yield rate computed by the Treasury Department for the previous fiscal year rather than allow changes of only one-half of one percent from the previous year's applicable rate. The applicable rate will be that for the year in which construction of the facilities is initiated rather than the year in which construction funds are first appropriated. For deferred or unpaid annual expenses, the interest rate will be that applicable in the year in which the deficit is incurred.

The new formula will become effective on October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel M. Ogden, Jr., Director, Power Marketing Coordination, Department of Energy, Forrestal Building, Rm. 6B-104, 1000 Independence Avenue, SW, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Discussion

I. Introduction

In January 1970 the Department of the Interior adopted a policy for determining interest rates, unless otherwise provided by law, to be used for computing interest during construction and interest on the unpaid balance of the costs of new Federal power facilities properly allocated to commercial power development. This policy was expressed in and supplemented by implementation guidelines which also added the policy of charging interest on unpaid or deferred annual expense.

The present formula used to compute the applicable interest rate requires that the applicable rate is to be that used in the fiscal year in which funds are first appropriated for construction. The applicable rate is based on the yield rate computed by the Treasury Department as the average yield during the previous fiscal year on all outstanding interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more to maturity, adjusted to the nearest multiple of ⅛ of one percent. If the yield rate so computed does not differ from the applicable rate used by the PMAs for the previous fiscal year by more than ½ of one percent, then the applicable rate to be used by the PMAs shall be equal to the yield rate. If the yield rate computed differs from the applicable rate used by the PMAs for the previous fiscal year by more than ½ of one percent, the applicable rate to be used by the PMAs shall be the applicable rate for the previous year increased or decreased by ½ of one percent toward the yield rate.

By Notice published on February 9, 1983, at 48 FR 5989, the Department of Energy (DOE) invited public comment on a proposed change in the interest rate formula which would remove the ½ percent cap and make the applicable rate the rate used during the fiscal year in which construction was initiated. Written comments were solicited by April 9, 1983. At the request of several interested parties the comment period was extended an additional 30 days through May 9, 1983, by public notice published on April 29, 1983, at 48 FR 19460.

II. Discussion

Comments were received from seven (7) separate sources.

(a) One commenter fully supported the proposal on the basis that the changes are consistent with the requirement that the PMAs be operated in accordance with sound business principles.

(b) Another commenter stated that while it agrees that the proposed interest rate formula is appropriate for new facilities, it does not believe that it should apply to additions, betterments, and replacements because these are funded from revenues and it is considered improper to include interest on monies provided by the ratepayers for such purposes. In response to this comment, there is no change in the existing policy with respect to charging interest on additions, betterments and replacements. If they are repaid (or "expensed") in the same year in which they are installed, the typical net effect of the interest charge and the interest credit is that essentially no interest is assessed.

(c) Another commenter claims that the procedure being used to change the interest rate formula is improper, because it constitutes a rate adjustment, so that the DOE Rate Adjustment Procedures, 10 CFR Part 903, should be followed instead. In response to this comment we point out that because we expect the new policy to be followed across the board in all rate cases, it is not appropriate to review it on a case-by-case basis in individual rate cases.

(d) Another commenter considers the proposed change to be unresponsive to economic policies previously expressed by the Administration and out of step with other measures being taken to stabilize the economy, and is therefore tantamount to employing old inflationary factors. The commenter feels that the proposal in contrary to the intent of Congress; it appears to be a step toward selling Federal power at market rates; and, it will make it extremely difficult to employ cost-benefit analyses to new projects or additions to old projects.

In response we note that the proposed change is in accord with the Administration's policies to put the Government on a more businesslike footing and to reduce the deficit. It is not expected to have a significant impact on the Federal power rates, because the policy affects only the interest rates applicable to new facilities not provided for under existing law, and these would constitute a relatively small portion of the total Federal power investment yet unpaid. Moreover, the changes in interest rates are not limited to increases but include decreases as well. The ratepayers will benefit from these decreases as they occur rather than being delayed because of any cap placed on the change in interest rates.

The policy change is not contrary to the intent of Congress:

VOL 48 ISS 196 OCT 7 1983 UMI

The policy adopted in 1970 was a self-imposed cap on the applicable interest rate and not one imposed by Congress. Thus, the policy is subject to change by proper administrative procedure. If Congress desires to provide a different interest policy, then the authorizing legislation will so state and will take precedence over the Departmental policy.

The proposed policy is not an attempt at establishing market rates because it deals with the recovery of a cost. Nor will it affect benefit-cost analyses of planned projects. The discount rate for project evaluation is set by law and serves a different function than the repayment interest rate.

(e) Another commenter had no problem with chaging the year of applicability, but would prefer no change in the interest rate cap or, if one is needed, no more than ¾ percent or 1 percent at best. It feels that any higher change would cause acceleration of inflation and possible serious fluctuations in interest rates.

In response, we recognize that the ½ percent cap was instituted originally to limit the impact of year-to-year interest rate changes. The policy, set in 1970, was to keep the interest rate from fluctuating up and down significantly, so long as the rate used was reasonably close to the actual yield rate which Treasury had to pay, and thus would meet the Congressional mandate to recover costs. For the first ten years, the ½ percent cap did prevent unusual swings in interest rates, while at the same time keeping the applicable rate within close proximity to the Treasury yield rate. Since 1981, however, the cap has caused a growing spread between the interest rate being used by the power administrations and the yield rate being paid by Treasury. In fiscal 1983 the Treasury rate was 13 percent while the cap limited the power marketing repayment rate to 9.5 percent. The requirement of the law that the rates for power fully recover all costs has thus been defeated by the ½ percent cap in the past three years. Raising the cap to ¾ of a percent or even 1 percent, as the Power Rate Council originally recommended, will not correct the disparity in less than three years. Even though the cap was intended to serve a constructive administrative purpose in limiting swings of interest rates, it was not intended to frustrate the directive to recover costs. It thus must give way to the higher obligation of meeting the borrowing costs of the Treasury.

(f) Another commenter had four major comments on the proposed changes:

1. Since the largest source of Federal moneys is taxes, on which no interest is paid, rather than borrowings, it is not appropriate to charge interest on 100 percent of the unpaid Federal investment. The Department disagrees with this conclusion. The sale of power from Federal projects is a proprietary function, not a governmental function, which Congress has directed to be conducted in accordance with sound business principles. In performance of this proprietary function it is appropriate that the PMAs pay interest.

2. The change in the determinative date from the year of first appropriations to the year in which construction commences means that if an Administration seeks to maximize payments for Federal power projects, it need only concentrate commencement of construction during years of extraordinarily high interest rates. We believe this danger is more imagined than real. The political, budgetary and bureaucratic processes which lead to the initiation of construction are sufficiently rigid normally to prevent delay or acceleration of construction from one year to another. New facilities are normally for the interconnection and/or enhancement of existing projects. Additions and replacements are normally those required by an existing project to maintain reliability and to assure continuous service. Any delays in such construction would be of serious detriment to the project operations. We also note that the use of the year in which construction is initiated is not without Congressional precedent. See Section 5(f) of the Colorado River Storage Project Act of 1956, 43 U.S.C. 620d.

3. The elimination of the ½ percent cap will expose ratepayers to drastic changes in interest rates because of extraordinary increases in interest. It would shift the burden of high interest rates from the Government, which has some control over high interest rates, to the consumer, who has no control over high interst rates. If interest rates for a project are aberrationally high, the Government should reexamine those rates every five or ten years of a project's life and attribute to that project any subsequent lower yield rate.

As noted earlier, we do not anticipate that fluctuations in interest rates will have a significant impact on project power rates. Fluctuations can be down as well as up. Moreover, changes in interest rates of a project already constructed under authorizing legislation would require specific Congressional legislative action.

4. The commenter seeks assurance that the yield formula will be used only for projects which do not have a legislatively-determined interest rate or interest rate formula. In order to facilitate such assurance, the commenter urges the Department to publish in the Federal Register each project to which the yield formula is being applied at the time the interest rate is imputed to that project with an indication of the legislative authorization for such project.

In response we repeat that the policy applies only where the interest rate is not otherwise set by law. This determination is made for each project. When a rate proposal is submitted by a PMA, it is published in the Federal Register as part of the DOE Rate Adjustment Procedures, 10 CFR Part 903.

In the presentation of supporting documentation to the public and to the Federal Energy Regulatory Commission (FERC), the PMA will amply show all of the various interest rates being used and the justification for their use. It would be unnecessary duplication to publish these determinations separately in the Federal Register.

(g) The last commenter (OMB—Treasury) suggested that the interest rate should be adjusted annually where the project construction period extends beyond one year, and a weighted average interest rate should be determined for the entire construction period. The interest rate should be based on the average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the project. The interest rate to be used should be the average yield determined for the last month of the previous fiscal year.

The commenter also suggested that the PMAs establish a fixed repayment (amortization) schedule for all new investments coming into service in FY 1984 and thereafter. The commenter strongly recommends that all of these changes be applied to the unpaid balance of existing investments.

In response to the suggestion to consider only those securities with maturities comparable to the reimbursement period of the project, we note that this does not appear to be feasible because it is almost impossible to find outstanding Federal obligations whose term to maturity is beyond 20 to 30 years, let alone 50 years. The method suggested of having several interest rates or a weighted average of rates over the construction period is somewhat beyond the published proposal and we believe it would be more appropriate to consider it separately. Likewise, the establishment of a fixed amortization schedule on all new investments goes beyond the scope of this proposal and should be taken up at another time. Lastly, the application of the changes suggested by this commenter to the unpaid balance of existing investments would require amendment of previous legislation by the Congress and cannot be done administratively.

In view of the foregoing, notice is hereby given that beginning October 1, 1983, except as otherwise provided by law, the interest rate to be used by the Power Marketing Administrations for computing interest during construction and interest expense on the unpaid balance of the cost of Federal power facilities, the construction of which is initiated after September 30, 1983, which are financed with appropriations, and the cost of which is properly allocated to commercial power development, shall be the yield rate during the fiscal year in which construction is initiated; and the interest rate to be used in computing interest on unpaid or deferred annual expense shall be the yield rate. The yield rate is the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity. The average yield shall be computed as the average during the fiscal year of the daily bid prices. Where the average yield so computed is not a multiple of one-eighth of one percent, the yield rate shall be the multiple of one-eighth of one percent nearest to such average yield.

Issued at Washington, D.C., this 30th day of September, 1983.

Donald Paul Hodel,

Secretary of Energy.

[FR Doc. 83-27363 Filed 10-6-83; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

[BPA File No. ASC-1]

Reconsultation of Average System Cost Methodology; Request for Comments and Recommendations

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and request for comments and recommendations.

SUMMARY: BPA hereby initiates a reconsultation process to revise the Average System Cost (ASC) methodology for sales of electric power made by utilities to BPA, pursuant to Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act), 16 U.S.C. 839c(c). Future ASC filings will be required to comply with any revisions resulting from the reconsultation process.

The reconsultation is in response to the requests of customers and the Administrator's own perception that the present methodology needs revision. BPA is now in the initial stages of identifying issues that will be addressed in the reconsultation process.

Section I of this notice, Background, describes the general context of the current methodology. Section II, the Reconsultation Process, describes the procedural phases of the reconsultation. Section III, Issues, lists concerns with the current methodolgy that have been drawn to the attention of BPA. Comments are sought on these issues, and others which may not be included in the list, prior to publication of a proposed revised ASC methodology.

Responsible Official: Stephen A. Ailshie, Assistant Administrator for Financial Management, is the official responsible for development of a proposed revised ASC methology.

DATES: Written recommendations should be submitted by November 7, 1983.

ADDRESS: Submit written recommendations to Ms. Kathleen S. Johnson, Public Involvement Office, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Copies of the existing ASC methodology are available from the Public Involvement Office at this address.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement Office, at the above address, 503-230-3478. Oregon callers outside of Portland may call toll-free on 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may call 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager; Suite 288, 1500 Plaza Building, 1500 NE. Irving Street; Portland, Oregon 97232; 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager; Room 206, 211 East Seventh Avenue; Eugene, Oregon 97401; 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager; Room 561, West 920 Riverside Avenue; Spokane, Washington 99201; 509-456-2518.

Mr. George E. Eskridge, Montana District Manager; 800 Kensington; Missoula, Montana 59801; 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager; P.O. Box 741; Wenatchee, Washington 98801; 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager; Room 250, 415 First Avenue North; Seattle, Washington 98109; 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager; West 101 Poplar; Walla Walla Washington 99362; 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager; 531 Lomax Street; Idaho Falls, Idaho 83401; 208-523-2706.

Mr. Frederic D. Rettemund, Boise District Manager; Owyhee Plaza, Suite 245; 1109 Main Street; Boise, Idaho 83707; 208-334-9138

Mr. Steven P. Cook, Chief; Branch of Allocation and Review, Routing DNR; P.O. Box 3621; Portland, Oregon 97208; 503-230-3084.

SUPPLEMENTARY INFORMATION:

I. Background

The Regional Act provides that whenever a Pacific Northwest electric utility offers to sell electric power to BPA at its average system cost of resources, BPA shall purchase such power and, in return, shall offer to sell an equivalent amount of power to the utility for resale to that utility's qualifying residential and farm consumers. 16 U.S.C. 839c(c)(1). The Regional Act also requires that the BPA Administrator, in consultation with the Northwest Power Planning Council, BPA's customers, and appropriate State regulatory bodies, develop a methodology to determine ASC. 16 U.S.C. 839c(c)(7). This methodology is subject to review and approval by the Federal Energy Regulatory Commission (FERC). *Id.*

Following completion of an initial consultation process pursuant to the Regional Act, 16 U.S.C. 839c(c), BPA developed a proposed ASC methodology which was approved on an interim basis by the FERC on October 14, 1981. 46 FR 50,517 (1981) (corrected at 46 FR 55,952 (1981); 18 CFR 35.13a(d) (1983). Basically, the interim methodology defines ASC as a utility's production and transmission costs, less any costs specifically excluded by provisions of the Regional Act, divided by a utility's energy load. The ASC methodology generally utilizes the investment, operating cost, and load data approved by the state regulatory authority or other body authorized to establish retail electric rates for that utility. Upon request, BPA will provide copies of the text of the ASC methodology including Schedules 1-6.

Since its effective date, the parties to the initial consultation process have had the opportunity to gain experience under

VOL 48 ISS 196 OCT 7 1983 UMI

the ASC methodology and to identify problems with its implementation. Section VI of the methodology, 18 CFR 35.13a(d)(6) provides:

> The Administrator, at his or her discretion, or upon written request from three-quarters of the utilities who are parties to contracts pursuant to section 5(c) of the Regional Act, or from three-quarters of his preference customers, or from three-quarters of Bonneville's direct-service industry customers, shall initiate a consultation process as provided for in section 5(c) of the Regional Act. After completion of this process, the Administrator may propose a new ASC methodology, provided that any consultation process may not be initiated sooner than 1 year after the immediately previous ASC methodology has been adopted by Bonneville and approved by the FERC.

Consistent with this section, the Administrator, in his discretion and upon request from three-quarters of his direct-service industry customers, hereby initiates a consultation process to propose a new ASC methodology. Also consistent with this section, the new consultation process has been initiated no sooner than 1 year after the previous methodology was adopted by BPA on August 28, 1981, and approved by the FERC on October 14, 1981. See 46 FR 50, 517 (1981), corrected at 46 FR 55,952 (1981). Although the FERC approval was granted on an interim basis, this action satisfies the requirements of 18 CFR 35.13a(d)(6).

II. The Reconsultation Process

The reconsultation process has begun with publication of this notice. Interested parties may comment upon this notice until November 7, 1983. Comments should include: (1) A statement of position on the issues listed in this notice, and (2) an explanation of additional issues that should be considered. Following the submission of comments, BPA will review such comments and publish a proposed average system cost methodology.

BPA will then accept written comments on the proposed methodology. Where parties have substitute language for the methodology, such language should be included in the comments. BPA will then accept written reply comments. Following the receipt of these comments, BPA will afford parties the opportunity for oral presentations or negotiations, as appropriate. Negotiated agreements may be entered into the record.

The Administrator will issue a written draft methodology based on the record of the reconsultation process. Following publication of the draft methodology, BPA will accept a second round of written comments. After BPA reviews the comments, the Administrator will issue the new methodology and a Record of Decision.

III. Issues

The following issues have been identified for comment:

1. Should the parties continue with the current approach in the methodology of allowing jurisdictionally approved costs (ratemaking approach), or adopt a Regional approach in determining the ASC.
2. Should benefits be offered only for production costs or for both production and transmission?
3. Should radial transmission costs continue to be excluded from the ASC calculation?
4. Should benefits for conservation continue to be limited to those conservation acquisitions for which the utility has not been compensated? Should the conservation contract charge continue to be exchangeable?
5. Should BPA: (a) Continue to accept a state commission's determination of rate of return, (b) use the utility's actual earned rate of return over a specified period, (c) disallow inclusion of a rate of return on equity but allow it on debt, (d) apply a predetermined formula to calculate rate of return, or (e) allow differential rates of return by function?
6. Should BPA, in order to create consistency among utility filing, disallow the inclusion of: (a) Income taxes, (b) other taxes, or (c) develop a standard method for their calculation and functionalization?
7. Should BPA require utilities to directly functionalize: (a) All costs, (b) all costs except with certain exceptions, or (c) apply standardized formulas such as labor ratios?
8. Should BPA clarify the ASC treatment of situations where a utility does not project a New Large Single Load in a test year and later a New Large Single Load materializes?
9. Should BPA be allowed a longer period of time to complete the review of an ASC report, rather than the 120 calendar days (of which regional power sales customers have 100 calendar days for comment) as the current methodology provides?
10. Should BPA modify the 5 working day requirement for the submittal of the preliminary and reconciled ASC filings?
11. Should be utility be required to file a copy of its FERC filing with BPA?
12. Should BPA be accorded automatic party status in FERC filings?
13. Shoud BPA clarify the ASC filing requirements as to submittal location, number of copies, or customer lists?
14. Should BPA modify the ASC methodolgy to allow the ASC to be synchronized in time with the Priority Firm Rate?
15. How should the Exhibit C schedules be make more administratively efficient?
16. How should the distribution losses in the ASC filings and the ASC invoices be calculated: (a) Should the detemination of losses be standardized, (b) should the existing loss calculation be simplified?
17. Should BPA clarify the definition of residential loads to be used in determining ASC?

Issued in Portland, Oregon, on September 29, 1983.

Peter T. Johnson,
Administrator

[FR Doc. 83-27447 Filed 10-6-83; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Fletcher Oil and Refining Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order with Fletcher Oil and Refining Company, Inc.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Fletcher Oil and Refining Company, Inc. as a final order of the Department.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: John M. Daley, Esq., Deputy Chief Counsel, San Francisco Office, Economic Regulatory Administration, Department of Energy, 333 Market Street (Sixth Floor), San Francisco, California 94105; (415) 974-7114.

SUPPLEMENTARY INFORMATION: On March 18, 1983, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Fletcher Oil and Refining Company, Inc. (Fletcher) which would become effective no sooner than thirty (30) days after publication of that notice. 48 FR 11487. Pursuant to 10 CFR 205.199J (c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order provides that in settlement of certain potential civil liability arising out of the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Parts 205, 211, and 212, in connection with the reporting of entitlements obligations and the sale of refined petroleum products during the period August 19, 1973 through January 27, 1981, Fletcher shall remit a total of $2,800,000 to DOE in twenty quarterly installments, plus interest on the unpaid balance. The **Federal Register** notice also specified that DOE would undertake to determine the proper disposition of the refund amounts.

Six comments were received by the April 18, 1983 deadline, and two thereafter. All comments received were considered by ERA. Six of the comments were from officials of State agencies and two were from resellers of petroleum products who purchased refined petroleum products from Fletcher. One of the resellers suggested that the Consent Order should be modified to provide for refunds to large volume purchasers, that interest should be accrued on the settlement amount from the date of the overcharges, and that the settlement amount should be increased to at least $10 million. The other reseller suggested that the Consent Order should be modified to specify that the refund amounts be distributed in a proceeding under the procedures set forth in 10 CFR Part 205, Subpart V. The State commenters did not object to the Consent Order. They suggested, however, that the refund amounts should be distributed to the States. Three of the commenters, citing the decision of the Temporary Emergency Court of Appeals in *Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F. 2d 171 (1982) (*Citronelle*), suggested that it would be unlawful to deposit any of the funds received in the United States Treasury. ERA has considered these comments and has determined that the Consent Order should be made final without modification.

With respect to the suggestion that the Consent Order settlement amount is insufficient, ERA determined that the settlement amount is sufficient. This determination is based upon the amount and nature of the alleged regulatory violations by Fletcher.

The suggestion that the Consent Order should provide for the accrual of interest on the settlement amount from the date of the overcharges is apparently based upon a misconception concerning both the nature of the Consent agreement and the nature of the settlement amount which was agreed to by the parties. First, a Consent Order does not constitute an admission that overcharges occurred. Second, the settlement amount here represents ERA's judgement of an acceptable recovery in light of Fletcher's alleged violations, *including* interest from the date of the subject transactions. As noted in the Consent Order itself at paragraph 402, the principal settlement amount includes interest through the effective date of the Consent Order Thus, pre-settlement interest has been incorporated in the settlement.

As noted above, some commenters stated that the terms of the proposed Consent Order should provide for refunds to be made to specified customers of Fletcher or that the settlement funds should be distributed through a Subpart V proceeding before the Office of Hearings and Appeals (OHA). ERA feels that the terms of the proposed Consent Order need not specify that refunds be made to particular customers or that the proceeds be distributed through a Subpart V proceeding. ERA has not as yet determined which remedy or remedies to employ in this case. In formulating a distribution plan, ERA will consider all available administrative remedies including those suggested in the comments. In any event, no remedy is precluded by the adoption of the Consent Order as a final DOE order.

Having considered all comments received, therefore, ERA has determined that the proposed Fletcher Consent Order should be made final without modification, and so informed the company by letter dated August 1, 1983.

Issued in Washington, D.C. on the 24th day of August 1983.

Milton C. Lorenz,
Special Counsel, Economic Regulatory Administration.

[FR Doc. 83-27451 Filed 10-76-83; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-023; FC Case No. 50782-9093-01, 02-11]

Powerplant and Industrial Fuel Use; Detroit Edison Co.; Acceptance of Petition

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Petition for a Temporary Public Interest Exemption and Availability of Certification; Detroit Edison Company.

SUMMARY: On September 19, 1983, the Detroit Edison Company (DEC) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a temporary public interest exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") for two auxiliary boilers to be constructed at its Belle River Power Plant, near St. Clair, Michigan.

Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59672 (December 7, 1981) (10 CFR Parts 500, 501, and 503). Eligibility and evidentiary requirements governing the temporary public interest exemption are contained in 10 CFR 503.25.

The units for which the petition was filed are two oil-fired auxiliary boilers, each with a design heat input rate of 215 million Btu/hr, which are to be used under the requested exemption during the construction of DEC's Belle River Power Plant. From October 1983 until December 1984, the boilers will be used to provide plant heating as well as testing and start-up of the main boiler Unit No. 1 and other facility systems.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for temporary exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments and any requests for a public hearing are due no later than November 21, 1983.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing are to be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-033, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585. Docket No. ERA-FC-83-023 should be printed on

the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–033, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–1316

Marya Rowan, Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–235, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: DEC plans to install two new auxiliary boilers to support the construction and operation of a 1300 megawatt coal-fired electric powerplant presently under construction at its Belle River Plant near St. Clair, Michigan. These units will provide space heat for the plant site and start-up functions for United 1 of the main coal-fired facility during the requested exemption period, October 1983 to December 1984. At the end of the requested exemption period the oil-fired boilers will remain operational in a support function as permited by 10 CFR 500.2. (During operation of the coal-fired facility, the oil consumed by the auxiliary boilers for unit ignition, start-up, flame stabilization, testing, and other control purposes will not exceed twenty-five percent (25%) of the total annual Btu heat imput of the auxiliary units and the electric powerplant. Under the definition of "primary energy source" in 10 CFR 500.2, the use of this amount of oil for these purposes, is not prohibited by the Act. See *Associated Electric Cooperative, et al.*, Interception 1980–42 (45 FR 82572 (December 15, 1980)).) Such use is not prohibited by FUA; accordingly, the petitioner is not requesting a permanent exemption.

The final rules provide, at § 503.25(c), a certification alternative to the filing of a more lengthy exemption petition when the use of oil or natual gas is to be in conjunction with (and during) the construction of alternate fuel-fired units. In accordance with that section, DEC certified to ERA that the auxiliary boilers will be operated on oil only during the construction and bringing into service of Unit No. 1, a 650 megawatt coal-fired electric powerplant at the Belle River Power Plant, and that other future use of oil in the units will not be subject to FUA prohibition. Accordingly, the period of the requsted exemption is from October 1983 to December 1984.

In accordance with the evidentiary requirements of § 503.25(c), DEC also included as part of its petition exhibits containing the basis for the certifications described above.

Pursuant to 10 CFR 501.3, ERA hereby accepts DEC's petition for a temporary public interest exemption. ERA retains the right, however, to request additional relevant information from DEC at any time during the pendency of these proceedings. As provided in § 501.3(b)(4), the acceptance of the petition by ERA does not constitute a determination that DEC is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on September 29, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 83–27452 Filed 10–6–83; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–83–016; FC Case No. 67048–9238–01–12]

Powerplant and Industrial Fuel Use; Shepherd Oil; Order Granting Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to Shepherd Oil, Incorporated an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUBJECT: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a temporary public interest from the prohibition of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or "the Act") to Shepherd Oil, Incorporated (Shepherd). The temporary exemption permits the use of natural gas as the primary energy source in a new boiler to be constructed at its Ethanol Production Plant in Jennings, Louisiana, for a period not to exceed five years, during which time Shepherd will construct a coal-fired facility to supply the required steam to the ethanol plant. The final exemption order and detailed information on the proceeding is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The order shall take effect on December 6, 1983 (section 702(a), FUA). The temporary exemption granted in the order shall extend five calendar years from the date the unit is placed in service.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–033, 1000 Independence Avenue, SW., Washington, DC 20585, Phone (202) 252–1316

Marya Rowan, Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–235, 1000 Independence Avenue, SW., Washington, DC 20585, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: On August 2, 1983, Shepherd petitioned ERA under section 211(c) of FUA and 10 CFR 503.25 for a temporary public interest exemption to permit the use of natural gas as the primary energy source in a new 140 MM/Btu/hr natural gas-fired boiler to be used to provide steam for its Ethanol Production Plant in Jennings, Louisiana. The temporary exemption which ERA has granted extends from the effective date of this order for five calendar years.

Basis for Temporary Exemption Order

The temporary exemption order is based upon evidence in the record including Shepherd's certification to ERA, in accordance with 10 CFR 503.25(c), that the natural gas-fired boiler will be operated only during the construction and successful testing of a coal-fired boiler to be owned and operated by Shepherd; and that at the end of the temporary exemption period covered by this order, Shepherd will be in compliance with the prohibition of FUA.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of the Petition and Availability of Certification in the **Federal Register** on August 12, 1983 (48 FR 36645), commencing a 45-day public comment period.

Copies of the petition were provided to the Environmental Protection Agency and to the Federal Trade Commission for comments as required by section 701 (f) and (g) of the Act. During the comment period, interested persons were also afforded an opportunity to request a public hearing. The comment period closed on September 26, 1983; no comments were received and no hearing was requested.

NEPA Compliance

Under section 763 of FUA, the grant of a temporary exemption to a major fuel burning installation is not deemed to be a major Federal action for purposes of

section 102(2)(C) of the National Environmental Policy Act of 1969.

Order Granting Temporary Public Interest Exemption

Based upon the entire record of this proceeding, ERA has determined that Shepherd has satisfied the eligibility requirements for the requested temporary exemption, as set forth in 10 CFR 503.25. Therefore, pursuant to section 211(c) of FUA, ERA hereby grants a temporary public interest exemption to Shephert to permit the use of natûral gas in one new natural gas-fired boiler at the Ethanol Production Plant in Jennings, Louisiana, for up to five calendar years from the date the unit is placed in service.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register**.

Issued in Washington, D.C. on September 29, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulotory Administration.

[FR Doc. 83–27453 Filed 10–6–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP83–511–000]

K N Energy, Inc.; Request Under Blanket Authorization

October 3, 1983.

Take notice that on September 15, 1983, K N Energy, Inc. (KN), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83–511–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that KN proposes to reassign natural gas volumes and consolidate the authorized contract demand between two delivery points for Midwest Energy, Inc. (Midwest) under authorization issued in Docket Nos. CP83–140–000 and CP83–140–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

KN proposes a reassignment of the gas volumes and consolidation of the authorized contract demand for gas delivered to Midwest at two existing delivery points located at WaKeeney and Toulon, Kansas. KN states that it is presently authorized to deliver gas in the contract demand amounts of 13,775 Mcf at WaKeeney and 4,125 Mcf at Toulon. It is submitted that Midwest has requested the consolidation of the two delivery points under one total authorized contract demand of 17,900 Mcf. It is indicated that this consolidation would help Midwest maintain more even line pressures and allow for more efficient system operation during high demand periods.

KN states that there would be no change in the total contract demand applicable to gas delivered to Midwest associated with the gas volume reassignment. The total contract demand volumes delivered to Midwest after the request would not exceed the total contract demand volumes authorized prior to the request, it is submitted.

Any person on the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rule (18 CFR 385–214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–27415 Filed 10–6–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP83–49–000]

Natural Gas Pipeline Company of America; Complaint and Petition for Declaratory Order

October 4, 1983.

On August 31, 1983, the Natural Gas Pipeline Company of America (Natural) filed a complaint with the Federal Energy Regulatory Commission (Commission) against actions taken by John A. Masek, Kelly Masek, John A. Masek, Jr., Alfred T. Curlee, Herbert T. Koch, BBI Company, and Wicherley, Ltd. (hereinafter referred to jointly as "Respondents"), in connection with the sale of gas from the Bunker Hill Field, located in Carbon County, Wyoming, pursuant to the 18 CFR 385.206–385.207 of the Commission's Rules of Practice and Procedure (Rules 206 and 207).

Natural alleges that Respondents are in violation of the provisions under the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981) (NGPA) or, alternatively, the Natural Gas Act 15 U.S.C. 717 *et seq.* (NGA).

Natural states that it purchased gas from the Bunker Hill field under gas purchase contracts executed with Respondents on August 18, 1978. This sale for resale is in interstate commerce and is subject to the Commission's NGA jurisdiction. Natural further states that the subject gas purchase contracts contain a prepayment provision whereby Natural was to begin monthly payments to each Respondent Seller for Respondent Seller's interest in such quantities of gas Respondent had available for delivery 60 days after the execution of the contract, if Natural was not able to receive such gas. Natural has the right to "make up" deficiency purchases under the subject gas purchase contract by taking gas in excess of the "contract volume" during the next succeeding five year period.[1] The price to be paid for the makeup gas is the difference, if any, between the price in effect at the time the gas is taken and the price previously paid for the gas not taken.

Natural states that as of August, 1983, there are 791,485 Mcf of gas paid for but not taken, representing $1,249,704 in prepayments. Production under the contract is expected to end by June 1984. Natural is not aware of any future plans by Respondents to drill additional wells or any other recoverable gas reserves subject to the contract. Natural estimates that once production ceases, Respondents will have collected $1,235,460 in prepayments for approximately 782,485 Mcf of gas which was never delivered.[2]

Natural avers that the prepayment provision in the subject contract between Natural and Respondents results in Respondents receiving and demanding payments "which when divided by those volumes of gas which have been and will be actually delivered under the contract" exceed the NGPA maximum lawful prices. Natural further alleges that the prepayment provisions of the subject contract are unjust and unreasonable and in violation of sections 4 and 5 of the NGA. Furthermore, Natural alleges that such

[1] The contract provides further that in the event production from seller's wells are unable to meet Natural's request for make-up gas in addition to the contract quantity, "* * * Pipeline shall have additional time as is necessary to receive such makeup gas."

[2] Natural avers that it has attempted to renegotiate the terms of the subject contract to provide for greater make-up of Natural's prepayments, but Respondents have refused such attempts.

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48
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payments are illusory in that Natural is unable to receive gas that it has already paid for.[2] Natural states it will be physically unable to make-up any significant amount of the prepayments.

Natural requests that the Commission take jurisdiction over its complaint and the matters alleged therein; that the Commission find and determine that Respondents have received and will continue to receive more than the maximum lawful permitted under the NGPA, or alternatively that such payment would also constitute a violation of sections 4, 5, and 21 of the NGA; and that upon so finding, the Commission order Respondents to make refunds with respect to certain unrecoverable prepayments. Natural also requests that the Commission issue a declartory order stating: (1) That receipt by Respondents of certain payments withheld by Natural (see n. 3 *supra*) would violate the NGPA and NGA and (2) that Respondents are obligated to repay certain prepayments made by Natural (less the amount withheld) under the prepayment provisons of the contract which are as yet and will be unrecouped.

Any person desiring to be heard to to make any protest to this complaint should file, within 30 days after notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27407 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-37-001; PGA84-1]

Northwest Pipeline Corporation; Change in Tariff

October 3, 1983.

Take notice that on September 15, 1983, Northwest Pipeline Corporation (Northwest) tendered for filing and acceptance Substitute Eleventh Revised Sheet No. 10 to its First Revised Volume No. 1 Tariff.

Northwest states that, as more fully explained in the instant filing, Substitute Eleventh Revised Sheet No. 10 will correctly state the Purchased Gas Cost Component of the commodity rates for the period October 1, 1983, through March 31, 1984 pursuant to Northwest's Stipulation and Agreement in Settlement at Docket No. RP82-56-000. The proposed tariff sheets would result in an increase in the Account No. 191 charges which are flowed through to Northwest's customers.

Northwest request waiver of § 154.22 and special permission under § 154.51 in order to permit the effective date of October 1, 1983, for the tendered tariff sheets. October 1, 1983 is the same date as requested by Northwest in its August 15, 1983 PGA filing.

A copy of this filing has been served on all of Northwest's jurisdictional sales customers and affected state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before October 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27416 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-504-000]

Southwest Gas Corporation; Application

October 4, 1983.

Take notice that on September 12, 1983, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP83-504-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the sale of natural gas for resale to Mohave Gas Trust (Mohave) and (2) the sale of natural gas to Pataya Storage Company (Pataya) for fuel, if the Commission deems such a sale jurisdictional under the Natural Gas Act, all as more fully described in the application that is on file with the Commission and open for public inspection.

Applicant states that its proposed sale to Mohave, a trust of which Applicant is trustor and beneficiary, is necessary to provide a cost-effective means of financing the gas inventory proposed to be stored by Applicant in the proposed storage facility of Pataya.[1] Applicant states that it would sell to Mohave gas, surplus to its system requirements, which would be injected into Pataya's proposed storage facility and resold to Applicant when required by Applicant. Applicant states that sales to Mohave would be made at actual incurred cost, according to the terms and conditions set forth in the proposed *pro forma* Gas Sales Agreement, to be filed as Applicant's FERC Gas Tariff Original Volume No. 2, Rate Schedule X-2.

Applicant states that its proposed sale to Pataya would be for fuel use in operating compressors, dehydrators and other facilities as well as for space heating of plant facilities. Applicant states that Pataya would receive the fuel gas at the proposed Mohave County, Arizona, interconnection of Pataya's proposed pipeline and El Paso's main transmission pipeline. Pataya would inject volumes purchased for fuel use into its proposed storage facility and withdraw the gas for consumption as necessary. Consequently, the fuel gas proposed to be sold to Pataya by Southwest would be commingled in Pataya's proposed facilities with storage volumes that may eventually be withdrawn from storage and transported to Applicant's distribution operation in southern Nevada and Arizona.

Applicant submits that the proposed sale to Pataya is a direct sale not subject to regulation under the Natural Gas Act. However, if the Commission determines that the proposed sale to Pataya is subject to the Commission's jurisdiction, Applicant requests that it be issued a certificate of public convenience and necessity authorizing the sale.

Applicant states that it would sell gas to Pataya for fuel use at its actual incurred cost according to the terms and conditions set forth in Applicant's proposed *pro forma* FERC Gas Tariff, Original Volume No. 2, Rate Schedule X-3.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 25, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27409 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP70-7-025]

Southern Natural Gas Company; Petition To Amend

October 3, 1983.

Take notice than on August 31, 1983, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7-025 a petition to amend the order issued October 29, 1969,[1] in Docket No. CP70-7-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the consolidation of two delivery points in Trussville, Alabama, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Southern states that it was authorized by the order issued October 29, 1969, to deliver a contract demand of 16,000 Mcf of natural gas per day to the Utilities Board of Trussville, Alabama (Trussville), delivering 13,600 Mcf at the Huffman delivery point and the remaining 2,400 Mcf at the Trussville area delivery point, which is comprised of Meter Station Nos. 1 and 2. Since these deliveries commenced, Southern states that Trussville has modified its distribution system so as to be able to serve its customers through either delivery point. Southern proposes herein to deliver 16,000 Mcf of gas per day at the Tressville area delivery point, to delete the Huffman delivery point and to designate the receiving station at the Huffman delivery point as Meter Station No. 3 at the Trussville area delivery point.

Southern asserts that the proposed amendment would not change the contract demand delivered to Trussville, would not have an adverse impact on deliveries to customers of Trussville or Southern and would not require construction of new facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Oct. 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27421 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-495-000]

United Gas Pipe Line Company; Request Under Blanket Authorization

October 4, 1983.

Take notice that on September 2, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-495-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to abandon by sale to the Mobile Gas Service Corporation (Mobile) approximately 4,340-feet of 2-inch pipeline, and to construct and operate a sales tap for the continued delivery of natural gas to its local area distributor under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United indicates that Mobile, a local distributor customer, presently serving the two residential customers has consented to the abandonment. United also states that the customers would not be abandoned, as Mobile would continue to serve such customers efficiently.

Also, United proposes the construction and operation of a sales tap which would be operated from an existing tap located at the intersection of United's 14-inch Jackson-Mobile line. This tap would be utilized to deliver 50 Mcf of natural gas per year for residential use, it is states. United asserts that the proposed tap would not increase Mobile's contractual maximum daily quantity, not its entitlement under United's effective curtailment plan. Gas flowing through this tap would be sold under United's DG-N Rate Schedule, it is stated.

Cost of the sale of facilities to Mobile is estimated to be $10.00.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27412 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

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[2] Natural states that it has withheld certain payments totaling $294,934.63 from Respondents in an effort to recoup its prepayments.

[1] By order dated December 3, 1982, the Commission consolidated Pataya's application in Docket No. CP80-581-000/001, with the related application of El Paso Natural Gas Company (El Paso) in Docket No. CP81-308-000 and set both applications for formal evidentiary hearing.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP83-503-000]

United Gas Pipe Line Company; Request Under Blanket Authorization

October 4, 1983.

Take notice that on September 9, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-503-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to construct and operate a sales tap under authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to construct and operate a 1-inch sales tap on its existing 14-inch Bruni-Comal line in Duval County, Texas. United avers that the proposed tap would provide gas deliveries of approximately 100 Mcf annually to Entex, Inc. (Entex), an existing customer, which would in turn provide gas service to Roger S. Elliott for the commercial use of a small irrigation operation. It is submitted that there would be no increase in the distributor's contractual MDQ nor its entitlement under United's effective curtailment plan. United further states that it would provide this service pursuant to its Rate Schedule DG-S.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27413 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-505-000]

United Pipe Line Company; Request Under Blanket Authorization

October 4, 1983.

Take notice that on September 12, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-505-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to abandon the Mobile, Alabama, City Gates Nos. 1, 2, and 3 together with the appurtenances and laterals and to construct and operate measuring and regulating facilities in order to establish a new single delivery point through which Mobile Gas Service Corporation (MGSC), a distributor customer, can continue to service the City of Mobile and eight direct industrial customers for the account of United under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the requests on file with the Commission and open to public inspection.

United states that MGSC has agreed to the proposed abandonment. It is also stated that service to the eight direct industrial customers remains unchanged as their delivery points and gas volumes remain the same. No impact on United's existing service requirements is anticipated, it is asserted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27414 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-53-000]

Natural Gas Policy Act; Oklahoma Corporation Commission and Ladd Petroleum Corp.; Toews B No. 1 Well, FERC J.D. No. 81-27360; Petition To Reopen and Vacate Final Well Category Determinations and Request To Withdraw

October 4, 1983.

On September 6, 1983, Ladd Petroleum Corporation (Ladd) filed with the Federal Energy Regulatory Commission (Commission) a request that its application for the determination that natural gas from the Toews B #1 Well qualifies as stripper well natural gas pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981), be withdrawn. An affirmative determination on the application was made by the Oklahoma Corporation Commission (Oklahoma), and became final on June 11, 1981, pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

Ladd states that its section 108 filing was made based on residue volumes measured at the plant tailgate.

Ladd asserts that it collected the NGPA section 108 rate for the period of August 1980 through June 1981. On September 18, 1981, Ladd filed a petition seeking clarification of the Commission's regulations to determine whether qualification as a stripper well under section 108 may be based on the measurement of residue volumes of gas at the plant tailgate after the production of natural gas liquids, including reduction of wellhead volumes used as plant and compressor fuel. Effective July 1, 1981, Ladd suspended collection of the NGPA section 108 rate for wells that would disqualify under § 27.804(a)(2) if volumes of gas used as plant and compressor fuel were ultimately determined to be included in calculating volumes of production under section 108 pending action on Ladd's petition. The Commission in an order issued July 22, 1983 in Docket No. GP83-2-000 denied Ladd's petition. Production from the subject well show that it exceeds the allowable production of 60 Mcf per day provided in NGPA section 108. Ladd states that refund of the section 108 payments in excess of the otherwise applicable section 104 rate, including interest, was made to the purchaser on August 1, 1983. Ladd states that a refund report will be filed, on the referenced well, along with the other wells affected by the Commission order issued July 22, 1983.

The Commission hereby gives notice that the question of whether refunds plus interest, as computed under § 154.102(c) will be required is a matter which is subject to review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27410 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-54-000]

Oklahoma Corporation Commission and Union Texas Petroleum; Crosswhite-Duncan No. 2 Well, FERC J.D. No. 83-38899; Petition To Reopen and Vacate Final Well Category Determinations and Request To Withdraw

October 4, 1983.

On August 29, 1983, Union Texas Petroleum, (Union Texas) filed with the Federal Energy Regulatory Commission (Commission) a copy of its request to the Oklahoma Corporation Commission (Oklahoma) that its application for the determination that natural has from the Crosswhite-Duncan #2 Well qualifies as stripper well natural gas pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981), be withdrawn. An affirmative determination on the application was made by Oklahoma, and became final on July 10, 1983, pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

Union Texas states that its section 108 filing was made based on the best information available at the time, but it has since been discovered that the Crosswhite-Duncan #2 Well had been temporarily abandoned at the time of the application. Union Texas further states that it has not collected any section 108 stripper prices for this well's production.

The Commission hereby gives notice that the question of whether refunds plus interest, as computed under § 154.102(c) will be required is a matter which is subject to review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27411 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-426-000]

Greenwood Mills, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 4, 1983.

On September 13, 1983, Greenwood Mills, Inc., (Applicant) of 104 Maxwell Avenue, Greenwood, South Carolina 29648-1017, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Applicant's Liner Plant on U.S. Highway 21 south of Orangeburg, South Carolina. The primary energy source for the facility will be coal. The electric power production capacity of the facility will be 5,900 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27405 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-423-000]

Kern River Cogeneration Company; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 4, 1983.

On September 12, 1983, Kern River Cogeneration Company, (Applicant) of Route 1, Box 197-X, Bakersfield, California 93308, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in the Kern River Oil Field in Kern County, California. The primary energy source for the facility will be natural gas, and low sulfur distillate fuel oil will be used as a backup fuel. The electric power production capacity of the facility will be 300 megawatts. Southern Sierra Energy Company, a wholly owned subsidiary of the Southern California Edison Company, owns a 50 percent equity interests in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publicaiton of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27406 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

VOL 48 ISS 196 OCT 7 1983 UMI

[Docket No. QF83-412-000]

Owen-Illinois, Inc.-Orange Facility; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 3, 1983.

On September 6, 1983, Owens-Illinois, Inc., (Applicant) of One Sea Gate, Toledo, Ohio 43666, filed with the Federal Energy Regulatory Commission (Commission) and application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located at the Applicant's pulp and paper linerboard mill in Orange, Texas. The primary energy source for the facility is biomass. The electric power production capacity of the facility is 32.5 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27417 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-415-000]

Pelican Management Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 3, 1983.

On September 6, 1983, Pelican Management Inc. (Applicant) of 330 West 58th Street, New York, New York 10019, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneraton facility will be located at Seagirt Boulevard in Far Rockaway, New York. The facility will consist of two internal combustion engines with waste heat recovery equipment. The primary energy source for the facility will be diesel fuel. The electric power production capacity of the facility will be 628 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27418 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-406-000]

Piru Creek Solar-Hydro, A California Limited Partnership; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 3, 1983.

On August 29, 1983, Piru Creek Solar-Hydro, A California Limited Partnership, (Applicant), c/o Fluid Energy Systems, Inc., 210 Wilshire Boulevard, #699, Santa Monica, California 90403, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be located along Piru Creek in Ventura County, California. The facility will consist of a hydropower dam, a powerhouse, a buried pipeline/penstock system, and a solar powered pumping system. The electric power production capacity of the facility will be 1,965 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-27419 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-418-000]

Prest Enterprises, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 3, 1983.

On September 8, 1983, Prest Enterprises, Inc., (Applicant) of 468 Plum Avenue, P.O. Box 7065, Memphis, Tennessee 38107-0065, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located 468 Plum Avenue in Memphis, Tennessee. The primary energy source for the facility will be biomass in the form of wood waste. The electric power production capacity of the facility will be 200 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27420 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-330-000]

South Fork Hydroelectric Association; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 4, 1983.

On June 27, 1983, South Fork Hydroelectric Association, Suite 2320, 3435 Wilshire Boulevard, Los Angeles, California 90010 (Attn: Carl G. Allen, Proprietor), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 4,950 kW hydroelectric installation located near Onyx in Kern County, California. The facility will consist of a diversion structure on the South Fork Kern River, an 8,500 foot conduit, a powerhouse, and a 13.8 kV transmission line approximately 2.75 miles long.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27468 Filed 10-6-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Order Filed; Period of August 29 through September 9, 1983

During the period of August 29 through September 9, 1983, the notice of objection to a proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

September 29, 1983.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

Sound Refining, Inc., Tacoma, Washington, HRO-0189, Crude Oil

On September 6, 1983, Kalama Chemical, Inc. of Kalama, Washington, and Kenneth Cory, Controller of the State of California, each filed a Notice of Objection to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration of the Department of Energy issued to Sound Refining, Inc. (Sound), presently a subsidiary of Crysen Corporation of Santa Ana, California, on July 20, 1983. The PRO charges Sound with entitlements violations in connection with Sound's participation in the Entitlements Program during the reporting period August 1976 through May 1977.

According to the PRO the Sound violations totalled $2,752,804.79 plus interest.

[FR Doc. 83-27454 Filed 10-6-83; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of September 12 Through September 16, 1983

During the week of September 12 through September 16, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

September 30, 1983.

Richard T. Tedrow,

Acting Director Office of Hearings and Appeals.

Apex Oil Company, St. Louis, Missouri, HRO-0190, Crude Oil

On September 12, 1983, Apex Oil Company, 212 S. Central Avenue, St. Louis, Missouri, filed a Notice of Objection to a Proposed Remedial Order which the Tulsa, Oklahoma, District Office of Enforcement issued to the firm on August 11, 1983. In the PRO, the Tulsa District Office found that during the period April 1978 through January 1979, Apex Oil Company sold crude oil at prices exceeding maximum lawful levels. According to the PRO, the Apex Oil Company violation resulted in $5,974,033.22 of overcharges.

Energy Exchange Company, Inc., Bakersfield, California, HRO-0191, Crude Oil

On September 14, 1983, Energy Exchange Company, Inc., 2000 Oak Street, Bakersfield, California, filed a Notice of Objection to a Proposed Remedial Order (PRO) issue to the firm on August 5, 1983. In the PRO, the San Francisco Office of the Economic Regulatory Administration found that during the period April 1976 through December 1977 the firm violated 10 CFR Part 212, Subparts F and L, by: (1) selling crude oil at prices in excess of the maximum lawful selling prices; (2) selling crude oil without proper certification; (3) altering and falsifying records; and (4) collecting "consulting fees" on certain sales of crude oil. Selected transactions in 1978 are also included in the PRO. According to the PRO, the violations resulted in $2,260,649.00 of overcharges.

[FR Doc. 83-27455 Filed 10-6-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-24397]

Availability of Environmental Impact Statements Filed September 12 Through September 16, 1983 Pursuant to 40 CFR Part 1506.9

Correction

In FR Doc. 83-26088 appearing on page 43402 in the issue of Friday,

September 23, 1983, make the following correction in the third column: In the third line, "Nov. 9, 1983" should read "Nov. 4, 1983".

BILLING CODE 1505-01-M

[ER-FRL-2444-2]

Availability of Environmental Impact Statements Filed September 19 Through September 23, 1983 Pursuant to 46 CFR Part 1506.9

Correction

In FR Doc. 83-26833 appearing on page 44902 in the issue of Friday, September 30, 1983, make the following correction in the second column: Under EIS No. 830508, in the fourth line, "Nov. 31, 1983" should read "Oct. 31, 1983".

BILLING CODE 1505-01-M

[Docket No. ECAO-CD-81-2; ORD-FRL 2441-2]

Draft Air Quality Criteria Document for Lead

Correction

In FR Doc. 83-26125 beginning on page 43724 in the issue of Monday, September 26, 1983, make the following correction. In column two, fourth line from the bottom, "Cincinnati, OH 45286" should read "Cincinnati, OH 45268".

BILLING CODE 1505-01-M

[ER-FRL 2447-2]

Availability of Environmental Impact Statements Filed September 26 Through September 30, 1983, Pursuant to 46 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities; General Information (202) 382-5075 or (202) 382-5076.

EIS No. 830524, Draft, COE, MI, Paw Paw Lake Flood Control Project, Berrien County, Due: Nov. 21, 1983
EIS No. 830525, FSuppl, FHW, MA, MA-25 Completion, Red Brook to Bourne Bridge, Plymouth/Barnstable Cos., Due: Nov. 9, 1983
EIS No. 830527, Final, COE, HI, Wailua River Hydropower Project, Construction, Kauai County, Due: Nov. 7, 1983
EIS No. 830528, Final, COE, HI, Hilo Harbor Deep Draft Navigation Improvements, Hawaii County, Due: Nov. 7, 1983
EIS No. 830529, Final, SCS, NY, Newton-Hoffman Creeks Watershed Flood Plan, Chemug and Schuyler Cos., Due: Nov. 7, 1983
EIS No. 830530, Final, EPA, TX, Malakoff Electric Generating Station and Trinity Mine, NPDES Permit, Due: Nov. 7, 1983
EIS No. 830531, Final, BLM, WY, Divide Resource Area Livestock Grazing Management Program, Due: Nov. 7, 1983
EIS No. 830532, Draft, FHW, NY, Taconic State Parkway Reconstruction, Westchester County, Due: Nov. 21, 1983
EIS No. 830533, FSuppl, IBR, OK, McGee Creek Water Resources Development, Atoka County, Due: Nov. 7, 1983
EIS No. 830534, Draft, BLM, NV, Lahontan Resource Area, Resource Management Program, Due: Jan. 23, 1984
EIS No. 830535, Final, BLM, WY, Salt Wells-Pilot Butte Livestock Grazing Mgmt., Sweetwater/Uinta Cos., Due: Nov. 7, 1983
EIS No. 830536, Final, BLM, ID, Big Lost-Mackay Planning Units, Livestock Grazing Management Program, Due: Nov. 7, 1983
EIS No. 830537, Final, BLM, UT, Tooele Planning Area, Grazing Management Program, Due: Nov. 7, 1983
EIS No. 830538, Final, COE, WA, East, West and Duwamish Waterways Improvement, King County, Due: Nov. 7, 1983
EIS No. 830539, DRevised, BLM, NM, San Juan River Regional Coal Leasing and Development, Due: Nov. 21, 1983
EIS No. 830540, Draft, BIA, AZ, Firebird Football Stadium Construction, Maricopa County, Due: Nov. 21, 1983
EIS No. 830541, Final, NRC, WI, Pt. Beach Nuclear Plant, Unit #1, Generator Repair, License Amendment, Due: Nov. 7, 1983

Amended Notice:

EIS No. 820735, Final, EPA, MXG, Offshore Platform Hazardous Waste Incineration Facility, Published FR 11-19-82—Officially withdrawn

Dated: October 4, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-27438 Filed 10-6-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS—140039; TSH-FRL 2445-8]

ICF Inc., et al.; Transfer of Data to Contractor and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, ICF Inc. and its subcontractors: Putnam, Hayes, and Bartlett, Inc. (PHB), PEDCo Environmental, Inc. and Sobotka and Co., information which has been or will be submitted to EPA under sections 4, 6 and 8 of the Toxic Substances Control Act (TSCA). These firms (either individually or as a team) will review this information and use it to evaluate the potential economic impacts of regulatory actions taken under section 6 of TSCA.

DATE: The transfer of confidential data submitted to EPA will occur no sooner than 10 working days after date of publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, D.C. 20460, Toll-Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: The Office of Toxic Substance (OTS) is responsible for evaluating the need for, and where necessary developing, regulatory actions to reduce unreasonable rusks of injury to health or the environment from chemicals that are already in commerce. In the evaluation process, EPA considers various factors (e.g., exposure levels, engineering controls to control exposure, the uses and substitutes of the various chemicals and their toxicity profiles, etc.) before deciding to proceed with a regulatory action. When a regulatory action for a specific chemical is warranted and developed, the Agency considers the potential economic impact of the control requirements (e.g., engineering controls or personal protection equipment, etc.) and other regulatory options. ICF Inc. and its subcontractors, PHB, PEDCo Environmental, and Sobotka and Co., are currently providing support (under Contract No. 68-02-3935) to IPA in performing these engineering and economic evaluations in connection with the OTS Existing Chemicals Program as well as other regulatory activities (e.g., asbestos, PCBs, etc.) under section 6 of TSCA.

The engineering and economic analyses are based on data, such as current exposure levels, manufacturing processes, production levels or sales, and uses and substitutes, that are in the public domain or submitted by chemical manufacturers, processors or users. in some cases, this information is confidential and available for review only to authorized EPA employees and contractors that have been cleared and formally approved for access to such data.

In accordance with 40 CFR 2.306(j), EPA has determined that it will need to disclose to ICF Inc. and its subcontractors confidential business information submitted to EPA under sections 4, 6, and 8 of TSCA to perform work under the above-noted contract. Since these firms will review information that in some cases is confidential, EPA is issuing this notice to inform all submitters of data under sections 4, 6, and 8 of TSCA that these firms (either individually or working together as a team) may receive from EPA, on a need-to-know basis, confidential business information on specific chemicals that are under review or are subjects of regulatory actions. After completing their engineering or economic analysis for a specific chemical, any firm receiving confidential business information will return all such information to EPA.

ICF Inc. and its subcontractors PHB, PEDCo Environmental Inc., and Sobotka and Co. have been authorized to have access to TSCA confidential business information under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved the security plans of these four firms and has conducted the required inspections of the contractors' facilities and found them to be in compliance with the provisions of the manual. Personnel from these four firms will be required to sign a non-disclosure agreement before they are permitted access to confidential information in accordance with the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual.

Dated: September 2, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-27393 Filed 10-6-83; 8:45 am]

BILLING CODE 6560-50-M

[Docket No. WH-FRL-2446-7]

National Pollutant Discharge Elimination System Permit Decisions; Pulp, Paper, and Paperboard Point Source Category, Alaska; Additional Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of additional public hearing on tentative NPDES permit decisions.

SUMMARY: On September 16, 1983, the Environmental Protection Agency (EPA) provided notice of tentative National Pollutant Discharge Elimination System (NPDES) permit decisions, including: (1) The tentative decision to deny fundamentally different factors (FDF) variance requests, relating to Alaska Lumber and Pulp Company, Inc., Sitka, Alaska (ALP) and Louisiana-Pacific Corporation, Ketchikan, Alaska (LPK); (2) two public hearings on the tentative permit decisions scheduled in Sitka and Ketchikan, Alaska; (3) state certification; (4) state determination of consistency with the Alaska Coastal Zone Management Program, and (5) tentative decision to deny petition to establish an Alaska subcategory in the Pulp, Paper, and Paperboard Point Source Category (48 FR 41634). Today EPA Region X is providing notice of an additional public hearing to be held in Seattle, Washington on Novmber 7, 1983 on the tentative NPDES permit decisions.

Date and address of public hearing: The Hearing Officer designated by the Regional Administrator will conduct an additional public hearing on the matters as enumerated above, on November 7, 1983, at 2:30 p.m. at Park Place Building, Room 12A, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Further information on these actions, and requests for copies of the Tentative Decision, Tentative Decision Support Document and draft NPDES permits, may be obtained from Mr. Danforth Bodien, Region X, Environmental Protection Agency (M/S 329), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-1531 or Mr. Robert W. Dellinger, Environmental Protection Agency (WH-552), 401 M Street, SW., Washington, D.C. 20460, (202) 382-7137.

SUPPLEMENTARY INFORMATION: On September 14, 1983, ITT Rayonier Inc. submitted a request to the Regional Administrator to hold an additional public hearing on the tentative NPDES permit decisions in Seattle, Washington. EPA has granted this request.

The public comment period, addresses for submission of comments, and the times and locations of the Sitka and Ketchikan, Alaska public hearings remain unchanged.

Dated: September 30, 1983.

Ernesta B. Barnes,

Regional Administrator, EPA Region X.

[FR Doc. 83-27391 Filed 10-6-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59136; BH-FRL 2446-8]

Premanufacture Exemption Applications; Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: October 24, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59136]" and the specific TME number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

TME 83-82

Close of Review Period. November 11, 1983.

Importer. Confidential.

Chemical. (G) Substituted phosphonium borate.

Use/Import. Rubber additive. Import range: Confidential.

Toxicity Data. Acute oral: 160 mg/kg; Irritation: Skin—Very slight, Eye—Extremely; Ames Test: Non-mutagenic.

Exposure. No contact with the pure chemical. Minimal contact with compounds containing small percentage of the chemical, limited to industrial users.

Environmental Release/Disposal. Confidential.

TME 83-83

Close of Review Period. November 11, 1983.

Importer. Confidential.

Chemical. (G) Substituted phosphonium chloride

Use/Import. Rubber additive. Import range: Confidential.
Toxicity Data. Acute oral: 158 mg/kg: Irritation: Skin—Nonirritant, Eye—Extremely: Ames Test: Non-mutagenic.
Exposure. No contact with the pure chemical. Minimal contact with compounds containing small percentage of the chemical, limited to industrial users.
Environmental Release/Disposal. Confidential.

TME 83–84

Importer. Confidential.
Chemical. (G) Substituted phosphonium chloride, cadmium complex.
Use/Import. Rubber additive. Import range: Confidential.
Toxicity Data. Acute oral: 175; Irritation: Skin—Nonirritant, Eye—Extremely: Ames Test: Non-mutagenic.
Exposure. No contact with the pure chemical. Minimal contact with compounds containing small percentage of the chemical, limited to industrial users.
Environmental Release/Disposal. Confidential.

Dated: October 3, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

[FR Doc. 83–27389 Filed 10–6–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51487; TSH–FRL–2447–1]

Premanufacture Notices; Certain Chemicals

AGENCY: Envoronmenal Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** on May 15, 1979 (44 FR 28588) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirty-one PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83–1294, 83–1295, 83–1296, 83–1297, 83–1298, 83–1299 and 83–1300: December 21, 1983.
PMN 83–1301, 83–1302, 83–1303, 83–1304, 83–1305, 83–1306, 83–1307, 83–1308 and 83–1309: December 24, 1983.
PMN 83–1310, 83–1311, 83–1312, 83–1313, 83–1314, 83–1315, 83–1316, 83–1317, 83–1318, 83–1319, 83–1320 and 83–1321: December 25, 1983.
PMN 83–1322: December 26, 1983.
PMN 83–1323 and 83–1324: December 27, 1983.

Written comments by:

PMN 83–1294, 83–1295, 83–1296, 83–1297, 83–1298, 83–1299 and 83–1300: November 21, 1983.
PMN 83–1301, 83–1302, 83–1303, 83–1304, 83–1305, 83–1306, 83–1307, 83–1308 and 83–1309: November 24, 1983.
PMN 83–1310, 83–1311, 83–1312, 83–1313, 83–1314, 83–1315, 83–1316, 83–1317, 83–1318, 83–1319, 83–1320 and 83–1321: November 25, 1983.
PMN 83–1322: November 26, 1983.
PMN 83–1323 and 83–1324: November 27, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51487]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 as stated above.

PMN 83–1294

Manufacturer. Confidential.
Chemical. (G) Dimer acids monocarboxylic acid, dicarboxylic acids, diamines polyamide resin.
Use/Production. (S) Industrial water-borne flexographic printing inks. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submittted.
Exposure. Confidential.
Environmental Release/Disposal. Less than 0.1 kg/batch released to water with less than 2 kg/batch to land. Disposal by landfill.

PMN 83–1295

Manufacturer. Confidential.
Chemical. (G) Alkyl (substituted-phenyl) alkylate.
Use/Production. (G) Site-limited manufacturing intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. None.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83–1296

Manufacturer. Milliken & Company.
Chemical. (G) Polyol acetal.
Use/Production. (G) Polymer additive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 83–1297

Manufacturer. Confidential.
Chemical. (G) Polyurethanes.
Use/Production. (G) Coating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1298

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Acrylic copolymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 2 persons/shift, 8 hrs/shift, 3 shifts/da, up to 48 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration, approved landfill and Resource Conservation and Recovery Act (RCRA) regulations.

PMN 83–1299

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Styrene acrylic copolymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 2 persons/shift, 8 hrs/shift, 3 shifts/da, up to 48 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration, approved landfill RCRA regulations.

PMN 83–1300

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Fatty acid mercaptan acrylic copolymer.

Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manuracture: dermal and inhalation, a total of 2 persons/shift, 8 hrs/shift, 3 shifts/da, up to 53 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration, approved landfill and RCRA regulations.

PMN 83–1301

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Polymer of aliphatic and alicyclic diamines and aliphatic and benzene dicarboxylic acids.
Use/Production. (S) Parts for automotive, electrical, and mechanical devices. Prod. range: 300,000–900,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal, a total of 120 workers, up to 8 da/yr.
Environmental Release/Disposal. 65,000–120,000 kg released to land.

PMN 83–1302

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Polymer of aliphatic and alicyclic diamines and aliphatic and benzene dicarboxylic acids.
Use/Production. (S) Parts for automotive, electrical, and mechanical devices. Prod. range: 300,000–900,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal, a total of 120 workers, up to 8 da/yr.
Environmental Release/Disposal. 65,000–120,000 kg released to land.

PMN 83–1303

Manufacturer. Confidential.
Chemical. (G) Dimethyl siloxanes and silicones.
Use/Production. (G) RIM release agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 2 workers, up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. Release to air. Disposal by publicly owned treatment works (POTW) and RCRA regulations.

PMN 83–1304

Manufacturer. Confidential.
Chemical. (G) Dimethyl siloxanes and silicones.
Use/Production. (G) RIM release agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 2 workers, up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. Release to air. Disposal by POTW and RCRA regulations.

PMN 83–1305

Manufacturer. Confidential.
Chemical. (G) Naphthalene, dialkylated.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 9 workers.
Environmental Release/Disposal. Release to land. Disposal by incineration and approved landfill.

PMN 83–1306

Manufacturer. Confidential.
Chemical. (G) Dialkylated naphthalenesulfonic acid.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers.
Environmental Release/Disposal. Release to land. Disposal by incineration and approved landfill.

PMN 83–1307

Manufacturer. Confidential.
Chemical. Dialkylated naphthalene sulfonic acid barium salt.
Use/Production. (G) Coating component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 workers.
Environmental Release/Disposal. 3 kg/batch released to land. Disposal by incineration and approved landfill.

PMN 83–1308

Manufacturer. Confidential.
Chemical. (G) Benzo-heterocyclic.,2-[(4-[alkyl(2-hydroxyalkyl)amino]phenyl]-azo)-6-methoxy-3-alkyl-,chloride.
Use/Production. (S) Industrial textile dye. Prod. range: Confidential.
Toxicity Data. Acute oral: 8,000 mg/kg; Irritation: Skin-Slight, Eye-Moderate.
Exposure. Manufacture, processing and disposal: dermal and inhalation, a total of 9 workers, up to 3 hrs/da, up to 28 da/yr.
Environmental Release/Disposal. Less than 20 kg/yr released to air with less than 10 to 100 kg/yr to water. Disposal by POTW.

PMN 83–1309

Manufacturer. Confidential.
Chemical. (G) Polymer with methyl methacrylate, butyl acrylate, and hydroxy functional acrylic monomers.
Use/Production. (G) Coating for industrial applications. Prod. range: 100,000–250,000 kg/hr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 9 workers, up to 8 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. .5 kg/batch released to water with .5 to 10 kg/batch to land. Disposal by POTW and approved landfill.

PMN 83–1310

Importer. Kay-Fries, Inc.
Chemical. (S) mercaptopropyl methyl dimethoxy silane.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Import: dermal, a total of 1-worker, up to 0.25 hr/da, up to 12 da/yr.
Environmental Release/Disposal. No data submitted.

PMN 83–1311

Manufacturer. Confidential.
Chemical. (G) Phenolated rosin-modified alkyd.
Use/Import. (G) Varnishes for printing inks. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release. Disposal by POTW.

PMN 83–1312

Manufacturer. Confidential.
Chemical. (G) Urethane acrylate.
Use/Production. (G) Adhesive component. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release.

PMN 83–1313

Manufacturer. Confidential.
Chemical. (G) Modified, maleated metal resinate.
Use/Production. (S) Industrial publication gravure printing inks. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 8 workers.
Environmental Release/Disposal. Less than 0.2 kg/batch released to water with less than 2 kg/batch to land. Disposal by incineration and approved landfill.

PMN 83–1314

Manufacturer. Confidential.
Chemical. (G) Isocyanatoarylsilane.
Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1315

Manufacturer. Confidential.
Chemical. (G) Rosin modified alkyd.
Use/Production. (G) Varnish for printing inks. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release. Disposal by POTW.

PMN 83–1316

Manufacturer. Confidential.
Chemical. (G) Alkyl fatty ester.
Use/Production. (G) Cosmetic additive lubricant. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Irritation: Skin Minimal.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1317

Manufacturer. Confidential.
Chemical. (G) Neopentylglycol alkyl ester.
Use/Production. (G) Hydraulic fluid lubricant. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Irritation: Skin Slight.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1318

Manufacturer. Confidential.
Chemical. (G) Methyl fatty acid esters.
Use/Production. (G) Chemical intermediate for cosmetic and lubricant production. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83–1319

Importer. Henley & Company, Inc.
Chemical. (S) Cesium bicarbonate.
Use/Import. (G) Used for manufacture of other cesium chemicals. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 83–1320

Manufacturer. Ashland Chemical Company.
Chemical. (G) Polymer of acrylic acid, acrylic acid esters, and methacrylic acid esters.
Use/Production. (G) Commercial use on labels, decals, signs, bumper stickers, etc. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 6 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 13 kg/batch released to air.

PMN 83–1321

Manufacturer. Chem-tronics, Inc.
Chemical. (G) Benzophenotetracarboxy imide amide prepolymer.
Use/Production. (G) Foam insulation, setting foam and panels for aircraft and naval vessels. Prod. range: 1,900–6,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 9 workers.
Environmental Release/Disposal. No release. Disposal by POTW.

PMN 83–1322

Manufacturer. Confidential.
Chemical. (G) Modified, maleated metal resinate.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Less than 0.2 kg/batch released to water with less than 2 kg/batch to land.

PMN 83–1323

Manufacturer. Confidential.
Chemical. (G) Acrylourethane.
Use/Production. (G) Coatings/adhesives for open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1324

Manufacturer. Confidential.
Chemical. (G) Polyester amide.
Use/Production. (G) Binder resin for printing inks. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, dermal.
Environmental Release/Disposal. No release. Disposal by POTW.

Dated: October 3, 1983.

Linda A. Travers,

Acting Director Management Support Division.

[FR Doc. 83–27388 Filed 10–6–83; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Meeting

The Consumer Advisory Council will meet on Wednesday, October 26, and Thursday, October 27. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The October 26 session is expected to begin at 1:00 p.m. and to continue until 5:00 p.m. The October 27 session is expected to begin at 9:00 a.m. and to conclude at 3:00 p.m., with a lunch break from 1:00 to 2:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C. The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will consider the following topics:

1. *Review of the Board's Credit Card Study.* Discussion of the findings of the Board's credit card study of the economic effects of charge card usage on consumers, merchants, and card issuers; the study was mandated by the Cash Discount Act of 1981.

2. *Implications of Recent Deregulatory Initiatives in the Area of Consumer Financial Protection.* Discussion of: (1) Possible implications of the Administration's bank holding company deregulation proposal on consumer financial protection legislation and regulation, and (2) ways to help consumers cope with the realities of a deregulated marketplace.

3. *Strengthening the Consumer Credit Fraud Statutes.* Discussion of: (1) The magnitude of consumer credit fraud in the United States today, and (2) proposed legislation to expand existing law so that more cases of card fraud become federal offenses.

4. *Bankruptcy Reform.* Discussion of: (1) Whether individuals should be denied relief under Chapter 7 of the Bankruptcy code if it is shown that they have the potential to repay their debt out of future earnings, and (2) a recent U.S. General Accounting Office study that takes a before-and-after look at the Bankruptcy Reform Act of 1978.

5. *Evaluation of the Consumer Advisory Council.* Remarks by Council members whose terms expire at year-end regarding their experience on the Council; discussion of: (1) Ways in which the Council's usefulness and effectiveness could be increased, (2) whether the scope of the Council should be expanded to include providing advice and counsel to all the federal financial regulators and supervisors, and (3) ways to utilize the expertise of former Council members.

6. *Regulatory Update.* Status report on recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Ann Marie Bray, Staff Assistant, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Friday, October 21, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Jospeh R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, October 3, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–27352 Filed 10–6–83; 8:45 am]
BILLING CODE 6210–01–M

Acquisition of Bank Shares by Bank Holding Companies; Banks of Iowa, Inc. and First of Murphysboro Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Banks of Iowa, Inc.*, Des Moines, Iowa; to acquire 100 percent of the voting shares or assets of Reed Street Company, Inc. and thereby indirectly acquire The Montgomery County National Bank, both of Red Oak, Iowa. Comments on this application must be received not later than November 2, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *First of Murphysboro Corp.*, Murphysboro, Illinois; to acquire at least 80 percent of the voting shares or assets of The First National Bank of Grand Tower, Grand Tower, Illinois. Comments on this application must be recieved not later than November 2, 1983.

Board of Governors of the Federal Reserve System, October 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–27353 Filed 10–6–83; 8:45 am]
BILLING CODE 6210–01–M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities; Bank of New England Corp., et al.

The organizations indentified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency; that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound backing practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of New England Corporation*, Boston, Massachusetts (real and personal property leasing and asset-based lending; United States and overseas): To engage through its subsidiary, NEMCO Leasing Corporation (NEMCO), in leasing real and personal property and in making loans secured by mortgages and by security interests in equipment in accordance with Regulation Y. These activities would be conducted from NEMCO's existing office in Boston, Massachusetts and the service area for these activities would be the United States and foreign countries. Comments on this application must be received not later than October 31, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bancorp*, Los Angeles, California (discount brokerage activities; United States): To engage, through its subsidiary, First Interstate Discount Brokerage, in discount brokerage activities by buying and selling securities solely as agent for the account of customers, without providing underwriting or investment advisory services; and in securities credit lending pursuant to Regulation T. These activities would be conducted from offices in San Francisco, California, serving the United States. Comments on this application must be received not later than October 24, 1983.

2. *Midland Bank PLC* and *Midland California Holdings Limited*, both of London, England, and *Crocker National Corporation*, San Francisco, California (trust, fiduciary and data processing activities; in the western and southern Pacific Ocean region, the State of Alaska, South Korea, Japan, Hong Kong, Republic of China, Singapore, Australia and New Zealand): To engage through a subsidiary, Bishop Trust Company, Limited, in trust, fiduciary and data processing activities. These activities would be conducted from offices of Hawaii or Guam and through independent agents serving Islands of the Western and Southern Pacific Ocean region, including but not limited to the commonwealth of the Northern Mariana Islands (which includes Saipan), the Republic of the Marshall Islands, the Federated States of Micronesia (which included Ponape, Truk, Kosrae and

Yap), the Republic of Nauru, the Republic of Palau, American Samoa (a U.S. territory), Western Samoa (an independent state), Fiji and Tahiti; the State of Alaska, the Republic of Korea, Japan, Hong Kong, the Republic of China, Singapore, Australia, and New Zealand. Comments on this application must be received not later than November 2, 1983.

3. *Wells Fargo & Company*, San Francisco, California (issuance of travelers checks; California): To engage in the issuance of traveler's checks, which will be sold by its subsidiary, Wells Fargo Bank, N.A., acting as agent for the issuer. This activity would be conducted from the offices of Wells Fargo Bank, N.A. throughout the State of California, serving the entire State of California. Comments on this application must be received not later than November 2, 1983.

Board of Governors of the Federal Reserve System, October 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27357 Filed 10-6-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Howard Bancorp, et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Howard Bancorp*, Burlington, Vermont; to become a bank holding company by acquiring 100 percent of the voting shares of The Howard Bank, N.A., Burlington, Vermont. Comments on this application must be received not later than November 1, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Bank of Kentucky Corporation*, Maysville, Kentucky; to become a bank holding company by acquiring at least 90 percent of the voting shares of Bank of Maysville, Maysville, Kentucky. Comments on this application must be received not later than November 1, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Ontario Bancorporation, Inc.*, Ontario, Wisconsin; to become a bank holding company by acquiring 84.6 percent of the voting shares of Bank of Ontario, Ontario, Wisconsin. Comments on this application must be received not later than November 2, 1983.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Clinton Bancshares, Inc.*, Little Rock, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of Clinton State Bank, Clinton Arkansas. Comments on this application must be received not later than November 1, 1983.

Board of Governors of the Federal Reserve System, October 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27354 Filed 10-6-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; River Region Bancshares, Inc.

River Region Bancshares, Inc., Fordsville, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83.5 percent or more of the voting shares of Bank of Fordsville, Fordsville, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

River Region Bancshares, Inc., Fordsville, Kentucky, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Fordsville Insurance Agency, Inc., Fordsville, Kentucky.

Applicant states that the proposed subsidiary would engage in the activities of agent for credit life and health insurance sales. These activities would be performed from offices of Applicant's subsidiary in Fordsville, Kentucky, and the geographic areas to be served are within a twelve mile radius of the city of Fordsville, Kentucky. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competiton, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than November 3, 1983.

Board of Governors of the Federal Reserve System, October 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27356 Filed 10-6-83; 8:45 am]

BILLING CODE 6210-01-M

Merger of Bank Holding Companies; Midwest Financial Group, Inc.

Midwest Financial Group, Inc., Peoria, Illinois, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with CNB Bancorp Inc., Decatur, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Midwest Financial Group, Inc., is also engaged in the following nonbank activities: reinsuring credit life, and accident and health coverage. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 3, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27355 Filed 10-6-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 30.

Public Health Service

National Institutes of Health

Subject: Mesothelioma and employment (0925-0183)—extension/no change
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Office of the Assistant Secretary for Health

Subject: Survey of the Antecedents, Mediators, and Health Consequences of Stress—new
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Health Resources and Services Administration

Subject: Certification of Ownership and Use Status of Hill-Burton Aided Facilities—new
Respondents: State or local governments, not for profit institutions
Subject: Evaluation of the Administration Compliance Cost and Impact of the Inflation Factor for Titles VI and XVI Assisted Facilities—new
Respondents: Not for profit institutions
Subject: Evaluation of the Impact and Effectiveness of Titles VI and XVI Uncompensated Services Assurance—new
Respondents: Not for profit institutions
Subject: Uncompensated Services Assurance Report—new
Respondents: Not for profit institutions
Subject: Health Professions Student Loan (HPSL) Program Promissory Note—new
Respondents: Individuals and households; not for profit institutions
Subject: Nursing Student Loan (NSL) Program Promissory Note—new
Respondents: Individuals or households; not for profit institutions
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Provider Reimbursement Manual, Part 1, Chapter 27 Sections 2721, 2722 and 2725 (0938-0296)—extension/no change
Respondents: End Stage Renal Disease facilities participating in the Medicare program
Subject: Health Prepayment Data Card Coding Sheet (0938-0161)—reinstatement/no change
Respondents: Group medical plans participating in the Medicare program
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Subject: Community Service Assurance Report (Hill-Burton) (0990-0096)—revision
Respondents: Hill-Burton recipients
OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: Referral for Work Incentive Program Registration (Individual) (IM-3) (0980-0111)—extension/no change
Respondents: Local income maintenance units
Subject: Work Incentive Program Certification Report (117-A); Separate Administrative Unit (SAU-4); Work Incentive Program Grant Change Report (117-B); Work Incentive Program Grant Change Record (IM-9) (0980-0157)—extension/no change
Respondents: State and local WIN programs
OMB Desk Officer: Milo Sunderhauf

Social Security Administration

Subject: Annual Statistical Report on Children in Families and in Foster Homes Receiving Aid to Families with Dependent Children Payments in Excess of the Poverty Level (0960-0150)—reinstatement
Respondents: State agencies administering the AFDC program
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer)

Dated: October 3, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-27304 Filed 10-6-83; 8:45 am]

BILLING CODE 4150-04-M

National Institutes of Health

Board of Scientific Counselors, NINCDS; Meeting

Pursuant to the Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, November 17 and 18, 1983, Conference Room 1B07, Building 36, Bethesda, Maryland. This meeting will be open to the public on November 17 from 9:00 a.m.-5:00 p.m. to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:00 a.m. until the conclusion of the meeting on November 18 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Mr. Edward M. Donohue, Federal Building, Rm. 1004, 7550 Wisconsin Avenue, Bethesda, MD 20205, telephone 301/496-9231, will furnish

summaries of the meeting and rosters of committee members.

The Executive Secretary from whom substantive program information may be obtained is Dr. Irwin J. Koplin, Director, Intramural Research Program, NINCDS, Building 10, Room 5N214, NIH, Bethesda, Maryland, 20205, telephone 301/496–4297.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research: No. 13.854, Biological Basis Research)

Dated: September 26, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-27371 Filed 10-6-83; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, on November 2, 3, and 4, 1983. On November 2 and 3, the meeting will be held in Room 428, Building 5, National Institutes of Health. On November 4, the meeting will be held in Conference Room 7A–24, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on November 2 from 8:30 a.m. until recess and on November 3 from 8:30 a.m. until noon. During this open session, the permanent staff of the Laboratory of Immunogenetics and of the Laboratory of Microbial Immunity will present and discuss their immediate past and present research activities.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting of the Board will be closed to the public on November 3 from 1:00 p.m. until recess and again on November 4 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Nancy Brun, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meeting and rosters of the Board members.

Dr. Kenneth W. Sell, Executive Secretary, Board of Scientific Counselors, NIAID, National Institutes of Health, Building 10, Room 11C103, telephone (301) 496–3006, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–301, National Institutes of Health)

Dated: September 16, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-27372 Filed 10-6-83; 8:45 am]

BILLING CODE 4140-01-M

Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on December 1–2, 1983, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on December 1, 1983 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 1, from approximately 9:30 AM until recess, and from 8:30 AM to adjournment on December 2, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health.)

Dated: September 23, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-27373 Filed 10-6-83; 8:45 am]

BILLING CODE 4140-01-M

Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National institutes of Health on November 12–13, 1983, at the Sheraton-Anaheim Hotel, 1015 W. Ball Road, Anaheim, California, 92802.

This meeting will be open to the public on November 12, 1983, from 8:00 p.m. until recess, to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung and Blood Institute.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 13, 1983, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. John L. Fakunding, Executive Secretary, NHLBI, Westwood Building, Room 550, Bethesda, Maryland 20205, phone (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research, National Institutes of Health.)

Dated: September 23, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-27370 Filed 10-6-83; 8:45 am]

BILLING CODE 4140-01-M

National Arthritis, Advisory Board et al.; Reestablishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the National Institutes of Health announces the reestablishment of the following committees by the Secretary of Health and Human Services under the general authority provided by 42 U.S.C. 217a (Section 222 of the Public Health Service Act). This reestablishment is necessitated by the expiration of the statute which provided establishment authority specific to these committees.

National Arthritis Advisory Board. This committee shall review and evaluate the implementation of the current Arthritis Plan; periodically update the Plan to ensure its continuing relevance; for the purpose of assuring the most effective use and organization of resources respecting arthritis, advise and make recommendations to the Congress and the Secretary, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, and the heads of other appropriate Federal agencies for the implementation and revision of the Plan.

National Diabetes Advisory Board. This committee shall review and evaluate the implementation of the current Diabetes Plan; periodically update the Plan to ensure its continuing relevance; for the purpose of assuring the most effective use and organization of resources respecting diabetes mellitus, advise and make recommendations to the Congress and the Secretary, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, and the heads of other appropriate Federal agencies for the implementation and revision of the Plan.

National Digestive Diseases Advisory Board. This committee shall review and evaluate the implementation of the current Digestive Diseases Plan; periodically update the Plan to ensure its continuing relevance; for the purpose of assuring the most effective use and organization of resources respecting digestive diseases, advise and make recommendations to the Congress and the Secretary, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, and the heads of other appropriate Federal agencies for the implementation and revision of the Plan.

The reestablishment of these committees will remain in effect until specific authorizing legislation is passed or until September 30, 1984, whichever occurs first.

Dated: October 6, 1983.

James B. Wyngaarden, M.D.,

Director, NIH.

[FR Doc. 83-27631 Filed 10-6-83; 12:25 pm]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Oil Shale Environmental Advisory Board; Meeting

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting of oil shale environmental advisory board.

SUMMARY: In accordance with the provisions of Pub. L. 92–463, notice is hereby given that a meeting of the Oil Shale Environmental Advisory Board (Panel) will be held on October 26 and 27, 1983, at the Grand Junction Hilton, 743 Horizon, Grand Junction, Colorado. The meeting will begin at 1:00 p.m. of Wednesday, October 26, and conclude at 4:00 p.m., Thursday, October 27.

DATE: The meeting will be held beginning at 1:00 p.m. October 26, and ending at 4:00 p.m., October 27.

ADDRESS: The meeting will be held at: The Grand Junction Hilton, 743 Horizon, Grand Junction, Colorado.

FOR FURTHER INFORMATION CONTACT: Ms. Elanor David, Office of the Oil Shale Advisory Panel, Department of the Interior, Room 1010, Building 67, Denver Service Center, Denver, Colorado 80225; (303) 234–3275.

SUPPLEMENTARY INFORMATION: The Oil Shale Environmental Policy Board (Panel) was established to assist the Department of the Interior in the performance of functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program.

The Panel will review a management plan for expended MIS retort on prototype lease Tract C–a proposed by Rio Blanco Oil Shale Company and a proposed off-tract disposal for the same project. Status reports will be received on the Cathedral Bluffs Project (Tract C–b) and the White River Shale Project (Tracts U–a and U–b). Briefings by a representative of the Synthetic Fuels Corporation and on the Bureau of Land Management's oil shale leasing program will be heard. The Panel will also hear reports from Department of the Interior field officials, and within the time constraints, consider any other pertinent items which come before it.

The meeting will be open to the public. It is expected that space will permit at least 75 persons in addition to the Panel members to attend the meeting. Interested persons may make brief presentations to the Panel or submit written statements. Requests for time on the agenda or for further information concerning the meeting should be made to the Panel Chairperson, Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 1010, Building 67, Federal Center, Denver, Colorado 80225; (303) 234–3275.

Minutes of the meeting will be available for public inspection at the Panel office 30 days after the meeting.

Dated: October 4, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-27444 Filed 10-6-83; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[INT DRMP/EIS 83–66]

Availability of the Draft Resource Management Plan/Environmental Impact Statement for the Lahontan Resource Area, Nevada

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of and Public Hearings on the Draft Resource Management Plan/Environmental Impact Statement for the Lahontan Resource Area, Carson City District, Carson, Nevada.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and Section 202 of the Federal Land Policy and Management Act of 1976, the BLM, Carson City District has prepared a combined Resource Management Plan/Environmental Impact Statement for the Lahontan Resource Area, Carson City District, Nevada.

SUPPLEMENTARY INFORMATION: The Lahontan Resource Management Plan/Environmental Impact Statement is a comprehensive land use planning document which establishes management actions and objectives for resource condition and use levels, the standards for monitoring and evaluating the plan's effectiveness, and the need for more detailed management plan(s) and support actions. It also is an environmental impact statement which analyzes the effects of implementing a multiple use resource management plan on 2.4 million acres of public land in the

east half of the Carson City District in Nevada. Four alternatives were considered along with the Preferred Alternative. They are: No Action, Commodity Production, Resource Protection and a Mid-Range Alternative. The affected environment is discussed and the environmental consequences occurring from each alternative are documented.

FOR FURTHER INFORMATION CONTACT:
Tom Owen, District Manager, Attn: RMP/EIS Team Leader, Carson City District Office, 1050 E. William St., Ste. 335, Carson City, NV 89701 (702) 882–1631.

Copies of the draft document are available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, 18th and C Streets, Washington, D.C. 20240
Bureau of Land Management, Nevada State Office, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520, (702) 784–5448
Bureau of Land Management, Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nevada 89102, (702) 385–6403
Bureau of Land Management, Winnemucca District Office, 705 East 4th Street, Winnemucca, Nevada 89445, (702) 623–3676
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nevada 89801
Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, (702) 289–4965
Bureau of Land Management, Carson City District Office, 1050 E. William Street, Carson City, Nevada 89701, (702) 635–5181
Bureau of Land Management, Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, Nevada 89820 (702) 635–5181

Also, copies are available for review at the following public libraries:

Carson City Library, 900 N. Roop St., Carson City, Nevada 89701
Churchill County Library, 553 South Maine Street, Fallon, Nevada 89406
Government Publications Dept., University of Nevada, Reno, Reno Library, Reno, Nevada 89557
Nevada State Library, Library Building, Carson City, Nevada 89710
Lyon County Library, Yerington, Nevada
University of Nevada, Reno, Getchall Library, Reno, Nevada 89507
University of Nevada, Las Vegas, James R. Dickinson Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154
Mineral County Library, 1st and D Streets, Hawthorne, Nevada 89415
Nye County Library, Tonopah, Nevada 89049
Washoe County Library, 1301 South Center Street, Reno, Nevada 89505

A copy of the Draft RMP/EIS or summary will be sent to all individuals, agencies, and groups who have expressed interest in the Lahontan Resource Area planning process, and a limited number of copies are available upon request to the District Manager at the above address.

DATES: Written comments concerning issues pertinent to the Lahontan Resource Area RMP/EIS will be accepted until January 3, 1984. Public hearings have been scheduled for November 9, 1983 at the Pioneer Hotel, 221 So. Virginia, Reno, Nevada and November 10 at the Churchill County Multi-Purpose Building, 225 Scheckler Road, Fallon, Nevada. At these hearings, testimony concerning wilderness and other issues will be accepted. Interested individuals, representatives of organizations, and public officials wishing to testify are requested to contact the District Manager for advance registration by 4:15, November 4, 1983. Oral testimony will be limited to 10 minutes.

Dated: September 27, 1983.
Edward F. Spang,
State Director, Nevada.
[FR Doc. 83-27253 Filed 10-6-83; 8:45 am]
BILLING CODE 4310-84-M

Utah, Colorado; Availability of Final Uinta-Southwestern; Utah Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, Department of the Interior, has prepared a final environmental impact statement (FEIS) analyzing coal tracts in central and southern Utah and west-central Colorado, for a proposed Federal coal lease sale in 1984.

ADDRESSES: Single copies of the FEIS may be obtained from the Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. In addition, review copies may be examined at the following locations:

Bureau of Land Management Area Office, 900 North 7th East, P.O. Box AB, Price, Utah 84501
Moab District Office, Bureau of Land Management, 125 West 2nd South, P.O. Box 970, Moab, Utah 84532
Cedar City District Office, Bureau of Land Management, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720
Richfield District Office, Bureau of Land Management, 150 East 900 North, P.O. Box 768, Richfield, Utah 84701
Kanab Resource Area Office, Bureau of Land Management, 320 North 1st East, P.O. Box 458, Kanab, Utah 84741
Uncompahgre Basin Resource Area Office, Bureau of Land Management, 336 South 10th, P.O. Box 1269, Montrose, Colorado 81401
Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202
Manti-LaSal National Forest, 599 West Price River Drive, Price, Utah 84501
Fishlake National Forest, 115 East 900 North, Richfield, Utah 84701
Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Ronald Bolander, Uinta-Southwestern Utah Coal Region EIS Leader, Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111. Telephone (801) 524–3133.

SUPPLEMENTARY INFORMATION: The FEIS analyzes environmental impacts that could result from leasing Federal coal in the Uinta-Southwestern Utah Coal Region. Four alternatives are considered: (1) Lease 27 tracts containing 1.907 billion tons of inplace coal, (2) Lease 22 tracts containing 1.668 billion tons of inplace coal, (3) Lease 20 tracts containing 1.316 billion tons of inplace coal, and (4) no competitive Federal coal leasing (No Action). Two tracts are located near Delta, Colorado, five near Alton, Utah, and 20 in central Utah. Alternative Two is the preferred alternative. The Hoffman Creek Tract in central Utah has been offered through an emergency lease sale in August 1983; title to the Federal coal in the Gooseberry Tract has been transferred to the State of Utah under the State Indemnity program. Both are included in the FEIS because of the timing of their availability relative to the proposed February 1984 regional sale.

About 700 copies of the draft EIS were sent to Federal, State, and local government agencies, non-governmental organizations, and private citizens for their review and comment. Public hearings were held in Kanab, Castle Dale, and Salt Lake City, Utah, and in Delta, Colorado. All substantive comments on the adequacy of the draft EIS have been responded to in the FEIS.

Dated: September 19, 1983.
Robert F. Burford,
Director.
[FR Doc. 83-29675 Filed 10-6-83; 8:45 am]
BILLING CODE 4310-84-M

Public Meeting; Known Geologic Structure Data Base; Future Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: Notice is hereby given that a public meeting will be held at the Bureau of Land Management's Eastern States Office to inform the public of the future availability of the Known Geologic Structure (KGS) Data Base for the Eastern States. The data base contains information concerning the locations of the KGS's in the 31 States east of and adjacent to the Mississippi River. Topics of discussion will include what type of data is contained in the data base, where the data base is available, how often the data base is updated, and how much a copy of the data base will cost. Public comments on the data base will be welcome.

DATE: The public meeting will be held at 10:00 a.m. on October 28, 1983, in the Public Room, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

FOR FURTHER INFORMATION CONTACT:
Bob Hall, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 235–2846; or Wink Hastings, Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 220, Milwaukee, Wisconsin 53203, (414) 291–4421.

Pieter J. VanZanden,
Acting Eastern States Director.
[FR Doc. 83-27198 Filed 10-6-83; 8:45 am]
BILLING CODE 4310-84-M

[Group 673]

Filing of Plat of Survey; California

September 29, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian
T. 9 S., R. 1 W.
T. 10 S., R. 1 W.

2. This plat, representing the dependent resurvey of a portion of the San Bernardino Meridian through Tps. 9 and 10 S., a portion of the Rancho Pauma boundary, portions of the south and west boundaries and subdivisional lines, and Homestead Entry No. 79, and the survey of the subdivision of sections 19, 29, 30, 31, and 32, T. 9 S., R. 1 W., San Bernardino Meridian, under Group No. 673, California, was accepted August 19, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,
Chief, Records and Information Section.
[FR Doc. 83-27349 Filed 10-6-83; 8:45 am]
BILLING CODE 4310-84-M

Idaho; Shoshone District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Advisory Council.

DATE: Thursday, November 10, 1983, at 9:00 a.m.

ADDRESS: BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT:
Jon Idso, Assistant District Manager for Resources, Shoshone District Office, P.O. Box 2 B, Shoshone, Idaho 83352. Telephone (208) 886–2206 or FTS 554–6576.

SUPPLEMENTARY INFORMATION: The approved agenda for the meeting includes the following items:

Discussion and Review of Alternatives for the Monument RMP

The Shoshone District Advisory Council is established under Section 309 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579; 43 U.S.C. 1701 et seq.), as amended. Operation and administration of the Council will be in accord with the Federal Advisory Committee Act of 1972 (Pub. L. 92–463; 5 U.S.C. Appendix 1) and Department of Interior and BLM regulations, including 43 CFR 1784.

The meeting will be open to the public. Anyone may present an oral statement before the Council between 2:00 and 3:00 or may file a written statement with the Council regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement must notify the Shoshone District Manager by November 8, 1983. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

Charles J. Haszier,
District Manager.
[FR Doc. 83-27347 Filed 10-6-83; 8:45 am]
BILLING CODE 4310-84-M

Montana; Lewistown District Grazing Advisory Board; Meeting

AGENCY: BUREAU OF LAND MANAGEMENT, INTERIOR.

ACTION: Notice of Meeting.

SUMMARY: The Lewistown District Grazing Advisory Board will meet October 21, 1983. The agenda will be: October 21, 8:00 a.m. Meet at Valley Resource Area Office for tour of Bitter Creek Wilderness Study Area.

Return to Office, 5:00 p.m.

Opportunity for public comment will be provided throughout the tour. Members of the public wishing to join the tour should contact the District Manager (see below) by October 17, 1983.

DATES: October 21, 1983, 8:00 a.m. to 5:00 p.m.

ADDREESS: Valley Resource Area Office, Highway 2 West, Glasgow, Montana.

FOR FURTHER INFORMATION CONTACT:
Glenn W. Freeman, District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewistown District Grazing Advisory Board is authorized under Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753). The Board advises the District Manager concerning the District's Rangeland Management Program.

Dated: September 28, 1983.

Glenn W. Freeman,
District Manager.
[FR Doc. 83-27358 Filed 10-6-83; 8:45 am]
BILLING CODE 4310-84-M

[W-77866]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of Pub. L. 31–245 and Title 43 Code of Federal Regulations, Section 3108.2–1(c), and Pub. L. 97–451, a petition for reinstatement of oil and gas lease W–77866 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the respective date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre or fraction thereof, and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and will reimburse the Department for the cost of this **Federal Register** notice.

The lessee having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Minerals Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease W–77866 effective September 1, 1983, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Richard L. Hopkins,

Acting Chief, Branch of Fluid Minerals.

[FR Doc. 83–27361 Filed 10–6–83; 8:45 am]

BILLING CODE 4310–84–M

[I–19668 A, B, C, D, and E]

Realty Action; Oneida County, Idaho; Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I–19668 A, B, C, D, and E. Sale of Public Lands in Oneida County, Idaho, known as the Malad Sales.

SUMMARY: The following land has been examined and, through land use planning which included public input, it has been determined that the sale of these parcels is consistent with section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). None of the parcels are presently available for livestock grazing; therefore, no cancellation of grazing preference is required under the regulations in 43 CFR 4110.4–2(a). The lands will be offered at public auction using competitive and modified competitive bidding procedures (43 CFR 2711.3–1,2) for no less than the appraised fair market value. Any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted. A bid will also consititute an application for conveyance of the mineral rights, except oil and gas. The mineral interests being offered for conveyance have no known mineral value. The high bidder must deposit a fifty dollar ($50) non-returnable filing fee for the mineral conveyance (43 CFR 2720.1–2(c)) and one-fifth of the full bid price (43 CFR 2711.3–1(d)), immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market or re-offer them for sale at a later date.

BOISE MERIDIAN, IDAHO

Name	Legal description	Acreage	Type bidding
Parcel A (Pocatello Valley)	T. 15 S., R. 34 E., Sec. 8: NE¼NW¼	40	Competitive
Parcel B (Hanzel North)	T. 15 S., R. 34 E., Sec. 18: Lot 1	47.09	Modified.
Parcel C (Mid Hanzel)	T. 15 S., R. 34 E., Sec. 18: Lot 4, SE¼SW¼	87.17	Do.
Parcel D (Hanzel South)	T. 15 S., R. 34 E., Sec. 30: Lot 1	47.23	Do.
Parcel E (Gwenford)	T 15 S., R. 35 E., Sec. 9: SW¼SW¼	40	Competitive.

On *parcels B, C and D the bidding will be modified* to allow designated bidders the right to meet the high bid. This right is offered to protect existing uses and prevent inequities to adjoining landowners. The *designated bidder on Parcel B is Leroy Jensen* of Malad, Idaho. The *designated bidder on parcels C and D is Mrs. Duluty Allen* (Allen farms) of Ogden, Utah.

The patents when issued will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All oil and gas deposits, with the right to explore, prospect for, mine and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

In addition, the patent is subject to the following conditions:

1. All valid existing rights and reservations of record.

DATES: The public auction will be held on December 14, 1983 at 1:30 p.m.

ADDRESSES: The public auction will be held at the Burley District Office, Rt. 3, Box 1, 200 South Oakley Highway, Burley, Idaho, 83318. Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained from Karl Simonson, District Realty Specialist, at the above address, or by calling (208) 678–5514.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sales would not be fully consistent with Sec. 203(g) of FLPMA or other applicable laws.

Dated: September 29, 1983.

Nick James Cozakos,

District Manager.

[FR Doc. 83–27360 Filed 10–6–83; 8:45 am]

BILLING CODE 4310–84–M

[F–80844]

Leasing of Public Lands at Skiland/ Cleary Summit, Alaska

Under authority of Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732), the Bureau of Land Managment intends to offer certain lands under its administration in the Skiland/Cleary Summit area for lease for residential purposes. The approximately 60 acres affected are within Section 31 of T.3N., R2W., Fairbanks Meridian.

The purpose of the 10 proposed renewable 10-year leases is to authorize a long-standing occupancy. For this reason, they are being offered on a non-competitive basis to present occupants. Fair market rental will be charged.

Detailed information concerning the leases is available for review at the Fairbanks District Office.

Within 30 days of the final publication of this Notice, in accordance with 43 CFR 2920.5–2, the prospective lessees must submit an application which shall include the name and legal mailing address of the applicant, a reference to the serial number shown above, and a $250.00 non-returnable payment for procession costs. Applications should be submitted to the Fairbanks District Office, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

For a period of 30 days following the final publication of this Notice, interested parties may submit comments to the Fairbanks District Office.

Donald Runberg,

Acting District Manager.

[FR Doc. 83–27425 Filed 10–6–83; 8:45 am]

BILLING CODE 4310–84–M

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet November 7–9, 1983. The meeting will be held in Room 7000 A&B of the Main Interior Building, 18th and C Streets, NW., Washington, D.C. The meeting hours will be 8:30 a.m. to 5:00 p.m. on Monday, the 7th, and 8:30 a.m. to 2:00 p.m. on Wednesday, the 9th. On Tuesday, November 8, Council members will visit Capitol Hill to discuss public lands issues with Members of Congress and their staffs. The proposed agenda for the meeting is:

Monday, November 7: Morning: Update on Department of the Interior and Bureau of Land Management (BLM) programs; Report on the Commission on Fair Market Value Policy for Federal Coal Leasing; Presentation on mineral royalty distribution; and Solicitor's discussion on range improvement liability.

Afternoon: Public statement period; Report on the unauthorized use of the public lands for growing cannabis; Discussion on proposed controls on use of strychnine; and meetings of Council subcommittees (Energy and Minerals, Renewable Resources, Lands, and Administrative/Legislative).

Wednesday, November 9: Morning: Election of Council Officers for 1984 and setting of dates and locations for future Council meetings; Working sessions of subcommittees, followed by reports to full Council.

Afternoon: Discussion of subcommittee recommendations and passing of Council resolutions.

All meetings of the Council will be open to the public. Opportunity will be provided for members of the public to make oral statements to the Council, beginning at 1:00 p.m., Monday, November 7. Oral comments will be limited to 10 minutes per person and should address specific national public lands issues on the meeting agenda. Speakers are encouraged to submit a copy of their written testimony prior to oral delivery so that the Council will be prepared to respond or answer questions. Please send written comments by October 30 to BLM's Washington Office at the address listed below:

DATES: November 7 and 9, 1983—Council Meeting. November 7—Public statements.

ADDRESS: Copies of public statements should be mailed by October 30 to: Director (150), Bureau of Land Management, Department of the Interior, 18th & C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Washington, D.C. Office, BLM, Telephone (202) 343–2054; or Haywood Meeks, Public Affairs Specialist, Washington, D.C. Office, BLM, Telephone (202) 343–5717.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, regarding policies and programs of a national scope related to public lands and resources under the jurisdiction of the Bureau.

Dated: October 4, 1983.

Robert F. Burford,

Director.

[FR Doc. 83–27443 Filed 10–6–83; 8:45 am]

BILLING CODE 4310–84–M

Sale of Public Lands; Idaho

AGENCY: Bureau of Land Management.

ACTION: Notice of realty action, sale of public lands in Lemhi County, Idaho.

SUMMARY: Based on public supported land use plans the following described land has been examined and identified as suitable for disposal by public sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, U.S.C. 1713), at no less than the appraised fair market value.

Parcel No.	Legal description	Acres
I–19632A, Tract I–4(19)	T.15N., R.21E., Sec. 23, N½NE¼.	80.00
I–19632B, Tract I–4(20)	T.15N., R.21E., Sec. 24, N½NW¼.	80.00
I–19632C, Tract I–4(21)	T.15N., R.22E., Sec. 7, lot 4.	39.78
I–19632D, Tract I–4(22)	T.14N., R.23E., Sec. 7, SW¼SE¼.	40.00

Bids are being solicited for each parcel offered for sale. Appraised values are not being published in this NORA. The value will be disclosed only at the conclusion of the sale and only for those parcels for which acceptable bids were received, i.e., appraised value or higher.

Sale Parcel I–19632A and I–19632B will be offered for sale at public auction through *Competitive Bidding.*

Sale Parcel I–19632C will be offered for *Direct Sale* to Whitworth Ranches, Inc., based on historic use and value of added improvements. Failure of the proponents to submit the required amount within 30 days from the date of the sale will result in concellation of the sale to them. This parcel would then be readvertised at a later date.

Sale Parcel I–19632D will be offered for sale at public auction through *Modified Competitive Bidding.* Mr. Ken White, the adjoining landowner, will be given preference to meet the high bid or the appraised fair market value whichever is higher. Refusal or failure by Mr. White to meet the high bid within 30 days shall constitute a waiver of such right and the land will be sold to the successful bidder.

These parcels are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal agency. There are no significant resource values which will be affected by the sale of these parcels.

The BLM may, within 30 days of receipt of any offer, accept or reject any or all offers or withdraw any land or interest in land from sale, at the discretion of the authorized officer (Section 203(a) FLPMA). There is legal access to these tracts.

No bids will be accepted for less than the appraised price and bids must include all the lands contained in the parcel. Bidders can make full payment of the purchase price at the sale or pay a non-refundable 20 percent (20%) and the balance within 30 days. Payment may be made by personal check, certified check, money order or cashier's check made payable to the Bureau of Land Management or by cash.

Both oral and sealed bids will be accepted. If no bids are received for sale parcels I–19632A, I–19532B or I–19632D on the sale date, either oral or sealed, the sale will be adjourned until the next Thursday at the same hour and place and continue on each succeeding Thursday until the lands are sold as specified in this notice. This notice terminates on March 9, 1984 close of business and the land will not be available after that date.

A patent for the land, when issued, will be subject to the following conditions:

VOL 48 ISS 196 OCT 7 1983 UMI

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals will be reserved to the United States in accordance with section 290(a) of the Federal Land Policy and Managment Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record on the date of patenting.

4. For Parcels I–19632A and I–19632B: The successful bidder agrees that he takes the real estate subject to the existing grazing use of Mr. George Whitworth holder of grazing authorization term permit grazing record number 4044, highway allotment number 4414 in the amount of 5 AUM's and Mr. Robert Whitworth holder of grazing authorization term permit grazing record number 4047, highway allotment number 4414 in the amount of 5 AUM's (10 AUMs total). The rights of Mr. George Whitworth and Mr. Robert Whitworth to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization numbers 4044 and 4047 both shall cease on February 29, 1988. The successful bidder is entitled to receive annual grazing fees from Mr. George Whitworth and Mr. Robert Whitworth in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the Federal Register.

DATE: The public auction will be held on Thursday, December 15, 1983, beginning at 10:00 a.m.

ADDRESS. The public auction will be held at the Salmon District Office, Bureau of Land Management, South Highway 93 (P.O. Box 430), Salmon, Idaho 83467. Additional information concerning the land, terms and conditions of the sale and bidding instructions can be obtained from Chuck Keller at the above address or by calling 208–756–2201.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager this realty action will become the final determination of the Department of the Interior.

Dated: September 30, 1983.

Kenneth G. Walker,

District Manager.

[FR Doc. 83–27424 Filed 10–6–83; 8:45 am]

BILLING CODE 4310–84–M

Wyoming; Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of Plats of Survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., September 23, 1983.

Sixth Principal Meridian

T. 47 N., R 60 W.

The plat representing the retracement of the South Dakota-Wyoming State Boudary between Mile Posts 71 and 73, the dependent resurvey and corrective dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 22, T. 47 N., R. 60 W., Sixth Principal Meridan, Wyoming, Group No. 448, was accepted September 20, 1983.

T. 51 N., R. 64 W.

The plat representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, T. 51 N., R 64 W., Sixth Principal Meridan, Wyoming, Group No. 432, was accepted September 20, 1983.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

T. 14 N., R. 84 W.

The plat, in five sheets, representing the dependent resurvey of portions of the exterior boundaries, a portion of the subdivisional lines, and the subdivision of sections 6, 12 and 13, T. 14 N., R. 84 W., Sixth Principal Meridian, Wyoming, Group No. 395, was accepted September 20, 1983.

This survey was executed to meet certain administrative needs of this Bureau.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: September 28, 1983.

Dennis D. Bland,

Acting Chief Cadastral Surveyor.

[FR Doc. 83–27386 Filed 10–6–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Los Angeles Zoo et al.; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with Endangered species. This notice is provided pursuant to Section 10(c) of the endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 2–11095

Los Angeles Zoo, Los Angeles, CA

The applicant requests a permit to import one male and one female captive-born mandrills (*Papio sphinx*) from Metro Toronto Zoo, Toronto, Canada, for enhancement of propagation.

PRT 2–11076

Donald J. King/USFWS, Reno, NV

The applicant requests a permit to take (capture) 50 young-of-the-year Pahranagat bony-tail chubs (*Gila robusta jordani*) annually for enhancement of propagation.

PRT 2–11136

Caribbean Islands National Wildlife Refuges, Boqueron, PR

The applicant requests a permit to take (tag females, examine nests, and relocate threatened nests) hawksbill sea turtles (*Eretmochelys imbricata*) and leatherback sea turtles (*Dermochelys coriacea*) on Isla de Culebra, Isla Culebrita, Cayo Norte and Cayo Luis Pena, Puerto Rico, for scientific research.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, OgOO N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: September 30, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83–27366 Filed 10–6–83; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Oil and Gas and Sulfur Operations on the Outer Continental Shelf; Receipt of Proposed Development and Production Plan; Texaco U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a development and production plan describing the activities it proposes to conduct as operator of Lease OCS–P 0315, offshore California. The purpose of this Notice is to inform the public that the Minerals Management Service (MMS) is considering approval of the plan and that it is available for public review and comment.

DATES: The plan may be reviewed weekdays, 8:00 a.m. to 3:00 p.m. Written comments must be received or postmarked by November 30, 1983.

ADDRESSES: The plan is available for public review at the Office of the Regional Manager, Pacific OCS Region, Minerals Management Service, Room 160, 1340 West 6th Street, Los Angeles, California 90017. Written comments may be mailed or hand-delivered to the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Dunaway, Acting Regional Supervisor, Field Operations Office, Pacific OCS Region (213) 688–2087.

SUPPLEMENTARY INFORMATION: Section 25 of the Outer Continental Shelf Lands Act, 43 U.S.A. 1351, requires the MMS to make any development and production plans available for public review. Regulation 30 CFR 250.34 provides for the publication of a Notice that such a plan is available for review

Robert G. Paul,

Acting Regional Manager, Pacific OCS Region.

[FR Doc. 83–27348 Filed 10–6–83; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

Compensated Intercorporate Hauling Operations; Intent To Engage In

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. *Parent Corporation and Address of Principal Office*

Lynden Incorporated, P.O. Box 3757, Seattle, Washington 98124–3757

2. *Wholly-Owned Subsidiaries Which Will Participate in the Operations and State(s) of Incorporation*

(i) LTI, Inc. (a Washington corporation), and
(ii) Lynden Transport, Inc. (a Washington corporation),
(iii) Lynden Forwarding, Inc. (a Washington corporation),
(iv) Dairy Express, Inc. (an Oregon corporation),
(v) Douglas Management Company, (an Alaska corporation),
(vi) Knik Construction Co., Inc. (an Alaska corporation),
(vii) Canadian Lynden Transport Ltd. (an Alberta Corporation),
(viii) Alaska Marine Lines, Inc. (a Washington corporation),
(ix) Lynden Air Freight, Inc. (a Washington corporation),
(x) Arctic Packaging & Logistics, Inc., (a Washington corporation), and
(xi) Lynden Financial Services, Inc. (a Washington corporation),

1. The parent corporation is Milton Bradley Company, a Massachusetts corporation with a principal office at 111 Maple Street, Springfield, Massachusetts 01105.

2. The wholly-owned subsidiaries of Milton Bradley Company which will participate in the intercorporate hauling operations are:

a. Playskool, Inc.—a Delaware corporation with principal offices at 4501 West Augusta Boulevard, Chicago, Illinois 60651
b. General Consumer Electronics, Inc.—a Massachusetts corporation with principal offices at 233 Wilshire Boulevard, Santa Monica, California 90401
c. The South Bend Toy Manufacturing Company, Inc.—an Indiana corporation with principal offices at 3300 West Sample Street, South Bend, Indiana 46626
d. Milton Bradley Canada, Inc.—a Canadian corporation with principal offices at 112 Adelaide Street East, Toronto, Ontario M5C 1K9, Canada

1. Parent corporation and address of principal office: Selfridge Cheese Company, Selfridge, ND 58568.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation:

(i) Cheese Hauling, Inc. (a Wisconsin corporation)
(ii) Timberlake Chesse Co. (a South Dakota corporation)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–27369 Filed 10–6–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30250]

Rail Carriers; Anthracite Railway, Inc.—Operation—in Emmaus Jct., Pottstown, and Tipton, PA; Modified Rail Certificate

Notice

September 29, 1983.

On July 29, 1983, notice was filed by the Anthracite Railway, Inc., for a modified certificate of public convenience and necessity under 49 CFR Part 1150 (Subpart C). That carrier is now authorized to provide service over a portion of the lines owned by the Commonwealth of Pennsylvania Department of Transportation. The lines to be operated are, as follows: (1) The Perkiomen Branch, USRA Line No. 906, from milepost 22.38 to milepost 38.23, a distance of 15.85 miles, interchanging with Consolidated Rail Corporation (Conrail) at Emmaus Jct., PA; (2) Colebrookdale Branch, USRA Line No. 909, from milepost 0.00 to milepost 8.60, a distance of 8.60 miles, interchanging with Conrail at Pottstown, PA; and (3) Kutztown Branch, USRA Line No. 910, from milepost 0.17 to milepost 4.29, a distance of 4.12 miles, interchanging with Conrail at Tipton, PA.

Applicant will operate these lines pursuant to a service agreement with the Commonwealth of Pennsylvania.

This notice shall be served upon the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and upon the American Short Line Railroad Association.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–27401 Filed 10–6–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30280]

Rail Carriers; Transkentucky Transportation Railroad, Inc.—Trackage Rights Over Chesapeake and Ohio Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted as complete and procedural schedule established.

SUMMARY: The Commission is accepting as complete the application of Transkentucky Transportation Railroad, Inc. (TTRI) for approval of a trackage rights agreement between TTRI and Chesapeake and Ohio Railway Company (C&O) involving approximately 11.4 miles of C&O track in Kentucky.

DATE: Written comments must be filed by November 7, 1983.

ADDRESS: An orginial and 10 copies of all statements referring to Finance Docket No. 30280 should be sent to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and

Fritz R. Kahn, Esq., Suite 1100, 1660 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louise E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: October 3, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–27400 Filed 10–6–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–36; Sub-No. 17

Rail Carriers; Orgeon Short Line Railroad Company and Union Pacific Railroad Company; Abandonment; in Lincoln, Blaine and Camas Counties, ID; Findings

The Commission has issued a certificiate authorizing the Oregon Short Line Railroad Company to abandon and the Union Pacific Railroad Company to discontinue service over a portion of railroad known as the Ketchum-Hill City Branch extending from railroad milepost 0.10 near Shoshone to milepost 15.65 near Richfield (on the Ketchum Branch) and milepost 0.08 near Richfield to the end of the line, milepost 44.46 near Fairfield (on the Hill City Branch), a total distance of 59.93 miles in Lincoln, Blaine, and Camas Counties, ID. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–27582 Filed 10–6–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

National Institute of Justice

Advisory Board; Meeting

Notice is hereby given that the Naitonal Institute of Justice Advisory Board will hold a meeting on October 20, 1983 from 9:00 A.M. to 5:00 P.M. and on October 21, 1983 from 9:00 A.M. to 12:00 P.M. at the Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

The major items of business will include a briefing on FY '83 funding activities, FY '84 program priorities, and FY '84 Advisory Board activities.

The meeting is open to the public. For further information, please contact Betty M. Chemers, National Institute of Justice, U.S. Department of Justice, Washington, D.C. 20531 (202/724–2942).

Dated: September 30, 1983.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 83–27366 Filed 10–6–83; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of forms under review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clerance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration
Job Training Longitudinal Survey (JTLS)
JTLS 1A, and 20 and 21
Quarterly
State or local governments; non-profit organizations
1,388 responses; 162 hours; 3 forms

ETA will use the quarterly administrative data to determine the number and characteristics of persons who enroll and terminate from the Job Training Partnership Act (JTPA) Title IIA and III programs.

Extension

Mine Safety and Health Administration
Noise Data Report Form
1219–0037
Semiannully
Businesses or other for profit and small businesses or organizations
5,000 respondents; 78,087 hours

Requires coal mine operators to report to MSHA the environmental noise levels to which each miner is exposed. When noise reports indicate excessive noise levels, mine operators are required to institute engineering or administrative controls which are designed to either reduce the noise levels or reduce the miner's exposure to noise levels.

Reinstatement

Employment Standards Administration
Service Contract Act Recordkeeping and Reporting Requirements—
29 CFR Part 4
WH–601
On Occasion
Businesses or other for-profit; Small businesses or organizations
19,900 responses; 13,658 hours

Recordkeeping and incidental reporting requirements under SCA regulations for employers performing on service contracts entered into with the Federal Government.

Signed at Washington, D.C. this 4th day of October, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–27460 Filed 10–6–83; 8:45 am]

BILLING CODE 4510–27–M, 4510–30–M, 4510–43–M

[TA–W–14, 707]

Smith-Jones, Inc., SJC Division, Elyria, Ohio; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 6, 1983 in response to a worker petition received on May 25, 1983 which was filed by the International Molders and Allied Workers Union on behalf of workers at the Elyria, Ohio plant of the SJC Division of Smith-Jones, Inc. The workers produced air conditioner and heater units.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 28th day of September 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–27458 Filed 10–6–83; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–14,704]

Westinghouse Electric Corp., Relay-Instrument Division, Coral Springs, Florida; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 6, 1983 in response to a petition received on May 23, 1983 which was filed on behalf of workers at Westinghouse Electric Corporation, Relay-Instrument Division, Coral Springs, Florida. No public hearing was requested and none was held.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 30th day of September 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–27459 Filed 10–6–83; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

[TA–W–13,912, 13,913]

American Motors Corporation, American Center Facility and Amtek Facility, Southfield, Michigan and Detroit, Michigan; Negative Determination Regarding Application for Reconsideration

By an application dated August 29, 1983, the company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at American Motors Corporation's American Center Facility in Southfield, Michigan and Amtek Facility in Detroit, Michigan. The determination was published in the Federal Register on July 29, 1983 (48 FR 34543).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The company claims that the Department's denial of service workers is based on a narrow reading of the regulations and is contrary to the general proposition that remedial statutes should be liberally construed.

The Department's review shows that workers at the American Center and Amtek facilities are engaged in administrative support services and research and development support services, respectively, for AMC manufacturing operations and as such do not produce an article within the meaning of Section 222(3) of the Trade Act of 1974.

The Department of Labor has consistently determined that the performance of services does not constitute production of an article, as required by the Act; and this determination has been upheld in the U.S. Court of Appeals. Therefore, the only way workers at the instant facilities may be certified is if their

separation from employment was caused importantly by a reduced demand for their services from a firm which produces an article and which substantially beneficially owns or controls the service workers' firm. In addition, the reduction in demand for services must be determined to have originated at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly relate to the product adversely affected by increased imports. Although the American Center and Amtek are integral facilities of the American Motors Corporation the separation of their workers cannot be related to a production facility whose workers independently meet the statutory criteria for certification. In June 1983, adjustment assistance was denied to workers engaged in the production of automobiles at American Motors assembly plants including the Kenosha plant because increased imports could not be substantiated as having contributed importantly to worker separation. Service workers may not be certified as eligible for trade adjustment assistance benefits unless these was an important causal nexus between increased imports and the layoff of service workers. *R. E. Abbott, et al.* v. *Donovan*, U.S. Court of International Trade, Court No. 81–1–00028, August 9, 1983.

The company argues that certification is warranted because the shift from rear wheel to front wheel drive vehicles at Kenosha resulted in decreased demand for services from the American Center Facility and the Amtek facility.

The change to front wheel drive technology is an industry-wide phenomenon as is reflected by the increased domestic production of front wheel drive car lines and related employment changes are the inevitable result of the new technology rather than increased import competition. The Trade Act of 1974's worker adjustment assistance provisions were not intended to cover worker unemployment due to technological factors.

The Committee on Finance of the U.S. Senate reporting on the Trade Act of 1974 states:

"Total or partial separations that would have occurred regardless of the level of imports, e.g., those resulting from domestic competition, seasonal, cyclical, or technological factors are not intended to be covered by the program." U.S. Senate Report No. 93–1293 p. 133.

The applicable investigation period for petition TA–W–13,672, filed on behalf of workers of the Kenosha plant, was model year (MY) 1983. The denial of trade adjustment assistance for workers of the Kenosha plant was based on findings that showed production increases of automobiles axles, gears, stampings and forgings during the July–February period of MY 1983 compared to the same period of MY 1982. Further, the average employment of all production workers and support workers at Kenosha increased during the same period.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 26th day of September 1983.

Carolyn M. Golding,

Director, Unemployment Insurance Service, UIS.

[FR Doc. 83–27457 Filed 10–6–83; 8:45 am]

BILLING CODE 4510–30–M

High Unemployment Area Classifications Under Pub. L. 98–8; Additions to the List

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the list of high unemployment areas are effective on September 30, 1983.

SUMMARY: The purpose of this notice is to announce the addition of 7 civil jurisdictions to the list of high unemployment areas. This is the final update to be made by the Department of Labor to the list of high unemployment areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service, Attention: TEEPA, 601 D Street, NW., Washington, D.C. 20213. Telephone: (202) 376–6700.

SUPPLEMENTARY INFORMATION: Section 101(a)(3) of Public Law 98–8, 97 Stat. 13, 29 (March 24, 1983) (the "Act") requires the Assistant Secretary for Employment and Training, U.S. Department of Labor, to classify civil jurisdictions as having high unemployment and to publish a list of these jurisdictions together with descriptions thereof no later than 30 days after enactment of the Act. That list was published on April 22, 1983 (48 FR 17456).

The Act also requires that the list of high unemployment areas be updated on a monthly basis thereafter, by adding civil jurisdictions that the Assistant secretary deems to meet the criteria necessary for classification. The areas described below have been classified by the Assistant Secretary as high unemployment areas and added to the list of high unemployment areas, effective September 30, 1983. These areas are in addition to the areas of high unemployment previously published on April 22, 1983 (48 FR 17456), June 10, 1983 (48 FR 26921), July 19, 1983 (48 Fr 32892), August 2, 1983 (48 FR 35040), and September 2, 1983 (48 FR 40021).

Because Congress appropriated funds under Public Law 98–8 to take care of the needs of areas having high unemployment during Fiscal Year 1983, this is the final list of high unemployment areas which will be issued by the Department of Labor. Agencies should refer to this list in obligating and/or expending funds from appropriations covered by this Act.

To the extent it is necessary to do so, this notice amends the notice of May 20, 1983 (48 FR 22883).

Signed at Washington, D.C. on September 27, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

ADDITIONS TO THE LIST OF HIGH UNEMPLOYMENT AREAS, SEPTEMBER 30, 1983

High unemployment area	Civil jurisdiction included
Oklahoma: Balance of Tulsa County.	Tulsa County less Tulsa City.
Utah: Uintah County	Uintah County.
Wyoming:	
Big Horn County	Big Horn County.
Carbon County	Carbon County.
Casper City	Casper City in Natrona County.
Fremont County	Fremont County.
Balance of Natrona County	Natrona County less Casper City.

[FR Doc. 83–27458 Filed 10–6–83; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506:

Date: October 24–25, 1983
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted to Research Resources: American Studies I Panel, Division of Research Programs, for projects beginning after April 1, 1984.

Date: October 31, 1983
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted to Research Resources: Literature, Libraries, & Bibliography Panel, Division of Research Programs, for projects beginning after April 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commerical of financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United State Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer. National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83–27440 Filed 10–6–83; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Atmospheric Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences (ACAS).
Date: October 26–28, 1983.
Time: 9:00 a.m.—5:00 p.m.
Place: Room 642, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Closed—October 26 (all day) and October 27 (9:00 a.m.—12:00 Noon). Open—October 27 (1:00 p.m.—5:00 p.m.) and October 28 (all day).

Contact: Dr. Eugene W. Bierly, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone: (202) 357–9674.

Purpose of Committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area. Provides expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and polcies in effect and focuses on operations and activities, priorities, program balance and selection of awards.

Agenda: *October 27—9:00 a.m. to 5:00 p.m., and October 27—8:00 a.m. to 12:00 Noon (Closed) Rooms 642 and 628.*

Committee review of the Meteorology and Solar Terrestrial Programs, including examination of proposal jackets, reviewer comments and other privileged material.

October 27, 1983 (Open 1:00 p.m.—5:00 p.m.) Room 642:

1:00 p.m.—Remarks by Chairman, ACAS, and Division Director, ATM.
1:30 p.m.—Remarks by AAD/AAEO.
2:00 p.m.—Approval of Minutes from ACAS Meeting of April 7–8, 1983.
2:05 p.m.—Presentation of Review Reports to ACAS.
2:35 p.m.—Meeting of Subcommittee on Upper Atmosphere Facilities (SCUAF) October 24–25, 1983.
2:45 p.m.—Long Range Planning for ATM/Budgeting Status/Proposed ATM Program Reveiw.
4:00 p.m.—National STORM (STormscale Operational and Research Meteorology) Program.
4:30 p.m.—NAS global Tropospheric Chemistry Report/National Acid Precipitation Program Assessment.
5:00 p.m.—Interactive Computing Activities.

October 28, 1983:

9:00 a.m.—UCAR Activities and Issues.
9:30 a.m.—UCAR Activities and Issues
10:15 a.m.—Coffee Break
10:30 a.m.—Update on Supercomputers
11:00 a.m.—DOD Instrumentation Response.
11:20 a.m.—Status of Atmospheric Sciences Renewal Proposal Experiment.
11:40 a.m.—Discussion of ACAS Advice.
12:00 p.m.—Lunch.
1:00 p.m.—International Activities.
2:00 p.m.—Participation in Educational Activities.
2:30 p.m.—Program for Spring ACAS Meeting, 1984; Date, Agenda Items, (Procedure for Review of Centers and Facilities Section). Adjourn General Meeting.

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt materials that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 4, 1983.

[FR Doc. 83–27376 Filed 10–6–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology, Cellular and Molecular Biology, Subpanel on Cell Biology, Meeting

In accordance with the Federal Advisory Committe Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Cell Biology, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: October 26, 27, and 28, 1983; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Wallace M. LeStourgon, Program Director, Cell Biology Program, Room 332, National Science Foundation, Washington D.C. 20550, Telephone: 202/357–7474.

Purpose of Subpanel: To provide advise and recommendations concerning support for research in Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c) Government in the Sunshine Act.

Authority to Close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,
Committee Management Coordinator.
October 4, 1983.
[FR Doc. 83-27379 Filed 10-6-83; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for PCM, Subpanel on Genetic Biology, Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Genetic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and Time: October 24-26, 1983, 9:00 a.m.-5:30 p.m.

Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 329, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9687.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
October 4, 1983.
[FR Doc. 83-27381 Filed 10-6-83; 8:45 am]
BILLING CODE 7555-01-M

Executive Committee of the Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463 as amended, the National Science Foundation announces the following meeting:

Name: Executive Committee of the Advisory Committee for Ocean Sciences.

Date and Time: October 27 and 28, 1983—9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of Meeting: Open.

Contact Person: Dr. M. Grant Gross, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357-9639.

Summary Minutes: May be obtained from the contact person.

Purpose of Committee: To provide advice and recommedations concerning oceanographic research and its support by the NSF Division of Ocean Sciences.

Agenda:

October 27, 9:00 a.m.—

I. *Opening Remarks, Welcome to the Committee, and General Introductions.* Dr. M. G. Gross and Dr. V. Alexander, Chairperson.

II. *Adoption of the Agenda.* Dr. Alexander and Dr. Gross will present the agenda, requesting suggestions for additions, deletions or modifications.

III. *Approval of Minutes of the 28-29 October 1982 Executive Committee Meeting.*

IV. *Update on the FY 1984 Budget and Implications for Ocean Sciences.* Dr. Bridgewater and Dr. Gross will discuss the budget for OCE and its comparison with other AAEO divisions, including the current outlook for special initiatives in 1984 and beyond.

V. *Reorganization of NSF's Ocean Drilling Program. Topics to be discussed are:*

Current management plans in the Division.
Current management plans in the Community.
Drilling vessel procurement.
Status of U.S. science program.
Estimates of future ocean drilling projects. Dr. Gross and Ms. S. Toye.

VI. *Ocean Sciences Research Support Section—Information Items and Update.* Dr. R. Wall and Staff.

VII. *Oceanographic Facilities Support Section—Information Items and Update.* Mr. R. La Count and Staff.

VIII. *UNOLS Expeditionary Planning Committee.* Dr. G. Shor.

IX. *DOD/ONR/Ocean Sciences Equipment/Instrumentation Program Recent Results and Future Plans.* ONR Staff.

X. *Broadened Responsibility of OCE (and other NSF elements).* Four year research, education; instrumentation at undergraduate institutions, small business, international programs).

12:00 Noon—Lunch.

1:00 p.m.—

XI. *OFS Oversight Review—Preliminary Report.* Dr. W. Merrell.

XII. *Update on Progress Concerning Ocean Sciences Computing Requirements.* Dr. P. Hacker.

XIII. *Update on Ocean Climate Research Activities and Planning.* OSRS Staff.

XIV. *Discussion: How the Executive Committee Might Best Perform Its Functions.* Dr. Alexander.

Some possibilities are: More reliance on subcommittees? Meet more often? Meet once a year for three days? Issue papers distributed prior to meetings? (Other?)

October 28, 9:00—

XV. *Enhancement of Ocean Sciences Through Support for Undergraduate Institutional Faculty and Students.* Committee and Staff.

XVI. *NSF's Proposal Review Process and UNOLS Expeditionary Planning.* Committee and Staff.

12:00 Noon—Lunch.

1:00 p.m.

XVII. *Budgetary and Long Range Planning Discussion Items.* Committee and Staff.

Core program funding.
Under capitalization.
Effects of soft-money dependency.
Ship replacement.
High latitude research.
Ocean climate research.

5:00 p.m.—Adjourn.

M. Rebecca Winkler,
Committee Management Coordinator.
October 4, 1983.
[FR Doc. 83-27378 Filed 10-6-83; 8:45 am]
BILLING CODE 7555-01-M

Subcommittee for Upper Atmospheric Facilities; Advisory Committee for Atmospheric Sciences

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Upper Atmospheric Facilities.

Date: October 24 and 25, 1983.

Time: 9:00 a.m.-5:00 p.m.

Place: Room 642, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Open.

Contact: Dr. Richard A. Behnke, Program Manager, Upper Atmospheric Facilities, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone: (202) 357-7390.

Purpose of Committee: The Subcommittee for Upper Atmospheric Facilities provides advice, recommendations, and oversight concerning support of the four incoherent scatter radars for research and research-related activities in the atmospheric sciences area. Provides expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance and selection of awards.

Agenda

October 24, 1983.
9:00 a.m.—Opening Remarks
9:15 a.m.—Scientific Highlights
a. Sondrestromfjord
b. Millstone Hill
c. Arecibo Observatory
d. Jicamarca Observatory
12:00 noon—Lunch
1:00 p.m.—Status Reports, Operations Experience, Response to Proposals
a. Sondrestromfjord
b. Millstone Hill
c. Arecibo Observatory
d. Jicamarca Observatory
3:00 p.m.—Budget for FY 1984
a. Sondrestromfjord
b. Millstone Hill
c. Arecibo Observatory
d. Jicamarca Observatory
October 25, 1983.
8:30 a.m.—Instrumentation and Upgrade Needs
a. Sondrestromfjord
b. Millstone Hill
c. Arecibo Observatory
d. Jicamarca Observatory
10:30 a.m.—General Discussion
1:30 p.m.—Working Session: Preparation of Report
5:00 p.m.—Adjourn

M. Rebecca Winkler,
Committee Management Coordinator.
October 4, 1983.
[FR Doc. 83-27375 Filed 10-6-83; 8:45 am]
BILLING CODE 7555-01-M

Subpanel on Molecular Biology, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meetings:

Name: Subpanel on Biophysics/Biochemistry Programs, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: October 24 & 25, 1983, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G St, NW, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Kin-Ping Wong, Program Director, Biophysics Program, Room 329, National Science Foundation, Washington, DC 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in Biophysics/Biochemistry Programs.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,
Committee Management Coordinator.
October 4, 1983.
[FR Doc. 83-27380 Filed 10-6-83; 8:45 am]
BILLING CODE 7555-01-M

Subpanel on Neurobiology Group "C"; Meeting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Neurobiology of the Advisory Panel for Behavioral and Neural Sciences.

Date and Time: October 26, 27, and 28, 1983: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Michael D. Oberdorfer, Staff Associate, Sensory Physiology and Perception Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/357-7471.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
October 4, 1983.
[FR Doc. 83-27377 Filed 10-6-83; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Meeting

The ACRS Subcommittee on Class-9 Accidents will hold a meeting on October 28, 1983, Room 1046 at 1717 H Street NW., Washington, D.C.

In accordance with the procedures outlined in the Federal Register on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, October 28, 1983—8:30 a.m. until the conclusion of business. The Subcommittee will review the severe accident research program (SARP) to determine if the program elements are addressing the correct issues to resolve the severe accident issue.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or Staff Engineer, Mr. Alan B. Wang (Telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: October 4, 1983.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 83-27429 Filed 10-6-83; 8:45 am]
BILLING CODE 7590-01-M

[DD-83-14]

Commonwealth Edison Company et al.; Shipment of Irradiated Nuclear Fuel From West Valley, N.Y.; Director's Decison

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, on September 30, 1983, denied the request for action filed by Marvin Resnikoff and Anthony

Celebrezze on behalf of the Sierra Club and the Attorney General of the State of Ohio, respecitively. By letters dated August 24, 1983 and September 9, 1983 the petitioners requested that the Commission institute proceeding to amend, modify, revoke, or suspend licenses of the New York State Energy Research and Development Authority, Wisconsin Electric Power Company and Commonwealth Edison Company.

The reasons for this denial are explained in the "Director's Decision Under 10 CFR 2.206" (DD–83–14) which is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Local Public Document Rooms for the Western New York Nuclear Service Center, the Point Beach Nuclear Plant, and the Dresden Nuclear Power Station.

A copy of the decision will be filed with the Secretary for the Commission for its review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the decision will become the final action of the Commission twenty-five (25) days after issuance, unless the Commission on its own motion institutes review of the decision within that time.

Dated at Silver Spring, Maryland, this 30th day of September 1983.

For the Nuclear Regulatory Commission.

John G. Davis,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 83–27630 Filed 10–6–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Company; Consideration of Issuance of Amendment Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR–31 and DPR–41, issued to Florida Power and Light Company (the licensee), for operation of the Turkey Point Plant Unit Nos. 3 and 4 located in Dade County, Florida.

These amendments would change the Technical Specifications to support the integrated program for vessel flux reduction to resolve the pressurized thermal shock issue and to take credit for operation with the new steam generators in an unplugged (maximum of five (5) percent tube plugging) configuration. Changes are requested to: (1) Increase the hot channel $F_{\Delta H}$ limit from 1.55 to 1.62; (2) increase the total peaking factor F_Q limit from 2.30 to 2.32; (3) change the overpower ΔT setpoints and thermal-hydraulic limit curves; and (4) delete restrictions and limits placed on the old steam generators to allow for operation with tubes plugged in excess of five (5) percent in accordance with the licensee's application for amendments dated August 19, 1983 as supplemented September 9, 1983.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendments request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve no significant hazards considerations by providing certain examples (48 FR 14870). The increase in the hot channel $F_{\Delta H}$ limit and the total peaking factor F_Q limit is similar to example (vi) of changes which are not likely to involve significant hazards considerations: A change which either may result in some increase to the probability or consequences of a previously analyzed accident or reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: For example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The reduction in the safety margin resulting from the increase in the $F_{\Delta H}$ and F_Q limits are addressed in the safety evaluation provided with the submittal and indicate: (1) The calculated peak clad temperature of 1605° F and 1972° F for small and large break loss of coolant accidents respectively, are within the maximum limit of 2200° F specified in 10 CFR 50.46, "Acceptance Criteria for Emergency Core Cooling Systems (ECCS) for Light Water Nuclear Power Reactors"; (2) additional departure from nucleate boiling ratio margin is identified for Overtemp ΔT and loss of flow conditions to accommodate the reduction in margin resulting from increasing the $F_{\Delta H}$ loss of limit and is within the Final Safety Analysis Report (FSAR) design basis; (3) for breaks up to and including the double-ended severance of a reactor coolant pipe the ECCS will meet the acceptance criteria of 10 CFR 50.46; and (4) the overpower ΔT setpoints will be more restrictive to provide protection using the recalculated core limits and error allowances provided in the safety evaluation which indicate the safety margin is within the acceptance criteria of the Standard Review Plan.

The change in the Overpower ΔT setpoints and thermo-hydraulic limit curves are similar to example (ii) of changes not likely to involve significant hazards considerations: A change that constitutes an additional limitation or control not presently included in the technical specifications: for example, a more stringent surveillance requirement. The changes requested in the setpoint and thermal-hydraulic limit curves are all in the conservative direction and constitute a more stringent limitation.

The deletion of the technical specifications relating to the old steam generators is similar to example (v) of changes not likely to involve significant hazards considerations: Upon satisfactory completion of construction in connection with an operating facility, a relief granted from an operating restriction that was imposed because the construction was not yet completed satisfactorily. This is intended to involve only restrictions where it is justified that construction has been completed satisfactorily. The deletions requested are to remove the restrictions placed on the use of the old steam generators with tubes plugged in excess of five (5) percent. License conditions were placed on the Turkey Point Plant, Units 3 and 4, which requires a new ECCS analysis be performed if credit is to be taken for the unplugged configuration (maximum of five (5) percent tube plugging) for the new steam generators upon satisfactory completion of the construction associated with replacement of the steam generators. Construction has been satisfactorily completed and the licensee's submittal includes new ECCS analysis which assumes a maximum tube plugging of five (5) percent. The results of the new analysis indicate that for breaks up to and including the double-ended severance of a reactor coolant pipe, the ECCS can perform its function and is within the acceptance criteria of 10 CFR 50.46 which demonstrates that the restrictions placed on the old steam generators are no longer applicable and the new steam generators function satisfactorily.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attn: Docketing and Service Branch.

By November 6, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments request involves no significant hazards consideration, the Commission may issue the amendments and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission takes this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Environmental and Urbana Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 3rd day of October 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83–27431 Filed 10–6–83; 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE

Domestic Mail Classification Schedule and Rate Schedule Changes for ZIP+4 Mail

On December 8, 1982, the United States Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on changes in the Domestic Mail Classification Schedule to establish new First-Class Mail subclasses for regular ZIP+4 mail and for ZIP+4 post cards, and to establish initial rates for the new subclasses. The request was submitted pursuant to Chapter 36, Title 39, United States Code. An explanation and an invitation to participate in Commission Docket No. MC83-2 was published in the Federal Register by the Postal Rate Commission on December 15, 1982 (47 FR 56221-56222).

On September 23, 1983, the Postal Rate Commission issued an Opinion and Recommended Decision in Docket No. MC83-2. The Commission recommended that new First-Class Mail rate categories be established for regular ZIP+4 mail and for ZIP+4 post cards. The rate categories provide for 0.9-cent discounts for nonpresorted ZIP+4 mail, and 0.5-cent discounts for presorted ZIP+4 mail. In order to qualify for the discounts, the address on the mail pieces must include a proper ZIP+4 code. The mail must be presented at prescribed times and places, and must be tendered in bulk (250 pieces for nonpresorted mail and 500 pieces for presorted mail). In addition, the pieces must be machinable and be suited to processing on the Postal Service's optical character reader and bar code sorter equipment. Finally, postage must be paid in a manner not requiring cancellation.

The Governors of the Postal Service decided to approve the Commission's recommended decision, and to order the recommended changes into effect on a permanent basis, pursuant to 39 U.S.C. 3625, on October 3, 1983. The Board of Governors concurrently determined that these changes would become effective at 12:01 a.m. on October 9, 1983. (The Governors' Decision, the record of the Commission's hearings, and the Commission's Recommended Decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' Decision and the Commission's Opinion and Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260-1641.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the following rate and classification changes become effective at 12:01 a.m., October 9, 1983.

1. Rate Schedule A-1 has been fully revised to read as follows:

SCHEDULE A-1.—FIRST CLASS AND BUSINESS REPLY

Mail type	Postage rate unit	Rate		
		Regular (cents)	Presorted [1] (cents)	
			5-digit	Carrier route
First Class:				
Regular letters	First ounce	20	17	16
	Each additional ounce	[2] 1	17	16
ZIP+4 rate letters [3]	First ounce	19.1	16.5	(*)
	Each additional ounce	17	17	(*)
Regular cards	Piece	13	12	11
ZIP+4 rate cards [3]	Piece	12.1	11.5	(*)
Business Reply [4]	With advance deposit account	5		
	Without advance deposit account	18		
Nonstandard Surcharge [5]		9		

[1] Presorted first-class mail must be presented in a single mailing of 500 or more pieces properly prepared and presorted. The higher presort rate applies only to each piece of a group of ten or more pieces destined for the same five-digit ZIP Code or each piece of a group of fifty or more pieces destined for the same three-digit ZIP Code. The lower presort rate applies only to mail presorted to carrier route, with a minimum of 10 pieces per route. A mailing fee of $40 must be paid once each calendar year at each office of mailing by any person who mails presorted first-class mail.

[2] Rate applies through 12 ounces. Heavier pieces are subject to priority mail rates.

[3] ZIP+4-rate first-class mail must be presented properly prepared in a single mailing of 250 pieces for nonpresort and 500 pieces for presort. Each piece in the mailing must meet all the eligibility requirements.

[4] Mail pieces presorted to carrier route and meeting all the requirements for the ZIP+4 discounts may be counted toward the minimum required for eligibility for the ZIP+4 discount, although there is no distinct ZIP+4 carrier route presorted mail rate.

[5] Rates are applied on a per-piece basis in addition to regular postage. A fee of $40 must be paid once each calendar year for each business-reply permit. An accounting charge must be paid once each calendar year for each business-reply advance deposit account.

[*] Applies to the first ounce only

2. In the Domestic Mail Classification Schedule, sections 100.020, 100.922, 100.031, 100.043, 100.080, and 100.100 have been amended, and sections 100.0211 and 100.047 have been added, as follows. New material is underscored, and deleted material is set out in brackets.

Classification Schedule 100 FIRST-CLASS MAIL

* * * * *

100.020 *Regular Mail*

Regular *F*[f]irst-*C*[c]lass *M*[m]ail consists of mailable matter posted at *F*[f]irst-*C*[c]lass regular rates, weighing 12 ounces or less, and not mailed or eligible for mailing under sections *100.0201*, 100.021, *100.0211*, 100.022, *100.0221*, 100.023, or 100.024.

100.0201 ZIP+4 Rate Category Regular Mail

ZIP+4 rate category regular mail consists of pieces which meet the following eligibility requirements and the preparation requirements in section 100.047:

a. Bear a proper ZIP+4 code.

b. Be presented in mailings of 250 or more pieces.

c. Meet machinability criteria as prescribed by the Postal Service.

d. Meet address readability specifications for applicable mail processing equipment as prescribed by the Postal Service.

e. Have postage paid in a manner not requiring cancellation.

100.0211 ZIP+4 rate category post cards

A ZIP+4 rate category post card is a privately printed mailing card for the transmission of messages which meets the eligibility and preparation requirements in sections 100.0211b, 100.043, and 100.047.

a. Double post cards may be mailed as ZIP+4 rate category post cards. A double post card consists of two attached cards, one of which may be detached by the receiver and returned by mail as a single post card.

b. ZIP+4 rate category post cards must:

i. Bear a proper ZIP+4 code.

ii. Be presented in mailings of 250 or more pieces; or, if presorted, in mailings of 500 or more pieces.

iii. Meet machinability criteria as prescribed by the Postal Service but may not exceed any of the following dimensions:

(1) length not greater than 6 inches;

(2) width not greater than 4¼ inches: or,

(3) thickness not greater than 0.0095 inch and uniform.

iv. Meet address readability specifications for applicable mail processing equipment as prescribed by the Postal Service.

v. Have postage paid in a manner not requiring cancellation.

* * * * *

100.022 Presorted Mail

Presorted first-class mail is first-class mail other than zone rated (priority) mail which is presented in a single mailing of 500 or more pieces, properly prepared and presorted.

100.0221 ZIP+4 Rate Category Presorted Mail

ZIP+4 rate category presorted mail consists of pieces which meet the following eligibility requirements and the preparation requirements in section 100.047:

a. Bear a proper ZIP+4 code.

b. Be presented in mailings of 500 or more pieces.

c. Meet machinability criteria as prescribed by the Postal Service.

d. Meet address readability specifications for applicable mail processing equipment as prescribed by the Postal Service.

e. Have postage paid in a manner not requiring cancellation.

* * * * *

100.031 Cards exceeding the maximum post card dimensions set forth in section 100.021c *or 100.0211b for ZIP+4 rate category cards* may be mailed only under sections 100.020, 100.022, *100.201 and 100.0221* as appropriate.

* * * * *

100.043 Postal and post cards, *including ZIP+4 rate category post cards*, with any of the following four characteristics are not mailable unless prepared as prescribed by the Postal Service:

a. Numbers or letters unrelated to postal purposes appearing on the address side of the card;

b. Punched holes;

c. Vertical tearing guide;

d. An address portion which is smaller than the remainder of the card.

* * * * *

100.047 Pieces mailed under sections 100.0201, 100.0211 and 100.0221 must be prepared as follows:

a. All pieces in a mailing must be presented in a manner specified by the Postal Service.

b. All pieces in a mailing must bear markings as required by the Postal Service.

c. Pieces not within the same postage increment may be mailed as ZIP+4 rate category mail only when specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

d. Pieces mailed at presorted ZIP+4 rate category rates must be properly prepared and presorted as prescribed by the Postal Service.

100.080 *F*[f]irst-*C*[c]lass *M*[m]ail, except E-COM *and except as otherwise noted*, will receive the following additional services upon payment of the appropriate fees:

	Classification schedule
a. Address correction	SS-1
b. Business reply mail (*except ZIP+4 rate category mail*)	SS-2
c. Certificates of mailing	SS-4
d. Certified mail	SS-5
e. C.O.D.	SS-6
f. Insured mail	SS-9
g. Registered mail (*except ZIP+4 rate category mail*)	SS-14
h. Special delivery	SS-17

* * * * *

100.100 A presorted mailing fee as set forth in Rate Schedule 1000 must be paid once each calendar year at each office of mailing by any person who mails presorted mail, *including presorted ZIP+4 rate category mail.*

(39 U.S.C. 3625)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-27436 Filed 10-6-83; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/673]

Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet on November 10, 1983, at 9:00 a.m. in Room 1408 of the Department of State.

The Advisory Committee advises the Bureau of Public Affairs, and in particular the Office of the Historian, concerning problems connected with preparation of the documentary series entitled *Foreign Relations of the United States* and other responsibilities of that Office. Of particular importance are editorial and publishing practice and questions related to declassification of official records as specified in Executive Order 12356 (April 2, 1982).

In accordance with Section 10(d) of the Advisory Committee Act (Pub. L. 92-463) it has been determined that certain discussions during the meeting will necessarily involve consideration of matters recognized as not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities be withheld from disclosure. The meeting will therefore be closed when such discussions takes place, at 2:00 p.m., Thursday, November 10.

Persons wishing to attend the meeting should come before 9:00 a.m. on November 10 to the Diplomatic Entrance of the Department of State at 22 nd and C Streets, NW., Washington, D.C. They will be escorted to room 1408 and at the conclusion of the open portion of the meeting back to the Diplomatic Entrance.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, D.C. 20520; telephone (202) 632-8888.

Dated: September 27, 1983.

William Z. Slaney,

Executive Secretary.

[FR Doc. 83-27346 Filed 10-6-83; 8:45 am]

BILLING CODE 4710-11-M

[Public Notice CM-8/672]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group of Lifesaving Applicances; Meeting

The Working Group on Lifesaving Appliances of the Subcommittee on Safety of Life at Sea (SOLAS) will meet on October 25, 1983 at 1:30 p.m. in Room 1319 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of the meeting will be to:

a. Discuss the report of the 48th Session of the International Maritime Organization (IMO) Maritime Safety Committee (MSC)

b. Discuss the recently adopted revision of Chapter III of the International Convention on the Safety of Life at Sea, 1974 (SOLAS 1974). This revision is part of the second set of Amendments to SOLAS 1974, expected to come into force July 1, 1986.

c. Discuss MSC 84/25, Annex 13 "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Lifesaving Appliances and Arrangements", and MSC 48/25, Annex 14 "Recommendation on Testing of Lifesaving Appliances." Both are draft Resolutions to be considered for adoption by the IMO Assembly at its 13th session, November 7-18, 1983.

Members of the public may attend up to the seating capacity of the room.

VOL
48
ISS
1
96
OC
7
1983
UMI

For futher information contact Mr. Robert Markle, U.S. Coast Guard Headquarters (G-MVI-3/24), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-1444.

Dated: September 26, 1983.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 83-27345 Filed 10-6-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Maritime Advisory Committee; Meeting

AGENCY: Maritime Administration (MARAD), DOT.

ACTION: Notice.

SUMMARY: The Maritime Advisory Committee will hold its fourth meeting on October 17, 1983, at 10:00 a.m., in Room 6200, Department of Transportation, 400 7th Street SW., Washington, D.C. The Committee will consider Administration programs and policies on current maritime issues. This meeting will be open to the public on a space available basis.

Dated: October 3, 1983.

By order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-27402 Filed 10-6-83; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On October 1, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0582
Form Number: 1139
Type of Review: Revision
Title: Corporation Application for Tentative Refund

OMB Number: 1545-0028
Form Number: 940 and 940PR
Type of Review: Revision
Title: Employer's Annual Federal Unemployment Tax (FUTA) Return

OMB Number: 1545-0675
Form Number: 1040EZ
Type of Review: Revision
Title: Individual Income Tax Return

OMB Number: 1545-0015
Form Number: 706
Type of Review: Revision
Title: United States Estate Tax Return

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: October 3, 1983.

Rita A. DeNagy,

Departmental Reports Management Office.

[FR Doc. 83-27439 Filed 10-6-83; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notice; Revised Routine Use Statement

Notice is hereby given that the VA (Veterans Administration) is considering revising current routine use number 7 for the system of VA records entitled "Compensation, Pension, Education and Rehabilitation Records-VA" (58VA21/22/28) as set forth on page 372 of the Federal Register of January 5, 1982.

Under the existing routine use only names and addresses may be released. However, our experience establishes that nonprofit organizations have a legitimate need for additional information. The VA has determined that release of additional information to nonprofit organizations for purposes directly connected with the conduct of programs and the utilization of benefits under Title 38, U.S.C. is a necessary and proper use of information in this system of records and that the routine use should specifically provide for release of this information. Therefore, revision of routine use statement number 7 to provide for release to nonprofit organizations of relevant information in addition to names and addresses is proposed.

Interested persons are invited to submit written comments, suggestion, or objections regarding the revised routine use statement to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before November 7, 1983 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until November 22, 1983.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the Federal Register by the Veterans Administration, the revised routine use statement included herein is effective November 7, 1983.

Approved: October 3, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

In the system identified as 58VA21/22/28, "Compensation, Pension, Education and Rehabilitation Records-VA," appearing at 47FR372, the following change is made:

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

7. The name, address, entitlement code (e.g., compensation or pension), period(s) of service, sex, and date(s) of discharge may be disclosed to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under title 38 U.S.C. Disclosures may be in the form of a computerized list.

* * * * *

[FR Doc. 83-27423 Filed 10-6-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 196
Friday, October 7, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1, 2
Civil Rights Commission	3
Federal Deposit Insurance Corporation	4-6
Federal Election Commission	7
Federal Reserve System	8-10
International Trade Commission	11

1

CIVIL AERONAUTICS BOARD

[M-389, Amdt. 2, Oct. 5, 1983]

Short Notice Addition to the October 6, 1983 Meeting

TIME AND DATE: 9:30 a.m., October 6, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

5b. Dockets 38418, 40201, 38570, 38978, 38720, 39783, 38883, 38184 and 38571, *Employee Protection Program Investigation;* Order Denying petition for reconsideration and motion to disqualify. (OGC)

STATUS: Open.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1419-83 Filed 10-5-83; 3:35 am]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-389, Amdt. 1, Oct. 4, 1983]

Short Notice Addition to the October 6, 1983 Meeting

TIME AND DATE: 9:30 a.m., October 6, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

5a. Docket 40386, Default Protection Plan of the Air Traffic Conference: Request for Instructions. (OGC)

STATUS: Open.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1420-83 Filed 10-5-83; 3:35 pm]

BILLING CODE 6320-01-M

3

COMMISSION ON CIVIL RIGHTS

October 5, 1983.

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

DATE AND TIME: Tuesday, October 11, 1983, 9:30 a.m., 12 noon; 1:45-4 p.m.

STATUS OF MEETING: Open to public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Preliminary Discussion of *Federal Civil Rights Enforcement Budget: Fiscal Year 1984*
IV. Discussion of Housing Consultation
V. Wisconsin Advisory Committee Report Entitled *Business Incentives and Minority Employment*
VI. State Advisory Committee Recharters:
A. Maine
B. South Carolina
VIII. Staff Director's Report:
A. Status of Funds
B. Personnel Report
C. Office Directors' Reports
IX. *Final Report

*This item will be deleted if a reauthorization bill has been enacted prior to October 11, 1983.

PERSON TO CONTACT FOR MORE INFORMATION: Barbara Brooks, Press and Communications Division, 254-6697.

[S-1418-83 Filed 10-5-83; 2:12 pm]

BILLING CODE 6335-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:40 p.m. on Friday, September 30, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Dominion Bank of Denver, Denver, Colorado, which was closed by the Colorado State Bank Commissioner on Friday, September 30, 1983; (2) accept the bid for the transaction submitted by Central Bank at Stapleton, National Association, Denver, Colorado, a newly-chartered national bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

The Board of Directors also considered a recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), and (c)(9)(A)(ii)).

The meeting was recessed at 6:45 p.m., and at 7:47 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in National Bank of Odessa, Odessa, Texas, which was closed by the Acting Comptroller of the Currency on Friday, September 30, 1983; (2) accepted the bid for the transaction submitted by First State Bank of Odessa, National Association, Odessa, Texas, a newly-chartered national bank subsidiary of Independent Bankshares, Inc., Abilene, Texas; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

VOL
48
ISS
1
9
6
OC
7
1983
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Dated: October 3, 1983.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1417-83 Filed 10-5-83; 1:58 pm]
BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, October 3, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), the Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of certain national banks to determine the condition of such banks for insurance purposes: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (e)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).
Application of MNC Bank, a proposed new bank to be located at 430 Main Street, Rapid City, South Dakota, for Federal deposit insurance.
Recommendation regarding a proposal for financial assistance to facilitate a voluntary merger of savings banks: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (o)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).
Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, and liquidating agent of those assets:
Case No. 45,775-L (Amended)—Penn Square Bank, National Association, Oklahoma City, Oklahoma

The Board further determined, by the same majority vote, that no earlier notice of those changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: October 4, 1983.
Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Deputy Executive Secretary.
[S-1418-83 Filed 10-5-83; 1:58 pm]
BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, October 3, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of First Alabama Bank of Chilton County, Thorsby, Alabama, for consent to establish a branch at 102 7th Street, Clanton, Alabama.
Application of Minden Exchange Bank & Trust Company, Minden, Nebraska, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in Upland Co-Operative Credit Association, Upland, Nebraska, a noninsured institution, and to establish the sole office of Upland Co-Operative Credit Association as a branch of Minden Exchange Bank & Trust Company.
Application of First City Bank and Trust Company, Hopkinsville, Kentucky, an insured State nonmember bank, for consent to merge, under its charter and title, with United Peoples Bank, Pembroke, Kentucky, and to establish the two offices of United Peoples Bank as branches of the resultant bank.
Application of Security Bank & Trust Company, Midwest City, Oklahoma, for consent to establish a branch-detached facility at 6914 S.E. 15th Street, Midwest City, Oklahoma.
Application of First Trust and Savings Bank of Taylorville, Taylorville, Illinois, for consent to establish a remote service facility at 512 North Webster Street, Taylorville, Illinois.
Application of The Bank of East Alabama, Opelika, Alabama, for consent to establish two remote service facilities at the Student Union Building on the Auburn University Campus and at the Village Mall on Pepperell Parkway, both locations within Auburn, Alabama.
Application of Grand Canyon State Bank, Gilbert, Arizona, for consent to continue paying the interest rate differential on existing passbook and statement savings accounts to be acquired in connection with the purchase of certain assets of and the assumption of the liability to pay deposits made in the Fiesta Mall Branch, Mesa, Arizona, of Southwest Savings and Loan Association, Phoenix, Arizona, and the establishment of that branch as a branch of Grand Canyon State Bank.
Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,785-L—Aquia Bank and Trust Company, Stafford, Virginia
Memorandum re: Amendment to the Corporation's General Travel Regulations (GTR)
Report of the Division of Liquidation of Sales of Property Approved Under Delegated Authority by the Costa Mesa, California, Consolidated Liquidation Operation.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

The Board further determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), concurred in by Director Irvine H. Sprague (Appointive), that Corporation business required the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day, of the following matter:

Application of Liberty Bank, Glendale, Arizona, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in three branches of Southwest Savings and Loan Association, Phoenix, Arizona, and to establish the three branches of Southwest Savings and Loan Association as branches of Liberty Bank.

The Board further determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day, of the following matter:

Application of Commonwealth Bank, Torrance, California, for consent to establish a branch at 12616 Ventura Boulevard, Studio City, California.

In voting to move these matters from open session to closed session, the Board further determined, by the same majority votes, that the public interest did not require consideration of the matters in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)); and that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: October 4, 1983.
Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Deputy Executive Secretary.
[S-1415-83 Filed 10-5-83; 1:58 pm]
BILLING CODE 6714-01-M

7

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday, October 12, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance Litigation. Audits. Personnel.

DATE AND TIME: Thursday, October 13, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential primary matching funds
Draft advisory opinion 1983-27—Captain Eugene B. McDaniel
Draft advisory opinion 1983-28—W. Dean Cannon, Jr., on behalf of the California League of Savings Institutions
Trade association solicitation approval: Explanation and justification, 11 CFR 114.8 (c)(2) and (d)(4)
Routine administrative matters

PERSON TO CONTACT FOR MORE INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.
[S-1411-83 Filed 10-5-83; 10:14 am]
BILLING CODE 6715-01-M

8

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to **Federal Register** on October 5, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 12, 1983.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed criteria for selecting high dollar group sort institutions. (Proposed earlier for public comment: Docket No. R-0464).

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: October 5, 1983.
James McAfee,
Associate Secretary of the Board.
[S-1421-83 Filed 10-5-83; 4:01 pm]
BILLING CODE 6210-01-M

9

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, October 12, 1983.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed amendmends to Regulation O (Loans to Executive Officers, Directors and Principal Shareholders) regarding reporting and disclosure requirements.
2. Proposed criteria for selecting high dollar group sort institutions. (Proposed earlier for public comment: Docket No. R-0464)
3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT: PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: October 5, 1983.
James McAfee,
Associate Secretary of Board.
[S-1412-83 Filed 10-5-83; 12:02 pm.]
BILLING CODE 6210-01-M

10

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, October 12, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Issues relating to Federal Reserve notes.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: October 5, 1983.
James McAfee,
Associate Secretary of the Board
[S-1413-83 Filed 10-5-83; 12:02 pm]
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11

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-44]

TIME AND DATE: 10 a.m., Wednesday, October 19, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
a. Sausage casings (Docket No. 970).
5. Investigations 731-TA-113 and -114 (Final) (Carbon Steel Wire Rod from Brazil and Trinidad and Tobago)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1414-83 Filed 10-5-83 1:57 pm]
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Part II

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Occupational Safety and Health Administration

Electrical Standards for Construction; Proposed Rule

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S106]

Electrical Standards for Construction

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rulemaking.

SUMMARY: Occupational Safety and Health Administration (OSHA) is proposing to amend the electrical safety standards for Construction in Subpart K of 29 CFR Part 1926. The proposed revision is intended to clarify and update those standards. The proposal would accomplish the following three major objectives:

(1) National electrical Code (NEC) requirements which directly affect employee safety in construction workplaces would be placed in the text of the OSHA standard, eliminating the need for the NEC to be incorporated by reference.

(2) Relevant requirements in the existing text of Subpart K, which currently supplement the NEC, would be integrated into the proposed new format.

(3) The requirements would be written in performance language so that superfluous detailed specifications could be omitted and changes in technology could be accommodated, without compromising safety.

DATES: Written comments on these proposed rules must be postmarked by November 21, 1983. Objections and requests for a hearing must be postmarked by November 21, 1983.

ADDRESS: All comments, objections and hearing requests should be sent to Docket Officer; Docket S106 Rm. S–6212; U.S. Department of Labor; 200 Constitution Avenue, NW; Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue, NW., Washington, D.C. 20210. (202–523–8151).

SUPPLEMENTARY INFORMATION:

I. Background

(A) Safety Problems of Electric Shock

It is well known that the human body will conduct electricity. If direct body contact is made with an electrically energized part while a similar contact is made simultaneously with another conductive surface which is maintained at a different electrical potential, a current will flow. This current will enter the body at one contact point, traversing the body and then exiting at the other contact point, usually the ground. Each year many workers suffer pain, injuries and death from such electric shocks. The Bureau of Labor Statistics (BLS) reports 830 work-related deaths by all causes for 1980 (960 fatalities in 1979) in construction work-places with 11 employees or more. In researching causes of these fatalities, BLS has found that about 12 percent were electrocutions. Therefore, for this period, the number of accidental electrocutions from construction firms with more than 10 employees has probably exceeded 100 each year. The overall number of electrocutions in construction is probably higher, since the BLS fatality data presented here do not include deaths in work-places with 10 or fewer employees.

The effects that electric shock will have on an individual will depend upon the type of circuit; its voltage, resistance, and amperage; the pathway through the body; and the duration of the contact. For example, electric shocks produced by alternating currents of powerline frequency (normally 60 Hertz) passing through the body from hand to foot for an average adult worker for one second can cause various effects, starting from a condition of being barely perceptible at 1 milliampere to involuntary muscular control from 9 to 25 milliampers. The passage of still higher currents can produce ventricular fibrillation of the heart (cessation of rhythmic pumping action) from 75 milliampers to 4 amperes and finally immediate cardiac arrest at over 4 amperes. Nearly instantaneous fatalities from electric shock can result from either direct paralysis of the respiratory system (at 20 milliampers or more), failure of the heart to pump due to ventricular fibrillation (at 75 milliamperes or more), or immediate and complete heart stoppage (at 4 amperes or more). Even if the shocking current does not pass through vital organs or nerve centers, severe injuries such as deep internal burns can still occur. In some cases, injuries caused by electric shock can be a contributory cause of delayed fatalities.

Burns suffered in electrical accidents are of great concern. These burns may be of three basic types: electrical burns, arc burns and thermal contact burns. Electrical burns are the result of the electric current flowing in the tissues and may be skin deep or may affect deeper layers (muscles, bones, etc.) or both. Tissue damage is caused by the heat generated from the current flow; if the energy delivered by the electrical shock is high, the body cannot dissipate the heat and the tissue is burned. Typically, such electrical burns are slow to heal. Arc burns, on the other hand, are the result of high temperatures produced by electric arcs or by explosions in close proximity to the body. These burns are similar to burns and blisters produced by any high temperature source. Finally, thermal contact burns are those normally experienced from the skin's contacting hot surfaces of overheated electrical conductors, conduits, or other energized equipment. All types of burns may be produced simultaneously.

Electrical shock currents, event at levels as low as 3 milliamperes, can also cause injuries of an indirect or secondary nature. In this case, the involuntary muscular reaction from the electrical shock can cause bruises, bone fractures and even death resulting from collisions or falls.

(B) Hazards Associated With Electricity

Most electrical systems use the earth to establish an electrical voltage reference system with respect to ground. This is done by connecting a portion of the circuit to ground. Since these systems use conductors which have voltages to ground, a shock hazard exists for persons who are in electrical contact with the earth and are exposed to the conductors. If a person comes in contact with an ungrounded conductor while he is in contact with the ground, he becomes part of the circuit and current passes through his body. Employees on construction sites, because of the environment involved, are likely to be in contact with ground or a grounded conductive surface most of the time. Therefore, the possibility of receiving an electrical shock on a construction site is much greater than for most other workplaces.

In addition to the shock hazard, electricity poses other hazards to employees. For example, when a short circuit occurs or current flow is interrupted, hazards are created from the resultant arcs. If high current is involved, these arcs can cause injury or can start a fire. Fires can also be created by overheating equipment or by conductors carrying too much current. High-energy arcs can damage equipment, causing fragmented metal to fly in all directions. In atmospheres which contain explosive gases or vapors or combustible dusts, even low-energy arcs can cause violent explosions.

(C) Nature Electrical Accidents

Electrical accidents, when initially studied, often appear to be caused by

circumstances which are varied and peculiar to the particular incidents involved. However, futher consideration usually reveals the underlying cause to be a combination of three possible factors; i.e., work involving unsafe equipment and installations, workplaces made unsafe by the environment, and unsafe work performance (unsafe acts). For simplicity, the first and second accident-causing situations are sometimes combined and simply referred to as "unsafe conditions." Thus, electrical accidents can be generally considered as being caused by unsafe conditions, unsafe acts, or in the unual case, combinations of the two.

A few illustrations may help to clarify these contributoty factors. For example, some unsafe conditions involving electrical equipment and installations can often be identified by the presence of faulty insulation, improper grounding, loose connections, defective parts, ground faults in equipment for unguarded live parts. The environment, particularly the wet and damp locations of a construction site, can also be a contributory factor to electrical accidents in a number of ways. Other unsafe environments affecting electrical safety would be, for example, atmospheres containing flammable vapors, liquids or gases, and areas containing corrosive atmospheres.

Some unsafe acts can be recognized as, typically, the failure to deenergize electrical equipment when it is being repaired or inspected, the intentional use of obviously defective and unsafe tools, or the use of tools or equipment too close to energized parts. It should also be noted that inadequate maintenance can cause equipment or installations, which were orginially considered safe, to deteriorate, resulting in an unsafe condition.

Compounding these hazards, the temporary nature of construction increases the possibility that a combination of unsafe conditions, unsafe acts, and unsafe environments will result in electrical accidents. For example, the use of tools and cords in poor condition and the use of ungrounded equipment have contributed to construction accidents. Furthermore, the wet and conductive environments common on construction projects increases the likelihood of electric shock when such unsafe conditions are present.

(D) Protective Measures

There are various general ways of protecting employees from the hazards of electric shock, including insulation and guarding of live parts. For example, insulation provides an electrical barrier to the flow of current. To be effective, the insulation must be appropriate for the voltage, and the insulating material must be clean and dry. Another type protection, guarding, prevents the employee from coming too close to energized parts. Guarding can be in the form of a physical barricade, or it can be provided by installing the live parts out of reach from the working surface. (This technique is known as "guarding by location.")

Grounding is yet another method of protecting employees from electric shock; however, it is normally a secondary protective measure. To keep guards or enclosures (the primary protection) at a common potential with earth, they are connected, by means of a grounding conductor, to ground. If a live part accidentally comes in contact with a grounded enclosure, current flow is directed back to earth, through circuit protective devices (e.g., fuses and circuit breakers), to interrupt the circuit.

In addition to these protective measures, the use of proper work procedures is necessary for employee protection. When employees are working near or with electrical equipment, they must use safe work practices. Such safety-related employee work practices include keeping a prescribed distance from exposed energized lines, avoiding the use of electrical equipment while wet, and locking-out and tagging equipment which is deenergized for maintance.

Another important safety practice involves electrical protective devices, such as rubber gloves and rubber mats (which are used for insulation against live parts) or liveline tools (which are used for insulation from and actuation of energized parts from a distance). However, to assure the protection of the employee, this equipment must be properly manufactured and maintained. With this equipment, regular maintenance becomes an important consideration in ordrr to keep the equipment from deteriorating and causing an unsafe condition.

(E) Present Regulations and Reasons for Proposed Revision

As noted earlier, electricity has long been recognized as a serious workplace hazard, exposing employees to such dangers as electric shock, electrocution, fires, and explosions. Indeed, the long history of the National Electrical Code attests to this fact. Since the turn of the century, the NCE has represented the continuing efforts of experts in electrical safety to deal with these recognized hazards and to provide for safety in all electrical installations, including construction workplaces.

The regulations presently contained in Subpart K of 29 CFR Part 1926 incorporate the entire 1971 NEC by reference. They also include some additional requirements (for example, those on battery rooms and battery charging, § 1926.403) that are not contained in the NEC. The NEC is the most widely used code for safeguarding people and property from the potential hazards associated with electricity. The first edition of the NEC was published in 1897, when the use of electricity was just starting, and the Code has been revised and updated periodically since then. Today, in addition to its role in the OSHA standards, the NEC provides the basis for electrical safety regulations in over 2000 municipalities throughout all 50 States. Thirty-seven States and the District of Columbia have adopted it as their electrical safety law, and it is enforced by over 12,000 governmental electrical inspectors.

OSHA recognizes the important role that the NEC has played over the years in defining basic requirements for safety in electrical installations. The revision of Subpart K being proposed by this document will maintain the protection presently afforded to employees by the 1971 NEC, as incorporated by reference in the present standards. While carrying forward NEC provisions which are considered necessary for employee safety, OSHA is proposing to provide greater flexibility for compliance with these provisions to the extent that employee safety warrants. OSHA has determined, therefore, that the requirements contained in this proposed revision of Subpart K are reasonably necessary to protect employees from electrical hazards posing significant risks in the workplace.

Since the 1971 NEC was adopted as a national consensus standard, the National Fire Protection Association (NFPA) has revised the NEC three times, the most recent being the 1981 edition. Because of the continual process by the NFPA of updating the Code, any specific edition which OSHA might adopt would likely be outdated within a few years. In addition, since the rulemaking process can become somewhat lengthy, a complete revision of the OSHA electrical safety standards every three years to keep pace with the NEC changes is not practical. To remedy this problem, OSHA is proposing revisions to Subpart K to make the standards flexible enough to accommodate changes in technology, obviating the need for constant revision. Additionally, where possible, the proposal is written in performance terms in order to allow alternative installation methods if they

provide comparable safety to the employee.

Another difficulty with the current incorporation of the entire NEC by reference is that the NEC contains many details which are not directly related to employee safety. In proposing this revision to Subpart K, OSHA has tried to carry forward only NEC provisions which are relevant to employee safety in construction workplaces. In addition, OSHA has attempted to simplify those provisions to make the revised standards easier for employers and employees to use and understand. Furthermore, since the revised standard would place all relevant requirements in the text of the regulations, employers would no longer have to refer to the NEC to determine their obligations under OSHA.

In striving for this degree of standards simplification, OSHA recognizes that at times a newly revised NEC might contain technical advances significantly improving employee safety. Should this occur, the new NEC revisions would merit employer attention early rather than later when the derived OSHA standard is updated. Present OSHA policy is that employers who, in such situations, elect to follow the latest NEC revisions in the interim prior to future OSHA updating will generate a de minimis condition. However, due to the performance oriented nature of the OSHA standard as compared to the NEC, situations involving deviations of the NEC from the OSHA standards in areas affecting employee safety are expected to be infrequent.

The rationale applicable to this situation is OSHA Instruction CPL 2.11A. As this instruction explains, a de minimis condition exists where an employer's workplace has been updated in accordance with new technology or equipment as a result of revisions to the latest consensus publications from which current OSHA standards were derived (such as the NEC), where the updated versions result in a "state of the art" workplace, technically advanced beyond the requirements of the applicable OSHA standard, and where equal or greater safety and health protection is provided.

II. Development of Proposed Standard

(A) General Approach

In view of the limitation imposed by the continued incorporation by reference of the 1971 NEC, as previously discussed, OSHA determined that relevant requirements for electrical safety for construction should be placed within the body of Subpart K and that these provisions should be updated and clarified to facilitate their application to construction workplaces. OSHA has used selected provisions of Part I of NFPA 70E, "Electrical Safety Requirements for Employee Workplaces," as a base document for developing its proposed revision for construction.

(B) Background

In 1976, NFPA created the "70E Committee" to prepare a consensus standard for possible use by OSHA in developing a proposed revision of the Agency's electrical safety standards. The 70E Committee visualized a standard consisting of four major parts:

Part I—Installation Safety Requirements,

Part II—Safety Related Work Practices,

Part III—Safety Related Maintenance Requirements,

Part IV—Safety Requirements for Special Equipment.

The NFPA 70E Committee completed its work on Part I and NFPA approved it as a national consensus standard in 1979. Part I was derived from the 1978 NEC; however, unlike the NEC, this Part was not intended to be applied as a standard for the design, installation, modification, or construction of an electrical installatin or system. Rather, the purpose of Part I was to provide a compilation of provisions from the NEC which were considered relevant to employee safety from electrical hazards of electric utilization systems in the workplace. Efforts were made to revise and clarify language from the NEC in order to make the requirements more readily understood and implemented by employers.

In the process of developing this proposal, OSHA reviewed NFPA 70E to examine its suitability as a standard for electrical safety for construction workplaces. Various provisions in NFPA 70E (i.e., sections 2.B(1), 3.A(2)(a), and 3.A(2)(c)(vii)) specifically mention construction. Order sections, such as Section 6.A(4) *Tunnel Installations,* imply a construction-like activity by referring to the use of mobile shovels, draglines, under ground excavators, and the like. This demonstrates that electrical safety in construction was a consideration in the development of the consensus standard. In reviewing relevant construction accident descriptions, OSHA also determined that many of the requirements in NFPA 70E are related to the causes of these accidents, as well as to typical hazards present in the construction industry. For example, NFPA 70E provisions on temporary wiring and on grounding address hazards contributing to many of the electrocutions and electric shock injuries in construction.

However, OSHA found that significant portions of NFPA 70E did not relate to electrical installations usually found in construction. For example, requirements on electric signs and outline lighting, electrolytic cells, swimming pools, open wiring on insulators and fire protective signaling systems are not necessary for inclusion in a construction safety standard. Therefore, OSHA did not include provisions from NFPA 70E relating to installations of electric equipment not found in construction.

(C) New Format for Subpart K

The major change proposed in the new format of Subpart K is the inclusion of the relevant NEC provisions within the body of the standard itself, making it unnecessary to continue to incorporate the entire NEC by reference. An advantage of using this format is indicated by the reduction from the approximately 250,000 words in the National Electrical Code to the approximately 15,000 words in the proposed revisions.

The proposed format would divide Subpart K into four groups of standards. In addition, a general definitions section covering the entire Subpart would also be provided. OSHA believes that the use of this systematic format can provide for the continued effective coverage of hazards and equipment currently addressed, with enough flexibility to accommodate other equipment and protective methods in the future. The proposed Subpart K is divided into four major groups as follows:

Installation Safety Requirements: §§ 1926.402–1926.415

Safety-Related Work Practices: §§ 1926.416–1926.430

Safety-Related Maintenance and Environmental Considerations: §§ 1926.431–1926.440

Safety Requirements for Special Equipment: §§ 1926.441–1926.448

Since each division represents a wide range of diverse equipment, installations and practices, it is intended that each division be further subdivided as appropriate. In addition, a general definitions section for all of Subpart K is being proposed as §§ 1926.449.

Various provisions located elsewhere in Part 1926 currently reference either the 1971 NEC or specific paragraphs in Subpart K. The proposal would revise these references to reflect the appropriate proposed provisions of Subpart K.

(D) Advisory Committee on Construction Safety and Health

As required by Section 107 of the Construction Safety Act (83 Stat. 96, 40 U.S.C. 333), a draft of the proposed revision to Subpart K was submitted to the Advisory Committee on Construction Safety and Health (ACCSH) on January 28, 1982, and was discussed at their meeting of March 3, 1982. The committee's recommendation is contained in the transcript of this meeting.

During the meeting, committee members and public participants made suggestions concerning the draft proposal. OSHA has thoroughly reviewed and analyzed the ACCSH recommendations, many of which have been incorporated in this proposal. Careful consideration was given to all of the suggestions. The major issues raised by the committee are discussed later in this preamble.

III. Summary and Explanation of Proposed Standard

Subpart K of the Construction Industry Standards applies to electrical installations used on the jobsite, both temporary and permanent. As previously mentioned, the existing Subpart K incorporates by reference the entire 1971 National Electrical Code. Additionally, the existing standards sets forthother requirements addressing unique hazards present in the construction industry. Some of these additional requirements are equivalent to or duplicate requirements in the 1971 NEC.

For example, existing § 1926.402(a)(2) prohibits the interchangeability of receptacles used on circuits of different voltages, frequencies, or types of current. A paragraph in Section 210–21 of the 1971 NEC contains the same prohibition. Other regulations have been derived from different sources and supplement the requirements of the NEC. An example of this type is existing § 1926.402(a)(10), which prohibits the use of worn or frayed cables. While no such requirement is explicitly stated in the 1971 NEC, this prohibition is implied throughout various sections of the code; e.g., Sections 100–17, 230–46, 305–2, and 410–23.

The proposed revision of Subpart K would accomplish the following three major objectives:

(1) NEC requirements which directly affect employee safety in construction workplaces would be placed in the text of the OSHA standard, eliminating the need for the NEC to be incorporated by reference.

(2) Relevant requirements in the existing text of Subpart K, which currently supplement the NEC, would be integrated into the proposed new format.

(3) The requirements would be written in performance language so that unnecessary detailed specifications could be omitted and changes in technology could be accommodated, without compromising safety.

As a result, the proposed standard should be easier to use and understand and should not become technologically obsolete in the near future. Since it will be written in performance-oriented terms, Subpart K should remain a viable electrical safety standard, even though the detailed specifications of the NEC change as the Code is revised every three years. Therefore, when the NEC is periodically revised by NFPA, Subpart K should not be so out-of-date as to necessitate revision

The proposal contains several new provisions, which are not found in the 1971 NEC or elsewhere in the current Subpart K. These few additional requirements reflect safety requirements appearing in the most recent revision (1981) of the NEC, which also contains all the requirements found in the 1971 NEC. OSHA has determined that most construction employers are generally complying with the latest edition of the NEC and that these few new rules are already being met. Therefore, as set forth in OSHA's regulatory analysis of the proposed rule, the proposal should create no new burdens on employers, nor should it sacrifice employee safety.

Some parts of the present §§ 1926.400 through 1926.405 are proposed either for deletion or for modification and incorporation into new sections. Other parts of these sections would be incorporated into new sections without substantive change. As an aid for following the proposed changes, OSHA has developed the following distribution table:

DISTRIBUTION TABLE

Old section	Proposed new section
1926.400(a)	Removed. The old paragraph adopted the 1971 NEC by reference. The proposal places the relevant NEC requirements into the text of the regulation.
1926.400(b)	1926.402.
1926.400(c)	1926.416(a).
1926.400(d)	1926.416(b)(1).
1926.400(e)	1926.403(i)(1) [low voltage]; and 1926.403(j)(3) [high voltage]—requirements conform to the 1981 NEC.[1] Minimum clear working space has been increased from 2½ feet to 3 feet.
1926.400(f)	1926.416(c); reference to NEC has been removed.
1926.400(g)	1926.417.
1926.400(h)	Redesignated 1926.404(b)(1) [Reserved].
1926.401(a)	1926.404(i)(7)(i)-(v); requirement has been reworded to conform to the 1981 NEC.[1] Requirement now lists specific conditions requiring the grounding of portable equipment.
1926.401(b)	1926.404(i)(7) (iii) and (v); requirement has been reworded to conform to the 1981 NEC.[1] Requirements now list specific conditions requiring the grounding of fixed equipment.
1926.401(c)	1926.404(f)(6); requirements relating to impedance and ampacity of grounding conductor have been removed to be consistent with 29 CFR Part 1910, Subpart S. Briefly, these requirements have removed because the parameters cannot be accurately measured in operational workplaces. Further discussion of OSHA's rationale for proposing to remove these requirements can be found in the preamble to the Subpart S final rule document (45 FR 4044 Column 3, Issue No. 5).
1926.401(d)	Ground resistance of driven rod electrodes is covered by 1926.404(f)(10).
1926.401(e)	Removed. Requirement is ambiguous in that it implies that the resistance between the ground and the grounded power conductor is a controlling factor in circuit overcurrent protection. Clarifying the ambiguity would result in a requirement for measuring the actual equipment grounding conductor impedance under fault conditions. The practicality of such measurements have been questioned and currently no such requirement exists in the National Electrical Code.
1926.401(f)	1926.405(a)(2)(ii)(j).
1926.401(g)(1)	Conductor ampacity is covered by 1926.404(f)(6)(ii) for grounding and by 1926.404(f)(9) for bonding.
1926.401(g)(2)	Bonding as it relates to static electricity control for material handling is covered in Subpart F (Fire Protection and Prevention) of Part 1926 instead of Subpart K. Bonding for this purpose is found in 1926.151(a)(5) and 1926.152(e)(2).
1926.401(h)	Temporary wiring is covered in 1926.405(a)(2). Reference to the NEC has been removed.
1926.401(i)	Covered by 1926.403(i)(2) and 1926.405(a)(2)(ii)(b)
1926.401(j)(1)	1926.405(a)(2)(ii)(a).
1926.401(j)(2)	First sentence removed. Hard usage cords are required by 1926.405(a)(2)(ii)(j). Second sentence is 1926.405(a)(2)(ii)(f). Third sentence is covered by 1926.403(e) for conductors and 1926.405(g)(2)(ii) for hard service flexible cords.
1926.401(j)(3)	1926.416(b)(2).
1926.401(j)(4)	1926.405(a)(2)(ii)(g); amended to allow greater flexibility.
1926.402(a)(1)	Covered by 1926.403(a), 1926.403(i)(2), 1926.404(f) and 1926.405(a)(2)(ii)(c).
1926.402(a)(2)	1926.405(j)(2)(ii).
1926.402(a)(3)	Covered by 1926.403 (a), (b) and (c).
1926.402(a)(4)	Covered by 1926.403(b) and 1926.405(g)(2)(iii).
1926.402(a)(5)	1926.405(g)(2)(ii); amended to conform to 1981 NEC.[1] Splices are now permitted for hard service cords No. 12 and larger only.
1926.402(a)(6)	1926.405(a)(2)(ii)(i) and 1926.408(a)(4)(ii).
1926.402(a)(7)	Covered by 1926.403(e) and 1926.405(g)(2)(ii).
1926.402(a)(8)	Covered by 1926.405(a)(2)(ii) (b) and (i).
1926.402(a)(9)	1926.405(j)(1)(ii); amended to conform to 1981 NEC.[1] Editorial changes only.
1926.402(a)(10)	1926.416(a)(1).
1926.402(a)(11)	1926.405(a)(2)(ii)(i); amended to conform to the 1981 NEC.[1] Editorial changes only.
1926.402(a)(12)	1926.416(e)(2).
1926.402(b)(1)	1926.404(e)(1)(ii); amended to simplify requirement.
1926.402(b)(2)	1926.404(e)(1)(iii); amended to conform to 1981 NEC.[1] Editorial changes only.
1926.402(b)(3)	1926.416(d).
1926.402(c)(1)	1926.403(h); reworded for clarification.
1926.402(c)(2)	Covered by 1926.403(f) and 1926.404(e)(1)(v).
1926.402(c)(3)	Covered by 1926.43(d)(1) and 1926.405(b)(2).

DISTRIBUTION TABLE—Continued

Old section	Proposed new section
1926.402(c)(4)	1926.405(e); amended to conform to 1981 NEC.[1] Editorial changes only.
1926.402(d)	Covered by 1926.403 (j)(2) and (j)(2) and 1926.405(j)(5).
1926.402(e)	Covered by subparts F and J of Part 1926.
1926.403	1926.441, with minor editorial changes.
1926.404(a)	Placed in 1926.449 and amended to conform to 29 CFR part 1910, Subpart S.
1926.404(b)	1926.407(b); amended to conform to 29 CFDR Part 1910, Subpart S.
1926.404(c)	Covered by 1926.407 (b)(2) and (d).
1926.404(d)	1926.432.
1926.405	1926.449; amended to include more definitions and to conform to 1981 NEC.[1] Editorial changes only.

[1] NOTE.—OSHA is proposing to use the 1981 NEC version of these rules. See text for additional explanation.

As can be seen from the Distribution Table, some of the proposed revisions are 1981 NEC versions of existing requirements set forth in Subpart K. For example, proposed § 1926.404(f)(7)(iv), which addresses grounding of cord-and plug-connected equipment, is derived from 1981 NEC Section 250–45. This proposed regulation would replace existing § 1926.401(a), which requires portable and plug-connected equipment other than double insulated equipment to be grounded. In contrast, the proposal lists specific conditions which warrant the grounding of equipment connected by cord and plug. If the listed conditions are not present, grounding is not necessary for employee safety.

In developing proposed revisions to the present requirements in Subpart K, OSHA relied on corresponding requirements contained in the 1981 NEC. The reasons for this are threefold. First, the NEC is widely recognized and understood in the construction industry. The use of language consistent with (and in many cases identical to) that used in the 1981 NEC will promote greater understanding of OSHA's standard within the industry. Second, as clearly demonstrated in the Regulatory Analysis, the vast majority of contractors are already complying with the provisions of the 1981 NEC. This ensures wide acceptance of and compliance with OSHA's proposed standard. Third, OSHA's proposal is consistent with the regulations of many state and local authorities, which base their rules on the latest edition of the NEC. This reduces the possibility that employers will be required to follow conflicting or inconsistent standards.

Parts of the proposed standard not listed in the distribution table have been derived from requirements in the 1981 National Electrical Code and NFPA 70E. The following sections discuss the proposal's principal substantive additions to and deletions from the existing standard.

(1) *Principal additions.* (i) Paragraph (f)(3) of § 1926.404 proposes new regulations pertaining to the grounding of portable and vehicle-mounted generators. To prevent hazardous voltages from being impressed on the system and to ensure the proper operation of overcurrent protective devices, the existing standard, 1971 NEC Section 445–8, requires grounding the frames of generators operating at over 150 volts to ground. Lower voltage generators must have their frames grounded or permanently and effectively insulated from ground. Recognizing the uncertain availability of a dependable ground for portable and vehicle-mounted generators, the proposal does not require the frames of such generators to be grounded, if certain conditions are met. These conditions, proposed in § 1926.404(f)(3), have been taken from the 1981 NEC. By permitting the frame of the generator to serve as the grounding electrode for the system supplied by the generator, the proposal allows another method of ensuring the proper operation of protective devices.

(ii) The current provisions on temporary wiring, § 1926.400(a) and 1926.401(h), incorporate Article 305 of the 1971 NEC by reference. Proposed § 1926.405(a)(2) carries forward the substance of these requirements, updated to the 1981 NEC, and supplements them with several new provisions. The first of these, paragraph (a)(2)(ii)(*c*) of § 1926.405, proposes that receptacles not be installed on temporary lighting circuits. Derived from 1981 NEC Section 305–2(d), this requirement is necessary to prevent construction areas from exeriencing a loss of temporary lighting, which could occur if cord- and plug-connected equipment at the receptacle were to trip a circuit breaker or ground-fault circuit interrupter protecting the lighting circuit. Paragraph (a)(2)(ii)(*h*) is also new and has been taken from 1981 NEC Section 305–2(g). However, it does not add a requirement; it merely explains the extent to which provisions of the existing standard which address the need for junction boxes (1971 NEC Sections 300–15 and 300–16) apply to temporary wiring (1971 NEC Section 305–1). The proposal clarifies that junction boxes are required where a change is made from one wiring method to another and one of the wiring methods is a raceway system or a metalclad or metal-sheathed cable system.

(iii) Proposed paragraph (a)(2)(ii)(g) of § 1926.405 is taken from current § 1926.401(j)(4), which requires portable electric lighting used in moist and/or other similarly hazardous locations to be operated at a maximum of 12 volts. OSHA is proposing to amend this provision to allow the use of 120-volt lights if they are protected by ground-fault circuit interrupters. OSHA believes that either method can protect employees from the hazard of accidental electrocution due to lamp breakage in highly conductive locations. The other requirements in proposed § 1926.405(a)(2) have been taken from the existing standards with some editorial clarification, as noted in the distribution table.

(iv) A defintion of "intrinsically safe equipment and associated wiring" is being included to clarify the requirements, in proposed § 1926.407 (existing requirement: 1971 NEC Article 500), pertaining to such equipment. The definition has been derived from the National Fire Protection Association Standard for Intrinsically Safe Apparatus and Associated Appraratus for Use in Class I, II, and III, Division 1 Hazardous Locations, NFPA 493–1978. Although Section 500–1 of the 1971 NEC describes intrinsically safe equipment, it does not contain a definition of the term. The definition being proposed by OSHA is consistent with the descriptive language set out in the 1971 NEC.

(2) *Principal deletions.* (i) In the 1971 NEC, incorporated by the existing Subpart K, chapters 3 and 4 deal with wiring methods and materials (Chapter 3) and equipment for general use (Chapter 4) and include extensive design type data. In the proposal, however, the tables containing various specialized technical information, such as are contained in those chapters, have been deleted. Typical topics of these deleted parts include insulation characteristics, allowable ampacities, electrical box sizes, flexible cord and motor full load currents. This type of information has been removed from the proposed sections because it deals with items not directly related to electrical hazards. For example, requirements on the composition of insulation on a conductor have been deleted; however, the actual requirement that the conductor be insulated and that the insulation be approved for its intended purpose has been retained. These changes result in a standard which is more performance oriented.

(ii) Chapter 6 of the 1971 NEC describes special equipment requirements. Requirements from this chapter dealing with electrically operated organs and the installation of equipment and wiring used for sound recording and reproduction have been deleted in the proposal because electrical safety for employees in construction is not directly affected by these items. This type of equipment is not normally found in construction.

(iii) Chapter 7 of the 1971 NEC deals with special conditions. Requirements from this chapter involving stand-by power generation systems and emergency systems have been deleted. In these situations, primary electrical hazards to the worker are minimal since the effects of power outage are generally limited to work stoppage. Additionally, such systems are not commonly used for construction purposes.

(iv) Chapter 9 of the 1971 NEC provided a collection of tables containing technical data, together with a number of sample computations. This entire chapter in not included in the proposal because it is solely an instructive guide for the design of certain electrical systems and is not a necessary subject for OSHA electrical safety regulations.

(3) *Definitions.* The definitions in the current § 1926.405 have been carried forward in § 1926.449 of the proposal. Some have been editorially modified to conform to their counterparts in the 1981 NEC and Subpart S of Part 1910. However, since the terms "hazard" and "shock hazard" are not used in the proposal or in the existing standard, OSHA is proposing the removal of the definitions for these terms. To supplement the existing § 1926.405, OSHA is proposing to define additional terms used in the proposed standard. These additions have been taken from the 1981 NEC.

Among the additional definitions are those for "acceptable", "accepted", "certified", and other terms related to the suitability of equipment or materials for a specific purpose, environment or application as determined by a qualified testing laboratory. The existing standard, in § 1926.405(a), simply references the general industry electrical standard, while the proposal places the relevant portions of the definitions, as amended by the 1981 NEC, in the text of Subpart K. The existing definitions relating to approval refer to a nationally recognized testing laboratory, such as, but not limited to, Underwriters Laboratories, Inc., and Factory Mutual Engineering Corp. However, in accordance with the 1981 NEC, all references to "a nationally recognized testing laboratory" have been changed to "qualified test laboratory." Additonallly, the proposal defines "qualified testing laboratory" in terms agreeing with the description of such laboratories in Section 90–6 of the 1981 NEC. The proposed definitions do not include references to the two specific laboratories mentioned in the existing definitions. Since the terms related to approval have been applied to existing Subpart K in the same manner as they would be in the proposed revision, the inclusion of the definitions should not result in any substantive change in the standard.

In a related matter, OSHA has issued an advance notice of proposed rulemaking (48 FR 270) on the accreditation of testing laboratories. In proposing the use of the aforementioned definitions and their references to a "qualified testing laboratory," OSHA recognizes that the outcome of the laboratory accreditation rulemaking may affect the use of these terms and their definitions in the future. When that rulemaking has been completed, appropriate changes will be made to the regulation in Subpart K, as well as other OSHA regulations dealing with product approval and testing laboratories.

(4) *Miscellaneous changes to other Subparts.* In addition to proposing the complete revision of Subpart K, OSHA is proposing several miscellaneous changes to other subparts of Part 1926. All but one of these proposed revisions would eliminate references to the NEC or existing provisions of Subpart K and replace them with references to the corresponding provisions of proposed Subpart K. The other proposed change would correct a reference in existing § 1926.600(a)(6). This provision now references § 1518.550(a)(15), which was the predecessor of the correct reference, § 1926.550(a)(15).

(5) *Major issues.* Following is a discussion of the major issues raised by the Advisory Committee on Construction Safety and Health (ACCSH) in their deliberations on OSHA's draft proposed revision of Subpart K.

(a) *"Shall not" vs. "may not."* A primary area of concern raised by ACCSH involved the choice of regulatory language. The committee as a whole disagreed with the use of the words "may not" for regulations in which a right, privilege, or power is abridged. The committee felt that the words "shall not" are more appropriate for such negative requirements. For example, § 1926.405(a)(2)(ii)(*f*) of the draft proposal read:

> Temporary lights may not be suspended by their electric cords unless cords and lights are designed for this means of suspension.

The committee recommended changing the "may not" to the less grammatically acceptable "shall not," because they felt the draft language sounded permissive and might be misinterpreted in the field.

Formerly, the **Federal Register** guidelines required agencies to use the words "may not" with negative regulations. Presently, the use of either "may not" or "shall not" is permitted, provided the term selected is used consistently.

After considering the ACCSH recommendation and reviewing other regulatory language in the Construction Standards, OSHA has decided to use the term "shall not." Since this practice is consistent with the wording of current Construction Industry Standards, it will eliminate any misunderstanding as to whether or not the rules in question are mandatory.

(b) *Heavy duty cords for temporary lighting.* In the existing standard, § 1926.401(j)(2) contains the requirement:

> "Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition."

In § 1926.405(a)(2)(ii)(*b*), the proposed standard also allows methods of wiring temporary lights other than cords, including open conductors, cables suitable for the environment, and conduit. In this area, the proposal is consistent with the 1971 and 1981 NEC, which allow but do not require temporary lights to be wired with cord. When properly installed, any of these wiring methods can provide safety as effectively as heavy duty electric cord can. Since proposed § 1926.405(a)(2)(ii)(*b*) would adequately protect employees from the hazards of temporary lighting wiring methods, the language of existing § 1926.401(j)(2) has not been included in the proposal.

Several ACCSH members objected to the removal of this requirement from the proposal. The representative of the International Brotherhood of Electrical Workers felt that OSHA's proposal did not provide the minimum protection of the existing standard. However, no one presented data or information demonstrating that other temporary lighting wiring methods have caused injury or exposed employees to unnecessary hazards.

Since we are aware of no information indicating that other wiring methods are unsafe and since these other methods are considered to be safe by the NEC, OSHA is proposing the removal of the requirement for heavy duty cord for temporary lighting. This would allow the use of other recognized safe wiring methods and will allow employers more flexibility in complying with the provisions on temporary lighting than the existing standard. OSHA would appreciate receiving any data on the

safety of the wiring methods permitted by the proposal, as well as any information as to whether the present "heavy duty cord" requirement should be retained and, if so, why.

(c) *Use of water pipe to ground equipment.* For branch circuit extensions, the existing standard, as stated in 1971 NEC Section 250–50, Exception, allows the grounding conductor of a grounding-type receptacle to be grounded to a nearby cold water pipe if the original branch circuit does not have an equipment grounding conductor. The draft proposal reviewed by ACCSH continued to allow this practice and was intended to be consistent with the NEC.

Some of the ACCSH members raised concerns regarding the use of a water pipe as a ground, pointing out the hazards involved. In particular, the committee cited the widespread use of plastic pipe as evidence that many piping systems would not provide a continuous electrical conductor.[1] Additionally, it was noted that the use of a water pipe as a grounding conductor can introduce hazards to plumbers working on the piping. If the pipe is carrying leakage current, it poses a shock hazard to anyone interrupting its continuity.

OSHA agrees that the expanded use of plastic water pipe can cause problems with the reliability of a water pipe as a ground and recognizes the increased shock hazard to those working on the pipes. Furthermore, the types of old, ungrounded branch circuits addressed by this provision of the NEC are not generally encountered in construction. For these reasons, OSHA's proposal would not allow the grounding of receptacles by means of grounded water pipes. The proposal would require them to be grounded by means of an equipment grounding conductor which runs with or encloses the circuit conductors (proposed § 1926.404(f)(8)). Since the proposal differs from the NEC on this point, OSHA solicits comments regarding any problems which may result from this conflict of standards.

(d) *Ground-fault protection.* The provisions contained in existing § 1926.400(h) on ground-fault protection will be redesignated to § 1926.404(b)(1). These requirements are not being proposed for revision and are not subject to public comment in this rulemaking action. The ground-fault protection regulations were promulgated under Section 6(b) of the OSH Act and Section 107 of the Construction Safety Act (41 FR 55696; December 21, 1976) and were based on a full public rulemaking record.

[1] Pp. 198–203, Transcript of March 3, 1982, meeting of the Advisory Committee on Construction Safety and Health.

IV. Regulatory Assessment

(A) Preliminary Regulatory Impact Analysis

The following Regulatory Impact and Regulatory Flexibility analyses of this proposed revision of Subpart K have been prepared in accordance with the requirements of Executive Order 12291, and the Regulatory Flexibility Act of 1980 (P.L. 96–353, 94 Stat. 1164, [5 U.S.C. 601] et. seq.). The incremental cost of this proposed revision would be less than $100 million; therefore, the proposal does not constitute a major rule under E.O. 12291.

(1) *Overview of the OSHA Proposal.* The proposed standard would cover all workers involved in construction activities. In 1977, the estimated number of firms in the construction industry was 1,190,789; however, only 40 percent of these firms reported having paid employees. The number of workers employed in construction in 1981 was estimated to be 4,176,000 (dropping to 3,913,000 in 1982). Construction establishments covered by the proposed standard are included in the Standard Industrial Classification (SIC) Codes 1500, 1600 and 1700, such as General Contractors (1521), Heavy Construction, Not Elsewhere Classified (1629), and Electrical Work (1731).

Worker's Compensation claims indicate that workers in all types of construction jobs are exposed to electrical hazards. Although in 1979, electrical work was associated with the highest single percentage of total claims (30.7), other categories such as heavy construction and plumbing, and heating and air conditioning work were also associated with a high percentage of total claims (16.8 and 10, respectively). The remainder of claims were distributed among other categories of construction work, such as roofing and sheet metal work (3.7 percent) and nonresidential building construction (6.9 percent).

(2) *Overiew of the Effectiveness of Alternative Standards.* Site visits indicated that construction projects of all sizes have some degree of noncompliance with the existing Subpart K (OSHA's Preliminary Regulatory Impact Analysis, Docket S106). OSHA estimates that the total electrical injuries in construction projects were 1,857 in 1981 and 1,738 in 1982, including 241 and 226 fatalities in each respective year. Risk and injuries averted by means of full and perfect compliance with either the proposed or current standard would be the same, i.e., 1077 injuries and 140 fatalities in 1982 alone. The projected injuries that would be avoided through 1986 are presented in Table I–2. (Present practices, however, as further discussed below, are frequently out of compliance with the current standard, and OSHA expects increased compliance levels with the proposal owing to its greater clarity and simplicity.)

Given the estimated reduction in risk, some of the benefits were monetized by assessing the injury costs avoided, using two approaches: (1) determination of the economic impacts of foregone earnings, and medical and other costs of the "human capital" approach, and (2) an estimate of the amount society might be willing to pay to realize some reduction in the possibility of premature death or injury or the "willingness-to-pay" approach. While OSHA endorses no particular value of human life and limb or methodology for monetizing benefits, the two approaches were examined solely in order to provide a broader view of the potential benefits that would accrue if the proposed standard is promulgated.

SUMMARY TABLE OF PROJECTED COMPARISONS OF SUBPART K

Compliance status	Years	Costs (1982, in thousands of dollars)[1]	Savings (1982, in thousands of dollars)[1]	Injuries avoided[2]	
				Fatal	Nonfatal
Current practices vs. full compliance with the proposed subpart	1982	113,184	(5,661)	140	937
	1983	111,005	(14,971)	148	967
	1984	117,673	(15,862)	155	1,037
	1985	124,741	(16,806)	162	1,086
	1986	132,233	(17,807)	170	1,136

Source: JACA Corp., *Final Report,* January 1983, pp. 3 through 5.

[1] 1982 present values discounted at 10 percent.

[2] Cost of achieving full compliance with the existing Subpart minus the cost of achieving full compliance with the proposed Subpart.

[3] Injuries are not discounted.

Using the human capital approach, the annual cost of injuries were obtained by multiplying the average cost of $57,197 per injury (based on the Consumer Product Safety Commission's Injury Cost Model with adjustments by JACA Corp.) by the projected number of annual injuries (fatal and nonfatal) avoided by compliance with the Subpart. The average cost per injury included an estimated of lost wages, medical costs, such as hospitalization, and other costs, such as accident investigation, transportation and pain and suffering of the victim. A 5.3 percent linear rate of growth of employment was projected over 5 years using Bureau of Labor Statistics unpublished data. Five years was chosen to give some feeling for long range impact. The recent fluctuations in demand for construction and in finance and materials costs precludes projecting results with any confidence beyond 5 years. Results for the 2nd through 5th years were discounted to 1982 using the Office of Management and Budget mandated rate of 10 percent. These values were then combined with the value for the first year to obtain the value of the avoided injury costs or the 5-year benefits. This approach yields a 5-year economic or GNP benefit of $285.2 million for going from current practices to full compliance with both the existing Subpart and the proposal. It must be emphasized that the benefits estimated through this approach constitute only some of the strictly economic portions of the total possible benefits.

The willingness-to-pay approach employed estimates of what society or some workers have been willing to pay for similar discrete reductions in the risk of premature loss of life ($830,680) or for a lost workday injury ($32,323). (The former is from the Injury Cost Model, adjusted for inflaction, and the latter is from the OSHA *Draft Regulatory Impact Analysis of the Hazard Communication Proposal*). These estimates were multiplied by the respective number of fatal and nonfatal injuries avoided by compliance with the proposed Subpart projected for each year. As in the case above, the calculated benefits for the 2nd through 5th years were discounted to 1982 using a rate of 10 percent. These values were then combined with the first-year benefits to obtain the 5-year benefits. This approach yields $670.5 million over a 5-year period for going from current practices to full compliance with the proposed Subpart.

The benefits must also be assessed in terms of improvements in the quality of the proposed Subpart that do not lend themselves to quantification. Assuming that the proposed Subpart would be read by a representative of each construction firm, it follows that some definite improvement in compliance is likely to be experienced along with a resultant decrease in the rate of injuries. One way to account for this improvement is to postulate a percentage increase in compliance and to apply this percentage to the total benefit of the proposed Subpart. If an improvement of 10 percent were assumed and applied against the estimated first-year benefits of $61.6 million and $146.6 million (the estimates using the human capital and willingness-to-pay approaches, respectively), the value of the incremental benefit for this year would range from $6.2 million to $14.7 million. Over the first 5 years, the incremental value would range from $28.7 million to $67.1 million.

(3) *Technological and Economic Feasibility.* A comparision of the existing and proposed versions of the OSHA electrical construction standards reveals that, for the most part, the changes introduced by the proposed revisions do not pose any technological changes which would require major cost outlays for construction firms. The revisions having cost implications relative to the existing standard are presented in the Table of Provisions of the Proposed Subpart Having Important Cost Implications. Several of the changes could reduce compliance costs for firms, because the proposed standard recognizes lower-cost alternatives for compliance. Thus, no technological or economic constraints are envisioned.

(4) *Overview of Compliance Costs of Proposal.* An important effect of the proposed amendment is the saving estimated by OSHA of achieving full compliance with the revised standard compared to achieving full compliance with the existing standard. There would be costs associated with achieving full compliance with the proposed Subpart because site observations indicate there is some degree of noncompliance at most sites. Costs then represent current obligations which are not being met. Savings would be achieved in those provisions of the proposed standard which would allow greater flexibility in achieving compliance. Furthermore, a cost savings would be achieved because the employer would not have to review two standards (Subpart K and the NEC) in order to determine compliance requirements. A breakdown of the estimated industrywide compliance costs and savings from 1982 through 1987 is presented in the Table of Estimated Industrywide Compliance Costs: 1982–1986. It is estimated that the first year (1982) industrywide cost of going from current practices to full compliance with the proposed Subpart would be $113,184,386. By comparison, the first-year cost of going from current practices to full compliance with the existing Subpart would be $118,845,600. The difference between these two costs ($5,661,214) would be the compliance cost saving realized from the simplification and clarification of the standard and the recognition of lower cost compliance options by the revised standard. Annual savings roughly triple after the first year due to a substantial reduction in familiarization costs. (The cost of becoming familiar with the Subpart would apply only to new firms after the first year.) Over 5 years this would result in savings of $71,107,000 for industry compared to the cost of achieving full compliance with the existing Subpart.

TABLE OF PROVISIONS OF THE PROPOSED SUBPART HAVING IMPORTANT COST IMPLICATIONS

Proposed revision	Cost implication
1926.403(i)(1) For working clearances, minimum clear distance increased in some cases from 2.5 feet to 3 feet.	Potential increase.
1926.404(c)(1)(iii)(d) Clearance for grounds increased from 15 feet to 18 feet for open conductors over streets, alleys, roads, driveways, or other than residential property, and parking lots subject to truck traffic.	Do.
1926.404(f)(3) Under certain conditions, portable generators need not be grounded.	Potential reduction.
1926.404(f)(7)(iii)(A)(3) Exempts capacitors from grounding requirement if installation is elevated on a wooden pole at a height exceeding 8 feet above ground or grade level.	Do.
1926.405(a)(2)(ii)(c) Prohibits use of receptacles on temporary lighting circuits.	Potential increase.
1926.405(a)(2)(ii)(g) Allows 120-volt portable lights to be used in hazardous locations if protected by ground-fault circuit interrupter.	Potential reduction.
1926.405(j)(2)(i) Provides that 20 ampere T-slot receptacle or cord connector may accept a 15 ampere attachment plug of same voltage rating.	Do.
1926.405(j)(4)(iii) Allows for orderly shutdown by permitting motor overloads to be connected to supervised alarm system instead of causing immediate shutdowns.	Do.
1926.407(b)(1) Allows intrinsically safe devices to be used in certain hazardous (classified) locations without the need of certain enclosures and sealing devices.	Do.
[1] 1926.407(d) Allows for interchangeability of equipment within same class and division.	Do.

Source: JACA Corp., *Final Report,* January 1983, pp. 1–6; 1–7.

[1] Provision 1926.407(d) was deleted in the final version of the proposal. While the deletion did have a small impact on the savings, the industrywide savings did not change.

(5) *Overview of Alternatives Considered.* OSHA examined four alternative courses of action as required by E.O. 12291. The first of these was to take no action at all and leave the existing standard in force. This action, however, would not address the various problems with the existing Subpart K

which require clarification and simplification, outlined earlier in this proposal. The next two alternatives considered were to issue program directives to clarify the application of the existing rule or to issue hazard alerts to inform employers of specific electrical hazards. In fact, directives and instructions already issued by OSHA in an effort to update and clarify the regulation have only served to further confuse the situation and to make the existing standard more difficult to use. Further, hazard alerts are generally issued only to deal with hazards that are currently not covered by standards. The use of alerts to clarify or amend an existing regulation would further confuse the issue. The use of alerts in the absence of a regulation would not improve safety since hazard alerts are not compulsory. The fourth alternative was to modify the existing Subpart K to adopt the entire 1981 NEC and to clarify some of the provisions of that code. None of these 4 approaches would address the problem of requiring employers to refer to two sets of published documents (Subpart K and the NEC). Nor would they solve the problem of the code containing a large amount of technical detail which is unrelated to construction worker safety. A fifth alternative would be to eliminate the existing standard. The level of injuries discussed above, however, has resulted primarily from non-compliance with the current regulation. This suggests that neither market incentives nor NEC regulations provide the desired level of safety. Given the nature of the construction industry, which is characterized by ease of entry for firms, temporary conditions at worksites, and workers who have a variety of educational, occupational and skill backgrounds, it is very likely that electrical safety would be under supplied by the private market without the OSHA standard.

TABLE OF ESTIMATED INDUSTRYWIDE COMPLIANCE COSTS: 1982–1986 [1]

[1982 dollars]

Changes in level of compliance	1982	1983	1984	1985	1986
(1) Current practices to full compliance with existing subpart	118,845,600	125,976,400	133,534,800	141,547,200	150,039,600
(2) Full compliance with existing subpart to full compliance with proposed subpart	<5,661,214>	<14,970,947>	<15,861,759>	<16,805,959>	<17,806,603>
(a) Cost due to more stringent requirements from survey sites	2,971,140	3,149,410	3,338,370	3,538,680	3,750,990
(b) Familiarization cost	8,303,144	168,720	171,420	174,163	176,950
(c) Saving from not reviewing existing subpart and 1971 NEC	0	<337,440>	<342,840>	<348,326>	<353,900>
(d) Saving estimated from hypothetical model projects	<17,826,840>	<18,896,460>	<20,030,220>	<21,232,080>	<22,505,940>
(e) Cost estimated from hypothetical model projects	691,342	944,823	1,001,511	1,061,604	1,125,297
(3) Current practices to full compliance with proposed subpart line (1) plus line (2)	113,184,386	111,005,453	117,673,041	124,741,241	132,232,997

Source: JACA Corp., *Final Report*, Jan. 1983, p. 5–20.

[1] Detailed explanation of cost development is available in Preliminary Regulatory Impact Analysis.

(B) Regulatory Flexibility Analysis and Certification

The Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat. 1164, [5 U.S.C. 601] et. seq.) requires that special consideration be given to the economic impact of a proposed regulation on small entities. Most of the construction firms subject to Subpart K are small businesses. If annual receipts of $350,000 are used as the cutoff for defining small firms, nearly 89 percent of the electrical contracting firms would fall into the "small" category. For the construction industry as a whole (i.e., SIC groups 15, 16, and 17), assuming the same cutoff, the proportion of small firms would be approximately 90 percent.

The potential impacts of compliance on individual construction firms were evaluated by developing large, medium and small size financial models of electrical contracting firms. Electrical contracting firms were used as a model because the electrical contractor is responsible for most of the electrical work on a construction site and, consequently, would bear most of the costs of compliance with the proposed Subpart K. The analysis found that in the case of the large- and medium-sized models, the effects on profitability and capital availability would be negligible, even if compliance costs were fully absorbed by the contractor.

The potential impacts of achieving full compliance on the small model firm may not be negligible; however, the net effect of the proposed revision is a savings. Using the midpoint of the range of estimated compliance costs for small firms, for example, reveals that the proposed revision would result in a savings of $174 per firm ($1,117 to achieve compliance with the existing Subpart compared to $943 to achieve compliance with proposed Subpart). In the worst-case scenario, which assumes full absorption of compliance costs, the declines in return on assets and profit margin for the small firm in achieving compliance with the proposed Subpart would be 14.2 and 14.3 percent, respectively; however, achieving compliance with the existing Subpart would incur declines of 17.0 and 17.1 percent, respectively. This worst-case scenario would not apply. First, public procurement rules (changes clause in Federal Procurement Regulations) allow the passthrough of the compliance costs of government regulations. Second, in private markets, small firms are usually specialized and consequently able to passthrough increased costs to the customer over the long run. OSHA anticipates, therefore, that most small firms will not be significantly affected.

The relatively greater burden of compliance for small firms vis-a-vis large firms arises not because of the provisions of the Subpart itself, but because our survey indicates that small firms are farther from full compliance with the existing standard than their larger competitors.

On the other hand, the simplification and clarification in the proposal and the arrangement of one set of regulations, as opposed to two (i.e., existing Subpart plus the 1971 NEC) yield even greater benefits to small firms than larger firms. Thus, on balance, the proposal leaves small firms in a much better position than they hold under the current standard.

For these reasons, OSHA certifies that the proposed revision of Subpart K of Part 1926 will not have a significant impact on a substantial number of small entities for the purposes of the Regulatory Flexibility Act.

The above discussion summarized the key findings of the Preliminary Regulatory Impact Analysis (PRIA) of the proposed revised Subpart K, Part 1926 prepared by the Office of Regulatory Analysis of the Occupational Safety and Health Administration. The PRIA includes assessments of estimated compliance costs, estimated benefits, risks, small business impacts, alternative regulatory and nonregulatory options and a profile of the industry. The PRIA is based on contract work performed for OSHA by JACA Corp. Their report, "Economic Analysis of Proposed Revisions to Subpart K, Part 1926, Final Report", January 1983, and OSHA's Preliminary Regulatory Impact Analysis are available to the public in Docket S106.

V. Public Participation

Interested persons are invited to submit written comments on the proposed standard and to file objections and request a public hearing.

Written data, views and arguments concerning the proposal must be postmarked on or before November 19, 1983 and submitted in quadruplicate to the Docket Officer, Docket No. 106, Rm. S–6212; U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding.

Pursuant to Section 6(b)(3) of the Act of 29 CFR 1911.11(b) and (c), interested persons may file objections to the proposal, requesting an informal public hearing with respect thereto in accordance with the following conditions:

1. The objections must include the name and address of the objector;
2. The objections must be postmarked on or before November 19, 1983 and submitted to the Docket Office at the above address;
3. The objections must specify with particularity the provisions of the proposed rule to which objection is taken, and must state the grounds therefor;
4. Each objection must be separately stated and numbered; and
5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

VI. List of Index Terms

List of Subjects in 29 CFR Part 1926

Construction safety, Electric power, Fire prevention, Flammable materials, Hazardous materials, Occupational safety and health, Safety, Signs and symbols, Tools.

VII. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Section 107 of the Construction Safety Act (83 Stat. 96, 40 U.S.C. 333), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911, it is proposed to amend 29 CFR Part 1926 as set forth below.

Signed at Washington, D.C. this 29th day of September 1983.

Thorne G. Auchter

Assistant Secretary of Labor.

PART 1926—[AMENDED]

Part 1926 of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

§ 1926.151 [Amended]

1. By amending § 1926.151(a)(1) to remove the words "the requirements of the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968), and".

2. By revising § 1926.152(b)(4)(v) to read as follows:

§ 1926.152 Flammable and combustible liquids.

* * * * *

(b) * * *

(4) * * *

(v) Electrical wiring and equipment located in inside storage rooms shall be approved for Class I, Division 1, Hazardous Locations. For definition of Class I, Division 1, Hazardous Locations, see § 1926.449.

* * * * *

3. By revising § 1926.351(d)(5) to read as follows:

§ 1926.351 Arc welding and cutting.

* * * * *

(d) * * *

(5) See § 1926.406(c) for additional requirements.

* * * * *

4. By revising § 1926.600(a)(6) to read as follows:

§ 1926.600 Equipment.

(a) * * *

(6) All equipment covered by this subpart shall comply with the requirements of § 1926.550(a)(15) when working or being moved in the vicinity of power lines or energized transmitters.

* * * * *

5. By revising § 1926.803(j)(3) to read as follows:

§ 1926.803 Compressed air.

* * * * *

(j) * * *

(3) All electrical equipment and wiring for light and power circuits shall comply with the requirements of Subpart K of this part for use in damp, hazardous, high temperature, and compressed air environments.

* * * * *

(Sec. 6(b), Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655); Sec. 107, Pub. L. 91–54, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order No. 8–76 (41 FR 25059); 29 CFR Part 1911)

§§ 1926.400 and 1926.404 [Amended]

6. By redesignating existing § 1926.400(h) as § 1926.404(b)(1).

7. By revising Subpart K of 29 CFR Part 1926 to read as follow:

* * * * *

Subpart K—Electrical

General

Sec.
1926.400 Introduction.
1926.401 [Reserved]

Installation Safety Requirements

1926.402 Applicability.
1926.403 General requirements.
1926.404 Wiring design and protection.
1926.405 Wiring methods, components, and equipment for general use.
1926.406 Specific purpose equipment and installations.
1926.407 Hazardous (classified) locations.
1926.408 Special systems.
1926.409–1926.415 [Reserved]

Safety-Related Work Practices

1926.416 General requirements.
1926.417 Lockout and tagging of circuits.
1926.418–1926.430 [Reserved]

Safety-Related Maintenance and Environmental Considerations

1926.431 Maintenance of equipment.
1926.432 Environmental deterioration of equipment.
1926.433–1926.440 [Reserved]

Safety Requirements for Special Equipment

1926.4441 Batteries and battery charging.
1926.442–1926.448 [Reserved]

Definitions

1926.449 Definitions applicable to this subpart.

Authority: Section 6(b) Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655); Sec. 107, Pub. L. 91–54, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order No. 8–76 (41 FR 25059); 29 CFR Part 1911.

Subpart K—Electrical

General

§ 1926.400 Introduction

This subpart addresses electrical safety requirements that are necessary for the practical safeguarding of employees and is divided into four major divisions and applicable definitions as follows:

(a) *Installation safety requirements.* Installation safety requirements are contained in §§ 1962.402 through

1926.408. Included in this category are all electric equipment and installations used to provide electric power and light on jobsites.

(b) *Safety-related work practices.* Safety-related work practices are contained in §§ 1926.416 and 1926.417. In addition to covering the hazards arising from the use of electricity at jobsites, these regulations also cover the hazards arising from the accidental contact, direct or indirect, by employees with all energized lines, above or below ground, passing through or near the jobsite.

(c) *Safety-related maintenance and environmental considerations.* Safety-related maintenance and environmental considerations are contained in §§ 1926.431 and 1926.432.

(d) *Safety requirements for special equipment.* Safety requirements for special equipment are contained in § 1926.441.

(e) *Definitions.* Definitions applicable to this subpart are contained in § 1926.449.

§ 1926.401 [Reserved]

Installation Safety Requirements

§ 1926.402 Applicability.

(a) Sections 1926.402 through 1926.408 contain installation safety requirements for electrical equipment and installations used to provide electric power and light.

(b) These regulations apply only to electrical installations on the jobsite, both temporary and permanent. For power distribution and transmission lines, see Subpart V of this part.

§ 1926.403 General requirements.

(a) *Approval.* The conductors and equipment required or permitted by this subpart shall be approved.

(b) *Examination, installation, and use of equipment*—(1) *Examination.* The employer shall ensure that electrical equipment is free from recognized hazards that are likely to cause death or serious physical harm to employees. Safety of equipment shall be determined using the following considerations:

(i) Suitability for installation and use in conformity with the provisions of this subpart. Suitability of equipment for an identified purpose may be evidenced by listing or labeling for that identified purpose.

(ii) Mechanical strength and durability, including, for parts designed to enclose and protect other equipment, the adequacy of the protection thus provided.

(iii) Electrical insulation.

(iv) Heating effect under conditions of use.

(v) Arcing effects.

(vi) Classification by type, size, voltage, current capacity, specific use.

(vii) Other factors which contribute to the practical safeguarding of employees using or likely to come in contact with the equipment.

(2) *Installation and use.* Listed or labled equipment shall be used and installed in accordance with any instructions included in the listing or labeling.

(c) *Interrupting rating.* Equipment intended to break current shall have an interrupting rating at system voltage sufficient for the current that must be interrupted.

(d) *Mounting and cooling of equipment*—(1) *Mounting.* Electric equipment shall be firmly secured to the surface on which it is mounted. Wooden plugs driven into holes in masonry, concrete, plaster, or similar materials shall not be used.

(2) *Cooling.* Electrical equipment which depends upon the natural circulation of air and convection principles for cooling of exposed surfaces shall be installed so that room air flow over such surfaces is not prevented by walls or by adjacent installed equipment. For equipment designed for floor mounting, clearance between top surfaces and adjacent surfaces shall be provided to dissipate rising warm air. Electrical equipment provided with ventilating opening shall be installed so that walls or other obstructions do not prevent the free circulation of air through the equipment.

(e) *Splices.* Conductors shall be splices or joined with splicing devices designed for the use or by brazing, welding, or soldering with a fusible metal or alloy. Soldered splices shall first be so spliced or joined as to be mechanically and electrically secure without solder and then soldered. All splices and joints and the free ends of conductors shall be covered with an insulation equivalent to that of the conductors or with an insulating device designed for the purpose.

(f) *Arcing parts.* Parts of electric equipment which in ordinary operation produce arcs, sparks, flames, or molten metal shall be enclosed or separated and isolated from all combustible material.

(g) *Marking.* Electrical equipment shall not be used unless the manufacturer's name trademark, or other descriptive marking by which the organization responsible for the product may be identified is placed on the equipment. Other marking shall be provided giving voltage, current, wattage, or other ratings as necessary. The marking shall be of sufficient durability to withstand the environment involved.

(h) *Identification of disconnecting means and circuits.* Each disconnecting means required by this subpart for motors and appliances shall be legibly marked to indicate its purpose, unless located and arranged so the purpose is evident. Each service, feeder, and branch circuit, at its disconnecting means or overcurrent device, shall be legibly marked to indicate its purpose, unless located and arranged so the purpose is evident. These markings shall be of sufficient durability to withstand the environoment involved.

(i) *600 Volts, nominal, or less.* This paragraph applies to equipment operating at 600 volts, nominal, or less.

(l) *Working space about electric equipment.* Sufficient access and working space shall be provided and maintained about all electric equipment to permit ready and safe operation and maintenance of such equipment.

(i) *Working clearances.* Except as required or permitted elsewhere in this subpart, the dimension of the working space in the direction of access to live parts operating at 600 volts or less and likely to require examination, adjustment, servicing, or maintenance while alive shall not be less than indicated in Table K–1. In addition to the dimensions shown in Table K–1, workspace shall not be less than 30 inches (762 mm) wide in front of the electric equipment. Distances shall be measured from the live parts if they are exposed, or from the enclosure front or opening if the live parts are enclosed. Walls constructed of concrete, brick, or tile are considered to be grounded. Working space is not required in back of assemblies such as dead-front switchboards or motor control centers where there are no renewable or adjustable parts such as fuses or switches on the back and where all connections are accessible from locations other then the back.

TABLE K–1—WORKING CLEARANCES

Nominal voltage to ground	Minimum clear distance for conditions [1]		
	(a) Feet [2]	(b) Feet [2]	(c) Feet [2]
0 to 150	3	3	3
151 to 600	3	3½	4

[1] Conditions (a), (b), and (c) are as follows: (a) Exposed live parts on one side and no live or grounded parts on the other side of the working space, or exposed live parts on both sides effectively guarded by insulating material. Insulated wire or insulated buebars operating at not over 300 volts are not considered live parts. (b) Exposed live parts on one side and grounded parts on the other side. (c) Exposed live parts on both sides of the workspace (not guarded as provide in Condition (a)] with the operator between.

[2] NOTE.—For International System of Units (SI): one foot = 0.3048 m.

(ii) *Clear spaces.* Working space required by this subpart shall not be used for storage. When normally enclosed live parts are exposed for inspection or servicing, the working space, if in a passageway of general open space, shall be guarded.

(iii) *Access and entrance to working space.* At least one entrance shall be provided to give access to the working space about electric equipment.

(iv) *Front working space.* Where there are live parts normally exposed on the front of switchboards or motor control centers, the working space in front of such equipment shall not be less than 3 feet (914 mm).

(v) *Headroom.* The minimum headroom of working spaces about service equipment, switchboards, panelboards, or motor control centers shall be 6 feet 3 inches (1.91 m).

(2) *Guarding of live parts.* (i) Except as required or permitted elsewhere in this subpart, live parts of electric equipment operating at 50 volts or more shall be guarded against accidental contact by approved cabinets or other forms of approved enclosures, or by any of the following means:

(A) By location in a room, vault, or similar enclosure that is accessible only to qualified persons.

(B) By partitions or screens so arranged that only qualified persons will have access to the space within reach of the live parts. Any openings in such partitions or screens shall be so sized and located that persons are not likely to come into accidental contact with the live parts or to bring conducting objects into contact with them.

(C) By location on a balcony, gallery, or platform so elevated and arranged as to exclude unqualified persons.

(D) By elevation of 8 feet (2.44 m) or more above the floor or other working surface and so installed to exclude unqualified persons.

(ii) In locations where electric equipment would be exposed to physical damage, enclosures or guards shall be so arranged and of such strength as to prevent such damage.

(iii) Entrances to rooms and other guarded locations containing exposed live parts shall be marked with conspicuous warning signs forbidding unqualified persons to enter.

(j) *Over 600 volts, nominal*—(1) *General.* Conductors and equipment used on circuits exceeding 600 volts, nominal shall comply with all applicable provisions of paragraphs (a) through (g) of this section and with the following provisions which supplement or modify those requirements. The provisions of paragraphs (j) (2), (3), and (4) of this section do not apply to equipment on the supply side of the service conductors.

(2) *Enclosure for electrical installations.* Electrical intallations in a vault, room, closet or in an area surrounded by a wall, screen, or fence, access to whch is controlled by lock and key or other approved means, are considered to be accessible to qualified person only. A wall, screen, or fence less than 8 feet (2.44 m) in height is not considered adequate to prevent access unless it has other features that provide a degree of isolation equivalent to an 8-foot (2.44-m) fence. The enterances to all buildings, rooms or enclosures containing exposed live parts or exposed conductors operating at over 600 volts, nominal, shall be kept locked or shall be under the observation of a qualified person at all times.

(i) *Installations accessible to qualified persons only:* Electrical intallations having exposed live parts shall be accessible to qualified persons only and shall comply with the applicable provisions of paragraph (j) (3) of this section.

(ii) *Installations accessible to unqualified persons.* Electrical installations that are open to unqualified persons shall be made with metal-enclosed equipment or shall be enclosed in a vault or in an area, access to which is controlled by a lock. Metal-enclosed switchgear, unit substations, transformers, pull boxes, connection boxes, and other similar associated equipment shall be marked with appropriate caution signs. If equipment is exposed to physical damage from vehicular traffic, guards shall be provided to prevent such damage. Ventilating or similar openings in metal-enclosed equipment shall be designed so that foreign objects inserted through these openings will be deflected from energized parts.

(3) *Workspace about equipment.* Sufficient space shall be provided and maintained about electric equipment to permit ready and safe operation and maintenance of such equipment. Where energized parts are exposed, the minimum clear workspace shall not be less than 6 feet 6 inches (1.98 m) high (measured vertically from the floor or platform), or less than 3 feet (914 mm) wide (measured parallel to the equipment). The depth shall be as required in Table K–2. The workspace shall be adequate to premit at least a 90-degree opening od doors of hinged panels.

(i) *Working space.* The minimum clear working space in front of electric equipment such as switchboards, control panels, switches, circuit breakers, motor controller, relays, and similar equipment shall not be less than specified in Table K–2 unles otherwise specified in this subpart. Distances shall be measured from the live parts if they are exposed, or from the enclosure front or opening if the live parts are enclosed. However, working space is not required in back of equipment such as deadfront switchboards or control assemblies where there are no renewable or adjustable parts (such as fuses or switches) on the back and where all connections are accessible from locations other than the back. Where rear access is required to work on de-energized parts on the back of enclosed equipment, a minimum working space of 30 inches (762 mm) horizontally shall be provided.

TABLE K–2—MINIMUM DEPTH OF CLEAR WORKING SPACE IN FRONT OF ELECTRIC EQUIPMENT

Nominal voltage to ground	Conditions [1]		
	(a) Feet [2]	(b) Feet [2]	(c) Feet [2]
601 to 2,500	3	4	5
2,501 to 9,000	4	5	6
9,001 to 25,000	5	6	9
25,001 to 75 kV	6	8	10
Above 75 kV	8	10	12

[1] Conditions (a), (b), and (c) are as follows: (a) Exposed live parts on one side and no live or grounded parts on the other side of the working space, or exposed live parts on both sides effectively guarded by insulating materials. Insulated wire or insulated buebars operating at not over 300 volts are not considered live parts. (b) Exposed live parts on one side and grounded parts on the other side. Walls constructed of concrete, brick, or tile are considered to be grounded surfaces. (c) Exposed live parts on both sides of the workspace (not guarded as provided in Condition (a)] with the operator between.

[2] NOTE.—For SI units: one foot = 0.3048 m.

(ii) *Lighting outlets and points of control.* The lighting outlets shall be so arranged that persons changing lamps or making repairs on the lighting system will not be endangered by live parts or other equipment. The points of control shall be so located that persons are not likely to come in contact with any live part or moving part of the of the equipment while traning on the lights.

(iii) *Elevation of unguarded live parts.* Unguarded live parts above working space shall be maintained at elevations not less than specified in Table K–3.

TABLE K–3.—ELEVATION OF UNGUARDED ENERGIZED PARTS ABOVE WORKING SPACE

Nominal voltage between phases	Minimum elevation
601 to 7,500	[1] 8 feet 6 inches.
7,501 to 35,000	9 feet.
Over 35kV	9 feet + 0.37 inches per kV above 35kV.

[1] NOTE.— For SI units: one inch = 25.4 mm; one foot = 0.3048m.

(4) *Entrance and access to workspace.* At least one entrance not less than 24

inches (610 mm) wide and 6 feet 6 inches (1.98 m) high shall be provided to give access to the working space about electric equipment. On switchboard and control panels exceeding 48 inches (1.22 m) in width, there shall be one entrance at each end of such board where practicable. Where bare energized parts at any voltage or insulated energized parts above 600 volts are located adjacent to such entrance, they shall be guarded.

§ 1926.404 Wiring design and protection.

(a) *Use and identification of grounded and grounding conductors*—(1) *Identification of conductors.* A conductor used as a grounded conductor shall be identifiable and distinguishable from all other conductors. A conductor used as an equipment conductor shall be identifiable and distinguishable from all other conductors.

(2) *Polarity of connections.* No grounded conductor shall be attached to any terminal or lead so as to reverse designated polarity.

(3) *Use of grounding terminals and devices.* A grounding terminal or ground-type device on a receptacle, cord connector, or attachment plug shall not be used for purposes other than grounding.

(b) *Branch Circuits*—(1) *Ground-fault protection.* [Reserved.]

(2) *Outlet devices.* Outlet devices shall have an ampere rating not less than the load to be served and shall comply with the following:

(i) *Lampholders.* Where connected to a branch circuit having a rating in excess of 20 amperes, lampholders shall be of the heavy-duty type. A heavy-duty lampholder shall have a rating of not less than 660 watts if of the admedium type and not less than 750 watts if of any other type

(ii) *Receptacles.*

(A) A single receptacle installed on an individual branch circuit shall have an ampere rating of not less than that of the branch circuit.

(B) Where connected to a branch circuit supplying two or more receptacles or outlets, receptacle ratings shall conform to the values listed in Table K–4.

(C) The rating of an attachment plug or receptacle use for cord-and plug-connection of a motor to a branch circuit shall not exceed 15 amperes at 125 volts or 10 amperes at 250 volts if individual overload protection is omitted.

TABLE K–4.—RECEPTACLE RATINGS FOR VARIOUS SIZE CIRCUITS

Circuit rating, amperes	Receptacle rating, amperes
15	not over 15.
20	15 or 20.
30	30.
40	40 or 50.
50	50.

(c) *Outside conductors and lamps*—(1) *600 volts, nominal, or less.* Paragraphs (c)(1) (i) through (v) of this section apply to branch circuit, feeder, and service conductors rated 600 volts, nominal, or less and run outdoors as open conductors.

(i) *Minimum size of conductor.* (A) Overhead conductors shall not be smaller than No. 10 copper or No. 8 aluminum for spans up to 50 feet (15.2 m) in length and No. 8 copper or No. 6 aluminum for a longer span.

(B) Overhead conductors for festoon lighting shall not be smaller than No. 12 unless supported by messenger wires. In spans exceeding 40 feet (12.2 m), the conductors shall be supported by a messenger wire; and the messenger wire shall be supported by strain insulators. Conductors or messenger wires shall not be attached to any fire escape, downspout, or plumbing equipment.

(ii) *Conductors on poles.* Conductors supported on poles shall provide a horizontal climbing space not less than the following:

(A) Power conductors below communication conductors—30 inches (762 mm).

(B) Power conductors alone or above communication conductors: 300 volts or less—24 inches (610 mm); more than 300 volts—30 inches (762 mm).

(C) Communication conductors below power conductors: with power conductors 300 volts or less—24 inches (610 mm); more than 300 volts—30 inches (762 mm).

(iii) *Clearance from ground.* Open conductors shall conform to the following minimum clearances:

(A) 10 feet (3.05 m)—above finished grade, sidewalks, or from any platform or projection from which they might be reached where the supply conductors are limited to 150 volts to ground and accessible only to employees on foot.

(B) 12 feet (3.66 m)—Over driveways and other similar areas, such as parking lots, not subject to truck traffic where the supply conductors are limited to 300 volts to ground.

(C) 15 feet (4.57 m)—above finished grade where the supply conductors have a nominal voltage greater than 300 volts to ground and accessible only to employees on foot.

(D) 18 feet (5.49 m)—over streets, alleys, roads, driveways and other areas subject to truck traffic.

(iv) *Clearance from building openings.* Conductors shall have a clearance of at least 3 feet (914 mm) from windows, doors, fire escapes, or similar locations. Conductors run above the top level of a window are considered to be out of reach from that window and, therefore, do not have to be 3 feet (914 mm) away.

(v) *Clearance over roofs.* Conductors above roof space accessible to employees on foot shall have a clearance from the highest point of the roof surface of not less than 8 feet (2.44 m) vertical clearance for insulated conductors, not less than 10 feet (3.05 m) vertical or diagonal clearance for covered conductors, and not less than 15 feet (4.57 m) for bare conductors, except that:

(A) Where the roof space is also accessible to vehicular traffic, the vertical clearance shall not be less than 18 feet (5.49 m), or

(B) Where the roof space is not normally accessible to employees on foot, fully insulated conductors shall have a vertical or diagonal clearance of not less than 3 feet (914 mm), or

(C) where the voltage between conductors is 300 volts or less and the roof has a slope of not less than 4 inches (102 mm) in 12 inches (305 mm), the clearance from roofs shall be at least 3 feet (914 mm), or

(D) Where the voltage between conductors is 300 volts or less and the conductors do not pass over more than 4 feet (1.22 m) of the overhang portion of the roof and they are terminated at a through-the-roof raceway or support, the clearance from roofs shall be at least 18 inches (457 mm).

(2) *Over 600 volts, nominal.* Overhead conductors rated over 600 volts, nominal, shall not be smaller than No. 6 copper or No. 4 aluminum if they are run as open individual conductors.

(3) *Location of outdoor lamps.* Lamps for outdoor lighting shall be located below all live conductors, transformers, or other electric equipment, unless such equipment is controlled by a disconnecting means that can be locked in the open position or unless adequate clearances or other safeguards are provided for relamping operations.

(d) *Services—(1) Disconnecting means—(i) General.* Means shall be provided to disconnect all conductors in a building or other structure from the service-entrance conductors. The disconnecting means shall plainly indicate whether it is in the open or closed position and shall be installed at a readily accessible location nearest the point of entrance of the service-entrance conductors.

(ii) *Simultaneous opening of poles.* Each service disconnecting means shall simultaneously disconnect all ungrounded conductors.

(2) *Services over 600 volts, nominal.* The following additional requirements apply to services over 600 volts, nominal.

(i) *Guarding.* Service-entrance conductors installed as open wires shall be guarded to make them accessible only to qualified persons.

(ii) *Warning signs.* Signs warning of high voltage shall be posted where unauthorized employees might come in contact with live parts.

(e) *Overcurrent protection*—(1) *600 Volts, nominal, or less.* The following requirements apply to overcurrent protection of circuits rated 600 volts, nominal, or less.

(i) *Protection of conductors and equipment.* Conductors and equipment shall be protected from overcurrent in accordance with their ability to safely conduct current. Conductors shall have sufficient ampacity to carry the load.

(ii) *Ground conductors.* Except for motorrunning overload protection, overcurrent devices shall not interrupt the continuity of the grounded conductor unless all conductors of the circuit are opened simultaneously.

(iii) *Disconnection of fuses and thermal cutouts.* Except for service fuses, all cartridge fuses which are accessible to other than qualified persons and all fuses and thermal cutouts on circuits over 150 volts to ground shall be provided with disconnecting means. This disconnecting means shall be installed so that the fuse or thermal cutout can be disconnected from its supply without disrupting service to equipment and circuits unrelated to those protected by the overcurrent device.

(iv) *Location in or on premises.* Overcurrent devices shall be readily accessible. Overcurrent devices shall not be located where they could create an employee safety hazard by being exposed to physical damage or located in the vicinity of easily ignitible material.

(v) *Arcing or suddenly moving parts.* Fuses and circuit breakers shall be so located or shielded that employees will not be burned or otherwise injured by their operation.

(vi) *Circuit breakers.* (A) Circuit breakers shall clearly indicate whether they are in the open (off) or closed (on) position.

(B) Where circuit breaker handles on switchboards are operated vertically rather than horizontally or rotationally, the up position of the handle shall be the closed (on) position.

(C) If used as switches in 120-volt, fluorescent lighting circuits, circuit breakers shall be approved and marked "SWD."

(2) *Over 600 volts, nominal.* Feeders and branch circuits over 600 volts, nominal, shall have short-circuit protection.

(f) *Grounding.* Paragraphs (f) (1) through (11) of this section contain grounding requirements for systems, circuits, and equipment.

(1) *Systems to be grounded.* The following systems which supply premises wiring shall be grounded:

(i) All 3-wire DC systems shall have their neutral conductor grounded.

(ii) Two–wire DC systems operating at over 50 volts through 300 volts between conductors shall be grounded unless they are rectifier-derived from an AC system complying with paragraph (f)(1)(iii), (f)(1)(iv), and (f)(1)(v) of this section.

(iii) AC circuits of less than 50 volts shall be grounded if they are installed as overhead conductors outside of buildings or if they are supplied by transformers and the transformer primary supply system is ungrounded or exceeds 150 volts to ground.

(iv) AC systems of 50 volts to 1000 volts shall be grounded under any of the following conditions, unless exempted by paragraph (f)(1)(v) of this section:

(A) If the system can be so grounded that the maximum voltage to ground on the ungrounded conductors does not exceed 150 volts;

(B) If the system is nominally rated 480Y/277 volt, 3–phase, 4–wire in which the neutral is used as a circuit conductor;

(C) If the system in nominally rated 240/120 volt, 3–phase, 4–wire in which the midpoint of one phase is used as a circuit conductor; or

(D) If a service conductor is uninsulated.

(v) AC systems of 50 volts to 1000 volts are not required to be grounded if the system is separately derived and is supplied by a transformer that has a primary voltage rating less than 1000 volts, provided all of the following conditions are met:

(A) The system is used exclusively for control circuits,

(B) The conditions of maintenance and supervision assure that only qualified persons will service the installation,

(C) Continuity of control power is required, and

(D) Ground detectors are installed on the control system.

(2) *Separately derived systems.* Where paragraph (f)(1) of this section requires grounding of wiring systems whose power is derived from generator, transformer, or converter windings and has no direct electrical connection, including a solidly connected grounded circuit conductor, to supply conductors originating in another system, paragraph (f)(5) of this section shall also apply.

(3) *Portable and vehicle-mounted generators*—(i) *Portable generators. Under the following conditions, the frame of a portable generator need not be grounded and may serve as the grounding electrode for a system supplied by the generator:*

(A) The generator supplies only equipment mounted on the generator and/or cord-and plug-connected equipment through receptacles mounted on the generator, and

(B) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(ii) *Vehicle-mounted generators.* Under the following conditions the frame of a vehicle may serve as the grounding electrode for a system supplied by a generator located on the vehicle:

(A) The frame of the generator is bonded to the vehicle frame, and

(B) The generator supplies only equipment located on the vehicle and/or cord-and plug-connected equipment through receptacles mounted on the vehicle or on the generator, and

(C) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonnded to the generator frame, and

(D) The system complies with all other provisions of the section.

(iii) *Neutral conductor bonding.* A neutral conductor shall be bonded to the generator frame if the generator is a component of a separately derived system. No other conductor need be bonded to the generator frame.

(4) *Conductors to be grounded.* For AC premises wiring systems the identified conductor shall be grounded.

(5) *Grounding connections.* (i) For a grounded system, a grounding electrode conductor shall be used to connect both the equipment grounding conductor and the grounded circuit conductor to the grounding electrode. Both the equipment grounding conductor and the grounding electrode conductor shall be connected to the grounded circuit conductor on the supply side of the service disconnecting means, or on the supply side of the system disconnecting means or

overcurrent devices if the system is separately derived.

(ii) For an ungrounded service-supplied system, the equipment grounding conductor shall be connected to the grounding electrode conductor at the service equipment. For an ungrounded separately derived system, the equipment grounding conductor shall be connected to the grounding electrode conductor at, or ahead of, the system disconnecting means or overcurrent devices.

(6) *Grounding path.* The path to ground from circuits, equipment, and enclosures shall be permanent and continuous.

(7) *Supports, enclosures, and equipment to be grounded*—(i) *Supports and enclosures for conductors.* Metal cable trays, metal raceways, and metal enclosures for conductors shall be grounded, except that:

(A) Metal enclosures such as sleeves that are used to protect cable assemblies from physical damage need not be grounded; and

(B) Metal enclosures for conductors added to existing installations of open wire, knob-and-tube wiring, and nonmetallic-sheathed cable need not be grounded if all of the following conditions are met: (*1*) Runs are less than 25 feet (7.62 m); (*2*) enclosures are free from probable contact with ground, grounded metal, metal laths, or other conductive materials; and (*3*) enclosures are guarded against employee contact.

(ii) *Service equipment enclosures.* Metal enclosures for service equipment shall be grounded.

(iii) *Fixed equipment.* Exposed non-current-carrying metal parts of fixed equipment which may become energized shall be grounded under any of the following conditions:

(A) If within 8 feet (2.44 m) vertically or 5 feet (1.52 m) horizontally of ground or grounded metal objects and subject to employee contact.

(B) If located in a wet or damp location and subject to employee contact.

(C) If in electrical contact with metal.

(D) If in a hazardous (classified) location.

(E) If supplied by a metal-clad, metal-sheathed, or grounded metal raceway wiring method.

(F) If equipment operates with any terminal at over 150 volts to ground; however, the following need not be grounded:

(*1*) Enclosures for switches or circuit breakers used for other than service equipment and accessible to qualified persons only;

(*2*) Metal frames of electrically heated appliances which are permanently and effectively insulated from ground; and

(*3*) The case of distribution apparatus such as transformers and capacitors mounted on wooden poles at a height exceeding 8 feet (2.44 m) above ground or grade level.

(iv) *Equipment connected by cord and plug.* Under any of the conditions described in paragraphs (f)(7)(iv) (*A*) through (*C*) of this section, exposed non-current-carrying metal parts of cord- and plug-connected equipment which may become energized shall be grounded:

(A) If in a hazardous (classified) location (see § 1926.407).

(B) If operated at over 150 volts to ground, except for guarded motors and metal frames of electrically heated applicances if the appliance frames are permanently and effectively insulated from ground.

(C) If the equipment is one of the types listed in paragraphs (f)(7)(iv)(*C*)(*1*) through (f)(7)(iv)(*C*)(*5*) of this section. However, even though the equipment is one of these types, it need not be grounded if it is exempted by paragraph (f)(7)(iv)(*C*)(*6*).

(*1*) Hand-held motor-operated tools;

(*2*) Cord- and plug-connected equipment used in damp or wet locations or by employees standing on the ground or on metal floors or working inside of metal tanks or boilers;

(*3*) Portable and mobile X-ray and associated equipment;

(*4*) Tools likely to be used in wet and/or conductive locations; and

(*5*) Portable hand lamps.

(*6*) Tools likely to be used in wet and/or conductive locations need not be grounded if supplied through an isolating transformer with an ungrounded secondary of not over 50 volts. Listed or labeled portable tools and appliances protected by an approved system of double insulation, or its equivalent, need not be grounded. If such a system is employed, the equipment shall be distinctively marked to indicate that the tool or appliance utilizes an approved system of double insulation.

(v) *Nonelectrical equipment.* The metal parts of the following nonelectrical equipment shall be grounded: frames and tracks of electrically operated cranes; frames of nonelectrically driven elevator cars to which electric conductors are attached; hand operated metal shifting ropes or cables of electric elevators, and metal partitions, grill work, and similar metal enclosures around equipment of over 1kV between conductors.

(8) *Methods of grounding equipment.* (i) Non-current-carrying metal parts of fixed equipment, if required to be grounded by this subpart, shall be grounded by an equipment grounding conductor which is contained within the same raceway, cable, or cord, or runs with or encloses the circuit conductors. For DC circuits only, the equipment grounding conductor may be run separately from the circuit conductors.

(ii) A conductor used for grounding fixed or movable equipment shall have capacity to conduct safely any fault current which may be imposed on it.

(iii) Electric equipment is considered to be effectively grounded if it is secured to, and in electrical contact with, a metal rack or structure that is provided for its support and the metal rack or structure is grounded by the method specified for the non-current-carrying metal parts of fixed equipment in paragraph (f)(8)(i) of this section. Metal car frames supported by metal hoisting cables attached to or running over metal sheaves or drums of grounded elevator machines are also considered to be effectively grounded.

(9) *Bonding.* Where bonding conductors are used to assure electrical continuity they shall have the capacity to conduct any fault current which may be imposed.

(10) *Mode electrodes.* Where made electrodes are used, they shall be free from nonconductive coatings, such as paint or enamel; and where practicable, they shall be embedded below permanent moisture level. A single electrode consisting of a rod, pipe or plate which has a resistance to ground greater than 25 ohms shall be augmented by one additional electrode installed no closer than 6 feet (1.83 m) to the first electrode.

(11) *Grounding of systems and circuits of 1000 volts and over (high voltage)*—(i) *General.* If high voltage systems are grounded, they shall comply with all applicable provisions of paragraphs (f)(1) through (f)(9) of this section as supplemented and modified by this paragraph (f)(11).

(ii) *Grounding of systems supplying portable or mobile equipment.* Systems supplying portable or mobile high voltage equipment, other than substations installed on a temporary basis, shall comply with the following:

(A) Portable and mobile high voltage equipment shall be supplied from a system having its neutral grounded through an impedance. If a delta-connected high voltage system is used to supply the equipment, a system neutral shall be derived.

(B) Exposed non-current-carrying metal parts of portable and mobile equipment shall be connected by an equipment grounding conductor to the point at which the system neutral impedance is grounded.

(C) Ground-fault detection and relaying shall be provided to automatically de-energize any high voltage system component which has developed a ground fault. The continuity of the equipment grounding conductor shall be continuously monitored so as to de-energize automatically the high voltage feeder to the portable equipment upon loss of continuity of the equipment grounding conductor.

(D) The grounding electrode to which the portable or mobile equipment system neutral impedance is connected shall be isolated from and separated in the ground by at least 20 feet (6.1m) from any other system or equipment grounding electrode, and there shall be no direct connection between the grounding electrodes, such as buried pipe, fence or like objects.

(iii) *Grounding of equipment.* All non-current-carrying metal parts of portable equipment and fixed equipment including their associated fences, housings, enclosures, and supporting structures shall be grounded. However, equipment which is guarded by location and isolated from ground need not be grounded. Additionally, pole-mounted distribution apparatus at a height exceeding 8 feet (2.44m) above ground or grade level need not be grounded.

§ 1926.405 Wiring methods, components, and equipment for general use.

(a) *Wiring methods.* The provisions of this paragraph do not apply to conductors which form an intergral part of utilization equipment such as motors, controllers, motor control centers and like equipment.

(1) *Generol requirements*—(i) *Electricol continuity of metal raceways and enclosures.* Metal raceways, cable armor, and other metal enclosures for conductors shall be metallically joined together into a continuous electric conductor and shall be so connected to all boxes, fittings, and cabinets as to provide effective electrical continuity.

(ii) *Wirlng in ducts.* No wiring systems of any type shall be installed in ducts used to transport dust, loose stock or flammable vapors. No wiring system of any type shall be installed in any duct used for vapor removal or in any shaft containing only such ducts.

(2) *Temporary wiring*—(i) *Scope.* The provisions of this paragraph apply to temporary electrical power and lighting wiring methods which may be of a class less than would be required for a permanent installation. Except as specifically modified in this paragraph, all other requirements of this subpart for permanent wiring shall apply to temporary wiring installations. Temporary wiring shall be removed immediately upon completion of construction or the purpose for which the wiring was installed.

(ii) *General requirements for temporary wiring.* (A) Feeders shall originate in an approved distribution center. The conductors shall be run as multiconductor cord or cable assemblies or within raceways; or, where not subject to physical damage, they may be run as open conductors on insulators not more than 10 feet (3.05 m) apart.

(B) Branch circuits shall originate in an approved power outlet or panelboard. Conductors shall be run as multiconductor cord or cable assemblies or open conductors, or shall be run in raceways. All conductors shall be protected by overcurrent devices at their rated ampacity. Runs of open conductors shall be located where the conductors will not be subject to physical damage, and the conductors shall be fastened at intervals not exceeding 10 feet (3.05 m). No branch-circuit conductors shall be laid on the floor. Each branch circuit that supplies receptacles or fixed equipment shall contain a separate equipment grounding conductor if the branch circuit in run as open conductors.

(C) Receptacles shall be of the grounding type. Unless installed in a complete metallic raceway, each branch circuit shall contain a separate equipment grounding conductor, and all receptacles shall be electrically connected to the grounding conductor. Receptacles for uses other than temporary lighting shall not be installed on branch circuits which supply temporary lighting. Receptacles shall not be connected to the same ungrounded conductor of multiwire circuits which supply temporary lighting.

(D) Disconnecting switches or plug connectors shall be installed to permit the disconnection of all ungrounded conductors of each temporary circuit.

(E) All lamps for general illumination shall be protected from accidental contact or breakage. Temporary lights shall be equipped with guards to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed. Metal-case sockets shall be grounded.

(F) Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension.

(G) Portable electric lighting used in wet and/or other conductive locations, as for example, drums, tanks, and vessels shall be operated at 12 volts or less. However, 120 volt lights may be used if protected by a ground-fault circuit interrupter.

(H) A box shall be used wherever a change is made to a raceway system or a cable system which is metal clad or metal sheathed.

(I) Flexible cords and cables shall be protected from accidental damage. Sharp corners and projections shall be avoided. When passing through doorways or other pinch points, protection shall be provided to avoid damage.

(J) Extension cords used with portable electric tools and appliances shall be of three-wire type and shall be designed for hard extra-hard usage.

(iii) *Guarding.* For temporary wiring over 600 volts, nominal, fencing, barriers, or other effective means shall be provided to prevent access of other than authorized and qualified personnel.

(b) *Cabinets, boxes, and fittings*—(1) *Conductors entering boxes, cabinets, or fittings.* Conductors entering boxes, cabinets, or fittings shall be protected from abrasion, and openings through which conductors enter shall be effectively closed. Unused openings in cabinets, boxes, and fittings shall also be effectively closed.

(2) *Covers and canopies.* All pull boxes, junction boxes, and fittings shall be provided with covers. If metal covers are used, they shall be grounded. In energized installations each outlet box shall have a cover, faceplate, or fixture canopy. Covers of outlet boxes having holes through which flexible cord pendants pass shall be provided with bushings designed for the purpose or shall have smooth, well-rounded surfaces on which the cords may bear.

(3) *Pull and junction boxes for systems over 600 volts, nominal.* In addition to other requirements in this section for pull and junction boxes, the following shall apply to these boxes for systems over 600 volts, nominal:

(i) Boxes shall provide a complete enclosure for the contained conductors or cables.

(ii) Box shall be closed by covers securely fastened in place. Underground box covers that weigh over 100 pounds (43.6 kg) meet this requirement. Covers for boxes shall be permanently marked "High Voltage." The marking shall be on the outside of the box cover and shall be readily visible and legible.

(c) *Knife switches.* Single-throw knife switches shall be so connected that the blades are dead when the swith is in the open position. Singled-throw knife switches shall be so placed that gravity will not tend to close them. Single-throw knife switches approved for use in the

VOL 48 ISS 196 OCT 7 1983 UMI

inverted position shall be provided with a locking device that will ensure that the blades remain in the open position when so set. Double-throw knife switches may be mounted so that the throw will be either vertical or horizontal. However, if the throw is vertical a locking device shall be provided to ensure that the blades remain in the open position when so set.

(d) *Switchboards and panelboards.* Switchboards that have any exposed live parts shall be located in permanently dry locations and accessible only to qualified persons. Panelboards shall be mounted in cabinets, cutout boxes, or enclosures approved for the purpose and shall be dead front. However, panelboards other than the dead front externally-operable type are permitted where accessible only to qualified persons. Exposed blades of knife switched shall be dead when open.

(e) *Enclosures for damp or wet locations.* (1) Cabinets, cutout boxes, fittings, boxes, and panelboard enclosures in damp or wet locations shall be installed so as to prevent mositure or water from entering and accumulating within the enclosures. In wet locations the enclosures shall be weatherproof.

(2) Switches, circuit breakers, and switchboards installed in wet locations shall be enclosed in weather proof enclosures.

(f) *Conductors for general wiring.* All conductors used for general wiring shall be insulated unless otherwise permitted in this Subpart. The conductor insulation shall be of a type that is approved for the voltage, operating temperature, and location of use. Insulated conductors shall be distinguishable by appropriate color or other means as being grounded conductors, ungrounded conductors, or equipment grounding conductors.

(g) *Flexible cords and cables*—(1) *Use of flexible cords and cables.* (i) Flexible cords and cables shall be approved for conditions of use and location. Flexible cords and cables shall be used only for:

(A) Pendants;

(B) Wiring of fixtures;

(C) Connection of portable lamps or appliances;

(D) Elevator cables;

(E) Wiring of cranes and hoists;

(F) Connection of stationary equipment to facilitate their frequent interchange;

(G) Prevention of the transmission of noise or vibration; or

(H) Appliances where the fastening means and mechanical connections are designed to permit removal for maintenance and repair.

(ii) If used as permitted in paragraphs (g)(1)(i)(C), (g)(1)(i)(F), or (g)(1)(i)(H) of this section, the flexible cord shall be equipped with an attachment plug and shall be energized from a receptacle outlet.

(iii) Unless specifically permitted in paragraph (g)(1)(i) of this section, flexible cords and cables shall not be used:

(A) As a substitute for the fixed wiring of a structure;

(B) Where run through holes in walls, ceilings, or floors;

(C) Where run through doorways, windows, or similar openings;

(D) Where attached to building surfaces; or

(E) Where concealed behind building walls, ceilings, or floors.

(2) *Identification, splices, and terminations.* (i) A conductor of a flexible cord or cable that is used as a grounded conductor or an equipment grounding conductor shall be distinguishable from other conductors. Types SJ, SJO, SJT, SJTO, S, SO, ST, and STO shall be durably marked on the surface with the type designation, size, and number of conductors.

(ii) Flexible cords shall be used only in continuous lengths without splice or tap. Hard service flexible cords No. 12 or larger may be repaired if spliced so that the splice retains the insulation, outer sheath properties, and usage characteristics of the cord being spliced.

(iii) Flexible cords shall be connected to devices and fittings so that strain relief is provide which will prevent pull from being directly transmitted to joints or terminal screws.

(iv) Flexible cords and cables shall be protected by bushings or fittings where passing through holes in covers, outlet boxes, or similar enclosures.

(h) *Portable cables over 600 volts, nominal.* Multiconductor portable cable for use in supplying power to portable or mobile equipment at over 600 volts, nominal, shall consist of No. 8 or larger conductors employing flexible stranding. Cables operated at over 2000 volts shall be shielded for the purpose of confining the voltage stresses to the insulation. Grounding conductors shall be provided. Connectors for these cables shall be of a locking type with provisions to prevent their opening or closing while energized. Strain relief shall be provided at connections and terminations. Portable cables shall not be operated with splices unless the splices are of the permanent molded, vulcanized, or other approved type. Termination enclosures shall be marked with a high voltage hazard warning, and terminations shall be accessible only to authorized and qualified personnel.

(i) *Fixture wires*—(1) *General.* Fixture wires shall be approved for the voltage, temperature, and location of use. A fixture wire which is used as a grounded conductor shall be identified.

(2) *Uses permitted.* Fixture wires may be used:

(i) For installation in lighting fixtures and in similar equipment where enclosed or protected and not subject to bending or twisting in use; or

(ii) For connecting lighting fixtures to the branch-circuit conductors supplying the fixtures.

(3) *Uses not permitted.* Fixture wires shall not be used as branch-circuit conductors except as permitted for Class 1 power-limited circuits.

(j) *Equipment for general use*— (1) *Lighting fixtures, lampholders, lamps, and receptacles.* (1) Fixtures, lampholders, lamps, rosettes, and receptacles shall have no live parts normally exposed to employee contact. However, rosettes and cleat-tpye lampholders and receptacles located at least 8 feet (2.44 m) above the floor may have exposed parts.

(ii) Fixtures, lampholders, rosettes, and receptacles shall be securely supported. A fixture that weighs more than 6 pounds (2.72 kg) or exceeds 16 inches (406 mm) in any dimension shall not be supported by the screw shell of a lampholder.

(iii) Portable lamps shall be wired with flexible cord and an attachment plug of the polarized or grounding type. When used with Edison-based lampholders, the grounded conductors shall be identified and attached to the screw shell and the identified blade of the attachment plug. In addition portable handlamps shall comply with the following:

(A) Metal shell, paperlined lampholders shall not be used;

(B) Handlamps shall be equipped with a handle of molded composition or other insulating material;

(C) Handlamps shall be equipped with a substantial guard attached to the lampholder or handler;

(D) Metallic guards shall be grounded by the means of an equipment ground conductor run within the power supply cord.

(iv) Lampholders of the screw-shell type shall be installed for use as lampholders only. Lampholders installed in wet or damp locations shall be of the weatherproof type.

(v) Fixtures installed in wet or damp locations shall be approved for the purpose and shall be so constructed or installed that water cannot enter or accumulate in wireways, lampholders, or other electrical parts.

(2) *Receptacles, cord connectors, and attachment plugs (caps).* (i) Receptacles, cord connectors, and attachment plugs shall be constructed so that no receptacle or cord connector will accept an attachment plug with a different voltage or current rating than that for which the device is intended. However, a 20-ampere T-slot receptacle or cord connector may accept a 15-ampere attachment plug of the same voltage rating. Receptacles connected to circuits having different voltages, frequencies, or types of current (ac or dc) on the same premises shall be of such design that the attachment plugs used on these circuits are not interchangeable.

(ii) A receptacle installed in a wet or damp location shall be designed for the location.

(3) *Appliances.* (i) Appliances, other than those in which the currentcarrying parts at high temperatures are necessarily exposed, shall have no live parts normally exposed to employee contact.

(ii) A means shall be provided to disconnect each appliance.

(iii) Each appliance shall be marked with its rating in volts and amperes or volts and watts.

(4) *Motors.* This paragraph applies to motors, circuits, and controllers.

(i) *In sight from.* If specified that one piece of equipment shall be "in sight from" another piece of equipment, one shall be visible and not more than 50 feet (15.2 m) from the other.

(ii) *Disconnecting means.* (A) disconnecting means shall be located in sight from the controller location. The controller disconnecting means for motor branch circuits over 600 volts, nominal, may be out of sight of the controller, if the controller is marked with a warning label giving the location and identification of the disconnecting means which is to be locked in the open position.

(B) The disconnecting means shall disconnect the motor and the controller from all ungrounded supply conductors and shall be so designed that no pole can be operated independently.

(C) If a motor and the driven machinery are not in sight from the controller location, the installation shall comply with one of the following conditions:

(*1*) The controller disconnecting means shall be capable of being locked in the open position.

(*2*) A manually operable switch that will disconnect the motor from its source of supply shall be placed in sight from the motor location.

(D) The disconnecting means shall plainly indicate whether it is in the open (off) or closed (on) position.

(E) The disconnecting means shall be readily accessible. If more than one disconnect is provided for the same equipment, only one need be readily accessible

(F) An individual disconnecting means shall be provided for each motor, but a single disconnecting means may be used for a group of motors under any one of the following conditions:

(*1*) If a number of motors drive special parts of a single machine or piece of apparatus, such as a metal or woodworking machine, crane, or hoist;

(*2*) If a group of motors is under the protection of one set for branch-circuit protective devices; or

(*3*) If a group of motors is in a single room in sight from the location of the disconnecting means.

(iii) *Motor overload, short-circuit, and ground-fault protection.* Motors, motor-control apparatus, and motor branch-circuit conductors shall be protected against overheating due to motor overloads or failure to start, and against short-circuits or ground faults. These provisions do not require overload protection that will stop a motor where a shutdown is likely to introduce additional or increased hazards, as in the case of fire pumps, or where continued operation of a motor is necessary for a safe shutdown of equipment or process and motor overload sensing devices are connected to a supervised alarm.

(iv) *Protection of live parts—all voltages.* (A) Stationary motors having commutators, collectors, and brush rigging located inside of motor end brackets and not conductively connected to supply circuits operating at more than 150 volts to ground need not have such parts guarded. Exposed live parts of motors and controllers operating at 50 volts or more between terminals shall be guarded against accidental contact by any of the following:

(*1*) By installation in a room or enclosure that is accessible only to qualified persons;

(*2*) By installation on a balcony, gallery, or platform, so elevated and arranged as to exclude unqualified persons; or

(*3*) By elevation 8 feet (2.44 m) or more above the floor.

(*B*) Where live parts of motors or controllers operating at over 150 volts to ground are guarded against accidental contact only by location, and where adjustment or other attendance may be necessary during the operation of the apparatus, insulting mats or platforms shall be provided so that the attendant cannot readily touch live parts unless standing on the mats or platforms.

(5) *Transformers.* (i) The following paragraphs cover the installation of all transformers except the following:

(*A*) Current transformers;

(*B*) Dry-type transformers installed as a component part of other apparatus;

(*C*) Transformers which are an integral part of an X-ray, high frequency, or electrostatic-coating apparatus;

(*D*) Transformers used with Class 2 and Class 3 circuits, sign and outline lighting, electric discharge lighting, and power-limited fire-protective signaling circuits.

(ii) The operating voltage of exposed live parts of transformer installations shall be indicated by warning signs or visable markings on the equipment or structure.

(iii) Dry-type, high fire point liquid-insulated, and askarel-insulated transformers installed indoors and rated over 35kV shall be in a vault.

(iv) If they present a fire hazard to employees, oil-insulated transformers installed indoors shall be in a vault.

(v) Combustible material, combustible buildings and parts of buildings, fire escapes, and door and window openings shall be safeguarded from fires which may originate in oil-insulated transformers attached to or adjacent to a building or combustible material.

(vi) Transformer vaults shall be constructed so as to contain fire and combustible liquids within the vault and to prevent unauthorized access. Locks and latches shall be so arranged that a vault door can be readily opened from the inside.

(vii) Any pipe or duct system foreign to the vault installation shall not enter or pass through a transformer vault.

(viii) Materials shall not be stored in transformer vaults.

(6) *Capacitors.* (i) All capacitors, except surge capacitors or capacitors included as a component part of other apparatus, shall be provided with an automatic means of draining the stored charge and maintaining the discharged state after the capacitor is disconnected from its source of supply.

(ii) Capacitors rated over 600 volts, nominal, shall comply with the following additional requirements:

(*A*) Isolating or disconnecting switches (with no interrupting rating) shall be interlocked with the load interrupting device or shall be provided with prominently displayed caution signs to prevent switching load current.

(*B*) For series capacitors the proper switching shall be assured by use of at least one of the following:

(*1*) Mechanically sequenced isolating and bypass switches,

(*2*) Interlocks, or

(3) Switching procedure prominently displayed at the switching location.

§ 1926.406 Specific purpose equipment and installations.

(a) *Cranes and hoist.* This paragraph applies to the installation of electric equipment and wiring used in connection with cranes, monorail hoists, hoists, and all runways.

(1) *Disconnecting means.* (i) A readily accessible disconnecting means shall be provided between the runway contact conductors and the power supply.

(ii) Another disconnecting means, capable of being locked in the open position, shall be provided in the leads from the runway contact conductors or other power supply on any crane or monorail hoist.

(*A*) If this additional disconnecting means is not readily accessible from the crane or monorail hoist operating station, means shall be provided at the operating station to open the power circuit to all motors of the crane or monorail hoist.

(*B*) The additional disconnect may be omitted if a monorail hoist or hand-propelled crane bridge installation meets all of the following:

(*1*) The unit is floor controlled;

(*2*) The unit is within view of the power supply disconnecting means; and

(*3*) No fixed work platform has been provided for servicing the unit.

(iii) The continuous ampere rating of the switch or circuit breaker required by paragraphs (a)(1)(i) and (a)(1)(ii) of this section shall not be less than 50 percent of the combined short-time ampere rating of the motors, nor less than 75 percent of the sum of the short-time ampere rating of the motors required for any single motion.

(2) *Control.* A limit switch or other device shall be provided to prevent the load block from passing the safe upper limit of travel of any hoisting mechanism to protect against motor overcurrent conditions.

(3) *Clearance.* The dimension of the working space in the direction of access to live parts which may require examination, adjustment, servicing, or maintenance while alive shall be a minimum of 2 feet 6 inches (762 mm). Where controls are enclosed in cabinets, the door(s) shall either open at least 90 degrees or be removable.

(4) *Grounding.* All exposed metal parts of cranes, monorail hoists, hoists and accessories including pendant controls shall be metallically joined together into a continuous electrical conductor so that the entire crane or hoist will be gounded in accordance with §1926.404(f). Moving parts, other than removable accessories or attachments, having metal-to-metal bearing surfaces shall be considered to be electrically connected to each other through the bearing surfaces for grounding purposes. The trolley frame and bridge frame shall be considered as electrically grounded through the bridge and trolley wheels and its respective tracks unless local conditions, such as paint or other insulating materials, prevent reliable metal-to-metal contact. In this case a separate bonding conductor shall be provided.

(b) *Elevators, escalators and moving walks*—(1) *Disconnecting means.* Elevators, escalators, and moving walks shall have a single means for disconnecting all unground main power supply conductors for each unit.

(2) *Control ponels.* If control panels are not located in the same space as the drive machine, they shall be located in cabinets with doors or panels capable of being locked closed.

(c) *Electric welders-disconnecting means.* (1) A disconnecting means shall be provided in the supply circuit for each motor-generator arc welder, and for each AC transformer and DC rectifier arc welder which is not equipped with a disconnect mounted as an intergral part of the welder.

(2) A switch or circuit breaker shall be provided by which each resistance welder and its control equipment can be isolated from the supply circuit. The ampere rating of this disconnecting means shall not be less than the supply conductor ampacity.

(d) *X-Ray equipment*—(1) *Disconnecting means.* (i) A disconnecting means shall be provided in the supply circuit. The disconnecting means shall be operable from a location readily accessible from the X-ray control. For equipment connected to a 120-volt branch circuit of 30 amperes or less, a grounding-type attachment plug cap and receptacle of proper rating may serve as a disconnecting means.

(ii) If more than one piece of equipment is operated from the same high-voltage circuit, each piece or each group of equipment as a unit shall be provided with a high-voltage switch or equivalent disconnecting means. This disconnecting means shall be constructed, enclosed, or located so as to avoid contact by employees with its live parts.

(2) *Control: Radiographic and fluoroscopic types.* Radiographic and fluoroscopic-type equipment shall be effectively enclosed or shall have interlocks that deenergize the equipment automatically to prevent ready access to live current-carrying parts.

§ 1926.407 Hazardous (classified) locations.

(a) *Scope.* This section sets forth requirements for electric equipment and wiring in locations which are classified depending on the properties of the flammable vapors, liquids or gases, or combustible dusts or fibers which may be present therein and the likelihood that a flammable or combustible concentration or quantity is present. Each room, section or area shall be considered individually in determining its classification. These hazardous (classified) locations are assigned six designations as follows:

Class I, Division 1; Class I, Division 2; Class II, Division 1; Class II, Division 2; Class III, Division 1; and Class III, Division 2.

For definitions of these locations see § 1926.449. All applicable requirements in this subpart apply to all hazardous (clasifed) locatons, unless modified by provisions of this section.

(b) *Electrical Installations.* Equipment, wiring methods, and installations of equipment in hazardous (classified) locations shall be intrinsically safe or approved for the hazardous (classified) location or safe for the hazardous (classified) location. Requirements for each of these options are as follows:

(1) *Intrinsically safe.* Equipment and associated wiring approved as intrinsically safe is permitted in any hazardous (classified) location for which it is approved.

(2) *Approved for the hazardous (classified) location.* Equipment shall be appoved not only for the class of location but also for the ignitible or combustible properties of the specific gas, vapor, dust, or fiber that will be present.

Note.—NFPA 70, the National Electrical Code, lists or defines hazardous gases, vapors, and dusts by "Groups" characterized by their ignitible or combustible properties.

(ii) Equipment shall be marked to show the class, group, and operating temperature or temperature range, based on operation in a 40–degree C ambient, for which it is approved. The temperature marking shall not exceed the ignition temperture of the specific gas or vapor to be encountered. However, the following provisions modify this marking requirement for specific equipment:

(A) Equipment of the non-heat producing type (lsuch as junction boxes, conduit, and fittings) and equipment of the heat-producing type having a maximum temperature not more than 100 ldegrees C (212 degrees F) need not have a marked operating temperature or temperature range.

(b) Fixed lighting fixtures marked for use in Class I, Division 2 locations only, need not be marked to indicate the group.

(c) Fixed general-purpose equipment in Class I locations, other than lighting fixtures, which is acceptable for use in Class I, Division 2 locations need not be marked with the class, group, division, or operating temperature.

(d) Fixed dust-tight equipment, other than lighting fixtures, which is acceptable for use in Class II, Division 2 Class III locations need not be marked with the class, group, division, or operating temperature.

(3) *Safe for the hazardous (classified) location.* Equipment whichis safe for the location shall be of a type and design which the employer demonstrates will provide protection from the hazards arising from the combustibility and flammability of vapors, liquids, gases, dusts, or fibers.

Note:—The National Electrical Code, NFPA 70, contains guidelines for determining the type and design of equipment and installation which will meet this requiremnt. the guidelines of this document address electric wiring, equipment, and systems installed in hazardous (classified) locations and contain specific provisions for the following: wiring methods, Wiring connections, conductor insulation, flexible cords, sealing and drainage, transformers, capacitors, switches, circuit breakers, fuses, mnotor controllers, receptacles, attachment plugs, meters, relays, instruments, resistors, generators, motors, lighting fixtures, storage battery charging equipment, electric carane, electric hoists and similar equipment, utilization equipment, signaling systems, alarm system, remote control systems, local loud speaker and communicatin systemsd, ventilation piping, live parts, lightning surge protgection, and grounding. Compliance with these guidelines will constitute one mean, but not the only means, of compliance with this paragraph.

(c) *Conduits.* All conduits shall be threaded and shall be made wrenchtight. Where it is impractical to make a threaded joint tight, a bonding jumper shall be utilized.

§ 1926.408 Special systems.

(a) *Systems over 600 volts, nominal.* Paragraphs (a) (1) through (4) of this seciton cover the general requirements for all circuits and equipment operated at over 600 volts.

(1) *Wiring methods for fixed installations.* (i) Above-ground conductors shall be installed in rigid metal conduit, in intermediate metal conduit, in cable trays, incablebus, in other suitable raceways, or as open runs of metal-clad cable designed for the use and purpose. However, open runs of non-metallic-sheathed cable or of bare coanductors or busbars may be installecd in location accessible only to qualified person. Metallic shileding components, such as tapes, wires, or braids for conductors, shall be grounded. Open runs of insualted wires and cables haviang bare lead sheath or a braided outer coavering shall be supported in a manner designed to prevent physical damage to the braid or sheath.

(ii) Conductor emerging form the ground shall be enclosed in raceways. Raceways installed on poles shall be of rigid metal conduit, intermediate metal conduit, PVC schedule 80 or equivalent extendig from the ground line up to a point 8 feet (2.44 m)above finished grade. Conductors entering a building shall be protected by an enclosure from the ground line to the point of entrance. Metallic enclosure shall be grounded.

(2) *Interrupting and isolating devices.* (i) Circuit breakers located indoors shall consist of metal-enclosed or fire-resistant, cell-mounted units. In locations accessible only to qualified personnel, open mounting of circuit breakers is permitted. A means of indicating the open and close position of circuit breakers shal be provided.

(ii) Fused coutouts installed in buildings or transformer vaults shall be of a type approved for the purpose. They shall be readly accessible for fuse replacement.

(iii) A means shall be provided to completely isolate equipment for inspection and repairs. Isolating means which are not designed to interrupt the load current of the circuit shall be either interlocked with a circuit interruptrer or provided with a sign warning against opening them under load.

(3) *Mobile and portable equipment* — (i) *Power cable connections to mobile machines.* A metallic enclosure shall be provided on the mobile machine for enclosing the terminals of the power cable. the enclosure shall include provisions for a solid connection for the ground wire(s) terminal to ground effectively the machine frame. The method of cable termination used shall prevent any strain or pull on the cable from streasing the electrical connections. The enclosure shall have provision for locking so only authorized qualified persons may open it and shall be marked with a sign warning of the presence of energized parts.

(ii) *Guarding live parts.* All energized switching and control parts shall be enclosed in effectively grounded metal cabinets or enclosures. Circuit breakers and protective equipment shall have the operating means projecting through the metal cabinet or enclosure so these units can be reset without locked doors being opened. Enclosures and metal cabinets shall be locked so that only authorized qualified persons have access and shall be marked with a sign warning of the presence of energized parts. Collector ring assemblies on revolving-type machines (shovels, draglines, etc.) shall be guarded.

(4) *Tunnel installation*—(i) *Application.* The provisions of this paragraph apply to installation and use of high-voltage power distribution and utilization equipment which is associated with tunnels and which is portable and/or mobile, such as substations, trailers, cars, mobile shovels, draglines, hoists, drills, dredges, compressors, pumps, conveyors, and underground excavators.

(ii) *Conductors.* Conductors in tunnels shall be installed in one or more of the following:

(A) Metal conduit or other metal raceway,

(B) Type MC cable, or

(C) Other approved multiconductor cable.

Conductors shall also be so located or guarded as to protect them from physical damage. Multiconductor portable cable may supply mobile equipment. An equipment grounding conductor shall be run with circuit conductors inside the metal raceway or inside the multiconductor cable jacket. The equipment grounding conductor may be insulated or bare.

(iii) *Guarding live parts.* Bare terminals of transformers, switches, motor controllers, and other equipment shall be enclosed to prevent accidental contact with energized parts. Enclosures for use in tunnels shall be drip-proof, weatherproof, or submersible as required by the environmental conditions.

(iv) *Disconnecting means.* A disconnecting means that simultaneously opens all ungrounded conductors shall be installed at each transformer or motor location.

(v) *Grounding and bonding.* All nonenergized metal parts of electric equipment and metal raceways and cable sheaths shall be grounded and bonded to all metal pipes and rails at the portal and at intervals not exceeding 1000 feet (305 m) throughout the tunnel.

(b) *Class 1, Class 2, and Class 3 remote control, signaling, and power-limited circuits*—(1) *Classification.* Class 1, Class 2, or Class 3 remote control, signaling, or power-limited circuits are characterized by their usage and electrical power limitation which differentiates them from light and power circuits. These circuits are classified in

VOL 48 ISS 196 OCT 7 1983 UMI

VOL 48 ISS 196 OCT 7 1983 UMI

accordance with their respective voltage and power limitations as summarized in paragraphs (b)(1) (i) through (iii) of this section.

(i) *Class 1 circuits.* (A) A Class 1 power-limited circuit is supplied from a source having a rated output of not more than 30 volts and 1000 volt-amperes.

(B) A Class 1 remote control circuit or a Class 1 signaling circuit has a voltage which does not exceed 600 volts; however, the power output of the source need not be limited.

(ii) *Class 2 and Class 3 circuits.* (A) Power for Class 2 and Class 3 circuits is limited either inherently (in which no overcurrent protection is required) or by a combination of a power source and overcurrent protection.

(B) The maximum circuit voltage is 150 volts AC of DC for a CLass 2 inherently limited power source, and 100 volts AC or DC for a Class 3 inherently limited power source.

(C) The maximum circuit voltage is 30 volts AC and 60 volts DC for a Class 2 power source limited by overcurrent protection, and 150 volts AC or DC for a Class 3 power source limited by overcurrent protection.

(iii) The maximum circuit voltages in paragraph (b)(1) (i) and (ii) of this section apply to sinusoidal AC or continuous DC power sources, and where wet contact occurrence is not likely.

(2) *Marking.* A Class 2 or Class 3 power supply unit shall be durably marked where plainly visible to indicate the class of supply and its electrical rating.

(c) *Communications systems*—(1) *Scope.* These provisions for communication systems apply to such systems as central-station-connected and non-central-station-connected telephone circuits, radio receiving and transmitting equipment, and outside wiring for fire and burglar alarm, and similar central station systems. These installations need not comply with the provisions of §§ 1926.403 through 1926.408(b), except § 1926.404(c)1)(ii) and § 1926.407.

(2) *Protective devices.* (i) Communication circuits so located as to be exposed to accidental contact with light or power conductors operating at over 300 volts shall have each circuit so exposed provided with an approved protector.

(ii) Each conductor of a lead-in from an outdooor antenna shall be provided with an antenna discharge unit or other means that will drain static charges from the antenna system.

(3) *Conductor location*—(i) *Outside of buildings.* (A) Receiving distribution lead-in or aerial-drop cables attached to buildings and lead-in conductors to radio transmitters shall be so installed as to avoid the possibility of accidental contact with electric light or power conductors.

(B) The clearance between lead-in conductors and any lighting protection conductors shall not be less that 6 feet (1.83 m).

(ii) *On poles.* Where practicable, communication conductors on poles shall be located below the light or power conductors. Communications conductors shall not be attached to a crossarm that carriers light or power conductors.

(iii) *Inside of buildings.* Indoor antennas, lead-ins, and other communication conductors attached as open conductors to the inside of buildings shall be located at least 2 inches (50.8 mm) from conductors of any light or power or Class 1 circuits unless a special and equally protective method of approved conductor separation is employed.

(4) *Equipment location.* Outdoor metal structures supporting antennas, as well as self-supporting antennas such as vertical rods or dipole structures, shall be located as far away from overhead conductors of electric light and power circuits of over 150 volts to ground as necessary to avoid the possibility of the antenna or structure falling into or making accidental contact with such circuits.

(5) *Grounding*—(i) *Lead-in conductors.* If exposed to contact with electric light and power conductors, the metal sheath of aerial cables entering buildings shall be grounded or shall be interrupted close to the entrance to the building by an insulating joint or equivalent device. Where protective devices are used, they shall be grounded in an approved manner.

(ii) *Antenna structures.* Masts and metal structures supporting antennas shall be permanently and effectively grounded without splice or connection in the grounding conductor.

(iii) *Equipment enclosures.* Transmitters shall be enclosed in a metal frame or grill or separated from the operating space by a barrier, all metallic parts of which are effectively connected to ground. All external metal handles and controls accessible to the operating personnel shall be effectively grounded. Unpowered equipment and enclosures shall be considered grounded where connected to an atttached coaxial cable with an effectively grounded metallic shield.

§§ 1926.409–1926.415 [Reserved]

Safety-Related Work Practices

§ 1926.416 General requirements.

(a) *Protection of employees.* (1) No employer shall permit an employee to work in such proximity to any part of an electric power circuit that the employee could contact the electric power circuit in the course of work, unless the employee is protected against electric shock by deenergizing the circuit and grounding it or by guarding it by effective insulation or other means.

(2) In work areas where the exact location of underground electric powerlines is unknown, employees using jack-hammers, bars, or other hand tools which may contact a line shall be provide with insulated protective gloves.

(3) Before work is begun the employer shall ascertain by inquiry or direct observation, or by instruments, whether any part of an electric power circuit, exposed or concealed, is so located that the performance of the work may bring any person, tool, or machine into physical or electrical contact with the electric power circuit. The employer shall post and maintain proper warning signs where such a circuit exists. The employer shall advise employees of the location of such lines, the hazards involved, and the protective measures to be taken.

(b) *Passageways and open spaces.* (1) Barriers or other means of guarding shall be provided to ensure that workspace for electrical equipment will not be used as a passageway during periods when energized parts of electrical equipment are exposed.

(2) Working spaces, walkways, and similar locations shall be kept clear of cords so as not to create a hazard to employees.

(c) *Load ratings.* In existing installations no changes in circuit protection shall be made to increase the load in excess of the load rating of the circuit wiring.

(d) *Fuses.* When fuses are installed or removed with one or both terminals energized, special tools insulated for the voltage shall be used.

(e) *Cords and cables.* (1) Worn or frayed electric cords or cables shall not be used.

(2) Extension cords shall not be fstened with staples, hung from nails, or suspended by wire.

§ 1926.417 Lockout and tagging of circuits.

(a) *Controls.* Controls that are to be deactivated during the course or work on energized or deenergized equipment or circuits shall be tagged.

(b) *Equipment and circuits.* Equipment or circuits that are deenergized shall be rendered inoperative and shall have tages attached at all points where such equipment or circuits can be energized.

(c) *Tags.* Tags shall be placed to identify plainly the equipment or circuits being worked on.

§§ 1926.418–1926.430 [Reserved]

Safety-Related Maintenance and Environmental Considerations

§ 1926.431 Maintenance of equipment.

Equipment in hazardous locations. The employer shall ensure that all wiring components and utilization equipment in hazardous locations are maintained in a dust-tight, dust-ignition-proof, or explosion-proof condition in accordance with their approvals. There shall be no loose or missing screws, gaskets, threaded connections, seals, or other impairments to a tight condition.

§ 1926.432 Enviromental deterioration of equipment.

(a) *Deteriorating agents.* (1) Unless approved for the purpose, no conductors or equipment shall be located:

(i) In damp or wet locations;

(ii) Where exposed to gases, fumes, vapors, liquids, or other agents having a deteriorating effect on the conductors or equipment; nor

(iii) Where exposed to excessive temperatures.

(2) Control equipment, utilization equipment, and busways approved for use in dry locations only shall be protected against permanent damage from the weather during building construction.

(b) *Protection against corrosion.* Metal raceways, cable armor, boxes, cable sheathing, cabinets, elbows, couplings, fittings, supports, and support hardware shall be of materials appropriate for the environment in which they are to be installed.

§§ 1926.433–1926.440 [Reserved]

Safety Requirements for Special Equipment

§ 1926.441 Batteries and battery charging.

(a) *General requirements.* (1) Batteries of the unsealed type shall be located in enclosures with outside vents or in well ventilated rooms and shall be arranged so as to prevent the escape of fumes, gases, or electrolyte spray into other areas.

(2) Ventilation shall be provided to ensure diffusion of the gases from the battery and to prevent the accumulation of an explosive mixture.

(3) Racks and trays shall be substantial and shall be treated to make them resistant to the electrolyte.

(4) Floors shall be of acid resistant construction unless protected from acid accumulations.

(5) Face shields, aprons, and rubber gloves shall be provided for workers handling acids or batteries.

(6) Facilities for quick drenching of the eyes and body shall be provided within 25 feet (7.62 m) of battery handling areas.

(7) Facilities shall be provided for flushing and neutralizing spiled electrolyte and for fire protection.

(b) *Charging.* (1) Battery charging installations shall be located in areas designated for that purpose.

(2) Charging apparatus shall be protected from damage by trucks.

(3) When batteries are being charged, the vent caps shall be kept in place to avoid electrolyte spray. Vent caps shall be maintained in functioning condition.

§§ 1926.442–1926.448 [Reserved]

Definitions

§ 1926.449 Definitions applicable to this subpart.

The definitions given in this section apply to the terms used in this subpart. The definitions given here for "approved" and "qualified person" apply, instead of the definitions given in § 1926.32, to the use of these terms in this subpart.

Acceptable. An installation or equipment is acceptable to the Assistant Secretary of Labor, and approved within the meaning of this Subpart K:

(i) If it is accepted, or certified, or listed, or labeled, or otherwise determined to be safe by a qualified testing laboratory capable of determining the suitability of materials and equipment for installation and use in accordance with this standard; or

(ii) With respect to an installation or equipment of a kind which no qualified testing laboratory accepts, certifies, lists, labels, or determines to be safe, if it is inspected or tested by another Federal agency, or by a State, municipal, or other local authority responsible for enforcing occupational safety provisions of, and found in compliance with, the National Electrical Code; or

(iii) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use by a particular customer, if it is detemined to be safe for its intended use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection to the Assistant Secretary and his authorized representatives.

Accepted. An installation is "accepted" if it has been inspected and found to be safe by a qualified testing laboratory.

Accessible. (As applied to wiring methods.) Capable of being removed or exposed without damaging the building structure or finish, or not permanently closed in by the structure or finish of the building. (See *"concealed"* and *"exposed."*)

Accessible. (As applied to equipment.) Permitting close approach; not guarded by locked doors, elevation, or other effective means. (See *"Readily accessible."*)

Ampacity. Current-carrying capacity of electric conductors expressed in amperes.

Appliances. Utilization equipment, generally other than industrial, normally built in standardized sizes or types, which is installed or connected as a unit to perform one or more functions.

Approved. Acceptable to the authority enforcing this subpart. The authority enforcing this subpart is the Assistant Secretary of Labor for Occupational Safety and Health. The definition of "acceptable" indicates what is acceptable to the Assistant Secretary of Labor, and therefore approved within the meaning of this subpart.

Askarel. A generic term for a group of nonflammable synthetic chlorinated hydrocarbons used as electrical insulating media. Askarels of various compositional types are used. Under arcing conditions the gases produced, while consisting predominantly of noncombustible hydrogen chloride, can include varying amounts of combustible gases depending upon the askarel type.

Attachment plug (Plug cap)(Cap). A device which, by insertion in a receptacle, establishes connection between the conductors of the attached flexible cord and the conductors connected permanently to the receptacle.

Automatic. Self-acting, operating by its own mechanism when actuated by some influence, such as a change in current strength, pressure, temperature, or mechanical configuration.

Bare conductor. See *"Conductor."*

Bonding. The permanent joining of metallic parts to form an electrically conductive path which will assure electrical continuity and the capacity to conduct safely any current likely to be imposed.

Bonding jumper. A reliable conductor to assure the required electrical conductivity between metal parts required to be electrically connected.

VOL 48 ISS 1 96 OCT 7 1983 UMI

Branch circuit. The circuit conductors between the final over-current device protecting the circuit and the outlet(s).

Building. A structure which stands alone or which is cut off from adjoining structures by fire walls with all openings therein protected by approved fire doors.

Cabinet. An enclosure designed either for surface or flush mounting, and provided with a frame, mat, or trim in which a swinging door or doors are or may be hung.

Certified. Equipment is "certified" if it: (a) Has been tested and found by a qualified testing laboratory to meet applicable test standards or to be safe for use in a specified manner, or (b) is of a kind whose production is periodically inspected by a qualified testing laboratory. Certified equipment must bear a label, tag, or other record of certification.

Circuit breaker. (i) (600 volts nominal, or less). A device designed to open and close a circuit by nonautomatic means and to open the circuit automatically on a predetermined overcurrent without injury to itself when properly applied within its rating.

(ii) (Over 600 volts, nominal). A switching device capable of making, carrying, and breaking currents under normal circuit conditions, and also making, carrying for a specified time, and breaking currents under specified abnormal circuit conditions, such as those of short circuit.

Class I locations. Class I locations are those in which flammable gases or vapors are or may be present in the air in quantities sufficient to produce explosive or ignitible mixtures. Class I locations include the following.

(i) *Class I, Division 1.* A Class I, Division 1 location is a location: (A) In which ignitible concentrations of flammable gases or vapors may exist under normal operating conditions; or (B) in which ignitible concentrations of such gases or vapors may exist frequently because of repair or maintenance operations or because of leakage; or (C) in which breakdown or faulty operation of equipment or processes might release ignitible concentrations of flammable gases or vapors, and might also cause simultaneous failure of electric equipment.

Note.—This classification usually includes locations where volatile flammable liquids or liquefied flammable gases are transferred from one container to another; interiors of spray booths and areas in the vicinity of spraying and painting operations where volatile flammable solvents are used; locations containing open tanks or vats of volatile flammable liquids; drying rooms or compartments for the evaporation of flammable solvents; inadequately ventilated pump room for flammable gas or for volatile flammable liquids; and all other locations where ignitible concentrations of flammable vapors or gases are likely to occur in the course of normal operations.

(ii) *Class I, Division 2.* A Class I, Division 2 location is a location: (A) In which volatile flammable liquids or flammable gases are handled, processed, or used, but in which the hazardous liquids, vapors, or gases will normally be confined within close containers or closed systems from which they can escape only in case of accidental rupture or breakdown of such containers or systems, or in case of abnormal operation of equipment; or (B) in which ignitible concentrations of gases or vapors are normally prevented by positive mechanical ventilation, and which might become hazardous through failure or abnormal operations of the ventilating equipment; or (C) that is adjacent to a Class I, Division 1 location, and to which ignitible concentrations of gases or vapors might occasionally be communicated unless such communication is prevented by adequate positive-pressure ventilation from a source of clean air, and effective safeguards against ventilation failure are provided.

Note.—This classification usually includes locations where volatile flammable liquids or flammable gases or vapors are used, but which would become hazardous only in case of an accident or of some unusual operating condition. The quantity of flammable material that might escape in case of accident, the adequacy of ventilating equipment, the total area involved, and the record of the industry or business with respect to explosions or fires are all factors that merit consideration in determining the classification and extent of each location.

Piping without valves, checks, meters, and similar devices would not ordinarily introduce a hazardous condition even through used for flammable liquids or gases. Locations used for the storage of flammable liquids or of liquefied or compressed gases in sealed containers would not normally be condidered hazardous unless also subject to other hazardous conditions.

Electrical conduits and their associated enclosures separated from process fluids by a single seal or barrier are classed as a Division 2 location if the outside of the conduit and enclosures is a nonhazardous location.

Class II locations. Class II locations are those that are hazardous because of the presence of combustible dust. Class II locations include the following:

(i) *Class II, Division 1.* A Class II, Division 1 location is a location: (A) In which combustible dust is or may be in suspension in the air under normal operating conditions, in quantites sufficient to produce explosive or ignitible mixtures; or (B) where mechanical failure or abnormal operation of machinery or equipment might cause such explosive or ignitible mixtures to be produced, and might also provide a source of ignition through simultaneous failure of electric equipment, operation of protection devices, or from other causes, or (C) in which combustible dusts of an electrically conductive nature may be present.

Note.—Combustible dusts which are electrically nonconductive include dusts produced in the handling and processing of grain and grain products, pulverized sugar and coca, dried egg and milk powders, pulverized spices, starch and pastes, potato and woodflour, oil meal from beans and seed, dried hay, and other organic materials which may produce combustible dusts when processed or handled. Dusts containing magnesium or aluminum are particularly hazardous and the use of extreme caution is necessary to avoid ignition and explosion.

(ii) *Class II, Division 2.* A Class II, Division 2 location is a location in which: (A) Combustible dust will not normally be in suspension in the air in quantities sufficient to produce explosive or ignitible mixtures, and dust accumulations are normally insufficient to interfere with the normal operation of electrical equipment or other apparatus; or (B) dust may be in suspension in the air as a result of infrequent malfunctioning of handling or processing equipment, and dust accumulations resulting therefrom may be ignitible by abnormal operation of failure of electrical equipment or other apparatus.

Note.—This classification includes locations where dangerous concentrations of suspended dust would not be likely but where dust accumulations might form on or in the vicinity of electric equipment.These areas may contain equipment from which appreciable quantities of dust would escape under abnormal operating conditions or be adjacent to a Class II Division 1 location, as described above, into which an explosive or ignitible concentration of dust may be put into suspension under abnormal operating conditions.

Class III locations. Class III locations are those that are hazardous because of the presence of easily ignitible fibers or flyings but in which such fibers or flyings are not likely to be in suspension in the air in quantities sufficient to produce ignitible mixtures. Class III locations include the following:

(i) *Class III, Division 1.* A Class III, Division 1 location is a location in which easily ignitible fibers or materials producing combustible flyings are handled, manufactured, or used.

Note. Easily ignitible fibers and flyings include rayon, cotton (including cotton linters and cotton waste), sisal or henequen, istle, jute, hemp, tow, cocoa fiber, oakum, baled waste kapok, Spanish moss, excelsior, sawdust, woodchips, and other materials of similar nature.

(ii) *Class III, Division 2.* A Class III, Division 2 location is a location in which easily ignitible fibers are stored or handled, except in process of manufacture.

Collector ring. A collector ring is an assembly of slip rings for transferring electrical energy from a stationary to a rotating member.

Concealed. Rendered inaccessible by the structure or finish of the building. Wires in concealed raceways are considered concealed, even though they may become accessible by withdrawing them. (See *"Accessible.* (As applied to wiring methods.)")

Conductor. (i) *Bare.* A conductor having no covering or electrical insulation whatsover.

(ii) *Covered.* A conductor encased within material of composition or thickness that is not recognized as electrical insulation.

(iii) *Insulated.* A conductor encased within material of composition and thickness that is recognized as electrical insulation.

Controller. A device or group of devices that serves to govern, in some predetermined manner, the electric power delivered to the apparatus to which it is connected.

Covered conductor. See *"Conductor."*

Cutout. (Over 600 volts, nominal.) An assembly of a fuse support with either a fuseholder, fuse carrier, or disconnecting blade. The fuseholder or fuse carrier may include a conducting element (fuse link), or may act as the disconnecting blade by the inclusion of a nonfusible member.

Cutout box. An enclosure designed for surface mounting and having swinging doors or covers secured directly to and telescoping with the walls of the box proper. (See *"Cabinet."*)

Damp location. See *"Location."*

Dead front. Without live parts exposed to a person on the operating side of the equipment.

Device. A unit of an electrical system which is intended to carry but not utilize electric energy.

Disconnecting means. A device, or group of devices, or other means by which the conductors of a circuit can be disconnected from their source of supply.

Disconnecting (or Isolating) switch. (Over 600 volts, nominal.) A mechanical switching device used for isolating a circuit or equipment from a source of power.

Dry location. See *"Location."*

Enclosed. Surrounded by a case, housing, fence or walls which will prevent persons from accidentally contacting energized parts.

Enclosure. The case or housing of apparatus, or the fence or walls surrounding an installation to prevent personnel from accidentally contacting energized parts, or to protect the equipment from physical damage.

Equipment. A general term including material, fittings, devices, appliances, fixtures, apparatus, and the like, used as a part of, or in connection with, and electrical installation.

Equipment grounding conductor. See *"Grounding conductor, equipment."*

Explosion-proof apparatus. Apparatus enclosed in a case that is capable of withstanding an explosion of a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that it will not ignite a surrounding flammable atmosphere.

Exposed. (As applied to live parts.) Capable of being inadvertently touched or approached nearer than a safe distance by a person. It is applied to parts not suitably guarded, isolated, or insulated. (See *"Accessible* and *"Concealed."*)

Exposed. (As applied to wiring methods.) On or attached to the surface or behind panels designed to allow access. (See *"Accessible.* (As applied to wiring methods.)")

Exposed. (For the purposes of § 1926.408(d), Communications systems.) Where the circuit is in such a position that in case of failure of supports or insulation, contact with another circuit may result.

Externally operable. Capable of being operated without exposing the operator to contact with live parts.

Feeder. All circuit conductors between the service equipment, or the generator switchboard of an isolated plant, and the final branch-circuit overcurrent device.

Festoon lighting. A string of outdoor lights suspended between two points more than 15 feet (4.57 m) apart.

Fitting. An accessory such as a locknut, bushing, or other part of a wiring system that is intended primarily to perform a mechanical rather than an electrical function.

Fuse. (Over 600 volts, nominal.) An overcurrent protective device with a circuit opening fusible part that is heated and severed by the passage of overcurrent through it. A fuse comprises all the parts that form a unit capable of performing the prescribed functions. It may or may not be the complete device necessary to connect it into an electrical circuit.

Ground. A conducting connection, whether intentional or accidental, between an electrical circuit or equipment and the earth, or to some conducting body that serves in place of the earth.

Grounded. Connected to earth or to some conducting body that serves in place of the earth.

Grounded, effectively. (Over 600 volts, nominal.) Permanently connected to earth through a ground connection of sufficiently low impedance and having sufficient ampacity that ground fault current which may occur cannot build up to voltages dangerous to personnel.

Grounded conductor. A system or circuit conductor that is intentionally grounded.

Grounding conductor. A conductor used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes.

Grounding conductor, equipment. The conductor used to connect the non-current-carrying metal parts of equipment, raceways, and other enclosures to the system grounded conductor and/or to the grounding electrode conductor at the service equipment or at the source of a separately derived system.

Grounding electrode conductor. The conductor used to connect the grounding electrode to the equipment grounding conductor and/or the grounded conductor of the circuit at the service equipment or at the source of a separately derived system.

Ground-fault circuit interrupter. A device for the protection of personnel that functions to deenergize a circuit or portion thereof within an established period of time when a current to ground exceeds some predetermined value that is less than that required to operate the overcurrent protective device of the supply circuit.

Guarded. Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens, mats, or platforms to remove the likelihood of approach to a point of danger or contact by persons or objects.

Hoistway. Any shaftway, hatchway, well hole, or other vertical opening or space in which an elevator or dumbwaiter is designed to operate.

Identified (As applied to conductors and terminals). Identified, as used in reference to a conductor or its terminal,

means that such conductor or terminal can be recognized as grounded.

Identified (As applied to equipment). Recognized as suitable for the specific purpose, function, use, environment, application, etc. where described as a requirement in this standard. Suitability of equipment for a specific purpose, environment, or application is determined by a qualified testing laboratory where such identification includes labeling or listing.

Insulated conductor. See *"Conductor."*

Interrupter switch. (Over 600 volt, nominal.) A switch capable of making, carrying, and interrupting specified currents.

Intrinsically safe equipment and associated wiring. Equipment and associated wiring in which any spark or thermal effect, produced either normally or in specified fault conditions, is incapable, under certain prescribed test conditions, of causing ignition of a mixture of flammable or combustible material in air in its most easily ignitible concentration.

Isolated. Not readily accessible to persons unless special means for access are used.

Isolated power system. A system comprising an isolating transformer or its equivalent, a line isolation monitor, and its ungrounded circuit conductors.

Labeled. Equipment or materials to which has been attached a label, symbol or other identifying mark of a qualified testing laboratory which indicates compliance with appropriate standards of performance in a specified manner.

Lighting outlet. An outlet intended for the direct connection of a lampholder, a lighting fixture, or a pendant cord terminating in a lamp-holder.

Listed. Equipment or materials included in a list published by a qualified testing laboratory whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

Location. (a) *Damp location.* Partially protected locations under canopies, marquees, roofed open porches, and like locations, and interior locations subject to moderate degrees of moisture.

(b) *Dry location.* A location not normally subject to dampness or wetness. A location classified as dry may be temporarily subject to dampness or wetness, as in the case of a building under construction.

(c) *Wet location.* Installations underground or in concrete slabs or masonry in direct contact with the earth, and locations subject to saturation with water or other liquids, such as locations exposed to weather and unprotected.

Mobile X-ray. X-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled.

Motor control center. An assembly of one or more enclosed sections having a common power bus and principally containing motor control units.

Outlet. A point on the wiring system at which current is taken to supply utilization equipment.

Overcurrent. Any current in excess of the rated current of equipment or the ampacity of a conductor. It may result from overload (see definition), short circuit, or ground fault. A current in excess of rating may be accommodated by certain equipment and conductors for a given set of conditions. Hence the rules for overcurrent protection are specific for particular situations.

Overload. Operation of equipment in excess of normal, full load rating, or of a conductor in excess of rated ampacity which, when it persists for a sufficient length of time, would cause damage or dangerous overheating. A fault, such as a short circuit or ground fault, is not an overload. (See *"Overcurrent."*)

Panelboard. A single panel or group of panel units designed for assembly in the form of a single panel; including buses, automatic over-current devices, and with or without switches for the control of light, heat, or power circuits; designed to be placed in a cabinet or cutout box placed in or against a wall or partition and accessible only from the front. (See *"Switchboard."*)

Portable X-ray. X-ray equipment designed to be hand-carried.

Power fuse. (Over 600 volts, nominal) See "Fuse."

Power outlet. An enclosed assembly which may include receptacles, circuit breakers, fuseholders, fused switches, buses and watt-hour meter mounting means; intended to serve as a means for distributing power required to operate mobile or temporarily installed equipment.

Premises wiring system. That interior and exterior wiring, including power, lighting, control, and signal circuit wiring together with all of its associated hardware, fittings, and wiring devices, both permanently and temporarily installed, which extends from the load end of the service drop, or load end of the service lateral conductors to the outlet(s). Such wiring does not include wiring internal to appliances, fixtures, motors, controllers, motor control centers, and similar equipment.

Qualified person. One familiar with the construction and operation of the equipment and the hazards involved.

Qualified test laboratory. A properly equipped and staffed testing laboratory recognized by the Assistant Secretary of Labor which has capabilities for and provides the following services: (a) Experimental testing for safety of specified items of equipment and materials referred to in this standard to determine compliance with appropriate test standards or performance in a specified manner; (b) inspecting the run of such items of equipment and materials at factories for product evaluation to assure compliance with the test standards; (c) service-value determinations through field inspections to monitor the proper use of labels on products and with authority for recall in the event a hazardous product is installed; (d) employing a controlled procedure for identifying the listed and/or labeled equipment or materials tested; and (e) rendering creditable reports or findings that are objective and without bias of the tests and test methods employed.

Raceway. A channel designed expressly for holding wire, cables, or busbars, with additional functions as permitted in this subpart. Raceways may be of metal or insulating material, and the term includes rigid metal conduit, rigid nonmetallic conduit, intermediate metal conduit, liquidtight flexible metal conduit, flexible metallic tubing, flexible metal conduit, electrical metallic tubing, underfloor raceways, cellular concrete floor raceways, cellular metal floor raceways, surface raceways, wireways, and busways.

Readily accessible. Capable of being reached quickly for operation, renewal, or inspections, without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders, chairs, etc. (See *"Accessible."*)

Receptacle. A receptacle is a contact device installed at the outlet for the connection of a single attachment plug. A single receptacle is a single contact device with no other contact device on the same yoke. A multiple receptacle is a single device containing two or more receptacles.

Receptacle outlet. An outlet where one or more receptacles are installed.

Remote-control circuit. Any electrical circuit that controls any other circuit through a relay or an equivalent device.

Sealable equipment. Equipment enclosed in a case or cabinet that is provided with a means of sealing or locking so that live parts cannot be made accessible without opening the enclosure. The equipment may or may not be operable without opening the enclosure.

Separately derived system. A premises wiring system whose power is derived from generator, transformer, or converter winding and has no direct electrical connection, including a solidly connected grounded circuit conductor, to supply conductors originating in another system.

Service. The conductors and equipment for delivering energy from the electricity supply system to the wiring system of the premises served.

Service conductors. The supply conductors that extend from the street main or from transformers to the service equipment of the premises supplied.

Service drop. The overhead service conductors from the last pole or other aerial support to and including the splices, if any, connecting to the service-entrance conductors at the building or other structure.

Service-entrance conductors, overhead system. The service conductors between the terminals of the service equipment and a point usually outside the building, clear of building walls, where joined by tap or splice to the service drop.

Service-entrance conductors, underground system. The service conductors between the terminals of the service equipment and the point of connection to the service lateral. Where service equipment is located outside the building walls, there may be no service-entrance conductors, or they may be entirely outside the building.

Service equipment. The necessary equipment, usually consisting of a circuit breaker or switch and fuses, and their accessories, located near the point of entrance of supply conductors to a building or other structure, or an otherwise defined area, and intended to constitute the main control and means of cutoff of the supply.

Service raceway. The raceway that encloses the service-entrance conductors.

Signaling circuit. Any electric circuit that energizes signaling equipment.

Switchboard. A large single panel, frame, or assembly of panels which have switches, buses, instruments, overcurrent and other protective devices mounted on the face or back or both. Switchboards are generally accessible from the rear as well as from the front and are not intended to be installed in cabinets. (See *"Panelboard."*)

Switches. (i) *General-use switch.* A switch intended for use in general distribution and branch circuits. It is rated in amperes, and it is capable of interrupting its rated current at its rated voltage.

(ii) *General-use snap switch.* A form of general-use switch so constructed that it can be installed in flush device boxes or on outlet box covers, or otherwise used in conjunction with wiring systems recognized by this subpart.

(iii) *Isolating switch.* A switch intended for isolating an electric circuit from the source of power. It has no interrupting rating, and it is intended to be operated only after the circuit has been opened by some other means.

(iv) *Motor-circuit switch.* A Switch, rated in horsepower, capable of interrupting the maximum operating overload current of a motor of the same horsepower rating as the switch at rated voltage.

Switching devices. (Over 600 volts, nominal.) Devices designed to close and/or open one or more electric circuits. Included in this category are circuit breakers, cutouts, disconnecting (or isolating) switches, disconnecting means, and interrupter switches.

Transportable X-ray. X-ray equipment installed in a vehicle or that may readily be disassembled for transport in a vehicle.

Utilization equipment. Utilization equipment means equipment which utilizes electric energy for mechanical, chemical, heating, lighting, or similar useful purpose.

Utilization system. A utilizations system is a system which provides electric power and light for employee workplaces, and includes the premises wiring system and utilization equipment.

Ventilated. Provided with a means to permit circulation of air sufficient to remove an excess of heat, fumes, or vapors.

Volatile flammable liquid. A flammable liquid having a flash point below 38 degrees C (100 degrees F) or whose temperature is above its flash point, or Class II combustible liquid having a vapor pressure not exceeding 40 psia (276 kPa) at 38°C (100° F) whose temperature is above its flash point.

Voltage (of a circuit). The greatest root-mean-square (effective) difference of potential between any two conductors of the circuit concerned.

Voltage, nominal. A nominal value assigned to a circuit or system for the purpose of conveniently designating its voltage class (as 120/240, 480Y/277, 600, etc.). The actual voltage at which a circuit operates can vary from the nominal within a range that permits satisfactory operation of equipment.

Voltage to ground. For grounded circuits, the voltage between the given conductor and that point or conductor of the circuit that is grounded; for ungrounded circuits, the greatest voltage between the given conductor and any other conductor of the circuit.

Watertight. So constructed that moisture will not enter the enclosure.

Weatherproof. So constructed or protected that exposure to the weather will not interfere with successful operation. Rainproof, raintight, or watertight equipment can fulfill the requirements for weatherproof where varying weather conditions other than wetness, such as snow, ice, dust, or temperature extremes, are not a factor.

Wet location. See *"Location."*

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Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Delaware: DE82-3015	June 4, 1982.
Hawaii: HI83-5104	Mar. 18,1983.
Idaho: ID82-5128	Nov. 26, 1982.
Iowa:	
IA83-4050	July 15, 1983.
IA83-4056	July 29, 1983.
Indiana:	
IN83-2067	Sept. 2, 1983.
IN83-2069	Sept. 2, 1983.
IN83-2070	Sept. 2, 1983.
IN83-2071	Sept. 9, 1983.
IN83-2072	Sept. 2, 1983.
IN83-2073	Sept. 9, 1983.
Louisiana:	
LA83-4019	Feb. 4, 1983.
LA83-4059	Aug. 5, 1983.
Michigan: MI83-2021	Mar. 18, 1983.
Montana: MT83-5101	Feb. 18, 1983.
Nevada:	
NV83-5103	Mar. 18, 1983.
NV83-5121	Sept. 23, 1983.
Oklahoma:	
OK83-4067	Sept. 16, 1983.
OK83-4068	Sept. 16, 1983
Oregon: OR83-5100	Feb. 18, 1983.
Pennsylvania:	
PA81-3080	Oct. 23, 1981.
PA82-3007	Feb. 26, 1982.
Texas:	
TX82-4042	Aug. 20, 1982.
TX83-4026	Apr. 8, 1983.
Washington: WA83-5110	June 3, 1983

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Nebraska: NE79-4075 (NE83-4070)	Aug. 3, 1979.
North Carolina:	
NC81-1257 (NC83-1076)	July 6, 1981.
NC81-1258 (NC83-1077)	July 6, 1981.
NC81-1258 (NC83-1075)	July 6, 1981.
NC80-1099 (NC83-1078)	Aug. 29, 1980.
NC81-1234 (NC83-1079)	May 22, 1981.
NC80-1065 (NC83-1080)	May 2, 1980.
NC80-1085 (NC83-1081)	Aug. 1, 1980.
NC80-1077 (NC83-1082)	June 27, 1980.
New Mexico: NM83-4032 (NM83-4071)	Apr. 15, 1983.
Pennsylvania: PA82-3017 (PA83-3048)	Mar. 26,1982.
Wisconsin:	
WI82-2011 (WI83-2078)	Mar. 19, 1982.
WI82-2015 (WI83-2079)	Mar. 12, 1982.
WI82-2016 (WI83-2080)	Mar. 12, 1982.
WI82-2009 (WI83-2077)	Mar. 5, 1982.

Signed at Washington, D.C., this 29th day of September 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

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MODIFICATIONS P. 2

DECISION NO. IN83-2067 Mod. # 1 (48 FR 40064 - September 2 1983) BROWN, CLARK, ... , WAYNE COS., INDIANA

	Basic Hourly Rates	Fringe Benefits
CRANES:		
ASBESTOS WORKERS:		
Area 1	$17.75	2.70
Area 4	16.57	3.07
CARPENTERS:		
Area 3:		
Millwrights	14.85	2.90
Area 4:		
Carpenters & Soft Floor Layers	14.39	2.96
Millwrights	14.69	2.96
Piledrivermen	14.59	2.96
Area 5:		
Carpenters & Soft Floor Layers	14.21	2.02
Millwrights	14.96	2.02
Piledrivermen	14.71	2.02
CEMENT MASONS:		
Area 2	13.14	3.32
ELECTRICIANS:		
Area 1	17.10	2.06 + 3%
Area 4	17.50	19.3%
Area 5	16.60	2.40 + 3.2%
IRONWORKERS:		
Area 4	16.26	3.70
PAINTERS:		
Area 1:		
Brush, Roller, Drywall	14.17	
Structural Steel	14.92	
Spray & Sandblast	16.30	
ROOFERS:		
Area 2:		
Composition	15.25	2.28
Slate & Tile	15.50	2.28
SHEET METAL WORKERS:		
Area 3	17.22	3.75

DECISION NO. IN83-2069 (48 FR 40064 - September 2, 1983) CLAY, DAVIESS, ... , & WARRICK COS., INDIANA

	Basic Hourly Rates	Fringe Benefits
CRANES:		
CARPENTERS:		
Area 4:		
Carpenters	$15.95	3.35
ELECTRICIANS:		
Area 1	17.10	2.06 + 3%
Area 3	17.50	19.5%
IRONWORKERS:		
Area 1	17.60	2.21
MILLWRIGHTS:		
Area 1	15.95	3.35
PAINTERS:		
Area 3:		
Brush, Roller, Drywall	14.17	
Spray & Sandblast	16.30	
Structural Steel	14.92	
PLUMBERS & STEAMFITTERS:		
Area 2	17.85	2.51
ROOFERS:		
Area 2:		
Composition	15.25	2.28
Slate & Tile	15.50	2.28
SHEET METAL WORKERS:		
Area 1	17.78	2.80 + 3%
Area 2	17.24	2.65 + 3%
SPRINKLER FITTERS	16.67	3.23

MODIFICATIONS P. 1

DECISION NO. ID82-5128 - Mod #7 (47 FR 53612 - Nov. 26, 1982) Statewide Idaho

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; STONEMASONS; and MARBLE SETTERS:		
Area 3	$16.08	$2.40
IRONWORKERS: Ornamental, Reinforcing, and Structural	18.04	4.13
PLUMBERS:		
Area 2	16.30	4.16
ROOFERS:		
Area 2:		
Roofers and Kettlemen Roofing with coal tar and Pitch	15.65	2.00
POWER EQUIPMENT OPERATORS:	15.65	2.00
Area 2:		
Change Fringes (All groups and Zones)		4.05
SPRINKLERFITTERS	17.42	3.25
TERRAZZO WORKERS and TILE SETTERS:		
Area 3	14.08	2.40

DECISION NO. IA83-4050 - Mod. #2 (48 FR 32455 - 7/15/83) Woodbury County, Iowa

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians	$14.34	2.07+ 3-3/4%

DECISION NO. IA83-4056 - Mod. #3 (48 FR 34611 - 7/29/83) Black Hawk,Cerro Gordo, Clinton,Des Moines, Dubuque,Johnson,Linn & Polk Counties, Iowa

ADD TO LABORERS ZONE 3 CLASSIFICATION AND DEFINITIONS
GROUP 2 - Jackhammers over 60 lbs.
GROUP 3 - Cutting torch burner

DECISION NO. DE82-3015 Mod. #6 (47 FR 24526 -- June 4, 1982) STATE OF DELAWARE

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$19.50	3.09
Bricklayers	14.01	4.19
Carpenters:		
Building & Heavy; New Castle Co.	16.65	3.20
Marble Setters	13.74	4.19
Soft Floor Layers:		
New Castle & Kent Cos.	16.65	3.20
Stonemasons	14.01	4.19

DECISION NO. HI83-5104 - Mod. #4 (48 FR 11610 - March 18, 1983) Statewide, Hawaii

	Basic Hourly Rates	Fringe Benefits
Change:		
Landscape and Irrigation Laborers:		
Group 1	$9.23	$2.61
Group 2	8.41	2.61
Group 3	7.59	2.61
Sprinkler Fitters	17.37	3.23

UMI 1983 OCT 7 1996 ISS VOL 48

DECISION NO. IN83-2070 Mod # 1 (48 FR 40074 - September 2, 1983) ELKHART, JASPER, KOSCIUSKO, LAGRANGE, MARSHALL, NEWTON, PULASKI & STARKE COS., INDIANA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, STONEMASONS, CAULKERS, POINTERS & CLEANERS:		
Area 2	$15.74	2.06
CARPENTERS:		
Area 1:		
Carpenters & Soft Floor Layers	14.30	2.73
Millwrights & Pile-drivermen	14.55	2.73
Area 3:		
Carpenters, Piledrivermen & Soft Floor Layers	17.10	3.77
CEMENT MASONS:		
Area 1	14.89	2.06
IRONWORKERS:		
Area 2	17.60	4.52
PAINTERS:		
Area 4:		
Brush & Tapers	14.70	2.49
Spray & Sandblast	15.45	2.49
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	17.65	3.85
Group 2	17.15	3.85
Group 3	15.20	3.85
Group 4	14.00	3.85
AREA DESCRIPTIONS		
CEMENT MASONS:		
Area 3: ADD - Pulaski (Remainder of County)		

DECISION NO. IN83-2072 Mod # 1 (48 FR 40079 - September 2, 1983) LAKE, LAPORTE, PORTER & ST. JOSEPH COS., INDIANA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS:		
Area 1	$17.60	4.52
LINE CONSTRUCTION:		
Area 2:		
Linemen, Equipment Operator, Crawler Type Equipment larger than D-6	17.60	.65 + 8.5%
Groundman Truck Driver w/Winch, Crawler Type Equipment, D-6 and Smaller	14.56	.65 + 8.5%
Groundmen Truck Driver w/out Winch	13.73	.65 + 8.5%
Groundmen	13.13	.65 + 8.5%
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Area 1:		
Group 1	17.65	3.85
Group 2	17.15	3.85
Group 3	15.20	3.85
Group 4	14.00	3.85
ADD:		
LABORERS:		
Utility Construction:		
St. Joseph County:		
Group 1	11.18	1.94
Group 2	11.33	1.94
Group 3	11.38	1.94
Group 4	11.58	1.94
Group 5	12.03	1.94
FOR GROUP DEFINITIONS - SEE LABORERS; HEAVY & HIGHWAY CONSTRUCTION DEFINITIONS		

DECISION NO. IN83-2071 Mod # 2 (48 FR 40823 - September 9, 1983) ADAMS, ALLEN, ... , & WHITLEY COS., INDIANA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; CAULKERS; POINTERS; CLEANERS & STONEMASONS:		
Area 3	$15.47	2.07
Area 5	15.84	2.58
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN & SOFT FLOOR LAYERS:		
Area 5:		
Carpenters & Soft Floor Layers	15.11	2.42
Millwrights & Pile-drivermen	15.46	2.42
Area 6:		
Carpenters & Soft Floor Layers	14.39	2.96
Millwrights	14.69	2.96
Piledrivermen	14.59	2.96
ELECTRICIANS:		
Area 2	17.50	19.5%
Area 4	16.60	2.40 + 3.2%
Area 5	17.95	1.55 + 3.2%
Area 7	17.10	2.06 + 3%
LINE CONSTRUCTION:		
Lineman, Groundmen Equipment Operator	17.60	.65 + 8.5%
Groundmen - Truck Driver w/Winch	14.56	.65 + 8.5%
Groundmen - Truck Driver w/out Winch	13.73	.65 + 8.5%
Groundmen	13.13	.65 + 8.5%

DECISION NO. IN83-2071 Mod # 2 (Cont'd)	Basic Hourly Rates	Fringe Benefits
MARBLE SETTERS; TILE SETTERS & TERRAZZO WORKERS:		
Area 2	$14.80	1.77
Area 3	15.47	2.07
Area 5:		
Marble & Tile Setters	16.06	2.54
PAINTERS:		
Area 5:		
Brush, Roller & Drywall	14.17	
Structural Steel	14.92	
Spray & Sandblasting	16.30	
PLASTERERS:		
Area 6	14.80	1.77
ROOFERS:		
Area 2:		
Composition	15.25	2.28
Slate & Tile	15.50	2.28

DECISION NO. IN83-2073 Mod # 1 (48 FR 40831 - September 9, 1983) STATEWIDE INDIANA except LAKE, LAPORTE, PORTER & ST. JOSEPH COS.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CEMENT MASONS:		
Area 2	$14.89	2.06
IRONWORKERS:		
Area 3	17.60	4.52
Area 8	16.26	3.70
Area 11	17.60	2.21
PAINTERS:		
Area 9:		
Brush & Roller	14.17	
Structural Steel	14.92	
Spray & Sandblast	16.30	
LINE CONSTRUCTION:		
Area 1:		
Lineman, Line Truck Op., Mechanical Equip. Op.	17.96	8%+1.00
Groundman	11.14	8%+1.00
Area 4:		
Lineman, Groundman Equip. Op., Crawler Type Equip. larger than D-4	17.60	8½%+.65
Groundman Truck Driver w/Winch, Crawler Type Equip. D-4 & Smaller	14.56	8½%+.65
Groundman Truck Driver w/out Winch	13.73	8½%+.65
Groundman	13.13	8½%+.65

AREA DEFINITIONS - PLUMBERS & PIPEFITTERS:
Area 1 - Dearborn, Ohio & Ripley Cos.
Area 2 - Brown, Clark, Crawford, Daviess, DuBois, Floyd, Gibson, Harrison, Jackson, Jefferson, Knox (S of Hwy 50), Lawrence, Martin, Monroe, Orange, Owen, Perry, Pike, Posey, Scott, Spencer, Switzerland, Vanderburg, Warrick & Washington Cos.
Area 3 - Benton, Carroll, Clay, Clinton, Fountain, Greene, Knox (N of Hwy 50), Montgomery, Parke, Putnam (W½), Sullivan, Tippecanoe, Vermillion, Vigo, Warren & White Cos.
Area 4 - Adam, Allen, Blackford, DeKalb, Elkhart, Grant, Huntington, Kosciusko, LaGrange, Noble, Steuben, Wabash, Wells & Whitley Cos.
Area 5 - Cass, Fulton, Jasper (South of the N side of the City of Rensselaer), Marshall, Miami (N of Hwy 218), Pulaski, & Starke Cos.
Area 6 - Newton County
Area 7 - Jasper (Remainder of County)
Area 8 - Bartholomew (Camp Atterbury), Boone, Hamilton, Hancock, Hendricks, Howard, Johnson, Marion, Miami (Rem. of Co.), Morgan, Putnam (Rem. of Co.), Shelby & Tipton Cos.
Area 9 - Bartholomew (Rem. of Co.), Decatur & Jennings Cos.
Area 10 - Delaware, Fayette, Franklin, Henry, Jay, Madison, Randolph, Rush, Union & Wayne Cos.

DECISION NO. IN83-2073 Mod # 1 (Cont'd) ADD:	Basic Hourly Rates	Fringe Benefits
PLUMBERS & PIPEFITTERS:		
Area 1:		
Plumbers	$16.32	3.42
Pipefitters	17.51	3.86
Area 2	19.92	2.20
Area 3	18.40	2.60
Area 4	17.68	2.87
Area 5	16.18	2.45
Area 6	16.15	3.35
Area 7	16.73	3.81
Area 8	17.85	2.51
Area 9	18.11	2.05
Area 10	17.95	2.65

DECISION NO. LA83-4019 - MOD. #8 (48 FR 5448 - 2/4/83) Calcasieu Par., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers	$17.28	3.12+3%

DECISION NO. LA83-4059 - MOD. #3 (48 FR 35836 - 8/5/83) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & pipefitters:		
Zone 3:		
Journeymen:		
Contracts containing $75,000 or less of plumbing work & 50 tons of air conditioning/refrigeration or less (excluding chilled water systems & all work on industrial jobsites	10.00	2.70
All other work	15.25	2.70
Helpers(exterior sewer & all related work including bell holding & cramming, cutting holes, unloading & loading of materials, equipment & tools to & from jobsite & distribution & stock piling of same, dismantling, erecting & dismembering scaffolding, general clean up of site:		
Contracts containing $75,000 or less plumbing work & 50 tons of airconditiong/refrigeration or less (excluding chilled water systems & all work on industrial jobsites	4.50	
All other work	4.575	.03

DECISION NO. LA83-4059 MOD. #3 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Plumbers & Pipefitters Zone 6:	Cont'd :	
Journeymen	$15.05	1.90
Helpers(exterior sewer & all related work including bell holding & cramming, cutting holes, unloading & loading of materials, equipment & tools to & from jobsite & distribution & stock piling of same, dismantling, erecting & dismembering scaffold, general clean up of site	6.515	.03
Sheet metal workers:		
Zone 1	17.28	3.12+3%
Zone 4	13.72	1.78+3%

DECISION #MI83-2021 - Mod. #2 (48 FR 11614 - March 18, 1983) Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee, & Tuscola Counties, Michigan	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & Stone masons:		
Genesee, Lapeer, & Shiawassee Counties	$14.92	3.41
Cement masons:		
Lapeer County	13.80	3.35
Plasterers:		
Lapeer County	13.85	3.35

UMI 1983 OCT 7 ISSN 1096 VOL 48

MODIFICATIONS P. 7

DECISION NO. NV83-5103 - Mod. #5 (48 FR 11629 - March 18, 1983) Statewide (does not include the Nevada Test Site and Tonopah Test Range and Highway Construction in Douglas County), Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers	$21.39	$3.96
Bricklayers; Stonemasons; Area 2	14.40	1.96
Laborers:		
Clark, Esmeralda and Lincoln Counties; Nye County (South half, including Highway 86):		
Group 1	15.05	3.19
Group 2	15.26	3.19
Group 3	15.36	3.19
Group 4	15.45	3.19
Group 5	15.55	3.19
Marble Setters:		
Area 2	14.40	1.96
Painters:		
Area 1:		
Brush; Roller	18.30	1.86
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Tapers; Structural Steel - Brush	18.65	1.86
Structural Steel - Spray; Sandblaster - Structural Steel; Buffing Steel	19.00	1.86
Steeplejack	20.05	1.86
Area 2:		
Brush and Roller Spray; Taper; Paperhangers; Sandblaster Spray, Swing Stage up to 40 ft.; Spray, Steel	17.82	2.08
Brush, Swing Stage up to 40 ft.; Brush, Steel	18.07	2.08
	17.57	2.08

	Basic Hourly Rates	Fringe Benefits
Terrazzo Workers; Tile Setters: Area 2	$14.40	$1.96
Truck Drivers: Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and excluding Highway 86):		
Group 1	15.54	2.78
Group 2	15.65	2.78
Group 3	15.70	2.78
Group 4	15.86	2.78
Group 5	16.04	2.78
Group 6	16.54	2.78

DECISION NO. NV83-5121 - Mod. #1 (48 FR 43532 - September 23, 1983) Clark County (does not include the Nevada Test Site), Nevada

Change:		
Boilermakers	21.39	3.96
Laborers:		
Group 1	15.05	3.19
Group 2	15.26	3.19
Group 3	15.36	3.19
Group 4	15.45	3.19
Group 5	15.55	3.19
Truck Drivers:		
Group 1	15.54	2.78
Group 2	15.65	2.78
Group 3	15.70	2.78
Group 4	15.86	2.78
Group 5	16.04	2.78
Group 6	16.54	2.78

DECISION NO. MT83-5101 - Mod. #3 (48 FR 7370 - February 18, 1983) Statewide, Montana

Change:		
Carpenters:		
Area 6:		
Carpenters	$13.06	$1.61
Piledrivermen	13.56	1.61
Millwrights	14.06	1.61

MODIFICATIONS P. 8

DECISION #OR83-4067-MOD#1 (48 FR 41710-September 16, 1983) Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner & Washington Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits
Change:		
CARPENTERS; AREA 8 Carpenters	$12.22	$1.34
Millwrights, Piledrivermen	12.47	1.34
SPRINKLER FITTERS	16.17	3.23
TILE LAYERS, TERRAZZO WORKERS, AND MARBLE MASONS: AREA 1	16.25	1.30

DECISION #OR83-4068-MOD#1 (48 FR 41714-September 16, 1983) Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods and Woodward Counties, Oklahoma

Change:		
Ironworkers: AREA 2	13.625	2.95
Roofers	13.40	1.38
Sprinkler Fitters	16.17	3.23

DECISION NO. OR83-5100 - Mod #9 (48 FR 7379 - Feb. 18, 1983) Statewide Oregon

OMIT:		
Laborers:		
Group 3:		
Omit the following: "(includes Guard Rail, Median Rail, Reference Post, Guide Post, Right-of-Way Marker)"		
ADD:		
Laborers:		
Group 1: (includes Guard Rail, Median Rail, Reference Post, Guide Post, Right-of-Way Marker)		
Sheet Metal Workers:		
Area 4: Add Jackson County		

DECISION NO. TX82-4042 - MOD. #6 (47 FR 36522 - 8/20/82) Bowie County, Texas

Omit all wage rates & classifications for plumbers & pipefitters		
ADD:		
Plumbers & pipefitters	$14.60	1.85

DECISION NO. TX83-4026 - MOD. #6 (48 FR 15425 - 4/8/83) Jefferson & Orange Cos., Texas

CHANGE:		
Plumbers	18.71	1.09

MODIFICATIONS P. 9

DECISION NO. PA81-3080 - MOD. #6 (46 FR 52078 - October 23, 1981) Lehigh County, Pa.	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	17.51	2.04
Boilermakers	19.33	2.365
Carpenters	15.50	2.91
Bricklayers & Stonemasons	14.05	3.42
Electricians	15.75	1.84+ 3 3/8%
Elevator Constructors	15.475	2.69+ a+b
Elevator Constructor Helpers	70%JR	2.69+ a+b
Elevator Constructors Helpers (Prob.)	50%JR	
Ironworkers, Structural	18.45	3.70
Ironworkers, Reinforcing	18.45	3.70
Ironworkers, Ornamental	18.45	3.70
Line Construction:		
Linemen & Cable Splicer	15.52	.80+ 3 3/8%
Groundman	9.99	.80+ 3 3/8%
Winch Truck Operator	11.68	.80+ 3 3/8%
Millwrights	15.80	2.91
Painters:		
Brush	14.55	3.43
Structural Steel	16.55	3.43
Spray	15.55	3.43
Piledrivermen	14.82	6.16+ d
Sheet Metal Workers	15.23	4.39
Roofers, Composition, Damp & Waterproofers	18.17	2.73+e
Terrazzo Workers	13.70	3.40
Tile Setters	13.45	3.42
Footnote:		
e. Paid Holiday: Election Day.		

DECISION NO. PA82-3007 - MOD. #16 (47 FR 8529 - Feb. 26, 1982) Bucks, Chester, Delaware, Montgomery & Phil. Cos., Pennsylvania

Add:		
Electricians Zone 7		
Residential up to and including 4 stories	8.50	.84+3%

DECISION NO. WA83-5110 - Mod # 7 (48 FR 25108 - June 3, 1983) Statewide Washington

CHANGE:		
TRUCK DRIVERS:		
Area 2:		
Group 1	$17.06	$3.64
Group 2	17.11	3.64
Group 3	17.16	3.64
Group 4	17.27	3.64
Group 5	17.33	3.64
Group 6	17.37	3.64
Group 7	17.38	3.64
Group 8	17.44	3.64
Group 9	17.49	3.64
Group 10	17.51	3.64
Group 11	17.54	3.64
Group 12	17.64	3.64
Group 13	17.66	3.64
Group 14	17.70	3.64
Group 15	17.82	3.64
Group 16	17.86	3.64
Group 17	17.98	3.64
Group 18	18.03	3.64
Group 19	18.19	3.64
Group 20	18.33	3.64
Group 21	18.51	3.64
Group 22	12.00	3.64
ADD:		
Truck Drivers Area 2: Group Description: Group 22: Escort or Pilot Car		
OMIT:		
Truck Drivers Area 2: Group Description: Group 1: Escort or Pilot Car		

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Hall, Howard, Hamilton and Merrick Counties

DECISION NO.: NE83-4070

DATE: Date of Publication

Supersedes Decision No. NE79-4075 dated August 3, 1979 in 44 FR 45856.

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 8.13	
BRICKLAYERS/STONEMASONS	11.24	
CARPENTERS	10.15	
CEMENT MASONS	6.00	
DRYWALL:		
Hangers	6.60	
Finishers	5.70	
ELECTRICIANS	8.25	
GLAZIERS	6.44	
LABORERS	5.26	
LATHERS	8.50	
METAL BUILDING ERECTOR	5.60	
PAINTERS, BRUSH	6.98	
PLUMBERS	11.57	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver, Screed	7.30	
Backhoe, Operator	7.00	
Crane Operator	7.00	
Forklift Operator	6.00	
Motor Grader	5.90	
Oiler	7.25	
Scraper	5.80	
Tractor	7.25	
ROOFERS	5.15	
SHEET METAL WORKERS	7.39	
SPRINKLER FITTERS	14.29	2.43
STEAMFITTERS & PIPEFITTERS	13.65	2.20
TILE SETTERS	10.00	
TRUCK DRIVERS	5.65	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards Contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA
COUNTIES: *See Below
DECISION NUMBER: NC83-1076
DATE: DATE OF PUBLICATION
Supersedes Decision No.: NC81-1257 dated July 8, 1981 in 46 FR 35004.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS—Consisting of single family homes and apartments up to 4 stories.

*COUNTIES: CHATHAM, LEE, CUMBERLAND, ROKE, HARNETT, MOORE, & SAMPSON

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 5.58	
BRICKLAYERS	6.95	
CARPENTERS	5.89	
CARPET INSTALLERS	5.43	
CEMENT MASONS	5.82	
DRYWALL FINISHERS	6.60	
DRYWALL HANGERS	5.89	
ELECTRICIANS	6.08	
GLAZIERS	5.88	
IRONWORKERS	5.50	
INSULATION INSTALLERS	4.82	
LABORERS, General	3.90	
PAINTERS	5.58	
PLASTERERS	8.00	
PLUMBERS & PIPEFITTERS	6.38	
POWER EQUIPMENT OPERATORS:		
Backhoe	5.46	
Bulldozer	5.48	
Forklift	4.50	
Grader	5.55	
Loader	5.43	
Pan	4.28	
Paver	4.63	
Roller	4.25	
Saw	4.50	
Screed	4.58	
Tractor	3.00	
ROOFERS	$ 5.59	
SHEET METAL WORKERS	5.77	
SOFT FLOOR LAYERS	5.80	
TILE SETTERS	7.50	
TRUCK DRIVERS	3.94	
WELDERS—Receive rate prescribed for craft to which the welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA
COUNTIES: BEAUFORT, BERTIE, CHOWAN, DARE, FRANKLIN, HERTFORD, HYDE, MARTIN, NORTHAMPTON, TYRRELL, VANCE, WARREN, & WASHINGTON
DECISION NUMBER: NC83-1077
DATE: DATE OF PUBLICATION
Supersedes Decision No.: NC81-1258 dated July 6, 1981 in 46 FR 35005.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS—Consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANICS	$ 5.87	
BRICKLAYERS	6.47	
CARPENTERS	5.00	
CEMENT MASONS	5.77	
DRYWALL FINISHERS	6.80	
DRYWALL HANGERS	6.64	
ELECTRICIANS	5.50	
INSULATION INSTALLERS	4.23	
IRONWORKERS	5.20	
LABORERS:		
Unskilled	3.76	
Pipelayers	4.55	
Asphalt Rakers	4.83	
PAINTERS	5.00	
PLUMBERS & PIPEFITTERS	5.75	
ROOFERS	4.00	
SHEET METAL WORKERS	5.02	
SOFT FLOOR & CARPET LAYERS	6.00	
TILE SETTERS	7.50	
TRUCK DRIVERS	4.20	
WELDERS—Receive rate prescribed for craft to which the welding is incidental.		
POWER EQUIPMENT OPERATORS:		
Backhoe	$ 5.23	
Bulldozer	5.49	
Front End Loader	5.17	
Mechanic	5.75	
Motor Grader	6.00	
Pan-Scraper	5.00	
Paver-Screed	4.95	
Roller	4.50	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA
COUNTIES: * See Below
DECISION NUMBER: NC83-1075
DATE: DATE OF PUBLICATION
Supersedes Decision No.: NC81-1258 dated July 6, 1981 in 46 FR 35005.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS—consisting of single family homes and apartments up to and including four stories.

*COUNTIES: Edgecombe, Greene, Halifax, Lenoir, Johnston, Nash, Pitt, Wayne, and Wilson

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 7.18	
CARPENTERS	6.00	
CARPET INSTALLERS & SOFT FLOOR LAYERS	7.41	
CEMENT MASONS	6.11	
DRYWALL FINISHERS	7.11	
DRYWALL HANGERS	6.92	
ELECTRICIANS	6.31	
GLAZIERS	6.91	
INSULATION INSTALLERS	4.89	
LABORERS:		
Asphalt Rakers	5.00	
Mason Tenders	4.64	
Pipelayers	5.00	
Unskilled	4.29	
PAINTERS	6.00	
PLUMBERS & PIPEFITTERS	8.82	
POWER EQUIPMENT OPERATORS:		
Backhoe	5.97	
Bulldozer	6.11	
Distributor	5.42	
Dragline	5.39	
Forklift	5.00	
Loader	5.91	
Motor Grader	7.00	
Roller	5.09	
ROOFERS	$ 6.34	
SHEET METAL WORKERS	5.64	
TILE SETTERS	6.85	
TRUCK DRIVERS	4.57	
WELDERS—Receive rate prescribed for craft to which welding is incidental		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA
COUNTIES: ALAMANCE, CASWELL, CUILFORD, RANDOLPH, & ROCKINGHAM
DECISION NUMBER: NC83-1078
DATE: DATE OF PUBLICATION
Supersedes Decision No.: NC80-1099 dated August 29, 1980 in 45 FR 57947.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS—Consisting of single family homes and apartments up to 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 7.10	
BRICKLAYERS	7.77	
CARPENTERS	6.13	
CARPET INSTALLERS	5.92	
CEMENT MASONS	6.04	
DRYWALL FINISHERS	6.82	
DRYWALL HANGERS	7.01	
ELECTRICIANS	7.11	
GLAZIERS	5.46	
IRONWORKERS	7.10	
INSULATION INSTALLERS	5.30	
LABORERS, GENERAL	4.80	
PAINTERS	5.61	
PLUMBERS & PIPEFITTERS	7.69	
POWER EQUIPMENT OPERATORS:		
Backhoe	6.84	
Bulldozer	6.55	
Loader	6.16	
Motor Grader	7.30	
Pan	6.00	
Paver	5.95	
Roller	5.04	
Tractor	5.10	
ROOFERS	$ 5.95	
SHEET METAL WORKERS	8.53	
SOFT FLOOR LAYERS	5.71	
TILE SETTERS	6.58	
TRUCK DRIVERS	4.98	
WELDERS—Receive rate prescribed for craft to which the welding is incidental		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

UMI 1983 OCT 7 ISS 1996 VOL 48

UMI 1983 OCT 7 1996 ISS VOL 48

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA
DECISION NUMBER: NC83-1079
Supersedes Decision No.: NC81-1234 dated May 22, 1981 in 46 FR 28124.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS--Consisting of single family homes and apartments up to and including 4 stories.

COUNTIES: *See Below
DATE: DATE OF PUBLICATION

*COUNTIES: DURHAM, GRANVILLE, FRANKLIN, ORANGE, PERSON, WAKE, VANCE, & WARREN

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 6.84	
BRICKLAYERS	7.47	
CARPENTERS	5.93	
CONCRETE FORM SETTER	7.12	
CEMENT MASONS	6.12	
DRYWALL FINISHER	7.35	
DRYWALL HANGER	7.04	
ELECTRICIANS	6.39	
GLAZIERS	8.09	
INSULATION INSTALLERS	5.55	
IRONWORKERS	5.84	
LABORERS, General	4.76	
PAINTERS	5.80	
PLUMBERS & PIPEFITTERS	6.82	
POWER EQUIPMENT OPERATORS:		
Backhoe	6.41	
Bulldozer	5.43	
Crane	6.50	
Distributor	4.90	
Forklift	4.80	
Greaseman - Oiler	5.25	
Loader	6.11	
Mechanic	6.95	
Motor Grader	6.49	
Pan	5.00	
Paver	5.89	
Roller	5.20	
Screed	6.09	
Tractor	4.83	
ROOFERS	$ 6.24	
SHEET METAL WORKERS	6.31	
SOFT FLOOR LAYERS & CARPET LAYERS	6.32	
TILE SETTERS	6.41	
TRUCK DRIVERS	4.99	
WELDERS--Receive prescribed for craft to which the welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA
DECISION NUMBER: NC83-1080
Supersedes Decision No.: NC80-1065 dated May 2, 1980 in 45 FR 29521.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS--Consisting of single family homes and apartments up to and including 4 stories.

COUNTIES: * See Below
DATE: DATE OF PUBLICATION

*COUNTIES: ANSON, CABARRUS, CLEVELAND, GASTON, LINCOLN, MECKLENBURG, MONTGOMERY, ROWAN, STANLEY, & UNION.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 5.82	
BRICKLAYERS	7.72	
CARPENTERS	6.34	
CARPET INSTALLERS & SOFT FLOOR LAYERS	7.13	
CEMENT MASONS	7.02	
DRYWALL FINISHERS	6.84	
DRYWALL HANGERS	6.96	
ELECTRICIANS	6.38	
FORM SETTERS	5.50	
IRONWORKERS	5.50	
INSULATION INSTALLERS	3.93	
LABORERS:		
Unskilled	3.93	
Mason Tenders	4.54	
Mortar Mixers	4.59	
Pipelayers	5.08	
Asphalt Rakers	4.86	
PAINTERS	5.79	
PLUMBERS & PIPEFITTERS	7.19	
POWER EQUIPMENT OPERATORS:		
Air Drill	6.00	
Backhoe	6.66	
Bulldozer	5.86	
Compactor	4.60	
Forklift	5.50	
Motor Grader	6.68	
Loader	5.96	
Paver	5.92	
Roller	4.99	
Scraper	4.80	
Screed	5.39	
Tractor	5.25	
ROOFERS	$ 8.15	
TILE SETTERS	7.41	
TRUCK DRIVERS	5.16	
WELDERS--Receive rate prescribed for the craft to which the welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA
DECISION NUMBER: NC83-1081
Supersedes Decision No.: NC80-1085 dated August 1, 1980 in 45 FR 51415.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS--Consisting of single family homes and apartments up to and including 4 stories.

COUNTIES: CRAVEN, CARTERET, DUPLIN, JONES, ONSLOW, & PAMLICO
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 8.00	
BRICKLAYERS	7.00	
CARPENTERS	5.83	
CEMENT MASONS	5.00	
DRYWALL FINISHERS	7.00	
DRYWALL HANGERS	6.05	
ELECTRICIANS	5.30	
INSULATION INSTALLER	4.00	
LABORERS:		
Unskilled	3.32	
Mason Tenders	3.84	
Mortar Mixers	5.00	
Pipelayers	4.47	
PAINTERS	5.00	
PLASTERERS	8.00	
PLUMBERS & PIPEFITTERS	5.51	
ROOFERS	5.91	
SHEET METAL WORKERS	4.78	
SOFT FLOOR LAYERS	7.50	
TILE SETTERS	8.00	
TRUCK DRIVERS	4.00	
WELDERS--Receive prescribed for the craft to which the welding is incidental.		
POWER EQUIPMENT OPERATORS:		
Asphalt Raker	$ 4.39	
Backhoe	5.00	
Bulldozer	5.10	
Grader	5.00	
Loader	5.00	
Roller	3.94	
Tractor	4.50	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA
DECISION NUMBER: NC83-1082
Supersedes Decision No.: NC80-1077 dated June 27, 1980 in 45 FR 43649.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS--Consisting of single family homes and apartments up to and including 4 stories.

COUNTIES: BURKE, CATAWBA, POLK, & RUTHERFORD
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANICS	$ 5.00	
BRICKLAYERS	7.00	
CARPENTERS	5.71	
CEMENT MASONS	5.00	
DRYWALL HANGERS	7.00	
ELECTRICIANS	4.79	
LABORERS:		
Unskilled	3.74	
Asphalt Rakers	4.30	
Mason Tenders	4.30	
PAINTERS	4.00	
PLUMBERS & PIPEFITTERS	5.50	
ROOFERS	6.08	
SHEET METAL WORKERS	$ 4.86	
TRUCK DRIVERS	4.50	
WELDERS--Receive rate prescribed for craft to which the welding is incidental.		
POWER EQUIPMENT OPERATORS:		
Backhoes	6.00	
Bulldozers	6.00	
Rollers	4.50	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION #NM83-4071 Page 2

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS - ZONE I	$16.79	3.34
ASBESTOS WORKERS - ZONE II	16.00	2.37
BRICKLAYERS	13.75	3.44
BRICKLAYERS-STONEMASONS:		
Zone I-A	13.86	1.82
Zone I-B	15.36	1.82
Zone I-C	16.11	1.82
Zone II	13.86	1.72
Zone III	15.48	1.72
Zone IV	14.16	1.52
Zone VI-A	15.66	1.52
Zone VI-B	13.66	1.52
Zone VII	15.39	1.42
Zone VIII	13.66	1.42
CARPENTERS/LAYERS:		
(Residential Construction including erection, alteration, addition to single-family houses, walk-up apartments and walk-up condominium)		
Zone I-A	8.15	2.80
Zone I-B	9.85	2.80
Zone I-C	10.40	2.80
Building Heavy and Residential Const. excluding single family houses, walk-up apartments and walk-up condominium)		
Zone I-A	13.80	2.80
Zone 2-A	15.30	2.80
Zone 2-B	16.05	2.80
CARPENTERS(San Juan County):		
Zone I	14.20	2.80
Zone II	16.45	2.80
Zone III	16.45	2.80
CEMENT MASONS:		
Area I	11.99	2.22
Area II	12.28	2.22
Zone 2	11.99	2.22
Zone 3	13.49	2.22
CEMENT MASONS (Residential Sandoval, Bernalillo, Valencia Counties Rio Arriba, Santa Fe and Taos Counties	0.67	2.22
CEMENT MASONS (HEAVY CONST.	11.79	2.22
CEMENT MASONS (COMPOSITION & MACHINE OPERATORS):	11.99	2.22
Area I	12.24	2.22
Area II - Zone I	12.24	2.22
Area II - Zone II	13.74	2.22
Area II - Zone III	13.99	2.22
ELECTRICIANS:		
ZONE I		
Area 1-A	$10.45	Y
Area 1-B	17.93	Y
Area 1-C	18.92	Y
Area 1-D	20.73	Y
ZONE II	10.52	Y
Y - 3-1/2% + 2.00		
ZONE III		
3-A	13.60	3%+.80
3-B	15.05	3%+.80
ZONE IV		
4-A	16.50	3%+.82
4-B	16.95	3%+.82
4-C	17.10	3%+.82
4-D	17.35	3%+.82
CABLE SPLICERS:		
ZONE I		
Area 1-A	18.10	K
Area 1-B	19.50	K
Area 1-C	20.57	K
Area 1-D	22.30	K
K - 3-1/2% + 2.00		
ZONE II	20.57	K
K - 3-1/2% + 2.00		
ZONE III		
3-A	13.85	3%+.80
3-B	15.30	3%+.80
ZONE IV		
4-A	16.85	3%+.82
4-B	17.30	3%+.82
4-C	17.45	3%+.82
4-D	17.90	3%+.82
ELEVATOR CONSTRUCTORS:		
AREA I	16.28	JJ
AREA II	16.38	JJ
Elevator constr. helpers	70%JJR	JJ
Elevator prob. helpers	90%JJR	
JJ - $2.69 + seven paid Holidays) and employees with 6 mos. to 5 yrs. of service 6% over 5 yrs. of basic hourly rate.		
GLAZIERS	13.69	1.20
IRONWORKERS - Zone I	14.60	2.83
IRONWORKERS - Zone II:		
Area 1	14.60	2.83
Area 2	17.85	2.83
Area 4	17.10	2.83

DECISION #NM83-4071 Page 4

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (CONT'D):		
HEAVY CONSTRUCTION:		
Group V	12.27	1.85
Group VI	12.37	1.85
Group VII	13.50	1.85
Group VIII	13.50	1.85
ROOFERS (Building Const.)	10.62	.50
ROOFERS (RESIDENTIAL)	7.96	.50
SHEET METAL WORKERS:		
Zone I-A	17.17	3%+2.96
Zone I-B	20.42	3%+2.96
Zone I-C	20.42	3%+2.96
Zone II	20.42	3%+2.96
SHEET METAL WORKERS:		
Zone II-A	13.80	3%+1.55
Zone II-B	15.30	3%+1.55
Zone II-C	16.05	3%+1.55
SPRINKLER FITTERS	16.17	2.83
SOFT FLOOR LAYERS	11.55	1.90
SOUND INSTALLERS:		
SOUNDMAN	12.85	N
Zone I	14.16	N
Zone II	13.43	3%+.61
Zone IV		
TECHNICIANS:	10.28	N
Zone I	11.89	N
Zone II	15.10	N
Zone III	10.76	3%+.61
Zone IV		
SOUND INSTALLERS:	8.35	N
Zone I	9.96	N
Zone II	13.17	N
Zone III	8.74	N
Zone IV		
M - 3-1/2% + 1.55		
TRUCK DRIVERS:		
BUILDING CONSTRUCTION		
ZONE I	9.93	1.79
Group I	10.20	1.79
Group II	10.48	1.79
Group III	10.48	1.79
Group IV	10.49	1.79
Group V	10.55	1.79
Group VI	10.65	1.79
Group VII	10.79	1.79
Group VIII	10.94	1.79
Group IX		
ZONE II	11.68	1.79
Group I	12.05	1.79
Group II	12.13	1.79
Group III	12.20	1.79
Group IV	12.30	1.79
Group V		
Group VI		

DECISION #NM83-4071

	Basic Hourly Rates	Fringe Benefits
MARBLE, TILE AND TERRAZZO WORKERS	$12.90	1.02
MARBLE, TILE AND TERRAZZO FINISHERS	10.89	1.02
MILLWRIGHTS-PILEDRIVERMEN:		
Zone I	14.95	2.80
Zone 2	16.45	2.80
Zone 3	17.20	2.80
PAINTERS (ZONE I)		
Class-A	11.85	1.90
Class-B	12.20	1.90
Class-C	12.85	1.90
Class-D	12.43	1.90
Class-E	12.18	1.90
Class-F	11.85	1.90
PAINTERS (ZONE II)		
Class-A	8.78	1.19
Class-B	8.935	1.19
Class-C	9.21	1.19
PAINTERS RESIDENTIAL CONST.:		
Bernalillo, Cibola, Rio Arriba, Sandoval, Taos, Santa Fe, and Valencia		
Brush and roller	9.47	1.90
Spray	9.97	1.90
Paperhangers	10.47	1.90
Drywall finishers:		
Ames tool operator	10.05	1.90
Hand finishers	9.80	1.90
Machine texture	9.80	1.90
PLASTERERS	13.23	2.12
PLUMBERS-PIPEFITTERS:		
Area I	16.56	3.43
Area II	17.56	3.43
Area III	18.04	3.43
Specific Area	17.59	3.43
Residential	9.95	1.42
POWER EQUIPMENT OPERATORS:		
RESIDENTIAL AND GENERAL BUILDING CONSTRUCTION:		
Group I	10.88	1.80
Group II	12.07	1.80
Group III	12.15	1.80
Group IV	12.26	1.80
Group V	12.32	1.80
Group VI	12.42	1.80
Group VII	12.52	1.80
Group VIII	13.65	1.80
POWER EQUIPMENT OPERATORS:		
HEAVY CONSTRUCTION:		
Group I	10.93	1.85
Group II	12.02	1.85
Group III	12.10	1.85
Group IV	12.21	1.85

DECISION #NM83-4071 Page 3

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK (CONT'D)		
AREA A (Cont'd)		
GROUNDMAN-JACKHAMMER OPRS.:		
Zone I	11.68	P
Zone II	13.16	P
Zone III	14.15	P
Zone IV	15.96	P
P - 3-1/2% + $2.00		
AREA B		
LINEMEN-TECHNICIANS	10.15	3%+.60
Zone II	11.60	3%+.60
CABLE SPLICERS		
Zone I	10.40	3%+.60
Zone II	11.85	3%+.60
EQUIPMENT OP. (includes helicopter operators)		
Zone I	9.66	3%+.60
Zone II	11.02	3%+.60
EQUIPMENT MECHANIC (including helicopter mechanic & POWDERMAN)		
Zone I	8.93	3%+.60
Zone II	10.21	3%+.60
GROUNDMAN-JACKHAMMER OP.		
Zone I	7.21	3%+.60
Zone II	8.24	3%+.60
AREA C		
LINEMEN-TECHNICIANS	16.70	3%+.60
Zone II	18.15	3%+.60
Zone III	13.30	3%+.60
Zone IV	18.95	3%+.60
CABLE SPLICERS		
Zone I	13.05	3%+.60
Zone II	15.30	3%+.60
Zone III	15.85	3%+.60
EQUIPMENT OPRS. (Includes helicopter operator)	15.90	3%+.60
Zone I	13.28	3%+.60
Zone II	13.68	3%+.60
Zone III	13.83	3%+.60
Zone IV	14.08	3%+.60
POWDERMAN		
Zone I	13.23	3%+.60
Zone II	13.23	3%+.60
Zone III	13.38	3%+.60
Zone IV	13.62	3%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3%+.60
Zone II	10.89	3%+.60
Zone III	11.06	3%+.60
Zone IV	11.29	3%+.60

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO. NM83-4032 DATE: Date of Publication
SUPERSEDES DECISION NO. NM83-4032 dated April 15, 1983 in 48FR16413
DESCRIPTION OF WORK: GENERAL BUILDING AND HEAVY ENGINEERING CONSTRUCTION shall include the construction, alteration, repair and demolition of buildings, including residential buildings, office buildings, warehouses, industrial and commercial buildings; institutional and public buildings; and all work normally done in connection with building heavy and general engineering projects under this classification, such as highways; electrical, gas, water, sewer lines; and other such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to the property line or proximity to the building or heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or more; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than those incidental to building construction); underground well drilling, telephone and electrical transmission lines. Also part of GENERAL BUILDING AND HEAVY ENGINEERING PROJECTS: mining appurtenances such as tipples, washeries and loading and discharging chutes, and specialized structures for testing, launching and recovering spaces and other rocket-type missiles, (ALSO INCLUDING RESIDENTIAL PROJECTS IN SANTA FE, BERNALILLO, RIO ARRIBA, TAOS, SANDOVAL, CIBOLA AND VALENCIA COUNTIES).

UMI 1983 OCT 7 1996 ISS VOL 48

DECISION #NM83-4071 Page 5

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D)		
BUILDING CONSTRUCTION		
ZONE II		
Group VII	$12.40	1.79
Group VIII	12.54	1.79
Group IX	12.69	1.79
ZONE III		
Group I	12.18	1.79
Group II	12.43	1.79
Group III	12.53	1.79
Group IV	12.65	1.79
Group V	12.70	1.79
Group VI	12.80	1.79
Group VII	12.90	1.79
Group VIII	13.04	1.79
Group IX	13.19	1.79
RESIDENTIAL CONSTRUCTION:		
Group I	9.63	1.79
Group II	9.90	1.79
Group III	9.98	1.79
Group IV	10.10	1.79
Group V	10.15	1.79
Group VI	10.25	1.79
Group VII	10.35	1.79
Group VIII	10.49	1.79
Group IX	10.64	1.79
HEAVY CONSTRUCTION:		
ZONE I		
Group I	10.08	1.54
Group II	10.35	1.54
Group III	10.43	1.54
Group IV	10.55	1.54
Group V	10.60	1.54
Group VI	10.70	1.54
Group VII	10.80	1.54
Group VIII	10.94	1.54
Group IX	11.09	1.54
ZONE II		
Group I	11.38	1.54
Group II	11.50	1.54
Group III	11.58	1.54
Group IV	11.70	1.54
Group V	11.75	1.54
Group VI	11.85	1.54
Group VII	11.95	1.54
Group VIII	12.09	1.54
Group IX	12.24	1.54

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D)		
HEAVY CONSTRUCTION		
ZONE III		
Group I	$11.63	1.54
Group II	11.73	1.54
Group III	11.85	1.54
Group IV	11.95	1.54
Group V	12.00	1.54
Group VI	12.10	1.54
Group VII	12.20	1.54
Group VIII	12.34	1.54
Group IX	12.49	1.54
Aluminum/vinyl facia and soffit installer (residential construction)		
BERNALILLO COUNTY	8.75	

DECISION #NM83-4071 CLASSIFICATION AREAS AND ZONES DEFINITIONS Page 6

ASBESTOS WORKERS:
ZONE I - Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Counties.
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

BRICKLAYERS-STONEMASONS:
ZONE 1-A1 1-B and 1-C Union, Harding, Santa Fe, Valencia, Torrance, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo, Cibola and Los Alamos Counties
FROM BASINT POINT OF ALBUQUERQUE MAIN POST OFFICE:
Zone 1-A - 0 to 25 road miles
Zone 1-B - 25 to 50 road miles
Zone 1-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VIA - Lee and Eddy Counties (except at Mine and Refinery sites outside Municipal Limits)
ZONE VIB - Lee and Eddy Counties (Employees at Mine and Refinery sites outside Municipal Limits)
ZONE VII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and New town site of Tyrone; Hidalgo, Sierra and Otero Counties.
ZONE VIII - Dona Ana County

CARPENTERS / LATHERS:
STATEWIDE - From nearest basing points of the following cities or towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos and Tucumcari & Cibola:
ZONES I AND II
Zone 1-A and 2-A - 0 to 15 rd. mi. from nearest basing point
Zone 1-B and 2-B - 15 to 35 rd. mi. from nearest basing point
Zone 1-C and 2-C - Over 35 road mi. from nearest basing point
SAN JUAN COUNTY (OWLY)
Zone I - Within 15 rd. mi. of the City of Farmington
Zone II - Over 15 mi. but less than 35 mi. from Farmington
Zone III - 35 miles or more from the city of Farmington

CEMENT MASONS:
AREA I
Statewide, except Farmington, San Juan County
AREA II
Farmington , San Juan County
Zone I - 0-15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

ELECTRICIANS-CABLE SPLICERS
ZONE I
AREA 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln, Cibola and Roosevelt Counties.

DECISION #NM83-4071 Page 7

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

ELECTRICIANS-CABLE SPLICERS (CONT'd):
AREA 1-A
From nearest basing point cities, towns and mileage from main post office in the following towns:

Albuquerque - 15 miles	Portales - 12 miles
Santa Fe - 10 miles	Carrizozo - 12 miles
Las Vegas - 8 miles	Clovis - 12 miles
Farmington - 6 miles	Gallup - 10 miles
Raton - 8 miles	*Pojoaque - 2 miles
Tucumari - 6 miles	*All areas adjacent to Pojoaque that are over 2 miles distant from the main post office in that town will be zoned out of Santa Fe.
Aztec - 6 miles	
Roswell - 12 miles	
Ruidoso - 12 miles	

AREA 1-B
Extending up to 20 miles beyond Area 1-A
AREA 1-C
Extending up to 30 miles from Area 1-A
AREA 1-D
Extending up to 30 miles from Area 1-A

ZONE II - Los Alamos County

ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the Post Office in Las Cruces and within a 5 m. radius from the Post Office in Alamorgordo
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)

ZONE IV
Eddy and Lea Counties - the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs and Lovington
Zone 4-A - 0 to 12 miles
Zone 4-B - 12 to 22 miles
Zone 4-C - 22 to 40 miles
Zone 4-D - Over 40 miles

ELEVATOR CONSTRUCTORS:
AREA I
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties.
AREA II
Chaves, Hidalgo, Dona Ana, Eddy, Grant, Lea, Luna, Otero and Sierra Cos.

IRONWORKERS:
ZONE I
Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, Taos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Torrance, Cibola, and Valencia Counties.
ZONE II
FARMINGTON, SAN JUAN COUNTY
Area 1 - Shall extend a distance of 6 road miles inclusive beyond City Hall.
Area 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimater of area 1

DECISION #NM83-4071 Page 8

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

IRONWORKERS (cont'd)
ZONE II
Area 3 - Shall extend a distance of 10 rd. mi. inclusive beyond the outer limits of area 2
Area 4 - Shall extend a distance of 37 rd. mi. inclusive beyond the outer limits of area 3
Other areas not within area 1, 2, 3 and 4 shall revert to the $15.00 per day subsistence.
ZONE III
Dona Ana County with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County; Eddy County, except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.
ZONE IV
Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero, and Sierra Counties; also Potash Basin, White Sands & McGregor Missile Ranges.

LABORERS ZONE DEFINITIONS FOR BUILDING AND HEAVY CONSTRUCTION:
ZONE I - STATEWIDE including that 15 mile radius from the City Hall in Farmington.

ZONES II AND III FOR LABORERS BUILDING AND HEAVY CONSTRUCTION DEFINITIONS APPLICE TO THE "FARMINGTON AREA ONLY" AS FOLLOWS:
ZONE II - 15-35 miles from the City Hall in Farmington
ZONE III - 35 miles and over from the City Hall in Farmington

BUILDING AND HEAVY LABORERS CLASSIFICATION DEFINITION
GROUP I
UNSKILLED: building and common laborers, carpentar tenders, concrete workers, concrete buggy operators; chain saw operator, demolition
GROUP II
SEMI-SKILLED; air and power tool operator, asphalt rakers gunite rebound men, fog machine op., power buggy op., sandblasters, (potmen), window washers, wagon core, diamond drillers tender outside, pumps under 6"; cutting torch operator
GROUP III
MISCELLANEOUS: Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader op, plaster tenders, gunite nozzlemen, pipelayers, pumperete nozzlemen
GROUP IV
Powdermen and blasters

RESIDENTIAL LABORERS CLASSIFICATION DEFINITIONS
GROUP I
Unskilled - building and common laborers, carpenter tenders, concrete workers, concrete buggy operators, hand
GROUP II
Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite reboundmen, fog machine operator, power buggy operator, sand blasters (pot men), window washers, wagon core and diamond drillers, tender outside
GROUP III
Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzleman, pipelayer, pumperete nozzleman

UMI 1983 OCT 7 ISS 1996 VOL 48

LEAD BURNERS BASING POINT AND AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:

Albuquarque, Alamorgordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence

ZONE I - Shall include a distrnce of 7 rd. mi. inelusive beyond the city or town limits

ZONE II - Shall extend a distance of 4 rd. mi. inelusive beyond the outer perimeter of area I

ZONE III - Shall apply to all areas not within 1 or 2, or not within the specific areas

ZONE IV (SPECIFIC AREA)- Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds.

COMMERCIAL LINE WORK

AREA A

Bernalillo, Colfax, Catron, Cahves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

COMMERCIAL LINE WORK (CONT'D)

AREA A

ZONE I

Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles	Aztec - 6 miles
Santa Fe - 10 miles	Roswell - 12 miles
Las Vegas - 8 miles	Ruidoso - 12 miles
Farmington - 6 miles	Clovis - 12 miles
Raton - 6 miles	Gallup - 12 miles
Tucumari - 6 miles	

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe

ZONE II

Extending up to 20 miles beyond Zone 1

ZONE III

Extending up to 30 miles beyond zone 1

ZONE IV

Anything beyond 30 miles from zone 1

Las Alamos County - Use ZONE III RATES.

AREA B

Applies to switching stations and sub-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I

That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer established or maintains his place of business; the area within ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.

ZONE II

All other areas of the jurisdiction except those specified in zone 1

AREA C

Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs and Lovington.

ZONE I - 0-12 miles
ZONE II - 12-22 miles
ZONE III - 22-40 miles
ZONE IV - 40 miles and beyond

MILLWRIGHTS AND PILEDRIVER ZONE DEFINITIONS

BASING POINS - FROM ALBUQUERQUE CITY LIMITS:

ZONE 1-- 0 to 15 road miles from basing point
ZONE 2-- 15 to 35 road miles from basing point
ZONE 3-- Over 35 road miles from basing point

PAINTERS' ZONE AND CLASSIFICATION DEFINITION

ZONE I

San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Eddy, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierra, Grant, Lea, Hidalgo, Curry, Sandoval, Colfax, Sarding, Los Alamos, Mora, San Miguel, Rio Arriba, Taos, Union and Santa Fe Counties

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

PAINTERS' ZONE AND CLASSIFICATION DEFINITION (cont'd)

ZONE I

CLASS A - Painters, roller and hand textures
CLASS B - Spray, sandblasting, steel and special applicators
CLASS C - Paperhangers
CLASS D - Drywall finisher; ames tool operator
CLASS E - Machine texture ------ CLASS F - Hand texture

ZONE II

Luna, Otero and Dona Ana Counties

CLASS A - Brush, roller, tapers and paperhangers
CLASS B - Steel after erection, power driven, tools and ames tools
CLASS C - Spray, sandblast, swing stage, stripping machine

PLUMBERS-PIPEFITTERS AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:

Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth of Consequence and Socorro, New Mexico.

AREA I

Shall include a distance of seven road miles inclusive beyond the city or town limits

AREA II

Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

AREA III

Shall apply to all areas not within areas 1 or 2 or not within the specific area.

SPECIFIC AREA

Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Counties.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

BUILDING, RESIDENTIAL AND HEAVY CONSTRUCTION

GROUP I

Fireman, oiler, screedman, scale op. such as bin-a-batch, rubber tired farm type tractor, tractors under 50 HP w/o attachments, breakman, concrete paving curing machine (bridgatype), helper (mechanic, welder, grease truck)

GROUP II

Rollers, sheepsfoot or pneumatic self-propelled w/o dozer, concrete conveyors, service truck op. (head oiler), air compressor (300 DPM & over), pumps (6" & over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP w/attachments), motorman and industrial locomotive op., winch truck, front end loaders (under 2 CY), power plants which generate over 15 KW., welding machines

GROUP III

Bituminous distributors, boilers; retort & hot oil heaters, concrete mixers (1 CY & over), cono. paver-single drum, drilling equip.; (refrigeration, slusher, jumbo forms), trenching machines (all types), pumpcrete & gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, cone, slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (cont'd)

BUILDING, RESIDENTIAL AND HEAVY CONSTRUCTION

GROUP IV

Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldosers, scrapers (motor or towed), elevating gradars, concrete batching plants, self-propelled rollers -- equipped w/dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (50¢ over basic rate).

GROUP V

Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoist, auto fine grader

GROUP VI

Mucking machines-all types, motor grader (finish) mechanic welder

GROUP VII

Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)

GROUP VIII

All shovel type equipment; cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (20 tons & over), mine hoist, belt loader ("C.M.I." Type), boom and jibs 150 ft. through 199 ft. - 25¢ per hour above base pay 200 ft. and over-50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

SHEET METAL WORKERS ZONE AND CLASSIFICATION DEFINITIONS

ZONE I

Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties.

ZONE IA

Any area within a five mile radius of the city limits of Albuquerque, Santa Fe, Farmington, Roswell and Kirtland AFB, East & West; Rio Rancho; Paradise Hills; An area including ten miles each direction east and west of interstate Highway 25 and extending north and south, terminating with but including, Santa Fe and Belen; an area identified by corner reference points beginning at and including Projoaque, to Chimayo, to Velarde, to Abiquiu and back to Pojoaque; an area identified by corner reference points beginning at and including Farmington to Astec, to Bloomfield and back to Farmington.

ZONE IB - Los Alamos County ZONE IC - San Juan (except that area in Zone IC
ZONE IC - San Juan (except that area in Zone IA)
ZONE ID - All area not in Zone IA, IB, or IC

ZONE II

Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties.

ZONE IIA - Any area w/in a 5 mile radius of the city limits of Carlsbad, Las Cruces, Artesia, Alamogordo, Hobbs and Sunland Park

ZONE IIB - White Sands, including Rollcman, McGregor & Lyndon B. Johnson.
ZONE IIC - All area not in Zone IIA or IIB

45914 Federal Register / Vol. 48, No. 196 / Friday, October 7, 1983 / Notices

Federal Register / Vol. 48, No. 196 / Friday, October 7, 1983 / Notices 45915

UMI 1983 OCT 7 ISS 1996 VOL 48

DECISION #NM83-4071 Page 13

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

SOUND INSTALLERS ZONE DEFINITIONS
ZONE I
Thirty mile radius of main post office in Albuquerque
ZONE II
Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased for twelve and one-half (12½) percent of journeyman rate of pay for ZONE I.
ZONE III
Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for ZONE I.
ZONE IV
Eddy and Lea Counties

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION - BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari
ZONE I
Shall be jobs or projects within 15 road miles from the starting points listed above
ZONE II
Shall be jobs or projects which are more than fifteen road miles, but less than thirty-five road miles from base points, also, includes all of Los Alamos County
ZONE III
Shall be those jobs or projects which are thirty-five road miles or more from the base points.

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, HEAVY AND RESIDENTIAL CONSTRUCTION)
GROUP I
Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, 2 or 4 and up.
GROUP II
Dump or batch truck under 8 C.Y.W.L.C.; flat bed (bobtail) 2 ton and under; warehouseman including material checker, fork lift under 5 tons MRC.
GROUP III
Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons.
GROUP IV
Distributor driver, heavy tire repair, lumber carrier driver, young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C.

DECISION #NM83-4071 Page 14

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, HEAVY AND RESIDENTIAL CONSTRUCTION)
GROUP V
Dumpsters and dumporete driver; water, fuel or oil truck 3,000 to 6,000 gallons; lowboys and light equipment driver; euclid type tank wagon under 6,000 gallons
GROUP VI
Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.
GROUP VII
Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.
GROUP VIII
Euclid diesel power turnerocker; terra cobe-DW20-Le-Tourneau Fulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gallons and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all
GROUP IX
Lowboy (heavy equipment double goosenesk); heavy equipment mechanic; welder (body and fender man)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: PENNSYLVANIA COUNTIES: SEE BELOW *
DECISION NO. PA83-3048 DATE: DATE OF PUBLICATION
Supersedes Decision No. Pa82-3017 dated March 26, 1982, in 47 FR 13108.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects.
*Lackawanna, Susquehanna, Wayne and Wyoming.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.33	2.31
BOILERMAKERS	19.33	2.415
BRICKLAYERS & STONEMASONS:		
Scranton in Lackawanna County	15.00	2.86
Carbondals in Lackawanna County	15.95	1.90
Susquehanna and Wyoming County	15.70	2.00
CARPENTERS:		
Lackawanna, Susquehanna, and Wayne Counties	14.46	2.50
Wyoming County:		
East of Susquehanna River	14.97	2.50
West of Susquehanna River	14.99	2.25
CEMENT MASONS:		
Wyoming, Wayne, Susquehanna Counties, Scranton in Lackawanna County	15.65	
Carbondale in Lackawanna Counties	15.95	1.90
ELECTRICIANS:		
Lackawanna, Susquehanna and Wayne County	15.25	3.00+3%
Wyoming County:		
East of Susquehanna River	15.25	3.00+3%
West of Susquehanna River	15.99	3.00+3%
ELEVATOR CONSTRUCTORS	15.60	3.00+3%
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	3.00+3%
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	
GLAZIERS	13.04	2.90
IRONWORKERS:		
Lackawanna, Wayne and Wyoming Cos.		
Structural and Ornamental	17.85	3.70+e
Reinforcing	17.75	3.70+e
Susquehanna County	12.80	
LABORERS:		
Lackawanna, Wayne, Susquehanna, and Northern part of Wyoming County:		
Unskilled and Window Cleaners	$12.80	2.67
Semi skilled Laborers; Jackhammer Operators, (each man when two are required for operation of Jackhammer) vibrator and Buster men, Wagon Drill and all men handling Dynamite, Gas Buggies, 2" Pumps and Concrete Mixers (up to 2 bags) and all Pneumatic Tools	12.95	2.67
PLASTER TENDERS & MASONS TENDERS and Handling of all material to be used Masons and Scaffold Builders	13.20	2.67
NON-METALLIC PIPE LAYERS and making of Joints, Clay, Terra Cotta, Ironstone, Vitrified Concrete Handling of Burning Torches; Asphalt or other material	12.95	2.67
SOUTHERN PART OF WYOMING COUNTY:		
Unskilled	12.87	2.60
Semi skilled laborers; pneumatic and other mechanical tool operator 2" pump or under; Handling and mixing of all material used by Masons from stock pile to Mason		
Non-metallic Pipelayer & making of Joints, Clay, Terra Cotta, Ironstone,		

Page 2

DECISION NO. PA83-3048	Basic Hourly Rates	Fringe Benefits
LABORERS: (CONT'D)		
Vitrified Concrete, Handling of Burning Torches; Asphalt or other Hot material, Cement Finishers and Blasters		
Helpers	13.07	2.60
Southern part of Wyoming County Plasterers' Tenders; Blasters; Wagon Drill Operators	13.19	2.60
Masons Tenders and Scaffold Builders	13.27	2.60
LATHERS	12.04	2.60
LEAD BURNERS	10.75	.66+c
LINE CONSTRUCTION:		
Lineman; Dynamite man	15.64	.65+3 3/8%
Winch Truck	10.94	.65+3 3/8%
Groundman	10.46	.65+3 3/8%
MARBLE SETTERS	13.60	2.50
MILLWRIGHTS:		
Lackawanna, Susquehanna and Wayne Counties	15.04	2.50
Wyoming County:		
East of Susquehanna River	15.72	2.50
West of Susquehanna River	16.57	2.25
PAINTERS:		
Brush and Roller	13.90	1.20
Spray	15.40	1.20
Steel	14.90	1.20
PILEDRIVERMAN	14.82	6.16+d
PLASTERER	12.63	
PLUMBERS	15.24	3.95
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.24	22.6%+f
GROUP 2	15.95	22.6%+f
GROUP 3	15.07	22.6%+f
GROUP 4	14.30	22.6%+f
GROUP 5	13.02	22.6%+f
GROUP 6	12.90	22.6%+f
GROUP 7	16.49	22.6%+f
GROUP 7-A	16.74	22.6%+f
GROUP 7-B	16.99	22.6%+f

Basic Hourly Rates	Fringe Benefits

UMI 1983 OCT 7 ISS 1996 VOL 48

DECISION NO. PA 83-3048 Page 3

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

Group 1: Machines doing hook work; Any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to the above

Group 2: All types of Cranes; All types of backhoes; Cableways; Dragline; Keystones; All types of shovels; Derricks; Trench shovels; Trenching machines; Hoist with two towers; Pavers, 21S and over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All front end loaders, 1½ cu. yds. and over; Tandem scrapers; Pippin type backhoes; Boat captains; Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift and over; machine similar to the above

Group 3: Conveyors; Building hoists (single drum); Scrapers and Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers and tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 1½ cu. yds.; Mechanic-welder; Motor patrols; Drill helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machine similar to the above

Group 4: Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line garders; Fine grade machines; Road finishing machines; Concrete breaking machines; Rollers; Seaman pulverizing mixer; Power broom; Seeding spreaders; Fireman (for power equipment); Machines similar to above

Group 5: Fireman, Grease truck

Group 6: Oilers and deck hands (personnel boats); Core drill helper

Group 7: All machines with booms (including jib, masts, leads, etc.); 100 ft. and over

Group 7-A: 150 ft. and over

Group 7-B: 200 ft. and over

DECISION NO. PA83-3048 Page 4

	Basic Hourly Rates	Fringe Benefits
ROOFERS:		
Composition and Kettlemen	$14.42	2.28
SHEET METAL WORKERS	15.92	2.00
SOFT FLOOR LAYERS:		
Lackawanna, Wayne and Susquehanna Counties	14.46	2.00
Wyoming County	11.94	2.25
SPRINKLER FITTERS	16.92	3.23
PIPEFITTERS	14.79	4.35
TRUCK DRIVERS:		
CLASS I	11.82	
CLASS II	11.89	
CLASS III	12.38	

TRUCK DRIVERS - CLASSIFICATIONS

Class I - Helper; Stack Body Truck (single axle); Dumpster
CLASS II - Dump Trucks; Tandem and Batch Trucks; Semi-trailers; Agitator Mixer Trucks; Ready mix and Dumpcrete type vehicles Asphalt Distributors; Farm Tractor when used for transportation; Stake Body Truck (tandem)

CLASS III - Sculid type; off-highway Equipment - back or Belly Dump Trucks and Double Hitched Equipment; Straddle (Rough) carrier; low-bed Trailers

DECISION NO. PA83-3048 Page 5

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidential.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.
c. Paid Holidays: A through F and Washington's Birthday, Good Friday; and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday and is avialable for work the days preceding and following the holiday.
d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day; Presidential Election Day; Veterans' Day, Thanksgiving Day.
e. Employer contributes $3.70 to a combined Health and Welfare and Pension Fund.
f. Paid Holidays: New Year's Day, Memorial Day; Independance Day; Labor Day; Thanksgiving Day and Christmas Day, provided the employee works the day before and after the holiday.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

STATE: WISCONSIN
DECISION NUMBER: WI83-2078
Supersedes Decision No. WI82-2011 dated March 19, 1982 in 47 FR 12029
DESCRIPTION OF WORK: Building Construction (excluding Single Family homes and apartments up to and including 4 stories); Dane County only (includes single family homes and apartments up to and including 4 stories) *Columbia, Dane, Iowa, and Sauk

COUNTIES: SEE BELOW *
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	17.10	2.94
BOILERMAKERS	16.12	2.825
BRICKLAYERS	13.89	2.60
CARPENTERS; SOFT FLOOR LAYERS	13.66	2.11
CEMENT MASON:		
Columbia & Sauk Cos.	14.45	1.85
Dane and Iowa Cos.	14.60	2.85
ELECTRICIANS	15.54	1.33+ 123/4%
ELEVATOR CONSTRUCTORS;		
Constructors	15.22	2.465
Helpers	10.65	2.465
Helpers (Prob.)	7.61	
GLAZIERS	15.08	1.58
IRONWORKERS	14.08	2.95
LINE CONSTRUCTION:		
Lineman	15.47	65+9½
Heavy Equipment Op.	13.92	65+9½
Light Equipment Op.	12.38	65+9½
Heavy Groundman Truck-driver	10.83	65+9½
Light Groundman Truck-driver	10.06	65+9½
Groundman	8.51	65+9½
MILLWRIGHTS & PILEDRIVER-MEN	14.06	2.11
PAINTERS:		
Brush & Structural Steel	13.10	1.81
Spray and Sandblaster	14.10	1.81
PLASTERERS:		
Dane & Iowa Cos.	12.90	2.85
Sauk & Columbia Cos.	14.45	1.85
PLUMBERS	13.55	2.95
ROOFERS	15.34	1.50
SHEET METAL WORKERS	17.08	2.43
TERRAZZO WORKERS		
Dane & Iowa Cos.	14.45	1.85
TILE SETTERS		
Dane & Iowa Cos.	14.45	1.85

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Single or Tandem Axle	10.40	246.15 per mo
LABORERS:		
General	12.17	1.43
Mortar Mixers	12.32	1.43
AIR HAMMER & PLASTERER LABORERS	12.42	1.43
POWER EQUIPMENT OPERATORS:		
GROUP I	15.22	2.90
GROUP II	14.92	2.90
GROUP III	14.56	2.90
GROUP IV	14.44	2.90
GROUP V	13.88	2.90
GROUP VI	13.41	2.90

UMI 1983 OCT 7 1996 ISS VOL 48

DECISION NO. WI83-2078 Page 2

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Bydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (Well Points), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Aphalt Plants), Air Compressor (300 CFR or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTIES: SEE BELOW *
DECISION NUMBER: WI83-2079 DATE: Date Of Publication
Supersedes Decision No. WI82-2015 dated March 12, 1982 in 47 FR 10965
DESCRIPTION OF WORK: Building Construction including Residential
*Chippewa, Eau Claire, and Pepin

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.08	2.93
BOILERMAKERS	16.12	2.825
BRICKLAYERS	15.90	1.54
CARPENTERS, LATHERS, & SOFT FLOOR LAYERS	13.66	2.11
CEMENT MASONS	15.90	1.54
ELECTRICIANS	15.48	15+%
ELECTRICIANS, RESIDENTIAL	9.81	1.24+3+%
ELEVATOR CONSTRUCTORS	16.43	2.465
Helpers	11.50	2.465
Probationary Helpers	8.215	
IRONWORKERS	16.05	2.54
GLAZIERS	17.65	1.31
LABORERS:		
General	12.22	1.68
Masoo Tenders	12.47	1.68
Jackhammer Operator	12.52	1.68
LINE CONSTRUCTION:		
Linemen	15.47	.65+9+%
Heavy Equipment Operators	13.92	.65+9+%
Light Equipment Operators	12.38	.65+9+%
Heavy Groundman - Truck Drivers	10.38	.65+9+%
Light Groundman - Truck Drivers	10.06	.65+9+%
Groundmen	8.51	.65+9+%
MILLWRIGHTS & PILEDRIVERMEN	14.06	2.11
PAINTERS:		
Brush	13.00	.15+5%
Spray and Sandblasting	13.50	.15+5%
Structural Steel	14.00	.15+5%
CARPENTERS RESIDENTIAL	9.33	1.71
PLUMBERS & STEAMFITTERS	14.17	3.65
ROOFERS	14.27	
SHEET METAL WORKERS	15.94	1.68
TRUCK DRIVERS:		
2 Axle	12.30	50.00 per wk
3 or more Axles	12.40	50.. per wk

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
GROUP I	15.22	2.90
GROUP II	14.92	2.90
GROUP III	14.56	2.90
GROUP IV	14.44	2.90
GROUP V	13.88	2.90
GROUP VI	13.41	2.90
PLUMBERS RESIDENTIAL	10.95	3.65

DECISION NO. WI83-2079 Page 2

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Hydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Hopper, Conorete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (Well Points), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Aphalt Plants), Air Compressor (300 CFR or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTY: Green & Rock
DECISION NUMBER: WI83-2080 DATE: Date of Publication
Supersedes Decision No. WI82-2016, dated March 12, 1982 in 47 FR 10965
DESCRIPTION OF WORK: Building construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.10	2.94
BOILERMAKERS	16.12	2.825
BRICKLAYERS & STONEMASONS	13.83	2.45
CARPENTERS & SOFT FLOOR LAYERS	15.39	2.41
Millwrights	15.99	2.41
Piledriverman	15.54	2.41
CEMENT MASONS	14.60	2.85
ELECTRICIANS	15.58	.72+ 13.20
ELEVATOR CONSTRUCTORS:		
Southern Portion	17.025	2.435
Northern Portion	15.22	2.435
ELEVATOR CONSTRUCTORS: HELPERS:		
Southern Portion	11.92	2.435
Northern Portion	10.65	2.435
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)		
Southern Portion	8.51	
Northern Portion	7.61	
GLAZIERS:		
Northern 2/3 of Cos.	15.08	1.58
Southern 1/3 of Cos.	13.43	2.78
IRONWORKERS:		
Vic. of Edgerton, Milton, Pollville & Evansville	14.08	2.85
Vic. of Jonesville, Shapier	17.00	4.375
LABORERS:		
General	11.37	1.43
Mortar Mixers	11.82	1.43
LINE CONSTRUCTION:		
Linemen	15.47	.65+ 9+%
Heavy Equipment Op.	13.92	.65+ 9+%
Light Equipment Op.	12.38	.65+ 9+%
Heavy Groundman Truck Driver	10.83	.65+ 9+%
Light Groundman Truck Driver	10.06	.65+ 9+%
Groundmen	8.51	.65+ 9+%

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush	13.10	1.75
Structural Steel, Spray Swing Stage	14.10	1.75
	13.35	1.75
PLASTERERS	12.90	2.85
PLUMBERS & STEAMFITTERS	17.25	2.21
ROOFERS	16.97	1.68
SHEET METAL WORKERS	16.80	3+ 2.02
TILE SETTERS	13.83	2.47
POWER EQUIPMENT OPERATORS:		
Group 1	15.22	2.80
Group 2	14.92	2.90
Group 3	14.36	2.90
Group 4	14.44	2.90
Group 5	13.88	2.90
Group 6	13.41	2.90

UMI 1983 OCT 7 1996 ISS VOL 48

DECISION NO. WI83-2080 Page 2

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Hydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (Well Points), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Aphalt Plants), Air Compressor (300 CFR or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTIES: SEE BELOW *
DECISION NUMBER: WI83-2077 DATE: Date of Publication
Supersedes Decision No. WI82-2009 dated March 5, 1982 in 47 FR 9690
DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories)
*Calumet, Fond Du Lac, Manitowoc, Outagamie, and Sheboygan

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.56	1.80
BOILERMAKERS	16.12	2.825
BRICKLAYERS	12.75	2.09
CARPENTERS	13.66	2.11
PILEDRIVERS & MILLWRIGHTS	14.06	2.11
CEMENT MASONS	12.25	2.09
ELECTRICIANS:		
Calumet & Outagamie Cos.	15.45	1.55+6%
Manitowoc Co.	15.85	.90+9¼%
Fond Du Lac & Sheboygan Cos.	15.02	2.04+14%
ELEVATOR CONSTRUCTORS:		
Outagamie Co. Constructor	16.005	2.465
Helpers	11.20	2.465
Helpers (Prob.)	50%JR	
Remainder of Counties:		
Constructors	17.09	2.69
Helpers	11.96	2.69
Helpers (Prob.)	8.545	
GLAZIERS	12.98	3.13
IRONWORKERS:		
Western part of Fond Du Lac and Outagamie Cos.	14.08	2.95
Remainder of Area	14.81	5.55
LABORERS:		
General Laborers	11.03	1.43
Mason Tender & Plaster Tender	11.13	1.43
Jack Hammer	11.28	1.43
LATHERS	12.61	3.16
PAINTERS:		
Fond Du Lac, Outagamie & N.W. Corner of Calumet County:		
Brush	13.35	1.55
Structural Steel	14.10	1.55
Spray & Swing Stage	13.85	1.55
Manitowoc and Remainder of Calumet Counties:		
Brush	12.10	
Spray	12.60	
Sheboygan County:		
Brush	10.40	1.60
Spray	10.90	1.60
PLASTERERS	12.75	2.15
PLUMBERS & STEAMFITTERS:		
Outagamie Co. and the Northwestern Corner of Calumet County	17.45	2.90
Manitowoc Co. and the Northeastern Part of Calumet County	14.42	2.76
Fond Du Lac; Sheboygan & the Remainder of Calumet County	14.97	3.09
ROOFERS:		
Calumet & Manitowoc Cos.	13.93	1.17
Sheboygan Co.	13.50	1.17
Fond Du Lac County	13.10	2.95
Outagamie County	12.40	1.70
SHEET METAL WORKERS:		
Outagamie County	13.66	5.27
Remainder of Counties	15.60	3.30
TERRAZZO WORKERS & TILE SETTERS	12.75	2.15
POWER EQUIPMENT OPERATORS:		
GROUP I	15.22	2.90
GROUP II	14.92	2.90
GROUP III	14.56	2.90
GROUP IV	14.44	2.90
GROUP V	13.88	2.90
GROUP VI	13.41	2.90

DECISION NO. WI83-2077 Page 2

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Part IV

Environmental Protection Agency

Environmental Standards for Uranium and Thorium Mill Tailings at Licensed Commercial Processing Sites; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 192

[AD-FRL-2431-8]

Environmental Standards for Uranium and Thorium Mill Tailings at Licensed Commercial Processing Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These are final health and environmental standards to govern stabilization and control of byproduct materials (primarily mill tailings) at licensed commercial uranium and thorium processing sites. These standards were developed pursuant to Section 275 of the Atomic Energy Act (42 U.S.C. 2022), as added by Section 206 of Pub. L. 95-604, the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA).

The standards apply to tailings at locations that are licensed by the Nuclear Regulatory Commission (NRC) or the States under Title II of the UMTRCA. The standards for disposal of tailings require stabilization so that the health hazards associated with tailings will be controlled and limited for at least one thousand years. They require that disposal be designed to limit releases of radon to 20 picocuries per square meter per second, averaged over the surface of the disposed tailings, and require measures to avoid releases of radionuclides and other hazardous substances from tailings to water. The standards for tailings at operating mills, prior to final disposal, add two elements and a measure of radioactivity to the ground water protection requirements now specified under the Solid Waste Disposal Act, as amended. Existing EPA regulations and Federal Radiation Protection Guidance currently applicable to tailings remain unchanged. The Agency will monitor continuing development of technical and economic information as the Department of Energy proceeds with disposal of the inactive tailings piles, and revise these standards if this information suggests that modifications are warranted.

This notice summarizes the comments received on proposed standards published on April 29, 1983, and provides a summary of the Agency's consideration of major comments. Detailed responses to comments are contained in the Final Environmental Impact Statement.

DATE: These final standards take effect on December 6, 1983.

ADDRESSES: *Background Documents*—Background information is given in the Final Environmental Impact Statement for Standards for the Control of Byproduct Materials from Uranium Ore Processing (40 CFR Part 192), EPA 520/1-83-008 (FEIS) and the Regulatory Inpact Analysis of Environmental Standards for Uranium Mill Tailings at Active Sites, EPA 520/1-83-010 (RIA). Single copies of the FEIS and the RIA, as available, may be obtained from the Program Management Office (ANR-458), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone number (703) 557-9351.

Docket: Docket Number A-82-28 contains the rulemaking record. The docket is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-130), West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Russell, Guides and Criteria Branch (ANR-460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone number (703) 557-8224.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 8, 1978, Congress enacted Pub. L. 95-604, the Uranium Mill Tailings Radiation Control Act of 1978 (henceforth designated "UMTRCA"). In the Act, Congress stated its finding that uranium mill tailings "* * * may pose a potential and significant radiation health hazard to the public, * * * and * * * that every reasonable effort should be made to provide for stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings." The Administrator of the Environmental Protection Agency (EPA) was directed to set "* * * standards of general application for the protection of the public health, safety, and the environment * * *" to govern this process of stabilization, disposal, and control.

UMTRCA established two programs to protect public health, safety, and the environment from uranium mill tailings, one for certain designated sites which are now inactive (i.e., at which all milling has stopped and which are not under license) and another for active sites (those sites licensed by the Nuclear Regulatory Commission (NRC) or the State in which the site is located, when this State is an Agreement State of the NRC under Section 274 of the Atomic Energy Act).

Tailings at the inactive uranium milling sites are defined in UMTRCA as residual radioactive materials. The program for inactive sites covers the disposal of tailings and the cleanup of onsite and offsite locations contaminated with tailings. Final cleanup and disposal standards for the inactive sites were published by EPA on January 5, 1983 (48 FR 590). The U.S. Department of Energy (DOE) is responsible for carrying out these activities in conformance with these standards, with the concurrence of the NRC, and in cooperation with the States.

Tailings at active uranium milling sites are defined in UMTRCA as uranium byproduct materials. The program for active sites covers the final disposal of tailings and the control of effluents and emissions during and after milling operations. UMTRCA requires EPA to establish standards for this program, and that standards for nonradioactive hazards protect human health and the environment in a manner consistent with standards established under Subtitle C of the Solid Waste Disposal Act, as amended (SWDA). The NRC or the licensing Agreement State is responsible for assuring compliance with the standards at active mill sites.

On January 4, 1983, Congress amended UMTRCA to provide additional guidance on the matters to be considered in establishing these standards and to establish new deadlines for their promulgation: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate." The Act (Pub. L. 96-415) established a deadline of October 1, 1983 for promulgation of the standards. These final standards conform to the above requirements.

II. Summary of the Final Rule

This final rule modifies and clarifies some of the provisions of the proposed standards because of information obtained during the comment period and at public hearings (May 31, 1983, in Washington, and June 15-16, 1983, in Denver).

EPA received a wide range of comments on the proposed standards and the supporting documents. Several hundred letters were received and 34 individuals testified and/or submitted

comments at the public hearings. Comments were received from a broad spectrum of participants, including private citizens, public interest groups, members of the scientific community, representatives of industry, and State and Federal agencies. EPA has carefully reviewed and considered these comments in preparing the FEIS, the RIA, and in developing these final standards. EPA's responses to major comments are discussed in this "preamble" and comments are discussed in detail in the FEIS. Section III of this preamble summarizes the major considerations upon which these standards are based, and in Section IV we discuss the major issues raised in public comments, our responses to them, and the specific changes in the standards that resulted from our consideration of public comments.

These standards are divided into two parts. The first part applies to management of tailings during the active life of the pile, and during the subsequent "closure period," i.e., after cessation of operations but prior to completion of final disposal, including the period when the tailings are drying out. These are standards that govern milling operations.

The second part specifies the conditions to be achieved by final disposal. Those standards guide the activities carried out during the closure period to assure adequate final disposal. They are standards that govern the design of disposal systems.

The major provisions of the final rule are summarized in the following list, with changes from the proposed rule noted. The final rule:

(1) Applies to management and disposal of byproduct materials at sites where ore is processed primarily to recover its uranium or thorium content.

(2) Applies to the regulatory activities of NRC and the States that license uranium or thorium mills.

(3) Requires that ground water be protected from uranium tailings to background or drinking water levels to preserve its future uses by incorporating the Solid Waste Disposal Act (SWDA) rules.

(4) Requires that disposal of uranium tailings piles be designed so that, after disposal, radon emissions will be limited to 20 picocuries per square meter per second.

(5) Requires that the disposal of uranium tailings be designed to maintain its integrity, in most cases, for at least 1000 years.

(6) Requires liners be used for ground water protection.

(7) Permits the regulatory agency to issue alternate ground water standards when the normally required levels will be satisfied no further from the edge of tailings than the site boundary, or within 500 meters of the tailings, whichever is less (instead of requiring EPA concurrence, as proposed).

(8) Requires corrective action to restore groundwater to its background quality to be in place within 18 months of a determination of noncompliance (instead of the proposed 12 months).

(9) Requires equivalent levels of protection for wet sites (where precipitation exceeds evapotranspiration) as for dry sites (by deleting the exception permitting a nonpermeable cap at wet sites).

(10) Requires the same level of protection at all sites regardless of current local populations.

(11) Establishes equivalent requirements for thorium byproduct materials.

III. Summary of Background Information

A. The Uranium Industry

The major deposits of high-grade uranium ores in the United States are located in the Colorado Plateau, the Wyoming Basins, and the Gulf Coast Plain of Texas. Most ore is mined by either underground or open-pit methods. At the mill the ore is first crushed, blended, and ground to the proper size for the leaching process which extracts uranium. Several leaching processes are used, including acid, alkaline and a combination of the two. After uranium is leached from the ore it is concentrated from the leach liquor through ion exchange or solvent extraction. The concentrated uranium is then stripped or extracted from the concentrating medium, precipitated, dried, and packaged. The depleted ore, in the form of tailings, is pumped to a tailings pile as a slurry mixed with water.

Since the uranium content of ore averages only about 0.15 percent, essentially all the bulk of ore mined and processed is contained in the tailings. These wastes contain significant quantities of radioactive uranium decay products, including thorium-230, radium-226, and decay products of radon-222. Tailings can also contain significant quantities of other hazardous substances, depending upon the source of the ore and the reagents used in the milling process. Most of the tailings are a sand-like material and, because such materials are attractive for use in construction and soil conditioning, have been improperly used in the past, thereby contributing to spreading the radioactive materials offsite. Tailings materials are also subject to wind and water erosion, which may spread radioactive materials offsite.

As of January 1983, there were 27 licensed uranium mills, of which only 14 were operating. By early 1983, the amount of stored tailings had reached about 175 million metric tons (MT). The size of individual tailings piles ranges from about 2 million MT to about 30 million MT.

The future demand for uranium is projected to be almost exclusively for electrical power generation. Based on recent DOE projections, it is estimated that at least an additional 175 million MT of tailings will be generated by the year 2000 in the United States. This projection is for the conventional milling of uranium described above. A small quantity of uranium is also recovered as a secondary product in the extraction of other minerals, such as phosphate and copper, and also by solution (*in situ*) mining methods. Foreign sources of uranium may also influence demand projections for the domestic uranium industry, especially since some foreign deposits are richer in uranium, which permits lower pricing.

The United States Government purchased large quantities of uranium, primarily for use in defense programs, from 1943 to 1970. Many of the producers of this uranium continued operating after 1970 to supply the commercial demand for uranium. In most cases the tailings from Government and commercial purchases were mixed and stored in the same pile. These mixed tailings are now referred to as "commingled" tailings. There are about 51 million MT of defense-related tailings commingled with approximately 74 million MT of other tailings at 13 of the sites which are now licensed for milling uranium ore.

B. Hazards Associated with Uranium Byproduct Materials

The most important of the hazardous constituents of uranium mill tailings is radium, which is radioactive. We estimate that currently existing tailings at the licensed sites contain a total of about 90,000 curies [1] of radium. Radium, in addition to being hazardous itself, produces radon, a radioactive gas whose decay products can cause lung cancer. Because of the long life of thorium-230 (about 75,000 years half-life), the amount of radium in tailings, and therefore, the rate at which radon is produced, will decay to about 10 percent of the current amount in several

[1] A curie is the amount of radioactive material that produces 37 billion nuclear transformations (e.g., disintegrations of radium into radon) per second.

VOL 48 ISS 1 1 9 6 OC 7 1983 UMI

hundred thousand years. Other potentially hazardous constituents of tailings include arsenic, molybdenum, selenium, uranium, and, usually in lesser amounts, a variety of other toxic substances. The concentrations of all of these materials vary from pile to pile.

The radioactivity and toxic materials in tailings may cause cancer and other diseases, as well as genetic damage and teratogenic effects. More specifically, tailings are hazardous to man primarily because: (1) Radioactive decay products of radon may be inhaled and increase the risk of lung cancer; (2) individuals may be exposed to gamma radiation from the radioactivity in tailings; and (3) radioactive and toxic materials from tailings may be ingested with food or water. Our analysis shows the first of these hazards to be by far the most important.

As noted above, the radiation hazard from tailings lasts for many hundreds of thousands of years, and some nonradioactive toxic chemicals persist indefinitely. The hazard from uranium tailings therefore must be viewed in two ways. Tailings pose a present hazard to human health. Beyond this immediate but generally limited health threat, the tailings are vulnerable to human misuse and to dispersal by natural forces for an essentially indefinite period. In the long run the future risks to health of indefinitely-extended contamination from misused and dispersed tailings due to inadequate control overshadows the short-term danger to public health. The congressional report accompanying UMTRCA recognized the existence of long-term risks, and expressed the view that the methods used for disposal should not be effective for only a short period of time. It stated: "The committee believes that uranium mill tailings should be treated * * * in accordance with the substantial hazard they will present until long after existing institutions can be expected to last in their present forms * * *" and, in commenting on the Federally-funded program to clean up and dispose of tailings at the inactive sites, it stated "The committee does not want to visit this problem again with additional aid. The remedial action must be done right the first time." (H.R. Rep. No. 1480, 95th Cong., 2nd Sess., Pt. I, p. 17, and Pt. II, p. 40 (1978).)

For the purpose of establishing standards for the protection of the general public from radiation, we assume a linear, nonthreshold dose-effect-relationship as a reasonable basis for estimating risks to health. This means we assume that any radiation dose poses some risk and that the risk of low doses is directly proportional to the risk that has been demonstrated at higher doses. We recognize that the data available preclude neither a threshold for some types of damage below which there are no harmful effects, nor the possibility that low doses of gamma radiation may be less harmful to people than the linear model implies. However, the major radiation hazard from tailings arises not from gamma radiation, but rather is due to alpha radiation from inhaled radon decay products. As pointed out by the National Academy of Sciences' (NAS) Advisory Committee on the Biological Effects of Ionizing Radiation (the BEIR Committee) in its 1980 report, for "* * * radiation, such as from internally deposited alpha-emitting radionuclides, the application of the linear hypothesis is less likely to lead to overestimates of risk, and may, in fact, lead to underestimates."

Our quantitative estimates of the risk due to inhalation of radon decay products are based on our review of epidemiological studies, conducted in the United States and in other countries, of underground miners of uranium and other metals who have been exposed to radon decay products. We have also considered reports by scientific groups, such as *Health Effects of Alpha Emitting Particles in the Respiratory Tract (1976)* and *The Effects on Populations of Exposure to Low Levels of Ionizing Radiation* (1980) by the NAS; the report of the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR) entitled *Sources and Effects of Ionizing Radiation* (1977); Report No. 32, *Limits for Inhalation of Radon Daughters by Workers* (1981) of the International Commission on Radiological Protection (ICRP); and *Risk Estimates for the Health Effects of Alpha Radiation*, by D.C. Thomas and K.G. McNeill (1982), a detailed review prepared for the Atomic Energy Control Board of Canada (AECB). Details of our risk estimates are provided in a previous EPA report, *Indoor Radiation Exposure Due to Radium–226 in Florida Phosphate Lands* (EPA 520/4–78–013), and in the FEIS.

Although the studies of underground miners show that there is a significant risk of lung cancer from exposure to radon decay products, there is uncertainty in its magnitude. Our estimates of the risk due to inhalation of radon decay products exceed those of the ICRP and UNSCEAR by a factor of at least two. However, neither group considered continuous exposure for the duration of a person's lifetime nor documented that they properly projected the risk observed to date in groups of underground miners over the balance of their expected lifetimes. These factors were explicitly considered by the 1980 NAS BEIR Committee. Although the NAS Methodology differs from that employed by EPA, their numerical estimates of risk due to lifetime exposure are essentially identical to those of EPA. The most recent and complete assessment of the miner data, that performed for the AECB, yields a result within 20 percent of the EPA value. Numerical estimates of risk by various other observers differ by up to a factor of eight. We also considered the views of these other observers and discuss their results in the FEIS.

The uncertainties in risk estimates for exposure of miners to radon decay products arise from several sources. Exposures of miners were estimated from the time spent in each location in a mine and the measured radon decay product levels at those locations. However, radon decay product measurements were infrequent and often nonexistent for exposures of miners prior to the 1960's. The uncertainty increases when data for miners are used to estimate risk to members of the general public, because there are differences in age, physiology, exposure conditions, and other factors between the two populations.

We must also make numerous assumptions to estimate the radiation dose to individuals and population groups due to uranium mill tailings, and these introduce additional uncertainties. For example, we make risk estimates for individuals who are assumed to reside at the same location for their life spans, and we further assume that people will continue to have the same life expectancy as the U.S. population did in 1970. Nevertheless, we believe the information available supports estimates of risk which are sufficiently reliable to provide an adequate basis for these proposed standards.

It is not possible to reduce the risk to zero for people exposed to radiation or, for that matter, to many other carcinogens. To decide on a reasonable level of incremental residual risk, we evaluated the practicality and benefits of different levels of control. We also considered technical difficulties associated with implementing different levels of control.

Uranium mill tailings can affect man through four principal environmental pathways:

• *Diffusion of radon–222, the decay product of radium–226 tailings into indoor air.* Breathing radon–222, an inert gas, and its short half-life decay products, which attach to tiny dust particles, exposes the lungs to alpha radiation (principally from polonium–218 and polonium–214). The exposures involved may be large for persons who have tailings in or around their houses, or who live very close to tailings. Additional, but smaller, exposures to alpha radiation may result from long-lived radon–222 decay products (principally lead–210 and polonium–210). Exposure due to radon from tailings in or around buildings is best estimated from direct measurements of its decay products in indoor air.

• *Dispersal of radon and of small particles of tailings material in air.* Radon emitted from tailings is widely dispersed in air, and exposes both nearby residents and those at greater distances. These doses are predominantly to the lungs. Wind erosion of unstabilized tailings creates local airborne tailings material. The predominant dose from airborne tailings is to the bones from eating foods contaminated by thorium–230, radium–226, and lead–210, and is small. Exposure due to airborne transport of radon and particulates from tailings usually can be directly measured only near the pile or impoundment, but may be reliably estimated for larger distances using meteorological transport models.

• *Direct exposure to gamma radiation.* Many of the radioactive decay products in tailings produce gamma radiation. The most important are lead–214, bismuth–214, and thallium–210. Hazards from gamma radiation are limited to persons in the immediate vicinity of tailings piles or removed tailings. Exposure due to gamma radiation from tailings is readily estimated from direct measurements.

• *Waterborne transport of radioactive and toxic material.* Dispersal of unstabilized tailings by wind or water, or leaching, can carry radioactive and other toxic materials to surface or ground water. Current levels of contamination appear to be low at most sites. However, contamination of surface and ground water and consequent intake by animals has been identified at three locations. Potential exposure due to this possibility of ground and surface water contamination is highly site-specific and can generally only be determined by a careful survey program.

Our assessments of risks from tailings deal primarily with risks to man. This is because risks to other elements of the biosphere are judged to be much less significant, and would therefore be controlled to acceptable levels by measures adequate to protect man. In addition, the following discussion focuses largely on *current* levels of risk to man from tailings through air and water pathways. However, these current risks could be expanded by future misuse of tailings by man and by uncontrolled future effects of natural forces. Our disposal standards reflect consideration of both current and potential future risks from tailings.

1. Air Pathways

We estimated the hazards posed by emissions to air from tailings piles or impoundments and from tailings used in and around houses. For the first case we used standard meteorological transport models and considered exposure of people in the immediate neighborhood of the existing tailings sites, the population in local regions, and the remainder of the national population. For the second, we drew largely upon experience from houses contaminated by tailings in Grand Junction, Colorado. Four sources of exposure were considered: inhaled short-lived radon decay products, gamma radiation, long-lived radon decay products, and airborne tailings particulates.

From this analysis we conclude:

(a) Lung cancer caused by the short-lived decay products of radon is the dominant radiation hazard from tailings. Estimated effects of gamma radiation, of long-lived radon decay products, and of airborne tailings particulates are relatively less significant, although high gamma radiation doses may sometimes occur.

(b) Individuals who have tailings in or around their houses often have large exposures to indoor radon and hence high risks of lung cancer. For example, in 50 percent of a sample of 190 houses with tailings in Grand Junction, Colorado, we estimate that the excess lifetime risk to occupants due to exposure to short-lived radon decay products prior to remediation may have been greater than 4 chances in 100.

(c) Individuals living near an uncontrolled tailings pile or impoundment are also subject to high risks from short-lived radon decay products of radon emitted directly from tailings. For example, we estimate that people living continuously next to some tailings sites can have incremental lifetime lung cancer risks as high as 2 chances in 100.

(d) Based on models for the cumulative risk to all exposed populations, we estimate that, without control, the radon released directly from all tailings currently in existence at presently (1983) licensed sites would cause about 500 lung cancer deaths per century. This figure does not account for any deaths from misuse or windblown tailings because their number is more difficult to predict, even though risk to individuals from such tailings may be somewhat greater than from direct radon emissions. By the year 2000, we estimate that, without control, the amount of tailings existing then would cause approximately 600 lung cancer deaths per century. Approximately one-half of these deaths are projected to occur less than 50 miles from the piles. This increase is small, due primarily to the large amount of unused capacity at present sites, so that most new tailings could be placed on top of existing tailings. This analysis assumes that this will be the actual case, although it is possible that ground water contamination problems would be severe enough to require some piles to be closed. If this is the case, this estimate would be increased.

There is substantial uncertainty in these estimates because of uncertainties in the rate of release of radon from tailings sites, the exposure people will receive from its decay products, and from incomplete knowledge of the effects on people of these exposures. The values presented here represent best estimates based on current knowledge. In addition, these estimates are based upon current sizes and geographical distributions of populations and estimated production of tailings to the year 2000. As populations continue to increase in the future, and as production continues beyond the year 2000, the estimated impact will be larger.

Many commenters addressed the need to prevent misuse. Most concluded that misuse was the most hazardous aspect of tailings and should receive foremost attention. Although most concluded that misuse should be discouraged through means of passive controls, some concluded that misuse could be adequately controlled by institutional means. We conclude that a primary objective of standards for control of hazards from tailings through air pathways should be isolation and stabilization to prevent their misuse by man and dispersal by natural forces, such as wind, rain, and flood waters. A second objective is to minimize radon emissions from tailings sites. A third objective is the elimination of significant exposure to gamma radiation from tailings.

2. Water Pathways

Water contamination does not now appear to be a significant source of radiation exposure at most sites. However, in addition to radionuclides, nonradioactive toxic substances, such

as arsenic, molybdenum, and selenium, can be leached from tailings and contaminate water. Such contamination could affect crops, animals, and people. Process water is used to carry tailings to the piles or impoundments as a slurry. Rainwater also may collect on the tailings. The greatest threat of contamination appears to be from process water discharged with the tailings from the mill, although, in principle, it could be from the gradual effects of rainwater over the indefinite future. Most of this water eventually evaporates or seeps away. Elevated concentrations of toxic or radioactive substances in ground water have been observed at many active sites (seven are identified in the FEIS), and in some standing surface water ponds (but only rarely in surface running water). Any future contamination of water after disposal would arise from the effects of rain or through flooding, from penetration of tailings from below by ground water, or from leaching of tailings transported offsite.

A theoretical analysis performed for the NRC of a large model tailings impoundment with no seepage control showed that contamination of ground water by selenium, sulfate, manganese, and iron might exceed current drinking water standards over an area 2 kilometers wide and 8 to 30 kilometers long. More than 95 percent of this projected contamination was attributed to initial seepage of process water discharged with the tailings during mill operations.

We recognize that the NRC generic model is only one of several that could be applied to transport of contaminants in groundwater. Other models could predict greater or less risks of ground water contamination. An example of greater risk is a plume of contamination that, under certain circumstances, could still move cohesively towards a water supply after the flow of liquid through the tailings has stopped following closure of a pile.

In general, the movement of contaminants through a pile and subsoil to ground water depends on a combination of complex chemical and physical properties, as well as on local precipitation and evapotranspiration rates. Chemical and physical processes can effectively remove or retard the flow of many toxic substances passing through subsoil. However, some contaminants, such as arsenic, molybdenum, and selenium, can occur in forms that are not removed. Typically, ground water can move as slowly as a few feet per year, and only in coarse or cracked materials does the speed exceed one mile per year. For these reasons, contaminants from tailings may not affect the quality of nearby water supply wells for decades or longer after they are released. However, once contaminated, the quality of water supplies cannot usually be easily restored simply by eliminating the source (although, in some cases, removing or isolating the tailings may contribute to improving water quality).

Based on results from the NRC generic model for mill tailings, it is likely that the observed cases of ground water contamination result from seepage of the liquid waste discharges from the mill, and can be controlled by preventing this seepage until the tailings dry out by natural evaporation. Additional future contamination of ground water after these liquid wastes are dried up should be much smaller, and in most cases would be expected to be eliminated by measures required to control misuse of disposed tailings by man and dispersal by wind, rain, and flood waters. These measures should also effectively eliminate the threat of contamination of surface water by runoff or from leaching of tailings transported offsite, and provide a degree of protection of surface and ground water from contamination by flooding. However, at some sites, especially in areas of high rainfall or where ground water tables intersect the tailings, special consideration of potential future contamination of ground water may be needed in designing disposal systems. For example, some commenters suggested incorporation of the SWDA rules for impoundment caps for wet sites. Others pointed out that for new piles careful site selection would provide protection of ground water.

We conclude that the primary objective of standards for control of hazards from tailings through water pathways is to prevent loss of process water through seepage, prior to closure. A secondary objective is to avoid surface runoff and infiltration both before and after disposal.

C. Control of Hazards from Tailings

We consider methods for control so as to assess the achievability, economic impact, and reliability of controls to meet alternative standards. As noted above, the objectives of tailings disposal (and of tailings management prior to disposal) are to prevent misuse by man, to reduce radon emissions and gamma radiation exposure, and to avoid the contamination of land and water by preventing erosion of tailings by natural processes and seepage of waste process water. The longevity of control is particularly important. This can be affected by the degree to which control measures discourage disruption by man; and by the resistance of control measures to such natural phenomena as earthquakes, floods, and windstorms, and to chemical and mechanical processes in the piles or impoundments. ("Piles" commonly means tailings simply piled up on the ground, and "impoundments" means piles constrained by dikes made of other materials. We will use the term "piles" to mean both henceforth.) Prediction of the long-term integrity of control methods becomes less certain as the period of concern increases. Beyond several thousand years, longer-term geomorphological processes and climatic change become the dominant factors. Methods are available for projecting performance for periods up to about 1000 years. A recent report prepared for the NRC ("Design Considerations for Long-Term Stabilization of Uranium Mill Tailings Impoundments," Colorado State University, 1983) provides an up-to-date detailed review of these matters.

Methods to prevent misuse by man and disruption by natural phenomena may be divided into those whose continued integrity depends upon man and his institutions ("active" controls) and those that do not ("passive" controls). Examples of active controls are fences, warning signs, restrictions on land use, inspection and repair of semi-permanent tailings covers, temporary dikes, and drainage courses. Examples of passive controls are thick earthen covers, rock covers, massive earth and rock dikes, burial below grade, and moving tailings piles out of locations highly subject to erosion, such as unstable river banks.

Erosion of tailings by wind, rain, and flooding can be inhibited by contouring the pile and its cover, by stabilizing the surface (with rock, for example) to make it resistant to erosion, and by constructing dikes to divert rapidly moving flood waters. Erosion can be inhibited even more reliably by burying tailings in a shallow pit and/or by locating them away from particularly flood-prone or otherwise geologically unstable sites. Thus, especially in the case of new tailings piles, shallow burial and sites with favorable long-term characteristics should be given preferred consideration.

Methods to inhibit the release of radon range from applying a simple barrier (such as an earthen cover) to such ambitious treatments as embedding tailings in cement or processing them to remove radium, the precursor of radon. Covering tailings with a permeable (porous) barrier, such as compacted earth, delays radon diffusion so that most of it decays in and is therefore effectively retained by the cover. In addition to simple earthen covers, other less permeable materials such as asphalt, clay, or soil cement (usually in combination with earthen covers) could be used. The more permeable the covering material, the thicker it must be to achieve a given reduction in radon release. However, maintaining the integrity of control of radon by thin, very impermeable covers, such as plastic sheets, is unlikely, even over a period as short as several decades, given the chemical and physical stresses present at piles.

The most likely constituents of cover for disposal of tailings are locally available earthen materials. The effectiveness of an earthen cover as a barrier to radon depends most strongly on its moisture content. Typical clay soils in the uranium milling regions of the West exhibit ambient moisture contents of 9 percent to 12 percent. For nonclay soils ambient moisture contents range from 6 percent to 10 percent. The exact value depends upon the material involved, and on local climatic conditions. The following table provides an example of the changes in cover thicknesses that might be required to reduce radon emission to 20 pCi/m²s for the above ranges of soil moisture. Four examples of tailings are shown that cover the probable extreme values of radon emission from bare tailings (100 to 1000 pCi/m²s); the most common value for old tailings is approximately 500 pCi/m²s, and for new tailings is approximately 300 pCi/m²s.

ESTIMATED COVER THICKNESS* (IN METERS) TO ACHIEVE 20 pCi/M²S**

Radon emission from tailings (pCi/m²s)	Percent moisture content of cover			
	6	8	10	12
100	1.7	1.3	1.0	0.7
300	2.8	2.2	1.5	1.1
500	3.4	2.8	2.0	1.5
1000	4.1	3.2	2.4	1.8

* These values were calculated from equation (9) in Appendix P of the Final Generic Environmental Impact Statement on Uranium Milling, U.S. Nuclear Regulatory Commission, NUREG–0706, September 1980. They do not include allowance for uncertainties in tailings moisture content or diffusion properties of the cover.

** A picocurie (pCi) is a trillionth of a curie. One picocurie of material produces just over two transformations per minute. A pCi/m²s is a unit for the release rate of radioactivity from a surface (m=meter, s=second).

These values are for homogeneous covers, and assume the tailings have the same moisture content as the cover. In practice, somewhat thicker covers would be required to provide long-term assurance of satisfying any particular level of control. Some of the factors that must be considered for predicting long-term performance are moisture content of the tailings and cover at equilibrium, and the measured diffusion characteristics of cover materials. The DOE and NRC have conducted studies which provide a basis, at least within a limited range of control and predictability, for addressing these factors in the design of tailings covers based on locally available materials and climate.

Methods that control radon emissions will also prevent transport of particulates from the tailings pile to air or to surface water. Similarly, permeable covers sufficiently thick for effective radon control will also absorb gamma radiation effectively (although thin impermeable covers will not).

Two methods may be considered for protecting ground water at new tailings piles. The first is the placement of a physical barrier, called a liner, between the tailings and the aquifer zone, to prevent water containing hazardous constituents from entering the aquifer. Either clay or plastic liners can be installed at about the same cost. Both have shortcomings. Plastic liners are impermeable, but may be subject to rupture through poor installation or uneven loading. Clay liners are permeable to some constituents, and may require use of additional measures, such as partial neutralization of the tailings, especially at acid leach mills, to satisfactorily protect ground water, but are expected to retain their effectiveness for long periods of time. The second method is treatment of process water to modify its acidity or alkalinity, if such treatment were shown to prevent contamination. At a neutral level many hazardous constituents of tailings liquids become insoluble and thus not available to contaminate ground water. However, not all hazardous constituents are so affected, and the action of rainwater, certain weathering processes, and mineralization of the soil or rock matrix can upset this neutralization over time, thereby releasing contaminants. There is little difference in costs for these two methods. Liners (either clay or synthetic) are currently required by NRC as a matter of good engineering practice for most new tailings impoundments.

EPA does not believe it is environmentally desirable to require all new wastes at existing sites to be placed on new piles, because new piles would increase radon emissions, at least until the pre-existing pile is covered, and would permanently contaminate more land. Satisfying ground water standards at existing tailings sites that do not have liners, however, will require widely varying actions from site to site. Neutralization of existing tailings is not a generally feasible option since it would require excavation of most, if not all of the tailings to assure mixing, and may not immobilize all hazardous constituents. Ground water contamination is known to have occurred at seven sites, and may be occurring at many others. It may not be possible to cleanup the ground water at some sites. In the worst cases a new, lined tailings pile may be required to prevent contamination from new tailings. In other cases, existing tailings piles may release essentially no contaminants to ground water because the type of soil they rest on acts as an effective liner. We have discussed the range of possible costs for cleanup of ground water in the FEIS and RIA. In practice, we expect most tailings piles will fall somewhere between these two extremes. Less expensive corrective action than a new liner may be sufficient to satisfy ground water standards for hazardous constituents at many sites. For example, an active water management program may be employed to reduce the quantity of water in the tailings and thus reduce the driving force for ground water contamination, or back pumping of water around the piles may prevent losses to the surrounding ground environment. Actions such as these are already being taken at certain sites (Cotter Mill, Canon City, CO, and Homestake Mill, Grants, NM, for example).

Control of possible long-term low-level contamination of ground water may sometimes be difficult. In cases where intrusion of contamination into ground or surface water is a potentially significant problem, liners and caps may provide a good degree of protection for at least many decades. However, more permanent protection may, in such cases, require choice of (for new tailings) or removal to (for existing tailings) a site with more favorable hydrological, geochemical, or meteorological characteristics.

Very effective long-term inhibition of misuse by man, as well as of releases to air and surface water, could be achieved by burying tailings in deep mined cavities. In this case, however, direct contact with ground water would be difficult to avoid. The potential hazards of tailings could also be reduced by chemically processing them to remove contaminants. Such processes have limited efficiencies, however, so the residual tailings would still require some control. Furthermore, the extracted substances (e.g., radium and thorium) would be concentrated, and would themselves require careful control.

VOL 48 ISS 196 OCT 7 1983 UMI

VOL 48 ISS 1 96 OC 7 1983 UMI

We analyzed the practicality of a number of possible control methods. These are described in the FEIS and the RIA. The total cost of disposal by surface or shallow burial is affected most strongly by the type of material used to stabilizer the surface of the trailings against erosion and to inhibit misuse by man, and by the water protection features required. Total costs are less sensitive to the amount of cover required to inhibit radon release. In general, costs of covers using man-made materials (e.g., asphalt) are somewhat higher than costs for earthen covers, and the reliability is lower. Active control measures are usually less costly in the short term than are passive measures, but are considered much less reliable in the long term. Deep burial of tailings piles or use of chemical processing to extract radium are much more costly than for surface or shallow burial (below grade) disposal using covers, and the practicality is not demonstrated.

D. Environmental Standards and Guidance Now Applicable to Uranium Tailings

EPA recognizes that it is establishing standards in an area that is already the subject of governmental regulation and has taken into account, where relevant, the existing schemes and levels of protection in developing these standards.

EPA promulgated 40 CFR Part 190, "Environmental Radiation Protection Standards for Uranium Fuel Cycle Operations," on January 13, 1977 (42 FR 2858). These standards specify the upper limits of radiation doses to members of the general public to which normal operations of the uranium fuel cycle must conform. They cover radiation doses due to all environmental releases of uranium by-product materials during the period a milling site is licensed, with the exception of emissions of radon gas and its decay products.

The Nuclear Regulatory Commission promulgated rules in 10 CFR Part 40 on October 3, 1980, which specify licensing requirements for uranium and thorium milling activities, including trailings and wastes generated from these activities (45 FR 65521). These rules specify technical, surety, ownership, and long-term care criteria for the management and final disposition of by-product materials. Some of these rules are affected by these standards. For example, they specified a design objective of 2 pCi/M²s and a longevity of greater than 1000 years for disposal of tailings. Due to congressional actions, these regulations have never been enforced by NRC, although some Agreement States have enforced comparable regulations. We note that the NRC regulations specified design objectives; that is, the values specified were to be achieved based on average performance; whereas these EPA rules specify standards, which designers must plan not to exceed, with a reasonable degree of assurance. The NRC has noted that any changes necessary will be made when these EPA standards are promulgated, and has already suspended those portions of its regulations which are affected by these standards (48 FR 35350; August 4, 1983).

Under the Agreement State program, States can issue licenses for uranium processing activities, including control and disposal of by-product materials. The NRC has enumerated in 10 CFR Part 150 the authorities reserved to it in its relations with Agreement States under the provisions of UMTRCA, and has specified conditions under which Agreement States may issue licenses under UMTRCA (45 FR 65521). NRC's conditions include the specification that State licenses must ensure compliance with EPA's standards. Some Agreement States can adopt more stringent rules than those adopted and enforced by the NRC, including requirements that are more stringent than EPA's standards.

EPA promulgated 40 CFR Part 260 et seq., "Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities," under Subtitle C of the Solid Waste Disposal Act, as amended on July 26, 1982 (47 FR 32274). Although radioactive materials controlled under the Atomic Energy Act of 1954, as amended, are not covered by the SWDA, UMTRCA requires that the standards proposed herein provide for protection of human health and the environment from nonradioactive hazards in a manner consistent with applicable standards promulgated under Subtitle C of the SWDA. The Act also requires the NRC to ensure conformance to "* * * general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material under [Subtitle C of SWDA]."

EPA promulgated 40 CFR Part 440, "Ore Mining and Dressing Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards, Subpart C—Uranium, Radium and Vanadium Ores Subcategory," on December 3, 1983 (47 FR 54598). The purpose of 40 CFR Part 440 is to establish effluent limitations and standards under the Clean Water Act for existing and new sources in a number of ore mining and dressing subcategories. Out of 27 mills in the uranium, radium and vanadium ores subcategory existing at that time, only one was discharging directly to surface water. In view of this, the regulations did not establish best available technology (BAT) limitations for existing sources in this subcategory. The one uranium mill directly discharging effluents is currently regulated by a discharge permit in accordance with previously existing best practicable control technology (BPT) effluent limitations contained in 40 CFR Part 440. The new source performance standards (40 CFR 440.34(b)) were based upon the demonstration of no discharge to surface waters at the 26 other mills. These standards apply to locations where the annual evapotranspiration rate exceeds the annual precipitation rate (as is the case in most uranium milling areas), and require no discharge of process waste water to surface waters from mills using the acid leach, alkaline leach, or combined acid and alkaline leach process for the extraction of uranium. For locations where there is more precipitation than evapotranspiration process waste water can be discharged up to the difference between annual precipitation and evapotranspiration.

Solution extraction, or "*in situ*" mining, is a processing method in which uranium is recovered from ore without moving or disturbing the ore body. In this method holes are drilled at selected points around an ore body and a solvent is pumped into some holes and the resulting solution out other holes. The solvent passes through the ore, dissolves the uranium, and carries it back to the surface. The uranium is then stripped from the solution and concentrated. The solvent, which is stored in holding ponds, can be treated and reused or discarded. Although this method produces no sandy tailings, it does produce sludges that contain many of the same radioactive and nonradioactive substances found in tailings piles. Consequently, the above-ground wastes from *in situ* mining are covered in these proposed standards. We note that because *in situ* mining and conventional milling currently are done in the same regions of the country, disposal of sludges on tailings piles may often be arranged.

Rules for protection of ground water from the underground operations of *in situ* mining are provided by the Underground Injection Control program promulgated under Sections 1421 and 1422 of the Safe Drinking Water Act.

The associated regulations, 40 CFR Parts 144, 145, and 146, impose administrative and technical requirements on such operations, through either approved State programs or EPA-implemented programs. These regulations are not intended to apply to the underground ore bodies depleted by *in situ* uranium mining operations.

In addition to these rules established under UMTRCA, EPA is required to establish emission standards under the Clean Air Act (CAA) for hazardous air pollutants. Although there are no final standards for air emissions applicable to mill tailings piles, a proposed rule for radionuclides has been published in the **Federal Register** (48 FR 15076) on April 6, 1983. The relationship of the Clean Air Act of this rule is discussed in more detail later in this preamble.

Finally, radiation protection guidance to Federal agencies for the conduct of their radiation protection activities was issued by the President on May 13, 1960 and published on May 18, 1960 (25 FR 4402). Federal Radiation Protection Guidance governs the regulation of radioactive materials by the NRC and Agreement States, and includes the following guidance: "* * * every effort should be made to encourage the maintenance of radiation doses as far below [the Federal Radiation Protection Guides] as practicable * * *" and "There can be no single permissible or acceptable level of exposure without regard to the reason for permitting the exposure. It should be general practice to reduce exposure to radiation, and positive effort should be carried out to fulfill the sense of [this Guidance]. It is basic that exposure to radiation should result from a real determination of its necessity." This guidance is currently known as the "as low as reasonably achievable" (ALARA) principle. It is particularly suited to minimizing radiation exposure under conditions that vary greatly from site to site, or from time to time, and is an integral part of NRC and Agreement State licensing determinations.

The standards published here will supplement the above standards, guidance, and regulations in order to satisfy the purposes of UMTRCA to "* * * stabilize and control * * * tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public." UMTRACA does not provide specific criteria to be used in determining that these purposes have been satisfied. EPA's objective, when not preempted by other statutory requirements, has been to propose standards that: (1) Take account of health, safety, and environmental and economic costs and benefits in a way that assures adequate protection of the public health, safety, and the environment; (2) can be implemented using presently available techniques and measuring instruments; and (3) are reasonable in terms of overall costs and benefits.

The legislative record shows that Congress intended that EPA set general standards and not specify any particular method of control. "The EPA standards and criteria should not interject any detailed or site-specific requirements for management, technology or engineering methods * * *" (H.R. Rep. No. 1480, 95th Cong., 2nd Sess., Pt. I, P.17.) UMTRCA gives the NRC and the Agreement States the responsibility to decide what methods will assure these standards are satisfied at specific sites. (However, EPA must concur with NRC regulations established to implement Section 82a(3) of UMTRCA.) Therefore, our analyses of risk, control methods, costs, and other pertinent factors emphasize the general characteristics of uranium mill tailings and the affected sites.

IV. Resolution of Major Issues Raised in Public Comments

A. The Basis for the Standards

1. Health Risk Models

Several commenters expressed the view that the models used by EPA overestimate health risks from breathing radon decay products. Others believe EPA underestimated the risk. For example, the American Mining Congress (AMC) stated that "EPA has systematically overestimated the factors which determine potential health effects from mill tailings. In the aggregate, these overestimates combine to yield an overestimate factor of about 60." These alleged factors are:

Area of model tailings piles	1.4
Radon flux per unit activity	1.8
Transport and dispersion models	5.0
Equilibrium for radon decay products	1.7
Risk of lung cancer	3.0
Population near tailings piles	Unknown

The total radon emitted from tailings is approximately proportional to the surface area covered by tailings. EPA used the same area that NRC used in its FGEIS, 80 hectares, to estimate radon emissions. The AMC prefers 50 hectares, and points out that NRC (in NUREG–0757, Feb. 1981) later revised its estimate to 50 hectares. However, current projections of uranium production indicate that very few new mills or piles, if any, will atart up between now and the late 1990's. Thus, unless a significant number of existing piles are unable to comply with the requirements of this rule regarding ground water protection, essentially all radon emissions will be from existing piles, which have an average area of about 70 hectares, as shown in the FEIS. In addition, radon may be emitted from on-site areas contaminated by windblown tailings. We conclude the area of piles has been overestimated at most by a factor of 1.16.

The emission rate of radon per unit area of tailings is directly related to the activity of radium-226 in tailings. Several factors which are not well understood influence this emission rate. In the report cited above, the NRC concluded: "Considering the variation observed under differing conditions at a number of sites, the staff has elected to apply conservative specific flux values of 0.3 [pCi of radon-222 per square meter-second/pCi of radium-226 per gram of tailings] for wet tailings and 1.0 for dry tailings and to count moist tailings as dry in making the calculations." EPA agrees with this conclusion and believes no correction which assumes that some tailings are permanently wet is appropriate for this factor.

Regarding transport models, measurements are consistent with the transport and dispersion models we used. This is discussed in detail in the FEIS. The method used by EPA has been the basic work-horse of local dispersion estimation for years. In 1977, the participants of an expert group assessing atmospheric transport of radionuclides concluded that, for distances out to 10 km in reasonably flat terrain, and given good local wind observations: "Accuracy for the usual annual average concentration is about a factor of ± 2." Furthermore, these dispersion estimates are based on an empirical approach that is inherently unbiased and that should therefore be as likely to overpredict as to underpredict.

It should be noted that we are not modeling background concentrations of radon. While it may be experimentally difficult to demonstrate the increment above background due to a tailings pile at distances greater than 1 km, there is no reason to believe that the basic physical principle of conservation of mass does not continue to be valid. Once released to the atmosphere, radon, which is a chemically inert gas, disperses freely until it is removed by radioactive decay. We conclude that our dispersion estimates provide a reasonable basis for calculating atmospheric concentrations of radon.

VOL
48
ISS
1
96
OC
7
1983
UMI

There appears to be a misconception about the conditions to which EPA's assumption of a 0.7 equilibrium fraction for radon decay products applies. (The "equilibrium fraction" expresses the amount of radon decay products actually present relative to the maximum theoretically possible. This fraction is important, since the health risk is primarily due to radon decay products, not to radon itself.) Most of the data cited by commenters to support a lower equilibrium fraction are for situations in which the source of radon is diffusion into houses from underlying soil. In this situation the initial decay product equilibrium fraction is zero. For the airborne radon from tailings piles considered in EPA's estimates, the decay product equilibrium fraction in outdoor air approaches 1.0, beyond the vicinity of a pile. After taking into account periods of time an individual spends indoors and outdoors, periods of time a house is well-ventilated by outdoor air, and the fate of radon and decay products in outdoor air when it infiltrates a house, we conclude use of an average value of 0.7 for the effective equilibrium fraction for exposure of people to airborne radon from piles is appropriate for distances far from tailings piles. This value is therefore retained for calculations of total impact of radon releases from piles. Very close to tailings piles, however, the decay product equilibrium factor in outdoor air is low. We conclude, therefore, after taking the same indoor/outdoor factors into account, that an average effective decay product equilibrium fraction about one-half as large is probably more appropriate next to piles. This lower value should be applied to estimates of the maximum individual risk next to piles.

The EPA estimate of lung cancer risk from radon decay products is based on studies of uranium and other heavy metal miners, is consistent with the most recent recommendations of the NAS BEIR Committee (1980), and is within 20 percent of the value recommended for use in a recent, exhaustive study conducted in Canada for their Atomic Energy Control Board (1982). We have noted our difficulties with the assumptions which underlie other estimates cited by commenters in our detailed responses to comments in the FEIS. We conclude the EPA value should be used in the absence of any convincing evidence that another value is more appropriate.

EPA used two regional populations for its risk estimates; the first population, identified as for a "remote" site, was hypothetical, and was taken from NRC's "Final Generic Environmental Impact Statement on Uranium Milling" (FGEIS). The second population, identified as for a "rural" site, is that for the Edgemont, S.D. site, and is based on 1970 census data. We assumed that a mix of six "rural" and 17 "remote" sites would properly represent the 23 sites modeled in the DEIS. We have just received the results of a 1983 population survey for all 52 mill tailings sites performed for us by Battelle Pacific Northwest Laboratories. This survey, which was limited to individuals within 5 km of the piles, shows that the total population at the 26 active sites was 2054 within 2 kilometers of all active tailings piles, and 14,737 within 5 kilometers.

We have re-evaluated the local and regional health risk based upon this re-survey of current populations within 5 km and 1970 census results for populations from 5 to 80 km of the 26 active sites. The re-evaluation show a small decrease in calculated local effects, and an increase of equal size in calculated regional effects. (Our estimates of risk to more distant populations, i.e., to the remainder of the United States, are unaffected.) These data indicate that our initial estimate of total health effects to populations is correct. (We note that we have assumed that there will be no increases of populations at these sites over the next 1000 years, a clearly nonconservative assumption.)

In summary, we do not believe the total health effects in the DEIS have been overestimated. The factor of about 1.16 due to a slightly different average pile area is likely to be negated by normal population increases (not accounted for in our estimates) within the first few decades of the lifetime of the hazard posed by these tailings. The estimate of maximum individual risk for a model pile is affected principally by our assumption for the equilibrium fraction for radon daughters, and should be reduced by about a factor of two. We believe this change is insufficient to warrant changing our basic conclusions regarding the risk from tailings.

2. Significance of Risk from Radon Emitted by Tailings Piles

Several commenters argued that EPA has not demonstrated that the risks associated with radon emissions from tailings are significant, and observed that much of the health impact attributed to tailings accrues to very large numbers of people at very low levels of individual risk. They suggested that the proper test of significance is to compare such risks with common hazards, such as the risk from the natural background radiation. For example, they would compare the 6 lung cancers per year that EPA estimates (see FEIS) could result from uncontrolled tailings piles after the year 2000 with: the 21,000 such cancers a commenter estimated as caused annually by background radiation; deaths from motor vehicle accidents (50,000 per year) and home accidents (25,000); tornadoes (130); etc. Based on such comparisons, these commenters concluded that the risks from radon emitted from tailings are not significant and that EPA's standard should not limit such emissions.

EPA believes these comparisons are misdirected and do not address a central purpose of the legislation that requires this rulemaking, which is to "* * * make every reasonable effort to * * * prevent or minimize radon diffusion into the environment * * * from * * * tailings." EPA recognizes that radiation background and other common hazards cause far greater total annual harm than anyone would reasonably estimate might occur from uncontrolled radon emissions from tailings. However, these other risks are not the subject of this rulemaking. Comparisons of the type suggested may be useful for setting priorities for efforts to reduce the variety of hazards to public health (to the extent that they are avoidable), but they are not useful for deciding the appropriate level of control for a specific source of hazard. That decision must be based upon the specifics peculiar to the hazard under consideration. The existence of other hazards does not, absent Congressional direction, justify EPA's delaying these standards until all other controllable hazards are addressed, or justify EPA's ignoring Congress' will that standards be set.

The fact that the health impact of tailings is in large part attributable to small radiation doses delivered to large numbers of people over long periods of time was recognized when UMTRCA was enacted. The then Chairman of the NRC testified as follows: "The health effects of this radon production are tiny as applied to any one generation, but the sum of these exposures can be made large by counting far into the future, large enough in fact to be the dominant radiation exposure from the nuclear fuel cycle. Whether it is meaningful to attach significance to radiation exposures thousands of years in the future, or conversely, whether it is justifiable to ignore them, are questions without easy answers. The most satisfactory approach is to require every reasonable effort to dispose of tailings in a way that minimizes radon diffusion into the atmosphere." (H.R. Rep. No. 1480, 95th Cong., 2nd Sess., Pt. II, p. 25.) We have concluded that maximum individual lifetime risk (estimated as 2 in 100) and the long-term cumulative impact on populations (potentially many tens of thousands of deaths over the long term) due to radon emissions from tailings are clearly significant enough to justify controls. As discussed in the FEIS, RIA, and a later section of this Preamble, our analysis shows that tailings can, at a reasonable cost, be disposed of in a manner that provides, among other benefits, greatly reduced radon emissions.

3. Standards Based on Current Populations

During the review of the standards for the inactive sites by certain Federal agencies, questions were raised regarding the appropriateness of the control standards for general application to all 24 inactive sites. Some reviewers suggested that less restrictive standards might be appropriate for sites that are in currently sparsely-populated areas. Other reviewers suggested that we consider a radon standard that applies at and beyond the fenced boundary of such a site, i.e., a standard that relies in part on dispersion and institutional maintenance of control over access. EPA requested public comments on these issues for the inactive sites (48 FR 605, January 5, 1983). These issues are most simply stated as: (1) Should the degree of radon control after disposal depend in part on the size of the current local population, and (2) Should implementation of the disposal standards be permitted to depend primarily or in part on maintenance of institutional control of access (e.g., by fences)? We also specifically requested comments on these issues in the April 29, 1983 notice of proposed rulemaking for active mills.

Most commenters who addressed the first of these issues opposed different standards at remote sites (although most industry comments favored less restrictive standards for *all* sites). Many raised the "equity" consideration, i.e., the fairness of protecting a few people less just because of where they live. Others commented that many of these sites are locations where people are unlikely to live, or, conversely, that the sizes of populations in the future are not predictable and cited examples of recent changes. Finally, commenters who addressed the issue of whether EPA is authorized to set different standards based on "remoteness" denied that the Agency has such authority.

In 1983 EPA counted the number of people living close to all the active and inactive mill sites. Of the 52 sites surveyed, only 7 had no people living within 5 kilometers (3 miles). Another 6 sites had 10 or fewer people living within 5 kilometers. Collectively, however, the mill sites have a normally distributed continuous range of local populations, and it is not possible to distinguish a special set of sites. The definition of a remote site is therefore difficult to achieve, unless it is done arbitrarily. In addition, demographers have concluded that it is not possible to determine that a population at a specific location will remain low in the future, if it is low now. Therefore, a choice of two different standards implies a need for institutional oversight of future population shifts and for having to upgrade the disposal at those sites that exceed some criterion of "remoteness." Presumably, the State or Federal custodian would be responsible, not the original owner.

The motivation for considering relaxed standards at "remote" sites is to reduce the cost of disposal. Our analysis shows that any potential cost saving from less restrictive standards at such sites is not commensurate with the loss of benefits. In a later section we report the costs for several relaxed radon standards. These results show, for the case of *no* radon emission limit (case C1) and with no provision for the added costs of institutional control through fencing, land-use control, and land acquisition (to avoid unacceptably high individual doses to nearby residents), and with no provision for increased costs to meet closure requirements under SWDA (discussed below), that 48 percent of the cost of disposal at the level required by these standards (case C3) would be potentially recoverable. We have examined the added costs required for institutional control and conclude that they may vary from about 10 to 50 percent of these potentially recoverable costs, depending mostly on the cost of land acquisition at specific sites. Costs for conformance to RCRA closure requirements for a cap under § 264.228(a)(2)(iii)(E) range from about 50 to 140 percent of these potentially recoverable costs, depending upon whether or not the pile has an impermeable liner under it or not. (This SWDA requirement was excepted under the proposed standards, on the basis that it would interfere with the moisture required for radon control. This basis would no longer exist in the absence of a radon limit.) Any savings through deletion of radon control would be achieved by forgoing approximately one-half of the annual benefit (the entire impact on nonregional national populations), a considerable degree of protection against misuse, and a significant part of the anticipated total term of effective protection from all hazards, due to the greatly reduced thickness of the cover. We have concluded, therefore, independent of other considerations, that when costs for institutional control and compliance with SWDA closure are added and the net saving is applied to only those sites that might be defined as "remote", the potential total cost saved is not significant enough in comparison to the benefits foregone to justify separate standards.

Finally, with regard to the Agency's legal authorization to establish a separate level of protection at remote sites by issuing two sets of standards, UMTRCA clearly contemplates that these standards be adequate for the long term and that they achieve the benefits of radon control. Regarding those objectives, we are aware of no site that is uninhabited and can also reasonably be assumed will remain uninhabited, nor are we aware of any scientific basis for concluding that there is no impact on national populations due to radon emissions from remote sites. We conclude, therefore, that relaxed standards for "remote" sites are not feasible on demographic grounds, are not defensible on legal grounds, and are not attractive, in any case, on the basis of cost-effectively achieving the various public health and environmental goals of this rulemaking.

4. Passive vs. Institutional Controls

As noted above, EPA also requested comments on whether a radon limit applied at the boundary ("fenceline") of the Government-owned property around a tailings pile, i.e., a "dispersion" standard, would be an appropriate form of standard for the sites with low nearby populations. (Such consideration could also apply to some more populated sites.) Such a dispersion standard could be satisfied largely by institutional methods, i.e., by acquiring and maintaining control over land. The proposed disposal standard, by comparison, would require generally more costly physical methods (such as applying thick earthen covers) that directly control the tailings and their emissions with minimal reliance on institutional methods (i.e., it is a "control" standard). EPA also requested comments on the adequacy of such a radon "fenceline" standard to meet the objectives of the UMTRCA.

'Comments on this issue ranged from strong support of primary reliance on passive stabilization for periods greater

than 1,000 years to protection for only a few decades with primary reliance on institutional controls. A majority of commenters recommended retaining primary reliance on passive control rather than on institutional control. Those that favored use of institutional control (principally of misuse and maximum individual exposure) argued for limiting public access through use of fences and administrative control of land use. Those opposed cited the lack of reliability of such control, especially through use of fences in remote areas of the western United States.

EPA considers that protection from the long-term hazards associated with radioactive waste should primarily rely on passive control methods. We note, in this regard, the intent of Congress as stated in the congressional report accompanying UMTRCA: "The committee believes that uranium mill tailings should be treated in accordance with the substantial hazard they will present until long after existing institutions can be expected to last in their present forms." In addition, as noted in the proceeding section, the costs of land acquisition to limit maximum individual exposures can easily negate a significant fraction of potential savings through use of thinner covers. However, institutional controls can play a useful secondary role in supplementing passive controls and in assuring during the early period of disposal, that passive controls are adequate to achieve their design objectives.

Section 202 of the UMTRCA requires the Federal Government or the States to acquire and retain control of these tailings disposal sites under licenses. The licensor is authorized to require performance of any maintenance, monitoring, and emergency measures that are needed to protect public health and safety. We believe that these institutional provisions are essential to support any project whose objective is as long-term as are these disposal operations, and for which we have as little experience. This does not mean we believe that primary reliance should be placed on institutional controls; rather, that institutional oversight is an essential backup to passive control. For example, as long as the Federal Government or the States exercise their ownership rights and other authorities regarding these sites, they should not be inappropriately used by people. In this regard, even with the disposal actions required by these standards it would not be safe to build habitable structures on the disposal sites. Federal or State ownership of the sites is assumed to preclude such inappropriate uses.

5. Control of Radon Releases During Milling Operations

The proposed rule anticipated that the regulatory agency apply the "as low as reasonably achievable" (ALARA) principle of Federal Radiation Protection Guidance in establishing management procedures and regulations to control radon from operating mills. This approach was proposed because EPA concluded that a numerical standard to control radon was inappropriate for application during operations. This is because practical methods for reducing radon emissions during operations of existing mills and piles vary in effectiveness with time; it is very difficult to measure, quantitatively, their efficacy; and different methods are appropriate for different sites. The primary means for controlling radon emissions from existing tailing piles during operations are to keep the tailings as wet as possibile or to use phased disposal.

Some commenters indicated that the provisions of the proposed rule were inadequate to assure that the public would be protected. They argued that EPA has the responsibility under both UMTRCA and the Clean Air Act to provide suitable health protection to all members of the public. They suggested that requiring certain work practices or tailings management practices would provide greater public health protection than the provisions of the proposed rule. For example, they note that "staged" or "phased" disposal of tailings and good water management practices could be effective and reasonable.

EPA will consider further the feasibility and practicality of providing greater assurance that radon releases will be minimized during milling operations than would the proposed rule. The Agency has not sufficiently analyzed work practice and tailings management techniques to determine whether they are suitable for this purpose and which alternatives are best. Therefore, the Agency will publish an Advance Notice of Proposed Rulemaking under the Clean Air Act for condideration of the control of radon emission from uranium tailings piles during the operational period of a uranium mill. The ANPR will enable the Agency to gather information on the feasibility, effectiveness, and cost of various alternatives that would control radon releases from operating mills. This will enable EPA to be better informed when judging whether standards are needed, and, if so, the most suitable requirements.

B. Disposal Standards

1. Design Requirements for Long-Term Protection

Comments on this issue were greatly divergent. Some commenters believed controls should be required to last for thousands of years while others thought a few decades would be adequate. Comments from experts in the fields of civil engineering and geomorphology were useful in resolving this issue.

Standard design practice for structures that, should they fail, could lead to loss of life or significant destruction of property is based on the likelihood that a sufficiently disruptive event (e.g., a flood or hurricane) might occur within a specified time. For example, a bridge may be designed to withstand all disruptive events that have more than 1 chance in 100 of occurring within, say, 50 years.

Commenters noted that rushing water caused by very high rainfall events might damage or destroy a tailings containment system that lies in its path (floods that merely cover or wet a pile are not as significant). Therefore, they suggested, the disposal method should be designed to withstand any such rainfall events that have more than a small likelihood of occurring during the period for which control is to be "reasonably assured." Expert commenters noted that floods of greater magnitude than a "1000-year flood," for example, as they are generally defined, have a high likelihood of occurring within 1000 years. Thus, in order to provide reasonable assurance that a pile will withstand all floods that have more than some small chance of occurring within 1000 years, the control system must be designed to withstand much rarer events, such as a "probable maximum flood." In practice, they suggested, adequately protecting piles for even a few hundred years requires designing control systems to withstand all events that are likely to occur within thousands of years. Furthermore, the maximum rainfall that might be expected to occur within thousands of years is very nearly the maximum possible rainfall. Therefore, in practice, the system would have to be designed for approximately the same (i.e., maximum) rainfall whether the control period is 200 years or 1000 years.

As discussed above, we believe protection for only a short period (a few decades) is inconsistent with the intent of Congress. Some commenters argued for periods longer than 1000 years. We believe that the specification of a design period of 1000 years will achieve the objectives of these commenters, while at the same time giving engineers who must carry out these standards a design criterion reasonable to assess. We note that commenters did not identify any specific design features that would flow from a greater than 1000-year criterion that would not already be required to satisfy a 1000-year requirement.

Based on these considerations we conclude that the time over which protection should be provided should be specified as proposed.

A closely related matter is the degree of assurance with which controls can be designed to meet the longevity requirement. Some failure modes can be well quantified (e.g., performance of dikes, etc.) and others may not be as well characterized (e.g., aging characteristics of rock used to stabilize slopes). We recognize that, in some cases, it may therefore be difficult to certify conformance in all respects to a 1000-year requirement for longevity of control. For this reason we have retained the flexibility of the proposed rule to certify for shorter periods (but in no case less than 200 years). We leave the matter of fully defining what constitutes "reasonable assurance" to the implementing governmental agencies, but expect that standard engineering (design) criteria will be used to limit the probability of failure over the required longevity period to a value consistent with other design situations where public health and safety are important concerns.

2. Radon Emission Limit

Quantitative estimates of health effects from tailings can reasonably be made for radon emissions and windblown particulates. Health effects from misuse of tailings and water contamination cannot be quantified because of the extremely high degree of uncertainty associated with the likelihood and extent to which misuse and contamination might occur and the consequent degree to which people will consequently be exposed to radiation and toxic substances. (For example, tailings used as fill in unoccupied areas would not result in direct human exposure. Using tailings as fill for residential buildings carries a high probability of very significantly elevating radiation exposure and risk. The degree to which people might be exposed to contaminants from tailings through waterborne pathways is subject to similarly high uncertainties.)

The likelihood of health effects from exposure to radon and its decay products is, considerably greater than from particulates, even when external radiation and food chain contributions are included in the estimates for particulates. Therefore, the only quantitative estimates of effects discussed are those for radon emissions. We believe, however, that effects from misuse or water contamination could be comparable to those from radon emissions if long-term protection is not afforded.

The primary concern of commenters who thought the proposed radon emission standard was too lax was the risk to nearby individuals. The estimated added lifetime risk of fatal lung cancer for someone living 600 meters from the center of a model pile is 1 in 1000 due to radon from a tailings pile emitting radon at the level of 20 pCi/m^2s, if the cover is designed to just achieve that emission level without employing additional control to provide reasonable assurance of achieving it for 1000 years.

Commenters who thought the proposed radon emission standard is too strict contended that the cost of compliance would be too high, in view of the small contribution radon from tailings makes to a population's total exposure to atmospheric radon. They also generally believed EPA had overestimated the health effects from radon. We have addressed this last concern in an earlier section of this notice.

Selecting a limit for radon emission from tailings involves four public health objectives, in addition to reducing health effects from radon released directly from the pile. These may all be achieved by using a thick earthen cover, which serves to inhibit misuse of tailings, to stabilize tailings against erosion and contamination of land and water, to minimize gamma exposure, and to avoid contamination of ground water from tailings. A radon emission limit of 20 pCi/m^2s or less would require use of a sufficiently thick earthen cover to achieve all of these objectives. A limit of 60 pCi/m^2s or greater could be satisfied in many cases by a cover too thin to effectively inhibit misuse. Such a cover would also permit higher individual risks (up to 3 in 10^3) and would leave 20 percent of the potential health impact on populations uncontrolled. Our analysis shows that a limit of 20 pCi/m^2s is also cost-effective for eliminating most (95%) health effects in regional and national populations from radon released directly from the pile. Such a limit would also reduce maximum individual risks to residents near tailings piles to less than one in 1000. We concluded that levels higher than 20 pCi/m^2s are not justified, based on the cost-effectiveness of reduction of cancer deaths in populations, the high maximum individual risks involved at higher levels, and the likelihood that control to a level of 20 pCi/m^2s is reasonably achievable.

The risk to people who live permanently very close to tailings piles can still be relatively high, up to 1 in 1000 for lifetime residency, for a limit of 20 pCi/m^2s. However, the practicability of providing more radon control by requiring design for lower levels of emission falls rapidly below 20 pCi/m^2s. We note that no pile has ever been protected by such a cover; that is, covers with defined levels of control and longevity are undemonstrated technology. The design of covers to meet a specific radon emission limit at these low levels must be based on measurements of properties of local covering materials and prediction of local parameters, such as soil and tailings moisture, over the long term. Because of uncertainties in measuring and predicting these parameters, the uncertainty of performance of soil covers increases rapidly as the stringency of the control required increases. Thus, in the case of lower levels, the primary issue becomes whether conformance to a design standard for such levels is practicably achievable. There is some field information available regarding the practicality of reduction of radon emissions to levels approaching background. Tests conducted at a pile in Grand Junction, Colorado, showed that test plots of 3-meter thick covers made from four different earthen combinations reduced radon emissions to values ranging from 1.0 + 1.1 to 18.3 + 25.2 pCi/m^2s. The efficiencies of these covers ranged from 88.8 percent to 99.7 percent. These results apply to the first two years after emplacement, and do not reflect performance after long-term moisture equilibrium is achieved (some moisture contents were still considerably elevated over prevailing levels). We believe results like these can generally be expected, because the radon control characteristics of earthen materials used for covers will vary from site to site. Three of the four covers studied satisfied 20 pCi/m^2s with a reasonable degree of certainty over the term of the test. The other cover (18.3 + 25.2 pCi/m^2s) was uncompacted and its poor performance can therefore be discounted. Exactly how much thicker these covers would need to be to reliably achieve a lower limit (e.g., 6 or 2 pCi/m^2s) is not known. Experts commented during hearings on the standards that, although covers can be designed to meet such levels as 20 pCi/m^2s, estimation models are not reliable at significantly lower emission levels.

VOL 48 ISS 196 OCT 7 1983 UMI

VOL 48 ISS 196 OCT 7 1983 UMI

We concluded that achieving conformance with a radon emission standard that is significantly below 20 pCi/m²s (6 or 2 pCi/m²s, for example) clearly would require designers to deal with unreasonably great uncertainty for this undemonstrated technology. That is particularly so because EPA is already requiring a margin of safety in calling for any control system to meet the designated emission level with reasonable assurance over 1000 years. Given the predictive uncertainties in designing to meet this standard, EPA judged that to force an accounting for a second set of predictive uncertainties by forcing the standard to very low nominal levels would be to exceed the limits of reasonably available technology.

The risk from radon emissions diminishes rapidly with distance from the tailings pile (declining by a factor of three for each doubling of the distance beyond a few hundred meters). There currently are only about 30 individuals living so near to active piles that they might be subject to nearly maximum annual post-disposal risks. We expect that the actual number of people who might experience near maximal lifetime risk will be smaller, since they would have to maintain lifetime residence in the land area immediately adjacent to a tailings piles. In sum, we believe that the probability of a substantial number of individuals actually incurring these maximum calculated risks is small.

We conclude that it is not reasonable to reduce the emission standard below 20 pCi/m²s because of: (1) The uncertainty associated with the feasibility of implementing a requirement for a significantly lower standard, (2) the small increase in total health benefits associated with such thicker covers, and (3) the limited circumstances in which the maximum risk to individuals might be sustained.

As noted above, the 20 pCi/m²s mission limit was selected to meet the stated objectives of reducing the likelihood of misuse, spreading due to erosion, and control of radon emissions after a thorough evaluation of the current existing information on the technical and economic aspects of alternative levels of control. EPA recognizes the limitations inherent in this information, since no pile has yet been disposed of. Better information may well become available within the next several years as DOE proceeds with the disposal program for inactive piles. Therefore, consistent with Section 275(b)(2) of UMTRCA, EPA intends to continue to monitor these efforts over the next several years and will propose revising these standards if subsequent technical and economic information shows modifications are warranted.

The standard requires that disposal be designed to provide "reasonable assurance" that radon emissions will not exceed 20 pCi/m²s (averaged over the disposal area) for 1000 years. Some commenters expressed the opinion that the meaning of this term was not clear. A key word in this requirement is "designed," since we do not intend compliance with a 1000-year requirement to be determined by monitoring. "Reasonable assurance" in the design of covers means the radon emission limit should be expected to be achieved, over the required term, with a degree of assurance commensurate with the "reasonable assurance" of longevity discussed in the preceding section. Thus, in designing the cover the uncertainties in attenuation characteristics of material used should be taken into account in a conservative manner. This will tend to increase the cover thickness required over that calculated from "best estimated" values, which would yield an approximately equal probability of achieving above or below the design level. An example of uncertainty to be considered is that in the long-term equilibrium value of moisture to be expected in the cover material (i.e., over 1000 years), even though the cover material may be sprayed with water when it is laid down and compacted, and layers of coarse materials introduced to inhibit capillary action. Such spraying and layers increase the moisture (and therefore attenuation) of the cover in the near term, but it is the long-term equilibrium moisture content which governs the performance of the cover over most of its useful life. Other factors include uncertainty in measured diffusion characteristics of the particular earthen materials used (for given moisture content), and in the long-term equilibrium moisture content of the tailings themselves. In summary, we intend that the design requirement for "reasonable assurance" should lead to thick durable covers that have a substantial likelihood of maintaining radon emissions below the 20 pCi/m²s limit for 1000 years.

A related matter is implementation of the specification that the standard for radon emission applies to the "average" value of the release rate. This averaging is to be carried out in two ways. First, it applies over the spatial extent of any disposal area. Thus, anticipated variations due to different concentrations of radium in different parts of the pile, or minor cracks or the effects of burrowing animals and plant roots are to be averaged over, since it is the net radon from the entire tailings pile that is of significance to health. Second, the averaging is specified to apply over a time period of at least one year. Thus, daily and seasonal variations in radon emission are to be averaged over, since these are also not of significance to public health. Finally, this averaging may extend over longer periods to accommodate normal fluctuations in soil moisture content due to short-term climatic variations. Thus, the lowest recorded values of soil moisture content should not be used; rather, the average values are appropriate. Such averages should not, however, extend to times as long as the normal human lifespan, since that could result in a significant alteration in the level of protection of public health. Similarly, averaging performance over the entire period of longevity of the cover is not within the meaning of the standard.

3. Relationship to the Clean Air Act Emission Standard Requirements

The Clean Air Act also requires that EPA provide public health protection from air emissions from tailings piles. Further, EPA is publishing an ANPR to consider additional control of radon emissions during the operational phase of mills. This discussion relates to the disposal phase.

The Clean Air Act requires that the Administrator establish a standard at the level which in his judgment provides an ample margin of safety to protect the public health from hazardous air pollutants. The Agency published proposed rules for radionuclides as National Emission Standards for Hazardous Air Pollutants (NESHAPS) on April 6, 1983 (48 FR 15076). The proposed rule addressed all of the sources of emissions of radionuclides that EPA had identified. The proposed rule either provided standards for various source categories or proposed not to regulate them and provided reasons for that decision.

In the proposed NESHAPS for radionuclides EPA did not propose additional standards for uranium mill tailings, because the Agency believed the EPA standards to be established under UMTRCA would provide the same degree of protection as required by Section 112 of the Clean Air Act. The Agency explained that Congress did not describe the degree of protection that provides an ample margin of safety, nor did it describe what factors the Administrator should consider in making judgments on the appropriate standard. The Agency indicated that it did not believe that it was reasonable to establish standards for nonthreshold pollutants like radionuclides at levels that preclude any possible risk. EPA concluded that it should follow an approach that would allow it to consider various factors that influence society's health and well being. Therefore, EPA chose to consider the following factors in deciding whether standards are needed and the appropriate level of such standards:

1. The radiation dose and risk for nearby individuals;
2. The cumulative radiation dose and health impacts in populations;
3. The potential for radiation emissions and risk to increase in the future;
4. The availability, practicality, and cost of control technology to reduce emissions, and
5. The effect of current standards under the Clean Air Act or other applicable authorities.

The first three factors are used to assess the likely impact of emissions on the health of individuals and large populations and to estimate the potential for significant emissions in the future. The fourth factor enables EPA to assess whether state-of-the-art control technologies are currently in use and whether there are any practical means of reducing emissions through control technology or other control strategies. The last factor allows EPA to assess whether regulations or standards that have been established to control other pollutants are also minimizing releases of radionuclides.

The dose and risk for the individuals nearest a site are often the primary considerations when evaluating the need to control emissions of radionuclides. Controlling maximum individual dose assures that people living nearest a source are not subjected to unreasonably high risk. Further, protecting individuals often provides an adequate level of protection to populations living further away from the source.

EPA believes that cumulative dose and health impacts in populations are also an important factor. The cumulative radiation dose and health impact are determined by adding together all of the individual doses and risks that everyone receives from an emission source. This factor can sometimes be more important than the maximum individual risk in deciding whether controls are needed, particularly if an extremely large population may be exposed at low levels. The aggregate dose and population impact can be of such magnitude that it would be reasonable to require a reduction in the total impact even though, if the maximum individual dose were considered alone, one might conclude that no further controls are needed. For mill tailings, although population doses and health impacts were an important part of our consideration, doses to the most exposed individual were equally important.

In addition, EPA considers the potential for emissions and risk to increase in the future, even though the current projected maximum individual and population risks may be very low. In this case, we do not anticipate significant future increases in the size of this industry, although populations around these sites may increase, as the national population increases.

The availability and practicality of control technology are important in judging how much control of emissions to require. EPA believes that the standard should be established at a level that will, at least, require use of best available technology. Additional actions, such as forcing the use of undemonstrated technology, closure of a facility, or other extreme measures may be considered if significant emissions remain after best available technology is in place or if there are significant emissions and there is no applicable demonstrated control technology. EPA defines best available demonstrated technology as that which, in the judgment of the Administrator, is the most advanced level of controls adequately demonstrated, considering economic, energy, and environmental impacts. We concluded that requiring the use of undemonstrated technology was appropriate for mill tailings, since their emissions are significant and there is no applicable demonstrated control technology.

Finally, EPA believes it is reasonable to consider whether other EPA standards are achieving approximately the same goal as the Clean Air Act, i.e., protecting public health with an ample margin of safety. In cases where other standards are providing comparable control, EPA believes it is appropriate not to propose redundant standards under the Clean Air Act. There would be no benefits because the public health would already be protected with an ample margin of safety, but there could be unnecessary costs associated with implementing an additional standard.

The Clean Air Act specifies that the Administrator promulgate emissions standards to protect the public health. The Administrator is also authorized to promulgate design, equipment, work practice, or operational standards, or a combination, if it is not feasible to prescribe or enforce emission standards. The Administrator can conclude that "it is not feasible" if a hazardous pollutant cannot be emitted through a conveyance or the use of the conveyance would be contrary to laws, or if measurement methodologies are not practicable due to technological or economic limitations. As noted above, we will consider the need for such standards for the operational phase of mills.

With respect to these disposal standards, EPA has concluded that design to provide reasonable assurance that the release of radon will not exceed 20 pCi/m²s for a period of 1000 years is appropriate. The level of the standard was selected after considering potential impacts both on individuals and large population groups. We consider that the uncertainties involved in design to various levels and durations of control are important factors. Potential increases in the number of mill tailings piles due to future needs for uranium were also considered. In addition, the cost and socio-economic impact of the standard and other alternatives were considered. In light of all of these considerations, EPA judges it appropriate that the standard require a level of control not heretofore applied, but for which the design uncertainties that must be accommodated are within the range of practical feasibility.

It would be desirable to reduce potential maximum individual risk further. However, the uncertainties associated with attempting designs to achieve assurance of conformance to a significantly lower standard through use of thicker covers are, we believe, unreasonably great, and would impose large and unpredictable costs. Somewhat thicker covers than bare (or average) compliance with a 20 pCi/m²s standard would require will, moreover, be called for by the requirement to provide reasonable assurance of compliance. (Other types of control are even more costly and do not provide the comprehensive protection thick covers provide.) Consequently, we have concluded it would be unreasonable to impose a standard below the 20 pCi/m²s required by this rule.

The Agency believes that the standards for the disposal of uranium mill tailings established in this rule provide protection of public health comparable to that which might be established under the Clean Air Act, because the considerations on which these standards are based are comparable to those the Agency uses in establishing standards under Section 112 of the Clean Air Act. However, the final determination will be made in the

Section 112 rulemaking on radionuclides.

4. Radon Concentration vs. Emission Rate Limits

A radon emission rate limit was proposed as a design standard for the disposal of tailings. Some commenters suggested that we should instead establish a concentration limit for radon in air at locations where people would be exposed. They expressed the view that EPA should establish standards based on health risk alone and that a concentration limit applied where people can live is therefore more suitable.

A design limit for emissions addresses a primary goal of these standards, the placement of a thick, durable earthen cover over the tailings, because the limit relates directly to the thickness of the cover and requires direct control of radon emissions. It also is in a form which conforms to the requirements of the Clean Air Act, which specifies direct control of emissions from a source. Under the suggested air concentration limit, transport calculations would be needed to estimate emission rates for use in determining cover thicknesses. We believe no purpose is served by introducing the uncertainty of this extra (transport) variable into the calculations for cover thickness. In addition, the thickness of the cover required to satisfy such a standard could be arbitrarily reduced (to zero in many cases) by use of fences to restrict access. Such a situation would be unsatisfactory because it would: (1) Require permanent (for 1000 years) control of access by institutional means, and (2) would not require a cover sufficient to deter misuse. In summary, if such a standard is comparable to an emission limit, it is needlessly complex, due to the introduction of transport calculations. If not, it affords less protection by permitting dispersion instead of control.

5. Cleanup Standards

Commenters expressed confusion regarding the purpose and applicability of the proposed § 192.32(b)(2). We intended this section to distinguish disposal areas for tailings piles from other land areas on disposal and/or licensed sites that are sufficiently uncontaminated by tailings as to not require application of the disposal standards of § 192.32(a). The definition of "disposal area" and the language of § 192.32(b) have been revised to clarify these objectives.

Some commenters objected to the proposed definition. On the assumption that it was a cleanup standard they argued it is not necessary to clean up land which will be converted to government ownership upon closure, since a government agency could control use of the land. Also, they argued that even if the government allowed use of the land, including residential use, "no reliable evidence exists to indicate that levels exceeding the proposed cleanup standard would necessarily convert to indoor radon daughter exposures of sufficient magnitude to constitute significant health risks."

EPA believes there are good reasons not to leave contaminated land (other than areas meeting the disposal standards) at former milling sites. First, the contamination may spread further, and thereby necessitate cleanup of adjacent land or properties. High indoor radon levels clearly can result if houses are built on contaminated land. Second, there are significant radiation risks (identified in the FEIS and DEIS) from pathways other than inhalation of indoor radon decay products, including external (gamma) radiation and inhalation of windblown particulates. Finally, the government agency accepting ownership of contaminated land would have to impose additional control and, possibly, incur the costs to maintain such control. EPA has decided not to change the proposed levels which define on-site land that need not satisfy the standards applicable to disposal areas.

Finally, some commenters suggested that we issue standards for the cleanup of any off-site land and buildings that may contain tailings from licensed mills. There was an implication in some comments that establishing the responsibility of any party to perform remedial actions for such sites could be affected by whether or not EPA had issued cleanup standards. EPA has issued cleanup standards (40 CFR Part 192, Subpart B) for the Federal cleanup program for off-site tailings from 24 inactive processing sites that was established under Title I of UMTRCA. Sites for which a license for uranium or thorium production was in effect on or after January 1, 1978, are excluded from coverage under Title I. We note, however, that the standards (40 CFR Part 192, Subpart B) we have already issued for the Title I program would be suitable for application to off-site contamination from active mills.

6. Wet Sites vs. Dry (Arid) Sites

Several commenters from Virginia and Illinois expressed concern regarding the applicability of the standards to wet sites, i.e., locations where annual average precipitation exceeds annual average evapotranspiration. EPA stated in the **Federal Register** notice accompanying the proposed standards that if uranium mining and milling is conducted in wet regions, the adequacy and appropriateness of the standards may have to be reviewed, particularly the water protection requirements. Based on this statement the commenters were concerned that EPA intended to apply less stringent standards for tailings control at wet sites.

Our remarks concerning wet sites in the preamble for the proposed standards were intended only to acknowledge that all current U.S. uranium mills are located in arid and semi-arid areas, and that we have less experience with many of the control measures needed to comply with the standards under wet than under dry conditions.

We have modified the final standards to require environmental and health protection in all regions of the United States. EPA developed the basic ground water protection provisions in these standards for national application to hazardous waste sites. The New Source Performance Standards, 40 CFR 440.34, protect surface water by prohibiting discharges from new mills except for the amount by which precipitation may exceed evapotranspiration. Any discharged water must satisfy concentration standards corresponding to use of the best available demonstrated treatment technology. We have modified our proposal to not apply the requirements of 40 CFR 264.228 that are referenced by 40 CFR 264.221 ("Design and Operating Requirements") in order to avoid the post-closure "bathtub" effect that could otherwise occur in wet locations. For mills locationed in regions of net precipitation the final standard applies 40 CFR 264.228(a)(2)(iii)(E), which requires the closure cover to be less permeable than any liner beneath the tailings so the pile will not fill with water.

We believe these and the other provisions of the final standards provide adequate protection for wet and dry areas, considering differences in both net precipitation and population density.

C. Ground Water Standards

1. Summary of the Proposed Standards

Consistent with the standards EPA issued under the SWDA for hazardous wastes (47 FR 32274–388, July 26, 1982) the standard for tailings piles has two parts: (1) A "primary" standard that requires use of a liner designed to prevent migration of hazardous substances out of the impoundment, and (2) a "secondary" ground water protection standard requiring, in effect, that any hazardous constituents that

leak from the waste not be allowed to degrade ground water. The primary standard applies to new portions of new or existing waste depositories. The secondary standard applies to new and existing portions, the point of compliance being at the edge of the waste impoundment. The specific hazardous substances and concentrations (i.e., background levels) that define noncompliance with the secondary standard at each site will be established for uranium mill tailings by NRC and Agreement States. The SWDA rules, however, permit alternate concentration limits to be established when they will not pose " * * * a substantial present or potential hazard to human health or the environment" as long as the alternate concentration limit is not exceeded. The rule also allow "hazardous constituents" to be exempted from coverage by the permit based on the same criterion. EPA determines the alternate concentration standard or exemption under the SWDA; EPA's concurrence would be required under the proposed standards for tailings.

EPA recognized in proposing these standards that UMTRCA continues the dual regulatory system for uranium fuel cycle facilities under which EPA sets health and environmental standards and NRC establishes implementing technical, engineering, and management regulations. Under the SWDA, EPA performs all such regulatory functions for chemical hazardous wastes. UMTRCA promotes uniform Federal regulation of wastes, however, by requireing NRC's regulations for these wastes (i.e., uranium and thorium mill tailings) to be "comparable" to requirements EPA establishes for similar hazards under the SWDA.

2. The Primary Standard

The primary standard, 40 CFR 264.221, can usually be satisfied only be using liner materials (such as plastics) that can retain all wastes. Exemptions permitting use of other liner materials (such as clay) that may release water or small quantities of other substances or, in some cases, permitting no liner may be granted only if migration of hazardous constituents into the ground water or surface water would be prevented indefinitely.

Some commenters stated that no liner technology is available which would achieve the goal of the primary standard, i.e., preventing waste from entering the ground or water. They stated that synthetic liners would tear under the strains of tailings and heavy equipment, or that they could not reliably be properly installed in such large impoundments. Other commenters noted that thicker plastic liners than that have been conventional or double liners would be more successful. A number of commenters argued that clay liners may have important advantages over plastics, but questioned whether clay liners could satisfy the conditions for an exemption.

The rulemaking record does not establish that either clay or plastic liners have unequivocal advantages or disadvantages. EPA considered these technologies when it developed the SWDA liner requirement and decided to require a liner that is capable, as a matter of engineering, of preventing migration of waste into the ground and water. The fact that failures may occur did not justify establishing a less protective standard. Recognizing that such liners may sometimes fail, EPA also issued the secondary standard to limit the consequences of such failures. UMTRCA requires standards for tailings to be consistent with the standards EPA established under SWDA. We have concluded that commenters did not establish that conditions at tailings impoundments are sufficiently different from conditions EPA considered in developing the SWDA standard to justify departures from that standard.

Under these standards, all new waste storage areas (whether new waste facilities or expansions of existing piles) are subject to the primary standard—the liner requirement. If new wastes are added to an existing pile, however, the pile must comply with the secondary standard—the hazardous constituent concentration standards for health and environmental protection. Whether for a new or existing pile, if the secondary standards are found not to be satisfied and subsequent corrective actions fail to achieve compliance in a reasonable time, the operator must cease depositing waste on that pile.

3. The Secondary Standard and the Complementary Roles of EPA and NRC

Commenters correctly noted that virtually all existing tailings piles have contaminated ground water beyond the edge of their impoundments. The reason is that many of these piles were constructed without liners and before NRC increased regulatory requirements in the late 1970's. NRC's recent regulatory practice has been to require remedial actions on a cost/benefit basis when underground contaminant plumes threaten to degrade or have already degraded the potential usefulness of offsite water.

Many commenters, including NRC, argued that the existing practices for tailings piles sufficiently protect health and the environment. They noted that under the proposed standard virtually all existing mill operations would have to either request exemptions and alternate standards and/or begin remedial actions. Commenters stated that regulating by exceptions is inappropriate. NRC and others further argued that an EPA concurrence role for exemptions and alternative standards that would be invoked at virtually all existing mills was inconsistent with UMTRCA's foreclosure of any EPA permitting for tailings under UMTRCA or SWDA.

We have made modifications of the rule to both improve its administration and clarify its objectives.

EPA considered a wide range of alternatives before adopting the secondary standard, including a policy similar to NRC's. When EPA issued the SWDA rules, it recognized that many existing hazardous waste sites had operated for many years without liners and would not immediately satisfy the secondary standard. EPA created the opportunity for exemptions and alternative concentration standards to avoid remedial actions where such exceptions would "not pose a substantial present or potential hazard." In establishing such exemptions or alternative standards, the SWDA rules require EPA to consider specified fate-related and health and environment-related factors (see 40 CFR 264.93(b) and 264.94(b)). "Fate" refers to the destiny of contaminants released from the waste under site-specific hydrogeochemical conditions.

EPA agrees that administrative burdens related to the dual regulatory system under UMTRCA should be minimized. We have concluded that it is appropriate under UMTRCA that the regulatory agencies (NRC and Agreement States) perform or approve analyses of fate, because this involves primarily technical and site-specific judgments. EPA does not believe, however, that it can or should delegate its responsibility for setting health and environmental protection standards. This was the reason for proposing to require EPA's concurrence with exemptions and alternative concentration standards recommended by regulatory agencies for site-specific licenses. Therefore, in determining situations requiring concurrence, EPA will consider the health and environment-related factors in §§ 264.93(b) and 264.94(b).

Administrative burdens can be further reduced by permitting the regulatory agency to exercise discretion, pursuant to the requirements of 40 CFR 264.94(b),

for establishing alternate concentration limits, as long as any contamination permitted will remain close to the pile and is within the boundaries of the licensed site. Such situations can be identified solely through analysis of fate, and we have decided not to require concurrence in such cases. This avoids the dual administrative process for alternative concentration standards under conditions where they certainly would be requested and granted. We believe this is appropriate. The contamination would be very limited in extent and concentration, can be expected to eventually dissipate after the site is closed in accordance with our closure standard, and these sites will be under effective government jurisdiction during this period. We have chosen 500 meters as the maximum distance for the purposes of this section of the rule, because it limits contamination to a small area, and, considering the size of disposal areas, will provide an adequate margin of distance to implement corrective action programs if they are required to prevent offsite contamination.

The revised standard for existing piles should be implemented in a manner consistent with the following scenario. Monitoring wells should be established at the edge of the tailings at the compliance point. This monitoring location is unique in providing the earliest practical notice of contaminants migrating from the impoundment. The regulatory agency should determine through further monitoring and fate analysis whether hazardous constituent levels now and in the future will satisfy the secondary standard within 500 meters of any closer site boundary, what corrective actions are appropriate to correct any on-site contamination, and, if some contamination is found to be not practicable to eliminate, the alternate concentration limit at the edge of the tailings to indicate the minimum practicable on-site contamination. If environmental contamination is a realistic possibility (or fact) beyond 500 meters (or the site boundary), remedial actions must be taken, or alternative concentration standards (with EPA concurrence) are required.

Unlike EPA's role in SWDA, EPA's role for controlling hazardous materials from uranium tailings under UMTRCA is limited to setting standards and does not include an implementing responsibility. That responsibility is vested in the NRC and the States as the licensing agencies under Title II of UMTRCA (Section 84a(3)) and will be carried out through regulations set by the NRC, with the concurrence of the Administrator, upon promulgation of these standards by EPA.

Many of the factors that must be considered by NRC in carrying out its responsibilities for enforcing EPA's standards are discussed in the pertinent section of the notice proposing these standards (48 FR 19522–5). For convenience, we repeat here the listing of sections of the SWDA's regulations which relate to the separate EPA and NRC responsibilities. EPA's responsibilities to establish standards under Section 206 of UMTRCA are carried out through adoption of all or part of the following sections of the SWDA regulations:

i. Subpart F:

40 CFR 264.92 Ground water protection standard

40 CFR 264.93 Hazardous constituents

40 CFR 264.94 Concentration limits

(These three sections are modified and adopted as § 192.32[a][2])

40 CFR 264.100 Corrective action program

(This section is modified and adopted as § 192.33)

ii. Subpart G:

40 CFR 264.111 Closure performance standard

(This section is adopted as part of § 192.32(b)(1))

iii. Subpart K:

40 CFR 264.221 Design and operating requirements for surface impoundments

(This section is modified and adopted as § 192.32(a)(1))

NRC's responsibilities under UMTRCA are to implement EPA's standards and to "* * * insure that the management of any byproduct material * * * is carried out in such a manner as * * * conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the SWDA, as amended." EPA will insure that NRC's regulations satisfy these admonitions through its concurrence role. Relevant SWDA regulations are those embedded in Subparts A (except Section 264.3), B, C, D, E, F, G, H, and K. Examples of areas which NRC must address in discharging these responsibilities involve functions under the six sections listed immediately above which are incorporated into these EPA standards, and the following sections of the SWDA regulations:

i. Subpart F:

40 CFR 264.91 Reequired programs

40 CFR 264.95 Point of compliance

40 CFR 264.96 Compliance period

40 CFR 264.97 General ground water monitoring requirements

40 CFR 264.98 Detection monitoring program

40 CFR 264.99 Compliance monitoring program

ii. Subpart G:

40 CFR 264.117 Post-closure care and use of property

iii. Subpart K:

40 CFR 264.226 Monitoring and inspection (of impoundment liners), as applicable

40 CFR 264.228 Closure and postclosure care, as applicable.

There are several of these SWDA regulations that specify monitoring after closure of an impoundment. Monitoring is a compliance activity conducted to assure that health and environmental standards are being met. The regulatory agency is responsible for establishing such requirements, including post-closure monitoring consistent with the SWDA regulations. The period over which post-closure monitoring is normally required under SWDA is 30 years. The regulatory agency should recognize, however, that monitoring of ground water for shorter or longer periods may be needed for the specific sites where tailings are located and, when appropriate, change this requirement.

A difficult consideration regarding the closure of a tailings impoundment is deciding when disposal must take place. Several factors must be evaluated in this regard, including: (1) The likelihood that a mill will resume operations; (2) the specific condition of the tailings impoundment, such as the fraction of design life remaining, and environmental contamination problems, such as windblown tailings and the likelihood that significant quantities of tailings might be spread by flooding; and (3) the cost of maintaining releases from the inactive pile in conformance with the regulations which apply to operating mills prior to disposal (including maintaining radon emissions at ALARA levels). Evaluating these factors may be difficult and complex. However, although an adequate drying-out period makes possible long-term isolation of the tailings and stabilization of the piles, radon emissions will be greater during this period than before or after disposal. For this reason the regulatory agency should require, once a pile is allowed to begin to dry out, that disposal proceeds in an expeditious fashion, and that new liquids are not introduced to the pile so that a new drying-out period will be incurred.

The period required for the tailings to dry out is highly dependent on local meteorology. This precludes establishing a single fixed time for disposal of the tailings. We have concluded that the regulatory agency should exercise the responsibility of determining when disposal should occur, by site-specifically judging the advantages and detriments associated with all pertinent factors. This responsibility is governed by the need to conform to regulations established to satisfy the SWDA, by 40 CFR Part 190, and by the ALARA requirement on radon emissions.

NRC's closure regulations must be comparable, to the maximum extent practicable, to requirements under the SWDA, wherein short closure periods (90 and 180 days) are specified. Drying out of piles will take much longer. However, disposal should occur promptly when piles are allowed to dry out. In addition, some of the older mill sites already contain essentially completed (filled) tailings piles. The regulatory agency should promptly identify and require disposal of such tailings.

EPA and NRC are coordinating their efforts to insure health and environmental protection from uranium byproduct materials. In particular, we are working closely with the NRC to assure that NRC's general requirements for ground water protection will be comparable, to the maximum extent practicable, to EPA's requirements under the SWDA for similar hazardous materials.

4. Timing of Corrective Actions

The proposed standard requires corrective actions for ground water to be initiated within one year after a noncompliance determination is made. Commenters expressed concern that it may take longer than one year to devise and implement an effective corrective action, for both technical and administrative reasons. Based on these considerations, EPA has revised the time limit for implementation of corrective actions to eighteen (18) months. We also note that § 264.99 of SWDA regulations require submission of corrective action plan within 180 days. This provision remains unaffected by the above revision.

Once corrective actions have begun, the regulatory agency should evaluate their effectiveness and determine whether to continue, alter, or discontinue the actions. Because corrective actions are very site-specific such determinations cannot be made under the same uniform, pre-established schedule for all sites. It is the regulatory agency's responsibility, however, to assure that necessary decisions are rendered in a timely fashion. Acceptable plans for corrective actions should offer a high likelihood of achieving compliance with the standards. Furthermore, corrective actions which, once begun, show inadequate promise of achieving compliance should result in the regulatory agency's promptly disallowing the addition of new tailings to a noncomplying tailings pile.

5. Nonhazardous Materials

Comments were received on two matters regarding the contamination of ground water by nonhazardous materials. (They include chlorides, sulfates, manganese, and total dissolved solids, amoung others.) At high concentrations, these materials can make water unfit for use for other than health related reasons.

One view of these materials held that several of them are more mobile than hazardous materials. Thus, they precede the hazardous material in contaminating ground water. Ground water monitoring for these materials allows the prediction of future ground water contamination by hazardous materials. This detection scheme might therefore provide an early warning of ground water contamination and allow early corrective actions to be taken, thereby effectively preventing ground contamination by hazardous materials.

EPA agrees with this comment. Analyzing water samples for the substances from tailings that are expected to be most mobile in a given ground water environment is a very useful feature of site-specific monitoring requirements. We note that § 264.98 already contains such a requirement and that the implementing regulatory agencies may be expected to establish such (or comparable) requirements.

A second view held that much of the ground water in the Western States is already contaminated with nonhazardous materials to an extent that it is unsuitable for use. These are primarily shallow aquifers (or uppermost aquifers) which would be the first to be contaminated by tailings materials. Since these ground waters are already contaminated, the argument goes, there is no need to prevent additional contamination.

This comment would require changing the ground water protection policy EPA has established for hazardous wastes under the SWDA rules. UMTRCA requires standards for tailings to be consistent with the SWDA standards. EPA has already considered the views expressed in these comments when it established its policy under the SWDA (47 FR at 32286, July 26, 1962). We do not think this rulemaking for byproduct materials is an appropriate forum in which to reconsider EPA's policies for hazardous wastes.

6. Neutralization of Tailings

Some commenters recommended that EPA require neutralization of tailings as a method to protect ground water. Neutralization is chemical treatment that would make the tailings neither acid nor alkaline. When tailings are neutralized many hazardous constituents are taken out of solution and thereby are less prone to move through the earth and into ground water.

An EPA study of tailings neutralization in 1980, discussed in the FEIS, identified several issues regarding neutralization. First, some of the hazardous constituents in tailings form complex compounds that remain in solution over wide ranges of acidity and alkalinity. Selenium, arsenic, and molybdenum—all constituents of tailings—are particularly troublesome in this regard. Adequate control would require careful operation of the neutralization process. Second, the costs of neutralizing the tailings are significant, about the same as installation of a liner. Most of the cost is due to the need for a sludge storage lagoon. Finally, neutralization would not preclude the need for a liner.

The structure of regulation established by UMTRCA consists of generally applicable environmental standards established by EPA and regulations to implement these by NRC. Requirements for specific control methods, such as neutralization, are left to the implementing agency, to be used, as required, to ensure that EPA's general standards are satisfied. In view of the above, EPA has concluded that a standard requiring neutralization of tailings is inappropriate.

D. Procedural Issues

1. Molybdenum and Uranium Improperly Listed Under SWDA Requirements

Comments were received stating EPA improperly proposed listing molybdenum and uranium as hazardous constituents, because SWDA listing procedures were not followed.

EPA listed molybdenum and uranium as hazardous constituents only for purposes of controlling uranium and thorium byproduct materials. EPA does not intend in this rulemaking to add molybdenum and uranium to the SWDA list of hazardous constituents, 40 CFR part 261, Appendix VIII. Therefore, the

VOL 48 ISS 196 OCT 7 1983 UMI

procedure we followed is proper. Clarification of this matter has been added to § 192.32(a)(2) of the final standard.

2. Inclusion of Thorium in the Standards

Several commenters pointed out that the DEIS contained no background supporting information for the thorium standards (Subpart E) and recommended deleting the thorium standards from this rule. Commenters also stated that there are significant differences in the physical and chemical characteristics and the radiological risk between uranium and thorium. They concluded, therfore, the EPA should not substitute the same requirements for thorium as for uranium, as was proposed.

The FEIS contains appropriate discussions of thorium and a review of the implications of the radiological differences between thorium and uranium for the level of protection provided, the cost of control, and the feasibility of implementation of these standards. These effects are sufficiently small for EPA to conclude that the thorium standards should be promulgated as proposed.

IV. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. We have not classified this rule as major, since it will not cause significantly large incremental costs above those which must be incurred in the absence of these regulations. We have prepared a Regulatory Impact Analysis (RIA), however, since there are wide variations in views on the extent of needed environmental controls in the uranium industry.

A. Benefit-Cost Analysis

The RIA examines the benefits and costs of selected alternative disposal standards, for both existing and new tailings piles. As discussed earlier, most of the benefits of tailings disposal cannot be quantified. The benefit we are best able to estimate is the number of lung cancer deaths avoided by controlling the radon emanation from tailings piles. Since the other benefits of disposal—prevention of misuse, ground water protection and prevention of the surface spread of tailings—cannot be quantified (let alone monetized), we could not make a completely numerical determination, within the traditional benefit-cost analysis framework.

We first performed a partial benefit-cost analysis of alternative disposal standards by relating the disposal costs for each alternative to the health effect estimates for direct radon emissions alone. Although this analysis relates only one category of benefit to the entire cost of disposal, it provides useful results to the extent that these benefits are found to be greater than the total cost of control. Second, we performed a cost-effectiveness analysis of alternative standards which assigns different sets of arbitrary weights to the entire range of benefits of tailings disposal. To perform this analysis, we also developed an index which quantifies the relative effectiveness of the disposal methods in providing designated types of control which correspond to the benefit categories. The cost-effectiveness analysis does not address whether the cost increases of tighter controls are worth incurring. Rather, by examining the sensitivity of the results to different choices of weighting schemes for the various benefits, in addition to identifying at what level additional gains in effectiveness start becoming increasingly more expensive, it points out to what degree the choice of standards is sensitive to the relative importance assigned to different types of benefits. Based in part on these analyses, we have made a qualitative judgment that the societal benefits of the standards outweigh the societal costs, considering the long-term continuing train of benefits to society from isolating these hazardous materials from man and the environment.

A range of alternatives was evaluated for protection of public health and the environment. These alternatives included a range of control methods from no control to high levels of control and are summarized below. They do not include different levels of ground water protection, since those requirements must be consistent with standards already established under the SWDA. However, the length of time ground water is expected to be protected is indicated in the assessment of benefits.

Brief descriptions of each alternative follow:

Alternative A. This is the "no standards" case and represents the reference case representing conditions if nothing is done. The piles would remain hazardous for a long time, taking about 265,000 years for the radioactivity to decay to 10 percent of current levels. The radon emission rate is estimated to be 400 pCi/m²s from a typical pile. The background rate for typical soils is about 1 pCi/m²s. The concentration of some toxic chemicals in the tailings is hundreds of times background levels in ordinary soils, so that the potential for contaminating water and land is present and continues indefinitely.

Alternative B. These are "institutional care" cases and represent situations in which maintenance is required to assure the standard is satisfied. B1 specifies no radon emission limit, but requires control of wind-blown tailings and gamma radiation. B2 specifies radon control limits of 60 pCi/m²s and B3 specifies 20 pCi/m²s; both require control of wind-blown tailings and gamma radiation.

Alternative C. These are "long-term passive control" cases and represent situations in which design is for long-term protection using engineered, passive methods requiring no continued maintenance. The radon emission limits examined are:

C1 none
C2 60 pCi/m²s
C3 20 pCi/m²s
C4 6 pCi/m²s
C5 2 pCi/m²s

Disposal methods would be designed to be effective for 1000 years in this case, in addition to providing control of wind-blown tailings and gamma radiation.

Alternative D. These cases assume staged disposal. They do not require continued maintenance and achieve control similar to Alternative C, plus improved control of radon during operations at new tailings piles. The radon emission limits examined are:

D2 60 pCi/m²s
D3 20 pCi/m²s
D4 6 pCi/m²s
D5 2 pCi/m²s

Disposal methods would be designed to be effective for 1000 years in this case, in addition to controlling wind-blown tailings and gamma radiation. Further, additional control of radon is achieved during the operational period at new tailings piles through use of staged disposal.

The costs and the benefits for these alternatives are listed in the accompanying tables. We examined the cost per death avoided from radon emissions for alternative control levels from several viewpoints. This range of viewpoints included the length of time over which health effects should be related to costs and whether nationwide population effects should be included with regional population effects in making benefit-cost comparisons. We conclude that the incremental cost per radon death avoided at a 20 pCi/m²s emission limit is a reasonable expenditure under all scenarios. The range of incremental costs per death avoided at this control level is from $130,000 (nationwide health effects estimated for 1000 years) to $2.5 million (regional health effects estimated for only 100 years). For the next, more stringent, level of control, 6 pCi/m²s, the incremental costs are also higher: $630,000 to $12 million per radon death avoided. These costs are more uncertain and more likely to have been underestimated. For the next, less stringent, level of control, 60 pCi/m²s, the incremental costs are lower: $70,000 to $1.4 million. Whether or not the expenditure for a control level is acceptable depends on one's view of the relevant factors to be considered in valuing the benefit stream. On a relative basis, the incremental cost increases by at least a factor of 5 for going from the 20 pCi/m²s limit to 6 pCi/m²s, and increase by only a factor of 2 for going from 60 pCi/m²s to 20 pCi/m²s.

The results of our cost-effectiveness analyses, which incorporate different weighting schemes for all the benefits of disposal, indicate that the incremental costs per unit of overall effectiveness are relatively insensitive to the choice of weighting of benefits. The cost-effectiveness of obtaining increased benefits beyond 60 pCi/m²s decreases monotonically by up to factors of two for each incremental level of control for all weighting schemes examined.

B. Economic Impact Analysis

In the RIA, we developed cases for analyzing the industry-wide costs and economic impacts associated with tailings disposal methods assumed to be required for compliance with the alternative standards. Each case represented a different combination of disposal methods applied to both existing and new tailings. The estimated economic impacts include potential mill closures (on a model mill basis) and uranium price increases. We estimated the impacts for each case according to different financial scenarios and different assumptions on the ability of companies to pass-through tailings disposal costs to their customers. The results from this analysis are used to represent the costs and impacts of the proposed standards.

We estimate that compliance with the standards, if other regulatory requirements did not exist, would cost the uranium milling industry about 260 million dollars for all tailings which exist today at licensed sites. If we include all those tailings which we estimate will be generated by the year 2000, based on recent DOE projections, the total cost to the uranium milling industry would be from 310 to 540 million dollars. These costs are present worth estimates (discounted at a 10 percent rate) expressed on a 1983 constant dollar basis. The range in cost is due to different assumptions on what actions are needed to meet requirements for ground water protection for new tailings at existing mills.

We estimate that increases in the price of uranium could range from 2 to 7 percent. In light of the currently poor economic condition of the industry and the threat of foreign competition, it is unlikely that mills will be able to pass through substantial portions of the disposal costs. Using our models and under the assumption of an average cash flow, we estimate that if mills are forced to absorb the entire cost of disposal, no mills would cease operation due to these standards. Under the conditions of no pass-through and lower cash-flow, one small model mill may close. However, we estimate that this closure can be avoided with the limited price pass-through stated above.

These costs and economic impacts are not all attributable to these standards, since some of these costs would probably occur in the absence of these standards due to other regulatory requirements at most sites. These include existing NRC licensing regulations and requirements established by agreement States, and regulations required under Section 84(a)(1) and (3) of UMTRCA. We did not estimate the costs imposed by these other requirements because that would require a site-specific investigation and these requirements have been continuously changing in the past few years (mostly toward more stringent requirements). Therefore, we could only estimate the upper bounds of cost and economic impacts imposed by these standards, and could not estimate the net impact of the standards.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. We believe the analysis discussed above complies with the intent of the Order. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the docket cited above under "ADDRESSES."

C. Regulatory Flexibility Analysis

This regulation would not have a significant impact on a substantial number of small entities, as specified under Section 605 of the Regulatory Flexibility Act (RFA). Therefore, we have not performed a Regulatory Flexibility Analysis. The basis for this finding is that of the 27 licensed uranium mills, only one qualifies as a small entity and this mill will not be impacted by the standards. Almost all the mills are owned by large corporations. Three of the mills are partly-owned by companies that could qualify as small businesses, according to the Small Business Administration generic small entity definition of 500 employees. However, under the RFA, a small business is one that is independently owned and operated. Since these three mills are not independently owned by small businesses, they are not small entities.

D. OMB Regulations on the Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501, et seq.

TABLE I—COSTS OF ALTERNATIVE STANDARDS FOR TAILINGS CONTROL TO THE YEAR 2000 (MILLIONS OF 1983 DOLLARS)

Alternative standard	Present Worth Costs (10 percent discount rate)(*)		Total cost
	Existing tailings	Future tailings	
A	0	1	1
B1	117	83	200
B2	192	95	287
B3	256	111	367
C1	115	95	210
C2	192	112	304
C3	260	128	388
C4	336	146	482
C5	403	165	568
D2	192	156	348
D3	260	160	420
D4	336	186	522
D5	403	204	607

(*) These cost estimates assume that two-thirds of the future tailings generated at existing mills will be placed in existing impoundments and the other one-third will be placed in new, lined, impoundments. We assume that the average radium contents of existing and future tailings is 400 pCi/g. These costs are our best estimates, but their uncertainty increases as the level of required radon control increases.

VOL 48 ISS 196 OCT 7 1983 UMI

TABLE II—BENEFITS OF ALTERNATIVE STANDARDS FOR TAILINGS CONTROL TO THE YEAR 2000 (*)

Alternative standard	Stabilization: Chance of misuse	Stabilization: Erosion avoided (y)	Radon Control: Maximum risk(*) of lung cancer (percent reduction)	Radon Control: Deaths avoided: First 100 years	Radon Control: Deaths avoided: Total	Water protection: longevity (y)
A	Very likely	0	2 in 10^2(0)	0	0	0
B1	Likely	Hundreds	1 in 10^2(50)	300	1,000	100
B2	Less likely	do.	4 in 10^3(80)	480	1,500	100
B3	do.	do.	1 in 10^3(95)	570	2,000	100
C1	Likely	Thousands	1 in 10^3(58)	300	Thousands	100
C2	Less likely	do.	4 in 10^3(80)	480	Many thousands	Hundreds
C3	Unlikely	do.	1 in 10^3(95)	570	Tens of thousands	1,000
C4	Very unlikely	Many thousands	3 in 10^4(96.5)	590	do	>1,000
C5	do.	do.	1 in 10^4(99.5)	597	do	>1,000
D2	Unlikely	Thousands	4 in 10^3(80)	480	Several thousands	1,000
D3	do.	Many thousands	1 in 10^3(95)	570	Tens of thousands	>1,000
D4	Very unlikely	do.	3 in 10^4(96.5)	590	do	>1,000
D5	do.	do.	1 in 10^4(99.5)	597	do	>1,000

(*) These estimates include the benefits resulting from control of 26 existing piles and 9 projected new piles. No credit is taken for any engineering safety factors incorporated to provide the required "reasonable assurance" of conformance.
(*) Lifetime risk of fatal cancer to an individual assumed to be living 600 meters from center of a model tailings pile

This standard is promulgated on the date signed.

List of Subjects in 40 CFR Part 192

Air pollution control, Radiation protection, Hazardous materials, Uranium, Environmental protection, Hazardous constituents, Groundwater protection, Radon, Radium, and Thorium.

Dated: September 30, 1983.

William D. Ruckelshaus,

Administrator.

In 40 CFR Chapter I, Part 192 is amended by adding Subparts D and E as follows:

PART 192—HEALTH AND ENVIRONMENTAL PROTECTION STANDARDS FOR URANIUM AND THORIUM MILL TAILINGS

* * * * *

Subpart D—Standards for Management of Uranium Byproduct Materials Pursuant to Section 84 of the Atomic Energy Act of 1954, as Amended

Subpart E—Standards for Management of Thorium Byproduct Materials Pursuant to Section 84 of the Atomic Energy Act of 1954, as Amended

Sec.
192.30 Applicability.
192.31 Definitions and Cross-references.
192.32 Standards.
192.33 Corrective Action Programs.
192.34 Effective Date.

192.40 Applicability.
192.41 Provisions.
192.42 Substitute Provisions.
192.43 Effective Date.

Authority: Sec. 275 of the Atomic Energy Act of 1954, 42 U.S.C. 2022, as added by the Uranium Mill Tailings Radiation Control Act of 1978, Pub. L. 95–604, as amended.

* * * * *

Subpart D—Standards for Management of Uranium Byproduct Materials Pursuant to Section 84 of the Atomic Energy Act of 1954, as Amended

§ 192.30 Applicability.

This subpart applies to the management of uranium byproduct materials under Section 84 of the Atomic Energy Act of 1954 (henceforth designated "the Act"), as amended, during and following processing of uranium ores, and to restoration of disposal sites following any use of such sites under Section 83(b)(1)(B) of the Act.

§ 192.31 Definitions and Cross-references.

References in this subpart to other parts of the Code of Federal Regulations are to those parts as codified on January 1, 1983.

(a) Unless otherwise indicated in this subpart, all terms shall have the same meaning as in Title II of the Uranium Mill Tailings Rediation Control Act of 1978, Subparts A and B of this part, or Parts 190, 260, 261, and 264 of this chapter. For the purposes of this subpart, the terms "waste," "hazardous waste," and related terms, as used in Parts 260, 261, and 264 of this chapter shall apply to byproduct material.

(b) *Uranium byproduct material* means the tailings or wastes produced by the extraction or concentration of uranium from any ore processed primarily for its source material content. Ore bodies depleted by uranium solution extraction operations and which remain underground do not constitute "byproduct material" for the purpose of this Subpart.

(c) *Control* means any action to stabilize, inhibit future misuse of, or reduce emissions or effluents from uranium byproduct materials.

(d) *Licensed site* means the area contained within the boundary of a location under the control of persons generating or storing uranium byproduct materials under a license issued pursuant to Section 84 of the Act. For purposes of this subpart, "licensed site" is equivalent to "regulated unit" in Subpart F of Part 264 of this chapter.

(e) *Disposal site* means a site selected pursuant to Section 83 of the Act.

(f) *Disposal area* means the region within the perimeter of an impoundment or pile containing uranium by product materials to which the post-closure requirements of § 192.32(b)(1) of this subpart apply.

(g) *Regulatory agency* means the U.S. Nuclear Regulatory Commission.

(h) *Closure period* means the period of time beginning with the cessation, with respect to a waste impoundment, of uranium ore processing operations and ending with completion of requirements specified under a closure plan.

(i) *Closure plan* means the plan required under § 264.112 of this chapter.

(j) *Existing portion* means that land surface area of an existing surface impoundment on which significant quantities of uranium byproduct materials have been placed prior to promulgation of this standard.

§ 192.32 Standards.

(a) *Standards for application during processing operations and prior to the end of the closure period.* (1) Surface impoundments (except for an existing portion) subject to this subpart must be designed, constructed, and installed in such manner as to conform to the requirements of § 264.221 of this chapter,

except that at sites where the annual precipitation falling on the impoundment and any drainage area contributing surface runoff to the impoundment is less than the annual evaporation from the impoundment, the requirements of § 264.228(a)(2)(iii)(E) referenced in § 264.221 do not apply.

(2) Uranium byproduct materials shall be managed so as to conform to the ground water protection standard in § 264.92 of this chapter, except that for the purposes of this subpart:

(i) To the list of hazardous constituents referenced in § 264.93 of this chapter are added the chemical elements molybdenum and uranium,

(ii) To the concentration limits provided in Table 1 of § 264.94 of this chapter are added the radioactivity limits in Table A of this subpart,

(iii) Detection monitoring programs required under § 264.98 to establish the standards required under § 264.92 shall be completed within one (1) year of promulgation,

(iv) The regulatory agency may establish alternate concentration limits (to be satisfied at the point of compliance specified under § 264.95) under the criteria of § 264.94(b), provided that, after considering practicable corrective actions, these limits are as low as reasonably achievable, and that, in any case, the standards of § 264.94(a) are satisfied at all points at a greater distance than 500 meters from the edge of the disposal area and/or outside the site boundary, and

(v) The functions and responsibilities designated in Part 264 of this chapter as those of the "Regional Administrator" with respect to "facility permits" shall be carried out by the regulatory agency, except that exemptions of hazardous constituents under § 264.93 (b) and (c) of this chapter and alternate concentration limits established under § 264.94 (b) and (c) of this chapter (except as otherwise provided in § 192.32(a)(2)(iv)} shall not be effective until EPA has concurred therein.

(3) Uranium byproduct materials shall be managed so as to conform to the provisions of:

(a) Part 190 of this chapter, "Environmental Radiation Protection Standards for Nuclear Power Operations" and

(b) Part 440 of this chapter, "Ore Mining and Dressing Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards, Subpart C, Uranium, Radium, and Vanadium Ores Subcategory."

(4) The regulatory agency, in conformity with Federal Radiation Protection Guidance (FR, May 18, 1960, pgs. 4402–3), shall make every effort to maintain radiation doses from radon emissions from surface impoundments of uranium byproduct materials as far below the Federal Radiation Protection Guides as is practicable at each licensed site.

(b) *Standards for application after the closure period.* At the end of the closure period:

(1) Disposal areas shall each comply with the closure performance standard in § 264.111 of this chapter with respect to nonradiological hazards and shall be designed [1] to provide reasonable assurance of control of radiological hazards to

(i) Be effective for one thousand years, to the extent reasonably achievable, and, in any case, for at least 200 years, and,

(ii) Limit releases of radon-222 from uranium byproduct materials to the atmosphere so as to not exceed an average [2] release rate of 20 picocuries per square meter per second (pCi/m^{2}s).

(2) The requirements of Section 192.32(b)(1) shall not apply to any portion of a licensed and/or disposal site which contains a concentration of radium-226 in land, averaged over areas of 100 square meters, which, as a result of uranium byproduct material, does not exceed the background level by more than:

(i) 5 picocuries per gram (pCi/g), averaged over the first 15 centimeters (cm) below the surface, and

(ii) 15 pCi/g, averaged over 15 cm thick layers more than 15 cm below the surface.

§ 192.33 Corrective Action Programs.

If the ground water standards established under provisions of Section 192.32(a)(2) are exceeded at any licensed site, a corrective action program as specified in 264.100 of this chapter shall be put into operation as soon as is practicable, and in no event later than eighteen (18) months after a finding of exceedance.

[1] The standard applies to design. Monitoring for radon-222 after installation of an appropriately designed cover is not required.

[2] This average shall apply to the entire surface of each disposal area over periods of at least one year, but short compared to 100 years. Radon will come from both uranium byproduct materials and from covering materials. Radon emissions from covering materials should be estimated as part of developing a closure plan for each site. The standard, however, applies only to emissions from uranium byproduct materials to the atmosphere.

§ 192.34 Effective date.

Subpart D shall be effective December 6, 1983.

TABLE A

	pCi/liter
Combined radium-226 and radium-228	5
Gross alpha-particle activity (excluding radon and uranium)	15

Subpart E—Standards for Management of Thorium Byproduct Materials Pursuant to Section 84 of the Atomic Energy Act of 1954, as Amended

§ 192.40 Applicability.

This subpart applies to the management of thorium byproduct materials under Section 84 of the Atomic Energy Act of 1954, as amended, during and following processing of thorium ores, and to restoration of disposal sites following any use of such sites under Section 83(b)(1)(B) of the Act.

§ 192.41 Provisions.

The provisions of Subpart D of this part, including §§ 192.31, 192.32, and 192.33, shall apply to thorium byproduct material and:

(a) Provisions applicable to the element uranium shall also apply to the element thorium;

(b) Provisions applicable to radon-222 shall also apply to radon-220; and

(c) Provisions applicable to radium-226 shall also apply to radium-228.

(d) Operations covered under § 192.32(a) shall be conducted in such a manner as to provide reasonable assurance that the annual dose equivalent does not exceed 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ of any member of the public as a result of exposures to the planned discharge of radioactive materials, radon-220 and its daughters excepted, to the general environment.

§ 192.42 Substitute provisions.

The regulatory agency may, with the concurrence of EPA, substitute for any provisions of § 192.41 of this subpart alternative provisions it deems more practical that will provide at least an equivalent level of protection for human health and the environment.

§ 192.43 Effective date.

Subpart E shall be effective December 6, 1983.

[FR Doc. 83–27177 Filed 10–6–83; 8:45 am]
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196
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October 7, 1983

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 979]

Determinations by Jurdisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 4, 1983.

The following notices of determinations were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED OCTOBER 4, 1983
VOLUME 979

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-AMERICAN STAR ENERGY & MINERALS COR				RECEIVED:	09/15/83	JA: OK			
8355622	20439	3507302423		103		TILBURY STAR #1	SOONER TREND	100.0	NORTHWEST CENTRAL
-AMOCO PRODUCTION CO				RECEIVED:	09/15/83	JA: OK			
8355632	23442	3515321174		108		HOPKINS UNIT '0' #2	CEDARDALE N E	8.9	MICHIGAN WISCONSI
8355649	22192	3501720295		108		NEWPORT #1	M RICHLAND	1.0	PUBLIC SERVICE CO
-AN-SON CORPORATION				RECEIVED:	09/15/83	JA: OK			
8355702	25135	3501120215		107-PE		NICHOLSON #1	N GEARY	80.0	MUSTANG FUEL CORP
-ANADARKO PRODUCTION COMPANY				RECEIVED:	09/15/83	JA: OK			
8355572	23672	3509322635		103		HUBBLE A 2-20	ROSCOE NW	191.0	AMINOIL USA INC
-ANCOR PETROLEUM INC				RECEIVED:	09/15/83	JA: OK			
8355685	23523	3507323252		103		LEIF #1-9	SOONER TREND	35.0	CONOCO INC
-ANR PRODUCTION CO				RECEIVED:	09/15/83	JA: OK			
8355594	23443	3509321262		108		DYCHE #1	CHESTER	17.5	MICHIGAN WISCONSI
-APACHE CORPORATION				RECEIVED:	09/15/83	JA: OK		100.0	MICHIGAN WISCONSI
8355623	21744	3500920509		102-2		PRESTON #1-32		0.0	PHILLIPS PETROLEU
8355612	23520	3501720925		103		SCHWEITZER #1-4		0.0	PHILLIPS PETROLEU
8355613	23519	3501720891		103		WILDS #1-4			
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/15/83	JA: OK			
8355700	21651	3507920469		102-4		J L SCHEFFLER RANCH #1	RED OAK NORRIS	109.5	
8355576	23655	3503722610		103		JOHN KOCHEL (MICKEY) NO 11	CUSHING	14.5	ARCO OIL & GAS CO
-BEASLEY OIL CO				RECEIVED:	09/15/83	JA: OK			
8355651	23559	3507323752		103		GOODEN #1	HORTMWEST OMEGA	115.0	WARREN PETROLEUM
-BLAIK OIL COMPANY				RECEIVED:	09/15/83	JA: OK			
8355634	23472	3509300000		108		CHASE #1	SOONER TREND	3.0	UNION TEXAS PETRO
8355635	23475	3500300000		108		GLIDEWELL #1	SOONER TREND	12.0	UNION TEXAS PETRO
8355633	23471	3500320513		108		GOODWIN "A" #1	SOONER TREND	8.0	UNION TEXAS PETRO
8355655	23483	3500300000		108		KRETCHMAR #1	SOONER TREND	5.0	EASON OIL CO
8355636	23476	3500320159		108		MARTENEY #1	SOONER TREND	7.0	UNION TEXAS PETRO
8355637	23477	3500320125		108		PENQUITE #1	SOONER TREND	10.0	AMINOIL USA INC
8355654	23481	3504720362		108		ROSA #1	SOONER TREND	6.0	PHILLIPS PETROLEU
8355618	23487	3500320105		108		SHEPARD #1	SOONER TREND	6.0	AMINOIL USA INC
8355656	23486	3508321236		108		STROTHMAN #1	SOONER TREND	1.0	EASON OIL CO
-BLAND INVESTMENTS				RECEIVED:	09/15/83	JA: OK		56.0	PHILLIPS PETROLEU
8355599	20975	3514723654		103		HOPKINS #1		100.0	SWAB CORP
-BROADWAY ENERGY CO INC				RECEIVED:	09/15/83	JA: OK		50.0	GOLDEN ARROW GAS
8355639	23538	3510700000		103		BABE #1			
8355611	23540	3503724009		103		ELIAS #1A	N E ELKHORN	350.0	AMINOIL USA INC
-BRUNAR EXPLORATION CO				RECEIVED:	09/15/83	JA: OK			
8355596	21944	3504723186		103		JORDAN #2-28	EAST CHANEY DELL	0.0	CHAMPLIN PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	09/15/83	JA: OK			
8355722	23212	3500300000		103		V O GOODWIN #2		60.0	PHILLIPS PETROLEU
-CLARK OPERATING SERVICES INC				RECEIVED:	09/15/83	JA: OK			
8355571	23673	3510700000		103		DOUGLASS #1-14	SOONER TREND	200.0	NORTHWEST CENTRAL
-CLARK RESOURCES INC				RECEIVED:	09/15/83	JA: OK			
8355584	23458	3504723361		103		JUDY 33-1			
-D & G OIL & GAS CO INC				RECEIVED:	09/15/83	JA: OK			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8355557	23452	3504723383		103		(OTC #APPLIED FOR) HOXEM #1	ELKHORN	0.0	EASON OIL CO
8355691	23419	3508121994		103		ADAMS #2 (OTC 081-31823)	SAC & FOX	20.0	SWAB CORP
8355586	23453	3504723385		103		T J #2 (OTC #APPLIED FOR)	ELKHORN	0.0	EASON OIL CO
8355585	23454	3504723385		103		T J #2 (OTC #APPLIED FOR)	ELKHORN	0.0	EASON OIL CO
-DAN DARLING OIL				RECEIVED:	09/15/83	JA: OK			
8355706	23592	3505320864		103		LOUIE #1	EAST LAMONT	0.0	FARMLAND INDUSTRI
-DAR-LON OPERATING CO				RECEIVED:	09/15/83	JA: OK			
8355669	23134	3505321027		103		WILLA MAE #1-15	EAST LAMONT	150.0	FARMLAND INDUSTRI
-DAVID E MORGAN				RECEIVED:	09/15/83	JA: OK			
8355690	23406	3507322668		108		COMBS #2	SOONER TREND	1.0	PHILLIPS PETROLEU
-DAVIS OIL COMPANY				RECEIVED:	09/15/83	JA: OK			
8355704	23625	3501722473		103		O U #2	FT RENO	0.0	PHILLIPS PETROLEU
-DAWN ENERGY CO				RECEIVED:	09/15/83	JA: OK			
8355582	23423	3504521106		103		HARRISON #1-28	EAST LUTHER MILL	314.0	
-DEMCO OIL & GAS COMPANY				RECEIVED:	09/15/83	JA: OK			
8355658	23494	3507121157		108		FENDER #1	UNNAMED	14.3	CITIES SERVICE CO
8355657	23493	3507121683		108		PATTEN #1		11.0	CITIES SERVICE CO
-DLB ENERGY CORP				RECEIVED:	09/15/83	JA: OK			
8355661	19334	3507323585		102-4	103	GILMORE #2-3	SOONER TREND	188.0	PHILLIPS PETROLEU
-DONALD C SLAWSON				RECEIVED:	09/15/83	JA: OK			
8355647	21191	3501722252		102-4		HUBBARD #2-8	N CALUMET	488.0	PHILLIPS PETROLEU
-ECC OIL CO				RECEIVED:	09/15/83	JA: OK			
8355627	23404	3510523917		108		ALTER #2 SW SW NE S10-T28N-R15E	LENAPAH	16.0	OKAN GAS CO
-F C D OIL CORP				RECEIVED:	09/15/83	JA: OK			
8355703	23629	3505321078		103		MCGIVNEY #1	E LAMONT	383.3	FARMLAND INDUSTRI
-FALCON PETROLEUM COMPANY				RECEIVED:	09/15/83	JA: OK			
8355570	23678	3513921275		108		ANDERSON #1	NORTHWEST DOMBEY	98.0	PANHANDLE EASTERN
-GENIE OIL & GAS CORP				RECEIVED:	09/15/83	JA: OK			
8355650	23100	3508320826		103		KETCH #4	EAST HULL	15.4	EASON OIL CO
-GEORGE RODMAN INC				RECEIVED:	09/15/83	JA: OK			
8355696	20082	3504921870		102-4		NOBLE 1-31	GOLDEN TREND	425.9	WARREN PETROLEUM
-GETTY OIL COMPANY				RECEIVED:	09/15/83	JA: OK			
8355617	23263	3513700000		108		ED KILLINGSWORTH #2	SHO-VEL-TUM	6.0	OKLAHOMA NATURAL
8355616	23277	3513700000		108		J J MCCLANAHAN #24	SHO-VEL-TUM	7.0	OKLAHOMA NATURAL
8355631	23391	3513921661		103		JOHN REITAN #1	M E GUYMON	15.0	NORTHWEST CENTRAL
-GULF OIL CORPORATION				RECEIVED:	09/15/83	JA: OK			
8355588	23450	3507323690		103		HILL /D/ #3-15	LACEY SW CHUNTON MISS	24.0	ARKANSAS LOUISIAN
8355648	21623	3513797052		102-4		MAMIE #1-36	MARLOW	0.0	ARKANSAS LOUISIAN
-GULFSTREAM PETROLEUM CORP				RECEIVED:	09/15/83	JA: OK			
8355589	23443	3509322151		105		LEO G STRECKER #1-13	SW CHEYENNE PROSPECT	26.0	PHILLIPS PETROLEU
-HADSON PETROLEUM CORP				RECEIVED:	09/15/83	JA: OK			
8355683	23525	3505121379		103		ELDRED #1-33	WILDCAT	365.0	ARKANSAS LOUISIAN
-HAINES OIL CO				RECEIVED:	09/15/83	JA: OK			
8355718	22815	3503120614		108		SCHOOL LAND #2	E LAWTON	2.0	MANN INDUSTRIES I
8355719	22816	3503120616		108		SCHOOL LAND #3	E LAWTON	2.0	MANN INDUSTRIES I
8355720	22817	3503120615		108		SCHOOL LAND #4	E LAWTON	2.0	MANN INDUSTRIES I
-HARPER OIL COMPANY				RECEIVED:	09/15/83	JA: OK			
8355716	23081	3504321509		103		INITA #1		146.0	PHILLIPS PETROLEU
8355652	23448	3507300000		108		MINNIE VADDER #1	S E LACEY	36.0	PHILLIPS PETROLEU
-HAZELWOOD PRODUCTION & EXPL CO				RECEIVED:	09/15/83	JA: OK			
8355573	23669	3501722435		103		YOUNG #1-2	SOUTH REEDING	91.3	PHILLIPS PETROLEU
-HILL TOP INVESTMENTS INC				RECEIVED:	09/15/83	JA: OK			
8355608	20863	3506320924		103		MCDONALD #1	HILL TOP	28.2	HILL TOP INVESTME
-HOLD OIL CORP				RECEIVED:	09/15/83	JA: OK			
8355679	23310	3512120721		103		HOLD OIL CORP VOILS #1-30	NORTH CANADIAN	50.0	ARKANSAS LOUISIAN
-HUNTON OIL & GAS CORP				RECEIVED:	09/15/83	JA: OK			
8355610	23558	3504900008		103		GERTIE HOLT #1	ANTIOCH	0.0	WARREN PETROLEUM
-IRA E RONGEY				RECEIVED:	09/15/83	JA: OK			
8355667	21021	3503724251		102-2		RUBY #1 35 037 24251	GLENPOOL	18.0	PHILLIPS PETROLEU
8355666	21020	3503724269		102-2		RUBY #2 35 037 24269	GLENPOOL	18.0	PHILLIPS PETROLEU
8355665	21019	3503724291		102-2		RUBY #3 35 037 24291	GLENPOOL	18.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED:	09/15/83	JA: OK			
8355723	20484	3500722204		102-4	103	WALLACE "D" #1	LIGHT	350.0	PANHANDLE EASTERN
-JAY PETROLEUM INC				RECEIVED:	09/15/83	JA: OK			
8355563	23535	3508320849		103		PIERSON #1	WEST CRESCENT	5.0	EASON OIL CO
-JEFFERSON-WILLIAMS ENERGY CORP				RECEIVED:	09/15/83	JA: OK			
8355659	23555	3510321864		103		HAZEL VANBEBBER #1-8	LONE ELM SOUTH	144.0	AMINOIL USA INC
-JEFFREY OIL CO				RECEIVED:	09/15/83	JA: OK			
8355727	23016	3511123790		103		HENRY #1	BALDHILL	72.0	PHILLIPS PETROLEU
-JOE C RICHARDSON JR				RECEIVED:	09/15/83	JA: OK			
8355676	24021	3500722215		103		IVANHOE #1	IVANHOE	547.0	PHILLIPS PETROLEU
-JOHN P DOWNEY INC				RECEIVED:	09/15/83	JA: OK			
8355597	21015	3508300000		102-2		VIOLA PAYNE #1		120.0	BUCKEYE NATURAL G
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	09/15/83	JA: OK			
8355697	21932	3505121367		102-4	103	CASSEL #1-17	W VERDEN	803.0	TRANSOK PIPELINE
8355642	19459	3501700000		103		LEFTHAND #1	S E WATONGA	365.0	OKLAHOMA GAS & EL
8355724	23219	3504700000		108-ER		RAGOSS #1	E SPRING VALLEY	20.2	GRACE PETROLEUM C
8355725	23221	3504700000		108-ER		RAGOSS #2	E SPRING VALLEY	28.2	GRACE PETROLEUM C
-KENNEDY & MITCHELL INC				RECEIVED:	09/15/83	JA: OK			
8355603	04231	3505900000		102-4		ANNIS #10-105		360.0	MICHIGAN WISCONSI
-KENNETH L TIPPS				RECEIVED:	09/15/83	JA: OK			
8355628	02324	3510321909		103		KUKUK 4-24	GANSEL	70.8	ARCO OIL & GAS CO
-L R FRENCH JR				RECEIVED:	09/15/83	JA: OK			
8355705	23602	3509322625		103		VICTOR #1	CHEYENNE VALLEY	310.0	DELHI GAS PIPELIN
-M M RESOURCES INC				RECEIVED:	09/15/83	JA: OK			
8355575	23663	3508121196		103		DAVID #1		438.8	KERR-MCGEE CORP
8355574	23664	3508921873		103		LYNN #1		54.6	KERR-MCGEE CORP
-MOBIL OIL CORP				RECEIVED:	09/15/83	JA: OK			
8355663	20403	3513921654		103		BARTLES (UNIT 56) WELL #3	GUYMON-HUGOTON CHASE	100.0	NORTHWEST CENTRAL
8355645	20404	3513921658		103		EBERSOLE (RNG 929) FARM WELL #2	GUYMON-HUGOTON CHASE	100.0	NORTHWEST CENTRAL
8355646	20408	3513921657		103		R A PARKER (RNG 111) UNIT WELL #3	GUYMON-HUGOTON CHASE	0.0	NORTHWEST CENTRAL
-MR CJ OIL CO				RECEIVED:	09/15/83	JA: OK			
8355583	23408	3511920794		103		SILKWOOD #1		0.0	GAS TRANSMITTING
-OIL LIFT INC				RECEIVED:	09/15/83	JA: OK			
8355569	25249	3510525790		108		HILL #1-29	SOUTH COFFEYVILLE	2.2	PELICAN PIPELINE
8355567	25251	3510526283		108		HUSTON #3 (API 10526283)	SOUTH COFFEYVILLE	2.9	PELICAN PIPELINE
8355566	25252	3510524313		108		OESTMAN #8 (API 10524313)	SOUTH COFFEYVILLE	16.6	PELICAN PIPELINE
8355568	25250	3510526271		108		WILKINS #2 (API 10526271)	SOUTH COFFEYVILLE	10.9	PELICAN PIPELINE
-OLD DOMINION OIL CORP				RECEIVED:	09/15/83	JA: OK			
8355619	21316	3515321371		102-2		HINES #1-29		500.0	WESTERN FARMERS E
-PATTERSON ENTERPRISES INC				RECEIVED:	09/15/83	JA: OK			
8355689	23055	3512322272		103		TAYLOR #1	BYNG	30.0	
-PAUL WALKER				RECEIVED:	09/15/83	JA: OK			
8355662	20121	3503320680		102-2		HOOKER #1	HULIN	365.8	ARKANSAS-LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8355668	21740	3503121066		102-2	103	HOSKINS #2	HULEN	146.0	NATURAL GAS OPERA
-PETRO INVESTMENTS INC				RECEIVED:		09/15/83 JA: OK			
8355660	11525	3510700000		108		MULLIE MICCO #3	LYONS-QUINN	1.4	PHILLIPS PETROLEU
-PETROLEUM RESERVE CORP				RECEIVED:		09/15/83 JA: OK		125.0	SUN EXPLORATION &
8355577	23452	3502720740		103		MILLS 8-1			
-PETROMARK EXPLORATION INC				RECEIVED:		09/15/83 JA: OK			
8355630	23366	3507323702		103		HOPKINS 18-2	SOONER TREND	75.0	CONOCO INC
-PLAINS RESOURCES INC				RECEIVED:		09/15/83 JA: OK			
8355684	23566	3509322667		103		BOEHS #36-11		0.0	PHILLIPS PETROLEU
-POCO PRODUCING COMPANY				RECEIVED:		09/15/83 JA: OK			
8355564	25358	3500920493		107-DP		MYRTLE CAMPBELL #1-21	BERLIN	320.0	
-PRYOR CURTIS				RECEIVED:		09/15/83 JA: OK			
8355686	21794	3503120869		102-2		GLENDA COKER #1	E HULLEN	183.0	NATURAL GAS OPERA
8355687	21795	3503121082		102-2		LLOYD COKER #4	E HULLEN	73.0	NATURAL GAS OPERA
-PSEC INC				RECEIVED:		09/15/83 JA: OK			
8355644	19556	3508121580		102-4		BRYAN-BOLIN #1-25		0.0	EL PASO NATURAL G
8355643	19554	3508121521		102-4		EXXON #1-36		0.0	EL PASO NATURAL G
8355621	21565	3508121752		102-4		RACKLEY #1-35		0.0	EL PASO NATURAL G
8355601	19553	3508121548		102-4		SITTON #1-23		0.0	EL PASO NATURAL G
8355698	21566	3508121786		102-4		STANBERRY #1-31		0.0	EL PASO NATURAL G
8355699	21567	3508121798		102-4		VAN GUNDY #1-36		0.0	EL PASO NATURAL G
-RED EAGLE OIL CO				RECEIVED:		09/15/83 JA: OK			
8355684	21696	3500320780		102-2		BUTLER #2	EAST LODER	15.0	RAW ENERGY INC
-RED RIVER OIL & GAS CO				RECEIVED:		09/15/83 JA: OK			
8355687	21833	3501521354		103		SAVAGE #3 - 015019091-1	CEMENT	11.0	MOBIL OIL CORP
-RENEGADE LAND & MINERAL CO INC				RECEIVED:		09/15/83 JA: OK			
8355672	21816	3514322279		102-2		MILLER-A #1	BIRDCREEK	0.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:		09/15/83 JA: OK			
8355620	21497	3514920267		102-2		SHIELDS #11-A		571.0	NATURAL GAS PIPEL
-ROY LAWRENCE DRILLING CO INC				RECEIVED:		09/15/83 JA: OK			
8355728	23465	3511700000		103		RYAN-OSBORN #2	SKINNER SAND	55.0	PHILLIPS PETROLEU
-SAMEDAN OIL CORPORATION				RECEIVED:		09/15/83 JA: OK		722.0	DELNI GAS PIPELIN
8355598	21089	3501722165		102-2		TRUST #1-23			
-SAMSON RESOURCES COMPANY				RECEIVED:		09/15/83 JA: OK			
8355642	17758	3504300000		102-2	103	WALKER #2-36	ALEDO	0.0	PANHANDLE EASTERN
-SANDSTONE RESOURCES INC				RECEIVED:		09/15/83 JA: OK			
8355707	23582	3508322206		101		WE88 #1	SOUTH ORLANDO	25.0	EASON OIL CO
-SANTA FE-ANDOVER OIL CO				RECEIVED:		09/15/83 JA: OK			
8355673	23574	3501121821		103		BOSTON #30-2		120.0	OKLAHOMA GAS PIPE
8355674	23575	3501121828		103		KEPHART #18-2		180.0	OKLAHOMA GAS PIPE
-SCANDRILL INC				RECEIVED:		09/15/83 JA: OK			
8355717	22317	3508700000		103		CHEEK #1		0.0	SUN EXPLORATION &
8355715	22316	3508720792		103		FLOYD CLIFTON #1		0.0	SUN EXPLORATION &
8355710	22311	3508720785		103		HERRELL #1		0.0	SUN EXPLORATION &
8355711	22312	3508720788		103		LITTLE #1		0.0	SUN EXPLORATION &
8355712	22313	3512920728		103		NIX #1		0.0	SUN EXPLORATION &
8355713	22314	3508720792		103		URSHEL #1		0.0	SUN EXPLORATION &
8355716	22319	3508720810		103		VIDA CLIFTON #1		0.0	SUN EXPLORATION &
-SCC DEVELOPMENT CO INC				RECEIVED:		09/15/83 JA: OK			
8355625	23090	3511124268		103		SEAN #1	BALD HILL	0.0	PHILLIPS PETROLEU
-SENECA OIL COMPANY				RECEIVED:		09/15/83 JA: OK			
8355638	23537	3501121788		103		MEIER #1-25		47.5	
-SOUTHLAND ROYALTY CO				RECEIVED:		09/15/83 JA: OK			
8355653	21455	3515121083		108		RORING #2-29	FREEDOM 76	10.0	PANHANDLE EASTERN
-STANTON ENERGY INC				RECEIVED:		09/15/83 JA: OK			
8355578	23649	3503726651		103		EVANS #1		200.0	KERR-MCGEE CORP
-STEVE JERNIGAN INC				RECEIVED:		09/15/83 JA: OK			
8355709	21978	3504520942		102-2		KELLN #2		0.0	PHILLIPS PETROLEU
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:		09/15/83 JA: OK			
8355694	7887	3515321049		102-4		HILDA MIEMEIER #1	S E TANGIER	250.0	PANHANDLE EASTERN
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		09/15/83 JA: OK			
8355590	23448	3507323084		103		BORELLI "A" #2	DOVER SE	24.0	EXXON CORP
8355595	21987	3507100000		108		EAST BLACKWELL UNIT #3-2	N W GARRETT	6.0	CITIES SERVICE CO
-TARGA OIL & GAS INC				RECEIVED:		09/15/83 JA: OK			
8355664	23220	3508121903		103		WILSON 1-32	DAVENPORT	90.0	NATURAL GAS ENTER
-TENNECO OIL COMPANY				RECEIVED:		09/15/83 JA: OK			
8355701	23595	3504350092		108		A L SPANGLER UNIT #1	PUTNAM	12.0	WESTERN FARMERS E
8355609	23593	3512500000		108		NORA MYERS #1	MORVIN WEST	18.0	ARCO OIL & GAS CO
8355608	23594	3512500000		108		PETE HULIN #1	MORVIN WEST	9.0	ARCO OIL & GAS CO
8355675	23671	3512500000		108		WELLS #2	MORVIN WEST	18.0	ARCO OIL & GAS CO
-TEX-OK PETROLEUM INC				RECEIVED:		09/15/83 JA: OK			
8355695	19829	3500721731		102-4		HENNIGH #1	MOCANE-LAVERNE	400.0	EL PASO NATURAL G
-TEXCO PETROLEUM INC				RECEIVED:		09/15/83 JA: OK			
8355615	23346	3511124307		103		CROWELL #1 SAME AS TEXCO AMEGA/CROW	HECTORVILLE	42.2	PHILLIPS PETROLEU
8355614	23347	3511123895		103		JIM CROWELL #2	HECTORVILLE	78.5	PHILLIPS PETROLEU
-THE WIL-MC OIL CORP				RECEIVED:		09/15/83 JA: OK			
8355681	23481	3505320749		103		CONRADY #1	EAST WAKITA	2.6	SUN EXPLORATION &
8355581	23432	3505320985		103		CONRADY #2	EAST WAKIT	2.8	SUN EXPLORATION &
8355682	23414	3505320839		103		LEBEDA #1		3.2	SUN GAS CO
-THOMAS M BERRY & CO				RECEIVED:		09/15/83 JA: OK			
8355641	23570	3511922173		103		BERRY FEE #9	SOUTH MEHAN	35.0	NORTHWEST CENTRAL
-TOWNER PETROLEUM CO				RECEIVED:		09/15/83 JA: OK			
8355726	23223	3501722298		103		JIM HARMAN #19-1		0.0	PHILLIPS PETROLEU
-TRIGG DRILLING COMPANY INC				RECEIVED:		09/15/83 JA: OK			
8355565	25353	3500920364		107-DP		PAUL KING		0.8	EL PASO NATURAL G
-TXO PRODUCTION CORP				RECEIVED:		09/15/83 JA: OK			
8355670	20941	3512120706		102-4		CRABTREE "A" #1	HARTSHORNE	876.0	DELNI GAS PIPE LI
8355678	20938	3512120466		102-4		HARRINGTON #1	S BREWER	0.0	DELNI GAS PIPE LI
8355604	20454	3503920504		102-2		MEEK B #1	WILDCAT	65.0	DELNI GAS PIPELIN
8355593	21813	3512920847		102-2		MERRICK "C" #1	N STRONG CITY	0.0	DELNI GAS PIPELIN
8355677	20937	3512120577		102-4		ROMINE #1	S BREWER	650.0	DELNI GAS PIPE LI
8355671	20942	3512120668		102-4		TURNEY "A" #1	S BREWER	648.0	DELNI GAS PIPELIN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:		09/15/83 JA: OK			
8355592	23438	3504321611		103		BRANNUM #1	SQUIRREL CREEK	25.0	HYDROCARBON SERVI
8355591	23439	3504321643		103		BRANNUM #2	SQUIRREL CREEK	50.0	HYDROCARBON SERVI
8355580	23437	3504321657		103		CUNNINGHAM #2	SQUIRREL CREEK	150.0	HYDROCARBON SERVI
-VAUGHN GOOD OIL CO				RECEIVED:		09/15/83 JA: OK			
8355708	23552	3508100000		103		ASHLEY #1		23.0	
8355640	23550	3505300000		103		FOTHERGILL 1-9		18.0	
-VIERSEN & COCHRAN				RECEIVED:		09/15/83 JA: OK			
8355693	25141	3509322711		103		MORAWSKI #2-4	N W OKEENE	135.0	PHILLIPS PETROLEU
-VULCAN ENERGY CORP				RECEIVED:		09/15/83 JA: OK			
8355721	22950	3507321957		103		UHLENHAKE #1	SOONER TREND	321.2	PHILLIPS PETROLEU
8355680	23314	3507321957		103		UHLENHAKE #1	SOONER TREND	100.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VULCAN OIL & GAS CORP				RECEIVED:		09/15/83 JA: OK			
8355626	23360	3511121905		103		BUDDY HURST #2	TIGER FLAT	1.0	PHILLIPS PETROLEU
-WARD PETROLEUM CORP				RECEIVED:		09/15/83 JA: OK			
8355668	22331	3505121368		103		ALLEN #1	S W MORGE	1400.0	PHILLIPS PETROLEU
-WESTWIND PRODUCTION CO INC				RECEIVED:		09/15/83 JA: OK			
8355579	23646	3512300000		103		SURGHIER #1	EAST FRANCIS	0.0	CONTINENTAL GAS S
-WHITMAR EXPLORATION CO				RECEIVED:		09/15/83 JA: OK			
8355692	23423	3508720714		103		FLEET #1-27	NORTHEAST CRIMER	0.0	SUN EXPLORATION &
8355629	23315	3507920479		103		GIST #1-20	REDLAND	0.0	ARKANSAS LOUISIAN
-WOODS PETROLEUM CORPORATION				RECEIVED:		09/15/83 JA: OK			
8355605	21391	3503920760		102-2		DOHLEY #30-1	SWIFT WOMAN	292.0	TRANSOK PIPE LINE
8355624	21857	3503920861		102-2		MEACHAM #17-1	NW CLINTON	438.0	TRANSOK PIPE LINE

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

-ALCOVE INVESTMENTS				RECEIVED:		09/16/83 JA: PA			
8355768	20933	3700520885		107-PE		RUTH L KIMMEL #1			
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:		09/16/83 JA: PA			
8355785	20954	3706521309		108		ROBERT V MAINE #2 WN-1527			
-DORAN & ASSOCIATES INC				RECEIVED:		09/16/83 JA: PA			
8355782	20949	3706324156		103		A K GOOD #1 KL-48			
8355778	20944	3706324155		103		A K GOOD #2 KL-50			
8355784	20952	3706324037		103		CARL REARIC #2 KL-44			
8355772	20937	3706324939		108		CHARLES BUTERBAUGH #1 KA-24			
8355776	20941	3706325028		108		CLAIRE GROMLEY #1 KA-33			
8355777	20943	3706521824		103		EBERT BONACCI #1 KL-72			
8355783	20950	3706324045		103		HAMILTON #1 KL-46			
8355771	20936	3706325750		108		HELEN STOUT #4 KA-62			
8355769	20934	3706326152		108		JOHN GERRY #1 KA-67			
8355775	20940	3706324230		108		LOY GROMLEY #1 KA-11			
8355774	20939	3706326584		108		MILDRED GOSS #1 KA-102			
8355781	20948	3706323950		103		MORRIS ANDERSON #2 KL-17			
8355770	20935	3706325808		108		ROBERT HENRY #2 KA-65			
8355780	20947	3700522084		163		ROY SCHALL #1 KL-22			
8355779	20946	3706324019		103		T L EDWARDS #2 KL-26			
8355773	20938	3706326594		108		THOMPSON CEMETERY CO #1 KA-103			
-HAMILTON-RICHARDS				RECEIVED:		09/16/83 JA: PA			
8355742	20866	3712900000		108		ELIZABETH GARRIGAN #1			
8355740	20864	3712920344		108		FRANK LITVIK #1			
8355741	20865	3712900000		108		FRANK LITVIK #2			
8355743	20867	3712900000		108		JOSEPH M KAHL #1			
-J & J ENTERPRISES INC				RECEIVED:		09/16/83 JA: PA			
8355729	18544	3706521376		108		R & P COAL CO #13			
-MONROE RESOURCES LTD				RECEIVED:		09/16/83 JA: PA			
8355735	20648	3712332714		107-TF		L PRICE #1			
8355734	20647	3712332714		102-2		L PRICE #1			
8355733	20646	3712332713		107-TF		R SCOTT #1			
8355732	20645	3712332713		102-2		R SCOTT #1			
-HRM PETROLEUM CORPORATION				RECEIVED:		09/16/83 JA: PA			
8355766	20892	3704922277		102-2		KAHIA #1	NORTHEAST	0.0	COLUMBIA GAS TRAN
8355765	20891	3704922277		107-TF		KANIA #1	NORTHEAST	0.0	COLUMBIA GAS TRAN
8355764	20888	3704922611		102-2		SEXTON #1	NORTHEAST	0.0	COLUMBIA GAS TRAN
8355763	20887	3704922611		107-TF		SEXTON #1	NORTHEAST	0.0	COLUMBIA GAS TRAN
-S T JOINT VENTURE 82-D				RECEIVED:		09/16/83 JA: PA			
8355738	20769	3706522743		103		HILLIS #2	WINSLOW	25.0	NATIONAL FUEL GAS
-S T JOINT VENTURE 82E				RECEIVED:		09/16/83 JA: PA			
8355739	20770	3706522770		103		SHIELDS #1	PUNXSUTAWNEY	25.0	T W PHILLIPS GAS
-SCHALL VICTOR E				RECEIVED:		09/16/83 JA: PA			
8355767	20932	3700580000		108		SHEARER WELL #1	SOUTHBEND	0.0	PEOPLES NATURAL G
-TURM OIL INC				RECEIVED:		09/16/83 JA: PA			
8355731	20498	3700522828		103		EVA M & T LOWELL DEAN #1	BRYAN	48.0	T W PHILLIPS GAS
8355730	20497	3700522814		103		HARLAND J & ELIZABETH R LYTLE #1	DAYTON	58.0	PEOPLES NATURAL G
8355737	20712	3700522838		103		IVAN F YARGER #1	DAYTON	55.0	PEOPLES NATURAL G
8355736	20710	3700522839		103		LEROY SHROCK #1	DAYTON	60.0	PEOPLES NATURAL G
-VIKING RESOURCES CORP				RECEIVED:		09/16/83 JA: PA			
8355747	20871	3712329525		108		SHEFFIELD PARTNERSHIP 361-4	SHEFFIELD	5.8	NATIONAL FUEL GAS
8355746	20870	3712329526		108		SHEFFIELD PARTNERSHIP 361-5	SHEFFIELD	5.8	NATIONAL FUEL GAS
8355745	20869	3712329527		108		SHEFFIELD PARTNERSHIP 361-6	SHEFFIELD	5.0	NATIONAL FUEL GAS
8355758	20882	3712328134		108		SHEFFIELD PARTNERSHIP 363-2	SHEFFIELD	2.8	NATIONAL FUEL GAS
8355757	20881	3712328135		108		SHEFFIELD PARTNERSHIP 363-3	SHEFFIELD	2.0	NATIONAL FUEL GAS
8355756	20880	3712328136		108		SHEFFIELD PARTNERSHIP 363-4	SHEFFIELD	2.0	NATIONAL FUEL GAS
8355744	20868	3712329528		108		SHEFFIELD PARTNERSHIP 363-5	SHEFFIELD	2.0	NATIONAL FUEL GAS
8355751	20875	3712327290		108		SHEFFIELD PARTNERSHIP 364-10	SHEFFIELD	1.0	NATIONAL FUEL GAS
8355752	20876	3712300000		108		SHEFFIELD PARTNERSHIP 364-12	SHEFFIELD	1.0	NATIONAL FUEL GAS
8355755	20879	3712327293		108		SHEFFIELD PARTNERSHIP 364-13	SHEFFIELD	1.0	NATIONAL FUEL GAS
8355760	20884	3712323138		108		SHEFFIELD PARTNERSHIP 364-14	SHEFFIELD	1.0	NATIONAL FUEL GAS
8355759	20883	3712328137		108		SHEFFIELD PARTNERSHIP 364-15	SHEFFIELD	1.0	NATIONAL FUEL GAS
8355748	20872	3712327287		108		SHEFFIELD PARTNERSHIP 364-6	SHEFFIELD	1.0	NATIONAL FUEL GAS
8355749	20873	3712327288		108		SHEFFIELD PARTNERSHIP 364-7	SHEFFIELD	1.0	NATIONAL FUEL GAS
8355750	20874	3712327289		108		SHEFFIELD PARTNERSHIP 364-8	SHEFFIELD	1.0	NATIONAL FUEL GAS
8355753	20877	3712327264		108		SHEFFIELD PARTNERSHIP 365-1	SHEFFIELD	0.0	NATIONAL FUEL GAS
8355761	20855	3712327285		108		SHEFFIELD PARTNERSHIP 365-2	SHEFFIELD	0.0	NATIONAL FUEL GAS
8355754	20878	3712327286		108		SHEFFIELD PARTNERSHIP 365-3	SHEFFIELD	0.0	NATIONAL FUEL GAS
8355762	20886	3712329529		108		SHEFFIELD PARTNERSHIP 402-2	SHEFFIELD	0.0	NATIONAL FUEL GAS

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VOL
48
ISS
1
9
6
OC
7
1983
UMI

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Part VI

Department of Labor

Occupational Safety and Health Administration

Occupational Exposure to Ethylene Dibromide; Notice of Proposed Rulemaking

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9
6
OC
7
1983
UMI

DEPARTMENT OF LABOR

29 CFR Part 1910

[Docket No. H–111]

Occupational Exposure to Ethylene Dibromide

AGENCY: Occupational Safety and Health Administration [OSHA], Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this notice, the Occupational Safety and Health Administration, [OSHA] is proposing to revise the present occupational health standard regulating employee exposure to ethylene dibromide [EDB], 29 CFR 1910.1000, Table Z–2.

The proposed standard mandates a reduction in the premissiable exposure limit from 20 parts per million parts of air to 0.1 parts per million, restricts dermal exposure and sets requirements for exposure monitoring, methods of control, personal protective equipment, hygiene practices, medical surveillance and employee training and education.

The proposed revision is based on OSHA's determination that the present premissible exposure limit (PEL) for EBD of 20 parts per million (ppm) as an 8-hour time weighted average (TWA) exposure does not provide adequate protection against cancer and other adverse health effects.

DATES: Written comments on these rules must be postmarked by November 21, 1983. Objections and requests for a hearing must be postmarked by November 21, 1983.

ADDRESSES: All comments, objections and hearing requests should be sent to the Docket Officer, Docket H–111, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room S–6212, Washington, D.C. 20210; (202) 523–7894.

Written comments received will be available for inspection and copying in the Docket Office, Rm S–6212 at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Office of Public Affairs, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W. Room N3718,, Washington, D.C. 20210; (202) 523–8151.

SUPPLEMENTARY INFORMATION: As an aid to the reader, the following is an outline of the contents of this **Federal Register** Notice.

I. Pertinent Legal Authority
II. General:
A. Chemical Identification
B. Production and Use
C. Present Standard
D. Background
E. Petitions for an Emergency Temporary Standard
III. Health Effects:
A. Acute Toxicity
B. Carcinogenicity:
1. Animal Studies:
a. Inhalation Bioassays
b. Oral Administration Studies
c. Skin Painting Studies
2. Epidemiologic Investigations
C. Reproductive Effects:
1. Human Studies
2. Animals Studies
D. Mutagenic and Cytogenetic Effects
E. Conclusions
IV. Quantitative Risk Assessment for EDB:
A. Introduction
B. Terminology and Definitions
C. Summary of Risk Assessments
D. Discussion and Conclusions
V. Significance of Risk
VI. Summary of Regulatory Impact and Regulatory Flexibility Analysis
VI. Environmental Impact
VIII. Clearance of Information Collection Requirements
IX. Summary and Explanation of the Proposed Standard
X. Conclusions
XI. Public Participation
XII. Proposed Standard and Appendices

I. Pertinent Legal Authority

Authority for issuance of this standard is found primarily in sections 6(b), 8(c), and 8(g)(2) of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 655(b), 657(c), and 657(g)(2). Section 6(b)(5) governs the issuance of occupational safety and health standards dealing with toxic materials or harmful physical agents. Section 3(8) of the Act, 29 U.S.C. 652(8), defines an occupational safety and health standard as:

> (A) standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide a safe or healthful employment and places of employment.

The Supreme Court has said that section 3(8) applies to all permanent standards promulgated under the Act and requires the Secretary, before issuing any standard, to determine that it is reasonably necessary and appropriate to remedy a significant risk of material health impairment. *Industrial Union Department* v. *American Petroleum Institute,* 448 U.S. 607 (1980).

The "significant risk" determination constitutes a finding that, absent the change in practices mandated by the standard, the workplaces in question would be "unsafe" in the sense that workers would be threatened with a significant risk of harm. *Id.* at 642. This finding is not unlike the threshold finding that a substance is toxic or a physical agent is harmful. *Id.* at 643, n. 48. A significant risk finding, however, does not require mathematical precision or anything approaching scientific certainty if the "best available evidence" does not warrant that degree of proof. *Id.* at 655–656; 29 U.S.C. 655(b)(5). Rather, the Agency may base its finding largely on policy considerations and has considerable leeway with the kinds of assumptions it applies in interpreting the data supporting it. *Id.* The Court's opinion indicates that risk assessments, which may involve mathematical estimates with some inherent uncertainties, are a means of demonstrating the existence of significant risk.

After OSHA has determined that a significant risk exists and that such risk can be reduced or eliminated by the proposed standard, it must set the standard "which most adequately assures, to the extent feasible on the basis of the best available evidence, that no employees will suffer material impairment of health * * *." (Section 6(b)(5) of the Act). The Supreme Court has interpreted this section to mean that OSHA must enact the most protective standard possible to eliminate a significant risk of material health impairment, subject to the constraints of technological and economic feasibility. *American Textile Manufacturers Institute, Inc.* v. *Donovan,* 452 U.S. 490 (1981). The Court held that "cost-benefit analysis is not required by the statute because feasibility analysis is." *Id.* at 509.

Authority to issue this standard is also found in section 8(c) of the Act. In general, this section empowers the Secretary to require employers to make, keep, and preserve records regarding activities related to the Act. In particular, section 8(c)(3) gives the Secretary authority to require employers to "maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 6." Provisions of OSHA standards which require the making and maintenance of records of medical examinations, exposure monitoring, and the like are issued pursuant to section 8(c) of the Act.

The Secretary's authority to issue this proposed standard is further supported by the general rulemaking authority granted in section 8(g)(2) of the Act. This section empowers the Secretary "to prescribe such rules and regulations as he may deem necessary to carry out (his) responsibilities under the Act"—in this case as part of or ancillary to, a section 6(b) standard. The Secretary's responsibilities under the Act are defined largely by its enumerated purposes, which include:

> * * * [E]ncouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions [29 U.S.C. 651(b)(1)];
>
> * * * [A]uthorizing the Secretary of Labor to set mandatory occupational safety and health standards applicable to business affecting interstate commerce, and by creating an Occupational Safety and Health Review Commission for carrying out adjudicatory functions under the Act; [29 U.S.C. 651(b)(3)];
>
> * * * [B]uilding upon advances already made through employer and employee initiative for providing safe and healthful working conditions [29 U.S.C. 651(b)(4)];
>
> * * * [P]roviding for the development and promulgation of occupational safety and health standards [29 U.S.C. 651(b)(9)];
>
> * * * [P]roviding for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this [Act] and accurately described the nature of the occupational safety and health problems [29 U.S.C. 651(b)(12)];
>
> * * * [E]xploring ways to discover latent diseases, establishing causal connections between diseases and work in envoronmental conditions * * * [29 U.S.C. 651(b)(6)];
>
> * * * [E]ncouraging joint labor-management efforts to reduce injuries and diseases arising out of employment [29 U.S.C. 651(b)(13)];
>
> * * * [A]nd developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems [29 U.S.C. 651 (b)(5)].

Because the ethylene dibromide standard is reasonably related to these statutory goals, the Secretary finds that this standard is necessary to carry out his responsibilities under the Act. In addition to its status as a section 6(b) standard, it also falls within the broader class of section 8 regulations.

II. General

A. Chemicol Identification

Ethylene dibromide (Chemical Abstract Services Registry Number 106–93–4) is a colorless, non-flammable liquid at room temperature with a distinctive, mildly sweet odor detectable in air at levels ranging from 10–25 parts per million. It turns brown on exposure to light and reacts as an alkylating agent, liberating bromine. Synonyms for ethylene dibromide include EDB, 1,2-dibromoethane, ethylene bromide, sym-dibromoethane and glycol bromide. It has a chemcial formula of $Br\text{-}CH_2\text{-}CH_2\text{-}Br$, with a molecular weight of 187.9.

B. Production and Use

Ethylene dibromide (EDB) is a clear and colorless liquid that has a number of applications. EDB is produced commercially by reacting gaseous ethylene with liquid bromine. Its primary use is as a scavenger in leaded gasoline to prevent the buildup of lead oxides from tetraethyl lead in automobile engines. EDB is also used as a pesticide, as an intermediate in the synthesis of dyes and pharmaceuticals, and as a solvent for resins, gums, and waxes. Most potentially significant exposures to EDB occur in the industries or industry sectors where it is manufactured, used in the manufacturing and blending of antiknock compounds, formulated for use as a pesticide, or used as a fumigant on citrus (primarily California, Florida, and Texas), grain and papayas. EDB is also used in the fumigation of flour milling equipment. Some EDB is used in the fumigation of mangoes, etc. [See Preliminary Regulatory Impact Assessment].

The four firms that currently produce EDB in the United States are PPG Industries (PPG) [1] Ethyl Corporation (Ethyl), Great Lakes Chemicals Corporation (GLCC), and the Dow Chemical Corporation (Dow). As a result of the declining use of leaded gasoline, it is probable that one or two firms will cease production of EDB by 1990.

The available information indicates that a total of 90 production workers at all four plants are exposed to EDB on daily basis continuously, and that up to 400 industrial production workers are exposed to EDB on a periodic basis in manufacturing. These employees also include maintenance personnel providing maintenance services for plant operations as well as other personnel who occasionally may be exposed for short periods of time, but not on a daily basis.

Employees in the EDB manufacturing industry generally perform one of five different functions. At the Ethyl Corporation, the functions are divided into four job categories which include a crew leader, a control room operator, a loader, and surveillance technician. The crew leader is responsible for the manufacturing and oversees the production of EDB, vinyl bromide, bromine, and sulfur.

EDB is used in the manufacturing of antiknock additives for gasoline, These additives vary in composition with more than 100 different blends being produced (Ex. 7–2 p.7). A typical gasoline blend, however, contains ethylene dibromide (17.86 percent), ethylene dichloride (18.81 percent), and various tetralkyl (methyl and ethyl) leads in a ratio of about 1:1:3. Aviation antiknock mixes contain 35.68 percent weight EDB and no EDC. In addition, some blends may contain benzene and toluene. The plending process does not involve the chemical reaction of ethylene dibromide with the other compounds of the mix, but is a physical blending of the constituents.

Employees exposed to EDB in the manufacturing of antiknock compounds and their blending, generally are exposed to EDB in the control room, production loading and peripheral operations. As of January 1, 1982, the following four firms supplied antiknock packages: E. I. Dupont de Nemours and Company Inc., (Dupont), Ethyl Corporation (Ethyl), Nalco Chemical Company (Nalco), and PPG Industries (PPG). At Nalco, for example, some of the jobs where employees may be exposed to EDB include shift superintendent, a blend operator, a material handler, and a laboratory technician. The following are some of the jobs and operations that can result in exposure to EDB:

a. Blend operator—unloading all liquid raw materials, takes quality control samples, blends products and loads tank cars.

b. Material handler—assists the blend operator in all duties.

c. Laboratory technician—conducts quality control tests on raw materials and finished products.

EDB is used with other chemicals in the formulation of pesticides. The consumption of EDB for use in pesticides has increased from about 5 million pounds in 1976 to an estimated 13–15 million pounds in recent years. A total of 18 firms with 20 plants formulate pesticides containing EDB, including three of the four EDB manufacturers identified earlier. These firms either formulate pesticides containing EDB or repackage EDB-containing pesticides that have been blended previously. The EDB pesticide formulation process involves a batch operation in which liquid EDB is blended with other liquid active or inert ingredients and then packaged into containers. In most plants, this is a partially closed system, with completely closed blending operations and open packaging (or filling) operations. In addition to the EDB blending and filling operations described above, plant production workers may be exposed to EDB during maintenance, laboratory sampling and analysis, and warehouse activities.

[1] PPG Industries is no longer manufacturing EDB.

VOL
48
ISS
1
9
6
OC
7
1983
UMI

To be more specific EDB is obtained in 30-gallon or 55-gallon drums, in rail cars or tank trucks. It is mixed with other active or inert ingredients and the formulated pesticides are then repackaged. In about 50 percent of all EDB pesticide formulation plants, including both small and large plants, EDB is pumped from the container in which it was received to a blending or mixing tank. Other ingredients are also pumped into the blending tank. The ingredients are sometimes agitated or blended with a mixer, but in most cases, the force of the pumping action blends the ingredients sufficiently. The final product is then packaged into one-gallon or five gallon pails, 30-gallons or 55-gallon drums, cylinder tanks ranging in size from eight pounds to 144 pounds, or tank trucks. There are many opportunities for EDB exposure during formlation. While exposures vary from plant to plant, the following formulation operations frequently result in exposure to EDB:

a. Pumping EDB to storage tanks;
b. Pumping EDB from tanks or drums to blending tanks or drums;
c. Filling EDB pesticide containers (pails and drums);
d. Loading tank trucks;
e. Capping EDB pesticide containers (pails and drums);
f. Maintaining, repairing, cleaning, and/or disposing or drums, tanks, pumps, and equipment;
g. Taking and analyzing quality control samples; and
h. Working in warehouse operations.

The Animal, Plant, and Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) requires citrus and other fruits to be fumigating if the citrus is transported interstate from a regulated area to prevent the spread of the fruit fly.

The handling process for fresh citrus includes packing the citrus, fumigated and hauling the fumigated produce either to nearby export warehouses or to distant warehouses in other citrus-growing regions. The initial operations preceding the packing of the citrus are comparable in Texas and Florida, but packed Florida fruit is loaded into trailer trucks and hauled to central, state-operated fumigation chambers, whereas Texas citrus is fumigated in privately operated chambers at the packinghouse.

Employee exposure to EDB following fumigation is related to the rate at which the adsorbed EDB offgasses from citrus. Offgassing begins immediately following fumigation and will continue for up to 14–21 days. Another source of exposure is the citrus cartons which also adsorb EDB and continue to offgass for appreciable periods following completion of the fumigation cycle.

The proposed standard directly affects truckers who haul fumigated fresh citrus, and longshoremen and warehousemen who are exposed to EDB at the port facilities. In addition the agency has found residual EDB on the surface of citrus after fumigation. This residual may be an additional source of exposure.

Liquid grain fumigants containing EDB are used to prevent insect infestation in stored grain. Unfortunately, little published data are available on the amount of grain fumigated with EDB, on the quantity of EDB formulations used in the facilities using those fumigants, or on the number of worker exposed. Grain storage facilities are either "on-farm" sites or "off-farm" sites. The latter include country elevators, subterminal and terminal elevators, port elevators, and grain stored by flour mills and feed processors.

As explained in the Regulatory Impact Assessment, EDB is a favored fumigant in small grain storage facilities because these small facilities usually are not well sealed. EDB is retained by the grain longer than other carbon tetrachloride based fumigants and the grain in these open facilities can remain uninfested longer.

EDB has been used over 20 years as a "spot fumigant" for the control of insect populations that invade flour milling equipment. Flour and cereal grains tend to collect the many ledges and obstructions within mill machinery and represent the primary areas of insect infestation. EDB is considered an essential ingredient in spot fumigation. When applying EDB "spot fumigants," the flour milling and cereal handling equipment is run until it is as empty as possible, leaving only small quantities of grain trapped in the machinery. The EDB fumigant is then applied with a gun that releases the fumigant into specially designated holes in the grain mill equipment. The facility is then shut down for about 24 hours, after which the equipment is either aired out or placed back in operation without aeration. Using this procedure, worker exposure in the mill is reduced considerably, but is not totally eliminated.

EDB is a fumigant used to control Mediterranean Fruit Flies in and on Papaya leaving Hawaii. Papaya is fumigated in large containers and then is removed from the containers, culled, washed and treated with a fungicide and then is packed in boxes for shipment. Generally, the boxes are loaded into refrigerated shipping containers and transported to California by sea. Five of the seven fumigation sites are located in Hilo, on the Island of Hawaii. The production operations consist of fumigating, packing, and shipping the harvested papaya. Exposure is of course related directly and indirectly to fumigation operations with the frequency and intensity of fumigation directly affecting worker exposure.

Employee exposures to EDB occur during the fumigation process and the resulting offgassing of fruit during sorting/packing, storing and transportation. Many of the same exposure possibilities mentioned in connection with the fumigation of citrus also occur with fumigated papaya.

C. Present Standard

The premissible exposure limit (PEL) for occupational exposure to ethylene dibromide is found in Table Z–2 of 29 CFR 1910.1000. The standard provides that an employee's airborne exposure to ethylene dibromide, in any 8-hour workshift of a 40-hour workweek shall not exceed an 8-hour time weighted average (TWA) limit of 20 parts per million (ppm). Further, an employee's exposure to ethylene dibromide shall not exceed a ceiling concentration of 30 ppm at any time during an 8-hour shift, except for a maximum duration of 5 minutes, when the "acceptable maximum peak" concentration shall not exceed 50 ppm.

The standard provides that administrative or engineering controls must be implemented to reduce exposure to within the PEL whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measure shall be used to keep the exposure of employees to EDB within the limits prescribed.

The current standard for EDB was adopted in 1971 as a national consensus standard, under Section 6(a) of the Occupational Safety and Health Act of 1970. (84 Stat. 1592; 29 U.S.C. 655). The source of the standard was the American National Standards Institute (ANSI Z 37.31–1970). The ANSI exposure limits were intended to protect workers from injury to the lungs, liver, and kidneys which had been observed from excessive acute, or chronic exposures to EDB in humans and experimental animals. The potential for EDB to cause cancer or reproductive damage was not a basis for the establishment of the current permissible exposure limit.

D. Background

On December 14, 1977, EPA issued a notice of Rebuttable Presumption Against Registration and Continued Registration (RPAR) of pesticide products containing EDB (42 FR 63134), under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). EPA subsequently proposed immediate cancellation of the EDB registration for stored grain and cancellation of the EDB registration for post-harvest fumigation of citrus, tropical fruits and vegetables as of July 1, 1983 (see 45 FR 81516, December 10, 1980). EPA has, thus far, taken no final action on these proposed cancellations.

In 1977, The National Institute for Occupational Safety and Health (NIOSH) recommended that the PEL for EDB be reduced to a ceiling limit of 0.13 ppm [or 130 parts per billion (ppb)] (Ex. 4–4). NIOSH recommended revising the standard and included requirements for environmental monitoring, medical surveillance, labelling, personal protective equipment and clothing, employee training, work practices, sanitation practices, and recordkeeping requirements. This determination was based on several scientific reports which indicated that chronic exposure to EDB may lead to cancer, birth defects, sterility, damage to genetic material, and a number of other systemic effects. Following receipt of the NIOSH recommendations for a revised standard, OSHA published a request for comments and information in the Federal Register on March 17, 1978 (43 FR 11227). The request asked for comments on several general and specific issues concerning the NIOSH recommendations for a revised standard for occupational exposure to EDB. OSHA received 34 comments from individuals and companies representing a broad range of interests. These submitted comments remain part of the permanent record for EDB and will be considered in all regulatory decisions.

In addition, EDB has been the subject of three NIOSH Current Intelligence Bulletins. The first, published in 1975, alerted workers, employers and others of the preliminary results of a National Cancer Institute study indicating that EDB is carcinogenic in laboratory rodents (Ex. 4–5). The second, published in 1978, reported that a NIOSH study had found a serious toxic interaction between inhaled ethylene dibromide and ingested disulfiram in laboratory rats and recommended that no worker be exposed to both EDB and disulfiram, (Ex. 4–6) The third, dated October 26, 1981, provides recent information on EDB's potential carcinogenic risk and reaffirms the NIOSH 1977 recommended workplace exposure limit of 0.13 ppm (Ex 4–7).

In 1977, the International Agency for Research on Cancer (IARC)concluded that sufficient evidence exists that EDB is an animal carcinogen and that it probably is a carcinogen to humans based on its evidence as an animal carcinogen. IARC placed EDB is group 2B. In general, the group 2 designation signifies that the chemical, group of chemicals, industrial process or occupational exposure is probably carcinogenic to humans. The letter B added to the numerical designation is meant to indicate inadequate data is available in humans but sufficient evidence is available for animals.

In 1978, the American Conference of Governmental Industrial Hygienists (ACGIH) added ethylene dibromide to its list of industrial substances recognized to have carcinogenic potential for humans. The 1981 ACGIH list of threshold limit values [TLV] assigns no TLV for EDB exposure, but states that "no exposure or contact by any route—respiratory, skin or oral, as detected by the most sensitive methods—shall be permitted" (Ex. 4–8).

The Public Health Services Act amended in 1978 (Section 301(b)(4)) requires the Secretary of the Department of Health and Human Services to publish a list annually of "all substances which are either known to be carcinogens or which may reasonably be anticipated to be carcinogens snd to which a significant number of persons residing in the United States are exposed * * *" In December 1981 the Secretary of Health and Human Services through the department of Public Health Services, made a determination that EDB met this criteria and included this substance in its *Second Annual Report on Carcinogens*. The report was prepared by the National Toxicology Program and its member agencies.

In July 1981, the potential health risks of EDB drew national attention as a result of the State of California, Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) proposing an emergency temporary standards (ETS) for EDB of 130 ppb. (Ex. 4–3) California was concerned that the use of EDB to treat harvested fruit to prevent the spread of the Mediterranean fruit fly world result in an increased number of workers exposed to EDB.

The California Emergency standard became effective September 23, 1981 (Ex. 4–9). California based its decision to issue an ETS on the potential widspread use of EDB as a post-harvest fumigant, the large number of workers who could be exposed and the fact that the present OSHA standard does not take into account recent data concerning the carcinogenicity of EDB. The ETS was adopted as a permanent standard on January 14, 1982, and became effective on March 22, 1982. The final California standard (General Industry) Safety Order 5219 (Ex. 7–8)) for EDB received Federal approval on March 1, 1983 (48 FR 8610). The California standard requires that worker exposure to EDB shall not exceed 130 based on an 8-hour TWA and shall not exceed a 130 ppb ceiling limit based on a 15-minute sample. It also requires reporting of EDB use, emergencies, exposure monitoring, methods of compliance, personal protective equipment, training and recordkeeping.

E. Petitions for an Emergency Temporary Standard

On September 2, 1981, the International Brotherhood of Teamsters (IBT) petitioned OSHA for an emergency temporary standard for EDB which would reduce the PEL to 15 ppb as an 8-hour TWA. (Ex. 4–11) IBT members represent a large number of workers in the fruit industry, where EDB may be used to control infestation by Mediterranean fruit fly. The IBT petition was later joined by the Food and Beverage Trades Department, AFL–CIO, in a letter to OSHA dated October 5, 1981, (Ex. 4–12) and by the American Federation of Labor and Congress of Industrial Organizations [AFL–CIO] in a letter dated October 20, 1981. (Ex. 4–13) The International Longshoremen's and Warehousemen's Union (ILWU) also requested that OSHA issue an emergency temporary standard for EDB. In a letter dated October 16, 1981, the ILWU recommended an exposure limit, both as an 8-hour TWA and a ceiling concentration of 15 ppb (Ex. 4–14). In response to these petitions, OSHA reviewed the available EDB exposure information and recent scientific evidence. After careful consideration, OSHA conclude that although the available information indicated a potential health risk, it did not meet the statutory criteria necessary for issuance of an ETS within the meaning of section 6(c) of the OSH Act. Therefore it was not possible, based on the information then at hand, to establish the feasibility of, or necessity for an ETS.

OSHA acknowledged that the present PEL for EDB may not be sufficiently protective, and therefore decided to proceed with rulemaking under section 6(b) of the Occupational Safety and Health Act of 1970. An advance Notice of Proposed Rulemaking (ANPR) was published on December 18, 1981 (46 FR 1671). The notice asked interested

parties to submit comments on a number of issues which would be critical to the development of a revised standard. OSHA also initiated a series of special industrial hygiene surveys to determine the nature and extent of EDB exposure at agricultural worksites in Texas, Florida and California.

II. Health Effects

A. Acute Toxicity

EDB is a severe skin irritant which can produce blistering. Occupational exposure to EDB in air has been found to produce severe eye irritation, throat irritation, headache, depression and loss of appetite (Clin. Tox. 1979). Nasal irritation is reported from exposures of 50 ppm. Exposures to extremely high levels through inhalation, ingestion or skin contact have been shown to produce systemic damage to several organs, e.g., kidney, pancreas, spleen, heart, liver, adrenal glands and testes. Although extremely high doses produce immediate central nervous system [CNS] depression the onset of other signs and symptoms may be delayed for several hours even at lethal doses. After the signs occur, the onset of respiratory failure and death is very rapid, usually in terms of hours. Chronic exposures to levels above the current OSHA standard of 20 ppm produce acute poisoning which indicate that either the compound or its effects are cumulative.

Eye irritation from EDB has been evaluated in rabbits (Rowe et al. 1952). Acute exposure produced pain and conjunctival irritation which lasted for about 24 hours. There was slight necrosis of the cornea but healing was rapid and complete. Dilute EDB solutions in propylene glycol were more toxic than the pure material, but healing was still complete.

EDB is rapidly absorbed through the skin in toxic amounts (Thomas and Yant 1927). Human studies show severe toxic injury due to direct contact. EDB penetrates protective clothing such as neoprene rubber and plastic gloves (Rowe et al. 1952). Serious injury has resulted when clothing, particularly shoes, which have been contaminated with EDB are worn for short periods of time (hours). The immediate signs occur in the central nervous system and at the site of exposure. In humans who survive the CNS depression, signs of systemic toxicity are delayed for up to 12 to 24 hours. The liver and kidney are major target organs in severe poisoning. Effects in humans at various doses have been reported. For example: (1) Death from oral exposure in the 150 mg/kg range; (2) systemic as well as local signs within 3 to 30 minutes of dermal exposures at 15 mg/kg but no fatalities or permanent sequelae from exposure to this level; and (3) death from inhalation doses of roughly 1000 mg/kg. Recurrent exposures at lower doses induced toxicity in a worker (Kochmann 1928). These reports characterize the toxicity of EDB to humans but they are insufficient to establish a fatal dose for dermal exposure or a no-effect dose for inhalation or oral exposure. The delay in appearance of the most severe systemic toxic effects occurs with all three dosing routes.

It may be concluded that EDB is acutely toxic. In humans doses from 15 to 150 mg/kg, EDB will produce toxic effects and death regardless of the exposure route—dermal, inhalation or oral. Absorption through the skin is rapid, on the order of minutes. The toxicity reported in the acute animal studies is consistent with these conclusions.

B. Carcinogenicity

The potential for EDB to induce cancer in mice and rats has been measured in four different bioassay studies.

1. Animal Studies

a. *Inhalation Bioassays.* In response to the Advance Notice of Proposed Rulemaking, the Dow Chemical Company submitted the results of a study of rats exposed to 0, 3, 10, and 40 ppm of EDB for 13 weeks (Exhibit 5–31). Epithelial hyperplasia of the nasal turbinates was observed in rats exposed to EDB at 10 ppm. After a post-exposure period of 88 days, reversion to the normal state had occurred. At 40 ppm, hyperplasia and non-keratizing squamous metaplasia of the nasal turbinates, decreased weight gain, and increased kidney and liver weights occurred. Most of these effects regressed after an 88 day post-exposure period. No animal was exposed to EDB for more than 13 weeks, and no animal was followed for more than 6 months. This study was not designed to evaluate the potential carcinogenic effects of chronic exposure to EDB and thus, can neither confirm or deny its carcinogenicity. The investigators, Nitschke et al., concluded that because of "the lack of any lesion subsequent to repeated exposure to 3 ppm EDB, short-term repeated exposure to these concentrations of EDB would not be expected to result in any long-term irreversible effects upon the nasal turbinates or other tissues of the body" (Ex. 5–31, p. 2). Because this was not a scientifically sound bioassay OSHA does not feel that such a conclusion is supported by this data.

The National Toxicology Program [NTP] of the National Cancer Institute [NCI] conducted an inhalation carcinogenesis bioassay for EDB (Ex 4–15). Male and female Fisher–344 rats and B6C3F1 mice were exposed to 10 and 40 ppm of EDB for periods from 78 to 103 weeks. Each treatment group consisted of 50 male and 50 female animals. The durations of exposure were 90 weeks for 40 ppm, 103 weeks for 10 ppm and 104 weeks for controls. The dose levels were selected based on a 90–day test in which 40 ppm was found to be the maximum tolerated dose.

Mice were killed by interperitoneal injection of sodium pentabarbital and examined according to standard histopathological techniques. Three cross sections were taken through the nasal cavities in order to define nasal tumors. The lengths of exposure for each species, sex and dose level were 103 weeks for low dose male rats (10 ppm), 88 weeks for high dose male rats (40 ppm), 103 weeks for low dose female rats (10 ppm), 91 weeks for high dose female rats (40 ppm), 78 weeks for lose dose male mice (10 ppm), 78 weeks for high dose male mice (40 ppm) , 103 weeks for low dose female mice (10 ppm) and 90 weeks for high dose female mice (40 ppm).

Survival rates in the high dose male and high dose female rats were significantly less than in the control or low dose groups. This could have decreased the tumor rate by shortening both the exposure time and the time available for the tumors to appear.

Survival rates in both the low dose male and female mice were significantly shortened compared to the controls. Similary this could lead to a decrease in the tumor rates by shortening the exposure time and time available for tumors to appear. The pathology reports for rats and mice describe a variety of neoplasms which were increased over the control groups.

The national Toxicology Program and NCI concluded that EDB was carcinogenic to rats, causing increased incidences of carcinomas, adenocarcinomas, and adenomas of the nasal cavity, hemangiosarcomas of the circulatory system (spleen), mesotheliomas of the tunica vaginalis (males only), adenomatous polyps of the nasal cavity (males only), fibroadenomas of the mammary gland (females only), and alveolar/bronchiolar adenomas and carcinomas (females only). EDB was also considered to be carcinogenic for mice, causing increased incidences of alveolar/bronchiolar adenomas and carcinomas, hemangiosarcomas of the circulatory system (females only), fibrosarcomas in the subcutaneous tissue (females only), carcinomas of the nasal cavity (females only), and adenocarcinomas of the mammary gland (females only).

Nonmalignant toxic effects of EDB inhalation included damage to the respiratory system, liver, kidney, testis, eye, and adrenal cortex. A dose-response was apparent for hepatic necrosis, toxic nephropathy, and testicular degeneration and atrophy. Testicular segeneration and atrophy were found in 2 out of 50 of the male controls, 12 out of the 50 low dose males, and 23 out of the 49 high dose males. Some of the cases of testicular atrophy may have been associated with testicular tumors and mesotheliomas rather than directly resulting from EDB exposure. The increase in numbers of testicular tumors was not statistically significant, as can be seen in Tables 1 and 2.

A chronic inhalation bioassay was conducted by NIOSH to evaluate the effect of disulfiram on carcinogenic and other toxic effects of EDB. (Ex 4–18) The findings have been reported in several publications (Ex. 4–18) Plotnick et al., 1979; Wong et al., 1982; Ex. 4–7). The study exposed four groups of 48 male and four groups of 48 female Sprague-Dawley rats to room air or 20 ppm EDB for 7 hours per day for 5 days per week over an 18 month period. Diets which contained 0.05% disulfiram were given to one set of controls and EDB exposed rats.

Rats were observed for clinical signs. Body weights were recorded weekly for the first 14 weeks and monthly thereafter. Both the EDB and disulfiram exposures reduced survival rates. A hematological examination was performed and a complete necropsy was performed on all rats, including gross and microscopic examination. Findings were statistically evaluated and are discussed in the Final Report (Ex. 4–18). The numbers of rats with tumors were as follows: 15 out of 96 controls on the diet, 13 out of 96 controls on the disulfiram diet, 54 out of 96 EDB exposed rats on the control diet, and 90 out of 96 EDB exposed rats on the disulfiram diet.

The report states its findings as follows: "Male rate receiving EDB exposure has significantly higher tumor incidences in spleen, adrenals and subcutaneous tissues than either the control or disulfiram tested rates. Also a significant finding was the high incidence of hemangiosarcoma in the spleen of male rate exposed to EDB. Tumors were also found in the liver, kidneys, and lungs in these animals * * * Female rats exposed to 20 ppm EDB also showed significantly high tumor incidences in the spleen (hemangiosarcoma), adrenals and mammary glands. Tumors were also found in the liver" (Ex. 4–18, p. 31).

In rats, the previous NCI/NTP study reported nasal tumor incidences of 0 out of 50, 39 out of 50 and 41 out of 50 for 0, 10 and 40 ppm in males and 1 out of 50, 34 out of 50 and 43 out of 50 for 0, 10, and 40 ppm in females. The presence of nasal tumors was not published in the original NIOSH publications. However, nasal tumor data from the study were made available to the reviewers for use in the EDB risk assessments. (SRI 1982, Ex.11)

When disulfiram was included in the diet, the toxicity of EDB was enhanced by every measurement in the study. Rats inhaling 20 ppm of EDB did not have increased incidence of testicular changes compared to controls; however, 90% of the male rats inhaling 20 ppm of EDB combined with 0.05% disulfiram in the diet developed testicular atrophy. These findings are summarized in the NIOSH report. (Ex. 4–18, Table 7)

In the NIOSH and NCI/NTP studies, four doses—0, 10, 20 and 40 ppm—were used for relatively long perious of time. The exposure duration for the 20 ppm groups. (NIOSH) was 18 months (78 weeks). For the NCI/NTP study at 10 ppm and 40 ppm the exposure duration ranged from 78 weeks to 103 weeks. The strain of rats in the two studies differed. Thus, two well-conducted inhalation studies demonstrated that EDB is a potent carcinogen not only in two strains of the same animal, but also in two different spacies at three different doses.

b. *Oral Administration Studies* NCI published this study in March 1978 as a final technical report entitled "Bioassay of 1,2-dibromoethane for possible carcinogenicity". (Ex. 4–17) The information had been released in preliminary reports (Olsen et al., 1973; Powers et al., 1975; NIOSH Criteria Document, 1977 and a Current Intelligence Bulletin on EDB, 1975). Osborne-Mendel rats and B6D3F1 mice were administered either of the does levels of EDB in corn oil by stomach tube 5 days per week and the responses were compared with two control groups, of which one received corn oil and the other had no treatment. Concentrations of 4% were used in the rat bioassay and 1–2% in the mouse bioassay.

Groups included 50 males and 50 females for each does and species. In addition, for each species, 20 animals of each sex were vehicle controls and 20 animals of each sex were untreated controls. Time weighted averages for the high and the low does groups were 41 and 38 mg/kg/day for male rats, 39 and 37 mg/kg/day for female rats, and 107 and 62 mg/kg/day for male and female mice, respectively.

Animal were weighed weekly for the first 10 weeks and monthly thereafter. Doses were administered five days per week according to most current body weight. All animals fo one sex received the same dose.

Survival rates and body weight changes in the rats indicated toxicity at both the high and low doese. These effects were apparent in males and females after 10 weeks. The toxic responses in the high does male and female rats led to the suspension of the dosing at week 17 for 13 weeks, and a reduction of the does to 40 mg/kg/day. for the remainder of the study. The last weeks of the study used cyclic administration (four weeks of EDB alternated with one week of no dosing). The bioassay clearly utilized doses which exceeded the maximum tolerated does [MTD] and one-half MTD.

The results of this bioassay are tabulated in Exhibit 11, Table 11 C–4 p 67.

A statistically significant increase in squamous cell carcinomas of the forestomach were observed in male and female rats and in male and female mice dosed with EDB. The female rats also has statistically significant increases in hepatocellular carcinomas, while the male rats had nonsignificant increases in hepatic lesions. Hemangiosarcomas were dound in male and female rats and the incidences were statistically significant in the males. Male and female mice had statistically significant incidences of alveolar/bronchiolar adenomas.

Based on these findings, NCI concluded that EDB is an animal carcinogen. In addition, the International Agency for Research on Cancer (IARC) concluded in 1977 that EDB was carcinogenic to rats and mice, based solely on the NCI oral gavage study.

c. *Skin Painting Studies.* Van Duuren et al. (Ex. 4–19) included EDB in a chronic skin painting study in Ha:ICR Swiss mice. In the first experiment EDB was dissolved in acetone and 75 mg of it were painted once on the shaved backs of 30 mice. Starting 14 days later, 0.005 mg of a cancer promoting substance (phorbol myristate acetate) dissolved in acetone was painted on the same site 3 days per week. Two mice developed papillomas. These findings were not statistically significant when compared to controls.

In a second experiment two dose levels of EDB (50 mg and 25 mg) were

applied to the shaved backs of mice 3 days per week. There were 30 mice treated at each dose level. The increase in skin papillomas, carcinomas and lung tumors was statistically significant in the 50 mg group. Lung tumors were also significantly increased in the 25 mg group. The doses were estimated by SRI (1982) to be 1875 mg/kg in the 75mg/mouse; 1250 mg/kg in the 50 mg/mouse; and 625 mg/kg in the 25 mg/mouse. The "distant" tumors found in the lung indicate that EDB penetrates the skin and can produce tumors away from the site of application.

OSHA believes that the studies described above unequivocally demonstrate that EDB is a potent animal carcinogen. EDB when administered by either inhalation, dermal skin painting or oral gavage induces carcinogenic responses at multiple sites. Tumors were found at the site of exposure, i.e., the site at which the highest concentration would be expected. The "contact-site" tumors were specific for the dose route and tumors were not seen at that site when the route of exposure was changed. For example, the forestomach tumors found in gavage studies were not observed in the inhalation studies; nor were the nasal tumors that were found in the inhalation studies observed in the oral administration or the skin painting studies. Tumors were also found in remote sites in each of the four studies. Moreover, certain primary cell tumors were common to the inhalation, oral gavage and skin painting studies.

2. *Epidemiological Investigations.* Few epidemiological reports are available concerning the health status of persons exposed to EDB. Those that are available are considered inadequate for assessing the potential carcinogenic risk of EDB to humans due to a number of limitations in study design and analysis, such as: The number of workers studied was small; the data on EDB exposure was missing or incomplete; and often the time since first exposure to EDB was too short to observe possible long-term health effects.

In response to an OSHA Request for Information on EDB in 1978 (43 FR 11227–11229), both the Dow Chemical Company and Ethyl Corporation submitted reports of three studies which examined the frequency of death due to cancer among persons occupationally exposed to EDB (Ex. 2–23, 2–11). In addition, a study of 53 Ethyl workers was later submitted (Ex. 7–6). OSHA is not aware of any other studies which attempt to assess the risk of cancer among persons exposed to EDB.

In the first study, Ott and his colleagues investigated the mortality experience of workers employed in two Dow EDB manufacturing plants. The report of this study was published in 1980 (Ex. 4–20). Workers at one plant (Unit 1), located in Texas, were exposed primarily to EDB, bromine, ethylene, sulphur dioxide, and chlorine. Workers at the second plant (Unit 2), located in Michigan, were exposed to EDB, as well as a variety of other chemicals, including several recognized human carcinogens such as arsenic and benzene and several substances which are carcinogenic in animals such as vinyl bromide, carbon tetrachloride, and chloroform. The number of workers who died from specific causes of death was compared to the expected numbers of deaths from those causes. Expected numbers of deaths were derived from age-specific and calendar period-specific mortality rates for U.S. white males.

In Unit 1, a total of 99 employees were identified who had been employed at any time between 1942 and 1969. As of January 1, 1976, 21 of these workers had died. This number did not differ substantially from the number of deaths that would have been expected, 19.5, but neither did it indicate the "healthy worker effect" commonly observed in industrial populations. The "healthy worker effect" is the effect observed when comparing mortality rates in the general population, which includes both employed and unemployed persons, to those of an employed population, who by virtue of their ability to work would be healthier. Consequently, occupational cohorts typically have substantially less mortality compared to the general population.

Examination of deaths due to cancer revealed that two workers died from cancer compared to the 3.6 expected. However, the small number of workers included in this cohort limited the study's power to detect relatively moderate excesses in cancer mortality. Statistical power is the ability of a study to detect an excess risk of mortality if such a risk is truly present. Generally it is considered desirable for studies to have at least 80% power to detect the risk of a specific magnitude. OSHA calculated that the statistical power of this study to detect a 1.5-fold increase in all cancer deaths was 17.8%. A 1.5–fold increase would correspond to an excess risk of 50%. Thus, this study's power of 17.8% was highly inadequate for detection of an excess cancer risk of 50%. Since cancer is such a common cause of death in the U.S., OSHA calculates the power to detect increases in risk of 50% or greater. (See OSHA Technical Submission #1 and #2 for a description of how statistical power was calculated).

In Unit 2, 62 workers were identified who had been employed between 1940 and 1975. Seven malignancies were observed versus 2.8 deaths expected (p less than 0.05). Five workers from this cohort had also been exposed to arsenicals; two subsequently died from lung cnacer. These two individuals had been exposed to arsenicals for 1.5 and 20 months respectively and to EDB for 102 and 111 months respectively. When the five workers exposed to arsenicals are included in the analysis, the lack of a "healthy worker effect" is noticeable. By January 1, 1976, the total number of workers who had died from all causes, 18, was slightly but not significantly greater than the 13.6 expected number of deaths. Of the seven deaths from malignancies, two were due to cancer of the digestive system, two were due to cancer of the respiratory system, and three were due to cancer of other sites. Both lung cancer deaths occurred in workers exposed to arsenicals as well as EDB.

When the five individuals who were also exposed to arsenicals were excluded from the analysis, a total of 15 deaths were observed compared to 13.0 expected. Five deaths from cancer were observed and 2.2 were expected (p less than 0.07). Excess numbers of deaths from non-malignant respiratory disease were observed in Unit 2 (3 observed versus 0.5 expected, p less than 0.05). This could indicate that EDB is associated with lung disease; however, the number of deaths from lung disease is too small to permit conclusions to be drawn.

Although the number of deaths due to cancer in Unit 2 appears to be somewhat elevated, a larger number of observations as well as a more detailed presentation by site and level of exposure would be needed before conclusions could be drawn about the cancer risk at this plant. This study had 11.7% statistical power to detect a 1.5-fold increase in cancer risk in Unit 2. For Units 1 and 2 combined, the statistical power was 25.9% to detect a 1.5-fold cancer risk.

Ott et al. (Ex. 4–20, p. 167) concluded: "The findings of this observational study need to be interpreted cautiously owing to the limitations in the size of the study population and the variety of toxic agents to which individuals in Unit 2 may have been exposed"* * * Findings of this investigation neither rule out nor establish EDB to be a human carcinogen.

The second and third studies were investigations of workers at two Associated Octel plants in Great Britain, by Turner and Barry. The results of these two studies were published in 1979 (Ex. 7–10). In addition, Turner has furnished tables to OSHA which complete the follow-up of the workers at both plants through 1979 (Ex. 7–11). No information concerning exposure levels to EDB or other chemicals in either plant is available.

In the first plant (Factory B), located in Almwch, the vital status was determined for 273 workers with potential exposure to EDB who had been employed at any time between 1952 and 1975. Of these 273 workers, 36 were known to have died by the end of 1979. Eleven of these 36 workers had died from cancer. Turner and Barry concluded: "No evidence of any increase in the death rates from cancer could be detected."

The technique used to analyze the mortality experience at the Almwch plant is considered crude because it inadequately controlled for differences in cancer mortality by age and calendar time period. For example, the study cohort's mortality during 1954–1979 was compared to local mortality rates during 1975. Because cancer mortality rates have risen over time, this comparison would result in an underestimation of risk. In addition, this study is so small that it had low statistical power to detect excess cancer risk. Hence, this study's finding can be, at most, inconclusive.

In the second plant (Factory A), located in Hayle, an initial list was complied of 242 workers who had been employed during 1947 or later; some of these workers had been employed since 1940. Of these 242 workers, 84 were eliminated from the analysis due to insufficient information, and an additional 41 were dropped because they had been employed for fewer than 4 years. Of the remaining 177 workers, 39 had died between 1947 and 1979. Five of these deaths were due to cancer, including two deaths from cancer of the bronchus. The mortality of the study cohort during 1940–1979 as conpared to local population mortality rated during 1961 and 1970. The authors concluded that no excess cancer risk was observed at this plant.

As in the Almwch plant, the analysis of the Hayle plant inadequately controlled for differences in cancer mortality by age and calendar time period. Because of the methodologic limitations and the small number of workers included in this study, no conclusions can be drawn concerning the cancer risk at this plant.

The mortality of fifty-three Ethyl EDB production workers was studied in 1976 (Ex. 7–6). Their length of exposure to EDB ranged from 3 months to 10 years. Ethyl found EDB levels in various plants which ranged from "nondetected" to 4.5 ppm. Of 95 samples taken, 66 were below 0.15 ppm, 8 were between 0.5 and 1 ppm and 231 fell between 1.0 and 4.5 ppm. The one death in this group was from cancer of the kidney. This study is too small to contribute useful information on the human carcinogenicity of EDB.

In summary, OSHA believes that the currently available epidemiologic studies of workers exposed to EDB cannot unequivocally indict EDB as a human carcinogen. These studies are inadequate for this prupsoe due to small study populations, resulting in low statistical power to detect excess cancer risk. In addition, the studies by Turner and Barry failed to use standard epidemiologic techniques to control for changes in age-specific cancer mortality rates over time.

C. Reproductive Effects

The effect of EDB on male reproduction has been investigated in animals and humans. The animal studies clearly establish the potential for human reproductive toxicity. Although the human epidemiologic studies do not show an effect on reproduction, due to the methodologic limitations they do not rule out the possibility of EDB having an adverse effect on the human reproductive system.

1. *Human Studies.* In 1977, NIOSH (Ex. 7–7c) evaluated the reproductive health of EDB production workers at the Houston Chemical Company. Most the EDB production systems at this plant were entirely enclosed. The plant installed a new EDB unit in 1977 to replace a deteriorating unit. Of 25 personal breathing samples and 8 general area samples, EDB was detectable only in a single general area sample (0.88 mg/m ^{3} =0.115 ppm). Ethylene dichloride, another animal carcinogen, was detectable only in a single personal breathing sample(1 mg/m ^{3} =0.247 ppm). Company sampling data indicated that EDB exposures ranged from less that 1 to 53 mg/m ^{3} (less than 0.130 to 6.897 ppm) when the old EDB unit was in use.

According to the NIOSH Criteria Document for EDB published in 1977, the lower limit of detection for the described sampling and analytical method 0.0002 ppm. Hence, the levels of EDB exposure in the Houston Chemical Plant must have been extremely low in order to have escaped detection. In the one area where EDB was detected by the NIOSH survey, supplied-air respirators and gloves were required for workers.

NIOSH medical personnel evaluated 22 workers potentially exposed to EDB at the time of the survey, 2 workers with past exposure to the old EDB unit, and 9 non-exposed workers at the plant. No significant differences in testosterone levels, follicle stimulating hormone levels, and sperm density were observed in the exposed workers compared to the non-exposed workers. However, lutenizing hormone (LH) levels were significantly increased in EDB exposed workers compared to non-exposed workers (p less than 0.02).

LH is a pituitary gonadotropin that regulates testosterone production by Leydig cells in the testis. The elevated LH levels in the EDB workers may indicate that the Leydig cells require abnormal stimulation to produce the normal amount of testosterone. The data also indicated a difference in median sperm count between the exposed workers (54 million cells/ml) and the non-exposed workers (79 million cells/ml).

NIOSH concluded: "The available data indicates that there is a potential toxic effect of ethylene dibromide, as indicated by the LH levels; but there is no overall statistically significant effect on sperm count or evidence of testicular toxicity * * * It should be strongly emphasized * * * that this study on ethylene dibromide does show some signs of potential testicular toxicity and it should be treated as a toxic agent." (Ex. 7–7c, p. 10).

Dibromochloropropane (DBCP) is a chemical that is very similar in structure to EDB. DBCP caused a dramatic increase in sterility among exposed male workers. OSHA promulgated a standard for DBCP in 1978 based on its adverse reproductive effects. NIOSH suggested that the difference in findings between reproductive studies of workers exposed to dibromochloropropane (DBCP) and this study of EDB workers might be due to EDB acting by a different mechanism on the testis, or being a weaker toxic agent. The difference may be due to non-epidemiological reasons such as the very low exposures to EDB, or the small number of exposed workers studied.

OSHA calculated that this study had about 17% statistical power to detect a 1.5-fold risk of having a sperm count below 25 million cells/ml. This was based on the 11.1% of the non-exposed workers (1 of 9) that had a sperm count below 25 million cells/ml.

Dr. Richard Levine surveyed the reproductive experience of 102 EDB exposed workers employed in fumigating papaya or packing fumigated fruit (Ex. 5–36). The survey took place in

Hawaii in March 1981, and consisted of interviews to ascertain live births, miscarriages, stillbirths, and early infant deaths. Seventeen males and seven females had never been married and therefore were not included in the analysis. Levine also excluded the remaining 16 male employees because he deemed the small number of preemployment births for wives of male employees to be insufficient for analysis. About 94% of the 62 female employees included in the analysis had been packers; hence, their exposures to EDB were quite low.

Expected numbers of births were derived from national birth probabilities specific for maternal birth cohort, for age, parity, and race (white, all other). Standardized Fertility Ratios (SFR's) were computed by dividing the observed numbers of live births by the expected numbers of live births. Levine compared the SFR's for the preemployment and employment periods in order to determine whether EDB exposure had reduced fertility.

Levine et al. (1981) had previously tested this method by surveying fertility among DBCP workers, a high proportion of whom has severly depressed sperm counts (12 of 39 male workers). They concluded that the impaired fertility of the DBCP workers could have been detected by surveying live births. However, they characterized this study method as "not a sensitive indicator" for risk of infertility. Their survey indicated that fertility was reduced by 60% to 80% among workers exposed to DBCP. Statistical power to detect decreased fertility would have been greatly reduced if DBCP had been a less severe testicular toxin.

For married female workers with EDB exposure, the SFR was 1.71 compared to the combined SFR of 2.36 for married female workers prior to employment and married female workers with no EDB exposure. This difference between the two SFR's (equal to a 28 percent reduction in fertility) was not statistically significant. Unmarried female workers did not exhibit any reduction in fertility; however, the expected number of births for this group was small (0.5) and thus unstable. Because of the effect of employment status on female workers' fertility, it would have been preferable to compare the exposure employed group solely with the non-exposed employed group. Unfortunately, the expected number of births was small (2) and unstable among the non-exposed group of female workers.

Levine calculated the statistical power of his method to detect significant (p less than 0.05) decreases in fertility among married female workers. According to his calculations, this study had roughly 40% power to detect a 50% decrease in fertility. The study had roughly 80% power to detect a 70% decrease in fertility. Generally, a power of 80% or higher is considered desirable in order to lessen the probability of a failure to observe a true risk. Hence, EDB would have to exert an effect comparable to DBCP in order for this study to have sufficient statistical power. Commenting on his statistical power calculations, Levine stated: "Due to the small number of births expected during exposure, however, the analysis lacked the power to detect a mild or moderate effect" (Ex. 5–36, p. 6).

Levine compared the incidences of miscarriages, stillbirths, and early infant deaths per reported pregnancies during the preemployment period with the incidences during the employment period of the exposed and non-exposed workers. No clustering of these events was apparent in relationship to EDB exposure. This analysis had such a small number of pregnancies that the power to detect an increase in risk of these events was low.

Levine concluded that this study "has revealed no evidence of a severe decrease in fertility related to low-level exposure" and that "there was no indication of an abnormal aggregation of miscarriages, stillbirths, and early infant deaths with EDB exposure" (Ex. 5–31, p. 8).

Levine also surveyed the reproductive experience of employees of Ethyl Corporation at the EDB production plant in Magnolia, Arkansas (Exhibits 5–31D, 5–36). This survey took place in April 1981 and initially included 164 employees who were interviewed concerning their reproductive history. Subsequently, Levine excluded from the analysis 6 female employees, 10 never-married male employees, and 12 male employees who had previously worked at other chemical plants. Levine used the same method of analysis for this study as for his study of the Hawaiian papaya workers. Standardized Fertility Ratios (SFR's) were calculated for preeemployment and employment periods for all males. Exposures were estimated by duration of exposure and intensity assigned to each job title.

Fertility of male employees exposed to EDB was not reduced relative to male employees not exposed to EDB. The ratio of SFR's for exposed workers to non-exposed workers was 1.25, with 90% confidence limits of 0.85–1.78. Hence, there is a 90% chance that the true fertility of EDB exposed workers in this study is not reduced by more than 15% compared to non-exposed workers. However, the nonexposed category included preemployment fertility which may have been reduced because of marital status. Thus, if the exposed employees' fertility were reduced it may not have been observed in this analysis.

When the married male workers were classified by intensity of exposure, no gradient of reduced fertility with increasing exposure was apparent, except in the greater than 3 year exposure category. Levine felt that because this reduction was not statistically significant and was uniformly distributed between low and high intensity jobs, it could not be related to exposure duration. However, Levine had already stated that small numbers of expected births precluded valid inferences about the possible effects of chemical exposure for the categories "none," "EDB/VB," and "area 1" used in the study.

Levine concluded that this study "revealed no evidence for a decrease in fertility related to exposure to ethylene dibromide, vinyl bromide, or a multiplicity of chemicals which may include ethylene dibromide and vinyl bromide" (Ex. 5–31D, p. 7). Also, Levine found no evidence for an association between chemical exposure and miscarriages, stillbirths, neonatal deaths or birth defects.

Dr. James Dobbins of the University of Tesas critiqued the studies of Dr. Richard Levine (Ex. 5–55). He disagreed with Levine's conclusion that EDB does not lead to a severe decrease in fertility, stating that "occupational exposure to EDB could have a strong effect on fertility and still produce the results obtained by Levine" (Ex. 5–55, p.1). Dobbins enumerated the following disadvantages of Levine's use of SFR's:

(1) The expected fertility rates for women are dependent on their observed fertility (parity). If a woman's fertility has been reduced by chemical exposure, her expected fertility also will have been held artificially low. Hence, the expected fertility "will depend on and always be close to observed fertility"(Ex. 5–55, p.5). This would result in underestimation of risk of reduced fertility.

(2) Differences between high fertility and low fertility populations are greater at older ages. Because workers are younger during the period preceding employment, a high fertility occupational cohort would have a pre-exposure fertility close to expectation. For a high fertility occupational cohort an employment period SFR would be based on an underestimate of expected fertility and hence comparing preemployment and employment period SFR's would result in an underestimate of risk.

(3) The SFR's of married female workers are derived from the national birth probabilities for both married and unmarried women. Because women who are married have higher birth rates, expected fertility is underestimated by this procedure. Also, fewer women workers were married during the preemployment period and employed women tend to have lower fertility than unemployed women. Comparisons between preemployment periods and employment periods are problematic because of underestimates expected fertility.

(4) The SFR methodology has low statistical power because few women (or men) have been exposed exclusive to any single chemical and because total fertility in the U.S. is now less than 2 children per woman. Dobbins stated that fertility impairments of the magnitude of that related to DBCP rarely occur.

Regarding the study of Hawaiian papaya packers, Dobbins commented that most of the studied women were Asian and that Hawaiian Asians have higher fertility than U.S. whites. Hence, using U.S. birth probabilities would underestimate expected fertility. Dobbins also did not agree with Levine's basis for excluding males from the study: insufficient numbers of births for analysis among males. Dobbins pointed out that the small number of births for male employees may have been due to EDB exposure. In addition, Dobbins was concerned that including women who were only potentially exposed to EDB would result in underestimation of risk.

Another problem mentioned by Dobbins was the low statistical power of the study, which was exacerbated by use of a two-tailed test of significance. Dobbins stated that the employment SFR would have to decline 69% in order to detect a statistically significant decrease in fertility. Dobbins also believed that it was inconsistent of Levine to draw conclusions about unmarried employment period SFR's which were dervied from very low expected values (0.54), after stating that SFR's with expected values less than 3.0 were "insufficient for analysis." Dobbins also criticized Levine for combining fetal losses, stillbirths, and infant deaths in one measure of adverse reproductive outcome, uncontrolled for maternal age and other pertinent variables. Dobbins described Levine's findings for the Hawaiian papa7a packers:

> There is evidence of a decline in fertility associated with potential low-level exposure to EDB, but this decline is not statistically significant because of small sample size, low post-exposure fertility, and conservative methodology (Ex. 5–55, p. 14).

Concerning the study of Ethyl Corporation employees in Magnolia, Arkansas, Dobbins stated that the study had the following problems: small sample size, poor measures of exposure, inclusion of minimally exposed persons in the sample, and use of a two-tailed test of significance. Dobbins stated:

> In spite of a number of conservative biases in this study, especially small sample size and slight or unknown levels of exposure, there was some evidence of reproductive impairment due to exposure to EDB. Many of the results were equivocal and the study is clearly not an indictment of EDB. On the other hand, these results cannot be used in any way to exonerate EDB (Ex. 5–55, p. 17).

OSHA believes that there are a number of difficulties with the Levine studies which limit the extent to which their findings can be generalized to EDB-exposed populations. Choosing an appropriate comparison group that closely resembles the study group is crucial. National birth probabilities may not be appropriate for purposes of comparison with small local populations. Another problem when studying male workers is that they are, in a sense, proxy respondents for their wives. This could lead to under reporting of miscarriages and stillbirths. Yet another problem is that studies of births need quite a large cohort to detect toxic effects on the reproductive system, if those toxic effects are not as catastrophic as those of DBCP. Poorly defined exposure histories add further to the difficulties in the study's interpretation.

A reproductive study was conducted by Ter Haar (1980) among Ethyl Corporation workers. Fifty-nine sperm samples were collected in 1977, and 24 in a follow-up study in 1978. The author reported that the sperm counts compared favorably with published levels in the general population. The counts in workers with exposures below 0.5 ppm were compared with counts in workers with exposures between 0.5 and 5 ppm. Forty workers had exposures of less than 0.5 ppm and 19 had exposures in the higher range. The apparent trend towards lower sperm counts in the 0.5 to 5 ppm range was not considered significant by the authors. Ter Haar did not specify the protocol followed in obtaining and processing the specimens. Furthermore, no concurrent comparison group was sampled, which precludes discovery of any artifacts from laboratory practices. Because of its methodological limitations, this study should be considered only as an observational report.

Wong et al., 1979 conducted a retrospective study of fertility among men exposed to EDB at four U.S. production plants (Ethyl, Dow, Great Lakes and Houston Chemical). The authors used reproductive histories of the workers' wives as a surrogate measure of male fertility. The numbers of live births to the wives of exposed workers were compared to expected numbers derived from national fertility rates for women adjusted for maternal age, parity, race, and calendar year. Standardized birth ratios were calculated dividing the observed number of births for the married male workers by the expected number of live births. A total of 297 couples with 1092 person-years of observation were included in the study.

For three of the plants (Ethyl, Dow, Great Lakes), the plant-specific standardized birth ratios of the workers were close to unity (i.e. were not significantly higher or lower than national fertility rates). One plant's (Houston Chemical) standardized birth ratio was significantly decreased compared to the national fertility rates (11 births observed, 22.2 births expected, p less than 0.05). No exposure data were available for this plant.

Wong et al. characterized reproductive performance of wives as a measure that could provide "only a limited assessment of the exposed worker's fertility," (p. 99) mentioning that "reproduction performance is determined by a complex interaction of volitional and biological variables * * *" (p. 101) The authors reported that the average exposure level to EDB was not higher at the plant with decreased live births (Houston Chemical) compared to the other plants, so that the decreased births could not be attributed to differences in exposure levels. The authors pointed out that about 33% of the couples from the Houston Chemical plant had a sterilized partner compared to 30% of couples in a national survey conducted in 1976.

For all four plants combined, the statistical power to detect a 20% decrease in fertility was reported by Wong et al. to be 90%. This power calculation might not be correct. OSHA calculated a power of 60% to detect a decrease of this magnitude. Moreover, the power of the study as determined by the authors did not exclude person years of exposure during pregnancy or surgically sterilized workers. Other factors which limit interpretation of Wong et al.'s study findings include lack of consideration of other reproductive indicators (miscarriages and stillbirths), potential differences in birth rates

between the regions in which the plants were located and the U.S. as a whole, ethnic differences in plant populations which could affect the rates, and difficulty in deriving expected numbers from both married and unmarried persons for comparison with married persons. Finally, the exposure categories chosen seem unbalanced, with no intermediate level, and no explanation by the authors of their reasons for choosing these categories.

Equitable Environmental Health (1977), Inc. studied a British EDB production plant. The authors compared live births for 41 married workers with either occasional, regular or irregular exposures to EDB in the workplace to the live births for 41 married workers who were not exposed to EDB. EDB exposure levels were not reported. The birth rates were adjusted for parity and age of the father. EDB exposed workers did not have lower birth rates than non-EDB workers. Interpretation of this study is hampered by the very small sample size, incomplete exposure determinations, general limitations of using live births to assess fertility, and the unexplained and unusual adjustment for paternal rather than maternal age.

2. *Animal Studies.* Reproductive toxicity of EDB has been studied in rats, mice, chickens, rams and bovine bulls. These studies were summarized by NIOSH In 1977 and reviewed by Rannug in 1980. Those studies which are appropriate for quantitative analysis of dose response relationships will be discussed. An overview of the research on reproduction is also provided for reference.

In 1955, Bondi et al. showed that in hens fed grain which had been fumigated with EDB the weight of eggs and egg production rates were reduced. EDB concentrations on the grain ranged between 50–60 and 270–320 ppm. When hens were given EDB in total feed ranging from 10 to 30 ppm, EDB levels of 10 ppm. in total feed produced egg-weight reductions by the eighth week. The effects were reversible for hens that laid smaller eggs and did not cease laying eggs. Alumot et al. (1968) reported that feeding of EDB fumigated mash to chicks reduced egg size and number of eggs but did not affect onset of egg production. The chicks were exposed from 1 day of age, fed diets with 40 ppm EDB or control feed, and growth parameters were measured.

In another experiment, 1 year old laying hens were exposed to 100 ppm EDB in feed and the fertilization rates measured. EDB reduced the number of eggs and the fertilization rates. Male chicks, 3 days old, were fed 0, 80 and 160 ppm EDB in the diet and growth parameters and reproduction parameters were measured at 3 months. Sexual development was not affected by EDB in those male chicks. Fertility was also measured in mature cockerels fed 150 and 300 ppm EDB in diets for 2, 4, 8 or 10 weeks. These males' fertility was not affected by EDB.

Based on this series of studies, it was concluded that EDB in diets would reduce growth rate and egg production but would not alter the onset of egg laying in hens or sperm production in male chickens. Other studies (Rannug, 1980) demonstrated that EDB did not alter follicle stimulating hormone (FSH) production and that the EDB effects were not altered by injection of pituitary extract. These studies show that EDB has effects on reproduction in female chickens and that the effects are specific to the reproductive system rather than the result of generalized systemic morbidity. A difference in uptake of radio-labelled albumin and globulins into the egg yolk and ovarian follicles was shown in EDB treated hens. Due to the biologic differences between human reproduction and fowl reproduction, these studies have a somewhat limited utility for analyzing human reproductive risk.

A series of male reproductive studies were carried out in bulls (Amir and Volcani, 1965; 1967; Amir, 1973, 1975; Amir and Lavon, 1976; Amir et al., 1977; NIOSH, 1977; Rannug, 1980). These studies demonstrated toxic effects of EDB on spermatogenesis. Reproductive impairment, as measured by decreased sperm density and motility and sperm abnormalities, was found after two or more weeks of exposure to 2 or 4 mg/kg EDB in the diet. Studies in 1973 and 1977 by Amir and colleagues investigated the mode of reproductive toxicity in bulls given EDB. The authors concluded that the actions of EDB occur in the testes affecting the spermatogenesis and sperm maturation. Spermatozoa with deformed heads and tails were produced. Deoxyribonucleic acid (DNA), amino acid and lipoprotein changes were also reported in spermatozoa.

Eljack and Hrudka (1979) reported dose response data on the effects of EDB on the sperm of 16 Columbia rams. Four controls were studied. Subcutaneous doses in olive oil of 7.8, 9.6 and 13.5 mg/kg/day of EDB were administered for 12 days so only the preceding lower doses were used. Systemic reactions were seen at 16.9 mg/kg/day therefore only the three lower doses were used. Sperm morphology and motility were determined. Normal findings were seen over the two exposure weeks and for three weeks thereafter. Declines in sperm motility began to be observed at five weeks and were greatest between 9 to 12 weeks. Sperm had returned to normal by week 15.

A mitochondrial "marker" enzyme was also altered. Mitochondrial sheaths were altered, acrosomes were abnormal, and extensive nuclear abnormalities were seen. The effects were dose related and significant at the 7.8 mg/kg/day dose. The four weeks delay in onset of effects suggest that EDB's actions at these dose levels occur primarily in the meiosis and multiplication stage rather than acting directly on the differentiating sperm organelles. These findings are consistent with an action on DNA synthesis and suggest that EDB is a chemical mutagen, according to the authors.

Edwards, Jackson and Jones, (1970) studied reproductive effects in male Wistar rats and male RF/Hirak mice. Five daily doses of 50 mg/kg of EDB injected intraperitoneal (IP) reduced average litter sizes from matings which occurred 3 to 4 weeks after dosing. This suggests an action on spermatids. The isolated metabolite S-(2-hydroxyethyl)-cysteine has no effect on mouse fertility. Thus, EDB or an alkylating metabolite is responsible for the diminished fertility effects Tissue distribution of the labelled molecule of EDB was measured in mice. At one hour and 24 hours there was 3.1 and 0.66 per cent and 1.1 and 0.23 percent of the administered dose in the cauda epididymis and testes respectively. The highest concentrations of EDB were found in the small intestine at 1 hour (34%), in the large intestine at 3 hours (15%) and in whole blood at 24 hours (6.2%). IP administration at a dose level of 40 mg/kg was used in this experiment. Only 5% of the dose was excreted in the bile. If in fact EDB conjugates to glutathione in the liver, a higher percentage of EDB should be seen in the bile. Since only 54% was excreted this may mean either the EDB conjugates formed in the liver are not excreted in the bile or that they are formed in non hepatic tissue and are not available for biliary excretion.

Short et al. (1979) studied the effect of inhalation of EDB on reproduction in Charles River (CD) rats. Males were exposed by inhalation to 0, 19, 39 or 89 ppm EDB 7 hours per day, 5 days per week for 10 weeks. The rate of reproduction, fertility, mortality and morbidity were measured. The effects of EDB were dose related. Rats exposed to 0 and 19 ppm had normal weight gain and food consumption. At 39 ppm body weight gains were reducted (443 grams vs. 484 grams at exposure week 10) while decreases in both body weight and food consumption occurred at the 89 ppm level. A high mortality rate (7 out of 33) was also observed in male rats exposed to 89 ppm.

In a female reproduction study, groups of 20 females were exposed for 21 days to 0, 20, 39 or 80 ppm EDB for 7 hours per day 7 days a week. Rats at the 80 ppm group did not cycle normally for 3 or 4 days after exposure. The rats were placed with proven males for a 10 day period. All females became pregnant with normal appearing uterine contents based on total implants, viable implants and resorptions. For females, body weight was reducted at 80 ppm but not at 20 and 39 ppm. A high mortality rate (10 out of 50) was seen at 80 ppm.

Male reproductive performance was completely blocked at the 89 ppm dose, but all males exposed to lower doses (0, 19 and 39 ppm) did impregnate at least one female rat. Estrus of the high dose female rats were adversely affected. The females had normal numbes of viable implants and resorptions. Severe teticular atrophy and reduced serum testosterone concentrations were observed at the highest dose (89 ppm) but not at 19 or 39 ppm. Atrophy of the epididymis, prostate and seminal vesicles was also found in the 89 ppm group on histopathology. In addition, prostatities and sperm granuloma occurred in high dose males. Some prostatitis also occurred in the lower exposure groups.

Biochemical paramenters were measured in the serum, liver and testes in male rats administered 0, 10 or 100 mg/kg EDB orally. No differences were fund in SGPT, SGOT, or BUN, two, four, or 24 hours after dosing. Non-protein sulfhydryl (NPS) activity was depressed (67% of the control value) in the liver at 2 hours, but was not changed in the testis. The four and 24 hour values are the same as control. The tissue distribution was measured after oral administration of 10 or 100 mg/kg EDB which contained C^{14}. Four hours after administration, the concentration in tissues from 3 rats were highest in the stomach and kidney, and lowest in the testis at both dose levels. The deoxyribonucleic acid (DNA) and ribonucleic acid (RNA) and protein varied in relative content of labelled C^{14}, but DNA was highly labeled in the testis.

This study (Short, 1979) show that inhalation of 80 ppm EDB in the air for extensive periods (7 hours per day for 5 or 7 days per week) produces severe toxicity in male and female rats, including adverse effects on survival, body weight, food consumption, and reproduction. The test is is a target organ. The effects are dose related with little change in reproductive function at 20 or 39 ppm concentrations. For males or females, C^{14} labelled EDB is clearly bound at 4 hours to DNA, RNA protein in the liver, kidney, testes (lowest in testes), and stomach which suggests potential for an action on the organs.

The previous findings in the male reproduction study (Short, 1979) indicate that 19 and 39 ppm exposures did not produce dominant lethal mutations. Teramoto et al. (1980) conducted a dominant lethal study for EDB and DBCP in rats and mice. No effect was produced by 10 or 30 mg/kg of EDB orally for rats or 100 or 150 mg/kg EDB for mice. DBCP and a control mutagen were positive in the same study. This is a well conducted study which shows that EDB may be weakly mutagenic *in vivo*. Edwards and Jackson (1970) investigated several metabolic and toxicologic aspects of EDB in mice and rats. The fertility studies used serial mating. EDB (50 mg/kg given to make rats and mice as a cumulative dose over 5 successive days by IP) produced a significant decrease in litter size in rats mated the third and fourth week after dosing but no differences were found in weeks one and two or weeks five through 10. In a comparable experiment, oral administration of 1 mg/kg of the EDB metabolite produced no effect on male mouse fertility.

Short et al (1978) studies teratogenic and embryotoxic effects of EDB inhalation during gestation in mice and rats. Charles River [CD] rats and CD–1 mice were used. Groups consisted of 15 to 17 rats and were divided into feed restricted and free access food groups. Starting at day 6, animals were exposed for 10 days to 20, 38 and 80 ppm EDB for 23 hours a day. Body weights, food consumption and survival were measured. Rats or mice were sacrificed on day 20 or 18 respectively. Fetuses were examined for skeletal and soft tissue anomalies by standard techniques.

One control group with food intake restricted to levels comparable to the food consumption of the 80 ppm groups was examined. Maternal food consumption and maternal and fetal body weights were reduced at 38 and 80 ppm. Reproductive changes were seen only at 80 pm. Deaths only occurred at 80 ppm. Dams exposed to 80 ppm had a reduced number of implants and no viable fetuses. The high percentage of resorptions in the 80 ppm group was evidence of considerable embryotoxicity.

The findings in treated mice were comparable to those of the rats. Groups of 18 to 20 were exposed to 0, 20, 38 and 80 ppm. Maternal food consumption and maternal and fetal body weights were reduced at 20 and 38 ppm dose levels. All animals in the 80 ppm group died. In the 38 ppm group, resorptions were increased and viable fetuses were decreased. The 20 ppm group also had an increased number of resorptions. These effects were embryotoxic but not necessarily teratogenic since changes occurred in food consumption and weight gains in the mothers. The increase in frequency of low body weight pups (runts) at 38 ppm in mice would not be considered a teratogenic response. The findings suggest a delay in fetal development with EDB treatment which would also be secondary to maternal effects.

While there are no reliable human data available to help assess the human reproductive effects of EDB, the available animal data clearly indicate that EDB causes adverse reproductive effects in the bull, rat and hen. In the absence of adequate human data OSHA feels it prudent and reasonable to assume that man is at least as sensitive as the most sensitive species for which data are available. Therefore, OSHA believes that several studies demonstrate that EDB could adversely affect mammalian reproductive development by interfering with the production of male gametes and the development of embryos.

D. Mutagenesis and Cytogenetic Effects

Mutation studies utilize techniques which measure specific aspects of the interaction between chemical compounds and cellular DNA. The five techniques defined below are utilized to measure mutagenic potential which is considered by some to be an indicator of carcinogenic potential. they are considered indicators because they demonstrate the test chemical's effect on DNA.

1. *Ames Assay*—The action of a chemical on cellular DNA (genetic code) is measured in a bacteria (*Salmonella typhimurum*). Mutagenesis is show when the chemical alters the DNA such that the strain of bacteria is transformed and acquires the ability to grow on a histidine deficient media. The number of colonies which grow is proportional to the potency of the chemical's interaction with DNA.

2. *Host-Mediated Assay*—Certain chemicals do not themselves act on DNA but are changed (metabolized) in the body to chemicals (metabolites) which can act on DNA. The host-mediated assay measures the formation of metabolites in rats or mice that act on DNA. In this assay the chemical and the indicator bacteria are injected together

into the peritoneum of the animal (host). After a period of time the bacteria are removed and its growth measured on the appropriate media. Transformed cells grow to form colonies; non-affected cells do not grow.

3. *Polymerase Assay*—This is a direct measure of damage to nuclear DNA from chemical exposure. When the DNA is damaged due to chemical interactions the injury is repaired by an enzyme known as DNA polymerase. The more chemical damage to the DNA, the greater the increase in activity. This test is more of a general measure of the test chemical's effects on DNA than the bacterial tests because it will measure nonspecific damage to the DNA.

4. *Dominant Lethal Mutation Assay*—When the damage to DNA is sufficient to produce a change in a gene's expression, a mutation occurs. Changes in genes critical to survival are lethal. When dominant genes are mutated by a chemical, the change may be lethal to the organism. This is a highly significant biological event and it is non-ambiguous. In the dominant lethal test male rats are exposed to the test chemical and then mated with normal females. Live births are counted and compared to the number of corporea lutea (measure of eggs released from ovary). The difference between live births and corporea lutea is related to lethal mutations.

5. *Deletion Mutation Assay*—Two types of mutations (changes in DNA are possible: A change in chemical components of DNA which alters the genetic code, and the deletion of parts of DNA which also alters the code. A deletion mutation assay is only a measure of the loss of parts of the genetic code.

The mutagenic effects of EDB have been reviewed in detail by NIOSH (1977), Rannug (1980) and IARC (1977). Mutagenic actions have been detected in a variety of *in vitro* and *in vivo* systems. A direct mutagenic action has been found using *Salmonella typhimurium* by Ames in 1971, Buselmair in 1972 and 1973, Brem in 1974, and McCann in 1975. EDB was also positive in the host-mediated assay in mice, with *S. typhimurium* G46. Using the polymerase assay unscheduled DNA repair was increased in opossum lymphocytes; and DNA damage was shown in mouse lymphoma cells at the thymidine Kinase Locus. *Drosophila melanogaster* studies showed an increase in x-chromosomal recessive lethal mutations for two consecutive breedings. Thus, EDB is a direct-acting mutagen based on a wide variety of tests.

Chemicals can produce deletion mutations without direct alkylation of the DNA resulting in mutagenic responses that are unlikely to predict cancer. In contrast, EDB was shown to produce mutations but not to produce deletion mutations. This suggests that the mutagenic responses of EDB could be predictive of carcinogenic interaction.

A specificity for EDB's mutagenic action is suggested by those tests which were not positive. They include the absence of deletion mutations in *S. typhimurium* shown by Alper and Ames in 1975 the absence of mutation with *Serratio marcescens* absence of chromosomal breaks in *Allium* roots or cultured human lymphocytes, and absence of dominant lethal mutation in mice after IP or oral administration. Further, there is evidence that EDB alkylates DNA but does not produce cross linking of DNA. This is consistent with the conclusion of relative specificity in the action of EDB on DNA. In other words, EDB tested positively in tests which weigh changes in DNA, not in tests which evaluate cross linking in the DNA. This suggests a metabolite of EDB is acting on the DNA rather than the EDB molecule itself.

Direct acting mutagens may also be metabolized *in vivo* to chemical species of greater mutagenic action. EDB is such a compound. Activation of metabolites is tested by adding liver enzyme preparation (referred to as "S9") to the Ames test system. A slight increase in the number of reversions was produced in the Ames system with TA1535, but the action was not dependent on the presence of the nucleotide energy source, NADPH, and was subsequently shown to be produced by soluble rather than membrane-bound enzymes. (Rannug, 1980) This observation sets EDB apart from other mutagens which are activated by S9. EDB was also "activated" to higher mutagenic activity by extracts of certain plants and by liver perfusion procedures which yielded highly mutagenic bile when EDB was added to the perfusion fluid. Thus the genotoxicity of EDB is complex. It is a direct acting mutagen and it is metabolized to one or more highly mutagenic compounds.

Van Bladeren et al. (1981) determined the relative effects of glutathione conjugation on the mutagenicity of a series of vicinal dihalogen compounds. They found that rat liver glutathion transferase activity towards EDB was relatively high compared to the other vicinal dihalogen strates tested. Thus, the glutathione conjugate is a predominant metabolite. The EDB-glutathione conjugate was highly mutagenic in the Ames test and in fact is much more mutagenic than EDB itself. This study shows that at least one of the metabolites of EDB, the glutathione conjugate, can increase the genotoxic potential of EDB. Further, since the distribution of EDB and GSH (glutathione) conjugate may differ *in vivo* it is possible that the target organs for the two mutagenic species may differ with one responsible for contact tumors and the other responsible for tumors in remote organs.

Elliott and Ashby (1980) used a mutagenic approach to show the synergistic response of EDB and disulfiram. Their observation is consistent with the increase in carcinogenic response seen in the rat study with disulfiram. This may suggest that specific precautions should be taken in cases where EDB exposures occur concurrently with other chemicals (e.g. pesticides) which act in the same manner as disulfiram.

Predicting the potential of a compound to induce mutagenic effects in humans is more difficult than predicting other types of toxicities, but the logic can still be founded on establishing the mechanism in appropriate non-human species. Valid studies demonstrating mutagenic effects in experimental animals, the mechanisms of those coupled with serious consideration of pharmacologic principles and biodistribution in humans, do establish the framework for presuming a mutagenic hazard to humans. OSHA therefore believes that the evidence of EDB's mutagenic potential in non-human species can be used to predict mutagenic potential for humans.

TABLE 1.—RESULTS OF THE NTP/NCI INHALATION BIOASSAY OF EDB IN FISHER 344 RATS—TUMOR INCIDENCE BY SITE

Tumor	Control	10 ppm	40 ppm
1. Nasal cavity:			
Adenocarcinoma (M)	0/50	***20/50	***26/50
Adenocarcinoma (F)	0/50	***20/50	***29/50
Carcinoma (M)	0/50	0/50	***21/50
Carcinoma (F)	0/50	0/50	***25/50
Adenomatous polyps (M)	9/50	***18/50	*5/50
Adenomatous polyps (F)	0/50	*5/50	*5/50
Adenomas (M)	0/50	***11/50	0/50
Adenomas (F)	0/50	***11/50	3/50
Squamous cell carcinoma (M)	0/50	3/50	3/50
Squamous cell carcinoma (F)	1/50	10/50	5/50
2. Lung:			
Alveolar/bronchiolar carcinomas or adenomas (F)	0/50	0/48	+5/47
3. Tunica vaginalis: Mesothelioma (M)	1/50	**8/50	***25/50
4. Mammary fibroadenomas (F)	4/50	***29/50	***24/50
5. Circulatory system:			
Hemangiosarcomas (M)	0/50	1/50	***15/50
Hemangiosarcomas (F)	0/50	0/50	*5/50
6. Pituitary adenomas (M)	0/45	++7/48	2/47
Pituitary adenomas (F)	1/50	***18/49	4/45

***p=0.001. **p=0.015. *p=0.028.
++p=0.008. +p=0.024.

TABLE 2.—RESULTS OF NTP/NCI INHALATION BIOASSAY OF EDB IN B6C3F1 MICE—TUMOR INCIDENCE BY SITE

Tumor	Control	10 ppm	40 ppm
1. Lung:			
Alveolar/bronchiolar adenoma or carcinoma (M)	0/41	3/48	***23/46
Alveolar/bronchiolar adenoma or carcinoma (F)	4/49	**11/49	***41/50
2. Circulatory system:			
Hhemangioma or hemangiosarcoma (M)	0/46	0/50	4/50
Hemangioma or hemangiosarcoma (F)	0/50	***12/50	***27/50
3. Subcutaneous tissue fibroarcoma (F)	0/50	++5/50	***11/50
4. Mammary gland adenocarcinoma (F)	2/50	***14/50	+8/50
5. Nasal cavity carcinoma or adenoma (F)	0/50	0/50	**8/50

***p=0.001. **p=0.003. *p=0.045
++p=0.028. +p=0.048.

E. Conclusions

Based on the discussion of the scientific evidence presented here OSHA believes that EDB is a potent animal carcinogen. EDB produces tumors at the site of direct contact and at sites remote from the site of administration. EDB and two of the principle metabolites (bromoacetaldehyde and N-acetyl cysteine) are positive in the Ames Salmonella assay. They are also positive in other *in vitro* systems with and without activating enzymes.

Pharmacokinetic studies discussed in Brown's risk assessment show that EDB is rapidly absorbed, metabolized by liver mixed-function oxidase enzymes and excreted in the feces and/or urine. The biological half-life of EDB in animals is about 1 day.

Target site of "direct" tumors are dependent on route of exposures. Oral doses of 20 and 40 mg/kg/day produced forestomach tumors. Inhalation doses of 10 and 40 ppm 6 hours per day produced nasal cavity tumors. Doses of 15 mg/mouse/day produced nasal cavity tumors. Doses of 25 mg/mouse/day applied to the skin of mice produces skin papillomas and carcinomas.

Tumors are produced at tissue sites remote from the site of contact in each bioassay. These included respiratory tract (lung) tumors in mice in the skin painting study; hemangiosarcomas of the circulatory system in rats in the inhalation studies, and alveolar/bronchiolar carcinomas in the mice in the inhalation studies. In the oral gavage study, hemangiosarcomas were also produced in the circulatory system.

The tissues remote from the site of direct contact in which tumors were produced would have had relatively low exposures to EDB. They presumably responded because of unique pharmacokinetic, metabolic or other biochemical characteristics. These sites are therefore of concern with chronic low level exposures. Mode of action studies have demonstrated the presence of EDB or a metabolite covalently bound in tissues.

Increased incidences of cancer have not been demonstrated by epidemiology studies on workers exposed to EDB in the chemical industry. The studies are of limited value because small numbers of workers were studied, limited exposure information relative to EDB was available and exposures to a variety of other possibly toxic chemicals occurred. While the absence of tumors in the studies is noteable, the studies do not rule out the possibility of low level indices of cancer in the workers.

Reproductive effects of EDB in several animal species have been clearly established. EDB's action, specifically in early stages of sperm development, has been shown. Doses as low as 80 ppm produced reproductive toxicity in male rats. The teratology studies showed malformations at doses which produced maternal toxicity. Malformations and anomalies were produced in rats and mice. These included: Runts, skeletal anomalies such as an enlarged occipital, fontanel and ossification effects which are consistent with delayed development. Based on this, it was conclused the EDB is not a potent teratogen.

Epidemiology studies on the reproductive effects of EDB are equivocal. Only one of the groups showed a decrease in family size but the effects were not dose-related. Further, the reduction in sperm counts with EDB were not statistically significant. This study shows that EDB's effects on male reproduction were marginal, if present at all, at the levels of exposures in these workers.

OSHA believes that the total risk to the health of employees exposed to EDB is the result of the compounded risks from carcinogenicity, mutagenicity, spermatotoxicity, teratogenicity, and damage to the kidneys, liver, spleen, respiratory tract, central nervous system, circulatory system, skin and eyes.

Therefore, the totality of the adverse health effects associated with exposure to EDB warrant the reduction in the PEL to 0.10 parts per million.

IV. Quantitatative Risk Assessment for EDB

A. Introduction

Brown (Ex. 11) provided a succinct explanation of the rationale and basis for quantitative risk assessment. It is presented here as introduction.

There are several approaches to the estimation of risk to low exposures to airbone compounds. Mathematical models attempt to fit curves to data points obeerved at different exposure levels and from these curves to predict the risk at other, usually lower, exposures. These curves range from linear extrapolations to zero exposure and zero risk to curves which may deviate far from linearity at extreme doses. The use of a particular model or curve can be justified in part by statistical measure of "fit" to available data points. These considerations have been reviewed from the statistical standpoint. (Krewski and Van Ryzin, 1981).

In all cases it is assumed that the mathematical curves are reflective of biological processes that control the biological fate and action of the toxic compound. To date, these factors have not been quantitatively linked to the mathematical models. Biological factors which may play important roles in the risk assessment are (1) dose of the material at the sensitive tissue; (2) the sensitive tissue(s) itself; (3) the nature of the response(s); (4) rates and sites of biotransformation; (5) toxicity of metabolites; (6) chronicity of the compound (cumulative nature of the material or its actions); (7) pharmacokinetic distribution of the material (especially effects of dose on the distribution); (8) the effect of biological variables such as age, sex, species and strain of test animal; (9) and the manner and method of dosing the test animals.

It is clear that all of these factors cannot be easily incorporated into a single mathematical model. Therefore, selection of the data for evaluation in the model is an important factor in the risk assessment. In cases where several data sets are available, such as EDB, and the agent has a variety of actions, also true of EDB, the results of different approaches should provide a guide as to the optimal approach to risk assessment, and they should compare logically with each other (pg. 98–99).

In order to quantify the potential risk of cancer to workers exposed to ethylene dibromide, OSHA has reviewed several quantitative risk assessments submitted in response to the ANPR. Predictions based on both human data and extrapolations from other species, and several different mathematical approaches were considered.

OSHA and others examined several possible exposure scenarios for lifetime occupational exposure including TWA exposures ranging from 20 to 0.05 ppm. The following discussion gives a brief description of each of the risk assessments, summarizes the results

VOL 48 ISS 196 OCT 7 1983 UMI

and offers OSHA's preliminary determination of the level of risk posed by exposure to EDB.

B. Terminology and Definitions

Several statistical/technical terms are defined here for reference in reading this section.

(1) *Mathematical model:* A well-defined mathematical equation describing the relationship between dose (e.g. parts per million of EDB) and response (e.g. number of tumor-bearing animals). The experimental data are used to define the relationship; that is, a curve is "fit" to the data.

(2) *Mathematical fit:* A term used to describe how close a predicted dose-response curve is to the actual observed points. Fit is often measured by a Chi-squared goodness-of-fit statistic and its corresponding P value. The closer the P value is to one, the better the fit.

(3) Several different mathematical models are discussed in this preamble. Most of the models are based on theories of cancer development, such as the onehit, the multistage, and the gamma multihit. The other models are usually applied to cancer studies but have also been used to predict risk for other actions of toxins.

a. Onehit model: This model assumes that the expected number of chemical-cell interactions is directly related to dose. The curve produced is linear in the low dose range. It can not take into account repair, detoxication reactions and metabolic activation.

b. Multistage model: This model assumes that the toxic response is the result of an ordered series of biological events and that the occurrence of each event is linearly related to the dose. [Note: The onehit model may be considered a special case of the multistage model, where there is simply one stage.]

c. Probit model: This is a typical sigmoid-shaped curve; strongest in the 5 to 95% response area. Zero responses are approached very rapidly as the dose decreases.

d. Logit model: This is also a sigmoid curve symmetric about the 50% response point. It approaches zero response more slowly than the probit model.

e. Weibull model: This is a generalization of the onehit model which allows for non-linear responses in the low dose region. The response may be concave or convex depending on estimates from the observed data sets.

f. Gamma Multihit model: This also assumes that an expected number of chemical-cell interactions is related to dose, but it further assumes that a number of responses is needed to produce the cellular response. Thus the model may fit data observed at higher doses better than the onehit model (Ex. 11, p. 100–102).

(4) *Extrapolation/interpolation:* Once a mathematical model is fit to a set of data points, one may wish to predict the risk at other points along the curve. Extrapolation is the prediction of risk outside the range of the observed data; interpolation is the prediction of risk within the range of the observed data. The term interspecies extrapolation refers to the prediction of risk in one species (e.g. man) based on observations in another species (e.g. rats).

C. Summary of Risk Assessments

OSHA prepared an in-house risk accessment (OSHA, 1981) based on the incidence of nasal cavity adenocarcinoma in the 1981 NCI inhalation bioassay in rats (Ex. 4–15). In the study, rats and mice were exposed to either 10 ppm or 40 ppm of EDB for 6 hours per day, 5 days per week for 78 to 103 weeks. In rats of both sexes, EDB induced cancer at both exposure levels, causing highly significant increases of nasal cavity adenocarcinomas as well as cancer at other sites. In mice of both sexes, EDB induced highly significant increases in lung cancer as well as cancer at other sites at the 40 ppm level. The incidence data used for this risk assessments given in Table 3. Though EDB has been shown to induce cancer in rats by several different routes of exposure (gavage, skin application, and inhalation) the NCI inhalation bioassay was chosen for the risk assessment since inhalation is the primary route of occupational exposure. This eliminates a potential source of uncertainty, the need to extrapolate from differing routes of exposure.

The OSHA in-house risk assessment also included a discussion of the impact of the choice of a scaling factor for dose. Doses are often scaled as a means of interspecies "standardization" in an attempt to account for interspecies variability in pharmacokinetic parameters (such as metabolism, absorption, distribution, as well as other factors that can affect the extrapolation process) (Hogan and Hoel, 1982).

In a table of dose equivalencies (OSHA, 1981, Table 4), conversion of animal doses to equivalent human exposure levels by adjusting for body surface area (mg/m^2) would increase the estimates of lifetime risk in humans by three to five fold (for a onehit model); adjusting for body weight (mg/kg) would decrease estimates of risk two to four fold at low exposures (for a onehit model). These effects would be more substantial with models of higher degree (quadratic, cubic, etc.). OSHA chose a scaling factor of one (i.e., ppm was an equivalent dose expression for rats and man) for two reasons: (1) Mathematically, the use of ppm as an expression of dose would produce median estimates of risk and (2) In a risk assessment based on nasal tumors, a contact tumor, dose expressed as air concentration (ppm) can reasonably be considered the effective dose (the dose actually causing an effect). OSHA's choice of ppm (i.e, a scaling factor of one) for nasal tumor risk extrapolation is supported by Busch of NIOSH (Memorandum to Director, 1982) and Brown (Ex. 11).

Data for each species were fit to two different mathematical models: the onehit model and the multistage model. These models were chosen because of their biological plausibility in describing chemical carcinogenesis. Both models assume no threshold, that is, that there is no demonstrated safe level of exposure. For the prediction of risk, it is further assumed that workers are exposed to a given level of EDB for 8 hours per day, 5 days per week, 46 weeks per year, for 45 years during a 54 year working lifespan.

Using the nasal tumor data, the in-house OSHA quantitative risk assessment predicted a range of 160 to 437 excess cancer deaths per 1000 workers at 20 ppm and 0.06 to 3 excess deaths per 1000 at 0.1 ppm (100 ppb).[2] These estimates were maximum likelihood estimates. 95% upper confidence limits on thse estimates range from 251 to 516 excess deaths per 1000 at 20 ppm and 1.4 to 3.6 excess deaths per 1000 at 0.1 ppm (100 ppb) (Addendum, OSHA, 1981).

The EPA Carcinogen Assessment Group (CAG) reported an "Updated Quantitative Risk Assessment for Ethylene Dibromide" in 1979 which was updated in May 1980. The analysis predicts risk for dietary exposure from consumption of fumigated foods and crops grown in fumigated soil and occupational inhalation exposure.

For the latter risk assessment, the group employed preliminary data from the MRI/NIOSH inhalation study of ethylene dibromide and disulfiram (a note in the risk assessment states the pathological data was final; therefore the data would be the same as that found in Ex. 4–18). When Sprague-Dawley rats were exposed to EDB alone, statistically significant increases in spleen hemangiosarcomas and adrenal tumors were observed in male and female rats and a significant increase in

[2] A range of estimates over both species and both the onehit and multistage models.

mammary tumors was observed in the female rats. The tumor incidence data for the three types of tumors in the female rat and dose (expressed as mg/kg/day) were used to estimate the lifetime probability of cancer in humans. Tables of the incidence data employed in the risk assessment were not provided.

The CAG employed a one-hit model, adjusting for a 40 year work history and 71.3 year lifespan. This exposure scenario is slightly different from that usually employed by OSHA: 230 days per year for 45 years in a 54 year working lifespan in a 74 year lifespan. Using the CAG potency parameter (the unit risk per unit does, or slope of the curve) determined from the model, the excess probability of death from lifetime inhalation exposure to EDB at 20 ppm (7.95 mg/kg/day) is 999 deaths per 1000 workers, and 45 per 1000 workers at 0.1 ppm (100 ppb). In addition, the CAG risk assessment also included upper bounds risks due to ingestion of crops grown in soil fumigated with EDB, and foodstuffs fumigated with EDB. Though it is not the major source of occupational exposure, ingestion of fumigated foodstuff does pose some occupational risk.

The GAG commented on the suitability of the data for risk assessment. It endorsed these estimates of risk over previously derived estimates since "This [MRI/NIOSH] report allows us [CAG] to make a direct estimate of the carcinogenic effect of inhaled EDB" (p. 5).

Lastly, the CAG risk assessment also observed that the MRI/NIOSH report demonstrated that the carcinogenic effects of EDB were "considerably enhanced" when rats were exposed to disulfiram in addition to the EDB. The group estimated the potency of the combined exposure to be approximately 85 times that with EDB alone, indicating the potential for a highly synergistic effect with EDB. This concern for the potentiation of the toxic effects of drugs and chemcials like disulfiram is echoed in the NIOSH CIB (Ex. 4–6).

In an earlier (1978) risk assessment (Carcinogen Assessment Group 1978), CAG estimated risks due to occupational inhalation based on the negative epidemiology study reported by Ott et al. (1977). As was noted earlier, the results of the study must be examined carefully due to small sample size (and thus low statistical power) and mixed exposures. Using the methodology recommended by CAG in this risk assessment, OSHA estimated a 95% upper bound for the lifetime risk from exposure to EDB at 20 ppm to be 999 deaths per 1000 workers and 67 deaths per 1000 at 0.1 ppm (100 ppb).

Despite the limitations in the study results, the striking similarity of risk estimates produced from analysis of this human data extrapolation to the estimates based on the rodent inhalation study should be noted.

An even earlier CAG risk assessment (Memorandum to Edwin Johnson, September, 1977) was based on the NCI intubation study (Ex. 4–17). The risk assessment predicted a potency coefficient (slope) 16 times greater than that from the rat inhalation study. This risk assessment is reviewed in the 1979 CAG risk assessment.

SRI International (1982) performed a quantitative risk assessment (for NIOSH) based on the nasal tumors found in two inhalation studies in male rats, and males and female rats (NCI-NTP, 1981, Ex. 7–9, MRI/NIOSH, 1980, Ex. 7–4). By combining study results, there were data points for a control and three non-zero dose levels (10, 20 and 40 ppm) which were used for the risk assessment. Dose in ppm were scaled to mg/kg/day for the risk assessment and the data were fit to the gamma multihit and the multistage models. Predictions were made for workers both at rest and under working conditions.

SRI estimated the lifetime human cancer risk from exposure (working conditions) to EDB at 20 ppm to be 1.00 by the multistage model and .99 by the gamma multihit model (virtually 1000 cancer deaths per 1000 workers). Using the slopes and scaling factors provided in the risk assessment the risk at 0.10 ppm (100 ppb) as 117 excess deaths per 1000 (multistage model). Calculations based on other combinations of the data produced similar results.

TABLE 3.—SPECIFIC CANCER INCIDENCE IN RATS AND MICE

Species and sex	Exposure level (ppm)	Animals with tumors/animals examined
Rats		
Male	0	[1] 0/50
	10	*20/50
	40	*28/50
Female	0	0/50
	10	*20/50
	40	*29/50
Mice		
Male	0	[2] 0/41
	10	*3/48
	40	*18/46
Female	0	1/49
	10	**5/48
	40	*37/50

*P=0.001[3] **P=0.1523. ***P=1.1021.

[1] Nasal cavity adenocarcinoma/animals examined.
[2] Alveolar bronchiolar carcinoma/animals examined.
[3] P values are given for one-tail (upper tail) probabilities from Fisher's Exact Test.

In an interagency review of OSHA's in-house risk assessment, Busch of NIOSH outlined the major issues and uncertainties involved in all quantitative risk assessment (Memorandum to Director, 1982). In particular, he addressed the two main sources of error in such predictions: intraspecies extrapolation and interspecies extrapolations.

Busch criticized the OSHA risk assessment for not including confidence limits to account for variability in the test animals (intraspecies extrapolation). In response to this, OSHA has included and addendum to its in-house risk assessment which provides the 95% upper confidence limits on its estimates (OSHA, 1981).

Busch also included an analysis of the scaling of the dose parameter (interspecies extrapolation). He concluded (as had OSHA) that expressing dose in parts per million (ppm) or a scaling factor of one was the "best choice" for the nasal tumor data.

In addition, Busch discussed the use of the onehit and multistage models in providing "conservative" estimates of risk. (A conservative estimate is defined as an estimate which will tend not to underestimate the risk.) Busch pointed out that while the onehit and multistage models produced conservative (too high) estimates of risk at low doses, they actually *underestimate* the risk posed at levels which fall within the range of doses of the experimental animals, such as 20 ppm. Busch used a probit model to perform an alternative interpolation at 20 ppm EDB because he felt the convex-upwards shape of the probit model would probably be more accurate in the midrange than the linear or concave-upward multistage model. He added: "The onehit model is obviously not credible for use in the midrange" (p. 10). The risk estimates derived from the probit model exceed the OSHA in-house risk estimates at 20 ppm by 12% to 28%. Busch concluded:

> Based on a 45-year period of intermittent exposure (during 8-hour workshifts) to 20 ppm EDB, the risk (probability) that a worker will develop the most common form of cancer is estimated to be between 38% and 59%. This range is obtained from 95% two-sided confidence limits for risks to male and female rats. [There are indications] * * * that the risk estimates for rats exposed to 20 ppm EDB are probably underestimates of risks to humans at the same exposure concentration.

A detailed and informative risk assessment was performed by Brown under contract to OSHA (Ex. 11). He examined the mode of toxicity of EDB as a prelude to quantitatively estimating the cancer risk associated with occupational exposure.

Brown noted two types of tumors associated with EDB exposure—site of contact tumors and remote tumors. The target site of "direct"tumors was dependent on route of exposure. Oral doses of 20 and 40 mg/kg/day produced forestomach tumors (Ex. 4–17). Inhalation doses of 10 and 40 ppm 6 hours per day produced nasal cavity tumors (Ex. 4–15). Doses of 25 mg/mouse/day applied to the skin of mice produced skin papillomas and carcinomas (Ex. 4–19).

In addition, tumors were produced at tissue sites remote from the site of contact in each bioassay. These included respiratory tract (lung) tumors in mice in the skin painting study (Ex. 4–19); hemangiosarcomas of the circulatory system in rats in the inhalation studies (Ex. 4–15, 4–18), and alveolar/bronchiolar carcinomas in the inhalation studies in the mice (Ex. 4–15). In the oral gavage study, hemangiosarcomas were also produced in the circulatory system (Ex. 4–17).

The tissues remote from the site of direct contact in which tumors were produced would have had relatively low exposures to EDB (that is, the effective dose may be different than the administered dose). They presumably responded because of unique pharmacokinetic, metabolic or other biochemical factors. Since these remote site tumors may be of particular concern with chronic low level exposures (due to metabolite-EDB interaction), Brown recommended that risk to workers be based on the incidence of hemangiosarcomas in male rats; he suggested that a risk assessment based on nasal tumors may provide a "more conservative" alternative.

In making his quantitative estimates of risk, Brown relied on the following assumptions:

(1) Rats and mice can be used to predict the quantitative risk of human cancer, male reproductive injury and acute toxicity resulting in man from exposure to EDB. [Note: The quantitative risk assessment was based solely on cancer. Though there were dose-response relationships demonstrated for several reproductive effects in a variety of species, many of the endpoints (reduced egg production in hens, reduced average litter size in rats) maybe inappropriate for quantitative risk assessment for humans].

(2) Cancer and other health risks at low doses are proportionally lower than risks at high doses. The low-dose extrapolation can be accomplished by fitting a mathematical dose-response model to the experimental data.

(3) Since the primary route of exposures in workers is inhalation, data from inhalation studies may be more applicable to hazard assessment for workers than data from oral or dermal routes of exposure, although significant actions are produced by skin contact.

(4) Both EDB and its major metabolites contribute to the human carcinogenic risk. The relationship between dose level of the exposure, the dose absorbed, and the risk of specific tumors differs for direct contact tumors and tumors remote from the site of contact.

(5) The exposure level and dose on a mg/kg body weight basis will possibly affect the relative amount of each metabolite(s) formed and the site of action of EDB.

(6) The human epidemiology studies available are insufficient for quantitative risk assumptions but are useful for verifying predictions developed from models based on the animal data.

Justification for these assumptions is detailed in Brown's report. Assumptions 1–3 and 6 were also made by OSHA in its in-house risk assessment; since the OSHA in-house risk assessment was based on nasal (site of contact) tumors however, assumptions (4) and (5) were not applicable.

In an effort to make maximal utilization of the available information, Brown chose to combine the results of two inhalation studies in rats in order to estimate the risk to workers, as was done in the SRI risk assessment. Data on specific tumors (i.e., nasal tumors or hemangiosarcomas) from different sutdies were combined when it was felt that they resulted from similar biological mechanisms. The integrity of this procedure was borne out by the comparison of predictions using combined data with those from risk assessments based on other data sets, particularly estimates based on single data sets from single experiments. Brown's preferred estimates were based on the combined data from the NCI/NTP and MRI/NIOSH inhalation bioassays.

Brown scaled the dose for risk assessment based on the remote tumors (hemangiosarcomas) in mg/kg/body weight. However the risk estimates based on nasal tumors used dose in terms of ppm (a scaling factor of one) since he believed that when "tumors are to a high degree the result of a direct action (Alkylation) by EDB, then the absolute concentration reaching the issue would be a more important parameter than the dose to the animal on a body weight basis." (p. 108).

Where possible, Brown fit six different models (onehit, multistage, probit, logit, gamma multihit and Weibul) to the data. His preferred estimates were those from the onehit model using nasal tumor data and the onehit and multistage models when using hemangiosarcoma data.

Based on the hemangiosarcoma data (Ex. 4–15, 4–18), Brown predicted a risk of 70 to 10 excess cancer deaths per 1000 workers at 20 ppm with 95% upper confidence limits of 134 to 148 excess deaths per 1000; at the proposed OSHA PEL of 0.1 ppm (100 ppb), he predicted an excess risk of 0.2 to 0.6 excess deaths per 1000 (95% confidence limits are .7 and .8 excess deaths per 1000). Again, using the inhalation studies, estimates of risk based on nasal tumor incidence (and air concentration of EDB—ppm) were 725 excess deaths per 1000 workers at 20 ppm and 6 excess deaths per 1000 at 0.1 ppm, with 95% upper confidence limits of 785 (at 20 ppm) and 8 (at 0.1 ppm) excess deaths per 1000.

Another risk assessment demonstrating the risk associated with EDB was given in the "Proposed Emergency Standard for Ethylene Dibromide" for the State of California (Ex. 4–9, Appendix G). This quantitative assessment of risk utilized data from the NCI inhalation bioassay. Though data from the NCI gavage bioassay are discussed in the submission, the estimates of lifetime cancer risk were based on data from the inhalation bioassay "since this route of exposure is similar to what may be the major source of human exposure" (pg. 93). The data used in the CAL/OSHA risk estimates is the nasal tumor data employed in the OSHA in-house risk assessment (OSHA, 1981) given in Table 3. This risk assessment used a mg/kg/day dose-equivalency with a daily lifetime occupational exposure of 1 ppm equivalent to 0.32 mg/kg/day. Using a simple linear model, the CAL/OSHA risk assessment predicts a lifetime risk of cancer from occupational exposure to EDB as 400 per 1000 at 20 ppm and 2 per 1000 at 0.1 ppm (100 ppb); using the onehit model the risk is greater than 996 per 1000 from exposure at 20 ppm and 0.5 per 1000 at 0.1 ppm (100 ppb).

D. Discussion and Conclusions

A summary of results from each of these quantitative risk assessments is given in Table 4. Taken together, they establish that there is a large excess risk of cancer death from exposure to EDB at 20 ppm and that lowering the PEL to 0.1 ppm will greatly reduce that risk.

Estimates of the excess risk at 20 ppm ranges from 70 to 999 per 1000 and depend heavily on the model used and the choise of tumor data upon which the quantitative risk assessment is based. After examining these (eight) risk assessments, OSHA endorses Brown's approach to the quantitative assessment of risk from exposure to EDB. OSHA concludes that

TABLE 4.—ESTIMATES OF LIFETIME EXCESS CANCER RISK FROM EXPOSURE TO ETHYLENE DIBROMIDE

Risk assessment	Excess deaths per 1,000 (95 pct upper confidence limits)		Model
	20 PPM	0.1 PPM	
EPA CAG:			
1978	999	67	"Upper bound" on onehit.
1980	999	45	Onehit.
SRI	990–1000	117	Multihit, onehit.
OSHA In-House	160–437(251–518)	0.06–3(1.4–3.8)	Onehit, multistage.
Busch	190–490(293–586)		Probit.
Brown:			
Hemangiosarcomas	70–110(134–148)	0.2–0.6(0.7–0.8)	Onehit, multistage.
Nasal Tumors	725(785)	8 (8)	Onehit.
CAL/OSHA	400–996	0.5–2	Onehit, linear.

Brown's risk estimates which incorporate the combined hemangiosarcoma data and the combined nasal tumor data are to be relied upon in making its preliminary determination of risk. Thus, at this time, OSHA concludes that the lifetime estimate of risk from (lifetime) occupational exposure to EDB at 20 ppm is 70 to 110 excess deaths per 1000 (95% upper confidence limits of 134 to 148 excess deaths per 1000); the predicted risk at 0.1 ppm (100 ppb) is therefore 2 to 6 per 10,000 with 95% upper confidence limits of 7 and 8 per 10,000. The estimate of 725 excess deaths per 1000 based on the nasal tumors is considered a valid but conservative estimate of risk. The rationale for these conclusions is given below.

OSHA believes that the multistage model (and the onehit model as a special case) is the most appropriate model for the prediction of excess risk from exposure to EDB. The curve shows good fit to the observed data and was employed in almost all the quantitative risk assessments submitted to the record.

Busch's (NIOSH) contention that the nonsigmoid curves tend to underestimate the risk in midrange is not borne out by Brown's data. Estimates from the sigmoid curves at 20 and 10 ppm are almost identical to those calculated for the onehit and multistage models (71 per 1000 for the probit model). This could be a result of the different tumor data used by Brown (hemangiosarcomas) or the increase in degrees of freedom gained in the combination of data sets. The "conservatism" of onehit and multistage models at low doses is still evident with this data (probit estimate is 5.0×10^{-6} per 1000 at 0.1 ppm).

The choice of the hemangiosarcoma data for the risk assessment was particularly prudent. Hemangiosarcomas were observed in all of the bioassays. The bioassays indicate that, regardless of route of exposure (inhalation, oral gavage, skin painting), the spleen and the circulatory system are specific target organs for the action of EDB and its metabolites. EDB is absorbed across biological membranes and found in circulating blood as EDB. This, EDB is available to all perfused tissues (essentially all tissues).

As Brown pointed out, "The tissues remote from the site of direct contact in which tumors were produced would have had relatively low exposures to EDB. They presumably responded because of unique pharmacokinetic, metabolic or other biochemical factors . . . These remote site tumors may be of particular concern with cronic low level exposures [due to metabolite-EDB interaction]" (Ex. 11, p. 94).

In addition, OSHA recognizes the advantage of combining data sets of similar tumors for risk assessment as was done by SRI (1982) and Brown (Ex. 11). Not only do similar results from different studies strengthen the weight of evidence of carcinogenicity, but the combination of these data into a single prediction of risk is resonable and provides a wider data base (more degrees of freedom) from which to make the prediction of risk.

The choice of a dose scaling factor for calculating equivalent doses was mixed among the submissions. The CAG, SRI, and CAL/OSHA assessments employed a factor to convert to mg/kg/day for risk assessment based on the inhalation bioassays and nasal tumor data. OSHA, Busch (NIOSH) and Brown employed ppm (scaling factors of 1) for these analyses, Brown recommending use of mg/kg/day only for the systemic (non-contact) tumors. OSHA concurs with this approach. The use of a mg/body weight scaling factor adjusts in some way for differences in biological mechanisms between species and seems to be a more accurate characterization of dose for remote site tumors. As Brown notes, use of actual concentration seems reasonable in a risk assessment based on contact tumors.

The excess cancer risk to workers exposed to EDB with high intermittency has not been quantified in this risk assessment. The models employed by OSHA and others assumed a cumulative dose-risk relationship. Moreover, risk estimates were based on results of cronic exposure bioassays.

In most industrial settings and other work environments, employee exposures to harmful substances are regular and long term in nature. Based upon the limited data presently available, OHSA believes that the exposure pattern for many EDB-exposed employees may follow a different pattern and that a substantial number of employees may be exposed to EDB on a somewhat irregular or intermittent basis. The models relied upon by OSHA and others to estimate the risk from occupational exposure to EDB assume regular long-term exposure. Similarly, the risk estimates were based on the results of *chronic* exposure bioassays. Therefore, the risk estimates discussed herein may only be imprecisely related to the portion of the population which is exposed to EDB on a less than regular basis and may not offer a fully representative description of these workers' risk.

A wide variety of factors makes it difficult to account for these highly intermittent exposure patterns in a quantitative manner. There is no widely accepted risk model presently in use which provides the opportunity to consider the effects of intermittent exposures or periods of non-dosing. While it is possible to adjust the mathematical models to reflect a decrease in total exposure time (which by definition is always present with highly intermittent exposures), the mathematical models cannot evaluate or predict the range of boiological interference which may take place between exposures. On the one hand, there may be elimination or deactivation of EDB to some extent when it is introduced into the system in small quantities at infrequent intervals. Such a highly intermittent exposure pattern may, at least theoretically, allow for the repair of damaged systems or cells. Both of the factors then may result in a greater reduction of risk than a model simply adjusted for decreased exposure time might reflect. On the other hand, very little deactivation or repair may

occur in spite of relately sporadic exposures.

The impact of intermittent or sporadic exposures to EDB is particularly difficult to weigh because of the lack of precise knowledge of the biological mechanism of carcinogenesis EDB has been shown to cause cancer in test animals by every route of exposure; tumors have been produced at the site of contact as well as remote sites. Experimental evidence shows that EDB forms various metabolites once it is introduced into the system; some of these metabolites are active mutagens. Moreover, EDB and its metabolites are potent alkylating agents; alkylation of macromolecules has been identified as the primary step in toxic injury to the cell in the case of reactive molecules. Consequently it may be inappropriate to assume that repair or detoixification play a significant role in spite of intermittent exposure.

Moreover, the only scientific evidence specific to EDB which is presently available suggests that the risk of cancer is not significantly reduced in spite of an intermittent dosing pattern. In the NCI oral gavage study test animals were subjected to 13 weeks at high doses followed by approximately 71 weeks at a lower dose on a cyclic basis (the animals were exposed for 4 weeks and rested for 1 week). Although the animal exposures in this study could be described as intermittent, the test animals developed cancers in the same order of magnitude as in other studies where the animals were subjected to regular exposures. Consequently, any repair or deactivation that does occur may be extremely dependent on the spacing of the doses and there is no reason to believe that in the case of EDB exposure there is a linear relationship between the repair mechanism and dose.

Another factor to be considered is that EDB is a proven synergistic agent. In view of the fact that EDB may act in a synergistic manner with other substances to which the worker is exposed, the potential effect that intermittent exposures to EDB may have on the biological system must be taken into account. This factor is especially important since workers are often exposed to other carcinogens in the work environment as well. (For example, grain elevator workers who may be intermittently exposed to EDB are sometimes also exposed to carbon tetrachloride, a well-documented carcinogen). Consequently there may be no reduction of the risks or there may be an actual increase in risk even though the EDB exposures are intermittent.

Based upon its present knowledge, OSHA feels that its ability to quantify the risks of intermittent exposure to EDB is limited. That is, limitations in the available data and science are such that a quantifiable extrapolation of risk for intermittent exposure to EDB is not possible at this time. OSHA requests information and data specifically addressing the question of intermittency; in particular, information is needed on the appropriate modeling and the prediction of risks due to intermittent exposure at high and low exposure levels.

OSHA predicts that the increase in lifetime cancer risks attributable to exposure to EDB at the current PEL is 7 to 11%, with possible upper limits as high as 79%. OSHA believes that such risks warrant and compel a new standard (and lower PEL) for occupational exposure to EDB. The impact of these estimates of risk and their role in setting the new PEL is discussed in the following section.

V. Significance of Risk

OSHA's overall analytic approach for setting worker health standards is a four step process consistent with recent court interpretations of the OSH Act and rational, objective policy formulation. In the first step, quantitative risk assessments are performed where possible and considered with other relevant factors to determine whether the substance to be regulated poses a significant risk to workers. In the second step, OSHA considers which, if any, of the proposed standards being considered for the substance will substantially reduce the risk. In the third step, OSHA looks at the best available data to set the most protective exposure limit that is both technologically and economically feasible. In the fourth and final step, OSHA considers the most cost-effective way to achieve the objective.

In the Benzene decision, the Supreme Court indicated when a reasonable person might consider the risk significant and take steps to decrease it. The Court stated:

> It is the Agency's responsibility to determine in the first instance what it considers to be a "significant" risk. Some risks are plainly acceptable and others are plainly unacceptable. If, for example, the odds are one in a billion that a person will die from cancer by taking a drink of chlorinated water, the risk clearly could not be considered significant. On the other hand, if the odds are one in a thousand that regular inhalation of gasoline vapors that are 2% benzene will be fatal a reasonable person might well consider the risk significant and take the appropriate steps to decrease or eliminate it. (*I.U.D.* v. *A.P.I.*, 448 U.S. at 655).

The Court indicated, however, that the significant risk determination required by the OSH Act is "not a mathematical straightjacket," and that "OSH is not required to support its findings with anything approaching scientific certainty." The Court ruled that "a reviewing court [is] to give OSHA some leeway where its findings must be made on the frontiers of scientific knowledge [and that] * * * the Agency is free to use conservative assumptions in interpreting the data with respect to carcinogens, risking error on the side of overprotection rather than underprotection," 448 U.S. at 655, 656.

As indicated in the health effects section above, EDB is an extremely potent carcinogen in animals, causing cancer by all routes of exposure, both at the site of contact and at remote sites.

In the preamble to this proposed standard, OSHA has presented data establishing a dose response relationship with regard to cancer in experimental animals as well as hepatic necrosis, toxic nephropathy and reproductive toxicity including embryo toxicity. Mutagenic effects have also been established. In order to determine whether the risk from exposure to EDB is "significant" the agency examined the risk from cancer from such exposure. No quantification of risks based on the numerous other adverse health effects associated with EDB exposure was attemped. Virtually all of the risk assessments performed (see discussion below) demonstrate that the risk of cancer from EDB is so high at such low levels of exposure that any further quantitative inquiry is rendered superfluous. However, OSHA believes that experimental data yields sufficient qualitative evidence to support the conclusion that EDB is a direct acting mutagen which also metabolizes to one or more highly mutagenic compounds. In addition, laboratory evidence suggests that EDB or an alkylating metabolite of EDB is responsible for the adverse reproductive effects observed.

As discussed in detail earlier, OSHA has based its risk estimates on a quantitative risk assessment for EDB performed by David Brown of Northeastern University (Ex. 11). Brown based his risk assessment on the inhalation studies conducted by the National cancer Institute/National Toxicology Program (NCI/NTP) and NIOSH/Midwest Research Institute (NIOSH/MRI). Brown's risk assessment predicted a risk of 70 to 110 excess cancer deaths per 1000 workers exposed at the current permissible exposure level (20 ppm) based on the hemangiosarcoma data combined from both studies. Estimates of risk based on nasal tumor incidence were 725 excess deaths per 1000 workers exposed at 20 ppm. These risk estimates assume employees have

regular exposure to the EDB over their working lifetime (45 years).

These estimates of risk for exposure to EDB at the current exposure limit greatly exceed the one per thousand guideline which the Supreme Court has characterized in the benzene case as presenting a significant risk. If workers are exposed for less than a working lifetime, as may be the case for cituns workers, the risk might be somewhat reduced. However, at this point, OSHA does not know how to quantify any possible reduction of risk (see discussion below). Public input is requested on this issue. It should be noted, however, that the laboratory evidence indicates that the risk to workers exposed at the present permissible exposure level of 20 ppm is so great that even if a scientifically valid methodology could be developed to account for intermittency, which might result in reducing the lifetime risk estimates for certain segments of the population, perhaps even by a factor of 2 or 3, risk would nevertheless still greatly exceed the one per thousand which the Supreme Court gave as an example of a significant risk (*I.U.D.* v. *A.P.I.*, 448 U.S. at 655).

Moreover, at least in the case of nasal tumor, the risks from EDB exposure appear to be far greater (725 per 1000) than for any other hazard that OSHA has regulated in the past, where the risks have been quantified. In the arsenic regulation, for example, the risk of cancer at the former permissible exposure level was estimated to be 400 per 1000, (see supplemental statement of reasons, 48 FR 1901), which was found to be significant. In addition, OSHA's preliminary risk assessment (which concurs with Brown's) indicates that the risk of cancer from EDB exposure at the permissible exposure level (using the combined hemangiosarcoma data) is at least as high (70 to 110 per 1000) as risks from other hazards to which OSHA has responded in those cases where quantification has been attempted. For example, the risk of cancer (using the combined hemangiosarcoma data) from EDB exposure is comaparable to the risk of cancer from ethylene oxide exposure, estimated at 63 to 109 per 1000, which OSHA preliminarily found to be significant in its recently proposed ehtylene oxide standard (48 FR 17295) and to the risk of byssinosis from cotton dust exposure of approximately 83 per 1000. Further, the risk from exposure to the current permissible exposure limit for EDB is much greater than the risk to coke oven workers (approximately 10 per 1000) which the Agency determined was sufficient to justify lowering the permissible exposure limit.

OSHA also evaluated the extent to which the risk would be reduced by adopting the proposed permissible exposure limit of 0.1 ppm. Assuming exposure over a working lifetime, the risk estimates made from the combined hemangiosarcoma data indicate risk would be reduced from 70 to 110 excess deaths per 1000 at the crrent premissible exposure limit to 2 to 6 excess deaths per 10,000 at the exposure limit contemplated in the proposed standards, approximately a 94.5% reduction in risk. If the risk estimates predicted from the nasal tumor data are used, the risk would be reduced from 725 excess deaths per 1000 at the current permissible exposure limit to 6 per thousand at the proposed permissible exposure level, indicating a 99% reduction in risk. Therefore, it appears that the excess deaths from cancer will be substantially reduced if the proposed permissible exposure level is adopted.

OSHA used the onehit and mulistage models to determine risk at both the current and proposed EDB permissible exposure limits and concluded that the multistage model was the most appropriate in this instance. It should be noted that estimates calculated using the onehit model were either the same or higher than those generated by the multistage model primarily relied upon by OSHA. Brown also calculated risk using other models, including the probit, logit, Weibull and gamma models where there were enough data points for these models to be used. Using the combinded inhalation study data, these various models estimated excess risks at the current permissible exposure limit which were essentially consistent with those generated by the multistage model; excess risk estimates generated by the other models (probit, logit, Weibull and gamma) at the proposed permissible exposure limit were somewhat lower that those calculated by the multistage model (Ex. 11, pp. 111–120). In any event, *all* models indicate an extremely high excess risk at the current permissible exposure limit and a dramatically reduced risk at the proposed permissible exposure limit. This corroborates OSHA's finding that there is a significant risk from exposure to EDB at the permissible exposure limit which will be significantly reduced by adopting the proposed permissible exposure limit and other proposed provisions designed to reduce worker exposure to EDB.

OSHA's risk assessment projects that a maximum likehood estimate of risk of 2 to 6 cancer cases per 10,000 workers will occur from regular occupational exposure at 0.1 ppm over a working lifetime. The upper confidence limit of this assessment is 7 to 8 cases per 10,000 workers. A more conservative estimate based upon the nasal tumor data indicates that at the proposed permissible exposure limit there will be 6 cancer cases per 1000 workers (with an upper confidence limit of 8 per 1000).

OSHA's preliminary conclusion is that risk is not eliminated at 0.1 ppm PEL. While the risk at this level ranges from approximately .2 to 6 cancers per thousand workers depending upon which laboratory results (tumor types) are relied upon, it is not necessary to determine which is the best estimate. Neither estimate reduces the risk to the point of insignificance. The proposed permissible exposure limit is based upon feasibility considerations. In other words, after evaluating all of the information which is presently available to it, the agency believes that it is feasible for employers to reduce employee exposures to EDB to 0.1 ppm and it may not be feasible to reduce exposure below 0.1 ppm.

Congress passed the Occupational Safety and Health Act of 1970 because of a determination that occupational safety and health risks were too high. Based on this, it is clear that Congress gave OSHA authority to reduce risks of average or above average magnitude when feasible. OSHA believes that the proposed standard for EDB will reduce the very significant risk from exposure to EDB to between .2 to 6 per 1000. Therefore, the Agency is carring out the congressional mandate within the limits of feasibility and is not attempting to reduce insignificant risks.

Under both the Congressional intent and the Supreme Court rationale, OSHA must, if it is feasible, seek to reduce risks below those estimated by the risk assessment to persist at a PEL of 0.1 ppm. The proposed rule as drafted may be expected to reduce the risks of EDB exposure below those estimated using the mathematical models because the estimates of risk only consider the PEL and do not take into account other protective clothing and work practices. As OSHA's assessment of the risk incorporated only the estimates from the inhalation of EDB, OSHA believes that these other protective provisions may lead to further reductions in risk by controlling exposures by other routes, namely dermal exposure and ingestion. OSHA believes that exposures by these other routes may contribute substantial additional risk to workers. However, the decrease in risk that may be achieved by these additional worker protection

provisions has not been quantified beyond a determination that they will add to the protection provided by a lower PEL. OSHA believes that employers who fulfill the provisions of the standard as proposed will provide protecion for their employees from the hazards presented by occupational exposure to EDB well beyond those which would be indicated solely by the reduction of the PEL.

In determining the level to which the permissible exposure limit should be lowered, several alternative 8-hour TWA's (1, 0.5, 0.1 ppm) were considered by the Agency. OSHA currently believes that compliance with a 0.1 ppm TWA is technologically and economically feasible based on data discussed elsewhere in this document and the Regulatory Analysis.

As discussed above, there may be a large segment of the exposed population that is exposed to EDB only intermittently. This pattern of exposure appears to be most likely for citrus workers as well as those in flour mills and grain elevators. In such cases, the risk of exposure to EDB may be somewhat lower than that predicted by the various risk assessment which assume regular exposure over a working lifetime. At this point, however, OSHA is unable to quantify with any degree of confidence any possible reduction of risk as a result of intermittent exposures.

The Agency believes that it may be possible to describe the risk posed by intermittent exposures in a more quantitative manner. Therefore, the risk estimating methodology employed as well as the rationale for the reliance upon specific data and assumptions is described in some detail (see Quantitative Risk Assessment discussion of the preamble) and advice is solicited from the scientific community on how to refine the technique to account for highly sporadic as well as seasonal exposure patterns.

As noted above in the quantitative risk assessment discussion, the Agency is mindful of the fact that there may be considerably more involved in accounting for intermittency than merly adjusting the total dose considered in the various risk assessment models. Therefore, OSHA invites comments addressing the issue of whether there are scientifically valid and and well-accepted techniques for accounting for intermittency in the extrapolation from laboratory data to man when the laboratory studies themselves are based upon chronic and not intermittent exposure.

In spite of these considerations, the Agency believes that the risk assessment relied upon in this proposal represents the best quantification of risk available at this time. Moreover a number of nonquantitative factors lead OSHA to believe that in spite of the intermittent exposure patterns of certain segments of the exposed population, the risk from these exposures may be close to that described in the risk assessment.

It should be noted that the NCI oral gavage study, the only laboratory study which may be analogous to intermittent exposures, showed cancers in the same order of magnitude as other studies that approximated regular exposures. In addition, dermal exposure may make a significant but unquantifiable contribution to the total EDB exposure of some industry segments such as citrus handling, where the exposure to airborne EDB may be characterized as seasonal. Although these dermal exposures are not taken into account in any of the risk assessments, the possibility of dermal exposure even when there are no spashes or spills of EDB cannot be discounted. For example, tests of fumigated citrus in Texas revealed a residual layer of EDB on the surface of the fruit of approximately 4.5 ug 14 hours after fumigation; this level was substantially reduced to 0.8 ug 40 hours after fumigation (OSHA Technical Submission #3).

The extreme toxicity of EDB is underscored by the laboratory results. EDB and two of its principal metabolites have been shown to be positive mutagens. Various types of tumors were produced at tissue sites remote from the site of contact in each bioassay. These included respiratory tract tumors, hemangiosarcomas of the circulatory system and alveolar/bronchiolar carcinomas. In addition, contact site tumors were induced in the forestomach and nasal areas. Adverse reproductive effects of EDB in several animal species have been clearly established. These adverse effects include interference in the early stages of sperm development and reduction of sperm count; malformation and anomalies in offspring were also produced. Moreover, there is an indication that some reproductive effects may be based on short term peaks, totally unrelated to length of exposure (Ex. 11).

OSHA believes that the total risk to employees exposed to EDB is the result of the compounded risks from carcinogenicity, mutagenicity, spermatotoxicity and damage to the kidneys, liver, spleen, respiratory tract, central nervous system, skin and eyes described in laboratory studies. All of these things together lend qualitive support to OSHA's quantitative risk assessment for those exposed continuously on a daily basis as well as for those exposed on an intermittent or seasonal basis.

The Agency believes that while the proposed PEL may be conservative for some industry segments who are not exposed to EDB on a regular basis, OSHA concludes that based upon current knowledge there is support for the proposal which applies the proposed PEL of 0.1 ppm to all covered employees regardless of their exposure pattern. This is especially true in view of the fact that the Agency has limited knowledge as to the precise exposure profile within various segments of the industry. In other works, while the average range of exposures are known for various groups, it is difficult to say with any degree of certainty exactly what the exposure duration and pattern is (that is, number of day, weeks and months, and frequency) for all members of these exposed groups. Ferthermore, the Supreme Court in the Benzene decision indicated that the Agency was free to use conservative assumptions in interpreting the data with respect to carcinogens, risking error on the side of overprotection, rather than underprotection (448 U.S. 656) and did not have to support its findings with anything approaching scientific certainty. This is of course consistent with the statutory mandate to protect *every* working man and woman insofar as possible from material impairment.

The Agency will continue to seek a more scientifically precise method for accounting for intermittency of exposure. If such a method can be found and if scientific evidence supports the proposition that the risk from intermittent exposure decreases significantly, then OSHA may consider some adjustment in the proposed PEL for various industry segments.

VI. Summary of Regulatory Impact and Regulation Flexibility Analysis

A. Introduction

Executive Order 12291 (46 FR 13197, February 19, 1981) requires that a regulatory analysis be conducted for any rule having major economic consequences on the national economy, individual industries, geographical regions, or levels of government. The Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) similarly requires the Occupational Safety and Health Administration (OSHA) to consider the impact of the proposed regulation on small entities.

In accordance with these requirements, OSHA has prepared a Preliminary Regulatory Impact and Regulatory Flexibility Assessment for the ethylene dibromide (EDB) standard. This assessment describes the industries affected by the standard, the regulatory alternatives, the effects of non-regulation, the costs of compliance with the proposed standards, the technological feasibility of the proposed provisions, and some of the potential benefits that will occur to employees exposed to EDB at their places of work.

The Secretary has determined that this action would not be major as defined by Section 1(b) of Executive Order 12291. The Secretary also certifies that this action would not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. The Preliminary Regulatory Impact and Regulatory Flexibility document is available in the docket office for inspection and copying.

B. Summary of Industry and Exposure Profiles

OSHA estimates that the proposed EDB standard would cover approximately 600 continuously exposed employees and about 56,400 intermittently exposed workers in seven industry sectors. Continuously exposed employees are defined as those exposed on a daily basis such as in the manufacturing of EDB. In termittently exposed employees are defined as those exposed on a seasonal or periodic basis such as those in the citrus industry.

The employees covered by the proposed standard work in seven industry sectors: EDB manufacturing; pesticide formulating; manufacturing of gasoline antiknock compounds and their blending; handling of fumigated citrus, grain, and papaya; and flour mill equipment fumigation. The EDB manufacturing industry is comprised of 4 large firms (one firm recently ceased manufacturing EDB), only 1 of which has annual sales under $1 billion. OSHA has identified 18 firms with 20 plants that blend and repackage EDB for pesticides. No firm had annual sales less than $0.5 million. Four firms manufacture antiknock compounds that contain EDB. These firms all had annual sales of more than $500 million. Six Hawaiian packinghouses handle fumigated papaya. Five out of six of these firms are relatively small, averaging 24 processing employees each. The average value of fresh utilized production for the 1980–1982 growing season was about $11 million.

OSHA has determined that approximately 2,800 employees are exposed seasonally in the handling of fumigated citrus. Outside of California, workers that are exposed to EDB in this industry include Florida and Texas truckers, Texas packinghouse employees, and Florida and Texas longhoremen and warehousemen. Those jurisdictions covered by the State of California's EDB standard (CAL/OSHA) are excluded from this analysis because they are presumably in compliance with the State plan standard and therefore they would incur no additional compliance cost.

Florida orange production was valued at over $1 billion in the 1980–81 crop season and Texas grapefruit production was valued at almost $250 million in the same time period. One industry uses EDB in the fumigation of flour mill equipment. Approximately 275 firms with about 8,000 employees are exposed to EDB periodically in this industry. Firms with less than 20 employees had annual sales averaging nearly $500,000 (in 1972 dollars) and firms with 20 or more employees had annual sales averaging over $10 million. Grain elevators use EDB to fumigate grain in storage. About 7,550 country elevators employing about 45,000 employees are exposed to EDB on the average less frequently than employees in these other industries.

C. Summary of Benefits

In its evaluation of the cancer potential of EDB exposure, OSHA finds that for every 1,000 workers continuously exposed over a working lifetime, EDB would cause between 70 and 725 cancers at exposures of 20 ppm, between 1.7 and 62 cases at 1 ppm, and from 0.2 to 6 cancers at 0.1 ppm. On the basis of current exposure estimates for the roughly 600 workers who are continuously exposed to EDB on a daily basis, these risks indicate that EDB would cause between 1 and 8 cancers in this group. Compliance with the proposed standard would reduce this number to 0 to 3 cancers.

OSHA has not yet estimated the number of cancers that EDB would cause among the approximately 56,000 workers exposed on a less than daily basis and is soliciting information from the scientific community on the appropriate means to quantify the risks to these workers. A number of factors, however, lead OSHA to believe that the risks resulting from these intermittent exposures are significant. For example, the NCI oral gavage study, which is the only laboratory study that may be analogous to intermittent exposures, showed cancers in the same order of magnitude as studies based on continuous exposures. In addition, dermal and oral exposure may make a significant but unquantifiable contribution to the total EDB exposure of some industry segments, such as citrus handling, where the exposure to airborne EDB may be characterized as seasonal. Although these dermal exposures are not taken into account in any of the risk assessments, there is a real possibility that dermal exposure contributes to total exposure even when there are no splashes or spills of EDB.

Moreover, OSHA believes that the hazard to employees exposed to EDB is not limited to cancer but reflects the compounded risks from carcinogenicity, mutagenicity, spermatotoxicity and damage to the kidneys, liver, spleen, respiratory tract, central nervous system, skin, and eyes. While data are not available to permit the frequency of these effects to be precisely predicted, together they support OSHA's determination to promulgate a regulation that protects all employees exposed to EDB.

D. Technological Feasibility

OSHA has examined the technological feasibility of the proposal and concluded that, based on available data, the proposal is technologically feasible across all of the affected industries examined. However, OSHA has not yet obtained complete data to determine the technological feasibility of engineering controls for those firms that are engaged in the manufacture of antiknock compounds and their blending. OSHA has hired Centaur Associates to complete this assessment and their findings will be available during the public participation period.

E. Summary of Costs

Based on the data currently available, OSHA estimates that the annual cost of complying with the proposed standard would not exceed $3.9 million. Consequently, this regulation is not a "major rule" as defined by the criteria of Executive Order 12291. These annual costs include $51,500 for EDB manufacturers, $96,100 for EDB pesticide formulators, and $675,200 for those firms that handle fumigated cirtrus. The annual costs also include $3.05 million for flour mills and $39,400 for firms that handle fumigated papaya. Grain elevators are likely to incur few costs because they should be able to discontinue the use of fumigants that contain EDB and to substitute other fumigants. To supplement these findings, OSHA has contracted with Centaur Associates to gather additional data to characterize the proposal's impact on the compliance costs, technology, and economic status of these industry sectors. In addition, Centaur is gathering similar data for firms engaged in the

VOL 48 ISS 196 OCT 7 1983 UMI

manufacturing and blending of antiknock compounds. These findings will be made available during the public comment period.

Medical surveillance and respiratory protection account for more than two-thirds of the annual compliance costs estimated to be incurred by firms in these affected industries. Medical surveillance is expected to cost approximately $1.6 million, or 41 percent of the annual compliance costs, and respiratory protection is estimated to cost about $939,000 or 24 percent of the annual compliance costs. The costs to install engineering controls accounts for less than 13 percent of the annual costs.

F. Economic Impacts and Regulatory Flexibility Analysis

This regulatory assessment also considers whether the industries affected by the standard would remain economically viable after compliance with the provisions of the proposal. The assessment concludes that compliance with the proposed EDB standard would have no significant economic impacts on EDB manufacturers and users. Available data indicate that compliance costs would be no more than 0.1 percent of total sales in any of the affected industries. In view of the relatively small magnitude of these costs, any effect on prices and output would be almost negligible. While data on the profitability of individual firms are not yet available for all the affected industries, information regarding the magnitude and distribution of compliance costs among the affected firms indicates that the proposal should not adversely affect these firms' competitive abilities.

Pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat. 1164 [5 U.S.C. 601 et seq.]) OSHA has given special consideration to the mitigation of the economic impacts of the proposed standard on small entities. OSHA does not anticipate that the proposed standard would adversely affect small entities. Nevertheless, OSHA seeks additional data on this subject as few responses to OSHA's Advance Notice of Proposed Rulemaking concerned economic impacts. Further attempts to design a standard to minimize the relative impact on small entities, while ensuring safety and health in the workplace, will depend upon the information obtained during the forthcoming public participation period.

VII. Environmental Impact

On December 18, 1981, OSHA published an Advance Notice of Proposed Rulemaking (ANPR) (46 FR 61671–76) for occupational exposure to ethylene dibromide (EDB). Information was solicited from the public on a variety of issues including environmental impacts of a proposed revised standard. The comment period for this ANPR ended on May 31, 1982. The information and comments submitted in response to the ANPR have been reviewed in acccordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.) the Guidelines of the Council on Environmental Quality (40 CFR Part 1500), and OSHA's DOL NEPA Procedures (29 CFR Part 11). As a result of this review, the Assistant Secretary has determined that the proposed rule will not have a significant impact on the environment external to the workplace. Impacts onthe workplace environment are discussed in other portions of this preamble.

EDB is used in the manufacture of antiknock additives for gasoline, as a spot fumigant on cereal and grain handling equipment, as a soil fumigant, as a source of bromine in organic synthesis processes, in the manufacture of vinyl bromide, as a catalytic agent, and as a specialty solvent for resins, gums, and waxes.

The Environmental Protection Agency (EPA) has the authority to regulate the use and application of EDB as a fumigant under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 et seq.). EPA regulations on the enforcement of FIFRA are found in 40 CFR Part 162. As a fumigant, the formulations of EDB pesticides are registered with EPA and are required to be labelled properly as to their toxicity to humans, their particular hazards, their routes (s) of exposure, and the precautions to be taken to avoid accident, injury, or damage. Application of these pesticides may only be performed in accordance with the precautions set forth on the label. Also, under the Clean Air Act (41 U.S.C. 1857 et seq.) and the National Ambient Air Quality Standards for Total Suspended Particulates, EPA is responsible for maintaining ambient air quality by preventing or controlling air pollution.

Under the proposed OSHA standard, the current permissible exposure limit (PEL) of 20 ppm would be reduced to .100 ppm as an 8-hour, time-weighted average (TWA), with a ceiling of 0.5 ppm. This reduction in the exposure limit is not anticipated to impact significantly on the external environment because (1) any resultant emissions to the external atmosphere would not represent a significant increase, (2) no solid waste is directly associated with EDB fumigation, and (3) the standard is not likely to impact upon the use of leaded gasoline, the largest outlet for EDB and related emissions. In addition, provisions of the proposal such as medical surveillance, employee information and training, hygiene facilities and practices, warning information, recordkeeping, and protective equipment and clothing are not anticipated to have a significant impact beyond the workplace.

Although the removal of increased amounts of EDB from the workplace air might seem to contribute to the pollution of ambient air surrounding EDB operations and applications, this is not anticipated because the amount of EDB that migrates to the external environment is not likely to increase. Many operations occur outdoors and controls that might be implemented under the proprosal probably would not change the amount of emissions to the atmosphere. In cases where worker exposure is reduced by the use of improved control methods, such as negative-pressure ventilation and purge systems in fumigation chambers, atmospheric emissions of EDB would remain constant, having an insignificant impact on the external environment. To further illustrate, in cases where exhaust emissions from fumigation chambers are controlled by extending the height of the stacks, the ground level concentrations, rather than the quantity of EDB would be reduced.

In cases where liquid EDB is transported or stored, there may be some potential for spills or leaks. Because of the nature of EDB, however, such occurrences would not be as a direct result of the proposal and would continue to come under the jurisdiction of EPA and DOT regulations. Although instances of waste disposal have not been presented to the record, such disposal would also be covered by EPA Resource Conservation and Recovery Act regulations (PL 94–580, 90 Stat 2795, Sec. 2001 *et seq.*) and transportation would be regulated by the Department of Transportation. The requirements of the proposed standard will not alter present methods for waste disposal, transportation, or cleanup of EDB.

Although the largest outlet for EDB is as a scavenger in leaded gasoline, the amount present is less than 0.1 percent by weight. Exposure levels are also low during service station operations and during the distribution, storage, or bulk handling of leaded motor fuel. For this reason, these activities are exempted from the proposal. Any impacts on the use of EDB in leaded gasoline are most likely to occur as a result of the continued use and demand for lead-free gasoline and the low growth of overall gasoline consumption, not as a direct result of the proposal.

Based on this discussion and other information presented in this Notice, OSHA concludes that there will be no significant impact on the general quality of the human environment external to the workplace, particularly in terms of ambient air quality, water quality, or solid waste disposal. OSHA, of course, reserves the right to perform additional environmental analyses based on the information and comments received in response to this Notice.

VIII. Clearance of Information Collection Requirements

The collection of information requirements contained in the proposed rule have been submitted to the Office of Management and Budget (OMB) for review under section 3504 (h) of the Paperwork Reduction Act of 1980. These collection requirements are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation. Comments on this matter are invited and should be directed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Labor, Room 3208, New Executive Office Building, Washington, D.C. 20503.

IX. Summary and Explanation of the Proposed Standard

The proposed requirements set forth in this proposal are those which, based upon all currently available data, the agency believes are necessary and appropriate to provide adequate protection to employees exposed to EDB. OSHA has considered all recommendations received in response to the ANPR as well as numerous reference works, journal articles and other data accumulated by OSHA since the initiation of this rulemaking. The following sections discuss the individual requirements of the proposed standard.

1. Section 1910.1048. Paragraph (a). Scope and Application

This proposed standard for ethylene dibromide (EDB) is applicable to all places of employment where EDB is produced, reacted, released, mixed, blended, packaged, repacked, stored, transported, handled or distributed.

This proposed regulation does not apply to the application of EDB as a pesticide. Section 4(b)(1) of the Occupational Safety and Health Act states "nothing in this Act shall apply to working conditions of employees with respect to which other federal agencies . . . exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health." The Environmental Protection Agency (EPA) currently regulates the use of EDB as a pesticide and the application process for fumigation of agricultural products. EPA's jurisdiction arises under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*). EPA's actions indirectly affect the working conditions of employees who apply EDB as a fumigant, thus OSHA is preempted from exercising jurisdiction over those applicators as provided by section 4(b)(1) of the OSH Act. OSHA will, however, exercise jurisdiction over occupational exposures which occur subsequent to or "downstream" from the application of EDB as a pesticide.

OSHA has reviewed EDB exposure sampling data for manufacturing, blending, formulation and fumigation operations and data submitted in response to the Advance Notice for Proposed Rulemaking (ANPR) for EDB. Responses to the ANPR have provided additional information about these operations and worker exposures. OSHA has decided that this standard should apply to all workplaces in maritime and general industry. This decision is based upon available exposure information as well as the general toxicity of this material.

The proposed standard also applies to those places of employment which handle materials or commodities which have been fumigated with EDB or products containing EDB since airborne concentrations of EDB result from offgassing of fumigated commodities.

Wholesale and retail food stores, automotive service stations and the distribution, storage or bulk handling of leaded fuel are not subject to the requirements of this proposed regulation. The proposal does not cover these places of employment because OSHA's evaluation of the exposure data in these industries indicates that the potential hazards addressed by the standard probably do not exist in these industries. In addition, no hazard of dermal exposure exists when handling fumigated citrus in food stores.

It should be noted that although OSHA is proposing to exempt the above discussed operations from the standard, these operations would still have to comply with the new PEL. This is consistent with good industrial hygiene practice. The agency does not contemplate that this will place any burden whatsoever on employers not covered by this proposed comprehensive standard because all available information indicates that these workplaces have exposures well below the proposed action level.

A. Wholesale or Retail Food Stores

Under certain circumstances fresh citrus shipped from one citrus growing region to another must be fumigated with EDB to prevent the propagation of certain pests. The pests and larvae are killed by exposing the citrus to very high airborne concentrations of EDB for a specified period of time. During this time the citrus and its cardboard packaging material absorb EDB. After fumigation the fruit begins desorbing (offgassing) EDB into the surrounding environment. This offgassing continues for the next several days, diminishing over time.

Most of the fumigated citrus comes from Florida and Texas and is sold in California. OSHA conducted environmental monitoring of fumigated citrus shipments from Texas to California and from Florida to California. Florida and Texas must also fumigate citrus shipped to Japan.

Air samples were taken during fumigation operations and during the transport, unloading and warehousing of the fumigated citrus in California.[2] The results of OSHA's environmental sampling indicate that by the time fumigated citrus has been transported to the warehouses or retail food stores for marketing, very little potential for exposure to EDB remains. Sampling results indicate that airborne levels of EDB in the warehouses before shipment to food stores are below 15 ppb. While OSHA did not continue to monitor downstream exposures in wholesale and retail food stores, the reduction in the levels during shipping indicate that environmental levels must be extremely low at these destinations.

The data therefore indicates that exposures in wholesale and retail food stores are well below the proposed action level. For this reason, OSHA has decided to exclude these industries from this proposed standard.

B. Service Stations

EDB is used as an additive in leaded gasoline. After blending the additive into the gasoline, the amount of EDB present is less than 0.1% by weight (Ex. 5–54). According to the American Petroleum Institute (API), 606,000 service station workers have potential for

[2] From November 1981 to March 1982 OSHA participated in a control technology assessment study conducted by Arthur D. Little, Inc. for the U.S. Department of Agriculture's Animal and Plant Health Inspection Service. OSHA conducted the environmental monitoring of airborne EDB for this study. Samples were taken at the fumigation station and in the trailer as the citrus was offgassing and transported to California.

exposure to EDB from leaded gasoline (Ex. 5–54). The results from full shift air sampling show that levels are very low, ranging from 0.03 ppb to 0.30 ppb. The highest individual sample reported was 1.8 ppb. Standard Oil stated that the average EDB concentrations measured at certain Amoco service stations were less than 0.005 mg/m³ (0.65 ppb) (Ex. 5–30). NIOH sampling results corroborate these figures. Samples collected at Cincinnati area service stations (which ranged in times between 71 to 210 minutes) were all below the 0.003 mg (0.0004 ppm) analytical limit of detection. Actual exposures may have been lower, however, limitations in the sampling and analytical methods used did not allow a more quantitative assessment. (NIOSH Memo, October 4, 1977). All of NIOSH's results were below OSHA's proposed PEL of 100 ppb.

Operations associated with leaded gasoline currently require stringent worker protection because of the toxic ingredient tetraethyl lead (TEL). These operations require the use of dermal protection from TEL under the general industry standard 29 CFR 1910.133 and 1910.1000.

California's Final General Statement and Summary of Opposition Testimony Concerning the EDB Standard (Ex. 7–8, Page C2) also indicates that exposure levels from service station operations are low, typically less than 7 ppb. The California standard exempts exposures from leaded gasoline from all provisions except the permissible exposure limit. All the available data indicates that airborne exposure levels are below the action level for service station attendants. The agency has therefore decided to exclude gasoline service stations from coverage under this proposed standard.

C. Distribution, Storage, or Bulk Handling of Leaded Gasoline

The agency decided to exclude from coverage that portion of the leaded fuel industry involved in the distribution, storage or bulk handling of leaded motor fuels as the available data demonstrate negligible exposure in this industry. These operations involve closed systems where the percentage of EDB by weight is 0.1%. After bending the EDB into the fuel, the need to control exposure to another toxic ingredient, tetraethyl lead (TEL) adequately keeps EDB exposure well below 130 ppb (Ex. 5–38). Examination of the data submitted indicates all sampling results were below OSHA's proposed action level. The API submitted sampling data for employees from one company engaged in terminal operations including loading and unloading of truck tankers. All air sample results were well below the proposed action level and in fact were less than 10 ppb (Ex. 5–54). While there may be a possibility of spills or accidental release of leaded gasoline vapors containing EDB in air due to the volume of material transported, concentrations of EDB in such instances would vary in proportion to the amount spilled. Since leaded gasoline also contains TEL, which has a greater acute toxicity, precautions must be taken to protect workers during clean up operations or emergency situations. The precautions required for TEL also would provide protection against any potential exposure to EDB.

2. Paragraph (b). Definitions

This section contains a list of definitions applicable to this section.

An "action level" of 0.05 parts per million (ppm) (50 parts per billion (ppb)) as an 8-hour time weighted average is provided in the proposal. The action level is the point at which certain provisions of the proposed standard must be instituted, such as medical surveillance. It provides a way of maximizing employee protection in those instances where exposures are possibly significant and minimizing employer obligations by defining the point below which no action is necessary. The broad scope of the proposal necessarily encompasses many employers whose employees are exposed to levels of EDB below the PEL. OSHA expects that this action level mechanism will greatly limit the number of workplaces covered by this proposed standard. For example, medical surveillance only has to be implemented for employees exposed to EDB at or above the action level for a total of 30 or more days per year. If an employer can demonstrate that an employee has not been exposed to this level for the required duration, the employer does not have to place that employee in a medical surveillance program. Thus, the action level concept provides an objective means of tailoring different sections of the standard for those employees who are at the greatest risk of developing an illness from exposure to EDB.

The statistical basis for determining the action level has been discussed in connection with several other OSHA health standards. In brief, although all measurements on a given day may fall below the permissible exposure limit, some possibility exists that on unmeasured days the employee's actual exposure may exceed the permissible limit. Where exposure measurements are above one-half the PEL, i.e. above the action level, the employer cannot reasonably be confident that the employee may not be overexposed on days when measurements are not taken (Leidel, N.S. et al. 1975). Therefore, requiring periodic employee exposure measurements to begin at the action level provides the employer with a reasonable degree of confidence in the results of the measurement program.

This proposed standard incorporates a more appropriate term for establishing a Short Term Exposure Limit (STEL). While OSHA has in many instances used the word "ceiling" to define a 15 minute average measurement, the ACGIH defines ceiling as "a concentration that should not be exceeded even instantaneously." Since most of the agency's airborne exposure limits were adopted from ACGIH's Threshold Limit Values, less confusion may exist if the definitions are similar. So, like the ACGIH, OSHA believes that a STEL is not a separate independent exposure limit, rather it supplements the time-weighted average (TWA) limit where there are recognized acute effects from a substance whose toxic effects are primarily of a chronic nature. STELs are recommended only where toxic effects have been reported from high short term exposures in either humans or animals.

A definition of the term "emergency" is included in the proposed standard. For the purpose of the standard, emergencies are occurrences such as, but not limited to equipment failure, rupture of containers, or failure of control equipment which may result in an unexpected release of EDB. The standard imposes requirements to protect employees during emergency situations, such as pre-arranged emergency planning and medical surveillance.

Every spill or leak does not automatically constitute an emergency situation. The exposure to employees must be high and unexpected. Emergency situations include dermal exposures from a splash or leak.

3. Paragraph (c). Permissible Exposure Limit

OSHA is proposing to reduce the permissible exposure limit (PEL) to 0.1 ppm as a TWA with a short term exposure limit (STEL) of 0.5 ppm. This proposed PEL is based on the findings by OSHA that exposure to EDB at the current PEL presents a significant risk to employees and that the proposed standard will substantially reduce that risk.

In making a determination of significant risk, it is appropriate for OSHA to consider a number of different factors. The Supreme Court in the

Benzene decision provided some general guidance as to the process, stating that "while the agency must support its finding that a certain level of risk exists with substantial evidence, we recognize that its determination that a particular level of risk is 'significant' will be based largely on policy considerations" (448 U.S. at 655, 656 n.12). Consistent with rational policy judgment, OSHA has recently identified the following factors as being among those which should be considered: (1) The quality of the underlying data; (2) the reasonableness of the risk assessment; (3) the statistical significance of the findings; (4) the type of risk presented, and (5) the significance of the numerical risk relative to other risk factors (47 FR 15358, 15365, April 9, 1982). These factors have been evaluated with respect to the EDB risk assessment performed (see Section VI of this preamble).

OSHA has determined that exposure to EDB at the present standard of 20 ppm clearly poses a significant risk of material impairment to employees. Material impairment means employees contracting cancer, suffering adverse reproductive effects and other adverse effects such as liver and kidney damage due to exposure from EDB. The significance of this risk has already been informally acknowledged by some industries, who have reacted to the developing information regarding the potential health effects of EDB by voluntarily reducing the exposure of its employees.

Data received in response to the ANPR indicate that all the major producers maintain worker exposure levels at 0.5 ppm (TWA) or less. Section 6(b)(5) of the OSHA Act states "The Secretary . . . shall set the standard which must adequately assures on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life". The agency does not feel that the 0.5 ppm level will adequately protect employees and therefore proposes to establish a PEL at the 0.1 ppm level. Ethyl Corporation, which has the largest EDB production facility in the world, stated that its current internal exposure guideline is 0.1 ppm averaged over 8-hours. Under normal operations, engineering controls maintain the exposure of the EDB operator at less than 0.1 ppm. (Ex. 5–47) Conversely, formulation operations, while having exposures below the current 20 ppm 8-hour TWA, still have high employee exposures.

A short term exposure limit (STEL) may be necessary to provide adequate protection against possible reproductive effects from acute exposure for EDB exposed workers. OSHA recognizes that in some operations, relatively high excursions may be encountered by employees for short periods of time. The Brown risk assessment (Ex. 11) recommends that a short term exposure level of 0.5 ppm be established. OSHA supports this recommendation and has consequently proposed a STEL limit of 0.5 ppm. OSHA solicits comments on the establishment of a STEL limit for EDB.

OSHA has considered the economic and technological feasibility of the proposed PEL. Based on data provided by OSHA contractors and data submitted to the record in response to the ANPR OSHA believes that achieving compliance with a PEL of 0.1 ppm as an eight hour time-weighted average STEL and a of 0.5 ppm as averaged over a 15-minute period during the workday is both economically and technologically feasible. (See section VIII and the Regulatory Analysis for further discussion of this issue.)

4. Paragraph (d). Regulated Area

The proposal requires employers to establish a regulated area where airborne exposures to EDB are at or above the action level. Access to the regulated area is to be restricted to those persons required by their job duties to be present in the area; specifically, to those authorized entry by the employer, this proposal or the OSH Act.

The purpose of a regulated area is to ensure that employers make employees aware of the presence of EDB at levels approaching the PEL in the work place. This may be accomplished by posting a sign. The establishment of such a regulated area is an effective means of limiting the risk of exposure to as few employees as possible. This is consistent with good industrial hygiene practice when exposure to a toxic substance can cause serious chronic health effects. This requirement has other benefits in that where personal protective equipment (PPE) may be required in these areas, the additional obligations imposed by the proposal when PPE is used is also restricted to as few persons as possible.

Additional protective measures are necessary to restrict possible ingestion and absorption of EDB for workers within a regulated area. EDB is readily absorbed through the skin and can produce systemic toxicity. Therefore the agency proposal requires employers to prohibit workers from eating, smoking, drinking or applying cosmetics in regualted areas. This is designed to reduce the risk of inadvertent exposure to EDB via contaminated materials.

This section also requires that whenever an employer at a muti-employer worksite establishes a regulated area, that employer must communicate to other employers at the worksite the location of the regulated area and its access restrictions. Such extended communication would lessen the possibility of prohibited work practices and is intended to preclude inadvertent exposure of persons not involved in EDB related operations. OSHA believes that employers who have employee exposures to EDB at or above the action level have the responsibility to coordinate their work with all other employers whose employees may be exposed because of their proximity to the worksite. A specific method of communication is not required; this allows the employer the necessary flexibility to communicate the information to other employers at the work site in the most effective way possible.

OSHA is aware that under some circumstances regulated areas may need to be established in situations involving non-permanent worksites. For example the shipboard loading of fumigated commodities may result in airborne concentrations of EDB in the cargo holds in excess of the action level. In such instances the ship's hold would become a regulated area and access to and from it must be limited until such time as the EDB levles are reduced below the action level. A similar situation may arise at warehouse facilities during the time they house EDB fumigated commodities.

OSHA is cognizant of the problems presented by these temporary worksites and seeks comments regarding the establishment of such regulated areas.

5. Paragraph (e.) Exposure Monitoring

The monitoring requirements of the standard are proposed pursuant to section 6(b)(7) of the Act which mandates that standards dealing with toxic materials promulgated under section 6(b) shall, where appropriate, "provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees." The primary purpose of monitoring is to identify the sources of EDM emission and to determine the extent of employee exposure to EDB. It is particularly important with EDB since it is a colorless, odorless substance and has been shown to cause adverse health

VOL 48 ISS 196 OCT 7 1983 UMI

effects at low doses. Once a determination is made that control of employee exposure to EDB is required, monitoring will enable the employer to select proper control methods and evaluate the effectiveness of the methods selected. Additionally, monitoring enables employers to notify employees when their exposure levels exceed permissible limits, as required by section 8(c)(3) of the Act. Such information is also necessary for the examining physician in order to effectively implement a medical surveillance program. For purposes of the monitoring requirements, as well as other provisions of the proposal, "exposure" means that which would result if respiratory protection were not used.

The proposed standard requires that exposure monitoring be conducted by taking air samples that are representative of each employee's full shift and short term exposure to EDB. The standard requires that for all operations, except those which are seasonal or intermittent, employers must conduct an initial monitoring within 60 days of the first introduction of EDB into the work area. however, if the intial monitoring or any subsequent monitoring indicates employee exposure to EDB above the action level but below the PEL, the employer than incurs an obligation to continue to perform monitoring. The employer must establish a cycle to repeat the monitoring of each such employee's exposure at least annually. A more frequent obligation occurs if employee exposure is found to be above the PEL. The proposed standard establishes a remonitoring cycle of at least every 6 months when exposure is found to be above the PEL.

In addition to the periods specified for remonitoring cycles, an employer must remonitor and make a new determination of employee exposure within 15 days (for other than seasonal exposures) if there has been a change in production, process or control measures which may result in new or additional employee exposure to EDB It is contemplated that the employer may use the periodic monitoring results to fulfill this additional monitoring requirement provided the periodic monitoring is done within 15 days of the change in production, process or control measures.

Employers can terminate the monitoring if employee exposure is found to be below the action level. However, if there is a reason to suspect that new or additional exposure may occur because of a change in production, process or control, the employer must reinstitute the monitoring program.

OSHA believes that it is necessary in those workplaces where EDB is present that each employer measure employee exposure to EDB using a reliable and accurate sampling method. Monitoring must at least be representative of each employee's full shift and short term exposure. Each employee's individual exposure need not be measured to fulfill the monitoring requirement, as long as sufficient sampling is done to allow the employer to determine each employee's exposure. This provides some the flexibility in complying with the intent of the initial monitoring requirement without incurring unnecessary costs from repetitive monitoring procedures.

The employer has the latitude of selecting the number of samples taken to represent full shift exposure for each job classification on each shift. For those job classifications with similar exposure on all shifts, only one set of representative measurements per job classification is necessary. This will minimize duplicative efforts and costs in complying with the monitoring requirements.

Although individual measurement may be the ultimate indicator of an employee's exposure, OSHA believes the requirement for individual measurement may be too burdensome. Moreover, representative measurements will adequately reflect exposure provided that representative samples include worst case exposure scenarios. Measurement of exposure need only be made once, assuming exposures are below the action level for continuous exposures. The determination need only be repeated if there is a change in operation such that it may create new or additional EDB exposure. The termination of the monitoring provision is only applicable to continuous operations below the action level so long as there is no change in production, process or control which could result in new or additional exposure.

Employers are not precluded from taking individual exposure measurements for each employee; individual measurements are certainly considered to be representative; however, representative monitoring requirements merely establish the minimum that the employer must meet. In establishments having more than one work operation involving the use of EDB, for monitoring to be representative, such monitoring must be performed for each type of employee exposure within each operation. Employers who have taken exposure measurements within six months of the effective date of the final regulation may use the results of those measurements, provided that they meet the accuracy and confidence levels delineated in paragraph (e)(5), to satisfy the requirements for conducting initial monitoring.

Certain uses of EDB are seasonal in nature as opposed to continuous, year-long operations. One such major noncontinuous use is the fumigation of citrus which is conducted after harvest but before the delivery of fruit to the warehouse. Other uses of EDB are intermittent in nature. An example of intermittent use would be the fumigation of grain in grain elevators or the arrival at elevators of freshly fumigated grain that may occur many times during the calendar year, albeit sporadically. A special definition of intermittent exposure is described in the methods of compliance section of this preamble.

Employers who have operations where employees are exposed to EDB on a seasonal or intermittent basis are required to conduct exposure monitoring while EDB is present in the workplace. Seasonal or intermittent operations may be extremely sporadic and variable; therefore, the proposal requires monitoring at least annually regardless of the results of the last monitoring event. The agency believes this is necessary to assure employee protection in view of the fact that it will be difficult to ascertain whether conditions and exposures remain the same from year to year. Accurate exposure measurements in these situations are further complicated because EDB is a colorless, odorless substance at the PEL.

Employers with seasonal operations are further required to conduct the monitoring within 30 days of start up or within 30 days of the first introduction of EDB into the workplace. The proposal does not allow a termination of monitoring for operations which are seasonal or intermittent for the reasons that it will be difficult to ascertain without remonitoring whether exposures are the same from year to year. No specific period of time is given for remonitoring after a change in operation under these circumstances because the exposures may be very short or sporadic and remonitoring may have to be done quickly to afford adequate protection to workers. OSHA is aware that seasonal and intermittent operations may have greater fluctuations in exposure than continuous operations. Due to EDB's extremely toxic properties and in view of these fluctuations, remonitoring must be conducted as soon as possible after the fluctuation.

OSHA believes employees have a fundamental right to be apprised of the results of monitoring whether or not

they are above the PEL. This is consistent with the mandate of section 8(c)(3) of the Act which not only requires that accurate employee exposure records be kept when monitoring is required but that employees be given access to such monitoring records.

Although 29 CFR 1910.20 requires that employees have access to exposure records upon request, the proposal requires that the employer notify all employees of the exposure measurements which are representative of their exposure. This explicit requirement to inform employees has educational value and will encourage more effective and enlightened worker participation in occupational health programs. Recognizing that for notification to be an effective informational process it must occur in a timely manner, the proposed standard requires an employer to notify each employee of his or her exposure within fifteen (15) days of obtaining the results of measurement. OSHA believes that 15 days is a reasonable period of time to implement this requirement.

The employer is given the flexibillty to communicate monitoring results in a manner that is judged to be most reasonable. Only in those instances where an employee's exposure is above the PEL is the employer required to notify the employee of the results of monitoring in writing—stating that the PEL was exceeded and provide a description of any appropriate corrective action taken.

OSHA is aware that in some circumstances, particularly in those involving stevedoring operations, employees who are monitored for EDB exposure may not always work for the same employer or report to the same work location each day. Under these circumstances, it may be difficult to directly notify employees of their monitoring results. While OSHA fully expects the employer to make every reasonable attempt to notify those affected employees, the proposed regulation allows the employer to notify the employee's authorized representative of the monitoring results.

The available methodology for sampling and analysis of EDB demonstrates that it is possible to monitor employee exposures down to 0.001 parts per million. At these concentrations sampling and analytical methodologies are available which have an accuracy to a confidence level of 95 per cent, of not less than plus or minus 25 per cent.

Samples may be collected by absurption of EDB on charcoal contained in glass tubing through which a volume of air is drawn. Passive dosimeters may also be as effective in evaluating 8-hours exposures. The use of a portable gas chromatograph may be of special use in evaluating peak or short term exposure on site. The NIOSH analytical method (P&CAM 260) contained an Appendix D will detect EDB in parts per billion with the accuracy delineated in the proposal using gas chromatography and electron capture detection. Although these techniques require care, they are readily available and should pose no special difficulties for employers covered by this proposal.

The proposed standard allows personal sampling using charcoal tubes or other absorbent type measurement methods for monitoring. This type of sampling must be followed by a quantitative chemical analysis that usually occurs offsite some days later. Traditionally, OSHA has used this method to monitor employer compliance with its health regulations. However, this approach may be completely inappropriate for monitoring intermittent operations under changing conditions. For example, the results from monitoring stevedores loading holds in a ship, using charcoal tubes as a collection media, later followed by formal analysis in a chemical laboratory, probably would not be available until after the ship has left the dock and the workers have left the worksite.

A more appropriate and advantageous monitoring technique would be to require that only direct reading instruments be used in these situations. By direct reading, OSHA means some method of immediately being able to determine employee exposure levels. In this manner an employer would immediately know if the exposure levels are above the PEL and the employer could initiate action to reduce those levels. In addition, direct reading instruments would indicate when the level was exceeded so that other protective measures might be instituted. Another advantage of direct reading monitoring capability would be the ease of informing employees of their monitoring results while they are still at the worksite. An apparent disadvantage is the lack of readily available testing equipment. The only device OSHA is aware of that will conform to the precision and accuracy requirements of the proposed standard and selectively screen out other chemicals, is a gas chromatograph (GC). Portable GC's cost more money initially than pumps and charcoal tubes and require experienced professional operators to use.

The Florida Department of Citrus has had some experience in the use of a GC for monitoring exposure levels. OSHA requests comments and suggestions for monitoring seasonal and intermittent exposures and specifically requests comments on whether monitoring with direct reading instruments should be required.

6. Paragraph (f). Observation of Monitoring

Section 8(c)(3) of the Act requires that employers provide employees and their representatives with the opportunity to observe monitoring of employee exposures to toxic substances or harmful physical agents. In accordance with this section, the proposal contains provisions for such observation of monitoring for EDB exposures.

The observer, whether an employee or a designated representative, must be provided with, and required to wear, any personal protective equipment that is required to be worn by those working in the area that is being monitored. The observer must also comply with all other applicable safety and health procedures.

7. Paragraph (g). Methods of Compliance

The proposed standard requires that except for a narrowly defined exception discussed below, the employer must institute feasible engineering and work practice controls to reduce employee EDB exposures to or below the permissible exposure limit. Where engineering controls or work practices cannot be instituted to reduce exposure to or below the permissible level, these controls must nontheless be implemented to reduce exposures to the lowest feasible level. Where engineering controls do not reduce exposure below the PEL, they must be supplemented by the use of respirators to provide the necessary protection.

The proposed rule's reliance on engineering controls as the primary means of compliance is, in part, an acknowledgment that a particularly effective method of controlling employee exposure is to control the emission of toxic substances at their source through mechanical means combined with the use of work practices. Good engineering and work practice controls also minimize splashes and spills. An added benefit of these controls is reducing dermal exposure to employees.

However, OSHA also recognizes that respirators may provide acceptable protection when an employer establishes stringent procedures and then carefully supervises their implementation on a continuous basis. The agency recently published an ANPR (48 FR 7473) requesting comments on all

relevant issues related to the circumstances in which it might be appropriate for OSHA to allow greater reliance on respirators to protect workers from the various airborne contaminants regulated by OSHA. The agency is particularly interested, in conjunction with that regulatory initiative, in receiving comments, information and data concerning the extent to which respirators may provide effective protection against EDB exposure and may be relied upon as a substitute for engineering controls beyond those circumstances described in this proposal.

The engineering control requirements contained in this proposal may not be technologically or economically feasible in some operations. In recognizing these circumstances the proposal allows an employer to demonstrate the infeasibility of engineering and work practice controls in a particular operation and allows the use of respirators as supplementary protection in these circumstances. The burden of proof is appropriately placed on the employer to show that engineering and work practice controls are not feasible. The employer is familiar with the workplace operation and is therefore in the best position to evaluate various types of controls as they apply to that particular workplace environment. There are many types of engineering and work practice controls available to reduce exposure. For example, in a warehouse the use of specially equipped forklift trucks employing such technology as the use of a downdraft purified air flow may provide the protection necessary. Similarly, OSHA believes that the use of portable blowers on the decks of ships being loaded with EDB fumigated commodities may be extremely effective in reducing exposures. The potential technological problems and economic ramifications of installing various controls and implementing various practices may vary substantially from workplace to workplace.

In addition to permitting alternative compliance methods upon a showing that engineering and work practice controls are not feasible or have not been installed, this proposal allows the employer a measure of discretion in selecting the method of complying with the PEL in certain limited situations. Thus where an employer has a workplace where exposures to EDB are not only intermittent but are limited to a few days per year (30), the employer may select among alternative methods of compliance: engineering controls, work practice controls, respirator protection or any combination of these controls to comply with the PEL. OSHA is proposing to allow the use of these compliance alternatives where extremely sporadic and intermittent exposure patterns may make effective engineering controls and work practice controls impractical, disruptive and inconvenient. For the purpose of this proposal, intermittent operations are defined as those which result in exposures occurring for 1 or 2 days at any one time. A total of 30 days per year of workplace exposure is meant to describe days of operation involving the use of EDB in the workplace and not the number of days an employee is exposed. The agency has chosen to articulate this exposure as workplace exposure and not employee exposure to better characterize its intended application. The 30 day exemption provision is not intended to permit the use of employee rotation or short tenure employees in lieu of compliance with the general requirements of the standard.

The proposal also includes a provision requiring an employer who either creates or has control over abating a hazard to institute work practice controls to reduce EDB exposures to downstream employees of other employers. The requirement was added because in some situations the previous employer (i.e. a trucker or shipper) may be in the best situation to take action because that employer has both the knowledge of the hazard and ability to aid in the control of employee exposure. The provision is not intended to be difficult or burdensome to the employer who could affect potential exposures of downstream personnel to EDB. For example, a trucker may be able to reduce significantly exposures to employees unloading fumigated citrus by opening the rear doors of the trailer and aerating the load before unloading.

Administrative controls which distribute exposures over a large number of workers for less time are not permitted in lieu of engineering controls or limited respirator usage. The use of this control practice increases the population of employees at risk from exposure to EDB. Therefore, its use as a control strategy before the use of respiratory protection is not contained in this proposal.

OSHA requests comments on all aspects of the compliance approach taken in this proposal.

8. Paragraph (h). Respiratory Protection

The proposed standard requires that whenever respirators are necessary to reduce employee exposure to or below the PEL the employer must provide the respirators at no cost to the employee and assure their use. The use of respirators may be necessary to reduce employee exposure where the use of engineering controls or work practice controls are not feasible, as supplementary protection if such reduction controls will not achieve the necessary reduction while controls are being implemented and during emergency situations. In addition, the proposal gives the employer the option of using respiratory protection to control workplace exposures to EDB which are intermittent and less than 30 days per year.

The proposal contains specific requirements for the use, selection, maintenance, and fitting of respirators. The proposal contains a table listing the types of respiratory protection to be provided based on airborne concentrations of EDB in the workplace. The respirator selection table is consistent with the American National Standard Institute's Z–88.2—1980 practices for respirators protection factor table. The table is also similar to that recommended in the NIOSH Criteria Document, except that OSHA proposes to allow the use of negative pressure respirators under certain conditions. Historically, NIOSH has not recommended the use of negative pressure air-purifying respirators when the regulated substance has poor warning properties and cannot be detected by smell at concentrations which are half the PEL. EDB is considered to have poor warning properties; the odor threshold of EDB in 50% of the population tested is 10 ppm, which is one hundred times greater than the proposed PEL of 0.1 ppm. OSHA understands NIOSH's concern and their failure to approve negative pressure air-purifying respirators for materials which have poor warning properties. Since it is not possible for the respirator wearer to detect leakage or breakthrough within the facepiece until clearly overexposed, OSHA is proposing to allow the use of air-purifying negative pressure respirators under certain circumstances.

Generally, where negative pressure respirator use is allowed, OSHA requires that the respirator be approved by NIOSH/MSHA under the provisions of 30 CFR Part 11 for use with a particular substance or a class of substances. As noted above, NIOSH will not approve a negative pressure air-purifying respirator for use with substances with poor warning properties such as EDB. This proposal would allow their use at low concentrations where specified fit testing is done. In this instance where negative pressure air-purifying respirators are used, the proposal requires that they must have NIOSH approval for use with organic vapors, a more general designation, rather than foregoing the approval requirements altogether. The NIOSH approval system helps assure the necessary quality control in the manufacturing of respirators and minimizes the manufacture and sale of poorly designed or inefficient respirators.

OSHA has determined that organic vapor cartridges can adequately absorb airborne concentrations of EDB up to 1 ppm. Organic vapor canisters can adequately absorb airborne EDB up to 10 ppm. OSHA has conducted limited tests of the collection efficiency of half-mask cartridge and full face organic vapor canisters for a few respirators produced by several manufacturers at concentrations above the proposed PEL (Nelson, 1983). The study tested cartridge and canister breakthrough of EDB under 85% relative humidity and demonstrated that the collection media was adequate to provide protection if the EDB concentration was maintained at or below the limits described in Table 1. As a result of this testing OSHA believes that cartridge charcoal filters can provide at least eight hours of protection form airborne concentrations of EDB up to 1 ppm and that canisters can provide protection for at least 16 hours without breakthrough for exposures of EDB up to 10 ppm. OSHA is proposing to allow the use of half mask cartridge respirators for up to 8-hours during a work shift (where the airborne EDB concentration is not greater than 1 ppm) and the use of full face canister respirators (where the airborne EDB concentration is not greater than 5 ppm) for two 8-hour work shifts within one 48 hour period on two consecutive days. The 48 hour limitation is necessary to protect the integrity of the absorbent material and to assure that the collection efficiency is not compromised by water, vapor or solvent migration.

Since EDB has poor warning properties and no end of service life indicators are available, cartridges and canisters must be properly tagged with information concerning when their use began. A label which indicates the date and time of a canister's installation in the respirator is required to assure it is not used beyond the period allowed by the proposal. Additional testing may reveal that the collection media could provide protection for a longer period of time. If additional canister or cartridge testing demonstrates that the absorption media can last longer, these data may support less frequent replacement of the cartridges or canisters. Additional test data concerning the proposed use of air-purifying respirators is requested.

Numerous other factors may affect the performance of air-purifying respirators. Proper fit of the respirator is critical. In this type of respirator negative pressure is created within the facepiece when the wearer breathes. This may result in workplace air entering the facepiece through gaps and leaks in the facepiece seal, instead of passing through the absorbent material. Obtaining a proper respirator fit may require the fit testing of a variety of different mask sized from several manufacturers to select the facepiece with the best fit (least leakage around the faceseal) for each employee.

Because of the exposure hazards that may occur if a proper faceseal is not obtained while using a negative pressure respirator and because of EDB's poor warning properties, the proposal requires qualitative or quantitative fit tests be conducted when negative pressure respirators are used. Either qualitative or quantitative fit tests are required at the time of initial fitting and at least annually thereafter. Therefore, procedures for conducting qualitative fit tests are contained in the mandatory Appendix A of this proposal.

Quantitative fit testing is a procedure whereby the level of penetration of a test agent of a known concentration is measured inside the facepiece of the respirator. Quantitative respirator fit testing is generally recognized as the ideal method for determining how well as repirator fits any one individual, in that it allows the employer to continue testing until the optimum or best fitting respirator is identified and selected for the employee. Quantitative fit testing requires the use of a sophisticated monitoring device and is more expensive than qualitative fit testing to perform. Moreover, quantitative fit programs have limited availability which minmizes their usefulness for many worksites. OSHA believes that while quantitative fit testing may be preferred, qualitative testing which is conducted in accordance with the protocols described in Appendix A accomplishes the intent of the standard to assure that each employee receives and wears the respirator which provides the greatest level of protection.

Qualitative fit testing is a technique whereby a person wearing a respirator is tested to see whether a test agent with a low odor threshold can be detected inside the respirator. Qualitative fit testing is a more subjective test than quantitative testing because it depends on the individuals ability to detect the test agent. The IAA test was not designed to determine protection factors greater than 10. Therefore, there is some question as to the adequacy of using the IAA qualitative fit test when employees are to be assigned to work in atmospheres of up to 100 times the PEL. OSHA solicits comments on whether this procedure, which has been proposed in Appendix A, is adequate to assure worker protection. Submissions recommending alternative fit test procedures are requested.

While OSHA has proposed that respirators may be used to reduce employee exposure, negative pressure air-purifying respirators may only be used in concentrations of EDB below 5 ppm. These respirators are more practical than those recommended by NIOSH, they are generally lighter than self-contained breathing apparatus (SCUBA) and allow greater employee mobility than airline respirators; both of these factors may lead to greater employee aceptance. In addition, negative pressure air purifying respirators are less expensive than the other respirators permitted for use with EDB. OSHA believes that with additional safeguards, such as careful qualitative fit testing, air purifying negative pressure respirators can be used as safely as other types of respirators and can provide adequate protection against EDB in the 1–5 ppm range even though EDB has poor warning properties.

Where employees are exposed to levels of EDB greater than 5 ppm and respirator usage is permitted, airline or positive pressure respirators must be used. Airline and similar positive pressure respirators use uncontaminated air and do not have the problems associated with exceeding the absorption media's capacity (which is the case with cartridges and canisters). OSHA is only allowing airline or SCBA's which operate in the positive pressure mode. Facepiece leakage is minimized with positive pressure respirators. Therefore they can be used in both high and low airborne concentrations of EDB. Employers can always use a respirator with a higher protection factor in lower concentrations of EDB.

All employees who are required to wear a respirator must be included in a medical surveillance program. This provision insures those individuals who will be exposed to EDB above the PEL regardless of the duration of exposure to be included in the medical surveillance program. In addition, respirator usage presents an excess burden to the pulmonary system of the employee. This

VOL
48
ISS
1
9
6
OC
7
1983
UMI

burden may result in symptoms such as shortness of breath, chest pain, dizziness or fatigue. All of these symptoms will be greatly exacerbated by pre-existing lung disease such as chronic bronchitis, emphysema, asthma or pneumoconiosis. It is, therefore, imperative that all employees who will be wearing respirators be medically screened to determine fitness for respirator usage. OSHA believes that the physician can best accomplish this through utilization of a physical examination, including a pulmonary function test and a chest x-ray.

The employee must be properly trained to wear the respirator, to know why the respirator is needed, and to understand the limitations of the respirator. An understanding of the hazard involved is necessary to enable employees to take steps for their own protection. The respiratory protection program implemented by the employer must conform to that set forth in 29 CFR 1910.134 which contains basic requirements for proper selection, use, cleaning and maintenance of respirators.

OSHA has determined that air-purifying respirators may be used in a rigidly controlled program of proper fitting and sorbent replacement. When the protection factors in the respirator table are followed, organic vapor cartridges and canisters may provide adequate protection for employees. OSHA has, in two other health regulations (vinyl chloride and acrylonitrile), allowed the use of negative pressure respirators for substances which exhibit poor warning properties.

The agency seeks comments on the use of respirators, the frequency of cartridge and canister replacement and the fit testing procedures.

9. Paragraph (i). Personal Protective Clothing and Equipment

The proposed standard requires that the employer provide and assure that employees who are subject to any possibility of skin contact with liquid EDB use all the appropriate resistant protective clothing and equipment necessary to prevent dermal exposure. Resistant clothing and equipment is that which does not allow EDB to penetrate through the material being worn for 480 minutes.

The agency does not contemplate that the protective clothing and equipment provisions of the proposed regulation would apply to those workplaces where the potential for dermal exposure to EDB results solely from the handling of materials or commodities fumigated with EDB. OSHA believes that the potential for dermal exposure to EDB while handling materials subsequent to fumigation is minimal and that special protective clothing would not be necessary.

The employer is to provide protective clothing, such as gloves, boots and neck coverings as necessary and appropriate to protect whatever portion of the body may come in contact with *liquid* EDB. The employer must also provide eye protection such as face shields, vented goggles or other protective equipment when necessary to protect against eye contact. The purpose of this provision is to protect the eyes against the burning and blistering effects of EDB liquid exposure. For those operations where employees enter confined spaces such as reactor vessels or storage tanks, EDB resistant full-body suits with supplied air hoods are required.

The proposal is sufficiently performance-oriented to allow the employer sufficient flexibility to provide only the protective equipment necessary to protect employees in each particular work operation from EDB exposure. Therefore, compliance can be tailored to fit the hazards posed on a day to day basis. Many operations may not require full body protective clothing, especially if very small amounts of EDB are being handled. However, the selection of the amount of protective clothing and equipment must be adequate to prevent any exposure to liquid EDB where skin or eye contact may occur.

The toxicity associated with dermal absorption of liquid EDB supports the required immediate removal of any nonresistant protective clothing or equipment and immediate drenching with water of all parts of the body which become wet with EDB or liquids containing EDB. Serious tissue degeneration can quickly occur from skin contact or dermal absorption. Suitable facilities for quick drenching or flushing of the eyes and body are required in all work areas for immediate emergency use. Emergency showers or quick drenching devices are needed in the immediate work area because EDB can cause burns or blistering of the skin within minutes after contact.

The regulation requires the employee to remove any clothing immediately after it becomes wet or damp with liquid EDB. In this context "immediately" means as soon as it is noticed by the employee; in other words an employee should not wait or take the time to proceed to the change room. This provision is necessary because of the extremely caustic nature of EDB and the acute absorption hazard it poses. The proposed standard also provides that EDB contaminated clothing and equipment must not be reworn until the EDB has been removed from the clothing or equipment. Protective clothing and equipment should not be worn or taken home after use because it could increase the number of people exposed to EDB. The proposed standard requires employers to replace protective clothing and equipment as necessary to assure its effectiveness but does not specify a given replacement interval. Employers should make frequent inspections of clothing to assure that it retains its effectiveness. A visual inspection means a systematic examination of the equipment to ensure such equipment is not leaking or developing leaks. This requirement is necessary to minimize exposure to employees. It is particularly necessary where, as here, the substance is a colorless, odorless and extremely toxic. Clothing and equipment contaminated with EDB or liquids containing EDB should not be worn into lunchrooms to prevent the contamination of eating areas and to minimize the potential exposure hazard to other workers.

As noted above under certain circumstances the proposed standard requires the use of EDB resistant clothing and equipment where there is a possibility of skin contact with liquid EDB. Only a few materials are capable of resisting the penetration of EDB through the material and subsequently to the skin. Viton (®) elastomer and polyvinyl alcohol (PVA) are two such materials (NIOSH 81–110, Stampfer, 1983). Polyvinyl alcohol can be used only in situations where EDB is not in solution with water. Water attacks the PVA and substantially decreases its effectiveness. In this situation, it must also be used in conjunction with another material to prevent contact with moisture from the skin. To assure adequate protection, the protective equipment provided must give 480 minutes or more of protection before breakthrough. Thus, when such EDB-resistant clothing becomes wet with EDB, there is no need for the employee to remove the clothing immediately because there is no likelihood of skin exposure.

The employer is required by the proposal to store all EDB contaminated protective clothing and equipment in containers bearing the following warning:

DANGER

(TRADE NAME)

CONTAINS ETHYLENE DIBROMIDE (EDB)

CANCER AND REPRODUCTIVE HAZARD

HARMFUL IF ABSORBED THROUGH SKIN

AVOID INHALATION AND SKIN CONTACT

These containers must be closed to prevent airborne exposure because liquid EDB can vaporize, increasing airborne exposure. OSHA believes that the regular cleaning, maintenance and replacement of protective clothing and equipment is necessary in order to protect against the hazards of dermal exposure. The proposal requires that the employer assures that employees remove protective clothing and equipment in the change room and that only those employees authorized to do so may remove contaminated clothing and equipment from the change room for the purpose of laundering, maintenance or disposal. This practice limits potential exposure to those specifically trained to handle contaminated materials.

Finally, the proposal requires that employers inform those who handle the contaminated protective clothing and equipment of the potentially harmful effects of EDB. This provision is designed to emphasize the need to use proper care in handling EDB contaminated protective clothing and equipment.

10. Paragraph (j). Hygiene Facilities and Practices

All employers covered by the proposal are required to assure that employees wash hands and face with soap and water prior to eating, drinking, smoking or applying cosmetics. The proposal specifies the hygiene facilities and practices required for employee protection in all other workplaces where employees are required to wear protective clothing to prevent skin or eye contact with EDB. The requirements of the rest of this paragraph do not apply to those workplaces where the potential for exposure to EDB results solely from the handling of materials or commodities fumigated with EDB. As noted above, OSHA believes that there is little potential for dermal exposure with liquid EDB while handling materials subsequent to the fumigation. Therefore, OSHA does not contemplate that this provision will provide any compliance burden where employee exposure results solely from the handling of materials or commodities fumigated with EDB.

The proposed standard requires that for all workplaces where employees are required to wear personal protective clothing, the employer provide shower and change room facilities for employees. Employees are required to take showers at the end of the workshift to minimize the potential for skin absorption as a result of EDB contamination of clothing.

11. Paragraph (k). Housekeeping

The proposed standard requires that where there are operations involving liquid EDB or liquids containing EDB, employers institute a program to detect leaks and spills which includes visual inspections. When leaks or spills of EDB are detected the proposal requires the employer to promptly repair all leaks and clean up all spills. These work practices aid in minimizing the number of employees exposed, as well as the extent of any potential for EDB exposure.

Prevention and removal of accumulations of liquid EDB on all surfaces are critically important aspects of minimizing employee exposure. The liquid if allowed to remain on the floor or work surfaces will slowly evaporate and contribute to a possible airborne hazard or it may become a dermal hazard through inadvertent skin contact. EDB's low vapor pressure which results in slow evaporation will contribute to and prolong the hazard. The requirement to clean up spills and drips refers to the prevention and removal of visible accumulations of liquid EDB on all surfaces.

Although this proposal does not contain a provision for lunchrooms, the agency has addressed the potential hazard of inadvertent ingestion of EDB contaminated materials. To minimize possible ingestion hazards, good hygiene is even more critical for employees who do not have lunchroom facilities. Therefore, employees are required to wash hands and face prior to eating and are prohibited from eating in regulated areas.

12. Paragraph (l). Emergency Procedures

OSHA believes that because of the chemical's highly reactive and destructive properties on major organs of the body, provisions addressing emergency situations are necessary to prevent harmful employee exposure to EDB. In the event of skin or eye contact with liquid EDB, the employer is required to assure that affected employees immediately wash or shower to reduce the danger of chemical burns and skin absorption. Emergencies are occurrences such as, but not limited to, equipment failure, rupture of containers or failure of control equipment which is likely to or do result in unexpected high exposures. The serious toxic effects of an acute EDB exposure hazard may not be immediately apparent to employees. Therefore, providing immediate medical attention to those employees exposed during an emergency is of paramount concern.

The appropriate procedures for dealing with emergency situations will vary among workplaces and operations. Employers must have a pre-arranged emergency plan; these pre-established plans are necessary because quick efficient actions during an EDB release are important to insure that a minimum number of employees are injured during emergency situations. Likewise such procedures may effectively reduce the extent to which any employee may be injured. The proposed standard therefore requires that at least the following be included: prearranged plans for immediate evacuation, transportation, and medical assistance for affected employees, designation of medical receiving facilities and names of physicians to contact, procedures for reentry, for clean up, decontamination and maintenance of areas when there is an EDB leak or spill and selection of appropriate clothing and equipment for personnel. This provision is necessary to assure that rescue and treatment is achieved in a timely and efficient manner. The proposed standard requires that any employees not necessary to correct the emergency situation, leave the area of the emergency. This restriction keeps the number of employees potentially exposed to EDB at a minimum. The follow-up procedures such as the requirement that PPE be furnished to employees for reentry and clean up, and that the collection of EDB waste be with an absorbent nonreactive material also decrease the potential for exposure. Because of EDB's properties and its offgassing potential, EDB contaminated waste, debris, containers or equipment are required to be disposed of in sealed labeled containers to prevent dispersion of EDB outside the container and protect those who subsequently handle this waste material during disposal.

13. Paragraph (m). Medical Surveillance

The proposed standard requires that each employer institute a medical surveillance program for all employees who are exposed at or above the level for 30 or more days per year or any employee who must wear a respirator regardless of the exposure duration. The medical surveillance program must be instituted prior to the employee's initial assignment to an area where the

VOL 48 ISS 196 OCT 7 1983 UMI

exposure level will be at or above the action level for 30 or more days per year, or prior to the employee's wearing of a respirator regardless of the duration of the respirator usage and annually thereafter. Providing medical surveillance for employees who will be exposed at or above the action level for a total 30 days per year is consistent with other health standards promulgated by OSHA. Since some employees may be assigned to work areas where they will be exposed to EDB at or above the action level on a temporary or a short-term basis, OSHA has instituted a cut off period for the duration of exposure which triggers the medical surveillance program. As a result of the experience gained by OSHA's in the inorganic arsenic and coke oven proceeding, the agency has determined that this cut off period should be 30 exposure days per year.

In addition, OSHA is triggering the medical surveillance program for all employees who will be required to wear a respirator. The program must be instituted prior to the employee's actual wearing of a respirator and annually thereafter. The purpose of this provision is twofold. First, it allows those individuals who will be exposed above the PEL regardless of the duration of exposure to be included in the medical surveillance program. Second, respirator usage presents an excess burden to the pulmonary system of the employee. This burden may result in symptoms such as shortness of breath, chest pain, dizziness or fatigue. All of these symptoms will be greatly exacerbated by pre-existing lung disease such as chronic bronchitis, emphysema, asthma or pneumoconiosis. It is, therefore, imperative that all employees who will be wearing respirators be medically screened to determine fitness for respirator usage. OSHA believes that the physician can best accomplish this through utilization of physical examination, including a pulmonary function test and a chest X-ray.

EDB is a potential human carcinogen causing a variety of neoplasms including stomach, nasal, and lung cancers in experimental animals. EDB is also a potential human reproductive hazard causing pathological changes in sperm and testes as well as altering the fertility status in a variety of animal models. Additionally in humans, EDB has been shown to be a potent toxin affecting the liver, kidney, skin, and nervous system. Therefore, it is extremely important to incorporate a detailed medical surveillance program in the standard. This will allow the physician to identify any adverse health effects, or biological changes which may occur in workers exposed to EDB.

All examinations and procedures are required to be performed by or under the supervision of a licensed physician, without cost to the employee. While the physician will usually be selected by the employer, the proposed standard does not so mandate, leaving the employer free to institute alternative procedures such as joint selection with the employee or selection by the employee. Clearly, the appropriate person to conduct the medical examination is a licensed physician; however, certain parts of the required examination do not necessarily require a physician's expertise and may be conducted by another person under the supervision of the physician.

The proposed standard requires that the employer provide the examining physician with certain information. This includes: (1) A copy of the regulation and appendixes B and C. (2) a description of the employee's duties as related to exposure, (3) information regarding the use of personal protective equipment and (4) examination from previous work related medical exams not otherwise available to the physician. The purpose of making this information available to the physician is to aid in the evaluation of the employee's health in relation to assigned duties and determine fitness to wear personal protective equipment when required.

The medical surveillance program in the proposed standard includes a detailed work and medical history, complete physical examination including pertinent laboratory evaluation and assessment of pulmonary status (when required).

A complete work history including any past occupational exposure to chemicals or toxic substances is necessary in implementing an effective medical surveillance program. Information regarding such past occupational exposures may alert the physician to potential adverse health effects.

In conducting the medical history, the physician must inquire as to any medication that an employee is taking. Such information is important because studies have shown that some medication, specifically disulfiram (Antabuse®), may potentiate the carcinogenic effects of EDB. OSHA recognizes the sensitivity of such information and believes that if carefully written the examining physician's written opinion will safeguard physician-patient confidentiality. OSHA solicits comments and also seeks information regarding the possible adverse health effects of any other medication in conjunction with EDB exposure. The agency also solicits information as to whether the potentiating effects of Antabuse® with EDB are seen only with concurrent exposure.

The content of the physical examination is consistent with the identification of the adverse health effects that have been associated with exposure to EDB. It should emphasize the pulmonary, neurological, gastrointestinal, genito-urinary and dermal systems. In addition, a complete assessment of pulmonary status is mandatory when a respirator is required. This assessment is accomplished through a complete examination of the head, eyes, ears, nose, throat, thorax and lungs, in addition to a pulmonary function test and a chest x-ray (initially and at 5 year intervals). The frequency of chest X-rays was determined to avoid any potential health hazards associated with frequent radiographs and at the same time provide a sufficient time interval to identify any pathological changes which may have occurred. The purpose of the pulmonary function test which include a forced vital capacity (FVC), and forced expiratory volume at one second (FEV_1) is to assist the physician in making a determination as to whether the employee is capable of wearing a respirator.

The laboratory studies required by the proposal specifically address the biological changes that may occur with EDB exposure. These include a battery of blood tests performed to measure liver function (protein, albumin, alkaline phosphatase LDH, SGOT, SGPT, GGTP, and cholesterol) and kidney function calcium, phosphorus, BUN, uric acid, creatinine) and urinalysis.

The emergency medical surveillance provisions reflect OSHA's concern for those employees who, because of equipment breakdown, container rupture or other causes, may be exposed to higher doses of EDB. These workers may be at a relatively high risk of developing delayed systemic or dermal effects and are to receive immediate medical examination followed by a medical observation period of at least 72 hours. This medical observation period is critical in that the severe and sometimes fatal toxic effects of EDB often are not manifested at the time of exposure. Such observation should take place in a medical facility, preferably a hospital, where a licensed physician will be responsible for the personal supervision of all medical care delivery.

For each examination required under this section, the employer shall obtain a written opinion from the examining physician which shall include: (1) The physician's opinion as to whether the employee has any detected medical conditions or is taking any medication which would place the employee at increased risk of material impairment from exposure to EDB, (2) any recommended limitations on the employee's exposure to EDB or upon the use of personal protection equipment. This will include an opinion as to the employee's ability to wear a respirator when it is required, and (3) a statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions resulting from EDB exposure which require further explanation or treatment.

The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnosis unrelated to occupational exposure to EDB. The employer shall provide a copy of the physician written opinion to the affected employee within 15 days of its receipt. The requirement that the employee be provided with a copy of the physician's written opinion will assure that the employee is informed of the results of the medical examination and may permit employees to take appropriate action. The purpose for requiring that specific findings or diagnosis unrelated to occupational exposure be excluded from the written opinion is to encourage employees to submit to medical examinations by removing the fear that employers may find out adverse or embarrassing information about their physical condition that may be unrelated to occupational exposures.

14. Paragraph (n). Employee Information and Training

The proposed standard requires the employer to provide a training program for employees who are exposed to EDB regardless of the level of exposure. The agency has decided it is necessary to train all exposed employees for the following reasons. OSHA believes that an information and training program is essential for the protection of employees, because employees can do much to protect themselves if informed of the nature of the hazards in the workplace. Data from the risk assessment indicates that there is still a risk of cancer, albeit a reduced risk, at the proposed PEL. In addition, EDB is highly absorptive through the skin. Skin contact with liquid EDB may increase an employee's exposure in an unquantified manner and may lead to serious health problems. Moreover, adverse reproductive effects may be linked to short term peaks. EDB is a corrosive material that may leak out of unsuitable containers. In view of the fact that the substance is colorless and odorless at levels that are many times greater than the PEL and the substance is harmful at extremely low exposure levels, employees should be trained in emergency procedures for handling EDB and should know what to look for because under some circumstances there may be unexpected and unnoticed exposures. Moreover, employees need to be informed about potentially increased risk of exposure to EDB that can result from the use of synergistic drugs, such as Antabuse®, even if exposures to EDB are low. To be effective, an employee education program must, at the minimum, apprise the employee of the specific hazards associated with the work environment. For this reason, the employer is required by the proposed standard to inform employees of the nature of EDB's potential health effects, the necessity for exposure control, safe work practices, emergency procedures, and the medical and industrial hygiene monitoring programs. Additionally, the training should be conducted relative to the employee's language and educational capability. The content of the training program is intended to apprise the employees of (1) the hazards to which they are exposed, (2) the necessary steps to protect themselves, including avoiding exposures, using respiratory protection and availing themselves of the opportunity for medical examinations, (3) their role in reducing exposure and (4) the contents of the standard.

The employer is required to provide to the Secretary and the Director, upon request, all materials relating to the training program. This is intended as an objective check of compliance with the training requirements as well as an indicator as to the adequacy of the contents of the program.

Training requirements imposed upon an employer with a constant workforce should not be too difficult to perform. Training a mobile or ever changing workforce such as truck drivers and stevedores may be very difficult. OSHA solicits comments concerning how and by whom this training can best be performed.

15. Paragraph (o). Warning Statements

Section 6(b)(7) of the Act mandates that appropriate forms of warning be used to assure that employees are apprised of the hazards to which they are exposed in the course of their employment. OSHA believes that the control of safety and health problems involve the cooperation of employees, and the success of a safety and health program is highly dependent upon the employee's understanding of the hazards involved in the job.

OSHA believes, as a matter of policy, that employees should be given the opportunity to make informed decisions as to whether to work at a job under a particular set of working conditions. Before employees can make an informed decision to work in an area with potential hazards, the employees must be informed of any unsafe conditions. This is especially important for a mobile or temporary workforce. In addition, labels on materials or containers which leave the work area must be labeled to alert those who come in contact with such contaminated objects of the hazards of EDB. In light of the serious nature of the hazard of exposure to EDB, OSHA does not believe that periodic training alone will adequately apprise employees of the health hazards of EDB. However, OSHA believes that the requirement to post warning signs and affix warning labels when coupled with the training requirements discussed above will adequately inform employees. The use of warning signs and labels accomplishes both of these purposes as it alerts the employees to hazards and promotes safer work practices.

The proposed standard includes a requirement that warnings be affixed to all containers containing EDB or products containing EDB. The warning provisions of the proposed standard also require the employer to assure that warning signs, labels or stamps are affixed to any product containing EDB which leaves the employer's workplace. This requirement is designed to protect those employees outside the initial workplace who handle, transport or use this product. When an employer manufactures, formulates or sells a product containing a toxic substance, that employer's own employees and also the employees of other employers involved in handling, transporting, or using the product are exposed to that substance. This is especially true where the manufacturer, formulator or seller will, in many cases, be the only employer capable, through unique knowledge of the substance, of providing the information needed for protection of other employees. However, OSHA recognizes that other labels required by other regulatory bodies may satisfy the intent of this provision. Therefore, this proposal allows such labels to be used as substitutes if they contain the requisite information.

Due to the hazardous nature of EDB exposure, OSHA believes that emphasis should be placed on warning employees and other persons about the dangers of exposure. The proposed standard requires that warning signs be readable and not be obstructed or diminished in any way.

16. Paragraph (p). Recordkeeping

Section 8(c) of the Act requires that each employer shall keep and make available such records as the Secretary may prescribe as necessary or appropriate for the enforcement of this Act, or for developing information regarding occupational accidents and illnesses. The proposal would require employers to maintain written records of all exposure measurements, respirator fit test and medical surveillance.

The proposal requires that an exposure monitoring record be established for each employee or job classification. Such records are necessary to assist the effective evaluation and control of EDB. The record must contain a brief description of the work operation being sampled, the methods, dates and duration of sampling; and use of personal protective equipment.

Because symptoms of disease that may be related to exposure to EDB may not appear for years following an initial exposure, the proposal requires that records of employee exposure measurements be retained for at least 30 years. Medical records must be kept for at least the duration of employment plus 30 years which is consistent with 29 CFR 1910.20 access to medical records.

The proposal's recordkeeping provisions also require that the employee records be made available for examination and copying to the Secretary, the Director of NIOSH, employees, former employees or their designated representatives.

In addition, the proposal specifies that access to exposure and medical records by employees, designated representatives, and OSHA shall be accordance with 29 CFR 1910.20. Section 1910.20 is OSHA's recently promulgated generic standard for access to employee exposure and medical records (45 FR 35212). By its terms, it applies to records required by specific standards, such as this EDB standard, as well as to records which are voluntarily created by employers. In general, it provides for unrestricted employee and designated representative access to exposure records. Access to medical records is also provided for employees and, if the employee has given specific written consent, for the employee's designated representatives. OSHA retains unrestricted access to both kinds of records as well as respirator fit testing records, but its access to personally identifiable records is made subject to rules of agency practice and procedure concerning OSHA access to employee medical records, which have been published at 29 CFR 1913.10. An extensive discussion of the provisions and rationale for § 1910.20 may be found at 45 FR 35312; the discussion of § 1910.10 may be found at 45 FR 35384. It is noted that revisions to the access to records standard are being developed in an ongoing rulemaking proceeding (45 FR 35212). The proposed EDB standard may be affected by any changes which result from that rulemaking effort.

17. Paragraph (q). Effective Date

As proposed, all sections of the standard except paragraph (g) would become effective sixty (60) days following publication of the final rule in the **Federal Register**. This will give affected employers and employees time to familiarize themselves with the regulation and its content.

The engineering and work practice controls required by paragraph (g) shall be implemented as soon as possible but no later than 2 years from the date of the final standard's publication. This is to allow effected employers sufficient time to design and install necessary control equipment. The Agency also solicits information and supporting data on "start-up periods" and delayed implementation dates which may be necessary for other provisions of the standard.

X. Conclusion

OSHA recognizes that some gaps exist in the available scientific evidence concerning chronic effects on workers exposed to EDB. OSHA believes, however, that in this case we are dealing with a chemical that is a potential human carcinogen. The existence of unanswered questions cannot be permitted to delay the regulatory process of establishing a standard for protecting workers exposed to EDB. OSHA hopes that the public participation which is invited will help to fill whatever gaps may exist.

Therefore, based upon the available evidence and in view of the above considerations, OSHA believes that employee exposures to EDB must be reduced to the level of 0.1 ppm and that the other requirements to regulate exposure to EDB must be imposed as set forth in the proposal. OSHA will evaluate all the evidence received and entered it into the public record and issue a final standard based on the entire content of that record.

Comments and data are hereby requested in response to the specific questions posed in the discussion above. In addition, interested persons are invited to submit any other relevant comments and data on any of the provisions contained in the proposal.

XI. Public Participation

Interested persons are invited to comment on the proposed standard on or before November 21, 1983. Written data, views and arguments concerning the proposal must be submitted in quadruplicate to the Docket Officer, Docket H–111, U.S. Department of Labor, Room N–3620, 200 Constitution Avenue, NW., Washington, D.C. 20210 (Telephone 202/523–8076). Written submissions must clearly identify the provisions of the proposal addressed and the position taken with respect to each such provision. The data, views and argument will be available for public inspection and copying at the above address. All written submissions received will be made a part of the record.

Pursuant to 29 CFR 1911.11 (b) and (c), interested persons may in addition to filing written comments as provided above, file objections to the proposal and request an informal hearing with respect thereto, in accordance with the following conditions

1. The objections must be postmarked on or before November 21, 1983;

3. The objectives must specify with particularity the provision of the proposed rule to which objection is taken and must state the grounds therefor;

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a detail summary of the evidence proposed to be adduced of the requested hearing.

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Authority

This notice was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Pursuant to sections 6(b) and 8 of the Occupational Safety and Health Act [29 U.S.C. 655, 657], is hereby proposed to amend Part 1910 of 29 CFR by adding new § 1910.1048 as set forth below and deleting the entry "20 ppm" TWA, "30 ppm" acceptable ceiling concentration and "50 ppm" acceptable maximum peak and "5 minute" maximum duration from the ethylene dibromide listing in Table Z–2 of section 1910.1000, and inserting "0.1 ppm" in the TWA column and "0.5 ppm" in the acceptable ceiling column for the ethylene dibromide entry in Table Z–2 of § 1910.1000.

In addition, pursuant to section 4(b)(2) of the Act, OSHA has determined that this new standard would be more effective than the corresponding standards now in Subpart B of Part 1910, and in Parts 1915 and 1918, of Title 29, Code of Federal Regulations. Therefore, these corresponding standards would be pre-empted by this new § 1910.1048. This determination, and the application of new standard to the maritime industry, would be implemented by adding a new paragraph (i) to § 1910.19.

List of Subjects in 29 CFR Part 1910

Ethylene dibromide, Chemicals, Cancer, Health, Health records, Occupational safety and health, Respiratory protection, Risk assessment, Signs and symbols.

(Secs. 4, 6 and 8, of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 9–83 (48 FR 35736); (29 CFR Part 1911))

Signed at Washington, D.C., this 3rd day of October 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

XII. Proposed Standards and Appendices

Part 1910 of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

1. By adding a new paragraph (h) to § 1910.19 to read as follows:

§ 1910.19 Special provisions for air contaminants.

* * * * *

(h) *Ethylene dibromide.* Section 1910.1048 shall apply to the exposure of everyone employee to ethylene dibromide in every employment and place of employment covered by §§ 1910.13, 1910.14, 1910.15, or 1910.16, in lieu of any different standard on exposure to ethylene dibromide which would otherwise be applicable by virtue of those sections.

§ 1910.1000 [Amended]

2. By removing the entry "20 ppm" TWA, "30 ppm" acceptable ceiling concentration and "50 ppm" acceptable maximum peak and "5 minute" maximum duration from the ethylene dibromide listing in Table Z–2 of § 1910.1000 and inserting "0.1 ppm" in the TWA column and "0.5 ppm" in the acceptable ceiling concentration column for the ethylene dibromide entry in Table Z–2 of § 1910.1000.

3. By adding a new § 1910.1048 to read as follows:

§ 1910.1048 1,2 Dibromoethane (ethylene dibromide).

(a) *Scope and Application.* (1) This section applies to each place of employment which is involved in the production, reaction, release, mixing, blending, packaging, repackaging, storage, transportation, handling, distribution and use of ethylene dibromide (EDB) or products containing EDB.

(2) This section also applies to each place of employment where exposure to EDB may result from: (i) Off-gassing of fruit, vegetables, grain or packaging materials fumigated with EDB; and

(ii) The spot fumigation of milling machinery and fumigation of grain products.

(3) This section does not apply to (i) The application of EDB as a pesticide under the regulations of the Environmental Protection Agency (40 CFR Part 162);

(ii) Wholesale or retail food stores;

(iii) Automotive service stations; or

(iv) The distribution, storage, or bulk handling of leaded fuel.

(b) *Definitions.* (1) "Action level," means employee exposure to an airborne concentration of 0.05 parts EDB per million parts of air (ppm) (50 parts per billion (ppb)) averaged over an 8-hour period (TWA).

(2) "Assistant Secretary," means the Assistant Secretary of Labor for Occupational Safety and Health, or designee.

(3) "Authorized person," means any person required by work duties to be present in regulated areas and authorized to do so by the employer, by this section, or by the OSH Act of 1970.

(4) "Clean change room," means an uncontaminated room separate from the work environment where employees put on clean clothing or protective equipment.

(5) "Container," means any receptacle, excluding pipes and piping sustems, in which EDB or a liquid containing EDB is placed or kept, including reaction vessels, storage tanks and blending tanks.

(6) "Decontamination," means treatment of EDB contaminated materials by water washdown, ventilation, or other means, to assure that the contaminated materials will not expose employees to skin contact with EDB.

(7) "Director," means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designee.

(8) "Emergency,"means any occurrence such as, but not limited to equipment failure, rupture of containers, or failure of control equipment which may result in an unexpected release of EDB or liquid containing EDB.

(9) "Employee exposure," means the exposure to EDB which would occur if the employee were not using a respirator.

(10) "Ethylene dibromide," ($C_2H_4Br_2$) (CAS Registry Number 106–93–4), means 1,2 dibromoethane (EDB) or a mixture of liquids containing EDB.

(11) "Intermittent operation," means those operations which result in exposures occurring for 1 or 2 days at any one time.

(12) "Offgassing," means the release of EDB vapors from materials or commodities previously in contact with EDB.

(13) "Regulated area," means an area where entry and exit is restricted to authorized persons.

(14) "Resistant clothing and equipment," means clothing, including gloves, aprons or boots made of materials which exhibit EDB breakthough times of greater than 480 minutes.

(15) "Short Term Exposure Limit (STEL)," means an airborne concentration to which workers exposed continuously for a short period of time cannot be exceeded. A STEL is defined as a 15-minute time-weighted average exposure which shall not be exceeded at any one time during a work day even if the 8-hour time weighted average is within the PEL.

(16) "Work practice procedures," means a written standard operating procedure by which an employee is trained to perform a task in a specific manner in order to minimize exposure.

(c) *Permissible Exposure Limit (PEL).* (1) Inhalation. (i) Time Weighted Average (TWA). The employer shall assure that no employee is exposed to an airborne concentration of EDB in excess of 0.1 parts per million parts of air (ppm) [100 parts per billion (ppb)] as an 8-hour time-weighted average;

(ii) Short Term Exposure Limit (STEL). The employer shall assure that no employee is exposed to an airborne concentration of EDB in excess of 0.5 parts per million parts of air (ppm) [500 parts per billion (ppb)] as average over any 15-minute period during the work shift.

(2) Dermal exposure. The employer shall take adequate precautions to insure that no employee is exposed to skin or eye contact with EDB.

(d) *Regulated Areas.* (1) The employer shall establish a regulated area whenever the airborne concentration of EDB is at or above the action level.

(2) Access to regulated areas shall be limited to authorized persons.

(3) The employer shall assure that employees do not eat, smoke, drink or apply cosmetics in a regulated area.

(4) The employer shall post regulated areas with signs containing the following information:

DANGER, (TRADE NAME) CONTAINS ETHYLENE DIBROMIDE (EDB) CANCER AND REPRODUCTIVE HAZARD, AUTHORIZED PERSONNEL ONLY. RESPIRATOR MAY BE REQUIRED

(5) Whenever an employer at a multi-employer worksite establishes a regulated area, that employer shall communicate to other employers at that worksite the location and access restrictions to the regulated area.

(e) *Exposure Monitoring.* (1) General. Each employer who has a workplace covered by this standard, shall measure and accurately determine employee exposure to EDB. Determination of airborne exposure levels shall be made from air samples that are representative of each employee's full shift and short term exposure to airborne EDB.

(2) Seasonal and Intermittent Exposures. (i) At least annually, each employer who has a work operation covered by this standard shall monitor employee exposure to accurately determine the airborne concentration of EDB to which employees may be exposed.

(A) For exposures during seasonal operations, initial monitoring shall be performed within 30 days of the startup or the first introduction of EDB into a work area.

(B) For intermittent exposures, the initital monitoring shall be performed within 30 days of the introduction of

EDB into the work area even if exposures are not daily.

(ii) If the monitoring required by this section reveals employee exposures to be in excess of the PEL, the employer shall repeat measurements of samples representative of each such employee's exposure at least every six months.

(iii) The employer shall promptly monitor and redetermine employee exposure whenever there has been a production, process or control change which may result in new or additional exposure to EDB or whenever the employer has any reason to suspect new or additional EDB exposure.

(3) Other Exposures. (i) Initial Monitoring.

(A) Each employer who has a work operation covered by this standard shall monitor employee exposures to EDB to determine whether any employees are exposed to EDB at or above the action level.

(b) Initial exposure monitoring shall be done within 60 days of an employer's first introduction of EDB into the work area.

(ii) Frequency of monitoring.

(A) If any monitoring reveals employee exposure to be above the action level but below the PEL, the employer shall repeat measurements of samples representative of each such employee's exposure at least annually.

(B) If any monitoring reveals employee exposures to be in excess of the PEL, the employers shall repeat measurements of samples representative of each such employee's exposure at least every six months.

(C) The employer shall remonitor and redetermine employee exposure within 15 days of any change in production, process, or control measures which may result in new or additional employee exposure to EDB.

(iii) Termination of monitoring. If the monitoring reveals employee exposure to be below the action level, the measurements need not be repeated except where there has been a production, process or control change which may result in new or additional exposure to EDB.

(4) Employee Notification. (i) Within 15 working days after the receipt of exposure monitoring results, the employer shall notify each employee of the monitoring results which represent that employee's exposure to EDB.

(ii) Whenever monitoring results indicate that employee exposure exceeds the PEL, the employer shall assure that each such employee receives a written notice informing the employee of the monitoring results along with a statement that the PEL was exceeded and a description of any corrective action being taken to reduce exposure to or below the PEL.

(iii) Where employees do not always report to the same work location, such as in stevedoring, and the employer is unable to notify the employee directly of the monitoring results, the employer shall provide the results of the exposure monitoring to the employee's authorized representative for distribution to affected employees.

(5) Accuracy of Measurement. The employer shall use a method of measurement which has an accuracy (with a confidence level of 95 percent) of not less than plus or minus 25 percent for concentrations of EDB at the action level.

(f) *Observation of monitoring.* (1) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to EDB required by this standard.

(2) When observation of the monitoring of employee exposure to EDB requires entry into an area where the use of protective clothing or equipment is required, the observer shall be provided with and be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

(g) *Methods of Compliance.* (1) General. (i) The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to EDB at or below the PEL, except to the extent that the employer establishes that such controls are not feasible. Where work practice controls are sufficient to accomplish this goal alone, engineering controls need not be implemented.

(ii) Where engineering and work practice controls are not sufficient to reduce exposures to or below the PEL, they shall nonetheless be used to reduce exposures to the lowest levels achievable by these controls and shall be supplemented by the use of respirators in accordance with paragraph (h) of this section. Respiratory protection may be instituted prior to the imposition of employee rotation as a control strategy.

(iii) Exception: Where exposure to EDB in a workplace is intermittent and occurs less than a total of 30 days per year the employer may use engineering controls, work practice controls or respiratory protection to reduce employee exposure to EDB in the workplace to or below the PEL.

(2) Specific. Employers shall institute work practice controls (such as aerating or venting of truck trailers or chimney stacking cartons) whenever feasible to reduce exposure to EDB of the first line receivers of fumigated commodities to or below the PEL.

(h) *Respiratory Protection.* (1) General. Where respiratory protection is required, the employer shall provide at no cost to the employee and assure the use of respirators which comply with the requirements of this paragraph to reduce employee exposures to or below the PEL.

(2) Respirators shall be used in the following circumstances: (i) In work situations in which engineering and work practice controls are not feasible to reduce exposures to or below the PEL; and

TABLE 1—RESPIRATORY PROTECTION FOR EDB

Concentrations of airborne EDB or condition of use	Respirator type [1]
(A) Not greater than 1.0 ppm. (1000 ppb).	1. A half mask or full face air-purifying respirator equipped with an organic vapor pesticide cartridge or canister; 2. Any supplied air respirator; or 3. Any self-contained breathing apparatus.
(B) Not greater than 5.0 ppm. (5000 ppb).	1. A full face air-purifying respirator equipped with an organic vapor or pesticide canister; 2. Any supplied-air respirator with full facepiece, helmet, or hood; or 3. Any self-contained breathing apparatus with full facepiece.
(C) Not greater than 100 ppm. (100,000 ppb).	A Type C supplied-air respirator with full facepiece operated in pressure-demand or other positive pressure mode, or with full facepiece, helmet, or hood operated in continuous flow mode.
(D) Greater than 100 ppm or entry and escape from unknown concentrations.	1. A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand or other positive pressure or continuous flow mode and an auxiliary self-contained breathing apparatus operated in pressure-demand or positive pressure mode; or 2. A self-contained breathing apparatus with full facepiece operated in pressure-demand mode. 3. Supplied-air suits may be necessary.
(E) Firefighting	A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.

[1] Respirators specified for higher concentrations can be used for lower concentrations of EDB.

(ii) During the time period necessary to install or implement feasible engineering and work practice controls; and

(iii) Where workplace exposures to EDB are intermittent and EDB is used within the workplace less than a total of 30 days per year and engineering and work practice controls are not used to reduce exposure; and

(iv) In emergencies;

(2) Respirator Selection. (i) Where respiratory protection is required or used to comply with this section, the employer shall select and assure that employees use the appropriate respirator in accordance with Table 1.

(ii) The employer shall select respirators from among those approved for use with organic vapors or pesticides by the National Institute for Occupational Safety and Health (NIOSH) under 30 CFR Part 11.

(3) Respirator Program. The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e), and (f). Compliance with 1910.134(b)(10) shall consist of those specifications outlined in the medical surveillance section of this standard.

(4) Respirator Usage. (i) The employer shall perform and record the results of either quantitative or qualitative fit tests at the time of initial fitting and at least annually thereafter for each employee wearing a negative pressure respirator. The test shall be used to select a respirator facepiece which exhibits minimum leakage and provides the required protection as prescribed in Table 1.

(ii) The employer shall follow the test procedures outlined in Appendix A of this regulation when performing qualitative fit tests.

(iii) Where air-purifying chemical cartridge respirators are used, the air purifying cartridges shall be replaced at the completion of each shift.

(iv) Where air-purifying canister type respirators are used, the air-purifying canister shall be replaced at the completion of two work shifts within one 48-hour period. A label shall be attached to the canister to indicate the date and time at which it was first installed on the respirator.

(v) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece whenever necessary to prevent skin irritation associated with respirator usage.

(i) *Protective Clothing and Equipment.* (1) Provision and Use. Where there is the possibility of eye or skin contact with EDB or liquids containing EDB: (i) The employer shall provide at no cost to the employee and assure that the employee uses appropriate resistant clothing and equipment to protect the area of the body which may come into contact with liquid EDB such as:

(A) Full body protective clothing;

(B) Gloves, boots, head and neck coverings;

(C) Face shields, vented goggles, or other protective equipment;

(ii) Resistant clothing (suits) and supplied-air hoods shall be worn when entering confined spaces, such as storage tanks or reactor vessels.

(iii) All personal protective equipment provided shall comply with the provisions of 29 CFR 1910.132 and 1910.133.

(iv) Quick drench showers and eye wash fountains shall be provided within the work area for immediate emergency use.

(2) Removal and Storage. (i) Where resistant protective clothing is required it shall be removed at the end of each work shift and shall not be reworn until it has been decontaminated.

(ii) EDB-contaminated clothing and protective devices shall be stored, until they are decontaminated, in closed containers bearing a warning which contains the following information: DANGER; (TRADE NAME) CONTAINS ETHYLENE DIBROMIDE (EDB); CANCER AND REPRODUCTIVE HAZARD; AVOID INHALATION AND SKIN CONTACT

(iii) The employer shall assure that no employee takes home EDB contaminated work clothing or equipment.

(3) Cleaning and Replacement. (i) The employer shall clean, launder, repair, or replace all required protective clothing and equipment for each affected employee as necessary to assure its effectiveness.

(ii) The employer shall assure that only trained persons remove protective clothing and equipment from the storage containers for the purpose of laundering, maintenance, or disposal.

(iii) The employer shall inform any person who launders or cleans EDB-contaminated protective clothing or equipment of the potentially harmful effects of EDB.

(j) *Hygiene Facilities and Practices.* (1) The employer shall assure that exposed employees wash hands and face with soap and water prior to eating, drinking, smoking or applying of cosmetics.

(2) Where employees are required to wear protective clothing to prevent skin or eye contact with EBD, clean change rooms and shower facilities, as described in 29 CFR 1910.141 shall be furnished by the employer for use by affected employees. The clean change room shall be contiguous to and have an entry from a shower room.

(3) The employer shall assure that employees wearing protective clothing or equipment to protect against skin contact with liquid EDB shower at the end of the work shift.

(k) *Housekeeping.* (1) All surfaces shall be maintained free of drips or spills of EDB.

(2) The employer shall institute a program for detecting leaks and spills including regular visual inspections of operations involving liquid EDB.

(3) All leaks shall be repaired and spills cleaned up promptly.

(l) *Emergency Procedures.* (1) In all work areas where EDB is present, the employer shall take all necessary steps to ensure that employees are instructed in and follow specific written emergency procedures appropriate for each operation or process which have been developed by the employer.

(2) The written emergency procedures shall include: (i) Prearranged plans for immediate evacuation, transportation, and medical assistance for affected employees;

(ii) Designation of medical receiving facilities and names of physicians to contact in the event of an EDB emergency;

(iii) Reentry procedures for cleanup, or maintenance into areas where EDB leaks or spills have occurred; and

(iv) Selection of the appropriate personal protective equipment and clothing which shall be used by trained personnel during an emergency.

(3) In the event of skin or eye contact with liquid EDB the employer shall assure that affected employees immediately wash or shower to minimize the danger of skin absorption.

(4) The employer shall require that employees immediately remove any nonresistant clothing which becomes wet with EDB or liquids containing EDB. Such clothing shall be stored in closed containers and shall not be reworn until it has been decontaminated.

(5) All employees, except those designated to correct the situation, shall be evacuated from the area where the emergency occurred until cleanup has been completed.

(6) Personnel reentering the spill or leak area shall be furnished with appropriate personal protective equipment.

(7) Any spilled or leaked EDB shall be collected by using vermiculite, dry sand, earth or other nonreactive material.

(8) EDB contaminated waste and debris shall be disposed of in sealed containers which prevent dispersion of EDB outside the container. (i) Such containers shall bear a warning containing the following information:

DANGER (TRADE NAME) CONTAINS ETHYLENE DIBROMIDE (EDB) CANCER AND REPRODUCTIVE HAZARD AVOID INHALATION AND SKIN CONTACT

(ii) Spent or leaking containers shall be promptly removed from the workpiece.

(m) *Medical Surveillance.* (1) General. (i) The employer shall make available a medical surveillance program for any employee required to wear a respirator or any employee exposed to EDB at or above the action level for a total of 30 or more days per year.

(ii) All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee, without loss of pay and at a reasonable time and place.

(2) Frequency and content. Before an employee can wear a respirator or at the time of initial assignment to an area where the employee is likely to be exposed at or above the action level for 30 days or more per year and at least annually thereafter, the employer shall provide that employee a medical examination. The medical examination shall include the following:

(i) A comprehensive work history with inquiry directed toward previous work-related exposure to toxic substances.

(ii) A comprehensive medical history with special emphasis directed to disorders of the liver, kidney, lungs and reproductive system.

(iii) A comprehensive physical examination, with particular emphasis given to the cardiovascular, pulmonary, neurologic, hepatic, renal and dermal system.

(iv) Laboratory examinations: Blood serum chemistry studies including, calcium, phosphorus, glucose, blood urea nitrogen, serum creatinine, uric acid, cholesterol, total protein, albumin, alkaline phosphatase, LDH, SGOT, SGPT, and GGTP: urinalysis,

(v) A chest X-ray, initially and at five year intervals, unless indicated more frequently by the examining physician, and a pulmonary function test, including FVC and FEV_1, if an employee is to wear a respirator; and

(vi) Any other test deemed appropriate by the examining physician after review of the above medical information.

(3) Special Examinations. If an employee is exposed to EDB in an emergency situation or develops signs or symptoms commonly associated with EDB exposure, the employer shall immediately provide the employee with a medical examination. This examination shall include those elements considered appropriate by the examining physician, and a 72-hour medical observation period to assure that the unexpected delayed systemic effects associated with acute exposure are minimized.

(4) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and appendices B and C;

(ii) A description of the affected employee's duties as they relate to the employee's exposure to EDB;

(iii) The level of EDB to which the employee is exposed;

(iv) A description of any personal protective equipment used; and

(v) Information from previous employment-related medical examinations of the affected employee which is not otherwise available to the examining physician.

(5) Physician's written opinion. (i) For each examination required under this section, the employer shall obtain a written opinion from the examining physician which shall include:

(A) The physician's opinion as to whether the employee has any detected medical conditions or is taking any medication which would place the employee at increased risk of material impairment from exposure to EDB;

(B) Any recommended limitation on the employee's exposure to EDB or upon the use of personal protective equipment. This shall include an opinion as to the employee's ability to wear a respirator; and

(C) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions resulting from EDB exposure which require further explanation or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnosis unrelated to occupational exposure.

(iii) The employer shall provide a copy of the physician's written opinion to the affected employee within 15 days of its receipt.

(n) *Employee Information and Training.* (1) The employer shall assure that all employees who are assigned to workplaces covered by this standard participate in a training program.

(2) Training shall be provided prior to or at the time of initial assignment and at least annually thereafter.

(3) The training program shall be conducted in a manner which the employee is able to understand and shall include: (i) A copy of this regulation and discussion of its contents and Appendix B;

(ii) The potential health effects associated with exposure to EDB with emphasis on the potential for serious internal injury before experiencing overt symptoms;

(iii) Instructions to immediately report to the employer the development of signs or symptoms of EDB exposure;

(Iv) The safe work practices appropriate to each job with EDB exposure;

(v) The purpose for, proper use and limitations of personal protective clothing and equipment;

(vi) Instructions for the handling of spills, emergency and cleanup procedures;

(vii) The purpose for and a description of the medical surveillance program required by this standard; and

(viii) An explanation of the importance of engineering and work practice controls for employee protection and any necessary instruction in the use of these controls.

(4) Access to training materials. (i) The employer shall make readily available, without cost, to all affected employees all written materials relating to the employee training program.

(ii) The employer shall provide upon request, all information and training materials relating to the employee information and training program to the Assistant Secretary and the Director.

(o) *Warning Statements.* (1) The employer shall assure that precautionary warnings are affixed to all containers of liquids containing EDB within the workplace.

(2) The employer shall assure that the precautionary warnings are affixed when the materials are sold, distributed, or otherwise leave the employer's workplace.

(3) Substitute Warning Labels. (i) The employer may use warning labels required by other statutes, regulations, or ordinances which impart the same information as the warning statements required by this paragraph.

(A) The employer shall assure that no statement appears on or near any warning information required by this section which contradicts or detracts from the meaning of the required warning.

(B) The employer shall assure that required warning statements are readily visible and legible

(ii) The warning statement shall contain the following information:

DANGER (TRADE NAME) CONTAINS ETHYLENE DIBROMIDE (EDB) CANCER AND REPRODUCTIVE HAZARD, AVOID INHALATION AND SKIN CONTACT

(p) *Recordkeeping.* (1) Exposure monitoring. (i) The employer shall establish an maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The date(s), number, duration, location and results of each of the samples taken.

(B) The operation involving exposure to EDB which is being monitored;

(C) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent;

(D) Where representative samples are used to document employee exposure, an explanation of why they are characteristic of that employee's exposure.

(E) The type of respiratory protection and other personal protective devices worn, if any; and

(F) A description of the sampling and analytical methods used and evidence of their accuracy.

(2) Medical Surveillance. (i) The employer shall establish and maintain accurate records for each employee subject to medical surveillance required by this standard.

(ii) This record shall include:

(A) The name, social security number and description of the duties of the employee;

(B) A copy of the physician's written opinion;

(C) Results of employee's exposure; and

(D) Any employee medical complaints related to exposure to EDB.

(iii) The employer shall keep the following medical records:

(A) A copy of the medical examination results including the medical and work history required by this section;

(B) A copy of the test results.

(3) Respirator Fit Testing. (i) The employer shall establish and maintain accurate records for each employee subject to negative pressure respirator fit testing required by this standard.

(ii) This record shall include:

(A) A copy of the protocol for either the quantitative or qualitative procedure(s) selected for respirator fit testing.

(B) A copy of the results of any quantitative fit testing performed.

(C) The size and manufacturer types of respirators available for selection.

(D) The type and facepiece selected for the employee.

(E) The date of the most recent fit testing.

(F) The name, social security number, and a description of the duties of tested employee.

(4) Record Retention. The employer shall retain records required by this standard for at least the following periods: (i) Exposure records shall be kept for 30 years.

(ii) Medical records shall be kept for the duration of employment plus 30 years.

(iii) Respirator fit test records shall be kept for 1 year or until replaced with a more recent record.

(iv) Records required by this standard shall be maintained in accordance with 29 CFR 1910.20.

(5) Availability. (i) The employer shall assure that all records to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) Employee exposure monitoring records required by this paragraph shall be provided upon request for examination and copying to employees, employee representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(i).

(iii) Employee medical records required by this pragraph shall be provided upon request for examination and copying, to the subject employee, to anyone having the specific written consent of the subject employee, and to the Assistant Secretary.

(6) Transfer of records. (i) The employer shall comply with the requirements involving transfer of records set forth in 29 CFR 1019.20(h).

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by mail to the Director.

(q) *Effective Dates.* (1) Paragraph (a) through (q) of this section shall become effective sixty (60) days following publication of the final rule unless noted below.

(2) Measurements representative of employee esposure to EDB taken in the preceding six months may be used to fulfill the initial monitoring requirement provided the sampling and analytical methods used meet the accuracy and confidence levels required by this paragraph.

(3) Engineering and work practice controls required by paragraph (g) of this section shall be implemented as soon as possible but no later than 2 years after the effective date of the final rule.

(r) *Appendices.* (1) The information and procedures contained in Appendix A is mandatory.

(2) The information contained in the subsequent appendices B, C, and D to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligations.

Appendix A—To Section 1910.1048—Qualitative Fit Test Protocols

This appendix specifies the only allowable qualitative fit test protocols permissible for compliance with 29 CFR 1910.1048(h)(4)(ii) and must be used with negative pressure respirators if quantitative fit testing is not used.

I. Isoamyl Acetate Protocol

A. Odor Threshold Screening

1. Three 1-liter glass jars with metal lids (e.g. Mason or Bell jars) are required.

2. Odor-free water (e.g. distilled or spring water) at approximately 25° C shall be used for the solutions.

3. The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a 1-liter jar and shaking for 30 seconds. This solution shall be prepared new at least weekly.

4. The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

5. The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. Shake for 30 seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

6. A test blank is prepared in a third jar by adding 500 cc of odor free water.

7. The odor test and test blank jars shall be labelled 1 and 2 for jar identification. If the labels are put on the lids they can be periodically peeled, dried off and switched to maintain the integrity of the test.

8. The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e. 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

9. The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

10. If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

1. If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

B. Respirator Selection

1. The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various

sizes from different manufacturers. The selection shall include at least three sizes of elastomeric half facepieces and units from at least two manufacturers.

2. The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This instruction may not constitute the subjects formal training on respirator use, as it is only a review.

3. The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly and used properly will provide adequate protection.

4. The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a good fit cannot be found, the subject will be asked to test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

5. The more comfortable facepieces are noted; the most comfortable mask is donned and *worn at least five minutes* to assess comfort. Assistance in assessing comfort can be given by discussing the points in #6 below. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

6. Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- Positioning of mask on nose.
- Room for eye protection.
- Room to talk.
- Positioning mask on face and cheeks.

7. The following cirteria shall be used to help determine the adequacy of the respirator fit:

- Chin properly placed.
- Strap tension.
- Fit across nose bridge.
- Distance from nose to chin.
- Tendency to slip.
- Self-observation in mirror.

8. The test subject shall conduct the conventional negative and positive-pressure fit checks (e.g. see ANSI Z88.2–1980). Before conducting the negative- or positive-pressure test the subject shall be told to "seat" the mask by rapidly moving the head from side-to-side and up and down, while taking a few deep breaths.

9. The test subject is now ready for fit testing.

10. After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

11. The employee shall be given the opportunity to select a different facepiece and be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

C. Fit Test

1. The fit test chamber shall be similar to a clear 55 gal drum liner suspended inverted over a 2 foot diameter frame, so that the top of chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

2. Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

3. After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for order threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

4. A copy of the following test exercises and rainbow passage shall be taped to the inside of the test chamber:

Test Exercises

i. Breathe normally.

ii. Breathe deeply. Be certain breaths are *deep* and *regular*.

iii. Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.

iv. Nod head up-and-down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

v. Read the Rainbow passage. Be certain to read aloud and slowly.

vi. Breathe normally.

Roinbow Passage

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends says he is looking for the pot of gold at the end of the rainbow.

5. Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

6. Upon entering the test chamber, the test subject shall be given a 6 inch by 5 inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

7. Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of cooperation, the purpose for the head exercises, or to demonstrate some of the exercises.

8. Each exercise described in #4 above shall be performed for at least one minute.

9. If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed, the subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

10. If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in the c(4) through c(8) above. The procés continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

11. If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

12. When a respirator is found that passes the test, the subject breaks the faceseal and takes a breath before exiting the chamber. This is to assure that the reason the test subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

13. When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

14. Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 10 times the PEL of airborne EDB. In atmospheres greater than 10 times, and less than 100 times the PEL (up to 10 ppm), the subject must pass the IAA test using a full face negative pressure respirator.

II. Saccharin Solution Aerosol Protocol

A. Respirator Selection

Respirators shall be selected as described in section IB (respirator selection) above, except that each respirator shall be equipped with a particulate filter cartridge.

B. Toste Threshold Screening

An enclosure about head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately 12 inches in diameter by 14 inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

2. The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

3. The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

4. During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

5. Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test Conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

6. The threshold check solution consists of 0.83 grams of sodium saccharin, USP in water. It can be prepared by putting 1 cc of the test solution (see C6 below) in 100 cc of water.

7. To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

8. Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

9. If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

10. If the second response is negative ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

11. The test conductor will take note of the number of squeezes required to elicit a taste response.

12. If the saccharin is not tasted after 30 squeezes (Step 10), the saccharin fit test cannot be performed on the test subject.

13. If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

14. Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

15. The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours. *C. Fit Test*

1. The fit test uses the same enclosure described in IIB above.

2. Each test subject shall wear the respirator for a least 10 minutes before starting the fit test.

3. The test subject shall don the enclosure while wearing the respirator selected in section IB above. This respirator shall be properly adjusted and equipped with a particulate filter cartridge.

4. The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

5. A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

6. The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

7. As before, the test subject shall breathe with mouth open and tongue extended.

8. The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See B8 through B10 above).

9. After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

i. Breathe normally.

ii. Breathe deeply. Be certain breaths are *deep* and *regular*.

iii. Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

iv. Nod head up-and-down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not to bump the repirator on the chest.

v. Read the Rainbow Passage. Be certain to read aloud and slowly.

vi. Breathe normally.

10. The Rainbow Passage as given below shall be printed on a card so the test subject may read it.

Rainbow Passage

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

11. At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in C8.

12. The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

13. If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

14. Successful completion of the test protocol shall allow the use of the tested respirator in contaminated atmospheres up to 10 times the PEL. In other words this protocol may be used aasign protection factors no higher than ten.

III. Irritant Fume Protocol

A. Respirators Shall Be Selected as Described in Section IB Above, Except That Each Respirator Shall be Equipped With High-Efficiency Acid-Gas Organic Vapor Cartridges

B. Fit Test

1. The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

2. The test subject shall properly don the respirator selected as above, and wear it for at least 10 minutes before starting the fit test.

3. The test conductor shall review this protocol with the test subject before testing.

4. The test subject shall perform the conventional positive pressure and negative pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

5. Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver 200 milliliters per minute.

6. Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

7. The test conductor shall direct the stream of irritant smoke from the tube towards the faceseal area of the test subject. The person conducting the test shall begin with the tube at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

8. The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

i. Breathe normally.

ii. Breathe deeply. Be certain breaths are *deep* and *regular*.

iii. Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

iv. Nod head up-and-down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

v. Slowly and distinctly, count backwards from 100.

vi. Breathe normally.

9. The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirater is rejected and another respirator shall be selected.

10. Each test subject passing the smoke test (i.e. without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject reacts to the smoke. Failure to evoke a response shall void the fit test.

11. Steps B4, B9, B10 of the fit test protocol shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

12. Respirators succesfully tested by the protocol may be used in contaminated atmospheres up to ten times the PEL.

Appendix B—To Section 1012.1048—Technical Data for Ethylene Dibromide

I. Physical and Chemical Data

A. Substance Identification

1. Synonyms: Aadibroom, bromofume, celmide, dibromethane, 1,2-dibromoethane, sym-dibromoethane, Dowfume EDB, Dowfume MC–2, Dowfume W–8, Dowfume W–85, Dowfume 40, E–D–BEE, EDB, EDB–85, ENT 15,349, ethylene dibromide, Fume-Gas, glycol dibromide, Isobromo D, Kopfume, Nefis, Pestmaster, Pestmaster EDB—85, Sanhyuum, Soilbrum-40, Soilbrum-85, Soilfume, Unifume.

2. Formula: Ch_2BrCH_2Br.

3. Molecular Weight: 187.9.

VOL 48 ISS 196 OCT 7 1983 UMI

VOL 48 ISS 196 OCT 7 1983 UMI

B. Physical Data

1. Boiling Point (760 mm Hg): 131° C (268° F).
2. Melting Point 9.6° C, (47.2° F).
3. Specific Gravity (Water=1) 2.18.
4. Vapor Density (Air=1 at boiling point of EDB): 6.5.
5. Vapor pressure at 20° C (68° F): 11 mm Hg.
6. Solubility in water, % by weight at 20° C (68° F): 0.4.
7. Appearance and odor: Colorless liquid or solid with a mild, sweet odor at high concentrations.
8. Odor Threshold: 10 parts per million.

II. Fire, Explosion, and Reactivity Hazard Data

A. Fire: Not Combustible

B. Reactivity

1. Conditions contributing to instability: High temperature; ethylene dibromide slowly decomposes in the presence of light.
2. Hazardous decomposition products: Toxic gases and vapors (such as hydrogen bromide, bromine, and carbon monoxide) may be released when ethylene dibromide decomposes.
3. Incompatibilities: Reacts with chemically active metals, such as sodium, potassium, calcium, powdered aluminum, magnesium and zinc; strong alkalies, and oxidizing agents; Reacts with certain metals, such as aluminum and magnesium to form combustible and explosive organometallic compounds and liquid ammonia.
4. Special precautions: Liquid ethylene dibromide will attack some forms of plastic, rubber, and coatings.

III. Spill, Leak, and Disposal Precedures

A. If ethylene dibromide leaks or is spilled, the following steps should be taken:
(1) Evacuate all non-essential personnel from the area.
(2) Ventilate the area of the spill or leak to prevent accumulation of the vapor.
(3) If in liquid form, collect spilled material for reclamation or absorb in vermiculite, dry sand, earth, or similar nonreactive material.

B. Personnel entering the spill or leak area shall be furnished the appropriate personal protective equipment. All other people shall be excluded from the area.

C. EDB contaminated waste, debris, containers, or equipment shall be disposed of in sealed, labeled containers which prevent dispersion of EDB outside the container.

IV. Health Hazard Data

A. Route of Entry

Inhalation is the most common source of occupational exposure to ethylene dibromide. EDB may also be absorbed through the skin after direct contact with either the liquid or vapor. It is also readily absorbed from the gastrointestinal tract after being ingested. It is, therefore important to maintain good personal hygiene and housekeeping practices when working with EDB.

B. Adverse Health Effects

1. Acute Effects

Immediate.—EDB is an irritant to the eyes, respiratory tract and mucous membranes; inhalation exposure in humans has been associated with headache, decreased appetite, inability to sleep, nausea, and dizziness. Dermal contact may result in intense burning pain, swelling and blistering. Repeated contact may cause skin sensitization.

Delayed.—Although the acute symptoms may subside, loss of consciousness and death due to liver and kidney failure have occurred twelve to seventy-two hours after an acute exposure to EDB. Therefore, it is very important to immediately report all acute exposures to EDB.

2. Chronic Effects

EDB has the potential for causing cancer and adverse reproductive effects in humans. These effects have been demonstrated in various animal experiments which show EDB to be a potent cancer agent and reproductive toxin.

V. Monitoring and Measurement Procedures

A. Eight-hour exposure evaluation: The average 8-hour employee exposure may be determined from two (2) 4-hour samples. Air samples should be taken in the employee's breathing zone.

B. Short Term Exposure Limit (STEL) Evaluation: Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of EDB in the employee's breathing zone. The sampling time for STEL evaluation is fifteen (15) minutes.

C. Monitoring techniques: The employer shall use a method of exposure measurement which has an accuracy (with a confidence level of 95%) of not less than plus or minus 25 percent for concentrations of EDB at the action level of 0.05 ppm.

D. Sampling and analysis under this section may be performed by collecting EDB on charcoal absorption tubes with subsequent chemical analysis by gas chromatograph. This Appendix D contains a method for EDB analysis which has been tested by OSHA at concentrations below 0.1 ppm.

VI. Medical Surveillance

A. Periodic

A medical surveillance program shall be provided by the employer at no expense to all employees who are exposed to EDB at or above the action level for 30 or more days per year or those employees required to wear a respirator regardless of the duration of exposure. The program shall be administered at the time of initial assignment and annually thereafter.

It shall consist of:
(a) A detailed work and medical history.
(b) A complete physical examination.
(c) Pertinent laboratory examination to ascertain liver, kidney and other abnormalities associated with EDB exposure.

In addition for those employees required to wear a respirator, the medical surveillance program shall include an assessment of pulmonary status which will include a chest X-ray initially and every 5 years (unless indicated more frequently by the examining physician) and a pulmonary function test.

Medical surveillance can play a very important role in protecting employee's health. All employees are encouraged strongly to participate. The employer shall provide the following information to the physician:
(1) a description of the employee's duties as they relate to ethylene dibromide exposure;
(2) the exposure level;
(3) a description of the personal protective equipment the employee is required to wear; and
(4) the results of prior medical examinations and opinions concerning the employee's health.

After a medical examination the physician must prepare a written report containing:
(1) the physician's opinion as to whether the employee has any medical condition which places that employee at an increased risk of material impairment to health from exposure to ethylene dibromide;
(2) any recommended special protective measures to be provided; and
(3) any recommended limitation on the use of respirators.

B. Additional

Medical consultation must be made available as soon as possible if the employee is experiencing signs or symptoms of EDB poisoning.

C. Emergency

In the event that an employee is exposed to EDB in an emergency situation or develops signs or symptoms associated with acute toxicity from EDB exposure, the employer shall immediately provide the employee with a medical examination. This examination shall include all the steps necessary to stabilize the health of the employee and a 72 hour medical observation period to assure that the often unexpected, serious, delayed systemic effects from acute exposure are minimized.

Appendix C—To Section 1019.1048—Medical Surveillance Guidelines for Ethylene Dibromide

I. Introduction

The primary purpose of the Occupational Safety and Health Act of 1970 is to assure, so far as possible, safe and healthful working conditions for every man and woman. The occupational health standard for ethylene dibromide (EDB) was promulgated to protect workers involved in the production, reaction, release, mixing, blending, packaging, repackaging, storage, transportation, handling, distribution, and use of EDB and products containing EDB. Under the final standard occupational exposure to EDB is to be limited to 0.1 ppm based on 8-hour time weighted average (TWA) with a STEL of 0.5 ppm. Employee exposure must be controlled to or below these levels through a combination of engineering, work practices, and other administrative controls.

The standard also provides for a medical surveillance program for all employees required to wear a respiratar or employees exposed to levels of EDB at or above the action level of 0.05 ppm averaged over an 8-hour period (TWA) for 30 or more days per year. The purpose of this document is to outline the medical surveillance provisions of the standard for EDB, and to provide further information to the physician regarding the examination and evaluation of workers exposed to EDB.

Section II provides a description of the medical surveillance program, notification and recordkeeping requirements for the employer and a discussion of the requirements for respirator use.

Section III discusses the acute and chronic effects associated with EDB exposure in man and experimental animal models. Included in this discussion are the carcinogenic, reproductive, and mutagenic effects seen in animal experiments and epidemiological studies.

Section IV outlines the recommended medical evaluation for workers exposed to EDB including details of the work and medical history, physical examination, recommended laboratory tests and medical procedures for emergency situations.

II. Medical Surveillance

Under the occupational health standard for EDB, the employer must make available a medical surveillance program for any employee required to wear a respirator or any employee exposed to EDB at or above the action level for a total of 30 or more days per year.

The medical surveillance program will include a medical and occupational history, including a reproductive history, a comprehensive medical examination and laboratory evaluation (if indicated). Employees who are required to wear a respirator must have an assessment of pulmonary status in addition to the other medical surveillance requirements.

The frequency of these examinations will be at the time of initial assignment and annually thereafter. The employer must provide the examining physician with following specific information: a copy of the EDB standard and appendices B and C, a description of the employee's duties as related to exposure, the exposure level to EDB, a description of personal protective equipment used, and all prior written medical opinions, regarding the employee, in the employer's possession or control.

For each examination required under this section, the employer shall obtain a written opinion from the examining physician which shall include:
(1) The physician's opinion as to whether the employee has any detected medical conditions or is taking any medications which would place the employee at increased risk of material impairment from exposure to EDB.
(2) Any recommended limitations on the employee's exposure to EDB or upon the use of personal protective equipment; this will include an opinion as to the employee's ability to wear a respirator.
(3) A statement that the employer has been informed by the physician of the results of the medical examinations and any medical conditions resulting from EDB exposure which require further explanation or treatment.

As part of the medical surveillance program, the physician must assess the pulmonary status of each employee who will be wearing a respirator. This assessment will include a chest x-ray initially and additional x-rays at least every five years or more frequently if indicated by the examining physician, and an annual pulmonary function test (detailed in Section IV).

The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnosis unrelated to occupational exposure. The employer shall provide a copy of the physician's written opinion to the affected employee within 15 days from its receipt.

III. Toxicology of Ethylene Dibromide

Both acute and chronic health effects associated with EDB exposure must be considered. The acute health effects seen in man include both immediate and delayed responses which are well documented. However, chronic toxicity in humans such as carcinogenicity, mutagenicity and adverse reproductive effects have to be derived from animal models.

Acute Effects

Immediate

Ethylene dibromide (EDB) is rapidly absorbed from the lungs when breathed as a vapor, from the gastrointestinal tract when taken by mouth, and through the skin on direct contact with the liquid form.

EDB is an irritant to the eyes, respiratory tract and mucous membranes. Inhalation exposure in humans has been associated with headache, decreased appetite, inability to sleep, nausea, and dizziness. Dermal contact may result in intense burning pain, swelling, blistering, and repeated contact may cause skin sensitization. Deaths have occurred following the inadvertent ingestion and inhalation of EDB. In one reported incident, accidental ingestion of 4.5 ml of EDB produced vomiting, diarrhea, abdominal pain, renal failure and death within 54 hours with central lobular necrosis of the liver and focal proximal tubular epithelial damage in the kidney found on autopsy.

Delayed.

Recently, while cleaning a storage tank, two workers at a California pesticide storage and formulation facility were exposed to an air concentration of EDB in excess of 28 ppm and had skin contact with a .3% solution of EDB. Both workers experienced intermittent loss of consciousness, agitation, nausea, and diarrhea, all of which appeared to be transient symptoms. However, at 12 and 72 hours respectively, post exposure, both workers died. Autopsies revealed dermal burns, extensive heart, kidney, liver and lung damage. It is important to note here the time sequence between exposure, symptoms and death.

Chronic Effects

Chronic health effects in humans and animals associated with EDB exposure can be divided into carcinogenic, reproductive and mutagenic effects.

Carcinogenic

EDB has been shown to cause cancer orally or by inhalation in 3 strains of rats and 2 strains of mice. In rats and mice, cancer was produced by inhalation exposures as low as 10 ppm. These animal data indicate that EDB is a *potential human carcinogen.* An epidemiologic study of cancer mortality provides suggestive evidence of excess cancer risk in workers exposed to EDB, but because of methodological weaknesses, this study is inconclusive. Studies in animals dosed with disulfiram and EDB clearly indicate a synergistic carcinogenic effect. Therefore, workers taking disulfiram (Antabuse®) may be at increased risk of these health effects because the two pathways involved in EDB metabolism are altered by this drug.

Reproductive/Mutagenic

EDB has been shown to be a mutagen and teratogen as well as a testicular toxin in several species of animals at levels of inhalation exposure as low as 10 ppm. Available human epidemiological data provide inconclusive evidence that EDB may affect fertility in male workers exposed to EDB due to methodological problems with the studies. The animal data noted above implies that EDB may potentially affect human reproductive capacity and the offspring of male or female EDB workers.

IV. Medical Evaluation

As discussed in Section III, EDB is a potential human carcinogen causing a variety of neoplasms including stomach, nasal, and lung cancers in experimental animals and a potential human reproductive hazard causing pathological changes in sperm, testes and fertility status in experimental animals. EDB is also a known human liver, kidney, skin and central nervous system toxin. It is therefore extremely important for the examining physician to evaluate the EDB-exposed worker carefully and completely and to focus the examination on these potential health hazards.

The medical evaluation should include a detailed work and medical history, a pertinent review of systems, a complete physical examination and laboratory studies to monitor potential biological changes.

A complete and detailed work history is important in the initial evaluation. A listing of all previous employment with information on work processes, exposure to EDB or other toxic substances, respiratory protective equipment used, and previous medical surveillance should all be included in the worker's record. Information concerning on-the-job personal hygiene, smoking or eating habits in work areas, laundry procedures, and use of any protective clothing or respiratory protective equipment should be noted.

The medical history should include a listing of all past and current medical conditions, especially any neurological, gastrointestinal, kidney, dermatological, genetic or reproductive problems. Also, a list of current medication especially disulfiram (Antabuse®), previous surgeries, hospitalizations, allergies,

smoking history and alcohol consumption should be noted.

A complete review of systems should be performed to assess both recognized complaints and subtle or slowly acquired symptoms which the worker might not appreciate as being significant. The review of symptoms should include the following:

General—weight loss, fatigue, malaise.

Head, eyes, ears, nose, throat—headache, dizziness, and visual disturbances, nasal irritation.

Cardio-pulmonary—shortness of breath, cough, tachypnea, tachycardia and chest pain.

Gastrointestinal—nausea, vomiting, decreased appetite, abdominal pain, jaundice, diarrhea.

Genito-urinary—history of infertility, impotence, loss of libido, abnormal menstrual periods, history of miscarriages, still births, kidney failure, oliguria, and testicular disease.

Skin—rashes, vesicles, and burns.

Neurological—insomnia, fatigue, dizziness, confusion, and depression.

The physical examination should emphasize the pulmonary, cardiac, neurological, gastrointestinal, genito-urinary, and dermal systems. Included in this examination should be a complete assessment of the employee's ability to wear a respirator (if required). This should include a complete head, eyes, ears, nose, throat, thorax and pulmonary examination.

A complete neurological examination should include an adequate mental status evaluation including a search for behavioral and psychological disturbances, memory testing, evaluation for irritability, insomnia, hallucination, depression, restlessness and nervousness.

The abdominal examination should include auscultation for bowel sounds and abdominal bruits and palpation for hepatomegaly, masses, and diffuse abdominal tenderness.

Genito-urinary examination should include examination of testicles in male employees and pelvic examination in female employees.

The dermal examination should focus on evidence of jaundice, burns or blistering.

As part of the medical evaluations, the standard requires that the following laboratory studies be performed:

(1) Serum calcium, phosphorus, glucose, blood urea nitrogen, urea acid, creatinine, cholesterol, total protein, albumin, alkaline phosphatase, LDH, SGOT, SGPT and GGTP.

(2) Routine urinalysis with microscopic examination.

Further, the phyician is authorized to recommend any additional laboratory or other test which is deemed necessary in accordance with sound medical practice.

In addition, the standard requires that the following examinations be performed if the employee is going to wear a respirator:

(3) Chest X-ray (posterior-anterior and lateral views) to be performed initially and at 5 year intervals (unless indicated more frequently by the examining physician).

(4) Pulmonary function testing; including FVC and FEV_1 with interpretation.

This test allows those individuals who will be exposed above the PEL regardless of the duration of exposure to be included in the medical surveillance program.

In addition, respirator usage presents an excess burden to the pulmonary system of the employee. This burden may result in symptoms such as shortness of breath, chest pain, dizziness or fatigue. All of these symptoms will be greatly exacerbated by pre-existing lung disease such as chronic bronchitis, emphysema, asthma or pneumoconiosis. It is, therefore, imperative that all employees who will be wearing respirators be medically screened to determine fitness for respirator usage. OSHA believes that the physician can best accomplish this through utilization of a physical examination, including a pulmonary function test and a chest x-ray.

Emergency Situations

In the event that an employee is exposed to EDB in an emergency situation or develops signs or symptoms associated with acute toxicity from EDB exposure, the employer shall immediately provide the employee with a medical examination. This examination shall include all the steps necessary to stabilize the health of the employee and a 72 hour medical observation period to assure that the often unexpected, serious delayed systemic effects from acute exposure are minimized. This observation period should take place in a medical facility, preferably a hospital, where a licensed physician will be responsible for supervising all medical care delivery.

Appendix D—To Section 1019.1048—OSHA Laboratory Modification of NIOSH Method P&CAM 260

Analyte: Ethylene dibromide
Matrix: Air
Procedure: Adsorption on charcoal, desorption with 10% CS_2 in benzene, GC

1. Principle of method.
   1.1 A known volume of air is drawn through a charcoal tube to trap the organic vapors present.
   1.2 The charcoal in the tube is transferred to a small, stoppered sample vial, and the analyte is desorbed with 10% CS_2 in benzene.
   1.3 An aliquot of the desorbed sample is injected into a gas chromatograph.
   1.4 The area of the resulting peak is determined and compared with areas obtained for standards.
2. Advantages and disadvantages of the method.
   2.1 The sample device is small, portable, and involves no liquids. Interferences are minimal, and most of those which do occur can be eliminated by altering chromatographic conditions. The tubes are analyzed by means of a quick, instrumental method.
   2.2 The amount of sample which can be taken is limited by the number of milligrams that the tube will hold before overloading. When the sample value obtained for the backup section of the charcoal tube exceeds 25 percent of that found on the front section, the possibility of sample loss exists.
   2.3 The precision of the method is limited by the reproducibility of the pressure drop across the tubes. This drop will affect the flow rate and cause the volume to be imprecise, because the pump is usually calibrated for one tube only.
3. Apparatus.
   3.1 A calibrated personal sampling pump whose flow can be determined within ±5 percent at the recommended flow rate.
   3.2 Charcoal tubes: Glass tube with both ends flame sealed, 7 cm long with a 6-mm O.D. and a 4-mm I.D., containing 2 sections of 20/40 mesh activated charcoal separated by a 2-mm portion of urethane foam. The activated charcoal is prepared from coconut shells and is fired at 600°C prior to packing. The adsorbing section contains 100 mg of charcoal, the back-up section 50 mg. A 3-mm portion of urethane foam is placed between the outlet end of the tube and the back-up section. A plug of silicated glass wool is placed in front of the adsorbing section. The pressure drop across the tube must be less than one inch of mercury at a flow rate of 1 liter per minute.
   3.3 Gas chromatograph equipped with an electron capture detector.
   3.4 Column (10-ft × ⅛-in stainless steel) packed with 100/120 Supelcoport coated with 10 percent SP 1000.
   3.5 An electronic integrator of some other suitable method for measuring peak area.
   3.6 Two-milliliter sample vials with Teflon-lined caps.
   3.7 Microliter syringes: 10-microliter, and other convenient sizes for making standards.
   3.8 Pipets: 1.0-ml delivery pipets.
   3.9 Volumetric flasks: convenient sizes for making standard solutions.
4. Reagents.
   4.1 Chromatographic quality CS_2 and benzene.
   4.2 Ethylene dibromide, reagent grade.
   4.3 Filtered compressed air.
   4.4 Purified nitrogen.
5. Procedure.
   5.1 Cleaning of equipment. All glassware used for the laboratory analysis should be properly cleaned and free of organics which could interfere in the analysis.
   5.2 Calibration of personal pumps. Each pump must be calibrated with a representative charcoal tube in the line.
   5.3 Collection and shipping of samples.
   5.3.1 Immediately before sampling, break the ends of the tube to provide an opening at least one-half the internal diameter of the tube (2 mm).
   5.3.2 The smaller section of the charcoal is used as the backup and should be placed nearest the sampling pump.
   5.3.3 The charcoal should be placed in a vertical position during sampling to minimize channeling through the charcoal.
   5.3.4 Air being sampled should not be passed through any hose or tubing before entering the charcoal tube. EDB is readily absorbed by tygon tubing. This will make the sample results read low. The use of stainless steel tubing will avoid this problem.
   5.3.5 A sample size of 10 liter is recommended. Sample at a flow rate of approximately 0.2 liters per minute. The flow rate should be known with an accuracy of at least ±5 percent.
   5.3.6 The temperature and pressure of the atmosphere being sampled should be recorded.
   5.3.7 The charcoal tubes should be capped with the supplied plactic caps immediately after sampling. Rubber caps should not be used.
   5.3.8 Submit at least one blank tube (a charcoal tube subjected to the same handling procedures, without having any air drawn through it) with each set of samples.
   5.3.9 Take necessary shipping and packing precautions to minimize breakage of samples.
   5.4 Analysis of samples.
   5.4.1 Preparation of samples. In preparation for analysis, each charcoal tube is scored with a file in front of the first section of charcoal and broken open. The glass wool is removed and discarded. The charcoal in the first (larger) section is transferred to a 2-mL vial. The separating section of foam is removed and discarded; the section is transferred to another capped vial. These two sections are analyzed separately.
   5.4.2 Desorption of samples. Prior to analysis, 1.0 mL of 10% CS_2 in benzene is pipetted into each sample container. Desorption should be done for 30 minutes with occasional shaking. The sample vials are recapped as soon as the solvent is added.
   5.4.3 GC conditions. The typical operating conditions for the gas chromatograph area:
   1. 30 mL/min (60 psig) nitrogen carrier gas flow.
   2. 250°C Injector temperature.
   3. 300° C Detector temperature.
   4. 180° C Column temperature.
   5.4.4 Injection. Solvent flush technique or equivalent.
   5.4.5 Measurement of area. The area of the sample peak is measured by an electronic integrator or some other suitable form of area measurement, and preliminary results are read from a standard curve prepared as discussed below.
   5.5 Determination of desorption efficiency.
   5.5.1 Importance of determination. The desorption efficiency of a particular compound can vary from one laboratory to another and also from one batch of charcoal to another. Thus, it is necessary to determine, at least once, the percentage of the specific compound that is removed in the desorption process, provided the same batch of charcoal is used.
   5.5.2 Procedure for determining desorption efficiency. The reference portion of the charcoal tube is removed. To the remaining portion, amounts representing 0.5X, 1X, and 2X (X represents PEL) based on a 10 L air sample are injected onto several tubes at each level. Dilution of ethylene dibromide with benzene are made to allow injection of measurable quantities. These tubes are then allowed to equilibrate at least overnight. Following equilibration they are analyzed following the same procedure as the samples. The desorption efficiency, amount recovered/amount added, is plotted versus the amount of analyte found. This curve is used to correct for adsorption losses.
6. Calibration and standards.
   A series of standards, varying in concentration over the range of interest, is prepared and analyzed under the same GC conditions and during the same time period as the unknown samples. Curves are prepared by plotting concentration versus peak area.

   Note.—Since no internal standard is used in the method, standard solutions must be analyzed at the same time that the sample analysis is done. This will minimize the effect of known day-to-day variations and variations during the same day of the electron capture detector response. Multiple injections are necessary.
7. Calculations.
   Read the weight, corresponding to each peak area from the standard curve, correct for the blank, correct for the desorption efficiency, and make necessary air volume corrections.

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VOL
48
ISS
1
96
OC
7
1983
UMI

Reader Aids

Federal Register
Vol. 48, No. 196
Friday, October 7, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282
	523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559
Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753

5 CFR

Ch. XIV.....45373
752.....45525
1255.....45373

7 CFR

752.....45526
906.....45374
908.....45526
910.....45374, 45755
919.....45374
929.....45374
981.....45374
991.....45374
1435.....45374
1901.....45532
Proposed Rules:
226.....45779
441.....45782
904.....45786
910.....45565
1065.....45117

8 CFR

103.....45093
214.....45093
238.....45093
248.....45093

9 CFR

Proposed Rules:
317.....45118
319.....45118
350.....45755
362.....45755
381.....45118

10 CFR

55.....45223
71.....45381
761.....45746
Proposed Rules:
50.....45787

12 CFR

29.....45532
207.....45533
217.....45756
220.....45533
221.....45533
224.....45533
561.....45382
563.....45382

13 CFR

101.....45224
123.....45225

14 CFR

39.....45093, 45535
71.....45094, 45095, 45536, 45537
97.....45096
320.....45236
389.....45758
Proposed Rules:
21.....45214, 45565
61.....45214
65.....45214
71.....45118, 45566
107.....45214
109.....45214
121.....45214
135.....45214
145.....45214

16 CFR

453.....45537
Proposed Rules:
1212.....45405
1500.....45567
1513.....45567

17 CFR

239.....45386
Proposed Rules:
240.....45119

18 CFR

271.....45097
274.....45097
282.....45758
385.....45388
Proposed Rules:
282.....45787
410.....45568

19 CFR

101.....45538
103.....45538
210.....45544
Proposed Rules:
101.....45409

21 CFR

81.....45237, 45760

109.....45544
131.....45545
193.....45547
540.....45760
558.....45102

Proposed Rules:
182.....45121
184.....45121

24 CFR
570.....45760
888.....45547

25 CFR
71.....45103

Proposed Rules:
140.....45789

26 CFR
1.....45761
35a.....45362

27 CFR
4.....45549
5.....45549
7.....45549
9.....45238, 45239

29 CFR

Proposed Rules:
1908.....45411
1910.....45956
1926.....45872

30 CFR
938.....45389

Proposed Rules:
55.....45336
56.....45336
57.....45336
58.....45336
935.....45420

32 CFR
251.....45242

Proposed Rules:
199.....45791

33 CFR
100.....45244
117.....45245
151.....45704
155.....45704
157.....45718

Proposed Rules:
162.....45798

34 CFR
668.....45670
690.....45670

Proposed Rules:
350.....45568
351.....45568
352.....45568
353.....45568
354.....45568
355.....45568
357.....45568

36 CFR

Proposed Rules:
216.....45421

37 CFR

Proposed Rules:
1.....45424
2.....45424

38 CFR

Proposed Rules:
21.....45123, 45268, 45572

39 CFR
111.....45761

Proposed Rules:
111.....45269

40 CFR
52.....45245, 45246
192.....45926
433.....45105
469.....45249
717.....45765

Proposed Rules:
51.....45269
60.....45701
141.....45502
180.....45573
228.....45798
261.....45210
464.....45573
465.....45573

41 CFR
9–4.....45766
9–51.....45766
Ch I.....45392, 45557
Ch. 101.....45105
105–61.....45392

42 CFR
51c.....45558
52b.....45558
55a.....45558
56.....45558
57.....45112
110.....45250
122.....45558
405.....45766

43 CFR
Subtitle A.....45664

Public Land Orders:
44 (Revoked by PLO 6478).....45401
98 (Revoked by PLO 6478).....45401
399 (Revoked in part by PLO 6477).....45395
698 (Revoked by PLO 6473).....45393
780 (Revoked by PLO 6478).....45401
3645 (Revoked by PLO 6472).....45393
5170 (Revoked in part by PLO 6477).....45395
5179 (Revoked in part by PLO 6477).....45395
5180 (Revoked in part by PLO 6477).....45395
5184 (Revoked in part by PLO 6477).....45395
6472.....45393
6473.....45393
6474.....45394
6475.....45394
6476.....45395
6477.....45395
6478.....45401
6479.....45559

44 CFR

Proposed Rules:
67.....45425

45 CFR
13.....45251

46 CFR
160.....45113
162.....45727
380.....45559

Proposed Rules:
Ch. IV.....45269
7.....45574
24.....45425
25.....45425
26.....45425
30.....45425
31.....45425
32.....45425
35.....45425
70.....45425
71.....45425
75.....45425
77.....45425
78.....45425
90.....45425
91.....45425
94.....45425
96.....45425
97.....45425
107.....45425
108.....45425
109.....45425
163.....45425
188.....45425
189.....45425
192.....45425
195.....45425
196.....45425
508.....45800
524.....45270
531.....45270
536.....45270
538.....45272

47 CFR
0.....45652
1.....45652
2.....45560
73.....45401–45403
81.....45114, 45560
83.....45114, 45560
87.....45114
97.....45652

Proposed Rules:
73.....45428–45438
83.....45439

49 CFR
1033.....45257
1043.....45775

Proposed Rules:
218.....45272
1039.....45137
1155.....45440

50 CFR
23.....45259, 45775
611.....45403
646.....45404
655.....45403, 45404
656.....45403
657.....45403
661.....45263

Proposed Rules:
17.....45574
23.....45575
611.....45804, 45806
663.....45274

LIST OF PUBLIC LAWS

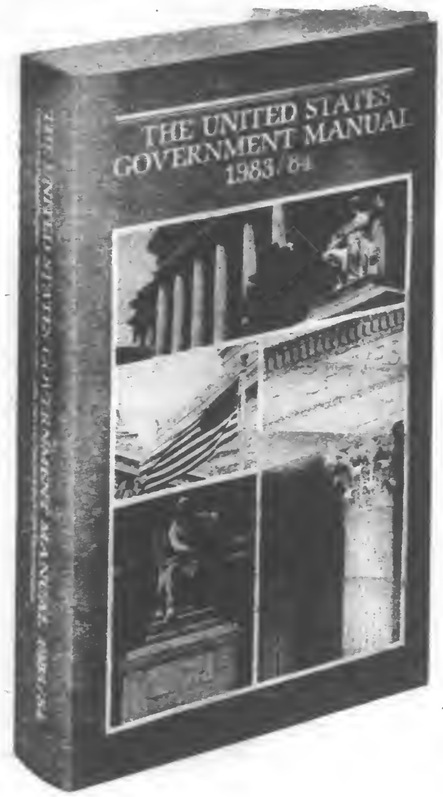
Last Listing October 6, 1983

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S. 602 / Pub. L. 98–111 Radio Broadcasting to Cuba Act. (Oct. 4, 1983; 97 Stat 749 Price: $1.75

S.J. Res. 142 / Pub. L. 98–112 Designating the week of October 3 through October 9, 1983, as "National Productivity Improvement Week". (Oct. 4, 1983; 97 Stat 754 Price: $1.50

VOL
48
ISS
1
9
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48
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1
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48
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197
OC
11
1983
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register

federal

Tuesday
October 11, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency
Animal Drugs
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Banks, Banking
Federal Reserve System
Crop Insurance
Federal Crop Insurance Corporation
Electric Power Rates
Federal Energy Regulatory Commission
Endangered and Threatened Wildlife
Fish and Wildlife Service
Fisheries
National Oceanic and Atmospheric Administration
Flood Insurance
Federal Emergency Management Agency
National Credit Union Administration
Food Additives
Food and Drug Administration
Foreign Investments in U.S.
Agricultural Stabilization and Conservation Service
Freedom of Information
Commodity Futures Trading Commission

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Government Contracts
Housing and Urban Development Department
Natural Gas
Federal Energy Regulatory Commission
Old-age, Survivors, and Disability Insurance
Social Security Administration
Postal Service
Postal Service
Reporting and Recordkeeping Requirements
Minerals Management Service
Small Business Administration
Surface Mining
Surface Mining Reclamation and Enforcement Office
Water Pollution Control
Coast Guard
Federal Maritime Commission

Contents

Federal Register
Vol. 48, No. 197
Tuesday, October 11, 1983

Agricultural Stabilization and Conservation Service
PROPOSED RULES
46065 Foreign investment in agricultural land, disclosure

Agriculture Department
See Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Federal Crop Insurance Corporation; Forest Service.

Alcohol, Drug Abuse and Mental Health Administration
NOTICES
Meetings; advisory committee:
46102 October

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
46089 Gypsy moth suppression and eradication program activities

Census Bureau
NOTICES
Meetings;
46092 American Marketing Association Advisory Committee
Surveys, determinations, etc.:
46090 Manufacturing area; annual

Civil Aeronautics Board
NOTICES
Hearings, etc.:
46090 Airspur Helicopter, Inc.
46089 International cargo rate flexibility policy; establishment
46129 Meetings; Sunshine Act
46090 Standard foreign fare level; establishment

Coast Guard
RULES
Pollution:
46178 Vessel financial responsibility for pollution liability

Commerce Department
See Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
RULES
Records:
46010 Fees for requests for Commission records, reports, and meeting transcripts

Conservation and Renewable Energy Office
NOTICES
Meetings:
46096 Automotive propulsion system research and development

Defense Department
NOTICES
46093 Agency information collection activities under
46094 OMB review (3 documents)
Meetings:
46094 DIA Advisory Committee
46094, Science Board task forces (2 documents)
46095
46095 Travel per diem rates, civilian personnel; changes

Energy Department
See Conservation and Renewable Energy Office; Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
46046 California
46047 Illinois
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
46224 Rotogravure printing and coating of flexible vinyl and urethane
Air quality implementation plans; approval and promulgation; various States:
46081 Rhode Island
Air quality implementation plans; preparation, adoption, and submittal:
46152 Restructuring SIP preparation regulations
Air quality planning purposes; designation of areas:
46085 Alabama
46082 Illinois
NOTICES
Air pollution control:
46098 Emissions trading policy statement; general principles for creation banking, and use of emission reduction credits; inquiry; extension of time and correction
Meetings:
46097 Construction Grants Program Management Advisory Group
Pesticide programs:
46234 Ethylene dibromide; intent to cancel registration, determination concluding rebuttable presumption against registration, and availability of position document
46228 Ethylene dibromide; suspension of registration of products containing EDB for use as a soil fumigant

Federal Aviation Administration
RULES
Airworthiness directives:
46008 British Aerospace
46009 McDonnell Douglas
46010 Control zones and transition areas
PROPOSED RULES
Airworthiness directives:
46070 British Aerospace

Airworthiness standards, etc.:
46250 Aircraft seat cushions; flammability requirements
46218 Floor proximity emergency escape path marking

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
46062 Raisins

Federal Emergency Management Agency
RULES
Flood elevation determination:
46050 Colorado et al.
PROPOSED RULES
Flood elevation determinations:
46085 Georgia; correction
NOTICES
Radiological emergency; State plans:
46098 Michigan

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
46012 Construction work in progress (CWIP); inclusion of cost in rate base; rehearing, etc.
Natural Gas Policy Act:
46021 Pipelines, interstate, and distributors; sales and transportation; blanket certificate program; rehearing
PROPOSED RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
46071 Virginia
NOTICES
Hearings, etc.:
46096 Arizona Public Service Co.
46097 Columbia Gulf Transmission Co.
46097 El Paso Electric Co.
46097 Southwestern Power Administration
46129 Meetings; Sunshine Act

Federal Home Loan Bank Board
NOTICES
46130 Meetings; Sunshine Act

Federal Maritime Commission
RULES
46175 Financial responsibility for water and oil pollution; Alaska Pipeline and Outer Continental Shelf; CFR Parts removed
NOTICES
Complaints filed:
46101 Southeastern Maritime Co. et al.
Investigations, hearings, petitions, etc.:
46099 Latin American charter agreement et al.
46100 Organization, functions, and authority delegations

Federal Reserve System
RULES
Reserve requirements of depository institutions (Regulation D):
46005 Nonpersonal time deposits
NOTICES
Applications, etc.:
46101 Bank of Boston Corp. et al.
46102 Trans-Pacific Bancorp et al.
Bank holding companies; proposed de novo nonbank activities:
46101 Citicorp et al.

Fish and Wildlife Service
RULES
Endangered and threatened species:
46053 Chihuahua chub
PROPOSED RULES
Endangered and threatened species:
46086 Texas snowbells

Food and Drug Administration
RULES
Animal drugs, and related products:
46023 Dinoprost tromethamine sterile solution
46023 Salinomycin and roxarsone
46024 Tylosin
46024 Tylosin; correction
Color additives:
46022 FD&C Red No. 3; meeting
Food additives:
46022 Irradiation in production, processing, and handling of food; isotope Californium-252
NOTICES
46103 Advisory committee reports, annual; availability
Meetings:
46103 Advisory committees, panels, etc.

Forest Service
NOTICES
Environmental statements; availability, etc.:
46089 Gypsy moth suppression and eradication program activities
Meetings:
46089 Sawtooth National Forest Grazing Advisory Board

Geological Survey
NOTICES
46104 Geologic hazard warnings; terminology

Health and Human Services Department
See Alcohol, Drug Abuse and Mental Health Administration; Food and Drug Administration; Public Health Service; Social Security Administration.

Housing and Urban Development Department
PROPOSED RULES
46072 Debarment, suspension and limited participation

Interior Department
See also Fish and Wildlife Service; Geological Survey; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
Meetings:
46104 Presidential Commission on Indian Reservation Economies

International Trade Administration
NOTICES
Meetings:
46092 Countervailing duties; novel issues conference

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
46107 Burlington Northern Railroad

Justice Department
NOTICES
Pollution control; consent judgments:
46108 Glen Villa Trailer Park

Labor Department
See Occupational Safety and Health Administration.

Land Management Bureau
RULES
Public land orders:
46049, 46050 Oregon (2 documents)
46049 Utah
NOTICES
Classification of public lands:
46107 Montana
46105 Nevada
Conveyance of public lands:
46106 Montana
46106 North Dakota

Legal Services Corporation
NOTICES
46130 Meeting; Sunshine Act

Minerals Management Service
RULES
Outer Continental Shelf: geological and geophysical explorations:
46025 Reporting and recordkeeping requirements; notification requirements
NOTICES
Outer Continental Shelf: oil, gas, and sulphur operations; development and production plans:
46106 Union Texas Petroleum

Mississippi River Commission
NOTICES
46130, 46131 Meetings; Sunshine Act (4 documents)

National Credit Union Adminstration
RULES
46006 Flood insurance

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
46053 Lamps, reflective devices, and associated equipment; semi-sealed headlamp with standardized replacement bulb, etc.; correction

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
46057 Stone crab and shrimp, Gulf of Mexico; emergency rule
NOTICES
Senior Executive Service:
46092 Performance Review Board; membership

National Park Service
NOTICES
Meetings:
46107 Upper Delaware Citizens Advisory Council

National Science Foundation
NOTICES
46112 Antarctic Conservation Act of 1978; permit applications, etc.
Meetings:
46112 Physiology, Cellular, and Molecular Biology Advisory Panel

National Transportation Safety Board
NOTICES
46113 Accident reports, safety recommendations, and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
46131 Meetings; Sunshine Act

Occupational Safety and Health Administration
NOTICES
Grants; availability, etc.:
46108 New directions training and education

Postal Service
RULES
Domestic Mail Manual:
46031 Bundling and palletizing second, third and fourth-class bulk mailings

Public Health Service
NOTICES
Meetings:
46104 National Toxicology Program; Scientific Counselors Board

Revenue Sharing Office
NOTICES
Entitlement period allocations:
46128 Adjustment payments to local governments in Maine; correction

Securities and Exchange Commission
RULES
Proxy review program:
46012 Proposals by security holders; correction
Securities:
46012 Management remuneration; executive compensation disclosure; correction
NOTICES
Hearings, etc.:
46114 Falcon/Sciences, Inc.
46115 MBC Financial Services Corp.
46116 Midland American Capital Corp.
46117 Nationwide Investing Foundation et al.
46122 1900 Tower Fund
46118 Prutech Venture Partners I, L.P., et al.
46121 State Farm Mutual Automobile Insurance Co. et al.
Self-regulatory organizations; proposed rule changes:
46123 Chicago Board Options Exchange, Inc.
46124 Municipal Securities Rulemaking Board (2 documents)
46124 National Association of Securities Dealers, Inc.
46123, 46125 Options Clearing Corp. (2 documents)

Small Business Administration
RULES
46008 Reporting and recordkeeping requirements
NOTICES
46126 Agency information collection activities under OMB review
Applications, etc.:
46126 Everlast Capital Corp.
46127 Key Venture Capital Corp.
46127 Yusa Capital Corp.

Social Security Administration
RULES
Social security benefits:
46142 Minimum benefit provision and rounding of benefits; repeal
PROPOSED RULES
Organization and procedures:
46072 Information and records availability; procedures and appeals; correction

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
46027 Ohio
46028 Virginia

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
46093 China
Export visa requirements; certification, etc.:
46093 Dominican Republic; correction
46093 Man-made fiber vests, category classification change decision; inquiry; waiver procedures

Trade Representative, Office of United States
NOTICES
46114 Harmonized commodity description and coding system; inquiry and hearings

Transportation Department
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

United States Information Agency
NOTICES
Meetings:
46128 Public Diplomacy, U.S. Advisory Commission

Separate Parts in This Issue

Part II
46142 Department of Health and Human Services, Social Security Administration

Part III
46152 Environmental Protection Agency

Part IV
46175 Federal Maritime Administration

Part V
46178 Department of Transportation, Coast Guard

Part VI
46218 Department of Transportation, Federal Aviation Administration

Part VII
46224 Environmental Protection Agency

Part VIII
46228 Environmental Protection Agency

Part IX
46250 Department of Transportation, Federal Aviation Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
402 46062
781 46065
12 CFR
204 46005
760 46006
13 CFR
133 46008
14 CFR
39 (2 documents) 46008, 46009
71 46010
Proposed Rules:
25 (2 documents) 46218, 46250
29 46250
39 46070
121 (2 documents) 46218, 46250
17 CFR
145 46010
146 46010
147 46010
229 46012
230 46012
231 46012
239 46012
240 (2 documents) 46012
241 46012
270 46012
274 46012
18 CFR
2 46012
35 46012
157 46021
Proposed Rules:
271 46071
20 CFR
404 46142
Proposed Rules:
422 46072
21 CFR
81 46022
179 46022
522 46023
558 (3 documents) 46023, 46024
24 CFR
Proposed Rules:
24 46072
30 CFR
251 46025
935 46027
946 46028
33 CFR
130 46178
131 46178
132 46178
39 CFR
111 46031
40 CFR
52 (2 documents) 46046, 46047
Proposed Rules:
51 46152
52 46081
60 46224
81 (2 documents) 46082, 46085
43 CFR
Public land orders:
6480 46049
6481 46049
6482 46050
44 CFR
67 46050
Proposed Rules:
67 46085
46 CFR
542 46175
543 46175
544 46175
49 CFR
571 46053
50 CFR
17 46053
654 46057
658 46057
Proposed Rules:
17 46086

Rules and Regulations

Federal Register
Vol. 48, No. 197
Tuesday, October 11, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0484]

Reserve Requirements of Depository Institutions; Reserve Requirements on Nonpersonal Time Deposits; Regulation D

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to modify the reserve requirements on nonpersonal time deposits. Under the amendment, nonpersonal time deposits with original maturities of 1½ years or more will be subject to a reserve requirement ratio of zero percent. Nonpersonal time deposits with original maturities of less than 1½ years will continue to be subject to a three percent reserve requirement ratio. This action was taken to facilitate the offering by depository institutions of longer maturity time deposits that are exempt from interest rate ceilings.

EFFECTIVE DATE: October 6, 1983. The first reserve maintenance period to which the amendment applies commences October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625) or Paul S. Pilecki, Senior Counsel (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96–221; 94 Stat. 132) ("MCA") authorizes the Board to prescribe, solely for the purpose of implementing monetary policy, reserve requirements against nonpersonal time deposits within a reserve ratio range of zero to nine percent. The MCA requires the reserve requirement against nonpersonal time deposits to be applied uniformly to the deposits at all depository institutions, except that such requirement may vary by deposit maturity. Nonpersonal time deposits are defined by the MCA as time deposits that are transferable, regardless of the nature of the holder, and time deposits in which any beneficial interest is held by a depositor who is not a natural person. Nontransferable time deposits in which the entire beneficial interest is held solely by a natural person are not subject to reserve requirements.

Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) currently imposes a three percent reserve requirement on nonpersonal time deposits with original maturities or required notice periods of less than 2½ years. Nonpersonal time deposits with maturities or required notice periods of 2½ years or more are subject to a zero percent reserve requirement.

The Depository Institutions Deregulation Committee ("DIDC"), pursuant to its authority under the Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221; 12 U.S.C. 3501 *et seq.*), authorized federally insured commercial banks, mutual savings banks, and savings and loan associations to offer, effective May 1, 1982, a new category of ceiling-free time deposit with an original maturity or required notice period of 3½ years or more. Such time deposits may be issued in negotiable or nonnegotiable form at the option of the issuer to any holder. Effective April 1, 1983, the minimum maturity of this deposit category was reduced to 2½ years. In conjunction with the establishment of this instrument and its subsequent reduction in maturity, the Board modified the maturity break for reserve requirements on nonpersonal time deposits to facilitate the DIDC's objectives in authorizing this instrument in negotiable form. In this regard, a negotiable time deposit was viewed as more attractive to depositors since it could be sold as an alternative to incurring an early withdrawal penalty.

Effective October 1, 1983, the DIDC removed interest rate ceilings on all time deposits with original maturities or required notice periods of 32 days or more and on all time deposits of more than $2,500 with original maturities or required notice periods of 7 to 31 days. To continue to facilitate the DIDC's objectives, the Board has amended the reserve requirements on nonpersonal time deposits so that, after the completion of the transition periods set forth in the MCA, nonpersonal time deposits with original maturities of 1½ years or more will be subject to a zero percent reserve requirement ratio and nonpersonal time deposits with original maturities or less than 1½ years will be subject to a three percent reserve requirement ratio. The Board estimates that the amount of reserves held on nonpersonal time deposits with maturities of 1½ to 2½ years is small, and, thus, this action will not advesely affect monetary control. However, the Board notes that reducing further the nonpersonal time deposit maturity break could have an adverse effect on monetary control by eroding the reserve base and loosening the linkage between reserves and deposits in the money stock.

This action is effective for depository institutions that report deposits and maintain reserves on a weekly basis with the reserve computation period beginning October 6, 1983. The first reserve maintenance period to which this action applies for these institutions commences October 20, 1983. For depository institutions that report deposits and maintain reserves on a quarterly basis, the change in reserve requirements on nonpersonal time deposits with maturities of 1½ years to 2½ years will commence with the reserve maintenance period that begins on January 12, 1984, based on data submitted for the computation period of December 15–21, 1983.

In view of the fact that commercial banks, mutual savings banks, and savings and loan associations may offer time deposits with a broad range of maturities not subject to interest rate ceilings effective October 1, 1983, the Board finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to this action would be contrary to the public interest, and that, since this action relieves a restriction, good cause exists for making this action effective October 6, 1983.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

PART 204—[AMENDED]

Pursuant to its authority under sections 19, 25, and 25(a) of the Federal Reserve Act (12 U.S.C. 461, 601 *et seq.*, 611 *et seq.*) and under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105), the Board amends Regulation D (12 CFR Part 204) effective October 6, 1983, by revising paragraph (a)(1) of § 204.9 to read as follows:

§ 204.9 Reserve requirement ratios.

(a)(1) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement Corporations and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts:	
0 to $26.3 million	3 percent of amount.
Over $26.3 million	$789,000 plus 12 percent of amount over $26.3 million.
Nonpersonal time deposits:	
By original maturity (or notice period):	
Less than 1½ years	3 percent.
1½ years or more	0 percent.
Eurocurrency liabilities	3 percent.

. . . . .

By order of the Board of Governors of the Federal Reserve System, October 3, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-27483 Filed 10-7-83; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 760

Flood Insurance

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: In accordance with its established policy of reviewing its regulations at regular intervals, the National Credit Union Administration (NCUA) has reviewed its Flood Insurance regulations. As a result of this review, NCUA is adopting a plain English question and answer version of these regulations. This rule was published for comment on October 15, 1980, in the **Federal Register** (45 FR 68396). This rule is being updated, but no substantial changes have been made.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Todd Okun or Bryan Rachlin, Department of Legal Services, 1776 G Street, N.W., Washington, D.C. 20456. Telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Act), as amended, requires NCUA to issue Flood Insurance regulations and largely dictates the contents of those regulations. Pursuant to NCUA's program of ongoing review of regulations, NCUA has conducted a review of its existing Flood Insurance regulations in order to update, clarify and simplify them.

NCUA now takes the following actions: (1) NCUA has updated the regulations by amending them to reflect the transfer of authority for flood insurance matters from the Secretary of the Department of Housing and Urban Development to the Director of the Federal Emergency Management Agency. Section 202 of Reorganization Plan No. 3 of 1978, 43 FR 41943 (1978), 5 U.S.C.A. ch. 9.; (2) NCUA has simplified these regulations by placing the provisions in a more logical order, by rewriting them in plain English, and in question and answer form.

Procedures for Regulatory Development

The NCUA Board hereby certifies that the plain English version of its Flood Insurance regulation, if adopted, will not have a significant economic impact on a substantial number of small credit unions because there have been no substantial changes made to the rules and they will continue to apply equally to all credit unions. Therefore, a Regulatory Flexibility Analysis is not required.

Since the plain English version of the Flood Insurance Regulation will reduce confusion, and delay would cause unnecessary harm, the NCUA Board finds that full and separate consideration of all of the requirements of the Financial Regulation Simplification Act is impractical and unnecessary.

List of Subjects in 12 CFR Part 760

Insurance.

By the National Credit Union Administration Board on the 4th day of October 1983.

Rosemary Brady,

Secretary of the Board.

Accordingly, 12 CFR Part 760 is revised to read as follows:

PART 760—FLOOD INSURANCE

Sec.

760.0 When should this regulation be consulted?
760.1 What information is needed to comply with this regulation?
760.2 How can this information be obtained?
760.3 How does the flood insurance requirement work?
760.4 What notices have to be given?
760.5 What records have to be kept?
Appendix A: Sample Notices.

Authority: 12 U.S.C. 1757, 1789; 42 U.S.C. 401.2a, 4106.

§ 760.0 When should this regulation be consulted?

It should be consulted when a federally insured credit union is going to make, increase, extend or renew a loan secured by improved real property or a mobile home.

§ 760.1 What information is needed to comply with this regulation?

To comply with this regulation a federally insured credit union has to determine three things. First, it has to determine if the improved real property or mobile home that will secure the loan is or will be located in an area that the Director of the Federal Emergency Management Agency (FEMA) has determined to present special flood hazards. Second, the credit union has to determine if the property is or will be located in a community that participates in the National Flood Insurance Program. Third, if the property is or will be located in a community participating in the National Flood Insurance Program, the federally insured credit union must then determine if that community is participating in the Emergency Program or in the Regular Program.

§ 760.2 How can this information be obtained?

(a) *Question:* How can one determine if the property is or will be located both in a special flood hazard area and in a community participating in the National Flood Insurance Program?

Answer: A federally insured credit union should consult the current Flood Insurance Rate Map or the current Flood Hazard Boundary Map for the area in question. These maps may be obtained by contacting FEMA at the following address:

The National Flood Insurance Program, P.O. Box 499, Lanham, Maryland 20706 (301) 731-5300 or 1-800-638-6620

(b) *Question:* How can a credit union determine if a community participating in the National Flood Insurance Program is participating in the Emergency Program or the Regular Program?

Answer: A credit union can call or write FEMA at the address above. The employees in Program Information will be able to advise the credit union as to whether or not the community is participating in the Emergency Program or in the Regular Program.

§ 760.3 How does the flood insurance requirement work?

(a) *Question:* When does the borrower have to buy flood insurance?

Answer: The borrower has to buy flood insurance if the improved real property or the mobile home is or will be located both in a special flood hazard area and in a community participating in the National Flood Insurance Program. The borrower can buy flood insurance from any property insurance agent or broker licensed to do business in the state where the property is located.

(b) *Question:* How much flood insurance does the borrower have to buy?

Answer: The amount of insurance has to be at least equal to the outstanding balance of the loan or to the maximum amount available under the Flood Disaster Protection Act for the particular improved real property or mobile home, whichever is less. The maximum amount of flood insurance available will vary depending on whether the community is participating in the Emergency Program or in the Regular Program. To determine the maximum amount of flood insurance for the particular improved real property or mobile home, a Federal credit union may contact either a licensed property insurance agent or broker who is in good standing or FEMA. When contacting FEMA inquiries should be directed to: The National Flood Insurance Program, P.O. Box 459, Lanham, Maryland 20706.

(c) *Question:* Are there any other requirements?

Answer: The insurance must cover the building or the mobile home and any personal property securing the loan and must remain in effect until the loan is repaid. (It does not have to cover the land.)

(d) *Question:* Any exceptions?

Answer: Flood insurance is not required on State-owned property covered under a policy of self-insurance that the Director of FEMA decides is satisfactory. FEMA periodically publishes lists of states that come wihtin this exception.

(e) *Question:* What if the borrower does not buy flood insurance that meets these requirements?

Answer: If the borrower does not buy flood insurance that meets these requirements, a federally insured credit union cannot make, increase, extend or renew a loan secured by the improved real property or mobile home.

§ 760.4 What notices have to be given?

(a) *Notice of special flood hazard area.* If a federally insured credit union determines that the improved real property or mobile home is or will be located in a special flood hazard area, then before a mortgage or any other security agreement is signed, a credit union has to give the borrower written notice of that fact. This notice does not have to be given if the seller or lessor of the property states in writing that he or she has already given the notice to the borrower and the borrower acknowledges such notice.

(b) *Notice about Federal flood disaster assistance.* A federally insured credit union has to give the borrower written notice that states whether Federal disaster relief assistance will be available if the property is damaged by flooding in a federally-declared disaster. Federal disaster assistance will be available if the property is located in a community participating in the National Flood Insurance Program.

(c) *Acknowledgement.* Before the loan agreement is signed, a federally insured credit union must obtain the buyer's written acknowledgement that he or she received these notices. The credit union has to keep the written acknowledgement until the loan is repaid.

§ 760.5 What records have to be kept?

In each instance, a federally insured credit union has to keep records that show how it determined whether flood insurance would be required and how it determined whether to give the Federal Disaster Assistance Notice for participating communities or the one for nonparticipating communities. If a Flood Insurance Rate Map or Flood Hazard Boundary Map was used, the address of the property and the number of the Map are all that are necessary.

Appendix A: Sample Notices

A federally insured credit union will comply with the notice requirements if it uses these forms:

(1) Notice to Borrower of Special Flood Hazard Area

Notice is hereby given to _____ that the improved real estate or mobile home described in the attached instrument is or will be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area. This area is delineated on _____'s Flood Insurance Rate Map (FIRM) or, if the FIRM is unavailable, on the Flood Hazard Boundary Map (FHBM). This area has a 1% chance of being flooded within any given year. This risk of exceeding the 1% chance increases with time periods longer than one year. For example, during the life of a 30 year mortgage, a structure located in a special flood hazard area has a 26% chance of being flooded.

(2) Notice to Borrower About Federal Flood Disaster Assistance

(Lender Check (a) or (b))

(a) *Notice in participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is now participating in the National Flood Insurance Program. In the event that such property is damaged by flooding in a federally-declared disaster, Federal disaster relief assistance may be available. However, such assistance will not be available if your community is not participating in the National Flood Insurance Program at the time such assistance would be approved (unless such approval is granted within one year from the date your community was identified by the Director of the Federal Emergency Management Agency as being flood prone). This assistance, usually in the form of a loan with a favorable interest rate, may be available for damages incurred in excess of the amount of your flood insurance.

(b) *Notice in nonparticipating community.* The improved real estate or mobile home securing your loan is or will be located in a community that is not now participating in the National Flood Insurance Program. This means that you are not eligible for Federal flood insurance. In the event that your property is damaged by flooding in a federally-declared disaster, Federal disaster relief assistance will not be available (unless approval for such assistance is granted within one year from the date your community was identified by the Director of the Federal Emergency Management Agency as being flood prone). In other words, Federal flood disaster relief assistance will be available only if, at the time such assistance would be approved, your community is participating in the National Flood Insurance Program, or approval for such assistance is granted within one year from the date your community was identified as being flood prone.

(3) Acknowledgement of the Borrower

I, _____, a member of the _____, Credit Union, hereby acknowledge that on the date indicated below I have received a Notice To Borrower of Special Flood Hazards, indicating that the property securing my loan is in an area identified as having special flood hazards, and a Notice to Borrower About Federal Flood Disaster Assistance, indicating whether such assistance will or will not be available for such property.

Dated:_____

_____

(Signature and address of borrower)

[FR Doc. 83-27496 Filed 10-7-83; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 133

[Amdt. 2]

Assigned by OMB Under the Paperwork Reduction Act

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration amends Part 133 of its rules and regulations pertaining to its reporting and recordkeeping requirements. The amendment is being made to advise the public of SBA reporting and recordkeeping requirements that have been cleared in accordance with the Paperwork Reduction Act of 1980 and the Agency official to contact regarding the Public Protection Clause of that Act. The Act requires an agency to obtain a review and approval of its information collection requirements from the Office of Management and Budget (OMB) and to give public notice of such approval.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Zaic, Chief, Paperwork Management Branch, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Telephone No. (202) 653–8538.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. 3501) seeks, in part, to minimize the Federal paperwork burden. The Act requires that agencies obtain OMB review and clearance of certain reporting and recording requirements and give public notice of the clearance numbers and expiration dates.

OMB has reviewed and approved the reporting and recordkeeping requirements to be included in Part 133. Because this is a nonsubstantive amendment dealing with procedural matters, it is not subject to the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.) requiring advance notice and comment.

List of Subjects in 13 CFR Part 133

Reporting and recordkeeping requirements.

PART 133—[AMENDED]

13 CFR 133.1(c) is amended by revising 3245–0099 and adding 3245–0104 through 3245–0141 to read as follows:

(c) *Index to OMB-Approved Reporting and Recordkeeping Requirements:*

3245–0099	Survey on Significant New Products, etc. in U.S. Mfg., 1970–1982.		3–31–84
3245–0104	SBA 1356		5–31–86
3245–0106	SBA 1062	101 2–7	8–31–85
3245–0109	SBA 857, 858	107.1101	7–31–86
3245–0110	Retention of books and records on and evidence of use of disaster loan proceeds.	123.17, 123.42	6–30–86
3245–0112	SBA 1301	108.503	7–31–86
3245–0114	SBA 1302	108.503	7–31–86
3245–0116	SBA 860	107.1101	7–31–86
3245–0117	CO 266		6–30–86
3245–0118	SBA 856	107.1101	6–30–86
3245–0121	Governor's request for disaster declaration.	123.24	6–30–86
3245–0122	Reconsideration request.	123.11	7–31–86
3245–0123	SBA 888	101–2.7	9–30–85
3245–0124	Notice of duplication of benefits.	123.22	6–30–86
3245–0125	SBA 898	Pub. L. 92–463	7–31–86
3245–0126	Survey to assess the effects of decision criteria on small business investment.		1–31–84
3245–0128	SBA 1160	123	8–31–86
3245–0129	SBA 1238A		8–31–86
3245–0130	SBA 1238		8–31–86
3245–0131	SBA 172	Agency's participant handbook.	8–31–86
3245–0132	SBA 1149		8–31–84
3245–0133	SBA 2014A	Pub. L. 95–454	8–31–86
3245–0137	SBA contract requirements.	OMB circulars A–110; A–21; A–102; A–122.	8–31–86
3245–0140	SBA grants mgmt. and program applications (SBA 1222, 1223, 1224).	OMB circulars A–110; A–21; A–102; A–122.	8–31–86
3245–0141	SBA 843	SBA SOP 60 02.	8–31–86

Dated: September 29, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83–27571 Filed 10–7–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–25–AD; Amdt. 39–4734]

Airworthiness Directives: British Aerospace Corporation Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to British Aerospace Corporation BAC 1–11 200 and 400 series airplanes which requires the repetitive inspection of the emergency oxygen system. Service experience has shown that the inspection interval specified in the existing AD is inadequate to provide timely detection of cracked oxygen hoses. This amendment decreases the inspection interval from two to one year. Damaged hoses were found close to electrical equipment, creating a potential fire hazard.

EFFECTIVE DATE: November 14, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2976. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The CAA has classified British Aerospace Corporation BAC 1–11 Service Bulletin 35–A–PM5394 as mandatory. Issue 3 of this service bulletin specifies yearly inspections of the emergency oxygen hoses.

A proposal to further amend AD 76–24–06, requiring inspection of the emergency oxygen flexible hoses once a year instead of every two years was published in the **Federal Register** on May 26, 1983 (48 FR 23658). The comment period closed on July 15, 1983, and interested parties have been afforded an opportunity to participate in the making of this amendment. Only one comment was received and it stated no objection to the proposal.

It is estimated that 63 U.S. registered airplanes will be affected, that it will take approximately 13 manhours per airplane to accomplish the required actions, and that the average labor cost will be $35 per manhour. Repair parts are estimated at $100 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators will be $34,965. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive AD 76–24–06, Amendment 39–2779 (41 FR 52292, November 29, 1976), as amended by Amendment 39–2800 (42 FR 2054, January 10, 1977), as follows:

A. In paragraph (a), replace "2500 hours" with "1500 hours" and replace "Issue 2, dated February 2, 1976" with "Issue 3, dated June 29, 1979."

B. Replace the entire paragraph (c) with: "Inspect and rework the flexible hoses of the emergency oxygen system within the next 1000 hours time in service or six months after the effective date of this AD, whichever occurs sooner, unless already accomplished within the preceding 1500 hours time in service, and thereafter at intervals not to exceed one year, in accordance with paragraph 2.4, Figures 1 through 3, and Table 1 of the service bulletin."

This amendment becomes effective November 14, 1983.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on September 27, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–27484 Filed 10–7–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 83–NM–61–AD; Amdt. 39–4740]

Airworthiness Directives: McDonnell Douglas Model DC–6, –6A, –6B, R6D (Navy), and C118 (USAF) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspections and repairs, if necessary, of the horizontal stabilizer rear spar caps on McDonnell Douglas DC–6 series airplanes. This AD is prompted by reports of two airplanes with cracked horizontal stabilizer rear spar caps. This AD is needed to detect cracks and prevent possible in-flight loss of the horizontal stabilizer.

DATES: Effective October 19, 1983.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750–(54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: William Roberts, Aerospace Engineer, Airframe Branch, ANM–121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2824.

SUPPLEMENTARY INFORMATION: Two operators, one domestic and one overseas, experienced horizontal stabilizer spar cap failure due to stress corrosion cracking at the attachment of the stabilizer outboard panel to the stabilizer root. In-flight failure could cause loss of the aircraft.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection of the horizontal stabilizer rear spar caps at the attach point and repair, if necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–6, –6A, –6B, R6D (Navy), and C118 (USAF) series airplanes, certificated in all categories.

Compliance required as indicated, unless previously accomplished.

To detect cracks and prevent failure of the horizontal stabilizer rear spar caps accomplish the following:

A. Within the next 30 days after the effective date of this AD, unless already accomplished, inspect and repair, if necessary, the horizontal stabilizer upper and lower rear spar cap attach fittings on both sides of station 63 in accordance with the Accomplishment Instructions of McDonnell Douglas Service Rework Drawing J080285 "N/C" dated July 29, 1983, hereinafter referred to as Rework Drawing, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, as follows:

1. If no cracks are found in the rear spar attach fittings, apply primer and lacquer top coat (lacquer top coat optional). Apply LPS–3 corrosion inhibiting oil, or equivalent when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, throughout the attach fitting (bathtub area) and reinstall the bolt per the Rework Drawing. Conduct repetitive inspections per the Rework Drawing at intervals not to exceed 12 calendar months.

2. If a crack is found equal to or exceeding ½" at location A, 3" at location B, or 6" at location C as defined in figure 2 of the Rework Drawing, accomplish the repair in (a) or (b) below, prior to further flight:

(a) If the crack is inboard of station 63, repair in accordance with the Accomplishment Instructions of the Rework Drawing.

(b) If the crack is outboard of station 63, repair per the McDonnell Douglas DC–6 Structural Repair Manual, Tail Group, Page 138, Figure 134, dated October 15, 1952.

3. If a crack is found that is less than ½" at location A, 3" at location B, or 6" at location C, repetitively inspect per the Rework Drawing at intervals not to exceed:

(a) for location A: 7 calendar days, or prior to further flight, whichever occurs later.

(b) for location B: 14 calendar days, or prior to further flight, whichever occurs later.

(c) for location C: 21 calendar days, or prior to further flight, whichever occurs later.

B. Repairs per Paragraph 2, above, constitutes terminating action for the repetitive inspections required by this AD only at those locations repaired.

C. If more than one crack is found, repair all cracked areas as specified in Paragraphs. A. 2(a) and/or 2(b), above.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base to comply with the repair requirements of this AD when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

This Amendment becomes effective October 19, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, and evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on September 29, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–27495 Filed 10–7–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–ANM–15]

Revise Transition Area & Control Zone; Eagle, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The current geographical boundaries of the Eagle, Colorado Transition Area and Control Zone are described, in part, by reference to the Wolcott Nondirectional Radio Beacon (NDB). The Wolcott NDB no longer exists and new descriptions are required. This action provides the revised descriptions.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Ted Melland (206) 431–2533.

SUPPLEMENTARY INFORMATION: The Eagle, Colorado Transition Area and Control Zone were established to ensure segregation of aircraft operating in instrument weather conditions, and other aircraft operating in visual weather conditions or instrument weather conditions. The geographical areas and associated airspace will remain unchanged, and will continue to be shown on aeronautical charts enabling pilots to circumnavigate the areas or otherwise comply with visual or instrument flight rules.

Removal of Wolcott NDB from the National Airspace System leaves a void in the airspace descriptions and requires new points of reference for accuracy. This involves only minor editorial clarification in the descriptions, and makes no substantive changes. Therefore, notice and public procedure on the rule are unnecessary and the amendments may be made effective in less than 30 days.

For further information, contact Ted Melland, Airspace & Procedures Specialist, ANM–533, FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The telephone number is (206) 431–2533.

List of Subjects in 14 CFR Part 71

Transition areas, Control zones, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended effective 0901 GMT, October 11, 1983, as follows:

§ 71.181 [Amended]

Eagle, Colorado (Revised)

That airspace extending upward from 700 feet about the surface within a 9-mile radius of the Eagle County Airport (lat. 39°38'42"N., long. 106°54'43"W.); within 3.5 miles each side of the 072° true bearing from the Eagle County Airport extending from the 9-mile radius area to 19 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at lat. 40°01'30"N, long. 106°34'00"W.; to lat. 39°35'" 15, long. 106°10'30"W.; to lat. 39°34'00"N., long. 106°35'40"W.; to lat. 39°25'00"N., long. 107°07'10"W.; to lat. 39°45'45"N., long. 107°15'45"W.; to point of beginning.

§ 71.171 [Amended]

Eagle, Colorado (Revised)

Within a 5-mile radius of the Eagle County Airport (lat. 39°38'42"N., long. 106°54'43"W.); within 3 miles each side of the 072° true bearing from the Eagle County Airport extending from the 5-mile radius to 18.5 miles northeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983)); (Sec. 1165 of the Federal Aviation Regulations and 14 CFR 11.89))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. For this reason and the reasons given earlier in the preamble, it, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on October 7, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–27492 Filed 10–7–83; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 145, 146, and 147

Schedule of Fees for Requests for Commission Records, Reports of the Commission, and Transcripts of Commission Meetings

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Schedule of Fees.

SUMMARY: The Commission recently proposed to revise its schedule of fees for requests for copies of Commission records, reports of the Commission and transcripts of Commission meetings. 48 FR 34971 (August 2, 1983). The Commission is now adopting the fee schedule, as proposed, with one clarification. The Commission is adopting this schedule of fees to reflect the actual costs to the Commission in rendering these services.

EFFECTIVE DATE: November 10, 1983.

FOR FURTHER INFORMATION CONTACT: Stacy L. Dean, Counsel to the Executive Director, or Tena Friery, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–7360 and (202) 254–9880, respectively.

SUPPLEMENTARY INFORMATION: On August 2, 1983, the Commission published for comment in the **Federal Register** a proposed schedule of fees to be charged in connection with requests for Commission records, reports and transcripts. The Commission proposed to revise its fees for search and copying services (including those provided under the Freedom of Information Act (FOIA)), transcripts of Commission meetings and Commission reports, consistent with the requirement of Section 237 of the Futures Trading Act of 1982 that fees not exceed the actual cost to the Commission. (Pub. L. 97–444, 96 Stat. 2294, 2326, Jan. 11, 1983.) No comments were received on the Commission's proposed fee schedule. The Commission is adopting the fees,[1] as proposed, with one clarification.

In discussing charges to be assessed in connection with public access to records of Commission meetings, the proposal pointed out that "duplicate cassette tapes of open meetings are . . . available . . . at a cost of 90 cents each." As with duplication of documents, however, there is additional cost to the Commission in terms of personnel time spent in reproducing electronic recordings of Commission meetings. Accordingly, under § 145.9b(5), as proposed and adopted, the Commission will specifically charge for time spent by clerical personnel (i.e., $2.50 per quarter hour) in reproducing electronic recordings.[2] Charges for time spent by personnel in copying tape recordings has also been included in § 146—Appendix A(a)(2) as adopted.

At the time this revised schedule of fees was proposed, the Commission noted that the fees represent either reductions or relatively small increases in fees, based on actual costs for documents, reports and other materials requested from the Commission. Accordingly, the Acting Chairman, on behalf of the Commission, has certified, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), that these rule changes will not have a significant economic effect on a substantial number of small entities.

List of Subjects

17 CFR Part 145

Freedom of Information, Commission records and information, Fees.

17 CFR Part 146

Privacy records maintained on individuals, Fees.

17 CFR Part 147

Sunshine Act, Open commission meetings, Fees for transcripts and tapes.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(11) and 28, 7 U.S.C. 4a(j) and 16a (1982), and the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, and the Government in the Sunshine Act, 5 U.S.C. 552b, the Commission hereby amends Parts 145, 146 and 147 of Chapter 1 of Title 17 of the Code of Federal Regulations as follows:

PART 145—COMMISSION RECORDS AND INFORMATION

1. In § 145.9b, paragraph (a) is amended by redesignating paragraph (a)(9) as paragraph (a)(10).

2. In § 145.9b, the introductory text of paragraph (a) and paragraphs (a)(1)–(a)(9) are revised to read as follows:

§ 145.9b Schedule of Fees.

(a) The following charges will be made for services in locating or making available records or copies thereof:

(1) Two dollars and fifty cents for each one-quarter hour spent by clerical personnel in searching for and producing a requested record.

(2) Where, because of the generality of a request or otherwise, a search cannot successfully be performed by clerical personnel, $4.00 for each one-quarter hour spent by professional or managerial personnel in searching for a requested record.

(3) For searches for records stored in computer formats, the actual cost of computer operator search time involved in connection with locating the requested information shall be charged at the professional search time rate of $4.00 per one quarter hour.

(4) For requests for copies of documents, including computer printouts, the charge will be $0.15 per page.

(5) For materials other than paper records, which are in existance at the time a request is made, including computer and cassette tapes, the requesting party shall be charged the direct cost of the materials and reproduction costs, including time spent by clerical personnel in reproducing electronic recordings. The person making the request shall be notified of an estimated amount of the charges and shall give specific approval before the request is processed.

(6) When, in accordance with § 145.7(e), a request has been made and granted to examine Commission records at an office of the Commission other than the office at which the records are normally maintained, the Commission shall transmit the records in a manner which the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts compliance matters considers best calculated to assure that the records will not be lost or damaged in transit, and the requesting party (i) shall reimburse the Commission for the actual cost to the Commission for transporting the records; and (ii) shall be charged at the rate of $2.50 for each quarter-hour devoted by a Commission employee in preparing the records to be transported.

(7) For certifying that requested records are true copies, the fee will be $3.00 per certification in addition to other fees, if any.

(8) The Commission may, upon application by the requester, furnish any records without charge or at a reduced rate, if it determines that such fee waiver or reduction of fees is in the public interest.

(9) Upon request, records will be mailed by means of an overnight/express service at the fee of $10.00 per unit mailed.

* * * * *

3. New Section 145.9c is added to read as follows:

§ 145.9c Schedule of Fees—Reports.

(a) Three dollars ($3.00) will be charged per monthly copy of the Commitment of Trader's Report.

(b) Requests for individual copies and annual subscriptions of the Commitments of Trader's Report shall be made by mail addressed to the Office of Public Information, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Requests must be accompanied by a nonrefundable check or money order in the correct amount made payable to the Commodity Futures Trading Commission.

PART 146—RECORDS MAINTAINED ON INDIVIDUALS

4. In part 146, Appendix A is revised to read as follows:

Appendix A—Fees for Copies of Records Requested Under the Privacy Act of 1974

a. The following schedule of fees shall apply to copies of records requested pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a and § 146.5(f).

(1) For requests for copies of documents, the charge will be 15 cents per page.

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[1] As the Commission noted previously, these rules are intended to establish an agencywide schedule of fees for use by any Commission office which provides copies and services.

[2] The Commission notes that the Government in the Sunshine Act specifically authorizes the assessment of charges for the actual costs of duplication. *See* 5 U.S.C. 552b(f)(2). Similarly, the Privacy Act authorizes a fee for making copies of an individual's record. *See* 5 U.S.C. 552a(f)(5)

(2) For materials other than paper records, including computer and cassette tapes, the direct cost of the materials and, if required, time spent by clerical personnel copying the materials shall be charged. Persons making the request shall be notified of the amount of the charge and shall give specific approval before the request is processed.

(3) For certifying that requested records are true copies, the fee will be $3.00 per certification in addition to other fees, if any.

(4) Upon request, records will be mailed by means of an overnight/express service at the fee of $10.00 per unit mailed.

(5) The Commission may, upon application by the individual, furnish any records without charge or at a reduced rate, if it determines that such wavier or reduction of fee is in the public interest.

b. Requests for copies of documents shall be addressed to FOI, Privacy and Sunshine Acts compliance staff, Office of Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

PART 147—OPEN COMMISSION MEETINGS

5. In § 147.9, paragraph (a) is amended by removing references to 17 CFR 145.9b (a)(3), (a)(4), (a)(5), (a)(7), (d) and (e) and inserting in lieu thereof, "17 CFR 145.9b (a)(4), (a)(5), (a)(7), (a)(8), (a)(9), (d) and (e)".

* * * * *

Issued in Washington, D.C., on October 3, 1983, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 83-27403 Filed 10-7-83; 8:45 a.m.]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 231, 239, 240, 241, 270, and 274

[Release Nos. 33-6486A; 34-20220A; 35-23069A; IC-13529A; File No. S7-958]

Disclosure of Executive Compensation; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rules; correction.

SUMMARY: This document corrects a final rule amendment, concerning disclosure of executive compensation, that was made in connection with the adoption of new Item 402 of Regulation S-K. The amendment appeared at page 44467 of the **Federal Register** on Thursday, September 29, 1983. This action is necessary to corrrect the amendatory language.

EFFECTIVE DATE: Revised Item 402 and the conforming amendments, including the conditional amendments to Form S-18, are effective for all documents filed on or after December 31, 1983. A registrant may comply with these provisions prior to that date, but if it elects to do so, it must comply with all applicable provisions and continue to do so in any subsequent filings.

Interested persons will have until October 31, 1983, to comment on the coordinating amendments to Form S-18, after which the Commission will review the comments and make such charges, if any, that it deems necessary and appropriate.

FOR FURTHER INFORMATION CONTACT: With respect to Item 402, prior to the effective date, contact Elliot M. Pinta, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. After the effective date, Ann Glickman, (202) 272-2573, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. With respect to Form S-18, contact H. Steven Holtzman, Special Counsel, (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On page 44475, column 2, the amendatory language for number 5 is corrected to read as follows:

PART 239—[CORRECTED]

"5. By removing Releases Nos. 5856, 5904, 6166, and 6364;"

Dated: October 3, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27551 Filed 10-7-83; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release No. 34-20091A]

Amendments to Rule 14a-8 Under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to final rule.

SUMMARY: On August 16, 1983 the Commission announced the adoption of amended Rule 14a-8 relating to proposals by security holders (Release No. 34-20091; 48 FR 38218 through 38223 [August 23, 1983] FR Doc. 83-23104). The purpose of this document is to correct the citation of authority appearing in Section V of the Release.

DATE: The correction announced today is effective October 11, 1983.

FOR FURTHER INFORMATION CONTACT: William E. Morley or John J. Gorman, (202) 272-2573, Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On August 16, 1983 the Securities and Exchange Commission announced the adoption of amendments to Rule 14a-8 [17 CFR 240.14a-8] under the Securities Exchange Act of 1934 [the "Exchange Act"] [15 U.S.C. 78a *et seq.* (1976 and Supp. IV 1980)] and certain interpretations thereunder (Release No. 20091; 48 FR 38218 through 38223 [August 23, 1983]).

On page 38223 of the **Federal Register** toward the bottom of the second column, there are incorrect citations of authority in the third and fourth lines of the bracketed paragraph preceding the Secretary's name. The correct citation of authority should read in its entirety as follows:

(Sec. 14(a) and 23(a), 48 Stat. 895 and 901; sec. 12(e) and 20(a), 49 Stat. 823 and 833; sec. 20(a) and 38(a), 54 Stat. 822 and 841; 15 U.S.C. 78n(a); 78w(a), 79(e), 79t(a), 80a-20(a), 80a-37(a))

George A. Fitzsimmons,

Secretary.

October 3, 1983.

[FR Doc. 83-27552 Filed 10-7-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 35

[Docket Nos. RM81-38-001 etc.]

Construction Work in Progress for Public Utilities

Issued: October 4, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order granting in part and denying in part applications for rehearing.

SUMMARY: The Commission grants, in part, and denies, in part, applications for rehearing of order No. 298. The Commission grants rehearing, in part, to modify the initial rate impact limitation in the Contruction Work in Progress (CWIP) rule. Order No. 298 is a final rule which provides that any public utility engaged in the sale of electric power for resale may file to include in rate base (1) up to 50 percent of CWIP, subject to a rate impact limitation in the first two years, and (2) all CWIP associated with pollution control and fuel conversion facilities.

EFFECTIVE DATE: October 4, 1983.

FOR FURTHER INFORMATION CONTACT:

Michael R. Postar, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

Ronald L. Rattey, Federal Energy Regulatory Commission, Office of the Regulatory Analysis, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8154.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is granting in part and denying in part the applications for rehearing filed pursuant to the Commission's Order No. 298, a final rule that establishes new regulations to govern the inclusion of construction work in progress (CWIP) in the rate base of public utilities.[1] The new rule replaces present CWIP policy, codified in 18 CFR 2.16, with a new § 35.28 which provides that any public utility engaged in the sale of electric power for resale may file to include in rate base up to 50 percent of CWIP, subject to a rate impact limitation in the first two years, and all CWIP associated with pollution control and fuel conversion facilities. In addition, the rule amends the requirements of certain cost of service statements in § 35.13 in order to obtain information about construction programs pertinent to the utility's rate change filing. Under these new filing requirements, applications for inclusion of CWIP in rate base will enable the Commission, at an earlier stage in each rate proceeding than under present policy, to evaluate the prudence of the claimed costs, including the extent to which the investment is part of a least-cost power supply strategy.

On rehearing, the Commission clarifies the final rule, in part by modifying the rate impact limitation, and addresses the issues raised by applicants.

II. Background

Applications for rehearing of Order No. 298 were filed on June 15, 1983 by: Alabama Electric Cooperative, Inc., jointly with Kansas Electric Power Cooperative, Inc., North Carolina Electric Membership Corporation, Oglethorpe Power Corporation, Old Dominion Electric Cooperative, Inc., Sam Rayburn G&T, Inc., and the South Mississippi Electric Power Association (ACE); Public Systems; Consumer-Owned Power Systems (COPS); Municipal Electric Distribution Group (MEDG) (above are "wholesale customers"); Edison Electric Institute (EEI); Montaup Electric Company (Montaup); New England Power Company (NEPCO); American Public Power Association (APPA); National Rural Electric Cooperative Association (NRECA); American Paper Institute (API); and Consumers Union of United States, jointly with Natural Resources Defense Council (CU). Two untimely applications for rehearing were filed, one by the Mountain Plains Congress of Senior Citizens Organization, *et al.* (Mountain Plains) (June 16, 1983), and a second by the U.S. Small Business Administration, (SBA) (June 22, 1983). The Commission considers these as petitions for reconsideration.

Applicants claim that the Commission erred in several fundamental respects. First, while several applicants support the Commission's approach, they claim that the new rule restricts utilities from filing superseding rate schedules for 10 months if the superseded rate schedule contains any CWIP under subparagraph (c)(3), *i.e.*, CWIP other than that associated with pollution control and fuel conversion facilities, even if the superseding rate does not increase the level of such CWIP. Second, some other applicants believe the Commission failed to ensure that wholesale utilities are not assessed CWIP costs for any plant that will not serve them due to their imminent departure from the utility's system. Third, some applicants address certain inadequacies in the environmental analysis, the regulatory flexibility analysis and the record support for the rule generally. Finally, applicants argue that public utility management is not necessarily biased against capital investment under current rate regulation with respect to the FERC-jurisdictional portion of utility rates. Applicants also request rehearing on other issues discussed in the final rule, including the price signal and rate stability rationales used by the Commission, the intergenerational matching of costs and benefits, price squeeze, how the prudence of construction is determined, the industry's financial condition, and the benefits of alternatives to CWIP such as contributions in aid of construction and joint ventures.

On July 15, 1983, the Commission issued an "Order Granting Rehearing for Purposes of Further Consideration and denying Petitions for Stay of Final Rule" which tolled the period for consideration of the issues raised by the rehearing applications.[2]

III. Discussion of Applications for Rehearing

A. *Limitation on Rate Filings Under the CWIP Rule*

NEPCO, Montaup, and EEI apply for rehearing with respect to the operation of the initial limitation in paragraph (d) of § 35.28 of the final rule,[3] as it applies to CWIP allowed under paragraph (c)(3), that is, CWIP other than that associated with pollution control and fuel conversion facilities. First, these applicants state that paragraph (d) has the potential to restrict utilities that have received any CWIP under subparagraph (c)(3) from requesting additional CWIP in rate base for a much longer period than the Commission intended, due to the Commission's ability to suspend rates for up to 5 months from the proposed effective date. In other words, utilities may not be able to request additional CWIP in rate base for possibly as long as 17 months from the initial request for CWIP in rate base of the CWIP-related rate is suspended for five months. Second, these applicants read paragraph (d) of § 35.28 to prevent any general rate change requests during the ten-month restriction, even if that request does not increase the level of CWIP in rate base. The three applicants state that the Commission did not intend to restrict general rate applications that do not change the level of existing CWIP in rate base but intended only to prevent, for a specified time, higher rates due solely to requests for increased amounts of CWIP in rate base under paragraph (c)(3). Consequently, the applicants recommend amending § 35.28(d).

In the final rule, the Commission stated that the initial limitation under paragraph (d) of the rule "is intended to restrict rate increases directly related to CWIP in rate base." . . ." Applicants recognize an ambiguity in the rule which results in an implicit restriction on the filing of general rate changes that do not change the level of paragraph (c)(3) CWIP in rate base. The Commission agrees that it did not intend for paragraph (d) to restrict the filing of any general rate change applications by utilities that already have CWIP in rate base, if the utility is not proposing to

[1] 48 FR 24 323 (1983).

[2] 48 FR 33 252 (1983).

[3] Section 35.28(d) limits the rate impacts attributable to CWIP allowed in rate base under the rule during in the first two years after the effective date of the rule.

increase the amount of revenues attributable to CWIP already in rate base. The Commission, therefore, clarifies paragraph (d) to apply to initial requests under paragraph (c)(3) and only those subsequent rate filings that would increase the amount of such CWIP in rate base. This minor clarification is effective immediately because it relieves an unintended restriction on general rate filings. 5 U.S.C. 553(d).

With respect to the impact of suspensions, the Commission agrees that, if it were to suspend a CWIP-related rate for the maximum time allowed under law, the filing utility would be delayed in placing CWIP in rate base or increasing it. This possibility is a recognition of the Commission's mandate to protect consumers from unjust and unreasonable rates through the suspension power. As an incentive to file reasonable rates, the limitation in the CWIP rule assures no suspension or a short suspension in allowing a maximum of two CWIP filings in the first two years. The Commission also recognizes that the initial limitation may lessen the "pancaking" of CWIP-related rate filings during the first two years of the rule. The Commission is not persuaded that a limitation on its exercise of the suspension power with respect to any CWIP-based rate is warranted, even though the rate impact limitation already affords a measure of consumer protection. There are other elements in any rate schedule that, in any instance, may require that a rate schedule change be suspended. The Commission, therefore, rejects the applicant's proposal. [4]

B. *The "Double Whammy"*

Two applicants, namely AEC and APPA, assert that the final rule is inequitable to wholesale purchasers who are presently constructing their own generating facilities. In effect, these applicants contend that wholesale purchasers will be required to pay for capacity twice, that is, once for their own facilities under construction and once for their current supplier's CWIP. The Commission agrees in part with applicants and clarifies its position.

As explained in the preamble, the rule amends certain statements in the existing § 35.13(h) of the Commission's regulations to require utilities to identify and functionalize, as appropriate, CWIP "facilities which are dedicated to a particular customer or group of customers, such as unit sales transactions." [5] This requirement was intended to provide information which would be the basis for determining whether particular construction projects will serve wholesale customers whose rates are being changed. This approach conforms to the principal set forth in Opinion No. 164, *Public Service Company of New Mexico*,[6] that a wholesale customer should not be required to pay CWIP-based rates related to facilities which are shown will not be used to serve them. In Opinion No. 164, the Commission reasoned as follows:

> This issue is not one of intergenerational equity, but one which involves a totally separate and distinct situation. It is a situation where the identities of the CWIP charged entity and the entity provided service by the plant are different.

The Commission recognizes one implicit flaw in the statement quoted from Opinion No. 164. There its was assumed that non-receipt of power from a plant is sufficient to absolve a wholesale customer from responsibility for CWIP. However, there is a crucial reality that assumption ignores. Utilities decide to plan and construct new plant on the basis of their and their customers' load forecasts. Thus a wholesale customer who subsequently decides to obtain power from an alternative source may also be at least partially responsible for the decision to construct a plant for which CWIP is sought. Under those circumstances there seems little reason to absolve the wholesale customer for CWIP responsibility. Accordingly, we allow wholesale customers to escape liability for CWIP if they can prove that they bear no responsibility for the decision to build a new plant and will, in fact, purchase no full or partial firm power requirements which involve the new plant.[7]

The modified § 35.13(h) identification and functionalization requirement should operate to permit, on a case-by-case basis where all of the pertinent facts are known, consideration of whether a facility under construction will serve the needs of a specific wholesale customer or group of wholesale customers. A utility must first adequately support its requests for CWIP in rate base, including the proper allocation of CWIP plant to wholesale customers. While the utility retains the ultimate burden of persuasion with respect to its rate application, the burden of going forward to establish both that the customer's demand was not a significant factor in the utility's decision to build a facility and that the customer will definitely leave the filing utility's system by the time the plant is operational or during its operational life, shifts to the customer making such a claim. This burden might be met by documentary evidence such as a notice of cancellation or a contractual agreement to terminate purchases by a specific date.

This approach should preclude improper CWIP allocation where CWIP generation or transmission projects will be serving other customers, possibly including situations where wholesale customers will partially or totally leave the utility system.

C. *Analysis of Impacts and NEPA Compliance*

Several applicants state that the Environmental Assessment (EA) prepared by the Commission for the final rule does not comply with the National Environmental Policy Act of 1969 ("NEPA") [8] because the final rule constitutes a "major federal action significantly affecting the quality of the human environment." The EA concludes that the economic and ecological impacts of the final rule do not warrant the preparation of an Environmental Impact Statement (EIS). Applicants challenge both the methodology of the EA and its conclusions regarding the impacts of the CWIP rule.

The applicants raise four issues with respect to the methodology of the environmental study. They first state that the EA failed to consider what the impact would be if state commissions follow the Commission's rule, *i.e.*, the potential precedential impact of the rule.

The EA does analyze the effects of possible adoption by the states of the Commission's CWIP policy. The EA considers the impact of allowing 50 percent of all CWIP in rate base, at both the Federal and state levels.[9] This kind of analysis enhances the EA's usefulness in some respects because it presents an extreme scenario. In any case, the EA addresses the concern of applicants to that extent. However, the Commission notes that there are comments on the proposed rule, including some from commenters that

[4] In passing, the Commission notes that utilities will not be allowed to circumvent the 5 percent rate impact limitation by filing, for example, a two-phase rate increase application or two separate applications which would increase the rate impact attributable to CWIP above the allowed ceiling by requesting the permissible amount of paragraph (c)(3) CWIP in one filing and an increase in the rate of return in another.

[5] 48 FR 24353.

[6] 23 FERC ¶ 61,218, 61,456, *rehearing denied*, Opinion No. 164–A, 24 FERC ¶ 61,051 (1983), *petition for review pending*.

[7] *See* Appalachian Power Co., *et al.*, Reply Comments, at 71.

[8] 42 U.S.C 4321 *et seq.* (1969).

[9] Environmental Assessment, at S–2, 4–4, and 4–26.

oppose the CWIP rule, indicating that state regulatory authorities will not, and in many cases cannot, follow the Commission's CWIP policy. The Commission is not obligated to anticipate and analyze actions that are entirely within the discretion of other regulatory agencies or state legislatures.

Second, applicants state that the statistical studies in the EA did not include "nuclear fuel in process" within the definition of CWIP § 35.26(b)(1)). While the statistical studies did not include nuclear fuel, the EA finds, on the basis of data from the Energy Information Administration, that the size of this item is very small in relation to total CWIP, at least in the aggregate.[10] In effect, the EA concludes that, if nuclear fuel had been included in the statistical analysis, the estimated impacts would vary only slightly and would not change the Commission's conclusion.

A third criticism of the methodology raised by two applicants is that the study fails "to do a complete and accurate assessment of the likelihood of . . . price squeezes" which they perceive to be significant under the rule. In particular, AEC states that the price squeeze impact analysis contained in the EA is flawed because the analysis compared rates of return for classes of customers that are allegedly based upon differing cost-of-service methods; *i.e.*, that only one of the customer classes was assumed to have CWIP in rate base. Therefore, AEC argues that this method is different than that which has been used in cases before the Commission.

AEC misunderstands the Commission's price squeeze analysis. The comparison of rates of return by class was performed precisely as AEC suggests that it would have done. This price squeeze analysis is also consistent with cases decided by the Commission. The comparisons of rates of return assume that the costs of service for classes of customers include the same amounts of CWIP in rate base. The EA states that the Commission "has used this methodology in price squeeze decisions to date, and it has been affirmed by the courts."[11]

The EA simulated the effect of the CWIP rule on five cases in which price squeeze had been alleged by municipal or cooperative intervenors. The analysis indicated that there was no basis for finding that the CWIP rule will have a significant impact on the existence of price squeeze in the industry. Moreover, the price squeeze analysis does not reflect the 6 percent rate limitation which further lessens the initial rate increase of the rule and thus the likelihood of price squeeze. Therefore, the price squeeze arguments of both applicants are found to be without merit.

Fourth, Public Systems claims that the EA underestimates the total number of individuals affected by price increases that will occur as a result of the CWIP rule. This claim is founded only on the statement that over 11% of the U.S. population is served by rural electric cooperatives (co-ops) alone, as compared to the aggregate number of ratepayers which the EA states will be affected by the rule, *i.e.*, 8% of the U.S. population. Public Systems also believes that the Commission underestimates the proportion of low-income ratepayers affected by the rule. In support, it cites data that family incomes of the population group served by co-ops are 23.5% lower than the average U.S. family income. Therefore, concludes the applicant, this large segment of the population is "disproportionately poorer," which skews the Commission's assumption that low-income persons affected by the rule will be proportional to their percentage of the U.S. population.

The applicant's arguments on this issue are predicated on partial analyses and rhetoric rather than fact. First, with respect to the number of persons affected by the rule, the Commission points out that most co-ops do not purchase power from utilities regulated by the Commission. Consequently, the number of retail customers of co-ops affected by the CWIP rule will be far less than Public Systems alleges. Second, the Commission stands by its analysis in the EA with respect to the likely impacts on low-income persons that are directly subject to the Commission's ratemaking policies. Public Systems' argument is not entirely clear but is based on general information about the income levels of families served by rural electric co-ops compared to those nationally. The Commission does not believe, as the applicant apparently claims, that it follows from the income statistics cited that the proportion of poor people affected by the Commission's rule is larger in relation to the total population affected by the rule than the overall proportion of poor people to the general population. Public Systems presents no statistical evidence that is clearly inconsistent with or contradicts the conclusion of the EA. Even Public Systems' implied and unsubstantiated claim that the rural population served by co-ops is poorer in absolute terms, because its average income is lower, does not substantiate the inference that the impact of the Commission's rule is severe for those few affected.

Several applicants state that the impact of the CWIP rule will be significant. Public Systems claims first, that the impact on utility fuel mix will be significant. Public Systems states that although the national impacts are predominantly beneficial, due to a decrease in emissions from reduced coal use, the EA fails to consider whether this reduction is significant. Public Systems implies that the decrease in coal use is a significant impact.

In response, the Commission notes that the EA does evaluate the impact of a national decrease in fossil fuel use, and in particular in the use of coal, on the physical environment. The EA concludes that, with respect to oil and natural gas use, the environmental impacts would be "negligible" and that, with respect to coal use, the impact would be "small but detectable." [12]

Public Systems also states that under the CWIP rule fuel use will vary among regions and that some regions will experience significant adverse effects. In particular, Public Systems states that by 1995 "the Midwest region will be burning more of all three major fossil fuels to generate power than in the base case."

In response, the Commission reiterates its analysis in the EA. Table 4.8 of the EA presents the relative use of oil, gas, and coal on regional bases. In the Midwest, to use Public Systems' example, oil and gas by 1995 will each comprise five percent or less of total fossil fuel use and coal will constitute the remaining fossil fuel source. Table 4.8 also shows that, in 1995, if 50 percent of all CWIP is put in rate base, oil use will be 1.49 percent above the base case, natural gas will be 3.54 percent above the base case, and coal 0.02 percent above the base case. However, because oil and gas presently constitute a small percentage of total fossil fuel use, the small increases projected in the EA for these fuel categories will have a negligible impact on the fuel mix. Although coal use is relatively high in the Midwest region, the percentage change projected for coal use (0.02%) will result in a minimal impact in the fuel mix. Therefore, the Commission believes that the study is correct in finding no significant effects in terms of fuel use in the Midwest. The impacts in other regions are similarly found to be insignificant.

[10] *Environmental Assessment*, at 4–11.

[11] *Environmental Assessment*, at 4–42.

[12] *See* Environmental Assessment, at 4–29 through 4–32.

VOL 48 ISS 197 OCT 11 1983 UMI

CU states that the CWIP rule change will impose disproportionate impacts on low-income and small business electricity consumers that are less able to meet the increase in electricity cost.

The Commission addresses the socio-economic impacts in the preamble [13] and also at section 4.2.4 of the EA. The impacts on low income and small business consumers are studied to the maximum extent practicable. Because rate structures differ throughout the country, the CWIP rule results in diverse impacts. However, on the average, the percentage of income expended by low-income households for electricity would increase by about 0.7 precent. While low-income households are less able to adjust to changes in the cost of basic necessities, among which are several uses of electricity, the magnitude of this price change is generally insufficient to cause significant adverse effects, in the Commission's estimation. In sum, the Commission has confidence that its EA arrives at a fair and balanced evaluation of the impacts of the rule.

D. *Adequate Record and Public Procedures*

Several applicants, including AEC, MEDG, and NRECA, contend that, in the CWIP final rule, the Commission committed several basic procedural errors. First, these applicants claim that the final rule exceeds the scope of the Notice of Proposed Rulemaking that the Commission issued on the subject and therefore is inadequate under 5 U.S.C. 553(b) of the Administrative Procedure Act. Second, applicants state that the Commission relied upon non-record evidence in the final rule. Third, some petitioners also believe that the EA should have been subject to notice and comment.

The NRECA states that the thrust of the Commission's Notice of Proposed Rulemaking was "a refinement of its existing policy of allowing CWIP solely to relieve certain utilities of their severe financial difficulties" and that the solution was "specific criteria for establishing a *prima facie* case of financial hardship." NRECA indicates that the basis for the action taken in the final rule differs from the reasoning offered for the original proposal. Therefore, the NRECA concludes that "it simply cannot be said that the original notice 'adequately frame[d] the subjects for discussion'." The NRECA also notes that it did not comment on the proposal to allow inclusion of a fixed percentage of CWIP in rate base.

The Commission's Notice of Proposed Rulemaking cannot be viewed as a narrow proposal to make one specific correction in the mechanics of its rulemaking procedures and policies. Rather, the Notice dealt with various methods for properly treating construction financing costs. The Notice discussed the Commission's ideas on this broad topic, presented several possible approaches, and highlighted a single approach based on providing CWIP relief according to a measure of the financial distress of particular utilities.

The Notice retained for the Commission an open view of the policies and approaches under consideration. The Notice set forth with specificity the issues relevant to any of several CWIP approaches and even requested that commenters address all possible justifications for including CWIP in rate base.[14] Alternative formulations of a revised CWIP policy, such as including all CWIP in rate base, are specifically referred to in the NOPR, and generated significant comments.

The final rule is foreshadowed by the proposed rule and is a logical outgrowth not only of the Notice but of the record developed during the protracted comment periods. The Commission believes that the very breadth of the Notice demonstrates the Commission's desire to investigate all available policy options and its intention to fashion the best possible approach in light of the diversity of comment that it expected would be submitted. Although it may choose to do so, nothing requires the Commission to make only one specific proposal on an issue and then to abandon the entire proposal in the face of criticism or any conflicting record evidence on that proposal. Such a circumstance would render the rulemaking process unproductive. The essence of its responsibilities under the Administrative Procedures Act is both to be fair and exercise its expert judgment, particularly where reasonable persons differ.

The Commission addresses applicants' contentions with respect to the sufficiency of the EA in Part C of this Order. The question remains whether an EA must be issued for public comment prior to formal issuance of the underlying Commission action. Applicants cite no authority to support such contention and the Commission does not believe that it is obliged to take such action. The Commission has considered the issues raised with respect to the EA on rehearing and has responded to all significant arguments.

Several applicants also cite as procedural error the Commission's references in the final rule to the EA. Since the EA was not available for public comment, the applicants believe that the public was denied an opportunity to comment on a part of the record support for the final decision.

Environmental Assessments are prepared to assist in determining whether an Environmental Impact Statement must be prepared. The Commission recognizes that preparation of NEPA documents can frequently improve the quality of agency decisions overall, for other than environmental purposes, particularly by examining available alternatives. The Commission's EA had that salutary effect in this case and the information and perspective that it furnished the Commission was useful. However, an agency's obligations under the National Environmental Policy Act of 1969 to engage in environmental analysis is based on there existing a sufficiently direct connection between the agency's action, in this case the inclusion in rate base of some costs at an earlier time than previously allowed, and an actual environmental consequence, in this case the construction of utility plant.[15] Regardless of whether such a causal relationship exists with respect to the CWIP rule, the preparation of an EA ensures that a reviewable environmental records exists, including an examination of available alternatives that the Commission believes were less than fully explicated by the commenters.

The references to the EA in the final rule provide collateral support for the Commission's analysis and the studies submitted by commenters that the Commission relies upon in the final rule. The Commission wishes to ensure recognition of the information in the EA which lends perspective and understanding to the other analyses in the record. The Commission sees no reason not to utilize the information that was developed in the course of preparing the EA.

MEDG claims that the Commission dealt inadequately, procedurally and substantively, with empirical studies relied upon in its final rule. MEDG claims the Commission relied upon an EIA study and two other studies[16] which were not part of the record nor made available for public comment. MEDG also contends that the Commission failed to respond to the comments made by parties on three other cited studies that were part of the record.[17]

[13] *See* 48 FR 24342.

[14] 48 FR 39447, 39453.

[15] For a helpful discussion on this point, *see* Order No. 94–C, 48 FR 24039 (1983).

[16] Argonne National Laboratory Study and Southwest Energy Associates Study.

[17] FERC staff study, Appalachian Power Co., *et al.*, study and Oglethorpe Power Co. Corp., study.

Any non-record studies that the Commission considered in reaching its decision complemented and supported the findings of the on-the-record studies and the Commission's policy analysis contained in the final rule. Among those non-record studies were the time trend analyses for CWIP-based rates relative to AFUDC-based rates. The Commission believes that the disparity between CWIP-based and AFUDC-based rates would obviously be greatest in the early years and diminish over time, unless one hypothesized unreasonably high growth rates in CWIP. While the EIA study provided initial rate impacts which may have been less accurate than the FERC study (due to data and modeling problems), the results over time and regionally were consistent in showing decreasing disparities over time. With regard to the initial rate impacts, primary reliance is placed by the Commission on the FERC study which *was* issued for public comment and which forms part of the rulemaking record.[18] There is thus an adequate basis for the rule without the EIA study.

With regard to MEDG's criticism of the Commission for failing to respond to comments on the FERC staff study or other record impact studies, no one—including MEDG—commented on or criticized the FERC study. With regard to the Commission's purported failure to respond to comments on the other record impact studies (by Oglethorpe and Appalachian Power), MEDG has provided no specific references to such comments that the Commission may have overlooked except with regard to MEDG's own reply comments. However, MEDG's reply comments were responding to a cost of capital study rather than the challenged rate or cash flow impact studies, as MEDG seems to allege. Review of the EA and the final rule indicates that the Commission relied extensively upon comments on the cost of capital studies, including those of MEDG.[19]

E. *The Investment Bias Question*

Several applicants assert that the rationale for the CWIP rule is flawed because the primary cause of any bias against capital investment attributable to earnings attrition[20] is, they assert, inadequate retail rate regulation by the various state commissions. The absence of earnings attrition at the wholesale level is ascribed by these applicants to the "pancaking" of rate cases, this Commission's practices of using forecasted test years, and the policy of granting one-day suspensions for rate increases that fall within specified bounds. In addition, these applications claim that any need for CWIP has been eliminated by changes in economic conditions, especially the moderation of inflation and the decline in nominal interest rates. As a result, applicants claim, there is no need to allow utilities to file to include CWIP in rate base.

The fact that the financial condition of utilities has improved somewhat does not undermine the Commission's fundamental point since there is no guarantee that the dramatic fluctuations in economic conditions that strained the financial condition of utilities in the 1970's will not prove cyclical, i.e., that the improved circumstances will be more than a short-lived phenomenon. Further, while inflation has moderated and nominal interest rates have fallen, interest rates remain very high. Accordingly, the carrying costs on an investment remain unusually high in real terms.

A review of the comments on the Notice of Proposed Rulemaking indicates that it is not possible to determine whether earnings attrition is attributable solely to the state-regulated retail rates level, as claimed by some applications. This is an area which may benefit from further study and, in fact, members of the Commission staff are presently engaged in further analysis of the question. The results of this study will be released upon completion. But, at least on the basis of presently available information and analysis, it cannot be shown that wholesale rates are immune from earnings attrition.

Moreover, concern over attrition is not the only source of a possible investment bias. As long as utilities are required by reasonable demand projections to maintain large construction programs, their cash flow requirements will be large. Under present ratemaking practices, the utility must capitalize the carrying costs on its investment as AFUDC, which of course represents *non-cash* earnings. The comments support the conclusion that AFUDC earnings are viewed by investors as inferior quality earnings.[21] The prevalence of a high proportion of such non-cash earnings tends to result in lower interest coverage ratios which then tend to restrict a utility's flexibility in meeting its public utility obligations and may encourage the utility to pursue short-term strategies designed more to respond to these financial constraints ratther than to meet long term demand for electric power at the lowest reasonable cost.

As stated in Order No. 298, conversion of non-cash AFUDC into cash earnings under the CWIP approach will significantly improve utilities' cash flow with respect to their jurisdictional operations. This improvement in cash flow should result in higher interest coverage ratios and improve bond ratings.[22] Utilities would then be in a better posture to pursue lowest cost generating strategies which will ultimately benefit the ratepayers when the new facilities go into service.[23] The concern over *financing* will remain even where utilities are earnings their allowed rates of return.[24] Thus, even if earnings attrition is controlled, the utility faced with a cash flow problem will be encouraged to favor less capital-intensive facilities, which may have higher operating costs with higher overall costs, over more capital intensive facilities with lower overall costs.

It is emphatically not in the Nation's interest for a regulatory policy to encourage utilities to favor high-cost power supply alternatives over low-cost strategies. Yet the Commission's present ratemaking practice may do just that. By allowing the utility to recover on a current basis the carrying costs on new investments, the CWIP rule will mitigate the financial drain and allow the utility to pursue a least-*total*-cost generating strategy, even if immediate cash flow requirements associated with such a least-cost approach are high. This should also tend to reduce the cost to

[18] 48 FR 24340, n. 70, *citing* 48 FR 56148. The Commission concedes the possibility that CWIP-based rates may indefinitely exceed AFUDC-based rates. *See*, n. 28, *infra*. The general agreement on this possibility among the EIA or other studies and the general agreement between commenters and the studies with respect to the dollar impact of the CWIP rule militate against the need for further public procedures to ascertain in the facts on this point.

[19] *Environmental Assessment* at 4–21 and 4–5.

[20] For a definition of this term, *see* 48 FR 24325, n. 11.

[21] 48 FR 24333. The survey of investors cited in Order No. 298 confirms the common sense notion that cash in hand is worth more than a promise of cash later.

[22] *See* 48 FR 24339 (discussion of studies in Order No. 298).

[23] Under the Commission's past CWIP policy, one key issue was whether the utility was faced with severe financial distress. Cash flow was a common way of evaluating whether such a condition existed. While the Commission has eschewed such a policy in this rule, specifically because of the problems involved in defining "severe financial distress", this does not mean that cash flow is no longer important. As explained, insufficient or inadequate cash flow can produce an investment bias.

[24] In this regard, the Commission reaffirms the analysis in Order No. 298 that including CWIP in rate base reduces financing costs. *See* Order No. 298, 48 FR 24327 n.20. The Commission's review of the record does not indicate that any applicant disputes this conclusion.

the utility of financing the construction. Any such reduction in financing costs redounds to the benefit of the ratepayer, of course.

Applicants are correct in noting that the Commission's action alone will not materially affect any attrition-related bias where the FERC regulates only a small portion of a utility's sales as is the case generally. In determining the proper policy to apply in setting electric rates, the Commission must rely on its best judgement of the facts and circumstances as it understands them. The states must also use their best judgement. The Commission's limited jurisdiction over electric rates cannot be the guiding factor in the Commission's decisions. State commissions have widely varying policies on CWIP. In those states where CWIP is allowed in rate base, the Commission's CWIP rule will work in tandem with theirs. If CWIP is not allowed in rate base at the retail level, the Commission's final CWIP rule may have little impact on the utilities' overall operations. This is the same for all of the Commission's ratemaking policies.

Nor ought the Commission try to make major changes in our ratemaking policies on the basis of today's financial headlines which change from month to month. For example, while the average market to book ratio of one group of utilities did attain 1.0 for one month during the spring of 1983, it since has drifted back down under 1.0, as shown by Table 1, below.

The concerns underlying the CWIP rule go further than daily fluctuations in utility stock performance. As detailed in Order No. 298, the Commission is also attempting to take some fairly modest steps to coordinate utility decisions as to how much capacity needs to be constructed with consumer decisions as to how much power to purchase.

In so doing, the Commission is essentially predicting that a CWIP in rate base policy will benefit the ratepayer over the long run notwithstanding the recognized increased in present rates. The Commission can offer no historical proof [25] beyond the appeal to economic analysis and common sense detailed in Order No. 298 and with which the extensive comments in this proceeding are replete. This is not surprising since "the very essence of policymaking is predicting what kind of behavior will be effected by what kind of incentives or sanctions." [26]

In any event, no CWIP will be allowed to be collected without a proper filing that conforms to the revised regulations, including the information required by the expanded reporting requirements of § 35.13. As a result, the Commission, the parties, and the public will have the necessary information to review and monitor developments under Order No. 298. Accordingly, while the Commission relies today on predictive judgments as to the effects of Order No. 298 on utilities, their customers, and their financial situation, the Commission expressly does not foreclose the public and the Commission's ability *tomorrow* to assess the accuracy of those predictions. [27]

The CWIP rule is not experimental in the sense of striking out on uncharted seas. Rather the rule represents the *fruit* of our past experience under the CWIP rules as they have evolved over the last decade. But in another sense the expanded CWIP rule is plainly "experimental," in that it represents a fairly significantly modification of existing practice. The Commission retains all the necessary information and the procedural capability for modifying the rule in the future should future experience so dictate. Thus, the Commission holds to its approach, fully anticipating that "a month of experience will be worth a year of hearings." [28]

F. *Price Signals and Rate Stability.*

Applicants argue that the inclusion of CWIP in rate base is counterproductive in terms of price signals because in many cases that policy overstates the present and future cost of electricity, including the cost relative to substitute energy sources. For example, several applicants state that the CWIP policy fails to account for any reduction in fuel cost associated with the new plant, or the ability to spread fixed costs over an expanding customer base.

In response, Order No. 298 states that new generating capacity will not inevitably reduce the price of electricity in the future. [29] In fact, the opposite seems to be the general rule. For this reason, present customers should be fairly apprised that the cost of future capacity is likely to be more expensive. While applicants' assertion that the price signals from a CWIP in rate base policy will prove misleading to consumers if costs decline may be technically correct, the possibility of declining costs is nonetheless remote. The Commission continues to believe that signalling consumers that electricity costs can be anticipated to increase as old facilities are retired and new ones are built is a valid and important reason for the CWIP policy adopted.

Another basis for placing CWIP in rate base, as the Commission explained, [30] is the rate surge that inevitably occurs when a new plant becomes operable and, under the old rules, is eligible for rate base treatment. However, several applicants state that rate stability does not justify the CWIP rule. AEC states that the examples of "rate shock" relied upon in the final rule reflect retail rate situations. This applicant states that the effect of the rule will be to create rate shock for wholesale customers.

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[25] The fact that many municipal utilities and cooperatives have a *de facto* "CWIP in rate base" policy, funding construction costs with current contributions, might by itself be viewed as *prima facie* evidence that at least some utilities recognize the overall financial benefits of the CWIP approach notwithstanding the higher present cost. *See* Statement of Mr. McHugh, representing Electri-Cities of North Carolina, *et al.*, transcript of December 7–8, 1981 public hearing, at 420. *See also* Statement of Mr. Ritts on behalf of APPA, transcript at 336 ("I must be frank with you that there are some of our systems that may currently charge customers for part of the cost of the plant"). *See also*, Reply Comments of Appalachian Power Co., *et al.* at 65–71.

[26] Wald, "Judicial Review of Complex Administrative Agency Decisions, 426 *The Annals of the American Academy of Political and Social Science* 72, 83, n.29 (July 1982).

[27] *Cf.* Office of Communication of the United Church of Christ v. FCC, 707 F.2d 1413, 1442 (D.C. Cir. 1983) (remanding to FCC for further consideration that portion of its rules deregulating much of the radio broadcast industry which might provide information necessary for monitoring effects of the new rules).

[28] American Airlines v. CAB, 359 F. 2d 624, 633 (D.C. Cir.) (en banc) (opinion by Leventhal, J.), *cert. denied*, 385 U.S. 843 (1966).

[29] 48 FR 24,331. On this point, AEC claims that the Commission erred in not stating definitively that CWIP in rate base will produce higher rates than an AFUDC policy for an indefinite period in the future. In this connection, AEC argues that the Commission misinterpreted the Livingstone and Sherali study upon which the Commission relied. The Commission used the study in explaining the conditions under which AFUDC-based rates would fall below CWIP-based rates over time. The Commission stated that it believed it unlikely that CWIP-based rates would remain indefinitely above AFUDC-based rates since realistic rates of growth in CWIP are most likely to be less than utilities' after-tax cost of capital. AEC claims that the cited study also found that consumer discount rates exceeding utilities' after-tax cost of capital leads to the conclusion that CWIP-based rates would exceed AFUDC-based rates.

AEC is in error. The Livingstone and Sherali study found that under a CWIP policy compared to an AFUDC policy, consumers would be penalized financially (from a present value perspective) if either the rate of growth in CWIP or the consumer discount rate exceeds the utility's after-tax cost of capital. This study did not cooclude, however, that CWIP-based rates would be continually higher than AFUDC-based rates. Continually higher CWIP rates result only from a CWIP growth rates in excess of the company's cost of capital. Further, with regard to AEC's major point, the Commission concedes the possibility that CWIP-based rates will indefinitely exceed AFUDC-based rates, though the Commission believes the probability of that occurrence is low. The Commission has no basis to make a more definitive statement one way or another.

[30] 48 FR 24,331.

As a general proposition, rate stability is one goal of ratemaking. Ratepayers should not face rates that fluctuate radically according to the completion of base load units. In the case of wholesale customers, this concern is particularly important because of the power planning and price decisions that they face. In recent years, the Commission has witnessed the rising tide of substantial wholesale rate change filings attributable to new plant in-service. [31] The effects of inflation and increased construction costs over the last decade are just beginning to be reflected in wholesale rate base as new plant becomes operable. Moreover, as large central station generation plants presently under construction are completed over the next few years, the Commission anticipates that the rate shock phenomenon will continue. By revising its CWIP policy, the Commission is attempting to minimize this problem, to the extent possible.

One applicant claims that policies that phase new plant into rate base over a number of years may also achieve a measure of rate stability. The final rule reduces the adverse effects on consumers caused by the sudden spike in electric rates when new base load units are added to rate base without requiring that utilities carry the costs of operating plant while being unable to earn a return on that investment, as a phasing proposal would do. The final CWIP rule does not exclude the possibility of phasing-in facilities if the need arises in individual cases. However, a phase-in policy, while reducing present rates plainly increases future rates since ratepayers will be charged for the additional financing costs incurred during the phase-in period. The Commission believes it a fairer policy to consumers and stockholders to use CWIP in rate base as a phase-in technique rather than merely continue to defer costs out into the more distant future. Full discussion of the rate stability issue is also present in the record in this proceeding. [32]

G. *Price Squeeze*

Several applicants state that the analysis of the issue of price discrimination and price squeeze in the final rule is legally insufficient because it ignores the benefits of competition, fails to consider the relationship of federal to state treatment of CWIP, and does not remedy the discrimination that may exist during the pendency of rate cases before the Commission. In addition, applicants state that CWIP-based rates will limit the ability of wholesale customers to change suppliers after paying the financing costs on new plant.

In response, the Commission reiterates the position it has taken both in the Notice of Proposed Rulemaking and in the Final Rule that the Commission retains the flexibility to deny CWIP in rate base or modify other cost of service methods as possible remedies after a finding of undue discrimination. Wholesale customers may seek to show, in any case, that price discrimination or a price squeeze exists. The Commission will then, as appropriate, consider such evidence in its determination relative to requested rates.

The potential for a price squeeze or other undue price discrimination in particular cases is not an obstacle to a change in CWIP policy. It is impossible to say that the occurrence of price squeeze is more likely as a result of the utilities' ability to file for inclusion of CWIP in rate base under the rule. Therefore, the Commission finds it more appropriate to consider this once a *prima facie* showing of price squeeze is made in individual cases. A remedy for price squeeze or undue price discrimination will be fashioned in light of the facts of the particular case. This approach is consistent with the Commission's mandate under the Federal Power Act.

H. *Utility Industry Financial Difficulties*

APPA states that the CWIP rule is premised on a weakened financial condition of the electric utility industry, although, claims APPA, inflation and high interest rates have not severely affected all utilities and the industry as a whole is in good financial health. Moreover, APPA asserts that, as the inflation/interest rate bind has eased in recent months, the capital markets have responded favorably to electric utility financing needs. Another applicant indicates that the Commission did not attempt to determine the source or extent of the utility difficulties. In addition, applicants cite financial and trade reports as support for the proposition that the financial position of the electric utility industry is growing stronger.

In Order No. 298, Part IV.B.1, the Commission discusses in detail the evidence presented by commenters on the financial condition of the industry. The Commission concludes that the industry has been in a weak financial position for a number of years, in part as a result of the Nation's general economic condition and the industry's sizeable capital needs with respect to its construction program. Its primary concern is the long-term outlook of the industry and the adverse effect that economic cycles have on the industry. While the Commission remains concerned that "the financial condition of the industry at a particular point in time is not necessarily indicative of the health of the industry. . .", [33] the Commission's objective is to minimize cyclical financial strains on the industry like those it undoubtedly experienced in recent years.

The CWIP rule implements a policy that is appropriate to aid utilities in their efforts to meet the needs of wholesale customers. The rule will help utilities construct necessary facilities even during periods in which capital markets are constricted. All this notwithstanding, the Commission emphasizes that the rule is not predicated upon the current financial condition of the industry or of a particular utility. The various bases for the rule are fully articulated in Part III of Order No. 298.

I. *Intergenerational Equity*

The applicants state that the CWIP rule will allow utilities to charge customers for plant not yet in-service. This is claimed to create an intergenerational inequity because the retail customers not benefitting by the facility under construction will bear a portion of the cost burden associated with the facility. The result is a mismatch of the costs and benefits of future service. The applicants' arguments on this issue repeat the discussion in public comments on the NOPR that were addressed in the final rule. [34]

In the final rule, the Commission sought to balance both the Nation's interest in reliable service at the most reasonable cost and any mismatch of costs and benefits that might result from CWIP in rate base. The Commission concluded that, in the case of CWIP, strict adherence to assigning cost responsibility to customers that will be serviced by a new plant was not justified. For ratepayers who pay CWIP costs, the likelihood of receiving benefits are relatively great. Moreover,

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[31] *See e.g.*, South Carolina Electric & Gas Company, ER83–487 (1983) (23.8% rate increase); Pacific Gas & Electric Company, ER81–679 (1981) (50%); Florida Power Corporation, ER82–701 (1982) (10.7%); Delmarva Power & Light Company, ER80–363 (1980) (20.8%).

[32] *See, e.g.*, American Electric Power Corporation, Initial Comment, at 15; Edison Electric Institute, Initial Comment, at 38; Public Service Company of Ohio, Initial Comment, at 4.

[33] *See* 48 FR at 24,334

[34] *See* 48 FR at 24,336.

VOL 48 ISS 197 OCT 11 1983 UMI

VOL 48 ISS 197 OCT 11 1983 UMI

CWIP-based rates will provide benefits in terms of permitting utilities to more accurately gauge the need for future capacity while relieving any bias against additional investment. That reasoning is sufficient to warrant the rejection of the applicants' argument regarding intergenerational equity.[35]

Moreover, the claim that a wholesale customer will have left the system prior to the in-service date of CWIP facilities does not raise intergenerational questions. As noted above, the issue here involves the appropriate allocation of costs between jurisdictional and non-jurisdictional services. A wholesale purchaser may challenge the accuracy or appropriateness of a utility's cost allocation proposal.

J. *Construction Prudence*

The NRECA states that requiring electric utilities that request CWIP in rate base to file a construction program statement "fundamentally reorient[s] the Commission's assessment of the reasonableness of construction programs" by duplicating state licensing decisions. "[T]he CWIP rule", states the applicant, "strains the historic relationship between federal and state governments concerning energy regulation, and may create conflicts with the NRC."

Under an AFUDC policy, consideration of the prudence of a project was generally deferred until the plant was completed and rate base treatment requested. The CWIP policy now presents the prospect of including some of the costs of a facility in rate base earlier in the construction cycle. The Commission must therefore change the time frame of its prudence considerations. Section 35.13 is therefore amended to require a general statement of the utility's program for providing reliable and economic power.

In any case, the Commission does not believe that its concern that wholesale rates be based on prudent decisions by utility managers involves either substituting its judgment for that of utility management or usurping the authority of state regulators to exercise their own legal responsibilities to examine the need for, and prudence of, any construction program, in states where such express authority exist. In fact, state findings are useful to the Commission's deliberations in those cases where the state requires the utility to justify construction expenditures and to seek authorization. Moreover, the exercise of this Commission's mandate cannot be said to interfere with the responsibilities of other Federal departments or agencies, and no one substantiated that view. The Commission, therefore, sees no reason to modify its approach with respect to management prudence.

K. *Alternatives to CWIP*

In response to the Notice of Proposed Rulemaking, commenters presented several proposals that are claimed to be superior to including construction costs in rate base. Once again, applicants for rehearing ask the Commission to reconsider joint ventures, contributions in aid of construction or even 100 percent of all CWIP in rate base, as alternatives to the approach in the final rule.

Public Systems alleges that the Commission failed to "meaningfully consider" joint ventures as an alternative to the inclusion of CWIP in rate base. It does not present any new evidence on joint ventures as an alternative to CWIP, however. According to Public Systems, the success of some joint venture projects establishes that this approach is a means of ensuring construction of least-cost facilities. On review, the Commission is unable to discern a specific proposal on joint ventures by Public Systems. Rather it appears Public Systems would like the Commission to require that utilities actively seek municipal and cooperative partnerships in all new projects, something the Commission believes is beyond its role. The Commission's experience is that joint ventures can be a valuable tool for utility management in terms of financing new construction programs. Nonetheless, the Commission believes that joint ventures, even if desired by the parties, are available in only limited instances. Although joint ventures may be explored where feasible, the Commission does not believe that this approach offers an industry-wide solution to the problems that prompted this rule. The Commission prefers CWIP because it provides utilities with cash flow during construction when the utility is exposed to the greatest financial pressures and risk.

Contributions in aid of construction (CIAC) is an alternative method of obtaining capital from ratepayers to finance the cost of constructing new facilities which the Commission fully discussed in the final order.[37] There, the Commission stated that whether a CIAC approach is beneficial to ratepayers compared with a CWIP policy, in part, depends upon the contibutions not being taxed as income to the utility. In Order No. 298, the Commission expressed concern regarding "the federal tax treatment that will be accorded capital provided by ratepayers in the form of CIAC." Applicants present no new evidence to support the conclusion that the CIAC will be afforded favorable federal tax status. In addition, the Commission stated in the final rule that if the CIAC are not treated as revenues to utilities, *i.e.*, if favorable tax status is accorded the CIAC, "there will be no direct changes in either the quality of earnings or interest coverage ratios," because the CIAC would not be income to the utility. This remains a significant inadequacy of the CIAC approach as a general approach to resolving the problems that the Commission seeks to address in its rule.

EEI recommends that the Commission "follow the logic" of the CWIP rule and permit all CWIP in rate base. The fixed percentage approach adopted by the Commission provides a measure of predictability to the utility in terms of the "quantum of rate relief [that a utility can anticipate] over the entire construction period . . . ".[38] In choosing a 50 percent level for CWIP, the Commission balanced the equities of reapportioning costs among present and future ratepayers. The Commission chose the 50 percent approach, in part, because it evenly splits the cost responsibility for financing the construction of new plant. While a higher level of CWIP would arguably bring the Commission closer to achieving its goals announced in this rulemaking, the balance that is achieved by this rule will help "to create a regulatory setting within which the utility can supply the nation's" need for electricity at the lowest reasonable cost and which is equitable to present ratepayers. While the record in this proceeding arguably supports the inclusion of additional CWIP in rate base, the Commission believes that the 50 percent approach represents a balanced solution to a significant regulatory issue.

L. *Regulatory Flexibility Act Certification*

The Commission certified in the Notice of Proposed Rulemaking and again in the final rule that the CWIP rule change would not have a significant economic impact on a substantial number of small entities. According to the comments of the Small Business Administration (SBA) on the Notice of Proposed Rulemaking, the Commission should consider the impact of its rule on wholesale and retail customers of the jurisdictional entities subject to rate regulation by the Commission. This suggestion was rejected in the final rule because the Regulatory Flexibility Act does not require the Commission to consider the effect of a federal rate standard on non-jurisdictional entities whose rates are not subject to the rule.[39]

Two applications for rehearing, including the untimely petition for reconsideration by the SBA, again state that the Commission's analysis under the Regulatory Flexibility Act is deficient because it fails to consider the effect of the CWIP rule change on non-jurisdictional entities. Neither the application nor the petition present new arguments or citations to authority not previously considered by the Commission in this rulemaking proceeding.

The applicants do not contend that the Commission's analysis is incorrect with respect to the effect of the rule on jurisdictional entities. The Commission's final rule nevertheless analyzes the impact of its rule on wholesale and retail customers. However, the Commission declines to adopt the suggestions of applicants insofar as the formal requirements of the RFA are concerned.

The Commission orders that, for the reasons stated above:

The Applications for Rehearing and Petitions for Reconsideration are hereby denied, except to the extent that 18 CFR 35.26(d) is amended as set forth in this order;

(Federal Power Act, 16 U.S.C. 791–828c; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O No. 12009, 3 CFR 142 (1978)

List of Subjects in 18 CFR Part 35

Electric rates.

In consideration of the foregoing, Part 35 of Title 18, Code of Federal Regulations, is amended as set forth below, effective October 4, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

[35] The Commission notes that allowing utilities to file to include CWIP in rate base does not alter its rules governing cost recovery for failed or abandoned power supply facilities. To the extent that costs are prudently incurred, utilities may be able to file to recover both the principal invested and the interest accrued up to the time of abandonment. If, pursuant to the CWIP rules, carrying charges have already been paid on facilities which are subsequently abandoned, the utility will not be allowed to double recover those costs.

[37] *See* 48 FR at 24,348.

[38] *See* 48 FR at 24,348.

[39] *See* 48 FR. 24,350.

PART 35—[AMENDED]

1. In § 35.26, the introductory text of paragraph (d)(1) is revised to read as follows:

§ 35.26 Construction work in progress.

* * * * *

(d) *Initial limitation.*—(1) *Limit.* Beginning on July 1, 1983 and ending on July 1, 1985, a public utility may file to include CWIP in rate base under subparagraph (c)(3) of this section, either initially or to increase the amount of such CWIP provided for in any rate schedule to be superseded, only if:

* * * * *

§ 35.26 [Amended]

2. In § 35.26, paragraph (d)(1)(ii) is amended by removing the word "has" and substituting in lieu thereof the word "have".

Note.—The following table will not appear in the Code of Federal Regulations.

TABLE 1.—AVERAGE MARKET TO BOOK RATIOS FOR 100 ELECTRIC UTILITIES

September 1982	.88
October	.92
November	.91
December	.94
January 1983	.98
February	.97
March	.97
April	1.00
May	.98
June	.94
July	.96
August	.95

Source. Salomon Brother Inc., *Electric Utility Monthly*, various dates.

[FR Doc. 83-27473 Filed 10-7-83; 8:45 am]

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18 CFR Part 157

[Docket Nos. RM81-19-000, RM81-19-010 Through 021; Docket Nos. RM81-29-000 Through 014]

Interstate Pipeline Blanket Certificates for Routine Transactions, Sales and Transportation by Interstate Pipelines and Distributors; Order Granting Rehearing For Purposes of Further Consideration

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for purposes of further consideration.

SUMMARY: On July 20, 1983, the Federal Energy Regulatory Commission (Commission) issued two final rules which expanded the categories of activities that may be authorized under a blanket certificate issued to natural gas pipelines pursuant to Subpart F of Part 157 of the Commission's regulation (Order Nos. 234–B and 319, 48 FR 34873 (August 1, 1983)). The Commission received fourteen applications for rehearing of the final rules. In order to have sufficient time to consider the applications, the Commission grants rehearing of the final rules solely for purposes of further consideration.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

In the matter of Interstate Pipeline Certificates for Routine Transactions: Docket Nos. RM81–19–000, –010, –011, –012, –013, –014, –015, –016, –017, –018, –019, –020, –021: Sales and Transportation; by Interstate Pipelines and Distributors: Docket Nos. RM81–29–000, –001, –002, –003, –004, –005, –006, –007, –008, –009, –010, –011, –012, –013, –014.

Order Granting Rehearing For Purposes of Further Consideration

Issued: September 19, 1983.

On July 20, 1983, the Federal Energy Regulatory Commission (Commission) issued two final rules in Docket No. RM81–29–000 (Order No. 319, 48 FR 34875, Aug. 1, 1983) and Docket Nos. RM81–19–000 and RM81–29–000 (Order No. 234–B, 48 FR 34872, Aug. 1, 1983). The final rules expand the categories of activities that may be authorized under a blanket certificate issued pursuant to Subpart F of Part 157 of the Commission's regulations (§§ 157.201 through 157.218).

Texas Eastern Transmission Corp. and Associated Gas Distributors filed applications for rehearing of Order No. 319. The Peoples Gas Light and Coke Co. and North Shore Gas Co., Northern Natural Gas Co., Consolidated Gas Supply Corp., Maryland People's Counsel, Valero Interstate Transmission Corp., Process Gas Consumers Group and the American Iron and Steel Institute, Yankee Resources, Inc., Natural Gas Pipeline Company of America, United Distribution Companies, Brooklyn Union Gas Co., Columbia Gas Transmission Corp., and Consolidated Edison Company of New York, Inc., requested rehearing of Order Nos. 319 and 234–B.

In order to have sufficient time to consider the applications, the Commission grants the applications for rehearing filed by the above named groups solely for purposes of further consideration. This action does not

constitute a grant or denial of the applications on the merits in whole or in part. Pursuant to § 385.713(d) of the Commission's regulations, no answers to the applications will be entertained by the Commission.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-27472 Filed 10-7-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

FD&C Red No. 3 Externally Applied Drugs and Cosmetics and the Lakes of FD&C Red No. 3 in Food and Ingested Drugs; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice; final rule-related.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a meeting of the Scientific Board of Counselors (the Board) of the National Toxicology Program (NTP), at which the Board will peer review studies on the use of FD&C Red No. 3, has been scheduled.

DATE: The meeting will be held on October 27, 1873.

FOR FURTHER INFORMATION CONTACT: Marvin Mack, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** of October 4, 1983 (48 FR 45237), FDA postponed the closing date for the provisional listing of the use of FD&C Red No. 3 for coloring externally applied drugs and cosmetics and of the lakes of FD&C Red No. 3 for coloring food and ingested drugs. FDA announced in that document that it had arranged for peer review by the Board at its October meeting of the data on the thyroid neoplastic lesions in treated rats fed FD&C Red No. 3. NTP has now scheduled that meeting for October 27, 1983. See NTP's notice published elsewhere in this issue of the **Federal Register** for details of that meeting.

Dated: October 4, 1983.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-27500 Filed 10-7-83; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 179

[Docket No. 83F-0063]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of the isotope Californium-252 as a sealed neutron source for the measurement of moisture in the inspection of food, the inspection of packaged food, and in controlling food processing, This action responds to a petition filed by Ohmart Corp.

DATES: Effective October 11, 1983; objections by November 10, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 22, 1983 (48 FR 17391), FDA announced that a food additive petition (FAP 3M3706) has been filed by Ohmart Corp., Cincinnati, OH 45209, proposing that § 179.21 (21 CFR 179.21) be amended to provide for the safe use of the isotope Californium-252 as a sealed neutron source for the measurement of moisture in the inspection of food, the inspection of packaged food, and in controlling food processing. The total neutron irradiation dose absorbed by food shall not exceed 200 millirads.

In the review process, the agency has utilized information submitted by the petitioner, as well as information gathered by the agency. FDA has evaluated the available data and concludes that the proposed use of Californium-252 as a sealed source of neutron radiation is safe and that the regulations should be amended as set forth below. This amendment permits a new energy source for the limited use authorized in this regulation to meaure moisture. It does not deal with the agency's general policy regarding the irradiation of food to destroy insects, inhibit growth and maturation of fresh fruits and vegetables, and destroy insects and microbes in spices described in the advance notice of proposed rulemaking published in the **Federal Register** of March 27, 1981 (46 FR 18992).

This amendment to § 179.21 adds new paragraph (a)(3), revises paragraph (b)(2)(ii), and adds new paragraph (b)(2)(iii).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 179

Food additives, Food packaging, Irradiation of foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 179.21 is amended by adding new paragraph (a)(3), by revising paragraph (b)(2)(ii), and by adding new paragraph (b)(2)(iii) to read follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

§ 179.21 Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing.

* * * * *

(a) * * *

(3) Sealed units producing neutron radiation from the isotope Californium-252 (CAS Reg. No. 13981-17-4) to measure moisture in food.

(b) * * *

(2) * * *

(ii) A statement that no food shall be exposed to radiation sources listed in paragraph (a) (1) and (2) of this section so as to receive an absorbed dose in excess of 1,000 rads.

(iii) A statement that no food shall be exposed to a radiation source listed in paragraph (a)(3) of this section so as to receive an absorbed doese in excess of 200 millirads.

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 10, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 11, 1983.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: October 4, 1983.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-27512 Filed 10-7-83 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Dinoprost Tromethamine Sterile Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co., providing for use of dinoprost tromethamine injectable for the treatment of pyometra (chronic endometritis) in cattle.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, has filed a supplement to NADA 108-901 providing for the intramuscular use of dinoprost tromethamine (Lutalyse® 1Sterile Solution) for the treatment of pyometra (chronic endometritis) in cattle. Upjohn also holds approval for intramuscular use of the drug in beef cattle and nonlactating heifers for synchronization of estrus; in nonlactating cattle to induce abortion; in lactating dairy cattle for treatment of unobserved (silent) estrus; and in mares to induce estrus. The supplemental application is approved and the regulations amended accordingly. The basis for the approval is discussed in the freedom of information (FOI) summary referred to below.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1 (f)(1)(iv) and (g)) may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.690 by revising paragraph (d)(2) to read as follows:

§ 522.690 Dinoprost Tromethamine Sterile Solution.

* * * * *

(d) * * *

(2) *Cattle*—(i) *Amount.* 5 milliliters (equivalent to 25 milligrams of dinoprost).

(ii)(*a*) *Indications.* For its luteolytic effect to control timing of estrus and ovulation in estrous cycling cattle that have a corpus luteum.

(*b*) *Limitations.* For use in beef cattle and nonlactating dairy heifers, as follows: Inject a dose of 5 milliliters intramuscularly either once or twice at a 10- to 12-day interval. With a single injection, cattle should be bred at the usual time relative to estrus. With the two injections, cattle can be bred after the second injection either at the usual time relative to detected estrus or at about 80 hours after the second injection. Estrus is expected to occur 1 to 5 days after injection if a corpus luteum was present. Cattle that do not become pregnant to breeding at estrus on days 1 to 5 after injection will be expected to return to estrus in about 18 to 24 days. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(iii)(*a*) *Indications.* For treatment of pyometra (chronic endometritis).

(*b*) *Limitations.* For intramuscular use as a single injection. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

Effective date. October 11, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 4, 1983.
Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 83-27501 Filed 10-7-83; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin and Roxarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A. H. Robins Co., providing for use of a combination of previously approved premixes containing salinomycin and roxarsone for making finished feed for broiler chickens for prevention of coccidiosis.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., 1211 Sherwood Ave., P.O. Box 26609, Richmond, VA 23261, filed NADA 132–447 providing for the use of salinomycin sodium premix in combination with roxarsone premix to make finished feeds for broilers containing 40 to 60 grams salinomycin and 45 grams of roxarsone per ton of feed. The finished feeds are used for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivoti,* and *E. maxima,* including some field strains of *E. tenella,* which are more susceptible to roxarsone combined with salinomycin than to salinomycin alone. The NADA is approved and the regulations amended accordingly. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm.4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

1. In § 558.530 by designating the first sentence in paragraph (f)(4) as paragraph (f)(4)(i), by redesignating paragraph (f)(4)(i) through (iv) as (f)(4)(i) (*a*) through (*d*), and by adding new paragraph (f)(4)(ii). As revised paragraph (f)(4) reads as follows:

§ 558.530 Roxarsone.

* * * * *

(f) * * *

(4) *Additional combinations.* (i) Roxarsone may be used in combination "as an aid in the reduction of lesions due to *E. tenella*" as follows:

(*a*) Lasalocid as in § 558.311.

(*b*) Lasalocid plus bacitracin methylene disalicylate as in § 558.311.

(*c*) Lasalocid plus lincomycin as in § 558.311.

(*d*) Lasalocid and bacitracin zinc as in § 558.311.

(ii) Roxarsone may be used in combination with salinomycin as in § 558.550.

2. In § 558.550 by revising paragraph (c) to read as follows:

§ 558.550 Salinomycin.

* * * * *

(c) *Conditions of use*—(1) It is used in complete broiler feeds as follows:

(i) *Amount per ton.* 40 to 60 grams.

(ii) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(iii) *Limitations.* Feed continuously as sole ration. Do not feed to layers. Not approved for use with pellet binders. May be fatal if fed to adult turkeys or horses.

(2) *Permitted combinations*—(i) [Reserved].

(ii) Roxarsone provided by No. 011801 or 017210 in § 510.600(c) of this chapter for use in broilers:

(*a*) *Amount.* Salinomycin 40 to 60 grams per ton and roxarsone 45 grams per ton.

(*b*) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella,* which are more susceptible to roxarsone combined with salinomycin than to salinomycin alone.

(*c*) *Limitations.* Feed continuously as sole ration and as sole source of organic arsenic. Not approved for use with pellet binders. Do not feed to layers. May be fatal if fed to adult turkeys or horses. Withdraw 5 days before slaughter.

Effective date. October 11, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 4, 1983.

Lester M. Crawford,

Director, Bureau of Veterinory Medicine.

[FR Doc. 83–27502 Filed 10–7–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

Correction

In FR Doc. 83–25959 appearing on page 43302 in the issue of Friday, September 23, 1983, make the following correction: In column two, **SUPPLEMENTARY INFORMATION,** line five. "Flanco Products Co." should read "Elanco Products Co.".

BILLING CODE 1505–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of several supplemental new animal drug applications providing for use of 40-gram-per-pound tylosin premixes for making finished swine, beef cattle, and chicken feeds. The supplements were submitted by Flanco Products Co. for Carl S. Akey, Inc.; Feed Service Co., Inc.; J&R Specialty Supply Co.; Mac-Page, Inc.; Nutra-Blend Corp.; and Southern Micro-Blenders, Inc.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: The following six firms have had supplemental NADA's submitted for them to use tylosin premixes in making finished animal feeds:

Carl S. Akey, Inc., P.O. Box 128, Lewisburg, OH 45338, NADA 103–089
Feed Service Co., Inc., Box 698, Mankato, MN 56001, NADA 111–637
J&R Specialty Supply Co., P.O. Box 506, Waseca, MN 56093, NADA 096–780
Mac-Page, Inc., 1600 South Wilson Ave., Dunn, NC 28334, NADA 131–857
Nutra-Blend Corp., Route 7, Box 192A, Neosho, MO 64850 NADA 122–158
Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406, NADA 133–833

Elanco has submitted a supplement to each of the NADA's above providing for use of 40-gram-per-pound tylosin premixes for making finished swine, beef cattle, chicken, and layer, broiler, and replacement chicken feed for use as in 21 CFR 558.625(f)(1) (i) through (vi). The supplements are approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary referred to below.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of each application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b) (16), (48), (54), (71), (79), and (80) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625. Tylosin.

* * * * *

(b) * * *

(16) To 049768: 5 and 10 grams per pound, paragraph (f) (l) (vi) (*a*) of this section; 40 grams per pound, paragraph (f)(l) (i) through (vi) of this section.

* * * * *

(48) To 017790: 10 grams per pounds, paragraph (f)(l) (i), (iii), (iv), and (vi) of this section; 40 grams per pound, paragraph (f)(l) (i) through (vi) of this section.

* * * * *

(54) To 030841: 10 and 40 grams per pound, paragraph (f)(l) (i) through (vi) of this section.

* * * * *

(71) To 050568: 4 and 10 grams per pound, paragraph (f) (l) (vi) (*a*) of this section; 10 and 40 grams per pound, paragraph (f)(l) (i) through (vi) of this section.

* * * * *

(79) To 047427; 10 and 40 grams per pound, paragraph (f)(l) (i) through (vi) of this section.

(80) To 049685: 10 and 40 grams per pound, paragraph (f)(l) (i) through (vi) of this section.

* * * * *

Effective date. October 11, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: October 3, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83–27513 Filed 10–7–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

Geological and Geophysical Exploration of the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This final rulemaking amends the regulations that required a holder of a permit for geological or geophysical exploration activities for minerals or scientific research on the offshore to notify the Director, Minerals Management Service, immediately in writing, of the acquisition, analysis, or interpretation of geological information or data or the acquisition, processing, reprocessing, or interpretation of geophysical information or data collected under the permit. The newly revised regulations require notice in writing within 30 days of the acquisition, initial analysis, and initial interpretation of geological information or data and acquisition, initial processing, and initial interpretation of geophysical information or data. The permittee will be required to submit notice of the availability of any subsequent analysis, processing, and interpretation within 30 days of a request for such notice of availability by the Director. The amended regulations will eliminate the requirements for repeated immediate notice. In response to the Notice of Proposed Rulemaking published in the **Federal Register** on July 1, 1982 (47 FR 28706), representatives of industry and trade associations submitted comments on the proposed changes that were evaluated and analyzed in connection with this final rule.

EFFECTIVE DATE: November 10, 1983.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Minerals Management Service; Department of the Interior; 12203 Sunrise Valley Drive; Mail Stop 646; Reston, Virginia 22091; telephine (703) 860–7916, (FTS) 928–7916.

SUPPLEMENTARY INFORMATION:

Background

The regulations implement section 26 of the Outer Continental Shelf Lands Act that requires a permittee conducting exploration offshore to ". . . provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe." In order to provide the Secretary access, it is necessary for the Secretary to know what data and information is available. The regulations prior to this amendment required immediate notice in writing of the acquisition, analysis, or interpretation of geological information or data and the acquisition, processing, reprocessing, or interpretation of geophysical information or data (30 CFR 251.11 and 251.12). It is recognized that geological data is often repeatedly analyzed, and geophysical data is reprocessed and reinterpreted many times after intial acquisition, analysis, processing, and interpretation, often on a daily basis. Requiring immediate notification of every reanalysis, reprocessing, and reinterpretation imposes a time-consuming and excessive paperwork burden with little, if any, practical benefit to the U.S. Government. The amended regulations will eliminate the requirement for repeated immediate notice. Notice will be required within 30 days of the initial acquisition, analysis, processing, and interpretation. Notification of any further work performed on the data or information will only be required upon request by the Director.

VOL 48 ISS 197 OCT 11 1983 UMI

Comments

A total of 11 comments were received in response to the Notice of Proposed Rulemaking. All 11 commenters agreed that the immediate notice requirements were excessive and burdensome and should be eliminated. Some commenters had questions and suggestions which are delineated below.

Difference Between Proposed Rule and Final Rule: The final rule clarifies the requirement that the permittee provide notice of the availability of subsequent analysis, processing, and interpretation data and information upon the Director's request and not data or information itself.

Discussion of Comments: All of the commenters agreed with the Department's proposal to eliminate the immediate notice requirement. Several commenters recommended that the two sections should read alike as to the notification of subsequent analysis, processing, or interpretation and that the requirement be for notice of the availability of reanalyzed, reprocessed, or reinterpreted data and information and not for the data or information itself. We agree and the final rule reflects this recommendation.

Another commenter suggested that the proposed wording concerning reprocessing and reinterpretation of geological data and information could be misread to require further reprocessing or reinterpretation at the Director's request even if the permittee did not plan to reprocess or reinterpret. We believe that the language of the final rule alleviates any possible confusion and that the Director's request concerns notice of existing reprocessing or reinterpretation only.

This clarification as to the requirement for notice only also responds to another comment that the amended sentences concerning the 30-day time requirement were inconsistent with other unamended sentences that set out a 30-day requirement but allow the Director to authorize a longer period. The commenter felt that the provision for a longer period should be added to this final rule. We disagree and point out that the authorization for a longer period refers to the time period allowed for the actual submission of data and information and does not concern the time period for notice of availability.

Two commenters suggested that the initial notice requirement cover only acquisition and that notice of initial analysis, processing, or interpretation was unnecessary because, according to one commenter, a company would normally analyze, process, or interpret acquired material. However, as another commenter pointed out, initial analysis, processing, or interpretation could occur immediately or years later. While it necessitates that the permittee keep records of the timing of initial analysis, processing, or interpretation if the Director is not notified of the initial analysis, processing, or interpretation, he would have to repeatedly request notification. Such unnecessary repetition would be burdensome to both the Government and to the permittee who would have to respond, albeit negatively, to every request. Therefore, the final rule continues to require notice of initial analysis, processing, and interpretation.

Environmental Impact, Regulatory Analysis, and Small Entity Flexibility Analysis.

The Department has determined that the amendments to 30 CFR 251.11 and 251.12 do not constitute a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required.

The Department has determined that promulgation of these rules is not a major action requiring preparation of a regulatory impact analysis under Executive Order 12291. The cost impact of these rules affects approximately 400 permittees who spend an average of 52 hours each per year at an average of $15 per hour for a total cost of $312.000.

The Department has also determined that the amendments will not have a significant effect on a substantial number of small entities. Because of the complexity and capital investment requirements, small entities are generally not involved in offshore activities.

Information Collection

The information collection requirements contained in 30 CFR 251.11 and 251.12 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) and assigned clearance number 1010–0034.

List of Subjects in 30 CFR Part 251

Continental shelf, Freedom of information, Public lands—mineral resources, Reporting and recordkeeping requirements, Science and technology.

Dated: September 9, 1983.

W. L. Dare,

Acting Deputy Assistant Secretary of the Interior.

PART 251—[AMENDED]

For the reasons set forth above, 30 CFR Part 251 is amended as shown:

1. Section 251.0, is amended by adding paragraph (d) as follows:

§ 251.0 Authority for information collection.

* * * * *

(d) The information collection requirements contained in 30 CFR 251.11 and 251.12 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) and assigned clearance number 1010–0034. The information is being collected for regulatory compliance. This information will be used to inspect and select geological and geophysical data and information collected under a Federal permit offshore. The obligation to respond is mandatory under section 26 of the Outer Continental Shelf Lands Act (43 U.S.C. 1352).

2. Section 251.11 is amended by revising paragraph (a) as follows:

§ 251.11 Inspection, selection, and submission of geological information and data.

(a) Each holder of a permit for geological exploration activities for mineral resources or scientific research shall notify the Director in writing within 30 days of the acquisition, initial analysis, and initial interpretation of any geological information and data collected under the permit. Within 30 days following the receipt of the Director's request for notice of any subsequent analysis and interpretation of that geological information or data, the permittee shall submit notice of the availability of that information in writing.

* * * * *

3. Section 251.12 is amended by revising paragraph (a) as follows:

§ 251.12 Inspection, selection, and submission of geophysical information and data.

(a) Each holder of a permit for geophysical exploration activities for mineral resources or scientific research shall notify the Director in writing within 30 days of the acquisition, initial processing, and initial interpretation of any geophysical information and data collected under the permit. Within 30 days following the receipt of the Director's request for notice of any reprocessing or subsequent interpretation of that geophysical information or data, the permittee shall submit notice of the availability of that information in writing.

* * * * *

(43 U.S.C. 1334)

[FR Doc. 83-27428 Filed 10-7-83; 8:45 am]
BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Extension of Deadline for Satisfaction of Conditions of Approval of the Ohio Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the Secretary of the Interior's decision to extend certain conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The conditions concern bond reductions, designs and certifications by experts, revegetation period of responsibility, and procedures governing formal hearings.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION: The Ohio program was conditionally approved effective August 16, 1982. The notice of conditional approval was published August 10, 1982 (47 FR 34688). In that document, the Secretary published a schedule for the State to correct each of the 28 deficiencies contained in 11 conditions—(a), (b), (c), (d), (e), (f)(1)–(f)(10), (g), (h)(1)–(h)(3), (i)(1)–(i)(3), (j) and (k)(1)–(k)(5). In accepting the Secretary's conditional approval, Ohio agreed to correct deficiencies (a), (b), (c), (h)(1) and (k)(1) by August 8, 1983, deficiency (e) by September 16, 1982, and the remaining deficiencies by February 8, 1983.

On January 6, 1983, Ohio submitted materials to OSM intended to satisfy conditions (a), (b), (c), (d), (f), (g), (h), (i), (j), (k)(1) and (k)(2). On January 21, 1983, OSM published notice in the **Federal Register** announcing receipt of these provisions and inviting public comment.

On February 1, 1983, Ohio requested an extension of the deadline for the State to meet conditions (k)(3), (k)(4), and (k)(5). On February 28, 1983, OSM published notice that it was considering modifying the deadline for Ohio to meet those parts of condition (k), and requested public comment.

On May 24, 1983, OSM published a final rule in the **Federal Register** announcing removal of conditions (b), (d), (f)(1)–(f)(6), (f)(8)–(f)(10), (g), (h)(2). (h)(3), (i), (j), (k)(1), and (k)(2); establishment of an August 8, 1983 deadline for Ohio to satisfy conditions (a), (c), (f)(7), (h)(1), (k)(3), (k)(4), and (k)(5); and imposition of two new conditions (l) and (m) which also carried a deadline of August 8, 1983.

On July 26, 1983, the Chief of the Ohio Division of Reclamation wrote to OSM requesting that Ohio be granted an extension of time to meet conditions (c), (f)(7), (h)(1), (k)(3), (k)(4), (k)(5), and (m) of 30 CFR 935.11. The Division has requested a one-year extension to meet conditions (c) and (m). These conditions relate to the design and certification of maps and structures by professional engineers or surveyors and public participation in bond reduction. Both of these conditions will require changes to the Ohio statute. The Ohio General Assembly is in recess and will probably reconvene for only one week in late September 1983. The General Assembly will not reconvene for a full legislative session until January 1984.

The Division requested a six-month extension to meet conditions (f)(7), (k)(3), (k)(4), and (k)(5). These conditions relate to the revegetation period of responsibility and procedures governing formal hearings and each requires a rule change. The Division also requested a six-month extension to meet condition (h)(1), which requires the State to revise its bonding system to provide assurance of more timely reclamation at the site of all operations upon which bond has been forfeited. The State noted in its request that it had made numerous changes and instituted timetables for the reclamation of forfeited areas and would be forwarding a detailed narrative of these changes to OSM for review. The extension was requested to provide sufficient time for OSM to review the narrative and for Ohio to provide whatever additional information is necessary.

On August 12, 1983, OSM published a notice in the **Federal Register** (48 FR 36627) proposing an extension of the deadlines for the State to meet these conditions. Comment was solicited for 30 days ending September 12, 1983.

Public Comment

No comments were received on the proposed extension of the deadlines.

Secretary's Determination

The Secretary has determined that an extension of the deadline for Ohio to satisfy conditions (c), (f)(7), (h)(1), (k)(3), (k)(4), (k)(5), and (m) is warranted. Ohio has agreed as a matter of policy to satisfy the terms of the conditions by complying with the Federal standards until such time as the necessary program amendments can be made and the conditions are removed.

Procedural Matters

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 935 of Title 30 is amended as set forth herein.

Dated: October 4, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 935—OHIO

§ 935.11 [Amended]

1. Section 935.11 is amended in paragraphs (c) and (m) by substituting "August 8, 1984" for "August 8, 1983" each time it appears.

2. Section 935.11 is amended in paragraphs (f)(7), (h)(1), (k)(3), (k)(4) and (k)(5) by substituting "February 8, 1984" for "August 8, 1983" each time it appears.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

[FR Doc. 83–27561 Filed 10–7–83; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 946

Permanent State Regulatory Program of Virginia; Preemption of Certain Provisions of State Law and Regulations; Removal of Condition of State Program Approval

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 946 to (1) preempt and supersede specific provisions of Virginia's law and regulations concerning the two-acre exemption from regulation of surface coal mining operations under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and (2) remove condition (r) pertaining to coal haul roads of the Secretary of the Interior's approval of the Virginia permanent regulatory program under SMCRA.

The first action is being taken because the Secretary has determined that the provisions are inconsistent with SMCRA, the federal regulations, and the Virginia program.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Cox, Big Stone Gap Field Office, Office of Surface Mining, P.O. Box 626, Big Stone Gap, Virginia 24219; Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION: On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program subject to the correction of nineteen minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1981 **Federal Register** (46 FR 61088–61115). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 **Federal Register**.

Background

For the reader's information concerning the following, Chapter 19 of the Code of Virginia refers to the Virginia permanent regulatory program approved by the Secretary on December 15, 1981. Chapter 23 of the Code of Virginia refers to the State's provisions reinstating reclamation controls on surface mining operations of less than two acres.

One of the minor conditions of the approval imposed by the Secretary was as follows:

> Condition (r) requires Virginia to submit a copy of a revised policy statement or otherwise amend its program to make its coal haul roads policy consistent with the Federal requirements.

Pursuant to the Secretary's decision, the condition was due to be satisfied by February 15, 1982. On January 28, 1982, the State requested an extension of the condition deadline until April 1, 1982, primarily because a bill, which would reinstate reclamation controls on surface mining operations of less than two acres, was pending before the Virginia General Assembly (Administrative Record No. VA 376). On February 3, 1982, OSM published a proposed rule to extend the condition deadline until April 1, 1982 (47 FR 5013). On February 24, 1982, the Assistant Secretary of the Interior for Energy and Minerals, published a final rule extending the condition date to April 1, 1982 (47 FR 8008). Following receipt of a copy of the bill (Virginia House Bill 123), the Director, OSM, on February 19, 1982, provided the State with comments and recommendations concerning specific provisions of the draft legislation (Administrative Record No. VA 380).

On March 31, 1982, Virginia submitted a letter describing the actions which had been undertaken and would be taken by the Commonwealth to resolve condition (r) (Administrative Record No. VA 383). First, Virginia stated that the General Assembly had enacted a bill that would repeal a section of the Code of Virginia allowing deeding of haul roads to counties. Second, Virginia pointed to draft regulations for coal haul road performance standards it proposed to adopt as State regulations. Finally, Virginia stated that the Virginia General Assembly had enacted H.B. 123 which, upon signature by the Governor, would become effective July 1, 1982. On April 26, 1982, OSM published a notice of receipt of the proposed amendments, a public comment period and opportunity for public hearing (47 FR 17827).

On July 9, 1982, the State submitted the enacted provisions cited in its March 31, 1982, letter (Administrative Record No. VA 400). On July 23, 1982, OSM reopened the public comment period for these amendments (47 FR 31897). On August 19, 1982, at 47 FR 36127, the Director, OSM, published a notice approving the State program amendments concerning the State's regulations for coal haul road performance standards and the legislative change to end the deeding of haul roads to counties. However, the Director postponed action on two proposed program modifications consisting of enacted legislation (Chapter 23, Title 45.1 of the Virginia Code, formerly H.B. 123) and proposed draft regulations to implement Chapter 23 until Federal regulations relating to the two-acre exemption were effective. Therefore, the Director stated no decision was being made on either of the above proposed amendments or on the overall adequacy of all the modifications submitted by Virginia on March 31, 1982, to satisfy condition (r).

On September 29, 1982, following a preliminary review of Virginia's Chapter 23, OSM sent a letter to Virginia providing its tentative review of Chapter 23 (Administrative Record No. VA 430). The Director provided this letter because he believed the revised Federal two-acre exemption rule published August 2, 1982 (47 FR 33424), in conjunction with other provisions, provided a sufficient standard by which to review Chapter 23. Also, if legislative changes were necessary to Chapter 23, the Director wanted to provide Virginia with timely comment so that the Virginia Legislature in its early 1983 session could address possible changes to Chapter 23. On October 14, 1982, OSM published a notice reopening the public comment period to allow the public an opportunity to comment on the Director's letter of September 29, 1982 (47 FR 45886). On November 1, 1982, Virginia responded to the points raised in the Director's letter of September 29, 1982 (Administrative Record No. VA 435).

On April 22, 1983, OSM published a final rule in the **Federal Register** disapproving Sections 45.1–364.A.1, 45.1–364.A.3 and 45.1–364.A.4 of Chapter 23 of the Code of Virginia; and Sections 3.01(a)(1), 3.01(a)(5) and 3.01(a)(4) of the Virginia Coal Surface Mining Reclamation Regulations for Operations Disturbing Two Surface Acres or Less (48 FR 17558). Also, on April 22, OSM published a notice of proposed rulemaking in the **Federal Register** concerning: 1) the proposed action to supersede and to preempt the above sections of Chapter 23 and its implementing regulations and 2) the removal of condition (r) of the Secretary's approval of the Virginia program (48 FR 17562). The public was invited to comment on the proposed actions for 30 days. The public comment period ended May 23, 1983.

Findings

1. Federal Preemption

Pursuant to Section 505(b) of SMCRA and 30 CFR 730.11(a), the Secretary is preempting and superseding the following provisions of Chapter 23 of the Code of Virginia and implementing regulations thereunder. This action is being taken because the Secretary has determined that these provisions are inconsistent with SMCRA, the Federal regulations at 30 CFR 700.11 and 701.5, and the permanent regulatory program administered by Virginia under Chapter 19 of the Code of Virginia.

Section 45.1–364.A.1, Code of Virginia; Section 3.01(a)(1), Virginia Regulations

This section prescribes when operations are deemed under common ownership or control and treated as a single operation, for the purpose of determining the affected area of a coal surface mining operation.

The complete text of Section 45.1–364.A.1 is as follows:

> *§ 45.1–364. Applicability.*—A. Coal mining operations which affect two surface acres or less shall be regulated under the provisions of this chapter. In determining the affected area for the purpose of this chapter and Chapter 19 (§ 45.1–226 *et seq.*) of this title, the following criteria shall apply:
>
> 1. Two or more contiguous coal mining operations, the total combined surface area of which exceeds two acres and which are owned or controlled by the same operator, shall be deemed a single operation affecting more than two surface acres and subject to the applicable provisions of Chapter 19 of this title. The fact that a haul road connects two or more operations shall not make them contiguous.

The complete text of Section 3.01(a)(1) of the Virginia Coal Surface Mining Reclamation Regulations for Operations Disturbing Two Surface Acres or Less is as follows:

> 3.01 Permit Acreage Computation. (a) The criteria listed below shall be used to determine the coal surface mining activities qualifying for the "two acre" exemption and those subject to Chapter 19, Title 45.1 of the Code of Virginia.
>
> (1) Two or more contiguous operations, the total area of which exceeds two acres and which are owned or controlled by the same operator, shall be deemed a single operation subject to applicable provisions of Chapter 19, Title 45.1 of the Code of Virginia.

The Secretary finds these sections to be inconsistent with the Federal regulations because of Virginia's phrase "owned or controlled by the same operator." The revised Federal regulations at 30 CFR 700.11(b)(2)(ii) provide one of the three tests for physical relatedness. Section 700.11(b)(2)(ii) states that operations are deemed under common ownership or control if they are owned or controlled, directly or indirectly, by or on behalf of (1) the same person; (2) two or more persons, one of whom controls, is under control with, or is controlled by the other; or (3) members of the same family and their relatives, unless it is established that there is no direct or indirect business relationship between or among them. The revised regulations go on to define what "control" means. The Secretary has determined that Virginia's phrase "owned or controlled by the same operator," is not consistent with the categories of persons contained in the Federal provisions cited above.

Section 45.1–364.A.3, Code of Virginia; Section 3.01(a)(5), Virginia Regulations

This section prescribes when a road should be included in the affected area of an operation.

The complete text of Section 45.1–364.A.3 of Chapter 23 is as follows:

> 3. Roads permitted to another operator will not be included in acreage calculation.

The complete text of Section 3.01(a)(5) of the Virginia two surface acres or less regulations is as follows:

> (5) Haul roads not exempted by Section 2.02(p) of these regulations shall be included in the acreage calculations, provided they are not permitted to another operator.

Section 45.1–364.A.3 of Chapter 23 states that roads permitted to another operator will not be included in acreage calculation. The revised Federal regulations at 30 CFR 700.11(b)(1) provide that, where a segment of a road is used for access or coal haulage by more than one surface coal mining operation, the entire segment shall be included in the affected area of each of those operations, provided that two or more operations which are deemed related shall be considered as one operation.

In issuing its revised Federal rule, OSM rejected the idea of allocating the road to the first operator with the right to permit the road because it could lead to abuse of the exemption. Such a concept would allow one operator to include the road in its affected area; then a whole series of different operations along the road which in fact "affect" the road would be able to exclude the road for purposes of calculating the two-acre exemption. Therefore, the Secretary finds that the criterion set forth by Virginia is inconsistent with the Federal provision.

It should be noted that the alternative selected by OSM will not require double bonding or double permitting of any segment of a road. The attribution to more than one operation of a segment of a road is done solely for purposes of determining the size of the affected area. Only one operation at a time is required to actually permit or bond any segment of such a road.

Section 45.1–364.A.4

This section prescribes when surface areas above underground mine workings will be included in the affected area.

The complete text of § 45.1–364.A.4 of Chapter 23 is as follows:

> 4. Surface areas above underground coal mine workings shall not be included in the affected area, provided that such surface area is not likely to be substantially adversely impacted by subsidence or disturbed by other mining related activities.

The complete text of § 3.01(a)(4) of the Virginia two surface acres or less regulations is as follows:

> (4) Surface area above underground coal mine workings shall not be used in calculating acreage under this Section, provided that the surface area is not likely to be substantially adversely impacted by subsidence or disturbed by other mining related activities.

This section of Chapter 23 states that the surface area above underground workings shall not be used to calculate the affected area unless the surface area is likely to be "substantially adversely" impacted by subsidence or disturbed by other mining related activities. The use of the term "substantially adversely" implies that some surface impact could occur and that the impacted area nevertheless would not be included in the affected area. The Secretary finds that this section of Chapter 23 is inconsistent with 30 CFR 701.5 and that it conflicts with the definition of 'affected area' contained in the Virginia permanent program regulations pursuant to Chapters 19, which has been approved by the Secretary of the Interior. The Virginia definition of "affected area" at V701.5 of Virginia's regulations states: "With respect to underground mining operations, "affected area" means: (i) any water or surface land upon or in which those activities are conducted or located; and (ii) land or water area, which is located above underground mine workings."

The Secretary finds that Chapter 19 and 23 must be consistent since a single determination of eligibility for the two acre exemption must be made. In this section, Virginia's approach seems to be that the eligibility determination is made under Chapter 23; its Chapter 23 purports to amend the Chapter 19 definition of "affected area". This is an improper attempt to unilaterally amend

VOL
48
ISS
1
9
7
OC
11
1983
UMI

Chapter 19; the approved Chapter 19 provisions must be used to determine whether any operation could qualify for exemption from regulation under Chapter 19.

Effect of Secretory's Decision

It is generally not necessary to use section 505 of SMCRA or 30 CFR 730.11(a) with regard to proposed amendments to approved State regulatory programs because 30 CFR 732.17(g) provides that "No such change to laws or regulations shall take effect for purposes of a State program until approved as an amendment." Without Secretarial approval, therefore, the Virginia statutory and regulatory changes have not become effective, and section 505 thus would not apply.

In this instance, however, the Commonwealth of Virginia has actually implemented unapproved statutory and regulatory changes and has raised section 505 in court pleadings. The Commonwealth appears to contend that its changes have become effective and that section 505 is applicable. The Commonwealth has placed certain operators in an untenable position because the provisions disapproved in the April 22, 1983 **Federal Register** notice (48 FR 17558) are ineffective as a matter of Federal law and, according to the Commonwealth, effective as a matter of State law. This situation also is unusual in that Virginia's Chapter 23 contains provisions which conflict with Federal law as well as provisions which go beyond and do not conflict with Federal law.

Therefore, to avoid any doubt whatsoever concerning the Secretary's intentions in this unusual and significant matter, and because the Secretary has determined that the following State laws and regulations are inconsistent with SMCRA and its implementing regulations, the Secretary, pursuant to section 505 of SMCRA and 30 CFR 730.11(a), preempts and supersedes Sections 45.1–364.A.1, 45.1–364.A.3 and 45.1–364.A.4 of Chapter 23 of the Code of Virginia and Sections 3.01(a)(1), 3.01(a)(5), and 3.01(a)(4) of the Virginia Coal Surface Mining Reclamation Regulations for Operations Disturbing Two Surface Acres or Less.

2. Removal of Condition (r)

Inasmuch as the Director, OSM, disapproved, and now, the Secretary has preempted the above-cited provisions of Chapter 23 of the Code of Virginia and their implementing regulations and inasmuch as two previous State program amendments consisting of Virginia regulations for coal haul road performance standards and of a statutory change to end the deeding of haul roads to counties have been approved (August 19, 1982 at 47 FR 36127), the Secretary finds that condition (r) of the approval of the Virginia permanent program has been satisfied.

The Secretary finds that those provisions of Chapter 23 and its implementing regulations not determined to be inconsistent with SMCRA and the Federal regulations, taken together with the two amendments previously approved, satisfy the haul roads policy required by the Secretary in his December 15, 1981, approval of the Virginia program. Specifically, Virginia has adopted in its regulations for two surface acres of less the following definition of "public road" at Section 2.02(p):

> (p) Public Road—For the purpose of this chapter, a road will be considered a public road and exempt from permit acreage computations under Section 3.01 of these regulations when:
>
> (1) The road has been duly established as a public road according to the laws of the jurisdiction in which it is located;
>
> (2) There is a substantial (more than incidental) public use of the road;
>
> (3) The road is actually maintained with public funds in a manner similar to other public roads in the vicinity; and
>
> (4) The county within which the road is located has performance standards at least as stringent as the applicable minimum standards as stated in the Coal Surface Mining Reclamation Regulations adopted pursuant to Chapter 19, Title 45.1 of the Code of Virginia.

The Secretary finds this definition of "public road" to be almost verbatim to the revised policy statement which the Secretary required Virginia to adopt in his December 15, 1980, approval. See 46 FR 61100, December 15, 1981.

Public Comment

The Virginia Department of Conservation and Economic Development (DCED), the State regulatory authority, commented that it does not have any record of having proposed Chapter 23 as a formal amendment to the Virginia permanent regulatory program.

The Secretary disagrees that Virginia did not submit Chapter 23 as a State program amendment. On January 28, 1982, in its request to extend the deadline for satisfying condition (r), Virginia stated that one of the reasons for the extension pertained to a bill pending before the Virginia General Assembly, known as H.B. 123, which proposed to reinstitute reclamation controls on surface mining operations of less than two acres (Administrative Record No. VA 376). On March 23, 1982, Virginia submitted a letter to OSM which stated that since the Virginia General Assembly had adjourned, "we are in a position to propose what we believe to be a satisfactory solution to the problems which gave rise to 'Condition r'. Accordingly, I enclose for your review the following: 1. House Bill 123 * * *" (Administrative Record No. VA 381). In addition, on March 31, 1982, Virginia submitted a letter to OSM which again referred to three important pieces of documentation including H.B. 123, which the Commonwealth believed upon their becoming effective would satisfy "Condition r" (Administrative Record No. VA 383).

The Virginia DCED recommended that administrative actions on this matter be deferred until current litigation between OSM and Virginia relative to the issues is decided in a court of law. The Secretary has elected to take final action on this matter at this time without awaiting the results of current litigation. The Secretary believes that he is within his authority pursuant to SMCRA and that it is his responsibility to expeditiously and to finally resolve the ambiguities that have lasted too long relative to the two-acre exemption problem in Virginia. Furthermore, the action will itself resolve many issues in the litigation, and thus simplify adjudication of the matter.

The DCED commented that Virginia's Chapter 23 program does not fall under the Secretary's authority under section 503 of SMCRA since two acre or less operations are exempt from SMCRA's requirements and thus the Secretary's jurisdiction. The Secretary acknowledges that the Chapter 23 program to the extent that it does not conflict with the Federal provisions, is not subject to his authority under SMCRA to the extent that it regulates truly exempt operations. However, the Secretary has the authority and the responsibility to determine the scope of the exemption and to judge the adequacy of State program provisions to ascertain if they are consistent with his standards for determining which operations shall be exempt under section 528 of SMCRA.

The Virginia DCED commented that Chapter 23, Title 45.1 of the Code of Virginia and the regulations promulgated thereunder are proper, within the scope of State authority under section 505(b) of SMCRA, and have, in fact, initiated controls on a problem which OSM has been unable (due to lack of jurisdiction) to control. As to the first two points made by the commenter pertaining to Chapter 23 and its implementing regulations being proper and within the scope of State authority under section 505(b) of SMCRA, the Secretary refers the commenter to the discussion above listed as "Effect of Secretary's Decision." As to the third point concerning Virginia's having initiated controls on a problem which OSM has been unable to control, the Secretary commends the Commonwealth for taking action to protect the environment. The Secretary believes that the Chapter 23 program, less the provisions disapproved and set aside, in conjunction with the State's coal haul road performance standards and with the end of the practice of deeding coal haul roads to counties, will finally establish the programmatic requirements that coal operators in Virginia must meet.

This final rule is being made effective immediately so that operators in Virginia are freed from apparently conflicting State and Federal requirements as expeditiously as possible.

Additionol Determinotions

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relation, Surface mining, Underground mining.

Accordingly, Part 946 of Title 30 is amended as set forth herein.

Dated: September 29, 1983.

W. P. Pendley,

Deputy Assistant secretary for Energy and Minerals.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

PART 946—VIRGINIA

1. 30 CFR 946.11 is amended to remove and reserve paragraph (r) to read as follows:

§ 946.11 Conditions of State regulatory program approval.

* * * * *

(r) [Reserved]

* * * * *

2. Part 946 is amended by adding a new § 946.13 as set forth below.

§ 946.13 State program provisions set aside.

Section 45.1–363.A.1, 45.1–364.A3 and 45.1–364.A.4 of Chapter 23 of the Code of Virginia; and 3.01(a)(1), 3.01(a)(5) and 3.01(a)(4) of the Virginia Coal Surface Mining and Reclamation Regulations for Operations Disturbing Two Surface Acres or Less are inconsistent with Federal provisions for two-acre exemption and are set aside under the provisions of section 505(b) of the Surface Mining Control and Reclamation Act of 1977.

* * * * *

[FR Doc. 83–27446 Filed 10–7–83; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 111

Bundling and Palletizing Second, Third-and Fourth-Class Bulk Mailings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule modifies regulations governing use of bundles and pallets when preparing second, third, and fourth-class bulk mailings. The following changes are made:

1. The former regulations governing placement of packages of second and third-class bulk mail on pallets are deleted, and specific provisions are added governing the placement of bundles, packages, and sacks on pallets. These new regulations prescribe new presort destinations for pallets and include provisions for mailers to take greater advantage of presort level rate discounts. They also do not permit placement of State Distribution Center (SDC), State and Mixed States packages or bundles on pallets.

2. The provisions for preparing bedloaded bundles of second and third-class mail are modified to delete references to bundles placed on pallets and to modify bundle label requirements, bundle securing methods, and the machinability requirements for bundles.

3. Regulations concerning physical characteristics of pallets, pallet labels and methods of securing pallets are added to fourth-class bulk bound printed matter regulations.

4. Application procedures for all bundling and palletizing requests are modified to require the mailer to submit applications directly to the Regional Postmaster General of the region in which the mailer is located. Furthermore, authorizations will be granted for a specific period of time, not to exceed two years.

5. A package is defined as a group of pieces that are secured together as one unit.

6. A bundle is a group of two or more packages that are prepared as one unit.

EFFECTIVE DATE: November 10, 1983.

FOR FURTHER INFORMATION CONTACT: Ernest Collins, 202/245–4749.

SUPPLEMENTARY INFORMATION: On March 24, 1983, the Postal Service published for comment in the **Federal Register** proposed changes to Parts 467, 667 and 767 of the Domestic Mail Manual (DMM) concerning the matters as described above, 48 FR 12401–12406. Interested persons were invited to submit written comments concerning the proposed changes by April 23, 1983.

Written comments were received from 52 individuals and organizations. Forty-five of the comments were from individual commercial mailers (including mail preparation companies), and seven were from associations representing second or third-class mailers.

The majority of the comments concerned the new regulations for placing bundles on pallets. A summary of these comments follows.

Twenty-four commenters expressed support for these regulations. Two commenters particularly appreciated the provision that bundles were charged presort level rates independent of the destination of the pallet on which they are placed. Two commenters expressed approval of the changes in the application procedures. One commenter was glad to see the addition of requirements for labeling pallets containing fourth-class bulk bound printed matter.

VOL
48
ISS
1
9
7
OC
11
1983
UMI

Twenty-two commenters objected to the requirement to consolidate packages into bundles. They indicated this would require adding a manual operation to their automated bindery lines. Four of these commenters suggested this requirement be made an option rather than a requirement. Five of these commenters believed the number of small bundles on pallets can be kept to a minimum by enforcement of certain criteria in the regulations dealing with the number of bundles in relation to the number of sacks that would have been prepared. The final rule makes consolidation of packages into bundles on the same basis as sacks an option. However, mailers will be required to prepare packages for like destinations (i.e., carrier packages for the same carrier route, 5-digit packages for the same 5-digit ZIP Code, 3-digit packages for the same 3-digit ZIP Code, etc.) into single packages weighing up to 20 pounds wherever possible.

Thirteen commenters said the 25 pound requirement for bundles should be reduced because 25 pound bundles would be too cumbersome to handle and to securely tie. The final rule reduces the maximum weight for palletized packages or bundles to 20 pounds.

Three commenters wanted the 25 pound limit in the proposed rule increased to 40 pounds, since a 25 pound limit would force them to prepare more bundles. Mailers who bedload bundles may continue to prepare bundles weighing up to 40 pounds. Palletized packages or bundles may not exceed 20 pounds.

Five commenters requested the Postal Service to eliminate or modify the requirement to shrink wrap bundles on Bulk Mail Center (BMC) pallets and to eliminate the requirement for heavy gauge shrink wrap because mailers' equipment costs will be greater and there are other means of ensuring the integrity of a bundle, such as top and bottom protective covers, grocery sacks, and strong lighter wrapping material. Packages or bundles on BMC pallets must be machinable in order to be processed on parcel sorters. The Postal Service believes shrink wrap is necessary to make packages or bundles machinable. In addition, it recommends that each package or bundle be banded once around the length and once around the girth. As new products are produced, the Postal Service may consider allowing mailers to use them to secure bundles if tests show the products will secure bundles during transit within the Postal Service.

Three commenters thought the final rule should allow machinable firm bundles on pallets and should allow cardboard boxes because the mailer currently mails copies of a second-class publication in cardboard cartons. The final rule allows mailers to put firm packages or bundles and cardboard cartons on pallets. Cardboard cartons and firm packages or bundles on BMC pallets must be machinable.

One commenter said the 10 piece minimum for heavy third-class publications should be reduced as long as the bundle is machinable. The final rule specifies that when there are 15 or more pounds of mail for a destination 15 pound packages or bundles must be prepared, and no package or bundle may weigh more than 20 pounds. When there are 15 pounds or less of mail for a destination, the pieces must be secured together in a single package. Since third-class mail must weigh less than one pound, mailers should not experience difficulties preparing 15 pound bundles, when volume dictates.

Thirty-two commenters said the Postal Service should eliminate the facing slip labeling requirements for bundles because it would require a manual operation and because facing slips could cause confusion for the BMC keying operation. To be classified as a bundle, two or more packages must be inside it. The final rule requires a facing slip on all bundles, regardless of the types of pallets they are on. In addition, all packages other than carrier route and 5-digit packages must have a facing slip if they are on BMC pallets. Facing slips are important because the destination of the package or bundle can be determined faster during sortation within the Postal Service.

Five commenters requested that the Postal Service allow mailers to use the optional endorsement line as a bundle label, presumably to reduce manual operations; change the location of the optional endorsement line to the line above the city, state, and ZIP Code; and show the destination and ZIP Code as in sack labels rather than "5-digit," "Mixed City," "3-digit," etc. These comments go beyond the scope of the proposed rule and are not considered at this time.

Two commenters want the option of using the red label D for 5-digit packages. A 5-digit package may be labeled with the optional endorsement line, or the red label D, regardless of the type of pallet it is placed on.

Two commenters said the Postal Service should eliminate the requirement to add zeros to the 3-digit ZIP Code prefix destination for bundles placed on BMC pallets. They said the zeros are just "make work" and cause confusion and internal problems for mailers and the Postal Service. Facing slips on 3-digit packages placed on BMC pallets, and on all 3-digit bundles containing packages for levels of sortation finer than the bundle's destination, regardless of the type of pallet it is placed on, must have two zeros after the 3-digit ZIP Code prefix because the zeros facilitate processing on BMC parcel sorters.

One commenter wanted to put extraneous information, such as requested delivery dates, on facing slips presumably to convey information or instructions. The Postal Service believes no extraneous information should be put on facing slips. Such information could cause confusion or obscure the destination of the package or bundle.

One commenter requested the Postal Service to distribute carrier route pressure-sensitive package labels as an aid for recognizing carrier route packages within a bundle. The Postal Service believes a carrier route pressure-sensitive package lable is not necessary at this time, since the package lable on the top piece in the package is sufficient to direct the bundle to its proper destination.

Six commenters requested that the authorization procedures be changed. The suggestions included having Management Sectional Center Managers and the Postal Service Headquarters approve the applications because it would eliminate "red tape" when the bulk of the mailing destinates within the local area. The commenters asked that the final rule specify whether the publisher or the mailer is to apply, and whether the request is for a specific publication or a job. The final rule specifies that the Regional Postmaster General will approve or deny the applications. This will help ensure that all mailers are treated the same. The approving Regional Postmaster General will notify the other regions of the approval. The final rule also specifies that the mailer is to submit applications for the client.

Ten commenters requested that the final rule permit third-class 5-digit mailings and third-class carrier route mailings on the same pallet to reduce the number of pallets required for mailings. A 5-digit third-class mailing and a carrier route third-class mailing may not be put on the same pallet, since the mail preparation (including endorsement) and qualification requirements are not the same for these two categories of mail. The qualifying third-class 5-digit portion of a mailing and its residual (basic rate) portion of that mailing may be on the same pallet. The qualifying carrier route third-class portion of a mailing and the residual (basic rate) portion of that mailing may be on the same pallet.

Five commenters thought the Postal Service should allow the combining of more than one second-class publication on the same pallet presumably so that more mailings can qualify for the palletization program. The Postal Service will allow the combining of more than one second-class publication on a pallet.

Five commenters wanted the requirements for bundle to sack ratios changed to allow a greater number of bundles in proportion to the number of sacks. The Postal Service believes the package/bundle to sack ratio requirement in the final rule is reasonable because it gives mailers some flexibility in preparing their mailings without inundating the Postal Service with small bundles and packages, which would not be cost effective for the Postal Service.

Five commenters saw no reason to put physical barrier sheets between packages and bundles when different presort level rate pieces are put on a pallet because it would increase mailers' costs and create more waste materials for the Postal Service. For 5-digit pallets only, the Postal Service has determined that the physical barrier sheet is necessary to facilitate distributing packages and bundles at the pallet's destination.

Two other commenters wanted the Postal Service to eliminate the requirement to place 5-digit level rate bundles next to each other on a pallet. They said all 5-digit bundles are not of equal size, and, therefore, being required to put them next to each other could result in a wobbly, uneven pallet. The Postal Service eliminated this requirement. However, the final rule requires mailers to put a physical barrier sheet between different presort level rate packages and bundles on a 5-digit pallet.

Two commenters requested that the final rule permit SDC, state, and mixed states bundles on pallets. The Postal Service does not believe it would be cost effective to allow SDC, state, and mixed states bundles on pallets.

One commenter thought the final rule should require mailers to put bundles on pallets in a uniform "around the pallet" pattern in ZIP Code sequence so that unloading could take place in relatively proper ZIP Code sequence. The Postal Service believes such a requirement would be an unnecessary burden for mailers.

Several commenters believed 5-digit and 3-digit pallets should be optional because it may not be economically feasible to prepare 5-digit pallets in every instance where there are 650 pounds of mail for the same 5-digit destination particularly if several editions are produced on different lines at different times. The Postal Service believes mailers should be required to prepare 5-digit and 3-digit pallets if there are at least 650 pounds of mail for a 5-digit or a 3-digit ZIP Code destination, because it eliminates many package and bundle handlings.

One commenter said the final rule should include the preparation of origin BMC pallets to encourage smaller mailers to participate in the pallet and bundling program. Origin BMC pallets may not be prepared because processing would be required at both origin and destination BMC's.

Another commenter said the final rule should permit mailers to put second-class mail receiving newspaper treatment on BMC pallets. Since second-class mail receiving newspaper treatment is not processed in the BMC system, it would delay delivery and increase processing costs to route them through BMC's. Accordingly, the final rule does not allow mailers to put second-class newspapers on BMC pallets.

Four commenters requested that the 650 pound minimum for preparing pallets be reduced since mailings of lightweight materials may not qualify for palletization. The Postal Service believes the 650 pound minimum is cost effective for the Postal Service and most mailers. However, the final rule allows for up to 10 percent of the pallets in a mailing to weigh less than 650 pounds if the mailer provides the pallets.

Two commenters urged the Postal Service to eliminate the requirement for sorting bundles and sacks to 3-digit destinations when there is a minimum of 650 pounds for the destination, and put the mail on a Sectional Center Facility (SCF) pallet in order to reduce the number of pallets required for the mailing. The Postal Service declines to do so in view of the increased processing costs this would entail for the Postal Service.

Several commenters requested that the final rule permit them to put an edition code on a pallet label to identify the edition. Mailers will be permitted to put an edition code on a pallet label provided it is below the city and state of mailing.

Three commenters wanted to use red or pink pallet labels when second-class publications that are authorized newspaper treatment are palletized. Currently, some publishers of publications authorized newspaper treatment use pink sack labels. The Postal Service believes the endorsement "NEWS" on the second line of the pallet label is sufficient. Mailers may also put a placard on the top of a pallet to indicate the contents are authorized to be handled as newspapers. The Postal Service does not plan to prevent publishers from using pink or red pallet labels for publications authorized newspaper treatment provided the printed information on the label is legible.

One commenter thought the final rule should require mailers to put three pallet labels on each pallet, presumably to make it easier to determine a pallet's destination. The final rule requires two pallet labels on adjacent sides of the pallet. As long as all pallet labels on a pallet bear the same information a mailer may put more than two labels on a pallet.

Three commenters said they should not have to provide pallets if the volume of mail on the pallet weights less than 650 pounds for ease of administration. Since mailers will be permitted to prepare 5-digit, optional multi-coded city, 3-digit, SCF and BMC pallets (third-class and ordinary second-class), the Postal Service believes there will be very few instances where mailers will be required to prepare pallets containing less than 650 pounds of mail.

Three commenters requested an explanation of how the pallet supply system works, plus assurances that sufficient pallets will be available. The workings of the pallet supply system is outside the scope of this rule. As to the second point, the Postal Service believes the bundle/sack ratio requirement for palletizing bundles will help to ensure that sufficient pallets will be available.

Three commenters requested a modification of the requirement for palletized sacks to have top caps because it would be too costly, and copies on the bottom pallet could be mutilated if pallets of mail were stacked. The Postal Service believes the top cap is essential, because it will help stabilize the sacks during transit and while pallets are being transferred from one vehicle to another, and will allow mailers to put more sacks on a pallet.

One commenter thought the Postal Service should increase the use of nestable pallets because they enhance the utilization of space. The Postal Service will be purchasing nestable pallets. The final rule does not require mailers to use nestable pallets, although they may purchase them and use them.

One commenter requested that the Postal Service should eliminate the requirement to shrink wrap pallets. The final rule requires mailers to stretch wrap pallets. Stretch wrapping helps to

stabilize packages, bundles and sacks during transit and while pallets are being transferred from one vehicle to another.

One commenter urged an increase in the maximum weight for a pallet from 2,000 to 2,300 pounds for optimum loading efficiency. The Postal Service's material handling equipment is designed to safely handle loads up to 2,000 pounds. Accordingly, we cannot exceed that limit.

One commenter asked the Postal Service to define the specifications for top caps and to define what is meant by "prepared to maintain integrity." "Prepared to maintain integrity" means the top cap must be designed and secured in a manner to keep the pallet's contents on the pallet during transit and handling at postal facilities. Top caps must be made of wood and are required to be the same size as the pallet, 48 inches by 40 inches.

One commenter thought the postal service should increase the size of pallets to reflect capacities of wider vans presumably to afford better utilization of vans. The final rule specifies that pallets must measure 48 inches by 40 inches. The Postal service wants to handle one size pallet and believes the 48 by 40 inch pallet is used most by mailers.

One commenter said the final rule should include a prescribed height from floor measurement in the physical characteristics of pallets to maximize safe hauling. The Postal Service believes it is sufficient to specify that pallets must be designed to accept loads up to 65 cubic feet.

One commenter requested that the language of the rule be simplified. The commenter also suggested that there should be an exhibit showing package/bundle/pallet make-up requirements. Considering the technical nature of the subject matter, we believe the language in the final rule is easy to understand for most mailers that use pallets. We are taking the exhibit suggestion under advisement.

Two commenters were confused about the minimum and maximum sizes for bundles. It appears they confused the requirements for bedloaded bundles with those for palletized bundles. The requirements are different. Palletized bundles and packages may not weigh more than 20 pounds. Bedloaded bundles must weigh at least 20 pounds or equal 1,000 cubic inches in volume and must not weigh more than 40 pounds.

One commenter requested a clarification of the requirements for preparing a 3-digit sack/bundle label. The final rule prescribes how 3-digit sacks and packages or bundles must be labeled.

Six commenters requested that the meaning of bundle and package be clarified. A package is a group of pieces that are secured together as one unit. A bundle is a group of two or more packages that are prepared as one unit.

Two commenters requested a discount for bundling and palletizing mailings to offset mailers' costs. This is a rate comment that goes beyond the scope of the proposed rule. Mailers should determine which method of mail preparation is most effective and prepare their mailings accordingly.

One commenter wanted the Postal Service to arrange plant loads so that the same van could pick up more than one mailer's mail to generate full van loads. While this comment is outside the scope of the proposed rule, the Postal Service will consider it.

One commenter believed the Postal Service should eliminate the use of sacks for second- and third-class magazines because of various cost considerations and because sacks provide a place for losing mail. Although this comment goes beyond the scope of the proposed rule, the Postal Service believes mailers should have the option of using sacks.

One commenter said the Postal Service should develop a national definition for a machinable parcel. Section 128.4, Domestic Mail Manual, already defines machinable parcels.

One commenter said the Postal Service should allow mailers to claim a lower per piece rate for as few as six copies of a second-class publication if the copies are packaged and bedloaded since mailers may sack only six copies of a second-class publication. The final rule specifies that bedloaded packages or bundles must weigh at least 20 pounds. The Postal Service believes it would not be cost effective to permit bedloaded packages or bundles containing six copies of a second-class publication.

For the above reasons, and after careful consideration of all the comments, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Federal Register. See 39 CFR 111.1

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

Part 467—Presort Requirements

Amend 467.1 and 467.3 and add new 467.2 to read as follows:

467.1 Bundling Instead of Sacking (Bedloading Bundles).

.11 Regional Authorization.

.111 The Regional Postmaster General of the region where the mailer is located may authorize preparation of second-class mail in bundles outside of mail sacks if such preparaton is beneficial to the Postal Service. Generally, authorization will be granted only when the number of bundles does not exceed the number of sacks which would otherwise be used in a mailing. The mailer, on behalf of the publisher, must submit an application to the Regional Postmaster General of the region where the mailer is located for each publication. The following information must be furnished with the application:

a. Name of publication and frequency of mailing;

b. Identity of post offices to which shipments will be made; and

c. Approximate quantity of copies and number of bundles to each office.

If an authorization is granted, mailers must be prepared to submit information for future issues of the publication, such as that required in the original application, at the request of the Regional Postmaster General.

.112 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General to whom the application is submitted will issue to the mailer the authorization of denial of the request to bundle instead of sack the publication for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorizations will be granted for a specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming issue and perform a review of the publication's continued eligibility to bundle instead of sack. Authorizations to bundle instead of sack will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.12 Package Preparation.

.121 Weight and Volume. A package must contain a minimum of two copies of the publication and must not exceed 40 pounds in weight.

.122 Sortation. Mailers must presort copies and secure them into packages as required in 464.2.

.123 Labels. Packages must be labeled in accordance with 464.2.

.13 Bundle Preparation.

.131 Weight and Volume. A bundle must weigh at least 20 pounds or be of at least 1,000 cubic inches of volume. The weight of a bundle must not exceed 40 pounds.

.132 Sortation. Packages prepared in accordance with 467.12 must be consolidated into bundles on the same basis as sacks (see 464.3). A bundle must be prepared when there are 20 or more pounds or 1,000 or more cubic inches of packages for a particular level of sortation. Lesser quantities must be included in bundles for the next larger level of sortation.

.133 Labels. All bundles must be appropriately labeled on top with a non-standard facing slip to show destination, contents and origin as required with sacks (see 467.3). Exception: Carrier route and 5-digit bundles need not bear a facing slip as the package label on the top piece is sufficient to direct the bundle to its proper destination. However, 5-digit bundles that are not labeled using the optinal endorsement line, and that contain the carrier route information in the address area in accordance with 462.24b, must bear a red label D.

.134 Physical Characteristics of Bundles.

a. Non-Local Processing and Delivery. Mailings must be machinable by Postal Service sack-sorting equipment unless they consist of publications intended only for local area delivery (see 467.134b). The mailer must satisfy the Postal Service that mailings are machinable. This can be verified by having the mailing post office test process ten or more bundles of each representative bundle size expected in the mailings on two or more passes through a bulk mail center (BMC). The potential of the bundles to cause damage to other mail must also be tested. Ordinarily, bundles require cross strapping and heavy gauge shrink or stretch wrap to insure their integrity in the mailstream.

b. Local Processing and Delivery. When second-class publications are entered for local processing and delivery (i.e., same Sectional Center Facility area), they need not meet the requirements of 467.134a. However, bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel or damage to mechanized sorting systems. Binding material must be applied at least once around the length and girth. The use of metal strapping and wire to secure bundles is prohibited.

467.2 Packages and Bundles Presented on Pallets.

.21 Regional Authorization.

.211 The Regional Postmaster General of the region where the mailer is located may authorize the preparation of second-class mail in packages and bundles placed on pallets instead of sacking if such preparation is beneficial to the Postal service. A package is a group of pieces that are secured together as one unit. A bundle is a group of two or more packages that are prepared as one unit. Generally, authorization for this type of mail preparation will be granted only when: (1) the number of packages or bundles to be prepared is not more than four times the number of sacks which would otherwise be prepared for material to be placed on 3-digit and SCF pallets, and not more than five times the number of sacks that would otherwise be prepared for material to be placed on 5-digit, optional city, and BMC pallets, and (2) when the amount of mail on each pallet is equivalent to or greater than 30 sacks which would otherwise be prepared. The mailer, on behalf of the publisher, must submit an application to the Regional Postmaster General of the region where the mailer is located for each publication. An application for palletization may be obtained from the region where the mailer is located, and at a minimum will require the following information:

a. The name of the publication, frequency of mailing and approximate mailing dates;

b. A list of the post offices of entry;

c. The approximate weight of a single copy;

d. A breakdown of mail preparation for each entry post office that shows the destination of each pallet to be prepared for the mailings submitted at the postal facility;

e. The approximate number of packages and bundles and pieces for each pallet make-up;

f. The average weight of a pallet load;

g. The approximate number of pallets in the mailing that will weigh less than 650 pounds;

h. The number of sacks that would otherwise be needed in the mailing; and

i. The number of pallets required.

If an authorization is granted, mailers must be prepared to submit information for future issues, such as that required in the original application, at the request of the Regional Postmaster General.

.212 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General to whom the application is submitted will issue to the mailer the authorization or denial of the request to present packages and bundles on pallets instead of sacking the publication for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorization will be granted for a specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming issue and perform a review of the publication's continued eligibility to present packages and bundles on pallets. Authorizations to present packages and bundles on pallets will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.22 Package Preparation.

.221 Weight and Volume. A package must contain a minimum of six copies of the publication and must not exceed 20 pounds in weight. Exception: Packages containing as few as two copies of the publication may be prepared if the packages will be consolidated with other packages into a bundle containing at least six copies of the publication in accordance with 467.23.

.222 Sortation. Mailers must presort copies and secure them into packages as required in 462.22a, 462.22b, 463.21a, 463.22b, 464.21b and 464.22c. When there are more than 15 pounds of mail for a destination, mailers must secure the pieces togeather in multiples of 15 to 20 pound packages. When there are 15 pounds or less of mail for a destination, the pieces must be secured togeather in a single package. For example, if there are 14 pounds of mail for a 5-digit ZIP Code, only one package weighing 14 pounds must be prepared. If there are 25 pounds of mail for a 5-digit ZIP Code, a 15 pound package and a 10 pound package labeled to that 5-digit destination would be acceptable as well as one 20 pound package and one 5 pound package for the same 5-digit ZIP Code destination

Note.—State Distribution Center (SDC), State, and Mixed states packages must not be included in the palletized portion of the mailing. Such packages must be sacked in

accordance with 464.32c, 464.31c and 464.31d. See also 467.25.

.223 Package Labels.

a. Packages on BMC Pallets. All packages that are placed on BMC pallets must be labeled with a facing slip containing only the destination information required for sack labels in 464.31b and 464.32b. Two zeros must be be added to the end of all 3-digit ZIP Code prefixes that may appear on the destination line of the labels. These requirements will assist processing on BMC parcel sorters. Exceptions: Firm packages bearing a blue label F need not bear a facing slip. Carrier route packages labeled with the optional endorsement line or in accordance with 462.24b, need not bear a facing slip. Five-digit packages are also exempted from facing slip requirements if labeled in accordance with 467.223b, below.

b. Other Packages. Packages must be labeled with pressure sensitive labels, or the optional endorsement line as provided in 462.22a, 462.22b, 463.21a, 463.22b, 464.21b, 464.22c and 464.242. Exception: When pressure sensative labels are used, a red label D must appear on 5-digit packages if the pieces in those packages bear the carrier route information as permitted in 462.24b.

.224 Physical Characteristics.

(a) Packages on BMC Pallets. Packages that are placed on BMC pallets must be machinable on BMC parcel sorters and must be prepared using shrink wrap. Since shrink wrap alone may not result in a machinable package, it is recommended that each package be both bonded around the length and girth and shrink wrapped. The mailer must satisfy the Postal Service that the packages are machinable. This will be verified by having the mailing post office test process 10 or more packages of each representative bundle size expected in the mailing on two or more passes through the BMC. The potential of the packages to cause damage to other mail must also be tested while being processed on BMC primary and secondary parcel sorters. Mailers may also use cardboard cartons meeting the packaging criteria in 121 and the machinability criteria in 128 to prepare firm packages.

(b) Other Packages. Packages must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel. The use of heavy gauge shrink wrap over banding is the recommended method of securing packages. However, use of only banding material, or only shrink wrap is acceptable. Banding material, if used, must be applied at least once around the length and once around the girth of each package. The use of metal strapping and wire to secure packages is prohibited. Mailers may also use cardboard cartons meeting the packaging criteria in 121 to prepare firm packages.

.23 Optional Bundle Preparation.

.231 Weight and Volume. Bundles must contain a minimum of two or more packages. The maximum weight of an individual bundle is 20 pounds.

.232 Sortation. Mailers may, at their option, consolidate packages into bundles in the same manner as sacks are prepared. (See 462.31, 463.31a, 463.31b and 464.32a.) Pieces for optional SCF destinations must be prepared into packages only.

Note.—Packages for SDC, State, and Mixed States destinations must not be prepared for inclusion in the palletized portion of a mailing. Packages for these destinations must be sacked in accordance with 464.32c, 464.31c, and 464.31d. See also 467.25.

.233 Bundle Labels.

a. Bundles Placed on BMC Pallets. Except for carrier route and 5-digit bundles, all bundles must be labeled with a facing slip containing only the destination information required for sack labels in 464.31b through 464.32b plus a contents line. Two zeros must be added to the end of all 3-digit ZIP Code prefixes that may appear on the destination line of bundle labels. These requirements will assist processing on BMC parcel sorters. The bundle labels must completely cover the address and package label on the top piece in the bundle to prevent confusion concerning the contents of the bundle.

Note.—5-digit bundles, not labeled with a facing slip, must bear a red label D or the 5-digit optional endorsement line if the pieces in the bundle bear the carrier route information as provided in 462.24b.

b. Other Bundles. Bundles containing packages for levels of sortation finer than the bundle destination must be labeled with a facing slip containing only the destination information required for sack labels in 464.31b through 464.32b plus a contents line. Examples of bundles requiring facing slips are: (1) A carrier routes bundle containing carrier packages for different carrier routes within the same 5-digit ZIP Code area; (2) a 3-digit bundle containing all 5-digit packages for the same 3-digit ZIP Code area; (3) a 3-digit bundle containing a 5-digit package and a 3-digit package for the same 3-digit ZIP Code area.

.234 Physical Characteristics.

a. Bundles on BMC Pallets. Bundles which are placed on BMC pallets must be machinable on BMC parcel sorters and must be prepared using shrink wrap. Since shrink wrap alone may not result in a machinable bundle, it is recommended that each bundle be both banded around the length and girth and shrink wrapped. The mailer must satisfy the Postal Service that the bundles are machinable. This will be verified by having the mailing post office test process 10 or more bundles of each representative bundle size expected in the mailings on two or more passes through the BMC. The potential of the bundles to cause damage to other mail must also be tested while being processed on BMC primary and secondary parcel sorters.

b. Other Bundles. Bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel. The use of heavy gauge shrink wrap over banding is the recommended method of securing bundles. However, use of only banding material, or only shrink wrap is acceptable. Banding material, if used, must be applied at least once around the length and once around the girth of each bundle. The use of metal strapping and wire to secure bundles is prohibited.

.24 Pallet Preparation.

.241 Weight and Volume. The minimum mail load of a pallet is 650 pounds. The maximum gross weight of a pallet (the pallet and the mail) is 2,000 pounds. Exception: Up to 10 percent of the pallets in a mailing may contain less than 650 pounds of mail, if the mailer provides the pallets for those pallets containing less than 650 pounds.

.242 Sortation. Packages and bundles must be placed on pallets as described below, beginning with pallets for the finest sortation level (5-digit pallets) through the largest authorized level (SCF for publications authorized newspaper treatment and Destination BMC for ordinary papers). If two or more second-class publications are mailed together, all packages and bundles for the same specific destination must be put on a pallet for that destination when there are at least 650 pounds of mail. Physical barrier sheets must be used to separate carrier route and 5-digit made up mail on 5-digit pallets.

Note.—When two or more second-class publications are put on a pallet, the mailer must maintain records for each mailing which will confirm the number of pieces of each publication mailed to each destination as required by 468.13c.

a. 5-Digit Pallets. Whenever there are 650 or more pounds of packages and bundles for the same 5-digit ZIP Code area they must be placed on a pallet labeled to that 5-digit destination. Pallet labels must be prepared and affixed to the pallet in accordance with 467.243. The labels must contain the information required for 5-digit sack labels in 467.222 in the format required by that section. Pallets containing carrier route and 5-digit packages and bundles must note this on the contents line of the pallet label. A physical barrier sheet must be placed between the carrier route and 5-digit packages and bundles.

b. Optional Multi-Coded City Pallets. After making up all required 5-digit pallets mailers may, at their option, place any packages and bundles remaining that are destined for the same optional multi-coded city included in Exhibit 122.63a on a pallet labeled to that city, provided the minimum and maximum weight requirements in 467.241 are met. The pallet labels must be prepared and affixed to the pallet in accordance with 467.243. The pallets labels must contain the information required for optional multi-coded city sack labels in 464.32a, in the format required by that section.

c. 3-Digit Pallets. If, after preparing all required 5-digit pallets (and optional multi-coded city pallets if the mailer chooses to prepare them) there are 650 pounds or more of packages and bundles remaining that are destined for the same 3-digit ZIP Code prefix area, they must be placed on a pallet labeled to that 3-digit destination. The pallet labels must be prepared and affixed to the pallet in accordance with 467.243. The pallet labels must contain the information required for 3-digit sacks in 464.31b, in the format required by that section.

d. SCF Pallets. If, after preparing all required 5-digit pallets, optional multi-coded city pallets, and required 3-digit pallets, there are 650 pounds or more of packages and bundles remaining that are destined for ZIP Codes served by the same Sectional Center Facility, they must be placed on a pallet labeled to that Sectional Center Facility. The pallet labels must be prepared and affixed to the pallet in accordance with 467.243. The pallet labels must contain the information required for SCF sacks in 464.32b, in the format required by that section.

Note.—This is the largest level of sort allowed for publications authorized newspaper treatment. Mail for newspaper treatment second-class publications that cannot be placed on SCF pallets must be sacked in accordance with 464.32c, 464.31c and 464.31d. See also 467.25, 467.45.

e. Optional BMC Pallets (Ordinary Papers Only). If, after preparing all required 3-digit pallets, optional multi-coded city pallets (optional), required 5-digit pallets and required SCF pallets, there are 650 pounds or more of packages and bundles remaining that are destined for ZIP Codes served by the same BMC, they may be placed on a pallet labeled to that destination BMC. Bundles and packages placed on BMC pallets must be machinable (see 467.234a). The pallet labels must be prepared and affixed to the pallet in accordance with 467.243. The pallet labels must contain the information required for destination BMC pallets in 667.222, in the format required by that section, except that the contents line must show ORD P.

.234 Pallet Labels.

a. General. All pallets must be provided with at least two clearly visible labels. Pallet labels must be at least 8 inches by 11 inches in size, with letters at least ½ of an inch in height. Labels must be placed on at least two adjacent sides of the pallet. See 467.242a–e, concerning the information which must appear on the labels.

b. Additional information is required for pallets containing carrier route presort level rate packages or bundles.

(1) Pallets containing only carrier route packages or bundles. If any type of pallet contains only carrier route packages or carrier routes bundles, the contents line of the pallet label must show the words CARRIER ROUTES after the description of contents (NEWS or ORD P).

(2) Five-digit pallets containing carrier route and 5-digit level rate packages or bundles. If a 5-digit pallet contains both 5-digit and carrier route rated packages or bundles, the pallet label must show the words MIXED 5-DIGIT/CARRIER ROUTES after the contents description (NEWS or ORD P).

.244 Physical Characteristics. Pallets must be constructed of high quality material, designed to handle loads equal to a gross weight of 2,000 pounds with volumes up to 65 cubic feet. The demensions must be 48 inches by 40 inches. The pallets must be designed for four way entry by fork trucks and two way entry for pallet jacks. Pallet mailings must be wrapped with shrinkable or stretchable plastic and prepared to retain integrity throughout transportation and handling. Wooden top caps the same size as the pallet are required on pallets with gross weights of less than 1,000 pounds. Top caps must be affixed to the pallet with nylon strapping.

.25 Presentation of Mailings. Sacks containing packages for SDC, state or mixed states destinations, or containing packages or bundles remaining after all possible pallets have been prepared, may be presented along with the palletized mailing (i.e., on the same mailing statement), if the sacks are physically segregated from the palletized portion of the mailing.

467.3 Palletizing Sacks.

.31 Regional Authorization.

.311 The Regional Postmaster General of the region where the mailer is located may authorize the preparation of sacked second-class mail on pallets, if such preparation is beneficial to the Postal Service. The mailer, on behalf of the publisher, must submit an application for each publication to the Regional Postmaster General of the region where the mailer is located. An application for palletization may be obtained from the region where the mailer is located and at a minimum will require the following information:

a. The name of the publication, frequency of mailing and approximate mailing dates;

b. A list of the post offices of entry;

c. The approximate weight of a single copy;

d. A breakdown of mail preparation for each entry post office that shows the destination of each pallet to be prepared for the mailings submitted at that postal facility;

e. The approximate number of sacks for each pallet make-up;

f. The average weight of a pallet load;

g. The approximate number of pallets in the mailing that will weigh less than 650 pounds; and

h. The number of pallets required.

If an authorization is granted, mailers must be prepared to submit information for future issues, such as that required in the original application, at the request of the Regional Postmaster General.

.312 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General to whom the application is submitted will issue to the mailer the authorization or denial of the request to palletize sacks for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorizations will be granted for a specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming issue and perform a review of the publication's continued eligibility to palletize sacks. Authorizations to

VOL 48 ISS 197 OCT 11 1983 UMI

palletize sacks will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.32 Package Preparation.

See sections 462.22a, 462.24b, 463.21a, 463.22b, 464.21b and 464.22c.

.33 Sack Preparation.

.331 Weight and Volume. No more than 70 pounds of mail may be placed in any sack.

.332 Sack Labeling. Sacks must be labeled in accordance with the requirements in 462.31, 464.31a, 464.32a, 464.31b, 464.32b, 464.31c, 464.32c and 464.31d.

.333 Sack Sortation. See section 467.2.

.34 Pallet Preparation.

.341 Weight and Volume. The minimum mail load of a pallet is 650 pounds. The maximum gross weight of a pallet (the pallet and the mail) is 2,000 pounds. Exception: Up to 10 percent of the pallets in a mailing may contain less than 650 pounds of mail, if the mailer provides the pallets for those pallets containing less than 650 pounds.

.342 Sortation. Sacks must be placed on pallets as described below, beginning with pallets for the finest sortation level (5-digit pallets) through the largest authorized level (SCF for publications authorized newspaper treatment and destination BMC for ordinary papers).

a. Five-Digit Pallets. Whenever there are 650 or more pounds of sacks for the same 5-digit ZIP Code area, they must be placed on a pallet labeled to that 5-digit destination. Pallet labels must be prepared and affixed to the pallet in accordance with 467.343. The labels must contain the information required for 5-digit sack labels in 464.31a in the format required by that section. Pallets containing carrier route and 5-digit sacks must note this on the contents line of the pallet label. A physical barrier sheet must be placed between the carrier route and 5-digit sacks.

b. Optional Multi-Coded City Pallets. After making up all required 5-digit pallets, mailers may, at their option, place any sacks remaining that are destined for the same optional multi-coded city included in Exhibit 122.63a, on a pallet labeled to that city, provided the minimum and maximum weight requirements in 467.241 are met. The pallet labels must be prepared and affixed to the pallet in accordance with 467.343. The pallet labels must contain the information required for optional multi-coded city sack labels in 464.32a, in the format required by that section.

c. Three-Digit Pallets. If, after preparing all required 5-digit pallets (and optional multi-coded city pallets if the mailer chooses to prepare them) there are 650 pounds or more of sacks remaining that are destined for the same 3-digit ZIP Code prefix area, they must be placed on a pallet labeled to that 3-digit destination. The pallet labels must be prepared and affixed to the pallet in accordance with 467.343. The pallet labels must contain the information required for 3-digit sacks in 464.31b, in the format required by that section.

d. SCF Pallets. If, after preparing all required 5-digit pallets, optional multi-coded city pallets, and required 3-digit pallets, there are 650 pounds or more of sacks remaining that are destined for ZIP Codes served by the same Sectional Center Facility, they must be placed on a pallet labeled to that Sectional Center Facility. The pallet labels must be prepared and affixed to the pallet in accordance with 467.543. The pallet labels must contain the information required for SCF sacks in 467.225, in the format required by that section. Note: This is the largest level of sort allowed for publications authorized newspaper treatment. Mail for newspaper treatment second-class publications that cannot be placed on SCF pallets must be sacked in accordance with 464.31c, 464.31d, and 464.32c. See also 467.25.

e. Optional BMC Pallets (Ordinary Papers Only). If, after preparing all required 5-digit pallets, optional multi-coded city pallets (optional), required 3-digit pallets and required SCF pallets, there are 650 pounds or more of sacks remaining that are destined for ZIP Codes served by the same BMC, they may be placed on a pallet labeled to that destination BMC. The pallet labels must be prepared and affixed to the pallet in accordance with 467.343. The pallet labels contain the information required for destination BMC pallets in 667.222, in the format required by that section, except that the contents line must show ORD P.

.343 Pallet Labels.

a. General. All pallets must be provided with at least two clearly visible labels. Labels must be at least 8 inches by 11 inches in size, with letters at least ½ of an inch in height. Labels must be placed on at least two adjacent sides of the pallet. See 462.31, 464.31a, 464.32a, 464.31b, 464.32b, 464.31c, 464.32c and 464.31d, concerning the information which must appear on the labels.

b. Additional information required for pallets containing carrier route presort level rate mail sacks.

(1) Pallets containing only carrier route sacks. If any type of pallet contains only carrier route sacks or carrier routes sacks, the contents line of the pallet label must show the words CARRIER ROUTES after the description of contents (NEWS or ORD P).

(2) Five-digit pallets containing carrier route and 5-digit level rate sacks. If a 5-digit pallet contains both 5-digit and carrier route rated sacks, the pallet label must show the words MIXED 5-DIGIT/CARRIER ROUTES after the contents description (NEWS or ORD P).

.344 Physical Characteristics. Pallets must be constructed of high quality material, designed to handle loads equal to a gross weight of 2,000 pounds with volumes up to 65 cubic feet. The dimensions must be 48 inches by 40 inches. The pallets must be designed for four way entry by fork trucks and two way entry for pallet jacks. Pallet mailings must be wrapped with shrinkable or stretchable plastic and prepared to retain integrity throughout transportation and handling. Wooden top caps the same size as the pallet are required on pallets with gross weights of less than 1,000 pounds. Top caps must be affixed to the pallet with nylon strapping.

468.12 Qualification Requirements.

c. Bundling or Packaging Instead of Sacking. Pieces presented in bundles or packages instead of sacks (see 467.1 and 467.2) are eligible for presort rates providing they meet all other requirements for the presort rates. For purpose of eligibility for presort level rates in 468.12 a and b, a bundle or package is equivalent to a sack. A bundle or package meeting the requirements in 468.12 a and b will qualify for the appropriate presort level rate regardless of the pallet it is placed upon, if prepared in accordance with 467.1 and 467.2.

Part 667—Preparation of Bulk Rate Mailings.

Renumber old 667.8 as 667.9. Add new section 667.8.

Amend sections 667.5 through 667.7 to read as follows:

667.5 Bundling Instead of Sacking (Bedloaded Bundles).

.51 Regional Authorization.

.511 The Regional Postmaster General of the region where the mailer is located may authorize preparation of third-class mail in bundles outside of mail sacks if such preparation is beneficial to the Postal Service. Generally, authorization will be granted only when the number of bundles does not exceed the number of sacks which would otherwise be used in a mailing. The mailer, on behalf of the client, must submit an application to the Regional Postmaster General of the region where the mailer is located for each publication. The following information must be furnished with the application:

a. Name of client and frequency of mailing;

b. Identity of post offices to which shipments will be made; and

c. Approximate quantity of copies and number of bundles to each office.

If an authorization is granted, mailers must be prepared to submit information for future issues of the publication, such as that required in the original application, at the request of the Regional Postmaster General.

.512 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General to whom the application is submitted will issue to the mailer the authorization or denial of the request to bundle instead of sack the publication for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorizations will be granted for a specified period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming issue and perform a review of the mailer's continued eligibility to bundle instead of sack. Authorizations to bundle instead of sack will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.52 Package Preparation.

.521 Weight and Volume. A package which is a group of pieces that are secured together as one unit must contain a minimum of two copies of the publication and must not exceed 40 pounds in weight.

.522 Sortation. Mailers must presort copies and secure them into packages as required in 667.1.

.523 Labels. Packages must be labeled in accordance with 667.1.

.53 Bundle Preparation.

.531 Weight and Volume. A bundle which is a group of two or more packages that are prepared as a unit must weigh at least 20 pounds or be of at least 1,000 cubic inches of volume. The weight of a bundle must not exceed 40 pounds.

.532 Sortation. Packages prepared in accordance with 667.52 must be consolidated into bundles on the same basis as sacks (see 667.13). A bundle must be prepared when there are 20 or more pounds or 1,000 or more cubic inches of packages for a particular level of sortation. Lesser quantities must be included in bundles for the next larger level of sortation.

.533 Labels. All bundles must be appropriately labeled on top with a non-standard facing slip to show destination, contents and origin as required with sacks (see 667.13). Exception: Carrier route and 5-digit bundles need not bear a facing slip as the package label on the top piece is sufficient to direct the bundle to its proper destination. However, 5-digit bundles that are not labeled using the optional endorsement line, and that contain the carrier route information in the address area in accordance with 667.311b, must bear a red label D. A large package is also exempted from the facing slip requirement, as the package label will be sufficient.

Note.—Five-digit presort level rate packages and bundles and third-class carrier route rate packages and bundles may not be part of the same mailing.

.534 Physical Characteristics of Bundles.

a. Non-Local Processing and Delivery. Mailings must be machinable by Postal Service sack-sorting equipment unless they consist of copies intended only for local area delivery (see 667.534b). The mailer must satisfy the Postal Service that mailings are machinable. This can be verified by having the mailing post office test process ten or more bundles of each representative bundle size expected in the mailings on two or more passes through a bulk mail center (BMC). The potential of the bundles to cause damage to other mail must also be tested. Ordinarily, bundles require cross strapping and heavy guage shrink or stretch wrap to insure their integrity in the mailstream.

b. Local Processing and Delivery. When third-class mailings are entered for local processing and delivery (i.e., same Sectional Center Facility area), they need not meet the requirements for 667.534a. However, bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel or damage to mechanized sorting systems. Binding material must be applied at least once around the length and girth. The use of metal strapping and wire to secure bundles is prohibited.

667.6 Packages and Bundles Presented on Pallets.

.61 Regional Authorization.

.611 The Regional Postmaster General of the region where the mailer is located may authorize the preparation of third class mail in packages and bundles placed on pallets instead of sacking if such preparation is beneficial to the Postal Service. A package is a group of pieces that are secured together as one unit. A bundle is a group of two or more packages that are prepared as one unit. Generally, authorization for this type of mail preparation will be granted only when: 1) the number of packages or bundles to be prepared is not more than four times the number of sacks which would otherwise be prepared for material to be placed on 3-digit and SCF pallets, and not more than five times the number of sacks that would otherwise be prepared for material to be placed on 5-digit, optional city, and BMC pallets, and 2) when the amount of mail on each pallet is equivalent to or greater than 30 sacks which would otherwise be prepared. The mailer, on behalf of the client, must submit an application to the Regional Postmaster General of the region where the mailer is located for each publisher.

An application for palletization may be obtained from the region where the mailer is located and at a minimum will require the following information:

a. The name of the client, frequency of mailing and approximate mailing dates;

b. A list of the post offices of entry;

c. The approximate weight of a single copy;

d. A breakdown of mail preparation for each entry post office that shows the destination of each pallet to be prepared for the mailings submitted at that postal facility;

e. The approximate number of bundles, packages, and pieces for each pallet make-up;

f. The average weight of a pallet load;

g. The approximate number of pallets in the mailing that will weigh less than 650 pounds;

h. The number of sacks that would otherwise be needed in the mailing; and

i. The number of pallets required.

If an authorization is granted, mailers must be prepared to submit information for future issues, such as that required in the original application, at the request of the Regional Postmaster General.

.612 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General to whom the application is submitted will issue to the mailer the authorization or denial of the request to present packages and bundles on pallets for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorizations will

be granted for a specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming mailing and perform a review of the mailer's continued eligibility to present packages and bundles on pallets. Authorizations to present packages and bundles on pallets will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.62 Package Preparation.

.621 Weight and Volume. A package must contain a minimum of ten copies and must not exceed 20 pounds in weight. Exception: Packages containing as few as two copies may be prepared if the packages will be consolidated with other packages into a bundle containing at least ten copies of the publication, in accordance with 667.63.

.622 Sortation. Mailers must presort copies and secure them into packages as required in 667.121a through 667.121e. When there are over 15 pounds of mail for a destination, mailers must secure the pieces together in multiples of 15 to 20 pound packages. When there are 15 pounds or less of mail for a destination, the pieces must be secured together in a single package. For example, if there are 14 pounds of mail for a 5-digit ZIP Code, only one package weighing 14 pounds must be prepared. If there are 25 pounds of mail for a 5-digit ZIP Code, a 15 pound package and a 10 pound package labeled to that 5-digit destination would be acceptable as well as one 20 pound package and one 5 pound package for the same 5-digit ZIP Code destination.

Note.—State Distribution Center (SDC), State, and Mixed states packages must not be included in the palletized portion of the mailing. Such packages must be sacked in accordance with 667.121f through 667.121h.

.623 Package Labels.

a. Packages on BMC Pallets. All packages that are placed on BMC pallets must be labeled with a facing slip containing only the destination information required for sack labels in 667.132c and 667.132d. Two zeros must be added to the end of all 3-digit ZIP Code prefixes that may appear on the destination line of the labels. These requirements will assist processing on BMC parcel sorters. Exceptions: Firm packages bearing a blue Label F need not bear a facing slip. Carrier route packages labeled with the optional endorsement line or in accordance with 667.311b, need not bear a facing slip. Five-digit packages are also exempted from facing slip requirements if labeled in accordance with 667.623b, below.

b. Other Packages. Packages must be labeled with pressure sensitive labels, or the optional endorsement line as provided in 468. Exception: When pressure sensitive labels are used, a red label D must appear on 5-digit packages if the pieces in those packages bear the carrier route information as permitted in 667.311b.

.624 Physical Characteristics.

a. Packages on BMC Pallets. Packages that are placed on BMC pallets must be machinable on BMC parcel sorters and must be prepared using shrink wrap. Since shrink wrap alone may not result in a machinable package, it is recommended that each package be both banded around the length and girth and shrink wrapped. The mailer must satisfy the Postal Service that the packages are machinable. This will be verified by having the mailing post office test process 10 or more packages of each representative bundle size expected in the mailings on two or more passes through the BMC. The potential of the packages to cause damage to other mail must also be tested while being processed on BMC primary and secondary parcel sorters. Mailers may also use cardboard cartons meeting the packaging criteria in 121 and the machinability criteria in 128 to prepare firm packages.

b. Other Packages. Packages must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel. The use of heavy gauge shrink wrap over banding is the recommended method of securing packages. However, use of only banding material, or only shrink wrap is acceptable. Banding material, if used, must be applied at least once around the length and once around the girth of each package. The use of metal strapping and wire to secure packages is prohibited. Mailers may also use cardboard cartons meeting the packaging criteria in 121 to prepare firm packages.

Note.—Packages for SDC, State, and Mixed States destinations must not be prepared for inclusion in the palletized portion of a mailing. Packages for these destinations must be sacked in accordance with 667.132e through 667.132g. See also 667.45.

.63 Optional Bundle Preparation.

.631 Weight and Volume. Bundles must contain a minimum two or more packages. The maximum weight of an individual bundle is 20 pounds.

.632 Sortation. Mailers may, at their option, consolidate packages into bundles in the same manner as sacks are prepared. (See 667.132a through 667.132c and 667.32.)

.633 Bundle Labels.

a. Bundles Placed on BMC Pallets. Except for firm carrier route and 5-digit bundles, all bundles must be labeled with a facing slip containing only the destination information required for sack labels in 667.132c through 667.132d, plus a contents line. Two zeros must be added to the end of all 3-digit ZIP Code prefixes that may appear on the destination line of bundle labels. These requirements will assist processing on BMC parcel sorters. The bundle labels must completely cover the address and package label on the top piece in the bundle to prevent confusion concerning the contents of the bundle.

Note.—5-digit bundles, not labeled with a facing slip, must bear a red label D or the 5-digit optional endorsement line if the pieces in the bundle bear the carrier route information as provided in 667.311b.

b. Other Bundles. Bundles containing packages for levels of sortation finer than the bundle destination must be labeled with a facing slip containing only the destination information required for sack labels in 667.132c through 667.132d.

Examples of bundles requiring facing slips are: (1) A carrier routes bundle containing carrier packages for different carrier routes within the same 5-digit ZIP Code area; (2) a 3-digit bundle containing all 5-digit packages for the same 3-digit ZIP Code area; (3) a 3-digit bundle containing a 5-digit package and a 3-digit package for the same 3-digit ZIP Code area.

.634 Physical Characteristics.

a. Bundles on BMC Pallets. Bundles which are placed on BMC pallets must be machinable on BMC parcel sorters and must be prepared using shrink wrap. Since shrink wrap alone may not result in a machinable bundle, it is recommended that each bundle be both banded around the length and girth and shrink wrapped. The mailer must satisfy the Postal Service that the bundles are machinable. This will be verified by having the mailing post office test process 10 or more bundles of each representative bundle size expected in the mailings on two or more passes through the BMC. The potential of the bundles to cause damage to other mail must also be tested while being processed on BMC primary and secondary parcel sorters.

b. Other Bundles. Bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel. The use of heavy gauge shrink wrap over banding is the recommended method of securing bundles. However, use of only banding material, or only shrink wrap is acceptable. Banding material, if used, must be applied once around the length and once around the girth of each bundle. The use of metal strapping and wire to secure bundles is prohibited.

.64 Pallet Preparation.

.641 Weight and Volume. The minimum mail load of a pallet is 650 pounds. The maximum gross weight of a pallet (the pallet and the mail) is 2,000 pounds. Exception: Up to 10 percent of the pallets in a mailing may contain less than 650 pounds of mail, if the mailer provides the pallets for those pallets containing less than 650 pounds.

.642 Sortation. Bundles must be placed on pallets as described below, beginning with pallets for the finest sortation level (5-digit) through the largest authorized level. Physical barrier sheets must be used to separate carrier route and 5-digit made-up mail on 5-digit pallets.

a. 5-digit Pallets. Whenever there are 650 or more pounds of packages and bundles for the same 5-digit ZIP Code area they must be placed on a pallet labeled to that 5-digit destination. Pallet labels must be prepared and affixed to the pallet in accordance with 667.643. The labels must contain the information required for 5-digit sack labels in 667.132a in the format required by that section.

b. Optional Multi-Coded City Pallets. After making up all required 5-digit pallets mailers may, at their option, place any packages and bundles remaining that are destined for the same optional multi-coded city included in 467.114, on a pallet labeled to that city, provided the minimum and maximum weight requirements of 650 to 2000 pounds are met. The pallet labels must be prepared and affixed to the pallet in accordance with 667.643. The pallet labels must contain the information required for optional multi-coded city sack labels in 667.132b, in the format required by that section.

c. 3-Digit Pallets. If, after preparing all required 5-digit pallets (and optional multi-coded city pallets if the mailer chooses to prepare them) there are 650 pounds or more of packages and bundles remaining that are destined for the same 3-digit ZIP Code prefix area, they must be placed on a pallet labeled to that 3-digit destination. The pallet labels must be prepared and affixed to the pallet in accordance with 667.643. The pallet labels must contain the information required for 3-digit sacks in 667.132c in the format required by that section.

d. SCF Pallets. If, after preparing all required 5-digit pallets, optional multi-coded city pallets, and required 3-digit pallets, there are 650 pounds or more of packages and bundles remaining that are destined for ZIP Codes served by the same Sectional Center Facility, they must be placed on a pallet labeled to that Sectional Center Facility. The pallet labels must be prepared and affixed to the pallet in accordance with 667.643. The labels must contain the information required for SCF sacks in 667.132d, in the format required by that section.

e. Optional BMC Pallets. If, after preparing all required 5-digit pallets, optional multi-coded city pallets (optional), required 3-digit pallets and required SCF pallets, there are 650 pounds or more of packages and bundles remaining that are destined for ZIP Codes served by the same BMC, they may be placed on a pallet labeled to that destination BMC. Bundles and packages placed on BMC pallets must be machinable (see 667.634a). The pallet labels must be prepared and affixed to the pallet in accordance with 667.643. The pallet labels must contain the information required for destination BMC pallets in 667.222, in the format required by that section.

.643 Pallet Labels.

a. General. All pallets must be provided with at least two clearly visible labels. Labels must be at least 8 inches by 11 inches in size, with letters at least ½ of an inch in height. Labels must be placed on at least two adjacent sides of the pallet. See 667.642a–e, concerning the information which must appear on the labels.

b. Additional information required for pallets containing carrier route presort level rate packages or bundles.

(1) Pallets containing only carrier route packages or bundles or carrier routes packages or bundles. If any type of pallet contains only carrier route packages or carrier routes bundles the contents line of the pallet label must show the words CARRIER ROUTES after the description of contents (3C Flats, 3C LTRS, etc.).

(2) Five-digit pallets containing carrier route and basic level rate packages or bundles. If a 5-digit pallet contains both basic rate and carrier route rated packages or bundles, the pallet label must show the words Mixed 5-DIGIT/CARRIER Routes after the contents description (3C FLATS, 3C LTRS, etc.).

Note.—Five-digit presort level rate packages and bundles and third-class carrier route rate packages and bundles may not be part of the same mailing and they may not be palletized on the same pallet.

.644 Physical Characteristics.

Pallets must be constructed of high quality material, designed to handle loads equal to a gross weight of 2000 pounds with volumes up to 65 cubic feet. The dimensions must be 48 inches by 40 inches. The pallets must be designed for four way entry by fork trucks and two way entry for pallet jacks. Pallet mailings must be wrapped with shrinkable or stretchable plastic and prepared to retain integrity throughout transportation and handling. Wooden top caps the same size as the pallet are required on pallets with gross weights of less than 1,000 pounds. Top caps must be affixed to the pallet with nylon strapping.

.65 Presentation of Mailings. Sacks containing packages for SDC, state or mixed states destinations, or containing packages or bundles remaining after all possible pallets have been prepared, may be presented along with the palletized mailing (i.e., on the same mailing statement), if the sacks are physically segregated from the palletized portion of the mailing.

667.7 Palletizing Sacks.

.71 Regional Authorization.

.711 The Regional Postmaster General of the region where the mailer is located may authorize the preparation of sacked third-class mail on pallets, if such preparation is beneficial to the Postal Service. The mailer, on behalf of the client, must submit an application for each publisher to the Regional Postmaster General of the region where the mailer is located. The following information must be included in the application:

a. The name of the client, frequency of mailing and approximate mailing dates;

b. A list of the post offices of entry;

c. The approximate weight of a single copy;

d. A breakdown of mail preparation for each entry post office that shows the destination of each pallet to be prepared for the mailings submitted at that postal facility;

e. The approximate number of sacks and pieces for each pallet make-up;

f. The average weight of a pallet load;

g. The approximate number of pallets in the mailing that will weigh less than 650 pounds; and

h. The number of pallets required.

If an authorization is granted, mailers must be prepared to submit information for future issues, such as that required in the original application, at the request of the Regional Postmaster General.

.712 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned.

The Regional Postmaster General to whom the application is submitted will

issue to the mailer the authorization or denial of the request to palletize sacks for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorizations will be granted for a specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming mailing and perform a review of the mailer's continued eligibility to palletize sacks.

Authorizations to palletize sacks will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.72 Package Preparation.

See sections 667.1, 667.3, and 667.4.

.73 Sack Preparation.

.731 Weight and Volume. No more than 70 pounds of mail may be placed in any sack.

.732 Sack Labeling. Sacks must be labeled in accordance with the requirement in 667.13 and 667.32.

.733 Sack Sortation. See 667.13, 667.32, and 667.42.

.74 Pallet Preparation.

.741 Weight and Volume. The minimum mail load of a pallet is 650 pounds. The maximum gross weight of a pallet (the pallet and the mail) is 2,000 pounds. Exception: Up to 10 percent of the pallets in a mailing may contain less than 650 pounds of mail, if the mailer provides the pallets for those pallets containing less than 650 pounds.

.742 Sortation. Sacks must be placed on pallets as described below, beginning with pallets for the finest sortation level (5-digit pallets) through the largest level (destination BMC).

a. Five-digit Pallets. Whenever there are 650 or more pounds of sacks for the same 5-digit ZIP code area they must be placed on a pallet labeled to that 5-digit destination. Pallet labels must be prepared and affixed to the pallet in accordance with 667.743.

The labels must contain the information required for 5-digit sack labels in 667.132a in the format required by that section. Pallets containing carrier route and 5-digit sacks must note this on the contents line of the pallet label. A physical barrier sheet must be placed between the carrier route and 5-digit sacks.

b. Optional Multi-Coded City Pallets. After making up all required 5-digit pallets, mailers may, at their option, place any packages and bundles remaining that are destined for the same optional multi-coded city included in 467.114, on a pallet labeled to that city, provided the minimum and maximum weight requirements in 667.741 are met. The pallet labels must be prepared and affixed to the pallet in accordance with 667.743. The pallet labels must contain the information required for optional multi-coded city sack labels in 667.132b, in the format required by that section.

c. Three-digit Pallets. If, after preparing all required 5-digit pallets (and optional multi-coded city pallets, if the mailer chooses to prepare them) there are 650 pounds or more of sacks remaining that are destined for the same 3-digit ZIP Code prefix area, they must be placed on a pallet labeled to that 3-digit destination. The pallet labels must be prepared and affixed to the pallet in accordance with 667.743. The pallet labels must contain the information required for 3-digit sacks in 667.132c, in the format required by that section.

d. SCF Pallets. If, after preparing all required 5-digit pallets, optional multi-coded city pallets, and required 3-digit pallets, there are 650 pounds or more of sacks remaining that are destined for ZIP Codes served by the same Sectional Center Facility, they must be placed on a pallet labeled to that Sectional Center Facility. The pallet labels must be prepared and affixed to the pallet in accordance with 667.743. The pallet labels must contain the information required for SCF sacks in 667.132d, in the format required by that section.

e. Optional BMC Pallets. If, after preparing all required 5-digit pallets, optional multi-coded city pallets (optional), required 3-digit pallets and required SCF pallets, there are 650 pounds or more of sacks remaining that are destined for ZIP Codes served by the same BMC, they may be placed on a pallet labeled to that destination BMC. The pallet labels must be prepared and affixed to the pallet in accordance with 667.743. The pallet labels must contain the information required for destination BMC pallets in 667.222, in the format required by that section.

.743 Pallet Labels.

a. General. All pallets must be provided with at least two clearly visible labels. Labels must be at least 8 inches by 11 inches in size, with letters at least ½ of an inch in height. Labels must be placed on at least two adjacent sides of the pallet. See 667.13, 667.32, and 667.42, concerning the information which must appear on the labels.

b. Additional information required for pallets containing carrier route presort level rate mail sacks.

(1) Pallets containing only carrier route sacks. If any type of pallet contains only carrier route sacks or carrier routes sacks, the contents line of the pallet label must show the words CARRIER ROUTES after the description of contents (3C FLATS, 3C LTRS, etc.).

Note.—Third-class carrier route rate sacks and 5-digit presort level rate sacks may not be part of the same mailing and they may not be palletized on the same pallet.

(2) Five-digit pallets containing carrier route and basic level rate sacks. If a pallet contains only 5-digit basic rate sacks and carrier route rate sacks the pallet label must show the words MIXED 5-DIGIT/CARRIER ROUTES after the contents description (3C FLATS, 3C LTRS, etc.).

.744 Physical Characteristics.

Pallets must be constructed of high quality material, designed to handle loads equal to a gross weight of 2000 pounds with volumes up to 65 cubic feet. The dimensions must be 48 inches by 40 inches. The pallets must be designed for four way entry by fork trucks and two way entry for pallet jacks. Pallet mailings must be wrapped with shrinkable or stretchable plastic and prepared to retain integrity throughout transportation and handling. Wooden top caps the same size as the pallet are required on pallets with gross weights of less than 1000 pounds. Top caps must be affixed to the pallet with nylon strapping.

667.8 Palletizing Machinable Third-Class Parcels.

.81 Regional Authorization.

.811 The Regional Postmaster General of the region where the mailer is located may authorize the preparation of third-class machinable mail on pallets instead of sacking if such preparation is beneficial to the Postal Service. Generally, authorization for this type of mail preparation will be granted only when the amount of mail on each pallet is equivalent to or greater than 30 sacks which would otherwise be prepared. The mailer must submit an application to the Regional Postmaster General of the region where the mailer is located for each client. An application for palletization may be obtained from the region where the mailer is located and at a minimum will require the following information:

a. The name of the client, frequency of mailing and approximate mailing dates;

b. A list of the post offices of entry;

c. The approximate weight of a single piece;

d. A breakdown of mail preparation for each entry post office that shows the destination of each pallet to be prepared for the mailings submitted at that postal facility;

e. The approximate number of pieces for each pallet make-up;

f. The average weight of a pallet load;

g. The approximate number of pallets in the mailing that will weigh less than 650 pounds;

h. The number of sacks that would otherwise be needed in the mailing; and

i. The number of pallets required.

If an authorization is granted, mailers must be prepared to submit information for future issues, such as that required in the original application, at the request of the Regional Postmaster General.

.812 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General, to whom the application is submitted, will issue to the mailer the authorization or denial of the request to palletize machinable parcels for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorizations will be granted for a specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming mailing and perform a review of the mailer's continued eligibility to palletize machinable parcels. Authorizations to palletize machinable parcels will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.82 Machinable Parcel Pallet Preparation.

.821 Weight and Volume. The minimum mail load of a pallet is 650 pounds. The maximum gross weight of a pallet (the pallet and the mail) is 2,000 pounds. Exception: Up to 10 percent of the pallets in a mailing may contain less than 650 pounds of mail, if the mailer provides the pallets for those pallets containing less than 650 pounds.

.822 Sortation. Pallets must be made up to the destinations described in 667.2.

a. Five-Digit Pallets. Whenever there are 650 or more pounds of mail for the same 5-digit ZIP Code area it must be placed on a pallet labeled to that 5-digit destination. Pallet labels must be prepared and affixed to the pallet in accordance with 667.823. The labels must contain the information required for 5-digit sack labels in 667.2 in the format required by that section.

b. Destination BMC Pallets. If, after preparing all required 5-digit pallets, there are 650 pounds or more of mail destined for ZIP Codes served by the same BMC, it must be placed on a pallet labeled to that destination BMC. Pieces placed on BMC pallets must be machinable (see 128). The pallet labels must be prepared and affixed to the pallet in accordance with 667.823. The labels must contain the information required for destination BMC sacks in 667.2, in the format required by that section.

c. Origin BMC Pallets. After preparing all required 5-digit pallets and destination BMC pallets, the remaining pieces must be placed on pallets labeled to the origin BMC. The pallet labels must be prepared and affixed to the pallet in accordance with 667.823. The labels must contain the information required for origin BMC sacks in 667.2, in the format required by that section.

.823 Labeling.

All pallets must be provided with two clearly visible labels. Labels must be at least 8 inches by 11 inches in size, with letters at least ½ inch in height. Labels must be placed on two adjacent sides of the pallet. See 667.2, concerning the information which must appear on the labels.

.824 Physical Characteristics. Pallets must be constructed of high quality material, designed to handle loads equal to a gross weight of 2000 pounds with volumes up to 65 cubic feet. The dimensions must be 48 inches by 40 inches. The pallets must be designed for four-way entry by fork trucks and two-way entry for pallet jacks. Pallet mailings must be wrapped with shrinkable or stretchable plastic and prepared to retain integrity throughout transportation and handling. Wooden top caps, the same size as the pallets, are required on pallets with gross weights of less than 1000 pounds. Top caps must be affixed to the pallets with nylon strapping.

.83 Presentation of Mailings. Pieces for areas served by the origin BMC may be presented along with palletized parcels as part of the same mailing (i.e., on the same mailing statement), if the sacks are physically segregated from the palletized portion of the mailing.

Palletized machinable pieces to be mailed at the third-class carrier route presort rate and the third-class 5-digit presort level rate must be mailed under the provisions of 667.5, 667.6, and 667.7.

Part 767—Preparation of Bound Printed Matter

Old section 767.6 is renumbered as 767.7.

Add new section 767.6.

Amend 767.41 through 767.5 to read as follows:

767.4 Bundling Instead of Sacking (Bedloaded Bundles)

.41 Regional Authorization

.411 The Regional Postmaster General of the region where the mailer is located may authorize preparation of bound printed matter mail in bundles outside of mail sacks if such preparation is beneficial to the Postal Service. Generally, authorization will be granted only when the number of bundles does not exceed the number of sacks which would otherwise be used in a mailing. The mailer, on behalf of the client, must submit an application to the Regional Postmaster General of the region where the mailer is located for each publication. The following information must be furnished with the application:

a. Name of client and frequency of mailing;

b. Identity of post offices to which shipments will be made; and

c. Approximate quantity of copies and number of bundles to each office.

If an authorization is granted, mailers must be prepared to submit information for future issues of the publication, such as that required in the original application, at the request of the Regional Postmaster General.

.412 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General to whom the application is submitted will issue to the mailer the authorization or denial of the request to bundle instead of sack the publication for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General.

Authorizations will be granted for a specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming issue and perform a review of the publication's continued eligibility to bundle instead of sack. Authorizations to bundle instead of sack will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.42 Package Preparation.

.421 Weight and Volume. A package must contain a minimum of two copies of the publication and must not exceed 40 pounds in weight.

.422 Sortation. Mailers must presort copies and secure them into 5-digit, 3-digit and state bundles.

.423 Labels. Five-digit, 3-digit and state bundles must be labeled in accordance with 767.2.

.43 Bundle Preparation.

.431 Weight and Volume. A bundle must weigh at least 20 pounds or be of at least 1,000 cubic inches of volume. The weight of a bundle must not exceed 40 pounds.

.432 Sortation. A bundle must be prepared when there are 20 or more pounds or 1,000 or more cubic inches of packages for a particular level of sortation. Lesser quantities must be included in bundles for the next larger level of sortation. Mail for no more than one zone may be placed in a bundle.

.433 Labels. All bundles must be appropriately labeled on top with a non-standard facing slip to show destination, contents and origin as required with sacks (see 767.2).

.434 Physical Characteristics of Bundles.

a. Non-Local Processing and Delivery. Bundles must be machinable by Postal Service sack-sorting equipment unless they consist of mail intended only for local area delivery (see 767.434b). The mailer must satisfy the Postal Service that mailings are machinable. This can be verified by having the mailing post office test process ten or more bundles of each representative bundle size expected in the mailings of two or more passes through a bulk mail center (BMC). The potential of the bundles to cause damage to other mail must also be tested. Ordinarily, bundles require cross strapping and heavy gauge shrink or stretch wrap to insure their integrity in the mailstream.

b. Local Processing and Delivery. When bound printed materials are entered for local processing and delivery (i.e., same Sectional Center Facility area), they need not meet the requirements of 767.434a. However, bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel or damage to mechanized sorting systems. Binding material must be applied at least once around the length and girth. The use of metal strapping and wire to secure bundles is prohibited.

767.5 Palletizing Instead of Sacking (Bundles Presented on Pallets).

.51 Regional Authorization.

.511 The Regional Postmaster General of the region where the mailer is located may authorize the preparation of bound printed matter mail in bundles placed on pallets instead of sacking if such preparation is beneficial to the Postal Service. Generally, authorization for this type of mail preparation will be granted only when: (1) the number of bundles to be prepared is not more than four times the number of sacks which would otherwise be prepared for material to be placed on 3-digit and SCF pallets, and not more than five times the number of sacks that would otherwise be prepared for material to be placed on 5-digit, optional city, and BMC pallets, and (2) when the amount of mail on each pallet is equivalent to or greater than 30 sacks which would otherwise be prepared. The mailer, on behalf of the client, must submit an application to the Regional Postmaster General of the region where the mailer is located for each client. An application for palletization may be obtained from the region where the mailer is located and at a minimum will require the following information:

a. The name of the client, frequency of mailing and approximate mailing dates;

b. A list of the post offices of entry;

c. The approximate weight of a single copy;

d. A breakdown of mail preparation for each entry office that shows the destination of each pallet to be prepared for the mailings submitted at that postal facility;

e. The approximate number of bundles for each pallet make-up;

f. The average weight of a pallet load;

g. The approximate number of pallets in the mailing that will weigh less than 650 pounds;

h. The number of sacks that would otherwise be needed in the mailing; and

i. The number of pallets required.

If an authorization is granted, mailers must be prepared to submit information for future issues, such as that required in the original application, at the request of the Regional Postmaster General.

.512 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General to whom the application is submitted will issue to the mailer, the authorization or denial of the request to bundle instead of sack the mailing for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorizations will be granted for a specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming mailing and perform a review of the mailer's continued eligibility to bundle instead of sack. Authorizations to bundle instead of sack will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.52 Bundle Preparation.

.521 Weight and Volume. A bundle must be prepared when there are at least 15 pounds or more of mail or at least 1,000 cubic inches of volume. The weight of the bundle must not exceed 20 pounds.

.522 Sortation. Mailers must presort copies and secure them into bundles as required in 767.221 through 767.224. When there are 15 pounds for a destination, copies must be secured into bundles weighing at least 15 pounds. For example, if there are 14 pounds of mail for a 5-digit ZIP Code, only one bundle weighing 14 pounds must be prepared. If there are 25 pounds of mail for a 5-digit ZIP Code, a 15 pound bundle and a 10 pound bundle labeled to that 5-digit destination is acceptable as well as one 20 pound bundle and one 5 pound bundle for the same 5-digit ZIP Code destination.

Note.—State Distribution Center (SDC), State, and Mixed States bundles must not be included in the palletized portion of the mailing. Such bundles must be sacked in accordance with 767.225 through 767.227.

.523 Labels.

a. Bundles On BMC Pallets. All bundles that are placed on BMC pallets must be labeled with a facing slip containing only the destination information required for sack labels in 767.221 through 767.224. Two zeros must be added to the end of all 3-digit ZIP Code prefixes that may appear on the destination line of the labels. These requirements will assist processing on BMC parcel sorters.

b. Other Bundles. Bundles must be labeled with pressure-sensitive labels, or the optional endorsement line, as provided in 468.

.524 Physical Characteristics. Bundles must be securely tied, strapped, wrapped, or otherwise prepared to maintain their integrity.

b. Bundles on Pallets.

(1) Bundles on BMC Pallets. Bundles that are placed on BMC pallets must be machinable on BMC parcel sorters and must be prepared using shrink wrap. Since shrink wrap alone may not result in a machinable package, it is recommended that each bundle be both banded around the length and girth and shrink wrapped. The mailer must satisfy the Postal Service that the bundles are machinable. This will be verified by having the mailing post office test process 10 or more bundles of each representative bundle size expected in the mailings on two or more passes through the BMC. The potential of the bundles to cause damage to other mail must also be tested while being processed on BMC primary and secondary parcel sorters.

(2) Other Bundles. Bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel. The use of heavy gauge shrink wrap over banding is the recommended method of securing packages. However, use of only banding material, or only shrink wrap is acceptable. Banding material, if used, must be applied at least once around the length and once around the girth of each bundle. The use of metal strapping and wire to secure bundles is prohibited.

.53 Pallet Preparation.

.531 Weight and Volume. The minimum mail load of a pallet is 650 pounds. The maximum gross weight of a pallet (the pallet and the mail) is 2,000 pounds. Exception: Up to 10 percent of the pallets in a mailing may contain less than 650 pounds of mail, if the mailer provides the pallets for those pallets containing less than 650 pounds.

.532 Sortation. Packages and bundles must be placed on pallets as described below, beginning with pallets for the finest sortation level (5-digit pallets) through the largest authorized level.

a. 5-Digit Pallets. Whenever there are 650 or more pounds of bundles for the same 5-digit ZIP Code area they must be placed on a pallet labeled to that 5-digit destination. Pallet labels must be prepared and affixed to the pallet and must contain the information required for 5-digit sack labels in 767.2 in the format required by that section.

b. Optional Multi-Coded City Pallets. After making up all required 5-digit pallets mailers may, at their option, place any bundles remaining that are destined for the same optional multi-coded city included in 467.114, on a pallet labeled to that city, provided the minimum and maximum weight requirements in 767.531 are met. The pallet labels must be prepared and affixed to the pallet and must contain the information required for optional multi-coded city sack labels in 767.222, in the format required by that section.

c. 3-Digit Pallets. If, after preparing all required 5-digit pallets (and optional multi-coded city pallets if the mailer chooses to prepare them) there are 650 pounds or more of bundles remaining that are destined for the same 3-digit ZIP Code prefix area, they must be placed on a pallet labeled to that 3-digit destination. The pallet labels must be prepared and affixed to the pallet and must contain the information required for 3-digit sacks in 767.223, format required by that section.

d. SCF Pallets. If, after preparing all required 5-digit pallets, optional multi-coded city pallets, and required 3-digit pallets, there are 650 pounds or more of bundles remaining that are destined for the same zone and ZIP Codes served by the same Sectional Center Facility, they must be placed on a pallet labeled to that Sectional Center Facility. The pallet labels must be prepared and affixed to the pallet and must contain the information required for SCF sacks in 767.224, in the format required by that section.

e. Optional BMC Pallets. If, after preparing all required 5-digit pallets, optional multi-coded city pallets (optional), required 3-digit pallets and required SCF pallets, there are 650 pounds or more of bundles remaining that are destined for the same zone and for ZIP Codes served by the same BMC, they must be placed on a pallet labeled to that destination BMC. Bundles placed on BMC pallets must be machinable (see 767.524a). The pallet labels must be prepared and affixed to the pallet and must contain the information required for destination BMC pallets in 767.322 in the format required by that section.

.534 Labeling

All pallets must be provided with at least two clearly visible labels. Labels must be at least 8 inches by 11 inches in size, with letters at least ½ of an inch in height. Labels must be placed on two adjacent sides of the pallet. See 767.221 through 767.224 and 767.322, concerning the information which must appear on the labels.

.535 Physical Characteristics. Pallets must be constructed of high quality material, designed to handle loads equal to a gross weight of 2000 pounds with volumes up to 65 cubic feet. The dimensions must be 48 inches by 40 inches. The pallets must be designed for four way entry by fork trucks and two way entry for pallet jacks. Pallet mailings must be wrapped with shrinkable or stretchable plastic and prepared to retain integrity throughout transportation and handling. Wooden top caps the same size as the pallet are required on pallets with gross weights of less than 1000 pounds. Top caps must be affixed to the pallet with nylon strapping.

.54 Presentation of Mailings. Sacks containing packages for SDC, state or mixed states destinations, or containing bundles remaining after all possible pallets have been prepared, may be presented along with palletized bundles as part of the same mailing (i.e., on the same mailing statement), if the sacks are physically segregated from the bundled and palletized portion of the mailing.

767.6 Palletizing Machinable Fourth-Class Parcels.

.61 Regional Authorization.

.611 The Regional Postmaster General of the region where the mailer is located may authorize the preparation of fourth-class machinable mail on pallets instead of sacking if such preparation is beneficial to the Postal Service. Generally, authorization for this type of mail preparation will be granted only when the amount of mail on each pallet is equivalent to or greater than 30 sacks which would otherwise be prepared. The mailer must submit an application to the Regional Postmaster General of the region where the mailer is located for each client. An application for pallatization may be obtained from the region where the mailer is located and at a minimum will require the following information:

a. The name of the client, frequency of mailing and approximate mailing dates;

b. A list of the post offices of entry;

c. The approximate weight of a single piece;

d. A breakdown of mail preparation for each entry post office that shows the destination of each pallet to be prepared for the mailings submitted at that postal facility;

e. The approximate number of pieces for each pallet make-up;

f. The average weight of a pallet load;

g. The approximate number of pallets in the mailing that will weigh less than 650 pounds;

h. The number of sacks that would otherwise be needed in the mailing; and

i. The number of pallets required.

If an authorization is granted, mailers must be prepared to submit information for future issues, such as that required in the original application, at the request of the Regional Postmaster General.

.612 The application and supporting material will be reviewed by the General Manager, Logistics Division, the General Manager, Accounting and Revenue Protection Division, and by all others concerned. The Regional Postmaster General to whom the application is submitted will issue to the mailer the authorization or denial of the request to palletize machinable parcels for all post offices of entry. Copies of the authorization will be forwarded to all affected entry post offices and Regional Postmasters General by the authorizing Regional Postmaster General. Authorizations will be granted for a

specific period of time, not to exceed two years. At least every six months, the Regional Postmaster General or authorized representative must request the mailer to submit the information required in the application for an upcoming mailing and perform a review of the mailer's continued eligibility to palletize machinable parcels. Authorizations to palletize machineable parcels will be revoked when it is determined that method of preparation is no longer beneficial to the Postal Service.

.62 Machinable Parcel Pallet Preparation

.621 Weight and Volume. The minimum mail load of a pallet is 650 pounds. The maximum gross weight of a pallet (the pallet and the mail) is 2,000 pounds. Exception: Up to 10 percent of the pallets in a mailing may contain less than 650 pounds of mail, if the mailer provides the pallets for those pallets containing less than 650 pounds.

.622 Sortation. Pallets must be made up to the destinations described in 767.321, 767,322, and 767.323.

a. 5-Digit Pallets. Whenever there are 650 or more pounds of mail for the same 5-digit ZIP Code area it must be placed on a pallet labeled to that 5-digit destination. Pallet labels must be prepared and affixed to the pallet in accordance with 767. The labels must contain the information required for 5-digit sack labels in 767.321 in the format required by that section.

b. Destination BMC Pallets. If, after preparing all required 5-digit pallets, there are 650 pounds or more of mail destined for ZIP Codes served by the same BMC, it must be placed on a pallet labeled to that destination BMC. The pallet labels must be prepared and affixed to the pallet in accordance with 767.623. The labels must contain the information required for destination BMC sacks in 767.322, in the format required by that section.

c. Origin BMC Pallets. After preparing all required 5-digit pallets and destination BMC pallets, the remaining pieces must be placed on pallets labeled to the origin BMC. The pallet labels must be prepared and affixed to the pallet in accordance with 767.623. The labels must contain the information required for origin BMC sacks in 767.323, in the format required by that section.

.623 Labeling.

All pallets must be provided with at least two clearly visible labels. Labels must be at least 8 inches by 11 inches in size, with letters at least ½ of an inch in height. Labels must be placed on two adjacent sides of the pallet. See 767.321 and 767.322, concerning, the information which must appear on the labels.

.624 Physical Characteristics.

Pallets must be constructed of high quality material, designed to handle loads equal to a gross weight of 2,000 pounds with volumes up to 65 cubic feet. The dimensions must be 48 inches by 40 inches. The pallets must be designed for four way entry by fork trucks and two way entry for pallet jacks. Pallet mailings must be wrapped with shrinkable or stretchable plastic and prepared to retain integrity throughout transportation and handling. Wooden top caps the same size as the pallet are required on pallets with gross weights of less than 1,000 pounds. Top caps must be affixed to the pallet with nylon strapping.

.63 Presentation of Mailings. Pieces for areas served by the origin BMC may be presented along with palletized parcels as part of the same mailing (i.e., on the same mailing statement), if the sacks are physically segregated from the palletized portion of the mailing.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 404(a)(2))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2447-5]

Approval and Promulgation of Implementation Plans; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On December 9, 1982, EPA published a notice of proposed rulemaking concerning volatile organic compounds (VOC) rules submitted by the State of California. That notice proposed to fully approve, with one exception, the VOC rules. Today's notice takes final action under the Clean Air Act to approve these rules since they reflect reasonably available control technology (RACT), with two exceptions. EPA is deferring action on the Bay Area District's architectural coatings rule and the South Coast District's cutback asphalt rule.

DATE: This action is effective November 10, 1983.

ADDRESSES: A copy of today's revision to the California State Implementation Plan is located at:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Atten: Douglas Grano, (415) 974-7641.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1982 (47 FR 55401), EPA published a notice of proposed rulemaking for certain VOC rules submitted by the State from July 1981 through August 1982. That notice should be used as a reference in reviewing today's notice. The December 9 notice provides a description of the proposed rules, compares them to the Group I and II Control Techniques Guidelines (CTG), identifies deficiencies and issues, and suggests corrections. The December 9 notice proposed to fully approve 19 rules, proposed to approve one rule with an understanding and proposed action on another rule contingent on the submittal of a RACT demonstration.

Public Comments

During the public comment period, EPA received comments from the South Coast Air Quality Management District regarding their cutback asphalt rule. However, after the public comment period, the District advised EPA that they would be amending the rule and, therefore, further action by EPA is inappropriate. No other comments were received.

EPA Actions

EPA is taking final action under Section 172 of the Clean Air Act to approve the following rules, submitted on the indicated dates, since they are consistent with the Group II CTG and represent RACT:

Bay Area Air Quality Management District (AQMD)

Regulation 8
Rule 5 Storage of Organic Liquid (3/1/82)
Rule 24 Pharmaceutical and Cosmetic Manufacturing Operations (7/30/81)

Kern County Air Pollution Control District (APCD)

Rule 410.7 Graphic Arts Industry (7/30/81)

Sacramento County APCD

Rule 4A Rotogravure and Flexographic Printing (10/23/81)
Rule 4B Pharmaceutical Manufacturing (10/23/81)
Rule 51 Perchloroethylene Dry Cleaning (10/23/81)

San Diego County APCD

Rule 67.8 Dry Cleaning Facilities Using Halogenated Organic Sovlent (10/23/81)

South Coast AQMD

Rule 1107 Manufactured Metal Parts and Products Coating (3/1/82 and 8/6/82)

Ventura County APCD

Rule 74.5 Dry Cleaning (10/23/81)

EPA is also taking final action under Section 172 to approve the following rules due to their consistency with the Group I CTG and RACT:

Kern County APCD

Rule 412 Transfer of Gasoline into Stationary Storage Containers (7/30/81)

South Coast AQMD

Rule 1108.1 Emulsified Asphalt (3/1/82)
Rule 1125 Can and Coil Coating Operations (3/1/82)
Rule 1128 Magnet Wire Coating Operations (3/1/82)

Ventura County APCD

Rule 74.6 Surface Cleaning and Degreasing (3/1/82)

In addition, EPA is taking final action under Section 110 of the Clean Air Act to approve the following rules since they will strengthen the State Implementation Plan, and are consistent with Section 110 of the Clean Air Act:

Bay Area AQMD

Regulation 8
Rule 2-112 Miscellaneous Operations (3/1/82)

Kern County APCD

Rule 414.4 Polystyrene Foam Manufacturing (7/30/81)

Sacramento County APCD

Rule 10 Petroleum Solvent Dry Cleaners (10/23/81)

South Coast AQMD

Rule 107 Determination of Volatible Organic Compounds in Coating Material (3/1/82)

EPA is approving San Diego County Rule 67.6, *Solvent Cleaning Operations*, submitted March 1, 1982, with the understanding that a revision will be submitted by the State to specify a minimum capture efficiency.

On February 3, 1983, the State submitted to EPA amended Bay Area District Rule 3, *Architectural Coatings*. This amendment supersedes the revision described in the December 9 notice. EPA will take action on this latest revision in a future proposal notice.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 6709).

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1980.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Sec. 110, 129, 171-178, and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)).

Dated: September 27, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(101) (i)(C) and (ii)(D), (103) (ii)(C), (iv)(C), and (v)(C), (121) (i)(B), (ii)(B), (iv), and (v), and (124)(iv)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(101) * * *

(i) * * *

(C) New or amended Regulation 8, Rule 24.

(ii) * * *

(D) New or amended Rules 410.7, 412, and 414.4.

* * * * *

(103) * * *

(ii) * * *

(C) New Rule 67.8.

* * * * *

(iv) * * *

(C) New Rule 74.5.

(v) * * *

(C) New Rules 4A, 4B, 10 and 51.

* * * * *

(121) * * *

(i) * * *

(B) Amended Rules 107, 1107, 1108.1, 1125 and 1126.

* * * * *

(ii) * * *

(B) Amended Rule 67.6(e).

* * * * *

(iv) Bay Area AQMD.

(A) Amended Regulation 8, Rules 2-112 and 5-313.4.

(v) Ventura County APCD.

(A) Amended Rule 74.6.

* * * * *

(124) * * *

(iv) * * *

(B) Amended Rule 1107.

* * * * *

[FR Doc. 83-27567 Filed 10-7-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2447-4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA announces approval of a revision to the Illinois State Implementation Plan (SIP) for ozone. The SIP will provide for an alternative compliance schedule for prime coating and prime surface coating operations at the Chrysler Corporation (Chrysler) Belvidere facility located in Boone County, Illinois. This SIP revision will allow Chrysler to continue to use its existing water-borne dip and solvent-borne spray prime painting system while they research a more cost effective means to reduce VOC emissions which will provide adequate corrosion

protection. EPA's action is based upon a revision which was submitted by the State.

EFFECTIVE DATE: This action will be effective December 12, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW.,, Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan at (312) 353–0396 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 353–0396.

SUPPLEMENTARY INFORMATION: On March 17, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a revision to its ozone SIP for Chrysler. The revision request contains an alternative compliance schedule which is in the form of a variance for prime coating and prime surface coating operations located at Chrysler's Belvidere facility in Boone County, Illinois.

Under the existing federally approved SIP, each prime coating and prime surface coating operation is subject to the emission control requirements contained in Illinois Pollution Control Board (IPCB) Rule 205(n)(1)(A)(ii) of Chapter 2: Air Pollution of the IPCB Rules and Regulations. Rule 205(n)(1)(A)(ii) requires compliance with emission limits of 1.2 pounds of VOC per gallon (lbs VOC/gal) for Chrysler's prime coating operation and 2.6 lbs. VOC/gal for Chrysler's prime surface coating operation. Final compliance is required by December 31, 1982.

In lieu of the compliance date contained in the existing federally approved SIP, the State is proposing an alternative schedule. The final compliance date contained in the variance is December 31, 1987, for both the prime coating and the prime surface coating operations at Chrysler's Belvidere facility.

Under the variance, Chrysler would be limited to the interim limits of 2.2 lbs VOC/gal for the prime coating operations and 3.67 lbs VOC/gal for the prime surface coating operations. These limits are consistent with the October 20, 1981, **Federal Register** (46 FR 51386) "Approval of Revision to Compliance Schedule for Control of Volatile Organic Compounds From Automobile Assembly Plant Paint Shop Operation" and is consistent with the VOC RACT program adopted by Chrysler Corporation.

The variance contains a compliance schedule which includes legally enforceable increments of progress toward compliance. To ensure reasonable progress in achieving compliance for the prime coating and prime surface coating operation, a compliance schedule was established for the calendar years 1983, 1984, and 1985. The revised compliance schedule contains the following increments of progress: (1) Install the Uniprime paint system at its Windsor assembly plant no later than December 31, 1983, for the purpose of assessing such a system; (2) no later than December 31, 1984, Chrysler will report to the IPCB its experience with the Uniprime paint system at its Windsor assembly plant, and (3) no later than December 31, 1985, Chrysler will provide the IPCB with the detailed plans on how it will comply with the requirements of Rule 205(n)(1)(A)(ii) upon the expiration of the variance.

Chrysler has determined that they cannot incorporate an E-Coat system at their Belvidere facility without modifying its corrosion program and thereby reducing the corrosion protection it could offer consumers in the future. Chrysler is committed to install a PPG Uniprime paint system for the 1984 model year at the Windsor facility to verify that the system will provide the expected benefits under mass production, but Chrysler states that it lacks the resources to commit to a PPG Uniprime paint system at their Belvidere facility at this time.

The extended compliance schedule will not interfere with the attainment or maintenance of the ozone national ambient air quality standards (NAAQS) because Chrysler's Belvidere facility is located in Boone County, Illinois which is designated attainment for the pollutant ozone and the variance assures continued emission reductions at the facility.

EPA has determined that the variance consists of enforceable emission limitations which are equivalent to RACT, and it would not be economically feasible or reasonable for Chrysler to install an E-Coat system by the compliance date contained in Rule 205 (n)(1)(A)(ii).

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on December 12, 1983. However, if we receive notice by November 10, 1983 that someone wishes to submit critical comments, *then* EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: September 27, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.720 is amended by adding paragraph (c)(44) as follows:

§ 52.720 Identification of the plan.

* * * * *

(c) * * *

(44) On March 17, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a revision to its ozone SIP for Chrysler's Belvidere facility. The revision request contains an alternative compliance time schedule with interim emission limitations which is in the form of a variance for prime coating and prime surface coating operations. Final compliance is changed from December 31, 1982 to December 31, 1987.

* * * * *

[FR Doc. 83–27565 Filed 10–7–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6480

[U–51056]

Utah; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes two Departmental orders insofar as they affect 40 acres of land for the Strawberry Valley Project. This action will restore the lands to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: November 5, 1983.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801–524–4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Orders of May 2, 1914, and January 6, 1923, which withdrew lands for the Strawberry Valley Project, are hereby revoked insofar as they affect the following described lands:

Salt Lake Meridian, Utah

T. 9 S., R. 1 E.,
Sec. 20, NE¼NE¼

The area described aggregates 40 acres in Utah County.

2. At 10 a.m. on November 5, 1983, the public lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 5, 1983, shall be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on November 5, 1983, the public lands will be open to location and entry under the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

All public lands described in this order have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands shall be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: September 30, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–27543 Filed 10–7–83; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6481

[OR–20269, OR–20278, OR–20279]

Oregon; Revocation of Secretarial Orders of April 3, 1903, August 25, 1909, and January 28, 1910

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three Secretarial orders which withdrew 15,814.29 acres of land for use by the Bureau of Reclamation for the Umatilla Reclamation Project. The surface and subsurface estates have been conveyed out of Federal ownership and will remain closed to surface entry, mining, and mineral leasing. Thus, the effect of this order is record clearing only.

EFFECTIVE DATE: November 5, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of April 3, 1903, August 25, 1909, and January 28, 1910, which withdrew the following described lands for use by the Bureau of Reclamation for the Umatilla Project, are hereby revoked:

Willamette Meridian

Umatilla Project

T. 3 N., R. 24 E.,
Secs. 12, 25, and 26;
Sec. 27, E½;
Sec. 32, E½;
Secs. 33, 34, 35, and 36.
T. 4 N., R. 24 E.,
Sec. 11, lots 1, 2, 3, and 4, and S½;
Sec. 13;
Sec. 14, SE¼SE¼;
Sec. 23;
Sec. 24, N½ and N½S½.
T. 3 N., R. 27 E.,
Sec. 1, N½SW¼ and fractional N½;
Sec. 2, N½S½, S½SW¼, SW¼SE¼, and fractional N½;
Sec. 3;
Sec. 4, fractional E½;
Sec. 9, NE¼;
Sec. 10, N½NE¼, SW¼NE¼, and NW¼.
T. 4 N., R. 27 E.,
Sec. 12, SE¼NE¼, NE¼SE¼, and S½SE¼;
Sec. 35, S½.
T. 4 N., R. 28 E.,
Sec. 3, lots 8 and 9;
Sec. 4, fractional W½W½;
Sec. 6, SE¼;
Sec. 7, SE¼ and fractional W½;
Sec. 8, all west of Umatilla River;
Sec. 14, S½SE¼;
Sec. 18;
Sec. 19, fractional all west of Umatilla River;
Sec. 22, SE¼;
Sec. 23, W½SW¼;
Sec. 25;
Sec. 26, NE¼ and S½;
Sec. 27, NE¼, W½NW¼, and S½;
Sec. 28, S½NW¼ and S½;
Sec. 29, N½.
T. 5 N., R. 28 E.,
Sec. 32, E½NE½ and SE¼.

The areas described aggregate approximately 15,814.29 acres in Morrow and Umatilla Counties.

2. The lands have been conveyed from Federal ownership without mineral reservations, and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

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Dated: September 30, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-27545 Filed 10-7-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6482

[OR-20272]

Oregon; Partial Revocation of Secretarial Order of August 22, 1904

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order as it affects 11,543.36 acres of public land withdrawn for the Umatilla Project. The surface and subsurface estates have been conveyed out of Federal ownership and will not be restored to surface entry, mining or mineral leasing. Thus, the effect of this order is record clearing only.

EFFECTIVE DATE: November 5, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretary's First Form Reclamation Withdrawal Order of August 22, 1904, which withdrew public lands for use by the Bureau of Reclamation for the Umatilla Project, is hereby revoked as to the following described lands:

Willamette Meridian

T. 2 N., R. 24 E.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 7, lots 1, 2, 3, and 4, E½W½, and E½;
Secs. 9 and 11;
Sec. 12, SE¼SE¼;
Sec. 16, N½;
Sec. 17;
Sec. 18, NE¼.
T. 3 N., R. 24 E.,
Sec. 25;
Sec. 32, E½;
Secs. 33, 34, 35, and 36.
T. 2 N., R. 25 E.,
Sec. 5, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 7, lots 1 and 2, NE¼, and E½NW¼,
T. 3 N., R. 25 E.,
Sec. 29;
Sec. 31, lots 1, 2, 3, and 4, E½, and E½W½;
Sec. 33.

The areas described aggregate 11,543.36 acres in Morrow County.

2. The lands have been conveyed from Federal ownership and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: September 30, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-27544 Filed 10-7-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

National Flood Insurance Program; Final Flood Elevation Determinations; Colorado, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communites listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Colorado	Las Animas County, (Unincorporated Areas) FEMA-6538.	Purgatoire River	Approximately 4,000 feet south of the intersection of State Highway 239 and Burlington Northern Railroad.	#2 *5,016
			Approximately 300 feet southeast of the mouth of Prospect Canyon.	
Maps are available for review at the Assessor's Office, Las Animas County Courthouse, Trinidad, Colorado.				
Colorado	Trinidad (City of) Las Animas County FEMA-6538	Purgatoire River	Approximately 500 feet east of the intersection of Rico Street and Hairlen.	*5,956
			Approximately 400 feet north of the intersection of Rico Street and Hairlen.	#2
		Prospect Canyon	Approximately 200 feet southwest of the intersection of Park Avenue and Grove.	*6,035
Maps are available for review at City Hall, 135 North Animas, Trinidad, Colorado.				
Georgia	(C) Lafayette, Walker County (Docket No. FEMA-6522).	Chattooga Creek	Just upstream of Shattuck Industrial Drive	*767
			Just downstream of the confluence of Chattooga Creek Tributary.	*789
Maps available for inspection at City Hall, P.O. Box 88, Lafayette, Georgia 30728.				
Illinois	(V) Arlington Heights, Cook and Lake Counties (Docket No. FEMA-6538).	Buffalo Creek	About 2000 feet downstream of Schaeter Avenue	*703
			Approximately 600 feet upstream of Wilke Road	*714
		Salt Creek	About 100 feet upstream of Euclid Avenue	*708
			Just downstream of Chicago and North Western Railway.	*713
Maps available for inspection at 33 South Arlington Heights Road, Arlington Heights, Illinois 60005.				
Illinois	(V) Bartlett, Cook and DuPage Counties (Docket No. FEMA-6538).	County Creek	Just upstream of Stearns Road	*788
			About 1,100 feet downstream of Devon Avenue	*782
		Brewster Creek	About 0.55 mile downstream of State Route 59	*774
			Just downstream of State Route 59	*785
Maps available for inspection at 228 South Main Street, Bartlett, Illinois.				
Illinois	(V) Bolingbrook, DuPage and Will Counties (Docket No. FEMA-6538).	East Branch DuPage River	About 1,700 feet downstream of Royce Road	*646
			About 1,400 feet downstream of Royce Road	*647
		Lily Cache Creek	Just downstream of Dam	*675
			Just upstream of Dam	*673
Maps available for inspection at 375 West Briarcliff Road, Bolingbrook, Illinois.				
Maryland	Allegany County (FEMA Docket No. 6538)	North Branch Potomac River	Upstream Chessie System	*562
			Confluence with Evitts Creek	*602
			Upstream Ford Avenue	*609
			Upstream dam	*623
			Downstream of City of Cumberland upstream corporate limits.	*627
			Maple Street (extended)	*630
			Confluence with Warrier Run	*646
			Downstream McMullen Highway (RI 220)	*903
			Downstream of downstream corporate limits of Westernport.	*917
		Warrier Run	Confluence with North Branch Potomac River	*646
			Downstream of dam	*648
		Evitts Creek	Confluence with North Branch Potomac River	*602
			Downstream Val Highway	*602
Maps available for inspection at the office of Planning and Zoning, Allegany County Office Building, 3 Pershing Street, Cumberland, Maryland.				
Massachusetts	Lowell, City, Middlesex County (FEMA Docket No. 6522).	Concord River	Upstream side of State Route 133 (Church Street)	*73
			Downstream side of Warreait Power Company Dam	*101
Maps available for inspection at the City Hall, 375 Merrimack Street, Lowell, Massachusetts.				
Michigan	(Twp) Muskegon, Muskegon County (Docket No. FEMA-6536).	Muskegon River	About 1.1 miles downstream of U.S. Highway 31	*585
			About 1.7 miles downstream of U.S. Highway 31	*585
Maps available for inspection at 1990 Apple Avenue, Muskegon, Michigan 49442.				
Missouri	(C) Sarcoxie, Jasper County (Docket No. FEMA-6532).	Center Creek	About 2,200 feet downstream of Business Loop 44	*1083
			About 2,500 feet upstream of Business Loop 44	*1089
		Swifty Creek	About 1,050 feet downstream of Reed Avenue	*1083
			Just upstream of Cross Street	*1092
			About 550 feet upstream of the St. Louis-San Francisco Railway.	*1111
Maps available for inspection at 111 North Sixth Street, Sarcoxie, Missouri, 64862.				
New Hampshire	Claremont, City, Sullivan County (FEMA Docket No. 6522).	Sugar River	Broad Street/Monadnock Dam (directly upstream)	*520
			Confluence with Grandy Brook	*530
			Approximately 860 feet downstream of Claremont and Concord Railroad.	*532
		Grandy Brook	Confluence with Sugar River	*530
Maps available for inspection at the City Hall, Claremont, New Hampshire.				
New Jersey	Fairfield, Township, Essex County (FEMA Docket No. 6522).	Passaic River	Phyllis Lane extended	*173
			Farmstead Lane	*173
		Deepaval Brook	Orlando Drive	*172
			Kingsbridge Road	*172
Maps available for inspection at the Township Building, 230 Fairfield Road, Fairfield, New Jersey.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
New Jersey	Westwood, Borough Bergen County (FEMA Docket No. 6522).	Musquapsink Brook	Approximately 200 feet upstream of Forest Avenue Extension (area previously not identified).	*54
			Approximately 400 feet upstream of Forest Avenue Extension (area previously not identified).	*54
Maps available for inspection at the Borough Building, 51 Jefferson Avenue, Westwood, New Jersey.				
North Dakota	Burlington (Township of) Ward County FEMA-6532	Des Lacs River	Intersection of river with upstream township boundary	*1561
		Souris River	Intersection of river with downstream township boundary.	*1572
Maps are available for review at the Town Clerk's Home, Rural Route 6, Minot, North Dakota.				
North Dakota	Ward County (Unincorporated Areas) FEMA-6532	Des Lacs River	Intersection of river and center of U.S. Highway 52	*1784
		Souris River	Intersection of river and center of Soo Line Railroad near City of Sawyer.	*1529
Maps are available for review at the Auditor's Office, Ward County Courthouse, Minot, North Dakota.				
Ohio	(C) Mentor Lake County (Docket No. FEMA-6538)	Wasson Ditch	Just upstream of Blue Jay Lane	*619
			Just upstream of State Route 2	*624
			Just upstream of Conrail	*644
		Heisley Creek	Just downstream of Conrail	*637
			Just upstream of Conrail	*644
			Just upstream of Norfolk Southern Railway	*660
			About 700 feet upstream of Jackson Steet	*665
		March Creek	Just downstream of Norfolk Southern Railway	*644
		West Branch March Creek	Just upstream of Twinbrook Road	*640
			Just downstream of Norfolk Southern Railway	*647
Maps available for inspection at 8500 Civic Center Boulevard, Mentor, Ohio.				
Oregon	Ione (City of) Morrow County FEMA-6532	Willow Creek	250 feet west of the intersection of Willow and Main Streets.	*1071
			At easternmost corporate limit crossing	*1100
Maps are available for review at City Hall, Ione, Oregon.				
Pennsylvania	Center, Township, Indiana County (FEMA Docket No. 6505).	Two Lick Creek	Downstream corporate limits	*984
			Approximately 3,900' above downstream corporate limits.	*987
	xl	xl	Downstream corporate limits of Homer City Borough	*1,005
			Upstream State Route 56	*1,015
			Upstream Main Street	*1,019
			Upstream CONRAIL (1st crossing)	*1,041
		Yellow Creek	Approximately 3,450' upstream of State Route 119	*1,050
			Upstream corporate limits of Homer City Borough	*1,024
			Approximately 450' upstream of Legislative Route 32134.	*1,028
Maps available for inspection at the Center Township Offices, R.D. 2, Neal Road, Homer City, Pennsylvania.				
Pennsylvania	Salisbury, Township, Lehigh County (FEMA Docket No. 6514).	Cedar Creek	Downstream corporate limits	*262
			Upstream corporate limits	*265
		Little Lehigh Creek	Downstream corporate limits	*301
			Keystone Road	*307
Maps available for inspection at the Salisbury Township Building, 3000 South Pike Avenue, Allentown, Pennsylvania.				
Pennsylvania	Whitehall, Township, Lehigh County (FEMA Docket No. 6522).	Jordan Creek	Downstream corporate limits	*260
			Upstream North Fifth Street Bridge	*267
			Upstream McArthur Road Bridge	*272
			Upstream Lehigh Valley Thruway Bridge	*280
Maps available for inspection at the Township Building, 3219 McArthur Road, Whitehall, Pennsylvania.				
Texas	Abilene, City, Taylor & Jones Counties (FEMA Docket No. 6522).	Elm Creek	Approximately 1.2 miles upstream of confluence of Cedar Creek.	*1,647
			Downstream of Lake Phantom Hill Road	*1,653
		Cedar Creek	Downstream corporate limits (located approximately 2 miles upstream of confluence with Elm Creek).	*1,651
		Lytle Creek	Corporate limits (located 1.5 miles upstream of Industrial Boulevard).	*1,746
		Cat Claw Creek	Downstream of Buffalo Gap Road	*1,802
			Upstream of Buffalo Gap Road	*1,805
Maps available for inspection at the City Hall, 555 Walnut Street, Abilene, Texas.				
Texas	Palestine, City, Anderson County (FEMA Docket No. 6522).	Wells Creek Northwest	Approximately 400 feet upstream of U.S. Route 79	*400
			Upstream of U.S. Route 155	*412
			Upstream of Old Bushy Creek Road	*412
Maps available for inspection at the City Hall, 122 Berkely, Palestine, Texas.				
Texas	Victoria, City, Victoria County (FEMA Docket No. 6373).	Lone Tree Creek	Downstream corporate limits	*86
			Approximately 3,100' upstream of downstream corporate limits.	*87
			Southern Pacific Railroad (upstream side)	*91
			Houston Highway (upstream side)	*92
			Lenora Drive (extended)	*98
		Spring Creek	Downstream corporate limits	*77

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
			Confluence of Wiepering Creek, North Outlet	*78
Maps available for inspection at the City Hall, Victoria, Texas.				
Washington	Tumwater (City of), Thurston County (FEMA-6532)	Outlet of Black Lake	100 feet upstream of centerline of Burlington Northern Railroad.	*114
		Percival Creek	At corporate limits, 1500 feet upstream from Sapp Road.	*141
		Trosper Lake	1600 feet southwest of the intersection of Trosper Road and Louise Street.	*158
Maps are available for review at the Planning Department, City Hall, 2nd & Bates, Tumwater, Washington.				
Wyoming	Buffalo (City of), Johnson County (FEMA-6538)	Clear Creek	200 feet downstream from centerline of County Road 132.	*4652
			40 feet upstream from the centerline of County Road 252.	*4582
Maps are available for review at the Planning Department, City Hall, 46 North Main Street, Buffalo, Wyoming.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: September 14, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-27489 Filed 10-7-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 6]

Lamps, Reflective Devices and Associated Equipment; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; correction.

SUMMARY: This notice corrects an error in the amendment published on September 30, 1983 (48 FR 44815) relating to lamps, reflective devices and associated equipment. The error appears in the amendment to paragraph S4.1.1.38(b)(1). The specification of watts at 12.8V for standardized replaceable bulbs was not adjusted to reflect the correct maximum power for low beam and high beam. It is, therefore, necessary to correct the error.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (200-426-2720).

SUPPLEMENTARY INFORMATION: In the final rule on replaceable bulb headlamps published on June 2, 1983 (48 FR 24690), paragraph S4.1.1.38(b)(1) provided that the "watts @ 12.8V" were 45 for low beam and 65 for high beam. This created some uncertainty as to whether these were nominal values or maximum values. To cure the ambiguity, in the response to petitions for reconsideration published on September 30, 1983 (48 FR 44815) the agency amended the words quoted above to read "Maximum power, watts at 12.8V (design voltage)". In so clarifying that nominal values were not intended, the agency inadvertently omitted to change the low and high beam figures to reflect maximum power at design voltage. The correct figures are 50 watts for low beam and 70 watts for high beam. It is necessary to correct the error.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.108 [Amended]

On page 44818, in paragraph S4.1.1.38(b)(1) of 49 CFR 571.108, the figures "45" under Low Beam and "65" under High Beam, respectively, are amended to read "50" and "70".

The lawyer and program official principally responsible for this correction are Z. Taylor Vinson and Jere Medlin, respectively.

(Secs. 103, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 5, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-27514 Filed 10-6-83; 1:35 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for Gila Nigrescens (Chihuahua Chub)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The service determines the Chihuahua chub (*Gila nigrescens*) to be a Threatened species throughout its range under the authority contained in the Endangered Species Act of 1973, as amended. It was first proposed as Endangered by the Service on December 15, 1980 (45 FR 82474-77). The Chihuahua chub occurs in the Guzman Basin, including the Mimbres River of New Mexico and the Rio Casas Grandes, Rio Santa Maria, and Laguna Bustillos drainages of Mexico. This action is being taken because populations of the Chihuahua chub have been significantly reduced by habitat destruction and deterioration resulting from channelization, development of

VOL 48 ISS 197 OCT 11 1983 UMI

flood levees, diversion of surface water for irrigation, dam construction, pollution, deforestation, and excessive groundwater pumping. The proposed Endangered status has been changed to Threatened status because of the chub's status in Mexico and the highly successful propagation efforts in the Dexter National Fish Hatchery. The hatchery fish will be used to attempt to reestablish the species in renovated habitat as part of a recovery effort. Critical Habitat has not been included in this final rule because of the strongly unfavorable response to the Critical Habitat portion of the proposed rule by local landowners. It appeared likely that the entire species could have been lost to illegal actions if Critical Habitat had been determined. It is therefore determined to be imprudent to designate Critical Habitat at this time.

This determination of *Gila nigrescens* to be a Threatened species implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: This rule becomes effective on November 10, 1983.

ADDRESSES: The complete file for this rule is available for inspection during normal business hours by appointment at the Regional Office of the U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–2323).

FOR FURTHER INFORMATION CONTACT: Dr. James Johnson, Region 2, Endangered Species staff (see Addresses above), or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Chihuahua chub was first discovered in 1851 by J. H. Clark in the Mimbres River of New Mexico and, separately, by B. C. Kennerly in the Rio Casas Grandes of Mexico. Adult chubs average about 6 inches in length and are usually found in pools (3 feet in depth) or associated with some type of cover (undercut banks, submerged trees or shrubs, etc.) in small and medium-sized streams. This species is assumed to feed primarily on aquatic invertebrates, but no data are available. Spawning occurs in the spring, possibly extending through summer, perhaps in quiet pools over beds of aquatic vegetation. Little else is known about the biology of the Chihuahua chub.

Populations of the Chihuahua chub have been reduced in the Guzman Basin because of recent modifications in the aquatic habitats. The chub's preferred pool and undercut bank habitat has been altered through a combination of factors including diversion of surface water for irrigation, channelization, construction of dams and levees, and deforestation. The excessive pumping of underground water supplies has also caused some springs and permanent aquatic habitats supporting the species to dry up. Finally, pollution is reported to be responsible for the elimination of chubs from some streams in Mexico.

In 1979, the Service contracted biologists from the University of Michigan to survey the status of the Chihuahua chub in the U.S. and Mexico. These workers found one small Chihuahua chub population (about 100 fish) in the U.S. They also documented the disappearance of chubs from 8 of 15 localities in Mexico where they were previously common or abundant.

In 1981 and 1982, the New Mexico Department of Game and Fish conducted Surveys for *Gila nigrescens* on the Mimbres River (U.S. tributary of the Guzman Basin) between the confluence of Allie and Shepard Canyons and two spring-fed tributaries. In 1981, 51 chubs of various ages were found in the mainstream, suggesting successful reproduction since flooding in 1978–1979. Eighty chubs were found in the same area in 1982. This flooding increased the number of pools with undercut streambanks containing some debris. These pools are now beginning to silt in. The main threat to the chub is the loss of habitat, especially deep holes and undercut banks, loss of water from the best habitat areas, and changes in the habitat resulting from levee and irrigation diversion construction. The distribution of the chub is limited to the few miles of permanent waters; much of the river is intermittent, most likely from use of water for irrigation.

The Service originally proposed to list the Chihuahua chub as Endangered. The New Mexico Department of Game and Fish felt that Threatened status was more appropriate. It based its recommendation on the presence of several populations in Mexico and the status of the captive population at Dexter National Fish Hatchery, and pointed out that the species was not in danger of extinction. In addition, the New Mexico Department of Game and Fish noted several other listed species that maintained most of their populations in Mexico and only peripheral populations in the United States that have been listed or proposed as Threatened (i.e., New Mexico ridge-nosed rattlesnake, beautiful shiner, Yaqui catfish). The Service agrees with this analysis and has changed the status to Threatened with special regulations.

Summary of Comments and Recommendations

In the December 15, 1980 Federal Register proposed rule and associated press releases, all interested parties were invited to submit factual reports or information and comments or suggestions that might contribute to the formulation of a final rule. The Service has considered all comments and recommendations received on the proposed rules. Comments and recommendations received on the proposal, together with responses, are summarized below.

A total of seven written comments were received, one each from the Governor of New Mexico, New Mexico Department of Game and Fish, New Mexico Department of Agriculture, Soil Conservation Service, New Mexico Farm and Livestock Bureau, one conservation organization and one scientific society.

The Governor of New Mexico opposed the listing of the Chihuahua chub as Endangered and the designation of Critical Habitat because he believed that the State could adequately protect the fish. The New Mexico Department of Game and Fish also opposed the listing of the chub as Endangered and the designation of Critical Habitat, but indicated that listing as Threatened without Critical Habitat would be supported. The New Mexico Department of Agriculture opposed listing and Critical Habitat designation because of the success of artificial propagation, results of recent surveys that found greater numbers of the chub, and because of local landowner concern for the effect of Critical Habitat designation on flood control and irrigation practices.

The Albuquerque Office of the U.S. Soil Conservation Service (SCS) commented that flooding could be a direct cause of habitat loss, that recent inventories that found successful reproduction should be recognized, as should the use of artificial propagation. The SCS agreed that water use of agriculture reduced the habitat, and this use would not change without a change in water rights. Most SCS activities could continue if this species was listed, but expenses could be higher.

For response, the Service believes that flooding is a principal reason for loss of chub habitat, as private landowners push up temporary dams within the streambed to divert flood waters. Artificial propagation of the Chihuahua chub at the Service's Dexter Hatchery has been successful in maintaining the species in captivity. This captive population will be used to help recover

the species when additional habitat is available, thereby supplementing the existing population. Listing of the chub could have an effect on SCS activities if such activities were detrimental to the species or its habitat. The Endangered Species Act does not consider increased project costs as a factor in the listing of species.

The New Mexico Farm and Livestock Bureau opposed listing of the Chihuahua chub for the following reasons: The proposed rule was contradictory concerning groundwater use; irrigation practices have been constant for over 100 years and would not suddenly impact the chub; counts of the fish were inaccurate; the proposed Critical Habitat area was too large; there were considerable numbers of this chub in Mexico, artificial propagation was successful, and more study was needed on predation by other fishes, the effects of exotic fishes, and the possible occurrence of the species in other States. The Bureau also felt that Critical Habitat designation would change irrigation practices at an increased cost to the private landowners.

The Service responds that excessive groundwater use has degraded the chub habitat, and depletion of the river would continue to do so. The well near San Lorenzo is far enough downstream that it is not expected to affect the chub's habitat. The Service believes that the impacts of irrigation were not "sudden," but that the species had been known to be declining since the turn of the century and that irrigation is one of several factors resulting in habitat loss and changes in the character of the Mimbres River over the last 100 years. The chub has gradually declined; in 1884, it was relatively abundant, in 1938 it was reported to be extinct, and it was found again in 1975. The fish have been counted using a variety of effective methods since 1938; even so the chub never has been found to be abundant.

The Mexican Chihuahua chub populations are larger than the Mimbres River populations, but the Mexican populations are also reduced and appear to be declining in some areas due to the loss of habitat. As for the Bureau's comments regarding predation, fish of all life stages are preyed upon by larger organisms, but a species rarely becomes extinct from predation alone. Alteration of the chub's habitat and subsequent decline of its population has also created more habitat for exotic species. The main factor limiting the chub is loss of habitat, as indicated by all available data. The Chihuahua chub is only known from the Guzman Basin of New Mexico and Mexico, and not from any other States. Privately funded irrigation practices will not be affected by this rule since Section 7 of the Endangered Species Act does not apply to any project that is not funded, authorized, or carried out by a Federal agency.

The conservation group and the scientific society supported the proposal to protect the Chihuahua chub under the provisions of the Endangered Species Act.

A public meeting was held on January 6, 1981, in Silver City, New Mexico, to answer questions and receive statements relative to the Endangered status and Critical Habitat of the Chihuahua chub. A total of 12 statements were made at the hearing and included those from the New Mexico Department of Agriculture, the Grant County Extension Service, and 10 individuals. The representative from the Department of Agriculture requested information concerning: Status of the species in the wild, the draft impact analysis, public hearing requests, due dates for comments, and Fish and Wildlife Service (FWS) land acquisitions. The County Extension Agent commented that more study on the factors affecting the species appeared necessary and perhaps flooding was the main impact to the chub. The Service agreed that more study is needed in order to assist recovery, but that sufficient data already existed to demonstrate the need to list. No research was conducted between 1938 and 1975 because the chub was believed to be extinct. Flooding has destroyed some chub habitat, but habitat is also lost to such activities as push-up dams to prevent flooding and stream dewatering.

Individual comments and questions concerned the effect of listing and Critical Habitat designation on private individuals and the Corps of Engineers. Concern was expressed about increases in costs to private landowners for reconstruction of their levees and temporary irrigation dams within the Mimbres River after the listing, the possibility that individuals would have to give up land for construction of dams or levees by the Corps of Engineers or that the Corps would be permitted to build dams or levees without the landowner's consent. The Service replied that the activities of private individuals, such as construction of push-ups dams or fruit tree spraying would not be affected if there were no Federal involvement and if the prohibitions of Section 9(a)(1) of the Endangered Species Act were not violated. The Service explained that the listing probably would not increase the landowner costs and that the other actions would proceed only with landowner agreements. The major worry of private individuals centers around Critical Habitat. Because of Threatened illegal retaliation against the fish if Critical Habitat were declared, the Service has decided to withdraw the Critical Habitat proposal.

The Corps of Engineers would be affected only if a Corps' activity would be detrimental to the chub as provided in Section 7(a)(2) of the Endangered Species Act; use of Federal funds for flood rehabilitation or levee or dam construction would require consultation with the FWS if determined that such actions may effect the species.

After a thorough review and consideration of all information available, the Service has determined that the Chihuahua chub is a Threatened species throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a)(1) (A) through (E) of the Endangered Species Act. This determination differs from the original proposal to list as Endangered, with Critical Habitat. Endangered status was changed to Threatened due to the presence of several populations of the chub in Mexico and the success of propagation efforts. Critical Habitat was removed to reduce the possibility of illegal acts that could easily result in the destruction of the chub in the Mimbres River.

The Services has determined that *Gila nigrescens* is primarily affected by factors A and E of Subsection 4(a)(1) of the Act. All five factors and their application to *Gila nigrescens* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Mimbres River of New Mexico, which in the past supported an abundant Chihuahua chub population, has been significantly modified by agricultural and flood control developments. These activities have resulted in the elimination of much of the natural pool and undercut bank habitat, restricting the present population to one small section of the Mimbres River. Further flood reclamation work, maintenance of push-up irrigation diversions, channelization, and development of flood control levees without concern for the Chihuahua chub will continue to threaten the continued existence of this species in the United States. Studies in Mexico revealed that historic Chihuahua chub habitats were destroyed because of pollution, massive diversion of surface waters for irrigation, development of hydroelectric facilities, construction of levees, and

channelization. Some streams in Mexico were found to be completely dry, probably due to excessive pumping of underground aquifers or diversion of surface waters. Manipulations of the stream habitat as described above will likely continue as the interior of Mexico and areas along the Mimbres River in New Mexico are futher developed.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization of the Chihuahua chub is not a threat to its survival.

C. *Disease or predation.* Some predation of Chihuahua chubs by introduced rainbow trout and other species probably occurs, but the extent is unknown. The impact of this factor may be negligible if adequate escape cover is available.

D. *The inadequacy of existing regulatory mechanisms.* Laws concerning State listed Endangered species of New Mexico do not provide mechanisms to protect habitat. Listing the Chihuahua chub, pursuant to the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531 *et seq.*), as amended, would protect its habitat from certain Federal actions through the consultation process under Section 7.

E. *Other natural or manmade factors affecting its continued existence.* The introduction of exotic fishes has been documented to have detrimental effects on many types of native stream fish. Therefore, it has been assumed that the establishment of the rainbow trout, carp, longfin dace, black bullhead, mosquitofish, and rock bass within the range of the Chihuahua chub could be a threat to its continued existence. However, the effect of this factor on the Chihuahua chub needs to be further studied.

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U.S. Army Corps of Engineers. 1979. Environmental assessment for Public Law 84–99, emergency levee rehabilitation on the Mimbres River, New Mexico. U.S. Army Corps of Engineers, Albuquerque District, New Mexico. 36 pp.

Critical Habitat

Section 4(a)(3) of the Act requires the Secretary to designate Critical Habitat for a species, to the maximum extent prudent and determinable, concurrent with the determination that such species is an Endangered or Threatened species. Designation of Critical Habitat for the Chihuahua chub is considered imprudent at this time.

The original Service plan was to proceed with the designation of Critical Habitat with the listing action. However, after initial contact with landowners and public officials in the local area, the Service determined that taking and vandalism threats in these remote streams were real possibilities and were likely to result in further reductions or perhaps even extirpation of the species. Therefore, for the long term benefit of the species, the proposal of Critical Habitat is withdrawn.

Available Conservation Measures

In addition to the effects discussed above, the effects of this final rule would include, but not necessarily be limited to, those mentioned below.

The Act and implementing regulations published in the June 24, 1977, Federal Register (42 FR 32372–32381) set forth a series of general prohibitions and exceptions which apply to Threatened wildlife. These regulations are found at § 17.31 of 50 CFR and are summarized below. In addition to these standardized regulations for Threatened species, Section 4(d) of the Act authorizes the Secretary to issue special regulations for a Threatened species that are necessary and advisable for the conservation of the species.

Such a special rule for the Chihuahua chub is included in this regulation. The special rule allows take in accordance with New Mexico State laws. The State law prohibits taking of the Chihuahua chub without a collecting permit. These permits are issued by the State and allow take for scientific purposes. The State law specifically prohibits bait minnow seining in the Mimbres River where this species occurs.

With respect to the Chihuahua chub, all prohibitions of Section 9(a)(1) of the Act, as implemented by § 17.31, would apply except that the Chihuahua chub may be taken in accordance with State laws. The prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It would also be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and the State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Threatened species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. Such permits are available for scientific purposes, for incidental take, or the enhancement of propagation or survival of the species.

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is listed as Endangered or Threatened. This final rule requires Federal agencies to consult with the Service concerning any action that may affect the species, to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Chihuahua chub. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file in the Service's Regional Endangered Species Office, 500 Gold Avenue, SW., Albuquerque, New Mexico 87103, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Authors

The primary authors of this rule are Dr. James Johnson and Ms. Sandra Limerick, Endangered Species Staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. Section 17.11(h) is amended by adding, in alphabetical order, the following to the list of fishes:

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rule
Common name	Scientific name						
Fishes							
Chub, Chihuahua	*Gila nigrescens*	U.S.A. (NM) Mexico (Chihuahua).	Entire	T	NA	NA	17.44(g)

3. Title 50 CFR 17.44 is amended by adding a new paragraph (g) as follows:

§ 17.44 Special rules—fishes.

* * * * *

(g) Chihuahua chub, *Gila nigrescens*

(1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Endangered Species Act.

* * * * *

Dated: September 15, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-27591 Filed 10-7-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 654 and 658

[Docket No. 31004–197]

Stone Crab Fishery and Shrimp Fishery of the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA) Commerce.

ACTION: Emergency rule.

SUMMARY: The Secretary of Commerce (Secretary) issues emergency regulations amending the Fishery Management Plans for the Stone Crab Fishery and Shrimp Fishery of the Gulf of Mexico and their implementing regulations. This emergency rulemaking (1) closes and opens specific areas in the Gulf of Mexico to stone crab and shrimp fishing during certain time periods, (2) prohibits the intentional placement of articles in the fishery conservation zone that may interfere with fishing gear or fishing vessels, (3) provides for the disposal of stone crab traps found in the areas designated for closures, and (4) provides the Secretary with authority to implement further emergency regulations for these fisheries based on similar conflicts in other areas by publication of a notice thereof in the Federal Register. The intent of these regulations is to avoid serious conflicts between stone crab and shrimp fishermen that may result in bodily harm and property damage.

EFFECTIVE DATE: October 5, 1983, through January 2, 1984.

ADDRESS: Copies of an environmental assessment may be obtained from and comments on this action may be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–893–3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (Stone Crab FMP) prepared by the Gulf of Mexico Fishery Management Council (Council), was approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) on March 19, 1979, and implemented by the Secretary on September 14, 1979 (44 FR 53519), under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Shrimp FMP), prepared by the Council, was approved by the Assistant Administrator on November 7, 1980, and implemented by the Secretary on May 15, 1981 (46 FR 27469).

The Secretary invoked emergency regulations amending the Stone Crab and Shrimp FMPs under section 305(e)(2) of the Magnuson Act on April 6, 1983 (48 FR 14903). These emergency regulations were implemented to resolve gear conflicts between shrimp and stone crab fishermen in the fishery

conservation zone (FCZ) off the Crystal River, Florida, area during the latter part of the 1982–1983 stone crab season. Section 305(e)(2) authorizes the Secretary to promulgate emergency regulations necessary to address an emergency in a fishery. The Secretary is implementing emergency regulations again amending the FMPs for a portion of the 1983–1984 stone crab season because of gear conflicts described below which constitute such an emergency. The rulemaking (1) periodically closes areas of the FCZ to stone crab fishing, (2) periodically closes areas of the FCZ to shrimp fishing, (3) prohibits the intentional placement of any article in the FCZ that may interfere with fishing gear or fishing vessels, and (4) authorizes the removal and disposal of stone crab traps from the closed areas by authorized officers. This rulemaking also authorizes the Secretary to establish additional area closures of limited duration and geographic scope in the event similar conflicts occur in other areas.

Area Restrictions

Gear conflicts between shrimp and stone crab fishermen have occurred intermittently during the past six years in an area west of Citrus County, Florida. Recently, these conflicts have increased in number and severity, resulting in a significant disruption in the prosecution of both fisheries. The affected fishermen have attempted unsuccessfully to reduce these conflicts. The State of Florida (State) has implemented regulations to address the problem. However, these regulations have not been successful and do not apply to conflicts in the FCZ. During the 1982–1983 season, the National Marine Fisheries Service (NMFS) documented incidents where barbed wire secured to cinder blocks or stone crab traps has been placed in the conflict area. Shrimp trawling gear encountering the barbed wire was damaged or destroyed. Damage and injury have occurred to fishing gear, to vessels, and to individuals attempting to disentangle the barbed wire.

During the period from January 31, 1983 to the implementation of emergency regulations, effective March 31, 1983 (48 FR 14903, April 6, 1983) twelve complaints from shrimp fishermen concerning gear destruction and vessel damage were documented. Stone crab fishermen also complained about shrimp trawling gear being used to destroy stone crab traps.

Prior to implementation of emergency regulations during the 1982–1983 fishing year, alternative actions were considered by NMFS to end this intensifying conflict. Earlier testimony by stone crab and shrimp fishermen at public hearings and meetings conducted by the Council indicated that an acceptable solution was a minor westward extension of State-implemented area closures into the FCZ adjacent to Citrus County. Though such amendments to the FMPs were considered by the Council, the area affected by these amendments does not now include all of the locations to which the conflicts have spread. Fishermen from both groups are very concerned that the conditions which resulted in violence last season will develop and escalate at a more rapid rate this season.

After a number of unsuccessful attempts by an advisory panel of the Council to formulate a solution to this situation, the State established (by statute) a Pasco/Hernando/Citrus Counties Shrimping and Stone Crabbing Advisory Committee (Committee). The Committee consists of representatives of the shrimp and stone crab fishermen of the three-county area and is charged with developing fishing zones in the State waters to resolve conflicts in the area. The Committee developed the closures in this rulemaking and requested that the Council consider these closures for implementation in the FCZ. The Council voted unanimously that an emergency exists in the FCZ off Crystal River, Florida, and by a majority, voted in favor of the zone closures recommended by the Committee. The Committee also developed areas in State waters that complement these closures. These State zone closures have been submitted to the Florida Department of Natural Resources for approval and promulgation.

The areas in the FCZ closed to shrimp fishing consist of approximately 106 square nautical miles. The area with inseason changes of closure periods for crab and shrimp fishing consists of approximately 22 square nautical miles off Hernando County and approximately 5.5 square nautical miles off Citrus County. No areas were recommended for closure off Pasco County at the request of the Committee members from Pasco County.

The emergency regulations prohibit the placement of any article in the FCZ that would interfere with fishing or obstruct or interfere with fishing gear of fishing vessels, and further prohibit the use of fishing gear to obstruct or damage the fishing gear or fishing vessels of others. In addition, the regulations authorize the Secretary to establish further area closures by publication of a notice thereof in the Federal Register. Any additional closures must be in response to gear conflicts similar to those giving rise to this emergency rulemaking and be of no greater duration or geographic scope than is necessary and appropriate to resolve the gear conflict.

Classification

The Assistant Administrator finds for good cause (i.e., to avoid serious conflicts between stone crab and shrimp fishermen that may result in bodily harm and property damage) that the reasons justifying promulgation of these rules on an emergency basis make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of § 553 (b) and (d) of the Administrative Procedure Act.

The Assistant Administrator has determined that this rule is necessary to respond to an emergency and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has also determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Florida. This action is being taken in concert with an in furtherance of action taken by Florida. This determination has been submitted for review by the responsible State agency under § 307 of the Coastal Zone Management Act.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided for in § 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator prepared an environmental assessment (EA) for this action and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA is available from the Southeast Regional Office at the address listed above.

This rule does not contain a collection of information requirement and therefore is not subject to the provisions of the Paperwork Reduction Act.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

List of Subjects in 50 CFR Parts 654 and 658

Fish, Fisheries, Fishing.

Dated: October 5, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Parts 654 and 658 are amended as follows:

1. The authority citation for Parts 654 and 658 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

PART 654—STONE CRAB FISHERY

2. Section 654.23 is amended by revising paragraph (b) to read as follows:

§ 654.23 Area restrictions.

* * * * *

(b)(1)(i) No person may place stone crab traps in that part of the FCZ identified as Zone IV (Figure 3) during the period 0001 hours January 2, 1984, through 2400 hours January 2, 1984. Zone IV is bounded by a continuous line connecting points expressed by latitude and longitude (LORAN notations are unofficial and are included only for the convenience of fishermen):

Point	Latitude	Longitude	Loran chain 7980	
			X	Y
V	28°41'39"N.	82°54'08"W.	31303.0	45183.5
E	28°41'39"N.	82°55'18"W.	31300.7	45193.1
D	28°26'01"N.	82°55'07"W.	31216.8	45066.2
O	28°28'47"N.	82°52'50"W.	31236.6	45070.0
U	28°37'44"N.	82°53'02"W.	31284.3	45143.0

Thence northerly along the State boundary to point V.

(ii) No person may place stone crab traps in that portion of the FCZ identified as Zone V (Figure 3) during the period 0001 hours October 5, 1983, through 2400 hours November 30, 1983. Zone V is bounded by a continuous line connecting points expressed by latitude and longitude (LORAN notations are unofficial and are included only for the convenience of the fishermen):

Point	Latitude	Longitude	Loran chain 7980	
			X	Y
W	28°49'25"N.	82°55'49"W.	31341.2	45260.0
G	28°49'55"N.	82°56'19"W.	31337.6	45280.0
F	28°41'39"N.	82°56'06"W.	31299.2	45199.1
V	28°41'39"N.	82°54'08"W.	31303.0	45183.5

Thence northerly along the State boundary to point W.

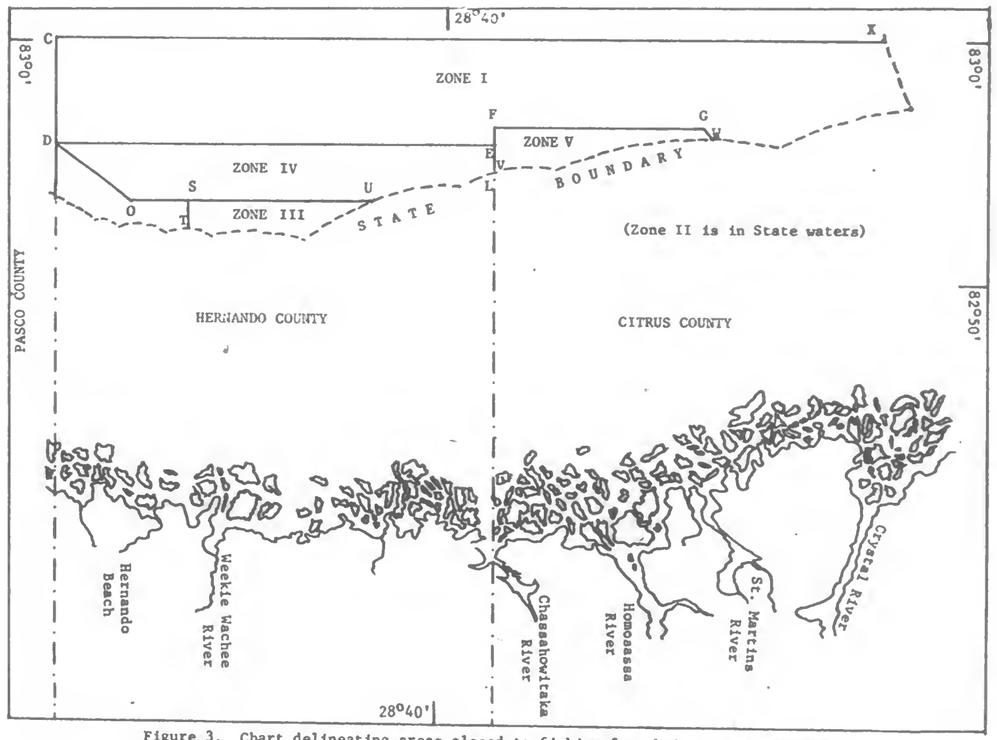


Figure 3. Chart delineating areas closed to fishing for shrimp or stone crabs (not to scale, for illustrative proposes only).

(2) To place into the management area any article, including fishing gear, with the intent to interfere with fishing or obstruct or damage fishing gear or fishing vessels of others; or to utilize willfully fishing gear in such a fashion that it obstructs or damages the fishing gear or fishing vessel of another.

(3) Stone crab traps found in the areas described in paragraph (b)(1) of this section during their respective closed periods will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Secretary or an authorized officer. Lines and buoys are considered part of the trap. Owners of these stone crab traps are subject to civil penalties. All stone crab traps fished in the FCZ will be presumed to be the property of the most recently documented owner.

(4) In the event that conflicts between stone crab and shrimp fishermen occur in other portions of the FCZ during the period of effectiveness of this emergency rule, the Secretary may establish additional area closures by publication of a notice of such closures in the **Federal Register**. Any such additional area closures may be established only in response to gear conflicts similar in nature and degree of severity to those giving rise to this emergency rulemaking and may only be of such duration and geographic scope as is necessary to resolve such conflict. Such additional area closures may be established only if they would otherwise be authorized under § 305(e) of the Magnuson Act and if the notice published in the **Federal Register** sets forth the reason for the additional area closures.

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

3. Section 658.23 is amended by redesignating the existing paragraph as (a) and by adding a new paragraph (b) to read as follows:

§ 658.23 Stone crab area closure.

* * * * *

(b)(1)(i) It is unlawful to fish for shrimp in those parts of the FCZ identified as Zones I and III (Figure 4) during the period 0001 hours October 5, 1983, through 2400 hours January 2, 1984. These respective zones are bounded by continuous lines connecting points expressed by latitude and longitude (LORAN notations are unofficial and are included only for the convenience of the fishermen):

ZONE I

Point	Latitude	Longitude	Loran chain 7980	
			X	Y
X	28°55'20"N	83°00'06"W	31365.0	45342.8
C	28°26'01"N	82°59'44"W	31206.7	45103.6
D	28°26'01"N	82°55'07"W	31216.8	45066.2
E	28°41'39"N	82°55'18"W	31300.7	45193.1
F	28°41'39"N	82°56'06"W	31299.2	45199.1
G	28°48'55"N	82°56'19"W	31337.6	45260.0
W	28°49'25"N	82°55'49"W	31341.2	45260.0

Thence northerly along the State boundary to point X.

ZONE III

Point	Latitude	Longitude	Loran chain 7980	
			X	Y
U	28°37'44"N	82°53'02"W	31284.3	45143.0
S	28°30'51"N	82°52'54"W	31247.8	45086.5
T	28°30'51"N	82°51'30"W	31250.5	45075.5

Thence northerly along the State boundary to point U.

(ii) It is unlawful to fish for shrimp in that part of the FCZ identified as Zone IV (Figure 4) during the period 0001 hours October 5, 1983, through 2400 hours January 1, 1984. Zone IV is bounded by a continuous line connecting points expressed by latitude and longitude (LORAN notations are unofficial and are included only for the convenience of the fishermen):

Point	Latitude	Longitude	Loran chain 7980	
			X	Y
V	28°41'39"N	82°54'06"W	31303.0	45183.5
E	28°41'39"N	82°55'18"W	31300.7	45193.1
D	28°26'01"N	82°55'07"W	31216.8	45066.2
O	28°28'47"N	82°52'50"W	31236.6	45070.0
U	28°37'44"N	82°53'02"W	31284.3	45143.0

Thence northerly along the State boundary to point V.

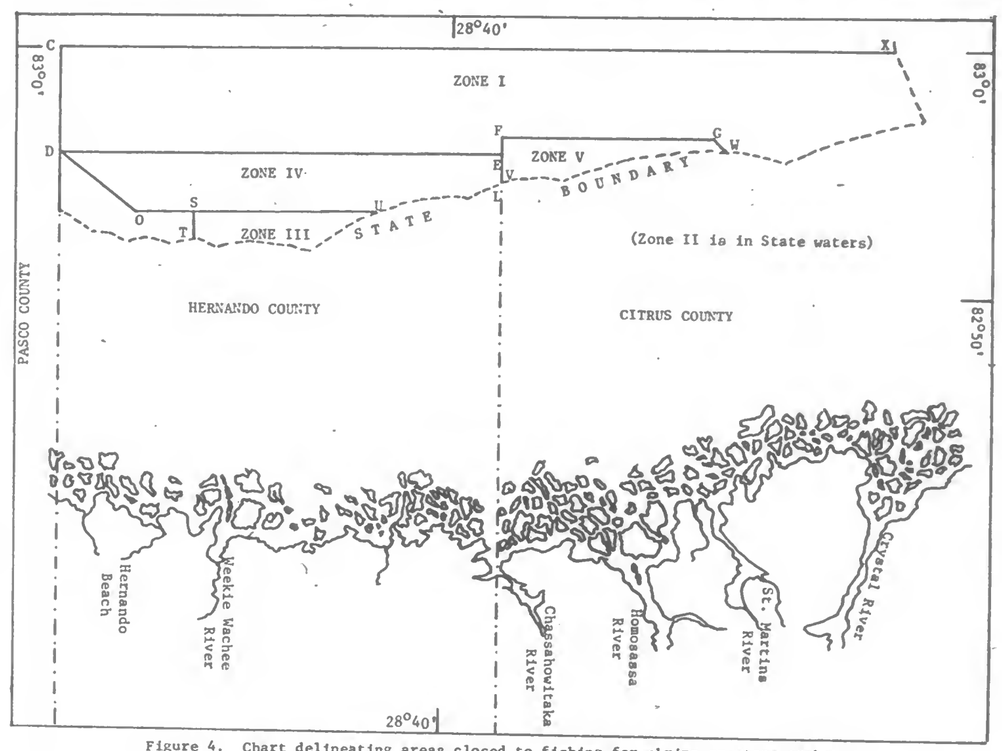


Figure 4. Chart delineating areaa closed to fishing for shrimp or stone crabs (not to scale, for illustrative proposes only).

(iii) It is unlawful to fish for shrimp in that part of the FCZ identified as Zone V (Figure 4) during the period 0001 hours December 1, 1983, through 2400 hours January 2, 1984. Zone V is bounded by a continuous line connecting points expressed by latitude (LORAN notations are unofficial and are included only for the convenience of fishermen):

Point	Latitude	Longitude	Loran chain 7980	
			X	Y
W	28°49'25"N	82°55'49"W	31341.2	45260.0
G	28°48'55"N	82°56'19"W	31337.6	45260.0
F	28°41'39"N	82°56'06"W	31299.2	45199.1
V	28°41'39"N	82°54'06"W	31303.0	45183.5

Thence northerly along the State boundary to point W.

(2) Place into the FCZ any article, including fishing gear, with the intent to interfere with fishing or obstruct or damage fishing gear or fishing vessels of others; or to utilize willfully fishing gear in such a fashion that it obstructs or damages the fishing gear or fishing vessel of another.

(3) In the event that conflicts between stone crab and shrimp fishermen occur in other portions of the FCZ during the period of effectiveness of this emergency rule, the Secretary may establish additional area closures by publication of a notice of such closures in the **Federal Register**. Any such additional area closures may be established only in response to gear conflicts similar in nature and degree of severity to those giving rise to this emergency rulemaking and may only be of such duration and geographic scope as is necessary to end such conflict. Such additional area closures may be established only if they would otherwise be authorized under section 305(e) of the Magnuson Act and if the notice published in the **Federal Register** sets forth the reason for the additional area closures.

* * * * * *

[FR Doc. 83-27582 Filed 10-5-83; 4:55 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 197
Tuesday, October 11, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 402

[Amdt. No. 3]

Raisin Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Raisin Crop Insurance Regulations (7 CFR Part 402), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read, (2) adding a provision which permits determination of indemnities based on the tonnage report rather than at loss adjustment time, (3) providing for a coverage level if the insured does not select one, (4) adding a 60-day claim for indemnity provision, (5) changing the cancellation/termination dates to conform with farming practices, (6) providing that any change in the policy will be available in the service office by a certain date, (7) adding a definition for "service office," (8) providing for unit determination when the tonnage report is filed, (9) adding a section concerning "descriptive headings," and (10) amending the interest rate due on premium payment after a certain date.

In addition, FCIC proposes to issue a new subsection in the raisin crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring raisins in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to codify OMB control numbers assigned under the Paperwork Reduction Act to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than December 12, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (Febraury 17, 1981), (2) this action will not incrase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 402

Crop insurance, raisin.

Proposed Rule

PART 402—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Raisin Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 402 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (1506, 1516).

§ 402.3 [Amended]

2. 7 CFR Part 402 is amended in the Table of Contents thereof by removing the word "Reserved" from § 402.3 and inserting, in its place, the words "OMB control numbers."

3. 7 CFR 402.3 is amended by removing the word "Reserved" in the title thereof and inserting, in its place, the following:

7 CFR 402.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 402) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 402.7 [Amended]

4. 7 CFR 402.7(d) is amended by removing the Raisin Crop Insurance Policy therein and inserting the following:

Department of Agriculture—Federal Crop Insurance Corporation

Raisin Crop Insurance Policy

(This is a continuous contract. Refer to Section 16.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of Loss.* a. The insurance provided is against the unavoidable loss resulting from rain occurring within the insurance period, on the raisins while in the vineyard, on trays, or in rolls for drying unless excepted, excluded, or limited by the actuarial table.

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good raisin management practices;

(3) The impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause other than rain.

2. *Tonnage and Share Insured.* a. The crop insured for each crop year shall be raisins of the grape varieties for which an amount of insurance and premium rate are provided by the actuarial table.

b. The tonnage insured for each crop year shall be the tonnage in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured raisins at the earlier of the time insurance attaches, or at the time damage becomes apparent, as determined by us.

d. We do not insure any raisins which are first placed on trays after:

(1) September 20 for raisin drying in east/west rows; or

(2) An earlier date if specified in the actuarial table for raisins drying in north/south rows.

3. *Report of Tray Count, Tonnage and Share.* You shall report on our form:

a. For the insured raisins which are not damaged, the net tons of all raisins produced in the county in which you have a share and your share as soon as delivery records are available.

b. For the insured raisins which are damaged:

(1) The name of the variety;

(2) The location(s) of vineyard(s);

(3) The number of trays upon which the raisins have been placed for drying; and

(4) Your share.

You shall report separately any tonnage that is not insurable. You shall report if you do not have a share in any insurable tonnage in the county. This report shall be submitted annually on or before March 31. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured tonnage and share or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Amounts of Insurance and Coverage Levels.* a. The amounts of insurance and coverage levels are contained in the actuarial table.

b. Coverage level 2 will apply, if you do not elect a coverage level.

c. You may change the amount of insurance and coverage level on or before the closing date for submitting applications for the crop year established by the actuarial table.

d. If the raisins are not damaged by rain the amount of insurance shall be determined by multiplying the insured tonnage times the amount of insurance per ton, times your share.

e. If the raisins are damaged by rain and reported by you, the number of trays upon which the raisins have been placed for drying shall be multiplied by the average tray weight, and such product or actual marketing records or both shall be the basis for determining the insured tonnage. The amount of insurance for any unit in such crop year shall be determined by multiplying such insured tonnage times the amount of insurance per ton, times your share.

5. *Annual Premium.* a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the amount of insurance times the premium rate, times the insured tonnage, times your share on the date insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	116	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	148	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

VOL
48
ISS
1
9
7
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11
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(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the vineyard operation; or

(3) Your contract if you stop vineyard operations in one county and start vineyard operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for Debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Departmet of Agriculture or its Agencies.

7. *Insurance Period.* Insurance attaches at the time the raisins are placed on the trays for drying and ends the earliest of:

a. October 25; or

b. the date the raisins are boxed; or

c. removed from the vineyard.

8. *Notice of Damage or Loss.* a. If you are going to claim an indemnity on any unit, we must be given immediate notice when damage from rain becomes apparent, giving the date(s) of such damage.

b. We may reject any claim for indemnity is such damage is not reported within seven days of if any of the requirements of section 9 are not complied with.

9. *Claim for Indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of raisins on the unit and that any loss of production was directly caused by rain during the insurance period;

(2) Authorize us in writing to examine and obtain any record pertaining to the production and/or marketing of the insured raisins under this contract from the raisin packer, raisin reconditioner and/or the Raisin Administrative Committee established under order of the United States Department of Agriculture; and

(3) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured tonnage of raisins by the amount of insurance per ton;

(2) Subtracting therefrom the total value of production to count; and

(3) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. Undamaged raisins or raisins damaged solely by uninsured causes shall be valued at the current market value or the amount of insurance, whichever is higher.

f. Raisins damaged partially by rain and partially by uninsured causes shall be valued at the highest prices obtainable, subject to an adjustment for any reduction in value due to uninsured causes.

g. Raisins damaged by rain, but which are reconditioned and can be marketed as undamaged raisins, shall be valued at the current market price or the amount of insurance, whichever is higher, except that an allowance for reconditioning shall be deducted from such value. The maximum allowance for any one reconditioning as a result of rain is contained in the actuarial table, but the total reconditioning allowance shall not exceed the value of the raisins after reconditioning.

h. We may require you to recondition a representative sample(s) of not more than 10 tons of raisins damaged by rain to determine if they may be marketed as undamaged raisins. On the basis of determinations made by us from such sample(s), we may require you to recondition all such raisins. If the reconditioned raisins of the representative sample(s) cannot be marketed as undamaged raisins, the cost of reconditioning such sample(s) shall be deducted from the total value of the raisins for the unit.

i. In determining the value of raisins produced on the unit, a minimum value of $75.00 per ton shall be counted for any raisins not removed from the vineyard. You shall be responsible to box and deliver any raisins that can be removed from the vineyard.

j. We may acquire all of the right and title to your share of any raisins damaged by rain. In such event, the raisins shall be valued at "zero" in determining the amount of loss and we shall have the right of ingress or egress to the extent necessary to take possession of, care for, and remove such raisins.

k. Raisins destroyed without inspection shall be valued at the amount of insurance.

l. You shall not abandon any tonnage to us unless by agreement under subsection j.

m. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

n. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

o. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

10. *Concealment or Fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.* You shall keep for two years after the time of loss, records of the insured, uninsured and planted acreage in your farming operation. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Other Insurance.* If in any crop year, you obtain any other insurance on any unit(s) against rain damage or loss while the raisins are on the trays for drying, this contract shall be voided for that crop year on such unit(s) if such other insurance is obtained before insurance attaches under this contract.

16. *Life of Contract: Cancellation and Termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

17. *Contract Changes.* We may change any terms and provisions of the contract from year to year. If the amount of insurance you selected is no longer offered, the actuarial table will provide the amount of insurance which you shall be deemed to have elected. All contract changes shall be available at your service office by April 30 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

18. *Meaning of Terms.* For the purposes of raisin crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amounts of insurance, coverage levels, premium rates, varieties, reconditioning allowances, and related information regarding raisin insurance in the county.

b. "Contiguous land" means land which is touching at any point except that land which is separated by only a public or private right-of-way shall be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the calendar year in which the raisins are placed on trays for drying.

e. "Insured" means the person who submitted the application accepted by us.

f. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

g. "Raisin tonnage report" means a form prescribed by us for annually reporting all your share of and tonnage of raisins in the county.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the raisins or a share of the proceeds therefrom.

j. "Ton" means 2,000 pounds of raisins on the trays. When deemed appropriate, we may determine raisin tonnage computed on the basis of one ton of raisins insured for every four and a half tons of fresh grapes when first placed on trays for drying.

k. "Unit" means all insurable acreage of the same grape variety, located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the raisins on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the tonnage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any tonnage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

19. *Descriptive Headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

20. *Determinations.* All determination required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

21. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Dated: October 3, 1983.

Approved by the Board of Directors on May 24, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

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Agriculture Stabilization and Conservation Service

7 CFR Part 781

Disclosure of Foreign Investment in Agricultural Land

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this proposed rule is to revise certain sections of the regulations implementing the Agricultural Foreign Investment Disclosure Act to make the regulations easier to understand and improve their administration. It contains three principal changes to the regulations: (1) The proposed rule revises the definitions of "agricultural land" and "significant interest or substantial control." (2) The proposed rule modifies the provisions regarding assessment of a penalty when a person contests a notice of apparent liability to make it clear that any final penalty imposed may not exceed the amount of the penalty stated in the notice of apparent liability. (3) The proposed rule adds several new items to the information that must be included in the reports required by the regulations and imposes a requirement that the information in the reports be kept current.

The proposed rule also substitutes the word "person" for the term "legal entity" throughout the regulations and makes other minor editorial changes in the definitions section of the regulation.

DATE: In order to assure consideration, written comments must be received by December 12, 1983.

ADDRESS: Comments should be addressed to: William A. Brown, Emergency Operations and Livestock Programs Division, ASCS, USDA, Room 4095—South Building, P.O. Box 2145, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: William A. Brown, Emergency Operations and Livestock Programs Division, ASCS, USDA, Room 4095—South Building, P.O. Box 2415, Washington, D.C. 20013, telephone (202) 447-6601. The Final Impact Statement describing the options considered in developing this proposed rule and the effect of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in accordance with Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified "non-major" since it will not have an annual effect on the economy of $100 million or more.

The proposed rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354). Pursuant to that review, Everett Rank, Administrator, Agricultural Stabilization and Conservation Service, has certified that this proposed rule does not have a significant economic impact on a substantial number of small entities because the rule merely requires reports to be filed by foreign persons owning U.S. agricultural land.

This proposed rule would revise the regulation concerning the disclosure of foreign investment in agricultural land published on February 6, 1979, as amended (44 FR 7115; 44 FR 29029; 45 FR 7775). The proposed regulation published on January 25, 1980 (45 FR 6115) is being withdrawn.

VOL 48 ISS 197 OCT 11 1983 UMI

Definition of Agricultural Land

The proposed rule replaces the word "agricultural" in the definition of agricultural land with the words "farming" and "ranching" in order to define more clearly the term agricultural land.

In general, all land in excess of one acre used for the production of "agricultural, forestry, or timber products" must be reported at present. As a result, many individuals holding small amounts of land used for growing trees or agricultural products have filed reports. Since the Department feels that information about such small holdings is not of significant value, it proposes to exempt all land used for farming, ranching, forestry, and timber production which does not exceed 10 acres in the aggregate unless the farming, ranching, forestry and timber products grown on the land are sold and return more than $1,000 in annual gross sales receipts.

A new Interpretive Rule concerning the definition of "agricultural land" has been added which refers to certain agricultural activities set forth in the Standard Industrial Classification Manual issued by the Office of Management and Budget as illustrative of the types of activities which may cause the land used for the activity to be classified as agricultural land. The Manual is available at most public libraries and in State and county ASCS offices or from the ASCS office in Washington, D.C. at the address indicated herein.

Significant Interest or Substantial Control

As originally published, the Agricultural Foreign Investment Disclosure Act (AFIDA) regulation established five percent or more as the level of interest constituting "significant interest or substantial control". It is now clear that such a definition would require business entities not normally considered foreign-dominated to file reports. This results in a serious distortion of the total figures on agricultural foreign investment by including land not normally considered foreign-owned or subject to foreign control. Accordingly, the definition of "significant interest or substantial control" has been amended to require an agricultural landowning person to file an ASCS–153 reporting form with the ASCS county office where the land is located if a single foreign individual, or foreign individuals, persons or governments acting in concert, hold a ten percent or greater interest in the landowning person. An agricultural landowning person would also have to file an ASCS–153 report if foreign individuals, persons or governments, even though not acting in concert, hold in the aggregate a 50 percent or greater interest in the landowning person.

The Department believes that the use of these percentages would provide a more accurate indication of the amount of agricultural land over which foreign persons can exert influence.

Penalty Review Procedures

Section 781.5(f) would be amended to provide that if a foreign person contests the notice of apparent liability, and the Administrator of ASCS ultimately determines that the foreign person is liable, the penalty finally imposed may not be greater than the amount stated in the notice of apparent liability.

Reporting Requirements

The proposed rule would add the following items to the information that must be included in the reports of foreign ownership of agricultural land: (i) The date the land was acquired or transferred, (ii) the amount or value of the purchase price yet to be paid, and (iii) the estimated value of the land. In addition, the proposed rule contains a new requirement that the information in the reports be kept current. The proposal also requires that notice be given to ASCS if any foreign person who has submitted a report ceases to be a foreign person, or if land reported as being agricultural land ceases being used for that purpose.

List of Subjects in 7 CFR Part 781

Administrative practice and procedure, Agriculture, Foreign investments in United States, Penalties, Reporting and recordkeeping requirements.

Proposed Rule

In consideration of the foregoing, it is proposed that the AFIDA regulation (7 CFR Part 781) be revised to read as follows:

PART 781—DISCLOSURE OF FOREIGN INVESTMENT IN AGRICULTURAL LAND

Sec.

781.1 General.
781.2 Definitions.
781.3 Reporting requirements.
781.4 Assessment of penalties.
781.5 Penalty review procedure.

Authority: Sec. 1–10, 92 Stat. 1266 (7 U.S.C. 3501 *et seq.*).

§ 781.1 General.

The purpose of these regulations is to set forth the requirements designed to implement the Agricultural Foreign Investment Disclosure Act of 1978. The regulations require that a foreign person who acquires, disposes of or holds an interest in United States agricultural land shall disclose such transactions and holdings to the Secretary of Agriculture. In particular, the regulations establish a system for the collection of information by the Agricultural Stabilization and Conservation Service (ASCS) pertaining to foreign investment in United States agricultural land. The information collected will be utilized in the preparation of periodic reports to Congress and the President by the Economic Research Service (ERS) concerning the effect of such holdings upon family farms and rural communities.

§ 781.2 Definitions.

In determining the meaning of the provisions of this Part, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, and words used in the present tense include the future as well as the present. The following terms shall have the following meanings:

(a) *AFIDA.* AFIDA means the Agricultural Foreign Investment Disclosure Act of 1978.

(b) *Agricultural Land.* Agricultural land means land in the United States currently used for, or, if currently idle, land last used within the past five years, for farming, ranching, forestry, or timber production, except land not exceeding ten acres in the aggregate if the annual gross receipts from the sale of the farm, ranch, forestry, or timber products produced thereon do not exceed $1,000.

Interpretation

Farming, ranching, forestry, or timber production includes, but is not limited to, activities set forth in the Standard Industrial Classification Manual (1972), Division A, exclusive of industry numbers 0711–0783, 0851 and 0912–0919—animal trapping, game management, hunting carried on as a business enterprise, trapping carried on as a business enterprise and wildlife management.

(c) *Any Interest.* Any interest means all interest acquired, transferred or held in agricultural lands by a foreign person, except:

(1) Leaseholds of less than 10 years;

(2) Contingent future interests;

(3) Noncontingent future interests which do not become possessory upon the termination of the present possessory estate; and

(4) Surface or subsurface easements and rights of way used for a purpose unrelated to agricultural production.

Interpretation

An interest solely in mineral rights is not considered an interest in agricultural land and, therefore, is not required to be reported.

(d) *County.* County means a political subdivision of a State identified as a county or parish. In Alaska, the term means an area so designated by the State Agricultural Stabilization and Conservation committee.

(e) *Foreign Government.* Foreign government means any government other than the United States government, the government of a State, or a political subdivision of a State.

(f) *Foreign Individual.* Foreign individual means foreign person as defined in paragraph (g)(1) of this section.

(g) *Foreign Person.* Foreign person means:

(1) Any individual:

(i) Who is not a citizen or national of the United States; or

(ii) Who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) Who is not lawfully admitted to the United States for permanent residence or paroled into the United States under the Immigration and Nationality Act;

(2) Any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(3) Any foreign government;

(4) Any person, other than an individual or a government:

(i) Which is created or organized under the laws of any State; and

(ii) In which a significant interest or substantial control is directly or indirectly held:

(A) By any individual referred to in paragraph (g)(1) of this section; or

(B) By any person referred to in paragraph (g)(2) of this section; or

(C) By any foreign government referred to in paragraph (g)(3) of this section; or

(D) By any combination of such individuals, persons, or governments.

Interpretation

As used in § 781.2(g)(4)(ii)(D), the word "combination" refers to an aggregate figure and does not require a coalition which intends to accomplish a common objective.

In a case where one or more persons intervene between the interest-holding foreign person(s) and the person actually holding the U.S. agricultural land, then such foreign person(s) will be said to hold indirectly significant interest or substantial control pursuant to § 781.2(g)(4)(ii) in the landholding person only if each of the intervening persons hold, by themselves or in combination with other foreign persons, significant interest or substantial control in each succeeding intervening person.

(h) *Person.* Person means any individual, corporation, company, association, partnership, society, joint stock company, trust, estate, or any other legal entity.

(i) *Secretary.* Secretary means the Secretary of Agriculture.

(j) *Security Interest.* Security interest means a mortgage or other debt securing instrument.

(k) *Significant interest or substantial control.* Significant interest or substantial control means:

(1) An interest of 10 percent or more held by a person referred to in paragraph (g)(4), by a single individual referred to in paragraph (g)(1), by a single person referred to in paragraph (g)(2), by a single government referred to in paragraph (g)(3); or

(2) An interest of 10 percent or more held by persons referred to in paragraph (g)(4), by individuals referred to in paragraph (g)(1), by persons referred to in paragraph (g)(2), or by governments referred to in paragraph (g)(3), whenever such persons, individuals or governments are acting in concert with respect to such interest even though no single individual, person or government holds an interest of 10 percent or more; or

(3) An interest of 50 percent or more, in the aggregate, held by persons referred to in paragraph (g)(4), by individuals referred to in paragraph (g)(1), by persons referred to in paragraph (g)(2), or by governments referred to in paragraph (g)(3), even though such individuals, persons, or governments may not be acting in concert.

(l) *State.* State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands or any other territory or possession of the United States.

§ 781.3 Reporting requirements.

(a) All reports required to be filed pursuant to this part shall be filed with the ASCS county office in the county where the land with respect to which such report must be filed is located or where the ASCS county office administering programs carried out on such land is located.

(b) The date for a report to be submitted by a foreign person holding any interest, other than a security interest, in U.S. agricultural land is:

(1) August 1, 1979, if the interest in the agricultural land was held on the day before February 2, 1979, or

(2) Ninety days after the date of acquisition or transfer of the interest in the agricultural land, if the interest was acquired or transferred on or after February 2, 1979.

(c) Any person who holds or acquires any interest, other than a security interest, in United States agricultural land at a time when such person is not a foreign person and who subsequently becomes a foreign person must submit, not later than 90 days after the date on which such person becomes a foreign person, a report containing the information required to be submitted under paragraph (e) of this section.

(d) Any foreign person who holds or acquires any interest, other than a security interest, in United States land at a time when such land is not agricultural land and such land subsequently becomes agricultural land must submit, not later than 90 days after the date on which such land becomes agricultural, a report containing the information required to be submitted under paragraph (e) of this section.

(e) Any foreign person required to submit a report under this regulation, except under paragraph (g) of this section, shall file an ASCS–153 report containing the following information:

(1) The legal name and the address of such foreign person;

(2) In any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) In any case in which such foreign person is not an individual or a government, the nature and name of the person holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) The type of interest held by a foreign person who acquired or transferred an interest in agricultural land;

(5) The legal description and acreage of such agricultural land;

(6) The purchase price paid for, or any other consideration given for, such interest; the amount of the purchase price or the value of the consideration yet to be given; the current estimated value of the land reported;

(7) In any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred; and

(i) In any case in which such transferee is an individual, the citizenship of such transferee; and

(ii) In any case which such transferee is not an individual, or a government,

the nature of the person holding the interest, the country in which such transferee is created or organized, and the principal place of business;

(8) The agricultural purposes for which such foreign person intends, on the date on which such report is submitted, to use such agricultural land;

(9) When applicable, the name, address and relationship of the representative of the foreign person who is completing the ASCS–153 form for the foreign person;

(10) How the tract of land was acquired or transferred, the relationship of the foreign person to the previous owner, producer, manager, tenant or sharecropper, and the rental agreement; and

(11) The date the interest in the land was acquired or transferred.

(f)(1) Any foreign person, other than an individual or government, required to submit a report under paragraphs (b), (c), and (d) of this section, must submit, in addition to the report required under paragraph (e) of this section, a report containing the following information:

(i) The legal name and the address of each foreign individual or government holding significant interest or substantial control in such foreign person;

(ii) In any case in which the holder of such interest is an individual, the citizenship of such holder, and

(iii) In any case in which the holder of significant interest or substantial control in such foreign person is not an individual or a government, the nature and name of the foreign person holding such interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(2) In addition, any such foreign person required to submit a report under paragraph (f)(1) of this section may also be required, upon request, to submit a report containing:

(i) The legal name and the address of each individual or government whose legal name and address did not appear on the report required to be submitted under paragraph (f)(1) of this section, if such individual or government holds any interest in such foreign person;

(ii) In any case in which the holder of such interest is an individual, the citizenship of such holder; and

(iii) In any case in which the holder of such interest is not an individual or government, the nature and name of the person holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(g) Any foreign person, other than an individual or a government, whose legal name is contained on any report submitted in satisfaction of paragraph (f) of this section may also be required, upon request, to:

(1) Submit a report containing:

(i) The legal name and the address of each foreign individual or government holding significant interest or substantial control in such foreign person;

(ii) In any case in which the holder of such interest is an individual, the citizenship of such holder, and

(iii) In any case in which the holder of such interest is not an individual or a government, the nature and name of the foreign person holding such interest, the country in which each holder is created or organized, and the principal place of business of each holder.

(2) Submit a report containing:

(i) The legal name and address of each individual or government whose legal name and address did not appear on the report required to be submitted under paragraph (g)(1) of this section if such individual or government holds any interest in such foreign person and, except in the case of a request which involves a foreign person, a report was required to be submitted pursuant to paragraph (f)(2) of this section, disclosing information relating to non-foreign interest holders;

(ii) In any case in which the holder of such interest is an individual, the citizenship of such holder; and

(iii) In any case in which the holder of such interest is not an individual or government and, except in a situation where the information is requested from a foreign person, a report was required to be submitted pursuant to paragraph (f)(2) of this section disclosing information relating to non-foreign interest holders, the nature and name of the person holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

Interpretation

(1) Any person which has issued fewer than 100,000 shares of common and preferred stock and instruments convertible into equivalents thereof shall be considered to have satisfactorily determined that it has no obligation to file a report pursuant to § 781.3 if, in addition to information within its knowledge, a quarterly examination of its business records fails to reveal that persons with foreign mailing addresses hold significant interest or substantial control in such person.

(2) Any person which has issued 100,000 or more shares of common and preferred stock and instruments convertible into equivalents thereof shall be considered to have satisfactorily determined that it has no obligation to file a report pursuant to § 781.3 if, in addition to information within its knowledge, a quarterly examination of its business records fails to reveal that the percentage of shares held in such person both by persons with foreign mailing addresses and investment institutions which manage shares does not equal or exceed significant interest or substantial control in such person.

(3) If the person in paragraph 2 above determines that the percentage of shares, which is held in it both by persons with foreign mailing addresses and investment institutions which manage shares, equals or exceeds significant interest or substantial control in such person, then such person shall be considered to have satisfactorily attempted to determine whether it has an obligation to file a report pursuant to § 781.3 if it sends questionnaires to each such investment institution holding an interest in it inquiring as to whether the persons for which they are investing are foreign persons and the percentage of shares reflected by the affirmative responses from each such investment institution plus the percentage of shares held by persons listed on the business records with foreign mailing addresses does not reveal that foreign persons hold significant interest or substantial control in such person.

(h) If any foreign person who submitted a report under paragraphs (b), (c), and (d) of this section ceases to be a foreign person or if the land which was reported to be agricultural land ceases to be agricultural, such person must submit, not later than 90 days after the date such person ceases being a foreign person or not later than 90 days after the date such land ceases being agricultural, a written notification of the change of status of the person or of the land to the ASCS office where the report form ASCS–153 was originally filed.

§ 781.4 Assessment of penalties.

(a) Violation of the reporting obligations will consist of:

(1) Failure to submit any report in accordance with § 781.3,

(2) Failure to maintain any submitted report with accurate information, or

(3) Submission of a report which the foreign person knows:

(i) Does not contain, initially or within thirty days from the date of a letter returning for completion such incomplete report, all the information required to be in such report, or

(ii) Contains misleading or false information.

(b) Any foreign person who violates the reporting obligation as described in paragraph (a) of this section shall be subject to the following penalties:

(1) *Late filed reports:* One-tenth of one percent of the fair market value, as determined by the Agricultural Stabilization and Conservation Service, of the foreign person's interest in the agricultural land, with respect to which such violation occurred, for each week or portion thereof that such violation continues, but the total penalty imposed shall not exceed twenty-five percent of the fair market value of the foreign person's interest in such land.

(2) Submission of an incomplete report or a report containing misleading or false information, failure to submit a report or failure to maintain a submitted report with accurate information: Twenty-five percent of the fair market value, as determined by the Agricultural Stabllization and Conservation Service, of the foreign person's interest in the agricultural land with respect to which such violation occurred.

(3) Penalties prescribed above are subject to downward adjustment based on factors including:

(i) Total time the violation existed.

(ii) Method of discovery of the violation.

(iii) Extenuating circumstances concerning the violation.

(iv) Nature of the information misstated or not reported.

(c) The fair market value for the land, with respect to which such violation occurred, shall be such value on the date the penalty is assessed, or if the land is no longer agricultural, on the date it was last used as agricultural land. The price or current estimated value reported by the foreign person, as verified and/or adjusted by the county Agricultural Stabilization and Conservation Committee for the county where the land is located, will be considered to be the fair market value.

§ 781.5 Penalty review procedure.

(a) Whenever it appears that a foreign person has violated the reporting obligation as described in paragraph (a) of § 781.4, a written notice of apparent liability will be sent to the foreign person's last known address by the Agricultural Stabilization and Conservation Service. This notice will set forth the facts which indicate apparent liability, identify the type of violation listed in paragraph (a) of § 781.4 which is involved, state the amount of the penalty to be imposed, include a statement of fair market value of the foreign person's interest in the subject land, and summarize the courses of action available to the foreign person.

(b) The foreign person involved shall respond to a notice of apparent liability within 60 days after the notice is mailed. If a foreign person fails to respond to the notice of apparent liability, the proposed penalty shall become final. Any of the following actions by the foreign person shall constitute a response meeting the requirements of this paragraph.

(1) Payment of the proposed penalty in the amount specified in the notice of apparent liability and filing of a report, if required, in compliance with § 781.3. The amount shall be paid by check or money order drawn to the Treasurer of the United States and shall be mailed to the U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. The Department is not responsible for the loss of currency sent through the mails.

(2) Submission of a written statement denying liability for the penalty in whole or in part. Allegations made in any such statement must be supported by detailed factual data. The statement should be mailed to the Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

(3) Submission of a written request for a Hearing with the Administrator or with the Administrator's designee. The request should be submitted to the Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Submission of such a request does not preclude submission of the statement described in paragraph (b)(2) of this section; either or both may be submitted.

(c)(1) If a Hearing is requested, it will be held in Washington, D.C. at place determined by the Administrator of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture or the Administrator's designee. The Administrator or the Administrator's designee will preside at the Hearing. The appellant shall bear all personal costs connected with such a Hearing.

(2) The Hearing will be scheduled for any mutually convenient time within 30 days after the request is filed with the Administrator, or at a time designated by the Administrator or the Administrator's designee.

(3) At the Hearing, the foreign person may appear personally or be represented by a person of the foreign person's choice and will be afforded an opportunity to state a position and question the factual basis for the notice of apparent liability and the amount of the penalty to be imposed.

(4) A summary of the Hearing will be prepared by the presiding official and transmitted to the Administrator.

(5) The failure of the foreign person to appear at the time and place appointed for the Hearing shall constitute a waiver of the foreign person's right to such a Hearing.

(d) After the submission of a written statement and/or after the Hearing, as prescribed in paragraph (b) and (c) of this section, the Administrator will make a determination based on all relevant information available.

(e) Notice of the Administrator's determination, stating whether a report must be filed or amended in compliance with § 781.3, the amount of the penalty (if any), and the date by which it must be paid, will thereupon be mailed to the foreign person by the Administrator or the Administrator's designee. The foreign person shall file or amend the report as required by the Administrator. The penalty in the amount stated shall be paid by check or money order drawn to the Treasurer of the United States and shall be mailed to the U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. The Department is not responsible for the loss of currency sent through the mails.

(f) If the foreign person contests the notice of apparent liability by submitting a written statement or a request for a hearing thereon, the foreign person may elect either to pay the penalty or decline to pay the penalty pending resolution of the matter by the Administrator. If the Administrator determines that the foreign person is not liable for the penalty or is liable for less than the amount paid, the payment will be wholly or proportionally refunded. If the Administrator ultimately determines that the foreign person is liable, the penalty finally imposed shall not exceed the amount imposed in the notice of apparent liability.

(g) If a foreign person fails to respond to the notice of apparent liability as required by paragraph (b) of this section, or rails to pay the penalty imposed by the Administrator under paragraph (d) of this section, the case will, without further notice, be referred by the Department to the Department of Justice for prosecution in the appropriate District Court to recover the amount of the penalty.

(b) Any amounts approved by the U.S. Department of Agriculure for disbursement to a foreign person under the programs administered by the Department may be setoff penalties assessed hereunder against such person, in accordance with the provisions of 7 CFR Part 13.

Signed at Washington, D.C. on September 22, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83–27385 Filed 10–7–83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-49-AD]

Airworthiness Directives; British Aerospace DH/BH-125 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking; Withdrawn and Reissued.

SUMMARY: This document does two things: (1) It sets forth a proposal to amend an existing airworthiness directive (AD) applicable to British Aerospace BH/DH-125 Airplanes, which requires certain modifications to the front pressure bulkhead and windshield posts to prevent possible failure from corrosion or fatigue. The proposed amendment provides a calendar time compliance limit, which was missing from the original AD, and is necessary due to the possibility of corrosion induced failures; (2) It withdraws an earlier proposal to amend the same AD because the earlier proposal did not address all of the models of the DH/BH-125 airplanes which may require modification.

DATES: Comments must be received no later than November 14, 1983.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041 or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530.

Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-NM-49-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: The British Aerospace Corporation has notified the FAA of a discrepancy in the compliance times for accomplishing Service Bulletin 53-46R-(2402) which is required by AD 77-13-09. The service bulletin requires modifications to the front pressure bulkhead and windshield posts, to prevent structural failure, within 25 landings after the effective date of the AD or prior to accumulating 6600 total landings, whichever occurs later. A ten-year compliance time from date of manufacture is also included. AD 77-13-09 was issued which requires compliance upon the accumulation of a 6600 total landings but did not address a ten-year compliance. Since failures could be the result of fatigue and/or corrosion, a calendar compliance time is also required. An NPRM (47 FR 24870, September 27, 1982), was issued which requested comments concerning the inclusion of a 10 year compliance time in the AD. The manufacturer concurred with the calendar time limit but also commented that the applicability statement in the original AD was no longer valid and should be revised to include all H.S. 125 aircraft series 1A up to and including series 600A.

It is estimated that 300 airplanes may be affected by this amendment, that it will take approximately 180 man-hours per airplane to accomplish the required actions, and that the average labor cost will be $30 per man-hour. Repair parts are estimated at $2,400 per airplane. Based on these figures, the total cost impact of this AD is estimated to be 2.34 million dollars if none of the airplanes have been modified. It is believed that most operators have complied with AD 77-13-09 because most airplanes will have accumulated more than 6,600 landings. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexability Act would be affected.

In view of the fact the FAA has elected to withdraw the previous NPRM and issue a new NPRM which cover all DH/BH 125 airplanes, the NPRM set forth in **Federal Register** Document No. 82-26295 (47 FR 24870; September 27, 1982) is hereby withdrawn.

List of Subjects in 14 CFR Part 39

Aviation satety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by revising AD 77-13-09, Amendment 39-2934 (42 FR 31768), to read as follows:

"*Howker Siddeley Aviation Ltd:* Applies to Model DH/BH-125 airplanes series 1A up to and including series 600A certificated in all categories.

(a) Prior to the accumulation of 6600 total landings or upon reaching 10 years after the date of manufacture of the airplane, whichever occurs first, if not already accomplished, incorporate Hawker Siddeley modifications 25-2402 and 25-2207 in accordance with Section 2, Accomplishment Instructions of Hawker Siddeley Aviation, Ltd., Service Bulletin 53-46 (2402), Revision 2, dated February 16, 1976. Airplanes which have already exceeded 6500 landings or are over 9½ years from date of manufacture must be modified within the next 100 landings or 6 months, whichever occurs first.

(b) Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and /or modifications requried by this AD."

(Section 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85).

Note.— The FAA has determined for the reasons indicated earlier that this action which revises a proposed rule and reopens the comment period, (1) involves a proposed regulation which is not considered to be major under Executive Order 12291, (2) is not a significant rule pursuant to DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979, and (3) it is further certified under the criteria of the Regulatory Flexibility Act that this rule, if promulgated, will not have a significant economic effect on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on September 13, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-27493 Filed 10-7-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-211; Virginia-2]

High-Cost Gas Produced From Tight Formations; Virginia

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries, that the Little Valley Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 21, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 20, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511,

or

Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

In the matter of High-cost gas produced from tight formations; Docket No. RM79-76-211; Virginia-2.

Issued: October 5, 1983.

I. Background

On July 19, 1983, the Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries (Virginia), submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Little Valley Formation, located in portions of Scott and Washington Counties, Virginia, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Virginia's recommendation that the Little Valley Formation be designated a tight formation should be adopted. Virginia's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Virginia recommends that the Little Valley Formation, located in portions of Scott and Washington Counties, Virginia, an area of approximately 89 square miles and encompassing all of the Mendota and Wallace quadrangles south of the Holston River, be designated as a tight formation. The formation is an argillaceous limestone sequence which disconformably overlies the Berea Sandstone and is overlain by the St. Louis Limestone. The average depth to the top of the Little Valley Formation is 3,191 feet, with an average thickness of 673 feet.

III. Discussion of Recommendation

Virginia claims in its submission that evidence gathered and presented in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Virginia further asserts that existing state law and established casing procedures assure protection of all fresh water zones.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97 [Reg. Preambles 1977-1981], FERC Stats. and Regs. ¶30,180 (1980) notice is hereby given of the proposal submitted by Virginia that the Little Valley Formation, as described and delineated in Virginia's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 21, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-211 (Virginia-2), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 20, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set

forth below, in the event Virginia's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(181) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(149) through (180) [RESERVED]

(181) *The Little Valley Formation in Virginia.* RM79-76 (Virginia—2).

(i) *Delineation of formation.* The Little Valley Formation is found in Scott and Washington Counties. The designated area consists of approximately 89 square miles comprising all of the Mendota and Wallace quadrangles south of the Holston River in Virginia.

(ii) *Depth.* The average depth to the top of the Little Valley Formation is 3,191 feet, with an average thickness of 673 feet.

[FR Doc. 83-27537 Filed 10-7-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 422

Availability of Information and Records to the Public; Fees for Providing Information and Records; Procedures and Appeals

Correction

In FR Doc. 83-25386 beginning on page 42830 in the issue of Tuesday, September 20, 1983, make the following corrections:

1. On page 42831, third column, fifth paragraph, ninth line, "Secretary Act" should have read "Security Act".

2. On page 42835, second column, § 422.441(c)(1), second line, the colon at the end of the line should have been a period.

3. Wherever "§ 422. . . ." appears in the following places, it should be changed to "§ 422. . . .".

a. Page 42831, first column (4 places).

b. Page 42831, second column (1 places).

c. Page 42835, third column (7 places).

d. Page 42836, first column (1 places).

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 24

[Docket No. R-80-831]

Debarment, Suspension and Limited Denial of Participation

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule improves and clarifies the procedural guarantees afforded under the existing regulations governing debarment, suspension and ineligibility of HUD participants and contractors. It also incorporates the provisions contained in the Office of Federal Procurement Policy's (OFPP) Policy Letter 82-1, concerning Government-wide debarment, suspension and ineligibility of contractors, and amends provisions of HUD's existing regulations to conform with provisions of the OFPP Policy Letter.

DATES: Comments must be received on or before October 11, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Phillip L. Schulman, Assistant General Counsel for Inspector General and Administrative Proceedings, Department of Housing and Urban Development, Room 10270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5557. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: On July 8, 1980 (45 FR 46012), HUD published a proposed rule amending and clarifying the existing Part 24. On July 1, 1982, the Office of Federal Procurement Policy (OFPP) published Policy Letter 82-1 establishing criteria for suspension and debarment of Government contractors and subcontractors throughout the Executive Branch.

Based upon both the comments received on the proposed rule and the OFPP Policy Letter, HUD has completely reviewed its administrative procedures under 24 CFR Part 24, which contains the regulations governing debarment, suspension and ineligibility of HUD participants and contractors. That review has resulted in this proposed rule which provides procedural safeguards for HUD participants and contractors as well as protection for HUD and the public from persons who are found to be irresponsible. This rule incorporates provisions, contained in the OFPP Policy Letter, setting forth Government-wide policies and procedures for debarment and suspension of Government contractors and also provisions contained in the previously proposed Part 24 to the extent that they are not inconsistent with the OFPP Policy Letter. In the interest of uniformity, where the OFPP Policy Letter contained specific definitions of terms which could affect the applicability of Government-wide sanctions (e.g., "adequate evidence" and "affiliates"), we have adopted the OFPP language. The OFPP Policy Letter requires all departments and agencies to have uniform policies and procedures in this area.

One commenter on the previous proposed Part 24 stated that a hearing should be granted prior to suspension. The courts have held that appropriate pre-hearing suspensions do not violate due process. Further, pre-termination hearings would defeat the purpose of providing immediate public protection. However, the Department recognizes the severity of the suspension sanction and therefore has limited the grounds for suspension to those offenses indicating the most serious lack of business responsibility. Further, the regulations provide for a hearing to be scheduled promptly. These provisions insure the suspended person's right to have the matter expeditiously resolved while also insuring that the public interest is protected.

The commenter also suggested that the official initiating the suspension or debarment personally meet with the participant in an informal atmosphere prior to any hearing. Unfortunately, this is administratively infeasible given the broad responsibilities of these officials. It is for this reason that cases are referred to administrative judges, who are impartial officials and can provide due process in an administrative forum.

Another commenter stated that the name of a suspended or debarred person should not be included on the Consolidated List until the action has been upheld by the Hearing Officer and a final determination has been made. A debarment, in fact, is not listed until a final determination has been issued. However, suspension by its very nature requires immediate listing to assure that the person is excluded pending the appeal. This, in essence, is the difference between a suspension and a debarment.

Several objections were raised to our inclusion of "doing business with a person on the Consolidated List . . . where it . . . should have been known that the person was on the List" as grounds for debarment. It was argued that under this provision, a participant could be excluded even if he did not have access to the List. Because of these comments, this language has now been deleted. Debarment will be authorized only where actual knowledge existed that the person was on the List.

Some commenters were critical of a section which authorized debarment for "any other cause of such serious or compelling nature as to affect responsibility." The commenters found this provision to be too vague. Unfortunately, it is impossible to cover every conceivable situation involving nonresponsibility in our regulations and so an "omnibus" provision is required to protect the public interest. However, this provision is specifically limted to violations of a "serious or compelling nature."

It was also suggested that the issuance of an indictment be eliminated as a basis for suspension. The Department has a public interest obligation to exclude a participant from its programs upon notice of probable cause (the standard used by Grand Juries for issuing indictments) that the individual or entity committed a crime. In this regard, numerous cases and the OFPP Policy Letter have recognized that the issuance of an indictment constitutes adequate evidence to support a suspension. Accordingly, this provision has been retained.

One commenter criticized HUD for not requiring compliance with "the broader mandate of providing decent, clean, and sanitary housing to low and moderate income individuals" as a condition of participation. The proposed language woud be overly vague. The standards of the regulations, by assuring responsible participation and compliance with specific contractual requirements, will encourage decent, clean and sanitary housing.

One commenter stated that "it is very important for the Department to take into consideration the overall record of the individual who was involved." The regulations provide for this by stating that sanctions are always discretionary and are only taken in the best interest of the Government. Further, there is a right to a hearing provided before an independent Hearing Officer, who will conduct a *de novo* review of the matter, including any evidence concerning past performance in Departmental programs.

One commenter stated that affiliates should not be sanctioned unless directly involved in the impropriety. Under our regulations, the decision to sanction affiliates is made on an *ad hoc* basis. If a person who has been determined to be irresponsible can exercise control over another entity, the Department may properly act to protect the public interest by excluding the controlled entity.

The three-year time period for bringing debarment actions was critcized. Unfortunately, cases arise where HUD does not discover the cause for sanction before several months or years have elapsed since the occurrence of the event. In many instances, HUD is precluded from bringing any action pending completion of an Office of Inspector General or FBI investigation. Therefore, this provision is necessary. We note, however, that pending the imposition of a debarment or suspension, the person is not precluded from doing business with the Department.

Finally, a commenter criticized the application of the regulations to grantees and objected to issuance of these regulations in light of OMB Circular A-110 (Attachment L). We see no difference between grantees and other types of participants in HUD programs with regard to the question of responsibility. Exclusion of nonresponsible grantees from HUD programs is as important as exclusion of other types of participants. The focus of Attachment L is very different from that of our regulations. Attachment L concerns itself with performance problems arising under a particular grant. HUD regulations are concerned in addition with violations which may be outside the scope of the grant, but nonetheless affect the desirability of doing business with the grantee.

This proposed rule makes the following substantive changes:

1. The term "contractor or grantee" in the present regulations would be replaced by the terms "contractor" and "participant" in order to distinguish between procurement contractors and all others with whom the Department does business. It has been necessary to create two categories of sanctions because the OFPP Policy Letter requires the Government-wide exclusion of suspended or debarred procurement contractors but does not provide for exclusion of others with whom HUD does business. Since HUD suspends and debars those that are not procurement contractors, for example, mortgagors and builders of HUD-insured projects, the term "participant" has been used to identify all those covered by the current definition of "contractor or grantee" except procurement contractors. The term "participant" includes those who participate in HUD programs, but do not fall within the present definition, including ultimate beneficiaries such as tenants and subsidized mortgagors. However, ultimate beneficiaries may only be sanctioned for fraud or severe program abuse, for example, fraudulently obtaining subsidy payments where an individual did not qualify for assistance. Both "contractor" and "participant" include those who may reasonably be expected to take part in HUD contracts or programs.

2. Definitions have been included to specify the level of proof necessary to establish "adequate evidence" and "preponderance of the evidence." Adequate evidence is comparable to the probable cause necessary for an arrest, a search warrant or a preliminary hearing in a criminal matter, and is the standard used in suspensions while the greater burden of preponderance is applied to debarments.

3. The definition of "affiliate" has been amended to include individuals and to emphasize the control aspect of the relationship.

4. The sanctions of "Temporary Denial of Participation" and "Conditional Denial of Participation" have been combined into a single sanction entitled "Limited Denial of Participation," which includes the causes available under the prior sanctions, but which may not be reciprocally imposed.

5. Section 24.5 makes it clear that a debarment includes all divisions or organizational elements of a participant or contractor, unless the debarment is, by its terms, limited to specific divisions or elements.

6. Sections 24.5(c) and 24.16(b) provide that the debarment or suspension of a contractor is effective throughout the Executive Branch of Government unless an agency head makes a written finding of compelling reasons for doing business with the contractor. Sections 24.9 and 24.20 retain the existing provisions calling for review of existing HUD contracts with a suspended or debarred party to determine whether it is in the best interests of the Government to continue those contracts.

7. Sections 24.5(d) and 24.16(c) limit the time period within which HUD may impose a debarment or suspension.

8. Sections 24.6(g) and 24.17(a)(9) provide for Department-wide exclusion of a participant or contractor in violation of Section 109 of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation

Act of 1973, and the Age Discrimination Act of 1975, in addition to Title VI of the Civil Rights Act of 1964, as currently provided.

9. Section 24.6(m) authorizes HUD to debar a participant or contractor who knowingly does business with a person named on the Consolidated List or the HUD List so that the excluded participant or contractor does business with HUD.

10. Sections 24.6(n) and 24.17(c) authorize debarment or suspension based on a similar action by another Federal agency for any reason that would be a cause for debarment or suspension under this part.

11. Sections 24.7(b), 24.18(b) and 24.26 prescribe the contents of the notice of imposition of sanction.

12. Section 24.14 establishes grounds and procedures for reinstatement of suspended or debarred participants and contractors. The decision to reinstate is made by the Suspending or Debarring Official based on the written submission of evidence and argument. The Official may submit the matter to a Hearing Officer for determination on the written record.

13. In those cases where the suspension or debarment is based on an indictment, conviction or sanction by another agency, appeal rights are limited to the written record.

14. The period of debarment has been generally reduced to a term not to exceed three years (including any period of suspension); however, for willful or egregious misconduct the debarment period may exceed three years.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address set forth above.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued February 17, 1981. Analysis of the rule indicates that it does not: (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a signficant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, since it will have applicability only to a very small percentage of the total number of entities which have dealings with the Department.

This rule was listed as item S–2–79 under the Office of the Secretary in the Department's Semi-Annual Agenda of Regulations published on April 25, 1983 at 48 FR 18055 pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

There is no Catalog of Federal Domestic Assistance program number applicable to this rule.

List of Subjects in 24 CFR Part 24

Administrative practice and procedure.

Accordingly, the Department proposes to revise 24 CFR Part 24 to read as follows:

PART 24—DEBARMENT, SUSPENSION AND LIMITED DENIAL OF PARTICIPATION

Subpart A—General

Sec.
24.1 Policy.
24.2 Purpose.
24.3 Applicability.
24.4 Definitions.

Subpart B—Debarment

24.5 Debarment in general.
24.6 Causes for debarment.
24.7 Procedures.
24.8 Period of debarment.
24.9 Scope of debarment.
24.10 Appeal procedures.
24.11 Hearing procedures.
24.12 Determination of Hearing Officer, review of determination.
24.13 Request for reinstatement.
24.14 Settlement.

Subpart C—Suspension

24.15 General.
24.16 Causes for suspension.
24.17 Procedures.
24.18 Period of suspension.
24.19 Scope of suspension.
24.20 Appeal procedures.
24.21 Settlements.

Subpart D—Limited Denial of Participation

24.22 Authority to order Limited Denial of Participation.
24.23 Causes for a Limited Denial of Participation.
24.24 Period and scope.
24.25 Notice.
24.26 Informal hearing.
24.27 Appeal.

Subpart E—Lists of Excluded Participants and Contractors

24.28 The Consolidated List of Debarred, Suspended or Ineligible Contractors.
24.29 Establishment and maintenance of the HUD List of Debarred, Suspended and Ineligible Contractors.
24.30 Classifications for entry on the HUD List.
24.31 Effect of sanctions.
24.32 Retroactivity.

Authority: Sec. 7(d) of the Department of HUD Act; 42 U.S.C. 3535(d).

Subpart A—General

§ 24.1 Policy.

In order that HUD may realize the goal of a decent home and a suitable living environment for every American family, it is necessary that HUD does business only with participants an contractors that can demonstrate that Government funds, assistance or programs will be properly utilized. Accordingly, participants and contractors that have been determined not to be responsible under these regulations shall be denied paticipation in Department programs, and contractors that have been determined not to be responsible under these regulations shall be excluded from HUD participation, and from receiving contracts throughout the Executive Branch of the Federal Government for whatever period is required by the public interest.

§ 24.2 Purpose.

This part sets forth rules for the exclusion of individuals, corporations, partnerships and other entities from direct or indirect participation in HUD programs and of contractors from direct or indirect participation in HUD programs or receipt of contracts or subcontracts throughout the Federal Government. The sanctions shall be used to protect the public interest and not for punitive purposes.

§ 24.3 Applicability.

(a) *General.* Any participant or contractor is subject to the sanctions set forth in this part, if cause for imposing the sanction is shown and the procedures provided in this part are followed. Sanctions may be taken against ultimate beneficiaries, presently limited to subsidized tenants and subsidized mortgagors, only upon evidence of fraud or serious program abuse. Persons may be subject to sanctions regardless of whether they were engaged in a HUD program at the time of the conduct on which the sanction is based, or whether they acted individually, on behalf of others, or in a private or public capacity. Nothing in this Part shall impair or limit the right to impose any sanction provided for by contract, including Guaranty Agreements with the Government National Mortagage Association. Where an office of the Department is required by statute, regulation, or Executive Order to follow administrative sanction procedures that may differ from the requirements of this part, the statute, regulation or Executive Order shall take precedence.

(b) *Exceptions.* Sanctions taken against participants under this part shall not apply to: (1) Contracts with, or grants made to, owners or occupants of real property in connection with eminent domain proceedings; (2) relocation payments made to eligible displaced parties; (3) the sale of the personal residence of an excluded individual; or (4) successful bidders at all-cash sales of HUD housing units offered without qualification at public sales.

§ 24.4 Definitions.

As used in this part, the following terms shall have the meanings set forth next to them:

(a) *Adequate evidence.* Information sufficient to support the reasonable belief that a particular act or omission has occurred.

(b) *Affiliates.* Individuals or business concerns are affiliates if, directly or indirectly, (1) either one controls or can control the other, or (2) a third individual or concern controls or can control both.

(c) *Assistance agreement.* Grants and cooperative agreements.

(d) *Benefits.* Money or any other thing of value provided by, or realized because of, the Department. "Thing of value" includes insurance or guarantees of any kind.

(e) *Consolidated List of Debarred, Suspended, and Ineligible Contractors.* A list compiled, maintained, and distributed by the General Services Administration containing the names of contractors debarred or suspended by agencies under the procedures of this Part as well as contractors declared ineligible under other statutory or regulatory authority.

(f) *Contractor.* Any individual or other entity that: (1) submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government procurement contract or a subcontract under a Government procurement contract; or (2) conducts business with the Government as an agent or representative of another contractor.

(g) *Conviction.* A judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, including a conviction entered upon a plea of nolo contendere.

(h) *Debarment.* Exclusion from direct or indirect participation in HUD programs including programs funded, guaranteed or insured by HUD and in the case of a "contractor" from Government contracting for a reasonable, specified period of time commensurate with the seriousness of the matter that is the cause of the debarment.

(i) *Debarring Official.* Any Assistant Secretary of HUD, the General Counsel of HUD, the General Manager of the New Communities Development Corporation and the President of the Government National Mortgage Association.

(j) *Hearing Officer.* An Administrative Law Judge or Board of Contract Appeals Judge authorized by HUD's Secretary, or designee, to conduct proceedings under this part.

(k) *HUD List of Debarred, Suspended or Ineligible Participants.* A list compiled, maintained and distributed by the HUD Inspector General in accordance with § 24.29, containing the names of all participants and contractors debarred, suspended or determined to be ineligible in accordance with this Part.

(l) *Indictment.* Indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

(m) *Ineligible.* Excluded from participation in Departmental programs or Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive Order, or regulatory authority other than the Department's debarment, suspension or limited denial of participation procedures, such as the Davis-Bacon Act and its related statutes and implementing regulations, the Service Contract Act, the Equal Employment Opportunity Acts and Executive Orders, the Walsh-healey Public Contracts Act, the Buy American Act, and the Enviromental Protection Acts and Executive Orders.

(n) *Legal proceedings.* Any civil judicial proceeding to which the Government is a party, or any criminal proceeding. The term includes appeals from such proceedings.

(o) *Limited Denial of Participation.* The immediate exclusion from participation, or immediate imposition of conditions for participation, in a program of the Department within a limited geographical area for a period generally not to exceed 12 months.

(p) *Participants.* State and local governments, individuals and public and private organizations or their employees other than those defined as contractors in § 24.4(f) that directly or indirectly participate or may reasonably be expected or participate in HUD programs. (For example, a participant in housing programs of another Federal agency or state government is a participant.) However, no sanction shall be imposed against direct recipients of Community Development Block Grant funds, except as provided by 24 CFR Part 570. "Participants" include any recipient of HUD benefits, either directly or indirectly, through non-Federal sources or other recipients. Participants include, but are not limited to, borrowers, builders, HUD Contractors, principals in multifamily projects (as defined in 24 CFR Part 200 Subpart G), purchasers at sales of HUD housing units offered with conditions of sale, recipients under assistance agreements, ultimate beneficiaries of HUD programs, mortgagees, fee appraisers and inspectors, real estate agents and brokers, area management brokers, management and marketing agents, or persons in a business relationship with participants, such as accountants, consultants, investment bankers, architects, engineers, contractors with participants, and attorneys.

(q) *Person.* Includes both individuals and entities.

(r) *Preponderance of the evidence.* Proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(s) *Suspending Offical.* Any Assistant Secretary of HUD, the General Counsel of HUD, the General Manager of the New Communities Development Corporation and the President of the Government National Mortgage Association.

(t) *Suspension.* The action taken to immediately disqualify a participant or contractor temporarily from direct or indirect participation in HUD programs, including program funded, guaranteed or insured by HUD, or Government contracting based upon adequate evidence of serious wrongdoing.

Subpart B—Debarment

§ 24.5 Debarment in general.

(a) *Officials who may initiate debarment.* Any Debarring Official may intitate debarments. No debarment may be initiated against HUD-FHA approved mortgagees, however, without approval of the Mortgagee Review Board. A Debarring Official, acting in the public

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interest, may debar a participant or contractor for any cause set forth in § 24.6. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the decision whether to initiate debarment shall be within the discretion of the Debarring Official and in the best interest of the Government.

(b) *Effect of debarment.* In addition to exclusion from direct or indirect participation in HUD programs, or contractor's debarment from procurement shall be effective throughout the Executive Branch of the Government, unless a contracting agency's head, or designee, states in writing the compelling reasons justifying continued business dealing between that agency and the contractor. A participant's debarment is limited to direct or indirect participation in HUD programs.

(c) *Time limitations on decision to debar.* The notice of proposed debarment shall be issued within three years of (i) a criminal conviction, (ii) completion of an investigation or audit which is a basis for the debarment action, or (iii) discovery of the cause on which the debarment action is based, whichever is later.

§ 24.6 Causes for debarment.

A participant or contractor may be debarred, based upon a preponderance of the evidence, for any of the following causes:

(a) Conviction of or civil judgment for—

(1) Commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;

(2) Violation of Federal or State antitrust statutes relating to the submission of offers;

(3) Commission of embezzlement, theft, forgery bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility or a participant or contractor.

(b) Violation of the terms of a Government contract or subcontract so serious as to justify debarment, such as—

(1) Willful failure to perform in accordance with the terms of one or more contracts; or

(2) A history of failure to perform, or of unsatisfactory performance of one or more contracts.

(c) Any other cause of so serious or compelling a nature that it affects present responsibility.

(d) Violation of any settlement agreement made under this part.

(e) Failure to comply with Title VIII of the Civil Rights Act of 1968 or Executive Order 11063, HUD's Affirmative Fair Housing Marketing regulations or an Affirmative Fair Housing Plan.

(f) Violation of Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1973, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

(g) Violation of any law, regulation, or obligation relating to conflict of interest.

(h) Violation of any nondiscrimination provisions included in any agreement or contract.

(i) Violation of any law, regulation, or obligation relating to applications for financial assistance, insurance, or guarantee, or to the performance of obligations under an assistance award or conditional or final commitment to insure or guarantee.

(j) Making or causing to be made any false statement for the purpose of influencing in any way an action of the Government.

(k) Failure to pay debts to HUD within a reasonable time after demand, pursuant to 24 CFR Part 17.

(l) Knowingly doing business with a person named on the HUD List, except where approved by the Debarring Official, so as to enable the listed person to become, directly or indirectly, a participant or contractor with respect to HUD programs.

(m) Debarment by another Federal agency for any cause specified in this section.

§ 24.7 Procedures.

(a) *Decision-making process.* The debarment decision-making process shall be as informal as practicable, consistent with principles of fundamental fairness.

(b) *Notice of proposal to debar.* Debarment shall be initiated by advising the participant or contractor and any specifically named affiliates, by certified mail, return receipt requested—

(1) That debarment is being considered;

(2) Of the reasons for the proposed debarment in terms sufficient to put the participant or contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under § 24.6 for proposing debarment;

(4) Of the right to request within 30 days of receipt, in writing, a hearing pursuant to § 24.11;

(5) Of the following potential effect(s) of debarment:

(i) For a participant, that the participant will be excluded from all participation, direct or indirect, in any HUD program, including any program funded, guaranteed or insured by HUD;

(ii) For a contractor, that in addition to exclusion from direct or indirect participation in HUD programs, the contractor will be excluded from receiving any Federal Government contract, and Federal agencies shall not solicit offers from, or award contracts or subcontracts, to, the contractor unless the acquiring agency's head or designee determines that there is a compelling reason for such action; and

(6) Of HUD's procedures governing debarment decisionmaking, including a statement that, if no response is made within 30 days, the decision will be made final.

(c) *Receipt of notice.* Notice shall be considered to have been received by the addressee, if sent certified mail, return receipt requested, to the addressee's last known address.

(d) *Notice of Debarring Official's final decision.* If no request for hearing is received within 30 days, the participant or contractor and any affiliates shall be given prompt notice of the final decision to debar by certified mail, return receipt requested—

(1) Referring to the notice of proposed debarment;

(2) Stating that the debarment is effective immediately; and

(3) Stating the period of debarment, including effective dates.

§ 24.8 Period of debarment.

Debarment shall be for a period commensurate with the seriousness of the cause(s), generally not to exceed three (3) years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. Where the offense is willful or egregious, a longer term of debarment may be imposed, up to an indefinite period.

§ 24.9 Scope of debarment.

(a) *Scope in general.* Debarment constitutes debarment of all divisions or other organizational elements of the participant or contractor, unless the debarment decision is limited by its terms of specific organizational elements. The Debarring Official may extend the debarment decision to include any affiliates of the participant or contractor if they are (1) specifically named and (2) given written notice of the proposed debarment and an opportunity to respond as set forth in

§ 24.7(b). An affiliate may be included in a debarment soley on the basis of its affiliation and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element of a nonresponsible entity presents no risk to Federal interests is placed on the affiliate or organizational element. Existing contracts with debarred persons shall be reviewed and terminated unless it is determined that termination is not in the best interests of the Government.

(b) *Conduct imputed to participant or contractor.* The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a participant or contractor may be imputed to the participant or contractor when the conduct occurred in connection with the individual's performance of duties for our on behalf of the participant or contractor, or with the participant's or contractor's knowledge, approval, or acquiescence.

(c) *Conduct imputed to individuals associated with participant or contractor.* The fraudulent, criminal, or other seriously improper conduct of a participant or contractor may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the participant or contractor who participated in, knew of, or had reason to know of, the participant's or contractor's conduct.

(d) *Conduct of one participant or contractor imputed to other participating parties.* The fraudulent, criminal, or other seriously improper conduct of one participant or contractor participating in a joint venture or similar arrangement may be imputed to other participating parties if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval, or acquiescence of these participants or contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

§ 24.10 Appeal procedures.

Within 30 days of receipt of a notice of proposed debarment, any participant or contractor, including any affiliates, desiring a hearing shall file a written request for a hearing with the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. If no appeal is filed within the time limit, the proposed decision to debar shall be final.

§ 24.11 Hearing procedures.

(a) *General.* Hearings shall be governed by the procedures set forth at 24 CFR Part 26, except as provided herein.

(b) *Right to hearing.* A participant or contractor, including any affiliate, that has requested a hearing has the right to be heard before a Hearing Officer and to be represented by counsel as follows:

(1) Except as provided by paragraphs (b) (2) and (3) of this section, the participant or contractor may request an oral hearing before a Hearing Officer;

(2) When the Department of Justice advises, in writing, and the Suspending Official determines that (i) a suspension is based on the same facts as pending or contemplated legal proceedings and (ii) substantial interests of the Government in those proceedings would be prejudiced by a hearing, there shall be no right to a hearing;

(3) Where the action is based solely upon an indictment or conviction, or upon suspension or debarment by another Federal Government agency, the hearing shall be limited to the opportunity to submit documentary evidence and written briefs for consideration by a Hearing Officer;

(c) *Consolidation of hearings.* Where a suspension or Limited Denial of Participation is accompanied or followed by a proposed debarment, the hearing shall be consolidated with the hearing on the proposed debarment.

§ 24.12 Determination of Hearing Officer; review of determination.

(a) *Written determination.* After the participant or contractor has been afforded an opportunity to be heard, the Hearing Officer shall make a written determination on the evidence presented, including any evidence of mitigating circumstances. The Hearing Officer may issue a determination in accordance with Part 26. It is proposed that the sanction include an affiliate; the Hearing Officer shall rule specifically whether, and to what extent, the determination applies to such affiliate. The Hearing Officer's determination shall be transmitted to all appealing parties by certified mail, return receipt requested.

(b) *Transmission of determination.* The Hearing Officer's determination shall also be transmitted promptly to the HUD official who invoked the administrative sanction, and to the General Counsel, or designee.

(c) *Finality and secretarial review.* The Hearing Officer's determination shall be final unless, pursuant to 24 CFR Part 26, the Secretary, or designee, decides as a matter of discretion to review the finding of the Hearing Officer. Any party may request such a review in writing within 15 days of receipt of the Hearing Officer's determination.

§ 24.13 Requests for reinstatement.

(a) *Grounds.* Requests for reinstatement shall be made in writing, addressed to the Suspending or Debarring Official, as follows:

(1) Immediately upon proof of:

(i) Discovery of new and material evidence not previously available;

(ii) Dismissal of the indictment or reversal of the conviction or judgment, or reversal of the suspension or debarment by another agency upon which HUD's suspension or debarment was based; or

(iii) Bona fide change in ownership or management.

(2) Not less than six months after the final determination of debarment or imposition or affirmation of the suspension or LDP, upon proof that the causes for the debarment have been eliminated and upon certification that the requirements of applicable statutes and administrative rules and regulations are understood by the participant or contractor and will be followed in the future.

(b) *Procedures.* The determination whether to reinstate shall be based on written submission of evidence, without a further hearing. However, in determining whether reinstatement is appropriate, the Suspending or Debarring Official may refer the matter to the Hearing Officer for review of the written submission. Upon referral and consideration, the Hearing Officer shall recommend to the Suspending or Debarring Official whether or not reinstatement is warranted under the standards of paragraph (a) of this section.

§ 24.14 Settlement.

A Debarring Official may settle an administrative action under this part in the interest of the Government at any time.

Subpart C—Suspension

§ 24.15 general.

(a) *Officials who may initiate suspensions.* Any Suspending Official may issue suspensions. No suspension may be issued against HUD-FHA approved mortgagees, however, without approval of the Mortgagee Review Board. A Suspending Official, acting in the public interest, may suspend a participant or contractor for cause set forth in § 24.16. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the

decision whether to suspend shall be within the discretion of the Suspending Official and in the best interest of the Government.

(b) *Effect of Suspension.* In addition to exclusion from direct or indirect participation in HUD programs, a contractor's suspension from procurement shall be effective throughout the Executive Branch of the Government, unless a contracting agency's head, or designee, states in writing the compelling reasons justifying continued business dealings between that agency and the contractor. A participant's suspension is limited to direct or indirect participation in HUD programs.

(c) *Time limitations on decision to suspend.* The notice of suspension shall be issued within three years of (i) a criminal conviction, (ii) completion of an investigation or audit which is a basis for suspension, or (iii) discovery of the cause on which the suspension is based, whichever is later.

§ 24.16 Causes for suspension.

(a) *Generally.* A participant or contractor may be suspended, based upon adequate evidence, for any of the following causes:

(1) Commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;

(2) Violation of Feferal or State antitrust statutes relating to the submission of offers;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a participant or contractor;

(5) Violation of any settlement agreement made under this part;

(6) Failure to comply with Title VIII of the Civil Rights Act of 1968, Executive Order 11063, the Department's Affirmative Fair Housing Marketing regulations or an Affirmative Fair Housing Plan;

(7) Violation of any non-discrimination provision included in any agreement or contract;

(8) Violation of Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

(9) Commission or omission of acts of such serious and compelling nature affecting responsibility or indicating inability to perform business with the Government as may be determined by the appropriate Suspending Official to warrant suspension. Such conduct and omission include, but are not limited to: (i) Violation of any law, regulation, or obligation relating to applications for financial assistance, insurance, or guarantees, or to the performance of obligations under an assistance agreement or conditional or final commitment to insure or guarantee; (ii) substantial failure to honor contractual obligations or to proceed in accordance with contract specifications; and (iii) making or causing to be made any false statement for the purpose of influencing in any way an action of the Government.

(b) *Indictment.* Indictment or being named as an unindicted co-conspirator for any of the causes specified in paragraph (a) of this section constitutes adequate evidence for suspension.

(c) *Suspension.* Suspension by another Federal agency for cause specified in paragraph (a) of this section constitutes adequate evidence for a concurrent suspension.

§ 24.17 Procedures.

(a) *Decision-making process.* The suspension decision-making process shall be as informal as practicable, consistent with principles of fundamental fairness. Suspension is a serious action to be imposed on the basis of adequate evidence, pending the completion of investigation, administrative proceedings or legal proceedings, when it has been determined that immediate action is necessary to protect the Government's interest. In assessing the adequacy of the evidence, the suspending official shall consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.

(b) *Notice of suspension.* Suspension shall be made effective by advising the participant or contractor and any specifically named affiliates, by certified mail, return receipt requested—

(1) That suspension is being imposed;

(2) That the suspension is based on an indictment or other adequate evidence that the participant or contractor has committed irregularities (i) of a serious nature in business dealings with the Government; or (ii) seriously reflecting on the propriety of further Government dealings with the participant or contractor; any such irregularities shall be described in terms sufficient to place the participant or contractor on notice without disclosing the Government's evidence;

(3) Of the cause(s) relied upon under § 24.16b for imposing suspension;

(4) Of the right to request a hearing pursuant to § 24.11;

(5) Of the following potential effect(s) of suspension:

(i) For a participant, that the participant is excluded from all participation, direct or indirect, in any HUD program, including any program funded, guaranteed or insured by HUD;

(ii) For a contractor, that in addition to being excluded from direct or indirect participation in HUD programs, the contractor is excluded from receiving any Federal Government contract, and Federal agencies shall not solicit offers from, or award contracts or subcontracts to, the contractor unless the contracting agency's head or designee determines that there is a compelling reason for such action; and

(6) Of HUD's procedures governing suspension decision-making, including the right to request a hearing within 30 days of receipt of the notice of suspension.

(c) *Receipt of notice.* Notice shall be considered to have been received by the addressee if sent certified mail, return receipt requested, to the addressee's last known address.

§ 24.18 Period of suspension.

All suspensions shall be for a temporary period pending the completion of an investigation, administrative proceedings or legal proceedings. A suspension shall become effective immediately upon issuance of the notice specified in § 24.17(b). In cases involving suspected violations of Federal law where prosecutive action has not been initiated by the Department of Justice within 12 months from the date of the notice of suspension, the suspension shall be terminated unless an Assistant Attorney General or a United States Attorney requests, in writing, a continuance for an additional six months. In no event shall a suspension continue beyond 18 months unless prosecutive action has been initiated within that period. The time limitations for suspension contained in this section may be waived by the affected party.

§ 24.19 Scope of suspension.

(a) *Generally.* Suspension constitutes suspension of all divisions or other organizational elements of the participant or contractor, unless the suspension is limited by its terms to specific organizational elements. The Suspending Official may extend the suspension to include any affiliates of the participant or contractor if they are (1) specifically named, and (2) given written notice of the suspension and an opportunity to respond as set forth in § 24.17(b). An affiliate may be included in a suspension solely on the basis of its affiliation and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element of a nonresponsible entity presents no risk to Federal interests is placed on the affiliate or organizational element. Existing contracts with suspended persons shall be reviewed and terminated unless it is determined that termination is not in the best interests of the Government.

(b) *Conduct imputed to participant or contractor.* The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a participant or contractor may be imputed to the participant or contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the participant or contractor, or with the participant's or contractor's knowledge, approval, or acquiescence.

(c) *Conduct imputed to individuals associated with participant or contractor.* The fraudulent, criminal, or other seriously improper conduct of a participant or contractor may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the participant or contractor who participated in, knew of, or had reason to know of, the participant's or contractor's conduct.

(d) *Joint ventures.* The fraudulent, criminal, or other seriously improper conduct of one participant or contractor participating in a joint venture or similar arrangement may be imputed to other participating parties if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval, or acquiescence of these participants or contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

§ 24.20 Appeal procedures.

Within 30 days of receipt of a notice of suspension, a participant or contractor, including any affiliates, desiring a hearing shall file a written request for a hearing with the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. If a hearing is requested, it shall be held in accordance with sections 24.11 through 24.13.

§ 24.21 Settlements.

A Suspending Official may settle an administrative action under this part in the interest of the Government at any time.

Subpart D—Limited Denial of Participation

§ 24.22 Authority to order Limited Denial of Participation.

Regional Administrators or Area Managers may order a Limited Denial of Participation affecting any participant or contractor and their affiliates except HUD–FHA approved mortgagees. In each case, even if the offense or violation is of a criminal, fraudulent or serious nature, the decision to order a Limited Denial of Participation shall be discretionary and in the best interests of the Government.

§ 24.23 Causes for a Limited Denial of Participation.

A Limited Denial of Participation shall be based upon adequate evidence of the following causes:

(a) That approval of an applicant for insurance would constitute an unsatisfactory risk;

(b) Irregularities in participant's or contractor's past performance in a HUD program;

(c) Failure of a participant or contractor to maintain prerequisities of eligibility to participate in a HUD program;

(d) Failure to honor contractual obligations or to proceed in accordance with contract specifications or HUD regulations;

(e) That requirements of an assistance agreement or contract will not be satisfied upon completion;

(f) Construction deficiencies in ongoing projects;

(g) Any cause for imposing a suspension under § 24.16.

§ 24.24 Period and scope.

(a) *Generally.* A Limited Denial of Participation is limited to the program under which the cause arose except that where it is based on an indictment, conviction or suspension or debarment by another agency it need not be based on offenses against HUD and it may apply to all programs. The sanction is effective only within the jurisdiction of the office imposing it. For the purpose of this subpart, the term "program" may include any or all of the functions within the jurisdiction of an Assistant Secretary, the General Counsel, or the General Manager of the New Communities Development Corporation.

(b) *Effectiveness.* This sanction shall be effective immediately upon being signed by the authorized official and shall remain effective up to 12 months or until the cause for the Limited Denial of Participation is resolved, whichever comes first. If the cause has not been resolved by the end of a year, the Limited Denial of Participation may be renewed for an additional period of up to one year. The person may also be suspended or debarred under this part.

(c) *Affiliates.* An affiliate may be included in a Limited Denial of Participation solely on the basis of its affiliation and regardless of its knowledge of or participation in the acts providing cause for the sanction.

§ 24.25 Notice.

(a) *Generally.* A Limited Denial of Participation shall be initiated by advising a participant or contractor and any specifically named affiliates, by certified mail, return receipt requested—

(1) That the sanction is imposed on the date of the notice;

(2) Of the reasons for the sanction in terms sufficient to put the participant or contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under § 24.23 for imposing the sanction;

(4) Of the right to request within 30 days of receipt in writing, an informal hearing on the sanction;

(5) Of the Department's procedures governing Limited Denial of Participation; and

(6) Of the potential effect of the sanction and the impact of the participant's or contractor's participation in Departmental programs specifying the program involved and the geographical area affected by the action.

(b) *Receipt of notice.* Notice shall be considered to have been received by the addressee if sent certified mail, return receipt requested, to the addressee's last known address.

§ 24.26 Informal hearing.

Upon receipt of a request for an informal hearing, the official imposing the sanction shall promptly arrange such a hearing with the participant or contractor and may designate another official to conduct that hearing. The participant or contractor may be represented by counsel and may present all relevant materials to the official, or designee. After consideration of the materials presented, the official shall, in writing, advise the participant or contractor of the decision to withdraw, modify or affirm the decision.

VOL
48
ISS
1
9
7
OC
11
1983
UMI

§ 24.27 Appeal.

Where the decision is to affirm all or a portion of the remaining period of exclusion, any participant desiring an appeal shall file a written request for a hearing with the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. This request shall be filed within 15 days of receipt of the decision to affirm. If a hearing is requested, it shall be held in accordance with the procedures set forth at § 24.11 through § 24.13.

Subpart E—Lists of Excluded Participants and Contractors

§ 24.28 The Consolidated List of Debarred, Suspended, or Ineligible Contractors.

(a) The Inspector General shall compile and transmit to the General Services Administration (GSA) a list of all contractors debarred, suspended or declared ineligible by the Department. The list shall indicate: (1) The names and addresses of all debarred, suspended, or ineligible contractors, in alphabetical order, with cross-references when more than one name is involved in a single action; (2) the cause for the action or other statutory or regulatory authority; (3) the scope of the action; (4) the termination date for each listing; and (5) the name and telephone number of the point of contact for the action.

(b) The Inspector General shall (1) notify GSA of the information required by paragraph (a) of this section within five (5) working days after the action becomes effective; (2) notify GSA within five (5) working days after modifying or rescinding an action; and (3) notify GSA of the names and addresses of agency organizations that are to receive the Consolidated List and the number of copies to be furnished to each.

§ 24.29 Establishment and maintenance of the HUD List of Debarred, Suspended and Ineligible Participants.

(a) *Maintenance of HUD lists.* The HUD Inspector General shall maintain and consolidate HUD lists relating to the debarment, suspension or ineligibility of participants and contractors. All lists shall be kept current. Procedures for issuance of notices of additions and deletions shall be established by the Inspector General. Each Suspending or Debarring Official under this part shall appoint a liaison officer responsible for providing the Office of Inspector General with current information. The Office of Inspector General shall, in cooperation with other offices of HUD, establish procedures for assuring the timely receipt of information relevant to updating the HUD List.

(b) *Information in the list.* The HUD List shall show as a minimum the following information:

(1) The names of those persons against whom HUD has invoked administrative sanctions (in alphabetical order) with appropriate cross-reference where more than one name is involved in a single action.

(2) The basis of authority for such action.

(3) The extent of the restrictions imposed, including their expiration date.

(4) The name of the office initiating the action, where appropriate.

(5) Designation of whether debarred as a participant or contractor.

(c) *Distribution of the HUD List.* The Inspector General shall arrange for reproduction and distribution of the HUD List. The list shall be distributed among HUD employees and others outside HUD whose duties require access to the list, as authorized by the Assistant Secretaries, Area Managers, and Regional Administrators. Distribution shall also be made upon request. Procedures for submiting requests for information contained in the HUD List and distribution of such information shall be established by the Office of Inspector General. Names of persons on the HUD List shall be available upon request to that office.

§ 24.30 Classifications for entry on the HUD List.

Persons may be listed on the HUD List in accordance with the following classifications:

(a) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Walsh-Healy Public Contracts Act (41 U.S.C. 35 *et seq.*), or the Service Contract Act (41 U.S.C. 351, *et seq.*) as found by the Secretary of Labor to have violated any of the agreements or representations required by those Acts.

(b) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Davis-Bacon Act (40 U.S.C. 276a–2(a)), as found by the Comptroller General to have violated that Act.

(c) Those listed by Comptroller General in accordance with provisions of Executive Order 11246 as found by the Director, Office of Federal Contract Compliance, to have failed to satisfy obligations arising out of a contract incorporating Executive Order 11246, the implementing regulations, 41 CFR 60–1.1, and orders issued in connection therewith.

(d) Those listed by the Comptroller General in accordance with the provisions of 29 CFR 5.6(b) of the regulations of the Secretary of Labor issued pursuant to authority granted under Reorganization Plan No. 14 of 1950, as found by the Secretary of Labor to be in aggravated or willful violation of the prevailing wage or work hour provisions of any statutes including the following:

(1) Contract Work Hours and Safety Standards Act (40 U.S.C. 327, *et seq.*);

(2) Copeland Act (40 U.S.C. 276c);

(3) Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964, (41 U.S.C. 291e(a)(5));

(4) United States Housing Act of 1937, as amended (42 U.S.C. 1416);

(5) National Housing Act (12 U.S.C. 1715c, as amended);

(6) Housing Act of 1949 (42 U.S.C. 1459);

(7) Housing Act of 1961 (42 U.S.C. 1500c–3);

(8) Housing and Urban Development Act of 1965 (42 U.S.C. 3107);

(9) Federal-Aid Highway Act of 1956, as amended by the Federal-Aid Highway Act of 1968, (23 U.S.C. 113(a));

(10) Federal Water Pollution Control Act, as amended (Sec. 513, 86 Stat. 894, 33 U.S.C. 1372);

(11) Postal Reorganization Act (39 U.S.C. 410(b)(4)(c));

(12) Vocational Education Act of 1963 (20 U.S.C. 35(f));

(13) Public Works and Economic Development Act of 1965 (42 U.S.C. 3222);

(14) State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1243(a)(6));

(15) Public Health Service Act (42 U.S.C. 291e);

(16) Housing and Community Development Act of 1974 (42 U.S.C. 1437);

(17) Local Public Works Capital Development and Investment Act of 1976 (42 U.S.C. 6701, *et seq.*, as amended);

(18) Health Professions Educational Assistance Act of 1963 [Sec. 2 (a), 77 Stat. 164; 42 U.S.C. 292d(c)(4) and 42 U.S.C. 293a(c)(5), Pub. L. 88–129];

(19) Higher Educational Facilities Act of 1963 [Sec. 403, 77 Stat. 379; 20 U.S.C. 753, Pub. L. 88–204];

(20) Appalachian Regional Development Act of 1965 (Sec. 402, 79 Stat. 21; 40 U.S.C. App. 402);

(21) Urban Mass Transportation Act of 1964 (49 U.S.C. 6109).

(e) Those listed by the Director of the Office of Federal Contract Compliance on the Contract Ineligibility List because of noncompliance with the Equal Opportunity clause.

(f) Those whom HUD has debarred or suspended in accordance with this part.

(g) Those determined by an executive agency in accordance with section 3(b) of the Buy American Act (41 U.S.C. 10b(b)) to have failed to comply with the provisions of section 3(a) of that Act under any contract containing the specific provisions required by said section 3(a) and made by the agency for construction, alteration, or repair of any public building or public work.

§ 24.31 Effect of sanctions.

Contractors debarred or suspended who are included on the Consolidated List are excluded from receiving contracts, and HUD shall not solicit offers from, award contracts to, or consent to subcontracts with, these contractors, unless the Secretary or designee determines in writing that there is a compelling reason for such action. Contractors listed on the Consolidated List as having been declared ineligible on the basis of statutory or other regulatory procedures are excluded from receiving contracts and, if applicable, subcontracts, under the conditions and for the period set forth in the statute or regulation. Agencies shall not solicit offers from, award contracts to, or consent to subcontracts with, these contractors under those conditions and for that period. Participants and contractors who have been debarred, suspended, or declared ineligible under this part are excluded from direct or indirect participation in all HUD programs during the period that the sanction is in effect, unless the person who imposed the sanction determines that there is a compelling reason for HUD to permit the participant or contractor to participate in a particular transaction. Such determination shall be in writing and shall include the reasons for such finding.

§ 24.32 Retroactivity.

Limitations on participation in HUD programs proposed or imposed prior to the effective date of these regulations under an ancillary procedure shall not be affected by this part. This part shall apply to sanctions initiated after the effective date of these regulations regardless of the date of the cause giving rise to the sanction.

Authority: Section 7(d) of the Department of HUD Act (42 U S.C. 3535(d)).

Dated: September 20, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 83–27560 Filed 10–7–83; 8:45 am]

BILLING CODE 4210–32–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL 2449–3]

Approval and Promulgation of Implementation Plans; Rhode Island; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to approve revisions to the Rhode Island State Implementation Plan (SIP) proposed by the State of Rhode Island to provide regulations for preconstruction permitting of new major sources and major modifications in attainment areas. The effect of this action is to propose approval of these revisions because they meet the requirements for the prevention of significant deterioration of air quality in accordance with Part C, subpart 1, of the Clean Air Act. This notice also proposes to approve revisions which require a permit to construct, install, or modify any source or process which emits five tons per year or more of lead, and to clarify the definition of the term "Growth Allowance." These proposed actions are being taken at the federal level concurrently with the State's process for amending its SIP.

DATE: Public comments are requested and will be considered before taking final action on these SIP revisions. EPA must receive any comments on or before November 10, 1983.

ADDRESSES: Send any comments to Harley F. Laing, Director, Air Management Division, EPA Region I, JFK Federal Bldg., Boston, MA 02203. You may inspect copies of the proposed revisions and EPA's evaluation during normal business hours at: (1) The Environmental Protection Agency Region I, JFK Federal Building, Boston, MA 02203; and (2) the Department of Environmental Management, 75 Davis Street, Cannon Bldg., Rm. 204, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink (617) 223–5131, FTS 223–5131.

SUPPLEMENTARY INFORMATION: On June 10, 1983 the Director of the Division of Air and Hazardous Materials of the Rhode Island Department of Environmental Management (DEM) submitted proposed SIP revisions to EPA for review and approval. These proposed revisions amend Air Pollution Control Regulation 9, "Approval to Construct, Install, Modify, or Operate" and its related narrative, Section VI, Part II, "Stationary Source Permitting and Enforcement" of the Rhode Island SIP. Discussion of these revisions is divided into three sections, below.

I. PSD Plan Revisions

The DEM has proposed revisions to the Rhode Island SIP to incorporate the requirements for state plans for the prevention of significant deterioration (PSD) found at 40 CFR 51.24. PSD regulations specify the requirements for preconstruction permitting of new major sources and major modifications in attainment areas in accordance with Part C, Subpart 1, of the Clean Air Act.

EPA has reviewed the proposed revisions and found that they substantially fulfill the requirements for PSD for state plans of 40 CFR 51.24. Prior to final adoption at the State level, the revisions must address the following issues:

(1) The revisions must clearly state that no relaxation to any portion of the SIP would be approved if such a relaxation would cause or contribute to a violation of an applicable PSD increment.

(2) The revisions must provide that a public notice will be placed in a newspaper of general circulation in each region where a new major source or major modification is proposing to locate. That notice must provide information which includes:

- The receipt of an application
- The DEM's preliminary decision to approve or disapprove the application
- The amount of PSD increment that would be consumed if construction were approved
- An invitation to view the application and the preliminary decision at a specified location and to offer comment.

(3) The revisions must provide that the DEM will complete action on a complete application within one year of the date of receipt.

(4) The revisions must provide that if a source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, then the requirements of Regulation 9 apply as though construction had not yet commenced on the source or modification.

(5) The revisions must clearly state that actual emission increases from any major stationary source on which construction commenced after January 6, 1975 will be treated as consuming PSD increment.

(6) The final submittal must also include information certifying:

- That Rhode Island has no high terrain areas;
- That no Indian Reservations or Indian Governing Bodies exist in Rhode Island, and
- That if an area in Rhode Island or within 100 KM of Rhode Island is redesignated to Class I, the State will adopt all definitions and provisions of 40 CFR 51.24 relating to such areas.

Proposed action: EPA proposes to approve revisions to Regulation 9 and Section VI, Part II of the associated narrative of the Rhode Island SIP as proposed by the DEM to satisfy the requirements for the prevention of significant deterioration of 40 CFR 51.24. Final approval of these revisions is contingent upon amendments to include the items identified at 1–6 in Section I of this notice.

II. Lead Attainment Plan Revisions

The DEM has also proposed revisions to the Rhode Island SIP, Regulation 9, at Section 9.3.1 (d) to require a permit to construct, install, or modify any source or process having the potential to emit five tons per year (TPY) or more of lead. In accordance with Regulation 9, Section 9.4.3 of the EPA-approved SIP, the application for a permit must demonstrate that the construction, installation or modification will not prevent the attainment or maintence of any applicable ambient air quality standard, including the National Ambient Air Quality Standards (NAAQS). EPA is proposing approval of the revision to Section 9.3.1.(d) of Regulation 9 because it conforms to the federal requirements for state plans to control lead codified at 40 CFR Part 51, Subpart E.

Proposed action: EPA proposes to approve the revision of Section 9.3.1 (d) of the Rhode Island SIP as proposed by the DEM to require a permit to construct, install, or modify any source having the potential to emit five TPY or more of lead.

III. Other Issues

On June 28, 1983 (48 FR 29690) EPA approved revisions to Regulation 9 which were submitted by the DEM to meet the requirements of 40 CFR, Part 51, § 51.18. This subsection contains the federal requirements for state plans for the preconstruction permitting of new major sources and major modifications in nonattainment areas.

EPA required that the DEM include, in its final submittal of those revisions, a letter clarifying specific sections of Regulation 9 to insure conformance with 40 CFR 51.18 requirements.

In that letter dated March 7, 1983, the DEM committed to clarify the definition of the term "Growth Allowance" at Section 9.1.24 of Regulation 9. The DEM has now proposed a revision to Section 9.1.24 which satisfies EPA's concern that the calculation of growth allowance not interfere with the attainment and maintenance of the NAAQS. Therefore, EPA is proposing to approve the revised definition of "Growth Allowance" as now proposed by the DEM.

Proposed action: EPA proposes to approve the revised definition of the term "Growth Allowance" of Section 9.1.24 as proposed by the DEM.

In the March 7, 1983 letter, The DEM also committed to amend Section 9.2.3.(b) of Regulation 9 to make it clear that the general exemptions contained in that section cannot be used to exempt major new sources or major modifications from the requirements for new source review.

Finally, the DEM committed to clarify Section 9.11.3 to insure that emission reductions required of sources to accommodate new source growth, commonly referred to as offsets, meet the following criteria:

- They must occur after August 7, 1977
- They must meet the restrictions of 40 CFR 51.18 (j)(3)(ii)(C) concerning the use of shutdowns and curtailments as offsets.

If Rhode Island adopts and submits the regulatory changes to Setions 9.2.3 (b) and 9.11.3, as discussed above, EPA will approve the changes as revisions to the SIP at the time of final rulemaking on the proposed actions of today's notice.

These revisions are being proposed under a procedure called "parallel processing" (47 FR 27073). If the proposed revisions are substantially changed, in areas other than those required by this notice, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made other than those required by this notice, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revisions have been adopted by Rhode Island and submitted to EPA for incorporation into the SIP.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended and EPA regulations in 40 CFR Part 51.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (46 FR 8709).

The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110(a) and 301(a) of the Clean Air Act, as amended 42 U.S.C. 7410(a) and 7601(a))

Dated: August 12, 1983.

Michael R. Deland,

Regional Administrator.

[FR Doc. 83-27585 Filed 10-7-83; 8:45 am]

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40 CFR Part 81

[A-5-FRL 2448-7]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to change the nitrogen dioxide (NO_2) designation for the Cook County, Central Core nonattainment area to attainment and the carbon monoxide (CO) designation for the Peoria nonattainment area in Peoria County to attainment. This revision is based on a request from the State of Illinois to redesignate these areas and on the supporting data the State submitted. (Under the Clean Air (Act), designations can be changed if sufficient data are available to warrant such change). U.S. EPA also proposes to reject Illinois request to redesignate the ozone attainment status of Kane and DuPage Counties and the CO attainment status for Cook County along the expressway corridors.

DATE: Comments on this revision and on the proposed USEPA action must be received by November 10, 1983.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of U.S. EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). Upon request of the State, these area designations may be revised if the supporting data is adequate.

Section 107(d)(5) of the Clean Air Act (Act), as amended in 1977, permits a State to request U.S. EPA to rulemake on a change in the NAAQS attainment/nonattainment status of an area when the available data warrant such a change. On January 27, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a request to the U.S. EPA proposing redesignations to attainment for a number of areas for ozone, carbon monoxide (CO), nitrogen dioxide (NO_2), and total suspended particulates (TSP). The Ozone, CO, and NO_2 redesignation requests are addressed in today's rulemaking. The State's TSP redesignation request will be the subject of a separate notice of proposed rulemaking.

Specifically, this notice of proposed rulemaking concerns the following redesignations requested by the State: (1) Redesignation of the Cook County, Central Core NO_2 nonattainment area—Wacker Drive on the North and West, Michigan Avenue on the East, and Harrison Street on the South—to attainment, (2) Redesignation of DuPage and Kane Counties from nonattainment to attainment for the pollutant ozone, (3) Redesignation to attainment from nonattainment for the pollutant CO of the area 100 feet from the edge of the pavement on either side od several expressway corridors—Edens Expressway, from the junction with I-94 to the Kennedy Expressway; Kennedy Expressway, from the junction with Northwest Tollway to the Dan Ryan Expressway; Eisenhower Expressway from the junction with East West Tollway to the Kennedy and Dan Ryan Expressway; Dan Ryan Expressway, from the junction with Eisenhower Expressway to the Calumet Expressway and I-57; Stevenson Expressway, from the junction with the Tri-State Tollway to Lake Shore Drive; and the Kennedy-Edens Core Area, the area bounded by Lawrence Avenue on the north, Kenton Street on the east, Montrose Avenue on the south, and Cicero Avenue on the west, (4) Redesignation of the Peoria CO nonattainment area, bounded by Green Street on the northeast and east, Water Street on the southeast, Liberty Street on the southwest, Franklin Street on the west, and Percy Avenue on the northwest.

The Cook County, Central core NO_2 nonattainment area is the only NO_2 nonattainment in the State of Illinois. Redesignation of DuPage and Kane Counties to attainment for the pollutant ozone would reduce the size of the Chicago Metropolitan nonattainment area. The Chicago Expressway Corridor area and the Peoria nonattainment area are two of three Illinois CO nonattainment areas. Redesignation of the third CO nonattainment area, located in Rock Island County, is the subject of a separate **Federal Register** notice.

U.S. EPA redesignation criteria are pollutant specific. Those criteria which are used as a basis for this proposed rulemaking are discussed below:

U.S. EPA Criteria for Re-designation

Carbon Monoxide and Nitrogen Dioxide

The most important factors to be considered in reviews of redesignation requests are the NAAQS for the various pollutants. The NAAQS for criteria pollutants are specified in 40 CFR Part 50. The primary NAAQS for CO is defined to be 10 milligrams per cubic meter (9 ppm), eight-hour average, not to be exceeded more than once per year or 40 milligrams per cubic meter (35 ppm), one-hour average, not to be exceeded more than once per year. The primary NAAQS for NO_2 is defined to be 100 micrograms per cubic meter (0.05 ppm), annual arithmetic mean, not to be exceeded on an annual basis.

Specific criteria for CO and NO_2 redesignation reviews are given in a June 12, 1979, memorandum from Richard G. Rhoads to the Directors of the Air and Hazardous Materials Division, Region I–X and in an April 21, 1983, policy memorandum from Sheldon Meyers, Director of the Office of Air Quality Planning and Standards. These memoranda generally require that for a redesignation from nonattainment to attainment, the most recent eight quarters of ambient air quality data must show no violation of the NAAQS for the pollutants being considered. Addtionally, a redesignation to attainment must demonstrate that real, enforceable emission reductions for the pollutant being considered have occured commensurate with observed air quality improvements.

If relevant modeling data are available, these data must also be considered in the review of the redesignation requests. This requirement is supported by Section 171(1) of the Act, the September 11, 1978, **Federal Register** (43 FR 40412), and a January 12, 1978, briefing memorandum on Section 107 redesignations. The consideration of modeling data is particularly warranted in those areas where monitoring data are scarce.

Ozone

As defined in 40 CFR Part 50 the primary NAAQS for ozone is violated when the annual average expected number of daily exceedances of the standard (0.12 ppm, one-hour average) is greater than one (1.0). A daily exceedance occurs when the maximum hourly ozone concentration during a given day exceeds 0.124 ppm (GUIDELINE FOR THE INTERPRETATION OF OZONE AIR QUALITY STANDARDS, EPA-450/4-79-003). The expected number of daily exceedances is calculated from the number of observed exceedances taking into account the potential for unobserved exceedances when monitoring data are invalid or incomplete. The number of expected exceedances equals or exceeds the number of observed exceedances.

Specific criteria for ozone redesignation reviews are given in a December 7, 1979, policy memorandum from Richard G. Rhoads to Directors of the Air and Hazardous Materials Divisions, Region I–X and in an April 21, 1983, policy memorandum from Sheldon Meyers, Director of the Office of Air Quality Planning and Standards. These memoranda indicate that the average number of expected exceedances for each monitoring site is to be based on ozone concentrations observed during the most recent three years. Supplemental information including emissions data and evidence of an implemented control strategy should be considered to determine if the monitoring data accurately characterize the worst case air quality in the area.

VOL 48 ISS 197 OCT 11 1983 UMI

U.S. EPA policy, as defined in these memoranda, does not specify the minimum extent of urban ozone nonattainment areas. The only policy on this issue is contained in a January 3, 1978, memorandum from David G. Hawkins, Assistant Administrator for Air and Waste Management, to Regional Administrators. This memorandum indicated that the designated nonattainment area should be of sufficient size to include most of the significant hydrocarbon (now identified as volatile organic compounds) sources. Although this policy was developed for selecting an area for precursor source control implementation, it is reasonable to use it for establishing the size of the ozone nonattainment area, because it includes not only the area with monitored violations, but also the source area responsible for the monitored violations. Such a designation gives the public a definition of the full extent of a problem and assures that control measures are directed toward the problem source area.

U.S. EPA Analysis of the Technical Support and Proposed Action

NO_2

To support the requested redesignation for NO_2 in the Cook County, Central Core area, the State submitted NO_2 concentration data for monitors in the nonattainment area for the October 1, 1980, through September 30, 1982, period. U.S. EPA augmented these data with data covering the January 1, 1980 through 1982 period contained in the National Aerometric Data Bank (NADB). No violations of the NO_2 NAAQS were observed in the nonattainment area during the most recent two years. This air quality improvement is attributable to the implementation of the Federal Motor Vehicle Control Program, the primary control strategy, for NO_2 emissions. U.S. EPA proposes to redesignate the Cook County, Central Core Area to attainment for the pollutant NO_2.

Ozone

To support the requested redesignation to attainment for ozone in Kane and DuPage Counties, the State referenced 1980 through 1982 ozone data submitted to USEPA's NADB. Also submitted were 1979 through 1981 annual air quality summary reports. Expected exceedances were calculated following procedures outlined in the GUIDELINE FOR THE INTERPRETATION OF OZONE AIR QUALITY STANDARDS (EPA–450/4–79–003). Violation of the ozone NAAQS only occurred at one site, McKinley school in Elgin based on 1979 data. No violation of the NAAQS occurred during the period of 1980 through 1982,although single exceedances were observed in 1980 (Wheaton) and 1981 (Larson Junior High School, Elgin). Ozone precursor emission reductions have been made in the Chicago area and upwind of the Elgin site and could account for ozone level reductions at the Elgin site since 1979. In addition, considering the regional nature of ozone, the McKinley School data should be considered along with the ozone data for Larson Junior High School. Joint consideration of these data leads to the conclusion that no violation of the ozone NAAQS has occurred in Elgin during the period of 1980 through 1982.

However, U.S. EPA has determined that the high population densities in DuPage and eastern Kane counties are associtated with relatively high densities of area and mobile source volatile organic compound emissions. Because the prevailing winds during the ozone season are from south through west, ozone precursor emissions from DuPage and Kane Counties can contribute significantly to ozone NAAQS exceedances which continue to be observed in the Chicago area. U.S. EPA, therefore, proposes to reject the Illinois proposal to redesignate Kane and DuPage Counties to attainment for ozone. These counties will continue to be designated nonattainment until sufficient data is available to warrant a change. These counties must continue to be considered as part of the Chicago urbanized ozone nonattainment area for the purpose of the 1982 SIP.

CO—Peoria

To support the requested redesignation for CO in the Peoria area, the State subbitted CO concentration data for monitors in the nonattainment area for the October 1, 1980, through September 30, 1982 period. U.S. EPA augmented these data with data contained in the NADB. These data indicated that the eight-hour standard has not been violated in the Peoria area in three years. No exceedances of the one-hour CO standard have been monitored. Additionally, the Federal Motor Vehical Control Program, which is the principle CO control strategy, has been implemented in the Peoria area. U.S. EPA, therefore, proposes to redesignate the Peoria area to attainment for the pollutant CO.

CO—Chicago Expressway Corridors

The State has requested that the CO nonattainment areas associated with the Chicago expressways be redesignated to attainment for the pollutant CO. As support for this redesignation, the State cites modeling data contained in the 1982 CO State Implementation Plan (SIP). The current nonattainment designation for the Chicago expressway is based on the use of U.S. EPA'C HIWAY line source dispersion model. Review of all available data indicated that two problems exist in the State's 1982 SIP modeling analysis. First, the assumption of an ambient temperature of 75°F is not supported by CO monitoring data from other sites in the region. Such data support the assumption of an ambient temperature of 40°F. This lower temperature will result in higher CO emissions per vehicle mile traveled. Use of the higher temperature in the modeling analysis described in the 1982 SIP would lead to understimated CO concentrations along expressways outside of downtown Chicago. Second, the choice of critical receptor sites used by the State does not result in predicted CO concentrations as high as may be expected at the roadway right-of ways which are considerably closer to the roadway edges. Since the public has access to locations approaching the right-of-ways, it must be assumed that the IEPA has not predicted the maximum CO concentrations to which the general public may be exposed because the receptors are located in areas of lower expected concentration than the roadway right of ways.

The State of Illinois has indicated that their use of a 75°F ambient temperature for modeling purposes is warranted by CO violation monitoring data collected for this area. These data indicate that other CO monitoring sites in the region are not representative of the Cook County, Central Core CO nonattainment area. Should the State provide additional data to support its use of the 75° ambient temperature, U.S. EPA will reconsider its position on the proposed rejections of the State's request to redesignate to attainment the CO nonattainment areas associated with the Chicago Expressways.

These factors taken together, indicate the State has not adequately demonstrated that the CO NAAQS was attained along the Chicago area expressways. U.S. EPA, therefore, proposes to reject redesignation of this area as attainment for the pollutant CO. This area will continue to be designated nonattainment until sufficient data is available to warrant a change.

All interested persons are invited to submit written comment on the proposed redesignations or proposed no actions. Written comments received by the date specified above will be considered in determining whether U.S. EPA will give final approval for the redesignations. After review of all comments submitted, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the redesignation.

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subject in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Section 107(d) of the Act, as amended (42 U.S.C. 7407).

Dated: June 30, 1983.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 83–27582 Filed 10–7–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[AL–007; A–4–FRL 2447–8]

Designation of Areas for Air Quality Planning Purposes; Alabama, Redesignation of SO_2 Area

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve requests by Alabama to redesignate a portion of two counties for sulfur dioxide (SO_2) from secondary nonattainment to attainment. The public is invited to submit written comments on the proposed redesignation.

DATE: Comments must be received on or before November 10, 1983 to be considered.

ADDRESSES: Written comments should be addressed to EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the material submitted by Alabama in support of the redesignation may be examined during normal business hours at the following locations:

Air Management Branch,
EPA Region IV,
345 Couirtland Street NE.,
Atlanta, Georgia 30365.
Air Program,
Alabama Department of Environmental Management,
645 South McDonough Street,
Montgomery, Alabama 36130.

FOR FURTHER INFORMATION CONTACT: Archie Lee, of EPA Region IV Air Management Branch, at the above address and telephone number 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: On May 13, 1983, the Alabama Department of Environmental Management (DEM) asked EPA to change to attainment the status of the sulfur dioxide nonattainment area surrounding TVA's Colbert plant, that is, portions of Colbert and Lauderdale Counties.

Current EPA policy applicable to the redesignation of sulfur dioxide nonattainment areas provides a twofold approach, a state's request for such a change in attainment status designation must be supported by (A) the most recent eight consecutive quarters of quality-assured, representative ambient air quality data plus evidence that a control strategy approved by EPA as part of the SIP is being implemented, or (B) the most recent four quarters of quality-assured, representative ambient air quality data plus an acceptable state-of-the-art modeling analysis showing the SIP strategy is sound and that actual, enforceable emission reductions are responsible for the recent air quality improvemnt. In addition to the above, dispersion modelling of the area employing the legally enforceable SIP limits wil generally be necessary for areas dominated by point sources.

Alabama has satisfied the criteria with the submittal of eight quarters of data and certification that TVA's Colbert plant is in compliance with the SIP limits approved by EPA on November 6, 1981 (46 FR 55105). Accordingly, it is proposed to change the attainment status of these two counties from secondary nonattainment to attainment for sulfur dioxide.

Under 5 U.S.C. Section 605(b), the Administrator has certified that area redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: August 8, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83–27585 Filed 10–7–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. 6538]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Georgia, Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Marietta, Cobb County, Georgia, previously published at 48 FR 30720 on July 5, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determination of base (100-year) flood elevations for selected locations in the City of Marietta, Cobb County, Georgia, previously published at 48 FR 30720 on July 5, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The description of the location of the Base Flood Elevation Determination on the Rottenwood Creek which reads just downstream of Delk Road should be corrected to read just downstream of Interstate 75.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Georgia	(C) Marietta, Cobb County	Rottenwood Creek	Just upstream of Delk Road	*930	*928
			Just downstream of Interstate 75	*935	*933

Maps available for inspection at P.O. Box 609, Marietta, Georgia. Send comments to Honorable Robert Flournoy, Jr., Mayor, City of Marietta, P.O. Box 609, Marietta, Georgia 30061.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: September 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-27488 Filed 10-7-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Styrax texana (Texas Snowbells) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to list a plant, *Styrax texana* (Texas snowbells), as an Endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This plant is endemic to Edwards, Real, Kimble, and possibly Val Verde Counties, Texas. These known populations are currently very vulnerable due to low numbers and a lack of reproduction. Populations are possibly threatened by cattle and deer browsing. This proposal, if made final, will implement the protection provided by the Endangered Species Act of 1973, as amended, for *Styrax texana*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from the public and State of Texas must be received by December 12, 1983. Public hearing requests must be received by November 25, 1983.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours by appointment, at the Service's Regional Office of Endangered Species, 421 Gold Avenue, SW., Room 407, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Russell L. Kologiski, Botanist, Region 2 Endangered Species staff (see ADDRESSES above) (505/766–3972), or John Spinks, Jr., Chief, Washington Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

Styrax texana (Family Styracaceae) was first discovered on July 4, 1940, by V.L. Cory and was decribed by him in 1943. This species grows as a shrub up to 3 meters high. The bark is smooth, the leaf blades are rounded, 4–8 centimeters long, about as broad as they are long, with entire to almost entire margins, bright green above, silvery below from dense, short, soft hairs. Flowers are in clusters of 3–5, showy and white. Flowering occurs in April and May. Reproduction has not been studied. It is of concern, however, that there are no known seedlings or saplings, indicating a lack of recent reproduction.

Styrax texana grows in crevices in limestone cliffs in juniper-oak savannas on the Edwards Plateau and in creosote bush shrub in the eastern Trans-Pecos basins. The dominant associated trees are *Quercus texana, Juniperus ashei,* and *Fraxinus texensis*. Dominant associated shrubs are *Garrya ovata, Berberis trifoliolata,* and *Bumelia lanuginosa* var. *texana* (Mahler, 1981).

Seven plants have been collected or reported from Polecat Creek, Cedar Creek, and Little Hackberry Creek in Edwards County and 14 from the East Prong of the Nueces River in Real County. Plants also are reported, but not verified, to be on the Horace Faucett Ranch in Val Verde County (Mahler, 1981). One additional plant had been reported from Edwards County, but was not located by Mahler. Eight plants have been reported from Kimble County, four of which were located recently.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be Endangered, Threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the 1973 Act (Section 4(b)(3)(A) now), and of its intention thereby to review the status of the plant species included therein. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. *Styrax texana* was included in this proposal. Comments received in relation to this 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all listing proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired (44 FR 70796). *Styrax texana* was included thereafter in a list of plants under review for Threatened or Endangered classification published as a notice in the December 15, 1980, **Federal Register** (45 FR 82480). A 1981 status report and investigations carried out by Service botanists since December 1979 have now provided new biological data that form the basis for the present proposal. The new data includes information on

the low number of plants, the lack of reproduction in the species, its distribution, and ownership of the land on which the plants occur; they lead to the conclusion that *Styrax texana* is an Endangered species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accomodate the 1982 amendments) set forth procedures for adding species to the Federal list. The Secretary of the Interior shall determine whether any species is an Endangered or Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. Factor E is especially relevant to *Styrax texana*. All of the factors and their application to this species are as follows (Mahler, 1981):

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* Currently, *Styrax texana* is known to exist in three Texas counties: Real, Edwards, and Kimble. One historical report from Val Verde County has not been reconfirmed. In 1982, 25 plants were known to exist. Most of the sites on which the plant occur are in private ownership, but one site is a State-owned roadside park. At present, the State of Texas has no plans to change the maintenance procedures in the roadside park. Protection for the species at this site is nonexistent. Two of the private landowners are amenable to protecting the plants; however, there is no current planning for the species at any of the sites. At present, a known threat to the habitat is through natural erosion of a stream bank, which will probably soon eliminate one precariously located plant.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* At present, the taking of plants for scientific study is minimal; however, dut to the small number of plants, collection should be prohibited or closely controlled. No taking prohibitions currently exist for the plants on private lands. *Styrax texana* is a shrub with attractive foliage and flowers and could be sought for horticultural purposes.

C. *Disease of predation* (including grazing). It has been suggested that the lack of seedlings and young plants may be due to browsing by cattle and/or deer. No data currently exist to confirm this suggestion, and additional studies are needed.

D. *Inadequacy of existing regulatory mechanisms.* There is currently no State or Federal protection for this plant.

E. *Other natural or manmade factors affecting its continued existence.* The lack of reproduction will affect the species' survival. The small number of plants tends to make the species more vulnerable to stress from natural or human-related factors and to intensify any adverse effects on the habitat.

Critical Habitat

The Act requires that Critical Habitat be determined at the time a species is listed to the maximum extent prudent. Critical Habitat is not being proposed for *Styrax texana* because of the potential threat to the species if its habitat were publicly identified. Publication of Critical Habitat maps in the **Federal Register** is required when Critical Habitat is designated. This publicity could lead to collection of the plants, and thus severely impact the populations due to the low number of the plants (25); it could also lead to habitat destruction during collection.

Available Conservation Measures

The effects of this proposal, if published as a final rule, would include, but would not necessarily be limited to, those mentioned below. Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as Endangered or Threatened. This rule would require Federal agencies to satisfy their statutory obligations with respect to this species. Federal agencies are required under section 7(a) (4) to confer with the Service on any action that is likely to jeopardize a species during the period the species is proposed for listing. If published as a final rule, this proposal will require Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of *Styrax texana*. Provisions for Interagency Cooperation which implement Section 7 of the Act are codified at 50 CFR Part 402. Interagency cooperative effects are expected to be minimal, as there are no known Federal activities or involvement planned for the areas in which plants are located.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** set forth a series of general trade prohibitions and exceptions that apply to all Endangered plant species. The regulations pertaining to Endangered plants are found at 50 CFR 17.61, 17.62, and 17.63 and are summarized in the following text. With respect to *Styrax texana*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. International and interstate commercial trade in *Styrax texana* is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since this plant is not common in the wild and is not presently in cultivation.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. This species is not known from Federal lands, so no effect from this prohibition is expected.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903). It is anticipated that few taking permits for the species will ever be requested.

The Service will now review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia, and the Regional Office (see addresses section), and may be examined, by appointment, during regular business hours.

Public Comments Solicited

The Service intends that the rule finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other

concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to *Styrax texana* (Texas snowbells);

(2) The location of any additional population of *Styrax texana* and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided by Section 4 of the Act; and

(3) Additional information concerning the range and distribution of this species.

Final promulgation of a rule on *Styrax texana* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final rule that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Author

The primary author of this proposed rule is Sandra Limerick, Endangered Species Staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972). Status information, a preliminary listing package and Environmental Assessment were provided by Dr. William F. Mahler, Herbarium, Southern Methodist University, Dallas, Texas 75275. E. LaVerne Smith and John L. Paradiso of the Service's Washington Office of Endangered Species served as editors.

References

Cory, V. L. 1943. The genus *Styrax* in central and western Texas. Madrono 7:110–115.

Mahler, W. F. 1981. Status report: *Styrax texana*. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, NM. 9 pp.

Mahler, W. F. 1981. Environmental assessment: Determination that *Styrax texana* Cory Is Threatened. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, NM. 11 pp.

Vines, R. A. 1960. *Trees, Shrubs, and Woody Vines of the Southwest.* Univ. of Texas Press. Austin. xii+1104 pp.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

PART 172—[AMENDED]

Proposed Regulation Promulgation.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 is as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order by family, the following to the list of Endangered and Threatened plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historical range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Styracaceae—Storax Family:						
Styrax texana	Texas snowbells	U.S.A. (TX)	E		NA	NA

Dated: September 16, 1983.

J. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–27593 Filed 10–7–83; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 48, No. 197

Tuesday, October 11, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Sawtooth National Forest Grazing Advisory Board; Meeting

The Sawtooth National Forest Grazing Advisory Board will meet at 1:30 p.m., November 10, 1983 at the Sawtooth Forest Office, 1525 Addision Avenue East, Twin Falls, ID 83301. The purpose of this meeting is to review allotment management plans and to receive advice concerning use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify John Faulkner, Gooding, Idaho, telephone 934–4057 or 934–4092. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation: Public Views will be heard at the end of the meeting.

Bert F. Webster,

Acting Forest Supervisor, Sawtooth National Forest.

September 30, 1983.

[FR Doc. 83–27588 Filed 10–7–83; 8:45 am]

BILLING CODE 3410–11–M

Animal and Plant Health Inspection Service

Gypsy Moth Suppression and Eradication Activities; Intent To Prepare An Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service and the Animal and Plant Health Inspection Service of the Department of Agriculture will prepare a programmatic environmental impact statement for gypsy moth suppression and eradication activities in the United States. This is being done because of program changes since 1981 and comments received since that time about the clarity of the current final Programmatic Environmental Impact Statement for Gypsy Moth Suppression and Regulatory Program Activities (USDA FS–FEIS 81–01). The current document will be thoroughly examined and appropriate aspects will be expanded or clarified.

Alternatives being considered for meeting Forest Service suppression and Animal and Plant Health Inspection Service eradication objectives are:

1. Chemical insecticide treatments.
2. Bilogical insecticide treatments.
3. Combinations of direct and indirect control methods in an integrated pest management approach.
4. No action.

In previous Forest Service suppression and Animal and Plant Health Inspection Service eradication programs, Federal and State agencies, industry, public organizations, and the general public identified the following major concerns or issues: possible adverse human health effects; adequacy of public education efforts regarding gypsy moth suppression and regulatory programs; and the need for more public involvement in the selection of insecticides to be used and areas to be treated; possible long-term adverse environmental effects of using insecticides; the need for discussion of alternatives to chemical insecticides; a need for continued Federal/State coordinated gypsy moth suppression and regulatory programs; the need for improved and continuous communications between project coordinators regarding pesticide application safety; and a need to update future environmental impact statements with new information on registered insecticides such as label changes, new insecticides and environmental monitoring results. These issues and concerns were considered and discussed in the Final 1981 Programmatic Environmental Impact Statement for Gypsy Moth Suppression and Regulatory Program Activities (USDA FS–FEIS 81–01).

In addition to the issues identified above and as a part of the scoping process, the USDA Forest Service and the Animal and Plant Health Inspection Service are soliciting any new relevant issues or concerns for consideration in the development of this new programmatic environmental impact statement for gypsy moth suppression and eradication activities.

Issues, concerns, or questions about Forest Service suppression programs should be addressed to Thomas N. Schenarts, Area Director, USDA Forest Service, 370 Reed Road, Broomall, Pennsylvania 19008, by October 25, 1983.

Issues, concerns, or questions, about eradication programs conducted by the Animal and Plant Health Inspection Service should be sent to R. L. Williamson, Director, National Program Planning Staff, USDA Animal and Plant Health Inspection Service, Federal Building, Hyattsville, Maryland 20782, by October 25, 1983.

The responsible officials are R. Max Peterson, Chief, Forest Service, and Bert W. Hawkins, Administrator, Animal and Plant Health Inspection Service.

The draft gypsy moth programmatic environmental impact statement is expected to be filed with the U.S. Environmental Protection Agency on or about November 18, 1983, and released to the public for a 45-day review period. The final statement is expect to the filed and released on or about February 10, 1984.

R. M. Housley,

Deputy Chief, Forest Service.

Dated: October 4, 1983.

James O. Lee, Jr.,

Associate Administrator, Animal and Plant Health Inspection Service.

Dated: October 5, 1983.

[FR Doc. 83–27589 Filed 10–7–83; 8:45 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

Order Establishing International Cargo Rate Flexibility Policy

The Board, by Policy Statement PS–109, effective February 27, 1983, adopted a policy of not suspending international cargo rate changes within a specified zone, except in extraordinary circumstances. That policy, implemented by Regulation ER–1322, effective February 27, 1983 (14 CFR Part 221), eliminates the requirement of economic justification for international cargo rates which are within Board established zones of flexibility. As stated in ER–1322, the Board has taken action to allow air carriers to respond more quickly to changing costs and competitive conditions.

In establishing the SFRL for the two-month period starting October 1, 1983 we have projected nonfuel costs based on the year ended June 30, 1983 and have determined fuel prices on the basis of experienced monthly fuel cost levels and reported weekly fuel cost trends.

By Order 83–10–7 cargo rates may be increased by the following adjustment factors over the April 1, 1982, level:

Atlantic	.9639
Western Hemisphere	1.0162
Pacific	.8867

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: John D. Coakley, (202) 673–5196.

By the Civil Aeronautics Board: October 4, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–27556 Filed 10–7–83; 8:45 am]

BILLING CODE 6320–01–M

Order Establishing Standard Foreign Fare Level

The International Air Transportation Competition Act (IATCA), Pub. L. 96–192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. The SFFL thus computed becomes the benchmark for measuring the statutory nonsuspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in sec. 1002(d) of the Federal Aviation Act of 1958, as amended. Order 80–2–69 established the first interim SFFL and subsequent Order 83–8–12 established the currently effective two-month SFFL applicable through September 30, 1983.

In establishing the SFFL for the two-month period starting October 1, 1983, we have projected nonfuel costs based on the year ended June 30, 1983 and have determined fuel prices on the basis of experienced monthly fuel cost levels as reported to the Board.

By order 83–10–8, adopted October 4, 1983, fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	1.1451
Western Hemisphere	1.1715
Pacific	1.0603
Canada	1.1971

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: Robert I. Stein, (202) 673–5116.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–27555 Filed 10–7–83; 8:45 am]

BILLING CODE 6320–01–M

[Docket 41520]

Airspur Helicopter, Inc. Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on October 7, 1983, at 9:30 a.m. (local time) in Room 1012, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 4, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83–27557 Filed 10–7–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Surveys in Manufacturing Area; Determination

In conformity with Title 13, United States Code (Sections 131, 182, 224, and 225), and with due notice having been published on July 26, 1983 (48 FR 33926), I have determined that annual data to be derived from the surveys listed below are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other government sources.

Most of the following commodity or product surveys provide data on shipments or production; some provide data on stocks, unfilled orders, orders booked, consumption, and so forth. Reports will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys. These surveys are listed under major group headings based on the Standard Industrial Classification Manual (1972 edition) promulgated by the Office of Management and Budget for use of Federal Government statistical agencies.

Major Group 20—Food and Kindred Products

Confectionery

Major Group 22—Textile Mill Products

Broadwoven fabrics finished
Narrow fabrics
Yarn production
Knit fabric production
Stocks of wool and related fibers

Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials

Men's and boys' outerwear
Women's and children's outerwear
Underwear and nightwear
Brassieres, girdles, and allied garments
Gloves and mittens

Major Group 24—Lumber and Wood Products, Except Furniture

Hardwood plywood
Softwood plywood
Lumber production and mill stocks

Major Group 25—Furniture and Fixtures

Office furniture

Major Group 26—Paper and Allied Products

Selected office supplies and accessories
Pulp, paper, and board
Converted flexible packaging products

Major Group 27—Printing, Publishing, and Allied Industries

Business forms, binders, carbon paper, and inked ribbon

Major Group 28—Chemicals and Allied Products

Industrial gases
Inorganic chemicals
Pharmaceutical preparations, except biologicals
Sulfuric acid
Paints, varnish, and lacquer

Major Group 29—Petroleum Refining and Related Industries

Asphalt and tar roofing and siding products

Major Group 30—Rubber and Miscellaneous Plastic Products

Rubber
Plastics products
Rubber and plastics hose and belting

Major Group 31—Leather and Leather Products

Footwear (by method of construction)

Major Group 32—Stone, Clay and Glass

Consumer, scientific, technical, and industrial glassware Fibrous glass

Major Group 33— Primary Metal Industries

Steel mill products
Insulated wire and cable
Magnesium mill products
Nonferrous castings

Major Group 34—Fabricated Metal Products, Except Machinery and transportation Equipment

Selected heating equipment

Major Group 35—Machinery, Except Electrical

Internal combustion engines
Tractors, except garden tractors
Farm machinery and lawn and garden equipment
Mining machinery and mineral processing equipment
Air-conditioning and refrigeration equipment, including warm air furnaces
Computers and office and accounting machines
Pumps and compressors
Selected industrial air pollution control equipment
Construction machinery
Anti-friction bearings
Fluid power products (including aerospace)
Coin-operated vending machines

Major Group 36—Electrical Machinery, Equipment, and Supplies

Radios, televisions, and phonographs
Motors and generators
Wiring devices and supplies
Switchgear, switchboard apparatus, relays, and industrial controls
Selected electronic and associated products, including telephone and telegraph apparatus
Electric housewares and fans
Electric lighting fixtures
Major household appliances
Transformers

Major Group 37—Transportation Equipment

Aircraft propellers

Major Group 38—Professional, Scientific, and Controlling Instruments; Photographic and Optical Goods; Watches and Clocks

Selected instruments and related products Atomic energy products and services

Major Group 39—Miscellaneous Manufacturing Industries

Pen, pencils, and marking devices

The following survey represents an annual supplement of a monthly survey and will cover the same establishments canvassed monthly. There will be no duplication of reporting, however, since the type of data collected on the annual supplement will be different from that collected monthly.

Major Group 32—Stone, Clay, and Glass

Glass containers
Refractories

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments that are not canvassed or do not report in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

Major Group 20—Food and Kindred Products

Flour milling products

Major Group 22—Textile Mill Products

Broadwoven fabric (gray)
Consumption of wool and other fibers, and production of tops and noils
Carpet and rugs

Major Group 23 Apparel and Other Finished Products Made From Fabrics and Similar Materials

Sheets, pillowcases, and towels

Major Group 30—Rubber and Miscellaneous Products

Plastics bottles

Major Group 32—Stone, Clay, and Glass

Glass containers
Refractories
Clay construction products
Flat glass

Major Group 33—Primary Metal Industries

Iron and steel castings
Inventories of steel mill shapes
Inventories of brass and copper wire mill shapes

Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment

Plumbing fixtures
Steel shipping drums and pails
Closure for containers

Major Group 35—Machinery, Except Electrical

Construction machinery

Major Group 36—Electrical Machinery, Equipment, and Supplies

Fluorescent lamp ballasts
Electric lamps

Major Group 37—Transportation Equipment

New complete aircraft and aircraft engines, except military Aerospace industry (orders and sales)
Truck trailers

The annual survey of manufactures will collect industry statistics such as total value of shipments, employment, payroll, work hours, capital expenditures, cost of materials consumed, gross book value of assets, retirements, and depreciation of fixed assets, rental payments, supplemental labor costs, and so forth. This survey, while conducted on a sample basis, will cover all manufacturing industries, including data on plants under construction but not yet in operation.

A survey of research and development (R&D) activities will be conducted. The major data to be obtained in this survey will include total R&D expenditures by source of funds, the number of scientists and engineers employed, the amounts spent for pollution abatement and energy R&D, and, for comparative purposes, the total net sales and receipts and the total employment of the company.

A survey of shipments to the Federal Government will be conducted to provide information on the effect of Federal procurement on selected industries and geographic areas by Federal Government agencies.

The annual survey of oil and gas will canvass the industry that provides most of the fuel produced in the United States as well as a substantial protion of the hydrocarbon raw material requirements of many industries. The survey will collect information on exploration, development, and production costs; sales volumes and values; drilling activities; and assets in the crude petroleum and natural gas industry.

The annual survey of pollution abatement expenditures is designed to collect from manufacturers the total expenditures by industry and geographic area to abate pollutant emissions. The survey covers current operating costs and capital expenditures to abate air and water pollution and solid waste. This survey also will obtain the costs recovered from abatement activities and quantities of pollutants abated.

The annual survey of plant capacity will obtain information such as the amount of time a plant is in operation;

VOL 48 ISS 197 OCT 11 1983 UMI

operating rates as related to preferred levels and practical capacity; the value of production and other statistics for actual, preferred, and practical capacity operating levels; and the reasons for operating at less than capacity.

The report forms will be furnished to firms included in these surveys. Copies of survey forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed the annual surveys be conducted for the purpose of collecting the data as described.

Dated: October 5, 1983.

C. L. Kincannon,

Acting Director, Bureau of the Census.

[FR Doc. 83-27516 Filed 10-7-83; 8:45 am]

BILLING CODE 3510-07-M

Census Advisory Committee of the American Marketing Association; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, as amended by Pub. L. 94-409), notice is hereby given that the Census Advisory Committee of the American Marketing Association will convene on November 3, 1983, at 9:30 a.m. in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Marketing Association was established in 1946 to advise the Director, Bureau of the Census, regarding the statistics that will help in marketing the Nation's products and services and on ways to make the statistics the most useful to users.

The Committee is composed of 15 members appointed by the President of the American Marketing Association.

The agenda for the meeting, which is scheduled to adjourn at 4:15 p.m., is: (1) Introductory remarks by the Acting Director, Bureau of the Census, including staff changes and major budget and program developments; (2) update on planning for the 1990 census; (3) after-tax and discretionary income; (4) use of microcomputers in the Census Bureau; (5) proposed programs in the service industries; (6) proposed expansion of County Business Patterns; (7) Committee discussion, questions, and recommendations; and (8) plans and date for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days before the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. Bobby Russell, Bureau of the Census, Room 2633, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-7644.

Dated: October 5, 1983.

C. L. Kincannon,

Acting Director, Bureau of the Census.

[FR Doc. 83-27517 Filed 10-7-83; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Contervailing Duties

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of conference on novel issues.

SUMMARY: This is to advise the public that the International Trade Administration will hold a conference regarding possible subsidy practices under the countervailing duty law. Interested persons are invited to present written and oral views regarding the following issues: (1) Whether under the Tariff Act of 1930, as amended, bounties or grants may be found in a non-market economy country; and (2) whether dual exchange rates in either a market or non-market economy can confer a bounty or grant where the entire trade sector is subject to a single rate and the currency is not freely convertible.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Claire A. Rickard, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-4412.

SUPPLEMENTARY INFORMATION: The International Trade Administration (ITA) is holding a public conference to solicit views on the following issues: (1) Whether under the Tariff Act of 1930, as amended, bounties or grants may be found in a non-market economy country; and (2) whether dual exchange rates in either a market or non-market economy can confer a bounty or grant where the entire trade sector is subject to a single rate and the currency is not freely convertible. The conference will be held at 9 a.m. on November 3 (continuing November 4 if necessary) in Room 3407 at the Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Persons who wish to participate in the conference must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The person's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, participants must file preconference briefs in accordance with 19 CFR 355.34 and in at least 10 copies by October 27, 1983.

Oral presentations will be limited to issues raised in the briefs. Those wishing to appear will be notified of their time allocations.

Dated: October 3, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-27580 Filed 10-7-83; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Membership of National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of membership of NOAA Performance Review Boards.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4), NOAA announces the appointment of a supplemental member to the Group B, NOAA Performance Review Boards; Wayne Cassatt, Deputy Director, Center for Radiation Research, National Bureau of Standards. His period of appointment is from October 10, 1983 to August 1, 1985. Reference Notice of Membership published July 26, 1983 in **Federal Register** Volume 48, No. 144, page 33927.

DATE: The effective date of service of appointee to the NOAA Performance Review Board is October 10, 1983.

FOR FURTHER INFORMATION CONTACT: Robert P. Gajdys, Personnel Officer, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443-8781.

Dated: October 4, 1983.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services.

[FR Doc. 83-27549 Filed 10-7-83; 8:45 am]

BILLING CODE 3510-12-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Procedures to Obtain Waivers of Certain Requirements Affecting the Importation of Vests With Attachments for Sleeves

October 5, 1983.

On August 18, 1983 a notice was published in the **Federal Register** (48 FR 37510), which changed the textile category classification for man-made fiber vests with attachments for sleeves, effective on October 1, 1983. The purpose of this notice is to announce that any importer having contracts to purchase these products, dated before August 18, 1983 and calling for delivery before December 31, 1983, who wishes to request a waiver of this requirement, may submit copies certified by the applicant as true copies of such contracts to the Chairman of the Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Submissions made in any request for a waiver are subject to Section 1001 of Title 18 of the U.S. Code, which provides penalties for making false statements to any department of the United States Government.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-27474 Filed 10-7-83; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Limits for Certain Cotton and Man-Made Fiber Textile Products From the People's Republic of China

October 5, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 12, 1983. For further information contact Diana Bass (202/377-4212).

Background

A CITA directive establishing import limits for specified categories of cotton, wool and man-made fiber textile products, including Categories 335, 337, 340, 363, 631, 635, 640, and 645/646, produced or manufactured in the People's Republic of China, and exported during the twelve-month period which began on January 1, 1983, was published in the **Federal Register** on August 19, 1983 (48 FR 37685). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, the Government of the People's Republic of China has notified the Government of the United States of its intention to use flexibility in the form of swing and carryforward applied to the current-year limits for these categories. The limits for Categories 337, 363, 631, and 640 are being reduced accordingly to account for the amounts of swing being applied to Categories 335, 340, 635, and 645/646. Carryforward is being applied to the limits for Categories 335 and 635. The amount of carryforward used this year will be deducted from the limits established for Categories 335 and 635 in 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 5, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of August 19, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China.

Effective on October 12, 1983, the directive of August 19, 1983 is hereby further amended to adjust the previously established levels of restraint for Categories 335, 337, 340, 363, 631, 635, 640, and 645/646 to the following under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983: [1]

Category	Adjusted 12-mo. level of restraint [2]
335	[3] 301,703
337	[4] 663,409

[1] The Agreement provides, in part, that (1) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for Categories 335 and 635 may be increased for carryforward by five and seven percent, respectively, of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Category	Adjusted 12-mo. level of restraint [1]
340	[2] 831,895
363	[3] 16,556,430
631	[4] 475,000
635	[5] 442,077
640	[6] 1,036,038
645/646	[4] 631,050

[1] The levels have not been adjusted to account for any imports exported after December 31, 1983.
[2] Dozen.
[3] Numbers.
[4] Dozen pairs.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-27577 Filed 10-7-83; 8:45 am]

BILLING CODE 3510-DR-M

Changes in Officials of the Government of India Authorized To Issue Export Visas for Certain Cotton, Wool and Man-Made Fiber Textile Products From the Dominican Republic; Correction

October 5, 1983.

On September 22, 1983 a notice was published in the **Federal Register** (48 FR 43213) which announced changes in officials authorized to issue export visas for certain cotton, wool, and man-made fiber textile products from the Dominican Republic. The title of that notice should be corrected to read as follows:

Changes in Officials of the Government of the Dominican Republic Authorized To Issue Export Visas for Certain Cotton Wool, and Man-Made Fiber Textile Products From the Dominican Republic.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-27578 Filed 10-7-83; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following request for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). The request contains: (1) Type of Submission ; (2) Title of

Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be ade of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information request may be obtained.

Extension

Professional Evaluation—DODDS.

Individuals; 9000 responses; 4500 burden hours.

The information provides an evaluation of the applicant's abilities and personal traits as indicators of possible success in an overseas teaching assignment with the DODDS. Forms are completed by supervisors and former supervisors of applicants.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, telephone (202) 395–4814, and Mr. John V. Wenderoth, DOD Clearance Officer, DIOR, WHS, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the request may be obtained from Mr. Robert L. Newhart, OASD MRA&L(PI), Room 3C800, Pentagon, Washington, D.C. 20301, telephone (202) 695–0643. This action is for an extension of authority, not for contract proposal solicitation.

October 4, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–27506 Filed 10–7–83; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Record of Preparation and Disposition of Remains (within CONUS), DD Form 2063

The primary purpose of using the DD Form 2063 is to ensure that federal standards are met. Additional data is gathered in order to plan budgets and manage for the proper care of remains.

Next-of-kin to deceased military personnel: 690 responses; 115 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20301, telephone (202) 695–5111.

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

October 4, 1983.

[FR Doc. 83–27507 Filed 10–7–83; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Payment of Funeral and/or Interment Expenses, DD Forms 1375 and 2065.

The DD Form 1375 is used by next-of-kin to request payment of funeral or interment expenses. The DD Form 2065 is used overseas to determine desired disposition of dependent's remains.

Surviving sponsor or next-of-kin: 1925 responses; 294 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from David O. Cochran DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

Dated: October 4, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 83–27508 Filed 10–7–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Wednesday & Thursday, 2–3 November 1983, Plaza West, Rosslyn, VA. The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on chemical and biological warfare.

Dated: October, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 83–27505 Filed 10–7–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation; Advisory Committee Meeting

The Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will meet in open session on October 31, 1983–November 5, 1983 in Tokyo, Japan.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as

they affect the perceived needs of the Department of Defense.

At its meeting on October 31, 1983–November 5, 1983, the Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will continue its review of the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In this context, the Task Force will also analyze the effect of current international cooperation policies have on the ability of the US, its friends and Allies to achieve in good order and sustain mobilization capacities. Meeting space is limited. Persons interested in attending should contact Major Marvin B. Winkelmann, USAF, Task Force Executive Secretary, 202–695–4817. Space will be awarded on a first come, first serve basis.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 5, 1983.

[FR Doc. 83–27510 Filed 10–7–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Supercomputer Applications; Advisory Committee Meeting

The Defense Science Board Task Force on Supercomputer Applications will meet in open session of November 22, 1983, at MIT, Cambridge, Massachusetts and on closed session on November 23, 1983, at the MITRE Corporation, Bedford, Massachusetts.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meetings on November 22 & 23, 1983, the Defense Science Board Task Force on Supercomputer Applications will attempt to identify areas where the expected many orders of magnitude improvement in computing power can be of aid to the defense establishment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting on November 23, 1983, concerns matters listed in 5 U.S.C. 552b(c) (1) (1976), and that accordingly this meeting will be closed to the public.

Persons interested in attending the open session on November 22 1983 should contact Commander R. B. Ohlander, Task Force Executive Secretary, Telephone: (202) 695–5051. Space will be awarded on a first come first served basis.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

October 5, 1983.

[FR Doc. 83–27508 Filed 10–7–83; 8:45 am]

BILLING CODE 3810–01–M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 120. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 120 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: October 1, 1983.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 120

To the Heads of the Executive Departments and Establishments

Subject: Table of Maximum per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Menorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this committee is directed to exercise the authority of the President (5 U.S.C. 5702(a) (2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 119 except for the cases identified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or Establishment subject to these rates shall take appropriate action disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$ 12.00
Fairbanks	97.00
Anaktuvuk	140.00
Ft. Richardson	92.00
Anchorage	92.00
Ft. Wainwright	97.00
Barrow	153.00
Juneau	106.00
Bethel	131.00
Ketchikan	104.00
Coldfoot	122.00
Kodiak	110.00
College	97.00
Kotzebue	108.00
Cordova	113.00
Murphy Dome	97.00
Deadhorse	131.00
Nostak	109.00
Dillingham	103.00
Nome	112.00
*Dutch Harbor	82.00
Noorvik	108.00
Eielson AFB	97.00
Elmendorf	82.00
Petersburg	104.00
Point Hope	100.00
Prudhoe Bay	131.00
Fajardo (Including Luquillo):	
Sherrya AFB [1]	12.75
12–16–5–15	124.00
Shugnak	109.00
5–16–12–15	98.00
Sitka-Mt. Edgecombe	104.00
Ft. Buchanan (Incl BSA Service center, Guaynabo:	
Spruce Cape	110.00
12–16—5–15	124.00
Panama	112.00
15–16—12–15	98.00
Valdez	101.00
Ponce (Incl.Ft. Allen NCS)	72.00
Wainwright	164.00
Wrangell	104.00
Roosevelt Roads:	

Locality	Maximum rate
All Other Localities	83.00
12-16—5-15-	124.00
American Samoa	75.00
5-16—12-15	99.0
Guam M. I.	74.00
Sabana Seca Seca:	
Hallali:	
12-16—5-15	124.00
Oanu	94.00
5-16—12-15	99.00
All Other Localities	67.00
San Juan (Including San Jun Coast Guard Units:	
Johnston Atoll [2]	21.25
Midway Island [1]	12.60
12-16—5-15	124.00
Puerto Rico:	
5-16—12-15	99.00
Bayamon:	
All Other Localities	99.00
5-16—12-15	99.00
*12-1-430	120.00
Carolina:	
5-1—11-30	88.00
12-16—5-15	124.00
5-16—12-15	99.00
*Wake Island [1]	
All Other Localities	20.00

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarterse by and quarters are obtained at the Simone Constructin, Inc. camp, adily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owed and contractor operated quarters and mess are evasible at this locality. This pwe diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

Dated: October 3, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer
Washington Headquarters Services
Department of Defense.

[FR Doc. 83-27559 Filed 10-7-83; 8:45am]

BILLING CODE 3810 01M

DEPARTMENT OF ENERGY

Conservation and Renewable Energy Office

Automotive Propulsion Research and Development; Automotive Technology Development Contractors' Coordination Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy will hold the 21st Automotive Technology Development Contractors' Coordination Meeting on automotive propulsion systems and members of the public are hereby invited to attend as observers. Papers will be presented on the current state of research and development on automotive propulsion systems and on alternative fuels.

EFFECTIVE DATE: November 14–17, 1983.

ADDRESS: Hyatt Regency Dearborn Hotel, Dearborn, Michigan.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Marie Zerega, U.S. Department of Energy, Mail Station CE-131, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252-8053.

SUPPLEMENTARY INFORMATION: Today's notice follows through on a statement in the notice or proposed regulations (43 FR 31929, 21932, (July 24, 1978) under Section 304(f) of the Department of Energy Act of 1978—Civilian Applications (Act), 15 U.S.C. 2703(f) (1970), in which the Department of Energy (DOE) announced its intention to open meetings to public attendance. Section 304(f) requires the DOE to issue administrative regulations prescribing procedures, standards, and criteria for review and certification of automotive propulsion research and development to be funded by new grants, cooperative agreements, contracts, or new projects under the Act. The purpose of the review and certification process is to insure that research and development newly funded under the Act will supplement rather than supplant, duplicate, displace, or lessen the same activities in the private sector.

The final regulations (43 FR 55228, November 24, 1978) provide for notice to the public of proposed research and development and an opportunity to file written objections. To enable the public to avail itself of the opportunity to participate in the review and certification process, the DOE stated in the notice of the proposed regulations that it would give notice of meetings, such as the one announced today, since relevant information is to be presented.

Attached is a preliminary agenda.

Registrants at the meeting pay a $75 registration fee which includes admission to all technical sessions, refreshments, and subsequently a copy of the report of the proceedings. Members of the public may register and pay the fee if they wish to avail themselves to these services and materials. However, if they do not, they are free to attend meeting sessions and listen to the proceedings. Members of the public intending to respond to this notice are requested to so advise the information contact named above in advance so that appropirate seating arrangements can be made.

Issued in Washington, D.C., September 19, 1983.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

Program Agenda

Sunday, November 13, 1983

6:00 p.m.–8:30 p.m.
Registration

Monday, November 14, 1983

8:00 a.m.–3:00 a.m.
Registration
9:00 a.m.–10:00 p.m.
Welcoming Address, Program Review
10:00 a.m.–12:00 p.m.
Stirling Systems
1:30 p.m.—5:00 p.m.
Stirling Technology

Tuesday, November 15, 1983

8:00 a.m.—3:00 p.m.
Registration
9:00 a.m.–12:00 p.m.
Heavy Duty Transport Technology
1:30 p.m.–4:30 p.m.
Ceramic Technology, Session I

Wednesday, November 16, 1983

8:00 a.m.–3:00 p.m.
Registration
9:00 a.m.–12:00 p.m.
Gas Turbine Technology
1:30 p.m.–3:00 p.m.
Ceramic Technology, Session II
3:30 p.m.–5:00 p.m.
Industry Perspectives
6:00 p.m.–8:30 p.m.
Henry Ford Museum Reception

Thursday, November 17, 1983

8:00 a.m.–1:30 p.m.
Registration
9:00 a.m.–12:00 p.m.
Alternative Fuels I
- Synthetic Fuels
- Gaseous Fuels

1:30 p.m.–5:00 p.m.
Alternative Fuels II
- Alcohol Fuels
- Panel Discussions: Alcohol in CI & SI Engines

[FR Doc. 83-27581 Filed 10-7-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-481-005]

Arizona Public Service Co.; Refund Report

October 4, 1983.

Take notice that on September 16, 1983, Arizona Public Service Company ("APS") submitted a Refund Report pursuant to a Commission Letter Order dated July 20, 1983.

APS states that it refunded an amount of $51,269.42 to Arizona Power Authority.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, on or before October 14, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27476 Filed 10-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-496-000 and CP83-496-001]

Columbia Gulf Transmission Co. Application

October 4, 1983.

Take notice that on September 2, 1983, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP83-496-000 an application, as amended on September 27, 1983, in Docket No. CP83-496-001, pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application of file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 25, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27477 Filed 10-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-71-00]

El Paso Electric Co.; Application

October 4, 1983.

Take notice that on September 27, 1983, El Paso Electric Company, filed an aplication with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to assume liability for payment of up to $50,000,000 principal amount of City of Farmington, New Mexico, Annual Tender Pollution Control Revenue Bonds, 1983 Series A (El Paso Electric Company Four Corners Project), proposed to be issued in early to mid November 1983, for the pupose of refunding the City's Pollution Control Revenue Bonds, 1981 Series A (El Paso Electric Company Four Corners Project), outstanding in the aggregate principal amount of $35,440,000. issued to defray a portion of the cost to the Applicant of certain pollution control facilities at Units 4 and 5 of the Four Corners Generating Station in San Juan County, New Mexico.

Any persons desiring to be heard or to make any protest with reference to the said application should, on or before October 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27478 Filed 10-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF83-4051-000]

Southwestern Power Administration; Approval

October 4, 1983.

Take notice that on September 15, 1983, Southwestern Power Administration ("SWPA") submitted for filing a letter written by the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy which confirmed and approved, on an interim basis effective October 1, 1983, an extension of Transmission Rate Schedule TDC-2 for a period extending to March 31, 1984. Additionally, SWPA submitted the July 31, 1981 Commission Order which confirmed and approved Transmission Rate Schedule TDC-2 through September 30, 1983. (Docket No. EF81-4051 000)

The Assistant Secretary states that SWPA has developed a new transmission rate and is preparing the new rate for submission to FERC through the Department of Energy.

Therefore, confirmation and approval of the existing rates for a period ending March 31,1984 is requested.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 83-27479 Filed 10-7-83; 8:45am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SA-FRL 2447-3]

Management Advisory Group to the Construction Grants Program; Open Meeting October 26-27, 1983

Under Public Law 92-463, notice is hereby given that a meeting of the Management Advisory Group to the

Construction Grants Program (MAG) will be held at the Environmental Protection Agency, 4th and M Streets, SW., Washington, D.C. 20460, in Room S–353 on October 26–27, 1983, beginning at 9 a.m. on October 26, 1983, and ending at about 3 p.m. on October 27, 1983.

The agenda includes discussions on the current status and future of equipment and architect/engineer services for the construction grants program, as well as a presentation by representatives of the Water Pollution Control Federation and the Association of Metropolitan Sewerage Agencies on the construction grants program. The agenda will also include briefings and discussions on other topics of current or future interest to MAG. Any members of the public wishing to make comments are invited to submit them in writing to the Executive Secretary at the meeting.

The meeting will be open to the public. To facilitate entrance into the EPA building, any members of the public wishing to attend should contact Georgette Brown, (202) 382–5859, so that their names may be included on an entrance list. Additional information on the meeting may also be obtained from Ms. Brown at the Environmental Protection Agency, WH–547, 401 M Street, SW., Washington, D.C., or at the number listed above.

Dated: September 30, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water (WH–556).

[FR Doc. 83–27516 Filed 10–7–83; 8:45 am]

BILLING CODE 6560–50–M

[OPRM–FRL–2448–1]

Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of comment period; corrections.

SUMMARY: On August 31, 1983 EPA (48 FR 38590) requested additional public comment on certain emissions trading issues. This document extends the period for comment on the issues raised in the August 31 notice from September 30, 1983 to October 31, 1983. This document also corrects certain typographical errors in the August 31 notice.

EPA has received a number of formal requests from both industry and environmental groups for extension of the comment period set in the August 31 FR notice. Parties have generally requested extensions of from one to two months. Development of clear, environmentally-sound emissions trading policy will be furthered by giving the public more time to comment on the issues presented in the August 31st notice.

EPA's ability to extend the comment period is limited, however, by its need to resolve the issues raised by this notice for inclusion in an upcoming Guidance Document for Correction of Part D State Implementation Plans (SIPs) for Nonattainment Areas. States are awaiting this Guidance to prepare second-effort plans to bring into attainment those areas that failed to develop or implement approvable Plans or to meet the December 1982 attainment deadlines despite approved Plans. Accordingly, to balance opportunity for fuller public comment on the August 31 notice with the need for prompt guidance for correction of Part D SIPs, EPA is extending the period for comment on the August 31 notice by 31 days, until close-of-business Monday, October 31, 1983.

DATES: The deadline for submitting written comments to the August 31, 1983 notice (48 FR 39580) is October 31, 1983.

ADDRESSES: Comments should be sent in triplicate if possible to: Central Docket Section (A–130), U.S. Environmental Protection Agency, Washington, D.C. 20460, Attn: Doc. No. G–81–2.

FOR FURTHER INFORMATION CONTACT:

Ivan Tether, Regulatory Reform Staff (PM–223), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 382–2727, or

Brock Nicholson, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, N.C. 27711, (919) 541–5516.

The following corrections are made in FR Doc. PRM–FRL–2361–3 appearing on 39580–86, August 31, 1983:

1. On page 39583, at the bottom of column 1, in the last sentence of text, the word "approximately" is replaced by the word "appropriately."

2. On page 39586, at the bottom of column 3, in the next to the last sentence of text, the word "insignificant" is replaced by "significant," to read "* * * in which a state or source has invested significant resources * * *."

* * * * *

Dated: October 4, 1983.

John M. Campbell, Jr.,

Acting Associate Administrator for Policy and Resource Management.

[FR Doc. 83–27515 Filed 10–7–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No.: FEMA–REP–5MI–1]

The Michigan Emergency Preparedness Plan Site-Specific for the D.C. Cook Nuclear Power Plant; Certification of Findings and Determination

AGENCY: Federal Emergency Management-Agency.

ACTION: Certification of FEMA findings and determination.

SUMMARY: In accordance with Federal Emergency Management Agency (FEMA) rule 44 CFR 350, the State of Michigan submitted its plans relating to the D.C. Cook Nuclear Power Plant to the Director of FEMA Region V on March 16, 1981, for FEMA review and approval. On September 29, 1982, the Regional Director forwarded his evaluation to the Deputy Associate Director for State and Local Programs and Support in accordance with Section 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the D.C. Cook facility, and evaluations of the joint exercises conducted on October 9, 1980, and March 30, 1982, in accordance with § 350.9 of the FEMA rule, and a report of the public meeting held on December 11, 1980, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule. In addition, the Regional Director submitted an addendum dated August 31, 1983, that considered the revision in plans and preparedness since September 29, 1982, and the final report on the October 21, 1982, exercise. This last evaluation reported that the remaining outstanding deficiencies have been resolved.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the D.C. Cook Nuclear Power Plant are adequate to protect the health and safety of the public living in the vicinity of the Plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in appendix 3 of

the Nuclear Regulatory Commission (NRC)/ FEMA Criteria of NUREG–0654/ FEMA–REP–1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the D.C. Cook Nuclear Power Plant in accordance with section 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA–REP–5MI–1 maintained by the Regional Director, FEMA Region V, Federal Center, Battle Creek, Michigan 49016.

DATED: September 28, 1983.

For the Federal Emergency Management Agency.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–27467 Filed 10–7–83; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 83–47]

Order of Investigation and Hearing; Agreement No. 10467: Latin American Charter Agreement; Agreement No. 10468: Latin American Discussion Agreement

Agreement No. 10467 is a space-available, as-needed, space charter arrangement, and Agreement No. 10468 is a discussion agreement for the purpose of developing, exchanging, and discussing trade data/information. Each applies between U.S. Atlantic/Gulf ports (and U.S. points) and ports and points in Bolivia, Chile, Peru, Ecuador and Colombia, and each involves several prominent carriers in these trades.[1] Agreement No. 10467 would expire on June 30, 1987, while the term of Agreement No. 10468 is indefinite.

Proponents claim that Agreement No. 10467 is necessary to combat overtonnaging, reduced rate levels, cargo declines and diversion to and malpractices at the Port of Miami. They also claim that it is only minimally anti-competitive and will provide benefits to the trade. Proponents view Agreement No. 10468 as a forum to discuss these problems, since the existing conference structure allegedly has been unsuccessful. Proponents also argue that this Agreement will enhance their ability to arrive at both upcoming economic decisions on moderization and fleet deployment, as well as commercial solutions to conflicting cargo promotion laws/policies.

Four parties[2] protested and requested a hearing on Agreement No. 10467, generally contesting the unstable trade conditions alleged by Proponents, claiming the agreement is unjustified, extremely anti-competitive, and a first step towards a consortium, and noting Proponents' failure to address the impact of involved cargo reservation laws. Two of these parties[3] also protested and sought a hearing on Agreement No. 10468, reiterating certain of the objections they raised against the space charter agreement, claiming Proponents have not demonstrated the agreement's public benefits, and contending that rate discussions have not been justified.

Proponents replied that each agreement has met applicable approval standards and that no material facts are in dispute, but request *pendente lite* approval if Agreement No. 10467 is made the subject of an investigation.

Section 15 requires the Commission to independently examine the competitive consequences of all agreements and their relationship to the *svenska* doctrine[4] prior to approval.[5] This inquiry requires an appropriate formal hearing where, as here, a protestant to the agreement raises material issues of fact regarding the effect of the proposed agreement on competitors, the trade, and United States commerce.[6] The need for a formal hearing is highlighted here by the existence of restrictive cargo reservation schemes in the trade that would appear to exacerbate the competitive consequences flowing from these Agreements, particularly with regard to the space charter arrangement.

To determine the Agreement's ultimate approvability under the standards of section 15, and to resolve disputed factual issues, the parties should address the following specific issues and any others the presiding administrative law judge may deem relevant to the inquiry at hand.[7]

1. What competitive effect will the Agreements, either individually or together, have on the trade, and what conditions in the trade [8] would justify any anticompetitive effect the Agreements may be found to have?

2. What are the terms of the South American cargo preference laws that apply to the trades within the geographic scope of the Agreements, and what effect will these laws have on the implementation of the Agreements and the trade?

3. How will Agreement Nos. 10467 and 10468 interact with each other and other approved section 15 agreements in the trade? Why should Agreement No. 10468 membership be limited to the national flag carriers of the countries involved, and why should that agreement include matters that are within the scope of other approved section 15 agreements to which Proponents are party?

Finally, the request for *pendente lite* approval of Agreement No. 10467 will be denied. Proponents have not demonstrated the existence of any emergency conditions which requires interim approval of an agreement which has never been operative. They also have failed to offer any evidence that such interim approval is required by any overriding public need. Accordingly, *pendente lite* approval of Agreement No. 10467 is unwarranted.

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, (46 U.S.C. 814 and 821), an investigation and hearing be instituted to determine whether Agreement No. 10467 and/or Agreement No. 10468 should be approved, disapproved or modified; and

It is further ordered, That the parties listed in footnote 1 of this Order are

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[1] Agreement No. 10467 is among Compania Sud Americana De Vapores (CSAV); Delta Steamship Lines, Inc.; Lykes Bros. Steamship Co., Inc. (Lykes); Transportes Navieros ecuatorianos; and Compania Peruana De Vapores. Agreement No. 10468 is among the same carriers, plus Flota Mercante Grencolombiena, S.A.X

[2] Naviera Continental, NAVICON, C.A. (Navicon); Ecuadorian Line, Inc. (Ecuadorien); Coordinated Caribbean Transport, Inc. (CCT); and the Florida Customs Brokers and Forwarders Association (FCBFA).

[3] CCT and FCBFA.

[4] The *Svenska* doctrine is the proposition affirmed in *Federal Maritime Commission v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968), whereby section 15 agreements which interfere with the policies of the antitrust laws will be disapproved as "contrary to the public interest" unless justified by evidence establishing that the agreement, if approved, will meet a serious transportation need, secure an important public benefit or further a valid regulatory purpose of the Shipping Act, 1916. The burden is on proponents of such agreements to come forward with the necessary evidence.

[5] *United States Lines v. FMC*, 584 F. 2d 519 (D.C. Cir. 1978).

[6] *United States Lines v. FMC, supra. Marine Space Enclosures v. FMC*, 420 F. 2d 577 (D.C. Cir. 1969).

[7] These issues are not intended to be all-inclusive or immutable. As the proceeding develops, the presiding officer may find it necessary not only to expand upon these issues but also to narrow, or delete altogether, those which may prove irrelevant or immaterial to the ultimate question presented. Rule 147 of the Commission's Rules of Practice and Procedure, 46 CFR 502.147, which authorizes a presiding officer to delineate the scope of a proceding by amending, modifying, clarifying or interpreting the Commission's order initiating that proceeding, provides whatever flexibility is necessary in this regard.

[8] Proponents allege, *inter olia*, that unstable conditions in the trade and malpractices at the Port of Miami are among factors supporting the approval of the Agreements. Proponents should present evidence supporing these allegations and address precisely how the agreements would alleviate those conditions.

hereby made Proponents in this proceeding; and

It is further ordered, That the request of Proponents for *pendente lite* approval of Agreement 10467 is denied; and

It is further ordered, That the parties listed in footnote 2 of this Order are hereby made Protestants in this proceeding; and

It is further ordered, That in accordance with the Commission's Rules (46 CFR 502.42) the Bureau of Hearing Counsel is hereby made a party to this proceeding; and

It is further ordered, Tht this matter is assigned for hearing and decision to the Commission's Office of Administrative Law Judges, with a public hearing to be held at a date and place hereafter determined by the Presiding Administrative Law Judge but in no event later than the time limitation set forth in Rule 61 (46 CFR 502.61). This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents.

It is further ordered, That persons other than those named herein having an appropriate interest in this proceeding may petition for leave to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72); and

It is further ordered, That this order be published in the Fedral Register and a copy served upon all parties of record; and

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-27540 Filed 10-7-83; 8:45 am]

BILLING CODE 6730-01-M

[Amendment No. 4 to Commission Order No. 1 (Revised)]

Organization and Functions of the Federal Maritime Commission

By Executive Order 12418 of May 5, 1983 (48 FR 20891-92), the President transferred from the Commission to the Secretary of the Department in which the Coast Guard is operating the functions performed by the Bureau of Certification and Licensing relating to financial responsibility of vessels for pollution liability. By organizational change dated September 27, 1983, the Bureau of Certification and Licensing was abolished and its remaining functions relocated within the Bureau of Tariffs. Accordingly, this amendment delegates authority to the Director, Bureau of Tariffs to direct and administer the functions of the Office of Freight Forwarders and the Office of Passenger Vessel Certification.

Commission Order 1 is therefore amended to reflect this delegation and to effect corresponding administrative changes to the basic order.

I. *Table of Contents:*

A. Delete Section 10 entitled "Specific Authorities Delegated to the Director, Bureau of Certification and Licensing."

B. Renumber present Section 11 "Specific Authority Delegated to the Director, Office of Energy and Environmental Impact," Section 12 "General Authority Delegated to the Managing Director, Secretary, General Counsel, and Chief Administrative Law Judge," Section 13 "Public Requests for Information and Decisions," and Section 14 "Effect on Other Orders" as sections 10, 11, 12, and 13, respectively.

II. *Section 3—Organizational Components:* The listing of the Commission's organizational components is revised as follows:

A. Amend subsection (9) by adding subparagraph "d. Office of Freight Forwarders" and "e. Office of Passenger Vessel Certification." The amended subsection reads as follows:

(9) Bureau of Tariffs
a. Office of Foreign Tariffs
b. Officer of Domestic Tariffs
c. Officer of Financial Analysis
d. Office of Freight Forwarders
e. Officer of Passenger Vessel Certification

B. Delete present subsection (10) and renumber remaining subsections (11) through (19) as subsections (10) through (18), respectively.

III. *Section 4. Lines of Responsibility:* Delete reference to the Bureau of Certification and Licensing in subsection 4.04

IV. *Section 5. Specific Functions of the Organizotional Components of the Federal Maritime Commission*

A. *Subsection 5.03:* In the first sentence describing the Managing Director's functions, change reference to "subsections 5.08 through 5.19" to read "subsection 5.08 through 5.18."

B. *Subsection 5.09:* The first paragraph of this subsection is amended to reflect the assumption of freight forwarder and passenger vessel functions by the Bureau of Tariffs, and reads as follows:

The *Bureau of Tariffs* plans, develops, administers and analyzes programs and activities in connection with the pricing by common carriers by water, conferences of such carriers and terminal operators in the foreign and domestic offshore commerce of the United States; reviews and rejects tariff filings; approves or disapproves special permission applications; and initiates recommendations, collaborating with the Bureau of Hearing Counsel and other elements of the Commission as warranted, for formal action and proceedings by the Commission. The Bureau is also responsible for the licensing of independent ocean freight forwarders under the provisions of the Shipping Act, 1916; and under Public Law 89-777 the certification of owners and operators of passenger vessels as to their financial responsibility to satisfy liability incurred by nonperformance of voyages or resulting from injury or death.

C. *Subsection 5.10:*

1. Delete reference to Subsection 5.10, paragraphs 1 and 2 describing the functions of the Bureau of Certification and Licensing, and subparagraphs a. and b. of Subsection (1) describing pollution liability functions.

2. Renumber and rename present subparagraph (1) the *Office of Vessel Certification* as subparagraph (4) The *Office of Passenger Vessel Certification,* and add it to the list of the functions of the Bureau of Tariffs described in subsection 5.09. Renumber the remaining subparagraphs c. through m. describing the functions of that office as subparagraphs a. through k, respectively.

3. Renumber present subsection (2) The *Office of Freight Forwarders* as subsection (5) The *Office of Freight Forwarders* and add it to the list of the functions of the Bureau of Tariffs described in subsection 5.09

4. Renumber subsections 5.11 through 5.19 describing the functions of other offices of the Commission as subsections 5.10 through 5.18, respectively. (NOTE: These subsections will be amended to reflect current Commission organization in a subsequent revision to the basic order.)

V. *Section 6. Delegation of Authorities:* In subsection 6.01, change reference to "sections 7, 8, 9, 10, 11, 12 and 13 of this Order" to read "sections 7, 8, 9, 10, 11, and 12 of this Order."

VI. *Section 10. Specific Authorities Delegated to the Director, Bureau of Certification and Licensing:* Delete the title to this section and delete present subsections 10.02 through 10.04. Renumber remaining subsections 10.01, 10.05, and 10.06 as subsections 9.09, 9.10, and 9.11, respectively and add them to the list of specific authorities delegated to the Director, Bureau of Tariffs described in Section 9.

VII. Renumber present Section 11 "Specific Authority Delegated to the Director, Office of Energy and Environmental Impact" and Section 12 "General Authority Delegated to the Managing Director, Secretary, General Counsel, and Chief Administrative Law Judge" as sections 10 and 11, respectively.

VIII. *Section 13. Public Requests for Information* Renumber section 13 as *Section 12. Public Requests for Information.*

Delete reference to Bureau of Certification and Licensing in renumbered subsection 12.05, subparagraph (4). Renumber remaining subparagraphs (5) through (12) as subparagraphs (4) through (11), respectively.

Dated: October 3, 1983.

Alan Green, Jr.,

Chairman.

[FR Doc. 83-27539 Filed 10-7-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-46]

Southeastern Maritime Company v. Georgia Ports Authority; Filing of Complaint and Assignment

Notice is given that a complaint filed by Southeastern Maritime Company against Georgia Ports Authority was served September 29, 1983. Complainant alleges that respondent has violated section 17 of the Shipping Act, 1916, in connection with establishment of rules concerning responsibility for loss and damage to persons and property.

This proceeding has been assigned to Administrative Law Judge Seymour Glanzer. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examation in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the bases of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-27538 Filed 10-7-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Bank of Boston Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Boston Corporation,* Boston, Massachusetts; to acquire more than 50 percent of the voting shares or assets of The Martha's Vineyard National Bank, Vineyard Haven, Massachusetts. Comments on this application must be received not later than November 1, 1983.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Intermountain Banccorporation,* Columbia Falls, Montana; to acquire 91.25 percent of the voting shares of Treasure State Bank of Glasgow, Glasgow, Montana. Comments on this application must be received not later than November 3, 1983.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, MIssouri 64198:

1. *American Bank Corporation,* Denver, Colorado; to acquire 100 percent of the voting shares or assets of American Bank of Eastridge, N.A., Casper, Wyoming. Comments on this application must be received not later than November 3, 1983.

Board of Governors of the Federal Reserve System, October 4. 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27480 Filed 10-7-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Citicorp, et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (finance company and credit-related insurance activities; Arizona, California and Nevada): To establish a *de novo* office of its subsidiary, Citicorp Acceptance Company, Inc. located in Los Angeles, California. The activities in which the *de novo* office proposes to engage are: the making or acquiring of loans and other extensions of credit,

VOL 48 ISS 197 OCT 11 1983 UMI

secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required, the making of loans to individuals and businesses secured by a lien on mobil homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. The proposed service area for the *de novo* office will comprise the entire states of Arizona, California and Nevada. Comments on this application must be received not later than November 2, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *First Security Corporation,* Salt Lake City, Utah (mortgage banking activities; Nevada): To engage through its existing subsidiary, First security Realty Services Corporation (formerly known as Utah Mortgage Loan Corporation), in making or acquiring loans and other extensions of credit such as would be made by a mortgage banking company, including making both residential and commercial mortgage loans for its own portfolio and for sale to others, and the servicing of such loans for others. These activities would be conducted from an office in Las Vegas, Nevada. The office will replace an office of the affiliated First Security Mortgage Co. This office will serve Las Vegas and all of Clark County, and will also serve those portions of the following continguous counties which are closest to Las Vegas, Nye and Lincoln Counties. Comments on this application must be received not later than November 3, 1983.

2. *Security Pacific Corporation,* Los Angeles, California (mortgage and servicing activities; Wyoming): To engage through its subsidiary, Security Pacific Mortgage Corporation in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others; and the servicing of such loans for others. These activities would be conducted from an office of Security Pacific Mortgage Corporation in Casper, Wyoming, serving the State of Wyoming. Comments on this application must be received not later than November 3, 1983.

Board of Governors of the Federal Reserve System, October 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27482 Filed 10-7-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Trans-Pacific Bancorp, and Community Bank System, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Trans-Pacific Bancorp,* San Francisco, California; to become a bank holding company by acquiring 100 percent of the voting shares of Trans Pacific National Bank, San Francisco, California. Comments on this application must be received not later than November 3, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 2551:

1. *Community Bank System, Inc.,* Canton, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The St. Lawrence National Bank, Canton, New York and The First National Bank of Ovid, Ovid, New York. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than November 3, 1983.

Board of Governors of the Federal Reserve System, October 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27481 Filed 10-7-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse and Mental Health Administration

October; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I),announcement is made of the following national advisory body scheduled to assemble during the Month of October 1983.

Board of Scientific Counselors, NIMH

October 20–22; 9:00 a.m.

National Institutes of Health, Building 36, Conference Room 1B–07, Bethesda, Maryland 20205

Open—October 20–22; 9:00–9:15 a.m.

Closed—Otherwise

Contact: Dr. Frederick K. Goodwin, National Institutes of Health Buiding 10, Room 4N–224, Bethesda, Maryland 20205

Purpose: The Board of Scientific Counselors provides expert advice to the Director, NIMH, on mental health intramural research programs through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda: From 9:00–9:15 a.m., October 21–22, the meetings will be open for discussion of administrative announcements and program developments. Otherwise, the sessions will be devoted to a review of the intramural research projects from the Laboratory of Socio-Environmental Studies and the Clinical Neuropharmacology Branch, and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above. Summaries of the meeting and a roster of Committee members may be obtained as follows: NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17 C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

This **Federal Register** notice is late due to the delay in setting up agenda items.

Dated: October 4, 1983.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83-27520 Filed 10-7-83; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

Advisory Committee Meeting; Filing of Annual Reports

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that under the Federal Advisory Committee Act annual reports of the various committees must be filed with the Library of Congress. These have been filed, and a list appears below.

ADDRESS: Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1751.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the annual reports required by the act for the following FDA advisory committees that held closed meetings during the period July 1, 1982, through June 30, 1983, have been filed with the Library of Congress:

National Center for Drugs and Biologics, Blood Products Advisory Committee, Panel on Review of Allergenic Extracts, Vaccines and Related Biological Products Advisory Committee, Cardiovascular and Renal Drugs Advisory Committee, Fertility and Maternal Health Drugs Advisory Committee, Pulmonary-Allergy Drugs Advisory Committee.

National Center for Devices and Radiological Health, Circulatory System Devices Panel, Clinical Chemistry and Hematology Devices Panel, Clinical Chemistry Device Section, General Medical Devices Panel, Gastroenterology-Urology Device Section, Immunology and Microbiology Devices Panel, Immunology Device Section, Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, Ophthalmic Device Section, Respiratory and Nervous System Devices Panel, Neurological Device Section, Surgical and Rehabilitation Devices Panel, Orthopedic and Rehabilitation Device Section.

Annual reports are available for public inspection at (1) the Library of Congress, Newspaper and Current Periodical Reading Room, Rm. 1026, Thomas Jefferson Bldg., 2d and Independence Ave. SE., Washington, DC, (2) the Department of Health and Human Services Library, Rm. 1436, 330 Independence Ave. SW., Washington, DC, on weekdays between 9 a.m. and 4:30 p.m., (3) the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 4, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-27509 Filed 10-7-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. November 3 and 4, 9 a.m., auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, November 3, 9 a.m. to 10 a.m.; open committee discussion, November 3, 10 a.m. to 5 p.m.; November 4, 9 a.m. to 5 p.m., Joan Standaert, National Center for Drugs and Biologics (HFN–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss dose response relationships for the antihypertensive, diuretic and adverse effects of hydrochlorothiazide (NDA 11–871, Oretic, Abbott Laboratories; NDA 11–835, Hydroduiril, Merck Sharp & Dohme; NDA 11–879, Esidrix, Ciba-Geigy Corporation), Mexitil (Mexiletine HC1, 11–873, Boehringer Ingelheim Ltd.) for use as an anti-arrhythmic agent and Indocin i.v. (indomethicine, NDA 18–878, MercK Sharp & Dohme) for use in patent ductus.

Orthopedic and Rehabilitation Device Section of the Surgical and Rehabilitation Devices Panel

Date, time, and ploce. November 8, 8 a.m., Room 703–727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 5 p.m.; Robert E. Mansell, National Center for Devices and Radiological Health (HFK–410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7238.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 2, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the development of artificial ligaments and the need to establish well-defined guidelines for their various orthopedic uses.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting

involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: October 4, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–27504 Filed 10–7–83; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

National Toxicology Program Board of Scientific Counselors Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on October 27, 1983.

The meeting will be open to the public from 10:00 a.m. until adjournment for the purpose of providing peer review of the data from the chronic carcinogenesis bioassay of FD&C Red No. 3 in Charles River CD–1 rats of both sexes. The bioassay was sponsored by the Certified Color Manufacturers Association, conducted by International Research and Development Corporation (IRDC), and submitted to the Food and Drug Administration (FDA) in support of permanent listing of FD&C Red No. 3. The review will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts.

The meeting will commence with a brief overview of the study. This will be followed with presentations by scientific staff from the Bureau of Foods, FDA, concerning the pathology findings. Sufficient time will be allowed for public comment.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FTS 629–3971, will furnish program information prior to the meeting and summary minutes subsequent to the meeting.

Dated: October 4, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83–27374 Filed 10–7–83; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Presidential Commission on Indian Reservation Economies; Meeting

October 6, 1983.

The Presidential Commission on Indian Reservation Economies, established pursuant to Executive Order 12401, as amended by Executive Order 12442, will hold its first meetings on October 19, 1983, from 10 a.m. until 5 p.m., and on October 20, 1983, from 9 a.m. until 5 p.m., in the GSA Auditorium at 18th and F Sts., NW., Washington, D.C.

The purpose of the meeting is to initiate the work of the Commission consistent with the Executive Orders and the Commission's charter, and to lay out workplans and a public hearing schedule, along with administrative and housekeeping chores.

The agenda of the meetings is summarized as follows:

The first meeting will open with the swearing in of the Commission and the delivery of opening remarks. There will then be an open discussion of the Commission's workplan for its first two months, and public hearings may be scheduled for that period. Subsequently, the Executive Director of the Commission will provide the Commissioners with an orientation on current issues in Indian affairs. The second day of the meetings will be devoted to items of business which members of the Commission wish to discuss, with the goal of dividing the work of the Commission among the Commissioners and staff.

This notice is being published slightly less than 15 days prior to the scheduled dates of the meetings due to delay in securing a suitable site for such a public meeting. Because of the busy schedules of the persons appointed to the Commission and the need for commencement of the business of the Commission, the 15-day notice requirement is hereby waived.

For further information, please contact Mr. Roy Sampsel at 202/343–3107.

William H. Coldiron,

Solicitor.

[FR Doc. 83–27689 Filed 10–7–83; 8:45 am]

BILLING CODE 4310–02–M

Geological Survey

Revision of Terminology for Geologic Hazard Warnings

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice.

SUMMARY: This notice describes proposed changes in the terms and criteria used by the U.S. Geological Survey for issuing statements concerning geologic-related hazards to public officials and the public.

For the purpose of this statement, a geologic hazard is a geologic condition, process, or potential event, such as an earthquake, volcanic eruption, or landslide, that poses a threat to the health, safety, or welfare of the public or to the functions or economy of a community or larger governmental entity. In this context a Geologic Hazard Warning is a formal statement by the Director of the U.S. Geologic Survey that discusses a specific geologic condition, process, or potential event that poses a significant threat to the public, and for which some timely response would be expected. Directives or advisories to the public to take action, based on a Geologic Hazard Warning, may be issued by officials of State and local governments, and other Federal agencies, with authority and responsibility to issue such statements.

The term Hazard Warning is reserved for those situations posing a risk greater than normal and warranting considerations of a timely response in order to provide for public safety. Information regarding hazardous conditions that do not meet the criteria for a Hazard Warning may, however, also be sent to public officials as it becomes available. Transmittal of such information would not constitute a Hazard Warning.

1. The criteria for a Geologic Hazard Warning are:

a. a degree of risk greater than normal for the area; or a hazardous condition that has recently developed or has only been recently recognized; and

b. a threat that warrants consideration of a near-term public response.

2. A Geologic Hazard Warning consists of:

a. a description of the geologic or other pertinent conditions that cause the concern;

b. factors that indicate that such conditions constitute a potential hazard;

c. location or area that may be affected;

c. estimated severity and time or occurrence, if such estimates are justified by available information;

e. if possible, a quantitatively based probabilistic statement on the likelihood of a given event or events within a specified time period; and

f. a description of continued Geological Survey involvement and estimate of what and when additional information might be available.

If a life or property-threatening event is thought to be imminent, and immediate response is warranted by the public and public officials, the emergency nature of the Hazard Warning will be stated clearly either in the heading or the first sentence of the text of the warning statement. If the immediate crisis passes, either with or without the anticipated event, a revised statement will be issued to reflect the change conditions and a re-evaluation of the geologic hazard.

DATES: Comments on the revisions are welcomed and will be considered in the adoption of final hazard warning procedures. Comments are due within 30 days from the date of this notice.

ADDRESS: Send comments to: Office of the Assistant Director for Engineering Geology, U.S. Geological Survey, 106 National Center, Reston, Virginia, 22092.

SUPPLEMENTARY INFORMATION: The **Federal Register** of April 12, 1977, Vol. 42, No. 70, pages 19292 to 19296 describes the current terminology as well as the U.S. Geological Survey's authority to issue warnings of geologic-related hazards, capabilities to predict hazardous events, and provisional procedures to report hazardous conditions.

The change from the present three-level system to that proposed here is based on past experience and is expected to result in a more effective warning procedure. These changes are only to the present hazard terminology and their criteria. They do not entail or imply any changes to the procedures the U.S. Geological Survey uses to notify State and local governments, other Federal agencies, the public, or the news agencies and services.

Dated: September 30, 1983.

James F. Devine,

Assistant Director, Engineering Geology.

[FR Doc. 83–27542 Filed 10–7–83; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[N–1005, N–1005A]

Nevada; Classification Vacated

September 28, 1983.

1. Pursuant to the authority delegated by Bureau Order 701 and amendments thereto, the following Bureau of Land Management multiple use classifications were published in the **Federal Register:**

N–1005, date published: June 29, 1967 (FR Doc 67–7343

N–1005A, date published: December 22, 1970 (FR Doc 70–17012

Pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the 43 CFR 2460 regulations, these actions classified approximately 4,334,000 acres of public land in White Pine County, Nevada, for multiple use management. The land was segregated as follows:

Classification	Acres	Segregated from
N–1005	4,334,000	Agricultural land laws.
N–1005A	21,080	13,940 acres from all forms of appropriation including mining but not Recreation and Public Purposes, mineral leasing and material sales.
		7,120 acres from all forms of appropriation except Recreation and Public Purposes, mining, mineral leasing or material sales.

2. Pursuant to 43 CFR 2461.5(c)(2), the classifications are hereby vacated with the exceptions listed below:

a. The following described land will remain segregated from all appropriation including the mining laws, but not the Recreation and Public Purposes Act nor the mineral leasing and material sale laws:

Mount Diablo Meridian, Nevada

Goshute Cave Geologic Area

T. 25 N., R. 63 E.,
Sec. 1, E½NE¼.
T. 25 N., R. 64 E.,
Sec. 6, Lots 5, 12.

Goshute Canyon Natural Area

T. 25 N., R. 63 E., Unsurveyed,
Sec. 1, SW¼SW¼;
Sec. 2, S½, S½N½, NW¼NW¼;
Sec. 3, All;
Sec. 4, All;
Sec. 5, All;
Sec. 8, NE¼, SE¼NW¼, N½NW¼, N½SE¼;
Sec. 9, N½, SW¼, W¾SE¼, NW¼SE¼;
Sec. 10, N½;
Sec. 11, N½, N½SE¼, NE¼SW¼;
Sec. 12, N½SW¼, S½NW¼, NW¼NW¼, SW¼NE¼, NW¼SE¼, E½SE¼.
T. 26 N., R. 63 E.,
Sec. 26, SW¼, SW¼NW¼, SW¼SE¼;
Sec. 27, SE¼, SE¼NE¼, S½SW¼;
Sec. 33, SE¼, E½SW¼, S½NE¼;
Sec. 34, N½, SW¼, E½SE¼;
Sec. 35, W½, W½E½, E½SE¼.
T. 25 N., R. 64 E.,
Sec. 7, SW¼, SW¼SE¼;
Sec. 17, SW¼NW¼;
Sec. 18, NE¼NW¼, NE¼.

Blue Mass Canyon Scenic Area

T. 21 N., R. 68 E.,
Sec. 1, Lots 1 and 2, S½NE¼.
T. 21 N., R. 69 E.,
Sec. 6, Lots 3, 4, and 5, SE¼NW¼.
T. 22 N., R. 68 E.,
Sec. 36, E½.
T. 22 N., R. 69 E.,
Sec. 31, Lots 2, 3, and 4, E½SW¼, E½SW¼, SE¼NW¼, W½NE¼.

Bat Cave and Guano Mine Historic Area

T. 15 N., R. 67 E.,
Sec. 25, SE¼SE¼.

North Creek Scenic Area

T. 10 N., R. 65 E.,
Sec. 20, S½S½.

Snake Creek Indian Burial Cave Archaeological Site

T. 12 N., R. 70 E.,
Sec. 13, SE¼NW¼.

Rock Animal Corral Archaeological Site

T. 15 N., R. 70 E.,
Sec. 23, SE¼.

Baker Creek Archaeological Site

T. 13 N., R. 70 E.,
Sec. 7, Lots 1 and 2.

Garrison Archaeological Site

T. 12 N., R. 70 E.,
Sec. 1, Lots 1, 10, 11.

The area described above comprises approximately 8,728 acres in White Pine County, Nevada.

b. The following described land will remain classified for multiple-use management and special designation but will not be segregated:

Garnet Fields Rockhound Area

T. 16 N., R. 62 E.,
Sec. 1, All;
Sec. 2, E½, SE¼NW¼, NE¼SW¼ (Less patented lands);
Sec. 12, N½N½, S½NE¼ (Less patented lands).

North Creek Scenic Area

T. 10 N., R. 65 E.,
Sec. 19, S½;
Sec. 20, N½S½;
Sec. 30, N½.

Mount Grafton Scenic Area

T. 10 N., R. 64 E.,
Sec. 23, S½, S½N½, N½NE¼, NE¼NW¼;
Sec. 24, S½, S½N½;
Sec. 25, All;
Sec. 26, E½, E½W½, NW¼NW¼;
Sec. 35, E½, E½W½;
Sec. 36, All.
T. 10 N., R. 65 E.,
Sec. 30, S½;
Sec. 31, All;
Sec. 32, W½SW¼.

Swamp Cedar Natural Area

T. 15 N., R. 67 E.,
Sec. 21, All;
Sec. 22, All;
Sec. 23, NW¼, N½SW¼;
Sec. 27, N½, NW¼SE¼, N½SW¼, SW¼SW¼;
Sec. 28, All;
Sec. 33, NE¼NE¼, W½E½, W½;
Sec. 34, NW¼NW¼.

The area described above comprises approximately 9,680 acres in White Pine County, Nevada.

These areas have high public use values for recreation use and scientific study and will remain classified for a period of 5 years from the date of this publication at which time the classification will again be reviewed.

3. At 9 a.m. on November 10, 1983, all the land except that described in paragraph 2 above is hereby open to the operation of all the public land laws, subject to valid existing rights. All valid applications received prior to or at 9:00 a.m. on November 10, 1983 will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

4. At 9:00 a.m. on November 10, 1983, the following described land will also be open to the operation of the mining laws:

Mount Diablo Meridian, Nevada

T. 12 N., R. 67 E.,
Sec. 2, All,
Sec. 11, W½, S½NE¼, SW¼SE¼.
T. 13 N., R. 67 E.,
sec. 35, S½S½.
T. 13 N., R. 70 E.,
Sec. 19, SW¼NE¼.
T. 14 N., R. 70 E.,
Sec. 33, S½SE¼.

This area comprises approximately 1,360 acres in White Pine County, Nevada.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. All the land described in the classifications remain open to the mineral leasing and material sale laws.

Inquiries concerning this land should be addressed to the Deputy State Director, Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Edward F. Spang,
State Director, Nevada.

[FR Doc. 83-27548 Filed 10-7-83; 8:45 am]
BILLING CODE 4310-84-M

[M-58098]

Montana; Conveyance

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance.

SUMMARY: Pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the surface estate only in the following described land has been conveyed to Mildred H. Wallin, Lovell, Wyoming:

Principal Meridian

T. 9 S., R. 24 E.
Sec. 25, W½W½NW¼, NW¼NW¼SW¼ and NW¼SW¼NW¼SW¼.

Containing 52.50 acres.

In exchange for the above land, the United States acquired the surface estate only in the following described land in Carbon County, Montana:

Principal Meridian

T. 9 S., R. 27 E.
Sec. 25, SW¼SE¼.

Containing 40 acres

The lands acquired in this exchange are within the Pryor Mountain Wild Horse Range and will be administered for the protection and management of wild horses, wildlife, watershed, recreation, archeological and scenic values.

Dated: September 30, 1983.

Edgar D. Stark,
Chief, Land Adjudication Section.

[FR Doc. 83-27547 Filed 10-7-83; 8:45 am]
BILLING CODE 4310-84-M

[M-58024 (ND)]

North Dakota; Conveyance of Public Land

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of conveyance of public land in Mountrail County, North Dakota.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the following described land was conveyed to Murrey Eliason or Bonnie Eliason:

Fifth Principal Meridian

T. 157 N., R. 91 W.,
Sec. 13, SE¼NW¼.

The area described contains 40 acres.

The purpose of this notice is to inform State and local governmental officials and other interested parties of the conveyance of the land to the Eliasons.

Dated: October 3, 1983.

Edgar D. Stark,
Chief, Lands Adjudication Section.

[FR Doc. 83-27546 Filed 10-7-83; 8:45 am]
BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Texas Petroleum

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Union Texas Petroleum has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3561, Block 43, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m. 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 30, 1983.

John L. Rankin,
Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-27587 Filed 10-7-83; 8:45 am]
BILLING CODE 4310-MR-M

Bureau of Land Management

[M-58098]

Partial Termination of Classification for Multiple Use Management

September 30, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Partial termination of classification.

SUMMARY: This notice terminates the Classification for Multiple Use on approximately 80 acres of public land in the Pryor Mountain Wild Horse Range. This land has been transferred into private ownership.

DATE: Effective October 11, 1983.

SUPPLEMENTARY INFORMATION: Multiple Use Classification Notice M-7991 was published in the **Federal Register**, Vol. 33, No. 130, dated July 4, 1968, Pages 9714-9715 and amended in **Federal Register**, Vol. 35, No. 248, dated December 23, 1970, Pages 19527-19528. By virtue of the authority contained in Sec. 202(d) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1712, and the regulations in 2461.5(c)(2), the following lands are relieved of the effect of the C&MU Classification:

Principal Meridian

T. 9 S., R. 27 E.
Sec. 25, W½W½W½.

Containing 80 acres.

At 9 a.m. on October 11, 1983, the mineral estate in the above lands will be opened to location under the United States mining laws. The lands have been, and continue to be, opened under the mineral leasing laws.

Michael J. Penfold,
State Director.

[FR Doc. 83-27586 Filed 10-7-83; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Upper Delaware Nation Scenic and Recreational River

AGENCY: Upper Delaware Citizens Advisory Council, National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: October 28, 1983, 7 p.m.

ADDRESS: Town of Tusten, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159 (717) 729-7135.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to ecnourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include discussion of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: September 27, 1983.

Don H. Castleberry,
Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 83-27519 Filed 10-7-83; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 161)]

Burlington Northern Railroad Co.; Abandonment, Stearns and Wright Counties, MN; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 8.14-mile line of railroad between milepost 58.00 near St. Cloud and milepost 49.86 at the end of the line near Clearwater, in Stearns and Wright Counties, MN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-27584 Filed 10-7-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Final Judgment on Consent Pursuant to Safe Drinking Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 23, 1983 a proposed Stipulation and Consent Decree in *United States* v. *Glen Villa Trailer Park*, Civil Action No. CV 82–6362–E was lodged with the United States District Court for the District of Oregon. The proposed Stipulation and Consent Decree enforces the Safe Drinking Water Act and national interim primary drinking water regulations by, *intr alia*, requiring defendant to comply with sampling, reporting, and public notice provisions of the regulations in the operations of its public water system.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Stipulation and Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v.*Glen Villa Trailer Park*, D.J. Ref. 90–5–2–1–1869.

The proposed Stipulation and Consent Decree may be examined at the office of the United States Attorney, District of Oregon, 312 United States Courthouse, 620 SW., Main Street, Portland, Oregon, 97205 and at the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of the Stipulation and Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Final Judgment on Consent may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.10 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 83–27586 Filed 10–7–83; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

New Directions Training and Education Grants

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of grant program.

SUMMARY: The Occupational Safety and Health Administration is entering the sixth year of its national grant program for the development of institutional competence in nonprofit organizations for providing job safety and health training and education to employees and employers. This notice describes the scope and objectives of the grant program, and provides information on how to obtain a grant application. Applications should not be submitted without first obtaining the detailed grant application mentioned later in this notice.

Authority for providing for job safety and health training programs and related assistance for employees and employers may be found in section 21(b) and 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670) and in Executive Order 12196 "Occupational Safety and Health Programs for Federal Employes."

DATE: Application packages must be received by December 6, 1983.

ADDRESSES: Grant applications must be submitted to the OSHA Regional Office for the state in which the applicant is located. A complete listing of Regional Offices can be found in the addendum at the end of the supplementary information section of this notice.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Background and Objectives

From 1971 to 1978 OSHA conducted numerous projects to improve the ability of employees and employers to recognize, avoid, and control safety and health hazards. Special training programs were conducted for small and medium sized businesses, high hazard industries, leaders of organized labor, supervisors, apprentices, and others. The OSHA experience with these programs indicates that one of the most practical means of assuring that employers and employees acquire the ability to recognize, avoid, and control hazards is to build the competence of key organizations to provide occupational safety and health services to those in the workplace.

As a result, in 1978 OSHA announced a program to increase the number of labor, business, educational, and other nonprofit organizations having the internal capability of providing, on a continuing and self-sufficient basis, comprehensive and effective occupational safety and health training, education, and services to employees and employers. Over 160 grants have been awarded to such organizations for planning and developing their occupational safety and health programs. Grant recipients use these funds to identify serious occupational safety and health problems and design strategies to resolve them, with emphasis on training and education as a means of achieving abatement of safety and health hazards in the workplace.

The objectives of this institutional competency building grant program, commonly referred to as "New Directions," are as follows.

1. *Institutional Competency.* The development of a recipient organization's internal capability to provide a range of training, education, and related services necessary to address the occupational safety and health problems of the recipient's target population.

2. *Self-sufficiency.* The ability of a recipient organization to continue providing a range of workplace safety and health activities and services once its developmental plan, and, therefore, OSHA funding, is completed.

3. *Abatement of Hazards.* The promotion of organizational and operational changes in the workplace, through training and educational activities, which achieve improved safety and health conditions.

Activities To Be Supported

A range of activities related to occupational safety and health training and education will be supported under the grant program. Activities may include, but need not be limited to, the following:

1. Identifying serious occpational safety and/or health problems encountered by the recipient's target audience and designing strategies to resolve them;

2. Training in hazard identification or recognition and control in general or in specific workplaces;

3. Developing training materials and educational publications regarding safety and health issues;

4. Conducting activities which result in the improved effectiveness of labor-management safety and health committees;

5. Conducting programs designed specifically to reduce accidents among new workers (this includes those new to the work force as well as to those new to a particular type of work);

6. Fostering cooperative arrangements between OSHA consultation programs funded under section 7(c)(1) and 23(g) of the Act, States operating plans under section 18(b) of the Act, and other grant recipients;

7. Conducting educational and other activities which assist employers and employees, if applicable, in the development and initial implementation of comprehensive workplace safety and health programs under one of the OSHA Voluntary Protection Programs, or an equivalent State plan program;

8. Assisting employees and employers in hazard recognition and control in specific workplaces;

9. Designing and implementing programs to assist employers and employees in recognizing and abating hazards in specific workplaces;

10. Resolving unique or unusually difficult job safety and health problems.

Nonsupportable Activities

While all efforts to eliminate deaths, injuries, and illnesses in the workplace are encouraged, statutory and regulatory limitations, as well as the objectives of the grant program, prevent reimbursement for certain activities under these grants. These limitations include:

1. Development of academic curricula for the education of occupational safety and health professionals or support personnel.

2. Activities which support degree programs, safety and health certificate programs, or extended academic programs designed to provide professional level credentials. This does not preclude the award of certificates to individuals completing a class.

3. Research activities in the physical, engineering, or health sciences, except for studies ancillary to other program activities and which constitute only a supplement to the sponsored activities. An example of an allowable ancillary study is the obtaining of information necessary to evaluate hazards and hazard control for a particular industry or occupation for which classes are planned under the grant.

4. Training and other educational activities that do not address the recognition, avoidance, and prevention of unsafe or unhealthful working conditions. Examples include activities concerning workers' compensation, first aid, abused substances, and publication of materials prejudicial to labor or management.

5. Activities for the benefit of State, county, or municipal employees except those who may be considered to have occupational safety and health responsibilities. Examples of safety and health responsibilities include: occupational safety and health training; safety and health program management; membership on an employer, union, or joint safety and health committee; and recognizing, reporting, or abating unsafe and unhealthful workplace conditions.

6. Consultation programs that duplicate services provided by State designated agencies or contractors under sections 7(c)(1) or 23(g) of the Act. This does not preclude grant recipients from providing technical services to employees and employers when such services are part of its overall educational program and have been described in its approved grant.

7. Activities involving workplaces that are largely precluded from enforcement actions by the Occupational Safety and Health Administration under section 4(b)(1) of the Act.

8. Lobbying activities or devices intended or designed to influence in any manner a Member of Congress regarding any congressional legislation or appropriation. These activities and devices include, but are not limited to, personal service, telegrams, or other printed or written matter.

9. Activities incurring cost before or after the grant period.

10. The purchase of land, or any interest therein; or the acquisition or construction of buildings.

11. Activities directly or indirectly intended to generate membership in the grant recipient's organization.

12. Medical screening or any other research or experimentation involving human subjects as part of the grant program unless provisions have been made for full, regular, and ongoing consideration of the rights and welfare of subjects and for the protection of subjects from undue risk of physical, psychological, or social injury. These provisions and plans for conducting the project must be approved by the OSHA Regional Administrator prior to beginning the project.

13. Activities which directly duplicate services offered by OSHA, a State under a State plan, or other grantees.

14. Publication of newsletters.

15. Activities which provide assistance to emloyees in arbitration cases or other actions against employers, or which provide assistance to employees and/or employers in the prosecution of claims against Federal, State or local governments.

16. Production, publication, or reproduction of training and educational materials, including programs of instruction, which have not been approved by OSHA.

17. Any other activities inconsistent with the goals and objectives of the Occupational Safety and Health Act of 1970.

Eligible Applicants

Nonprofit organizations which are labor organizations or employer associations, and are working in the field of occupational safety and health, are eligible to apply for grants.

Categery I. Labor organizations listed in accordance with the requirements of the Labor-Management Disclosure Act of 1959, as amended, or Chapter 71 of the United States Code, as amended by the Civil Service Reform Act of 1978. Field components of these organizations are eligible with the concurrence of their national organization. Although all components of labor organizations are eligible to apply, limited resources available for the program make it unlikely that a grant will be awarded to a field component of a labor organization if the national component of the same labor organization has been awarded a grant.

Categery II. Employer associations. Priority will be given to those associations serving small business.

Consortia. Organizations may apply jointly and share grant resources in the interest of serving broader populations or broader occupational safety and health problems than each organization could serve alone. A consortium must have a labor organization or an employer association as a member, and must be designed to contribute to the development of a center of competence in the field of occupational safety and health. Consortia formed primarily for coordination or communication purposes, rather than for building centers of competence, are discouraged. A labor organization or employer association member of the consortium must assume responsibility for submitting the overall proposal and administering the grant. The director of the proposed consortium project must be on the staff of the administering institution. Agreements to participate in the consortium by organizations other than the administering institution shall be documented in the application. In addition to explaining the advantages of the proposed consortium, the proposal shall describe explicitly the role of each participating organization and its

portion of the proposed program, and demonstrate how each organization's participation will improve the probability of success of the total program.

Labor management consortia are encouraged to apply.

Types of Awards

Two types of grant awards may be made under the institutional competency building program: (1) Planning grants and (2) developmental grants.

Planning grants. Planning grants are intended to assist organizations which are able to demonstrate potential for meeting the objectives of this program, but which need to assess capabilities, needs, and priorities, and formulate objectives before moving ahead with full-scale program development and implementation. Planning grant recipients will be funded for not more than one year. Upon successful completion of its one year planning activities, a recipient may apply for a developmental grant. Although most recipients of planning grants will initiate limited program operations during the planning period, these operations should be small-scale or pilot projects, complementing the recipient's planning activities.

Developmental grants. Where an organization through its past activities has established a capability to provide occcupational health or safety training and education, but where continuing developmental activities are appropriate, the organization may propose a developmental program. Although grant recipients generally will be capable of immediate implementation of some educational activities, the grants are not intended to merely fund existing program operations, but rather to assist the organizations in developing centers of occupational safety and health expertise. To be awarded a grant, an organization must prepare a plan which sets forth the steps necessary for developing institutional competency and achieving self-sufficiency within a realistic and reasonable time frame, generally five years or less. Grants will be awarded for a twelve month period, with annual renewal during the developmental period subject to the availability of funds, a determination that the project is achieving its approved objectives on a timely basis, and recipient submission of all training and educational materials developed under the grant to OSHA.

Evaluation Process and Criteria

Applications for grants solicited in this announcement will be evaluated on a competitive basis by the Assistant Secretary with assistance and advice from OSHA experts.

The following factors, not ranked in order of importance, will be considered in evaluating grant applications.

1. Program Impact

a. The potential contribution of the project toward the resolution of significant occupational safety and health problems, as indicated by the numbers of employees and employers to be served in target high risk populations identified by OSHA including:

i. New and/or inexperienced workers;

ii. Industries and workplaces in which employees are exposed to one or more substances constituting serious health hazards;

iii. Industries with injury and illness incidence and severity rate above the national average;

iv. Industries and workplaces which pose multiple safety and health hazards to employees;

v. Small businesses employing 100 or fewer employees; and

vi. Unorganized employees.

Applicants may propose alternative populations, and include valid statistical justification or other documentation supporting their selection of such populations.

b. The responsiveness of the project to target populations, as indicated by:

i. An identification and analysis of the needs and problems of the organization's target population.

ii. Involvement by representatives of the target population in the planning, implementation, and evaluation of the program.

c. The need for services in the area proposed, the lack of availability of comparable services from other sources, and the relevance of proposed services to identified needs.

d. The potential for serving a larger universe, as indicated by plans for:

i. Serving employees and employers who then will have the capability to serve other employees and employers.

ii. Assisting other organizations in developing occupational safety and health training and related services through such means as providing training materials, technical assistance, demonstration educational programs, and instructor training. Examples include national labor unions assisting district and local unions and employer associations assisting individual employers.

2. Program Design

a. The extent to which services will be provided directly by the grant recipient through its own staff and resources. Contrctual arrangements for the provision of services must be shown to be consistent with the objective of self-sufficiency.

b. For developmental grant applications:

i. The extent to which the educational training design and content will be appropriate for the target population and will include written objectives for the skills and knowledge to be gained by those trained, written programs of instruction, and an appropriate proportion of lecture, demonstration, discussion, laboratory, and field experience.

ii. The availability of facilities, including appropriate occupational settings, in which to conduct training, whether at the recipient's location or elsewhere.

iii. The range of educational programs, technical services, and resources available in the recipient organization which may be expected to assist in implementing the program. These might include staff from other departments, such as industrial hygiene, safety, legal, medical, labor relations, policy research, collective bargaining, and special research in such areas as medical surveillance and counseling.

c. For planning grant applications:

i. The appropriateness of indentified safety and health issues to be surveyed.

ii. The soundness of the approach to be used in developing and implementing an assessment methodology.

iii. The plans for the design and development of one or more pilot training or educational projects to test the results of the assessment.

3. Program Experience

a. Evidence of the organization's performance and effectiveness in planning, implementing, and operating training and education in the proposed or related areas. Experience in conducting employee or employer occupational safety and health education programs, experience in providing technical assistance, or involvement in related occupational safety and health activities will be considered relevant. In the absence of such experience, information will be considered about other activities designed specifically for employees or employers that may indicate potential effectiveness in providing the services proposed.

b. The technical and professional expertise and training of present or proposed project staff in relation to services to be provided. Expertise of an organization's present or proposed staff in the delivery of occupational safety and health training and education to target populations will be measured by résumés, minimum qualifications for hiring, and position descriptions.

4. Administrative Capability

a. The managerial expertise of the organization, as evidenced by the variety and complexity of current and/or recent programs it has administered.

b. The financial management capability of the organization, as evidenced by a recent audit report from an independent audit firm or a recent report from another independent organization qualified to render judgement concerning the soundness of the organization's financial practices. In the absence of such reports, the organization may provided information which demonstrates that it is capable of meeting the financial management standards set forth in 41 CFR 29–70, section 207–2.

c. The reasonableness of the budget in relation to the proposed program activities.

d. The feasibility and soundness of the proposed work plan in achieving the program objectives effectively.

e. The strength of the organization's evaluation plan and the methodology for measuring achievement of program objectives.

5. Matching Share

The amount of an organization's contribution relative to the total budget and the degree to which an organization will assume an increasing share of funding for the proposed program.

a. Programs may be funded up to 100 percent of costs under a planning grant.

b. Developmental grants require recipients to provide a matching share.

During the developmental period it is expected that organizations will become increasingly independent of Federal funding. One element of a developmental grant is an annual increase in the recipient's matching share, with a corresponding reduction in Federal funding, with the result that the program is independent of Federal funding by the time self-sufficiency is achieved. Another element is the recipient's assumption of full funding of the salaries of one or more key project staff by the end of the second grant year.

In addition to the preceding factors, the Assistant Secretary will consider other factors such as the overall geographical distribution and coverage of populations at risk that will be achieved by the proposals approved for funding.

Notification of Selection

The Assistant Secretary will notify in writing those organizations selected as potential grant recipients. An applicant whose proposal is not selected also will be notified in writing to that effect. Notice of selection as a potential grant recipient will not constitute approval of the total funding request or of the funding level sought. Prior to the actual award of a grant, representatives of the potential grant recipient and representatives of the Assistant Secretary will enter into negotiation. Items subject to negotiation will include: Program components; funding levels; program performance levels and standards; and administrative systems. If the negotiations do not result in an acceptable negotiated grant, the Assistant Secretary reserves the right to terminate the negotiation and decline to fund the proposal.

Availability of Funds

This announcement does not constitute an obligation to support this program in any fiscal year. Subject to congressional appropriation, $6.8 million will be available in fiscal year 1984 for this institutional competency building program. It will be used for funding current grants, as well as for the award of new grants described in this announcement.

The maximum funding level for a one year planning grant will be $50,000. There is no set maximum for developmental grants, but organizations applying for developmental funding should consider reasonableness and the limited availability of funds when preparing their budget requests. An organization is eligible for only one grant under the program.

Application and Award

Those organizations that meet the eligibility requirements described above and that are interested in conducting project activities as described, may request a grant application package and directions for application from the OSHA Regional Administrator responsible for the State in which the organization is located. A list of the names, addresses, and geographic areas of responsibility of the Regional Administrators is in the addendum to this notice.

This grant program will be administered in compliance with 41 CFR 29–70 and OMB Circulars A–110 and A–122, as they relate to functions such as: the use of funds; the operation of programs; the maintenance of records, books, accounts, and other documents; and financial and program reporting to OSHA.

All applications must be received no later than 5 p.m., December 6, 1983.

Signed at Washington, D.C., this 5th day of October 1983

Thorne G. Auchter,

Assistant Secretary of Labor.

Addendum

Region I

Donald E. MacKenzie, Regional Administrator, US Department of Labor—OSHA, 16–18 North Street, 1 Dock Square Building—4th Floor, Boston, Massachusetts 02109
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Region II

Gerald P. Reidy, Regional Administrator, US Department of Labor—OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036
New Jersey, New York, Puerto Rico, Virgin Islands

Region III

Linda R. Anku, Regional Administrator, US Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104
Delaware, District of Columbia, Maryland, Pennsylvania, Virgina, West Virginia

Region IV

Alan C. McMillan, Regional Administrator, US Department of Labor—OSHA, 1375 Peachtree Street, NE, Suite 587, Atlanta, Georgia 30367
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Region V

Frank L. Strasheim, Regional Administrator, US Department of Labor—OSHA, 230 South Dearborn Street, Room 3244, Chicago, Illinois 60604
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Region VI

Gilbert J. Saulter, Regional Administrator, US Department of Labor—OSHA, 555 Griffin Square Building, Room 603, Dallas, Texas 75202
Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region VII

Roger A. Clark, Regional Administrator, US Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106
Iowa, Kansas, Missouri, Nebraska

Region VIII

Byron R. Chadwick, Regional Administrator, US Department of Labor—OSHA, Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Region IX

Russell B. Swanson, Regional Administrator, US Department of Labor—OSHA, 450 Golden Gate Avenue, Room 11349, Post Office Box 36017, San Francisco, California 94102
Arizona, California, Guam, Hawaii, Nevada

Region X

James W. Lake, Regional Administrator, US Department of Labor—OSHA, Federal Office Building, Room 6048, 909 First Avenue, Seattle, Washington 98174
Alaska, Idaho, Oregon, Washington

[FR Doc. 83-27554 Filed 10-7-83; 8:45 am]
BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for PCM; Subpanel on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Genetic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.
Date and Time: October 24-26, 1983; 9:00 AM-5:30 PM
Place: Room 643, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550
Type of meeting: Closed
Contact person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 329, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9687.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Reason for Late Notice: Administrative Oversight.

M. Rebecca Winkler,

Committee Management Coordinator.

October 5, 1983.

[FR Doc. 83-27471 Filed 10-7-83; 8:45 am]
BILLING CODE 7555-01-M

Notice of Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with repect to these permit applications by November 10, 1983. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 21 July 1983 **Federal Register**, page 33372.

The applications received are as follows:

1. *Applicant:* Clyde Jones, Texas Tech Museum, P.O. Box 4499, Lubbock, Texas 79424.

Activity for Which Permit Requested: Import into U.S.A.

The appliant proposes to import specimens to be collected by others under separate Antarcitc Conservation Act Permits. Specimens will be put on display at the Texas Tech Museum. The specimens to be imported are:

Leopard Seal (1)
Weddell Seal (1)
Southern Giant Fulmar (2)
Southern Fulmar (2)
Cape Pigeon (2)
Antarctic Ten (2)
Snow Petrel (2)
Brown Skua (2)

Location: McMurdo Station and Palmer Station.

Dates: December 1, 1983 to April 30, 1984.

2. *Applicant:* Michael Parfit, 1330 San Rafael Street, Santa Barbara, California 93109.

Activity for Which Permit Requested: Taking. Enter Specially Protected Area, Enter Site of Special Scientific Interest.

The applicant proposes to take photographs of antarctic birds and mammals and enter Specially Protected Areas and Sites of Special Scientific Interest. The applicant does not propose any physical taking but may cause some harassment of birds and mammals by his presence for photography. The photography is at the invitation of the National Science Foundation.

Location: McMurdo Station and Antarctic Peninsula Areas.

Dates: November 10, 1983 to April 30, 1984.

3. *Applicant:* A. W. Erickson, School of Fisheries, University of Washington, Seattle, Washington 98195.

Activity for Which Permit Requested: Taking; Import into U.S.A; ente Specially Protected Areas.

The applicant proposes to take by harassment an unspecified number of seals by aerial and shipboard census; to take by salvage parts of naturally dead mammals and birds; to take by sacrifice the following:

Crabeater Seals (50)
Weddell Seals (50)
Leopard Seals (25)
Ross Seals (20)
Elephant Seals (10)
Antarctic Fur Seals (10)

The applicant also proposes to enter Litchfield Island, Specially Protected Area, to census seals.

Location: Weddell Sea, Antarctic Peninsula Area.

Dates: November 1, 1983 to June 30, 1984.

4. *Applicant:* David F. Parmelee, 349 Bell Museum, University of Minnesota, Minneapolis, Minnesota 55455.

Activity for Which Permit Requested: Taking, import into U.S.A., enter Specially Protected Area.

The applicant proposes to take bird specimens to be used in studies relating to weights, plumage, molt and food contents. The applicant will be taking

primarily previously banded birds of known age. The applicant also proposes to enter Litchfield Island, Specially Protected Area. Specimens to be taken are:

Southern Fulmar (6)
Cape Pigeon (6)
Snow Petrel (8)
Wilson's Storm Petrel (12)
Black bellied Storm Petrel (8)
Blue-eyed Shag (4)
American Sheathbill (12)
South Polar Skua (8)
Brown Skua (8)
Southern Black-backed Gull (8)
Arctic Tern (4)
Antarctic Tern (12)
Penguin (Sp.) (2)
Duck (Sp.) (2)

Location: Antarctic Peninsula area, South Shetland Islands, Litchfield Island Specially Protected Area.

Dates: December 1, 1983 to March 31, 1984.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,

Division Director, Division of Polor Programs.

[FR Doc. 83-27580 Filed 10-7-83; 8:45 am]
BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Recommendation Responses

Recommendation Responses from:

Highway—*Federal Highway Administration: Sep. 8: H-80-64:* The use of full-scale crash testing for performance verification in the design of all highway safety appurtenances in both widely accepted and widely used. Although not specifically mandated by Federal regulation, in actual practice crash testing is presently the primary means of determining the safety acceptability of all highway safety hardware, with the exception of bridge railings. Substantial research and development work continues on modifications and/or new designs that will extend the size and weight range of vehicles that can be successfully accommodated. Railing designs that have been successfully crash tested are considered acceptable even though they may not meet the geometric and loading requirements of the Bridge Design Specifications of the American Association of State Highway and Transportation Officials (AASHTO). Although performance testing is not a requirement, an ever-increasing number of railing designs in use have been tested in this manner. Actual performance of traffic barriers in a crash situation is dependent on a combination of many factors. Thus, performance criteria based on crash tests, like design or strength criteria, can help predict but cannot guarantee safe traffic barrier performance. All must rely on in-service evaluation for verification of a barrier's suitability and/or modification of the predicitive criteria based on actual performance. FHWA expects that the new Roadside Safety Design Guide to be published by AASHTO in 1986 will include performance criteria for all highway barriers. *H-80-65:* FHWA or AASHTO will publish designs of traffic barrier systems found acceptable by performance criteria. FHWA has publicized and will continue to publicize new traffic barrier designs that meet performance criteria. To meet the need for additional bridge railing designs that have been evaluated by performance criteria, FHWA will publish acceptable railing designs as soon as they are available from a recently started study, "Bridge Rail Designs and Performance Standards." A minimum of six bridge railings will be tested, which should be enough to address most of the various State requirements in regard to climatic and other physical conditions that affect the operation and maintenance of a roadway system. *H-80-66:* National Cooperative Highway Research Program (NCHRP) has contracted for a study titled "Nationally Tested Approved Highway Safety Barriers" for two guardrail designs, two bridge rail designs, and two median barrier designs. All of these barriers are to be tested and qualified under the procedures in NCHRP Report 230, "Recommended Procedures for the Safety Performance Evaluation of Highway Appurtenances." As the results of testing become available, States have been and will continue to be kept informed through research reports, films, design guides, training programs and demonstration projects. *Dep. 21: H-81-72 and -73:* Following evaluation of a pilot advisory group in Virginia that is reviewing accident reports and available data on accidents involving trucks carrying hazardous materials at rail-highway crossings and is taking other related action, FHWA will determine action to be taken nationwide. *Sep. 19: H-83-25:* Has an ongoing research study involving the integrity of MC-307/312 cargo tanks, including research in the area of corrosion and the use of ultrasonic testing to determine corrosion effects on tank sheet material with emphasis on areas of difficult accessibility. An On Guard Bulletin is being developed to alert shippers and carriers of the findings in this matter and to recommend that cargo tanks that are used to transport corrosive material be ultrasonically, or equivalently, inspected. Will issue a directive to FHWA field staff that ultrasonic measurements of cargo tanks, with emphasis on areas of reinforcement and appurtenance attachment, should be taken during audit and roadside inspections. *H-83-26:* Research and Special Programs Administration published a notice in the **Federal Register** (48 FR 15127) on Apr. 7, 1983, emphasizing to operators of cargo tanks requirements of 49 CFR 177.824(h)(i) and confirming the Department of Transportation's position regarding continued use of cargo tanks that no longer meet the specification under which they were manufactured. *H-83-27:* FHWA and the Research and Special Programs Administration are reviewing and rewriting the regulations concerning the manufacture, maintenance, repairs, and retest of cargo tanks for the MC-306, -307, and -312 specifications. *H-83-28:* Is developing an On Guard bulletin to alert motor carriers operating hazardous material cargo tanks of the Mar. 4, 1983, cargo tank incident near Beaumont, Texas, and the Safety Board's recommendation for an ultrasonic or equivalent sampling program.

Commonwealth of Virginia: Aug. 25: H-81-53: Acknowledged Safety Board letter of Aug. 23 regarding revising methods for selecting and locating traffic barriers on State highways to include a consideration of the severity of accidents.

Marine—U.S. Coast Guard: Sep. 23: M-83-38: Will initiate a regulatory project to proppose requirements for closing ullage and hatch covers in 46 CFR 35.30-10. *M-83-39:* The next edition of "A Manual For the Safe Handling of Flammable and Combustible Liquids and Other Hazardous Products" (CG-174) will be amended to include a reference to pollution regulations at 33 CFR 155.815 and to state that hatch covers and ullage hole covers on tank vessels must be closed and dogged at all times unless they are required to be open for cargo transfer operations, inspections, tank cleaning, or other essential operations, or unless the vessel is gas free. *M-83-40:* An article concerning the explosion of the POLING BROS. NO. 9 in New York Harbor on Feb. 26, 1982, will be published in the next "Proceedings of the Marine Safety Council." *M-83-41:* Will prepare and disseminate to all Captain of the Port offices policy guidance indicating enforcement authority and recommended procedures for alleviating hazards posed by debris falling from bridges onto vessels transiting navigable waterways.

City of New York Dept. of Transportation: Sep. 13: M-82-4: Has been informed by the Coast Guard that VHF-FM channel 12 is a continual talking channel for day-to-day business. The Bureau of Ferry and General Aviation Operations does use emergency channels 13 and 19 to contract the New York Vessel Traffic Center. *M-82-5:* Technical staff has determined that gyrocompass equipment would not be suitable to current ferry operations, and members of the Coast Guard concur with the evaluation.

Notional Fire Protection Association: Aug. 30: M-78-9: Revised NFPA Standard 306 in 1980 to include specific quantitative parameters with regard to flammability hazards which must be met before personnel enter and repair vessels. Expanded the section of NFPA 306 outlining the testing techniques to stipulate minimum requirements to be used when inspecting vessels to be repaired. Increased the responsibility and authority of the Marine Chemist Qualification Board, which has strengthened the certification and recertification procedures and developed a proficiency examination that includes questions on all Federal regulations that pertain to the duties and responsibilities of marine chemists.

Rio Marine, Inc.: Sep. 7: M-81-8: Company policy is to never interfere with the safe navigation of a vessel for any reason. It is not

uncommon for vessels to skip the position report or simply state they are unable to report at this time. *M–81–6:* Normally does not move barges other than its own. Many times all crewmembers are licensed tankermen certified for the cargo contained in the barge. *M–81–10:* Has never been cited for lack of a properly certified tankerman aboard its vessels.

Marine Transport Lines, Inc.: Sep. 1: M–83–53: Exposure suits are on board all company vessels except Military Sealift Command vessels.

International Ship Management & Agency Services, Inc.: Aug. 24: M–81–66 and –67: Is carefully monitoring implementation of recommendations to (1) instruct the masters of all its ships of the company policy that the master report the ship's position every 48 hours, and (2) provide the masters of all its ships with a copy of its standard operating manual and instruct them in the availability of the company's weather routing services.

Texaco, Inc.: Aug. 30: M–78–73: In future operations, will continue to be mindful of the recommendation to establish instructions requiring Texaco, Inc., employees who supervise petroleum well drilling or production operations to formulate contingency plans with the person in charge of personnel who are contracted to service the well, before commencing service operations.

Pipeline—*The American Society of Mechanical Engineers: Sep. 14: P–83–28:* The Gas Piping Technology Committee will consider the recommendation to develop guidelines for monitoring gas pipeline segments which have been taken out of service, where there is a potential for gas to leak into the segment.

Interstate Natural Gas Association of America: Sep. 14: P–83–26: Distributed to its members the recommendation to notify its member companies of the circumstances of the accident in Pine Bluff, Arkansas, on Oct. 1, 1982, and urge them to monitor continuously for the presence of gas when work is to be performed in the vicinity of pipeline sections that have been isolated from gas under high pressure solely by closed valves and by the installation of temporary end caps. *P–83–27:* Distributed to its members the recommendation to urge its member companies to provide checklists to supervisory personnel for major work projects to identify the essential actions to be performed, before starting work and while work is in progress, to ensure employee and public safety.

American Gas Association: Sep. 21: P–83–14: Distributed to its member company delegates the recommendation to notify its member companies of the circumstances of the accident in Hudson, Iowa, on November 4, 1982, and urge them to emphasize to their employees the importance of communicating fully with excavators about the extent of the proposed work. AGA added that companies should be urged to emphasize to their employees the importance of obtaining a commitment from the excavator that the pipeline company will be given timely prior notification regarding any changes to excavation plans.

Railroad—*Missouri Pacific Railroad Co.: Sep. 14: R–83–57:* Opposes the establishment of a rule requiring enginecrews to communicate fixed signal aspects to the conductor because of the congestion of radio frequencies. *R–83–58:* Operating rules require conductors, engineers, and other train crewmembers to assure physical fitness and capability of train crew employees at all crew on and off duty locations. Compliance with this responsibility is monitored by railroad officers through routine and specific execution of their similar responsibility. *R–83–59:* Its employees understand their responsibility to monitor the fitness and performance of other crew members, as well as the requirement to take action when failures are observed.

State of Connecticut: Sep. 12: R–83–44 and 45: The Metro-North Commuter Railroad Company which operates Connecticut's and the Metropolitan Transportation Authority's commuter cars and trains under contract is preparing operating procedures regarding the use of alcohol by persons operating rail passenger and commuter trains.

State of New York: Sep. 20: R–83–44 and –45: Will ask the new State Public Transportation Safety Board, to which safety plans from each of the State's transit operators will be submitted, to include provisions for commuter rail crew supervisory checks and other operating practices to mitigate the possibility of operators performing duties while under the influence of alcohol.

Burlington Northern Railroad: Sep. 14: R–83–19 and 20: Reviewed and analyzed its training program to ensure that proper and sufficient instructions are stressed so employees are prepared to react to severe climatic conditions. Is providing necessary training and review of rules and instructions.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

October 3, 1983.

[FR Doc. 83–27491 Filed 10–7–83; 8:45 am]

BILLING CODE 4910–58–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Harmonized Commodity Description and Coding System

Summary: The Trade Policy Staff Committee hereby confirms that public hearings will be held on a proposed international agreement that would result in United States adoption of the international nomenclature known as the Harmonized Commodity Description and Coding System (Harmonized System) for the classification of goods for customs tariff and statistical purposes.

Time and place: Hearings will be held at the following locations beginning each day at 10 a.m.:

November 15–16: Room 2200–2208, 26 Federal Plaza, New York, New York;
November 21–22: Amphitheater, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C.

Hearings tentatively scheduled for other cities have been cancelled.

Testimony and submission of written briefs: Parties presenting oral testimony must submit a complete written brief by October 14, 1983.

Remarks at the hearings should be limited to no more than 15 minutes to allow for possible questions from the Chairman and the interagency panel. Participants should provide twenty typed copies of their oral presentation at the time of the hearings.

Persons not wishing to participate at the hearings or who wish to contest the information provided by other interested parties may submit a written statement in twenty copies by November 30, 1983 to Carolyn Frank, TPSC Secretary (Office of the U.S. Trade Representative, Room 500, 600 17th Street, NW., Washington, D.C. 20506).

Parties are referred to section 2003 of Title 15 of the Code of Federal Regulations for the Committee's rules concerning oral testimony, the submission of written briefs, the treatment of business confidential information, and other procedures related to TPSC public hearings.

For additional information, parties are referred to a notice appearing on August 1, 1983 in the **Federal Register**, Vol. 48, No. 148, Page 34822.

For further information contact: Sandra J. Kristoff, Director, Tariff Affairs, Office of the U.S. Trade Representative, Room 503, 600 17th Street, NW., Washington, D.C. 20506; telephone (202) 395–3063..

Frederick L. Montgomery,

Chairman Trade Policy Staff Committee.

[FR Doc. 83–27576 Filed 10–7–83; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Falcon/Sciences, Inc.; Order of Suspension of Trading

October 4, 1983.

It appearing to the Securities and Exchange Commission that Falcon/Sciences, Inc. ("Falcon") may have made inadequate and inaccurate disclosure regarding the identity and background of control persons of Falcon, the details of transactions between Falcon and entities also controlled by Falcon control persons, and the financial condition of the company, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Falcon.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in Falcon on a national securities exchange or otherwise is suspended, for the period from 12:15 P.M. on October 4, 1983 through midnight on October 13, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–27533 Filed 10–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13554; 812–5555]

MBC Financial Services Corp.; Application

September 30, 1983.

Notice is hereby given that MBC Financial Services Corporation ("Applicant") 2501 Cedar Springs Road, Dallas, TX, filed an application on May 27, 1983, and an amendment thereto on September 23, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable sections.

Applicant states that it is a Delaware corporation and a wholly-owned subsidiaray of Mercantile Finance B. V. ("Holding Company") which is itself a wholly-owned subisdiary of The Mercantile Bank of Canada ("Mercantile"). According to the application, Mercantile is the largest bank in Canada as ranked by assets at October 31, 1982, and is subject to extensive regulation by Canadian banking authorities.

Applicant represents that all of its outstanding capital stock is now owned by the Holding Company and undertakes that, at all times in the future, all of its outstanding capital stock will be held by the Holding Company, Mercantile or an affiliate of the Holding Company or Mercantile. Applicant also represents that there has been, and undertakes that in the future there will be, no public offering of the Applicant's capital stock or of any other equity security of the Applicant.

Applicant further represents that, as of July 31, 1982, it had 1,000 shares of common stock outstanding representing an aggregate shareholders' equity of approximately $21,348,000.

Applicant states that it is engaged principally in the business of making or otherwise acquiring secured and unsecured loans to Untied States borrowers through offices in Dallas, Denver and Los Angeles. Applicant proposes to offer, from time to time, its dept securities for sale in the United States, in both public offerings and private placement transactions, the proceeds of which would be utilized by the Applicant in the ordinary course of its business. The debt securities which the Applicant contemplates offering may include commercial paper, as well as other debt securities with longer maturities. Applicant further proposes to offer its letters of credit or guarantees in support of debt securities issued in the Untied States by Applicant's coustomers or other issuers unaffiliated with Applicant. The types of debt securities which Applicant wishes to support with its letters of credit and guarantees include short-term commercial paper, medium-term and long-term notes, industrial development bonds and other revenue bonds and obligations issued by United States state or municipal governmental units and instumentalities.

Applicant states that its publicly offered debt securities, letters of credit and guarantees will be supported by letters of credit, guarantees or other forms of support functionally equivalent to a guarantee provided by Mercantile will or by a banking institution defined as a "bank" in Section 3(a)(2) of the Securities Act of 1933 (the "Seucrities Act"), or entitled to the status of a "bank" under that section in accordance with the "no-action" letters made public by the commission with respect thereto ("Bank"). Applicant further represents that in any instance in which Applicant's publicly offered debt securities are supported by a letter of credit, guarantee or other form of support functionally equivalent to a guarantee issued by a Bank, Mercantile agree with Applicant to provide to Applicant, if and when required, such amounts as shall be necessary to satisfy Applicant's obligations on such debt securities if Applicant is otherwise unable to satisfy those obligations. In addition, Applicant states that any letters of credit or guarantees issued by Mercantile in support of debt securities, letters of credit or guarantees issued by the Applicant will rank *pari passu* among themselves and equally with all other unsecured, unsubordinated indebtedness of Mercantile, except for indebtedness of Mercantile which is given a statutory preference under the Bank Act of Canada or other statute.

Applicant undertakes that it will not issue or sell any of its debt securities in the United States or issue any of its letters of credit or guarantees in support of any debt securities or other issued an sold in the United States, unless the Applicant has received an opinion of United States counsel or a "no-action" letter issued by the staff of the Commission to the effect that the proposed issuance and sale or issuance is in compliance with, or entitled to an exemption from, the registration requirements of the Securities Act, or unless the offering is made pursuant to a registration statement under the Securities Act.

Applicant represents that any offering of its debt securities and any offering of the debt securities of others supported by the Applicant's letters of credit or guarantees will be effected on the basis of disclosure documents describing the business of the Applicant and providing the most recent annual audited financial statements for the Applicant. In the event such securities or letters of credit or guarantees are supported by the letters of credit or guarantees Mercantile, Applicant states that the disclosure document will include a description of Mercantile's business and will include Mercantile's most recent annual audited financial statements accompanied by a description of the material differences between the accounting principles applied in connection with Mercantile's financial statements and those applied in the case of banks in the United States. Applicant states further that in the event such securities or letters of credit or guarantees are supported by the letter of credit, guarantee or other form of support of a Bank, the disclosure document will include a description of the business of, and the most recent annual audited financial statements of, that Bank.

Applicant undertakes to insure that each dealer used in effecting an offering of its debt securities, letters of credit or guarantees will furnish the required disclosure document to each offeree. The disclosure document utilized in connection with any offering will be updated as promptly as practicable to reflect material adverse changes in the business and financial condition of the Applicant, Mercantile or any Bank issuing letters of credit, guarantees, or some other form of support of the Applicant's securities. The disclosure memorandum will be at least as comprehensive as those customarily

used in offering similar types of debt securities in the United States.

Applicant represents that, prior to issuance, any debt securities of the Applicant will have received, either in thier own right or as a result of the support by Mercantile or a Bank, one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Applicant's counsel shall have certified that the rating has been received. In addition, the Applicant will not issue its letters of credit or guarantees in support of the debt securities of another issuer unless, prior to the issuance of the debt securities with the supporting letters of credit or guarantees, the debt securities supported by the Applicant's letters of credit or guarantees, as so supported, have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organizations and the Applicant's counsel has certified that the rating has been received. Applicants assert that no rating shall be required, however, with respect to an issue of the Applicant's debt securities or an issue of the debt securities of another issuer supported by the Applicant's letters of credit or guarantees if, in the opinion of counsel to the Applicant, such counsel having taken into account for the purposes thereof the doctrine of "integration," an exemption is available for the issue pursuant to Section 4(2) of the Securities act or Regulation D promulgated thereunder.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 25, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-27524 Filed 10-7-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 13562; 812-5641]

Midland American Capital Corporation; Application

October 3, 1983.

Notice is hereby given that Midland American Capital Corporation ("Applicant") c/o Peter V. Darrow. Shearman & Sterling, 53 Wall Street, New York, NY 10005, filed an application on August 29, 1983, and an amendment thereto on September 30, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act ("Act") exempting Applicant from all the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, and to the text of the Act for its relevant provisions.

Applicant states that it was incorporated on August 23, 1983, under the laws of the State of Delaware. Midland Bank plc, a United Kingdom commercial bank ("Midland"), will own all the outstanding capital stock of Applicant. Applicant states that its principal business will be the raising of funds for Midland or subsidiaries of Midland. Accordingly, substantially all of Applicant's assets will consist of amounts receivable from Midland or its subsidiaries.

Applicant states that Midland has a majority interest in Crocker National Corporation, a bank holding company, and is registered as a foreign bank holding company under the Bank Holding Company Act of 1956, as amended ("BHCA"). Under the BHCA, Midland is subject to regulation by the Board of Governors of the Federal Reserve System ("Federal Reserve Board") governing, among other things, the types of activities in the United States in which it may engage. As a foreign bank having a licensed Federal branch in New York City, Midland is also subject to examination and regulation by the Comptroller of the Currency. Under BHCA, Midland is required to file with the Federal Reserve Board an annual report containing detailed information with respect to Midland and its United States subsidiaries. In the future, that annual report by Midland would include information about Applicant. Midland and Applicant are also required to furnish the Board with any additional information which the Board may request.

Applicant represents that Midland will not need the Federal Reserve Board approval under BHCA to acquire or control the shares of Applicant and that Applicant's proposed operations described in the application will not violate any provision of the BHCA. In addition, the BHCA provides that the Federal Reserve Board has the power under certain circumstances to terminate certain United States activities of Midland or to terminate Midland's control of the Applicant.

By order dated February 16, 1982 (Investment Company Act Release No. 12229), the Commission exempted Midland from all of the provisions of the Act. The order (the "Midland Order") was granted in response to Midland's application (filed on October 20, 1981) describing Midland's intention to sell commercial paper in the United States, as well as the possibility of offering for sale other debt securities in the United States.

Applicant states that it wishes to be in a position to undertake, on behalf of Midland, the issuance and sale of debt securities ("Securities") in the United States. Payment of principal of and premium, if any, and interest on the Securities would be unconditionally guaranteed by Midland. Those guarantees may be extended on a subordinated basis in order to comply with provisions of instruments pursuant to which Midland has issued and sold long-term debt securities outside the United States, will rank *pari passu* with other debt securities of Midland having the same degree of subordination and will rank senior to Midland's common stock. Applicant would advance to, or deposit with, Midland or subsidiaries of Midland substantially all of the proceeds of sale of Securities. The terms of the advances or deposits would allow Applicant to make timely payments of principal of and premium, if any, and interest on the Securities. Securities may be long-term, intermediate-term, or short-term instruments, including commercial paper.

Applicant represents that its offering of Securities would be limited to offerings of debt securities. Those would be either public offerings registered under the Securities Act of 1933, as amended (the "1933 Act") or sales of Securities by means of transaction exempt from the registration requirements of that Act. Securities will rank *pari passu* with other debt securities of applicant having the same degree of subordination and will rank senior to the stock of Applicant.

Applicant represents that it and Midland would, prior to a public offering of any Securities in the United States, file a registration statement under the 1933 Act with the Commission and would not sell any Securities until the registration statement was declared effective by the Commission and the related indenture was qualified under the Trust Indenture Act of 1939, as amended. Applicant and Midland would also comply with the prospectus delivery and other disclosure requirements of the 1933 Act and the rules and regulations thereunder in connection with the offering and sale of Securities. Applicant further represents that, in the case of an offering of Securities in the United States not requiring registration under the 1933 Act (including sales of commercial paper), Applicant and Midland would undertake to provide to any offeree in the United States (before that offeree purchases any Securities) a memorandum at least as comprehensive as memoranda customarily used in such offerings of debt securities in the United States and that that memorandum would be updated periodically to reflect material changes in the respective financial positions of Applicant and Midland. Similarly, any disclosure documents under the 1933 Act would be updated as required by law to reflect material changes in the respective financial positions of Applicant and Midland. The memorandum would also include a description of material differences between United States and United Kingdom generally accepted accounting principles, a description of the respective businesses of Applicant and Midland, and any other information regarding Midland that would be required in such a memorandum by the Midland Order. Applicant and Midland will not issue and sell such Securities until they have obtained an opinion of United States counsel concerning the applicability of the 1933 Act or any exemption therefrom. Applicant consents to having any order granting the relief requested expressly conditioned upon its compliance with the undertakings regarding disclosure memoranda.

Applicant also undertakes that, in connection with any issuance of Securities, Applicant and Midland would appoint an agent to accept service of process in any action based on the Securities or the guarantees thereof and instituted in any state or Federal court by any holder thereof, and Applicant and Midland would accept the jurisdiction of any state or Federal court in the Borough of Manhattan in the City and State of New York in any such action. Applicant and Midland will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Securities and the guarantees thereof or otherwise. That appointment of an authorized agent to accept service of process and consent to jurisdiction would be irrevocable until all amounts due or to become due on the Securities or the guarantees thereof have been paid. The authorized agent will not be, or be obligated to act as, a trustee for the holders of Securities or the guarantees thereof.

Applicant further represents that prior to issuing Securities it shall have received one of the three highest investment grade ratings from at least one nationally recognized investment rating organization and that its United States counsel shall have certified that such rating has been received. No such rating shall be required to be obtained, however, if, in the opinion of United States counsel for Applicant, an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act.

Applicant submits that it is merely the vehicle through which any sale of Securities would be accomplished. Applicant would advance to, or deposit with, Midland or subsidiaries of Midland substantially all of the financing proceeds on terms which would allow Applicant to make timely payments of principal of and premium, if any, and interest on Securities. In addition, the obligations of the Applicant would be guaranteed unconditionally by Midland, with the effect that the holders of any Securities would be looking to Midland as the ultimate obligor. For these reasons, Applicant submits that the purchase of its Securities would be the equivalent of purchasing obligations of Midland. Applicant asserts that the same policy considerations pursuant to which the Commission approved the Midland exemption should apply in the case of the Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 28, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washingon, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Comission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-27521 Filed 10-7-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 13564; 812-5629]

Nationwide Investing Foundation et al.; Application

October 4, 1983.

Notice is hereby given that Nationwide Investing Foundation ("Nationwide") registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, and Heritage Securities, Inc. ("Heritage"), One Nationwide Plaza, Columbus, OH 43216, Nationwide's principal underwriter, distributor and investment adviser (collectively with Nationwide, "Applicants"), filed an application on August 10, 1983, for an order pursuant to Section 6(c) of the Act, exempting certain transactions from the provisions of section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit sales of classes of shares presently offered by Nationwide, and of those classes which may in the future be offered by Nationwide, at net asset value without a sales charge to former agents and sales representatives of Nationwide Mutual Insurance Company and its affiliated companies ("Nationwide Group") on terms and in the manner described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of applicable provisions.

Applicants state that Nationwide is a common law trust with several classes of shares which are continuously offered to the public pursuant to effective registration statements under the Securities Act of 1933, and consist of the following: Nationwide Fund, Nationwide Growth Fund, Government Money

Market Fund (collectively, the "Funds"). Shares of each class are distributed by Heritage at public offering prices (for initial investments) equal to net asset value per share plus a sales charge.

The application states that the entire sales force of Heritage is comprised of licensed insurance agents of the companies making up the Nationwide Group. Commissions paid to those agents from insurance premiums containing a sales charge are designed to compensate the agent for the effort that he has put forth in making the customer contact. Heritage is a wholly-owned subsidiary of Nationwide Corporation, an incorporated insurance and financial services holding company. Applicants represent that the insurance companies, affiliates, and subsidiaries comprising the Nationwide Group have striven to create a network of multi-line agents licensed and qualified to provide a wide range of insurance and related financial planning products and services to their customers.

The application states that the following companies comprise the Nationwide Group of companies: Nationwide Mutual Insurance Company, Nationwide Mutual Fire Insurance Company, Nationwide Life Insurance Company, Nationwide General Insurance Company, Nationwide Property and Casualty Insurance Company, Nationwide Variable Life Insurance Company, Michigan Life Insurance Company, West Coast Life Insurance Company, Gulf Atlantic Life Insurance Company, National Casualty Company, and other insurance and noninsurance companies which are subsidiaries of or otherwise affiliated with Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company. The intercorporate ownership of the Nationwide Group of companies is such that Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company are the ultimate controlling persons of the companies within the Nationwide Group.

Applicants propose to permit former agents and sales representatives (collectively, "former agents") of the Nationwide Group to purchase on their own behalf, and on behalf of a spouse or their children under the age of 21 years, shares of the Funds or of any other class of shares which may in the future be offered by Nationwide for initial and subsequent investment, at net asset value determined in accordance with Rule 22c–1 under the Act without the imposition of a sales charge as otherwise applied pursuant to the prospectuses of the Funds. Purchases on behalf of a spouse or child will be eligible for purchase at net asset value only if that purchase is directed by the former agent.

Applicants assert that any such sales will be made only upon the written assurance of the former agent that the purchase is being made for the purpose of investment and that the shares will not be resold except to Nationwide. In the event of the death of a shareholder, his legal representative, legatee or beneficiary will be permitted to continue to hold such shares subject to the same restriction that they will not be resold except to Nationwide.

Applicants submit that the sale of shares of the Funds at net asset value to former agents may conflict with the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder. Nevertheless, Applicants assert that investment by former agents in shares of the Funds at net asset value pursuant to a uniform offer described in the prospectus of the Funds would not be inconsistent with the purposes underlying Section 22(d) of the Act.

Applicants state that the proposed sale to former agents would result in substantial economies in sales efforts and sales-related expense as compared with other sales. Former agents, because of their training and experience, have a basic understanding of the nature of an investment in an investment company as well as general familiarity with, and a significant degree of loyalty to the Funds as affiliates of the Nationwide Group. Applicants submit that the affiliation of the various entities in the Nationwide Group is the basis for a unique relationship of these entities to the Funds and that substantial equities exist in favor of the classes of persons described above since the customary selling expenses would not be incurred by the Funds or the distributor in connection with these sales.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 28, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–27523 Filed 10–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13552 and 884; 812–5581 and 803–32]

Prutech Venture Partners I, L.P., et al.; Application

September 30, 1983.

Notice is hereby given that Prutech Venture Partners, I, L.P. ("Partnership") and Prudential-Bache Venture Capital Inc. ("Managing General Partner," collectively, the "Applicants") 100 Gold Street, New York, NY 10292, filed an application on June 24, 1983, and amendments thereto on August 17 and Aulgust 30, 1983, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") declaring that the independent general partners of the Partnership are not "interested persons" of the Partnership as defined in Section 2(a)(19) of the Act solely by reason of their being general partners thereof, and pursuant to Section 57(c) of the Act exempting from the provisions of Section 57(a) of the Act the proposed acquisition of certain initial venture capital investment by the Partnership from Prudential-Bache Securities Inc. Notice is further given that Applicants filed an application on June 24, 1983, and an amendment thereto on August 17, 1983, for an order pursuant to Section 206A of the Investment Advisers Act of 1940 ("Advisers Act") exempting Applicants for Section 205(1) of the Advisers Act, to the extent necessary to permit the Managing General Partner of the Partnership to receive, under certain circumstances, and performance fee on the basis of unrealized capital gains upon the Partnership's portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and the the Act and the Advisers Act for the complete text of pertinent provisions of those Acts.

Applicants state that the Partnership is a newly formed business development company organized as a Delaware limited partnership pursuant to a Certificate and Agreement of Limited Partnership dated June 15, 1983 ("Partnership Agreement"). Applicants represent that as a business development company, the Partnership is subject to Sections 55 through 65 of the Act and to those section of the Act made applicable to business development companies by Section 59 thereof. The investment objective of the Partnership is to seek long-term capital appreciation by making venture capital investments. The Partnership has filed a Registration Statement under the Securities Act of 1933 with respect to a proposed public offering of up to 5,000 Units of limited partnership interests ("Units"). The Partnership hopes to raise approximately $25 million in the offering. Those proceeds will be invested in venture capital investments over a period of two to three years. Each of those investments will be liquidated once it reaches a state of maturity when disposition can be considered. The proceeds of liquidation will not be reinvested except in limited circumstances but will be distributed to the Partners. The partnership will have a duration of not more than fourteen years.

Applicants state that the Managing General Partner will be responsible for the Partnership's venture capital investments and, pursuant to a management agreement, will also perform the management and administrative services necessary for the operation of the Partnership. The Managing General Partner will be a registered investment adviser under the Advisers Act. Applicants represent that the Managing General Partner is a wholly-owned subsidiary of Bache Group Inc., which is an indirect, wholly-owned subsidiary of the Prudential Insurance Company of America ("Prudential"). Applicants further state that Prudential-Bache Securities Inc. ("Prudential-Bache"), and indirect, wholly-owned subsidiary of Prudential, will serve as the selling agent for Units of the Partnerships on a "best efforts" basis.

Appllicants state that the general partners of the Partnership consist of "Individual General Partners" and the Managing General Partners. As set forth in the Partnership's prospectus, three individuals are "Individual Limited Partners," all of whom are also Independent General Partners (defined to be individuals who are not "interested persons" of the Partnership within the meaning of the Act). Applicants represent that the Partnership will be managed solely by the Individual General Partners, except that the Managing General Partner, subject to the guidance and supervison of Individual General Partners is responsible for the management of the Partnership's venture capital investments and the admission of additional or assigned Limited Partners to the Partnership. The Individual General Partners will act by majority vote. It is stated further that the Individual General Partners will perform the same functions as directors of a corporation, and the Independent General Partners will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on non-Interested directors of a business development company. Applicants represent further that only individuals may serve as Individual Limited Partners. The Limited Partners have no right to control the Partnership's business,but may exercise certain rights and powers of a Limited Partner under the Partnership Agreement, including certain voting rights, and the giving of consents and approvals provided for in the Partnership Agreement.

The Partnership Agreement provides that the Managing General Partner may be revoved either: (i) By a majority of the Independent General Partners, (ii) by failure to be re-elected by the Limited Partners (iii) with the consent of a majority in interst of the Limited Partners. Applicants undertake that the Managing General Partner will not resign or withdraw from the Partnership unless a successor Managing General Partner has been appointed and consented to by the Limited Partners in compliance with the Partnership Agreement. As set forth in the Partnership Agreement, the Managing General Partner may voluntarily resign or withdraw from the Partnership only upon compliance with certain specified procedures.

Applicants state that the Independent General Partners, are "interested persons" of the Partnership, as defined in Section 2(a)(19) of the Act, by virtue of being partners of the Partnership, which makes them "affiliated persons" of the Partnership. It is further stated that the Independent General Partners could also be construed to be "interested persons" of the Partnership by virtue of being "interested persons" of an investment adviser and principal underwriter to the Partnership. The Independent General Partners are "affiliated persons" of the Managing General Partner by virtue of being "co-partners" with the Managing General Partner, which could be construed to be an investment adviser of the Partnership. Applicants also state that the Managing General Partner is under "common control" with Prudential-Bache, the principal underwriter with respect to the sale of the Unites, which makes the Managing General Partner an affiliated person of Prudential-Bache and Prudential, which controls the Managing General Partner and Prudential-Bache.

Applicants request that the Partnership and its Independent General Partners be exempted from the provisions of Section 2(a)(19) to the extent the Independent General Partners would otherwise be deemed to be interested persons of the Partnership, the Managing General Partner, Prudential-Bache or Prudential solely because they are general partners of the Partnership and co-partners with the Managing General Partner. Applicants state that the Partnership has been structured so that the Independent General Partners are the functional equivalents of the non-interested directors of an incorporated investment company.

In addition, Applicants expect that it will take a period of up to two to three months from the date of the last amended application before the public offering of the Units is consumated and the Partnership receives the proceeds from the sale of such Units. Applicants state that they believe that during this period prior to consummation of the proposed offering of the Units it is expected that several venture capital investment opportunities suitable for investment by the Partnership within the investment objective and policies stated in the prospectus will come to the attention of the Managing General Partner. It is further stated that Prudential-Bache currently holds certain other venture capital investments which are also suitable investments for the Partnership. Applicants asserts that the Partnership will not have the funds to make such venture capital investments until consummation of the public offering and, due to the nature of venture capital investments, such investment opportunities could be lost to the Partnership if not then acquired by Prudential-Bache.

Applicants request an order pursuant to Section 57(c) of the Act to permit the Partnership to acquire certain venture capital investments currently held, and to be acquired, by Prudential-Bache in exchange for the Units or cash on the basis of the lower of cost or fair market value of such investments. Applicants represent that for purposes of the proposed exchange the Units will be issued at their public offering price less the underwritng discount and commissions. Applicants further represent that the fair value of the

VOL 48 ISS 197 OCT 11 1983 UMI

VOL 48 ISS 197 OCT 11 1983 UMI

venture capital investments will be determined by the Individual Limited Partners on the same basis that the Partnership's portfolio will be valued.

Applicants assert that these venture capital investments have been or will be acquired by Prudential-Bache in arm's-length transactions and have not or will not involve any entity which is an affiliated person (within the meaning of Section 2(a)(3) of the Act) of Prudential-Bache or an affiliated person thereof. Applicants further state that the investments to be acquired by Prudential-Bache during the two to three month period from the date of the application to the time the Partnership receives the proceeds from the sale of the Units will be structured as if the Managing General Partner were negotiating for the Partnership to make the acquisitions directly. Applicants represent each such investment and the cost thereof will be disclosed in the Partnership's prospectus.

According to the application, the Partnership will not be obligated to acquire the venture capital investments if that acquisition is not approved by the Individual General Partners or if the public offering is not consummated. Applicants state that if the Partnership does not acquire these investments, Prudential-Bache will retain the investments for its own account. Applicants further state that except with respect to one venture capital investment currently held by Prudential-Bache, if the acquisition of the venture capital investments is approved by the Individual General Partners, Prudential-Bache must transfer each investment so acquired in its entirety to the Partnership following the sale of the Units to the public.

Applicants further request an order pursuant to Section 206A of the Advisers Act exempting Applicants from the provisions of Section 205(1) to permit the proposed performance fee arrangement described below. Applicants state that, in addition to an annual management fee of two percent of the Partnership's net assets, the Partnership Agreement provides that the Managing General Partner shall be allocated the Partnership's net realized capital gains or losses, as the case may be, for such year until it has received: (i) 20% of the Partnership's net capital gains calculated on a cumulative basis over the life of the Partnership through such year, if the Partnership has generated net realized capital gains on such cumulative basis through such year, or (ii) 10% of the Partnership's net capital losses calculated on a cumulative basis over the life of the Partnership through such year, if the Partnership has generated net realized capital losses on such cumulative basis through such year ("Managing General Partner's allocation"). Applicants further represent that distributions to the Managing General Partner shall not be made to the extent that the net realized gains allocated to the Managing General Partner are equal to or less than an amount equal to 20% of the cumulative net unrealized losses of the Partnership determined as of the end of the fiscal year for which such distributions are made.

The Partnership Agreement further provides that upon the involuntary removal of the Managing General Partner, all venture capital investments made by such Managing General Partner shall be deemed realized at that point for purposes of determining the Managing General Partner's final performance fees. Applicants further propose that all unrealized gains and losses on securities distributed in kind to the Partners upon termination of the Partnership, as well as during the life of the Partnership, will be deemed realized at that time.

Applicants state that the Partnership Agreement provides that in the event of the involuntary removal of the Managing General Partner and the continuation of the Partnership, the venture capital investments of the Partnership at the time of removal will be appraised by two independent appraisers, one selected by the removed Managing General Partner and one selected by the Independent General Partners. The cost of the appraisal conducted by the appraiser selected by the removed Managing General Partner will be borne by the removed Managing General Partner, and the cost of the appraisal conducted by the appraiser selected by the Independent General Partners will be borne by the Partnership. In the event the two appraisers are unable to agree on the value of the Partnership's venture capital investment portfolio, they will jointly appoint a third independent appraiser whose determination shall be final and binding. The cost of the appraisal conducted by the third appraiser, should one be selected, will be divided equally between the Partnership and the removed Managing General Partner. All unrealized capital gains and losses of the Partnership will be deemed realized at that time. Applicants further state that the removed Managing General Partner will receive a final allocation of capital gains and losses (including unrealized capital gains and losses deemed realized for this purpose) pursuant to the formula used to calculate the Managing General Partner's allocation.

In addition, Applicants represent that an independent appraisal will be made of the value of securities distributed in kind to the Partners during the life of the Partnership that are valued other than on the basis of either: (i) Available market quotations, or (ii) third party transactions involving actual transactions or actual firm offers by independent investors. The term "independent investors," as used herein, refers to investors who are not "affiliated persons," within the meaning of the Act, of the Partnership, the Managing General Partner, Prudential or its subsidiaries.

Applicants further represent that distributions in kind made upon termination of the Partnership will be such that if the securities so distributed exceed ten percent of the capital contributions to the Partnership (the total amount of money contributed to the Partnership by all the Partners), an appraisal will be made of the value of the securities so distributed which are not valued on the basis of available market quotations or on the basis of third party transactions involving actual transactions or actual firm offers by independent investors. Any appraisal required as a result of in kind distributions will be conducted in accordance with the procedures described above with respect to removal of the Managing General Partner.

Applicants represent that the proposed formula for computing the Managing General Partner's performance fee has been so structured because of the special nature of the Partnership. The venture capital investments will be made in the early years of the Partnership. According to Applicants, bad venture capital investments typically surface earlier than successful ones and the ultimate success of the Partnership may depend upon realizing substantial gains in a relatively small number of the investments. The value of these successful investments cannot be realized until relatively late in the life of the Partnership when portfolio companies can be taken public or acquired by another company.

Applicants state further that the Managing General Partner will bear 10 percent of any net realized losses. If the Managing General Partner were removed prior to the termination of the Partnership, and it were not able to receive performance compensation with respect to any unrealized gains, it would be deprived of compensation with respect to those venture capital investments it had made for the Partnership which were still held by the Partnership. By the same token, the Managing General Partner would not bear 10 percent of any net unrealized losses with respect to such investments. Therefore, if the Managing General Partner is removed for poor performance, the Partnership could benefit under Applicant's proposal as a result of the deemed realization of losses. At the same time, the Managing General Partner would receive protection from being removed in the middle years of the Partnership in order to deprive it of the benefit of successful investments which will be most likely realized in the later years. Applicants assert further that if the capital account of the removed Managing General Partner has a positive balance after its final allocation of profits and losses, the Managing General Partner will receive a promissory note of the Partnership, payable only from available cash. On the other hand, the Managing General Partner must contribute cash to cover any negative balance in its capital account.

Applicants assert that distributions in kind during the life of the Partnership will give the Partnership's investors flexibility in the timing of gains and losses upon the distributed securities with resultign tax advantages to the investors. Applicants also state that permitting a performance fee on the basis of distributions in kind made upon termination of the Partnership will facilitate distribution of portfolio securities not yet "ripe" for realization.

Applicants represent that the appraisal procedures are designed to take into account the difficulties of determining the fair market value of venture capital investments and to provide for an analysis of the long-term potential of such investments. They argue that deeming unrealized gains and losses to be realized upon termination of the Partnership and upon distributions in kind treats such events as dispositions of the investments by the Partnership and, in the first instance, reflects the fact that the Partnership has limited duration, a factor not contemplated by Section 205(1) of the Advisers Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 25, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary

[FR Doc. 83-27528 Filed 10-7-83; 8:45 am]

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[Release No. 13553; 812-5580]

State Farm Mutual Automobile Insurance Co. et al.; application

September 30, 1983.

Notice is hereby given that State Farm Mutual Automobile Insurance Company ("Auto Company"), State Farm Fire and Casualty ("Casualty Company"), State Farm Investment Management Corp. ("Adviser"), State Farm Growth Fund, Inc. ("Growth Fund"), State Farm Balanced Fund, Inc. ("Balanced Fund"), and Edward B. Rust, Roger Joslin and Roland F. Marston ("Trustees"), Trustees of the Trust ("Trust") for the State Farm Insurance Companies' Incentive and Thrift Plan for United States Employees ("Plan," collectively, "Applicants") One State Farm Plaza, Bloomington, IL 61701, filed an application on June 24, 1983, requesting the Commission to issue an order pursuant to Section 17(b) of the Investment Company Act of 1940 ("Act") exempting from the provisions of Section 17(a)(2) of the Act the proposed redemption in kind of all the Trust's shares of Growth Fund and Balanced Fund. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of its relevant provisions.

Applicants state that Growth Fund and Balanced Fund ("Funds") are Maryland corporations registered under the Act as open-end, diversified, management investment companies. As of March 31, 1983, the Trustees held for the Trust 48.53% of the outstanding shares of Growth Fund and 47.35% of the outstanding shares of Balanced Fund. Applicants state that Auto Company and its wholly-owned subsidiary, Casualty Company, are Illinois insurance corporations. Adviser, a wholly-owned subsidiary of Casualty Company, is a Delaware corporation and the investment adviser and manager, underwriter and transfer agent of the Funds. The Trustees are the trustees of the Trust for the Plan, a voluntary contributory profit-sharing plan qualified under Section 401(a) of the Internal Revenue Code ("Code"). The Trustees, each of whom is a director or officer of Auto Company, Casualty Company, Advisor or Funds, are appointed pursuant to the Trust Agreement between the Trustees and Auto Company ("Trust Agreement").

According to the application, before April 1, 1983, assets in the Plan's growth equities account were invested exclusively in the Growth Fund, and assets in the Plan's balanced equities account exclusively in the Balanced Fund. Except for reinvestments of dividends and distributions on Fund shares, after March 30, 1983, contributions made to the growth equities account have been invested not in the Growth Fund, but in other growth-type securities, and contributions to the balanced equities account not in the Balanced Fund, but in bonds and equity securities.

Applicants state that the Funds believe that if past trends of concentration of the ownership of the Funds' shares continue, the Funds might become "personal holding companies" under Section 542 of the Internal Revenue Code ("Code"). Applicants state that the consequence to either Fund of the Fund's becoming a personal holding company would be severe, because the Fund would not be taxed as a "regulated investment company" under Sections 851–55 of the Code, and as a result would incur corporate income tax.

The application states that the Trustees have decided to disassociate the Trust from the Funds to avoid the Funds' becoming personal holding companies. Applicants propose that after the board of directors of each Fund declares a dividend and a capital gains distribution payable to shareholders of record (including the Trustees) at the close of business on the day of declaration, the Trustees will present to each Fund for redemption by that Fund all of the shares of that Fund that they hold, accompanied by a request that the proceeds of the redemption be paid in kind. The Trustees will then receive their proportionate interest in each portfolio security held by each Fund (including accrued interest) and their proportionate interest in the cash and any other assets held by each Fund,

subject to adjustments to round lots and for fractional interests. It is represented that proportionate interest will be the percentage equivalent of a fraction the numerator of which will be the value of the redemption proceeds payable to the Trustees by a Fund and the denominator of which will be the value of the Fund's total net assets.

Applicants state that the actual number of shares or units of stock and other equity securities, to be transferred by each Fund to the Trustees will be rounded to the nearest round not in which each equity security is regularly traded (or to the nearest 100 units if the security is not regularly traded). The principal amount of debt securities to be transferred will be rounded to the nearest $1000 or (if larger) the nearest obtainable unit of principal amount of a debt security (including a convertible security). The amount of cash to be transferred by each Fund to the Trustees will be determined by subtracting from the total redemption proceeds payable by the Fund to the Trustees the market value of the securities (including accrued interest on the debt securities) transferred by the Fund to the Trustees.

Applicants state that if units of a particular portfolio security of a Fund have different bases for federal incame tax purposes, the Fund will transfer to the Trustees those units of the security with the lowest tax bases. They assert that the retention by each Fund of the portfolio securities with the highest tax bases will benefit most of Fund shareholders remaining ofter redemption by the Trustees (since most of the the shareholders are subject to federal income tax), because it will reduce the taxable gain (or increase the taxable loss) upon subsequent disposition of such securities by the Fund. Since the Plan is exempt from federal income tax, the bases of the securities received by the Trust will have no federal income tax consequences to Plan participants.

The Trustees request exemption from the provisions of Section 17(a)(2) of the Act so they may receive, without question under the Act, the proceeds of the redemption of Fund shares in kind i portfolio securities and any other property of the Funds. The other Applicants join in the request because of their participation in, or association with, the redemption. Applicants believe that the redemption in kind would not constitute a purchase of any security or other property by the Trustees from the Funds within the meaning of Section 17(a)(2). However, because of questions of interpretation concerning the scope of Section 17(a)(2), Applicants request an order of exemption to the extent that the redemptions in kind might be deemed purchases of securities or other property by the Trustees from the Funds.

Applicants assert that a redemption of the Plan's shares in cash would require the Funds to liquidate in the market almost half of their portfolios and would result in th realization of large capital gains from the sales of securities on which the taxpaying shareholders remaining in the Funds would be subject to federal income tax. In addition, since it is expected that the Trustees will continue to hold in the normal course nearly all of the securities received in kind, Applicants assert that redemption in cash would compel the Trustee to incur unnecessary transaction expenditures of considerable amount in reinvesting the redemption proceeds. Applicants represent that a ruling has been received from the Internal Revenue Service to the effect that under existing federal income tax law the proposed transfer of portfolico securities by the Funds to the Plan will not result in recognition of taxable gain or loss to the Funds or their shareholders. Applicants state that the proposed distribution of substantially all undistributed net income and realized capital gains to shareholders of record immediately before the time of redemption will assure that those shareholders remaining in each Fund who are subject to income taxation will not in the future receive a disproportionately large share of federal income tax liability.

Applicants assert that the proposed delivery to the Trustees of portfolio securities pro rata is an unbiased and objective method assuring that the Trustees and the remaining shareholders of each Fund will be accorded substantial equality and fairness. Applicants further assert that the Plan participants will continue to have the same investment choices although the money presently in the investment accounts will be invested in other securities, and that the appointment of Auto Company as the entity responsible for investment decisions involving Trust assets will assure the presence of a qualified entity responsible for investment decisions which previously would have been made by each Fund.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 25, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date; an order disposing of the application will be issued unless the Commission, orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27525 Filed 10-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13563; 811-3594

1900 Tower Fund; Application

October 4, 1983.

Notice is hereby given that 1900 Tower Fund ("Applicant") 421 Seventh Avenue, Pittsburgh, PA, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on August 3, 1983, for an order pursuant to Section 8(f) of the Act declaring tht it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the text of the Act for its relevant provisions.

Applicant states that it was organized on October 7, 1982, under the laws of the Commonwealth of Massachusetts, and that on November 2, 1982, it registered under the Act on Form N-8A, and filed its registration statement on Form N-1 pursuant to Section 8(b) of the Act. As of the date of the filing of the application, that registration statement pursuant to the Securities Act of 1933 had not been declared effective and no initial public offering of Applicant's securities had taken place. On June 3, 1983, Applicant's sole shareholder authorized Applicant's Trustees to wind-up its affairs, request withdrawal of its registration statements under the Act and the Securities Act of 1933, and take any further steps necessary to wind-up and terminate the Trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 28, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific

issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27522 Filed 10-7-83; 8:45 am

BILLING CODE 8010-01-M

[Release No. 20241; File No. SR-CBOE-83-34]

Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated

September 30, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 22, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change provides for increases in position and exercise limits for options on certain U.S. Treasury bonds and notes by establishing a three-tier system of limits. It provides that limits would be $100 million principal amount of underlying securities where the initial or reopened public issuance is $1 billion or greater and less than $2 billion, $200 million principal amount of underlying securities where the initial or reopened public issuance is $2 billion or greater and less than $4 billion, and $400 million principal amount where public issuance is $4 billion or greater.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Reference should be made to File No. SR-CBOE-83-34.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27531 Filed 10-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20251; File No. SR-OCC-83-20]

Filing of Proposed Rule Change by the Options Clearing Corp.

October 3, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s (b)(1), notice is hereby given that on August 26, 1983, The Options Clearing Corporation)"(OCC") filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change. The proposed changes to OCC's By-laws and Rules add or amend several provisions setting forth the rights and obligations of OCC, its clearing members, and third parties under OCC's By-laws and Rules and the Uniform Commercial Code.

Proposed Article VI, Section 9(c) of OCC's By-laws would establish that, on matters not covered specifically by OCC's By-laws and Rules, applicable provisions of Articles 8 and 9 of the Uniform Commercial Code of Delaware (the "Code"), including the conflicts of law provisions, govern the rights and obligations of OCC, its clearing members and third parties. Delaware, the state where OCC is incorporated, recently amended provisions in Article 8 of the Uniform Commercial Code that concern uncertificated securities. Proposed Article VI, Section 9(c) also would designate the clearing member in whose OCC account an option is carried to be the "registered owner" of the option as that term is defined in Section 8-106 of the Code. In addition, proposed Article VI, Section 9(c) would stipulate that options can be transferred or pledged only in accordance with OCC's By-laws and Rules or with OCC's written consent. OCC would not be obliged to recognize any pledge or transfer not in accordance with its By-laws and Rules.

Article VI, Section 10 of OCC's By-laws would be amended by adding new paragraph (a) to incorporate OCC's By-laws and Rules in the terms of each option contract issued by OCC. Each contract thus would expressly include all By-law and Rule provisions relating to OCC's liens on option contracts and its liquidation rights.

OCC proposes to amend OCC Rule 614(m) to state that OCC's obligations with respect to options pledges under OCC Rule 614 ("Rule 614 Pledges") shall be governed only by OCC's By-laws and Rules. The proposed amendment also states that a Rule 614 pledge would not be a "registered pledge" within the meaning of Section 8-106 of the Code. OCC operates a pledge program that contains unique provisions respecting pledgees' rights and obligations. Those special rights and obligations may vary from state statutory rights and obligations. OCC also has revised Rule 614(m) to designate OCC as a "financial intermediary" as that term is defined in Section 8-313(4) of the Code.

OCC states in its filing that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 in that it would protect investors and the public interest by clarifying that the recent amendments of the Uniform Commercial Code apply to listed options. In addition, to the extent that the proposed rule change would override potential variations from state to state in the mechanics of creating and perfecting security interests in options, OCC believes it would remove impediments to a national system for the clearance and settlement of options transactions. In that regard, if the Commission approves the proposed rule change, OCC requests that the Commission preempt contrary provisions of state law. OCC also states that the proposed rule change would not adversely affect OCC's system of safeguards.

To assist the Commission in determining whether to approve the

proposed rule change or to institute disapproval proceedings, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W.,Washington, D.C. 20549. Reference should be made to File No. SR–OCC–83–20.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–27530 Filed 10–7–83; 8:45 am]

BILLING CODE 8010–01–M

Release No. 20243; SR–MSRB–83–11]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

September 30, 1983.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, N.W., Washington; D.C. 20036, submitted on August 23, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to allow customer confirmations sent through the automated confirmation facilities of a clearing agency registered with the Commission to omit the address and telephone number of the confirming broker, dealer, or municipal securities dealer. The Board believes that investors whose transactions are cleared through automated confirmation systems know how to contact persons with whom they effect transactions and therefore, confirmations need not reflect the aforementioned information.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 20128, August 29, 1983) and by publication in the Federal Register (48 FR 40333, September 6, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, in particular, the requirements of Secion 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–27527 Filed 10–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20242; SR–MSRB–83–10]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

September 30, 1983.

The Municipal Securities Rulemaking Borad ("MSRB") 1150 Connecticut Avenue, NW., Washington, D.C. 20036, submitted on August 23, 1983, copies of a proposed rule change and an amendment thereto on September 23, 1983, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1834 ("Act") and Rule 19b–4 thereunder, to amend MSRB Rule G–12 (e) (vii)(c) regarding delivery of bearer securities, to allow checks delivered in lieu of the next-payable coupon to be payable not later than the interest payment date. The MSRB is also amending paragraphs (e)(xiv)(G) and (H) of Rule G–12 regarding the delivery of registered securities to allow checks for the value of the next interest payment to be received to be payable not later than the interest payment date. The amendment, dated September 23, 1983, gives the seller or its agent the right to deliver a check payable on the later of the interest payment date or the delivery date and revises the proposed rule change to allow the use of a check even though the delivery of bearer securities occurs in a transaction where the settlement date is not 30 days prior to the coupon delivery date.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 20127, August 29, 1983) and by publication in the Federal Register (48 FR 40334, September 6, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the porposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–27528 Filed 10–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20244; SR–NASD–83–14]

National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

September 30, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) notice is hereby given that on August 30, 1983, the National Association of Securities Dealers, Inc. ("NASD") 1735 K Street, NW., Washington, D.C. 20006, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would revise the content of the NASD's qualification examination for Limited Principals—Direct Participation Programs. The exam is one of the qualifications examinations which the NASD gives to ensure that people seeking to become registered representatives or principals possess an adequate knowledge of their subject area and attendant regulatory requirements. All persons seeking registration as a Limited Principal—Direct Participation Programs must pass the NASD's specialized exam. The NASD states that the revised exam will incorporate regulatory changes made by the North American Securities Administrators Association to their guidelines for real estate [1] and oil and gas programs,[2] Appendix F of the NASD's Rules of Fair Practice, Regulation D of the Securities Act of 1933 and tax issues related to investments in direct participation programs.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–NASD–83–14.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the NASD.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the rule change. Under the proposed rule change examination questions have been revised to cover regulatory and statutory changes applicable to direct participation programs. The Commission believes it is appropriate to institute the revised examination as soon as possible to ensure that the exam reflects current law and practice in the area of direct participation programs.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

[1] 1 Blue Sky Rep. (CCH) ¶ 5361.

[2] 1 Blue Sky Rep. (CCH) ¶ 5221.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–27529 Filed 10–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–20250; File No. SR–OCC–83–15]

Self-Regulatory Organization; Proposed Rule Change By The Options Clearing Corp.; Adoption of an On-line Data Entry System Enabling Members To Submit Data to the Corporation via On-line Computer Terminals

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 13, 1983, The Options Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow the Corporation to require or permit Clearing Members to submit specific types of data by on-line data entry. The Corporation would display the status of each item transmitted on a Monitor Screen maintained in the Clearing Member's office. The Clearing Member would then be able to correct, re-enter, or re-edit any of the data prior to a specified cut-off time. Failure by the Clearing Member to change the data before the cut-off time would constitute a waiver of the right to have the data changed. Clearing Members would not be charged for the use of the on-line system.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The prupose of the proposed rule change is to improve the accuracy and efficiency of the current data imput and Clearing Member inquiry procedures of OCC. The new "on-line" system would allow for entry of data, exercise notices and instructions by transmission directly to OCC form the Clearing Member's office. Immediately following the Clearing Member's transmission, OCC would display on the Clearing Member's screen, current information on the status of each item transmitted. The Clearing Member would then have an opportunity to re-edit and re-enter the information from its office before final editing and entry by OCC.

As an alternative to present procedures, the on-line system would eliminate inefficient and unnecessary steps in the clearing process, benefitting Clearing Members and OCC alike. The practice under existing rules is for Clearing Members to submit information to OCC in machine-readable form, hand delivered by courier from the Clearing Member's office. This practice has several shortcomings. One problem is the volume of input errors. When data is submited in machine-readable form as either key-punched cards, diskettes, or magnetic tapes, there is a greater potential for clerical errors than when data is entered direct from key to disk, using the on-line procedure. The on-line procedure is more precise and therefore more reliable.

Another problem with machine-readable data is that it must be hand-delivered. Due to this extra step, the transaction speed for entry of Machine-readable data is slower than for on-line entry. It also adds an unnecessary securitysecutiry risk.

The on-line entry system has improved automated editing features which would reduce the amount of time necessary for OCC to edit Clearing Member input. Clearing Members would benefit from this improvement since, with decreased time requirements for the editing process itself, OCC could allow more hours per day for data entry by Clearing Members, thus maximizing their access to the system.

The introduction of the on-line system would begin with a pilot program for two Clearing Members. At first, the pilot program would limit the participating Clearing Members to two types of transactions, position adjustments and exercise notices. The program would gradually expand to include more Clearing Members and types of transactions, based on these initial observations and results. The long range objective of the pilot program would be to implement on-line service in a series of phases, eventually making it available to all Clearing Members, for a broad range of transactions.

Clearing Members would not be charged for use of the on-line system either during the pilot program or thereafter. The two initial Clearing Members will have the choice of supplying their own on-line terminals, or having OCC supply them. Additional

Clearing Members will be required to purchase or lease their own hardware.

The proposed rule change would not affect the safeguarding of securities or funds in OCC's custody or control, or for which it is responsible.

Strict confidentiality for information in OCC's control would be provided by the on-line system. Access to a particular Clearing Member's information file would be provided only to that Clearing Member. Also, the on-line system would include back-up and recovery systems in case of harware or software failure. These systems would provide records of all transactions for use by OCC should the need arise.

The proposed rule change is in accordance with Section 17A(a)(1)(c) of the Securities Exchange Act of 1934 since it provides for the introduction of new data processing and communications techniques creating the opportunity for more efficient, effective, and safe procedures for clearance and settlement.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change is not expected to have any impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments by Clearing Members have been uniformly in favor of the proposed change. Several Clearing Members voiced a desire to be part of the pilot program.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organizatio consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 3, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27532 Filed 10-7-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements for OMB Review

ACTION: Notice of Reporting Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are requrired to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before November 10, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible. COPIES: Copies of the proposed form, the requests for clearance (S.F. 83), supporting statement, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

Form Submitted for Review

Title: Dredging Industry Questionnaire
Form No.: SBA 1374
Frequency: Non-recurring
Description of Respondents: Dredging firms that would elicit information on the industrial structure of the industry
Annual Responses: 125
Annual Burden Hours: 125
Type of Request: New

Dated- October 4, 1983.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-27575 Filed 10-7-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/02-5468]

Everlast Capital Corp.; Application for a License to Operate as a Small Business Investment Company

An Application for a License to operate a Small Business investment company under the provisions of the small business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Everlast Capital Corporation (Everlast), 250 Fifth Avenue, Suite 2803, New York, New York 12207, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102(1958).

The Officers, directors and their shareholding of the Applicant are as follows:

Frank J. Segreto, 1430 85th Street, Brooklyn, New York 11228, Vice President and Chief Executive Officer.
Sung Kyu Kang, 8 Cypress Avenue, Great Neck, New York 11024, President, and Director, 30%.
Song Ja Kang, 8 Cypress Avenue, Great Neck, New York 12210, Secretary and Director, 15%.
Yung Duk Hahn, 995 Hart Street, Brooklyn, New York 11237, Vice President and Director, 10%.
Won H. Kim, 33785 Shackleton Leguna Niguel, California 92677, Director, 20%.
Harry Hyuk Pak, 211-40 18th Avenue, Bayside, New York 11360, Director, 15%.
Kil Han Kim, 2995 S.W. 117 Avenue, Davie, Florida 33314, Director, 10%.

The Applicant, Everlast, a New York Corporation will begin operations with $1,000,000 paid-in capital and paid-in surplus. Everlast will conduct its activities primarily in the state of New York but will consider investments in businesses in other areas in the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, inlcuding adequate profitability and financial soundness, in accordance with the Small Buaniess Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration. 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 5, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-27574 Filed 10-7-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/02-0418]

Key Venture Capital Corp; Application for a License To Operate as a Small Business Investment Company

AN Application for a License to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Key Venture Capital Corp., 60 State Street, Albany, New York 12207, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102(1983).

The Applicant is a New York Corporation and will begin operations with 200 Shares of authorized stock of which 50 have been issued for an initial capital of $1,000,000.

The officers, directors and shareholders are as follows:

John M. Lang, Gettle Road, Averil Park, New York 12018, President, Director.
Mark R. Hursty, 176 Willow Street, South Hampton, New York 11968, Exrecutive Vice President, Manager, Director.
Michael P. Quinn, 140 Washington Avenue, Albany, New York 12210, Vice President.
Albert V. Legge, 10 Majorca Lane, Clifton Park, New York 12210, Treasurer, Director.
H. Douglas Barclay, 6871, Port Road, Pulaski, New York 13142, Secretary, General, Counsel, Director.
Walter V. Ferris, 3 Hand Hewn Way, Manlius, New York 13104, Assistant Secretary.
Albert J. Brown, Jr., 19 Cloverfield, Loudinvile, New York 12211, Director.
Peter A. Farrell, 5 Princess Lane, Loudonville, New York, Director.
Wiliam H. Stevens, 3116 West Lake Road, Skaneateles, New York 13152, Director.
Key Bank Inc., 60 State Street, Albany, New York 12207, Parent, 100%.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011. Small Busines Investment Comppanies).

Dated: September 28, 1983.

Roberte G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-27573 Filed 10-7-83; 8:45 am]

BILLING CODE 8025-01-M

Yusa Capital Corp.; Application for a License to Operate as a Small Business Investment Company

[Application No. 02/02-5467]

An Application for a License to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Yusa Capital Corporation (Yusa Capital), 450 Seventh Avenue, New York, New York 10001, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1983).

The officers, directors and their shareholding of the Applicant are as follows:

Kenneth Q. Yip, 17 Cob Drive, Westport, Connecticut 06880, President, General Manager & Director, 9.66%.[1]
Ester Y. Yip, 17 Cob Drive, Westport, Connecticut 06880, Director.
Bong Y. Yu, 33 Bowery, B 202, New York, New York 10002, Chairman of Board & Director, 9.66%.[1]
May W. Yu, 33 Bowery, B 202, New York, New York 10002, Secretary, Treasurer & Director.
Kenneth K. L. Yim, A4, Third Floor, 126 Kennedy Road, Hong Kong, Director, 9.66%.
Christopher Yeung, No. 2 Shek Ku St., 4C, Arran Court, Kowloon, Hong Kong, Vice Chairman of Board & Director, 9.66%.[2]

The Applicant, proposes to begin operations with $1,020,000 paid-in capital and paid-in surplus. Yusa Capital will conduct its activities principally in the state of New York.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

[1] Jointly held with spouse
[2] Holds an additional 28.98% as nominee for father, Wai Sing Yeung.

Dated: October 3, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-27572 Filed 10-7-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

Adjustment of Entitlement Payments to Local Governments in the State of Maine; Correction

AGENCY: Office of Revenue Sharing, Department of the Treasury.

ACTION: Correction Notice.

SUMMARY: This is to make a technical correction in the Data Notice filed by the Office of Revenue Sharing (48 FR 44967, September 30, 1983). The correction is to delete the first sentence under the third paragraph of Supplementary Information and by revising the second sentence in the third paragraph to read as follows:

The Office of Revenue Sharing will mail a notice to each unit of local government within the State of Maine that advises these governments of the specific increase or decrease of entitlement funds resulting from the change to the Entitlement 13 payments.

Dated: October 3, 1983.

Michael F. Hill,

Director, Office of Revenue Sharing.

[FR Doc. 83-27570 Filed 10-7-83; 8:45 am]

BILLING CODE 4810-28-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will meet on October 19, 1983, from 10 am to 1 pm in Room 800, 400 C Street SW., Washington, D.C. The Commission will discuss the following topics: Interagency Task Force on Public Diplomacy for Latin America and the Caribbean; USIA's Congressional relations and pending legislation; and USIA's magazine program.

Please call Elizabeth Fahl, (202) 485-2468, if you plan to attend the meeting.

Dated: October 5, 1983.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 83-27564 Filed 10-7-83; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 48, No. 197

Tuesday, October 11, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Federal Energy Regulatory Commission	2
Federal Home Loan Bank Board	3
Legal Services Corporation	4
Mississippi River Commission	5, 6, 7, 8
Nuclear Regulatory Commission	9

1

CIVIL AERONAUTICS BOARD

[M-392, Oct. 5, 1983]

Closed Board Meeting

TIME AND DATE: 10 a.m., October 12, 1983.

PLACE: Room 1012, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Report on ECAC Seminar—Preparation for Negotiations. (BIA)

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1430-83 Filed 10-6-83; 3:49 pm]

BILLING CODE 6320-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION

TIMES AND DATES: 10 a.m., October 12, 1983.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—778th Meeting, October 12, 1983, Regular Meeting (10 a.m.)

CAP-1. Project No. 4456-000, Middle Fork Irrigation District, et al.
CAP-2. Project No. 3449-001, City of North Little Rock, Arkansas
CAP-3. Project No. 7145-001, Hellsgate Associates
CAP-4. Project No. 2975-003, Oakdale and South San Joaquin Irrigation Districts
CAP-5. Project No. 803-007, Pacific Gas & Electric Co.
CAP-6. Project No. 7235-002, Bluestone Energy Design, Inc.
CAP-7. Project No. 6827-001 and 002, Jackson Falls Hydroelectric Power Co.
CAP-8. Project No. 5315-002, Phoenix Hydro Corp.
CAP-9. Project No. 6574-001, Lynn Mines and Mining Co.
CAP-10. Project No. 5364-002, Pabst Brewing Co.
CAP-11. Omitted
CAP-12. Docket No. QF83-373-000, Massachusetts Refusetech, Inc.
CAP-13. Omitted
CAP-14. Docket Nos. ER81-474-001 and EL82-1-002, Metropolitan Edison Co.
CAP-15. Docket Nos. EL82-1-003 and EL82-1-004, Town of Easton, Maryland, v. Delmarva Power & Light Co. and Pennsylvania-New Jersey-Maryland Interconnection
CAP-16. Docket No. ER83-688-000, Idaho Power Co.
CAP-17. Docket No. ER83-694-000, West Texas Utilities Co.
CAP-18. Docket Nos. ER82-706-000 and ER83-77-000, West Texas Utilities Co.
CAP-19. Docket No. ER82-461-000, Arizona Public Service Co.
CAP-20. Docket No. ER82-852-000, Southwestern Public Service Co.
CAP-21. Docket No. ER83-368-000, Upper Peninsula Power Co.
CAP-22. Docket No. ER82-375-000, Gulf States Utilities Co.
CAP-23. Docket Nos. ER80-592-000, et al., Allegheny Power System, et. al.; Docket Nos. ER80-615-000, ER80-616-000, ER80-617-000, ER80-618-002 and ER80-663-000, Wisconsin Public Service Corp.; Docket No. ER81-320-005, Iowa Public Service Co.; Docket Nos. ER80-733-000 and ER81-292-000, Southern Indiana Gas & Electric Co.; Docket Nos. ER80-595-000, ER80-656-000, ER80-716-000, ER80-732-000, ER80-779-000 and ER80-782-000, Commonwealth Edison Co.; Docket No. ER80-671-000, ER80-606-001 and ER80-610-001, Public Service Co. of Oklahoma
CAP-24. Docket No. EL83-9-001, Pennsylvania Power Co.
CAP-25. Docket No. EL82-3-001, City of Oakland, California, v. Pacific Gas & Electric Co.
CAP-26. Docket No. ID-2032-000, William F. Miller
CAP-27. Project No. 7073-000, Tuck Industries, Inc.

Consent Miscellaneous Agenda

CAM-1. Docket No. RM83-77-000, Substitution of certified mail for registered mail
CAM-2. Docket No. RA82-15-000, Thriftway Co.
CAM-3. Northern Natural Gas Co.

Consent Gas Agenda

CAG-1. Docket No. TA83-2-22-002, Consolidated Gas Supply Corp.
CAG-2. Docket Nos. TA83-2-21-004, RP82-88-001 and GP82-41-001, Columbia Gas Transmission Corp.
CAG-3. Docket No. RP82-56-009, Northwest Pipeline Corp.
CAG-4. Docket Nos. RP82-33-000, et al., and TA83-2-33-004, El Paso Natural Gas Co.
CAG-5. Docket No. RP83-127-000, Natural Gas Pipeline Co. of America
CAG-6. Docket No. RP82-56-007, Northwest Pipeline Corp.
CAG-7. Docket No. TA84-1-37-000 (PGA84-1A), Northwest Pipeline Corp.
CAG-8. Docket No. RP83-130-000, Gas Gathering Corp.
CAG-9. Docket No. RP75-25-000, Columbia Gas Transmission Corp. v. Allied Chemical Corp., et al.
CAG-10. Docket No. OR82-3-000, Kerr-McGee Refining Corp. and Oklahoma Refining Co. v. Sun Pipe Line Co.
CAG-11. Docket Nos. ST81-280-002 and CP82-206-002, Mustang Fuel Corp.
CAG-12. Docket Nos. ST82-34-001 and CP81-366-000, Llano, Inc.
CAG-13. Docket Nos. ST83-305-000 and ST83-396-000, Cranberry Pipeline Corp.
CAG-14. Docket No. SA81-22-001, Superwood Corp.
CAG-15. Docket Nos. RI74-168-018 and RI75-21-013, Independent Oil & Gas Association of West Virginia
CAG-16. Docket No. RI80-10-100 (Rate Schedule No. 43), Diamond Shamrock Corp.
CAG-17. Docket No. CI77-36-002, Mobil Oil Exploration and Producing Southeast Inc.
CAG-18. Docket No. CI73-629-001, Mobil Oil Corp.
CAG-19. Docket No. CI83-300-002, Diamond Shamrock Corp.; Docket No. CI83-301-001, Mesa Petroleum Co.; Docket No. CI83-318-001, Anadarko Production Co.; Docket No. CI83-271-002, Texaco Inc.; Docket No. CI83-339-002, Southland Royalty Co.
CAG-20. Docket No. CP83-340-002, Producer-Suppliers of Transco Gas Supply Co.
CAG-21. Docket Nos. CP83-190-001 and CP83-191-001, Tennessee Gas Pipeline Co., A Division of Tenneco Inc.
CAG-22. Docket No. CP77-402-006, Transcontinental Gas Pipe Line Corp.
CAG-23. Omitted
CAG-24. Docket No. CP82-122-000, Alabama-Tennessee Natural Gas Co.

CAG–25. Docket No. CP83–413–000, Columbia Gas Transmission Corp.
CAG–26. Docket Nos. CP83–245–000 and CP83–245–001, Montana-Dakota utilities Co.
CAG–27. Docket Nos. CP75–23–014 and CP75–120–007, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–28. Omitted
CAG–29. Docket No. CP82–522–000. Montana-Dakota Utilities Co.
CAG–30. Docket No. CP83–17–000, Mountain Fuel Resources, Inc.
CAG–31. Docket Nos. RP80–102–006, RP81–86–003, RP82–116–000 and RP83–58–000, Southern Natural Gas Co.
CAG–32. Docket No. TA83–2–42–000 (PGA83–2 and IPR83–2), Transwestern Pipeline Co.
CAG–33. Docket No. TA83–1–43–000 (PGA83–1), Northwest Central Pipeline Corp. (Formerly Cities Service Gas Co.)

Power Agenda

I. Licensed Project Matters

P–1. Project No. 2729–000, Power Authority of the State of New York.

II. Electric Rate Matters

ER–1. Docket No. ER79–150–008, Southern California Edison Co.
ER–2. Docket No. ER81–179.000 (Phase II), Arizona Public Service Commission
ER–3. Docket No. ER82–67–000, Wisconsin Public Service Co.
ER–4. Docket No. EL83–11–000, Virginia Electric & Power Co.
ER–5. Docket No. ES83–62–000, Centel Corp.
ER–6. Docket No. ER82–257–000, Kansas Gas & Electric Co.

Miscellaneous Agenda

M–1. Reserved
M–2. Reserved
M–3. Docket Nos. RM81–29–001 through RM81–29–015, sales and transportation by interstate pipelines and distributors; Docket Nos. RM81–19–010 through RM81–19–022, interstate pipeline blanket certificates for routine transactions
M–4. Docket No. RM82–25–000, fees applicable to producer matters under the Natural Gas Act
M–5. Docket No. RM82–34–000, high-cost gas produced from tight formations; recompletion tight formation gas
M–6. (a) Docket No. RM81–31–001, clarification of regulations regarding new, onshore production wells; (b) Docket No. RM81–24–000, J–3 Oil Co., Inc.
M–7. Docket Nos. GP82–4–000 and 001, Dorchester Gas Producing Co.

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket No. TA80–2–21–002 (PGA80–3), Columbia Gas Transmission Corp. And Columbia LNG Corp.; Docket No. TA80–2–22–003 (PGA80–5) (IPR80–3) (LFUT80–2) and (RD&D80–2), Consolidated Gas Supply Corp. and Consolidated System LNG Co.; Docket No. RP80–136–00, Southern Natural Gas Co.; Docket No. RP80–129–00, State of Ohio, ex rel. William J. Brown, Attorney General
RP–2. Docket Nos. RP80–2–000 (Part I), RP80–2–005 (Part II) and RP83–24–004, Alabama-Tennessee Natural Gas Co.
RP–3. Docket Nos. RP82–80–010, CP82–542–000, TA81–2–48–000, TA82–1–48–000, TA82–2–48–000 and TA83–1–48–000, Michigan Wisconsin Pipe Line Co.
RP–4. Docket Nos. RP81–25–00, RP81–69–000, RP82–46–000 and Rp83–54–000, South Georgia Natural Gas Co.
RP–5. Docket No. RP81–49–011, Natural Gas Pipeline Co. of America
RP–6. Docket No. RP82–16–000 (Phase I), United Gas Pipe Line Co.

II. Producer Matters

CI–1. Omitted

III. Pipeline Certificate Matters

CP–1. Omitted
CP–2. Omitted
CP–3. Omitted
CP–4. Omitted

Kenneth F. Plumb,
Secretary.

[S–1424–83 Filed 10–6–83; 2:32 pm]
BILLING CODE 6717–01–M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, October 13, 1983.

PLACE: Board Room, Sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6970).

MATTERS TO BE CONSIDERED:

Accounting For Uncollectible Income
[No. 58, October 6, 1983]

[S–1422–83 Filed 10–6–83; 1:46 pm]
BILLING CODE 6720–01–M

4

LEGAL SERVICES CORPORATION

Meeting of the Board of Directors

PREVIOUSLY ISSUED: September 13, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 8 a.m. to 6 p.m., Tuesday, October 4, 1983.

CHANGE IN THE NOTICE: Meeting has been postponed. No new date, time, or place has been established.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President (202) 272–4040.

Dated: October 3, 1983.

Donald P. Bogard,
President.

[S–1423–83– Filed 10–6–83; 2:30 pm]
BILLING CODE 6820–35–M

5

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9 a.m., October 24, 1983.

PLACE: On board *MV Mississippi* at Foot of Eight Street, Cairo, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

[S–1425–83 Filed 10–6–83; 3:06 pm]
BILLING CODE 3710–GX–M

6

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9 a.m., October 25, 1983.

PLACE: On board *MV Mississippi* at City Front, Vicinity of Beale Street, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; and (2) View and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

[S–1426–83 Filed 10–6–83; 3:06 pm]
BILLING CODE 3710–GX–M

7

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9 a.m., October 26, 1983.

PLACE: On board *MV Mississippi* at City Front, Greenville, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) View and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

[S–1427–83 Filed 10–6–83; 3:06 pm]
BILLING CODE 3710–GX–M

8

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9 a.m., October 28, 1983.

PLACE: On board MV *Mississippi* at City Front, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) View and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

[S–1428–83 Filed 10–6–83; 3:06 pm]
BILLING CODE 3710–GX–M

9

NUCLEAR REGULATORY COMMISSION

DATE: Thursday, October 6, 1983 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, October 6:*

9:30 a.m.
Briefing on Results of GPU and B&W Trial Material (Public Meeting) (As Announced)

10:30 a.m.
The previously announced meeting has been retitled as follows:
Report on Investigations at TMI and Report on Adjudicatory Matters at TMI:
(i) Report on Progress of Ongoing Investigations (Closed—Exemptions 5 and 7)
(ii) Status and Options Regarding Adjudicatory Matters (Closed—Exemption 10)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–410.

October 5, 1983.

Walter Magee,
Office of the Secretary.

[S–1429–83 Filed 10–6–83; 3:40 pm]
BILLING CODE 7590–01–M

VOL
48
ISS
1
9
7
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1983
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federal register

Tuesday
October 11, 1983

Part II

Department of Health and Human Services

Social Security Administration

Federal Old-Age, Survivors, and Disability Insurance Benefits; Repeal of Minimum Benefit Provision and Rounding of Benefits

VOL
48
ISS
1
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance Benefits; Repeal of Minimum Benefit Provision and Rounding of Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: In these regulations, we explain the prospective repeal of the Old-Age, Survivors and Disability Insurance (OASDI) minimum benefit provision and the revised rules for rounding benefit amounts. We also provide an extension of the December 1978 table used to compute the primary insurance amount of many individuals. This table provides for primary insurance amounts of less than the repealed $121.80 minimum (December 1978 rate). These regulations implement the provisions of sections 2201 and 2206 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) and section 2 of Pub. L. 97–123.

EFFECTIVE DATE: These regulations are effective on October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Room 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7951.

SUPPLEMENTARY INFORMATION: The 1981 amendments to the Social Security Act repealed the minimum benefit provision for newly eligible beneficiaries as one step in reducing the costs and improving the equity of the Social Security program. Under that provision, the minimum primary insurance amount (before any applicable cost-of-living adjustments) on which benefit amounts are based for beneficiaries newly eligible after 1978 was $122 ($121.80 if the primary insurance amount had been computed under the old-start method in 20 CFR 404.240–404.242 or the guaranteed-alternative method explained in 20 CFR 404.230–404.233). Thus, if a computation based on a worker's earnings resulted in a primary insurance amount less than the minimum, it was raised to the minimum. Now, for a worker to whom the repeal is applicable, we will use the primary insurance amount computed on the basis of earnings regardless of how low it is. However, some beneficiaries whose OASDI benefit amount is affected by the repeal will now be eligible for Supplemental Security Income benefits.

The repeal applies to workers who first become eligible for benefits after 1981 or who die after 1981 without having become eligible before 1982. For some members of certain religious orders, the repeal is applicable to individuals who first become eligible for benefits after 1991 or who die after 1991 without having become eligible for benefits.

In these regulations, we explain that computations of primary insurance amounts for workers reaching age 62 during the period 1982 through 1983 using the guaranteed-alternative computation method will be based on the table that was in the Social Security Act in December 1978, except that it has now been extended downward to show primary insurance amounts under $121.80. We also explain the methodology used to extend the December 1978 table. This table replaces the table now in Subpart C as published on July 15, 1982 at 47 FR 30731. Where it is necessary to initially compute benefits for months before this table became effective, we will use the relevant earlier tables, as appropriate.

The revised provisions on rounding reflect the intention of Congress to reduce program costs by rounding to the next lower dime at intermediate steps in the benefit computation and rounding final benefit amounts (the actual benefit amount payable to a beneficiary) to the next lower multiple of a dollar if not already a multiple of a dollar. Although the statutory provisions were effective for computations and adjustments of primary insurance amounts and benefit amounts beginning with September 1981, we did not implement the provisions until June 1982 due to processing limitations which made earlier implementation impractical.

Public Comments

In order to obtain the public's views and comments before proceeding with these amendments, we published a Notice of Proposed Rule Making in the Federal Register on March 14, 1983 (48 FR 10694). The public was invited to submit comments pertaining to the proposed amendment within a period of 60 days from the date of publication of the notice. The comment period closed on May 13, 1983. There were no comments received during the comment period.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under E.O. 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required. Arguably, the large program savings resulting from repeal of the minimum benefit and rounding of benefits might constitute "an annual effect on the economy of $100 million or more" (sec. 1(b)(1) of Executive order 12291) and, therefore, make these regulations major. However, the program savings result from statutory amendments, which leave the Secretary no significant regulatory discretion, and not from the regulation.

Paperwork Reduction Act—These regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act—We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they affect only benefit amounts payable to individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Accordingly, this regulation is adopted without change as set forth below.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors, Disability insurance.

(Secs. 202, 205, 215, and 1102, Social Security Act; 49 Stat. 623, 53 Stat. 1368, 64 Stat. 506, 49 Stat. 647 (42 U.S.C. 402, 405, 415, and 1302))

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance, 13.803 Social Security—Retirement Insurance, 13.805 Social Security—Survivors Insurance)

Dated: July 27, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: September 21, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.212 is amended by revising paragraph (c) and by adding paragraph (e) to read as follows:

§ 404.212 Computing your primary insurance amount from your average indexed monthly earnings.

* * * * *

(c) *Computing your primary insurance amount from the benefit formula.* We compute your primary insurance amount by applying the benefit formula to your average indexed monthly earnings and adding the results for each step of the formula. For computations using the benefit formulas in effect for 1979 through 1982, we round the total amount to the next higher multiple of $0.10 if it is not a multiple of $0.10 and for computations using the benefit formulas effective for 1983 and later years, we round to the next lower multiple of $0.10. (See paragraph (e) of this section for a discussion of the minimum primary insurance amount.)

* * * * *

(e) *Minimum primary insurance amount.* If you were eligible for benefits, or died without having been eligible, before 1982, your primary insurance amount computed under this method cannot be less than $122. This minimum benefit provision has been repealed effective with January 1982 for most workers and their families where the worker initially becomes eligible for benefits in that or a later month, or dies in January 1982 or a later month without having been eligible before January 1982. For members of a religious order who are required to take a vow of poverty, as explained in 20 CFR 404.1024, and which religious order elected Social Security coverage before December 29, 1981, the repeal is effective with January 1992 based on first eligibility or death in that month or later.

2. Section 404.222 is amended by revising paragraph (b) to read as follows:

§ 404.222 Use of benefit table in finding your primary insurance amount from your average monthly wage.

* * * * *

(b) *Finding your primary insurance amount from benefit table.* We find your average monthly wage in column III of the table. Your primary insurance amount appears on the same line in column IV (column II if you are entitled to benefits for any of the 12 months preceding the effective month in column IV). As explained in § 404.212(e), there is a minimum primary insurance amount of $122 payable for persons who became eligible or died after 1978 and before January 1982. There is also an alternative minimum of $121.80 (before the application of cost-of-living increases) for members of this group whose benefits were computed from the benefit table in effect in December 1978 on the basis of either the old-start computation method in §§ 404.240 through 404.242 or the guaranteed alternative computation method explained in §§ 404.230 through 404.233. However, as can be seen from the extended table in Appendix III, the lowest primary insurance amount under this method is now $1.70 for individuals for whom the minimum benefit has been repealed.

Example. In the example in § 404.221(d), we computed Mr. B's average monthly wage to be $502. We refer to the December 1978 benefit table in Appendix III. Then we find his average monthly wage in column III of the table. Reading across, his primary insurance amount is on the same line in column IV and is $300.50. A 9.9 percent automatic cost-of-living benefit increase was effective for June 1979, increasing Mr. B's primary insurance amount to $429.20, as explained in §§ 404.270 through 404.277. Then, we increase the $429.20 by the 14.3 percent June 1980 cost-of-living benefit increase and get $490.60, and by the 11.2 percent June 1981 increase to get $545.60.

3. Section 404.261 is amended by revising paragraph (a)(2) to read as follows:

§ 404.261 Computing your special minimum primary insurance amount.

(a) *Years of coverage.*

* * * * *

(2) You must have at least 11 years of coverage to qualify for a special minimum primary insurance amount computation. However, special minimum primary insurance amounts based on little more than 10 years of coverage are usually lower than the regular minimum benefit that was in effect before 1982 (see §§ 404.212(e) and 404.222(b) of this part). In any situation where your primary insurance amount computed under another method is higher, we use that higher amount.

* * * * *

4. Section 404.275 is amended by revising the sentence before the example to read as follows:

§ 404.275 Amount of automatic cost-of-living increase.

* * * We round the resulting amounts to the next lower multiple of $0.10 if not already a multiple of $0.10. (We round to the next higher multiple of $0.10 for increases effective before June 1982.)

* * * * *

§ 404.277 [Amended]

5. Section 404.277 is amended in paragraph (a) by adding "and before 1982," after "1978" in the second sentence.

6. Appendix III to subpart C of Part 400 is amended by revising the narrative after the first paragraph and the table to read as follows:

Appendix III—Benefit Table

* * * * *

The benefit table in effect in December 1978 had a minimum primary insurance amount of $121.80. As explained in § 404.222(b), certain workers eligible, or who without having been eligible, before 1982 had their benefit computed from this table. However, the minimum benefit provision was repealed for other workers by the 1981 amendments to the Act (the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 as modified by Pub. L. 97–123). As a result, this benefit table includes a downward extension from the former minimum of $121.80 to the lowest primary insurance amount now possible. The extension is calculated as follows. For each single dollar of average monthly wage in the benefit table, the primary insurance amount shown for December 1978 is $121.80 multiplied by the ratio of that average monthly wage to $76. The upper limit of each primary insurance benefit range in Column I of the table is $16.20 multipled by the ratio of the average monthly wage in Column III of the table to $76. The maximum family benefit is 150 percent of the corresponding primary insurance amount.

The repeal of the minimum benefit provision is effective with January 1982 for most workers and their families where the worker initially becomes eligible for benefits after 1981 or dies after 1981 without having been eligible before January 1982. For members of a religious order who are required to take a vow of poverty, as explained in 20 CFR 404.1024, and which religious order elected Social Security coverage before December 29, 1981, the repeal is effective with January 1992 based on first eligibility or death in that month or later.

To use this table, you must first compute the primary insurance benefit (column I) or the average monthly wage (column III), then move across the same line to either column II or column IV as appropriate. To determine increases in primary insurance amounts since December 1978 you should see Appendix VI. Appendix VI tells you, by year, the precentage of the increases. In applying each cost-of-living increase to primary insurance amounts, we round the increased primary insurance amount to the next lower multiple of $0.10 if not already a multiple of $0.10. (For cost-of-living increases which are effective before June 1982, we round to the next higher multiple of $0.10.)

EXTENDED DECEMBER 1978 TABLE OF BENEFITS EFFECTIVE JANUARY 1982

I		II	III		IV	V
Primary insurance benefit—If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		Primary insurance amount effective June 1977—Or his or her primary insurance amount is—	Average monthly wage—Or his or her average monthly wage (as determined under § 404.221) is—		Primary insurance amount effective January 1982—Then his or her primary insurance amount is—	Maximum family benefits—And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
	$0.42			$1	$1.70	$2.60
$0.43	.63		$2	2	3.30	5.00
.64	.85		3	3	4.90	7.40
.86	1.06		4	4	6.50	9.80
1.07	1.27		5	5	8.10	12.20
1.28	1.49		6	6	9.70	14.60
1.50	1.70		7	7	11.30	17.00
1.71	1.91		8	8	12.90	19.40
1.92	2.13		9	9	14.50	21.80
2.14	2.34		10	10	16.10	24.20
2.35	2.55		11	11	17.70	26.60
2.56	2.77		12	12	19.30	29.00
2.78	2.98		13	13	20.90	31.40
2.99	3.19		14	14	22.50	33.80
3.20	3.41		15	15	24.10	36.20
3.42	3.62		16	16	25.70	38.60
3.63	3.83		17	17	27.30	41.00
3.84	4.05		18	18	28.90	43.40
4.06	4.26		19	19	30.50	45.86
4.27	4.47		20	20	32.10	48.20
4.48	4.68		21	21	33.70	50.68
4.69	4.90		22	22	35.30	53.00
4.91	5.11		23	23	36.90	55.40
5.12	5.32		24	24	38.50	57.80
5.33	5.54		25	25	40.10	60.20
5.55	5.75		26	26	41.70	62.60
5.76	5.96		27	27	43.30	65.00
5.97	6.18		28	28	44.90	67.40
6.19	6.39		29	29	46.50	69.80
4.40	6.60		30	30	48.10	72.20
6.61	6.82		31	31	49.70	74.60
6.83	7.03		32	32	51.30	77.00
7.04	7.24		33	33	52.90	79.40
7.25	7.46		34	34	54.50	81.80
7.47	7.67		35	35	56.10	84.20
7.68	7.88		36	36	57.70	86.60
7.89	8.10		37	37	59.30	89.00
8.11	8.31		38	38	60.90	91.40
8.32	8.52		39	39	62.60	93.90
8.53	8.73		40	40	64.20	96.30
8.74	8.95		41	41	65.80	98.70
8.96	9.16		42	42	67.40	101.10
9.17	9.37		43	43	69.00	103.50
9.38	9.59		44	44	70.60	105.90
9.60	9.80		45	45	72.20	108.30
9.81	10.01		46	46	73.80	110.70
10.02	10.23		47	47	75.40	113.10
10.24	10.44		48	48	77.00	115.50
10.45	10.65		49	49	78.60	117.90
10.66	10.87		50	50	80.20	120.30
10.88	11.08		51	51	81.80	122.70
11.09	11.29		52	52	83.40	125.10
11.30	11.51		53	53	85.00	127.50
11.52	11.72		54	54	86.60	129.90
11.73	11.93		55	55	88.20	132.30
11.94	12.15		56	56	89.80	134.70
12.16	12.36		57	57	91.40	137.10
12.37	12.57		58	58	93.00	139.50
12.58	12.78		59	59	94.60	141.90
12.79	13.00		60	60	96.20	144.30
13.01	13.21		61	61	97.80	146.70
13.22	13.42		62	62	99.40	149.10
13.43	13.64		63	63	101.00	151.50
13.65	13.85		64	64	102.60	153.90
13.86	14.06		65	65	104.20	156.30
14.07	14.28		66	66	105.80	158.70
14.29	14.49		67	67	107.40	161.10
14.50	14.70		68	68	109.00	163.50
14.71	14.92		69	69	110.60	165.90
14.93	15.13		70	70	112.20	168.30
15.14	15.34		71	71	113.80	170.70
15.35	15.56		72	72	115.40	173.10
15.57	15.77		73	73	117.00	175.50
15.78	15.98		74	74	118.60	177.90
15.99	16.20		75	75	120.20	180.30
				76	121.80	182.70

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978

I		II	III		IV	V
Primary insurance benefit—If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		Primary insurance amount effective June 1977—Or his or her primary insurance amount is—	Average monthly wage—Or his or her average monthly wage (as determined under § 404.221) is—		Primary insurance amount effective June 1978—Then his or her primary insurance amount is—	Maximum family benefits—And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
	$16.20	$114.30		$76	$121.80	$182.70
$16.21	16.84	116.10	$77	78	123.70	185.60
16.85	17.60	118.80	79	80	126.60	189.80
17.61	18.40	121.00	81	81	128.50	192.80
18.41	19.24	123.00	82	63	131.20	196.80
19.25	20.00	125.80	84	85	134.00	201.00
20.01	20.84	128.10	86	87	136.50	204.80
20.85	21.28	130.10	88	89	138.80	207.90
21.29	21.86	132.70	90	90	141.40	212.10
21.86	22.28	135.00	91	92	143.80	215.70
22.29	22.68	137.20	93	94	146.20	219.29
22.59	23.06	139.40	95	96	148.50	222.80
23.09	23.44	142.00	97	97	151.30	227.00
23.45	23.76	144.20	98	99	153.70	230.60
23.77	24.20	147.10	100	101	156.70	235.10
24.21	24.60	149.20	102	102	158.90	238.50
24.61	25.00	151.70	103	104	161.60	242.40
25.01	25.48	154.50	105	106	164.60	246.80
25.49	25.92	157.00	107	107	167.30	251.00
25.93	26.40	159.40	108	109	169.80	254.80
26.41	26.94	161.90	110	113	172.50	258.80
26.95	27.46	164.20	114	116	174.80	262.40
27.47	28.00	166.70	119	122	177.60	266.50
28.01	28.68	169.20	123	127	180.40	270.60
28.69	29.25	171.80	128	132	183.00	274.60
29.26	29.88	174.10	133	136	185.50	278.30
29.89	30.36	176.50	137	141	188.00	282.10
30.37	30.92	179.10	142	146	190.80	286.20
30.93	31.36	181.70	147	150	193.60	290.40
31.37	32.00	183.90	151	155	195.90	293.90
32.01	32.80	186.50	156	160	198.70	298.10
32.81	33.20	189.00	161	164	201.30	302.00
33.21	33.88	191.40	165	169	203.90	305.90
33.89	34.50	194.00	170	174	206.70	310.10
34.51	35.00	196.20	175	178	209.10	313.70
35.01	35.80	198.90	179	183	211.80	318.00
35.81	36.40	201.30	184	188	214.40	321.70
36.41	37.06	203.90	189	193	217.20	325.06
37.00	37.80	206.40	194	197	219.90	329.90
37.81	38.20	208.80	198	202	222.40	333.60
38.21	39.12	211.50	203	207	225.30	338.00
39.13	39.66	214.00	208	211	228.00	342.00
39.66	40.33	216.00	212	216	230.10	345.20
40.34	41.12	218.70	217	221	233.00	349.50
41.13	41.76	221.20	222	225	235.60	353.40
41.77	42.44	223.90	226	230	238.50	357.90
42.45	43.20	226.90	231	235	241.10	361.70
43.21	43.76	229.10	236	239	244.00	366.10
43.77	44.44	231.20	240	244	246.30	371.10
44.45	44.86	233.50	245	249	248.70	376.60
44.89	45.80	236.40	250	253	251.80	384.90
		238.70	254	258	254.50	382.50
		240.80	259	263	256.50	400.00
		243.70	264	267	258.60	208.00
		246.10	268	272	262.10	412.70
		248.70	273	277	264.90	421.20
		251.00	278	281	267.40	427.20
		253.60	282	286	270.00	434.90
		256.20	287	291	272.90	442.80
		258.30	292	295	275.10	448.50
		261.10	298	300	278.10	456.10
		263.50	301	305	280.70	463.80
		265.80	306	309	283.10	469.80
		268.50	310	314	286.00	477.40
		270.70	315	319	288.30	485.10
		273.20	320	323	291.00	491.10
		275.80	324	328	293.80	498.70
		278.10	329	333	296.20	506.20
		281.00	334	337	299.30	512.50
		283.00	338	342	301.40	519.80
		285.60	343	347	304.20	527.50
		288.30	348	351	307.10	533.60
		290.50	352	356	309.40	541.20
		293.30	357	361	312.40	548.80
		295.80	362	365	314.90	554.90
		297.90	366	370	317.30	562.50
		300.60	371	375	320.20	569.90
		303.10	376	379	322.90	576.30
		305.70	380	384	325.60	583.90
		307.90	385	389	328.00	591.30
		310.30	390	393	330.50	597.40
		313.00	394	398	333.40	605.10
		315.40	399	403	336.00	612.70

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I		II	III		IV	V
Primary insurance benefit—If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		Primary insurance amount effective June 1977—Or his or her primary insurance amount is—	Average monthly wage—Or his or her average monthly wage (as determined under § 404.221) is—		Primary insurance amount effective June 1978—Then his or her primary insurance amount is—	Maximum family benefits—And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		316.20	404	407	338.90	618.60
		320.20	408	412	341.10	626.30
		322.50	413	417	343.50	633.90
		324.80	418	421	346.00	639.90
		327.40	422	426	348.70	647.50
		329.60	427	431	351.10	655.10
		331.80	432	436	353.20	662.70
		334.40	437	440	356.20	665.70
		336.50	441	445	358.40	669.70
		338.70	446	450	360.80	673.40
		341.30	451	454	363.50	676.30
		343.50	455	459	365.90	680.10
		345.80	460	464	368.30	683.80
		347.90	465	468	370.80	687.10
		350.70	469	473	373.50	690.80
		352.80	474	478	375.60	694.60
		354.90	479	482	378.00	697.70
		357.40	483	487	380.70	701.80
		359.70	488	492	383.10	705.40
		361.90	493	496	385.50	708.40
		364.50	497	501	388.20	712.10
		366.80	502	506	390.60	715.60
		368.90	507	510	392.90	719.00
		371.10	511	515	395.30	722.80
		373.70	516	520	398.00	726.70
		375.80	521	524	400.30	729.50
		378.10	525	529	402.70	733.40
		380.80	530	534	405.60	737.10
		382.80	535	538	407.70	740.20
		385.10	539	543	410.20	744.10
		387.80	544	548	412.80	747.80
		389.90	549	553	415.30	751.80
		392.10	554	556	417.60	753.90
		393.90	557	560	419.60	756.90
		396.10	561	563	421.90	759.30
		398.20	564	567	424.10	762.30
		400.40	568	570	426.50	764.50
		402.30	571	574	428.50	767.50
		404.40	575	577	430.70	769.90
		406.20	578	581	432.70	772.80
		408.40	582	584	435.00	775.20
		410.20	585	588	436.90	778.20
		412.80	589	591	439.50	780.50
		414.80	592	595	441.80	783.50
		416.70	596	598	443.80	785.60
		418.70	599	602	446.00	788.90
		420.70	603	605	448.10	791.10
		422.80	606	609	450.30	794.00
		424.90	610	612	452.80	796.50
		426.90	613	616	454.70	799.50
		428.90	617	620	456.80	802.50
		431.00	621	623	459.10	804.90
		433.00	624	627	461.20	807.90
		435.10	628	630	463.40	810.70
		437.10	631	634	465.60	814.70
		439.20	635	637	467.80	816.50
		441.40	638	641	470.10	822.40
		443.20	642	644	472.10	826.10
		445.40	645	648	474.40	830.10
		447.40	649	652	476.50	833.70
		449.60	653	656	477.80	836.10
		449.90	657	660	479.20	838.40
		451.50	661	665	480.90	841.50
		453.10	666	670	482.60	844.50
		454.80	671	675	484.40	847.40
		456.40	676	680	486.10	850.50
		458.00	681	685	487.80	853.50
		459.80	686	690	488.70	858.40
		461.20	691	695	491.20	859.60
		462.80	696	700	492.90	862.60
		464.50	701	705	494.70	865.60
		466.10	706	710	496.40	868.60
		467.70	711	715	498.20	871.50
		469.40	716	720	500.00	874.60
		471.00	721	725	501.70	877.60
		472.60	726	730	503.40	880.70
		474.20	731	735	505.10	883.60
		475.90	736	740	506.90	886.70
		477.40	741	745	508.50	889.90
		476.90	746	750	510.10	892.70
		480.40	751	755	511.70	896.40
		481.80	756	760	513.20	897.80
		483.20	761	765	514.70	900.40

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I		II	III		IV	V
Primary insurance benefit—If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		Primary insurance amount effective June 1977—Or his or her primary insurance amount is—	Average monthly wage—Or his or her average monthly wage (as determined under § 404.221) is—		Primary insurance amount effective June 1978—Then his or her primary insurance amount is—	Maximum family benefits—And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		464.50	766	770	516.00	903.00
		465.80	771	775	517.40	905.40
		467.20	776	780	518.90	907.90
		468.60	781	785	520.40	910.40
		469.80	786	790	521.70	912.90
		491.10	791	795	523.10	915.40
		492.50	796	800	524.80	918.00
		494.00	801	805	526.20	920.50
		495.30	806	810	527.50	923.00
		496.70	811	815	529.00	925.60
		498.00	816	820	530.40	928.00
		499.40	821	825	531.90	930.90
		500.70	826	830	533.30	933.10
		502.00	831	835	534.70	935.70
		503.30	836	840	536.10	938.10
		504.70	841	845	537.60	940.80
		506.00	846	850	538.90	943.00
		507.50	851	855	540.50	945.70
		508.80	856	860	541.90	948.10
		510.20	861	865	543.40	950.70
		511.50	866	870	544.60	953.20
		512.90	871	875	546.30	955.70
		514.10	876	880	547.80	958.20
		515.50	881	885	548.10	960.80
		516.80	886	890	550.40	963.20
		518.20	891	895	551.90	965.00
		519.60	896	900	553.40	968.30
		521.00	901	905	554.90	970.90
		522.30	906	910	556.30	973.50
		523.70	911	915	557.80	976.00
		525.10	916	920	559.30	978.30
		526.30	921	925	560.80	981.00
		527.80	926	930	561.90	983.40
		529.00	931	935	563.40	985.90
		530.40	936	940	564.90	988.50
		531.70	941	945	566.30	991.00
		533.00	946	950	567.70	993.50
		534.50	951	955	569.30	996.10
		535.90	956	960	570.80	998.60
		537.30	961	965	572.30	1,001.00
		538.40	966	970	573.40	1,003.60
		539.80	971	975	574.90	1,006.20
		541.20	976	980	576.40	1,008.50
		542.60	981	985	577.90	1,011.10
		543.80	986	990	579.20	1,013.60
		545.20	991	995	580.70	1,016.20
		546.60	996	1,000	582.20	1,018.80
		547.80	1,001	1,005	583.50	1,020.70
		548.90	1,006	1,010	584.80	1,023.20
		550.20	1,011	1,015	586.00	1,025.30
		551.50	1,016	1,020	587.40	1,027.80
		552.60	1,021	1,025	588.60	1,029.90
		553.80	1,026	1,030	589.80	1,032.20
		555.10	1,031	1,035	591.20	1,034.50
		556.20	1,036	1,040	592.40	1,036.70
		557.50	1,041	1,045	593.80	1,039.10
		558.80	1,046	1,050	595.20	1,041.30
		559.80	1,051	1,055	596.20	1,043.40
		561.10	1,056	1,060	597.60	1,045.90
		562.40	1,061	1,065	599.00	1,048.00
		563.60	1,066	1,070	600.30	1,050.50
		564.80	1,071	1,075	601.60	1,052.60
		566.00	1,076	1,080	602.80	1,054.80
		567.30	1,081	1,085	604.20	1,057.10
		568.40	1,086	1,090	605.40	1,059.40
		569.70	1,091	1,095	606.80	1,061.70
		571.00	1,096	1,100	608.20	1,064.00
		572.00	1,101	1,105	609.20	1,066.10
		573.30	1,106	1,110	610.60	1,068.50
		574.80	1,111	1,115	612.00	1,070.70
		575.70	1,116	1,120	613.20	1,073.10
		577.00	1,121	1,125	614.60	1,075.30
		578.20	1,126	1,130	615.80	1,077.60
		579.40	1,131	1,135	617.10	1,079.70
		580.60	1,136	1,140	618.40	1,082.20
		581.90	1,141	1,145	619.80	1,084.40
		583.10	1,146	1,150	621.10	1,086.70
		584.20	1,151	1,555	622.20	1,088.80
		585.50	1,156	1,160	623.60	1,091.10
		586.70	1,161	1,165	624.90	1,093.40
		587.90	1,166	1,170	626.20	1,095.80
		589.20	1,171	1,175	627.50	1,098.00
		590.30	1,176	1,180	628.70	1,100.20

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I		II	III		IV	V
Primary insurance benefit—If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		Primary insurance amount effective June 1977—Or his or her primary insurance amount is—	Average monthly wage—Or his or her average monthly wage (as determined under § 404.221) is—		Primary insurance amount effective June 1978—Then his or her primary insurance amount is—	Maximum family benefits—And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		591.40	1,181	1,185	629.90	1,102.20
		592.80	1,186	1,190	631.20	1,104.30
		593.70	1,191	1,195	632.30	1,106.50
		594.80	1,196	1,200	633.50	1,108.80
		595.90	1,201	1,205	634.70	1,110.80
		597.10	1,206	1,210	636.00	1,112.90
		598.20	1,211	1,215	637.10	1,114.90
		599.30	1,216	1,220	638.30	1,117.00
		600.40	1,221	1,225	639.50	1,119.00
		601.60	1,226	1,230	640.80	1,121.20
		602.70	1,231	1,235	641.90	1,123.30
		603.80	1,236	1,240	643.10	1,125.40
		605.00	1,241	1,245	644.40	1,127.50
		606.10	1,246	1,250	645.50	1,129.60
		607.20	1,251	1,255	646.70	1,131.80
		608.30	1,256	1,260	647.90	1,133.80
		609.50	1,261	1,265	649.20	1,135.90
		610.60	1,266	1,270	650.30	1,138.00
		611.70	1,271	1,275	651.50	1,140.00
		612.80	1,276	1,280	652.70	1,142.20
		613.80	1,281	1,285	653.70	1,144.10
		614.80	1,286	1,290	654.90	1,146.10
		616.00	1,291	1,295	656.10	1,148.20
		617.00	1,296	1,300	657.20	1,150.00
		618.10	1,301	1,305	658.30	1,152.00
		619.10	1,306	1,310	659.40	1,154.00
		620.20	1,311	1,315	660.60	1,155.90
		621.30	1,316	1,320	661.70	1,157.90
		622.30	1,321	1,325	662.80	1,159.80
		623.40	1,326	1,330	664.00	1,161.90
		624.40	1,331	1,335	665.00	1,163.80
		625.50	1,336	1,340	666.20	1,165.80
		626.60	1,341	1,345	667.40	1,167.70
		627.60	1,346	1,350	668.40	1,169.70
		628.70	1,351	1,355	669.60	1,171.70
		629.70	1,356	1,360	670.70	1,173.70
		630.80	1,361	1,365	671.90	1,175.60
		631.80	1,366	1,370	672.90	1,177.70
		632.90	1,371	1,375	674.10	1,179.60
		633.90	1,376	1,380	675.20	1,181.60
		634.90	1,381	1,385	676.20	1,183.40
		635.90	1,386	1,390	677.30	1,185.30
		636.90	1,391	1,395	678.30	1,187.10
		637.90	1,396	1,400	679.40	1,189.00
		638.90	1,401	1,405	680.50	1,190.80
		639.90	1,406	1,410	681.50	1,192.70
		640.90	1,411	1,415	682.60	1,194.60
		641.90	1,416	1,420	683.70	1,196.50
		642.90	1,421	1,425	685.70	1,198.30
		643.90	1,426	1,430	684.60	1,200.20
		644.90	1,431	1,435	686.90	1,202.00
		645.90	1,436	1,440	687.90	1,203.90
		646.90	1,441	1,445	689.00	1,205.70
		647.90	1,446	1,450	690.10	1,207.70
		648.90	1,451	1,455	691.10	1,209.50
		649.90	1,456	1,460	692.20	1,211.40
		650.90	1,461	1,465	693.30	1,213.20
		651.90	1,466	1,470	694.30	1,215.10
		652.90	1,471	1,475	695.40	1,216.90

7. Section 404.304 is amended by removing and reserving paragraph (c) and by adding paragraph (f) to read as follows:

§ 404.304 General rules on benefit amounts.

* * * * *

(c) [Reserved].

* * * * *

(f) *Rounding.* After all other deductions or reductions, any monthly benefit which is not a multiple of $1 is reduced to the next lower multiple of $1.

§ 404.402 [Amended]

8. Section 404.402 is amended on paragraph (a)(2) by changing the cross-reference from § 404.409 to § 404.304(f).

§ 404.403 [Amended]

9. Section 404.403 is amended in paragraph (c) by changing "higher" to "lower" in the last sentence.

§ 404.405 [Amended]

10. Section 404.405 is amended by revising the second sentence of paragraph [p][3] to read as follows:

* * * * *

[p] * * *

[3] * * * Any such increased amount, if it is not a multiple of $0.10, will be raised to the next higher multiple of $0.10 for months before June 1982 and reduced to the next lower multiple of $0.10 for months after May 1982.

* * * * *

§ 404.409 [Removed and Reserved]

11. Section 404.409 is removed and reserved.

12. Section 404.410 is amended in the opening paragraph by adding after the fourth sentence the following sentence, to read as follows:

§ 404.410 Reduction in benefits for age—general.

* * * Any reduction amount under this section or §§ 404.411–404.413 which is not a multiple of $0.10 will be raised to the next higher multiple of $0.10.

* * * * *

§ 404.439 [Amended]

13. Section 404.439 is amended in the second sentence by adding "and before the application of § 404.304(f) to round to the next lower dollar" after "retirement age". This section is further amended by revising the example to read as follows:

* * * * *

Example: A is entitled to an old-age insurance benefit of $165 and his wife is entitled to $82.50 before rounding, making a total of $247.50. After A's excess earnings have been charged to the appropriate months, there remains a partial benefit of $200 payable for October, which is apportioned as follows:

	Original benefit	Fraction of original	Benefit[1]
A	$165	2/3	$133
Wife	82.50	1/3	66
Total	247.50		199

[1] After deductions for excess earnings and after rounding per § 404.304(f).

§ 404.440 [Amended]

14. Section 404.440 is amended by removing the last sentence of the introductory text and revising the example to read as follows:

* * * * *

Example: Family maximum is $150. Insured individual's excess earnings charged to the month are $25. The remaining $125 is prorated as partial payment.

	Original benefit	Fraction of original total benefit	Benefit after deductions for excess earnings but before reduction for family maximum	Benefit reduced for maximum but without deductions for excess earnings	Benefit payable after both deductions and reductions (and rounded)
Insured Individual	$100	⅝	50	100.00	75
Wife	50	⅛	25	16.60	16
Child	50	⅛	25	16.60	16
Child	50	⅛	25	16.60	16

15. Section 404.441 is revised to read as follows:

§ 404.441 Partial monthly benefits; insured individual and another person entitled (or deemed entitled) on the same earnings record both have excess earnings.

Where both the insured individual and another person entitled (or deemed entitled) on the same earnings record have excess earnings (as described in § 404.430), their excess earnings are charged, and their partial monthly benefit is apportioned, as follows:

Example: M and his wife are initially entitled to combined total benefits of $264 per month based on M's old-age insurance benefit of $176. For the taxable year in question, M's excess earnings were $1,599 and his wife's excess earnings were $285. Both were under age 65. M had wages of more than $340 in all months of the year except February, while his wife had wages of more than $340 in all months of the year. After M's excess earnings have been charged to the appropriate months (all months through July except February), there remains a partial benefit payment for August of $249, which is allocated to M and his wife in the ratio that the original benefit of each bears to the sum of their original benefits: $166 and $83. His wife's excess earnings are charged against her full benefit for February ($88), her partial benefit for August ($83), her full benefit for September, and from $6 of her October benefit, leaving an $82 benefit payable to her for that month.

§ 404.501 [Amended]

16. Section 404.501 is amended in paragraph (a)(2) by inserting the words "or decrease" after the word "increase" and by removing the reference to section 202(m).

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VOL
48
ISS
1
9
7
OC
11
1983
UMI

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Part III

Environmental Protection Agency

Restructuring SIP Preparation Regulations; Proposed Rule

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48
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1
9
7
OC
11
1983
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD-FRL 2379-2]

Restructuring SIP Preparation Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed Restructuring of Existing Rule.

SUMMARY: EPA proposes to restructure and consolidate regulations for the development of State Implementation Plans (SIP's) to attain the national ambient air quality standards. These regulations are complex, not well organized, and contain many obsolete provisions. EPA proposes to delete obsolete provisions and rewrite the regulations in a new format which is shorter and better organized. States using the new regulations to prepare SIP's will find them current and easier to follow. The proposed regulations also have a flexible structure into which future requirements can be more easily included.

DATES: Comments must be submitted by January 9, 1983.

ADDRESSES: Send comments to: Central Docket Section (LE–131), Environmental Protection Agency, Attention: Docket No. A–81–25, 401 M Street, SW., Washington, D.C. 20460.

Docket No. A–81–25, containing material relevant to this rulemaking, is located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery #1, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ted Creekmore or Joseph Sableski, Plans Guidelines Section, MD–15, Environmental Protection Agency, Research Triangle Park, N.C. 27711; Telephone: (919) 541–5697, commercial; 629–5697; FTS.

SUPPLEMENTARY INFORMATION:

Background

EPA began to develop SIP requirements in 1971 shortly after the enactment of the Clean Air Act Amendments in December 1970. EPA promulgated the Part 51 requirements on November 25, 1971.

EPA has made many substantive revisions to 40 CFR 51 since it was first promulgated, and continues to make them. We have revised requirements for transportation control strategies maintenance of the national ambient air quality standards, legal authority, air quality monitoring, new source review, data reporting, prevention of significant deterioration, and the lead air quality standard, to name some of the major topics.

The existing format was not originally designed to accommodate so many topics, and the many revisions and additions have made the whole regulation more confusing. As a result, users—mainly the State air pollution control agencies and the EPA Regional Offices—have difficulty finding and understanding applicable requirements in the regulations.

This proposal recommends revising Part 51 to:

1. *Delete obsolete provisions.* The major obsolete provisions deleted are the example region aproach, the priority classification system as it applies to control strategies, and several Appendices.

2. *Reduce reporting requirements.* Existing Part 51 sections require various reports as part of the "Annual source emissions and State action report" (§ 51.321). EPA intends to delete provisions for "Reportable revisions" (§ 51.328) and "Plan prescribed actions" (§ 51.328). This information is available through overview programs and the grant mechanism.

3. *Rewrite, condense, and reduce complicated and detailed requirements.* The best example of this is the incorporation of the control strategy sections, i.e., §§ 51.10, 12, 13, 14, into the new Subpart G—"Control Strategy." The consolidation of all SIP control strategy requirements under Subpart G simplifies the regulations and removes detailed requirements for specific pollutants which are no longer necessary. The lead (Pb) requirements (Subpart E) are also consolidated within the new Subpart G.

4. *Improve clarity.* The main technique in improving clarity is to eliminate long units (sentences, paragraphs) by reorganizing them into smaller, more easily understood units.

5. *Provide flexible structure.* EPA has developed a "Master Plan" to restructure 40 CFR 51; it is included as Table 1. It expands the Part 51 structure to include more topical headings; these will act as guideposts in locating applicable requirements. This is accomplished by having more subparts than currently appear in Part 51. For instance, where now there is only one section for prevention of air pollution episodes (§51.16), there will be a whole subpart that contains several sections, one for classification of regions for episode plans, one for levels of significant harm, one for contingency plans, and one for reevaluation of episode plans. Furthermore, the use of section subdivisions below the third order is significantly reduced.

Portions of the Master Plan have already been implemented. Section 51.17, "Air quality surveillance," was restructured in a new Subpart J (44 FR 27558) when the "Ambient Air Quality Monitoring Data, Reporting, and Surveillance Provisions" regulations were issued May 10, 1979. Section 51.21, "Intergovernmental cooperation," was also restructured in a new Subpart M (44 FR 35179) when the "Intergovernmental Consultation" regulations were issued June 18, 1979. Finally, regulations on "Protection of Visibility" were promulgated as a new Subpart P on December 2, 1980 (45 FR 80089).

6. *Remove guidance language from regulations.* Most necessary guidance in Part 51 is available from other EPA publications. For example, guidance on emission inventories, monitoring, and diffusion modeling is routinely updated by EPA through guidelines that are readily available to the public. Thus, the proposal removes most guidance language in the text of the regulations. Also, many appendices are proposed for removal because guidance they provide can be found elsewhere. EPA guidance is listed in an "Air Programs Reports and Guidelines Index," EPA–450/2–82–016, which is available to the public.

Restructuring Schedule

The Administrator has decided that restructuring and revising all of 40 CFR Part 51 at one time is too complicated, and we propose to do it in phases. Phase I, proposed in this notice, restructures existing Subparts A, C, E, and Subpart B with the exception of maintenance plan requirements (§51.12(e-i)) and the PSD requirements (§51.24). Later phases will include revising maintenance provisions, restructuring Prevention of Significant Deterioration (PSD) provisions, revising Part 52, and adding other requirements as appropriate. Thus, when the restructuring is completed, existing Subparts A–E will have been replaced by new subparts beginning with Subpart F as shown in Table 1.

Restructuring Form

This action includes two tables to help identify and explain the restructured sections as follow:

(1) *Derivation Table and Master Plan (Table 1).* This table shows the origin of each new section and gives the Master Restructuring Plan.

(2) *Distribution (Table 2).* This table indicates where each original section fits into the new restructured format.

In addition to these aids, the proposal includes further documentation of the relationship between the new and old regulations. We cite the comparable old sections in the proposed regulatory text.

Relation of Restructured Regulations to Existing SIP's and Nonattainment Requirements

EPA does not anticipate that this proposal will have any significant impact on existing SIP's. EPA is proposing very few substantive changes to Part 51. The majority of these changes remove material that was intended to serve as guidance to the States in preparing their plans. EPA does not intend to require States to "clean up" their SIP's by removing or revising outdated material such as original emission inventories. States may make such revisions as their resources permit.

EPA is proposing three new requirements to Part 51. See the discussion of existing § 51.1(o) (definition of RACT—addition of visible emission limits); existing § 51.10(d) (interstate protection—prohibition of interference with measures to prevent significant deterioration and to protect visibility); and existing § 51.16 (air pollution episodes—requirement for reevaluating emergency episode plans when EPA reevaluates national standards). EPA does not anticipate that any existing SIP's have provisions which are inconsistent with these proposed requirements. The first two changes codify existing EPA policy. Because these two changes reflect existing policy, EPA does not anticipate that any State will need to revise its SIP. Compliance with the third proposed change may require revisions in the future if a State determines that its emergency episode plan needs to be updated.

EPA also does not anticipate that this proposal will have any appreciable impact on SIP revisions submitted to meet the requirements of Part D, Title I of the Clean Air Act. Part D contains new requirements for areas which did not attain the standards within the deadlines established by the 1970 amendments. The only regulations EPA has promulgated that incorporate Part D requirements concern new source review. EPA is not proposing any changes to the new source review rules. For the remaining Part D requirements, EPA issued non-regulatory guidance. EPA is not proposing to incorporate any of this guidance into Part 51 at this time.

Description of Proposal

We outline changes to Part 51 in Tables 1 and 2, detail changes below by subpart, and discuss changes to Part 51 appendices under the heading "Appendices."

Subpart F—Procedural Requirements

This new subpart includes the existing provisions for Definitions (§ 51.1), Stipulations (§ 51.2), Public hearings (§ 51.4), Submission of plans (§ 51.5), Revisions (§ 51.6, § 51.34), Approval of plans (§ 51.8), and Public availability of emission data (§ 51.10(e)).

Section 51.1 Definitions. We propose to delete obsolete definitions and add new definitions as necessary. Section 51.1 is redesignated § 51.100.

The current Part 51 regulation includes two definitions of the term "local agency." This proposal deletes the definition in existing § 51.1(j) which defines a local agency as ". . . and air pollution control agency. . ." and retains the definition in § 51.1(g) which defines a local agency as ". . . any local government agency . . ." The latter is a better definition because many local agencies involved in air quality planning are not strictly "air pollution control agencies."

The new § 51.100(j) now defines the word "plan" because it is referenced frequently in the regulations. The definition was inadvertently revoked by EPA in an earlier action.

The proposal revises subparagraphs § 51.1(1)(l) (i) and (ii) of § 51.1(k), "Point Source." The new definition deletes the outdated reference to "1970 urban place," and substitutes "1980 urban place."

The proposal deletes subparagraph (k)(1)(iii) because it references Appendix C, "Major Pollutant Sources," which is also proposed to be deleted. (We discuss the deletion of Appendix C under the section on "Appendices.")

The proposal revises the definition of § 51.1(l), "Area source." The new definition replaces a reference to an outdated 1968 publication with a reference to the "AEROS Manual Series."

The proposal revises the definition of Reasonably Available Control Technology (RACT) as it appears in § 51.1(o) to delete obsolete references and to correspond with the definition in use since enactment of the 1977 Clean Air Act Amendments. The new definition of RACT will also include the phrase "(including a visible emissions standard)," to make it clear that EPA considers visible emissions part of RACT requirements. This change codifies existing policy. EPA has traditionally considered visible emission limits in making RACT determinations. For example, Appendix B, "Examples of Emission Limitations Attainable With Reasonably Available Technology," contains a section discussing RACT for visible emissions.

Section 51.2 Stipulations. We propose to redesignate this section as § 51.101 with no significant changes.

Section 51.3 Classification of regions. The initial promulgation of Part 51 on November 25, 1971, contained the priority classification system (PCS) for the Air Quality Control Regions (AQCR's) designated throughout the United States. The PCS was adopted to prioritize development of control strategies. Under the PCS, EPA classified each region as either Priority I, II, or III based on "measured ambient air quality, where known, or where not known, estimated air quality in the area of maximum pollutant concentration." EPA also classified some regions "Priority IA" where a single source was the predominant source of emissions in the region.

The purpose of the system was to categorize AQCR's for plan development and evaluation so that the time and resources expended in developing the plan for a region, as well as the substantive content of the plan, would be commensurate with the complexity of the air pollution problem. For example, for emergency episode plans and air quality surveillance, the control strategy requirements varied by AQCR. Plans for AQCR's classified as "Priority I" for any pollutant were required by existing § 51.16 to contain contingency plans for emergency episodes. Under § 51.17, plan requirements for previous air quality surveillance monitors corresponded to the priority classification for each air quality control region for each pollutant. At the time it was developed, the PCS was not intended to track changes in air quality, to indicate progress toward attainment of air quality standards, or to identify problems on a continuing basis. Very few changes have been made in the priority classifications established in 1971.

However, it has become increasingly clear that the PCS is not able to accommodate the variety of air quality problems confronting State officials today and is no longer adequate for prioritizing current efforts and resources. Indeed, may State officials have ignored the PCS in development of their plans, and several EPA regulatory and policy changes have minimized its significance.

VOL 48 ISS 197 OCT 11 1983 UMI

For example, the 1977 Amendments to the Act ignored the PCS and "example region approach" and required each State to designate nonattainment areas and develop control strategies for each area. Thus, the example region concept is obsolete, and the PCS is no longer needed for plan development.

Another example of the reduced need for the PCS involves the "Guidelines for Analysis of Consistency Between Transportation and Air Quality Plans and Programs" prepared jointly in April 1975 by the Federal Highway Administration and EPA. Although the guidelines used the priority classifications for carbon monoxide, photochemical oxidants, and nitrogen dioxide as first criteria for establishing the level of analysis for consistency determinations, additional criteria are employed, such as the current attainment or nonattainment status of a region. EPA has since developed new guidance under Sections 176 (a) and (c) concerning transportation requirements for use in planning control strategies. This guidance supersedes the 1975 Consistency Agreement and does not use the PCS.

On May 10, 1979 (44 FR 27558), EPA promulgated new monitoring requirements for SIP's which revoked § 51.17 and consolidated air quality surveillance requirements in a new Part 58. These new regulations no longer use the PCS as a basis for determining the required number of samplers for Regions.

However, the PCS is still used in current regulations in the requirements of § 51.16, "Prevention of Air Pollution Emergency Episodes." This regulation uses the PCS to identify the areas which need episode plans and to determine how comprehensive these plans should be. At present, no other criteria are used for this purpose, so that either the PCS must be retained for purposes of § 51.16 or substitute criteria must be developed. In this action, we propose to retain a streamlined version of the PCS because EPA believes that the existing programs for prevention of air pollution emergency episodes, based on the PCS, are adequate, and because developing another mechanism might cause confusion among the States and local agencies. In order to clarify that the PCS applies to episodes plans only, we propose to include the priority classification criteria with the episode requirements in the new Subpart H. Further discussion of this issue is located under that heading.

In summary, the PCS is no longer a factor in development of SIP control strategies or transportation planning, and is no longer the criterion for air quality surveillance requirements. Accordingly, we propose to retain the PCS criteria for episode plans only and to incorporate them with the episode regulations. The impact on regulatory programs which currently refer to the PCS is expected to be minimal, since these programs already use other parameters.

Section 51.4 Public hearings. We propose to redesignate this section as § 51.102 and to make some wording changes to improve readability. We propose to delete subparagraph § 51.4(b)(6) which refers to maintenance plans, and § 51.4(f) which refers to transportation control measures, because they duplicate the general hearing requirements under § 51.(b)(1–4).

Section 51.5 Submission of plans; preliminary review of plans. The proposal redesignates this section as § 51.103. We propose to delete the "Note" after subsection (a)(1), and subsection (a)(3), because they both refer to submission deadlines which have already passed. We propose to delete § 51.5(b) because it is no longer necessary. We propose to delete Sections 51.5 (d) and (e) because separate sections for transportation plans are no longer required.

Section 51.6 Revisions. The proposal redesignates this section as § 51.104. We propose several wording changes to improve readability.

Section 51.8 Approval of plans. The proposal redesignates this section as § 51.105. We propose wording changes to improve readability.

Subpart G—Control Strategy

Table 1 lists the existing portions of Part 51 consolidated within the new Subpart G. Essentially, Subpart G would include the existing §§ 51.10, 12–14 (except maintenance provisions, § 51.12(e–1)); and Subpart E—"Control Strategy: Lead" (existing §§ 51.80 through 51.88). We propose to remove obsolete portions of the existing subparts, rewrite some provisions, and reference necessary guidance through a separately published "Air Programs Reports and Guidelines Index."

With regard to the existing Subpart D, "Maintenance of National Standards," EPA required, in 1974–1975, detailed analyses in each State to determine areas in which air quality maintenance problems might exist. These analyses were necessary because the original SIP's did not adequately address the issue of maintenance of national ambient air quality standards once they were attained. EPA designated areas as Air Quality Maintenance Areas (AQMA's) and promulgated Subpart D, which required detailed plans called Air Quality Maintenance Plans (AQMP's) for the AQMA's. Before AQMP's were submitted, however, the Clean Air Act Amendments of 1977 revised the requirements for SIP's and called for plans for nonattainment areas to be submitted by January 1979. Most of the areas where AQMP's were needed were designated as nonattainment areas, and States and local areas used data generated by the AQMA studies in the preparation of nonattainment plans.

A question remains about future policy on maintenance plans. This action proposes no change in existing maintenance policy (specified in § 51.12(e–i) and Subpart D), but asks for public comment on ways to make maintenance requirements more meaningful. Existing programs such as nonattainment area controls and PSD regulations do assist in maintaining air quality standards. Some nonattainment provisions contain growth restrictions and most provide for maintenance through regulation of large new sources. PSD regulations provide for maintenance through control of major sources in attainment and unclassified areas. PSD also provides for control of minor sources through the periodic assessments required under § 51.24(a)(4). Section 51.24(a) requires States to assess attainment and unclassified areas periodically to determine if the applicable increment is being violated. In conjunction with nonattainment and PSD requirements, EPA continues to identify best available control technology (BACT) and lowest achievable emission reduction (LAER) for major point sources. EPA is also planning an audit and oversight program which will evaluate State progress in attaining and maintaining air quality standards. Thus, EPA currently has several programs which contribute to the maintenance of air quality standards.

For the future, emphasis could be placed on simplifying maintenance provisions. For example, existing requirements for 20-year projections of the effect of growth on air quality could be reduced to five or ten years. Every five years, when EPA reviews air quality standards as required by the Act, States would evaluate their air quality and project growth for the next five or ten years. This would allow air quality planning for both attainment and maintenance to coincide with EPA's periodic reviews of air quality standards; thus, implementation of air quality standards by the States would be coordinated with their review by EPA. In addition, the requirements in

Subpart D for projections and plan revisions could be simplified and more discretion could be given the States. The revised regulations would also give the States more flexibility in determining growth factors for the projection calculations. In any event, many of the maintenance provisions would be covered under the revised regulations proposed today. For example § 51.524, "AQMA plan: Strategies," would be covered under § 51.111, "Description of control measures."

Subpart E, "Control Strategy: Lead," is integrated with Subpart G unchanged. Where lead requirements differ from general SIP requirements in Subpart G, they are included in § 51.118, "Additional provisions for lead."

The following summarizes other changes we propose to make in existing portions of 40 CFR §§ 51.10–51.23.

1. *Revise § 51.10(d).* This paragraph provides that plans for each Region will have provision to ensure that pollutant emissions will not interfere with attainment and maintenance of any national standard in any portion of an interstate region or in any other region. Since EPA developed this wording in 1971, Congress has written PSD and visibility provisions into the Act. Thus, we propose to revise § 51.10(d) to explain that, in addition to attainment and maintenance of any national standards, plans must not interfere with measures required to prevent significant deterioration of air quality or to protect visibility. Also, the terms "pollutant emissions" and "interfere" in the existing § 51.10(d) have been changed to "stationary sources" and "prevent" to make them consistent with the wording in the Act.

2. *Delete § 51.12(c).* This paragraph states that, "Portions of a control strategy applicable to area sources may differ from portions applicable to point sources." This provision is obvious and we propose to delete it.

3. *Delete § 51.13(d).* This section currently allows States to use example regions to develop control strategies. This concept assumes that if a State can demonstrate attainment in its worst region for a particular pollutant, and the same regulations are applied statewide, the standard will be attained statewide. The example region concept was originally adopted by EPA to help States with limited data bases to develop control strategies. as explained earlier, the example region concept is obsolete and we propose to delete it.

4. *Remove §§ 51.13(e)(2)(i) (ii), 51.14(c)(2)(7), and portions of 51.13(e)(3)(i).* These paragraphs present modeling guidance for particulate matter, sulfur dioxide, carbon monoxide, ozone, and nitrogen dioxide. This information is now available through the "Air Programs Reports and Guidelines Index." Thus, we propose to remove this material to simplify the regulations through separation of regulatory and guidance materials.

5. *Delete § 51.14(b).* This paragraph states that if the Federal Motor Vehicle Emission Standards do not lead to attainment, other measures must be implemented. The statement is obvious and we propose to delete it.

6. *Remove § 51.14(c)5.* This paragraph includes special instructions on what should be included in a control strategy for transportation plans. This information is covered under the general requirements in Subpart G and is no longer needed.

7. *Remove § 51.14(c)9.* This paragraph states that emission reductions necessary for attainment of the ozone standard will also be adequate for attainment of the hydrocarbon standard. EPA revoked the hydrocarbon standard on January 5, 1983 (48 FR 628), and this subsection is no longer needed.

8. *Delete § 51.14(f).* This paragraph requires States to calculate emissions from gasoline-powered motor vehicles using factors presented in EPA Report No. AP–42, or to justify the use of other factors. We propose to delete this provision for two reasons. First, the emission factors contained in AP–42 are outdated and have been replaced by a computerized program known as "MOBILE 2." (Information on this program is available from EPA Regional Offices as the "User Guide to MOBILE 2," EPA–450/3–81–006, NTIS No. PB81–205619, February 1981. Also available is the "MOBILE 2 Emission Model (Tape)," NTIS No. PB81–223067.) Second, EPA is replacing several existing specific emissions data requirements with a more generalized requirement. This general requirement is proposed to be codified as § 51.115.

9. *Delete § 51.14(h).* This provision states that information and requirements for State-adopted motor vehicle inspection and maintenance programs and retrofit programs can be found in Appendix N. We are proposing to delete this provision because the information and requirements contained in Appendix N have been replaced by new methods for computing emission reductions and new policy requirements developed for inspection and maintenance programs required under the 1977 amendments to the Clean Air Act. These new methods for computing emission reductions from these programs are contained in the MOBILE 2 program described in paragraph 8 above. The policy requirements are summarized in a July 17, 1978 memorandum from former Assistant Administrator David Hawkins to the Regional Administrators entitled "Inspection Maintenance Policy." Copies of this memorandum can be obtained from EPA Regional Offices. MOBILE 2 will be referenced in the "Air Programs Reports and Guideline Index."

Subpart H—Prevention of Air Pollution Episodes

This action proposes to redesignate existing episode requirements (§ 51.16) into a new Subpart H. As explained earlier, we propose to retain the criteria of the priority classification system (existing § 51.3) for episode plan requirements, and to incorporate them into the new Subpart H as § 51.150.

We propose to revise the § 51.3 format to streamline its provisions. No substantive changes are made. References which apply to control strategies such as § 51.3(b)(3) are deleted. The reference to Appendix A in § 51.3(a)(2) is replaced with a reference to the "Air Programs Reports and Guidelines Index" which contains updated information on modeling. Appendix A was orginally used to estimate air quality for particulate matter and sulfur dioxide where air quality data were not available. This Appendix is now outdated because better modeling procedures are currently available.

The new Subpart H contains one new requirement concerning the reevaluation of episode plans. EPA is proposing to require States to reevaluate priority classifications every five years (§ 51.153). States should reevaluate priority classifications more frequently if necessary. However, as a minimum, the time period for updating episode plans would parallel EPA's five year review of ambient air quality standards. Within one year after EPA publishes its findings on the new standard, the States must reevaluate priority classifications and make appropriate revisions in emergency episode plans.

We propose to leave Appendix L, "Example Regulations for Prevention of Air Pollution Emergency Episodes," in Part 51 as guidance. We propose, however, to amend Appendix L to refer, as appropriate, to the requirements in the new Subpart H, "Prevention of Air Pollution Emergency Episodes." In addition, we propose to change the alert level for ozone in Appendix L from 200 ug/m^3 to 400 ug/m^3 to make this level consistent with the air quality standard.

VOL
48
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Subpart I—Review of New Sources and Modifications

This action proposes to (1) restructure § 51.18, "Review of New Sources and Modifications," (2) rewrite several new sections of § 51.18 in better English, (3) delete Appendix O (§ 51.18 references Appendix O as guidance for indirect source review), and (4) reduce reporting and public hearing requirements.

We propose three new section headings and rewrite several sections to make their provisions easier to understand.

Appendix O guidance on indirect source review was part of regulations promulgated on June 18, 1973 to aid in maintenance of air quality standards. Congress later acted to restrict EPA involvement with indirect source review. Section 110(a)(5) of the CAA as amended in 1977 states that "the Administrator may not require as a condition of approval" of a SIP "any indirect source review programs." Thus, there is no need to include guidance for these programs in Part 51. States that choose to adopt indirect source review programs may contact EPA for guidance.

Section 51.18(h)(4) requires States to notify EPA of all air permitting actions pertaining to new sources or modification to existing sources. EPA primarily needs permitting information from only major new sources or major modifications of existing sources in nonattainment areas. This action revises § 51.18(h)(4) to cover only those major sources in nonattainment areas defined in § 51.18(j)(1)(iv) or for lead, those sources covered under § 51.1(k)(2).

Subpart K—Source Surveillance

This action proposes toincorporate § 51.19, "Source surveillance," in the new structure with no substantive changes to the actual regulation. We propose several new section headings and rewrite paragraphs to make the regulation easier to understand.

Subpart L—Legal Authority

This action proposes to incorporate § 51.11, "Legal authority" in the new structure. We propose three new section headings and rewrite several paragraphs to clarify the provisions of this new subpart.

Subsection 51.11(b) allows States to submit schedules for obtaining legalauthority for inspection and maintenance programs, other transportation control measures, and land use measures. This subsection is an exception to the general rule in § 51.11(d)(1) that plans must show that legal authority for all measures is available to the State at the time of submission of the plan. We are proposing to delete § 51.11(b). When this subsection was promulgated in 1971, it was reasonable to provide extra time for States to obtain legal authority for transportation control and land use measures. Requirements for the development of such measures were first added to the Clean Air Act in 1970. EPA believes, however, that there is no longer any need to retain this exception. All States have now had ample notice and opportunity to provide authority for such measures. In addition, this subsection conflicts with a provision that was added to the Clean Air Act in 1977. Section 172(c) requires plans for all nonattainment areas which have received extensions of the deadline for attaining the ozone or carbon monoxide standards to contain "enforceable measures" no later than July 1, 1982. Allowing these extension areas to submit schedules for attaining legal authority would conflict with the "enforceable measures" requirement.

EPA is also proposeing to delete the reference to § 51.11(b) that is found in § 51.11(d)(1).

Subpart N—Compliance Schedules

This action proposes to incorporate § 51.15, "Compliance schedules," in the new structure with no substantive changes to the regulation. We propose several new section headings and rewrite several paragraphs to make the regulation easier to understand.

Subpart O—Miscellaneous Plan Content Requirement

The Administrator restructured a portion of Subpart O on May 10, 1979 in the "Ambient Air Quality Monitoring Data, Reporting, and Surveillance Provision" regulations (44 FR 27558). EPA incorporated §51.285, "Public Notification," as part of Subpart O at that time. This action proposes to incorporate § 51.20, "Resources," and § 51.22, "Rules and regulations," into Subpart O as §§ 51.280 and 51.281 respectively. Portions of these paragraphs are rewritten to make them easier to understand.

Subpart Q—Reports

We propose to eliminate the reporting requirements of the following two sections because EPA can obtain the information through overview programs and grant mechanisms. The other sections of Subpart Q are unchanged.

Section 51.328. This provision requires States to identify and describe in the "Annual Source Emissions and State Action Report" all substantive plan revisions not submitted as official SIP revisions.

Section 51.328. This provision requires States to report on the status and progress of several ongoing SIP processes that the States may have promised such as (1) obtaining new resources; (2) adopting new laws; and, (3) conducting pollutant control studies. This provision also allows the Administrator to identify additional matters on which the State must report.

Subpart R—Extensions

This action proposed to restructure § 51.30, "Request for 2-year extension," and § 51.31, "Request for 18-month extension," into a new Subpart R, with no substantive changes. We also propose to eliminate two other sections which are part of the existing extension provisions. These are § 51.31, "Request for one-year postponement," and § 51.33, "Hearings and appeals relating to request for one year postponement," which we propose to revoke because the provision which they implement, Section 110(f) of the Clean Air Act as amended in 1970, was revised in 1977.

Appendices

A major goal of this action is to remove guidance material from the regulations. Thus, we propose to delete Appendices A–K, M–O, and R, because, as explained below, they are obsolete, have been replaced by other guidance, or such guidance is available in other EPA publications. EPA references major guidance under the "Air Programs Reports and Guidelines Index" which is available from the appropriate EPA Regional Office, the EPA Library (MD-35), Research Triangle Park, NC 27711, and from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

We proposed to change the zone alert level in Appendix L, "Example Regulations for Prevention of Air Pollution Emergency Episodes," from 200 ug/m³ (0.1 ppm) to 400 ug/m³ (0.2 ppm) to align the value with changes in the ambient air quality standard. Appendices P and S are unchanged. Because of the large effort involved, we do not propose to restructure the remaining Appendices P, S and U (Appendix Q is reserved) in this action. We will include any further restructuring of Appendices in later actions. The discussion below details why we propose to delete each particular Appendix.

Appendix A—Air Quality Estimation—EPA promulgated Appendix A in 1971 as a method to estimate air quality for PM and SO_x when little or no actual air quality data were available; such data are generally

available today. Also, information on new modeling techniques which superseded Appendix A is available through the "Air Programs Reports and Guidelines Index."

Appendix B—Examples of Emission Limitations Attainable With Reasonable Available Control Technology—Appendix B, originally promulgated in 1971, provides emission limitations once considered to represent RACT for most sources in various source categories. Many of these limitations have since been changes. Thus, this Appensix is no longer needed so we proposed to delete it.

Appendix C—Major Pollutant Sources—Appendix C, originally promulgated in 1971, provided States which did not have extensive emissions data with a list of polluntant sources which might be included as part of a SIP control strategy. This Appendix is no longer needed and we propose to delete it.

Appendix D (Pollutant)—Emissions Inventory Summary—Appendix D includes a summary format for States to follow in submission of emissions data where emission limits were required, such as in example regions. Today, this type of information is readily available in EPA guidance as listed in the "Air Programs Reports and Guidelines Index." Thus, Appendix D is no longer necessary and we propose to delete it.

Appendix E—Point Source Data and Appendix F—Area Source Data—These appendices specify information about point and area sources which the States currently must make available for the Administrator upon request. EPA is proposing to retain the requirement that States must make detailed inventory data available on request (§ 51.117). However, EPA does not believe that it needs to specify the content or format of this data. The "AEROS User's Manual", EPA–450/2–76–029, may be used as a guide by the States in developing area and point source data.

Appendix G—Emissions Inventory Summary—Appendix G includes a summary format for the States to follow in submission of emissions data for Regions where emission limitations were not required. We feel that Part 51 need not specify a format for the States to follow in submission of emissions data where no emission limitations are required. It is felt that this can be left to the States. Thus, we propose to delete Appendix G.

Appendix H—Air Quality Data Summary—The original plan requirments suggested Appendix H as the format for submission of air quality data in the SIP's. Since that time, sophisticated data retrieval and recording methods have been developed, and EPA has provided extensive guidance on air quality data format. As a result, it is no longer appropriate to specify a particular format for submission of air quality data in SIP's.

Appendix K—Control Agency Functions—Appendix K includes man-year estimates of resources by function. this table was useful in 1971 but is no longer needed because EPA has adequate information on State resources through the grants mechanism and annual reports.

Appendix M—Transportation Control Supporting Data Summary—The Administrator replaced this guidance on February 24, 1978 with a memorandum entitled "Criteria for Approval of 1979 SIP Revisions," which EPA published in the Federal Register on May 19, 1978 (43 FR 21673). The memorandum included requirements from the Act as amended in 1977. Thus, Appendix M is no longer needed.

Appendix N—Emission Reductions Achievable Through Inspection, Maintenance and Retrofit of Light Duty Vehicles—This appendix contains guidance on computing the emission reduction benefits of inspection/maintenance and retrofit programs. This guidance has been replaced by the MOBILE 2 program described in the previous discussion of § 51.14(h) in Subpart G—"Control Strategy."

This appendix also defines terms and specifies requirements for state-adopted inspection/maintenance and retrofit programs. As explained in the discussion of § 51.14(h), EPA has replaced this material with new non-regulatory guidance. Accordingly, Appendix N is not needed for the inspection/maintenance programs required by the 1977 amendments.

EPA has incorporated references to Appendix N into regulations which it promulgated into individual State plans in Part 52 of this chapter. These provisions in Part 52 refer to the definitions section of Appendix N. However, the Part 52 provisions actually use few words defined in Appendix N, and the meaning of these words is clear. Additionally, many of these federal plan provisions have been revoked because States have adopted their own control programs. Thus, we propose to delete Appendix N.

References to Appendix N in Part 52 will be deleted in the final rulemaking action.

Appendix O (untitled)—As explained under Subpart I, guidance on indirect source review in Appendix O is no longer needed. Thus, we propose to delete Appendix O.

Appendix R—Agency Functions for Air Quality Maintenance Area Plans—Although this action proposes no change to the maintenance requirements in Subpart D of Part 51, this guidance is not necessary because we no longer want to specify the format for reporting control agency functions. Thus, we propose to delete Appendix R.

Impact on 40 CFR 52 and Other Provisions

40 CFR 52 (Part 52), "Approval and Promulgation of Implementation Plans," contains numerous references to various requirements of Part 51. Table 2, "Distribution Table," identifies the new designations of Part 51 sections. For example, Part 52 refers to the requirements of §51.13(a) several times. The distribution table indicates that §51.13(a) is now included in the restructured §51.110(a). We intend to make the actual changes in Part 52 citations in the final rulemaking action. This will give us an opportunity to consider public comments and make final Part 51 revisions before revising the more than 200 citations in Part 52.

In addition, other portions of Part 51 such as the visibility regulations (Subpart P) contain references in which we also intend to make technical corrections at promulgation to reflect changes in Subpart A, B, C, and E.

Environmental, Economic, and Energy Impact Assessments

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action imposes few new regulatory requirements, and these requirements are not expected to have significant impacts. The major portion of the revisions proposed today only restructures existing regulations to delete obsolete provisions and rewrites them in a more clear, concise manner. This regulation will result in no significant environmental, economic, or energy impacts. In addition, EPA certifies that the proposed regulations will have no significant impact on small entities. Thus, no analyses were perfomred under the Regulatory Flexibility Act.

The proposal has a negligible impact on reporting requirements. It eliminates some unnecessary provisions and reporting requirements as discussed under Subparts G, I, and Q. Cost reductions for these proposals are estimated as less than two work-years annually, nationwide. Although small, the proposed savings indicate an effort

by EPA to reduce the real burden of regulations to the States while still meeting the requirements of the Clean Air Act.

EPA has submitted this regulation to the Office of Management and Budget for review under Executive Order 12291. Any comments from OMB and any EPA responses to these comments are available in Docket No. A-81-25. This proposal does not include any new reporting or recordkeeping requirements; thus, OMB review under Section 3504(b) of the Paperwork Reduction Act of 1980 is unnecessary.

TABLE 1.—DERIVATION TABLE AND MASTER PLAN TO RESTRUCTURE 40 CFR 51

New designation		Old designation	
Section No.	Title	Section No.	Title
SUBPART F:	Procedural Requirements.		
51.100	Definitions.	51.1	Definitions.
51.101	Stipulations.	51.2	Stipulations.
51.102	Public hearings.	51.4	Public hearings.
51.103	Submission of plans.	51.5	Submission of plans.
51.104	Revisions.	51.6	Revisions.
		51.34	Variances.
51.105	Approval of plans.	51.8	Approval of plans.
SUBPART G:	Control Strategy.		
51.110	Attainment & Maintenance of National Standards.	51.10	General requirements (portion).
		51.12	Control strategy: General (portion).
		51.13	Control strategy: SO_x & PM (portion).
		51.14	Control strategy: CO, HC, O_x & NO_x (portion).
		51.80	Demonstration of attainment: Pb (portion).
		51.14	Control strategy: CO, HC, O_x & NO_x (portion).
		51.87	Measures: Pb.
51.111	Description of control measures.	51.13	Control strategy: SO_x & PM (portion).
51.112	Demonstration of adequacy.	51.14	Control strategy: CO, HC, O_x & NO_x (portion).
		51.80	Demonstration of attainment: Pb (portion).
		51.82	Air quality data (portion).
51.113	Procedures for demonstration of adequacy.	51.14	Control strategy: CO, HC, O_x & NO_x (portion).
		51.81	Emissions data: Pb (portion).
51.114	Time period for demonstration of adequacy.	51.85	Data bases: Pb (portion).
		51.10	General requirements (portion).
51.115	Emissions data and projections.	51.81	Emissions data: Pb (portion).
		51.13	Control strategy: SO_x & PM (portion).
		51.14	Control strategy: CO, HC, O_x & NO_x (portion).
51.116	Air quality data and projections.	51.81	Emissions data: Pb (portion).
		51.13	Control strategy: SO_x & PM (portion).
51.117	Data availability.	51.14	Control strategy: CO, HC, O_x & NO_x (portion).
		51.82	Air quality data: Pb (portion).
51.118	Additional provisions for lead.	51.10	General requirements (portion).
		51.86	Data availability: Pb.
		51.80	Demonstration of attainment: Pb (portion).
		51.81	Emissions data: Pb (portion).
		51.82	Air quality data: Pb (portion).
		51.83	Certain urbanized areas: Pb.
		51.84	Areas around significant point source: Pb.
		51.85	Other areas: Pb.
		51.86	Data bases: Pb (portion).
51.119	Stack height provisions.	51.12	Control strategy: General (portion).
51.120–51.135	Reserved for new requirements as set forth in the Act.		
51.136–51.149	Reserved for maintenance of PSD increment provisions.		
SUBPART H	Prevention of Air Pollution Emergency Episodes (§§ 51.150 to 51.159).	51.3	Classification of regions.
		51.16	Prevention of air pollution emergency episodes.
SUBPART I	Review of New Sources and Modifications (§§ 51.160 to 51.166).	51.18	Review of new sources and modifications.
		51.24	Prevention of significant deterioration.
SUBPART J	Air Quality Surveillance (§§ 51.190 to 51.209) (Promulgated 5/10/79).	51.17	Air quality surveillance.
SUBPART K	Source Surveillance (§§ 51.210 to 51.229).	51.19	Source surveillance.
SUBPART L	Legal Authority (§§ 51.230 to 51.239).	51.11	Legal authority.
SUBPART M	Intergovernmental consultation (§§ 51.240 to 51.259) (Promulgated 6/16/79).	51.21	Intergovernmental cooperation.
SUBPART N	Compliance Schedules (§§ 51.260 to 51.279).	51.15	Compliance schedules.
SUBPART O:	Miscellaneous Plan Content Requirements.		
51.280	Resources.	51.20	Resources.
51.281	Copies of rules & regulations.	51.22	Rules & regulations.
51.282	Reserved.	NA	
51.283	Reserved.	NA	
51.284	Public notification (Promulgated 5/10/79).	51.7	Reports.
SUBPART P	Visibility protection (§§ 51.300–51.319) (Promulgated 12/2/80).	51.30	Request for 2-year extension.
SUBPART Q	Reports (§§ 51.320–51.339).	51.31	Request for 18-month extension.
SUBPART R	Extensions (§§ 51.340–51.366).	51.1	Definitions (obsolete portions).
		51.3	Classification of regions (as applicable to control strategies).
	REVOKED.	51.4	Public hearings (obsolete portions).
		51.5	Submission of plans; preliminary review of plans (obsolete portions).
		51.23	Exceptions.
		51.32	Request for 1-year postponement.
		51.33	Hearings and appeals relating to request for one year postponement.
		51.338	Negotiable revisions.
		51.339	Plan prescribed actions.
		Appendix A	Air quality estimation.
		Appendix B	Examples of emission limitations attainable with reasonably available control technology.
		Appendix C	Major pollutant source.
		Appendix D	Pollutant emissions inventory summary.
		Appendix E	Point source data.
		Appendix F	Area source data.
		Appendix G	Emission inventory summary.

TABLE 1.—DERIVATION TABLE AND MASTER PLAN TO RESTRUCTURE 40 CFR 51—Continued

New designation		Old designation	
Section No.	Title	Section No.	Title
	Air Programs Reports and Guidelines Index.	Appendix H	Air quality data summary.
		Appendix K	Control agency functions.
		Appendix M	Transportation Control Supporting Data Summary.
		Appendix N	Emissions Reductions Achievable Through Inspection, Maintenance and Retrofit of Light Duty Vehicles.
		Appendix O	(Untitled).
		Appendix R	Agency functions for air quality maintenance area plans.
		51.12	Control strategy: General.
		51.13	Control strategy: SO_x & PM.
		51.14	Control strategy: CO, HC, O_x & NO_x.
		51.84	Areas around significant point sources.

NA—Not applicable.

TABLE 2—DISTRIBUTION TABLE

Old section [1]	New section
51.1(a–mm) All paragraph designations are the same and have the same paragraph designation *except* those which are listed below.	151.100(a–mm).
51.1(a)	51.100(a) New citation added.
51.1(j)	51.100(j) Definition of *local agency* deleted. 51.1 includes two definitions of "local agencies." EPA considers 51.100(g) a better definition. A new 51.100(j) is proposed which defines the term "plan."
51.1(k)(1)	51.100(k)(1) The term "Volatile Organic Compound" (VOC) replaces the term "Hydrocarbons."
51.1(k)(1)(i, ii)	Point source definition updated.
51.1(k)(1)(iii)	Unnecessary, Appendix C is deleted in this action.
51.1(l)	Reference to Appendix D removed; reference to inventory techniques updated.
51.1(m)	51.100(m) revised.
51.1(o)	51.100(o) revised.
51.2	51.101.
51.3	51.150, streamlined.
51.4 All paragraphs are the same and are redesignated with the same paragraph numbers except as noted below.	51.102.
51.4(a), (e)	51.102(a), (e) rewritten.
51.4(b)(4)	51.102(b)(4) rewritten.
51.4(b)(6)	Unnecessary, redundant.
51.4(f)	Deleted, obsolete.
51.5 All paragraphs are the same and restructured with the same paragraph numbers except as noted below.	51.103.
51.5(a)	Rewritten; "Note" deleted.
51.5(d), (e)	Deleted, redundant.
51.6	51.104.
51.6(b–f)	51.104(b–f) rewritten.
51.8	51.105.
51.10(a)	54.110(g) rewritten.
51.10(b)	51.110(b), (d).
51.10(c)	51.110(c)(1), (d).
51.10(d)	51.110(a), revised.
51.10(e)	51.117(c).
51.11(a)	51.230.
51.11a(1–6)	51.230(a–f).
51.11(b)	Unnecessary provisions for transportation plans, obsolete.
51.11(c)	51.231(a).
51.11(d)(1)	51.231(b).
51.11(d)(2)	51.231(c).
51.11(e)	51.232(a).
51.11(f)	51.232(b).
51.12(a)	51.110(a).
51.12(b)	51.110(a), (c).
51.12(c)	Deleted, redundant.

TABLE 2—DISTRIBUTION TABLE—Continued

Old section [1]	New section
51.12(d)	51.110(f).
51.12(j)	51.119(a).
51.12(k)	51.110(b).
51.12(l)	51.119(c).
51.13(a)	51.110(b).
51.13(b)	51.110(c).
51.13(c)	51.110(c).
51.13(d)	Deleted, example region approach.
51.13(e)(1) phrase "in the example regions to which it applies.".	Deleted, example region approach.
Rest of 51.13(e)(1)	51.112(a).
51.13(e)(2)(i, ii)	Air Programs Reports and Guidelines Index.
51.13(e)(2)(iii)	51.112(a, b).
51.13.(e)(3)(i)	51.112(b)(4), Air Programs Reports and Guidelines Index.
51.13(e)(3)(ii)	51.115(a).
51.13(e)(3)(iii)	51.112(b)(3), rewritten.
51.13(f, g)	51.115(a), 51.116(a) Portions related to example region approach deleted.
51.14(a)(1)	51.110(a), Rewritten, reference to priority of regions deleted.
51.14(a)(2)	51.111.
51.14(b)	Unnecessary.
51.14(c)(1)	51.112(a), 51.113(a).
51.14(a)(2–7)	Air Programs Reports and Guidelines Index.
51.14(c)(3)	51.112(a).
51.14(c)(4)	51.112(a)(c).
51.14(c)(8)	51.116(c).
51.14(c)(9)	Reference to hydrocarbon standard which has been revoked, deleted.
51.14(d)	51.115(a).
51.14(e)	51.116.
51.14(f)	Air Programs Reports and Guidelines Index.
51.14(g)	Obsolete.
51.14(h)	Air Program Reports and Guidelines Index.
51.15(a)(1)	51.280(a), (c).
51.15(b)(1)	261(a).
51.15(b)(2)	51.261(b).
51.15(c)	51.262(a).
51.16(a)	51.151.
51.16(b)	51.152(a).
51.16(c)	Deleted, obvious.
51.16(e)	51.152(a).
51.16(f)	Obsolete.
51.16(g)	51.152(c).
51.16(h)	51.152(d).
51.18(a)	51.160(a).
51.18(b)	51.160(b).
51.18(c)	51.160(c).
51.18(d)	51.160(d).
51.18(e)	51.162.
51.18(f)	51.160(e).
51.18(g)	51.163.
51.18(h)	51.161.
51.18(i)	Obsolete, refers to Appendix O, guidance on indirect source review.
51.18(j)	51.165(a).
51.18(k)	51.165(b).
51.18(l)	51.164.
51.19 (Introduction)	51.210.
51.19(a)	51.211.
51.19(b), (c)	51.212.

TABLE 2—DISTRIBUTION TABLE—Continued

Old section [1]	New section
51.19(d)	51.213.
51.19(e)	51.241(a).
51.19(e)(1)	51.214(b).
51.19(e)(2)	51.214(c).
51.19(e)(3)	51.214(d).
51.19(e)(4)	51.214(e).
51.19(e)(5)	51.214(f).
51.19(e)(6)	Obsolete, deleted.
51.20	51.280.
51.22	51.281.
51.23	Unnecessary.
51.30	51.348.
51.31	51.341.
51.32	Deleted, no longer in Clean Air Act (CAA).
51.33	Deleted, no longer in CAA.
51.34	51.104(g).
51.80(a)	51.110(b), 51.118(a).
51.80(b)	51.112(a).
51.80(c)	51.112(a).
51.81(a)	51.118(a).
51.81(b)	51.114(a).
51.81(c)	51.113(a)
51.81(d)	51.115(a).
51.82(a)	51.116(a), a51.118(a)(1).
51.82(b)	51.116(a)(3).
51.82(c)	51.112(a)(3).
51.83	51.116(a)(1).
51.84	51.116(a), (c)(2).
51.85	51.116(a)(3).
51.86(a)	51.113(b).
51.86(b)	51.116(a)(2).
51.86(c)	51.116(a)(1, 2).
51.87	51.111.
51.88	51.117(a), (b).
51.326, 51.328	Deleted, report requirement no longer needed.

[1] Section 51.24 will be restructured later.

List of Subjects in 40 CFR Part 51

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbon, Carbon monoxide.

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator.

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

EPA proposes to amend Title 40, Chapter I, Part 51, of the Code of Federal Regulations as follows:

1. The authority citation for Part 51 reads as follows:

Authority: Sec. 110, 301(a) of the Clean Air Act as amended. 42 U.S.C. 7410, 7601(a).

2. Whenever the term "hydrocarbon" appears in Part 51 it is changed to read "VOC".

3. Subparts A (§§ 51.1–51.8), C (§ 51.30–51.34), and E (§§ 51.80–51.88) are revoked and reserved.

4. In Subpart B, §§ 51.10, 51.11, 51.12 (a) through (d), 51.13–51.16, 51.18–51.23 are revoked and reserved.

5. Subparts F–I are added as follows:

Subpart F—Procedural Requirements

Sec.
51.100 Definitions.
51.101 Stipulations.
51.102 Public hearings.
51.103 Submission of plans; preliminary review of plans.
51.104 Revisions.
51.105 Approval of plans.

Subpart G—Control Strategy

51.110 Attainment and maintenance of national standards.
51.111 Description of control measures.
51.112 Demonstration of adequacy.
51.113 Procedures for demonstration of adequacy.
51.114 Time period for demonstration of adequacy.
51.115 Emissions data and projections.
51.116 Air quality data and projections.
51.117 Data availability.
51.118 Additional provisions for lead.
51.119 Stack height provisions.

Subpart H—Prevention of Air Pollution Emergency Episodes

51.150 Classification of regions for episode plans.
51.151 Significant harm levels.
51.152 Contingency plans.
51.153 Reevaluation of episode plans.

Subpart I—Review of New Sources and Modifications

51.160 Legally enforceable procedures.
51.161 Public availability of information.
51.162 Identification of responsible agency.
51.163 Administrative procedures.
51.164 Stack height provisions.
51.165 Permit requirements.

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Subpart F—Procedural Requirements

§ 51.100 Definitions.

As used in this part, all terms not defined herein will have the meaning given them in the Act:

(a) "Act" means the Clean Air Act (42 U.S.C. 7401 *et seq.*, as amended by Pub. L. 91–604, 84 Stat. 1676 Pub. L. 95–95, 91 Stat., 685 and Pub. L. 95–190, 91 Stat., 1399.)

(b) "Administrator" means the Administrator of the Environmental Protect·Agency (EPA) or an authorized representative.

(c) "Primary standard" means a national primary ambient air quality standard promulgated pursuant to section 109 of the Act.

(d) "Secondary standard" means a national secondary ambient air quality standard promulgated pursuant to section 109 of the Act.

(e) "National standard" means either a primary or a secondary standard.

(f) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly result or may result in emissions of any air pollutant for which a national standard is in effect.

(g) "Local agency" means any local government ageny other the State agency, which is charged with responsibility for carring out a portion of a plan.

(h) "Regional Office" means one of the ten (10) EPA Regional Offices.

(i) "State agency" means the air pollution control agency primarily responsible for development and implementation of a plan under the Act.

(j) "Plan" means an implementation plan approved or promulgated under section 110 of 172 of the Act.

(k) "Point source" means the following:

(1) For particulate matter, sulfur oxides, carbon monoxide, volatile organic compounds (VOC) and nitrogen dioxide—

(i) Any stationary source the actual emissions of which are in excess of 90.7 metric tons (100 tons) per year of the pollutant in a region containing an area whose 1980 "urban place" population, as defined by the U.S. bureau of the Census, was equal to or greater that 1 million.

(ii) Any stationary source the actual emissions of which are in excess of 22.7 metric tons (25 tons) per year of the pollutant in a region containing an area whose 1980 "urban place" population, as defined by the U.S. Bureau of the Census was less then 1 million; or

(2) For lead or lead compounds measured as elemental lead, any stationary source that actually emits a total of 4.5 metric tons (5 tons) per year or more.

(l) "Area source" means any small residential, governmental, institutional, commercial, or industrial fuel combustion operations; onsite solid waste disposal facility; motor vehicles, aircraft vessels, or other transportation facilities or other miscellaneous sources identified through inventory techniques similar to those described in the "AEROS Manual series, Vol. II AEROS User's Manual," EPA–450/2–76–029 December 1976.

(m) "Region" means an area designated as an air quality control region (AQCR) under section 107(c) of the Act.

(n) "Control strategy" means a combination of measures designated to achieve the aggregate reduction of emissions necessary for attainment and maintenance of national standard including, but not limited to, measures such as:

(1) Emission limitions.

(2) Federal or State emission charges or taxes or other economic incentives or disincentives.

(3) Closing or relocation of residential, commerical, or industrial facilities.

(4) Changes in schedules or methods of operation of commercial or industrial facilities or transportation systems, including, but not limited to, short-term changes made in accordance with standby plans.

(5) periodic inspection and testing of motor vehicle emission control systems, at such time as the Administrator determines that such programs are feasible and practicable.

(6) Emission control measures applicable to in-use motor vehicles, including, but not limited to, measures such as mandatory maintenance, installation of emission control devices, and conversion to gaseous fuels.

(7) Measures to reduce motor vehicle traffic, including, but not limitd to, measures such as commuter taxes, gasoline rationing, parking restrictions, or staggered working hours.

(8) Expansion or promotion of the use of mass transportation facilities through measures such as increases in the frequency, convenience, and passenger-carrying capacity of mass transportation systems or providing for special bus lanes on major streets and highways.

(9) Any land use or transportation control measures not specifically delineated herein.

(10) Any variation of, or alternative to any measure delineated herein.

(11) Control or prohibition of a fuel or fuel additive used in motor vehicles, if such control or prohibition is necessary to achieve a national primary or secondary air quality standard and is approved by the Administrator under § 211(c)(4)(C) of the Act.

(o) "Reasonably available control technology" (RACT) means the lowest emission limit (including a visible emission standard) (1) that a particular source is capable of meeting by the application of control technology that is technically and economically feasible, and (2) which takes into account the necessity of imposing controls in order

to attain and maintain national standards.

(p) "Compliance schedule" means the date or dates by which a source or category of sources is required to comply with specific emission limitations contained in an implementation plan and with any increments of progress toward such compliance.

(q) "Increments of progress" means steps toward compliance which will be taken by a specific source, including:

(1) Date of submittal of the source's final control plan to the appropriate air pollution control agency;

(2) Date by which contracts for emission control systems or process modifications will be awarded; or date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(3) Date of initiation of on-site construction or installation of emission control equipment or process change;

(4) Date by which on-site construction or installation of emission control equipment or process modification is to be completed; and

(5) Date by which final compliance is to be achieved.

(r) "Transportation control measure" means any measure, such as reducing vehicle use, changing traffic flow patterns, decreasing emissions from individual motor vehicles, or altering existing modal split patterns that is directed toward reducing emissions of air pollutants from transportation sources.

(s) "Vehicle trip" means any movement of a motor vehicle from one location to another that results in the emission of air pollutants by the motor vehicle.

(t) "Trip type" means any class of vehicle trips possessing one or more characteristics (e.g., work, nonwork; peak, off-peak; freeway, nonfreeway) that distinguish vehicle trips in the class from vehicle trips not in the class.

(u) "Vehicle type" means any class of motor vehicles (e.g., precontrolled, heavy duty vehicles, gasoline powered trucks) whose emissions characteristics are significantly different from the emissions characteristics of motor vehicles not in the class.

(v) "Traffic flow measure" means any measure, such as signal light synchronization, freeway metering and curbside parking restrictions, that is taken for the purpose of improving the flow of traffic and thereby reducing emissions of air pollutants from motor vehicles.

(w) "Roadway type" means any class of roadway facility that can be broadly categorized as to function and assigned average speed and capacity values, e.g., expressway, arterial, collector, and local.

(x) "Time period" means any period of time designated by hour, month, season, calendar year, averaging time, or other suitable characteristics, for which ambient air quality is estimated.

(y) "Variance" means the temporary deferral of a final compliance date for an individual source subject to an approved regulation, or a temporary change to an approved regulation as it applies to an individual source.

(z) "Emission limitation" and "emission standard" means a requirement established by a State, local govjernment, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(aa) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

(bb) "Excess emissions" means emissions of an air pollutant in excess of an emission standard.

(cc) "Nitric acid plant" means any facility producing nitric acid 30 to 70 percent in strength by either the pressure or atmospheric pressure process.

(dd) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acide sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(ee) "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(ff) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(gg) "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

(hh) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height, varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or by addition of a fan or reheater to obtain a less stringent emission limitation. The preceding sentence does not include: (1) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream; (2) the use of smoke management in agricultural or silvicultural programs; or (3) combining the exhaust gases from several stacks into one stack.

(ii) "Good engineering practice (GEP) stack height" means the greater of;

(1) 65 meters;

(2)(i) For stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under this Parts 51 and 52 of this Title 40, $H_g = 2.5H$

(ii) for all other stacks,

$H_g = 1.5L$, where

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension (height or projected width) of nearby structure(s);

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain obstacles.

(jj) "Nearby" as used in § 51.100(ii)(2) is that distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile). The height of the structure is measured from the ground-level elevation at the base of the stack.

(kk) "Excessive concentrations" for the purpose of determining good engineering practice stack height in a fluid model or field study means a maximum concentration due to downwash wakes, or eddy effects produced by structures or terrain features which is at lease 40 percent in

VOL
48
ISS
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excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(ll) "Plume impaction" means concentrations measured or predicted to occur when the plume interacts with elevated terrain.

(mm) "Elevated terrain" means terrain which exceeds the elevation of the good engineering practice stack as calculated under paragraph (ii) of this section.

§ 51.101 Stipulations

Nothing in this part will be construed in any manner:

(a) To encourage a State to prepare, adopt, or submit a plan which does not provide for the protection and enhancement of air quality so as to promote the public health and welfare and productive capacity.

(b) To encourage a State to adopt any particular control strategy without taking into consideration the cost-effectiveness of such control strategy in relation to that of alternative control strategies.

(c) To preclude a State from employing techniques other than those specified in this part for purposes of estimating air quality or demonstrating the adequacy of a control strategy, provided that such other techniques are shown to be adequate and appropriate for such purposes.

(d) To encourage a State to prepare, adopt, or submit a plan without taking into consideration the social and economic impact of the control strategy set forth in such plan, including, but not limited to, impact on availability of fuels, energy, transportation, and employment.

(e) To preclude a State from preparing, adopting, or submitting a plan which provides for attainment and maintenance of a national standard through the application of a control strategy not specifically identified or described in this part.

(f) To preclude a State or political subdivision thereof from adopting or enforcing any emission limitations or other measures or combinations thereof to attain and maintain air quality better than that required by a national standard.

(g) To encourage a State to adopt a control strategy uniformly applicable throughout a region unless there is no satisfactory alternative way of providing for attainment and maintenance of a national standard throughout such region.

§ 51.102 Public hearings.

(a) Except as otherwise provided in paragraph (c) of this section, States must conduct one or more public hearings on the following prior to adoption and submission to EPA of:

(1) Any plan or revision of it required by § 51.104(a).

(2) Any individual compliance schedule under (§ 51.260).

(3) Any revision under 51.104(d).

(b) Separate hearings may be held for plans to implement primary and secondary standards.

(c) No hearing will be required for any change to an increment of progress in an approved individual compliance schedule unless such change is likely to cause the source to be unable to comply with the final compliance date in the schedule. The requirements of § 51.104 and § 51.105 will be applicable to such schedules, however.

(d) Any hearing required by paragraph (a) of this section will be held only after reasonable notice, which will be considered to include, at least 30 days prior to the date of such hearing(s):

(1) Notice given to the public by prominent advertisement in the area affected announcing the date(s), time(s), and place(s) of such hearing(s);

(2) Availability of each proposed plan or revision for public inspection in at least one location in each region to which it will apply, and the availability of each compliance schedule for public inspection in at least one location in the region in which the affected source is located;

(3) Notification to the Administrator (through the appropriate Regional Office);

(4) Notification to each local air pollution control agency which will be significantly impacted by such plan, schedule or revision;

(5) In the case of an interstate region, notification to any other States included, in whole or in part, in the regions which are significantly impacted by such plan or schedule or revision.

(e) The State must prepare and retain, for inspection by the Administrator upon request, a record of each hearing. The record must contain, as a minimum, a list of witnesses together with the text of each presentation.

(f) The State must submit with the plan, revision, or schedule a certification that the hearing required by paragraph (a) of this section was held in accordance with the notice required by paragraph (d) of this section.

(g) Upon written application by a State agency (through the appropriate Regional Office), the Administrator may approve State procedures for public hearings. The following criteria apply:

(1) Procedures approved under this section shall be deemed to satisfy the requirement of this part regarding public hearings.

(2) Procedures different from this part may be approved if they—

(i) Ensure public participation in matters for which hearings are required; and

(ii) Provide adequate public notification of the opportunity to participate.

(3) The Administrator may impose any conditions on approval he or she deems necessary.

§ 51.103 Submission of plans; preliminary review of plans.

(a) The State makes an official submission to the Administrator when it delivers five copies of the plan to the appropriate Regional Office and a letter to the Administrator giving notice of such action. The State must adopt the plan and the Governmor or his designee, must submit it to the Administrator as follows:

(1) For any primary standard, or revision thereof, within 9 months after promulgation of such standard.

(2) For any secondary standard, or revision thereof, within 9 months after promulgation of such secondary standard or by such later date prescribed by the Administrator under Subpart R of this part.

(b) Upon request of a State, the Administrator will provide preliminary review of a plan or portion thereof submitted in advance of the date such plan is due. Such requests must be made in writing to the appropriate Regional Office and must be accompanied by five copies of the materials to be reviewed. Requests for preliminary review do not relieve a State of the responsibility of adopting and submitting plans in accordance with prescribed due dates.

§ 51.104 Revisions.

(a) The plan shall be revised from time to time, as may be necessary, to take account of:

(1) Revisions of national standards,

(2) The availability of improved or more expeditious methods of attaining such standards, such as improved technology or emission charges or taxes, or

(3) A finding by the Administrator that the plan is substantially inadequate to attain or maintain the national standard which it implements.

(b) The State must review the plan within 60 days following notification by the Administrator under paragraph (a)(3) of this section, or by such later date prescribed by the Administrator after consultation with the State.

(c) States may revise the plan from time to time consistent with the

requirements applicable to implementation plans under this part.

(d) The States must submit any revision of any regulation or any compliance schedule under paragraph (c) of this section to the Administrator no later than 60 days after its adoption.

(e) The State must identify and describe revisions other than those covered by paragraphs (a) and (d) of this section in the next annual report required by § 51.321.

(f) EPA will approve revisions only after applicable hearing requirements of § 51.102 have been satisfied.

(g) In order for a variance to be considered for approval as a revision to the State implementation plan, the State must submit it in accordance with the requirements of this section. [51.34]

§ 51.105 Approval of plans.

The Administrator will approve any plan, or portion thereof, or any revision of such plan, or portion thereof, if he or she determines that it meets the requirements of the Act. Revisions of a plan, or any portion thereof, will not be considered part of an applicable plan until such revisions have been approved by the Administrator in accordance with this part.

Subpart G—Control Strategy

§ 51.110 Attainment and maintenance of national standards.

(a) Each plan must set forth a control strategy that provides emission reductions necessary for attainment and maintenance of the national air quality standards. The emission reductions must be sufficient to offset increases in air quality concentrations that result from emission increases due to projected growth of population, industrial activity, motor vehicle traffic, or other factors. [§§ 51.12(a,b) 51.14(a)]

(b) Each plan providing for the attainment of a primary standard or revision of it must do so as expeditiously as practicable. The attainment period must not be longer than three years after the date of the Administrator's approval of the plan, unless the State obtains an extension under Subpart R of this part. Each plan must also provide for the maintenance of the standard after it has been attained. [§§ 51.10(b), 51.13(a), 51.14(a), 51.80(a).]

(c)(1) Each plan must provide for the attainment of a secondary standard within a reasonable time after the date of the Administrator's approval of the plan, and must provide for the maintenance of the standard after it has been attained. [§ 51.10(c), 12(b)]

(2) "Reasonable time" is defined in two ways as follows:

(i) "Reasonable time" for attainment of a secondary standard must not be more than three years from plan submissioin unless the State shows that good cause exists for postponing application of the control technology. This definition applies only in a region where the degree of emission reduction necessary for attainment of the secondary standard can be achieved through the application of reasonably available control technology.

(ii) "Reasonable time" will depend on the degree of emission reduction needed for attainment of the secondary standard and on the social, economic, and techological problems involved in carrying out a control strategy adequate for attainment of the secondary standard. This definition applies only in a region where application of reasonable available control technology will not be sufficient for attainment of the secondary standard in three years. [§ 51.13(b)]

(d) Each plan providing for the attainment of a primary or secondary standard must specify the pojected attainment date. [§ 51.10(b), (c)]

(e) The plan for each Region must have adequate provisions to ensure that stationary sources from within that Region will not:

(1) prevent attainment and maintenace of any national standard in any portion of an interstate Region or any other Region. [§ 51.10(d)]

(2) interfere with measures required to be included in the applicable implementation plan for any such Region to prevent significant deterioration of air quality or to protect visibility. [Clean Air Act, Section 110(a)(2)(E)(i)(II), 1977]

(f) For purposes of developing a control strategy, data derived form measurements of existing ambient levels of a pollutant may be adjusted to reflect the extent to which occasional natural or accidental phenomena, e.g., dust storms, forest fires, industrial accidents, demonstrably affected such ambient levels during the measurement period. [§ 51.12(d)]

(g) During developing of the plan, EPA encourages States to identify alternative control strategies, as well as the costs and benefits of each such alternatives, for attainment or maintenace of the national standard. [§ 51.10(a)]

[§ 51.111 Description of control measures. [§§ 51.14(a)(2), and 51.87]

Each plan must set forth a control strategy which includes the following:

(a) A description of each control measure that is incorporated into the plan, and a schedule for its implementation.

(b) Copies of the enforceable laws and regulations to implement the measures adopted in the plan.

(c) A description of the administrative procedures to be used in implementing each control measure.

(d) A description of enforcement methods including, but not limited to:

(1) Procedures for monitoring compliance with each of the selected control measures,

(2) Procedures for handling violations, and

(3) A designation of agency responsibility for enforcement or implementation.

§ 51.112 Demonstarion of adequacy.

(a) Each plan must demonstrate that the measures, rules, and regulations contained in it are adequate to provide for the timely attainment and maintenance of the national standard that it implements. The adequacy of a control strategy shall be demonstrated by means of a proportional model or dispersion model or other procedure which is shown to be adequate and appropriate for such purposes. [§§ 51.13(e)(1), 51.14(c)(1, 5), 51.80(b)]

(b) The demonstration must include the following:

(1) A summary of the computations, assumptions, and judgments used to determine the degree of reduction of emissions (or reductions in the growth of emissions) that will result from the implementation of the control strategy.

(2) A presentation of emission levels expected to result from implementation of each measure of the control strategy.

(3) A presentation of the air quality levels expected to result form implementation of the overall control strategy presented either in tabular form or as an isopleth map showing expected maximum pollutant concentrations.

(4) A description of the dispersion models used to project air quality and to evaluate control strategies. [§§ 51.13(e)(3)(iii), 51.14(c)(3), 51.80(c), 51.82(c)]

§ 51.113 Procedures for demonstration of adequacy.

(a) Each plan must identify the specific techniques used in the demonstration of the adequacy of the control strategy required under § 51.112. [§§ 51.14(c)(1), 51.81(c)]

(b) For interstate regions, the analysis from each constituent State must, where practicable, be based upon the same regional emission inventory and air quality baseline. [§ 51.80(a)]

§ 51.114 Time period for demonstration of adequacy.

(a) The demonstration of the adequacy of the control strategy to attain a primary standard required under § 51.113 must cover the following periods:

(1) At least three years from the date by which the Administrator must approve or disapprove the plan, if no extension under Subpart R is granted, or [§ 51.81(b)(1)]

(2) At least five years from the date by which the Administrator must approve or disapprove the plan, if an extension under Subpart R is granted. [§ 51.81(b)(2)]

(b) The demonstration of adequacy to attain a secondary standard required under § 51.113 must cover the period of time determined to be reasonable under § 51.110(c) for attainment of such secondary standard. [§ 51.16(c)]

§ 51.115 Emissions data and projections.

(a) Except for lead, each plan must contain a detailed inventory of emissions from point and area sources. Lead requirements are specified in § 51.116. The inventory must be based upon measured emissions or, where measured emissions are not available, documented emission factors. [§§ 51.13(e,f), 51.14(d), 51.81(a)]

(b) Each plan must contain a summary of emission levels projected to result from application of the new control strategy.

(c) Each plan must identify the sources of the data used in the projection of emissions. [§§ 51.81(d)]

§ 51.116 Air quality data and projections. [§§ 51.13(g), 51.14(e), 51.82(a)]

(a) Each plan must contain a summary of data showing existing air quality. [§§ 51.13(g), 51.14(e)]

(b) Each plan must:

(1) Contain a summary of air quality concentrations expected to result from application of the control strategy, and

(2) Identify and describe the dispersion model, other air quality model, or receptor model used. [§§ 51.82(a), 51.13(e)(2)(i)]

(c) Actual measurements of air quality must be used where available if made by methods specified in Appendix C to Part 58 of this chapter. Estimated air quality using appropriate modeling techniques may be used to supplement measurements. [§ 51.13(g)]

(d) For purposes of developing a control strategy, background concentration shall be taken into consideration with respect to particulate matter. As used in this subpart, background concentration is that portion of the measured ambient levels that cannot be reduced by controlling emissions from man-made sources. [§ 51.13(c)]

(e) In developing an ozone control strategy for a particular area, background ozone concentrations and ozone transported into an area must be considered. States may assume that the ozone standard will be attained in upwind areas. [§ 51.13(c)(6)]

§ 51.117 Data availability.

(a) The State must retain all detailed data and calculations used in the preparation of each plan or each plan revision, and make them available for public inspection and submit them to the Administrator at his request. [§ 51.86(a)]

(b) The detailed data and calculations used in the preparation of plan revisions are not considered a part of the plan. [§§ 51.62, 51.86(b)]

(c) Each plan must provide for public availability of emission data reported by source owners or operators or otherwise obtained by a State or local agency. Such emission data must be correlated with applicable emission limitations or other measures. As used in this paragraph, "correlated" means presented in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under the applicable emission limitations or other measures. [§ 51.10(e)]

§ 51.118 Additional provisions for lead.

In addition to other requirements in §§ 51.100–117 the following requirements apply to lead. To the extent they conflict, these requirements are controlling over those of the proceeding sections.

(a) *Control strategy demonstration.* Each plan must contain a demonstration showing that the plan will attain and maintain the standard in the following areas:

(1) Areas in the vicinity of the following point sources of lead: Primary lead smelters, Secondary lead smelters, Primary copper smelters, Lead gasoline additive plants, Lead-acid storage battery manufacturing plants that produce 2,000 or more batteries per day. Any other stationary source that actually emits 25 or more tons per year of lead or lead compounds measured as elemental lead. [§§ 51.80(a)(1), 51.84]

(2) Any other area that has lead air concentrations in excess of the national ambient air quality standard concentration for lead, measure since January 1, 1974. [§§ 51.80(a)(2)]

(b) *Time period for demonstration of adequacy.* The demonstration of adequacy of the control strategy required under § 51.113 may cover a longer period if allowed by the appropriate EPA Regional Administrator. [§ 51.80(a)(3)]

(c) *Special modeling provisions.* (1) For urbanized areas with measured lead concentrations in excess of 4.0 ug/m³, quarterly mean measured since January 1, 1974, the plan must employ the modified rollback model for the demonstration of attainment as a minimum, but may use an atmospheric dispersion model if desired. If a proportional model is used, the air quality data should be the same year as the emissions inventory required under paragraph e. [§§ 51.82(a), 51.83]

(2) For each point source listed in § 51.118(a), the plan must employ an atmospheric dispersion model for demonstration of attainment. [§ 51.84(b)]

(3) For each area in the vicinity of an air quality monitor that has recorded lead concentrations in excess of the lead national standard concentration, the plan must employ the modified rollback model as a minimum, but may use an atmospheric dispersion model if desired for the demonstration of attainment. [§ 51.85]

(d) Air quality data and projections. (1) Each State must submit to the appropriate EPA Regional Office with the plan, but not part of the plan, all lead air quality data measured since January 1, 1974. This requirement does not apply if the data has already been submitted. [§ 51.86(c)(1), § 51.82(a)]

(2) The data must be submitted in accordance with the procedures and data forms specified in chapter 3.4.0 of the "AEROS User's Manual" concerning storage and retrieval of aerometric data (SAROAD) except where the Regional Administrator waives this requirement. [§ 51.86(c)(2)]

(3) If additional lead air quality data are desired to determine lead air concentrations in areas suspected of exceeding the lead national ambient air quality standard, the plan may include data from any previously collected filters from particulate matter high volume samplers. In determining the lead content of the filters for control strategy demonstration purposes, a State may use, in addition to the reference method, X-ray fluorescence or any other method approved by the Regional Administrator. [§ 51.82(b)]

(e) *Emissions data.* (1) The point source inventory on which the summary of the baseline lead emissions inventory is based must contain all sources that emit five or more tons of lead per year. [§ 51.81(a)]

(2) Each State must submit lead emissions data to the appropriate EPA

Regional Office with the original plan. The submission must be made with the plan, but not as part of the plan, and must include emissions data and information related to point and area source emissions. EPA identifies these requirements on the Hazardous and Trace Emissions System (HATREMS) point source coding forms for all point sources and the area source coding forms for all sources that are not point sources. [§ 51.86(b)]

§ 51.119 Stack height provisions.

(a) The plan must provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in § 51.119(b) and (c). The plan must provide that before a State submits to EPA a new or revised emission limitation that is based on a good engineering practice stack height that exceeds the height allowed by § 51.100(ii) (1) or (2), the State must notify the public of the availability of the demonstration study and must provide opportunity for a public hearing on it. This Section does not require the plan to restrict, in any manner, the actual stack height of any source. [§ 51.12(j)]

(b) The provisions of §§ 51.119(a) and 51.164 shall not apply to (1) stack heights in existence, or dispersion techniques implemented prior to December 31, 1970, or (2) coal-fired steam electric generating units, subject to the provisions of Section 118 of the Clean Air Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974. [§ 51.12(k)]

(c) The good engineering practice (GEP) stack height can be adjusted for any source seeking credit because of plume impaction which results in concentrations that violate the NAAQS or applicable PSD regulations. This can be done by determining the stack height necessary to predict the same maximum air pollutant concentration on any elevated terrain feature as the maximum concentration associated with the emission limit which results from modeling the source using the GEP stack height as determined in § 51.100(ii) and assuming the elevated terrain features to be equal in elevation to the GEP stack height. If this adjusted GEP stack height is greater than the stack height the source proposes to use, the source's emission limitation and air quality impact will be determined using the proposed stack height and the actual terran heights. [§ 51.12(1)]

Subpart H—Prevention of Air Pollution Emergency Episodes (51.3) (51.16)

§ 51.150 Classification of regions for episode plans. [§ 51.3]

(a) "Priority I Regions" means any area with greater ambient concentrations than the following:

(1) Sulfur dioxide—100 ug/m³ (0.04 ppm) annual arithmetic mean; 455 ug/m³ (0.17 ppm) 24-hour maximum.

(2) Particulate matter—95 ug/m³ annual geometric mean; 325 ug/m³ 24-hour maximum.

(3) Carbon monoxide—55 mg/m³ (48 ppm) 1-hour maximum; 14 mg/m³ (12 ppm) 8-hour maximum.

(4) Nitrogen dioxide—110 ug/m³ (0.06 ppm) annual arithmetic mean.

(5) Ozone—195 ug/m³ (0.10 ppm) 1-hour maximum.

(b) "Priority IA Region" means any area which is Priority I primarily because of emissions from a single point source.

(c) "Priority II Region" means any area which is not a Priority I region and has ambient concentrations between the following:

(1) Sulfur dioxides—60–100 ug/m³ (0.02–.04 ppm) annual arithmetic mean; 260–455 ug/m³ (0.10–0.17 ppm) 24-hour maximum; any concentration above 1,300 ug/m³ (0.50 ppm) three-hour average.

(2) Particulate matter—60–95 ug/m³ annual geometric mean; 150–325 ug/m³ 24-hour maximum.

(d) In the absence of adequate monitoring data, appropriate models must be used to classify an area under paragraph (a). Information on these models may be found through the "Air Programs Reports and Guidelines Index," EPA–450/2–82–016. With respect to carbon monoxide, ozone, and nitrogen dioxide, any area whose urban population as defined in the most recent U.S. Bureau of the Census, exceeds 200,000 will be classified Priority I.

(e) Areas which do not meet the above criteria are classified Priority III.

§ 51.151 Significant harm levels. [§ 51.16(a)]

Each plan for a Priority I region must include a contingency plan which must, as a mimimum, provide for taking action necessary to prevent ambient pollutant concentrations at any location in such region from reaching the following levels:

Sulfur dioxide—2,620 ug/m³ (1.0 ppm) 24-hour average.

Particulate matter—1,000 ug/m³ (24-hour average.

Sulfur dioxide and particulate matter combined—product of sulfur dioxide in ug/m³ 24-hour average, and particulate matter in ug/m³ 24-hour average, equal to 490 × 10³.

Carbon monoxide—57.5 mg/m³ (50 ppm) 8-hour average; 86.3 mg/m³ (75 ppm) 4-hour average; 144 mg/m³ (125 ppm) 1-hour average.

Ozone—1,200 ug/m³ (0.6 ppm) 2-hour average.

Nitrogen dioxide—3,750 ug/m³ (2.0 ppm) 1-hour average; 938 ug/m³ (0.5 ppm) 24-hour average.

§ 51.152 Contingency plans. [§ 51.16(b)]

(a) Each contingency plan must—

(1) Specify two or more stages of episode criteria such as those set forth in Appendix L to this part, or their equivalent;

(2) Provide for public announcement whenever any episode stage has been determined to exist; and

(3) Specify adequate emission control actions to be taken at each episode stage. (Examples of emission control actions are set forth in Appendix L.)

(b) Each contingency plan for a Priority I region must provide for the following: [§ 51.16(e)]

(1) Prompt acquisition of forecasts of atmospheric stagnation conditions and of updates of such forecasts as frequently as they are issued by the National Weather Service.

(2) Inspection of sources to ascertain compliance with applicable emission control action requirements.

(3) Communications procedures for transmitting status reports and orders as to emission control actions to be taken during an episode stage, including procedures for contact with public officials, major emission sources, public health, safety, and emergency agencies and news media.

(c) Each plan for a Priority IA and II region must include a contingency plan that meets, as a minimum, the requirements of paragraphs (b)(1) and (b)(2) of this section. Areas classified Priority III do not need to develop episode plans. [§ 51.16(g)]

(d) Notwithstanding the requirements of paragraphs (b) and (c), the Administrator may, at his discretion— [§ 51.16(h)]

(1) Exempt from the requirements of this section those portions of Priority I, IA, or II regions which have been designated as attainment or unclassifiable for national primary and secondary standards under Section 107 of the Act; or

(2) Limit the requirements pertaining to emission control actions in Priority I regions to—

(i) Urbanized areas as identified in the most recent United States Census, and

(ii) Major emitting facilities, as defined by Section 169(1) of the Act, outside the urbanized areas.

§ 51.153 Reevaluation of episode plans [New requirement].

(a) States should periodicially reevaluate priority classifications of all Regions or portion of Regions within their borders. The reevaluation must consider the three most recent years of air quality data.

(b) As a minimum, States must perform the evaluation in (a) of this subpart every five years when EPA announces its review of an ambient air quality standard, or promulgates a revised standard. If the evaluation indicates a change in priority classification, appropriate changes in the emergency episode plan(s) must be made within one year after the final result of EPA ambient standard review is published in the Federal Register.

Subpart I—Review of New Sources and Modifications

§ 51.160 Legally enforceable producedures.

(a) Each plan must set forth legally enforceable procedures that enable the State or local agency to determine whether the construction or modification of a facility, building, structure or installation, or combination of these will result in—

(1) A violation of applicable portions of the control strategy; or

(2) Interference with attainment or maintenance of a national standard in the State in which the proposed source (or modification) is located or in a neighboring State. [§ 51.18(a)]

(b) Such procedures must include means by which the State or local agency responsible for final decisionmaking on an application for approval to construct or modify will prevent such construction or modification if—

(1) It will result in a violation of applicable portions of the control strategy; or

(2) It will interfere with the attainment or maintenance of a national standard. [§ 51.18(b)]

(c) The procedures must provide for the submission, by the owner or operator of the building, facility, structure, or installation to be constructed or modified, of such information on—

(1) The nature and amounts of emissions to be emitted by it or emitted by associated mobile sources;

(2) The location, design, construction, and operation of such facility, building, structure, or installation as may be necessary to permit the State or local agency to make the determination referred to in paragraph (a) of this section. [§ 51.18(c)]

(d) The procedures must provide that approval of any construction or modification must not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy. [§ 51.18(d)]

(e) The procedures must identify types and sizes of facilities, buildings, structures, or installations which will be subject to review under this section. The plan must discuss the basis for determining which facilities will be subject to review [§ 51.18(f)]

(f) The procedures must discuss the air quality data and the dispersion or other air quality modeling used to meet the requirements of this subpart.

§ 51.161 Public availability of information.

(a) The legally enforceable procedures in § 51.160 must also require the State or local agency to provide opportunity for public comment on information submitted by owners and operators. The public information must include the agency's analysis of the effect of construction or modification on ambient air quality, including the agency's proposed approval or disapproval. [§ 51.18(h)(1)]

(b) For purposes of paragraph (a) of this section, opportunity for public comment shall include, as a minimum—

(1) Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the State or local agency's analysis of the effect on air quality;

(2) A 30-day period for submittal of public comment; and

(3) A notice by prominent advertisement in the area affected of the location of the source information and analysis specified in paragraph (b)(1) of section 51.161. [§51.18(h)(2)]

(c) Where the 30-day comment period required in paragraph (b) of this section would conflict with existing requirements for acting on requests for permission to construct or modify, the State may submit for approval a comment period which is consistent with such existing requirements. [§ 51.18(h)(3)]

(d) A copy of the notice required by paragraph (b) of this section for major sources in nonattainment areas, as defined under §51.165(a)(1)(iv), must also be sent to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in the region in which such new or modified installation will be located. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under this Subpart. For pollutants where no designations are established, such as for lead, a copy of the notice is required for all major sources. The definition of a major source for lead is given in § 51.100(k)(2). [§ 51.18(h)(4)]

§ 51.162 Identification of responsible agency.

Each plan must identify the State or local agency which will be responsible for meeting the requirements of this Subpart in each area of the State. Where such responsibility rests with an agency other than an air pollution control agency, such agency will consult with the appropriate State or local air pollution control agency in carrying out the provisions of this Subpart. [§51.18(e)]

§ 51.163 Administrative procedures. [§51.18(g)]

The plan must include the administrative procedures, which will be followed in making the determination specified in paragraph (a) of §51.160. [§ 51.18(g)]

§ 51.164 Stack height procedures. [§ 51.18(l)]

Such procedures must provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in § 51.119(b) and (c). Such procedures must provide that before a State issues a permit to a source based on a good engineering practice stack height that exceeds the height allowed by § 51.100(ii) (1) or (2), the State must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This section does not require such procedures to restrict, in any manner the actual stack height of any source.

§ 51.165 Permit requirements (§ 51.18(j, k))

(a) State implementation Plan provisions satisfying sections 172(b)(6) and 173 of the Act shall meet the following conditions:

(1) All such plans shall use the specific definitions. Deviations from the following wording will be approved only if the state specifically demonstrates that the submitted definition is more stringent, or at least as stringent, in all respects as the corresponding definition below:

(i) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act.

(ii) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the *Standard Industrial Classificotion Manual*, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively).

(iii) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(iv) (A) "Major stationary source" means:

(*1*) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act; or

(*2*) Any physical change that would occur at a stationary source not qualifying under paragraph (j)(1)(v)(a)(*1*) as a major stationary source, if the change would constitute a major stationary source by itself.

(*B*) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(*v*) (*A*) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(*B*) Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(*C*) A physical change or change in the method of operation shall not include:

(*1*) Routine maintenance, repair and replacement;

(*2*) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(*3*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*4*) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(*5*) Use of an alternative fuel or raw material by a stationary source which:

(*i*) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(*ii*) The source is approved to use under any permit issued under regulations approved pursuant to this section;

(*6*) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR 51 Subpart I or 40 CFR 51.24.

(*7*) Any change in ownership at a stationary source.

(*vi*) (A) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(*1*) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(*2*) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(*B*) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.

(*C*) An increase or decrease in actual emissions is creditable only if:

(*1*) It occurs within a reasonable period to be specified by the reviewing authority; and

(*2*) The reviewing authority has not relied on it in issuing a permit for the source under regulations approved pursuant to this section which permit is in effect when the increase in actual emissions from the particular change occurs.

(*D*) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(*E*) A decrease in actual emissions is creditable only to the extent that:

(*1*) The old level of actual emissions or the old level of allowable emissions, whichever, is lower, exceeds the new level of actual emissions;

(*2*) It is federally enforceable at and after the time that actual construction on the particular change begins; and

(3) The reviewing authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51 Subpart I or the state has not relied on it in demonstrating attainment or reasonable further progress.

(*4*) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(vii) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Act.

(viii) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary soure or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(ix) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

VOL
48
ISS
1
9
7
OC
11
1983
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(x) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy
Particulate matter: 25 tpy
Ozone: 40 tpy of volatile organic compounds
Lead: 0.6 tpy

(xi) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) The applicable standards set forth in 40 CFR Part 60 or 61;

(B) Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or

(C) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(xii) (A) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions until as determined in accordance with paragraphs (a)(1)(xii) (B)–(D) of this section.

(B) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the units's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(C) The reviewing authority may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(D) For any emissions unit which has not begun normal operations on the particular date, acutal emissions shall equal the potential to emit of the unit on that date.

(xiii) "Lowest achievable emission rate" means, for any source, the more stringent rate of emissions based on the following:

(*A*) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(*B*) The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

(xiv) "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to this section, 40 CFR 51 Subpart I, or 51.24.

(xv) "Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(xvi) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(*A*) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(*B*) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(xvii) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

(xviii) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(2) Each plan shall adopt a preconstruction review program to satisfy the requirements of sections 172(b)(6) and 173 of the Act for any area designated nonattainment for any national ambient air quality standard under 40 CFR 81.300 *et seq.* Such a program shall apply to any new major stationary source or major modification that is major for the pollutant for which the area is designated nonattainment, if the stationary source or modification would locate anywhere in the designated nonattainment area.

(3)(i) Each plan shall provide that for sources and modifications subject to any preconstruction review program adopted pursuant to this subsection the baseline for determining credit for emissions reductions is the emissions limit under the applicable State Implementation Plan in effect at the time the application to construct is filed, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where:

(*A*) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area for which the preconstruction review program was adopted; or

(*B*) The applicable State Implementation Plan does not contain an emissions limitation for that source or source category.

(ii) The plan shall further provide that:

(*A*) Where the emissions limit under the applicable State Implementation Plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;

(*B*) For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable State Implementation Plan for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to required the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The reviewing authority should ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel swithes;

(*C*) Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, provided that the work force to be affected has been notified of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emissions offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment credit for such shutdown or curtailment may be applied to offset emissions from the new source;

(*D*) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds." (42 FR 35314, July 6, 1977);

(*E*) All emission reductions claimed as offset credit shall be federally enforceable;

(*F*) Procedures relating to the permissible location of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR Part 51 Appendix S, section IV.D.

(*G*) Credit for an emissions reduction can be claimed to the extent that the reviewing authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51 Subpart I or the state has not relied on it in demonstration attainment or reasonable further progress.

(4) Each plan may provide that the provisions of this subsection do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(*i*) Coal cleaning plants (with thermal dryers);

(*ii*) Kraft pulp mills;

(*iii*) Portland cement plants;

(*iv*) Primary zinc smelters;

(*v*) Iron and steel mills;

(*vi*) Primary aluminum ore reduction plants;

(*vii*) Primary copper smelters;

(*viii*) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(*ix*) Hydrofluoric, sulfuric, or nitric acid plans;

(*x*) Petroleum refineries;

(*xi*) Lime plants;

(*xii*) Phosphate rock processing plants;

(*xiii*) Coke oven batteries;

(*xiv*) Sulfur recovery plants;

(*xv*) Carbon black plants (furnace process);

(*xvi*) Primary lead smelters;

(*xvii*) Fuel conversion plants;

(*xviii*) Sintering plants;

(*xix*) Secondary metal production plants;

(*xx*) Chemical process plants;

(*xxi*) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat imput;

(*xxii*) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(*xxiii*) Taconite ore processing plants;

(*xxiv*) Glass fiber processing plants;

(*xxv*) Charcoal production plants;

(*xxvi*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(*xxvii*) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(5) Each plan shall include enforceable procedures to provide that:

(i) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provision of the plan and any other requirements under local, state or federal law.

(ii) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of regulations approved pursuant to this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(b) Each plan shall adopt a preconstruction review permit program or its equivalent to satisfy the requirements of section 110(a)(2)(D)(i) of the act for any area designated as attainment or unclassifiable for any national ambient air quality standard under 40 CFR 81.300 *et seq.* Such a program or its equivalent shall apply to any new major stationary source or major modification that would locate in a designated attainment or the unclassifiable area and would exceed the significant increments specified in section III.A. of the Emission Offset Interpretive Ruling, Appendix S to this part.

(*5*) Subparts K, L, and N are added as follows:

Subpart K—Source Surveillance

Sec.
51.210 General.
51.211 Emission reports and recordkeeping.
51.212 Testing, inspection, enforcement, and complaints.
51.213 Transportation control measures.
51.214 Continuous emission monitoring.

Subpart L—Legal Authority

51.230 Requirements for all plans.
51.231 Identification of legal authority.
51.232 Assignment of legal authority to local agencies.

. . . . .

Subpart N—Compliance Schedules

51.260 Legally enforceable compliance schedules. —
51.261 Final compliance shedules.
51.262 Extension beyond one-year.

Subpart K—Source Surveillance

§ 51.210 General.

Each plan must provide for monitoring the status of compliance with any rules and regulations that set forth any portion of the control strategy. Specifically, the plan must meet the requirements of this subpart. (§ 51.19—Introductory paragraph)

§ 51.211 Emission reports and recordkeeping.

The plan must provide for legally enforceable procedures for requiring owners or operators of stationary sources to maintain records of and periodically report to the State—

(a) Information on the nature and amount of emissions from the stationary sources; and

(b) Other information as may be necessary to enable the State to determine whether the sources are in compliance with applicable portions of the control strategy. [§ 51.19(a)]

§ 51.212 Testing, inspection, enforcement, and complaints.

The plan must provide for—

(a) Periodic testing and inspection of stationary sources; and

VOL
48
ISS
1
9
7
OC
11
1983
UMI

(b) Establishment of a system for detecting violations of any rules and regulations through the enforcement of appropriate visible emission limitations and for investigating complaints. [§ 51.19 (b), (c)]

§ 51.213 Transportation control measures.

(a) The plan must contain procedures for obtaining and maintaining data on actual emissions reductions achieved as a result of implementing transportation control measures.

(b) In the case of measures involving inspection, maintenance, or retrofit, these data must include the results of an emission surveillance program designed to determine actual average per vehicle emissions reductions attributable to inspection, maintenance, and/or retrofit.

(c) In the case of measures based on traffic flow changes or reductions in vehicle use, the data must include observed changes in vehicle miles traveled and average speeds.

(d) The data must be maintained in such a way as to facilitate comparison of the planned and actual efficacy of the transportation control measures. [§ 51.19(d)]

§ 51.214 Continuous emission monitoring.

(a) The plan must contain legally enforceable procedures to—

(1) Require stationary sources subject to emission standards as part of an applicable plan to install, calibrate, maintain, and operate equipment for continuously monitoring and recording emissions; and

(2) Provide other information as specified in Appendix P of this part. [§51.19(e)]

(b) The procedures must—

(1) Identify the types of sources, by source category and capacity, that must install the equipment; and

(2) Identify for each source category the pollutants which must be monitored. [§ 51.19(e)(1)]

(c) The procedures must, as a minimum, require the types of sources set forth in Appendix P of this part to meet the applicable requirements set forth therein. [§ 51.19(e)(2)]

(d)(1) The procedures must contain provisions that require the owner or operator of each source subject to continuous emission monitoring and recording requirements to maintain a file of all pertinent information for at least two years following the date of collection of that information.

(2) The information must include emission measurements, continuous monitoring system performance testing measurements, performance evaluations, calibration checks, and adjustments and maintenance performed on such monitoring systems and other reports and records required by Appendix P of this part. [§ 51.19(e)(3)]

(e) The procedures must require the source owner or operator to submit information relating to emissions and operation of the emission monitors to the State to the extent described in Appendix P at least as frequently as described therein. [§ 51.19(e)(4)]

(f)(1) The procedures must provide that sources subject to the requirements of paragraph (c) of this section must have installed all necessary equipment and shall have begun monitoring and recording within 18 months after either—

(i) The approval of a State plan requiring monitoring for that source; or

(ii) Promulgation by the Agency of monitoring requirements for that source.

(2) The State may grant reasonable extensions of this period to sources that—

(i) Have made good faith efforts to purchase, install, and begin the monitoring and recording of emission data; and

(ii) Have been unable to complete the installation within the period. [§ 51.19(e)(5)]

Subpart L—Legal Authority

§ 51.230 Requirements for all plans. [§ 51.11(a)]

Each plan must show that the State has legal authority to carry out the plan, including authority to:

(a) Adopt emission standards and limitations and any other measures necessary for attainment and maintenance of national standards. [§ 51.11(a)(1)]

(b) Enforce applicable laws, regulations, and standards, and seek injunctive relief. [§ 51.11(a)(2)]

(c) Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons, i.e., authority comparable to that available to the Administrator under section 303 of the Act. [§ 51.11(a)(3)]

(d) Prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard. [§ 51.11(a)(4)]

(e) Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources. [§ 51.11(a)(5)]

(f) Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such stationary sources; also authority for the State to make such data available to the public as reported and as correlated with any applicable emission standards or limitations. [§ 51.11(a)(6)]

§ 51.231 Identification of legal authority.

(a) The provisions of law or regulation which the State determines provide the authorities required under this section must be specifically identified, and copies of such laws or regulations be submitted with the plan. [§ 51.11(c)]

(b) The plan must show that the legal authorities specified in this subpart are available to the State at the time of submission of the plan. [§ 51.11(d)(1)]

(c) Legal authority adequate to fulfill the requirements of § 51.230 (e) and (f) of this subpart may be delegated to the State under section 114 of the Act. [§ 51.11(d)(2)]

§ 51.232 Assignment of legal authority to local agencies.

(a) A State governmental agency other than the State air pollution control agency may be assigned responsibility for carrying out a portion of a plan if the plan demonstrates to the Administrator's satisfaction that the State governmental agency has the legal authority necessary to carry out the portion of plan. [§ 51.11(e)]

(b) The State may authorize a local agency to carry out a plan, or portion thereof, within such local agency's jurisdiction if—

(1) The plan demonstrates to the Administrator's satisfaction that the local agency has the legal authority necessary to implement the plan or portion of it; and

(2) This authorization does not relieve the State of responsibility under the Act for carrying out such plan, or portion thereof. [§ 51.11(f)]

Subpart N—Compliance Schedules

§ 51.260 Legally enforceable compliance schedules.

(a) Each plan must contain legally enforceable compliance schedules which set forth the dates the following sources must be in compliance—

(1) Stationary sources;

(2) Mobile sources; or

(3) Categories of other sources. [§ 51.15(a)(1)]

(b) The compliance schedules must contain increments of progress required by § 51.262 of this Subpart. [§ 51.15(a)(1)]

§ 51.261 Final compliance schedules.

(a) Unless EPA grants an extension under Subpart R, compliance schedules designed to provide for attainment of a primary standard must—

(1) Provide for compliance with the applicable plan requirements as soon as practicable; or

(2) Provide for compliance no later than the date specified for attainment of the primary standard under § 51.110(b). [§ 51.15(b)(1)]

(b) Unless EPA grants an extension under Subpart R, compliance schedules designed to provide for attainment of a secondary standard must—

(1) Provide for compliance with the applicable plan requirements in a reasonable time; or

(2) Provide for compliance no later than the date specified for the attainment of the secondary standard under § 51.110(c). [§ 51.15(b)(2)]

§ 51.262 Extension beyond one-year.

(a) Any compliance schedule or revision of it extending over a period of more than one year from the date of its adoption by the State agency must provide for legally enforceable increments of progress toward compliance by each affected source or category of sources. The increments of progress must include—

(1) Each increment of progress specified in § 51.100(q); and

(2) Additional increments of progress as may be necessary to permit close and effective supervision of progress toward timely compliance. [§ 51.15(c)]

(b) [Reserved]

7. The following Sections are added to Subpart O:

Subpart O—Miscellaneous Plan Content Requirements

§ 51.280 Resources.

Each plan must include a description of the resources available to the State and local agencies at the date of submission of the plan and of any additional resources needed to carry out the plan during the 5-year period following its submission. The description must include projections of the extent to which resources will be acquired at 1-, 3-, and 5-year intervals. [§ 51.20]

§ 51.281 Copies of rules and regulations.

Emission limitations and other measures necessary for attainment and maintenance of any national standard, including any measures necessary to implement the requirements of Subpart L must be adopted as rules and regulations enforceable by the State agency. Copies of all such rules and regulations must be submitted with the plan. Submittal of a plan setting forth proposed rules and regulations will not satisfy the requirements of this section nor will it be considered a timely submittal. [§ 51.22]

8. Subpart R is added as follows:

Subpart R—Extensions

Sec.
51.340 Request for 2-year extension.
51.341 Request for 18-month extension.
• • • • •

Subpart R—Extensions

§ 51.340 Request for 2-year extension.

(a) The Governor of a State may, at the time of submission of a plan to implement a primary standard request the Administrator to extend, for a period not exceeding 2 years, the 3-year period prescribed by the Act for attainment of the primary standard in such region.

(b) Any such request regarding an interstate region must be submitted jointly with the requests of Governors of all States in the region, or shall show that the Governor of each State in the region has been notified of such a request.

(c) Any such request regarding attainment of a primary standard must be submitted together with a plan which shall:

(1) Set forth a control strategy adequate for attainment of such primary standard.

(2) Show that the necessary technology or alternatives will not be available soon enough to permit full implementation of such control strategy within such 3-year period, i.e., one or more emission sources or classes of sources will be unable to comply with applicable portions of the control strategy.

(3) Provide for attainment of such primary standard as expeditiously as practicable, but in no case later than 5 years after the date of the Administrator's approval of such plan.

(d) Any showing pursuant to paragraph (c) of this section must include the following:

(1) A clear identification of stationary emission sources or classes of moving sources which will be unable to comply with the applicable portions of such control strategy within a 3-year period because the necessary technology or alternatives will not be available soon enough to permit such compliance.

(2) A clear identification and justification of any assumptions made with the respect to the time at which the necessary technology or alternatives will be available.

(3) A clear identification of any alternative means of attainment of such primary standard which were considered and rejected.

(4) A showing that stationary emission sources or classes of moving sources other than those identified pursuant to paragraph (d)(1) of this section will be required to comply, within such 3-year period, with any applicable portions of such control strategy.

(5) A showing that reasonable interim control measures are provided for in such plan with respect to emissions from the source(s) identified pursuant to paragraph (d)(1) of this section.

§ 51.341 Request for 18-month extension.

(a) Upon request of the State made in accordance with this section, the Administrator may, whenever he determines necessary, extend, for a period not to exceed 18 months, the deadline for submitting that portion of a plan that implements a secondary standard.

(b) Any such request must show that attainment of the secondary standards will require emission reductions exceeding those which can be achieved through the application of reasonably available control technology.

(c) Any such request for extension of the deadline with respect to any State's portion of an interstate region must be submitted jointly with requests for such extensions from all other States within the region or must show that all such States have been notified of such request.

(d) Any such request must be submitted sufficiently early to permit development of a plan prior to the deadline in the event that such request is denied.

§ 51.321 [Amended]

9. Section 51.321 is amended by changing the phrase "as specified in §§ 51.323 through 51.326," to "as specified in §§ 51.323 and 51.325."

§51.326 [Removed]

10. Section 51.326 is removed and reserved.

§ 51.327 [Amended]

11. Section 51.327 is amended by changing the term "§ 51.6" to "§ 51.104."

§ 51.328 [Removed]

12. Section 51.328 is removed and reserved.

VOL
48
ISS
1
9
7
OC
11
1983
UMI

Appendices A–H, K, M–O, and R [Removed]

13. Appendices A–H, K, M–O, and R are removed and reserved.

Appendix L [Amended]

14. The first paragraph of Appendix L is revised to read as follows:

Appendix L—Example Regulations for Prevention of Air Pollution Emergency Episodes

The example regulations presented herein reflect generally recognized ways of preventing air pollution from reaching levels that would cause imminent and substantial endangerment to the health of persons. States are required under Subpart H to have emergency episodes plans but they are not required to adopt the regulations presented herein.

* * * * *

15. In Appendix L, Section 1.1(b) is amended by changing the term "Ozone (O_3) = 200 ug/m³ (0.1 ppm) 1-hour average" to "Ozone (O_3) = 400 ug/m³ (0.2 ppm)-hour average."

[FR Doc. 83-25188 Filed 10-7-83; 8:45 am]
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federal register

Tuesday
October 11, 1983

Part IV

Federal Maritime Commission

Financial Responsibility for Water Pollution; Financial Responsibility for Oil Pollution—Alaska Pipeline and Outer Continental Shelf; Final Rule

VOL
48
ISS
1
9
7
OC
11
1983
UMI

FEDERAL MARITIME COMMISSION

46 CFR 542, 543, and 544

[General Orders 37, 40 and 41]

Financial Responsibility for Water Pollution; Financial Responsibility for Oil Pollution—Alaska Pipeline, and Outer Continental Shelf

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This amendment revokes Parts 542, 543 and 544 from Title 46, Code of Federal Regulations. This action results from the recent transfer of the vessel financial responsibility certification functions from the Commission to the U.S. Coast Guard. The effect of this amendment is removal of the vessel financial responsibility regulations presently codified in Chapter IV of 46 CFR.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: James K. Cooper, Managing Director, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5800.

SUPPLEMENTARY INFORMATION: By Executive Order 12418 of May 5, 1983 (48 FR 20891–92), the President transferred from the Commission to the Secretary of the Department in which the Coast Guard is operating, the functions relating to financial responsibility of vessels for pollution liability. The Secretary of Transportation, in turn, has delegated the responsibility for these transferred functions to the Commandant, U.S. Coast Guard.

The regulations at 46 CFR, Parts 542, 543 and 544, governing vessel financial responsibility are republished in a separate part of this issue of the **Federal Register** as Title 33, CFR, Parts 130, 131 and 132 respectively. This **Federal Register** publication of the Coast Guard's final rule states in its preamble that the regulations are republished without extensive change and that the Coast Guard administration of the recently transferred vessel certification programs will continue essentially as previously performed by the Commission until explicity amended, modified or revoked by any future rulemaking by the Coast Guard.

Since the vessel financial responsibility regulations are now established in 33 CFR, Parts 130, 131 and 132, the Commission is hereby deleting 46 CFR, Parts 542, 543 and 544 and reserving those parts for future Commission use. The material will be removed from Title 46 at its next codification (October 1983) and will not appear in Title 33 until its next codification (July 1984). To assist users of the CFR, the Coast Guard has arranged, with the Office of the Federal Register, for the placement of an editorial note in Title 33 and Title 46 calling attention to this change.

Administration of the vessel financial responsibility programs is now being conducted by the Chief, Financial Responsibility Division (G–WFR/21). Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C., 20593, (202) 426–8806.

List of Subjects in 46 CFR Parts 542, 543, and 544

Maritime carriers.

PARTS 542, 543, AND 544 [REMOVED AND RESERVED]

Accordingly, Chapter IV of Title 46, Code of Federal Regulations, is hereby amended by removing parts 542, 543 and 544 and reserving them for future use.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–27434 Filed 10–7–83; 8:45 am]

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VOL
48
ISS
1
9
7
OC
11
1983
UMI

register

federal

Tuesday
October 11, 1983

Part V

Department of Transportation

Coast Guard

Vessel Financial Responsibility for Pollution Liability; Final Rule

VOL
48
ISS
1
9
7
OC
11
1983
UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 130, 131, and 132

[CGD 83-039]

Vessel Financial Responsibility for Pollution Liability

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates current Federal Maritime Commission (FMC) regulations governing vessel financial responsibility for pollution liability (46 CFR, Parts 542, 543 and 544) as new Parts 130, 131, and 132 in Title 33, Code of Federal Regulations. This action results from the recent transfer of the vessel financial responsibility certification program from the FMC to the Coast Guard. The intended effect of this action is to locate the program governing regulations in the appropriate Coast Guard Chapter of the Code of Federal Regulations.

EFFECTIVE DATE: This final rule is effective October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Robert M. Skall or Frank A. Martin, Jr., (202) 472-5053.

SUPPLEMENTARY INFORMATION: This amendment concerns organizational and administrative changes brought about because of the shift of a federal program from one agency to another. It does not substantively revise current governing regulations. Therefore, it is excepted from the usual notice and public procedure requirements and is effective immediately.

OMB Control Numbers: 2115-0528; 2115-0536; and 2115-0535.

Background

On May 5, 1983, the President, in Executive Order 12418 (48 FR 20891, May 10, 1983) transferred, from the FMC to the Secretary of the Department in which the Coast Guard is operating, functions relating to vessel financial responsibility for marine pollution liability. These functions involve the authority, vested by various pollution statutes in the President, to make sure the owners or operators of vessels can meet statutory liability for water pollution resulting from the discharge of oil or hazardous substances. The Secretary of Transportation has subsequently delegated to the Commandant of the Coast Guard responsibility for administering the newly acquired vessel financial responsibility program authorities.

The various statutory authorities governing the transferred vessel financial responsibility functions are:

a. Section 311(p) of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1321(p)].

b. Section 204(c) of the Trans-Alaska Pipeline Authorization Act of 1973 [43 U.S.C. 1653(c)].

c. Sections 305(a)(1) and 312(a)(2) of Title III, Outer Continental Shelf Lands Act Amendments of 1978 [43 U.S.C. 1815(a)(1), 1822(a)(2)].

d. Sections 108(a)(1) and 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. 9608(a)(1), 9609].

Discussion

This Amendment is a redesignation action. We are taking the current vessel financial responsibility regulations appearing at 46 CFR, Parts 542, 543 and 544, and redesignating and republishing them at 33 CFR, Parts 130, 131 and 132, respectively. Substantive revision is avoided at this time since there is a need to have the program in place in the Coast Guard by September 1983. Further, we are also trying to minimize disruption to the international marine industry of the vessel financial responsibility cerification services formerly provided by the FMC.

Included in this project are revisions of the FMC authority citations and Office of Management and Budget (OMB) approval numbers, formerly associated with 46 CFR, Parts 542, 543 and 544, and the related information collection requirements used in establishing vessel financial responsibility. We also made nomenclature changes in the redesignated Parts 130, 131 and 132, to substitute appropriate Coast Guard agency officials, organizational element addresses, new telephone numbers, and new form numbers, where applicable, for those of the FMC. Some nonsubstantive editorial, style, and format changes are made throughout the regulations. In additon, all references to the Panama Canal Zone are deleted, since the Federal Water Pollution Control Act does not apply to any part of the former Canal Zone. Further editorial changes, if any, may be the subject of future rulemaking.

Administrative Information

The transferred FMC functions are similar to Coast Guard Pollution Fund Management related duties involving financial responsibility determinations associated with Outer Continental Shelf (OCS) offshore facilities and Deepwater Port vessels. The financial responsibility regulations for OCS and Deepwater Port activities are contained in Subchapter M of 33 CFR, Parts 135 and 137, respectively. The new Parts 130, 131 and 132 are incorporated into an expanded Subchapter M, which is renamed "Marine Pollution Financial Responsibility and Compensation". Part 133 is reserved in the expanded Subchapter M, for future implementation of the vessel hazardous substances financial responsibility program under section 108(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Parts 134, 138 and 139 in Subchapter M are reserved for future recodification and expansion of Coast Guard regulations addressing marine pollution liability, certification, and compensation matters.

Since publication of the redesignated rules in this document occurs after the July 1983 revision date of the codification of Title 33, and since Parts 542, 543 and 544 will be removed from Title 46 at its next codification (October, 1983, the Office of the Federal Register, to assist users of the CFR, is placing an editorial note in both titles calling attention to this change. Parts 542, 543 and 544 of Title 46 is being revoked and reserved for future FMC use in a separate document in this issue of the **Federal Register**.

Program management of the transferred FMC Vessel Financial Responsibility Certification programs will be performed at Coast Guard Headquarters, Office of Marine Environment and Systems, in a newly established Financial Responsibility Division (G-WFR). Inquiries concerning the transferred FMC functions may be directed to the Chief, Financial Responsibility Division, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters (G-WFR/21), 2100 Second Street, SW, Washington, DC 20593, telephone (202) 426-8806. Current Coast Guard Offshore Oil Pollution Compensation and Deepwater Port Liability Funds Management programs, including related offshore facility and vessel financial responsibility activities are now functions of the new division.

Vessel Financial Responsibility Forms

All of the former FMC application and supporting vessel financial responsibility certification forms cited in 46 CFR, Parts 542, 543 and 544 are being reprinted as Coast Guard forms. These forms are listed in redesignation Table 1, which shows the old 46 CFR Part number, the old FMC form number, name of the form, the new 33 CFR Part number, and the newly assigned Coast Guard form numbers. Vessel owners and operators, their agents, guarantors, and all other persons who file these forms should keep the following table handy as a reference during the transition of the financial responsibility programs from the FMC to the Coast Guard.

TABLE 1—VESSEL FINANCIAL RESPONSIBILITY FORMS

Old 46 CFR Part	Old FMC Form No.	Name of Form	New 33 CFR Part	New CG Form No.
542	321	Application for Certificate of Financial Responsibility (Water Pollution)	130	5358-8
542	322	Insurance Form (FWPCA Water Pollution)	130	5358-9
542	323	Master Insurance Form (FWPCA Water Pollution)	130	5358-9A
542	324	Surety Bond Form (FWPCA Water Pollution)	130	5358-9B
542	325	Guaranty Form (FWPCA Water Pollution)	130	5358-9C
542	326	Master Guaranty Form (FWPCA Water Pollution)	130	5358-9D
543	224P	Application for Certificate of Financial Responsibility (Alaska Pipeline)	131	5358-3
543	225P	Insurance Form (Alaska Pipeline)	131	5358-4
543	226P	Surety Bond Form (Alaska Pipeline)	131	5358-4A
543	227P	Guaranty Form (Alaska Pipeline)	131	5358-4B
544	192	Application for Certificate of Financial Responsibility (Outer Continental Shelf).	132	5358-1
544	193	Insurance Form (OCS)	132	5358-2
544	194	Surety Bond Form (OCS)	132	5358-2A
544	195	Guaranty Form (OCS)	132	5358-2B

Every effort is being made to have the reprinted Coast Guard forms ready for use by September 1983. However, during the transition, continued use of the FMC forms is permitted, until the new forms are sufficiently stocked in the Coast Guard forms supply system and made readily available to those persons who must use them to obtain Certificates of Financial Responsibility. The new forms eventually will be available from the Financial Responsibility Division (G-WFR/21) at Coast Guard Headquarters in Washington, D.C., or from any of the 12 Coast Guard District Offices around the country. All executed forms (e.g., application and insurance forms FMC-321 and 322) now being transferred from the FMC to the Coast Guard remain valid and do not have to be refiled on the new Coast Guard replacement forms. Previous designations and concurrences of agents for service of process also remain valid.

All vessel Certificates of Financial Responsibility are issued for a specific period of two or three years, depending on the regulations under which issued. They have stated expiration dates on them. Therefore, currently valid FMC certificates will remain valid until expiration, or renewal by the Coast Guard. All outstanding vessel Certificates issued on FMC certificate forms will be replaced by certificates issued on Coast Guard forms by the end of 1986, or early 1987.

As with the former FMC regulations at 46 CFR, Parts 542, 543 and 544, we are publishing the reprinted Coast Guard application and supporting forms as appendices to the new 33 CFR, Parts 130, 131 and 132.

Cross-References

In several sections of 46 CFR Parts 542, 543 and 544 there are cross-references outside of the transferred parts containing vessel financial responsibility subject matter to other FMC regulatory requirements in Title 46. Noteworthy are the cross-references, in §§ 542.12(d), 543.8(b) and 544.11(d), to 46 CFR Part 502. These cross-references refer to the FMC's Rules of Practice and Procedure, which, in the context of Parts 542, 543 and 544 of Title 46 were the agency proceedings for handling certificate denial or revocation hearings. We have changed the 46 CFR Part 502 cross-reference in the redesignated rules at 33 CFR 130.12(d), 131.8(b) and 132.11(d), to substitute appropriate reference to Coast Guard proceedings for the handling of certificate denial or revocation hearings. The substituted hearing procedures for denial or revocation of certificates are those the Coast Guard uses in its similar financial responsibility for offshore facilities requirements (33 CFR 135.223).

Policy Issues

Coast Guard adoption and redesignation of the former FMC rules governing vessel financial responsibility includes adoption of preamble explanations, interpretations of applicable laws, and other implementing program management decisions taken by the FMC when originally establishing or revising the regulatory material previously codified at 46 CFR Parts 542, 543 and 544. The new Parts 130, 131 and 132 of Title 33, the basis upon which originally established, and other related FMC decisions remain in effect within the Coast Guard administration of the recently transferred vessel financial responsibility functions, until explicitly amended, modified or revoked by the Coast Guard in any future rulemaking on this subject.

Paperwork Reduction Act

Information collection requirements contained in this final rule (Parts 130, 131, and 132) have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Ch. 35) and have been assigned OMB control numbers: 2115-0528, 2115-0536, and 2115-0535.

List of Subjects

33 CFR Part 130

Water pollution liability, Financial responsibility, Vessel certification.

33 CFR Part 131

Pollution liability, Financial responsibility, Vessel certification Alaska pipeline oil.

33 CFR Part 132

Pollution financial responsibility, Outer continental shelf oil, Vessel certification.

In consideration of the foregoing, Chapter I, Subchapter M, of Title 33, Code of Federal Regulations, is amended as follows:

1. In the Table of Contents, by revising the heading for Subchapter M to read:

* * * * * *

Subchapter M—Marine Pollution Financial Responsibility and Compensation

* * * * * *

2. In 33 CFR, Subchapter M, by adding new Parts 130, 131 and 132 to read as follows:

PART 130—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION

Sec.

130.1 Scope.
130.2 Definitions.
130.3 General.
130.4 Where to apply and obtain forms.
130.5 Time to apply.
130.6 Applications, general instructions.
130.7 Renewal of Certificates.
130.8 Financial responsibility, how established.
130.9 Individual Certificates.
130.10 Operator's responsibility for identification.
130.11 Master Certificates.
130.12 Certificates, denial or revocation.
130.13 Fees.
130.14 Enforcement.
130.15 Service of process.
Appendix—Financial Responsibility Application and Supporting Forms.

Authority: 33 U.S.C. 1321(p); E.O. 11735, as amended by sec. 1 of E.O. 12418 (48 FR 20891); 49 CFR 1.46.

(Approved by the Office of Management and Budget Under Control Number 2115-0528.)

§ 130.1 Scope.

(a) This part implements section 311(p)(1) of the Federal Water Pollution Control Act, as amended, and applies to all vessels using any port or place in the United States or the navigable waters of the United States except—

(1) Vessels which are 300 gross tons or less;

(2) Non-self-propelled barges which do not carry oil or hazardous substances as cargo or fuel; and

(3) Public vessels.

(b) This part sets forth the procedures for operators to demonstrate that they are financially able to meet their liability to the United States resulting from the discharge of oil or hazardous substances—

(1) Into or upon the navigable waters of the United States, adjoining shorelines or waters of the contiguous zone; or

(2) In connection with activities under the Outer Continental Shelf Lands Act, or the Deepwater Port Act of 1974; or

(3) Which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery conservation and Management Act of 1976).

(c) Upon the satisfactory demonstration of financial responsibility, the Commandant, U.S. Coast Guard issues Certificates of Financial Responsibility (Water Pollution) which are to be carried aboard the vessels covered by such Certificates.

§ 130.2 Definitions.

As used in this part—

(a) "Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321).

(b) "Applicant" means any vessel "operator," as defined in paragraph (q) of this section, who has applied for a Certificate or for the renewal of a Certificate.

(c) "Application" means Application for Certificate of Financial Responsibility (Water Pollution), Form CG-5358-8. .

(d) "Cargo" means goods or materials on board a vessel for purposes of transportation, in any quantity, whether in bulk or by lot, and regardless of whether transported under proprietary or nonproprietary shipping documents. Oil carried solely as operating fuel for equipment carrying barges, while on board such barges, is not within this definition.

(e) "Certificant" means any operator, as defined in paragraph (q) of this section, who has been issued a Certificate.

(f) "Certificate" means a Certificate of Financial Responsibility (Water Pollution), Form CG-5358-10 issued by the U.S. Coast Guard under this part.

(g) "Commandant" means the Commandant, U.S. Coast Guard.

(h) "Financial responsibility" means proof of financial ability to reimburse the United States under the requirements of section 311(p)(1) of the Act.

(i) "Fuel" means any oil or hazardous substance used or capable of being used to produce heat or power by burning.

(j) "Hazardous substances" means any substance or substances designated as such by the Administrator of the Environmental Protection Agency under section 311(b) of the Act. Generally, hazardous substances are those elements and compounds, other than oil, which, when discharged, may present an imminent and substantial danger to the public health or welfare including, but not limited to, fish, shellfish, wildlife, shorelines and beaches.

(k) "Inland oil barge" means a non-self-propelled vessel over 300 gross tons capable of carrying oil in bulk as cargo and which is certificated by the U.S. Coast Guard to operate only in the inland waters of the United States, while operating in such waters. Regardless of the actual routes traveled by a barge, it is not an "Inland oil barge" unless it possesses Coast Guard certification to that effect.

(l) "Inland waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside such baseline which are a part of the Gulf intracoastal Waterway.

(m) "Insurer" means one or more acceptable insurance companies, corporations, or associations of underwriters, shipowners protection and indemnity associations, or other persons acceptable to the Coast Guard.

(n) "Master Certificate" means a Certificate issued to builders, repairers, scrappers, and sellers of vessels under § 130.11.

(o) "Navigable waters of the United States" means the waters of the United States, including the territorial sea.

(p) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(q) "Operator" or "Vessel operator" means any person, including, but not limited to, an owner, a demise charterer or other contractor who conducts or who is responsible for the operation of a vessel. Persons who are responsible for vessels in the capacity of a builder, repairer, scrapper, or seller are included in this definition of operator.

(r) "Owner" or Vessel "owner" means any person holding legal or equitable title to a vessel. In a case where a Certificate of Registry or equivalent document has been issued, the owner is the person or persons whose name or names appear thereon as owner: *Provided, however,* That where a Certificate of Registry has been issued in the name of the president or secretary of an incorporated company under 46 U.S.C. 15, such incorporated company is the owner.

(s) "Person" includes, but is not limited to, an individual, a government, a firm, a corporation, an association, a partnership, a joint-stock company, a business trust, or an unincorporated organization.

(t) "Public vessel" means a vessel, not engaged in commerce, the operator of which is the Government of the United States or a State or political subdivision thereof, or the government of a foreign nation.

(u) "Remove," "removing," or "removal" means—

(1) The removal of oil or hazardous substances from the water and shorelines;

(2) The taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare (including, but not limited to, fish, shellfish, wildlife, and public or private property, shorelines and beaches), resulting from a discharge or substantial threat of a discharge of oil or a hazardous substance; and

(3) The restoration or replacement of natural resources damaged or destroyed as the result of a discharge of oil or a hazardous substance in violation of section 311(b) of the Act.

(v) "Underwriter" means an insurer, a surety company, a guarantor, or any other person, other than the operator, which undertakes to pay the liability of the operator.

(w) "United States" means any place under the jurisdiction of the United States, including, but not limited to the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Trust Territory of the Pacific Islands.

(x) "Vessel" means every description of watercraft or other artificial contrivance which is used, or capable of being used, as a means of transportation on water, and which is over 300 gross tons. Drilling rigs are included within this definition, except when at a drilling site and in a drilling mode. Public vessels are not included in this definition.

§ 130.3 General.

(a) No vessel shall use any port or place in, or the navigable waters of, the United States, unless that vessel has a Certificate covering that vessel and its operator.

(b) The gross tonnage of a vessel is the tonnage indicated in the vessel's Certificate of Registry or, in the absence thereof, other marine documents acceptable to the Coast Guard.

(c) If a vessel has more than one gross tonnage, the higher tonnage applies unless the vessel operator states in writing that the vessel never operates in any United States waters under such higher tonnage.

§ 130.4 Where to apply and obtain forms.

(a) Any operator who wishes to be issued a Certificate (including a Master Certificate) shall file or cause to be filed with the Coast Guard an application, fees and evidence of financial responsibility at the following address:

Commandant (G-WFR/21), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593.

(b) Application procedures are set forth in the remaining paragraphs of this section and in §§ 130.5 and 130.6. Regulations concerning fees are set forth in § 130.13, and regulations concerning evidence of financial responsibility are set forth in § 130.8. Regulations concerning Master Certificates (i.e., special Certificates applicable only in connection with vessels held solely for building, repair, scrapping, or sale) are set forth in § 130.11.

(c) Application forms may be obtained from the address set forth in paragraph (a) of this section and from the 12 Coast Guard District Offices at New York, NY; Miami, FL; New Orleans, LA; San Francisco, CA; Seattle, WA; Cleveland, OH; St. Louis, MO; Juneau, AK; Long Beach, CA; Honolulu, HI; Boston, MA; or Portsmouth, VA.

(d) All requests for assistance, including telephone inquiries, in completing applications should be directed to the Commandant's staff in Washington, DC (202) 426-8806.

§ 130.5 Time to apply.

(a) A vessel operator who wishes to obtain a Certificate must file a completed application, fees, and evidence of financial responsibility at least 21 days before the date the Certificate is required.

(b) Applications are processed in the order in which they are filed.

§ 130.6 Applications, general instructions.

(a) All applications and supporting documents shall be in English. All monetary terms shall be in U.S. currency.

(b) The spaces on the application shall be filled in with the information requested or the phrase "Not applicable." Applicants for a Master Certificate should refer to § 130.11.

(c) The application shall—

(1) Be signed by an authorized official of the applicant, whose title shall be shown in the space provided on the application; and

(2) Be accompanied by a written statement providing authority to sign, where the signer is not disclosed as an individual (sole proprietor) applicant, a partner in a partnership applicant, or an authorized officer of a corporate applicant.

(d) If, before the issuance of a Certificate, the applicant becomes aware of a change in any of the facts contained in the application or supporting documentation, the applicant shall, within five days of becoming aware of the change, notify the Commandant (G-WFR), in writing, of the change.

§ 130.7 Renewal of Certificates.

(a) Written applications for renewal Certificates shall be made to the Commandant (G-WFR) at least 21 days, but not earlier than 90 days, before the expiration dates of existing Certificates.

(b) Each renewal application shall be accompanied by appropriate recertification fees, identify any changes since the original application was filed, and set forth the correct information in full.

§ 130.8 Financial responsibility, how established.

(a) *General.* In addition to filing an application, each applicant shall demonstrate the ability to pay the amount necessary to meet the removal cost liability under section 311 of the Act by establishing evidence of financial responsibility. The required amount of evidence of financial responsibility is separate from and in addition to the amount, if any, required of the applicant under Part 131 (Financial Responsibility for Oil Pollution-Alaska Pipeline) of this subchapter.

(b) *Methods.* An applicant shall establish evidence of financial responsibility by any one of, or by an acceptable combination of, the following methods:

(1) *Insurance.* Insurance may be established by filing with the Commandant (G-WFR) an insurance form CG-5358-9 (master insurance form CG-5358-9A when applying for a Master Certificate) executed by an insurer acceptable to the Coast Guard.

(2) *Surety Bond.* An applicant may file with the Commandant (G-WFR), a surety bond form CG-5358-9B, executed by a surety company acceptable to the Coast Guard. To be acceptable, surety companies must, at a minimum, be certified by the U.S. Department of the Treasury with respect to the issuance of Federal bonds in the penal sum of the bonds to be issued under this part.

(3) *Self-insurance.* An applicant may establish financial responsibility as a self-insurer by maintaining, in the United States, working capital and net worth, each in the amount of $150 per gross ton of the largest vessel to be self-insured or $250,000, whichever is greater. As used in this subparagraph, "working capital" means the amount of current assets located in the United States, less all current liabilities; and "net worth" means the amount of all assets located in the United States less all liabilities. Maintenance of the required working capital and net worth shall be demonstrated by submitting with the initial application the items specified in paragraph (b)(3)(i) of this section for the applicant's last fiscal year preceding the date of application. Thereafter, for each of the applicant's fiscal years the applicant shall submit the items specified in paragraphs (b)(3)(i) and (ii) of this section and shall be subject to the provisions of paragraphs (b)(3) (iii), (iv), (v), and (vi) of this section:

(i) *Initial and annual submissions.* An applicant/certificant shall submit an annual, current nonconsolidated balance sheet and an annual, current nonconsolidated statement of income and surplus, certified by an independent Certified Public Accountant. Those financial statements shall be accompanied by an additional statement from the applicant's/certificant's Treasurer (or equivalent official), certifying to both the amount of current assets and the amount of total assets included in the accompanying balance sheet, which are located in the United States and acceptable for purposes of this part, i.e., not pledged for purposes of Part 131 of this subchapter. If the balance sheet and statement of income and surplus cannot be submitted in nonconsolidated form, consolidated statements may be submitted if accompanied by an additional statement prepared by the involved Certified

Public Accountant, certifying to the amount by which the applicant's/certificant's—

(A) Assets, located in the United States and acceptable under this part, exceed total (i.e., worldwide) liabilities; and

(B) Current assets, located in the United States and acceptable under this part, exceed its current liabilities. Each additional statement must specifically name the applicant/certificant, indicate that the amounts so certified relate only to the applicant/certificant, apart from any other entity, and identify the consolidated financial statement to which it applies.

(ii) *Semiannual submissions.* When the applicant's/certificant's self-insurance covers a vessel that carries oil or hazardous substances in bulk as cargo and its demonstrated net worth is not at least 10 times the required amount, an affidavit shall be filed by the applicant's/certificant's corporate Treasurer (or equivalent official for a nonocorporate entity) covering the first six months of the applicant's/certificant's fiscal year. Such affidavits shall state that neither the working capital nor the net worth have, during the first six months, fallen below the required amounts.

(iii) *Additional submissions.* Additional financial information shall be submitted upon request of the Coast Guard. All applicants/certificants who choose self-insurance shall notify the Commandant (G-WFR) within five days of the date such persons know, or have reason to believe, theat the amounts of working capital or net worth have fallen below the amounts required.

(iv) *Time for submissions.* All required annual financial statements shall be received by the Coast Guard within three calendar months after the close of the applicant's/certificant's fiscal year, and all six month affidavits within one calendar month after close of the applicable six month period. Upon written request, the Commandant (G-WFR) grants a reasonable extension of the time limits for filing financial statements/affidavits; *Provided,* That the request sets forth sufficient reason to justify the requested extension and is received 15 days before the statements/affidavits are due. The Commandant does not consider a request for an extension of more than 45 days.

(v) *Failure to submit.* Failure to timely file any statement, data, or affidavit required by paragraph (b)(3) of this section shall cause the revocation of the Certificate.

(vi) *Waivers of submissions.* For good cause shown in writing by the applicant/certificant, the Commandant (G-WFR) waives the working capital requirement if the applicant/certificant is—

(A) An economically regulated public utility;

(B) A municipal or higher level governmental entity; or

(C) An entity operating solely as a charitable, nonprofitmaking organization.

The Coast Guard considers good cause to have been shown when the applicant/certificant demonstrates in writing that the grant of such waiver would benefit at least a local public interest without resulting in undue risk to the environment and without resulting in undue risk that the applicant's/certificant's removal cost liability could not be met. In addition, for good cause shown in writing by the applicant/certificant, the Commandant (G-WFR) waives the working capital requirement where it can be demonstrated that working capital is not a significant factor in the applicant's/certificant's financial condition. An applicant's/certificant's net worth in relation to the amount of its exposure under the Act, and a history of stable operations are major elements in such demonstration.

(4) *Guaranty.* An applicant/certificant may file with the Commandant (G-WFR), a guaranty form CG–5358–9C (master guaranty form CG–5358–9D when applying for a Master Certificate) executed by a guarantor acceptable to the Coast Guard. A guarantor shall comply with all of the self-insurance provisions of paragraph (b)(3) of this section. In addition, the amounts of working capital and net worth required to be demonstrated by an acceptable guarantor shall be no less than the aggregate amounts underwritten as a guarantor and self-insurer under this part, and Part 131 of this subchapter.

(5) *Other methods.* An applicant may choose any other method specially justified and acceptable to the Coast Guard.

(c) *Forms—general.* Application form CG–5358–8, insurance form CG–5358–9, master insurance form CG–5358–9A, surety bond form CG–5358–9B, guaranty form CG–5358–9C, and master guaranty form CG–5358–9D, as appended to this part, are hereby incorporated into this part. If more than one insurer, guarantor, or surety joins in executing an insurance, guaranty, or surety bond form, such action constitutes joint and several liability for such joint underwriters. Each form submitted to the Coast Guard under this part shall set forth in full the correct legal name of vessel operator to whom Certificates are to be issued.

(d) *Direct action.* Forms CG–5358–9 through CG–5358–9D and any other undertaking accepted under this part, shall permit the commencement of an action in court for removal cost claims arising under the provisions of section 311 of the Act by the claimant (including a claimant by right of subrogation) directly against the underwriter. Such forms and other undertakings shall also provide that in the event such action is brought directly against the underwriter, such underwriter shall be entitled to invoke only those rights and defenses permitted by section 311(p)(3) of the Act.

(e) *Public access to data.* Financial data filed by applicants, certificants, and underwriters shall be public information to the extent required by the Freedom of Information Act and permitted by the Privacy Act.

§ 130.9 Individual Certificates.

(a) An individual Certificate for each vessel listed on a completed application is issued by the Coast Guard when acceptable evidence of financial responsibility has been provided and appropriate fees have been paid except, where Master Certificates are issued under § 130.11. Certificates are issued only to vessel operators and are effective for three years from the date of issue.

(b) The original Certificate shall be carried on the vessel named on the Certificate. However, a legible copy (certified as accurate by a notary public or other person authorized to take oaths) may be carried in lieu of the original Certificate if the vessel is an unmanned barge and does not have a facility which the vessel operator believes would offer suitable protection for the original Certificate. If a copy is carried aboard a barge, the original shall be retained at a location in the United States and shall by readily accessible for inspection by U.S. Government officials.

(c) Erasures or other alterations on a Certificate or copy are prohibited (even if made by Government authorities) and automatically void a Certificate or copy.

(d) If at any time after a Certificate has been issued a certificant becomes aware of a change in any of the facts contained in the application or supporting documentation, the certificant shall notify the Commandant (G–WFR), in writing, within 10 days of becoming aware of the change.

(e) If for any reason, including a vessel's demise or transfer to a new operator, a certificant ceases to be the operator of a vessel, the certificant shall, within 10 days, complete the reverse side of the original Certificate for the involved vessel and return it to the Commandant (G–WFR). Such Certificate and any copy thereof is automatically void (whether or not returned to the Coast Guard), and its use is prohibited. Where such voided Certificate cannot be returned because it has been lost or destroyed, the certificant shall, as soon as possible, submit the following written information to the Commandant (G–WFR):

(1) The number of the Certificate and the name of the vessel.

(2) The date and reason why the certificant ceased to be the operator of the vessel.

(3) The location of the vessel on the date the certificant ceased to be the operator.

(4) The name and mailing address of the person to whom the vessel was sold or transferred.

(f) In the event of the temporary transfer of a vessel certificated under this part, where the certificant transferring the vessel continues to be responsible for liabilities to which such vessel could be subjected under section 311 of the Act, and continues to maintain on file adequate evidence of financial responsibility with respect to such vessel, the existing Certificate will remain in effect and the new operator shall not be required to obtain an additional Certificate.

§ 130.10 Operator's responsibility for identification.

(a) Except in the case of unmanned barges, operators who are not also the owners of certificated vessels shall carry on board such vessels the original or legible copy of the demise charter-party or any other written document which demonstrates that such operators are, in fact, the operators designated on the certificates.

(b) The documents required by paragraph (a) of this section shall be presented for examination to U.S. Government officials upon request.

§ 130.11 Master certificates.

(a) A contractor or other person who is responsible for vessels in the capacity of a builder, repairer, scrapper, or seller may choose to apply for a Master Certificate in lieu of applying for an individual Certificate for each vessel. A Master Certificate is designed to cover all of such applicant's vessels, provided each of such vessels is held by the applicant solely for purposes of construction, repair, scrapping or sale. A vessel which is being operated commercially in any business venture, including the business of building, repairing, scrapping, or selling other vessels (e.g., a slop barge used by a shipyard), is not eligible to be covered by a Master Certificate. Any vessel that requires a Certificate but is not eligible for a Master Certificate shall be covered by a separate Certificate under § 130.9.

(b) The application procedure for a Master certificate is the same as for other Certificates. Acceptable evidence of financial responsibility may be established by any of the methods in § 130.8(b), except insurance form CG–5358–9 and guaranty form CG–5358–9C. Applications shall be completed in full, except for Item 5. The applicant shall make the following statement in Item 5: "This is an application for a Master Certificate. The largest vessel to be covered by this application is _____ gross tons." The gross tonnage indicated by the applicant in such statement may not exceed the applicant's dollar amount of financial responsibility divided by $150.

(c) Each Master Certificate shall indicate—

(1) The name of the operator (the applicant builder, repairer, scrapper, or seller);

(2) The dates of issuance and termination, encompassing a period of not more than three years; and

(3) The gross tonnage of the largest vessel eligible for coverage by that Master Certificate. The gross tonnage indicated on a particular Master Certificate shall be determined by the amount of financial responsibility established by the applicant under the optional methods set forth in § 130.8(b) (a master insurance form, a surety bond, self-insurance, or a master guaranty form). Master Certificates will not name the vessels covered by such Certificates.

(d) Additional vessels (none of which exceed the tonnage indicated on the Master Certificate, all of which are eligible for coverage by a Master Certificate, and all of which are held solely for the purpose of construction, repair, scrapping or sale) shall be automatically covered by that Master Certificate. However, before acquiring a vessel (by any means, including conversion of an existing vessel) of a larger gross tonnage than the tonnage indicated on the existing Master Certificate, the certificant shall submit:

(1) Evidence of increased financial responsibility to cover the larger vessel.

(2) A new certification fee.

(3) Either a new application form or a letter amending the existing application form to reflect the new gross tonnage which is to be indicated on a new Master Certificate.

(e) A person to whom a Master Certificate has been issued shall submit to the Commandant (G–WFR), every six months beginning with the month in which the Master Certificate is issued, a report indicating the name, previous name, or other identifying information and gross tonnage of each vessel covered by the Master Certificate during the six-month reporting period.

(f) A copy of the Master Certificate shall be carried aboard each vessel covered by the Master Certificate. The original Certificate shall be retained at a U.S. location and be kept readily accessible for inspection by U.S. Government officials.

(g) Upon revocation or other invalidation of the Master Certificate, the original Certificate shall be returned within 10 days to the Commandant (G–WFR) and all copies shall be destroyed by the person in whose name the Certificate was issued. The use of an invalid Master Certificate or any copy thereof is prohibited.

§ 130.12 Certificates, denial or revocation.

(a) A Certificate is denied or revoked for any of the following reasons:

(1) Making any willfully false statement to the Coast Guard in connection with an application for an initial Certificate or a request for a renewal Certificate or the retention of an existing Certificate.

(2) Failure to establish or maintain acceptable evidence of financial responsibility.

(3) Failure to comply with or respond to lawful inquiries, regulations, or orders of the Coast Guard pertaining to activities subject to this part.

(4) Failure to timely file the statements or affidavits required by § 130.9(b)(3) (i), (ii), or (iii).

(5) Cancellation or termination of any insurance form, surety bond, guaranty or other undertaking under this part unless acceptable substitute evidence of financial responsibility has been submitted.

(b) Denial or revocation of a Certificate is immediate and without prior notice where the applicant or certificant—

(1) Is no longer the responsible operator of the vessel in question;

(2) Fails to furnish acceptable evidence of financial responsibility in support of an application; or

(3) Permits the cancellation or termination of the insurance form, surety bond, guaranty or other undertaking upon which the continued validity of the Certificate was based. In any other case, before the denial or revocation of a Certificate, the Commandant (G–WFR) advises the applicant or certificant, in writing, of the intention to deny or revoke the Certificate, and states the reason therefor.

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(c) If the reason for an intended revocation is failure to file the required financial statements or affidavits, the revocation is effective 10 days after the date of the notice of intention to revoke, unless the certificant shall, before revocation, demonstrate that the required statements were timely filed.

(d) If the intended denial or revocation is based upon one of the reasons in paragraphs (a) (1) or (3) of the section, the applicant or certificant may request, in writing, a hearing to show that the applicant or certificant is in compliance with this part, and, if the request is received within 30 days after the date of the notification of intention to deny or revoke, the Coast Guard schedules a hearing. Hearings are conducted in accordance with § 135.223 of this subchapter.

§ 130.13 Fees.

(a) This section establishes the application fee imposed by the Coast Guard for processing applications, and also establishes the certification fee imposed for the issuance or renewal of Certificates.

(b) No Certificate is issued unless the fees set forth in paragraphs (d) and (e) of this section have been paid.

(c) Fees shall be paid in United States currency, by check, draft or postal money order made payable to the U.S. Coast Guard.

(d) Each applicant who submits an application for the first time shall pay an initial, nonrefundable application fee of $75. Only one application fee is necessary where an applicant submits an application for individual Certificates and a separate application for a Master Certificate. Applications for additional Certificates, or to amend or renew existing Certificates, do not require new application fees. However, once an application is withdrawn or denied for any reason, and the same applicant, holding no valid Certificates, wishes to reapply for a Certificate (covering the same or new vessel), a new application and application fee of $75 shall be filed.

(e) In addition to a $75 application fee, applicants shall pay a $40 fee for each Certificate issued, whether an individual Certificate or Master Certificate. Applicants shall submit such certification fee for each vessel listed in, or later added to, an application for individual Certificates. The $40 certification fee is required to renew or to reissue a Certificate for any reason, including, but not limited to, a name change or a lost Certificate.

(f) Certification fees are refunded, upon receipt of a written request, if the application is withdrawn or denied before issuance of the Certificates. Overpayments of application and certification fees are refunded on request only if the refund is $20 or more. However, any overpayments not refunded are credited, for a period of two years from the date of receipt of the monies by the Coast Guard, for the applicant's possible future use under this part.

§ 130.14 Enforcement.

(a) Any vessel operator who fails to comply with this part is subject to a fine of not more than $10,000 for each failure.

(b) The Secretary of the Treasury may refuse to grant the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), to any vessel subject to section 311(p) of the Act which does not have a Certificate issued under this part.

(c) The Coast Guard denies entry to any port or place in the United States or the navigable waters of the United States and detains, at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to section 311(p) of the Act, which, upon request, does not produce a valid Certificate.

§ 130.15 Service of process.

(a) When executing the forms required by this part, each applicant and underwriter shall designate thereon a person in the United States as its agent for service of process for the purpose of section 311 of the Act of this part.

(b) Each designation shall be acknowledged in writing by the designee unless that party has already furnished the Coast Guard with a "master" concurrence showing it has agreed in advance to act as the United States agent for service of process for the applicant and underwriter in question.

(c) When the designated agent cannot be served because of death, disability, or unavailability, the Commandant becomes the agent for service of process.

(d) When serving the Commandant, the server shall also—

(1) Send to the applicant, certificant, or underwriter, by registered mail, at its last address on file with the Coast Guard, a copy of each document served upon the Commandant; and

(2) Attest to that mailing at the time service is made upon the Commandant.

BILLING CODE 4910-14-M

Appendix—Financial Responsibility Application and Supporting Forms

Approved OMB No. 2115-0528

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5358-8 (6-83)

APPLICATION FOR CERTIFICATE OF FINANCIAL RESPONSIBILITY (WATER POLLUTION)

GENERAL
(Part I of 4 Parts)

INSTRUCTIONS

Please type or print clearly and submit this application to the Chief, Financial Responsibility Division (G-WPR), Office of Marine Environment and Systems, U. S. Coast Guard Headquarters, 2100 - 2nd Street, S.W., Washington, DC 20593. The application is in four parts: Part I - General; Part II - Evidence of Financial Responsibility; Part III - Declaration; and Part IV - Concurrence of Agent. Applicants must answer all applicable questions. If a question does not apply, answer "not applicable." Incomplete applications will be returned. If additional space is required, supplemental sheets may be attached.

THIS SPACE FOR USE BY USCG ONLY

1. Legal name of applicant *(Name of legally responsible operator of all vessels listed in Part II).*

   a. English equivalent of legal name if customarily written in language other than English.

   b. Trade name, *(if any)*

2. Is this the first time the above named applicant is submitting application form CG-5358-8?

   ☐ YES ☐ NO

   If "NO", complete item "a" below

   a. What Control Number was assigned to the first application?

3. State applicant's legal form of organization, i.e., whether operating as an individual, corporation, partnership, association, joint stock company, business trust or other organized group of persons *(whether incorporated or not)*, or as a receiver, trustee or other liquidating agent, and briefly describe current business activities and length of time engaged therein.

   a. If a corporation, association, or other organization, please indicate.

Name of State or foreign country in which incorporated or organized.	Date of incorporation or organization

   b. If a partnership, give name and address of each partner

4. Name and address of applicant's United States agent or other person authorized by applicant to accept legal service in the United States *(See PART IV) (U. S. applicants may appoint themselves as agent, eliminating the need to complete Part IV.)*

EVIDENCE OF FINANCIAL RESPONSIBILITY (PART II OF 4 PARTS)

5. Please list each vessel over 300 gross tons *(except non-self-propelled barges which never carry oil or hazardous substances as cargo or as fuel to operate equipment)* which uses any port or place in the United States or the navigable waters of the United States. Vessels for which the operator named in item 1 is not responsible should not be listed in this form. In column (f) indicate the number "1" if the operator is also the registered owner. Indicate "2" in column (f) if the operator is not the registered owner.

NAME OF VESSEL (a)	TYPE OF VESSEL *(See note below)* (b)	COUNTRY OF REGISTRY (c)	REGISTRATION NUMBER (d)	GROSS TONS (e)	"1" OR "2" (f)

NOTE: Please designate the type of vessel by using a number from one of the following categories:

CARGO VESSELS, SELF-PROPELLED

Breakbulk freighter 10
Containership° 11
Roll on-roll off 12
Barge carrier *(e.g., lash, seabee)* 13
Combination breakbulk containership ° 14
Combination roll on-roll off containership ° 15
Combination barge carrier containership ° 16
Tanker 17
Dry bulk carrier 18
All other self-propelled cargo vessels 19

PASSENGER VESSELS

Passenger vessel °° 30
Combination passenger/cargo vessel °° 31
Ferry °° 32

RECREATIONAL VESSELS

All types of pleasure craft 40

UTILITY CRAFT

Tank barge 50
Tug and towboat 51
Barge and scow 52
Drilling rig 53
Fishing vessel 54
Factory vessel 55
Research vessel 56
All other utility craft°°° 57

MISCELLANEOUS

Vessels not otherwise specified 80

° Containership categories should be assigned only to vessels having fixed container cells or regularly carrying multi-tier container deckloads.
°° Passenger categories should be assigned only to vessels carrying more than 12 passengers for hire.
°°° Includes floating cranes, dredges, docks, etc.

5. (g) If applicant indicated "2" for any vessel listed above-in column 5(f), please indicate:

NAME OF VESSEL	OWNER	OWNER'S MAILING ADDRESS

PART II (CONT'D)

6. Items 7 through 10 are optional methods of establishing financial responsibility. Check the appropriate box(es) below and answer only the item(s) which are applicable to this application.

☐ Insurance *(Answer Item 7)*	☐ Surety Bond *(Answer Item 8)*	☐ Guaranty *(Answer Item 9)*	☐ Self-insurer *(Answer Item 10)*

7. Name and address of applicant's insurer *(Insurance Form CG-5358-9 must be filed before a Certificate will be issued. If applicant is applying for a Master Certificate, the correct Insurance Form is CG-5358-9A.)*

8. Total amount of surety bond. *(Surety Bond CG-5358-9B must be filed before a Certificate will be issued).*

$_____

a. Name and address of applicant's surety

9. Name and address of applicant's guarantor. *(Guaranty Form CG-5358-9C and all required financial data must be filed before a Certificate will be issued. If applicant is applying for a Master Certificate, the correct guaranty Form is CG-5358-9D.)*

a. Guarantor's fiscal year

_____ (Month) _____ (Day) _____ (Month) _____ (Day)

10. If applicant intends to qualify as a self-insurer, attach all required financial data and indicate fiscal year

_____ (Month) _____ (Day) _____ (Month) _____ (Day)

DECLARATION (PART III OF 4 PARTS)

11. Applicant's mailing address *(Street, Number, Post Office Box, City, State or Country and ZIP Code in the United States)*	13. Type or print in this space the name and title of the official who is signing this application
	14. Address of principal office in United States *(if any)*
12. Telex number and answer back	15. Telephone Number *(Area Code and Number)*

I DECLARE that I have examined this application, including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Furthermore, it is agreed that the applicant named in item 1 of Part I above is the responsible operator of all vessels now listed in or later added to this application. I also agree that in the event the agent designated in item 4 of Part I above, or his replacement as may be appointed later with the approval of the U. S. Coast Guard, cannot be served due to death, disability, or unavailability, the Commandant, U. S. Coast Guard, becomes the agent for service of process. I have signed this application in my above-indicated capacity as an authorized official of the applicant, or, if acting under a power of attorney, under the power vested in me by the applicant as evidenced by the attached documents.

IMPORTANT

DATE	SIGNATURE OF ABOVE OFFICIAL

NOTE: Please be sure that Parts I, II, and III have been completed in full, and that Part III has been dated and signed. Then proceed to Part IV, attached.

NO CERTIFICATE WILL BE ISSUED UNLESS A COMPLETED APPLICATION FORM HAS BEEN RECEIVED, PROCESSED AND APPROVED - 33 CFR 130.

COMMENTS

The statements hereinabove set forth are made subject to penalties prescribed by law for any person who knowingly and willfully makes false statements on any matter within the jurisdiction of an agency of the United States (18 USC 1001)

CONCURRENCE OF AGENT (PART IV OF 4 PARTS)

Part IV-A must be completed by the person designated in item 4 of Part I to serve as applicant's United States agent for service of legal process. Part IV-B must be completed by the applicant. After Parts IV-A and IV-B are completed, Part IV should be submitted to the U. S. Coast Guard by the applicant or by the agent, either separately or together with Parts I, II and III. *(Part IV need not be completed if the agent designated in item 4 of Part I already has submitted to the U. S. Coast Guard an acceptable blanket Concurrence of Agent, agreeing to serve on behalf of certain applicants who designate such agent. Part IV also need not be completed if the applicant is a United States entity and has appointed itself as agent in item 4 of Part I).*

PART IV - A

It is hereby agreed that _____

shall serve as the herein named applicant's United States agent for service of legal process for purposes of Part 130, Title 33, CFR. This designation and agreement shall cease immediately in the event the applicant designates a new agent acceptable and agreed to by the U. S. Coast Guard.

Date: _____

Signature of person signing on behalf of agent: _____

Title: _____

Business Address: _____

PART IV - B *(TO BE COMPLETED BY APPLICANT)*

Name of applicant (From item 1): _____

Signature of person signing on behalf of applicant: _____

(Person signing here should also sign in appropriate place on Part III)

Date: _____

Type or Print Name and Title: _____

BILLING CODE 4910-14-C

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–9 (6–83)

Insurance Co. Form No. ————

INSURANCE FORM CG–5358–9 FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER SUBSECTION 311(p) OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED

(Name of Insurer) ————
(hereinafter "Insurer") hereby certifies that for purposes of complying with the provisions of subsection 311(p) of the Federal Water Pollution Control Act, as amended (hereinafter "Act"), each of the vessel operators specified in the schedules below is insured by it, in respect to each of the vessels respectively specified therein, against oil or hazardous substances removal cost liability to the United States to which such vessel operators could be subjected under section 311 of the Act. The amount of liability to which a vessel operator may be subjected under section 311 of the Act and which is insured herein is:

1. In the case of a vessel which is an "inland oil barge" (as defined in section 311 of the Act) at the time of an incident which causes the United States Government to incur removal costs, $125 per gross ton or $125,000, whichever is greater; or

2. In the case of a vessel which is not an "inland oil barge" (as defined in section 311 of the Act) at the time of an incident which causes the United States Government to incur removal costs, $150 per gross ton (or for a vessel carrying oil or hazardous substances as cargo, $250,000, whichever is greater).

The foregoing amount of insurance coverage provided by the Insurer on behalf of the United States Government in respect to any vessel specified herein is not conditioned or dependent in any way upon any agreement or understanding between an assured operator and the Insurer that any such vessel is or is not an "inland oil barge", will or will not carry oil or certain hazardous substances, or will or will not operate in certain waters

(Name of Agent ———— with offices located at ———— is hereby designated as the Insurer's agent for service of process for the purposes of section 311 of the Act and implementing rules at Part 130 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability, or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

The Insurer consents to be sued directly in respect of any claim against any of the operators arising under subsections 311 (f) and (g) of the Act; provided, however, that in any such direct action its liability per vessel in any one incident shall not exceed, in the case of an inland oil barge, $125 per gross ton of the barge or $125,000 whichever is greater. In the case of any other vessel, its liability per vessel in any one incident shall not exceed $150 per gross ton of the vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000, whichever is greater). The Insurer shall be entitled to invoke only the rights and defenses permitted by section 311 of the Act to the vessel operator and the rights and defenses permitted by section 311 of the Act to the Insurer if an action were brought against the Insurer by the operator.

The insurance evidenced by this undertaking shall be applicable only in relation to incidents occurring on or after the effective date and before the termination date of this undertaking, and shall be applicable only to incidents giving rise to claims under subsections 311 (f) and (g) of the Act in respect to any of the below-listed vessels.

The effective date of this undertaking shall, for each vessel listed below, be the date the vessel is named in or added to the schedules below. For each vessel, the termination date of this undertaking shall be 30 days after the date of receipt of written notice by the U.S. Coast Guard (USCG) that the Insurer has elected to terminate the insurance evidenced by this undertaking, and has so notified the vessel operator.

However, for any vessel which is carrying oil or hazardous substances in bulk as cargo that has been loaded before the scheduled date of termination, the termination shall not take effect until (1) completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the USCG of written notice that the Insurer has elected to terminate the insurance evidenced by this undertaking, whichever date is earlier.

Termination of this undertaking as to any vessel shall not affect the liability of the Insurer in connection with an incident occurring prior to the date such termination becomes effective.

If during the currency of this undertaking a below-named operator requests that an additional vessel be made subject to this undertaking and if the Insurer should accede to the request and should so notify the USCG, then the vessel shall be included in the schedules below.

If more than one insurer joins in executing this document, that action constitutes joint and several liability on the part of the insurers. The definitions in 33 CFR 130.2 apply to this undertaking.

Effective Date of Coverage for Vessels Originally Named on This Undertaking: Day/month/year

(Name of Insurer) ————
(Mailing Address) ————

(Signature of Official Signing on Behalf of Insurer) ————
(Typed Name and Title of Signer) ————

Insurance Form CG–5358–9 (6/83) No. ————

SCHEDULE OF VESSELS AND ASSURED OPERATORS

Vessel	Gross tons	Assured operator

Insurance Form CG–5358–9 (6/83) No. ————

SCHEDULE OF VESSELS AND ASSURED OPERATORS ADDED TO ABOVE SCHEDULE

Vessel	Gross tons	Assured operator	Date added

Insurance Form CG–5358–9 (6/83) No. ————

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–9A (6/83)

Master Insurance Form No. ————

MASTER INSURANCE FORM CG–5358–9A FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY FOR BUILDERS, REPAIRERS, SCRAPPERS, OR SELLERS OF VESSELS UNDER SUBSECTION 311 (p) OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED

(Name of Insurer) ————
(hereinafter "Insurer") hereby certifies that
(Name of Assured) ————
(hereinafter the "Assured") is insured by it against oil or hazardous substances removal cost liability to the United States for purposes of complying with the provisions of subsection 311(p) of the Federal Water Pollution Control Act, as amended, (hereinafter "Act"). This undertaking shall be applicable in relation to vessels which the Assured may from time to time hold for purposes of construction, repair, scrapping, or sale. The maximum amount of insurance evidenced by this undertaking is $150 per gross ton of any such vessel or $250,000, whichever is greater, not to exceed $———— (This amount must not be less than $250,000) per vessel in anyone incident. The foregoing amount of insurance coverage provided by the Insurer on behalf of the United States Government in respect to any of the above-mentioned vessels is not conditioned or dependent in any way upon any agreement or understanding between the Assured and the Insurer that any of the vessels is or is not an "inland oil barge" (as defined in section 311 of the Act), will or will not carry oil or certain hazardous substances, or will or will not operate in certain waters.

(Name of Agent) ————
with offices at ————, is hereby designated as the Insurer's agent for service of process for the purposes of section 311 of the Act and implementing rules at Part 130 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability, or unavailability, the Commandant, U.S. Coast Guard becomes the agent for service of process.

The Insurer consents to be sued directly in respect of any claim against the Assured arising under subsections 311 (f) or (g) of the Act; *provided, however*, that in any such direct action (1) its liability per vessel in any one incident shall not exceed the amount stipulated in the first paragraph of this undertaking and (2) it shall be entitled to invoke only the rights and defenses permitted by section 311 of the Act to the Assured and the rights and defenses permitted by section 311 of the Act to the Insurer if an action were brought against the Insurer by the Assured.

The insurance evidenced by this undertaking shall be applicable only in relation to claims under subsection 311 (f) and (g) of the Act in respect to any of the above-mentioned vessels, occurring on or after the below-specified effective date of this undertaking and before the termination date of this undertaking. The termination date shall be the date 30 days after the date of receipt by the U.S. Coast Guard (USCG) of written notice that the Insurer has elected to terminate the insurance evidenced by this undertaking and has so notified the Assured.

However, for any of the above-mentioned vessels which are carrying oil or hazardous substances in bulk as cargo that has been loaded before the scheduled date of termination, the termination shall not take effect (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the USCG of written notice the Insurer has elected to terminate the insurance evidenced by this undertaking and has so notified the Assured, whichever date is earlier.

Termination of this undertaking shall not affect the liability of the Insurer in connection with an incident occurring before the date termination becomes effective.

If more than one insurer joins in executing this undertaking, that action constitutes joint and several liability on the part of the insurers. The definitions in 33 CFR 130 apply to this undertaking.

Effective Date: ————

(Name of Insurer) ————
(Mailing Address) ————
By: ————
(Signature of Official Signing on Behalf of Insurer) ————
(Typed Name and Title of Signer) ————

Master Insurance Form CG–5358–9A (6/83) No. ————

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–9B (6/83)

Surety Co. Bond No. ————

OIL AND HAZARDOUS SUBSTANCES DISCHARGE SURETY BOND FORM CG–5358–9B FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER SUBSECTION 311 (p) OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED

KNOW ALL MEN BY THESE PRESENTS, that We (Name of Vessel Operator) ———— of (City) ———— (State and Country) ————, as Principal (hereinafter called Principal), and (Name of Surety) ————, a company created and existing under the laws of (State and Country) ————, and authorized to do business in the United States, as Surety (hereinafter called Surety), are held and firmly bound unto the United States of America for oil or hazardous substances removal cost liability under section 311 of the Federal Water Pollution Control Act, as amended, (hereinafter "Act") in the penal sum of $———— (Penal Sum May Not Be Less Than $250,000) for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. The foregoing penal sum is not conditioned or dependent in any way upon any agreement or understanding between the Principal and Surety that any vessel(s) is or is not an "inland oil barge", will or will not carry oil or certain hazardous substances, or will or will not operate in certain waters.

WHEREAS, the Principal intends to become or is a holder of a Certificate of Financial Responsibility (Water Pollution) under the provisions of Part 130 of Title 33, Code of Federal Regulations, and has elected to file with the U.S. Coast Guard (USCG) such a bond so will insure financial responsibility to meet any liability for removal costs incurred under section 311 of the Act; and

WHEREAS, this bond is written to ensure compliance by the Principal with the requirements of subsection 311(p) of the Act, and shall inure to the benefit of claimants under subsections 311 (f) and (g) of the Act;

NOW, THEREFORE, the condition of this obligation is that if the Principal shall pay or cause to be paid to claimants any sum or sums for which the Principal may be held legally liable under subsections 311 (f) or (g) of the Act, then this obligation, to the extent of such payment, shall be void, otherwise to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond. In no event shall the Surety's obligation hereunder exceed the amount of the penalty, provided that the Surety furnishes written notice to the USCG forthwith of all suits filed, judgments rendered, and payments made by the Surety under this bond.

Any claim for which the Principal may be liable under subsections 311 (f) or (g) of the Act may be brought against the Surety; *Provided, however*, that in the event of a direct claim the Surety shall be entitled to invoke only (1) the rights and defenses permitted by section 311 of the Act to the Principal (vessel operator) and (2) the rights and defenses permitted by section 311 of the Act to the Surety if an action were brought against the Surety by the Principal.

This bond is effective the ——— day of ————, 19——, 12:01 a.m., standard time at the address of the Surety as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice sent by certified mail to the other party with a copy (plainly indicating that the original notice was sent by certified mail) to the USCG at its office in Washington, D.C. The termination becomes effective thirty (30) days after actual receipt by the USCG or written notice; *provided, however*, that with respect to any of the Principal's vessels carrying oil or hazardous substances in bulk as cargo that has been loaded before the time the termination would otherwise have become effective, the termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the USCG of written notice of termination of the bond by the above-named Principal or the Surety under the conditions set forth above, whichever date is earlier. The Surety shall not be liable hereunder in connection with an incident occurring after the termination of this bond as herein provided, but termination shall not affect the liability of the Surety in connection with an incident occurring before the date the termination becomes effective.

The Surety designates (Name of Agent) ———— with offices at ————, as the Surety's agent for service of process for the purposes of section 311 of the Act and implementing rules at Part 130 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability, or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

If more than one surety company joins in executing this bond, that action constitutes joint and several liability on the part of the sureties. The definitions in 33 CFR 130.2 apply to this bond.

In witness whereof, the above-named Principal and Surety have executed this instrument on the ——— day of ————, 19——.

(Please type name of signer under each signature. In the case of partnership, each partner must sign.)

Principal

Individual Principal or Partner————
(Business Address)————

Individual Principal or Partner————
(Business Address)————

Individual Principal or Partner————
(Business Address)————

Corporate Principal————
Business Address ————

By ————
Title ————

(Affix Corporate Seal)

CG–5358–9B (6/83)

Surety Co. Bond No. ————

Surety

Corporate Surety————
Business address————

By ————
Title ————

(Affix Corporate Seal)

CG–5358–9B (6/83)

Surety Co. Bond No. ————

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–9C (6/83)

Guaranty No. ————

GUARANTY FORM CG–5358–9C IN RESPECT OF LIABILITY FOR DISCHARGE OF OIL AND HAZARDOUS SUBSTANCES

1. WHEREAS (Name of Vessel Operator) ———— (hereinafter the "Operator") is the Operator of the Vessel(s) specified in the annexed schedules (hereinafter "Vessel" or "Vessels"), and whereas the Operator

VOL
48
ISS
1
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1983
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desires to establish its financial responsibility in accordance with subsection 311(p) of the Federal Water Pollution Control Act, as amended, (hereinafter the "Act"), The undersigned Guarantor hereby guarantees, subject to the provisions of clause 4 hereof, to discharge the Operator's legal liability to the United States in respect to a claim for oil or hazardous substances removal costs under subsections 311 (f) and (g) of the Act, in the event that such legal liability has not been discharged by the Operator within 21 days after the claimant has obtained a final judgment (after appeal, if any) against the Operator from a United States Federal or State Court of competent jurisdiction, or has become entitled to payment of a specified sum by virtue of a compromise settlement agreement made with the Operator, with the approval of the Guarantor. Upon payment of the agreed sum, the Operator is to be fully, irrevocably and unconditionally discharged from all further liability to the claimant with respect to the claim. The Operator's legal liability under section 311 of the Act, which is covered by this Guaranty, is:

a. In the case of a Vessel which is an "inland oil barge" (as defined in section 311 of the Act) at the time of an incident which causes the United States Government to incur removal costs, $125 per gross ton or $125,000, whichever is greater; or

b. In the case of a Vessel which is not an "inland oil barge" (as defined in section 311 of the Act) at the time of an incident which causes the United States Government to incur removal costs, $150 per gross ton (or for a Vessel carrying oil or hazardous substances as cargo, $250,000, whichever is greater).

The foregoing amount of coverage provided by the Guarantor on behalf of the United States Government in respect to any of the Vessels is not conditioned or dependent in any way upon any agreement or understanding between the Operator and the Guarantor that any of the Vessels is or is not an "inland oil barge," will or will not carry oil or certain hazardous substances, or will or will not operate in certain waters.

2. The Guarantor's liability per Vessel in any one incident shall not exceed, in the case of an inland oil barge, $125 per gross ton of such barge or $125,000, whichever is greater, and in the case of any other Vessel, $150 per gross ton of such Vessel (or, for a Vessel carrying oil or hazardous substances as cargo, $250,000, whichever is greater), provided that the Guarantor furnishes written notice to the U.S. Coast Guard (USCG) forthwith of all suits filed, judgments rendered, and payments made by the Guarantor under this Guaranty.

3. The Guarantor's liability under this Guaranty shall attach only in relation to incidents giving rise under subsections 311 (f) and (g) of the Act to causes of action against the Operator in respect of any of the Vessels for removal of oil or hazardous substances, within the meaning of section 311 of the Act, occurring on or after the effective date of this Guaranty, which, as to each of the Vessels, shall be the date 30 days after the date of receipt by the USCG of written notice that the Guarantor has elected to terminate this Guaranty, with respect to any of the Vessels, and has so notified the Operator; *provided, however,* that with respect to any Vessel carrying oil or hazardous substances in bulk as cargo that has been loaded before the scheduled date of termination, the termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the USCG of written notice of termination, whichever date is earlier. Termination of this Guaranty as to any of the Vessels shall not affect the liability of the Guarantor in connection with an incident occurring before the date termination becomes effective.

4. Any claim against the Operator arising under subsections 311 (f) or (g) of the Act may be brought directly against the Guarantor; *provided, however,* that in the event of a direct claim the Guarantor shall be entitled to invoke only (1) the rights and defenses permitted by section 311 of the Act to the vessel operator and (2) the rights and defenses permitted by section 311 of the Act to the Guarantor if the action were brought against the Guarantor by the operator.

5. If, during the currency of this Guaranty, the Operator requests that a vessel operated by the Operator, and not specified in the annexed Schedules A and B, should become subject to this Guaranty, and if the Guarantor accedes to the request and so notifies the USCG in writing, then the vessel becomes one of the Vessels included in Schedule B and subject to this Guaranty.

6. The Guarantor hereby designates (Name of Agent) _____ with offices at _____, as the Guarantor's agent in the United States for service of process for purposes of section 311 of the Act and implementing rules at Part 130 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

7. If more than one guarantor joins in executing this Guaranty, that action constitutes joint and several liability on the part of the guarantors.

8. The definitions in 33 CFR 130 apply to this Guaranty.

Effective Date: (Month/Day/Year and Place of Execution)_____.

(Type Name of Guarantor) _____
(Type Address of Guarantor) _____

By: (Signature)_____
(Type Name and Title of Person Signing Above) _____

CG–5358–9C (6/83) Guaranty No.

SCHEDULE A—VESSELS INITIALLY LISTED

Vessels	Gross tons	Operator

CG–5358–9C (6/83) Guaranty No.

SCHEDULE B—VESSELS ADDED IN ACCORDANCE WITH CLAUSE 5

Vessels	Gross tons	Operator	Date added

CG–5358–9C (6/83) Guaranty No.

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–9D (6/83) Master Guaranty No._____

MASTER GUARANTY FORM CG–5358–9D IN RESPECT OF LIABILITY FOR DISCHARGE OF OIL AND HAZARDOUS SUBSTANCES (BUILDERS, REPAIRERS, SCRAPPERS, OR SELLERS OF VESSELS)

1. WHEREAS (Name of Vessel Operator) _____ (hereinafter the "Operator") is, or from time to time may become, the Operator of a vessel or vessels held for purposes of construction, repair, scrapping, or sale (hereinafter "Vessel" or "Vessels"), and whereas the Operator desires to establish its financial responsibility in accordance with subsection 311(p) of the Federal Water Pollution Control Act, as amended, (hereinafter the "Act"), the undersigned Guarantor hereby guarantees, subject to the provisions of clause 4 hereof, to discharge the Operator's legal liability to the United States in respect to a claim for oil or hazardous substances removal costs under subsections 311 (f) and (g) of the Act, in the event that such legal liability has not been discharged by the Operator within 21 days after the claimant has obtained a final judgment (after appeal, if any) against the Operator from a United States Federal or State Court of competent jurisdiction, or has become entitled to payment of a specified sum by virtue of a compromise settlement agreement made with the Operator, with the approval of the Guarantor, whereby, upon payment of the agreed sum, the Operator is to be fully, irrevocably and unconditionally discharged from all further liability to the claimant with respect to the claim. The amount of coverage provided by this Guaranty on behalf of the United States is the amount of the Operator's legal liability under section 311 of the Act. This amount is not conditioned or dependent in any way upon any agreement or understanding between the Operator and the Guarantor that any of the Vessels is or is not an "inland oil barge" (as defined in section 311 of the Act), will or will not carry oil or certain hazardous substances, or will or will not operate in certain waters.

2. The Guarantor's maximum liability per Vessel in any one incident is $150 per gross ton of the Vessel or $250,000, whichever is greater, but shall in no event exceed _____, (This amount must not be less than $250,000) provided that the Guarantor furnishes written notice to the U.S. Coast Guard (USCG) forthwith of all suits filed, judgments rendered, and payments made by the Guarantor under this Guaranty.

3. The Guarantor's liability under this Guaranty shall attach only in relation to incidents giving rise under subsections 311 (f) and (g) of the Act to causes of action against the Operator in respect of any of the Vessels for removal of oil or hazardous substances, within the meaning of section 311 of the Act, occurring on or after the effective date of this Guaranty and before the termination date of this Guaranty, which shall be the date 30 days after the date of receipt by the USCG of written notice the Guarantor has elected to terminate this Guaranty and has so notified the Operator; *provided, however,* that with respect to any Vessel which is carrying oil or hazardous substances in bulk as cargo that has been loaded before to the scheduled date of termination, the termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the USCG of written notice of termination, whichever date is earlier. Termination of this Guaranty as to the Vessels shall not affect the liability of the Guarantor in connection with an incident occurring before the date termination becomes effective.

4. Any claim against the Operator arising under subsection 311 (f) or (g) of the Act may be brought directly against the Guarantor; *provided, however,* that in the event of a direct claim the Guarantor shall be entitled to invoke only (1) the rights and defenses permitted by section 311 of the Act to the Vessel Operator and (2) the rights and defenses permitted by section 311 of the Act to the Guarantor if the action were brought against the Guarantor by the Operator.

5. The Guarantor hereby designates (Names of Agent) _____, with offices at _____, as the Guarantor's agent in the United States for service of process for purposes of section 311 of the Act and implementing rules at Part 130 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability, or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

6. If more than one guarantor joins in executing this Guaranty, that action constitutes joint and several liability on the part of the guarantors.

7. The definitions in 33 CFR 130 apply to this Guaranty.

Effective Date: (Month/Day/Year and Place of Execution)_____.

(Type Name of Guarantor) _____
(Type Address of Guarantor) _____
(Signature) _____
(Type Name and Title of Person Signing Above) _____

CG–5358–9D (6/83) Guaranty No. _____

PART 131—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—ALASKA PIPELINE

Sec.

131.1 Scope.
131.2 Definitions.
131.3 General.
131.4 Certificates, how obtained.
131.5 Financial responsibility, amount.
131.6 Financial responsibility, how established.
131.7 Certificates, issuance.
131.8 Certificates, denial or revocation.
131.9 Fees.
131.10 Enforcement.
131.11 Service of process.
Appendix—Financial Responsibility Application and Supporting Forms

Authority: 43 U.S.C. 1653(c); 33 U.S.C. 1321(p); E.O. 11735, as amended by sec. 4 of E.O. 12418 (48 FR 20082); 49 CFR 1.46.

(Approved by the Office of Management and Budget under Control Number 2115–0538.)

§ 131.1 Scope.

(a) This part implements section 204(c) of the Trans-Alaska Pipeline Authorization Act, and applies to all operators of vessels carrying oil transported through the trans-Alaska pipeline, engaged in any segment of the transportation of that oil between the terminal facilities of the trans-Alaska pipeline and the port under the jurisdiction of the United States where that oil is first brought ashore.

(b) Information obtained under this part is used to determine the financial responsibility of vessel operators.

§ 131.2 Definitions.

As used in this part:

(a) "Act" means Title II of Pub. L. 93–153, the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653).

(b) "Applicant" means any vessel "operator," as defined in paragraph (i) of this section, who has applied for a Certificate.

(c) "Application" means Application for Certificate of Financial Responsibility (Alaska Pipeline), Form CG–5358–3.

(d) "Certificant" means any operator, as defined in paragraph (i) of this section, who has been issued a Certificate.

(e) "Certificate" means a Certificate of Financial Responsibility (Alaska Pipeline), Form CG–5358–6 issued by the U.S. Coast Guard under this part.

(f) "Commandant" means the Commandant, U.S. Coast Guard.

(g) "Insurer" means one or more acceptable insurance companies, corporations or associations of underwriters, shipowners' protection and indemnity associations, or other persons acceptable to the Coast Guard.

(h) "Oil" means only crude oil which has been transported through the trans-Alaska pipeline.

(i) "Operator" or "vessel operation" means any person, including, but not limited to, an owner or a demise charterer, who conducts or who is responsible for the operator of a vessel.

(j) "Owner" or "vessel owner" means any person holding legal or equitable title to a vessel; *Provided, however,* That a person holding legal or equitable title to a vessel solely as security is not an owner. In a case where a Certificate of Registry has been issued, the owner is the person or persons whose name or names appear on the vessel's Certificate of Registry; *Provided, however,* That where a Certificate of Registry has been issued in the name of the president or secretary of an incorporated company under 46 U.S.C. 15, such incorporated company is the owner.

(k) "Person" includes, but is not limited to, an individual, a government, a firm, a corporation, an association, a partnership, a joint-stock company, a business trust, or an unincorporated organization.

(l) "Public vessel" means a vessel, not engaged in commerce, the operator of which is the Government of the United States or the government of a foreign nation.

(m) "Underwriter" means an insurer, a surety company, a guarantor, or any other person, other than the operator, which undertakes to pay the liability of the operator.

(n) "United States" means any place under the jurisdiction of the United States, including, but not limited to, the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Trust Territory of the Pacific Islands.

(o) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 131.3 General.

(a) No vessel, except a public vessel, shall load oil at a terminal facility of the trans-Alaska pipeline, unless that vessel has a Certificate covering it and its operator.

(b) No vessel, except a public vessel, shall load, from any source, including, but not limited to, another vessel or a deepwater port as defined in the Deepwater Port Act of 1974, 33 U.S.C. 1502, oil, that having been once loaded aboard a vessel at a terminal facility of the trans-Alaska pipeline, has not, at the time of such loading, yet been brought ashore at a port under the jurisdiction of the United States, unless the vessel to be loaded has a Certificate covering it and its operator.

(c) No vessel, except a public vessel, shall transfer to any other vessel, whether for storage, carriage, or any other purpose, oil, that having been once loaded aboard a vessel at a terminal facility of the trans-Alaska pipeline, has not, at the time of such transfer, yet been brought ashore at a port under the jurisdiction of the United States, unless the vessel to which the oil is to be

transferred has a Certificate covering it and its operator.

(d) No vessel, except a public vessel, shall have on board oil, that, having been once loaded aboard a vessel at a terminal facility of the trans-Alaska pipeline, has not yet been brought ashore at a port under the jurisdiction of the United States, unless that vessel has a Certificate covering it and its operator.

§ 131.4 Certificates, how obtained.

(a) Any operator who wishes to be issued a Certificate shall file, or cause to be filed, with the Coast Guard an application, fees, and evidence of financial responsibility, at the following address:

Commandant (G–WFR/21), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593.

(b) Application forms may be obtained from the address set forth in paragraph (a) of this section, and from the Coast Guard District Offices at New York, NY, Miami, FL; New Orleans, LA; San Francisco, CA; Seattle, WA; Cleveland, OH; St. Louis, MO; Juneau, AK; Long Beach, CA; Honolulu, HA; Boston, MA; or Portsmouth, VA.

(c) Each operator shall file a completed application, fees, and evidence of financial responsibility, at least 45 days before the date upon which the vessel to be covered by the Certificate for which application is made is to load oil. Applications are processed in the order in which they are filed.

(d) All spaces on the application shall be filled in before filing. Spaces must be filled in with the information requested, the phrase "Not Applicable," or the word "None". Each application shall contain—

(1) Complete name and mailing address of applicant;

(2) Applicant's form of organization;

(3) Date and State of applicant's incorporation or organization;

(4) Names and addresses of each partner, if applicable;

(5) Name and address of applicant's U.S. agent for service of process;

(6) Identifying data for all vesels to be covered by the Certificates for which application is made; and

(7) Identification of the evidence of financial responsibility upon which the Certificates being applied for are based.

(e) All applications and supporting documents shall be in English. All monetary term shall be in United States currency.

(f) Each application shall—

(1) Be signed by the applicant or an autorized official of the applicant, whose title shall be shown on the application; and

(2) Be accompanied by a written statement proving authority to sign, where the signer is not disclosed as an individual applicant, a partner in a partnership applicant, or an officer of a corporate applicant.

(g) Written application for renewal Certificates shall be made to the Commandant (G–WFR), at least 45 days, but not earlier than 60 days, before the expiration date of existing Certificates. Each renewal application shall be accompanied by appropriate recertification fees, identify any changes since the original application, was filed, and set forth the correct information in full.

(h) If, before the issuance of a Certificate, the applicant becomes aware of a change in any of the facts contained in the application, request for renewal, or supporting documentation, the applicant shall, in writing, within five days of becoming aware of the change, notify the Commandant (G–WFR) of the change.

(i) All request for assistance, including telephone inquiries, in completing applications should be directed to the Commandant's staff in Washington, D.C., (202) 426–8806.

§ 131.5 Financial responsibility, amount.

(a) Each applicant shall establish financial responsibility which shows the ability to pay $14 million to meet its liability section 204(c) of the Act.

(b) The amount required by paragraph (a) of this section is separate from and in addition to the amount, if any, required of the applicant under Part 130 of this subchapter.

§ 131.6 Financial responsibility, how established.

(a) An applicant shall establish its financial responsibility by any one of, or by any acceptable combination of, the following methods:

(1) Filing with the Commandant (G–WFR) an insurance form CG–5358–4, executed by an insurer acceptable to the Coast Guard.

(2) Filing with the Commandant (G–WFR) a surety bond form CG–5358–4A, executed by a surety company which is acceptable to the Coast Guard. To be acceptable, surety companies, must, at a minimum, be certified by the United States Department of the Treasury with respect to the issuance of Federal bonds in the penal sum of the bonds to be issued under this part.

(3) An applicant may establish financial responsibility as a self-insurer by maintaining in the United States working capital and net worth, in the amounts set forth in this subparagraph. The amount of working capital and net worth to be maintained by the applicant shall be determined by the number of vessels operated by the applicant as follows: for one vessel, $19,000,000; for two vessels, $24,000,000; for three vessels $28,000,000; for four vessels, $31,000,000; for five vessels, $33,000,000; and for six or more vessels, $34,000,000. As used in this subparagraph, "working capital" means the amount of current assets located in the United States, less all current liabilities; and "net worth" means the amount of all assets located in the United States, less all liabilities. Maintenance of the required working capital and net worth shall be demonstrated by submitting with the initial application the items specified in paragraph (a)(3)(i) of this section for the last fiscal year preceding the date of application. Thereafter, so long as the application is pending or the certificant is holding a Certificate, the applicant/certificant shall submit the items specified in paragraphs (a)(3) (i) and (ii) of this section and shall be subject to the provision of paragraphs (a)(3) (iii), (iv)(V) of this section:

(i) An annual, current, nonconsolidated balance sheet and an annual, current, nonconsolidated statement of income and surplus, for each fiscal year certified by an independent Certified Public Accountant. Said Financial statements are to be accompanied by an additional statement from the Certified Public Accountant, certifying to the total amount of current assets and total assets included in the accompanying balance sheet which are located in the United States and acceptable for purposes of this part, i.e., not pledged for the purposes of Part 130 of this subchapter. If the balance sheet and statement of income and surplus cannot be submitted in nonconsolidated form, there must also be submitted an additional statement prepared by the involved Certified Public Accountant, certifying to the amount by which the applicant's/certificant's—

(A) Assets, located in the United States and acceptable under this part, exceed total (i.e., worldwide) liabilities; and

(B) Current assets, located in the United States and acceptable under this part, exceed total (i.e., worldwide) current liabilities. Such additional statement must specifically name the applicant/certificant, indicate that the amounts so certified relate only to the applicant/certificant, apart from any other entity, and identify the consolidated financial statement to which it applies.

(ii) Supplementary statements as follows: First, a statement prepared by the Certified Public Accountant, certifying that, as of the end of the first six months of the applicant's certificant's current fiscal year, the applicant's/certificant's working capital and net worth have not fallen below the required amounts and, second, a quarterly affidavit filed by the corporate Treasurer (or equivalent official for a noncorporate entity) stating that the working capital and the net worth, have not, as of the close of the quarter, fallen below the required amounts. Such affidavits are required only for the first and third fiscal-year quarters.

(iii) Such additional financial information as the Coast Guard determines necessary in particular cases shall be submitted.

(iv) All persons subject to paragraph (a)(3) of this section shall, in addition to all other reporting requirements, notify the Commandant (G-WFR) within five days of the date such persons knew, or had reason to believe, that the amounts of working capital or net worth have fallen below the amounts required.

(v) All required annual financial statements shall be received by the Coast Guard within three calendar months after the close of the applicant's/certificant's fiscal year, and the six-month statements within three calendar months after close of such six-month period. Quarterly affidavits shall be received within 30 days of the close of the quarter being attested to. Upon written request, the Commandant (G–WFR) grants a reasonable extension of the time limits imposed by this section; *Provided*, That the request is received 15 days before the statements are due, sets forth sufficient reason to justify the requested extension, and includes an estimate of the final calculation of working capital and of net worth. The Commandant does not consider requests for extensions of more than 45 days.

(vi) Failure to timely file any statement, data, or affidavit required by paragraph (a)(3) of this section shall cause the revocation of the Certificate.

(4) Filing with the Commandant (G–WFR), a guaranty form CG–5358–4B, executed by a guarantor acceptable to the Coast Guard. To be acceptable a guarantor must comply with all of the self-insurance provisions of paragraph (a)(3) of this section. However, the amounts of working capital and net worth required to be demonstrated by such guarantor shall not be less than the aggregate amounts underwritten as a guarantor and an applicant/certificant under this part, and Part 130 of this subchapter.

(5) Any other method specially justified and acceptable to the Coast Guard.

(b) Application form CG–5358–3, insurance form CG–5358–4, surety bond form CG–5358–4A, and guaranty form CG–5358–4B, as appended to this part, are hereby incorporated into this part. If more than one insurer, surety, or guarantor joins in executing an insurance form, surety bond form, or guaranty form, such action constitutes joint and several liability for such joint underwriters.

(c) Forms CG–5358–4 through CG–5358–4B and any other undertaking, filed under this part, shall expressly permit the commencement of an action in court for claims under section 204(c) of the Act by the claimant directly against the underwriter. Such forms and other undertakings shall also provide that, in the event such action is brought directly against the underwriter, such underwriter shall be entitled to invoke only—

(1) The rights and defenses permitted by the Act to the operator; and,

(2) The rights and defenses permitted by the Federal Water Pollution Control Act, as amended, to the underwriter, insofar as those rights and defenses are consistent with the purposes of the Act, if the action were brought against the underwriter by the operator.

(d) Each form submitted to the Coast Guard under this part shall set forth in full the correct legal name of the vessel operator to whom Certificates are to be issued.

(e) Financial data filed by applicants, certificants, and underwriters shall, if specifically requested, be kept confidential, to the extent permitted by the Freedom of Information Act.

(f) If, at any time after a Certificate has been issued, a certificant becomes aware of a change in any of the facts contained in the application or supporting documentation, the certificant shall notify the Commandant (G–WFR), in writing, within 10 days of becoming aware of the change.

§ 131.7 Certificates, issuance.

(a) When financial responsibility as required by this part has been established in support of a properly completed application, a separate Certificate for each vessel listed on the application is issued by the Coast Guard. Certificates are issued only to vessel operators and are effective for two years from the date of the issue. The original Certificate shall be carried on the vessel named on the Certificate. Erasures or other alterations on a Certificate are prohibited (even if made by Government Authorities) and automatically void such Certificate.

(b) If for any reason, including a vessel's demise or transfer to a new operator, a certificant ceases to be the operator of a vessel, the certificant shall, within 30 days, complete the reverse side of the original Certificate for the involved vessel and return it to the Commandant (G–WFR). Such Certificate is automatically void (whether or not returned to the Coast Guard), and its use is prohibited. If such Certificate has been lost or destroyed, the certificant shall instead submit the following written information to the Commandant (G–WFR):

(1) The number of the Certificate and the name of the vessel.

(2) The date and reason why the certificant ceased to be the operator of the vessel.

(3) The location of the vessel on the date certificant ceased to be the operator.

(4) The name and mailing address of the person to whom the vessel was sold or transferred, if any.

§ 131.8 Certificates, denial or revocation.

(a) Certificate is denied or revoked for any of the following reasons:

(1) Making any willfully false statement to the Coast Guard in connection with an application for an initial Certificate or request for a renewal Certificate or the retention of an existing Certificate.

(2) Failure of an appplicant or certificant to establish or maintain financial responsibility.

(3) Failure to comply with or respond to lawful inquiries, regulations, or orders of the Coast Guard pertaining to activities subject to this part.

(4) Failure to timely file the statements of affidavits required by § 131.6(a)(3) (i) and (ii).

(5) Cancellation or termination of any insurance form, surety bond, guaranty or other undertaking issued under this part.

(b) Before the denial or revocation of a Certificate, the Commandant (G–WFR) advises the applicant or certificant, in writing, of the intention to deny or revoke the Certificate, and states the reason therefor.

(c) If the reason for the intended revocation is—

(1) The cancellation or termination of any insurance, bond, guaranty, or other undertaking under this part, the revocation is effective either on the effective date of the cancellation or termination, or 10 days after the date of the notice of intention to revoke, whichever is later, unless the certificant, before such date, provides acceptable

substitute evidence of financial responsibility, or demonstrates that the insurance, bond, guaranty, or other undertaking has not been cancelled or terminated; or

(2) The failure to file statements required under paragraph (a)(4) of this section, the revocation is effective 10 days after the date of the notice of intention to revoke, unless the certificant, before the effective date, demonstrates that the required statements were timely filed.

(d) If the intended denial or revocation is based upon any other reason, the applicant or certificant may request, in writing, a hearing to show that the applicant or certificant is in compliance with this part, and, if such request is received within 30 days after the date of the notification of intention to deny or revoke, the Coast Guard schedules a hearing. Hearings are conducted in accordance § 135.223 of this subchapter.

§ 131.9 Fees.

(a) This section establishes the application fee imposed by the Coast Guard for processing applications, and also establishes the certification fee imposed for the issuance of Certificates.

(b) No Certificate is issued unless the fees set forth in paragraphs (d) and (e) of this section have been paid.

(c) Fees shall be paid in United States currency, by check, draft or postal money order made payable to the U.S. Coast Guard.

(d) Each applicant who submits an application for the first time shall pay an initial nonrefundable application fee of $75. If, at a later date, the same applicant submits a request for a Certificate to cover an additional or renamed vessel, an additional application fee is not required, whether or not the applicant chooses to submit another application in connection with that request. However, once an application is withdrawn or denied for any reason, and the same applicant, holding no valid Certificates, wishes to reapply for a Certificate covering the same or additional vessels, a new application and application fee of $75 shall be filed.

(e) In addition to the $75 application fee, applicants shall pay a vessel certification fee of $40 for each vessel listed in, or later added to, the application form. Where it becomes necessary to reissue a Certificate for any reason, including, but not limited to, a change of owner, a name change, a renewal, or a lost Certificate, the certificant shall pay the certification fee of $40 for each reissued Certificate.

(f) Certification fees are refunded, upon receipt of a written request, if the application is withdrawn or denied before issuance of the Certificates. Overpayments of application and certification fees are refunded on request only if the refund is $20 or more. However, any overpayments not refunded are credited, for the applicant's future use under this part, for a period of two years from the date of receipt of the monies by the Coast Guard.

§ 131.10 Enforcement.

(a) In the event any vessel is engaged in any of the activities prohibited by §131.3, the Coast Guard—

(1) Denies the vessel entry to any port or place in the United States, or the navigable waters of the United States; and

(2) Detains the vessel at the port or place in the United States from which it is about to depart for any other port of place in the United States.

(b) Any person who fails to comply with this part, is subject to a fine of not more than $10,000 for each failure.

§ 131.11 Service of process.

(a) When executing the forms required by this part, each applicant and underwriter shall designate thereon a person in the United States as its agent for service of process for the purposes of section 204(c) of the Act and of this part.

(b) Each designation shall be acknowledged in writing by the designee unless the designee has furnished the Coast Guard with a "master" or "blanket" concurrence showing it has agreed in advance to act as the United States agent for service of process for the applicants or underwriter in question.

(c) When the designated agent cannot be served because of death, disability, or unavailability, the Commandant becomes the agent for service of process.

(d) When serving the Commandant, the server shall also—

(1) Send to the applicant, certificant, or underwriter, by registered mail, at its last address on file with the Coast Guard, a copy of each document served upon the Commandant; and

(2) Attest to that mailing at the time service is made upon the Commandant

BILLING CODE 4910-14-M

Appendix—Financial Responsibility Application and Supporting Forms

Approved OMB No. 2115-0536

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5358-3 (6-83)

APPLICATION FOR CERTIFICATE OF FINANCIAL RESPONSIBILITY (ALASKA PIPELINE)

GENERAL (PART 1 OF 4 PARTS)

INSTRUCTIONS

Please type or print clearly in ink and submit this application to the Chief, Financial Responsibility Division (G-WFR), Office of Marine Environment and Systems, U. S. Coast Guard Headquarters, 2100 - 2nd Street, S.W., Washington, DC 20593. APPLICANTS MUST ANSWER ALL QUESTIONS WITH THE INFORMATION REQUESTED OR THE PHRASE "NOT APPLICABLE" OR THE WORD "NONE". If more space is needed, please attach supplemental sheets.

THIS SPACE FOR USE BY USCG ONLY

1. Legal name of applicant *(legally responsible operator of all vessels listed Part II)*

   a. English equivalent of legal name if customarily written in language other than English

   b. Trade name, *(if any)*

2. Is this the first time the above-named applicant is submitting application Form CG-5358-3 for an Alaska Pipeline Certificate?

   ☐ YES ☐ NO *(If "NO", please complete item "a" below.)*

   a. What control number was assigned to the first application?

   _____

3. State applicant's legal form of organization, i.e., whether operating as an individual, corporation, partnership, association, joint stock company, business trust, or other organized group of persons *(whether incorporated or not)*, or a receiver, trustee, or other liquidating agent, and briefly describe current business activities and length of time engaged therein.

   a. If a corporation, association, or other organization, please indicate:

Name of state or foreign country in which incorporated or organized	Date of incorporation or organization

   b. If a partnership, please give name and address of each partner

4. Name and address of applicant's United States agent *(or other person)* authorized by applicant to accept legal service in the United States *(See Part IV). (U.S. applicants may support themselves as agent, eliminating the need to complete Part IV.)*

EVIDENCE OF FINANCIAL RESPONSIBILITY (PART II OF 4 PARTS)

5. List each vessel which will carry oil that has been transported through the Trans-Alaska pipeline and which will require a Certificate of Financial Responsibility (Alaska Pipeline). Vessels for which the operator named in Item 1 is not responsible should not be listed in this form. In Column (f) indicate the number "1" if the operator is also the registered owner Indicate "2" in column (f) if the operator is not the registered owner.

Name of Vessel (a)	Type of Vessel (b)	Country of Registry (c)	Registration Number (d)	Gross Tons (e)	"1" or "2" (f)

5.(g) If applicant indicated "2" for any vessel listed above, in column 5(f), please indicate:

Name of Vessel	Registered Owner	Owner's Mailing Address

NOTE: This list of owners must be kept current by applicant.

PART II (Cont'd)

6. Items 7 through 11 are the optional methods of establishing financial responsibility. Check the appropriate box(es) below and answer only the item(s) which are applicable to this application.

☐ Insurance *(Answer Item 7)* ☐ Surety Bond *(Answer Item 8)* ☐ Guaranty *(Answer Item 9)* ☐ Self-Insurer *(Answer Item 10)* ☐ Other *(Answer Item 11)*

7. Name and address of applicant's insurer *(Insurance Form CG-5358-4 must be filed before a Certificate will be issued.)*

8. Amount of surety bond *(Surety Bond Form CG-5358-4A must be filed before a Certificate will be issued).*

$ _____

a. Name and address of applicant's surety

9. Name and address of applicant's guarantor *(Guaranty CG-5358-4B and all required financial data must be filed before a Certificate will be issued).*

a. Guarantor's Fiscal Year

_____ (Month) _____ (Day) to _____ (Month) _____ (Day)

10. If applicant intends to qualify as a self-insurer, attach all required financial data and indicate fiscal year

_____ (Month) _____ (Day) to _____ (Month) _____ (Day)

11. Give a fully detailed explanation of the method desired to be utilized to establish financial responsibility and attach all supporting documentation and schedules.

VOL 48 ISS 197 OCT 11 1983 UMI

DECLARATION (PART III OF 4 PARTS)

12. Applicant's mailing address *(Street, number, post office box, city, state, or country and zip code if in the United States).*

a. Type or print in this space the name and title of the official who is signing this application below

b. Address of principal office in United States *(if any)*

c. Telephone Number *(Area code)*

I DECLARE that I have examined this application, including any accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Furthermore, I declare the applicant named in item 1 of Part I above is the operator for all vessels now listed in or later added to this application. I agree that in the event the agent designated in item 4 of Part I above, or his replacement as may be appointed later with the approval of the U. S. Coast Guard, cannot be served due to his death, disability or unavailability, the Commandant, U. S. Coast Guard, becomes the agent for service of process. I have signed this application in my above-indicated capacity as an authorized official of the applicant or if, acting under a power of attorney, under the power vested in me by the applicant as evidenced by the attached document.

IMPORTANT

Date	Signature of above official

NOTE:

- Please be sure that Parts I, II and III have been completed as fully as possibly and that Part III has been dated and signed.
- All applicants must complete question 4 concerning U. S. agents for service of process. Any questions should be submitted to the U. S. Coast Guard or the underwriter.
- If number "2" appears in Column 5(f) for any vessels listed in Column 5(a), the registered owners of those vessels must be listed in question 5(g) and kept current.

NO CERTIFICATE WILL BE ISSUED UNLESS A COMPLETED APPLICATION FORM HAS BEEN RECEIVED, PROCESSED, AND APPROVED - 33 CFR 131.

COMMENTS:

The statements hereinabove set forth are made subject to penalties prescribed by law for any person who knowingly and willfully makes false statements on any matter within the jurisdiction of an agency of the United States (18 USC 1001).

CONCURRENCE OF AGENT (PART IV OF 4 PARTS)

Part IV-A must be completed by the person or firm designated in Item 4 of Part I to serve as applicant's United States agent for service of process. Part IV-B must be completed by the applicant. After Parts IV-A and IV-B are completed, Part IV should be submitted to the U. S. Coast Guard by the applicant or by the agent, either separately or together with Parts I, II, and III. Part IV-A need not be completed if (1) the agent designated in Item 4 of Part I already has submitted to the U. S. Coast Guard an acceptable blanket Concurrence of Agent, agreeing to serve on behalf of any applicant who designates such agent, or (2) the applicant is a United States entity and has appointed itself as agent.

PART IV - A

It is hereby agreed that _____

(Type Name of United States Agent)

shall serve as the herein named applicant's United States agent for service of process under the provisions of Section 131.11, Title 33, CFR. This designation and agreement shall cease immediately in the event the applicant designates a new agent acceptable and agreed to by the U. S. Coast Guard.

Date: _____

Signature of person signing on behalf of agent: _____

_____

(Title)

_____

(Business Address)

_____

_____

_____

PART IV - B - TO BE COMPLETED BY APPLICANT

Name of applicant from Item I _____

Signature of person signing on behalf of applicant _____

(Person signing here must also sign in appropriate place on Part III)

Date	Type or print name and title

BILLING CODE 4910-14-C

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–4 (6–83)

Insurance Form No. ————

INSURANCE FORM CG–5358–4 FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER SUBSECTION 204(c) OF THE TRANS-ALASKA PIPELINE AUTHORIZATION ACT (PUBLIC LAW 93–153)

(Name of Insurer) ———— (hereinafter "Insurer") hereby certifies that for purposes of complying with the provisions of subsection 204(c), Trans-Alaska Pipeline Authorization Act (hereinafter "Act"), each of the vessel operators specified in the schedules below is insured by it, in respect to each of the vessels respectively specified therein, against liability to which such vessel operators could be subjected under subsection 204(c) of the Act in the amount of $14 million for any one incident.

(Name of Agent) ————, with offices at ———— is hereby designated as the Insurer's agent for service of process for the purposes of the Act and implementing rules at Part 131 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

The insurer consents to be sued directly in respect of any claim under the Act against any of the operators: *provided, however* that in any such direct action (a) its liability in any one incident shall not exceed $14 million per vessel and (b) it shall be entitled to invoke only (1) the rights and defenses permitted by the Act to the vessel operator, and (2) the rights and defenses permitted by the Federal Water Pollution Control Act, as amended, to the Insurer, insofar as those rights and defenses are consistent with the purposes of the Trans-Alaska Pipeline Authorization Act, if an action were brought against the Insurer by the operator.

The insurance evidenced by this document shall be applicable only in relation to incidents giving rise to claims under the Act in respect to any of the below-listed vessels, occurring on or after the effective date of this document, which, as to each of the vessels, shall be the date the vessel is named in Schedule A or added to Schedule B below, and before the termination date of this document, which, as to each of such vessels, shall be the date 30 days after the date of receipt by the U.S. Coast Guard (USCG) of written notice the Insurer has elected to terminate the insurance evidenced by this document in respect to any vessel, and has so notified the vessel's operator; *provided, however,* no termination shall become effective with respect to any vessel covered by this document, which, at the time termination would otherwise become effective, was carrying oil transported through the trans-Alaska pipeline and which has been loaded on board such vessel before the time such termination would otherwise become effective; and *provided further,* that such termination shall only become effective when *all* of that oil has been offloaded from such vessel. Termination of this document as to such vessels shall not affect the liability of the Insurer in connection with an incident occurring before the date the termination becomes effective.

If during the currency of this document a below-named operator requests that an additional vessel be made subject to this document, and if the Insurer should accede to the request and should so notify the USCG, then the vessel shall be included in Schedule B hereof.

If more than one insurer joins in executing this document, that action constitutes joint and several liability on the part of the insurers.

Effective date of coverage for vessels on Schedule A: Day/month/year————.

(Name of Insurer) ————
(Mailing Address) ————

(Signature of Official Signing on Behalf of Insurer) ————
(Typed Name and Title of Signer) ————

Insurance Form CG–5358–4 (6/83) No. ————

SCHEDULE A—VESSELS AND OPERATORS

Vessel	Operator	Gross tons [1]

[1] For identification purposes only.

Insurance Form CG–5358–4 (6/83) No. ————

SCHEDULE B—ADDITIONAL VESSELS

Vessel	Operator	Gross tons [1]	Date added

[1] For identification purposes only.

Insurance Form CG–5358–4 (6/83) No. ————

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–4A (6–83)

Surety Co. Bond No. ————

ALASKA PIPELINE—OIL DISCHARGE SURETY BOND FORM CG–5358–4A

KNOW ALL MEN BY THESE PRESENTS, that We (Name of Vessel Operator) ————, of (City) ————, (State and Country) ————, as Principal (hereinafter called Principal), and (Name of Surety) ————, a company created and existing under the laws of (State and Country) ————, and authorized to do business in the United States, as Surety (hereinafter called Surety), are held and firmly bound unto the United States of America and other claimants for damages under subsection 204(c) of the Trans-Alaska Pipeline Authorization Act (hereinafter "Act") in the penal sum calculated as follows: if there is one vessel listed in the attached schedule, $14,000,000; if there are two vessels, $19,000,000; if there are three vessels, $23,000,000; if there are four vessels, $26,000,000; if there are five vessels, $28,000,000; if there are six or more vessels, $29,000,000, for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal intends to become or is a holder of a Certificate of Financial Responsibility (Alaska Pipeline) pursuant to the provisions of Part 131 of Title 33, Code of Federal Regulations, and has elected to file with the U.S. Coast Guard (USCG) such a bond as will insure financial responsibility to meet any liability incurred under subsection 204(c) of the Act; and

WHEREAS, this bond is written to assure compliance by the Principal with the requirements of subsection 204(c), of the Act, and shall inure to the benefit of claimants under subsection 204(c);

NOW, THEREFORE, the condition of this obligation is that if the Principal shall pay or cause to be paid to claimants any sum or sums for which the Principal may be held legally liable under subsection 204(c) of the Act, then this obligation, to the extent of such payment, shall be void, otherwise, to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond. In no event shall the Surety's obligation hereunder exceed the amount of the penalty, provided the Surety furnishes written notice to the USCG forthwith of all suits filed, judgments rendered, and payments made by the Surety under this bond.

Any claim for damages for which the Principal may be liable under the provisions of subsection 204(c) of the Act may be brought directly against the Surety; *provided, however,* that in the event of a direct claim the Surety shall be entitled to invoke only (1) the rights and defenses permitted by subsection 204(c) of the Act to the vessel operator, and (2) the rights and defenses permitted by the Federal Water Pollution Control Act, as amended, to the Surety, insofar as those rights and defenses are consistent with the purposes of the Trans-Alaska Pipeline Authorization Act, if an action were brought against the Surety by the operator.

This bond is effective the ———— day of ————, 19—— 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice sent by certified mail to the other party, with a copy to the USCG at its office in Washington, D.C. The termination becomes effective thirty (30) days after actual receipt by the USCG of written notice; *provided, however,* that no such termination shall become effective with respect to any vessel covered by this document, which, at the time the termination would otherwise become effective, was carrying oil which had been transported through the trans-Alaska pipeline and which had been loaded on board such vessel before the time the termination would otherwise become effective; and *provided further,* the termination shall only become effective when *all* of that oil has been offloaded from such vessel. The Surety shall not be liable hereunder in connection with an incident occurring after the termination of this bond as herein provided, but termination shall not affect the liability of the Surety in connection with an incident occurring before the date the termination becomes effective.

The Surety designates (Name of Agent) ————, with offices at ————, as the Surety's agent for service of process for the purposes of the Act and implementing rules at Part 131 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

If more than one surety company joins in executing this bond, that action constitutes joint and several liability on the part of the sureties.

In witness whereof, the above-named Principal and Surety have executed this instrument on the ——— day of ————, 19——.

(Please type name of signer under each signature. In the case of a partnership, each partner must sign.)

Principal

Individual Principal or Partner————
(Business Address) ————

Individual Principal or Partner————
(Business Address) ————

Individual Principal or Partner————
(Business Address) ————

Corporate Principal————
Business Address ————

By ————
Title ————

(Affix Corporate Seal)

Surety

Corporate Surety————
Business Address ————

By ————
Title ————

(Affix Corporate Seal)

CG–5358–4A (6/83)

Surety Co. Bond No. ————

SCHEDULE—VESSELS AND OPERATORS

Vessel	Operator	Gross tons *

*For indentification purposes only.

Surety Co. Bond No. ————

CG–5358–4A (6/83)

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–4B (6–83)

Guaranty No. ————

GUARANTY FORM CG–5358–4B IN RESPECT OF LIABILITY FOR DISCHARGE OF OIL—ALASKA PIPELINE

1. WHEREAS (Name of Vessel Operator) ————, (hereinafter the "Operator") is the Operator of the Vessel(s) specified in the annexed schedules (hereinafter "Vessel" or "Vessels"), and the Operator desires to establish its financial responsibility in accordance with subsection 204(c) of the Trans-Alaska Pipeline Authorization Act (hereinafter the "Act"), the undersigned Guarantor hereby guarantees, subject to the provisions of clause 4 hereof, to discharge the Operator's legal liability in respect to a claim under subsection 204(c) of the Act, in the event that such legal liability has not been discharged by the Operator within 21 days after the claimant has obtained a final judgment (after appeal, if any) against the Operator from a United States Federal or State Court of competent jurisdiction, or has become entitled to payment of a specified sum by virtue of a compromise settlement agreement made with the Operator, with the approval of the Guarantor. Upon payment of the agreed sum, the Operator is to be fully, irrevocably and unconditionally discharged from all further liability to the claimant with respect to the claim.

2. The Guarantor's liability under this Guaranty shall not exceed $14 million per incident, provided that the Guarantor furnishes written notice to the U.S. Coast Guard (USCG) of all suits filed, judgments rendered, and payments made by the Guarantor under this Guaranty.

3. The Guarantor's liability under this Guaranty shall attach only in relation to incidents giving rise to causes of action against the Operator in respect of any of the Vessels for damages under subsection 204(c) of the Act, occurring on or after the effective date of this Guaranty, which, as to each of the Vessels, shall be the date the Vessel is named in Schedule A or added to Schedule B below, and before the termination date of this Guaranty, which, as to each of the Vessels, shall be the date 30 days after the date of receipt by the USCG of written notice the Guarantor has elected to terminate this Guaranty, with respect to any of the Vessels, and has so notified the Operator; *provided, however,* that no termination shall become effective with respect to any Vessel covered by this document, which, at the time the termination would otherwise become effective, was carrying oil which had been transported through the trans-Alaska pipeline and which had been loaded on board such Vessel before the time the termination would otherwise become effective; and *provided further,* the termination shall only become effective when *all* of that oil has been offloaded from the Vessel. Termination of this document as to Vessels shall not affect the liability of the Guarantor in connection with an incident occurring before the date the termination becomes effective.

4. Any claim for damages for which the Operator may be liable under the provisions of subsection 204(c) of the Act may be brought directly against the Guarantor; *provided, however,* that in the event of a direct claim the Guarantor shall be entitled to invoke only (1) the rights and defenses permitted by the Act to the vessel operator, and (2) the rights and defenses permitted by the Federal Water Pollution Control Act, as amended, to the Guarantor, insofar as those rights and defenses are consistent with the purposes of the Trans-Alaska Pipeline Authorization Act, if the action were brought against the Guarantor by the operator.

5. If, during the currency of this Guaranty, the Operator requests that a vessel operated by the Operator, and not specified in the annexed Schedules A and B, should become subject to this Guaranty, and if the Guarantor accedes to the request and so notifies the USCG in writing, then the vessel becomes one of the Vessels included in Schedule B and subject to this Guaranty.

6. The Guarantor hereby designates (Name of Agent) ———— with offices at ———— as the Guarantor's agent in the United States for service of process for purposes of subsection (c) of section 204 of the Act and implementing rules at Part 131 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

Effective Date: (Month/Day/Year and Place of Execution) ————.

(Type Name of Guarantor) ————
(Type Address of Guarantor) ————

By: (Signature) ————
(Type Name and Title of Person Signing Above) ————

SCHEDULE A—VESSELS INITIALLY LISTED

Vessels	Gross tons	Operator

Note: Gross tons are for identification purposes only.

CG–5358–4B (6/83)

SCHEDULE B—VESSELS ADDED IN ACCORDANCE WITH CLAUSE 5

Vessel	Gross tons	Operator	Date added

SCHEDULE B—VESSELS ADDED IN ACCORDANCE WITH CLAUSE 5

Vessel	Gross tons	Operator	Date added

Note: Gross tons are for identification purposes only.

CG–5358–4B (6/83)

PART 132—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—OUTER CONTINENTAL SHELF

Sec.

132.1 Scope.
132.2 Definitions.
132.3 General.
132.4 Where to apply and obtain forms.
132.5 Time to apply.
132.6 Applications, general instructions.
132.7 Renewal of Certificates.
132.8 Establishing financial responsibility.
132.9 Issuance of Certificates.
132.10 Operator's responsibility for identification.
132.11 Denial or revocation of Certificates.
132.12 Fees.
132.13 Enforcement.

VOL
48
ISS
1
9
7
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11
1983
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132.14 Service of process.

Appendix—Financial Responsibility Application and Supporting Forms

Authority: 43 U.S.C. 1815(a)(1), 1822(a)(2); E.O. 12123, as amended by sec. 2 of E.O. 12418 (48 FR 20863); 49 CFR 1.46.

(Approved by the Office of Management and Budget under Control Number 2115-0535.)

§ 132.1 Scope.

(a) This part implements the vessel financial responsibility requirements of Title III of the Outer Continental Shelf Lands Act Amendments of 1978, and applies to all vessels engaged in any segment of the transportation of oil produced from an offshore facility on the Outer Continental Shelf when such vessels are operating in the waters above submerged lands seaward from the coastline of a State or the waters above the Outer Continental Shelf.

(b) Vessels having on board Outer Continental Shelf-produced oil after that oil has been brought ashore, or loaded as a result of removal operations after an oil spill, are not subject to this part.

§ 132.2 Definitions.

As used in this part:

(a) "Act" means Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1811-24).

(b) "Applicant" means any vessel operator, as defined in paragraph (p) of this section, who has applied for a Certificate or for the renewal of a Certificate.

(c) "Application" means Application for Certificate of Financial Responsibility (Outer Continental Shelf), Form CG-5358-1.

(d) "Cargo" means oil carried on board a vessel for purposes of transportation, in any quantity and under any conditions.

(e) "Certificant" means any operator, as defined in paragraph (p) of this section, who has been issued a Certificate.

(f) "Certificate" means a Certificate of Financial Responsibility (Outer Continental Shelf) Form CG-5358 issued by the U.S. Coast Guard under this part.

(g) "Commandant" means the Commandant, U.S. Coast Guard.

(h) "Damages" means economic loss arising out of or directly resulting from oil pollution, including injury to, or destruction of, real or personal property; loss of use of real or personal property; injury to, or destruction of, natural resources; loss of use of natural resources; loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; loss of tax revenue for a period of one year due to injury to real or personal property; and reasonable costs associated with preparation and presentation of natural resource damage claims. Removal costs are not included in this definition.

(i) "Discharge" means any emission, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emptying, or dumping.

(j) "Financial responsibility" means proof of financial ability to satisfy claims for damages and removal costs as required by section 305(a)(1) of the Act.

(k) "Incident" means any occurrence or series of related occurrences, involving one or more vessels, which causes or poses an imminent threat of oil pollution from any source. For purposes of this part an "imminent" threat, as used in the Act, is synonymous with a "substantial" threat, as used in section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321).

(l) "Insurer" means one or more acceptable insurance companies, corporatios or associations of insurers, shipowners' protection and indemnity associations, or other persons acceptable to the Coast Guard.

(m) "Offshore facility" includes any oil refinery, drilling rig, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf, and is located on the Outer Continental Shelf, except that a vessel or a deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)) is not included in this definition.

(n) "Oil" means petroleum, including crude oil or any fraction or residue therefrom, whether or not carried on board a vessel.

(o) "Oil pollution" means:

(1) The presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate—

(i) In or on the waters above submerged lands seaward from the coastline of a State, or on the adjacent shoreline of such State; or

(ii) On the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(2) The presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(i) When discharged in connection with activities conducted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); or

(ii) Causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(3) The presence of oil in or on the territorial sea, navigable or internal waters, or adjacent shoreline of a foreign country, in a case where damages are recoverable by a foreign claimant under Title III of the Act.

(p) "Operator" or "vessel operator" means a demise charterer or any other person responsible for the operation of a vessel, including a person who both owns and is responsible for the operation of a vessel.

(q) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters (as the term "lands beneath navigable waters" is defined in section 1301 of the Submerged Lands Act (43 U.S.C. 1301)), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(r) "Owner" or "vessel owner" means any person holding legal or equitable title to a vessel. In a case where a Certificate of Registry or equivalent document has been issued, the owner is the person or persons whose name or names appear thereon as owner; and *Provided, however,* That where a Certificate of Registry has been issued in the name of the president or secretary of an incorporated company under 46 U.S.C. 15, such incorporated company is the owner; *Provided, further,* That this definition does not include a person who, without participating in the management or operation of a vessel, holds indicia of ownership primarily to protect a security interest in that vessel.

(s) "Person" includes, but is not limited to, an individual, a governmental entity, a firm, a corporation, an association, a partnership, a joint-stock company, a joint venture, a consortium, a business trust, or an unincorporated organization.

(t) "Public vessel" means a vessel, not engaged in commerce, the operator of which is the Government of the United States or a State or political subdivision thereof, or the government of a foreign entity.

(u) "Remove," "removing," or "removal" means:

(1) The physical removal of oil from the water and shorelines;

(2) The taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare (including, but not limited to, fish, shellfish, wildlife and public or private property, shorelines and beaches), resulting from a discharge or substantial threat of a discharge of oil;

(3) The restoration or replacement of natural resources damaged or destroyed as the result of a discharge of oil in violation of section 311(b) of the Federal Water Pollution Control Act, as amended;

(4) Reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from such incident; and

(5) Measures of a similar or related nature under section 5 of the Intervention on the High Seas Act (33 U.S.C. 1474).

(v) "Submerged lands seaward from the coastline of a State" means the area of "lands beneath navigable waters" as described in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)(2)). Generally, that area can be described as all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastline of a State, and to the boundary line of each such State where in any case such boundary extends seaward (or into the Gulf of Mexico) beyond three geographical miles.

(w) "Underwriter" means an insurer, a surety company, a guarantor, or any other person, other than the operator, who provides evidence of financial responsibility for an operator.

(x) "United States" or "State" means any place under the jurisdiction of the United States, including, but not limited to, the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands.

(y) "Vessel" means every description and size of watercraft or other artificial contrivance, other than a public vessel, which is operating in the waters above the Outer Continental Shelf or in the waters above submerged lands seaward from the coastline of a State, and which is engaged in any segment of the transportation of Outer Continental Shelf-produced oil from an offshore facility, including carrying, lightering, transshipping, or storing such oil.

§ 132.3 General.

(a) This part sets forth the procedures whereby an owner and operator of a vessel can demonstrate that each is financially able to meet liability for removal costs and damages in the amount of $300 per gross ton of such vessel, or $250,000, whichever is greater. That amount represents the maximum amount of liability under section 304 of the Act in a case where the owner and operator of a particular vessel are entitled to limit their liability. Owners and operators are jointly, severally and strictly liable.

(b) Upon the satisfactory demonstration of financial responsibility, the Commandant (G-WFR) issues Certificates which are to be carried aboard the vessels named on such Certificates. The carriage of a valid Certificate indicates the vessel named thereon is in compliance with the financial responsibility provisions of the Act. Failure to carry a valid Certificate subjects a vessel owner and operator to enforcement action and penalty procedures by the Coast Guard.

(c) Where a vessel is operated by its owner, or the owner is responsible for its operation, the owner is the operator and shall file the application for a Certificate. In all other cases, the vessel operator shall file the application.

(d) The gross tonnage of a vessel is the tonnage indicated in the vessel's Certificate of Registry, or, in the absence thereof, other marine documents acceptable to the Coast Guard. If a vessel has more than one gross tonnage, the higher tonnage shall apply.

§ 132.4 Where to apply and obtain forms.

(a) Each operator who wishes to obtain a Certificate shall file an application, together with fees and evidence of financial responsibility, with the Coast Guard at the following address:

Commandant (G-WFR/21), U.S. Coast Guard Headquarters, 2100 Second Street, Washington, DC 20593.

(b) Regulations concerning applications, are set forth in §§ 132.5 and 132.6. Regulations concerning fees are set forth in § 132.12, and regulations concerning evidence of financial responsibility are set forth in § 132.8. Forms may be obtained from the address set forth in paragraph (a) of this section and from the 12 Coast Guard District Offices at New York, NY; Miami, FL; New Orleans, LA; San Francisco, CA; Seattle, WA; Cleveland, OH; St. Louis, MO; Juneau, AK; Long Beach, CA; Honolulu, HA; Boston, MA; or Portsmouth, VA.

(c) All requests for assistance, including telephone inquiries, in completing applications should be directed to the Commandant's Staff in Washington, DC; (202) 426-8806.

§ 132.5 Time to apply.

(a) A completed application, fees and evidence of financial responsibility shall be filed at least 21 days before the date the Certificate is required.

(b) Applications will be processed in the order in which they are filed.

§ 132.6 Applications, general instructions.

(a) All applications and supporting documents shall be in English. All monetary terms shall be in United States currency.

(b) The application shall—

(1) Be signed by an authorized official of the applicant, whose title shall be shown on the application; and

(2) Where the signer is not disclosed on the application as an individual (sole proprietor) applicant, a partner in a partnership applicant, or a director or officer of a corporate applicant be accompanied by a written statement proving authority to sign.

(c) If, before the issuance of a Certificate, the applicant becomes aware of a change in any of the facts contained in the application or supporting documentation, the applicant shall notify the Commandant (G-WFR) in writing, within five days.

§ 132.7 Renewal of Certificates.

(a) Written applications for renewal Certificates shall be made to the Commandant (G-WFR) at least 21 days, but not earlier than 90 days, before the expiration dates of existing Certificates.

(b) Each renewal application shall be accompanied by appropriate recertification fees, identify any changes since the original application was filed, and set forth the correct information in full.

§ 132.8 Establishing financial responsibility.

(a) *General.* In addition to filing an application and appropriate fees, each vessel operator shall demonstrate the ability to satisfy liability under Title III of the Act, in an amount not less than $300 per gross ton or $250,000, whichever is greater.

(1) The evidence of financial responsibility shall cover the vessel owners as well as the vessel operators, jointly and severally.

(2) The amount of evidence of financial responsibility under this part is separate from an in addition to the amount, if any, required of an applicant under Parts 130 and 131 of this subchapter.

(b) *Methods.* An applicant shall establish evidence of financial responsibility by any one of, or by any acceptable combination of, the following methods:

(1) *Insurance.* Insurance may be established by filing with the

Commandant (G–WFR) an insurance form CG–5358–2, executed by an insurer which is acceptable to the Coast Guard.

(2) *Surety bond.* An applicant may file with the Commandant (G–WFR) a surety bond form CG–5358–2A, executed by a surety company which is located in the United States and which is acceptable to the Coast Guard. To be acceptable, surety companies must, at a minimum, be certified by the United States Department of the Treasury with respect to the issuance of Federal bonds in the penal sum of the bonds to be issued under this part.

(3) *Self-insurance.* An applicant may establish financial responsibility as a self-insurer by maintaining, in the United States, working capital and net worth, each in the amount of $300 per gross ton of the largest vessel to be self-insured or $250,000, whichever is greater. As used in this paragraph, "working capital" means the amount of current assets located in the United States, less all current liabilities; and "net worth" means the amount of all assets located in the United States less all liabilities. Maintenance of the required working capital and net worth shall be demonstrated by submitting with the initial application the items specified in paragraph (b)(3)(i) of this section for the applicant's last fiscal year preceding the date of application. Thereafter, for each of the applicant's fiscal years, the applicant/certificant shall submit the items specified in paragraphs (b)(3) (i) and (ii) of this section and shall be subject to the provisions of paragraphs (b)(3) (iii), (iv), (v), and (vi) of this section:

(i) *Initial and annual submissions.* An applicant/certificant shall submit, for its most recent fiscal year, a nonconsolidated balance sheet and related statement of income, retained earnings and changes in financial position for the year then ended audited by an independent Certified Public Accountant. Those financial statements shall be accompanied by an additional statement from the applicant's/certificant's Treasurer (or equivalent official for a noncorporate entity) certifying to both the amount of current and the amount of total assets, included in the accompanying balance sheet, that are located in the United States and acceptable for purposes of this part, i.e., not pledged for purposes of Part 130 or Part 131 of this subchapter. If the balance sheet and related statement of income, retained earnings and changes in financial position cannot be submitted in nonconsolidated form, consolidated statements may be submitted if accompanied by supplemental schedules prepared by the applicant/certificant and audited by an independent Certified Public Accountant, and which present the amounts by which the applicant's/certificant's—

(A) Assets, located in the United States and acceptable under this part, exceed total (i.e., worldwide) liabilities; and

(B) Current assets, located in the United States and acceptable under this part, exceed total (i.e., worldwide) current liabilities. Each supplemental schedule must specifically name the applicant/certificant, indicate that the amounts so presented relate only to the applicant/certificant, apart from any other entity, and identify the consolidated financial statement to which it applies.

(ii) *Semi-annual submissions.* When the applicant's/certificant's demonstrated net worth is not at least 10 times the required amount, an affidavit shall be filed by the applicant's/certificant's corporate Treasurer (or equivalent official) covering the first six months of the applicant's/certificant's fiscal year. Such affidavits shall state that neither the working capital nor the net worth have, during the first six months, fallen below the required amounts.

(iii) *Additional submissions.* If an applicant's/certificant's annual and semi-annual submissions of financial data under Parts 130, or 131 demonstrate amounts large enough to meet the requirements of this part as well, separate annual and semi-annual submissions under this part are not necessary. Additional financial information, however, shall be submitted upon request of the Coast Guard. All applicants/certificants who choose self-insurance shall notify the Commandant (G–WFR) within five days of the date such persons know, or have reason to believe, that the amounts of working capital or net worth have fallen below the amounts required.

(iv) *Time for submissions.* All required annual financial statements shall be received by the Coast Guard within three calendar months after the close of the applicant's/certificant's fiscal year, and all six-month affidavits within one calendar month after close of the applicable six-month period. Upon written request, the Commandant (G–WFR) may grant a reasonable extension of the time limits for filing financial statements/affidavits, provided that the request sets forth sufficient reason to justify the requested extension and is received 15 days before the statements/affidavits are due. The Commandant will not consider a request for an extension of more than 45 days.

(v) *Failure to submit.* Failure to timely file any statement, data, or affidavit required by paragraph (b)(3) of this section shall cause the revocation of the Certificate.

(vi) *Waivers of submissions.* For good cause shown in writing by the applicant/certificant, the Commandant (G–WFR) waives the working capital requirement where the applicant/certificant is—

(A) An economically regulated public utility;

(B) A municipal or higher level governmental entity; or

(C) An entity operating solely as a charitable, nonprofitmaking organization.

The Coast Guard considers good cause to have been shown when the applicant/certificant demonstrates in writing that the grant of such waiver would benefit at least a local public interest without resulting in undue risk to the environment and without resulting in undue risk that the applicant's/certificant's limits of liability could not be met. In addition, for good cause shown in writing by an applicant/certificant, the Commandant (G–WFR) waives the working capital requirement where it can be demonstrated that working capital is not a significant factor in the applicant's/certificant's financial condition. An applicant's/certificant's net worth in relation to the amount of its exposure under the Act, and a history of stable operations, are major elements in such demonstration.

(4) *Guaranty.* An applicant may file with the Commandant (G–WFR) a guaranty form CG–5358–2B executed by a guarantor acceptable to the Coast Guard. A guarantor shall comply with all of the self-insurance provisions of paragraph (b)(3) of this section. In addition, the amounts of working capital and net worth required to be demonstrated by an acceptable guarantor shall be no less than the aggregate amounts underwritten as a guarantor and self-insurer under this part, and Parts 130 and 131 of this subchapter.

(5) *Other methods.* An applicant may not choose any other method of demonstrating financial responsibility, nor any modifications of any of the methods in this section.

(c) *Forms-general.* Application form CG–5358–1, insurance form CG–5358–2, surety bond form CG–5358–2A and guaranty form CG–5358–2B, as appended to this part, are hereby incorporated into this part. If more than one guarantor joins in executing a guaranty form, such action constitutes joint and several liability for such joint guarantors. Each form submitted to the Coast Guard under this part shall set forth in full the correct legal name of the vessel operator to whom Certificates are to be issued.

(d) *Direct Action.* Forms CG–5358–2 through CG–5358–2B permit a claimant to commence an action for removal cost and damage claims authorized by section 303 of the Act directly against the underwriter. Such forms also provide that, in the event such action is brought directly against the underwriter, such underwriter shall be entitled to invoke only those rights and defenses permitted by section 305(c) of the Act.

(e) *Public access to data.* Financial data filed by applicants, certificants, and underwriters shall be public information to the extent required by the Freedom of Information Act and permitted by the Privacy Act.

§ 132.9 Issuance of Certificates.

(a) After acceptable evidence of financial responsibility has been provided and appropriate fees have been paid, the Coast Guard issues a separate Certificate for each vessel listed on a completed application. Certificates are issued only to vessel operators and are effective for three years from the date of issue.

(b) The original Certificate shall be carried on the vessel named on the Certificate. However, a legible copy (certified as accurate by a notary public or other person authorized to take oaths) may be carried in lieu of the original Certificate if the vessel is an unmanned barge which—

(1) Does not require a Certificate of Inspection from the United States Coast Guard;

(2) Is owned and operated by United States entities; and

(3) Does not have a facility which the vessel operator believes would offer suitable protection for the original Certificate. If a copy is carried aboard such barge, the original shall be retained at a location in the United States and shall be kept readily accessible for inspection by U.S. Government officials.

(c) Erasures or other alterations on a Certificate or copy are prohibited (even if made by government authorities) and automatically void a Certificate or copy.

(d) If at any time after a Certificate has been issued a certificant becomes aware of a change in any of the facts contained in the application or supporting documentation, the certificant shall notify the Commandant (G–WFR), in writing, within 10 days of becoming aware of the change.

(e) If for any reason, including a vessel's demise or transfer to a new operator, a certificant ceases to be the operator of a vessel, the certificant shall, within 30 days, complete the reverse side of the original Certificate for the involved vessel and return it to the Commandant (G–WFR). Such Certificate and any copy thereof is automatically void (whether or not returned to the Coast Guard), and its use is prohibited. Where such voided Certificate cannot be returned because it has been lost or destroyed, the certificant shall, as soon as possible, submit the following written information to the Commandant (G–WFR):

(1) The number of the Certificate and the name of the vessel.

(2) The date and reason why the certificant ceased to be the operator of the vessel.

(3) The location of the vessel on the date the certificant ceased to be the operator.

(4) The name and mailing address of the person to whom the vessel was returned, sold or transferred.

(5) The reason why the Certificate cannot be returned.

§ 132.10 Operator's responsibility for identification.

(a) Except in the case of unmanned barges, operators who are not also the owners of certificated vessels shall carry on board such vessels the original or legible copy of the demise charter-party or any other written document which demonstrates that such operators are, in fact, the operators designated on the Certificates.

(b) The documents required by paragraph (a) of this section shall be presented for examination to U.S. Government officials upon request.

§ 132.11 Denial or revocation of Certificates.

(a) A Certificate is denied or revoked for any of the following reasons:

(1) Making any willfully false statement to the Coast Guard in connection with an application for an initial Certificate or a request for a renewal Certificate or the retention of an existing Certificate.

(2) Failure of an applicant or certificant to establish or maintain acceptable evidence of financial responsibility.

(3) Failure to comply with or respond to lawful inquires, regulations, or orders of the Coast Guard pertaining to activities subject to this part.

(4) Failure to timely file the statements or affidavits required by § 132.8(b)(3) (i), (iii).

(5) Cancellation or termination of any insurance form, surety bond or guaranty issued by an underwriter under this part unless acceptable substitute evidence of financial responsibility has been submitted.

(b) Denial or revocation of a Certificate is immediate and without prior notice where the applicant or certificant—

(1) Is no longer the operator of the vessel in question;

(2) Fails to furnish acceptable evidence of financial responsibility in support of an application;

(3) Permits the cancellation or termination of the insurance form, surety bond or guaranty upon which the continued validity of the Certificate was based; or

(4) Where the Certificate no longer reflects current information, as would occur in the case of a name change or other change. In any other case, before the denial or revocation of a Certificate, the Commandant (G–WFR) advises the applicant or certificant, in writing, of the intention to deny or revoke the Certificate, and states the reason therefor.

(c) If the reason for an intended revocation is failure to file the required financial statements or affidavits, the revocation is effective 10 days after the date of the notice of intention to revoke, unless the certificant shall, before revocation, demonstrate that the required statements were timely filed.

(d) If the intended denial or revocations is based upon one of the rea.ons in paragraph (a) (1) or (3) of this section, the applicant or certificant may request, in writing, a hearing to show that the applicant or certificant is in compliance with this part, and, if such request is received within 30 days after the date of the notification of intention to deny or revoke the Coast Guard schedules a hearing. Hearings are conducted in accordance with § 135.223 of this subchapter.

§ 132.12 Fees.

(a) This section establishes the application fee imposed by the Coast Guard for processing applications and also establishes the certification fee imposed for the issuance or renewal of Certificates.

(b) No Certificate is issued unless the fees set forth in paragraphs (d) and (e) of this section have been paid.

(c) Fees shall be paid in United States currency by check, draft or postal money order made payable to the U.S. Coast Guard.

(d) Each applicant who submits an application for the first time shall pay an

VOL 48 ISS 197 OCT 11 1983 UMI

initial, non-refundable application fee of $75. Applications for additional Certificates, or to amend or renew existing Certificates, do not require new application fees. However, once an application is withdrawn or denied for any reason, and the same applicant, holding no valid Certificates, wishes to reapply for a Certificate (covering the same or new vessel), a new application and application fee of $75 shall be filed.

(e) In addition to the $75 application fee, applicants shall pay a $40 fee for each Certificate issued. Applicants shall submit such certification fee for each vessel listed in, or later added to, an application. The $40 certification fee is required to renew or to reissue a Certificate for any reason, including, but not limited to, a name change or a lost Certificate.

(f) Certification fees are refunded, upon receipt of a written request, if the application is withdrawn or denied before issuance of the Certificates. Overpayments of application and certification fees are refunded on request only if the refund is $20 or more. However, any overpayments not refunded are credited, for a period of three years from the date of receipt of the moneys by the Coast Guard, for the applicant's possible future use under this part.

§ 132.13 Enforcement.

(a) Any vessel operator who fails to comply with this part is subject to a civil penalty of not more than $10,000 for each such failure to comply.

(b) No penalty under paragraph (a) of this section is assessed until notice and an opportunity for hearing on the alleged violation have been given.

(c) In the event any vessel subject to this part fails, upon request, to produce a valid Certificate, the Coast Guard—

(1) Denies the vessel entry to any port or place in the United States or the navigable waters of the United States; and

(2) Detains the vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States.

§ 132.14 Service of process.

(a) When executing the forms required by this part, each applicant and underwriter shall designate thereon a person in the United States as its agent for service of process for the purposes of Title III of the Act and of this part.

(b) Each designation shall be acknowledged in writing by the designee unless the designee has already furnished the Coast Guard with a master concurrence showing it has agreed in advance to act as the United States agent for service of process for the applicant or underwriter in question.

(c) When the designated agent cannot be served because of death, disability, or unavailability, the Commandant becomes the agent for service of process.

(d) When serving the Commandant, the server shall also—

(1) Send to the applicant, certificant, or underwriter, by registered mail, postage prepaid, at its address last on file with the Coast Guard, a copy of each document served upon the Commandant; and

(2) Attest to that mailing at the time service is made upon the Commandant.

BILLING CODE 4910-14-M

Appendix—Financial Responsibility Application and Supporting Forms

Approved OMB No. 2115-0535

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-5358-1 (6-83)

APPLICATION FOR CERTIFICATE OF FINANCIAL RESPONSIBILITY (OUTER CONTINENTAL SHELF)

GENERAL
(Part I of 4 Parts)

INSTRUCTIONS

Please type or print clearly and submit this application to the Chief, Financial Responsibility Division (G-WFR), Office of Marine Environment and Systems, U. S. Coast Guard Headquarters, 2100 - 2nd Street, S.W., Washington, DC 20593. The application is in four parts: Part I - General; Part II - Evidence of Financial Responsibility; Part III - Declaration; and Part IV - Concurrence of Agent. Applicants must answer item 4 and all other applicable questions. If a question does not apply, answer "not applicable." Incomplete applications will be returned. If additional space is required, supplemental sheets may be attached.

THIS SPACE FOR USE BY USCG ONLY

1. Legal name of applicant *(name of legally responsible operator of all vessels listed in Part II)*

(a) English equivalent of legal name if customarily written in language other than English

(b) Trade name, *(if any)*

2. Is this the first time the above-named applicant is applying for a Certificate of Financial Responsibility (Outer Continental Shelf)? *(NOTE: This question does not refer to any other type of Certificate.)*

☐ YES ☐ NO *(If "No", complete item "a" below).*

(a) What control number was assigned to the first application?

3. State applicant's legal form of organization, i.e., whether operating as an individual, corporation, partnership, association, joint stock company, business trust or other organized group of persons *(whether incorporated or not)*, or as a receiver, trustee, or other liquidating agent, and briefly describe current business activities and length of time engaged therein.

(a) If a corporation, association, or other organization, please indicate:

Name of State or foreign country in which incorporated or organized	Date of incorporation or organization

(b) If a partnership, give name and address of each partner

4. Name and address of applicant's United States agent or other person authorized by applicant to accept legal service in the United States *(see PART IV) (U.S. applicants may appoint themselves as agent, eliminating the need to complete Part IV.)*

EVIDENCE OF FINANCIAL RESPONSIBILITY (Part II of 4 Parts)

5.

Please list each vessel for which a Certificate is desired. Vessels for which the operator named in item I (a) is not responsible should not be listed in this form. In column (f) indicate the number "1" if the operator is also the registered owner. Indicate "2" in column (f) if the operator is not the registered owner.

Name of Vessel (a)	Type of Vessel (b)	Country of Registry (c)	Registration Number (d)	Gross Tons (e)	"1" or "2" (f)

(g) If applicant indicated "2" for any vessel listed above in column 5(f), please indicate:

Name of Vessel	Owner	Owner's Mailing Address

2

EVIDENCE OF FINANCIAL RESPONSIBILITY (Part II of 4 Parts) - Continued

6. Items 7 through 10 are optional methods of establishing financial responsibility. Check the appropriate box(es) below and answer only the item(s) which are applicable to this application:

☐ Insurance (Answer Item 7) ☐ Surety Bond (Answer Item 8) ☐ Guaranty (Answer Item 9) ☐ Self-insurer (Answer Item 10)

7. Name and address of applicant's insurer *(Insurance Form CG-5358-2 must be filed before a Certificate will be issued.)*

8. Total amount of surety bond. *(Surety Bond Form CG-5358-2A must be filed before a Certificate will be issued.)*

$ _____

(a) Name and address of applicant's surety

9. Name and address of applicant's guarantor *(Guaranty Form CG-5358-2B and all required financial data must be filed before a Certificate will be issued.)*

(a) Guarantor's fiscal year

_____ (Month) _____ (Day) to _____ (Month) _____ (Day)

10. If applicant intends to qualify as a self-insurer, attach all required financial data and indicate fiscal year

_____ (Month) _____ (Day) to _____ (Month) _____ (Day)

3

DECLARATION (Part III of 4 Parts)

11. Applicant's mailing address *(Street, number, post office box, city, State or country, and zip code if in the United States)*	(a) Telex No. and answerback
12. Type or print in this space the name and title of the official who is signing this application	(a) Area code and telephone no.

I DECLARE that I have examined this application, including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Furthermore, it is agreed the applicant named in item I of Part I above is the responsible operator of all vessels now listed in or later added to this application. I also agree that in the event the agent designated in item 4 of Part I above, or his replacement as may be appointed later with the approval of the U. S. Coast Guard, cannot be served due to death, disability, or unavailability, the Commandant, U. S. Coast Guard, becomes the agent for service of process. I have signed this application in my above-indicated capacity as an authorized official of the applicant, or, if acting under a power of attorney, under the power vested in me by the applicant as evidenced by the attached document.

DATE	IMPORTANT ▶	SIGNATURE OF ABOVE OFFICIAL

NOTE: Please be sure that Parts I, II and III have been completed in full and that Part III has been dated and signed. Then proceed to Part IV, attached.

NO CERTIFICATE WILL BE ISSUED UNLESS A COMPLETED APPLICATION FORM HAS BEEN RECEIVED, PROCESSED AND APPROVED. 33 CFR 132.

COMMENTS

The statements hereinabove set forth are made subject to penalties prescribed by law for any person who knowingly and willfully makes false statements on any matter within the jurisdiction of an agency of the United States (18 USC 1001).

CONCURRENCE OF AGENT (Part IV of 4 Parts)

Part IV-A must be completed by the person designated in item 4 of Part I to serve as applicant's United States agent for service of legal process. Part IV-B must be completed by the applicant. After Parts IV-A and IV-B are completed, Part IV should be submitted to the U. S. Coast Guard by the applicant or by the agent, either separately or together with Parts I, II, and III. *(Part IV need not be completed if the agent designated in Item 4 of Part I already has submitted to the U. S. Coast Guard an acceptable blanket Concurrence of Agent, agreeing to serve on behalf of certain applicants who designate such agent. Part IV also need not be completed if the applicant is a United States entity and has appointed itself as agent in item 4 of Part I.)*

PART IV - A

It is hereby agreed that _____

shall serve as the herein named applicant's United States agent for service of legal process under Part 132, Title 33, CFR, and Title III of the Outer Continental Shelf Lands Act Amendments of 1978. This designation and agreement shall cease immediately in the event the applicant designates a new agent acceptable and agreed to by the U.S. Coast Guard.

Date: _____

Signature of person signing on behalf of agent: _____

Title: _____

Business address: _____

_____

_____

PART IV - B

TO BE COMPLETED BY APPLICANT

Name of applicant *(from item I (a))*: _____

Signature of person signing on behalf of applicant:

(Person signing here should also sign in appropriate place on Part III) _____ Date: _____

Title: _____

BILLING CODE 4910-14-C

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–2 (6–83)

Insurance Co. Form No. ————

INSURANCE FORM CG–5358–2 FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER TITLE III OF THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978 (Pub. L. 95–372)

(Name of Insurer) ———— (hereinafter "Insurer") hereby certifies that for purposes of complying with the provisions of section 305(a)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (hereinafter "Act"), each of the vessel operators specified in the schedules below is insured by it, in respect to each of the vessels respectively specified therein, against liability for removal costs and damages to which such vessel operators could be subjected under Title III of the Act. The amount of liability insured herein is $300 per gross ton or $25,000, whichever is greater, per vessel, in any one incident.

(Name of Agent) ———— with offices located at ———— is hereby designated as the Insurer's agent for service of process for the purposes of Title III of the Act and implementing rules at Part 132 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to death, disability or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

The Insurer consents to be sued directly in respect of any claim authorized under section 303 of the Act against any of the operators; provided, however, that in any such direct action its liability per vessel in any one incident shall not exceed $300 per gross ton of the vessel or $250,000, whichever is greater. The Insurer shall be entitled to invoke only the rights and defenses permitted by Title III of the Act to the vessel operator and the defense that the incident was caused by the willful misconduct of the vessel operator.

The insurance evidenced by this undertaking shall be applicable only in relation to incidents occurring on or after the effective date and before the termination date of this undertaking, and shall be applicable only to incidents giving rise to claims authorized under section 303 of the Act in respect to any of the below-listed vessels.

The effective date of this undertaking shall, for each vessel listed below, be the date the vessel is named in or added to the schedules below. For each vessel, the termination date of this undertaking shall be 30 days after the date of receipt of written notice by the U.S. Coast Guard (USCG) that the Insurer has elected to terminate the insurance evidenced by this undertaking, and has so notified the vessel operator. However, for any vessel carrying Outer Continental Shelf-produced oil as cargo loaded before the scheduled date of termination, the termination shall not take effect until (1) completion of the discharge of cargo, or (2) until 60 days after the date of receipt by the USCG of written notice the Insurer has elected to terminate the insurance evidenced by this undertaking, whichever date is earlier.

Termination of this undertaking as to any vessel shall not affect the liability of the Insurer in connection with an incident occurring before the date the termination becomes effective.

If, during the currency of this undertaking, a below-named operator requests that an additional vessel be made subject to this undertaking, and if the Insurer accedes to the request and should so notify the USCG, then the vessel shall be included in the schedules below.

The definitions in 33 CFR 132.2 shall apply to this undertaking.

Effective Date of Coverage for Vessels Originally Named on this Undertaking:
Day/Month/Year ————
(Name of Insurer) ————
(Mailing Address) ————
By: ————
(Signature of Offical Signing on Behalf of Insurer)
(Typed Name and Title of Signer) ————

Insurance Form CG–5358–2 (6/83)————

SCHEDULE OF VESSELS AND ASSURED OPERATORS

Vessel	Gross tons	Assured operator

Insurance Form CG–5358–2(6/83)————

SCHEDULE OF VESSELS AND ASSURED OPERATORS ADDED TO ABOVE SCHEDULE

Vessel	Gross tons	Assured operator	Date added

Insurance Form CG–5358–2(6/83)————

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–2A (6/83)

Surety Co. Bond No. ————

OIL DISCHARGE SURETY BOND FORM CG–5358–2A FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER TITLE III OF THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978 (P.L. 95–372)

KNOW ALL MEN BY THESE PRESENTS, that We (Name of Vessel Operator) ———— of (City) ———— (State and Country) ————, as Principal (hereinafter called Principal), and (Name of Surety) ————, a company created and existing under the laws of (State and Country) ————, and authorized to do business in the United States, as Surety (hereinafter called Surety), are held and firmly bound unto the United States of America and other claimants for damages and removal cost liability under Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (hereinafter "Act") in the penal sum of $————(Penal Sum May Not Be Less Than $250,000), for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, The Principal intends to become or is a holder of a Certificate of Financial Responsibility (Outer Continental Shelf) under the provisions of Part 132 of Title 33, Code of Federal Regulations, ;and has elected to file with the U.S. Coast Guard (USCG) such a bond as will insure financial responsibility to meet liability for removal costs and damages in connection with claims authorized by section 303 of the Act; and,

WHEREAS, this bond is written to ensure compliance by the Principal with the requirements of section 305(a)(1) of the Act; and shall inure to the benefit of claimants under Title III of the Act;

NOW, THEREFORE, the condition of this obligation is that if the Principal shall pay or cause to be paid to claimants any sum or sums for which the Principal may be held legally liable under Title III of the Act, then this obligation, to the extent of such payment, shall be void, otherwise to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond. In no event shall the Surety's obligation hereunder exceed the amount of the penalty, provided the Surety furnishes written notice to the USCG forthwith of all claims filed, judgments rendered, and payments made by the Surety under this bond.

Any claim for which the Principal may be liable under Title III of the Act may be brought against the Surety. In the event of a direct claim, the Surety shall be entitled to invoke only (1) the rights and defenses permitted by Title III of the Act to the Principal (vessel operator) and (2) the defense that the incident giving rise to the claim was caused by the willful misconduct of the Principal.

This bond is effective the ———— day of ————, 19——, 12:01 a.m., standard time at the address of the Surety as stated herein and shall continue in force until terminated as herein after provided. The Principal or the Surety may at any time terminate this bond by written notice sent by certified mail to the other party with a copy (plainly indicating that the original notice was sent by certified mail) to the USCG at its office in Washington, D.C. The termination becomes effective thirty (30) days after actual receipt by the USCG of written notice; *provided, however*, that with respect to any of the Principal's vessels carrying Outer Continental Shelf-produced oil as cargo that has been loaded before the time the termination would otherwise have become effective, the termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the USCG of written notice of termination of the bond by the Principal or the Surety under the conditions set forth above, whichever date is earlier. The Surety shall not be liable hereunder in connection with an incident occurring after the termination of this bond as herein provided, but termination shall not affect the liability of the Surety in connection with an incident occurring before the date the termination becomes effective.

The Surety designates (Name of Agent) ———— with offices at ————, as the Surety's agent for service of process for the purposes of Title III of the Act and implementing rules at Part 132 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to death, disability, or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

The definitions in 33 CFR 132.2 apply to this bond.

In witness whereof, the Principal and Surety have executed this instrument on the —— day of ————, 19——.

(Please type name of signer under each signature. In the case of a partnership, each partner must sign.)

Principal

(Individual Principal or Partner) ————
(Business Address) ————

(Individual Principal or Partner) ————
(Business Address) ————

(Individual Principal or Partner) ————
(Business Address) ————

Corporate Principal————
Business Address ————

By ————
Title ————

(Affix Corporate Seal)

Surety

Corporate Surety————
Business Address ————

By ————
Title ————

(Affix Corporate Seal)

CG–5358–2A (6/83)

Surety Co. Bond No. ————

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

CG–5358–2B (6–83)

Guaranty No. ————

GUARANTY FORM CG–5358–2B IN RESPECT OF LIABILITY FOR DISCHARGE OF OIL UNDER TITLE III OF THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978 (P.L. 95–372)

1. WHEREAS (Name of Vessel Operator) ———— (hereinafter the "Operator") is the Operator of the Vessel(s) specified in the annexed schedules (hereinafter "Vessel" or "Vessels"), and whereas the Operator desires to establish its financial responsibility in accordance with section 305(a)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (hereinafter "the Act"), the undersigned Guarantor hereby guarantees, subject to the provisions of clause 4 hereof, to discharge the Operator's legal liability for damages and removal costs under Title III of the Act, in the event legal liability has not been discharged by the Operator within 21 days after the claimant has obtained a final judgment (after appeal, if any) against the Operator, in accordance with Title III of the Act, or has become entitled to payment of a specified sum by virtue of a compromise settlement agreement made with the Operator, with the approval of the Guarantor. Upon payment of the agreed sum, the Operator is to be fully, irrevocably and unconditionally discharged from all further liability to the claimant under this Guaranty with respect to the claim. The Operator's legal liability under Title III of the Act, which is covered by this Guaranty, is $300 per gross ton or $250,000, whichever is greater.

2. The Guarantor's liability per vessel in any one incident, under this Guaranty, shall not exceed $300 per gross ton or $250,000, whichever is greater, provided that the Guarantor furnishes prompt written notice to the U.S. Coast Guard (USCG) of all claims filed, judgments rendered and payments made by the Guarantor under this Guaranty.

3. The Guarantor's liability under this Guaranty shall attach only in relation to incidents giving rise to claims, authorized under section 303 of the Act, against the Operator in respect of any of the Vessels for removal costs and damages, occurring on or after the effective date of this Guaranty and before the termination date of this Guaranty. The effective date, as to each of the Vessels, shall be the date the Vessel is named in Schedule A or added to Schedule B below. The termination date, as to each of the Vessels, shall be the date 30 days after the date of receipt by the USCG of written notice the Guarantor has elected to terminate this Guaranty, *provided, however*, that with respect to any Vessel which is carrying Outer Continental Shelf-produced oil as cargo that has been loaded before the schedule date of termination, the termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the USCG of written notice of termination, whichever date is earlier. Termination of this Guaranty as to any of the Vessels shall not affect the liability of the Guarantor in connection with an incident occurring before the date termination becomes effective.

4. Any claim against the Operator, authorized by section 303 of the Act, may be brought directly against the Guarantor. In the event of a direct claim, the Guarantor shall be entitled to invoke only (1) the rights and defenses permitted by Title III of the Act to the vessel operator and (2) the defense that the incident was caused by the willful misconduct of the Operator.

5. If, during the currency of this Guaranty, the Operator requests that a vessel operated by the Operator, and not specified in the annexed Schedules A and B, should become subject to this Guaranty, and if the Guarantor accedes to the request and so notifies the USCG in writing, then the vessel becomes one of the Vessels included in Schedule B and subject to this Guaranty.

6. The Guarantor hereby designates (Name of Agent) ———— with offices at ————, as the Guarantor's agent in the United States for service of process for purposes of Title III of the Act and implementing rules at Part 132 of Title 33, Code of Federal Regulations. If the designated agent cannot be served due to death, disability, or unavailability, the Commandant, U.S. Coast Guard, becomes the agent for service of process.

7. If more than one Guarantor joins in executing this Guaranty, that action constitutes joint and several liability on the part of the guarantors.

8. The definitions in 33 CFR 132 apply to this Guaranty.

Effective Date: (Month/Day/Year and Place of Execution)————

(Type Name of Guarantor) ————
(Type Address of Guarantor) ————

By: (Signature)————
(Type Name and Title of Person Signing Above) ————

CG–5358–2B (6/83) Guaranty No.————

SCHEDULE A—VESSELS INITIALLY LISTED

Vessels	Gross tons	Operator

CG–5358–2B(6/83) Guaranty No.————

SCHEDULE B—VESSELS ADDED IN ACCORDANCE WITH CLAUSE 5

Vessels	Grosstons	Operator	Date added

CG–5358–2B (6/83) Guaranty No.————

(33 U.S.C. 1321(p), 43 U.S.C. 1653(c), 1851(a)(1), 1822(a)(2); E.O. 11735, E.O. 12123, E.O. 12418 (48 FR 20891–2); 49 CFR 1.46)

Dated: August 26, 1983.

B. F. Hollingsworth,

Rear Admiral, U. S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 83–26317 Filed 10–7–83; 8:45 am]

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VOL
48
ISS
1
9
7
OC
11
1983
UMI

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Tuesday
October 11, 1983

Part VI

Department of Transportation

Federal Aviation Administration

Floor Proximity Emergency Escape Path Marking; Notice of Proposed Rulemaking

VOL
48
ISS
1
9
7
OC
11
1983
UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No. 23792; Notice No. 83-15]

Floor Proximity Emergency Escape Path Marking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes new performance standards for floor proximity emergency escape path marking to provide visual guidance for emergency cabin evacuation when all sources of cabin lighting more than 4 feet above the aisle floor are totally obscured by smoke. The proposal results from research and fire tests and would make the standards applicable to future type certification of transport category airplanes, and after a specified date, to airplanes type certificated after January 1, 1958, and operating under Part 121. These proposed standards are intended to improve aircraft fire safety and would be in addition to the emergency lighting standards currently in the regulations.

DATES: Comments must be received on or before February 8, 1984.

ADDRESS: Comments on the proposal are to be marked with "Docket No. 23792" and mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23792, 800 Independence Avenue SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. Comments may be inspected at Room 916 on weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Henri Branting, Technical Analysis Branch (AWS-120), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone (202) 426-8382.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impact of this proposal. The comment should carry the regulatory document or notice number and be submitted in duplicate to the address above. All comments received as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for making comments.

Before taking any final action on the proposal, the Administrator will consider any comment made on or before the closing date for comments. The proposal may be changed in light of comments received.

The FAA will acknowledge receipt of a comment if the commenter submits with the comment a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 23792." When the comment is received, the postcard will be dated, time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future proposed rules should also request a copy of Advisory Circular NO. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

This notice is based on findings of the Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee and the results of research, development, and testing conducted by the Civil Areomedical Institute (CAMI) and the technical center of the FAA.

As a result of information from public hearings on aircraft fire safety, the FAA established the SAFER Advisory Committee in June 1978, charging the Committee to "examine the factors affecting the ability of the aircraft cabin occupant to survive in the post-crash environment and the range of solutions available." The Committee consisted of 24 representatives of a wide range of aviation and general public interests. The Committee technical support groups included approximately 150 of the world's top experts in fire research, accident investigation, materials development, and related fields. The Committee focused primarily on the problems of fuel spill and cabin fire protection and looked into related aspects of post-crash survival, including lighting for emergency evacuation. The Committee found that accident experience indicates smoke from burning fuel and cabin material can obscure overhead emergency lighting and make cabin evacuation difficult. Therefore, the Committee recommended that consideration be given to placing additional sources of lighting at a lower level in the relatively clear air near the floor. The FAA accepted the Committee recommendation and has been conducting research, testing, and design studies necessary to develop this proposed floor proximity marking standard.

Current airworthiness and operating regulations address the problems and the urgency of cabin evacuation immediately following a crash landing. For most airplanes operating under Part 121, the Federal Aviation Regulations require that the emergency evacuation capability of the airplane be confirmed by a fullscale demonstration in which a full cabin load of typical airline passengers is evacuated in 90 seconds. This demonstration is carried out in simulated dark of the night emergency conditions using only emergency lighting and with one-half of the number of emergency exits rendered unusable. While this particular demonstration does not simulate a smoke-filled cabin, it does consider the possibility that a fire exists on the exterior of the airplane, as reflected in the requirement that half of the exits are assumed blocked either by fire or some other cause.

Current regulations require that emergency lighting provide specific illumination at seat armrest level. The sources of this emergency illumination are typically located overhead in the cabin ceiling area. Service experience shows that the current regulations effectively ensure that the airplane is capable of sustaining rapid mass evacuation under critical conditions over a reasonable extended period of time.

The SAFER study indicated that the current regulations do not adequately cover the brief interval between the time when the smoke from a spreading fire begins to overwhelm the mass evacuation process and the time when the cabin is not survivable. That is when buoyant hot smoke and gases might begin to fill the cabin down to near floor level, obscuring all overhead lighting. While this condition is extreme, it is considered desirable to address this in the aircraft design, and safety could be improved through the use of lights, lights and reflectors, or other devices to provide floor proximity emergency escape path marking.

The FAA conducted a series of small-scale laboratory tests and several full-scale evacuation tests and cabin fire tests (in conjunction with the fire protection research) to look into the problems of emergency lighting in conditions of dense smoke and to study practical ways of developing improved lighting systems for transport category airplane cabins. These tests confirmed that in dense smoke conditions, the evacuation capability of a cabin equipped with conventional overhead lighting is reduced more quickly and to a greater extent than that of a cabin with floor proximity markings. Increasing the intensity of overhead lighting to compensate for the smoke proved to be of little effect. The results of the FAA test program are contained in three FAA reports, available from the National Technical Information Service, Springfield, Virginia 22161.

1. Report No. FAA-AM-79-12, Readability of Self-Illuminated Signs in a Smoke-Obscured Environment, dated November 1979—This study investigated the ability of people with normal distant visual acuity to identify self-illuminated emergency signs in an environment obscured by white smoke. The results indicate that substantial increases in character sizes in the signs produce only moderate improvement in readability.

2. Report No. FAA-AM-80-13, Readability of Self-Illuminated Signs Obscured by Black Fuel-Fire Smoke, dated July 1980—This study, using black fuel-fire generated smoke, is a partial replication of the 1979 study using white smoke. A comparison of the results of the two studies shows both colors of smoke to be approximately equal in their ability to shroud the illuminated signs. Black smoke, however, appears somewhat more effective in obscuring small details at or near the normal visual acuity threshold.

3. Report No FAA-AM-81-7, Emergency Cabin Lighting Installations: An Analysis of Ceiling vs. Lower Cabin-Mounted Lighting During Evacuation Trials, dated February 1981—In this study, full-scale evacuation tests were conducted to compare the evactuation rates with two different emergency lighting systems in an aircraft cabin filed with nontoxic white smoke. Cabin emergency lighting and exit signs mounted below layered smoke in aisle seat armrests, with exit signs mounted at and below the cabin midpoint, provided light directly in the aisle and cross aisle. Results indicated that lights and signs mounted lower in the cabin were more readily visible in smoke and enabled subjects to evacuate from a smoke-filed cabin more rapidly than conventional ceiling-mounted lights and signs.

To implement the test findings, a design feasibility and cost study of floor proximity emergency escape path marking was conducted under FAA contract. Eleven candidate systems were considered in this study, and the two most promising systems in terms of performance and practicality were analyzed in detail. The 11 systems studied included incandescent, fluorescent, electroluminescent, and self-illuminated lighting elements. The various lighting elements were studied at different locations and distributions within the cabin, including aisle seat frames, armrests, and panels, cabin sidewall panels, the aisle floor, and overhead baggage racks. While individual systems studied had certain advantages compared to others, no system was so clearly superior to the others that it warranted its establishment through regulation as the signal standard for floor proximity emergency escape path marking in general. Therefore, this notice proposes an objective performance standard rather than requiring a particular system. A performance standard would allow industry the flexibility to choose among the various systems or to develop an acceptable system to mark the emergency escape path to the exits when all sources of illumination above 4 feet from the aisle floor are totally obscured by smoke.

Discussion of Proposal

Based on the studies carried out, this document proposes performance standards for floor proximity emergency escape path marking for transport category airplanes. The standards would establish the level of performance which must be proved under dark of the night conditions. These conditions are the same as those specified in the emergency evacuation demonstration requirements of § 25.803 and Appendix D to Part 121. The proposal does not include rotorcraft or the types of airplanes operated under Part 135 because of their relatively smaller cabin sizes and shorter aisle lengths and shorter seat-to-exit distances compared to transport category airplanes. Floor proximity emergency escape path marking would provide guidance when all sources of illumination more than 4 feet above the cabin aisle floor are totaly obscured by dense smoke. Although the effective height of clear air would be somewhat less than 4 feet, the choice of 4 feet appears to be a reasonable height based on the studies performed and on accident experience.

There may be any number of acceptable combinations of point lighting, flood lighting, strip lighting, markers, signs, reflective materials, and other components that could meet the performance objectives of this proposal. The approval of radioactive light sources would be subject to applicable requirements of the U.S. Nuclear Regulatory Commission. Although the design feasibility and cost study on which the economic analysis is based took into consideration self-illuminated lighting components containing tritium, the standard proposed in this notice would provide industry the flexibility and latitude to design simplified systems of comparable performance and cost using nonradioactive components. Comments and data on marking systems capable of meeting the proposed performance standards are particularly sought and would be considered in the publication of advisory material on acceptable means of compliance.

The proposal would require that airplanes type certificated after January 1, 1958, and operating under Part 121 comply with the new standards within 2 years after the standards become effective. The limited number of airplanes type certificated before January 1, 1958, which are operating under Part 121 are not included because the relatively advanced age and smaller sizes of these airplanes make compliance with the proposed requirements impractical from an economic standpoint. The 2-year period is intended to allow air carriers lead time to schedule the modifications necessary for compliance to coincide with major maintenance inspections and, therefore, avoid an undue burden. The FAA requests comments on this issue and will consider all responses in establishing the implementation period in the final rule.

Economic Analysis

Under contract, the FAA conducted a detailed cost analysis of two emergency light and exit sign systems for improved passenger evacuation in dense cabin smoke conditions. The two systems that were evaluated are (1) self-illuminated markers on each aisle seat and self-illuminated signs beside each exit, and (2) incandescent lights under each aisel seat, on one side of the aisle, and self-illuminated lights beside each exit. Both of these systems supplement the existing emergency lighting system. The increased illumination provided by the markers and signs is negligible, but

awareness of the escape route is sufficient to aid the passenger during evacuation is dense cabin smoke conditions. The system utilizing incandescent lights and self-illuminated exit signs costs more than four times as much as the self-illuminated marker and exit sign system. Because each concept is likely to meet the requirements of the proposed rule, the FAA developed cost estimates for floor proximity emergency lighting based on a self-illuminated marker and exit sign system which is the least expensive system in the calculation of potential cost to industry. Using this type of system in the calculation of potential cost to industry. Using this type of system, the cost of retrofitting an individual aircraft is estimated at $5,500 for a DC–9 and at $17,400 for a B747. The cost to install a system of this type in a new aircraft is estimated to be 10 percent less than the retrofitting cost.

The weight added with the addition of this lighting system is estimated at 8 pounds for the DC–9 and 17 pounds for the DC–10. Because the weight change is nominal, the payload should not be affected, and the cost impact would be that for additional fuel.

For the 1983 fleet of 2,600 aircraft, the cost to retrofit is estimated at $18.24 million and the cost of additional fuel for carrying the additional weight is estimated at $468,000 per year.

An obvious benefit of the floor proximity emergency escape path marking is the savings of lives and the injuries prevented. Since 1965, 914 fatalities occurred in accidents involving fires. Some of those fatalities resulted from trauma or other causes and could not have been averted by floor proximity emergency escape path marking. However, based on available information, it is estimated that the proposed marking system alone could have helped to prevent 20 percent of these fatalities.

To project the casualty loss over the next 10-year period, the number of enplanements and the fire casualty losses have been estimated. The benefits from 1983 through 1993 are estimated to be more than twice the cost of retrofitting the fleet.

Trade Impact

There would be little or no impact on U.S. or foreign trade if this proposal were adopted. In the United States, both foreign and domestic manufacturers would have to meet the proposed requriements, and there would be no competitive advantage to either. In foreign countries, there would be a minor cost advantage only if the foreign country did not require the floor proximity emergency escape path marking system. Since the cost of the marking system is negligible compared to the total costs of new aircraft, there is essentially no impact on trade.

List of Subjects

14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety, Tires.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air traffic control, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Airports, Airspace, Airworthiness directives and standards, Beverages, Cargo, Chemicals, Children, Narcotics, Flammable materials, Handicapped, Hazardous materials, Hours of work, Infants, Liquor, Mail, Drugs, Pilots, Smoking, Transportation, Common carriers.

The Proposed Rule

Accordingly, the Federal Aviation Administration proposes to amend Parts 25 and 121 of the Federal Aviation Regulations (14 CFR Parts 25 and 121) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

§ 25.812 [Amended]

1. By amending § 25.812(a)(1) by removing the phrase "and interior lighting in emergency exit areas" and inserting, in its place, the phrase "interior lighting in emergency exit areas, and floor proximity escape path marking".

2. By amending § 25.812 by redesignating present paragraphs (e) through (k) as paragraphs (f) through (l).

3. By amending § 25.812 by adding a new paragraph (e) as follows:

§ 25.812 Emergency lighting.

* * * * *

(e) Floor proximity emergency escape path marking must provide emergency evacuation guidance for passengers when all sources of illumination more than 4 feet above the cabin aisle floor are totally obscured. In the dark of the night, the floor proximity emergency escape path marking must enable each passenger to—

(1) Visually identify the emergency escape path along the aisle of the cabin floor after leaving a cabin seat; and

(2) Readily identify each exit from the emergency escape path by reference only to markings and visual features not more than 4 feet above the cabin floor.

* * * * *

4. By changing the reference in redesignated paragraph (f) of § 25.812 from "paragraph (g)" to "paragraph (h)".

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

5. By amending § 121.310 by revising paragraph (c) to read as follows:

§ 121.310 Additional emergency equipment.

* * * * *

(c) *Lighting for interior emergency exit markings.* Each passenger-carrying airplane must have an emergency lighting system, independent of the main lighting system. However, sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system. The emergency lighting system must—

(1) Illuminate each passenger exit marking and locating sign;

(2) Provide enough general lighting in the passenger cabin so that the average illumination when measured at 40-inch intervals at seat armrest height, on the centerline of the main passenger aisle, is at least 0.05 foot-candles; and

(3) For airplanes type certificated after January 1, 1958, after (a date 2 years after the effective date of this regulation), include floor proximity emergency escape path marking which meets the requirements of § 25.812(e) of this chapter in effect on (the effective date of this regulation).

* * * * *

6. By changing the reference in paragraph (d) of § 121.310 from "§ 25.812(g)" to "§ 25.812(h)".

(Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.45).

This proposal was developed jointly by, and is issued on behalf of, the Office of Airworthiness, Washington, D.C., responsible for issuance of Part 121 rulemaking proposals; and the Transport Airplane Certification Directorate, Seattle, Washington, responsible for issuance of Part 25 rulemaking proposals. Recommendations for final rulemaking will be made to the Administrator jointly by these offices after their review and consideration of all comments received.

Note.—Under the terms of the Regulatory Flexibility Act (the Act), the FAA has reviewed this proposal to determine what impact it might have on small entities. Since the projected cost of compliance could be between $5,500 and $17,400 for each aircraft in the Part 121 fleet, the FAA has determined that this rule, if adopted, may have a significant economic impact on a substantial number of small entities. Consequently, an initial regulatory flexibility analysis and regulatory evaluation has been prepared. It is contained in the docket and is open to public inspection at the place and time stated at the beginning of this document. A copy of the evaluation may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

As required by the Act, various regulatory alternatives were considered, such as: Making the requirements applicable only to new airplanes, having different standards based on the size of the air carrier, letting the market decide whether to use the new systems, and requiring all airplanes operating under Part 121 to come into compliance with the requirements within a certain time period. Safety needs are such that the FAA has selected the latter alternative set forth in this proposal.

This proposal, if adopted, is not likely to result in an annual effect on the economy of $100 million or more or a major increase in costs for consumers; industry; or Federal, State, or local government agencies. In addition, this proposal, if adopted would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. Accordingly, it has been determined that this is not a major regulation under Executive Order 12291. In addition, the FAA has determined that this action is significant under Department of Transportation Regulatory Policy and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on August 23, 1983.

Walter S. Luffsey,

Associate Administrator for Aviation Standards.

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VOL
48
ISS
1
9
7
OC
11
1983
UMI

federal register

Tuesday
October 11, 1983

Part VII

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Rotogravure Printing and Coating of Flexible Vinyl and Urethane

ENVIRONMENAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2382-2]

Standards of Performance for New Stationary Sources; Rotogravure Printing and Coating of Flexible Vinyl and Urethane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental Notice of Proposal Rule.

SUMMARY: This notice supplements the proposed rule on the standards of performance for Flexible vinyl coating and printing operations that appeared at page 2276 in the **Federal Register** of January 18, 1983 (48 FR 2276). This action is being taken to provide notice that the printing of flexible urethane coated fabrics is included in the proposed standard for flexible vinyl coating and printing operations and to solicit public comments on urethane printing only.

DATES: *Comments.* The proposed regulation is being reopened for comment concerning urethane only. Comments must be received on or before November 10, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), attention: Docket Number A-80-8, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Background Information Document. The background information document (BID) for the proposed standard may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Flexible Vinyl Coating and Printing Operations—Background Information for Proposed Standards," EPA-450/3-81-016a.

Docket. Docket number A-80-8, containing supporting information used in developing the proposed standard, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene W. Smith, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION: Flexible vinyl printing refers to the rotogravure process of printing and coating vinyl webs with any mixture of ink, coating solids, volatile organic compounds (VOC), and water that is applied to the web substrate of a rotogravure printing line. The web may consist of a vinyl coated substrate referred to as a supported web, or a vinyl sheet with no substrate, referred to as an unsupported web. Printing and coating methods for supported and unsupported products are essentially identical.

The comment period for the proposed standards for flexible vinyl coating and printing operations ended on April 1, 1983. During the comment period, a letter was received from a major manufacturer of flexible urethane produces. After reviewing the regulation and background information document, the commenter stated that there were no known technical or scientific reasons why the printing of flexible urethane coated fabrics should be regulated differently than the printing of flexible vinyl coated fabrics. The commenter further stated that regardless of the chemical compositioon of the coating, whether polyvinyl chloride (PVC) or urethane, the webs are finished by printing with solvent solutions of PVC, urethanes and/or acrylic resins.

Urethane and vinyl products are commonly printed as a continuous web on rotogravure equipment. At least two manufacturers sometimes use urethane webs and/or urethane inks on equipment normally used for vinyl products. The standard, which reflects the best demonstrated technology (BDT) for the vinyl industry, also reflects BDT for the urethane industry. The Administrator believes that urethane product manufacturers can achieve the emission standard at reasonable costs. Therefore, in the Administrator's judgment, based on the information presented by the commenter, it is reasonable to include the printing of flexible urethane coated fabrics in the proposed standards for flexible vinyl coating and printing operations. since the Agency has not investigated the environmental, energy, and economic impacts of the standard upon urethane product manufacturers, we are soliciting public comments on this issue.

Section 604 of the Regulatory Flexibility Act (RFA) requires that the Administrator certify whether regulations have a significant impact on a substantial number of small entities. There are approximately four companies that manufacture urethane products, one of which would be considered small. The economic analysis conducted for small vinyl manufacturers indicated no significant impacts. Similarly, it is not expected that this supplement, if promulgated, will significantly impact small businesses. Further, this supplement will have no impact on any other small entities.

Paperwork Reduction Act

The information provisions associated with the proposed rule which this notice proposes to amend will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 U.S.C. 3501 et seq. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comment on the information collection provisions.

Dated: September 26, 1983.

William D. Ruckelshaus,

Administrator.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Paper and paper products industry.

PART 60—[AMENDED]

The proposed regulation published at 48 FR 2276, January 18, 1983 is amended as follows:

1. The authority for Part 60 is:

Authority: Sec. 111, 301(a) of the Clean Air Act as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below.

2. The heading for Subpart FFF is revised to read as follows:

Subpart FFF—Standards of Performance for Rotogravure Printing and Coating of Flexible Vinyl and Urethane

3. Paragraph (a) of §60.580 is revised to read as follows:

§ 60.580 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each rotogravure printing line used to print or coat flexible vinyl or urethane products.

* * * * *

4. In § 60.581, the definitions for "emission control devices", "emission control system", "ink", "Rotogravure printing line", and "vapor capture system" are revised. The term "Flexible vinyl products" is changed to "Flexible vinyl and urethane products", and the definition is revised to read as follows:

§ 60.581 Definitions and symbols.

(a) All terms used in this subpart, not defined below, are given the same meaning as in the Act or in Subpart A of this part.

"Emission control device" means any solvent recovery device used to control VOC emissions from flexible vinyl and urethane rotogravure printing lines.

"Emission control system" means the combination of an emission control device and a vapor capture system for the purpose of reducing VOC emissions from flexible vinyl and urethane rotogravure printing lines.

"Flexible vinyl and urethane products" means those products, except for resilient floor coverings (1977 SIC industry 3996), that consist of or contain a vinyl or urethane sheet or a vinyl or urethane coated web, and are more than 50 micrometers (0.002 inches) thick.

* * * * *

"Ink" means any mixture of ink, coating solids, VOC, and water that is applied to the web substrate of a flexible vinyl or urethane rotogravure printing line.

* * * * *

"Rotogravure printing line" means any number of rotogravure print stations and associated dryers capable of printing or coating simultaneously on the same continuous vinyl or urethane web or substrate, which is fed from a continuous roll.

"Vapor capture system" means any device or combination of devices designed to contain, collect, and route solvent vapors released from the flexible vinyl or urethane rotogravure printing line.

* * * * *

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VOL
48
ISS
1
9
7
OC
11
1983
UMI

federal register

Tuesday
October 11, 1983

Part VIII

Environmental Protection Agency

Ethylene Dibromide—Notices of Decision and Emergency Order Suspending Registrations of Pesticide Products Containing EDB for Use as a Soil Fumigant; Intent To Cancel Registrations of Pesticide Products Containing EDB; Determination Concluding the Rebuttable Presumption Against Registration; and Availability of Position Document

VOL
48
ISS
1
9
7
OC
11
1983
UMI

ENVIRONMENTAL PROTECTION AGENCY

[OPP-68012; PH FRL 2450-2]

Ethylene Dibromide; Decision and Emergency Order Suspending Registrations of Pesticide Products Containing Ethylene Dibromide for Use as a Soil Fumigant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Decision; Notice of Emergency Suspension Order.

SUMMARY: Pesticide products containing ethylene dibromide (EDB) are registered for use as a soil fumigant under the Federal Insecticide, Fungicide, and Rodenticide Act. This Notice and Order announces the immediately effective suspension of registrations of products registered for that use and sets forth the Administrator's determinations which form the bases for the emergency suspension Order.

DATE: The suspension Order became effective on September 28, 1983. Request by a registrant for an expedited hearing on the issue of whether an imminent hazard exists must be received by the Office of the Hearing Clerk within five (5) days of receipt of this Notice by that registrant.

ADDRESS: Requests for a hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Additional information supporting this action is available for public inspection from 8:00 A.M. to 4:00 P.M., Monday through Friday, except legal holidays in: Management and Program Support Division (TS–757C), Room 236, CM No. 2, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Richard J. Johnson, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 711H, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA., (703–557–7400).

SUPPLEMENTARY INFORMATION:

I. Order

This Notice and Order suspends the registrations of each product containing EDB and labeled for use as a soil fumigant, effective immediately. I have determined that continued registration of EDB as a soil fumigant poses an imminent hazard during the period in which administrative hearings could delay the effectiveness of the cancellation of these registrations. I have also determined that an emergency exists resulting from the soil fumigant uses of EDB such that I cannot permit continued registration of these products for the period that hearings could delay the effectiveness of a suspension Order. Therefore, I have decided to issue an emergency order immediately suspending these registrations. These determinations are based on the risk to human health posed by the soil fumigant uses of EDB. EDB has extremely toxic properties and is a potent animal carcinogen. Use as a soil fumigant is likely to result in leaching to underground water sources, thereby contaminating drinking water. Human health risks from further contamination of drinking water and resulting potential for long-term exposure to large segments of the population as well as risks from occupational exposure which would result from continued registration during administrative hearings clearly outweigh the benefits of registration during that period. Pesticide products containing ethylene dibromide (EDB) are the subject of a companion Notice of Intent to Cancel registrations for all uses including all uses as a soil fumigant.

Pursuant to section 6(c)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 U.S.C. section 136 *et seq.*, I hereby suspend the registration of each pesticide product containing ethylene dibromide (EDB) whose labeling allows the product's use as a soil fumigant. This Order prohibits the distribution, sale, offering for sale, shipping, delivering for shipment, or receiving and (having so received) delivering or offering to deliver to any person of any EDB-containing pesticide product labeled for use as a soil fumigant. The use by any person of a pesticide product which is sold or otherwise moved in commerce in violation of this Order is also hereby prohibited.

II. Legal Authority

A. Standards for Maintaining a Registration

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered [FIFRA sections 3(a) and 12(a)(1)]. A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specified use instructions, precautions, and other terms and conditions. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment." [FIFRA section 3(c)(5)], that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide" [FIFRA section 2(bb)]. For a pesticide product to be registerable the benefits of each of its uses must exceed the risks of that use when the product is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide product satisfies the criteria for registration is on the proponents of initial or continued registration. [*Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297 (D.C. Cir. 1975); *Environmental Defense Fund* v. *Environmental Protection Agency*, 465 F.2d 528 (D.C. Cir. 1972).]

Under FIFRA section 6, the Administrator may issue a notice of intent to cancel the registration of a, pesticide product or modify the terms and conditions of its registration whenever it is determined that the pesticide product causes unreasonable adverse effects on the environment. If a hearing is requested by any adversely affected person, the product may be cancelled at the end of the administrative hearing on the cancellation notice.

B. Purpose and Standards for Suspending Pesticide Products

The suspension provisions in section 6(c) of FIFRA give the Administrator authority to take interim action until completion of the time-consuming procedures which may be required to reach final cancellation decisions. Under this section, the Administrator may suspend the registrations of a product and prohibit its distribution, sale, or use during cancellation proceedings upon a finding that the pesticide poses an "imminent hazard" to humans or the environment. "Imminent hazard" is defined by the statue to mean that:

The continued use of a pesticide during the time required for cancellation proceedings would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Pub. L. 94–135.

As discussed above, "unreasonable adverse effects on the environment" means that the risks from use of a pesticide outweigh the benefits of its use. Thus, in order to find an imminent hazard, it is necessary to find that the risks of use during the period likely to be required for cancellation proceedings appear to outweigh the benefits. The Administrator may not suspend a pesticide without having issued a notice of intention to cancel the registration, or to change the classification, of the pesticide.

Suspension is the Administrator's mechanism for quickly correcting a situation which endangers public health. The courts have repeatedly held that "the function of a suspension decision is to make a preliminary assessment of evidence, and probabilities, not an ultimate resolution of difficult issues" (*Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297 (D.C. Cir. 1975) quoting from *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, *supra*, 465 F.2d 540 (D.C. Cir. 1972)). "It is enough if there is a *substantial likelihood* (emphasis in original) that serious harm will be experienced during the year or two required in any realistic projection of the administrative (cancellation) process" (*Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297 (D.C. Cir. 1975) quoting from *Environmental Defense Fund* v. *Environmental Protection Agency*, *supra*, 465 F.2d 540 (D.C. Cir. 1972)).

A notice of intent to suspend is not an immediately effective suspension order; instead, the Administrator is required to give registrants notice of his intent to suspend and to allow five days for them to request a hearing. If a hearing is not requested within five days, the suspension order becomes final and is not reviewable by a court. If a hearing is requested, the Administrator is required to convene an expedited proceeding. The sole issue at a suspension hearing is whether or not an imminent hazard exists. In those circumstances, a final effective suspension order cannot be issued until the completion of the expedited hearing.

C. Emergency Suspension of Pesticide Products

Before issuing an emergency suspension order, the Administrator is required to make two findings: (1) That the pesticide poses an "imminent hazard", and (2) that an "emergency" exists. An "emergency" exists when the situation "does not permit [the Administrator] to hold a hearing before suspending" FIFRA section 6(c)(3), 7 U.S.C. 136d(c)(3). The Agency interprets this statutory provision to mean that, if the threat of harm to humans and to the environment is so immediate that the continuation of a pesticide use is likely to result in unreasonable adverse effects—i.e., the risks outweight the benefits—during a suspension hearing, the registration of any product for that use may be suspended immediately.

The term "emergency" is not defined by FIFRA, and the statute's emergency suspension provision does not specifically require the Agency to balance benefits against health and environmental risks of continued pesticide registration in determining whether an emergency exists. One possible reading would be that an emergency exists whenever a serious risk could result from pesticide use during the time for conducting a suspension hearing. However, for the purpose of this proceeding, I have decided to consider the risks and benefits in ordering an emergency suspension, just as I balance risks and benefits in deciding whether to register a pesticide or to take the pesticide off the market through a cancellation or ordinary suspension order. FIFRA is a risk/benefit statute, and I see no reason to depart from this balancing test in issuing emergency suspension orders.

The Administrator's determination that an emergency exists is reviewable in appropriate United States district courts solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. FIFRA section 6(c)(4).

An emergency suspension order is issued without prior notice to registrants and takes effect immediately; it remains in effect until the cancellation decision if no expedited hearing is requested. Registrants are given five days to request an expedited hearing. If an expedited hearing is requested on the issue of imminent hazard, the emergency order continues in effect until the issuance of a final suspension order. The hearing stage is to begin within five days of the Agency's receipt of the hearing request. No party other than registrants of suspended products and the Agency may participate in the expedited hearing following the emergency order, except to file briefs. In any suspension hearing, the presiding officer shall have ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator. The Administrator shall then have seven days to issue a final order on the issue of suspension. Final suspension orders following a hearing are reviewable in appropriate United States courts of appeals.

III. Findings Supporting Determination of Emergency and Imminent Hazard

EDB is registered as a pesticide to control nematodes and other pests by treating the soil in which a number of different crops are grown. In deciding to order this emergency suspension of the registration of each product registered for the soil fumigant uses of EDB, I have determined that the continued registration of EDB as a soil fumigant would pose an imminent hazard during the period in which administrative hearings could delay the effect of the cancellation of these registrations pursuant to the Notice of Intent to Cancel which accompanies this Order and Determination. For purposes of analysis of imminent hazard, I have assumed that the hearing process would result in a two-year delay in cancellation of the registrations of EDB as a soil fumigant. In addition, I have determined that an emergency exists resulting from the use of EDB as a soil fumigant such that I cannot permit continued registration of these products for that purpose during the approximately six-month period that a suspension hearing could delay the effectiveness of a Notice of Intent to Suspend. The bases for my determinations of "imminent hazard" and "emergency" are set forth below.

A. Risks of Continued Soil Fumigant Uses of EDB

Ethylene dibromide is a potent cancer-causing agent in laboratory animals. The chemical has induced tumors in both sexes of mice and rats, by all routes of exposure (oral inhalation, and dermal). Moreover, EDB induced malignant tumors in laboratory animals at several anatomical sites, including sites distant from the initial organs exposed. After oral exposure, the tumors began to appear after an extremely short duration compared to the results of tests of other chemical carcinogens. In light of the definitive weight of evidence that EDB is a potent animal carcinogen, the extent of human exposure and the potential size of the exposed population is of particularly serious concern. The carcinogenic potential of EDB is reinforced by the evidence of EDB's mutagenic potential in both *in vitro* and *in vivo* systems. The evidence showing that EDB is mutagenic to germ cells raises concern of human genetic damage for exposed populations. Further, EDB has induced adverse reproductive effects (e.g., prostate atrophy) in several animal species and should be considered as a potential

VOL 48 ISS 197 OCT 11 1983 UMI

cause of reproductive disorders in exposed human populations.

B. Exposure and Associated Human Health Risks

The soil fumigant uses of EDB are the pesticidal uses which involve the application of the pesticide in connection with growing crops, thereby incurring contact with the soil and direct introduction into the natural environment. EPA has now received evidence that the soil fumigant uses of EDB are likely to result in leaching to groundwater and, therefore, in contamination of human drinking water sources. Because of the persistence of EDB in soil and water, contamination is expected to endure long beyond the period of use. The continued incorporation of EDB into the soil for the period which would be required to conduct suspension and cancellation hearings would add to the total environmental load of the chemical which can contaminate groundwater sources. Use during this interim period could be expected to pose a signficant risk that new groundwater sources will become contaminated and that sources already contaminated will be contaminated at higher levels.

In recent weeks, both California and Florida have taken regulatory actions to restrict the use of EDB as a soil fumigant in those states. California, which authorized EDB use by permits, has suspended permits in five counties where groundwater contamination has been discovered. Florida has temporarily suspended use of EDB as a soil fumigant throughout the State. For several reasons, I have not adjusted my conclusions regarding imminent hazard and emergency because of these developments. These State actions do reduce the risks of continued use of EDB in those areas, but they also reduce the estimated benefits of continued use as well. Moreover, I can neither control nor definitively determine whether these State actions will continue in effect or how they will be enforced during the interim period for which I have determined that continued registration constitutes an emergency and causes an imminent hazard. In any event, I have concluded that an emergency and imminent hazard exists for the soil fumigant uses of EDB in all other parts of the United States.

In addition, the soil fumigant uses constitute more than 90 percent of the pesticidal usage of EDB. The size of the occupationally exposed population associated with this use is also substantial (approximately 14,000). Finally, since EDB is applied to soil used for growing food and feed crops, there is concern about the potential that the crops will be contaminated at low levels, thereby adding to the exposure of the general population to EDB in the diet.

The potential contribution of continued soil fumigant use of EDB to contamination of the drinking water poses unacceptable risks in terms of: (1) The effect on large portions of the general population, (2) the seriousness of any such threat to drinking water supplies, (3) the duration of exposure far beyond the period of use, and (4) the potential human health risk associated with even extremely low levels of contamination. Therefore, this route of exposure forms the principal basis for my determinations of emergency and imminent hazard. However, in weighing the risks of continued registration during this interim period against the corresponding benefits, I have also considered the levels of occupational exposure that would occur during this period, the size of the occupationally exposed population, and the potential for contributions to human dietary exposure from the soil fumigant uses of EDB. Each of these primary routes of exposure to EDB from soil fumigant uses is discussed below.

(a) *Groundwater contamination and associated risks.* clear evidence that EDB applied as a soil fumigant can be expected to leach through soil to underground water supplies has emerged over the past few months. During this period, I have learned from the results of sampling of groudwater supplies in California, Georgia, Florida, and Hawaii that EDB contamination has been identified in approximately 114 sampled wells located in some 16 different counties in those States. These positive samples vary from 0.02 part per billion (ppb) to levels higher than 100 ppb. Most are in the 0.05 to 5 ppb range. These positive samples have been taken from areas where EDB has been used as a soil fumigant and support a conclusion that groundwater contamination results from leaching through soil following normal EDB pesticidal use and associated agricultural practices. Measurements of EDB residues in the soil column taken in California and Georgia confirm that EDB moves through the soil profile in a manner which will result in transport to groundwater. EPA has been informed that appropriate confirmatory analytical processes have been employed for almost all of the samples taken during these programs of monitoring of EDB.

Because EDB is also used as an additive to scavange lead in leaded gasoline, leakage of EDB from underground gasoline storage tanks has been suggested as a possible source of groundwater contamination by EDB. As noted above, the pesticide use history of EDB associated with the positive groundwater samples supports my judgment that the soil fumigant pesticide use of EDB is a significant source of groundwater contamination. Soil core samples at sites of pesticide use also confirm that use pattern as a cause of groundwater contamination. Therefore, continued pesticidal use of EDB poses a hazard to underground water supplies in areas of use whether or not leaking gasoline storage tanks can result in contamination. Moreover, although gasoline is one of the more frequently reported contaminants of wells, EPA has not yet received any data indicating that the observed EDB contamination of groundwater is related to leaking underground gasoline storage tanks.

The scope of contamination already identified and the clear evidence that use of EDB as a soil fumigant can cause leaching to groundwater are sufficient to justify a determination that continued registration and concomitant contribution to further contamination should not be permitted. At current annual usage of approximately 20 million pounds active ingredient for the soil fumigation uses, an immediate suspension of registrations for soil treatment will block the introduction of significant additional environmental loading of this extremely toxic substance. Lifetime consumption of drinking water contaminated at 0.1 ppb results in an estimated increased risk of cancer of 1×10^{-4} (one excess cancer per 10,000 exposed persons); lifetime consumption of water contaminated at 1 ppb is associated with an increased cancer risk of 2×10^{-3} (two excess cancers per 1,000 exposed persons).

These and other estimates of increased cancer risk described in this Notice are derived by extrapolating the carcinogenic effects observed in laboratory animals using models which are based on typical exposures to an adult of average weight averaged over a lifetime. Estimates of increased cancer risks to humans derived in this manner should not be treated as a precise measure of the extent of increased cancer that will actually occur in exposed human populations. The assumptions and limitations of the risk assessment models used for EDB are discussed in the support documents made publicly available in connection with this Notice and the accompanying Notice of Intent to Cancel.

Much of the observed contamination exceeds these levels. At 5 ppb, the increased cancer risk from lifetime consumption of contamimated water is estimated to be 7×10^{-3}. Because the limit of detection for some of the sampling has been 0.1 ppb, EDB-contaminated water at levels of health concern may not be detected in some of the sampling programs.

Because of the scope of observed contamination at sites in several California locations and several southeastern locations as well as soil profile contamination in both California and Georgia, I have determined that it is prudent to assume a significant risk of groundwater contamination at all mainland United States locations for the soil fumigant uses of EDB. The conclusion is also supported in the absence of any contrary indication that other areas are not also susceptible to groundwater contamination. Further, both the geographic range of contaminated groundwater sites and the identification of leaching through the soil column in both the West and Southwest support the conclusion that the soil fumigant uses of EDB would be expected to contaminate groundwater wherever applied.

Approximately 800,000 lbs. of EDB active ingredient is used annually as a soil fumigant in pineapple culture, which is confined to Hawaii. The volcanic islands which make up that State have several unusual hydrologic and geologic properties which may make extrapolation from observations on the mainland inappropriate. Accordingly, I have carefully examined the available information on EDB's capacity to contaminate underground drinking water sources in Hawaii and I have determined that continued use of EDB as a soil fumigant in pineapple culture poses an imminent hazard and that an emergency exists in Hawaii which prohibits my permitting continued registration of EDB for soil fumigation in pineapple cultivation during possible suspension hearings. Contamination has been observed in four wells in one area in the southeastern section of Oahu; the contamination is in an area where EDB has been applied to pineapple fields. Limited soil core sampling in Hawaii has produced inconclusive results, but EPA's analysis of the properties of the soil profile and hydrologic factors in Hawaii leads to the conclusion that EDB is likely to leach to groundwater, albeit in reduced amounts and intermittent patterns. Because of the location and geography of the State, groundwater supplies in Hawaii are particularly vital and the potential disruptions to life in the State resulting from significant contamination of drinking water would be severe. The observed contamination is in Oahu's Pearl Harbor basal aquifer. Basal aquifers are the primary source of drinking water for a substantial majority of the State's population. In the face of measured contamination of drinking water sources and reasonable evidence that introduction of additional quantities of the pesticide to the soil could contribute to further groundwater contamination, I cannot conclude that risk of use in Hawaii should be assessed differently from risks of use in the mainland United States.

My determination that continued registration of EDB for use on pineapples during the periods which may be required for suspension or cancellation hearings would risk additional long-term contamination of drinking water supplies in Hawaii is influenced by the Agency's experience in regulating the use of 1,2-dibromo-3-chloropropane (DBCP). DBCP is a soil fumigant with use patterns and many chemical properties similar to EDB. When the Administrator suspended the uses of DBCP in 1979 largely because of risks of continued groundwater contamination, he exempted the pineapple use from that suspension order partly because the observed contamination in Hawaii at that time involved only a very few positive samples, none of which were from the basal aquifers, which serve as principal drinking water supplies. Federal Register of November 9, 1979 (44 FR 65135). Subsequently, in early 1981, when EPA withdrew its Notice of Intent to Cancel DBCP for use on pineapples, the (acting) Administrator noted that the observed contamination was still very limited in scope and did not involve the basal aquifer. However, the Agency imposed extensive groundwater monitoring requirements. Federal Register of March 31, 1981 (46 FR 19592). Since that time, EPA has been informed of approximately six additional positive groundwater samples at new geographic areas in Hawaii. These samples include contamination of the Oahu basal aquifer, although DBCP has apparently not been used on Oahu since the 1979 regulatory actions on DBCP. Because of these recent findings, I intend to send to the Secretary of Agriculture notice of my intention to take action under section 6 of FIFRA regarding continued registration of DBCP. I describe these developments here to illustrate the possible consequences of deferring a decision until definitive evidence of EDB's capacity to contaminate Hawaiian groundwater becomes available. In the case of DBCP, the evidence that past use had, in fact, led to contamination of drinking water supplies on Oahu's basal aquifers did not become known until some three to four years after the suspension decision was made. For EDB, some contamination of one of Oahu's basal aquifers has already been observed. I cannot rely heavily on the fact that contamination has not yet been detected in any other of the sampled locations, particularly in light of the exceptional toxicity of EDB and the fact that pineapple grower's use of EDB has increased substantially in the past three to five years.

(b) *Occupational exposure and associated risks.* As noted above, EDB's tendency to contaminate drinking water supplies forms the principal basis for my determinations of imminent hazard and emergency. However, in weighing the risks of continued EDB use during the periods of possible suspension and cancellation hearings against the benefits of use during that period, I have considered all routes of exposure and have determined that occupational exposure during this interim period would contribute significantly to the total risk of continued registration.

Typically, EDB is applied as a soil fumigant by injection chisels or similar equipment mounted behind tractors. Workers are involved in transferring the chemical to application equipment, in application itself, and any repair and related operations involving loaded or contaminated equipment. As many as 14,000 workers are occupationally exposed to EDB from field use as a soil fumigant. The estimated range of annual exposure to workers using open application equipment and without protective clothing is from 130 milligrams for workers in low frequency use crops like citrus and other orchard crops to 1300 milligrams for workers in the more time-intensive applications.

Workers exposed to EDB used in some of the vegetable crops may apply EDB to more than one crop, which would multiply the exposure to the applicators treating multiple crops and would reduce the total number of different workers involved. Based upon EPA's exposure estimates, the typical worker would experience an increased cancer risk of 2×10^{-4} to 4×10^{-3} (four excess cancers per 1,000 exposed persons) from two additional years of occupational exposure. These estimates do not include exposure and risk associated with equipment repair activities, which could represent a significant additional source of exposure and risk. EPA has examined the potential for protective clothing and equipment to reduce this occupational

VOL 48 ISS 197 OCT 11 1983 UMI

exposure. Using [unrealistically] favorable assumptions that such protective equipment would be used without error and would never malfunction, EPA estimates that such protection could reduce increased cancer risk about one order of magnitude. Workers occupationally exposed to EDB are also likely to live in areas susceptible to groundwater contamination.

The approximately 100 pineapple workers exposed to EDB are exposed for longer periods of time than for the other soil fumigant uses of EDB. Although differences in application and agricultural practices make estimates of exposure levels difficult to derive for pineapple workers from data on other uses, these long durations of exposure are of considerable concern. This is particularly true because the wearing of respirators throughout the working day is highly unlikely.

(c) *Potential dietary exposure.* Because the soil fumigant use of EDB involves treatment of soil in which food and feed crops are grown, potential dietary exposure from this use cannot be dismissed. Until this month, no measurable residues of EDB in crops grown in treated soil have been reported in data submitted to EPA; EPA has consistently urged registrants to provide additional data on possible residues in soil-treated crops during the EDB RPAR. EPA has just learned from the California Department of Food and Agriculture of preliminary measurements of residues in miniature carrots grown in EDB-treated soil. These data have not been evaluated by EPA. If residues were present in all treated crops at the level of detection (which available data indicate to be highly unlikely), typical consumption of treated crops alone would be associated with an estimated increased cancer risk of 1×10^{-5} (one excess cancer per 100,000 exposed persons) for lifetime exposure. Consequently, this indication of residues in miniature carrots at or above the detection limit raises additional concerns about the risk of continued registration of EDB as a soil fumigant during the period necessary to conduct suspension or cancellation hearings.

C. Benefits of Interim Use

EPA has developed an assessment of the benefits of continued use of EDB as a soil fumigant for each of the crops to which it is applied in significant quantities. Those estimates are expressed as annual dollar impacts and I have used that assessment to identify the benefits expected on annual crops from continued use during possible suspension and cancellation hearings. Since pineapples are a perennial crop, the full extent of average annual impacts will not be felt until approximately 4.5 years after EDB's withdrawal from the market. The estimated annual benefits of the soil fumigant uses of EDB are summarized in the following Table:

ECONOMIC IMPACTS OF A TWO-YEAR WITHDRAWAL OF EDB FROM MARKET AS SOIL FUMIGANT

CROPS	Active Ingredient Applied Annually 000's pounds	User Impacts of EDB Unavailability over 2 year period	Market and Consumer Impacts
Soybeans	12,787.0	$7.0 million annually	Welfare losses to consumers of about $7 million in second year after suspension, with decreasing costs in later years
California Vegetables	489.6	$1.4 - $4.4 million annually	Growers may shift to alternative crops Negligible consumer impacts
Cotton	4,500.0	$3.0 million annually	Growers may shift to alternative crops negligible consumer impacts
Peanuts	2,151.8	$7.9 million annually	None
Tobacco (flue-cured)	913.6	$2.0 million annually	None
Sweet Potatoes	160.2 - 236.4	$0.3 - $0.5 million annually	None
White Potatoes	960.0 - 1080.0	$1.6 - $2.2 million annually	Negligible
Pineapples	810.0	$8.3 - $31.5 million total over next 5.5 years. At $8.3 million capital expenditures of $2.0 million would be made in first two years.	Unquantifiable due to oligopolistic nature of Hawaiian pineapple industry
Total 2 Year Impact	45,544.4 - 45,936.8	$54.7 million - $85.5 million with $8.3 - $31.5 million occurrences over next 5.5 years. At $54.7 million capital costs of $2.0 million would occur in first two years.	----------

Annual losses from EDB withdrawal as a soil fumigant on soybeans, vegetables, cotton, peanuts, tobacco, and potatoes is estimated to range from $23.2–$27.0 million depending on the selection of alternative nematicides.

Economic losses are primarily due to increased nematode control costs, although some production losses are anticipated on peanut acreage. Economic impacts at the market and consumer level are not expected to be significant.

Most information submitted to the Agency indicates that the magnitude of economic losses to the Hawaiian pineapple industry appears to be dependent on the performance of Nemacur®, a systemic nematicide registered for use on pineapples in July 1983. At this time, Nemacur® has not been applied on a commercial field scale. Experimental plot data indicate that Nemacur® is as effective as EDB; however, large scale field results may differ. If EDB were unavailable for nematode control on pineapples for two years, and Nemacur® is proven to control nematodes at a level comparable to EDB, economic losses from two years without EDB could be over $8.3 million, incurred over the next 5.5 years. In addition, capital investments of approximately $2.0 million would have to be made. If Nemacur® does not prove to be efficacious for nematode control, economic losses as great as $31.5 million over the next 5.5 years could be experienced if EDB were unavailable for two years. The information on which these estimates are based has been obtained from the companies which produce nearly all of the pineapple commercially marketed.

Telone II®, a preplant chisel injected nematicide, is used on Hawaiian pineapple acreage to control the rootknot nematode, *Meloidogyne javanica* (Treub) while EDB is applied preplant for control of the reniform nematode, *Rotylenchulus reniformis* (Linford). If Telone II® without Nemacur® provided nematode control equivalent to EDB, the losses from unavailability of EDB for two years would be approximately one million dollars. However, EPA has not received documentation that Telone II® alone can achieve comparable efficacy for reniform nematode control to that obtained with EDB.

The total economic benefits attributable to continued use of EDB as a soil fumigant during either the six-month period for possible suspension hearings or the two-year period for cancellation hearings do not outweigh the human health risks expected from increased contribution to groundwater contamination by the soil fumigant uses of EDB and from occupational exposure to EDB during these time periods. In addition, I have considered the estimated benefits of each crop use of EDB as a soil fumigant and have determined that there is no disproportionate benefit value in relationship to volume applied (and consequent environmental loading) which would alter my risk/benefit conclusion for any specific use.

IV. Procedural Matters

This order directs the immediately effective, emergency suspension of pesticide products registered for the soil fumigant uses of ethylene dibromide. Registrants affected by emergency suspension actions may request an expedited hearing before the Agency on the issue of whether an imminent hazard exists. This section explains how to request an expedited hearing, the consequences of requesting or not requesting an expedited hearing, and the procedures which govern an expedited hearing in the event one is requested.

A. Procedures for Requesting a Hearing

(1) *Who may request a hearing and when the request may be made.* Registrants of ethylene dibromide products registered for use as a soil fumigant on any crop site may request a hearing on the specific registered soil fumigant uses of ethylene dibromide within five days after receipt of this opinion and order.

(2) *How to request a hearing.* Registrants who request a hearing must follow the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures specify, among other things: (a) That all requests for a hearing must be accompanied by objections that are specific for each use (i.e., each crop site) for which a hearing is requested (40 CFR 164.121(a) and 164.123(b)) and (b) that all requests must be *received* by the Office of the Hearing Clerk within the applicable five days (40 CFR 164.5(a) and 164.121(a)). Failure to comply with these requirements will automatically result in denial of the request for a hearing.

Requests for hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C., 20460.

C. Consequences of Filing a Hearing Request

Under FIFRA section (c)(3) the emergency suspension order becomes effective immediately and continues in effect until completion of any expedited hearing and issuance of a final order following such a hearing. The final suspension order issued by the Administrator after a hearing may keep the suspension in effect, modify it, or terminate it.

The statute provides that if a hearing is requested on the Administrator's emergency suspension actions regarding ethylene dibromide before the end of the five-day notice period, the hearing stage is to begin within five days after receipt of the request, unless the registrants requesting the hearing and the Agency agree that it shall begin at a later time. No party, other than registrants and the Agency, is to participate, except that any person adversely affected may file briefs within the time allowed by the Agency's rule. The presiding officer has ten days from the conclusion of the presentation of evidence to submit recommendations to the Administrator, who in turn has seven days to issue a final order on the issue of suspension. EPA's Rules of Practice for expedited hearings are set forth at 40 CFR Part 164, Subpart C.

C. Consequences of Not Filing a Hearing Request

Under the statutory scheme, if there is no request for a hearing on the Administrator's suspension action within the five-day notice period, the emergency suspension order becomes a final suspension order, which remains in effect until the conclusion of the cancellation proceedings.

D. Separation of Functions

The Agency's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. 40 CFR 163.7.

Accordingly, the following Agency offices, and the staffs thereof, are designated as the trial staff to perform the prosecutorial and investigatory functions of the agency as a party in this case: the Office of Pesticides and Toxic Substances; the Office of General Counsel; and the Office of Enforcement Counsel.

From the date of this notice until the final Agency decision in this case, neither the presiding Administrative law Judge, the Judicial Officer, the Deputy Administrator, the members of the staff in the immediate office of the Deputy Administrator, the members of the staff in the immediate office of the Administrator, nor the Administrator shall have any *ex parte* communication with the trial staff or any other

VOL
48
ISS
1
9
7
OC
11
1983
UMI

interested person not employed by EPA, on the merits of any of the issues involved in this proceeding.

Dated: September 28, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-27646 Filed 10-7-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/25D; PH-FRL 2450-1]

Ethylene Dibromide; Intent To Cancel Registrations of Pesticide Products Containing Ethylene Dibromide; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Cancel; Notice of Availability.

SUMMARY: Products Containing Ethylene Dibromide (EDB) are registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act. EPA, in December 1977, initiated an RPAR process to consider whether the pesticide registrations for EDB should be cancelled or modified. This Notice concludes the RPAR and announces the Administrator's intent to cancel registrations of pesticide products containing EDB.

DATE: Requests for a hearing by a registrant or applicant must be *received* on or before November 10, 1983 or within 30 days from receipt by mail of this Notice, which ever occurs later. Requests for a hearing by any other adversely affected party must be received on or before November 10, 1983.

ADDRESS: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Richard J. Johnson, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 711H, CM#2, Arlington, VA (703-557-7400).

Copies of the Position Document 4 are available upon request from Richard L. Johnson.

An administrative file containing public comments and publicly released Agency documents relating to this action is available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays in: Rm. 236, CM#2, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. The Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered in compliance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). FIFRA sections 3(a) and 12(a)(1). A pesticide registration is a license allowing a pesticide product to be sold and distributed for a specified use or uses in accordance with label instructions and precautions, and other terms and conditions of registration. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment," FIFRA section 3(c)(5), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of the pesticide." FIFRA section 2(bb). Thus, to support an application for initial registration and to maintain an existing registration, the benefits of a pesticide product must exceed the risks of use when the pesticide is used in compliance with the terms and conditions of registration or otherwise used in accordance with commonly recognized practice. The burden of proving that a pesticide product satisfies the standard for registration is on the proponents of initial or continued registration.

Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide product or modify the terms and conditions of registration whenever it is determined that the pesticide product causes unreasonable adverse effects on the environment. The Agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration, and to provide an informal procedure through which to gather and evaluate information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11.

A rebuttable presumption arises if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces an RPAR by publishing a notice of determination in the **Federal Register** and by issuing a Position Document (PD 1) detailing the Agency's position and concerns. Registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment. In addition to submitting evidence to rebut the risk presumption, commenters may submit evidence concerning the economic, social and environmental benefits of the use of the pesticide.

The RPAR process is concluded with a notice of determination in which the Agency states and explains its decision whether the presumption of risk has been rebutted. If all presumptions of risk are rebutted, the RPAR is concluded and no regulatory action is taken. If the Agency determines that any presumption of risk is not rebutted, the notice of determination presents the Agency's evaluation of the information available to the Agency concerning the social, economic, and environmental costs and benefits of continued use of the pesticide for each use pattern. In determining whether each use of a pesticide poses risks which are greater than the corresponding benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risk, and the impacts of such modifications on the benefits of the use. The notice of determination is typically developed through a two-step process; the Position Document 2/3 (PD 2/3) presents the Agency's preliminary determinations and solicits comments and further information. The PD 2/3 is submitted to the Secretary of Agriculture (USDA) and to the FIFRA Scientific Advisory Panel (SAP) for the statutorily required reviews of a proposed notice of intent to cancel registration of a pesticide pursuant to FIFRA sections 6(b) and 25(d).

The Position Document 4 (PD 4) supports the final notice of determination. The final notice of determination may include a notice of intent to cancel the registrations of currently registered pesticide products and to deny applications for the registration of new products. It may also set out conditions which, if fulfilled by the registrant, would be adequate to bring the registration into compliance with the statutory requirements and thus avoid cancellation or denial of registration. The final notice may also require that the registration of the pesticide be reclassified from general to restricted use pursuant to FIFRA section 3(d)(2). In the event of a notice of intent to cancel, deny or reclassify the registration or application for registration of a pesticide product, any person adversely affected by the action may request an administrative hearing to challenge the action pursuant to FIFRA section 6 (b) and (d).

B. Factual Background

The Environmental Protection Agency issued a Notice of Rebuttable Presumption Against Registration and a Position Document 1 (EDB PD 1) concerning the pesticide producers containing ethylene dibromide (EDB) in the **Federal Register** of December 14, 1977 (42 FR 63134). The Agency took this action in response to test results which showed the EDB induced cancer, mutations, and adverse reproductive effects in test animals. The EDB PD 1 discussed the relevant test data and the Agency's concerns with the continued use of EDB as a pesticide. The document also solicited public comments and additional data.

Comments and data in response to the EDB PD 1 were submitted to the Agency by registrants, user groups, and other members of the public. The Agency carefully evaluated the comments and additional data which were submitted, and in the **Federal Register** of December 10, 1980 (45 FR 81516), the Agency announced the preliminary notice of determination for EDB and the availability of the EDB PD 2/3.

In the EDB PD 2/3, the Agency concluded that EDB poses a significant risk of oncogenic, mutagenic, and adverse reproductive effects in the human population. In addition, the EDB PD 2/3 contained analyses of the risks and benefits of continuing the various uses of EDB and presented the Agency's proposed regulatory decisions.

The EDB PD 2/3 was submitted to the Scientific Advisory Panel (SAP) and the U.S. Department of Agriculture (USDA) for review and comment. The SAP held public hearings concerning the EDB PD 2/3 on March 25-26, 1981, and heard presentations by the Agency, registrants and other interested members of the public. Both SAP and USDA submitted comments on the EDB PD 2/3 to EPA. Their comments are presented with the Agency's responses in Unit IV of this Notice.

The Agency also received numerous comments from registrants, user groups, and other members of the public. All comments were reviewed and evaluated by EPA in arriving at the final regulatory positions concerning the uses of EDB as a pesticide. Comments which included significant information are analyzed and discussed in the EDB PD 4.

C. Content of This Notice

This Notice announces the Agency's intent to cancel the registrations of pesticide products containing EDB and provides notice of the availability of the PD 4 supporting this decision and concluding the RPAR for EDB. The Agency has determined that no remedial changes can be made in the registration of EDB for most uses to avoid unreasonable adverse effects on the environment; the Agency, therefore, has determined that the registrations for these uses should all be cancelled. The Agency, however, has determined that the cancellation of EDB products used for post harvest fumigation of citrus, tropical fruit and vegetables should not be made effective until September 1, 1984, in order to allow time for alternatives for this use to become available on a commercial scale. The Agency has decided to continue registration of EDB products used for the minor uses of termite control, fumigation of beehive supers and honeycombs, vault fumigation and Japanese beetle control, only if specified changes are made on the labels to reduce the risks presented by these uses. Elsewhere in today's **Federal Register** a companion emergency Order suspends the registrations of products containing ethylene dibromide for use as a soil fumigant; that emergency suspension order is effective immediately. Details of the Agency's decision are set forth in Unit III of this Notice. A summary of the Agency's final regulatory decision on EDB is presented in Table 1.

TABLE 1.—SUMMARY OF FINAL REGULATORY DECISION ON EDB

Use site	Final decision
Soil Fumigation	Cancellation effective 30 days after this Notice; Emergency Suspension effective immediately.
Stored Grain Fumigation.	Cancellation effective 30 days after this Notice.
Quarantine Fumigation of Citrus, Tropical Fruits and Vegetables.	Cancellation effective September 1, 1984.
Spot Fumigation of Grain Milling Machinery.	Cancellation effective 30 days after this Notice.
Felled Log Fumigation.	Cancellation effective 30 days after this Notice.

TABLE 2.—SUMMARY OF (ESTIMATED RISKS AND BENEFITS OF EDB ESTIMATED RISKS BEFORE USE RESTRICTIONS ARE IMPLEMENTED)

Use site	Annual economic benefits	Lifetime dietary cancer risk [1] [2]	Lifetime applicator cancer risk [1] [2]
Soil fumigation	$26-42 million	10-5 up to 10-1 from ground water contamination.	10-3 to 10-2. [4]

TABLE 1.—SUMMARY OF FINAL REGULATORY DECISION ON EDB—Continued

Use site	Final decision
Termite Control Beehive Supers, Vault Fumigation, Japanese Beetle Control.	Continued registration with label changes imposing use restrictions; reclassify from general to restricted use; require submission of monitoring and use data.

Unit V sets out the procedures which registrants and applicants should follow in seeking amendments to their registrations to conform with the requirements of this Notice in order to continue their registrations of EDB products for these minor uses. Unit V also sets out the procedures by which a registrant or other person adversely affected by this Notice may request a hearing to challenge the determinations set forth in this Notice. To avoid automatic cancellation at the end of 30 days from publication of this Notice, or from receipt of this Notice by the registrant or applicant, which ever is later, the registrant must amend the registration for a pesticide product containing EDB as requerd by this Notice in order to preserve the registration for the uses permitted under this Notice. In addition, to aviod automatic concellation of the registration for all other uses of EDB, the registrant or other adversely affected person must request a hearing to contest the cancellation of the registration for each of the uses which is the subject of this Notice.

II. Summary of Risks and Benefits of the Pesticidal Uses of EDB

The Agency, in reaching the decisions set out in this Notice, has considered information on health risks, environmental effects and the economic and social benefits associated with the pesticidal uses of EDB. The detailed assessments of risks and benefits and conclusions regarding EDB's uses are set forth in the Position Documents 1, 2/3 and 4. The Position Documents fully set forth reasons for the Agency's determinations concerning EDB. This unit of the Notice summarizes the Agency's bases for its decisions concerning pesticide products containing EDB. The following Table 2 provides an overview of the risks and benefits of the uses of EDB as a pesticide:

TABLE 2.—SUMMARY OF (ESTIMATED RISKS AND BENEFITS OF EDB ESTIMATED RISKS BEFORE USE RESTRICTIONS ARE IMPLEMENTED)—Continued

Use site	Annual economic benefits	Lifetime dietary cancer risk [1] [2]	Lifetime applicator cancer risk [1] [2]
Stored grain fumigation	Negligible	10–3	Could be high depending on method of application.
Quarantine Fumigation:			
Citrus	$30 million	10–5	10–4 to 10–1. [3]
U.S. California only [5].		10–4	
Tropical Fruits	1.2 million	10–4	10–2 to 10–1.
Spot Fumigation of Grain Milling Machinery.	$3–6 million	10–4	10–3 to 10–2.
Felled Log Fumigation	Negligible		10–2.
Termite Control, Beehive Supers, Vault Fumigation, Beetle Control.	$10 million for beehive use; no data on other uses.	No exposure data	No exposure data.

[1] The cancer risk estimates are based upon hazard information in experimental animals coupled with human exposure data or estimates. In making these assessments, the Agency assumed 40 years occupational exposure and 70 years dietary exposure. Estimates of increased cancer risks to humans derived in this manner should be considered as rough estimates and should not be treated as a precise measure of the extent of increased cancers that will actually occur in exposed human populations.

[2] The Agency developed a risk extrapolation model for calculating risk from dietary exposure that varied with dose and time in accordance with the Weibull model. Risk probabilities were calculated from the formula, $P(t,d) = 1 - e^{-x}$, where:

$P(t,d)$ = predicted risk
$x = (1.302 \times 10^{-13} \times d \times W_m^{-1/3}[(t-s)^{7.6} - (t-f)^{7.6}]$
d = average daily exposure to EDB (mg/kg/day);
s = person's age in years at start of exposure;
f = person's age in years at end of exposure;
t = person's age in years at end of observation; and
W_m = average body weight (kg) as person's age goes from s to f.

[3] The cancer risk estimates for applicators were calculated using the risk extrapolation model used in the PD 2/3.

[4] Range due to varying exposure depending on operations performed during application and variation of exposure for specific crops.

[5] Percentage of treated fruit in states which require fumigation, such as California, is much greater than in states which do not require fumigation.

A. Uses of EDB as a Pesticide

Over 20 million pounds of ethylene dibromide are used as a pesticide in this country each year. The major use of this chemical as a pesticide, accounting for more than 90 percent of the volume used, is as a soil fumigant. In this use EDB is injected directly into the soil to kill nematodes which may damage agricultural crops such as soybeans, peanuts, cotton, tobacco, pineapples and various fruits and vegetables.

Other significant uses of EDB include its use as a quarantine fumigant for fruits and vegetables, as a fumigant for the spot treatment of grain milling equipment, and as a fumigant for grain stored in bulk. In the quarantine use, citrus in Florida and Texas, papayas in Hawaii, and various vegetables are fumigated to prevent the spread of fruit flies from one State to another. In addition, fruit exported from the United States to Japan is fumigated to prevent the spread of fruit flies into the importing countries. For spot treatment of milling equipment, EDB is injected into grain milling equipment to control insect infestation of the machinery. In the stored grain use, the EDB is poured directly into the stored grain, in order to control insect infestation.

The remaining uses represent only a minor proportion of EDB use as a pesticide. These uses include treatment of felled logs to control bark beetles, use of EDB in vault fumigation, use of EDB as a termiticide, use of EDB to control wax moths in beehive supers and honeycombs, and use of EDB in Japanese beetle quarantine programs.

B. Assessment of Risks

Ethylene dibromide has long been known to present a risk of serious acute toxicity, including death, at even relatively low levels of exposure. It was not until the 1970s, however, that an NCI-sponsored study (Weisburger, 1977) conclusively demonstrated EDB's potential to cause cancer in laboratory animals. There are now a number of studies demonstrating EDB's potency as an oncogen in a variety of species and strains of laboratory animals at a variety of sites when the chemical is administered by inhalation, skin painting and gavage. (Olson, 1973; Powers, 1975; Weisburger, 1977; Plotnick, 1979; Van Duuren, 1979; NCI, 1982; Wong, 1982). The Agency has also reviewed numerous studies demonstrating the mutagenic potential of EDB in both *in vitro* and in vivo systems (e.g., NIOSH, 1977; Ranning, 1980). EDB has also been demonstrated to cause adverse reproductive effects in animals. (Amir, 1973, 1973a; Edwards, 1970; Short, 1978).

Based on these studies, the Agency has concluded that EDB poses: (1) Increased risk of cancer; (2) increased risk of mutations; and (3) increased risk of adverse reproductive effects. The Agency's quantitative assessments of risk have been limited to the oncogenic risk of EDB, because these cancer risks can be estimated quantitatively, and the potential cancer risks to humans posed by this chemical are extremely high.

1. *Risks to Applicators and Others Occupationally Exposed.*

This unit summarizes the oncogenic risks posed by EDB to those who are occupationally exposed to the chemical. Detailed discussion of these risks has been presented in the PD 1, PD 2/3 and PD 4. This summary presents only a brief discussion of the occupational risks presented by each use pattern. It should be noted that occupationally exposed persons are also exposed to EDB in the food they eat.

a. *Soil fumigation.* When ethylene dibromide is applied as a soil fumigant, applicators may be exposed to EDB in the air from volatilization of the EDB escaping from the treated soil and from EDB which is released when the application equipment is removed from the soil. Applicators are also exposed by inhalation of vapors when the pesticide is transferred from its container to the application equipment. In addition, applicators are further exposed by skin contact with the liquid when the pesticide is transferred to application equipment and during equipment malfunction and repairs; these latter, possibly important sources of exposure are not included in EPA's assessment of exposure and resulting risk.

The agency has calculated the typical annual dose of EDB to applicators involved in soil fumigation. Depending on the crop, a typical applicator working with open-type equipment and without protective clothing is estimated to inhale from 130 milligrams to 1300 milligrams (1.3 grams) of EDB in a year from using the chemical on a single crop alone. Based on these exposure estimates, EPA estimates that a typical applicator of EDB for a soil fumigant use experiences an additional lifetime risk of cancer of 4 x 10–3 to 4 x 10–2 (4 excess cancers per thousand exposed persons to 4 excess cancers per 100 exposed persons) for each crop treated. Approximately 14,000 applicators are exposed to EDB from the soil fumigant uses. Moreover, soil fumigant applicators are likely to live in areas where they risk being exposed from drinking contaminated ground water.

b. *Post-harvest quarantine fumigation.* Fumigation of fruits and vegetables is typically performed in a large fumigation chamber. The commodities to be fumigated are placed in the chamber by backing in a loaded trailer (typical of centers in Florida and Texas) or moving in wooden bins filled with fruit by hand

labor or machinery (typical of centers in Hawaii). The commodity is then treated with gaseous EDB, the chamber vented into the atmosphere, and the fruit removed. At the site of application the fumigation center employees (including the applicators, employees involved in loading and unloading the chamber, as well as employees not directly involved in the fumigation operations) are exposed to significant levels of EDB. In addition, truckers also may be exposed when backing the loaded trailers into the chamber and when driving the trailer out. Because the fruit or vegetables and any packing materials which are fumigated absorb and then slowly release EDB, workers handling the commodities after fumigation may also be exposed to high levels in the air; such exposed workers include truck drivers who transport the commodity, workers who unload the commodity from the trucks, warehouse workers where the commodity is held, and others who handle or are exposed to the commodity as it moves through commerce. People in the vicinity of the fumigation chambers also would be expected to be exposed when the EDB is vented from the fumigation chamber into the atmosphere.

EPA has calculated expected exposure of various workers from post-harvest quarantine fumigation use of EDB. Average air concentrations to which workers are exposed may differ approximately one hundredfold for different occupations and tasks. Moreover, the duration of exposure differs markedly among jobs. The health risks to workers, therefore, vary accordingly. Warehouse workers who handle the fumigated commodities receive the greatest annual dose of EDB both because of the high air concentrations to which they are exposed and the long duration of their exposure. A worker exposed to these levels over his working life could have an estimated increase in risk of cancer as high as 2 x 10–1 due to occupational exposure to EDB from the citrus quarantine use alone. Workers performing different jobs at citrus fumigation centers are estimated to be at an increased cancer risk of from 2 x 10–2 to 4 x 10–4 under present conditions. Workers at tropical fruit fumigation centers in Hawaii are at even greater risk, in part due to the large amount of handling involved in sorting and packing the fumigated fruit for market. The estimated increased risk of cancer from 40 years of work at the levels of exposure in the Hawaiian fumigation centers and packing stations ranges from 1 x 10–2 to 8 x 10–2. In arriving at these estimates, EPA has assumed that the individual at risk would be exposed throughout the operating season of the fumigation centers for the typical work week and job routine throughout a 40-year working life. To the extent an individual worked less than the time periods assumed, he would be at a lower individual risk; the number of individuals at risk, however, would increase correspondingly.

c. *Spot fumigation of milling machinery.* EDB is also used for the spot treatment of grain milling machinery. Workers exposed to EDB from this use incude the applicators, personnel involved in opening and closing the mill, and the mill workers who potentially are exposed EDB during start up operations and to lesser concentrations to substantial concentrations during the next few days. The same individuals may be involved in all three tasks.

Based on the available data concerning levels of exposure of workers to EDB due to spot fumigation, the Agency has developed estimates of the increased risk of cancer to these workers. Applicators of EDB for the spot fumigant use work in areas where air concentrations are high, but are assumed to use effective protective equipment and to be exposed to the high ambient concentrations for relatively short periods of time. (In calculating the risk to applicators from this use, the Agency has assumed that applications are not also working as mill workers.) The amount of EDB protected applicators inhale from the spot fumigation of a single mill over a 40-year working life is estimated to result in an increased risk of cancer from this use of EDB of 8×10^{-3}. The Agency estimates that there are between 2,400 and 6,000 applicators of EDB as a spot fumigant.

Mill workers not involved in application of the spot fumigant are actually at greater risk than a well protected applicator, because of the longer period of exposure of mill workers and because the ordinarily would not use respirators or other protective equipment. The exposure to EDB of the 16,000 individuals who work in mills has been estimated by the Agency to result in an increased risk of cancer to an individual exposed over his 40-year working life of about 2×10^{-3}.

d. *Felled log treatment.* EDB is also used to control several bark beetles species that attack coniferous trees in the Western States. The EDB for this use is sprayed on the felled logs and applcators are exposed to significant amounts of the chemical both through inhalation and dermal absorption. The actual exposure depends on the protective equipment and care used in application.

EPA has based its estimate of probable exposure to EDB from this use on actual data measuring air concentrations of EDB to which applicators are exposed during felled log fumigation and surrogate dermal exposure information derived from measurements of exposure to another pesticide with similar application technique. The estimate presumes the use of no respirator and that only three percent of a working lifetime is spent treating felled logs with EDB. The estimated exposure over a working life will result in an estimated increased cancer rick of 9×10^{-2}.

2. *Dietary Risks.*

Everyone in the United States is potentially exposed to significant levles of EDB in his diet EDB is found in grain products including cereals and bread, and in citrus and tropical fruit which has been fumigated with EDB. Although EDB had until recently never been detected in crops grown in soil which has been fumigated with EDB, residues have now been preliminarily reported in miniature carrots. EDB may still be present in other foods grown in treated soil at levels which are below the limit of detection of the best available analytical techniques. The consumption of crops grown in EDB fumigated soil containing EDB at the limit of detection could cause an increased lifetime risk of cancer of 10^{-6} (or 1 excess cancer per one hundred thousand exposed persons). Such a calculation of exposure is, however, hypothetical; available evidence indicates that residues, if they occur, would be below that level. This unit summarizes the estimated risks of increased cancer attributable to exposure to pesticidal EDB in the foods in which EDB has been detected. A more complete discussion of these estimates is provided by the EDB Position Documents.

a. *Grain products.* EDB is introduced into grain products by two different use patterns. EDB is used to fumigate grain in bulk storage to control insect infestation. In the stored grain use, the pesticide is poured directly on the stored grain and allowed to remain in contact. In addition, when grain is milled into flour, meal, and other products, it can be further contaminated by EDB from milling equipment which has been spot treated with EDB.

The Agency's dietary risk assessment for EDB is grain products is based on data showing EDB's persistence in fumigated grain, data showing that both fumigated grain and spot treatment of

milling equipment contribute to the presence of EDB in flour, and data showing EDB's presence in flour and baked products in commerce. In addition, the Agency has developed a model for predicting EDB residues in these products. The exposure assessment has focused exclusively on contamination of wheat and wheat products with EDB because wheat makes up a comparatively large (over 10 percent) component of the typical American's diet. Other grains, such as corn, sorghum, barley, rye, rice, and oats are also fumigated with EDB, but the risks attributable to consumption of EDB in these grains has not been included because they represent such a relatively small proportion of the typical American's diet. Individuals and subpopulations may be exposed to significantly higher risks than the Agency has estimated, if they eat unusually high proportions of one or more of these potentially contaminated grains. From the available information the Agency estimates that the typical member of the public is exposed to a dietary EDB burden of 8.0×10–5 mg/kg/day from the fumigation of stored wheat and of 5.8×10–6 mg/kg/day for spot treatment of wheat milling equipment. The total dietary burden for wheat alone, therefore, is estimated to be 8.6× 10–5 mg/kg/day. The resulting increase in the estimated risk of cancer to the typical American from a lifetime of exposure solely to EDB in wheat treated in these combined uses is 1×10–4 (one excess cancer per ten thousand exposed persons).

b. *Citrus.* Because quarantine fumigation of fresh citrus is carried out to prevent the spread of fruit flies from one citrus-growing region to another, or 18 into this or another nation, estimates of dietary exposures are unusually complex. Individuals living in Arizona, California, New Mexico, and Texas consume a higher proportion of EDB-fumigated citrus than is typical for the nation as a whole. For example, the highest calculated dietary exposures to EDB from citrus are found in California where the State required fumigation of fresh citrus shipped into the State.

The Agency has estimated dietary exposure to EDB from the citrus quarantine use based on data from actual monitoring of citrus in the marketplace. The monitoring data show average EDB residue levels in edible portions of citrus from 51 ppb in grapefruit and 48 ppb in oranges to no detectable levels in lemons. The Agency estimates that EDB in fresh citrus results in an increased lifetime risk of cancer of 2 × 10–5 in States which do not require fumigation. California residents are exposed to higher dietary burdens of EDB from citrus because a higher proportion of citrus consumed in California has been fumigated. These dietary risk estimates are based on typical consumers of citrus, and individuals who consume higher amounts will be subject to correspondingly higher risks.

c. *Tropical fruit.* Tropical fruit, particularly papaya, are fumigated with EDB prior to shipment from Hawaii to the mainland. Monitoring data indicate that the average EDB residues are 11 ppb in papaya. The dietary exposure due to this use of EDB, however, is relatively low for the "typical" mainland American because relatively little tropical fruit is consumed in this country. Thus, the increased risk of cancer from consumption of food treated in this use of EDB is estimated to be 7×10–6 for a typical mainland American.

Tropical fruit, however, is mostly consumed by a relatively small subpopulation; a risk estimate based on the national average consumption, therefore, does not reflect the dietary exposure to this subpopulation. Accordingly, EPA has evaluated the risks for a subpopulation which is presumed to consume 12 tropical fruits a year. Such an individual has an estimated increased cancer risk from EDB in these tropical fruits of 2×10–4. Individuals who consume this amount of tropical fruit are probably uncommon; the total number of such individuals is limited but the risk to them posed by fumigation of tropical fruit is serious.

3. *Groundwater Contamination.*

Although the Agency has for some time recognized that the injection of EDB into soil in the soil fumigant uses posed a possibility of subsequent leaching and consequential groundwater contamination, EPA, at the time of issuance of the PD 2/3, had no evidence that EDB actually contaminated groundwater. Recent monitoring of groundwater, however, has identified groundwater contaminated with EDB in four States. EPA is currently aware of 114 EDB contaminated wells in California, Florida, Georgia and Hawaii. The levels of contamination found range from 0.02 ppb, the current limit of detection for EDB in water, to almost 300 ppb. Contamination of most of these wells ranges between 0.05 ppb and 5 ppb. In addition, analysis of soil cores taken in Georgia and California demonstrate EDB's capacity to leach through the soil. Based on the new information of EDB's potential to leach through soil to groundwater as well as EDB's probable persistence in soil and water, EPA now concludes that the use of EDB as a soil fumigant has an alarming ability to contaminate groundwater.

A person who used a well contaminated at the limit of detection (0.02 ppb EDB) for a lifetime would have an estimated increased risk of cancer of 3×10^{-5} from this source alone. At 1 ppb the increased risk of cancer due to a lifetime exposure is 2×10^{-3}.

4. *Summary of Risks.*

The use of EDB as a pesticide poses significant risks to workers exposed through application of the pesticide products, and to the general public from contamination of food and groundwater used for drinking. The Agency has developed quantified cancer risk estimates for many of the groups at risk. While these estimates provide probable upper bounds of risk for the hypothetical member of each group, individuals are at higher risk if their exposure is higher from a particular source than is typical. In addition, individuals almost inevitably are exposed to EDB from more than a single source; therefore, their risks increase with the added exposures. Finally, these quantified increased prospects of cancer from exposure to EDB do not reflect the increased risks of genetic damage or reproductive disorders which may result from exposure to EDB.

C. Assessment of Benefits

The use of ethylene dibromide as a pesticide has substantial benefits for preplant soil fumigation, spot fumigation of milling equipment, post-harvest quarantine fumigation of fruits and vegetables, and fumigation of beehive supers and honeycombs. Cancellation of registrations of EDB-containing products for use in felled log fumigation and bulk fumigation of stored grain would have little, if any, adverse economic impact. This unit summarizes the Agency's evaluation of the benefits of the pesticidal uses of EDB.

1. *Soil Fumigation.*

The Agency has recently completed a new evaluation of the benefits of the use of EDB as a soil fumigant. Currently, approximately 1.0 million acres are treated for nematode control with nearly 23 million pounds of EDB active ingredient (a.i.) annually. The major use sites are soybeans (12.8 million pounds a.i.), cotton (4.5 million pounds a.i.), and peanuts (2.2 million pounds a.i.) with lesser volumes applied to other crops. Most of the use is located in the Southeastern United States.

Based on an assessment of the soil fumigant uses, the Agency has estimated the benefits attributable to all of the uses of EDB as a soil fumigant range between $26.4 and $40.9 million per year. Hawaiian pineapple growers may also be required to make a $6.9 million capital investment. The range in economic losses due to cancellation of EDB is the result of uncertainty regarding the alternative pesticides which will replace EDB as a soil fumigant, and the relative effectiveness of the alternatives in controlling nematodes. The estimated economic losses include both losses in production and increased nematode control costs.

2. *Stored Grain Fumigation.*

The cancellation of liquid grain fumigants containing EDB for use to control insects in stored grain in expected to have little adverse economic effect on users. Because alternative grain fumigants are widely available, presently in use, and comparable in efficacy and cost, the unavailability of EDB-containing products is not expected to have any significant adverse effect on local, regional or national farm income or grain markets.

3. *Spot Fumigation of Milling Equipment.*

Use of EDB to spot treat milling equipment has substantial benefits. The only other registered spot fumigant, a mixture of ethylene dichloride and carbon tetrachloride (EDC/CT), is not so efficacious, and may clog equipment. Whole mill fumigation with methyl bromide or aluminum phosphide is the alternative most likely to be adopted, although some increase in use of EDC/CT formulations could also occur. Use of general fumigation in place of spot fumigation will require more care in sealing the mills to maintain proper levels and durations of exposure to the fumigant. The Agency believes that, on the average, individual mills could use 4 to 8 additional general fumigations per year in place of the current 12 to 14 spot treatments. The economic losses due to cancellation of this use of EDB are estimated to range between $3 and $8 million annually depending on the alternative chosen and the frequency of application.

4. *Post-Harvest Fruit and Vegetable Quarantine Fumigation.*

The Agency has evaluated in detail the economic impacts of cancellation of EDB for post-harvest fruit and vegetable quarantine fumigation. In PD 2/3 the Agency estimated total adverse effects of approximately $24.7 million if EDB were cancelled. Depending on the acceptability of cold storage and/or irradiation as viable alternatives, the magnitude of adverse effects may be reduced.

Cold treatment is one alternative to EDB for citrus fruit disinfestation. In March 1982, the Japanese government approved cold treatment to control the Mediterranean fruit fly in oranges and grapefruits shipped to Japan from California. Recent studies also demonstrate the feasibility of cold treatment to control the caribbean fruit fly in fruit shipped from Florida to Japan. Because the potential loss of the Japanese market without EDB accounts for most of the benefits of the use of EDB as a quarantine fumigant in citrus, acceptance by Japan of this alternative would significantly reduce the adverse effects of an EDB cancellation for post-harvest quarantine fumigation. If the export market to Japan is lost due to an EDB cancellation, the adverse effects to citrus growers is not expected to exceed $28 million a year. In addition, domestic citrus prices would likely decrease and consumers would therefore benefit in the short term.

Gamma irradiation is also considered as a potential alternative for EDB fumigation of citrus and Hawaiian tropical fruits. Depending on the technological and commercial feasibility of this alternative, the adverse effects associated with cancellation of EDB for post-harvest fumigation would be further reduced.

5. *Felled Log Fumigation.*

EPA's evaluation of EDB's use on felled logs shows that cancellation of this use will result in little if any adverse impact. Lindane is registered for this use and is the preferred treatment chemical. Although lindane is currently under RPAR review, EPA soon will issue its determination on lindane and anticipates that this use pattern will be continued. Endosulfan is also considered a potential alternative for EDB in this use. Although endosulfan is less efficacious than EDB, its use would reduce the costs of treatment.

6. *Minor Uses.*

The Agency has quantified the economic benefits of EDB use for fumigation of beehive supers and honeycombs. Due to data limitations, the economic benefits of EDB use for termite control, vault fumigation, and Japanese beetle quarantine have not been quantified. Fumigation of beehive supers and honey combs to control wax moths has significant benefits; the Agency estimates that cancellation would result in over $10 million of adverse impacts including a 20 percent reduction in honey production. Although EDB benefits from termite control have not been quantified, EDB is the only registered pesticide suitable for control of subterranean termites under concrete foundations in the Southeast and Southwest by fumigation. EPA has been unable to provide a quantified assessment of the benefits of EDB use for Japanese beetle control or vault fumigation.

D. Risk-Benefit Analysis

This unit presents EPA's analysis of the relative risks and benefits of the use of EDB as a pesticide. It sets out EPA's determinations whether these uses cause unreasonable adverse effects on the environment.

1. *Soil Fumigation.*

As summarized above, EDB's use of a soil fumigant poses a substantial cancer risk to applicators, a possible cancer risk to the general population from potential dietary exposure to treated crops, and adverse health risks including substantial cancer risks from contaminated drinking water sources which could affect large number of people. Although the benefits from this use are high, the known risks, including the long-term contamination of groundwater, require a finding that this use causes unreasonable adverse effects on the environment. EPA, therefore, has determined to cancel and is immediately suspending registrations of EDB products for this use.

2. *Stored Grain Fumigation.*

Although EPA has been unable to quantify occupational exposure to EDB from stored grain fumigation, the Agency believes this exposure may not be very high. However, increased cancer risk from dietary exposure caused by this use is estimated to be significant. In contrast, the adverse economic effects of cancellation of EDB as a fumigant for grain stored in bulk are expected to be small or non-existent. EPA, therefore, has conculed that this use causes an unreasonable advese effect on the environment, and has determined to cancel this use. The Agency is extremely concerned about the exposure of the population to EDB from this use and is gathering additional information concerning dietary exposures to EDB from this use pattern. When this additional information has been evaluated, the Agency will consider whether that information shows the need for immediate suspension of the EDB registrations for fumigation of grain stored in bulk (in the event that present

registrations remain in effect during the pendency of cancellation hearings). In any event, registrants and users of EDB for stored grain fumigation are urged to implement all reasonable measures to reduce use, provide worker protection, and otherwise reduce exposure to EDB if this use continues during cancellation proceedings.

3. *Spot Fumigation.*

As discussed above, the use of EDB as a spot fumigant in flour and other grain mills poses a significant dietary cancer risk to the general public and extremely high risks to applicators and millworkers. The economic benefits of the use of EDB as a spot fumigant are also significant. The Agency has carefully evaluated this use, and has considered regulatory restrictions which could lower the applicator and dietary risks. Even with the most restrictive conditions which the Agency considers enforceable, the use of EDB for spot treatment of milling equipment still poses an unreasonable adverse effect on the environment. The Agency, therefore, has determined to cancel the spot fumigant use of EDB. The Agency is extremely concerned about the potential exposure of the public from this use of EDB. The Agency, therefore, is continuing to gather additional information concerning exposures due to this use, and will consider whether it shows the need for immediate suspension of EDB registrations for use as a spot fumigant. As with the bulk grain fumigation use, registrants and users are urged to take all available steps to minimize exposures during any continued registration for this use which results from requests for cancellation hearings.

4. *Post-Harvest Quarantine Fumigation.*

The use of EDB as a quarantine fumigant to ensure fruit fly disinfestation of food commodities shipped out of quarantine areas poses substantial risks to both occupationally exposed workers and to the general public. EPA estimates that the workers most exposed to the highest levels of EDB from this use have an extremely high increase in their risk of cancer and that the general public may typically face significant increases in cancer risks from consumption of treated fruit. Although the adverse economic impacts of cancellation were estimated in the PD 2/3 to be substantial, alternative technologies are under development which may reduce the adverse impacts of cancellation of EDB as a post-harvest quarantine fumigant. The Agency, therefore, concludes that the risks of continued use of EDB as a quarantine fumigant exceed its benefits, and that it cause an unreasonable adverse effect on the environment.

Hence, EPA is cancelling products registered for this use. The effective date of this concellation, however, has been delayed until September 1, 1984, to allow USDA/APHIS and the industry time to implement alternative means of quarantine fruit fly disinfestation. After consideration of the disruption likely to be caused by cancellation at this time, and an evaluation of the risk posed by a one-year phaseout, the Agency has concluded that continuation of registrations for this use until September 1, 1984 will not pose an unacceptable risk. However, registrants and users of EDB for post-harvest quarantine fumigation of fresh fruits are strongly urged to implement worker protection measures during any period of continued use of EDB for this purpose and to move as expeditiously as possible to implement alternatives to EDB.

5. *Felled Log Fumigation.*

The use of EDB as a felled log fumigant to control various species of bark beetles poses estimated substantial increased cancer risk to applicators, while providing little or no economic benefit. Therefore, the Agency has concluded that this use causes an unreasonable adverse effect on the environment, and has determined that this use should be cancelled.

6. *Minor Uses.*

EPA has been unable to fully evaluate the risks to applicators caused by the use of EDB as a fumigant of beehive supers and honeycombs, as a vault fumigant, to control termites, or to control Japanese beetles, but believes lack of adequate worker protection will lead to unacceptably high exposures while the benefits associated with EDB use as a fumigant of beehive supers and honeycombs is substantial, the Agency has been unable to quantify the benefits associated with the other minor uses of EDB. The Agency, therefore, has decided that although these uses currently are likely to cause an unreasonable adverse effect on the environment, the risk may be lowered to acceptable levels by use restriction. Therefore, the Agency is issuing a notice of intent to cancel these uses, but has specified amendments to the terms and condition of use which, if made, will be adequate to permit continued registration of EDB-containing products for these uses. The Agency is also requiring that these uses be reclassified from general to restricted use pesticides. In order to assess more fully the risks posed by these EDB uses, EPA, by separate action, is also imposing data requirements on registrants of EDB products labelled for these uses.

III. Initiation of Regulatory Action

Based upon the assessment summarized above, and discussed in detail in Position Documents 1, 2/3, and 4, the Agency determined that the present use patterns for EDB pose risks greater than the social, economic and environmental benefits of those uses. Therefore, the Agency has deterrmined to cancel registrations of EDB-containing products for the uses for soil fumigation, spot treatment of milling equipment, fumigation of grain stored in bulk and felled logs, and post-harvest quarantine fumigation of citrus, vegetables, and tropical fruit. Cancellation of products for the post-harvest quarantine use will not become effective until September 1, 1984. The Agency has also determined to continue registration of the low volume uses for termite control, beehive supers and honeycombs, vault fumigation and Japanese beetle control, only if specified changes are made on the label to reduce the risks presented by these uses. In addition to the regulatory actions set forth below, pursuant to the Federal Food, Drug, and Cosmetic Act, EPA will establish appropriate tolerances for EDB *per se* to regulate residues of EDB which may continue in the human diet as a result of delays in these cancellation actions pending hearings, stored commodities previously fumigated, iported foods, or from other causes.

A. All Uses

Except as provided below, all registrations for pesticide products containing EDB are cancelled, effective at the end of the statutorily prescribed 30-day period.

B. Manufacturing Use Products

Each registration of a product labeled for manufacturing use (use to make other pesticide products) must be amended so that the label states that the product may be used to formulate pesticide products which are labeled to allow only the uses which are permitted by this Notice. Such products, therefore, must bear labeling such as the following:

For use only to formulate pesticide products for end use as a post-harvest quarantine fumigant only until September 1, 1984 or for end use for termite control, vault fumigation, the APHIS Japanese beetle control program, and beehive super and honeycomb fumigation. Such end use products must be labeled in accordance with the

October 11, 1983 EPA Notice of Intent to Cancel EDB-containing pesticide products.

C. Post-Harvest Quarantine Fumigation

EDB-containing products labeled for quarantine fumigation of citrus, tropical, and miscellaneous fruits and vegetables are cancelled effective September 1, 1984. Registrants and users are strongly urged to adopt measures to reduce use and protect exposed workers during this interim period and during any period that use may continue during cancellation hearings.

D. Minor Uses—Termite Control, Beehive Supers, Vault Fumigation, and Japanese Beetle Control

The Agency is requiring that all remaining registrations of pesticide products containing EDB be reclassified from general to restricted use. The Agency has determined to permit continued registration of EDB-containing products for termite control, vault fumigation, USDA/APHIS Japanese beetle control, and fumigation of beehive supers and honeycombs, provided that registrants and applicants make the label changes specified below.

1. *Termite Control.*

For termite control, the following use restrictions must be stated on the label:

a. Use is restricted to control of subterranean termites in structures constructed on a concrete slab.

b. Fumigation may be conducted only by a certified commercial applicator.

c. A full-face, black canister respirator approved for use with EDB by the Mine Safety Health Administration or the Occupational Safety and Health Administration (MSHA/OSHA), EDB-resistant gloves made of butyl rubber, and EDB resistant boot covers and apron made of butyl rubber, nitrile or polyethylene must be worn by the applicator at all times during the treatment.

d. Persons not involved with the fumigation for termites must leave the premises before fumigation, and may not return until after treatment and aeration are completed.

e. The label must specify the dosage per square foot, the hole spacing, and the volume of EDB which may be injected into each hole drilled through the concrete slab supporting the infested structure. The label must state that all treatment holes drilled in construction elements in commonly occupied areas of structures must be securely plugged. The label must atate that use of EDB is not permitted under slabs which contain or cover heat and air conditioning ducts, electrical conduits, wells, water, sewer, gas, or steam pipes, or other similar structures which cause a potential for escape of EDB vapors and that application may not begin until the locations of such escape routes is known. Application must not be made in any manner to an area intended as a plenum air space.

f. After fumigation, all doors, windows, and vents in the treatment area and connected buildings must be opened. Premises must be aerated 24 hours before reentry is permitted. Warning signs which prohibit entry during the aeration period must be posted at all entrances to the premises.

In addition, by separate action, the Agency will require, pursuant to section 3(c)(2)(B), that registrants provide data by July 1, 1984 which will be utilized in an exposure analysis; this information includes:

a. Air concentration of EDB to which applicators are exposed, their annual time spent using EDB, the number of applicators using EDB in the U.S. for this use, and the amount of formulation sold annually.

b. Air monitoring studies which assess the potential EDB air levels to which persons not involved in fumigation can be exposed.

2. Fumigotion of Beehive Supers and Honeycombs.

For fumigation of beehive supers and honeycombs, the Agency is requiring the following use restrictions be stated on the label for such EDB products:

a. Fumigation may be conducted only by a certified applicator.

b. A full-face black canister respirator approved for use with EDB by MSHA/OSHA, and EDB-resistant gloves (butyl rubber only), and boot covers and apron (made of butyl rubber, nitrile, or polyethylene) must be worn by the applicator at all times during the treatment.

c. Supers and honeycombs must be placed in a gas-tight room or under a gas-tight covering such a polyethylene tarpaulin held down with sand-filled "snakes." If the treatment is performed in a building, all windows, doors, and vents must sealed. All persons not involved with the fumigation must be vacated from the building. If a tarpaulin is used, it must be completely aired for at least 24 hours before re-use.

d. Following the treatment period, a full-face black canister respirator approved by MSHA/OSHA must be worn when reentering during the 24 hours following treatment. All doors, windows and vents in the structure must be opened at this time. Aeration of the building and beehive supers or honeycombs for 24 hours is required before reentry is permitted. During fumigation and aeration, warning signs must be posted which contain these reentry restrictions.

e. Treatments must be applied solely to clean supers or honeycombs mounted in frames in storage.

In addition to these label changes, the Agency will require by separate action, pursuant to FIFRA section 3(c)(2)(B), the following data from registrants by July 1, 1984:

a. EDB air levels to which applicators are exposed during conditions of use of EDB products for fumigation of beehive supers and honeycombs.

b. Numbers of users and volume of EDB used for this purpose.

c. Residue studies to determine if EDB is detectable in honey from fumigated supers and honeycombs.

3. *Vault Fumigation.*

For vault storage, the Agency is requiring that the following use restrictions be stated on the label:

a. Vault fumigation with EDB formulations may be conducted only by certified commercial applicators in commercial fumigation vaults.

b. A full-face black canister respirator approved for use with EDB by MSHA/OSHA, and EDB-resistanct gloves (butyl rubber only), and boot covers and apron (made of butyl rubber, nitrile or polyethylene) must be worn by the applicator at all times during the treatment.

c. Before fumigation, all doors and leaks in the vault must be sealed.

d. Following the treatment period, a full-face black canister respirator approved by MSHA/OSHA for EDB must be worn during reentry. All doors and vents in the treatment area and connected buildings must be opened at this time. Before workers may reenter the vault without a respirator, the vault must be aerated to reduce EDB air levels to the OSHA workplace standard. Warning signs must be posted stating these restrictions during fumigation and aeration.

In addition to these label changes, the Agency will require the following information from registrants of EDB-containing products for vault fumigation by July 1, 1984:

a. Monitoring studies of the EDB air levels to which applicators may be exposed, both during pouring EDB into dispensing containers, and also during reentry into the vault after fumigation.

b. Survey data on the number of vault fumigation operations using EDB and the number of applicators involved in this practice.

VOL 48 ISS 197 OCT 11 1983 UMI

c. Data on the amount of EDB applied annually for this use.

4. Japanese Beetle Control.

For the APHIS Japanese Beetle Control Program, the Agency is requiring the following label restrictions and suggesting the following revisions in the APHIS Manual:

a. Fumigation may be conducted only by a certified applicator.

b. A full-face black canister respirator approved for use with EDB by MSHA/OSHA, and EDB-resistant gloves (butyl rubber only), and bootcovers and apron (made of butyl rubber, nitrile, or polyethylene) must be worn by the applicator at all times during the treatment.

c. The pesticide spray mixture, rinse water, or excess treatment material that cannot be used must be disposed of according to the procedures established under Subchapter III of the Resource Conservation and Recovery Act.

d. Treated sod must be covered with heavy plastic sheeting or an impervious tarp during the treatment period to ensure an efficacious treatment and to minimize air exposures. The tarp or sheeting mut be completely aired for at least 24 hours before re-use.

e. Potting and bench soil must be covered with heavy plastic sheeting or an impervious tarp for duration of the treatment period. The tarp or sheeting must be completely aired for at least 24 hours before reuse.

f. Soil for beds and other uses must be covered with heavy plastic sheeting or an impervious tarp for duration of the treatment period. The tarp or sheeting must be completely aired before re-use.

g. Materials may be treated with EDB to control Japanese beetles only when beetle larvae and pupae are present. The APHIS manual should be amended to add this requirement.

In addition to these label changes, the Agency will require by separate action, pursuant to FIFRA section 3(c)(2)(B), the following information, by July 1, 1984, from registrants of products for quarantine fumigation under the APHIS Japanese Beetle Control Program:

a. Monitoring studies of the air levels to which applicators are exposed during mixing and during use.

b. Data on the amount of EDB use annually, the number of applicators and the frequency of use.

E. Existing Stocks and Disposal Provisions

FIFRA prohibits any person from distributing, selling, offering for sale, holding for sale, shipping, delivering for shipment, or receiving (and having so received) delivering or offering to deliver, to any person any pesticide which is not registered. A pesticide product whose registration is cancelled is not registered. Products whose registrations have been cancelled by the terms of this notice are subject to these statutory prohibitions.

In addition, the use of any product containing EDB which is not registered for such use at the time of such use is prohibited after September 1, 1984. Use of such a product or of a registered EDB product for any unregistered use after September 1, 1984, is a violation of this cancellation order and is an unlawful act under section 12 of FIFRA.

Disposal of unused pesticide products containing EDB must be in accordance with the requirements of the Resource Conservation and Recovery Act and the regulations implementing it. Quantities exempted from those requirements by virtue of small volume or the "farmer exemption" must nevertheless be disposed of in an approved landfill or incinerator to avoid the potential that disposed pesticide will leach to groundwater.

IV. Comments of Scientific Advisory Panel and Secretary of Agriculture

A. Comments of the Scientific Advisory Panel and EPA's Response

1. Comments of Scientific Advisory Panel

The comments of the Scientific Advisory Panel (SAP) regarding the Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of EDB are presented below in their entirety.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Ethylene Dibromide (EDB)

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing ethylene dibromide (EDB) under the provisions of section 6(b)(2) of FIFRA as amended. The review was completed in an open meeting held in Arlington, Virginia, on March 25–26, 1981.

Maximum public participation was encouraged for the review. Public notice of the meeting was published in the Federal Register on February 25, 1981. In additional, telephone calls were received from and mailings sent to the general public who had previously expressed an interest in activities of the Panel. Oral, and in most cases, written statements were received from the technical staff of EPA's Office of Pesticide Programs, and from representatives of the U.S. Department of Agriculture; the State of Florida, Department of Citrus; Ethyl Corporation; the University of California; the Hawaii papaya industry; Dow Chemical Corporation; National Pest Control Association; Hopes Consulting Company; National Association of Wheat Growers; Emergent Technologies, Incorporated; and Radiation Dynamics, Incorporated.

The excellent briefings by the staff of OPP's Special Pesticide Review Division (SPRD) were of great value to the Panel. The Panel wishes to express its appreciation to SPRD for having prepared a Position Document 2/3 on EDB of very high quality. Also, the Panel would like to thank Dr. Carol Sakai, Reproductive Effects Assessment Group, EPA, for an outstanding scientific briefing on the reproductive effects of EDB.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the panel unanimously submits the following report:

Report of Scientific Advisory Panel Recommendations

The Agency requested the Panel to focus its attention upon these issues:

1. The data requirements (ground water, food residues for pre-plant exposures, and survey data for minor use applicators)

2. The acceptability of risks during the phase out of citrus

3. The similarities of this pesticide to dibromochloropropane (DBCP): use sites, health risks, chemical structure.

4. The acceptability of alternatives relative to the toxic hazards of EDB especially for grain and citrus. The Panel's response to each of the above issues is as follows:

1. The data requirements (ground water, food residues for pre-plant exposures, and survey data for minor use applicators).

The Panel expresses considerable concern over the potential human hazzard as a result of the spot fumigation in flour mills use of Ethylene Dibromide (EDB) and recommends that EPA require a thorough and critical study of EDB residues in grain, as well as obtain residue data in bread and other bakery products.

The Panel also indicates its concern over the possible appearance of EDB in ground water, and urges that ground water be monitored closely in high use areas.

The Panel recommends that a reproductive study on rodents be performed with critical structural and functional analysis of endocrine, reproductive and fetal tissues.

Finally, the Panel recommends that EPA monitor high risk workers in the grain, citrus and minor use areas, both during and following exposure.

2. The acceptability of risks during the phase out of citrus

The Panel differs with the Agency's position that EDB use on citrus should be phased out by July 1983. Rather, the Panel proposes that this use be retained in a similar manner as several other uses which the Agency is proposing be allowed, but with certain restricitions imposed, including pre-plant fumigation of soil, stored beehive fumigation, stored furniture and clothing, and nursery stock. The reason for this is that the Panel finds it difficult to evaluate whether it is feasible for the citrus industry to move to irradiation as an alternative to EDB control of fruit flies. Therefore, the Panel recommends reevaluation of the risks and benefits of irradiation as an alternative for EDB as soon as possible.

In the meantime, the Panel recommends the use of additional protective measures to reduce worker exposure. It appears to the Panel that substantial improvements can be made in EDB application technology, and that such improvements will reduce both the number of workers exposed and the severity of the exposure.

3. The similarities of EDB to DBCP with regard to chemical structure, use sites and health risks

The Panel finds that EDB has certain structural qualities, uses and adverse effects which resemble those of DBCP. However, extrapolation from one compound to another entails the same kind of uncertainties as does extrapolation in testing from one species to another. Therefore, the Panel recommends that the data be obtained on EDB directly rather than on the basis of extrapolation from other compounds.

4. The acceptability of alternatives relative to the toxic hazards of EDB especially for grain and citrus.

The Panel finds that alternatives to EDB appear to be available in several areas, e.g., fumigation of stored grain, termite control, bark beetle control and other minor uses. Alternatives for soil fumigation and citrus are not well developed and clearly demonstrated to be efficient, practical, and feasible from a cost standpoint.

The Panel's response to the issues listed by EPA as regards EDB is based on the following evaluation of the available data base for this agent:

1. EDB is a carcinogen for multiple animal species of both sexes producing oncogenic effects in several tissues following exposure by at least two routes of administration.

2. EDB is a potent mutagen producing point (gene) mutation, chormosomal aberration and primary DNA damage in multiple test systems involving both prokaryotic and eukaryotic systems (including mammals).

3. EDB has been demonstrated to produce adverse reproductive effects in several species. None of these studies definitively demonstrates a no observed effect level (NOEL). As indicated above, the Panel recommends that a reproduction study in rodents be required to characterize the threshold dosage level for EDB effects on fertility, mating, gestation, etc.

The Panel notes that it will be very difficult to conduct epidemiological studies that will enable EPA to ignore the results of animal studies. Such epidemiological studies which have been conducted thus far do not provide convincing evidence that animal tests do not accurately predict potential human hazards in the area of oncogenicity and reproductive effect. Therefore, it is necessary to regulate on the basis of animal studies alone.

The Panel wishes to make a clear distinction between the apparent hazards of citrus and grain fumigation insofar as human *dietary* factors are concerned, and thus does not concur with the Agency's proposal to cancel the use of EDB on citrus. As regards stored grain fumigation and spot fumigation of grain milling machinery, the Panel wishes to express its great concern over the possible presence of EDB residues in finished bakery products. The evidence is far from solid, but because of the extremely large population potentially at risk, the problem demands resolution. Therefore, the Panel concurs with EPA proposal to cancel stored grain fumigation and spot fumigation of grain milling machinery uses until such time as convincing evidence exists that such uses present little or no hazard to consumers of bakery products.

For the Chairman: Certified as an accurate report of findings:

Philip H. Gray, Jr.,

Acting Executive Secretary, FIFRA Scientific Advisory Panel.

Dated: April 22, 1981.

2. EPA Response to the Scientific Advisory Panel

a. *Data requirements.* The SAP recommended additional data should be obtained regarding: residues on grain and bread and other bakery products; monitoring of groundwater in high use areas; reproductive effects study on rodents with special emphasis on fetal, endocrine and reproductive tissues; and the monitoring of high risk workers in the grain, citrus and minor use areas.

The Agency believes that the cancellation of the grain fumigation and spot fumigant uses of EDB will effectively eliminate detectable residues of EDB in grain, flour or other bakery products. Additional monitoring of these commodities for EDB residues has occurred since the SAP comments, and further monitoring is under way.

Groundwater studies have been completed or are underway in California, Florida, Georgia, and Hawaii, to assess the potential of EDB to contaminate groundwater.

The Agency is not requiring a rodent reproductive study because the reproductive risks are adequately reduced as a result of the cancellation of most major uses, the phased cancellation of citrus and other fruit and vegetables quarantine uses, and the additional label use precautions and restrictions on the minor uses.

The Agency is not requiring monitoring of grain and mill workers or of citrus and tropical fruit workers because the relevant uses are cancelled. The Agency is requiring additional data concerning EDB exposure of applicators involved in vault fumigation and applicators involved in Japanese beetle quarantine (fumigation of grass sod, bareroot plants, balled or containerized plants, potting and bench soil, and beds) and other minor uses.

b. *Acceptability of risks during phase out of citrus.* The SAP initially recommended maintaining the citrus use with the imposition of certain use restrictions and a reevaluation of the risks and benefits of irradiation as an alternative to EDB. The Panel recommended interim measures to reduce worker exposure.

The Agency made a detailed re-evaluation of the risk/benefit analysis for citrus fumigation. The Agency concluded that the risks from citrus

fumigation far outweigh the benefits and that cancellation is the only viable means of reducing the risks from citrus fumigation. The Agency also is providing additional time before the effective date of cancellation to allow implementation of alternative control procedures. Subsequent to their review of the PD 2/3, the members of the SAP panel were provided with the new information the Agency has developed concerning the quarantine use, and they now indicate that they concur in EPA's choice of phased cancellation of this use.

c. *Similarities of EDB to DBCP.* The SAP recommended not using DBCP data in lieu of data on EDB for purposes of risk assessment. The Agency concurs with the Panel.

d. *Acceptability of alternatives relative to the toxic hazards of EDB for preplant and citrus fumigation.*

The Panel did not find the Agency's discussion of alternatives for soil fumigation and citrus to be sufficient regarding efficacy, practicality and cost feasibility. As stated earlier, the Agency carefully re-evaluated the risks/benefit analysis for citrus fumigation and concluded that cancellation was the only suitable means of controlling risks from citrus fumigation. The Agency has also performed a new and more complete assessment of the alternatives for these uses.

The Agency appreciates the Panel's thorough review of the pesticidal uses of EDB and thanks the Panel for their assistance.

B. Comments of the United States Department of Agriculture and EPA's Response

1. *COMMENTS OF THE DEPARTMENT OF AGRICULTURE.*

The comments of the Department of Agriculture regarding the Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of EDB (Proposed Notice of Cancellation) are presented below in their entirety.

April 6, 1981.

Honorable Walter C. Barber, Jr.
Acting Administrator, U.S. Environmental Protection Agency, Washington, D.C. 20460.

Dear Mr. Barber: This is the U.S. Department of Agriculture's response to the U.S. Environmental Protection Agency's Preliminary Notice of Determination concluding the Rebuttable Presumption Against Registration (RPAR) of pesticide products containing ethylene dibromide (EDB).

We concur in the decision to continue use of EDB for soil fumigation and to the postponement of a decision on several other uses pending receipt of additional data. We do not concur that EDB should be cancelled for fumigation of felled logs, or for quarantine purposes. It is our conclusion that there is insufficient information to adequately indicate that gamma irradiation is or will be a feasible substitute for EDB quarantine fumigation on a broad scale basis by July 1, 1983. We believe that in light of new information on use and the lack of viable alternatives the actions on these uses of EDB should be reevaluated.

We agree that more data are needed on residue levels of EDB on treated and processed commodities as well as more data on the effectiveness of worker and applicator protection techniques associated with EDB. We will cooperate with EPA and industry to provide additional data as necessary. Our specific comments are contained in the enclosure which is an integral part of this response. In view of the complex issues involved, the additional time that your Agency granted for review of this document was very beneficial and is appreciated.

Sincerely

John R. Block,
Secretary.

Enclosures.

Secretary of Agriculture's Specific Comments to EDB Notice of Determination PD 2/3

I. Preplant Soil Fumigation

USDA is willing to provide input and assistance to EPA and industry to develop acceptable experimental design and/or additional data to resolve concerns associated with potential residues on crops grown in soil that has been treated with EDB.

II. Fumigation of Stored Grain

More recent data has been developed from an interAgency study in SEA: AR, ASCS, and FGIS, which is now in progress to measure the level of insect and fungal activity in farm stored grain. This study consists of grain samples and storage information from about 4,000 bins of wheat, 3,000 bins of corn, and 1,000 bins of oats stored on farms in 20 states. Storage information obtained in this study includes a record of measures taken by the producer to maintain the quality of the grain during storage. Preliminary analysis of these data indicated that less than 3 percent of the wheat bins and less than 1 percent of the corn and oat bins were fumigated during the 1–4 year on-farm storage. Fumigation occurred most often during the second year of storage, generally in the late summer or early fall. Fumigant materials identified as being used in the farm treatment included aluminum phoshide, chloropicrin, and a liquid fumigant mixture composed entirely of carbon tetrachloride (CCl_4) and carbon disulphide (CS2) (80:20) or these two used in conjunction with 1.2 to 5 percent ethylene dibromide. An interim analysis of EDB use in on-farm storage may be estimated from the study now in progress which shows the following percentages of grain being treated with EDB.

GRAIN IN AMOUNT IN STORAGE

Storage	(1,000 bushels)	Percent treated	Lbs. EDB used
Wheat	972,054	2.0	52,492
Corn	2,494,504	.5	4,489
Oats	386,825	.25	349
Barley	240,442	.25	108
Sorghum	39,708	.25	54

The results of this study are expected to be tabulated in computer storage by May 1, 1981.

EDB liquid fumigant formulations are lebelled for use in both on-farm and commercial elevator storage. In actual prictice EDB fumigation of stored grain is concentrated in on-farm storage. Liquid formulations were developed specifically for this purpose. EDB is included in liquid grain fumigants to improve effectiveness in the upper layer of the treated grain. In the event of the cancellation of EDB for this use, farmers would have to switch to a less efficient liquid fumigant, 80 percent carbon tetrachloride/20 percent carbon disulfide or phosphine. Carbon tetrachloride is presently under RPAR review. The additional applications necessary for comparable control would result in both increased expense and exposure hazard because of lower efficiency. Some level of mixing with untreated grain would be expected in movement from on-farm storage, in further movement from the elevator, as well as mixing in the milling or other processing operations. The level of EDB (as organic bromide) in most processed products should, therefore, be low. Because of the changes in use patterns and the current availability of more accurate data on the volume of use, EPA's proposed regulatory action regarding fumigation of stored grain should be reevaluated.

III. Spot Fumigation of Grain Milling Machinery

Three types of fumigant furmulations containing EDB have been used in the fumigation of milling machinery. The two liquid types contained carbon tetrachloride (CCl_4), ethylene dichloride (EDC) and EDB in different proportions. The third type was a gaseous mixture of 70 percent EDB and 30 percent methyl bromide. Today, virtually the entire EDB usage in this industry involves the application of this 70:30 mixture and only one company is currently formulating it. The annual use of EDB for this purpose was originally estimated at 465,000 lbs. Interim data from the study mentioned previously indicate this use at approximately 162,000 lbs. The original estimate was based primarily on the use of the EDB liquid fumigant mixture and does not accurately reflect use of the present 70:30 mixture in the milling industry. As with grain fumigation, the exposure resulting from the amount of EDB known to be applied is much less than originally estimated. The primary alternative to spot fumigation is general fumigation of the entire structure. However, general fumigation is not feasible at the frequency necessary to obtain control equivalent to spot fumigation. Most mills cannot close completely for several days at a time. To obtain adequate insect control, mills would have to shut down four or more times per year. In addition, specialized mills such as those located in breweries cannot use either methyl bromide or phosphine in their plants because of the corrosive effects of these fumigants on materials in non-milling areas of the facility. The use of EDB does not pose this problem. The common use of manifold systems in spot fumigations serves to remove applicators from sites of gas generation, lessens the risk of spillage on applicators, and thus reduces hazards to these personnel. Good sanitation in milling areas is necessary for effective pest control; however, it will not serve as an alternative to EDB use which is still required since milling residues collect in unaccessible places in the machinery. The only alternative is spot treatment with a fumigant. Because of the changes in use patterns to the gaseous 70:30 mixture in the past few years, the current availability of more accurate data on volume of use, and the fact that proposed alternatives are not economically feasible and are associated with high risk, we strongly feel that EPA's proposed regulatory action regarding spot fumigation of milling machinery similarly should be reevaluated. EPA should strongly consider and evaluate the use of protective clothing and other safety options to minimize risk as an alternative to cancelling this critical use.

IV. Quarantine Fumigation

The registration for post harvest commodity quarantine uses should be continued for the following reasons:

1. As noted by EPA, there is presently no effective and practical alternative to EDB for these uses. The assumption that irradiation will be available by July 1983 is unrealistic. Although EPA has evidently had interaction with specialists in the field of irradiation, we are unaware of data demonstrating the feasibility of irradiation as a near term, viable, on-line alternative for bulk quantities of fruit. Data concerning the timeframes for getting on line, chamber design, as well as design and on-line costs should be made available. Research has been conducted by USDA, as well as other groups in Hawaii, California, Florida, Illinois, Massachusetts, and elsewhere, to determine if fresh fruits and vegetables will tolerate insect destroying rates of gamma irradiation. Much of this research is outlined in "The Proceedings of a Panel on The Use of Irradiation to Solve Quarantine Problems in the International Fruit Trade." (Attached) The Panel was organized by the joint Foreign Agriculture Organization and the International Atomic Energy Agency, Division of Atomic Energy in Food and Agriculture and held in Honolulu, Hawaii, in December 1970. A petition (FAP 3045) from USDA to FDA requesting approval of the use of gamma irradiation on papaya was submitted to FDA in 1973. The Food and Drug Administration has not acted on this petition during the past eight-year period. A new petition relating to these uses is in preparation. Additional research is needed on mango and papaya as well as citrus and other fruit to determine dosages necessary to control insect pests, potential injury to fruit, and chemical or other changes in fruit composition including feeding studies on nutritional value. This data collection will require considerable time and expense.

2. EPA noted in its Notice of Determination that USDA's estimated benefits of post-harvest commodity treatments on grapefruits for export market to Japan may be substantially overstated. The benefits estimates were premised on the assumption that the grapefruit export market to Japan will be lost if this registered use is canceled. This assumption has been validated. Communicaiton with the Government of Japan since the publication of PD 2/3 indicates that *Japan will not* approve of gamma irradiation as an alternative to EDB fumigation. The refusal is primarily on the basis that irradiation at the dosages used does not actually kill all fruitflies. In addition, Japan has indicated that even the effective use of gamma irradiation may still not be acceptable. However, they did state that they would continue to accept EDB treated fruit. (See attached letter of February 12, 1981, from American Embassy, Tokyo). Recent studies (SAND 79–1727, Attachment B) suggest that dosages of 25 to 75 K-rads will sterilize fruitfly larvae, but not kill them. However, this study did not statistically evaluate the effects of varying dosages of gamma irradiation on fruitfly egg, larval and pupal sterility and mortality, when infested commodities are subjected to irradiaiton. The results are of limited value in assessing gamma irradiation as an alternative to EDB for commodity treatment.

3. As indicated in USDA's biologic and economic assessment report, citrus and tropical fruits are imported from countries such as Mexico, Haiti, Israel, and Morocco, thereby strengthening our trade position with them. Of the crops received from those countries, cold treatment can only be used for oranges and is limited to certain insect growth stages at the time the fruit is harvested. The facilities for such treatment are not available and must be constructed and approved before shipments could be initiated. Further, in the case of Mexican oranges in addition to the expense involved, the delay of a minimum of three weeks for cold treatment would bring their fruit into competition with the California harvest and could virtually eliminate Mexican fruit from the U.S. market. In these cases, the Department's quarantine requirements cannot be met without the use of EDB.

4. EDB fumigation chamber operation, construction, and personnel safety specifications are available to meet or exceed proposed OSHA safety standards. A revised section of the PPQ Treatment Manual on EDB Fumigation Chambers was issued in July 1980. Fumigation conducted at packing sheds in Texas and Hawaii currently meet the proposed 0.13 ppm (time weighted average) for worker exposure. Further, a study was recently conducted entitled, "Behavioral Effects of Prenatal Exposure to Ethylene Dibromide." This study indicates that an exposure of 6.67 ppm EDB for four hours per day on alternate days throughout gestation did not result in an observable behavioral effect to the study animals. Tests determined that maternal behavior, sensorimotor coordination, activity, passive avoidance, complex learning and motivation were unaffected at exposure levels in the offspring of

VOL 48 ISS 1 1 9 7 OC 11 1983 UMI

exposed pregnant Long-Evans hooded rats. (These documents are attached).

5. The proposed cancellation of EDB post-harvest fumigation of citrus, tropical fruits and vegetables should not occur. This determination can be based upon the newly available safety data contained herein and the lack of effective alternatives. A reevaluation could be made when all the foregoing questions have been resolved. EPA should strongly consider and evaluate the use of protective clothing and other safety options to minimize risks as an alternative to cancelling these critical uses.

V. Fumigation of Felled Logs

EDB is an important use in the control of bark beetles where non-chemical control methods, including site slection and thinning, are not viable control options. EDB is only used after an infested tree has been cut. If the tree is not treated to destroy the beetles, they will emerge and attack adjacent trees. The proposed alternative, endosulfan, is not specifically registered for the particular insert of concern which is the mountain pine beetle (*Dendroctonus ponderosae*). There is no efficacy data comparing its effectiveness with EDB. Lindane would be the preferred alternative although it was not considered by EPA as a viable alternative due to its RPAR status. EDB should be classified as a restricted use pesticide, requiring protective clothing, and covering the treated stack of logs with heavy plastic. Such restrictions should adequately minimize exposure.

VI. Other Uses

We concur in the decision to postpone regulatory action concerning continued use of EDB for the control of termites, fumigation of beehive supers, vault fumigation of stored clothing and furniture, and Japanese Beetle quarantine control, until further data are acquired. We agree with the requirements for protective measures for applicators in these situations.

VII. Dietary Burden

The EPA calculations of dietary intake now appear to be inconsistent with actual use figures. While we support and encourage protection of the public health, the environment and agricultural workers, we question the EPA dietary exposure calculations in light of the more recent information outlined above concerning the quantities of EDB uses in fumigation of grain, milling equipment, and citrus.

VIII. Ongoing Studies

The Department is currently implementing a collaborative study for the anaylsis of EDB and carbon tetrachloride in wheat, citrus, and some of their processed products. The data obtained from this study will be subjected to a specific statistical treatment to establish the interlaboratory variation of the method for determining EDB. Participants in this study are USDA, EPA, citrus user groups, and private laboratories. The projected completion date is September 1981.

2. *Responses to the U.S. Department of Agriculture.* The Agency's responses follow USDA's subject headings of specific comments.

a. *Soil fumigation.* The USDA expressed willingness to provide assistance and information to help resolve the concerns associated with potential residues of EDB on crops as a result of soil fumigation. While the Agency appreciates USDA's offer, in light of the new information concerning groundwater contamination by this use, EPA has determined that products registered for this use pattern must be suspended immediately by an emergency suspension Order and these uses are subject to this Notice of Intent to Cancel. Although the soil fumigation uses were the subject of the proposed cancellation notice submitted to USDA as the PD 2/3, that document did not propose cancellation of these uses. Therefore, to the extent required by FIFRA 6(b)(2), the Administrator waives the further requirement of notice and consultation with the Secretary of Agriculture under that provision because these uses are suspended on an emergency basis.

b. *Fumigation of stored grain.* The USDA suggested that the Agency reevaluate the proposed cancellation of EDB fumigation of stored grain based on changes in use patterns and the availability of more data on the volume of use.

The Agency received substantive comments from the USDA, OSHA and others regarding cancellation of EDB fumigation of stored grain. The stored grain use has been reevaluated in detail. The Agency believes applicator exposure could be reduced substantially; however, there remains exposure of workers involved in handling and transporting fumigated grain and a high dietary risk to the general public. The Agency believes that cancellation will result in the use of aluminum phosphide products, carbon tetrachloride-based formulations and other products that are effective, readily available, and already in widespread use. In addition, these substitutes for EDB are less costly. The Agency believes there are no other viable regulatory options available to reduce the risks involved with this use of EDB.

c. *Spot fumigation of grain milling machinery.* The USDA suggested that the Agency reevaluate the proposed cancellation of EDB for spot fumigation of milling machinery. The suggestion was based on changes in use patterns, availability of data regarding use, and the economics and risks associated with the alternatives.

The Agency has reevaluated spot fumigation of milling machinery and has concluded that cancellation of this use remains the only appropriate regulatory alternative. Continued use would present unacceptable risks to applicators, mill workers, and members of the general public. Although none of the alternatives for this use of EDB is completely satisfactory, none presents risks approaching that of EDB, and the Agency believes the alternatives will be reasonably efficacious.

d. *Quorantine fumigation.* The USDA opposed the cancellation of EDB used as a post-harvest, quarantine fumigant for citrus, tropical fruits and miscellaneous vegetables. The USDA urged that lack of effective and practical alternatives for this use, loss of grapefruit export to Japan, questionable efficacy of gamma irradiation, quarantine programs for fruit imported from other countries, and current worker safety programs at fumigation chambers are all factors which support continued registration.

At the request of the USDA and other interested parties, the Agency performed a detailed reevaluation of the use of EDB for quarantine fumigation of citrus and other tropical fruits and permitted registrants and user groups to present new information. This reevaluation indicates greater dietary risks than were estimated earlier and potentially lower benefits.

Adverse impacts may be reduced over those estimated in PD 2/3 due to several factors. APHIS has recently implemented a mexican fruit fly certification program in Texas which should reduce (over time) the absolute volume of EDB applied to Texas citrus shipped to California and Arizona. Furthermore, experimental results indicate that cold storage of Florida citrus shipped to Japan adequately disinfests the fruit while maintaining fruit quality. Although the technique has been demonstrated as technologically feasible, Japan has not yet accepted this quarantine method for the

Mediterranean fruit fly. Research on disinfestation of produce with irradiation treatment is also continuing.

The Agency is aware of current efforts to reduce applicator and dietary exposure problems; however, the estimated lifetime cancer risks and other expected adverse health effects remain unacceptable.

The Agency, therefore, has determined to cancel the registration for post-harvest quarantine use of EDB effective September 1, 1984. The Agency is extending the original effective date proposed for cancellation from July 1983, to September 1, 1984 to provide sufficient time to allow commercial development of the new, demonstrated treatment capabilities. Although the Agency recognizes that exposures during the phase out period will pose some risk, it believes that the risks can be reduced to acceptable levels during the brief interim phaseout period.

e. *Fumigation of felled logs.* The USDA did not concur with the proposed cancellation of EDB fumigation of felled logs to control the mountain pine bettle (*Dendroctonus ponderoae*). The USDA indicated that lindane is actually the preferred alternative, but due to its RPAR status, was not considered viable.

The Agency's opinion is that the use of EDB to fumigate felled logs presents unreasonably high risks to applicators. Lindane, applied properly and with the use of protective equipment, does not present unreasonable health risks to applicators. Because the Agency expects to permit continued registration of lindane, the economic impacts of cancelling EDB for this use are negligible. The Agency's decision is to cancel the registration of products for fumigation of felled logs with EDB.

f. *Other uses.* The USDA concurred with the decision to postpone regulatory action concerning the use of EDB for termite control, fumigation of stored beehive supers and honeycombs, vault fumigation, and Japanese beetle quarantine control. The Department also agreed that additional data are necessary regarding these uses and that additional protective measures are required to reduce applicator exposure.

g. *Dietary burden.* The Agency's estimates of dietary exposure were questioned by the USDA in light of additional data that were submitted to the Agency subsequent to the PD 2/3. The uses of EDB for stored grain fumigation, spot fumigation of grain milling equipment and citrus quarantine were questioned specifically. As was discussed earlier, under each appropriate subject heading, the Agency reevaluated benefits and risks for a number of uses including grain milling machinery, and citrus and tropical fruit quarantine fumigation. The Agency's decisions regarding these uses have been discussed earlier in this Notice.

V. Procedural Matters

This Notice announces the Administrator's intent to cancel the registrations of each product containing ethylene dibromide (EDB) as an active ingredient, and to deny any application for registration of a pesticide product containing EDB as an active ingredient, unless in each case the product's labelling complies (or is modified to comply) with the requirements of this Notice. As provided by FIFRA sections 6(b) and 3(c)(6), the cancellation and denial actions set forth in this Notice become final and effective at the end of 30 days from receipt by the registrant or applicant, or publication of this Notice (whichever is later), unless within that time either: (i) The registrant or applicant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the Notice. This unit of the Notice explains how registrants and applicants may seek to modify the terms and conditions of registration to make any necessary corrections, and how registrants, applicants, and other adversely affected parties may request a hearing on the actions set forth in this Notice.

A. Summary of the Requirements of This Notice

The Agency has determined that no corrections to the terms and conditions of registration will be sufficient to prevent the cancellation of products registered for most uses of EDB. These products include all EDB products registered for soil fumigation, quarantine fumigation of vegetables, tropical fruits and citrus fruit, the fumigation of stored grains, the spot fumigation of grain milling equipment, and the fumigation of felled logs. The effective date of cancellation of the registrations of products for quarantine fumigation, however, is to be delayed until September 1, 1984. The registrations of products labeled for any of these uses, therefore, will be cancelled unless action is taken within the time period provided by this Notice to amend the registrations to delete these uses, or unless an administrative hearing is properly requested during the period provided by this Notice in order to contest the cancellation of the registration of the product for specified uses.

Products containing EDB registered only for fumigation of beehive supers and honeycombs, vault fumigation, Japanese beetle control and termite control may avoid cancellation if certain changes are made in their registrations. The modification to the terms and conditions of registration required for products registered for each of these uses have been set forth in detail in Unit III. D. of this Notice. The changes required to continue the registrations of these products must be made in compliance with the procedures set forth in Subunit B below. Unless the necessary steps to amend the registrations are taken within 30 days, or unless a hearing is properly requested to contest the cancellation of the registration of a specific EDB product for specific uses, the cancellation of the registration will become final at the end of 30 days from receipt of this Notice by the registrant or publication in the **Federal Register**, whichever is later.

Finally, EPA is aware of a number of pesticide products containing EDB which are not federally registered and which are being marketed under the authority of 40 CFR 162.17. The Agency hereby notifies all persons producing or distributing such products that they must submit a full application for Federal registration, including all required supporting data as prescribed by the provisions of section 3 of FIFRA, of 40 CFR Part 162, and of P.R. Notice 83–4 and 83–4a, within 30 days of receipt of this Notice or publication in the **Federal Register**, whichever is later. The Agency further notifies all such applicants that only products which conform with the requirements of this Notice will be registered. Any person who wishes to register a product which would not conform with the requirements of this Notice is informed that this Notice is a denial of his application, and that if he wishes to contest the denial, he must request a hearing within the applicable 30-day period provided by this Notice.

The 30-day period in which to request a hearing applies to all regulatory actions proposed in this Notice, including all denials of registration, all cancellations (including the delayed effective date cancellation of quarantine fumigation), and all registrations which must be amended to implement changes in the terms and conditions of use in order to avoid cancellation.

B. Procedures for Amending the Terms and Conditions of Registration

To make the changes required to avoid cancellation, registrants must apply for an amended registration requesting that the necesary corrections be made. In addition, any applications for Federal registration pursuant to 40

CFR 162.17 must be submitted. Applications for an amended registration, copies of the amended labeling, and applications for registration pursuant to 40 CFR 162.17, must be submitted to: By mail: William Miller, Product Manager (PM–16), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. In person, bring material to: Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2600).

All questions conerning changes which must be made to the registrations of affected products and all applications to amend the affected registrations, or any requests for extension of time to apply for an amendment should be submitted to Mr. Miller before the close of the applicable 30-day period specified in Subunit C below. No extensions will be granted without the express written agreement of EPA. No request for an extension will be considered unless the applicant for registration or amended registration promises the Agency in writing that he will submit a full application which will conform with the requirements of this Notice by a date agreed to by the Agency and the applicant. In no event may any product be distributed, sold, held for sale, offered for sale, shipped, delivered for shipment, or received and (having been so received) delivered or offered to be delivered to any person, if the product's label contains any uses which have been suspended or finally cancelled for that product's registration.

C. Procedure for Requesting a Hearing

Any registrant adversely affected by the cancellation actions described above, and any applicant for registration whose application has been denied by this Notice, may request a hearing on such actions within 30 days of receipt of this Notice, or within 30 days from publication of this Notice in the **Federal Register**, whichever occurs later. Any other person adversely affected by the cancellation actions described above, or any interested person with the concurrence of an applicant whose application for registration has been denied, may request a hearing within 30 days of publication of this Notice in the **Federal Register**.

Each person who requests a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require, among other things, that (1) each request must identify the specific registration(s) by registration number(s) and the specific use(s) (e.g. crops) for which a hearing is requested, (2) each request must be accompanied by objections that are specific for each use of the identified pesticide products for which a hearing is requested, and (3) each request must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing.

Requests for a hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

D. Consequence of Filing or Failing to File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice for Hearings under FIFRA section 6 (40 CFR part 164). In the event of a hearing, cancellation of the registrations for the uses which are the subject of the hearing will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing. Similarly, in the event of a hearing, each denial of registration for the uses which are the subject of the hearing will not become effective prior to the final order of the Administrator at the conclusion of the hearing. The hearing will be limited to the specific uses and specific registrations or applications for which the hearing is requested.

2. *Consequences of failure to file in a timely and effective manner.* If no hearing is requested regarding specific registration(s) and/or specific use(s), the cancellation of such registrations and/or of all registrations for such use(s) becomes effective 30 days after publication of this Notice, or receipt by the affected registrant, whichever comes later.

A registrant may contest the cancellation of his registration for some uses of a product, while modifying the terms and conditions of the registration of the same product to bring it into compliance with the requirements of this Notice. In order to do so, he must (1) make a timely request for a hearing challenging the cancellation of the registration of the product for the uses which he wishes to contest, and (2) make a timely application for amendment to modify the terms and conditions of the registration for uses permitted under this Notice which he wishes to retain.

E. Separation of Functions

The Agency's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. 40 CFR 163.7.

Accordingly, the following Agency offices, and the staffs thereof, are designated as the trial staff to represent the Agency as a party in this case: the Office of Pesticides and Toxic Substances; the Office of General Counsel; and the Office of Enforcement Counsel.

From the date of this Notice until the final Agency decision in this case, neither the presiding Administrative Law Judge, the Judicial Officer, the Deputy Administrator, the members of the staff of the immediate office of the Deputy Administrator, the members of the staff in the immediate office of the Administrator, nor the Administrator shall have any *ex parte* communication with the trial staff or any other interested person not employed by EPA, on the merits of any of the issues involved in this proceeding.

Dated: September 28, 1983.

William D. Ruckelshaus,

Administrator.

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October 11, 1983

Part IX

Department of Transportation

Federal Aviation Administration

Flammability Requirements for Aircraft Seat Cushions; Notice of Proposed Rulemaking

VOL
48
ISS
1
9
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11
1983
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DEPARTMENT OF TRANSPORTATION

14 CFR Parts 25, 29, and 121

[Docket No. 23791; Notice No. 83-14]

Flammability Requirements for Aircraft Seat Cushions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to establish new and more stringent flammability requirements for seat cushions used in transport category aircraft certificated under Part 25 and Part 29 and to require that the cushions in transport category airplanes type certificated after January 1, 1958, and operating under Part 121 comply with these new requirements after a specified date. The proposed requirements would be in addition to the present flammability requirements contained in the Federal Aviation Regulations (FAR). This proposal is a result of research and fire tests, both small-scale and full-scale, and is intended to increase aircraft fire safety.

DATES: Comments must be received on or before February 8, 1984.

ADDRESS: Comments on the propsoal are to be marked "Docket No. 23791" and mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23791, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in duplicate to; Room 916, 800 Independence Avenue SW., Washington, D.C. Comments may be inspected at Room 916 on weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Henri Branting, Technical Analysis Branch (AWS-120), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8382.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impact of this proposal. The comment should carry the regulatory docket or notice number and be submitted in duplicate to the address above. All comments received as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for comments.

Before taking any final action on the proposal, the Administrator will consider the comments made on or before the closing date, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter submits a self-addressed, stamped postcard with the comment and on the postcard the following statement is made: "Comments to Docket No. 23791." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future notices of proposed rulemaking should also request a copy of Advisory Circular No. 11-2, Notice of proposed Rulemaking Distribution System, which describes the application procedure.

Background

This notice responds in part to the findings and recommendations of the Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee and is the result of supporting research and development carried out by the Ames Research Center of the National Aeronautics and Space Administration, and by the FAA Technical Center.

As a result of information from public hearings on aircraft fire safety, the FAA established the SAFER Advisory Committee in June 1978. The Committee was directed to "examine the factors affecting the ability of the aircraft cabin occupant to survive in the post-crash environment and the range of solutions available." The Committee consisted of 24 representatives of a wide range of aviation and general public interests. The Committee technical support groups included approximately 150 of the world's top experts in fire research, accident investigation, materials development, and related fields. At the conclusion of its investigation into cabin materials technology, the Committee issued findings and formal recommendations pertaining to long-range research, design, testing, and the problems of smoke and toxic gas emission. One recommendation was that the fire blocking layer concept be develped for aircraft seat cushions as a means of retarding flame spread. The FAA concurred in this recommendation and carried out the research and development necessary for implementation of the concept. This proposal is a result of that research and development. The proposal would amend the type certification standards for both transport category airplanes and transport category rotorcraft, since the flammability requirements for these two categories of aircraft are identical.

Aircraft seat cushions are typically constructed of fire-retardant polyurethane foam and an outer upholstery covering, all of which must presently pass the small-scale upholstery covering, all of which must presently pass the small-scale Bunsen burner tests prescribed in § 25.853 of the Federal Aviation Regulations (FAR). In a prolonged full-scale cabin fire condition, however, the severity of thermal radiation can break down the outer upholstery covering and penetrate into the relatively large fuel mass of the polyurethane foam core. This causes the core to become involved in the fire, spreading flame and producing potentiallyl ethal smoke, combustible gases, and toxic gases. The results of accident investigations and numerous experimental fire tests conducted by the FAA have demonstrated that this involvement of foam cushion material is a dominant factor in the spread of cabin fire. To counter this, performance standards for seat cushions based on the level of protection that can be achieved by the fire blocking layer concept are proposed in this notice.

The fire blocking layer concept involves the use of a thin layer of highly fire-resistant cloth or foam material to completely encapsulate and protect the larger mass of foam core material of a cushion from involvement in the cabin fire. This layer of fire resistant cloth or foam material thus delays the onsite of ignition and retards the involvement of the core in the fire. FAA research has confirmed the efficacy and practicality of this concept for aircraft seat cushions.

The initial phase of the FAA research program for fire blocking layers consisted of a series of fully instrumented, controlled environment, cabin fire tests. These tests subjected numerous sets of seats to intense and realistic full-scale cabin fire conditions. The tests were conducted on both standard cushions typical of airline service today and various experimental fire-blocked cushions constructed of polyurethane foam. Several cushions constructed of nonfire blocked experimental polyimide foam were also tested. Comparison of the results of these tests confirmed clearly that in a full-scale cabin fire, including those involving fire from a major fuel spill, properly fire-blocked cushions substantially delay the onset of ignition and reduce the spread of flame and products of combustion. This relates directly to increased time available for the occupants to evacuate the airplane. The test results applied through theoretical modeling indicate that an increase of at least 40 seconds in postcrash evacuation and survival time can be gained through the use of fire-blocked cushions. For each floor-level emergency exit equipped with a single-lane escape slide typically capable of handling one evacuee per second, this could mean the evacuation of an additional 40 passengers; for a double-lane slide, such as those in wide-body transports, an additional 80 passengers.

The phase of the research program which developed the design technology included work carried out for the FAA by the Ames Research Center of the National Aeronautics and Space Administration. This work examined the potential of the fire blocking concept and nonfire blocked experimental foams for providing an optimal seat cushion with adequate fire protection at minimal weight and cost. Combinations of various fire blocking materials and polyurethane foams were investigated. The results of this work are published in FAA Report No. DOT/FAA/CT-82-132, Optimization of Aircraft Seat Cushion Fire Blocking Layers, dated March 1983, available from the National Technical Information Service, Springfield, Virginia 22161.

One phase of the research program developed the test for evaluation and certification of cushions. This test used an adaptation of the type of 2 gallon/hour kerosene burner which is currently in standard use throughout industry as a high-intensity fire test for metallic tubing assemblies and components. As adapted, this test subjects the cushion test specimen to temperature and heat flux typical of full-scale cabin fire and is far more realistic and severe than the Bunsen burner tests currently required in Part 25 for cushion materials.

Full-scale tests demonstrate that, by reducing the onset of flashover, the improved cushions greatly reduce smoke and gases in both inflight and post-crash fires, but no specific limits are proposed on these emissions, because at present there are no small-scale tests to measure smoke and gas emission from a full-size cushion assembly. Smoke and gas emission continues to be the subject of FAA long-range research. Setting limits on the emissions of smoke and gases from cabin furnishings, including cushions, may be considered in the future when the results of this research are available and the development of a suitable small-scale test are complete.

While any one of several burner models can be used for this type of test, the burner used in the FAA fire blocking layer test apparatus was the Park Model DPL, available from Park Oil Burner Manufacturing Company, North New York Avenue and Absecon Boulevard, Atlantic City, N.J. 08401.

Other equipment items used in the FAA test apparatus included: Model No. 1000-1 calorimeter, available from Thermogage Inc., 330 Allegany Street, Frostburg, Maryland 21532; Marinite I Insulating Block, a durable alternative to sheet-rock, available from Johns-Manville Corporation, Ken-Caryl Ranch, Denver, Colorado 80217; Ceramocouple thermocouples available from Thermo Electric Company, Inc., Saddle Brook, N.J. 07662; and the Model No. 4644AP weight scale, with a 25-pound capacity, available from Toledo Scale Co., Toledo, Ohio.

The FAA is considering the need to propose similar flammability requirements for seat cushions in small airplanes and rotorcraft used in Part 135 operations. Regulatory action in this regard would be the subject of a separate notice.

Discussion of Proposal

Flammability Requirements

This proposal would establish more stringent flammability requirements for seat cushions for type certification of transport category airplanes and rotorcraft and for most of th airplanes operating under Part 121. Under this proposal, seat cushions would be required to meet the Bunsen burner test requirements in the present regulations as well as the new flammability requirements. The proposed criteria for acceptance are based, in part, on the percentage weight loss of the cushion specimen during the test. Weight loss is a direct measure of the involvement of the material in the fire and a relevant indication of the merit of the cushion, for both fire blocked and nonfire blocked construction. The criteria proposed would limit the average weight loss of all specimens tested to 10 percent. From the study of various experimental cushions, at 10 percent limit would represent a major advancement in fire safety, while is would allow a variety of commercially available foam and fire blocking materials to be used that would be adequate for design innovation and that also would be optimal from the standpoint of weight and costs. While the proposal is based on the performance attained by cushions constructed with fire blocking layers, the proposal would not require that all seat cushions be constructed in that way. Rather, the proposal would set objective standards of performance for seat cushions.

Other Requirements

This document proposes that 3 years from the effective date of the final regulation, all seat cushions in compartments occupied by crew or passengers of airplanes type certificated after January 1, 1958, and operated under Part 121 meet the new requirements. The limited number of airplanes type certificated before January 1, 1958, which are operating under Part 121 are not included because the relatively advanced age and smaller sizes of these airplanes make compliance with the proposed requirements impractical from and economic standpoint. The 3-year period was taken as the typical life span of airline seat cushions and is intended to allow the airlines to come into compliance with the new requirements while routinely replacing cushions in service. Comments on the adequacy and appropriateness of this particular time period are requested.

Long-term cyclical flotation tests were performed on several experimental fire blocked cushions and indicated that cushions can be designed to meet fire blocking requirements as well as the requirements for individual flotation devices under Technical Standard Order (TSO)-C72b.

The test criteria proposed in this notice also include detailed drawings and specifications suitable for use in the construction of test apparatus.

Regulatory Evaluation

In the future several materials and designs may be developed which will comply with these proposed flammability requirements. However, this regulatory evaluation is based on the use of fire blocking layers on seat cushions, which is considered the best technology available at this time.

Compliance with the proposal would result in a lower fatality rate, lower injury rate, less severe injuries, and lower property damage as result of fire. As a result of the more stringent flammability standards which are

proposed for seat cushions, the estimated rate of survival could be increased so that between one-third and two-thirds of those who are not killed by trauma from a crash might be saved. Projections of 4.05 billion enplanements for the period of 1984-1993 indicate that compliance with the proposed standards would save between 247 and 494 lives. At a value of $653,000 for life saved,[1] the range of benefit for loss of life is $16.4 to $32.0 million per year.

Accident data are not sufficiently detailed to permit an estimate of the number of nonfatal injuries that could be prevented by compliance with the proposed standards, but injuries as a result of a fire are quite serious in terms of human and material costs. For the purposes of this rulemaking, the FAA is assuming that the dollar saving from the reduction in nonfatal injuries would be approximately equal to 10 percent of total savings that result from the prevention of fatalities.

The savings with respect to property damage are also difficult to quantify since in a crash followed by a fire, there is no way to apportion the damage as that attributable to the crash and that attributable to the fire. A number of ramp fires have occurred which have resulted in serious property damage and which might have been reduced in severity if the proposed seat cushion standards existed. If the proposed standards only saved aircraft from such ramp damage, the savings could range from $500,000 to $1 million per year.

Table 1 summarizes the benefit estimated for an average forecast year.

TABLE 1.—SUMMARY OF ANNUAL BENEFIT ESTIMATES[1]

[In millions of dollars]

	Low range	High range
Fatalities prevented	16.4	32.0
Nonfatal injuries prevented	1.6	3.2
Property damage prevented	0.5	1.0
Total	18.5	36.2

[1] Average for period 1984-1993, after phase-in period.

Cost of Compliance

The National Aeronautics and Space Administration (NASA) conducted studies in which cost scenarios were developed for 12 different fire safety improvement options. Each of the 12 options was examined for 3 different periods of compliance. The three periods examined were: (1) Immediate compliance for both existing and newly manufactured aircraft; (2) immediate compliance by newly manufactured aircraft and no replacement of existing equipment; and (3) a phase-in period of 3 years (based on an assumed average 3-year life for seat cushions in service), after which all aircraft operating under Part 121 would have to comply with the proposed standards.

The cost estimates considered the weight of various seat types, the fuel characteristics of the fleet, the cost to purchase materials, and the manufacture of seats.

Of the 12 options tested, the FAA is basing its cost estimate upon seats using a Norfab fire blocking layer over fire retardant urethane. This option presently appears to be the most reasonable and economical means of compliance. The NASA findings estimate that this seat option would cost $17.7 million in 1982 dollars, or $18.5 million in 1983 dollars, using a 4.5 percent inflation factor.

Minimum benefits are estimated at $18.5 million annually which would balance the annual fleet cost of $18.5 million in 1983 dollars, while the maximum estimated benefits would be almost twice the cost. The benefit/cost ratios are summarized in Table 2.

TABLE 2.—SUMMARY OF BENEFITS AND COSTS AVERAGE YEAR 1984–1993

[In millions of dollars]

Benefits	Minimum	Average	Maximum
Fatalities prevented	16.4	24.2	32.0
Nonfatal injuries prevented	1.6	2.4	3.2
Property damage prevented	0.5	0.7	1.0
Total	18.5	27.3	36.2
Cost estimate	18.5	18.5	18.5
Benefit/cost ratio	1.00	1.48	1.96

Some of the key assumptions in the NASA studies were that conversion of cushions to include a fire-blocking layer would not require special maintenance downtime for aircraft and that the producers of fire-blocking layer materials would have adequate capacity to produce necessary material at reasonable prices. Comments on industry's ability to produce these materials in adequate quantities to support the 3-year compliance period are requested.

The National Bureau of Standard (NBS) is conducting a benefit cost analysis of fire blocking layers for seat cushions under an agreement with the FAA. The NBS will review each relevant accident in detail and will also review the estimated costs of compliance with this proposal. The present study covers the same general areas as the NBS research, although in less detail. The NBS study will be completed before any final rule is issued. It will be placed in the docket for inspection and made available on request. If the FAA proceeds to final rulemaking the NBS study, together with all comments thereon, as well as all other studies and related comments filed in the docket, will form the basis for the agency final actions.

List of Subjects

14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety, Tires.

14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Safety, Tires, Rotorcraft.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air traffic control, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Airports, Airspace, Airworthiness directives and standards, Beverages, Cargo, Chemicals Children, Narcotics, Flammable materials, Handicapped, Hazardous materials, Hours of Work, Infants, Liquor, Mail, Drugs, Pilots, Smoking, Transportation, Common carriers.

The Proposed Rule

Accordingly, the Federal Aviation Administration proposes to amend Parts 25, 29, and 121 of the Federal Aviation Regulations (14 CFR Parts 25, 29, and 121) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. By amending § 25.853 by redesignating present paragraphs (c) through (e) as new paragraphs (d) through (f) and adding a new paragraph (c) as follows:

§ 25.853 Compartment interiors.

* * * * *

(c) In addition to meeting the requirements of paragraph (b) of this section, seat cushions must meet the test requirements of Part II of Appendix F of this part.

* * * * *

2. By amending Appendix F to Part 25 by removing the introductory sentence and by designating the text of Appendix F to Part 25 as follows:

Appendix F

Part I—An Acceptable Test Procedure for Showing Compliance With §§ 25.853, 25.855, and 25.1359

* * * * *

[1] Based on *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs*, FAA, September 1981. Values are updated to 1983 dollars.

3. By amending Appendix F to Part 25 by adding a new Part II to read as follows:

Appendix F

* * * * *

Part II—Flammability of Seat Cushions

(a) *Criteria for Acceptance.* Each seat cushion most meet the following criteria:

(1) At least three sets of seat bottom and seat back cushion specimens must be tested.

(2) If the cushion is constructed with an outer layer of fire blocking material, the fire blocking material must completely enclose the cushion foam core material and there must be provision for venting internal cushion pressure.

(3) Each specimen tested must replicate the seat bottom and seat back cushion for which the testing of compliance is performed.

(4) For at least one-half of the total number of specimen sets tested, the flame spread from the burner must not reach the side of the cushion opposite the burner. The flame spread after the test is determined by measuring the extent of the charring on the outer upholstery of each seat bottom and each seat back cushion specimen.

(5) For all specimen sets tested, the average percentage weight loss must not exceed 10 percent. The percentage weight loss for a specimen set is the weight of the specimen set before testing less the weight of the specimen set after testing expressed as the percentage of the weight before testing.

(6) At no time during any test may the foam material of a cushion specimen form a flaming accumulation of melted material beneath the specimen.

(b) *Test Conditions.* Vertical air velocity in the vicinity of the test must not exceed 100 feet per minute. Horizontal air velocity must be kept to a minimum.

(c) *Test Specimens.* (1) For each test, one set of cushion specimens representing a seat bottom and seat back cushion must be used.

(2) The seat bottom cushion specimen, including the outer upholstery covering and fire blocking layer if used, must be 18 inches (457 mm) wide by 20 inches (508 mm) deep by 4 inches (102 mm) thick.

(3) The seat back cushion specimen, including the outer upholstery covering and fire blocking layer if used, must be 17 inches (432 mm) wide by 25 inches (635 mm) high by 2 inches (51 mm) thick.

(4) The seat bottom and seat back cushion specimens must be made of the materials (including upholstery covering) used in the cushions subject to the demonstration of compliance.

(5) The specimens must be conditioned at 73°F, plus or minus 5° (23°C, plus or minus 2°) for at least 24 hours before testing.

(d) *Test Apparatus.* The arrangement of the test apparatus is shown in Figures 1 through 5 and must include the components described in this section. Minor details of the apparatus may vary, depending on the model burner used.

(1) *Specimen Mounting Stand.* The mounting stand for the test specimens consists of steel angles, as shown in Figure 1. The length of the mounting stand legs may vary from a minimum of 12 inches, to allow for adjustment to the stand used to support the 2 gallon/hour kerosene burner. The mounting stand must be used for mounting the test specimen seat bottom and seat back, as shown in Figure 2.

(2) *Test Burner.* The burner to be used in testing must—

(i) Be a modified gun type;

(ii) Have an 80° spray angle nozzle nominally rated for 2.25 gallons/hour;

(iii) Have a 12-inch (305 mm) burner extension installed at the end of the draft tube, with an opening 6 inches (152 mm) high and 11 inches (280 mm) wide, as shown in Figure 3; and

(iv) Have a burner fuel pressure regulator that is adjusted to an operating pressure of 85 pounds per square inch gage for a 2.25 gallon/hour nominally rated 80° nozzle, delivering the 2.03 gallons/hour kerosene required for the test.

Burner models which have been used successfully in testing are the Lennox Model OB-32, Carlin Model 200 CRD, and Park Model DPL. FAA published reports pertinent to this type of burner are: 1) Powerplant Engineering Report No. 3A, Standard Fire Test Apparatus and Procedure for Flexible Hose Assemblies, dated March 1978; and 2) Report No. DOT/FAA/RD/78/213, Reevaluation of Burner Characteristics for Fire Resistance Tests, dated January 1977.

(3) *Calorimeter.* (i) The calorimeter to be used in testing must be a 0–15.0 Btu/ft²-sec. (0–17.0 W/cm²) calorimeter mounted in a 6 by 12 inch (152 by 305 mm) by ¾ inch (19 mm) thick insulating block which is attached to a steel angle bracket for placement in the test stand during burner calibration, as shown in Figure 4.

(ii) Because crumbling of the insulating block with service can result in misalignment of the calorimeter, the calorimeter must be monitored and the mounting shimmed, as necessary, to ensure that the calorimeter face is in a plane parallel to the exit of the test burner cone.

(4) *Thermocouples.* The seven thermocouples to be used for testing must be 1/16-inch, ceramic sheathed, type K, grounded thermocouples with a nominal 30 American wire gage (AWG)-size conductor. The seven thermocouples must be attached to a steel angle bracket to form a thermocouple rake for placement in the test stand during burner calibration, as shown in Figure 5.

(5) *Apparatus Arrangement.* The test burner must be mounted on a suitable stand to position the exit of the burner cone a distance of 4 inches from one side of the specimen mounting stand. The burner stand should have the capability of allowing the burner to be swung away from the specimen mounting stand during warmup periods. During the test the exit of the burner cone and the flame impingement must be centered on the 4-inch by 20-inch side of the bottom cushion test specimen, as shown in Figure 2.

(6) *Instrumentation.* A recording potentiometer or other suitable instrument with an appropriate range must be used to measure and record the outputs of the calorimeter and the termocouples.

(7) *Weight Scale.* A scale with 2/100th-pound (9 grams) graduations and a minimum 10-pound (5.54 kg) capacity must be used for obtaining the weight of each set of seat cushion specimens before and after the test.

(8) *Timing Device.* A stopwatch or other device must be used to measure the time of application of the burner flame.

(e) *Preparation of Apparatus.* Before calibration, all equipment must be turned on and the burner fuel must be adjusted as specified in paragraph (d)(2).

(f) *Calibration.* To ensure the proper thermal output of the burner, the following test must be made:

(1) Place the thermocouple rake on the test stand as shown in Figure 5 at a distance of 4 inches (102 mm) from the exit of the burner cone.

(2) Turn on the burner, allow it to run for 2 minutes for warmup, and adjust the burner air intake damper to produce a minimum of 1,850° F (1,010° C) on all thermocouples. Turn off the burner.

(3) Replace the thermocouple rake with the calorimeter (Figure 4).

(4) Turn on the burner and ensure that the calorimeter is reading a minimum of 10.0 Btu/ft²-sec. (11.4 Watts/cm²). If the calorimeter does not read this, repeat steps in paragraphs (1) through (4) and adjust the burner air intake damper until the proper calorimeter reading is obtained.

(5) Turn off the burner and remove the calorimeter.

(g) *Test Procedure.* The flammability of each set of specimens must be tested as follows:

(1) Record the weight of each set of seat bottom and seat back cushion specimens to be tested to the nearest 2/100th of a pound (9 grams).

(2) Mount the seat bottom and seat back cushion test specimens on the test stand as shown in Figure 2, securing the seat back cushion specimen to the test stand with safety wire, if necessary.

(3) Swing the burner into position and ensure that the distance from the exit of the burner cone to the side of the seat bottom cushion specimen is 4 inches (102 mm).

(4) Swing the burner away from the test position. Turn on the burner and allow it to run for 2 minutes to provide adequate warmup of the burner cone and flame stabilization.

(5) To begin the test, swing the burner into the test position and simultaneously start the stopwatch.

(6) Expose the seat bottom cushion specimen to the burner flame for 2 minutes and then turn off the burner. Allow the specimen set to self-extinguish.

(7) Remove the remains of the set of seat bottom and seat back cushion specimens and record the weight of the remains to the nearest 2/100th of a pound (9 grams).

(h) *Test Report.* With respect to all specimen sets tested for a particular seat cusion for which testing of compliance is performed, the following information must be recorded:

(1) An identification and description of the specimens being tested.

(2) The number of specimen sets tested.

(3) The initial weight and residual weight of each set, and the calculated average percentage weight loss for the total number of sets tested.

(4) For each set tested, the extent to which observable charring of the outer upholstery reached the opposite side of the cushion.

(5) For each set tested, the extent to which the melted material formed a flaming accumulation beneath the specimen being tested.

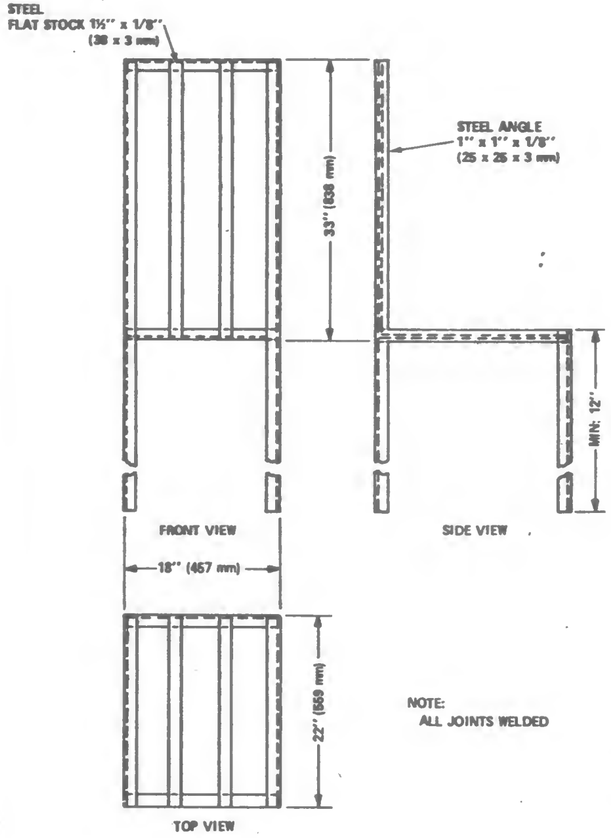


FIGURE 1 TEST STAND

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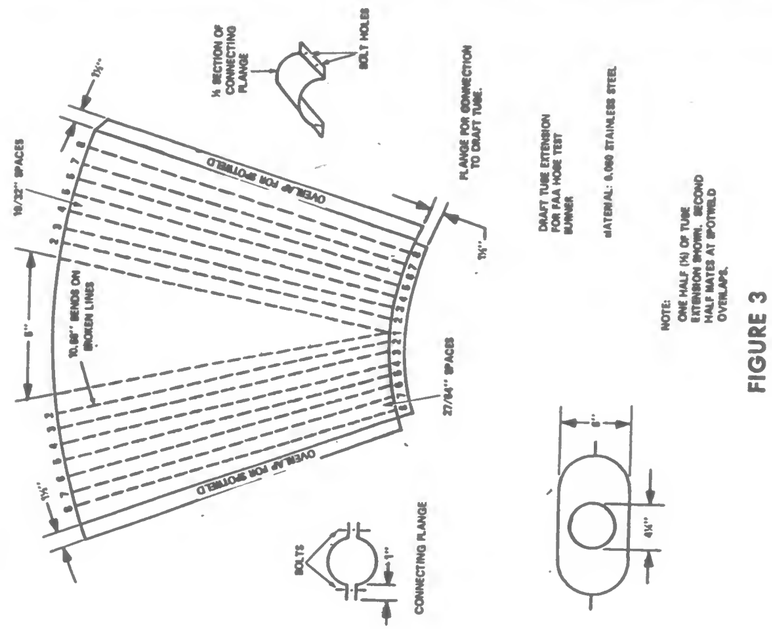


FIGURE 3

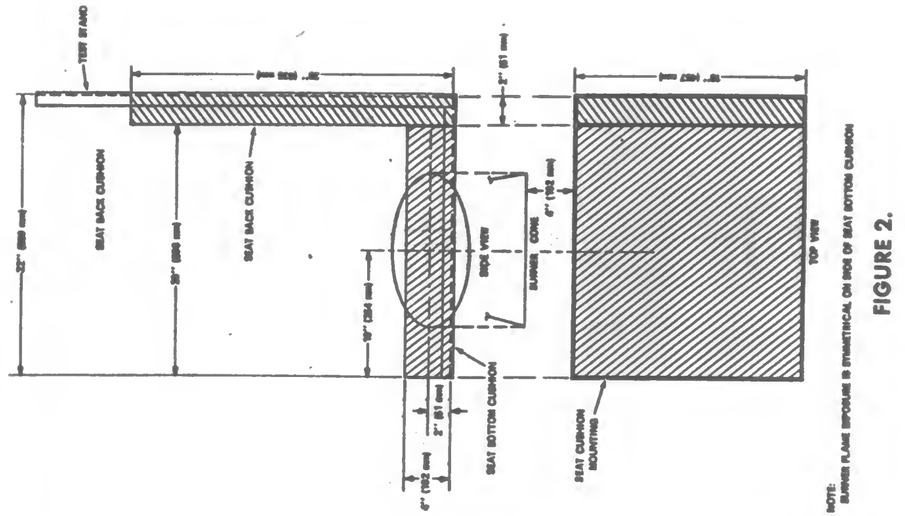


FIGURE 2.

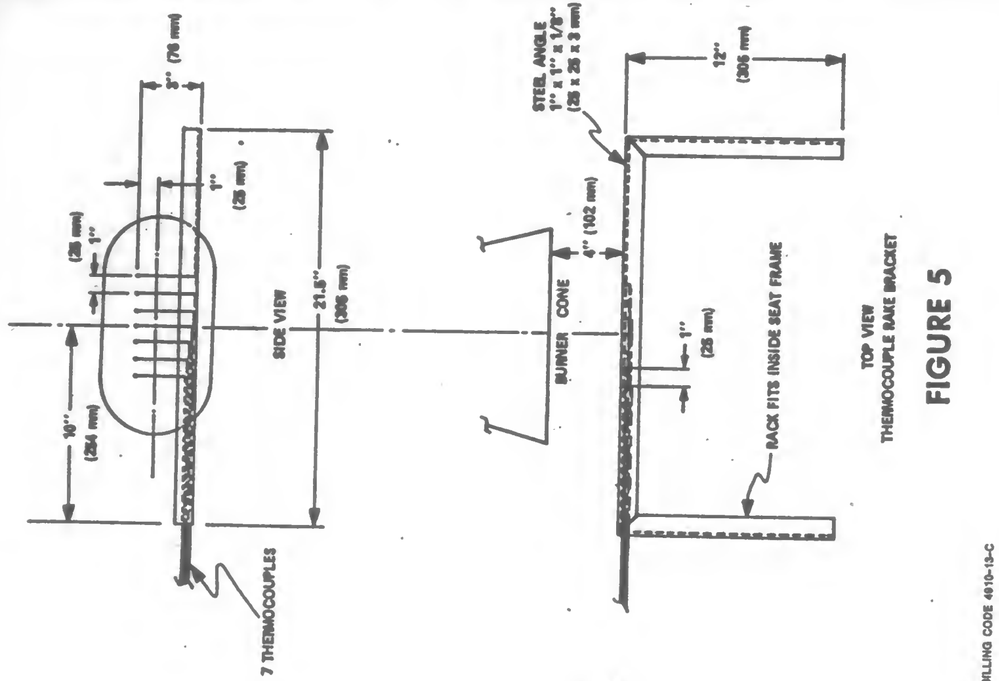


FIGURE 5

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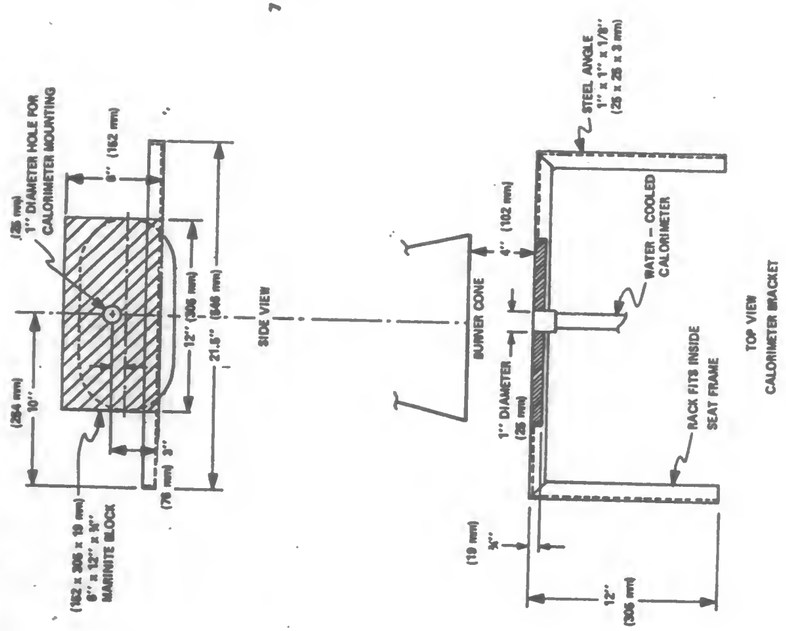


FIGURE 4.

(Approved by the Office of Management and Budget under OMB control number 2120-0018)

4. By amending newly designated Part I of Appendix F of Part 25 by removing the words "of this appendix" whereever they appear and inserting, in their place, the words "Part I of this appendix".

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

5. By amending § 29.853 by adding a new paragraph (b) as follows:

§ 29.853 Compartment interiors.

(b) In addition to meeting the requirements of paragraph (a)(2) of this section, seat cushions must meet the test requirements of Part II of Appendix F of Part 25 of this chapter.

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

6. By amending § 121.312 by redesignating present paragraphs (a) and (b) as (1) and (2), by redesignating the introductory paragraph as (a), and by adding a new paragraph (b) to read as follows:

§ 121.312 Materials for compartment interiors.

* * * * *

(b) For airplanes type certificated after January 1, 1958, after (a date 3 years from the effective date of this regulation), all seat cushions in any compartment occupied by crew or passenger must complyu with the requirements pertaining to fire protection of seat cushions in § 25.853(c), effective (the effective date of this regulation) and Appendix F to Part 25 of this chapter, effective (the effective date of this regulation).

(Sections 313, 314, and 601 through 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, and 1421 through 1430); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.45)

[This proposal was developed jointly by, and is issued on behalf of, the Office of Airworthiness, Washington, D.C., responsible for issuance of Part 121 rulemaking proposals; the Transport Airplane Certification Directorate, Seattle, Washington, responsible for issuance of Part 25 rulemaking proposals; and the Rotorcraft Certification Directorate, Fort Worth, Texas, responsible for issuance of Part 29 rulemaking proposals. Recommendations for final rulemaking will be made to the Administrator jointly by these offices after their review and consideration of all comments received.]

Note.—Under the terms of the Regulatory Flexibility Act (the Act), the FAA has reviewed this proposal to determine the impact it might have on small entities.

Since the estimated impact on the small unscheduled air carriers could be approximately $9,000 per year, it has been determined that this rule, if adopted, may have a significant economic impact on a substantial number of small entities, such as small air carriers operating under Part 121. As required by the Act, the FFA has completed an intial regulatory flexibility analysis as part of the regulatory evaluation. A copy of the analysis/evaluation is contained in the regulatory docket. A copy of it may be obtained by contracting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

The Act also requires that when there is a significant impact on small entities the agency must consider alternative in the rulemaking process. In the case of flammability requirements, the alternatives are limited in number. One alternative would be to lessen the impact on small entitles by making the more stringent requirements apply only to the larger air carrier or to allow the smaller entities a longer period to come into compliance. These alternatives were rejected because of the importance of passenger safety, whether traveling on large, scheduled airline or on a smaller, unscheduled airline. As alternative approaches, the FAA considered both regulations that would specify the only materials and construction process permitted to be used and regulations that set performance standards to be met. The FAA has proposed performance standards to permit those operating under Part 121 the opportunity to choose the most economical materials and processes as long as the flammability performance standards wer met.

This proposal, if adopted, is not likely to result in an annual effect on the economy of $100 million or more, or a major increase in costs for dconsumers; industy; or Federal, State, or local government agencies. In addtion, this proposal, if adopted, would have little or no impact on trade opportunities for United States firms doing business overseas or for foregin firms doing business in the United States. Accordingly, it has been determined that this is not a major regulation under Executive Order 12291. In addtion, the FAA has determined that this action is significant under Department of Transportion Regulatory Policy and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington. D.C., on August 23, 1983.

Walter S. Luffsey,

Associote Administrator for Aviation Standards.

[FR Doc. 83-27486 Filed 10-6-83; 4:15 pm]

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VOL
48
ISS
1
9
7
OC
11
1983
UMI

Reader Aids

Federal Register
Vol. 48, No. 197
Tuesday, October 11, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093-45218.....3
45219-45370.....4
45371-45522.....5
45523-45752.....6
45753-46004.....7
46005-46258.....11

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559
Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753

5 CFR

Ch. XIV.....45373
752.....45525
1255.....45373

7 CFR

752.....45526
906.....45374
908.....45526
910.....45374, 45755
919.....45374
929.....45374
981.....45374
991.....45374
1435.....45374
1901.....45532
Proposed Rules:
226.....45779
402.....46062
441.....45782
781.....46065
904.....45786
910.....45565
1065.....45117

8 CFR

103.....45093
214.....45093
238.....45093
248.....45093

9 CFR

Proposed Rules:
317.....45118
319.....45118
350.....45755
362.....45755
381.....45118

10 CFR

55.....45223
71.....45381
761.....45746
Proposed Rules:
50.....45787

12 CFR

29.....45532
204.....46005
207.....45533
217.....45756
220.....45533
221.....45533
224.....45533
561.....45382
563.....45382
760.....46006

13 CFR

101.....45224
123.....45225
133.....46008

14 CFR

39.....45093, 45535, 46008, 46009
71.....45094, 45095, 45536, 45537, 46010
97.....45096
320.....45236
389.....45758
Proposed Rules:
21.....45214, 45565
25.....46218, 46250
29.....46250
39.....46070
61.....45214
65.....45214
71.....45118, 45566
107.....45214
109.....45214
121.....45214, 46218, 46250
135.....45214
145.....45214

16 CFR

453.....45537
Proposed Rules:
1212.....45405
1500.....45567
1513.....45567

17 CFR

145.....46010
146.....46010
147.....46010
229.....46010
230.....46012
231.....46012
239.....45386, 46012
240.....46012
241.....46012
270.....46012
274.....46012
Proposed Rules:
240.....45119

VOL 48 ISS 1 97 OC 11 1983 UMI

18 CFR

2 46012
35 46012
157 46021
271 45097
274 45097
282 45758
385 45388

Proposed Rules:

282 45787
410 45568
271 46071

19 CFR

101 45538
103 45538
210 45544

Proposed Rules:

101 45409

20 CFR

404 46142

Proposed Rules:

422 46072

21 CFR

81 46022
81 ..... 45237, 45760
109 45544
131 45545
179 46022
193 45547
522 46023
540 45760
558 ..... 45102, 46023, 46024

Proposed Rules:

182 45121
184 45121

24 CFR

570 45760
888 45547

Proposed Rules:

24 46072

25 CFR

71 45103

Proposed Rules:

140 45789

26 CFR

1 45761
35a 45362

27 CFR

4 45549
5 45549
7 45549
9 ..... 45238, 45239

29 CFR

Proposed Rules:

1908 45411
1910 45956
1926 45872

30 CFR

251 46025
935 46027
938 45389
946 46028

Proposed Rules:

55 45336
56 45336
57 45336
58 45336
935 45420

32 CFR

251 45242

Proposed Rules:

199 45791

33 CFR

100 45244
117 45245
130 46178
131 46178
132 46178
151 45704
155 45704
157 45718

Proposed Rules:

162 45798

34 CFR

668 45670
690 45670

Proposed Rules:

350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568

36 CFR

Proposed Rules:

216 45421

37 CFR

Proposed Rules:

1 45424
2 45424

38 CFR

Proposed Rules:

21 ..... 45123, 45268, 45572

39 CFR

111 ..... 45761, 46031

Proposed Rules:

111 45269

40 CFR

52 ..... 45245, 45246, 46046, 46047
192 45926
433 45105
469 45249
717 45765

Proposed Rules:

51 ..... 45269, 46152
52 46081
60 ..... 45701, 46224
81 ..... 46082, 46085
141 45502
180 45573
228 45798
261 45210
464 45573
465 45573

41 CFR

9–4 45766
9–51 45766
Ch I 45392, 45557
Ch. 101 45105
105–61 45392

42 CFR

51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 45766

43 CFR

Subtitle A 45664

Public Land Orders:

44 (Revoked by PLO 6478) 45401
98 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
6472 45393
6473 45393
6474 45394
6475 45394
6476 45395
6477 45395
6478 45401
6479 45559
6480 46049
6481 46049
6482 46050

44 CFR

67 46050

Proposed Rules:

67 ..... 45425, 46085

45 CFR

13 45251

46 CFR

160 45113
162 45727
380 45559
542 46175
543 46175
544 46175

Proposed Rules:

Ch. IV 45269
7 45574
24 45425
25 45425
26 45425
30 45425
31 45425
32 45425
35 45425
70 45425
71 45425
75 45425
77 45425
78 45425
90 45425
91 45425
94 45425
96 45425
97 45425
107 45425
108 45425
109 45425
163 45425
188 45425
189 45425
192 45425
195 45425
196 45425
508 45800
524 45270
531 45270
536 45270
538 45272

47 CFR

0 45652
1 45652
2 45560
73 45401–45403
81 ..... 45114, 45560
83 ..... 45114, 45560
87 45114
97 45652

Proposed Rules:

73 45428–45438
83 45439

49 CFR

571 46053
1033 45257
1043 45775

Proposed Rules:

218 45272
1039 45137
1155 45440

50 CFR

17 46053
23 ..... 45259, 45775
611 45403
646 45404
654 46057
655 ..... 45403, 45404
656 45403
657 45403
658 46057
661 45263

Proposed Rules:

17 ..... 45574, 46086
23 45575
611 ..... 45804, 45806
663 45274

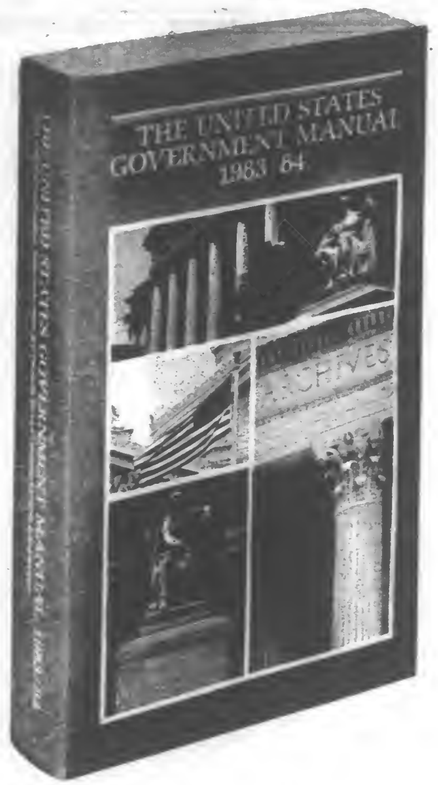
LIST OF PUBLIC LAWS

Last Listing October 7, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S.J. Res. 140/Pub. L. 98–113 To provide for the designation of the week of October 2 through October 8, 1983, as "Myasthenia Gravis Awareness Week". (Oct. 5, 1983; 97 Stat. 755)
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VOL
48
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1
9
7
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VOL
48
ISS
1
9
7
OC
11
1983
UMI

VOL
48
ISS
1
9
8
OC
12
1983
UMI

10-12-83
Vol. 48 No. 198

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Wednesday
October 12, 1983

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48
ISS
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9
8
OC
12
1983
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Selected Subjects

10-12-83
Vol. 48 No. 196
Pages 46259-46486

Federal Register

Wednesday
October 12, 1983

Selected Subjects

Agricultural Commodities
Environmental Protection Agency
Air Pollution Control
Environmental Protection Agency
Antibiotics
Food and Drug Administration
Authority Delegations (Government Agencies)
Agriculture Department
Banks, Banking
Federal Reserve System
Charter Flights
Civil Aeronautics Board
Coal
Surface Mining Reclamation and Enforcement Office
Endangered and Threatened Wildlife
Fish and Wildlife Service
Equal Employment Opportunity
Equal Employment Opportunity Commission
Flood Insurance
Federal Emergency Management Agency
Government Employees
Personnel Management Office
Income Taxes
Internal Revenue Service

CONTINUED INSIDE

Contents

Federal Register

VOL
48
ISS
1
9
8
OC
12
1983
UMI

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Insurance
Civil Aeronautics Board

Natural Gas
Federal Energy Regulatory Commission

Quarantine
Animal and Plant Health Inspection Service

Records
General Services Administration

Reporting and Recordkeeping Requirements
Civil Aeronautics Board

Surface Mining
Surface Mining Reclamation and Enforcement Office

Uniform System of Accounts
Federal Energy Regulatory Commission

Contents

Federal Register
Vol. 48, No. 198
Wednesday, October 12, 1983

The President
PROCLAMATIONS
46259 Schoolbus Safety Week, National (Proc. 5115)

Executive Agencies

African Development Foundation
NOTICES
46467 Meetings; Sunshine Act

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
46343 Central Arizona

Agricultural Stabilization and Conservation Service
NOTICES
Marketing quotas and acreage allotments:
46401 Tobacco; flue-cured

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service.
RULES
Authority delegations:
46261 General Counsel; settle claims against Government

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
46387 Mendocino, Calif.

Animal and Plant Health Inspection Service
RULES
Plant quarantine, domestic:
46262 Pink bollworm; final
PROPOSED RULES
Animal and poultry import restrictions:
46355 Bird quarantine facility; criteria for approval of applications

Arms Control and Disarmament Agency
NOTICES
Meetings:
46402 General Advisory Committee

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
46415 Wholesale power rates

Civil Aeronautics Board
RULES
46265 Audit and reconciliation reports submission; reporting and recordkeeping requirements, OMB approval
Air carriers:
46264 Aircraft accident liability insurance; OMB approval of reporting and recordkeeping requirements
Air taxi operators:
46265 Canadian charters; OMB approval of reporting and recordkeeping requirements
Charters:
46265 Public; special regulations; OMB approval of reporting and recordkeeping requirements
NOTICES
Hearings, etc.:
46403 Empire Airways
46403 Northern Air Lines, Inc.
46403 Pegasus Aviation, Inc.

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
46403 Louisiana

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Copyright Royalty Tribunal
NOTICES
Cable royalty fees:
46411 Distribution determination (1978)
46411 Distribution determination (1979)
46411 Distribution procedures (1981)
46412 Distribution procedures (1982)

Defense Department
See also Navy Department
NOTICES
Meetings:
46412 Electron Devices Advisory Group (3 documents)

Education Department
NOTICES
Grants; availability, etc.
46413 Special services for disadvantaged students
Meetings:
46413 Indian Education National Advisory Council
46413 Postsecondary Education Improvement Fund, National Board

Energy Department
See also Bonneville Power Administration; Energy Information Administration; Federal Energy Regulatory Commission.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
46419 European Atomic Energy Community et al.

Energy Information Administration
NOTICES
Meetings:
46418 American Statistical Association Committee on Energy Statistics

46419 National Petroleum Council

Environmental Protection Agency
RULES
Air pollution control; aircraft and aircraft engines:
46481 Emission standards and test procedures; visible smoke standards for aircraft; turbojet and turbofan engines; stay of effective date
Air quality implementation plans; approval and promulgation; various States, etc.:
46309 Pennsylvania
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions
46310 *N,N*-Diethyl-2-(1-Naphthalenyloxy) propionamide
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
46472 Nitrogen oxide emissions; reference methods
Air quality implementation plan; approval and promulgation; various States:
46391 California
46392 Oklahoma
Air quality planning purposes; designation of areas:
46393 Iowa
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
46396 Folic acid, nicotinamide, pyridoxine, cystein, glutamine, methionine, tryptophan, and adenosine
46395 Maleic hydrazide
46397 Pesticide products; restricted use classification
NOTICES
Pesticide programs:
46427 Interior Department; plan for certification of employees to apply restricted use pesticides
Pesticides; experimental use permit applications:
46428 BASF Wyandotte Corp. et al.
Toxic and hazardous substances control:
46429 Confidential information and data transfer to contractors (CRCS, Inc., et al.)

Equal Employment Opportunity Commission
RULES
Employment discrimination:
46296 Charges; designation of State and local fair employment practice agencies (706 agencies); Texas

Federal Aviation Administration
PROPOSED RULES
46358 Rulemaking petitions; summary and disposition

Federal Deposit Insurance Corporation
NOTICES
46467 Meetings; Sunshine Act (2 documents)

Federal Emergency Management Agency
RULES
Flood elevation determinations:
46312 Alabama et al.

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
46266 Colorado
46266 Louisiana
46267 New Mexico
46267 Tennessee
46268 Wyoming
PROPOSED RULES
Natural gas companies (Natural Gas Act):
46361 Uniform system of accounts; technical amendments
NOTICES
Hearings, etc.:
46420 Carolina Power & Light Co.
46421 Cleveland Electric Illuminating Co.
46421 Columbia Gas Transmission Corp. (2 documents)
46421 Florida Power & Light Co.
46422 Iowa-Illinois Gas & Electric Co.
46422 K N Energy, Inc.
46423 Natural Gas Pipeline Co. of America et al.
46423 Natural Gas Pipe Line Co. of America et al.
46425 Northwest Arkansas Transmission Co.
46425 Oklahoma Natural Gas Co. et al.
46426 Olympic Hydro-Power (2 documents)
46426 Small Scale Hydropower
46426 Texas Gas Transmission Corp.
46426 Valero Interstate Transmission Co. et al.

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
46465 Monterey County, Calif.; intent to prepare

Federal Maritime Commission
NOTICES
46431 Agreements filed, etc.
Casualty and nonperformance, certificates:
46433 Premier Cruise Lines, Ltd.
Freight forwarder licenses:
46429 Airport Clearance Service
46430 Bar-Zel Expediters, Inc.
46431 Cione Forwarding
46430 Cosmopolitan Forwarders, Ltd.
46430 Hosea International Corp.
46430 Seatiger
46430 Worldwide
46431 Wyndham Co. et al.

Federal Reserve System
RULES
Interest on deposits (Regulation Q) and reserve requirements of depository institutions (Regulation D):
46262 Time deposits; reduction of minimum maturity period
NOTICES
46468 Meetings; Sunshine Act

Fish and Wildlife Service
RULES
Endangered and threatened species:
46332 American alligator; status change in Texas
46328 Carter's panicgrass
46337 Kentucky cave shrimp
46336 Santa Barbara song sparrow; removal from list

Food and Drug Administration
RULES
Human drugs:
46270 Antibiotic drugs; sterile ceftizoxime sodium

NOTICES
Animal drugs, feeds, and related products:
46433 Freedom of information summaries, draft guidelines; availability and inquiry; correction
Medical devices; premarket approval:
46433 New England Nuclear

General Services Administration
RULES
Property management:
46310 Copy management responsibilities; reproduction, selection, and use of records

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Social Security Administration
NOTICES
Meetings:
46433 Social Security Advisory Council

Health Care Financing Administration
NOTICES
Organization, functions, and authority delegations:
46434 Associate Administrator for External Affairs Office et al.

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.
NOTICES
46449 Privacy Act; systems of records

Internal Revenue Service
RULES
Income taxes:
46272 Foreign taxes creditability against U.S. Income tax liability; final
46296 Gambling winnings; withholding of tax on payments
NOTICES
46465 Tax projects; solicitation for draft regulations

International Trade Administration
NOTICES
Antidumping:
46407 Impression fabric of man-made fiber from Japan
46408 Pig iron from Romania, U.S.S.R., and East Germany
Countervailing duties:
46406 Chains and parts, of iron or steel, from Spain
Scientific articles; duty free entry:
46403 East Carolina University
46404 Massachusetts Institute of Technology
46404 Northwestern University Medical School
46405 Pennsylvania State University
46405 Rowland Institute for Science, Inc.
46406 University of Florida
46405 Veterans Administration Medical Center

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
46399 Antitrust immunity for collective ratemaking on small shipments; withdrawn
NOTICES
Railroad operation, acquisition, construction, etc.:
46455 J. & J. Railroad, Inc.
Railroad services abandonment:
46454 Oregon Short Line Railroad Co. et al.

Justice Department
NOTICES
Meetings:
46485 Attorney General's Task Force on Violent Crime

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
46451 Chevron phosphate project, Wyo., et al.
Survey plat filings:
46451 New Mexico
Withdrawal and reservation of lands, proposed, etc.:
46451 Alaska

Legal Services Corporation
NOTICES
46468 Meetings; Sunshine Act

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
46452 Conoco Inc.

National Aeronautics and Space Administration
NOTICES
Patent licenses, exclusive:
46455 Q-Med Research & Development Ltd. Partnership

National Bureau of Standards
NOTICES
Information processing standards, Federal:
46409 Geographic point locations for information interchange; correction

National Institutes of Health
NOTICES
Meetings:
46448 Clinical Applications and Prevention Advisory Committee
46448 Digestive Diseases National Advisory Board
46448 General Medical Sciences National Institute committees; amendment

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
46342 Spiny lobster fisheries, Western Pacific; interim; extension of effective date
NOTICES
Marine mammal permit applications, etc.:
46409 Associacao dos Armadores da Pesca Longinqua
46409 Mystic Marinelife Aquarium

National Park Service
RULES
46306 Historic Places National Register; nomination procedures

NOTICES
Historic Places National Register; pending nominations:
46452 Alabama et al.

National Science Foundation
NOTICES
Meetings:
46455 Engineering Advisory Committee

National Transportation Safety Board
NOTICES
46469 Meetings; Sunshine Act (2 documents)
Senior Executive Service:
46456 Performance Review Board; membership
46456 Position establishment

Navy Department
NOTICES
Meetings:
46412 Chief of Naval Operations Executive Panel Advisory Committee

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
46457 Consumers Power Co.
46458 Florida Power Corp. et al.
46459 Public Service Electric & Gas Co. et al.
46460 Tennessee Valley Authority
Meetings:
46456 Reactor Safeguards Advisory Committee; revised

Personnel Management Office
RULES
Excepted service:
46261 Entire executive civil service; stay-in-school; removal

Postal Service
NOTICES
46469 Meetings; Sunshine Act

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
46452 Fryingpan-Arkansas Project, Colo.

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
46461 American Stock Exchange, Inc.
46463 Midwest Securities Trust Co.
Self-regulatory organizations; unlisted trading privileges:
46464 Cincinnati Stock Exchange

Small Business Administration
NOTICES
Disaster loan areas:
46464 Georgia
License surrenders:
46464 ALPHA Financial Corp.
Meetings; regional advisory councils:
46465 Florida
46465 Washington

Social Security Administration
NOTICES
Grants; availability, etc.:
46448 Research grants, Titles II and XVI; correction

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
46299 Kentucky; correction
46301 Ohio
NOTICES
46454 Abandoned mine lands programs and State regulatory administration; annual evaluation reports for various States; availability

Textile Agreements Implementation Committee
NOTICES
46409 Bilateral agreement limits; cotton, wool, and man-made fiber textiles and apparel shipments in excess
Textile consultation; review of trade:
46410 China

Transportation Department
See also Federal Aviation Administration; Federal Highway Administration.
PROPOSED RULES
46399 Nondiscrimination on basis of handicap

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.

Separate Parts in This Issue

Part II
46472 Environmental Protection Agency

Part III
46481 Environmental Protection Agency

Part IV
46485 Department of Justice

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5115 46259
5 CFR
213 46261
7 CFR
2 46261
301 46262
Proposed Rules:
1131 46343
9 CFR
Proposed Rules:
92 46355
12 CFR
204 46262
217 46262
14 CFR
205 46264
248 46265
294 46265
380 46265
Proposed Rules:
Ch. I 46358
18 CFR
271 (5 documents) 46266–46268
Proposed Rules:
101 46361
104 46361
141 46361
154 46361
159 46361
201 46361
204 46361
260 46361
21 CFR
430 46270
436 46270
442 46270
26 CFR
1 (2 documents) 46272, 46296
4 46272
31 46296
27 CFR
Proposed Rules:
9 46387
29 CFR
1601 46298
30 CFR
917 46299
935 46301
36 CFR
60 46306
40 CFR
52 46309
87 46481
180 46310
Proposed Rules:
52 (3 documents) 46391–46393
60 46472
81 46393
162 46397
180 (2 documents) 46395, 46396
41 CFR
101–11 46310
44 CFR
67 46312
49 CFR
Proposed Rules:
Ch. X 46399
27 46399
50 CFR
17 (4 documents) 46328–46337
681 46342

VOL
48
ISS
1
9
8
OC
12
1983
UMI

Federal Register
Vol. 48, No. 198
Wednesday, October 12, 1983

Presidential Documents

Title 3—

The President

Proclamation 5115 of October 7, 1983

National Schoolbus Safety Week, 1983

By the President of the United States of America

A Proclamation

Schoolbus transportation serves a very special and important segment of this Nation—our children. More than twenty-two million young Americans use schoolbuses to get to school.

When we consider the millions of young people who are transported and the millions of trips schoolbuses make each year, we can take great pride in our safety record. Nevertheless, we must reaffirm our commitment to providing the safest possible transportation for our children. They are our most important resource, and their safe transport deserves to be one of our highest priorities.

In recognition of the national program which is underway to call public attention to the importance of schoolbus safety, and in recognition of the importance of safe transport of our young students to and from school, the Congress, by House Joint Resolution 137, has authorized and requested the President to issue a proclamation designating the week of October 2 through October 8, 1983, as National Schoolbus Safety Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning on October 2, 1983, as National Schoolbus Safety Week. I call upon the people of the United States and interested groups and organizations to observe that week with appropriate activities and ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc 83-27910
Filed 10-11-83; 11:16 am]
Bil.ing code 3195-01-M

VOL
48
ISS
1
9
8
OC
12
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 198
Wednesday, October 12, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing an amendment removing from Title 5 of the Code of Federal Regulations the Schedule B excepted appointing authority covering positions at the Social Security Administration, Department of Health and Human Services, for a 2-year pilot program for Stay-in-School students. This amendment is needed because the pilot has been completed and the authority has expired by its own terms.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Sylvia Cole, 202–254–7540.

SUPPLEMENTARY INFORMATION: In 1979, the Social Security Administration was authorized to conduct a pilot career-related work-study program under provisions of E.O. 12015 for students employed under the Stay-in-School Program. Under this pilot, Stay-in-School students could be converted to competitive service entry level clerk-typist, clerk-stenographer, other general clerical positions, and technician positions related to computer science and the graphic arts. The appointing authority contained in Schedule B § 213.3202(g) provided that the pilot was limited to a 2-year period. Since the pilot has run its course, the Schedule B authority has expired by its own terms.

Pursuant to sections 553(b)(B) and 553(d)(3) of title 5, United States Code, I find that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. The regulation is being made effective immediately because it does not change the substance of the regulations issued in part 213, but merely removes from the regulations a paragraph which is no longer current.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it merely updates information on authorities used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.
Donald J. Devine,
Director.

PART 213—[AMENDED]

Accordingly, the U.S. Office of Personnel Management is amending 5 CFR Part 213 by removing and reserving § 213.3202(g):

§ 213.3202 Entire executive civil service.

* * * * *

(g) [Reserved]

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 83–27727 Filed 10–11–83; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture to the General Counsel to delegate the authority to settle certain claims against the Government in accordance with the provisions of 31 U.S.C. 3723.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C., (202) 447–6035.

SUPPLEMENTARY INFORMATION: Under the provisions of 31 U.S.C. 3723, the Secretary of Agriculture may settle a claim for not more than $1,000 for damage to, or loss of privately owned property that is caused by the negligence of an officer or employee of the Department of Agriculture acting within the scope of employment and which may not be settled under the Federal Tort Claims Act. Since the General Counsel currently is delegated authority to settle and compromise claims pursuant to the Federal Tort Claims Act, it is believed that this authority should likewise be delegated to the General Counsel.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest and good cause is found for making this rule effective less than thirty days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

2. Section 2.31 is amended by adding a new paragraph (q) to read as follows:

§ 2.31 Delegations of authority to the General Counsel.

* * * * *

VOL
48
ISS
1
9
8
OC
12
1983
UMI

(q) Settle claims for damage to, or loss of, privately owned property pursuant to the provisions of 31 U.S.C. 3723.

Done this 6th day of October, 1983, at Washington, D.C.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-27787 Filed 10-11-83; 8:45 am]

BILLING CODE 3401-01-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-339]

Pink Bollworm Regulated Areas; Removal of Louisiana and Arkansas Counties From List

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the pink bollworm quarantine and regulations: (1) By removing Natchitoches Parish from the list of regulated areas in Louisiana; (2) by removing all previously regulated areas in Clark, Dallas, Jefferson, Lafayette, Lonoke, Miller, Ouachita, and Pulaski Counties in Arkansas from the list of regulated areas; and (3) by removing Arkansas from the list of States quarantined because of pink bollworm. This action is taken because it has been determined that pink bollworm no longer occurs in Natchitoches Parish in Louisiana and no longer occurs in Arkansas. This action is necessary in order to remove unnecessary restrictions on articles moving interstate from these areas.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Michael J. Shannon, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8295.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The amendments have been issued in conformance with Executive Order 12291, and have been determined not to be a "major rule". Based on information compiled by the Department, it has been determined that the amendments will have an estimated annual effect on the economy of less than $9,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action involves removing restrictions on the interstate movement of regulated articles from Natchitoches Parish in Louisiana and Clark, Dallas, Jefferson, Lafayette, Lonoke, Miller, Ouachita, and Pulaski Counties in Arkansas. There are hundreds of small entities that move such articles interstate from nonaffected areas in the United States. However, based on information compiled by the Department, it has been determined that fewer than 19 small entities move such articles interstate from the affected areas in the above listed parish and counties. Further, the overall economic impact from this action is estimated to be less than $9,000.

Background

A document published in the **Federal Register** on June 22, 1983 (48 FR 28423-28424), set forth an interim rule amending § 301.52-2a of the pink bollworm quarantine and regulations (7 CFR 301.52-2a). The document amended the quarantine and regulations: (1) By removing Natchitoches Parish from the list of regulated areas in Louisiana; (2) by removing all previously regulated areas in Clark, Dallas, Jefferson, Lafayette, Lonoke, Miller, Ouachita, and Pulaski Counties in Arkansas from the list of regulated areas; and (3) by removing Arkansas from the list of States quarantined because of pink bollworm.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to remove unnecessary restrictions on the movement of regulated articles.

Comments were solicited for 60 days after publication of the amendment. No comments were received in response to the amendment. The factual situations which were set forth in the document of June 22, 1983, still provide a basis for the amendment.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Pink Bollworm.

Accordingly, it has been determined that the amendment to § 301.52-2a should remain effective as published in the **Federal Register** on June 22, 1983 (48 FR 28423-28424).

(Sec. 106, 71 Stat. 33; 7 U.S.C. 150ee; Secs. 8, 9, 37 Stat. 318; 7 U.S.C. 161, 162; 7 CFR 2.17, 2.51, 371.2(c))

Done at Washington, D.C., this 5th day of October 1983.

R. R. Backus,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-27568 Filed 10-11-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 204 and 217

[Docket No. R-0417]

Reserve Requirements of Depository Institutions, Interest on Deposits; Definition of Time Deposits; Regulations D and Q

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rules.

SUMMARY: The Board of Governors has adopted final amendments to Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) and Regulation Q—Interest on Deposits (12 CFR Part 217) to reduce the minimum maturity of all time deposits to seven days. Comments from the public were favorable to adoption of this rule. The Board's action was taken in light of recent actions by the Depository Institutions Deregulation Committee ("DIDC") to authorize the Money Market Deposit Account ("MMDA") and removing the interest rate ceiling on time deposits of $2,500 or more with maturities of seven- to 31-days.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Paul S. Pilecki, Senior Counsel (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)) authorizes the Board to determine the types of obligations that constitute deposits. At present, the Board defines time deposits as deposits or accounts with a minimum maturity or required notice period of 14 days and deposits with maturities or required notice periods of seven to 13 days issued pursuant to 1204.121 of the rules of the DIDC (12 CFR 1204.121). Demand deposits are defined to include any deposit or account with a maturity or required notice period of less than 14 days of that does not meet the requirements of the DIDC for accounts issued under 12 CFR 1204.121

On August 24, 1982, the Board requested public comment on a proposal to reduce the minimum maturity or required notice period of all time deposits to seven days. The Board requested comments on the following specific issues:

1. Whether reducing the minimum maturity to seven days would broaden the market for certificates of deposit for depository institutions, thereby improving their competitive position;

2. Whether depository institutions would have more flexibility to vary the maturity mix of their liability structures;

3. Potential difficulties for interpreting the monetary aggregates because of diminished distinctions between transaction accounts and time deposits; and

4. Whether such a proposal would erode the liquidity position of depository institutions were they to rely more heavily on short-term funds.

The Board received a total of 57 comments on this proposal, distributed as follows: 45 commercial banks and bank holding companies, six savings and loan associations, eight Federal Reserve Banks, two business organizations, one credit union, and one commercial bank trade association. Of those commenting, 79 percent favored the proposal, 18 percent were opposed to further reducing the minimum maturity of time deposits, and two comments suggested that the minimum maturity of time deposits should be reduced further to one day.

Comments in favor of the proposal generally cited benefits to depository institutions such as an improved competitive position and providing more flexibility to vary the maturity mix of their liability structures, while not adversely affecting depository institution liquidity. However, those opposed to the proposal expressed the view that its adoption would have adverse implications for liquidity by leading to increases in the mismatch of assets and liabilities of depository institutions. With respect to the implications for monetary policy, 75 percent of those addressing the issue believed that the existence of seven-day time deposits would not lead to distortions of the monetary aggregates and, therefore, the conduct of monetary policy would not be impaired.

Since the Board issued its proposal to reduce the minimum maturity of time deposits, several significant actions have been taken by the DIDC to facilitate the ability of depository institutions to offer short-term deposit accounts. Effective December 14, 1982, depository institutions were authorized to offer MMDAs, which have a minimum denomination of $2,500, no interest rate ceiling, and are subject only to a reservation of the right of the depository institution to require seven days' notice prior to withdrawal. In addition, effective October 1, 1983, the DIDC removed interest rate ceilings on all time deposits with maturities of more than 31 days and on time deposits of $2,500 or more with maturities of seven to 31 days, whether issued in negotiable or nonnegotiable form. Consequently, in order to enable depository institutions to offer certificates of deposit with maturities of seven to 13 days, the Board has amended Regulations D and Q to reduce the minimum maturity of time deposits to seven days.

In addition, the Board has previously determined that eligible bankers' acceptances (those described in 12 U.S.C. 372) are not reservable deposits. The Board has issued a clarifying amendment to confirm that eligible bankers' acceptances held by certain foreign organizations are not deposits.

The impact of this proposal has been considered in accordance with section 605 of the Regulatory Flexibility Act (5 U.S.C. § 604; Pub. L. 96-354). This action will provide an additional tool for small banks to use in competing with larger institutions for short term, large denomination deposits. A seven day minimum maturity could enhance the attractiveness of CDs issued by small banks which normally do not trade in the secondary market.

Since this action relieves a restriction and because this action is necessary to conform the rules of the Board to those of the DIDC, the Board makes this action effective October 1, 1983.

List of Subjects

12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

PART 204—[AMENDED]

Pursuant to its authority under section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)) to define deposits, the Board amends Regulation D (12 CFR Part 204) and Regulation Q (12 CFR Part 217), effective October 1, 1983, as follows:

1. Section 204.2 is amended by revising the first two sentences of paragraph (b)(1), by revising (b)(1)(viii), (b)(2), (c)(1) (i) and (ii), (d)(1)(i)(A) and (f)(1)(v) to read as follows.

§ 204.2 Definitions.

* * * * *

(b)(1) *"Demand deposit"* means a deposit that is payable on demand, or a deposit issued with an original maturity or required notice period of less than seven days, or a deposit representing funds for which the depository institution does not reserve the right to require at least seven days' written notice of an intended withdrawal. The term includes all deposits other than time and savings deposits. * * * (viii) an obligation to pay on demand or within seven days a check (or other instrument, device, or arrangement for the transfer of funds) drawn on the depository institution, where the account of the institution'sd customer already has been debited. The term does not include an obligation that is a time deposit under § 204.2(c)(1)(ii).

(2) (A) "demand deposit" does not include checks or drafts drawn by the depository institution on the Federal Reserve or on another depository institution.

(c)(1) *"Time deposit"* means (i) a deposit that the depositor does not have a right to withdraw for a period of seven days or more after the date of deposit. "Time deposit" includes funds:

(A) Payable on a specified date not less than seven days after the date of deposit;

(B) Payable at the expiration of a specified time not less than seven days after the date of deposit;

(C) Payable upon written notice which actually is required to be given by the depositor not less than seven days before the date of repayment;

VOL
48
ISS
1
9
8
OC
12
1983
UMI

(D) Such as "Christmas club" accounts and "vacation club" accounts, that are deposited under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than three months even though some of the deposits may be made within seven days from the end of the period; or

(E) That constitute a "savings deposit" which is not regarded as a "transaction account" and

(ii) Borrowings, regardless of maturity, represented by a promissory note, an acknowledgment of advance, or similar obligation described in § 204.2(a)(1)(vii) that is issued to, or any bankers' acceptance (other than the type described in 12 U.S.C. 372) of the depository institution held by, any office located outside the United States of another depository institution or Edge or agreement corporation organized under the laws of the United States, to any office located outside the United States of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under § 217.3(g) of Regulation Q (12 CFR 217.3(g)(e).

* * * * *

(d)(1) *"Savings deposit"* means a deposit or account:

(i)(A) With respect to which the depositor is not required by the deposit contract but may at any time be required by the depository institution to give written notice of an intended withdrawal not less than seven days before withdrawal is made, and that is not payable on a specified date or at the expiration of a specified time after the date of deposit; and

* * * * *

(f)(1) * * *

(v) A time deposit represented by a promissory note, an acknowledgment of advance, or similar obligation described in § 204.2(a)(1)(vii) that is issued to, or any bankers' acceptances (other than the type described in 12 U.S.C. 372) of the depository institution held by, any office located outside the United States of another depository institution or Edge or agreement corporation organized under the laws of the United States, to any office located outside the United States of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under § 217.3(g) of Regulation Q (12 CFR 217.3(g)).

* * * * *

PART 217—[AMENDED]

2. Section 217.1 is amended by revising paragraph (b)(1), the initial phrase in paragraph (e), and paragraphs (e)(2), (3)(ii), and (4) and footnote 1 to read as follows:

§ 217.1 Definitions.

* * * * *

(b)(1) *"Time deposit"* means (i) a deposit that the depositor does not have a right to withdraw for a period of seven days or more after the date of deposit. "Time deposit" includes funds:

(A) Payable on a specified date not less than seven days after the date of deposit;

(B) Payable at the expiration of a specified time not less than seven days after the date of deposit;

(C) Payable upon written notice which actually is required to be given by the depositor not less than seven days before the date of repayment; [1] or

(D) Such as "Christmas club" accounts and "vacation club" accounts, that are deposited under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than seven days from the end of the period; and

(ii) An "international banking facility time deposit."

* * * * *

(e) "Savings deposit" means a deposit—

* * * * *

(2) With respect to which the depositor is not required by the deposit contract but may at any time be required by the bank to give written notice of an intended withdrawal not less than seven days before such withdrawal is made,[2] and that is not payable on a specified date or at the expiration of a specified time after the date of deposit.

(3) * * *

(ii) Deposits in which any beneficial interest is held by a corporation, partnership, association, or other organization that is operated for profit or is not operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes, or that is not a governmental unit described in paragraph (e)(3)(i)(C) may not be classified as deposits subject to negotiable orders of withdrawal, except as authorized by § 217.7(g).

(4) *"Savings deposit"* also means a deposit issued pursuant to § 217.7(c)(2)(ii) or § 217.7(g) with respect to which the member bank reserves the right to require at least seven days' notice prior to withdrawal or transfer.

* * * * *

§ 217.5 [Amended]

3. The second sentence of § 217.5(c)(2) is amended by removing "14" and inserting "seven" in its place.

By order of the Board of Governors, October 4, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-27484 Filed 10-11-83; 8:45 am]

BILLING CODE 6210-01-M

[1] A deposit with respect to which the bank merely reserves the right to require notice of not less than seven days before any withdrawal is made is not a "time deposit" within the meaning of the above definition.

CIVIL AERONAUTICS BOARD

14 CFR Part 205

[Regulation ER-1364; Amendment No. 4]

Aircraft Accident Liability Insurance; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the extension of CAB Form 205–A, "Policies of Insurance for Aircraft Accident Bodily Injury and Property Damage Liability," filed pursuant to Part 205 of the Board's Economic Regulations. This approval has been extended through September 30, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: : Adopted: September 29, 1983. Effective: September 20, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6042.

List of Subjects in 14 CFR Part 205

Air carriers, Aircraft, Freight, Insurance.

PART 205—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 205 of its Economic Regulations (14 CFR Part 205) by adding a note at the end of the table of contents to Part 205 to read:

Note.—The reporting requirement contained in § 205.4 has been approved by the Office of Management and Budget under number 3024–0050.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR Sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27730 Filed 10-11-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 248

[Reg. ER-1362; Economic Regs. Amdt. No. 5 to Part 248]

Submission of Audit and Reconciliation Reports; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the extension of reporting requirements contained in Part 248 of the Board's Economic Regulations, "Submission of Audit and Reconciliation Reports." The Board recently eliminated the reconciliation reports from these requirements (ER–1351, 48 FR 32756, July 19, 1983). This approval has been extended through September 30, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES:

Adopted: September 29, 1983.
Effective: September 20, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in Part 248

Accounting, Air carriers, Reporting requirements.

PART 248—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 248 of its Economic Regulations (14 CFR Part 248) by revising the note at the end of the table of contents to Part 248 to read:

Note.—The reporting requirement contained in § 248.2 has been approved by the Office of Management and Budget under number 3024–0004.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27731 Filed 10-11-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 294

[Reg. ER-1363; Amdt. No. 3 to Part 294]

Canadian Charter Air Taxi Operators; Approval of Form by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY. This final rule gives notice that the Office of Management and Budget (OMB) has approved the extension of CAB Form 294–A, "Registration/Amendments under Part 294 of the Economic Regulations of the Civil Aeronautics Board." This approval has been extended through September 30, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATE: Adopted: September 29, 1983.
EFFECTIVE: September 20, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6042.

List of Subjects in Part 294

Air taxis, Canada, Charter flights, Insurance, Trade names.

PART 294—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 294 of its Economic Regulations (14 CFR 294) by adding a note at the end of the table of contents to Part 294 to read:

Note.—The reporting requirement contained in § 294.20 has been approved by the Office of Management and Budget under number 3024–0051.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27687 filed 10-11-83; 8:45 am]

BILLING Code 6320-01-M

14 CFR Part 380

[Reg. SPR-193; Special Regs. Amdt. No. 17 to Part 380]

Public Charters; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the extension of CAB Form 300, "Registration or Amendments under Part 380 of the Special Regulations of the Civil Aeronautics Board." This approval has been extended through September 30, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATE: Adopted: September 29, 1983.

Effective: September 14, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in Part 380

Advertising, Antitrust, Charter flights, Consumer protection, Educational study programs, Surety bonds, Travel agents.

PART 380—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 380 of its Special Regulations (14 CFR Part 380) by revising the note at the end of the table of contents to Part 380 to read:

Note.—The reporting requirements contained in §§ 380.25 and 380.28 have been approved by the Office of Management and Budget under number 3024–0029. The reporting requirement contained in § 380.62 has been approved by the Office of Management and Budget under number 3024–0052.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

VOL
48
ISS
1
9
8
OC
12
1983
UMI

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-27732 Filed 10-11-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-197 (Colorado—36); Order No. 341]

High-Cost Gas Produced From Tight Formations; Colorado

Issued: October 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formation as high-cost gas which may receive an incentive price (18 CFR 271.703 (1982)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of Colorado that the Dakota Formation located in Mesa County, Colorado be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Kevin R. Rees, (202) 357-8476 or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1982)) to include the Dakota Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued May 24, 1983 (48 FR 23,271) [1] based on a recommendation by the State of Colorado, Oil and Gas Conservation Commission, (Colorado) in accordance with § 271.703, that a portion of the Dakota Formation, located in Mesa County, Colorado, be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that the Dakota Formation located in Mesa County, Colorado meets the guidelines contained in § 271.703(c)(2). [2] The Commission adopts the Colorado recommendation.

This amendment shall become effective November 7, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(153) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(153) *Dakota Formation in Colorado.* RM79-76-197 (Colorado—36)

(i) *Delineation of formation.* The Dakota Formation is located at Township 11 South, Range 95 West, 6th P.M., Sections 1 through 36 inclusive and Township 11 South, Range 96 West, 6th P.M., Sections 1 through 36, inclusive. The designated area is roughly rectangular in shape and consists of approximately 50,830 acres.

(ii) *Depth.* The average depth to the top of the Dakota Formation is 8,100 feet.

[FR Doc. 83-27804 Filed 10-11-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-193 (Louisiana-10); Order No. 340]

High-Cost Gas Produced From Tight Formations; Louisiana

Issued: October 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of Louisiana that the Mid Cockfield Sand located in St. Landry Parish, Louisiana be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Kevin R. Rees, (202) 357-8476 or Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983) (to include the Mid Cockfield Sand as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued May 27, 1983 (48 F.R. 24,730) [1] based on a recommendation by the State of Louisiana Office of Conservation, (Louisiana) in accordance with § 271.703, that the Mid Cockfield Sand, located in St. Landry Parish, Louisiana be designated as a tight formation.

Evidence submitted by Louisiana supports the assertion that the Mid Cockfield Sand located in St. Landry Parish, Louisiana meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Louisiana recommendation.

This amendment shall become effective November 7, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(151) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(151) *Mid Cockfield Sand in Louisiana.* RM79-76-193 (Louisiana-10).

(i) *Delineation of formation.* The Mid Cockfield Sand is found in the Krotz Springs Field in St. Landry Parish, Louisiana. The area includes all or parts of Township 6 South, Range 7 East, Sections 12, 13, 14, and 19 through 24; Township 7 South, Range 7 East, Sections 5 and 6; Township 6 South Range 6 East, Sections 24, 25, 26, 35 and 36; and Township 7 South, Range 6 East, Section 1.

(ii) *Depth.* The depth to the top of the structure in Section 21, Township 6 South Range 7 East, the top of the Mid Cockfield Sand is found at 10,670 feet and the base at 10,740 feet (log depths) on a type log located on the eastern flank of a large domal structure, the Gulf Oil Corporation KZS SU FU No. 51 well located in Section 20, Township 6 South, Range 7 East. On the top of the structure in Section 21, Township 6 South, Range 7 East, the top of the Mid Cockfield Sand is at an approximate log depth of 10,410 feet. The approximate thickness of the sand is 70 feet.

[FR Doc. 83-27805 Filed 10-11-83; 8:45 am]
BILLING CODE 6717-01-M

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

[2] The United States Department of the Interior, Minerals Management Service concurs with Colorado's recommendation.

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d) (151) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(151) *Mid Cockfield Sand in Louisiana.* RM79-76-193 (Louisiana-10).

(i) *Delineation of formation.* The Mid Cockfield Sand is found in the Krotz Springs Field in St. Landry Parish, Louisiana. The area includes all or parts of Township 6 South, Range 7 East, Sections 12, 13, 14, and 19 through 24; Township 7 South, Range 7 East, Sections 5 and 6; Township 6 South Range 6 East, Sections 24, 25, 26, 35 and 36; and Township 7 South, Range 6 East, Section 1.

(ii) *Depth.* The depth to the top of the structure in Section 21, Township 6 South Range 7 East, the top of the Mid Cockfield Sand is found at 10,670 feet and the base at 10,740 feet (log depths) on a type log located on the eastern flank of a large domal structure, the Gulf Oil Corporation KZS SU FU No. 51 well located in Section 20, Township 6 South, Range 7 East. On the top of the structure in Section 21, Township 6 South, Range 7 East, the top of the Mid Cockfield Sand is at an approximate log depth of 10,410 feet. The approximate thickness of the sand is 70 feet.

[FR Doc. 83-27805 Filed 10-11-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

High-Cost Gas Produced From Tight Formations; New Mexico

[Docket No. RM79-76-199 (New Mexico-24); Order No. 342]

Issued: October 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1982)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico that the Morrow Formation located in Eddy County, New Mexico be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective November 7, 1983.

FOR FURTHER INFORMATION CONTACT:

Kevin R. Rees, (202) 357-8476

or

Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Morrow Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued May 24, 1983 (48 FR 23, 274) [1] based on a recommendation by the New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) in accordance with § 271.703, that the Morrow Formation, located in Eddy County, New Mexico, be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that the Morrow Formation located in Eddy County, New Mexico meets the guidelines contained in § 271.703(c)(2). [2]

This amendment shall become effective November 7, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

[1] Comments on the proposed rule were invited and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

[2] The United States Department of the Interior, Minerals Management Service concurs with New Mexico's recommendation. The Commission adopts the New Mexico recommendation.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(152) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(152) *The Morrow Formation in New Mexico.* RM79-76-199 (New Mexico-24)

(i) *Delineation of formation.* The Morrow Formation underlies all of Sections 25 and 36, Township 23 South, Range 28 East.

(ii) *Depth.* The top of the Morrow Formation is found at an average depth of 11,553 feet and the Morrow Formation is approximately 190 feet in thickness.

[FR Doc. 83-27807 Filed 10-11-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-191 (Tennessee-1); Order No. 339]

High Cost Gas Produced From Tight Formations; Tennessee

Issued: October 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Tennessee State Oil and Gas Board that the Monteagle Formation located in Morgan, Scott, and portions of Fentress Counties, Tennessee, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective November 7, 1983.

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FOR FURTHER INFORMATION CONTACT:
Tom Rattray (202) 357–5447
or
Walter W. Lawson (202) 357–8556.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Monteagle Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued May 19, 1983 (48 FR 23275, May 24, 1983)[1] based on a recommendation by the Tennessee State Oil and Gas Board (Tennessee) in accordance with § 271.703, that the Monteagle Formation, located in Morgan, Scott, and portions of Fentress Counties, Tennessee, be designated as a tight formation.

Evidence submitted by Tennessee supports the assertion that the Monteagle Formation located in Morgan, Scott, and portions of Fentress Counties, Tennessee, meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Tennessee recommendation.

This amendment shall become effective November 7, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(150) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(150) *Monteagle Formation in Tennessee.* RM79–78 (Tennessee–1)

(i) *Delineation of formation.* The Monteagle Formation is found in Morgan, Scott, and portions of Fentress Counties located in the north-central part of the State of Tennessee.

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

(ii) *Depth.* The average depth to the top of the Monteagle Formation is 1,100 feet. The thickness varies from 180 to 250 feet.

[FR Doc. 83–27606 Filed 10–11–83; 8:45 am]
BILLING CODE 6717–01–M

18 CFR Part 271

[Docket Nos. RM79–76–151 (Wyoming–14), RM79–76–152 (Wyoming–15); Order No. 338]

High-Cost Gas Produced From Tight Formations; Wyoming

Issued: October 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the United States Department of the Interior, Bureau of Land Management, that the Frontier Formation, and the Muddy, Dakota and Lakota Formations located in Fremont County, Wyoming, be designated as tight formations under § 271.703 (d).

EFFECTIVE DATE: This rule is effective November 7, 1983.

FOR FURTHER INFORMATION CONTACT:
Tom Rattray, (202) 357–5447
or
Victor H. Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Frontier Formation, and the Muddy, Dakota and Lakota Formations as designated tight formations eligible for incentive pricing under § 271.703. The amendments were proposed in Notices of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued November 22, 1982 (47 FR 53742 and 53743, November 29, 1982) based on a recommendation by the United States Department of the Interior, Bureau of Land Management (BLM), in accordance with § 271.703, that portions of the Frontier Formation, and the Muddy, Dakota and Lakota Formations, located in Fremont County, Wyoming, be designated as tight formations.

Comments on the proposed rule were invited and two comments were received. Champlin Petroleum Company filed a comment supporting the recommendations. The other comment, contributed by Montana-Dakota Utilities Co. (MDU), opposed both recommendations. MDU raised a number of arguments in opposition to the proposed rules.

MDU raised several questions concerning the permeabiltiy guideline found in § 271.703(c)(2)(i)(A). MDU first argued that the averge permeability values submitted in the recommendations are too low, and should be adjusted by the use of a correction factor in conjunction with the recommended formations. MDU estimated the correction factor by comparing the permeability calculated through pressure build-up testing with the corresponding permeability derived through core analysis testing. However, BLM states that MDU's correction factor for the adjustment of core analysis data is not applicable for the two recommendations because the cored intervals and the pressure build-up tested intervals are not identical. The Commission finds that substantial evidence in the record supports BLM's position.

MDU also noted that the permeability calculations were derived by using geometric mean, rather than arithmetic averaging in determinig the formations' average permeability values. However, using the data submitted by BLM in support of its recommendations, the Commission has determined that the arithmetic averages for permeability values for the subject formations will also satisfy the Commission's guidelines in §271.703(c)(2). Thus, the Commission need not address the issue of appropriate methodology in this order.

Section 271.703(c)(2)(i)(B) specifies according to the average depth to the top of the formation the maximum allowable stabilized production rate to be expected from the formation before stimulation. MDU contended that certain data concerning pre-stimulation flow rates which showed flow rates in excess of those permittted by § 271.703(c)(2)(i)(B) was not submitted to BLM. However, the data referred to by MDU, available on Petroleum Information (P.I.) scout cards, is based on drill stem testing in which the flow

rate had not been established as required by § 271.703(c)(2)(i)(B). One of these reports was also determined to be a misprint. The Commission therefore agrees with BLM's findings that the information in question is not persuasive.

MDU next proposed that the flow rates from different formations tapped by the same well should be added together to obtain a single flow rate for each well. MDU contended that these aggregate flow rates exceed the flow rates allowed in § 271.703(c)(2)(i)(B) of the Commission's regulations. Section 271.703(c)(2)(i)(B) calls for the use of pre-stimulation flow data, and, in the instant case, the aggregation of pre-stimulation flow rates will not exceed the limits prescribed in the Commission's regulations. Therefore, the Commission need not address the merits of MDU's aggregation proposal.

MDU further contended that infill drilling is present in the recommended areas, which requires the exclusion of certain spacing units from tight formation designation. However, the recommended area is located entirely within the Wind River Indian Reservation, which is not subject to any spacing rules, and is thus not subject to infill drilling as defined in § 271.703(b)(6) of the Commission's regulations. In addition, each well drilled in the recommended formations has been assigned a 320-acre parcel, in accordance with local custom and practice. There have been no infill wells drilled within the designated 320-acre parcels that would qualify as infill drilling even if the recommended areas were subject to state jurisdictional agency spacing rules. Therefore, no units within the recommended areas are subject to exclusion from tight formation designation under § 271.703(c)(2)(i)(D) of the Commission's regulations.

In addition, MDU objected to the inclusion of certain "flank" areas within the recommended area unless more evidence is presented to show that these areas exhibit tight formation characteristics. The scarcity of data regarding the "flank" areas, however, is due to a lack of commercially productive wells in the area. The geological information available on the "flank" areas supports the view that the sections meet the guidelines set forth in the Commission's regulations. Therefore, absent any conflicting data, the available evidence supports inclusion of the "flank" areas.

Finally, MDU contended that incentive pricing is not necessary in the recommended areas due to the production history of the wells and the past development of the formations without certain availability of the tight formation incentive price. Under the procedures set out in § 271.703(c)(2)(i), no finding of incentive price necessity is required, unless the formation does not meet the permeability standard set out in § 271.703(c)(2)(i)(A) and the recommendation is filed under the alternative guidelines contained in § 271.703(c)(2)(ii). Where the formation meets all of the guidelines in § 271.703(c)(2)(i), the Commission has already made a generic finding, in Order No. 99, that the incentive price is necessary under NGPA section 107(b). The Commission will not use individual tight formation recommendations to reopen Order No. 99.

On September 9, 1983, MDU filed out of time additional comments concerning the instant dockets. While these comments need not be considered as they were late filed, the Commission has reviewed the comments and will address them. These comments reiterate MDU's position regarding flow data on Petroleum Information scout cards, geometic mean averaging, infill drilling and the need for incentive pricing. Previous discussion of these issues adequately addresses MDU's objections and these issues therefore will not be discussed further.

In its September 9th comments, MDU again suggested that the average permeability values obtained from core analysis testing be adjusted by a correction factor to obtain more accurate readings. MDU also contended that the cored intervals and the pressure build-up test intervals need not be identical to arrive at a valid correction factor. The Commission finds that this question need not be decided in this Order. The evidence shows that pressure build-up data is available from only three of the seven sands in the recommended formations and that core analysis data is available from six of the seven sands. On the basis of this evidence, we find it impossible to establish a reliable relationship between permeabilities derived from pressure build-up tests and core analysis tests. Accordingly, in this case we believe that it is appropriate to give greater weight to the core analysis data, and since these permeabilities are below 0.1 millidarcy for all core samples, the Commission concludes that these formations satisfy the guidelines established in § 271.703(c)(2)(i)(A).

Finally, MDU, in its September 9th comments, questions the accuracy of adjustments of core permeability values derived in the laboratory in order to obtain permeability values which more accurately express actual "in-situ" characteristics. The method used here is a standard that has been accepted in previous tight formation orders.[1] The Commission believes that this method of adjustment to in-situ conditions is acceptable for the data submitted.

Based upon the above discussion and a review of the evidence submitted by BLM, the Commission finds that the record supports the assertion that the Frontier Formation, and the Muddy, Dakota and Lakota Formations, located in Fremont County, Wyoming, meet the guidelines contained in § 271.703(c)(2). The Commission adopts the BLM recommendation.

This amendment shall become effective November 7, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administration Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraphs (d) (146), (147), (148) and (149) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(146) *Frontier Formation in Wyoming.* FM79–76–151 (Wyoming–14).

(i) *Delineation of formation.* The Frontier Formation is located in Fremont County, Wyoming, in the Wind River Basin of central Wyoming. The Frontier Formation underlies Township 1 South, Range 4 East, Sections 13 through 15, 22 through 27, and 34 through 36; Township 1 South, Range 5 East, Sections 16 through 21 and 28 through 33; Township 2 South, Range 4 East, Sections 1 through 3 and 10 through 12; and Township 2 South, Range 5 East, Sections 4 through 9.

(ii) *Depth.* The Frontier Formation has an average gross thickness of 950 feet. The average depth to the top of the first productive sandstone member of the Frontier Formation is 8,188 feet.

[1] *See* Order No. 105, High Cost Gas Produced From Tight Formations; Docket No. RM79–76 (Texas–1) (October 24, 1980).

(147) *Muddy Formation in Wyoming.* RM79–76–152 (Wyoming–15).

(i) *Delineation of formation.* The Muddy Formation is located in Fremont County, Wyoming, in Township 1 South, Range 4 East, Sections 13 and 14, 23 through 26, 35 and 36; Township 1 South, Range 5 East, Sections 17 through 20, and 29 through 32; Township 2 South, Range 4 East, Sections 1, 2, 11 and 12; Township 2 South, Range 5 East, Sections 5 through 8.

(ii) *Depth.* The Muddy Formation lies between the base of the Shell Creek Formation and the top of the Dakota Formation. The average depth to the top of the Muddy Formation is 9,337 feet.

(148) *Dakota Formation in Wyoming.* RM79–76–152 (Wyoming–15).

(i) *Delineation of formation.* The Dakota Formation is located in Fremont County, Wyoming, in Township 1 South, Range 4 East, Sections 13 and 14, 23 through 26, 35 and 36; Township 1 South, Range 5 East, Sections 17 through 20, and 29 through 32; Township 2 South, Range 4 East, Sections 1, 2, 11 and 12; Township 2 South, Range 5 East, Sections 5 through 8.

(ii) *Depth.* The Dakota Formation lies between the base of the Muddy Formation and the top of the Lakota Formation. The average depth to the top of the Dakota Formation is 9,514 feet.

(149) *Lakota Formation in Wyoming.* RM79–76–152 (Wyoming–15).

(i) *Delineation of formation.* The Lakota Formation is located in Fremont County, Wyoming, in Township 1 South, Range 4 East, Sections 13 and 14, 23 through 26, 35 and 36; Township 1 South, Range 5 East, Sections 17 through 20, and 29 through 32; Township 2 South, Range 4 East, Sections 1, 2, 11 and 12; Township 2 South, Range 5 East, Sections 5 through 8.

(ii) *Depth.* The Lakota Formation lies between the base of the Dakota Formation and the top of the Morrison Formation. The average depth to the top of the Lakota Formation is 9,639 feet.

[FR Doc. 83–27603 Filed 10–11–83; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, and 442

[Docket No. 83N–0302]

Antibiotic Drugs; Sterile Ceftizoxime Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, sterile ceftizoxime sodium. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective October 12, 1983; comments, notice of participation, and request for hearing by November 14, 1983; data, information, and analyses to justify a hearing by December 12, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, sterile ceftizoxime sodium. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 436, and 442 (21 CFR Parts 430, 436, and 442) to provide for the inclusion of accepted standards for the product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 442

Antibiotics—cepha.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 430, 436, and 442 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

a. In § 430.5 by adding paragraphs (a)(79) and (b)(79) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(79) *Ceftizoxime.* The term "ceftizoxime master standard" means a specific lot of ceftizoxime that is designated by the Commissioner as the standard of comparison in determining the potency of the ceftizoxime working standard.

(b) * * *

(79) *Ceftizoxime.* The term "ceftizoxime working standard" means a specific lot of a homogeneous preparation of ceftizoxime.

b. In § 430.6 by adding paragraph (b)(81) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(81) *Ceftizoxime.* The term "microgram" applied to ceftizoxime means the ceftizoxime activity (potency) contained in 1.011 micrograms of the ceftizoxime master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended by adding new § 436.345 to read as follows:

§ 436.345 High-pressure liquid chromatographic assay for ceftizoxime.

(a) *Equipment.* A suitable high-pressure liquid chromatograph equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path length of 1 centimeter;

(3) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(4) A suitable recorder of at least 25.4 centimeter deflection;

(5) A suitable integrator; and

(6) A 30-centimeter column having an inside diameter of 4.0 millimeters and packed with octadecyl silane chemically bonded to porous silica or ceramic microparticles, 5 to 10 micrometers in diameter, USP XX.

(b) *Reagents*—(1) *pH 3.6 buffer solution.* Transfer 2.31 grams of sodium phosphate diabasic dodecahydrate and 1.42 grams of citric acid monohydrate to a 1-liter volumetric flask. Dissolve and dilute to volume with distilled water.

(2) *pH 7.0 buffer solution.* Transfer 14.33 grams of sodium phosphate dibasic dodecahydrate and 3.63 grams of potassium phosphate monobasic to a 1-liter volumetric flask. Dissolve and dilute to volume with distilled water.

(3) *Mobile phase.* Mix pH 3.6 buffer solution:acetonitrile (9:1). Filter the mobile phase through a suitable glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph pumping system.

(4) *Internal standard solution.* Place 1.2 grams of salicyclic acid in a 200-milliliter volumetric flask. Dissolve in 10 milliliters of methyl alcohol, dilute to volume with pH 7.0 buffer solution and mix.

(c) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 2.0 milliliters per minute. Use a detector sensitivity setting that gives a peak height for the working standard that is at least 50 percent of scale.

(d) *Preparation of working standard solution.* Dissolve an accurately weighed portion of the ceftizoxime working standard with sufficient pH 7.0 buffer solution to obtain a solution containing 1,000 micrograms of ceftizoxime activity per milliliter. Transfer 2.0 milliliters of this solution to a 100-milliliter volumetric flask, add 5.0 milliliters of internal standard solution, dilute to volume with pH 7.0 buffer solution and mix.

(e) *Preparation of sample solutions*—(1) *Product not packaged for dispensing (micrograms of ceftizoxime per milligram).* Dissolve an accurately weighed portion of the sample with sufficient pH 7.0 buffer solution to obtain a concentration of 1.0 milligram per milliliter. Transfer 2.0 milliliters of this solution to a 100-milliliter volumetric flask, add 5.0 milliliters of internal standard solution, dilute to volume with pH 7.0 buffer solution and mix. Using this sample solution, proceed as directed in paragraph (f) of this section.

(2) *Product packaged for dispensing.* Determine both micrograms of ceftizoxime per milligram of the sample and milligrams of ceftizoxime per container. Use separate containers for preparation of each sample solution as described in paragraph (e)(2) (i) and (ii) of this section.

(i) *Micrograms of ceftizoxime per milligram.* Dissolve an accurately weighed portion of the sample with sufficient pH 7.0 buffer solution to obtain a concentration of 1.0 milligram of ceftizoxime per milliliter. Transfer 2.0 milliliters of this solution to a 100-milliliter volumetric flask, add 5.0 milliliters of internal standard solution, dilute to volume with pH 7.0 buffer solution and mix. Using this sample solution, proceed as directed in paragraph (f) of this section.

(ii) *Milligrams of ceftizoxime per container.* Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency is a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Further dilute an aliquot of the solution thus obtained with sufficient pH 7.0 buffer solution to obtain a concentration of 1.0 milligram per milliliter. Transfer 2.0 milliliters of this solution to a 100-milliliter volumetric flask, add 5.0 milliliters of internal standard solution, dilute to volume with pH 7.0 buffer solution and mix. Using this sample solution, proceed as directed in paragraph (f) of this section.

(f) *Procedure.* Using the equipment, reagents, and operating conditions as listed in paragraphs (a), (b), and (c) of this section, inject 10 microliters of the working standard solution into the chromatograph. Allow an elution time sufficient to obtain satisfactory separation of the expected components. The elution order is void volume, ceftizoxime, and internal standard. After separation of the working standard solution has been completed, inject 10 microliters of the sample solution as described in paragraph (e)(1) of this section into the chromatograph and repeat the procedure described for the working standard solution. If the sample is packaged for dispensing, repeat the procedure for each sample solution prepared as described in paragraph (e)(2) (i) and (ii) of this section.

(g) *Calculations.*—(1) Calculate the micrograms of ceftizoxime per milligram of sample as follows:

$$\text{Micrograms of ceftizoxime per milligram} = \frac{R_u \times P_s \times 100}{R_s \times C_u \times (100 - m)}$$

Where:

R_u = Area of the ceftizoxime peak in the chromatogram of the sample (at a retention time equal to that observed for the standard)/Area of internal standard peak;

R_s = Area of the ceftizoxime peak in the chromatogram of the ceftizoxime working standard/Area of internal standard peak;

P_s = Ceftizoxime activity in the ceftizoxime working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) Calculate the ceftizoxime content of the vial as follows:

$$\text{Milligrams of ceftizoxime per vial} = \frac{R_u \times P_s \times d}{R_s \times 1.000}$$

where:

R_u = Area of the ceftizoxime peak in the chromatogram of the sample (at a retention time equal to that observed for the standard)/Area of internal standard peak;

R_s = Area of the ceftizoxime peak in the chromatogram of the ceftizoxime working standard/Area of internal standard peak;

P_s = Ceftizoxime activity in the ceftizoxime working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

PART 442—CEPHA ANTIBIOTIC DRUGS

3. Part 442 is amended:

a. By adding new § 442.17a to read as follows:

§ 442.17a Sterile ceftizoxime sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ceftizoxime sodium is the sodium salt of [6*R*-[6α,7β(*Z*)]]-7-[[(2,3-dihydro-2-imino-4-thiazolyl)(methoxyimino) acetyl]amino]-8-oxo-5-thia-1-azabicyclo [4.2.0]oct-2-ene-2-carboxylic acid. It is so purified and dried that:

(i) If the ceftizoxime is not packaged for dispensing, its ceftizoxime content is not less than 850 micrograms and not more than 995 micrograms of ceftizoxime per milligram on an anhydrous basis. If the ceftizoxime is packaged for dispensing, its ceftizoxime content is not less than 850 micrograms and not more than 995 micrograms of ceftizoxime per milligram on an anhydrous basis and also, each container contains not less than 90 percent and not more than 115 percent of the number of milligrams of ceftizoxime that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) Its moisture content is not more than 8.5 percent.

VOL
48
ISS
1
9
8
OC
12
1983
UMI

(v) Its pH in an aqueous solution containing 100 milligrams per milliliter is not less than 6.0 and not more than 8.0.

(vi) It gives a positive identity test.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for ceftizoxime content, sterility, pyrogens, moisture, pH, identity, and crystallinity.

(ii) Samples, if required by the Director, National Center for Drugs and Biologics:

(*a*) If the batch is packaged for repacking or for use in the manufacture of another drug:

(*1*) For all tests except sterility: 10 packages, each containing at least 500 milligrams.

(*2*) For sterility testing: 20 packages, each containing equal portions of approximately 300 milligrams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 10 immediate containers; or if each container contains less than 1 gram of ceftizoxime, a minimum of 20 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Ceftizoxime content.* Proceed as directed in § 436.345 of this chapter.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 50 milligrams of ceftizoxime per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(6) *Identity.* From the high-pressure liquid chromatograms of the sample and the ceftizoxime working standard determined as directed in paragraph (b)(1) of this section, calculate the adjusted retention times of the ceftizoxime in the sample and standard solutions as follows:

Adjusted retention time of ceftizoxime $= t - t^a$

where:

t = Retention time measured from point of injection into the chromatograph until the maximum of the ceftizoxime sample or working standard peak appears on the chromatogram; and

t_2 = Retention time measured from point of injection into the chromatograph until the maximum of nonretarded solute appears in the chromatogram.

The sample and the cefizoxime working standard should have corresponding adjusted ceftizoxime retention times.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

§ 442.217 Sterile ceftizoxime sodium.

The requirements for certification and the tests and methods of assay for sterile ceftizoxime sodium packaged for dispensing are described in § 422.17a.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective October 12, 1983. Interested persons may, however, on or before November 14, 1983, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before November 14, 1983, a written notice of participation and request for hearing, and (2) on or before December 12, 1983, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective October 12, 1983.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))).

Dated: October 5, 1983.

Philip L. Pacquin,

Acting Assistant Director for Regulatory Affairs.

[FR Doc. 83-27855 Filed 10-11-83; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 4

[T.D. 7918; LR-100-78]

Creditability of Foreign Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations setting forth the conditions that must be met in order for a levy imposed by a foreign country or a possession of the United States to qualify as an income, war profits, or excess profits tax or a tax in lieu of such a tax otherwise generally imposed. These final regulations also relate to the determination of the amount of a qualifying foreign tax that is paid or accrued and thus, subject to certain limitations, creditable against U.S. income tax liability. These final regulations supersede the temporary regulations published in the Federal Register on November 17, 1980 (45 FR 75695).

EFFECTIVE DATE: The regulations are effective for taxable years beginning after November 14, 1983. In addition, a person may elect to apply the regulations to earlier open taxable years.

FOR FURTHER INFORMATION CONTACT: Herman B. Bouma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 1978, the Legislation and Regulations Division of the Office of Chief Counsel of the Internal Revenue Service opened a regulations project for the purpose of promulgating regulations that would give taxpayers greater guidance with respect to the creditability of foreign taxes under sections 901 and 903 of the Internal Revenue Code. On August 28, 1978, a notice was published in the **Federal Register** (43 FR 38429) inviting public comments on the creditability of foreign taxes and recommendations for the regulations. A Notice of Proposed Rulemaking was published on June 20, 1979 (44 FR 36071), and a public hearing was held on October 11, 1979. On November 17, 1980, temporary and proposed regulations were published (45 FR 75647 and 45 FR 75695, respectively) and a public hearing was held on May 28, 1981. On April 5, 1983, another Notice of Proposed Rulemaking was published (48 FR 14641) and a public hearing was held on June 23, 1983. After consideration of all comments received on the proposed regulations of April 5, 1983, the regulations, with revisions, are adopted by this Treasury Decision.

Discussion

Section 1.901–2

Section 901 allows a credit for the amount of income, war profits, or excess profits taxes paid or accrued by or on behalf of a taxpayer to a foreign country or possession of the United States. A foreign levy is a creditable tax only if it is a tax and its predominant character is that of an income tax in the U.S. sense.

A levy is a tax under these final regulations if it requires a compulsory payment pursuant to the foreign country's authority to levy taxes. A payment for a specific economic benefit (defined in §1.901–2(a)(2)(ii)(B)) is not a tax. A taxpayer who directly or indirectly receives a specific economic benefit from a foreign government (a "dual capacity taxpayer") must establish under § 1.901–2A the portion, if any, of his payment to the foreign government that is a payment of tax.

Under these final regulations, the predominant character of a foreign tax is that of an income tax in the U.S. sense if the foreign tax is likely to reach net gain in the normal circumstances in which it applies. This standard, found in § 1.901–2(a)(3)(i), adopts the criterion for creditability set forth in *Inland Steel Company v. U.S.*, 677 F.2d 72 (Ct. Cl. 1982), *Bank of America National Trust and Savings Association v. U.S.*, 459 F.2d 513 (Ct. Cl. 1972), and *Bank of America National Trust and Savings Association v. Commissioner*, 61 T.C. 752 (1974). The regulations set forth three tests for determining if a foreign tax is likely to reach net gain: the realization test, the gross receipts test, and the net income test. All of these tests must be met in order for the predominant character of the foreign tax to be that of an income tax in the U.S. sense.

Paragraph (b)(2) of § 1.901–2 states that the realization test is met if the predominant character of the foreign tax is that of tax imposed on income at the time or after the time income would be realized under the Internal Revenue Code. The test can also be satisfied even if the tax is imposed prior to a realization event if the tax recaptures a tax deduction, tax credit or other tax allowance previously accorded the taxpayer. In addition, the test can be satisfied if the foreign tax is imposed on the appreciation in value of property or on the value of certain inventory property at the time of transfer, processing, or export, but only if such amounts are not subject to foreign tax at a later time, or, if they are subject to tax, a credit is given for the earlier tax. Certain foreign taxes imposed on the deemed distribution of profits also satisfy the realization test.

Several changes were made to the realization test of the proposed regulations in response to comments made by the public. The test was expanded to cover a tax on the appreciation of any type of property and not just stock, securities, and readily marketable securities. In addition, it was clarified that the imposition of a second tax does not disqualify a tax on a prerealization event if a credit is given for the first tax. The proposed regulations had a rule pertaining to certain distributions and deemed distributions. The rule has been rewritten to apply only to deemed distributions since a tax clearly meets the realization test if it is imposed on an actual distribution of amounts that meet the realization test.

The gross receipts test set forth in paragraph (b)(3) of § 1.901–2 is satisfied if the predominant character of the foreign tax is that of a tax imposed on the basis of gross receipts. The regulations also allow a tax imposed on a base of estimated gross receipts if the method used is likely to produce an amount that is not greater than fair market value. The proposed regulations would have allowed a tax imposed on estimated gross receipts only in the case of: (1) Transactions with respect to which it is reasonable to believe that gross receipts may not otherwise be clearly reflected, or (2) certain prerealization events. In response to comments made by the public, these restrictions have been deleted.

The third test of the regulations is whether the predominant character of the foreign tax is that of a tax on net income. Paragraph (b)(4) of § 1.902–2 states that a tax imposed on a base of gross receipts reduced by significant costs and expenses (including capital expenditures) attributable to that income is a tax on net income. Certain formulary methods of computing taxable income satisfy this test. In rare cases where income is of a type (such as wages) that generally does not have significant related expenses, a foreign tax may be considered to be imposed on net income even if no deductions are allowed.

The net income test has been clarified in several respects in response to comments received. A sentence has been added at the end of paragraph (b)(4)(i) specifically stating that a tax need not give a deduction for another tax that meets the realization, gross receipts, and net income requirements. In addition, the rules concerning the consolidation of profits and losses have been clarified by the insertion of examples of separate activities within a trade or business (separate contract areas in the case of oil and gas exploration). The regulations also make clear that oil and gas extraction constitutes a separate trade or business from oil and gas refining and processing. Some persons requested that example 24 of § 4.901–2(e) of the temporary regulations be included in the final regulations. The example lists certain deductions that are not allowed by a foreign tax and concludes that the tax meets the net income test, nothwithstanding the disallowance. It was decided not to include the example in the final regulations in order to avoid the possible implication that a tax that disallowed additional deductions would not meet the net income test. Such a tax may or may not meet the net income test, depending on the additional deductions that are disallowed.

VOL 48 ISS 1 98 OC 12 1983 UMI

Even though a foreign tax satisfies the three tests of realization, gross receipts, and net income, the predominant character of the tax is not that of an income tax in the U.S. sense to the extent the foreign tax liability is dependent on the availability of a credit against the taxpayer's liability to another country. This rule is contained in paragraphs (a)(3)(ii) and (c) of § 1.901–2. Several comments recommended the regulations be revised to deny a credit only to the extent the foreign tax is dependent on the availability of a credit against U.S. tax liability. This recommendation was not followed.

Under the regulations, the tests for determining creditability are applied to each separate foreign levy. Paragraph (d) of § 1.901–2 provides that a levy consists of separate levies if it is imposed on a base that differs in kind, and not merely in degree, for different classes of persons subject to the levy. Taxes imposed by different levels of a government are always separate levies. A tax imposed under foreign law as modified by a contract is a separate tax imposed on those persons subject to the contractual modification. Special rules with respect to levies imposed on dual capacity taxpayers are found in § 1.901–2A(a).

Amounts of foreign income, war profits, or excess profits taxes that are creditable must be paid or accrued to the foreign country by or on behalf of the taxpayer. Paragraph (e) of § 1.901–2 contains rules with respect to the amount of a qualifying tax that is creditable, subject to limitations such as those contained in section 904. Amounts of tax paid or accrued to a foreign country do not include amounts that are: (1) Reasonably certain to be refunded, credited, rebated, abated, or forgiven, or (2) used directly or indirectly as a subsidy to the taxpayer, or (3) not compulsory payments. To the extent a taxpayer does not make reasonable efforts to minimize its foreign tax liability over time, the payment is not compulsory and is therefore not an amount of tax paid. A taxpayer is not required to change the form of a transaction in order to minimize its foreign tax liability.

The proposed regulations provided that an amount was not paid or accrued if it was reasonably likely to be refunded, credited, rebated, or forgiven. Following the recommendation of certain comments, these final regulations substitute the word "certain" for "likely". Also in response to certain comments, the regulations give further guidance as to how far a taxpayer has to go to reduce his tax liability.

Paragraph (e) of § 1.901–2 also provides rules with respect to multiple levies. If the initial amount of one foreign liability is reduced by the amount of another levy, the amount of the first liability that is paid or accrued is the excess of the initial liability over the other levy. This is the rule of *Helvering v. Queen Insurance Co.*, 115 F.2d 341 (2d Cir. 1940), *cert. den.* 312 U.S. 706 (1941). The amount of the other levy that is paid or accrued is not reduced due to its use as an offset. If the taxpayer's liability is the greater or lesser of two amounts, the taxpayer is considered to pay or accrue only the levy for which he is liable for that period. Thus, if the taxpayer is liable for the greater of an income tax or an excise tax and for one period the income tax liability is larger, the taxpayer is considered to be liable only for the income tax, and not for the excise tax, for that period.

Various comments criticized the results of the two situations described above. If a person pay the greater of an income tax and an excise tax, he gets a full credit if the income tax is greater. However, if the person had been given a credit against his income tax for the amount of the excise tax, he would only get a credit for the difference between the income tax and the excise tax. It was suggested that in the latter situation the excise tax should be creditable as an in-lieu-of tax. It was decided to retain the rules of the proposed regulations, which respect foreign law in determining which levy or levies are paid.

The rules of the temporary regulations involving advance corporation taxes (§ 4.901–2(f)(4)(iv)) have been deleted because they apply to only one type of integrated tax system. The final regulations reserve a paragraph to contain more general rules for the treatment of taxes under integrated tax systems.

The final regulations also do not contain the rule of the temporary regulations regarding the accrual of contested foreign taxes (§ 4.901–2(f)(6)). No reason could be found for giving a credit when a person is contesting a tax and has not yet paid it. Thus, Revenue Rulings 58–55, 1958–1 C.B. 266; 70–290, 1970–1 C.B. 160; and 77–487, 1977–2 C.B. 479, again state the position of the Internal Revenue Service on this issue. It is anticipated that in the near future another Revenue Ruling will be issued, consolidating and expanding on the cited rulings.

Paragraph (f) of § 1.901–2 contains the general rule that a foreign income tax can be paid or accrued only by or on behalf of a taxpayer who is liable for the amount under foreign law. The final regulations, however, include an exception not found in the proposed regulations. A recipient of wages will be considered to be subject to legal liability for pension, unemployment, disability fund, and other similar payments if such amounts are deducted from the wages under provisions comparable to section 3102 (a) and (b) of the Internal Revenue Code. Paragraph (f) also contains specific rules with respect to: (1) A contractual agreement under which the income tax liability of the taxpayer is paid by another person, and (2) joint and several liability for income tax.

Paragraph (g) of § 1.901–2 contains definitions of the terms "paid," "foreign country," and "foreign levy" for purposes of §§ 1.901–2, 1.901–2A, and 1.903–1.

Paragraph (h) contains the effective date provision for §§ 1.901–2, 1.901–2A, and 1.903–1. Generally, the regulations are effective for taxable years beginning after November 14, 1983. However, taxpayers may elect to have the regulations apply to any open taxable year on a country-by-country basis. If the election is made with the respect to one country, it applies to all levies imposed by the country and any of its political subdivisions for the year for which the election is made and all subsequent years. The election cannot be revoked.

Section 1.901–2A

Under § 1.901–2 (a)(2)(i), a payment to a foreign government in exchange for a specific economic benefit is not a tax. A taxpayer who receives a specific economic benefit ("dual capacity taxpayer") must establish the portion (if any) of his payment to the foreign government that is tax. Rules pertaining to this burden are contained in § 1.901–2A.

Under paragraph (a)(1) of § 1.901–2A, no portion of a payment by a dual capacity taxpayer is considered to be compensation for a specific economic benefit if the payment is pursuant to a levy that is imposed on both dual capacity taxpayers and other taxpayers. A levy imposed on dual capacity taxpayers is also imposed on other taxpayers only if the levy is applied, by its terms and in practice, in the same manner to other taxpayers as to dual capacity taxpayers.

Paragraph (b)(2) of § 1.901–2A confirms that a dual capacity taxpayer entitled to the benefits of a tax treaty to which the United States is a party and which provides for the creditability of a foreign tax for U.S. tax purposes, may choose the benefits of the treaty, subject to any terms, conditions, and limitations contained in the treaty.

Paragraph (c) sets forth the two methods available to a dual capacity taxpayer if the taxpayer is not subject to the same levy as other taxpayers and is not claiming a credit under a treaty. The first method is to establish by all of the relevant facts and circumstances, the portion, if any, of the levy that is not paid in exchange for a specific economic benefit. Neither the methodology of the elective safe harbor method described below nor the results that would have obtained if the safe harbor method had been elected may be taken into account as relevant facts or circumstances under this method.

The second method, the elective safe harbor method, is described in paragraph (c)(3) of § 1.901–2A. A dual capacity taxpayer may elect to use this method in accordance with paragraph (d) on a country-by-country basis. A taxpayer who elects the safe harbor method applies the formula set forth in paragraph (e). The formula is intended to provide a credit under section 901 or 903 for an amount approximating the amount of generally imposed income tax that would have been paid if the taxpayer had not been a dual capacity taxpayer and if the amount considered to be paid for the specific economic benefit had been deductible in determining the foreign income tax liability. However, if a country that imposes a levy based on realized net income on a dual capacity taxpayer does not have a generally imposed income tax, the dual capacity taxpayer may use the lower of the rate specified in section 11(b)(5) of the Internal Revenue Code or the rate of the foreign levy in applying the safe harbor formula. An election to use the safe harbor method for a country is effective for the taxable year for which it is made and all subsequent years unless revoked with the consent of the Commissioner of Internal Revenue. The making of a safe harbor election constitutes a waiver of the right to use the facts and circumstances method with respect to any levy imposed by countries covered by the election.

If a payment by a dual capacity taxpayer to the foreign country is determined to have two elements—an amount that is income tax or tax in lieu of income tax and an amount that is paid in exchange for a specific economic benefit—the amount paid in exchange for the specific economic benefit is characterized (as royalty, purchase price, etc.) according to the nature of the transaction. Such characterization applies for all purposes of Chapter 1 of the Code, except that any determination by reason of the safe harbor method that an amount is not tax shall not be taken into account in determining whether or not such amount is to be characterized and treated as tax for purposes of computing an allowance for percentage depletion under sections 611 and 613.

The proposed regulations allowed a safe harbor election to be made retroactively only with respect to taxable years beginning before the general effective date of the regulations. The final regulations also allow a retroactive election if: (1) A person reasonably believed that he was not a dual capacity taxpayer or was not subject to a qualifying levy and the Commissioner consents to the retroactive election, or (2) a person originally deducted taxes for the taxable year with respect to which he now wishes to make the election. The final regulations also provide the following additional situations in which the Commissioner will normally consent to a revocation of a safe harbor election; (1) The Internal Revenue Service has issued a letter ruling to the electing person which adversely affects the person's application of the safe harbor method, and (2) a corporation that is a dual capacity taxpayer becomes a member of an affiliated group that already contains a member that is a dual capacity taxpayer with respect to the same country, and immediately prior thereto one of such dual capacity taxpayers had a safe harbor election in effect with respect to the country and the other did not.

Under the proposed regulations, a provision of the general tax (*e.g.*, treatment of an income item, a deduction, or a rate) cannot be applied in using the safe harbor method if the provision does not apply in practice to persons other than dual capacity taxpayers. A number of comments indicated that in many cases it would be extremely burdensome for a dual capacity taxpayer to establish that a provision applies in practice to non-dual capacity taxpayers. Paragraph (e)(4)(ii) of the final regulations states that a provision (including tax rate) that by its terms applies to persons other than dual capacity taxpayers will generally be assumed to be reasonably likely to apply in practice to such other persons unless the person claiming credit knows or has reason to know otherwise.

Many comments criticized the proposed regulations for not allowing a credit under the safe harbor method if the foreign country does not have a general tax. They suggested that either the facts and circumstances method explicitly deal with this situation or the safe harbor method be modified so that the tax rate of a neighboring country or of the U.S. could be applied. The final regulations provide that if a country that does not have a general tax imposes a levy based on realized net income on a dual capacity taxpayer, the safe harbor formula may be applied using the lower of the rate of that levy or the rate specified in section 11(b)(5) of the Internal Revenue Code (currently 46%).

Section 1.903–1

Section 903 provides that the credit granted by section 901 shall also be available for a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by a foreign country or U.S. possession. The regulations under section 903 describe these taxes. The rules under section 901 for determining the amount of tax paid or accrued by or on behalf of a taxpayer also apply to section 903 taxes.

To qualify as a tax in lieu of a tax on income, war profits, or excess profits, a levy must satisfy the definition of a tax in § 1.901–2(a)(2). The tax must also be in substitution for, and not in addition to, a generally imposed income tax. To the extent that the amount of the foreign tax liability is contingent upon the availability of a credit against the amount of income tax owed to another country, a tax is not in substitution for an otherwise generally imposed income tax. The comparability requirement in temporary regulation § 4.903–1(c) is not contained in these final regulations.

Creditability under § 1.903–1 is not dependent on administrative difficulty in applying the generally imposed income tax. The base of the tax need not bear any relation to realized net income; a section 903 tax may be imposed on gross receipts, gross income, or a base that bears no resemblance to income. A taxpayer may be entitled to credit under section 903 for a tax with respect to certain of its activities, even though the taxpayer is also subject to a generally imposed income tax on its income from other activities. As under section 901, each separate levy is evaluated in its entirety for all persons subject to the tax, and the rules of § 1.901–2A apply to dual capacity taxpayers.

Removal of Temporary Regulations

These final regulations supersede the temporary regulations published in the **Federal Register** (45 FR 75647) on November 17, 1980; thus, the temporary

VOL
48
ISS
1
9
8
OC
12
1983
UMI

regulations are removed from 26 CFR. The temporary regulations continue to apply, however, to taxable years ending after June 15, 1979, and beginning on or before November 14, 1983 (if a revenue ruling in effect on November 16,1980, is inconsistent with the temporary regulations, then a taxpayer may choose to apply the ruling for any taxable year ending on or before December 31, 1980).

Regulatory Flexibility Act and Executive Order 12291

The Internal Revenue Service has concluded that these regulations are interpretative and thus the notice and public comment procedural requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has determined that these regulations are not subject to Executive Order 12291.

Paperwork Reduction Act of 1980

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of these regulations in the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service is Herman B. Bouma. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

List of Subjects

26 CFR §§ 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investment in U.S., Foreign tax credit, Sources of income, United States investments abroad.

26 CFR Port 4

Income taxes, United States investments abroad, Foreign tax credit.

Adoption of amendments to the regulations

The following amendments to 26 CFR Part 1 and 4 are hereby adopted:

PART 1—[AMENDED]

Paragraph 1. A new § 1.901–2 is added immediately after § 1.901–1 to read as follows:

§ 1.901–2 Income, war profits, or excess profits tax paid or accrued.

(a) *Definition of income, war profits, or excess profits tax.*—(1) *In general.* Section 901 allows a credit for the amount of income, war profits or excess profits tax (referred to as "income tax" for purposes of this section and §§ 1.901–2A and 1.903–1) paid to any foreign country. Whether a foreign levy is an income tax is determined independently for each separate foreign levy. A foreign levy is an income tax if and only if—

(i) It is a tax; and

(ii) The predominant character of that tax is that of an income tax in the U.S. sense.

Except to the extent otherwise provided in paragraphs (a)(3)(ii) and (c) of this section, a tax either is or is not an income tax, in its entirety, for all persons subject to the tax. Paragraphs (a), (b) and (c) of this section define an income tax for purposes of section 901. Paragraph (d) of this section contains rules describing what constitutes a separate foreign levy. Paragraph (e) of this section contains rules for determining the amount of tax paid by a person. Paragraph (f) of this section contains rules for determining by whom foreign tax is paid. Paragraph (g) of this section contains definitions of the terms "paid by," "foreign country," and "foreign levy." Paragraph (h) of this section states the effective date of this section.

(2) *Tax.*—(i) *In general.* A foreign levy is a tax if it requires a compulsory payment pursuant to the authority of a foreign country to levy taxes. A penalty, fine, interest, or similar obligation is not a tax, nor is a customs duty a tax. Whether a foreign levy requires a compulsory payment pursuant to a foreign country's authority to levy taxes is determined by principles of U.S. law and not by principles of law of the foreign country. Therefore, the assertion by a foreign country that a levy is pursuant to the foreign country's authority to levy taxes is not determinative that, under U.S. principles, it is pursuant thereto. Notwithstanding any assertion of a foreign country to the contrary, a foreign levy is not pursuant to a foreign country's authority to levy taxes, and thus is not a tax, to the extent a person subject to the levy receives (or will receive), directly or indirectly, a specific economic benefit (as defined in paragraph (a)(2)(ii)(B) of this section) from the foreign country in exchange for payment pursuant to the levy. Rather, to that extent, such levy requires a compulsory payment in exchange for such specific economic benefit. If, applying U.S. principles, a foreign levy requires a compulsory payment pursuant to the authority of a foreign country to levy taxes and also requires a compulsory payment in exchange for a specific economic benefit, the levy is considered to have two distinct elements: a tax and a requirement of compulsory payment in exchange for such specific economic benefit. In such a situation, these two distinct elements of the foreign levy (and the amount paid pursuant to each such element) must be separated. No credit is allowable for a payment pursuant to a foreign levy by a dual capacity taxpayer (as defined in paragraph (a)(2)(ii)(A) of this section) unless the person claiming such credit establishes the amount that is paid pursuant to the distinct element of the foreign levy that is a tax. See paragraph (a)(2)(ii) of this section and § 1.901–2A.

(ii) *Dual capacity taxpayers.*—(A) *In general.* For purposes of this section and §§ 1.901–2A and 1.903–1, a person who is subject to a levy of a foreign state or of a possession of the United States or of a political subdivision of such a state or possession and who also, directly or indirectly (within the meaning of paragraph (a)(2)(ii)(E) of this section) receives (or will receive) a specific economic benefit from the state or possession or from a political subdivision of such state or possession or from an agency or instrumentality of any of the foregoing is referred to as a "dual capacity taxpayer." Dual capacity taxpayers are subject to the special rules of § 1.901–2A.

(B) *Specific economic benefit.* For purposes of this section and §§ 1.901–2A and 1.903–1, the term "specific economic benefit" means an economic benefit that is not made available on substantially the same terms to substantially all persons who are subject to the income tax that is generally imposed by the foreign country, or, if there is no such generally imposed income tax, an economic benefit that is not made available on substantially the same terms to the population of the country in general. Thus, a concession to extract government-owned petroleum is a specific economic benefit, but the right to travel or to ship freight on a government-owned airline is not, because the latter, but not the former, is made generally available on substantially the same terms. An economic benefit includes property; a service; a fee or other payment; a right to use, acquire or extract resources, patents or other property that a foreign country owns or controls (within the meaning of paragraph (a)(2)(ii)(D) of this section); or a reduction or discharge of a contractual obligation. It does not include the right or privilege merely to engage in business generally or to engage in business in a particular form.

(C) *Pension, unemployment, and disability fund payments.* A foreign levy imposed on individuals to finance retirement, old-age, death, survivor, unemployment, illness, or disability benefits, or for some substantially similar purpose, is not a requirement of compulsory payment in exchange for a specific economic benefit, as long as the amounts required to be paid by the individuals subject to the levy are not computed on a basis reflecting the respective ages, life expectancies or similar characteristics of such individuals.

(D) *Control of property.* A foreign country controls property that it does not own if the country exhibits substantial indicia of ownership with respect to the property, for example, by both regulating the quantity of property that may be extracted and establishing the minimum price at which it may be disposed of.

(E) *Indirect receipt of a benefit.* A person is considered to receive a specific economic benefit indirectly if another person receives a specific economic benefit and that other person—

(*1*) Owns or controls, directly or indirectly, the first person or is owned or controlled, directly or indirectly, by the first person or by the same persons that own or control, directly or indirectly, the first person; or

(2) Engages in a transaction with the first person under terms and conditions such that the first person receives, directly or indirectly, all or part of the value of the specific economic benefit.

(3) *Predominant character.* The predominant character of a foreign tax is that of an income tax in the U.S. sense—

(i) If, within the meaning of paragraph (b)(1) of this section, the foreign tax is likely to reach net gain in the normal circumstances in which it applies,

(ii) But only to the extent that liability for the tax is not dependent, within the meaning of paragraph (c) of this section, by its terms or otherwise, on the availability of a credit for the tax against income tax liability to another country.

(b) *Net gain.*—(1) *In general.* A foreign tax is likely to reach net gain in the normal circumstances in which it applies if and only if the tax, judged on the basis of its predominant character, satisfies each of the realization, gross receipts, and net income requirements set forth in paragraphs (b)(2), (b)(3) and (b)(4), respectively, of this section.

(2) *Realization.*—(i) *In general.* A foreign tax satisfies the realization requirement if, judged on the basis of its predominant character, it is imposed—

(A) Upon or subsequent to the occurrence of events ("realization events") that would result in the realization of income under the income tax provisions of the Internal Revenue Code;

(B) Upon the occurrence of an event prior to a realization event (a "prerealization event") provided the consequence of such event is the recapture (in whole or part) of a tax deduction, tax credit or other tax allowance previously accorded to the taxpayer; or

(C) Upon the occurrence of a prerealization event, other than one described in paragraph (b)(2)(i)(B) of this section, but only if the foreign country does not, upon the occurrence of a later event (other than a distribution or a deemed distribution of the income), impose tax ("second tax") with respect to the income on which tax is imposed by reason of such prerealization event (or, if it does impose a second tax, a credit or other comparable relief is available against the liability for such a second tax for tax paid on the occurrence of the prerealization event) and—

(*1*) The imposition of the tax upon such prerealization event is based on the difference in the values of property at the beginning and end of a period; or

(2) The prerealization event is the physical transfer, processing, or export of readily marketable property (as defined in paragraph (b)(2)(iii) of this section).

A foreign tax that, judged on the basis of its predominant character, is imposed upon the occurrence of events described in this paragraph (b)(2)(i) satisfies the realization requirement even if it is also imposed in some situations upon the occurrence of events not described in this paragraph (b)(2)(i). For example, a foreign tax that, judged on the basis of its predominant character, is imposed upon the occurrence of events described in this paragraph (b)(2)(i) satisfies the realization requirement even though the base of that tax also includes imputed rental income from a personal residence used by the owner and receipt of stock dividends of a type described in section 305(a) of the Internal Revenue Code. As provided in paragraph (a)(1) of this section, a tax either is or is not an income tax, in its entirety, for all persons subject to the tax; therefore, a foreign tax described in the immediately preceding sentence satisfies the realization requirement even though some persons subject to the tax will on some occasions not be subject to the tax except with respect to such imputed rental income and such stock dividends. However, a foreign tax based only or predominantly on such imputed rental income or only or predominantly on receipt of such stock dividends does not satisfy the realization requirement.

(ii) *Certain deemed distributions.* A foreign tax that does not satisfy the realization requirement under paragraph (b)(2)(i) of this section is nevertheless considered to meet the realization requirement if it is imposed with respect to a deemed distribution (*e.g.*, by a corporation to a shareholder) of amounts that meet the realization requirement in the hands of the person that, under foreign law, is deemed to distribute such amount, but only if the foreign country does not, upon the occurrence of a later event (*e.g.*, an actual distribution), impose tax ("second tax") with respect to the income on which tax was imposed by reason of such deemed distribution (or, if it does impose a second tax, a credit or other comparable relief is available against the liability for such a second tax for tax paid with respect to the deemed distribution).

(iii) *Readily marketable property.* Property is readily marketable if—

(A) It is stock in trade or other property of a kind that property would be included in inventory if on hand at the close of the taxable year or if it is held primarily for sale to customers in the ordinary course of business, an

(B) It can be sold on the open market without further processing or it is exported from the foreign country.

(iv) *Examples.* The provisions of paragraph (b)(2) of this section may be illustrated by the following examples:

Example (1). Residents of country X are subject to a tax of 10 percent on the aggregate net appreciation in fair market value during the calendar year of all shares of stock held by them at the end of the year. In addition, all such residents are subject to a country X tax that qualifies as an income tax within the meaning of paragraph (a)(1) of this section. Included in the base of the income tax are gains and losses realized on the sale of stock, and the basis of stock for purposes of determining such gain or loss is its cost. The operation of the stock appreciation tax and the income tax as applied to sales of stock is exemplified as follows: T3A, a resident of country X, purchases stock in June, 1983 for 100u (units of country X currency) and sells it

VOL
48
ISS
1
9
8
OC
12
1983
UMI

in May, 1985 for 160u. On December 31, 1983, the stock is worth 120u and on December 31, 1984, it is worth 155u. Pursuant to the stock appreciation tax, *A* pays 2u for 1983 (10 percent of (120u—100u)), 3.5u for 1984 (10 percent of (155u—120u)), and nothing in 1985 because no stock was held at the end of that year. For purposes of the income tax, *A* must include 60u (160u—100u) in his income for 1985, the year of sale. Pursuant to paragraph (b)(2)(i)(C) of this section, the stock appreciation tax does not satisfy the realization requirement because country X imposes a second tax upon the occurrence of a later event (*i.e.*, the sale of stock) with respect to the income that was taxed by the stock appreciation tax and no credit or comparable relief is available against such second tax for the stock appreciation tax paid.

Example (2). The facts are the same as in example (1) except that if stock was held on the December 31 last preceding the date of its sale, the basis of such stock for purposes of computing gain or loss under the income tax is the value of the stock on such December 31. Thus, in 1985, A includes only 5u (160u—155u) as income from the sale for purposes of the income tax. Because the income tax imposed upon the occurrence of a later event (the sale) does not impose a tax with respect to the income that was taxed by the stock appreciation tax, the stock appreciation tax satisfies the realization requirement. The result would be the same if, instead of a basis adjustment to reflect taxation pursuant to the stock appreciation tax, the country X income tax allowed a credit (or other comparable relief) to take account of the stock appreciation tax. If a credit mechanism is used, see also paragraph (e)(4)(i) of this section.

Example (3). Country X imposes a tax on the realized net income of corporations that do business in country X. Country X also imposes a branch profits tax on corporations organized under the law of a country other than country X that do business in country X. The branch profits tax is imposed when realized net income is remitted or deemed to be remitted by branches in country X to home offices outside of country X. The branch profits tax is imposed subsequent to the occurrence of events that would result in realization of income (*i.e.*, by corporations subject to such tax) under the income tax provisions of the Internal Revenue Code; thus, in accordance with paragraph (b)(2)(i)(A) of this section, the branch profits tax satisfies the realization requirement.

Example (4). Country X imposes a tax on the realized net income of corporations that do business in country X (the "country X corporate tax"). Country X also imposes a separate tax on shareholders of such corporations (the "country X shareholder tax"). The country X shareholder tax is imposed on the sum of the actual distributions received during the taxable year by such a shareholder from the corporation's realized net income for that year (*i.e.*, income from past years is not taxed in a later year when it is actually distributed) plus the distributions deemed to be received by such a shareholder. Deemed distributions are defined as (A) a shareholder's pro rata share of the corporation's realized net income for the taxable year, less (B) such shareholder's pro rata share of the corporation's country X corporate tax for that year, less (C) actual distributions made by such corporation to such shareholder from such net income. A shareholder's receipt of actual distributions is a realization event within the meaning of paragraph (b)(2)(i)(A) of this section. The deemed distributions are not realization events, but they are described in paragraph (b)(2)(ii) of this section. Accordingly, the country X shareholder tax satisfies the realization requirement.

(3) *Gross receipts.*—(i) *In general.* A foreign tax satisfies the gross receipts requirement if, judged on the basis of its predominant character, it is imposed on the basis of—

(A) Gross receipts; or

(B) Gross receipts computed under a method that is likely to produce an amount that is not greater than fair market value.

A foreign tax that, judged on the basis of its predominant character, is imposed on the basis of amounts described in this paragraph (b)(3)(i) satisfies the gross receipts requirement even if it is also imposed on the basis of some amounts not described in this paragraph (b)(3)(i).

(ii) *Examples.* The provisions of paragraph (b)(3)(i) of this section may be illustrated by the following examples:

Example (1). Country X imposes a "headquarters company tax" on country X corporations that serve as regional headquarters for affiliated nonresident corporations, and this tax is a separate tax within the meaning of paragraph (d) of this section. A headquarters company for purposes of this tax is a corporation that peforms administrative, management or coordination functions solely for nonresident affiliated entities. Due to the difficulty of determining on a case-by-case basis the arm's length gross receipts that headquarters companies would charge affiliates for such services, gross receipts of a headquarters company are deemed, for purposes of this tax, to equal 110 percent of the business expenses incurred by the headquarters company. It is established that this formula is likely to produce an amount that is not greater than the fair market value of arm's length gross receipts from such transactions with affiliates. Pursuant to paragraph (b)(3)(i)(B) of this section, the headquarters company tax satisfies the gross receipts requirement.

Example (2). The facts are the same as in Example (1), with the added fact that in the case of a particular taxpayer, *A*, the formula actually produces an amount that is substantially greater than the fair market value of arm's length gross receipts from transactions with affiliates. As provided in paragraph (a) (l) of this section, the headquarters company tax either is or is not an income tax, in its entirety, for all persons subject to the tax. Accordingly, the result is the same as in example (1) for all persons subject to the headquarters company tax, including *A*.

Example (3). Country X imposes a separate tax (within the meaning of paragraph (d) of this section) on income from the extraction of petroleum. Under that tax, gross receipts from extraction income are deemed to equal 105 percent of the fair market value of petroleum extracted. This computation is designed to produce an amount that is greater than the fair market value of actual gross receipts; therefore, the tax on extraction income is not likely to produce an amount that is not greater than fair market value. Accordingly, the tax on extraction income does not satisfy the gross receipts requirement. However, if the tax satisfies the criteria of § 1.903–1(a), it is a tax in lieu of an income tax.

(4) *Net income.*—(i) *In general.* A foreign tax satisfies the net income requirement if, judged on the basis of its predominant character, the base of the tax is computed by reducing gross receipts (including gross receipts as computed under paragraph (b)(3)(i(B) of this section) to permit—

(A) Recovery of the significant costs and expenses (including significant capital expenditures) attributable, under reasonable principles, to such gross receipts; or

(b) Recovery of such significant costs and expenses computed under a method that is likely to produce an amount that approximates, or is greater than, recovery of such significant costs and expenses.

A foreign tax law permits recovery of significant costs and expenses even if such costs and expenses are recovered at a different time than they would be if the Internal Revenue Code applied, unless the time of recovery is such that under the circumstances there is effectively a denial of such recovery. For example, unless the time of recovery is such that under the circumstances there is effectively a denial of such recovery, the net income requirement is satisfied where items deductible under the Internal Revenue Code are capitalized under the foreign tax system and recovered either on a recurring basis over time or upon the occurrence of some future event or where the recovery of items capitalized under the Internal Revenue Code occurs less rapidly under the foreign tax system. A foreign tax law that does not permit recovery of one or more significant costs or expenses, but that provides allowances that effectively compensate for nonrecovery of such significant costs or expenses, is considered to permit recovery of such costs or expenses. Principles used in the foreign tax law to attribute costs and expenses to gross receipts may be reasonable even if they differ from principles that apply under the Internal Revenue Code (e.g., principles that apply

under section 265, 465 or 861(b) of the Internal Revenue Code). A foreign tax whose base, judged on the basis of its predominant character, is computed by reducing gross receipts by items described in paragraph (b)(4)(i)(A) or (B) of this section satisfied the net income requirement even if gross receipts are not reduced by some such items. A foreign tax whose base is gross receipts or gross income does not satisfy the net income requirement except in the rare situation where that tax is almost certain to reach some net gain in the normal circumstances in which it applies because costs and expenses will almost never be so high as to offset gross receipts or gross income, respectively, and the rate of the tax is such that affer the tax is paid persons subject to the tax are almost certain to have net gain. Thus, a tax on the gross receipts or gross income of businesses can satisfy the net income requirement only if businesses subject to the tax are almost certain never to incur a loss (after payment of the tax). In determining whether a foreign tax satisfied the net income requirement, it is immaterial whether gross receipts are reduced, in the base of the tax, by another tax, provided that other tax satisfies the realization, gross receipts and net income requirements.

(ii) *Consolidation of profits and losses.* In determining whether a foreign tax satisfies the net income requirement, one of the factors to be taken into account is whether, in computing the base of the tax, a loss incurred in one activity (e.g., a contract area in the case of oil and gas exploration) in a trade or business is allowed to offset profit earned by the same person in another activity (e.g., a separate contract area) in the same trade or business. If such an offset is allowed, it is immaterial whether the offset may be made in the taxable period in which the loss is incurred or only in a different taxable period, unless the period is such that under the circumstances there is effectively a denial of the ability to offset the loss against profit. In determining whether a foreign tax satisfies the net income requirement, it is immaterial that no such offset is allowed if a loss incurred in one such activity may be applied to offset profit earned in that activity in a different taxable period, unless the period is such that under the circumstances there is effectively a denial of the ability to offset such loss against profit. In determining whether a foreign tax satisfies the net income requirement, it is immaterial whether a person's profits and losses from one trade or business (*e.g.*, oil and gas extraction) are allowed to offset its profits and losses from another trade or business, (*e. g.*, oil and gas refining and processing) or whether a person's business profits and losses and its passive investment profits and losses are allowed to offset each other in computing the base of the foreign tax. Moreover, it is immaterial whether foreign law permits or prohibits consolidation of profits and losses of related persons, unless foreign law requires separate entities to be used to carry on separate activities in the same trade or business. If foreign law requires that separate entities carry on such separate activities, the determination whether the net income requirement is satisfied is made by applying the same considerations as if such separate activities were carried on by a single entity.

(iii) *Carryovers.* In determining whether a foreign tax satisfies the net income requirement, it is immaterial, except as otherwise provided in paragraph (b)(4)(ii) of this section, whether losses incurred during one taxable period may be carried over to offset profits incurred in different taxable periods.

(iv) *Examples.* The provisions of this paragraph (b)(4) may be illustrated by the following examples:

Example (1). Country X imposes an income tax on corporations engaged in business in country X; however, that income tax is not applicable to banks. Country X also imposes a tax (the "bank tax") of 1 percent on the gross amount of interest income derived by banks from branches in country X; no deductions are allowed. Banks doing business in country X incur very substantial costs and expenses (e.g. interest expense) attributable to their interest income. The bank tax neither provides for recovery of significant costs and expenses nor provides any allowance that significantly compensates for the lack of such recovery. Since such banks are not almost certain never to incur a loss on their interest income from branches in country X, the bank tax does not satisfy the net income requirement. However, if the tax on corporations is generally imposed, the bank tax satisfies the criteria of § 1.903–1(a) and therefore is a tax in lieu of an income tax.

Example (2). Country X law imposes an income tax on persons engaged in business in country X. The base of that tax is realized net income attributable under reasonable principles to such business. Under the tax law of country X, a bank is not considered to be engaged in business in country X unless it has a branch in country X and interest income earned by a bank from a loan to a resident of country X is not considered attributable to business conducted by the bank in country X unless a branch of the bank in country X performs certain significant enumerated activities, such as negotiating the loan. Country X also imposes a tax (the "bank tax") of 1 percent on the gross amount of interest income earned by banks from loans to residents of country X if such banks do not engage in business in country X or if such interest income is not considered attributable to business conducted in country X. For the same reasons as are set forth in example (1), the bank tax does not satisfy the net income requirement. However, if the tax on persons engaged in business in country X is generally imposed, the bank tax satisfies the criteria of § 1.903–1(a) and therefore is a tax in lieu of an income tax.

Example (3). A foreign tax is imposed at the rate of 40 percent on the amount of gross wages realized by an employee; no deductions are allowed. Thus, the tax law neither provides for recovery of costs and expenses nor provides any allowance that effectively compensates for the lack of such recovery. Because costs and expenses of employees attributable to wage income are almost always insignificant compared to the gross wages realized, such costs and expenses will almost always not be so high as to offset the gross wages and the rate of the tax is such that, under the circumstances, after the tax is paid, employees subject to the tax are almost certain to have net gain. Accordingly, the tax satisfies the net income requirement.

Example (4). Country X imposes a tax at the rate of 48 percent of the "taxable income" of nonresidents of country X. "Taxable income" for purposes of the tax is defined as gross receipts received from residents of country X who furnish specified types of services to customers who are residents of country X (regardless of whether the services to which the receipts relate are performed within or outside country X) less deductions that permit recovery of the significant costs and expenses (including significant capital expenditures) attributable under reasonable principles to such gross receipts. The country X tax satisfies the net income requirement.

Example (5). Each of country X and province Y (a political subdivision of country X) imposes a tax on corporations, called the "country X income tax" and the "province Y income tax," respectively. Each tax has an identical base, which is computed by reducing a corporation's gross receipts by deductions that, based on the predominant character of the tax, permit recovery of the significant costs and expenses (including significant capital expenditures) attributable under reasonable principles to such gross receipts. The country X income tax does not allow a deduction for the province Y income tax for which a taxpayer is liable, nor does the province Y income tax allow a deduction for the country X income tax for which a taxpayer is liable. As provided in paragraph (d)(1) of this section, each of the country X income tax and the province Y income tax is a separate levy. Both of these levies satisfy the net income requirement; the fact that neither levy's base allows a deduction for the other levy is immaterial in reaching that determination.

(c) *Soak-up taxes.*—(1) *In general.* Pursuant to paragraph (a)(3)(ii) of this section, the predominant character of a foreign tax that satisfies the requirement of paragraph (a)(3)(i) of this section is that of an income tax in the U.S. sense only to the extent that liability for the foreign tax is not dependent (by its terms or otherwise) on the availability of a credit for the tax against income tax liability to another country; Liability for foreign tax is dependent on the availability of a credit for the foreign tax against income tax liability to another country only if and to the extent that the foreign tax would not be imposed on the taxpayer but for the availability of such a credit. See also § 1.903–1(b)(2).

(2) *Examples.* The provisions of paragraph (c)(1) of this section may be illustrated by following examples:

Example (1). Country X imposes a tax on the receipt of royalties from sources in country X by nonresidents of country X. The tax is 15 percent of the gross amount of such royalties unless the recipient is a resident of the United States or of country A, B, C, or D, in which case the tax is 20 percent of the gross amount of such royalties. Like the United States, each of countries A, B, C, and D allows its residents a credit against the income tax otherwise payable to it for income taxes paid to other countries. Because the 20 percent rate applies only to residents of countries which allow a credit for taxes paid to other countries and the 15 percent rate applies to residents of countries which do not allow such a credit, one-fourth of the country X tax would not be imposed on residents of the United States but for the availability of such a credit. Accordingly, one-fourth of the country X tax imposed on residents of the United States who receive royalties from sources in country X is dependent on the availability of a credit for the country X tax against income tax liability to another country.

Example (2). Country X imposes a tax on the realized net income derived by all nonresidents from carrying on a trade or business in country X. Although country X law does not prohibit other nonresidents from carrying on business in country X, United States persons are the only nonresidents of country X that carry on business in country X in 1984. The country X tax would be imposed in its entirety on a nonresident of country X irrespective of the availability of a credit for country X tax against income tax liability to another country. Accordingly, no portion of that tax is dependent on the availability of such a credit.

Example (3). Country X imposes tax on the realized net income of all corporations incorporated in country X. Country X allows a tax holiday to qualifying corporations incorporated in country X that are owned by nonresidents of country X, pursuant to which no country X tax is imposed on the net income of a qualifying corporation for the first ten years of its operations in country X. A corporation qualifies for the tax holiday if it meets certain minimum investment criteria and if the development office of country X certifies that in its opinion the operations of the corporation will be consistent with specified development goals of country X. The development office will not so certify to any corporation owned by persons resident in countries that allow a credit (such as that available under section 902 of the Internal Revenue Code) for country X tax paid by a corporation incorporated in country X. In practice, tax holidays are granted to a large number of corporations, but country X tax is imposed on a significant number of other corporations incorporated in country X (*e.g.*, those owned by country X persons and those which have had operations for more than 10 years) in addition to corporations denied a tax holiday because their shareholders qualify for a credit for the country X tax against income tax liability to another country. In the case of corporations denied a tax holiday because they have U.S. shareholders, no portion of the country X tax during the period of the denied 10-year tax holiday is dependent on the availability of a credit for the country X tax against income tax liability to another country.

Example (4). The facts are the same as in example (3), except that corporations owned by persons resident in countries that will allow a credit for country X tax at the time when dividends are distributed by the corporations are granted a provisional tax holiday. Under the provisional tax holiday, instead of relieving such a corporation from country X tax for 10 years, liability for such tax is deferred until the corporation distributes dividends. The result is the same as in example (3).

(d) *Separate levies.*—(1) *In general.* For purposes of sections 901 and 903, whether a single levy or separate levies are imposed by a foreign country depends on U.S. principles and not on whether foreign law imposes the levy or levies in a single or separate statutes. A levy imposed by one taxing authority (*e.g.*, the national government of a foreign country) is always separate for purposes of sections 901 and 903 from a levy imposed by another taxing authority (*e.g.*, a political subdivision of that foreign country). Levies are not separate merely because different rates apply to different taxpayers. For example, a foreign levy identical to the tax imposed on U.S. citizens and resident alien individuals by section 1 of the Internal Revenue Code is a single levy notwithstanding the levy has graduated rates and applies different rate schedules to unmarried individuals, married individuals who file separate returns and married individuals who file joint returns. In general, levies are not separate merely because some provisions determining the base of the levy apply, by their terms or in practice, to some, but not all, persons subject to the levy. For example, a foreign levy identical to the tax imposed by section 11 of the Internal Revenue Code is a single levy even though some provisions apply by their terms to some but not all corporations subject to the section 11 tax (*e.g.*, section 465 is by its terms applicable to corporations described in sections 465(a)(1)(B) and 465(a)(1)(C), but not to other corporations), and even though some provisions apply in practice to some but not all corporations subject to the section 11 tax (*e.g.*, section 611 does not, in practice, apply to any corporation that does not have a qualifying interest in the type of property described in section 611(a)). However, where the base of a levy is different in kind, and not merely in degree, for different classes of persons subject to the levy, the levy is considered for purposes of sections 901 and 903 to impose separate levies for such classes of persons. For example, regardless of whether they are contained in a single or separate foreign statutes, a foreign levy identical to the tax imposed by section 871(b) of the Internal Revenue Code is a separate levy from a foreign levy identical to the tax imposed by section 1 of the Internal Revenue Code as it applies to persons other than those described in section 871(b), and foreign levies identical to the taxes imposed by sections 11, 541, 881, 882, 1491 and 3111 of the Internal Revenue Code are each separate levies, because the base of each of those levies differs in kind, and not merely in degree, from the base of each of the others. Accordingly, each such levy must be analyzed separately to determine whether it is an income tax within the meaning of paragraph (a)(1) of this section and whether it is a tax in lieu of an income tax within the meaning of paragraph (a) of § 1.903–1. Where foreign law imposes a levy that is the sum of two or more separately computed amounts, and each such amount is computed by reference to a separate base, separate levies are considered, for purposes of sections 901 and 903, to be imposed. A separate base may consist, for example, of a particular type of income or of an amount unrelated to income, e.g., wages paid. Amounts are not separately computed if they are computed separately merely for purposes of a preliminary computation and are then combined as a single base. In the case of levies that apply to dual capacity taxpayers, see also § 1.901–2A(a).i11 (2) *Contractual modifications.* Notwithstanding paragraph (d)(1) of this section, if foreign law imposing a levy is modified for one or more persons subject to the levy by a contract entered into by such person or persons and the foreign country, then foreign law is considered for purposes of sections 901 and 903 to impose a separate levy for all persons to whom such contractual modification of the levy applies, as contrasted to the levy as applied to all persons to whom such contractual modification does not apply. In applying the provisions of paragraph (c) of this section to a tax as modified by such a contract, the provisions of § 1.903–1(b)(2) shall apply.

(3) *Examples.* The provisions of paragraph (d)(1) of this section may be illustrated by the following examples:

Example (1). A foreign statute imposes a levy on corporations equal to the sum of 15% of the corporation's realized net income plus 3% of its net worth. As the levy is the sum of two separately computed amounts, each of which is computed by reference to a separate base, each of the portion of the levy based on income and the portion of the levy based on net worth is considered, for purposes of sections 901 and 903, to be a separate levy.

Example (2). A foreign statute imposes a levy on nonresident alien individuals analogous to the taxes imposed by section 871 of the Internal Revenue Code. For the same reasons as set forth in example (1), each of the portion of the foreign levy analogous to the tax imposed by section 871(a) and the portion of the foreign levy analogous to the tax imposed by sections 871 (b) and 1, is considered, for purposes of sections 901 and 903, to be a separate levy.

Example (3). A single foreign statute or separate foreign statutes impose a foreign levy that is the sum of the products of specified rates applied to specified bases, as follows:

Bases	Rate (percent)
Net income from mining	45
Net income from manufacturing	55
Net income from technical services	60
Net income from Other services	45
Net income from investment	15
All other net income from	50

In computing each such base, deductible expenditures are allocated to type of income they generate. If allocated deductible expenditures exceed the gross amount of a specified type of income, the excess may not be applied against income of a different specified type. Accordingly, the levy is the sum of several separately computed amounts, each of which is computed by reference to a separate base. Each of the levies on mining net income, manufacturing net income, technical services net income, other services net income, investment net income and other net income is, therefore considered for purposes of sections 901 and 903, to be a separate levy.

Example (4). The facts are the same as in example (3), except that excess deductible expenditures allocated to one type of income are applied against other types of income to which the same rate applies. The levies on mining net income and other services net income together are considered, for purposes of sections 901 and 903, to be a single levy since, despite a separate preliminary computation of the bases, by reason of the permitted application of excess allocated deductible expenditures, the bases are not separately computed. For the same reason, the levies on manufacturing net income, technical services net income and other net income together are considered, for purposes of sections 901 and 903, to be a single levy. The levy on investment net income is considered, for purposes of sections 901 and 903, to be a separate levy. These results are not dependent on whether the application of excess allocated deductible expenditures to a different type of income, as described above, is permitted in the same taxable period in which the expenditures are taken into account for purposes of the preliminary computation, or only in a different (e.g., later) taxable period.

Example (5). The facts are the same as in example (3), except that excess deductible expenditures allocated to any type of income other than investment income are applied against the other types of income (including investment income) according to a specified set of priorities of application. Excess deductible expenditures allocated to investment income are not applied against any other type of income. For the reason expressed in example (4), all of the levies are together considered, for purposes of sections 901 and 903, to be a single levy.

(e) *Amount of Income tax that is creditable.—In general.* Credit is allowed under section 901 for the amount of income tax (within the meaning of paragraph (a)(1) of this section) that is paid to a foreign country by the taxpayer. The amount of income tax paid by the taxpayer is determined separately for each taxpayer.

(2) *Refunds and credits.–(i) In general.* An amount is not tax paid to a foreign country to the extent that it is reasonably certain that the amount will be refunded, credited, rebated, abated, or forgiven. It is not reasonably certain that an amount will be refunded, credited, rebated, abated, or forgiven if the amount is not greater than a reasonable approximation of final tax liability to the foreign country.

(ii) *Examples.* the provisions of paragraph (e)(2)(i) of this section may be illustrated by the following examples:

Example (1). The internal law of country X imposes a 25 percent tax on the gross amount of interest from sources in country X that is received by a nonresident of country X. Country X law imposes the tax on the nonresident recipient and requires any resident of country X that pays such interest to a nonresident to withhold and pay over to country X 25 percent of such interest, which is applied to offset the recipient's liability for the 25 percent tax. A tax treaty between the United States and country X overrides internal law of country X and provides that country X may not tax interest received by a resident of the United States from a resident of country X at a rate in excess of 10 percent of the gross amount of such interest. A resident of the United States may claim the benefit of the treaty only by applying for a refund of the excess withheld amount (15 percent of the gross amount of interest income) after the end of the taxable year. *A*, a resident of the United States, receives a gross amount of 100u (units of country X currency) of interest income from a resident of country X, from source in country X in the taxable year 1984, from which 25u of country X tax is withheld. *A* files a timely claim for refund of the 15u excess withheld amount, 15u of the amount withheld (25u–10u) is reasonably cetrain to be refunded; therefore 15u is not considered an amount of tax paid to country X.

Example (2). A's initial income tax liability under country X law is 100u (units of country X currency). However, under country X law *A's* initial income tax liability is reduced in order to compute its final tax liability by an investment credit of 15u and a credit for charitable contributions of 5u. The amount of income tax paid by *A* is 80u.

Example (3). A computes his income tax liability in country X for the taxable year 1984 as 100u (units of country X currency), files a tax return on that basis, and pays 100u of tax. The day after *A* files that return, *A* files a claim for refund of 90u. The difference between the 100u of liability reflected in *A's* original return and the 10u of liability reflected in *A's* refund claim depends on whether a particular expenditure made by *A* is nondeductible or deductible, respectively. Based on an analysis of the country X tax law, *A's* country X tax advisors have advised *A* that it is not clear whether or not that expenditure is deductible. In view of the uncertainty as to the proper treatment of the ite[illegible]n question under country X tax law, no p[illegible]a of the 100u paid by *A* is reasonably certain to be refunded. If *A* receives a refund, *A* must treat the refund as required by section 905(c) of the Internal Revenue Code.

Example (4). A levy of country X, which qualifies as an income tax within the meaning of paragraph (a)(1) of this section, provides that each person who makes payment to country X pursuant to the levy will receive a bond to be issued by country X with an amount payable at maturity equal to 10 percent of the amount paid pursuant to the levy. *A* pays 38,000u (units of country X currency) to country X and is entitled to receive a bond with an amount payable at maturity of 3800u. It is reasonably certain that a refund in the form of property (the bond) will be made. The amount of that refund is equal to the fair market value of the bond. Therefore, only the portion of the 38,000u payment in excess of the fair market value of the bond is an amount of tax paid.

(3) *Subsidies.*—(i) *General rule.* An amount is not an amount of income tax paid by a taxpayer to a foreign country to the extent that—

(A) The amount is used, directly or indirectly, by the country to provide a subsidy by any means (such as through a refund or credit) to the taxpayer; and

(B) The subsidy is determined, directly or indirectly, by reference to the amount of income tax, or the base used

VOL 48 ISS 1 98 OC 12 1983 UMI

to compute the income tax, imposed by the country on the taxpayer.

(ii) *Indirect subsidies.* A foreign country is considered to provide a subsidy to a taxpayer if the country provides a subsidy to another person that—

(A) Owns or controls, directly or indirectly, the taxpayer or is owned or controlled, directly or indirectly, by the taxpayer or by the same persons that own or control, directly or indirectly, the taxpayer, or

(B) Engages in a transaction with the taxpayer, but only if the subsidy received by such other person is determined, directly or indirectly, by reference to the amount of income tax, or the base used to compute the income tax, imposed by the country on the taxpayer with respect to such transaction.

(iii) *Example.* The provisions of this paragraph (e)(3) may be illustrated by the following example:

Example. Country X imposes a 30-percent tax on interest received by nonresident lenders from borrowers who are residents of country X, and it is established that this tax is a tax in lieu of an income tax within the meaning of § 1.903–(1)(a). Country X remits to resident borrowers an incentive payment for engaging in foreign loans, which payment is an amount equal to 20 percent of the interest paid to nonresident lenders. Because the incentive payment is based on such interest, it is determined by reference to the base used to compute the tax in lieu of an income tax that is imposed on the nonresident lender. Under paragraph (e)(3)(ii)(B) of this section, the incentive payment is considered a subsidy provided indirectly to the nonresident lender since it is provided to a person (the borrower) that engaged in a business transaction with the lender and is based on the amount of tax in lieu of an income tax that is imposed on the lender with respect to this transaction. Therefore, two-thirds (20 percent/30 percent) of the amount withheld by a resident borrower from interest payments to a nonresident lender is not tax in lieu of an income tax that is paid by the lender under paragraph (e)(3)(i) of this section and § 1.903–1(a).

(4) *Multiple levies.*—(i) *In general.* If under foreign law, a taxpayer's tentative liability for one levy (the "first levy") is or can be reduced by the amount of the taxpayer's liability for a different levy (the "second levy"), then the amount considered paid by the taxpayer to the foreign country pursuant to the second levy is an amount equal to its entire liability for that levy, and the remainder of the amount paid is considered paid pursuant to the first levy. This rule applies regardless of whether it is or is not likely that liability for one such levy will always exceed liability for the other such levy. For an example of the application of this rule, see example (5) of § 1.903–1(b)(3). If, under foreign law, the amount of a taxpayer's liability is the greater or lesser of amounts computed pursuant to two levies, then the entire amount paid to the foreign country by the taxpayer is considered paid pursuant to the levy that imposes such greater or lesser amount, respectively, and no amount is considered paid pursuant to such other levy.

(ii) *Integrated tax systems.* [Reserved]

(5) *Noncompulsory amounts.*—(i) *In general.* An amount paid is not a compulsory payment, and thus is not an amount of tax paid, to the extent that the amount paid exceeds the amount of liability under foreign law for tax. An amount paid does not exceed the amount of such liability if the amount paid is determined by the taxpayer in a manner that is consistent with a reasonable interpretation and application of the substantive and procedural provisions of foreign law (including applicable tax treaties) in such a way as to reduce, over time, the taxpayer's reasonably expected liability under foreign law for tax, and if the taxpayer exhausts all effective and practical remedies, including invocation of competent authority procedures available under applicable tax treaties, to reduce, over time, the taxpayer's liability for foreign tax (including liability pursuant to a foreign tax audit adjustment). Where foreign tax law includes options or elections whereby a taxpayer's tax liability may be shifted, in whole or part, to a different year or years, the taxpayer's use or failure to use such options or elections does not result in a payment in excess of the taxpayer's liability for foreign tax. An interpretation or application of foreign law is not reasonable if there is actual notice or constructive notice (*e.g.*, a published court decision) to the taxpayer that the interpretation or application is likely to be erroneous. In interpreting foreign tax law, a taxpayer may generally rely on advice obtained in good faith from competent foreign tax advisors to whom the taxpayer has disclosed the relevant facts. A remedy is effective and practical only if the cost thereof (including the risk of offsetting or additional tax liability) is reasonable in light of the amount at issue and the likelihood of success. A settlement by a taxpayer of two or more issues will be evaluated on an overall basis, not on an issue-by-issue basis, in determining whether an amount is a compulsory amount. A taxpayer is not required to alter its form of doing business, its business conduct, or the form of any business transaction in order to reduce its liability under foreign law for tax.

(ii) *Examples.* The provisions of paragraph (e)(5)(i) of this section may be illustrated by the following examples:

Example (1). *A*, a corporation organized and doing business solely in the United States, owns all of the stock of *B*, a corporation organized in country X. In 1984 *A* buys merchandise from unrelated persons for $1,000,000, shortly thereafter resells that merchandise to *B* for $600,000, and *B* later in 1984 resells the merchandise to unrelated persons for $1,200,000. Under the country X income tax, which is an income tax within the meaning of paragraph (a)(1) of this section, all corporations organized in country X are subject to a tax equal to 3 percent of their net income. In computing its 1984 country X income tax liability *B* reports $600,000 ($1,200,000—$600,000) of profit from the purchase and resale of the merchandise referred to above. The country X income tax law requires that transactions between related persons be reported at arm's length prices, and a reasonable interpretation of this requirement, as it has been applied in country X, would consider *B*'s arm's length purchase price of the merchandise purchased from *A* to be $1,050,000. When it computes its country X tax liability *B* is aware that $600,000 in not an arm's length price (by country X standards). *B*'s knowing use of a non-arm's length price (by country X standards) of $600,000, instead of a price of $1,050,000 (an arm's length price under country X's law), is not consistent with a reasonable interpretation and application of the law of country X, determined in such a way as to reduce over time *B*'s reasonably expected liability for country X income tax. Accordingly, $13,500 (3 percent of $450,000 ($1,050,000—$600,000)), the amount of country X income tax paid by *B* to country X that is attributable to the purchase of the merchandise from *B*'s parent at less than an arm's length price, is in excess of the amount of *B*'s liability for country X tax, and thus is not an amount of tax.

Example (2). *A*, a corporation organized and doing business solely in the United States, owns all of the stock of *B*, a corporation organized in country X. Country X has in force an income tax treaty with the United States. The treaty provides that the profits of related persons shall be determined as if the persons were not related. *A* and *B* deal extensively with each other. *A* and *B*, with repect to a series of transactions involving both of them, treat *A* as having $300,000 of income and *B* as having $700,000 of income for purposes of *A*'s United States income tax and *B*'s country X income tax, respectively. *B* has no actual or constructive notice that its treatment of these transactions under country X law is likely to be erroneous. Subsequently, the internal Revenu Service reallocates $200,000 of this income from *B* to *A* under the authority of section 482 and the treaty. This reallocation constitutes actual notice to *A* and constructive notice to *B* that *B*'s interpretation and application of country X's law and the tax treaty is likely to be erroneous. *B* does not exhaust all effective and practical remedies to obtain a refund of the amount of country X income tax paid by *B* to country X that is attributable to the reallocated $200,000 of income. This amount

is in excess of the amount of *B*'s liability for country X tax and thus is not an amount of tax.

Example (3). The facts are the same as in example (2), except that *B* files a claim for refund (an administrative proceeding) of country X tax and *A* or *B* invokes the competent authority procedures of the treaty, the cost of which is reasoneble in view of the amount at issue and the likelihood of success. Nevertheless, *B* does not obtain any refund of country X tax. The cost of pursuing any judicial remedy in country X would be unreasonable in light of the amount at issue and the likelihood of *B*'s success, and *B* does not pursue any such remedy. The entire amount paid by *B* to country X is a compulsory payment and thus is an amount of tax paid by *B*.

Example (4). The facts are the same as in example (2), except that, when the Internal Revenue Service makes the reallocation, the country X statute of limitations on refunds has expired; and neither the internal law of the country X nor the treaty authorizes the the country X tax authorities to pay a refund that is barred by the statute of limitations. *B* does not file a claim for refund, and neither *A* nor *B* invokes the competent authority procedures of the treaty. Because the country X tax paying a refund, *B* has no effective and practicable remedies. The entire amount paid by *B* to country X is a compulsory payment and thus is an amount of tax paid by *B*.

Example (5). *A* is a U.S. person doing business in the country X. In computing its income tax liability to the country X, *A* is permitted, at its election to recover the cost of machinery used in its business either by deducting that cost in the year of acquisition or by depreciating that cost on the straight line method over a period of 2, 4, 6 or 10 years. *A* elects to depreciate machinery over 10 years. This election merely shifts *A*'s tax liability to different years (compared to the timing of *A*'s tax liability under a different depreciation period); it does not result in a payment in excess of the amount of *A*'s liability for the country X income tax in any year since the amount of the country X tax paid by *A* is consistent with a reasonable interpretation of the country X law in such a way as to reduce over time *A*'s reasonably expected liability for the country X tax. Because the standard of paragraph (e)(5(i) of this section refers to *A*'s reasonably expected liability, not its actual liability, events actually occurring in subsequent years (e.g, whether *A* has sufficient profit in such years so that such depreciation deductions actually reduce *A*'s the country X tax liability or whether the country X tax rates change) are immaterial.

Example (6). The internal law of the country X imposes a 25 percent tax on the gross amount of interest from sources in the country X that is received by a nonresident of the country X, the country X law imposes the tax on the nonresident recipient and requires any resident of the country X that pays such interest to a nonresident to withhold and pay over to the country X 25 percent of such interest which is applied to offset the recipient's liability for the 25 percent tax. A tax treaty between the United States and the country X overrides internal law of the country X and provides that the country X may not tax interest received by a resident of the United States from a resident of the country X at a rate in excess of 10 percent of the gross amount of such interest A resident of the United States may claim the benefit of the treaty only by applying for a refund of the excess withheld amount (15 percnet of the gross amount of interest income) after the end of the taxable year. A, a resident of the United States, receives a gross amount of 100u (units of the country X currency) of interest income from a resident of country X from sources in country X in the taxable year 1984 from which 25u of country X tax is withheld. *A* does not file a timely claim for refund. 15u of the amount withheld (25u–10u) is not a compulsory payment and hence is not an amount of tax.

(f) *Taxpayer.*—(1) *In general.* The person by whom tax is considered paid for purposes of sections 901 and 903 is the person on whom foreign law imposes legal liability for such tax even if another person (e.g., a withholding agent) remits such tax. For purposes of this section § 1.901–2A and § 1.903–1, the person on whom foreign law imposes such liability is referred to as the "taxpayer." A foreign tax of a type described in paragraph (a)(2)(ii)(c) of this section is considered to be imposed on the recipients of wages if such tax is deducted from such wages under provisions that are comparable to section 3102 (a) and (b) of the Internal Revenue Code.

(2) Party undertaking tax obligation as part of transaction.—(i) *In general.* Tax is considered paid by the taxpayer even if another party to a direct or indirect transaction with the taxpayer agrees, as a part of the transaction, to assume the taxpayer's foreign tax liability. The rules of the foregoing sentence apply notwithstanding anything to the contrary in paragraph (e)(3) of this section. See § 1.901–2A for additional rules regarding dual capacity taxpayers.

(ii) *Examples.* The provisions of paragraphs(f)(1) and (f)(2)(i) of this section may be illustrated by the following examples:

Example (1). Under a loan agreement between *A*, a resident of county X, and *B*, a United States person, *A* agrees to pay *B* a certain amount of interest net of any tax that country X may impose on *B* with respect to its interest income. Country X imposes a 10 percent tax on the gross amount of interest income received by nonresidents of country X from sources in country X and it is established that this tax is a tax in lieu of an income tax within the meaning of § 1.903–1(a). Under the law of country X this tax is imposed on the nonresident recipient, and any resident of country X that pays such interest to a nonresident is required to withhold and pay over to country X 10 percent of the amount of such interest, which is applied to offset the recipient's liability for the tax. Because legal liability for the tax is imposed on the recipient of such interest income, *B* is the taxpayer with respect to the country X tax imposed on *B's* interest income from *B*'s loan to *A*. Accordingly, *B*'s interest income for federal income tax purposes includes the amount of country X tax that is imposed on *B* with respect to such interest income and that is paid on *B's* behalf by *A* pursuant to the loan agreement, and, under paragraph (f)(2)(i) of this section, such tax is considered for purposes of section 903 to be paid by *B*.

Example (2). The facts are the same as in example (1), except that in collecting and receiving the interest *B* is acting as a nominee for, or agent of, *C*, who is a United States person. Because *C* (not *B*) is the beneficial owner of the interest, legal liability for the tax is imposed on *C*, not *B* (*C*'s nominee or agent). Thus, *C* is the taxpayer with respect to the country X tax imposed on *C*'s interest income from *C*'s loan to *A*. Accordingly, *C*'s interest income for federal income tax purposes includes the amount of country X tax that is imposed on *C* with respect to such interest income and that is paid on *C*'s behalf by *A* pursuant to the loan agreement. Under paragraph (f)(2)(i) of this section, such tax is considered for purposes of section 903 to be paid by *C*. No such tax is considered paid by *B*.

Example (3). Country X imposes a tax called the "country X income tax." *A*, a United States person engaged in construction activities in country X, is subject to that tax. Country X has contracted with *A* for *A* to construct a naval base. *A* is a dual capacity taxpayer (as defined in paragraph (e)(2)(ii)(A) of this section) and, in accordance with paragraphs (a)(1) and (c)(1) of § 1.901–2A, *A* has established that the country X income tax as applied to dual capacity persons and the country X income tax as applied to persons other than dual capacity persons together constitute a single levy. *A* has also established that that levy is an income tax within the meaning of paragraph (a)(1) of this section. Pursuant to the terms of the contract, country X has agreed to assume any country X tax liability that *A* may incur with respect to *A*'s income from the contract. For federal income tax purposes, *A*'s income from the contract includes the amount of tax liability that is imposed by country X on *A* with respect to its income from the contract and that is assumed by country X; and for purposes of section 901 the amount of such tax liability assumed by country X is considered to be paid by *A*. By reason of paragraph (f)(2)(i) of this section, country X is not considered to provide a subsidy, within the meaning of paragraph (e)(3) of this section, to *A*.

(3) *Taxes paid on combined income.* If foreign income tax is imposed on the combined income of two or more related persons (for example, a husband and wife or a corporation and one or more of its subsidiaries) and they are jointly and severally liable for the income tax under foreign law, foreign law is considered to impose legal liability on each such

VOL
48
ISS
1
9
8
OC
12
1983
UMI

person for the amount of the foreign income tax that is attributable to its portion of the base of the tax, regardless of which person actually pays the tax.

(g) *Definitions.* For purposes of this section and §§ 1.901–2A and 1.903–1, the following definitions apply:

(1) The term "paid" means "paid or accrued"; the term "payment" means "payment or accrual"; and the term "paid by" means "paid or accrued by or on behalf of."

(2) The term "foreign country" means any foreign state, any possession of the United States, and any political subdivision of any foreign state or of any possession of the United States. The term "possession of the United States" includes Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands and American Samoa.

(3) The term "foreign levy" means a levy imposed by a foreign country.

(h) *Effective date.*—(1) *In general.* This section, § 1.901–2A, and § 1.903–1 apply to taxable years beginning after November 14, 1983. In addition, a person may elect to apply the provisions of this section, § 1.901–2A, and § 1.903–1 to earlier years. See paragraph (h)(2) of this section.

(2) *Election to apply regulations to earlier years.*—(i) *Scope of election.* An election to apply the provisions of this section, § 1.901–2A, and § 1.903–1 to taxable years beginning on or before November 14, 1983, is made with respect to one or more foreign states and possessions of the United States with respect to a taxable year of the person making the election beginning on or before November 14, 1983. Such election requires all of the provisions of this section, § 1.901–2A, and § 1.903–1 to be applied to such taxable year and to all subsequent taxable years of the person making the election ("elected years"). If an election applies to a foreign state or to a possession of the United States ("election country"), it applies to all taxes of the election country and to all taxes of all political subdivisions of the election country. An election does not apply to foreign taxes carried forward to any elected year from any taxable year to which the election does not apply. Such election does apply to foreign taxes carried back or forward from any elected year to any taxable year.

(ii) *Effect of election.* An election to apply the regulations to earlier years has no effect on the limitations on assessment and collection or on the limitations on credit or refund (see Chapter 66 of the Internal Revenue Code).

(iii) *Manner of making election.* An election to apply the regulations to one or more earlier taxable years is made by attaching a statement to a return, amended return, or claim for refund for the earliest taxable year to which the election relates. Such statement shall state that the election is made and, unless the election is to apply to all foreign countries, the statement shall designate the election countries. In the absence of such a designation of the election countries, all foreign countries shall be election countries.

(iv) *Time for making election.* An election to apply the regulations to earlier taxable years must be made by October 12, 1984, except that if a person who has deducted (instead of credited) foreign taxes in its United States income tax return for such an earlier taxable year validly makes an election to credit (instead of deduct) such taxes in a timely filed amended return for such earlier taxable year and such amended return is filed after such date, an election to apply the regulations to such earlier taxable year must be made in such amended return.

(v) *Revocation of election.* An election to apply the regulations to earlier taxable years may not be revoked.

(vi) *Affiliated groups.* A member of an affiliated group that files a consolidated United States income tax return may apply the regulations to earlier years only if an election to so apply them has been made by the common parent of such affiliated group on behalf of all members of the group.

Approved by the Office of Management and Budget under control number 1545–0746.

Par. 2. A new § 1.901–2A is added immediately after § 1.901–2 to read as follows:

§ 1.901–2A Dual capacity taxpayers.

(a) *Application of separate levy rules as applied to dual capacity taxpayers.*—(1) *In general.* If the application of a foreign levy (as defined in § 1.901–2(g)(3)) is different, either by the terms of the levy or in practice, for dual capacity taxpayers (as defined in § 1.901–2(a)(2)(ii)(A)) from its application to other persons, then unless the only such difference is that a lower rate (but the same base) applies to dual capacity taxpayers, such difference is considered to be related to the fact that dual capacity taxpayers receive, directly or indirectly, a specific economic benefit (as defined in § 1.901–2(a)(2)(ii)(B)) from the foreign country and thus to be a difference in kind, and not merely of degree. In such a case, notwithstanding any contrary provision of § 1901–2(d), the levy as applicable to such dual capacity tax payers is a separate levy (within the meaning of § 1.901–2(d)) from the levy as applicable to such other persons, regardless of whether such difference is in the base of the levy, in the rate of the levy, or both. In such a case, each of the levy as applied to dual capacity taxpayers and the levy as applied to other persons must be analyzed separately to determine whether it is an income tax within the meaning of § 1.901–2(a)(1) and whether it is a tax in lieu of an income tax within the meaning of § 1.903–1(a). However, if the application of the levy is neither different by its terms nor different in practice for dual capacity taxpayers from its application to other persons, or if the only difference is that a lower rate (but the same base) applies to dual capacity taxpayers, then, in accordance with § 1.901–2(d), such foreign levy as applicable to dual capacity taxpayers and such levy as applicable to other persons together constitute a single levy. In such a case, no amount paid (as defined in § 1.901–2(g)(1)) pursuant to such levy by any such dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit, and such levy, as applicable in the aggregate to such dual capacity taxpayers and to such other persons, is analyzed to determine whether it is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a). Application of a foreign levy to dual capacity taxpayers will be considered to be different in practice from application of that levy to other persons, even if no such difference is apparent from the terms of the levy, unless it is established that application of that levy to dual capacity taxpayers does not differ in practice from its application to other persons.

(2) *Examples.* The provisions of paragraph (a)(1) of this section may be illustrated by the following examples:

Example (1). Under a levy of country X called the country X income tax, every corporation that does business in country X is required to pay to country X 40 percent of its income from its business in country X. Income for purposes of the country X income tax is computed by subtracting specified deductions from the corporation's gross income derived from its business in country X. The specified deductions include the corporation's expenses attributable to such gross income and allowances for recovery of the cost of capital expenditures attributable to such gross income, except that under the terms of the country X income tax a corporation engaged in the exploitation of minerals K, L or M in country X is not permitted to recover, currently or in the future, expenditures it incurs in exploring for those minerals. In practice, the only corporations that engage in exploitation of the specified minerals in country X are dual capacity taxpayers. Thus, the application of the country X income tax to dual capacity taxpayers is different from its application to other corporations. The country X income tax as applied to corporations that engage in the exploitation of minerals K, L or M (dual capacity taxpayers) is, therefore, a separate levy from the country X income tax as applied to other corporations. Accordingly, each of (i) the country X income tax as applied to such dual capacity taxpayers and (ii) the country X income tax as applied to such other persons, must be analyzed separately to determine whether it is an income tax within the meaning of § 1.901–2(a)(1) and whether it is a tax in lieu of an income tax within the meaning of § 1.903–1(a).

Example (2). The facts are the same as in example (1), except that it is demonstrated that corporations that engage in exploitation of the specified minerals in country X and that are subject to the levy include both dual capacity taxpayers and other persons. The country X income tax as applied to all corporations is, therefore, a single levy. Accordingly, no amount paid pursuant to the country X income tax by a dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit; and, if the country X income tax is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a), it will be so considered in its entirely for all corporations subject to it.

Example (3). Under a levy of country Y called the country Y income tax, each corporation incorporated in country Y is required to pay to country Y a percentage of its worldwide income. The applicable percentage is greater for such corporations that earn more than a specified amount of income than for some corporations that earn less than that amount. Income for purposes of the levy is computed by deducting from gross income specified types of expenses and specified allowances for capital expenditures. The expenses for which deductions are permitted differ depending on the type of business in which the corporation subject to the levy is engaged, *e.g.*, a deduction for interest paid to a related party is not allowed for corporations engaged in enumerated types of activities. In addition, carryover of losses from one taxable period to another is permitted for corporations engaged in specified types of activities, but not for corporations engaged in other activities. By its terms, the foreign levy makes no distinction between dual capacity taxpayers and other persons. It is established that in practice the higher rate of the country Y income tax applies to both dual capacity taxpayers and other persons and that in practice the differences in the base of the country Y income tax (*e.g.*, the lack of a deduction for interest paid to related parties for some corporations subject to the levy and the lack of a carryover provision for some corporations subject to the levy) apply to both dual capacity taxpayers and other persons. The country Y income tax as applied to all corporations incorporated in country Y is therefore a single levy. Accordingly, no amount paid pursuant to the country Y income tax by a dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit; and if the country Y income tax is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a), it will be so considered in its entirety for all persons subject to it.

Example (4). The facts are the same as in example (3), except that it is not established that in practice the higher rate does not apply only to dual capacity taxpayers. By reason of such higher rate, application of the country Y income tax to dual capacity taxpayers is different in practice from application of the country Y income tax to other persons subject to it. The country Y income tax as supplied to dual capacity taxpayers is therefore a separate levy from the country Y income tax as applied to other corporations incorporated in country Y. Accordingly, each of (i) the country Y income tax as applied to dual capacity taxpayers and (ii) the country Y income tax as applied to other corporations incorporated in country Y, must be analyzed separately to determine whether it is an income tax within the meaning of § 1.901–2(a)(1) and whether it is a tax in lieu of an income tax within the meaning of § 1.903–1(a).

Example (5). Under a levy of country X called the country X tax, all persons who do not engage in business in country X and who receive interest income from residents of country X are required to pay to country X 25 percent of the gross amount of such interest income. It is established that the country X tax applies by its terms and in practice to certain banks that are dual capacity taxpayers and to persons who are not dual capacity taxpayers and that application to such dual capacity taxpayers does not differ by its terms or in practice from application to such other persons. The country X tax as applied to all such persons (both the dual capacity taxpayers and the other persons) is, therefore, a single levy. Accordingly, no amount paid pursuant to the country X tax by such a dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit; and, if the country X tax is a tax in lieu of an income tax within the meaning of § 1.903–1(a), it will be so considered in its entirety for all persons subject to it.

Example (6). Under a levy of country X called the country X tax, every corporation incorporated outside of country X ("foreign corporation") that maintains a branch in country X is required annually to pay to country X 52 percent of its net income attributable to that branch. It is established that the application of the country X tax is neither different by its terms nor different in practice for certain banks that are dual capacity taxpayers from its application to persons (which may, but do not necessarily, include other banks) that are not dual capacity taxpayers. The country X tax as applied to all foreign corporations with branches in country X (*i.e.*, both those banks that are dual capacity taxpayers and the foreign corporations that are not dual capacity taxpayers) is, therefore, a single levy. Accordingly, no amount paid pursuant to the country X tax by a bank that is a dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit; and, if the country X tax is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a), it will be so considered in its entirety for all persons subject to it.

Example (7). Under a levy of country H called the country H tax, all corporations that are organized outside country H and that do not engage in business in country H are required to pay to country H a percentage of the gross amount of interest income derived from residents of country H. The percentage is 30 percent, except that it is 15 percent for a specified category of corporations. All corporations in that category are dual capacity taxpayers. It is established that the country H tax applies by its terms and in practice to dual capacity taxpayers and to persons that are not dual capacity taxpayers and that the only difference in application between such dual capacity taxpayers and such other persons is that a lower rate (but the same base) applies to such dual capacity taxpayers. The country H tax as applied to all such persons (both the dual capacity taxpayers and the other persons) is, therefore, a single levy. Accordingly, no amount paid pursuant to the country H tax by such a dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit; and, if the country H tax is a tax in lieu of an income tax within the meaning of § 1.903–1(a), it will be so considered in its entirety for all persons subject to it.

(b) *Burden of proof for dual capacity taxpayers.*—(1) *In general.* For credit to be allowable under section 901 or 903, the person claiming credit must establish that the foreign levy with respect to which credit is claimed is an income tax within the meaning of § 1.901–2(a)(1) or a tax in lieu of an income tax within the meaning of § 1.903–1(a), respectively. Thus, such person must establish, among other things, that such levy is a tax. See § 1.901–2(a)(2)(i) and § 1.903–1(a). Where a person claims credit under section 901 or 903 for an amount paid by a dual capacity taxpayer pursuant to a foreign levy, § 1.901–2(a)(2)(i) and § 1.903–1(a), respectively, require such person to establish the amount, if any, that is paid pursuant to the distinct element of the levy that is a tax. If, pursuant to paragraph (a)(1) of this section and § 1.901–2(d), such levy as applicable to dual capacity taxpayers and such levy as applicable to other persons together constitute a single levy, then no amount paid pursuant to that levy by any such dual capacity taxpayer is considered to be paid in exchange for a specific economic benefit. Accordingly, such levy has only one distinct element, and the levy either is or is not, in its entirety, a tax. If, however, such levy as applicable to dual capacity taxpayers is a separate levy from such

VOL
48
ISS
1
9
8
OC
12
1983
UMI

levy as applicable to other persons, then a person claiming credit under section 901 or 903 for an amount paid by a dual capacity taxpayer pursuant to such separate levy may establish the amount, if any, that is paid pursuant to the distinct element of the levy that is a tax only by the facts and circumstances method or the safe harbor method described in paragraph (c) of this section. If such person fails to so establish such amount, no portion of the amount that is paid pursuant to the separate levy by the dual capacity taxpayer to such foreign country shall be treated as an amount of tax. Any amount that, either by reason of application of the methods of paragraph (c) of this section or by reason of the immediately preceding sentence, is not treated as an amount of tax shall (i) be considered to have been paid in exchange for a specific economic benefit; (ii) be characterized (*e.g.*, as royalty, purchase price, cost of sales, reduction of the proceeds of a sale, or reduction of interest income) according to the nature of the transaction and of the specific economic benefit received; and (iii) be treated according to such characterization for all purposes of Chapter 1 of the Internal Revenue Code, except that any determination that an amount is not tax for purposes of section 901 or 903 by reason of application of the safe harbor method shall not be taken into account in determining whether or not such an amount is to be characterized and treated as tax for purposes of computing an allowance for percentage depletion under sections 611 and 613.

(2) *Effect of certain treaties.* If, irrespective of whether such credit would be allowable under section 901 or 903 in the absence of a treaty, the United States has in force a treaty with a foreign country that treats a foreign levy as an income tax for purposes of allowing credit for United States tax and if the person claiming credit is entitled to the benefit of such treaty, then, unless such person claims credit not under the treaty but under section 901 or 903, and except to the extent the treaty provides otherwise and subject to all terms, conditions and limitations provided in the treaty, no portion of an amount paid with respect to such levy by a dual capacity taxpayer shall be considered to be paid in exchange for a specific economic benefit. If, however, such person claims credit not under such treaty but rather under section 901 or 903 (*e.g.*, so as not to be subject to a limitation contained in such treaty), the provisions of this section apply to such levy.

(c) *Satisfaction of burden of proof.*—(1) *In general.* This paragraph (c) sets out the methods by which a person who claims credit under section 901 or 903 for an amount paid by a dual capacity taxpayer pursuant to a foreign levy that satisfies all of the criteria of section 901 or 903 other than the determination of the distinct element of the levy that is a tax and of the amount that is paid pursuant to that distinct element (a "qualifying levy") may establish such distinct element and amount. Such person must establish the amount paid pursuant to a qualifying levy that is paid pursuant to the distinct element of the levy that is a tax (which amount therefore is an amount of income tax within the meaning of § 1.901–2(a)(1) or an amount of tax in lieu of income tax within the meaning of § 1.903–1(a) (a "qualifying amount")) only by the facts and circumstances method set forth in paragraph (c)(2) of this section or the safe harbor method set forth in paragraph (c)(3) of this section. A levy is not a qualifying levy, and neither the facts and circumstances method nor the safe harbor method applies to an amount paid by a dual capacity taxpayer pursuant to a foreign levy, if it has been established pursuant to § 1.901–2(d) and paragraph (a)(1) of this section that that levy as applied to that dual capacity taxpayer and that levy as applied to persons other than dual capacity taxpayers together constitute a single levy, or if it has been established in accordance with the first sentence of paragraph (b)(2) of this section that credit is allowable by reason of a treaty for an amount paid with respect to such levy.

(2) *Facts and circumstances method.*—(i) *In general.* If the person claiming credit establishes, based on all of the relevant facts and circumstances, the amount, if any, paid by the dual capacity taxpayer pursuant to the qualifying levy that is not paid in exchange for a specific economic benefit, such amount is the qualifying amount with respect to such qualifying levy. In determining the qualifying amount with respect to a qualifying levy under the facts and circumstances method, neither the methodology nor the results that would have obtained if a person had elected to apply the safe harbor method to such qualifying levy is a relevant fact or circumstance. Accordingly, neither such methodology nor such results shall be taken into account in applying the facts and circumstances method.

(ii) *Examples.* The application of the facts and circumstances method is illustrated by the following examples:

Example (1). Country A which does not have a generally imposed income tax, imposes a levy called the country A income tax, on corporations that carry on the banking business through a branch in country A. All such corporations lend money to the government of country A, and the consideration (interest) paid by the government of country A for the loans is not made available by the government on substantially the same terms to the population of country A in general. Thus, the country A income tax is imposed only on dual capacity taxpayers. *L*, a corporation that carries on the banking business through a branch in country A and that is a dual capacity taxpayer, establishes that all of the criteria of section 901 are satisfied by the country A income tax, except for the determination of the distinct element of the levy that is a tax and of *L*'s qualifying amount with respect thereto. The country A income tax is, therefore a qualifying levy. *L* establishes that, although all persons subject to the country A income tax are dual capacity taxpayers, the country A income tax applies in the same manner to income from such persons' transactions with the government of country A as it does to income from their transactions with private persons; that there are significant transactions (either in volume or in amount) with private persons; and that the portion of such persons' income that is derived from transactions with the government of country A on the one hand or private persons on the other varies greatly among persons subject to the country A income tax. By making this showing, *L* has demonstrated that no portion of the amount paid by it to country A pursuant to the levy is paid in exchange for a specific economic benefit (the interest income). Accordingly, *L* has demonstrated under the facts and circumstances method that the entire amount it has paid pursuant to the country A income tax is a qualifying amount.

Example (2). *A*, a domestic corporation that is a dual capacity taxpayer subject to a qualifying levy of country X, pays 1000u (units of country X currency) to country X in 1986 pursuant to the qualifying levy. *A* does not elect to apply the safe harbor method to country X, but if had so elected, 800u would have been *A's* qualifying amount with respoect to the levy. Based on all of the relevant facts and circumstances (which do not include either the methodology of the safe harbor method or the qualifying amount that would have obtained under that method), *A* establishes that 628u of such 1000u is not paid in exchange for a specific economic benefit. *A* has demonstrated under the facts and circumstances method that 628u is a qualifying amount. Pursuant to paragraph (b)(1) of this section, 372u (1000u–628u) is considered to have been paid by *A* in exchange for a specific economic benefit. That amount is characterized and treated as provided in paragraph (b)(1) of this section.

Example (3). The facts are the same as in example (2) except that under the safe harbor method 580u would have been *A's* qualifying amount with respect to the levy. That amount is not a relevant fact or circumstance and the result is the same as in example (2).

(3) *Safe harbor method.* Under the safe harbor method, the person claiming credit makes an election as provided in paragraph (d) of this section and, pursuant to such election, applies the safe harbor formula described in paragraph (e) of this section to the qualifying levy or levies to which the election applies.

(d) *Election to use the safe harbor method.—(1) Scope of election.* An election to use the safe harbor method is made with respect to one or more foreign states and possessions of the United States with respect to a taxable year of the person making the election (the "electing person"). Such election applies to such taxable year and to all subsequent taxable years of the electing person ("election years"), unless the election is revoked in accordance with paragraph (d)(4) of this section. If an election applies to a foreign state or possession of the United States ("elected country"), it applies to all qualifying levies of the elected country and to all qualifying levies of all political subdivisions of the elected country with respect to which the electing person claims credit for amounts paid (or deemed to be paid) by any dual capacity taxpayer. A member of an affiliated group that files a consolidated United States income tax return may use the safe harbor method for a foreign state or U.S. possession only if an election to use the safe harbor method for that state or possession has been made by the common parent of such affiliated group on behalf of all members of the group. Similarly, a member of an affiliated group that does not file a consolidated United States income tax return may elect to use the safe harbor method for a foreign state or U.S. possession only if an election to use the safe harbor method for that state or possession is made by each member of the affiliated group which claims credit for taxes paid to such state or possession or to any political subdivision thereof. An election to use the safe harbor method for an elected country does not apply to foreign taxes carried back or forward to any election year from any taxable year to which the election does not apply. Such election does apply to foreign taxes carried back or forward from any election year to any taxable year. A person who elects to use the safe harbor method for one or more foreign countries may, in a later taxable year, also elect to use that method for other foreign countries.

(2) *Effect of election.* An election to use the safe harbor method described in paragraph (c)(3) of this section requires the electing persons to apply the safe harbor formula of paragraph (e) of this section to all qualifying levies of all elected countries and their political subdivisions, and constitutes a specific waiver by such person of the right to use the facts and circumstances method described in paragraph (c)(2) of this section with respect to any levy of any elected country or any political subdivision thereof.

(3) *Time and manner of making election.*—(i) *In general.* To elect to use the safe harbor method, an electing person must attach a statement to its United States income tax return for the taxable year for which the election is made and must file such return by the due date (including extensions) for the filing thereof. Such statement shall state—

(A) That the electing person elects to use the safe harbor method for the foreign states and the possessions of the United States designated in the statement and their political subdivisions, and

(B) That the electing person waives the right, for any election year, to use the facts and circumstances method for any levy of the designated states, possessions and political subdivisions. Notwithstanding the foregoing, a person may, with the consent of the Commissioner, elect to use the safe harbor method for a taxable year for one or more foreign states or possessions of the United States, at a date later than that specified in the first sentence of this paragraph (d)(3)(i) *e.g.*, upon audit of such person's United States income tax return for such taxable year. The Commissioner will normally consent to such a later election if such person demonstrates that it failed to make a timely election for such a foreign state or possession for such taxable year because such person reasonably believed either that it was not a dual capacity taxpayer with respect to such state or possession or any political subdivisin thereof was possession or any political subdivision thereof was a qualifying levy (for example, because it reasonably, but incorrectly, believed that the levy it paid was not a separate levy from that applicable to persons other than dual capacity taxpayers). The Commissioner will not, however, consent to such a later election with respect to any state or possession for a taxable year if such person (or any other member of an affiliated group of which such person is a member) applied the facts and circumstances method to any levy of such state or possession or any political subdivision thereof for such taxable year.

(ii) Certain retroactive elections. Not withstanding the requirements of paragraph (d)(3)(i) of this section relating to the time and manner of making an election, an election may be made for a taxable year beginning on or before November 14, 1983, provided the electing person elects in accordance with § 1.901–2(h) to apply all of the provisions of this section, § 1.901–2 and § 1.903–1 to such taxable year and provided all of the requirements set forth in this paragraph (d)(3)(ii) are satisfied. Such an election shall be made by timely (including extensions) filing a federal income tax return or an amended federal income tax return for such taxable year; by attaching to such return a statement containing the statements and information set forth in paragraph (d)(3)(i) of this section; and by filing amended income tax returns for all subsequent election years for which income tax returns have previously been filed in which credit is claimed under section 901 or 903 and applying the safe harbor method in such amended returns. All amended returns referred to in the immediately preceding sentence must be filed on or before October 12, 1984, (unless the Commissioner consents to a later filing in circumstances similar to those provided in paragraph (d)(3)(i)) and at a time when neither assessment of a deficiency for any of such election years nor the filing of a claim for any refund claimed in any such amended return is barred.

(iii) *Election to credit taxes mode in amended return.* If a person has filed a United States income tax return for a taxable year to which this § 1.901–2A applies (including application by reason of the election provided in § 1.901–2(h)(2)) in which such person has deducted (instead of credited) qualifying foreign taxes and such person validly makes an election to credit (instead of deduct) such taxes in a timely filed amended return for such taxable year, an election to use the safe harbor method may be made in such amended return provided all of the requirements of paragraph (d)(3)(ii) of this section are satisfied other than the requirement that such amended return and the other amended returns referred to in that paragraph be filed on or before October 12, 1984.

(4) *Revocation of election.* An election to use the safe harbor method described in paragraph (c)(3) of this section may not be revoked without the consent of the Commissioner. An application for consent to revoke such election with respect to one or more elected countries shall be made to the Commissioner of Internal Revenue, Washington, D.C.

VOL
48
ISS
1
9
8
OC
12
1983
UMI

20224. Such application shall be made not later than the 30th day before the due date (including extensions) for the filing of the income tax return for the first taxable year for which the revocation is sought to be effective, except in the case of an event described in (i), (ii), (iii), or (iv) below, in which case an application for revocation with retroactive effect may be made within a reasonable time after such event. The Commissioner may make his consent to any revocation conditioned upon adjustments being made in one or more taxable years so as to prevent the revocation from resulting in a distortion of the amount of any item relating to tax liability in any taxable year. The Commissioner will normally consent to a revocation (including, in the case of (i), (ii), (iii) or (iv) below, one with retroactive effect), if—

(i) An amendment to the Internal Revenue Code or the regulations thereunder is made which applies to the taxable year for which the revocation is to be effective and the amendment substantially affects the taxation of income from sources outside the United States under subchapter N of Chapter 1 of the Internal Revenue Code; or

(ii) After a safe harbor election is made with respect to a foreign state, a tax treaty between the United States and that state enters into force; that treaty covers a foreign tax to which the safe harbor election applies; and that treaty applies to the taxable year for which the revocation is to be effective; or

(iii) After a safe harbor election is made with respect to a foreign state or possession of the United States, a material change is made in the tax law of that state or possession or of a political subdivision of that state or possession; and the changed law applies to the taxable year for which the revocation is to be effective and has a material effect on the taxpayer; or

(iv) With respect to a foreign country to which a safe harbor election applies, the Internal Revenue Service issues a letter ruling to the electing person and that letter ruling (A) relates to the availability or application of the safe harbor method to one or more levies of such foreign country; (B) does not relate to the facts and circumstances method described in paragraph (c)(2) of this section; and (C) fails to include a ruling requested by the electing person or includes a ruling contrary to one requested by such person (in either case, other than one relating to the facts and circumstances method) and such failure or inclusion has a material adverse effect on the amount of such electing person's credit for taxes paid to such foreign country for the taxable year for which the revocation is to be effective; or

(v) A corporation ("new member") becomes a member of an affiliated group; the new member and one or more pre-existing members of such group are dual capacity taxpayers with respect to the same foreign country; and, with respect to such country, either the new member or the pre-existing members (but not both) have made a safe harbor election; and the Commissioner in his discretion determines that obtaining the benefit of the right to revoke the safe harbor election with respect to such foreign country was not the principal purpose of the affiliation between such new member and such group; or

(vi) The election has been in effect with respect to at least three taxable years prior to the taxable year for which the revocation is to be effective. The Commissioner may, in his discretion, consent to a revocation even if none of the foregoing subdivisions (i) through (vi) is applicable. if an election has been revoked with respect to an elected country, a subsequent election to apply the safe harbor method with respect to such elected country may be made only with the consent of the Commissioner and upon such terms and conditions as the Commissioner in his discretion may require.

(e) *Safe harbor formula.*—(1) *In general.* The safe harbor formula applies to determine the distinct element of a qualifying levy that is a tax and the amount paid by a dual capacity taxpayer pursuant to such qualifying levy that is the qualifying amount with respect to such levy. Under the safe harbor formula the amount paid in a taxable year pursuant to a qualifying levy that is the qualifying amount with respect to such levy is an amount equal to:

$$(A-B-C)\times D/(1-D)$$

where: (except as otherwise provided in paragraph (e)(5) of this section)

A = the amount of gross receipts as determined under paragraph (e)(2) of this section

B = the amount of costs and expenses as determined under paragraph (e)(2) of this section

C = the total amount paid in the taxable year by the dual capacity taxpayer pursuant to the qualifying levy (the "actual payment amount")

D = the tax rate as determined under paragraph (e)(3) of this section

In no case, however, shall the qualifying amount exceed the actual payment amount; and the qualifying amount is zero if the safe harbor formula yields a qualifying amount less than zero. The safe harbor formula is intended to yield a qualifying amount equal to the amount of generally imposed income tax within the meaning of paragraphs (a) and (b)(1) of § 1.903–1 ("general tax") of the foreign country that would have been required to be paid in the taxable year by the dual capacity taxpayer if it has not been a dual capacity taxpayer and if the base of the general tax had allowed a deduction in such year for the amount ("specific economic benefit amount") by which the actual payment amount exceeds the qualifying amount. See, however, paragraph (e)(5) of this section if an elected country has no general tax. The specific economic benefit amount is considered to be the portion of the actual payment amount that is paid pursuant to the distinct portion of the qualifying levy that imposes an obligation in exchange for a specific economic benefit. The specific economic benefit amount is therefore considered to be an amount paid by the dual capacity taxpayer in exchange for such specific economic benefit, which amount must be treated for purposes of chapter 1 of the Internal Revenue Code as provided in paragrpah (b)(1) of this section.

(2) *Determination of gross receipts and costs and expenses.* For purposes of the safe harbor formula, gross receipts and costs and expenses are, except as otherwise provided in this paragraph (e), the gross receipts and the deductions for costs and expenses, respectively, as determined under the foreign law applicable in computing the actual payment amount of the qualifying levy to which the safe harbor formula applies. However, except as otherwise provided in this paragraph (e), if provisions of the qualifying levy increase or decrease the liability imposed on dual capacity taxpayers compared to the general tax liability of persons other than dual capacity taxpayers by reason of the determination or treatment of gross receipts or of costs or expenses, the provisions generally applicable in computing such other persons' tax base under the general tax shall apply to determine gross receipts and costs and expenses for purposes of computing the qualifying amount. If provisions of the qualifying levy relating to gross receipts meet the requirements of § 1.901–2(b)(3)(i), such provisions shall apply to determine gross receipts for purposes of computing the qualifying amount. If neither the general tax nor the qualifying levy permits recovery of one or more costs or expenses, and by reason of the failure to permit such recovery the qualifying levy does not satisfy the net income requirement of § 1.901–2(b)(4) (even though the general tax does satisfy that requirement), then such cost or expense shall be considered a cost or expense for purposes of computing the qualifying amount. If the qualifying levy does not permit recovery of one or more significant costs or expenses, but provides allowances that effectively compensate for nonrecovery of such significant costs or expenses, then, for purposes of computing the qualifying amount, costs and expenses shall not include the costs and expenses under the general tax whose nonrecovery under the qualifying levy is compensated for by such allowances but shall instead include such allowances. In determining costs and expenses for purposes of computing the qualifying amount with respect to a qualifying levy, the actual payment amount with respect to such levy shall not be considered a cost or expense. For purposes of this paragraph, the following differences in gross receipts and costs and expenses between the qualifying levy and the general tax shall not be considered to increase the liability imposed on dual capacity taxpayers compared to the general tax liability of persons other than dual capacity taxpayers, but only if the general tax would be an income tax within the meaning of § 1.901–2(a)(1) if such different treatment under the qualifying levy had also applied under the general tax:

(i) Differences in the time of realization or recognition of one or more items of income or in the time when recovery of one or more costs and expenses is allowed (unless the period of recovery of such costs and expenses pursuant to the qualifying levy is such that it effectively is a denial of recovery of such costs and expenses, as described in § 1.901–2(b)(4)(i)); and

(ii) Differences in consolidation or carryover provisions of the types described in paragraphs (b)(4)(ii) and (b)(4)(iii) of § 1.901–2.

(3) *Determination of tax rate.* The tax rate for purposes of the safe harbor formula is the tax rate (expressed as a decimal) that is applicable in computing tax liability under the general tax. If the rate of the general tax varies according to the amount of the base of that tax, the rate to be applied in computing the qualifying amount is the rate that applies under the general tax to a person whose base is, using the terminology of paragraph (e)(1) of this section, "A" minus "B" minus the specific economic benefit amount paid by the dual capacity taxpayer pursuant to the qualifying levy, provided such rate applies in practice to persons other than dual capacity taxpayers, or, if such rate does not so apply in practice, the next lowest rate of the general tax that does so apply in practice.

(4) *Determination of applicable provisions of general tax.*—(i) *In general.* If the general tax is a series of income taxes (*e.g.*, on different types of income), or if the application of the general tax differs by its terms for different classes of persons subject to the general tax (*e.g.*, for persons in different industries), then, except as otherwise provided in this paragraph (e), the qualifying amount shall be computed by reference to the income tax contained in such series of income taxes, or in the case of such different applications the application of the general tax, that by its terms and in practice imposes the highest tax burden on persons other than dual capacity taxpayers. Notwithstanding the preceding sentence, the general tax amount shall be computed by reference to the application of the general tax to entities of the same type (as determined under the general tax) as the dual capacity taxpayer and to persons of the same resident or nonresident status (as determined under the general tax) as the dual capacity taxpayer; and, if the general tax treats business income differently from non-business (*e.g.*, investment) income (as determined under the general tax), the dual capacity taxpayer's business and non-business income shall be treated as the general tax treats such income. If, for example the dual capacity taxpayer would, under the general tax, be treated as a resident (*e.g.*, because the general tax treats an entity that is organized in the foreign country or managed or controlled there as a resident) and as a corporation (*i.e.*, because the rules of the general tax treat an entity like the dual capacity taxpayer as a corporation), and if some of the dual capacity taxpayer's income would, under the general tax, be treated as business income and some as non-business income, the dual capacity taxpayer and its income shall be so treated in computing the qualifying amount.

(ii) *Establishing that provisions apply in practice.* For purposes of the safe harbor formula a provision (including tax rate) shall be considered a provision of the general tax only if it is reasonably likely that that provision applies by its terms and in practice to persons other than dual capaciaty taxpayers. In general, it will be assumed that a provision (including tax rate) that by its terms applies to persons other than dual capacity taxpayers is reasonably likely to apply in practice to such other persons, unless the person claiming credit knows or has reason to know otherwise. However, in cases of doubt, the person claiming credit may be required to demonstrate that such provision is reasonably likely so to apply in practice.

(5) *No general tax.* If a foreign country does not impose a general tax (and thus a levy, in order to be a qualifying levy must satisfy all of the criteria of section 901 (because section 903 cannot apply), other than the determination of the distinct element of the levy that is a tax and of the amount that is paid pursuant to that distinct element), paragraphs (e)(2), (3) and (4) of this section do not apply to a qualifying levy of such country, and the terms of the safe harbor formula set forth in paragraph (e)(1) of this section are defined with respect to such levy as follows:

A = the amount of gross receipts as determined under the qualifying levy;

B = the amount of deductions for costs and expenses as determined under the qualifying levy;

C = the actual payment amount; and

D = the lower of the rate of the qualifying levy, or the rate of tax specified in section 11(b)(5) (or predecessor or successor section, as the case may be) of the Internal Revenue Code as applicable to the taxable year in which the actual payment amount is paid.

(6) *Certain taxes in lieu of an income tax.* To the extent a tax in lieu of an income tax (within the meaning of § 1.903–1(a)) that applies in practice to persons other than dual capacity taxpayers would actually have been required to be paid in the taxable year by a dual capacity taxpayer if it had not been a dual capacity taxpayer (*e.g.*, in substitution for the general tax with respect to a type of income, such as interest income, dividend income, royalty income, insurance income), such tax in lieu of an income tax shall be treated as if it were an application of the general tax for purposes of applying the safe harbor formula of this paragraph (e) to such dual capacity taxpayer, and such formula shall be applied to yield a qualifying amount that is approximately equal to the general tax (so defined) that would have been required to be paid in the taxable year by such dual capacity taxpayer if the base of such general tax had allowed a deduction in such year for the specific economic benefit amount.

(7) *Multiple levies.* If, in any election year of an electing person, with respect to any elected country and all of its political subdivisions,

(i) Amounts are paid by a dual capacity taxpayer pursuant to more than one qualifying levy or pursuant to one or

more levies that are qualifying levies and one or more levies that are not qualifying levies by reason of the last sentence of paragraph (c)(1) of this section but with respect to which credit is allowable, or

(ii) More than one general tax (including a tax treated as if it were an application of the general tax under paragraph (e)(6)) would have been required to be paid by a dual capacity taxpayer (or taxpayers) if it (or they) had not been a dual capacity taxpayer (or taxpayers), or

(iii) Credit is claimed with respect to amounts paid by more than one dual capacity taxpayer, the provisions of this paragraph (e) shall be applied such that the aggregate qualifying amount with respect to such qualifying levy or levies plus the aggregate amount paid with respect to levies referred to in (e)(7)(i) that are not qualifying levies shall be the aggregate amount that would have been required to be paid in the taxable year by such dual capacity taxpayer (or taxpayers) pursuant to such general tax or taxes if it (or they) had not been a dual capacity taxpayer (or taxpayers) and if the base of such general tax or taxes had allowed a deduction in such year for the aggregate specific economic benefit amount (except that, if paragraph (e)(5) applies to any levy of such elected country or any political subdivision thereof, the aggregate qualifying amount for qualifying levies of such elected country and all of its political subdivisions plus the aggregate amount paid with respect to levies referred to the paragraph (e)(7)(i) that are not qualifying levies shall not exceed the greater of the aggregate amount paid with respect to levies referred to in paragraph (e)(7)(i) that are not qualifying levies and the amount determined in accordance with paragraph (e)(5) where "D" is the rate of tax specified in section 11(b)(5) (or predecessor or successor section, as the case may be) of the Internal Revenue Code as applicable to the taxable year in which the actual payment amount is paid). However, in no event shall such aggregate amount exceed the aggregate actual payment amount plus the aggregate amount paid with respect to levies referred to in (e)(7)(i) that are not qualifying levies, nor be less than the aggregate amount paid with respect to levies referred to in (e)(7)(i) that are not qualifying levies. In applying (e)(7)(ii) a person who is not subject to a levy but who is considered to receive a specific economic benefit by reason of § 1.901–2(a)(2)(ii)(E) shall be treated as a dual capacity taxpayer. See example (12) in paragraph (e)(8) of this section.

(8) *Examples.* The provisions of this paragraph (e) may be illustrated by the following examples:

Example (1). Under a levy of country X called the country X income tax, every corporation that does business in country X is required to pay to country X 40% of its income from its business in country X. Income for purposes of the country X income tax is computed by subtracting specified deductions from the corporation's gross income derived from its business in country X. The specified deductions include the corporation's expenses attributable to such gross income and allowances for recovery of the cost of capital expenditures attributable to such gross income, except that under the terms of the country X income tax a corporation engaged in the exploitation of minerals K, L or M in country X is not permitted to recover, currently or in the future, expenditures it incurs in exploring for those minerals. Under the terms of the country X income tax interest is not deductible to the extent it exceeds an arm's length amount (*e.g.*, if the loan to which the interest relates is not in accordance with normal commercial practice or to the extent the interest rate exceeds an arm's length rate). In practice, the only corporations that engage in exploitation of the specified minerals in country X are dual capacity taxpayers. Because no other persons subject to the levy engage in exploitation of minerals K, L or M, in country X, the application of the country X income tax to dual capacity taxpayers is different from its application to other corporations. The country X income tax as applied to corporations that engage in the exploitation of minerals K, L, or M (dual capacity taxpayers) is, therefore, a separate levy from the country X income tax as applied to other corporations.

A is a U.S. corporation that is engaged in country X in exploitation of mineral K. Natural deposits of mineral K in country X are owned by country X, and *A* has been allowed to extract mineral K in consideration of payment of a bonus and of royalties to an instrumentality of country X. Therefore, *A* is a dual capacity taxpayer. In 1984, *A* does business in country X within the meaning of the levy. *A* has validly elected the safe harbor method for country X for 1984. In 1984, as determined in accordance with the country X income tax as applied to *A*, *A* has gross receipts of 120u (units of country X currency), deducts 20u of costs and expenses, and pays 40u (40% of (120u–20u)) to country X pursuant to the levy. *A* also incurs in 1984, 10u of nondeductible expenditures for exploration for mineral K and 2u of nondeductible interest costs attributable to an advance of funds from a related party to finance an undertaking relating to the exploration for mineral K for which normal commercial financing was unavailable because of the substantial risk inherent in the undertaking. *A* establishes that the country X income tax as applied to persons other than dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1), that it is the generally imposed income tax of country X and hence the general tax, and that all of the criteria of section 903 are satisfied with respect to the country X income tax as applied to dual capacity taxpayers, except for the determination of the distinct element of the levy that is a tax and of *A*'s qualifying amount with respect thereto. (No conclusion is reached whether the country X income tax as applied to dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1). Such a determination would require, among other things, that the country X income tax as so applied, judged on the basis of its predominant character, meets the net income requirement of § 1.901–2(b)(4) notwithstanding its failure to permit recovery of exploration expenses.) *A* has therefore demonstrated that the country X income tax as applied to dual capacity taxpayers is a qualifying levy.

In applying the safe harbor formula, in accordance with paragraph (e)(2), the amount of *A*'s costs and expenses includes the 10u of nondeductible exploration expenses. The failure to permit recovery of interest in excess of arm's length amounts, a provision of both the general tax and the qualifying levy, does not cause the qualifying levy to fail to satisfy the net income requirement of § 1.901–2(b)(4); therefore, the amount of *A*'s cost and expenses does not include the 2u of nondeductible interest costs. Thus, under the safe harbor method, *A*'s qualifying amount with respect to the levy is 33.33u ((120u–30u–40u) x .40/(1–.40)). *A*'s specific economic benefit amount is 6.67u (*A*'s actual payment amount (40u) less *A*'s qualifying amount (33.33u)). Under paragraph (a) of this section, this 6.67u is considered to be consideration paid by *A* for the right to extract mineral K. Pursuant to paragraph (b) of this section, this amount is characterized according to the nature of *A*'s transactions with country X and its instrumentality and of the specific economic benefit received (the right to extract mineral K), as an additional royalty or other business expense paid or accrued by *A* and is so treated for all purposes of Chapter 1 of the Internal Revenue Code, except that if an allowance for percentage depletion is allowable to *A* under sections 611 and 613 with respect to *A*'s interest in mineral K, the determination whether this 6.67u is tax or royalty for purposes of computing the amount of such allowance shall be made under sections 611 and 613 without regard to the determination that under the safe harbor formula such 6.67u is not tax for purposes of section 901 or 903.

Example (2). Under a levy of country Y called the country Y income tax, each corporation incorporated in country Y is required to pay to country Y a percentage of its worldwide income. The applicable percentage is 40 percent of the first 1,000u (units of country Y currency) of income and 50 percent of income in excess of 1,000u. Income for purposes of the levy is computed by deducting from gross income specified types of expenses and specified allowances for capital expenditures. The expenses for which deductions are permitted differ depending on the type of business in which the corporation subject to the levy is engaged, *e.g.*, a deduction for interest paid to a related party is not allowed for corporations engaged in enumerated types of activities. In addition, carryover of losses from one taxable period to another is permitted for corporations engaged in specified types of activities, but not for corporations engaged in other activities. By its terms, the foreign levy makes no distinction between dual capacity taxpayers and other persons. In practice the differences in the base of the country Y income tax (*e.g.*, the lack of a deduction for interest paid to related parties for some corporations subject to the levy and the lack of a carryover provision for some corporations subject to the levy) apply to both dual capacity taxpayers and other persons, but the 50 percent rate applies only to dual capacity taxpayers. By reason of such higher rate, application of the country Y income tax to dual capacity taxpayers is different in practice from application of the country Y income tax to other persons subject to it. The country Y income tax as applied to dual capacity taxpayers is therefore a separate levy from the country Y income tax as applied to other corporations incorporated in country Y.

B is a corporation incorporated in country Y that is engaged in construction activities in country Y. *B* has a contract with the government of country Y to build a hospital in country Y for a fee that is not made available on substantially the same terms to substantially all persons who are subject to the general tax of country X. Accordingly, *B* is a dual capacity taxpayer. *B* has validly elected the safe harbor method for country Y for 1985. In 1985, as determined in accordance with the country Y income tax as applied to *B*, *B* has gross receipts of 10,000u, deducts 6,000u of costs and expenses, and pays 1900u ((1,000u×40%) + (3,000u×50%)) to country Y pursuant to the levy.

It is assumed that *B* has established that the country Y income tax as applied to persons other than dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1) and is the general tax. It is further assumed that *B* has demonstrated that all of the criteria of section 901 are satisfied with respect to the country Y income tax as applied to dual capacity taxpayers, except for the determination of the distinct element of such levy that is a tax and of *B*'s qualifying amount with respect to that levy, and therefore that the country Y income tax as applied to dual capacity taxpayers is a qualifying levy.

In applying the safe harbor formula, in accordance with paragraph (e)(3), the 50 percent rate is not used because it does not apply in practice to persons other than dual capacity taxpayers. The next lowest rate of the general tax that does apply in practice to such persons, 40 percent, is used. Accordingly, under the safe harbor formula, *B*'s qualifying amount with respect to the levy is 1400u ((10,000u–6000u–1900u) x .40/(1–40)). *B*'s specific economic benefit amount is 500u (B's actual payment amount (1900u) less *B*'s qualifying amount (1400u)). Pursuant to paragraph (b) of this section, *B*'s specific economic benefit amount is characterized according to the nature of *B*'s transactions with country Y and of the specific economic benefit received, as a reduction of *B*'s proceeds of its contract with country Y; and this amount is so treated for all purposes of Chapter 1 of the Code, including the computation of *B*'s accumulated profits for purposes of section 902.

Example (3). The facts are the same as in example (2), with the following additional facts: The contract between *B* and country Y is a cost plus contract. One of the costs of the contract which country Y is required to pay or for which it is required to reimburse *B* is any tax of country Y on *B*'s income or receipts from the contract. Instead of reimbursing *B* therefor, country Y agrees with *B* to assume any such tax liability. Under country Y tax law, *B* is not considered to have additional income or receipts by reason of country Y's assumption of *B*'s country Y tax liability. In 1985, *B*'s gross receipts of 10,000u include 3000u from the contract, and its costs and expenses of 6000u include 2000u attributable to the contract. *B*'s other gross receipts and expenses do not relate to any transaction in which B receives a specific economic benefit. In accordance with the contract, country Y, and not *B*, is required to bear the amount of *B*'s country Y income tax liability on *B*'s 1000u (3000u–2000u) income from the contract. In accordance with the contract *B* computes its country Y income tax without taking this 1000u into account and therefore pays 1400u ((1000u x 40%) + (2000u x 50%)) to country Y pursuant to the levy.

In accordance with § 1.901–2(f)(2)(i), the country Y income tax which country Y is, under the contract, required to bear is considered to be paid by country Y on behalf of *B*. *B*'s proceeds of its contract, for all purposes of Chapter 1 of the Code (including the computation of *B*'s accumulated profits for purposes of section 902), therefore, are increased by the additional 500u (1900u computed as in example (2) less 1400u as computed above) of B's liability under the country Y income tax that is assumed by country Y and such 500u is considered to be paid pursuant to the levy by country Y on behalf of *B*. In applying the safe harbor formula, therefore, the computation is exactly as in example (2) and the results are the same as in example (2).

Example (4). Country L issues a decree (the "April 11 decree."), in which it states it is exercising its tax authority to impose a tax on all corporations on their "net income" from country L. "Net income" is defined as actual gross receipts less all expenses attributable thereto, except that in the case of income from extraction of petroleum, gross receipts are defined as 105 percent of actual gross receipts, and no deduction is allowed for interest incurred on loans whose proceeds are used for exploration for petroleum. Under the April 11 decree, wages paid by corporations subject to the decree are deductible in the year of payment, except that corporations engaged in the extraction of petroleum may deduct such wages only by amortization over a 5-year period and, to the extent such wages are paid to officers, they may be deducted only by amortization over a period of 50 years. The April 11 decreee permits related corporations subject to the decree to file consolidated returns in which net income and net losses of related corporations offset each other in computing net income for purposes of the April 11 decree, except that corporations engaged in petroleum exploration or extraction activities are not eligible for inclusion in such a consolidated return. The law of country L does not require separate entities to carry on separate activities in connection with exploring for or extracting petroleum. Net losses of a taxable year may be carried over for 10 years to offset income, except that no more than 25% of net income (before deducting the loss carryover) in any such future year may be offset by a carryover of net loss, and, in the case of any corporation engaged in exploration or extraction of petroleum, losses incurred prior to such a corporation's having net income from production may be carried forward for only 8 years and no more than 15% of net income in any such future year may be offset by such a net loss. The rate to be paid under the April 11 decree is 50% of net income (as defined in the levy), except that if net income exceeds 10,000u (units of country L currency), the rate is 75% of the corporation's net income (including the first 10,000u thereof). In practice, no corporations other than corporations engaged in extraction of petroleum have net income in excess of 10,000u. All petroleum resources of country L are owned by the government of country L, whose petroleum ministry licenses corporations to explore for and extract petroleum in consideration for payment of royalties as petroleum is produced.

J is a U.S. corporation that is engaged in country L in the exploration and extraction of petroleum and therefore is a dual capacity taxpayer. *J* has validly elected the safe harbor method for country L for the year 1986, the year that *J* commenced activities in country L, and has not revoked such election. For the years 1983 through 1988, *J*'s gross receipts, deductions and net income before application of the carryover provisions, determined in accordance with the April 11 decree, are as follows:

Year	Gross receipts (105 percent of actual gross receipts)	Deductions other than wages	Wages paid other than to officers (amortizable at 20 percent)	Wages paid to officers (amortizable at 2 percent)	Nondeductible exploration interest expense	Net income (loss) (B–C amortization of cumulative D-amortization of cumulative E)
A.	B.	C.	D.	E.	F.	G.
1983	0	13,000u	100u	50u	1,000u	(13,021u)
1984	0	17,000u	100u	50u	2,800u	(17,042u)
1985	42,000u	15,000u	100u	50u	2,800u	26,837u
1986	105,000u	20,000u	100u	50u	2,800u	84,916u

After application of the carryover provisions, *J*'s net income and actual payment amounts pursuant to the April 11 levy are as follows:

Year	Net income (loss)	Actual payment amount (tax 75 percent)
H	*L*	*J*
1983	(13,021u)	0
1984	(17,042u)	0
1985	22,896u	17,172u
1986	72,179u	54,134u

Pursuant to paragraph (a)(1) of this section, the April 11 decree as applied to corporations engaged in the exploration or extraction of petroleum in country L is a separate levy from the April 11 decree as applied to all other corporations. *J* establishes that the April 11 decree, as applied to such other corporations, is an income tax within the meaning of § 1.901–2(a)(1) and that the decree as so applied is the general tax.

The April 11 decree as applied to corporations engaged in the exploration or extraction of petroleum in country L does not meet the gross receipts requirement of § 1.901–2(b)(3); therefore, irrespective of whether it meets the other requirements of § 1.901–2(b)(1), it is not an income tax within the meaning of § 1.901–2(a)(1). However, the April 11 decree as applied to such corporations is a qualifying levy because *J* has demonstrated that all of the criteria of section 903 are satisfied with respect to the April 11 decree as applied to such corporations, except for the determination of the distinct element of such levy that imposes a tax and of *J*'s qualifying amount with respect thereto.

In applying the safe harbor formula, in accordance with paragraph (e)(2), gross receipts are computed by reference to the general levy, and thus are 100%, not 105%, of actual gross receipts. Similarly, costs and expenses include exploration interest expense. In accordance with paragraph (e)(2)(i) of this section the difference between the general tax and the qualifying levy in the timing of the deduction for wages, other than wages of officers, is not considered to increase the liability of dual capacity taxpayers because the general tax would not have failed to be an income tax within the meaning of § 1.901–2(a)(1) if it had provided for 5-year amortization of such wages instead of for current deduction. *See* § 1.901–2(b)(4)(i). However, amortization of wages paid to officers over a 50-year period is such A deferred recovery of such wages that it effectively is a denial of the deduction of the excess of such wages paid in any year over the amortization of such cumulative wages permitted in such year. See § 1.901–2(b)(4)(i). The different treatment of wages paid to officers under the general tax and the qualifying levy is thus not merely a difference in timing within the meaning of paragraph(e)(2)(i) of this section. Accordingly, the difference between the amount of wages paid by *J* to officers in any year and *J*'s deduction (in computing the actual payment amount) for amortization of such cummulative wages allowed in such year is, pursuant to paragraph (e)(2) of this section, treated as a cost and expense in computing *J*'s qualifying amount for such year with respect to the April 11 decree. The differences in the consolidation and carryover provisions between the general tax and the qualifying levy are of the types described in paragraph (a)(2)(ii) of this section and pursuant to paragraphs (b)(4)(ii) and (b)(4)(iii) of § 1.901–2, the general tax would not fail to be an income tax within the meaning of § 1.901–2(a)(l) even if it contained the consolidation and carryover provisions of the qualifying levy. Thus such differences are not considered to increase the liability of dual capacity taxpayers pursuant to the qualifying levy as compared to the general tax liability of persons other than dual capacity taxpayers.

Accordingly, in applying the safe harbor formula to the qualifying levy for 1985 and 1986, gross receipts and costs and expenses are computed as follows:

Gross receipts

1985: 42,000u × (100/105 = 40,000u
1986: 105,000u × (100/105 = 100,000u

COSTS AND EXPENSES

Item	1985	1986
1. Deductions other than wages (column C in the preceding chart)	15,000u	20,000u
2. Amortization of cumulative wages paid in 1983 and thereafter other than to officers	60u	60u
3. Deduction of wages to officers paid in current year, instead of amortization allowed in current year of such cumulative wages paid in 1983 and thereafter	50u	50u
4. Deduction of exploration interest expense	2,800u	2,800u
5. Costs and expenses before carryover of net loss (sum of lines 1 through 4)	17,910u	22,930u
6. Recalculation of loss carryover by recalculating 1983 and 1984 net income (loss) to reflect current deduction of wages to officers and exploration interest expense: 1983 adjusted net loss carryover (13,021u + (49u) + (1000u) = (14,070u) 1984 adjusted net loss carryover: (17,042u + (48u) + (28,00u) = (19,890u)		
7. Recalculation of limitation on use of net loss carryover deduction:		
Gross receipts	40,000u	100,000u
Loss costs and expenses	(17,910u)	(22,930)
Total	22,090u	77,070u
Times 15 percent limitation	3,314u	11,561u
8. Costs and expenses including net loss carryover deduction (line 5 plus line 7	21,224u	34,491u

In years after 1986, costs and expenses for purposes of determining the qualifying amount would reflect net loss carryforward deductions based on the recomputed losses carried forward from 1983 and 1984 (14,070u and 19,890u, respectively) less the amounts thereof that were utilized in determining costs and expenses for 1985 and 1986 (3,314u and 11,561u, respectively). Tha 1983 and 1984 loss carryforwards would be considered utilized in accordance with the order of priority in which such losses are utilized under the terms of the qualifying levy.

In applying the safe harbor formula, the tax rate to be used, in accordance with paragraph (e)(3) of this section, is. 50.

Accordingly, under the safe harbor method. *J*'s qualifying amounts with respect to the April 11 decree for 1985 and 1986 are computed as follows:

1985: (40,000u–21,224u–17,172u) × .50/(1–.50) = 1604u
1986: (100,000u–34,491u–54,134u) × .50/(1–.50) = 11,375u

Under the safe harbor method *J*'s qualifying amounts with respect to the April 11 decree for 1985 and 1986 are thus 1604u and 11,375u, respectively; and its specific economic benefit amounts are 15,566u (17,172u–1604u) and 42,759uc, 54.134u–11,375u), respectively. Pursuant to paragraph (b) of this section *J*'s specific economic benefit amounts are characterized according to the nature of *J*'s transactions with country L and of the specific economic benefit received by L as additional royalties paid to country L with respect to the petroleum extacted by *J* in country L in 1985 and 1986, and these amounts are so treated for all purposes of Chapter 1 of the Code.

Example (5). Country E, which has no generally imposed income tax, imposes a levy called the country E income tax only on corporations carrying on the banking a business through a branch in country E and on corporations engaged in the extraction of petroleum in country E. All of the petroleum resources of country E are owned by the government of country E, whose petroleum ministry licenses corporations to explore for petroleum and extract petroleum in consideration of payment of royalties as petroleum is extracted. The base of the country E income tax is a corporation's actual gross receipts from sources in country E less all expenses attributable, on reasonable principles, to such gross receipts; the rate of tax is 29 percent.

A is a U.S corporation that carries on the banking business through a branch in country E. *B* is a U.S. corporation (unrelated to *A*) that is engaged in the extraction of petroleum in country E. In 1984 *A* receives interest on loans it has made to 160 borrowers in country E, seven of which are agencies and instrumentalities of the government of country E. The economic benefits received by *A* and *B* (*i.e.*, the interest received by *A* from the government and B's license to extract petroleum owned by the government) are not made available on substantially the same terms to the population of country E in general.

A and *B* are dual capacity taxpayers. Each of them has validly elected the safe harbor method for country E for 1984. *A* demonstrates that the country E income tax, as applied to it (a dual capacity taxpayer) is not different by its terms or in practice from the country E income tax as applied to persons (in this case other banks) that are not dual capacity taxpayers. *A* has therefore established pursuant to paragraph (a)(1) of this section and § 1.901–2(d) that the country E income tax as applied to it and the country E income tax as applied to persons other than dual capacity taxpayers are together a single levy. *A* establishes that such levy is an income tax within the meaning of § 1.901–2(a)(1). In accordance with paragraph (a)(1) of this section, no portion of the amount paid by *A* pursuant to such levy is considered to be paid in exchange for a specific economic benefit. Thus, the entire amount paid by *A* pursuant to this levy is an amount of income tax paid.

B does not demonstrate that the country E income tax as applied to corporations engaged in the extraction of petroleum in country E (dual capacity taxpayers) is not different by its terms or in practice from the country E income tax as applied to persons other than dual capacity taxpayers (*i.e.*, banks that are not dual capacity taxpayers). Accordingly, pursuant to paragraph (a)(1) of this section and § 1.901–2(d), the country E income tax as applied to corporations engaged in the extraction of petroleum in country E is a separate levy from the country E income tax as applied to other persons.

B demonstrates that all of the criteria of section 901 are satisfied with respect to the country E income tax as applied to corporations engaged in the exploration of petroleum in country E, except for the determination of the distinct element of such levy that imposes a tax and of *B*'s qualifying amount with respect to the levy. Pursuant to paragraph (e)(5) of this section, in applying the safe harbor formula to *B*, "A" is the amount of *B*'s gross receipts as determined under the country E income tax as applied to *B*; "B" is the amount of *B*'s costs and expenses as determined thereunder; "C" is *B*'s actual payment amount; and "D" is .29, the lower of the rate (29 percent) of the qualifying levy (the country E income tax as applied to corporations engaged in the extraction of petroleum in country E) or the rate (46 percent) of tax specified for 1984 in section 11(b)(5) of the Internal Revenue Code. Thus, *B*'s qualifying amount is equal to its actual payment amount.

Example (6). The facts are the same as in example (5), except that the rate of the country E income tax is 55 percent. For the reasons stated in example (5), the results with respect to *A* are the same as in example (5). In applying the safe harbor formula to *B*, "A," "B," and "C" are the same as in example (5), but "D" is .46, as that rate is less than .55. Thus, *B*'s qualifying amount is less than *B*'s actual payment amount, and the difference is *B*'s specific economic benefit amount.

Example (7). Country E imposes a tax (called the country E income tax) on the realized net income derived by corporations from sources in country E, except that, with respect to interest income received from sources in country E and certain insurance income, nonresident corporations are instead subject to other levies. With respect to such interest income a levy (called the country E interest tax) requires nonresident corporations to pay to country E 20 percent of such gross interest income unless the nonresident corporation falls within a specified category of corporations ("special corporations"), all of which are dual capacity taxpayers, in which case the rate is instead 25 percent. With respect to such insurance income nonresident corporations are subject to a levy (called the country E insurance tax), which is not an income tax within the meaning of § 1.901–2(a)(1).

The country E interest tax applies at the 20 percent rate by its terms and in practice to persons other than dual capacity taxpayers. The country E interest tax as applied at the 25 percent rate to special corporations applies only to dual capacity taxpayers; therefore, the country E interest tax as applied to special corporations is a separate levy from the country E interest tax as applied at the 20 percent rate.

A is a U.S. corporation which is a special corporation subject to the 25 percent rate of the country E interest tax. *A* does not have any insurance income that is subject to the country E insurance tax. *A*, a dual capacity taxpayer, has validly elected the safe harbor formula for 1984. In 1984 *A* receives 100u (units of country E currency) of gross interest income subject to the country E interest tax and pays 25u to country E.

A establishes that the country E income tax is the generally imposed income tax of country E; that all of the criteria of section 903 are satisfied with respect to the country E interest tax as applied to speical corporations except for the determination of the distinct element of the levy that is a tax and of *A*'s qualifying amount with respect thereto. *A* has therefore demonstrated that the country E interest tax as applied to speical corporations is a qualifying levy. *A* establishes that the country E interest tax at the 20 percent rate is a tax in lieu of an income tax within the meaning of § 1.903–1(a). Pursuant to paragraph (e)(6) of this section the country E interest tax at the 20 percent rate is treated as if it were an application of the general tax for purposes of the safe harbor formula of this paragraph (e), since that tax would actually have been required to have been paid by *A* with respect to its interest income had *A* not been a dual capacity taxpayer (special corporation) instead subject to the qualifying levy (the country E interest tax at the 25 percent rate).

Even if the country E insurance tax is a tax in lieu of an income tax within the meaning of § 1.903–1(a), that tax is not treated as if it were an application of the general tax for purposes of applying the safe harbor formula to *A* since *A* had no insurance income in 1984 and hence such tax would not actually have been required to be paid by *A* had *A* not been a dual capacity taxpayer.

Example (8). Under a levy of country S called the country S income tax, each corporation operating in country S is required to pay country S 50 percent of its income from operations in country S. Income for purposes of the country S income tax is computed by subtracting all attributable costs and expenses from a corporation's gross receipts derived from its business in country S. Among corporations on which the country S income tax is imposed are corporations engaged in the owned by country S, and all corporations engaged in the exploitation of mineral K in country S. Natural deposits of mineral K in country S are exploitation thereof do so under concession agreements with an instrumentality of country S. Such corporations, in addition to the 50 percent country S income tax, are also subject to a levy called a surtax, which is equal to 60 percent of posted price net income less the amount of the contry S income tax. The surtax is not deductible in computing the country S income tax of corporations engaged in the exploitation of mineral K in country S.

A is a U.S. corporation engaged in country S in the exploitation of mineral K, and *A* has been allowed to extract mineral K under a concession agreement with an instrumentality of country S. Therefore, *A* is a dual capacity taxpayer. In accordance with a term of the concession agreement, certain of *A*'s income (net of expenses attributable thereto) is exempted from the income tax and surtax.

The results for *A* in 1984 are as follows:

	Income tax	Surtax
Gross Receipts:		
Realized Taxable	120u	—
Realized -Exempt	15u	—
Posted Price Taxable	—	145u
Costs:		
Attributable to Taxable Receipts	20u	20u
Attributable to Exempt Receipts	5u	—
Taxable Income	100u	125u
Tentative Surtax (60 percent)	—	75u
Petroleum Levy at 50 percent	50u	50u
Surtax	—	25u

Because of the difference (nondeductibility of the surtax) in the country S income tax as applied to dual capacity taxpayers from its application to other persons, the country S income tax as applied to dual capacity taxpayers and the country S income tax as applied to persons other than dual capacity taxpayers are separate levies. Moreovet, because *A*'s concession agreement provides for a modification (exemption of certain income) of the country S income tax and surtax as they otherwise apply to other persons engaged in the exploitation of mineral K in country S, those levies (contractual levies) as applied to *A* are separate levies from those levies as applied to other persons engaged in the exploitation of mineral K in country S.

A establishes that the country S income tax as applied to persons other than dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1) and is the general tax. *A* demonstrates that all the criteria of section 903 are satisfied with respect to the country S income tax as applied to *A* and with respect to the surtax as applied to *A*, except for the determination of the distinct elements of such levies that are taxes and of *A*'s qualifying amounts with respect to such levies. Therefore, both the country S income tax as applied to *A* and the surtax as applied to *A* are qualifying levies.

In applying the safe harbor formula, in accordance with paragraph (e)(2), the amount of *A*'s gross receipts includes the exempt realized income, and the amount of *A*'s costs and expenses includes the costs attributable to such exempt income. In accordance with paragraph (e)(7)(i), the amount of the qualifying levy for purposes of the formula is the sum of *A*'s liability for the country S

VOL 48 ISS 198 OCT 12 1983 UMI

income tax and *A*'s liability for the surtax. Accordingly, under the safe harbor formula, *A*'s qualifying amount with respect to the country S income tax and the surtax is 35u [(135u—25u—75u)×.50/(1—.50)). *A*'s specific economic benefit amount is 40u (*A*'s actual payment amount (75u) less *A*'s qualifying amount (35u)).

Example (9). Country T imposes a levy on corporations, called the country T income tax. The country T income tax is imposed at a rate of 50 percent on gross receipts less all costs and expenses, and affiliated corporations are allowed to consolidate their results in applying the country T income tax. Corporations engaged in the exploitation of mineral L in country T are subject to a levy that is identical to the country T income tax except that no consolidation among affiliated corporations is allowed. The levy allows unlimited loss carryforwards.

C and *D* are affiliated U.S. corporations engaged in country T in the exploitation of mineral L. Natural deposits of mineral L in country T are owned by country T, and *C* and *D* have been allowed to extract mineral L in consideration of certain payments to an instrumentality of country T. Therefore, *C* and *D* are dual capacity taxpayers.

The results for *C* and *D* in 1984 and 1965 are as follows:

	1984		1985	
	C	*D*	*C*	
Gross Receipts	120u	0	120u	120u
Costs	20u	50u	20u	20u
Loss Carryforward				50u
Net Income (Loss)	100u	(50u)	100u	50u
Income Tax	50u		50u	25u

C and *D* establish that the country T income tax as applied to persons other than dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1) and is the general tax. *C* and *D* demonstrate that all of the criteria of section 901 are satisfied with respect to the country T income tax as applied to dual capacity taxpayers, except for the determination of the distinct element of such levy that is a tax and of *C* and *D*'s qualifying amounts with respect to that levy. Therefore, the country T income tax as applied to dual capacity taxpayers is a qualifying levy.

In applying the safe harbor formula, in accordance with paragraphs (e)(2)(ii) and (e)(7)(iii), the gross receipts, costs and expenses, and actual payment amounts of *C* and *D* are aggregated, except that in *D*'s loss year (1984) its gross receipts and costs and expenses are disregarded. The results of any loss year are disregarded since the country T income tax as applied to dual capacity taxpayers does not allow consolidation, and, pursuant to paragraph (e)(2)(ii), differences in consolidation provisions between such levy and the country T income tax as applied to persons that are not dual capacity taxpayers are not considered. Accordingly, in 1984 the qualifying amount with respect to the country T income tax is 50u ((120u—20u—50u)×.50/(1—.50)), all of which is considered paid by *C*. In 1985 the qualifying amount is 75u ((120u+120u—20u—20u—50u (loss carry forward)—50u—25u)×.50/(1—.50)), of which 50u is considered to be paid by *C* and 25u by *D*.

Example (10). Country W imposes a levy called the country W income tax on corporations doing business in country W. The country W income tax is imposed at a 50 percent rate on gross receipts less all costs and expenses. Corporations engaged in the exploitation of mineral M in country W are subject to a levy that is identical in all respects to the country W income tax except that it is imposed at a rate of 80 percent (the "80 percent levy").

A is a U.S. corporation engaged in country W in exploitation of mineral M and is subject to the 80 percent levy. Natural deposits of mineral M in country W are owned by country W, and *A* has been allowed to extract mineral M in consideration of certain payments to an instrumentality of country W. Therefore, *A* is a dual capacity taxpayer. *B*, a U.S. corporation affiliated with *A*, also is engaged in business in country W, but has no transactions with country W. *B* is subject to the country W income tax. *B* is a dual capacity taxpayer within the meaning of § 1.901–2(a)(2)(ii)(A) by virtue of its affiliation with *A*.

The results for *A* and *B* in 1984 are as follows:

	A	*B*
Gross Receipts	120u	100u
Costs	20u	40u
Net Income	100u	60u
Tax Rate	.80	.50
Tax	80u	30u

A and *B* establish that the country W income tax as applied to persons other than dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1) and is the general tax. It is assumed that *B* has demonstrated that the country W income tax as applied to *B* does not differ by its terms or in practice from the country W income tax as applied to persons other than dual capacity taxpayers and hence that the country W income tax as applied to *B*, a dual capacity taxpayer, and the country W income tax as applied to such other persons is a single levy. Thus, with respect to *B*, the country W income tax is not a qualifying levy by reason of the last sentence of paragraph (c)(1) of this section. *A* demonstrates that all the criteria of section 901 are satisfied with respect to the 80 percent levy, except for the determination of the distinct element of such levy that is a tax and of *A*'s qualifying amount with respect thereto. Accordingly, the 80 percent levy as applied to *A* is a qualifying levy.

In applying the safe harbor formula in accordance with paragraphs (e)(7)(i) and (e)(7)(iii) in the instant case, it is not necessary to incorporate *B*'s results in the safe harbor formula because *B*'s taxation in country W is identical to the taxation of persons other than dual capacity taxpayers and because neither *A*'s and *B*'s results nor their taxation in country W interact in any way to change *A*'s taxation. All of the amount paid by *B*, 30u, is an amount of income tax paid by *B* within the meaning of § 1.901–2(a)(1). Accordingly, under the safe harbor formula, the qualifying amount for *A* with respect to the 80 percent levy is 20u ((120u — 20u — 80u) × .50/(1 — .50)). The remaining 60u paid by *A* (80u — 20u) is *A*'s specific economic benefit amount.

Example (11). The facts are the same as in example (10), except that it is assumed that *B* has not demonstrated that the country W income tax as applied to *B* does not differ by its terms or in practice from the country W income tax as applied to persons other than dual capacity taxpayers. In addition, *A* and *B* demonstrate that all the criteria of section 901 are satisfied with respect to each of the country W income tax and the 80 percent levy as applied to dual capacity taxpayers, except for the determination of the distinct elements of such levies that are taxes of *A* and *B*'s qualifying amounts with respect to such levies. Therefore, the country W income tax and 80 percent levy as applied to dual capacity taxpayers are qualifying levies.

In applying the safe harbor formula in accordance with paragraphs (e)(7)(i) and (e)(7)(iii), the results of *A* and *B* are aggregated. Accordingly, under the safe harbor formula, the aggregate qualifying amount for *A* and *B* with respect to the country W income tax and 80 percent levy is 50u [[(120u + 100u) — (20u + 40u) — (80u + 30u)] × .50/(1— .50)].

Example (12). Country Y imposes a levy on corporations operating in country Y, called the country Y income tax. Income for purposes of the country Y income tax is computed by subtracting all costs and expenses from a corporation's gross receipts derived from its business in country Y. The rate of the country Y income tax is 50 percent. Country Y also imposes a 20 percent tax (the "withholding tax") on the gross amount of certain income, including dividends, received by persons who are not residents of country Y from persons who are residents of country Y and from corporations that operate there. Corporations engaged in the exploitation of mineral K in country Y are subject to a levy (the "75 percent levy") that is identical in all respects to the country Y income tax except that it is imposed at a rate of 75 percent. Dividends received from such corporations are not subject to the withholding tax.

C, a wholly-owned country Y subsidiary of *D*, a U.S. corporation, is engaged in country Y in the exploitation of mineral K. Natural deposits of mineral K in country Y are owned by country Y, and *C* has been allowed to extract mineral K in consideration of certain payments to an instrumentality of country Y. Therefore, *C* is a dual capacity taxpayer. *D* has elected the safe harbor method for country Y for 1984. In 1984, *C*'s gross receipts are 120u (units of country Y currency), its costs and expenses are 20u, and its liability under the 75 percent levy is 75u. *C* distributes the amount that remains, 25u, as a dividend to *D*.

D establishes that the country Y income tax as applied to persons other than dual capacity taxpayers is an income tax within the meaning of § 1.901–2(a)(1) and the general tax, and that all the criteria of section 901 are satisfied with respect to the 75 percent levy, except for the determination of the distinct element of such levy that is tax and of *C*'s qualifying amount with respect thereto. Accordingly, the 75 percent levy is a qualifying levy.

Pursuant to paragraph (e)(7), *D* (which is not subject to a levy of country Y but is considered to receive a specific economic benefit by reason of § 1.901–2(a)(2)(ii)(E)) is treated as a dual capacity taxpayer in applying paragraph (e)(7)(ii). *D* demonstrates that the withholding tax is a tax in lieu of an income tax within the meaning of § 1.903–1, which tax applies in practice to persons other than dual capacity taxpayers, and that such tax actually would have applied to *D* had *D* not been a dual capacity taxpayer (*i.e.*, had *C* not been a dual capacity taxpayer, in which case *D* also would not have been one). Accordingly, the withholding tax is treated for purposes of the safe harbor formula as if it were an application of the general tax.

In applying the safe harbor formula to this situation in accordance with paragraph (e)(7)(ii), the rates of the country Y income tax and the withholding tax are aggregated into a single effective general tax rate. In this case, the rate is .60 (.50+[(1—.50)×.20]). Accordingly, under the safe harbor formula, *C*'s qualifying amount with respect to the 75 percent levy is 37.5u [(120u — 20u — 75u) ×.60/(1—.60)], the aggregate amount that *C* and *D* would have paid if *C* had been subject to the country Y income tax and had distributed to *D* as a dividend subject to the withholding tax the entire amount that remained for the year after payment of the country Y income tax. Because *C* is in fact the only taxpayer, the entire qualifying amount is paid by *C*.

Example (13). The facts are the same as in example (12), except that dividends received from corporations engaged in the exploitation of mineral K in country Y are subject to the withholding tax. Thus, *C*'s liability under the 75 percent tax on the 75u, and *D*'s liability under the withholding tax on the 25u distribution is 5u.

D, which is a dual capacity taxpayer, demonstrates that the withholding tax as applied to *D* does not differ by its terms or in practice from the withholding tax as applied to persons other than dual capacity taxpayers and hence that the withholding tax as applied to *D* and that levy as applied to such other persons is a single levy. *D* demonstrates that all of the criteria of section 903 are satisfied with respect to the withholding tax. The withholding tax is not a qualifying levy by reason of the last sentence of paragraph (c)(1) of this section.

Paragraphs (e)(7)(i), (e)(7)(ii) and (e)(7)(iii) all apply in this situation. As in example (10), it is not necessary to incorporate the withholding tax into the safe harbor formula. All of the amount paid by *D*, 5u, is an amount of tax paid by *D* in lieu of an income tax. In applying the safe harbor formula to *C*, therefore, with respect to the 75 percent levy, "A" is 120, "B" is "20", "C" is 75 and "D" is .50. Accordingly, *C*'s qualifying amount with respect to the 75 percent levy is 25u; the remaining 50u that it paid is its specific economic benefit amount.

Example (14). The facts are the same as in example (12), except that dividends received from corporations engaged in the exploitation of mineral K in country Y are subject to a 10 percent withholding tax (the "10 percent withholding tax"). Thus, *C*'s liability under the 75 percent levy is 75u, and *D*'s liability under the 10 percent withholding tax on the 25u distribution is 2.5u.

The only difference between the withholding tax and the 10 percent withholding tax applicable only to dual capacity taxpayers (including *D*) is that a lower rate (but the same base) applies to dual capacity taxpayers. Although the withholding tax and the 10 percent withholding tax are together a single levy, this difference makes it necessary, when dealing with multiple levies, to incorporate the withholding tax and *D*'s payment pursuant to the 10 percent withholding tax in the safe harbor formula. Accordingly, as in example (12), the safe harbor formula is applied by aggregation.

The aggregate effective rate of the general taxes for purposes of the safe harbor formula is .80 (.50+[(1—.50)×.20]). Pursuant to paragraph (e)(7), the aggregate actual payment amount of the qualifying levies for purposes of the formula is the sum of *C* and *D*'s liability for the 75 percent levy and the 10 percent withholding tax. Accordingly, under the safe harbor formula, the aggregate qualifying amount with respect to the 75 percent levy on *C* and the 10 percent withholding tax on *D* is 33.75u ((120u — 20u — [75u + 2.5u]) × .60/(1 — .60)], which is the aggregate amount of tax that *C* and *D* would have paid if *C* had been subject to the country Y income tax and had paid out its entire amount remaining after payment of that tax to *D* as a dividend subject to the withholding tax.

Example (15). The facts are the same as in example (5), except that the rate of the country E income tax is 45 percent and a political subdivision of country E also imposes a levy, called the "local tax," on all corporations subject to the country E income tax. The base of the local tax is the same as the base of the country E income tax; the rate is 10 percent.

The reasoning of example (5) with regard to the country E income tax as applied to *A* and *B*, respectively, applies equally with regard to the local tax as applied to *A* and *B*, respectively. Accordingly, the entire amount paid by *A* pursuant to each of the country E income tax and the local tax is an amount of income tax paid, and both the country E income tax as applied to *B* and the local tax as applied to *B* are qualifying levies.

Pursuant to paragraph (e)(7), in applying the safe harbor formula to *B*, "A" is the amount of *B*'s gross receipts as determined under the (identical) country E income tax and local tax as applied to *B*; "B" is the amount of *B*'s costs and expenses thereunder; and "C" is the sum of *B*'s actual payment amounts with respect to the two levies. Pursuant to paragraph (e)(7), in applying the safe harbor formula to *B*, *B*'s aggregate qualifying amount with respect to the two levies is limited to the amount determined in accordance with paragraph (e)(5) where "D" is the rate of tax specified in section 11(b)(5) of the Internal Revenue Code. Accordingly, "D" is .46, which is the lower of the aggregate rate (55 percent) of the qualifying levies or the section 11(b)(5) rate (46 percent). *B*'s aggregate qualifying amount is, therefore, identical to *B*'s qualifying amount in example (6), which is less than its aggregate actual payment amount, and the difference is *B*'s specific economic benefit amount.

(f) *Effective date.* The effective date of this section is as provided in § 1.901–2(h).

Approved by the office of Management and Budget under control number 1545–0746.

Par. 3. A new § 1.903–1 is added immediately after § 1.902–2 to read as follows:

§ 1.903–1 Taxes in lieu of income taxes.

(a) *In general.* Section 903 provides that the term "income, war profits, and excess profits taxes', shall include a tax paid in lieu of a tax on income, war profits, or excess profits ("income tax") otherwise generally imposed by any foreign country. For purposes of this section and §§ 1.901–2 and 1.901–2A, such a tax is referred to as a "tax in lieu of an income tax"; and the terms "paid" and "foreign country" are defined in § 1.901–2(g). A foreign levy (within the meaning of § 1.901–2(g)(3)) is a tax in lieu of an income tax if and only if—

(1) It is a tax within the meaning of § 1.901–2(a)(2): and

(2) It meets the substitution requirement as set forth in paragraph (b) of this section.

The foreign country's purpose in imposing the foreign tax (*e.g.*, whether it imposes the foreign tax because of administrative difficulty in determining the base of the income tax otherwise generally imposed) is immaterial. It is also immaterial whether the base of the foreign tax bears any relation to realized net income. The base of the tax may, for example, be gross income, gross receipts or sales, or the number of units produced or exported. Determinations of the amount of a tax in lieu of an income tax that is paid by a person and determinations of the person by whom such tax is paid are made under § 1.901 2 (e) and (f), respectively, substituting the phrase "tax in lieu of an income tax" for the phrase "income tax" wherever the latter appears in those sections. Section 1.901–2A contains additional rules applicable to dual capacity taxpayers (as defined in § 1.901–2(a)(2)(ii) (A)). The rules of this section are applied independently to each separate levy (within the meaning of §§ 1.901–2(d) and 1.901–2A (a)) imposed by the foreign country. Except as otherwise provided in paragraph (b)(2) of this section, a foreign tax either is or is not a tax in lieu of an income tax in its entirety for all persons subject to the tax.

VOL
48
ISS
1
9
8
OC
12
1983
UMI

(b) *Substitution.—(1) In general.* A foreign tax satisfies the substitution requirement if the tax in fact operates as a tax imposed in substitution for, and not in addition to, an income tax or a series of income taxes otherwise generally imposed. However, not all income derived by persons subject to the foreign tax need be exempt from the income tax. If, for example, a taxpayer is subject to a generally imposed income tax except that, pursuant to an agreement with the foreign country, the taxpayer's income from insurance is subject to a gross receipts tax and not to the income tax, then the gross receipts tax meets the substitution requirement notwithstanding the fact that the taxpayer's income from other activities, such as the operation of a hotel, is subject to the generally imposed income tax. A comparison between the tax burden of this insurance gross receipts tax and the tax burden that would have obtained under the generally imposed income tax is irrelevant to this determination.

(2) *Soak-up taxes.* A foreign tax satisfies the substitution requirement only to the extent that liability for the foreign tax is not dependent (by its terms or otherwise) on the availability of a credit for the foreign tax against income tax liability to another country. If, without regard to this paragraph (b)(2), a foreign tax satisfies the requirement of paragraph (b)(1) of this section (including for this purpose any foreign tax that both satisfies such requirement an also is and income tax within the meaning of § 1.901–2(a)(1)), liability for the foreign tax is dependent on the availability of a credit for the foreign tax against income tax liability to another country only to the extent of the lesser of—

(i) The amount of foreign tax that would not be imposed on the taxpayer but for the availability of such a credit to the taxpayer (within the meaning of § 1.901–2(c)), or

(ii) The amount, if any, by which the foreign tax paid by the taxpayer exceeds the amount of foreign income tax that would have been paid by the taxpayer if it had instead been subject to the generally imposed income tax of the foreign country.

(3) *Examples.* The provisions of this paragraph (b) may be illustrated by the following examples:

Example (1). Country X has a tax on realized net income that is generally imposed except that nonresidents are not subject to that tax. Nonresidents are subject to a gross income tax on income from country X that is not attributable to a trade or business carried on in country X. The gross income tax imposed on nonresidents satisfies the substitution requirement set forth in this paragraph (b). See also examples (1) and (2) of § 1.901–2(b)(4)(iv).

Example (2). The facts are the same as in example (1), with the additional fact that payors located in country X are required by country X law to withhold the gross income tax from payments they make to nonresidents, and to remit such withheld tax to the government of country X. The result is the same as in example (1).

Example (3). The facts are the same as in example (2), with the additional fact that the gross income tax on nonresidents applies to payments for technical services performed by them outside of country X. The result is the same as in example (2).

Example (4). Country X has a tax that is generally imposed on the realized net income of nonresident corporations that is attributable to trade or business carried on in country X. The tax applies to all nonresident corporations that engage in business in country X except for such corporations that engage in contracting activities, each of which is instead subject to two different taxes. The taxes applicable to nonresident corporations that engage in contracting activities satisfy the substitution requirement set forth in this paragraph (b).

Example (5). Country X imposes both an exise tax and an income tax. The excise tax, which is payable independently of the income tax,is allowed as a credit against the income tax. For 1983 *A* has a tentative income tax liability of 100u (units of country X currency) but is allowed a credit for 30u of excise tax that it has paid. Pursuant to paragraph (e)(4)(i) of § 1.901–2, the amount of excise tax *A* has paid to country X is 30u and the amount of income tax *A* has paid to country X is 70u. The excise tax paid by *A* does not satisfy the substitution requirement set forth in this paragraph (b) because the excise tax is imposed on *A* in addition to, and not insubstitution for. the generally imposed income tax.

Example (6). Pursuant to a contract with country X, *A*, a domestic corporation engaged in manufacturing activities in country X, must pay tax to country X equal to the greater of (i) 5u (units of country X currency) per item produced, or (ii) the maximum amount creditable by *A* against its U.S. income tax liability for that year with respect to income from its country X operation. Also pursuant to the contract, *A* is exempted from otherwise generally imposed income tax. *A* produces 16 items in 1984 and the maximum amount creditable by *A* against its U.S. income tax liability for 1984 is 125u. If *A* had been subject to country X's otherwise generally imposed income tax it would have paid a tax of 150u. Pursuant to paragraph (b)(2) of this section, the amount of tax paid by *A* that is dependent on the availability of a credit against income tax of another country is 0 (lesser of (i) 45u, the amount that would not be imposed but for the availability of a credit (125u–80u) or (ii) 0, the amount by which the contractual tax (125u) exceeds the generally imposed income tax (150u)).

Example (7). The facts are the same as in example (6) except that, of the 150u *A* would have paid if it had been subject to the otherwise generally imposed income tax, 60u is dependent on the availability of a credit against income tax of another country. The amount of tax actually paid by *A* (i.e., 125u) that is dependent on the availability of a credit against income tax of another country is 35u (lesser of (i) 45u, computed as in example (6), or (ii) 35u, the amount by which the contractual tax (125u) exceeds the amount *A* would have paid as income tax if it had been subject to the otherwise generally imposed income tax (90u, i.e., 150u–60u).

(c) *Effective date.* The effective date of this section is as provided in § 1.901–2(h).

PART 4—[AMENDED]

§§ 4.901–2 and 4.903–1 [Removed]

Par. 4. Sections 4.901–2 and 4.903–1 of 26 CFR Part 4 are removed.

This Treasury Decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: September 28, 1983.

John E. Chapoton,
Assistant Secretary of the Treasury.

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26 CFR Parts 1 and 31

[T.D. 7919]

Employment and Income Taxes; Information From Recipients of Gambling Winnings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to withholding on certain payments of gambling winnings and to statements furnished by their recipients. These rules are necessary to implement the withholding of tax on certain payments of winnings and will affect both payers and recipients of winnings.

DATE: The regulations generally apply to payments of winnings made after November 14, 1983.

FOR FURTHER INFORMATION CONTACT: John P. MacMaster of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

On September 23, 1981, the **Federal Register** published proposed amendments both of the Income Tax Regulations (26 CFR Part 1) under section 6011 of the Internal Revenue Code and of the Employment Tax Regulations (26 CFR Part 31) under Code section 3402(q). The amendments to the regulations under section 3402(q) were a revision of part of an earlier proposal (44 FR 65777) concerning the withholding of tax on certain payments of gambling winnings. Treasury Decision 7787 (46 FR 46908) adopted that earlier proposal, reserving those portions re-proposed in the notice of proposed rulemaking of September 23, 1981.

A public hearing was held on January 20, 1982. After consideration of the comments, this Treasury decision adopts the proposed amendments with one change.

Explanation of Provision

Section 3402(q) requires payers of gambling winnings to deduct and withhold 20 percent of payments in certain circumstances, generally depending on the type of wagering transaction, the total amount of winnings, and in some cases the odds of the wager. For example, withholding generally is required on winnings from a wager in a parimutuel pool on a horse race if the total amount of the winnings exceeds $1,000. Under § 31.3402(q)–1 winnings on identical bets must be aggregated to determine if the $1,000 floor has been exceeded. This ensures that bettors are treated the same, whether or not a wager is divided into several small components. Identical bets are those in which winning depends on the occurrence (or non-occurrence) of the same event or events. For example, two wagers on a horse to win a particular race generally are identical.

Payers of gambling winnings generally are liable for any tax required to be deducted and withheld. The responsibility for identifying payments subject to withholding would, therefore, devolve to payers. In view of the expense of eliciting the information necessary to determine whether a payment is subject to withholding solely by reason of identical wagers, the regulations provide that payers may, in certain circumstances, require payees to supply information concerning any identical, or fragmented, wagers and then rely upon that information in determining whether the payment is subject to withholding. Generally, such information may be required of payees with respect to any payment subject to information reporting requirements under section 6041, *i.e.*, payments of $600 or more, but only if the payment by itself does not exceed the statutory floor of $1,000 ($5,000 in certain circumstances). If the payment either is subject to withholding without regard to winnings from identical wagers or is made with respect to a type of transaction not subject to withholding under section 3402(q) (*i.e.*, slot machine plays, bingo, or keno) the payer may not require the additional information. Indeed, it would have no application.

The final regulations differ from the rules as proposed in two respects—§ 31.3402(q)–1 makes clear that wagers in different wagering pools are not identical wagers, even if identical in other respects. Thus, for example, if an individual places a bet of $10 at the track for a horse to win a race and also places a $10 bet through an off-track betting operation on that horse to win the same race, those wagers are not aggregated for purposes of sections 3402(q) and 6011, provided the two operations conduct separate pools. Second, an example is added to indicate clearly that wagers containing different elements, *e.g.*, and "exacta" and a "trifecta" are not identical.

Evaluation of the effectiveness of these regulations will be based on comments received from offices within the Treasury Department, other governmental agencies, and the public. These regulations impose no burdensome reporting or record keeping requirements, but rather provide a less burdensome, optional procedure for fully implementing section 3402(q).

Non-Application of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury or OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this Treasury decision as it will not have a significant impact on a substantial number of small entities. The regulations merely provide payers of gambling winnings an optional procedure for fulfilling the requirements of withholding pursuant to section 3402(q). Payers are not precluded from using other means to ascertain the necesssary information to implement the withholding requirement. As already explained, this procedure is designed to provide a less burdensome means of assuring proper withholding on gambling winnings. It does not create a significantly increased reporting burden inasmuch as payees of gambling winnings should have the necessary information readily available for payers, and the optional procedure applies only as a concomitant of existing reporting requirements.

Drafting Information

The principal author of this regulation is John P. MacMaster of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation substantively and stylistically.

List of Subjects

26 CFR §§ 1.6001–1—1.6109–2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 31

Employment taxes, Income taxes, Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 31 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The following new section is added immediately after § 1.6011–2:

§ 1.6011–3 Requirement of statement from payees of certain gambling winnings.

(a) *General rule.* Except as provided in paragraph (c) of this section, any person receiving a payment with respect to a wager in a sweepstakes, wagering pool, lottery, or other wagering transaction (including a parimutuel pool with respect to horse races, dog races, or jai alai) shall make a statement to the payer of such winnings upon the payer's demand. Such statements shall accompany the payer's return made with respect to the payment as required pursuant to section 3402(q) or 6041, as the case may be.

(b) *Contents of statement.* The statement referred to in paragraph (a) shall contain information (in addition to that required under section 6041(c)) as to the amount, if any, of winnings from identical wagers to which the recipient is entitled. If any person other than the recipient is entitled to all or a portion of

the payment, the statement shall also include information as to the amount, if any, of winnings from identical wagers to which each such person is entitled. The statement shall be provided on Form W-2G or, if persons other than the recipient are entitled to all or a portion of such payment, on Form 5754.

(c) *Exception.* The requirement of paragraph (a) of this section does not apply with respect to any payment of winnings—

(1) From a slot machine play, or a bingo or keno game,

(2) Which is subject to withholding under section 3402(q) without regard to the existence of winnings from identical wagers, or

(3) For which no return of information under section 6041 is required of the payer.

(d) *Meaning of terms.* For purposes of this section, the terms "sweepstakes", "wagering pool", "lottery", "other wagering transaction" and "identical wagers" shall have the same meanings as ascribed to them under § 31.3402(q)–1.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 2. Paragraphs (c)(1)(ii), and (d) *Example (3),* and (f)(1)(vi) of § 31.3402 (q)–1 are revised to read as set forth below, and a new paragraph (d) *Example (4)* is added to read as set forth below:

§ 31.3402(q)–1 Extension of withholding to certain gambling winnings.

* * * * *

(c) *Definitions: special rules*—(1) *Rules for determining amount of proceeds from a wager.* * * *

(ii) Amounts paid after November 14, 1983, with respect to identical wagers are treated as paid with respect to a single wager for purposes of calculating the amount of proceeds from a wager. For example, amounts paid on two bets placed in a parimutuel pool on a particular horse to win a particular race are treated as paid with respect to the same wager. However, those two bets would not be identical were one "to win" and the other "to place", or if the bets were placed in different parimutuel pools, *e.g.,* a pool conducted by the racetrack and a separate pool conducted by an off-track betting establishment in which the wagers are not pooled with those placed at the track. Tickets purchased in a lottery generally are not identical wagers, because the designation of each ticket as a winner generally would not be based on the occurrence of the same event, *e.g.,* the drawing of a particular number. If the recipient makes the statement which may be required pursuant to § 1.6011–3, indicating whether or not the recipient (and any other persons entitled to a portion of the winnings) is entitled to winnings from identical wagers and indicating the amount of such winnings, if any, then the payer may rely upon such statement in determining the total amount of proceeds from the wager under paragraph (c)(1) of this section attributable to identical wagers.

* * * * * *

(d) *Examples.* * * *

Example (3). On December 1, 1983, B makes two $2 bets in a parimutuel pool for a horse race. Each bet is on the same horse to win a particular race. B wins a total of $1,300 on those bets. B cashes the tickest at different cashier windows indicating on the statement demanded by each cashier the amount of winnings from identical wagers. Although the payment by each cashier ($650) is less than the $1,000 floor for the withholding requirement on payments of winnings from horse race parimutuel pools, each cashier is required to deduct and withhold tax from B's winnings equal to $129.60 [($650 − $2) × 20 percent = $129.60] based on the information B submitted indicating that the aggregated proceeds from the identical wagers ($1,300 − $4 = $1,296) exceed $1,000 and the amount is at least 300 times as great as the amount wagered ($4 × 300 = $1,200). Had B refused to make the statements, the payer would have no basis provided by the payee upon which to rely in determining whether the payment is subject to withholding. Under these circumstances, the payer would be required to deduct and withhold tax from the payment.

Example (4). C makes two $2 bets in the same parimutuel pool for a horse race. One bet is an "exacta" in which C bets on horse M to win and horse N to "place". The other bet is a "trifecta". C bets on horse M to win, horse N to "place" and horse O to "show". C wins both bets and is paid $600 with respect to the "exacta" and $900 with respect to the "trifecta". The bets are not identical wagers, however, and on these facts neither payment is subject to withholding.

* * * * * *

(f) *Return of payer*—(1) *In general.* * * *

(vi) With respect to amounts paid after November 4, 1983, the amount of winnings from identical wagers. * * *

* * * * * *

This Treasury decision is issued under the authority contained in sections 6011 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 732, 917; 26 U.S.C. 6011, 7805).

(Approved by the Office of Management and Budget under control number 1545–0238)

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: May 5, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83–27691 Filed 10–11–83; 8:45 am]

BILLING CODE 4830–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Handling of Employment Discrimination Charges; 706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the Texas Commission on Human Rights as a 706 Agency.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street, NW., Washington, D.C. 20507, telephone 202/634–6806.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—PROCEDURAL REGULATIONS

Accordingly, Title 29, Chapter XIV of the Code of Federal Regulations, 29 CFR 1601.74(a) is amended by adding in alphabetical order the following agency:

§ 1601.74 Designated and notice agencies.

(a) * * *

Texas Commission on Human Rights

* * * * * *

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e 12(a))

Signed at Washington, D.C. this Sixth day of October, 1983.

For the Commission.

Odessa M. Shannon,

Director, Office of Program Operations.

[FR Doc. 83–27728 Filed 10–11–83; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Permanent State Regulatory Program of Kentucky

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule and correction.

SUMMARY: This document amends 30 CFR Part 917 by: (1) Removing condition (a) concerning stocking plans for non-commercial forest land of the approval of the Kentucky permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), (2) approving the program amendment consisting of Technical Reclamation Memorandum #9 (TRM #9) and (3) correcting the text to reflect findings of the Secretary published in the Federal Register on January 4, 1983 and May 20, 1983. The corrections reflect the removal of condition (c) concerning cumulative bonding crediting and a numbering error.

EFFECTIVE DATE: The corrections, the removal of this condition and the approval of the program amendment are effective on October 12, 1983.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–7320.

SUPPLEMENTARY INFORMATION: On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982, Federal Register (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982, Federal Register notice.

Corrections

In the January 4, 1983, Federal Register (48 FR 245–252) the Secretary approved the amendment submitted to satisfy condition (c) of the approval of the Kentucky program relating to cumulative bond crediting. In amending § 917.11, paragraph (c) was not removed and reserved. Section 917.11(c) is amended at this time by a correction notice removing and reserving paragraph (c).

In the May 20, 1983, Federal Register (48 FR 22711–22715), the Secretary approved amendments to the Kentucky program relating to changing department names, the definition of "existing structure," the definition of "incidental boundary revision," citizen participation in inspection and enforcement activities, effluent limitations, buffer zone requirements, sediment storage volume, ponds designed with single spillways, monitoring for water discharges, alternative materials used under drains, water diversion for coal waste banks, bridge and approach fills, and petitions to designate lands unsuitable for surface coal mining.

In amending Part 917 of Title 30 (48 FR 22715) to add these amendments, a paragraph (c) was added when the paragraph should have been titled (d). Section 917.15 is amended at this time by renumbering paragraph (c) to paragraph (d) for the approval of the above amendments to the Kentucky program.

Submission of Material To Satisfy Condition

Condition (a) of the Kentucky program required Kentucky to submit copies of promulgated regulations eliminating the discretionary stocking plan approval for noncommercial forest land or otherwise amend its program to set standards for stocking when the post mining land use is forest land other than commercial forest. Additionally, the Secretary required that Kentucky utilize the reference area concept for these areas until condition (a) is removed.

Kentucky submitted material dated May 4, 1983, to OSM pursuant to 30 CFR 732.17 intended to satisfy condition (a). The State has developed "Technical Reclamation Memorandum #9" (TRM #9) to provide technical guidance procedures for reforested areas and to establish technical standards for ground cover, productivity, and stocking rates that may be used in lieu of the reference area method.

OSM published a notice in the June 10, 1983, Federal Register (48 FR 26839) announcing receipt of the information intended to satisfy condition (a) and inviting public comment on whether the proposed program amendment corrected the deficiency, and whether the Secretary should approve the amendment and remove condition (a) from the approval of the State program. The public comment period ended July 11, 1983. The public hearing scheduled for June 30, 1983, was not held because no one expressed a desire to present testimony.

Secretary's Findings

The Secretary finds the program amendment submitted by Kentucky consisting of Technical Reclamation Memorandum # 9 (TRM # 9) satisfies condition (a) by providing standards for stocking when the postmining land use is forest land other than commercial forest. Additionally, the Secretary finds pursuant to 30 CFR 732.17 that the program amendment supplements the approved Kentucky program by establishing certain stocking rates for commercial forest land and by establishing minimum requirements for reference areas.

It should be noted that OSM promulgated revised regulations for revegetation by publishing Parts 701, 816 and 817 in the Federal Register dated September 2, 1983 (48 FR 40140–40162). These regulations become effective on October 3, 1983. The Director, OSM, pursuant to 30 CFR 732.17(d) will notify Kentucky if these revised regulations require an additional amendment to bring the State program into conformance with the new Federal standards.

Finding 1

The technical standards that are required at time of bond release for reforested areas established by TRM # 9 to meet condition (a) of the Kentucky program are:

1. 500 trees or shrubs/acre or 670 on steep slopes;

2. Minimum of four species of trees and shrubs that are appropriate for the post mining land uses;

3. Ground cover adequate to control erosion (at least 70% cover with 90% statistical confidence and no evidence of significant erosion); and

4. Live woody plant stocking shall be ninety percent (90%) of these standards with 90% statistical confidence.

The approved State rules, 405 KAR 16/18:200, Section 7(2) (a) and (b) establish a minimum tree and shrub stocking of 450 live woody plants per acre when the primary post mining vegetation is woody plants. The minimum ground cover requirement as set forth in 405 KAR 16/18:200

VOL 48 ISS 198 OCT 12 1983 UMI

(6)(2)(c)(4) is seventy percent (70%) with ninety percent (90%) statistical confidence. The TRM as a supplement to these approved regulations contains standards consistent with those established in the approved State regulations.

The TRM standards for woody species are equal to the respective Federal standard counterparts, hence, the standards for woody plants in TRM # 9 are no less effective than 30 CFR 816.117.

By establishing a minimum standard of 500 trees or shrubs/acre or 670 on steep slopes, requiring four species and 70% ground cover for both non-commercial forest land and commercial forest land, the State has satisfied condition (a) of 30 CFR 917.11.

Finding 2

With respect to crops, grasses and legumes, the State is proposing to adopt yields that can be expected under a high level of management, as contained in Soil Conservation Service (SCS) soil surveys, as the technical standard. When productivity (expected yields) data is not available in a soil survey for the specific vegetation the reference area concept will be required.

The approved State regulations at 405 KAR 16/18:200(6)(1), provide for use of technical guidance documents published by United States Department of Agriculture (USDA) or the United States Department of the Interior (USDI) when developing standards. Kentucky is proposing to utilize one such document, SCS soil surveys, as a standard for productivity of crops, grasses and legumes. The survey provides yields (productivity) that can be expected under a high level of management for soils and crops commonly grown on those soils.

TRM #9 further explains that the regulations require ground cover and productivity of at least 90% of the technical standards. The TRM provides ground cover requirements specific to the eastern and western coal regions of the State. These respective standards, 90% and 100%, are adequate to assure control of erosion since the minimum ground cover acceptable in the eastern region would be 80% (.90×90%) and for the western 90% (.90×100%). Therefore, yield from the reclaimed site must be 90% of the yield contained in the soil survey and ground cover must be 90% of the ground cover established for the respective coal regions of the State. For permits of 40 acres or less the regulations currently require a minimum of 70% ground cover. Other ground cover requirements must be equal to or greater than that found on reference areas. The ground cover requirements of TRM #9 are no less effective than the Federal rule at 30 CFR 816.116(d) and are acceptable for use as a technical standard.

Finding 3

The TRM provides "technical standards" for areas where the postmining land use is commercial forest, thereby supplementing the approved Kentucky regulations at 405 KAR 16:200(7). The State uses the term "[a]t the time of bond release" as the time at which success of revegetation is measured. However, there are two relevant times at which bond may be released. Phase II bond release is after the reclaimed area has been revegetated, in this case, after the seedlings have been planted. Section 519(c)(2) of the Surface Mining Act authorizes an additional release of bond, but requires retention of an amount sufficient to reclaim the area should the revegetation, i.e., seedlings and other ground cover, fail. Phase II comes before commencement of the extended liability period. Phase III bond release comes at the end of the liability period when all the remaining bond may be released.

In the approved program at 405 KAR 10:040E(4), the reclamation phases are defined and paragraph (C) provides that reclamation phase III will be deemed to be complete only after the level is capable of supporting the postmining land use and the operator has achieved compliance with Kentucky Reclamation Statute (KRS) Chapter 350 and 405 and the permit, and the applicable liability period under 405 KAR 10:020(E) has expired. Additionally, the State has assured OSM that revegetation success must be achieved at a phase III bond release and that could require no less than a culmination of the requirements for Phase I, II and III. The period of liability begins again whenever substantial augmented seeding, fertilizing, irrigation or other work is required or conducted on the site prior to bond release.

TRM #9, as a supplement to 405 KAR 16:200(7), taken together with sections 405 KAR 10:020(e) and 10:040(E) provide a standard no less effective than applicable Federal standards at 30 CFR 800.15 and 800.40 and in accordance with section 519(c) of SMCRA.

Finding 4

Minimum requirements for approving an area as a reference area are contained in TRM #9. While not required by the condition, this explanation should benefit operators when they are attempting to establish reference areas. These requirements are no less effective than 30 CFR 816.116(a).

Public Comments

1. The Tennessee Valley Authority (TVA) offered support of the TRM as a method other than the reference area in determining the success of revegetation efforts in some instances. OSM is approving the standards that the TRM established for use in lieu of a reference area. TVA also suggested that the term "steep slope" as it relates to reforestation be quantified to mean 20° or more. Kentucky's approved program at 405 KAR 7:020 defines "steep slope" as any slope of more than 20° or such lesser slope as may be designated by the department after consideration of soil, climate, and other characteristics of a region. OSM believes the term is adequately quantified in the approved State program at 405 KAR 7:020.

2. The Appalachian Research and Defense Fund of Kentucky, Inc. (ARDFK) and the U.S. Department of Agriculture commented that the program amendment does not describe the measurement techniques that will be used to judge success. The Federal regulation and the approved State program (405 KAR 18:200E) specify that the success of revegetation shall be measured by techniques approved by the department after consultation with appropriate State and Federal agencies. The State is currently developing measurement techniques and will address measurement techniques in a future technical reclamation memorandum. The Secretary did not require the State to develop measurement techniques to satisfy condition (a).

3. ARDFK comments that the minimum size of a reference as one acre is inadequate where the operation is large in surface disturbance. ARDFK suggested that the reference area size be determined by a factor representing a percentage of the mined area. Federal standards at 30 CFR Parts 816 and 817 do not address "minimum requirements" for reference areas. The Secretary can not require the State to include in its program provisions not included in the Act or the Federal permanent program rules.

4. The Kentucky Coal Association (KCA) objected to TRM #9 in that it alleged that the memorandum is an illegal attempt to establish technical standards which are regulatory in force. When the Secretary placed condition (a) on his approval of the Kentucky State program, he required the State to either promulgate regulations or otherwise amend its program to set standards to be used in lieu of the area. The Secretary finds that TRM #9 satisfies the requirements placed on the State by condition (a). The TRM is being approved as part of Kentucky's program.

5. The Department of the Army commented that some measure should be taken to avoid situations where a permit holder declares all or large areas of the lands involved as row crops. The approved State program at 405 KAR 16:200E provides standards for success of revegetation for areas used as cropland. The commenter also believes the phrase "no evidence of significant erosion" is too subjective for consistent enforcement. The State has defined the standard for success for ground cover to be at least 70% cover with ninety (90) percent confidence. OSM has no standard to address the term significant erosion and believes the term in itself is clear when taken together with the standards for successful revegetation. By establishing a minimum standard of 500 trees or shrubs/acre or 670 on steep slopes, requiring four species and 70% ground cover for forest land other than commercial forest land, the State has satisfied condition (a) by adopting standards no less effective than 30 CFR 816.117.

6. Peabody Coal Company commented that TRM #9 limits the flexibility needed to develop and implement successful reforestation reclamation plans by specifying stocking rates that are inordinately high. The standard established by the TRM does not conflict with the approved State program and the Secretary finds the standard is no less effective than 30 CFR 816.117. The State is adopting a technical standard to be utilized in lieu of a reference area. These technical standards are equal to or greater than the standards in the approved Kentucky program. The Secretary finds that it is appropriate and reasonable to use stocking density when determining revegetation success for woody plants that are used to achieve the post-mining land use. The Secretary has, therefore, determined that Kentucky's requirements for evaluation of revegetation success are no less effective than those required by 30 CFR 816.117.

7. The United States Department of Agriculture suggested that ground cover standards be calculated by using the percent ground cover to the percent slope rather than a straight standard percent. Federal regulations do not require ground cover standards to be calculated by the slope percentage, therefore the Secretary can not require that Kentucky use such a method.

8. The Soil Conservation Service commented that when "commercial forest land" is defined as land producing or capable of producing crops of industrial wood, that shrubs should not be counted as commercial forest species. The Federal standard at 30 CFR 816.117(b) provides for shrubs to be included as commercial forest land stocking with a minimum of 75% of the countable trees or shrubs to be of commercial tree species. The Secretary, therefore, has no legal basis for requiring more of the State.

Approval of Amendment To Satisfy Condition

Accordingly, condition (a) is hereby removed. The amendment to the Kentucky program as provided in Technical Reclamation Memorandum #9 is hereby approved pursuant to 30 CFR 732.17.

30 CFR Part 917.11 is amended to indicate approval of the program amendment and removal of condition (a).

Additional Findings

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 917 is amended as set forth herein.

Dated: October 4, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 917—KENTUCKY

§ 917.11 [Amended]

1. 30 CFR 917.11 is amended by removing and reserving paragraphs (a) and (c).

2. 30 CFR 917.15 is amended by revising paragraph (c) and adding paragraphs (d) and (e) to read as follows:

§ 917.15 Approval of Amendments to State Regulatory Program.

* * * * *

(c) The following amendments are approved effective on May 13, 1983. Revisions submitted on May 28, 1982, to KRS 350.062(9) and KRS 350.093 Section 2, contained in Senate Bill No. 218; Revisions submitted on May 28, 1982, to 405 KAR 16:020 Section 4.

(d) The following amendments are approved effective on May 20, 1983: Revisions submitted on January 11, 1983, to 405 KAR 7:020 Section 1 (13), (27), (34), and (57), 12:010 Section 6, 16:060 Section 9(2), 18:060 Section 7(3), 16:060 Section 11(1), 18:060 Section 9(1), 16:060 Section 1(3), 18:060 Section 9(3), Section 16:090 Section 2, 18:090 Section 2, 16:090 Section 5(5), 18:090 Section 5(5), 16:110 Section 2(2), 18:110 2(2), 16:130 Section 2(2), 18:130 Section 2(2), 16:220 Section 4, 18:230 Section 4, and 24:030 Section 3.

(e) The following amendment is approved effective on October 12, 1983: Technical Reclamation Memorandum #9, dated February 1, 1983.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

[FR Doc. 83–27509 Filed 10–11–83; 8:45 am]
BILLING CODE 4310–05–M

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30 CFR Part 935

Approval of Permanent Program Amendments From the State of Ohio Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining

VOL
48
ISS
1
9
8
OC
12
1983
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Control and Reclamation Act of 1977 (SMCRA).

On June 10, 1983, August 11, 1983, and August 22, 1983, the State of Ohio submitted to OSM revised regulations to amend the permitting and subsidence control requirements for underground coal mine operators.

After providing opportunity for public comment, holding a hearing on the amendments, and conducting a thorough review of the program amendments, the Director of OSM has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendments.

The Federal rules at 30 CFR 935 which codify decisions on the Ohio program are being amended to implement these actions.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227, Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 1, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.**

II. Discussion of the Amendments

On June 10, 1983, OSM received a set of regulation amendments from the Ohio Division of Reclamation intended to revise the permitting and subsidence control requirements for underground coal mine operators. The amendments revised the following sections of the Ohio Administrative Code (OAC): (1) OAC 1501:13–1–02 *Definitions;* (2) OAC 1501:13–4–04 *Permit application requirements for information on environmental resources;* (3) OAC 1501:13–4–05 *Permit application requirements for reclamation and operations plans;* and (4) OAC 1501:13–9–04 *Protection of the hydrologic system;* and added new sections: (1) OAC 1501:13–4–13 *Underground mining permit application requirements for information on environmental resources;* (2) OAC 1501:13–4–14 *Underground mining permit application requirements for reclamation and operations plans;* and (3) OAC 1501:13–12–02 *Subsidence control.*

OSM published a notice in the **Federal Register** on July 13, 1983, announcing receipt of the amendments and inviting public comment on the adequacy of the proposed amendments. (48 FR 32031). The notice stated that a public hearing would be held only if requested. Following receipt of several requests for a hearing, OSM announced in the **Federal Register** on August 3, 1983, that a public hearing would be held on August 11, 1983, in Columbus, Ohio (48 FR 35146). The public comment period ended on August 12, 1983.

On August 11 and 22, 1983, Ohio submitted additional modifications to the June 10, 1983 set of regulations. The modifications were made to OAC Sections 13–1–02, 13–4–04, 13–4–13, 13–4–14, 13–9–04, 13–12–02 (renumbered 13–12–03) and a new Section, 13–12–04 *Underground mine entry and access discharges,* was added.

OSM published a notice in the **Federal Register** on September 1, 1983, reopening the public comment period to provide an opportunity for comment on the supplemental material submitted by Ohio on August 11 and 22, 1983, the extended comment period closed September 16, 1983.

In response to OSM's request for concurrence on the amendments, on August 25, 1983, OSM received a letter from the Environmental Protection Agency (EPA) stating that because the modifications do not concern air or water quality standards, EPA would have no objection to their approval.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Ohio on June 10, August 11, and August 22, 1983, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed in the findings below. However, the Ohio rules have not been promulgated as final rules. The Chief of the Division has indicated that Ohio intends to adopt the rules by emergency rulemaking as soon as they are approved by OSM. The Director is approving the rules provided that they are fully promulgated in identical form to the rules submitted to and reviewed by OSM.

A. OAC Section 1501:13–1–02 Definitions

1. *OAC 1501:13–1–02(D)*—Ohio has amended the definition of "adjacent area" to mean the area outside the affected area or permit area where protected resources are, or reasonably could be expected to be, adversely impacted by coal mining operations, including probable impacts from undergound workings. With respect to underground mining operations, the definition includes, at a minimum, the surface areas above full coal recovery areas. The Federal rule at 30 CFR 701.5 defines adjacent area to include probable impacts from underground workings. Therefore, the Director finds that the Ohio rule is no less effective than the Federal regulations.

2. *OAC 1501:13–1–02(E)*—Ohio has amended the definition of "affected area" to mean any land or water surface area which is used to facilitate, or is physically altered by, coal mining and reclamation operations, except surface disturbance attributable solely to underground mine subsidence is excluded. The definition explicitly states that this exception shall not be construed to limit the authority of the Chief of the Division to require submission of information about, or take enforcement action in regard to subsidence disturbances and conditions existing in areas overlying underground workings before, during and after mining, which areas are not within the permit or affected area. Because the Ohio statute requires all the affected area to be permitted, the State has excluded the area located above underground workings. The Federal definition of affected area at 30 CFR 701.5 includes the area located above undergound workings. However, the State rule is consistent with the Federal rule in that areas overlying undergound workings are not required to be permitted and bonded. The areas overlying underground workings are included in the Ohio definition of "adjacent area." Therefore, the Director finds the amended Ohio definiton to be no less effective than the Federal regulations.

3. *OAC 1501:13–1–02(R)*—Ohio has added definition of "developed spring" to mean a spring regularly being used for domestic or agricultural purposes. The term is used in the underground permit application requirements for information on ground water. Ohio requires the applicant to list all developed springs on the proposed permit and adjacent area. The Federal rules do not use this term. As such, the Ohio rule is an additional requirement not found in the Federal regulations. Therefore, the Director finds that the Ohio definition is not inconsistent with the Federal regulations.

4. *OAC 1501:13–1–02(AA)*—Ohio has added a definition of "full coal recovery" to mean recovery of a high percentage of the in-place coal reserve by pillar removal, longwall mining, or other underground method in which support is removed from the roof of the mine under a large enough area that a full or partial collapse or subsidence of the mine roof is planned as part of the method of mining. The Federal rules do not define this term, but the Director finds that it is not inconsistent with the Federal regulations.

5. *OAC 1501:13–1–02(TT)*—Ohio has amended the definition of "permit area" to mean the area of land and water to be affected as indicated on the approved map submitted by the applicant. The area includes all areas which are or will be affected by coal mining and reclamation operations during the term of the permit. With respect to underground mining operations, the definition does not include those surface areas overlying underground workings and not included within the affected area. Thus, the State rule includes the area to be affected while the Federal rule at 30 CFR 701.5 defines the permit area as the area to be bonded. The Federal rule considers areas overlying underground workings as affected area, but not part of the permit area. The Director finds that the State rule is consistent with the Federal rule in not requiring areas overlying underground workings to be permitted.

6. *OAC 1501:13–1–02(AAA)*—Ohio has added a definition of "public roadway" to parallel a similar amendment recently made to the Ohio statute which is the subject of a separate rulemaking and notice in the **Federal Register.** The Director finds that the definition of public roadway is consistent with the Federal criteria used to determine when a road will be excluded from being considered part of the affected area of an operation, as specified in the definition of affected area at 30 CFR 701.5.

7. *OAC 1501:13–1–02(AAAA)*—Ohio has added a definition of "underground mining operations" which includes both "underground mining surface operations" and "underground workings." The latter two definitions are already part of the approved Ohio program. The Director finds the new definition consistent with the Federal standards.

B. OAC Section 1501:13–4–04 Permit application requirements for information on environmental resources

1. *OAC 1501:13–4–04*—Ohio has revised this rule to remove all references to underground mining operations. All permitting requirements for underground mining are now contained in Rules 1501:13–4–13 and 1501:13–4–14. The Director finds these changes are consistent with the Federal regulations.

2. *OAC 1501:13–4–04(I)*—Ohio has amended this rule to require that the permit application map be prepared by or under the direction of and certified by a qualified registered professional engineer with appropriate certification by a registered professional surveyor. The effect of the amendment is to require dual certification of application maps by engineers and surveyors. The Director finds that the amended rule is consistent with SMCRA and the Federal regulations at 30 CFR 779 and 780, which specify those instances where preparation and certification by a registered professional engineer is required.

3. *OAC 1501:13–4–04(J)(1)*—Ohio has amended this rule to require that supplementary maps, cross-sections, and plans be prepared and certified by a qualified registered professional engineer for sedimentation ponds and spoil disposal facilities. The amendment removes the discretion for a registered surveyor to prepare and certify such maps, cross-sections and plans. The Director finds the amendment to be consistent with SMCRA and 30 CFR 780.14(c).

4. *OAC 1501:13–4–04(J)(2) and (3)*—Ohio has amended these rules to require that supplementary maps, cross-sections, and plans be prepared by or under the direction of and certified by a qualified registered professional engineer with appropriate certification by a registered surveyor showing the location of sediment ponds, impoundments, waste banks, and other information required by 30 CFR 779.25 and 780.14. The effect of the amendment is to require dual certification by engineers and surveyors. The Director finds that the amendments are consistent with SMCRA and the Federal regulations which specify those instances where preparation and certification by a registered professional engineer is required.

5. *OAC 1501:13–4–04(L)*—Ohio has amended this rule to require that the detailed design plan and map for sediment ponds, impoundments, and other such structures be prepared by or under the direction of and certified by a registered professional engineer or professional geologist. The amendment removes the authority for a registered surveyor to prepare and certify the map and design plan. The Director finds that the amendment is consistent with SMCRA and 30 CFR 780.25, which requires that such plans be prepared by, or under the direction of, and certified by a qualified registered professional engineer or professional geologist.

C. OAC Section 1501:13–4–05 Permit application requirements for reclamation and operations plans

Ohio has revised this rule to remove all references to underground mining operations. All permitting requirements for underground mining are now contained in Rules 1501:13–4–13 and 1501:13–4–14. The Director finds these changes are consistent with the Federal regulations.

D. OAC Section 1501:13–4–13

Underground mining permit application requirements for information on environmental resources

1. *OAC 1501:13–4–13*—Ohio has added a new section for underground mining permit application requirements. This section corresponds to rule 1501:13–4–04 which specifies similar requirements for surface coal mining operations. The section includes permit application requirements for: hydrology and geology descriptions; ground water information; surface water information; alternative water supply information; climatological information; land use information; maps, cross-sections and plans; prime farmland investigation; and detailed designs of impoundments and other structures. The Director finds that the information requirements are no less effective than 30 CFR Part 783.

Parts of the new rule for which specific findings are made are as follows:

2. *OAC 1501:13–4–13(I)*—This rule requires that the permit application include a map prepared by, or under the direction of and certified by a qualified registered professional engineer with appropriate certifications by a registered professional surveyor. The rule thus requires dual certification. The Director finds that the rule is consistent with SMCRA and no less effective than 30 CFR 783.25, which requires that maps be prepared by, or under the direction of, and certified by a qualified registered professional engineer or professional geologist.

3. *OAC 1501:13–4–13(J)*–This rule requires, in subparagraph (J)(1), that the permit application include supplementary maps, cross-sections, and plans prepared and certified by a qualified registered professional engineer for sedimentation ponds and spoil disposal facilities. The rule also requires, in subparagraphs (J) (2) and (3), that maps, cross-sections, and plans be prepared by or under the direction of and certified by a qualified registered

VOL 48 ISS 198 OCT 12 1983 UMI

professional engineer with appropriate certification by a registered surveyor showing the locations of a number of structures or permit area features. The Director finds that these provisions are consistent with SMCRA and no less effective than 30 CFR 783.24 and 783.25.

4. *OAC 1501:13–4–13(L)*–This rule requires each application to include a detailed design plan and map prepared by, or under the direction of, and certified by a registered professional engineer or professional geologist, for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area and, if appropriate, a timetable and plans to remove each structure. The Director finds this rule to be consistent with SMCRA and no less effective than 30 CFR 784.16.

E. OAC Section 1501:13–4–14 Underground mining permit application requirements for reclamation and operations plans

Ohio has added a new permitting section for underground mining reclamation and operations plans. This section corresponds to rule 1501:13–4–05 which specifies similar requirements for surface coal mining operations. The section includes permit application requirements for: general operating plan; operating plans for existing structures and blasting; a general reclamation plan; reclamation plans for protection of the hydrologic balance and postmining land uses; and plans for stream diversions, protection of public parks and historic places, relocation and use of public roads, transportation facilities, subsidence control, return of coal processing wastes to abandoned underground workings, underground development waste, and disposal of excess spoil. The Director finds that the application requirements are no less effective than 30 CFR Part 784.

F. OAC Section 1501:13–9–04 Protection of the hydrologic system

Ohio has amended this section to better specify the water monitoring requirements for underground mines. The amendment to 1501:13–9–04(M)(1) requires underground mine operators to monitor both the quality and quantity of ground water, and specifies the timing, frequency and duration of the required monitoring. The amendment to 1501:13–9–04(M)(2) requires the operator to monitor the quality and quantity of intermittent or perennial streams which flow through or originate on adjacent areas. The Director finds these amendments to be consistent with SMCRA and 30 CFR 817.52.

G. OAC Section 1501:13–12–03 Subsidence control

Ohio has added a new section on performance standards for subsidence control to replace its previous rules at 1501:13–12–02. The revised rules are intended to correspond to the revised Federal rules on subsidence control at 30 CFR 817.121 and 817.122 (48 FR 24638, June 1, 1983). The Federal regulations require the operator to correct any material damage resulting from subsidence caused to surface lands, and to the extent required by State law, either correct material damage resulting from subsidence caused to any structures or facilities by repairing the damage or compensating the owner of such structures or facilities in the full amount of the diminution of value resulting from the subsidence.

The Federal rules were clarified because the previous Federal subsidence rules did not provide for a situation where the operator has purchased a structure overlying the underground workings or where the operator has purchased the right, by waiver or other means, to cause subsidence under a structure. The revised Federal rule recognizes and accommodates such situations.

The Ohio rules define the operator's liability for subsidence damage under Ohio law. The Ohio rule requires the operator to correct material damage to surface lands, and either correct the damage or compensate the owner for damage to structures or facilities. The operator is not required to correct damage to structures or compensate the owner if the permittee or operator presents documentation to the Chief showing clearly and convincingly that: (1) the owner of the structure or facility is the permittee or operator; or (2) the permittee or operator by property conveyance or other agreement with the owner of the structure or facility or with the predecessor in title, has been relieved of all liability for damage other than that liability, if any, specified in the conveyance or agreement. The Ohio rules thus provide for waiver of liability for damage to structures or facilities. As under the Federal rules, no waiver of liability is allowed for damage to surface lands. The Director finds that the revised subsidence control provisions are consistent with SMCRA and no less effective than 30 CFR 817.121 and 817.122.

H. OAC Section 1501:13–12–04 Underground mine entry and access discharges

Ohio has added a new section on performance standards for underground mine entry and access discharges. The Director finds that the rule is substantively identical to 30 CFR 817.50 and, therefore, is no less effective than the Federal regulations.

I. Non-substantive corrections to Ohio's regulations

Ohio has revised certain parts of the rules discussed above to make non-substantive, primarily typographical, changes. The Director finds the corrections consistent with SMCRA and 30 CFR Chapter VII.

IV. Public Comments

The responses to public comments received are set forth below.

1. Several commenters stated that Ohio should adopt the Federal standards requiring a description in the permit application of the physical conditions, such as depth of cover, seam thickness, and lithology, which affect the likelihood or extent of subsidence and subsidence-related damage. The August 22 revisions to the Ohio rules added this requirement at OAC 1501:13–4–14(K)(2)(c).

2. Several commenters requested that Ohio adopt consistent definitions for the terms "affected area", "adjacent area", and "permit area". The State revised the definitions of "affected area" and "adjacent area" in the August 11 revisions to its regulations. The Director has found these definitions to be consistent with the Federal regulations (See Findings A.1, A.2., and A.5. above).

3. One commenter stated that Ohio should require performance bonds to be posted to pay for damages that occur after the mining operation has stopped. Ohio does require bonding for the permit area, and a subsidence control plan for areas outside the permit area.

4. One commenter requested that the State require a separate waiver of subjacent support instead of allowing such a waiver in a deed. The Federal rules do not specify waiver requirements, except that such requirements must be in accordance with State law. Therefore, the Director cannot require the State to adopt a specific form of waiver.

5. Several commenters objected to the provision in the Ohio regulations recognizing waivers of liability for damage to structures. One commenter noted that if any waiver is to be recognized it should only be one which specifically waives all rights of subjacent support. The commenter also states that recognition of waivers is not required by Federal law and the State should ensure surface owner protection. As noted above under Finding G, the Director has found such waivers to be consistent with the Federal regulations.

6. One commenter stated that the Ohio regulations should provide for notice to landowners of underground mining schedules. Surface owner notification of underground mining schedules is required at OAC 1501:13–12–03(J).

7. One commenter stated that the effective date of the surface owner notification requirement of OAC 1501:13–12–03(J) should not be delayed until six months after the rule goes into effect. Ohio has changed its rule to provide that the effective date of the surface owner notification requirement will be the same as the effective date of the other rules included in this program amendment. The six-month notification requirement is not new and has been a part of the approved Ohio program since primacy. The commenter also suggested that the notice should include measures to be taken to prevent or control adverse surface effects because the former Federal regulations required information. The revised Federal regulations no longer require this information. However, both the Federal rules and the Ohio rules require the notice to contain the location where the operator's subsidence control plan may be reviewed.

8. Commenters stated that the Ohio rules omitted from the permit application requirements a description of the measures to be taken on the surface to prevent material damage or lessening of the value or reasonably foreseeable use of the surface. This language was added at OAC 1501:13–4–14(K)(2)(b)(iv) by the August 11 revisions to the Ohio rules.

9. One commenter stated that the Ohio rules excepted from the permit application requirements a description for *planned* subsidence areas of the measures to be taken to control subsidence, and the commenter suggested language to be added. The requirement and language suggested by the commenter was added at OAC 1501:13–4–14(K)(2)(b) by the August 22 revisions to the Ohio rules.

10. Several commenters stated that it was not clear why the Ohio rules limit the blasting, reclamation, postmining land use, stream channel diversion and transportation facilities plans to the permit area, and expressed the hope that when the definitions of "permit area" and "affected area" are read together, these plans would be required for the entire area to be mined. Under the Ohio rules, the definition of permit area includes the area to be affected. Thus, the plans are required for the permit and affected areas.

11. Several commenters objected generally to the longwall mining method, or commented on provisions of the Federal Act and the Ohio program not within the scope of the present rulemaking. Comments outside the scope of this rulemaking are not being addressed.

12. One commenter stated that Ohio appears to be requiring more than is required by the Federal law and regulations, and does not properly recognize private contractural rights between landowners and coal operators. The State may adopt such standards as it deems appropriate, as long as the standards are consistent with the Federal law and regulations.

13. One commenter stated that the Federal law exempts planned subsidence and therefore the Ohio regulations should not require extensive permitting information for the areas where planned subsidence is to occur. The Federal law does not exempt planned subsidence from all regulation. Rather, it exempts planned subsidence from the requirement to adopt measures to prevent subsidence from occurring. The Director has found the Ohio regulations to be consistent with the Federal law and regulations.

14. One commenter objected to the standard in OAC 1501:13–12–03(D)(2) which requires the applicant to demonstrate clearly and convincingly that he is entitled to an exemption from the requirement to correct material damage to structures caused by subsidence. The Director has found the Ohio rule to be consistent with the Federal regulations.

15. One commenter objected to the Ohio rules requiring dual certification by engineers and surveyors as unnecessary. The Director has found the Ohio rules requiring dual certification to be consistent with the Act and the Federal regulations.

Acknowledgments were received from the following Federal agencies: Environmental Protection Agency, Army Corps of Engineers, Soil Conservation Service, Farmers Home Administration, and Mine Safety and Health Administration. The disclosure of Federal agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the June 10, 1983 amendments as modified by the August 11 and 22 regulations. The Director is amending Part 935 of 30 CFR Chapter VII to reflect approval of the State program amendments. However, as noted above, because the Ohio rules have not been fully promulgated, the rules will not take effect for purposes of the Ohio program until the revised rules have been promulgated as final rules by Ohio.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1982, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempted from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 935 is amended as set forth herein.

Dated: October 6, 1983.

James R. Harris,

Director, Office of Surface Mining.

PART 935—OHIO

1. 30 CFR 935.15 is amended by adding a new paragraph (f) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(f) The following amendments submitted to OSM on June 10, August 11 and August 22, 1983, are approved effective upon promulgation of the revised rules by the State, provided the rules are adopted in identical form as

VOL 48 ISS 198 OCT 12 1983 UMI

submitted to OSM: Ohio Administrative Code Sections 1501:13–1–02, 13–4–04, 13–4–05, 13–4–13, 13–4–14, 13–9–04, 13–12–03, and 13–12–04.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–27658 Filed 10–11–83; 8:45 am]
BILLING CODE 4310–05–M

National Park Service

36 CFR Part 60

National Register of Historic Places

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) publishes herein certain sections of the final regulations for processing nominations to the National Register of Historic Places. The National Register regulations have been revised in this rulemaking to incorporate changes required by the National Historic Preservation Act Amendments of 1980, and to update and revise in other minor respects the procedures for processing National Register nominations and listings. The sections being made final here are being published now in order to make effective the procedures for appeals of, and requests for, nominations proposed as published in the **Federal Register** on November 16, 1981. The sections of this final rule give the public more opportunity to participate in the National Register programs.

EFFECTIVE DATES: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: Carol D. Shull, Chief of Registration, National Register of Historic Places, Interagency Resources Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240. Telephone No. (202) 343–9539.

SUPPLEMENTARY INFORMATION: The purpose of the National Register of Historic Places is to identify districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering and culture. The Secretary of the Interior maintains this list under the authority of Section 101(a)1(A) of the National Historic Preservation Act of 1966, as amended.

On December 12, 1980, the National Historic Preservation Act was amended, to direct the Secretary to promulgate or revise regulations relating to the nomination and listing process for the following:

a. Nominating properties for inclusion in, and removal from, the National Register and considering the recommendations of properties by certified local governments;

b. Considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate).

On November 16, 1981, interim regulations for amended Sections 60.1, 2, 3, 4, 5, 6 (except subsections (i) and (m)), 9, 10, 13, 14, 15 were published in the **Federal Register**, effective as of that date. Also on November 16, 1981, proposed regulations for amended Sections 60.6(m), 8, 11 and 12 of 36 CFR 60 were published elsewhere in the **Federal Register**. The NPS requested comments on the interim and proposed rules. These comments have been considered in the preparation of the final rulemaking. These regulations have been written in consultation with State Historic Preservation Offices (SHPOs), Federal Preservation Officers (FPOs), the National Trust for Historic Preservation, Committee staff of the United States Congress, and others with concerns about the program. Although these procedures provide for the consideration of appeals of any nominating authority's refusal to nominate properties to the National Register, the NPS is particularly concerned that appeals not be encouraged in cases where there is a general consensus of opinion among involved State and/or Federal officials that a property is not eligible.

Comments and Response to Comments on November 16, 1981 Publication of Proposed Rules

General comments or comments that did not address specific language in the proposed rules. Numerous technical and editorial revisions were recommended, and all have been carefully considered. The rules have been revised where deemed appropriate by the NPS. Revised language, particularly in 60.12(a), reflects the concern on the part of the NPS that this appeals process not become an administrative burden.

Requests for Nominations (§ 60.11)

One comment recommended deleting the section concerning requests for nominations and instead requiring that the provision for public participation in the nomination process be required as a prerequisite for approval of State historic preservation programs. The NPS has retained this section because of the need to ensure that States respond to all requests for nominations and that the appeals process in Section 60.12 is applied equitably in all cases.

Section 60.11(a) allows the SHPO 60 days to respond to an applicant submitting a completed National Register nomination form. One comment stated that it is not clear if failure to respond within the time allowed is justification for appeal under subsection 60.12(a). The final regulations have been amended to make failure of the SHPO to comply with any of the requirements in Section 60.11 adequate basis for an appeal.

Section 60.11(c): One comment urged that the NPS clarify that the SHPO is required to comply with the notification requirements outlined in Section 60.6 prior to scheduling the property for presentation to the State Review Board. The language has been revised to clarify this requirement.

Section 60.11(e): One SHPO suggested that the requirement that the SHPO shall submit a nomination to the NPS no later than 75 days after the State Review Board meeting is partially redundant and contradictory to the provision in 60.12(c)(1) whereby the Keeper will consider the eligibility of a property under appeal. In 60.12(c)(1), the SHPO or FPO is requested to submit the applicable nomination form to the Keeper within 15 days, or within 15 days after completion of *all* requirements in Section 60.6 or 60.9. These two provisions are not contradictory because the 15 day time period applies only to formally appealed nominations.

Section 60.11(f): One comment cited the concern that the SHPO is given discretion not to submit substantially revised nominations to the State Review Board. Subsection (f) merely assumes that a substantially revised nomination will be treated as a new request for nomination and processed again in accord with this section.

Section 60.11(g): One comment urged changing the time periods in (g) to provide more time for the FPO to get the SHPO's comments. This has been done.

Nomination Appeals (§ 60.12)

Several comments proposed that appellants be allowed to appeal nominations as they go through the nomination process as well as being able to appeal the failure of a nominating authority to nominate. The regulations already provide owners and the public the opportunity to comment on a nomination and to petition for substantive review during the nomination process in §§ 60.6(t) and 60.9(j).

One commenter urged that a new ground for appeal be added to provide that the Keeper will consider an appeal where there is disagreement with the judgment of the SHPO or FPO that the nomination does not appear to be adequately documeted. This is permitted under § 60.12. However, the NPS has determined that it is appropriate that the decision concerning whether a nomination has been adequately documented should rest principally with the nominating authority after applying relevant standards and guidelines issued by the Secretary of the Interior.

One SHPO asked if appellants were required to have "standing". Because the National Historic Preservation Act states that any person or local government may appeal to the Secretary a nomination of any historic property for inclusion in the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property, standing is not required.

One comment suggested there was redundancy between the formal appeals process in § 60.12 and the provision in § 60.6 concerning disputed nominations. Section 60.6(l) is limited to nominations where the SHPO and the State Review Board disagree.

One comment suggested that this rule specify whether the SHPO or FPO should sign a nomination as described in §§ 60.6(o) or (p) or 60.9 (d) or (e) prior to submitting it to the NPS. In § 60.12(c)(1), the SHPO and FPO are requested to comply with *all* of the requirements in §§ 60.6 or 60.9, whichever is appropriate.

One association was concerned that the proposed regulations do not establish a clear time period during which the SHPO would be required to submit appealed nominations to the State Review Board and urged that there be a maximum time period of six months for this to occur. The NPS regulations, 36 CFR Part 61, require that State Review Boards meet at least 3 times a year. With this requirement and the requirements in § 60.11(c) that the SHPO shall "schedule the property for presentation at the earliest possible State Review Board meeting" and that "scheduling shall be consistent with the State's established priorities for processing nominations," the NPS does not see any need to establish a specific time frame in the final regulations.

Revisions

After consideration of comments and careful review, the NPS has made the following revisions to 60.6 (m), 11, and 12 of 36 CFR 60. Numerous editorial changes have also been made and the order and codification of specific subsections has been adjusted.

Section 60.11(a): The first phrase "adequately documented" has been replaced in the first sentence with "completed" and the second phrase deleted.

Section 60.11(c): The phrase "comply with the notification requirements in § 60.6" has been added.

Section 60.11(d): The words "on the prority list" have been replaced with "in accord with the State's priorities for processing nominations."

Section 60.11(d): The phrase "as well as complying with the notification requirements in § 60.6" has been added to the end of the second sentence.

Section 60.11(e): The time period within which the State Historic Preservation Officer shall submit a nomination to the National Park Service has been extended from 75 to 90 days after State Review Board consideration.

Section 60.11(f): This subsection has been revised to include references to the Federal Preservation Officer.

Section 60.11(g): The 60 day time period for notification to an applicant after receipt of an adequately documented nomination form has been changed to 90 days.

Section 60.11(g): A sentence has been added. "The Federal Preservation Officer shall submit an adequately documented nomination to the National Park Service unless in his or her opinion the property is not eligible for the National Register."

Section 60.12: This section has been renamed "Nomination appeals."

Section 60.12(a): Two sentences have been added: "This action differs from the procedure for appeals during the review of a nomination by the National Park Service where an individual or organization may "petition the Keeper during the nomination process," as specified in §§ 60.6 (t) and 60.9 (i). Upon receipt of such petition, the normal 45 day review period will be extended for 30 days beyond the date of the petition to allow the petitioner to provide additional documentation for review."

Section 60.12(a): The categories of appeal have been reduced to two: One, for cases where the appellant disagrees with the State Historic Preservation Officer and/or the State Review Board or Federal Preservation Officer on the question of eligibility for the National Register; and, two, where the State or Federal official has not complied with the requirements in Section 60.11. Although there are fewer categories of appeal, the grounds for appeal remain basically the same.

Section 60.12(c): The final regulations provide that the Keeper will respond to applicants in 45 days rather than the 30 days provided for in the proposed regulations.

Section 60.12(c): This subsection has been revised to specify that the Keeper will either support or deny an appeal and the specific actions that the Keeper will take in either case.

Section 60.12(d): This subsection (formerly (c)) has been revised to specify that the Secretary reserves the right to list properties in the National Register or determine properties eligible for listing and describes procedures for such actions.

Section 60.12(e): A sentence has been added to this subsection. "With respect to the appeals outlined in this section, the decision of the Keeper is the final administrative decision."

Authority: This rulemaking is developed under the authority of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

Classification: In accordance with Executive Order 12291, the Department of the Interior has determined that these rules are not a "major". In accordance with the Regulatory Flexibility Act, the Department of the Interior has determined that these rules do not have a significant economic effect on a substantial number of small entities. These revisions are procedural not substantive. They tell the public how to appeal nominations of, or the failure to nominate, properties to the National Register. The information collection requirements contained in this part have been approved by the Office of Mangement and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0018.

Environmental Impact Statement: This regulation does not significantly impact the environment. Because these rules have to do with procedural aspects of the National Register program and have no impact upon the environment, an environmental impact statement is not required.

List of Subjects in 36 CFR Part 60

Historic preservation.

The originators of these procedures are Carol D. Shull and Steve Sheffield of the Interagency Resources Division of the National Park Service (202/343–9505).

Dated: August 16, 1983.

G. Ray Arnett,

Assistant Secretary, Fish and Wildlife and Parks.

(National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et. seq.*).

PART 60—NATIONAL REGISTER OF HISTORIC PLACES

Accordingly, 36 CFR Part 60 is amended as follows:

1. Section 60.6 is amended by adding paragraph (m) as follows:

§ 60.6 Nominations by the State Historic Preservation Officer under approved State Historic Preservation Programs.

* * * * *

(m) The State Historic Preservation Officer shall also submit to the Keeper nominations if so requested under the appeals process in Section 60.12.

* * * * *

2. Sections 60.11 and 60.12 are added as follows:

§ 60.11 Requests for nominations.

(a) The State Historic Preservation Officer or Federal Preservation Officer as appropriate shall respond in writing within 60 days to any person or organization submitting a completed National Register nomination form or requesting consideration for any previously prepared nomination form on record with the State or Federal agency. The response shall provide a technical opinion concerning whether or not the property is adequately documented and appears to meet the National Register criteria for evaluation in § 60.4. If the nomination form is determined to be inadequately documented, the nominating authority shall provide the applicant with an explanation of the reasons for that determination.

(b) If the nomination form does not appear to be adequately documented, upon receiving notification, it shall be the responsibility of the applicant to provide necessary additional documentation.

(c) If the nomination form appears to be adequately documented and if the property appears to meet the National Register criteria for evaluation, the State Historic Preservation Officer shall comply with the notification requirements in Section 60.6 and schedule the property for presentation at the earliest possible State Review Board meeting. Scheduling shall be consistent with the State's established priorities for processing nominations. If the nomination form is adequately documented, but the property does not appear to meet National Register criteria for evaluation, the State Historic Preservation Officer need not process the nomination, unless so requested by the Keeper pursuant to § 60.12.

(d) The State Historic Preservation Officer's response shall advise the applicant of the property's position in accord with the State's priorities for processing nominations and of the approximate date the applicant can expect its consideration by the State Review Board. The State Historic Preservation Officer shall also provide notice to the applicant of the time and place of the Review Board meeting at least 30 but not more than 75 days before the meeting, as well as complying with the notification requirements in § 60.6.

(e) Upon action on a nomination by the State Review Board, the State Historic Preservation Officer shall, within 90 days, submit the nomination to the National Park Service, or, if the State Historic Preservation Officer does not consider the property eligible for the National Register, so advise the applicant within 45 days.

(f) If the applicant substantially revises a nomination form as a result of comments by the State or Federal agency, it may be treated by the State Historic Preservation Officer or Federal Preservation Officer as a new submittal and reprocessed in accord with the requirements in this section.

(g) The Federal Preservation Officer shall request the comments of the State Historic Preservation Officer and notify the applicant in writing within 90 days of receipt of an adequately documented nomination form as to whether the Federal agency will nominate the property. The Federal Preservation Officer shall submit an adquately documented nomination to the National Park Service unless in his or her opinion the property is not eligible for the National Register.

§ 60.12 Nomination appeals.

(a) Any person or local government may appeal to the Keeper the failure or refusal of a nominating authority to nominate a property that the person or local government considers to meet the National Register criteria for evaluation upon decision of a nominating authority to not nominate a property for any reason when requested pursuant to § 60.11, or upon failure of a State Historic Preservation Officer to nominate a property recommended by the State Review Board. (This action differs from the procedure for appeals during the review of a nomination by the National Park Service where an individual or organization may "petition the Keeper during the nomination process," as specified in §§ 60.6(t) and 60.9(i). Upon receipt of such petition the normal 45-day review period will be extended for 30 days beyond the date of the petition to allow the petitioner to provide additional documentation for review.)

(b) Such appeal shall include a copy of the nomination form and documentation previously submitted to the State Historic Preservation Officer or Federal Preservation Officer, an explanation of why the appplicant is submitting the appeal in accord with this section and shall include pertinent correspondence from the State Historic Preservation Officer or Federal Preservation Officer.

(c) The Keeper will respond to the appellant and the State Historic Preservation Officer or Federal Preservation Officer with a written explanation either denying or sustaining the appeal within 45 days of receipt. If the appeal is sustained, the Keeper will:

(1) request the State Historic Preservation Officer or Federal Preservation Officer to submit the nomination to the Keeper within 15 days if the nomination has completed the procedural requirements for nomination as described in Section 60.6 or 60.9 except that concurrence of the State Review Board, State Historic Preservation Officer or Federal Preservation Officer is not required; or

(2) if the nomination has not completed these procedural requirements, request the State Historic Preservation Officer or Federal Preservation Officer to promptly process the nomination pursuant to Section 60.6 or 60.9 and submit the nomination to the Keeper without delay.

(d) State Historic Preservation Officers and Federal Preservation Officers shall process and submit such nominations if so requested by the Keeper pursuant to this section. The Secretary reserves the right to list properties in the National Register or determine properties eligible for such listing on his own motion when necessary to assist in the preservation of historic resources and after notifying the owner and appropriate parties and allowing for a 30-day comment period.

(e) No person shall be considered to have exhausted administrative remedies with respect to failure to nominate a property to the National Register until he or she has complied with procedures set forth in this section. The decision of the Keeper is the final administrative action on such appeals.

[FR Doc. 83-27535 Filed 10-11-83; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AW400PA; (AD-FRL-2449-4)]

Approval and Promulgation of Implementation Plans; Approval of the Pennsylvania State Implementation Plan for Lead

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: EPA approves portions of Pennsylvania's State Implementation Plan (SIP) for the control of lead (Pb) emissions. Pennsylvania's lead SIP meets all of the applicable requirements under Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans, except for three areas where secondary lead smelters are located. For these three areas, we are awaiting submittal by Pennsylvania of enforceable control measures providing for attainment in the three areas. An appropriate demonstration must be submitted with the enforceable control measures. All other areas are in attainment.

DATE: November 14, 1983.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Management Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106. Attn: Eileen Glen (3AW11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA. 17120. Attn: Gary L. Triplett

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Miss Eileen M. Glen at the address listed above, or at (215) 597-8187.

SUPPLEMENTARY INFORMATION: The Pennsylvania State Implementation Plan (SIP) for lead was submitted by DER Secretary Peter N. Duncan on September 30, 1982. A public hearing was held on September 8, 1982, on this SIP. In addition, DER has indicated that it has the legal authority necessary to implement this plan and any control strategies related to it.

The National Ambient Air Quality Standard (NAAQS) for lead was published on October 5, 1978 (43 FR 46269), along with the requirements for lead SIP's. The plan which DER has submitted is intended to satisfy these requirements for all areas of the State except Allegheny County and Philadelphia. The April 11, 1983, Notice of Proposed Rulemaking (48 FR 15498), discusses the violations of the National Ambient Air Quality Standards (NAAQS) for lead in eleven areas of the State, the SIP control strategy that would demonstrate attainment of the lead standards by 1982 in eight of these areas, and the provisions for review of new and modified sources of lead in order to prevent violations of the standard in the future.

The demonstration of attainment for eight of the eleven areas in which violations have been recorded shows that the standard would not be violated in 1982. Air quality data obtained during 1982 has subsequently established that no violations occurred in these eight areas. Therefore, further control measures for these areas are not required.

Pennsylvania has identified the three secondary lead smelters as contributing to violations of the lead standard in the remaining three areas. However, specific, enforceable control measures providing for attainment in these areas have not been submitted. DER has committed to develop agreements with the three companies, and has listed specific measures which will be considered for implementation at each plant to bring about attainment. However, because of the lack of enforceable control measures in the SIP, EPA cannot approve the SIP for the areas surrounding the three secondary lead smelters, and is therefore taking no action on the SIP for these three areas.

The three smelters are:

1. East Penn Manufacturing Company, Lyons, PA.

2. General Battery Corporation, Muhlenberg, PA.

3. Tonolli Corporation, Nesquehaning, PA.

In its lead SIP, Pennsylvania committed to either entering into consent agreements with the three sources by October 1, 1983, or issuing Administrative Orders to the sources by November 1, 1983. These legal instruments would provide emission reductions necessary to attain the national ambient air quality standard for lead by the statutory attainment date. Pennsylvania would submit these instruments to EPA as SIP revisions shortly after their execution.[1]

Public Hearing

The State provided proof that a public hearing, with respect to the lead SIP, was held on September 8, 1982 in Harrisburg, Pennsylvania, in accordance with the requirements of 40 CFR 51.4.

Solicitation of Public Comments

In its proposed rulemaking action, 48 FR 15498 (1983), EPA solicited public comments on its proposed approval action. However, no comments were received.

EPA Action

EPA has reviewed Pennsylvania's lead SIP and has determined that it meets the scope and intent of 40 CFR 51.80 through 51.88 (Control Strategy-Lead), except for three areas where secondary lead smelters are located. Therefore, EPA approves Pennsylvania's lead SIP for all areas except the three designated non-attainment areas. For these three areas, EPA is taking no action at this time.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of

[1] Since Pennsylvania submitted its schedule to EPA for developing controls for these areas, EPA and the Natural Resources Defense Council, Inc., have signed an agreement in settlement of litigation concerning promulgation of lead implementation plans under the Clean Air Act, *NRDC* v. *Ruckelshaus*, No. 82-2137 (D.D.C.). The Agreement establishes specific deadlines for completion of lead SIP's and requires EPA to promulgate plans for States that do not submit them in accordance with the schedule in the Agreement. (See Federal Register of August 10, 1983, 48 FR 36250.) Under the Agreement, EPA would need to receive the necessary SIP revision for the three smelter areas in Pennsylvania in time to propose action on that portion of Pennsylvania's lead SIP by January 3, 1984.

today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen Dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.— Incorporation by reference of the Implementation Plan for the State of Pennsylvania was approved by the Director of the Office of the Federal Register on July 1, 1981.

(42 U.S.C. 7401–642)

Dated: October 4, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. In § 52.2020, paragraph (c)(56) is added to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(56) A State Implementation Plan for the control of lead (Pb) emissions submitted on September 30, 1982 by the Secretary of Environmental Resources.

[FR Doc. 83–27853 Filed 10–11–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 3E2849/R606; PH–FRL 2449–1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; N,N-Diethyl-2-(1-Naphthalenyloxy) Propionamide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide (napropamide) in or on the raw agricultural commodity rhubarb. The regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on October 12, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–1192.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 24, 1983 (48 FR 38501), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 3E2849 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Oregon and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide in or on the raw agricultural commodity rhubarb at 0.1 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rulemaking.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 30, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.328 is amended by adding, and alphabetically inserting, the raw agricultural commodity rhubarb to read as follows:

§ 180.328 N,N-Diethyl-2-(1-naphthalenyloxy) propionamide; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Rhubarb	.01
* * * * *	

[FR Doc. 83–27863 Filed 10–11–83; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–11

[FPMR Amendment B–54]

Organization, Maintenance, and Use of Current Records

AGENCY: Office of Information Resources Management, GSA.

ACTION: Final rule.

SUMMARY: This regulation sets forth the copy management responsibllities of the General Services Administration and other Federal agencies. The Administrator of General Services is required to provide guidance and assistance to Federal agencies regarding the reproduction of records and the selection and use of records. This regulation provides guidance to Federal agencies on managing copying practices and copying equipment with the intended effect of promoting efficiency and economy in the Federal Government.

EFFECTIVE DATE: November 14, 1983, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: Ira A. Penn, Chief, Information Retrieval and Distribution Branch (202–535–7429).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–11

Advisory committees, Archives and records, Classified information, Freedom of Information, Government property management, Interagency reports, Micrographics, Privacy, Records and information management, and Word processing.

Accordingly, the General Services Administration amends 41 CFR Part 101–11 as follows:

PART 101–11—RECORDS MANAGEMENT

1. The authority is amended to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. The table of contents for Part 101–11 is amended by adding the following entries:

Subpart 101–11.3—Organization, Maintenance, and Use of Current Records

101–11.302 Copy management.
101–11.302–1 Scope.
101–11.302–2 Authority.
101–11.302–3 Definitions.
101–11.302–4 Agencies' responsibilities.
101–11.302–5 General Services Administration's responsibilities.

3. Sections 101–11.302 through 101–11.302–5 are added to read as follows:

Subpart 101–11.3—Organization, Maintenance, and Use of Current Records

§ 101–11.302 Copy management.

§ 101–11.302–1 Scope.

This section sets forth the copy management responsibilities of the General Services Administration and other Federal agencies. It provides guidance to Federal agencies on managing copying practices and copying equipment. It does not apply to the reproduction of micrographic, photographic, or machine readable records or to associated equipment.

§ 101–11.302–2 Authority.

As required by 44 U.S.C. Chapter 29, the Administrator of General Services shall provide guidance and assistance to Federal agencies regarding the reproduction of records and the selection and use of equipment and supplies associated with the copying of records. As provided by section 5 of Pub. L. 94–575, this regulation does not limit or supersede the authority or responsibility of the Joint Committee on Printing (JCP) or the Government Printing Office under chapters 1 through 19 of title 44 U.S.C.; nor does this regulation relieve Federal agencies of their responsibilities under chapters 1 through 19 of title 44 U.S.C., or the Government Printing and Binding Regulations as published by the JCP.

§ 101–11.302–3 Definitions.

For the purposes of this section, the following definitions shall apply:

(a) "Copy" means a duplicate of a document previously created;

(b) "Copier" means a machine that creates paper copies directly without requiring the creation of an intermediate master for each original;

(c) "Duplicator" means a machine that produces paper copies through the use of an intermediate master; and

(d) "Copying" means the making of copies whether by copier or by duplicator.

§ 101–11.302–4 Agencies' responsibilities.

To ensure good copying practices and proper equipment management, each agency shall:

(a) *Determine availability of common centralized services.* Before agencies consider purchase or rental of copying equipment, they shall first determine the availability of common centralized services, such as GSA print plant and copy centers, to ensure that the required copying capability cannot be met economically and efficiently through the use of centralized services (see also Subpart 101–5.2, Centralized Field Duplicating Services).

(b) *Match equipment to copying needs.* (1) Whenever purchase or rental of copying equipment is planned, agencies shall determine the users' copying requirements. The following kinds of information are needed:

(i) Average number of copies needed per month;

(ii) Phyical characteristics of materials routinely copied (e.g., copy size, individual sheet or bound volumes, etc.);

(iii) Average number of pages per document;

(iv) Average number of copies per page;

(v) How the copies are used; and

(vi) How quickly they are needed.

Each piece of copying equipment shall be used according to its operating characteristics and limitations. Equipment that is used in excess of its rated capacity is likely to suffer from frequent breakdowns, and equipment that is used at levels significantly below its rated capacity is not economical.

(2) When deciding on the types of equipment to be procured, agencies shall consider both direct and indirect costs of copying. Direct costs include such items as the lease or purchase price of equipment, the cost of maintenance and supplies, and the salaries of full-time equipment operators. Indirect costs include such items as overhead and the amount of time consumed by personnel in seeking and obtaining copying services. Copying service contracts, ranging from the provision and maintenance of equipment and supplies to complete copying services, are offered by private companies. An agency shall decide to contract for copying services if contracting is more economical than using its own resources. (See Office of Management and Budget Circular A–76 for guidance on acquiring commercial products and services.)

(c) *Maintain records.* To determine the proper use and most cost effective and economical placement of equipment, agencies shall establish inventory records for each machine. Records shall be kept by offices with authority to ensure their effective use in matching equipment to needs and controlling overall cost. Records shall include the following information:

(1) Equipment brand, model number or name, and serial number;

(2) Type of procurement (lease, purchase, or lease-with-option-to purchase) and installation date;

(3) Essential provisions of the lease plan or, if owned, the purchase price and essential elements of the maintenance plan, if any;

(4) Number of copies produced by month;

(5) Equipment characteristics, such as production speed, significant accessories or special features, and special electrical requirements;

(6) A record of repairs and maintenance; and

(7) Information on the operating environment, such as machine location, organizations served, and whether access to the machine is unrestricted, restricted to a full-time operator, or otherwise limited.

(d) *Review equipment requests.* Requests for equipment shall be reviewed by offices with authority to

ensure economical procurement and placement of equipment. Reviews shall include:

(1) study of the current copying needs of the requesting office;

(2) Consideration of projected copying needs of the requesting office;

(3) Analysis of the present use of equipment by the requesting office;

(4) Consideration as to whether the requesting office should share existing equipment, acquire its own, upgrade existing equipment, or use some combination of these alternatives;

(5) A determination of whether alternate reproduction methods are practical;

(6) A cost/benefit analysis of any feasible equipment alternatives, including a determination of whether purchase or lease would be more economical (see Subpart 101–25.5, Guidelines for Making Purchase or Lease Determinations); and

(7) Study to determine the best location for the equipment.

(e) *Review supply procurement policy.* Agencies shall review at least annually procurement methods and sources for supplies, such as paper, toner, ink, and duplicating masters. Options, such as blanket purchase agreements, bulk purchasing, and procurement under General Services Administration contracts, may offer lower costs.

(f) *Review copy management efforts.* Agencies shall conduct periodic reviews to determine whether improvements are neccessary. Practices shall be audited to determine whether they can be improved. Records shall be reviewed to identify areas of potential improvements in equipment management.

§ 101–11.302–5 General Services Administration's responsibilities.

To assist Federal agencies in planning, developing, and evaluating copy management programs, the General Services Administration will:

(a) Provide guidelines on developing and maintaining a copy management program. These will consist of handbooks, guides for evaluating agency programs, and other publications.

(b) Provide advice and assistance in carrying out copy management studies and in program management.

(c) Periodically review agency programs to determine what improvements can be made.

Dated: September 21, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–27587 Filed 10–11–83; 8:45 am]

BILLING CODE 6820–25–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Alabama et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 1229, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Fayette, Fayette County (FEMA–6521)	Sipsey River	Just downstream of County Road 35	*318
			Just downstream of Southern Railway	*321
			Just downstream of U.S. Highway 43 (State Highway 18).	*323
Maps available for inspection at City Clerk's Office, City Hall, 102 Second Avenue, S.E., Fayette, Alabama.				
Alaska	Galena (city) Yukon-Koyubuk Division (FEMA–6499)	Yukon River	Intersection of Second Avenue and Seventh Avenue	*130
Maps available for inspection at City Hall, Galena, Alaska.				
Arizona	Clifton (town), Greenlee County (FEMA–6527)	San Francisco River	At the intersection of Laine Boulevard and 6th Street	*3,448
		Ward Canyon Creek	At the intersection of Southern Pacific Railroad and Ward Canyon Road.	*3,450
		Chase Creek	At the intersection of U.S. Highway 666 and Chase Creek Street.	*3,475
Maps available for inspection at City Manager's Office, City Hall, Clifton, Arizona.				
Arizona	Pima (town), Graham County (FEMA–6521)	Cottonwood Wash	Intersection of 1st West Street and U.S. Highway 70	#2
		Ash Creek	Intersection of 2nd South Street and U.S. Highway 70	#2
		Mud Hollow	Intersection of 5th South Street and 2nd East Street	#2
Maps available for inspection at the Town Clerk Office, Town Hall, 50 South 2nd West Street, Pima, Arizona.				
Colorado	Montrose (city), Montrose County (FEMA–6527)	Uncompahgre River	500 feet downstream from center of West Main Street (State Highway 90).	*5,770
		Montrose Arroyo	At the intersection of South 9th Street and Park Avenue	*5,833
Maps available for inspection at the Planning Department, City Hall, Montrose, Colorado.				
Colorado	Montrose County (unincorporated areas (FEMA–6526)	Uncompahgre River	30 feet upstream from center of Blossom Road	*5,240
			60 feet upstream from center of Jay Jay Road	*5,528
		Montrose Arroyo	50 feet upstream from center of Ogden Road	*5,956
		Dry Cedar Creek	75 feet upstream from center of Highway 550	*5,863
		Happy Canyon Creek	45 feet upstream from center of U.S. Highway 90	*5,776
		San Miguel River	70 feet upstream from center of Main Street	*4,984
Maps available for inspection at Planning Department, 320 S. 1st Street, Montrose, Colorado.				
Connecticut	Bethel, town, Fairfield County (Docket No. FEMA–6528).	Limekiln Brook	Downstream corporate limits	*294
			Upstream Walnut Hill Road	*311
			Approximately 340 feet downstream of second dam after Walnut Hill Road.	*337
			Upstream Plumtrees Road	*368
			Approximately 3,550 feet downstream Rockwell Road	*402
			Approximately 150 feet upstream of Old Hawleyville Road.	*427
		Sympaug Brook	Upstream corporate limits	*447
			Downstream corporate limits	*360
			Upstream South Street	*372
			Grassy Plain Street/State Route 53	*383
		East Swamp Brook	Confluence with Limekiln Brook	*294
			Upstream of Plumtrees Road	*305
			Approximately 625 feet upstream of Taylor Road	*373
		Terehaute Brook	Confluence with Sympaug Brook	*361
			Approximately 1,180 feet upstream of Reservoir Street	*375
		Wolf Pit Brook	Confluence of East Swamp Brook	*348
			Upstream Dodgingtown Road	*373
			Approximately 990 feet upstream of dam	*392
			Confluence of Putnam Park Brook	*446
			Approximately 1,020 feet upstream of Wolf Pits Road	*502
		Dibbles Brook	Confluence with Limekiln Brook	*368
			Approximately 25 feet downstream of second dam after Plumtrees Road.	*401
			Approximately 2,230 feet upstream of private drive culvert.	*435
		Putnam Park Brook	Confluence with Wolf Pit Brook	*445
			Approximately 265 feet upstream of second private drive after State Route 58.	*470
Maps available for inspection at the Town Clerk's Office, Town Hall, Bethel, Connecticut.				
Connecticut	Bridgeport, city, Fairfield County (Docket No. FEMA–6535).	Long Island Sound	Shoreline of Ash Creek at Livingston Street extended	*11
			Entire shoreline of Black Rock Harbor	*14
			Shoreline at Hilltop Road extended	*15
			Shoreline at Battery Park Drive extended	*17
			Shoreline at Barnum Dyke extended	*16
			Entire shoreline of Bridgeport Harbor	*14
			Shoreline at eastern corporate limits	*15
Maps available for inspection at the City Engineer's Office, City Hall, Bridgeport, Connecticut.				
Connecticut	Old Lyme, town, New London County (Docket No. FEMA–6535).	Long Island Sound	Shoreline east of Griswold Point	*16
			Shoreline at Oak Road (extended)	*15
		Connecticut River	Shoreline of Lord Cove 800 feet north of Binney Road (extended).	*13
			Shoreline at Huntley Road (extended)	*12
			Shoreline at Noyes Road (extended)	*13
Maps available for inspection at the Town Hall, Office of Planning and Building, Old Lyme, Connecticut.				
Connecticut	Stamford, city, Fairfield County (Docket No. FEMA–6527).	Long Island Sound	Shoreline at Shippan Point	*17
			Shoreline of Stamford Harbor at Dolphin Cove Way (extended).	*17
			Shoreline of Stamford Harbor at Cook Road (extended).	*15
			Shoreline of Holly Pond at Weed Circle (extended)	*13
			Shoreline of East Branch Rippowam River behind hurricane barrier.	*8
Maps available for inspection at the Office of the Environmental Protection Board, City Hall, 429 Atlantic Street, Stamford, Connecticut.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Bradenton Beach (city), Manatee County FEMA-6526	Gulf of Mexico	Center of intersection of Avenue B North and 24th Street North.	*10
			Center of intersection of Avenue C North and 22nd Street North.	*11
			Center of intersection of State Highway 789 (Gulf Drive North) and 22nd Street North.	*12
			100 feet due west from the center of the intersection of State Highway 789 (Gulf Drive North) 22nd Street North.	*14
			100 feet due west from the center of the intersection of State Highway 789 (Gulf Drive North) and State Highway 684 (Cortez Road West).	*15
	Maps available for inspection at Building Department, City Hall, 107 Gulf Drive North, Bradenton Beach, Florida.			
Florida	City of Cedar Key, Levy County (FEMA 6535)	Gulf of Mexico	At the intersection of Shelcrest Avenue and Gulf Boulevard.	*15
			At the intersection of Merle Street and Sherril Street	*17
	Maps available for inspection at City Clerk's Office, City Hall, Second Street, Cedar Key, Florida 32625.			
Florida	Town of Inglis, Levy County (FEMA-6535	Gulf of Mexico	At intersection of Aragon Drive and Riverside Drive	*10
		Withlacoochee River	Just east of water control structure on overflow channel located just north of Inglis Lock.	*28
	Maps available for inspection at Town Hall, Highway 40 West, Inglis, Florida 32649.			
Florida	Unincorporated areas of Levy County (FEMA 6539)	Withlacoochee River	At Marion County line	*29
			Just upstream of Inglis Dam	*27
			Just downstream of Inglis Dam	*17
		Suwannee River	Just downstream of State Road 55 *U.S. Highway 19, 98, and 27A.	*21
			Approximately 2.3 miles downstream of confluence with Cedar Branch.	*10
		Gulf of Mexico	Mouth of Turtle Creek	*22
			At intersection of County Road 326 and County Road 347.	*13
			Approximately 1,000 feet downstream of confluence of Cabbage Slough and Otter Creek along Otter Creek.	*9
	Maps available for inspection at County Development Department, Levy County Courthouse, Court Street, Bronson, Florida 32621.			
Florida	Sarasota (city), Sarasota County FEMA-6526	Whitaker Bayou	At the center of the intersection of 41st Street and Cocoanut Avenue.	*14
		Phillippi Creek branch B	At the confluence with Phillipi Creek branch A	*16
		Rainfall ponding	250 feet east from the center of the intersection of Calliandra Drive and Circus Boulevard.	*19
		Gulf of Mexico	At the center of the intersection of Filmore Drive and Monroe Drive.	*11
			At the center of the intersection of Cedar Terrace and Chippewa Place.	*12
			At the center of the intersection 1st Street and Cedar Point Drive.	*13
			At the center of the intersection of Norosota Way and Hamilton.	*14
			At the center of the intersection of Bayshore Road and Indian Beach Drive.	*15
			At the Westernmost end of Sapphire Drive	*16
			At the mouth of Whitaker Bayou	*17
			400 feet north from North Shore Drive near the shoreline of Sarasota Bay.	*18
	Maps available for inspection at Chief Building Inspector's Office, City Hall, 1st and Orange Avenue, Sarasota, Florida.			
Florida	Town of Yankeetown, Levy County (FEMA 6535)	Gulf of Mexico	At westernmost end of Hodges Island	*21
			At intersection of Riverside Drive and 58th Street	*12
	Maps available for inspection at Town Hall, Harmony Lane, Yankeetown, Florida 32698.			
Idaho	Payette (City) Payette County FEMA-6521	Payette River	100 feet south of the intersection of 6th Avenue South and 6th Street.	*2,143
	Maps available for inspection at City Hall, 700 Center Avenue, Payette, Idaho.			
Idaho	Payette County (unicorporated areas) FEMA-6521	Payette River	Intersection of U.S. Highway 95 and Kilebrew Drive	*2,150
		Snake River	Intersection of Kennedy Road and Northwest 10th Avenue.	*2,139
	Maps available for inspection at County Clerk's Office, 1130 3rd Avenue North, Payette, Idaho.			
Illinois	(Uninc.) Champaign County (Docket No. FEMA-6535)	Sangamon River	Just upstream of State Route 47	*684
			About 0.4 mile upstream of Interstate 74	*687
		McCullough Creek	Just upstream of Race Street	*718
			About 2,900 feet upstream of Race Street	*725
		Upper Boneyard Creek	About 750 feet upstream of Neil Street	*739
			About 2,200 feet upstream of Neil Street	*744
		Saline Branch	About 1,500 feet downstream of Interstate 74	*684
			About 1,400 feet upstream of Lincoln Ave	*717
		Phinney Branch	Just upstream of Interstate 57	*709
			Just downstream of Windsor Road	*726
		Salt Fork	About 0.52 mile downstream of Conrail	*664
			About 0.13 mile upstream of U.S. Route 150	*665

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Copper Slough	Just upstream of Interstate 57	*712
			About 500 feet upstream of Westbound Interstate 72	*734
			Just upstream of Conrail	*750
	Maps available for inspection at the County Zoning Administrator's Office, 1905 East Main Street, Urbana, Illinois.			
Illinois	(V) Hamburg, Calhoun County (Docket No. FEMA-6499).	Mississippi River	At the confluence of Irish Hollow Creek	*451
			About 0.86 mile upstream of confluence of Irish Hollow Creek.	*452
	Maps available for inspection at the City Clerk's Office, Village Hall, Hamburg, Illinois.			
Illinois	(V) Lyndon, Whiteside County (Docket No. FEMA-6527).	Rock River	About 0.55 mile downstream of 6th Avenue West	*606
			About 1.2 miles upstream of 6th Avenue West	*608
	Maps available for inspection at the Village Hall, Lyndon, Illinois.			
Illinois	(C) Mt. Vernon, Jefferson County (Docket No. FEMA-6527).	Bishop Creek	At mouth	*453
			Just upstream of Norlolk Southern Railway (at 5th Street).	*457
			At 11th Street	*464
		Backyard Creek	At mouth	*453
			Just upstream of Norlolk Southern Railway (at 5th Street).	*456
			Just upstream of 11th Street	*470
		West tributary	Just upstream of Shilo Drive	*442
			About 2,300 feet upstream of Richview Road	*491
		Church tributary	About 150 feet downstream of State Route 37	*467
			About 1,250 feet upstream of State Route 37	*471
		Botches Ditch	Just downstream of State Route 37	*435
			Just downstream of Missouri Pacific Railroad	*456
			Just upstream of State Route 148	*466
			About 250 feet upstream of South Fishers Lane	*486
		East fork Botches Ditch	At mouth	*467
			About 70 feet upstream of South Fishers Lane	*477
		Bell Street Ditch	At mouth	*436
			Just downstream of 10th Street	*456
		Casey Fork	About 1,800 feet downstream of State Route 142	*435
			About 3,000 feet upstream of Tolle Road	*456
	Maps available for inspection at the City Engineer's Office, City Hall, 1100 Main Street, Mt. Vernon, Illinois.			
Iowa	(Uninc.) Polk County, (Docket No. FEMA-6535)	Fourmile Creek	Just upstream of Northeast 12th Avenue	*801
			City of Des Moines corporate limits	*823
			Just downstream of Chicago and Northwestern Railroad (downstream crossing).	*839
			Just downstream of Interstate 35	*898
			Just upstream of NE, 110th Avenue	*910
			Just upstream of State Highway 67	*936
			Just downstream of NE, 134th Street	*958
			Just upstream of NW, 158th Avenue	*999
			At upstream county boundary	*1,005
		Mud Creek	Just upstream of SE, 56th Avenue	*780
			About 100 feet upstream of SE, 20th Avenue	*803
			Just downstream of NE, 12th Avenue	*830
			Just upstream of NE, 27th Avenue	*853
			Just downstream of Chicago, Rock Island and Pacific Railroad (downstream crossing).	*892
			Just upstream of Chicago, Rock Island and Pacific Railroad (downstream crossing).	*897
			Just downstream of Chicago, Rock Island and Pacific Railroad (upstream crossing).	*904
			About 150 upstream of NE, 80th Street	*910
			At city of Boundurant corporate limits	*921
		Mud Creek (above the city of Boundurant).	City of Bondurant corporate limits (upstream crossing)	*947
			Just downstream of NE, 94th Avenue	*962
		Rock Creek	About 0.51 mile upstream of mouth	*813
			Just upstream of State Highway 415	*863
			Just upstream of NE, 102nd Avenue	*941
			Just downstream of Chicago, and Northwestern Railroad.	*953
		Spring Creek	About 100 feet upstream of SE, 82d Street	*784
			About 100 feet upstream of SE, 89th Street	*823
			Just downstream of State Highway 163	*860
			Just upstream of State Highway 163	*876
			Just downstream NE, 80th Street (downstream crossing).	*876
			Just upstream of NE, 80th Street (downstream crossing).	*881
			Just downstream of NE, 27th Avenue	*917
			About 100 feet upstream of NE, 27th Avenue	*923
			Just upstream of NE, 80th Street (upstream crossing)	*931
		Walnut Creek	At city of Cive corporate limits	*864
			Just upstream of U.S. Highway 6	*879
			About 1.45 miles upstream of U.S. Highway 6	*886
		North Walnut Creek	Just upstream of Meredith Drive	*892
			Just downstream of NW, 100th Street	*907
			Just upstream of NW, 100th Street	*913

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary to Walnut Creek	About 0.45 mile upstream of NW. 100th Street	*914
			Mouth at Walnut Creek	*878
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*881
			About 1.5 miles upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*909
		Beaver Creek	City of Johnston corporate limits (downstream crossing).	*822
			Just upstream of Herrold Street	*835
			Just downstream of State Highway 141	*842
		Little Beaver Creek	Mouth at Beaver Creek	*823
			Just upstream of NW. 100th Street	*856
			Just upstream of State Highway 141	*877
			City of Grimes corporate limits (upstream crossing)	*919
		Little Beaver Creek tributary	Just upstream of NW. 126th Street	*934
			Mouth at Little Beaver Creek	*914
			About 0.4 mile downstream of State Highway 44	*922
		Tributary A	Just downstream of Trail Ridge Road	*932
			Mouth at Little Beaver Creek	*908
			About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*918
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*925
			Just downstream of NW. 142nd Street	*937

Maps available for inspection at the Physical Planning Department, 5898 NW. 14th, Des Moines, Iowa.

Kentucky	Unincorporated areas of Carter County (FEMA-6527)	Cory Branch	Just upstream of Chessie System	*695
		Damron Branch	Just upstream of private road (Approximately 2,580 feet upstream of mouth).	*603
		Dry Fork	Approximately 1,000 feet upstream of confluence of Lost Creek.	*632
		Flat Fork	Just upstream of Interstate Highway 64	*866
		Grahn Fork	Just upstream of unnamed bridge (Approximately 740 feet upstream of mouth).	*699
			Approximately 100 feet upstream of Kiser Branch Road.	*734
		Hitchins tributary	Just upstream of private drive (approximately 2,030 feet upstream of confluence with little fork of Little Sandy River).	*608
		Little Sandy River	Approximately 3,700 feet upstream of Interstate Highway 64.	*583
		Little Sinking Creek	Approximately 210 feet downstream of Fultz Road	*607
			Just downstream of Secondary Road 181 Bridge	*688
		Little fork of Little Sandy River	Just downstream of Secondary Road 1498	*629
			Just upstream of Secondary Road 1122	*659
		Lower Stinson Creek	Just upstream of Old U.S. Highway 60 (downstream crossing).	*601
		Soldier Fork	Approximately 210 feet downstream of Secondary Road 174 (downstream crossing).	*780
			Just downstream of confluence with Bradley Branch	*862
		Star Creek	Just upstream of U.S. Highway 60	*693
			Just upstream of Star Creek Road	*723
		Tygarts Creek	Approximately 2,380 feet upstream of Interstate Highway 64.	*729
			Just upstream of Secondary Road 174	*766
		Upper Stinson Creek	Just downstream of U.S. Highway 60	*588
		Upper Tygart Branch	Just upstream of U.S. Highway 60	*852
		Williams Creek	Just upstream of Secondary Road 854	*632

Maps available for inspection at Carter County Courthouse, Grayson, Kentucky 41143.

Kentucky	City of Martin, Floyd County (FEMA 6509)	Beaver creek	At Chessie System Railroad	*659
		Right fork Beaver Creek	Approximately 500 feet downstream of State Highways 80 and 122.	*622

Maps available for inspection at the City of Martin Fire Station, Martin, Kentucky 41649.

Louisiana	City of New Orleans and Orleans Parish (FEMA 6539)	Ponding area 1	At intersection of Cambronne and Earhart Blvd	*0.5
			At intersection of U.S. Highway 61 (Airline Highway) and Palmetto.	*0.5
		Ponding area 2	At intersection of Pine and Spruce	*1.5
		Ponding area 3	At intersection of Hillary and Dominican	*7.5
		Ponding area 4	At intersection of Orleans Avenue and Navarre Avenue.	0.0
		Ponding area 5	At intersection of Carrollton Avenue and Canal Street	*0.0
			At intersection of U.S. Highway 90 (Broad Avenue) and Earhart Boulevard.	*0.0
		Ponding area 6	At intersection of Fontainbleu Drive and Napoleon Ave	*1.5
		Ponding area 7	At intersection of Napoleon Avenue and Willow	*1.5
		Ponding area 8	At intersection of Napoleon Avenue and Prytania	*6.0
		Ponding area 9	At intersection of Canal Street and North Villere	*2.5
		Ponding area 10	At intersection of Canal Street and Dauphine Street	*4.0
		Ponding area 11	At intersection of Desaix Boulevard and Tunica Street	*0.5
		Ponding area 12	At intersection of U.S. Highway 90 (Broad Avenue) and St. Bernard Avenue.	*1.5
			At intersection of Orleans Avenue and North Prieur	*1.5
		Ponding area 13	At intersection of St. Anthony and North Villere	*2.5
			At intersection of St. Philip and Treme Street	*2.5
		Ponding area 14	At intersection of Esplanade Avenue and Burgundy St	*5.0
		Ponding area 15	At intersection of Interstate 10 and Franklin Avenue	*—1.5

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ponding area 16	At intersection of Franklin Avenue and North Robertson St.	*2.0
		Ponding area 17	At intersection of St. Ferdinand St. and North Rampart Street.	*4.5
		Ponding area 18	At intersection of Almonster Avenue and Gentilly Road	*2.0
		Ponding area 19	Approximately 2,000 feet north of intersection of Gentilly Road and Street Highway 47 (Paris Road).	*—1.5
		Ponding area 20	At the intersection of North Galvez and Egania	*—1.5
		Ponding area 21	Approximately 4,000 feet south of the intersection of U.S. Highway 90 (Chef Menteur Highway) and Maxent Canal.	*—0.5
		Ponding area 22	At intersection of Michoud Boulevard and North Lemens.	*—2.0
			At intersection of Alcee Fortier Blvd. and St. Maxent Dr.	*—2.0
		Ponding area 23	At intersection of Michoud Boulevar and Louisville and Nashville Railroad.	*—1.0
		Ponding area 24	Approximately 1,000 feet southeast of the intersection of Gentilly Road and State Highway 47 (Paris Road).	*0.5
		Ponding area 25	Approximately 500 feet south of the intersection of Selum Boulevard.	*0.0
		Ponding area 26	At intersection of Elysian Fields Ave. and Fillmore Avenue.	*—1.0
		Ponding area 27	At intersection of Zenith and LaFourche	*—4.0
		Ponding area 28	At intersection of Interstate 610 and West End Boulevard.	*—2.5
		Ponding area 29	At intersection of Diagonal Drive and Harrison Ave	*0.5
		Ponding area 30	At intersection of Paris Avenue and Mirabeu Avenue	*—1.0
		Ponding area 31	Approximately 4,000 feet south of intersection of State Highway 47 (Paris Road) and Gentilly Road.	*6.0
		Ponding area 32	At intersection of Interstate 10 and Pipeline Canal	*2.5
			At intersection of U.S. Highway 90 and U.U. Highway 11.	*2.5
		Ponding area 33	At intersection of MacArthur Boulevard and General DeGaulle Drive.	*—2.0
			At intersection of Westchester Street and Stratford Place.	*—2.0
		Ponding area 34	Approximately 500 feet south of the intersection of Frederick Street and Norman Street.	*—1.5
		Ponding area 35	Approximately 3,000 feet south of intersection of State Highway 406 and Oliver River Road.	*—0.5
		Ponding area 36	Approximately 4,000 feet south of the intersection of Tullis Drive and Woodland Drive.	*1.5

Maps available for inspection at Planning Department, Room 9-W, City Hall, 1300 Perdido Street, New Orleans, Louisiana 70112.

Louisiana	Unincorporated areas of St. Bernard Parish (FEMA 6539).	Lake Borgne	At the confluence of Bayou Bienevenue and the Mississippi Gulf Outlet Canel.	*18
		Chandeleur Sound	Along entire shoreline	
		Breton Sound	Along entire shoreline	*19
		Rainfall ponding	At the intersection of Aycock Avenue and Patricia Street (reach 1).	*—1.5
			At the intersection of Mehle Street and Rocheblave (reach 1).	*—1.5
			At the intersection of Evangeline Avenue and Prince Drive (reach 2).	*0.0
			At the intersection of Perrin Street and Perrin Road (reach 2).	*0.0
			At the intersection of Genie Street and Delambert Street (reach 3).	*1.5
			At the intersection of Chalona Drive and Genie Street (reach 3).	1.5
			Approximately 5,000 feet northeast of intersection of State Highway 39 (St. Bernard Highway) and Riverbend Circle (reach 4).	*3.0
			Approximately 2,500 feet south of intersection of State Highway 39 (St. Bernard Highway) and East Christie Street (reach 5).	*3.0

Maps available for inspection at St. Bernard Parish Police Jury President's Office, St. Bernard Parish Police Jury Complex, 8201 W. Judge Perez Drive, Chalmette, Louisiana 70043.

Louisiana	Unincorporated areas of St. Tammany Parish (FEMA 6539).	Tchefuncta River	Approximately 1,300 feet downstream of State Highway 21.	*15
		Bayou Lacombe	Just upstream of U.S. Highway 190	*10
		Bayou Liberty	Approximately 750 feet downstream of Interstate Highway 12.	*15
		Bogue Falaya	Approximately 1,100 feet upstream of Illinois Central Gulf Railroad.	*20
		Abita River	Approximately 1,300 feet upstream of U.S. Highway 190.	*17
		Little Bogue Falaya	Approximately 750 feet upstream of Holly Road	*23
		Bayou Vincent	Approximately 250 feet downstream of Illinois Central Gulf Railroad (upstream crossing).	*18
		Bogue Chitto	Approximately 250 feet upstream of State Highway 21	*63
		West Pearl River	Approximately 700 feet upstream of Interstate Highway 10.	*12
		French Branch	Just downstream of U.S. Highway 190	*12
		Diversion Canal (W14 Main)	Just upstream of Robert Road	*15
		Gulf of Mexico/Lake Bogne	Intersection of Indian Village Road and U.S. Highway 190.	*9
		Gulf of Mexico/Lake Pontchartrain	Intersection of Salmen Avenue and Sullivan Street	*9

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Intersection of Bayou Paquet and State Highway 433	*10
			Intersection of Harbor Street and Grand Ave	*10
			Intersection of U.S. Highway 11 and Carr Drive	*11
			Intersection of State Highway 434 and Lucille St	*14
			Intersection of Copal Street and Mulberry Avenue	*15
Maps available for inspection at St. Tammany Parish Council Office, St. Tammany Parish Administration Complex, Covington, Louisiana 70434.				
Maryland	Chestertown, town, Kent County (Docket No. FEMA–6521).	Chester River	Entire shoreline within community	*7
		Radcliffe Creek	Approximately 2,500 feet downstream of High Street/State Route 20.	*7
			Upstream High Street/State Route 20	*12
			Upstream corporate limits	*14
Maps available for inspection at the Town Hall, Maple Avenue and Cross Streets, Chestertown, Maryland.				
Michigan	(Twp) Coloma, Berrien County (Docket No. FEMA–6485).	Pawpaw River	About 3.6 miles downstream of Park Street (at downstream corporate limits).	*604
			About 1.4 miles upstream of Pawpaw Lake Road (at upstream corporate limits).	*616
		Pawpaw Lake	Shoreline	*629
Maps available for inspection at the Township Hall, 4919 Pawpaw Lake Road, Coloma, Michigan.				
Minnesota	(C) Brownsville, Houston County (Docket No. FEMA–6521).	Mississippi River	Within the corporate limits	*639
Maps available for inspection at the Office of the City Clerk, City Hall, Brownsville, Minnesota.				
Minnesota	(C) Palisade, Aitkin County (Docket No. FEMA–6521)	Mississippi River	About 850 feet downstream of Soo Line Railroad	*1,214
			About 450 feet upstream of Soo Line Railroad	*1,215
Maps available for inspection at the Office of City Clerk, City Hall, Palisade, Minnesota 56469.				
Mississippi	Town of McLain, Greene County (FEMA–6527)	Leaf River	Just upstream of U.S. Highway 98 Bridge	*76
Maps available for inspection at Town Clerk's Office, Town Hall, McLain, Mississippi 39456.				
Mississippi	City of Ocean Springs, Jackson County (FEMA–6527)	Gulf of Mexico/Mississippi Sound	Intersection of Shearwater Drive and Waterside Drive	*14
			Approximately 300 feet north of the intersection of Martin Avenue and West Beach Drive.	*13
			Intersection of Cleveland Avenue and Ruskin Avenue	*11
Maps available for inspection at City Engineer's Office, City Hall, 1016 Porter Avenue, Ocean Springs, Mississippi 39564.				
Nevada	Lincoln County (unincorporated areas) FEMA–6143	White River (near Alamo)	Intersection of river and downstream edge of lower road crossing.	*3,450
		White River (near Ash Springs)	Area west of U.S. Highway 93 at the Ash Springs crossing.	*3,590
		White River (near Hiko)	Intersection of river and upstream edge of lower road crossing.	*3,844
		Meadow Valley Wash (near Caliente).	Intersection of wash and center of Union Pacific Railroad (crossing just north of Caliente).	*4,433
		Meadow Valley Wash (near Panaca).	50 feet upstream from center of Nevada State Highway Route 25.	*4,725
		Meadow Valley Wash (near Ursine).	Upstream limit of detailed study	*5,583
		Clover Creek	Upstream limit of detailed study	*4,434
		Antelope Canyon Wash	Upstream limit of detailed study	*4,599
		Cathedral Gorge Wash	At confluence with Meadow Valley Wash (just upstream of Union Pacific Railroad).	*4,734
		Dry Canyon Wash	Upstream limit of detailed study	*5,696
		Dry wash runoff	50 feet upstream from center of Union Pacific Railroad	*4,370
		Hiko Wash	20 feet upstream from center of State Highway 38	*3,872
Maps available for inspection at County Surveyors Office, Lincoln County Courthouse, Pioche, Nevada.				
New Jersey	Belmar, borough, Monmouth County (Docket No. FEMA–6526).	Atlantic Ocean	Entire shoreline within community	*13
		Shark River	Entire shoreline within community	*10
Maps available for inspection at the Belmar Municipal Building, 8th Avenue and Route 35, Belmar, New Jersey 07719				
New Jersey	Brick, township, Ocean County (Docket No FEMA–6535).	Kettle Creek	Entire shoreline within community	*8
		Atlantic Ocean	Entire shoreline within community	*13
		Barnegat Bay	Mantoloking Road	*7
			Swan Point	*7
			Havens Point	*8
			Dutchman's Point Road extended	*7
		Metedeconk River	Dock Road extended	*6
		Manasquan River	Entire shoreline within community	*8
Maps available for inspection at the Brick Municipal Building, 401 Chambers Bridge Road, Brick, New Jersey.				
New Jersey	Clinton, township Hunterdon County (Docket No. FEMA–6535).	South branch Raritan River	Most downstream corporate limits	*202
			Gray Rock Road (downstream side)	*213
			1,575' upstream of Gray Rock Road	*219
			At corporate limits 3,110' downstream of Cokesbury Road.	*290
			Cokesbury Road (downstream side)	*314
			Most upstream corporate limits	*327
		Beaver Brook	Downstream corporate limits	*207

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		South branch Rockaway Creek	Eastbound State Route 31 (upstream side)	*218
			Allerton Road (upstream side)	*234
			Upstream of Conrail crossing	*290
			Downstream corporate limits	*173
			Blossom Hill Road (upstream side) at first upstream corporate limits.	*212
			Approximately 500 feet upstream of the most upstream corporate limits with the borough of Lebanon.	*221
Maps available for inspection at the Clinton Municipal Building, West Street, Clinton, New Jersey.				
New Jersey	Jersey City, city, Hudson County (Docket No. FEMA–6535).	Newark Bay	Western shoreline of community	*10
		Upper New York Bay	Eastern shoreline of community	*10
Maps available for inspection at the Division of Engineering, Public Works Building, 575 Route 440, Jersey City, New Jersey.				
New Jersey	Neptune, township, Monmouth County (Docket No. FEMA–6535).	Atlantic Ocean	Entire shoreline within community	*13
		Shark River	Shoreline at Sylvan Drive (extended)	*10
Maps available for inspection at the Neptune Township Municipal Building, 25 Neptune Boulevard, Neptune, New Jersey.				
New Jersey	North Plainfield, borough, Somerset County (Docket No. FEMA–6470).	Green Brook	At downstream limits	*58
			Upstream of West End Avenue	*67
			Upstream of Duer Street	*86
			Upstream of Norwood Avenue	*104
			At upstream corporate limits	*128
		Stony Brook	At confluence with Green Brook	*63
			Upstream of Rockview Terrace	*74
			Downstream of Grove Street	*93
			At upstream corporate limits	*114
Maps available for inspection at the Municipal Building, 263 Somerset Street, North Plainfield, New Jersey.				
New Jersey	Spring Lake, borough, Monmouth County (Docket No. FEMA–6526).	Atlantic Ocean	Entire shoreline within community	*13
Maps available for inspection at the Spring Lake Municipal Building, 5th and Warren Avenue, Spring Lake, New Jersey.				
New Jersey	Vernon, township, Sussex County (Docket No. FEMA–6499).	Wallkill River	Downstream corporate limits	*389
			Upstream Bassets Bridge Road	*391
			Upstream corporate limits	*394
Maps available for inspection at the Vernon Municipal Center, Church Street, Vernon, New Jersey.				
New Jersey	Wantage, township, Sussex County (Docket No. FEMA–6499).	Wallkill River	Downstream corporate limits	*389
			Upstream of Bassets Bridge Road	*391
			Upstream of Glenwood Road	*394
			Upstream corporate limits	*401
Maps available for inspection at the Municipal Building, Route 23, Sussex, New Jersey.				
New York	Beacon, city, Dutchess County (Docket No. FEMA–6526).	Hudson River	Entire shoreline within corporate limits	*6
		Fishkill Creek	Upstream corporate limits	*183
			Factory bridge—downstream side	*130
			At East Main Street	*96
			Most downstream dam (upstream side)	*40
			At confluence with Hudson River	*8
Maps available for inspection at the Office of the Commissioner of Public Works, City Hall, 427 Main Street, Beacon, New York.				
New York	Clifton Park, town, Saratoga County (Docket No. FEMA–6535).	Mohawk River	Downstream corporate limits	*196
			Upstream Vischer Ferry Dam	*218
			At upstream corporate limits	*222
		Dwaas Kill	Downstream corporate limits at U.S. Route 9	*187
			Upstream Interstate Route 87	*204
			At confluence of Cooley Kill	*209
		Cooley Kill	At confluence with Dwaas Kill	*209
			Approximately 780 feet upstream of State Route 109	*240
		Alplaus Kill	Downstream corporate limits	*236
			Upstream corporate limits	*265
		Anthony Kill	Entire shoreline within community	*160
		Ballston Lake	Entire shoreline affecting community	*258
		Round Lake	Entire shoreline within community	*160
Maps available for inspection at the Town Hall Building Department, Town Hall, Route 146A, Clifton Park, New York.				
New York	Corinth, town, Saratoga County (Docket No. FEMA–6535).	Hudson River	Confluence with Sturdevant	*558
		Sturdevant Creek	Upstream corporate limits	*559
			At confluence with Hudson River	*558
			Upstream of corporate limits of village of Corinth	*598
			Heath Road upstream	*616
Maps available for inspection at the Town Hall, 600 Palmer Avenue, Corinth, New York.				
New York	Corinth, village, Saratoga County (Docket No. FEMA–6535).	Hudson River	Downstream corporate limits	*446

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Palmers Falls Dam	*524
			Upstream Curtis Mill Dam	*557
			Upstream corporate limits	*558
		Sturdevant Creek	At confluence with Hudson River	*558
			Approximately 60 feet upstream of Maple Street	*566
			Downstream International Paper Company Railroad	*591
			Upstream corporate limits	*598
Maps available for inspection at the Village Hall, 260 Main Street, Village of Corinth, New York.				
New York	Halfmoon, town, Saratoga County (Docket No. FEMA-6535).	Anthony Kill	Downstream corporate limits	*106
			Upstream of footbridge	*132
			Upstream of Coons Crossing Road	*156
			Upstream corporate limits	*160
		Dwaas Kill	Downstream corporate limits	*191
			Upstream corporate limits	*194
		Hudson River	Downstream corporate limits	*38
			Downstream lock No. 2	*45
			Upstream corporate limits	*61
		Mohawk River	Downstream corporate limits	*193
			Upstream corporate limits	*198
Maps available for inspection at the Town Hall Building Department, Harris Road, Half Moon, New York.				
New York	Malta, town, Saratoga County (Docket No. FEMA-6535).	Ballston Creek	Downstream corporate limits	*164
			Upstream of Interstate Route 87	*171
			Upstream of Ruhle Road	*190
			Upstream corporate limits	*256
		Morning Kill	Confluence with Kayaderosseras Creek	*225
			Upstream corporate limits	*227
		Anthony Kill	Downstream corporate limits	*159
			Confluence with Round Lake	*160
		Kayaderosseras Creek	Confluence with Saratoga Lake	*210
			Upstream U.S. Route 9 South	*215
			Approximately 140 feet upstream of North Line Road	*225
			Upstream corporate limits	*228
		Round Lake	Entire shoreline within community	*160
		Saratoga Lake	Entire shoreline within community	*210
Maps available for inspection at the Town Hall, R.D. 3, Ballston Spa, New York.				
New York	Vienna, town, Oneida County (Docket No. FEMA-6535).	Fish Creek	Confluence with Erie Canal	*373
			Confluence of Mill Stream	*380
			Upstream State Route 49	*389
			Upstream Oswego Road	*401
			Confluence of west branch of Fish Creek	*406
		Hall Brook	Confluence with Oneida Lake	*373
			Upstream State Route 49	*403
			Upstream of third crossing of Mill Road	*429
		Halstead Creek	Confluence with west branch Fish Creek	*462
			Upstream McConnellsville Road	*490
		Mill Stream	Confluence with Fish Creek	*380
			Upstream State Route 49	*434
			Downstream dam and spillway	*490
		Murray Brook	Confluence with Oneida Lake	*373
			Approximately 1,435' upstream of West Lake Street	*420
			Upstream of dam	*476
		West Branch	Confluence with Fish Creek	*406
		Fish Creek	Upstream County Route No. 69	*417
			Approximately 1.5 miles downstream of Factory Street	*440
			Confluence of Halstead Creek	*462
		Oneida Lake	Confluence with Erie Canal	*373
		Erie Canal	Confluence with Fish Creek	*373
Maps available for inspection at the Town Hall, Route 49, Vienna, New York.				
New York	Warrensburg, town, Warren County (Docket No. FEMA-6535).	Hudson River	Upstream of State Route 418	*618
			Approximately 15,000' upstream of State Route 418	*635
			Approximately 25,000' upstream of State Route 418	*658
			Potter Brook Road extended	*687
			Upstream corporate limits	*709
		Schroon River	Confluence with Hudson River	*618
			Upstream of pulp mill dam (breached)	*634
			Upstream of Milton Road	*649
			Upstream of New Street	*665
			Upstream of U.S. Route 9	*688
			Upstream of Interstate 87	*701
			Upstream of bridge at USGS gage	*712
			Upstream corporate limits	*734
Maps available for inspection at the Emerson Town Hall, Assessor's Office, Main Street, Warrensburg, New York.				
North Dakota	Dodge (city), Dunn County FEMA-6526	Spring Creek	Area approximately 200 feet north of the intersection of Central Avenue and Kemper Street.	*1,979
Maps available for inspection at Mayor's Office, City Hall, Main Street, Dodge, North Dakota.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
North Dakota	Dunn County (unincorporated areas) FEMA-6526	Spring Creek	Area approximately 50 feet south of the intersection of State Highway 200 and Burlington Northern Railroad, east of the city of Dodge.	*1,970
			Approximately 100 feet downstream of the confluence of North Creek and Spring Creek.	*2,080
			South side of State Highway 200 at the crossing of Spring Creek at the North end of Lake Ilo.	*2,196
		Alkali Creek	At the intersection of Creek and center of State Highway 200.	*2,072
Maps available for inspection at Dunn County Auditor's office, Manning, North Dakota.				
Ohio	(Uninc.) Monroe County (Docket No. FEMA-6527)	Ohio River	Downstream county boundary	*632
			Upstream county boundary	*646
		Sunfish Creek	Just upstream State Route 7	*642
			About 1.0 mile downstream State Route 78	*668
			Just upstream State Route 78	*680
			Just upstream Township Road 156	*722
			Just upstream State Route 26	*843
Maps available for inspection at the Monroe County Commissioner's Office, Monroe County Courthouse, Woodsfield, Ohio.				
Ohio	(V) Swanton, Fulton County (Docket No. FEMA-6527)	Ai Creek	At county boundary	*668
			About 1,750 feet upstream of Athletic Field Road	*680
		Tributary A	At county boundary	*664
			About 4,600 feet upstream of county boundary	*674
Maps available for inspection at the Village Hall, 219 Chestnut Street, Swanton, Ohio.				
Oklahoma	Unincorporated areas of Oklahoma County (FEMA-6527).	North Canadian River	Approximately 270 feet upstream of U.S. Highway 62	*1,073
			Approximately 2,400 feet upstream of Triple XXX Road	*1,099
			Just downstream of northeast 78th Street (Wilshire Boulevard).	*1,103
			Approximately 300 feet upstream of northeast 36th Street.	*1,154
		Deep Fork	Approximately 300 feet downstream of Hiwassee Road.	*945
		Cowbell Creek	Just upstream of the city of Edmond corporate limits	*1,052
		Peavine Creek	Just upstream of the city of Edmond corporate limits	*1,070
		Chisholm Creek	Approximately 400 feet upstream of Waterloo Road (248th Street.	*1,013
			Approximately 1,200 feet upstream of Sorghum Mill Road.	*1,027
			Approximately 300 feet downstream of Coffee Creek Road.	*1,030
		Chisholm Creek tributary 1	Approximately 1,400 feet upstream of confluence with Chisholm Creek.	*1,029
		Bluff Creek	Just upstream of northwest 192d Street	*1,036
			Approximately 260 feet upstream of northwest 178th Street.	*1,044
			Approximately 400 feet downstream of northwest 164th S. Street.	*1,057
		Deer Creek	Approximately 680 feet upstream of Waterloo Road (Northwest 248th Street).	*1,007
			Approximately 670 feet upstream of Coffee Creek Road (Northwest 220th Street).	*1,019
			Approximately 670 feet upstream of MacArthur Boulevard.	*1,041
			Approximately 130 feet upstream of Rockwell Avenue	*1,051
			Approximately 370 feet upstream of Council Road	*1,061
		Deer Creek tributary 1	Approximately 50 feet upstream of Covall Road	*1,031
		Deer Creek tributary 2	Just downstream of Danforth Road (Northwest 192d Street).	*1,050
		Walnut Creek	Approximately 150 feet downstream of northwest 164th Street.	*1,067
Maps available for inspection at County Engineer's Office, Room 119, Oklahoma County Courthouse, Oklahoma City, Oklahoma 73102.				
Pennsylvania	Langhorne Manor, borough, Bucks County (Docket No. FEMA-6526).	Chub Run	Downstream corporate limits	*62
			Upstream of Dam No. 1	*117
			Downstream of Dam No. 2	*162
			Upstream corporate limits	*196
Maps available for inspection at the Borough Building, Langhorne Manor, Pennsylvania.				
Pennsylvania	Warwick, township, Chester County (Docket No. FEMA-6535).	French Creek	County Park Road	*293
			Ridge Road (State Route 23 (upstream side)	*307
			Conrail (upstream side)	*418
			Approximately 90 feet downstream of Trythall Road	*445
Maps available for inspection at the Office of Edward Fowler, Keen and Company, Routes 23 and 345, Warwick, Pennsylvania.				
South Carolina	Georgetown City, Georgetown County (Docket No. FEMA-6525).	Winyah Bay	South Bay Street 500 feet bayward of its intersection with Mulberry Street.	*16
			South Bay Street, 350 feet bayward of its intersection with Olive Street.	*16

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			South Bay Street, 100 feet bayward of its intersection with Hill Street.	*18
			Oak Street, 200 feet bayward of its intersection with Martin Street.	*16
			Greenwich at its intersection with Prince Street	*16
			Helena Street, at its terminus	*15
			Mulberry Street, 500 feet bayward of its intersection with South Island Road.	*15
			William Street, 425 feet bayward of its intersection with South Island Road.	*15
			South Bay Street, 250 feet bayward of its intersection with live Street.	*15
			South Bay Street at its intersection with Glenwood Street.	*15
			Martin Street, 205 feet bayward of its intersection with Oak Street.	*15
			South Bay Street, 100 feet northeast of its intersection with Mulberry Street.	*13
			Bolick Street, at its intersection with Prince Street	*13
			Meeting Street, 50 feet bayward of its intersection with Duke Street.	*13
			South Bay Street, 500 feet southwest of its intersection with Birch Street.	*12
			South Bay Street, 150 feet bayward of its intersection with Olive Street.	*12
			Fraser Street, 450 feet northeast of its intersection with Parker Street.	*12
			Meeting Street, at its intersection with Highmarket Street.	*12
		Sampit River	Sampit River shoreline southwest of Front Street	*12
			Screven Street, at its intersection with Highmarket Street.	*11
			King Street, 100 feet northeast of its intersection with Front Street.	*11
			Duke Street, 100 feet southwest of its intersection with Cleland Street.	*11
		Pee Dee River	Landgrave Street, 150 feet east of its intersection with Huger Drive.	*11
			Grimes Street, 150 feet east of its intersection with Landgrave Street.	*11
		Whites Creek	Seaboard Street, 150 feet southwest of its intersection with Prince Street.	*11
Maps are available for inspection at the Office of the Mayor, City Hall, Georgetown, South Carolina.				
South Carolina	Georgetown County (Docket No. FEMA-6524)	Atlantic Ocean	Southern tip of Cedar Island	*22
			South-central section of Cedar Island	*20
			Winyah Bay, west of Malady Bush Island	*20
			Georgetown-Horry county line	*19
			Murrell's Inlet	*19
			Huntington Beach State Park	*19
			Litchfield Beach, seaward of dune line	*19
			Midway Inlet	*19
			Pawley's Island, at Atlantic Avenue and dune line	*19
			Debordieu Colony, seaward of dune line	*19
			North Inlet	*19
			Winyah Bay entrance	*19
			Alston Creek Parsonage Creek	*18
			Old Man Creek, Town Creek, Bass Hole Bay	*18
			Northern tip of Marsh Islands	*18
			North shoreline of Cat Island	*18
			Jones Creek-Cottonpatch Creek	*18
			Goat Island in the Santee River	*18
			Southern tip of Crane Island	*18
			Main Creek	*17
			Oaks Creek, west of Litchfield Beach	*17
			Debidue Creek, south of Luvan Way	*17
			Clubhouse Creek and Mackenzie Beach Road	*17
			Island Creek, inland of Pawley's Island	*17
			Debidue Creek	*17
			Estherville Minim Creek Canal and South Island Road	*17
			Mosquito Creek	*17
			Pleasant Creek, at North Santee River	*17
			South Island at North Santee Bay	*17
			Georgetown-Horry County line	*16
			Atlantic Avenue at Seward Street, Pawley's Island	*16
			South causeway Pawley's Island	*18
			Georgetown-Horry County line	*15
			Litchfield development east of U.S. Rt. 17	*15
			Litchfield Boulevard at Sportsman Boulevard	*15
			MacKenzie Beach Road at U.S. Route 17	*15
			Georgetown-Horry County line	*14
			Brookgreen Drive at Seaview Loop	*14
			Boyle Road at Parker Avenue	*14
			Boyle Road at Lake-shore Drive	*14
			Norris Drive at Parker Boulevard	*14
			Luvan Way at Lafayette Boulevard	*14
			Pioneer Court at Lafayette Boulevard	*14
		Winyah Bay	Rabbit Island	*18
			Bay shoreline area south of city of Georgetown	*18

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Area immediately south of city of Georgetown	*15
			Bay shoreline area in southern part of Waccamaw Neck.	*14
		Waccamaw River	Immediately upstream of U.S. Route 17 Bridge	*13
			Point approximately 2,000 feet upstream of U.S. Route 17 Bridge.	*12
			Near confluence with Schooner Creek	*10
			At confluence with Thoroughfare Creek	*9
			Near confluence with Dull Tree Creek	*8
			Confluence with Cowhouse Creek	*7
			At Georgetown-Horry County line	*7
		Sampit River	West of city of Georgetown	*11
		N. Santee River	Immediately upstream of U.S. Route 17-701 Bridge	*11
			Approximately 300 feet upstream of U.S. Route 17-701 Bridge.	*10
			Approximately 9,000 feet upstream of U.S. Route 17-701 Bridge.	*9
		S. Santee River	Immediately upstream of the U.S. Route 17-701 Bridge.	*11
			Approximately 4,000 feet upstream of the U.S. Route 17-701 Bridge.	*10
			Approximately 10,000 feet upstream of the U.S. Route 17-701 Bridge.	*9
		White's Creek	West of City of Georgetown	*11
Maps are available for inspection at the Office of the Chairman, Georgetown County Council, County Courthouse, Georgetown, South Carolina.				
South Carolina	(Uninc.) Horry County (Docket No. FEMA-6482)	Atlantic Ocean	Singleton Lake at Lake Arrowhead Road Bridge	*13
			Town of Briarcliffe Acres southern corporate limits inland.	*13
			Mouth of Little River	*13
			Intersection of Stanley Drive and 4th Street	*14
			Intersection of Woodview Lane and Dogwood Drive at Long Bay Estates.	*14
			City of Myrtle Beach southern corporate limits at State Route 73.	*14
			Northern county boundary	*14
			Intersection of Stanley Drive and 2d Street	*15
			Intersection of Seabreeze Drive and Rainbow Drive	*15
			Town of Surfside Beach southern corporate limits at Melody Lane and Lakeside Drive intersection.	*15
			Town of Surfside Beach northern corporate limits at 17th Avenue North and Dogwood Drive North intersection.	*15
			Approximately 800 feet seaward of Elizabeth Drive and Cypress Avenue intersection along Cypress Avenue.	*16
			Approximately 150 feet seaward of Hawes Avenue and Wacaman Drive intersection along Hawes Avenue (extended).	*16
			Intersection of Ocean Boulevard and Dogwood Drive at Long Bay Estates.	*16
			Approximately 300 feet seaward of Hawes Avenue and Wacaman Drive intersection along Hawes Avenue (extended).	*16
			Approximately 150 feet seaward of Melogy Lane and South Ocean Boulevard intersection along Melody Lane (extended).	*16
			Mouth of Singleton Swash	*20
			Town of Briarcliffe Acres southern corporate limits at shoreline.	*20
			Mouth of White Point Creek	*20
			Approximately 400 feet seaward of Hawes Avenue and Wacaman Drive intersection along Hawes Avenue (extended).	*22
			Approximately 400 feet seaward of Melody Lane and South Ocean Boulevard intersection along Melody Lane (extended).	*22
			Approximately 400 feet seaward of 17th Avenue North and North Ocean Boulevard intersection along 17th Avenue North (extended).	*22
			Approximately 400 feet seaward of Ocean Boulevard and Dogwood Drive intersection along Dogwood Drive (extended) at Long Bay Estates.	*22
		Waccamaw River	Southern county boundary	*7
			Bull Creek	*7
			Old River	*7
			Peachtree Landing	*7
			Pitch Landing	*8
			U.S. Route 501 Bridge upstream	*12
			State Route 544 Bridge upstream	*14
			5,000 feet upstream of State Route 544 Bridge	*15
		Kingston Lake Swamp	State Route 905 Bridge	*14
			Confluence with Crab Tree Swamp	*14
		Little River	At mouth	*13
			At Mullet Creek	*13
		Intracoastal Waterway	Interstate Route 501 Bridge	*7
			State Route 544 Bridge	*7
			At confluence of Waccamaw River	*7
			Sea Mountain Highway Bridge	*10

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Town of North Myrtle Beach southern corporate limits	*11

*Maps available for inspection at the Horry County Courthouse, P.O. Box 677, Conway, South Carolina.

Tennessee	City of Gatlinburg, Sevier County (FEMA-6526)	West prong Little Pigeon River	Just upstream of Old Treatment Plant Road	*1,239
			Just downstream of Laurel Avenue	*1,260
			Just upstream of Long Branch Road	*1,323
		Dudley Creek	Just upstream of Dudley Creek Road	*1,256
			Just downstream of State Highway 73	*1,329
			Just upstream of Grimes Road (extended)	*1,504
		Roaring Fork Creek	Just upstream of U.S. Highway 441	*1,272
			Just downstream of State Highway 73	*1,364
		Baskins Creek	Just downstream of Bishop Lane	*1,310
			Just upstream of Stephen Drive	*1,346
		Le Conte Creek	Just upstream of State Highway 73 and U.S. Highway 441.	*1,339
			Approximately 100 feet upstream of Asbury Lane	*1,499

Maps available for inspection at City Planners Office, City Hall, 175 Airport Road, Gatlinburg, Tennessee 37738.

Texas	City of Alice, Jims Wells County (FEMA-6401)	San Diego Creek	Just upstream of Texas Boulevard	*198
			Just upstream of U.S Highway 281	*215
		Lattas Creek	Just downstream of South Texas Boulevard	*195
			Just downstream of South Reynold Street	*200
			Just downstream of U.S. Highway 281	*207
		Lattas Creek tributary	Just upstream of U.S. Highway 281	*205
			Just downstream of South Gulf Street	*212
		San Fernando Creek tributary	Just downstream of Airport Road	*186
		Chiltipin Creek	Just upstream of Lake Alice Dam	*199
		Recasa De Enmedio	Just downstream of North Texas Boulevard	*190

Maps available for inspection at City Manager's Office, City Hall, 500 East Main Street, Alice, Texas 78332.

Texas	Unincorporated areas of Bell County (FEMA-6527)	Big Elm Creek	Approximately 530 feet upstream of Big Elm Creek Road.	*410
			Approximately 600 feet upstream of State Highway 53	*478
			Approximately 110 feet downstream of F.M. 2086	*496
			Approximately 550 feet upstream of Bottoms Road	*561
			Approximately 320 feet upstream of Shiloh Road	*603
		Camp Creek	Approximately 440 feet upstream of Big Elm Creek Road.	*415
			Approximately 140 feet downstream of State Highway 53.	*464
			Approximately 100 feet upstream of FM 2904	*495
		Cyclone Branch	Just upstream of FM 964	*455
		Possum Creek	Approximately 480 feet downstream of State Highway 53.	*463
			Approximately 100 feet downstream of Possum Creek Road.	*492
		Possum Creek tributary No. 1	Approximately 380 feet upstream of Airville Road	*473
		Ratibor Branch	Just upstream of FM 2086 (downstream crossing)	*493
			Approximately 300 feet upstream of FM 2086 (upstream crossing).	*502
		Little Elm Creek	Approximately 400 feet upstream of Seaton South Road.	*459
			Approximately 80 feet upstream of FM 3117	*503
			Approximately 350 feet downstream of Little Flock East Road.	*542
			Approximately 270 feet upstream of Gun Club Road	*810
			Just upstream of Moore's Mill Road	*678
		Little Elm Creek tributary No. 1	Approximately 100 feet downstream of FM 3117	*492
			Approximately 150 feet upstream of Quail Trail	*546
		Williamson Creek	Just upstream of Little Flock Road	*561
		Little Elm Creek tributary No. 2	Approximately 170 feet upstream of Old U.S. Highway 81.	*567
		Cottonwood Creek	Approximately 440 feet upstream of Mockingbird Road	*481
			Approximately 300 feet upstream of FM 2086	*536
			Just upstream of Gun Club Road	*636
			Just upstream of Interstate Highway 35	*731
		Pecan Creek	Just upstream of Berger Road (downstream crossing)	*541
			Just downstream of Pecan Road	*613
			Approximately 150 feet upstream of Quail Run	*669
		Kings Branch	Approximately 1,000 feet upstream of confluence with Big Elm Creek.	*616
		Kings Branch tributary No. 2	Approximately 300 feet upstream of the western corporate limits of the city of Troy.	*717
		South Elm Creek	Approximately 100 feet downsteam of FM 2184	*418
			Approximately 300 feet upstream of Hunt Hill Road	*476
			Approximately 230 feet downstream of Highland School Road.	*519
		South Elm Creek tributary No. 1	Approximately 1,450 feet upstream of confluence with South Elm Creek.	*465
		Nolan Creek	Just upstream of Backstrum Crossing	*592
			Approximately 100 feet upstream of FM 93	*601
			Approximately 200 feet upstream of confluence of Nolanville tributary.	*667
		Nolan Creek tributary No. 1	Approximately 60 feet upstream of the city of Belton corporate limits.	*556
		Nolan Creek tributary No. 2	Just downstream of Dog Ridge Road	*801
		North Nolan Creek	Approximately 240 feet upstream of Atchison-Topeka & Santa Fe Railway.	*598

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Nolanville tributary	Approximately 290 feet upstream of FM 439	*806
			Approximately 170 feet downstream of FM 439	*734
		Little Nolan Creek	Just upstream of East Trimmer Road	*831
			Approximately 140 feet downstream of West Trimmer Road.	*903
		Little Nolan Creek tributary No. 2	Just upstream of Elms Road	*836
			Approximately 80 feet upstream of Onion Road	*847
			Approximately 130 feet downstream of West Trimmer Road.	*894
		Little River	Just upstream of Sunshine Road	*420
			Approximately 1,350 feet upstream of State Highway 95.	*445
		Sypert Branch tributary No. 1	Just downstream of FM 2184	*467
		Runnells Creek	Just downstream of Volvo Road	*434
			Approximately 250 feet upstream of Missouri-Kansas-Texas Railroad.	*473
		Willow Creek	Just downstream of State Highway 95	*454
		Boggy Creek	Approximately 250 feet downstream of FM 436	*453
			Just downstream of FM 93	*563
		Boggy Creek tributary No. 1	Approximately 150 feet upstream of Missouri-Kansas-Texas Railroad.	*469
		Leon River	Approximately 150 feet downstream of FM 93	*476
			Approximately 200 feet downstream of the back toe of Belton Dam.	*502
		Fryers Creek	Approximately 160 feet upstream of Forrester Road	*482
			Approximately 150 feet upstream of Hartrick Bluff Road.	*567
		Fryers Creek tributary No. 1	Just upstream of Belton Railroad	*556
			Approximately 70 feet upstream of FM 1741	*565
		Bird Creek	Approximately 450 feet upstream of Shallow Ford Road (downstream crossing).	*479
			Just upstream of Nugent Avenue	*697
		Bird Creek tributary No. 1	Approximately 800 feet upstream of confluence with Bird Creek.	*486
		Pepper Creek	Approximately 170 feet upstream of Go-Cart Road	*512
			Approximately 100 feet downstream of Mouser Road	*688
		Pepper Creek tributary No. 1	Just upstream of private drive (approximately 1,970 feet upstream of confluence with Pepper Creek.	*552
		Cedar Creek	Approximately 100 feet upstream of Cedar Creek Road.	*636
			Just downstream of FM 1237	*657
			Just upstream of Southerland Road	*701
		Lampasas River	Approximately 270 feet downstream of FM 1123	*465
			Approximately 150 feet downstream of the back toe of Stillhouse Hollow Dam.	*524
			Just upstream of Stillhouse Hollow Dam (Stillhouse Hollow Lake).	*642
			Approximately 100 feet upstream of Stillman Valley Road.	*669
			Approximately 350 feet upstream of Maxdale Road	*732
		Mitchell Branch	Approximately 100 feet upstream of FM 1123	*496
			Just upstream of Elm Grove Road	*560
		Darrs Creek	Approximately 150 feet upstream of confluence of Cathey Creek.	*455
			Just downstream of Missouri-Kansas-Texas Railroad	*505
			Just upstream of Missouri-Kansas-Texas Railroad	*511
		Cathey Creek	Approximately 150 feet upstream of Missouri-Kansas-Texas Railroad.	*502
			Approximately 150 feet upstream of FM 1123	*540
		Donahoe Creek	Just downstream of Donahoe Road	*458
			Approximately 770 feet upstream of FM 487	*511
		Indian Creek	Approximately 450 feet upstream of Lutheran Church Road.	*505
			Just downstream of Missouri-Kansas-Texas Railroad	*541
		Town Branch	Approximately 140 feet upstream of Lutheran Church Road (downstream crossing).	*525
			Approximately 70 feet downstream of State Highway 95.	*571
		Salado Creek	Just upstream of FM 1123	*476
			Approximately 150 feet downstream of Armstrong Road.	*492
			Approximately 300 feet upstream of Amity East Road	*530
			Just upstream of South Ridge Road	*589
			Just upstream of FM 2843	646
		Smith Branch	Just upstream of Royal Road	*598
			Approximately 180 feet upstream of FM 2268	*634
		Salado Creek tributary No. 1	Approximately 380 feet upstream of Rose Lane	*584
			Just upstream of dam (Approximately 670 feet upstream of Rose Lane).	*595
		Salado Creek tributary No. 2	Approximately 150 feet upstream of confluence with Salado Creek tributary No. 1.	*559
		Salado Creek tributary No. 3	Approximately 120 feet downstream of Degummond Way.	*589
			Just downstream of FM 2268 (Main Street)	*606
		Campbell Branch	Just downstream of West Village Road	*607
		Salado Creek tributary No. 4	Approximately 150 feet downstream of dam (approximately 2,500 feet upstream of confluence with Salado Creek).	*603

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,000 feet upstream of dam (approximately 2,500 feet upstream of confluence with Salado Creek).	*826
			Just upstream of FM 2843	*656
		Knob Creek	Approximately 630 feet upstream of Reed's Lake South Road.	*441
			Just downstream of Knob Creek Lane	*477
			Just upstream of FM 436	*485
			Just downstream of FM 93	*536
			Just upstream of U.S. Highway 190	*559
		Margie Lou Branch	Approximately 160 feet upstream of FM 436	*499
			Just upstream of Atchison-Topkea and Santa Fe Railway.	*512
			Approximately 270 feet downstream of FM 3117	*531
		Site tributary No. 7	Approximately 110 feet upstream of the city of Harker Heights northern corporate limits.	*736
		Belton Lake	Entire shoreline	*625

Maps available for inspection at County Judge's Office, Bell County Courthouse or County Engineer's Office, Bell County Courthouse Annex, Belton, Texas 76513.

Texas	El Lago, city, Harris County (Docket No. FEMA-6431).	Clear Lake	The entire shoreline within community	*15
		Taylor Lake	Upstream of Nasa Road to upstream corporate limits	*11

Maps available for inspection at the City Hall, El Lago, Texas.

Texas	Unincorporated areas of Kleberg County, (FEMA-6527).	Tranquitas Creek	Just upstream of Sage Road	*70
		Escondido Creek	Just upstream of FM 1356	*48
		Santa Gertrudis Creek	Approximately 1,000 feet downstream of FM 1356	*35
		Gulf of Mexico/Laguna Madre/Baffin Bay/Alazan Bay.	Loyola Beach, just downstream of intersection of FM 1546 and Vattaman Creek.	*9
		Gulf of Mexico/Laguna Madre/Baffin Bay.	Padre Island, just east of State Highway 22	*9
			Padre Island, just west of State Highway 22	*8

Maps available for inspection at County Judge's Office, Kleberg County Courthouse, Kingsville, Texas 78363.

Texas	Seabrook, city, Harris County (Docket No. FEMA-6431).	Galveston Bay	Entire shoreline of Galveston Bay within community	*18
			Eastern shoreline of Clear Lake	*13
			Entire shoreline of Clear Lake within community	*13
			Entire shoreline of Pine Gully upstream from Todville Road.	*12
			Confluence of Pine Gully with Galveston Bay	*18
		Clear Lake	Shoreline from western corporate limits to approximately 450 feet west of Elan Street (extended).	*15
			Shoreline from approximately 450 feet west of Elan Street (extended) to approximately 250 feet west of Ocean View Drive (extended).	*14
		Taylor Lake	Entire shoreline within community	*11

Maps available for inspection at the City Hall, Seabrook, Texas.

Texas	Taylor Lake Village, city, Harris County (Docket No. FEMA-6431).	Taylor Lake	Entire shoreline within community	*11
		Forest Lake	Entire shoreline within community	*11

Maps available for inspection at the Taylor Lake Village City Hall, Seabrook, Texas.

Texas	Unincorporated areas of Willacy County (FEMA-6527).	Gulf of Mexico/Laguna Madre	Third Street extended to Laguna Madre shoreline	*13
			Intersection of Canal Street and Fourth Street	*11
			Intersection of Legion Drive and Beach Drive	*10
			Intersection of Well Street and Navigation Drive	*9

Maps available for inspection at County Judge's Office, Willacy County Courthouse Annex, Raymondville, Texas 78580.

Washington	Marysville (city), Snohomish County FEMA-6499	Snohomish River (Ebey Slough and Steamboat Slouth).	At center of the intersection of 1st Street and Interstate Highway 5.	*9

Maps available for inspection at City Hall, 514 Delta Avenue, Marysville, Washington.

Wisconsin	(V) Bid Bend, Waukesha County (Docket No. FEMA-6535).	Fox River	Within the corporate limits	*780

Maps available for inspection at the Village President's Office, Village Hall, W230 S9175 Nevins Street, Big Bend, Wisconsin.

Wisconsin	(V) Plover, Portage County (Docket No. FEMA-6535)	Wisconsin River	At downstream corporate limits	*1,046
			At upstream corporate limits	*1,047

Maps available for inspection at the Clerk's Office, Village Hall, 704 Washington Avenue, Plover, Wisconsin.

Wisconsin	(V) Wyeville, Monroe County (Docket No. FEMA-6535).	South fork Lemonweir River	Just upstream of Chicago and North Western Railroad	*917
			About 0.55 mile upstream of Chicago and North Western Railroad.	*918

Maps available for inspection at the Village President's Office, Village Hall, P.O. Box #47, Wyeville, Wisconsin.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	New Fairfield, town, Fairfield County (Docket No. FEMA-6247).	Ball Pond Brook	Confluence with Lake Candlewood	*444
			Upstream of Musket Ridge Road	*484
			Upstream of Saw Mill Road	*524
			Upstream of State Route 39	*562
			Upstream of Overbrook Drive	*615
			Upstream of Ball Pond Road	*647
			Upstream of Meadowbrook Road	*665

Maps available for inspection at the First Selectman's Office, Town of New Fairfield, Town Hall, New Fairfield, Connecticut.

Florida	Dunedin (city), Pinellas County (FEMA-6333)	Curlew Creek	150 feet south of intersection of Birdie Lane and Curlew Road.	*11
		Gulf of Mexico	Intersection of Lynhurst Street and Broadway	*11
			Intersection of Palm Boulevard and Edythe Drive	*12
			Intersection of Santa Barbara Drive and San Salvador Drive.	*13
		Shallow flooding	120 feet south of intersection of Franklin Way and Patriot Place.	*12

Maps available for inspection at Engineering Department, Police Administration Building, 737 Louden Avenue, 2nd Floor, Dunedin, Florida.

Iowa	(C) Maxwell, Story County (Docket No. FEMA-6499)	Indian Creek	Just downstream of State Highway 210	*865
			Just downstream of county road at upstream corporate limits.	*873
		Rock Creek	About 1,450 feet downstream of confluence of Rock Creek tributary.	*866
			Just downstream of county highway E63	*880
			Just upstream of county highway E63	*885
		Tributary to Rock Creek	At confluence with Rock Creek	*871
			About 600 feet upstream of county road	*877

Maps available for inspection at City Hall, Maxwell, Iowa.

New Jersey	Middletown township, Monmouth County (Docket No. FEMA-6356).	Swimming River	Downstream Newman Springs Road	*9
			Downstream northbound Lane Garden State Parkway	*12
			Downstream Normandy Road	*13
			Downstream Swimming River Road	*23
		Claypit Creek	Upstream Locust Avenue	*9
			Upstream Lakeside Avenue	*12
		McClees Creek	Upstream Cooper Road	*9
			Upstream Whippanell Valley Road	*19
			Downstream Chapel Hill Road	*29
			Upstream Sleepy Hollow Road	*40
		Poricy Brook	Downstream Conrail	*9
			At Navesink River Road	*25, *45
			Downstream Normandy Road	
			Approximately 900 feet upstream of Middletown-Lincroft Road.	*64
		Nut Swamp Brook	Upstream private drive	*17
			Downstream Garden State Parkway	*27
			Upstream Middletown-Lincroft Road	*50
		Jumping Brook	Downstream West Front Street	*18
			Upstream Leedsville Drive	*40
			Approximately 1,150 feet upstream Middletown-Lincroft Road.	*46
		Mahoras Brook	Downstream corporate limits	*38
			Downstream Holland Road	*76
			Upstream corporate limits	*104
		Waackaack Creek	Downstream corporate limits	*22
			Downstream Cherry Tree Farm Road	*35
		Comptons Creek	Upstream Campbell Avenue	*12
			Downstream Leonardville Road	*14
		Town Brook	Downstream Park Avenue	*17
			Upstream Swartzel Drive	*31
			Downstream Spruce Drive	*48
		Raritan Bay	Entire shoreline within community	*18
		Navesink River	Shoreline from confluence with Shrewsbury River to Conover Lane extended.	*12
			Shoreline from Conover Lane extended to State Route 35.	*10
		Shrewsbury River	Entire shoreline within community	*12

Maps available for inspection at the Town Hall, One Kings Highway, Middletown, New Jersey.

New Jersey	Point Pleasant Beach, borough, Ocean County (Docket No. FEMA-6470).	Atlantic Ocean	Entire shoreline within community	*13
		Manasquan River	From 850 feet east of Ocean Avenue, extended, to Conrail bridge.	*10
			From Conrail bridge to Orchard Avenue, extended	*8

Maps available for inspection at the Municipal Building, 416 New Jersey Avenue, Point Pleasant Beach, New Jersey.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

VOL
48
ISS
1
9
8
OC
12
1983
UMI

Issued: September 26, 1983.
Dave McLoughlin,
Deputy Associate Director, State and Local Programs and Support.
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Rule to List

Panicum Carteri (Carter's Panicgrass) as an Endangered Species and Determine Its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines one plant, *Panicum carteri* (Carter's panicgrass) to be an Endangered species and the island of Mokoli'i (Chinaman's Hat) to be its Critical Habitat. These actions are taken under the authority of the Endangered Species Act of 1973, as amended.

P. carteri is a small annual grass found only on Mokoli'i, in the City and County of Honolulu, Hawaii. The principal threats to this plant's survival are vandalism, including fire and trampling; and habitat disturbance resulting from recent unauthorized planting of coconut trees in the area in which it grows. The present rule is intended to provide *Panicum carteri* the protection available under the Act.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

ADDRESS: The complete file for this rule is available for inspection by appointment, during regular business hours (7:45–4:15 p.m.), at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia.

SUPPLEMENTARY INFORMATION:

Background

Panicum carteri is an annual grass whose population fluctuates considerably in numbers from year to year, apparently in response to the amount of annual winter rainfall. It is one of several endemic Hawaiian species of the large cosmopolitan genus *Panicum* that are adapted to dry lowland habitats. The earliest known collection of *P. carteri* was in 1917, but the species was not formally recognized as distinct until 1942. It is known from a small area of Mokoli'i island, near Kualoa Point, Oahu, and is only evident during and immediately after winter rains, when it grows from seed and flowers. The plants die back during the drier summer months and only seeds survive the period of drought. The largest number of individuals of this species ever observed during a rainy season was slightly over 200, while in some years observers have failed to find the species at all. This species and its close relatives on others of the Hawaiian islands are presumably all derived from a single ancestral stock and would be appropriate subjects for research on the differentiation and radiative evolution of island species.

The principal threats to the survival of *P. carteri* are trampling by visitors to Mokoli'i; vandalism, including the possibility of arson or accidental fire; and habitat disturbance associated with the recent unauthorized planting of coconut trees in the area in which the *Panicum* grows.

Section 12 of the Endangered Species Act of 1973 (the Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director of the U.S. Fish and Wildlife Service published notice in the **Federal Register** (40 FR 27823) of his acceptance of the the report of the Smithsonian Institution as a petition under Section 4(c)(2) of the Act. The plant species named in this petition were placed under review for addition to the list of Endangered and Threatened plants and, on June 16, 1976, the Director published a proposed rule (41 FR 24523) that would have listed some 1,700 such taxa as Endangered. This proposal was based on the Smithsonian petition as well as comments and other information received by the Service and the Smithsonian Institution. *Panicum carteri* was listed in House Document No. 94–51 and the 1975 notice as extinct, but was later rediscovered and included in the proposal.

The Endangered Species Act Amendments of 1978 subsequently required that any proposal to list a species be withdrawn unless made final within two years. A period of one year was allowed after the passage of the amendments on November 10, 1978, during which no proposals were to be withdrawn because of having passed a two-year deadline. On December 10, 1979 (44 FR 70796) the Service published a notice withdrawing that portion of the June 16, 1976, proposal that had not been the subject of final action, as well as four other expired proposals. A reproposal was published on January 30, 1981 (46 FR 9976), based on information available at the time of the 1976 proposal and information gathered between that time and the date of the proposal's withdrawal as well as a report of a visit to Mokoli'i indicating that the site from which *Panicum carteri* has been known was recently disturbed by the planting of coconut trees (Annabelle Takahashi, Letter dated October 8, 1980).

The comment period on this reproposal closed on April 30, 1981. It was subsequently reopened from July 29, 1982, until October 27, 1982, in order to allow the Service to accept further comments from State and local governments and other interested parties.

In the June 2, 1977, **Federal Register** (42 FR 32373, codified at 50 CFR 17.61, 17.62, and 17.63) the Service published a final rule detailing regulations to protect Endangered plant species. These established prohibitions and a permit procedure to grant exceptions to the prohibitions under certain conditions.

Summary of Comments and Recommendations

The proposed rule of January 30, 1981 (46 FR 9976), invited comment from all interested parties that might contribute to the formulation of a final rule. All comments received between the time of publication of the proposal and April 30, 1981, have been considered and are summarized below. Comments received between July 29, 1982, and October 27, 1982, are also treated.

In his original comment, the Governor of Hawaii agreed that *Panicum carteri* is in need of protection, citing the need for control of rodents and encroaching exotic vegetation on Mokoli'i, as well as for controls on human access to the island. He expressed the opinion that propagation and transplant of the species will enable its range to be expanded on Mokoli'i and elsewhere on Oahu. He concluded, however, that listing of the species as Endangered is unnecessary because a coordinated effort for the species' protection will be able to ensure its survival. In an additional comment after reopening of the comment period, the Governor continued to oppose listing, citing recent restrictions on human access to Mokoli'i and continued plans to propagate and relocate the species. The Service believes that the very precarious situation of this species, acknowledged by the Governor, warrants its listing. After the species is listed, the Service would be authorized to coordinate and participate in recovery activities. The Act is primarily concerned with the maintenance of species within their native habitats, rather than their protection through transplantation outside native range. Even granting that transplant might eventually provide valuable insurance for a species known from an extremely small native population, no successful reproduction of transplanted *P. carteri* has taken place and the ultimate success of any such actions remains highly speculative. The absence of this species from areas adjacent to its present range on Mokoli'i suggests that long-term maintenance outside its small known range may not be feasible. If transplant is demonstrated to be possible, it should be recognized that this species should not be relocated to habitat within or adjacent to the range of any related species of *Panicum* because of the possibility of hybridization that could alter the gene pools of both species. While acknowledging the probable benefit to *P. carteri* of recent actions to restrict human use of Mokoli'i, the Service believes that threats to the species from unauthorized visitation and the competitive and predatory effects of exotic organisms are such that the species' listing is warranted.

In her original comment, the Mayor of Honolulu recommended that the species not be listed or Critical Habitat be designated because of the possible adverse effect on the species as a result of calling attention to its occurence and because of the possibility of vandalism to its habitat if any attempt were made to restrict public access to Mokoli'i.

The Mayor did, however, indicate concern for the species' protection and indicated that the City and County of Honolulu will cooperate with the State and others in an effort to propagate the species. In further comments after reopening of the comment period, the Mayor again opposed listing, also citing recent restrictions on human activity on Mokoli'i and the probability of the species being propagated and transplanted.

As noted above, the service believes that recent restrictions on public access to Mokoli'i may contribute to the conservation of *P. carteri*, but that other threats to the species' survival continue to warrant its listing. As also noted above, the potential for propagating this species and the efficacy of a program of transplantation remain open to speculation. The Service appreciates the difficulty of balancing the need to identify a sensitive resource with the possible danger of exposing it to vandalism or other disturbance. It should be noted that the designation of MoKoli'i as Critical Habitat for Carter's panicgrass does not automatically or necessarily limit public access to the island. Critical Habitat has significance only insofar as Federal agencies might be involved in modification of the island. No such Federal agency actions are anticipated in the present case. Nevertheless, the Act requires that Critical Habitat be specified to the maximum extent prudent when a species is proposed for listing. It is in order to comply with this provision of law, rather than to affect any known Federal activity, that Critical Habitat was proposd for the *Panicum*. Given that the listing and designation of Critical Habitat do not impose any burden on the public that is likely to provoke vandalism, and inasmuch as the local authorities have now imposed use restrictions in the absence of such a determination, the Service believes that the survival of the species is best served by listing and finds the designation of Critical Habitat to be prudent in this case.

The Department of General Planning of the city and county of Honolulu commented that the designation of Mokoli'i as Critical Habitat * * * "would be consistent with the City's General Plan policies and objectives."

Dr. Douglas Rayner of the South Carolina Wildlife and Marine Resources Department indicated concern with several aspects of the proposal. He commented that the documentation in the proposed rule was "meager" and failed to indicate that a status review had been conducted for the species, or whether there had been any search for additional populations. He questioned whether any reexamination had been made of the species' taxonomy. He also requested that the source of information regarding annual population fluctuations and the unique features of the species' present habitat that limit its distribution and requested clarification concerning the actual, rather than potential, effects of the recent planting of coconut trees within the species' habitat. Dr. Rayner's concerns are addressed below:

Adequacy of Status Information

The proposed rule inadvertently failed to refer specifically to a detailed status report on the species prepared by Service personnel and available on request to interested parties. It was included however, in the administrative file, which was open for public inspection, and the information contained in the report was discussed generally in the proposed rule. The complete file is available from the Service at the Office of Endangered Species (see "ADDRESSES" above). This report is summarized in part above in SUPPLEMENTARY INFORMATION.

Possible Existence of Additional Populations

The lowland flora of Oahu is relatively well-known and the Service is reasonably sure that no additional populations of this species exist. Such extreme endemism, which would be very unusual in a continental species, is in fact common among Hawaiian plants, many of which are known only from small isolated populations. This is, in fact, one of the principal reasons that such a high percentage (±40%) of native Hawaiian plants are extinct, Endangered, Threatened, or candidates for listing.

Taxonomic Status

Although no recent taxonomic study has been made of the group to which *Panicum carteri* belongs, it has been recognized as a distinct species by students of the Hawaiian flora since its description in 1942 (e.g., St. John 1973). The Service sees no reason to question its validity as a distinct species.

Source of Information on Population Fluctuation

Several estimates of population size have been made for *P. carteri*. E. Y. Hosaka, who described it originally, found only 12 individuals in 1941. In 1978, about 24 individuals were found, and, in the exceptionally wet year of 1978, 207 were found. Because it was not recorded between 1941 and 1976, the species had been believed to be extinct, although no detailed records exist of attempts to relocate it in the intervening time. The 1976 and 1978 records are provided by Dr. Derral Herbst and referred to in the status review mentioned above.

VOL
48
ISS
1
9
8
OC
12
1983
UMI

Uniqueness of Habitat

There is nothing obviously unique about the small habitat in which this species occurs, but the fact that it has persisted only in one very small area for at least the past 40 years suggests that it may depend upon some factor, or combination of factors, present in the area but not fully understood at present. It should be noted that such instances of extreme endemism without obvious habitat uniqueness are rather common among the Hawaiian flora.

Impact of Coconut Planting.

The ultimate consequences of the recent planting of coconut palms in the habitat of this species cannot presently be predicted with any certainty. It appears that soil excavated for the planting was spread over the area and that this may either inhibit the growth of *P. carteri* or encourage the establishment of other, exotic, species such as *Digitaria adscendens* (Henry's crabgrass) as suggested by another commenter, Mr. Keith Woolliams. Further monitoring of the site, particularly during the rainy season, will be necessary to estimate the magnitude of effects.

Letters from Mr. Keith Woolliams, Director of Waimea Arboretum & Botanical Garden, Haleiwa, Hawaii, particularly expressed concern that the coconut planting would adversely affect *P. carteri* by encouraging the growth of disturbance-tolerant exotic grasses.

Three additional comments generally supported listing of the species, without providing further details concerning its status.

A public meeting was held concerning the proposed rule on March 5, 1981, at the Kahalu'u Elementary School in Kaneohe, Hawaii. This meeting was attended by representatives of the Service, the Hawaii State Department of Land and Natural Resources, and three private citizens. No additional information or comments on the proposal were brought forward at the meeting.

Conclusion

After a thorough review and consideration of all available information, the Service has determined that *Panicum carteri* (Carter's panicgrass) is in danger of becoming extinct throughout all of its range due to one or more of the factors described in Section 4(a) of the Act. These factors and their application to the status of this species are discussed below.

A. *Present or threatened destruction, modification, or curtailment of habitat or range*—*Panicum carteri* occurs only on Mokoli'i, or Chinaman's Hat, Island in Honolulu County, Hawaii. This is a part of Kualoa Regional Park. Although the master development plan for the park designates Mokoli'i as a wildlife sanctuary, it will be difficult to control access to the island. The island can be reached by wading during low tide and by small boats at other times. As the development plans are implemented and more people are attracted to the park, it is virtually inevitable that traffic will become heavier on Mokoli'i. The entire population of the species ranges along a foot trail. Although the effect of pedestrian traffic on the species is not known, some deterioration of the environment with a concomitant effect on the species can be anticipated. A report received by the Service (Annabelle Takahashi, letter dated October 8, 1980) indicates that recent unauthorized planting of coconut trees on Mokoli'i may have had a severe impact on the area from which *Ponicum carteri* is known.

B. *Overutilization for commercial, recreational, scientific, or educational purposes*—Does not apply to this species.

C. *Disease or Predation*—None known.

D. *Inadequacy of existing regulatory mechanisms*—Although Mokoli'i is a designated wildlife sanctuary, it is difficult to restrict access to the island.

E. *Other natural or manmade factors affecting continued existence*—The small number of individuals and their limited distribution must be considered a threat to the species' continued existence. A single fire or act of vandalism could severely deplete or destroy the one known population.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Critical Habitat of *Panicum carteri* includes the entire island of Mokoli'i (approximately 4 acres), although presently the plant only occurs in two restricted portions of the island. Because of the small size of Mokoli'i, activities anywhere on the island could be significant to the conservation of this species. As an example, a fire originating virtually anywhere on the island during drought conditions might spread to the area in which the *Panicum* grows. Therefore, the Service believes the entire island to be an area essential to the conservation of the species.

The precise constituent elements of this habitat upon which *Panicum carteri* depends for its continued survival are presently unknown, but may include exposure to strong sunlight; low rainfall; exposure to sea spray; and presence of gravelly, basalt-derived soil. Ability to withstand such relatively harsh conditions may allow *P. carteri* to compete successfully with other plant species within its limited habitat.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any designation of Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act.

Actions that would result in direct adverse effects on the Critical Habitat include setting of fires on the island and trampling of the portion of the island that actually supports the population of *Panicum carteri*. Any action that contributed to increased human visitation of Mokoli'i could be expected to contribute indirectly to such adverse modification.

Because of the lack of Federal involvement in the area of Critical Habitat, no direct consequences are foreseen as a result of such designation. Federal recognition that the island is essential to the conservation of *Panicum carteri*, however, may tend to reinforce the City and County of Honolulu's compatible designation of the area as a wildlife sanctuary.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis for the present designation to serve as a basis for considering the possible exclusion of certain portions of the proposed area from Critical Habitat designation in order to avoid undesirable impacts that such designation might have. On the basis of this analysis, the Service believes designation of Mokoli'i island as Critical Habitat for *Panicum carteri* to be without significant economic or other impacts in the foreseeable future. Designation as Critical Habitat places restrictions only on activities in which there is involvement of a Federal agency, and no such activities are known to be taking place or planned on Mokoli'i. In consideration of this analysis and the conservation needs of *Panicum carteri*, the entire area proposed is determined to be Critical Habitat in the present rule.

Available Conservation Measures

In addition to those discussed above, the effects of the present rule include, but are not necessarily limited to, the following: The Act and implementing regulations published in the 50 CFR 17.61 set forth a series of general prohibitions and exceptions that apply to all Endangered plant species, and are summarized below.

With respect to *Panicum carteri* all prohibitions of section 9(a)(2) of the Act, as implemented by § 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell this species or offer it for sale in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. Taking of Endangered plants is prohibited only when it occurs on land under Federal control and is intended to reduce such plants to possession. The Act and § 17.62 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

Section 7(a) of the Act also requires that Federal agencies carry out programs for the conservation of Endangered and Threatened species and that they ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such species or destroy or adversely modify the Critical Habitat of such species. A procedure is also established whereby particular Federal actions may be exempted from compliance with Section 7(a). Provisions for interagency cooperation in complying with Section 7(a) of the Act are codified at 50 CFR Part 402.

The Service will also review the status of this species to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendices to that Convention or whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rule. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours (7:45–4:15 p.m.). This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102 (2)(C) of the National Environmental Policy Act of 1969 and 40 CFR Parts 1500–1508.

Note.—The Department of the Interior has determined that the present designation of Critical Habitat is not a major rule and does not require the preparation of a regulatory analysis under Executive Order 12291. The Department has also determined, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601), that the rule will not have a significant economic effect on a substantial number of small entities. Due to the nature of the location and the species, no significant effect upon a substantial number of small entities is known, anticipated, or in fact possible. This finding was made as a result of staff discussions and the analysis of data provided by the City and County of Honolulu.

References

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Park Engineering, Inc. 1972. Master Development Plan—Kualoa Regional Park, for the City and County of Honolulu. Department of Parks and Recreation. St. John, H. 1973.

List and Summary of the Flowering Plants in the Hawaiian Islands. Pacific Tropical Botanical Garden, Lawai.

Authors

The primary authors of this rule are Dr. Derral Herbst, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850 (808/546–5615) and Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

PART 17—[AMENDED]

Accordingly, Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended, as set forth below.

1. The authority citation for Part 17 is as follows:

Authority.—Pub. L. 93–205, 87 Stat. 884; Pub. L. 96–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1241; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. Section 17.12 (h) is amended by adding, in alphabetical order by family and genus, the following plant species:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

PLANTS

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Panicum carteri	Carter's panicgrass	U.S.A. (HI)	E		17.96(a)	NA

§ 17.96 [Amended]

3. The Service also amends § 17.96(a) by adding the Critical Habitat of *Panicum carteri* alphabetically by family and genus as follows:

* * * * *

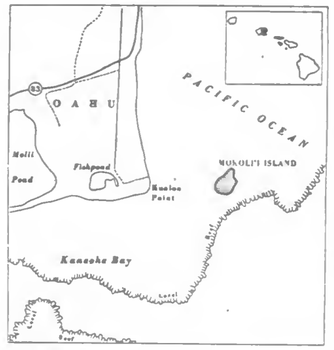
Family Poaceae: Carter's panicgrass (*Panicum carteri*) Hawaii: City and County of Honolulu: Entire island of Mokoli'i (see map).

Probable primary constituent elements include: Exposure to strong sunlight; low rainfall; exposure to sea spray; and presence of gravelly, basalt-derived soil.

* * * * *

CARTER'S PANICGRASS

Honolulu County, HAWAII



Dated: September 28, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-27867 Filed 10-11-83; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Change the Status of the American Alligator in the State of Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is reclassifying the status of the American alligator (*Alligator mississippiensis*) throughout the State of Texas, where the species was classified as Endangered or Threatened, to Threatened due to Similarity of Appearance as provided for by the Endangered Species Act of 1973, as amended. This change is based on evidence that the species is no longer biologically Endangered or Threatened in Texas and has recovered from former low numbers in response to complete protection afforded by effective enforcement of laws and regulations by the State of Texas and the U.S. Fish and Wildlife Service. This action is a formal recognition by the Service of the biological recovery of the alligator in Texas. The State may now institute comprehensive management plans for the alligators on a statewide basis in accordance with Section 4(e) of the Endangered Species Act of 1973, as amended, and with the Service's special rule on Threatened American alligators (50 CFR 17.42(a)).

DATE: This rule becomes effective on November 14, 1983.

ADDRESS: The complete file for this rule is available for inspection during normal business hours by appointment at the Region 2 Office of Endangered Species, U.S. Fish and Wildlife Service, 421 Gold Avenue, SW., P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972).

FOR FURTHER INFORMATION CONTACT: Mr. David Bowman, Region 2, Endangered Species staff (see **ADDRESS** above) or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The population density of the American alligator (*Alligator mississippiensis*) in the United States varies in the Southeast. Its range includes all or parts of the States of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas.

The American alligator was first classified as Endangered throughout its range in 1967 because hunting and poaching had substantially reduced alligator numbers. Subsequently, in response to strict Federal and State protection, the alligator recovered rapidly in many parts of its range. Its recovery then enabled the Service to undertake the following reclassification actions: (1) Reclassification to Threatened due to Similarity of Appearance in three coastal parishes of Louisiana that reflected complete recovery (September 26, 1975—40 FR 44412); (2) reclassification to Threatened that reflected partial recovery in all of Florida and certain coastal areas of Georgia, Louisiana, South Carolina, and Texas (January 10, 1977—42 FR 2071); (3) reclassification to Threatened due to Similarity of Appearance, again reflecting complete recovery, in nine additional parishes of Louisiana (June 25, 1979—44 FR 37132); (4) elimination of the permit requirement for fabricators of alligator products from lawfully taken alligators, so long as the fabricators comply with the laws and regulations of, (a) the State in which the taking occurs, and (b) the State in which the sale occurs (November 25, 1980—45 FR 78153); and (5) reclassification to Threatened due to Similarity of Appearance throughout the State of Louisiana reflecting complete recovery of the species in the State (August 10, 1981—46 FR 40664).

Alligators in Texas have been studied by Crouch (1974), Smith (1975a,b; 1976a,b,c), Potter (1974, 1975, 1981), Dixon and Staton (1976) and Kroll (1976). Summaries of these studies were provided in the Service's proposed rule (47 FR 40196) to reclassify this species in Texas. The data accumulated by these university, State, and private biologists point to increased numbers of alligators in coastal marsh and inland habitats through increased nesting and nesting success. In addition, Service data indicate four National Wildlife Refuges along the Texas coast showed an increase in alligator populations during studies conducted from 1977 to 1979. Alligator populations doubled at Anahuac, Aransas, and Laguna Atascosa Refuges and slightly increased at the Brazoria Wildlife Refuge (Klett, pers. comm., 1981).

Based on a status report on the American alligator in Texas (Potter, 1981), the Texas Parks and Wildlife Department on January 29, 1981, petitioned the Fish and Wildlife Service to review the status of the American alligator in Texas.

Potter (1981) accumulated data on population parameters of Texas alligators by questionnaires, by aerial surveys of alligator nests, by night line-transect counts in marsh and inland waters, and by other means. Whereas Crouch's, Kroll's, and Dixon and Staton's studies were of short duration (1 to 2 years), Potter maintained annual counts of alligators by line-transects, aerial surveys, and survey questionnaires for 7 years (1975–1981). Potter (1981) indicated that the alligator populations in prime Texas habitat have doubled in the past 5 years, based upon a census technique supplied by Taylor (1980). He also noted that the number of nests per square mile in census areas increased from 1.95 in 1976–78, to 4.05 per square mile in 1979–80. Furthermore, recent surveys indicated that nest densities appear to be near maximum and population growth may have reached optimum proportions (Potter, 1981). This is consistent with recent data from Louisiana which indicate that the alligator population structure in Louisiana is stable and is limited by the support capability of the habitat; consequently, no further significant increases in Louisiana alligator numbers can be expected (Taylor, 1980).

The Service has concluded that the best scientific data available indicate that the Texas population of American alligators has recovered and is no longer biologically Endangered or Threatened. Commercial data of a biological nature, which is also utilized in any determination of Threatened or Endangered status, is not available since no legal commerce in alligator products from Texas has occurred since 1973.

However, because of the similarity of appearance of Texas American alligator hides and parts to the appearance of hides and parts of other protected crocodilians, it is necessary to restrict commercial activities involving alligator specimens taken in Texas to ensure the conservation of other alligator populations, as well as other crocodilians that are Threatened or Endangered. Recent amendments to the Texas Parks and Wildlife Code, i.e., addition of Chapter 65, gives the Texas Parks and Wildlife Department authority to regulate the taking, possession, and sale of alligators or any part of an alligator. In addition, Section 4(e) of the Endangered Species Act authorizes the treatment of a species (or subspecies or group of wildlife in common spatial arrangement) as an Endangered or Threatened species even though it is not otherwise biologically threatened with extinction if it is found: (a) That the species so closely resembles in appearance an Endangered or Threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the Endangered or Threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act. Therefore, although the Service believes the American alligator in Texas to be fully recovered biologically, it is being retained on the Federal list in the reclassified status of Threatened due to Similarity of Appearance, and any commercial trade in legally harvested alligators must be in conformance with the Service's special rule for American alligators found at 50 CFR Section 17.42(a).

American alligators in Texas are presently listed as Threatened or Endangered; thus, commercial take of alligators in Texas under any condition is illegal. This has facilitated the recovery and conservation of alligators and other crocodilians. This final rule now permits regulated commercial harvest of alligators in Texas as part of the State's alligator management, in a manner authorized by Texas law and compatible with conservation of Endangered or Threatened populations of alligators and crocodilians and with the Service's special regulations on alligators (50 CFR 17.42(a)).

Summary of Comments and Recommendations

In the September 13, 1982, Federal Register proposed rule (47 FR 40197) and associated notifications and press releases, all interested parties were requested to submit factual reports or information which might contribute to the development of a final rule. A letter was sent to the Governor of Texas notifying him of the proposed rule and soliciting his comments and suggestions. Seventeen comments were received and are discussed below.

Seven individual citizens—six from Texas and one from Oklahoma—expressed support for the proposed reclassification based upon their personal experiences with locally abundant American alligators. A seventh Texas citizen was "oppposed to the issue of hunting alligators in the state (sic) of Texas" and did not express an opinion on the proposed reclassification specifically. Mr. Frank Collazo, Jr., Member of the Texas House of Representatives, expressed the opinion that there is need to manage American alligator populations in the coastal areas of Texas, especially in Jefferson County. Mr. Jerry H. Lacy commented that members of the Koon Kreek Klub of hunters and fishermen in Henderson County believed American alligators to be a nuisance and potential hazard in the club's lakes, and he urged allowing the State of Texas to manage American alligators in Texas. Mr. James Glass, President of the Wildlife Legislative Fund of America (WLFA), stated that the WLFA strongly supported the proposed reclassification because the American alligator had made a strong comeback in Texas and because the State should have authority to manage alligators within its borders. Mr. Howard S. Hoover, President of the Brazos River Club (BRC) stated that the 41 members of the BRC would strongly recommend harvest of alligators, but he did not express an opinion on the proposed reclassification specifically.

The Service received comments expressing opposition to the proposed reclassification from the Defenders of Wildlife, the New York Zoological Society, and from the American Society of Ichthyologists and Herpetologists. All three organizations expressed doubts that biological information presented in the Federal Register proposed rule adequately demonstrates recovery of the American alligator in Texas. Also, the three organizations urged approval of an alligator "management plan" before reclassification of the American alligator to Threatened due to Similarity of Appearance.

The Governor of Texas made the following comments:

> I wish to express my total support for this proposed action as it provides the necessary recognition that the Texas alligator population has recovered suitably and no longer fits the criteria for endangered or threatened classification.
>
> I would emphasize that the State of Texas has specifically recognized the alligator as an important natural resource and has mandated its appropriate management by statute as contained in Chapter 65, Parks and Wildlife Code. Under this authority, the Parks and Wildlife Department is developing a management and research program that will ensure the conservation of the alligator as a renewable resource in Texas.

The Service's response to the comments received on the proposed reclassification of the American alligator in Texas (from Threatened and Endangered to Threatened due to Similarity of Appearance) falls into four general categories.

First, individuals expressed concern about the potentially hazardous nature of locally abundant American alligators and the immediate need, in their opinions, for control of potentially dangerous or nuisance American alligators. The Service believes that the sightings of, and encounters with, alligators by Texans and their pets, livestock, etc. are a consequence of contemporaneously burgeoning human and American alligator populations in Texas. A comprehensive State management plan ought to help resolve these conflicts in the future.

Second, and closely associated with the first category of comments, individuals and organizations expressed the opinion that legal harvest through a hunting or trapping season on American alligators would benefit both people and the American alligator. With publication of this final rule, a regulated harvest of American alligators is again the prerogative of the State of Texas. The Service recognized in the proposed rule that the State would likely initiate a regulated harvest of American alligators as early as the Fall of 1983. The Service believes that such a harvest would be an appropriate management practice consistent with the present status of the American alligator in Texas and would, in fact, help reduce conflicts between

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alligators and humans by allowing the State to implement, if is so chose, expanded nuisance alligator control programs or geographically targeted harvests that focus on areas of chronic conflicts.

Third, comments from three organizations expressed the opinion that a "management plan" should be prepared by the Texas Parks and Wildlife Department before reclassification of the American alligator in Texas occurs. The Endangered Species Act of 1973, as amended, clearly dictates that listing actions, including reclassification, shall be based solely on the biological status of the species being listed or reclassified. However, although a "management plan" is not required for reclassification, a procedure for regulating international commerce in American alligator hides, parts, or products is required under the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) prior to allowing legally taken hides, parts, or products of alligators to be exported. Use of Texas alligator parts and products in foreign commerce, therefore, will not be allowed under CITES requirements until such time as the State develops a tagging and marking program for harvested alligators, which is consistent with the Service's special regulations for American alligators (50 CFR 17.42(a)) and which meets CITES criteria.

The fourth type of comments indicated that the respondents thought there was not sufficient biological data to justify reclassification of the American alligator in Texas. Studies of individual populations of alligators in Texas have documented large increases in those populations (Crouch, 1974; Dixon and Staton, 1976; Kroll, 1976; Potter, 1974, 1975, 1981). The increases in those populations are considered to be representative of the American population in Texas as a whole. Therefore, the Service continues to believe that all biological evidence clearly indicates that the American alligator is neither threatened nor endangered within the borders of the State of Texas.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the American alligator throughout the State of Texas, where the species is now classified as Endangered or Threatened, should be reclassified as Threatened due to Similarity of Appearance. The Service's listing regulations (50 CFR 424.11(d)) state that a species may be removed from the Federal list of Threatened and Endangered species, if the best scientific and commercial data available to the Service substantiate that the species is neither Endangered nor Threatened for one or more of the following reasons:

(1) *Extinction:* Unless each individual of the listed species was previously identified and located, a sufficient period of time must be allowed before delisting to clearly ensure that the species is in fact extinct.

(2) Recovery of the species: The principal goal of the Service is to return listed species to a point at which protection under the Act is no longer required. A species may be delisted if evidence shows that it is no longer Endangered or Threatened.

(3) Original data for classification in error: Subsequent investigations may produce data that show the best scientific or commercial data available at the time the species was listed were in error.

The American alligator in Texas is being removed from Federal listing by virtue of reason (2), recovery of the species. It is, however, being retained as a Threatened Species due to Similarity of Appearance because of the need to regulate commercial activities in products from American alligators from Texas in order to ensure continued law enforcement protection in those areas where the species is still considered as biologically Threatened or Endangered.

Section 4(a)(1) of the Endangered Species Act and implementing regulations (50 CFR 424.11(b)) set forth five factors which shall be used in determining the need for listing, reclassifying or removing a species from the Federal list of Threatened and Endangered species. These factors, and their application to the American alligator in Texas, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The total size of alligator populations in Texas is influenced greatly by the amount of available aquatic or wetland habitats. Examples of these habitats are rivers, bayous, canals, lakes, ponds, marshes, and swamps. The amount of good American alligator wetlands in Texas was conservatively estimated by Potter (1981) from unfinished analysis of satellite photographs to be 1,086,720 acres (439,968 hectares); the total aquatic habitat suitable for American alligators in Texas could be as much as 3.7 million acres (1,497,976 hectares) made up of fresh, intermediate, and brackish waters. Taylor (1980) indicated nonmarsh, permanently flooded habitat in Louisiana with woody and herbaceous cover dominated by bald cypress and tupelo gum apparently produces higher densities of American alligators in many instances than do marshland habitats. This cypress-tupelo habitat type extends into and is common in southeastern Texas (Potter, 1981).

The estimated 9,649 miles of streams in historical American alligator range in Texas support American alligators to the extent permitted by the presence of oxbows and marshlands associated with the streams. Streams without adjacent, permanently inundated cypress-tupelo or marshland habitat areas constitute poor quality habitat and support insignificant numbers of American alligators. A minimum estimate of nonmarsh American alligator habitat in Texas consists of 736,000 acres (297,976 hectares) of all vegetation associations with permanent water levels, and 31,754 shoreline miles of private and public waters in the form of ponds and lakes (Potter, 1981).

Prime coastal American alligator habitat in the Chenier Plain was reduced by 20.0 percent during 1952–1974 (Gosselink *et al.*, 1979). However, permanently flooded cypress-tupelo association and open water acreages are changed slowly by water management practices.

The overall picture of statewide habitat is good, because much of the prime habitat is under State and Federal control and because water storage activities are increasing habitat availability (Potter, 1981). Therefore, habitat alteration and loss pose no serious threat to American alligator populations in Texas within the foreseeable future.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The commercial demand for products from American alligators, including hides, teeth, and meat, is high. This demand, and the harvest generated by the demand, were responsible for a decline in American alligators throughout their range in the 1950's and 1960's (with some exceptions, such as on sanctuaries and wildlife refuges). This decline was reversed by the following actions: (1) The State of Texas closed American alligator harvest seasons in 1969; (2) The Lacey Act was amended in 1969 to include control of interstate commerce in reptiles; (3) The Endangered Species Act was passed in 1973; (4) State and Federal authorities vigorously enforced these protective measures.

Taylor (1980) and Potter (1981) provide convincing evidence that under strict protection, the reproductive cabability of the species provides for rapid recovery.

Experience in Louisiana clearly documented the impact of controlled harvest on American alligators. A comparison between size-class frequencies found in nonmarsh night counts and hide measurements from harvested areas shows no statistical difference in population structure. Furthermore, a comparison of population structure from a series of time specific views (1975–80), shows no trend towards shrinkage or increase of adult/subadult size-class ratios, either of which would be indicative of populations moving away from stability. Since American alligator population in Texas is adjacent to that of Louisiana (very similar ecological parameters exist in the adjacent areas), much of the information from Texas (Potter, 1981) and from Louisiana (Chabreck, 1980; Taylor, 1980) applies equally to the populations of American alligators in both States. These data indicate American alligators are not being detrimentally affected by legal harvests in Louisiana marshlands. Some illegal taking undoubtedly continues to occur, but the State's and Service's law enforcement efforts have reduced this to insignificant levels. The inaccessibility of nonmarsh habitats further helps to protect the species in these areas (Kroll, 1976; Crouch, 1974; Potter, 1981).

C. *Disease or predation.* American alligators suffer various types of disease and predation, but these factors are not excessive and are not known to have hindered American alligator recovery.

D. *The inadequacy of existing regulatory mechanisms.* The following State and Federal laws and regulations adequately protect the American alligator in Texas: (a) Chapter 65 of the Texas Parks and Wildlife Code regulates harvest, possession, and sale of American alligators; (b) the 1969 amendment to the Lacey Act extends Federal law enforcement authority to include interstate movement of reptiles; (c) special rules promulgated by the Service for Threatened (due to Similarity of Appearance) American alligators govern commerce in alligator products; (d) the annual findings of the Scientific and Management Authorities of the Service govern the export of species, including American alligator, listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The success of efforts by State and Federal agencies to stop illegal activity involving American alligators is evidenced by the recovery of American alligator populations throughout the State of Texas.

E. *Other natural or manmade factors affecting its continued existence.* Although other factors occasionally may have an effect on some American alligators, e.g., freezes and flooding of nests, none of these factors are known to have limited recovery of the American alligator in Texas nor are they expected to become threatening factors in the future.

Effects of this Final Rule

This rule will change the status of the American alligator in Texas from Endangered or Threatened to a statewide status of Threatended due to Similarity of Appearance. The rule formally recognizes the biological recovery of the American alligator in Texas. This rule removes Federal agency responsibilities under Section 7 of the Endangered Species Act. Responsibility and authority for management and protection of the American alligator will revert to the State of Texas under recently enacted State statutes. No adverse effects to the status of this species are expected to occur as a result of this rule.

This rule gives the State an option to allow American alligator harvests in specified counties. The economic value of the American alligator resource under a sustained yield scheme may result in significant economic benefits to Texas trappers and others participating in the commercial process. The value of American alligators also may help reduce indiscriminate, illegal killing of American alligators. Harvests would be expected to increase the workloads of the personnel of Texas Parks and Wildlife Department, the Texas Department of Health, and the Service's Division of Law Enforcement. Conversely, the harvests would be expected to reduce the number of nuisance American alligator complaints which are increasing rapidly (Bill Brownlee, Texas Parks and Wildlife, pers. comm.) and result in a corresponding reduction in manpower commitments devoted to handling nuisance alligators. Local governments involved in catching and removing nuisance alligators would receive some relief if the number of larger, more dangerous alligators were reduced in areas with human-alligator conflicts.

Harvest of American alligators in Texas would create the potential for an increased volume of American alligator exports. The Service has previously expressed its concern about the effects of increased exports on Endangered crocodilians that occur in international trade. A determination by the Service (October 21, 1980–45 FR 69644) on this subject concluded that the export of American alligators taken during the 1980–81 season in Florida and the 1980 season in Louisiana was not detrimental to the survival of the American alligator or other Endangered crocodilians. The service will continue to review this possible impact and will take appropriate action, if evidence indicates that restrictions are warranted. International trade in American alligator products is presently allowed under the provisions of CITES, with certain restrictions in the form of licensing and permit requirements for buyers and tanners. Reclassification of the American alligator in Texas would not automatically allow use of hides, parts, and products from American alligators harvested there in international commerce. Once the State of Texas develops a "management plan" that spells out procedures for a controlled harvest that meets CITES criteria and is consistent with the Service's special regulations for American alligators, the export of American alligator parts and products will be allowed.

This action will not be an irreversible commitment on the part of the Service. The action is reversible and relisting would be possible should changes occur in management, habitat, or other factors which result in new threats to the species' recovery or recovery of crocodilians.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file in the Service's Regional Office of Endangered Species, 421 Gold S.W., Albuquerque, New Mexico, and may be examined by appointment during regular business hours. A determination has been made that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented 40 CFR Parts 1500–1508).

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Author

The principal author of this rule is David Bowman, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, (505/766–3972), with technical collaboration by Dr. James Dixon, Texas A&M University, College Station, Texas 77840.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, fish, marine mammals, plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.)*

§ 17.11 [Amended]

2. Amend § 17.11(h) by revising the entries for the American alligator, under "Reptiles," to read as follows:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Reptiles:							
Alligator, American	*Alligator mississippiensis*	Southeastern U.S.A.	Wherever found in wild except those areas where listed as threatened as set forth below.	E	1, 11, 51, 60, 111.	NA	NA.
Do.	do.	do.	U.S.A. (FL and certain areas of GA, SC).	T	20, 47, 51, 60, 111.	NA	17.42(a).
Do.	do.	do.	U.S.A. (LA, TX)	T (S/A)	11, 47, 51, 60, 111.	NA	17.42(a).
Do.	do.	do.	In captivity wherever found	T (S/A)	11, 47, 51, 111	NA	17.42(a).

§ 17.42 [Amended]

3. Paragraph (a)(1) of 17.42 is revised to read as follows:

* * * * *

(a) American alligator *(Alligator mississippiensis).*

(1) Definitions. For the purpose of this paragraph (a): "American alligator" shall mean any member of the species *Alligator mississippiensis*, whether alive or dead, and any part, product, egg, or offspring thereof occurring: (i) in captivity wherever found; (ii) in the wild wherever the species is listed under § 17.11 as Threatened by Similarity of Appearance (T[S/A]); or (iii) in the wild in Florida and in the coastal areas of Georgia and South Carolina, contained within the following boundaries: From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with South Carolina State Highway 63 south of Walterboro, South Carolina; thence west on State Highway 63 to junction with U.S. Interstate Highway 95; thence south on U.S. Interstate Highway 95 (including incomplete portions) across the South Carolina-Georgia border to junction with U.S. Highway 82 in Liberty County, Georgia; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico.

"Buyer" shall mean a person engaged in buying a raw, green, salted, crusted or otherwise untanned hide of an American alligator.

"Tanner" shall mean a person engaged in processing a raw, green, salted, or crusted hide of an American alligator into leather.

* * * * *

Dated: September 28, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–27666 Filed 10–11–83; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Removal of the Santa Barbara Song Sparrow From the List of Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Santa Barbara Song Sparrow (*Melospiza melodia graminea*) is removed from the List of Endangered and Threatened Wildlife because of extinction.

EFFECTIVE DATE: This rule is effective on November 14, 1983.

ADDRESS: Comments and data may be mailed to the Regional Director, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 Northeast Multnomah Street, Portland, Oregon 97232 (503/231–6131).

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, Endangered Species Specialist, Regional Office, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 Northeast Multnomah Street, Portland, Oregon 97232 (503/231–6131).

SUPPLEMENTARY INFORMATION:

Background

In the August 9, 1982, **Federal Register** (47 FR 34436) the Santa Barbara Song Sparrow (*Melospiza melodia graminea*) was proposed for delisting under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). This subspecies of the song sparrow was known only from 2.6 km^2 (640 acres) Santa Barbara Island, Los Angeles County, California. This island is part of the Channel Islands National Monument. Since a 1959 fire which devastated most of the island, no Santa Barbara song sparrows have been observed. For the past decade regular visits have been made by qualified ornithologists as well as National Park Service naturalists (some of the latter have been living on the island for much of the past 5 years). The sparrows were a conspicuous part of the avifauna, when present.

A single, negative comment to the proposal was received from one individual. The person objected on the grounds that insufficient data were on hand to make the determination that the sparrow was extinct. Other questions were raised concerning the motives behind the proposal and whether the surveys were made by independent and qualified observers.

As indicated in the proposal, many efforts to find the bird on this tiny island have failed for the past 20 years. There is no benefit to the Service or any other agency in retaining this species on the Endangered species list.

The surveys were conducted by various professional ornithologists, some of whom were under contract with the Service. These contracts were to have surveys made of the endemic avifauna and were done as contracts because no Service field ornithologist was available for the lengthy surveys. The State of California and the National Park Service agree that the Santa Barbara song sparrow is extinct.

The Service, based upon all available information from Santa Barbara Island, concludes that this bird is extinct.

The regulations at 50 CFR 424.11(d) state that a species may be delisted if it: (1) Becomes extinct, (2) recovers, or (3) if the original classification data were in error. A "sufficient period of time" must be allowed to clearly insure that a species has become extinct. The Service believes that 20 years of field observations looking for this conspicuous species on a small island is clearly sufficient to pronounce it extinct.

Effects of the Rule

The Santa Barbara song sparrow was classified as Endangered on June 4, 1973 (38 FR 14678). No Critical Habitat was designated. This action will merely acknowledge the species' extinction and remove it from protection under the Endangered Species Act of 1973, as amended. As there were no specific preservation or management programs in effect, there will be no impact on any agency or individuals.

National Environmental Policy Act

A Finding of No Significant Impact has been made based upon a Final Environmental Assessment prepared in conjunction with this rule. The assessment is on file in the Service's Regional Office (see Address above). This determination concluded that this is not a major Federal action which would affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 and implemented at 40 CFR Parts 1500–1508.

Author

The author of this rule is Jay M. Sheppard, Staff Ornithologist, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 703 (235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, and Plant/agriculture.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, the Service amends Part 17 of Title 50 of the Code of Federal Regulations as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

§ 17.11 [Amended]

2. The entry for "Sparrow, Santa Barbara . . ." under BIRDS at 50 CFR 17.11(h) is removed in its entirety.

Dated: September 28, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–27666 Filed 10–11–83; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status and Designation of Critical Habitat for the Kentucky Cave Shrimp

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Kentucky cave shrimp (*Palaemonias ganteri* Hay) to be an Endangered species and designates its Critical Habitat. This action is being taken because the only known population of this species occurs in Mammoth Cave National Park, where it faces the threat of contamination of the ground water supply to its habitat. Inadequate sewage treatment facilities in nearby communities and possible spills of toxic substances along local highways are the basis of this threat.

DATE: This rule becomes effective November 14, 1983.

ADDRESS: Questions concerning this action may be addressed to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Kentucky cave shrimp (*Palaemonias ganteri* Hay) is a crustacean of the family Atyidae. This species has been found only in the Flint-Mammoth Cave System within Mammoth Cave National Park in Kentucky. Its reduced eyes and lack of pigmentation indicate that the species has had a long history of subterranean existence. The Kentucky cave shrimp is one of only two known species of the genus *Palaemonias* and is one of only three existing species of its family found in North America north of Mexico.

On April 28, 1975, the Service published in the **Federal Register** (40 FR 18476–18477) a notice that it was reviewing the status of 57 species of freshwater crustaceans, including the

VOL 48 ISS 198 OCT 12 1983 UMI

Kentucky cave shrimp. The Kentucky cave shrimp was proposed to be listed as a Threatened species on January 12, 1977 (42 FR 2507). That proposal was withdrawn on December 10, 1979 (44 FR 70796) under a provision of the 1978 Amendments to the Endangered Species Act of 1973 that required withdrawal of all pending proposals that were not made final within 2 years of proposal or within 1 year after passage of the Amendments, whichever period was longer.

On March 28, 1980, the Service published a notice (45 FR 20502) announcing the acceptance of a petition submitted by Dr. Raymond W. Bouchard to list the Kentucky cave shrimp as an Endangered or Threatened species. By this action, the Service determined that the petition contained sufficient new evidence to repropose listing this species as Endangered or Threatened. The 1980 notice also solicited comments from interested persons having knowledge of this species, threats to the species, or possible impacts of listing. The Service proposed Endangered status and Critical Habitat for the Kentucky cave shrimp on October 17, 1980 (45 FR 68975) and a public meeting on the proposal was held on December 10, 1980, in Bowling Green, Kentucky. The National Park Service then proposed to undertake a study of the status, distribution, and life history of the Kentucky cave shrimp. The Service delayed final action on the listing proposal to allow time for the National Park Service study because the study could have provided information that would modify the final rule listing the shrimp and determining its Critical Habitat. The National Park Service selected Dr. John R. Holsinger and Mr. Arthur T. Leitheuser of Old Dominion University, Norfolk, Virginia, to carry out this study. These researchers have determined that the Kentucky cave shrimp inhabits streams in base (the lowest) level passages of the Flint-Mammoth Cave System within Mammoth Cave National Park (Holsinger and Leitheuser, 1982, 1983). They estimated the total population size for the species to be about 500 individuals. They have also presented evidence that individuals breed year-round and can reproduce outside of the quiet pool habitat where reproduction had been observed during earlier studies (Barr and Kuehne, 1971).

Holsinger and Leitheuser have discovered shrimp in areas outside of the proposed Critical Habitat of the Roaring River passage. These areas include Mystic River, Echo River, Styx River, Lake Lethe, Colossal River, and the Golden Triangle. All of these areas are within the cave systems of Mammoth Cave National Park. These additional areas are not being included in the present designation of Critical Habitat because there has not been sufficient opportunity for public comment on such an inclusion. These areas may be included in future proposals to revise Critical Habitat for the Kentucky cave shrimp. Although these additional areas are not being determined as Critical Habitat at this time, the present listing of the Kentucky cave shrimp as Endangered provides protection for all individuals of this species, whether or not they are within the designated Critical Habitat.

On July 23, 1983, Mr. Arthur Leitheuser entered Blue Spring in Hart County, Kentucky, and sighted two crustaceans that he presumed to be Kentucky cave shrimp. This habitat is located in an oil field where wells are still occasionally drilled. The Service is withholding recognition of this population as belonging to the same species as the Kentucky cave shrimp until individuals are collected and their taxonomic status can be determined. If this population is identified as consisting of Kentucky cave shrimp, it will receive protection as an Endangered species along with all other populations of this species as a result of the present rule.

The Service had been considering the designation of the Kentucky cave shrimp as a Threatened species rather than Endangered, as proposed, based on Mr. Leitheuser's evaluation that the species' population was stable. Since that time, Holsinger and Leitheuser have determined that cave faunas in the Mammoth Cave area have significantly declined over the last 10 years as a result of ground water pollution.

A public hearing on the proposal to list and designate Critical Habitat for the Kentucky cave shrimp was held at Mammoth Cave National Park, Kentucky, on June 28, 1983.

Summary of Comments and Recommendations

The testimony presented at the public meeting and the public hearing and all written comments received by August 22, 1983, are part of the public record and have been carefully considered in the drafting of this final rule. These written and oral comments are summarized in this section of the rule.

Representative William H. Natcher expressed concern that the listing of the Kentucky cave shrimp under the Act was for the purpose of removing Lock and Dam 6 on the Green River. Concerns about the possibility that listing of the shrimp would result in the removal of Lock and Dam 6 and the economic impacts that this removal would entail were expressed in comments by the Joint City-County Planning Commission of Barren County, the Barren Fiscal Court, the City of Cave City, the Barren River Area Development District, and Greem River Boat Concession, Inc. The Office of the Chief of Engineers, Department of the Army, commented that the flooding impacts of Lock and Dam 6 on Mammoth Cave may be minimal. Comments that described the threat of Lock and Dam 6 to the shrimp were submitted by the National Speleological Society, the National Parks and Conservation Association, the Cave Research Foundation, and four individuals. One additonal individual commented that listing the shrimp and the status of Lock and Dam 6 should be regarded as separate issues, with each evaluated on its own merits. The Service responds that the listing of the shrimp is based on the best available scientific information on the status of the species. Although Lock Dam 6 probably eliminated some pool habitat of the shrimp when it was built in 1906, the coexistence of that structure and the shrimp from that time until now indicates that Lock and Dam 6 is not likely to jeopardize the continued existence of the species. Listing of the shrimp is therefore not likely to affect the operation of Lock and Dam 6. Moreover, the Service's determination of Endangered or Threatened status for a particular species must focus *solely* on the five criteria listed in section 4(a)(1) of the Act and the biological data relevant to those criteria; economic impacts are relevant to the designation of Critical Habitat, but not to the listing determination.

The Office of the Chief of Engineers commented that releases from reservoirs do not have a significant effect on the shrimp. The Barren River Area Development District commented that the listing of the shrimp may require regulation of discharges from these reservoirs. The National Speleological Society, the Cave Research Foundation, the Kentucky Nature Preserves Commission, and 13 individuals commented that unseasonal flooding from reservoir releases is a threat to the shrimp. If future study should establish that these releases may affect the shrimp, the U.S. Army Corps of Engineers would be required to consult with the Service under section 7(a)(2) of the Act on their release schedules.

Concerns that the listing of the shrimp would interfere with the development of sewage treatment facilities were expressed in comments from the Joint City-County Planning Commission of Barren County, the City of Park City, the City of Cave City, and the Barren River Area Development District. The inadequacy or lack of sewage treatment facilities was cited as a threat to the shrimp in comments by the National Speleological Society, the National Parks and Conservation Association, the Kentucky Nature Preserves Commission, and 16 individuals. The U.S. Environmental Protection Agency (EPA) commented that development of sewage treatment facilities is consistent with protection of the shrimp under the Act. EPA also noted that the proposal of protective status for the shrimp was not anticipated to cause delays in the completion of the Environmental Impact Statement on wastewater facilities in the Mammoth Cave area. The Service agrees with EPA's comments and notes that although communities cannot be forced to develop treatment facilities under present laws or regulations, any development of such facilities would be viewed as favorable to the conservation of the shrimp.

The Kentucky Nature Preserves Commission supported the listing of the shrimp based on its limited range and abundance. Additional comments in support of listing were submitted by Kentucky Department of Fish and Wildlife Resources, the National Parks and Conservation Association, the National Speleological Society, the Cave Research Foundation, the Nashville Grotto of the National Speleological Society, the Environmental Council of Volusia County, and 23 individuals.

Comments stating that the available scientific data were not sufficient for listing were received from the Joint City-County Planning Commission of Barren County, the Barren Fiscal Court, the Hart County Fiscal Court, the Edmonson County Fiscal Court, the Hart County Planning Commission, the City of Park City, the City of Cave City, the Munfordville Chamber of Commerce, the Mammoth Cave National Park Association, the Horse Cave Chamber of Commerce, the Barren River Area Development District, the Hart County Bank and Trust Company, and four individuals. The Service responds that the intensive 2-year study of the Kentucky cave shrimp makes it one of the world's best known cave animals. Its very small population size, of about 500 individuals, and limited habitat make it vulnerable to extinction. These factors and the existence of threats of population of ground water supplying its habitat justify its designation as Endangered under the Act.

Comments from the Joint City-County Planning Commission of Barren County and the Barren River Area Development District stated that a decline in the population size of the shrimp had not been demonstrated. Green River Boat Concession, Inc. questioned whether the shrimp was extinct in a comment dated November 18, 1980. Following the collection of live shrimp a few days later, Green River Boat Concession, Inc. stated in a comment dated December 6, 1980, that no proof existed that the shrimp were near extinction. A discussion and comparison of present and past population sizes may be found in the "Factors Affecting the Species" section of this rule. The Service notes that species may qualify for listing in the absence of a demonstrated decline in population size if, as in the case of the shrimp, threats exist to the survival of the species.

The City of Cave City and City of Park City commented that the shrimp is more widespread than previously known and that other, unknown populations of the shrimp may exist. The Service responds that, although the National Park Service study has resulted in the discovery of some previously unknown habitat, the known range of the species is still very small. Repeated searches of numerous additional caves have located only one possible additional population. The Service notes that any additional populations that may exist would likely face the same threats as the known populations, and therefore any new discoveries would be unlikely to change the classification of the species under the Act.

The Joint City-County Planning Commission of Barren County and the City of Park City commented that the shrimp are more numerous now than in previous years. The Service responds that the sightings of more shrimp since the National Park Service study began is the result of more intensive searches and increased knowledge of their habitat. No increase in estimated population size has been noted during this period.

Comments opposing the listing on the basis of its economic effects were submitted by the Hart County Fiscal Court, the Joint City-County Planning Commission of Barren County, the Hart County Planning Commission, the Edmonson County Water District, the Barren River Area Development District, Green River Boat Concessions, Inc., the Munfordville Chamber of Commerce, and one individual. The Service responds that decisions on listing must be based on the best available scientific and commercial information on the species and not on economic considerations. Economic impacts must, however, be considered when designating Critical Habitat. The Service, however, has gathered and examined extensive data on the possible economic impacts of designating the shrimp's Critical Habitat and has found no such economic impacts.

Comments stating that the shrimp was sufficiently protected by the National Park Service were received from the hart County Fiscal Court, the Edmonson County Fiscal Court, the City of Park City, the Mammoth Cave National Park Association, the Barren River Area Development District, the Horse Cave Chamber of Commerce, and three individuals. The Service agrees that the National Park Service adequately protects this species from taking. The Service notes, however, that taking is not a major threat to this species and that the major threats to this species originate outside the park and beyond National Park Service control.

The Barren River Area Development District commented that the Service did not allow adequate time for the preparation of comments before and after the June 28, 1983, public hearing. The Service responds that the amount of advance notice of the hearing and the associated comment period exceeded those required by the Act and its implementing regulations. Ample opportunity for public participation was provided in this proceeding.

Comments opposing the listing and citing its negative impact on tourism and recreational use of Mammoth Cave National Park were received from the Edmonson County Water District, Green River Boat Concession, Inc., and one individual. The Service responds that listing the shrimp will have no effect on these activities. The shrimp's habitat is almost entirely in areas that are not used for regular public tours. A boat trip on Echo River is in an area occupied by shrimp, but the Service does not consider that activity harmful to the shrimp.

Green River Boat Concession, Inc. and 12 individuals commented that salt brine was introduced into the Green River in the early 1960's by oil drilling and that this pollution caused the decline in the shrimp population. The Service agrees that this could have had an adverse effect on the shrimp.

Hart County Bank and Trust Company commented that the public hearing on the listing was held "in an almost secretive fashion." The Service responds that the hearing was announced in advance in the Federal Register, announcements were placed in local

VOL 48 ISS 198 OCT 12 1983 UMI

newspapers, a press release was issued, and the then-upcoming hearing was covered in news reports in the local media.

In their early comments on the proposal, the Cave Research Foundation, the National Parks and Conservation Association, and the National Speleological Society suggested that areas other than the originally proposed Roaring River passage be considered for inclusion in the Critical Habitat. The Service responds that there has not been sufficient opportunity for public comment on additional areas to include them in the Critical Habitat at this time. These areas may be included in future proposed revisions of Critical Habitat.

Two individuals commented on known incidents of pollution in caves in the Mammoth Cave area on how these incidents demonstrate the vulnerability of these cave habitats. The Service agrees with these individuals on the significance of these events.

One individual commented in favor of listing the shrimp on the basis that its rarity makes it prone to extinction.

One individual submitted life history data collected prior to 1967 on shrimp in cave pools.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.)* and regulations promulgated to implement listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 Amendments) set forth the procedures for adding species to the Federal list. A species may be determined to be an Endangered or a Threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to the Kentucky cave shrimp (*Palaemonias ganteri)* are as follows.

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The entire known population consists of about 500 individuals in streams in base level cave passages within Mammoth Cave National Park. Holsinger and Leitheuser have searched 95 other localities in 37 caves and found only one possible additional population at Blue Spring in Hart County, Kentucky. Much of the habitat is newly discovered as shrimp habitat and therefore no long-term estimates of abundance are available for these areas. For other localities, comparisons of historical collections with the recent population estimates of Holsinger and Leitheuser provide the only possible indications of population trends. Fage (1931) reported collecting 25 shrimp from Styx River in 1928. The current estimated population size for Styx River is four individuals. Populations were intermittently studied and collections made of shrimp in the "shrimp pools" of the Roaring River passage from the discovery of the shrimp in 1901 until 1967. Only one shrimp has been seen in these pools during recent studies.

The Kentucky cave shrimp is threatened by contamination of the ground water flow to its habitat. Several nearby communities either have inadequate sewage treatment facilities or lack such facilities altogether (Environmental Protection Agency, 1981). The resuting contaminated ground water can enter the cave systems of Mammoth Cave National Park (Quinlan and Ewers, 1981). An additional potential threat is the entry into the ground water of contaminants from traffic accidents and roadside businesses. One incident in 1979 caused the death of aquatic cave organisms in a cave system that is connected to the Flint-Mammoth Cave System. In a 1980 incident, a truck carring toxic cyanide salts overturned on Interstate Highway 65, just south of Mammoth Cave National Park.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable to this species.

C. *Disease or predation.* Not applicable to this species.

D. *The inadequacy of existing regulatory mechanisms.* National Park Sevice regulations are adequate to protect this species from taking. The threats to its habitat are from sources outside of the park over which the National Park Service has no control

The Commonwealth of Kentucky's Kentucky Nature Preserves Commission has determined this species to be Endangered in Kentucky. That designation, however, carries no legal protection.

E. *Other natural or manmade factors affecting its continued existence.* The very small estimated population size (500 individuals) of this species makes it especially vulnerable to extinction.

Critical Habitat

Critical Habitat as defined by section 3 of the Act and 50 CFR Part 424 means: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Act requires that, at the time of listing, Critical Habitat be determined to the maximum extent prudent and determinable. Critical Habitat is being designated for the Kentucky cave shrimp to include the Roaring River passage of Mammoth Cave National Park. As described in the background section of this rule, additional areas known to contain shrimp populations may be included in future proposals to revise this species' Critical Habitat. The total designated Critical Habitat amounts to about 1 mile of cave passages.

The Critical Habitat consists of a stream in a base level cave passage. This stream is characterized by abundant quantities of organic matter and sediments of coarse silt and very coarse to very fine sand.

The activities that adversely affect Critical Habitat were described above under "Summary of Factors Affecting the Species."

The Service has examined all known ongoing or planned Federal activities that might affect this Critical Habitat and finds that none of these will be affected by this Critical Habitat designation. These activities are identified and discussed under "Summary of Comments and Recommendations."

Available Conservation Measures

Conservation measures provided to species listed as Endangered or Threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by other Federal, State, and private agencies, groups, and individuals. The Endangered Species Act requires that recovery actions be carried out for all listed species and these are initiated by the Service following listing. The protection required by Federal agencies and other prohibitions are discussed in detail below.

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species. When a species is listed, section 7 requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize its continued existence or to adversely modify its Critical Habitat. If an adverse effect is expected the Federal agency must enter into consultation with the Service. The Service has examined all known or planned Federal activities that might affect Critical Habitat of the Kentucky cave shrimp and finds that none of these will be affected by this Critical Habitat designation.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all Endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce a listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this final rule. Based on this Environmental Assessment, a determination has been made that this is not a major Federal action that would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

The Critical Habitat designation in this rule entails no recordkeeping requirements as defined by the Paperwork Reduction Act and will not have a significant economic effect on a substantial number of small entities as defined by the Regulatory Flexibility Act. This Critical Habitat is not a major rule under Executive Order 12291.

Author

The primary author of this rule is Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

References

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Quinlan, J.F., and R.O. Ewers. 1981. Hydrogeology of the Mammoth Cave Region, Kentucky. pp. 457–495. *In:* T.G. Roberts (ed.). GSA Cincinnati 1981 Field Trip Guidebooks. American Geological Institute, Washington, D.C. VOL. III.

List of Subjects in 50 CFR Part 17

Endangered and Threatened Wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below.

1. The authority citation for part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Section 17.11(h), Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended by adding the following entry alphabetically to the table under the heading "Crustaceans" as set forth below.

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
Shrimp, Kentucky cave.	*Palaemonias ganteri.*	U.S.A. (KY)	NA	E		17.95(h)	NA
*	*	*	*	*	*	*	*

3. It is further determined that § 17.95(h), Crustaceans, be amended by adding the Critical Habitat of the Kentucky cave shrimp as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(h) * * *

Kentucky Cave Shrimp (*Palaemonias ganteri)*

Kentucky, Edmonson County: The Roaring River passage of the Flint-Mammoth Cave System in Mammoth Cave National Park.



Known constituent elements include a stream in a base level cave passage with abundant organic material and sediments consisting of coarse silt and very coarse to very fine sand.

* * * * *

Dated: September 26, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-27669 Filed 10-11-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 30627-118]

Western Pacific Spiny Lobster Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce (Secretary) issued an emergency interim rule on July 11, 1983 (48 FR 31655) to change the specification of the required entryway openings for lobster traps. The intent of the rule is to allow a wider range of lobster trap designs in the spiny lobster fishery in the Northwestern Hawaiian Islands while still affording protection for the Hawaiian monk seal. This notice extends the effective date for that emergency interim rule to January 9, 1984, so that the Secretary may review and make effective an amendment of this fishery's management plan that would implement on a permanent basis the management measures of that emergency interim rule.

EFFECTIVE DATE: From October 11, 1983, until January 9, 1984.

FOR FURTHER INFORMATION CONTACT: James J. Morgan (National Marine Fisheries Service) 213-548-2518.

SUPPLEMENTARY INFORMATION: On July 11, 1983, an emergency interim rule to change the specification of the required entryway for lobster traps was published in the **Federal Register** (48 FR 31655). The rule is effective for 90 days, from July 6, 1983, to October 11, 1983. The action was the result of a unanimous vote of the Western Pacific Fishery Management Council (Council) and was nondiscretionary under section 305(e)(2)(A) of the Magnuson Fishery Conservation and Management Act (Management Act).

The Council has submitted Amendment 2 to the FMP which will implement on a permanent basis the management measures of that emergency interim rule. The notice of availability of the amendment was published in the **Federal Register** on September 26, 1983 (48 FR 43700).

The period required for public review and implementation of the amendment will extend beyond October 11, 1983; therefore, the emergency rule is extended for an additional 90 days, from October 11, 1983, to January 9, 1984, under the authority of section 305(e)(3)(B) of the Magnuson Act.

Other Matters

The Administrator of NOAA has concluded that an emergency continues to exist and the determinations set out in 48 FR 31655 under Executive Order 12291 and other applicable law apply to this extension of the emergency rule. For these reasons, the emergency provisions of section 8(a)(1) of Executive Order 12291 apply to this extension of the effective dates for the emergency interim regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting requirements.

Dated: October 6, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-27729 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 198
Wednesday, October 12, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1131

[Docket No. AO-271-A24]

Milk in the Central Arizona Marketing Area; Decision on Proposed Amendments To Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision provides for a reduction in the pooling standard for a cooperative association's manufacturing plant and the adoption of provisions that would not pool milk received at pool plants from dairy farmers who are primarily associated with nonfederally regulated markets. Payments from pool proceeds would be made to producers who are primarily associated with this marketing area if a pool plant operator refuses to accept their milk and such milk is marketed by the dairy farmer directly to nonpool plants and is used for manufacturing purposes. The changes, which are based on industry proposals considered at a public hearing in November 1982, are necessary to reflect current marketing conditions and to assure orderly marketing in the Central Arizona marketing area.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued October 20, 1982; published October 25, 1982 (47 FR 47259).

Notice of Suspension: Issued April 27, 1983; published May 2, 1983 (48 FR 19699).

Recommended Decision: Issued June 28, 1983; published July 5, 1983 (48 FR 30641).

Notice of Suspension: Issued July 21, 1983; published July 26, 1983 (48 FR 33849).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Central Arizona marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Phoenix, Arizona, on November 9-10, 1982. Notice of such hearing was issued on October 20, 1982 (47 FR 47259).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. Most parties subject to a milk order are considered to be a small business. No participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses as a group.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that the amendments adopted herein, which are based on the hearing record, will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers in the manner set forth later in this decision.

In their exceptions to the recommended decision, Jerome and Peggy La Salvia, who are nonmember producers stated that the procedure followed by the United States Department of Agriculture in considering the proposed amendments to the order failed to comply with the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* In particular, exceptors claimed that the Department failed to publish an initial Regulatory Flexibility Analysis which they believe is required by 5 U.S.C. 603.

The initial Regulatory Flexibility Analysis that is specified in 5 U.S.C. 603 is not required in this instance. The Regulatory Flexibility Act, in 5 U.S.C. 605(b), provides as follows:

> Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the **Federal Register**, at the time of publication of general notice of proposed rule-making for the rule or at the time of the publication of the final rule, along with a succinct statement explaining the reasons for such certification, and provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.

Exceptors allege also that Mr. Manley's certification that "this action will not have a significant economic impact on a substantial number of small entities" is incorrect. It is exceptors' opinion that there are a substantial number of small entities which will be economically affected if the proposed amendments are adopted.

The Department concurs with exceptors' conclusion that the proposed amendments would have an economic effect upon a substantial number of small entities (dairy farmers supplying the Central Arizona market and operators of processing plants). However, it is the Department's position that the economic effect upon the individual dairy farmers or processors would not be significant. Furthermore, the recommended decision is an economic analysis of the proposed amendments and takes into consideration the impact of such changes in regulation upon the dairy industry, including to the extent that the record permits the impact on small businesses. For the reasons previously set forth, exceptors' request that the recommended decision not be adopted until a "regulatory flexibility analysis" has been completed is denied.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Marketing Program Operations, on June 28, 1983, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exception thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

Index of Changes

(a) In Issue No. 1, "Pool plant requirements for a plant operated by a cooperative association," eleven paragraphs have been added at the end.

(b) In Issue No. 2, "A 'dairy farmer for other markets' provision," two paragraphs have been added at the end.

(c) In Issue No. 3, "Provisions providing for an 'associated producer'," three paragraphs are added at the end.

The material issues on the record of the hearing relate to:

1. Pool plant requirements for a manufacturing plant operated by a cooperative association;
2. A "dairy farmer for other markets" provision;
3. Provisions providing for an "associated producer"; and
4. The level of the Class I differential.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant requirements for a plant operated by a cooperative association.* The pool plant definition should be modified to reduce the pooling standard for a milk manufacturing plant located in the marketing area that is operated by a cooperative association. Such plant should be a pool plant if 50 percent or more of the member producer milk of the cooperative association operating the plant is received at pool plants to other handlers during the current month or the previous 12-month period ending with the current month. The order presently provides for the pooling of such a plant on the basis of 65 percent or more of the member producer milk of the cooperative association being received at pool plants of other handlers.

The United Dairymen of Arizona (UDA), a cooperative association that markets in excess of 80 percent of the producer milk under the Central Arizona order, proposed the lower pooling standard that is adopted herein. The cooperative operates a manufacturing plant that is pooled under the order on the basis of the cooperative's total performance in supplying the fluid milk needs of distributing plants.

The cooperative's witness testified that a lower pooling standard is necessary because of a slow-down in the rate of increase in Class I sales and an increase in milk production. Also, a lower pooling standard is needed to accommodate the market's need for a higher level of reserve to accommodate seasonal variations in production and extreme variation in daily and weekly fluid milk requirements of distributing plants. The witness further testified that, in the absence of amendatory action, the cooperative association could continue to pool the milk of its members, but that costly and inefficient operational changes would have to be made in order to do so. The witness stated that the plant could be operated as a nonpool plant by receiving the milk of its members at such plant as milk diverted from pool plants. Also, the plant could be operated as a pool supply plant by meeting the order's requirement that a specified proportion of its receipts be shipped to pool distributing plants.

The proposal to reduce the pooling standard was supported by a handler who operates a distributing plant pooled under the order. A witness for the handler testified that the Central Arizona market had changed from a market with a tight supply of milk to a market with a continuing surplus. The witness further testified that UDA's manufacturing plant represents the only practical market clearing plant in the area. Consequently, the witness testified that a lowering of the pooling standard, which would allow the plant to continue to operate as a pool plant, would promote equity among producers and marketing efficiency.

Another handler who operates a pool distributing plant opposed the proposal to reduce the pooling standard. The witness testified that the proposal would promote the pooling of milk that is in excess of fluid milk needs and would result in a blend price reduction to all producers. The witness also testified that the increase in production in excess of fluid milk needs is the result of UDA practices to encourage additional production for manufacturing uses. In addition, the witness testified that it would be contrary to both local market needs and national policy to reduce the cost of the milk price support program, to accommodate the pooling of increased production for which there is no market. Also, the witness testified that proponent's testimony contending that a denial of the proposal would increase handling costs was not substantiated by record evidence.

A brief in opposition to the proposal was filed on behalf of a nonmember producer. The producer contends that the proposal would result in the pooling of milk that is in excess of fluid needs, thereby diluting the pool and the blend price payable to all producers. The producer argues that such action would be contrary to the intent of the Deputy Assistant Secretary's July 14, 1975 Partial Decision (40 FR 30087) concerning the same issue in this market (official notice was taken of such decision at the hearing). The producer contends that the pooling standard should be established at a level that would deter the pooling of milk which is in excess of that needed to balance the fluid milk needs of the market. The producer argues that adoption of the proposal would result in members of UDA receiving the blend price for milk that is surplus to market needs whereas he and other independent producers whose milk is shipped to UDA's plant for surplus disposal receive the Class III price. The producer contends that nonmember producers should receive the blend price for milk that is surplus to the needs of distributing plants as do members of UDA (this aspect of pricing the milk of producers that is in excess of supplies that handlers are willing to market is considered under another issue).

At the hearing, and in its brief, the State of Arizona objected to consideration of UDA's proposal unless it was considered in conjunction with a proposal to lower the pooling standard for a cooperative manufacturing plant that was submitted on behalf of the State of Arizona. The State's proposal, which was not included in the notice of hearing, would have conditioned the pooling of the plant upon the cooperative accepting all milk of nonmember producers that was eligible for fluid use and produced in the State of Arizona, unless the plant was filled to capacity with the milk of member producers that was produced in the State of Arizona. The proposal also would have required payment for such nonmember milk at the Central Arizona order blend price less: (1) transportation charges; (2) charges for additional checks for weights or tests necessitated prior to commingling said milk with member milk; (3) an administrative charge not to exceed the direct cost of administering the transaction; and (4) a reasonable balancing charge not to exceed the amount by which the Class III price exceeds the highest price at which the cooperative purchases milk that is not pooled under the order.

The State's proposal was appropriately denied inclusion in the notice of hearing since the proposal would have required the cooperative's manufacturing plant to accept milk from any dairy farmer who wanted to deliver milk to the cooperative. There is no authority in the Agricultural Marketing Agreement Act of 1937, as amended, to establish an order provision that would require any handler, including a cooperative association, to purchase all or any part of the production of any dairy farmer. Furthermore, the proposal would have attempted to specify the price the cooperative association would have to pay to dairy farmers for milk received at its plant. This is in direct conflict with section 608c(5)(F) of the Act which specifies, in part, that nothing shall prevent a cooperative association from distributing the proceeds from its sales to its producers in accordance with the contract between the association and its producers, provided that the cooperative does not sell milk to handlers at less than class prices.

The State of Arizona's contention that the denial of the State's proposal precludes consideration of the lower pooling standard proposed by UDA is without merit. While the State was barred from presenting testimony on its initial proposal, the State was advised at the hearing by the Administrative Law Judge that it could submit modifications of UDA's proposal and offer testimony in support thereof or testify in favor of or in opposition to UDA's proposal to modify the standards for a pool balancing plant. The State's representative declined to accept any of the alternatives and held to his initial contention that testimony should not be taken on UDA's proposal unless the State's proposal was also considered.

Proponent cooperative's plant is located at Tempe, Arizona, and has facilities for processing milk into butter, nonfat dry milk and cheese. It is the only milk manufacturing plant in the State and as such it is the only practical outlet for the milk of its members and other dairy farmers that is in excess of the immediate processing requirements of distributing plants. The plant has been pooled under the order on the basis of at least 65 percent of UDA's member producer milk being received at pool plants of other handlers during the current month or the previous 12-month period ending with the current month. Operating the facility as a pool plant promotes various efficiencies in supplying the entire market. Milk from UDA member producers is transported directly from farms to fluid processing plants as required. Milk that is in excess of daily fluid processing plant needs is received at the manufacturing plant and continues to be producer milk under the order by virtue of its receipt at a pool plant. Such milk is then available for a limited period of time to supplement either the peak demand days of fluid processors or previously unanticipated processing demands. Milk is also separated so that skim milk is available to supplement fluid processing plant requirements. Milk not needed by fluid plants is processed into storable manufactured dairy products. In one way or another, any milk that is in excess of the needs of distributing plants backs up to UDA's facility, subject to the capacity of the plant. The plant operation thus serves an essential balancing function for the market.

Data presented at the hearing indicate that the cooperative's plant would not qualify as a pool plant beginning with February 1983. At such time, by making various alternative operational changes the cooperative could continue to pool the milk of member producers who have historically supplied the fluid milk needs of the market. For example, the plant could be operated as a nonpool plant with the milk of its members being received at such plant as milk diverted from pool plants. The milk would be pooled by virtue of its association with a pool plant but not as a result of its receipt at the cooperative's manufacturing plant as is currently the case. This method of operation is a reasonable alternative to the present method of operation, at least during the months of December through April when there are no limits to the quantities of milk that may be diverted to nonpool plants. However, beginning with May and extending through the month of November, diversions are limited to not more than 8 days' production of any producer. These limitations represent approximately 26 percent of monthly producer receipts and would require that about 74 percent of total receipts would have to be physically received at pool plants. In order to pool the total current milk supply under these provisions, milk in excess of fluid plant needs would nevertheless have to be received at such plants and then transferred to the cooperative's plant for surplus disposal. This would represent a totally inefficient and excessively costly method of operation.

Another approach available to the cooperative association under current order provisions would be to operate the manufacturing plant as a supply plant. In the month of February, when it was anticipated that the plant would first lose pooling status under the current method of operation, 20 percent of the manufacturing plant's receipts would have to be shipped to pool distributing plants. The 20 percent pooling standard for supply plants applies during the months of November through June. During July through October, 50 percent of a supply plant's receipts must be shipped to distributing plants to attain pool plant status. If such a plant meets these standards during each of the months of July through October, the plant can then be designated as a pool plant during each of the following months of November through June if written application for such status is made to the market administrator.

The marketing conditions that provide a basis for the current 65 percent pooling standard were last reviewed in the Deputy Assistant Secretary's July 1975 decision on this issue. The standard was adopted because it was determined that the market on an annual basis required a reserve milk supply amounting to 25–30 percent of producer receipts. A reserve supply of such amount represented 31 to 37.5 percent of the cooperative's member producer milk which indicated that on a yearly basis about 65 percent of the cooperative's member producer milk was required by other handlers.

In order for a market to be fully supplied at all times by local producers, a reserve milk supply is necessary because of fluctuations in the supply of and demand for fluid milk products. Due to the combined effects of seasonal variation in milk production and the seasonal and daily variation in the requirements of fluid milk handlers, the present pooling standard based on a 35 percent annual or monthly reserve requirement is no longer an appropriate measures of the amount of milk that needs to be associated with the cooperative's manufacturing plant to fully supply the requirements of fluid milk handlers.

In 1981, milk production peaked during the months of March-May and dropped to a seasonal low during July and August. The high month of production (April) exceeded the low month of production (July) by approximately 20 percent, in terms of both average daily production of UDA member producers and daily average producer receipts pooled under the order. In terms of producer receipts, the seasonal range in 1981 was greater than that exhibited in 1975 when the high month (May) exceeded the low month (January) by about 15 percent.

In 1981, fluid milk demand as expressed by the daily average pounds of producer milk in Class I uses, was at its highest level during January, September and October and at its lowest level during June, July, and August. The highest sales month (October) exceeded the lowest month (June) by about 14 percent. In contrast, the range between the highest and lowest months in 1975 (October and June, respectively) was about 24 percent.

VOL 48 ISS 198 OCT 12 1983 UMI

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The amount of milk required by fluid milk plants varies significantly on a daily basis with most milk being received Monday-Friday and very little being received on weekends. Thus, if production is sufficient to meet the peak demand days, significant quantities of milk will be in excess of the requirements of bottling plants on other days. Such excess milk is recieved at the cooperative's manufacturing plant and constitutes a reserve supply of milk that is availale to meet the varying fluid milk requirements of distributing plants. The greater the range between highest and lowest processing days, the greater the reserve supply that must be received by the cooperative's manufacturing plant.

Average deliveries by UDA members to fluid bottling plants for each day of the week for each month of 1981 varied considerably. Receipts for the highest day of delivery during the week ranged from 186 percent of the lowest day in December to 306 percent of the lowest day in April and July. The record indicates also that during a number of days of the year, virtually all of the UDA's milk is delivered to bottling plants while on a number of days during even the highest delivery months UDA is required to handle through its manufacturing plant over 70 percent of its member milk.

In addition the seasonal variation in the processing requirements of distributing plants that are supplied by UDA, there are significant, unanticipated variations in production that affect the quantity of milk that must be received and processed by the cooperative's plant. For example, changes in temperature and humidity caused average daily production to decline by 14.3 percent between June 30 and July 15, 1982, and then, as the weather moderated, to increase gradually until August 15 to the June 30 level. production then dropped by 10 percent the week following August 15 and then increased during the next seven-day period by 11.5 percent.

The need to reduce the pooling standard is primarily a function of the change in the market's supply-demand relationship that has occurred over time, particularly since 1979. Significant increases in producer receipts relative to increases in the Class I use of producer milk have resulted in the need to handle an increasing quantity of milk that is in excess of the fluid milk needs of distributing plants. This is clearly indicated in the following statistics.

Fluid milk sales in the market, in terms of the amount of producer milk used in fluid milk products, increased each year from 1975 through 1981, with the total increase between these years approaching 30 percent, or about a 5 percent increase each year over the previous year. From 1979 to 1981, producer milk in Class I uses increased by 10 percent. However, during the first 9 months of 1982, Class I use was only about 1.3 percent above the corresponding period of 1981. The lower rate of increase indicated for the first 9 months of 1982 was attributed to general economic conditions and the unemployment rate, and was projected to continue through 1982.

Milk production, in terms of total producer receipts pooled under the order, increased by about 35 percent between 1975 and 1981. Most of the increase occurred from 1979 to 1981 when producer receipts increased by 23.4 percent. Also, during the first 9 months of 1982, producer receipts were up 6 percent from the corresponding period in 1981.

As a consequence of the increase in receipts relative to Class I sales, the Class I utilization percentage declined from 67 percent in 1979 to 62.7 percent in 1980 and 59.9 percent in 1981. Also, during each of the first 9 months of 1982, the percentage of producer milk in Class I uses was less than the Class I utilization percentage for the same month in 1981.

The change in the market's supply-demand relationship has resulted in a larger proportion of producer receipts being used to produce manufacturing dairy products (Class III). The proportion of producer milk in Class III uses increased from 19.2 percent in 1979 to 24.5 percent in 1980 and 28.5 percent in 1981. Also, during each of the first 9 months of 1982, the percentage of producer milk in Class III uses was greater than the Class III utilization percentage for the same month in 1981.

The lower pooling standard proposed by UDA is appropriate in view of the market's supply-demand relationship. By supplying at least 50 percent of its member milk supply to pool plants of other handlers, the association is exhibiting a substantial involvement in supplying the fluid milk needs of the market. This level of performance is also consistent with the performance levels for other plants (distributing plants and supply plants during parts of the year) as well as those adopted herein for certain categories of dairy farmers (associated producer and dairy farmer for other markets adopted in this decision). Also, in view of the seasonality of sales and producer receipts, individual monthly performance by the cooperative association could fall below 50 percent in some months. Consequently, the 50 percent performance standard should apply on either the previous 12-month period ending with the current month or the current month, as presently applied.

It is also noted that the existing pool supply plant provisions allow a cooperative to pool more milk than the pooling standard for a cooperative's manufacturing plant adopted herein. However, it is also obvious that if the cooperative were to operate the facility as a supply plant, certain efficiencies from the current method of operation would be lost in supplying the market. Rather than being moved directly from the farm to the fluid processing plant where it is needed, milk would first have to be physically received at the supply plant. The milk would then have to be reloaded and transferred to bottling plants. In addition to the unnecessary cost of unloading and reloading milk and the rerouting of the current farm to bottling plant transportation system, the quality of the milk supply would suffer from additional pumping and extension of the time between pick-up and final delivery. Under the circumstances, such an alternative pooling method is not a practical alternative to the current method which allows the cooperative to move a substantial proportion of its member milk directly to pool distributing plants.

Opponents of lower pooling standards contended that the current milk supplies resulted from UDA activities to seek additional supplies of milk for the purpose of enhancing its manufacturing plant's efficiency. They argued that the pooling of additional milk supplies should not be accommodated since such supplies are in excess of the reserve supplies needed to balance the fluid milk needs of the market.

There is no basis from which to conclude that UDA has through any activity encouraged the pooling of additional supplies of milk solely for manufacturing purposes. In fact, the cooperative has instituted various payment plans to provide a disincentive for its member producers to produce milk in excess of bases or quotas. In this manner the cooperative has tried to discourage a buildup of supplies over the seasonal requirements of bottling plants and the capacity of its manufacturing facility. The increase in the supply of milk over fluid milk needs is apparently a marketwide phenomenon resulting from the independent production decisions of all dairymen who have historically supplied the market. A failure to adjust the pooling standard in response to the change in the market supply-demand situation would result in a need for the cooperative to implement uneconomic marketing practices to continue to pool the milk of producers who have historically supplied the market.

Jerome and Peggy La Salvia, nonmember producers, contend in their exceptions that the United States Department of Agriculture arbitrarily denied their proposed amendments to the order without conducting a hearing on the proposed amendments.

The only amendment proposed by the La Salvias that the Department denied for hearing was their proposed pool plant definition, which was identical to the one submitted by the State of Arizona. The proposed pool plant definition would condition the pooling of a cooperative association's plant upon the plant receiving the milk of nonmember producers whose facilities are located in the State of Arizona and would provide for payment for such milk at the central Arizona order blend price less transportation charges.

The proposed amendment was denied for hearing because the modification is not authorized under the Agricultural Marketing Agreement Act of 1937, as amended. In addition, exceptors and the State of Arizona were given an opportunity by the Administrative Law Judge, the presiding officer at the hearing, to suggest a modification of the pool plant provision proposed by UDA. Neither chose to do so at the hearing.

Exceptors cite as additional authority for their proposed amendment requiring UDA to take non-member milk, the antitrust laws of the United States. In this regard, exceptors rely upon the "Essential Facility" doctrine. It is their opinion that the Essential Facility doctrine mandates that where facilities cannot practicably be duplicated by would-be competitors, those possessing the facilities must share them with competitors on reasonable terms.

Such an argument falls outside the scope of milk order regulations. The statutory authority for orders provides no basis for requiring regulated handlers to receive milk from any dairy farmer who may wish to deliver milk to the handler. It should be noted that testimony at the hearing by the cooperative's representative indicated that the cooperative does accept the milk of nonmember producers if the plant has the capacity to handle such milk and pays for such milk on the same basis that it pays its member producers.

Exceptors argue, too, that the United States Supreme Court in *Brannan* vs. *Stark*, 342 U.S. 451 (1952) approved a market order provision requiring a cooperative's manufacturing plant to accept milk from nonmembers of the cooperative.

The provision in that particular case involved cooperative payments for marketwide services, a provision that is unique to the New York-New Jersey federal milk order. As a condition for receiving cooperative payments amounting to one cent per hundredweight for milk marketed by member producers, the cooperative must be willing to accept nonmember milk on a temporary basis under the generally prevailing conditions for such acceptance of milk of its own members.

Exceptors also attempt to rely upon an Agreement of Settlement entered into by UDA with the State of Arizona after the close of the hearing as a basis for demonstrating that UDA is now obligated to accept nonmember milk.

The Agreement of Settlement is not a part of the record evidence of this hearing since it was signed after the close of the hearing. For this reason, no findings or conclusions are made regarding the agreement because the findings and conclusions set forth in the recommended decision and final decision must be based solely on the evidence in the record.

In any event, the agreement entered into by UDA and the State of Arizona represents a voluntary arrangement. The agreement, however, can not be made part of the order provisions unless there is authority under the act for such a provision. As pointed out previously, there is no authority for the amendment proposed by the La Salvias.

Exceptors argue, too, that while the AMA Act permits a cooperative to reblend the proceeds which it pays to its member producers, the Act provides no authority for exempting a cooperative from paying a nonmember the blend price for milk that is received by the cooperative and pooled under the order. If such interpretation were correct, it would mean that nonmembers, although relying upon the cooperative's plant for an outlet for milk, could not be required to bear any of the expenses of operating the cooperative's plant. From a practical standpoint, it is not logical to expect that an individual who has made an investment in plant facilities would have to receive less for his product when it is manufactured in such plant than one who has no investment in such plant.

2. *A "dairy farmer for other markets" provision.* The order should be revised to exclude from the producer definition any dairy farmer whose milk was received at a nonpool plant (except an other order plant) other than as a diversion by a handler from a pool plant unless 50 percent or more of the milk production from the same farm was producer milk under the Central Arizona order during the current month and each of the 2 immediately preceding months (or would have been producer milk in each of the 2 immediately preceding months except for the operation of this provision).

The "dairy farmer for other markets" provision was proposed by UDA. The cooperative proposed the adoption of such provision to assure that milk which is surplus to other markets does not become producer milk and thereby share in the marketwide proceeds for the Central Arizona market.

The cooperative also proposed that the provision not apply to a producer located in the marketing area in order to allow one of the largest producers on the Central Arizona market to pool that portion of his milk which is received at pool plants. This exclusion was considered necessary to provide pool status for this producer who delivers milk to nonpool plants on days when his handler refuses to accept his milk. The handler to whom the milk is committed by contract refuses to receive any milk in excess of the amount specified in the contract and also refuses to divert the milk to a nonpool plant for the handler's account. On those days when the producer's milk is refused by the handler, the producer often diverts milk for his own account. Such diverted milk is not pooled under the order and the producer realizes whatever price he negotiates with the nonpool plant.

The spokesman for State Dairy Association, Inc., objected to the "dairy farmer for other markets" provision as proposed by UDA. The State Dairy Association, Inc. representative indicated that three of its 140 California dairy farmer members started delivering milk to a Central Arizona pool plant on August 8, 1982. The milk of the three dairy farmers is shipped to the Central Arizona market twice each week. Such weekly shipments represent two days' production of each producer.

The representative of the three dairy farmers objected strenuously to the adoption of a provision that would exclude dairy farmers from becoming producers on the Central Arizona market solely on the basis that their farms were not located in the Central Arizona marketing area. The objector pointed out that none of the reserve milk supply associated with the milk production of the three California producers is pooled under the Central Arizona order. In such case, only the milk that is physically received at the Central Arizona pool plant is pooled under the Central Arizona order. He noted that usually the reserve milk supply associated with a supply source is also pooled in the market.

A pool plant operator objected to establishing different rules for dairy farmers based upon the state in which the farmer is located. The pool plant operator favored an alternative proposal which would provide that a dairy farmer with a prior association with the market would not be excluded as a "dairy farmer for other markets".

The pool plant representative testified that during the past 3 years there has been an ever increasing surplus of market grade milk in California due to an increase in milk production while Class I usage has been either stable or declining during such period. The representative testified that some California dairy farmers were informed that their total production on a monthly basis would not be accepted at California pool plants. Such producers have had to deliver milk that is in excess of the California pool plant's fluid needs to nonpool plant operators in California or in other states. According to the witness, dairy farmers have received returns as low as 6 or 7 dollars per hundredweight for such milk after deducting the cost of transporting milk from the farm to the plant.

A "dairy farmer for other markets" provision should be adopted in the Central Arizona order to assure that milk which is surplus to other markets does not become producer milk and thereby share in the marketwide proceeds for the Central Arizona market. Under the provisions adopted herein, milk received at a pool plant from a "dairy farmer for other markets" would be designated as other source milk and would be allocated to the extent possible to Class III milk. As such, this milk would be accounted for in a manner similar to receipts of fluid milk products from a producer-handler.

The record reveals that there is a need to provide safeguards against pooling California market milk which is either over-quota or over-base milk. Of the three California producers who supply the Central Arizona pool plant, two have State-issued quota for butterfat and solids-not-fat and one has no quota at all. The dairy farmer who has no State quota receives the California Class IV price for such milk due to the reblending practice of State Dairy Association, Inc. The other two dairy farmers receive a price higher than the Class IV price depending upon the amount of California quota and/or base milk that these dairy farmers possess. On occasion, some of the milk of the three producers that is shipped out of the Southern California area returns less than the Class IV price.

The intent of the "dairy farmer for other markets" provision is to safeguard producers regularly supplying the Central Arizona market from sharing their pool proceeds with other dairy farmers whose primary association is with another market and whose milk production on this market represents milk that is in excess of base or quota milk on another market. As previously noted, a marketing entity representing a group of California producers entered into an agreement with an Order 131 regulated handler to deliver milk beginning in August 1982 to the handler's plant two times per week. The milk shipments represented the milk production of three California producers (on several occasions the milk of a fourth producer was substituted for that of one of the three producers). The marketing entity for the three producers, State Dairy Association, is in a position to benefit on each hundredweight of milk that it ships to plants located outside of California. Under the California milk pooling plan, the 140 producers who make up the cooperative are treated as if they were one producer with one quota and one base. With regard to the milk marketed in Arizona by the cooperative, such shipments reduce the amount of over-quota and over-base milk that the association has under the California plan. Under the current order provisions, such milk can be marketed in Phoenix at the Central Arizona blend price f.o.b. the pool plant where the milk is received. After deducting a hauling cost approximating $1.25 per hundredweight, the California farmers receive a net price at their farm locations which exceeds the returns they could realize by delivering such milk to California processing plants.

The cooperative's proposal that the dairy farmer for other markets provision not apply to a dairy farmer whose farm is located in the Central Arizona marketing area should not be adopted. The adoption of such provision would discriminate against producers located outside the Central Arizona marketing area. Instead, the determination of whether a person is a dairy farmer for other markets should be based upon such person's degree of association with the Central Arizona market.

One of the proposals in the notice of hearing would have provided that any producer who had a 3-month association with this market would not be considered as a dairy farmer for other markets. while no testimony was offered in support of this particular proposal, the time element appears to be a reasonable basis for determining whether a producer has a sufficient association with this market that would warrant such person sharing in the pool proceeds on the volume of milk that the producer diverts for his account to nonpool plants for manufacturing use.

In addition to the length of time that a producer is associated with the market, a further requirement should be added to assure that a producer has a greater total association with this market relative to other markets that such producer may supply. A requirment that 50 percent or more of the monthly milk production of such person must be producer milk during the current month and each of the 2 immediately preceding months will provide assurance that the milk of the producer has a greater association with this market than any other market.

The "dairy farmer for other markets" provision is not intended to prevent a dairy farmer from obtaining the approval of a duly constituted regulatory agency for the production of milk for fluid consumption and becoming a producer on the Central Arizona market. A dairy farmer who wants to become a producer under the Central Arizona order and continue in such status would need to market his total milk production as producer milk during the first and second month that he delivers milk to this market. This degree of association is necessary to achieve and maintain producer status since, under the provisions adopted, any shipment of milk from the farm of the dairy farmer to a nonpool plant (except an other order plant) other than as a diversion by a handler from a pool plant would result in a dairy farmer for other markets status for such person. Then, during the third month and in all succeeding months, the dairy farmer would need to ship to the Central Arizona market at least 50 percent of his milk production from the same farm to continue to qualify as a producer. Similarly, a dairy farmer who fails to market during the current month at least 50 percent of his monthly milk production from the same farm as producer milk under the Central Arizona order would need to requalify as a producer during any subsequent month in the same manner as a dairy farmer who becomes a new producer.

The "dairy farmer for other markets" provision should not be implemented until two months have elapsed following the effective date of the amended order. This delay is necessary in order to provide dairy farmers with advance notice of the rules concerning their eligibility as producers under the amended order. In absence of such two-month delay, the determination of producer status for the first month the amended order was effective would be contingent upon whether a dairy farmer had delivered 50 percent or more of his milk from the same farm as producer milk during the two months immediately preceding the effective date of the amended order.

Provision should also be made for accomodating a dairy farmer who wants to attain (or regain) producer status following the effective date of the amended order and such person is unable to market all of his milk as producer milk during an initial 2-month period. If the dairy farmer, except for the operation of this provision, would have been able to market as producer milk during each of the 2 months more than 50 percent of his total monthly production, such person would be a dairy farmer for other markets during the initial 2-month period. However, the dairy farmer would qualify as a producer during the month immediately following such 2-month period if more than 50 percent of his total monthly milk production is pooled under the Central Arizona order.

The provisions adopted herein are designed to accommodate the pooling of any dairy farmer who has a primary association with the Central Arizona market. Thus, in the event more than 50 percent of a dairy farmer's total monthly milk production is received at a nonpool plant (except an other order plant) other than as a diversion by a handler from a pool plant, none of the milk received at pool plants would be producer milk under the Central Arizona order.

The La Salvias objected to the adoption of a "dairy farmer fo other markets" provision. They alleged that UDA has attained a monopoly position and monopoly power within the Central Arizona marketing area and that the adoption of the proposed provision would serve only to enhance UDA's monopoly of the market.

The purpose of the "dairy farmer for other markets" provision, as previously set forth, is to ensure that milk which is surplus to other markets does not become producer milk and thereby lower the marketwide blend price to the Central Arizona market producers. Such provision serves to protect the marketwide pool under the Central Arizona order. Consequently, it is unclear how the adoption of the "dairy farmer for other markets" provision would in any manner disadvantage the nonmember producer.

3. *Provisions providing for an "associated producer".* The order should be revised to provide for payments from pool proceeds to an "associated producer", a dairy farmer who diverts a portion of his total milk production during the month to a nonpool plant (except an other order plant) for manufacturing uses. Such payments would be limited to a dairy farmer other than a producer-handler or a dairy farmer for other markets. During the months of May through November, payments for milk diverted to a nonpool plant by such person would be limited to 8 days' production less the number of days that milk of such person was diverted by a handler from a pool plant to a nonpool plant. Payments to an associated producer would be made from pool proceeds and would be computed by multiplying the quantity of milk diverted by the associated producer times the difference between the blend price and the Class III price for the month.

An "associated producer" must produce milk approved by a duly constituted regulatory agency for disposition for fluid consumption. Such a person must also certify in writing to the market administrator on or before the first day after each month in which his milk is not accepted or accounted for by a handler at a pool plant that he will deliver his milk to such pool plant and does so deliver upon request from the handler.

In order for milk diverted by an "associated producer" to qualify as "associated producer milk", the milk must be used for manufacturing purposes at the nonpool plant and the operator of such plant must maintain books and records whowing the utilization of all skim milk and butterfat received at the plant which are made available if requested by the market administrator. In addition, each associated producer, or a cooperative association on his behalf, shall submit on or before the 7th day after each month a report to the market administrator of the quantity of milk which the associated producer diverted to a nonpool plant and was used for manufacturing purposes. Then, on or before the 10th day of each month, the person reporting the quantity of associated producer milk must furnish delivery receipts or othe evidence satisfactory to the market administrator verifying the quantity of such milk sold for manufacturing purposes during the prior month.

United Dairymen of Arizona proposed provisions which would accomplish essentially the same purposes as the "associated producer" provisions adopted herein. The cooperative proposed that the producer milk definition be revised to include milk of any producer located in the marketing area which is diverted by the producer to a nonpool plant for manufacturing use within the limitation of the diversion provisions that apply to producer milk. The cooperative proposed that if the producer's milk was received at more than one pool plant, the milk diverted shall be deemed to have been diverted by the operator of the pool plant at which the greater share of the milk was received as producer milk during the month. The cooperative also proposed that other conforming changes be made to provide for payment by the operator of the pool plant at the difference between the blend price and the Class III price to the producer whose milk is diverted to a nonpool plant for the producer's account.

The intended purpose of the associated producer provisions is to allow a dairy farmer who has an established association as a producer on the Central Arizona market to share to a limited extent in a pool proceeds on that portion of his milk production which is either not accepted or accounted for by a handler who operates a pool plant.

As indicated by proponent, the proposed amendment is intended to accommodate one of the largest producers located in the Central Arizona marketing area who has been unable at times to pool a part of his milk production on some days during certain months of the year because the handler to whom the milk is committed by contract has refused to receive any milk in excess of the amount specified in the contract for that month and also has refused to divert the milk for the handler's account. On those days when the producer's milk is refused by the handler, the producer has diverted milk for his own account to nonpool plants. Such milk is not considered to be producer milk and, hence, the producer does not receive the blend price on such milk. Another option that the producer has exercised in the past is to deliver the milk that was refused by the pool plant operator to the pool plant operated by the proponent cooperative association whenever the plant has capacity to process such additional milk. The nonmember receives the Class III price or the price that the cooperative pays for milk that is in excess of a member's base, whichever is less, minus a processing charge. According to the cooperative, the producer is treated the same as a member with respect to payment for milk that is in excess of the cooperative member's base.

The only objections to proponent's proposal came from the operators of proprietary plants who were concerned that a plant operator would be responsible for reporting the milk diverted to nonpool plants by the producer as well as making payment for

VOL
48
ISS
1
9
8
OC
12
1983
UMI

such milk at the difference between the blend price and the Class III price.

The "associated producer" provisions adopted herein do not place any responsibility on a pool plant operator to divert milk for the producer's account or to make payment on any portion of the milk so diverted. The associated producer is responsible for diverting milk for his account and the market administrator would make payment from the producer-settlement fund for any milk qualified as "associatead producer milk" at the difference between the blend price and the Class III price for the month.

Proponent requested that certain limitations apply in the use of the "associated producer" provisions to assure that such provisions were not abused or exploited by producers whose association with the market is minimal or sporadic. However, proponent's suggestion that the provision apply solely to producers located in the marketing area would not provide the assurances that the cooperative seeks. To accomplish the cooperative's objective, the use of the provisions should be limited to producers who have had an association with the market for a period of time and who have delivered the majority of their milk production during such period to the Central Arizona market. Such limitation would not discriminate against producers located outside the Central Arizona marketing area who have relied upon the Central Arizona market as the primary outlet for their milk production for a long period of time.

The "associated producer" provision should be adopted. A cooperative association representing all but a few producers supplying the market proposed that a portion of the pool proceeds be shared with producers who ship to pool plant operators who refuse to accept all of their monthly milk production. No opposition to the proposal was offered at the hearing or expressed in the briefs submitted. Thus, there is total support among producers to forego a portion of the pool proceeds to benefit other producers who are unable to pool all of their monthly milk production on the Central Arizona market. From a regulatory viewpoint no basis exists for denying producers the opportunity to apportion the pool proceeds in the manner that they propose.

In administering the "associated producer" and "associated producer milk" provisions, it will be necessary for the market administrator to verify the receipts and utilization of associated producer milk at nonpool plants. Also, the market administrator will need to make payment from pool proceeds to an associated producer on the volume of milk that such a person is permitted to divert to a nonpool plant for manufacturing use. The expenses incurred by the market administrator in the administrative functions involving the payment for associated producer milk should be paid from the administrative assessment fund.

The associated producer who benefits from the adoption of the "associated producer" provisions should pay a pro rata share of the expense of administration of the order. In that regard, the order should provide that the market administrator, in making payments to each associated producer on or before the 15th day after the end of the month, shall deduct 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the quantity of associated producer milk diverted to a nonpool plant (except a producer-handler or another order plant) for manufacturing uses.

Additional administrative modifications are included herein as a result of the adoption of the "associated producer" provisions. The modifications are necessary to provide the means for recovering any over-payments to any associated producer that may occur.

UDA excepted to the "associated producer milk" definition provided in the recommended decision. The cooperative suggested that the definition be modified to limit the application of the provision to milk that is diverted to a nonpool manufacturing plant rather than milk diverted to a nonpool plant for manufacturing use. The cooperative pointed out that if milk is delivered to a nonpool plant that processes and distributes fluid milk as well as manufacturers some of its receipts, there would be no way of determining the actual use of the milk diverted by an Order 131 producer to the nonpool plant. The cooperative held that if the order were to permit "associated producer milk" to be delivered to such plant, the market administrator should classify such milk pro-rata to the nonpool plant's total utilization.

As exceptor points out, the market administrator would have difficulty in classifying "associated producer milk" received at a nonpool plant that processes and distributes fluid milk products. To remedy this situation, the order should be modified to provide that the market administrator shall follow the classification method utilized in classifying milk transferred or diverted from pool plants to nonpool plants. In such instance, after Class I uses are assigned to the plant's regular sources of supply, then any remaining Class I uses should be prorated to any remaining unassigned receipts of fluid milk products received at the nonpool plant from pool plants and other order plants and from "associated producers". Any remaining unassigned receipts should be prorated to any remaining Class III utilization and then to Class II utilization. Only the diversions from Order 131 producers that are classified as Class III milk and Class II milk would be associated producer milk.

The La Salvias excepted to the "associated producer milk" provisions on the basis that the provisions do not permit such diversions during the months of December through April. The order provides no specific limits on diversions during December through April. However, an associated producer is limited indirectly in the amount of milk that he may divert to a nonpool plant during the months of December through April. This occurs because a dairy farmer is required to pool 50 percent or more of his production from the same farm as producer milk during the month as one of the conditions for obtaining status as an "associated producer". The dairy farmer thus would be precluded from diverting more than 50 percent of his total production from the same farm to a nonpool plant during the months of December through April.

4. Level of the Class I differentiol. No change should be made on the basis of this record in the Class I differential that is used to compute the Class I price for each month. The current Class I differential is $2.52 per hundredweight. It is added to the basic formula price (Minnesota-Wisconsin price) for the second preceding month to arrive at the Class I price for the month.

A handler who operates a distributing plant pooled under the order proposed that the Class I differential be decreased by $1.00 per hundredweight. The handler contended that the current differential is no longer appropriate in terms of the cost of producing milk on large scale drylot dairy farm operations and the cost of alternative supplies of milk. The handler contended also that the current Class I differential has contributed to a surplus of production. In this regard, the handler cited the 1975 decision of the Deputy Assistant Secretary concerning the pooling standards for a cooperative association's manufacturing plant under the Central Arizona order. In lowering the pooling standard, the decision concluded, "However, if the reserve milk supply for this market continues to increase, the level of Class I price appropriately should be reconsidered before consideration is given to any further reduction in the pooling standards."

In his brief, another handler who operates a pool distributing plant stated that a review of the present Class I differential is appropriate in view of the Department's previous decision wherein the level of the Class I price was apparently considered by the Department to have an influence on the amount of milk produced. The handler suggested that the following points should be considered in evaluating the level of the present Class I price differential: (1) The degree to which the present differential is contributing to the growing surplus of milk, (2) the effect of a lower differential on consumer demand, (3) the extent to which the present differential prevents Central Arizona handlers from expanding their sales area, (4) the competitive advantage of producer-handlers over pool handlers because of too high a price, (5) the degree to which Central Arizona producers are insulated from competition with producers associated with adjacent areas, and (6) the degree to which relevant conditions have changed since the differential was established.

United Dairymen of Arizona opposed any reduction in the present Class I differential at this time. A witness representing the cooperative offered several reasons for denying such proposal. He contended that the seasonal pattern of production and Class I use are no longer as well coordinated as they once were. Consequently, a greater volume of reserve milk supplies is necessary to assure that there is always an adequate supply of milk for fluid use. Also, the witness contended that a reduction in the Class I utilization percentage in recent years is not a sufficient basis from which to conclude that the Class I price should be dropped. He noted too that the Central Arizona area is subject to extreme variations in both production and fluid milk sales. The witness also stated that it would be false economy to attempt to reduce production since there would be an offsetting increase in the cost of manufacturing a smaller reserve supply of milk.

The witness testified further that the Class I differential has been eroded by inflation. As an example, he pointed out that in 1956 the Class I differential was nearly equal to the basic formula price but that currently the differential represents only 20 percent of the basic formula price. The witness further stated that the $2.50 differential that was established in 1967 represents less than 82 cents in terms of 1967 dollars.

The witness also contended that the issue of the Class I differential in Central Arizona cannot be divorced from price considerations under the Dairy Price Support Program which affects the general level of milk prices throughout the country. He stated that the price for milk everywhere in the country has been at levels that overstimulated milk production. the witness contended that the issue of over production should be dealt with in the context of the overall national dairy situation.

The witness further stated that a potential $1.00 per hundredweight reduction on April 1, 1983, that would apply nationally to all milk commercially marketed would be equivalent to a $1.50 reduction in the Class I differential. Such a reduction, coupled with the proposal to reduce the Class I differential by $1.00 would be a threat to the maintenance of an adequate supply of local milk to meet fluid milk demands. Further, he stated that Central Arizona dairymen have expanded production to meet a growing market where the growth in fluid consumption has exceeded the national average. If the growth in sales continues, there will be a need for more milk in the future.

The proposal was also opposed by a representative of two producer-handlers that serve the market. The witness stated that he did not believe producer-handlers could continue to operate if the Class I price was reduced and they had to pay $1.00 per hundredweight to the Commodity Credit Corporation to offset a portion of the cost of the Price Support Program.

In his brief, a producer who supplies the market also opposed the proposal to lower the Class I differential.

The Class I price for milk used for fluid purposes under Federal orders has a direct relationship to the price paid for milk used for manufacturing purposes. This is recognized in the pricing formula by use of the Minnesota-Wisconsin (MW) price as the basic formula price in computing the Class I price each month. The MW price is an average of prices paid at a large number of manufacturing plants in the states of Minnesota and Wisconsin. The prices paid by manufacturing plants are reported on a current month basis and the MW price is announced for each month on or before the fifth day of the following month. This price, for the second preceeding month, is the basic formula price for establishing Class I prices each month in all Federal order markets.

The MW price for raw milk delivered by farmers is determined by competitive conditions and reflects general economic conditions affecting the supply and demand of milk for manufactured milk products marketed through a highly coordinated marketing system which is national in scale. Thus, use of this price in determining Class I prices gives appropriate consideration to the economic factors underlying the general level of prices for milk and manufactured dairy products as well as the month-to-month changes in the supply of and demand for milk and dairy products. Also, actions of the Secretary under the Price Support Program that affect the level of price for milk in manufactured products are automatically reflected in the level of Federal order prices.

The differential over manufacturing milk prices is necessary to cover the added cost of production of milk for fluid uses and the cost of moving it to market. Dairy farmers must have an incentive, over the price of milk for manufacturing uses, to produce and deliver an adequate supply of quality milk to meet the market's demands for milk in fluid form. Class I differentials vary from market to market depending on the supply-demand situation and the cost of alternative supplies of milk.

The current Central Arizona Class I differential of $2.52 per hundredweight has basically been maintained at such level since May 1967. At that time the differential was increased by 20 cents per hundredweight to $2.50. The differential was subsequently increased to its current level in January 1970.

From 1970 through 1981 the Class I price more than doubled (increasing by almost 111 percent) from $7.17 to $15.10 per hundredweight. The Class I differential was constant throughout the 12-year period and, consequently, all of the price increase is attributable to increases in the basic formula price that is used in establishing Class I prices under all Federal orders. During this period the basic formula price increased by almost 171 percent from $4.65 in 1970 to $12.58 in 1981. Consequently, the Class I differential as a proportion of the Class I price decreased from 35.1 percent in 1970 to 16.7 percent in 1981.

During the 12-year period the blend price payable to producers increased by about 117 percent from $6.52 in 1970 to $14.12 in 1981. The blend price increase represented increases in the basic formula price as well as changes in the Central Arizona market supply-demand relationship. The market's supply-demand relationship, as measured by the Class I utilization of producer milk, declined from 77.5 percent in 1970 to 59.9 percent in 1981.

VOL 48 ISS 1 98 OC 12 1983 UMI

It is obvious that for the 12-year period, both Class I sales and producer receipts have increased dramatically. Class I sales increased by 46 percent while producer receipts increased by 89 percent during the 12-year period. However, most of the changes in the market's supply-demand relationship occurred during the 6-year period from 1970 through 1975 as the Class I utilization of producer milk declined from 77.5 percent to 62.5 percent. It was during this period that UDA undertook a policy to stimulate an increase in the local supply of milk to meet market needs rather than relying on imports of distant milk supplies to supplement the fluid milk needs of the market. Since 1975, the Class I utilization has been relatively stable and in fact increased consistently from 61.3 percent in 1976 to 67 percent in 1979. Since 1979, the Class I utilization decreased to 62.7 percent in 1980 and to 59.9 percent in 1981.

In view of the above it is obvious that it has only been in recent years that increases in producer receipts have outpaced the increases in fluid milk sales. Consequently, the situation in the Central Arizona market is not materially different from the national dairy situation. Since the 1978–1979 marketing year there has been a continuous increase in purchases of surplus dairy products under the Price Support Program as production nationally has exceeded the demand for dairy products. Basically, the national production increases have been in response to the price support levels established for manufactured dairy products as well as to other economic factors affecting the production and sale of milk and dairy products. These factors include abundant feed supplies, poor alternatives to dairy farmers and relatively lower demands for dairy products. Concern over the national dairy situation and the cost of the Dairy Price Support Program led to passage of the Omnibus Budget Reconciliation Act of 1982 which authorized various levels of deductions from the proceeds from commercially marketed milk to offset the cost of the Price Support Program and to encourage a reduction of diary surpluses.

In this regard, Official Notice is taken of the news release issued by the Secretary of Agriculture on March 16, 1983. The Secretary announced that a deduction of 50 cents per hundredweight on commercially marketed milk would be implemented on April 16, 1983 and maintained until new legislation can be adopted. In the vent that a resolution to the dairy surplus problem is not developed by August 1, 1983, consideration would have to be given to implementation of a second 50-cent assessment.

The current surplus situation is a national problem and actions are underway to deal with it on a national basis. Consequently, it would be inappropriate at this time to take action to deal with the relatively recent increase in production in Central Arizona. To do so would place an inequitable burden on Central Arizona dairy farmers relative to other producers across the nation who have also contributed to the current surplus of production. Furthermore, if local action were taken as well as national action, the maintenance of an adequate supply of milk for the Central Arizona market could be jeopardized.

Several other considerations presented by handlers in support of a Class I price reduction do not provide sufficient bases for making any change at this time. The record does not reveal that significant reductions have occurred in the cost of producing milk that might otherwise justify a Class I price reduction in the absence of any Price Support reduction. In this regard, the size of the production units, relative to other areas of the country, is not a new development as the climate of the area lends itself to large scale drylot operations. Also, there is no indication that Central Arizona handlers are competitively disadvantaged with respect to sales in the market because of current Class I prices they must pay relative to prices paid by handlers in surrounding markets. In addition, the issue of whether Central Aizona handlers might be able to expand their sales territory if the Class I differential were reduced is not a factor that is involved in determining the level of Class I prices under Federal orders.

For the foregoing reasons, the proposal to reduce the Class I differential by $1.00 per hundredweight is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Central Arizona marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decison, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

June 1983 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Central Arizona marketing area is approved or favored by producers, as defined under the terms of the order as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1131

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: October 6, 1983.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order [1] amending the order, regulating the handling of milk in the Central Arizona marketing area.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central Arizona marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Central Arizona marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Deputy Administrator, Marketing Program Operations, on June 28, 1983, and published in the **Federal Register** on July 5, 1983 (48 FR 30641), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to the following modifications in §§ 1131.21, 1131.22, and 1131.42.

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

§ 1131.7 [Amended]

1. Amend § 1131.7(c) by removing the provision "65 percent or more" and substituting therefore the provision "50 percent or more."

2. In § 1131.12, a new paragraph (b)(4) is added to read as follows:

§ 1131.12 Producer.

* * * * *

(b) * * *

(4) Any person whose milk is received at a nonpool plant (except an other order plant) other than as a diversion by a handler from a pool plant, unless 50 percent or more of the milk production from the same farm is producer milk under this Part during the current month and each of the 2 immediately preceding months (or would have been producer milk in each of the 2 immediately preceding months except for the operation of this provision); *Provided*, That this provision shall not be applicable until the third month following the effective date of this amended order.

3. A new § 1131.21 is added to read as follows:

§ 1131.21 Associated producer.

"Associated producer" is any person (other than a producer-handler or a diary farmer for other markets), whose milk is received at a nonpool plant (except an other order plant) other than as a diversion by a handler from a pool plant subject to the following conditions:

(a) Fifty percent or more of the milk production from the same farm is producer milk under this part during the current month and each of the 2 immediately preceding months (or would have been producer milk in each of the 2 immediately preceding months except for the application of § 1131.12(b)(4));

(b) Milk produced on such farm must meet the requirements of § 1131.12(a) (1) or (2); and

(c) Such person shall certify in writing to the market administrator on or before the first day after each month in which his milk is not accepted or accounted for by a handler at a pool plant, that he will deliver his milk to such pool plant and does so deliver upon request from the handler.

4. A new § 1131.22 is added to read as follows:

§ 1131.22 Associated producer milk.

"Associated producer milk" means the milk produced by an associated producer that is not accepted or accounted for by a handler at a pool plant and is diverted by the associated producer to a nonpool plant (except a producer-handler plant or an other order plant) subject to the following conditions:

(a) Milk so diverted shall not qualify as associated producer milk unless the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at the plant which are made available if requested by the market administrator. Milk so diverted shall qualify as associated producer milk to the extent such milk is used for maufacturing purposes at the nonpool plant (classified as Class III milk, or

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

VOL 48 ISS 198 OCT 12 1983 UMI

Class II milk pursuant to § 1131.42(d)(2)(vi)).

(b) During the months of May through November the quantity of associated producer milk receipts at nonpool plants from such farm shall not exceed 8 days' production less the number of days' production that is diverted by a handler from such farm to nonpool plants.

5. A new § 1131.33 is added to read as follows:

§ 1131.33 Associated producer reports.

Each associated producer, or a cooperative association on his behalf, shall submit in the manner prescribed by the market administrator:

(a) On or before the 7th day after each month, a statement of the quantity of milk which the associated producer diverted to nonpool plants (except a producer-handler plant or an other order plant) for use for manufacturing purposes in such month; and

(b) On or before the 10th day after each month, delivery receipts or other evidence satisfactory to the market administrator verifying the quantity of his milk sold for manufacturing purposes in such month.

6. Section 1131.42(d)(2)(vi) is revised to read as follows:

§ 1131.42 Classfication of transfers and diversions.

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products received at the nonpool plant pursuant to § 1131.22 or from pool plants and other order plants shall be assigned, pro rata among such sources of milk, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

* * * * *

7. In § 1131.44(a)(7), a new paragraph (vii) is added to read as follows:

§ 1131.44 Classification of producer milk.

* * * * *

(a) * * *

(7) * * *

(vii) Receipts of milk from a dairy farmer pursuant to § 1131.12(b)(4);

* * * * *

8. In § 1131.60, paragraph (d) is revised to read as follows:

§ 1131.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(7) (i) through (vi) and (vii) and the corresponding step of § 1131.44(b), excluding receipts of bulk fluid cream products from an other order plant;

* * * * *

9. Section 1131.61 is revised to read as follows:

§ 1131.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1131.60 for all handlers who filed the reports prescribed by § 1131.30 for the month and who made the payments pursuant to §§ 1131.71 and 1131.73 for the preceding month;

(b) Add an amount equal to the value of the associated producer milk for the month at the Class III price for milk of 3.5 percent butterfat content;

(c) Add an amount equal to the total value of the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1131.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk;

(2) The total hundredweight of associated producer milk; and

(3) The total hundredweight for which a value is computed pursuant to § 1131.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producer.

10. Section 1131.72 is revised to read as follows:

§ 1131.72 Payments from the producer-settlement fund.

(a) On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1131.72(a)(2) exceeds the amount computed to § 1131.71(a)(1).

(b) On or before the 15th day after the end of each month the market administrator shall make payment to each associated producer, or to a cooperative association on his behalf, an amount obtained by multiplying the quantity of associated producer milk of such associated producer for the month by the difference between the uniform price and the Class III price. Any overpayment to an associated producer may be offset by a payment reduction to such associated producer from the market administrator in the following month or, shall be remitted by such associated producer to the producer-settlement fund or or before the next date for making payments under this provision.

(c) If the balance in the producer-settlement fund is insufficient to make all payments pursuant to paragraph (a) of this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

11. Section 1131.77 is revised to read as follows:

§ 1131.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors, resulting in monies due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred. Such adjustments shall apply in the same manner with respect to an associated producer.

12. Section 1131.85 is revised to read as follows:

§ 1131.85 Assessment for order administration.

(a) As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(1) Producer milk (including such handler's own production);

(2) Other source milk allocated to Class I pursuant to § 1131.44(a) (7) and (11) and the corresponding steps of § 1131.44(b), except such other source milk that is excluded from the computations pursuant to § 1131.60 (d) and (f); and

(3) Class I milk disposed of from a partially regulated distributing plant as route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1131.76(a)(2).

(b) The market administrator shall deduct the same rate per hundredweight prescribed in paragraph (a) of this section from payments to associated producers pursuant to § 1131.72(b) to cover each such associated producer's pro rata share of the expense of administration of the order.

[FR Doc. 83-27701 Filed 10-11-83 8:45 a.]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 83-060]

Bird Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations in 9 CFR Part 92 to establish criteria for the selection of applicants for consideration for approval of quarantine facilities for certain birds imported into the United States. It appears that the adoption of the proposal would establish a workable and equitable system for determining which applications should be selected for consideration for approval.

DATE: Comments must be received on or before November 14, 1983.

ADDRESS: Written comments concerning this proposal should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel S. Richeson, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland, 20782 (301) 436-8172.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations) contain provisions concerning the importation of birds into the United States. The regulations are designed to protect the poultry industry of the United States from exotic Newcastle disease and other communicable diseases of poultry. Section (92.11(e) provides, with certain exceptions, that each lot to pet birds, commercial birds, zoological birds, or research birds importerd from any part of the world shall be entered at certain ports and quarantined at a United States Department of Agriculture quarantine facility or at a privately-operated quarantine facility approved by the Deputy Administrator for Veterinary Services (VS).

The regulations in § 92.11(f) set forth requirements for privately-operated bird quarantine facilities. These provisions, among other things, contain certain minimum requirements concerning location, construction, sanitation, security, and operational procedures. These provisions also state that approval of any such quarantine facility shall be contingent upon a determination by the Deputy Administrator for VS that adequate personnnel are available to provide services required by the facility. Further, these provisions provide for personal inspection of a facility by a Veterinary Medical Officer of VS to determine compliance with standards in the regulations before a decision is made respect to the eligibility of any facility for initial approval.

Applications for approval of privately-operated bird quarantine facilities were being accepted for consideration until 1979. VS has not considered new applications for privately-operated bird quarantine facilities since then because adequate personnel have not been available to provide the necessary services. However, it appears that VS personnel are now available at certain ports of entry to provide services for new privately-operated bird quarantine facilities. Therefore, it is proposed to amend the regulations to set forth procedures for the selection of applicantss for consideration for approval of privately-operated bird quarantine facilities.

Consideration was given concerning whether to propose to rank applicants on a first-come, first-served basis. However, it was determined not to propose a system based on this concept.

At the time VS stopped considering new applications for approval of privately-operated bird quarantine facilities, it appeared that it was unlikely that there would be sufficient VS personnel available to service additional quarantine facilities. Because of this, persons who inquired about establishing new privately-operated quarantine facilities were discouraged from submitting applications for approval. Although some applications are on hand, it does not appear that it would be fair to consider them because in all likelihood additional persons would have submitted applications had they not been discouraged from doing so.

Further, it does not appear that a new system of accepting applications on a first-come, first-served basis and then maintaining them on file indefinitely until an opening becomes available would be a desirable method for selecting applicants. In order to help discourage frivolous applications which could severely hamper the effectiveness of a selection system, it appears that as a condition for considering applications an applicant should be required to have a premises available and identified on the application form. It appears that such a first-come, first-served system would not be compatible with a requirement that a premises be identified on the application, since it would be unrealistic to require applicants to retain availability of premises, possibly for years, until their applications could be considered.

There are many different procedures that could be adopted for selecting applicants to be considered for approval of privately-operated bird quarantine facilities. However, the proposed procedures explained below appear to provide the most workable and equitable system for making such selections.

Under the provisions of the proposal, the procedures for selection of applicants would be used when it is determined by the Deputy Administrator, VS, that adequate personnel are available at a specified port of entry to provide services for one or more privately-operated bird quarantine facilities in addition to any facilities already being serviced.

In order to give official notice of any openings, it is proposed to provide that an announcement would be published in the **Federal Register** specifying the ports of entry at which openings exist and the number of openings at each port of entry. It is further proposed that the announcement would state that applications for approval will be accepted only if received by the Import/Export Animals and Products Staff, VS, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, on or before 60 days after the announcement is published in the **Federal Register** It appears that this would allow sufficient time for preparation of applications in accordance with the proposed application provisions set forth below. Also, the Import/Export Animals and Products Staff is the staff in APHIS which is responsible for activities concerning approvals of privately-operated bird quarantine facilities.

VOL 48 ISS 198 OCT 12 1983 UMI

It is proposed to require that an applicant submit a completed VS Form 17–11, "Application for Approval of Quarantine Facility for Birds" (a footnote is included to explain that VS Form 17–11 is available from the Import/Export Animals and Products Staff), or submit a document which states that it is an application for approval of a quarantine facility for birds and which includes the following information (the same as that which would be called for by VS Form 17–11):

(A) Applicant's name, address, and telephone number;

(B) Status of applicant, such as individual, partnership, or corporation (if incorporated, include State where incorporated and date of incorporation);

(C) Name, title, and address of intended operators, partners, officers, directors, holders or owners of 10 percent or more of voting stock, and employees in a managerial or executive capacity;

(D) Address where the bird quarantine facility will be located;

(E) A drawing of the floor plan of the facility, showing the location of bird holding areas, equipment storage areas, office areas, clothes storage and change areas, feed storage areas, necropsy room (showing entry and refrigeration), washing areas for equipment, shower areas, ventilation arrangements, and entries and exits;

(F) Whether water source of the facility will be public or private;

(G) Whether disposal of waste from the facility will be by sewer or incinerator, or both;

(H) Whether priority status is requested, and, if so, the extenuating circumstances relied on for such request; and

(I) Date; certification by signature of the intended operator, partner, or officer; and title of such individual after the following language:

"Application is hereby made for approval of a USDA Approved Quarantine Facility for bird importations. I certify that the information provided herein is true and correct to the best of my knowledge and belief, and agree to comply with the applicable regulations in 9 CFR Part 92."

It appears that the information proposed to be required for an application would be necessary to identify and communicate with an applicant, and to enable VS to take action concerning the application (including taking action concerning request for priority status, as explained below).

The regulations, as noted above, already provide for personal inspection of a facility by a Veterinary Medical Officer of VS to determine compliance with standards in the regulations before a decision is made with respect to the eligibility of any facility for initial approval. It is proposed to retain these provisions. In this connection, the information in the application concerning the facility for which approval is sought would also help the Veterinary Medical Officers in conducting such inspections.

Also, it appears that it is necessary to know the identities of any persons listed in item (C) in the proposed application provisions since under the regulations an application could be denied if the applicant or any such person has been convicted of certain crimes or violations of the regulations. (See 9 CFR 92.11(f)(6)). In addition, it appears that the certification proposed to be included in the application would be necessary to help assure that the applicant understands that it is necessary to provide true and correct information, and to assure that the applicant agrees to comply with the applicable regulations in 9 CFR Part 92.

It is proposed that if there is more than one announced opening at a port of entry, an applicant may submit more than one application (not to exceed the number of announced openings) but may submit only one application for any particular premises. One application for a premises from an applicant would be sufficient for APHIS to make any necessary determinations concerning such application and, under the proposed procedures set forth below, an applicant would not gain an advantage by submitting more than one application for a particular premises.

It is proposed to select applications for consideration using the following procedures:

1. If the number of applications for bird quarantine facilities at a specified port of entry does not exceed the number of announced openings, each application shall be considered for approval of a facility at that port of entry.

2. If the number of applicants for bird quarantine facilities at a specified port of entry is fewer than the number of openings, but the number of applications exceeds the number of openings, each applicant shall first be selected for consideration for approval of one facility at that port of entry. Then, if there is a sufficient number of remaining openings, each applicant who submitted two or more applications shall be selected for consideration for approval of a second facility. However, if the number of applicants who submitted two or more applications exceeds the number of remaining openings, the applicants to be selected for consideration for approval for a second opening shall be determined based on a drawing. The proceeding shall continue in this manner until there are no more openings.

3. If the number of applicants for bird quarantine facilities at a specified port of entry exceeds the number of announced openings, an applicant (regardless of the number of applications submitted by such applicant) shall be eligible to be selected for consideration for approval of no more than one new facility at that port of entry. Under these circumstances, priority status for selection shall be given to applications from operators of currently approved facilities who request to transfer operations from a facility at a port of entry where they currently operate to a facility at a port of entry specified in the announcement if the Deputy Administrator, VS, determines that there is a change in circumstances beyond the control of the operator which makes it impracticable to continue operations at the currently approved facility, such as termination of services from a Government agency or termination of services from airlines; *Except that*, an application shall not be given priority status if the granting of approval would result in the applicant having approval to operate more than one facility at a time for which approval has been granted on a priority basis. If the number of applicants determined by the Deputy Administrator, VS, to be eligible for priority status exceeds the number of announced openings, the selection of such priority applicants to be considered for approval shall be determined based on a drawing. If there are any announced openings remaining after the eligible priority applicants are determined, the nonpriority applicants to be selected for consideration for approval shall be determined based on a drawing.

It is the policy of VS to consider for approval as many privately-operated quarantine facilities as can be serviced by VS personnel, and to assure a fair distribution of opportunities for applicants. These procedures appear to meet these criteria.

Also, it appears to be equitable to allow priority consideration as explained above for operators of currently approved facilities who request to transfer operations from a facility at a port of entry where they currently operate to a facility at a port of entry specified in the announcement if the Deputy Administrator, VS, determines that there is a change in circumstances beyond the control of the operator which makes it impracticable to continue operations at the currently approved facility, such as termination of services from a Government agency or termination of services from airlines. Otherwise, an operator could be forced out of business at that facility through no fault of his own after changing his personal situation in reliance on the ability to operate that privately-operated bird quarantine facility.

Further, in order to help assure that different applicants have an opportunity to be considered for approval of privately-operated quarantine facilities, it appears an applicant should not be given priority status if the granting of approval would result in the applicant having approval to operate more than one facility at a time for which approval has been granted on a priority basis.

It is proposed to provide that if a drawing is to be held, the participants in the drawing would be notified by registered or certified mail of the date, place, and time of the drawing so that they may attend if the wish. Participants would not be required to attend a drawing since there does not appear to be any valid reason for requiring their attendance.

It is further proposed that applicants selected for consideration for approval of a quarantine facility shall be notified of selection by registered or certified mail and that the facility must meet all requirements contained in § 92.11 for approval of the quarantine facility for birds within 18 months from the date of notification. It is anticipated that selected applicants would meet all requirements for approval of quarantine facilities within a short period of time. However, it appears that an 18-month period is sufficient for any serious applicant to meet all of the requirements. If the requirements are not met within that period it appears that other applicants should be allowed an opportunity to have a facility approved based on another announced proceeding.

In addition, it should be noted that §92.11(f)(6) of the regulations contains procedures for denying approval of quarantine facilities.

Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the information collection provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Written comments concerning any information collection provisions should be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, D.C. 20503. A duplicate copy of such comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Comments

Written comments are solicited for 30 days after publication of this document in the **Federal Register**. It appears that personnel are now available to service additional privately-operated bird quarantine facilities. Prompt action should be taken to establish a system for determining which applications should be selected for consideration for approval. Therefore, a comment period of 30 days appears to be warranted and adequate under the circumstances.

Executive Order 11291 and Regulatory Flexibility Act

This proposed action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a major rule. The Department has determined that this action would not have a significant effect on the economy and would not result in a major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document proposes procedures for the selection of applicants for consideration for approval of privately-operated bird quarantine facilities. It is anticipated that these procedures would be used mostly in the process of replacing facilities that go out of business. No substantial change in either the number of birds imported into the United States or in the number of persons importing birds is anticipated if this proposal become effective.

It is also possible that if the proposal is adopted, certain facilities could be relocated. The markets for jobbers, wholesalers, and retailers of birds span multistate areas, and any rearrangement in the location of bird quarantine facilities would only have a minimal impact on such businesses.

Based on the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not have a significant economic effect on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, imports, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Therefore, it is proposed to revise 9 CFR 92.11(f)(5) to read as follows:

§ 92.11 Quarantine requirements.

* * * * *

(f) * * *

(5) *Selection of applicants for consideration for approval of bird quarantine facilities.* (i) When it is determined by the Deputy Administrator, Veterinary Services, that adequate personnel are available to provide services for one or more bird quarantine facilities in addition to any bird quarantine facilities already being serviced, an announcement will be published in the **Federal Register** specifying the ports of entry at which openings exist and the number of openings at each port of entry. Applications for approval will be accepted only if received by the Import/Export Animals and Products Staff, VS, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, on or before 60 days after the announcement is published in the **Federal Register**. If there is more than one announced opening at a port of entry, an applicant may submit more than one application (not to exceed the number of announced openings) but may submit only one application for any particular premises. An applicant shall submit a completed VS Form 17–11,** "Application for Approval of Quarantine Facilities for Birds," or shall submit a document which states that it is an application for approval of a quarantine facility for birds and which includes the following information (the same as that called for by VS Form 17–11):

(A) Applicant's name, address, and telephone number;

** VS Form 17–11 is available from the Import/Export Animals and Products Staff, VS APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.

(B) Status of applicant, such as individual, partnership, or corporation (if incorporated, include State where incorporated and date of incorporation);

(C) Name, title, and address of intended operators, partners, officers, directors, holders or owners of 10 percent or more of voting stock, and employees in a managerial or executive capacity;

(D) Address where the bird quarantine facility will be located;

(E) A drawing of the floor plan for the facility, showing the location of bird holding areas, equipment storage areas, office areas, clothes storage and change areas, feed storage areas, necropsy room (showing entry and refrigeration), washing areas for equipment, shower areas, ventilation arrangements, and entries and exits;

(F) Whether the water source of the facility will be public or private;

(G) Whether disposal of waste from the facility will be by sewer or incinerator, or both;

(H) Whether priority status is requested, and, if so, the extenuating circumstances relied on for such request; and

(I) Date; certification by signature of the intended operator, partner, or officer; and title of such individual after the following language:

Application is hereby made for approval of a USDA Approved Quarantine Facility for bird importations. I certify that the information provided herein is true and correct to the best of my knowledge and belief, and agree to comply with the applicable regulations in 9 CFR Part 92.

(ii) If the number of applications for bird quarantine facilities at a specified port of entry does not exceed the number of announced openings, each application shall be considered for approval of a facility at that port of entry.

(iii) If the number of applicants for bird quarantine facilities at a specified port of entry is fewer than the number of openings but the number of applications exceeds the number of openings, each applicant shall first be selected for consideration for approval of one facility at that port of entry. Then, if there is a sufficient number of remaining openings, each applicant who submitted two or more applications shall be selected for consideration for approval of a second facility. However, if the number of applicants who submitted two or more applications exceeds the number of remaining openings, the applicants to be selected for consideration for approval for a second opening shall be determined based on a drawing. The proceeding shall continue in this manner until there are no more openings.

(iv) If the number of applicants for bird quarantine facilities at a specified port of entry exceeds the number of announced openings, an applicant (regardless of the number of applications submitted by such applicant) will be eligible to be selected for consideration for approval of no more than one new facility at that port of entry. Under these circumstances, priority status for selection shall be given to applications from operators of currently approved facilities who request to transfer operations from a facility at a port of entry where they currently operate to a facility at a port of entry specified in the announcement if the Deputy Administrator, Veterinary Services, determines that there is a change in circumstances beyond the control of the operator which makes it impracticable to continue operations at the currently approved facility, such as termination of services from a Government agency or termination of services from airlines; *Except that*, an application shall not be given priority status if the granting of approval would result in the applicant having approval to operate more than one facility at a time for which approval has been granted on a priority basis. If the number of applicants determined by the Deputy Administrator, Veterinary Services, to be eligible for priority status exceeds the number of announced openings, the selection of such priority applicants to be considered for approval shall be determined based on a drawing. If there are any announced openings remaining after the eligible priority applicants are determined, the nonpriority applicants to be selected for consideration for approval shall be determined based on a drawing.

(v) If a drawing is to be held, the participants in the drawing shall be notified by registerd or certified mail of the date, place, and time of the drawing so that they may attend; however, attendance by participants is not required.

(vi) Applicants selected for consideration for approval of a bird quarantine facility shall be notified of such selection by registered or certified mail. As a condition of approval as a bird quarantine facility, the facility must comply with the requirements set forth in this section within 18 months from the date of notification. Before a decision is made with respect to the eligibility of any facility for approval, a personal inspection of the facility shall be made by a Veterinary Medical Officer of Veterinary Services, to determine whether it complies with the standards set forth in this section

* * * * *

Authority: Sec. 2, 32 Stat. 792, as amended; Secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f, 7 CFR 2.17, 2.51, 371.2(d).

Done at Washington, D.C. this 5th day of October, 1983.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-27856 Filed 10-11-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Docket Nos. 23771 and 23772]

Cessna Aircraft Co.; Single-Pilot Operation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Petition for rulemaking.

SUMMARY: This notice publishes for public comment the petitions of Cessna Aircraft Company dated September 15, 1983. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice is not intended to affect the legal status of the petitions of their final disposition.

DATES: Comments on the petition for exemption (Docket No. 23771) must be received on or before November 1, 1983.

Comments on the petition for rulemaking (Docket No. 23772) must be received on or before December 12, 1983.

ADDRESS: Send comments on these petitions in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23771 or 23772, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: James Kelln, Project Development Branch (AFO-850), General Aviation and Commercial Division, Office of Flight Operations, Federal aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8150.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petitions as they may desire. Communications should identify the docket and be submitted in triplicate to the address indicated above. All communications received on or before the closing date will be considered before taking action on the petition. All comments submitted will be available for examination in the FAA docket. Persons wishing the FAA to acknowledge receipt of comments received in response to this notice should submit a self-addressed stamped postcard which states "Comments to Docket No. 23771 or 23772." the postcard will be date/time stamped and returned to the commenter.

Normally, the FAA only summarizes petitions for exemption and rulemaking for publication in the **Federal Register**. Because of the widespread interest that may be generated throughout the aviation community, the FAA has elected to publish the petitions verbatim. This action precludes any loss of thought or meaning which might occur in summarization of the petitions.

Although this notice sets forth the contents of the petitions as received by the FAA without changes, it should be understood that its publication to receive public comment is in accordance with FAA procedures governing petitions for exemption and rulemaking. It does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petitions. The FAA intends to proceed to consider the petitions under the applicable procedures of Part 11 and reach a conclusion on the merits of the proposal after it has had an opportunity to evaluate if carefully in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking action on the petition for rulemaking, appropriate rulemaking action will be published.

The petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petitions for exemption and rulemaking of the Cessna Aircraft Company dated September 15, 1983.

Issued in Washington, D.C., on October 6, 1983.

John H. Cassady,

Assistant Chief Counsel

15 September 1983.

In Reply Refer To: 178-02-83-611

Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591.

Attention: Rules Docket (AGC-204)

Gentlemen: The prupose of this letter is to petition the FAA, as provided in 14CFR11, for an amendment to § 91.213 and for an exemption in relief of present § 91.213 pending completion of the rulemaking process.

The requested amendment and the requested exemption are summarized as follows:

Petition for Amendment of § 91.213

The Petitioner, The Cessna Aircraft Company seeks the promulgation of an amendment to §91-213 so as to allow airplanes type certificated from operation by a single pilot to be operated without a second in command irrespective of whether the airplane is a "large aircraft" or a "small aircraft" as defined in § 1.1.

Petition for Exemption From The Provisions of § 91.213

The Petitioner, The Cessna Aircarft Company, seeks relief from the provisions of present § 91-213 so as to permit the operators of Cessna Citation airplanes, Models 550 and 552, that otherwise meet the minimum crew requirements of § 25.1523 with a single pilot, to operate those airplanes without a second in command.

§ 91.213, as presently effective and as the Petitioner proposes it be amended, is as follows:

Presently Effective Rule

(a) Except as provided in paragraph (b) of this section, no person may operate the following airplanes without a pilot who is designated as second in command of that airplane:

(1) A large airplane, except that a person may operate an airplane certificated under SFAR 41 without a pilot who is designated as second in command if that airplane is certificated for operation with one pilot.

(2) A turbojet-powered multiengine airplane for which two pilots are required under the type certification requirements for that airplane.

(b) The Administrator may issue a letter of authorization for the operation of an airplane without compliance with the requirements of paragraph (a) of this section if that airplane is designed for and type certificated with only one pilot station. The authorization contains any conditions that the Administrator finds necessary for safe operation.

(c) No person may designate a pilot to serve as second in command nor may any pilot serve a second in command of an airplane required under this section to have two pilots, unless that pilot meets the qualifications of second in command prescribed in § 61.55 of this chapter.

Proposed Rule

(a) No person may operate any airplane for which two pilots are required under the type certification requirements for that airplane without a pilot who is designated as second in command of that airplane.

(b) No person may designate a pilot to serve as second in command nor may any pilot serve as second in command of an airplane required under this section to have two pilots, unless that pilot meets the qualifications for second in command prescribed in § 61.55 of this chapter.

Background

The Petitioner, The Cessna Aircraft Company of Wichita, Kansas, is the manufacturer of a comprehensive line of general aviation aircraft. This line includes turbofan powered airplanes in the 500 series. At the presnet time Cessna manufactures duplicate aircraft in the Citation I type (Models 500 and 501) and also the Citation II (Models 550 and 551) such that their only difference is their certification basis. The effect of the certification basis is the enabling of a presently effective FAA finding to the effect that airplanes of the Citation I or II types that have Part 23 as a certification basis are permitted to be operated by a single pilot. Those that have Part 25 as a certification basis require a second in command for compliance with the minimum crew limitation as presently established by FAA. These petitions seek to enable single pilot operation of Part 25 Citations based on safe single pilot operation experience accumulated in their Part 23 counterparts.

At the inception of the Model 500 program it was Cessna's intention to develop a turbofan airplane with the pilot work station tailored to take advantage of experience accumulated in many years of general aviation aircraft and at the same time tailor the airframe and its systems so as to attain work load levels equal or lower than contemporary propeller aircraft. However, Cessna requested that the Model 500 be certificated as a Transport Category airplane.

Findings made by the FAA during the finalization of Model 500 were that compliance with Appendix D criteria in Part 25 with one pilot were incomplete and Cessna accepted Type Certificate A22CE with the limitation of a two pilot minimum crew.

In 1976 Cessna again raised the question of Model 500 operation with a single pilot and was exploring the issue with FAA when Cessna and FAA turned to the alternative of type certificating a Model 501 airplane identically configured to the Model 500, but offered for certification as a normal category airplane under Part 23. The criteria set forth by FAA for evaluation of the single pilot minimum crew went beyond the VFR-only provisions in § 23.1523 contained in the certification basis (FAR 23 thru Amendment 23-16) and it is our understanding that evaluations were made consistent with the criteria added to § 23.1523 at Amendment 23-21. The wording of §§ 23.1523 and 25.1523 is now identical except for the statement in § 25.1523 that, "The criteria used in making the determinations required by this section are set forth in Appendix D."

Resulting from the normal category evaluation was type certification of the Model 501 under Type Certificate A27CE, the first turbojet airplane certificated for single pilot operation. Subsequent to the Model 501, Cessna obtained certification in 1978, of the Model 550 as an FAR 25 companion to the Model 500 under an amendment to Type Certificate A22CE which was followed by an identically configured Model 551, limited to 12,500 lb. by the standards of Part 23, that was certificated as an amendment to Type Certificate A27CE. It is important to note that

VOL 48 ISS 198 OCT 12 1983 UMI

FAA's operations evaluations resulted in a single C500 series pilot type rating being made applicable to all four aircraft—Models 500, 501, 550, and 551.

Using the standards of Part 23 has provided an interim solution to the needs of operators for a single pilot airplane. Experience with these models over the past six years has confirmed their capability for safe operations with a single pilot. Although accidents in any aircraft are an unfortunate reality, we are pleased that the Citation series has experienced fewer than other contemporary types, but also pleased that the Citation single pilot models have a lower unit accident and incident rate than their Part 25 counterparts.

The foregoing has been a review of Cessna/FAA history on the single pilot issue. With the changes now in work to improve the Model 550 and in that process increase the takeoff weight to 14,300 lb., it is no longer feasible to offer a companion product, a Model 551 derivative, that could incorporate the same improvements as the Citation II Serial 550–0501 configuration and still be limited to the 12,500 lb. takeoff weight limitation of Part 23. Similarly, it is not feasible to resolve special purpose, 15,000 lb. TOGW Model 552 operations objectives by a Part 23 certification. Thus, Cessna is once again brought to the issue of FAR 25 and single pilot operations. We believe both FAA and the aviation community will benefit by resolving these issues in an objective and straightforward manner.

It is Cessna's position that since all of the 500 series airplanes have very high commonality in their pilot stations and in their operating characteristics, there is no substantive difference in the capabilities of a single type rated pilot to operate any of the airplanes safely. A pilot, if led blindfolded to a Citation II (Model 550 or Model 551) cockpit, could uncover his eyes and have difficulty determining whether he is in a Part 23 or Part 25 airplane. Equipment installations and standards of design and manufacture are identical, irrespective of certification basis of the category which is eventually selected by the operator. Many operators have utilized available service bulletins to change from one category to another—a process largely comparised of procedures satifying FAA administrative requirements rather than physical changes affecting flying characteristics.

In a separate action, Cessna has requested that FAA reexamine the issue of Part 25 Citations in the 500 series being operated by a single pilot. Of this group of airplanes the Model 500, or Citation I, meets § 1.1 definition of "small aircraft" and is clearly eligible under the applicable certification basis. However, other Part 25 airplanes in the Citation II class exceed 12,500 lb. in takeoff weight and some FAA personnel have been led to conclude that since a second in command would be required by the operating rules, the incapacitation criterion in paragraph (b)(10) of Part 25, Appendix D would preclude type certification with a single pilot.

Because of possibly constraining applications of § 91.213(a), the Petitioner finds it necessary to seek regulatory and/or exemptive relief so that the issue of single pilot operation of Part 25 Citations may be examined solely on the basis of technical merit and safety consistent with the FA Act.

Petitioner's Assertion On Safety Effects

Cessna has had the opportunity to observe more than six years of operators experience with single pilot turbofan Citations. Of particular interest is experience with the Model 550/551 Citation II design. As pointed out earlier, the two models are constructed from the same drawings, have a common manufacturing base (assembly line, tools, fixtures, etc.), and are indistinguishable with respect to category until the time of presentation for an airworthiness certificate. As standard equipment, both models are fitted with the systems specified as prerequisites for single pilot operations (autopilot with approach coupler, flight director, boom microphone, and transponder with ident switch on the pilot's control wheel). Other than the minimum crew limitation the only difference between the 550 and 551 Citation II configurations is that in Transport Category a takeoff weight of 13,300 lb. is approved vs. the 12,500 lb. normal category limit.

When a Citation II enters service it is identified by its airworthiness and registration documents as a normal or transport category airplane in accordance with the needs of the operator. Even this boundary is blurred by the availability of service bulletins that can effect a change from one category to the other as may be necessary by changes in operators. It is noted that these category changes are largely administrative rather than physical changes to the aircraft. It is also noted that crew training and airplane type rating is not affected by category since FAA has previously determined that persons holding C–500 type ratings are authorized to operate either 501 and 551 aircraft as a single pilot (and obviously as commender of a second in command when the operator deems such a crew appropriate) or as pilot in command of Model 500 and 550 aircraft with a second in command.

Having thus identified a takeoff weight difference as the only physical manifestation of difference between normal and transport category Citation II airplanes, one is brought to the question of whether the weight difference would cause a safety problem with single pilot operation at the transport category takeoff limitation. Cessna maintains, and pilot opinion confirms, that Citation workload differences attributable to weight differences are inconsequential.

The reality of Citation II airplanes is that safe operation in single pilot airplanes constructed to transport category standards have been taking place for over five years clothed in normal category airworthiness certificates. Thus Cessna must conclude that application of regulations to constrain single pilot operations in transport category Citations dogmatically exceeds the regimen necessary for an acceptable level of safety and leads us to seek the relief for which these petitions are a part.

The instant situation is similar in many ways to the problems that surrounded the promulgation of Amendment 25–3. In that case FAA wisely amended certification criteria such that the flight engineer's crew position is equated to needs of the airplane rather than tieing the crew makeup to a weight limit in the operating rules. In both cases the capability of an applicant to type certificate an appropriate minimum crew requires separation from the constraints of the inappropriate weight parameter.

Statistical examinations of accident/incident data support Cessna's contention that operations by a single pilot are acceptably safe. We are reluctant to assert the implications of the raw value rates of these data that single pilot Citations are more safely operated than transport category Citations with mandatory two pilot crews. However, we do see significance in the record that shows an absence of accidents or incidents attributable to excessive single pilot workload or single pilot accidents/incidents in high traffic density airspace—circumstances mentioned most frequently by persons doubting the safety of Citation single pilot operations. In addition to the above, it is Cessna's assertion that the data do not show accidents of any type where the presence of a second in command would have assured accident avoidance.

The preceding assertions of Citation single pilot safety have been drawn from the operating experience of Citation airplanes already in service. As previously stated, it has been accepted by some Citation II operators that the useful load lost in the exchange of lowering the takeoff weight to normal category limits was a fair swap in order to obtain the capability for single pilot operations. However, such operator acceptances are diminishing and will be more unacceptable as the differences between the takeoff weight and normal category limits increase.

At this time Cessna is preparing for Type Certification of two derivative models of the Citation II. The changes involved in these derivatives will have an almost negligible effect on cockpit workload. Thus we would expect them to also be capable of safe operation by pilots holding the same type rating as Citation II's already in service and thereby have the same capability for single pilot operation. However, the route thru normal category certification is not unacceptable because the increases in takeoff weight associated with the improvements incorporated in these derivatives prohibit the practicality of off-loading sufficient useful load to reach the 12,500 normal category limit.

Maintaining "small" airplane certification thru Type Certification utilizing SFAR 41 is likewise unobtainable because of the entrenched prerequisite at several points that limits SFAR 41 airplanes to prapeller power. We are also advised that in-work activities to bring the provisions of SFAR 41 into the body of Part 23 standards do not contemplate accommodations for turbojet airplanes. Thus Cessna is led to believe that the most direct means to continuing the viability of single pilot Citation operations is for FAA to resolve the Part 25 single pilot type certification issue. As stated earlier, this requires the simultaneous relief, thru rule amendment and/or exemption, of the operating rule constraint that is perceived by certification personnel to block Type Certification findings with respect to single pilot Part 25 Citations.

It should be pointed out that following amendment of § 91.213 as herein proposed, any airplane, Part 23 or Part 25, would have to be shown to be in compliance with applicable certification basis requirements in § 25.1523 or § 23.1523 with one pilot in order to operate without a second in command.

Public Interest

Cessna believes that the requested rule change and/or exemption is in the public interest for reasons including the following:

• In these times of high unemployment among manufacturers of general aviation aircraft, any factor that can stimulate buyer interest within the aviation community is profoundly in the public interest. We believe that the capability to market a single pilot Part 25 Citation II is such a factor. Cessna's Chairman Mr. Russell W. Meyer, Jr., has estimated that each unit of the 500 series that is sold represents the direct employment of 100 aerospace workers. Added to that is the jobs impact of associated community support and service employment.

• The capability for single pilot operation in Part 25 Citations will make them more competitive against foreign manufactured aircraft, unless or until those aircraft can also be shown to be safe for single pilot operation. An improved competitive position enhances the position of the United States among world aerospace manufacturers, helps to preserve jobs in United States aerospace manufacturing, and benefits the United States by reducing the outflow of dollars as well as reducing negative balance of payment pressures.

The President of the United States, thru the Office of Science and Technology Policy,[1] has identified United States pre-eminence in aviation and aerospace as a necessary goal.

The granting of this requested rule change and/or exception is clearly consistent with that stated policy.

• Operators advise us that substantial economic benefits result from the capability for single pilot operation. Although, Citations are often operated with a second in command whether or not single pilot operation is authorized, the flexibility afforded by this authorization can materially reduce day-to-day operating costs. Additional economies will accrue by relief thru transport category certification of the 12,500 normal category weight limit since the added fuel capability can allow a trip to be made without fuel wasting intermediate atops. Also, the availability of the option of operating single pilot often adds a dimension of scheduling flexibility that can eliminate the need of some flights. Thus the economy of single pilot operation is in the public interest both from the standpoint of conserving financial resources and from the standpoint of conserving fuel resources.

While the preceding factors identify principal points of public interest in the requested petitions, it by no means exhausts the scope of public interest. However, we believe that these alone amply show the profound national and private sector pubic interest factors of these petitions.

Conclusion

Cessna has, in the preceding discussions and assertions, set forth the constituents for rule making and exemption applications as specified in 14 CFR 11. We therefore solicit FAA's early action in the processing and grant of the rule change and/or exemptive relief being sought by Cessna in these petitions.

Very truly yours,

Cessna Aircraft Company, Wallace Aircraft Division.

Donald W. Mallonee,

Executive Engineer.

[FR Doc. 83–27737 Filed 10–11–83; 8:45 am]

BILLING CODE 4910–13–M

[1] Executive Office of the President, Office of Science and Technology Policy, Aeronautical Policy Review Committee.

Names of government and nongovernment committee members can be obtained from Mr. John McCarthy, Executive Secretary

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 101, 104, 141, 154, 159, 201, 204 and 260

[Docket No. RM83–66–000]

Revisions to Public Utility and Natural Gas Company Classification Criteria; Uniform Systems of Accounts, Form Nos. 1, 1–F, 2, and 2–A, and Related Regulations

September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes a series of amendments to its Uniform Systems of Accounts (Uniform Systems) for public utilities, licensees, and natural gas companies (regulated companies). Briefly, the Commission proposes: (1) To reorganize the Uniform Systems to eliminate separate systems for large and small regulated companies; (2) to change the nomenclature for referring to regulated companies from "Class A and Class B" and "Class C and Class D" to "Major" and "Nonmajor," respectively; (3) to revise the Commission's criteria for classifying regulated companies as Major or Nonmajor for the purposes of the Uniform Systems and certain reporting and filing requirements; (4) to amend its Uniform Systems to recognize recent changes in the application of Generally Accepted Accounting Principles to regulated companies; (5) to provide an account for unrecovered plant and study costs, and (6) to make various other minor changes to clarify and update the Uniform Systems.

This proposed rule is part of the Commission's ongoing program to reduce and eliminate burdensome and unnecessary requirements and, if adopted, would reduce by about four percent the burden on electric utilities and licensees and about ten percent the burden on gas companies of maintaining accounts and filing or reporting information.

DATES: Comments must be received December 12, 1983. Written requests for a public hearing must be received on or before November 7, 1983.

ADDRESS: Comments must be submitted in writing to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should refer to Docket No. RM83–66–000. An original and 14 copies must be filed.

FOR FURTHER INFORMATION CONTACT: Joseph Hartsoe, Office of the General Counsel, Federal Energy Regulatory Commission, (202) 357–5737.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes a series of amendments to its Uniform Systems of Accounts (Uniform Systems) for Public Utilities and Licensees and Natural Gas Companies. These amendments affect electric utilities, natural gas companies, and other licensees (hereinafter collectively referred to as "regulated companies") that are subject to Commission jurisdiction under the Federal Power Act, 16 U.S.C. 792–828c (1976 and Supp. V 1981) and the Natural Gas Act, 15 U.S.C. 717–717w (1976 and Supp. V 1981). In summary, the Commission proposes:

(1) To reorganize the Uniform Systems by merging the four separate accounting systems for large and small regulated companies into two separate Uniform Systems;

(2) To change the nomenclature for classifying regulated companies from "Class A and Class B" and "Class C and Class D" to "Major" and "Nonmajor", respectively;

(3) To revise the Commission's criteria for classifying regulated companies for the purposes of the Uniform Systems and for certain reporting and filing requirements;

(4) To amend its the Uniform Systems to recognize recent changes in the

VOL 48 ISS 1 1983 OCT 12 UMI

application of Generally Accepted Accounting Principles (GAAP) to regulated companies;

(5) To provide an account for unrecovered plant and regulatory study costs; and

(6) To make various editorial and technical changes to clarify and update the the Uniform Systems.

This proposed rule is part of the Commission's ongoing program to reduce and eliminate burdensome and unnecessary requirements and, if adopted, would reduce by about four percent the burden on electric utilities and by about ten percent the burden on gas companies of maintaining accounts and filing or reporting information.

II. Background

Both the Federal Power Act (sections 301 and 304, 16 U.S.C. 825 and 825c (1976)) and the Natural Gas Act (sections 8 and 10, 15 U.S.C. 717g and 717i (1976)) require regulated companies to keep such accounts and to file such annual reports and other periodic or special reports as the Commission may prescribe "as necessary or appropriate for purposes of administration" of these Acts to furnish such information as the Commission may order.[1] Pursuant to these statutory provisions, the Commission developed a system of accounting regulations for regulated companies to facilitate the Commission's ratemaking responsibilities. The Commission called these accounting regulations the "Uniform Systems of Accounts." In 1960, the Commission generally revised the Uniform Systems and established the current classification criteria for regulated companies.[2]

The current Uniform Systems classify regulated companies as Class A, Class B, Class C, Class D, or exempt. These classifications are based on the regulated companies' annual operating revenues. Specifically, Class A regulated companies have annual operating revenues of $2,500,000 or more. Class B regulated companies have annual operating revenues of between $1,000,000 and $2,500,000. Class C regulated companies have annual operating revenues of between $150,000 and $1,000,000. Class D regulated companies have annual operating revenues of between $25,000 and $150,000. Regulated companies that have annual operating revenues of less that $25,000 are exempt from the Uniform Systems and from certain filing requirements.

Currently, there are 216 Class A and Class B electric utilities and licensees, 95 Class A and Class B gas companies, 10 Class C and Class D electric utilities and licensees, and 24 Class C and Class D gas companies. Class A and Class B electric utilities must comply with Part 101 of the Commission's regulations (18 CFR Part 101), and Class C and Class D electric utilities with Part 104 (18 CFR Part 104). Similarly, Class A and Class B gas companies must comply with Part 201 (18 CFR Part 201) and Class C and Class D gas companies with Part 204 (18 CFR Part 204).

The organization of the four separate Uniform Systems (Parts 100, 104, 201 and 204) is similar.[3] Each begins with a section containing definitions, followed by three sets of instructions (General, Electric [or Gas] Plant, and Operating Expenses), and ending with six groups of accounts (Balance Sheet, Electric [or Gas] Plant, Income, Retained Earnings, Operating Revenue, and Operation and Maintenance).

A regulated company's classification determines its accounting, and reporting burden and certain rate filing requirements. For example, Class A and B electric utilities must comply with the Uniform Systems of Part 101 and file FERC Form No. 1, which requires a comprehensive reporting of a company's financial position. Class C and D electric utilities, on the other hand, use the less detailed Uniform Systems of Part 104 and file the simplified and less detailed FERC Form No. 1–F. Similarly, Class A and B gas companies must comply with the Uniform Systems of Part 201 and file the more comprehensive FERC Form No. 2, while Class C and D gas companies use the less detailed Uniform Systems of Part 204 and file the less detailed FERC Form No. 2–A. These forms are used by the Commission's audit and enforcement staffs to ensure that regulated companies comply with the Commission's orders and regulations. In addition, these forms are an integral part of rate case proceedings as an aid to the Commission and its staff in analyzing the rate filings of regulated companies.

Since the promulgation of the Uniform Systems in 1960, Congress has enacted the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (Supp. V 1981). This Act expresses the intent of Congress to minimize the public's reporting burden. The General Accounting Office (GAO) reviewed the progress of five federal independent regulatory agencies, including this Commission, in minimizing the public's reporting burden under the Paperwork Reduction Act. The GAO published its Report on July 7, 1981,[4] and concluded that the independent agencies could further reduce the paperwork burden on industry. GAO recommended that independent agencies make better use of graduated reporting by addressing the effects of inflation on class size and by basing class size on the agency's need for information rather than on an arbitrary designation. The changes in the method of classifying regulated companies proposed in this rulemaking are in accordance with GAO's recommendations.

III. Discussion

The Commission is proposing numerous changes to its Uniform Systems.[5] For the most part, these changes update the Commission's regulations in light of events that have taken place over the last several years.[6]

[1] Section 402(a)(2) of the Department of Energy Organization Act transfers these Federal Power Act and Natural Gas Act responsibilities from the Federal Power Commission to the Federal Energy Regulatory Commission. 42 U.S.C. 7177l(a)(2) (Supp. V 1981).

[2] These revisions were devised by the Commission in coordination with the National Association of Regulatory Utility Commissioners (NARUC). *See* Order No. 218 (issued June 7, 1960), 23 F.P.C. 772; Order No. 219 (issued June 21, 1960), 23 F.P.C. 825; Order No. 225 (issued December 13, 1960), 24 F.P.C. 1062; Order No. 226 (issued December 17, 1960), 23 F.P.C. 772; Order No. 225 (issued December 13, 1960), 24 F.P.C. 1083; Order No. 227 (issued December 21, 1960), 24 F.P.C. 1115; Order No. 228 (issued December 23, 1960), 24 F.P.C. 1125.

[3] The Commission originally had six different and distinct Uniform Systems covering Class A and B electric utilities and licensees; Class A and B gas companies, Class C electric utilities, Class C gas companies, and Class D electric utilities and licensees, and Class D gas companies. These six Uniform Systems were implemented to prevent the smaller regulated companies from having to work with an "inordiante amount of textual material designed for larger" regulated companies. In Order No. 437, issued August 16, 1972, 48 F.P.C. 335, the Class D Uniform Systems for regulated companies were integrated into the Class C Uniform Systems for regulated companies. These were integrated because the Commission found that two of the six separate systems opf accounts were unnecessary.

[4] Report to Director, Office of Management and Budget, "Independent Regulatory Agencies Can Reduce Paperwork Burden on Industry," No. B-182087 (July 7, 1981).

[5] The Commission also proposes to amend FERC Form Nos. 1, 1–F, 2, and 2–A to reflect the reorganization of the Uniform Systems, any changes in terminology, and the other changes proposed in this notice. These changes are purely technical, conforming and clarifying. These forms are not being printed in the **Federal Register**, but are available through the Commission's Division of Public Information, Room 1000, 825 North Capital Street, N.E., Washington, D.C. 20426; telephone (202) 357–8118. Refer to "Uniform Systems Package" and the relevant Part (Part 101—electric or Part 201—gas) when making inquiries.

[6] The Commission has developed a chart which shows the changes in the Charts of Accounts in Parts 101 and 201. This chart can be obtained through the Commission's Division of Public Information. See footnote 5.

In proposing these revisions, the Commission is especially interested in, and specifically invites comments, on the following: (1) Whether the proposed changes would affect any Commission or State regulatory functions; (2) whether State agencies would revise their regulations if these proposed changes were implemented; (3) how much savings in company costs are likely to result from the proposed changes; (4) the estimated burden, in dollars or hours, associated with the proposed accounting, filing, and reporting requirements versus the actual or estimated burden under current accounting, filing, and reporting requirements; and (5) whether the thresholds for reclassifying regulated companies are reasonable, or whether other criteria are appropriate.

A. Merger of the Uniform Accounts and Changes in Nomenclature

The Commission proposes, as a major overall feature of this rulemaking, to merge the Uniform Systems for Class C and Class D regulated companies into the Uniform Systems for Class A and Class B regulated companies. Thus, there would be only one Uniform Systems for electric utilities and licensees (Part 101) and one for gas companies (Part 201). In addition, the Commission proposes to change its nomenclature for describing these regulated companies. Instead of classifying regulated companies as Class A and Class B, the Commission's regulations would classify both classes as "Major" regulated companies. Similarly, Class C and Class D regulated companies would be classified as "Nonmajor" regulated companies.

The Commission believes that the present Uniform Systems for Class A and Class B electric utilities and licensees and Class A and Class B gas companies contain the accounting requirements necessary for Commission regulation of Major electric utilities and licensees (Part 101) and Major gas companies (Part 201). Likewise, the Commission believes that the present Uniform Systems for Class C and Class D electric utilities and licensees (Part 201) and Class C and Class D gas companies (Part 204) contain the accounting requirements necessary for Commission regulation of Nonmajor electric utilities and licensees and Nonmajor gas companies.

As a result of merging the Uniform Systems for Class A and Class B regulated companies with those for Class C and Class D regulated companies (in Parts 101 and 201 respectively), the following types of changes will be make: (1) Duplicative accounts will be deleted; (2) accounts applicable only to major or Nonmajor regulated companies would be so designated; and (3) accounts applicable to both Major or Nonmajor regulated companies would be amended, where necessary, to distinguish between the requirements for Major and Nonmajor regulated companies. These conforming and clarifying changes would be purely technical, but the Commission believes that the reorganization would save time, personnel resources, and money each time the Uniform Systems are updated and would make the Uniform Systems easier and less confusing to use for the public.

If a definition, instruction, or account is not designated in the proposed revisions as either Major or Nonmajor, it is applicable to both Major and Nonmajor, regulated companies, as appropriate. However, numerous accounts in Part 101 for electric utilities and licensees and Part 201 for gas companies would be applicable to only Major electric utilities, licensees, and gas companies. These accounts would be amended by inserting the parenthetical "(Major only)" at the end of each account title.

a. The following accounts in Part 101 would be designated "(Major only)":

103, 106, 108, 111, 115, 120.1–120.5, 123, 123.1, 125–128, 131–135, 151–153, 155–163, 171–173, 183–185, 188, 202, 203, 205–210, 216.1, 222, 238–241, 320–325, 418.1, 445, 446, 502, 505, 506, 510–514, 517–532, 537–539, 541–545, 548–549, 551–554, 556, 561–566, 568–573, 581, 582–584, 590–592, 593, 594, 901, 905, and 907–916.

b. The following accounts in Part 201 would be designated "(Major only)":

103, 105.1, 106, 108, 111, 115, 117, 123, 123.1, 125–128, 131–135, 151–153, 155–163, 164.3, 166–173, 183.1–185, 188, 202–210, 216.1, 222, 238–241, 363–363.4 364.1–364.8, 403, 404.1–404.3, 418.1, 482, 700–708, 711–724, 725–729, 730, 732–735, 740–742, 751–754, 756, 757, 761, 762, 765–769, 770–775, 777–791, 800–804.1, 806, 809.1–812, 815–822, 824, 830, 831, 833–837, 840–847.8, 851–853, 854–857, 859 861, 862, 865–867, 871–873, 875–877, 880, 885–892, 894, 901, 905, 907–913, and 916.

Part 104 for electric utilities and Part 204 for gas companies have many accounts that are applicable to only Nonmajor electric utilities or gas companies. These accounts are being merged with the accounts in parts 101 and 201. When they are merged, they will renumbered and the parenthetical "(Nonmajor only)" will be inserted at the end of each account title.

a. The following chart shows the accounts in Part 104 that would be merged and renumbered, and would contain the parenthetical "(Nonmajor only)":

From part 104	*To part 101*
103	103.1
110	110
125	129
131	130
218	218
449	449
502	508
506	515
532	540.1
535	545.1
540	550.1
543	554.1
551	567.1
553	574
562	581.1
571	582.1
572	594.1
907	908
910	917
933	932
901 and 902	902
902 and 903	903

b. The following chart shows the accounts in Part 204 that would be merged and renumbered, and would contain the parenthetical "(Nonmajor only)":

From part 204	*to part 201*
103	103.1
110	110
125	129
131	130
218	218
403	403.1
404	404
701	724.1
702	728.1
703	737
706	743
718	792
719	789.1
730	799
735	812.1
842	827
746	838
747	839
751	853.1
752	857.1
757	868
	880.1
765	892.1
767	
769	895
907	906
910	917
933	932
901 and 902	902
902 and 903	903

After the merger of Part 104 into Part 101 and of Part 204 into Part 201 in accordance with the proposed scheme shown above, numerous definitions, instructions, and accounts would contain the requirements for both Major and Nonmajor regulated companies. This may be appropriate in some cases, but there will also be instances where the requirements contained in a definition, instruction, or an account for a Major or a Nonmajor regulated company should differ. In these instances, the Commission proposes to revise the present definitions, instructions, and accounts in Parts 101 and 201 to clarify the appropriate differences in application and to eliminate any unnecessary ambiguity.

VOL 48 ISS 198 OCT 12 1983 UMI

The Commission intends no substantive changes by these revisions.

a. The following definitions, instructions and accounts of Part 101 would be revised:

Definitions: 28 and 35.

General Instructions: 8,12,14,and 15.

Electric Plant Instructions: 1,3,4,7,8,9,10,11,15,and 16.

Accounts: 154, 186, 204, 211, 242, 302, 330, 331, 332, 335, 368, 370, 372, 500, 535, 546, 547, 560, 585, 588, 903, 924, 925, 926, 930.2, and 932.

b. The following definitions, instructions and accounts of Part 201 would be revised:

Definitions: 13, 15, 16, 27, 29, 35, and 36.

General Instructions: 8, 12, 14, 15, 16, and 19.

Gas Plant Instructions: 1, 3, 4, 6, 7, 8, 10, 11, 12, 14, 15, and 16.

Accounts: 154, 186, 201, 204, 211, 242, 302, 303, 338.3, 352.3, 363.5, 411.6, 411.7, 412, 413, 421.1, 421.2, 481, 488, 495, 710, 750, 755, 759, 776, 795, 796, 797, 798, 807, 808.1, 808.2, 813, 814, 823, 850, 865, 870, 874, 878, 879, 902, 903, 924, 925, 926, 930.2, and 932.

B. New Methods of Classifying Regulated Companies

As outlined above, the Commission now classifies regulated companies as Class A, B, C, D, or exempt according to annual operating revenues. Many of the regulated companies that were classified as Class C and D in 1960, when the classification criteria were set, have become Class A and B regulated Companies because inflation has increased their annual operating revenues without a corresponding increase in scope of the regulated company's operations. This method of classification unnecessarily increased the accounting, reporting, and filing burden on some of the smaller regulated companies. Accordingly, the Commission proposes to reclassify regulated companies using criteria that would not be affected by inflation. In lieu of the annual operating revenues criteria, the Commission proposes to classify regulated companies as Major if detailed information is required for regulatory purposes, as discussed below. In contrast, the Commission proposes to classify regulated companies as Nonmajor if less detailed information is required by the Commission for regulatory purposes. Finally, the Commission proposes to exempt regulated companies if the Commission rarely requires information from them on an annual basis.

In selecting the criteria for whether or not detailed information is required for the Commission's regulatory responsibilities, the Commission has balanced its need for information against the burden on the regulated companies and has considered the use of criteria that are both easily administered and are not inflation-sensitive. The following proposed standards have been developed as a result of this balancing of competing concerns.[7]

1. *Classification of Public Utilities and Licensees*

The Commission proposes to classify electric utilities and licensees based on energy sales or transmission services. A company will be classified as a Major if its sales or transmission services exceed, in the previous year: (1) 1,000,000 megawatt hours of total annual sales; (2) 100 megawatt hours of annual sales for resale; (3) 500 megawatt hours of annual gross interchange out;[8] or (4) 500 megawatt hours of wheeling for others (deliveries plus losses).[9] In contrast, a company will be classified as a Nonmajor electric utility if it had total annual sales of 10,000 megawatt hours or more, but would not otherwise qualify as Major (as defined above) in the previous calendar year.

These definitions exempt companies that have total annual sales below 10,000 megawatt hours and are not otherwise classified as "Major." These companies are exempted because the Commission believes that specific accounting, filing, and reporting burdens may be unjustified and because the Commission can request information as the need arises

2. Classification of Natural Gas Companies

The Commission proposes to classify gas companies based on combined gas sold for resale and gas transported or stored for a fee. A company will be classified as a Major gas company if, in the previous year, combined gas sold for resale and gas transported or stored for a fee was in excess of 50 million Mcf at 14.73 psia (60° F.). These proposed criteria are the same criteria used in FERC Form No. 11. They have proven to be sufficient for the Commission's needs in reviewing monthly data in rate case proceedings. In contrast, a company would be classified as a Nonmajor gas company if it would not qualify as "Major" (as defined above) but had annual gas sales or volume transactions exceeding 200,000 Mcf at 14.73 psia (60° F.) in the previous calendar year. In addition, this definition excludes gas companies that have had annual gas sales or volume transactions at or below 200,000 Mcf at 14.73 psia (60° F.) in the previous year. These gas companies would be exempted because the Commission believes that specific accounting, filing, and reporting burdens would not be justified and because the Commission can always request information as the need arises.

After the new classification criteria are implemented, some regulated companies that are now classified as Major (old Class A or Class B) would be reclassified as Nonmajor (old Class C or Class D). The Commission believes that some minor adjustments to the reporting requirements of those regulated companies that are reclassified from Major to Nonmajor will be necessary. In a final rule issued September 5, 1980,[10] the Commission revised FERC Form No. 1–F by removing certain data items and reducing the reporting burden on the electric utilities that were then classified as Class C and Class D. However, the Commission proposes to reinstate certain requirements for accounting and corporate information, which were removed from FERC Form No. 1–F by the 1980 rulemaking, for only those former Major electric utilities that would be reclassified as Nonmajor. Therefore, the Commission proposes to revise the instructions to FERC Form No. 1–F to make it clear that additional information will be required from only these newly-reclassified Nonmajor electric utilities.

Overall, the proposed reclassification would reduce the filing requirements for many regulated companies. For example, § 154.63(b)(3), 18 CFR 154.63(b)(3), relates to a major rate increase filing requirements. This section permits Classes B, C, and D gas companies to file less information that Class A gas companies. The proposed reclassification will be reflected in section 154.63 by revising Class A to Major and Class B, C, and D as Nonmajor and, thus, will increase the number of gas companies that may file the lesser amount of information for a major rate increase.

[7] A comparison of the regulated companies that were defined as Class A and Class B when the present standards were implemented in 1961 (under the old standard) and the regulated companies that would be classified as Major (using the proposed standard) shows that significantly fewer regulated companies would be classified Major than were originally classified as Class A and Class B in 1961.

[8] "Interchange out" means an electric utility's (the respondent's) own megawatt hours delivered to another electric utility and excludes wheeling transactions.

[9] "Wheeling for others (deliveries plus losses)" means the electric utility's (the respondent's) use of its transmission facilities to transmit power of another electric utility to or for a third electric utility.

[10] Docket No. RM80–59–000, Order No. 101, issued September 5, 1980, 45 FR 60,898 (1980).

C. Changes in the Application of Generally Accepted Accounting Principles (GAAP)

Generally Accepted Accounting Principles are established, in part, by the Financial Accounting Standards Board (FASB). The FASB is the successor of the Accounting Principles Board (APB) of the American Institute of Certified Public Accountants. Pronouncements of the APB made and in effect prior to the establishment of the FASB remain in effect unless subsequently modified by the FASB. As a general proposition, the Commission generally ensures that its Uniform Systems are consistent with the standards announced by FASB. The Uniform Systems differ from FASB standards only to reflect ratemaking distinctions.[11]

In December of 1982, FASB issued Financial Accounting Standards Board Statement of Financial Accounting Standards No. 71, *Accounting for the Effects of Certain Types of Regulation* (FASB No. 71).[12] FASB No. 71 addresses many of the differences that may arise in the application of GAAP to regulated companies because of the regulatory ratemaking process.

Regulated companies have a need to implement FASB No. 71 even without the Commission's amending its Uniform Systems, because certified public accountants that audit these companies will take exception to any accounting methods used by a company that are not in accordance with GAAP.[13] While requiring regulated companies to apply GAAP in different ways, FASB No. 71 leaves the implementation of these changes in the application of GAAP to the discretion of the affected regulated companies. Consequently, the Commission proposes to amend its Uniform Systems to ensure that regulated companies implement these changes in a uniform and consistent manner. Moreover, the Commission believes its proposed changes will clearly identify the costs and liabilities affected by these changes in the application of GAAP, will ease the Commission's responsibility in monitoring rates, and will not increase the burden on the regulated companies.

[11] *See* Docket No. R–424, Order No. 505–B (issued July 8, 1977), 59 F.P.C. 591. *See also, Addendum to APB Opinion 2* (1962).

[12] December 1982. FASB No. 71 will go into effect December 19, 1983. The Commission presently expects to implement the changes proposed in this rule in a manner that will allow timely action by regulated companies.

[13] Under Rule 203 of the American Institute of Certified Public Accountants Code of Ethics, certified public accountants must report departures from Generally Accepted Accounting Principles.

FASB No. 71 states four general accounting standards that are applicable to regulated companies. (1) FASB No. 71 establishes criteria for capitalizing costs that would otherwise be charged as current expenses. (2) FASB No. 71 recognizes that the value of an asset might be affected by a regulatory decision to exclude the cost of the asset from allowable costs in present and future periods. In that situation, FASB states that the carrying amount of the asset must be reduced to the extent that the value of the asset has been impaired. (3) FASB No. 71 recognizes that regulatory decisions can impose liabilities that would generally be considered obligations to the regulated company's customers, giving, as examples, refunds to customers and contingencies for storm damage where the enterprise remains accountable for the monies not expended for the intended purpose. (4) Finally, FASB No. 71 determines that a regulator can only eliminate a liability created by the regulator.

1. *Retained Earnings and Rate Refunds*

The Uniform Systems permit adjustments of retained earnings to reflect significant non-recurring transactions related to prior periods where Commission approval is granted (for example, in a rate refund ordered by the Commission). The Commission proposes to restrict future adjustments to retained earnings only to the corrections of errors in financial statements of prior years and to adjustments caused by the realization of certain income tax benefits. These restrictions are necessary to ensure that certain contingent liabilities are accrued when required to be recognized by GAAP, instead of adjusting retained earnings in a later period. Therefore, the Commission proposes to amend account 439 of Parts 101 and 201 for adjustments to retained earnings to implement these restrictions. Moreover, to reflect these and other restrictions arising from FASB No. 71, the Commission proposes to revise Instructions 7 and 7.1 of Parts 101 and 201 concerning extraordinary items and prior period items and accounts 434 and 435 concerning extraordinary income and deductions.

Under FASB No. 71 regulated companies will sometimes need to account for revenues collected subject to refund as a liability. Therefore, the Commission proposes to add to Parts 101 and 201 new accounts 229 and 414.2 to provide recording provisions for rate refunds as liabilities, and new accounts 410.3 and 411.3 to provide for recording income tax deferrals and flowback of the deferrals related to provisions for rate refunds. Finally, the Special Instructions following account 410 and account 190 (concerning accumulated deferred income taxes) would be amended to reflect the addition of these new accounts, and unnecessary portions of paragraph B of account 236 in Parts 101 and 201 (concerning accrued taxes) would be deleted.

2. *Capital Leases*

The present Uniform Systems account for payment on leased property as rent expenses and there are no provisions for capitalizing any amounts related to such property. Certain leased property and the corresponding lease obligations must be recorded as assets and obligations under FASB No. 71. Therefore, the Commission proposes to implement the concept of "capital leases" in the Uniform Systems, which is consistent with GAAP, by adding the following: (1) New definitions 15 and 16 to Part 101 and new definitions 18 and 19 to Part 201 for capital and operating leases; (2) a new General Instruction 19 to Parts 101 and 201 providing criteria for classifying leases as either capital or operating; (3) a new General Instruction 20 to Parts 101 and 201 explaining the method required to account for leases; (4) a new account 101.1 to Parts 101 and 201 for the recording of utility property under capital leases; (5) a new account 227 to Parts 101 and 201 for the recording of noncurrent obligations under capital leases; and (6) a new account 243 to Parts 101 and 201 for recording current obligations under capital leases.

3. *Operating Reserve Accounts*

The present operating reserve accounts record amounts allowed by a regulator to be accrued for contingencies such as uninsured storm damage. However, FASB No. 71 requires that amounts collected in rates, which are not yet expended for the intended contingency and for which the regulated company remains accountable, must be treated as liabilities. The Commission proposes to implement this requirement by deleting from Parts 101 and 201 the present operating reserve accounts, accounts 261, 262, 263, and 265, and by adding new liability accounts that may be credited only where a regulatory authority permits the collection of these amounts in a regulated company's rate levels. Specifically, the Commission proposes to add to Parts 101 and 201 the following: (1) An account 228.1 for recording amounts accrued and collected for possible property losses through accidents, fire, flood, or other

VOL 48 ISS 198 OCT 12 1983 UMI

hazards that are not covered by insurance; (2) an account 228.2 for recording the probable liability, not covered by insurance, for deaths or injuries to employees and others and for damages to property not owned or leased by the regulated company; (3) an account 228.3 for recording provisions made and amounts contributed for employee pensions and benefits; (4) an account 228.4 for recording accumulated miscellaneous operating provisions not provided for elsewhere; and (5) an account 229 for recording estimated refunds when the regulated company is collecting monies subject to refund.

D. Other Minor Amendments to Parts 101 and 201

The Commission proposes other minor changes to the Uniform Systems in Parts 101 and 201. For the most part, these revisions are intended to make certain accounts more easily administrable, to update certain accounts to reflect inflation and minor statutory changes, and to conform certain accounts to the other changes being proposed in this rulemaking.

First, the Commission proposes to subdivide account 182 in both Parts 101 and 201 by renumbering account 182 as 182.1 and by adding a new account 182.2 "Unrecovered Plant and Regulatory Study Costs." The Commission understands that regulated companies already include unrecovered plant and regulatory study costs in the present account 182 and, therefore, the change only makes it easier to identify those costs. Moreover, in an effort to clarify the application of the new account, the Commission proposes to amend General Instruction 3 of Parts 101 and 201 to include examples of "studies."

Second, the Commission proposes to further amend Electric and Gas Plant Instructions 3 and 9 in Parts 101 and 201 by changing the example of "individual items of equipment of small cost" from $50 to $500. This is necessary to reflect inflation over the last two decades. The Commission specifically seeks comments on whether $500 is a reasonable estimation of "small costs."

Third, the Commission assumed many of the responsibilities of the Federal Power Commission in 1977. Accordingly, the Commission proposes to substitute the name "Federal Energy Regulatory Commission" for "Federal Power Commission" in the definition sections of and throughout Parts 101 and 201.

Fourth, paragraph C of account 105 in Parts 101 and 201 relates to the removal of utility plant property held for future use that is no longer needed or appropriate for future utility operations, and paragraph C of account 105.1 in Part 201 relates to the removal of production property held for future use that is no longer needed or appropriated for future operations. Regulated companies are required by paragraph C of these accounts to notify the Commission and to request prior approval of entries to remove property from these accounts. The Commission does not believe it is necessary for it to approve entries, on an individual entry basis, for the removal of property from account 105 or 105.1 if that property has an original cost of less than $100,000 (for account 105) or $500,000 (for account 105.1). Consequently, the Commission proposes to amend paragraph C of account 105 in Parts 101 and 201 and account 105.1 in Part 201 to require that the company request prior Commission approval of journal entries to remove property from these accounts only when the original cost of the property is $100,000 or more (for account 105) or $500,000 or more for (account 105.1). For properties with an original cost of less than $100,000 or $500,000 respectively, the regulated company is only required to file annually with the Commission those journal entries reflecting the removal of the property from account 105 or account 105.1 and to include the same descriptive information that is currently filed with the individual journal entries submitted to the Commission. The Commission believes that $100,000 and $500,000 are reasonable thresholds for these accounts. However, the Commission specifically requests comments on whether thresholds of $100,000 and $500,000 are reasonable, or whether other criteria are more appropriate.

Fifth, the Commission proposes to delete account 214, related to capital stock expenses, from Parts 101 and 201. The Commission believes account 214 is no longer necessary because it is seldom used and is potentially misleading. Any current balances in account 214 would be included in account 201 or 204, relating to common and preferred stock issued, as appropriate.

Sixth, the Commission proposes to delete paragraph D of account 282, relating to accumulated deferred income taxes in Parts 101 and 201, because the Commission believes regulated companies no longer need to maintain vintage year records with respect to entries to this account.

Seventh, the Commission also proposes to amend account 425 in Parts 101 and 201 concerning the amortization of miscellaneous items. The amendments would remove all references to accounts 182 and 214 to permit the amortizations of miscellaneous items that are specifically allowed by the Commission.

Eighth, the Commission also proposes to add a new Item 5 to account 426.5 of Parts 101 and 201 to provide for preliminary abandonment costs recorded in accounts 182.1 and 182.2, but not allowed to be amortized. This change is necessary to clarify the proper account to be used for these costs.

Finally, the Commission proposes to add a new item to accounts 367 and 376 of Part 201 to provide for "line pack gas." This change is necessary to clarify that the costs associated with line pack gas in gas mains are to be shown separately from other gas main costs.

The various proposed amendments listed above are in addition to the numerous editorial changes that are also being proposed to conform the remainder of the Uniform Systems with the other specific changes detailed in this notice. These conforming changes are not intended to be substantive in nature. The Commission invites comments and additional suggestions on any other conforming changes that may be necessary.[14]

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (5 U.S.C. 601–612 (Supp. V 1981)), requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that, if promulgated, would have "a significant economic impact on a substantial number of small entities." The Commission is not required to make such analyses if a proposed rule would not have such an impact.

Most electric utilities and natural gas companies do not fall within the RFA's definition of small entity.[15] Most hydroelectric licensees, on the other hand, may fall within the small entity definition. Since the accounting, filing, and reporting burdens on all of these types of regulated entities would either be reduced by this rule or remain unchanged, this proposed rule would have a positive economic impact on the vast majority of regulated entities, both large and small. No entity, regardless of size, will have an increased burden of any sort. These are intended and

[14] The Commission recently published in the **Federal Register** technical amendments to correct minor errors in the Uniform Systems, 48 F.R. 32,567 (1982). These technical amendments are reflected in this NOPR.

[15] 5 U.S.C. 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. V 1981). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. *See also*, SBA's Small Business Size Standards, 13 CFR Part 121 (1982).

important impacts. The Commission does not, however, believe that this impact will be "significant," at least within the meaning of the RFA. Pursuant to section 605(b) of the RFA, therefore, the Commission certifies that this rule, if promulgated, will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act Statement

The proposed changes in this notice are being submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981), and OMB's regulations, 48 FR 13,666, 13,694 (1983) (to be codified at 5 CFR Part 1320). Interested persons can obtain further information on the proposed changes by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Attention: Joseph Hartsoe, (202) 357–5737). Comments relating to the burden imposed by these proposed changes may be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Written Comment Procedure

The Commission invites interested persons to submit written data, views, and other information concerning the matters set out in this notice. All comments in response to this notice should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and must reference Docket No. RM83–66–000. An original and 14 copies of such comments must be filed. All comments must be received by the Commission 60 days after the date this Notice of Proposed Rulemaking is published in the **Federal Register.**

All written comments will be placed in the Commission's public file and will be available for public inspection during regular business hours at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

In addition, the Commission may consider affording interested persons an opportunity for a public hearing to receive oral comments. Any interested person wishing an opportunity to appear to give oral comments must file with the Office of the Secretary a written request for public hearing by November 7, 1983. A notice will be published in the **Federal Register** if a public hearing will be held.

(Natural Gas Act, 15 U.S.C. 717–717w (1976 and Supp. V 1981); Federal Power Act, 16 U.S.C. 792–828c (1976 and Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7102–7352 (Supp. V 1981) Executive Order 12,009, 3 CFR 142 (1978); 5 U.S.C. 553 (1976))

List of Subjects

18 CFR Parts 101 and 104

Electric power, Electric utilities, Uniform systems of accounts.

18 CFR Part 141

Electric power, Electric utilities.

18 CFR Parts 154 and 159

Natural gas,

18 CFR Parts 201 and 204

Natural gas, Uniform systems of accounts.

18 CFR 260

Natural gas.

In consideration of the foregoing, the Commission proposes to amend Parts 101, 104, 141, 154, 159, 201, 204, and 260 of Chapter 1, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 101—[AMENDED]

1. The title in Part 101 that follows the Subchapter heaidng "SUBCHAPTER C—ACCOUNTS, FEDERAL POWER ACT" and the title in part 101 that precedes the heading "Definitions" are amended by removing the parenthetical "(Class A and Class B)."

2. The Definitions section of Part 101 is amended as follows:

(a) in Definition 7, by removing the words "Federal Power Commission" and inserting, in their place, the words "Federal Energy Regulatory Commission";

(b) in paragraph B of Definition 28, by inserting a comma "," and the words "in the case of Major utilities," following the parenthetical "(RD&D)";

(c) in Definition 35, by removing the words " "Subsidiary Company" " and inserting, in their place, the words " "Subsidiary Company" in the case of Major utilities,";

(d) by redesignating Definitions 15 through 36 as Definitions 17 through 38, and inserting new definitions 15 and 16 to read as follows:

15. "Lease, capital" means a lease of property used in utility or nonutility operations, which meets one or more of the criteria stated in General Instruction 19.

16. "Lease, operating" means a lease of property used in utility or nonutility operations, which does not meet any of the criteria stated in General Instruction 19.

3. The General Instructions of Part 101 are amended as follows:

(a) in Instruction 1, by revising paragraphs A, B and C to read as follows:

General Instructions

1. Classification of Utilities

A. For the purpose of applying the system of accounts prescribed by the Commission, electric utilities and licensees are divied into two classes, as follows:

(1) *Major.* Utilities and licensees that had, in the previous calendar year, sales or transmission service that exceeded one or more of the following:

(1) One million megawatt hours of total annual sales;

(2) 100 megawatt hours of annual sales for resale;

(3) 500 megawatt hours of annual gross interchange out; or

(4) 500 megawatt hours of wheeling for others (deliveries plus losses.

(2) *Nonmajor.* Utilities and licensees that are not classified as a "Major" (as defined above), and had total annual sales of 10,000 megawatt hours or more in the previous calendar year.

B. This system applies to both Major and Nonmajor utilities and licensees. Provisions have been incorporated into this system for those entities which, prior to January 1, 1984, were applying the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees subject to the Provisions of the Federal Power Act (Class C and Class D) [Part 104 of this chapter, now revoked]. The notations "(Nonmjor)" and "(Major)" have been used to indicate those instructions and accounts which by definition from previous systems and classifications are not interchangeable without causing a loss of detail for the Major (previously Class A and Class B) or an increase in detail burden on the Nonmajor (previously Class C and Class D).

C. The class to which any utility or licensee belongs will originally be determined by the average of its annual megawatt hours for the last three consecutive years, or in the case of a newly established entity, the projected data shall be the basis. Subsequent changes in classification shall be made as necessary when the megawatt hours for each of the three immedately preceding years shall exceed the upper limit, or be less than the lower limit of the classification previously applicable to the utility.

* * * * *

(b)in Instruction 7, by removing:

(1) the words "not typical or customary business activities of the company" and inserting, in their place, the words "of unusual nature and infrequent occurrence";

(2) the words "would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business," and inserting, in their place, the words "are abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the foreseeable future.";

(3) the words "of a similar nature should be considered" and inserting, in their place, the words "should be considered individually and not";

(4) the sentence in the parenthetical that reads "Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate." and inserting in the parenthetical, in its place, the sentence "However, the effects of series of related transaction arising from a single specific and identifiable event or plan of action should be considered in the aggregate.";

(c) in instruction 7.1, by revising the text to read as follows:

7.1 *Prior Period Items*

A. Items of profit and loss related to the following shall be accounted for as prior period adjustments and excluded from the determination of net income for the current year:

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits of pre-acquisition operating loss carryforwards of purchased subsidiaries.

B. All other items of profit and loss recognized during the year shall be included in the determination of net income for that year.

(d) in the respective titles for Instructions 8, 12, 14 and 15, by inserting the parenthetical "(Major Utility)" at the end of each title;

(e) in paragraph G of Instruction 17, by removing the words "Account 283, Accumulated Deferred Income Taxes—Other" and inserting, in their place, the words "Account 282, Accumulated Deferred Income Taxes—Other Property", and by removing the words "Account 283" and inserting, in their place, the words "Account 282".

(f) by adding new Instructions 19 and 20, following Instruction 18, to read as follows:

19. *Criteria for Classifying Leases*

A. If at its inception a lease meets one or more of the following criteria, the lease shall be classified as a capital lease. Otherwise, it shall be classified as an operating lease.

(1) The lease transfers ownership of the property to the lessee by the end of the lease term.

(2) The lease contains a bargain purchase options.

(3) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease.

(4) The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by the lessor. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. The lessee utility shall compute the present value of the minimum leaae payments using its incremental borrowing rate, unless (A) it is practicable for the utility to learn the implicit rate computed by the lessor, and (B) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

B. If at any time the lessee and lessor agree to change the provisions of the lease, other than by renewing the lease or extending its terms in a manner that would have resulted in a different classification of the lease under the criteria in paragraph A had the changed terms been in effect at the inception of the lease, other revised agreement shall be considered as a new agreement over its terms, and the criteria in paragraph A shall be applied for purposes of classifying the new lease. Likewise, any action that extends the lease beyond the expiration of the existing lease term, such as the exercise of a lease renewal option other than those already included in the lease term, shall be considered as a new agreement and shall be classified according to the above provisions. Changes in estimates (for example, changes in estimates of the economic life or of the residual value of the leased property) or changes in circumstances (for example, default by the lessee) shall not give rise to a new classification of a lease for accounting purposes.

20. *Accounting for Leases*

A. All leases shall be classified as either capital or operating leases.

B. The utility shall record a capital lease as an asset in account 101.1, Property under Capital Leases (or account 121, Nonutility Property, if appropriate), and an obligation in account 227, Obligations under Capital Leases—Noncurrent or account 243, Obligations under Capital Leases—Current, at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, together with any profit thereon. However, if the amount so determined exceeds the fair value of the leased property at the inception of the lease, the amount recorded as the asset and obligation shall be the fair value.

C. Rental payments on all leases shall be charged to rent expense as they become payable.

D. For a capital lease, for each period during the lease term, the amounts recorded for the asset and obligation shall be reduced by an amount equal to the portion of each lease payment that would have been allocated to the reduction of the obligation, if the payment had been treated as a payment on an installment obligation (liability) and allocated between interest expense and a reduction of the obligation so as to produce a constant periodic rate of interest on the remaining balance.

4. The Electric Plant Instructions of Part 101 are amended as follows:

(a) in the title of Instruction 1, by inserting the parenthetical "(Major utilities)" following the word "Accounts", and adding a new paragraph D, following paragraph C, to read as follows:

D. Plant acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases*, shall be recorded in Account 101.1 Property under Capital Leases.

(b) in paragraph A of Instruction 2, by removing the words "by the utility." and inserting, in their place, the words "by the utility, except for property acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases*, and is recorded in Account 101.1, Property under Capital Leases.";

(c) by amending Instruction 3 as follows:

(1) by removing the words "The cost of construction" and inserting, in their place, the words "A. For Major utilities, the cost of construction";

(2) by adding, following paragraph A in Instruction 3, a new paragraph B to read as follows:

B. For Nonmajor utilities, the cost of construction of property chargeable to the electric plant accounts shall include, where applicable, the cost of labor; materials and supplies; transportation; work done by others for the utility; injuries and damages incurred in construction work; privileges and permits; special machine service; allowance for funds used during construction, not to exceed without prior approval of the Commission, amounts computed in accordance with the formula prescribed in paragraph (a) of subparagraph (17) above; training costs; and such portion of general engineering, administrative salaries and expenses, insurance, taxes, and other analogous items as may be properly includable in construction costs. (See Operating Expense Instruction 4.) The rates and balances of short- and long-term debt, preferred stock, common equity and construction work in progress shall be determined as prescribed in paragraph (b) of subparagraph (17) above.

(3) in subparagraph (3), by removing from the note the words "$50 or less" and inserting, in their place, the words "$500 or less,"

(4) by adding a new subparagraph (20), following subparagraph (19), to read as follows:

(20) "Studies" includes the costs of studies such as nuclear operational, safety, or seismic studies or environmental studies mandated by regulatory bodies relative to plant under construction. Studies relative to facilities in service shall be charged to account 183, Preliminary Survey and Investigation Charges.

(5) in subparagraph 17, by inserting the parenthetical "(Major and Nonmajor Utilities)" following the words "during Construction";

(6) in subparagraph 19 of Instruction 3, by inserting the parenthetical "(Major and Nonmajor Utilities)" following the words " "Training Costs" ";

(d) in paragraph C of Instruction 4, by removing the words "The records supporting" and inserting, in their place, the words "for Major utilities, the records supporting";

(e) in paragraph A of Instruction 6, by adding a sentence at the end of the paragraph to read "The provisions of this paragraph are applicable to property leased under either capital leases or operating leases.";

(f) in paragraph H of Instruction 7, by removing from the parenthetical the words "See account 111" and inserting, in their place, the words "For Major utilities, see account 111,"; and by inserting in the parenthetical the words "for Nonmajor utilities, see account 404" immediately following the words "Limited-Term Electric Plant";

(g) in pargaraph H of Instruction 8 by inserting the parenthetical "(Major Utilities)" at the end of the following items: 2, 6, 11, 12, 18, 19, 27, 28, 31, 34, 35, 38, 39, 40, 41, 43, 44, 46, 48, 51, 52, 54, 57, 59, 60, 61, 63, 64, 65, and 66;

(h) in paragraph B of Instruction 9, by removing from the parenthetical the words "$50 or less" and inserting, in their place, the words "$500 or less";

(i) in paragraph D of Instruction 9, by removing the words "The utility shall" and inserting, in their place, the words "In the case of Nonmajor utilities, the utility shall furnish the Commission with full particulars of and justification for any test or experimental run extending beyond a period of 30 days. In the case of Major utilities, the utility shall";

(j) in paragraph F of Instruction 10, by inserting the parenthetical "(Account 110, Accumulated Provision for Depreciation and Amortization of Electric Utility Plant, in the case of Nonmajor utilities)" following the words "Electric Plant in Service"; and by inserting the parenthetical "(Account 110 for Nonmajor utilities)" following the words "to Account 108";

(k) in paragraph G of Instruction 10, by removing the words "The accounting for" and inserting, in their place, the words "In the case of Major utilities, the accounting for";

(l) in paragraph C of Instruction 10, by removing the words "Each utility" and inserting, in their place, the words "In the case of Major utilities, each utility";

(m) in respective titles to Instructions 15 and 16, by inserting the parenthetical "(Major utilities)" at the end of each title.

5. The Operating Expense Instructions of Part 101 are amended by inserting, in the title to Instruction 1, the parenthetical "(Major Utilities)" at the end of the title.

6. The Balance Sheet Chart of Accounts and Balance Sheet Accounts of Part 101 are amended in the following accounts by inserting the parenthetical "(Major only)" at the end of the titles of the following accounts: accounts 103, 106, 106, 111, 115, 120.1–120.5, 123, 123.1, 125–128, 131–135, 151–153, 155–157, 163, 171–173, 183, 184, 185, 188, 202, 203, 205–209, 210, 216.1, 222, 238 and 239–241.

7. The Balance Sheet Chart of Accounts of Part 101 is amended as follows:

(a) by inserting a new account 101.1, following account 101, to read "101.1 Property under Capital Leases";

(b) by inserting a new account 103.1, following account 103, to read "103.1 Electric plant in process of reclassification (Nonmajor only)";

(c) in account 110, by removing the words "110 [Reserved]" and inserting, in their place, the words"110. Accumulated provision for depreciation and amortization of electric utility plant (Nonmajor only)";

(d) by inserting a new account 130, preceding account 131 to read "130 Cash and working funds (Nonmajor only)";

(e) by inserting a new account 129 following account 128, to read "129 Special funds (Nonmajor only)";

(f) by redesignating account 182 as account 182.1 and inserting a new account 182.2, directly following account 182.1, to read "182.2, Unrecovered Plant and Regulatory Study Costs";

(g) by removing account 214 in its entirety;

(h) by inserting a new account 218, following account 217, to read "218 Noncorporate proprietorship (Nonmajor only)";

(i) By removing the caption "9. OPERATING RESERVES" and by removing accounts 261, 262, 263, and 265;

(j) By redesignating caption 8 as caption 9 and caption 7 as caption 8 and inserting a new caption 7 to read "7. Other Noncurrent Liabilities";

(k) By inserting, after account 226, the following new accounts:

227 Obligations under Capital Leases—Noncurrent
228.1 Accumulated Provision for Property Insurance
228.2 Accumulated Provision for Injuries and Damages
228.3 Accumulated Provision for Pensions and Benefits
228.4 Accumulated Miscellaneous Operating Provisions
229 Accumulated Provision for Rate Refunds

(l) By inserting a new account 243 following Account 242, to read "243 Obligations under Capital Leases—Current".

8. The Balance Sheet Accounts of Part 101 are amended as follows:

(a) By adding a new account 101.1, following account 101, to read as follows:

101.1 Property Under Capital Leases.

A. This account shall include the amount recorded under capital leases for plant leased from others and used by the utility in its utility operations.

B. The electric property included in this account shall be classified separately according to the detailed accounts (301 to 399) prescribed for electric plant in service.

C. Records shall be maintained with respect to each capital lease reflecting: (a) Name of lessor, (b) basic details of lease, (c) terminal date, (d) original cost or fair market value of property leased, (e) future minimum lease payments, (f) executory costs, (g) present value of minimum lease payments, (h) the amount representing interest and the interest rate used, and (i) expenses paid.

(b) In paragraph C of account 105, by removing the words "notify the Commission of such condition and request approval of journal entries to remove such property from this account." and adding, in their place, new text to read as follows:

request Commission approval of journal entries to remove such property from this account when the original cost of the property is $100,000 or more, prior to their being recorded. For individual properties with an original cost of less than $100,000, the company shall file with the Commission, on an annual basis, journal entires reflecting the removal of such property from this account. Such filings shall include the description and original cost of individual properties removed from this account, the accounts charged upon removal, and whether any associated gains or losses were realized upon disposition of such property.

(c) in account 110, by removing the word "[Reserved]";

(d) by removing the following accounts (including text) 261, 262, 263, and 265;

(e) in account 121, by redesignating paragraph B as C and inserting a new paragraph B to read as follows:

121 Nonutility Property.

A. * * *

B. This account shall also include the amount recorded under capital leases for property leased from others and used by the utility in its nonutility operations. Records shall be maintained with respect to each lease reflecting: (a) Name of lessor, (b) basic details of lease, (c) terminal date, (d) original cost or fair market value of property leased, (e) future minimum lease payments, (f) executory costs, (g) present value of minimum lessee payments, (h) the amount representing interest and the interest rate used, and (i) expenses paid.

(f) in paragraph A of account 154, by inserting, following the words "maintenance purposes.", the sentence "For Nonmajor utilities, this account shall include the cost of fuel on hand and unapplied materials and supplies (except meters and house regulators)." and removing the words "It shall include" and inserting, in their place, the words "For both Major and Nonmajor utilities, it shall include";

(g) in account 154, by inserting a new paragraph C to read as follows:

C. For Nonmajor utilities, inventories of materials, supplies, fuel, etc., shall be taken at least annually and the necessary adjustments shall be made to bring this account into agreement with the actual inventories. In effecting the adjustments, large differences which can be assigned to important classes of materials shall be equitably adjusted among the accounts to which such classes of materials have been charged since the previous inventory. Other differences shall be equitably apportioned among the accounts to which materials have been charged.

(h) in account 154, by removing the NOTE (including the text) and inserting, in its place, NOTES A and B to read as follows:

Note A.—Where expenses applicable to materials purchased cannot be directly assigned to particular purchases, they may be charged to a stores expense clearing account (account 163, Stores Expense Undistributed, in the case of Major utilities), and distributed therefrom to the appropriate account.

Note B.—(Nonmajor utilities: When materials and supplies are purchased for immediate use, they need not be carried through this account but may be charged directly to the appropriate utility plant or expense account.

(i) by redesignating account 182 as account 182.1 and inserting, following account 182.1, an account 182.2 to read as follows:

182.2 Unrecovered Plant and Regulatory Study Costs.

A. This account shall include: (1) Nonrecurring costs of studies and analyses mandated by regulatory bodies related to plants in service, transferred from account 183, Preliminary Survey and Investigation Charges, and not resulting in construction; and (2) when authorized by the Commission, significant unrecovered costs of plant facilities where construction has been cancelled or which have been prematurely retired.

B. This account shall be credited and account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs, shall be debited over the period specified by the Commission.

C. Any additional costs incurred, relative to the cancellation or premature retirement, may be included in this account and amortized over the remaining period of the original amortization period. Should any gains or recoveries be realized relative to the cancelled or prematurely retired plant, such amounts shall be used to reduce the unamortized amount of the costs recorded herein.

D. In the event that the recovery of costs included herein is disallowed in the rate proceedings, the disallowed costs shall be charged to account 426.5, Other Deductions, in the year of such disallowance.

(j) in account 183, by redesignating paragraph B as paragraph C and inserting a new paragraph B to read as follows:

B. This account shall also include costs of studies and analyses mandated by regulatory bodies related to plants in service. If construction results from such studies, this account shall be credited and the appropriate utility plant account charged. If the studies do not culminate in construction, such costs shall be charged to account 182.2, Unrecovered Plant and Regulatory Study Costs. The costs of such studies relative to plant under construction shall be included directly in account 107, Construction Work in Progress—Electric.

(k) in subparagraph A of account 186, by removing the words "This account shall" and inserting, in their place, the words "For Major utilities, this account shall";

(l) In account 186, by revising paragraphs A and B, redesignating paragraph B as paragraph C and adding new paragraph B to read as follows:

186 Miscellaneous deferred debits.

A. For Major utilities, this account shall include all debits not elsewhere provided for, such as miscellaneous work in progress, and unusual or extraordinary expenses, not included in other accounts, which are in process of amortization and items the proper final disposition of which is uncertain.

B. For Nonmajor utilities, this account shall include the following classes of items:

(1) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of utility projects under contemplation. If construction results, this account shall be credited with the amount applicable thereto and the appropriate plant accounts shall be charged with an amount which does not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to plant. If the work is abandoned, the charge shall be to account 426.5. Other Deductions, or to the appropriate operating expense accounts.

(2) Undistributed balances in clearing accounts at the date of the balance sheet. Balances in clearing accounts shall be substantially cleared not later than the end of the calendar year unless items held therein relate to a future period.

(3) Balances representing expenditures for work in progress other than on utility plant. This includes jobbing and contract work in progress.

(4) Other debit balances, the proper final disposition of which is uncertain and unusual or extraordinary expenses not included in other accounts, which are in process of being written off.

(C) For both Major and Nonmajor utilities, the records supporting the entries to this account shall be so kept that the utility can furnish full information as to each deferred debit included herein.

(m) in paragraph A of account 190, by removing the word "or" preceding the words "account 411.2," and by removing the word "Deductions" and inserting, in its place, the words "Deductions or account 411.3, Provision for Deferred Income Taxes—Credit, Rate Refunds";

(n) in paragraph B of account 190, by removing the word "or" preceding the words "account 410.2", by removing the word "Deductions" and inserting, in its place, the words "Deductions, or account 410.3, Provision for Deferred Income Taxes, Rate Refunds", and by removing the words "or 410.2" and inserting, in their place, the words "410.2 or 410.3";

(o) in the Note to account 204, by inserting the parenthetical "(for Nonmajor utilities, account 211, Miscellaneous Paid-In Capital)" immediately following the words "Premium on Capital Stock".

(p) in account 211, by revising the text, redesignating the Note as Note A, and adding a new Note B to read as follows:

211 Miscellaneous Paid-in Capital.

This account shall include the balance of all other credits for paid-in capital which are not properly includible in the foregoing accounts. (In the case of Nonmajor companies, this account shall be kept so as to show the source of the credits includible herein.

Items (Nonmajor only)

1. Premium received on original issues of capital stock.
2. Donations received from stockholders or reduction of debt of the utility, and the cash value of other assets received as a donation.
3. Reduction in part or stated value of capital stock.
4. Gain on resale or cancellation of reaquired capital stock.

Note A.—(Major utilities) Amounts included in capital surplus at the effective date of this system of accounts which cannot be classified as to the source thereof shall be included in this account.

Note B.—(Nonmajor utilities) Premium on capital stock shall not be set off against expenses. Further, a premium received on an issue of a certain class or series of stock shall not be set off against expense of another issue of the same class or series.

(q) by removing account 214 in its entirety.

(r) by adding, following account 226, new accounts 227, 228.1, 228.2, 228.3, 228.4 and 229 to read as follows:

227 Obligations Under Capital Leases—Noncurrent.

This account shall include the portion not due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, or account 121, Nonutility Property. SPECIAL INSTRUCTION for Accounts 228.1 thru 229.

No amounts shall be credited to these accounts unless authorized by a regulatory authority or authorities to be collected in a utility's rate levels.

228.1 Accumulated Provision for Property Insurance.

A. This account shall include amounts reserved by the utility for losses through accident, fire, flood, or other hazards to its own property or property leased from others, not covered by insurance. The amounts charged to account 924, Property Insurance, or other appropriate accounts to cover such risks shall be credited to this account. A schedule of risks covered shall be maintained, giving a description of the property involved, the character of the risks covered and the rates used.

B. Charges shall be made to this account for losses covered, not to exceed the account balance. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

228.2 Accumulated Provision for Injuries and Damages.

A. This account shall be credited with amounts charged to account 925, Injuries and Damages, or other appropriate accounts, to meet the probable liability, not covered by insurance, for deaths or injuries to employees and others and for damages to property neither owned nor held under lease by the utility.

B. When liability for any injury or damage is admitted by the utility either voluntarily or because of the decision of a court or other lawful authority, such as a workmen's compensation board, the admitted liability shall be charged to this account and credited to the appropriate current liability account. Details of these charges shall be maintained according to the year and casualty occurred which gave rise to the loss.

Note.—Recoveries or reimbursements for losses charged to this account shall be credited hereto; the cost of repaires to property of others if provided for herein shall be charged to this account.

228.3 Accumulated Provision for Pensions and Benefits.

A. This account shall include provisions made by the utility and amounts contributed by employees for pensions, accident and death benefits, savings, relief, hospital and other provident purposes, where the funds are included in the assets of the utility either in general or in segregated fund accounts.

B. Amounts paid by the utility for the purposes for which this liability is established shall be charged hereto.

C. A separate account shall be kept for each kind of provision included herein.

Note.—If employee pension or benefit plan funds are not included among the assets of the utility but are held by outside trustees, payments into such funds, or accruals therefore, shall not be included in this account.

228.4 Accumulated Miscellaneous Operating Provisions.

A. This account shall include all operating provisions which are not provided for elsewhere.

B. This account shall be maintained in such manner as to show the amount of each separate provision and the nature and amounts of the debits and credits thereto.

Notes.—This account includes only provisions as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

VOL 48 ISS 198 OCT 12 1983 UMI

VOL 48 ISS 1 98 OC 12 1983 UMI

229 Accumulated Provision for Rate Refunds.

A. This account shall be credited with amounts charged to Account 414.2, Provision for Rate Refunds, to provide for estimated refunds where the utility is collecting amounts in rates subject to refund.

B. When a refund of any amount recorded in this account is ordered by a regulatory authority, such amount shall be charged hereto and credited to account 242, Miscellaneous Current and Accrued Liabilities.

(s) in paragraph B of account 236, by removing the sentence "However, if such corrections are so large as to seriously distort current expenses, see General Instruction 7.1.";

(t) in account 242, by inserting at the end of the text the following:

Items (Nonmajor only)

1. Dividends declared but not paid.
2. Matured long-term debt.
3. Matured interest.
4. Taxes collected through payroll deductions or otherwise pending transmittal to the proper taxing authority.

(u) by adding a new account 243, following account 242, to read as follows:

243 Obligations Under Capital Leases—Current.

This account shall include the portion, due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, or account 121, Nonutility Property.

(v) in account 282, by removing paragraph D in its entirety, and redesignating paragraph E as paragraph D .

9. The Electric Plant Chart of Accounts and the Electric Plant Accounts of Part 101 are amended by inserting in the following account the parenthetical "(Major only)" at the end of the titles of accounts 320, 321, 322, 323, 324, and 325.

10. The Electric Plant Accounts of Part 101 are amended as follows:

(a) in subparagraph C of account 302 and subparagraph B of account 303, by inserting the parenthetical "(for Nonmajor utilities, account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant)" following the words "Electric Utility Plant";

(b) in accounts 330, 331, 332, and 335 by removing the words "It shall also" and inserting, in their place, the words "For Major utilities, it shall also";

(c) in the NOTE of account 368, by inserting the parenthetical "(for Nonmajor utilities, account 561, Line and Station Labor or account 562, Line and Station Supplies and Expenses)," following the words "Underground Line Expenses";

(d) in Note B of account 370, by inserting the parenthetical "(for Nonmajor utilities, account 556, Meter Expenses)" following the words "Meter Expenses";

(e) in Note A of account 372, by inserting the parenthetical "(for Nonmajor utilities, account 567, Customer Installations Expenses)" immediately following the words "Customer Installations Expenses".

11. The Income Chart of Accounts and the Income Accounts of Part 101 are amended by inserting the parenthetical "(Major only)" at the end of the title of account 418.1.

12. The Income Chart of Accounts of Part 101 is amended as follows:

(a) by removing the title of Account 407 and inserting, in its place the title "Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs";

(b) by removing, the reference to account 411.3 [Reserved] redesignating account 414 as account 414.1 and by adding, following new account 414.1, new headings and references to accounts 414.2, 410.3 and 411.3 to read as follows:

Net utility operating income before provision for rate refunds. Rate refunds.
410.3 Provision for Deferred Income Taxes. Rate Refunds.
411.3 Provision for Deferred Income Taxes—Credit, Rate Refunds. Rate refunds after taxes.
414.2 Provision for rate Refunds.
Net utility operating income after provision for rate refunds.

13. The Income Accounts of Part 101 are amended as follows:

(a) in account 407, by removing the account title and inserting, in its place, the title "Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs" and removing the words "account 182, Extraordinary Property Losses" and inserting, in their place, the words "account 182.1, Extraordinary Property Losses, and account 182.2, Unrecovered Plant and Regulatory Study Costs";

(b) in the *Special Instructions* following account 410, by removing the words "Accounts 410.1, 410.2, 411.1, and 411.2," and inserting, in their place, the words "Accounts 410.1, 410.2, 410.3, 411.1, 411.2, and 411.3,";

(c) in paragraph A of the *Special Instructions* following account 410, by removing the words "and 410.2" and inserting in their place, the words "410.2 and 410.3", and by removing the words "or 411.2" and inserting, in their place, the words "411.2 or 411.3";

(d) in paragraph B of the *Special Instructions* following account 410, by removing the words "and 411.2" and inserting, in their place, the words "411.2 and 411.3", and by removing the words "or 410.2" and inserting, in their place, the words "410.2 or 410.3";

(e) by adding, following account 410.2, new account 410.3 to read as follows:

410.3 Provision for Deferred Income Taxes, Rate refunds.

This account shall include the amounts of those deferrals of taxes and allocations of deferred taxes which relate to rate refunds.

(f) by removing the reference to account 411.3 [Reserved] and inserting, in its place, the following:

411.3 Provision for Deferred Income Taxes—Credit, Rate Refunds.

This account shall include the amounts of those allocations of deferred taxes and deferrals of taxes, credit, which relate to rate refunds.

(g) by redesignating account 414 as account 414.1 and adding a new account 414.2, following account 414.1, to read as follows:

414.2 Provision for Rate Refunds.

A. This account shall be charged with provisions for the estimated pretax effects on net income of the portions of amounts being collected subject to refund which are estimated to be required to be refunded. Such provisions shall be credited to account 229, Accumulated Provision for Rate Refunds.

B. This account shall also be charged with amounts refunded when such amounts have not previously been accrued.

C. Income tax effects relating to the amounts recorded in this account shall be recorded in account 411.3, Provision for Deferred Income Taxes—Credit, Rate Refunds, as appropriate.

(h) in account 425, by removing Items 2 and 3, and inserting, in their place, a new Item 2 to read "2. Other miscellaneous amortization charges allowed to be included in this account by the Commission."

(i) in account 426.5, by adding a new Item 5, directly following Item 4, to read as follows:

5. Costs of preliminary abandonment costs recorded in accounts 182.1, Extraordinary Property Losses, and 182.2, Unrecovered Plant and Regulatory Study Costs, not allowed to be amortized to account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs.

(j) in account 434, by removing the words "nontypical, noncustomary, infrequently recurring gains," and inserting, in their place, the words "gains of unusual nature and infrequent occurrence,";

(k) in account 435, by removing the words "nontypical, noncustomary, infrequently recurring losses," and inserting, in their place, the words "losses of unusual nature and infrequent occurrence,".

14. The Retained Earnings Accounts of Part 101 are amended by removing the text of account 439 and inserting, in its place, the following:

439 Adjustments to Retained Earnings.

A. This account shall, with prior Commission approval, include significant nonrecurring transactions accounted for as prior period adjustments, as follows:

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits or pre-acquisition operating loss carryforwards of purchased subsidiaries.

B. All other items of profit and loss recognized during a year shall be included in the determination of net income for that year.

15. The Operating Revenue chart of Accounts and Operating Revenue Accounts of Part 101 are amended by inserting the parenthetical "(Major only)" at the end of the titles of accounts 445 and 446.

16. The Operating Revenue Chart of Accounts of Part 101 are amended by inserting an account 449, following account 448, to read "449 Other sales (Nonmajor only)".

17. The Operating Revenue Accounts of Part 101 are amended by inserting an account 449, following account 448, to read as follows:

449 Other sales.

A. This account shall include revenues for electricity supplied which are not provided for elsewhere.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenues received from each customer.

18. This account shall include revenues for electricity supplied which are not provided for elsewhere.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenues received for each customer.

18. The Operations and Maintenance Expense Chart of Accounts and the Operation and Maintenance Expense Accounts are Amened by inserting in the following accounts the parenthetical "(Major only)" at the end of each title of accounts 502, 505, 506, 510, 511, 512, 513, 514, 517–532, 537–539, 541–545, 546, 549, 551–554, 556, 561–566, 568–573, 581–584, 590–594, 901, 905, 907–913, 916.

19. The Operation and Maintenance Expense Chart of Accounts of Part 101 is amended as follows:

(a) By inserting an account 508, following account 507, to read "508 Operation supplies and expenses (Nonmajor only)";

(b) By inserting an account 515, following account 514, to read "515 Maintenance of steam production plant (Nonmajor only)";

(c) By inserting an account 540.1, following account 540, to read "540.1 Operation supplies and expenses (Nonmajor only)";

(d) By inserting an account 545.1, directly following account 545, to read "545.1 Maintenance of hydraulic production plant (Nonmajor only)";

(e) By inserting an account 550.1, following account 550, to read "550.1 Operation supplies and expenses (Nonmajor only)";

(f) By inserting an account 554.1, following account 554, to read "554.1 Maintenance of other power production plant (Nonmajor only)";

(g) By inserting an account 567.1, following account 567, to read "567.1 Operation supplies and expenses (Nonmajor only)";

(h) By inserting an account 574, following account 573, to read as follows "574 Maintenance of transmission plant (Nonmajor only)";

(i) By inserting an account 581.1, directly following account 581, to read "581.1 Line and station expenses (Nonmajor only)";

(j) By inserting an account 592.1, following account 592, to read "592.1 Maintenance of structures and equipment (Nonmajor only)";

(k) By inserting an account 594.1, following account 594, to read "594.1 Maintenance of lines (Nonmajor only)";

(l) By inserting an account 906, preceding account 907, to read "906 Customers service and informational expenses (Nonmajor only)";

(m) By inserting an account 917, following account 916, to read "917 Sales expenses (Nonmajor only)"; and

(n) By redesignating account 932 as account 933 and inserting a new account 932, following account 931, to read "932 Transportation expenses (Nonmajor only)."

20. The Operation and Maintenance Expense Accounts of Part 101 are amended as follows:

(a) in account 500, by revising and redesignating the current text as paragraph A and adding a new paragraph B to read as follows:

500 Operation supervision and engineering

A. For Major Utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of steam power generating stations. Direct supervision of specific activities, such as fuel handling, boiler room operations, generator operations, etc., shall be charged to the appropriate account. (See operating expense instruction 1.)

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of steam power generating stations.

Items (Nonmajor only)

Boiler Room Labor:
1. Supervising steam production.
2. Operating fuel conveying, storage, weighing and processing equipment within boiler plant.
3. Operating boiler and boiler auxiliary equipment.
4. Operating boiler feed water purification and treatment equipment.
5. Operating ash collecting and disposal equipment located inside the plant.
6. Operating boiler plant electrical equipment.
7. Keeping boiler plant log and records and preparing reports on boiler plant operations.
8. Testing boiler water.
9. Testing, checking, and adjusting meters, gauges, and other instruments in boiler plant
10. Cleaning boiler plant equipment when not incidental to maintenance work.
11. Repacking glands and replacing gauge glasses where the work involved is of a minor nature and is performed by regular operating crews. Where the work is of a major character such as that performed on high pressure boilers the item should be considered as maintenance.

Electric Plant Labor:
12. Supervising electric production.
13. Operating turbines, engines, generators and exciters.
14. Operating condensers, circulating water systems, and other auxiliary apparatus.
15. Operating generator cooling system.
16. Operating lubrication and oil control system, including oil purification.
17. Operating switchboards, switch gear and electric control, and protective equipment.
18. Keeping electric plant log and records and preparing reports on electric plant operations.
19. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls, and other equipment in electric plant.
20. Cleaning electric plant equipment when not incidental to maintenance work.
21. Repacking glands and replacing gauge glasses.

Miscellaneous labor:

22. General clerical and stenographic work at plant.
23. Guarding and patrolling plant and yard.
24. Building service.
25. Care of grounds including snow removal, cutting grass, etc.
26. Miscellaneous labor.

(b) in account 501, by inserting the following:

(1) the parenthetical "(for Nonmajor utilities, appropriate fuel accounts carried under account 154, Plant Materials and Operating Supplies)" immediately following the words "account 151, Fuel Stock" in the first sentence of paragraph B.;

(2) the parenthetical "(for Nonmajor utilities, appropriate subaccount of account 154, Plant Materials and Operating Supplies)" immediately following the words "account 152, Fuel Stock Expenses Undistributed" in the second sentence of paragraph B. and;

(3) in items 7 and 8, by inserting the parenthetical "(Major only)" after the words "unloading point";

(c) in account 535, by revising and redesignating the current text as paragraph A, and by adding a new paragraph B and new Items section, following paragraph B, to read as follows:

535 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of hydraulic power generating stations. Direct supervision of specific activities, such as hydraulic operation, generator operation, etc., shall be charged to the appropriate account (See operating expense instruction 1).

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation hydraulic power generating stations.

Items (Nonmajor Only)

Hydraulic Labor:
1. Supervising hydraulic operation.
2. Removing debris and ice from trash racks, reservoirs and waterways.
3. Patrolling reservoirs and waterways.
4. Operating intakes, spillways, sluiceways and outlet works.
5. Operating bubbler, heater or other deicing systems.
6. Ice and log jam work.
7. Operating Navigation facilities.
8. Operations relating to conservation of game, fish, forests, etc.
9. Insect control activities.

Electric Labor:
10. Supervising electric production.
11. Operating prime movers, generators and auxiliary equipment.
12. Operating generator cooling system.
13. Operating lubrication and oil control systems, including oil purification.
14. Operating switchboards, switchgear and electric control and protection equipment.
15. Keeping plant log and records and preparing reports on plant operations.
16. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls and other equipments in the plant.
17. Cleaning plant equipment when not incidental to maintenance work.
18. Repacking glands. Miscellaneous Labor.
19. General clerical and stenographic work.
20. Guarding and patrolling plant and yard.
21. Building service.
22. Care of grounds, including snow removal, cutting grass, etc.
23. Snow removal from roads and bridges.
24. Miscellaneous Labor:

(d) in account 546, by revising and redesignating the current text as paragraph A, and by adding a new paragraph B and Items section, following paragraph A, to read as follows:

546 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of other power generating stations. Direct supervision of specific activities, such as fuel handling, engine and generator operation, etc., shall be charged to the appropriate account. (See operating expense instruction 1).

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of other power generating stations.

Generating Labor:
1. Supervising other power generation operation.
2. Operating prime movers, generators and auxiliary apparatus and switching and other electric equipment.
3. Keeping plant log and records and preparing reports on plant operations.
4. Testing, checking, cleaning, oiling and adjusting equipment.

Miscellaneous Labor:
5. General clerical and stenographic work.
6. Guarding and patrolling plant and yard.
7. Building service.
8. Care of grounds, including snow removal, cutting grass, etc.
9. Miscellaneous labor.

(e) in account 547, by removing the parenthetical "(See account 151, Fuel Stock)" and inserting, in its place, the parenthetical "(See account 151, Fuel Stock, for Major utilities, and account 154, Plant Materials and Operating Supplies, for Nonmajor utilities)";

(f) in account 560, by revising and redesignating the current text as paragraph A, and by adding a new paragraph B and Items section, following paragraph A, to read as follows:

560 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of the transmission system as a whole. Direct supervision of specific activities, such as station operation, line operation, etc., shall be charged to the appropriate account. (See operating expense instruction 1.)

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of the transmission system.

Items (Nonmajor only)

Load Dispatching Labor:
1. Directing switching.
2. Arranging and controlling clearances for construction, maintenance, test and emergency purposes.
3. Controlling system voltages.
4. Obtaining reports on the weather and special events.
5. Preparing operating reports and data for billing and budget purposes.

Station Labor:
6. Supervising station operation.
7. Adjusting station equipment where such adjustment primarily affects performance, such as regulating the flow of cooling water, adjusting current in fields of a machine or changing voltage of regulators changing station transformer taps.
8. Inspecting, testing and calibrating station equipment for the purpose of checking its performance.
9. Keeping station log and records and preparing reports on station operation.
10. Operating switching and other station equipment.
11. Standing watch, guarding and patrolling station and station yard.
12. Sweeping, mopping and tidying station.
13. Care of grounds, including snow removal, cutting grass, etc.

Line Labor:
14. Supervising line operation.
15. Inspecting and testing lightning arresters, circuit breakers, switches and grounds.
16. Load tests of circuits.
17. Routine line patrolling.
18. Routine voltage surveys made to determine the condition or efficiency of transmission system.
19. Transferring loads, switching and reconnecting circuits and equipment for operating purposes. (Switching for construction or maintenance purposes is not includible in this account.)
20. Routine inspection and cleaning of manholes, conduit, network and transformer vaults.
21. Electrolysis surveys.
22. Inspecting and adjusting line testing equipment such as voltmeters, ammeters, wattmeters, etc.
23. Regulation and addition of oil or gas in high voltage cable systems.

Miscellaneous Labor:
24. General records of physical characteristics of lines and stations, such as capacities, etc.
25. Ground resistance records.
26. Janitorial work at transmission office buildings, including care of grounds, snow removal, cutting grass, etc.
27. Joint pole maps and prints.
28. Line load and voltage records.
29. Preparing maps and prints.
30. General clerical and stenographic work.
31. Miscellaneous labor.

(g) in account 580, by removing the word "See" from the parenthetical and inserting, in its place, the words "For Major utilities, see";

(h) by removing the text following the title of accounts 582 and 584.

(i) by adding text following account 584 to read as follows:

584 Underground line expenses (Major only).

Accounts 581.1 through 584 shall include, respectively, the cost of labor, materials used and expenses incurred in the operation of overhead and underground distribution lines and stations..

Items

Line Labor:
1. Supervising line operation.
2. Changing line transformer taps.
3. Inspecting and testing lightning arresters, line circuit breakers, switches and grounds.
4. Inspecting and testing line transformers for the purpose of determining load, temperature or operating performance.
5. Patrolling lines.
6. Load tests and voltage surveys of feeders, circuits and line transformers.
7. Removing line transformers and voltage regulators with or without replacements.
8. Installing line transformers or voltage regulators with or without change in capacity provided that the first installation of these items is included in account 368, Line transformers.
9. Voltage surveys, either routine or upon request of customers, including voltage tests at customer's main switch.
10. Transferring loads, switching and reconnecting circuits and equipment for operation purposes.
11. Electrolysis surveys.
12. Inspecting and adjusting line testing equipment.

Line Supplies and Expenses:
13. Tool expenses.
14. Transportation expenses.
15. Meals, traveling and incidental expense.
16. Operating supplies, such as instrument charts, rubber goods, etc.

Station Labor:
1. Supervising station operation.
2. Adjusting station equipment where such adjustment primarily affects performance, such as regulating the flow of cooling water, adjusting current in fields of a machine, changing voltage of regulators or changing station transformer taps.
3. Keeping station log and records and preparing reports on station operation.
4. Inspecting, testing and calibrating station equipment for the purpose of checking its performance.
5. Operating switching and other station equipment.
6. Standing watch, guarding and patrolling station and station yard.
7. Sweeping, mopping and tidying station.
8. Care of grounds, including snow removal, cutting grass, etc.

Station supplies and Expenses:
9. Building service expenses.
10. Operating supplies, such as lubricants, commutator brushes, water and rubber goods.
11. Station meter and instrument supplies, such as ink and charts.
12. Station record and report forms.
13. Tool expenses.
14. Transportation expenses.
15. Meals, traveling and incidental expenses.

Note.—(Major only) If the utility owns storage battery equipment used for supplying electricity to customers in periods of emergency, the cost of operating labor and of supplies, such as acid, gloves, hydrometers, thermometers, soda, automatic cell fillers, acid proof shoes, etc., shall be included in this account. If significant in amount, a separate subdivision shall be maintained for such expenses.

(j) in account 585, by removing the words "This account shall" and inserting, in their place, the words "B. For Major utilities, this account shall"; and adding, immediately preceding the present text (newly redesignated as paragraph B), a new paragraph A to read as follows:

A. For Monmajor utilities, this account shall include the cost of labor, materials used and expenses incurred in the operation of street lighting and signal system plant.

(k) in Item 7 of account 588, by inserting the word "expenses" following the word "meter";

(l) in Item 8 of account 588, by inserting in two separate places, following the words "Station Expenses" and "Expenses Undistributed," the parenthetical "(For Nonmajor utilities, account 581.1, Line and Station Expenses)"; and by inserting, following the words "store records," the parenthetical "(For Nonmajor utilities, station records)";

(m) in Item 13 of account 588, by inserting the parenthetical "(Major only)" following the words "demonstration expenses";

(n) in Item 26 of account 903, by inserting the parenthetical "(Major only)" following the words "Transportation expenses";

(o) in account 903, by adding new Items 31 and 32, following Item 30, to read as follows:

31. Communication service (Nonmajor only).
32. Miscellaneous office supplies and expenses and stationery and printing (Nonmajor only).

(p) in **Note B** of account 924, by inserting in subparagraph (1) the parenthetical "(stores expenses in the case of Nonmajor utilities)" following the words "Expense Undistributed";

(q) in **Note B** of account 924, by removing from subparagraph (2) the word "Transportation" and inserting, in its place, the words "For Major Utilities, transportation"; and by adding, at the end of subparagraph (2), the sentence "For Nonmajor utilities, transportation and garage equipment, to account 933, Transporation Expenses.";

(r) in **Note C** of account 924, by inserting the parenthetical "(Major only)" directly following the words "NOTE C":

(s) in paragraph A of account 925, by removing the words "It shall also" and inserting, in their place, the words "For Major utilities, it shall also";

(t) in subparagraph D of account 926, by removing the word "Records" and inserting, in its place, the words "For Major utilities, records";

(u) in Item 4 of account 930.2, by removing the word "Research" and inserting, in its place, "For Major utilities, research", and adding, following Item 12 in ITEMS list, the sentence "For Nonmajor utilities, transportation and garage equipment, to account 933, Transportation Expenses.";

(v) by redesignating account 932 as account 933.

(w) in subparagraph A of account 933, by adding a sentence, immediately preceding the parenthetical, to read "For Nonmajor utilities, include also other general equipment accounts (not including transportation equipment).";

(x) in subparagraph B of account 933, by inserting the parenthetical "(Major only)" following the words "Account 532".

21. Part 104 is amended as follows:

(a) in account 103, by redesignating it as account 103.1 of Part 101 and inserting the parenthetical "(Nonmajor only)" at the end of the account 103.1 title;

(b) in account 110, by redesignating it as account 110 of Part 101 and inserting the parenthetical "(Nonmajor only)" at the end of the account 110 title;

(c) in account 125, by redesignating it as account 129 of Part 101 (to precede the heading "3. CURRENT AND ACCURED ASSETS.") and inserting the parenthetical "(Nonmajor only)" at the end of the account 129 title;

(d) in account 131, by redesignating it as account 130 of Part 101 (to following

VOL
48
ISS
1
9
8
OC
12
1983
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the heading "3. CURRENT AND ACCURED ASSETS.") and inserting the parenthetical "(Nonmajor only)" at the end of the account 130 title;

(e) in account 218, by redesignating it as account 218 of Part 101 (to percede the heading "6. LONG–TERM DEBT") and inserting the parenthetical "(Nonmajor only)" at the end of the account 218 title;

(f) in account 449, by redesignating it as account 449 of Part 101 (to precede the heading "2. OTHER OPERATING REVENUES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 449 title;

(g) in account 502, by redesignating it as account 508 of Part 101 (to precede the heading "Maintenance") and inserting the parenthetical "(Nonmajor only)" at the end of the account 508 title;

(h) in account 506, by redesignating it as account 515 of Part 101 (to precede the heading "B. NUCLEAR POWER GENERATION") and inserting the parenthetical "(Nonmajor only)" following the word "plant" in the title;

(i) in account 532, by redesignating it as account 540.1 of Part 101 (to precede the heading *"Maintenance"*) and inserting the parenthetical "(Nonmajor only)" following the word "expenses" in the title;

(j) in account 535, by redesignating it as account 545.1 of Part 101 (to precede the heading "D. OTHER POWER GENERATION") and inserting the parenthetical "(Nonmajor only)" following the word "plant" in the title;

(k) in account 540, by redesignating it as account 550.1 of Part 101 (to precede the heading *"Maintenance"*) and inserting the parenthetical "(Nonmajor only)" following the word "expenses" in the title;

(l) in account 543, by redesignating it as account 554.1 of Part 101 (to precede the heading "E. OTHER POWER SUPPLY EXPENSES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 554.1 title;

(m) in account 551, by redesignating it as account 567.1 of Part 101 (to precede the heading *"Maintenance"*) and inserting the parenthetical "(Nonmajor only)" at the end of the account 567.1 title;

(n) in account 553, by redesignating it as account 574 of Part 101 (to precede the heading "3. DISTRIBUTION EXPENSES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 574 title;

(o) in account 562, by redesignating it as account 581.1 of Part 101 and inserting the parenthetical "(Nonmajor only)" at the end of the account 581.1 title;

(p) in account 571, by redesignating it as account 592.1 of Part 101 and inserting the parenthetical "(Nonmajor only)" at the end of the account 592.1 title;

(q) in account 572, by redesignating it as account 594.1 of Part 101 and inserting the parenthetical "(Nonmajor only)" at the end of the account 594.1 title;

(r) in account 907, by redesignating it as account 906 of Part 101 (to follow the heading *"Operation"*) and inserting the parenthetical "(Nonmajor only)" at the end of the account 906 title;

(s) in account 910, by redesignating it as account 917 of Part 101 (preceding the heading "7. ADMINISTRATIVE AND GENERAL EXPENSES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 917 title;

(t) in account 933, by redesignating it as account 932 of Part 101 (preceding the heading *"Maintenance"* and inserting the parenthetical "(Nonmajor only)" at the end of the account 932 title;

(u) by removing the remaining text of Part 104 in its entirety and inserting, in its place, the following:

PART 104—[RESERVED]

(For the Uniform System of Accounts for all Public Utilities, see Part 101 of this subchapter).

22. Part 141 is amended as follows:

(a) The table of contents of Part 141 are amended to read as follows:

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

141.1 FERC Form No. 1, Annual report of electric utilities, licensees and others (Major).

141.2 Form No. 1–F, Annual report for public utilities and licensees, (Nonmajor).

* * * * *

§ 141.1 [Amended]

(b) in the heading of § 141.1, by removing the parenthetical "(Class A and Class B)" and inserting, in its place, the word "Major" preceding the word "electric";

(c) in paragraph (a) of §141.1, by removing the words "Class A and Class B" and inserting, in their place, the word "Major."

(d) in paragraph (b)(1)(i) of § 141.1, by removing footnote 1, and by removing the words "Class A and Class B [1] electric utility, license" and inserting, in their place, the words "Major electric utility (as defined in Part 101 of Subchapter C of this chapter)", by removing the words "having annual electric revenues of 1,000,000 or more" and inserting, in their place, the words "having sales or transmission service equal to Major as defined above".

(e) by removing paragraph (c) of § 141.1;

(f) in the heading of § 141.2, by removing the parenthetical "(Class C and Class D)" and by inserting the word "Nonmajor" preceding the word "public";

(g) in paragraph (a) of § 141.2, by removing the parenthetical "(Class C and Class D)" and by inserting the word "Nonmajor" preceding the word "Public";

(h) in paragraph (b)(1)(i) of § 141.2, by removing the words "Generally. Each public utility and licensee, as defined by the Federal Power Act, which is included in Class C on Class D as defined in Part 104 of this chapter,[1]" and inserting, in their place, the words "Generally. Each public utility and licensee as defined by the Federal Power Act, which is considered Nonmajor as defined in Part 101 of this Chapter."; and further by removing footnote 1.

§ 141.2 [Amended]

(i) n § 141.2, by removing paragraph (c) in its entirety.

PART 154—[AMENDED]

23. In Part 154, paragraph (b)(3) of § 154.63 is amended by removing the words "Class B, Class C and Class D companies defined as above" and inserting, in their place, the words "Nonmajor companies, defined above," and by removing the words "Class A companies (as defined in Subchapter F, Uniform System of Accounts of Natural Gas Companies, of this chapter)" and inserting, in their place, the following words:

Major natural gas companies (as defined in subchapter F, Part 201, Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act of this chapter)"

PART 159—[AMENDED]

21. In Part 159, paragraph (a)(1) of § 159.2a is amended by removing in two places the words "Class A and Class B" (immediately after words "each" and "all") and inserting, in their respective places, the word "Major".

PART 201—[AMENDED]

25. The title in Part 201 that follows the Subchapter heading "SUBCHAPTER F—ACCOUNTS, NATURAL GAS ACT" and the title in Part 201 that precedes the heading "Definitions" are amended by removing the parenthetical "(Class A and Class B)".

26. The Definitions section of Part 201 is amended as follows:

(a) in Definition 7, by removing the words "Federal Power Commission" and inserting, in their place, the words "Federal Energy Regulatory Commission.";

(b) in Definition 13, by inserting the words "in the case of Major natural gas companies," following the words " "Development costs," ";

(c) in Definition 15, by inserting the words "in the case of Major natural gas companies," following the words " "Exploration costs," ";

(d) in Definition 16, by inserting a comma "," and the words "in the case of Major natural gas companies," following the words "development costs" ";

(e) in Definition 27, by inserting the parenthetical "(Major natural gas companies)" following the words "distribution plant." ";

(f) in paragraph B of Definition 29, by inserting a comma "," and the words "in the case of Major natural gas companies," following the parenthetical "(RD&D)";

(g) in Definition 35, by inserting a comma "," following the word "costs" and by removing the word "are" and inserting, in its place, the words "in the case of Major natural gas companies, means";

(h) in Definition 36, by inserting a comma "," following the word "Company" and removing the word "means" and inserting, in its place, the words "in the case of Major natural gas companies, means";

(i) by redesignating Definitions 18 through 37 as Definitions 20 through 39, and inserting new Definitions 18 and 19 to read as follows:

18. "Lease, capital" means a lease of property used in utility or non utility operations, which meets one or more of the criteria stated in General Instruction 19.

19. "Lease, operating" means a lease of property used in utility or non utility operations, which does not meet any of the criteria stated in General Instruction 19.

27. The General Instructions of Part 201 are amended as follows:

(a) in Instruction 1, by revising paragraphs A, B, and C to read as follows:

General Instructions

1. Classification of utilities

A. For the purpose of applying the system of accounts prescribed by the Commission, natural gas companies are divided into two classes, as follows:

Major—Each natural gas company as defined in the Natural Gas Act, whose combined gas sold for resale and gas transported or stored for a fee exceeds 50 million Mcf at 14.73 psi (60° F) in the previous calendar year.

Nonmajor—Natural gas companies that are not classified as a "Major company" (as defined above), and had total annual gas sales or volume transactions exceeding 200,000 Mcf at 14.73 psi (60°) in the previous calendar year.

B. This system applies to both Major and Nonmajor natural gas companies. Provisions have been incorporated into this system for those entities which prior to January 1, 1984, were applying the Commission's Uniform System of Accounts Prescribed for Class C and Class D (Part 104 of this Chapter) now revoked. The notations *Nonmajor* and *Major* have been used to indicate those instructions and accounts which by definition from the previous systems and classifications are not interchangeable without causing a loss of detail for the *Major* (previous Class A and Class B) or an increase in detail burden for the *Nonmajor* (previous Class C and Class D).

C. The class to which any natural gas company belongs shall originally be determined by its annual gas volume for the last three consecutive years, or, in the case of a newly established entity, the projected data shall be the basis. Subsequent changes in classification shall be made when the volume for each of the three immediately preceding years exceeds the upper limit, or is less than the lower limit of the classification previously applicable to the natural gas company.

* * * * *

(b) in Instruction 7, by removing:

(1) The words "not typical or customary business activities of the company" and inserting, in their place, the words "of unusual nature and infrequent occurrence";

(2) The words "would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business." and inserting, in their place, the words "are abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the foreseeable future.";

(3) The words "of a similar nature should be considered" and inserting, in their place, the words, "should be considered individually and not";

(4) The sentence in the parenthetical that reads "Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate." and inserting in the parenthetical, in its place, the sentence "However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate.";

(c) In Instruction 7.1, by revising the text to read as follows:

7.1 Prior Period Items.

A. Items of profit and loss related to the following shall be accounted for as prior period adjustments and excluded from the determination of net income for the current year.

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits of pre-acquisition operating loss carryforwards of purchased subsidiaries.

B. All other items of profit and loss recognized during the year shall be included in the determination of net income for that year.

(d) in the respective titles for Instructions 8, 12, 14, 15, and 16, by inserting the parenthetical "(Major natural gas companies)" at the end of each title;

(e) in paragraph G of Instruction 17, by removing the words "Account 283, Accumulated Deferred Income Taxes—Other" and inserting, in their place, the words "Account 282, Accumulated Deferred Income taxes—Other Property," and by removing the words "Account 283" and inserting, in their place, the words "Account 282";

(f) by adding Instructions 19, 20, and 21, following Instruction 18, to read as follows:

19. Criteria for Classifying Leases.

A. If at its inception a lease meets one or more of the following criteria, the lease shall be classified as a capital lease. Otherwise, it shall be classified as an operating lease.

(1) The lease transfers ownership of the property to the lessee by the end of the lease term.

(2) The lease contains a bargain purchase option.

(3) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease.

(4) The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs

VOL 48 ISS 198 OCT 12 1983 UMI

such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by the lessor. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. The lessee utility shall compute the present value of the minimum lease payments using his incremental borrowing rate, unless (A) it is practicable for the utility to learn the implicit rate compnted by the lessor, and (B) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

B. If at any time the lessee and lessor agree to change the provisions of the lease, other than by renewing the lease or extending its term, in a manner that would have resulted in a different classification of the lease under the criteria in paragraph A had the changed terms been in effect at the inception of the lease, the revised agreement shall be considererd as a new agreement over its term, and the criteria in paragraph A shall be applied for purposes of classifying the new lease. Likewise, any action that extends the lease beyond the expiration of the existing lease term, such as the exercise of a lease renewal option other than those already included in the lease term, shall be considered as a new agreement, and shall be classified according to the above provisions. Changes in estimates (for example, changes in estimates of the economic life or of the residual value of the leased property) or changes in circumstances (for example, default by the lessee), shall not give rise to a new classification of a lease for accounting purposes.

20. Accounting for Leases.

A. All leases shall be classified as either capital or operating leases.

B. The utility shall record a capital lease as an asset in account 101.1, Property under Capital leases (or account 121, Non utility Property, if appropriate), and an obligation in account 227, Obligations under Capital Leases—Noncurrent or account 243, Obligations under Capital Leases—Current, at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, together with any profit thereon. However, if the amount so determined exceeds the fair value of the leased property at the inception of the lease, the amount recorded as the asset and obligation shall be the fair value.

C. Rental payments on all leases shall be charged to rent expense as they become payable.

D. For a capital lease, for each period during the lease term, the amounts recorded for the asset and obligation shall be reduced by an amount equal to the portion of each lease payment which would have been allocated to the reduction of the obligation, if the payment had been treated as a payment on an installment obligation (liability) and allocated between interest expense and a reduction of the obligation so as to produce a constant periodic rate of interest on the remaining balance.

21. Gas Well Records (Nonmajor Natural Gas Companies).

Each utility with natural gas operations shall maintain operating or accounting records for each well showing: (a) Acreage on which drilled, (b) dates of drilling period, (c) cost of drilling, (d) depth of well, (e) particulars and depth of each stratum drilled through, (f) geological formation from which gas is obtained, (g) initial rock pressure and open flow capacity, (h) sizes of casing used and lengths of each size, (i) total cost of well as recorded in gas plant accounts, (j) date well abandoned, for wells once productive, (k) date transferred to underground storage plant, for wells converted to storage use, and (l) date drilling discontinued, for wells determined to be nonproductive. The foregoing data, as appropriate, shall be maintained for each subsequent change in the depth of each well.

24. The Gas Plant Instructions of Part 201 are amended as follows:

(a) In Instruction 1, by inserting the parenthetical "(Major natural gas companies)" at the end of the title, and adding a new paragraph D, following paragraph C, to read as follows:

D. Plant acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leoses,* shall be recorded in Account 101.1, Property under Capital Leases.

(b) In paragraph A of Instruction 2, by removing the words "by the utility." and inserting, in their place, the words "by the utility, except for property acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases,* and is recorded in Account 101.1, Property under Capital Leases.";

(c) By amending Instruction 3 as follows:

(1) By redesignating the current text as paragraph A by removing the words "The cost of construction" and inserting, in their place, the words "A. For Major natural gas companies, the cost of construction;"

(2) In subparagraph (3), by removing from the note the words "$50 or less" and inserting, in their place, the words "$500 or less";

(3) In subparagraph (17), by inserting the parenthetical "(Major and Nonmajor Natural Gas Companies)" immediately preceding the word "includes,";

(4) In subparagraph (19), by inserting the parenthetical "(Major and Nonmajor Natural Gas Companies)" following the words " Training Costs' ";

(5) By adding a new subparagraph (22), directly following subparagraph (21), to read as follows:

(22) "Studies" includes the costs of studies such as operational, safety or environmental studies relative to plant under construction. Studies mandated by regulatory bodies relative to facilities in service shall be charged to Account 183.2, Other Preliminary Survey and Investigation Charges.

(d) In Instruction 3, by adding a new paragraph B, following paragraph A, to read as follows:

B. For Nonmajor natural natural gas companies, the cost of construction of property chargeable to the gas plant accounts shall include, where applicable, fees for construction certificate applications paid after grant of certificate, the cost of labor, materials and supplies, transportation, work done by others for the company, injuries and damages incurred in construction, privileges and permits, special machine service, allowance for funds used during construction, not be exceed without prior approval of the Commission amounts computed in accordance with the formula prescribed in paragraph (a) of subparagraph (17) above; training costs and such portion of general engineering, administrative salaries and expenses, insurance, taxes, and other analogous items as may be properly includible in construction costs. (See Operating Expense Instruction 4.) When the company employs its own funds in exploration and development on leases acquired after October 7, 1969, no allowance for funds used during construction on such funds shall be included in these accounts. The rates and balances of short-and long-term debt, preferred stock, common equity and construction work in progress shall be determined as prescribed in paragraph (b) of subparagraph (17) above.

(e) In paragraph C of Instruction 4, by removing the words "The records supporting" and inserting, in their place, the words "For Major natural gas companies, the records supporting";

(f) In paragraph A of Instruction 6, by inserting the parenthetical "(For Nonmajor companies, account 404, Amortization of Limited-Term Gas Plant)" following the words "Limited-Term Gas Plant" and by inserting a sentence at the end of the paragraph to read "The provisions of this paragraph are applicable to property leased under either capital leases or operating leases.";

(g) By amending Instruction 7 as follows:

(1) In paragraph C, by inserting the parenthetical "(in the case of Major companies, account 105.1, Production Properties Held for Future Use)" following the words "Gas Plant Held For Future Use";

(2) In paragraph D, by removing the words "A parcel" and inserting, in their place, the words "In the case of Major companies, a parcel";

(3) In paragraph E, by inserting the parenthetical "(in the case of Major companies, the differences shall be included in accounts 411.6, Gains from Disposition of Utility Plant or 411.7, Losses from Disposition of Utility Plant, when such property has been recorded in account 105, Gas Plant Held for Future Use or 105.1, Production Properties Held for Future Use)" following the words "as appropriate";

(4) In paragraph G, by removing the words "Future Use, or Account 121." and inserting, in their place, the words "Future Use or, in the case of Major Companies, account 121";

(5) In the parenthetical of paragraph H, by removing the word "See" and inserting, in its place, the words "For Major companies, see";

(6) In paragraph H, by removing a comma "," and inserting a period "." following the words "Gas Plant" and inserting a sentence, following the words "Limited-Term Gas Plant", to read as follows:

For Nonmajor companies, see account 403.1, Depreciation and Depletion Expense, and account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant.

(7) In paragraph H, by removing from the parenthetical the words "and account 797, Abandoned Leases" and by adding a sentence at the end of the text to read as follows:

See also account 797, Abandoned Leases, for the accounting for abandonments of natural gas leases which have never been productive.

(h) In paragraph G of Instruction 8, by inserting the parenthetical "(Major natural gas companies)" at the end of the following Items: Items 2, 6, 11, 12, 18, 19, 22, 28, 29, 32, 35, 36, 39, 40, 41, 42, 44, 45, 47, 49, 52, 53, 55, 58, 60, 61, 62, 64, 65, 66, and 67;

(i) In paragraph B of Instruction 9, by removing from the parenthetical the words "$50 or less" and inserting, in their place, the words "$500 or less";

(j) By amending Instruction 10 as follows:

(1) In paragraph E, by inserting a comma "," followed by the words "or in the case of Major companies, account" immediately following the words "Gas Plant Held for Future Use";

(2) In paragraph F, by inserting the parenthetical "(account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant, in the case of Nonmajor companies)" following the words "Depreciation of Gas Plant in Service," and by inserting the parenthetical (account 110 for Nonmajor companies)" immediately following the words "credited to account 108"; and

(3) In paragraph G, by removing the words "The accounting for" and inserting, in their place, the words "In the case of Major companies, the accounting for";

(k) In paragraph C of Instruction 11, by removing the words "Each utility" and inserting, in their place, the words "In the case of Major companies, each utility";

(l) In Instruction 12, by removing the words "105.1, Production Properties Held For Future Use," and by inserting the parenthetical "(105.1, Production Properties Held for Future Use, in the case of Major companies)" following the words "Gas Plant Held for Future Use";

(m) In the Note to Instruction 12 by inserting after "Note:" the parenthetical "(Major Companies)";

(n) In the title to Instruction 14, by inserting the parenthetical "(Major natural gas companies)" at the end of the title of the instruction;

(o) By amending paragraph A of Instruction 15 as follows:

(1) In item (1), by adding the parenthetical "(account 180, Other Deferred Debits, in the case of Nonmajor companies)" following the words "Miscellaneous Deferred Debits,";

(2) In item (2), by adding the parenthetical "(the amounts recorded in account 186 shall be cleared to the appropriate plant accounts, in the case of Nonmajor companies)" following the words "plant accounts"; and

(3) In item (3), by adding the parenthetical "(Account 180 in the case of Nonmajor companies)" following the words "in account 186";

(p) By adding an Instruction 16 following Instruction 15 to read as follows:

16. Transmission and Distribution Plant (Nonmajor natural gas companies).

For the purposes of this system of accounts:

A. "Transmission System" means the land, structures, mains, valves, meters, boosters, regulators, tanks, compressors and their driving units and appurtenances, and other equipment used primarily for transmitting gas from a production plant, delivery point of purchased gas, gathering system, storage area, or other wholesale source of gas, to one or more distribution areas. The transmission system begins at the outlet side of the valve at the connection to the last equipment in a manufactured gas plant, the connection to gathering lines or delivery point of purchased gas, and includes the equipment at such connection that is used to bring the gas to transmission pressure, and ends at the outlet side of the equipment which meters or regulates the entry of gas into the distribution system or into a storage area. It does not include storage, land, structures or equipment. Pipeline companies, including those companies which measure deliveries of gas to their own distribution systems, shall include city gate and main line industrial measuring and regulating stations in the transmission function.

B. "Distribution System" means the mains which are provided primarily for distributing gas within a distribution area, together with land, structures, valves, regulators, services and measuring devices, including the mains for transportation of gas from production plants or points of receipt located within such distribution area to other points therein. The distribution system owned by companies having no transmission facilities connected to such distribution system begins at the inlet side of the distribution system equipment which meters or regulates the entry of gas into the distribution system and ends with and includes property on the customer's premises. For companies which own both transmission and distribution facilities on a continuous line, the distribution system begins at

VOL
48
ISS
1
9
8
OC
12
1983
UMI

the outlet side of the equipment which meters or regulates the entry of gas into the distribution system and ends with and includes property on the customer's premises. The distribution system does not include storage land, structures, or equipment.

C. "Distribution Area" as used herein means a metropolitan area or other urban area comprising one or more adjacent or nearby cities, villages or unincorporated areas, including areas contiguous to main highways.

29. The Operating Expense Instructions of Part 201 are amended by inserting, in the title to Instruction 1, the parenthetical "(Major natural gas companies)" at the end of the title.

30. The Balance Sheet Chart of Accounts and the Balance Sheet Accounts of Part 201 are amended by inserting the parenthetical "(Major only)" at the end of the titles of the following accounts: accounts 103, 105.1, 106, 108, 111, 115, 117, 123, 123.1, 125, 126, 128, 131–135, 151–153, 155, 156, 163, 164.3, 166, 167, 171–173, 183.1, 183.2, 184, 185, 188, 202, 203, 205–210, 216.1, 222, 238–241.

31. The Balance Sheet Chart of Accounts of Part 201 are amended as follows:

(a) By inserting a new account 101.1, following account 101, to read "101.1 Property under capital leases";

(b) By inserting a new account 103.1, following account 103, to read "103.1 Gas Plant in process of reclassification (Nonmajor only).";

(c) By removing the words "110 [Reserved]" and inserting, in its place, "110 Accumulated provision for depreciation, depletion, and amortization of gas utility plant (Nonmajor only)";

(d) By inserting an account 129, following account 128, to read "129 Special funds (Nonmajor only).";

(e) By inserting an account 130, preceding account 131, to read "130 Cash and working funds (Nonmajor only).";

(f) By redesignating account 182 as acccount 182.1 and inserting an account 182.2, directly following account 182.1, to read "182.2, Unrecovered plant and regulatory study costs.";

(g) By removing account 214 in its entirety;

(h) By inserting an account 218, following account 217, to read "218 Noncorporate proprietorship (Nonmajor only).";

(i) By removing the caption "9. OPERATING RESERVES" and by removing accounts 261, 262, 263, and 265;

(j) By redesignating Caption 8 as Caption 9 and Caption 7 as Caption 8 and inserting a new Caption 7 to read "7. *Other Noncurrent Liabilities*";

(k) By inserting accounts 227, 228.1, 228.2, 228.3, 228.4, and 229, after account 226, to read as follows:

227 Obligations under capital leases—noncurrent.
228.1 Accumulated provisiion for property insurance.
228.2 Accumulated provisiion for injuries and damages.
228.3 Accumulated provision for pensions and benefits.
228.4 Accumulated miscellaneous operating provisions.
229. Accumulated provision for rate refunds.

(l) By inserting account 243, following Account 242, to read "243 Obligations under capital leases—current.".

32. The Balance Sheet Accounts of Part 201 are amended as follows:

(a) By adding a new account 101.1, following account 101, to read as follows:

101.1 Property Under Capital Leases.

A. This account shall include the amount recorded under capital leases for plant leased from others and used by the utility in its utility operations.

B. The gas property included in this account shall be classified separately according to the detailed accounts (301 to 399) prescribed for electric plant in service.

C. Records shall be maintained with respect to each capital lease reflecting: (a) Name of lessor, (b) basic details of lease, (c) terminal date, (d) original cost or fair market value of property leased, (e) future minimum lease payments, (f) executory costs, (g) present value of minimum lease payments, (h) the amount representing interest and the interest rate used, and (i) expenses paid.

(b) In paragraph C of Account 105, by removing the words "notify the Commission of such condition and request approval of journal entries to remove such property from this account." and adding, in their place, new text to read as follows:

request Commission approval of journal entries to remove such property from this account when the original cost of the property is $100,000 or more, prior to their being recorded. For individual properties with an original cost of less than $100,000, the company shall file with the Commission, on an annual basis, journal entries reflecting the removal of such property from this account. Such filings shall include the description and orginal cost of individual properties removed from this account, the accounts charged upon removal, and whether any associated gains or losses were realized upon disposition of such property.

(c) In paragraph C of account 105.1, by removing the words "notify the Commission of such condition and request approval of journal entries to remove such property from this account." and inserting, in their place, new text to read as follows:

request Commission approval of journal entries to remove such property from this account when the original cost of the property is $500,000 or more, prior to their being recorded. For individual properties with an original cost of less than $500,000, the company shall file with the Commission, on an annual basis, journal entries reflecting the removal of such property from this account. Such filings shall include the description and original cost of individual properties removed from this account, the accounts charged upon removal, and whether any associated gains or losses were realized upon disposition of such property.

(d) In Note A of account 107, by removing the words "Fderal Power Commission" and inserting, in their place, the words "Federal Energy Regulatory Commission";

(e) In account 110, by removing the word "[Reserved]";

(f) By amending account 154 as follows:

(1) In paragraph A, by inserting, following the words "maintenance purposes.", the following text:

For Nonmajor utilities, this account shall include the cost of fuel on hand and unapplied materials and supplies (except meters and house regulators);

(2) In paragraph A, by removing the words "It shall" and inserting, in their place, the words "For both Major and Nonmajor utilities, it shall";

(3) By inserting a subparagraph C, immediately following subparagraph B, to read as follows:

C. for Nonmajor utilities, inventories of materials, supplies, fuel, etc., shall be taken at least annually and the necessary adjustments shall be made to bring this account into agreement with the actual inventories. In effecting the adjustments, large differences which can be assigned to important classes of materials shall be equitably adjusted among the accounts to which such classes of materials have been charged since the previous inventory. Other differences shall be equitably apportioned among the accounts to which materials have been charged.

(4) By redesignating the current NOTE as "NOTE A" and revising the text and by adding a new NOTE B to read as follows:

Note A.—Where expenses applicable to materials purchased cannot be directly assigned to particular purchases, they may be charged to a stores expense clearing account (account 163, Stores Expenses Undistributed, in the case of Major utilities), and distributed therefrom to the appropriate account.

Note B.—(Nonmajor utilities) When materials and supplies are purchased for immediate use, they need not be carried through this account but may be charged directly to the appropriate gas plant or expense account.

(g) In subparagraph A of account 166, by removing the words "This account shall" and inserting, in their place, the words "For Major companies, this account shall"; and by revising and redesignating subparagraph B as subparagraph C and inserting, a new subparagraph B to read as follows:

B. For Nonmajor companies, this account shall include the following classes of items:

(1) Expenditures for preliminary surveys, plans, investigations, etc. made for the purpose of determining the feasibility of projects under contemplation. If construction results, this account shall be credited with the amount applicable thereto and the appropriate plant accounts shall be charged with an amount which does not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to plant. If the work is abandoned, the charge shall be to account 426.5, Other Deductions, or to the appropriate operating expense accounts.

(2) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas. If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 6G) charged with the amount of expenditures related to such acquisition. Such preliminary survey and investigation charges transferred to gas plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to gas plant. If a project is abandoned involving a natural gas lease acquired before October 8, 1969, the expenditures related thereto shall be charged to account 723, Other Exploration. If a project is abandoned involving a lease acquired after October 7, 1969, the expenditures related thereto shall be charged to account 338, Unsuccessful Exploration and Development Costs.

(3) Undistributed balances in clearing accounts at the date of the balance sheet. Balances in clearing accounts shall be substantially cleared not later than the end of the calendar year unless items held therein relate to a future period.

(4) Balances representing expenditures for work in progress other than on utility plant. This includes jobbing and contract work in progress.

(5) Other debit balances, the proper final disposition of which is uncertain, and unusual or extraordinary expenses, not included in other accounts, which are in process of being written off.

(6) All fees related to certificate applications involving construction paid prior to the final disposition of the certificate application. If the certificate is granted and accepted, the amount recorded in this account shall be credited with the amount applicable thereto and charged to the appropriate plant accounts. If the certificate requested is not granted or is not accepted by the applicant, the fees recorded in this account shall be cleared to account 928, Regulatory Commission Expenses.

C. The records supporting the entries to this account shall be so kept that the utility can furnish full information as to each deferred debit included herein. (In the case of Nonmajor companies, the records supporting entries for preliminary natural gas surveys and investigations shall be so kept that the utility can furnish, for each investigation, complete information as to identification and location of the territory investigated, the number or other identification assigned to the land tract or leasehold acquired, and the nature and respective amounts of the charges.)

(h) By removing the following accounts (including text) 261, 262, 263, and 265;

(i) In account 121, by redesignating paragraph B as paragraph C and inserting a new paragraph B to read as follows:

B. This account shall also include the amount recorded under capital leases for property leased from others and used by the utility in its nonutility operations. Records shall be maintained with respect to each lease reflecting: (a) Name of lessor, (b) basic details of lease, (c) terminal date, (d) original cost or fair market value of property leased, (e) future minimum lease payments, (f) executory costs, (g) present value of minimum lease payments, (h) the amount representing interest and the interest rate used, and (i) expenses paid.

(j) By redesignating account 182 as account 182.1 and inserting a new account 182.2, following account 182.1, to read as follows:

182.2 Unrecovered Plant and Regulatory Study Costs.

A. This account shall include: (1) Nonrecurring costs of studies and analyses mandated by regulatory bodies related to plants in service, transferred from account 183.2, Other Preliminary Survey and Investigation Charges, and not resulting in construction; and (2) when authorized by the Commission, significant unrecovered costs of plant facilities where construction has been cancelled or which have been prematurely retired.

B. This account shall be credited and account 407.1, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs, shall be debited, over the period specified by the Commission.

C. Any additional costs incurred, relative to the cancellation or premature retirement, may be included in this account and amortized over the remaining period of the original amortization period. Should any gains or recoveries be realized relative to the cancelled or prematurely retired plant, such amounts shall be used to reduce the unamortized amount of the costs recorded herein.

D. In the event that the recovery of costs included herein is disallowed in the rate proceedings, the disallowed costs shall be charged to account 426.5, Other Deductions, in the year of such disallowance.

(k) In account 183.2, by redesignating paragraph B as paragraph C and inserting a new paragraph B to read as follows:

B. This account shall also include costs of studies and analyses mandated by regulatory bodies related to plants in service. If construction results from such studies, this account shall be credited and the appropriate utility plant account charged. If the studies do not culminate in construction, such costs shall be charged to account 182.2, Unrecovered Plant and Regulatory Study Costs. The costs of such studies relative to plant under construction shall be included directly in account 107, Construction Work in Progress—Gas.

(l) In paragraph A of account 190, by removing the word "or" preceding the words "account 411.2", and by removing the word "Deductions" and inserting, in its place, the words "Deductions, or account 411.3, Provision for Deferred Income Taxes—Credit, Rate Refunds,";

(m) In paragraph B of account 190, by removing the work "or" preceding the words "account 410.2", and by removing the word "Deductions" and inserting, in its place, the words "Deductions, or

VOL
48
ISS
1
9
8
OC
12
1983
UMI

account 410.3, Provision for Deferred Income Taxes, Rate Refunds," and by removing the words "or 410.2" and inserting, in their place, the words "410.2 or 410.3";

(n) In paragraph D of account 192.1, by removing the words "transferred to account 191, Unrecovered Purchased Gas Costs," and inserting, in their place, the words "cleared from this account by a debit to account 805.2 and a credit to this account";

(o) In the **Notes** to account 204, by adding the parenthetical "(For Nonmajor companies, account 211, Miscellaneous Paid-In Capital)" immediately following the words "Premium on Capital Stock";

(p) By amending account 211 as follows:

(1) By adding a parenthetical and an **Items** section, immediately following the words "the foregoing accounts,", to read as follows:

[In the case of Nonmajor companies, this account shall be kept so as to show the source of the credits includible herein.]

Items (Nonmajor only)

1. Premium received on original issues of capital stock.
2. Donations received from stockholders or reduction of debt of the utility, and the cash value of other assets received as a donation.
3. Reduction in par or stated value of capital stock.
4. Gain on resale or cancellation of reacquired capital stock.

(2) By redesignating the current **Note** as "**Note A**" by removing the word "**Note:**" and inserting, in its place, the words "NOTE A: (Major companies)",

(3) By inserting a **Note B**, following **Note A**, to read as follows:

Note B.—(Nonmajor companies) Premium on capital stock shall not be set off against expenses. Further, a premium received on an issue of a certain class or series of stock shall not be set off against expense of another issue of the same class or series.

(q) By removing account 214 in its entirety;

(r) By inserting, following account 226, new accounts 227, 228.1, 228.2, 228.3, 228.4, and 229 to read as follows:

227 Obligations under Capital Leases—Noncurrent.

This account shall include the portion not due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, or account 121, Nonutility property.

Special Instruction

No amounts shall be credited to these accounts unless authorized by a regulatory authority or authorities to be collected in a utility's rate levels.

228.1 Accumulated Provision for Property Insurance.

A. This account shall include amounts reserved by the utility for losses through accident, fire, flood, or other hazards to its own property or property leased from others, not covered by insurance. The amounts charged to account 924, Property Insurance, or other appropriate accounts to cover such risks shall be credited to this account. A schedule of risks covered shall be maintained, giving a description of the property involved, the character of the risks covered and the rates used.

B. Charges shall be made to this account for losses covered, not to exceed the account balance. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

228.2 Accumulated Provision for Injuries and Damages.

A. This account shall be credited with amounts charged to account 925, Injuries and Damages, or other appropriate accounts, to meet the probable liability, not covered by insurance, for deaths or injuries to employees and others, and for damages to property neither owned nor held under lease by the utility.

B. When liability for any injury or damage is admitted by the utility either voluntarily or because of the decision of a court or other lawful authority, such as a workmens' compensation board, the admitted liability shall be charged to this account and credited to the appropriate current liability account. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

Note.—Recoveries or reimbursements for losses charged to this account shall be credited hereto; the cost of repairs to property of others if provided for herein shall be charged to this account.

228.3 Accumulated Provision for Pensions and Benefits.

A. This account shall include provisions made by the utility and amounts contributed by employees for pensions, accident and death benefits, savings, relief, hospital and other provident purposes, where the funds are included in the assets of the utility either in general or in segregated fund accounts.

B. Amounts paid by the utility for the purposes for which this liability is established shall be charged hereto.

C. A separate account shall be kept for each kind of provision included herein.

Note.—If employee pension or benefit plan funds are not included among the assets of the utility but are held by outside trustees, payments into such funds, or accruals therefor, shall not be included in this account.

228.4 Accumulated Miscellaneous Operating Provisions.

A. This account shall include all operating provisions which are not provided for elsewhere.

B. This account shall be maintained in such manner as to show the amount of each separate provision and the nature and amounts of the debits and credits thereto.

Note.—This account includes only provisions as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

229 Accumulated Provision for Rate Refunds.

A. This account shall be credited with amounts charged to Account 414.2, Provision for Rate Refunds, to provide for estimated refunds where the utility is collecting amounts in rates subject to refund.

B. When a refund of any amount recorded in this account is ordered by a regulatory authority, such amount shall be charged thereto and credited to account 242, Miscellaneous Current and Accrued Liabilities.

(s) In paragraph B of account 236, by removing the sentence "However, if such corrections are so large as to seriously distort current expenses, see General Instruction 7.1.";

(t) In account 242, by adding, at the end of the account, a new Items section to read as follows:

Items (Nonmajor only)

1. Dividends declared but not paid.
2. Matured long-term debt.
3. Matured interest.
4. Taxes collected through payroll deductions or otherwise pending transmittal to the proper taxing authority.

(u) by inserting an account 243, following account 242, to read as follows:

243 Obligations under Capital Leases—Current.

This account shall include the portion due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, or account 121, Non Utility Property.

(v) In account 282, by removing paragraph D in its entirety, and redesignating paragraph E as paragraph D.

33. The Gas Plant Chart of Accounts and the Gas Plant Accounts of Part 201 are amended by inserting the parenthetical "(Major only)" at the end of each title of the following accounts: accounts 363, 363.1, 363.2, 363.3, 363.4, 364.1, 364.2, 364.3, 364.4, 364.5, 364,6, 364.7, and 364.8.

34. The Gas Plant Accounts of Part 201 are amended as follows:

(a) In subparagraph C of account 302 and in subparagraph B of account 303, by adding the parenthetical "(For Nonmajor Companies; account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant) following the words "Gas Utility Plant";

(b) In the Special Instructions immediately preceding account 325.1 paragraph B of account 338, by inserting the parenthetical "(for Nonmajor companies, 403.1, Depreciation and Depletion Expense)" following the words "Land Rights";

(c) In the paragraph preceding account 350.1, by adding the heading "SPECIAL INSTRUCTIONS—ACCOUNTS 350.1 THROUGH 363.5" preceding the text and removing the words "the accounts under subsections A and B hereunder." and inserting, in their place, the words "the above accounts." and removing the words "under Subsection C, Base Load Liquified Natural Gas Terminaling and Processing Plant" and inserting, in their place, the words "in accounts 364.1 through 364.8";

(d) In subparagraph B of account 352.3, by adding the parenthetical "(for Nonmajor companies, account 164.1, Gas Stored Underground)" following the word "Noncurrent";

(e) In the **Items** section of account 363.5, by redesignating Item No. 4 as Item No. 5, Item No. 3 as Item No. 4, and Item No. 2 as Item No. 3, and inserting a new Item No. 2 to read "2. Compressor.";

(f) In the **Items** section of account 367, by redesignating Items 11 through 23 as Items 12 through 24, and inserting a new Items 11 to read "11. Line Pack Gas.";

(g) In the **Items** section of account 376, by redesignating Items 8 through 25 as Items 9 through 26, and inserting a new Item 8 to read "8. Line Pack Gas.".

35. The Income Chart of Accounts and Income Accounts of Part 201 are amended by inserting the parenthetical "(Major only)" at the end of the titles of accounts: 403, 404.1, 404.2, 404.3, and 418.1.

36. The Income Chart of Accounts of Part 201 are amended as follows:

(a) In the title of account 401, by removing the word "Operating" and inserting, in its place, the word "Operation";

(b) By adding an account 403.1, following account 403, to read "403.1 Depreciation and depletion expense (Nonmajor only)"

(c) By adding an account 404, preceding account 404.1, to read "404 Amortization of limited-term gas plant (Nonmajor only)"

(d) In account 407.1, by removing the title and inserting, in its place, the title "Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs";

(e) By removing the reference to account 411.3 [Reserved], redesignating account 414 as account 414.1 and by adding, following account 414.1, new headings and references to accounts 414.2, 410.3 and 411.3 to read as follows:

Net utility operating income before provision for rate refunds. Rate Refunds
414.2 Provision for Rate Refunds.
410.3 Provision for Deferred Income Taxes, Rate Refunds.
411.3 Provision for Deferred Income Taxes—Credit, Rate Refunds. Rate refunds after taxes.
Net utility operating income after provision for rate refunds.

37. The Income Accounts of Part 201 are amended as follows:

(a) In account 407.1, by removing the account title and inserting, in its place, the title "Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs" and by removing the words "Account 182, Extraordinary Property Losses" and inserting, in their place, the words "Account 182.1, Extraordinary Property Losses, and Account 182.2, Unrecovered Plant and Regulatory Study Costs";

(b) In the *Special Instructions* following account 410, by removing the words "Accounts 410.1 410.2, 411.1, and 411.2, and inserting, in their place, the words "Accounts 410.1, 410.2, 410.3, 411.1, 411.2, and 411.3";

(c) In paragraph A under the *Special Instructions* following account 410, by removing the words "and 410.2" and inserting in their place, the words, "410.2 and 410.3", and removing the words "or 411.2" and inserting, in their palce, the words "411.2 or 411.3";

(d) In paragraph B under the *Special Instructions* following account 410, by removing the words "and 411.2" and inserting, in their place, the words "411.2 and 411.3", by and removing the words "or 410.2" and inserting, in their place, the words "410.2 or 410.3";

(e) By adding, following account 410.2, a new account 410.3 to read as follows:

410.3 Provision for Deferred Income Taxes, Rate Refunds.

This account shall include the amounts of those deferrals of taxes and allocations of deferred taxes which relate to rate refunds.

(f) By removing the reference account 411.3 [Reserved] and inserting, in its place, the following:

411.3 Provision for Deferred Income Taxes—Credit, Rate Refunds.

This account shall include the amounts of those allocations of deferred taxes and deferrals of taxes, credit, which relate to rate refunds.

(g) In accounts 411.8 and 411.7, by inserting the parenthetical "(Major only)" following the words "Production Properties Held For Future Use";

(h) In subparagraph B of account 413, by inserting the word and parenthetical "Depletion (Nonmajor only)" after the word "Depreciation";

(i) by redesignating account 414 as account 414.1 and adding an account 414.2, following account 414.1, to read as follows:

414.2 Provision for Rate Refunds.

A. This account shall be charged with provisions for the estimated pretax effects on net income of the portions of amounts being collected subject to refund which are estimated to be required to be refunded. Such provisions shall be credited to account 229, Accumulated Provision for Rate Refunds.

B. This account shall also be charged with amounts refunded when such amounts have not previously been accrued.

C. Income tax effects relating to the amounts recorded in this account shall be recorded in account 411.3, Provision for Deferred Income Taxes—Credit, Rate Refunds, as appropriate.

(j) In supbaragraph B of accounts 421.1 and 421.2, by inserting the parenthetical "(Major only)" following the words "Production Properties Held for Future Use";

(k) In account 425, by removing Item 3, and by revising Item 2 to read "2. Other miscellaneous amortization charges allowed to be included in this account by the Commission."

(l) In account 426.5, by adding a new Item 5, directly following Item 4, to read as follows:

5. Costs of preliminary abandonment costs recorded in accounts 182.1, Extraordinary Property Losses, and 182.2, Unrecovered Plant and Regulatory Study Costs, not allowed to be amortized to account 407.1, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs.

(m) In account 434, by removing the words, "nontypical, noncustomary,

VOL
48
ISS
1
9
8
OC
12
1983
UMI

infrequently recurring gains," and inserting, in their place, the words "gains of unusual nature and infrequent occurence,";

(n) In account 435, by removing the words "nontypical, noncustomary, infrequently recurring losses," and inserting, in their place, the words "losses of usual nature and infrequent occurrence,".

38. The Operating Revenue Chart of Accounts and Operating Revenue Accounts of Part 210 are amended by inserting the parenthetical "(Major only)" at the end of the title of account 482.

39. The Operating Revenue Accounts are amended as follows;

(a) In subparagraph C of account 481, by inserting the parenthetical "(Major companies)" preceding the words "Records shall";

(b) In Item 3 of account 488, by removing from the parenthetical the word "See" and inserting, in its place, the words "For Major Companies, see,";

(c) In Item 8 of account 495, by inserting the parenthetical "(Major companies)" immediately preceding the word "Include".

40. The Retained Earnings Accounts of Part 201 are amended by removing the text of account 439 and inserting, in its place, the following:

439 Adjustments to Retained Earnings.

A. This account shall, with prior Commission approval, include significant nonrecurring transactions accounted for as prior period adjustments, as follows:

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits or pre-acquisition operating loss carryforwards of purchased subsidiaries.

B. All other items of profit and loss recognized during a year shall be included in the determination of net income for that year.

41. The Operation and Maintenance Expense Chart of Account and the Operation Maintenance Expense Accounts of Part 201 are amended by inserting the parenthetical "(Major only)" at the end of each title of the following accounts: accounts 700–708, 711–730, 732–735, 740–742, 751–754, 756, 757, 761, 762, 765–775, 777–791, 800–804.1, 806, 809.1, 809.2, 810–812, 815–822, 824, 830, 831, 833–837, 840–842, 842.1–842.3, 843.1–843.9, 844.1–844.8, 845.1–845.6, 846.1, 846.2, 847.1–847.8, 851–857, 859, 861, 862, 865–867, 871–873, 875–877, 880, 885–892, 894, 901, 905, 907–913 and 916;

42. The Operation and Maintenance Expense Chart of Accounts of Part 201 is amended as follows:

(a) By inserting an account 724.1, following account 724, to read "724.1 Fuel (Nonmajor only).";

(b) By inserting an account 729.1, following account 729, to read "729.1 Raw material (Nonmajor only).";

(c) By inserting an account 737, following account 736, to read "737 Operation supplies and expenses (Nonmajor only).";

(d) By inserting an account 743, following account 742, to read "743 Maintenance of production plant (Nonmajor only).";

(e) By inserting an account 769.1, following account 769, to read "769.1 Maintenance of other plant (Nonmajor only).";

(f) By inserting an account 792, following account 791, to read "792 Maintenance of products extraction plant (Nonmajor only).";

(g) By inserting an account 799, preceding account 800, to read "799 Natural gas purchases (Nonmajor only).";

(h) By inserting an account 812.1, following account 812, to read "812.1 Gas used in utility operations—Credit (Nonmajor only).";

(i) By inserting an account 827, following account 826, to read "827 Operation supplies and expenses (Nonmajor only).";

(j) By inserting new accounts 838 and 839, following account 837, to read as follows:

838 Maintenance of other underground storage plant (Nonmajor only).

839 Maintenance of local storage plant (Nonmajor only).

(k) By inserting an account 853.1 following account 853, to read "853.1 Compressor station fuel and power (Nonmajor only).";

(l) By inserting an account 857.1, following account 857, to read "857.1 Operation supplies and expenses (Nonmajor only).";

(m) By inserting an account 868, following account 867, to read " "868 Maintenance of other plant (Nonmajor only).";

(n) By inserting an account 880.1, following account 880, to read "880.1 Miscellaneous distribution expenses (Nonmajor only).";

(o) By inserting an account 892.1, following account 892, to read "892.1 Maintenance of lines (Nonmajor only).";

(p) By inserting an account 895, following account 894, to read "895 Maintenance of other plant (Nonmajor only).";

(q) By inserting an account 906, preceding account 907, to read "906 Customer service and informational expenses (Nonmajor only).";

(r) By inserting an account 917, following account 916, to read "917 Sale's expenses (Nonmajor only).";

(s) By redesignating an account 932 as acount 933 and inserting an account 932 to read "932 Transportation expenses (Nonmajor only).";

43. The Operation and Maintenace Expense Accounts are amended as follows:

(a) In account 710, by redesignating the current text as paragraph A by removing the words "This account shall" and inserting, in their place, the words "A. For Major companies, this account shall", and adding a new paragraph B and ITEMS Section to read as follows:

B. For Nonmajor companies, this account shall include the cost of supervision and labor in the operation of manufactured gas production plants.

Items (Nonmajor only)

1. Supervising.
2. Operating or attending equipment and controls including boiler plant, power equipment and other auxiliaries.
3. Cleaning, lubricating and oiling equipment and auxiliaries.
4. Loading and unloading and other handling of coal, coke, other fuels, raw materials, residuals, waste materials, etc.
5. Observing, testing, checking and adjusting meters, gauges, and other instruments and equipment.
6. Keeping plant logs and other records and preparing reports on plant operation.
7. Cleaning boiler room, other buildings and yards.
8. Repacking glands and replacing gauge glasses and other similar work if work is of a minor nature and performed by regular operating crews. Where work is of a major character, such as that performed on high pressure boilers, the work shall be considered maintenance.
9. Testing water, etc.
10. Janitorial, messenger, watchmen and similar services.
11. Clerical and stenographic work at plant.

(b) In subparagraphs A and B of account 731, by inserting the parenthetical "(for Nonmajor companies, account 154, Plant Materials and Operating Supplies)" immediately following the words "Extracted Products";

(c) In account 750, by redesignating the current text as paragraph A by removing the words "This account shall" and inserting, in their place, the words "A. For Major companies, this account shall", and inserting at the end of the text a new paragraph B to read as follows:

B. For Nonmajor companies, this account shall include the cost of supervision and labor in the operation of gas wells, lines, compressors and other equipment of the natural gas production and gathering system including miscellaneous labor such as care of grounds, building service, and general clerical and stenographic work at field offices.

(d) In account 750, by inserting the words "Major and Nonmajor:" between the title ITEMS and Item 1; and inserting new Items 5 through 21, at the end of the ITEMS section, to read as follows: Nonmajor only:

5. Gas well labor: turning wells on and off, bailing, swabbing, blowing wells, etc.
6. Preparing and maintaining production maps and land records, including surveys.
7. Field line labor: patrolling, attending and lubricating valves and other equipment, blowing and cleaning lines and drips, taking line pressures, etc.
8. Field compressor station labor: operating, attending, lubricating and servicing equipment, recording pressures, replacing charts, etc.
9. Measuring and regulating labor: recording pressures, changing charts, calculating gas volumes except for purchased gas and sales, adjusting and calibrating measuring equipment, taking gas samples and testing gas, inspecting and pumping drips, dewatering manholes and pits, etc.
10. Purification labor: attending and servicing purification apparatus, emptying, cleaning and refilling purifier boxes, unloading and storing glycol, etc.
11. Inspecting and testing equipment, not specifically to determine necessity for repairs or replacement of parts.
12. Lubricating equipment, valves, etc.
13. Hauling operating employees, materials, supplies, etc.
14. Moving equipment, minor structures, etc., not in connection with construction, retirement or maintenance work.
15. Keeping log and other operating records, preparing reports of operations, etc.
16. Cleaning structures, cutting grass and weeds, and minor grading around stations.
17. Cleaning debris, cutting grass and weeds on rights-of-way.
18. Cleaning and repairing tools.
19. Building and repairing gate boxes, foot bridges, stiles, tool boxes, etc.
20. Janitorial, watchmen and messenger services.
21. Clerical and stenographic work.

(e) By amending account 755 as follows:

(1) In paragraph A, by removing the words "stations, including" and inserting, in their place, the words "stations (including in the case of Major companies," and by inserting a bracket ") " following the word "expenses";

(2) In paragraph B, by removing the word "Respective" and inserting, in its place, the words "For Major companies, respective";

(3) By redesignating the current Note as Note (1) by inserting the parentheticals "(1) (Major Companies)" immediately following the word "Note"; and inserting a new Note (2) to read as follows:

Note (2) (Nonmajor companies): The cost of fuel, except gas, shall be charged initially to account 154, Plant Materials and Operating Supplies, and cleared to this account on the basis of fuel used.

(f) By amending account 759 as follows:

(1) By inserting the parenthetical "(Major companies only)" following the word "labor";

(2) By inserting the words "Major companies:" between the titles "Items" and "Labor"; and

(3) By inserting, at the end of the ITEMS section, eighteen new Items to read as follows:

Nonmajor Companies:
1. Scrubber oil.
2. Gas, gasoline, and oil, in pumping, bailing, heating and swabbing.
3. Well swabs.
4. Lumber, nails, and other materials used for upkeep of fences, making signs, etc.
5. Material for upkeep of roads, etc.
6. Hand tools.
7. Lubricants, wiping rags, waste, etc.
8. Gas used in field line operations.
9. Charts and printed forms.
10. Gauge glasses.
11. Water tests and treatment by other than employees.
12. Gas purifying supplies.
13. Geological and gas reserve services by others than employees in connection with gas production.
14. Office supplies, stationery, drafting materials, etc.
15. Janitor, washroom, landscaping, first aid supplies, etc.
16. Employees' transportation and travel expenses.
17. Freight, express, parcel post, trucking, and other transportation.
18. Utility services: lights, water, telephone.

(g) In account 776, by removing the words "blending and refining" and inserting, in their place, the words "in the case of Major companies, blending refining"; by inserting the parenthetical "(Major only)" following the title "Items"; and by inserting a Note, at the end of the account, to read as follows:

Note: (Nonmajor companies) If the products extraction operations of the utility are other than a relatively minor part of the utility's natural gas business, the utility shall use the accounts for products extration expenses of the Major Gas Utilities with the respective accounts prescribed therein identified as subaccounts to this account.

(h) In the Note of account 795, by inserting the parenthetical "(in the case of Nonmajor Companies, account 105, Gas Plant Held for Future Use)" following the words "Future Use";

(i) In Note A of account 796, by inserting the parenthetical "(in the case of Nonmajor companies, General Instruction 19, Gas Well Records)" following the words "Each Plant";

(j) By amending account 797 as follows:

(1) In subparagraph A, by removing the words "This account shall" and inserting, in their place, the words "For Major companies, this account shall"; and by adding a sentence, following the word "Productive.", to read as follows:

For Nonmajor companies, this account shall be charged with losses on abandonment of natural gas leases acquired before October 8, 1968, included in account 105, Gas Plant Held for Future Use, which have never been productive, unless otherwise authorized by the Commission. (See account 182.)

(2) In subparagraph B, by inserting the parenthetical "(Major only)" preceding the word "When";

(k) In the parenthetical of account 798, by inserting the words "for Major companies," preceding the word "see", and by removing the word "Charges" and inserting, in its place, the words "Charges; for Nonmajor companies, see account 186, Miscellaneous Deferred Debits";

(l) In subparagraph D of account 807, by inserting the parenthetical "(Major companies)" preceding the word "This";

(m) In paragraph A. accounts 808.1 and 808.2, by inserting the parenthetical "(in the case of Nonmajor companies, account 164.1, Gas Stored Underground)" following the word "Noncurrent";

(n) In account 813, by removing the word "including" and inserting, in its place, the words "including, in the case of Major companies,";

(o) In account 814, by redesignating the current text as paragraph A by removing the words "This account shall" and inserting, in their place, the words "A. For Major companies, this account shall"; and by inserting a new paragraph B and Items section to read as follows:

B. For Nonmajor companies, this account shall include the cost of supervision and labor in the operation of storage facilities including underground storage gas wells, lines, compressors and other equipment of the underground storage system, and the labor and expense of preparing and maintaining storage maps and land records.

Items (Nonmajor only)

1. Operation of other storage facilities.
2. Operation of underground storage system. (See account 750).

(p) In the parenthetical of account 823, by removing the word "See" and

inserting, in its place the words "For Major companies, see";

(q) In account 850, by redesignating the current text as paragraph A by removing the words "This account shall" and inserting, in their place, the words "A. For Major companies, this account shall"; and by inserting a new paragraph B and six Items, at the end of the text, to read as follows:

B. For Nonmajor companies, this account shall include the cost of supervision and labor in the operation of lines, compressor stations, and other equipment of the transmission system.

Items (Nonmajor only)

1. Load dispatching labor.
2. Transmission communication system labor.
3. Compressor station labor.
4. Mains labor.
5. Measuring and regulating station labor.
6. Miscellaneous labor.

(r) In account 865, by removing the account number "309" and inserting, in its place, the number "369";

(s) In account 870, by inserting a new parenthetical "(Major only)" following the word "dispatching" and by removing from the parenthetical the word "See" and inserting, in its place, the words "for Major companies, see";

(t) In the **Items** section of account 874, by inserting the parenthetical "(Major only)" immediately following the title "Labor"; and by inserting at the end of the Items section the following new Items to read as follows:

Labor (Nonmajor only):
1. Mains and Services labor.
2. Pumping station labor.
3. Measuring and regulating station labor.

Materials and expenses (Major and Nonmajor):
1. Line markers and warning signs.
2. Lumber, nails, etc., used in building and repairing gate boxes (foot bridges, stiles, tool boxes, etc.) (Major only).
3. Charts and printed forms.
4. Scrubber oils.
5. Hand tools.
6. Lubricants, wiping rags, waste, etc.
7. Freight, express, parcel post, trucking and other transportation.
8. Uniforms. (Major only).
9. Employee transportation and travel expenses (Major only).
10. Janitor and washroom supplies (Major only).
11. Utility services: light, water, telephone (Major only).
12. Gas used in mains operations (Major only).
13. Oil for fogging.

(u) In account 878, by inserting the parenthetical "(Major only)" at the end of Items 1–12 and 20;

(v) In account 879, by inserting the parenthetical "(Major only)" at the end of Items 1, 2, 4, 5, 6, 9, 11–13;

(w) In account 902, by revising Item 13 and adding new Items 14, following Item 13, to read as follows:

13. Communication service (Nonmajor only).
14. Miscellaneous office supplies and expenses and stationery and printing (Nonmajor only).

(x) In account 903, by inserting at the end of Item 28 the parenthetical "(Major only)" and adding new Items 31 and 32, following Item 30, to read as follows:

31. Communication service (Nonmajor only).
32. Miscellaneous office supplies and expenses and stationery and printing (Nonmajor only).

(y) By amending account 924 as follows:

(1) In subparagraph A of account 924, by removing the words "It shall include" and inserting, in their place, the words "For Major companies, it shall include";

(2) In subparagraph (1) of Note B, by inserting the parenthetical "(stores expenses in the case of Nonmajor companies)" following the word "Undistributed";

(3) In subparagraph (2) of Note B by removing the word "Transportation" and inserting, in its place, the words "For Major companies, transportation"; and by adding, following the word "maintained.", the sentence "For Nonmajor companies, transportation and garage equipment, to account 933, Transportation expenses.";

(4) In Note C, by inserting the parenthetical "(Major only)" following the title "Note C";

(z) In subparagraph A of account 925, by removing the words "It shall also" and inserting, in their place, the words "For Major companies, it shall also";

(aa) In subparagraph D of account 926, by removing the word "Records" and inserting, in their place, the words "For Major companies, records";

(bb) In Item 4 of account 930.2, by removing the word "Research" and inserting, in its place, the words "For Major companies, research", and by adding the sentence "For Nonmajor companies, experimental and general research work for the industry" following the word "basis.";

(cc) In account 932, by redesignating this account as account 933, by adding a sentence immediately following the words "miscellaneous Equipment." to read "For Nonmajor companies, include also other general equipment accounts (not including trnsportation equipment)."; and by removing the **Note** (including text), and inserting, in its place, the following:

Functions	Account numbers	
	Major	Nonmajor
Manufactured Gas Production	708, 742	743
Natural Gas Production and Gathering	769	793
Natural Gas Products Extraction	791	
Underground Storage	837	836, 839
Local Storage	846.2	
Transmission Expenses	867	868
Distribution Expenses	894	895
Merchandising and Jobbing	416	416

Garages, Shops, etc.—appropriate clearing account, if used (or general expense, in the case of Nonmajor companies).

PART 204—[AMENDED]

44. Part 204 is amended as follows:

(a) In account 103, by redesignating it as account 103.1 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 103.1 title;

(b) In account 110, by redesignating it as account 110 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 110 title;

(c) In account 125, by redesignating it as account 129 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 129 title;

(d) In account 131, by redesignating it as account 130 of Part 201 (following the heading "3. CURRENT AND ACCURED ASSETS") and inserting the parenthetical "(Nonmajor only)" at the end of the account 130 title;

(e) In account 218, by redesignating it as account 218 of Part 201 (preceding the heading "8. LONG-TERM DEBT") and inserting the parenthetical "(Nonmajor only)" at the end of the account 218 title;

(f) In account 403, by redesignating it as account 403.1 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 403.1 title;

(g) In account 404, by redesignating it as account 404 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 404 title;

(h) In account 701, by redesignating it as account 724.1 of Part 201 (preceding the heading *"Gas Raw Materials"*) and inserting the parenthetical "(Nonmajor only)" at the end of the account 724.1 title;

(i) In account 702, by redesignating it as account 729.1 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 729.1 title;

(j) In account 703, by redesignating it as account 737 of Part 201 (preceding the heading *"Maintenance"*) and inserting the parenthetical "(Nonmajor only)" at the end of the account 737 title;

(k) In account 706, by redesignating it as account 743 of Part 201 (preceding the heading "B. *Natural Gas Production*

Expenses") and inserting the parenthetical "(Nonmajor only)" at the end of the account 743 title;

(l) In account 718, by redesignating it as account 792 of Part 201 (preceding the heading "C. EXPLORATION AND DEVELOPMENT EXPENSES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 792 title;

(m) In account 719, by redesignating it as account 769.1 of Part 201 (preceding the heading "B2. *Products Extraction*") *and inserting the parenthetical "(Nonmajor only)" at the end of the account 769.1 title;*

(n) In account 730, by redesignating it as account 799 of Part 201 (following the heading D. *Other Gas Supply Expenses*) and inserting the parenthetical "(Nonmajor only)" at the end of the account 799 title;

(o) In account 735, by redesignating it as account 812.1 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 812.1 title;

(p) In account 742, by redesignating it as account 827 of Part 201 (preceding the heading *"Maintenance"*) and inserting the parenthetical "(Nonmajor only)" at the end of the account 827 title;

(q) In account 746, by redesignating it as account 838 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 838 title;

(r) In account 747, by redesignating it as account 839 of Part 201 (preceding the heading "B. *Other Storage Expenses"*) and inserting the parenthetical "(Nonmajor only)" at the end of the account 839 title;

(s) In account 751, by redesignating it as account 853.1 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 853.1 title;

(t) In account 752, by redesignating it as account 857.1 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 857.1 title;

(u) In account 757, by redesignating it as account 868 of Part 201 (preceding the heading "4. DISTRIBUTION EXPENSES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 868 title;

(v) In account 765, by redesignating it as account 880.1 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 880.1 title;

(w) In account 767, by redesignating it as account 892.1 of Part 201 and inserting the parenthetical "(Nonmajor only)" at the end of the account 892.1 title;

(x) In account 769, by redesignating it as account 895 of Part 201 (preceding the heading "5. CUSTOMER ACCOUNTS EXPENSES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 895 title;

(y) In account 907, by redesignating it as account 906 of Part 201 (following the heading "6. CUSTOMER SERVICE AND INFORMATIONAL EXPENSES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 906 title;

(z) In account 910, by redesignating it as account 917 of Part 201 (preceding the heading "8. ADMINISTRATIVE AND GENERAL EXPENSES") and inserting the parenthetical "(Nonmajor only)" at the end of the account 917 title;

(aa) In account 933, by redesignating it as account 932 of Part 201 (preceding the heading *"Maintenance"*) and inserting the parenthetical "(Nonmajor only)" at the end of the account 932 title;

(bb) By removing the remaining text of Part 204 in its entirety and inserting, in its place, the following:

(For the Uniform System of Accounts for Natural Gas Companies subject to the Natural Gas Act, see Part 201 of this Subchapter.)

45. Part 260 is amended as follows:

(a) the table of contents of Part 260 is amended to read as follows:

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Sec.
260.1 Form No. 2, Annual report for Major natural gas companies.
260.2 Form No. 2–A, Annual report for Nonmajor natural gas companies.

* * * * *

§ 260.1 [Amended]

(b) In the heading and paragraph (a) of § 260.1, by removing the parenthetical "(Class A and Class B)" and by inserting, the word "Major" immediately preceding the word "Natural";

(c) In paragraph (b) of § 260.1, by removing the words "included in Class A or Class B as defined in the Commission's Uniform System of Accounts as Prescribed for Natural Gas Companies, Subject to the Provisions of the Natural Gas Act" and by inserting, in their place, the words and parenthetical "a Major company (as defined in Part 201 of Subchapter F of this chapter)";

(d) In § 260.1, by removing paragraph (c);

§ 260.2 [Amended]

(e) In the heading and paragraph (a) of § 260.2, by removing the parenthetical "(Class C and Class D)" and by inserting the word "Nonmajor" preceding the word "Natural";

(f) In paragraph (b) of § 260.2, by removing the words "included in Class C or Class D as defined in Part 204 of this chapter," and by inserting, in their place, the words "considered Nonmajor as defined in Part 201 of Subchapter F of this Chapter.";

(g) In § 260.2, by removing paragraph (c);

§ 260.8 [Amended]

(h) In paragraph (a) of § 260.8, by removing the words "Class A" and by adding, the word "Major" in their place.

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 489]

The Mendocino Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury..

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Mendocino County, California, to be known as "Mendocino." This proposal is the result of a petition from Mr. James A. Beckman, Vice-President of Guild Wineries and Distilleries, and other industry members in the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines they purchase.

DATE: Written comments must be received by November 28, 1983.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385 (Attn: Notice No. 489).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ed Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue

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NW., Washington, D.C. 20226, (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations provide for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), Title 27, CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural features of the proposed area from surrounding areas;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition from Mr. James A. Beckman, Vice-President of Guild Wineries and Distilleries, proposing an area within Mendocino County, California, as a viticultural area to be known as "Mendocino." The petition submitted by Mr. Beckman contains the names of 113 industry members in the area. This proposed viticultural area is located entirely in Mendocino County, California, in the southernmost one-third part of the county. The area consists of about 430 square miles (275,200 acres). Approximately 10,596 acres of grapes are estimated to be growing within the boundaries of the proposed viticultural area according to the 1981 California Grape Acreage Survey published by the California Crop and Livestock Reporting Service. There are 20 bonded wineries currently operating within the proposed viticultural area.

Viticultural Area Name

For many years the name "Mendocino" has been applied to geographical features and manmade structures within the proposed viticultural area, e.g. Lake Mendocino, Mendocino Loam (a type of residual soil), and Mendocino State Hospital. This information was documented on United States Geological Survey maps and United States Department of Agriculture Soil Survey maps. Also, the name "Mendocino" has been used as an appellation of origin on the labeling of wines produced and bottled by wineries located within the proposed viticultural area.

General Information

Grapes have been growing in the proposed "Mendocino" viticultural area since the earliest settlement in the mid 1800's. According to the Mendocino County Assessor's records, 25,000 grape vines (or about 40 acres) had been planted by 1871.

By 1910, grapes and wines from the area were listed as principal products of the county. At that time, there were 5,800 acres of grapes and nine wineries that produced 90,000 gallons of wine in the proposed viticultural area. The most popular grape variety of the time was Zinfandel, and today it is still one of the major grape varieties grown in the area. In the early 1970's large acreages of new vineyards were planted within the proposed viticultural area. As a result of this activity the wineries expanded.

"Mendocino" encompasses cultivated agricultural areas in the southernmost one-third of Mendocino County in California. "Mendocino" is shaped like the letter V with two forks. It includes the watershed areas and drainage basins of both the Navarro and Russian Rivers. The eastern fork, the area which encompasses the Russian River watershed, starts at the headwaters of the Russian River and extends approximately 30 miles south from there. At its widest point on the north end, the proposed viticultural area is about 12 miles wide, encompassing Redwood and Potter Valley with a hilly outcropping separating them. Its narrowest point just south of the middle is six miles wide. The east fork is approximately 30 miles inland from the Pacific Ocean and runs almost parallel to the coastline.

The west fork of the proposed area, consisting of agricultural areas found in both the Navarro and Russian Rivers watersheds, starts approximately one mile south of a fork in the Navarro River and extends southeast approximately 34 miles. At its widest point on the north end it is approximately eight miles wide and in the middle at its narrowest point it is four miles wide. The west fork also runs parallel to the Pacific coastline, approximately 15 miles inland. At its south end the west fork bends sharply to the east, joining the east fork at its southwestern boundary.

The majority of vineyards within the proposed viticultural area are at elevations ranging from 250 to 1,100 feet, with some vineyards as high as 1,600 feet on the hillsides in the area.

The mountain ridges surrounding the area define the Upper Russian River and Navarro River drainage basins. These ridges, some as high as 3,500 feet, are the natural boundaries of area climates and soil types referred to in the petition for the proposed "Mendocino" viticultural area.

Geographical Features

The petitioner claims the proposed viticultural area is distinguished from surrounding areas by climate. The petitioner bases this claim on the following:

(a) The "Mendocino" area generally separates the coastal and interior climate areas and has a very unusual climate pattern. It lies in a climate area called "Transitional." The area is unusual in climate because either the coastal or the interior climates can dominate the "Mendocino" climate for either short or long periods of time. Generally this is reflected by a warmer winter and a cooler summer than the interior climate area east of the proposed viticultural area. Also, it provides a grape growing season that has many warm, dry days, and generally cool nights.

(b) The north end of the west fork of the proposed area, near Philo, has a very unique microclimate. This area is cooler than the rest of the proposed viticultural area and is classified as Region I on the University of California heat summation scale developed by Amerine and Winkler. All references to heat summation and distribution of heat, mentioned throughout this document, were gathered from climate studies made by the University of California Agricultural Extension Service offices located at Lake, Mendocino and Sonoma Counties. The Boonville area, which is located southeast of Philo, is warmer and is therefore classified as Region II.

The overall climate of the Anderson Valley area is described as "Coastal" by the Mendocino County Farm Advisor's Office, in their booklet, *The Climate of Mendocino County*. The total average heat summation for "Mendocino" for the period of April through October is 3,097 cumulative degree-days and is therefore classified as Region III.

(c) The "Mendocino" area has a rainy season of moderate temperatures and a dry season with high temperatures. The rainy season occurs in the winter months from October through April and the rainfall in this area is greater than the Central Valley area of the State. The five months from May through September constitute the summer or dry season. The average annual temperature for the area is about 59 degrees Fahrenheit and the annual precipitation varies from about 44 inches in the northern area of the western fork of the proposed area to about 37 inches in the south.

(d) Climatically, "Mendocino" falls somewhere in the middle between Sonoma County and Lake County. The average "Mendocino" growing season is 268 days and rainfall averages 39.42 inches per year. The distribution of heat for June, July, and August averages 602 degree-days and falls between Lake County (678) and Sonoma County (541).

(e) In comparison, Sonoma County, a major grape-growing region to the south of "Mendocino," displays a profound marine influence. This is apparent in the distribution of heat summation (cumulative degree-days) for the area. Winter is mild, resulting in an average growing season of 308 days with the marine influence providing a slightly warmer spring which promotes a bud break up to 10 days earlier than in the "Mendocino" area or in Lake County. The marine air influence in Sonoma County extends throughout the summer, holding cumulative degree-days for June, July, and August to a lower average than either "Mendocino" or Lake County. The total average heat summation for Sonoma County for the period of April through October is 3,046 cumulative degree-days, placing it just at the lower range of Region III for grape growing as defined by the University of California. Average rainfall across Sonoma County is the lowest of the three areas being compared, with a range of from 40.50 inches to 24.10 inches and an average of 32.32 inches per year.

(f) Lake County, east of "Mendocino," represents a more harsh continental influence with some moderation occurring due to the location of Clear Lake. The average growing season in Lake County (223 days) is shorter than in "Mendocino" or Sonoma County. Also, cumulative degree-days for June, July and August are much higher in Lake County than in the other two areas. Average cumulative degree-days for Lake County for the months of June, July and August are 491, 771, and 771 degree-days respectively. The average heat summation of cumulative degree-days for Lake County for the months of April through October is 3,380 and is therefore classified at the higher range of Region III. In addition, the beginning of the Lake County growing season is cooler than Sonoma County, with a more rapid drop (comparatively) to winter temperatures. Also, annual rainfall is more variable throughout Lake County, ranging from 30.65 to 62.16 inches with an average of 45.21 inches.

Proposed Boundaries

The boundaries of the proposed Mendocino viticultural area may be found on seven U.S.G.S., 15 minute series maps. They are titled "Willits Quadrangle, California—Mendocino Co." (1961); "Potter Valley Quadrangle, California" (1960); "Ukiah Quadrangle, California" (1958); "Hopland Quadrangle, California" (1960); "Boonville Quadrangle, California—Mendocino Co." (1959); "Navarro Quadrangle, California—Mendocino Co." (1960); and "Ornbaun Valley Quadrangle, California" (1960). The specific description of the boundaries of the proposed viticultural area is found in the proposed regulations which immediately follow the preamble to this notice of proposed rulemaking.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Executive Order 12291

It has been determined that this proposal is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic region; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analyses (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Mendocino viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Public Participation

ATF requests comments concerning this proposed viticultural area from all interested persons. Furthermore, while this document proposes possible boundaries for the Mendocino viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

Issues on Which Comments Are Requested

Name of Proposed Viticultural Area

The petitioner believes the name "Mendocino" is the most appropriate name for the proposed viticultural area. ATF is concerned, however, that using county names for viticultural areas, only without the word "County," may confuse and mislead the consumer. In the first place, such names will not be distinct from county names. And secondly, the consumer might be misled as to the percentage of wine required to be from grapes grown in the named appellation of origin. For a county appellation, the percentage which must come from the county is at least 75 percent. For a viticultural area appellation, the percentage which must come from the viticultural area is at least 85 percent.

ATF is concerned that consumers might not be able to distinguish the county appellation from the viticultural area appellation. We are also concerned that someone could, simply by adding the word "County," produce a wine which would ride on the reputation of the viticultural area name. For these reasons, ATF requests written comments from all interested persons concerning whether the name

VOL 48 ISS 198 OCT 12 1983 UMI

"Mendocino" would be misleading or confusing to the consumer, and if so, what would be the most appropriate name for this proposed viticultural area.

Overlapping of Viticultural Areas

The proposed Mendocino viticultural area partially or totally overlaps with five other proposed or approved viticultural areas. These include McDowell Valley, Cole Ranch, Potter Valley, Anderson Valley, and North Coast.

ATF recognizes that in some cases it will be necessary to establish viticultural areas which totally or partially overlap with other proposed or approved viticultural areas. ATF, however, believes the significance of viticultural areas as delimited grape-growing regions distinguishable by geographical features may be eroded by the indiscriminate establishment of overlapping viticultural areas. Therefore, ATF will judge each petition which proposes a viticultural area that overlaps with other proposed or approved viticultural areas on a case-by-case basis. ATF will be guided in this judgment by evidence presented in the petition and by comments received from the public during the comment period.

For this reason, each petition which proposes a viticultural area that overlaps with other proposed or approved viticultural areas must fulfill the requirements of regulations relating to the establishment of viticultural areas and contain evidence to substantiate that the area of overlap should be included in the proposed viticultural area. All persons interested in this overlap issue are encouraged to submit written comments before the close of the comment period.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments which are confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Ed Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas and Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.93 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.93 Mendocino.

Par. 2. Subpart C is amended by adding § 9.93 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.93 Mendocino.

(a) *Name.* The name of the viticultural area described in this section is "Mendocino."

(b) *Approved maps.* The appropriate maps for determining the boundaries for the Mendocino viticultural area are seven U.S.G.S. maps. They are titled:

(1) "Willits Quadrangle, California—Mendocino Co.," 15 minute series (1961);

(2) "Potter Valley Quadrangle, California," 15 minute series (1960);

(3) "Ukiah Quadrangle, California," 15 minute series (1958);

(4) "Hopland Quadrangle, California," 15 minute series (1960);

(5) "Boonville Quadrangle, California—Mendocino Co.," 15 minute series (1959);

(6) "Navarro Quadrangle, California—Mendocino Co.," 15 minute series (1961);

(7) "Ornbaun Valley Quadrangle, California," 15 minute series (1960).

(c) *Boundaries.* The Mendocino viticultural area is located entirely within Mendocino County, California. The beginning point is the southeast corner of Section 30, Township 12 North (T. 12 N.), Range 10 West (R. 10 W.) located along the Mendocino County/Sonoma County line in the southeast quadrant of US.G.S. map "Hopland Quadrangle."

(1) From the beginning point, the boundary runs north along the eastern boundary of Sections 30, 19, 18, 7 and 6 to the point labeled Jakes CR (Jakes Creek) located at the northwest corner of Section 5, T. 12 N., R. 10 W.;

(2) Thence in a straight line in a northwest direction to the point labeled Bedford Rock in section 3, T. 13 N., R. 11 W.;

(3) Thence in a straight line in a northwest direction to a point labeled Red Mtn in Section 17, T. 14 N., R. 11 W.;

(4) Thence in a straight line in a northwest direction to the southeast corner of Section 25, T. 16 N., R. 11 W.;

(5) Thence in a straight line in a northeast direction to the northeast corner of Section 1, T. 16 N., R. 11 W. located along the Mendocino County/Lake County line;

(6) Thence in a straight line in a northwest direction to the northeast corner of Section 5, T. 17 N., R. 11 W.;

(7) Thence in a westerly direction along the T. 18 N./T. 17 N. township line until it intersects with the R. 13 W./R. 12 W. range line;

(8) Thence in a straight line in a southwest direction to the point labeled Eagle Rock located in Section 16, T. 15 N., R. 13 W.;

(9) Thence in a straight line in a southeast direction to the point labeled Bus McGall Peak located in Section 4, T. 13 N., R. 12 W.;

(10) Thence in a straight line in a westerly direction to an unnamed hilltop, elevation 2015 feet, in the northeast corner of Section 9, T. 13 N., R. 13 W.;

(11) Thence in a straight line in a northwest direction to the junction of Bailey Gulch and the South Branch, North Fork to the Navarro River, located in Section 8, T. 15 N., R. 15 W.;

(12) Thence in a straight line in a southwest direction to Benchmark (BM) 1057 located in Section 28, T. 15 N., R. 16 W.;

(13) Thence due south in a straight line approximately 1.4 miles to Greenwood Creek located in Section 33, T. 15 N., R. 16 W.;

(14) Thence following Greenwood Creek in a generally southeasterly and then a northeasterly direction to where it intersects with the south section line of Section 16, T. 14 N., R. 15 W., approximately .2 miles west of Cold Springs Road;

(15) Thence in an easterly direction along the south section lines of Sections 16, 15, and 14, T. 14 N., R. 15 W., to the intersection of the south section line of Section 14 with an unnamed creek;

(16) Thence in a straight line in a southeasterly direction to Benchmark (BM) 680 located in Section 30, T. 13 N., R. 13 W.;

(17) Thence continuing in a straight line in a southeasterly direction to the intersection of the southwest corner of Section 32, T. 12 N., R. 11 W., and the Mendocino County/Sonoma County line;

(18) Thence following the Mendocino County/Sonoma County line in an easterly, northerly, and then an easterly direction to the beginning point.

Approved: September 30, 1983.

W. T. Drake,

Acting Director.

[FR Doc. 83-27657 Filed 10-11-83; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2356-1]

Approval and Promulgation of Implementation Plans; Imperial County Air Pollution Control District, Air Pollution Control Regulations, State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Imperial County Air Pollution Control District (ICAPCD), California, adopted a New Source Review Rule on May 5, 1981. The Rule contains provisions comparable to EPA's requirements for New Source Review (NSR). It regulates construction and operation of new and modified major sources of nonattainment pollutants. Imperial County adopted the Rule to satisfy conditions on the approval of its previous NSR Rule. This Rule was submitted to EPA as a State Implementation Plan (SIP) revision on June 22, 1981. In this Notice, EPA is proposing to approve the Rule if the District corrects deficiencies cited in the EPA evaluation before EPA final rulemaking.

DATE: Comments may be submitted up to November 14, 1983.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air Management Division, Air Operations Branch, New Source Section, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the revisions and EPA's Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address and at the following locations:

California State Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814;

Imperial County Air Pollution Control District, County Courthouse, 939 West Main Street, El Centro, CA 92243.

FOR FURTHER INFORMATION CONTACT: Willard Chin, New Source Section, Air Operations Branch, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-7649.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1980, EPA proposed to disapprove the Imperial County Nonattainment Area Plan (NAP) because of the lack of an NSR Rule. On March 17, 1980, the State submitted the Imperial NSR Rule but it was received too late for EPA's April 1, 1980 Notice of Proposed Rulemaking. On November 10, 1980, EPA conditionally approved the NSR portion of the NAP with the exception of Rule 207 c.5 (LAER Exemption) which was disapproved. The condition of approval required the District to meet all requirements in EPA's amended regulations for NSR (August 7, 1980, 45 FR 52676).

The County is designated attainment by EPA for sulfur dioxide, carbon monoxide, and nitrogen oxides. The county is unclassified for particulates. The entire county is designated nonattainment for ozone.

NSR—Part D of the Clean Air Act (Sections 171 to 173) and 40 CFR 51.18 define the requirements for NSR programs, which apply to nonattainment pollutants. The most important requirements are that local NSR rules and programs require applicants for new sources or modifications to: (a) Meet the Lowest Achievable Emission Rate, (b) provide reductions at least equal to the emission increase (offsets) and consistent with RFP, and (c) certify that all major sources they own in the State comply with all air pollution emission limitations. It should be noted that Imperial County falls under EPA's rural ozone policy. (See 44 FR 20376).

The Imperial County APCD currently administers the NSR program under its conditionally approved Rule.

Description of Regulations

In response to the NSR requirements, the District adopted revisions to their air quality regulations on May 5, 1981. These revisions were submitted to EPA by the Governor's designee as official SIP revisions on June 22, 1981. Rules 207, 208, 209, 210, 211 and 212 adopted by the District include the following sections:

207: Standards for Permit to Construct
- Section A—Definitions 1–9
- Section B—General 1–2
- Section C—Applicability and Exemptions 1–4
- Section D—Calculation of Emissions 1–6
- Section E—Control Technology and Mitigation Requirements 1–2
- Section F—Permit Application Requirements
- Section G—Permit Condition Requirements 1–3
- Section H—Analysis, Notice and Reporting 1–3

208: Standards for Permit to Operate
- Section A—General 1–4
- Section B—Requirements
- Section C—Procedures
- Section D—Exemptions
- Section E—Definitions
- Section F—Severability

209: Implementation Plans

210: Denial of Applications

211: Appeals

212: Annual Renewal

Evaluation

EPA has evaluated the regulations listed above to determine whether they satisfy all of the criteria for an NSR program. In general, the Imperial rule does satisfy EPA's requirements. ICAPCD regulations will: (1) Require preconstruction review of the sources which would be subject to the federal guidelines; (2) require certification of statewide compliance, and application of LAER in a manner consistent with EPA's NSR requirements (40 CFR 51.18). The ICAPCD regulations also contain adequate guidelines and procedures for the administration and enforcement of the NSR programs.

EPA's review of the Rule found some deviations from EPA requirements. In all cases the ICAPCD is considering clarifications to or revisions of the Rule to eliminate the discrepancies. The significant issues are:

(1) Net emission change must require that:

—Actual emission decreases provide the same health and welfare impact as that attributed to the increase from the particular change.
—Changes are federally enforceable.
—Emissions decreases are below the lower of either actual or allowable emissions.
—Changes have not already been used for RFP or in NSR permits.

VOL
48
ISS
1
9
8
OC
12
1983
UMI

(2) The definition of the nonattainment area implies that the APCD, rather than EPA, determines attainment status.

(3) The source definition is incomplete. The Rule has a dual definition but it does not provide that:

—A source include pollutant emitting activities which belong to the same industrial grouping *(i.e., have the same two-digit SIC code).*

—A source includes units located on one or more contiguous or adjacent properties.

—An installation is an indentifiable piece of process equipment.

—Clarify the definition so that a source need not be a common production process.

(4) There is no definition for fugitive emissions and the related requirements are not addressed.

(5) The District Rule must restrict emissions reductions credits from shutdowns and production curtailments as provided in 51.18(j)(3)(ii)(e).

(6) The Rule does not specify the level of increase for each pollutant to be considered as a modification.

(7) The BACT/LAER provision requires EPA to determine what is the most stringent LAER found in any SIP. The Rule should be revised to have the District inform the source of the required LAER technology.

(8) There is no definition of reconstruction.

(9) Baseline emissions can be determined with the limitations from pollution control technology even if such limitations are not federally enforceable.

(10) The District rule does not make it clear that emissions already required for offsets, or netting, RFP and compliance with existing SIP requirements cannot be used to calculate net emissions change.

(11) Since actual emissions are used only when allowable emissions data is not available, the Imperial Rule accepts the use of allowable emissions to calculate emissions reduction credits.

(12) The Rule needs to insure that internal offsets (net emissions reduction credits) are federally enforceable.

(13) LAER and offset requirements are applied on the basis of violation of National Ambient Air Quality Standards rather than on the basis of the area designated nonattainment be EPA (CAA, Section 107).

(14) The Rule allows a resource recovery project to receive offsets based on projected higher emissions than would have resulted if an alternative technology had been used.

There are five additional but minor issues. The following will require rule revision: Beginning Time Period for Emissions Calculation, Source Responsibility Requirement, Alternative Site Requirement, and Definition of Construction.

Since Imperial is a rural ozone area, certain other rule deficiencies will not require remedies under EPA rural ozone policy. A complete discussion of all the issues is found in the evaluation report which includes a section on rule revisions that would be necessary if Imperial County becomes urbanized or nonattainment for other pollutants. (The report is available at the location listed in the Addresses section of this Notice).

Proposed Action

EPA proposes to approve under Section 110 and Part D of the Clean Air Act, the ICAPCD rules if the deficiencies identified above are corrected before final rulemaking. The District has expressed a willingness to remedy the problems. This EPA action applies only to the current designations for Imperial. If the District becomes urbanized or nonattainment for other pollutants, EPA will take new actions to make the appropriate determinations relevant to any new designations.

The District is also considering adopting the NSR Rule developed by the California Air Pollution Control Officers Association (CAPCOA) and the California Air Resources Board. Imperial County can either correct its submitted rule or adopt the latest NSR CAPCOA rule to meet EPA's NSR requirements.

EPA proposes also to rescind 40 CFR 52.232(a)(11)(i)(A) thereby eliminating the condition that the ICAPCD revise its NSR Rule. If the deficiencies cited are corrected, the rule fully satisfies the condition.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Authority: Sections 110, 129, 171 to 173, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7503 and 7601(a)).

Dated: April 18, 1983.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83-27865 Filed 10-11-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[AD-FRL 2448-3]

Revision to Oklahoma Regulation; Reports Required; Excess Emissions During Startup, Shutdown and Malfunction of Equipment

AGENCY: Environmental Protection Agency.

ACTION: Proposed approval.

SUMMARY: This action proposes approval of a revision to the State of Oklahoma Air Quality Control Implementation Plan which was submitted by the Governor on February 8, 1983. Specifically, the State revised Regulation 1.5—Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment to ensure the use of the enforcement discretion approach by the State and to meet EPA's criteria for a malfunction regulation. Prior to this submittal, the State submitted a letter of clarification to Regulation 1.5 on October 18, 1982, in response to a preliminary review by EPA. The State submitted another letter of clarification on May 24, 1983.

DATE: Interested porsons are invited to submit comments on this proposed action on or before November 14, 1983.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following location: Oklahoma State Department of Health, Air Quality Service, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152.

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270, (214) 767-9853.

SUPPLEMENTARY INFORMATION: On February 8, 1983, the Governor of Oklahoma submitted a SIP revision to Regulation 1.5 (Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment), as revised on June 1, 1981. EPA reviewed the State's submittal and developed an evaluation report [1] in accordance with the minimum criteria established by the EPA policy memorandum dated, September 28, 1982 (Policy on Excess Emissions During Startup, Shutdown Maintenance and Malfunctions) and the clarification memorandum dated February 15, 1983. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other address listed above.

EPA believes that Oklahoma's Regulation 1.5 is consistent with EPA's malfunction policy. EPA's basic criterion in reviewing malfunction regulations is that the regulations must not provide for an automatic exemption during a maintenance/malfunction episode. The State's response to automatic exemptions as stated in their letter of clarification dated, May 24, 1983, is "the mere providing of the information mandated in Sections 1.5(c)(2)(A) (B), and (C) does not exempt the facility from enforcement of the violation. The violation can be pursued if the Chief (i.e., The Department) is not satisfied that excess that excess emissinons were not unavoidable." This is interpreted as the Chief exercising his enforcement discretion depending on the circumstances surrounding the excess emissions rather than an automatic exemption. The State will use the information submitted in response to the requirements of Regulation 1.5 to determine whether enforcement action is appropriate.

The policy memoranda list 5 other criteria which a State's malfunction regulation must meet and they are:

(1) to the maximum extent practicable, the air pollution control equipment, process equipment, or processes were at all times maintained and operated, in a manner consistent with good practice for minimizing emissions;

Regulation 1.5—This criterion is met under Section 1.5(e)(2)(H), along with the October 18, 1982, clarification letter. The State stated that "it is the intent that Section 1.5(e)(2)(H) allows the Chief of the Air Quality Service to require the submission of preventive maintenance plans necessary to prevent detect and correct malfunctions of equipment." EPA interprets this to include documentation on process equipment or processes.

(2) repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations were being exceeded. Off shift and overtime labor must have been utilized to insure that such repairs were made as expeditiously as possible;

Regulation 1.5—This criterion is met under Section 1.5(c)(2)(B), along with the October 18, 1982, clarification letter. The State indicated that "Sources are also required to demonstrate to the satisfaction of the Chief of the Air Quality Service in a timely manner that measures such as off-shift and overtime labor have been used to effect repairs and minimize emissions."

(3) the amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;

Regulation 1.5—This criterion is met under Section 1.5(e)(2) (B), (C), and (G).

(4) all possible steps were taken to minimize the impact of the excess emissions on ambient air quality; and

Regulation 1.5—This criterion is met under Sections 1.5(c)(2)(B) and 1.5(e)(2) (F) and (G).

(5) the excess emissions are not part of a recurring pattern indicative of inadequate design, operation or maintenance.

Regulation 1.5—This criterion is met under Sections 1.5(c)(2)(C) and 1.5(f)(2)(C).

The State was asked to clarify excess emissions during scheduled maintenance under Section 1.5(c) Notification Requirements. Their May 24, 1983 clarification letter stated that "It is the intent of this regulation to allow the Chief not to pursue enforcement of violations due to removing control equipment from operation to perform maintenance * * * The regulation requires that pollution control equipment maintenance be accomplished to the extent possible when the process is shut down." Again, the State is using the enforcement discretion approach in regards to excess emissions during scheduled maintenance.

The State was also asked to clarify Section 1.5(f) Excesses Resulting From Engineering Limitations. Their May 24, 1983, clarification letter states "This section does not grant automatic exemptions. This section is designed to reduce the administrative burden on process startup/shutdowns. There are some processes that invariably will emit excess emissions during this phase of their operation * * * The approach requires prior approval, but upon approval allows the source to report these occasions on a quarterly basis. Thus, the State can review quarterly the occurrences to assure that excessive startup/shutdowns are not occuring. If excessive startup/shutdowns are occurring, the State will take appropriate action." EPA accepts this interpretation.

Regulation 1.5 along with the clarification letters dated, October 18, 1982, and May 24, 1983, meets all of EPA's minimum criteria for an approvable malfunction regulation. Based on this, EPA is proposing approval of Regulation 1.5.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This notice of proposed approval is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particular matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: September 13, 1983.

Frances E. Phillips,

Regionol Administrator.

[FR Doc. 27648 Filed 10-11-83; 8:45 am]

BILLING CODE 6560-50-M

[1] EPA Evaluation Report for Oklahoma Regulation 1.5—Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment.

40 CFR Parts 52 and 81

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Section 107(d) of the Clean Air Act, as amended, provides for the designation of areas as either attainment, nonattainment, or unclassified with respect to the National Ambient Air Quality Standards (NAAQS). EPA today proposes to remove the primary nonattainment designation for Ankeny, Cedar Rapids, Davenport, a portion of Des Moines, Mason City, and West Des Moines with respect to the NAAQS for total suspended particulates (TSP).

This notice also proposes to redesignate Des Moines to attainment with respect to the NAAQS for carbon monoxide (CO). In light of the proposal, EPA also proposes to rescind its disapproval of the Des Moines State

VOL
48
ISS
1
9
8
OC
12
1983
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Implementation Plan (SIP) for CO, since the disapproval was based on the nonattainment status of Des Moines.

These redesignations are based on a request from the Iowa Department of Environmental Quality; supportive data were included.

DATE: Public comments should be received by November 14, 1983.

ADDRESSES: Public comments should be sent to: Larry A. Hacker, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. The State submission is available for inspection during normal business hours at the above address, and at the Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (816) 374–6525, or FTS 758–6525.

SUPPLEMENTARY INFORMATION: In response to Section 107(d) of the Clean Air Act, as amended, EPA and the State of Iowa have designated all areas of the State as attaining the NAAQS, not attaining the NAAQS, or having insufficient data to make a determination. An attainment area is one in which the air quality does not exceed the standards. A nonattainment area is one in which the air quality is worse than the standards. An unclassified area is one for which there are insufficient data to determine whether the area is attainment or nonattainment. At 40 CFR Part 81, Subpart C, the areas of the State which are nonattainment for one or more pollutants are identified.

On March 14, 1983, the Iowa Department of Environmental Quality submitted a request to redesignate the attainment status of Ankeny, Cedar Rapids, Davenport, a portion of Des Moines, Mason City, and West Des Moines. These areas were designated nonattainment with respect to the primary NAAQS for TSP on March 3, 1978 at 43 FR 8962 and redefined on March 6, 1980 at 45 FR 14569. The Des Moines TSP nonattainment status designation was amended on May 6, 1982 at 47 FR 19526. The State requested only that the primary nonattainment designations be removed for the above areas. The secondary nonattainment designations would remain. The State also requested that Des Moines be redesignated to attainment with respect to the NAAQS for carbon monoxide (CO).

The primary NAAQS for TSP consist of a 24-hour value of 260 micrograms per cubic meter (ug/m^3), not to be exceeded more than once per year, and an annual value (geometric mean) of 75 ug/m^3. The secondary NAAQS for TSP is a 24-hour value of 150 ug/m^3, not to be exceeded more than once per year.

The NAAQS for CO consists of a 1-hr standard of 10 milligrams per cubic meter (9 parts per million (ppm)), and an 8-hour standard of 40-milligrams per cubic meter (35 ppm). Neither standard is to be exceeded more than once per year.

The current Section 107 redesignation policy is summarized in a memo from Sheldon Meyers, dated April 21, 1983. In general, eight quarters of monitoring data should be used to support redesignation requests. The most recent four quarters can be used if dispersion modeling shows that the SIP strategy is sound, and that actual, enforceable emission reductions have occurred. Those areas listed below which have 8 quarters of data showing attainment [Ankeny, Davenport, Mason City, West Des Moines, and Des Moines (TSP)] have an EPA approved SIP control strategy.

(1) *Ankeny (TSP)*—There is one monitor within the currently designated primary nonattainment area. The monitoring data show two years (1981–1982) of primary NAAQS attainment, which complies with agency redesignation policy.

Action: EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the Ankeny TSP nonattainment area.

(2) *Davenport (TSP)*—There is one monitor within the currently designated primary nonattainment area. The monitoring data show two years (1981–1982) of primary NAAQS attainment, which complies with agency redesignation policy.

Action: EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the Davenport TSP nonattainment area.

(3) *Mason City (TSP)*—There are two monitors in the currently designated primary nonattainment area. The monitoring data show two years (1981–1982) of primary NAAQS attainment, which complies with agency redesignation policy.

Action: EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the Mason City TSP nonattainment area.

(4) *West Des Moines (TSP)*—There is one monitor in the currently designated primary nonattainment area. The monitoring data show two years (1981–1982) of primary NAAQS attainment, which complies with agency policy.

Action: EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the West Des Moines TSP nonattainment area.

(5) *Cedar Rapids (TSP)*—There are four monitoring sites within the currently designated primary nonattainment area. There were no violations of the 24-hour standard during 1981–1982. Violations of the annual primary standard did occur during 1981 at two sites, thus there is only one year (1982) of data in support of the State's request. Cedar Rapids has an EPA approved SIP for TSP which includes dispersion modeling and enforceable emission reductions. Attainment of the primary NAAQS for TSP by December 31, 1982 is demonstrated. Therefore, this redesignation request conforms to agency policy.

As a supplemental demonstration, the State has shown that fugitive emissions resulting from a freeway construction project (I–380) is largely responsible for many of the high monitored concentrations during the past few years. Their data chronicle the progress of the freeway construction from south to north through the city. Though not enforceable and thus not relied upon as a basis for the proposed action, the emission reductions resulting from the freeway completion are considered permanent as decreasing monitored concentrations would indicate.

Action: EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the Cedar Rapids TSP nonattainment area.

(6) *Des Moines (TSP)*—The State wishes to subdivide the currently designated nonattainment area along U.S. Highway 65 and 69 (East 14th Street). The western portion would be redesignated to secondary nonattainment, while the eastern portion would retain its primary nonattainment designation. There is one TSP monitor in each of the two subdivided areas. Data from the western monitor show no violations of the primary standard for eight consecutive quarters (1981–1982), while the eastern monitor continues to record violations. Having two years of data, the secondary nonattainment redesignation request for the western portion of this area complies with agency policy.

Action: EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the western portion of the Des Moines TSP nonattainment area.

(7) *Des Moines (CO)*—There are two CO monitors in the currently designated nonattainment area. There were no reported CO violations at either site during 1982 and the first quarter of 1983. The Des Moines SIP for CO is EPA approved except for the portion which addresses permitting requirements for new and modified major stationary sources CO. The SIP was disapproved on March 6, 1980 at 45 FR 14561. Since that date, there have been no new major CO sources nor major modifications in Des Moines, thus the SIP deficiency does not affect the State's redesignation request. Dispersion modeling, as part of SIP, shows attainment of the standard by December 31, 1982.

The Federal Motor Vehicle Contol Program provides actual, enforceable emission reductions. Maximum CO concentrations have been declining since 1979 which substantiates the effectiveness of the SIP control strategy. On the basis of the preceeding discussion, the State's request complies with agency policy.

In today's action, EPA also proposes to rescind its March 6, 1980 disapproval of the Des Moines SIP for CO (45 FR 14561). The plan was disapproved because the State had no adequate means of preventing new or modified major stationary sources of CO from constructing in violation of Section 173 of the Clean Air Act. If Des Moines is redesignated to attainment for CO, the requirements of Section 173 would no longer apply because Part D (sections 171–178) of the Clean Air Act applies only to nonattainment areas.

The State has adopted permit rules which would govern the installation and modification of minor stationary CO sources. Major CO sources would receive permits under the Prevention of Significant Deterioration (PSD) program.

Action: EPA proposes to approve the State's request that Des Moines be redesignated from nonattainment to attainment for CO. EPA also proposes to rescind its disapproval of the Des Moines SIP for CO.

EPA is soliciting comments on the State's submission and on EPA's action proposed in this document. The Administrator will consider comments received in deciding to approve or modify the State's redesignation requests.

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of Sections 107 and 301 of the Clean Air Act, as amended (42 U.S.C. 7407 and 7601).

Lists of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

40 CFR Part 81

National parks, Wilderness areas.

Dated: July 12, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83–27553 Filed 10–7–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 2E2676/P313; PH–FRL 2449–5]

Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerance; Maleic Hydrazide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide and plant regulator maleic hydrazide in or on the raw agricultural commodity cranberries. The proposed regulation to establish a maximum permissible level for residues of the pesticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before November 14, 1983.

ADDRESS: By mail, submit written comments to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2676 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Massachusetts.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide and plant regulator maleic hydrazide (1,2-dihydro-3,6-pyridazinedione) in or on the raw agricultural commodity cranberries at 15 parts per million (PPM).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include a rat acute oral LD_{50} at 3.9 grams (g)/ kilograms (kg); a 2-year rat feeding study with a systemic no-observed-effect level (NOEL) of 1,872 mg/kg, highest dose tested (HDT); a 2-year rat oncogenic oncogenic study with no oncogenic effects at the highest dose tested (3,900 mg/kg); a 3-generation rat reproduction study with a systemic NOEL and a NOEL for reproductive effects at 3,900 mg/kg (HDT); and mutagenicity studies in bacterial, plant, and mammalian systems. Although many mutagenic studies confirm genetic activity in bacteria and plant cells, the mammalian studies reported negative or equivocal results for mutagenic effects (*in vivo* mouse cytogenetic assays, and *in vito* assays in Chinese hamsters cells). Additional studies which have been initiated by the manufacturer to assay the mutagenic potential of maleic hydrazide include: (1) Micronucleus assay, using CD–1 random-bred mice, (2) bacterial DNA repair test in *Escherichia coli*, and (3) mammalian cell mutation assay, using mouse lymphoma cells.

The Agency has concluded that the amount of maleic hydrazide added to the diet from the proposed use will not significantly increase dietary exposure in humans. The theoretical maximum residue contribution (TMRC) to the human diet from existing tolerances for a 1.5-kg daily diet is calculated to be 4.231 mg/day; the current action will increase the TMRC by 0.00675 mg/day (0.16 percent). Thus the tolerance that will be established by the proposed rule is considered to pose a negligible increment in risk.

The nature of the residues is adequately understood and an adequate analytical methodology, spectrophotometry, is available for enforcement purposes. Since there are no animal feed items involved, there should be no secondary residues in meat, milk, poultry and eggs.

VOL 48 ISS 198 OCT 12 1983 UMI

Although there are presently no actions pending against the continued registration of maleic hydrazide, the chemical was reviewed in connection with a rebuttable presumption against registration (RPAR). The presumptions were based on information indicating potential oncogenic, mutagenic, and repro-original toxicological data, rebuttal comments, and new studies, and determined that "these data did not conclusively establish either the presence or the absence of adverse effects from maleic hydrazide." The RPAR proceedings for maleic hydrazide were concluded on January 5, 1983, [Notice of Determination: 48 FR 498] and registered products were returned to the registration process. (The suspension of diethanolamine maleic hydrazide, an action taken independently of the "Notice of Determination", remains in effect until and unless a registrant commits to provide the required studies for that chemical.)

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.175 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E2676/P313]. All written comments filed in response to this petition will be available in the Program Management and Support Division, Rm. 236, CM#2 at the above address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 29, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180.175 be revised to read as follows:

§ 180.175 Maleic hydrazide; tolerances for residues.

Tolerances for residues of the herbicide and plant regulator maleic hydrazide (1,2-dihydro-3,6-pyridazinedione) are established in or on the following raw agricultural commodities:

Commodities	Parts per million
Cranberries	15.0
Onions, dry bulb	15.0
Potatoes	50.0

[FR Doc. 83-27661 Filed 10-11-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300078I PH-FRL 2449-2]

Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Exemptions From the Requirement of a Tolerance; Folic Acid, Nicotinamide, Pyridoxine, Cysteine, Glutamine, Methionine, Tryptophan, and Adenosine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that folic acid, nicotinamide, pyridoxine, cysteine, glutamine, methionine, tryptophan, and adenosine be exempted from the requirement of a tolerance when used as synergists in pesticide formulations. These proposed regulations were requested by Mandops, Inc.

DATE: Written comments must be received on or before November 14, 1983.

ADDRESS: By mail, submit comments to: Program Management and Support, Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:
By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of Mandops, Inc., the Administrator proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for folic acid, nicotinamide, pyridoxine, cysteine, glutamine, methionine, tryptophan, and adenosine when used as synergists limited to a maximum of 0.5 percent of the pesticide formulations.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredients may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substances under consideration, the names and address of the firm making the request for the exemptions, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemptions.

Name of inert ingredients: Folic acid, nicotinamide, pyridoxine, cysteine, glutamine, methionine, tryptophan, and adenosine.

Name and address of requestor: Mandops, Inc., Suite 500c, Plaza 1551, 1551 Forum Place, West Palm Beach, FL 33401.

Bases for approval: The synergists are common nutrients or amino acids that are readily available in human food items. At the levels to be used in these formulations (0.001 to 0.5 percent), no toxicological problems are expected.

Based on the above information and review of their use, it has been found that when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendments to 40 CFR Part 180 will protect the public health, and it is proposed that the regulations be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains these inert ingredients, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP-300078]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Program Support Division, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establising new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 29, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180.1001(d) be amended by adding and alphabetically inserting the inert ingredients as follows:

§ 180.1001 Exemptions from the requirements of a tolerance.

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Adenosine (CAS Reg. No. 58-61-7).	Maximum of 0.5 % of formulation.	Synergist.
Cysteine (CAS Reg. No. 52-90-4).	Maximum of 0.5% of formulation.	Synergist. of formulation
Folic acid (CAS Reg. No. 59-30-3).	Maximum of 0.5% of formulation.	Synergist.
Glutamine (CAS Reg. No. 56-85-9).	Maximum of 0.5% of formulation.	Synergist.
Methionine (CAS Reg. No. 59-51-8).	Maximum of 0.5% of formulation.	Synergist.
Nicotinamide (CAS Reg. No. 98-92-0).	Maximum of 0.5% of formulation.	Synergist.
Pyridoxine (CAS Reg. No. 65-23-6).	Maximum of 0.5% of formulation.	Synergist.
Tryptophan (CAS Reg. No. 73-22-3).	Maximum of 0.5% of formulation.	Synergist.
* * *	* * *	* * *

[FR Doc. 83-27662 Filed 10-11-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 162

[OPP-30068; PH-FRL 2320-8]

Proposed Pesticide Use Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 40 CFR 162.31 by adding certain uses of additional active ingredients to the list of those which the Agency has classified for restricted use under the optional procedures of § 162.30.

DATE: Comments must be received on or before December 12, 1983.

ADDRESSES: Comments should bear the document control number OPP-30068 and should be submitted by mail to:
Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460;
In person bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:
By mail:
Walter I. Waldrop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460;
Office location and telephone number: Rm. 711C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202, (703-557-7400.)

SUPPLEMENTARY INFORMATION: Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act requires that all pesticide uses be classified for general or restricted use. Pesticides that are classified for restricted use may be used only be certified applicators or persons under their supervision or subject to such other restrictions that may be imposed by regulations.

In the **Federal Register** of September 1, 1977 (42 FR 44169), the Agency issued a final regulation establishing optional procedures for the classification of pesticide uses for restricted use by regulation. The restriction imposed under these optional procedures is use limitation to certified applicators or persons under their supervision. These procedures were established to facilitate the restriction of those pesticides that presented the most hazard to the user and the environment. Three final regulations have been promulgated under these optional procedures and were published in the **Federal Register** of February 9, 1978 (43 FR 5781), August 1, 1979 (44 FR 45131), and January 19, 1981 (46 FR 5995). These three regulations restrict some or all uses of 44 different pesticide active ingredients. In addition, 13 other active ingredients or different uses/formulations of the 44 active ingredients referenced above have been proposed for restricted use as published in the **Federal Register** of August 1, 1979 (44 FR 45218).

This regulation will restrict the grain fumigant uses of four active ingredients, carbon tetrachloride, chloroform, ethylene dichloride and sulfur dioxide. Previous Agency actions have restricted other active ingredients used for grain fumigation. This regulation will complete the restriction of all active ingredients used for grain fumigation except for ethylene dibromide (EDB). EDB has not been included in this regulation because the Rebuttable Presumption Against Registration review of EDB is near completion.

In determining to impose these restrictions, the Agency applied the classification criteria specified in 40 CFR 162.11(c)(2), (3), and (4), which were published in the **Federal Register** on July 3, 1975 (40 FR 28242). These criteria require the Agency to examine the toxicity of formulations for purposes of identifying candidates for restricted use, reviewing label precautions for adequacy, and evaluating other hazards such as accident history to determine if a formulation should be restricted. With regard to the grain fumigant uses of

these four active ingredients, the Agency has based the proposed restriction on the accident history associated with their use. The Agency's Pesticide Episode Reporting System shows 52 episodes of human exposure involving these four chemicals in various combinations with each other and additional active ingredients from 1966–1980. These episodes include six fatalities, 16 persons requiring hospitalization, and 30 persons requiring medical attention.

A review of these episodes reveals that the label recommendations to wear a respirator or to follow commonly recognized safety precedures when fumigating grain were often not followed. Apparently the grain fumigant labels have failed to convey the hazardous nature of these chemicals. The hazards lie not so much with the acute toxicity of the chemicals, but with the circumstances of use, i.e., in enclosed areas, which often result in lethal and sublethal concentrations.

The restriction being imposed by this regulation is to limit the grain fumigant uses of carbon tetrachloride, chloroform, ethylene dichloride and sulfur dioxide to certified applicators or persons under their supervision.

Review Under Executive Order 12291

Under E.O. 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This rule is not major because the estimated costs of compliance will not result in an annual effect on the economy of $100 million or more, nor will the rule result in other major cost increases or significant adverse effects as defined in the Executive Order.

Those affected by this rule include persons required to become certified to use restricted products, pesticide registrants who must change their product labels to reflect the restriction, companies that sell and distribute restricted products who may have additional recordkeeping requirements under various State laws, and State governments who will be responsible for ensuring that the sale and use of these products are only by or under the supervision of certified applicators.

It is not anticipated that any users of these products, retailers, distributors, or State governments will incur any significant increase in costs since over 2,000 products have already been restricted and this rule will increase the total by less than 200 additional products. Much of the cost associated with restricted use classification has already been incurred in establishing the applicator training and certification infrastructure.

The Agency has estimated that it will cost registrants who have to amend their labels to reflect the restriction an aggregate cost of less than $100,000. Further, the classification by regulation process has been ongoing since 1978 and none of the affected groups has voiced concern over compliance costs.

The restriction of these four active ingredients should also result in a more balanced competitive position in the grain fumigant market since other grain fumigants have already been restricted.

This proposed rule was submitted to OMB for review as required by E.O. 12291. Any comments from OMB to EPA and any response to those comments are available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

Paperwork Reduction Act

The reporting or record keeping (information) provisions in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Specific information requests required by this proposed policy are covered under OMB clearances 2000–0013 and 2000–0483 which have been approved by OMB through July 1984.

Regulatory Flexibility Act

As required by section 3(a) of the Regulatory Flexibility Act, this proposed regulation has been reviewed and it has been determined that a regulatory flexibility analysis is not required since the regulation will not have a significant adverse impact on a substantial number of small businesses, small organizations, or small governments.

As mentioned under the discussion of E.O. 12291, this rule is one in a series of regulations, which began in 1978, that restrict products to use by certified applicators or persons under their supervision. Thus, program start-up costs have already been incurred.

Statutory Review

The U.S. Department of Agriculture has reviewed the proposed regulation in accordance with section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act and concurs with its publication in the **Federal Register**.

List of Subjects in 40 CFR Part 162

Administrative practice and procedure, Intergovernmental relations. Labeling, Packaging and containers, Pesticides and pests.

(7. U.S.C. 136 et seq.)

Dated: September 23, 1983

William D. Ruckelshaus,

Administrator.

PART 162—[AMENDED]

Therefore, it is proposed that Part 162 be amended by alphabetically inserting in § 162.31 the following items in the table:

§ 162.31 Pesticide use classification.

The following uses of pesticide products containing the active ingredients specified below have been classified for restricted use and are limited to use by or under the direct supervision of a certified applicator.

Active ingredient	Formulation	Use pattern	Classification [1]	Criteria influencing restriction
Carbon tetrachloride	All formulations	Grain fumigation	Restricted	Accident history-Inhalation hazard.
	All formulations	All uses other than grain fumigation	Under evaluation	
Chloroform	All formulations	Grain fumigation	Restricted	Accident history-Inhalation hazard.
		All uses other than grain fumigation	Under evaluation	
Ethylene dichloride	All formulations	Grain fumigation	Restricted	Accident history-Inhalation hazard.
		All uses other than grain fumigation	Under evaluation	
Sulfur dioxide	All formulations	Grain fumigation	Restricted	Accident history-Inhalation hazard.
		All uses other than grain fumigation	Under evaluation	

[1] "Under evaluation" means no classification decision has been made and the use/formulation in question is still under active review within EPA.

[FR Doc. 83–27394 Filed 10–7–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 56b; Notice No. 83–16]

49 CFR Part 27

Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance From the Department of Transportation

AGENCY: Department of Transportation.

ACTION: Clarification of notice of proposed rulemaking.

SUMMARY: This document clarifies a provision in a notice of proposed rulemaking (NPRM) that the Department of Transportation (DOT) recently published concerning Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance from DOT. The clarification is that recipients of Section 18 funds would send certification of compliance to UMTA rather than FHWA. This is because UMTA will begin administering this program on October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10105, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 926–4723. Hearing impaired persons may contact Mr. Ashby by using TTY (202) 755–7687. The NPRM has been taped for the use of visually-impaired persons.

SUPPLEMENTARY INFORMATION: On September 8, 1983, DOT published an NPRM to propose revisions to the existing DOT regulation concerning nondiscrimination on the basis of handicap in programs receiving Federal financial assistance from DOT (48 FR 40684). The NPRM concerns only the requirements that relate to recipients of assistance from UMTA.

Section 27.77(a)(2) proposes certain requirements for recipients of assistance under Section 18 of the Urban Mass Transportation Act of 1964, as amended, (49 U.S.C. 1614). Under the proposal, these recipients would be required to certify to the FHWA Division Administrator that they are complying with the regulation. This proposal reflects the fact that the FHWA currently administers the Section 18 program for UMTA.

On October 1, 1983, however UMTA will assume the responsibilities of administering the Section 18 program. The purpose of this notice is to clarify that since UMTA will be administering the program, Section 18 recipients' compliance certification would be sent to UMTA rather than FHWA. There would be no change in the proposed substantive requirements for Section 18 requirements, however,

Issued this 1st day of October, 1983, at Washington, D.C.

Jim Burnley,

General Counsel.

[FR Doc. 83–27787 Filed 10–11–83; 8:45 am]

BILLING CODE 4910–62–M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC–172]

Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition jointly filed by two shipper associations, the Commission is proposing to withdraw antitrust immunity for collective ratemaking activities by motor carriers of property with respect to rates applicable to shipments under 1,000 pounds. Petitioners assert that continued antitrust immunity for collective ratemaking on these shipments is consistent with the transportation policy of 49 U.S.C. 10101(a). If the proposal is adopted, the Commission will require conforming amendments to rate bureau agreements already approved by the Commission and to those agreements currently pending approval. We intend to issue a final decision within 60 days of receipt of comments.

DATES: Comments on the proposal to withdraw antitrust immunity for rate bureau activity related to small shipments are due November 16, 1983. Comments on the question of whether antitrust immunity should be withdrawn altogether for motor carrier rate bureau activity are due December 12, 1983.

ADDRESSES: A copy of all comments should be served on petitioners' representative, the law firm of McCarthy, Swenney, & Harkaway, P.C. 1750 Pennsylvania Ave., NW., Washington, D.C. 20006.

The original and, if possible, 10 copies of comments should be sent to: Ex Parte No. MC–172, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Thomas T. Vining, (202) 275–7813 or Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 10706(b), motor carriers of property may enter into collective ratemaking agreements. Any such agreement may be submitted to the Commission for approval. The Commission must grant approval upon finding that the agreement meets each requirment of the subsection, unless the Commission finds that the agreement is inconsistent with the transportation policy of 49 U.S.C. 10101(a). The practical effect of Commission approval is that activities conducted pursuant to an approved agreement are immune from antitrust liability.

In Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus—Imp. of Pub. L. 96–296*, 364 I.C.C. 464 (1981), The Commission adopted standards for approval of rate bureau agreements consistent with the new limitations on motor carrier collective ratemaking established in the Motor Carrier Act of 1980 (MCA), Pub. L. 96–296, 94 Stat. 793 (1980). The rate bureaus have submitted new or amended agreements for approval; pending final action on these agreements, the bureaus retain their previously granted antitrust immunity for activities not inconsistent with the standards in the MCA and in our decision in Ex Parte No. 297 (Sub-No. 5), *supra*.

On June 27, 1983, the National Small Shipments Traffic Conference, Inc. and the Drug and Toilet Preparation Conference, Inc. (petitioners) jointly filed a petition requesting the Commission withdraw antitrust immunity for collective ratemaking by motor carriers of property with respect to rates on shipments under 1,000 pounds.[1] Petitioners' members tender to motor carriers a large number of shipments, predominantly minimum charge and less-than-truckload (LTL) shipments under 1,000 pounds, which move under rates adopted collectively within individual rate bureaus. Petitioners assert that continued antitrust immunity for collective ratemaking on these shipments is inconsistent with the transportation policy of section 10101(a). Specifically, they not this policy includes the promotion of economical transportation (subsection (a)(1)(B)), reasonable rates for transportation without unreasonable discriminaton (subsection (a)((1)(D)),

[1] The United States Department of Justice and the National Industrial Traffic League have filed pleadings supporting institution of the rulemaking proceeding.

VOL 48 ISS 198 OCT 12 1983 UMI

and competitive transportation services (subsection (a)(2). Petitioners contend that regulated motor carriers face little effective competition for LTL shipments beow 1,000 pounds. Given this lack of competition, they argue that collective ratemaking results in the imposition of unreasonable rates and the absence of rate competition among bureau members. Petitioners believe that such anticompetitive pricing practices allow bureau members to derive the major portion of their profits from revenues on small shipments.

In support of their position, petitioners emphasize the level of increases taken by the breaus on rates for small shipments during the past two and one half years. In 1981 and 1982, general rate increses by the nine major bureaus on minimum charge shipments averaged 12.76 percent and 13.55 percent, respectively. For those same years, prices as measured by the Consumer Price Index rose only 8.4 percent and 3.8 percent, respectively. General increases for the first seven months of 1983 averaged 12.4 percent on minimum charge shipments, 9.8 percent on shipments from one to 499 pounds, and 8.4 percent on shipments from 500 to 999 pounds. By contrast, increases on heavier LTL shipments averaged 5.1 percent, and increases on truckload (TL) shipments averaged 3.2 percent.

The substantial disparity in rate increases on different weight categories is attributed by petitioners to the relative absence of effective competition between regulated motor carriers on small shipments. They argue that confering antitrust immunity on collective ratemaking for small shipments discourages or eliminates potential competition. Petitioners note that, under 49 U.S.C. 10706(g), the Commission may act on its own initiative or on application to prescribe or change the conditions on which approval of rate bureau agreements is granted. They request that we act to promote rate competition for shipments under 1,000 pounds through withdrawal of antitrust immunity for collective ratemaking with respect to these shipments.

We believe that petitioners' arguments deserve attention. their general observations concerning competition for small LTL shipments are consistent with the conclusions of the Motor Carrier Ratemaking Study Commission in its report *Collective Ratemaking in the Trucking Industry* (June 1, 1983). That report, mandated by the MCA, states at pages 231–32:

> Competitors for TL include rail, private motor carriage and contract carriage. Competition for LTL freight is broad, involving some rail and private carriage as well as freight forwarders, shipper associations, air freight and package services. However, a substaptial amount of the LTL freight that now moves by interstate regulated common motor carriage, particularly small shipments, moving long distances, is not consistently exposed to intensive competition from nonregulated trucking or other transportation modes. Many shippers still rely on ICC regulated LTL carriers for the bulk of their transportation needs. (footnote omitted) Thus, a shipper may need to ship from a few points to many destinations and have no practical use for either rail or private carriage. Such a shipper relies extensively on competition *among* regulated LTL carriers to restrain increasing rate levels.

The disparity between rate increases on LTL shipments below 1,000 pounds and increases on heavier LTL and TL shipments was also noted in the report. The Study Commission included among its 19 specific findings a conclusion that recent general rate increases "have shifted and imposed a substantially greater share of the wage and other cost burdens on shippers of small shipments." *Id* at 533. While factors other than those cited by NASSTRAC may have influenced the pattern of LTL ratemaking, we see some merit in petitioners' arguments.

The Commission's 1981 decision in Ex Parte No. 297 (Sub-No. 5), *supra*, indicated that rate bureau agreements entirely in compliance with the terms of that decision would be presumed not inconsistent with the transportation policy of section 10101(a). Nevertheless, the issues raised by petitioners, the recent findings of the Motor Carrier Ratemaking Study Commission, and our own consideration of the direction of motor carrier collective ratemaking since 1981 lead us to question the basis for continuing to extend antitrust immunity as broadly as that provided in the past. The Commission has a continuing responsibility to review collective ratemaking agreements and "shall change conditions of approval" when necessary to assure consistency with the national transportation policy. *See* 49 U.S.C. 10706 (f) and (g). *See also American Trucking Ass'n* v. *United States*, 688 F.2d 1337, 1343 (11th Cir. 1982).

Collective ratemaking with regard to rates on shipments under 1,000 pounds appears to inhibit competition and unduly discourage independent ratemaking. Such a result would be inconsistent with the transportation policy of section 10101(a) and with the broad procompetitive reforms adopted in the MCA. For these reasons, if the proposal is adopted antitrust immunity would be withdrawn for collective ratemaking activities by motor carriers of property with respect to rates applicable to shipments under 1,000 pounds. Additionally, the Commission would require conforming amendments to rate bureau agreements already approved by the Commission and to those agreements currently pending approval. Accordingly, a copy of this notice will be served on all motor carrier rate bureaus.

We invite comments from interested persons in response to the proposal made in this notice. We specifically request comment on whether 1,000 pounds or some other level is the appropriate point for defining small shipments in the context of this proposal. We also invite comments as to whether antitrust immunity should be withdrawn from any other areas of motor rate bureau activity. Finally, in view of the findings of the Motor Carrier Ratemaking Study Commission, we invite comments on the separate question of whether antitrust immunity should be withdrawn altogether from motor carrier rate bureau activity.

This action does not appear to affect significantly the quality of the human environment or the conservation of energy resources. Comments are welcome on this issue.

Regulatory Flexibility Analysis

The Commission certifies that adoption of the proposal in this notice will not have a significant economic impact on a substantial number of small entities. To the extent the proposal would affect small entities, the effects would be largely positive because of the increase in competition on small shipments. Comments on this issue are also invited.

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Dated: September 23, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre dissented with a separate expression.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-27660 Filed 10-11-83; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 48, No. 198
Wednesday, October 12, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Flue-Cured Tobacco; 1984 National Marketing Quota for Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, United States Department of Agriculture (USDA).

ACTION: Notice of Proposed Determination.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to announce by December 1, 1983, the amount of the national marketing quota for flue-cured tobacco for the 1984–85 marketing year. The public is invited to comment on the amount of the national marketing quota to be determined and other related factors, as set forth in this notice.

DATE: Comments must be received on or before November 4, 1983 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–3391.

FOR FURTHER INFORMATION CONTACT: Robert Tarczy, Agricultural Economist, Analysis Division, ASCS, USDA, Room 3741—South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of proposed determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, and environment or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this proposed notice applies are: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires the Secretary to determine and announce by December 1, 1983, the amount of the national marketing quota, the national average yield goal, and the national acreage allotment for the 1984–85 marketing year for flue-cured tobacco. The 1984–85 marketing year is the second of three consecutive years for which marketing quotas, approved by producers in a national referendum, will be in effect for such kind of tobacco.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestc consumption and export needs in years of drought, flood, or other adverse conditions as well as in years of plenty. The phrase "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the yearly average quantity produced in the United States that was consumed during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1983–84), adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the yearly average quantity produced in and exported from the United States during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1983–84), adjusted for current trends in such exports.

The reserve supply level for the 1983–84 marketing year was determined to be 2,550 million pounds. This was based on a normal year's domestic consumption of 560 million pounds and a normal year's exports of 539 million pounds (48 FR 1781). The proposed reserve supply level for the 1984–85 marketing year is 2,363 million pounds, based on a normal year's domestic consumption of 500 million pounds and a normal year's exports of 530 million pounds.

Section 301(b)(16)(B) of the Act defines "total supply" as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1983–84 marketing year is 3,067 million pounds based on carryover of 2,204 million pounds and estimated marketings of 863 million pounds.

Section 317(a)(1) of the Act defines "national marketing quota" for any kind of tabacco for a marketing year as the amount of the kind of tobacco produced in the United States which the Secretary estimates will be used domestically and exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The maximum downward adjustment is 15 percent of estimated domestic use and exports.

The amount of flue-cured tobacco produced and utilized domestically during the 1983–84 marketing year was 479 million pounds, and the amount exported was 456 million pounds, farm sales weight basis. The amount of the national marketing quota for the 1983–84 marketing year is 910 million pounds,

VOL 48 ISS 198 OCT 12 1983 UMI

based upon estimated domestic utilization of 495 million pounds and exports of 505 million pounds with a downward adjustment of 90 million pounds to make an orderly reduction in supplies. For the 1984–85 marketing year, utilization in the United States is estimated to be approximately 450 million pounds and exports are estimated to be approximately 435 million pounds. The total supply for the 1983–84 marketing year is 704 million pounds more than the proposed reserve supply level, but the amount of the adjustment desirable for maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level is still being considered. However, the national marketing quota is proposed to be within the range of 760 million to 910 million pounds.

Section 317(a)(2) of the Act defines "national average yield goal" for any kind of tobacco as the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return to the growers. For the 1983 crop of flue-cured tobacco, the national average yield goal was determined to be 1,989 pounds per acre (See 48 FR 1781).

Section 317(a)(3) of the Act defines the "national acreage allotment" as the acreage determined by dividing the national marketing quota by the national average yield goal. The national acreage allotment for the 1983–84 marketing year was determined to be 457,516.34 acres (See 48 FR 1781).

A national acreage factor for apportioning the national acreage allotment to old farms will be determined by dividing the national acreage allotment, less the reserve for new farms and old farm corrections and adjustments, by the sum of the preliminary 1984 allotments for old farms prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations. The national acreage factor for the 1983–84 marketing year was .9268 (See 48 FR 1781).

A national yield factor will be obtained by dividing the national average yield goal by the national average yield. The national average yield is computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined for the farm prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations, adding the products, and dividing the sum of the products by the national acreage allotment. The national yield factor for the 1983–84 marketing year was .9020 (48 FR 1781).

For each marketing year for which acreage-poundage quotas are in effect, section 317(e) of the Act provides that a reserve may be established from the national acreage allotment in an amount equivalent to not more than one percent of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which no tobacco was produced or considered produced during the immediately preceding five years. A reserve of 200 acres was established for the 1983–84 marketing year (48 FR 1781). The establishment of a reserve is also proposed for the 1984–85 marketing year.

Section 317(g)(1) of the Act provides that if the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, the Secretary may authorize the marketing of such tobacco without the payment of penalty or deduction from subsequent quotas to the extent of 5 percent of the marketing quota for the farm on which the tobacco was produced. The marketing of any such tobacco in this manner has never been authorized under the acreage-poundage program and is not proposed for the 1984–85 marketing year.

Proposed Determinations

Accordingly, the Secretary of Agriculture proposes to determine and announce with respect to the 1984–85 marketing year for flue-cured tobacco:

(1) A reserve supply level in the amount of 2,363 million pounds.

(2) A national marketing quota in an amount within the range of 760–910 million pounds.

(3) A national average yield goal of 1,989 pounds.

(4) A reserve from the national acreage allotment in an amount within a range of 100 acres and 4,000 acres.

(5) The marketing of N2 or other grades of tobacco which are not eligible for price support, without payment of penalty or deduction from subsequent quotas, will not be authorized.

The national acreage allotment, the national acreage factor, and the national yield factor will be computed using the final determinations which will be made with respect to items set forth in (1) through (4) above.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741—South Building, 14th and Independence Avenue, SW., Washington, D.C. 20013.

(Secs. 301, 313, 317, 375, 52 Stat. 38, as amended, 47 as amended, 66 as amended, 79 Stat. 66 as amended (7 U.S.C. 1301, 1313, 1314c, 1375))

Signed at Washington, D.C. on October 6, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-27612 Filed 10-11-83; 8:45 am]

BILLING CODE 3410-05-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: October 27 and 28, 1983.

Time: 10:30 a.m. Thursday, October 27, 1983, Room 5941; 9:00 a.m. Friday, October 28, 1983, Room 7516.

Place: State Department Building, Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632–5176.

Purpose of Advisory Committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda: Will include the following discussions and presentations:

October 27

A.M. and P.M.—Compliance

October 28

A.M.—Compliance

Reason for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated September 27, 1983, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act as amended.

John E. Grassle,

Committee Management Officer.

[FR Doc. 83-27407 Filed 10-11-83; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Oder 83–10–21]

Fitness Determination of Clearwater Flying Service, Inc.d.b.a. Empire Airways

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83–10–21, Order to Show Cause.

SUMMARY: The Board is proposing to find that Clearwater Flying Service, Inc. d. b. a. Empire Airways is fit, willing, and able to provide commuter air carrier service under section 419(c) (2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 26, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorites Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachemnt A to the order.

FOR FURTHER INFORMATION CONTACT: Stephen Davis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5105).

SUPPLEMENTARY INFORMATION: The Complete text of Order 83–10–21 is is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metroplitan area may send a postcard request for Order 83–10–21 to that address.

By the Civil Aeronautics Board: October 6, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27684 Filed 10-11-83; 8:45am]

BILLING CODE 6320-01-M

[Order 83–10–19]

Fitness Determination of Pegasus Aviation, Inc.; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83–10–19, Order To Show Cause.

SUMMARY: The Board is proposing to find that Pegasus Aviation, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 24, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADRESSE: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–10–19 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83–10–19 to that address.

By the Civil Aeronautics Board: October 6, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27683 Filed 10-11-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41414]

Northern Air Lines, Inc., Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding, earlier scheduled to be held on October 25, 1983, is hereby postponed to November 10, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., October 5, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-27682 Filed 10-11-83; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Louisiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 10:00 p.m. on October 25, 1983 and will convene again at 8:00 a.m. and will end at 10:00 p.m. on October 26, 1983, at the Holiday Inn-Holidome, U.S. Hwy. 165 at I–20, P.O. Box 7860, Monroe, LA 71203. The purpose of the meeting on October 25, 1983, is to hold an orientation and planning meeting. On October 26, the Committee will hold a factfinding meeting on public school desegregation in Louisiana.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Louis C. Pendleton, 1514 Gary, Shreveport, LA 71103, (318) 424–1297; or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio TX 78204, (512)5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-27758 Filed 10-11-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Decision on Application for Duty-Free Entry of Scientific Instrument; East Carolina University

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review

VOL
48
ISS
1
9
8
OC
12
1983
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between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–200. Applicant: East Carolina University, Purchasing Department, Greenville, NC 27834. Instrument: N–15 analyzer, Model NOI–5. Manufacturer: Packard-Becker B.V., The Netherlands. Intended use of instrument: See notice on page 27282 in the **Federal Register** of June 14, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can rapidly determine N–15 abundance in very small (microgram) samples. The National Institutes of Health advises in its memorandum dated September 7, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no comparable domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other comparable instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–27639 Filed 10–11–83; 8:45 am]

BILLING CODE 3510–05–M

Decision on Application for Duty-Free Entry of Scientific Instrument; Massachusetts Institute of Technology

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–218. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Instrument: Complete Sputter Cryo System, PSP–2000. Manufacturer: EMscope, United Kingdom. Intended use of instrument: See notice on page 29036 in the **Federal Register** of June 24, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument permits specimens to be fast-frozen, transferred, fractured, etched and sputter coated under vacuum and transferred to the microscope for examination. The National Institutes of Health advises in its memorandum dated September 7, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–27626 Filed 10–11–83; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Micromanipulators; Northwestern University Medical School

The following is a consolidated decision on applications for duty-free entry of micromanipulators pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–192. Applicant: Northwestern University Medical School, Dept. of Pharmacology, Ward Bldg.; Rm. 12–031, 303 East Chicago Avenue, Chicago, IL 60611. Instrument: 2 (each) Three-dimensional Hydraulic Microdrive and K-type Micromanipulator. Manufacturer: Narashigi Scientific Instruments Laboratory, Japan. Intended use of instrument: See notice on page 23285 in the **Federal Register** of May 24, 1983. Advice submitted by: National Institutes of Health: September 7, 1983.

Docket No. 83–193. Applicant: Northwestern University Medical School, Dept. of Pharmacology, Ward Bldg., Rm. 12–031, 303 East Chicago Avenue, Chicago, IL 60611. Instrument: 1 (each) Three-dimensional Hydraulic Microdrive and K-type Micromanipulator. Manufacturer: Narashigi Scientific Instruments Laboratory, Japan. Intended Use of Instrument: See notice on page 23285 in the **Federal Register** of May 24, 1983. Advice submitted by: National Institutes of Health: September 7, 1983.

Comments: No comments have been received in regard to either of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instruments, for such purposes as these instruments are intended to be used, is being manufactured in the United States.

Reasons: Each foreign instrument provides finely controlled movements in three orthogonal directions with controls calibrated in micrometers. The National Institutes of Health advises in its respectively cited memoranda that: (1) The capability described above is pertinent to the purposes for which each foreign instrument is intended to be used and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to either of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to either of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11–105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–27627 Filed 10–11–83; 8:45 am]

BILLING CODE 3510–DS–M

Decision on Application for Duty-Free Entry of Scientific Instrument; The Pennsylvania State University

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–219. Applicant: The Pennsylvania State University, Department of Biology, 208 Mueller Laboratory, University Park, PA 16802. Instrument: Scanning Microdensitometer, M85a. Manufacturer: Vickers Instruments, United Kingdom. Intended use of Instrument: see notice on page 29036 in the **Federal Register** of June 24, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in United States.

Reasons: The foreign instrument provides scanning and integrating cytophotometry with a reproducibility of 0.5% standard deviation in the 0 to 2.0 optical density range. The National Institutes of Health advises in its memorandum dated September 7, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–27625 Filed 10–11–83; 8:45 am]

BILLING CODE 3510–DS–M

Decision on Application for Duty-Free Entry of Scientific Instrument; The Rowland Institute for Science, Inc.

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Consitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83–244. Applicant: The Rowland Institute for Science, Inc., 100 Cambridge Parkway, Cambridge, MA 02142. Instrument: Nuclear Magnetic Resonance Spectrometer, Model GX 400/54/RSX. Manufacturer: JEOL, Japan. Intended use of Instrument: See notice on page 33508 in the **Federal Register** of July 22, 1983.

Comments: No comments have been recevied with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in United States.

Reasons: The foreign instrument is equipped with a model CIDNP probe, which permits a light source to be focused on the sample while the nuclear magnetic resonance spectrum is being collected. The National Institutes of Health advises in its memorandum dated August 9, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–27624 Filed 10–11–83; 8:45 am]

BILLING CODE 3510–DS–M

Decision on Application for Duty-Free Entry of Scientific Instrument; Veterans Administration Medical Center

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–198. Applicant: Veterans Administration Medical Center, Medical Research Service, 5901 East Seventh St., Long Beach, CA 90822. Instrument: Thin layer Countercurrent Distribution Apparatus. Manufacturer: Workshop of University of Lund, Sweden. Intended use of Instrument: See notice on page 27282 in the **Federal Register** of June 14, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides counter current two phase partitioning (between immiscible phases of solutions of different water soluble polymers) in the thin layer configuration using precisely machined partitioning plates. The National Institutes of Health advises in its memorandum dated September 7, 1983 that: (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-27628 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; University of Florida.

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-235. Applicant: University of Florida, Purchasing Divison, Gainesville, Fl 32611. Instrument: Thermal Ionization Mass Spectrometer, Model MM354H and Accessories. Manufacturer: VG Isotopes, Ltd., United Kingdom. Intended use of instrument: See notice on page 31684 in the **Federal Register** of July 11, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is a termal emmission magnetic sector mass spectrometer that provide a multiple (16 sample) handling system and a Daly pulse detector. The National Bureau of Standards advises in its memorandum dated September 13, 1983 that: (1) The characteristics of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument of apparatus or equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-27629 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-DS-M

[C-401-044]

Chains and Parts Thereof, of Iron or Steel, From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On August 18, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on chains and parts thereof, of iron or steel, from Spain. The review covers the period January 1, 1981 through December 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 18, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 37505) the preliminary results of its administrative review of the countervailing duty order on chains and parts thereof, of iron or steel, from Spain (43 FR 3258, January 24, 1978). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish chains and parts thereof, of iron or steel. Such merchandise is currently classifiable under items 652.2410 through 652.2450, 652.2710 through 652.2740, 652.3010 through 652.3040, 652.3310 through 652.3330, and 652.3510 through 652.3530 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1981 through December 31, 1982, and the following programs: (1) A rebate of indirect taxes upon exportation under the Desgravacion Fiscal a la Exportacion ("the DFE"), and (2) an operating capital loans program.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the net subsidy to be 14.89 percent *ad valorem* during 1981 and 14.65 percent *ad valorem* during 1982. The Department will instruct the Customs Service to assess countervailing duties of 14.89 percent of the f.o.b. invoice price on any shipments exported on or after January 1, 1981 and on or before December 31, 1981, and 14.65 precent on any shipments exported on or after January 1, 1982 and entered, or withdrawn from warehouse, for consumption on or before June 20, 1982.

On June 21, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties, in the amount of the estimated duties required to be deposited, on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after June 21, 1982, and through the date of the ITC's notification to the Department of its determination.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 13.90 percent of the f.o.b. invoice price, as provided for by section 751(a)(1) of the Tariff Act, on any shipment of Spanish chains and parts thereof, of iron or steel, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is now beginning the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 5, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-27683 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. A-588-066]

Impression Fabric of Man-Made Fiber From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On September 29, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on impression fabric of man-made fiber from Japan. The review covers the four known exporters of this merchandise to the United States currently covered by the finding and varying time periods through April 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of one exporter, Nissei Sangyo Co., Ltd., the Department held a public hearing on November 3, 1982. As result of our review of the comments received and our review of one of the adjustments, we have changed the margin for Nissei Sangyo from 5.76 percent to 6.89 percent. We have made no changes in the final results for the other companies from those presented in our preliminary results of review.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia McClenahan or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Wahington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 1978, a dumping finding with respect to impression fabric of man-made fiber from Japan was published in the **Federal Register** as Treasury Decision 78-143 (43 FR 22344). On September 29, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 42770-1) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of impression fabric of man-made fiber ("impression fabric"), currently classifiable under item numbers 338.5001, 338.5002, and 347.6020 of the Tariff Schedules of the United States Annotated. The review covers the four known exporters of impression fabric to the U.S. currently covered by the finding and varying timne periods through April 30, 1981.

Analysis of Comments Received

Interested parties were invited to comment on the preliminary results. One exporter, Nissei Sangyo Co., Ltd., requested a hearing which was held on November 3, 1982.

(1) *Comment:* The Treasury Department's affirmative final determination discountinued the investigation of Shirasaki Tape Co., Ltd. The petitioner, the Ad Hoc Impression Fabric Group, argues that the Department is ignoring its own regulations (19 CFR 353.53(e)) by failing to review the discountinuance. If there are legitimate grounds perceived by the Department for not reviewing the discontinuance, then the Department should make them public.

Department's Position: On September 29, 1983, the Department published in the **Federal Register** (48 FR 44587) a notice of proposed rulemaking proposing to remove § 353.53(e) from title 19 of the Code of Federal Regulations, because that regulation originally was promulgated without legal authority. We are therefore holding in abeyance the petitioner's comment regarding the Shirasaki discontinuance pending final action on this rulemaking proceeding.

(2) *Comment:* The petitioner argues that adjustments to foreign market value for differences in circumstances of sale must be directly related expenses tied to a particular sale and incurred prior to the sale. Section 773(a)(4) of the Tariff Act of 1930 ("the Tariff Act") does not permit adjustments to be made without a demonstration that differences in price between the home market and the U.S. market are wholly or partly due to the differences in the circumstances of sale. Nissei Sangyoi's claims for credit expenses, technical services, and warranty costs do not meet these criteria.

Department's Position: The Department maintains that its allowances of credit expenses, technical services, and warranty costs are in accordance with § 353.15(d) of the Commerce Regulations, which states that reasonable allowances will be made for the costs to the seller of any differences in circumstances of sale. The Department has, however, reduced the downward adjustment for differences in the technical services. See Comment #5.

(3) *Comment:* The petitioner believes that the adjustment for differences in merchandise should be denied since Nissei Sangyo did not demonstrate that the differences in the prices in the two markets were related to the differences in merchandise.

Department's Position: The Department's allowance for differences in merchandise is in accordance with § 353.16 of the Commerce Regulations. The actual slitting costs per roll are uniform regardless of the number of reels produced. The cost of each reel, therefore, is dependent upon the yield per roll. Since the yield per roll for the U.S. market is higher than the yield per roll for the home market, the cost per reel in the home market is greater than in the U.S. market.

(4) *Comment:* Nissei Sangyo asserts that the Department's adjustment for differences in direct selling expenses is contrary to the Department's regulations.

The Department incorrectly identified certain unattributable selling expenses for travel and communications as direct selling expenses.

Department's Position: The Department has reviewed the selling expenses adjustment and agrees with the respondent.

(5) *Comment:* The respondent claims that the adjustment for techincal services should be allowed in full. Since Nissei Sangyo is a trading company mainly involved in sales, *all* components of its technical services' costs should be allowed.

Department's Position: After publication of the preliminary results the Department determined that the technical services' adjustment was based incorrectly on the total technical services' costs. We also discovered a mathematical error. Correction of these

VOL 48 ISS 1 198 9 8 OC 12 1983 UMI

problems resulted in a reduction in the downward adjustment for technical services. The technical services' expenses allowed in accordance with § 353.15(a) of the Commerce Regulations are those which are directly related to sales. Expenses such as salaries of the technical services' staff are incurred regardless of specific sales, and are, therefore, not considered directly related expenses.

(8) *Comment:* Sales of 1.6" fabric to the United States should be compared to sales of similar merchandise in the home market. The only home market sale of 41mm fabric, deemed by the Department to be identical merchandise, was in fact a sample shipment and was custom made. It was also smaller in quantity than the U.S. sale. The proper comparison should therefore be to sales of similar merchandise based on data previously submitted.

Department's Position: The Department discussed the question of the proper basis of comparison for the U.S. merchandise with the respondent prior to publication of the preliminary results. At no time did Nissei Sangyo describe the home market sale as being a custom made sample shipment. Indeed, the respondent specifically requested that the sale of 41mm fabric be compared to the sale of 1.6" fabric. The Department believes that this is the proper basis for comparison.

Final Results of the Review

After analysis of the comments received, we have altered the margin for Nissei Sangyo. For the other companies the final results of our review are the same as the preliminary results of review and we determine that the following weighed-average margins exist:

Exporter	Time period	Margin (percent)
Nissei Sangyo Co., Ltd	05/25/78–04/30/81	6.89
Nissei Company, Ltd	05/01/80–04/30/81	10.12
Mitsui & Co., Ltd	09/01/77–04/30/81	7.5
Marubeni Corp	05/25/78–04/30/81	7.5

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries with purchase dates during the periods of review. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Japanese impression fabric of man-made fiber from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the rate for the only responding firm with shipments, that is, 6.89 percent. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675)(a)(1) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: September 30, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-27684 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-429-009, A-485-010, A-461-011]

Pig Iron From Romania, The U.S.S.R. and East Germany; Preliminary Results of Administrative Review of Antidumping Findings

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Findings.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping findings on pig iron from Romania, the U.S.S.R., and East Germany. The review covers the three known exporters of this merchandise to the United States and the period October 1, 1981 through September 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits of estimated antidumping duties on future entries equal to the margins calculated on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Cynthia C. Connell or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On July 13 and July 16, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 30276, 30276–77, 31031–32) the final results of its last administrative reviews of the antidumping findings on pig iron from Romania, the U.S.S.R., and East Germany (33 FR 15904, October 29, 1968), respectively, and announced its intent to conduct its next administrative review by the end of September 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machine parts. Such merchandise is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated.

The review covers the three known exporters of Romanian, Soviet and East German pig iron to the United States and the period October 1, 1981 through September 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties, based on the most recent margin calculated for the following firms, shall be required on all shipments of Romanian, Soviet, or East German pig iron entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review:

Exporter (country)	Cash deposit (percent)
Metalimport (Romania)	* 70.00
Promsyrioimport (U.S.S.R.)	* 70.00
Deutsche Stahl—Metall (East Germany)	* 70.00

* No shipments during the period.

All three exporters failed to respond to our questionnaire for the review period. The above rate is the most recent margin for all three firms; it was calculated during the original fair value investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days on the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: October 6, 1983.

[FR Doc. 83-27805 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 30812-160]

Proposed Federal Information Processing Standard for Representation of Geographic Point Locations for Information Interchange

Correction

In FR Doc. 83-25102 beginning on page 41478 in the issue of Thursday, September 15, 1983, make the following corrections:

1. On page 41479, first column, twenty-seventh line from the bottom, *"Presentation of"* should have read *"Representation of"*.

2. On the same page, same column, fourth paragraph, fifth line, insert the following after "and": "Administrative Services Act of 1949, as amended, Public Law".

3. On the same page, middle column, third complete paragraph, second line, "x3.61" should have read "X3.61".

4. On the same page, same column, fifth paragraph, sixteenth line, "such a" should have read "such as".

5. On the same page, same column, seventh paragraph, third line, "x3.61" should have read "X3.61".

6. On the same page, last column, last paragraph, third line, "program Manager" should have read "Program Manager".

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

Issuance of General Permit; Associacao. dos Armadores da Pesca Longinqua

A general permit was issued on October 3, 1983, to the Associacao dos Armadores da Pesca Longinqua, Lisboa, Portugal, to take marine mammals incidental to commercial fishing operations under Category 1: Towed or Dragged Gear, pursuant to 50 CFR 216.24.

The general permit allows the taking of not more than 20 cetaceans and 20 phocid seals (*Phoca vitulina*) annually by certificate holders operating under this permit within the U.S. fishery conservation zone of the North Atlantic Ocean. The permit is valid until December 31, 1984.

This general permit is available for public review in the Office of the Assistance Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW. Washington, D.C.

Dated: October 5, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-27610 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-22-M

Modification No. 3 to Permit No. 227

Notice is hereby given that pursuant to the provisions of Section 215.13(f) of the Regulations Governing the Public Display of Fur Seals (50 CFR Part 215), Public Display Permit No. 227 issued to Mystic Marinelife Aquarium, Mystic, Connecticut 06355, on March 28, 1978 (43 FR 14532), is modified to extend the period of authorized taking for three years.

Accordingly, Section B–8 is deleted and replaced by: "8. This permit is valid with respect to the taking authorized herein until December 31, 1986."

This modification becomes effective upon publication in the **Federal Register**.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: October 3, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-27611 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Shipments of Cotton, Wool and Man-Made Fiber Textiles and Apparel in Excess of Bilateral Agreement Limits

October 6, 1983.

It has come to CITA's attention that some textile and apparel products may be shipped in excess of 1983 limits with the expectation that they will be entered and charged against the limits of the 1984 quota year. This notice serves to remind interested parties that charges against the limits of U.S. bilateral textile and apparel agreements are by date of export and not date of entry. Shipments made in one year in excess of agreed limits are in violation of the terms of the bilateral agreement.

It has been the practice of the Committee for the Implementation of Textile Agreements (CITA) to charge merchandise exceeding the limit(s) established for one agreement period, if entered or withdrawn from warehouse for consumption, to the limit(s) established for the immediately subsequent agreement period. The purpose of this notice is to advise the public that CITA reserves the right under the bilateral agreements to deny entry permanently to goods which have been overshipped, or to allow entry and charge to the following restraint period merchandise exported during a prior agreement period which exceeds the

restraint limit(s) established for that period.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-27608 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China To Include a Review of Trade in Categories 336 and 639 and Controlling Imports in Those Categories

October 6, 1983.

(1) Soliciting public comment on bilateral textile consultations with the Government of the People's Republic of China concerning trade in Categories 336 and 639 and

(2) Controlling imports of cotton dresses in Category 336 and women's, girls', and infants' knit shirts and blouses of man-made fibers in Category 639 produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on October 1, 1983 and extends through December 29, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: On September 30, 1983, pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of cotton and man-made fiber apparel products in Categories 336 and 639 from the People's Republic of China.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 336 and 639 under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textiles and apparel included in these Categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th St. and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for futher consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Under the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of these products during the ninety-day period to the following amounts:

Category	90-day level of restraint (Oct. 1 to Dec. 29, 1983)
336	27,854 doz.
639	217,567 doz.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve months following the ninety-day consultation period to the following amounts:

Category	12-month level of restraint (Dec. 30, 1983 to Dec. 29, 1984)
336	72,268 doz.
639	691,639 doz.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of cotton and man-made fiber textile products in Categories 336 and 639 for the ninety-day period, at levels described above. The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limits established for Categories 336 and 639 for the ninety-day period are exceeded, such excess amounts, if they are allowed to enter at the end of the restraint period, shall be charged to the levels (described above) for those categories defined in the agreement for the subsequent twelve-month period.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On August 19, 1983 there was published in the **Federal Register** (48 FR 37685) a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1983. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Categories 336 and 639, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 336 and 639 produced or manufactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of the designated levels of restraint.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 6, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 13, 1983 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 336 and 639, produced or manufactured in the People's Republic of China, and exported during the ninety-day period which begin on October 1, 1983 and extends through December 29, 1983, in excess of the following levels of restraint:

Category	90-day level of restraint [1]
336	27,854 doz.
639	217,567 doz.

[1] The levels of restraint have not been adjusted to reflect any imports exported after September 30, 1983.

Textile products in Categories 336 and 639 which have been exported to the United States prior to October 1, 1983 shall not be subject to this directive.

Textile products in Categories 336 and 639 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the People's Republic of China and with respect to imports of cotton and man-made fiber textile products from China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-27609 Filed 10-11-83; 8:45 am]

BILLING CODE 3510-DR-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket 79-1]

Order Directing Further Distribution of 1978 Cable Royalty Fees

The Copyright Royalty Tribunal published in the **Federal Register** of Sept. 23, 1980 (45 FR 63026) its final determination in the 1978 cable royalty distribution proceeding. All 1978 fees were subsequently distributed. Some cable operators have made late payment of 1978 royalty fees. It is ordered that these fees be distributed as of Nov. 10, 1983 in accordance with the Tribunal's final determination of Sept. 23, 1980.

Edward W. Ray,

Chairman.

October 6, 1983.

[FR Doc. 83-27703 Filed 10-11-83; 8:45 am]

BILLING CODE 1410-13-M

[CRT Docket 80-4]

Order Directing Partial Distribution of 1979 Cable Royalty Fees

The Copyright Royalty Tribunal on June 3, 1982 (47 FR 24175) directed the distribution of 50% of the amounts allocated in the Tribunal's notice of Final Determination of the 1979 cable royalty fund. We have resolved that retention of 20% of the royalty fund will accommodate the practical consequences of any adjustments resulting from judicial review. It is therefore orderd that 30% of the amount allocated in the Tribunal's Final Determination of March 8, 1982 be distributed to the claimants effective Nov. 10, 1983.

The distribution to be allowed at this time is as follows:

	Percent
MPAA	20.349
Joint Sports	4.500
PBS	1.575
U.S. Television (NAB)	1.516
Music Performing Rights	1.275
Canadian Television	.225
National Public Radio	.075
Multimedia	.336
SIN	.147
Total	30.000

Edward W. Ray,

Chairman.

October 6, 1983.

[FR Doc. 83-27704 Filed 10-11-83; 8:45 am]

BILLING CODE 1410-13-M

[CRT Docket 82-1]

1981 Cable Distribution Proceeding and Partial Distribution of Fee.

The Copyright Royalty Tribunal has been informed of agreements and stipulations by all Phase I claimants to the 1981 cable royalty fund whereby all Phase I issues have been resolved. Subject to the disposition of the claims of the Devotional Claimants, it has been resolved that the awards to Phase I claimants shall be in the percentages determined by the Tribunal in the 1979 and 1980 cable royalty proceedings. Under the terms of a stipulation, if there should ultimately be a Phase I award to the Devotional Claimants in the 1979 cable royalty distribution proceeding (which is currently on appeal) the same percentage of the 1981 royalty fund shall be awarded to the Devotional Claimants. The Phase I controversy is terminated, and all present Phase I procedural dates are extended indefinitely.

The Tribunal in an order of July 8, 1983 (48 FR 31450) directed partial distribution of 85% of the royalty fund. The tribunal has resolved that the retention of 10% of the Royalty Fund is adequate to accommodate the reasonably anticipated future developments in this proceeeding. It is ordered that 5% of the fund be distributed as of November 17, 1983, in accordance with the terms of the order of July 8, 1983. The distribution ordered at the present time is as follows:

	Percent
MPAA	3.3915
Joint Sports	.7500
PBS	.2625
U.S. Television (NAB)	.2530
Music Performing Rights	.2125
Canadian Television	.0375
NPR	.0125
Multimedia	.0560
SIN	.0245
Total	5.0000

In preparation for Phase II of the 1981 proceeding, the Tribunal directs that not later than November 7, 1983 each claimant category shall notify the Tribunal of any voluntary agreements for distribution of royalty fees among the claimants within a category. The Tribunal directs that not later than November 15, 1983 any claimant desiring to present evidence during Phase II shall notify the Tribunal of such intention, and the Phase II issues to be decided. The Tribunal directs that not later than November 23, 1983 parties shall file with the Tribunal and exchange with other parties their direct, written cases, including lists of witnesses, pre-hearing statements, any written witness statements, and all documentary evidence.

The Tribunal later will announce necessary Phase II hearing dates.

Edward W. Ray,

Chairman.

October 6, 1983.

[FR Doc. 83-27705 Filed 10-11-83; 8:45 am]

BILLING CODE 1410-13-M

[CRT Docket 83-1]

1982 Cable Distribution Proceeding and Partial Distribution of Fees

The Copyright Royalty Tribunal in accordance with 17 U.S.C. 111(d)(5)(B) finds the existence of a controversy concerning the distribution of the 1982 cable royalty fund.

For the reasons set forth in the Tribunal's order of July 8, 1983 (48 FR 31 450) and in accordance with the terms of that order, the Tribunal directs, effective Dec. 1, 1983, the distribution of 90% of the 1982 royalty fund. The distribution ordered at the present time is as follows:

	Percent
MPAA	61.0470
Joint Sports	13.5000
PBS	4.7250
U.S. Television (NAB)	4.5540
Music Performing Rights	3.8250
Canadian Television	.6750
National Public Radio	.2250
Multimedia	1.0080
SIN	.4410
Total	90.0000

The Tribunal subsequently will announce necessary procedural dates in this proceeding.

Edward W. Ray,

Chairman.

October 6, 1983.

[FR Doc. 83-27706 Filed 10-11-83; 8:45 am]

BILLING CODE 1410-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 14–15 November 1983 at the AGED Secretariat, 1925 N. Lynn Street, Suite 1000, Arlington, VA 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1 § 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: October 6, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-27618 Filed 10-11-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices Notice of Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 1—2 November 1983 at RADC, Griffiss AFB 13441.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1§ 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: October 6, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-27619 Filed 10-11-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices Notice of Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 16 November 1983 at the AGED Secretariat, 201 Varick Street, 11th Floor, New York, NY 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1 § 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: October 6, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-27620 Filed 10-11-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee, Conventional Strike Warfare Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO), Executive Panel Advisory Committee, Conventional Strike Warfare Task Force will meet October 26–27, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia, All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to conventional strike warfare and related intelligency. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in interest of national defense and is in fact, properly classified pursuant to such executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone (202) 694–8422.

Dated: October 5, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-27685 Filed 10-11-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education, Department of Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the scheduled and proposed agenda of a forthcoming meeting of the full Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting, except for October 21, 1983, from 1:30 p.m. to 5:00 p.m., as it is closed to the public.

DATES: October 21, 1983, 9:00 a.m. to 5:00 p.m. (1:30 p.m. to 5:00 p.m. closed); October 22, 1983, 9:00 a.m. to 5:.00 p.m.

ADDRESS: Red LIon Inn, 2050 Gateway Place, San Jose, California 95110, (408/279–0600).

FOR FURTHER INFORMATION CONTACT: Lincoln C. White NACIE Advisor, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004, (202/376–8882).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under Section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs genefiting Indian children and adults.

On October 21, 1983, from 1:30 p.m. to 5:00 p.m., the Council will be establishing criteria for the evaluation of applicants for the position of Director, Indian Education Programs. The meeting will be closed, for that time period, under authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 1), and under exemption (2) of Section 552b(c) of the Government in the Sunshine Act [Pub. L. 94–409; 5 U.S.C. 552b(c)(2)].

The remainder of the meeting will be open to the public. The proposed agenda includes:

(1) Chairman's Report
(2) NACIE Advisor's Report
(3) Review of NACIE FY'83 and FY'84 Budgets
(4) Action on Previous Minutes
(5) Election of Officers
(6) Establishing Criteria for the Evaluation of Applicants for the Position of Director, Indian Education Programs (closed)
(7) Committee Discussions and Reports
(8) Public Testimony

All Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located in the Pennsylvania Building, Suite 326, 425 13th Street, NW, Washington, D.C. 20004.

Date: October 4, 1983. Signed at Washington, D.C.

Lincoln C. White,

NACIE Advisor, National Council on Indian Education.

[FR Doc. 83-27686 Filed 10-11-83; 8:45 am]

BILLING CODE 4000-01-M

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the fuctions of the Board. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92-463, Section 10(a)(2)).

DATE: November 2, 1983 beginning at 9:30 a.m. and ending at 9:30 p.m.

ADDRESS: Marriott's Hunt Valley Inn, Hunt Valley, Maryland.

FOR FURTHER INFORMATION CONTACT: Sven Groennings, director, Fund for the Improvement of Postsecondary Education, 7th and D Streets, SW., Washington, D.C. 20202 (202–245–8091).

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1003 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a–1). The National Board of the Fund is established to "advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education . . . on the selection of projects under consideration for support by the Fund in its competitions."

The meeting of the National Board will be open to the public. The proposed agenda includes:

(a) Reviewing and recommending possible program directions for fiscal year 1983–84.

(b) Becoming more closely familiar with FIPSE projects through meetings with project directors.

Records shall be kept of all Board proceedings, and shall be available for public inspection at the Fund for the Improvement of Postsecondary Education, 7th and D Streets, SW., Room 3100, Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m. weekdays, except Federal holidays.

Dated: October 6, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-27759 Filed 10-11-83; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Special Services for Disadvantaged Students Program; Application Notice for New Awards for Fiscal Year 1984

Applications are invited for new awards under the Special Services for Disadvantaged Students Program.

Authority for this program is contained in sections 417A and 417D of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d–1b)

The Secretary is authorized to make grants under this program to institutions of higher education only. The purpose of the grant awards is to permit applicants

VOL 48 ISS 1 98 OC 12 1983 UMI

to carry out projects designed to provide supportive services to disadvantaged students who are pursuing programs of postsecondary education.

Closing Date for Transmittal of Applications: An application for a new award must be mailed or hand delivered by December 6, 1983.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.042 (Special Services for Disadvantaged Students), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) private metered postmark, or (2) a private mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Secretary is accepting applications for up to three years of funding. However, the Department of Education will not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting multi-year funding must submit information that shows why a multi-year project is needed; a detailed work plan and budget for the first year of the project; and an outline of the work plan and an estimate of the Federal funds needed for each additional year requested.

The applications for new awards will be evaluated competitively under the selection criteria for new awards, 34 CFR 646.31. In addition, applicants that have been funded within the three previous years may receive additional points on the basis of their prior experience. The prior experience section of the application will be evaluated on the basis of the provisions in 34 CFR 646.32.

Suggestions for Fiscal Year 1984 Applicants for Special Services Funds: Experience has shown that the most successful Special Services projects have certain common characteristics. They are:

1. Projects which have a strong institutional commitment to their objectives. This often takes the form of in-kind or cash contributions to enhance the opportunities which are available to students through the Special Services project.

2. Projects which are fully understood by and which work closely with all of the administrative and academic departments of a participating institution.

3. Projects which provide mechanisms for continually monitoring student performance, both in project sponsored academic programs and in regular course work being undertaken at the institution.

4. Projects which establish high standards and expectations for students, including the belief that all students, regardless of family background, can reach high levels of academic achievement.

5. Projects which follow-up on their Special Services "graduates" by monitoring the progress and performance of those students who have entered another postsecondary educational institution or graduate school.

6. Projects which give priority to the strengthening of basic and higher level skills of their Special Services participants in mathematics, science, English language literacy in reading, writing, and speaking, and foreign language literacy.

7. Projects that actively seek to improve equal educational opportunity and access for all students, particularly those who traditionally have not participated fully in higher education, including projects which address the special skill needs of members of racial or ethnic minority groups, women, and the handicapped.

In view of this experience, the Secretary encourages applicants to incorporate these characteristics into their applications. Applicants should note that these characteristics are included only to assist them in developing potentially successful projects. The characteristics themselves in no way amend the selection criteria in 34 CFR 646.31.

Application Preparation Workshops: The Department of Education will conduct Application Preparation Workshops to assist prospective applicants to develop applications for the Special Services Program. Each workshop will be approximately a half day long. The presentation will include a review of the requirements for filing applications for the Special Services Program and a review of the program regulations. In addition, there will be a discussion of the suggested application development guide. Each workshop will begin with registration at 8:30 a.m., and presentations are scheduled from approximately 9:00 a.m. to 12 noon. Time will be provided in the afternoon for informal discussions and questions and answers. There is no registration fee for the workshops. The host person listed for each workshop location will assist you if you need directions to the workshop site.

The scheduled dates and locations are as follows: *October 19:*

New York, New York
Columbia University, McMillin Theater, 116 St. and Broadway
Host Person:
Ms. Bert Pinkney, Office of Government Relations and Community Affairs (212) 280–4469

October 21:

Atlanta, Georgia
Atlanta University, Robert W. Woodruff Library, Exhibition Hall, Upper Level, 111 Chestnut Street, S.W. (Corner of Chestnut and Beckwith Streets)
Host Person:
Mr. Marvin King, Morris Brown College (404) 525–7831 ext. 250 or 252

October 24:

Denver, Colorado
Auraria Higher Education Center, St. Cajetans Building (Corner of Lawrence and 9th Streets)
Host Person:
Mr. Kelly Espinoza, Metroplitan State College (303) 629–2533 or 2534

October 26:

Chicago, Illinois
Roosevelt University, Room 320, 430 S. Michigan Avenue
Host Person:
Dr. Clifton Washington, Director, Learning Resource Center (312) 341–3877

October 26:

Dallas, Texas
North Lake College, Performance Hall, 5001 North MacArthur Blvd., Irving, Texas
Host Person:
Bev Flusche (214) 659–5240

October 28:

San Francisco, California
University of San Francisco, Parina Lounge, University Center, Main Entrance, Golden Gate Avenue and Kitteridge
Host Person:
Mr. Robert Norris, Upward Bound Project (415) 666–6476

Available Funds: The Continuing Resolution enacted by the Congress on September 30, 1983, effective through November 10, 1983, authorizes the funding level of $164,740,000 for the Special Programs for Students from Disadvantaged Backgrounds for fiscal year 1984. Of this amount, approximately $65,000,000 would be available for the Special Services Program.

Pending resolution of the final level of appropriations, applications are invited to allow sufficient time for their evaluation and for the completion of the grants process prior to the end of the fiscal year.

Application Forms: Application forms and program information packages are expected to be ready for mailing by October 21, 1983. Application packages will not automatically be mailed to all institutions of higher education. However, they will be mailed to all currently funded Special Programs projects. Application packages may be obtained by contacting the Division of Student Services, Information Systems and Program Support Branch, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone number: (202) 245–7070.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Secretary further suggests that only the information required by the application form be submitted.

Applicable Regulations: Regulations applicable to this program are:

(a) Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations governing the Special Services Program (34 CFR Part 646).

Further Information: For further information contact William L. Garrison, Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone number: (202) 245–2511.

(20 U.S.C. 1070d, 1070d–1b)

(Catalog of Federal Domestic Assistance Number: 84.042—Special Services for Disadvantaged Students Program)

Dated: October 6, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83–27828 Filed 10–11–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Environmental Record of Decision on the 1983 Wholesale Power Rate Final Environmental Impact Statement

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Record of Decision.

SUMMARY: I have decided to submit to the Federal Energy Regulatory Commission (FERC) a proposal to adjust BPA's wholesale power rates in order to achieve total revenues of $5.0 billion for the rate period November 1, 1983, through June 30, 1985. The decisions made regarding the proposed wholesale power rates are incorporated into the wholesale power rate schedules which are included in the submittal to FERC. These decisions are based on a comprehensive review of BPA's Final Environmental Impact Statement (EIS) on the 1983 initial wholesale power rate proposal, as well as all other materials appurtenant to the rate process. A Draft EIS was prepared on BPA's wholesale power rate proposal and circulated to the public for review and comment. Notice of availability of the Draft EIS was published in the **Federal Register** and comments were accepted through July 5, 1983. A Final EIS was prepared based on the Draft EIS and comments received on the Draft EIS. Copies of the Final EIS have been distributed to interested public and additional copies are available upon request from the BPA Environmental Manager.

The proposed rates would permit BPA to collect sufficient revenue to meet its statutorily mandated repayment requirement. Pending FERC approval, the proposed rate adjustment is scheduled to be effective from November 1, 1983, through June 30, 1985. A formal appeal process allows those who desire to comment on the Final EIS or the Record of Decision to intervene by filling a petition with FERC.

This Record of Decision is being issued shortly after the publication of the Final EIS pursuant to Council on Environmental Quality Regulations (40 CFR 1506.10(b)(2)).

SUPPLEMENTARY INFORMATION:

Alternatives Considered and Environmental Impacts

A number of alternative revenue levels and rate designs were evaluated in the EIS. These alternatives were selected in a manner intended to insure consideration of the range of all reasonable alternatives.

Revenue Level Alternatives: The EIS examined five basic revenue alternatives: base rate, no action, the initial proposal, direct financing, and long run incremental cost (LRIC) pricing.

The base rate alternative assumes that BPA's rates remained unchanged subsequent to those which went into effect on December 20, 1974. With the rates remaining constant, revenue levels would increase only as loads increase. This alternative establishes what would have happened had BPA taken no rate actions to increase revenues subsequent to 1974. under this alternative, the revenue shortfall would increase throughout the period of analysis to the year 2000. The base rate alternative significantly undercollects revenue and would consistently violate BPA's statutory requirement to collect revenue sufficient to meet present costs. It would also render BPA financially insolvent, and require development of a mechanism to recover from future ratepayers funds to meet this increasing shortfall.

The no action alternative recognizes historic rate increases and assumes that BPA would maintain its existing rate structure. The no action alternative would also result in serious revenue deficiencies, providing only 85 percent of the revenue requirement used to develop BPA's initial proposal. This revenue shortfall would have to be added to revenue required during subsequent rate periods to allow BPA to meet its long-term financial obligations.

The no action alternative would violate BPA's statutory requirement to be self-financing, since the agency would be unable to fully cover all financial obligations.

Revenue derived under the proposed revenue level alternative would be sufficient to meet BPA's rate period revenue requirement as determined in BPA's initial proposal and would represent a 19 percent increase over the estimated revenue that would be collected under current rates during the rate period using the initial load forecast. This alternative allows BPA to meet all financial obligations and provides that customers receiving service during the rate period would pay the full costs incurred during the same period to provide that service.

Under the direct financing alternative, BPA would finance completion of Washington Public Power Supply System Plant 2 and maintain the construction schedule for completion of Plant 3 through revenue rather than bond sales. The direct financing alternative should provide sufficient revenue to meet BPA's rate period revenue requirement if the decision were made to finance completion of Supply System Plants 2 and 3. Provided load forecasts are accurate, this alternative would not create the problems of under or overcollecting revenue.

LRIC or marginal cost based rates would price wholesale power at the projected long run cost of acquiring new power resources in the Pacific Northwest. Rates based on the long run incremental costs developed in BPA's 1983 Time-Differentiated Long Run Incremental Costs Analysis, if applied to BPA's projected rate period's sales volume would produce revenue significantly in excess of BPA's repayment requirement for the rate period and all years for the foreseeable future.

The revenue level based on LRIC pricing appears to be inconsistent with the directive in the Bonneville Project Act that BPA rates be the lowest possible consistent with sound business principles. Potential questions also would be raised as to how excess revenue should be distributed or invested. In the long run, however, the LRIC alternative would reduce the construction and operation of major new generation resources and encourage the highest level of conservation of electricity.

Increases in the price of electricity discourage consumption. Correspondingly, the level of adverse physical environmental impact associated with the production and consumption of electricity can be expected to vary inversely with the price of electricity (i.e., revenue level). These changes in impact would be offset to some extent by changes in the use of alternative forms of energy such as wood, oil, and natural gas. Some alternative energy sources (e.g., solar or wind) may involve lower levels of environmental impact than those associated with conventional thermal generation; other alternatives (e.g., wood) may involve higher levels of impact.

In contrast to physical environmental impacts, the short-term socioeconomic impacts would be expected to increase directly with the price of electricity (i.e., revenue level). The level of revenue produced by rates based on marginal cost, for example, could have adverse financial impacts in the short run on virtually all regional power consumers, particularly energy-intensive industry, irrigators, and low income residential consumers. BPA's initial rate proposal would have significantly less adverse financial effects in the short term than the LRIC proposal (EIS Chapter II (B)(3)).

It is BPA's conclusion after reviewing all pertinent information that the proposed revenue increase is environmental preferred because it will best promote the national environmental policy as expressed in Section 101 of the National Environmental Policy Act "* * * to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans" 42 U.S.C. 4331(a). It recognizes both the need to minimize potential adverse impacts to the physical environment associated with increases in the use of electricity, as well as the need to take account of the socioeconomic consequences of increases in electricity rates. BPA believes that the socioeconomic effects of this increase are within reason and would not result in undue hardship for BPA's customers. BPA recognizes that, on the one hand, the impacts of this rate increase may include reduced growth in the demand for electricity, a lowered rate of new resource additions, and spurred development of alternative energy sources. On the other hand, these impacts also may include additional air pollution, associated with increased use of woodstoves, and a strain on the budgets of lower income groups. The revenue increase also will enable BPA to conform to its statutory guidelines for meeting repayment requirements and to ensure the prudent operation of the Federal Columbia River Power System.

Rate Design Alternatives: BPA considered the environmental effects of a number of potentially feasible rate design elements and rate alternatives in arriving at a decision regarding the design of specific rate schedules. Such alternatives included those applicable to classification and allocation of costs, rate adjustments, revenue stability measures, a special irrigation rate, and the structure of the Nonfirm Energy rate.

As proposed, BPA has decided to continue to classify costs between capacity and energy based on cost causation principles. This method reflects the cost causation of BPA's resource mix. The rates which result from this method properly signal the relative costs of providing energy and capacity, and encourage consumption in a manner consistent with efficient long run allocation of resources.

Alternative classification methods which were considered included use of a fixed/variable approach, a LRIC classification of exchange resource costs, and a LRIC classification of all costs. BPA has also evaluated additional environmental effects associated with these alternatives. Alternatives which result in proportionately more costs classified to capacity, such as the fixed/variable approach, would constitute a disincentive for consumers to conserve energy. In the long run, BPA would need to add baseload thermal generation at an earlier date, resulting in an increase to BPA's revenue requirement in future years, higher wholesale rates, and localized effects to air, land, and water due to construction and operation of the new baseload plants. On the other hand, alternatives which classify more costs to energy, such as the LRIC classification of exchange costs and the LRIC classification of all costs, would result in rates which have adverse financial impacts in the short run on energy intensive consumers. While this would encourage more energy conservation and delay the need for large thermal plants, these effects would be offset by other impacts. First, there would be less of an incentive for consumers to practice load management to hold down peak demands. BPA would eventually have to add combustion turbines at an earlier date, relative to the proposed alternative, to meet peak demands. Therefore, this would constitute a shift of long run impacts to the physical environment, such as noise and air pollution, from areas in which baseload thermal plants would have been located to locations in which combustion turbines are installed and operated. In addition, there would be a greater likelihood of socioeconomic impacts associated with cutbacks or shutdowns of energy intensive industries if more costs were classified to energy.

With respect to test year hydro capability, BPA has decided to assume that Federal hydro capability will be levelized over the critical period. This assumption increases BPA's capability for surplus firm power sales during the rate period, while assuring enough energy in later years of the critical period to support anticipated long term surplus firm power sales. Therefore, this action is expected to enhance BPA's revenue levels during the rate period and maximize the efficiency of the hydro system, without significant long term adverse socioeconomic or physical impacts to the environment.

Beginning with this rate period, BPA has decided to include May in the lower cost summer demand period to reflect the decreased probability of a load loss during that month because of fish enhancement activities. This shift will benefit irrigators because May is part of the irrigation season.

BPA has decided to modify the billing factors for computed requirements customers to enhance revenue stability. Changing the billing factors to reflect BPA's obligation to provide a given level of service to these customers will compensate BPA for incurred costs. As other customers would otherwise have been assessed revenue underrecovery potentially caused by the computed requirements customers, this design feature will more fairly distribute costs.

BPA has decided to include a contract charge to recover a portion of the costs of conservation. Such a charge may act as a disincentive to utilities to participate in BPA's conservation programs. This could have negative physical environmental impacts on air and water quality associated with the added operation of generation facilities. However, BPA has concluded that a contract charge is a necessary mechanism for recovering costs which cannot be equitably recovered through rates. The charge is relatively small, thereby, minimizing its negative impact.

BPA has decided to continue to credit the direct service industrial (DSI) customers for the value of the reserves they provide for the Federal system. Having the DSI's provide reserves has positive physical environmental benefits, as measured by avoidance of air and water pollution associated with the construction and operation of generation facilities. There are also positive socioeconomic impacts associated with the avoidance of the costs of those generation facilities. The impact of the credit which lowers the DSI rate may be a higher level of industrial production. This may have positive employment benefits in the region and negative physical impacts relating to the impact of the increased production levels on air and water quality. BPA considered but rejected an alternative to allow a credit to the DSI's based on the full amount of the value of reserves rather than sharing the savings with BPA's other customers. This alternative would have further lowered the DSI rate and would have raised the other rates for firm power.

BPA has decided to charge the DSI's to enhance revenue stability. Although some plants might foresee operating levels which are too low to justify incurring the customer charge, BPA has concluded that the benefits of this charge to BPA's revenue stability and the stability of wholesale rate levels in future years outweight the small probability associated with shutdowns of less economic plants during the rate period.

To further enhance revenue stability from the DSI's BPA has decided to include an opportunity for BPA and the DSI's to agree on a lower rate. This "incentive rate" would be offered in exchange for commitments from the DSI's to operate at a specified level. This option would benefit both parties. The DSI's would have lower power rates and, therefore, be able to increase production levels with positive employment benefits for the region. BPA would have higher and more stable revenue with positive socioeconomic benefits for the region.

BPA has included two new automatic adjustment clauses for the purpose of improving revenue stability: The Exchange Adjustment Clause and the Supply System Adjustment Clause. The automatic nature of these clauses will allow for increases or decreases in rates, and thus a closer tracking of costs, without the delay and expense of formal rate hearings. These clauses will have positive socioeconomic impacts on the region by assuring that the costs scheduled for recovery during the rate period will actually be recovered from the rate period. Failure to achieve this would mean that future ratepayers could be allocated any revenue underrecovery.

As provided for in the Regional Act, BPA has again decided to include a Special Industrial rate for Hanna Nickel Smelting Company. The rate includes two options. The base rate is equal to the proposed Priority Firm rate and includes a value of reserves credit. A special rate of 7 mills per kilowatthour is also included for offpeak hour consumption with a limitation of no more than 10 percent of their Contract Demand requested during the peak period. The special offpeak rate would remain in effect until Hanna requests a higher percentage of peak period Contract Demand. The offpeak rate may allow Hanna to resume operation and thereby have a positive employment benefit in the region. There are also negative physical impacts on air and water quality associated with the operation of the smelter as a result of this rate adjustment.

BPA considered and rejected a special irrigation rate. The proposed Priority Firm Power rate already includes changes which benefit irrigators. While the irrigators as a consumer class do exhibit characteristics which are favorable to the Federal system, the proposed rate already reflects their contribution to lower system costs.

BPA has decided to continue the current structure of the Nonfirm Energy rate. As an alternative, BPA considered eliminating the Spill rate in order to increase overall revenue and improve revenue stability. BPA rejected this alternative in favor of delaying the implementation of the Spill rate by using the Displacement rate until it appears that moving to the Spill rate will result in greater BPA revenue or more thermal displacement. This decision will result in positive environmental impacts on air and water quality associated with increased displacement of thermal plants. The increased BPA revenue from added sales will have a positive socioeconomic benefit by reducing BPA's firm power rate levels.

Decision Factors

BPA based its decisions concerning level and design of the rates on legal requirements, rate design objectives, and a consideration of environmental impacts.

1. Legal Requirements

The Bonneville Project Act requires BPA to establish rates that will recover all costs associated with production, acquisition, and transmission of electric power and to recover the Federal investment in the Federal Columbia River Power System. This Act directs that rates be designed to "* * * encourage the widest diversified use of electric energy * * *" at the "* * * lowest possible rate * * * consistent with sound business principles" 16 U.S.C. 832. The Transmission System Act placed BPA on a self-financing basis, requiring it to pay all operating expenses with revenue collected from its rates (16 U.S.C. 837).

The Pacific Northwest Electric Power Planning and Conservation Act

reaffirms directives in previous statutes and expands BPA's responsibilities. The Act contains specific provisions regarding power sales, rates, and procedures for establishing rates (16 U.S.C. 839).

2. Rate Design Objectives

In addition to meeting legal requirements, BPA rates are designed to: (1) Meet its revenue requirement while distributing the burden in an equitable manner among recipients of the service; (2) encourage conservation and minimize environmental impacts; and (3) encourage efficient use of resources by reflecting costs incurred and benefits received. Additionally, consideration is given to rate continuity, ease of administration, revenue stability, customer acceptability, and ease of understanding.

3. Environmental Impacts

BPA's analysis of the environmental impacts of the alternatives revealed that the 1983 proposed revenue level would reduce regional load requirements from that expected if rates were not increased. By the year 2000, decreases in electricity load growth would reduce the regional need for new generation resources by the equivalent capacity of 49 megawatts of conservation, 1,131 megawatts of large thermal, 11 megawatts of cogeneration and 416 megawatts of small hydro. Elimination of the new generation would avoid accompanying land use, solid waste, water, and air quality impacts associated with power production. These environmental benefits would be somewhat offset by adverse physical environmental effects resulting from increases in use of alternative energy sources.

The short-term socioeconomic impacts of the proposed revenue level would impact certain types of consumers more than others. Low-income consumers would be more affected by an increase in electricity rates than other residential consumers. Although the operation of the DSI's has been significantly curtailed even under current rates, they are forecast to increase production considerably under the proposed revenue level as the national economy improves. Some energy intensive industrial consumers could hasten decisions to either improve plant efficiency or shut down operations. While total acres of irrigated agriculture are expected to increase, some individual farmers could be forced to go out of business. While creating short-term economic hardships for those employed in these areas, there may be certain benefits to the physical environment.

The proposed rate design would not cause environmental impacts significantly different than those experienced under BPA's current rate design.

Mitigation

Existing and proposed conservation programs offered by BPA could mitigate socioeconomic impacts of the proposed rate increase. In FY 1981, BPA started energy conservation programs targeted at primary customer groups, State and local governments and nonprofit consumers in the Northwest. These programs would help residential consumers decrease electricity used for space and water heating, improve the use and distribution efficiencies of irrigators, and would aid commercial and industrial consumers in conserving electricity used in industrial processes and water heating. Also, under the terms of the Regional Act, BPA is required, among other things, to provide for the development of plans to protect and enhance fish and wildlife resources and to provide for environmental quality. BPA's proposed increase includes the cost of implementing these requirements. However, implementation of specific plans, programs, and projects will be undertaken independently of the above decisions on wholesale power rates and will undergo separate decisionmaking processes. Therefore, no monitoring or enforcement programs are applicable for mitigation of the adverse impacts of the proposed action and none have been adopted.

Integration With Other Records

This Environmental Record of Decision has been integrated into the Record of Decision filed by the Administrator with FERC in support of BPA's proposed 1983 wholesale power rate increase.

FOR FURTHER INFORMATION CONTACT:
Anthony R. Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208; telephone (503) 230–5136.

Issued in Portland, Oregon, September 29, 1983.

Peter T. Johnson,
Adminstrator.

[FR Doc. 83–27702 Filed 10–11–83; 8:45 am]
BILLING CODE 6450–01–M

Energy Information Administration

American Statistical Association Committee on Energy Statistics

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463, 86, Stat. 770), notice is hereby given that the American Statistical Association's Committee on Energy Statistics will meet with representatives of the Energy Information Administration (EIA) on Thursday, October 27, 1983, at the International Hotel, 10 Thomas Circle, Northwest, Washington, D.C., from 1:30 p.m. to approximately 5:00 p.m. The meeting will continue on Friday, October 28, 1983, in the International Hotel, from 9:00 a.m. until approximately 3:30 p.m.

The purpose of the meeting is to enable the EIA to utilize the American Statistical Association's Committee on Energy Statistics to obtain advice on EIA programs and to benefit from the Committee's expertise concerning other energy statistical matters.

The tentative agenda is as follows:

A. Opening Remarks.

B. Major Topics:

1. Integrated Forecasting Using the Intermediate Future Forecasting System (IFFS)—Introduction.

A. Linking the Short-Term Annual Forecast (IFFS/STIFS).

B. Linking IFFS with Macroeconomic Forecasts.

C. Linking With the Oil and Gas Modeling Systems.

D. Implementation of a Coal Supply Model in IFFS.

E. IFFS Sensitivity Analysis.

2. Statistical Confidentiality Legislation: Federal and EIA.

A. Federal Statistical Confidentiality Legislation.

B. Progress Report: EIA Confidentiality Legislation.

3. Sample Control Procedures for the Weekly Petroleum Status Report.

4. Approaches to Verifying Model Documentation.

5. Problems in Estimating Monthly Oil and Gas Well Completions.

6. Statistical Aspects in Analyzing the Fuel Diet and Operating Characteristics of Light Water Reactors.

C. Public Comments.

D. Topics for Future Meetings:

The meeting is open to the public. Any member of the public may file a written statement with the EIA for forwarding to the Committee, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should inform Ms. Kathleen Repass Weigl, EIA Committee Liaison, (202) 252–6463, or Dr. Fred C. Leone, Executive Director of the American Statistical Association, (202) 393–3253, at least five days prior to the meeting and reasonable provisions will be made to include their presentations on the agenda. Subsequent to approval by the Committee, minutes of an executive summary of the meeting will be available for public review and copying at the Office of Planning and Resources, EI–32, EIA, 1000 Independence Avenue, SW., Room 2H–055, Washington, D.C. 20585, (202) 252–6460, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Issued at Washington, D.C. on September 29, 1983.

J. Erich Evered,
Administrator, Energy Information Administration.

[FR Doc. 83–27448 Filed 10–11–83; 8:45 am]
BILLING CODE 6450–01–M

National Petroleum Council; Committee on Petroleum Inventories and Storage Capacity; Meeting

Notice is hereby given that the Committee on Petroleum Inventories and Storage Capacity of the National Petroleum Council will meet in October. The National Petroleum Council was established pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), to provide advice, information, and recommendations to The Secretary of Energy on matters relating to oil and natural gas or the oil and gas industries. The Committee on Petroleum Inventories and Storage Capacity will study and update the analysis of minimum operating levels as well as update the estimates of total storage capacity available for use.

The Committee will hold its meeting on Thursday, October 20, 1983, starting at 10:00 a.m., in the Monticello Suite of the Jefferson Hotel, 1200 Sixteenth Street, N.W., Washington, D.C.

The tentative agenda for the Committee meeting follows:

1. Review the draft report on Petroleum Inventories Storage Capacity—An Interim Report.

2. Review the progress of the Secondary and Tertiary Storage Task Group.

3. Review the schedule for completion of the Committee's assignment.

4. Discuss any other matters pertinent to the overall assignment from The Secretary.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should contact Jimmie L. Petersen, Office of Oil and Gas, Energy Information Administration, Forrestal Building—Room 2H–058, Washington, D.C., 202/252–6401, prior to the meeting and reasonable provision will be made for their appearance on the agenda. Less than 15 days notice is being given for the meeting due to the need for immediate advice and recommendations concerning the content of the study which will be used in Energy Information Administration publications beginning in January 1984.

A transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, Room 1E–190, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays.

Issued at Washington, D.C. on October 5, 1983.

Albert H. Linden, Jr.,
Deputy Administrator, Energy Information Administration.

[FR Doc. 83–27615 Filed 10–11–83; 8:45 am]
BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangements; International Atomic Energy Agency

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Uses of Atomic Energy, as amended, the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, the Agreement for Cooperation Between the Government of the United States of America and the Government of Finland Concerning Civil Uses of Atomic Energy, the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended, and as authorized by the Taiwan Relations Act of 1979 (Pub. L. 96–8).

The subsequent arrangements to be carried out under the above mentioned agreements and authority involve approval for the supply of the following materials:

Contract Number WC–EU–249, to Franco-Belge de Fabrication de Combustibles, Dessel, Belgium, 105.7 grams of uranium enriched to 4.3 percent in U-235, 10 grams of uranium enriched to 1.5 percent in U-235, amd 5 grams of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–250, to Franco-Belge de Fabrication de Combustibles, France, 105.7 grams of uranium enriched to 4.3 percent in U-235, 10 grams of uranium enriched to 1.5 percent in U-235, and 5 grams of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–251, to AGIP Nucleare S.P.A., Bolgna, Italy, 105.7 grams of uranium enriched to 4.3 percent in U-235, 10 grams of uranium enriched to 1.5 percent in U-235, and 5 grams of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–252, to Centre D'Etude de L'Energie Nucleaire, Mol, Belgium, 105.7 grams of uranium enriched to 4.3 percent in U-235, 10 grams of uranium enriched to 1.5 percent in U-235, and 5 grams of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–253, to Fabbricazioni Nucleari S.P.A., Allessandria, Italy, 105.7 grams of uranium enriched to 4.3 percent in U-235.

Contract Number WC–EU–254, to CEN/SACLAY, France, 2 grams of uranium enriched to 1.5 percent in U-235, and 1 gram of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–255, to CEA/CEN/GRENOBLE, France, 105.7 grams of uranium to 4.3 percent in U-235, 10 grams of uranium enriched to 1.5 percent in U-235, and 5 grams of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–256, to Societe Comurhex, Pierrelatte, France, 105.7 grams of uranium enriched to 4.3 percent in U-235, 10 grams of uranium enriched to 1.5 percent in U-235, and 5 grams of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–257, to Alpha-Chemie und-Metallurgie Gmbh.,

Hanau, the Federal Republic of Germany, 105.7 grams of uranium enriched to 4.3 percent in U-235, 10 grams of uranium enriched to 1.5 percent in U-235, and 5 grams of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–258, to Kenforschungsanlage Juelich Gmbh, the Federal Republic of Germany, 10 grams of uranium enriched to 1.5 percent in U-235, and 5 grams of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–259, to Bundesanstalt Fuer Materialpruefung, Berlin, the Federal Republic of Germany, 105.7 grams of uranium enriched to 4.3 percent in U-235.

Contract Number WC–EU–260, to the Atomic Weapons Research Establishment, the United Kingdom, 2 grams of uranium enriched to 1.5 percent in U-235, and 1 gram of uranium enriched to 2.0 percent in U-235.

Contract Number WC–EU–261, to the Springfield Works, the United Kingdom, 211.4 grams of uranium enriched to 4.3% in U-235, and 10 grams of uranium enriched to 1.5% in U=235, and 5 grams of uranium enriched to 2.0% in U-235.

Contract Number WC–EU–262, to Belgonucleaire, Dessel, Belgium, 105.7 grams of uranium enriched to 4.3% in U-235.

Contract Number WC–EU–263, to the Netherlands Energy Research Foundation, Petten, the Netherlands, 105.7 grams of uranium enriched to 4.3% in U-235, 20 grams of uranium enriched to 1.5% in U-235, and 10 grams of uranium enriched to 2.0% in U-235.

Contract Number WC–IA–132 to the International Atomic Energy Agency, Vienna, Austria, 105.7 grams of uranium enriched to 4.3% in U-235, 10 grams of uranium enriched to 1.5% in U-235, and 5 grams of uranium enriched to 2.0% in U-235.

Contract Number WC–JA–44, to Japan Nuclear Fuel, Co., Ltd., Japan, 105.7 grams of uranium enriched to 4.3% in U-235.

Contract Number WC–JA–45, to the Power Reactor and Nuclear Fuel Development Corp., Japan, 105.7 grams of uranium enriched to 4.3% in U-235, 20 grams of uranium enriched to 1.5% in U-235, and 10 grams of uranium enriched to 2.0% in U-235.

Contract Number WC–JA–46, to the Safeguards Analytical Laboratory, Nuclear Material Control Center, Japan, 105.7 grams of uranium enriched to 4.3% in U-235, 10 grams of uranium enriched to 1.5% in U-235, and 5 grams of uranium enriched to 2.0% in U-235.

Contract Number WC–JA–47, to the Mitsubishi Nuclear Fuel Co., Ltd., Japan, 105.7 grams of uranium enriched to 4.3% in U-235, 10 grams of uranium enriched to 1.5% in U-235, and 5 grams of uranium enriched to 2.0% in U-235.

Contract Number WC–FI–12, to the University of Helsinki, Department of Radiochemistry, Finland, 105.7 grams of uranium enriched to 4.3% in U-235, 10 grams of uranium enriched to 1.5% in U-235, and 5 grams of uranium enriched to 2.0% in U-235.

Contract Number WC–SW–7, to ASEA–ATOM, Sweden, 105.7 grams of urnaium enriched to 4.3% in U-235, 10 grams of uranium enriched to 1.5% in U-235, and 5 grams of uranium enriched to 2.0% in U-235.

Contract Number WC–CI–9, to the Institute of Nuclear Energy Research, Taiwan, 105.7 grams of uranium enriched to 4.3% in U-235, 20 grams of uranium enriched to 1.5% in U-235, and 10 grams of uranium enriched to 2.0% in U-235.

The above materials are to be utilized in the Safeguards Analytical Laboratory Evaluation (SALE) Program. This program is designed to evaluate the capability of participating laboratories to analyse materials to be safeguarded in the nuclear fuel cycle, and to provide means by which measurement capability may be enhanced through the interchange of measurement technology.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 5, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83–27614 Filed 10–11–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER83–765–000]

Carolina Power & Light Co.; Filing

October 6, 1983.

Take notice that Carolina Power & Light Company (CP&L) filed on September 26, 1983, revised rates for its coustomers that would produce a two-step rate increase. CP&L has also tendered for filing Revised Sheet Nos. 5–8A to its FPC Electric Tariff, First Revised Volume No. I, containing revised rates and charges applicable to CP&L's three municipal, one private distribution utility, 18 rural electric cooperatives, and one partial requirements sales-for-resale customers. The revised rates for the Phase I increase are contained in proposed Resale Service Schedules RS83–2, and RS83–3 applicable to CP&L's electric cooperative customers, municipal and private distribution utility customers, and partial requirements customers, respectively. The revised rates for the Phase II rate increase are contained in proposed Resale Service Schedules RS83–1A, RS83–2A, and RS83–3A for CP&L's cooperative, municipal and private, and partial requirements customers, respectively. Accompanying resale fuel adjustment Rider No. 83A is applicable to all rate schedules. CP&L proposes to place the revised tariff sheets for Phase I of the increase into effect as of November 26, 1983, and the revised tariff sheets for Phase II of the increase into effect as of November 27, 1983. The revised rates and charges for Phase I would increase revenues from jurisdictional sales by $19,000,000, if the rates were in effect for all of the 12-month period ending December 31, 1984. The revised rates and charges for Phase II would increase revenues and additional $11,711,167 during the same period, for a total revenue increase from the two phases of $30,711,167.

CP&L states that, under the rates currently in effect, it expects to realize a rate of return on equity during Period II (calendar year 1984) from service to its electric cooperative resale customers of 6.3%, from its municipals and private utility resale customers of 7.3%, and from the partial requirements customer of 6.2%. These rates of return on common equity are lower than the Company's cost rate for both long-term debt and preferred stock, and are clearly inadequate to compensate the common stockholder.

Copies of the filing have been served upon CP&L's jurisdictional resale customers and the State Commissions of North Carolina and South Carolina.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–27711 Filed 10–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–764–000]

Cleveland Electric Illuminating Co.; Filing

October 6, 1983.

Take notice that on September 23, 1983, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 15 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI proposes an effective date of September 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–27712 Filed 10–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–21–006 (PGA83–4a, IPR83–2, AP83–2)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 6, 1983.

Take notice that Columbia Gas Transmission Corporation (Columbia) on September 27, 1983, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on September 1, 1983: Ninetieth Revised Sheet No. 16, Substitute Second Revised Sheet Nos. 16B through 16D, Substitute Thirtieth Revised Sheet No. 64.

Columbian states that the foregoing tariff sheets are being filed in compliance with Ordering Paragraph (B)(3) of the Commission's Order issued August 31, 1983, directing Columbia to file revised tariff sheets to reflect any downward revisions to its pipeline supplier rates tracked in its original filing of July 29, 1983. The foregoing revision results in: (1) A revised Purchased Gas Cost Applicable to Sales Rate Schedules in the amount of $3,044,858, which is $30,209,080 less than that filed on July 29, 1983, and (2) a revised Purchased Gas Surcharge Applicable to Rate Schedule SGES in the amount of $1,359,509, which is $45,395 less than that of filed on July 29, 1983.

Copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 or the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–27713 Filed 10–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT83–23–000]

Columbia Gas Transmission Corp. Proposed Changes in FERC Gas Tariff

October 6, 1983.

Take notice that on September 26, 1983, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following proposed changes in its FERC Gas Tariff, to be effective November 1, 1983:

Original Volume No. 1

Title Page:
Sixth Revised Sheet No. 2
Ninth Revised Sheet No. 3
Thirteenth Revised Sheet No. 4
Thirteenth Revised Sheet No. 5
Sixteenth Revised Sheet No. 5A
Fifteenth Revised Sheet No. 5B
Thirteenth Revised Sheet No. 5C
Fourteenth Revised Sheet No. 5D
First Revised Sheet No. 5E

Original No. 2

Title Page:
Sixth Revised Sheet No. 1
Ninth Revised Sheet No. 2
Thirteenth Revised Sheet No. 3
Thirteenth Revised Sheet No. 4
Sixteenth Revised Sheet No. 4A
Fifteenth Revised Sheet No. 4B
Thirteenth Revised Sheet No. 4C
Fourteenth Revised Sheet No. 4D
First Revised Sheet No. 4E

Columbia states that these proposed revisions are being filed to provide for a name change on its Title Pages and to revise the Table of Contents tariff sheets to reflect an up-to-date listing of the Special Rate Schedules currently on file with the Federal Energy Regulatory Commission.

Copies of this filing were served upon each of Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426. In accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–27714 Filed 10–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–761–000]

Florida Power & Light Co.; Filing

October 6, 1983.

Take notice that on September 23, 1983, Florida Power & Light Company (FPL) tendered for filing a document entitled "Amendment Number One to Contract for Interchange Service Between FPL and Tampa Electric Company" (TECO).

FPL states that under the Amendment FPL and TECO have modified their

VOL 48 ISS 198 OCT 12 1983 UMI

existing 230 kV interconnection facilities between TECO's Big Bend Substation and FPL's Manatee Substation, which increases the inter-system power transfer capability of the interconnection facilities. FPL further states that the proposed amendment will have no effect on sales, services or revenues.

FPL requests an effective date of June 21, 1983, and therefore request waiver of the Commission's notice requirements.

Copies of the filing were served upon TECO.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27715 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-762-000]

Iowa—Illinois Gas and Electric Co.; Filing

October 6, 1983.

Take notice that on September 23, 1983, Iowa-Illinois Gas And Electric Company (Iowa-Illinois) tendered for filing an Interconnection Agreement (Agreement) with Iowa Power and Light Company, (Iowa Power) dated June 13, 1983, with schedules reflecting facilities and points of connection, metering, facilities furnished one party for the other (to which separate facilities schedules may be appended), and transmission service schedules (to which separate transmission service schedules may be appended).

Iowa-Illinois states that the Agreement is proposed effective as of its execution date. Included as an addendum to the facilities service schedules is Facilities Schedule No. 1 dated June 13, 1983, proposed effective as of its execution date, perpetuating under current circumstances an existing facilities arrangement. Included as an addendum to the transmission service schedule is Transmission Service Schedule No. 1, dated June 13, 1983, proposed effective on July 1, 1983. Waiver of the Commission's notice requirements has been requested by the parties accordingly.

Iowa-Illinois further states that the Agreement and its service schedules do not provide for power and energy transactions, but that the Agreement provides a useful vehicle for the perpetuation of facilities arrangements and additional facilities and transmission arrangements as may be mutually agreeable.

Copies of the filing were mailed to Iowa Power, the Iowa State Commerce Commission, and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27716 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-500-000]

K N Energy, Inc.; Application

October 6, 1983.

Take notice that on September 8, 1983, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83-500-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas with Northern Natural Gas Company, a Division of InterNorth, Inc. (Northern), pursuant to the terms of a gas exchange agreement (agreement) dated October 19, 1979, as amended, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that K N and Northern each own and operate natural gas gathering systems in Roger Mills County, Oklahoma. In order for K N and Northern to obtain their respective shares of gas from wells in this area and in order to avoid the unnecessary and expensive duplication of facilities, K N and Northern entered into an agreement dated October 19, 1979, as amended June 30, 1981, which provides for Northern to deliver certain volumes of gas to K N in Roger Mills County and for K N to deliver certain volumes of gas to Northern in Roger Mills County, it is further stated. K N states that equal volumes of gas, on a thermally equivalent basis, are to be exchanged and that no transportation fees are to be charged to either party. It is also asserted that K N and Northern have agreed to utilize existing interconnections between their facilities in Kearny County, Kansas, and Seward County, Kansas, for balancing purposes. Exchanges have occurred only within the field gathering system, it is further asserted. K N avers that Commission authorization is required in order to utilize the balancing points.

K N proposes

(1) To use the balancing points;

(2) To take delivery of Northern's gas pursuant to the terms of the agreement and to transport the volumes of Northern's gas to the existing interconnection between K N and Northern in Seward County; and

(3) To add and delete wells or other delivery and balancing points as required from time to time and to report such additions and deletions, annually on or before January 31 of each year.

It is further stated that no new facilities would be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for K N to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27717 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-107-015, et al.]

Natural Gas Pipe Line Company of America, et al.; Filing of Pipeline Refund Reports and Refund Plans

October 6, 1983.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 18, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
8/4/83	Natural Gas Pipe Line Company of America.	RP80-107-015	Report.
9/19/83	East Tennessee Natural Gas Company.	RP78-65-017	Report.
9/20/83	Consolidated Gas Supply Corporation.	RP80-61-015	Report.
9/21/83	Columbia Gas Transmission Corporation.	RP81-83-008 and RP82-120-007.	Report.
9/22/83	Tennessee Gas Pipeline Company.	G-19983-000	Report.
9/23/83	National Fuel Gas Supply Corporation.	RP80-135-031	Report.
9/29/83	United Gas Pipe Line Company.	RP78-66-021	Report.

[FR Doc. 83-27718 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST83-574]

Natural Gas Pipeline Co. of America; Self-Implementing Transactions

October 6, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to Section 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration date[2]	Transportation Rate (¢/MMBtu)
ST83-574 Natural Gas Pipeline Co. of America	Bridgeline Gas Distribution Co	8/1/83	B		
ST83-575 Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	8/2/83	B		
ST83-576 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	8/2/83	B		
ST83-577 Tennessee Gas Pipeline Co	Cajun Natural Gas co	8/2/83	B		
ST83-578 Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	8/2/83	B		
ST83-579 National Fuel Gas Supply Corp	Kaufman's Bakary, Inc	8/2/83	F		
ST83-580 National Fuel Gas Supply Corp	Edison International, Inc	8/3/83	F		
ST83-581 National Fuel Gas Supply Corp	Koppers Company, Inc	8/3/83	F		
ST83-582 Columbian Gulf Transmission Co	Producer's Gas Co	8/3/83	B		
ST83-583 Columbia Gulf Transmission Co	Bridgeline Gas Distribution Co	8/3/83	B		
ST83-584 Gas Company of New Mexico	El Paso Gas Transportation Co	8/4/83	G(HT)		
ST83-585 Transcontinental Gas Pipe Line Corp	Consolidated Edison Co	8/5/83	B		
ST83-586 Transcontinental Gas Pipe Line Corp	Lynchburg Gas Co	8/5/83	B		
ST83-587 Transcontinental Gas Pipe Line Corp	Carolina Pipeline Co	8/5/83	B		
ST83-588 Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	8/5/83	G		
ST83-589 Transcontinental Gas Pipe Line Corp	Long Island Lighting Co	8/5/83	B		
ST83-590 Transcontinental Gas Pipe Line Corp	Washington Gas Light Co	8/5/83	B		
ST83-591 Transcontinental Gas Pipe Line Corp	Consolidated Edison Co	8/5/83	B		
ST83-592 Transcontinental Gas Pipe Line Corp	Carolina Pipeline Co	8/5/83	B		
ST83-593 Transcontinental Gas Pipe Line Corp	Public Service Electric & Gas Co	8/5/83	B		
ST83-594 United Gas Pipe Line Co	Florida Gas Transmission Co	8/5/83	G		

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration date [2]	Transportation Rate (¢/MMBtu)
ST83-595 Tennessee Gas Pipeline Co	Consolidated Edison Co	8/5/83	B		
ST83-596 Tennessee Gas Pipeline Co	Long Island Lighting Co	8/5/83	B		
ST83-597 Tennessee Gas Pipeline Co	Public Service Electric & Gas Co	8/5/83	B		
ST83-598 Columbia Gulf Transmission Co	Delhi Gas Pipeline Corp	8/8/83	B		
ST83-599 Cranberry Pipeline Corp	Cabot Corporation	8/8/83	F	1/5/83	60.00
ST83-600 Natural Gas Pipeline Co. of America	Northwest Central Pipeline Co	8/10/83	G		
ST83-601 Natural Gas Pipeline Co. of America	Northwest Central Pipeline Co	8/10/83	G		
ST83-602 Tennessee Gas Pipeline Co	Laurel Fuel Co	8/10/83	B		
ST83-603 East Tennessee Natural Gas Co	Tennessee Gas Pipeline Co	8/11/83	G		
ST83-604 East Tennessee Natural Gas Co	Tennessee Gas Pipeline Co	8/11/83	G		
ST83-605 Superior Offshore Pipeline Co	Texas Eastern Transmission Corp	8/11/83	G		
ST83-606 Northern Natural Gas Co	Delhi Gas Pipeline Corp	8/11/83	B		
ST83-607 Natural Gas Pipeline Co. of America	Bridgeline Gas Distribution Co	8/11/83	B		
ST83-608 Natural Gas Pipeline Co. of America	United States Steel Corp	8/12/83	F		
ST83-609 Tennessee Gas Pipeline Co	United States Steel Corp	8/12/83	F		
ST83-610 MGTC, Inc	MIGC	8/12/83	C		
ST83-611 United Gas Pipe Line Co	Energy Gathering, Inc	8/12/83	B		
ST83-612 National Fuel Gas Supply Corp	Stackpole Carbon Corp	8/12/83	F		
ST83-613 Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	8/12/83	G		
ST83-614 Transcontinental Gas Pipe Line Corp	Cajun Natural Gas Co	8/12/83	B		
ST83-615 Transcontinental Gas Pipe Line Corp	Consolidated Edison Co	8/12/83	B		
ST83-616 Transcontinental Gas Pipe Line Corp	Bridgeline Gas Distribution Co	8/12/83	B		
ST83-617 Transcontinental Gas Pipe Line Corp	Texas Eastern Transmission Co	8/12/83	G		
ST83-618 Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	8/12/83	B		
ST83-619 Transcontinental Gas Pipe Line Corp	Washington Gas Light Co	8/12/83	B		
ST83-620 Arkansas Western Gas Co	Natural Gas Pipeline Co. of America	8/12/83	C	1/9/83	20.23
ST83-621 National Fuel Gas Supply Corp	Arco Carbon Division of Boc, Inc	8/15/83	F		
ST83-622 Transcontinental Gas Pipe Line Corp	Washington Gas Light Co	8/15/83	B		
ST83-623 Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	8/15/83	G		
ST83-624 Transcontinental Gas Pipe Line Corp	Laurel Fuel Co	8/15/83	B		
ST83-625 Transcontinental Gas Pipe Line Corp	Delmarva Power and Light Co	8/15/83	B		
ST83-626 Transcontinental Gas Pipe Line Corp	Producer's Gas Co	8/15/83	B		
ST83-627 Producer's Gas Co	Florida Gas Transmission Corp	8/15/83	C	1/12/84	23.00
ST83-628 Natural Gas Pipeline Co. of America	People Natural Gas Co	8/16/83	B		
ST83-629 United Gas Pipe Line Co	Louisiana State Gas Corp	8/16/83	B		
ST83-630 Tennessee Gas Pipeline Co	Gulfside Gas Corp	8/16/83	B		
ST83-631 El Paso Natural Gas co	El Paso Gas Transportation Co	8/17/83	B		
ST83-632 East Tennessee Natural Gas Co	Tennessee Gas Pipeline Co	8/17/83	G		
ST83-633 Northern Natural Gas Co	People Natural Gas Co	8/19/83	B		
ST83-634 Producer's Gas Co	Washington Gas Light Co	8/19/83	D		
ST83-635 Delhi Gas Pipeline Corp	United Gas Pipe Line Co	8/19/83	C		
ST83-636 El Paso Natural Gas Co	People Natural Gas Co	8/19/83	B		
ST83-637 Northern Natural Gas Co	Endeavco Oil and Gas Co	8/22/83	B		
ST83-638 Northern Natural Gas Co	People Natural Gas Co	8/22/83	B		
ST83-639 Northwest Central Pipeline Corp	Natural Gas Pipeline Co. of America	8/22/83	G		
ST83-640 Panhandle Eastern Pipe Line Co	Energy Gathering, Inc	8/24/83	B		
ST83-641 Panhandle Eastern Pipe Line Co	Kansas Power & Light Co	8/24/83	B		
ST83-642 Panhandle Eastern Pipe Line Co	Kansas Power & Light Co	8/24/83	B		
ST83-643 Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	8/24/83	G		
ST83-644 Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	8/24/83	G		
ST83-645 Houston Pipe Line Co	United Gas Pipe Line Co	8/24/83	C		
ST83-646 Oasis Pipe Line Co	El Paso Natural Gas Co	8/24/83	C		
ST83-647 Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	8/24/83	B		
ST83-648 Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	8/25/83	B		
ST83-649 Valero Transmission Co	El Paso Natural Gas Co	8/25/83	C		
ST83-650 Southern Natural Gas Co	Florida Gas Transmission Co	8/25/83	G		
ST83-651 Southern Natural Gas Co	Natural Gas Pipeline Co. of America	8/25/83	G		
ST83-652 Texas Eastern Transmission Corp	Penn Fuel Gas, Inc	8/25/83	B		
ST83-653 Michigan Wisconsin Pipe Line Co	Texas Eastern Transmission Corp	8/26/83	G		
ST83-654 Michigan Wisconsin Pipe Line Co	Michigan Consolidated Gas Co	8/26/83	G		
ST83-655 Michigan Wisconsin Pipe Line Co	Mid Louisiana Gas Co	8/26/83	G		
ST83-656 Michigan Wisconsin Pipe Line Co	Louisiana Intrastate Gas Corp	8/26/83	B		
ST83-657 Michigan Wisconsin Pipe Line co	Delhi Gas Pipeline Corp	8/26/83	B		
ST83-658 Michigan Wisconsin Pipe Line Co	Producer's Gas Co	8/26/83	B		
ST83-659 Harry C. Boggs Natural Gas Co	Columbia Gas Transmission Corp	8/28/83	C		
ST83-660 Sugar Bowl Gas Corp	Florida Gas Transmission Co	8/29/83	C		
ST83-661 Southern Natural Gas Co	Cajun Natural Gas Co	8/29/83	B		
ST83-662 Oklahoma Natural Gas Co	Northern Natural Gas Co	8/30/83	C		
ST83-663 Tennessee Gas Pipeline Co	Monterey Pipeline Co	8/30/83	B		
ST83-664 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	8/30/83	B		
ST83-665 Oklahoma Natural Gas Co	Northern Natural Gas Co	8/31/83	C		
ST83-666 Texas Eastern Transmission Corp	Transcontinental Gas Pipe Line Corp	8/31/83	G		
ST83-667 Great Lakes Gas Transmission Co	Transcontinental Gas Pipe Line Corp	8/31/83	G		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.
[2] The Interstate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 83-27719 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-512-000]

Northwest Arkansas Transmission Co.; Application

October 6, 1983.

Take notice that on September 16, 1983, Northwest Arkansas Transmission Company (Applicant), P.O. Box 3166, Tulsa, Oklahoma 74101, filed in Docket No. CP83-512-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and related facilities and for the transportation of natural gas for Agrico Chemical Company (Agrico), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been formed to accomplish the construction and operation of a pipeline system for the purpose of transporting natural gas to be acquired by Agrico for use at its Blytheville, Arkansas, ammonia fertilizer plant. Applicant proposes the construction and operation of 24 miles of 16-inch O.D. pipeline extending in a generally westerly direction from a point of interconnection with Texas Gas Transmission Corporation (Texas Gas) in Lauderdale County, Tennessee, to its terminus at the Agrico plant in Mississippi County, Arkansas.

Applicant further proposes to transport, on a firm basis, up to 50 billion Btu of natural gas per day for Agrico. It is indicated that Agrico would initially acquire such natural gas from Louisiana Resources Company and arrange with Texas Gas for transportation of such gas to Applicant's facilities.

Applicant states that Arkansas Louisiana Gas Company is the sole supplier and transporter of natural gas to Agrico's Blytheville plant. It is asserted that the proposed construction and operation of facilities will provide Agrico with access to other suppliers and transporters and better enable Agrico to obtain an economic and reliable supply of natural gas. Applicant alleges that the construction and operation of facilities will ensure the continued demand for natural gas which otherwise will be lost because of the artificially high sales price assessed by Agrico's existing supplier and thus stimulate future production of natural gas. It is further stated that the construction and operation of facilities will facilitate the matching of currently available natural gas supplies with currently available market demand in the most expeditious and unencumbered manner possible and thus further the Federal Energy Regulatory Commission's current objective of ordering the natural gas market through direct sale and other similar end-user oriented approaches.

Applicant indicates that the estimated cost of the pipeline facilities is $8,729,328. Applicant states that the financing of the project would be met through the investment of $3,250,000 in equity by Applicant's parent and through the issuance of long-term debt of $4,870,000.

Applicant proposes to charge for the transportation service a two-part rate consisting of a demand charge of $1.65167 per month per million Btu of daily contract quantity and a commodity charge of $.04292 per million Btu.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application is no motion to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-27720 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST83-711-000]

Oklahoma Natural gas Co., and ONG Western, Inc.; Application for Approval of Rates

October 6, 1983.

Take notice that on September 16, 1983 Oklahoma Natural Gas Company, a division of ONEOK Inc., and ONG Western Inc. (Applicants), 624 South Boston Avenue, Tulsa, Oklahoma 74119, filed in Docket No. CP83-711-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of the rates and charges to be assessed by Applicants for transportation services to be provided for Kansas Power and Light Company (KP&L), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have entered into an agreement to transport natural gas on behalf of KP&L. Applicants proposed to charge a transportation fee of 10.0 cents per million Btu and assert that such rate is fair and equitable and not in excess of the rates an interstate pipeline would be permitted to charge for similar services. Applicants indicate that the Oklahoma Corporation Commission has been notified of the transportation agreement and presumes that all revenues received by an intrastate pipeline in connection with this transportation arrangement have been or will be taken into account for purposes of establishing transportation rates charged by Applicants for transportation for intrastate customers. Applications further state that all of the documentation and materials provided in Docket No. ST82-478 is incorporated into the subject docket.

Any person desiring to be heard or to make any protest with reference to said application should on or before

October 27, 1983, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a motion to intervene or a protest in accordance with requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to

make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27721 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6521-001]

Olympic Hydro-Power; Surrender of Preliminary Permit

October 6, 1983.

Take notice that Olympic Hydro-Power, Permittee for the Ziegler Creek Project, FERC No. 6521, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on January 3, 1983, and would have expired on June 30, 1984. The project would have been located on Ziegler Creek within the Olympic National Forest in Grays Harbor County, Washington.

Olympic Hydro-Power filed the request on September 12, 1983, and the surrender of the preliminary permit for Project No. 6521 is deemed accepted as of September 12, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27722 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6679-001]

Olympic Hydro-Power; Surrender of Preliminary Permit

October 6, 1983.

Take notice that Olympic Hydro-Power, Permittee for the Gatton Creek Project, No. 6679 has requested that the preliminary permit be terminated. The preliminary permit for Project No. 6679 was issued on January 12, 1983, and would have expired on July 31, 1984. The project would have been located on Gatton Creek in Grays Harbor County, Washington.

Olympic Hydro-Power filed the request on September 12, 1983, and the surrender of the preliminary permit for Project No. 6679 is deemed accepted as of September 12, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27723 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5298-000]

Small Scale Hydropower; Surrender of Preliminary Permit

October 6, 1983.

Take notice that Small Scale Hydropower, Permittee for the North Fork Clackamas Water Power Project No. 5298, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 5298 was issued on June 28, 1982, and would have expired on November 30, 1983. The project would have been located on North Fork of the Clackamas River, near Estacada, in Clackamas County, Oregon.

Small Scale Hydropower filed the request of September 19, 1983, and the surrender of the preliminary permit for Project No. 5298 is deemed accepted as of September 19, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27724 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-131-001]

Texas Gas Transmission Corp.; Filing

October 6, 1983.

Take notice that on September 27, 1983, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Substitute Original Sheet No. 7-AA to its FPC Gas Tariff, Third Revised Volume No. 1.

On September 9, 1983, Texas Gas filed in Docket No. RP83-131 to establish a new rate schedule entitled Additional Incentive Charge (AIC). The purpose of submitting this substitute sheet is to state the AIC rate on an MMBtu basis rather than on an Mcf basis as reflected in the September 9, 1983 filing.

Copies of the filing are being mailed to all of Texas Gas' jurisdictional customers and interested state commissions. A copy of the filing is also available for public inspection in the office of Texas Gas at Owensboro, Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before October 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27725 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-37-002]

Valero Interstate Transmission Co.; Exstension Reports

October 6, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before November 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date
ST80-37-002 Valero Interstate Transmission Co., P.O. Box 500, San Antonio, TX 78296 [1]	Valero Transmission Co	9/7/83	B	9/6/83
ST80-62-002 Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Transwestern Pipeline Co	9/1/83	C	12/1/83
ST80-81-002 Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, UT 84110 [1]	Pacific Gas and Electric Co	9/1/83	B	8/31/83
ST80-101-002 Texas Gas Transmission Corp., P.O. Box 1160, Owensboro, KY 42302 [1]	City of Murray, Kentucky	9/14/83	B	12/11/83
ST80-106-002 United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	United Gas Pipe Line Co	9/14/83	C	12/16/83
ST81-346-001 Mountain Fuel Supply Co., P.O. Box 11368, Salt Lake City, UT 84139 [1]	Pacific Gas and Electric Co	9/6/83	B	11/7/83
ST82-78-001 Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292 [1]	Natural Gas Pipeline Co. of America	9/1/83	C	11/30/83
ST82-81-001 Louisiana Resources Co., P.O. Box 3102, Tulsa, OK 74101	Southern Natural Gas Co	9/1/83	C	12/3/83
ST82-96-001 Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Texas Eastern Transmission Corp	9/12/83	G	12/10/83
ST82-97-001 Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Dow Intrastate Gas Co	9/12/83	B	12/10/83
ST82-103-001 Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Transwestern Pipeline Co	9/2/83	C	12/16/83
ST82-104-001 The East Ohio Gas Co., 1717 East Ninth St., Cleveland, OH 44114	Panhandle Eastern Pipe Line Co	9/13/83	G(HT)	12/16/83
ST82-108-001 United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	United Gas Pipe Line Co	9/1/83	C	12/6/83
ST82-111-001 Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, IL 60603 [1]	Southern Natural Gas Co	9/16/83	G	12/1/83
ST82-123-001 Valero Interstate Transmission Co, P.O. Box 500, San Antonio, TX 78296	Valero Transmission Co	9/15/83	B	12/15/83
ST82-133-001 Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102 [1]	Northern States Power of Wisconsin	9/13/83	B	11/2/83
ST82-135-001 Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, IL 60603	Transcontinental Gas Pipe Line Corp	9/15/83	G	12/14/83
ST82-153-001 Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292	Valero Interstate Transmission Co.	9/15/83	C	12/15/83

[1] These extension reports were filed after the date specified by the Commission's regulations, and shall be the subject of a further commission order.

NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's regulations.

[FR Doc. 83-27726 Filed 10-11-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-40009B; PH-FRL 2412-2]

Department of the Interior Federal Agency Plan; Intent To Approve Plan for Certification of Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with terms of the **Federal Register** notice of August 19, 1977 (42 FR 41907), the U.S. Department of the Interior (DOI) has submitted an amended Federal Agency Plan for the certification of its employees to apply restricted use pesticides in the performance of their duties. The Administrator has reviewed this amended plan and finds that it complies with the terms of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended and the August 19, 1977 **Federal Register** notice. Accordingly, notice is hereby given of the intention of the Administrator to approve the DOI Plan. Interested persons are invited to submit written comments on the proposed plan.

DATE: Comments must be received on or before November 28, 1983.

Written comments should be submitted to: By mail: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments should bear the identifying notation OPP-40009B. Comments received on this notice will be available for public inspection in Rm. 236 at the address noted above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

ADDRESSES: The entire plan, together with attachments and comments, will also be available for examination during business hours at the following locations:

U.S. Department of the Interior, Bureau of Land Management (230), 1725 I St., NW., Washington, D.C. 20240;

U.S. Environmental Protection Agency, Region I, John F. Kennedy Bldg., Boston, MA 02203;

U.S Environmental Protection Agency, Region II, 26 Federal Plaza, New York, NY 10278;

U.S Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, PA 19106;

U.S Environmental Protection Agency, Region IV, 345 Courtland St., NE., Atlanta, GA 30365;

U.S Environmental Protection Agency, Region V, Pesticides Branch, 230 South Dearborn St., Chicago, IL 60604;

U.S Environmental Protection Agency, Region VI, 1201 Elm St., 1st International Building, Dallas, TX 75270;

U.S Environmental Protection Agency, Region VII, 324 East 11th St., Kansas City, MO 64106;

U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln St., Suite 900, Denver, CO 80295;

U.S. Environmental Protection Agency, Region IX, 215 Fremont St., San Francisco, CA 94105;

U.S. Environmental Protection Agency, Region X, 1200 6th Ave., Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: John MacDonald, Compliance Monitoring Staff (EN-342), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. 2624E, 401 M St., SW., Washington, D.C. 20460, (202-382-7846).

The plan is also available for inspection at selected DOI installations throughout the country. Interested persons desiring the location of the installation nearest them should contact Buck Waters at DOI (202-653-6666).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 15, 1982 (47 FR 40706), the Agency granted final approval to DOI's pesticide applicator certification plan. However, the original pesticide applicator certification plan applied only to the Bureau of Land Management employees within DOI. The amended DOI pesticide applicator certification plan applies to Bureau of Land Management employees and to employees of the Bureau of Indian Affairs and the National Park Service. The amended DOI pesticide applicator certification plan also retains the commercial applicator categories of the

VOL
48
ISS
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9
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original plan in addition to adopting a new category entitled, Agriculture Pest Control—Animal.

Summary of Plan

The DOI Certification Plan at present applies to employees of the Bureau of Land Management, Bureau of Indian Affairs, and the National Park Service. If the department should at a later date wish to include others under the certification plan, the submission and approval of a new certification plan or an amendment to this certification plan, should it be approved, would be required.

Federal employees are considered by EPA to be commercial applicators. The DOI has proposed certification of its employees in the following commercial applicator categories: Agriculture Pest Control—Plant; Agriculture Pest Control—Animal; Forest Pest Control; Ornamental and Turf Pest Control; Aquatic Pest Control; Right-of-Way Pest Control; Industrial, Institutional, Structural, and Health Related Pest Control; Public Health Pest Control; and Demonstration and Research Pest Control.

Certification is based on the taking and passing of a written examination and is valid for a period not to exceed three years. Recertification will also require the taking and passing of a written examination. It is anticipated that training for certification and recertification will often be provided by outside organizations, in particular the Department of Defense which has an approved certification plan in operation. When training is provided by outside organizations, a DOI examination will still have to be passed before certification or recertification is granted.

Certified applicators will be issued a certificate and wallet-size identification card to be carried when applying pesticides or supervising their use. These documents will identify the certified applicator, the category in which the applicator is certified, the date of issuance, expiration date, and issuing authority. Examples of these documents are contained in the plan.

General use and restricted use pesticide will be applied either by a certified applicator or by a person under the direct supervision of a certified applicator. The certified applicator will retain responsibility for the actions of the non-certified applicator and be available if and when required.

The plan provides for the hiring of non-DOI employees for pest control operations. Such persons must be certified commercial applicators, or under the direct supervision of a certified commercial applicator, holding certification valid in the State or territory where the services are performed.

Authority for denying, suspending, and revoking DOI certification rests with the officials responsible for carrying out the plan. Any applicator who falsifies records or who violates any provision of FIFRA, including the prohibition against the misuse of pesticides, may have the applicator's certificate suspended or revoked.

Records regarding the kinds, amounts, uses, dates, and places of use of restricted use pesticides will be maintained for two years from the date of application of the restricted use pesticides. Such records will be available for inspection and copying by Federal and State pesticide officials.

Incidents of pesticide misuse and record falsification by any person will be reported to the appropriate EPA or State authority. EPA and State enforcement personnel will have access to DOI property at reasonable times for sampling, inspection, and observation.

The DOI Plan requires personnel to comply with substantive State standards for pesticide regulation which are more stringent than, or are in addition to, standards established in the plan, as required by E.O. 12088. In cases where the State decides its substantive standards are more stringent than those of the DOI it may notify the Secretary of the Interior and request compliance. In any case where the Secretary and the State disagree as to the need for employees to comply with a State standard, the Administrator of EPA will arbitrate the dispute.

Annual reports will be submitted by the Department of the Interior to the Administrator, EPA. The report will contain information as outlined in 40 CFR 171.7(d)(1), such as, numbers of applicators certified, changes in commercial subcategories, summary of enforcement actions, and significant proposed changes in standards of competency. Other reports will be submitted as required by 40 CFR 171.7(d)(2).

(Sec. 4, as amended, 92 Stat. 827, (Pub. L. 95-396))

Dated: September 28, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-27285 Filed 10-11-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50606; PH-FRL 2449]

Pesticides; Issuance of Experimental Use Permits; BASF/Wyandotte Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

7969-EUP-18. Extension. BASF Wyandotte Corporation, 100 Cherry Hill Road, P.O. Box 181, Parsippany, NJ 07054. This experimental use permit allows the use of 14,560 pounds of the fungicide N-cyclohexyul-N-methoxy-2,5-dimethyl-3-furancarboximide on cottonseed to evaluate the control of *Rhizoctonia solani*. A total of 7,500 tons of seed is involved; the program is authorized only in the States of Arizona, California, Mississippi, and Texas. The experimental use permit is now effective from December 6, 1983 to December 6, 1984. (Henry M. Jacoby, PM 21, Rm. 227, CM#2 (703-557-1900))

1471-EUP-50. Amendment. Elanco Products Company, 740 S. Alabama St., Indianapolis, IN 46285. This experimental use permit, which allows the use of 7,500 pounds of the fungicide fenarimol on turfgrasses to evaluate the control of various diseases, has been amended to add an additional acre in the District of Columbia to the program. A total of 2,994 acres is now involved; the program is authorized in the District of Columbia and all 50 States except Alabama, Alaska, Hawaii, Michigan, Mississippi, Vermont, Virginia, and Wisconsin. The experimental use permit is effective from March 31, 1983 to March 31, 1984. (Henry M. Jacoby, PM 21, 227, CM#2 (703-557-1900))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: September 28, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-27859 Filed 10-11-83; 8:45 a.m.]

BILLING CODE 6560-50-M

[OPTS-140040; BH-FRL 2446-8]

CRCS, Inc., and Dynamac Corp.; Transfer of Data to Contractor and Subcontractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractors, CRCS, Inc. (CRCS) (primary contractor) and Dynamac Corporation (Dynamac) (subcontractor), information which has been or will be submitted by manufacturers and importers under sections 4 and 8 of the Toxic Substances Control Act (TSCA), as well as information submitted voluntarily to EPA. Some of the information may be claimed to be confidential. CRCS and Dynamac will review this information as part of their responsibilities for providing technical support to the TSCA Interagency Testing Committee (ITC). This will expand the scope of confidential business information currently being transferred to CRCS and Dynamac.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: The ITC is required by section 4(e) of TSCA to recommend to the EPA Administrator chemical substances and mixtures (chemicals) which should be given priority consideration for the promulgation of testing rules. In making its recommendations the ITC must consider, among other relevant factors, the quantities of chemicals manufactured, the extent of human and environmental exposure, the existence of data concerning effects on health and environment, and similarity to chemicals known to have adverse health or environmental effects. To accomplish this, the ITC requires the assistance of outside experts. The EPA has selected CRCS, Inc. (primary contractor) of Reston, Virginia, and Dynamac Corporation (subcontractor) of Rockville, Maryland (Contract No. 68-01-6650), to perform reviews of information which may be helpful to the ITC in making its recommendations.

In a previous notice published in the Federal Register of December 6, 1982, (47 FR 54865), the EPA announced that it would begin the transfer of confidential business information received under section 8(b) of TSCA to CRCS and Dynamac. This process has been in operation since the latter part of December 1982.

The EPA and ITC have determined that important data dealing with exposure, testing, and effects on health and the environment relevant to chemicals reviewed by the ITC have been submitted to EPA under provisions of sections 4 and 8 of TSCA. CRCS and Dynamac will examine information, including confidential business information, submitted to EPA in accordance with rules promulgated under these sections of TSCA and other information submitted voluntarily by industry in order to support the ITC in making determinations on the need for further testing of chemicals.

Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to CRCS and Dynamac. Any reports prepared by CRCS and Dynamac dealing with this confidential business information will be treated as confidential. After reviewing the information obtained, CRCS and Dynamac will return the information and any reports they prepare containing confidential business information to EPA.

Under the EPA security manual "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," CRCS and Dynamac will be authorized to have access to this information. EPA has approved the security plans of CRCS and Dynamac and has conducted the required inspections of their facilities and found them to be in compliance with the requirements of the manual:

Since CRCS and Dynamac will review information claimed to be confidential, EPA is issuing this notice to inform all submitters of information under sections 4 and 8 of TSCA and information which may be submitted voluntarily that this contractor and subcontractor will have access to confidential business information from EPA.

In accordance with the contractor requirements security manual, CRCS and Dynamac are legally required to safeguard confidential business information from any unauthorized disclosure. CRCS and Dynamac personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to such information.

Dated: September 30, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-27864 Filed 10-11-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[License No. 1091]

Independent Ocean Freight Forwarder; Airport Clearance Service; Order of Revocation

On September 28, 1983, Airport Clearance Service, Cargo Service Bldg., #80, J. F. Kennedy Int'l Airport, Jamaica, NY 11430 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1091.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 1091 issued to Airport Clearance Service, be revoked effective September 28, 1983.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1091 issued to Airport Clearance Service be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Airport Clearance Service.

Robert G. Drew,

Director Bureau of Tariffs.

[FR Doc. 83-27837 Filed 10-11-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 620]

Independent Ocean Freight Forwarder; Bar-Zel Expediters Inc.; Order of Revocation

On September 20, 1983, Bar-Zel Expediters, Inc., 156 William Street, New York, NY 10038 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 620.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 620 issued to Bar-Zel Expediters Inc., be revoked effective September 20, 1983.

It is further ordered, that Independent Ocean Freight Forwarder License No. 620 issued to Bar-Zel Expediters Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this order be published in the Federal Register and served upon Bar-Zel Expediters Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-27639 Filed 10-11-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 2566]

Independent Ocean Freight Forwarder; Clell S. Donald d.b.a. Worldwide; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Clell S. Donald d.b.a Worldwide, 1000 Dorado Drive, St. Augustine, FL 32084 was cancelled effective September 22, 1983.

By letter dated August 25, 1983, Clell S. Donald d.b.a. Worldwide was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2566 would be automatically revoked unless a valid surety bond was filed with the Commission.

Clell S. Donald d.b.a. Worldwide has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2566 be and is hereby revoked effective September 22, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2566 issued to Clell S. Donald d.b.a. Worldwide be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Clell S. Donald d.b.a. Worldwide.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 27635 Filed 10-11-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 2220]

Independent Ocean Freight Forwarder; Cosmopolitan Forwarders, Ltd.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Cosmopolitan Forwarders, Ltd., 20 West Main Street, Hohenwald, TN 38462 was cancelled effective September 23, 1983.

By letter dated August 30, 1983, Cosmpolitan Forwarders, Ltd. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2220 would be automatically revoked unless a valid surety bond was filed with the Commission.

Cosmopolitan Forwarders, Ltd. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2220 be and is hereby revoked effective September 23, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2220 issued to Cosmopolitan Forwarders, Ltd. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Cosmopolitan Forwarders, Ltd.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-27634 Filed 10-11-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 1413]

Independent Ocean Freight Forwarder; Hosea International Corporation; Order of Revocation

Hosea International Corporation, P.O. Box 298, Newport, Kentucky, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1413 effective November 30, 1983.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 1413 issued to Hosea International Corporation, be revoked effective November 30, 1983 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1413 issued to Hosea International Corporation be returned to the Commission for cancellation.

It is further ordered, that a copy of this order be published in the Federal Register and served upon Hosea International Corporation.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-27636 Filed 10-11-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 2572]

Independent Ocean Freight Forwarder; Tiger Intermodal, Inc. D.B.A. Seatiger; Order of Revocation

On September 19, 1983, Tiger Intermodal, Inc. d.b.a. Seatiger, P.O. Box 2451, Long Beach, CA 90801 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2572.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 2572 issued to Tiger Intermodal, Inc. d.b.a. Seatiger, be revoked effective September 19, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight forwarder License No. 2572 issued to Tiger Intermodal, Inc. d.b.a. Seatiger be returned to the Commission for cancellation.

It is further ordered, that a copy of this order be published in the Federal Register and served upon Tiger Intermodal, Inc. d.b.a. Seatiger.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-27638 Filed 10-11-83; 8:45 am]

BILLING CODE 6730-01-M

[License No. 2533]

Independent Ocean Freight Forwarder; Victor A. Cienfuegos, D.B.A. Cione Forwarding; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Victor A. Cienfuegos, d.b.a. Cione Forwarding, 11403 Davenrich Street, Santa Fe Springs, CA 90670 was cancelled effective August 31, 1983.

By letter dated August 3, 1983, Victor A. Cienfuegos, d.b.a. Cione Forwarding was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2533 would be automatically revoked unless a valid surety bond was filed with the Commission.

Victor A. Cienfuegos, d.b.a. Cione Forwarding has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2533 be and is hereby revoked effective August 31, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2533 issued to Victor A. Cienfuegos, d.b.a. Cione Forwarding be returned to the Commission for cancellation.

It is further ordered, that a copy of this order be published in the Federal Register and served upon Victor A. Cienfuegos, d.b.a. Cione Forwarding.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-27633 Filed 10-11-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Wyndham Company, et al; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 75 (stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Wyndham Young, d.b.a. Wyndham Company, 240 Chattanooga Street, Apt. No. 6, San Francisco, CA 94114

Helstern & Associates, 4100–17th Street, Suite No. 6, San Francisco, CA 94114. Officer: Jay Helstern, Sole Officer

Young Moon Kim, d.b.a. Express Service International, 1205 St. Paul Street, Baltimore, MD 21221

Tri-Way Movers, Inc., 15702 Producer Lane Unite "C", Huntington Beach, CA 92649. Officer: James W. Wager, Sole Officer

American Packing & Shipping, Inc., 426 Swann Avenue, Alexandria, VA 33201. Officers: Manfred Schwitzer, President, Rose L. Schwitzer, Vice President/Secretary, Haile Mesghinna, Assistant Vice President

Al-Rad International, Inc., 5625 North Pearl Street, Rosemont, IL 60018. Officers: Albert George, President/Director, Glenn Raddatz, Executive Vice President/Director, Philip Storms, Vice President/Ocean Operations

Amity International Forwarding, Inc., 144–30 156th Street, Jamaica, NY 11434. Officer: Michael Emposimato, President

Pedro M. Concha, 305 East 24th Street, New York, NY 10010

Evans and Wood & Company, Inc., c/o 9918 Hornpipe, Houston, TX 77080. Officers: Holland B. Evans, President/Director, Floy Wood Evans, Executive V.P./Director

Tropical Customs Brokers, Inc., 2151–A N.W. 72nd Avenue, Miami, FL 33122. Officers: Jose M. Meyer, Jr., Stockholder, Jose M. Meyer, Ph.D. President, Victoria Meyer, Vice President/Secretary, Pedro M. Carreras, Vice Pres./Traffic Manager

Queen's Maritime Ltd., c/o 238 Monte Vista Lane, Daly City, CA 94015. Officers: Lope O. Angangoco, Director/Chairman, Amado L. Bituin, Director/President, Oscar B. Santos, Director/Treasurer

Smith Air, Inc., 3002 Air Freight Road, Houston, TX 77205. Officers: James Fletcher Mooring, President, Jack B. (i.o.) Morgan, Vice President, Blanche Rose Glassburn, Secretary/Treasurer, Harry Platzer, Director

Liberty International, Inc., 144 Westminister Street, Providence, RI 02903. Officers: Kenneth J. Charnley, President, Nicholas J. Cioe, Jr., Vice President, Charles J. Cannon, Treasurer, Vincent J. Passanati, Secretary

North-American Solmar Inc., 71 Broadway, Suite 1306, New York, NY 10006. Officer: George B. Badre, Vice President

Francis C. Hurney,

Secretary.

Dated: October 6, 1983.

[FR Doc. 83-27632 Filed 10-11-83; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed; Matson Terminals, Inc. et al.

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 2053, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in section 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–4143.

Title: Matson Terminals, Inc. & Korea Marine Transport Company, Limited Container Terminal Services Agreement.

VOL
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Parties: Matson Terminals, Inc. (Matson) and Korea Marine Transport (KMTC).

Synopsis: Agreement No. T–4143 provides that Matson will perform terminal services for vessels owned or chartered and operated by KMTC at the ports of Oakland and Terminal Island, California. Until the agreement is approved, terminal services will be performed by Matson for KMTC under terms of a terminal tariff on file with the Federal Maritime Commission. Agreement No. T–4143 supersedes Agreement No. T–3737, between the parties.

Filing Party: Mr. Peter P. Wilson, Senior Counsel, Matson Navigation Company, P.O. BOX 7452, San Francisco, California 94120.

Agreement No.: 57–121.
Title: Pacific Westbound Conference.
Parties:
American President Lines Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co. Ltd.
A.P.Moller-Maersk Line.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57–121 would amend the basic agreement to allow independent action to any tariff or tariffs except local or overland tariffs to Japan.

Filing Party: Charles L. Coleman, III, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 57–122.
Title: Pacific Westbound Conference.
Parties:
American President Lines Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
A. P. Moller-Maersk Line.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Orient Overseas Container Line, Inc.
Sea-Land Service, Ltd.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57–122 would amend the basic agreement to insure that only those members who actually serve particular destination areas will be entitled to vote on freight rates or destination charges to those destination areas.

Filing Party: Charles L. Coleman, III, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 57–123.
Title: Pacific Westbound Conference.
Parties:
American President Lines Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
A. P. Moller-Maersk Line.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Orient Overseas Container Line, Inc.
Sea-Land Service, Ltd.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57–123 would amend the basic agreement by adding a new Article 16 to the Appendix changing the present two-thirds majority voting requirement for Conference action on rate matters to a simple majority requirement for rate matters other than general rate increases.

Filing Party: Charles L. Coleman, III, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 57–124.
Title: Pacific Westbound Conference.
Parties:
American President Lines Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
A. P. Moller-Maersk Line.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Orient Overseas Container Line, Inc.
Sea-Land Service, Ltd.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57–124 would amend the basic agreement by revising Article 25 to allow member lines to disclose, in private communications to individual or potential shippers, forwarders or consignees their own position on any matter considered or action taken by the Conference, or the status of any matter before the Conference.

Filing Party: Charles L. Coleman, III, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 57–125.
Title: Pacific Westbound Conference.
Parties:
American President Lines Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
A. P. Moller-Maersk Line.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57–125 would amend the basic agreement by adding a new paragraph (e) to Article 1 to authorize the Conference to establish uniform rules and allowances regarding container freight stations, container yards and container depots other than affiliates or Conference members.

Filing Party: Charles L. Coleman, III, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 57–126.
Title: Pacific Westbound Conference.
Parties:
American President Lines Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
A. P. Moller-Maersk Line.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57–126 would amend the basic agreement by replacing the existing Executive Committee with a new committee to be known as the Pacific Westbound Conference Owners' Management Committee.

Filing Party: Charles L. Coleman, III, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, Calfornia 94111.

Agreement No.: 57–127.
Title: Pacific Westbound Conference.
Parties:
American President Lines Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
A. P. Moller-Maersk Line.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57–127 would amend the basic agreement to restate in its entirety the agreement incorporating all amendments.

Filing Party: Charles L. Coleman, III, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Fancisco, California 94111.

Agreement No.: 10266–8.
Title: Intercontinental Transport (ICT) B.V./Compagnie Generale Maritime Joint Service Agreement.
Parties: Intercontinental Transport (ICT) B.V. Compagnie Generale Maritime.

Synopsis: Agreement No. 10266–8 would modify the agreement by (1) establishing a prospectively applicable ceiling of 600 TEU's weekly on their container carryings in the U.S. Gulf and South Atlantic/Europe trade and (2) reducing from 12 months to 90 days the notice period required for unilateral termination of the Agreement.

Filing Party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue, Northwest Washington, D.C. 20036.

Agreement No.: 10266–9.
Title: Intercontinental Transport (ICT) B.V./Compagnie Generale Maritime Joint Service Agreement.
Parties: Intercontinental Transport (ICT) B.V. Compagnie Generale Maritime.

Synopsis: Agreement No. 10266–9 would modify the agreement by (1) substituting for the joint service and revenue pooling agreement between the parties an arrangement whereby the parties would separately market their services, without pooling of revenues and expenses and (2) would provide for separate conference participation by each party.

Filing Party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue, Northwest Washington, D.C. 20036.

Agreement No.: 10318–1.
Title: United States-European Trade Carriers Cooperative Study Arrangement.
Parties:
Atlantic Container Line GIE.
Dart Containerline Co., Limited.
Hapag-Lloyd AG.
Johnson Scanstar.
Lykes Bros. Steamship Co., Inc.
Sea-Land Service, Inc.

Synopsis: Agreement No. 10318–1 would modify the basic agreement by extending its duration for a further term of three years through January 25, 1987.

Filing Party: Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

By Order of the Federal Maritime Commission.

Dated: October 5, 1983.

Francis C. Hurney,
Secretary.

[FR Doc. 83–27640 Filed 10–11–83; 8:45 am]
BILLING CODE 6730–1–M

Security for the Protection of the Public

Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Premier Cruise Lines, Ltd., c/o Premier Cruise Lines, P.O. Box 573, 101 George King Blvd., Cape Canaveral, Florida 32920.

Dated: October 6, 1983.

Francis C. Hurney,
Secretary.

[FR Doc. 83–27641 Filed 10–11–83; 8:45 am]
BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Council on Social Security, as established by the Secretary of Health and Human Services in accordance with Section 706 of the Social Security Act, 42 U.S.C. Section 907.

DATE/ADDRESS: The meeting will be held November 3–4, 1983, from 9:00 AM to 4:00 PM each day, in Room 503A of the Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, Advisory Council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone (202) 755–8670/71.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available.

Sign language interpreting services will be provided if requested in advance.

The proposed meeting agenda includes further briefings and discussion on the Medicare program; and such other business as the Chairperson, the Executive Director, or the membership may put before the Council.

A previous meeting of the Advisory Council on Social Security was announced in 48 FR 43095, September 21, 1983.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,
Executive Director.

[FR Doc. 83–27686 Filed 10–11–83; 8:45 am]
BILLING CODE 4120–03–M

Food and Drug Administration

[Docket No. 83D–0282]

Draft Guidelines on Freedom of Information Summaries for NADA's; Availability

Correction

In a corrections document on page 44113 in the issue of Tuesday, September 27, 1983, correcting FR Doc. 83–22618, the docket number in the heading was incorrect and should read as set forth above.

BILLING CODE 1505–01–M

[Docket No. 83M–0323]

New England Nuclear®; Premarket Approval of Rianen™ [³H] Progestin Receptor Assay Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical® Device Amendments of 1976 of RIANEN™ [³H] Progestin Receptor Assay Kit, sponsored by New England Nuclear®, North Billerica, MA. After reviewing the recommendaiton of the Clinical Chemistry Device Section of the Clinical Chemistry and Hematology Devices Panel, FDA notified the sponsor

VOL 48 ISS 198 OCT 12 1983 UMI

that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by November 14, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On August 3, 1982, New England Nuclear® North Billerica, MA, submitted to FDA an application for premarket approval of the RIANEN™ [^{3}H] Progestin Receptor Assay Kit an in vitro device used to measure progestin receptor (PR) binding capacity in tissue cytosol prepared from breast tumor. Assay results are indicated for use as an aid in the choice of therapy in the treatment and management of breast cancer patients. However, the results of PR analyses using the RIANEN™ [^{3}H] Progestin Receptor Assay Kit should not be interpreted as an indication for selecting a particular therapy without consideration of other clinical criteria normally used in the management of breast cancer. The application was reviewed by the Clinical Chemistry Device Section of the Clinical Chemistry and Hematology Devices Panel, an FDA advisory committee, which recommended approval of the application. On August 31, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 14, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 4, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–27813 Filed 10–11–83; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) Federal Register, Vol. 46, No. 223, pp. 56911–56934, dated Thursday, November 19, 1981 and Federal Register, Vol. 48, No. 3, pp. 512–518, dated Wednesday, January 5, 1983) is amended to reflect the Secretary's approval of changes to the organizational structure of HCFA. A brief summary of the changes follows:

- *Office of the Associate Administrator for External Affairs*

—abolishing the two existing divisions in the Office of Public Affairs in their entirety.

- *Office of the Associate Administrator for Management and Support Services*

—establishing a Performance Management Staff with reporting authority directly to the Director, Office of Management and Budget (OMB).

—abolishing the functional statements and organizational titles for the Division of Management Support and the Division of Management Planning and Analysis, Office of Management Services, OMB and establishing new functional statements and new division organization titles.

—abolishing the Procurement Policy Staff, Office of Human Resources and Administrative Services, OMB, in its entirety.

—abolishing the Systems Policy and Planning Staff (SPPS), Bureau of Support Services (BSS), and transferring the program information planning and evaluation functions from SPPS to the Office of Information Planning and Development (OIPD), Bureau of Data Management and Strategy (BDMS). Renaming the OIPD as the Office of Information Resources Management. Modifying the BSS functional statement to include ADP liaison and systems security.

—transferring the End-Stage Renal Disease (ESRD) statistical functions from the Division of Program Management Systems, Office of Administrative Systems, BSS, to the Division of Data Production, Office of Statistics and Data Management, BDMS.

- *Office of the Associate Administrator for Operations*

—abolishing functional statements and organization titles for the Bureau of Program Operations, the Bureau of Quality Control and the Health Standards and Quality Bureau in their entirety and replacing them with new functional statements and organizational titles.

—abolishing the Division of Quality Control, Office of the Regional Administrators' (ORA) in its entirety, and revising the functional statements for the Division of Health Standards and Quality and the Division of Financial Operations, ORA.

- *Office of the Associate Administrator for Policy*

—establishing the Office of the Executive Officer within the Bureau of Eligibility, Reimbursement and Coverage and abolishing the Management Staff and the Executive Secretariat.

—abolishing the Division of Health Systems, Office of Legislation (OL), Office of Legislation and Policy (OLP), in its entirety.

—changing the organization title of the Division of Coverage and Benefits, OL, OLP, to the Division of Coverage and Eligibility.

—establishing a new Division of Legislative Reference and Coordination, OL, OLP.

The specific changes to Part F. are detailed below:

• Section FG.20. Office of the Associate Administrator for External Affairs (FG) (Functions) is amended as follows:

1. Section FG.20.C. Office of Public Affairs (FGC) is amended by deleting the organization titles, functional statements and administrative codes for Section FG.20.C.1. Division of Public Information (FGCl) and Section FG.20.C.2. Division of Program Development (FGC2) in their entirety.

• Section FH.20. Office of the Associate Administrator for Management and Support Services (FH)(Functions) is amended as follows:

1. Section FH.20.A. Office of Management and Budget (FHA) is amended by adding a new organizational unit between Section FH.20.A. Office of Management and Budget (FHA) and FH.20.A.1. Office of Financial Management Services (FHA–1).

The new organizational unit will be titled the Performance Management Staff (FHA–1). The new organization will be designated as number 1., therefore, the numerical order of the new staff office and the other three offices under the Office of Management and Budget will change accordingly to:

1. FH.20.A.1. Performance Management Staff;
2. FH.20.A.2. Office of Financial Management Services;
3. FH.20.A.3. Office of Management Services; and
4. FH.20.A.4. Office of Human Resources and Administrative Services.

The new organization, functional statement and administrative code is as follows:

1. Performance Management Staff (FHA–1)

Operates HCFA's Performance Management System by developing and maintaining a system to ensure that individual Senior Executive Service (SES) and merit pay workplans fully reflect the individual's responsibilities for completing elements in the Administrator's organizational workplan. Reviews individual workplans to ensure that performance standards are rigorously and uniformly applied. Monitors individual performance appraisals for appropriate rating spreads and patterns. Maintains the Administrator's workplan by which HCFA plans, organizes and controls its activities to accomplish its programmatic and administrative goals. Analyzes components' progress on the initiatives incorporated in the Administrator's organizational workplan to assess the accomplishment of Agency goals and objectives. Develops reports and briefings for the Administrator and HCFA senior staff and advises of any significant progress and/or problems regarding the organizational and individual workplans. Coordinates HCFA's efforts in support of the Department's Operations Management System (OMS). Prepares HCFA's periodic OMS reports for submission to the Office of the Secretary (OS) and maintaines liaison with OS. Provides staff support to HCFA's Performance Review Board (PRB).

2. Section FH.20.A.2. Office of Management Services (FHA–2) is amended by deleting the organization titles and functional statements for Section FH.20.A.2.a. Division of Management Planning and Analysis (FHA–21), and Section FH.20.A.2.b. Division of Management Support (FHA–22) in their entirety. New division organization titles and functional statements for Section FH.20.A.2. appear below. Wherever possible, current administrative codes have been retained.

a. Division of Management Analysis and Review (FHA–21)

Plans, implements and operates the Agency-wide internal management studies program designed to ensure appropriate utilization of HCFA resources, efficiency and effectiveness of HCFA procedures, identify the potential for fraud, abuse and waste, and ensures HCFA's conformance with higher level administrative direction. Performs ongoing review of HCFA's administrative issuances and their conformance to higher level direction, as well as Central and Regional Office performance in these areas. Evaluates the operation of all HCFA internal ≫ control processes. Manages HCFA-wide implementation of OMB Circular A–123 "Internal Control Systems" which includes promulgation of HCFA instructions, training of appropriate personnel, conduct of vulnerability assessments, inventory of internal control areas, conduct of detailed studies and negotiation with Department of Health and Human Services (DHHS) and the Executive Office of Management and Budget (EOMB) on HCFA implementation of the Internal Control Systems program. Establishes and maintains a reports management program for other than public-use reports, which includes setting up a current HCFA-wide inventory of all recurring reports with the exception of public-use reports; maintains a file on each report in the HCFA-wide inventory; responds to all Departmental or higher level inquiries about the reports management program and the reports in the inventory; prepares and submits the HCFA "Annual Summary of Reports Management" to the DHHS Reports Management Officer; provides assistance to Central and Regional Office components when requested; conducts periodic review of the HCFA Reports Management Program and reporting requirements. Monitors HCFA-wide Secretarial savings initiatives to ensure that HCFA components have achieved projected dollar savings during a given fiscal year. Reports HCFA overall savings achievement and negotiates acceptance by the Department on a quarterly basis. Plans, implements, and operates the HCFA-wide internal consulting program to provide operating managers with an in-house capability for obtaining assistance in resolving management problems. Conducts studies and reviews at the request of all levels of management designed to resolve management problems of operating systems.

b. Division of Organizational Analysis (FHA–22)

Develops and conducts an ongoing HCFA-wide organizational planning, analysis and appraisal program. Conducts studies of HCFA organizational and functional arrangements and develops plans for assimilating new or modified functions into the HCFA organization. Provides advice and assistance to HCFA managers in the development of organizational proposals. Reviews and analyzes proposals to establish, abolish, or change organizational structures and functional statements. Coordinates the organizational approval process and prepares recommendations to the Director, Office of Management and Budget, the Associate Administrator for Management and Support Services, and the Administrator on all proposed

organizational changes. Initiates special management analysis studies concerning delegations of authority, position management, organizational/functional activities and other studies concerning functional activities including the proper placement of functions within HCFA and the relationships of HCFA's functions to those of other Federal and non-Federal organizations. Designs, develops, implements and maintains a system for initiating, analyzing, reviewing and approving HCFA-wide program and administrative delegations of authority. Initiates and develops requests for new or revised delegations from the Secretary or other Office of the Secretary (OS) components to the Administrator of HCFA. Analyzes proposed delegations to and within HCFA and conducts periodic studies of existing delegations to determine their appropriateness and the need for amendments. Develops procedures for the coordination and control of interagency agreements. Manages the HCFA interagency agreement approval process. Maintains the official HCFA records for organizational structures, functional statements, delegations of authority, administrative codes and interagency agreements. Develops administrative policies in all of the functional areas described above. Manages HCFA's Consultant Services (8–15) program to insure compliance with OMB Circular A–120. Manages HCFA's A–76 (Commercial and Industrial Activities) program by maintaining inventories of activities, preparing periodic reports, and reviewing completed cost comparisons for completeness and compliance with OMB Circular A–76. Develops administrative policy for and monitors HCFA-wide activity in the control and dissemination of management directives and administrative issuances. Conducts studies to identify areas in which these policies and procedures do not currently exist and works with the affected components to develop the necessary guidelines. Reviews cross-cutting issuances to assure adequate coordination of decisionmaking between affected components. Develops lists of potential indicators of performance as a by-product of policy and procedures analysis functions.

c. Division of Public Information Collection (FHA23)

Develops the annual Information Collection Budget (ICB) and monitors the Agency's performance against approved budget levels insuring that HCFA operates within the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Develops administrative policies, procedures and control mechanisms for the implementation of HCFA-wide programs for paperwork reduction and the clearance of public-use data collections. Monitors compliance with these programs. Assesses the need for public-use data collections; negotiates with components in those situations where the need for the information no longer exists, or where the frequency of scope may be reduced. Monitors and reviews regulations, notices, issuances contracts, and other like documents to insure that all public-use information collections are necessary and are approved. Negotiates with the Executive Office of Management and Budget (EOMB) and the Office of the Assistant Secretary for Management and Budget (ASMB) in carrying out the responsibilities of the division.

3. Section FH.20.A.3.e. Procurement Policy Staff (FHA3–5) including functional statement and administrative code is deleted in its entirety.

4. Section FH.20.B. Bureau of Support Services (FHB) is amended by adding the following which will become the last three sentences:

Negotiates and administers agreements and provides ADP liaison between HCFA users, the Social Security Administration and other external organizations for the provision of ADP capacity and support services. Develops, coordinates and directs the HCFA ADP systems security program, including its application to Medicare contractors, in accordance with the EOMB, General Services Administration (GSA) and Departmental guidelines.

5. Section FH.20.B.2. Systems Policy and Planning Staff (FHB–2) is deleted in its entirety.

6. Section FH.20.D.3. Office of Information Planning and Development (FHE3) is deleted in its entirety.

7. Section FH.20.D.3. is further amended by adding a new organization title—Office of Information Resources Management (FHE4) including functional statements for the Office as well as a new subordinate division-level structure. The new section added will read as follows:

3. Office of Information Resources Management (FHE4)

Serves as the focal point for the planning and evaluation of HCFA's information systems and data standards development including coding conventions. Develops and assures compliance with HCFA's long- and short-range information plans and processes. Determines, through coordination with other components, information needed by HCFA to carry out its functions. Determines and assures compliance with internal HCFA Automated Data Processing (ADP) policies, standards and procedures including: information systems planning, systems approval, data base management, office automation, security and privacy. Provides systematic identification, assessment and certification of new, revised, or existing HCFA information systems and processes in accordance with Departmental and HCFA policies, standards and information plans. Accomplishes macro design and evaluation of prototype information systems. Develops and maintains an inventory of HCFA's information systems, files and data elements. Works with various components throughout the health care industry in the development of concepts, plans and policy to improve the efficiency and effectiveness of information management. Coordinates and provides liaison on information systems policy, planning and standards within HCFA and between HCFA and other governmental agencies and non-governmental groups (e.g., AMA, AHA). Serves as the HCFA lead in conducting, monitoring and evaluating selected paperwork burden reduction reviews.

a. Division of Information Systems Planning (FHE41)

Develops and assures compliance with HCFA's long-range and short-range ADP program information plans and processes. Determines, through coordination with other components, program information needed by HCFA to carry out its functions. Determines and assures compliance with HCFA ADP policies. Accomplishes macro design and evaluation of prototype program information systems.

b. Division of Information Systems Planning (FHE42)

Determines and assures compliance with HCFA ADP policies for information systems approval. Provides systematic identification, assessment and certification of new, revised, or existing HCFA Information systems and processes in accordance with Departmental and HCFA policies, standards and information plans.

c. Division of Data Policy and Standards (FHE43)

Determines and assures compliance with HCFA ADP policies in the area of data base management and office automation. Develops and maintains an inventory of HCFA's information systems, files and data elements for both programmatic and administrative systems. Coordinates and provides liaison on program information systems policy, planning and standards within HCFA and between HCFA and other governmental agencies and non-governmental groups (e.g., AMA, AHA). Works with various components throughout the health care industry in the development of concepts, plans and policies to improve the efficiency and effectiveness of information management. Serves as the focal point for the planning and evaluation of HCFA's information systems and data standards development, including coding conventions.

8. Section FH.20.B.3. Office of Administrative Systems (FHB3) is amended by deleting the ten-word phrase, "End-Stage Renal Disease master file and cost analysis systems." The phrase to be deleted starts on line 9 of the section after the word "systems" and ends on line 11 just prior to the word "operational."

9. Section FH.20.B.3.b. Division of Program Management Systems (FHB32) is amended by deleting the ten-word phrase, "End-Stage Renal Disease master file and cost analysis systems." The phrase to be deleted starts on line 10 of the section after the word "systems" and ends at the end of line 11.

10. Section FH.20.D.2. Office of Statistics and Data Management (FHE2) is amended by deleting the functional statement for the Office in its entirety as well as deleting the functional statements only for the Office's four subordinate divisions in their entirety, i.e., section FH.20.D.2.a., FH.20.D.2.b., FH.20.D.2.c. and FH.20.D.2.d. New Office and divisional statements will replace the deleted ones. The organizational titles and administrative codes will remain the same. The new functional statements for section FH.20.D.2. are as follows:

2. Office of Statistics and Data Management (FHE2)

Directs the development, maintenance and publication of HCFA program statistical information. Designs and manages systems and computer programs to establish and maintain HCFA statistical files and produces information from these files. Disseminates HCFA program date through a variety of media including published notes and bulletins, annual program statistical series and an executive data compendium. Provides health statistical information in response in inquiries on HCFA programs. Develops special purpose statistical data bases for supporting HCFA responsibilities in areas such as cost containment, end-stage renal disease, impact analysis of proposals for program changes and special research and evaluation studies.

a. Division of Data Production (FHE21)

Designs, develops and maintains the continuous operation of computer systems which prepare the statisitcal files and reports required to measure and evaluate the effectiveness of HCFA programs. Develops and maintains data base systems, file management systems, data storage techniques, information retrieval systems and systems documentation. Establishes user files for the Bureau of Data Management and Strategy (BDMS) ans other HCFA components on an ongoing basis. Prepares special purpose data bases for actuarial estimates, end-stage renal disease purposes, and demonstration evaluations. Provides operations support to BDMS components. Develops descriptive statistical tabulations for publication.

b. Division of Data Standards and Quality (FHE22)

Develops standards for and monitors the quality and statistical reliability of data received and processed by the Office of Statistics and Data Management (OSDM) including quality control activities for decriptive Medicare statistical information for publication. Evaluates and participates in determining data requirements and optimum methodologies for collecting, organizing and retrieving the required statistical data. Develops and maintains the Hospital Cost Report Information System; an automated central data collection, processing and report generation system for institutional cost report data. Monitors and improves the accuracy and completeness of information obtained from HCFA contractors and other sources prior to compilation of statistical data. Prepares and maintains a file documentation library and consults on appropriate utilization and limitations of HCFA statistical data. Coordinates with other BDMS divisions for producing ongoing statisca' series and numerous ad hoc data requests. Arranges for necessary revisions in OSDM source records due to legislation or changes in administrative operations.

c. Division of Systems Development and Statistical Programming (FHE23)

Coordinates the development and use of special purpose statistical data bases required for supporting HCFA in such areas as cost containment, impact analysis of proposals for changing health care financing programs, special research and evaluation studies and for general data dissemination. Provides statistical services, mathematical modeling and simulation, systems analysis and statistical programming for analyzing Medicare, Medicaid and End-Stage Renal Disease (ESRD) data. Designs data bases and software packages for scientific applications and special purpose information retrieval and processing in support of projects undertaken by HCFA. Processes and disseminates nonrecurring technical documents and information.

d. Division of Information Analysis (FHE24)

Conducts evaluations and statistical analyses of health data for a variety of HCFA applications and dissemination. Provides statistical data, prepares estimates, and conducts issue-related analyses on health-related programs in response to questions from legislators, program administrators, policymakers and health specialists in the public and private sectors. Develops, prepares and publishes Medicare program statistical information and combined Medicare/Medicaid reports for use in evaluation of current HCFA programs and proposed modifications, as well as for providing public accountability of program activities.

• Section FP.20. Office of the Associate Administrator for Operations (FP) (Functions) is amended by the following actions:

1. Section FP.20.A. Bureau of Program Operations (FPA) is amended by deleting the functional statement only for the Bureau of Program Operations and then every subsequent organization title, functional statement and administrative code thereafter within Section FP.20.A. The deleted sections are to be replaced by the following updated functional statements, organization titles and administrative codes. (Wherever possible, current administrative codes have been retained.)

A. Bureau of Program Operations (FPA)

Provides direction and technical guidance for the nationwide administration of HCFA's health care financing programs. Develops, negotiates, executes and manages contracts with Medicare contractors. (State survey activities are performed by HSQB.) Manages Medicare/Medicaid financial management systems and national budgets for States and Medicare contractors. Establishes national policies and precedures for the procurement of claims processing and related sevices from the private sector.

VOL 48 ISS 198 OCT 12 1983 UMI

Defines the relative responsibilities of all parties in health care financing operations and designs the operational systems which link these parties. directs the establishment of standards of performance for contractors and State agencies (excepts State survey agencies). Prepares recommendaions regarding terminations, awards, penalties, nonrenewals or other appropriate contract actions. Establishes national operational policy and procedures in accordance with the standards contained in 4 CFR Parts 101–105 of the joint General Accounting Office/Department of Justice regulations for contractor recovery of overpayments. Directs the processing of Part A beneficiary appeals and beneficiary overpayments.

1. Executive Office (FPA–1)

Develops, coordinates and implements a Bureau management program which includes operational analysis, organizational analysis and planning, management information, internal Bureau financial management including formulation and execution of the Bureau's budget, execution workplanning programs, manpower utilization and personnel administration. Develops and implements a variety of Bureau-level program and administrative delegations of authority. Coordinates, monitors and assesses Regional Office operations in areas of Bureau jurisdiction and ensures regional participation in formulating Medicare and Medicaid operating policies and procedures. Coordinates for the Director, Bureau of Program Operations (BPO), matters of Bureau policy. Provides Bureau-wide guidance and technical assistance on correspondence tracking and control procedures and on standards of content for correspondence and memoranda. Serves as the primary focal point for the Bureau on operational as well as administrative inquiries. coordinates Bureau replies on audit reports received from the General Accounting Office (GAO), Office of the Inspector General, etc.

2. Office of Program Administration (FPA3)

Administers contracts with private organizations to perform Medicare program operations. Develops, negotiates, maintains and modifies all primary contracts and agreements with intermediaries, carriers and other organizations, such as Health Maintenance Organization (HMOs), required under Titles XVIII and XIX of the Social Security Act. Provides direction and guidance to Central Officer and Regional Office staff on program contracts and contracting activities. Develops, directs and implements program contract procurement including design, development and evaluation of related experiments. Establishes and prioritizers expenditure levels for Medicare contractors and for Medicare experiments and procurements. Develops, implements and administers national policies, standards and administrative procedures for the Medigap program. Establishes policies and procedures to be used by all HCFA contractors and States in procurement of equipment, facilities management, Medicaid Management Information System (MMIS), software and other services. Investigates operating problems which are national in scope and recommends corrective action. Initiates and implements operational experiments. Assesses operational impact of program experiments proposed by HCFA's research and demonstration staffs. Develops operational policies and procedures and administrative initiatives affecting the health of low income children. Administers the Early and Periodic Screening, Diagnosis and Treatment program (EPSDT) under. Title XIX. Coordinates HCFA resources and activities with other Departmental operating divisions to ensure achievement of the Department of Health and Human Services (DHHS) Child Health Strategy. Establishes quantitative standards and qualitative requirements for contractors, State agencies (other than State survey agencies) and fiscal agents participating in the Medicare and Medicaid programs or in experimental arrangements. Coordinates responses to interested organizatins prior to formal issuance of new standards and requiremens.

a. Division of Procurement (FPA31)

Develops, directs and implements HCFA program contract procurement policies and activies. Directs and supports contractor, State and Regional Office program contract procurement activities. Reviews contractor configuration and recommends contractors to serve in specified areas. Establishes policies and procedures to be used by all HCFA contractors and States in procurement of equipment, facilities managements, AMMIS, software and other services. Reviews and recommends approval of Request for Proposals (RFPs) and evaluates Regional Office oversight of data processing procurement activities. Prepares procurement-related policy, regulations, general instructions and operating procedures. Formulates national Medicare contractor strategy, including scope of related experimental contracting. Makes recommendations regarding program contract actions, i.e., nonrenewals, terminations, consolidations, etc. Directs and participates in the design, development and evaluation of HCFA contract-related operational experiments. Designs, directs and a HCFA's Central Office representative, participates in all transition activities relating to contract limitations , terminations, extensions, nonrenewals and awards of contracts, including incentive-type agreements. Maintains responsibility for the smooth and orderly transition of contract, administrative and program functions and duties.

b. Division of Contracts (FPA3)

Develops, maintains, negotiates and modifies all primary contracts and agreements with intermediaries, carriers and State agencies (except State survey agencies) and other organizations as provided under Titles XVIII and XIX of the Social Security Act including those awarded on an experimental basis. Develops procedures for award, nonrenewal, termination, extension and amendments of contracts. Approves program contracts and proposals to contract by State agencies under Title XIX of the Act. Serves as the Bureau of Program Operation's representative in adjudicating contractor claims because of changes in work statements or other disputes involving the selection or non-selection of contractors. Directs programs contract related surveys requested by either the Executive or Legislative Branches of the Federal government. Provides direction and guidance to Central Office and Regional Office staff on program contracts and contract procurement and maintains an oversight role on regional activity in the area of Titles XVIII and XIX contracting. Reviews States' Memoranda of Understanding with PSROs in support of the Health Standards and Quality Bureau. Directs and coordinates all Bureau Title XIX compliance activities. Evaluates State compliance with program requirements and makes recommendations concerning formal program compliance hearings and the resolution of issues. Administers a prior consulation program to obtain comments from Medicare contractors and providers on proposed HCFA operating policies and instructions. Coordinates Fiscal Intermediary Group (FIG) and Carrier Representative Group (CRG) activities. Responsible for designation of intermediaries for chain organization issues, other policies relating to intermediary availaibity, and provider nominations.

c. Division of Operational Initiatives (FPA33)

Serves as focal point in the Bureau for legislative matters affecting program operations. Recommends and develops legislative proposals and regulations for contractor and State program operations. Develops and implements operational experiments other than contract experiments and serves as liaison with the Office of Research and Demonstrations and other HCFA components involved in program initiatives impacting on operations. Investigates operating problems which are national in scope and develops corrective action programs. Evaluates all operating experiments, including contract experimentation and prepares reports for Congress and others. Coordinates the Bureau's regulation review activities. Directs the planning, development and execution of HCFA's strategy to improve its Third Party Liability (TPL) recovery programs. Develops, implements and administers national policies, standards and administrative procedures for the Medigap program. Coodinates the Bureau's replies on reports received from the General Acounting Office (GAO) and the Office of the Inspector General (OIG) service delivery assessment reports, etc. Serves as the focal point within HCFA on operational matters of child health. Determines the need for operational instructions to implement new program policies and legislation and coordinates the development of such instructions within BPO. Serves as the focal point in HCFA for the operational aspects of special programs or projects (e.g., Rural Health, Home and Community Based Waivers, etc.) and for interprogram matters (e.g., coordination of Medicare and Medicaid with the Indian Health Service programs) that require interagency/interprogram coordination.

d. Division of Operations Standards (FPA38)

Establishes qualitative and quantitative performance standards and requirements for Part A and Part B Medicare contractors and Medicaid State agencies and fiscal agents. In terms of cost, quality and timeliness of operations, as well as adequacy of beneficiary services, quantifies and describes the acceptable levels of performance by which intermediaries, carriers, State agencies and fiscal agents are evaluated as participants in the Medicare or Medicaid programs or in operational experiments. Negotiates

with Regional Offices, contractors, State agencies, fiscal agents, other HCFA components and national public and private professional organizations to arrive at a consensus on proposed or revised performance standards requirements prior to their formal issuance. Analyzes all quantitative and qualitative standards and program requirements to assess their operational validity and makes recommendations for appropriate changes. In response to special program needs, designs, develops and conducts special studies and/or coordinates with other HCFA components on the conduct of demonstration projects relating to the areas of responsibility of the Office of Program Administration.

3. Office of Program Operations Procedures (FPA4)

Develops and promulgates specifications, requirements, methods, systems, standards and procedures to implement and maintain operational systems for Medicare and Medicaid programs including detailed definitions of the respective responsibilities of providers, State agencies, contractors, HCFA and the beneficiaries of HCFA programs. Reviews and evaluates systems, systems plans and proposals and Automated Data Processing (ADP) acquisition/modifications involving carriers, intermediaries and State agencies and approves Federal Financial Participation for State Medicaid systems. Plans, directs and coordinates operational policy, systems and procedures for the establishment and maintenance of Medicare entitlement, premium billing and collection and Medicaid eligibility. Directs and coordinates systems security with respect to Medicare and Medicaid contractors and State agencies.

a. Division of Systems Requirements (FPA41)

Develops standards, procedures, guidelines and methodologies pertaining to the review, evaluation and assessment of contractors and State agency automated systems to determine their compliance with published Federal requirements. Designs and employs test criteria to determine the accuracy and effectiveness of claims processing systems. Reviews State agency or fiscal agent MMIS for approval of increased Federal Financial Participation. Provides technical assistance to the Office of Program Administration and Regional Offices with respect to Electronic Data Processing (EDP) procurements and reviews proposed hardware/software modifications and/or equipment upgrades. Establishes technical specifications for EDP procurement procedures and, where appropriate, conducts onsite reviews to determine the necessity and accuracy of such procurement requests. Serves as a clearinghouse for technical innovations and cost effective methodologies pertaining to the state of the art in EDP development. Provides technical support for experimentation projects pertaining to the combined processing of Medicare Part A with Part B claims and Medicare with Medicaid claims.

b. Division of Systems Planning and Development (FPA42)

Develops, directs and cooordinates systems plans and studies for the effective integration of all Medicare and Medicaid automated and nonautomated processing systems at the State agency or contractor level. Designs and conducts studies, demonstrations and surveys to improve Medicare and Medicaid operational systems, methods and procedures. Designs and tests new automated information systems and model systems. Conducts, reviews and performs analyses for future development of model systems functions in such areas as data management, data base systems analysis and design, distributed processing, terminal operations, mini-computers and operational security. Coordinates systems demonstration projects and participates in the review and evaluation of systems-related projects. Plans, develops and monitors systems requirements for Titles XVIII and XIX and coordinates systems requirements for related programs such as child health assurance.

c. Division of Eligibility Systems (FPA43)

Plans; directs and coordinates the development and improvement of operational policy, systems and procedures for the establishment and maintenance of Medicare entitlement records, for the billing and collection of Medicare premiums, for administering the State buy-in agreements and for coordinating eligibility for individuals covered under the Medicare and Medicaid programs. Assists States to plan, develop and implement Medicaid eligibility systems either as separate eligibility systems or in coordination with other related eligibility systems. Assesses the impact of operating systems on beneficiaries of HCFA programs and develops proposals to better meet their needs. Reviews adequacy of services furnished by the Social Security Administration (SSA) in

establishing eligibility for Medicare beneficiaries and collecting premiums. Plans, directs and coordinates the development and improvement of operational policy, systems and procedures at the contractor or State agency level with respect to systems security.

d. Division of Methods and Systems Procedures (FPA44)

Directs the development and issuance of specifications, requirements, procedures, functional standards and instructional material to implement and maintain operational systems for precessing Medicare and Medicaid claims and defining their applications to Medicare contractors, providers and suppliers of services, HCFA, States and beneficiaries of HCFA programs. Prepares general systems plans and develops requirements for the detailed design and programming for model systems used by Medicare contractors and by States in the administration of the Medicaid program. Plans, conducts and evaluates studies aimed at long-range improvements in systems, methods and procedures as they relate to the administration of the Medicare and Medicaid programs and integration of systems within the framework of HCFA policies, goals and objectives and to promote efficiency and cost effectiveness. Provides direction to, and liaison with, HCFA components involved in the maintenance of health insurance utilization records and contractor-HCFA date exchange systems and procedures.

4. Office of Financial Operations (FP A7)

Sets policies and procedures by which State agencies (except State survey agencies), contractors and Regional Offices prepare and submit periodic budget estimates. In consultation with other HCFA and Bureau of Program Operations (BPO) components, develops and negotiates the national budget for Medicare contractors, including workload and funds estimates. Controls and manages the Medicare cash flow and related banking activities. Compiles estimates of benefit payments and administrative costs for the State Medicaid program. Issues and administers the Medicaid grant awards. Reviews all State Claims for Federal reimbursement under Title XIX. Reviews periodic contractor and State agency expenditure reports to evaluate budget execution and determine the allowability of costs. Provides definitive HCFA interpretation of Medicaid administration and training cost reimbursement policy. Issues clarifications to Regional Offices regarding operational Federal Financial Paticipation (FFP) issues. Prepares analyses of Medicare and Medicaid expenditure trends and patterns. Determines allowability of State Medicaid reimbursement claims, serves as focal point in Central Office for defense of disallowances before the Departmental Grant Appeals Board (GAB) and interprets and disseminates GAB decisions to pertinent HCFA staff. Ensures implementation of GAB decisions. Reviews contractor, State agency and State fiscal agent performance in determining the correct amount of provider, physician and supplier overpayments and assists contractors, State agencies and fiscal agents in negotiations related to the acceptability of the technique for determining the amount of overpayment and the methods of recovery. Prepares cases when compromises are not appropriate and overpayments are uncollectable and assists the Claims Collection Officer in preparing such cases for disposition. Prepares manual instructions concerning the procedures for recovery of provider cost report overpayments. Designs, implements and maintains a Medicare/Medicaid overpayment tracking system. Directs the processing of all Medicare (Part A) beneficiary overpayments and appeals. Plans, directs and coordinates the processing of claims submitted for reconsideration and hearings. Develops, plans and conducts a comprehensive program to incorporate Group Health Plans Operations into Medicare and Medicaid programs.

a. Division of Contractor Financial Management (FP A71)

Formualtes and approves the national budget for Medicare contractor administrative costs. Directs the Medicare contractor budget process. Develops, implements and monitors cash management letter-of-credit procedures for contractors and servicing banks. Sets requirements and procedures for contractors and Regional Offices to prepare and submit periodic budget estimates and reports. Analyzes and evualtes budget estimates submitted by contractors for ADP systems proposals. Participates in experimental contract Request for Proposal (RFP) preparation and proposal evaluation made by the Bureau of Program Operations (BPO). Participates in negotiations and approval of all related price adjustments. Reviews periodic contractor expenditure reports to evaluate budget execution and determinations of the allowability of costs. Designs, maintains and, as necessary, prepares specifications to revise the automated Contractor Administrative Cost Information System (CACIS). Analyzes contractor administrative cost data and trends. Directs and prepares instructions to guide Regional Offices in conducting reviews of specific financial management areas and reviews Regional Office performance to assure consistency in implementation of instructions. Interprets cost reimbursement principles and policies for contractors related to operational accounting issues. Determines compliance with accepted accounting principles and procedures.

b. Division State Agency Financial Management (FP A72)

Establishes policies and procedures by which Medicaid State agencies and Regional Offices submit periodic budget estimates and reports. Analyzes budget estimates and formulates the national Medicaid budget. Administers the State grants process for administrative and program payments. Reviews all State claims for Federal reimbursement under Title XIX. Reviews periodic State agency expenditure reports to evaluate budget execution and determine the allowability of costs. Reviews Regional Office disallowances of State claims for Medicaid reimbursements. Serves as focal point in the Bureau of Program Operations for defense of disallowance decieions before the Grant Appeals Board (GAB), analyzes and disseminates GAB decisions and monitors their implementation. Sets and interprets fiscal requirements and procedures for use by States and Regional Offices. Develops HCFA insturctions for regional staff concerning the financial review of the Medicaid program and reviews Regional Office performance to assure consistency in implementation of instructions. Directs and coordinates the fiscal aspects of the Title XIX program activities. Provides definitive HCFA interpretation of Medicaid cost rembursement policy for administration and training. Responsible for operational policies regarding avaliability of Federal Financial Participation (FFP), designation of appropriate FFP rates and for issuing interpretations to Regional Offices regarding operational FFP issues.

c. Division of Provider Overpayment (FP A73)

Analyzes capabilities of the Medicare/Medicaid intermediaries, carriers, fiscal agents and State agencies to ascertain the most efficient application of funds available for auditing providers and suppliers. Develops approaches and methods to reduce the incidence of overpayments by suggesting modification of reimbursement practices and other circumstances that give rise to overpayments. Prepares manual instructions for Regional Offices. Contractors, State agencies and fiscal agents on the proper procedures for recovery of overpayments of Medicare and Medicaid funds. Analyzes, controls and monitors outstanding overpayments to assure that contractors, State agencies and fiscal agents are timely identifying and collecting overpayments. Advises and assists Regional Offices, contractors, State agencies and fiscal agents in negotiations with providers, physicians and suppliers relatiing to the acceptability of particular techniques of determining the amount of overpayments, the responsibility for repayment and the method of recovery. In cases for which recovery action is pursued, maintains the control system relating to the statute of limitations for filing suit and processes uncollectable overpayment cases. Provides the Claims Collection Officer with complete documentation regarding overpayment cases being referred to the U.S. Attorney.

d. Division of Beneficiary Appeals and Overpayments (FP A74)

Directs the processing of all Medicare (Part A) beneficiary appeals and overpayment. Plans, directs and coordinates the processing of claims submitted for reconsideration and hearings. Reviews decisions by the Office of Hearings and Appeals, SSA, with respect to the liability and amount of beneficiary overpayments. Evaluates and provides input to other HCFA components on the performance of contractors with respect to the processing of beneficiary appeals and overpayments.

e. Division of Group Health Plans Operations (FPA75)

Develops, plans and conducts a comprehensive program to contract with and make payments to Group Health Plans (Health Maintenance Organizations, Group Practice Prepayment Plans and Comprehensive Health Centers) for provision of services under the Medicare program. Coordinates and monitors the implementation with other HCFA and HHS components, as necessary, on problems involving capitation formulae, medical reimbursement policies, systems and data collection. Determines the payments to Group Health Plans and the amounts, methods and frequency of retroactive adjustments. Evaluates cost reporting and conducts a continuing audit program to determine final program liability. Conducts or participates in studies aimed at long-range improvements and the overall evaluation of the Group Health Plans. Develops, plans and conducts a comprehensive program to incorporate Group Health Plans into the Medicaid program.

2. Section FP.20.B. Bureau of Quality Control (FPC) is amended by deleting the functional statement only for the Bureau of Quality Control and then every subsequent organization title, functional statement and administrative code thereafter within Section FP.20.B. The deleted sections are to be replaced by the following updated functional statements, organizational titles and administrative codes. (Whenever possible, current administrative codes have been retained.)

B. Bureau of Quality Control (FPC)

Operates statistically based quality control programs and conducts problem-focused assessments in the areas of claims payment, institutional reimbursement, eligibility, third-party liability and utilization control and develops similar additional quality control programs which measure the financial integrity of Medicare and Medicaid. Following coordination with pertinent HCFA components, notifies carriers, fiscal intermediaries and State agencies of findings resulting from quality control programs. Makes recommendations to the Associate Administrator for Operations regarding financial penalties authorized and determined appropriate under regulations. Assists State Medicaid fiscal agents and Medicare contractors in improving the management of Federally required quality control programs. Develops, operates and manages a program for the performance evaluation of Medicare contractors and Medicaid State agencies and fiscal agents. Compiles operational and performance data for recurring and special reports to reflect status and trends in program operations effectiveness. Identifies significant trends and priority problems through comprehensive analyses of program operations and performance and evaluates findings surfaced through various assessment programs. Develops and conducts comprehensive analyses and studies of selected areas of policy and operations to evaluate the appropriateness, cost effectiveness or other impact resulting from implementation of law, regulations, policies or operational procedures and systems. Develops recommendations for specific policy or operational improvements based on assessment findings. Coordinates, monitors and evaluates all corrective action initiatives resulting from program assessment findings. Develops program-wide policies, regulations, procedures, guidelines and studies dealing with program effectiveness, oversight and improvement.

1. Executive Operations Staff(FPC–1)

Coordinates, for the Director, Bureau of Quality Control (BQC), matters of Bureau policy. Manages the development of Federal regulations prepared by the Bureau. Implements BQC correspondence tracking and control procedures including standards for style of correspondence and memoranda. Serves as primary contact point with the HCFA Office of Executive Operations. Exercises responsibility for BQC organizational planning, management analysis and informational functions, financial management, manpower control, training, administrative support activities, management advisory services, an Equal Employment Opportunity (EEO) program and related personnel and financial functions.

2. Office of Quality Control Programs (FPC2)

Designs and implements statistically based reviews and structural assessment programs to determine the overall effectiveness of quality control programs operated by carriers, intermediaries, State agencies, the HCFA Office of Direct Reimbursement and other related organizations. Develops and applies polices, standards and guidelines for quality control programs to provide uniform and comparative assessment of State and contractor performance in the areas of program eligibility and reimbursement, claims payment, utilization control and beneficiary services. Designs, develops and implements procedures for assessing adherence to requirements for various Medicaid Management Information System (MMIS) criteria. Designs and implements new or modified quality control programs to assure proper stewardship of Federal funds by carriers, intermediaries, State agencies and other HCFA-related organizations. Initiates recommendations for financial penalties and disallowances on the basis of formal review results. Evaluate Regional Office performance in monitoring quality control programs and conducting sample reviews. Participates with other HCFA components in developing

VOL
48
ISS
1
9
8
OC
12
1983
UMI

regulations, policies and procedures for program administration. Provides consultation and technical guidance to carriers, fiscal intermediates, State agencies and Regional Offices on quality control.

a. Division of Program Payment Assessment (FPC21)

Develops, implements and directs national quality control programs to determine the effectiveness of Medicare contractors' and Medicaid State agencies' performance in the area of claims payment. Assures uniform national assessment of contractor and State agency compliance with claims payment standards and program requirements. Designs, develops and implements procedures for assessing adherence to requirements for various Medicaid Management Information System (MMIS) criteria. Provides documentation and analysis necessary to initiate and support actions on sanctions that read from established claims payment quality control program incentives and corrective action requirements. Reviews and recommends action for adjudicating appeals of these sanctions. Promulgates guidelines and requirements for operation and direction of assessment and quality control programs. Establishes and operates systems for analyzing results of assessment and quality control programs identifying performance deficiencies. Develops, implements and operates a comprehensive system for assessing and assuring adherence to requirements for operating quality control and assessment systems. Systematically reviews established quality control and assessment programs and implements appropriate enhancements. Prepares recurring and special reports of quality control findings in the area of claims payment to document performance assessment results, present comparative analyses of individual State and contractor performance, interpret quantifiable findings and to indentify trends, significant problems and corrective action indicators. Consults with other components in evaluating the impact of existing and proposed program requirements on claims payment effectiveness and in developing proposals for legislative, policy or operational reform.

b. Division of Institutional Reimbursement Assessment (FPC22)

Develops, implements, directs and operates national quality control programs to determine the effectiveness of Medicare contractors' and State agencies' reimbursement to institutional providers, including assessment of cost-based, prospective and alternative reimbursement systems and oversight of chain-providers' home office costs. Assures uniform national assessment of Medicare contractors' and State agencies' compliance with institutional reimbursement performance standards and program requirements. Promulgates guidelines and requirements for direction of reimbursement assessment and quality control programs. Establishes and operates systems for analyzing results of reimbursement assessment and quality control programs, assessing performance, identifying performance deficiencies and trends and determining need for new tracking and evaluation techniques. Develops, implements and operates a comprehensive system for assessing and assuring adherence to requirements for operating institutional reimbursement, quality control and assessment programs. Systematically reviews established reimbursement quality control and assessment programs and implements appropriate enhancements reflecting operational, legislative and administrative changes. Prepares recurring and special reports of operational effectiveness in institutional reimbursement to document performance assessment results, present comparative analyses of individual State and contractor performance, interpret quantifiable findings, and identify trends, significant problems and appropriate corrective actions. Consults with other components in evaluating the impact of existing and proposed program requirements for effective reimbursement to institutional providers and in developing proposals for legislative, policy or operational reform.

c. Division of Program Benefits Assessment (FPC23)

Develops, implements, directs and operates national quality control programs to determine the effectiveness of Medicare contractors' and Medicaid State agencies' performance in the areas of eligibility determinations and beneficiary services. Assures uniform national assessment of contractor and State agency compliance with eligibility and beneficiary service standards and program requirements. Promulgates guidelines and requirements for operation and direction of assessment and quality control programs. Establishes and operates systems for analyzing results of assessment and quality control programs identifying performance deficiencies and trends. Provides documentation and analysis necessary to initiate and support actions on disallowances, sanctions and corrective action requirements, and on adjudication of appeals of disallowances and sanctions. Develops, implements and operates a comprehensive system for assessing and assuring adherence to requirements for operating quality control and assessment systems. Systematically reviews established quality control and assessment programs and implements appropriate enhancements. Prepares recurring and special reports of quality control findings in areas of eligibility and beneficiary services to document performance assessment results, present comparative analyses of individual State/contractor performance, interpret quantifiable findings and to identify trends, significant problems and corrective action indicators. Develops, implements, directs and operates mathematical/statistical procedures and data generating systems for all BQC quality control assessment systems and special studies. Designs and maintains sampling procedures, formulas for calculating findings, data reporting systems and procedures for statistical analyses for Office programs. Consults with other components in evaluating the impact of existing and proposed program requirements on eligibility and beneficiary services' effectiveness, and in developing proposals for policy or operational reform.

3. Office of Program Quality Evaluation (FPC3)

Conducts comprehensive analyses of overall program operations and performance and evaluates key findings surfaced through multiple assessment programs. Compiles operational and performance data for recurring and special reports to reflect status and trends in program operations effectiveness. Identifies significant trends and priority problems, draws broad conclusions about vulnerable program management areas and identifies emerging problem areas. Provides information and analysis necessary for long-range assessment planning, and develops recommendations for more effective oversight in priority areas. Provides data and systems analysis support to other components for production and interpretation of program operations and performance indicators.

a. Division of Program Quality Evaluation (FPC31)

Analyzes a broad range of program operations indicators and key findings from all BQC assessment programs. Prepares summary interpretive reports reflecting overall analysis of key operational performance findings. Serves as a resource regarding significant findings and trends. Provides a comprehensive evaluation of significant trends in the cost and effectiveness of program operations and identifies priority or recurring problems surfaced through multiple assessment approaches. Identifies indicators of apparent causes and effects and draws broad conclusions about vulnerable program areas. Identifies emerging and potential problem areas and develops recommendations for refocusing BQC assessment programs. Serves as the focus for information and analysis to support long-range planning of Bureau activities.

b. Division of Reports and Analysis (FPC32)

Designs and develops a system of reports that generates Medicare contractor and Medicaid State agency and fiscal agent data regarding program administration. Reviews contractors', State agencies' and fiscal agents' reporting systems for consistency and ability to transmit the required information and prepares appropriate reporting changes. Prepares written interpretations and analyses of operating data to provide other Bureau components with information necessary in conducting performance evaluations. Develops specifications for an automated administrative information system for Medicare and Medicaid. Coordinates the development of the data set. Prepares recurring and special reports of status and trends in program administration and operational effectiveness. Provides technical assistance to Regional Offices, contractors, State agencies and fiscal agents on reporting requirements.

c. Division of Quality Control Systems Analysis (FPC33)

Provides the Bureau of Quality Control with internal systems expertise to produce and interpret operational performance indicators from the manipulation of computer-stored financial and program data and to review the integrity of operating systems. Identifies and accesses operating computer-stored programs and financial information in order to develop lead information for in-depth reviews by other BQC units or the Division of Quality Control Systems Analysis directly. Develops methods and programs for manipulating operating data and statistics to identify trends and to improve interpretive analyses through cross comparison of key data. On the basis of this information or lead information from other sources, tests selected Medicare and Medicaid systems onsite to identify system deficiencies which may contribute to erroneous payments. Reviews model systems or other systems requirements developed by the Bureau of Program Operations or other HCFA components in order to assure the capability of HCFA-reimbursed systems to prevent erroneous payments.

4. Office of Operational Reviews (FPC6)

Develops, conducts and/or directs Regional Office (RO) participation in intensive analyses of selected areas of quality control and asessment policy and operations. Assessments are conducted to document and evaluate the incidence and cause/effect of specific priority problems or other impact resulting from implementation of laws, regulations, policies or operational procedures and systems. Where inappropriate payments exist, develops analytical reports and specific recommendations for more effective policy or operational controls. Makes independent, nonroutine assessments of systemic policies and operational processes and concerns to asure that results are consistent with the needs and goals of the Medicare/Medicaid programs. Develops program-wide regulations, procedures, guidelines and studies dealing with program effectiveness, oversight and improvement. Develops, implements and maintains programs for comprehensive performance evaluation of Medicare contractors and Medicaid State agencies and fiscal agents to compare and consolidate operational and cost effectiveness data with findings from a variety of assessment and quality control programs. Provides technical direction and guidance to ROs in their overall evaluation of the performance of contractors, State agencies and fiscal agents. Assures timely production of individual and composite reports which document and evaluate the performance of State agencies and Medicare contractors. Oversees corrective action (CA) policies and processes affecting State agencies and Medicare contractors, including criteria for corrective action plans, assessment of value of planned and implemented corrective actions monitoring of CA progress and effectiveness, and recommendations for imposing or waiving penalties and fiscal disallowances. Provides overall counsel to Bureau management, Central Office and field components in the priorities, direction and accomplishments of the Office.

a. Division of Issue Analysis (FPC61)

Designs and conducts problem-focused analyses of available information about program performance, operations and expenditures to evaluate the probable cause, incidence and impact of selected program problems. Reviews and evaluates the effectiveness of selected policies and operational processes to ensure fiscal accountability and consistency with program management objectives. Where conclusions can be supported by comparative analyses of available data, prepares interpretive reports to advise policy and operating officials of key findings and to present documented recommendations for problem resolution. Identifies areas where further assessment and documentation are needed to fully interpret problem indicators, explain probelm causes or support recommendations for improvement. Accomplishes preliminary research, provides lead information and develops detailed proposals for more in-depth problem assessment and documentation by other components. Assures that recommendations surfaced through Office assessments are fully documented, reflect relevant collateral sources and concerns and are effectively presented so that appropriate action may be taken. Directs Bureau liaison activity relating to sanctions, civil money penalties, audits and other actions initiated by external monitoring agencies. Identifies Office data needs and provides specialized analyses to Office components. Develops guidelines and evaluation criteria, and monitors and evaluates all corrective action activity flowing from review and assessment recommendations having to do with improving program quality and effectiveness. Prepares recommendations concerning limitations, withholding of Federal funds, penalties, sanctions, or adverse actions of Medicare contractors and/or Medicaid State agencies. Coordinates with BERC, BPO and other HCFA components to assure that program review recommendations are appropriately resolved. Evaluates and takes necessary action to refer all proposed administrative remedies regarding compliance of State agencies to appropriate HCFA authorities. Acts as clearinghouse for all recommended operational programmatic changes forwarded by Regional Office components.

VOL
48
ISS
1
9
8
OC
12
1983
UMI

b. Division of Program Effectiveness Reviews (FPC62)

Undertakes in-depth assessment of selected programmatic areas to determine whether established policy and operational criteria are effectively met to thoroughly evaluate the appropriateness and cost effectiveness of selected HCFA-wide operational procedures and systems and to supplement available data with additional documentation and understanding of priority problems. Coordinates with policymaking officials in designing reviews, developing protocols and conducting reviews. Conducts and/or directs RO participation in reviews. Recommends specific policy or operational modifications directed to parties responsible for effectuating change. Consults with HCFA policy and operational components and prepares specific recommendations for regulatory and legislative initiatives to enhance cost-effective program management. Develops and conducts studies to evaluate the potential impact resulting from implementation of proposed law, regulation, and/or policy and determines the need for improved policy or operational controls to assure fiscal accountability and effective program management. Conducts special surveys in critical areas, identifying problems and barriers to problem resolution and developing and recommending alternative solutions. Develops, conducts and/or direct RO participation in pilot reviews of selected areas to determine the potential benefit of conducting comprehensive analyses of selected program problem areas. Determines data analysis needs and develops specifications for use in conduct of pilot studies and national effectiveness reviews. Recommends program-wide policies, regulations, procedures, guidelines and studies dealing with program effectiveness, oversight and improvement.

c. Division of Performance Analysis (FPC63)

Develops, implements and conducts a program for comprehensive performance evaluation of Medicare contractors, Medicaid State agencies and fiscal agents. Develops, implements and maintains the Contractor Performance Evaluation Program (CPEP) and the State Assessment Program for the evaluation of Medicare contractors, State agencies and fiscal agents against established performance standards. Provides technical direction and guidance to Regional Offices in their overall evaluation of the performance of contractors, State agencies and fiscal agents. Analyzes CPEP and State assessment results, in conjunction with relevant operational and cost data, to determine the operational effectiveness of individual contractors, State agencies or fiscal agents. Prepares composite evaluation reports and comparative rankings of individual contractor and State agency performance. Coordinates the review of Regional Office evaluations of contractor and State agency conformance with Central Office policies and procedures. Identifies significant operational problems and/or issues of national concern with respect to contractors and State agencies and makes recommendations for corrective action to appropriate Office of the Associate Administrator for Operations (OAAO) components. Identifies pervasive problems and surfaces areas needing further evaluation by other Bureau components.

3. Section FP.20.C. Health Standards and Quality Bureau (FPE) is amended by deleting the functional statement only for the Health Standards and Quality Bureau and then every subsequent organization title, functional statement and administrative code thereafter within Section FP.20.C. The deleted sections are to be replaced by the following updated functional statements, organization titles and administrative codes. (Wherever possible, current administrative codes have been retained.)

C. Health Standards and Quality Bureau (FPE)

Provides leadership and overall programmatic direction for implementation and enforcement of health quality and safety standards for providers and suppliers of health care services and evaluates their impact on the utilization, quality and cost of health care services. Plans, develops and establishes procedures and guidelines for administering and evaluating the nationwide Medicare and Medicaid survey and certification program. Monitors and validates the process for certifying that participating providers and suppliers are in compliance with established conditions and standards. Responsible for implementation and operation of professional review and other medical review programs. Administers a comprehensive system for assessment of individual professional and medical review organizations to determine compliance with program requirements and to document the effectiveness and impact of their activities. Establishes specifications for information and data reporting, collection and systems requirements for the survey and certification, professional review and other medical review activities.

1. Office of Program Support (FPE2)

Provides management of personnel, financial material and data systems resources within the Health Standards and Quality Bureau (HSQB) including work planning, the administrative budget, management analysis, procurement, contracts and grants and other areas of administration. Provides for the Bureau, management of staff personnel utilization and personnel programs including staff placement, personnel actions and employee appraisal systems. Manages for the Bureau a variety of management planning, reporting and monitoring systems required by HCFA and HHS. Formulates the Bureau's administrative budget and operating plans including trends and reprogramming as necessary. Provides management of the Bureau's records, files and correspondence progams. Provides Bureau policy, standards and procedures governing the design, development and maintenance of publications and forms. Manages Bureau printing, duplicating, reprographics and distribution services. At the Bureau level, interprets and implements Department and HCFA management and administrative policies, procedures and systems and conducts analyses as required. Maintains liaison with HCFA, the Department and other government components in order to provide management advice and support to the Bureau. Participates in assessing and evaluating HSQB organizational performance and compliance in carrying out HSQB and HCFA policies and procedures. In accordance with policies and standards established by the Bureau of Data Management and Strategy, develops data systems procedures and requirements. Monitors the development and design of data systems for AAO components. Designs and prepares computer programming for major AAO systems, program-related data base systems and special systems due to legislative or program initiatives. Provides technical assistance to AAO components to facilitate the implementation of data systems, data quality control, analysis and reporting.

2. Office of Medical Review (FPE3)

Coordinates implementation of professional review and other medical review programs. Develops and implements operational procedures and instructions relating to fiscal management of professional review programs, including the principles of reimbursement for review, development of program related budgets, accounting procedures, reports management, statistical reporting, and auditing requirements applicable to such professional review organizations. Establishes guidelines relating to the oversight of professional and other medical review organizations. Provides advice and assistance to Regional Office staffs and other organizations conducting professional review concerning fiscal and program management activities. Prepares issues for the Office of the General Counsel reviews relating to legal aspects of professional review and quality assurance.

a. Division of Program Operations (FPE31)

Provides overall programmatic and technical management of contracts and any other financing agreements with organizations conducting professional and medical review including establishment of expenditure levels, final approval of funding requests and resolution of audit findings. Provides program guidance and assistance to Regional Office staff in performance of their responsibilities. Communicates and interprets HCFA medical review policies to professional and medical review organizations and provides or arranges for the provision of technical assistance. Administers a comprehensive system for assessment of individual, professional and medical review organizations to determine compliance with program requirements and to document the effectiveness and impact of their activities. Initiates, designs and carries our studies and analyzes data provided through HSQB data systems on a routine and special basis.

b. Division of Reveiw Programs (FPE32)

Develops and interprets methodologies and systems for all programs related to professional review of medical necessity, reasonableness and appropriateness of services (e.g., ancillary, inpatient, ourpatient, or suppliers or practitioner care) reimbursed under Titles V, XI, XVIII and XIX of the Social Security Act. Professional review includes review performed by PSROs, fiscal intermediaries and carriers, hospital utilization review committees and Medicaid State agencies. Develops and interprets policies related to the conduct of professional review at various levels of care. Develops and interprets operational policies for the involvement of physicians and other health care professionals in the conduct of professional review. Develops, with other office of medical review components, criteria for objective setting and the application of norms, criteria and standards of professional review. Develops criteria for evaluation of professional review. Develops and interprets medical review policies regarding the impact of review on technical issues such as waiver of liability, inappropriate level of care, "grace days", and denials of reimbursement based on medical necessity with attendant reconsiderations and appeals. Monitors legislative, regulatory and operational developments related to medical review. Identifies and initiates necessary changes resulting from such developments. Develops legislative agenda and proposals related to statutory changes in medical review policies or procedures. Serves as a technical resource within the Bureau of resolving medical review issues and providing assistance on other program decision areas.

3. Office of Survey and Certification (FPE5)

Develops and establishes procedures and oversees the implementation and enforcement of health and safety standards for providers and suppliers of health services under Medicare, Medicaid and other Federal health programs. Administers and monitors the nationwide Medicare and Medicaid provider and supplier certification program. Develops procedures and guidelines for regional certification responsibilities under Medicare and Medicaid. Monitors and validates the application of health and safety standards and the adherence to Medicare and Medicaid certification program. Develops procedures and guidelines for regional certification responsibilities under Medicare and Medicaid. Monitors and validates the application of health and safety standards and the adherence to Medicare and Medicaid policies by State survey agencies and other approved accrediting bodies. Monitors and evaluates regional performance of oversight responsibilities in survey and certification. Reviews the validity and effectiveness of existing standards. Develops and analyzes national data on the administration of the Medicare and Medicaid survey and certification program and develops methods for improvements. Conducts training, informational and other initiatives for improving the performance of State survey agencies and the providers and suppliers under the Medicare and Medicaid programs.

a. Division of Data and Program Analysis (FPE56)

Initiates, designs, and carries out analyses of programmatic and health management data generated by the centralized Medicare and Medicaid Automated Certification Systems (MMACS) on a routine and special basis. Serves as the Office focal point in identifying survey and certification issues and in developing program assessment methodologies. Develops criteria for assessing the performance and efficiency of the survey and certification activity at both the Regional and the State level. Provides technical assistance and training to Central and Regional Office personnel involved in the utilization of data output. Develops new approaches for survey and certification on the basis of needs identified through MMACS data, Regional Office direct surveys, comments from State survey agencies and other program areas. Tests improvements in the State agencies' certification process including modification of reporting procedures, utilization of personnel and use of financial incentives. Develops criteria for setting surveyor qualifications and methods for reviewing the performance of survey personnel. Collects and anlayzes data derived from MMACS for use by Regional Offices and State agencies in pinpointing specific certification problems and for development of criteria and procedures to assess the quality of care being recorded by Medicare and Medicaid providers. Examines and revises, in coordination with two other standards and certification divisions, the Division of Survey Procedures and Training and the Division of Institutional and Ambulatory Services within HSQB, as well as other concerned organizations within HCFA or HHS, the survey report forms, guidelines and instructions to ensure consistency of application and interpretation by both surveyors and providers.

b. Division of Survey Procedures and Training (FPE57)

Develops and coordinates administrative and fiscal procedures and guidelines for State survey and certification agencies. Monitors and evaluates State agency operations and certification functions through the comprehensive program review of State agency activities. Develops procedures for evaluating the effectiveness of Regional Office oversight of State

survey agency performance. Makes periodic onsite reviews of the Division of Health Standards and Qualtiy in Regional Offices and of State agencies. Assists Regional Offices by arrangeing for supplemental personnel to participate in direct sample surveys of provider institutions and by participating in program and administrative reviews conducted by communications to State agencies and regions relating to provider certification and State agency management. Develops and conducts a survey and certification training program for regional and State agency personnel. Promotes provider/supplier personnel training programs based on analysis of deficiency patterns, study results and suggestions from provider groups. Develops and/or updates existing training materials and techniques for surveyor and provider personnel. Provides technical assistance to educational institutions, professional organizations and State agencies in developing training activities.

c. Division of Institutional and Ambulatory Services (FPE58)

Directs and coordinates activities that implement, enforce and monitor health quality and safety standards and other health care procedures for all providers and suppliers under Medicare, Medicaid and other Federal programs. Applies regulations, procedures and guidelines for the improvement of standards enforcement and validation processes. Reviews and analyzes existing standards to determine their initial and continued effectiveness and impact on utilization, quality and cost of provider and supplier services and initiates new or revised instructions or standards, as necessary. Develops, reviews and maintains guidelines and instructions for interpretation, implementation and enforcement of health quality and safety standards by the Regional Offices and State survey agencies. Prepares provider/supplier participation materials and instructions. Develops survey and certification forms and procedures utilized by State survey agencies in the survey and certification process. Monitors the enforcement of health quality and safety standards and compliance with established policy by State survey agencies and other public and private organizations participating in the Medicare and Medicaid programs. Directs and coordinates division functions with the Bureau of Program Operations and Bureau of Eligibility, Reimbursement and Coverage. Conducts liaison with professional groups and standards setting organizations. Services as the focal point for responding to Regional Office, State agency, Congressional, organizational and individual inquiries relating to the application of health and safety requirements including those of the Clinical Laboratories Improvement Act and certification procedures for participating providers and suppliers.

4. Section FP.20.D. The Office of the Regional Administrator (FP D(I–X)) is amended by deleting the organization title, functional statement and administrative code for Section FP.20.D.2. Division of Quality Control (FP D(I–X)B) in its entirety.

5. Section FP.20.D.1. Division of Health Standards and Quality (FP D(I–X)A), the functional statement is deleted in its entirety and replaced by a new functional statement. The organization title and administrative code remains the same. The new functional statement is:

1. Division of Health Standards and Quality (FP D (I–X)A)

Under the direction of the HCFA Regional Administrator, the Division of Health Standards and Quality assures that health care services provided under Medicare and Medicaid are furnished in the most effective and efficient manner consistent with recognized professional standards of care. Serves as the regional focus for assuring accountability to health care consumers for the quality of health care services. Participates in the formulation and development of health standards and quality policies and programs; interprets and implements health safety standards and evaluates their impact on the utilization and quality of health care services. Ensures appropriate review and application of conditions of participation for providers and suppliers of health services under Medicare and Medicaid and other related Federal programs. Exercises authority for approval/denial/termination of all provider/supplier certification actions under the Medicare program. Makes final determination on all initial budget requests submitted by State survey agencies. Exercises authority on all fiscal matters relating to section 1864 Medicare State Survey Agency agreements. Resolves conflicts involving the State survey agency and professional review and medical review organizations. Oversees, monitors and evaluates the Medicaid State Agency, State survey agencies and professional review and medical review organizations. Maintains liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries. Participates in the conduct of national studies and conducts comprehensive regional reviews by selectively evaluating indicators of policy or operational weaknesses to provide information concerning the effectiveness and cost implications of HCFA policy and operational decisions. Coordinates State and contractor responsibilities and activities related to sanctions, civil money penalties, and other Office of the Inspector General (OIG) activities. Recommends corrective action within functional areas of responsibility including Federal/State statutory and regulatory changes to Central Office and States respectively. Interprets and implements policies and procedures for review and utilization control programs under the Social Security Act and other Federal programs. Oversees the negotiation and award of grants and the operation of local professional review and medical review organizations. Performs regional responsibilities relating to experimental and demonstration projects. Develops and implements a program of liaison with organizations representing health care professionals and providers of health care services, and assumes responsibility for associated program training. Provides current feedback to Central Office on operations, activities, and problems. Provides regional perspective in the development of Central Office policies, objectives, and work plans. Monitors and assesses performance and provides technical assistance to End-State Renal Disease (ESRD) networks by overseeing financial management and compliance with program policies and regulations and ensures coordination with States and local planning agencies and PSROs.

6. Section FP.20.D.3. Division of Financial Operations (FP D(I–X)C), the functional statement is deleted in its entirety and replaced by a new functional statement. This section is also to be renumbered as Section FP.20.D.2. The organization title and administrative code remains the same. The new functional statement is:

2. Division of Financial Operations (FPD(I–X)C)

Under the direction of the HCFA Regional Administrator, the Division of Financial Operations is responsible for financial management, institutional reimbursement, and Automated Data Processing (ADP) systems of Medicare contractors and Medicaid State Agencies. Assures continuing surveillance and appraisal of Medicare contractors regarding the implementation of Medicare institutional reimbursement policy and procedures. Monitors contractor overpayment identification and collection activities; prepares overpayment cases for submission to the General Accounting Office (GAO) for collectioin and/or to the Department of Justice for possible litigation. Identifies problems and initiates action to ensure contractor adherence to national Medicare financial management policy and procedures. Directs Medicare regional financial management activities. Directs a program of in-depth surveys to evaluate the effectiveness of the Medicare program with respect to the Division's areas of responsibility. Conducts Part B quality assurance program and on-site performance appraisals. Negotiates and approves contractor budgets, modifications to budget allotments and final cost settlements. Coordinates day-to-day contractor financial management activities; reviews and evaluates the cost allocation procedures of contractors. Plans, manages and provides Federal leadership and assistance to Medicaid State Agencies in implementation, mainteneance, and regulatory review of Medicaid State Agency activities with respect to institutional reimbursement, financial management and ADP systems. Interprets Medicaid program and financial policy with respect to institutional reimbursement, financial management, and automated data processing activities. With respect to areas of the Division's responsibility, maintains day-to-day liaison with Medicaid State Agencies and monitors their Medicad program activities and practices by conducting periodic comprehensive on-site program management and financial reviews to assure State adherence to Federal law and regulations. Reviews, approves and monitors Medicaid State Agency institutional reimbursement plan. Reviews cost allocation plans, determines whether such plans are approvable from the Medicaid standpoint and advises Regional Administrative Support Centers of such determinations. Reviews, analyzes, and approves Medicaid State Agency expenditures for Medicaid contracts. Resolves audits with States. Reviews State's quarterly estimates of expenditures under the Medicaid program and recommends the estimated amount to be approved by HCFA in the quarterly grants. Reviews States' quarterly statements of expenditures and recommends appropriate action on amounts claimed. Defers reimbursement action on questionable State claims, reviews the claims for allowability and recommends appropriate action. Issues orders suspending Federal financial participation in State payments to ineligible Title XIX provider institutions and revokes such suspension orders. Advises, provides technical assistance, supports, and evaluates State management information and claims payment systems. Operates systematic Medicare and Medicaid quality control programs in a variety of areas, including Medicaid claims payment, Medicaid eligibility, third-party liability, Medicaid utilization control and Medicare Part B end-of-line bill review. Makes recommendations to the Regional Administrator regarding financial penalties and final decisions regarding Federal/State quality control differences. Assists Medicaid State Agencies and Medicare contractors in improving the management of federally required quality control programs. Recommends corrective action by contractors and State agencies. Provides for State and regional input to operational plans, policy, regulations, legislation, and budget formulation with respect to areas of responsibility. Provides current feedback to Central Office counterparts on operations, activities, and problems. Provides regional perspective in the development of central policy, objectives and work plans related to areas of responsibility.

7. Section FP.20.D.4. Division of Program Operations (FPD(I–X)D) is to be renumbered as Section FP.20.D.3.

Section FQ.20. The Office of the Associate Administrator for Policy (FQ) (Functions) is amended by the following actions:

Section FQ.20.A. Bureau of Eligibility, Reimbursement and Coverage (FQA) is amended by deleting Section FQ.20.A.1. Management Staff (FQA–1) and Section FQ.20.A.2. Executive Secretariat (FQA–2) in their entirety.

2. Section FQ.20.A. is further amended by adding a new organizational unit which will be entitled the Office of the Executive Officer (FQA8). This new organization will be designated number 2. Therefore, the sequence of the major offices within Section FQ.20.A. will change as follows

1. Regulations Staff (FQA–3)
2. Office of Executive Officer (FQA8)
3. Office of Coverage Policy (FQA7)
4. Office of Reimbursement Policy (FQA5)
5. Office of Eligibility Policy (FQA6)

The new organization functional statement and administrative code is as follows:

1. The Office of the Executive Officer (FQA8)

Directs the planning, development and coordination of a comprehensive program of management activities including: financial management, management analysis and information, field liaison, Freedom of Information operations, State Medicaid waiver requests, and an executive secretariat for the Bureau. Serves as principal advisor to the Director, as well as the executive staff of the Bureau of Eligibility, Reimbursement and Coverage, on the full range of management and related administrative issues. Responsible for handling highly sensitive and complex assignments requiring the Director's and Deputy Director's personal attention often involving inter-Bureau and office coordination and direction.

3. Section FQ.20.C.1.a. Division of Coverage and Benefits (FQCC1), is deleted in its entirety and replaced by a new organization title and a new functional statement. The administrative code will remain the same. Section FQ.20.C.1.a. is revised by adding the following new division title and functional statement.

a. Division of Coverage and Eligibility (FQCC1)

Conducts legislative planning and analysis and provides recommendations to senior HCFA and Departmental officials on coverage policies and standards under Medicare and Medicaid for services provided by institutional and noninstitutional providers, coverage policies and legislative standards includes conditions of participation for services provided by individual health care practitioners and suppliers; and policies on eligibility for Medicare and Medicaid including conditions of participation. Provides input to the development of technical specifications for legislation. Provides consultative services to Senators, House Representatives, congressional staff and the public on coverage and eligibility legislative issues. Transmits congressional information, views and inquiries to the appropriate HCFA component(s). Prepares testimony and provides briefings materials for congressional hearings.

4. Section FQ.20.C.1.b. Division of Health Systems (FQCC2) is deleted in its entirety.

5. Section FQ.20.C.1.c. Division of Administration and Reimbursement (FQCC3) the functional statement is

deleted in its entirety and replaced by a new functional statement. This section is also to be renumbered as Section FQ.20.C.1.b. The organization title and administrative code remain the same. The new functional statement is:

b. Division of Administration and Reimbursement (FQCC3)

Conducts legislative planning and analysis and provides recommendations to senior HCFA and Departmental officials concerning Medicare and Medicaid programs in the areas of program administration, reimbursement and reimbursement reform, program interrelationships and any other specific operational aspects. Prepares testimony and provides briefing materials for congressional hearings. Provides consultative services to Senators, House Representatives, congressional staffs, and the public on legislative issues. Transmits congressional information, views and inquiries to the appropriate HCFA component(s). Provides input to the development of technical specifications for legislation.

6. A new section FQ.20.C.1.c. Division of Legislative Reference and Coordination (FQCC4) is added to read as follows:

c. Division of Legislative Reference and Coordination (FQCC4)

Directs and coordinates preparations for the appearance of HCFA witnesses before congressional committee hearings and mark-up sessions. Directs and coordinates HCFA support to Departmental witnesses when they appear before Congress. Coordinates the development of HCFA's fiscal year legislative package and acts as liaison for HCFA legislative activity involving Congressional Budget and Appropriation Committees. Produces a number of information documents on a regularly scheduled basis as well as special reports on special legislative issues and activities. Maintains and services HCFA with a legislative and legislative support reference library and coordinates with the Department on the preparation of bill reports and bill report clearances. Monitors and reports on HCFA contacts and meetings with congressional staff.

Dated: September 28, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-27692 Filed 10-11-83; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vacular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, November 1-2, 1983. The meeting will be held in Conference Room 6 (C Wing), Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on November 1 from 8:30 a.m. to recess and from 8:30 a.m. to adjournment on November 2 to discuss new initiatives and program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: October 4, 1983.

Betty J. beveridge,

NIH Committee Management Officer.

[FR Doc. 83-27708 Filed 10-11-83; 8:45 am]

BILLING CODE 4140-01-M

Genetic Basis of Disease Review Committee; Amended Notice of Meeting

Notice is hereby given of a change in the meeting date and place of the Genetic Basis of Disease Review Committee, sponsored by the National Institute of General Medical Sciences, which was published in the **Federal Register** on September 29, 1983 (48 FR 44659).

This meeting was to have convened at 8:30 a.m. on November 14, 1983, Building 31C, Conference Room 7, National Institutes of Health, but has been changed to 8:30 a.m. on November 15, 1983, Westwood Building, Conference Room 3.

The meeting will be open to the public from 8:30 a.m. to 10:30 a.m.

Dated: October 4, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institution of Health

[FR Doc. 83-27710 Filed 10-11-83; 8:45 am]

BILLING CODE 4140-01-M

National Digestive Diseases Advisory Board; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on October 27, 1983, 8:30 a.m. to adjournment, at the Holiday Inn Hotel, 480 King Street, Old Town Alexandria, Virginia 22314. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of current digestive diseases plan. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Dr. Ralph Bain, Exective Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496-2232, will provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31 Bethesda, Maryland 20205, (301) 496-5765.

Dated: October 4, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-27709 Filed 10-11-83; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Title II and Title XVI Research Grants; Announcement of the Availability of Grant Funds

Correction

In FR Doc. 83-27119 beginning on page 45469 in the issue of Wednesday, October 5, 1983, make the following correction on page 45471: In the middle column, the second line, the date should read "December 5, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise three existing system of records notices. The records system notices, describing records maintained by the U.S. Geological Survey, are titled as follows:

1. Payroll, Attendance and Leave Records—Interior, GS-1 (Published at 48 FR 28746 on 6/23/83).

2. Accounts Receivable—Interior, GS-3, (Published at 48 FR 28747 on 6/23/83).

3. Travel Files—Interior, GS-14 (Published at 48 FR 28748 on 6/23/83).

The three notices are being revised to clarify that records on employees of the Minerals Management Service are included in each system of records. Also, the existing statement in each notice providing for disclosures to consumer reporting agencies is revised in accordance with guidance issued by the Office of Management and Budget on July 22, 1983. The revised system notices are published in their entirety below.

5 U.S.C 522a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on this proposal can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before November 14, 1983, will be considered. The system notices shall be effective as proposed without further notice at the end of the comment period unless comments are received which would require a contrary determination.

Dated: September 30, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

INTERIOR/EGS-1

SYSTEM NAME:

Payroll, Attendance and Leave Records—Interior, GS—1.

SYSTEM LOCATION:

(1) Branch of Financial Management, Geological Survey, National Center, Reston, Virginia 22092. (2) Input documents supplied by all facilities of the U.S. Geological Survey and the Minerals Management Service. (For specific addresses, contact the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Geological Survey and Minerals Management Service Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, grade, step and salary; organization, retirement or FICA data as applicable; Federal, State and local tax deductions, as appropriate; IRS tax lien data; savings bond and charity deductions; regular and optional Government life insurance deductions; health insurance deduction and plan or code; cash award data, jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institutions code and employee account number; leave status and leave data of all types; time and attendance records; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action", and includes information on individual debts owed to the Government as a result of overpayment, refunds owed or a debt referred for collection on a transferred employee. The individual records listed are included only as pertinent to the individual employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq.; Title 6, GAO Policy and Procedure Manual; 31 U.S.C. 66(a); Sections 112(a) and 113 of the Budget and Accounting Procedures Act of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to (a) to issue pay to employees, and (b) distribute pay according to the directions of employees for allotments, financial institutions, savings bonds, charitable institutions and other purposes authorized. Disclosures outside the Department of the Interior may be made to: (1) Report and send tax withholdings to the Internal Revenue Service and state and local taxing authorities; (2) report and send FICA deductions to the Social Security Administration; (3) report and send withholdings for health and life insurance to the Office of Personnel Management and authorized insurance carriers; (4) report and send contributions to agents of charitable institutions; (5) report and send deductions for dues to labor unions; (6) send W-2 statements annually to taxing authorities; (7) to the U.S. Department of Justice when related to litigation or anticipated litigation; (8) of information indicating a violation or potential violation of a statute, regulation, rule, order license, to appropriate Federal, State, local or foreign agencies responsibile for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (9) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (10) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (11) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Both machine readable and manual.

RETRIEVABILITY:

By name or social security number of employee.

SAFEGUARDS:

Storage equipment and rooms locked when not in use. Access is restricted to authorized personnel only. Computer and payroll personnel are instructed as to the need for security and confidentiality.

RETENTION AND DISPOSAL:

Retained on-site until GAO audit, then destroyed or transferred to Federal Records Center, as appropriate according to GAO fiscal records program, or GSA General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Financial Management, Geological Survey, National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written and signed

request is required from anyone seeking information concerning him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access to records should be addressed to the System Manager and must meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Petitions for amendment should also be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, timekeepers and personnel records.

INTERIOR/EGS-3

SYSTEM NAME:

Accounts Receivable-Interior, GS-3.

SYSTEM LOCATION:

Geological Survey, National Center, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Debtors owing money to the Geological Survey and Minerals Management Service, including employees, former employees, business firms, institutions and private individuals. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, SSN, ID number, amount owed, invoice or bill number, reason for the debt, and any other information on debts owed to the Bureaus.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701-09; FPMR 101-7; Treasury Fiscal Requirements Manual; Pub. L. 97-365.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary use of the records is to bill persons and firms owing money to the Geological Survey and the Minerals Management Service. Disclosures outside the Department of the Interior may be made to: (1) The Office of Personnel Management for reporting purposes; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual form in file folders.

RETRIEVABILITY:

By individual name and Social Security number.

SAFEGUARDS:

Handling by authorized personnel only.

RETENTION AND DISPOSAL:

Retained until payment received and account audited, then disposed of in acordance with Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Financial Management, Geological Survey, National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

A written and signed request from the requester seeking information about him/her is required and is submitted to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the System Manager and must meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Petitions for amendment should be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject individual, contracting officer, accounting records.

INTERIOR/EGS-14

SYSTEM NAME:

Travel Files-Interior, GS-14.

SYSTEM LOCATION:

Geological Survey, National Center, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Geological Survey and the Minerals Management Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, social security numbers; destination; itineraries; modes and purposes of travel; dates; expenses including advances; amounts claimed and reimbursed; travel orders; vouchers; receipts and passport record cards, and information pertaining to an amount owed on an outstanding or delinquent travel advance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to: (a) Account for travel advances; (b) compute vouchers to determine amounts claimed and reimbursed; (c) account for travel orders; maintaining records of modes and purposes of travel and itineraries; (d) maintain records of passports. Disclosure outside the Department of the Interior may be made to: (1) The U.S. Treasury Department of payments; (2) the U.S. Department of State for passports; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) ot information indicating a violation or potential violation of a statute, regulations, rule, order or license, to appropriate Federal, State, local or foreign agencies for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (6) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (7) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and machine readable.

RETRIEVABILITY:

Filed by name, social security number or travel order number.

SAFEGUARDS:

Storage facilities are in secured premises with access limited to personnel whose official duties require access.

RETENTION AND DISPOSAL:

Retained according to GSA Federal Travel Regulations, and disposed of according to Records Control Schedule and GSA General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Financial Management, Geological Survey, National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

System Manager. A written and signed request is required from anyone seeking information concerning him or herself. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the System Manager and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors and standard finance office references.

[FR Doc. 83-27599 Filed 10-11-83; 8:45 am]
BILLING CODE 4310-31-M

Bureau of Land Management

New Mexico; Filing of Plat of Survey

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on September 27, 1983.

New Mexico Principal Meridian

A dependent resurvey of a portion of the south and west boundaries and the subdivision of section 31 in T. 7 S., R. 2 W., NMPM, under Group 806, and was accepted August 17, 1983.

This survey was executed to meet certain administrative needs of this Bureau.

The plat will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Dated: September 29, 1983.

Leroy C. Montoya,

Deputy State Director, Operations.

[FR Doc. 83-27644 Filed 10-11-83; 8:45 am]
BILLING CODE 4310-84-M

Availability of the Record of Decision for the Chevron Phosphate Fertilizer Plant Complex; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of record of decision.

SUMMARY: The Bureau of Land Management has completed its decisions on Chevron Chemical Company's application for various rights-of-way associated with a proposed phosphate fertilizer plant near Rock Springs, Wyoming. The decision is to proceed with the issuance of rights-of-way for a phosphate ore slurry line located in Daggett and Uintah Counties, Utah, and Sweetwater County, Wyoming and a railroad spur, water supply pipelines, and powerlines in Sweetwater County, Wyoming. The decision was based in part on the information contained in the Chevron Phosphate Plant complex final environmental impact statement published in July 21, 1983.

EFFECTIVE DATE: The record of decision was signed on September 19, 1983.

FOR FURTHER INFORMATION CONTACT:

Donald H. Sweep, District Manager, Rock Springs District Office, P.O. Box 1170, Rock Springs, Wyoming 82902-1170, (307-382-5350); and

Lloyd Ferguson, District Manager, Vernal District Office, 170 South 500 East, Vernal, Utah 84078, (801) 789-1362; or

State Director (934), Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003 (307) 772-2326.

SUPPLEMENTARY INFORMATION: The authority for this decision is derived from Title V of the Federal Land Policy and Management Act and the regulations contained in 43 CFR 2800.

Maxwell T. Lieurance,

State Director, Wyoming.

[FR Doc. 83-27618 Filed 10-11-83; 8:45 am]
BILLING CODE 4310-84-M

Alaska; Proposed Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Withdrawal and Opportunity for Public Comment and Public Hearing.

SUMMARY: Subject to valid existing rights, this notice segregates approximately 1,297,300 acres of land for a period of up to 2 years from settlement, sale, location, or entry under the general public land laws, including the mining laws and from selection under the Alaska Statehood Act, for possible addition to the Arctic National Wildlife Refuge.

EFFECTIVE DATE: October 12, 1983.

ADDRESS: Comments and suggestions should be sent to: Robert Arndorfer, Deputy State Director for Conveyance Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

On October 6, 1983, a petition was approved allowing the U.S. Fish and Wildlife Service to file an application to withdraw, subject to valid existing rights, the following described public lands from settlement, sale, location, or entry under the general public land laws, including the mining laws and from selection under the Alaska Statehood Act:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 33 N., Rs. 17 through 30 E.
T. 34 N., Rs. 17 through 30 E.
T. 35 N., Rs. 17 through 30 E.
T. 36 N., Rs. 17 through 19 E.
T. 36 N., R. 20 E., all land outside of the Arctic National Wildlife Refuge.
T. 36 N., Rs. 21 through 30 E.

T. 37 N., Rs. 17 through 18 E.
T. 37 N., Rs. 19 through 20 E., all land outside of the Arctic National Wildlife Refuge.
T. 37 N., Rs. 21 through 29 E.

Umiat Meridian, Alaska (Unsurveyed)

T. 14 S., R. 36 E., all land outside of the Arctic National Wildlife Refuge.
T. 15 S., R. 36 E., all land outside of the Arctic National Wildlife Refuge.
T. 16 S., Rs. 36, 37, and 38 E., all land outside of the Arctic National Wildlife Refuge.
T. 17 S., R. 36 E.
T. 17 S., Rs. 37 and 38 E., all land outside of the Arctic National Wildlife Refuge.

The areas described aggregate approximately 1,297,300 acres.

The purpose of the proposed withdrawal is to add lands to the Arctic National Wildlife Refuge.

For a period of 2 years from the date of publication of this notice in the **Federal Register,** the land will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date. Rights-of-way, mineral exploration, and other nondisposal type uses will be allowed during the period of segregation consistent with existing authorities.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of lands by the U.S. Fish and Wildlife Service.

Robert F. Burford,
Director.

[FR Doc. 83-27678 Filed 10-11-83; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-DES 83-69]

Availability of Draft Supplement to the Final Environmental Statement; Ruedi Reservoir Round 2 Water Sale, Fryingpan-Arkansas Project, Colorado

Pursuant to section 102(2)(C) of the National Environmental Policy act of 1969, as amended, the Department of the Interior has prepared a draft supplement to the Fryingpan-Arkansas Project, Colorado final environmental statement (INT-FES 75-43) on a proposed water sale that would provide for future competing water demands that include industrial (primarily oil shale), municipal, recreation, wildlife, and fisheries.

This supplement was prepared from an environmental assessment completed in March 1983 that evaluated an array of water sale level scenarios for Ruedi Reservoir. Written comments may be submitted to the Regional Director by the date stamped in the draft supplement.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240, Telephone: (202) 343-4991.
Division of Management Support, General Services, Library Section, Code 950, engineering and Research Center, Denver Federal Center, Denver, Colorado, Telephone: (303) 234-3019.
Regional Director, Bureau of Reclamation, P.O. Box 25247, Building 20, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234-4441.
Fryingpan-Arkansas Project Office, Bureau of Reclamation, 219 West 5th Street, Room 222W, P.O. Box 515, Pueblo, Colorado 81002.

Single copies of the supplement may be obtained on request to the Director, Office of Environmental Affairs, Bureau of Reclamation or the Regional Director, at the above addresses. Copies will also be available for inspection at the following libraries.

Pitking County Library, 120 East Main, Aspen, Colorado 81611.
Glenwood Springs Branch Library, 806 Cooper Avenue, Glenwood Springs, Colorado 81601.
Mesa County Public Library, 530 Grand Avenue, Grand Junction, Colorado 81501.

Dated: October 6, 1983.

Robert A. Olson,
Assistant Commissioner of Reclamation.

[FR Doc. 83-26129 Filed 10-1-83; 8:45 am]
BILLING CODE 4310-09-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Conoco, Inc.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the Main Pass Block 296 Federal Unit Agreement No. 14-08-0001-20238, submitted on September 27, 1983, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Main Pass Block 296 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 am. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the code of Federal Regulations.

Dated: October 4, 1983.

John L. Rankin,
Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-27621 Filed 10-11-83; 8:45 am]
BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 30, 1983. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 27, 1983.

Carol D. Shull,
Chief of Registration, National Register.

ALABAMA

Marengo County

Demopolis, *Demopolis Public School,* 601 S. Main Ave.

CALIFORNIA

San Diego County

Jacumba vicinity, *Table Mountain District,* NE of Jacumba.

DISTRICT OF COLUMBIA

Mayflower Hotel, 1127 Connecticut Ave., NW.

FLORIDA

Alachua County

Micanopy, *Micanopy Historic District,* Roughly Cholokka Blvd. from US 441 to Ocala St. then Smith St. W to Okehumkee St.

Washington County

Vernon vicinity, *Moss Hill Church,* Vernon-Greenhead Rd.

MARYLAND

Baltimore (Independent City)

Paca Street Firehouse, 106 N. Paca St.

NEW MEXICO

Grant County

Silver City, *Block's Addition Historic District,* Roughly bounded by College Ave., Black, Market, and E Sts.
Silver City, *Silver City Water Works Building,* Little Walnut Rd.

San Miquel County

Las Vegas, *Las Vegas Amory,* 917 Douglas Ave.

PENNSYLVANIA

Berks County

Reading, *Foos, Charles S., Elementary School,* Douglass and Weiser Sts.
Reading, *Metropolitan Edison Building,* 412 Washington St.

Chester County

Exton, *Colebrook Manor (West Whiteland Township MRA),* 637 W. Lincoln Hwy.
Exton, *Exton Hotel (West Whiteland Township MRA),* 423 E. Lincoln Hwy.
Exton, *Lewis, Evan, House (West Whiteland Township MRA),* 117 N. Ship Rd.
Exton, *Ship Inn (West Whiteland Township M R A),* 100 N. Ship Rd.
Exton, *St. Paul's Church (West Whiteland Township M R A),* 901 E. Lincoln Hwy.
Exton, *West Whiteland Inn (West Whiteland Township M R A),* 809 W. Lincoln Hwy.
Kirkland, *Rush, Benjamin House (Chesteridge) (West Whiteland Township M R A),* Boot Rd.
West Whiteland, *Autun (West Whiteland Township M R A),* 371 E. Boot
West Whiteland, *Bell, John, Farm (West Whiteland Township M R A),* 463 N. Ship Rd.
West Whiteland, *Boyer, Riter, House (West Whiteland Township M R A),* 350 W Boot Rd.
West Whiteland, *Church Farm School (West Whiteland Township M R A),* US 30
West Whiteland, *Cox, Hewson, House (West Whiteland Township M R A),* Church Farm Rd.
West Whiteland, *Everhart, William, House (West Whiteland Township M R A),* S. Ship and Boot Rds.
West Whiteland, *Fox Chase Inn (West Whiteland Township M R A),* 613 Swedesford Rd.
West Whiteland, *Greenwood School (West Whiteland Township M R A),* 700 King Rd.
West Whiteland, *Grove Historic District (West Whiteland Township M R A),* S. Whitford Rd.
West Whiteland, *Hoffman, George, House (West Whiteland Township M R A),* 1311 Grove Rd.
West Whiteland, *Jacobs, Benjamin, House (West Whiteland Township M R A),* 325 N. Ship Rd.
West Whiteland, *Kennedy, Francis W., House (West Whiteland Township M R A),* 1417 Highland ave.
West Whiteland, *Kinbawn (West Whiteland Township M R A),* 405 Highland Ave.
West Whiteland, *Kirkland Station (West Whiteland Township M R A),* 1370 Kirkland Ave.
West Whiteland, *Lochiel Farm (West Whiteland Township M R A),* 111A N. Ship Rd.
West Whiteland, *Meredith, Daniel, House (West Whiteland Township M R A),* 1358 Glen Echo Rd.
West Whiteland, *Morstein (West Whiteland Township M R A),* 1401 and 1428 Lewis Lane
West Whiteland, *Newlin Miller's House (West Whiteland Township M R A),* 1240 Samuel Rd.
West Whiteland, *Oaklands (Thomas TR) (West Whiteland Township M R A),* 349 W. Lincoln Hwy.
West Whiteland, *Pennypacker, Benjamin, House (West Whiteland Township M R A),* 800 E. Swedesford Rd.
West Whiteland, *Price, Joseph, House (West Whiteland Township M R A),* 401 Clover Mill Rd.
West Whiteland, *Sleepy Hollow Hall (West Whiteland Township M R A),* 109 E. Lincoln Hwy.
West Whiteland, *Solitude Farm (West Whiteland Township M R A),* Church Farm Rd.
West Whiteland, *Thomas Marble Quarry Houses (West Whiteland Township M R A),* Quarry Lane
West Whiteland, *Thomas Mill and Miller's House (Thomas T R) (West Whiteland Township M R A),* 130 W. Lincoln Hwy.
West Whiteland, *Thomas, Charles, House (Thomas T R) (West Whiteland Township M R A),* 225 N. Whitford rd.
West Whiteland, *Wee Grimmet (West Whiteland Township M R A),* 624 W. Lincoln Hwy.
West Whiteland, *White, Hannah, Log House (West Whiteland Township M R A),* 545 W. Boot Rd.
West Whiteland, *Whitford Garne (Thomas T R) (West Whiteland Township M R A),* 201 W. Boot Rd.
West Whiteland, *Whitford Hall (Thomas T R) (West Whiteland Township M R A),* 145 W. Lincoln Hwy.
West Whiteland, *Whitford Station House (West Whiteland Township M R A),* 405 S. Whitford Rd.
West Whiteland, *Woodland Station (West Whiteland Township M R A),* 408 King Rd.
West Whiteland, *Zook House (West Whiteland Township M R A),* 300 Exton Sq.

Lancaster County

Lancaster, *Lancaster Historic District (Boundary Increase),* Bounded by E. Vine, S. Christian, Washington, S. Duke, and Church Sts.

Philadelphia County

Philadelphia, *Estey Hall,* 1701 Walnut St.

TENNESSEE

Davidson County

Nashville, *Treppard-Baldwin House,* 3338 Whites Creek Pike

Hamilton County

Chattanooga, *King, M.L., Boulevard Historic District,* Roughly M.L. King Blvd. between Browns and University Sts.

TEXAS

Grayson County

Denison, *Denison Commercial Historic District,* Roughly Woodard, Main and Chestnut Sts.

Wichita County

Wichita Falls, *Hamilton, William Benjamin, House,* 1106 Brook Ave.

WISCONSIN

Washington County

Germantown vicinity, *Christ Evangelical Church,* N of Germantown on Fond du Lac Ave.

Waukesha County

Waukesha, *Arcadian Bottling Works (Waukesha MRA),* 900 N. Hartwell Ave.
Waukesha, *Blair, Sen. William, House (Waukesha MRA),* 434 Madison St.
Waukesha, *College Avenue Historic District (Waukesha MRA),* Fountain St., S. East and College Aves.
Waukesha, *Cook, Alexander, House (Waukesha MRA),* 600 E. North St.
Waukesha, *Cutler, Morris, House (Waukesha MRA),* 401 Central Ave.
Waukesha, *Downtown Historic District (Waukesha MRA),* Roughly bounded by Broadway, Grand Ave., Clinton and South Sts.
Waukesha, *Dwinnell, George, House (Waukesha MRA),* 442 W. College Ave.
Waukesha, *Elliott, Dr. F. C., House (Waukesha MRA),* 501 Dunbar Ave.
Waukesha, *First Baptist Church (Waukesha MRA),* 247 Wisconsin Ave.
Waukesha, *Frame, Andrew, House (Waukesha MRA),* 507 N. Grand Ave.
Waukesha, *Groce, Perry, House (Waukesha MRA),* 307 N. West Ave.
Waukesha, *Grand View Health Resort (Waukesha MRA),* 500 Riverview Ave.
Waukesha, *Howitt, John, House (Waukesha MRA),* 407 N. Grand Ave.
Waukesha, *Jones, Robert O., House (Waukesha MRA),* 501 W. College Ave.
Waukesha, *Laflin Historic District (Waukesha MRA),* W. Laflin and Garfield Aves.
Waukesha, *Louis Yanke Saloon (Waukesha MRA),* 200 Madison Ave.
Waukesha, *Mann, William G., House (Waukesha MRA),* 348 Maple Ave.

Waukesha, *Moore, Dr. Volney L., House (Waukesha MRA)*, 307 E. Main St.
Waukesha, *National Hotel (Waukesha MRA)*, 235 W. Main St.
Waukesha, *Nickell, William A., House (Waukesha MRA)*, 511 Lake St.
Waukesha, *Pokrandt Blacksmith Shop (Waukesha MRA)*, 128 E. St. Paul Ave.
Waukesha, *Pratt, Hannah, House (Waukesha MRA)*, 501 Barney St.
Waukesha, *Putney, Frank H., House (Waukesha MRA)*, 223 Wisconsin Ave.
Waukesha, *Resthaven Hotel (Waukesha MRA)*, 915 N. Hartwell Ave.
Waukesha, *Sanger, Caspar M., House (Waukesha MRA)*, 507 E. College Ave.
Waukesha, *Silurian Mineral Springhouse (Waukesha MRA)*, Post Office Circle.
Waukesha, *Sloan, William P., House (Waukesha MRA)*, 912 N. Barstow St.
Waukesha, *Smith, Camillia, House (Waukesha MRA)*, 603 N. West Ave.
Waukesha, *St. Joseph's Catholic Church Complex (Waukesha MRA)*, 818 N. East Ave.
Waukesha, *St. Matthias Episcopal Church (Waukesha MRA)*, 111 E. Main St.
Waukesha, *Totten-Butterfield House (Waukesha MRA)*, 515 N. Grand Ave.
Waukesha, *Waukesha Post Office (Waukesha MRA)*, 235 W. Broadway Ave.
Waukesha, *Waukesha Pure Food Company (Waukesha MRA)*, 550 Elizabeth St.
Waukesha, *Welch, C. A., House (Waukesha MRA)*, 1616 White Rock Ave.
Waukesha, *Wisconsin Avenue Historic District (Waukesha MRA)*, Wisconsin and Maple Aves.

The 15-day commenting period for the following property (originally listed in the **Federal Register** as pending on October 4, 1983) is to be waived in order to assist the building's preservation through rehabilitation under the Economic Recovery Tax Act of 1981, as amended.

CALIFORNIA

Orange County

Fullerton, *Fullerton Union Pacific Depot*, 100 E. Santa Fe Ave.

[FR Doc. 83-27677 Filed 10-11-83; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Availability of Annual Evaluation Reports on the Administration of State Regulatory and Abandoned Mine Lands Programs Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability.

SUMMARY: OSM is announcing the availability of five annual evaluation reports on the administration of State regulatory and abandoned mine lands (AML) programs under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The five reports, covering the States of Alabama, Arkansas, Illinois, Ohio and Pennsylvania, were prepared under the provisions of OSM's oversight policy and have been transmitted to Congress.

ADDRESSES: See **"SUPPLEMENTARY INFORMATION"** for the addresses where copies of the reports may be obtained.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone (202) 343-5351.

SUPPLEMENTARY INFORMATION:

Addresses.

Copies of the reports are available, free of charge, at the respective OSM offices listed below:

Alabama

Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209, Telephone: (205) 254-0890

Arkansas

Tulsa Field Office, Office of Surface Mining, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103, Telephone: (918) 581-7927

Illinois

Springfield Field Office, Office of Surface Mining, 600 East Monroe Street, Springfield, Illinois 62701, Telephone: (217) 492-4495

Ohio

Columbus Field Office, Office of Surface Mining, 2242 South Hamilton Road, Columbus, Ohio 43227, Telephone: (614) 866-0578

Pennsylvania

Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036

Background

Under Section 503 of SMCRA, a State may elect to assume primary responsibility for regulating surface coal mining and reclamation operations within its borders by submitting a program to the Secretary of the Interior which demonstrates the State's capability to carry out the provisions of SMCRA. Once the Secretary approves the program, the State is granted primacy, and the Federal government assumes a monitoring and evaluation role. OSM has developed an evaluation policy, in consultation with the States, which is implemented primarily through OSM's Field Offices. Monitoring of the State's administration and enforcement of its regulatory and AML programs is conducted throughout the year. The Field Office Directors compile and analyze the data gathered during the evaluation period and prepare annual evaluation reports for transmittal to Congress. The schedule for the reports calls for staggered completion dates.

The first 19 evaluation reports for this year have been completed. Notices announcing the availability of the first 14 reports were published in the **Federal Register** on August 23, 1983 (48 FR 38317) and September 12, 1983 (48 FR 40959). The Arkansas and Illinois reports were completed and sent to Congress September 20, 1983. The Alabama, Ohio and Pennsylvania reports were completed and sent to Congress September 30, 1983. These final reports are now publicly available. As the remaining reports are completed, OSM plans to make them available also.

Dated: October 5, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-27642 Filed 10-11-83; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-36 (Sub-No. 18)]

Oregon Short Line Railroad Co. and Union Pacific Railroad Co.; Abandonment and Discontinuance of Service in Cassia County, ID; Findings

The Commission has issued a certificate authorizing the Oregon Short Line Railroad Company and the Union Pacific Railroad Company to abandon and discontinue service respectively over a 10.46-mile line of railroad between milepost 11.69 near Martin and milepost 22.15 at the end of the line near Oakley, Cassia County, ID. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from the publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-27623 Filed 10-11-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30222]

J. and J. Railroad, Inc.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission grants the exemption requested by J. and J. Railroad, Inc., from the requirements of 49 U.S.C. 10901, 10746 and 11301 in connection with (1) operation of 8.34 miles of abandoned track between Hardin and Murray, in Marshall and Calloway Counties, KY; (2) transportation of agricultural commodities in which petitioner has an interest; and (3) issuance of securities, respectively. No employee protective conditions are imposed.

DATES: These exemptions are effective on October 12, 1983. Petitions to reopen must be filed by November 1, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30222 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, D.C.
Petitioner representative:
(2) Stanley E. Hilton, LaRoe, Winn & Moerman, Eighth Floor, 1120 G Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

DECIDED: October 3, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, and Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-27622 Filed 10-11-83; 8:45 am]
BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[83-84]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to Q-Med Research and Development Limited Partnership 1983, of Wyckoff, New Jersey, a limited, exclusive, revocable license to practice the following inventions:

U.S. Patent No. 3,420,223 Electrode For Biological Recording; issued January 7, 1969.

U.S. Patent No. 3,490,440 Pressed Disc Type Sensing Electrodes; issued January 20, 1970.

U.S. Patent No. 3,665,064 Method of Making a Perspiration Resistant Biopotential Electrode; issued May 23, 1972.

The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by December 12, 1983.

ADDRESS: National Aeronautics and Space Administration, Code GP-4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 755-3954.

Dated: October 3, 1983.

S. Neil Hosenball,

General Counsel.

[FR Doc. 83-27617 Filed 10-11-83; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Subcommittee on Mechanical Engineering and Applied Mechanics; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Mechanical Engineering and Applied Mechanics (MEAM)
Date, Time and Place: October 27 and 28, 1983—9:00 a.m.-5:00 p.m. each day, Review Center, Room 543
Type of Meeting: OPEN
Contact Person: Dr. John A. Weese, Division Director, Mechanical Engineering and Applied Mechanics, Room 1108, National Science Foundation, Washington, D.C. 20550 (202) 357-9542
Summary Minutes: May be obtained from Delores Wade, Division of Mechanical Engineering and Applied Mechanics, Room 1108, National Science Foundation, Washington, D.C. 20550, (202) 357-9542
Purpose of Subcommittee: To provide directions for Mechanical Engineering and Applied Mechanics research
Agenda: *Thursday, October 27th—Open—9:00 a.m.-5:00 p.m.*
9:00—Welcoming Remarks
Dr. Edward Knapp, Director, NSF
Dr. Carl W. Hall, Acting Assistant Director for Engineering Directorate
9:45—A Review of the Mechanical Engineering and Applied Mechanics Division by Dr. John A. Weese, Director, MEAM
Discussion
10:45—Review of the MEAM Division's Programs Fluid Mechanics—Dr. George K. Lea Heat Transfer—Dr. Win Aung Solid Mechanics—Dr. Clifford Astill Mechanical Systems—Dr. Elbert Marsh Production Research (Data)—Dr. Weese
Discussion
12:15—*Recess for Lunch*
1:30—Engineering Directorate Issues and Their Relationship to the Division
Class VI Computing Resources—Dr. Lea Thermal Systems—Dr. Aung Engineering Initiatives—Dr. Weese
3:45—Administrative Issues Staffing & Structure of Division Composition and Leadership of this Subcommittee
5:00—*Recess for the day*

Friday, October 28—Open—9:00 a.m.-5:00 p.m.

9:00—Review of Production Research Program by Dr. Spurgeon
9:20—Preliminary Subcommittee Reactions to The Continuing Program of the Division
Thermal Systems
Class VI Computing Resources
Engineering Initiatives
Staff & Structure of the Division
Composition & Leadership of the Subcommittee

VOL
48
ISS
1
9
8
OC
12
1983
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11:15—Joint Discussion—Planning, Promoting, and Coordinating the Division's Efforts with the Research Community
12:15—*Recess for Lunch*
1:15—Subcommittee Briefing for the Acting Assistant Director for Engineering
2:00—Assignment of Subcommittee Report Responsibilities
5:00—*Adjourn*

Dated: October 6, 1983.

M. Rebecca Winkler,
Committee Management Coordinator.

[FR Doc. 83-27708 Filed 10-11-83; 8:45 am]
BILLING CODE 7565-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Performance Review Board, Senior Executive Service; Appointment of Members

Appointments of Performance Review Board members are required to be published in the Federal Register by 5 U.S.C. 4314(c)(4).

The following persons have been appointed to, and will serve on Performance Review Boards for senior executives in the National Transportation Safety Board:

Patricia A. Goldman
J.R. Kissinger
John Wheatley
Lloyd Miller
B. Michael Levins
Thomas DeW. Styles
James Danaher
John Stuhldreher
Herbert Banks
Robert W. Pyle
Barry Sweedler

Robert W. Pyle,
Director of Personnel.

October 2, 1983.

[FR Doc. 83-27688 Filed 10-11-83; 8:45 am]
BILLING CODE 4910-58-M

Appointment, Reassignment, Transfer, and Development in the Senior Executive Service

The title of each career reserved position shall be published in the Federal Register as required by 5 U.S.C. 3393(f).

The following is a newly established career reserved position at the National Transportation Safety Board:

Director, Bureau of Field Operations

Robert W. Pyle,
Director of Personnel.

September 20, 1983.

[FR Doc. 83-27690 Filed 10-11-83; 8:45 am]
BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Nuclear Regulatory Commission; Revised Meeting

In accordance with the purposes of Section 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on October 13–15, 1983 in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the Federal Register on September 28, 1983, and it is being revised to reflect deferral of ACRS consideration of the Big Rock Point Nuclear Plant.

The agenda for the subject meeting will be as follows: *Thursday, October 13, 1983:*

8:30 A.M.–8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

Portions of this session may be closed to discuss matters related solely to the internal personnel rules and practices of the agency.

8:45 A.M.–12:45 P.M.: Limerick Generating station Units 1 & 2 (Open)—The Committee members will hear and discuss reports of its Subcommittee and consultants who may be present, representatives of the NRC Staff, and the Applicant regarding the request for an operating license for this Station.

Portions of this session may be closed as necessary to discuss Proprietary Information applicable to this matter.

1:45 P.M.–345 P.M.: PIUS Nuclear Reactor Concept (Open)—Representatives of ASEA-ATOM will brief the Committee members regarding the process inherent ultimately safe reactor concept.

3:45 P.M.–4:45 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the reports of the ACRS Subcommittees on Extreme External Phenomena and the Diablo Canyon Nuclear Power Station regarding application of the "Tau" effect to the seismic design of this plant. Representatives of the NRC Staff and the Applicant will participate to the degree considered appropriate.

4:45 P.M.–6:30 P.M.: Nuclear Steam Generator Tube Integrity (Open)—The members of the Committee will hear and discuss reports of its Subcommittee and consultants who may be present and representatives of the NRC Staff regarding proposed NRC generic recommendations regarding steam generator tube integrity and Consideration of multiple steam generator tube failure in the design and operation of nuclear power plants.

Friday, October 14, 1983:

8:30 A.M.–11:30 A.M.: Combustion Engineering Nuclear Steam Supply System (Open)—The Committee will hear and discuss reports of its Subcommitte and consultants who may be present, representative of the NRS Staff and Combustion Engineering, Inc., regarding the capability for decay heat removal and depressurization for Combustion Engineering nuclear steam supply systems without PORVs.

11:30 A.M.–1:00 P.M.: Closs-9 Accidents (Open)—The members will hear and discuss report by representatives of the NRC Staff regarding activities related to reevaluation of the NRC severe accident research program plan.

2:00 P.M.–2:30 P.M.: Future ACRS Activities (Open)—The members will discuss anticipated ACRS Subcommittee activities and proposed full Committee future activities.

2:30 P.M.–4:30 P.M.: Proposed Revision of 10 CFR Port 20 (Open)—The ACRS members will hear and discuss the report of its Subcommittee and consultants who may be present as well as representatives of the NRC Staff and other regulatory agencies regarding a proposed revision of 10 CFR Part 20, Standard for Protection Against Radiation.

4:30 P.M.–6:00 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the reports of designated subcommittees regarding current activities including cracking in BWR primary coolant systems piping, fire protection in nuclear plants, reactor radiological effects including related NRC research activities and proposed disposal of radwastes, and use of PRA in the regulatory process.

Saturday, October 15, 1983:

8:30 A.M.–10 A.M.: ACRS Reports to NRC (Open/Closed)—The members will discuss proposed ACRS reports to NRC regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to matters being discussed and material involved in an adjudicatory proceeding.

10:00 A.M.–11:00 A.M.: ACRS Subcommittee Activity (Open)—The members will hear and discuss reports of ACRS Subcommittees regarding designated activities including conduct of ACRS activities consistent with 41 CFR 101–6, scope and conduct of ACRS activities, 10 CFR 50.55a. Codes and Standards.

11:00 A.M.–11:30 A.M.: Appointment of New Members (Closed)—The members will discuss the qualifications of candidates nominated for appointment to the ACRS.

11:30 A.M.–12:30 P.M.: Conclusion (Open)—The members will complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on September 28, 1982 (48 FR 44291).

In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)], information related solely to the internal personnel rules and practices of the agency [5 U.S.C. 552b(c)(2)], information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)], and information involved in an adjudicatory proceeding [5 U.S.C. 552b(c)(10)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: October 4, 1983.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 83-27676 Filed 10-11-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–155]

Consumers Power Company; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–6, issued to Consumers Power Company (the licensee), for operation of the Big Rock Point Plant located in Charlevoix County, Michigan.

The amendment would incorporate Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) limits for fuel assemblies G13 and G14 into the Big Rock Point Technical Specifications (TS). These two assemblies are currently covered by MAPLHGR limits in the existing TS for reload "G" fuel. The current limits are applicable until these assemblies reach a burnup of 36.29 Gigawatt-Days per Standard Metric Ton (GWD/STM). These two assemblies were reconstituted from spent "G" design fuel assemblies as part of the Big Rock Point Extended Burnup Program sponsored by the Department of Energy. The new limits are based on safety analyses performed by Exxon Nuclear Company (the fuel vendor) using calculational methods previously approved for the "G" fuel design. The new limits would allow a total burnup of 42.0 GWD/STM for the G13 and G14 fuel assemblies. These changes are in accordance with the licensee's application for amendment dated September 7, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870, April 6, 1983). One of the examples of actions involving no significant hazards consideration relates to reload amendments involving no fuel assemblies significantly different from those previously found acceptable at the facility in question. The G13 and G14 fuel assemblies do not constitute a reload in the normal used sense because the reactor was actually reloaded with H–3 fuel as approved by the NRC. However, the G13 and G14 assemblies were reconstituted from "G" fuel which was previously approved by the NRC for Big Rock Point. The G13 and G14 fuel has already been used in the reactor in previous cycles and, therefore, has already experienced some level of burnup. The G13 and G14 fuel are currently still within the burnup limits approved for "G" fuel. Therefore, the G13 and G14 assemblies are not significantly different from the previously approved "G" fuel. The new burnup limits and MAPLHGR values were calculated using the same methods as were used for the previous "G" fuel reload.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By November 14, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the

VOL 48 ISS 198 OCT 12 1983 UMI

petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis M. Crutchfield: petitioner's name and telephone number: date petition was mailed; plant name; and publication date and page number of the Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplmental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Dated at Bethesda, Maryland, this 4th day of October, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief Operating Reactors Branch #5 Division of Licensing.

[FR Doc. 83-27672 Filed 10-11-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corporation, et al.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensees for an amendment to Facility Operating License No. DPR–72, issued to Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainsville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida.

The amendment, as proposed by the licensees, related to the Cycle 5 reload, which has an increased cycle lifetime of 460 effective full power days (EFPD) instead of 350 EFPD in the previous cycle. The licensees' application for the amendment was dated March 31, 1983, and was supplemented by submittals dated June 17, June 22, and July 6, 1983. Notice of consideraiton of issuance of this amendment was published in the Federal Register on June 6, 1983 (48 FR 25292). Portions of the amendment request were granted. Those portions relating to the Cycle 5 core reload and to various plant modifications accomplished during the refueling period were authorized by Amendment No. 64, issued and effective on July 12, 1983. Notice of issuance of Amendment No. 64 was published in the monthly Federal Register notice on July 20, 1983 (48 FR 33099).

However, a portion of the licensees' request of March 31, 1983, was to extend the time interval for shutdown surveillance requirements from once each 18 months to once each 24 months. The justification for extending these time intervals was to minimize the impact of the extended core lifetime on accomplishment of the surveillance within the specified time interval. This portion of the licensees' amendment application was evaluated by the Commission and subsequently denied on the basis of inadequate justification. The licensees were notified of the Commission's denial of this request and the reason for denial by letter dated June 20, 1983. The Commission's position in regard to extending surveillance intervals to longer than 18 months was also made known to all licensees and applicants by issuance of Generic Letter No. 83–27 dated July 6, 1983.

By November 14, 1983, the licensees may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. A copy of any petitions should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to S.A. Brandimore, Florida Power Corporation, Vice President and General Counsel, P.O. Box 14042, St. Petersburg, Florida 33733.

For further details with respect to this action, see the application for amendment dated March 31, 1983, as supplemented June 17, June 22, and July 6, 1983, and (2) the Commission's letter to Florida Power Corporation dated June 20, 1983, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Cryatal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of September 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 83-27673 Filed 10-11-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-354-OL]

Public Service Electric & Gas Co., Atlantic City Electric Co.; Special Prehearing Conference

October 5, 1983.

On August 10, 1983, the Nuclear Regulatory Commission published in the Federal Register a Notice of Opportunity for Hearing on the application for a facility operating license for the Hope Creek Station, Unit 1, filed by the Applicants Public Service Electric and Gas Company *et al.*[1] This facility is a boiling water nuclear reactor located in Lower Alloways Creek Township, Salem County, New Jersey. The reactor is designed to operate at a steady-state power level of 3293 megawatts thermal, with an equivalent net electrical output of approximately 1067 megawatts.

The Commission's Notice further provided that by September 9, 1983, a request for hearing and petitions for leave to intervene may be filed by any person whose interest may be affected by this proceeding, pursuant to the provisions of 10 CFR Part 2. On September 9 the Public Advocate, State of New Jersey, filed a "Motion to Hold Public Hearing and to Admit Public Advocate as a Party-Intervenor Under 42 U.S.C. 2239, in Operating License Proceedings." The Applicants filed an answer opposing such motion (or petition) on September 24, 1983. The Staff filed its response on September 29, 1983, not opposing the petition for intervention provided that suitable contentions were framed within applicable time limits. The petition for leave to intervene will be granted, and a special prehearing conference will be scheduled pursuant to the provisions of 10 CFR 2.751a.

The Public Advocate's motion for hearing and intervention will be treated as a timely petition for leave to intervene, in accordance with the notice of opportunity for hearing. The petitioner requested that he be admitted as a party pursuant to 10 CFR 2.714 and 2.715. The latter section provides for the participation of "representatives of an interested State" in licensing proceedings. It has been established in NRC practice that a governmental entity such as a State may participate as a full party under § 2.714, as well as an interested State under § 2.715(c).[2] Of course, if a State elects to become a full party under § 2.714, in an operating license proceeding where it is the sole intervenor, it must affirmatively file one or more cognizable contentions sufficient to trigger an operating license hearing, and otherwise observe the procedural rules of the Commission.[3]

The Public Advocate's petition identified several aspects of the subject matter of the proceeding as to which intervention was sought, including quality assurance and control and emergency planning. These subjects could form the core of viable contentions if they were framed with the specificity and description of the bases therefor required by § 2.714(b). That section of the Rules of Practice requires that not later than 15 days prior to the holding of a special prehearing conference, the "petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity." Those requirements are applicable to the instant petition to intervene.

The Applicants oppose the petition in part on the grounds that "* * * the Public Advocate has failed to demonstrate affirmatively any grant of authority by the Legislature to initiate or participate in this proceeding."[4] They further argue that the Board must satisfy itself "that State officers purporting to exercise their discretion under delegated powers" are in fact doing so within the confines of their authority.[5] We decline to be drawn into a complex philosophical discussion of the New Jersey statutes governing "the practice and procedure of the Division of Public Interest Advocacy in the Department of the Public Advocate."[6] The petition alleges that the Public Advocate is a cabinet level officer of the State of New Jersey who is empowered to represent the interests and rights "inhering in the citizens of this State or in a broad class of such citizens (N.J.S.A. 52: 27 E–30), in administrative and judicial proceedings (N.J.S.A. 27 E–18, 29 and 30)."[7] It is further alleged that the Public Advocate has participated (without objection) in several NRC proceedings.

The petition adequately pleads the interest, status and authority of the Public Advocate in representing the State of New Jersey in this OL proceeding under both §§ 2.714 and 2.715. If the Applicants desire to challenge seriously the status of the Public Advocate under the New Jersey statutes and regulations, they may do so in the appropriate State courts. We do not deem it either necessary or desirable to convert this proceeding into a judicial

[1] 48 FR 36357–58, Aug. 10, 1983.

[2] Project Management Corp. (Clinch River Breeder Reactor Plant), ALAB–354, 4 NRC 383, 392 (1976).

[3] *Id.* at 393. *See also* Gulf States Utilities Co. (River Bend Station, Units 1 and 2), ALAB–444, 6 NRC 760, 766 (1977); Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), CLI–77–25, 6 NRC 535, 537, n.1 (1977).

[4] Applicants' Answer to Motion etc., at p. 25.

[5] *Id.*, at p. 13.

[6] Rules 15A: 1–1.1 *et seq.*, adopted pursuant to authority of N.J.S.A. 52: 27 E–1–*et seq.*

[7] At pages 1 and 2.

forum to interpret New Jersey statutes relating to the legal status and authority of the Public Advocate.

The petition for intervention and a public hearing is granted. It will be incumbent upon the petitioner to comply with the requirements of § 2.714 by filing, not later then 15 days before the special prehearing conference, one or more viable contentions with the bases therefor set forth with reasonable specificity.

A special prehearing conference will be held in this operating license proceeding pursuant to the provisions of 10 CFR 2.751a, on Tuesday, November 22, 1983, commencing at 9:00 a.m., local time, in the Freeholders' Meeting Room, Courthouse, 92 Market Street, Salem, New Jersey 08079.

Members of the public may request permission to make a limited appearance statement, either oral or written, pursuant to § 2.715(a) of the Commission's Rules of Practice, 10 CFR Part 2. A person making a limited appearance does not become a party but may state his position on the issues and may raise relevant questions which he wishes to have answered by the parties. Limited appearances will be received at the November 22 prehearing conference at the discretion of the Board within such limits and on such conditions as may be set by the Board.

It is so ordered.

Dated at Bethesda, Maryland this 5th day of October, 1983.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 83-27874 Filed 10-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determinations and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-77 and DPR-79, issued to Tennessee Valley Authority (the licensee), for operation of the Sequoyah Nuclear Plant, Units 1 and 2, located in Hamilton County, Tennessee.

One amendment would permit the pressurizer pressure to be less than 2220 psia during the performance of power coefficient physics tests and certain surveillance requirements. The tests are made difficult to perform with the current restriction due to the competing effects of cooling the reactor coolant system to make the measurements and still maintaining the pressurizer pressure above the specified limit in the technical specifications. Allowing the pressure to fall below the minimum value during the tests will not compromise core protection because the overtemperature delta-T reactor trip of the protection system will assure fuel clad integrity for all combinations of pressures and temperatures.

A second amendment would revise the table of Containment Isolation Valves to reflect the proper interpretation of the definition of operability of the containment isolation valves and a notation of valves that will be in an isolated position with power removed. The change is acceptable since the valves will still perform their safety function in this position in addition to improving plant operations.

A third amendment would reduce the number of igniters to be tested in the hydrogen mitigation system to 10% rather than 100% every 18 months because of ALARA considerations. Some igniters are physically locatd in areas that would expose test personnel to relatively high radiation levels. The igniters are considered to be reliable long-life devices. Verification of their operability and temperatures can be checked through methods other than visual inspection; consequently a test procedure which involves visually inspecting 10% of the total number is acceptable. These amendments were requested in the licensee's application for amendments dated July 21, 1983.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendments involve no significant hazards consideration based on the examples cited in 48 FR 14870. One of the examples relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 14, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for hearings and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If requests for hearings or petitions for leave to intervene are filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the requests and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later then fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(A)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Dated at Bethesda, Maryland, this 4th day of October 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Divisions of Licensing.

[FR Doc. 83-27875 Filed 10-11-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-20252, File No. SR-AMEX-83-21]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc. Relating to Treasury Note Options Expiration Cycle

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 29, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or the "Exchange") is proposing to move its 10-year U.S. Treasury note ("Treasury note") options from a March/June/September/December expiration Cycle ("March cycle") to a February/May/August/November expiration cycle ("February cycle").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

VOL 48 ISS 198 OCT 12 1983 UMI

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Ten-year Treasury notes are issued during the months of February, May, August and November, with an auction held approximately two weeks prior to each issue date. The Exchange is proposing to move its 10-year Treasury note options to a February cycle so that their expirations will coincide with the cycle on which the underlying notes are issued. The exchange believes that this change will increase the utility of its Treasury note options for hedging purposes.

Primary dealers and other market professionals who have purchased 10-year Treasury notes at an auction generally distribute the bulk of their positions in the notes to investors during the three-month period preceding the next auction, and trading in the notes is heaviest during that time. Each note tends to trade actively on a when-issued basis during the two-week period between its auction and issuance and to continue trading actively until new 10-year notes are auctioned. Thus, traders' hedging needs with respect to a particular Treasury note tend to be greatest during the three-month period following its auction.

Since the expiration months of the Exchange's Treasury note options are different from the months in which the notes are issued, the options are not now as useful as the Exchange believes they could be for hedging purposes. Under the Exchange's current system, the options listed on a newly auctioned note expire approximately 1½ and 4½ months after they commence trading.[1] For example, following the August 1983 auction, options on the new 10-year notes were opened for trading with expirations in September 1983 and December 1983. From the perspective of a dealer expecting to maintain an inventory of the notes until the next auction (probably early November), the September options would expire too soon, and the December options would expire later than necessary. Options expiring in November would correspond more precisely with the dealer's hedging needs. Accordingly, the Exchange believes that moving its Treasury note options to a February cycle would enchance their utility for hedging purposes.

The use of a February expiration cycle will also enable the Exchange to establish only one expiration month for options on each underlying note—the third month after the note's issuance. With Treasury note options trading on the March cycle, the Exchange has found it necessary to list options on a new note expiring in two different months after the note is auctioned because, as described above, the nearest available expiration date occurs only 1½ months after the auction—too soon for the option to satisfy hedging needs. Since moving Treasury note options to a February cycle will permit the Exchange to provide a 3½ month option on each new 10-year Treasury note at the time the note is auctioned, and since trading in 10-year notes normally diminishes three months after they are auctioned, the Exchange believes that it is not now necessary to list option series expiring 6½ months or more after a note's auction.[2]

The procedure contemplated by the Exchange may be illustrated as follows: Immediately after the auction of 10-year notes due in November 1993 (probably the first week of November 1983), the Exchange would open trading in options expiring in February 1984 on the newly auctioned notes. Upon the expiration of those options, no additional options on the November 1993 notes would be listed. Similarly, immediately after the auction of 10-year notes due in February 1994 (probably the first week of February 1984), the Exchange would open trading in options expiring in May 1984 on the newly auctioned notes; and, upon the expiration of those options, no additonal options on the February 1994 notes would be listed. This process would continue with each succeeding auction of a new note. Thus, except for the period between a note auction and an option expiration, options on only one Treasury note would be traded at any given time. For example, immediately prior to the auction of notes due in February 1994 (probably the first week of February 1984), the only available Treasury note options would be those on the November 1993 notes. Between that auction and the expiration of the options on the November 1993 notes (approximately the third week of February 1984), options would be traded on both November 1993 and February 1994 notes. After the February option expiration, options on the February 1994 notes would be the only Treasury note options traded on the Exchange until the auction of notes due in May 1994 (probably the first week of May 1984), when options expiring in August 1984 on the newly auctioned notes would be listed.

The Exchange believes that this procedure will facilitate the development of its Treasury note options market by reducing the potential for fragmentation and by helping the specialist to maintain an orderly market. Due to the fact that a new 10-year Treasury note bearing a new coupon is auctioned every three months, the market for Treasury note options has been more susceptible to fragmentation than the market for options on any of the Exchange's other underlying securities. For example, suppose that upon the auction of each new note, the Exchange were to list options on that note having three different expiration months and that, upon the expiration of near-term option series, new nine-month options were listed on the same underlying note. Assuming the trading of options series having three different exercise prices per expiration month (a conservative estimate), there would be 18 different option series open for trading with respect to each underlying note (9 puts and 9 calls), leading to a total of at least 72 different Treasury note option series after four auctions.

The Exchange has concluded that such a proliferation of different option series on very similar underlying instruments is unwarranted in light of the relatively low overall trading volume to date in Treasury note options. In addition to concerns about fragmentation, the existence of such a large number of illiquid option series places an unreasonable burden on the specialist, since the relationships among the prices of the various underlying Treasury notes require him to update all of his Treasury note options quotations at the same time. The Exchange has previously sought to reduce the number of Treasury note option series open for trading at any given time by eliminating nine-month options and by quickly phasing out old underlying notes. The current plan represents an additional step in this process.

The Exchange believes that moving its 10-year Treasury note options to a February expiration cycle and generally establishing only one expiration month for options on each underlying note would be consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange, and, in particular, Section 6(b)(5) of the Act, in that these changes would help to increase the utility of Treasury note options to market participants, thereby serving to protect investors and to further the public interest.

[1] The Exchange lists options on a new note as soon as possible after an auction, so that the options are available during the when-issued period.

[2] The Exchange would, however, open more distantly expiring three-month options on an underlying Treasury note if and when the note is reissued.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Judiciary Plaza, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 3, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27080 Filed 10-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20259; File No. SR-MSTC-83-18]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Company Relating to a Reduction in NIDS Confirm Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 23, 1983 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A is the MST System Administrative Bulletin regarding a reduction in NIDS confirm fees.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to reduce the NIDS confirm fees. NYSE Rule 387 and similar rules have resulted in an increase in the number of NIDS confirms. This increase has enabled MSTC to reduce the fee for NIDS confirms from $0.25 to $0.20. The $0.05 per confirm reduction will also apply to magnetic tape and facsimile transmission, reducing charges for these services to $0.35 and $0.40 respectively.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th St., NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th St., NW., Washington D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should

be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 5, 1983.

George A. Fitzsimmons,

Secretary.

Exhibit A

September 16, 1983.

To: All Participants

Attention: Operations Manager/Head Cashier

Subject: Reduced NIDS Confirm Fees

NYSE Rule 387 and similar rules have resulted in an increase in the number of NIDS confirms. This increase has enabled Midwest to reduce the fee for NIDS confirms from 25¢ to 20¢, effective August 1, 1983.

The new fees will be as follows:

Confirms:

a. 20¢ to brokers, whether or not the broker receives a copy of the confirm (and an additional 20¢ to the broker for any interested party).

b. 20¢ to banks if the banks request the confirm.

c. 20¢ to investment managers (for each confirm whether or not affirmed).

The 5¢ per confirm reduction will also apply to magnetic tape and facsimile transmission, reducing charges for these services to 35¢ and 40¢ respectively.

Questions regarding this notice may be directed to your Participant Services Representative.

William P. Alberth,

Vice President, MCC/MSTC.

[FR Doc. 83-27680 Filed 10-11-83; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Ametek, Inc.
Common Stock, $1 Par Value (File No. 7-7123)
Amstar Corporation
Common Stock, $1 Par Value (File No. 7-7124)
Ball Corporation
Common Stock, $2.50 Par Value (File No. 7-7125)
Big Three Industries, Inc.
Capital Stock, $2.50 Par Value (File No. 7-7126)
Cameron Iron Works, Inc.
Common Stock, $0.2083 Par Value (File No. 7-7127)
Collins Foods International, Inc.
Common Stock, $.10 Par Value (File No. 7-7128)
Cox Communications Inc.
Common Stock, $1 Par Value (File No. 7-7129)
Diamond Shamrock Corporation
Common Stock, $1 Par Value (File No. 7-7130)
ENSTAR Corporation
Common Stock, $1 Par Value (File No. 7-7131)
Evans Products Company
Common Stock, $1 Par Value (File No. 7-7132)
General Re Corporation
Capital Stock, $.50 Par Value (File No. 7-7133)
Heileman Brewing Company, Inc.
Common Stock, $1 Par Value (File No. 7-7134)
Hershey Foods Corporation
Common Stock, $1 Par Value (File No. 7-7135)
Lone Star Industires, Inc.
Common Stock, $1 Par Value (File No. 7-7136)
MEI Corporation
Common Stock, $.10 Par Value (File No. 7-7137)
Masonite Corporation
Common Stock, No Par Value (File No. 7-7138)
National Intergroup Inc. (Holding Company)
Capital Stock, $5 Par Value (File No. 7-7139)
Robertson (H.H.) Company
Common Stock, $1 Par Value (File No. 7-7140)
Royal Crown Companies, Inc.
Common Stock, $1 Par Value (File No. 7-7141)
Scovill Inc.
Common Stock, $6.25 Par Value (File No. 7-7142)
Wometco Enterprises, Inc.
Class A Common Stock, $1 Par Value (File No. 7-7143)
Altex Oil Corporation
Common Stock, $.01 Par Value (File No. 7-7144)
ALZA Corporation
Class A Common Stock, No Par Value (File No. 7-7145)
Charter Medical Corporation
Class A Common Stock, $.25 Par Value (File No. 7-7147)
Cross (A.T.) Company
Class A Common Stock, $1 Par Value (File No. 7-7148)
Huntington Health Services, Inc.
Common Stock, $.20 Par Value (File No. 7-7149)
Pall Corporation
Common Stock, $.50 Par Value (File No. 7-7150)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 28, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27681 Filed 10-11-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0441]

ALPHA Financial Corp.; License Surrender

Notice is hereby given the ALPHA Financial Corporation, 485 Morris Avenue, Springfield, New Jersey 07081 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). ALPHA Financial Corporation was licensed by the Small Business Administration on October 13, 1982.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on September 16, 1983, and accordingly, all rights privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 5, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-27688 Filed 10-11-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2104]

Georgia; Declaration of Disaster Loan Area

The area of Brunswick Mall on Altama Street in the City of Brunswick, Glynn County, Georgia, constitutes a disaster area because of damage resulting from a fire which occurred on September 20, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 5, 1983, and for economic injury until the close of business on July 5, 1984, at the address listed below: U.S. Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St. SW., Suite 822, Atlanta, Georgia 30303, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are:

Homeowners with credit available elsewhere, 12.125%.

Homeowners without credit available elsewhere, 6.125%.

Businesses with credit available elsewhere, 11.000%.

Businesses without credit available elsewhere, 8.000%.

Businesses (EIDL) without credit available elsewhere, 8.000%.

Other (non-profit organizations including charitable and religious organizations), 11.375%.

Date: October 4, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-27697 Filed 10-11-83; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jacksonville, Florida, will hold a public meeting from 9:30 A.M. to 4:00 P.M., Thursday, November 8, 1983, at the Holiday Inn-Lake Monroe Marina, 580 Palmetto Ave., Sanford, Florida 32771, to discuss such Business as may be presented by members, the staff of the U. S. Small Business Administration, and others attending.

For further information, contact Douglas E. McAllister, District Director, U.S. Small Business Administration, Box 35067, 400 W. Bay Street, Jacksonville, Florida 32202; telephone (904) 791-3103.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 30, 1983.

[FR Doc. 83-27700 Filed 10-11-83; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Seattle, will hold a public meeting at 9:30 a.m., on Friday, November 18, 1983, at the Federal Building—915 Second Avenue, Room 2866, Seattle, Washington, to discuss such matters as may be presented by members, the staff of the U. S. Small Business Administration, and others present. For further information, write or call John J. Talerico, District Director, U.S. Small Business Administration, 1792 Federal Building, 915 Second Avenue, Seattle, Washington 98174, (206) 442-2786.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 30, 1983.

[FR Doc. 83-27699 Filed 10-11-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Monterey County, California

AGENCY: Federal Highway Administration, (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Monterey, County, CA.

FOR FURTHER INFORMATION CONTACT: Albert J. Gallardo, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, CA 95809, Telephone: (916) 440-2804.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an Environmental Impact Statement (EIS) on a proposal to improve the traffic flow of 1.7 miles of roadway and reduce cross traffic conflicts on State highway 68 in the vicinity of Toro Regional Park. The project is necessary to reduce the long delays presently required for traffic to cross or enter the highway from the existing side streets.

Alternatives under consideration include: (1) Take no action; (2) construct a 4-lane expressway; (3) construct a 4-lane expressway with a signalized intersection at Portola Drive; (4) construct a 4-lane freeway with an interchange near Toro Regional Park.

A public informational meeting and several meetings with the County of Monterey have been held to encourage affected parties to identify crucial issues in the early stages of review. No further scoping meetings have been scheduled at this time. Additional meetings will be scheduled to insure that matters of importance are not overlooked.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: September 28, 1983.

Albert J. Gallardo,

District Engineer, Sacramento, California.

[FR Doc. 83-27643 Filed 10-11-83 8:45 a.m.]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Solicitation For Draft Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Solicitation for draft regulations.

SUMMARY: The Department of the Treasury and the Internal Revenue Service are listing additional items for which fully annotated sets or partial set of draft regulations are being solicited from interested individuals and organizations.

DATES: Drafts with respect to any project should be submitted by the date specified for that project in this document.

ADDRESS: Director, Legislation and Regulations Division, Attention: George H. Bradley, CC:LR.T, Room 4429, Internal Revenue Service, Washington D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George H. Bradley, 202-566-3486 (not a toll free number).

SUPPLEMENTARY INFORMATION: On July 29, 1983, the **Federal Register** published (48 FR 34569) a notice of solicitation for draft regulations from professional organizations, law and accounting firms, companies and interested individuals. These drafts of regulations or portions of regulations are intended to assist the Treasury Department and Internal Revenue Service during the formative period of the regulatory process. Included in that notice was the list of regulations projects for which drafts of regulations or portions of regulations are invited. In addition, it was stated that the list would be revised from time to time. This notice adds seven regulations projects to the list published on July 29, 1983.

Draft regulations or portions of regulations should be submitted by the

date specified for that project so that the attorneys responsible for developing the regulations may have the benefit of the material submitted. The Treasury Department and the Internal Revenue Service will not delay the development of regulations to await the submission of drafts. Pre-submission communications with respect to any project will be limited to matters of procedure.

All material submitted will be available for public inspection and copying.

The following is a list of additional regulations projects for which drafts of regulations or portions of regulations are being solicited.

Code section and file number	Subject	Latest date for submission
Sec. 47, LR-315-81.	Amendment of investment credit recapture rules.	Mar. 30, 1984.
Sec. 103(b)(4), LR-190-78.	Exemption for industrial development bonds for water facilities.	Dec. 30, 1983.
Secs. 108, 1017, LR-91-81.	Discharge of indebtedness	Nov. 30, 1983.
Sec. 338(h)(9)	Elective recognition of gain or loss by target corporation.	Nov. 30, 1983.
Secs. 465, 1502, LR-75-79.	Application of "at risk" rules to corporations filing consolidated returns.	Jan. 31, 1984.
Secs. 1491, 1057, LR236-76.	Excise tax on transfer of property to foreign persons to avoid the Federal income tax.	Mar. 30, 1984
Secs. 4051-4053, LR-30-83.	Retailers tax on heavy duty trucks (especially gross vehicle weight).	Nov. 30, 1983.

Roscoe Egger,
Commissioner of Internal Revenue.
John R. Chapoton,
Assistant Secretary of the Treasury.
[FR Doc. 83-27971 Filed 10-11-83; 8:45 am]
BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 198
Wednesday, October 12, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
African Development Foundation	1
Federal Deposit Insurance Corporation	2, 3
Federal Reserve System	4
Legal Services Corporation	5
National Transportation Safety Board	6, 7
Postal Service	8

1

AFRICAN DEVELOPMENT FOUNDATION

October 6, 1983.

TIME AND DATE: 9 a.m., October 19, 1983.

PLACE: Conference Room of the Inter-American Foundation, 1515 Wilson Boulevard, Rosslyn, Virginia.

SUBJECT: Organization and operation of the African Development Foundation (ADF). This is the initial meeting of the ADF Board of Directors.

STATUS: Open.

PERSON TO CONTACT FOR MORE INFORMATION: Douglas Robbins, ADF Liaison Office, (703) 235-1882.

Douglas Robbins.

[S-1431-83 Filed 10-6-83; 4:22 pm]
BILLING CODE 6116-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, October 17, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of adminstrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(6), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish three branches:

First State Bank, Gulfport, Mississippi, an insured State nonmember bank, for consent to merge, under its charter and title, with The Metropolitan National Bank, Biloxi, Mississippi, and for consent to establish the three offices of The Metropolitan National Bank as branches of the resultant bank.

Application for consent to purchase certain assets and assume liabilities and establish two branches:

Citizens Savings Bank, Providence, Rhode Island, an insured mutual savings bank, and its subsidiary, Citizens Trust Company, Providence, Rhode Island, and insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Westerly Branch of Old Stone Bank, Providence, Rhode Island, and for consent to establish that branch as a branch of Citizens Savings Bank and of Citizens Trust Company.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 7, 1983.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1434-83 Filed 10-7-83; 12:10 pm]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, October 17, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to convert to a non-FDIC-insured institution:

Geneva Savings Bank, Geneva, New York.

Application for consent to merge and establish two branches:

First South Bank, Fort Valley, Georgia, an insured State nonmember bank, for consent to merge, under its charter and title, with Exchange Bank of Wrightsville, Wrightsville, Georgia, and First State Bank, Marshallville, Georgia, and for consent to establish the sole offices of Exchange Bank of Wrightsville and First State Bank as branches of the resultant bank.

Applications for consent to establish branches:

Barnett Bank of Palm Beach County, Riviera Beach, Florida, for consent to establish a branch in the Village Square Shopping Center, Woolbright Road and Military Trail, Boynton Beach, Florida.

Fidelity Bank of Southfield, Southfield, Michigan, for consent to establish a branch at 29777 Telegraph Road, Southfield, Michigan.

The Howard Savings Bank, Newark, New Jersey, for consent to establish a branch in the Troy-Hills Shopping Center at the intersection of Beverwyck Road and U.S.

VOL
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Route 46, Parsippany-Troy Hills, New Jersey.

Applications for consent to establish remote service facilities:

Sangamon Bank and Trust, Springfield, Illinois, for consent to establish two remote service facilities at 2490 Wabash Avenue and 1967 Wabash Avenue, both locations in Springfield, Illinois.

Equibank, Pittsburgh, Pennsylvania, for consent to establish a remote service facility in the Amoco-Buy 'N Fly, 4108 William Penn Highway, Murrysville, Pennsylvania.

Applications for consent to establish branch-detached facilities:

The Academy Boulevard Bank, Colorado Springs, Colorado, for consent to establish a branch-detached facility at 3360 Citadel Drive North, Colorado Springs, Colorado.

The Central Colorado Bank, Colorado Springs, Colorado, for consent to establish a branch-detached facility at 331 N. Meade Street, Colorado Springs, Colorado.

Recommedations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Franklin National Bank, New York, New York

Memorandum and Resolution re: Guaranty Bond State Bank, Redwater, Texas

Memorandum and resolution re: Proposed amendments to Parts 304 and 349 of the Corporation's rules and regulations, entitled "Forms, Instructions, and Reports" and "Reports on Indebtedness of Executive Officers and Principal Shareholders to Correspondent Banks," respectively, to implement amendments to titles VIII and IX of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 contained in title IV of the Garn-St Germain Depository Institutions Act of 1982, which would: (1) Require FDIC-insured State-chartered nonmember institutions to disclose, upon request, the names of their executive officers and principal shareholders who (along with their related interests) have substantial borrowings from the bank or its correspondent banks; and (2) restate the existing statutory requirement that insiders report to the board of directors of their bank any indebtedness to the correspondent banks of that bank.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Advance notice of proposed rulemaking in connection with Parts 330 and 337 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage" and "Unsafe and Unsound Banking Practices," respectively, to solicit comment on: (1) The extent to which brokered or brokered-type deposits are being placed with FDIC-insured banks without adequate analysis of the managerial practices and financial stability of the banks; (2) whether the Corporation, in order to encourage market and bank analysis in the placement of such deposits, should limit the insurance coverage of or restrict the receipt of, such funds by insured banks; and (3) whether the current "multiple" insurance coverage afforded to pension funds and other custodial-type deposits, under which each beneficial owner of such deposits is insured to $100,000, should be limited.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 7, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1435–83 Filed 10–7–83; 12:10 pm]

BILLING CODE 6714–01–M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, October 17, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTRACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 7, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1438–83 Filed 10–7–83; 3:33 pm]

BILLING CODE 6210–01–M

5

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: 8 A.M. TO 5 P.M., THURSDAY, OCTOBER 13, 1983.

PLACE: Sheraton Grand Ballroom, Second floor, Sheraton Hotel, 255 South West Temple, Salt Lake City, Utah 84101.

STATUS OF MEETING: Open.

MATTER TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes.
3. Report from President.
4. Report from Office of Government Relations:
   a. Authorization;
   b. GAO Investigation.
5. Report from Office of General Counsel:
   a. Final Review of Proposed Regulations:
   (1) Transfer of Funds (45 CFR 1627)—Proposed Regulation Published June 22, 1983.
   (2) Denial of Refunding (45 CFR 1606 and 1625)—Proposed Regulation Published August 15, 1983.
   (3) Eligibility (45 CFR 1611)—Proposed Regulation Published August 29, 1983.
   b. Discussion of Regulations to be published as Proposed Regulations:
   (1) Attorney Fees (45 CFR 1609).
   (2) Priority Setting (45 CFR 1620).
   (3) Denial of Refunding (45 CFR 1606).
6. Report from Office of Field Services:
   a. Announcement of Instructions/Guidelines:
   (1) Private Attorney Involvement;
   (2) Fund Balance.
   b. Discussion of Reginald Heber Smith Community Fellowship Program.
7. Report from Vice President of Finance:
   a. 1983 Third Quarter Budget Review,
   b. Fund Transfer for Support Centers and National Clients Council,
   c. 1984 Budget,
   d. 1985 Mark.
8. Needs Study Update.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: October 6, 1983.

Donald P. Bogard,

President.

[S–1432–83 Filed 10–6–83; 4:48 pm]

BILLING CODE 6820–35–M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–23]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 45492, October 5, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, October 6, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following open item was deleted from the agenda:

1. *Recommendation* to the Federal Aviation Administration regarding in-flight fires on transport category aircraft. The following open item was added to the agenda:

1. *Recommendation* to the States to Implement Sobriety Checkpoints and Recommendations to the International Association of Chiefs of Police and the National Highway Traffic Safety Administration to assist the States.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

October 6, 1983.

[S–1433–83 Filed 10–7–83; 9:55 am]

BILLING CODE 4910–58–M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–24]

TIME AND DATE: 9 a.m., Tuesday, October 18, 1983.

PLACE: NTSB Board Room, eight floor, 800 Independence Ave. SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Oral Argument:* Sotillie v. Administrator, Dkt. SE–4910.

2. *Aircraft Accident Report:* United Airlines Flight 2885, McDonnell Douglas DC–8–54F, N8053U, Detroit, Michigan, January 11, 1983.

3. *Aircraft Accident Report:* Republic Airlines, Inc., Convair 580, N8444H, Brainerd, Minnesota, January 9, 1983.

4. *Reconsideration* of Probable Cause: Aircraft Accident Report—Eastern Air Lines, Inc., Boeing 727–225, N8838E, Raleigh, North Carolina, November 12, 1975.

5. *Highway Accident Report:* Multiple Vehicle Collisions and Fires Under Limited Visibility Conditions, Interstate Route 75, Ocala, Florida, February 28, 1983.

6. *Recommendations* to the International Society of Fire Service Instructors, the International Association of Fire Chiefs, the International Association of Chiefs of Police, the Research and Special Programs Administration, and Matlack, Inc., concerning the release of di-vinyl benzene from an overturned truck on October 13, 1982, at Odessa, Delaware.

CONTACT PERSONS FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

October 7, 1983.

[S–1437–83 Filed 10–7–83; 3:10 pm]

BILLING CODE 4910–58–M

8

POSTAL SERVICE

(Board of Governors)

Vote to Close Meeting

At its meetings on October 3–4, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting, scheduled for October 31, 1983, in New York, New York. The meeting will involve: (1) Consideration of the August 26, 1983, Recommended Decision of the Postal Rate Commission on Third-class bulk rates for nonprofit mail in Docket No. R–80–1; and (2) a discussion of strategic planning in connection with possible future rate adjustments.

The meeting is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, McKean, Ryan, Sullivan and Voss; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmaster General Coughlin; and Counsel to the Governors Califano.

The Board is of the opinion that public access to the discussions would be likely to disclose information that will become involved in future rate or classification litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c) (3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410 (c) (4) of title 39, United States Code. The Board has determined further, that pursuant to section 552b(c) (10) of title 5, United States Code, and section 7. 3(j) of title 39, Code of Federal Regulations, the discussions are exempt, because they are likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of these matters be open to the public.

In accordance with section 552b(f) (1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Cousel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c) (3) and (10) of title 5 and section 410 (c) (4) of title 39, United States Code. and section 7.3 (c) and (j) of title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

S–1436–83 Filed 10–7–83; 2:34pm

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Wednesday,
October 12, 1983

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Appendix A—Reference Methods; Alternative Methods for Nitrogen Oxide Emissions

VOL 48 ISS 198 OCT 12 1983 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2409-7]

Standards of Performance for New Stationary Sources; Appendix A—Reference Methods; Alternative Methods for Nitrogen Oxide Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this action is to propose as alternative methods to Method 7, "Method 7C, Determination of Nitrogen Oxide Emissions from Stationary Sources—Alkaline Permanganate/Colorimetric Procedure," and "Method 7D, Determination of Nitrogen Oxide Emissions from Stationary Sources—Alkaline Permanganate/Ion Chromatography Procedure," which are to be added to Appendix A of 40 CFR Part 60. The methods provide integrated samples rather than grab samples.

These methods would, at present, apply to fossil-fuel fired steam generators (Subpart D), electric utility steam generating units (Subpart Da), and nitric acid plants (Subpart G).

DATES: *Comments.* Comments must be received on or before December 15, 1983

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 25, 1983, a public hearing will be held on November 15, 1983 beginning at 10:00 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541–5578 to verify that a hearing will occur.

Request to Speak at Hearing. persons wishing to present oral testimony must contact EPA by October 25, 1983.

ADDRESSES: Comments. Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–131), Attention: Docket Number A–82–42, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460.

Public Hearing. if anyone contacts EPA requesting to speak at a public hearing, it will be held at EPA's Environmental Research Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541–5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Docket. Docket No. A–82–42, containing supporting information relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Shigehara, Emission Measurement Branch (MD–19), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2237.

SUPPLEMENTARY INFORMATION: Methods 7C and 7D are being proposed as alternative methods to Method 7. Both methods utilize impingers to provide time integrated samples instead of evacuated flask grab samples. The alternative methods use colorimetric or ion chromatographic analysis.

Miscellaneous

This rulemaking would not impose any additional emission measurement requirements on any facilities. Rather, the rulemaking would simply add alternative test methods associated with emission measurement requirements that would apply irrespective of this rulemaking.

Under Executive Order 12291, EPA just judge whether a regulation is "major" and, therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have any economic impact on small entities since the rulemaking simply adds alternative test methods.

List of Subjects in 40 CFR Part 60

Air pollution control. Aluminum, Ammonium sulfate plants, Asphalt, Cement-industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by Reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals.

Dated: September 27, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended as follows:

1. The authority citation for this amendment is as follows:

Authority: Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

§§ 60.45, 60.46, 60.47a, 60.73 and 60.74 [Amended]

2. By amending §§ 60.45, 60.46, 60.47a, 60.73, and 60.74 by removing the number "7" and inserting, in its place, "7, 7C, or 7D" in the following places:

a. 40 CFR 60.45(c)(1);
b. 40 CFR 60.46(a)(2), (a)(5), (c), (e), and (f)(3)(i);
c. 40 CFR 60.47a(h)(1), (h)(3), (h)(4), and (h)(5)(i)(1);
d. 40 CFR 60.73(a);
e. 40 CFR 60.74(a)(1) and (b).

3. By amending Appendix A by adding Methods 7C and 7D as follows:

Appendix A—Reference Methods

* * * * *

Method 7C—Determination of Nitrogen Oxide Emissions From Statutory Sources

Alkaline-Permanaganate/Colorimetric Method

1. Applicability, Principle, Interferences, Precision, Bias, and Stability.

1.1 Applicability. The method is applicable to the determination of NO_x emissions from fossil-fuel fired steam generators, electric utility plants, nitric acid plants, or other sources as specified in the regulations. The lower detectable limit is 3 mg NO_x, as NO_2, (7ppm NO_x) when sampling at 500 cc/min for 1 hour. No upper limit has been established; however, when using the recommended sampling conditions, the method has been found to collect NO_x, emissions quantatively up to 1782 mg NO_x/m^3, as NO_2, (932 ppm NO_x).

1.2 Principle. An integrated gas sample is extracted from the stack and collected in alkaline-postassium permanagante solution; $NO_x(NO+NO_2)$ emissions are oxidized to NO_2- and NO_3- is reduced to NO_2- with cadmium and the NO_2- is analyzed colorimetrically.

1.3 Interferences. Possible interferences are SO_2 and NH_3. High concentrations of SO_2 could interfere because SO consumes MnO_4- (as does NO_x) and, therefore, could reduce the NO_x collection efficiency. However, when sampling emissions from a coal (2.1 percent S) fired electric utility plant with no control of SO_2 emissions, collection efficiency was not reduced. In fact, calculations show that sampling 3000 ppm SO_2 will reduce the MnO_4- concentration by only 5 percent if all the SO_2 is consumed in the first impinger.

NH_3 is oxidized to NO_2- by absorbing solution. At 100 ppm NH_3- in the gas stream, an interference of 6 ppm NO_x (11 mg NO_2/m^3) was observed when the sample was analyzed 10 days after collection. Therefore, the method may not be applicable to plants using NH_3 injection to control NO_x emissions.

1.4 Precision and Bias. The method does not exhibit an bias relative to Method 7. The within-laboratory relative standard deviation for a single measurement is 2.8 and 2.9 percent at 201 and 268 ppm NO_x, respectively.

1.5 Stability. Collected samples are stable for at least 4 weeks.

2. Apparatus

2.1 Sampling and Sample Recovery. The sampling train is shown in Figure 7CC–1, and component parts are discussed below.

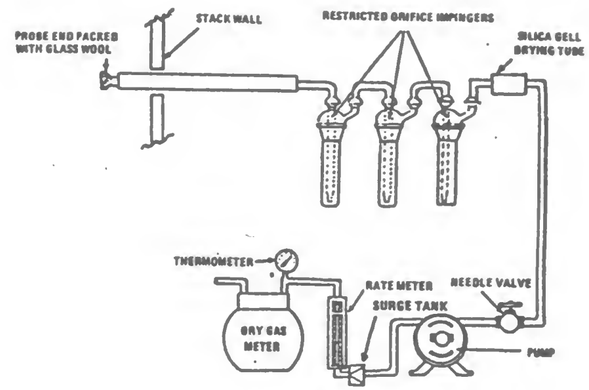


Figure 7C-1. NO_X sampling train.

2.1.1 Probe. Borosilicate glass tubing, sufficiently heated to prevent water condensation and equipped with an in-stack or out-stack filter to remove particulate matter (a plug of glass wool is satisfactory for this purpose). Stainless steel or Teflon tubing may also be used for the probe. (Note: Mention of trade names or specific products does not constitute endorsement by the U.S. Environmental Protection Agency.)

2.1.2 Impingers. Three restricted-orifice glass impingers, having the specifications given in Figure 7C–2, are required for each sampling train. The impingers must be connected in series with leak-free glass connectors. Stopcock grease may be used, if necessary, to prevent leakage. (the impingers can be fabricated by a glass blower until they become available commercially.)

2.1.3 Glass Wool, Stopcock Grease, Drying Tube, Valve, Pump, Barometer, and Vacuum Gauge and Rotameter. Same as in Method 6, Sections 2.1.3,

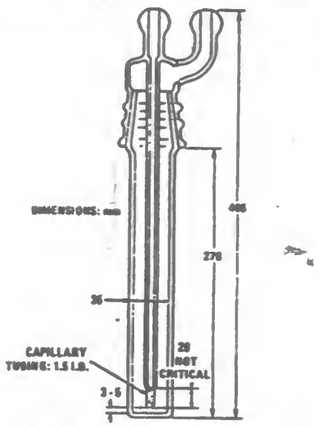


Figure 7C-2. Restricted orifice impinger.

2.1.4, 2.1.6, 2.1.7. 2.1.8, 2.1.11, and 2.1.12, respectively.

2.1.4 Rate Meter. Rotameter, or equivalent, accurate within 2 percent at the flow rate of 500 cc/min. For rotameters, a range of 0 to 1 liter/min is recommended.

2.1.5 Volume Meter. Dry gas meter capable of measuring the sample volume, under the sampling conditions of 500 cc/min for 60 minutes with an accuracy of ±2 percent.

2.1.6 Filter. A filter to remove NO_x from ambient air can be prepared by adding 20 g of a 5 angstrom molecular sieve to a cylindrical tube, e.g., a polyethylene drying tube.

2.1.7 Polyethylene Bottles. 1-liter, for sample recovery.

2.1.8 Funnel and Stirring Rods. For sample recovery.

2.2. Sample Preparation and Analysis.

2.2.1 Hot Plate. Stirring type with 50- by 10-mm Teflon-coated stirring bars.

2.2.2 Beakers. 400-, 600-, and 1000-ml capacities.

2.2.3 Filtering Flask. 500-ml capacity with sidearm.

2.2.4 Buchner Funnel. 75-mm ID.

2.2.5 Filter Paper. Whatman GF/C, 7.0-cm diameter.

2.2.6 Stirring Rods.

2.2.7 Volumetric Flasks. 100-, 200-, or 250-, 500-, and 1000-ml capacity.

2.2.8 Watch Glasses. To cover 600- and 1000-ml beakers

2.2.9 Graduated Cylinders. 50- and 250-ml capacities.

2.2.10 Pipettes. Class A.

2.2.11 pH Meter. To measure pH from 0.5 to 12.0.

2.2.12 Burette. 50 ml with a micrometer type stopcock. (The stopcock is Catalogue No. 8225–t–05, Ace Glass, Inc., Post Office Box 996, Louisville, Kentucky 50201.)

2.2.13 Glass Funnel. 75-mm ID at the top.

2.2.14 Spectrophotometer. Capable of measuring absorbance at 540 nm. One-cm cells are adequate.

2.2.15 Metal Thermometers. Bimetallic thermometers, range 0 to 150° C.

2.2.16 Culture Tubes. 20- by 150-mm. Kimax No. 45048.

2.2.17 Parafilm "M." Obtained from American Can Company, Greenwich, Connecticut 06830.

3. Reagents

Unless otherwise indicated, all reagents should conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available; otherwise, use the best available grade.

3.1. Sampling.

3.1.1 Water. Deionized distilled to conform to ASTM specification D 1193–74, Type 3 (incorporated by reference—see § 60.17).

3.1.2 Potassium Permanganate, 4.0% (w/w), Sodium Hydroxide, 2.0% (w/w). Dissolve 40.0 g of $KMnO_4$ and 20.0 g of NaOH in 940 ml of water.

3.2. Sample Preparation and Analysis.

3.2.1 Sulfuric Acid. Concentated H_2SO_4.

3.2.2 Oxalic Acid. $(COOH)_2 \cdot 2H_2O$.

3.2.3 Ethylenediamine Tetraacetic Acid, Disodium Salt (EDTA).

3.2.4 Sodium Hydroxide, 0.5 N. Dissolve 20 g of NaOH in water and dilute to 1 liter.

3.2.5 Sodium Hydroxide, 10 N. Dissolve 40 g of NaOH in waster and dilute to 100 ml.

3.2.6 EDTA Solution, 6.5 Percent. Dissolve 6.5 g of EDTA in water, and dilute to 100 ml. Solution is best accomplished by using a magnetic stirrer.

3.2.7 Column Rinse Solution. Add 20 ml of 6.5 percent EDTA solution to 960 ml of water, and adjust the pH to 12.0 with 0.5 N NaOH.

3.2.8 Hydrochloric Acid (HCL), 2 N. Add 86 ml of concentrated HCl to 500 ml of water, and mix. Store in a glass stoppered bottle.

3.2.9 Sulfanilamide. Melting point, 165 to 167°C.

3.2.10 N-(1-Naphthyl)-Ethylenediamine Dihydrochloride (NEDA). An aqueous solution would should have one absorption peak at 320 nm over the range of 260 to 400 nm. NEDA, showing more than one absorption peak over this range, is impure and should not be used.

3.2.11 Sodium Nitrite. Assay of 97 percent $NaNO_2$ or greater.

3.2.12 Phosphoric Acid. Concentrated, 85 percent.

3.2.13 Sulfanilamide Solution. Add 20 g of sulfanilamide to 700 ml of water. Add, with mixing, 50 ml concentrated phosphoric acid, and dilute to 1000 ml. This solution is stable for at least 1 month, if refrigerated.

3.2.14 NEDA Solution. Dissolve 0.5 g of NEDA in 500 ml of water. This solution is stable for at least 1 month if protected from light and refrigerated.

3.2.15 Cadmium. This is obtained from Matheson Coleman and Bell, 2909 Highland Avenue, Norwood, Ohio 45212, as EM Laboratories Catalogue No. 2001. Prepare by rinsing in 2 NCl for 5 minutes until the color is silver-grey. Then rinse the cadmium with water until the rinsings are neutral when tested with pH paper. Caution: H_2 is liberated during preparation. Prepare in an exhaust hood away from any flame.

3.2.16 $NaNO_2$ Standard Solution, Nominal Concentration, 1000 μg NO_2-ml. Desiccate $NaNO_2$. Accurately weigh 1.4 to 1.6 g of $NaNO_2$, dissolve in water, and dilute to 1 liter. Calculate the exact NO_2- concentration from the following relationship:

$$\mu g\ NO_x\text{–}/m\lambda = g\ of\ NaNO_2 \times \frac{purity, \%}{100} \times 10^3 \times \frac{46.01}{69.01}$$

This solution is stable for at least 6 months under laboratory conditions.

3.2.17 KNO_3 Standard Solution, Nominal Concentration, 6,200 μg NO_3–ml. Dry KNO_3 at 110°C for 2 hours, and cool in a desiccator. Accurately weigh 9 to 10 g of KNO_3, dissolve in water, and dilute to 1 liter. Calculate the exact NO_3– concentration from the following relationship:

$$\mu g\ NO_3\text{–}/ml = g\ of\ KNO_3 \times 10^3 \times \frac{62.01}{101.10}$$

This solution is stable for 2 months without preservative under laboratory conditions.

3.2.18 Spiking Solution. Pipette 7 ml of the KNO_3 standard into a 100-ml volumetric flask, and dilute to volume.

3.2.19 Blank Solution. Dissolve 2.4 g of $KMnO_4$ and 1.2 g of NaOH in water, and dilute to 100 ml.

3.2.20 Quality Assurance Audit Samples. Nitrate samples in glass vials prepared by the Enviromental Monitoring Systems Laboratory of the Environmental Proctection Agency (EPA) at the Research Triangle Park, North Carolina. Each set will consist of two vials of samples with unknown concentrations. Only when making compliance determinations, obtain the audit samples from the Quality Assurance Management Office of the EPA regional office.

4. Procedure

4.1 Sampling.

4.1.1 Preparation of Collection Tain. Add 200 ml of $KMnO_4$/NaOH solution (3.1.2.) to each of three impinger, and assemble the train as shown in Figure 7C–1. Adjust probe heater to a temperature sufficient to prevent water condensation.

4.1.2 Leak-Check Procedure. A leak-check prior to the sampling run should be carried out; a leak-check after the sampling run is mandatory. Carry out the leak-check(s) according to Method 6, Section 4.1.2.

4.1.3 Check of Rotameter Calibration Accuracy. Disconnect the probe from the first impinger, and connect the filter (2.1.6). Start the pump, and adjust the rotameter to read 500 cc/min. After the flow rate has stabilized, start measuring the volume sampled, as recorded by the dry gas meter (DGM), and the sampling time. Collect enough volume to measure accurately the flow rate, and calculate the flow rate. If rotameter and calculated values do not agree within ± 5 percent, recalibrate the rotameter in line with the DGM and a stop watch.

4.1.4 Sample Collection. Record the initial DGM reading and barometric pressure. Determine the sampling point or points according to the appropriate regulations, e.g., Section 60.46(c) of 40 CFR Part 60. Position the tip of the probe at the sampling point, connect the probe to the first impinger, and start the pump. Adjust the sample flow to a value of 500 cc/min or lower. Caution: Higher flow rates will produce low results. Once adjusted, maintain a constant flow rate during the entire sampling run. Sample for 60 minutes. (Note: When the SO_2 concentration is greater than 1200 ppm, the sampling time may have to be reduced to 30 minutes to eliminate plugging of the impinger orifice with MnO_2.) Record the DGM temperature at least every 5 minutes. At the conclusion of each run, turn off the pump, remove probe from the stack, and record the final readings. Conduct a leak-check as in Section 4.1.2. If a leak is found, void the test run, or use procedures acceptable to the Administrator to adjust the sample volume for the leakage.

4.1.5 CO_2 Measurement. During sampling, measure the CO_2 content of the stack gas near the sampling point using Method 3. The single-point grab sampling procedure is adequate. This measurement should be made at least three times: near the start, midway, and before the end of a run. Compute the average CO_2 concentration.

4.2 Sample Recovery. Disconnect the impingers. Pour the contents of the impingers into a 1-liter polyethylene bottle using a funnel and a stirring rod (or other means) to prevent spillage. Complete the quantitative transfer by rinsing the impingers and connecting tubes with water until the rinsings are clear to light pink, and add the rinsings to the bottle. Mix the sample, and mark the solution level. Seal and identify the sample container.

4.3 Sample Preparation for Analysis. Prepare a cadmium reduction column as follows: Place a plug of glass wool in the bottom of the burette (2.2.12). Cut off the burette at a height of 43 cm from the top of the plug, and have a glass blower attach a funnel (2.2.13) to the top of the burette such that the diameter of the burette remains essentially unchanged. Fill the burette with water. Add freshly prepared cadium slowly with tapping until no further settling occurs. The height of the cadmum column should be 39 cm. When not in use, store the column under rinse solution (3.27). (Note: The column should *not* contain any bands of cadmium fines. This may occur if regenerated cadmium is used and will greatly reduce the column lifetime.)

Note the level of liquid in the sample container, and determine whether any sample was lost during shipment. It a noticeable amount of leakage has occurred, the volume lost can be determined from the difference between initial and final solution levels, and this value can then be used to correct the analytical result. Quantitatively transfer the contents of the three impingers to a l-liter volumetric flask, and dilute to volume.

Take a 100-ml aliquot of the sample and blank solutions, and transfer to 400-ml beakers containing magnetic stirring bars. Add concentrated H_2SO_4 with stirring until a pH of 0.7 is obtained. Allow the solutions to stand for 15 minutes. Cover the beakers with watch glasses, and bring the temperature of the solutions to 50°C. Keep the temperature below 60°C. Dissolve 4.8 g of oxalic acid in a minimum volume of water, approximately 50 ml, at room temperature. Do not heat the solution. Add this solution slowly, in increments, until the $KMnO^4$ solution becomes colorless. If the color is not completely removed, prepare some more of the above oxalic acid solution and add until a colorless solution is obtained. Add an excess of oxalic acid by dissolving 1.6 g of oxalic acid in 50-ml of water, and add 6-ml of this solution to the colored solution. If a suspended precipitate is present, add concentrated H_2So_4 until a clear solution is obtained.

Allow the samples to cool to near room temperature, being sure that the samples are still clear. Adjust the pH to 12.0 with 10 N NaOH. Quantitatively transfer the mixture to a Buchner funnel containing GF/C filter paper, and filter the precipitate. The spout of the Buchner funnel should be equipped with a 13-mm ID by 90-mm long piece of Teflon tubing. (This modification minimizes the possibility of aspirating sample solution during filtration.) Filter the mixture into a 500-ml filtering flask. Wash the solid material four times with water. When filtration is complete, wash the Teflon tubing, quantitatively transfer the filtrate to a 500-ml volumetric flask, and dilute to volume. The samples are now ready for cadmium reduction. Pipette a 50-ml aliquot of the sample into a 150-ml beaker, and add a magnetic stirring bar. Pipette in 1.0-ml of 6.5 percent EDTA solution, and mix.

Determine the correct stopcock setting to establish a flow rate of 7 to 9 ml/min of column rinse solution through the cadmium reduction column. Use a 50-ml graduated cylinder to collect and measure the solution volume. After the last of the rinse solution has passed from the funnel into the burette, but before air entrapment can occur, start adding the sample and collect it in a 250-ml graduated cylinder. Complete the quantitative transfer of the sample to the column as the sample passes through the column. After the last of the sample has passed from the funnel into the burette, start adding 60-ml of column rinse solution, and collect the rinse solution until the solution just disappears from the funnel. Quantitatively transfer the sample to a 200-ml volumetric flask (250-ml may be required), and dilute to volume. The samples are now ready for NO_2– analysis. Note: Both the sample and blank (unexposed $KMnO_4$/NaOH solution) should go through this procedure. Additionally, two spiked samples should be run with every group of samples passed through the column. To do this, prepare two additional 50-ml aliquots of the sample suspected to have the highest NO_2–concentration, and add 1-ml of the spiking solution to this aliquot. It the spike recovery or column efficiency (see 6.2.1) is below 95 percent, prepare a new column, and repeat the cadmium reduction.

4.4 Sample Analysis. Pipette 10-ml of sample into a culture tube. (Note: Some test tubes give a high blank NO_2–value but culture tubes do not.) Pipette in 10-ml of sulfanilamide solution and 1.4-ml on NEDA solution. Cover the culture tube with parafilm, and mix the solution. Prepare a blank in the same manner using the sample from treatment of the unexposed $KMnO_4$/NaOH solution (3.1.2). Also, prepare a calibration standard to check the slope of the calibration curve. After a 10-minute color development interval, measure the absorbance at 540-nm against water. Read ug NO_2–/ml from the calibration curve. If the absorbance is greater than that of the highest calibration standard, pipette less than 10-ml of sample and enough water to make the total sample volume 10-ml, and repeat the analysis. Determine the NO_2 concentration using the calibration curve obtained in Section 5.4.

4.5 Audit Analysis. With each set or sets of compliance samples, analyze two unknown audit samples in the same manner as the samples to evaluate the technique of the analyst and the standards preparation. The same person, reagents, and analytical system must be used both for each set or sets of compliance samples and the EPA audit samples. If this condition is met, for compliance samples that are analyzed frequently, it is only necessary to analyze the audit samples once per quarter.

Calculate the concentration in mg/m^3 using the specified gas volume in the audit instructions. (Note: Acceptability of the results of the audit samples may be obtained immediately by reporting the audit and compliance results by telephone.) Include the results of both audit samples with the results of the compliance determination samples in appropriate reports to the EPA regional office or the appropriate enforcement agency.

5. Calibration

5.1 Dry Gas Meter (DGM).

5.1.1 Initial Calibration. Same as in Method 6, Section 5.1.1. For detailed instructions on carrying out this calibration, it is suggested that Section 3.5.2 of Citation 4 be consulted.

5.1.2 Post-Test Calibration Check. Same as in Method 6, Section 5.1.2.

5.2 Rotameter. During the initial DGM calibration, record the rotameter ball position, the wet test meter volume, and run time. When the DGM calibration is complete, complete the

rotameter calibration by adjusting the flow rate to cover the range of 0 to 1 liter/min. Correct all volumes to STP. It is suggested that Section 3.5.2 of Citation 4 be consulted for examples of these volume calculations. Calculate the corrected flow rates, and plot flow rate versus ball position.

5.3 Thermometers for DGM and Barometer. Same as in Method 6, Sections 5.2 and 5.4, respectively.

5.4 calibration Curve for Spectrophotometer. Dilute 5.0 ml of the nominally 1000μg NO_2^-/ml solution to 200ml with water. This solution nominally contains 25μg NO_2^-/m Use this solution to prepare calibration standards to cover the range of 0.25 to 3.00 μg NO_2^-/ml. Use pipettes for all additions.

Run standards and water blank as instructed in Section 4.4. Plot the net absorbance vs μg NO_2^-/ml. Draw a smooth curve through the points. The curve should be linear up to an absorbance of approximately 1.2 with a slope of approximately 0.53 absorbance units/μg NO_2^-/ml. The curve should pass through the origin. The curve is slightly nonlinear from an absorbance of 1.2 to 1.6.

6. Calculations

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculation.

6.1 Sample volume, dry basis, corrected to standard conditions.

$$V_{m(std)} = V_m XY \frac{T_{std}}{T_m} \frac{P_{bar}}{P_{std}} = K_1 XY \frac{V_m P_{bar}}{T_m} \quad \text{(Eq. 7C–1)}$$

Where:

V_m = Dry gas volume measured by the dry gas meter, corrected to standard conditions, dscm.

V_m = Dry gas volume as measured by the dry gas meter, dcm.

Y = Dry gas meter calibration factor.

X = Correction factor for CO_2 collection.

$$= \frac{100 + \%CO_2(v/v)}{100}$$

P_{bar} = Barometric pressure, mm Hg.

P_{std} = Standard absolute pressure, 760 mm Hg.

T_m = Average dry gas meter absolute temperature, °K.

T_{std} = Standard absolute temperature, 293°K.

K_1 = 0.3858°K/mm Hg.

6.2 Total μy NO_2 Per Sample.

6.2.1 Efficiency of Cadmium Reduction Column. Calculate this value as follows:

$$E = \frac{(x - y)\,200}{s \times 1.0 \times \frac{46.01}{62.01}} = \frac{269.6\,(x - y)}{s} \quad \text{(Eq.7C–2)}$$

Where:

E = Column efficiency, unitless.

x = Analysis of spiked sample, μg NO_2^-/ml.

y = Analysis of unspiked sample, μg NO_2^-/ml.

200 = Final volume of sample and blank after passing through the column, ml.

s = Concentration of spiking solution, μg NO_2^-/ml.

1.0 = Volume of spiking solution added, ml.

46.01 = μg NO_2^-/μ mole.

62.01 = μg NO_3^-/μ mole.

6.2.2 Total μg NO_2.

$$m = \frac{(S - B)}{E} \times 200 \times \frac{500}{50} \times \frac{1000}{100}$$

$$= \frac{(2 = 10^4)\,(S - B)}{E} \quad \text{(Eq. 7C–3)}$$

Where:

m = Mass of NO_X, as NO_2, in sample, μg.

S = Analysis of sample, μg NO_2^-/ml.

B = Analysis of blank, μg NO_2^-/ml.

500 = Total volume of prepared sample, ml.

50 = Aliquot of prepared sample processed through cadmium column, ml.

100 = Aliquot of $KMnO_4$/NaOH solution, ml.

1000 = Total volume of $KMnO_4$/NaOH solution, ml.

6.3 Sample Concentration.

$$C = K_2 \frac{m}{V_m(std)}$$

Where:

C = Concentration of NO_x as NO_2, dry basis, mg/dscm.

$K_2 = 10^{-3}$ mg/g.

6.4 Conversion Factors.

1.0 ppm NO = 1.247 mg NO/m^3 at STP.

1.0 ppm NO_2 = 1.912 mg NO_2/m^3 at STP.

1 ft^3 = 2.832 × 10^{-2} m^3.

7. Quality Control

Quality control procedures are specified in Sections 4.1.3 (flow rate accuracy); 4.3 (cadmium column efficiency); 4.4 (calibration curve accuracy); and 4.5 (audit analysis accuracy).

8. Bibliography

1. Margeson, J.H., W.J. Mitchell, J.C. Suggs, and M.R. Midgett. Integrated Sampling and Analysis Methods for Determining NO_x Emissions at Electric Utility Plants. U.S. Environmental Protection Agency, Research Triangle Park, N.C. Journal of the Air Pollution Control Association. *32*:1210–1215. 1982.

2. Memorandum and attachment from J.H. Margeson, Source Branch, Quality Assurance Division, Environmental Monitoring Systems Laboratory, to The Record, EPA. March 30, 1983. NH_3 Interference in Methods 7C and 7D.

3. Margeson, J.H., J.C. Suggs, and M.R. Midgett. Reduction of Nitrate to Nitrite with Cadmium. Anal. Chem. *52*:1955–57. 1980.

4. Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III—Stationary Source Specific Methods. August 1977. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA–600/4–77–027b. August 1977.

Method 7D—Determination of Nitrogen Oxide Emissions From Stationary Sources

Alkaline-Permanganate/Ion Chromatographic Method

1. Applicability, Principle, Interferences, Precision, Bias, and Stability

1.1 Applicability. The method is applicable to the determination of NO_x emissions from fossil-fuel fired steam generators, electric utility plants, nitric acid plants, or other sources as specified in the regulations. The lower detectable limit is similar to that for Method 7C. No upper limit has been established; however, when using the recommended sampling conditions, the method has been found to collect NO_x emissions quantitatively up to 1782 mg NO_x/m^3 as NO_2, (932 pm NO_x).

1.2 Principle. An integrated gas sample is extracted from the stack and collected in alkaline-potassium permanganate solution; NO_x (NO + NO_2) emissions are oxidized to NO_3^- Then NO_3^- is analyzed by ion chromatography.

1.3 Interferences. possible interferences are SO_2 and NH_3. High concentrations of SO_2 could interfere because SO_2 could interfere because SO_2 consumes MnO_4^- (as does NO_x) and, therefore, could reduce the NO_x collection efficiency. However, when sampling emissions from a coal (2.1 percent S) fired electric utility plant, with no control of SO_2 emissions, collection efficiency was not reduced. In fact, calculations show that sampling 3000 ppm SO_2 will reduce the MnO_4^- concentration by only 5 percent if all the SO_2 is consumed in the first impinger.

NH_3 is oxidized to NO_3^- by the absorbing solution. At 100 ppm NH_3 in the gas stream, an interference of 6 ppm NO_x (11 mg NO_2/m^3) was observed when the sample was analyzed 10 days after collection. Therefore, the method may not be applicable to plants using NH_3 injection to control NO_x emissions.

1.4 Precision and Bias. The method does not exhibit any bias relative to Method 7. The within-laboratory relative standard deviation for a single measurement was approximately 6 percent at 200 to 270 ppm NO_x.

1.5 Stability. Collected samples are stable for at least 4 weeks.

2. Apparatus.

2.1 Sampling and Sample Recovery. The sampling train is the same as in Figure 7C–1 of Method 7C. Component parts are the same as in Method 7C, Section 2.1.

2.2 Sample Preparation and Analysis.

2.2.1 Magnetic Stirrer. With 25- by 10-mm Teflon-coated stirring bars.

2.2.2 Filtering Flask. 500-ml capacity with sidearm.

2.2.3 Buchner Funnel. 75-mm ID.

2.2.4 Filter Paper. Whatman GF/C, 7.0-cm diameter.

2.2.5 Stirring Rods.

2.2.6 Volumetric Flask. 250-ml.

2.2.7 Pipettes. Class A.

2.2.8 Erlenmeyer Flasks. 250-ml.

2.2.9 Ion Chromatograph. Equipped with an anion separator column to separate NO_3^-, a H+ suppressor, and necessary auxiliary equipment. Nonsuppressed and other forms of ion chromatography may also be used provided that adequate resolution of NO_3^- is obtained. The system must also be able to resolve and detect NO_2^-.

3. Reagents

Unless otherwise indicated, all reagents should conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available; otherwise, use the best available grade.

3.1 Sampling.

3.1.1 Water. Deionized distilled to conform to ASTM specification D 1193–74, Type 3 (incorporated by reference—see § 60.17).

3.1.2 Potassium Permanganate, 4.0% (w/w), Sodium Hydroxide, 2.0% (w/w). Dissolve 40.0 g of $KMnO_4$ and 20.0 g of NaOH in 940 ml of water.

3.2 Sample Preparation and Analysis.

3.2.1 Hydrogen Peroxide, 5 Percent. Dilute 30 percent H_2O_2 1:5 (v/v) with water.

3.2.2 Blank Solution. Dissolve 2.4 g of $KMnO_4$ and 1.2 g of NaOH in 96ml of water.

3.2.3 KNO_3 Standard Solution, Nominal Concentration, 6,200 μg NO_3^-. ml. Dry KNO_3 at 110°C for 2 hours, and cool in a desiccator. Accurately weigh 9 to 10 g of KNO_3, dissolve in water, and dilute to 1 liter. Calculate the exact NO_3^- concentration from the following relationship:

$$\mu g\ NO_3^-/ml = g\ of\ KNO_3 \times 10^3 \times \frac{62.01}{101.10}$$

This solution is stable for 2 months without preservation under laboratory conditions.

3.2.4 Eluent, 0.003 M $NaHCO_3$/0.0024 M Na_2CO_3. Dissolve 1.008 g $NaHCO_3$ and 1.018 g Na_2CO_3 in water and dilute to 4 liters. Other eluents capable of resolving nitrate ion from sulfate and other species present may be used.

3.2.5 Quality Assurance Audit Samples. This is the same as in Method 7C, Section 3.2.20.

4. Procedure

4.1 Sampling. This is the same as in Method 7C, Section 4.1.

4.2 Sample Recovery. This is the same as in Method 7C, Section 4.2.

4.3 Sample Preparation for Analysis. Note the level of liquid in the sample container, and determine whether any sample was lost during shipment. If a noticeable amount of leakage has occurred, the volume lost can be determined from the difference between initial and final solution levels, and this value can then be used to correct the analytical result. Quantitatively transfer the contents to a 1–liter volumetric flask, and dilute to volume.

Sample preparation can be started as soon as a chromatograph of a prepared sample shows that no NO_2^- is detectable. This step is necessary to insure that all NO_2^- is converted to NO_3^- It has been determined that 48 to 60 hours of sample standing after collection is necessary to complete this conversion. However, the minimum standing time required should be established experimentally. Once established, this time can be used for future samples.

Take a 50-ml aliquot of the sample and blank, and transfer to 250-m Erlenmeyer flasks. Add a magnetic stirring bar. Adjust the stirring rate to as fast a rate as possible without loss of solution. Add 5 percent H_2O_2 in increments of approximately 5 m using a 5-m pipette. When the $KMnO_4$ color appears to have been removed, allow the precipitate to settle, and examine the supernatant liquid. If the liquid is clear, the H_2O_2 addition is complete. If the $KMnO_4$ color persists, add more H_2O_2, with stirring, until the supernatant liquid in clear. (Note: The faster the stirring rate, the less volume of H_2O_2 is that will be required to remove the $KMnO_4$.) Quantitatively transfer the mixture to a Buchner funnel containing GF/C filter paper, and filter the precipitate. The spout of the Buchner funnel should be equipped with a 13-mm ID by 90-mm long piece of Teflon tubing. This modification minimizes the possibility of aspirating sample solution during filtration. Filter the mixture into a 500-m filtering flask. Wash the solid material four times with water. When filtration is complete, wash the Teflon tubing, quantitatively transfer the filtrate to a 250-m volumetric flask, and dilute to volume. The sample and blank are now ready for NO_3^-–analysis.

4.4 Sample Analysis. The following chromatographic conditions are recommended: full scale range, 3 μMHO; sample loop, 0.5 ml; flow rate, 2.5 ml/min. These conditions should give a NO_3^- retention time of approximately 15 minutes (Figure 7D–1).

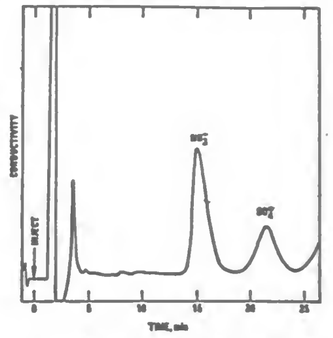


Figure 7D–1. Ion Chromatograph of a prepared sample

Establish a stable baseline. Inject a sample of water, and determine if any NO_3^- appears in the chromatogram. If NO_3^- is present, repeat the water load-injection procedure approximately five

VOL 48 ISS 198 OCT 12 1983 UMI

times; then re-inject a water sample, and observe the chromatogram. When no NO_3- is present, the instrument is ready for use. Inject calibration standards. then inject samples and a blank. Repeat the injection of the calibration standards (to compensate for any drift in response of the instrument). Measure the NO_3- peak height or peak area, and determine the sample concentration from the calibration curve.

4.5 Audit Analysis. This is the same as in Method 7C, Section 4.5.

5. Calibration

5.1 Dry Gas Meter (DGM).

5.1 Initial Calibration. Same as in Method 6, Section 5.1.1. For detailed instructions on carrying out this calibration, it is suggested that Section 3.5.2 of Citation 3 be consulted.

5.1.2 Post-Test Calibration Check. Same as in Method 6, Section 5.1.2.

5.2 Rotameter. Same as in Method 7C, Section 5.2.

5.3 Thermometers for DGM and Barometer. Same as in Method 6, Sections 5.2 and 5.4, respectively.

5.4 Calibration Curve for Ion Chromatograph. Dilute a given volume (1.0ml or greater) of the nominally 6,200 Mg NO_3-/ml solution to a convenient volume with water, and use this solution to prepare calibration standards. Prepare at least four standards to cover the range of the samples being analyzed. Use pipettes for all additions. Run standards as instructed in Section 4.4. Determine peak height or area, and plot the individual values versus concentration in Mg $_3$/ml. Do not force the curve through zero. Draw a smooth curve through the points. The curve should be linear. If the curve is linear, linear regression should be used to determine the calibration equation.

6. Calculations

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculation.

6.1 Sample Volume, Dry Basis, Corrected to Standard Conditions. This is the same as in Method 7C, Section 6.1.

6.2 Total Mg $_3$ Per Sample.

$$m = (S - B) \times 250 \times \frac{1000}{50} \times \frac{46.01}{62.01}$$

$$= 3710\,(S - B) \quad \text{(Eq. 7D–1)}$$

Where:

m = Mass of NO_x, as NO_2, in sample, μg.
S = Analysis of sample, Mg NO_3-/ml.
B = Analysis of blank, Mg NO_3-/ml.
= 250-Volume of prepared sample, ml.
1000 = Total volume of $KMnO_4$ solution, ml.
50 = Aliquot of $KMnO_4$ solution, ml.

6.3 Sample Concentration.

$$C = K_2 \frac{m}{V_{m(std)}}$$

Where:

C = Concentration of NO_x as NO_2, dry basis, mg/dscm.
$K_2 = 10^{-3}$ mg/ g.
6.4 Conversion Factors.
1.0 ppm NO = 1.247 mg NO/m^3 at STP.
1.0 ppm NO_2 = 1.912 mg NO_2/m^3 at STP.
1 ft^3 = 2.832 × 10^{-2} m^3.

7. Quality Control

Quality control procedures are specified in Sections 4.1.3 (flow rate accuracy) and 4.5 (audit analysis accuracy) of Method 7C.

8. Bibliography

1. Margeson, J.H., W. J. Mitchell, J. C. Suggs, and M. R. Midgett. Integrated Sampling and Analysis Methods for Determining NO_x Emissions at Electric Utility Plants. U.S. Environmental Protection Agency, Research Triangle Park, N.C. Journal of the Air Pollution Control Association. *32*:1210–1215. 1982.

2. Memorandum and attachment from J. H. Margeson, Source Branch, Quality Assurance Division, Environmental Monitoring Systems Laboratory, to The Record, EPA. March 30, 1983. NH_3 Interference in Methods 7C and 7D.

3. Quality Assurance handbook for Air Pollution Measurement Systems. Volume III—Stationary Source Specific Methods. U.S. Environmental Protection Agency, Research Triangle Park, N.C. Publication No. EPA–600/4–77–027b. August 1977.

* * * * *

[FR Doc. 83–27267 Filed 10–11–83; 8:45 am]
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federal register

Wednesday
October 12, 1983

Part III

Environmental Protection Agency

Control of Air Pollution From Aircraft and Aircraft Engines; Smoke Emission Standard

VOL
48
ISS
1
9
8
OC
12
1983
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS-FRL-2422-2]

Control of Air Pollution From Aircraft and Aircraft Engines; Smoke Emission Standard

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This action stays the January 1, 1984 effective date for EPA's smoke standards, applicable to aircraft gas turbine engines rated below 26.7 kilonewtons (kN) thrust pending completion of rulemaking in response to a petition for reconsideration submitted by the General Aviation Manufacturers Association (GAMA).

DATE: This stay is effective November 14, 1983.

ADDRESS: Material relevant to this action is contained in Public Docket OMSAPC-78-1, located at the Central Docket Section, West Tower Lobby, 401 M Street SW., Washington D.C. 20460. The docket is open to the public and may be inspected between 8 am and 4 pm on week days. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Kittredge U.S. Environmental Protection Agency Office of Mobile Sources (ANR-455) 401 M Street SW., Washington D.C. 20460 telephone (202)-382-4981.

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1982, EPA amended smoke and other emission standards applicable to aircraft engines (47 FR 58462). The rule included an effective date of January 1, 1984 for smoke standards applicable to aircraft gas turbine engines. On March 17, 1983, GAMA submitted a petition to EPA requesting reconsideration or revision of the amended smoke standard, alleging that EPA did not consider GAMA's comments during the rulemaking process and that the revised standard is inequitable as applied to small engines. On July 18, 1983, EPA proposed a stay in the January 1, 1984 effective date for small engines affected by the smoke standard, to allow time for careful evaluation of the GAMA petition (48 FR 32745).

Only two comments were received on the NPRM, from the Aircraft Owners and Pilots Association and the Garrett Turbine Engine Company. Both recommended that the stay be finalized as proposed and that the GAMA petition be granted. Garrett also provided comments bearing on the merits of the GAMA petition, which will be considered in a later rulemaking action.

II. Discussion of Issues

There is no significant environmental impact attributable to this rulemaking action, since only one engine model is likely to be affected. The economic impact could be favorable to the manufacturer of that particular engine model, since it would be relieved of the obligation to attempt to meet the present effective date for the standard (January 1, 1984).

As stated in the NPRM, the stay will give EPA the opportunity to coordinate the review of the arguments advanced in the GAMA petition with the International Civil Aviation Organization (ICAO), whose smoke standard was adopted by EPA in the December 31, 1982 rulemaking in the interests of international harmonization. Notwithstanding the desirability for international coordination, EPA intends to proceed expeditiously with the evaluation of the GAMA petition, with the goal of completing any amended rulemaking early in 1984.

III. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a regulatory analysis. This rulemaking is not major because it will not result in adverse effects on the economy greater than $100 million. There are no discernible effects on competition, productivity, investment, employment or innovation. For these reasons, EPA has not prepared a formal Regulatory Impact Analysis.

This rulemaking action has been sent to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291. Any comments from OMB and any EPA response thereto are in the Public Docket for this rulemaking.

IV. Impacts on Reporting Requirements

There are no reporting requirements directly associated with this rulemaking action.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine when a regulation will have a significant effect on a substantial number of small entities so as to require a regulatory flexibility analysis. Because of the limited classes of engines to which the proposal applies, no small entities (as defined by the Small Business Act) will be affected. Therefore, no Regulatory Flexibility Analysis has been prepared.

List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft.

Dated: October 4, 1983.

William D. Ruckelshaus,

Administrator.

For the reasons set forth above, the January 1, 1984 effective date of the aircraft smoke regulations under 40 CFR 87.21(e) is hereby stayed for turbojet and turbofan engines rated below 26.7 kN thrust pending completion of rulemaking in response to the petition for reconsideration submitted by the General Aviation Manufacturers Association on March 17, 1983

[FR Doc. 83-27601 Filed 10-11-83; 8:45 am]

BILLING CODE 6560-50-M

VOL
48
ISS
1
9
8
OC
12
1983
UMI

federal register

Wednesday
October 12, 1983

Part IV

Department of Justice

Attorney General's Task Force on Family Violence; Public Hearings

VOL
48
ISS
1
9
8
OC
12
1983
UMI

DEPARTMENT OF JUSTICE

Attorney General's Task Force on Family Violence; Public Hearings

Summary

Notice is hereby given that the Attorney General's Task Force on Family Violence will hold six public hearings on the issue of family violence. The Task Force, which was announced by the Attorney General on September 19, 1983, consists of nine members from the public and private sector covering a wide range of expertise in fields related to law enforcement and family violence.

The Task Force will function solely as an advisory body in full compliance with the provisions of the Federal Advisory Committee Act.

The Task Force will make recommendations to the Attorney General for addressing the national problem of violence within the family. Specifically, the Task Force will examine the issues and develop recommendations in the following areas: The nature of violence within the family and the responses to it; violence and molestation against children, spouse abuse, and mistreatment of the elderly; national, state, and local efforts, whether based in a government agency or in the private sector to address the problem of family violence; the integration of government and community resources to assist these victims; and appropriate roles for the Department of Justice, and other Federal agencies, in addressing family violence and improving the response to and the treatment of its victims.

Oral and written testimony will be solicited from the public. The testimony will be used as a basis for making recommendations to the Attorney General.

Location/Dates

Public hearings will be held at the following sites: New York, New York, December 1–2; Detroit, Michigan, December 14–15; Kansas City, Missouri, January 12–13; Seattle, Washington, January 19–20; San Antonio, Texas, February 1–2; Sacramento, California, February 15–16–17. An announcement regarding the specific time and location of the hearings will be made in a subsequent **Federal Register** announcement.

Procedure

The Task Force on Family Violence invites all interested parties to submit written testimony or program information regarding any, or all, aspects of family violence. Persons interested in submitting written testimony should forward it to: The Attorney General's Task Force on Family Violence, 633 Indiana Avenue, NW., Washington, D.C. 20531. If possible, all written testimony should be typed double spaced and submitted in duplicate. Persons interested in providing oral testimony at a hearing should notify: The Attorney General's Task Force on Family Violence, 633 Indiana Ave., NW., Washington, D.C. 20531, as soon as possible and in no event not later than 14 days prior to the date of the relevant hearing. The Task Force on Family Violence will make the final determinations as to what persons/organizations will make oral presentations.

Conduct of Hearings

Chief William Hart, Chairman of the Task Force on Family Violence, or his designee, will preside at the hearings. The other members of the Task Force will join Mr. Hart. This will not be a judicial or evidentiary-type hearing and there will not be any cross examination. However, clarifying questions or discussion may follow each presentation.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding official.

A transcript of the hearings will be made. The entire record of the hearings, including transcript, will be retained by the Task Force on Family Violence, and will be available to the public. Any person may purchase a copy of the transcript from the reporter.

For further information Contact: Attorney General's Task Force on Family Violence, 633 Indiana Avenue, NW., Washington, D.C. 20531.

Marise Rene Duff,

Executive Director, Attorney General's Task Force on Family Violence.

[FR Doc. 83-27801 Filed 10-11-83; 8:45 am]

BILLING CODE 4410-18-M

VOL
48
ISS
1
9
8
OC
12
1983
UMI

Reader Aids

Federal Register
Vol. 48, No. 198
Wednesday, October 12, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7
46005–46258.....11
46259–46486.....12

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559
Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259

5 CFR

Ch. XIV.....45373
213.....46261
752.....45525
1255.....45373

7 CFR

2.....46261
301.....46262
752.....45526
906.....45374
908.....45526
910.....45374, 45755
919.....45374
929.....45374
981.....45374
991.....45374
1435.....45374
1901.....45532
Proposed Rules:
226.....45779
402.....46062
441.....45782
781.....46065
904.....45786
910.....45565
1065.....45117
1131.....46343

8 CFR

103.....45093
214.....45093
238.....45093
248.....45093

9 CFR

Proposed Rules:
92.....46355
317.....45118
319.....45118
350.....45755
362.....45755
381.....45118

10 CFR

55.....45223
71.....45381
761.....45746
Proposed Rules:
50.....45787

12 CFR

29.....45532
204.....46005, 46262
207.....45533
217.....45756, 46262
220.....45533
221.....45533
224.....45533
561.....45382
563.....45382
760.....46006

13 CFR

101.....45224
123.....45225
133.....46006

14 CFR

39.....45093, 45535, 46008, 46009
71.....45094, 45095, 45536, 45537, 46010
97.....45096
205.....46264
248.....46265
294.....46265
320.....45236
380.....46265
389.....45758
Proposed Rules:
Ch. I.....46358
21.....45214, 45565
25.....46218, 46250
29.....46250
39.....46070
61.....45214
65.....45214
71.....45118, 45566
107.....45214
109.....45214
121.....45214, 46218, 46250
135.....45214
145.....45214

16 CFR

453.....45537
Proposed Rules:
1212.....45405
1500.....45567
1513.....45567

17 CFR

145.....46010
146.....46010
147.....46010

VOL
48
ISS
1
98
OC
12
1983
UMI

229.....46012
230.....46012
231.....46012
239.....45386, 46012
240.....46012
241.....46012
270.....46012
274.....46012
Proposed Rules:
240.....45119

18 CFR

2.....46012
35.....46012
157.....46021
271.....45097, 46266–46268
274.....45097
282.....45758
385.....45388
Proposed Rules:
101.....46361
104.....46361
141.....46361
154.....46361
159.....46361
201.....46361
204.....46361
260.....46361
282.....45787
410.....45568
271.....46071

19 CFR

101.....45538
103.....45538
210.....45544
Proposed Rules:
101.....45409

20 CFR

404.....46142
Proposed Rules:
422.....46072

21 CFR

111.....45237, 45760, 46022
109.....45544
131.....45545
179.....46022
193.....45547
430.....46270
436.....46270
442.....46270
522.....46023
540.....45760
558.....45102, 46023, 46024
Proposed Rules:
182.....45121
184.....45121

24 CFR

570.....45760
888.....45547
Proposed Rules:
24.....46072

25 CFR

71.....45103
Proposed Rules:
140.....45789

26 CFR

1.....45761, 46272, 46296
4.....46272
31.....46296
35a.....45362

27 CFR

4.....45549
5.....45549
7.....45549
9.....45238, 45239
Proposed Rules:
9.....46387

29 CFR

1601.....46298
Proposed Rules:
1908.....45411
1910.....45956
1926.....45872

30 CFR

251.....46025
917.....46299
935.....46027, 46301
938.....45389
946.....46028
Proposed Rules:
55.....45336
56.....45336
57.....45336
58.....45336
935.....45420

32 CFR

251.....45242
Proposed Rules:
199.....45791

33 CFR

100.....45244
117.....45245
130.....46178
131.....46178
132.....46178
151.....45704
155.....45704
157.....45718
Proposed Rules:
162.....45798

34 CFR

668.....45670
690.....45670
Proposed Rules:
350.....45568
351.....45568
352.....45568
353.....45568
354.....45568
355.....45568
357.....45568

36 CFR

60.....46306
Proposed Rules:
216.....45421

37 CFR

Proposed Rules:
1.....45424
2.....45424

38 CFR

Proposed Rules:
21.....45123, 45268, 45572

39 CFR

111.....45761, 46031
Proposed Rules:
111.....45269

40 CFR

52.....45245, 45246, 46046, 46047, 46309
87.....46481
180.....46310
192.....45926
433.....45105
469.....45249
717.....45765
Proposed Rules:
51.....45269, 46152
52.....46081, 46391–46393
60.....45701, 46224, 46472
81.....46082, 46085, 46393
141.....45502
162.....46397
180.....45573, 46395, 46396
228.....45798
261.....45210
464.....45573
465.....45573

41 CFR

Ch 1.....45392, 45557
Ch. 101.....45105
9–4.....45766
9–51.....45766
101–11.....46310
105–61.....45392

42 CFR

51c.....45558
52b.....45558
55a.....45558
56.....45558
57.....45112
110.....45250
122.....45558
405.....45766

43 CFR

Subtitle A.....45664
Public Land Orders:
44 (Revoked by PLO 6478).....45401
98 (Revoked by PLO 6478).....45401
399 (Revoked in part by PLO 6477).....45395
698 (Revoked by PLO 6473).....45393
780 (Revoked by PLO 6478).....45401
3645 (Revoked by PLO 6472).....45393
5170 (Revoked in part by PLO 6477).....45395
5179 (Revoked in part by PLO 6477).....45395
5180 (Revoked in part by PLO 6477).....45395
5184 (Revoked in part by PLO 6477).....45395
6472.....45393
6473.....45393
6474.....45394
6475.....45394
6476.....45395
6477.....45395
6478.....45401
6479.....45559
6480.....46049
6481.....46049
6482.....46050

44 CFR

67.....46050, 46312
Proposed Rules:
67.....45425, 46085

45 CFR

13.....45251

46 CFR

160.....45113
162.....45727
380.....45559
542.....46175
543.....46175
544.....46175
Proposed Rules:
Ch. IV.....45269
7.....45574
24.....45425
25.....45425
26.....45425
30.....45425
31.....45425
32.....45425
35.....45425
70.....45425
71.....45425
75.....45425
77.....45425
78.....45425
90.....45425
91.....45425
94.....45425
96.....45425
97.....45425
107.....45425
108.....45425
109.....45425
163.....45425
188.....45425
189.....45425
192.....45425
195.....45425
196.....45425
508.....45800
524.....45270
531.....45270
536.....45270
538.....45272

47 CFR

0.....45652
1.....45652
2.....45560
73.....45401–45403
81.....45114, 45560
83.....45114, 45560
87.....45114
97.....45652
Proposed Rules:
73.....45428–45438
83.....45439

49 CFR

571.....46053
1033.....45257
1043.....45775
Proposed Rules:
Ch. X.....46399
27.....46399
218.....45272
1039.....45137
1155.....45440

50 CFR

17.....46053, 46328–46337
23.....45259, 45775
611.....45403
646.....45404
654.....46057
655.....45403, 45404
656.....45403
657.....45403
658.....46057
661.....45263
681.....46342
Proposed Rules:
17.....45574, 46086
23.....45575
611.....45804, 45806
663.....45274

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 11, 1983

VOL
48
ISS
1
1983
OC
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VOL
48
ISS
1
9
8
OC
12
1983
UMI

VOL
48
ISS
199
OC
13
1983
UMI

10-13-83
Vol. 48 No. 199

federal register

Thursday
October 13, 1983

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13
1983
UMI

10-13-83
Vol. 48 No. 199
Pages 46487-46730

federal register

Thursday
October 13, 1983

Selected Subjects

Administrative Practice and Procedure
Postal Rate Commission
Agricultural Commodities
Agricultural Marketing Service
Air Pollution Control
Environmental Protection Agency
Aircraft
Federal Aviation Administration
Alcohol and Alcoholic Beverages
Alcohol, Tobacco and Firearms Bureau
Animal Drugs
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Bridges
Coast Guard
Classified Information
Energy Department
Communications Common Carriers
Federal Communications Commission
Customs Duties and Inspection
Customs Service
Drug Traffic Control
Drug Enforcement Administration

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Endangered and Threatened Wildlife
Fish and Wildlife Service

Government Property Management
General Services Administration

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

National Banks
Comptroller of Currency

Navigation (Water)
Coast Guard

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Over-The-Counter Drugs
Food and Drug Administration

Pipeline Safety
Research and Special Programs Administration

Surface Mining
Surface Mining Reclamation and Enforcement Office

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 48, No. 199
Thursday, October 13, 1983

Agency for International Development
NOTICES
Meetings:
46630 International Food and Agricultural Development Board

Agricultural Marketing Service
RULES
46488 Oranges (Valencia) grown in Ariz. and Calif.
46487 Winter squash, grade standards
PROPOSED RULES
46544 Tomatoes grown in Fla.

Agriculture Department
See Agricultural Marketing Service; Soil Conservation Service.

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol, viticultural area designations:
46522 Catoctin, Md.
46518 El Dorado, Calif.
46524 Lake Michigan, Michigan
46520 Mendocino County, Calif.
Alcoholic beverages:
46518 Ingredient labeling of wine, distilled spirits and malt beverages; correction
46526 Wine; removal of subpart and revision of sample requirements for formula

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
46634 GTE Corp.
46634 Rohm & Haas Co.; terminated

Coast Guard
RULES
Drawbridge operations:
46532 New Jersey
Regattas and marine parades; safety of life:
46531 Bud Warmington International Grand Prix
Safety Zones:
46534 Mississippi River Gulf Outlet et al.
46533 San Francisco Bay
PROPOSED RULES
Merchant marine officers and seamen:
46556 Licensing of Federal pilots
NOTICES
Meetings:
46685, 46686 Boating Safety National Advisory Council (5 documents)

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
Meetings:
46599 Industrial Competitiveness, President's Commission

Comptroller of Currency
RULES
National banks:
46502 Bank service corporations, transactions with affiliates, borrowing limits, and visitation

Customs Service
RULES
Vessels in foreign and domestic trades:
46510 American vessels, foreign equipment purchases and repairs

Drug Enforcement Administration
RULES
Schedule of controlled substances:
46516 Exempt chemical preparations
NOTICES
Registration applications, etc.; controlled substances:
46663 Maras, John Fred, D.O.; denied
46663 O'Brien, Joseph A.; denied
46664 Voorhies, Herbert W.; denied

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
46609 Aluminum Co. of America

Education Department
NOTICES
Grants; availability, etc.:
46607 Graduate and professional opportunity fellowships program
46608 National resource centers, foreign language, and area studies fellowships programs; noncompeting continuation awards
46690 Meetings; Sunshine Act

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission.
RULES
46499 Classified matter or special nuclear material, access; criteria and procedures for determining eligibility

Energy Information Administration
NOTICES
46610 Agency information collection activities under OMB review

Energy Research Office
NOTICES
Meetings:
46610 Energy Research Advisory Board

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources; authority delegation:
46535 New York
46536 Puerto Rico
46535 Oregon
Air quality planning purposes; designation of areas:
46537 Georgia
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
46548 Guam
Air quality planning purposes; designation of areas:
46549 Alabama and Tennessee
46553 Missouri
46550 Wisconsin
NOTICES
Toxic and hazardous substances control:
46617 Premanufacture notices receipts; correction
46617 Premanufacture notices review period extensions

Environmental Quality Council
PROPOSED RULES
46554 National Environmental Policy Act; guidance memorandum; extension of time

Federal Aviation Administration
RULES
Airworthiness directives:
46503 Piper
46503 Control zones and transition areas
46504 IFR altitudes

Federal Communications Commission
PROPOSED RULES
Common carrier services:
46556 Jurisdictional Separations procedures
NOTICES
46618 Agency information collection activities under OMB review
Hearings, etc.:
46618 Baldwin Broadcasting, Inc., et al.
46618 Eagle Rock Broadcasting, Inc., et al.
46619 Marcell's Inc., et al.
46620 Phoenix Media Corp., et al.
46619 San Luis Valley Broadcasting, Inc., et al.
46621 Special Deliverys, Inc., et al.
Meetings:
46621 Caribbean Region; facilities planning
46621 ITU 1985 Space World Administrative Radio Conference Advisory Committee
46621 Telecommunications Industry Advisory Group

Federal Election Commission
NOTICES
46689 Meetings; Sunshine Act

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
46611 Castle Gas Co., Inc.
46611 Colorado Interstate Gas Co.
46611 Consolidated Gas Supply Corp.
46611 El Paso Natural Gas Co.
46612 Gulf Power
46612, 46613 Michigan-Wisconsin Pipe Line Co. (2 documents)
46613 Montana-Dakota Utilities Co.
46613 Natural Gas Pipeline Co. of America et al.
46614 Pacific Gas & Electric Co.
46614 Philadelphia Electric Co.
46615 Public Service Co. of Oklahoma
46615, 46616 Transcontinental Gas Pipe Line Corp. (2 documents)
46616 Valley Gas Transmission, Inc.
46616 Vermont Electric Cooperative, Inc., et al.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
46617 Electodyne Research Corp.
46617 Energy Co-Gen, Inc.

Federal Highway Administration
PROPOSED RULES
Engineering and traffic operations:
46545 Truck size and weight; highway network; correction

Federal Mine Safety and Health Review Commission
NOTICES
46689 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
46621 American State Bancorporation, Inc., et al.
46622 First Mid-Illinois Bancshares, Inc.
46622 SSG, Ltd.; extension of time
Bank holding companies; proposed de novo nonbank activities:
46622 Chase Manhattan Corp. et al.
46623 Mellon National Corp. et al.
46689 Meetings; Sunshine Act (2 documents)

Federal Trade Commission
NOTICES
46624 Agency information collection activities under OMB review

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
46590 Ash Meadows, Nev. and Calif.; plant and insect species

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
46514 Dichlorvos
46515 Virginiamycin
PROPOSED RULES
Human drugs:
46694 Vaginal drug products for over-the-counter (OTC); monograph establishment
NOTICES
Animal drugs, feeds, and related products:
46627 Methagon (flumethasone) injection; approval withdrawn
Food additive petitions:
46626 Ciba-Geigy Corp.
GRAS or prior-sanctioned ingredients:
46626 Beatrice Foods Co.; petition

Medical devices:
46626 General Medical Co.; drionic iontophoretic sweat inhibition device; reclassification petition; correction
Meetings:
46625 Advisory committees, panels, etc.

Foreign Claims Settlement Commission
NOTICES
46689 Meetings; Sunshine Act

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
46599 Georgia; hearing

General Services Administration
RULES
46541 Federal Acquisition Regulation (FAR); training manuals, digests and cross indexes ordering procedures
PROPOSED RULES
Property management:
46554 Government transit bill of lading; form cancelled

Health and Human Services Department
See also Food and Drug Administration; Public Health Service.
NOTICES
Medicare:
46625 Monthly actuarial rates and monthly premium rates; correction

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Countervailing duties:
46600 Textiles, apparel, and related products from China
46603 Export trade certificates of review; applications
Scientific articles; duty free entry:
46604 University of Wisconsin et al.

International Trade Commission
NOTICES
Import investigations:
46633 Carton-closing staples and nonautomatic carton-closing staple machines from Sweden
46631 Computerized jacquard pattern cutting systems
46632 Fresh cut roses from Colombia
46632 Plastic light screw anchors
46631 Rotary wheel printers
46633 Self-stripping electrical tap connectors
46633 Trolley wheel assemblies
46690 Meetings; Sunshine Act

Interstate Commerce Commission
RULES
Tariffs and schedules:
46542 Motor carriers; exemption from filing requirements
NOTICES
Railroad operation, acquisition, construction, etc.:
46634 Pocono Northeast Railway, Inc.

Justice Department
See Antitrust Division; Drug Enforcement Administration; Parole Commission.

Land Management Bureau
NOTICES
Classification of public lands:
46627 Idaho
Sale of public lands:
46628 California
46629 Colorado

Legal Services Corporation
NOTICES
46690 Meetings; Sunshine Act (2 documents)

National Aeronautics and Space Administration
NOTICES
Meetings:
46665 Aeronautics Advisory Committee (2 documents)

National Highway Traffic Safety Administration
NOTICES
Motor vehicle defect proceedings; petitions, etc.:
46686 Volkswagen of America, Inc.; postponement

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
46542 Gulf of Alaska groundfish; correction
NOTICES
Fishery conservation and management:
46606 Mid-Atlantic Fishery Management Council; foreign fishing applications; inquiry
Meetings:
46605 Gulf of Mexico Fishery Management Council (3 documents)
46606 Pacific Fishery Management Council

National Park Service
NOTICES
Meetings:
46630 National Capital Region; 1983 Christmas Pageant of Peace
46630 National Park System Advisory Board

Nuclear Regulatory Commission
RULES
Production and utilization facilities, domestic licensing:
46489 Temporary operating licenses
NOTICES
Applications, etc.:
46665 Baltimore Gas & Electric Co.
46669 Carolina Power & Light Co.
46670, 46673 Consumers Power Co. (2 documents)
46670 Georgia Power Co. et al.
46670 Metropolitan Edison Co. et al.
46671 Nebraska Public Power District
46671 Northern States Power Co.
46672 Philadelphia Electric Co.
46690 Meetings; Sunshine Act

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
46690 Meetings; Sunshine Act

Parole Commission
NOTICES
46691 Meetings; Sunshine Act (3 documents)

Postal Rate Commission
PROPOSED RULES
Practice and procedure:
46545 Postal rates or classifications, change; data submission

Public Health Service
NOTICES
Meetings:
46627 Vital and Health Statistics National Committee (2 documents)

Research and Special Programs Administration
PROPOSED RULES
Pipeline safety:
46589 Hazardous liquids transportation; isolated corrosion pitting
NOTICES
Pipeline safety; waiver petitions:
46687 Florida Gas Transmission Co.

Securities and Exchange Commission
NOTICES
46674 Foreign securities; information submitted by foreign issuers; list

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
46599 Chuquatonchee Creek Watershed, Miss.

Surface Mining Reclamation and Enforcement Office
RULES
Permanent and interim regulatory programs:
46530 Ohio
Permanent program submission; various States:
46528 Illinois

Synthetic Fuels Corporation
NOTICES
46676 Environmental monitoring plan guidelines; final
46691 Meetings; Sunshine Act

Tennessee Valley Authority
NOTICES
46692 Meetings; Sunshine Act

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
46607 Mexico
46606 Taiwan

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration.

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Comptroller of Currency; Customs Service.
NOTICES
46687, 46668 Agency information collection activities under OMB review (2 documents)

United States Information Agency
NOTICES
46688 Agency information collection activities under OMB review

Separate Parts in This Issue

Part II
46694 Department of Health and Human Services, Food and Drug Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
51 46487
908 46488
Proposed Rules:
966 46544

10 CFR
2 46489
50 46489
710 46499

12 CFR
7 46502

14 CFR
39 46503
71 46503
95 46504

19 CFR
4 46510
10 46510

21 CFR
558 (2 documents) 46514, 46515
1308 46516
Proposed Rules:
351 46694

23 CFR
Proposed Rules:
658 46545

27 CFR
5 46518
9 (4 documents) 46518–46524
170 46526
240 46526

30 CFR
913 46528
935 46530

33 CFR
100 46531
117 46532
165 (2 documents) 46533, 46534

39 CFR
Proposed Rules:
3001 46545

40 CFR
60 (3 documents) 46535, 46536
61 46535
81 46537
Proposed Rules:
52 46548
81 (3 documents) 46549–46553
1502 46554
1508 46554

41 CFR
Proposed Rules:
101–41 46554

46 CFR
Proposed Rules:
10 46556
157 46556

47 CFR
Proposed Rules:
67 46556

48 CFR
Ch. 1 46541

49 CFR
1162 46542
1307 46542
Proposed Rules:
195 46589

50 CFR
611 46542
672 46542
Proposed Rules:
17 46590

VOL
48
ISS
1
99
OC
13
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 199
Thursday, October 13, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Fall and Winter Type Squash

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the voluntary U.S. Standards for Grades of Fall and Winter Type Squash to include pumpkin. Currently there are no U.S. standards for pumpkin. Adding pumpkin to the standards will provide industry with official levels of quality. This rule also includes minor changes in wording, procedures and standards format.

The Agricultural Marketing Service has the responsibility, to maintain grade standards in line with current marketing practices.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Philip C. Eastman, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5024.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "non-major" rule. It will not result in an annual effect of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export market.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 986–354 (5 U.S.C. 601), because it reflects current marketing practices.

This amendment makes the following changes in the standards:

(1) Adds pumpkin to the standards to provide official levels of quality.

(2) Rewords the definitions for "similar varietal characteristics," "fairly well matured" and "well matured" in the interest of clarity and application of standards to pumpkin.

(3) Provides for determining percentages on the basis of count when squash or pumpkin are fairly uniform in size.

(4) Establishes a constant sample size to maintain uniformity in inspection procedures when in bulk or bulk bins.

Lacking official standards for pumpkin, industry members have frequently indicated an interest in standards for pumpkin similar to those for grades of fall and winter type squash. Pumpkin belong to the same biological family and have similar physical characteristics. Adding pumpkin to the U.S. Standards for Grades of Fall and Winter Type Squash will permit grade certification of official levels of quality.

A proposal to amend the U.S. Standards for Grades of Fall and Winter Type Squash was published in the **Federal Register** on July 11, 1983 (48 FR 31658–31659) with a comment period ending September 9, 1983. Copies of the proposal were widely distributed to interested persons for review and comment. No comments were received.

The U.S. Department of Agriculture has determined that the issuance of these amended standards will benefit industry by providing a means for a more uniform basis for trading.

It is found that it is contrary to public and industry interests to postpone the effective date until 30 days after publication in the **Federal Register** [5 U.S.C. 533] and good cause exists for making this amendment effective upon publication in that:

(1) The harvesting of fall and winter type squash, as well as pumpkin, generally begins the latter part of September.

(2) This rule remains the same as the proposed rule.

List of Subjects in 7 CFR Part 51

Agricultural commodities.

PART 51—[AMENDED]

Accordingly, the Subpart United States Standards for Grades of Fall and Winter Type Squash is revised to read as follows:

Subpart—United States Standards for Grades of Fall and Winter Type Squash and Pumpkin

Sec.

51.4030 General.
51.4031 Grades.
51.4032 Size.
51.4033 Tolerances.
51.4034 Application of tolerances.
51.4035 Definitions.

* * * * *

Subpart—United States Standards for Grades of Fall and Winter Type Squash and Pumpkin[1]

§ 51.4030 General.

These grade standards apply to squash and pumpkin, both of the cucurbit family (Cucurbita pepo, C. moshata, C. maxima, C. mixsta), having a hard shell and mature seeds.

§ 51.4031 Grades.

(a) "U.S. No. 1" consists of squash or pumpkin which meet the following requirements:

(1) Basic requirements:
(i) Similar varietal characteristics;
(ii) Well matured; and,
(iii) Not broken or cracked.

(2) Free from: Soft rot or wet breakdown.

(3) Free from damage by:
(i) Scars;
(ii) Dry rot;
(iii) Freezing;
(iv) Dirt;
(v) Disease;
(vi) Insects; and,
(vii) Mechanical or other means.

(4) Tolerances (See § 51.4033).

(b) "U.S. No. 2" consists of squash or pumpkin which meet the following requirements:

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

VOL
48
ISS
1
99
OC
13
1983
UMI

(1) Basic requirements:
(i) Similar varietal characteristics;
(ii) Fairly well matured; and,
(iii) Not broken or cracked.
(2) Free from: Soft rot or wet breakdown.
(3) Free from serious damage by:
(i) Scars;
(ii) Dry rot;
(iii) Freezing;
(iv) Dirt;
(v) Disease;
(vi) Insects; and,
(vii) Mechanical or other means.
(4) Tolerances (See § 51.4033).

§ 51.4032 Size.

Minimum and/or maximum size of any lot of squash or pumpkin may be specified in connection with the grade in terms of whole pounds and/or fractions thereof.

§ 51.4033 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by weight or by count when fairly uniform in size, are provided as specified:

(a) *Defects.* Ten percent for specimens in any lot which fail to meet the requirements of the specified grade: *Provided,* That included in this amount not more than 2 percent shall be allowed for soft rot or wet breakdown or serious damage by dry rot.

(b) *Size.* Five percent in any lot for specimens which are smaller than a specified minimum weight, and 15 percent which are larger than a specified maximum weight.

§ 51.4034 Application of tolerances.

When packed in containers the entire contents shall be sample or when in bulk or bulk bins, the sample shall consist of approximately 50 pounds or 25 specimens when fairly uniform in size. Samples are subject to the following limitations:

(a) For a tolerance of 10 percent or more, individual samples in any lot may contain not more than one and one-half times the tolerance specified, except that when the individual sample contains 15 specimens or less, individual samples may contain not more than double the tolerance specified: *Provided,* That at least two defective or off-size specimens may be permitted in any individual sample: *And Provided Further,* That the average for the entire lot is within the tolerance specified for the grade.

(b) For a tolerance of less than 10 percent, individual samples in any lot may contain not more than double the tolerance specified: *Provided,* That at least one defective or off-size specimen may be permitted in any individual sample: *And Provided Further,* That the average for the entire lot is within the tolerance specified for the grade.

§ 51.4035 Definitions.

(a) "Similar varietal characteristics" means having the same general characteristics, such as shape, texture and color.

(b) "Well matured" means reaching a stage of development which is indicative of good handling and keeping quality for the variety.

(c) "Fairly well matured" means reaching a stage of development in which the outer skin (shell) is not tender.

(d) "Cracked" means split open, exposing the flesh.

(e) "Damage" means any specific defect described in this section or an equally objectionable variation of any one of these defects, any other defect or any combination of defects, which materially detracts from the appearance or edible or marketing quality. The following specific defects shall be considered as damage:

(1) Scars, except stem scars caused by rodents or other means, which are not well healed and corked over, or which cover more than 10 percent of the surface in the aggregate, or which form depressions or pits that materially affect the appearance.

(2) Stem scars which are unhealed on varieties which normally retain their stems after harvesting.

(3) Dry rot which affects an area more than 1 inch (2.5cm) in diameter in the aggregate on a 10 pound (4.5kg) specimen or correspondingly smaller or larger areas depending on the size of the specimen.

(f) "Serious damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect or any combination of defects which seriously detracts from the appearance or the edible or marketing quality. The following specific defects shall be considered as serious damage:

(1) Scars, except stem scars, caused by rodents or other means which are not well healed or corked over, or which cover more than 25 percent of the surface in the aggregate, or which form depressions or pits that seriously affect the appearance.

(2) Dry rot which affects an area more than 2 inches (5cm) in diameter in the aggregate on a 10 pound (4.5kg) specimen, or correspondingly smaller or larger areas depending on the size of the specimen.

(Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C., on October 6, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-27792 Filed 10-12-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 908

[Valencia Orange Regs. 321 and 320, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period October 14–October 20, 1983, and increases the quantity of such oranges that may be so shipped during the period October 7–October 13, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective October 14, 1983, and the amendment is effective for the period October 7–October 13, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on October 11, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is slightly improved but slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. Section 908.621 is added as follows:

§ 908.621 Valencia orange regulation 321.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period October 14, 1983, through October 20, 1983 are established as follows:

(a) District 1: 462,000 cartons;
(b) District 2: 588,000 cartons;
(c) District 3: Unlimited cartons.

2. § 908.620 Valencia Orange Regulation 320 (48 FR 45526), is hereby amended by revising paragraphs (a), (b), and (c) to read:

§ 908.620 Valencia orange regulation 320.

* * * * *

(a) District 1: 550,000 cartons;
(b) District 2: 700,000 cartons;
(c) District 3: Unlimited cartons

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 12, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-28146 Filed 10-12-83; 12:06 pm]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 50

Temporary Operating Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting amendments to its "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2 and to its regulations in 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," providing for the issuance of temporary operating licenses for nuclear power reactors. Pub. L. 97–415, enacted on January 4, 1983, amended section 192 of the Atomic Energy Act of 1954 (the Act), to authorize the NRC to issue such licenses. Section 192, initially added to the Act on June 2, 1972, authorized the Atomic Energy Commission (AEC) to issue temporary operating licenses for nuclear power reactors under certain prescribed circumstances. (The AEC's licensing authority was transferred to the NRC in 1975.) The authority under the original section 192 expired, however, on October 30, 1973. To the extent that the amended section 192 is in substance the same as the original section, the implementing regulations in the amendments to Parts 2 and 50 are also similar in substance to the now expired regulations which were initially published in 1972 to implement the section. The amendments to Parts 2 and 50 set out below are designed to conform Commission regulations and procedures to the new temporary operating licensing authority.

EFFECTIVE DATE: November 14, 1983.

ADDRESSES: Copies of comments received on the amendments and of the documents described below may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Thomas F. Dorian, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Telephone: (301) 492–8690.

SUPPLEMENTARY INFORMATION: The supplementary information below is divided into three sections. The first sets out the background for the rule. The second responds to the comments on the proposed rule. And the third section describes the provisions of the final rule.

I. Background

After the March 1979 accident at the Three Mile Island nuclear power plant, the NRC focused its attention on evaluating the accident and its implications for the safe regulation of nuclear power in this country and on developing the necessary regulatory improvements for continued operation of nuclear power plants. During this period, construction continued on those nuclear power plants with construction permits, although NRC applied only very limited effort to preparing and meeting the necessary safety reviews and hearing requirements for the issuance of operating licenses for these facilities. Largely as a result of this state of affairs, in late 1980 it was argued that there was a possibility that delays would occur between the time when construction of some of these plants would be sufficiently completed to allow fuel loading and the start of operations and the time when all requirements for the issuance of operating licenses (including the hearing requirements of the Atomic Energy Act would be met.

Under the Atomic Energy Act of 1954, as amended (the Act), no person may operate a nuclear power plant without first obtaining an operating license from the NRC. A formal on-the-record evidentiary hearing must be held—and a decision rendered on the basis of that record—if requested by any person whose interest may be affected, before the Commission may issue an operating license. Before the enactment of Public Law 97–415, in a case where a hearing is held, the Commission lacked the authority to authorize fuel loading and low-power operation and testing on the basis of its safety and environmental evaluation; a utility was required instead to await authorization in the course of the hearing process. *See* 10 CFR 50.57(c).

It was argued that, notwithstanding the administrative changes to the licensing process designed to reduce the time required to complete the licensing of these plants, there remains a possibility that some licensing delays might occur for some of the plants scheduled to be completed in the near futures. In order to obviate the

VOL 48 ISS 199 OCT 13 1983 UMI

possibility of such delays ever occurring, on March 18, 1981, the Commission submitted a legislative proposal to amend the Act so as to authorize the Commission to issue a temporary operating license for a nuclear power plant, allowing operation and testing, in advance of the conduct or completion of an on-the-record evidentiary hearing on contested issues relating to the final operating license. Public Law 97–415 is the final legislative product of the Commission's proposal. It is an "extraordinary and temporary cure for an extraordinary and temporary situation." Conf. Rep. No. 97–884, 97th Cong., 2d Sess. at 35 (1982).

II. Responses to Public Comments on Proposed Rule

The Commission published a proposed rule in the Federal Register on April 18, 1983 for 30-days public comment (48 FR 14928). Thirteen commenters commented on the proposed rule. Six of the 13 commenters generally supported the rule and seven opposed it. The strongest and principal opposition came from commenters that thought that Long Island Lighting Company's Shoreham nuclear power plant is perhaps the sole candidate for a temporary operating license.

The comments and responses can be separated into the categories discussed below (a fuller analysis is provided in the response to comments available in the Public Document Room):

A. Ex Parte and Separation of Functions

One of the most controversial topics was the Commission's position on the application of the *ex parte* rule and separation of functions to the temporary operating licensing process.

As proposed, Subpart C to 10 CFR Part 2, "Procedures Under Section 192 for the Issuance of Temporary Operating Licenses," would simply have added procedural requirements to 10 CFR Part 2 needed to implement the temporary operating licensing authority in section 192 of the Act, as provided for in a new § 50.57(d) of 10 CFR Part 50. Unlike the hearing process on the final operating license, the legislation makes clear that the temporary operating licensing process would not be subject to the hearing requirements of section 189a. of the Act; thus, the process need not be subject to the requirements of Subpart A or to all the requirements of Subpart G of the Rules of Practice in 10 CFR Part 2. As explained in the preamble of the proposed rule, the Commission decided, however, that certain sections of Subpart G would be applied to resolve needless controversy about such items as the filing of papers, service on parties, and so on. These were 10 CFR 2.701, 2.702 and 2.708–2.712, relating to service and filing of documents, maintaining a docket, and time computations and extentions; § 2.713, relating to appearance and practice before the Commission; § 2.758, generally prohibiting challenges to the Commission's rules; and § 2.772, generally granting the Commisson's Secretary the authority to rule on procedural matters.

It was noted in the preamble of the proposed rule that 10 CFR 2.719 and 2.780, relating to separation of functions and *ex parte* communications, would not apply. However, the Commission also noted that it is sensitive to the concern that the informal contacts that would be allowed thereby should not be extensive and that they should not result in significant data or argument that are both relied on by the Commission in its temporary operating licensing decision and unavailable to the parties for comment before the decision. It was thus stated that, if informal contacts do take place which provide significant data or argument and which are both relied on by the Commission and unavailable to the parties, then that data or argument will be made available for comment before the decision. The Commission's decision not to apply separation of functions and *ex parte* rules to temporary operating licensing reflected a preference not to apply rules intended for formal, trial type proceedings, and was based on the belief that operating licensing and temporary operating licensing proceedings on a given plant are separate proceedings for the purpose of application of the formal hearing requirements of the Administrative Procedure Act (APA). It was argued that the amendment to section 192 of the Act states that section 189a. of the Act does not apply to a temporary operating licensing proceeding; thus, if section 189a. does not apply, then the APA's formal hearing requirements do not apply either. It was also noted that the Commission's consideration of informal communications with the parties in an informal temporary operating licensing proceeding would not prevent the Commission from eventually considering, as necessary, issues arising from the formal operating licensing proceeding. And it was stated that information provided in the informal proceeding would not be used in the formal proceeding, unless it is formally included in the record.

In this context, the Commission also noted the Conference Committee's statement that, under section 192, the Commission cannot issue a temporary operating license before "all significant safety issues specific to the facility in question have been resolved to the Commission's satisfaction." *See* Conf. Rep. No. 97–884, 97th Cong., 2d Sess., at 35 (1982).

Two Commissioners disagreed with the Commission's position. Commissioner Asselstine stated in additional views to the Federal Register notice:

I strongly disagree with the Commission majority's decision *not* to apply the provisions of 10 CFR Sections 2.719 and 2.780, relating to separation of functions and *ex parte* communications, as part of the procedural requirements for implementing the temporary operating license authority in Section 192 of the Atomic Energy Act of 1954, as amended.

In all likelihood, the issues that will be raised before the Commission in the temporary operating license proceedings under the provisions of Section 192 will be similar to, or the same as, the issues being adjudicated in the hearing in the final operating license proceedings. By permitting the NRC staff and the applicant, among others, to make informal off-the-record contacts with the Commission on these issues during the temporary operating license proceedings, the Commission majority's proposed rule presents a grave risk of contaminating the formal on-the-record operating license proceeding. I do not believe that this risk of contaminating the final operating license proceeding can be avoided easily if informal, off-the-record contacts on similar issues arising in the temporary license proceedings are permitted. In order to assure procedural fairness in our operating license proceedings, I would apply our regulations relating to separation of functions and *ex parte* communications to temporary operating license proceedings, just as we now do for final operating license proceedings.

Commissioner Gilinsky also stated his separate views in the Federal Register notice:

I have voted against the Temporary Operating License rule because of the Commission's decision to exempt Temporary Operating License proceedings from the *ex parte* and separation of functions rules. "This would mean that the Commission's staff, applicants and intervenors would be free to contact individual Commissioners as well as the Commission's Office of General Counsel and Office of Policy Evaluation to argue their respective position on the temporary operating license." (A sentence of explanation which appeared in the penultimate draft and which the Commission was too modest to leave in the final version.)

This decision is but another example of the Commission's deep-seated hostility toward informing the public and involving it in NRC's proceedings. The decision is incompatible with the basic notions of fairness which underline the *ex parte* rules since the temporary operating license issues will inevitably be quite similar to the issues in the

operating license hearing which will be going on at the same time. As has so often happened, the course chosen by the Commission is likely to be self-defeating: it is bound to result in endless litigation.

Comments. Three commenters supported the Commission's position. They argued that the decision was in accord with the legislation, that it would permit the Commission direct access to its staff, and that it would prevent delays.

Five commenters opposed the Commission's position. They argued, among other things, that it was a violation of due process, citing *Home Box Office*, 567 F. 2d 9 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 809 (1977), and *United States Lines* v. *Federal Maritime Commission*, 584 F. 2d 519 (D.C. Cir. 1978); that the Commission's proposed safeguards to prevent tainting of the process were inadequate; that the operating license proceeding inevitably would be contaminated, since the issues and parties are likely to be identical; that the Commission's justification for suspending the *ex parte* rule was inadequate, being at best a vague preference for avoiding formal rules; that the Commission's assertion that it may permit *ex parte* contacts because the temporary operating license proceeding is not governed by the formal hearing requirements of the APA was unsound and illegal under such cases as *Home Box Office;* and, finally, that, though section 11 of the legislation specifies that a notice and comment format is to be used for temporary operating licenses, precluding argument about such hearing procedures as cross examination, its legislative history emphasizes the need for a "detailed procedural framework" to govern the process; this point, tied to the fact that the legislation expressly subjects the Commission's decision to judicial review, underscores the importance of strict adherence to all prevailing rules of administrative law except those expressly waived by the Act; in turn, this means that the APA's *ex parte* prohibitions should apply.

Response. The Commission has reviewed carefully both sides of the issue. Though it believes that the legislation gives it adequate flexibility to avoid subjecting the temporary operating licensing process to the formal, trial type hearing requirements of section 189a. of the Act, the Commission has decided to modify slightly its position about not applying the *ex parte* rule (§ 2.780) and separation of functions requirements (§ 2.719) to the temporary operating licensing proceeding.

The Commission's position, as set forth in § 2.305 of the final rule, is that, for the purpose of expeditiously acting on the petition for a temporary operating license, it continues to believe that it may need to communicate with its staff. However, oral communications between the Commission's staff and the Commissioners, members of their immediate staffs, or other NRC officials who advise the Commissioners, in the exercise of their quasi-judicial functions, on the merts of any substantive matter at issue in the temporary operating licensing proceeding will be distilled promptly in a fair, written summary, placed in the Commission's Public Document Room, and quickly made available to the parties in the proceedings. A copy of any written communication will also be placed in the Public Document Room and, similarly, quickly made available. These procedures will not apply to communications not prohibited by 10 CFR 2.780, such as status reports and discussions about generic health or safety problems.

Turning to the issue of communications from persons outside the Commission about substantive matters at issue in a temporary operating licensing proceeding, the Commission believes that the comments above as to the need for communications with the staff do not apply with equal force to communications with parties outside the Commission. Thus, the prohibitions of § 2.780 apply in the latter case. Therefore, the Commission will not entertain *ex parte* communications in this context, and persons outside the Commission wishing to communicate with the Commission will be required to use the normal comment procedures outlined in the final rule. If oral or written communications do occur, however, they will be treated using the procedures described in this comment response. The parties will be afforded an additional opportunity to comment to the extent that informal contracts do take place as described above, and such contacts provide significant new data or argument which the Commission proposes to rely upon in making its decision.

B. Emergency Planning

Section 50.57(d)(2) of the proposed rule provided, among other things, that the initial petition for a temporary operating license may be filed after the filing of a State, local or utility emergency prepardness plan for the facility.

Comments. Emergency planning was also a controversial topic. One commenter supported the proposed rule. This commenter first noted that the proposed rule does not directly address emergency planning requirements. Citing Cong. Rec. E 5057 and E 5060–61 (Dec. 10, 1982), the commenter then stated that the proposed rule is consistent with the legislation's history and with existing § 50.47(d).

Three commenters opposed the proposed rule. One commenter argued that the final rule should (1) explicitly state that a full Commission review of on-site and off-site emergency preparedness is a necessary prerequisite for issuance of a temporary operating license, (2) explains how the Commission will conduct its review, and (3) should set forth explicitly that the findings of the Federal Emergency Management Agency (FEMA), called for under § 50.47(a)(2), also must be received and evaluated by the Commission before it considers issuance of the temporary operating license.

Another commenter stated that NRC's existing regulations require the adoption of a local off-site radiological emergency response plan and that, in the absence of such a plan, no operating license could be issued simply on the basis of a utility plan. The commenter argued that, to the extent that the new § 50.57(d) is contrary to that existing regulatory requirement, the tempt to issue a temporary operating license would be directly at odds with the unavoidable fact that no operating license could be issued where no local off-site emergency plan exists. Thus, the "extraordinary remedy" of the temporary operating license would be useless and any attempt to use it would only result in a greater degree of litigation—not the expeditious licensing of a nuclear facility whose future is certain.

A third commenter argued that the proposed rule should specifically require (1) the filing of an off-site plan, (2) a finding that such a plan is implementable, and (3) require the performance of an acceptable exercise before operation above 5 percent power.

Response. The Commission believes that the proposed rule need not be modified. Neither the text of section 192 itself nor the legislative history cited by the commenters prohibits the Commission from applying 10 CFR 50.47(d) to temporary operating licenses for fuel loading and operation under 5 percent power. Further, more is involved in its decision to grant or deny a temporary operating license than, under new § 50.57(d)(2), the simple filing of a State, local, or utility emergency preparedness plan for the facility. Before the Commission can grant such a

VOL 48 ISS 199 OCT 13 1983 UMI

license, it must determine, *inter alia*, that "all requirements of law, other than the conduct or completion of any required hearing on the final operating license, are met" and that, "in accordance with such requirements, there is reasonable assurance that temporary operation of the facility, in accordance with the terms and conditions of the license, will provide adequate protection to the public health and safety and the environment." This means that 10 CFR 50.47(d) will apply to temporary operating licenses for fuel loading and operation under 5 percent power, and that § 50.47(a) will apply to temporary operating licenses for operation over 5 percent power. The Commission believes that it is unnecessary to repeat this in the rule itself.

C. Deadline for Requesting a Temporary Operating License

The proposed rule provided in § 2.301 that, because NRC's authority to issue new temporary operating licenses expires on December 31, 1983, an applicant seeking such a license must file its written petition by November 23, 1983.

Comments. Two commenters stated that the proposed filing deadline date is too near the expiration of NRC's authority to allow for publication of the petition in the **Federal Register**, for full response to the petition by interested persons, and for a fair and reasoned decision by NRC based on the information before it. One commenter therefore requested that the Commission change the deadline for filing a petition to October 15, 1983, and a second to October 1, 1983.

Response. The Commission agrees with the commenters that a more reasonable deadline date is needed for the filing of the applications, to include more time for its decision and to make more time available for the necessary procedural steps. The Commission debated whether to include a deadline based on a fixed amount of time before the applicant's need date, thereby guaranteeing adequate time for the necessary staff and Commission reviews. However, because its authority to issue a temporary operating license will expire relatively soon, it decided to set a fixed and certain date. The deadline of November 23, 1983 in § 2.301(a) has been changed to November 14, 1983, thereby allowing more time for the requisite activities and decisions. (*See* discussion below for additional reasons for extending the deadline.) It should be noted that proposed legislation is pending in Congress which would extend the Commission's authority to issue temporary operating licenses to September 30, 1985. (*See* H.R. 98–103, Part 2, at 1 and 17.) If the legislation is enacted, this rule will be changed accordingly.

D. Affidavits and Responsive Affidavits

The proposed rule provided for the filing of a petition by an applicant, accompanied by affidavits, and for responsive affidavits by interested parties. §§ 2.301, 2.302, 2.304, and 50.57(d)(3). Proposed §§ 2.303 and 50.57(d)(4) also provided that any person may file affidavits in support of, or in opposition to, the petition within 30 days after the publication of such notice in the **Federal Register**. This language is identical to that found in amended section 192a. of the Act. These provisions proved somewhat contentious and elicited various comments in four areas.

1. Possible NRC Staff Responsive Affidavits

Comment. One commenter noted that the staff is not required to file affidavits and stated that the final rule should specifically state whether or not the staff would file any documents (except the Safety Evaluation Report). The commenter also argued that, if the staff does file responsive affidavits, interested parties—including both the applicant and intervenors—should be permitted to respond to those affidavits.

Response. The Commission has rejected the comment. The staff may or may not wish to file a responsive affidavit under §§ 2.303, 2.304, and 50.57(d). It is not required to file one, though, if it does, it is required, just as any other party, to serve it on the parties to the proceeding.

As a separate matter, the Commission has clarified in §§ 2.303 and 2.304 that "responsive affidavits" can be filed either in support of or in opposition to the petition for a temporary operating license.

2. Thirty-day Response Period

Comments. The same commenter pointed out that the 30-day response period may not allow interested persons a real opportunity in some circumstances to participate in the temporary operating licensing proceeding. The commenter requested that the final rule should provide explicitly that the 30-day period for the filing of responsive affidavits may be extended where justified by factors such as the number or complexity of issues raised by the petition or the length of the affidavits involved.

In this same vein, another commenter requested the Commission either to forbid the applicant from submitting affidavits and other material in support of its application during the 30-day comment period (thereby perhaps flooding the Commission with supporting affidavits on the last day of the comment period and precluding public comment thereon) or to extend the comment period to allow 30 additional days in which post-application submissions by the applicant may be rebutted.

A third commenter believed it a mistake, as a matter of policy, that § 2.711, involving extensions and reductions of time limits, would apply, and requested the Commission to prescribe specifically the time within which a responsive affidavit may be filed, as it has with respect to affidavits in § 2.303.

Response. The three comments are rejected. The regulation simply follows the legislation which specifically provides for the 30-day comment period. The Commission expects an applicant to submit all relevant supporting information with its petition, to allow the Commission and its staff time to review that information and to provide an adequate response time to the public. Aside from the 30-day response period, the Commission would apply § 2.711 to the extent it believes necessary in the circumstances. It wishes to make clear though, and has modified the final rule accordingly, that the last 30-day response period will be initiated only after the applicant has filed its last document which provides substantive data or argument material to the granting of its application. If the applicant files such additional documents after it has filed its petition, these and the petition will be renoticed in the **Federal Register**, for the purpose of initiating a new 30-day period.

3. Responsive Affidavits: Material Facts and Necessary Findings

In describing the contents of affidavits that may be filed in response to a petition for a temporary operating license, proposed § 2.304 provided that such affidavits should state the "material facts as to which it is contended that there exists a substantial issue regarding the issuance of the temporary operating license."

Comments. A commenter requested the Commission to make clear that an opponent of the petition should be required to make a *prima facie* showing that the issues it seeks to raise involve "significant safety issues specific to the facility in question," and, similarly,

requested that the Commission amend proposed § 2.304 to provide that the responsive affidavits be limited to those significant safety issues which have been raised in the final operating licensing proceeding.

Another commenter argued that the affidavits should do no more than repeat the contentions and the evidence at issue in the concurrent Atomic Safety and Licensing Board (ASLB) hearings, stating its belief that the ASLB is the proper forum to resolve the contentions before it in the first instance and that it would defeat the intent of Congress for the Commission to duplicate the ASLB's role.

Response. Both requests are rejected. The Commission believes that the prescribed standard is restrictive enough, considering the informal nature of the hearing. Any higher standard would cast the proceeding in the mold of an adjudicatory, trial type hearing. With respect to the second point raised by the commenter, the Commission expects that most and perhaps all of the responsive affidavits will involve significant safety issues previously raised; nevertheless, it does not wish to preclude anyone from raising new safety issues, if these concern material facts that are relevant to issuance of the temporary operating license and that must be resolved before the Commission can make the requisite three findings in § 50.57(d)(5).

4. Deadline on Commission Action.

On a related matter, proposed § 2.303 provided that the Commission will act "as expeditiously as possible" following the receipt of responsive affidavits to reach a determination on the petition.

Comment. A commenter argued that the Commission impose upon itself deadline of December 31, 1983, for acting on such petitions.

Response. The request is rejected. The Commission has moved the applicant's deadline for submitting its petition to October 15, thereby allowing everyone, including itself, time to take the necessary actions and to make the requisite decisions.

E. Definition of Requirements of Law

Proposed § 50.57(d)(5) set forth the findings that the Commission must make to issue or, subsequently, to amend a temporary operating license. The first required finding is that "in all respects other than the conduct or completion of any required hearing, the requirements of law are met."

Comment. A commenter noted that this provision simply repeats the language or amended section 192b.(i) of the Act. The commenter requested that the final rule make clear that the requirements of law include the Act, other applicable statutory provisions regarding nuclear power, and the NRC's regulations, particularly those in 10 CFR Part 50, promulgated pursuant to those laws.

Response. The request is rejected. The cited provision appears in many places in the Commission's regulations, *e.g.*, § 50.12(a). It is clear that the phrase refers to all applicable statutes and regulations.

F. Public Disclosure

The proposed rule excluding § 2.790 from being applied to a temporary operating licensing proceeding. That section provides, among other things, that NRC documents, in general, will be made available for inspection and copying.

Comment. A commenter argued that the Commission had made no attempt to justify exempting NRC documents concerning temporary operating licenses from disclosure and that the policy reasons behind the requirements of public disclosure embodied in § 2.790 should apply with equal or greater force to a temporary operating licensing proceeding.

Response. The comment is accepted. The Commission sees on valid reason for exempting NRC documents concerning temporary operating licenses from disclosure under the provisions of § 2.790.

G. Availability of Information

Proposed § 2.305(b) excluded NRC's rules regarding discovery from being applied to a temporary operating licensing proceeding. Instead, proposed § 2.302 provided for exchanges of information limited to affidavits, exhibits, and a list of documents relied upon to support the facts stated in the affidavit. The documents themselves would be made available only at a particular location.

Comment. A commenter stated that this list of documents may not provide adequate information to interested parties and requested that the rules should provide an expeditious mechanism by which interested parties can obtain documents, other than those listed by the applicant, which are important to the issues involved.

Response. The request is rejected. The Commission expects the applicant to submit or refer to all the necessary information for it to make an informed decision and for the public to be able to comment reasonably. Thus, all supporting documentation shall be available for inspection. Failure of the applicant do do so will result in denial of its application. (*See* also the response at paragraph D(2) above.) The commenter's request is simply another way of saying that it would like some form of discovery. Though the request appears reasonable, at first glance, the attendant administrative requirements would be too complex and would conflict with the need for expeditious proceedings.

H. Oral Argument

Proposed § 2.308 provided that, ordinarily, informal procedures will be used to resolve particular issues as they arise, i.e., ordinarily formal adjudicatory procedures would not be used.

Comments. A commenter requested that the final rule provid that the Commission will not deny an application for a temporary operating license without first giving the applicant a chance to make an oral presentation to the Commission.

Another commenter requested that the final rule should provide the Commission with discretion to order oral argument, where a major legal issue might be in controversy and the Commission would benefit from hearing parties' views on the matter and where the parties, having filed extensive affidavits, might comment orally on each other's filings.

A third commenter requested that the Commission delete the term "ordinarily" from the final rule, arguing that section 192b. provides that the requirements of section 189a. of the Act "shall not apply to the issuance or amendment of a temporary operating license" and that, therefore, Congress clearly intended that the Commission not use formal adjudicatory procedures in the issuance of temporary operating licenses.

Response. The three requests are rejected. Section 2.308 as proposed contained ample flexibility for the Commission to order oral argument, if it believes that it is necessary to the proper disposition of the proceeding. Moreover, under the legislation the Commission retains authority to choose among the procedures it wishes to apply to a temporary operating licensing proceeding. The term "ordinarily" was added to show that the Commission could use adjudicatory procedures to resolve particular issues.

I. Consideration of Commission Findings in Final Operating Licensing Proceeding

Proposed § 2.306 provided that no party shall argue the issuance or denial of a temporary operating license in support of its position in a proceeding

VOL 48 ISS 199 OCT 1983 UMI

for the issuance of a final operating license.

Comment. A commenter requested the Commission to clarify this provision to provide that, while the issuance of such a temporary operating license *per se* may not be used by a party in support of its position in a proceeding for the issuance of the final operating license, some Commission rulings contained in the final order authorizing the issuance of a temporary operating license may be used by any party in the final operating licensing proceeding.

Response. The request is rejected. A presiding ASLB in a formal, on-the-record adjudication should not be held to the Commission's findings in a short and expedited informal proceeding in which the issues may not have been fully briefed and argued.

J. Notification to the Commission

Proposed § 2.307 provided that any party to a hearing required pursuant to section 189a. of the Act shall promptly notify the Commission of any information that the terms and conditions of the temporary operating license are not being met or that those terms and conditions are not sufficient.

Comment. A commenter requested that the Commission require that such notice be made by affidavit and that it be accompanied by a statement of the material facts supporting the assertion. The commenter also requested that this provision afford the licensee an opportunity to respond by affidavit to any information provided to Commission pursuant to this provision.

Response. The request is accepted in part. The Commission agrees that a notification under § 2.307 should be accompanied by a statement of material facts and that a holder of a temporary operating license should be able to respond. Section 2.307 has been changed accordingly. The Commission, however, has rejected the request that the notification and response take the form of affidavits, because this requirement would add unnecessary formality.

K. Duration of License

Proposed §§ 2.301 and 50.57(d) (1) and (7) provided, among other things, that the Commission will limit the duration of a temporary operating license or an amendment to a "specified time."

Comment. A commenter stated that the specified time should in all cases be the date a full operating license is issued, arguing that issuance for a duration less that the time of the issuance of a full power operating license would only create a need to amend the license solely for the purpose of extending its duration.

Response. The request is rejected. The Commission agrees with the commenter that it could issue a temporary operating license that would continue in effect until a full power operating license is granted. The proposed section would not have barred the Commission from doing so. However, the rule does provide the Commission with the flexibility to issue the temporary operating license for a shorter time, if particular circumstances indicate that that is desirable or necessary.

III. Final Rule

A. Framework

A person applying for an operating license for a nuclear power plant, which is licensed under sections 103 or 104b. of the Act and as to which a hearing is otherwise required under section 189a. of the Act, could apply for a temporary operating license, pending final action by the Commission on the application for the final operating license. The temporary operating license for the facility would authorize fuel loading, testing and operation at a specific power level to be determined by the Commission. The initial petition would have to be limited to power levels not to exceed 5 percent of the nuclear facility's rated full thermal power, and the Commission could not initially authorize a higher power level. After the temporary operating license is issued, the licensee may file one or more additional petitions with the Commission to allow facility operation up to full power in staged increases in power level beyond the initial 5 percent limitation. All authorizations for temporary operating licenses under section 192 and these implementing regulations must be pursuant to a vote and a final order of the Commission itself and cannot be delegated to the NRC staff. The authorizations themselves lie within the discretion of the Commission. This means, among other things, that the Commission in a temporary operating license would authorize both a given power level and the time it deems appropriate for operation at that level before issuance of the full power license.

The present authority and procedures in § 50.57(c) of the regulations (under which a presiding ASLB may, on motion, and after a decision based on the evidentiary record or upon agreement of the parties to the contested proceeding, authorize the issuance of a fuel load or low-power and testing license) remain available and are not affected at all by these regulations implementing section 192 of the Act. Thus, temporary operating licensing authority is not coupled to the present § 50.57(c), and a licensee proceeding under § 50.57(c) may also proceed separately under § 50.57(d) without any rights being waived under § 50.57(c). If a licensee already has a low power license and wishes to go to higher or full power using the temporary operating license procedure (that is, it wants to translate its low power authority under § 50.57(c) to low power authority under § 50.57(d) and then to go to higher power under § 50.57(d) for some specified time period), it need simply petition the Commission for an initial temporary operating license. In its petition it should show that it is in satisfactory compliance with § 50.57(d) and that the temporary operating license for low power would be in all respects the same as or more restrictive than the low power license. Although the Commission does not wish to require *pro forma* acts, a licensee in the situation described above should show that the time periods and authorized power level for both types of licenses are compatible. Additionally, if the licensee wishes the Commission to act more quickly and to simplify the Commission's considerations, it may want to show that the parties affected by this situation (ordinarily the parties in the proceeding under § 50.57(c)) have not waived their rights and agree to its proposed course of action; consequently, to make sure that there truly is an agreement and that everyone's rights are being protected, in these circumstances the Commission expects the licensee to demonstrate to it (under the procedures described in § 2.301 *et seq.*, described later) that affected parties were on notice of and have not objected to the licensee's proposed action. The licensee need not make such a showing; however, if it does not wish to or can not make such a showing, though the Commission may still issue the temporary operating license, it may have to use additional procedures to make its decision.

In delineating the circumstances under which petitions may be filed and conditions under which the Commission may exercise its authority, it has carefully followed the prescriptions in section 11 of Pub. L. 97–415. These provisions are reflected in the amendments to Parts 2 and 50. In essence, these amendments would establish a detailed procedural framework for considering and issuing temporary operating licenses. Section 192, as amended, and its accompanying legislative history clearly contemplate that the procedural framework is both useful and needed to govern the Commission's actions in exercising the new authority and to preserve for the public its right to participate in licensing decisions.

B. Final Subpart C to 10 CFR Part 2—"Procedures Under Section 192 for the Issuance of Temporary Operating Licenses"

Subpart C provides all of the necessary procedural guidance on requests for, and Commission authorization of, temporary operating licenses. Briefly, subpart C provides:

- For the application for a temporary operating license or for an amendment to that license to be filed in the form of a written petition. The written petition with supporting affidavits, must be served on all parties to the proceeding for the issuance of the final operating license.
- The initial petition must be limited to power levels not to exceed 5 percent of rated full thermal power. After the issuance of the temporary operating license, the licensee may file and serve subsequent petitions to amend the temporary operating license by incremental increases in power levels in excess of the initial 5 percent limitation. Each new petition can request only one incremental increase.
- The subpart provides general guidance on the contents and requirements for affidavits which may be filed in support of or in opposition to petitions for the issuance, or the amendment, of temporary operating licenses.
- The Commissioners and their advisors will be able to communicate with the regulatory staff, provided that summaries of such communications, if oral, and copies of such communications, if written, are promptly made available to the parties and the public.
- The final rule provides for prompt publication of notices of petitions for temporary operating licenses as well as for amendments to such licenses and also provides for a 30-day period for public comment for each set of applicant's filings which provides substantive data or argument material to the granting of its application. The notice will inform interested persons about the way they can obtain access to the petition and its supporting affidavits. Such access is needed so that such persons might, as the rules also provide, file and serve responsive affidavits to the petition.
- The final rule does not specify a time after the 30-day public comment period for Commission action on the petition. In keeping with the purpose of the temporary operating license authority, the rule provides that the Commission will act as expeditiously as possible on petitions for temporary operating licenses and for amendments to such licenses.
- Issuance of a temporary operating license or an amendment must be pursuant to a final order of the Commission itself, which recites the reasons called for in section 192 of the Act and in § 50.57(d) of the regulations. As called for by the legislation, the order would be transmitted upon its issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission would be subject to judicial review under section 189b. of the Act. As discussed before, pursuant to the legislation, the requirements of section 189a. of the Act would not apply to the issuance or amendment of a temporary operating license. Thus, the legislation authorizes the Commission to use procedures other than formal adjudicatory procedures in issuing a temporary operating license. In this regard, the Commission will develop informal procedures case-by-case to resolve particular issues as they arise.
- The final rule restates the procedural constraints in section 192 to assure that the issuance of a temporary operating license does not prejudge the outcome of the licensing hearing for the final operating license for that nuclear power plant or prejudice the rights of any party to the hearing to raise any proper issue in that hearing and to have that issue decided.
- As discussed above, the rule requires, as does section 192, that any party to the final operating license hearing, or any licensing board member conducting the hearing, promptly notify the Commission about any information made available as part of that hearing: (1) That the terms and conditions of the temporary operating license are not being met or (2) that they are insufficient to provide reasonable assurance that operation of the facility during the period of the temporary operating license will provide adequate protection to the public health and safety and to the environment. The notification must be accompanied by a statement of material facts supporting the assertion, and it must be served on all the parties to the proceedings.
- The rule states that a temporary operating license is subject to modification, suspension or revocation, or to the imposition of civil penalties pursuant to sections 186 and 234 of the Act and subpart B of 10 CFR Part 2.
- Finally, the Commission notes that, pursuant to section 192d. of the Act, it will exert its best efforts to adopt appropriate administrative remedies to minimize the need for the issuance of temporary operating licenses. This is in keeping with the conferees' agreement in the Conference Report that a temporary operating license should be a "last resort remedy, to be employed only when no other alternative is available." Conf. Rep. No. 97–884, 97th Cong., 2d Sess. at 36 (1982). The Commission will also ensure that any administrative remedies it adopts will not themselves infringe upon the right of any party to a full and fair hearing under the Act, again in keeping with the conferees' expectations. *Id.* And, lastly, the Commission will notify the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate of all administrative remedies it proposes to adopt, also in keeping with the conferees' intentions. *Id.*

C. Final § 50.57(d) of 10 CFR Part 50

Under the final rule, new § 50.57(d) would be added to reflect the substance of the temporary operating licensing authority granted by Pub. L. 97–415 and the special provisions which must be satisfied before the Commission exercises this authority. Pursuant to section 11 of that law and § 50.57(d), the following requirements would be applicable to a petition for and the issuance of a temporary operating license and amendments to that license:

- A petition for the issuance of a temporary operating license could not be filed with the Commission until the Advisory Committee on Reactor Safeguards (ACRS) report, the NRC staff's initial safety evaluation report (SER) and the staff's supplement to this report (SSER) prepared in response to the ACRS report for the plant, the NRC staff's final environmental statement, and, as discussed above, a State, local or utility emergency plan have been filed.
- The initial petition for a temporary operating license and amendments to that license would be handled as described above.
- After the issuance of a temporary operating license, subsequent petitions from the utility for increased power levels, notice and pubic comment periods on each new petition, and the determinations by the Commission called for by section 192 (and implemented in this new § 50.57(d)) would be required before the Commission could allow operation at

VOL
48
ISS
1
9
9
OC
13
1983
UMI

power levels beyond the initial 5 percent low-power testing level.

• Before issuing a temporary operating license or amending the license to allow operation at an increased power level, NRC must provide notice of the request for such authority and a 30-day period for public comment.

• Upon the expiration of the 30-day comment period, the Commission could issue the temporary operating license, or amend the license to allow temporary operation at a power level in excess of the initial license limitation, as the case may be, if the Commission itself determined that: (1) All requirements of law, other than the conduct or completion of any required hearing on the final operating license, are met; (2) in accordance with such requirements, there is reasonable assurance that temporary operation of facility, in accordance with the terms and conditions of the license, will provide adequate protection to the public health and safety and the environment; and (3) denial of the temporary operating license will result in delay between the time when the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the time when a final operating license for the facility would otherwise be issued. For a petition to amend the temporary operating license to permit operation at a power level in excess of 5 percent of the facility's rated full thermal power, the Commission's findings must, of course, be directed to operation at the increased power level which would be authorized by the amendment.

• Any final Commission order authorizing the issuance of a temporary operating license pursuant to section 192 (*i.e.*, as distinguished from an order which may be issued by a presiding ASLB under paragraph (c) of § 50.57) of the Act must recite with specificity the reasons justifying the findings required by that section and § 50.57(d). The order must be sent upon issuance to the Committees described above.

• The temporary operating license would contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for its extension.

• The Commission would suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license (and on which a hearing under section 189a. is being conducted) with due diligence. The Commission could, of course, suspend the license for other reasons, such as in the interest of public health and safety.

• As discussed above, the Commission also wishes to note that section 192 provides that the Commission's authority to issue new temporary operating licenses will expire on December 31, 1983. Since the Commission cannot issue new temporary operating licenses after December 31, 1983, it expects any licensee that wishes to apply for such a licensee to do so before November 14, 1983, to allow it to act before its authority expires. *See* § 2.301. Licensees should also note that their licenses will not expire on that date; section 192 simply states that the Commission's authority to issue a new temporary operating license will expire on December 31, 1983. It is also clear that the Commission retains its authority to suspend the temporary operating license, if it finds that the applicant is not prosecuting its application for the final operating license with due diligence. *See* § 2.306. Finally, where the Commission has issued a new temporary operating license before December 31, 1983, and, subsequently, the licensee requests an amendment to that license, this provision does not preclude the Commission from amending that license after December 31, 1983.

Paperwork Reduction Act Statement

This rule contains no new or amended requirements for recordkeeping, reporting, plans or procedures, applications or any other type of information collection reviewable by the Office of Management and Budget under the Paperwork Reduction Act.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this final rule does not fall within the purview of the Act.

Regulatory Analysis

The Commission has prepared a Regulatory Analysis on these amendments, assessing the costs and benefits and resource impacts. It may be found in SECY–83–16, 16A and 16B, and examined at the address indicated above.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to 10 CFR Parts 2 and 50 are published as a document subject to codification.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Inter-governmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161,181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.300–2.309 also issued under Pub. L. 97–415, 96 Stat. 2071 (42 U.S.C. 2133). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Appendix A also issued under sec. 6, Pub. L. 91–580, 84 Stat. 1473 (42 U.S.C. 2135).

2. A new subpart C is added to 10 CFR Part 2 to read as follows:

Subpart C—Procedures Under Section 192 for the Issuance of Temporary Operating Licenses

Sec.
2.300 Scope of subpart.
2.301 Filing of petition and accompanying affidavits.
2.302 Contents of affidavits.
2.303 Notice of petition.
2.304 Responsive affidavits.
2.305 Commission authorization.
2.306 Hearing on final operating license.
2.307 Notification to the Commission.
2.308 Use of informal procedures.
2.309 Enforcement.

Subpart C—Procedures Under Section 192 for the Issuance of Temporary Operating Licenses

§ 2.300 Scope of subpart.

This subpart prescribes the procedures for issuing a temporary operating license and specifies the framework for Commission determinations. These procedures apply in any proceeding where an applicant has applied for a final operating license for a utilization facility (licensable under sections 103 of 104b. of the Atomic Energy Act (Act) and otherwise requiring a licensing hearing pursuant to section 189a.) and the applicant, pursuant to section 192 of the Act and § 50.57(d) of this chapter, petitions the Commission for a temporary operating license authorizing fuel loading, testing, and initial low power operation (or for an amendment to a temporary operating license authorizing operation at an increased power level), pending action by the Commission on the application for the final operating license.

§ 2.301 Filing of petition and accompanying affidavits.

(a) Before November 14, 1983, an applicant for an operating license may file a written petition for a temporary operating license with the Commission for each such facility. At the same time that the applicant files with the Commission for its temporary operating license, it must serve the petition, including the accompanying affidavits, on all parties to the proceeding for the issuance of the final operating license. The applicant may file any such petition at any time after the documents called for by section 192 of the Act and § 50.57(d) of this chapter are issued.

(b) The initial petition for a temporary operating license for each such facility shall, in accordance with section 192 of the Act and § 50.57(d) of this chapter, be limited initially to a specified time and to a power level not to exceed 5 percent of the facility's rated full thermal power for that specified time. After the Commission issues a temporary operating license for any such facility, the licensee may file subsequent petitions with the Commission, using the procedure described in paragraph (a), which request the Commission to amend the temporary operating license to allow facility operation at incremental stages beyond the initial 5 percent level for specified times, up to and including operation at full power, pending completion of the proceeding on the final operating license.

(c) The Commission has full discretion to determine the initial power level up to 5 percent and the incremental increases in power levels it will authorize and the period for which the authorization is granted. It will not grant a temporary operating license or an amendment to that license for a period lasting beyond the date the final operating license is granted; and the temporary operating license and any amendments to that license will expire when the final operating license is issued.

§ 2.302 Contents of affidavits.

The applicant's petition for a temporary operating license or an amendment to that license shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment to that license. Any such affidavit and any affidavit filed in response shall state separately the specific facts and arguments and include the exhibits upon which the person relies. The facts asserted in any affidavit filed shall be sworn to or affirmed by persons having knowledge of thoge facts, and a statement to this effect shall affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would be available to substantiate orally the facts asserted, as the Commission deems appropriate. Any such affidavit shall be accompanied by a list of documents relied on to support the facts stated in the affidavit and such documents shall be or have been provided to the Commission so that they can be made available for inspection.

§ 2.303 Notice of petition.

(a) The Commission will promptly publish notice of each petition for issuance of a temporary operating license and any subsequent petitions for amendments to that license in the Federal Register and is such trade or news publications as the Commission deems appropriate in order to give reasonable notice to persons who might have a potential interest in the grant of such a temporary operating license or an amendment to that license. The notice will inform such persons of the arrangements for their access to the petition and supporting affidavits. Any person may file responsive affidavits in support of, or in opposition to, the petition within 30 days after the publication of such notice in the Federal Register. The Commission thereafter will act as expeditiously as possible to reach a determination on such petitions.

(b) If, after it has filed its petiton, the applicant files additional documents which provide substantive data or argument material to the issuance of its temporary operating license, these and the petition will be renoticed to initiate a new 30-day period.

§ 2.304 Responsive affidavits.

Responsive affidavits in support of an application for a temporary operating license shall be accompanied by a short and concise statement of the material facts which support the issuance of that license. Responsive affidavits in opposition to the petition shall be accompanied by a short and concise statement of the material facts as to which it is contended that there exists a substantial issue concerning the issuance of the temporary operating license or an amendment to that license. Any responsive affidavit and any accompanying statement shall be served on all parties to the proceeding for the issuance of the final operating license. Any document referenced in support of a responsive affidavit shall be or have been provided to the Commission so that it can be made available for inspection.

§ 2.305 Commission authorization.

(a) Issuance of a temporary operating license or an amendment to that license shall be pursuant to a final order of the Commission itself which recites the reasons for such authorization as called for in section 192 of the Act and § 50.57(d) of this chapter.

(b) The requirements of section 189a. of the Act with respect to the issuance of or an amendment to a utilization facility license shall not apply to the issuance of or an amendment to a temporary operating license. Except as provided in paragraphs (b) (1) and (2) of this section, Subparts A and G of this part, shall not apply.

(1) Sections 2.701, 2.702, 2.708–2.713, 2.758, 2.772, and 2.790 of subpart G of this part shall apply to the consideration of a petition for the issuance of or an

VOL 48 ISS 199 OCT 13 1983 UMI

amendment to such a temporary operating license;

(2) That portion of § 2.780 of Subpart G of this part which prohibits communications with persons outside the Commission shall apply. Communications between the Commissioners, their immediate staffs and other NRC officials who advise the Commissioners in the exercise of their quasi-judicial functions, and the regulatory staff, shall be permitted. Copies of any such written communications and summaries of any such oral communications, except communications not prohibited by § 2.780, shall be placed promptly in the public document room and served on the parties to the proceedings.

§ 2.306 Hearing on final operating license.

(a) Issuance of a temporary operating license under section 192 of the Act and § 50.57(d) of this chapter shall not prejudice the right of any party in a proceeding for the issuance of the final operating license to pursue properly admitted issues in a hearing required pursuant to section 189a. of the Act. Failure to assert any ground for denial or limitation of such a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. No party shall argue the issuance or denial of a temporary operating license by the Commission as support for its position in a proceeding for the issuance of the final operating license.

(b) Any hearing on the application for the final operating license for a facility required pursuant to section 189a. of the Act shall be concluded as promptly as practicable. The Commission will suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. The Commission may suspend the license for other public health and safety or common defense and security reasons.

§ 2.307 Notification to the Commission

(a) Any party to a hearing required pursuant to section 189a. of the Act on the final operating license for a facility for which a temporary operating license has been issued under section 192 of the Act and § 50.57(d) of this chapter, and any member of the Atomic Safety and Licensing Board (ASLB) conducting such a hearing, shall promptly notify the Commission of any information that:

(1) The terms and conditions of the temporary operating license are not being met; or that

(2) Such terms and conditions are not sufficient to provide reasonable assurance that operation of the facility will provide adequate protection to the public health and safety and to the environment during the period of the facility's temporary operation.

(b) The notification shall be accompanied by a statement of material facts supporting the assertion, and it shall be served on all the parties to the proceedings.

(c) The holder of a temporary operating license may respond to the notification. Any response shall be served on all the parties to the proceedings.

§ 2.308 Use of informal procedures.

The Commission ordinarily will not use formal adjudicatory procedures in issuing a temporary operating license and will develop informal procedures case-by-case to resolve particular issues as they arise.

§ 2.309 Enforcement.

The Commission may modify, suspend or revoke a temporary operating license, or impose a civil penalty pursuant to sections 186 and 234 of the Act and Subpart B of this part.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

3. The authority citation for Part 50 is revised to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97.415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 5070, 50.71, 50.72, 50.73, and 50.78 are issued sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. In § 50.57 of 10 CFR Part 50, a new paragraph (d) is added to read as follows:

§ 50.57 Issuance of operating license.

* * * * *

(d)(1) *Temporary operating license.* An applicant for an operating license, in a case where a hearing is required in a pending proceeding for the final operating license for a facility required to be licensed under sections 103 or 104b. of the Act, pending final action by the Commission on the application for the final operating license, may petition the Commission in writing, pursuant to section 192 of the Act, to § 2.305 of this chapter, and to this paragraph for (i) a temporary operating license for the facility authorizing fuel loading, testing, and operation at up to 5 percent rated full thermal power for a specified time and (ii) an amendment to the temporary operating license requesting for a specified time an incremental increase of the power level beyond that initially granted by the Commission up to full power. The Commission has full discretion to determine the initial power level up to 5 percent and the incremental increases in power levels it will authorize and the period for which the authorization is granted. It will not grant a temporary operating license or an amendment to that license for a period lasting beyond the date the final operating license is granted; and the temporary operating license and any amendments to that license will expire when the final operating license is issued.

(2) The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of:

(i) The report of the Advisory Committee on Reactor Safeguards (ACRS) required by subsection 182b. of the Act;

(ii) The initial safety evaluation report (SER) on the application by the regulatory staff and the staff's first supplement to the SER prepared in response to the ACRS report;

(iii) The staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; and

(iv) A State, local, or utility emergency preparedness plan for the facility.

(3) Each petition for the issuance of a temporary operating license, or for an amendment to that license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompained by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment to that license.

(4) The Commission will publish a notice of each such petition in the **Federal Register** and in such trade or news publications as it deems appropriate to give reasonable notice to any persons who might have a potential interest in the grant of such a temporary operating license or amendment. The notice will inform such persons of the arrangements for their access to the petition and supporting affidavits. Any person may file affidavits in support of, or in opposition to, the petition within 30 days after the publication of such notice in the **Federal Register.**

(5) With respect to any such petition, the Commission may issue a temporary operating license, or subsequently amend the license to authorize temporary operation at a specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that:

(i) In all respects, other than the conduct or completion of any required hearing, the requirements of law are met;

(ii) In accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and to the environment during the period of temporary operation; and

(iii) Denial of the temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license and the date on which a final operating license for such facility would otherwise be issued under the Act.

(6) Any final Commission order authorizing the issuance of any temporary operating license or an amendment to that license pursuant to section 192 of the Act and this paragraph will recite with specificity the reasons justifying the findings required by that section and this paragraph, and will be transmitted upon its issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(7) The temporary operating license will become effective upon its issuance and will contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for its extension.

(8) The Commission will suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence.

(9) The authority to issue new temporary operating licenses under section 192 of the Act and this paragraph expires on December 31, 1983.

Dated at Washington, D.C., this 6th day of October, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary to the Commission.

Additional Views of Commissioner Gilinsky

The Commission's decision to apply more relaxed *ex parte* and separation of functions rules to the Temporary Operating License proceeding will very likely raise questions about the Commission's motives and result in more fruitless litigation and delay. The *ex parte* and separation of functions rules should apply uniformly to regular and temporary licenses, especially since similar, and possibly identical, issues are involved.

I agree, however, that the present *ex parte* and separation of functions rules are unduly narrow and should be modified to allow the Commission to communicate directly with the NRC staff and non-parties in licensing cases. To accomplish this, we need to: (1) End the NRC staff's role as a full party in our proceedings; and, (2) make some use of the flexibility afforded to initial licensing by the Administrative Procedures Act. These changes would strike a reasonable balance between the requirements of fairness and the Commission's need to have ready access to information.

Additional Views of Commissioner Asselstine

When this rule was issued in proposed form, I disagreed with the Commission majority's decision not to apply the provisions of 10 CFR 2.719 and 2.780, relating to separation of functions and *ex parte* communications, as part of the procedural requirements for implementing the temporary operating license authority in section 192 of the Atomic Energy Act of 1954, as amended. I pointed out at the time that in all likelihood, the issues that will be raised before the Commission in the temporary operating license proceeding under the provision of section 192 will be similar to, or the same as, the issues being adjudicated in the hearing in the final operating license proceeding. I therefore concluded that by permitting the NRC staff, the applicant and other parties in the OL proceeding to make informal, off-the-record contacts with the Commission on these issues during the temporary operating licensing (TOL) proceeding, the proposed rule presented the grave risk of contaminating the formal, on-the-record operating license proceeding. For this reason, I recommended applying the Commission's separation of functions and *ex parte* restrictions to the temporary operating license proceeding as well.

After reviewing the comments received on the proposed rule, a majority of the Commission has now agreed to apply the Commission's separation of functions and *ex parte* restrictions to the applicant and intervenors in the TOL proceeding. However, the majority continues to insist upon preserving the opportunity, during the TOL proceeding, to consult privately with the NRC staff on issues that are being contested in the formal operating license proceeding and on which the staff is advocating a position as a part to that proceeding. Even though a written summary of these private contacts would be made, I believe that this approach with respect to the NRC staff has the real potential to create at least the appearance of unfairness in the Commission's role as ultimate judge on the contested issues in the operating license proceeding. This approach will almost certainly lead to challenges to the validity of some Commission decisions in operating license proceedings, thereby providing a new source of uncertainty and unpredictability in our licensing process.

Moreover, I believe that the majority's approach is not necessary to assure that the NRC staff's advice can be made available to the Commission. Even if the Commission's separation of functions and *ex parte* restrictions were to apply to the TOL proceeding, the Commission would be free to consult informally with the staff on general information, on generic issues and on issues that are not being contested in the OL proceeding. In the case of these contested issues, the Commission would be free to hear the advice of the staff in the TOL proceeding as long as the meeting is public, and other parties are notified in advance, are given an opportunity to attend and are given an opportunity to provide their own comments orally or in writing. In my view, these restrictions still permit the Commission to hear from the staff in a manner that will avoid the appearance of unfairness in the Commission's subsequent decision on the contested issues in the operating license proceeding.

[FR Doc. 83–27860 Filed 10–12–83; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF ENERGY

10 CFR Part 710

Defense Programs; Changes in Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending 10 CFR Part 710, entitled, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material" to delegate the authority to suspend DOE access authorization to the Managers of its Field Operations. Under the previous regulation, only the Assistant Secretary for Defense

VOL
48
ISS
1
9
9
OC
13
1983
UMI

Programs had the authority to suspend an individual's access authorization in those cases where information is received which raises a question concerning the continued eligibility of an individual for DOE access authorization.

DOE is assigning to the Managers of its Field Operations the preparation of notification letters, which enumerate the charges against the individual and explain the individual's rights under DOE access authorization procedures.

DOE is establishing a policy wherein the processing of applications for security clearance or access authorization for individuals who have been convicted of felony crimes and who are currently serving probation or parole may be withheld pending the completion of the probation or parole.

Finally, DOE is imposing time frames for completion of certain actions throughout its administrative review process.

EFFECTIVE DATE: November 14, 1983.

ADDRESSES: Written comments should be directed to the Director, Office of Safeguards and Security, U.S. Department of Energy, Washington, D.C. 20545, Attn: Mr. Martin J. Dowd.

FOR FURTHER INFORMATION CONTACT: Mr. Martin J. Dowd, Director, Division of Security, Office of Safeguards and Security, U.S. Department of Energy, Washington, D.C. 20545 (301/353-4642).

Mrs. Elayne Bartner, Office of General Counsel, U.S. Department of Energy, Room 6A-211, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585 (301/252-8618).

SUPPLEMENTARY INFORMATION: The DOE published its proposed rule in the **Federal Register** on August 3, 1983, 48 FR 35343. Public comments were invited on or before September 2, 1983. Mr. J. M. Harden, President of United Steelworkers of America, AFL-CIO-CLC, Local Union 8031, Rocky Flats, Colorado, submitted an objection to the proposed regulation in general; however, no specific comments or suggestions were offered in his response. In accordance with 501(c)(1) of the DOE Organization Act, 42 U.S.C. 7101(c), DOE has determined that these regulations present no substantial issue of fact or law, and are not likely to have a substantial impact on the nation's economy or large number of individuals or businesses. Accordingly, no public hearing was required.

E.O. 12291 Federal Regulation

The Department has determined, in accordance with Executive Order 12291, that this is a nonsignificant regulation for the following reasons: It has no more than a minimal effect upon the objectives of national energy policy or energy statutes, the economy, competition, the quality of the environment, state and local government programs and existing regulatory programs of DOE or other executive agencies; it will not impose new compliance and reporting burdens nor add to existing requirements; it is not a matter of major concern to the President or Congress, it will not require substantial DOE resources to develop and enforce it; and substantial public comments were not received.

Regulatory Flexibility Act

The Department has also certified that this regulation will not have a significant economic impact on a substantial number of small entities; thus, a small entity flexibility analysis under the Regulatory Flexibility Act (Pub. L. 96-354) is not required.

National Environmental Policy Act of 1969

It is hereby determined that this revision of the regulation does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act of 1980

There are no changes in the information collection requirements of the parts of Title 10 as amended. All reporting locations, forms and content are unchanged.

List of Subjects in 10 CFR 710

Classified information, Security measures.

Authorities

Authority.—Sec. 145, 68 Stat. 942, as amended; 42 U.S.C. 2165; sec. 161, 68 Stat. 948, as amended; 42 U.S.C. 2201, E.O. 10450, 3 CFR 1949-1953 comp., p. 398, as amended, 3 CFR, Chap. IV; sec. 204(c), 38 Stat. 1237; 42 U.S.C. 5814; sec. 105(a), 88 Stat. 1238; 42 U.S.C. 5815.

Dated at Washington, D.C., this 3rd day of October, 1983.

Herman E. Roser,

Assistant Secretary for Defense Programs.

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL

In consideration of the foregoing, Part 710 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below:

1. Section 710.4 is revised to read as follows:

§ 710.4 Policy.

(a) It is the policy of DOE to carry out its responsibility for the security of the energy research and development programs in a manner consistent with traditional American concepts of justice. To this end, the Secretary has established criteria for determining eligibility for access authorization and will afford those individuals described in Section 710.2 the opportunity for administrative review of questions concerning their eligibility for access authorization.

(b) In instances where the individual has been convicted of a felony crime, and is currently serving court ordered probation or parole, the DOE may withhold processing applications for security clearance or access authorization until such time as the individual completes serving the probation parole.

2. Section 710.5 is amended to add a new paragraph (i):

§ 710.5 Definitions.

* * * * *

(i) Throughout this part the use of the male gender shall include the female gender.

3. Section 710.10 is amended by revising paragraph (c) to read as follows:

§ 710.10 Application of the criteria.

* * * * *

(c) When the reports of investigation of an individual contain information reasonably tending to establish the truth of one or more of the items in the criteria, such information shall be regarded as substantially derogatory and create a question as to the individual's eligibility for access authorization. The Manager of Operations may authorize an interview with the individual, or other investigation as deemed appropriate, and on the basis of such interview and/or investigation, may authorize the granting of access authorization. If the question as to the individual's eligibility is not resolved through interview, additional investigation, or when applicable, through a psychiatric evaluation, the Manager of Operations will forward the individual's case to the Director, Office of Safeguards and Security, DOE. The Director, Office of Safeguards and Security, DOE, may authorize (1) the granting of access authorization, (2) such other investigation as the Director deems appropriate, or (3) the institution of the procedures set forth in 710.20 et seq. The Director, Office of Safeguards and Security, must authorize one of these options within 30 days from the receipt of the case from the Manager of Operations, unless an extension is made by the Deputy Assistant Secretary for Security Affairs.

* * * * *

4. Section 710.21 is revised to read as follows:

§ 710.21 Suspension of access authorization.

In those cases where information is received which raises a question concerning the continued eligibility of an individual for DOE access authorization, the Manager of Operations shall determine whether the individual's access authorization should be suspended pending the final determination resulting from the operations of the procedures provided in this part. In making the determination, the Manager of Operations shall consider such factors as the seriousness of the derogatory information developed, the possible access of the individual to classified information or significant quantities of special nuclear material, and the individual's opportunity by reason of the individual's position to commit acts adversely affecting the national security. The access authorization of an individual shall not be suspended except by direction of the Manager of Operations. Following the decision to suspend the individual's access authorization, the Manager of Operations shall immediately notify the Assistant Secretary for Defense Programs through the Director, Office of Safeguards and Security. In addition, the Manager, within 10 days of the date of suspension shall submit a request for authority to conduct a hearing to the Director, Office of Safeguards and Security. This request should also contain an explanation of the basis for the suspension.

5. Section 710.22 introductory text is revised to read as follows:

§ 710.22 Notice to individual.

When the Director, Office of Safeguards and Security, has directed the institution of these administrative review procedures with respect to an individual's questioned eligibility for access authorization (as per Section 710.10(c)), the Manager of Operations shall prepare a notification letter, approved by the local Office of Chief Counsel, for delivery to the individual within 30 days of the receipt of such directive from the Office of Safeguards and Security, unless an extension has been authorized by the Director, Office of Safeguards and Security. Where practicable, such letter shall be presented to the individual in person. The letter shall state:

* * * * *

6. Section 710.27 is amended by revising paragraphs (a) and (j) to read as follows:

§ 710.27 Conduct of proceedings.

(a) The proceedings shall be conducted by the Hearing Officer in an orderly, impartial, and decorous manner with every effort made to protect the interest of the government and of the individual in determining the truth of the allegations. Hearings shall commence within 90 days from the date the individual's request for hearing is received. This period can only be extended with the approval of the Director, Office of Safeguards and Security, Headquarters, who will consider the effect of such extension on the interests of both the government and the individual. In performing duties, the Hearing Officer shall always bear in mind and make clear to all concerned that the proceeding is an administrative hearing and not a trial.

* * * * *

(j) The Hearing Officer shall endeavor to obtain all the facts that are reasonably available in order to arrive at recommendations. If, prior to or during the proceedings, in the opinion of the Hearing Officer the allegations in the notification letter are not sufficient to cover all matters into which inquiry should be directed, the Hearing Officer shall recommend to the Manager of Operations concerned that, in order to give more adequate notice to the individual, the notification letter should be amended. Any amendment shall be made with the concurrence of Counsel. If, in the opinion of the Hearing Officer, the circumstances of such amendment may involve undue hardships to the individual because of limited time to answer the new allegations in the notification letter, an appropriate adjournment shall be granted upon the request of the individual.

* * * * *

7. Section 710.28 is amended by revising paragraph (d) to read as follows:

§ 710.28 Recommendation of the Hearing Officer.

* * * * *

(d) The Hearing Officer's recommendation shall be submitted to the Manager of Operations, accompanied by a statement of the findings and reasons supporting the Hearing Officer's conclusions within 30 days of the receipt of the hearing transcript by the Hearing Officer, or the closing of the record, whichever is later, unless an extension is granted by the Director, Office of Safeguards and Security.

8. Section 710.30 is amended by revising paragraph (a) to read as follows:

§ 710.30 Actions on the recommendations.

(a) The signed report of the Hearing Officer containing findings, supporting reasons, conclusions and recommendations, shall be submitted to the Manager of Operations, together with the hearing record, within 30 days of the Hearing Officer's receipt of the hearing transcript or the closing of the record, whichever is later, unless an extension is granted by the Director, Office of Safeguards and Security.

* * * * *

9. Section 710.31 is amended by revising paragraph (d) to read as follows:

§ 710.31 Recommendation of the DOE Personnel Security Review Examiners.

* * * * *

(d) After consideration, each Examiner shall individually prepare a report of findings and recommendations and submit the report in writing to the Assistant Secretary for Defense Programs. These findings and recommendations shall be fully supported by stated reasons for their conclusions. Except in those cases where the Personnel Security Review Examiners have requested additional information as provided for in paragraphs (a) or (b) of this section, the Personnel Security Review Examiners shall submit their report of findings and recommendations to the Assistant Secretary for Defense Programs within 45 days of their receipt of each case, unless an extension is granted by the Deputy Assistant Secretary for Security Affairs.

10. A new § 710.39 is added:

§ 710.39 Time frames.

Statements of time established for processing aspects of a case under this part are the agency's desired time frames in implementing the procedures set forth in this part. They shall have no impact upon the final disposition of an access authorization by the Assistant Secretary for Defense Programs, and confer no rights upon an individual

VOL
48
ISS
1
9
9
OC
13
1983
UMI

whose eligibility for, or suspension of, access authorization is being considered.

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DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

[Docket 83-44]

Deposits Between Affiliated Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends current Interpretive Ruling 7.7370 concerning deposits between affiliated banks (12 CFR 7.7370). Section 7.7370 states, among other things, that interest-bearing deposits made by a member bank in an affiliated bank are loans or extensions of credit to the affiliate under 12 U.S.C. 371c. The amended ruling provides that deposits made by a member bank in an affiliated domestic or foreign bank in the ordinary course of correspondent business are not considered to be loans or extensions of credit for purposes of 12 U.S.C. 371c. Additionally, deposits made between banks as provided in 12 U.S.C. 371c(d)(1) are not considered to be loans or extensions of credit for purposes of 12 U.S.C. 371c. Changes in 12 U.S.C. 371c resulting from enactment of section 410 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469 (October 15, 1982), make this amendment necessary. The Comptroller's Office believes that amendment of 12 CFR 7.7370 will harmonize its provisions with revised 12 U.S.C. 371c.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Susan Kay Fetner, National Bank Examiner, Commercial Examinations Division (202) 447-1164 or Larry A. Mallinger, Attorney, Legal Advisory Services Division (202) 447-1880, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: Section 410 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469 (October 15, 1982) (Act), significantly amended section 23A of the Federal Reserve Act (12 U.S.C. 371c) relating to member bank transactions with affiliates. Section 23A imposes quantitative limitations and collateralization requirements on "covered transactions" between a member bank and its affiliates. The term "covered transaction" includes, among other things, transactions such as a loan or extension of credit to an affiliate; a purchase of assets, including assets subject to repurchase, from an affiliate; and the issuance of a guarantee, acceptance, or letter of credit, on behalf of an affiliate. *See* 12 U.S.C. 37c(b)(7).

The present version of Interpretive Ruling 7.7370 (12 CFR 7.7370) defines an interest-bearing deposit made by a member bank in an affiliate as a loan or extension of credit for purposes of 12 U.S.C. 371c. However, under 12 U.S.C. 371c(d)(2) an interest-bearing deposit will no longer be considered a loan or extension of credit for 12 U.S.C. 371c purposes if made in an affiliated domestic or foreign bank in the ordinary course of correspondent business. Noninterest bearing deposits made in the ordinary course of correspondent business would also be exempt from treatment as a loan or extension of credit under 12 U.S.C. 371c(d)(2). In the case of noninterest bearing deposits, however, the exemption is merely carried over from the former statute.

It should also be noted that the 12 U.S.C. 371c(d)(2) exemption applies only to deposits made in the ordinary course of correspondent business. Interest bearing or noninterest bearing deposits placed in an affiliate *not* in the ordinary course of correspondent business would still be treated as loans or extensions of credit for purposes of 12 U.S.C. 371c. As such, they would be subject to the aggregate limitations on transactions with affiliates and the collateral requirements imposed on such transactions unless another exemption applies. *See* 12 U.S.C. 371c (b), (c).

If interest bearing or noninterest bearing deposits are not made in the ordinary course of correspondent business, they may still be exempt from 12 US.C. 371c if made between banks as provided in 12 U.S.C. 371c(d)(1) (A)-(C). For example, deposits made between affiliated banks each of which is eighty (80) percent or more owned by the same bank holding company are not considered to be loans or extensions of credit for purposes of 12 U.S.C. 371c. *See* 12 U.S.C. 371c(d)(1)(C).

The Comptroller's Office is amending 12 CFR 7.7370 to reflect the statutory changes discussed above.

Adoption Without Notice and Comment

In light of the technical nature of the revision, the lack of the imposition of any substantive new requirements, and the need to implement the Act, the Office for good cause finds that the procedures prescribed by 5 U.S.C. 553 relating to notice, public hearing and comment, and deferred effective date are unnecessary and would serve no useful purpose.

Regulatory Flexibility Act Analysis

Because the Office has found that notice and public procedure concerning this rulemaking are unnecessary and contrary to the public interest, the provisions of the Regulatory Flexibility Act are not applicable. The Act does not apply when an agency is not required to issue a notice of proposed rulemaking under 5 U.S.C. 553 or any other statute.

Executive Order 12291

The Office has determined that the amendment does not constitute a major rule within the meaning of Executive Order 12291. The amendment will not have an annual effect on the economy of $100 million or more, will not affect costs or prices for consumers, individual industries, government agencies or geographic regions, and will not have an adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 12 CFR Part 7

National banks, Affiliate transactions.

Authority and Issuance

Accordingly, 12 CFR Part 7 is amended as follows:

PART 7—INTERPRETIVE RULINGS

1. The authority citation for Part 7—Interpretive Rulings—reads as follows:

Authority: R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq., unless otherwise noted.

2. Section 7.7370 is revised to read as follows:

§ 7.7370 Deposits between affiliated banks.

A deposit made by a national bank in an affiliate is considered to be a loan or extension of credit to the affiliate under 12 U.S.C. 371c, except for a deposit made in an affiliated domestic or foreign bank in the ordinary course of correspondent business or as otherwise provided in 12 U.S.C. 371c(d)(1). Loans or extensions of credit to an affiliate are required to be secured under 12 U.S.C. 371c. However, 12 U.S.C. 90 and applicable case law restrict the authority of national banks to pledge their assets to secure private deposits. Similar restrictions on securing deposits also apply to many state-chartered banks. Consequently, a national bank may not make a deposit in an affiliated national bank unless made in the ordinary course of correspondent business or as provided in 12 U.S.C. 371c(d)(1). A national bank may not make a deposit in an affiliated State bank unless made in the ordinary course of correspondent business or as provided in 12 U.S.C. 371c(d)(1) or unless the affiliated State bank can legally offer collateral for such deposit in conformance with the requirements of 12 U.S.C. 371c. A national bank may not receive a deposit from an affiliated bank, except in the ordinary course of correspondent business or as provided n 12 U.S.C. 371c(d)(1), because of its legal inability to provide the required collateral.

Dated: September 13, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR doc. 83-27872 Filed 10-12-83; 8:45 am]
BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Nos. 80-SO-6-AD and 80-SO-44-AD; Amendment 39-4726]

Airworthiness Directives; Piper Models PA-31, PA-31-325 and PA-31-350 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, rescission.

SUMMARY: Airworthiness Directive (AD) 80-08-05, Amendments 39-3733, 39-3756 and 39-3761, applicable to Piper Model PA-31-350 airplanes, and AD 80-21-07, Amendment 39-3936, applicable to Piper Models PA-31 and PA-31-325 airplanes, were issued to provide an increased margin of safety during normal takeoff. Since issuance, compliance with the ADs, changes in the airplanes Pilot's Operating Handbook/Airplane Flight Manual (POH/AFM) and improved field awareness of the problems addressed by the ADs make the ADs no longer necessary. Therefore, the ADs are being rescinded.

DATE: Effective Date: October 18, 1983.
Compliance: Not required.

ADDRESSES: Piper Service Bulletins No. 684, dated April 14, 1980, and No. 707, dated February 4, 1981, applicable to Piper Model PA-31-350 airplanes, and Service Bulletins No. 697, dated August 11, 1980, and No. 708, dated April 7, 1981, applicable to Piper Models PA-31 and PA-31-325 airplanes, may be obtained from Piper Aircraft Corporation, 820 E. Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: R. J. Sample, Flight Test Branch, ACE-160A, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337, telephone (404) 763-7446.

SUPPLEMENTARY INFORMATION: AD 80-08-05, Amendments 39-3733 as revised by 39-3756 and 39-3761 applicable to Piper Model PA-31-350 airplanes, and AD 80-21-07, Amendment 39-3936, applicable to Piper Models PA-31 and PA-31-325 airplanes deleted the marking "takeoff range" from the flap position indicator and added POH revisions which contained 0° flap takeoff performance data and replaced the original 15° flap takeoff performance data. Piper Service Bulletins No. 684 and 697 covered this change. The purpose of these actions was to encourage takeoff with 0° flap settings which provide the pilot an increased margin of safety in the event of an engine failure immediately after takeoff.

The FAA recognized, at the time these actions were taken, that a level of safety higher than that provided by the certification basis was being established for the affected airplanes.

The action required by these ADs has now been accomplished on all in-service airplanes. Subsequent to the issuance of this AD, Piper issued FAA-approved Service Bulletins No. 707 and 708 which provided short field takeoff procedures including appropriate warnings and performance data using a flap position other than 0°.

The provisions of these service bulletins were also incorporated in production airplanes.

Accordingly, the purpose of the ADs, i.e., providing an increased margin of safety during takeoff, has been accomplished in all aircraft in production, as well as those serial numbers identified in the ADs by changes to the flap position indicator markings and the POH.

The FAA believes that considering the above facts and the configuration of the affected airplanes that these ADs may be withdrawn without an adverse effect on safety.

Therefore, ADs 80-08-05 and 80-21-07 are being rescinded.

Since this amendment has no effect on airworthiness, cancels existing AD's which are no longer necessary and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and not in the public interest and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14CFR 39.13) is amended by rescinding ADs 80-08-05, Amendments 39-3733, 39-3756 and 39-3761 and 80-21-07, Amendment 39-3936.

This amendment becomes effective on October 18, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Note.—The FAA has determined that this action does not have any cost effect and does not adversely affect any person or airplane. Therefore, I certify that this action (1) is not a major rule under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and because no cost effect and few airplanes involved are owned by small entities, it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on September 23, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-27787 Filed 10-12-83; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-ASO-34]

Alteration of Control Zone and Transition Area, Gulfport, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Gulfport, Mississippi, control zone and transition area by revising the geographical coordinates of the airport, realigning and reducing the size of two control zone extensions and revoking four transition area arrival extensions. Revisions to instrument approach procedures permit reducing the size of the control zone extensions and require

VOL
48
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a slight realignment of the extensions. The transition area arrival extensions are no longer required due to cancellation of some instrument approach procedures and revisions to other currently existing approach procedures.

DATES: Effective date: 0901 G.m.t., January 19, 1984.

Comments must be received on or before December 1, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves revising the coordinates of the Gulfport-Biloxi Regional Airport, reducing the size of control zone arrival extensions and revoking four transition area arrival extensions, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Gulfport, Mississippi, control zone and transition area so only that airspace required for aeronautical activities is designated as controlled airspace. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need to alter the control zone and transition area by reducing the size of control zone arrival extensions and revoking four transition area arrival extensions. The changes are so minor and nonsubstantive I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Gulfport, Mississippi, control zone under § 71.171 and the transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) are further amended, effective 0901 G.m.t., January 19, 1984, as follows:

Gulfport, MS—[Revised]

By deleting the present description of the Gulfport, Mississippi, control zone contained in § 71.171 and substituting the following therefor: "Within a 5-mile radius fo Gulfport-Biloxi Regional Airport (Lat. 30°24'25"N., Long. 89°04'12"W.); within 3.5 miles each side of Gulfport VORTAC 129° and 322° radials, extending from the 5-mile radius zone to 8.5 miles southeast and northwest of the VORTAC; excluding that portion within the Biloxi, MS, control zone. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory."

Gulfport, MS—[Revised]

By deleting the present description of the Gulfport, Mississippi, transition area contained in § 71.181 and substituting the following therefor: "That airspace extending upward from 700 feet above the surface within a 9-mile radius of Gulfport-Biloxi Regional Airport (Lat. 30°24'25"N., Long. 89°04'12"W.); within an 8.5-mile radius of Keesler AFB (Lat. 30°24'39"N., 88°55'26"W.); within 4.5 miles each side of Keesler TACAN 041° and 203° radials, extending from the 8.5-mile radius area to 12.5 miles northwest and southwest of the TACAN."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on September 15, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83–27789 Filed 10–12–83; 8:45 am]

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14 CFR Part 95

[Docket No. 23795; Amdt. No. 95–313]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involved matters of flight safety,

operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t. September 29, 1983.

(Secs 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involved an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on October 5, 1983.

Kenneth S. Hunt,

Director of Flight Operations.

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UMI 1983 OCT 13 1999 ISS VOL 48

REVISIONS TO IFR ALTITUDES & CHANGE OVER POINTS

AMENDMENT 313 EFFECTIVE DATE, SEPTEMBER 29, 1983

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.		
IS ADDED TO READ		
BERLIN, NH VOR/DME	NERNY, ME FIX	*6000
*4300 - MOCA		MAA-17000
BERLIN, NH VOR/DME	SUGRR, ME FIX	6000
		MAA-17000
CUNNINGHAM, KY VORTAC	AIRBE, KY NDB	*3000
*2100 - MOCA		
ORAKE, AR VOR	ROCZY, AR FIX	*4000
*3300 - MOCA		
NERNY, ME FIX	AUGUSTA, ME VORTAC	6000
		MAA-17000
ROCZY, AR FIX	LITTLE ROCK, AR VORTAC	5000
SUGRR, ME FIX	AUGUSTA, ME VORTAC	6000
		MAA-17000
IS AMENDED TO READ IN PART		
EATON, MS VORTAC	JACKSON, MS VORTAC	3400
		MAA-17500
SCOTTSBLUFF, NE VORTAC	ABERDEEN, SD VORTAC	26000
		MAA-45000
SIDNEY, NE VORTAC	ABERDEEN, SD VORTAC	FL290
		MAA-FL450
§95.6001 VOR FEDERAL AIRWAY 1		
IS AMENDED TO READ IN PART		
BASSO, SC FIX	*ROOFS, SC FIX	2000
*3000 - MRA		
ROOFS, SC FIX	CHARLESTON, SC VORTAC	2000
§95.6004 VOR FEDERAL AIRWAY 4		
IS AMENDED TO READ IN PART		
YAKIMA, WA VORTAC	AMPLE, WA FIX	5000
MALAD CITY, ID VORTAC	GRIPS, WY FIX	#*14000
*11500 - MUCA		
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.		
§95.6007 VOR FEDERAL AIRWAY 7		
IS AMENDED TO READ IN PART		
GRAHAM, TN VORTAC	VALER, TN FIX	*3000
*2100 - MOCA		
VALER, TN FIX	CENTRAL CITY, KY VORTAC	*3000
*2200 - MOCA		
§95.6008 VOR FEDERAL AIRWAY 8		
IS AMENDED TO DELETE		
AKRON, CO VORTAC	HOLYO, CO FIX	
VIA N ALTER	VIA N ALTER	6400
HOLYO, CO FIX	HAYES CENTER, NE VORTAC	
VIA N ALTER	VIA N ALTER	*6000
*4800 - MOCA		

FROM	TO	MEA
§95.6008 VOR FEDERAL AIRWAY 8—Continued		
AKRON, CO VORTAC	PASSE, NE FIX	
VIA S ALTER	VIA S ALTER	*6500
*5700 - MOCA		
PASSE, NE FIX	HAYES CENTER, NE VORTAC	
VIA S ALTER	VIA S ALTER	*7000
*5600 - MOCA		
HAYES CENTER, NE VORTAC	RAGAR, NE FIX	
VIA N ALTER	VIA N ALTER	*5000
*4300 - MOCA		
RAGAR, NE FIX	GRAND ISLAND, NE VORTAC	
VIA N ALTER	VIA N ALTER	*5000
*3600 - MOCA		
HAYES CENTER, NE VORTAC	GRAND ISLAND, NE VORTAC	
VIA S ALTER	VIA S ALTER	*6000
*4400 - MOCA		
§95.6012 VOR FEDERAL AIRWAY 12		
IS AMENDED TO READ IN PART		
HARRISBURG, PA VORTAC	HOYER, PA FIX	3000
BOYER, PA FIX	EAST TEXAS, PA VORTAC	*3000
*2300 - MUCA		
§95.6013 VOR FEDERAL AIRWAY 13		
IS AMENDED TO DELETE		
GRANTSBURG, WI VOR	DULUTH, MN VORTAC	
VIA E ALTER	VIA E ALTER	3300
§95.6015 VOR FEDERAL AIRWAY 15		
IS AMENDED TO READ IN PART		
BISMARCK, ND VOR/DME	MINOT, ND VORTAC	4100
§95.6016 VOR FEDERAL AIRWAY 16		
IS AMENDED TO READ IN PART		
DILLI, TX FIX	CAVRN, TX FIX	*10000
*7500 - MOCA		
CAVRN, TX FIX	WINK, TX VORTAC	*10000
*5300 - MOCA		
IS AMENDED TO DELETE		
LOS ANGELES, CA VORTAC	HERMO, CA FIX	
VIA S ALTER	VIA S ALTER	2500
HERMO, CA FIX	SEAL BEACH, CA VORTAC	
VIA S ALTER	VIA S ALTER	2500
SEAL BEACH, CA VORTAC	*JOGIT, CA FIX	
VIA S ALTER	VIA S ALTER	**4000
*6000 - MCA JOGIT FIX, E BND		
**2000 - MOCA		
JOGIT, CA FIX	*KAYOH, CA FIX	
VIA S ALTER	VIA S ALTER	6000
*7400 - MCA KAYOH FIX, E BND		

FROM	TO	MEA
§95.6016 VOR FEDERAL AIRWAY 16—Continued		
KAYOH, CA FIX	MARCH, CA VOR	
VIA S ALTER	VIA S ALTER	8000
*MARCH, CA VOR	BANDS, CA FIX	
VIA S ALTER	VIA S ALTER	
	E BND	13000
	W BND	8000
*11200 - MCA MARCH VOR, NE BND		
BANDS, CA FIX	GARNE, CA FIX	
VIA S ALTER	VIA S ALTER	13000
GARNE, CA FIX	PALM SPRINGS, CA VORTAC	
VIA S ALTER	VIA S ALTER	
	W BND	12000
	E BND	8000
§95.6019 VOR FEDERAL AIRWAY 19		
IS AMENDED TO READ IN PART		
SHELA, MT FIX	LEWISTOWN, MT VORTAC	7700
IS AMENDED TO DELETE		
ALBUQUERQUE, NM VORTAC	SANTA FE, NM VORTAC	
VIA W ALTER	VIA W ALTER	9000
CIMARRON, NM VORTAC	FOGLE, NM FIX	
VIA E ALTER	VIA E ALTER	*11600
*10800 - MOCA		
FOGLE, NM FIX	*EARLS, CO FIX	
VIA E ALTER	VIA E ALTER	11600
*10500 - MCA EARLS FIX, S BND		
EARLS, CO FIX	PUEBLO, CO VORTAC	
VIA E ALTER	VIA E ALTER	8200
§95.6026 VOR FEDERAL AIRWAY 26		
IS AMENDED BY ADDING		
GUNNISON, CO VORTAC	MONTROSE, CO VOR	12400
MONTROSE, CO VOR	GRAND JUNCTION, CO VORTAC	10500
IS AMENDED TO READ IN PART		
RULER, SD FIX	*RAPID CITY, SD VORTAC	
	E BND	8000
	W BND	13000
*6500 - MCA RAPID CITY VORTAC, W BND		
IS AMENDED TO DELETE		
PHILIP, SD VORTAC	PIERRE, SD VORTAC	
VIA N ALTER	VIA N ALTER	4000

FROM	TO	MEA
§95.6027 VOR FEDERAL AIRWAY 27		
IS AMENDED TO READ IN PART		
FREES, CA FIX	*GETER, CA FIX	**6000
*7000 - MRA		
*12000 - MCA GETER FIX, N BND		
**4500 - MOCA		
§95.6043 VOR FEDERAL AIRWAY 43		
IS AMENDED TO READ IN PART		
YOUNGSTOWN, OH VORTAC	LINES, PA FIX	3000
LINES, PA FIX	ERIE, PA VORTAC	*3000
*2500 - MOCA		
BROTO, NY FIX	U.S. CANADIAN BORDER	*3500
*1800 - MOCA		
§95.6058 VOR FEDERAL AIRWAY 58		
IS AMENDED TO READ IN PART		
LAKE HENRY, PA VORTAC	ELLAN, NY FIX	4000
ELLAN, NY FIX	KINGSTON, NY VORTAC	*4000
*3000 - MOCA		
§95.6060 VOR FEDERAL AIRWAY 60		
IS AMENDED BY ADDING		
GALLUP, NM VORTAC	*CUBBA, NM FIX	11000
*10000 - MCA CUBBA FIX, W BND		
CUBBA, NM FIX	ALBUQUERQUE, NM VORTAC	8600
IS AMENDED TO READ IN PART		
ALBUQUERQUE, NM VORTAC	OTTO, NM VOR	10000
IS AMENDED TO DELETE		
ALBUQUERQUE, NM VORTAC	OTTO, NM VOR	
VIA S ALTER	VIA S ALTER	10000
§95.6068 VOR FEDERAL AIRWAY 68		
IS AMENDED BY ADDING		
FARMINGTON, NM VORTAC	OTINS, NM FIX	9000
OTINS, NM FIX	PEDRA, NM FIX	*13000
*10000 - MOCA		

FROM	TO	MEA
§95.6068 VOR FEDERAL AIRWAY 68—Continued		
PEDRA, NM FIX	ALBUQUERQUE, NM VORTAC	9000
IS AMENDED TO DELETE		
ALBUQUERQUE, NM VORTAC	CORONA, NM VORTAC	
VIA N ALTER	VIA N ALTER	10000
ALBUQUERQUE, NM VORTAC	*BEKER, NM FIX	
VIA S ALTER	VIA S ALTER	8000
*9000 - MCA BEKER FIX, SE BND		
BEKER, NM FIX	CORONA, NM VORTAC	
VIA S ALTER	VIA S ALTER	10000
CORONA, NM VORTAC	DUPAL, NM FIX	
VIA N ALTER	VIA N ALTER	9000
DUPAL, NM FIX	ROSWELL, NM VORTAC	
VIA N ALTER	VIA N ALTER	
	SE BND	*6000
	NW BND	*9000
*5300 - MOCA		
ROSWELL, NM VORTAC	HOBBS, NM VORTAC	
VIA S ALTER	VIA S ALTER	*6000
*5400 - MOCA		
§95.6083 VOR FEDERAL AIRWAY 83		
IS AMENDED TO DELETE		
ROSWELL, NM VORTAC	DUPAL, NM FIX	
VIA E ALTER	VIA E ALTER	
	NW BND	*9000
	SE BND	*6000
*5300 - MOCA		
DUPAL, NM FIX	CORONA, NM VORTAC	
VIA E ALTER	VIA E ALTER	9000
§95.6094 VOR FEDERAL AIRWAY 94		
IS AMENDED TO READ IN PART		
DILLI, TX FIX	CAVRN, TX FIX	*10000
*7500 - MOCA		
CAVRN, TX FIX	WINK, TX VORTAC	*10000
*5300 - MOCA		
§95.6101 VOR FEDERAL AIRWAY 101		
IS AMENDED TO READ IN PART		
NEOLA, UT FIX	*SALT LAKE CITY, UT VORTAC	**15000
*11000 - MCA SALT LAKE CITY VORTAC, E BND		
**14600 - MOCA		
§95.6128 VOR FEDERAL AIRWAY 128		
IS AMENDED BY ADDING		
ROCKFORD, IL VORTAC	HERVY, IL FIX	2700
HERVY, IL FIX	MEDAN, IL FIX	*4000
*2100 - MOCA		

FROM	TO	MEA
§95.6128 VOR FEDERAL AIRWAY 128—Continued		
MEDAN, IL FIX	PEOTONE, IL VORTAC	2400
§95.6136 VOR FEDERAL AIRWAY 136		
IS AMENDED TO READ IN PART		
RALEIGH-DURHAM, NC VORTAC	LANDO, NC FIX	2700
LANDO, NC FIX	FAYETTEVILLE, NC VOR/DME	2000
§95.6148 VOR FEDERAL AIRWAY 148		
IS AMENDED BY ADDING		
IRONWOOD, MI VORTAC	HOUGHTON, MI VORTAC	*3700
*3000 - MOCA		
§95.6161 VOR FEDERAL AIRWAY 161		
IS AMENDED TO READ IN PART		
ROCHESTER, MN VOR/DME	FARMINGTON, MN VORTAC	3000
FARMINGTON, MN VORTAC	GOPHER, MN VORTAC	3000
§95.6166 VOR FEDERAL AIRWAY 166		
IS AMENDED TO READ IN PART		
CAPON, WV FIX	MARTINSBURG, WV VORTAC	*5000
*3500 - MOCA		
§95.6178 VOR FEDERAL AIRWAY 178		
IS AMENDED TO READ IN PART		
TRENT, KY FIX	SLINK, WV FIX	*8000
*4700 - MOCA		
§95.6187 VOR FEDERAL AIRWAY 187		
IS AMENDED TO DELETE		
ALBUQUERQUE, NM VORTAC	PEDRA, NM FIX	
VIA E ALTER	VIA E ALTER	9000
PEDRA, NM FIX	OTINS, NM FIX	
VIA E ALTER	VIA E ALTER	*13000
*10000 - MOCA		
OTINS, NM FIX	FARMINGTON, NM VORTAC	
VIA E ALTER	VIA E ALTER	9000
§95.6200 VOR FEDERAL AIRWAY 200		
IS AMENDED TO DELETE		
MEEKER, CO VORTAC	AXIAL, CO FIX	
VIA N ALTER	VIA N ALTER	11000

FROM	TO	MEA
§95.6200 VOR FEDERAL AIRWAY 200—Continued		
AXIAL, CO FIX	HAYDEN, CO VOR/DME	
VIA N ALTER	VIA N ALTER	
	SW BND	11000
	NE BND	10000
HAYDEN, CO VOR/DME	HABRO, CO FIX	
VIA N ALTER	VIA N ALTER	10000
HABRO, CO FIX	KREMMLING, CO VORTAC	
VIA N ALTER	VIA N ALTER	13000
§95.6203 VOR FEDERAL AIRWAY 203		
IS AMENDED TO READ IN PART		
NORWICH, CT VORTAC	*RUSEL, MA FIX	**3000
*3500 - MCA RUSEL FIX, NW BND		
**2200 - MOCA		
§95.6211 VOR FEDERAL AIRWAY 211		
IS AMENDED TO DELETE		
DURANGO, CO VOR/DME	PLATA, CO FIX	
VIA W ALTER	VIA W ALTER	10000
PLATA, CO FIX	CORTEZ, CO VOR	
VIA W ALTER	VIA W ALTER	10600
§95.6220 VOR FEDERAL AIRWAY 220		
IS AMENDED BY ADDING		
MEEKER, CO VORTAC	AXIAL, CO FIX	11000
AXIAL, CO FIX	HAYDEN, CO VOR/DME	
	SW BND	11000
	NE BND	10000
HAYDEN, CO VOR/DME	HABRO, CO FIX	10000
HABRO, CO FIX	KREMMLING, CO VORTAC	13000
§95.6241 VOR FEDERAL AIRWAY 241		
IS AMENDED TO READ IN PART		
COLUMBUS, GA VORTAC	TIROE, GA FIX	3000
§95.6246 VOR FEDERAL AIRWAY 246		
IS AMENDED BY ADDING		
DUBUQUE, IA VORTAC	WAUKON, IA VORTAC	3000
WAUKON, IA VORTAC	NODINE, MN VORTAC	*3000
*2400 - MOCA		
§95.6254 VOR FEDERAL AIRWAY 254		
IS AMENDED TO READ IN PART		
DOUGLAS, WY VORTAC	TOOKE, WY FIX	*10000
*7500 - MOCA		
TOOKE, WY FIX	GILLETTE, WY VOR/DME	7000
GILLETTE, WY VOR/DME	MILES CITY, MT VORTAC	*9000
*6900 - MOCA		

FROM	TO	MEA
§95.6263 VOR FEDERAL AIRWAY 263		
IS AMENDED BY ADDING		
ALBUQUERQUE, NM VORTAC	SANTA FE, NM VORTAC	9000
SANTA FE, NM VORTAC	*LAS VEGAS, NM VORTAC	12500
*10000 - MCA LAS VEGAS VORTAC, E BND		
*11300 - MCA LAS VEGAS VORTAC, W BND		
LAS VEGAS, NM VORTAC	CIMARRON, NM VORTAC	12000
§95.6264 VOR FEDERAL AIRWAY 264		
IS AMENDED TO DELETE		
LOS ANGELES, CA VORTAC	PRADO, CA FIX	
VIA S ALTER	VIA S ALTER	*4000
*3500 - MOCA		
PRADO, CA FIX	PARADISE, CA VORTAC	
VIA S ALTER	VIA S ALTER	4000
PARADISE, CA VORTAC	*SETER, CA FIX	
VIA S ALTER	VIA S ALTER	5500
*12000 - MCA SETER FIX, E BND		
SETER, CA FIX	BANDS, CA FIX	
VIA S ALTER	VIA S ALTER	
	E BND	13000
	W BND	9000
BANDS, CA FIX	GARNE, CA FIX	
VIA S ALTER	VIA S ALTER	13000
GARNE, CA FIX	*PALM SPRINGS, CA VORTAC	
VIA S ALTER	VIA S ALTER	
	W BND	12000
	E BND	8000
*11600 - MCA PALM SPRINGS VORTAC, W BND		
*5600 - MCA PALM SPRINGS VORTAC, NE BND		
PALM SPRINGS, CA VORTAC	TWENTY NINE PALMS, CA VORTAC	
VIA S ALTER	VIA S ALTER	7600
§95.6291 VOR FEDERAL AIRWAY 291		
IS AMENDED BY ADDING		
HOBBS, NM VORTAC	ROSWELL, NM VORTAC	*6000
*5400 - MOCA		
ROSWELL, NM VORTAC	DUPAL, NM FIX	
	NW BND	9000
	SE BND	6000
DUPAL, NM FIX	CORONA, NM VORTAC	9000
CORONA, NM VORTAC	ALBUQUERQUE, NM VORTAC	10000
IS AMENDED TO DELETE		
ALBUQUERQUE, NM VORTAC	*CUBBA, NM FIX	
VIA N ALTER	VIA N ALTER	8600
*10000 - MCA CUBBA FIX, W BND		
CUBBA, NM FIX	GALLUP, NM VORTAC	
VIA N ALTER	VIA N ALTER	11000

UMI 1983 OCT 13 ISS 1999 VOL 48

FROM	TO	MEA
§95.6298 VOR FEDERAL AIRWAY 298		
IS AMENDED TO READ IN PART		
YAKIMA, WA VORTAC	BENTY, WA FIX	5000
MC CALL, ID VORTAC	*DUBOIS, ID VORTAC	#**16000
*9800 - MCA DUBOIS VORTAC, W BND		
**14000 - MOCA		
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.		
§95.6300 VOR FEDERAL AIRWAY 300		
IS AMENDED TO READ IN PART		
SAULT STE MARIE, MI VORTAC	U.S. CANADIAN BORDER	3000
U.S. CANADIAN BORDER	NAASH, MI FIX	3000
NAASH, MI FIX	U.S. CANADIAN BORDER	*6000
*2500 - MOCA		
§95.6347 VOR FEDERAL AIRWAY 347		
IS DELETED		
IRONWOOD, MI VORTAC	HOUGHTON, MI VORTAC	*3700
*3000 - MOCA		
§95.6370 VOR FEDERAL AIRWAY 370		
IS ADDED TO READ		
LOS ANGELES, CA VORTAC	PRADO, CA FIX	4000
PRADO, CA FIX	PARADISE, CA VORTAC	4000
PARADISE, CA VORTAC	*SETER, CA FIX	5500
*12000 - MCA SETER FIX, E BND		
SETER, CA FIX	BANDS, CA FIX	
	E BND	13000
	W BND	9000
BANDS, CA FIX	GARNE, CA FIX	13000
GARNE, CA FIX	*PALM SPRINGS, CA VORTAC	
	W BND	12000
	E BND	8000
*11600 - MCA PALM SPRINGS VORTAC, W BND		
*5600 - MCA PALM SPRINGS VORTAC, NE BND		
PALM SPRINGS, CA VORTAC	TWENTY NINE PALMS, CA VORTAC	7600
§95.6372 VOR FEDERAL AIRWAY 372		
IS ADDED TO READ		
SEAL BEACH, CA VORTAC	*JOGIT, CA FIX	**4000
*6000 - MCA JOGIT FIX, E BND		
**2000 - MOCA		
JOGIT, CA FIX	*KAYOH, CA FIX	6000
*7400 - MCA KAYOH FIX, E BND		
KAYOH, CA FIX	MARCH, CA VOR	8000
*MARCH, CA VOR	BANDS, CA FIX	
	E BND	13000
	W BND	8000
*11200 - MCA MARCH VOR, NE BND		
BANDS, CA FIX	GARNE, CA FIX	13000
GARNE, CA FIX	PALM SPRINGS, CA VORTAC	
	W BND	12000

FROM	TO	MEA
§95.6372 VOR FEDERAL AIRWAY 372—Continued		
	E BND	8000
PALM SPRINGS, CA VORTAC	BLYTHE, CA VORTAC	8000
§95.6389 VOR FEDERAL AIRWAY 389		
IS ADDED TO READ		
CIMARRON, NM VORTAC	FOGLE, NM FIX	*11600
*10800 - MOCA		
FOGLE, NM FIX	*EARLS, CO FIX	*11600
*10500 - MCA EARLS FIX, S BND		
EARLS, CO FIX	PUEBLO, CO VORTAC	8200
§95.6410 VOR FEDERAL AIRWAY 410		
IS AMENDED TO DELETE		
GOPHER, MN VORTAC	BITLR, WI FIX	3400
BITLR, WI FIX	EAU CLAIRE, WI VORTAC	3000
§95.6413 VOR FEDERAL AIRWAY 413		
IS AMENDED BY ADDING		
EAU CLAIRE, WI VORTAC	BITLR, WI FIX	3000
BITLR, WI FIX	GOPHER, MN VORTAC	3400
§95.6414 VOR FEDERAL AIRWAY 414		
IS DELETED		
ALEXANDRIA, MN VORTAC	*EXARC, MN FIX	3000
*8000 - MCA EXARC FIX, SE BND		
EXARC, MN FIX	GOPHER, MN VORTAC	8000
§95.6416 VOR FEDERAL AIRWAY 416		
IS DELETED		
ALEXANDRIA, MN VORTAC	*DAYLE, MN FIX	5000
*5000 - MCA DAYLE FIX, NW BND		
DAYLE, MN FIX	GOPHER, MN VORTAC	3400
§95.6418 VOR FEDERAL AIRWAY 418		
IS DELETED		
GOPHER, MN VORTAC	*BITLR, WI FIX	3400
*5500 - MCA BITLR FIX, SE BND		
BITLR, WI FIX	NODINE, MN VORTAC	5500
§95.6437 VOR FEDERAL AIRWAY 437		

FROM	TO	MEA
§95.6437 VOR FEDERAL AIRWAY 437—Continued		
IS AMENDED TO READ IN PART		
SAVANNAH, GA VORTAC	CHARLESTON, SC VORTAC	2000
§95.6448 VOR FEDERAL AIRWAY 448		
IS AMENDED TO READ IN PART		
YAKIMA, WA VORTAC	RUBEL, WA FIX	6000
§95.6468 VOR FEDERAL AIRWAY 468		
IS AMENDED TO READ IN PART		
*PORTLAND, OR VORTAC	TROTS, WA FIX	**10000
*4500 - MCA PORTLAND VORTAC, NE BND		
**7100 - MOCA		
*TROTS, WA FIX	SWANY, WA FIX	**11500
*11500 - MCA TROTS FIX, NE BND		
**7100 - MOCA		
§95.6484 VOR FEDERAL AIRWAY 484		
IS AMENDED TO DELETE		
GRAND JUNCTION, CO VORTAC VIA S ALTER	MONTROSE, CO VOR VIA S ALTER	10500
MONTROSE, CO VOR VIA S ALTER	GUNNISON, CO VORTAC VIA S ALTER	12400
§95.6494 VOR FEDERAL AIRWAY 494		
IS AMENDED TO READ IN PART		
UKIAH, CA VORTAC	*GETER, CA FIX	6000
*7000 - MRA		
*12000 - MCA GETER FIX, N BND		
GETER, CA FIX	SANTA ROSA, CA VOR	
	SE BND	4000
	NW BND	6000
§95.6510 VOR FEDERAL AIRWAY 510		
IS AMENDED TO READ IN PART		
ALEXANDRIA, MN VORTAC	DAYLE, MN FIX	5000
DAYLE, MN FIX	GOPHER, MN VORTAC	3400
§95.6523 VOR FEDERAL AIRWAY 523		
IS AMENDED TO READ IN PART		
YOUNGSTOWN, OH VORTAC	LINES, PA FIX	3000
LINES, PA FIX	ERIE, PA VORTAC	*3000
*2500 - MOCA		

FROM	TO	MEA	MAA
§95.7030 JET ROUTE NO. 30			
IS AMENDED TO DELETE			
FARMINGTON, MN VORTAC	NODINE, MN VORTAC	18000	45000
§95.7113 JET ROUTE NO. 113			
IS AMENDED TO DELETE			
DUBUQUE, IA VORTAC	GOPHER, MN VORTAC	18000	45000
§95.7120 JET ROUTE NO. 120			
IS AMENDED TO READ IN PART			
REEVE, AK NDB	BETHEL, AK VORTAC	28000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
V-60			
IS AMENDED TO DELETE			
ALBUQUERQUE, NM VORTAC	OTTO, NM VOR	23	ALBUQUERQUE
V-104			
IS AMENDED TO READ IN PART			
MONTPELIER, VT VOR/DME	BERLIN, NH VOR/DME	39	MONTPELIER

V-263			
IS AMENDED BY ADDING			
SANTA FE, NM VORTAC	LAS VEGAS, NM VORTAC	21	SANTA FE
LAS VEGAS, NM VORTAC	CIMARRON, NM VORTAC	28	LAS VEGAS
V-264			
IS AMENDED TO DELETE			
LOS ANGELES, CA VORTAC VIA S ALTER.	POMONA, CA VORTAC VIA S ALTER.	25	LOS ANGELES
V-264			
IS AMENDED TO DELETE			
PARADISE, CA VORTAC VIA S ALTER.	PALM SPRINGS, CA VORTAC VIA S ALTER.	34	PARADISE
V-370			
IS AMENDED BY ADDING			
LOS ANGELES, CA VORTAC	PARADISE, CA VORTAC	25	LOS ANGELES
PARADISE, CA VORTAC	PALM SPRINGS, CA VORTAC	34	PARADISE
V-428			
IS AMENDED TO READ IN PART			
BIORKA ISLAND, AK VORTAC	SISTERS ISLAND, AK VORTAC	55	BIORKA ISLAND
V-520			
IS AMENDED BY ADDING			
LEWISTON, ID VOR/DME	SALMON, ID VOR/DME	90	LEWISTON

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VOL 48 ISS 199 OCT 13 1983 UMI

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4 and 10

[T.D. 83-214]

Customs Regulations Amendments Relating to the Vessel Documentation Act

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to clarify the documentation procedure for U.S. vessels engaged in various trades and to define clearly the types of supplies and equipment for vessels which are exempt from the payment of Customs duties and internal revenue taxes. These conforming amendments, which are procedural and technical in nature, are necessary due to changes in the Vessel Documentation Act.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: Harold Singer, Carriers, Drawback and Bond Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Pub. L. 96-549, the Vessel Documentation Act, ("the Act") the Coast Guard revised and simplified its regulations contained in Part 67 of Title 46, CFR, relating to vessel documentation. Federal documentation of vessels, a form of national licensing, is required for the operation of certain vessels in certain trades, serves as evidence of vessel nationality, and, with certain exceptions, permits vessels to be subject to preferred mortgages.

One of the responsibilities of Customs in connection with the arrival and entry of vessels is to ensure compliance with the Coast Guard documentation requirements. The new Coast Guard regulations were published as Coast Guard Decision 80-107 in the **Federal Register** on June 24, 1982 (47 FR 27490), to amend 46 CFR Parts 66, 67, 68, and 69. The regulations revise terminology and simplify the requirements controlling vessel documentation, administrative procedures and paperwork without making substantive changes in the underlying requirements. The Act and the revised Coast Guard regulations became effective July 1, 1982.

This document amends Part 4, Customs Regulations (19 CFR Part 4), to clarify the documentation procedure for U.S. vessels engaged in various trades, and § 10.59, Customs Regulations (19 CFR 10.59), to define clearly the types of supplies and equipment for vessels which are exempt from Customs duties and internal revenue taxes. These conforming amendments, which are procedural and technical in nature, are necessary due to changes in the Act which was set forth as T.D. 82-138 on page 19 of the Customs Bulletin of August 11, 1982.

Specifically, several changes to the Customs Regulations are involved. One change in § 4.0(c), under the heading "General definitions", would be to revise the term "documented" from a vessel registered, enrolled and licensed, or licensed by the Coast Guard, to a vessel for which a valid Certificate of Documentation, form CG 1270, ("Certificate") issued by the Coast Guard, is outstanding. Upon a vessel's qualification and its owner's proper application to the appropriate Coast Guard office, a Certificate will be issued by the Coast Guard to certify licensing of that vessel for registry, coastwise trade, Great Lakes trade, the fisheries, or pleasure use.

Coast Guard Decision 80-107 contains information regarding each of these five trades for which a Certificate may be endorsed and the privileges acquired through such endorsements. This information is as follows:

A *registry endorsement* is available to a vessel to be employed in foreign trade; trade with Guam, American Samoa, Wake Island, Midway, or Kingman Reef; and in other employments for which a coastwise license or Great Lakes license or fishery license is not required (46 CFR 67.17-3).

A *coastwise license endorsement* entitles the vessel to employment in the coastwise trade, the fisheries, and in any other employment for which a registry or Great Lakes license is not required (46 CFR 67.17-5).

A *Great Lakes license endorsement* entitles the vessel to engage in the coastwise trade and the fisheries on the Great Lakes and their tributaries and connecting waters, in trade with Canada, and in any other employment for which a registry, a coastwise license, or a fishery license is not required (46 CFR 67.17-7).

Subject to federal and state laws regulating the fisheries, a *fishery license endorsement* authorizes the vessel to fish within the fishery conservation zone as defined in 16 U.S.C. 1811 and landward of that zone, and to land its catch, wherever caught, in the United States (46 CFR 67.17-9).

A *pleasure license* entitles a vessel to pleasure use only (46 CFR 67.17-11).

Generally, any vessel of at least 5 net tons and wholly owned by a United States citizen or citizens is eligible for documentation. However, a vessel must also be built in the United States to qualify for a coastwise, Great Lakes, or fisheries license.

The Certificate may be simultaneously endorsed for operation under as many licenses as the vessel is qualified for and for which application has been made. However, where a vessel possesses a Certificate bearing 2 or more endorsements, the actual use of the vessel determines the license under which it is operating.

The revised term "documented", and the various "documented" classifications (registry, coastwise trade, Great Lakes trade, the fisheries, and pleasure use) would be inserted in certain other provisions of Part 4, Customs Regulations, and in § 10.59(e), Customs Regulations, to provide clarity and consistency.

Another change would be to revise § 4.80(h), Customs Regulations, to correspond with the amendment to 46 U.S.C. 319, by increasing the civil penalty for an undocumented vessel that arrives at a port without the proper Certificate. As amended by section 126(e)(1) of the Act, an undocumented vessel will be subject to a civil penalty of $500, as opposed to the existing $30 fine, for each port at which it arrives without a proper Certificate. This provision applies to any vessel employed in one of the trades, other than a trade covered by a registry, for which a Certificate is issued under the vessel documentation laws. Further, if this undocumented or improperly documented vessel has on board any foreign merchandise, sea stores excepted, or any domestic taxable alcoholic beverages, on which the duty and taxes have not been paid or secured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

The other changes are minor technical and conforming amendments which provide clarity and consistency. These changes are not substantive, but merely procedural and are necessary to correspond to the new Coast Guard requirements. They are conforming amendments which are being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

List of Subjects

19 CFR Part 4

Customs duties and inspection, imports, cargo vessels, coastal zone, fisheries, fishing vessels, harbors, reporting requirements, vessels, yachts.

19 CFR Part 10

Customs duties and inspection, imports, fisheries.

Regulations Amendments

To conform the Customs Regulations to the Vessel Documentation Act and to changes in the Coast Guard regulations, Part 4, Customs Regulations (19 CFR Part 4), and Part 10, Customs Regulations (19 CFR Part 10), are amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. Section 4.0(c) is revised to read as follows:

§ 4.0 General Definitions.

* * * * *

(c) The term "documented" vessel means a vessel for which a valid Certificate of Documentation, form CG 1270, issued by the U.S. Coast Guard is outstanding. Upon qualification and proper application to the appropriate Coast Guard Office, the Certificate of Documentation may be endorsed for (1) registry (generally, available to a vessel to be employed in foreign trade, trade with Guam, American Samoa, Midway, or Kingman Reef, and other employments for which another endorsement is not required), (2) coastwise license (generally, entitles a vessel to employment in the coastwise trade, the fisheries, and other employments for which another endorsement is not required), (3) Great Lakes license (generally, entitles a vessel to engage in the coastwise trade and the fisheries on the Great Lakes and their tributary and connecting waters, in trade with Canada, and in other employment for which another endorsement is not required), (4) fishery license (generally, subject to federal and state laws regulating the fisheries, entitles a vessel to fish within the fishery conservation zone (16 U.S.C. 1811) and landward of that zone and to land its catch) or (5) pleasure license (entitles a vessel to pleasure use only). Generally, any vessel of at least 5 net tons and wholly owned by a United States citizen or citizens is eligible for documentation except that for a coastwise, Great Lakes, or fisheries license endorsement a vessel must also be built in the United States. Detailed Coast Guard regulations on documentation are set forth in title 46, Code of Federal Regulations, § 67.01-67.45.

* * * * *

§ 4.3 [Amended]

2. Section 4.3 is amended by inserting the words "in accordance with § 4.9" at the end of paragraph (a).

3. Sections 4.7(d) (1) and (2) are revised to read as follows:

§ 4.7 Inward foreign manifest; production on demand; contents and form.

* * * * *

(d)(1) The master or owner of—

(i) A vessel documented under the laws of the United States with a registry, coastwise license, or Great Lakes license endorsement, or a vessel not so documented but intended to be employed in the foreign, coastwise, or Great Lakes trade, or

(ii) A documented vessel with a fishery license endorsement which has a permit to touch and trade (see § 4.15) or a vessel with a fishery license endorsement lacking a permit to touch and trade but intended to engage in trade—

at the port of first arrival from a foreign country shall declare on Customs Form 226 any equipment, repair parts, or materials purchased for the vessel, or any expense for repairs incurred, outside the United States, within the purview of section 466, Tariff Act of 1930, as amended [19 U.S.C. 1466).[1]] If no equipment, repair parts, or materials have been purchased, or repairs made, a declaration to that effect shall be made on Customs Form 226.

(2) If the vessel is at least 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration. The district director shall notify the U.S. Coast Guard vessel documentation officer at the home port of the vessel of any work in the nature of a rebuilding or alteration, including the construction of any major component of the hull or superstructure of the vessel, which comes to his attention unless the district director is satisfied that the owner of the vessel has filed an application for rebuilt determination as required by 46 CFR 67.27-3.

* * * * *

4. Section 4.7(d)(4) is removed.

5. Section 4.9(a) is revised to read as follows:

§ 4.9 Formal entry.

(a) Section 4.3 provides which vessels are subject to formal entry and which are exempt from formal entry requirements. The formal entry of an American vessel from a foreign port or place shall be in accordance with section 434, Tariff Act of 1930 (19 U.S.C. 1434).[2] The term "American vessel" means a vessel of the United States (see section 4.0(b)) as well as a vessel entitled to be documented (see section 4.0(c)) except for its size when arriving by sea (if less than 5 net tons and arriving otherwise than by sea, see Part 123 of this chapter). The required oath on entry shall be executed on Customs Form 1300.

* * * * *

6. Section 4.9(c) is revised to read as follows:

§ 4.9 Formal entry.

* * * * *

(c) The master of any foreign vessel shall exhibit the vessel's document to the district director on or before the entry of the vessel. After the net tonnage has been noted, the master may deliver it to the consul of the nation to which such vessel belongs, in which event he shall file with the district director the certificate required by section 435, Tariff Act of 1930 (19 U.S.C. 1435). If not delivered to the consul, the document shall be deposited in the customhouse. Whether delivered to the foreign consul or deposited at the customhouse, the document shall not be delivered to the master of the foreign vessel until clearance is granted under section 4.61.[3]

* * * * *

7. The first sentence of § 4.14(a)(1) is revised to read as follows:

§ 4.14 Foreign equipment purchases by, and repairs to, American vessels.

(a) *Dutiability of foreign repairs and equipment purchases.* (1) *Items subject to duty.* The equipment, or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses for repairs made, including the cost of labor incurred, outside the United States, upon any vessel documented under the laws of the United States with a registry, coastwise trade license, or Great Lakes license endorsement, or intended to be employed in such trade, are dutiable at the rate of 50 percent ad valorem on the actual cost in the country where the

VOL 48 ISS 199 OCT 13 1983 UMI

items are purchased or the repairs are made.* * *

* * * * *

8. Sections 4.14(a)(2) (i)–(iv) are revised to read as follows:

(a) * * *

* * * * *

(2) *Dutiable costs on specific types of vessels*—(i) *Fishing vessels.* Documented vessels of the United States with a fishery license endorsement having a permit to touch and trade (see § 4.15) and documented vessels with a fishery license endorsement which lack a permit to touch and trade are subject to this section.

(ii) *Government-owned or chartered vessels.* Vessels owned or chartered by the United States Government, if documented with a registry, coastwise trade, or Great Lakes trade endorsement, or if undocumented, intended to engage in foreign, coastwise or Great Lakes trade, are subject to this section. See paragraph (b)(2)(i) of this section with respect to entry procedures for Government vessels.

(iii) *Special purpose vessels*—(A) *Defined.* A vessel which is documented with a registry, coastwise trade, or Great Lakes trade endorsement, but is designed and used primarily for purposes other than transporting passengers or merchandise, is considered to be a "special purpose vessel."

(B) *Requirements for declaration and entry.* The owner or master of a special purpose vessel shall declare and enter all items purchased, or repairs made, outside the United States unless Customs previously has ruled the vessel is a special purpose vessel and the vessel arrives in a port of the United States two years or more after its last departure from a port of the United States. Under these circumstances, only those items (with the exception of fish nets and netting) purchased and repairs made, outside the United States during the first six months after the vessel's last departure from the United States shall be declared and entered. Fish nets and netting purchased or repaired outside the United States shall be declared and entered whether or not purchased or repaired during the first six months after departure. A copy of the applicable Customs ruling and a certification from the owner or master that the vessel was used during its last voyage primarily for purposes other than transporting passengers or merchandise shall be furnished with the declaration and entry.

(C) *Dutiable items.* If the special purpose vessel is operated in international or foreign waters two years or more after its last departure from the United States, the only dutiable items are fish nets and netting whenever purchased and any other items purchased or repairs made during the first six months after the vessel's last departure from the United States.

(iv) *LASH Barges.* Lighter-abroad-ship (LASH) barges (see §§ 4.81 and 4.81a) and similar vessels documented with a registry, coastwise trade, or Great Lakes trade endorsement or, if undocumented, intended to engage in such trade, are subject to this section.

* * * * *

9. The first sentence of section 4.15(a) is revised to read as follows:

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel documented with a fishery license endorsement shall touch and trade at a foreign port or place, the master shall obtain from the district director a permit on Customs Form 1379 to touch and trade. * * *

* * * * *

10. Section 4.15(b) is revised to read as follows:

* * * * *

(b) Upon the arrival of a documented vessel with a fishery endorsement which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

* * * * *

11. Section 4.15(d) is revised to read as follows:

* * * * *

(d) No permit to touch and trade shall be issued to a vessel which does not have a Certificate of Documentation with a fishery license endorsement.

* * * * *

12. Sections 4.21(b) (11) and (12) are revised to read as follows:

§ 4.21 Exemptions from tonnage taxes.

* * * * *

(b) * * *

(11) It is a tug with a Great Lakes license endorsement on its vessel document, when towing vessels which are required to make entry.

(12) It is a documented vessel with a Great Lakes license endorsement which has touched at an intermediate foreign port or ports during a coastwise voyage.

* * * * *

13. Sections 4.60(b) (1) and (2) are revised to read as follows:

§ 4.60 Vessels required to clear.

* * * * *

(b) The following vessels are not required to clear:

(1) A documented vessel with a pleasure license endorsement or an undocumented American pleasure vessel (i.e., an undocumented vessel wholly owned by a United States citizen or citizens, whether or not it has a certificate of number issued by the State in which the vessel is principally used under 46 U.S.C. 1466–1467 and not engaged in trade nor violating the Customs or navigation laws of the United States and not having visited any hovering vessel (see 19 U.S.C. 1709(d)).

(2) Any documented vessel with a Great Lakes license endorsement which during a voyage on the Great Lakes will touch at a foreign port only for taking on bunker fuel.[91] (see § 4.82).

* * * * *

14. Section 4.64 is revised to read as follows:

§ 4.64 Documentation.

No clearance shall be granted to any documented vessel bound to a foreign port or place unless it has a Certificate of Documentation with a registry or, if departing for Canada, a Great Lakes license endorsement.

* * * * *

15. Part 4 is amended by removing footnote number "102".

16. Section 4.68(a) is revised to read as follows:

§ 4.68 Crew; passengers.

(a) Clearance shall not be granted to any vessel bound on a foreign voyage or engaged in the whale fishery until a crew list has been delivered to the district director in duplicate on Customs and Immigration Form I–418. The district director shall certify the duplicate copy and return it to the master for later presentation to Customs (see § 4.9(b)).

* * * * *

17. Sections 4.80(a) (2) and (3), (d), and (h) are revised to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

(a) * * *

* * * * *

(2) Owned by a citizen, is exempt from documentation, and is entitled to or, except for its tonnage, would be entitled to be documented with a coastwise license or, where appropriate, a Great Lakes license endorsement.

(3) Owned by a partnership or association in which at least a 75 percent interest is owned by such a citizen, is exempt from documentation and is entitled to or, except for its tonnage, or citizenship of its owner, or both, would be entitled to be documented for the coastwise trade. The term "citizen" for vessel documentation purposes, whether for an individual, partnership, or corporation owner, is defined in 46 CFR Subpart 67.03.

* * * * *

(d) No vessel owned by a corporation which is a citizen of the United States under the Act of September 2, 1958 (46 U.S.C. 883–1) shall be used in any trade other than the coastwise trade and shall not be used in that trade unless it is properly documented for such use or is exempt from documentation and is entitled to or, except for its tonnage, would be entitled to a coastwise license, or where appropriate, a Great Lakes license endorsement. Such a vessel shall not be documented for nor engage in the foreign trade or the fisheries and shall not transport merchandise or passengers coastwise for hire except as a service for a parent or a subsidiary corporation as defined in the aforesaid Act or while under demise or bareboat charter at prevailing rates for use otherwise than in trade with noncontiguous territory of the United States to a common or contract carrier subject to Part III of the Interstate Commerce Act, as amended (49 U.S.C. 901–923), which otherwise qualifies as a citizen of the United States under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802), and which is not connected, directly or indirectly, by way of ownership or control with such owning corporation.

* * * * *

(h) Any vessel, entitled to be documented and not so documented, employed in a trade for which a Certificate of Documentation is issued under the vessel documentation laws (see § 4.0(c)), other than a trade covered by a registry, is liable to a civil penalty of $500 for each port at which it arrives without the proper Certificate of Documentation. If such a vessel has on board any foreign merchandise (sea stores excepted), or any domestic taxable alcoholic beverages, on which the duty and taxes have not been paid or secured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

* * * * *

18. Section 4.81(a) is revised to read as follows:

§ 4.81 Reports of arrivals and departures in coastwise trade.

(a) No vessel which is documented with a coastwise license or registry endorsement or is owned by a citizen and exempt from documentation, and which is in ballast or laden only with domestic products or passengers being carried only between points in the United States shall be required to report arrival or to enter when coming into one port of the United States from any other such port, except as provided for in sections 4.83 and 4.84, nor to obtain a clearance, permit to proceed, or permission to depart when going from one port in the United States to any other such port except when transporting merchandise to a port in noncontinguous territory.[111]

* * * * *

19. The first sentences of § 4.82 (a) and (c) are revised to read as follows:

§ 4.82 Touching at foreign port while in coastwise trade.

(a) A documented vessel with a registry or, where appropriate, a Great Lakes license endorsement which, during a voyage between ports in the United States, touches at one or more foreign ports and there discharges or takes on merchandise, passengers, baggages, or mail [112] shall obtain a permit to proceed or clearance at each port of lading in the United States for the foreign port or ports at which it is intended to touch.* * *

* * * * *

(c) Upon arrival from the foreign port or ports at the subsequent port in the United States, a report of arrival and entry of the vessel shall be made, and tonnage taxes shall be paid unless the vessel is properly operating under a document with Great Lakes license endorsement.* * *

* * * * *

20. Section 4.83(b) is revised to read as follows:

§ 4.83 Trade between United States ports on the Great Lakes and other ports of the United States.

* * * * *

(b) A vessel in the coastwise trade only, which is proceeding from a port of the United States on the Great Lakes via the Hudson River and otherwise than by sea, may operate under a document with a Great Lakes license endorsement and shall not be subject to the requirements for clearance, report of arrival, or entry.

* * * * *

21. The first sentence § 4.85(a) is revised to read as follows:

§ 4.85 Vessels with residue cargo for domestic ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement, arriving from a foreign port with cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port, provided a vessel bond (Customs Form 7567 or 7569) in a suitable amount is on file with the district director at the port of first entry.[115] * * *

* * * * *

22. Section 4.87(a) is revised to read as follows:

§ 4.87 Vessels proceeding foreign via domestic ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement may proceed from port to port in the United States to lade cargo or passengers for foreign ports.

* * * * *

23. Section 4.88(a) is revised to read as follows:

§ 4.88 Vessels with residue cargo for foreign ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement which arrives at a port in the United States from a foreign port shall not be requred to unlade any merchandise manifested for a foreign destination provided a vessel bond (Customs Form 7567 or 7569) in a suitable amount is on file with the district director at the port of first entry.[119] * * *

* * * * *

24. Section 4.90(d) is revised to read as follows:

§ 4.90 Simultaneous vessel transactions.

* * * * *

(d) A documented vessel may engage in transactions (2), (4), (5), or (6) only if the vessel's document has a registry or, where appropriate, a Great Lakes license endorsement. Such a vessel shall not engage in transactions (1) or (3) unless permitted by the endorsement on its Certificate of Documentation to do so.

* * * * *

25. The first sentence of § 4.94(a) is revised to read as follows:

§ 4.94 Yacht privileges and obligations.

(a) Any documented vessel with a pleasure license endorsement shall be used exclusively for pleasure and shall not transport merchandise nor carry passengers for pay. * * *

* * * * *

26. Sections 4.96 (b) and (c) are revised to read as follows:

§ 4.96 Fisheries.

* * * * *

(b) Except as otherwise provided by treaty or convention to which the United States is a party (see paragraphs (d) and

VOL 48 ISS 199 OCT 13 1983 UMI

(g) of this section), no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessel on the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products. (46 U.S.C. 251). This prohibition applies regardless of the intended ultimate disposition of the fish or fish products (e.g., it applies to transshipments from the foreign vessel to another vessel in United States territorial waters; it applies to landing for transshipment in bond to Canada or Mexico; it applies to landing for exportation under bond; and it applies to landing in a Foreign Trade Zone). However, the prohibition is limited to fish, or fish products processed therefrom, taken on board the foreign vessel on the high seas.

(c) A vessel of the United States to be employed in the fisheries must have a Certificate of Documentation endorsed with a fishery license. "Fisheries" includes the planting, cultivation, catching, taking, or harvesting of fish, shellfish, marine animals, pearls, shells or marine vegetation at any place within the territorial waters of the United States or the fishery conservation zone established by 16 U.S.C. 1811.

* * * * *

§ 4.96 [Amended]

27. Part 4 is further amended by removing section 4.96(h) and footnotes 131b and 132c.

(R.S. 251, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, secs. 309, 317, 46 Stat. 690, and amended, 696, as amended sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72, 77A Stat. 14 (5 U.S.C. 301, 19 U.S.C. 66, 1202, 1309, 1317, 1624, 46 U.S.C. 2, 3; General Headnote 11, 12, Tariff Schedules of the United States))

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

The first sentence of § 10.59(e) is revised to read as follows:

§ 10.59 Exemption from customs duties and internal-revenue tax.[56]

* * * * *

(e) A documented vessel with a fisheries license endorsement and foreign fishing vessels of 5 net tons or over may be allowed to withdraw distilled spirits (including alcohol), wines, and beer conditionally free under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), if the district director is satisfied from the quantity requested, in the light of (1) whether the vessel is employed in substantially continuous fishing activities, and (2) the vessel's complement, that none of the withdrawn articles is intended to be removed from the vessel in, or otherwise returned to, the United States without the payment of duty or tax.* * *

(R.S. 251, as amended, secs. 309, 317, 624, 46 Stat. 690 as amended, 696, as amended 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202, 1309, 1317, 1624 (G.H. 11, 12, Tariff Schedules of the United States))

Executive Order 12291

Because these amendments do not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory impact analysis prescribed by section 3 of the E.O. is not required.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulations such as these for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Inapplicability of Public Notice

Because these amendments merely clarify existing regulations, only implement a statutory requirement, and impose no additional duty or burden on the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Robert P. Schaffer,

Acting Commissioner of Customs.

Approved: September 21, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-27827 Filed 10-12-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Dichlorvos

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by SDS Biotech Corp., providing for use of a 3.1-percent dichlorvos premix and providing that the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(m)) are waived for the use of premixes containing 3.1 and 9.6 percent dichlorvos.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: SDS Biotech Corp., 7528 Auburn Rd., P.O. Box 348, Concord Township, Painesville, OH 44077, submitted supplements to their approved NADA's 40–848 and 49–032 requesting approval for making a 3.1-percent dichlorvos premix and that the requirements of section 512(m) of the act be waived for premixes containing 3.1 percent and 9.6 percent dichlorvos for use in making finished swine feeds. The requirements of section 512(m) of the act are presently waived for finished feeds made from feed supplements containing up to 0.768 percent of dichlorvos. The supplemental applications are approved, and the regulations are amended accordingly.

Dichlorvos as the sole drug premix meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memoranda for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memoranda indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X the level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional generation of data in that this documentation is by definition a part of the new animal drug application (NADA).

4. The margin of safety to the animal and safety to the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *".

5. Data are on file to demonstrate that the product is efficacious over the approved range. This data should generally satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

The memoranda make explicit that because waiver of the ministerial requirements of section 512(m) is permitted only for specific efficacy claims or at specific levels of the drugs, distinct products with corresponding labeling for those claims or levels should exist. This is necessary in order to cover those premixes that can be made into finished feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memoranda constitute an interim agency policy, as discussed in the **Federal Register** of May 28, 1982 (47 FR 23446). In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(iii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Approval of these supplements is an administrative action that did not require the generation of new effectiveness or safety data. Therefore, a freedom of information summary is not required for this action.

List of Subjects in 21 CFR Part 558

Animal feeds, Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.205 by revising paragraphs (b) and (d)(4) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.205 Dichlorvos.

* * * * *

(b) *Approvals.* Premix levels of 3.1 and 9.6 percent granted to No. 052313 in § 510.600(c) of this chapter.

* * * * *

(d) * * *

(4) Finished feeds conforming to the requirements of this section processed from feed supplements containing up to 0.768 percent dichlorvos, or from premixes containing 3.1 or 9.6 percent dichlorvos, are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date. October 13, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 3, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-27781 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by SmithKline Animal Health Products, providing for a 1.1-percent virginiamycin premix (5 grams virginiamycin activity per pound) for use in making medicated swine feed and broiler rations.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: SmithKline Animal Health Products, Division of SmithKline Beckman Corp., 1600 Paoli Pike, West Chester, PA 19380, has filed a supplement to NADA 91–513 for Stafac® 11 (virginiamycin 1.1 percent, 5 grams virginiamycin activity per pound). The supplement provides for a new premix concentration: The NADA previously provided for virginiamycin premix levels of 2.2 percent, 4.4. percent, and 11 percent (Stafac® 22, Stafac® 44, and Stafac® 110).

The supplement is approved and the regulations are amended accordingly.

Approval of this supplement does not change the approved conditions of use of the drug. It permits use of a different premix concentration in addition to those previously approved. The use levels for virginiamycin in the feed remain the same. Approval does not require new effectiveness or safety data. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the original approval. In addition, a freedom of information summary for approval of the supplement is not required.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(iii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, meither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 12(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.635 is amended by revising paragraph (b)(1) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.635 Virginiamycin.

* * * * *

(b) *Approvals.* Premix levels of 1.1 percent (5 grams per pound), 2.2 percent (10 grams per pound), 4.4 percent (20 grams per pound), 11 percent (50 grams per pound), and 50 percent (227 grams per pound) granted to No. 000007 in § 510.600(c) of this chapter for use as in paragraph (f) of this section.

* * * * *

Effective date. October 13, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 5, 1983.

Richard A. Carnevale,

Acting Deputy Associate Director for Scientific Evaluation.

[FR Doc. 83-27760 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-01-M

VOL 48 ISS 199 OCT 13 1983 UMI

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Exempt Chemical Preparations

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: By this rule, the below listed chemical preparations and mixtures which contain controlled substances have, as indicated, either been added to or deleted from the list of exempt chemical preparations set forth in § 1308.24 of Title 21 of the Code of Federal Regulations. Those which are included in the list are exempted from the application of various provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. 801 *et seq.*), and from certain Drug Enforcement Administration (DEA) regulations. This action is a result of DEA's periodic review of the exempt chemical preparation list and of applications for exemptions filed with DEA, and is consistent with the needs of researchers, chemical analysts, and suppliers of these products.

DATES: This rule is effective December 12, 1983, subject to being suspended, reinstated, revoked, or amended by the Deputy Assistant Administrator of the Office of Diversion Control upon consideration of any comments or objections filed on or before December 12, 1983, which raise significant issues on any finding of fact or conclusion of law supporting this rule.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 633–1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

The Drug Enforcement Administration (DEA) has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations (CFR) which ask that several chemical preparations containing controlled substances be granted the exemptions provided for in 21 CFR 1308.24.

It has been determined that each of the following chemical preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to man or animal, and either (a) contains no narcotic controlled substances and is packaged in such a form or concentration that the packaged quantity does not present any significant potential for abuse, (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration, that the preparation or mixture does not present any potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot in practice be removed, and therefore the preparation or mixture does not present any significant potential for abuse. It has been further determined that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts and suppliers of these products.

DEA has also received correspondence from companies who have discontinued marketing or manufacturing products which had previously been granted exempt chemical preparation status. These discontinued products are being deleted from the list of exempt chemical preparations set forth in 21 CFR 1308.24.

These matters have been informally discussed with the Office of Management and Budget (OMB). It has been determined that they are minor internal management matters not requiring formal OMB review.

The Deputy Assistant Administrator of the DEA Office of Diversion Control hereby certifies that these matters will have no significant negative impact upon small businesses or other entities within the meaning and intent of the Regulatory Flexibility Act, 5. U.S.C. 501 *et seq.* The addition of preparations to the list of exempt chemical preparations has the effect of exempting them from certain sections of the Controlled Substances Act of 1970 and regulations.

Therefore, pursuant to the Controlled Substances Act, the regulations of the Department of Justice and the Drug Enforcement Administration, the Deputy Assistant Administrator of the DEA Office of Diversion Control hereby orders that Part 1308 of Title 21 of the Code of Federal Regulations be amended as hereinafter appears. (Sec. 201, 202, 501(b), Controlled Substances Act, 21 U.S.C. 811, 812, 871(b)).

Dated: October 4, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

§ 1308.24 [Amended]

a. Section 1308.24(i) is amended by removing the following from the table in paragraph (i):

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
American Hospital Supply Corp. (Dade Division)	Moni-Trol I–X chemistry controls (level I), catalog Nos.		
	B5106–1	Vial: 5 ml	01–20–75
	B5106–5	Vial: 10 ml	01–20–75
	B5106–3	Vial: 25 ml	01–20–75
Do	Moni-Trol II–X chemistry controls (level II), catalog Nos.:		
	B5106–2	Vial: 5 ml	01–20–75
	B5106–6	Vial: 10 ml	01–20–75
	B5106–4	Vial: 25 ml	01–20–75
Do	Moni-Trol LX chemistry controls (level I), B5106–20	Vial: 5 ml, 10 vials per kit	08–18–80
Do	Moni-Trol LX chemistry controls (level I), B5106–50	Vial: 10 ml, 50 vials per kit	08–18–80
Do	Moni-Trol II.X chemistry control (level II), B5106–30	Vial: 5 ml, 10 vials per kit	08–18–80
Do	Moni-Trol II.X chemistry control (level II), B5106–60	Vial: 10 ml, 50 vials per kit	08–18–80
Do	Stratus calibrator A catalog No. B5700–10	Bottle: 2 ml	07–15–82
Do	Stratus calibrator B	Vial: 2 ml	12–15–81
Do	Stratus calibrator C	do	12–15–81
Do	Stratus calibrator D	do	12–15–81
Do	Stratus calibrator E	do	12–15–81
Do	Stratus calibrator F	do	12–15–81
Hoffmann-LaRoche, Inc	Abuscreen radioimmunoassay for amphetamine (125I)	Kit: 2,500 or 100 tests	11–15–82
Do	Abuscreen (125I) amphetamine derivative	Vial: 500 ml, 20 ml	11–15–82
Do	Abuscreen positive amphetamine urine control 100, 250, 500, 1,000, or 2,000 ng/ml.	Vial: 100 ml, 4 ml	11–15–82

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Do	Abuscreen radioimmunoassay for barbiturates (125I) No. 43042	Vial: 30 ml, 6 ml	07–06–73
Do	Abuscreen radioimmunoassay for barbiturates (125I) No. 43043	Vial: 500 ml, 100 ml	07–06–73
Do	Abuscreen radioimmunoassay for cocaine metabolite	Kit: 100 tests, 2,500 tests	02–06–76
Do	Abuscreen radioimmunoassay for cocaine metabolite (125I) antigen reagent.	Glass vial: 30 ml, 500 ml	02–06–76
Do	Abuscreen radioimmunoassay for cocaine metabolite positive urine control.	Glass vial: 100 ml, 6 ml	02–06–76
Do	Abuscreen radioimmunoassay for methaqualone (125I) No. 43070.	Vial: 30 ml, 6 ml	01–17–74
Do	Abuscreen radioimmunoassay for methaqualone (125I) No. 43071.	Vial: 500 ml, 100 ml	01–17–74
Do	Abuscreen radioimmunoassay for morphine (125I) No. 43021	Vial: 30 ml, 6 ml	09–27–72
Do	Abuscreen radioimmunoassay for morphine (125I) No. 43028	Vial: 500 ml, 100 ml	09–27–72
Do	Abuscreen radioimmunoassay for phencyclidine	Kit: 2,500 tests, 100 tests	08–29–78
Do	Agglutex amphetamine test kit	Kit: 25, 100, or 200 tests	08–28–81
Do	Agglutex amphetamine latex regent	Vial: 2.5 ml, 5 ml	08–28–81
Do	Agglutex amphetamine positive human urine control	Vial: 5 ml, 10 ml	08–28–81
Do	Agglutex barbiturate test kit	Kit: 25, 100, or 200 tests	08–28–81
Do	Agglutex barbiturate latex reagent	Vial: 2.5 ml, 5 ml	08–28–81
Do	Agglutex barbiturate positive human urine control	Vial: 5 ml, 10 ml	08–28–81
Do	Agglutex methaqualone test kit	Kit: 25, 100, or 200 tests	08–28–81
Do	Agglutex methaqualone latex reagent	Vial: 2.5 ml, 5 ml	08–28–81
Do	Agglutex methaqualone positive human urine control	Vial: 5 ml, 10 ml	08–28–81
Do	Agglutex morphine test kit	Kit: 25, 100, 200, or 200 tests	08–28–81
Do	Agglutex morphine latex reagent	Vial: 2.5 ml, 5 ml	08–28–81
Do	Agglutex morphine positive human urine control	Vial: 5 ml, 10 ml	08–28–81

b. Section 1308.24(i) is amended by adding the following to the table in paragraph (i):

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
American Hospital Supply Corp. (Dade Division)	Stratus phenobarbital calibrator B	Bottle: 2 ml	06–27–83
Do	Stratus phenobarbital calibrator C	Bottle: 2 ml	06–27–83
Do	Stratus phenobarbital calibrator D	Bottle: 2 ml	06–27–83
Do	Stratus phenobarbital calibrator E	Bottle: 2 ml	06–27–83
Do	Stratus phenobarbital calibrator F	Bottle: 2 ml	06–27–83
Do	Moni-Trol level I.X special order request B5106–5X	Vial: 10 ml, 10 vials per kit	06–30–83
Do	Moni-Trol level II.X special order request B5106–6X	Vial: 10 ml, 10 vials per kit	06–30–83
Do	Protopath factor 9 assay reagent	Vial: 1 ml	07–06–83
Do	Protopath factor 8 assay reagent	Vial: 1 ml	07–06–83
Do	Moni-Trol. ES level I chemistry control, assayed	Viala (10): 5 ml each	07–15–83
Do	Moni-Trol. ES level II chemistry control, assayed	Viala (10): 5 ml each	07–15–83
Do	Data-Fi thrombin reagent	Vial: 5 ml	07–20–83
Analytical Systems	Tod-Lab barbiturate rapid screen, barbiturate standard	Vial: 15 ml	03–30–83
Becton-Dickinson & Co	Estriol (125I) tracer reagent	Bottle: 100 ml	07–12–83
Do	Estriol antiserum	Bottle: 50 ml	07–12–83
Corning Medical	Authentikit buffer	Kit: 1 vial	03–28–83
Do	Authentiflm electrophoresis film agarose	Plates: 16 per kit	03–28–83
E.I. duPont de Nemours & Co., Inc	aca Thyronine uptake analytical test pack	Plastic Pack: 1 test	08–25–83
Helena Labs	Titan gel LDH isoenzyme buffer	Packet: 22.7g	03–07–83
Hoffmann-LaRoche, Inc	Abuscreen radioimmunoassay for amphetamine (125I)	Kit: 100 tests 2,500 tests	02–15–83
Do	Abuscreen (125I) amphetamine reagent	Vial: 20 ml, 500 ml	02–15–83
Do	Abuscreen positive reference standard (amphetamine)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen positive urine reference standard (amphetamine)	Vial 4 ml, 50 ml	02–15–83
Do	Abuscreen radioimmunoassay for barbiturates (125I)	Kit: 100 tests, 2,500 tests	02–15–83
Do	Abuscreen 125I—Secobarbital reagent	Vial: 20 ml, 500 ml	02–15–83
Do	Abuscreen positive reference standard (barbiturates)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen positive urine reference standard (barbiturates)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen radioimmunoassay for cocaine metabolite (125I)	Kit: 100 tests, 2,500 tests	02–15–83
Do	Abuscreen 125I benzoylecgonine reagent	Vial: 20 ml, 500 ml	02–15–83
Do	Abuscreen positive reference standard (benzoylecgonine)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen positive urine reference standard (benzoylecgonine)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen radioimmunoassay for methaqualone (125I)	Kit: 100 tests, 2,500 tests	02–15–83
Do	Abuscreen 125I—Methaqualone reagent	Vial: 20 ml, 500 ml	02–15–83
Do	Abuscreen positive reference standard (methaqualone)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen positive urine reference standard (methaqualone)	Vial: 4 ml 50 ml	02–15–83
Do	Abuscreen radioimmunoassay for morphine (125I)	Kit: 100 tests, 2,500 tests	02–15–83
Do	Abuscreen 125I—Morphine reagent	Vial: 20 ml, 500 ml	02–15–83
Do	Abuscreen positive reference standard (morphine)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen positive urine reference standard (morphine)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen radioimmunoassay for phencyclidine (PCP) (125I)	Kit: 100 tests 2,500 tests	02–15–83
Do	Abuscreen 125I—Phencyclidene reagent	Vial: 20 ml, 500 ml	02–15–83
Do	Abuscreen positive reference standard (phencyclidine)	Vial: 4 ml, 50 ml	02–15–83
Do	Abuscreen positive urine reference standard (phencyclidine)	Vial: 4 ml, 50 ml	02–15–83
Do	Agglutex amphetamine test kit	Kit: 20 tests, 100 tests	02–15–83
Do	Agglutex amphetamine latex reagent	Vial: 2 ml	06–27–83
Do	Agglutex amphetamine positive human urine control	Vial: 5 ml	06–27–83
Do	Agglutex barbiturate test kit	Kit: 20 tests, 100 tests	06–27–83
Do	Agglutex barbiturate latex reagent	Vial: 2 ml	06–27–83
Do	Agglutex barbiturate positive human urine control	Vial: 5 ml	06–27–83
Do	Agglutex morphine test kit	Kit: 20 tests, 100 tests	06–27–83
Do	Agglutex morphine latex reagent	Vial: 2ml	06–27–83
Do	Agglutex morphine positive human urine control	Vial 5 ml	06–27–83
Do	Agglutex phencyclidine (PCP) test kit	Kit: 20 tests, 100 tests	06–27–83

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Do	Agglutex phencyclidine latex reagent	Vial: 2 ml	06-27-83
Do	Agglutex phencycidine positive human urine control	Vial: 5 ml	06-27-83
Do	Agglutex methaqualone test kit	Kit: 20 tests, 100 tests	06-27-83
Do	Agglutex methaqualone latex reagent	Vial: 2 ml	06-27-83
Do	Agglutex methaqualone positive human urine control	Vial: 5 ml	06-27-83
Do	Immunizing preparation No. 1A	Vial: 10 ml, 20 ml, 50 ml, 100 ml	07-12-83
Do	Immunizing preparation No. 2A	Vial: 10 ml, 20 ml, 50 ml, 100 ml	07-12-83
Do	Immunizing preparation No. 3A	Vial: 10 ml, 20 ml, 50 ml, 100 ml	07-12-83
Do	Immunizing preparation No. 4A	Vial: 10 ml, 20 ml, 50 ml, 100 ml	07-12-83
Do	Immunizing preparation No. 5A	Vial: 10 ml, 20 ml, 50 ml, 100 ml	07-12-83
Do	Immunizing preparation No. 6A	Vial: 10 ml, 20 ml, 50 ml, 100 ml	07-12-83
Do	Immunizing preparation No. 7A	Vial: 10 ml, 20 ml, 50 ml, 100 ml	07-12-83
Do	Immunizing preparation No. 8A	Vial: 10 ml, 20 ml, 50 ml, 100 ml	07-12-83
ICL Scientific	Therapeutic drug control I, TDC I (high level)	Glass vial: 10 ml	04-06-83
Do	Therapeutic drug control II, TDC II (mid-level)	Glass vial: 10 ml	04-06-83
Do	Therapeutic drug control III, TDC III (low level)	Glass vial: 10 ml	04-06-83
Do	Therapeutic drug control I, II, III, tri-level TDC multipack	Glass vials (12): 10 ml	04-06-83
Do	IEP chamber buffer	Bottle: 100 ml	05-18-83
Do	IEP plate	Agar gel plate 10.2 ml	05-18-83
Miles Laboratories, Inc	TDA cross-reactivity cocktails	Glass vial: 1 ml	02-01-83
Nuclear Medical Laboratories, Inc	TETRA-TUBE RIA T4 diagnostic kit	Kit: 100 tests, 500 tests	06-03-83
Do	TETRA-TUBE tracer	Boston round amber bottle: 4oz	06-03-83
Do	TETRA-TUBE diluent	Clear Bottle: 1 dr	06-03-83
Ortho Diagnostic Systems, Inc	Ortho tri-level TDM control	Glass vial: 6 ml	05-12-83
Do	Ortho TDM control level I	Glass vial: 6 ml	05-12-83
Do	Ortho TDM control level II	Glass vial: 6 ml	05-12-83
Do	Ortho TDM control level III	Glass vial: 6 ml	05-12-83
Ortho Diagnostic Systems, Inc	Ortho activated PTT reagent	Glass vial: 30 determination size, 100	05-23-83
Do	AACC tox	Glass vial: 2.5 ml	06-17-83
Do	ORTHO serum ELISA test system for circulating immune complexes (C1q-Iq G).	Glass vial: 0.5 ml	09-15-83
SIGMA Chemical Co	Adeosine phosphate substrate, No. 675-1	Bottle: 4 oz	07-25-73
Do	Glycerophosphate substrate, substrate, No. 675-2	Bottle: 4 oz	07-25-73
Do	Glycerophospahte substrate, No. 704-1	Bottle: 4 oz	07-25-73
Do	Acid hematoxylin solution, No. 285-2	Bottle: 25 ml, 100 ml	06-06-73
Do	Mayer's hematoxylin solution, No. MMS-1	Bottle: 25 ml, 100 ml	06-06-73
Do	SGOT single assay vial, No. 55-1	Vial: 3 ml	05-29-73
Do	SGOT single assay vial, No. 55-5	Vial:15 ml	05-29-73
Do	SGOT 10 assay vial, No. 55-10	Vial: 30 ml	05-29-73
Do	SGPT single assay vial, No. 55-1P	Vial: 3 ml	05-29-73
Do	SGPT assay vial, No. 55-5P	Vial: 15 ml	05-29-73
Do	SGPT 10 assay vial, No. 55-10P	Vial: 30 ml	05-29-73
Do	SGOT reagent No. 155-10	Vial: 30 ml	05-29-73
Do	SGOT reagent No. 155-100	Vial: 100 ml	05-29-73
Do	SGPT reagent No. 155-10P	Vial: 30 ml	05-29-73
Do	SGPT reagent No. 155-100P	Vial: 100 ml	05-29-73
Do	LDH-P reagent No. 125-10	Vial: 30 ml	05-29-73
Do	LDH-P reagent No. 125-100	Vial: 100 ml	05-29-73
Syva Co.	Emit st controlled substance calibrator	Glass bottle: 3 ml	07-27-83

[FR Doc. 83-27802 Filed 10-12-83; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[T.D. ATF-150; Ref: Notice No. 469]

Ingredient Labeling of Wine, Distilled Spirits and Malt Beverages

Correction

In FR Doc. 83-27386, beginning on page 45549, in the issue of Thursday, October 6, 1983, on page 45557, in the first column, in § 5.32(b)(5), in the last line, "on or" should read "on or after".

BILLING CODE 1505-01-M

27 CFR Part 9

[TD ATF-152; Re: Notice No. 439]

El Dorado Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms; Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in El Dorado County of California to be known as "El Dorado." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "El Dorado" as a viticultural area and the subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape growing area where their wines come from and will enable consumers to better identify the wines they may purchase.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing the establishment of definite American viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Title 27 CFR, § 4.25a(e)(2), outlines the procedure for proposing an American viticultural area.

The El Dorado Wine Grape Growers Association in Camino, California, petitioned ATF for the establishment of an American viticultural area to be named "El Dorado." The El Dorado viticultural area is located within El Dorado County, east of Sacramento, California.

In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 439, in the **Federal Register** on December 14, 1982 (47 FR 55954), proposing the establishment of El Dorado as a viticultural area. ATF received 14 comments strongly favoring the El Dorado viticultural area as described in the notice of proposed rulemaking.

Historical and Current Evidence of the Name

The petitioner submitted evidence to show that several places within El Dorado viticultural area carry the name—such as the towns of El Dorado and El Dorado Hills, El Dorado Hills Vineyard, Eldorado Vineyard and Winery in Camino, El Dorado County and the El Dorado National Forest.

In the notice of proposed rulemaking comments were requested as to possible confusion for the consumer since the El Dorado viticultural area name is also the name of the county in which it is located. A county appellation requires 75 percent of the grapes from that appellation whereas a viticultural area requires 85 percent. Twelve commenters supported the name El Dorado as the viticultural area name and no commenters stated a potential for consumer confusion. The comments stated the name El Dorado is used widely in the area and that the entire viticultural area is within El Dorado County. The commenters also stated the name El Dorado has been in existence in the area for over 100 years and that the county was later named El Dorado as was a town, the National Forest, a vineyard, a winery and many other businesses.

Boundaries

Since the soil, climate and terrain limit the grape growing areas to between the 1,200-foot to 3,500-foot elevation levels, the boundaries of the viticultural area delineate the area at these elevations. According to the petitioner, the natural boundaries of El Dorado County—the North Fork of the American River, the Middle Fork of the American River, and the Rubicon River on the north, and the South Fork of the Cosumnes River on the south—serve as the northern and southern boundaries, respectively, of the El Dorado viticultural area. Range lines define the east and west boundaries and are more easily located on the maps than are the elevation contour lines; however, these range lines generally follow elevation changes that geographically distinguish the El Dorado viticultural area from the surrounding area.

ATF has carefully considered the evidence and comments received and has decided to approve the El Dorado viticultural area boundary lines as proposed in the notice of proposed rulemaking and found in 27 CFR 9.61 of this final rule.

Geographical Characteristics

The petitioner stated the eastern boundary represents the upper limit of any agricultural activity since the rocky and mountainous terrain and climate of the Sierra Navada Mountains preclude any farming further east of the eastern boundary line. The northern and southern boundaries are the same as those of the El Dorado County.

Throughout the year the evenings and nights are cooled by breezes originating from the Sierra Navada Mountains to the east. The area has none of the winter fog that is typical of Great Central Valley and the coastal valleys of California. Average annual rainfall ranges from 33 to 45 inches varying with the elevation. Precipitation increases 3 to 4 inches for every 300-foot rise in elevation. The higher average elevation of "El Dorado," as opposed to the lower foothill areas, and the Central Valley guarantees it a more favorable growing climate as far as rainfall is concerned. Indian summer with cool nights and warm days extends the growing season into October. Little rainfall occurs until late October and November.

The "El Dorado" is located on the western slope of the central Sierra Nevada Mountains. It is dominated by steeply dipping, faulty and folded metamorphormic rocks that have been intruded by igneous rocks. Overlaying the bedrock in many places are mantels of river gravel and volcanic debris. The soils vary in texture and depth but are all formed from common magma materials which are residual (formed in place) and igneous in origin. In contrast, the soils in the lower foothill and Central Valley regions consist of a mixture of materials caused by erosion and are sedimentary (transported materials of ocean sediments and stream deposits). Also, the soil is acidic in the El Dorado viticultural area and more alkaline in the areas to the west and south.

Miscellaneous

ATF does not wish to give the impression by approving El Dorado as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of El Dorado wines.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not expected to apply to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have subsequent secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Ave., NW., Washington, D.C.

VOL 48 ISS 199 OCT 13 1983 UMI

Drafting Information

The author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to include § 9.61 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.61 El Dorsdo.

* * * * *

Subpart C—Approved American Viticultural Areas

Paragraph 2. Subpart C is amended by adding § 9.61 to read as follows:

§ 9.61 El Dorado.

(a) *Name.* The name of the viticultural area described in this section is "El Dorado."

(b) *Approved maps.* The approved U.S.G.S. topographic maps (7.5 series; quadrangles) showing the boundaries of the El Dorado viticultural area, including quadrangles showing the area within the boundaries, are as follows:

(1) "Pilot Hill, California," 1954 (photorevised 1973);

(2) "Auburn, California," 1953 (photorevised 1973);

(3) "Greenwood, California," 1949 (photorevised 1973);

(4) "Georgetown, California," 1949 (photorevised 1973);

(5) "Foresthill, California," 1949 (photorevised 1973);

(6) "Michigan Bluff, California," 1952 (photorevised 1973);

(7) "Tunnel Hill, California," 1950 (photorevised 1973);

(8) "Slate Mountain, California," 1950 (photorevised 1973);

(9) "Pollock Pines, California," 1950 (photorevised 1973);

(10) "Stump Spring, California," 1951 (photorevised 1973);

(11) "Caldor, California," 1951 (photorevised 1973);

(12) "Omo Ranch, California," 1952 (photorevised 1973);

(13) "Aukum, California," 1952 (photorevised 1973);

(14) "Fiddletown, California," 1949;

(15) "Latrobe, California," 1949 (photorevised 1973);

(16) "Shingle Springs, California," 1949;

(17) "Coloma, California," 1949 (photorevised 1973);

(18) "Garden Valley, California," 1949 (photorevised 1973);

(19) "Placerville, California," 1949 (photorevised 1973);

(20) "Camino, California," 1952 (photorevised 1973);

(21) "Sly Park, California," 1952 (photorevised 1973);

(c) *Boundaries.* The boundaries of the El Dorado viticultural area which is located in El Dorado County, California, are as follows:

(1) The beginning point of the boundaries is the intersection of the North Fork of the American River (also the boundary line between El Dorado and Placer Counties) and the township line "T. 11 N./T. 12 N." ("Pilot Hill" Quadrangle);

(2) Thence northeast along the North Fork of the American River to its divergence with the Middle Fork of the American River, continuing then, following the Middle Fork of the American River to its intersection with the Rubicon River which continues as the boundary line between El Dorado and Placer Counties ("Auburn," "Greenwood," "Georgetown," "Foresthill," and "Michigan Bluff" Quadrangles);

(3) Thence southeast along the Rubicon River to its intersection with the range line "R. 11 E./R. 12 E." ("Tunnel Hill" Quadrangle);

(4) Thence south along the range line through T. 13 N. and T. 12 N., to its intersection with the township line "T. 12 N./T. 11 N." ("Tunnel Hill" and "Slate Mountain" Quadrangles);

(5) Thence east along the range line to its intersection with the range line "R. 12 E./R. 13 E." ("Slate Mountains" and "Pollock Pines" Quadrangles);

(6) Thence south along the range line to its intersection with the township line "T. 11 N./T. 10 N." ("Pollock Pines" Quadrangle);

(7) Thence east along the township line to its intersection with the range line "R. 13 E./R. 14 E." ("Pollock Pines" and "Stump Spring" Quadrangles);

(8) Thence south along the range line through T. 10 N., T. 9 N., and T. 8 N. to its intersection with the South Fork of the Cosumnes River (also the boundary line between El Dorado and Amador Counties) ("Stump Spring" and "Caldor" Quadrangles);

(9) Thence west and northwest along the South Fork of the Cosumnes River to its intersection with range line "R. 11 E./R. 10 E." ("Caldor," "Omo Ranch," "Aukum," and "Fiddletown" Quadrangles);

(10) Thence north along the range line to its intersection with the township line "T. 8 N./T. 9 N." ("Fiddletown" Quadrangle);

(11) Thence west along the township line to its intersection with range line "R. 10 E./R. 9 E." ("Fiddletown" and "Latrobe" Quadrangles);

(12) Thence north along the range line to its intersection with the township line "T. 10 N./T. 11 N." ("Latrobe," "Shingle Springs," and "Coloma" Quadrangles);

(13) Thence east along the township line approximately 4,000 feet to its intersection with the range line "R. 9 E./R. 10 E." ("Coloma" Quadrangle);

(14) Thence north on the range line to its intersection with the township line "T. 11 N./T. 12 N." ("Coloma" Quadrangle); and

(15) Thence west along the township line to the point of beginning ("Coloma" and "Pilot Hill" Quadrangles).

Signed: September 13, 1983.

W. T. Drake,

Acting Director.

Approved: October 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-27879 Filed 10-12-83; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[T.D. ATF-151; Ref: Notice No. 452]

Potter Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms; Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Mendocino County, California, to be known as "Potter Valley." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "Potter Valley" as a viticultural area and subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wine they may purchase.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and in wine advertising.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

The California Wine Company in Mendocino County, California, petitioned ATF to establish a viticultural area to be known as "Potter Valley." The boundaries of the Potter Valley viticultural area were developed after a meeting of a majority of the growers who own or operate vineyards in the area. The petitioner stated that the 12 growers in or near Potter Valley were contacted and no group or individual was found to be in opposition to the boundaries. There are approximately 11,000 acres of vineyards found in all parts of the Potter Valley viticultural area.

In response to this petition ATF published a notice of proposed rulemaking, Notice No. 452, in the **Federal Register** on February 9, 1983 (48 FR 5955), proposing the establishment of Potter Valley as a viticultural area. No comments were received on the Potter Valley viticultural area.

Geographical Features

Potter Valley is located in the east central part of Mendocino County and consists of approximately 27,500 acres of valley floor surrounded by mountains on all sides. The floor of Potter Valley ranges in elevation from about 920' to 1020' with the surrounding mountains ranging to over 600' above the valley floor. The petitioner stated that the boundaries range into the mountainous areas surrounding the valley floor so as not to exclude small areas of tillable land. Within the Potter Valley is a transitional climate dominated at times by the coastal influence of the Pacific Ocean or by interior continental air masses. Potter Valley is classified as a Region III grape-growing area. The petitioner submitted soil maps showing the soils of Potter Valley to be primarily Cole, San Ysidro, Rotella and Pinole series while the nearby "Redwood Valley" is predominately Noyo and Newton soils.

Evidence of the Name

The petition stated that the name "Potter Valley" is well-known in the local area and has been used on wine labels distributed on a national basis. The petitioner also stated that the Pacific Gas and Electric Company has maintained a facility in the area known as the "Potter Valley Powerhouse." Maps published by the U.S. Department of the Interior identify the Potter Valley region, and a School District and Fire District are named Potter Valley.

Miscellaneous

ATF does not wish to give the impression by approving Potter Valley as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Potter Valley wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605 (b)), that the final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition is available for inspection during normal business hours at the following location: ATF Reading Room, Rm 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Ave., NW., Washington, DC.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (45 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to include the title of § 9.82 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.82 Potter Valley.

Par. 2. Subpart C is amended by adding § 9.82 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.82 Potter Valley.

(a) *Name.* The name of the viticultural area described in this section is "Potter Valley."

(b) *Approved map.* The approved maps for the Potter Valley viticultural area are the U.S.G.S. maps entitled "Potter Valley Quadrangle, California," 1960, and "Ukiah Quadrangle, California," 1958, 15 minute series (topographic).

(c) *Boundaries.* The Potter Valley viticultural area is located in Mendocino

County, California. The boundaries are as follows:

(1) From the beginning point at the southeast corner of quadrant 36 and southwest corner of quadrant 32 (a point where Mendocino and Lake Counties border on the T. 17 N.–T. 16 N. township line), the boundary runs northwest to the northeastern corner of quadrant 4, on the T. 18 N.–T. 17 N. township line;

(2) Then west to the northwest corner of quadrant 1;

(3) Then south to the southwest corner of quadrant 36;

(4) Then east to R. 12 W.–R. 11 W. range line at the southeast corner of quadrant 36;

(5) Then south to Highway 20;

(6) Then southeast on Highway 20 to where Highway 20 passes from quadrant 20 to quadrant 21; and

(7) Thence northeast, returning to the point of beginning.

Signed: September 13, 1983.

W. T. Drake,

Acting Director.

Approved: October 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-27877 Filed 10-12-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-154; Ref: Notice No. 455]

Catoctin Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in parts of Frederick and Washington Counties in western Maryland to be known as "Catoctin." This final rule is the result of a petition submitted by Mr. W. Bret Byrd, proprietor of a bonded winery (Byrd Vineyards) in the viticultural area. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of this viticultural area and the subsequent use of the name Catoctin as an appellation of origin on labels and in advertisements will allow wineries to better designate the derivation of their wines and will enable consumers to better identify and differentiate the wines they may purchase.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in Part 4, Title 27, CFR. These regulations provide for the establishment of definite viticultural areas. They also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all American viticultural areas approved for use as appellations of origin.

An American viticultural area is defined in §§ 4.25a(e)(1) and 9.11 as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as an American viticultural area. Under the procedures for proposing a viticultural area outlined in §§ 4.25a(e)(2) and 9.3(b), a petition must contain evidence, historical or current, that the proposed area is—

(a) Locally and/or nationally known by the name specified;

(b) Encompassed by appropriate boundaries; and,

(c) Possesses geographical features (climate, soil, elevation, physical features, etc.) which distinguish its viticultural features from surrounding areas.

ATF was petitioned by Mr. W. Bret Byrd, proprietor of a bonded winery known as Byrd Vineyards, to establish a viticultural area in western Maryland to be known as "Catoctin." In response to the petition, ATF published in the **Federal Register** on February 9, 1983, a notice of proposed rulemaking (Notice No. 455, 48 FR 5958) concerning the establishment of the Catoctin viticultural area and solicited written comments from the public.

General Description

The viticultural area lies west of the town of Frederick in western Maryland. It encompasses an area of 265 square miles (170,000 acres), in parts of Frederick and Washington Counties. The area consists of a large intermountain valley and upland areas immediately surrounding the valley. The eastern and western boundaries are distinguished by Catoctin Mountain and South Mountain, respectively. The northern and southern boundaries are the Maryland-Pennsylvania State line and the Potomac River, respectively.

There are approximately 84.5 acres planted to grapes for commercial purposes. The acreage devoted to grape-growing is widely dispersed. In 1980, approximately 31.5% of the total commercial grape acreage in Maryland was planted in the viticultural area. In addition, scattered throughout, are many small vineyards, generally under an acre, which are used by the owners for private purposes. There is one bonded winery, operated by the petitioner, with a 30 acre vineyard and six (6) commercial vineyard operations.

Evidence of the Name

The name of the viticultural area was documented by the petitioner. The name "Catoctin" is derived from a word in the Algonquin Indian language and means "speckled rock." This type of rock abounds in the area. Since the 1700's, the name has been applied to many natural and man-made features in the area, such as Catoctin National Park, Catoctin Creek, Catoctin Mountain, and Catoctin Valley (a.k.a. Middletown Valley). After evaluating the petition, ATF believes "Catoctin" is the most appropriate name for the viticultural area.

Boundaries and Geographical Features

The boundaries of the Catoctin viticultural area roughly approximate the boundaries of that portion of Land Resource Area No. 130 which is in Maryland. Land Resource Areas are geographic areas of land determined by the U.S. Soil Conservation Service to be associated on the basis of particular patterns of soil, climate, water resources, land use, elevation, and topography.

Average annual rainfall for the Catoctin viticultural area is 36–42 inches; to the north and east, average yearly rainfall is 40–42 inches; south of the Catoctin viticultural area average annual rainfall is 38–40 inches, and to the west of the viticultural area average annual rainfall is 38–46 inches.

Soils in the Catoctin viticultural area are characteristic of those found on mountains, elevated intermountain areas, or in intermountain valleys. The soil in the intermountain valley area is almost entirely of the Myersville-Fauquier-Catoctin association. The surrounding uplands are primarily composed of the Dekalb, Clymer, Edgemont, Chandler, Talladega, Highfield, and Fauquier soil series in various associations. Soils outside the viticultural area to the east are mostly shallow soils of red shale sandstone and limestone. West of the viticultural area the soils are well drained, medium textured soils.

Comments

No comments were received during the comment period. Having analyzed and evaluated the evidence contained in the petition, ATF is adopting the Catoctin viticultural area as proposed.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and appropriate maps are available for public inspection during normal business hours at the following location: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C.

Drafting Information

The author of this document is Jim Whitley, Specialist, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)) 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended by adding the title of § 9.67, reading as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.67 Catoctin.

Par. 2. Subpart C is amended by adding § 9.67, reading as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.67 Catoctin.

(a) *Name.* The name of the viticultural area described in this section is "Catoctin."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Catoctin viticultural area are 12 U.S.G.S. maps in the scale 1:24,000. They are—

(1) "Point of Rocks Quadrangle, Maryland—Virginia," 7.5 minute series, 1970;

(2) "Buckeystown Quadrangle, Maryland," 7.5 minute series, 1952 (Photorevised 1971);

(3) "Frederick Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1980);

(4) "Catoctin Furnace Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1979);

(5) "Blue Ridge Summit Quadrangle, Maryland—Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);

(6) "Emmitsburg Quadrangle, Maryland—Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);

(7) "Smithsburg Quadrangle, Maryland—Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);

(8) "Myersville Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1971);

(9) "Funkstown Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1971);

(10) "Keedysville Quadrangle, Maryland—West Virginia," 7.5 minute series, 1978;

(11) "Harpers Ferry Quadrangle, Virginia—Maryland—West Virginia," 7.5 minute series, 1969; and

(12) "Charles Town Quadrangle, West Virginia—Virginia—Maryland," 7.5 minute series, 1978;

(c) *Boundaries.* The Catoctin viticultural area is located in western Maryland and encompasses parts of Frederick and Washington Counties. From the beginning point at the point where U.S. Highway 15 crosses the Potomac River and enters the land mass of Maryland on the "Point of Rocks Quadrangle" map, the boundary runs—

(1) Northerly 1,100 feet in a straight line to the point of intersection with a 500-foot contour line;

(2) Then northeasterly along the meanders of the 500-foot contour line on the "Point of Rocks Quadrangle," "Buckeystown Quadrangle," "Frederick Quadrangle," "Catoctin Furnace Quadrangle," "Blue Ridge Summit Quadrangle," and "Emmitsburg Quadrangle" maps to the point of intersection with the Maryland—Pennsylvania State line on the "Emmitsburg Quadrangle" map;

(3) Then west along the Maryland-Pennsylvania State line on the "Emmitsburg Quadrangle," "Blue Ridge Summit Quadrangle," and "Smithsburg Quadrangle" maps to the point of intersection with the first 800-foot contour line lying west of South Mountain on the "Smithsburg Quadrangle" map;

(4) Then southwesterly along the meanders of the 800-foot contour line on the "Smithburg Quadrangle," "Myersville Quadrangle,"Funkstown Quadrangle," and "Keedysville Quadrangle" maps to the point of intersection with an unnamed light duty road (known locally as Clevelandville Road) north of the town of Clevelandville on the "Keedysville Quadrangle" map;

(5) Then southerly along the unnamed light duty road to the point of intersection with Reno Monument Road;

(6) Then southwesterly 13,500 feet in a straight line to the point lying at the intersection of Highway 67 and Millbrook Road;

(7) Then westerly along Millbrook Road to the point of intersection with Mount Briar Road;

(8) Then northerly along Mount Briar Road to the point of intersection with a 500-foot contour line;

(9) Then northerly along the 500-foot contour line to the point of intersection with Red Hill Road;

(10) Then southerly along the 500-foot contour line to the point of intersection with Porterstown Road;

(11) Then south-southwesterly 29,000 feet in a straight line to the most eastern point on the boundary line of the Chesapeake and Ohio Canal National Historical Park lying north of the town of Dargan;

(12) Then southwesterly 7,500 feet in a straight line to the point of the "Harpers Ferry Quadrangle" map lying approximately 600 feet northwest of Manidokan Camp at the confluence of an unnamed stream and the Potomac River; and

(13) Then easterly along the meanders of the Potomac River on the "Harpers Ferry Quadrangle," "Charles Town Quadrangle," and "Point of Rocks Quadrangle" maps to the point of beginning.

Signed: September 9, 1983.

Stephen E. Higgins,

Director.

Approved: October 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-27888 Filed 10-12-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-153; Ref: Notice No. 441]

The Lake Michigan Shore Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in the southwestern corner of the State of Michigan to be known as "Lake Michigan Shore." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Lake Michigan Shore as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate where their wines come from and will enable consumers to better identify the wines from this area.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT:

Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7531).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the porcedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. Charles W. Catherman, Jr., of St. Julian Wine Company, Inc., and Mr. Michael E. Byrne, of Warner Vineyards, Inc., petitioned ATF to establish a viticultural area in the southwestern corner of the State of Michigan to be known as "Lake Michigan Shore." The area consists of about 1,280,000 acres and totally encompasses the Counties of Berrien and Van Buren in addition to portions of Allegan, Kalamazoo and Cass Counties. In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 441, in the Federal Register on December 14, 1982 (47 FR 55959), proposing the establishment of the Lake Michigan Shore viticultural area.

Comments

Five comments were received during the comment period. Four were from wineries located within the proposed viticultural area and one was from the Van Buren County Extension Office, Cooperative Extension Service, Michigan State University and the U.S. Department of Agriculture. Three of the four wineries fully support the proposed Lake Michigan Shore viticultural area. In addition, the Cooperative Extension Service (Van Buren County Extension Office) also fully supports the proposal.

One of the wineries located within the proposed area stated in their comment that they oppose the establishment of the Lake Michigan Shore viticultural area for the following reasons:

1. The name gives the consumer the impression that the land in question is near the shore or close to Lake Michigan when in fact some of the area is located 30 to 60 miles away from the actual shoreline.

2. The statement in Notice No. 441 that the entire area receives the tempering "lake effect" of Lake Michigan is of doubtful validity in that certain vinifera species cannot be successfully or commercially grown in this region.

3. The argument for this proposed viticultural area is predicated on grape quantities grown rather than varieties. This commenter states that he feels the use of appellations was to help consumers compare fine wines from different regions. He feels that the use of the Concord variety as a basis for a regional designation would only serve to confuse consumers when they compare wines of the Napa Valley to those of Lake Michigan Shore.

4. Geographically, this area should probably use the Valporaiso Moraine as a potential boundary due to its close lakeshore proximity. Also, parts of northern Indiana should be included in the area.

ATF does not agree with the four reasons given by this commenter for not establishing a Lake Michigan Shore viticultural area. In the first place, we do not feel that the name "Lake Michigan Shore" is misleading. The western boundary of this area is the shoreline of Lake Michigan. The "lake effect" is felt a good distance inland from the shoreline which is why grapes can be grown throughout the Lake Michigan Shore area. This proximity to Lake Michigan and the influence that Lake Michigan exerts on the local climate is the fundamental factor that permits commercially successful viticulture in this area. Consequently, even though the eastern boundary of this area extends in some places up to approximately 45 miles away from the Lake Michigan shoreline, we do not feel that naming this entire area "Lake Michigan Shore" would be misleading to the consumer.

Secondly, the fact that certain vinifera species cannot be successfully or commercially grown in the "Lake Michigan Shore" viticultural area does not mean that the area does not receive the tempering "lake effect" of Lake Michigan. Viticultural areas are not based only on vinifera grapes but on all grape species capable of producing wine. Currently, the "lake effect" helps make it possible to grow about 17 varieties of American, French hybrid, and vinifera grapes in the "Lake Michigan Shore" area.

Thirdly, ATF took both the grape quantities grown and the grape varieties grown into consideration before proposing the "Lake Michigan Shore" viticultural area. Futhermore, the purpose of appellations is not necessarily to help consumers compare fine wines from different regions but rather to inform consumers as to where the grapes used in any particular bottle of wine were grown. Consequently, the use of the Concord variety (or any other grape variety) with a Lake Michigan Shore appellation would not confuse consumers when they compare wines of other viticultural areas to those of Lake Michigan Shore.

And finally, the Valporaiso Moraine was not used as a boundary because it does not extend far enough away from the shoreline to include all the area which is influenced by the "lake effect". In addition, northern Indiana was not included in the "Lake Michigan Shore" viticultural area because Mr. T. Michael Thomas and Mr. A. Robert Earl of the Van Buren County Extension Office, Cooperative Extension Service, Michigan State University and the U.S. Department of Agriculture, stated that the area in northern Indiana that receives "lake effect" climate modification is and will continue to be rather ill-defined. The lake effect is conditioned by the direction from which the mass of a front or weather system is coming from. The lake effect is greatest when fronts are from the west to northwest when the whole expanse of the lake has a chance to moderate the weather system. When from any other compass direction, including southwest, the fronts do not get modified and act the same as they would in Wisconsin or Illinois. Southwest to northeast wind flows are common in spring and fall and have always made fruit production outside of the proposed area somewhat risky. Because of the lack of predictability of the lake effect and the economics of wine grape production, it is unlikely that any substantial acreage will be established in the areas adjacent to the Lake Michigan Shore viticultural area as delineated in this final rule.

General Information

The petition and attached documents show that Lake Michigan Shore is located in the southwestern corner of the State of Michigan. The area totally encompasses the counties of Berrien and Van Buren in addition to portions of Allegan, Kalamazoo and Cass Counties. The western boundary of the area is the eastern shore of Lake Michigan. Lake Michigan is the feature which is the basis for the distinct climate and the name "Lake Michigan Shore." This area includes nine commercial wineries, approximately 930 grape growers, and 14,472 acres of grapes.

Commercial grape growing within the State of Michigan first began in 1867 in Van Buren County. The majority of grapes grown in Michigan are Concord grapes which are used in the production of grape juice and jelly. Approximately 20 percent of the State's grapes are used in wine and account for 3,330 tons of grapes. The wine grapes grown in the "Lake Michigan Shore" viticultural area comprise 17 varieties of American, French hybrid, and vinifera grapes. The counties of Berrien and Van Buren account for 83 percent of the State's grape production, with the three remaining counties in the area comprising an additional 14 percent. The remaining three percent of the State's grape production primarily comes from the previously approved Leelanau Peninsula viticultural area (47 FR 13328, T. D. ATF-99), 200 miles north along the Lake Michigan shore. The previously approved Fennville viticultural area (46 FR 46318, T. D. ATF-91) is within the northwest corner of the Lake Michigan Shore viticultural area.

Evidence Relating to the Name

The proposed viticultural area has specifically been known by two names, "Fruit Belt" and "Lake Michigan Shore," while also being generally referred to as "Southwestern Michigan" or "Western Counties." Several State and national books on wine and grapes refer to this area generally as the area behind the sand dunes on the Lake Michigan shore. After carefully evaluating the petition for this viticultural area, ATF believes that "Lake Michigan Shore" is the most appropriate name for this area.

Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2), the viticultural area should possess geographical features which distinguish the viticultural features of the area from surrounding areas.

The petition and attached documents contained substantial geographic and climatic information which show that:

(a) The entire "Lake Michigan Shore" viticultural area receives the tempering "lake effect" of Lake Michigan. This lake effect moderates the winter and summer temperature extremes, and delays budding of the vines beyond the late spring frosts. The lake effect also causes generally uniform climatic conditions, since large bodies of water retain heat and cold and react closer to temperature fluctuations. The number of frost-free growing days in this area ranges from 155 to 175 days, normally during the period of May 10 through October 13. Immediately to the north and east (the cities of Holland and Jackson, respectively) the dates for last spring and first fall frosts (frost-free growing season) are May 25 through September 24. To the immediate south (South Bend, Indiana) the frost-free growing season is May 30 through September 30. Further, the South Bend area has consistent January mean minimum temperatures of 2 to 4 degrees Fahrenheit lower than the "Lake Michigan Shore" area. The significance of the lake effect is shown by the 116 year history of grape growing in the area and the fact that 97 percent of the State's grapes are grown in the area.

(b) The composition of the soils within the area are not a definitive distinguishing factor. However, the topography of the area does distinguish the area because it is of "glacial moraine" construction as opposed to "till plain" construction for the surrounding areas. Glacial moraines are more conducive to grape growing because of the creation of needed air drainage, whereas till plains flatten out and are unsuitable for grape growing.

(c) The western boundary, the eastern shore of Lake Michigan, is a natural boundary from which the area draws its name and receives the necessary lake effect which moderates the climate. The northern, eastern, and southern boundaries generally identify the extent to which the glacial moraine soil construction changes to till plain.

This viticultural area encompasses a large area with generally uniform geographic and climatic features, as opposed to small microviticultural areas which exhibit very definitive geographic and climatic features such as the "Fennville" viticultural area which is located within this area in the northwest corner.

After evaluating the petition for the Lake Michigan Shore viticultural area, ATF has determined that due to the geographical and climatic features of the Lake Michigan Shore area, it is distinguishable from the surrounding areas.

Boundaries

The boundaries proposed by the petitioner are adopted. An exact description of these boundaries is discussed in the regulations portion of this document. ATF believes that these boundaries delineate an area with distinguishable geographic and climatic features.

Miscellaneous

ATF does not wish to give the impression by approving the Lake

Michigan Shore viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Lake Michigan Shore wines.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and comments, along with the appropriate maps with boundaries marked, are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.79. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.79 Lake Michigan Shore.

Par. 2. Subpart C is amended by adding § 9.79 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.79 Lake Michigan Shore.

(a) *Name.* The name of the viticultural area described in this section is "Lake Michigan Shore."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lake Michigan Shore viticultural area are four U.S.G.S. maps, 1:250,000 series. They are entitled: (1) Chicago (1953, revised 1970); (2) Fort Wayne (1953, revised 1969); (3) Racine (1958, revised 1969); and (4) Grand Rapids (1958, revised 1980).

(c) *Boundaries.* The Lake Michigan Shore viticultural area is located in the southwestern corner of the State of Michigan. The boundaries of the Lake Michigan Shore viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows: Starting at the most northern point, the intersection of the Kalamazoo River with Lake Michigan, southeast along the winding course of the Kalamazoo River for approximately 35 miles until it intersects the Penn Central railroad line just south of the City of Otsego; south along the Penn Central railroad line, through the City of Kalamazoo, approximately 25 miles until it intersects the Grand Trunk Western railroad line at the community of Schoolcraft; southwest along the Grand Trunk Western railroad line approximately 35 miles to the Michigan/Indiana State line; west along the Michigan/Indiana State line approximately 38 miles until it meets Lake Michigan; then north along the eastern shore of Lake Michigan approximately 72 miles to the beginning point.

Signed: September 13, 1983.

W. T. Drake,

Acting Director.

Approved: October 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-27887 Filed 10-12-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Parts 170 and 240

[T.D. ATF-149; Re: Notice Nos. 458 and 320]

Elimination of Subpart XX and Revision of Sample Requirements for Formula Wines

AGENCY: Bureau of Alcohol, Tobacco and Firearms; Treasury.

ACTION: Treasury decision.

SUMMARY: This Treasury decision eliminates 27 CFR Part 240, Subpart XX, Calculations for Wine Production, and requirements for samples of salted wine and special natural wine submitted with applications for formula approval in 27 CFR Parts 170 and 240 respectively. The elimination of Subpart XX and the sample requirements of 27 CFR 170.686 and 240.441 reduces a regulatory burden on affected industries.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION: On May 22, 1979, ATF published Notice No. 320 (44 FR 29691), proposing recodification and revision of wine regulations involving 27 CFR Parts 170, 231 and 240, and requested comment from interested parties. The comment period on this advance notice of proposed rulemaking was extended twice, allowing a total time of 15 months for comments. The Bureau received comments covering a wide range of problems concerning wine regulations.

A few comments received suggested that the regulation sections in Part 240, Subpart XX, could be eliminated since these sections primarily contain tables, charts and sample calculations which are informational and not appropriate as regulations. Since an elimination of Subpart XX would be a major reduction in the volume of wine regulations, ATF published a notice of proposed rulemaking (48 FR 8088), Notice No. 458, in the **Federal Register** on February 25, 1983. In that notice, ATF also proposed to eliminate a requirement for submitting samples of salted wine and special natural wine when applying for formulas.

In Notice No. 458, comment was specifically requested on whether a publication should be done to include the useful tables, charts and calculations in Subpart XX. Also, comment was requested on our proposal to include a formula and sample calculations in the amelioration sections instead of the amelioration tables in Subpart XX.

Comments were received from the Wine Institute and United Vintners, Inc. Both supported the elimination of Subpart XX from wine regulations and requirements for samples. United Vintners supported having a pamphlet with the useful tables, charts and sample calculations. The Wine Institute did not favor ATF publishing a pamphlet and opposed including a formula and sample calculations in the sections on amelioration. The Wine Institute sent us a copy of their letter to the editors of "Technology of Winemaking" asking that useful tables, charts, and calculations now found in Subpart XX be included in their next edition.

This final rule eliminates Subpart XX with the 74 sections of tables, charts, sample calculations and instructions on how to use alcohol testing equipment. Eliminating these sections is the first major step in reducing the volume of existing wine regulations to make it easier for winemakers to comply with those regulations which are necessary. Most of the sections in Subpart XX have been of no use to winemakers for some time. There are 34 sections in Subpart XX devoted to a detailed use of several types of alcohol test instruments. Most of these instruments are not used by winemakers today and for those instruments still available, the manufacturer's instructions are more up to date than the instructions in Subpart XX.

Winemakers do not have a need for (or they have available from other sources) the tables, charts and sample calculations in Subpart XX. These tables, charts and sample calculations do not address specific regulatory production requirements (those requirements are contained in wine production regulations) so these sections are informational and not regulatory.

For example, there are tables for determining the maximum allowable ameliorating material that can be added to wine with an acid level of 5.0 to 7.69 grams per 1000 milliliters in the juice. Nearly all wineries which add ameliorating material have a starting acid in the juice well above the 7.69 gram level; therefore, the maximum amount of ameliorating material that can be added to 1000 gallons of juice, 538.4 gallons, is the only figure necessary for the winemaker to remember. Also, many wineries use less than the maximum allowable of ameliorating material, so the table in Subpart XX would be unnecessary in these instances.

This final rule is one of several to be issued by the Bureau in revising all wine regulations. When all the wine regulations are revised, a Treasury decision will be issued to recodify the wine regulations into a new Part 24. Any problems involved with the implementation of this final rule or any suggestions on any wine regulations will be considered in the recodification Treasury decision. Send any comments or suggestions to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-385.

List of Subjects

27 CFR Part 170

Alcohol and alcoholic beverages, Authority delegations, Claims, Customs duties and inspection, Disaster assistance, Excise taxes, Labeling, Liquors, Penalties, Reporting requirements, Surety bonds, Wine.

27 CFR Part 240

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquids, Packaging and containers, Reporting requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Vinegar, Warehouses, Wine.

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collection of information requirements contained in this final rule have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). These requirements have been approved by OMB.

No comments were received on the notice of proposed rulemaking published in the **Federal Register** leading to this final rule that addressed the collection of information requirements.

Disclosure

Copies of the written comments received are available for public inspection during normal business hours at: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended), 27 CFR Parts 170 and 240 are amended as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Paragraph 1. Section 170.686 is revised to remove the requirement for submission of samples of salted wines with a formula application. As revised, § 170.686 reads as follows:

VOL 48 ISS 199 OCT 13 1983 UMI

§ 170.686 Formulas.

(a) *Requirement for formula.* Before producing any nonbeverage wine, the proprietor must receive approval of the formula by which the wine, or wine product made from wine, is to be rendered unfit for beverage use. The formula and process shall be described on Form 5120.29. Each formula filed under the provisions of this section shall be numbered in serial order, starting with No. 1, and shall be prefixed with the symbol "NB." Except for salted wine made in accordance with § 170.613(a)(6), one 750 milliliter sample of the base wine or wine product to be used, and one 750 milliliter sample of the nonbeverage wine made therefrom shall be submitted under separate cover at the time of filing the formula. The Director may require the submission of samples of the material to be used in rendering the wine or wine products unfit for beverage use. All ingredients to be used will be shown on the Form 5120.29 as well as the quantities required to make 100 gallons of the nonbeverage wine. The formula should also show the intended use of the nonbeverage wine. The process used in rendering the wine or wine products unfit for beverage use shall be stated in detail.

(b) *Change in formula.* Any material change in characteristics of the finished product will require the filing of a new formula, even though the ingredients and process may be the same as the approved formula.

PART 240—WINE

Par. 2. The table of contents is revised to remove Subpart XX.

§ 240.162 [Amended]

Par. 3. Section 240.162 is revised by removing the last sentence referencing Subpart XX.

Par. 4. Section 240.441 is revised to remove the requirement for submission of samples with formula application. As revised § 240.441 reads as follows:

§ 240.441 Formula required.

(a) *General.* Before producing any special natural wine, the proprietor shall receive approval of the formula by which it is to be made. The formula and process will be described on Form 5120.29. All ingredients used will be shown on Form 5120.29 in the quantities required to make 1,000 gallons of special natural wine. In the case of roots, herbs, or similar materials, the quantity need not be stated, but each ingredient will be listed. The process of production will be stated in detail. The Director may require that a sample of the special natural wine be submitted with the formula, if he deems it necessary for the proper administration of these regulations.

(b) *Changes in formula.* Any material change in the flavor or other characteristics from those of the approved formula will require the filing of a new formula, even though the ingredients may be the same. The addition or elimination of ingredients, changes in quantities used, and changes in the process of production are permissible only after approval of the new Form 5120.29. Where a change in the quantity of ingredients or in the process of production does not alter the character of the product, the change may be accomplished by filing a rider to the formula with, and obtaining approval from, the Director. The rider shall identify the original formula by number, date of approval, name of the product, and by name and number of the wine cellar, shall specify the quantity of the ingredients or the change in process, and shall be signed and processed in the same manner as the original formula. (72 Stat. 1386; 26 U.S.C. 5386).

§§ 240.960–240.1029 [Removed]

Par. 5. Subpart XX, §§ 240.960–240.1029, is removed.

Signed: August 5, 1983.

Stephen E. Higgins,

Director.

Approved: September 21, 1983.

J. M. Walker, Jr.,

Assistant Secretary, (Enforcement and Operations).

[FR Doc. 83-27091 Filed 10-11-83; 1:10 pm]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Approval of Permanent Program Amendment From the State of Illinois Under the Surface Mining Reclamation and Enforcement Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of an amendment to the Illinois permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment relates to the authority of the State to deny an application for a permit or permit revision unless the applicant submits proof that all required Federal reclamation fees have been paid. On July 27, 1983, OSM received the regulation amendment from the Illinois Department of Mines and Minerals (IDMM), in response to a June 7, 1983 letter from OSM notifying that State that a program amendment was required.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the modifications to the Illinois program meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Director is approving the program amendment.

The Federal rules codifying decisions concerning the Illinois program are being amended to implement these actions.

EFFECTIVE DATE: The decision to approve the amendment is effective October 13, 1983.

FOR FURTHER INFORMATION CONTACT: James Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982 (47 FR 23858). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 **Federal Register.**

Sections 510(b) and 510(c) SMCRA limit the issuance of new permits and permit renewals to those applicants who are in compliance with the requirements of SMCRA. As specified in section 402 of SMCRA and Subchapter R of 30 CFR, the operators of coal surface mines are to pay reclamation fees to the Secretary of the Interior. Further, section 402(f) of SMCRA specifically mandates full cooperation with the Secretary by all Federal and State agencies in the enforcement of this provision.

It was brought to the Secretary's attention that the Illinois program did not contain regulatory language consistent with 30 CFR 786.19(h) which requires the State to deny permit applications and permit revision applications unless the applicant has submitted proof that all Federal reclamation fees required under 30 CFR Subchapter R has been paid. The Illinois regulation at § 1786.19(h) required that operators pay all fees required by the State's regulations.

To resolve this issue, on February 1, 1983, the Director, OSM, sent a letter to Illinois to request that Illinois confirm that § 1786.19(h) also requires the applicant to submit proof that all required Federal reclamation fees have been paid, consistent with 30 CFR 786.19(h). As of June 1, 1983, Illinois had not formally responded to OSM's February 1 letter.

Pursuant to 30 CFR 732.17(e), OSM notified Illinois by letter of June 7, 1983, that a State program amendment was required because conditions or events indicated that the approved State program no longer met the requirements of SMCRA and the Federal regulations. The letter notified Illinois, pursuant to 30 CFR 732.17(f)(1), that it must submit to the Secretary within 60 days of receipt of notification either a proposed written amendment or a description of an amendment to be proposed that meets the requirements of SMCRA and the Federal regulations, and a timetable for enactment which is consistent with established administrative or legislative procedures. OSM also noted that the Secretary would propose adding a new condition to the Illinois program requiring the State to amend its program by a specified date to incorporate requirements no less effective than 30 CFR 786.19(h). The proposed rule announcing intent to impose a new condition and requesting public comment was published June 16, 1983 (46 FR 27550).

II. Discussion of the Amendment

On July 27, 1983, IDMM responded to OSM's June 7, 1983 letter. The IDMM enclosed a Notice of Proposed Rulemaking to be published in the August 12, 1983 *Illinois Register.* The notice includes a proposed amendment to the Illinois regulations at Section 1786.19(h). The full text of the amendment follows (new language is underlined):

Section 1786.19 Criteria for permit approval or denial.

No permit or revision application shall be approved, unless the application affirmatively demonstrates and the Department finds in writing on the basis of information set forth in the application or from information otherwise available, which is documented in the approval and made available to the applicant, that:

* * * * *

(h) The applicant has submitted proof that all fees required by these regulations *and 30 CFR Chapter VII, Subchapter R* have been paid.

OSM published a notice in the **Federal Register** on August 12, 1983, announcing receipt of the amendment and inviting public comment on whether the proposed modification was no less effective than the Secretary's regulations. OSM also noted that if the amendment was approved, there would no longer be any need to impose a new condition of approval.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Illinois on July 27, 1983, meets the requirements of SMCRA and 30 CFR Chapter VII. The amended Illinois rule requires the applicant to affirmatively demonstrate and the IDMM to find in writing that the permit applicant has submitted proof that all Federal reclamation fees have been paid before any permit or permit revision application may be approved. This requirement is consistent with 30 CFR 786.19(h) which requires that such fees be paid prior to approving a permit application.

However, the Illinois rule has not been published as a final rule in the *Illinois Register.* The Director is approving the rule provided that it is finally promulgated in identical form to the rule submitted to and reviewed by OSM.

IV. Public Comments

No public comments were received on the program amendment. The disclosure of Federal agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the July 27, 1983, Illinois program amendment. Because the amendment is being approved, the Director has determined that there is no longer any need to impose a new condition of approval. However, as noted above, because the Illinois rule has not been fully promulgated, the rule will not take effect for purposes of the State program until the revised rule has been promulgated as a final rule by Illinois.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 913 is amended as set forth herein.

Dated: October 6, 1983.

J. R. Harris,

Director, Office of Surface Mining.

PART 913—ILLINOIS

1. 30 CFR 913.15 is amended by adding a new paragraph (c) as follows:

§ 913.15 Approval of regulatory program amendments.

* * * * *

(c) The following amendment that was submitted to OSM July 27, 1983 is approved effective upon promulgation of the revised rule by the State, provided the rule is adopted in identical form as submitted to OSM: Illinois revised rule 1786.19(h).

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

[FR Doc. 83-27831 Filed 10-12-83; 8:45 am]

BILLING CODE 4310-05-M

VOL 48 ISS 199 OCT 13 1983 UMI

30 CFR Part 935

Approval of Amendments and Removal of Certain Conditions on the Approval of the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments and the removal of two conditions of the Secretary of the Interior's approval of the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On July 18, 1983, OSM received statutory amendments from the Ohio Division of Reclamation intended to satisfy conditions (a) and (1) of the Secretary's approval of the Ohio program concerning (1) the definition of public roadway and (2) Reclamation Board of Review appeals.

After providing opportunity for public review and comment and conducting a thorough review of the program amendments, the Secretary has determined that the modifications to the Ohio program satisfy the two conditions of approval and meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary is removing the two conditions and approving the statutory amendments. The Federal rules at 30 CFR Part 935 which codify decisions concerning the Ohio program are being amended to implement these actions.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions—(a), (b), (c), (d), (e), (f)(1)–(f)(10), (g), (h)(1)–(h)(3), (i)(1)–(i)(3), (j) and (k)(1)–(k)(5). In accepting the Secretary's conditional approval, Ohio agreed to correct deficiencies (a), (b), (c), (h)(1) and (k)(1) by August 8, 1983; deficiency (e) by September 16, 1982; and the remaining deficiencies by February 8, 1983. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register**.

On January 6, 1983, Ohio submitted materials to OSM intended to, among other things, satisfy conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k)(1) and (k)(2). On May 24, 1983, the Secretary approved certain of the amendments and removed conditions (b), (d), (f)(1) through (f)(6), (f)(8) through (f)(10), (g), (h)(2), (h)(3), (i), (j), (k)(1) and (k)(2). The Secretary established a deadline of August 8, 1983, for the State to meet conditions (a), (c) and (h)(1), and extended to that same date, the deadline for the State to meet conditions (f)(7), (k)(3), (k)(4), and (k)(5). Additionally, the Secretary imposed two new conditions (l) and (m) which also carried a deadline of August 8, 1983.

II. Submission of Revisions

On July 18, 1983, Ohio submitted a proposed program amendment consisting of statutory amendments to satisfy conditions (a) and (l) due August 8, 1983. The statutory amendments are contained in Am. Sub. H.B. No. 291 which was enacted July 1, 1983. The changes amend Chapter 1513 of the Ohio Revised Code (ORC).

Condition (a), as set forth in the August 10, 1982 **Federal Register**, requires the State to enact legislation amending ORC Section 1513.01(G)(2) to eliminate the phrase "but not to include public roadways." As discussed in Finding 1.2 of the Secretary's approval (47 FR 34688), the State's definition of "coal mining operations" included this phrase, making it inconsistent with section 701(28)(b) of SMCRA.

The State submitted an amendment on January 6, 1983, which would have excluded public roadways, "unless the roadway has been constructed for access to or haulage of coal from a coal mining and reclamation operation or unless public access to the roadway has been denied or restricted." On May 24, 1983, the Secretary found that condition (a) had not been satisfied because the proposed Ohio amendment was not as effective as the Federal rule. OSM had clarified the issue of when a road will be excluded from being considered a part of the affected area of a mine, in final rules published August 2, 1982 (47 FR 33439) and April 5, 1983 (48 FR 14814). For a public road to be excluded from the affected area of a mine, it must meet three criteria:

(1) The road has been designated as a public road pursuant to the laws of the jurisdiction in which it is located;

(2) The road is maintained with public funds, and constructed, in a manner similar to other public roads of the same classification within the jurisdiction in which it is located; and

(3) There is substantial (more than Incidental) public use of the road.

Therefore, the Secretary allowed the State until August 8, 1983 to submit revised provisions. Ohio has now submitted Am. Sub. H.B. No. 291 which amends ORC § 1513.01(G)(2) and 1513.01(U) to remove from the definition of "coal mining operation" the language defining public roadways and adds a separate definition of public roadway which is, in substance, the same as the Federal regulatory definition.

Condition (1) requires the State to enact legislation amending ORC sections 1513.13(A)(1) and 1513.13(C) to provide that:

(1) The time for filing a notice of appeal is within 30 days after receipt of a notice, order or decision;

(2) a hearing on a request for temporary relief shall be held in the locality of the permit area; and

(3) temporary relief decisions by the Chairman of the Reclamation Board of Review are judicially reviewable.

Ohio has submitted Am. Sub. H.B. No. 291 which amends ORC Section 1513.13 in order to satisfy condition (1). Rather than provide for judicial review of decisions of the Chairman of the Board, the State has provided for an appeal to the Board first before a court may review a decision on temporary relief.

OSM published a notice in the **Federal Register** on August 10, 1983, announcing receipt of the amendments and requesting public comment on whether the proposed amendments are no less effective than the Secretary's regulations and whether the amendments satisfy the conditions of approval. The public comment period ended September 9, 1983. A public hearing scheduled for August 25, 1983, was not held because no one expressed a desire to present testimony. The Administrator of the Environmental Protection Agency transmitted his written concurrence on the amendments on October 5, 1983.

III. Secretary's Findings

The Secretary finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Ohio on July 18, 1983, meet the requirements of SMCRA and 30 CFR Chapter VII, as noted below.

Condition (a)

The Secretary found that in the Ohio program conditionally approved on August 16, 1982, the Ohio statutory definition of "coal mining operations" included the undefined phrase "but not to include public roadways," thus making it inconsistent with section 701(28)(b) of SMCRA (Finding 1.2, 47 FR 34688). On May 24, 1983, the Secretary found that a January 6, 1983, Ohio amendment defining public roadways was not consistent with the revised Federal rules clarifying when roads will be excluded from being considered part of the affected area of a mine. The Secretary now finds that Ohio has amended its statute at ORC 1513.01(G)(2) to remove from the definition of "coal mining operation" the language defining public roadways and has added at ORC 1513.01(U) a separate definition of public roadway. The new statutory definition of public roadway is no less effective than 30 CFR 700.11 and 701.5.

Condition (1)

The Secretary found that in the amendments submitted by Ohio on January 6, 1983 (48 FR 23185, May 24, 1983), the Ohio statute did not provide that: (1) The time for filing a notice of appeal is within 30 days after receipt of a notice, order, or decision; (2) a hearing on a request for temporary relief shall be held in the locality of the permit area; and (3) temporary relief decisions are judicially reviewable. The Secretary now finds that Ohio has amended its statute at ORC §§ 1513.13(A)(1), 1513.13(C)(1) and 1513.13(C)(3) to provide for appeals and temporary relief procedures consistent with sections 525(a)(1), 525(c)(1) and 526 of SMCRA.

IV. Public Comments

No public comments were received on the proposed program amendments. Acknowledgements were received from the following Federal agencies: Environmental Protection Agency and Soil Conservation Service. The disclosure of Federal agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Secretary's Decision

The Secretary, based on the above findings, is approving the July 18, 1983, amendments to the Ohio program, and is removing conditions (a) and (1).

Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 935 is amended as set forth herein.

Dated: September 27, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 935—OHIO

1. 30 CFR 935.11 is amended by removing and reserving paragraphs (a) and (1).

2. 30 CFR 935.15 is amended by adding a new paragraph (e) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(e) The following amendments were approved effective October 13, 1983: Ohio Revised Code Sections 1513.01(G)(2), 1513.01(U), 1513.13(A)(1), 1513.13(C)(1) and 1513.13(C)(3), as amended by Am. Sub. H.B. No. 291, enacted July 1, 1983.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

[FR Doc. 83-27832 Filed 10-12-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 11-95-83]

Establishment of Special Local Regulations for the "Bud Warmington International Grand Prix"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Bud Warmington Grand Prix an offshore power boat race in the vicinity of Long Beach, Newport Beach, and Catalina Island, CA. This event will be held on 16 October 1983 (17 October inclement weather date). The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 16 October 1983 and terminate 17 October 1983.

FOR FURTHER INFORMATION CONTACT: LTJG J. N. ARROYO, Commander(bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822 (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and was impracticable as they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until 6 September 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The principal individuals involved in drafting this rule are CDR T. A. WELCH, Chief, Boating Safety Division, Eleventh Coast Guard District, and LT JOSEPH R. McFAUL, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulations

California Offshore Power Boat Racing Association "Bud Warmington Grand Prix" will be conducted between Long Beach, Newport Beach, and Catalina Island, CA beginning 16 October 1983. This event will have approximately 50 Special Offshore Class Race Boats that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law

VOL
48
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enforcement vessel or an event committee boat.

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated areas can be opened periodically for the passage of commercial and recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary section 100.35–11–95 to read as follows:

§ 100.35–11–95 California Offshore Power Boat Assn./Bud Warmington Grand Prix.

(a) *Regulated areas:* The following regulated area will be closed intermittently to all vessel traffic from 9:00 AM to 3:30 PM on 16 October 1983 (17 October 1983 inclement weather date): Area 1: Encompasses a radius of .75 nautical miles centered on R "4" Bell Buoy, located 1.7 nautical miles southwest of Newport Beach Pier, CA. Area 2: Encompasses a radius of 1 nautical mile centered on Oil Island Eva, located 2.8 nautical miles west of Huntington Beach Pier, CA. (closed 10:00 AM to 12:00 noon). Area 3: Is bounded by a line connecting the following geographical landmarks: The eastern tip of the Long Beach breakwater; The Spruce Goose Dome; The northmost side of Oil Island Grissom; The northmost side of Oil Island White; Oil Island Esther; thence back to the eastern tip of the Long Beach breakwater (closed 10:00 AM to 12:00 noon).

Special Local Regulation

Area 4: Encompasses a radius of .25 nautical miles centered on LAT 33 20' 50" N, LONG 118 18'45"W off Abalone Point, Catalina Is, CA. (closed 9:30 AM to 2:30 PM).

(b) *Special Local Regulations.* (1) No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement vessels, event committee boats, and the sponsor's vessels shall enter or remain in the regulated areas during the above hours, unless cleared for such entry by the Coast Guard.

(2) When hailed by a Coast Guard or Coast Guard Auxiliary vessel patrolling the race areas, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Coast Guard Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be further enforced and in effect at the end of the periods set forth in (a) above on 16 October 1983. Should weather cause postponement of this race the above regulations will be in effect for the same periods on 17 October 1983. Postponement information will be broadcasted by the Coast Guard on VHF–FM Channel 22.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: October 3, 1983.

J. F. Culbertson,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 83–27814 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD3 82–016]

Drawbridge Operation Regulations: Oceanport Creek, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of New Jersey Transit Corporation and the Consolidated Rail Corporation, the Coast Guard is changing the regulations governing the Oceanport Creek drawbridge at Oceanport, New Jersey to provide that the draw need not open during weekdays (except holidays) from 6 a.m. to 7:45 a.m. and from 5:30 p.m. to 7:30 p.m. The draw will also be required to open on signal from 15 May through 15 September and will continue to open upon four hours notice at all other times. This change is being made to be responsive to mariners using the waterway and also to eliminate openings for recreational vessels during peak railway commuter periods. This action will continue to relieve the bridge owner of the burden of having a person constantly available to open the draw, will accommodate current needs of railway traffic, and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on November 14, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District. (212) 668–7994.

SUPPLEMENTARY INFORMATION: On January 27, 1983, the Coast Guard published a proposed rule (48 FR 3782) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as a Public Notice dated May 10, 1983. Interested persons were given until March 14 and June 10, 1983, respectively to submit comments on these notices.

Drafting Information

The drafters of this rule are Ernest J Feemster, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of Comments

Seven responses to the public notice were received concerning the proposed action. One had no objection, one strongly supported the proposed regulations, and five suggested changes. Two of the five persons suggesting changes wanted to eliminate commuter closure hours on weekends and holidays during the period the bridge opens on signal while the other three suggested various less restrictive regulations (from a navigational standpoint). The Coast Guard agrees with the two that communter closure hours will not be necessary on weekends and holidays (May 15–September 15). It is also felt that requiring the bridge to open on advance notice, during times the bridge will not be required to be manned, will respond to concerns expressed by the other three respondents. The bridge was illegally modified in 1976 so as to be unable to open and has only recently been put in working condition. Retention of an advance notice during minimal traffic periods will be necessary as a result to allow the Coast Guard to collect (previously unavailable) information regarding needs of the mariner. This Notice of Final Rulemaking is, therefore, modified to account for the concerns expressed by the respondents.

The Notice of Proposed Rulemaking contained the exception that vessels with tows would be passed through the bridge at all times as soon as possible. Since no commercial vessels use the waterway, however, and since no history of such usage has been found, this final rule is modified to eliminate this exception but includes the provision that the bridge shall open as soon as possible for a vessel in distress since this is a more likely occurrence.

The Commander, Third Coast Guard District issued Public Notice 3–523 (Aug. 1, 1983) which implemented these regulations in the form of temporary Special Regulations. These temporary regulations expired September 15, 1983.

No draft of final economic evaluation has been prepared because of minimal economic impact. This is because the existing regulations will be more responsive to the mariner and will provide for needs of rail traffic during rush hours.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities since no entities will be adversely affected by the regulations.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.225(f)(7) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(7) Oceanport Creek; the New Jersey Transit bridge, mile 8.4 near Oceanport. The draw shall open on signal from May 15 through September 15 between 5 a.m. and 9 p.m. except that the bridge need not open 6 a.m. to 7:45 a.m. and 5:30 p.m. to 7:30 p.m. on weekdays (exclusive of holidays). The draw shall open on signal upon four hours notice from May 15 through September 15 between 9 p.m. and 5 a.m., and from September 16 through May 14 except it need not open 6 a.m. to 7:45 a.m. and 5:30 p.m. to 7:30 p.m. on weekdays (exclusive of holidays). The draw shall open as soon as possible for a public vessel of the United States and for a vessel in distress at all times.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: September 27, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83–27816 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP San Francisco Regulation 83–3]

Safety Zone Regulations; San Francisco Bay

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones in San Francisco Bay on 12 and 13 October 1983. These zones are needed to provide for safety of life on navigable waters during U.S. Navy activities for the annual Navy Fleet Week. Entry into these zones is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: These regulations are effective on 12 October 1983 between 1:30 p.m. and 2:30 p.m. PDT and on 13 October 1983 between 11:15 a.m. and 2:00 p.m. PDT.

FOR FURTHER INFORMATION CONTACT: Lt K. E. Johnson, Marine Safety Officer San Francisco Bay, (415) 437–3073.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date is not feasible because of time constraints and is contrary to the public interest because of the necessity to ensure safety of life on navigable waters during Navy Fleet Week activity.

Drafting Information

The drafters of this regulation are LT K. E. JOHNSON, project officer for the Captain of the Port, and LT C. A. AMEN, project attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

The events requiring this regulation will begin at 11:30 a.m. PDT, 13 October 1983 with a U.S. Navy Blue Angels aerial demonstration lasting until 12:00 noon. The demonstration will center on a flight line between Fort Point and Pier 39, San Francisco, with the airplanes flying as low as 100' above the water. The Blue Angels will stage a practice demonstration on 12 October 1983 between 1:30 p.m. and 2:30 p.m., PDT in the same area. The aerial demonstration will be followed by a parade of 10 U.S. Navy ships proceeding inbound at a speed of 12 knots from the Golden Gate Bridge, along the San Francisco city front to a point south of the San Francisco—Oakland Bay Bridge. The column will then disperse to individual berths.

The Safety Zones established by this regulation are necessary to ensure that vessels remain safely away from the naval activities. The Blue Angels require a clear area along their flight line for navigational reference. Two Coast Guard vessels will be stationed within that clear area to serve as navigational reference points. The airplanes will fly at extremly low altitudes above the water, necessitating that vessels be kept clear for their own safety. The Navy ships preceeding through the Bay in column formation are large, relatively unmaneuverable vessels, requiring unobstructed waters for safe navigation and to maintain a column formation.

The Safety Zone established for the Blue Angels demonstration will restrict access to marinas and commercial docks. This restriction may result in some inconvenience to vessels berthed within the safety zones. All efforts have been made to minimize this inconvenience by limiting the duration and size of the zones as much as possible, consistent with safety requirements. Additionally, Captain of the Port permission has been written into the regulation to allow vessels berthed within the zones to depart their berths during the existence of the zones. Such vessels are nonetheless strongly advised to depart their berths prior to the effective times to avoid transitting the zones.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (Water), Vessels, Waterways.

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations is amended by adding a new Sec. 165. T12–3 to read as follows:

§ 165.T12–3 Safety Zones: San Francisco Bay Fleet Week Activities.

(a) *Locations.* The following areas are safety zones:

(1) The waters of San Francisco Bay between Fort Point and Pier 39, San Francisco, from the shoreline out to 1,000 yards, on 12 October 1983 from 1:30 to 2:30 p.m. PDT and on 13 October 1983 from 11:15 a.m. to 12:00 noon PDT.

(2) The waters surrounding a column of 10 U.S. Navy ships proceeding inbound at a speed of 12 knots from the Golden Gate Bridge along the San Francisco city front to a point south of

the San Francisco-Oakland Bay Bridge, on 13 October 1983 from 12 noon to 2:00 p.m. PDT. This moving Safety Zone extends out 200 yards on either side of a line running from a point 200 yards in front of the lead ship, through each succeeding vessel, to a point 200 yards astern of the last ship in the column, including all waters between the vessels.

(b) *Regulations.* (1) In accordance with the general regulations in Sec. 165.23 of this part, entry into these zones is prohibited unless authorized by the Captain of the Port.

(2) Vessels berthed in the stationary zones established in paragraph (a)(1) of this section are authorized to navigate within 50 yards of the San Francisco city front in order to exit the zone towards the east.

(3) All vessels are prohibited from passing between the U. S. Navy ships in formation or otherwise entering the safety zone established in paragraph (a)(2) of this section.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: October 5, 1983.

K. F. Bishop, Jr.,

Captain of the Port, USCG Marine Safety Office, San Francisco Bay.

[FR Doc. 83-27817 Filed 10-12-83; 8:45 a.m.]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD8-83-06]

Safety Zone; Mississippi River Gulf Outlet

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its Safety Zone regulations for the Mississippi River Gulf Outlet (MRGO), the Michoud Canal, and the Inner Harbor Navigation Canal (IHNC) by modifying the reporting points.

The Safety Zone requires all vessels meeting certain criteria to report to the New Orleans VTS when passing certain locations. Based on user input, these reporting points are being modified to make compliance with the regulation easier and to improve navigational safety. The new reporting points are all on the same side of the channel and are the checkpoints that the pilots use for their internal purposes.

EFFECTIVE DATE: This Final Rule became effective on October 13, 1983.

FOR FURTHER INFORMATION CONTACT: LCDR R. E. FORD, Port Safety Officer, or LTJG S. EVANS, Waterways Safety Officer, c/o U.S. Coast Guard, Captain of the Port, 4640 Urquhart Street, New Orleans, Louisiana 70117, Telephone (504) 589-7108.

SUPPLEMENTARY INFORMATION: On June 4, 1981, the Coast Guard published interim final rules in the Federal Register for the regulations (46 FR 29933).

Interested persons were requested to submit comments and seven comments were received. The publishing of timely responses to these seven comments in Final Rulemaking action was delayed by the subsequent unanticipated closure of the New Orleans Vessel Traffic Service (VTS) in March 1982.

Upon reactivation of New Orleans Vessel Traffic Service (VTS) a Final Rule was published in the Federal Register on May 31, 1983 (48 FR 24074). The comments solicited in the Federal Register on June 4, 1981 were addressed in that Federal Register of May 31, 1983. This rulemaking slightly modifies the Safety Zone.

A Notice of Proposed Rulemaking was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing and NPRM and delaying its effective date would be contrary to the public interest since an immediate modification is needed to facilitate navigation.

Drafting Information: The principal persons involved in drafting this rule are LT T. L. McCARTY, USCG, Project Officer, c/o Commander, Eighth Guard District (mps) and CDR R. A. BRUNELL, USCG, Project Attorney, c/o Commander, Eighth Coast Guard District (d1), Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana, 70130, Telephone (504) 589-6188.

Discussion of Regulations: The Safety Zone requires all vessels meeting certain criteria to report to the New Orleans VTS when passing certain locations. Based on user input, these reporting points are being modified to make compliance with the regulation easier and to improve navigational safety. The new reporting points are all on the same side of the channel and are the checkpoints that the pilots use for their internal purposes. The old reporting points were Lighted Buoy #1, MRGO Light 33, and MRGO Light 96. The new reporting points are Lighted Bell Buoy #2, MRGO Lighted Bell Buoy 20 and MRGO Light 94. The changes to this regulation are not substantive and do not significantly change the features of the Safety Zone.

In addition, a typographical error is corrected in § 165.801(b) by adding commas. The section currently reads Vessels including tows over * * * The section should read Vessels, including tows, over * * *

Summary of final evaluation: These regulations are considered to be insignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations [DOT Order 2100.5 of 5-22-80]. An evaluation under the Regulatory Flexibility Act of 1980 has not been conducted. The changes to this regulation are not substantive. For these reasons, it has been determined that this action will not have a significant economic effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Waterways.

In consideration of the foregoing, the Coast Guard amends Part 165 of Title 33 Code for Federal Regulations as follows:

PART 165—[AMENDED]

33 CFR 165.801 is amended by revising (b), (c) and (d) to read as follows:

§ 165.801 Mississippi River Gulf Outlet.

* * * * *

(b) Vessels, including tows, over 600 feet in length, or over 80 feet in beam, or with a draft in excess of 30 feet, and intending to transit that portion of the Safety Zone from its seaward entrance at Lighted Bell Buoy 2 (LLNR 2015) to the jetty at MRGO Light 62 (LLNR 2068) must receive permission to enter or move within the Safety Zone. Vessels meeting this criteria will not meet or overtake each other in this seaward portion of the Safety Zone unless the pilots and/or operators of both vessels consider such passage to be safe and agree to it. Such an agreement must be reported beforehand to the VTS.

(c) All inbound vessels meeting the criteria of paragraph (b) of this section shall notify New Orleans Vessel Traffic Service (VTS) two hours prior to intended entry into the Safety Zone (in order to be scheduled), and immediately prior to entry (in order to obtain permission to enter), and upon passing MRGO Lighted Bell Buoy 2, and MRGO Lighted Bell Buoy 20 (LLNR 2031), MRGO Light 62, MRGO Light 94 (LLNR 2082.50) and MRGO Light 114 (LLNR 2082).

Notification shall be made on Channel 12 VHF-FM. Notification prior to intended entry which cannot be accomplished on Channel 12 VHF-FM due to extreme range, shall be made by telephone to the VTS at (504) 589-2772 or 589-2773 by the vessel's agent or via the marine operator.

(d) All outbound vessels meeting the criteria of paragraph (b) of this section shall notify VTS two hours prior to intended movement within the Safety Zone (in order to be scheduled), and immediately prior to movement (in order to obtain permission to move), and immediately after heading fair in the outbound direction, and as the vessel passes the junction of the MRGO and Gulf Intracoastal Waterway (Mile 60.0 MRGO), MRGO Light 114, MRGO Light 94, and MRGO Light 62, and MRGO Lighted Bell Buoy 20 and MRGO Lighted Bell Buoy 2. Notification two hours prior to movement shall be made by telephone to the VTS at (504) 589-2772 or 549-2773. Other notification shall be made on channel 12 VHF-FM. Channel 11 VHF-FM may be used in lieu of Channel 12 by vessels above the Paris Road Bridge (mile 60.9 MRGO).

* * * * *

(33 U.S.C. 1225, 1231; 49 CFR 1.46(n)(4))

Dated: August 18, 1983.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 83-27834 Filed 10-12-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2448-4]

Standards of Performance for New Stationary Sources; Delegation to the State of Oregon.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: EPA is announcing approval of a request dated July 8, 1983 submitted from the State of Oregon Department of Environmental Quality for delegation of additional source categories under New Source Performance Standards (NSPS) and an amendment to a source category as approved in their OAR 340-25-510 through 25-675. These additional source categories are: metal furniture surface coating, publication rotogravure printing, large appliance surface coating, metal coil surface coating, asphalt processing and asphalt roofing and an amendment to storage vessels. This delegation will amend the November 11, 1975, December 3, 1981 and September 3, 1982 delegations to the State of Oregon.

DATE: Effective date October 7, 1983.

ADDRESSES: The related material in support of this delegation may be examined during normal business hours at the following locations:

Central Docket Section (10A-83-15), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

Department of Environmental Quality, 522 S.W. Fifth, Yeon Building, Portland, Oregon 97207

FOR FURTHER INFORMATION CONTACT: Mark H. Hooper, Air Programs Branch M/S 532, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1949, FTS: 399-1949

SUPPLEMENTARY INFORMATION: On November 11, 1975, the Regional Administrator of EPA, Region 10, delegated to the State of Oregon Department of Environmental Quality (DEQ) the authority to implement and enforce New Source Performance Standards (NSPS) for 13 categories of stationary sources as promulgated by EPA prior to January 1, 1975. This delegation was published in the Federal Register on February 20, 1976 (41 FR 7749). An additional delegation was made on December 3, 1981 (46 FR 62066) and September 3, 1982 (47 FR 38982).

At a July 8, 1983 Environmental Quality Commission meeting, an additional request of five source categories and an amendment under NSPS was authorized. After EPA review of the request submitted by DEQ, a letter dated September 27, 1983 was sent to DEQ and is as follows:

William H. Young,

Director, State of Oregon, Department of Environmental Quality, P.O. Box 1760, Portland, Oregon 97207

Dear Mr. Young: At the July 8, 1983 EQC meeting, a request for delegation of authority to enforce additional source categories under New Source Performance Standards (NSPS) was approved. We have reviewed that request and hereby delegate to the DEQ authority to enforce five additional categories in accordance with the original delegation of NSPS to DEQ on November 11, 1975. Those sources are: Metal Furniture Surface Coating, Publication Rotogravure Printing, Large Appliance Surface Coating, Metal Coil Surface Coating, Asphalt Processing and Asphalt Roofing.

An amendment to the Storage Vessels (Ka, 60.114a) is hereby approved. This delegation and amendment is subject to the conditions outlined in the original letter of delegation dated November 11, 1975 and published in the Federal Register on February 20, 1976 (41 FR 7749). In addition, EPA hereby delegates to the State of Oregon the authority to enforce revisions to NSPS which have been promulgated through June 2, 1983.

A Notice announcing this delegation will be published in the Federal Register in the near future. The Notice will state, among other things, that effective October 7, 1983, all reports required pursuant to the Federal NSPS from sources located in the State which were previously sent to EPA will now be sent to the State agency.

Since this delegation is effective October 7, 1983, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the State will be deemed to have accepted all the terms of the delegation.

An advance copy of this Register is enclosed for your information.

Sincerely,

Ernesta B. Barnes,

Regional Administrator.

Enclosure

cc: J. Herlihy, 000

This Notice is published to notify the public that a delegation has taken place.

(Sec. 110, Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: September 27, 1983.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 83-27849 Filed 10-12-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[AD-FRL-2449-7]

Standards of Performance for New Stationary Sources and National Emission Standards For Hazardous Air Pollutants; Delegation of Authority to the State of New York

AGENCY: Environmental Protection Agency.

ACTION: Rule related notice.

SUMMARY: This notice announces the re-delegation of authority by the Environmental Protection Agency to the State of New York to implement and enforce certain portions of the Federal Standards of Performance for New Stationary Sources ("NSPS") and the National Emission Standards for Hazardous Air Pollutants ("NESHAPs"), pursuant to Section 111(c)(1) and 112(d)(1) of the Clean Air Act. It also announces the delegation of additional NSPS source categories.

NSPS and NESHAPs are air pollution control regulations promulgated under the Clean Air Act (42 U.S.C. 7401 et. seq.). NSPS are applicable to certain categories of new air pollution sources. NESHAPs are applicable to certain categories of sources which emit certain pollutants considered hazardous.

EFFECTIVE DATE: This action is effective October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Francis W. Giaccone, Chief, Air Compliance Branch, Air and Waste Management Division, Region 11 Office, 26 Federal Plaza, New York, New York 10278, (212) 264–9627.

SUPPLEMENTARY INFORMATION: On August 10, 1983, Commissioner Henry G. Williams of the New York State Department of Environmental Conservation (DEC) accepted authority from the Environmental Protection Agency (EPA) to implement and enforce certain portions of the federally established Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs) as follows:

NSPS, 40 CFR Part 60, Subparts:

- E Incinerators
- F Portland Cement Plants
- G Nitric Acid Plants
- H Sulfuric Acid Plants
- I Asphalt Concrete Plants
- J Petroleum Refineries
- K Storage Vessels for Petroleum Liquids
- Ka Storage Vessels for Petroleum Liquids Constructed after 5/18/76
- L Secondary Lead Smelters
- M Secondary Brass & Bronze Ingot Production
- N Iron & Steel Plants
- O Sewage Treatment Plants
- P Primary Copper Smelters
- Q Primary Zinc Smelters
- R Primary Lead Smelters
- S Primary Aluminum Reduction Plants
- T Wet Process Phosphoric Acid Plants
- U Superphosphoric Acid Plants
- V Di-Ammonium Phosphate Plants
- W Triple Superphosphate Plants
- X Granular Triple Superphosphate Plants
- Y Coal Preparation Plants
- Z Ferroalloy Production Facilities
- AA Electric Arc Furnaces in the Steel Industry
- BB Kraft Pulp Mills
- CC Glass Manufacturing Plants
- DD Grain Elevators
- EE* Metal Furniture Surface Coating
- HH Lime Manufacturing Plants
- KK* Lead-Acid Battery Manufacturing Plants
- MM Automobile & Light-Duty Truck Surface Coating Operations
- NN* Phosphate Rock Plants
- PP Ammonium Sulfate Manufacture
- QQ* Graphic Arts Industry: Production Rotogravure Printing
- SS* Industrial Surface Coating: Large Appliances
- TT* Metal Coil Surface Coating
- UU* Asphalt Processing and Asphalt Roofing Manufacture

*Newly Delegated

NESHAPS, 40 CFR Part 61, Subparts:

- B Asbestos (excepting only §§ 61.22(b) (Surfacing of Roadways with Asbestos-Containing Materials); 61.22(d) (Demolitions and Renovations); 61.22(i) (Insulating); and 61.22(j)(2), 61.22(k)(2), and 61.25 (all three of which relate to waste disposal)).
- C Beryllium
- D Beryllium Rocket Motor Firing
- E Mercury
- F Vinyl Chloride

EPA's determination that the delegation request should be approved is based upon the Agency's review of the New York State Environmental Conservation Law Article 19 (Air Pollution Control) and Article 71, Title 21 (Enforcement of Title 19); and relevant portions of Title 6 Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR"), in particular, Parts 200, 201, 202 and 212.

EPA determined that such delegation is, therefore, appropriate and so notified the Commissioner of DEC in a letter dated July 14, 1983. This letter identified the conditions under which delegation would be approved. DEC subsequently accepted delegation in a letter dated August 10, 1983. Copies of all correspondence and EPA's delegation letter are available for public inspection in the Office of the Air Compliance Branch, at the Environmental Protection Agency, Region 11 Office, 26 Federal Plaza, New York, New York 10278.

Effective immediately, all correspondence, reports and notifications required by the delegated NSPS and NESHAPs should be submitted to the appropriate regional office of the New York State Department of Environmental Conservation or the central office located at 50 Wolf Road, Albany, N.Y. 12233, Attention: Division of Air, Bureau of Source Control.

The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

This Notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. Sections 7411 and 7412).

Dated: September 21, 1983.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83–27651 Filed 10–12–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[AD–FRL–2449–8]

Standards of Performance for New Stationary Sources; Delegation of Authority to the Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Rule related notice.

SUMMARY: This notice announces the delegation of authority by the Environmental Protection Agency to the Commonwealth of Puerto Rico to implement and enforce additional source categories of the Standards of Performance for new Stationary Sources (NSPS). This delegation was requested by the Puerto Rico Environmental Quality Board (EQB).

NSPS is an air pollution control requirement set under the Clean Air Act. NSPS are applicable to certain categories of new air pollution sources.

EFFECTIVE DATE: This action was effective August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Francis W. Giaccone, Chief, Air Compliance Branch, Air & Waste Management Division, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–9627.

SUPPLEMENTARY INFORMATION: Section 111(c) of the Clean Air Act directs the Administrator of the Environmental Protection Agency (EPA) to delegate EPA's authority to implement and enforce Standards of Performance for New Stationary Sources (NSPS) to any state which has submitted adequate procedures. Nevertheless, the Administrator still retains concurrent authority to enforce the standards following delegation of authority to a state.

On May 4, 1983 the Chairman of the Puerto Rico Environmental Quality Board (EQB) requested that the EPA delegate to the Board the authority to implement and enforce certain additional source categories of NSPS. The following is a complete listing of NSPS delegated to the EQB. The source categories now being delegated by today's action are identified with an asterisk(*).

- D Fossil-Fuel Fired Steam Generators for Which Construction Commenced After August 17, 1971 (Steam Generators and Lignite Fired Steam Generators)
- Da Electric Utility Steam Generating Units for Which Construction Commenced After September 18, 1978
- E Incinerators
- F Portland Cement Plants
- G Nitric Acid Plants
- H Sulfuric Acid Plants
- I Asphalt Concrete Plants
- J Petroleum Refineries—(Process Gas Combustion, Catalytic Regenerators)
- J Petroleum Refineries—(Sulfur Recovery)
- K Storage Vessels for Petroleum Liquids Constructed After 6/11/73 prior to 5/19/78.
- Ka Storage Vessels for Petroleum Liquids Constructed After May 18, 1978
- L Secondary Lead Smelters
- M Secondary Brass and Bronze Ingot Production Plants
- N Iron and Steel Plants
- O Sewage Treatment Plants
- P Primary Copper Smelters
- Q Primary Zinc Smelters
- R Primary Lead Smelters
- S Primary Aluminum Reduction Plants
- T Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants
- U Phosphate Fertilizer Industry: Superphosphoric Acid Plants
- V Phosphate Fertilizer Industry: Diammonium Phosphate Plants
- W Phosphate Fertilizer Industry: Triple Superphosphate Plants
- X Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
- Y Coal Preparation Plants
- Z Ferroalloy Production Facilities
- AA Steel Plants: Electric Arc Furnaces
- BB Kraft Pulp Mills
- CC Glass Manufacturing Plants
- DD Grain Elevators
- *EE Surface Coating of Metal Furniture
- GG Stationary Gas Turbines
- HH Lime Plants
- *QQ Graphic Art Industry Publication Rotogravure Printing
- *UU Asphalt Processing and Asphalt Roofing Manufacture

EPA'S Findings

EPA's determination that the delegation request should be approved is based on the Agency's review of the Puerto Rico Public Policy Environmental Act, Law No. 9 of 1970, 12 L.P.R.A. Sec. 1121, et seq. and on the Puerto Rico Regulation for the Control Atmospheric Pollution. EPA determined that such delegation is, therefore, appropriate and so notified the chairman of the EQB, in a letter dated July 20, 1983. This letter identified the conditions under which delegation would be approved. EQB subsequently accepted delegation in a letter dated August 16, 1983. Copies of all correspondence and EPA's delegation letter are available for public inspection in the Office of the Air Compliance Branch at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Consequences of EPA's Action

Effective August 18, 1983, all correspondence, reports and notifications required by the delegated NSPS should be submitted to the Offices of the Puerto Rico Environmental Quality Board located at P.O. Box 11488, Santurce, Puerto Rico, 00910, Attention: Air Quality Area Director.

The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12991.

This Notice is issued under the authority of Section 111 of the Clean Air Act, is amended (42 U.S.C. Section 7411).

Dated: September 14, 1983.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83–27652 Filed 10–12–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[AD–FRL–2448–5; GA–004]

Designation of Areas for Air Quality Planning Purposes; Georgia, Redefinition of SO_2 and TSP Attainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On June 6, 1983, the State of Georgia asked that the designation of particulate and sulfur dioxide attainment areas in 40 CFR 81.311 be changed from the "Rest of State" and "Statewide" to a listing of individual counties. This change, according to the State, will make it easier to track increment consumption under EPA's regulations for the prevention of significant deterioration of air quality. EPA is changing the description of sulfur oxide and particulate matter attainment areas in Georgia so that every county in the State is identified by name.

EFFECTIVE DATE: This action will be effective on December 12, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Georgia Department of Natural Resources, Environmental Protection Division, 270 Washington Street, SW., Atlanta, Georgia 30334

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV at the above address and telephone number 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: On June 6, 1983, the State of Georgia asked that the designation of particulate sulfur dioxide attainment areas in 40 CFR 81.311 be changed from "Rest of State" and "Statewide" to a listing of individual counties. This change, according to the State, will make it easier to track increment consumption under EPA's regulations for the prevention of significant deterioration of air quality. The Agency finds this request to be consistent with the provisions of Section 107 of the Clean Air Act, and it is granted herewith.

The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: October 4, 1983.

William D. Ruckelshaus,

Administrator.

Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

In § 81.311, the TSP and SO_2 attainment status tables are revised to read as follows:

§ 81.311 Georgia.

GEORGIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Appling County				X
Atkinson County				X

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Bacon County				X
Baker County				X
Baldwin County				X
Banks County				X
Barrow County				X
Bartow County				X
Ben Hill County				X
Berrien County				X
Bibb County				X
Bleckley County				X
Brantley County				X
Brooks County				X
Bryan County				X
Bulloch County				X
Burke County				X
Butts County				X
Calhoun County				X
Camden County				X
Candler County				X
Carroll County				X
Catoosa County				X
Charlton County				X
That portion of Chatham County within 0.25 mile of the West Lathrop and Augusta monitoring site in Savannah*.			X	
Rest of Chatham County				X
Chattahoochee County				X
Chattooga County				X
Cherokee County				X
Clarke County				X
cClay County				X
Clayton County				X
Clinch County				X
Cobb County				X
Coffee County				X
Colquitt County				X
Columbia County				X
Cook County				X
Coweta County				X
Crawford County				X
Crisp County				X
Dade County				X
Dawson County				X
Decatur County				X
DeKalb County				X
Dodge County				X
Dooly County				X
Dougherty County				X
Douglas County				X
Early County				X
Echolls County				X
Effingham County				X
Elbert County				X
Emanuel County				X
Evans County				X
Fannin County				X
Fayette County				X
Floyd County				X
Forsyth County				X
Franklin County				X
Fulton County				X
Gilmer County				X
Glascock County				X
Glynn County				X
Gordon County				X
Grady County				X
Greene County				X
Gwinnett County				X
Habersham County				X
Hall County				X
Hancock County				X
Haralson County				X
Harris County				X
Hart County				X
Heard County				X
Henry County				X
Houston County				X
Irwin County				X
Jackson County				X
Jasper County				X
Jeff Davis County				X
Jefferson County				X
Jenkins County				X
Johnson County				X
Jones County				X
Lamar County				X
Lanier County				X
Laurens County				X
Lee County				X
Liberty County				X

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Lincoln County				X
Long County				X
Lowndes County				X
Lumpkin County				X
McDuffie County				X
McIntosh County				X
Macon County				X
Madison County				X
Marion County				X
Meriwether County				X
Miller County				X
Mitchell County				X
Monroe County				X
Montgomery County				X
Morgan County				X
Murray County				X
Muscogee County				X
Newton County				X
Oconee County				X
Oglethorpe County				X
Paulding County				X
Peach County				X
Pickens County				X
Pierce County				X
Pike County				X
Polk County				X
Pautaski County				X
Putnam County				X
Quitman County				X
Rabun County				X
Randolph County				X
Richmond County				X
Rockdale County				X
Schley County				X
Screven County				X
Seminole County				X
Spalding County				X
Stephens County				X
Stewart County				X
Sumter County				X
Talbot County				X
Taliaferro County				X
Tattnall County				X
Taylor County				X
Telfair County				X
Terrell County				X
Thomas County				X
Tift County				X
Toombs County				X
Towns County				X
Treutlen County				X
Troup County				X
Turner County				X
Twiggs County				X
Union County				X
Upson County				X
Walker County				X
Walton County				X
Ware County				X
Warren County				X
Washington County				X
Wayne County				X
Webster County				X
Wheeler County				X
White County				X
Whitfield County				X
Wilcox County				X
Wilkes County				X
Wilkinson County				X
Worth County				X

GEORGIA—SO_2

Appling County				X
Atkinson County				X
Bacon County				X
Baker County				X
Baldwin County				X
Banks County				X
Barrow County				X
Bartow County				X
Ben Hill County				X
Berrien County				X
Bibb County				X
Bleckley County				X
Brantley County				X
Brooks County				X
Bryan County				X
Bulloch County				X
Burke County				X
Butts County				X

VOL 48 ISS 199 OCT 13 1983 UMI

VOL 48 ISS 199 OCT 13 1983 UMI

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Calhoun County				X
Camden County				X
Candler County				X
Carroll County				X
Catoosa County				X
Charlton County				X
Chatham County				X
Chattahoochee County				X
Chattooga County				X
Cherokee County				X
Clarke County				X
Clay County				X
Clayton County				X
Clinch County				X
Cobb County				X
Coffee County				X
Colquitt County				X
Columbia County				X
Cook County				X
Coweta County				X
Crawford County				X
Crisp County				X
Dade County				X
Dawson County				X
Decatur County				X
DeKalb County				X
Dodge County				X
Dooly County				X
Dougherty County				X
Douglas County				X
Early County				X
Echols County				X
Effingham County				X
Elbert County				X
Emanuel County				X
Evans County				X
Fannin County				X
Fayette County				X
Floyd County				X
Forsyth County				X
Franklin County				X
Fulton County				X
Gilmer County				X
Glascock County				X
Glynn County				X
Gordon County				X
Grady County				X
Greene County				X
Gwinnett County				X
Habersham County				X
Hall County				X
Hancock County				X
Haralson County				X
Harris County				X
Hart County				X
Heard County				X
Henry County				X
Houston County				X
Irwin County				X
Jackson County				X
Jasper County				X
Jeff Davis County				X
Jefferson County				X
Jenkins County				X
Johnson County				X
Jones County				X
Lamar County				X
Lanier County				X
Laurens County				X
Lee County				X
Liberty County				X
Lincoln County				X
Long County				X
Lowndes County				X
Lumpkin County				X
McDuffie County				X
McIntosh County				X
Macon County				X
Madison County				X
Marion County				X
Meriwether County				X
Miller County				X
Mitchell County				X
Monroe County				X
Montgomery County				X
Morgan County				X
Murray County				X
Muscogee County				X
Newton County				X
Oconee County				X
Oglethorpe County				X
Paulding County				X
Peach County				X
Pickens County				X
Pierce County				X
Pike County				X
Polk County				X
Pulaski County				X
Putnam County				X
Quitman County				X
Rabun County				X
Randolph County				X
Richmond County				X
Rockdale County				X
Schley County				X
Screven County				X
Seminole County				X
Spalding County				X
Stephens County				X
Stewart County				X
Sumter County				X
Talbot County				X
Taliaferro County				X
Tattnall County				X
Taylor County				X
Telfair County				X
Terrell County				X
Thomas County				X
Tift County				X
Toombs County				X
Towns County				X
Treutlen County				X
Troup County				X
Turner County				X
Twiggs County				X
Union County				X
Upson County				X
Walker County				X
Walton County				X
Ware County				X
Warren County				X
Washington County				X
Wayne County				X
Webster County				X
Wheeler County				X
White County				X
Whitfield County				X
Wilcox County				X
Wilkes County				X
Wilkinson County				X
Worth County				X

* See FEDERAL REGISTER of September 23, 1981

[FR Doc. 83-27650 Filed 10-12-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. I

Federal Acquisition Regulation; Federal Agencies' Ordering Procedure for FAR Training Manuals

AGENCY: General Services Administration, Federal Acquisition Regulation Project Office.

ACTION: Notice of Procedure for Federal Departments/Agencies to Order FAR Training Manuals—Digests and Cross Indexes.

SUMMARY: This notice sets forth the procedures for Federal departments/agencies to order copies of the initial printing of the FAR Digests and Cross Indexes from the Government Printing Office (GPO).

Six manuals have been prepared to introduce users to the Federal Acquisition Regulation (FAR) and to serve as training guides during the implementation period between September 19, 1983 when the FAR was published in the **Federal Register**, and April 1, 1984, when FAR becomes effective. These manuals are:

- Digest of the Federal Acquisition Regulation for Civil Agencies
- Cross Index—Federal Acquisition Regulation to Federal Procurement Regulations
- Cross Index—Federal Procurement Regulations to Federal Acquisition Regulation
- Digest of the Federal Acquisition Regualtion for the Department of Defense
- Cross Index—Federal Acquisition Regulation to Defense Acquisition Regulation
- Cross Index—Defense Acquisition Regulation to Federal Acquisition Regulation.

The first three books are considered civilian agency training manuals, and the second three are considered defense agency training manuals. Each set of three will be shrink wrapped as looseleaf books of approximately 300 pages per book.

ADDRESS: General Services Administration, Office of Federal Acquisition and Regulatory Policy, FAR Project, Room 4010, 18th & F Streets, NW., Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Rusty Olshine or Linda Klein, FAR Project Office, (202) 696-5180.

SUPPLEMENTARY INFORMATION: Departments/agencies wishing to order sets of the Digest and Cross Indexes are required to—

(1) Direct the department/agency printing officer to submit a printing and binding requisition (SF-1) to the Central Office, GPO not later than October 20, 1983; and

(2) Provide written verification to the FAR Project Office of the quantity ordered. A duplicate of the SF-1 will suffice.

The rider requisition must cite GPO jacket number 419-457 and GSA requisition number 4-00201, in addition to specifying quantity and delivery address. Each department/agency is limited to one delivery address. All production costs will be pro-rated to the Federal departments and agencies that participate. Bureaus, commissions, and regional offices of agencies must submit requisitions through their headquarters office only. GPO will bill each agency directly in accordance with existing procedures.

Each department/agency will determine the number of copies needed by that department/agency.

To aid in prompt adjustment to and training in the use of the FAR, it is recommended that each department/agency order a quantity similar to the number of copies ordered of the looseleaf version of the FAR.

Private sector companies, associations, and businesses may obtain copies of the FAR training manuals in sets of six books only by placing orders for required quantities with the Superintendent of Documents.

Government Printing Office (202) 783–3238.

Lawrence J. Rizzi,

Director, GSA FAR Project Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 83–28883 Filed 10–13–83; 8:45 am]

BILLING CODE 6820–61–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1162 and 1307

[Ex Parte No. MC–165 [1]]

Exemption of Motor Contract Carriers From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Rule related notice; notice of lifting of stay pending judicial review.

SUMMARY: By notice of September 8, 1983, 48 FR 40520, we informed the public of recent court actions, pending judicial review, staying our decisions granting industry-wide contract carrier tariff relief in Ex Parte No. MC–165 and granting individual relief in several other tariff exemption proceedings. We also explained in our notice how we intended to proceed in the future with respect to individual petitions requesting relief from the tariff filing requirements. By decision of September 28, 1983, the United States Court of Appeals for the District of Columbia Circuit vacated the stays, pending review, in the consolidated cases *Central & Southern Motor Freight Tariff Ass'n. Inc. v. USA and ICC*, and *The Eastern Central Motor Carriers Ass'n., Inc., v. USA and ICC*, Docket Nos. 83–1581 and 83–1761. Accordingly, Ex Parte No. MC–165, *Exemption of Motor Contract Carriers From Tariff Filing Requirements*, 48 FR 24388 (June 1, 1983), is now effective and all motor contract carriers of property are exempted from the otherwise applicable tariff filing requirements. The Commission, however, will continue to process petitions filed by water and passenger contract carriers which seek relief from the tariff filing requirements on an individual basis. Those applicants are urged to consult the Commission's notice at 48 FR 40520 (September 8, 1983) for guidance as to how the Commission will handle their petitions.

FOR FURTHER INFORMATION CONTACT: Jane Morris (202) 275–6434

[1] This notice also pertains to No. 38749 (Sub-No. 1) et al., *UTF Carriers, Inc.—Petition for Exemption From Tariff Filing Requirements*, and No. 38895 et al., *International Transport, Inc.—Petition for Exemption From Tariff Filing Requirements.*

or

Howell I. Sporn (202) 275–7691.

Decided: October 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–27796 Filed 10–12–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 30901–178]

Foreign Fishing, Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule: correction.

SUMMARY: This document corrects a final rule to implement Amendment 11 of the Fishery Management plan for Groundfish of the Gulf of Alaska that was published on September 21, 1983, 48 FR 43044. The final rule erroneously omitted a revised table in the regulatory text under § 672.20 [*Amended*].

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Fishery Management Biologist, 907–586–7230.

The following correction is made in FR Doc. 83–25768 appearing on page 43050: Table 1 is inserted at the end of § 672.20 [*Amended*].

Dated: October 5, 1983.

Carmen J. Bloodin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

TABLE 1. INITIAL (AS OF JANUARY 1, EACH YEAR) OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP

Species	Species Code	Areas	OY	DAH	DAP	JVP	Reserve	TALFF
Gulf of Alaska Groundfish Fishery:								
Pollock	701	Western[1]	57,000	5,775	25	5,750	11,400	39,825
		Central[1]	143,000	109,400	5,380	104,020	28,600	5,000
		Eastern[1]	16,600	2,215	695	1,520	3,320	11,065
		Total	216,600	117,390			43,320	55,890
Pacific cod	702	Western	16,560	1,680	640	1,040	3,312	11,568
		Central	33,540	6,050	4,680	1,370	6,708	20,782
		Eastern	9,900	2,070	1,480	590	1,980	5,850
		Total	80,000	10,000				38,000
Flounders	129	Western	10,400	700	100	600	2,080	7,620
		Central	14,700	1,120	300	820	2,940	10,640
		Eastern	8,400	1,360	900	460	1,680	5,360
		Total	33,500	3,180			6,700	23,620
Pacific ocean perch[2]	780	Western	2,700	345	25	320	540	1,815
		Central	7,900	1,255	295	960	1,580	5,065
		Eastern	875	500	300	200	175	200
		Total	11,475	2,100			2,295	7,080
Other rockfish[3]	849	Total	7,600	900	700	200	1,520	5,180
Sablefish[4]	703	Western	1,670	270	100	170	334	1,066
		Central	3,060	1,220	1,000	220	612	1,228
		West Yakutat District[1]	1,680	530	530	0	336	814
		East Yakutat District[1]	850	850	850	0	N/A	N/A
			xl	−1,135	−1,135	−1,135		
		Southeast Outside[1]	470	470	470	0	N/A	N/A
			xl	−1,435	−1,435	−1,435		
		Total	7,730	3,340			1,282	3,108
			xl	−8,890	−4,580			
Atka mackerel	207	Western	4,878	290	0	290	936	3,452
		Central	20,836	1,080	0	1,080	4,167	15,589
		Eastern	3,186	700	0	0	637	1,849
		Total	28,700	2,070			5,740	20,890
Squid	509	Total	5,000	150	0	150	1,000	3,850
Thornyhead rockfish	748	Total	3,750	8	6	0	750	2,994

TABLE 1. INITIAL (AS OF JANUARY 1, EACH YEAR) OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP—Continued

Species	Species Code	Areas	OY	DAH	DAP	JVP	Reserve	TALFF
Other Species[5].	499	Total	75,100	4,200	1,260	2,940	15,020	55,880

[1] See figure 1 of section 672.20 for description of regulatory areas and districts.

[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 4 above and *Sebastolobus* (thornyhead rockfish).

[4] Excludes values for the Southeast Inside District, which is not governed by these regulations.

[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus. The OY is equal to 20% of the target species OYs; the high end of the OY range for sablefish is used in its calculation.

[FR Doc. 83–27569 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–22–M

VOL 48 ISS 199 OCT 13 1983 UMI

Proposed Rules

Federal Register
Vol. 48, No. 199
Thursday, October 13, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

Tomatoes Grown in Florida; Proposed Amendment No. 2 To Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed amendment to rule.

SUMMARY: This proposed amendment to handling regulation § 966.323 would prohibit the shipment of Florida tomatoes in used boxes and would eliminate the commingling of tomatoes of different sizes. These changes would promote orderly marketing by upgrading tomato packs and standardizing shipments.

DATE: Comments due October 28, 1983.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Anne M. Dec, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 475–3930.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR Part 966) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0073.

This action has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. It is designed to promote orderly marketing of the Florida tomato crop for the benefit of producers and consumers, and would not substantially affect costs for the directly regulated handlers.

Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in desingated counties of Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in September 1982 the committee recommended, and the Secretary approved, a regulation which continues in effect from marketing season to marketing season unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary.

At its annual meeting in Port St. Lucie on September 9, 1983, the committee unanimously recommended the regulation be amended this season.

The committee recommended that the shipment of tomatoes in used cartons be prohibited. Several shippers in Florida pack tomatoes in cartons previously used by another shipper. This is currently permitted if the words "USED BOX" and the second shipper's identity appear on the container's lid. Since the used containers generally are packed with lower quality tomatoes, the reputation of the original shipper suffers since his label remains on the carton. The proposed amendment would eliminate this problem.

The current handling regulation establishes four tomato size classifications and prohibits commingling the different sizes, except that the largest sizes—the 6 x 6 and the 5 x 6 and Larger—may be commingled. Containers with these commingled sizes, designated as "6 x 6 and Larger," contain almost exclusively tomatoes which fall into the 6 x 6 size category. Since this pack competes directly with the larger tomatoes, returns for the larger sizes are adversely affected by this practice. The committee recommended eliminating this commingling to increase tomato returns and to promote more uniformity of pack.

These proposed changes would standardize and upgrade the pack of tomatoes shipped from the production area, thereby promoting orderly marketing, and would tend to effectuate the declared policy of the act.

To maximize the benefits of orderly marketing, the proposed regulation should become effective as early as practicable in the marketing season which begins in mid-October. Interested persons were given an opportunity to comment on the proposal at the committee's open meeting on September 9, and tomato handlers have been apprised of the committee's recommendation. This proposal is similar to regulations in effect in past seasons. For these reasons, it is hereby determined that the period allowed for comments is sufficient.

List of Subjects in 7 CFR Part 966

Marketing agreements and orders, tomatoes, Florida.

PART 966—[AMENDED]

It is proposed that § 966.323 (47 FR 58213 and 48 FR 26757) be further amended by revising (a)(2) (ii) and (iii) and (a)(3) (ii) and (iii) to read as follows:

§ 966.323 Handling regulation.

* * * * *

(a) *Grade, size, container and inspection requirements.*

* * * * *

(2) *Size.*

* * * * *

(ii) Tomatoes of designated sizes may not be commingled, and each container shall be marked to indicate the designated size.

(iii) Only numerical terms may be used to indicate the above listed size designations on containers of tomatoes, except when tomatoes are at least 2 2/32 inches in diameter, the containers shall be marked 5x6 and Larger.

* * * * *

(3) *Containers.*

* * * * *

(ii) Each container, or its lid, shall be marked to indicate the designated net weight and must show the name and address of the registered handler in letters at least one-fourth (¼) inch high.

(iii) The container in which the tomatoes are packed must be clean and bright in appearance without marks, stains, or other evidence of previous use

* * * * *

(Approved by the Office of Management and Budget under Control No. 0581–0073)

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 6, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–27791 Filed 10–12–83; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 83–14]

Truck Size and Weight; Proposed Rule Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to proposed rule.

SUMMARY: This document corrects the proposed rulemaking for the final network of highways in the State of Illinois on which commercial vehicles with the dimensions authorized by the Surface Transportation Assistance Act of 1982 (STAA) may operate. A portion of the designated routes for Illinois that appeared at page 41287 in the **Federal Register** of September 14, 1983, was inadvertently omitted.

FOR FURTHER INFORMATION CONTACT: Mr. Harry B. Skinner, Officer of Traffic Operations, (202) 426–1993, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426–0825, or Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426–0153, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

In FR Doc: 83–24908 appearing on page 41287 in the issue of Wednesday, September 14, 1983, correct the Illinois route designations to read as set forth below.

(23 U.S.C. 315; CFR 1.48(b))

Issued on: October 3, 1983.

William L. Mertz,

Director, Office of Program and Policy Planning, Federal Highway Administration.

Appendix—Other Designated Routes

Posted route No.	From—	To—
IL Toll Highways.	All Routes	
IL 5	I–80	US 30.
IL 6	I–74	IL 88.
US 20	Bsn. US 20 west of Rockford.	I–90.
US 36	North of Winchester	I–55.
US 50	East of Lawrenceville	Indiana St. Line.
US 51	Bsn. US 51 south of Decatur.	I–72.
US 51	IL 5	US 20.
IL 53	Army Trail Rd	IL 88.
IL 92	I–280	US 67.
IL 336	IL 57	US 24.
IL 394	Sauk Trail	I–80.
IL 1	IL 46	US 24.
IL 2	US 30	US 20.
IL 3	I–57	I–55.
IL 3	I–55	US 67.
IL 4	IL 13/127	I–55.
IL 5	I–74	I–80.
US 6	IL 7	I–80/94.
IL 7	IL 53	US 6.
IL 9	US 67	IL 41.
IL 9	IL 78	IL 121.
IL 10	I–55	US 51.
US 12	IL 120	Indiana St. Line.
IL 13	IL 15	Harrisburg.
US 14	Wisconsin St. Line	IL 50.
IL 14	US 51	Indiana St. Line.
IL 15	I–55	East junction IL 13.
IL 16	IL 267	US 67.
IL 16	I–55	IL 1.
IL 17	I–55	IL 114.
IL 18	US 51	IL 23.
US 20	Iowa St. Line	Bsn. US 20 west of Rockford.
US 20	US 51 east of Rockford.	I–290.
Bus. US 20	IL 31	US 20 (east of Elgin).
IL 21	US 14	US 41.
IL 22	US 14	US 12.
IL 23	IL 18	Wisconsin St. Line.
US 24	Missouri St. Line	Indiana St. Line.
IL 26	IL 5	IL 2.
IL 26	IL 64	US 20.
IL 29	US 51	I–180.
US 30	Iowa St. Line	IL 5 west of Rock Falls.
US 30	IL 5 east of Rock Falls.	IL 53.
US 30	IL 43	IL 50.
US 30	IL 394	Indiana St. Line.
IL 31	Bsn. US 20	Wisconsin St. Line.
US 33	I–57	IL 1.
US 34	Iowa St. Line	IL 88.
US 34	IL 71	I–294.
IL 34	I–57	IL 13.
US 36	Missouri St. Line	North of Winchester.
US 36	I–72 west of Decatur	Indiana St. Line.
IL 38	IL 47	I–294.
US 41	I–94 near Northbrook	I–94 near the Wisconsin St. Line.
IL 41	IL 9	IL 116.
IL 43	US 30	IL 60.
US 45	I–24	I–70.
US 45	I–80	North junction with IL 21.
US 45	IL 173	Wisconsin St. Line.
US 47	US 136	US 14.
IL 48	I–55	US 51.
US 50	Missouri St. Line	IL 3.
US 50	I–64	East of Lawrenceville.
IL 50	US 30	US 14.
US 51	IL 146	Bsn. US 51 south of Decatur.
US 51	I–72	I–74.
US 51	I–55	IL 5.
US 51	I–90	Wisconsin St. Line.
IL 53	I–80	Army Trail Rd.
US 54	Missouri St. Line	US 36.
I–55 Bsn. Loop.	Around Bloomington	
IL 56	IL 47	IL 5.
IL 57	IL 336	US 24.
IL 58	IL 59	US 45.
IL 59	I–55	IL 22.
IL 60	IL 43	US 41.
IL 64	IL 26	US 51.
IL 64	IL 23	IL 50.
US 67	Missouri St. Line	Iowa St. Line.
IL 68	US 12	I–94.
IL 71	I–80	US 34.
IL 72	IL 59	US 45.
IL 78	US 67	IL 125.
IL 78	IL 9	I–80.
IL 78	IL 5	IL 64.
IL 78	US 20	Wisconsin St. Line.
IL 83	US 30	I–94.
IL 83	US 45	US 12.
IL 86	US 34	IL 5.
IL 92	US 67	I–74.
IL 97	IL 125	IL 29.
IL 100	US 36	IL 104.
IL 104	US 24	US 67.
IL 108	US 267	IL 4.
IL 111	I–55	US 67.
IL 114	IL 17	Indiana St. Line.
IL 116	IL 41	I–474.
IL 116	I–74	I–55.
IL 117	I–74	IL 116.
IL 119	IL 1	Indiana St. Line.
IL 120	IL 31	IL 131.
IL 121	I–74	I–72.
IL 121	US 36	IL 16.
IL 125	US 67	IL 97.
IL 127	IL 13	IL 16.
IL 130	IL 1	IL 33.
US 136	US 24	IL 1.
IL 140	US 67	I–55.
IL 141	US 45	Indiana St. Line.
IL 146	Missouri St. Line	I–57.
IL 146	Elizabethtown	IL 1.
IL 149	IL 3	IL 13.
US 150	IL 1	Indiana St. Line.
IL 150	Missouri St. Line	IL 4.
IL 152	IL 13	US 51.
IL 159	IL 3	IL 15.
IL 171	IL 7	IL 83.
IL 173	IL 251	US 41.
IL 176	US 20	IL 47.
IL 251	US 20	IL 75.
IL 336	US 36	IL 57.
IL 394	Sauk Trail	IL 1.
Stoney Island Ave.	I–94	I–90.

NOTE.—The first 12 route descriptions (IL Toll highways through IL 394) are classified by current Illinois law as Class I and open to all commercial vehicles defined by the STAA of 1982. The remaining route descriptions are classified by Illinois as Class II and are restricted. Illinois law restricts Class II highways to a maximum allowable wheelbase of 55 feet for a tractor-semitrailer combination and 65 feet for a tractor-semitrailer-trailer combination. Specific comments are requested on the effect of the Illinois Law.

[FR Doc. 83–27854 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–22–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83–6]

Rules of Practice; Contents of Formal Requests

AGENCY: Postal Rate Commission.

ACTION: Notice proposed rulemaking.

SUMMARY: The Postal Rate Commission proposes to amend § 3001.54 of its rules of practice. Section 3001.54 (Rule 54) describes the data the Postal Service must submit when it requests a change in postal rates or classifications. Unless the Postal Service satisfies certain conditions, the proposed rule requires the Postal Service to include in its formal request for changes in rates supplemental cost segment presentations consistent with methodological precedent in order to facilitate Commission decisions. Compliance with the proposed rule is excused if the Postal Service provides ninety days in advance notice of data

VOL
48
ISS
1
9
9
OC
13
1983
UMI

system changes which preclude application of methodological precedent and the Commission does not reject or modify the proposed changes.

DATES: Comments responding to this Notice must be filed on or before November 18, 1983.

ADDRESSES: Comments and correspondence relating to this Notice should be sent to Charles L. Clapp, Secretary of the Commission, 2000 L Street, NW., Washington, D.C. 20268 (telephone: 202/254–3880.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 2000 L Street, NW., Washington, D.C. 20268 (telephone : 202/254–3824.

SUPPLEMENTARY INFORMATION: In an October 25, 1982, Notice of Proposed Rulemaking the Commission invited comments addressing various proposed amendments to Section 54 of its rules of practice. Except for the proposed new section 54(h)(10), the proposed amendments to Rule 54 were adopted by the Commission in Order No. 478, January 21, 1983. In companion Order No. 479, the Commission instituted this Docket NO. RN83–6 to provide a vehicle to obtain further input on proposed section 54(h)(10).

As background, changes in data collection systems often result in the collection of new data and the combination, reconfiguration or elimination of data previously available. On occasion, this process may result in data critical to the allocation available to the Commission. Whether the changes to the data systems result in data of greater value for the purpose of cost allocation, over that previously provided, frequently is not ascertainable until it is reviewed by the Commission in the context of a section 3624 proceeding. However, by this point, current data comparable to that previously provided are no longer available and thus the Commission becomes incapable of applying methodological precedents.

In our initial proposed Rule 54(h)(10), we proposed remedying this problem by requiring the Service to collect and provide, at least as supplemental data, whatever information is necessary for the Commission to follow its methodological precedents.[1] This information would be required regardless of whether the Postal Service sponsored or supported it for the purpose of attribution and/or assigning costs.

The Postal Service strenuously opposed the original proposal claiming that it would require prohibitively expensive parallel costing systems. One system would be designed to "accommodate the changes, adjustments and refinements in postal operations and accounting which naturally evolve over time" and another would be "based on the costing procedures which the Commission used in its most recent section 3624 recommended decision * * * regardless of whether the system accurately reflects current postal operations."[2] The Service estimates that duplicate data systems may cost $60 million or more. Additionally, the Service argues that the initial proposed rule infringes upon the authority of postal management, because 39 U.S.C. 401 grants the Service power to determine and keep its own system of accounts.[3]

To support its arguments, the Postal Service filed prepared testimony of witnesses Alepa and Alenier. Witness Alepa's testimony provides a comprehensive description of the Service's data systems. More importantly he attempts to explain the problems that may arise if the Commission has to be advised in advance of proposed changes in the Service's data systems. These problems will be discussed *infra*.

Witness Alenier illustrates the difficulties that might be encountered if the initially proposed rule were adopted under three different circumstances. First, he discusses the situation when the Commission uses one approach to develop costs, and thus rates, while it recommends the development of another approach for the next proceeding. Second, he discusses the problems that may arise even when the Commission adopts the Postal Service's proposal. And third, he discusses situations where he is unclear what the Commission procedents are that the Postal Service is expected to follow.

While the illustrations discussed by witness Alenier are resolvable, for the most part, during the proceeding stage under the new proposed rule, it is nevertheless worthwhile to briefly describe them in order to have an insight into the background of our revised proposals. One of the three illustrations presented by witness Alenier, pertaining to the situation where the Commission recommends one approach while adopting another, involves Cost Segment 10—Rural Carriers. In Docket No. 80–1, the Postal Service, using a study entitled the Rural Carrier Study, developed cost attributions based on pay. Basing cost attributions on pay, the Postal Service attributed 35 percent of the costs of heavy duty rural carriers. The Commission did not adopt this approach. The Commission relied on the Docket No. MC76–5 Current Cost Study to employ a functional methodology similiar to that used for city carriers. The Gommission's approach resulted in attributing 48 percent of heavy duty rural carrier costs. In connection with its recommendations, the Commission also urged additional data collection efforts relating to coverage and pieces per delivery. The fruits of this effort were to be used in future proceedings. Witness Alenier indicates that to adopt the Commission's suggestions the Postal Service would have to implement a new data collection system similiar to the one used for city delivery carriers. Continuing, witness Alenier notes that the Postal Service is conducting new studies which are intended to form the basis of its costing presentation in the next rate case relating to rural carrier costs. According to witness Alenier, implementation of the Commission's proposal could thus require three distinct costing systems: (1) One to provide the data relied upon by the Commission in Docket No. R80–1, (2) another to satisfy the Commission's additional data request, and (3) a third system to develop the data the Service proposes to use in the next case.

Witness Alenier uses Cost Segment 3, Supervisors and Technical Personnel to illustrate the problems which may arise even when the Commission adopts the Service's proposals. The base year in Docket No. R80–1 was FY 1979. Based on a FY 1979 base year, the Postal Service divided the costs for the component Other Supervisors and Technicians into five subcomponents. The Commission adopted costs based on these five subcomponents using data collected in the In-Office Cost System. However by FY 1982, the Postal Service had revised its data collection forms to use "job title information recorded for In-Office Cost System observations of supervisors to determine the levels of subcomponent costs." Testimony of witness Alenier at 43. To provide the data which were available in FY 1979 would require the Postal Service to use forms and cost aggregations or disaggregations which have not been used since FY 1979.

Finally, witness Alenier refers to Cost Segment 1—Postmasters—to present an example wherein it is unclear as to what constitutes Commission precedent. In Docket No. R80–1, the Commission adopted the Service's costing methodology for this segment but indicated that another party's alternative approach providing greater disaggregation may "prove useful in future proceedings."[4] Which approach constitutes Commission precedent is unclear, according to witness Alenier.

We share the Postal Service's concern that unnecessary duplication of activities in the Service's costing systems is a waste of resources. On the other hand, we hope that the Postal Service appreciates that unilateral changes in data systems potentially have the effect of emasculating the Commission's ability to fulfill its mandate of optimizing cost allocations to insure that each class of mail bears it own identifiable costs. Only recently the Supreme Court implored the Postal Service "to aid the Commission in fulfilling the 3622(b)(5) requirement that all costs capable of being considered the result of providing a particular class of service are identified and borne by that class."[5]

Instead of of proposing an ongoing data collection requirement to provide data consistent with costing methodological precedents, the modified proposed rule is essentially a notice provision coupled with recognition of the Postal Service's obligation to collect and have available data necessary for the Commission to fulfill its responsibility to attribute costs to classes of mail. The proposed rule requires ninety days advance notice of changes in data systems which would have the effect of preventing the Commission from continuing to use prior costing methodology precedents. The Commission anticipates that normally such changes will not be controversi and will be routinely implemented without Commission action. However, when the Commission believes that the proposed change threatens the Commission's ability to identify causal connections between a particular service and particular costs consistent with previously established precedents, the Commission may conduct proceedings to evaluate the proposed changes.[6] Depending upon the circumstances, the proceedings may range from notice and comment proceedings to more structured hearings with evidentiary submissions and possibly cross-examination of witnesses. At the conclusion of the proceedings, the Commission may approve, reject or recommend modification to the proposed changes and the attendant unavailability of data critical to the Commission following its costing precedents.

Although the proposed rule is drafted in the form of a waiver of the Rule 54 filing requirements, the effect of a Commission rejection of the proposed changes is to require the Postal Service to collect and provide as supplemental data, information consistent with the costing methodology employed by the Commission in its most recent omnibus rate case. Alternatively the Commission may authorize the Postal Service to partially dispense with data previously provided while requiring the provision of other data which otherwise would become unavailable because of the proposed change. Neither the rejection nor modification options are intended to preclude the Postal Service from implementing its data change proposals insofar as the changes involve collection of additional data which do not impinge upon the availability of data previously relied upon by the Commission. The sole purpose of the rejection or modification options is to ensure that critical data previously availabe remain available for future proceedings.

Our proposed rule allows the Postal Service to routinely implement system changes with a minimum of disruption. Commenting in response to a notice of inquiry, the Postal Service expresses concern that requiring advance notice of system changes is untenable because "of the large number of changes made every year, as well as the critical nature of the data systems involved." We believe that our requirement for ninety days advance notice of changes does not create an undue burden on the Postal Service. As the Service itself notes there is lead time in which changes are formulated, training takes place and forms revised to effectuate a proposed change.[7]

During this period of evolution [8] it is not burdensome to file a notice with the Commission of anticipated changes. We expect that most changes will be routinely implemented without the Commission seeking to review the changes. With regard to those changes requiring Commission review because they threaten the Commission's ability to fulfill its mandate, the Commission will attempt to act expeditiously during all stages of the review process thereby mitigating any disruption of the Postal Service's data collecting and processing procedures. However it should be noted that pursuant to the proposed rule, if the Commission issues a notice initiating a proceeding, said action should preclude the Postal Service from modifying its data systems in such a way as to cause data to become unavailable until the Commission approves, rejects or modifies the Postal Service's proposal.

As indicated, the proposed rule contemplates 90 days advance notice of changes to allow sufficient time for analysis and, if necessary, Commission action on the proposed changes. If the Commission decides to institute a proceeding, it intends to act expeditiously. Although experience will ultimately determine what time frames are most appropriate, we contemplate giving notice of proceedings within 30 days of receipt of a notice of change in data systems. Assuming cooperation from all concerned we will strive to issue an order of approval, rejection or modification by the end of the 90 days advance notice period. By this type of prompt action the Commission will be able to avoid the difficulties which pervaded the long-term studies in Docket No. MC76–5. *See* Comments on the Notice of Inquiry at 8.

Finally, we note that there have been many changes to the Postal Service data systems since Docket No. R80–1. *See* generally testimony of witness Alenier. At this stage, it is possible that the system is not producing the data that would allow the Commission to replicate methodological precedents. Rather than attempt to reconcile the existing data system with our recommendations in Docket No. R80–1, we believe that this rule should take effect with the next omnibus rate case. Within three months after the Commission issues its Opinion in the next omnibus rate case, the Postal

[1] In our October 25, 1982 notice, at p. 9, n. 1, we indicated that such precedent would normally be established in omnibus section 3622 rate cases but could also be established in limited rate and classification cases. For purposes of the modified proposals presented herein, we have assumed that precendent arises from omnibus rate cases. To the extent recedent arises otherwise, we will, as appropriate, take cognizance thereof in the relevant opinions and recommended decisions.

[2] Motion for a Hearing and Preliminary Comments of the United Postal Service, November 29, 1982, at 2.

[3] The Commission's proposal does not conflict with 39 U.S.C. 401 because it does not constrain postal management's discretion to determine how its financial accounts used for management purposes will be structured. Nor does it prohibit postal management from structuring its cost accounts for ratemaking purposes as it prefers. It does potentially require the Postal Service to make certain cost data available where the availability of such data is necessary to implement approved methods of identifying cost causality. Such authority is a necessary corollary of the Commission's role, defined in National Association of Greeting Card Publisher's v. USPS, 51 U.S.L.W. 4877, 4881 (NAGCP) as the body primarily responsible for determining what methods of identifying cost causality shall be employed in ratemaking.

[4] PRC Op. R80–1, App. J, p. 10.

[5] NAGCP at 4881.

[6] Prior to initiating a proceeding the proposed rule permits the Commission to request further information, solicit comments, hold technical conferences etc., to obtain a thorough understanding of the data system changes.

[7] Initial Comments on the Notice of Inquiry at 4.

[8] *See* testimony of witness Alepa at 37–49

Service should file a report identifying any areas in which its existing data systems do not generate the data required to implement the methodologies approved in the Commission's Opinion. Thereafter, as necessary, the Postal Service should provide notice of changes in its data systems.[9]

Impact of proposed changes. Pursuant to Executive Order 12291, the Commission finds that the proposed rule changes do not constitute a "major rule." The changes deal with procedural matters and it is not anticipated that they could result in an appreciable change in the costs of participating in these cases. Nor will the changes have any adverse effects on competition, employment or the other factors listed in E.O. 12291.

The above analysis that the proposed rule changes do not constitute a major rule for purposes of E.O. 12291, applies with equal force to the Regulatory Flexibility Act. However, we would welcome comments as to whether the rule could have a significant economic impact on a substantial number of small entities, as well as suggestions as to how to minimize any such impact.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure.

We propose to amend § 3001.54 of our rules of practice by redesignating current paragraphs (h) (10), (11) and (12) as paragraphs (h) (11), (12) and (13), respectively, and adding new paragraph (h)(10) to the category of information that must accompany the Postal Service's initial cost presentation, to read as follows:

§ 3001.54 Contents of formal requests.

* * * * *

(h) * * *

(10)(i) Except to the extent waivers are obtained pursuant to paragraphs (h)(10) (ii) and (iii), every formal request shall include, either as primary or supplemental data, all information necessary to enable the Commission to attribute and assign segment and component costs to classes and subclasses of mail by the method used by the Commission to attribute and assign such costs in the most recent omnibus rate case.

(ii) As early as possible, and in any case, no later than 90 days prior to implementing changes in data collection, data processing, or manner of data presentation that would preclude the Commission from attributing and assigning cost segments consistent with the methods used by the Commission to attribute and assign costs in the most recent omnibus rate case, the Postal Service shall file with the Commission a notice describing in detail its proposed changes. Timely filing of this notice will conditionally waive the requirement that the Postal Service file the information described in paragraph 54(h)(10)(i). The Commission upon receipt of the notice may request further information, solicit comments, hold technical conferences and take other steps for the purpose of obtaining a thorough understanding of the changes the Postal Service proposes.

(iii) Within 90 days of receipt of notice of proposed changes, the Commission, at its discretion, may initiate proceedings for the purpose of reviewing the proposed changes. Notice of said proceeding will be published in the **Federal Register**. Initiation of such a proceeding will suspend the effectiveness of the conditional waiver excusing the Postal Service from supplying the information required in paragraph 54(h)(10)(i). At the conclusion of this proceeding, the Commission may approve, reject or recommend modifications to the proposed changes. Rejection of the proposed changes will result in withdrawal of the conditional waiver granted in paragraph 54(h)(10)(ii). Modification of the proposed change will waive the requirement that the Postal Service file the data described in paragraph 54(h)(10)(i) to the extent such waiver is consistent with the recommended modifications.

Charles L. Clapp,

Secretary.

[FR Doc. 83-27600 Filed 10-12-83; 8:45 am]

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[9] It is possible that during the pendancy of a filing the Service may implement changes which are not accounted for in the Commission's opinion and recommended decision. Providing a report within three months of the issuance of a Commission opinion reconciling the methodological precedents adopted by the Commission and the existing data systems will avoid any problems which may arise because of the hiatus.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-FRL-2450-7]

Approval and Promulgation of Implementation Plans; Piti Nonattainment Area Plan, Guam

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking

SUMMARY: Revisions to the Guam State Implementation Plan (SIP) were submitted to EPA by the Governor's designee. These revisions consist of a Control Strategy and addenda which together comprise the sulfur dioxide (SO_2) Nonattainment Area Plan (NAP) for the Piti Nonattainment Area in Guam. This notice proposes to approve the NAP since it meets requirements of Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas."

DATES: Comments must be received on or before November 14, 1983.

ADDRESSES: Send any comments to: Regional Administrator, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

ATTN: State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division.

Copies of the revisions and EPA's associated Technical Support Document are available for public inspection during normal business hours at the EPA Regional 9 Office at the above address and at the following location: Guam Environmental Protection Agency, Harmon Plaza, Agana, Guam 96910.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-7641.

SUPPLEMENTARY INFORMATION: On June 30, 1982 the Guam Environmental Protection Agency (GEPA) submitted to EPA a Control Strategy and addenda which together constitute the SO_2 NAP for the Piti Nonattainment Area. The Strategy demonstrates attainment of the ambient SO_2 standard by raising the stack heights at the Piti Power Plant and the Inductance Barge to prevent plume downwash and through sulfur content in fuel restrictions.

Today's notice proposes to approve the NAP because it demonstrates attainment of the SO_2 standards. Specifically, EPA proposes to approve the following:

*"Territory of Guam NAP for SO_2," (consisting of the narrative or Control Strategy portion of the NAP);

*Addendum B, "Preliminary Results of SO_2 Dispersion Modeling"

*"Official Report of Public Hearing"

EPA is taking no action on the following portions of the NAP for the reasons indicated:

*Addendum A, "Redesignation of Guam's Air Quality Control Region for Sulfur Dioxide," (addressed in a previous **Federal Register** (FR) notice);

*Addendum C, Chapter 13, "Control of Sulfur Dioxide Emission," (addressed in previous FR notices);

*Addendum D, "Compliance Order Preamble," (addressed in a previous FR notice);

*Addendum E, "Delayed Compliance Order," (inappropriate for inclusion in the SIP under Section 110; addressed in a previous FR notice under Section 113);

*Addendum F, Chapter 13, "Permits," (will be addressed in a future FR notice).

For a detailed description of the individual items in the addenda, including **Federal Register** citations, please refer to the Technical Support Document.

The three major sources of SO_2 emissions within the Piti Nonattainment Area are the Cabras Power Plant, the Piti Power Plant, and a Power Inductance Barge. On May 12, 1981, EPA approved as part of Guam's State Implementation Plan (SIP) Rule 13.1 and a compliance order submitted as an addendum to Rule 13.1. Rule 13.1 applies to these three sources and prohibits the use of fuel with a sulfur content greater than 3.14% at any time or greater than 2.84% on average over a twelve month period. The compliance order further controls emissions from the Power Inductance Barge by requiring the use of 1.33% sulfur fuel until the height of the Barge's stack is raised by 21 feet.

Modeling for the Piti and Cabras Power Plants using stack heights consistent with good engineering practice indicates that under actual worst case meterological conditions, with both power plants operating under full load using 3.14% sulfur fuel, emissions are not projected to cause exceedances of the SO_2 standards. In addition to its percent sulfur requirement, Rule 13.1 requires stacks to be of sufficient height to prevent aerodynamic downwash and provide for good dispersion of emissions. The NAP states that construction of a second tall stack at the Piti Power Plant was completed in August 1981. This further reduces ground level concentrations.

Since the submittal of the NAP, the stack height of the Barge, which has not been in operation for several years, has been raised 21 feet in conformance with the compliance order. EPA has also determined that the area surrounding the Barge is not considered to be ambient air. The Barge is harbored at a U.S. Naval Reservation (Polaris Point) designated for dockage of Polaris Nuclear Submarines. The waters around the Barge are periodically patrolled and land access to the Barge area can only be obtained by way of a road which is guarded by U.S. Marines. Therefore, exceedances of the NAAQS in this area need not be considered in this SIP revision.

In summary, the SO_2 NAP has been evaluated for conformance with Part D of the Clean Air Act and found to be approvable because it provides for attainment of the SO_2 standards. Therefore, today's notice proposes to approve the SO_2 NAP for the Piti Nonattainment Area and incorporate it into the Guam State Implementation Plan (SIP). Guam's new source review rules, submitted to EPA on January 6, 1982, will be acted on in a separate notice. Until final approval of both, the construction ban on major new or modified sources will continue in the Piti area.

For EPA's detailed evaluation of the NAP, please refer to the Technical Support Document. The Technical Support Document provides background information on nonattainment area plans, summarizes the Control Strategy and addenda, and compares the Piti NAP with the applicable Clean Air Act requirements.

The Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities. (See 46 FR 8709). The Office of Management and Budget has exempted this revision from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 171 to 178 and 301(a), Clean Air Act as amended (42 U.S.C. 7410, 7501 to 7508, and 7601(a))

Dated: December 30, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83-27783 Filed 10-12-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[AL-006; TN-011; AD FRL 2450-5]

Approval and Promulgation of Implementation Plans Designation of Areas for Air Quality Planning Purposes; Alabama and Tennessee; Redesignation of TSP, SO_2, and Ozone Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve certain requests by Alabama and Tennessee to redesignate a number of counties for particulates (TSP), sulfur dioxide (SO_2), and ozone (O_3). Other redesignation requests made by these States cannot be proposed for approval because they are not adequately supported by data or other demonstration required by EPA redesignation policy. The public is invited to submit written comments on the proposed redesignations.

DATE: Comments must be received on or before November 14, 1983 to be considered.

ADDRESS: Written comments should be addressed to EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the material[*] submitted by Tennessee and Alabama in support of the redesignation may be examined during normal business hours at the following locations:

Air Management Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Air Program, Alabama Department of Environmental Management, 645 South McDonough Street, Montgomery, Alabama 36130;

Division of Air Pollution Control, Tennessee Department of Health and Environment, 150 9th Avenue North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Archie Lee (Alabama redesignations) or Ray Gregory (Tennessee redesignations) or the EPA Region IV Air Management Branch, at the Atlanta address above, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: Section 107 of the Clean Air Act provides for changes in attainment status designation by the Administrator.

Summary of EPA policy. Current EPA policy on the redesignation of nonattainment areas provides a threefold approach; a state's request for such a change in attainment status designation must be supported by (A) the most recent twelve consecutive quarters of quality-assured, representative ambient air quality data (ozone), (B) the most recent eight quarters of quality-assured, representative ambient air quality data, plus evidence that a control strategy approved by EPA as part of the SIP is being implemented, or (C) the most recent four quarters of quality-assured, representative ambient air quality data, and a demonstration (including an acceptable state of the art modeling analysis) that actual, enforceable emission reductions are responsible for the recent air quality improvement.

VOL
48
ISS
1
99
OC
13
1983
UMI

Under current EPA policy on the redesignation of unclassified areas, states must submit (1) the most recent four quarters of quality-assured, representative ambient air quality data or (2) in lieu of monitoring data for rural areas, a demonstration that emission densities are equal to or less than other rural areas where monitoring data indicates attainment (EPA also requires the states to examine the impact of rural emissions on urban areas). In today's proposal, four of these bases for redesignation are applicable; the four will be identified with one of the following signs:

(B)=8 quarters of data plus implementation of approved SIP
(C)=4 quarters of data plus a demonstration of emission reductions
(1)=4 quarters of data
(2)=emission densities comparable to rural attainment areas.

Alabama redesignations. On January 3, 1983, the Alabama Department of Environmental Management (DEM) asked EPA to change the attainment status of three counties from primary nonattainment to attainment: Mobile County (TSP), Jackson County (SO_2), and Etowah County (O_3). On the basis of the information submitted, EPA cannot consider redesignating Etowah County; the State's submittal, which included four quarters of monitoring data indicating no violations, did not adquately demonstrate commensurate emission reductions. EPA proposes to redesignate Mobile and Jackson Counties attainment on basis (C).

On December 6, 1982, DEM asked EPA to redesignate a number of counties in the southern part of the State attainment for ozone, including Baldwin, Clarke, Mobile, Russell, and Washington. EPA cannot consider redesignating these five counties as the State requested because the monitoring data were not sufficiently complete (less than 75% recovery) to be representative. On basis (1), however, it is proposed to change the attainment status of the following counties from unclassifiable to attainment for ozone: Barbour, Bullock, Butler, Chambers, Chilton, Choctaw, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Geneva, Hale, Henry, Houston, Lee, Macon, Marengo, Perry, Pickens, Pike, Sumter, Tallapoosa, and Wilcox.

Tennessee redesignations. Tennessee submitted a petition requesting redesignation of certain nonattainment and unclassified areas on December 9, 1982. After EPA had commented on the requests, Tennessee requested reconsideration of certain areas and supplied supplemental information on January 21, 1983. In addition to requesting the changes in attainment status designation, Tennessee has revised its State Implementation Plan (SIP), changing the list which identifies the nonattainment areas in the State; these changes were submitted to EPA on January 18, 20, and 21, February 9, March 4, 14, and 22, April 6, and June 1, 1983, as SIP revisions.

EPA cannot consider the following changes requested by Tennessee for the reasons stated: Shelby County, from nonattainment to attainment for ozone, because the calculated number of expected exceedances is greater than 1.0; Fayette and Tipton Counties, from unclassified to attainment for ozone, because they are in the same air shed as Shelby County and influenced by its urban impact; Bradley County, from nonattainment to unclassified for ozone, because no air quality data or emission reduction summary was available with which to determine the status of this county; and a portion of La Follette, from primary and secondary nonattainment for TSP to secondary nonattainment, because although four quarters of air quality data were submitted, the State was unable to identify commensurate emission reductions.

On basis B, it is proposed to redesignate the following areas from TSP nonattainment, primary and secondary, to secondary nonattainment only: portions of Davidson and Hamilton Counties; and on basis C, it is proposed to redesignate the following areas from TSP nonattainment, primary and secondary, to attainment for all TSP standards: portions of Campbell, Sullivan, and Shelby Counties.

On basis B, it is proposed to redesignate the following areas from SO_2 nonattainment, primary and secondary: Portion of Benton and Humphreys Counties to secondary nonattainment only, and a portion of Polk County to attainment for all SO_2 standards. The reader should note that the SO_2 table currently published in the Code of Federal Regulations (40 CFR 81.343) is in error.

On basis 2, it is proposed to change the designation of the following areas from unclassifiable for ozone to attainment: Grainger County, Jefferson County, and the unclassifiable areas in AQCR's 007 (Tennessee portion), 207, 208, and 209 (excepting Fayette and Tipton Counties). On basis C, it is proposed to redesignate the following ozone nonattainment areas to attainment: Knox County, Maury County, Sullivan County, and the Nashville area (Davidson, Rutherford, Sumner, Williamson, and Wilson Counties).

Under 5 U.S.C. 605(b), the Administrator has certified that area redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, Intergovernmental relations, National parks, Wilderness areas, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate mattrer, Carbon monoxide, Hydrocarbons.

(Sec. 107 and 110 of the Clean Air Act (42 U.S.C. 7407 and 7410))

Dated: August 17, 1983.

John A. Little,

Acting Regional Administrator.

[FR Doc. 83-27785 Filed 10-12-83, 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL 2447-6]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to revise the air quality attainment status designations, at 40 CFR 81.350, of seven areas in the State of Wisconsin. The areas, pollutants, and proposed revisions are as follows:

1. Sub-city area of Beloit, Total Suspended Particulates (TSP), from "does not meet primary standards" to "does not meet secondary standards";
2. Sub-city area of Madison, Sulfur Dioxide (SO_2) from "does not meet primary standards" to "better than national standards";
3. Corporate limits of Brokaw, SO_2, from "does not meet primary and secondary standards" to "better than national standards"; and,
4. Vilas, Brown, Columbia, and Dane Counties, Ozone, from "does not meet primary standards" to "cannot be classified or better than national standards".

These proposed revisions are based on a request from the Wisconsin Department of Natural Resources (WDNR) to redesignate these areas and on the supporting data submitted by the WDNR. [Under the Clean Air Act (Act), attainment status designations can be changed if sufficient data are available to warrant such change]. The intent of this notice is to dicuss the results of EPA's review of the WDNR's redesignations request and to solicit public comment on the revisions and EPA's proposed action.

ADDRESSES: Copies of the redesignation request, technical support documents, and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604;

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster Street, Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to (please submit an original and five copies, if possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch (5AR-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, Air Prgrams Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6034.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

EPA's criteria for section 107 designations are summarized in an April 21, 1983, policy memorandum, "Section 107 Designation Policy Summary", from Sheldon Meyers, Director of the Office of Air Quality Planning and Standards. In general, all available information relative to the attainment status of the area should be reviewed. These data should include the most recent eight consecutive quarters of quality assured, representative ambient air quality data. Supplemental information including the available air quality modeling, emissions data, evidence upon implemented control strategy, and other pertinent factors should be considered to determine if the monitoring data accurately characterize the worst case air quality in the area. Information submitted to support attainment redesignations must adequately and accurately reflect long term operating rates and economic conditions. In special situations, an attainment designation can be made using only the most recent four quarters of ambient air quality data if an acceptable state-of-the-art modeling analysis is provided showing that the State Implementation Plan (SIP) strategy is sound and that actual, enforceable emission reductions are responsible for the air quality improvement.

EPA policy on ozone attainment designations is given in *Guideline for the Interpretation of Ozone Air Quality Standards* (EPA Report # EPA-450/4-79-003, January 1979). This document indicates that attainment designations should be based on the 3 most recent available years of monitoring data for which specified completeness criteria are met. This document also delineates a procedure for calculating the expected average number of days per year the ozone standard will be exceeded, based on the number of recorded exceedances and adjusted to reflect the possibility of exceedances occurring on unmonitored days. An area may be designated attainment for ozone only if all monitors in the area are showing 1.0 or fewer expected exceedances.

On February 10, 1983, and March 14, 1983, the WDNR submitted: (1) Requests to EPA to revise the Section 107 atttainment status designations for the seven areas listed in the Summary portion of this notice; and (2) Technical Support Documents with summaries of recent ambient air quality monitoring data collected in the State. On April 18, 1983, WDNR submitted additional ambient monitoring data and on May 13, 1983, WDNR submitted certifications of compliance with the emission limitations contained in the SIP for certain sources in these areas. EPA is today summarizing the State's submittals. A discussion of the proposed rulemaking action is presented below for each geographic area.

EPA finds that a redesignation of these areas is approvable at this time. The reader is referred to the State submittals of February 10, and March 14, 1983; and EPA's technical support document for each area for further details on the proposed approval of the State's request.

Beloit—TSP

Based on monitored violations of the TSP NAAQS during the period of 1975-1977, portions of the City of Beloit, located in Rock County, were designated as primary and secondary nonattainment areas for TSP. In accordance with the Part D requirements of the Act, the State of Wisconsin revised its SIP to demonstrate attainment of the primary TSP NAAQS by December 31, 1982. EPA published final approval of Wisconsin's SIP for this area in the Federal Register on March 8, 1983 (47 FR 9860).

On March 14, 1983, WDNR requested that EPA revise the nonattainment designation for the City of Beloit, from primary nonattainment to secondary nonattainment of the TSP NAAQS and to reduce the size of this secondary nonattainment area. To support its request, WDNR submitted a Technical Support Document with summaries of the TSP ambient air monitoring data collected in Beloit during 1980, 1981, and 1982. These data show that no violations of the primary TSP NAAQS have occurred at any of the monitoring sites within the last eight quarters. These data show that two violations of the secondary TSP NAAQS were monitored in 1981. On May 13, 1983, WDNR submitted a status report on the compliance of affected sources with the reasonably available control technology (RACT) particulate emission limits contained in the SIP.

The results of EPA's review of the State's supporting modeling data, using the RACT emission limits, indicate that the TSP emission reductions due to RACT requirements are responsible for the improvement in air quality. The modeling further confirms the extent of the area of monitored nonattainment of the secondary TSP NAAQS.

Thus, EPA has determined that all available data support a redesignation of the City of Beloit from primary nonattainment to secondary nonattainment of the TSP NAAQS and a reduction in the size of the secondary nonattainment area. The proposed boundaries of the secondary nonattainment area are as follows:

North Boundary: Portland Avenue east from Fourth Street to intersection with Woodward Avenue, Woodward Avenue east to Park Avenue.

East Boundary: Park Avenue south from Woodward Avenue to Broad Street.

South Boundary: Broad Street west from Park Avenue to Fourth Street.

West Boundary: Fourth Street north from Broad Street to Portland Avenue.

The remainder of Rock County retains the current designation of attainment.

Madison—SO_2

Based on monitored violations of the SO_2 NAAQS in 1977, a sub-city area of Madison, located in Dane County, was designated as a primary nonattainment area for SO_2. As required by Part D of the Act, Wisconsin developed a strategy to attain the SO_2 standard in Madison

VOL
48
ISS
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by December 31, 1982. EPA approved this plan as a revision to the Wisconsin SIP in a final rulemaking action on April 9, 1981 (46 FR 21165) and April 13, 1982 (47 FR 15783).

On February 10, 1983, the WDNR requested EPA to redesignate the City of Madison from primary nonattainment to attainment of the SO_2 NAAQS. Along with its request, WDNR submitted a Technical Support Document which presents summaries of ambient air quality monitoring data collected by the State in the Madison area from 1977 through 1982. These data show that there were no violations of the ambient SO_2 standards since 1978. In addition, WDNR certified the compliance of all sources in Madison with the required emission limitations contained in the SIP.

Therefore, EPA is proposing to approve the State's request to redesignate the City of Madison from primary nonattainment to attainment of the SO_2 NAAQS.

Corporate Limits of Brokaw—SO_2

On March 14, 1983, the WDNR requested EPA to redesignate the corporate limits of Brokaw, located in Marathon County, from nonattainment of the primary and secondary SO_2 NAAQS to attainment. To support its request, Wisconsin submitted summaries of the SO_2 monitoring data collected in Brokaw during the period of 1980, 1981, and 1982. These data show that no violations have occurred in 1982 although violations were recorded in 1980 and 1981. Therefore, no violations of the SO_2 NAAQS have been monitored at any of the sites within the past four quarters.

Wisconsin has recently revised its strategy to attain the SO_2 NAAQS in this area and submitted the revision to EPA on February 17, 1983. This revision changes the RACT emission limitation placed on Wausau Papers, Inc. in Brokaw and provides for attainment of the NAAQS by December 31, 1982. This source has been certified by the State to be in compliance with the revised emission limits. Available modeling data which was submitted by the State to support its SIP revision, indicates that the SO_2 emission reductions required by the SIP revision are responsible for the improvement in air quality. The modeling predicts no violations of the SO_2 standards. Therefore, EPA proposed to approve the State's revised emission limits for Wausau Papers, Inc. as a revision to the SO_2 portion of the SIP on August 17, 1983, 48 FR 37232.

In today's rulemaking action, EPA is proposing to approve the State's request to redesignate the area to attainment based on the monitoring, modeling, and compliance data submitted by the State.

If, after reveiw of public comment, EPA finally approves the revised emission limitation for Wausau Papers, Inc., then EPA will take final action to redesignate the area to attainment. If EPA disapproves the reivsed emission limitation for Wausau Papers, Inc., then the current designation of nonattainment will remain for the area.

Vilas County—Ozone

Vilas County is a rural area located over 100 kilometers from the nearest urbanized area. The 1980 population level was approximately 16,500. In 1978, this County was designated as not attaining the ozone NAAQS based on monitored exceedances of the standard recorded in this County from 1974–1976. In 1979, the NAAQS for ozone was revised from 0.08 part per million (ppm) to 0.12 ppm (44 FR 8220). The current standard is attained when the expected number of days per calnedar year with maximum hourly concentrations above 0.12 ppm is equal to or less than 1. In rural ozone nonattainment areas, EPA requires only the adoption of stationary source volatile organic compound (VOC) RACT regulations on major sources. Transportation control measures are not required in rural nonattainment areas, because the combination of controls on major stationary sources in all nonattainment areas and the development of transportation control plans in urban areas, should assure attainment in the rural areas by minimizing pollutant transport from urban to rural areas. EPA approved Wisconsin's VOC RACT regulations on January 11, 1980, and June 21, 1982 (45 FR 2319, 47 FR 26622) and approved Wisconsin's transportation control plans on May 6, 1981 (46 FR 25294). Thus, based on the location of the County relative to an urban area and the population, the County would not be expected to record exceedances of the current standard.

On March 14, 1983, the WDNR requested that EPA revise the designation for Vilas County from nonattainment to attainment of the ozone NAAQS. Additionally, the State submitted monitoring data collected in this area during the 1981 and 1982 ozone seasons which show that there were no expected exceedances of the standard. Therefore, EPA is proposing to approve the State's request to redesignate the County to attainment.

Brown County—Ozone

Brown County was designated in 1978 as not attaining the ozone NAAQS based on monitored exceedances of the standard recorded during 1976 and 1977. As required by Part D of the Act, Wisconsin revised its SIP to require sufficient reductions in county-wide emissions of ozone precursors, called volatile organic compounds (VOC), to attain the standard by December 31, 1982. EPA approved the State's revision in a final rulemaking action on May 6, 1981 (46 FR 25294).

Brown County contains the City of Green Bay, which had a 1980 urbanized area population of 142,747. One monitor provides the only ozone monitoring data in Brown County and provides the basis for Wisconsin's request, dated March 14, 1983, to redesignate the County to attainment.

Available data show that the Green Bay monitor obtained valid daily maximum concentrations for over 80 percent of the days in the ozone season for 1981 and 1982. No exceedances were recorded either year. Wisconsin also reports limited data from this monitor collected by an industry in 1979 and 1980, but these data are not quality assured by the State. These data show no exceedances of the standard. Based primarily on the data from 1981 and 1982, the monitor is showing attainment of the standard. Therefore, EPA is proposing to revise the designation to attainment for ozone.

Dane and Columbia Counties—Ozone

On March 14, 1982, the WDNR requested that EPA redesignate Dane and Columbia Counties from nonattainment to attainment of the ozone NAAQS. EPA reviewed the State's request and supporting monitoring data for both Counties together because EPA considers them to be a single source-receptor area for ozone. EPA approved Wisconsin's SIP for this area in a final rule in May 6, 1981 (46 FR 25294).

The results of EPA's review of the State's ozone monitoring data show no exceedances of the standard during 1980, 1981, and 1982 in Dane County. Ozone monitoring data collected in Columbia County show four recorded exceedances of the standard occurring in 1980. Ozone levels in excees of 0.12 ppm were recorded three times at the Military Road site and one time at the Messer site.

At the Military Road site, exceedances were recorded on April 21, April 22, and May 23, 1980. However, the readings on April 21 and 22 appear unreliable for the following reasons. (1) The data show that the monitor did not operate from 2 p.m. on April 20 to 9 a.m. on April 21, when the instrument restarted by reading .103 ppm. There was little of the expected diurnal variation during the next 26 hours. Concentrations stayed between 0.90 ppm and .139 ppm both day and night. The failure of the instrument to record the usual low concentrations at night casts doubt on the reliability of these measurements. (2) Further doubt is cast on these measurements by the fact that this monitor failed two audits in 1979 and was not recertified until the end of May 1980. These two considerations suggest that these readings represent instrument errors rather than actual exceedances. For the same reasons, the exceedance recorded by the Messer site on April 21, 1980, also appears to represent instrument error rather than an actual exceedance.

Thus, it appears that only one exceedance occurred in Dane and Columbia Counties between 1980 and 1982, as recorded by the Military Road site on May 23, 1980. This site would be calculated as having 0.4 expected exceedance per year and all other sites in Dane and Columbia Counties would show 0.0 expected exceedances per year. The ozone standard allows up to 1.0 expected exceedance. Consequently, EPA is proposing to approve the State's request to designate these Counties to attainment for ozone.

All interested persons are invited to submit written comment on the proposed redesignations. Written comments received by the date specified above will be considered in determining whether EPA will approve the redesignations. After review of all comments submitted, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the redesignation.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: August 9, 1983.

Charles H. Sutfin,

Regional Administrator.

[FR Doc. 83-27786 Filed 10-12-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[EPA Action, MO 1117; A-FRL 2450-8]

Designation of Areas for Air Quality Planning Purposes; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Section 107(d) of the Clean Air Act, as amended, provides for the designation of areas as either attainment, nonattainment, or unclassified with respect to the National Ambient Air Quality Standards (NAAQS). EPA today proposes to redesignate a portion of the Kansas City, Missouri, metropolitan area from nonattainment to attainment with respect to the primary NAAQS for total suspended particulates (TSP). This portion would remain designated nonattainment for the secondary TSP standard. This redesignation proposal is based on a request from the Missouri Department of Natural Resources (MDNR). The request was supported with recent air monitoring data.

DATE: Public comments should be received by November 14, 1983.

ADDRESSES: Comments should be sent to Larry A. Hacker, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106.

The state submission is available for inspection during normal business hours at the above address, and at the Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (816) 374–6525, or FTS 758–6525.

SUPPLEMENTARY INFORMATION: In response to Section 107(d) of the Clean Air Act, as amended, EPA and the State of Missouri have designated all areas of the state as attaining the NAAQS, not attaining the NAAQS, or having insufficient data to make a determination. An attainment area is one in which the air quality does not exceed the standards. A nonattainment area is one in which the air quality is worse than the standards. An unclassified area is one for which there are insufficient data to determine whether the area is attainment or nonattainment. EPA's Section 107 designation policy is summarized in an April 21, 1983 memorandum from Sheldon Meyers. At 40 CFR Part 81, Subpart C, the areas of the State which are nonattainment for one or more pollutants are identified.

The primary NAAQS for TSP consist of a 24-hour value of 260 micrograms per cubic meter ($\mu g/m^3$), not to be exceeded more than once per year, and an annal value of 75 $\mu g/m^3$. The secondary NAAQS for TSP is a 24-hour value of 150 $\mu g/m^3$, not to be exceeded more than once per year.

On January 20, 1983, the MDNR submitted a request to redesignate the attainment status of a portion of the Kansas City, Missouri, metropolitan area. This area was designated nonattainment with respect to the primary NAAQS for TSP on March 3, 1978 at 43 FR 8962, as amended on April 4, 1980 at 45 FR 22931. This area is surrounded by a secondary TSP nonattainment area in Missouri and bordered on its west edge by the Kansas State line. The full description of this area is in the state submission.

There are six TSP monitoring sites located within the primary nonattainment area. The monitoring data show two years (1981–1982) of primary NAAQS attainment. In addition, there is an EPA approved SIP control strategy which provides enforceable emission reductions. Therefore, this redesignation request complies with Agency policy. Since the secondary standard was exceeded at two sites in 1981, the area must remain designated secondary nonattainment. There are no other primary TSP nonattainment areas within the Missouri portion of the Kansas City metropolitan area.

Action: EPA proposes to remove the primary nonattainment designation and retain the secondary nonattainment designation for the Kansas City, Missouri, TSP nonattainment area.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This notice of proposed rulemakng is issued under the authority of Sections 107 and 301 of the Clean Air Act, as amended (42 U.S.C. 7407 and 7601).

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control, National parks, Wilderness areas.

VOL 48 ISS 199 OCT 13 1983 UMI

Dated: September 1, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83-27784 Filed 10-12-83; 8:45 am]

BILLING CODE 6560-50-M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1502 and 1508

Proposed Guidance Memorandum for Federal Agency NEPA Liaisons Concerning the Requirement for a Worst Case Analysis

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Notice of proposed Information Guidance and Request for Comments; extension of time.

SUMMARY: On August 11, 1983, the Council on Environmental Quality published a "Proposed Informatoin Guidance and Request for Comments", 48 FR 36486, Aug. 11, 1983, requesting that comments be submitted by October 11, 1983. The comment period is herewith extended to October 21, 1983. This extension was requested by various organizations and individuals.

DATES: The comment date is extended to October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006 (202) 395-5754

A. Alan Hill,

Chairman.

October 7, 1983.

[FR Doc. 83-27878 Filed 10-11-83; 11:27 am]

BILLING CODE 3125-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

Cancel Standard Form 1131, U.S. Government Transit Bill of Lading

AGENCY: Office of the Comptroller, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amended the Federal Property Management Regulations (FPMR) by cancelling the U.S. Government Transit Bill of Lading (GBL) set, Standard Form (SF) 1131 through SF 1134. The National Archives and Records Service (NARS) advises that there have been no orders received for this form from Federal agencies for the past year. NARS recommends cancelling the form. The cancellation of SF 1131 through SF 1134 will not affect shipments accorded transit privileges because the transit information will be shown on the regular GBL set (SF 1103 through SF 1106).

DATE: Written comments must be received by no later than 4 p.m. on November 28, 1983.

ADDRESS: Comments should be sent to General Services Administration (BWCP), 18th and F Streets, NW., Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures and Claims Branch, Office of Transportation Audits (202-786-3014).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

It is proposed to amend 41 CFR Part 101-41 as follows:

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The table of contents for Part 101-41 is amended by revising and removing the following entries:

Sec.

101-41.305-1 General instructions for the preparation of GBL's involving transit and other problem areas.
101-41.305-3 Preparing GBL's covering free or surrendered transit.
101-41.4901-1131 [Removed]
101-41.4901-1131-A [Removed]
101-41.4901-1131-B [Removed]
101-41.4901-1132 [Removed]
101-41.4901-1133 [Removed]
101-41.4901-1134 [Removed]

2. Section 101-41.302-1 is amended by removing and reserving paragraphs (o) through (t) as follows:

§ 101-41.302-1 Listing forms.

* * * * *

(o)-(t) [Reserved].

* * * * *

3. In § 101-41.302-2, paragraph (a) introductory text, (d) and (e) are revised and paragraph (b) is removed and reserved to read as follows:

* * * * *

§ 101-41.302-2 Description and distribution of bills of lading.

(a) The U.S. Government bill of lading (GBL) consists of six basic forms and is available in sets of seven or nine parts, depending on the number of memorandum copies needed. The sets are carbon-interleaved for simultaneous preparation. The GBL set is arranged in the following order:

* * * * * *

(b) [Reserved].

* * * * *

(d) The GBL continuation sheets (SF 1109 through 1112) are also available in seven- or nine-part sets and are arranged in order corresponding to the GBL sets. The continuation sheets are for use with the regular GBL and the personal property GBL.

(e) Separate sheets of the memorandum copies (SF 1103-A, SF 1109-A, and SF 1203-A) are available to Government agencies for addition to the seven- or nine-part sets.

4. In § 101-41.3202-4, paragraph 3(a) is revised to read as follows:

§ 101-41.302-4 General instructions for the preparation of GBL's and common problem areas.

(a) Availability of guide. Instructions for the preparation of GBL's and related forms are furnished in the GSA guide "How to Prepare and Process U.S. Government Bills of Lading" (national stock number 7610-00-682-6740). Agencies may obtain copies of the guide by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

* * * * *

5. Section 101-41.302-7 is revised to read as follows:

§ 101-41.302-7 GBL correction notice.

SF 1200 is used to alter or correct the GBL and the personal property GBL. It is a single sheet form, and the number of copies to be prepared and distributed will be a matter for each Federal agency to establish. Recipients of a correction notice will alter or correct the GBL as indicated on the notice and attach the form to the GBL. Preparation of SF 1200 is not required when alterations or corrections are made prior to the distribution of the GBL. This form is not subject to the provisions of the Paperwork Reduction Act of 1980 (94 Stat. 2812, 44 U.S.C. Chapter 35).

6. In § 101-41.305-1, paragraphs (a), (b), (1) and (2) are revised as follows:

§ 101-41.305-1 General instructions for preparing GBL's involving transit and other problem areas.

(a) *Availability of guide.* Instructions necessary to provide carriers with inbound transit information are furnished in the GSA guide "How to Prepare and Process U.S. Government Bills of Lading" (national stock number 7610-00-682-6740). Agencies may obtain copies of the guide by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the rquesting activity. Though the U.S. Government Transit Bill of Lading set (SF 1131 through SF 1134) has been cancelled, the information contained in the illustrations on page 33 through 37 of the guide for the preparation of those forms is still relevant and must now appear on the regular GBL.

(b) *Common problem areas.* (1) The "Certificate of Carrier Billing for Charges" section is reserved for the recording of certain data by the accounting officer of the billing carrier and shall not be coverd by marks or writing by others handling the GBL. This section on the memorandum copies of the GBL is available to the issuing officer for showing estimated transportation charges and such accounting classification as may be required.

(2) The issuing office shall complete the "For Use of Issuing Office" section of the GBL, including any GBL involving transit to be used by a contractor as shipper. Failure of the issuing office to show the date and number of the contract, purchase order, or other authority for the shipment and failure to show the f.o.b. point named therein may result in a carrier's refusal to accept the shipment from the contractor-shipper. Accountability for a GBL involving transit used by a contractor-shipper remains with the issuing office. Thus, the name and address of the issuing office, rather than those of the contractor-shipper, shall appear on the GBL.

* * * * *

7. In § 101-41.305-2, paragraphs (b) and (c) introductory text are revised to read as follows:

§ 101-41.305-2 Transit records; Processing and distribution.

* * * * *

(b) Application of transit tonnage. Inbound transit information shall be provided in the "Description of Articles" block of the GBL or, lacking space, on a U.S. Government Bill of Lading continuation sheet which is to be attached to the GBL.

(c) Furnishing transit certificates. Transit certificates (record of transit and application) need not be prepared and furnished to GSA (BWAA/C) when the paying office normally verifies or enters the inbound billing information in the "Description of Articles" block of the GBL. If the paying office does not verify or provide inbound billing information, the certificates shall be furnished to General Services Administration (BWAAC/C), Washington, D.C. 20405, as follows:

* * * * *

8. Sections 101-41.305-3, 101-41.305-4, and 101-41.305-5 are revised to read as follows:

§ 101-41.305-3 GBL's covering free or surrendered transit.

A GBL covering free or surrenderd transit is issued for use with an outbound shipment from the transit installation where the line-haul charge to the transit installation equals or exceeds the through transportation charge plus the transit charge. After completing the "Certificate of Carrier Billing for Charges" section of the free GBL covering transit, the billing carrier shall attach the GBL to an SF 1113 bearing the carrier's bill number and submit both forms to the paying office of the agency concerned with a check for any amount due the United States.

§ 101-41.305-4 Billing for transit shipments.

A separate SF 1113 with the work "TRANSIT" typed immediately beneath the caption "ALPHA PREFIX AND SERIAL NO. OF SUBVOUCHER" shall be prepared for each GBL covering a transit shipment.

§ 101-41.305-5 Paying office action on transit billings.

The paying office shall verify and, if necessary, correct the transit information shown on the GBL. When the required transit information is not shown, the paying office shall enter the following information in the "Description of Articles" block of the GBL. or on a GBL continuation sheet, under a heading "INBOUND BILLING REFERENCES": the disbursing office (D.O.) voucher number, bureau voucher number, if any, the date of payment, and the D.O. symbol number of the inbound billing, before forwarding the SF 1113 and a notice of any refunds to GSA (BWAA/C). Vouchers with the accompanying GBL covering free or surrendering transit shall be transmitted to GSA (BWAA/C) separate from other types of transportation vouchers.

9. In § 101-41.306, paragraph (b) is revised to read as follows:

§ 101-41.306 Disposition of GBL forms upon delivery of property to carrier for shipment.

* * * * *

(b) The issuing office shall retain a certified memorandum copy; i.e., the issuing office copy (SF 1103-A and SF 1109-A, if any), and send the consignee copy (SF 1103-B and SF 1109-B, if any) to the consignee. A contractor acting as shipper shall retain one certified memorandum copy, forward one copy to the issuing office, and send the consignee copy to the consignee.

* * * * *

10. Section 101-41.307-1 is revised to read as follows:

§ 101-41.307-1 Substitute document.

When the original GBL (SF 1103) has been lost or destroyed, the billing carrier shall use the freight waybill (original) (SF 1105), properly certified by the issuing office and by the carrier, as a substitute document for billing the charges. Execution of the "Certificate of Carrier Billing for Charges" on the substitute document is not required for charges billed under the exception procedures in § 101-41.312.

11. Section 101-41.307-6 is revised to read as follows:

§ 101-41.307-6 Lost GBL's and freight waybills (original).

When both the original GBL (SF 1103) and the original freight waybill (SF 1105) are lost or destroyed, the carrier shall request from the issuing office a certified true copy of that office's memorandum copy (SF 1103-A) of the GBL. The issuing office shall make its certification regarding the services requested on the reverse of that copy and forward it to the carrier for certification of delivery and billing. Execution of the carrier's certificate of delivery on the substitute document is not required for charges billed under the exception procedures in § 101-41.312. If the lost GBL (original) or freight waybill (original) is recovered, the procedures in § 101-41.307-4 and § 101-41.307-5, as applicable, shall be followed.

12. In § 101-41.308-1, paragraph (b) is revised to read as follows:

§ 101-41.308-1 Agency control.

* * * * *

(b) The personal property GBL assemblies are sequentially numbered with six digits and a two-letter prefix, the second of which is always P; e.g., AP–000,001 through AP–999,999, then BP, CP, etc.

13. In § 101–41.310–2, paragraph (a) is revised to read as follows:

§ 101–41.310–2 Preparation of carrier billing forms.

(a) Instructions for the preparation of SF 1113, Public Voucher for Transportation Charges, are furnished in the GSA guide "How to Prepare and Process U.S. Government Bills of Lading" (national stock number 7610–00–682–6740). Agencies may obtain copies of this guide by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

* * * * *

14. Sections 101–41.4901–1131, 101–41.4901–1131–A, 101–41.4901–1131–B, 101–41.4901–1132, 101–41.4901–1133, and 101–41.4901–1134 are removed.

§§ 101–41.4901–1131 through 101–41.4901–1134 [Removed]

(31 U.S.C. 3726 and 40 U.S.C. 486(c))

Dated: September 20, 1983.

Raymond A. Fontaine,

Comptroller, General Services Administration.

[FR Doc. 83–27598 Filed 10–12–83; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 157

[Docket No. CGD 77–084]

Licensing of Pilots; Manning of Vessels—Pilots

AGENCY: Coast Guard, DOT.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: On January 27, 1983, the Coast Guard published a Supplemental Notice of Proposed Rulemaking regarding the licensing of pilots (48 FR 3912). The comment period was reopened and extended to allow for four public hearings. The comment period ended July 20, 1983. This notice will again reopen and extend the comment period for the sole purpose of providing notification and opportunity for interested persons to review data received from the American Waterways Operators, Inc. (AWO) and to comment on that data.

DATES: Comments must be received on or before November 28, 1983.

ADDRESSES: Comments should be mailed to Commandant (G–CMC/44) (CGD 77–084) U.S. Coast Guard, Washington, D.C. 20593. Between 7:30 a.m. and 3:30 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426–1477.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke, Office of Merchant Marine Safety (G–MVP/14), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202) 426–2985.

SUPPLEMENTARY INFORMATION: During the preparation of the supplemental notice of January 27, 1983, the Coast Guard requested The American Waterways Operators, Inc. (AWO) to provide data regarding barge movements and pilotage costs of its member companies. Data was received from AWO which the Coast Guard utilized in the supplemental notice of January 27, 1983. The Coast Guard again requested AWO to provide updated barge movement and pilotage cost data. AWO has submitted summary barge movement and pilotage cost data obtained from its member companies for calendar year 1982. This data was received after the close of the comment period. Because the Coast Guard intends to make use of this data received from AWO, the comment period is reopened and extended to November 28, 1983. This reopening and extension of the comment period is for the purpose of providing notification and an opportunity for interested persons to review the following data received from AWO and to comment on that data.

Data Received From AWO

On July 11, 1983, AWO conducted a mail survey of the tank barge industry to determine the number of movements and the pilotage costs incurred by the requirements of 46 U.S.C. 364 as it relates to tank barges of 1,000 gross tons or larger. The following is a summary of the survey:

Period surveyed: January 1, 1982—December 31, 1982.

Number of companies responding	17
Approximate number of tank barges operated	200
Approximate number of tank barges in fleet	500
Percentage of industry responding	40

EAST COAST—NINE COMPANIES REPORTING

Type of move	Number of moves	Pilotage cost
Entry	2,983	$1,996,082
Exit	2,980	1,992,156
Intra-port	9,794	7,411,556
Inter-port	4,745	5,622,524
Total	20,502	$17,022,318

GULF COAST—NINE COMPANIES REPORTING

Type of move	Number of moves	Pilotage cost
Entry	1,397	$1,334,850
Exit	1,396	1,309,308
Intra-port	91	62,757
Inter-port		
Total	2,884	$2,706,915

WEST COAST—FOUR COMPANIES REPORTING

Type of move	Number of moves	Pilotage cost
Entry	496	$335,872
Exit	498	335,872
Intra-port	12,965	4,355,290
Inter-port	2,097	1,825,100
Total	16,058	$6,851,734

Total Movements: 39,444. Total Cost: $26,580,967.

In comparing the data collected in 1981 versus 1982, it must be noted that 1982 was a year of deep economic recession and that the barge and towing industry saw its business fall off 25 to 30%. Thus, if business had continued at the same rate as in 1981, there would have been a commensurate 25% increase in movements to 52,592 and pilotage of $35,441,289.

Also, for comparison purposes, the aggregate number of moves and costs in 1982 when the other 60% of the industry is included, would amount to 131,480 moves in 1982 at a cost of $88,603,223. In 1981, there were 103,374 moves at a cost of $76,600,000.

Dated: October 6, 1983.

L. N. Hein,

Captain, U.S. Coast Guard Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83–27815 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80–286]

Jurisdictional Separations Procedures; Federal-State Joint Board Recommendations

AGENCY: Federal Communications Commission.

ACTION: Recommendation to Commission.

SUMMARY: The Federal-State joint board recommends changes in jurisdictional separations procedures. The Joint Board believes that the proposed changes in separations are necessary to ensure consistency with the Commission's access charge plan and to protect telephone subscribers in high cost areas. The Commission will now be able to review these recommendations and adopt final changes in the jurisdictional separations procedures to ensure consistency with the access charge plan and to protect subscribers in high cost areas.

The Commission announces its intention to publish full text in the **Federal Register** and codify into the Code of Federal Regulations a 1983/84 edition of the Separations Manual. The Separations Manual is incorporated by reference with the approval of the Director of the Federal Register; the incorporation by reference will be dropped with the full-text codification of the Manual and all future amendments will be to Part 67 of the CFR.

EFFECTIVE DATES: Comments must be received on or before October 17, 1983. Replies must be received on or before October 27, 1983.

ADDRESS: Secretary's Office, Room 222, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Claudia Pabo, Common Carrier Bureau, (202) 632–9342.

Second 'Recommended Decision and Order

In the matter of amendment of Part 67 of the Commission's rules and establishment of a Joint Board; CC Docket No. 80–286.

Adopted: April 15, 1983.
Released: September 26, 1983.

By the Federal-State Joint Board: Commissioner Marvin R. Watherly concurring and issuing a separate statement; Commissioner Anne P. Jones dissenting and issuing a separate statement.

Table of Contents

I. Introduction

A. Summary of Recommended Decision
B. History of the Proceeding and Related Developments

II. Allocation of Non-Traffic Sensitive Local Exchange Plant Costs

A. Background
1. NTS Plant
2. History of Separations
3. Effect of SPF
B. NTS Allocation Options
1. Usage Based Allocation Methodology
2. Gross Assignment Methodology
3. Hybrid Allocation Methodology
4. Comments on Basic NTS Allocation Methodology
C. Standards for Evaluation of NTS Allocation Options
D. Basic NTS Allocation Methodology
1. Equal Percentage Interstate NTS Allocation for All Study Areas
2. Level of Basic Interstate Allocation
3. Legality of 25 Percent Interstate NTS Allocation for All Study Areas
4. *Separations Manual* Language for the Basic Allocation
E. The High Cost Amount
1. Summary of High Cost Provisions
2. Protection for High Cost Areas
3. Legality of Separations Based Protection for High Cost Areas
3. *Manual* Language Concerning the High Cost Amount
F. Transition
G. Monitoring

III. Other Separations Changes

A. Changes in Outside Plant Classifications
B. Customer Premises Equipment (CPE)
C. Host-Remote Complexes and Digital Electronic Switches
D. Treatment of ENFIA Services
E. FX and CCSA Services
F. Calendar Day or Business Day Traffic Studies
G. Peak Period Usage
H. A More Open Separations Process
I. Business Relations Expense and Revenue Accounting Expense
J. Advertising and Sales Expenses and the LATA Concept
K. Other Changes Proposed for the *Separations Manual*
1. Exchange Trunks
2. Land and Buildings Simplification
3. Direct Assignment Principle
4. Extended Area Service (EAS)
5. Property Tax Apportionment
6. Weighted Standard Work Seconds (WSWSs)
7. TSPS Processor Use
8. Revision of Directory Assistance Traffic Units
9. Intercept
10. Network Administration
11. Modification for Special Services
12. Service Observing Expense
13. Determination of Exchange
14. Wage and Hour Differential Ratio
15. Number Services Record Work
16. Rest and Lunch Rooms—Dining Services
17. Space Used by Another Company for Interstate Operations
18. Outside Plant Simplification—Cable Conversion
19. Plant Furnished to Another Company
20. Material and Supplies
21. Test Desk Work—Trunk Testing
22. Interest Charged Construction
23. Investment Credits—Net
24. Interest Not Related to Capital Obligations
25. Separations Study Expense
26. Other Operating Taxes
27. Central Office Power Equipment
28. COE Emergency Power Equipment
29. Technical Wording Changes

IV. Ordering Clause

Appendix A *Separations Manual* Revisions

I. Introduction

A. Summary of Recommended Decision

1. The Federal-State Joint Board hereby presents its recommendations concerning resolution of the remaining issues in this proceeding.[1] The most important of these issues involves the allocation of non-traffic sensitive (NTS) local exchange plant costs [2] between the interstate and intrastate jurisdictions. There are also a number of issues concerning the allocation of traffic sensitive (TS) local exchange plant costs between the jurisdictions, as well as various technical changes to the *Separations Manual*. The first section of this *Order* summarizes the developments in this proceeding to date, and reviews developments in other related areas, particularly the Commission's access charge plan adopted in CC Docket No. 78–72, phase I, the *MTS and WATS Market Structure Inquiry*.

2. The second section of this *Order* contains the Joint Board's recommendations concerning a new basic allocation factor for NTS local exchange plant costs and measures to protect high cost areas, as well as background information concerning these issues. In general terms, we are recommending the following: (1) A basic 25 percent interstate allocation factor for all study areas applicable to investment in non-wideband subscriber loops used jointly for exchange service and toll message services (excluding WATS access lines) and inside wiring as well as the maintenance and depreciation expenses and reserves associated with these plant categories;[3] (2) an additional lump sum interstate expense allocation for study areas [4] with relevant unseparated (total intrastate and interstate) NTS local exchange costs [5] in excess of 115

[1] Federal Communications Commissioners Anne P. Jones and Joseph R. Fogarty participated in the Joint Board's April 15, 1983, vote on these recommendations, but have since left the Commission. Commissioner Fogarty voted for the recommendations adopted at the April 15, 1983 meeting and approved a draft of this *Order* before leaving the Commission. He specifically authorized the staff to make appropriate changes to perfect the *Order*. Commissioners Jones and Fogarty did not consider the material discussed in paragraph 73.

[2] See paragraph 10 for an explanation of the telephone plant involved.

[3] The basic 25 percent allocation factor will also apply to Category 8 subscriber line circuit equipment associated with such jointly used non-wideband subscriber loops.

[4] A study area usually consists of a telephone company's service territory within a particular state.

[5] The relevant unseparated NTS costs include: (1) a return component for net plant investment in non-

Continued

percent of the national average, based on a series of cost bands which provide a higher percentage interstate allocation for costs in the higher cost bands; [6] (3) division of the interstate and user common line revenue requirement calculated pursuant to Part 69 of the Commission's Rules into a subscriber access amount which will be reflected in subscriber access charges and a high cost amount which will be recovered through carrier's carrier access charges to prevent subscriber access charges from exceeding 200 percent of the national average; and (4) continued use of the frozen percentage Subscriber Plant Factor (SPF) [7] until January 1, 1986, followed by a transition period under which the 25 percent basic interstate allocation for jointly used subscriber loops, inside wire, and associated maintenance, depreciation, and reserves as well as the additional interstate expense allocation for high cost areas will be phased in in four equal steps, subject to the limitation that no study area is to experience a decrease in its interstate NTS allocation of more than 10 percentage points in any one year.

3. The other recommended changes in the allocation of local exchange plant include: (1) Minor revisions in the Outside Plant categories to track the categories used in Part 69 of the Commission's Rules; (2) direct assignment of subscriber loops used exclusively for intrastate or interstate private line or WATS access; (3) additional *Separations Manual* language to ensure that the benefits of the CPE phase out plan previously adopted by the Commission in this proceeding [8] continue to flow to the local Bell Operating Companies after the embedded CPE is transferred to AT&T under the provisions of the *Modified Final Judgment*, [9] with the interstate CPE related allocation based on the frozen percentage SPF; (4) continued allocation of NTS Category 6 central office equipment (NTS Category 6 COE) to the interstate jurisdiction on the basis of frozen SPF pending further study of the need for changes in the categorization and allocation of this plant; (5) the adoption of seven (calendar) day traffic studies in lieu of five (business) day studies; (6) the inclusion of unweighted ENFIA dial equipment minutes of use in the allocation of traffic sensitive local dial switching equipment; (7) the revision of some language in the outside plant and central office equipment *Manual* provisions to treat explicitly digital electronic host/remote complexes; and (8) the treatment of open end FX and CCSA/ONALS used in interstate service as interstate for separations purposes. A number of other technical changes to the *Manual* were proposed in the November 1982 *Order*. Many of these were intended to simplify or modernize the separation procedures. The most significant of these other technical changes is the change from traffic units to weighted standard work seconds as the basis for the allocation of certain classes of manual office and operator expenses. Each of these "other" matters has a small or negligible dollar impact on the relative separation of costs between the jurisdictions.

B. History of the Proceeding and Related Developments

4. This Federal-State Joint Board was convened in July 1980 pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c) (1976), to recommend amendments to the *Separations Manual* governing the allocation of local exchange plant investment between the intrastate and interstate jurisdictions.[10] *Amendment of Part 67 of the Commission's Rules*, 78 FCC 2d 837 (1980). Specifically, the Joint Board was directed to reexamine separations procedures in light of the increasing level of NTS exchange plant allocations to the interstate jurisdiction, the Commission's plans to prescribe some form of access charges in CC Docket No. 78–72,[11] the necessity of prescribing separations treatment for Foreign Exchange (FX) and Common Control Switching Arrangements (CCSA) and the Commission's decision in Docket No. 20828 to detariff customer premises equipment (CPE).[12]

5. The Joint Board has conducted this proceeding in two separate stages. On June 10, 1981, we adopted an *Order Requesting Comments* in which we solicited preliminary views on the specific issues to be addressed in the proceeding and asked for comment on a proposal, set forth in Appendix E to that *Order*, for the gradual removal of CPE related costs and expenses from the separations process. CC Docket No. 80–286, FCC 81–264, released June 12, 1981. In recognition of the relative urgency of resolving CPE separations issues to ensure the smooth and timely implementation of the Commission's detariffing policies, and the fact that the separations treatment of CPE could be handled separately as a discrete issue, we adopted a *Recommended Decision and Order* proposing that CPE be phased out of the separations process over a five year period.[13] We also took steps to limit the growth of interstate allocations of NTS local exchange plant pending final resolution of the issues involved in this proceeding. We believed that this was necessary in order to limit the dislocations which might result from a transition to a new allocation scheme for NTS costs.[14] Thus, in a separate *Recommended Interim Order*, we proposed that the Commission freeze SPF [15] at the 1981

wideband subscriber loops jointly used for exchange and message toll services (excluding WATS access), calculated on the basis of the actual debt/equity ratio, the actual cost of debt and the authorized rate of return on equity for interstate access service; (2) associated maintenance and depreciation expenses; and (3) an amount of general expenses, certain other operating expenses, and taxes proportionate to the net investment in non-wideband subscriber line outside plant jointly used for local exchange and message toll services excluding WATS access.

[6] This additional interstate allocation is to be calculated after the basic state and interstate allocations have been determined pursuant to the other provisions of the *Manual*. It will be deducted from the state allocation calculated pursuant to the other *Manual* provisions, lowering the state revenue requirement and keeping intrastate rates lower than they otherwise would be.

[7] See note 15 for an explanation of SPF.

[8] CC Docket No. 80–286, Amendment of Part 67 of the Commission's Rules, 89 FCC 2d 1 (1982), *modified*, 90 FCC 2d 52 (1982).

[9] United States v. AT&T, 552 F. Supp. 131 (1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983).

[10] The *Separations Manual* is presently incorporated by reference in Part 67 of the Commission's Rules.

[11] MTS and WATS Market Structure, Phase I, Second Supplemental Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 224 (1980); Fourth Supplemental Notice of Inquiry and Proposed Rulemaking, 90 FCC 2d 135 (1982); Third Report and Order, FCC 82–579, released February 28, 1983, 48 FR 10319 (March 11, 1983), *reconsideration*, FCC 83–356, released August 22, 1983, *appeal pending sub nom.* NARUC v. FCC (D.C. Cir. No. 83–1225, filed March 1, 1983).

[12] Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Final Decision, 77 FCC 2d 384 (1980), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom.* CCIA v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

[13] This recommendation provided for the capping of CPE plant accounts for separations purposes as of December 31, 1982 and the capping of CPE related expenses at 1982 average levels. Starting January 1, 1983, in coordination with the date for detariffing CPE set by the Commission in the *Second Computer Inquiry*, these base amounts were to be reduced by one-sixtieth per month with all interstate allocations terminating at the end of the five year transition.

[14] Allowing the increase in the SPF based interstate NTS allocation to continue pending final action in this proceeding would have made the transition to a different interstate allocation methodology more difficult.

[15] SPF is the allocation factor for NTS plant that was approved by the Commission in 1970 for use in the current *Separations Manual*. *Separations Procedures*, Docket No. 18866, 28 FCC 2d 247 (1970).

Continued

annual average level for each study area effective January 1, 1982.[16] CC Docket No. 80–286, FCC 81–565, released December 14, 1981. The Commission issued a *Further Notice of Proposed Rulemaking* requesting comments on the Joint Board's proposals, CC Docket No. 80–286, FCC 81–580, released December 21, 1981, and subsequently adopted both the CPE phase out plan and the interim SPF freeze, with a number of technical modifications.[17] CC Docket No. 80–286, *Decision and Order*, 89 FCC 2d 1 (1982), *recon. denied*, FCC 82–492, released November 8, 1982, *appeals pending sub nom. MCI Telecommunications Corp.* v. *FCC* (D.C. Cir. Nos. 82–1237, 82–1456, filed March 4, 1982).

6. In the second stage of this proceeding, we focused on the need to recommend permanent changes in the separations procedures for allocating non-traffic sensitive and traffic sensitive exchange plant, ensuring the inclusion of all interstate services, particularly FX, CCSA and ENFIA, within the separations process, providing for compatibility between separations procedures and the Commission's access charge plan, and making various modifications to the *Manual* regarding the administration of the separations process, traffic measurement, and the general simplification and modernization of various separations procedures affecting local exchange plant.[18] In the November 1982 *Order Requesting Further Comments* we set out specific proposals for most of the separations changes under consideration other than the basic allocation factor for NTS costs. These proposals included provisions governing the treatment of ENFIA services, interstate assignment of revenues, investment and expenses associated with interstate FX and CCSA/ONALS service, the establishment of an Information Bank and Federal State Technical Staff to ensure a more open administration of the separations process, the use of more representative study periods and techiques for the measurement of exchange usage, minor modifications to the plan to phase CPE out of separations, and a number of miscellaneous technical changes.

7. With respect to the basic allocation methodology of NTS plant, rather than making specific proposals in the November 1982 *Order* we put forth a "menu of options" for consideration by the parties. Each of these options was based on the "generic formula" approved by the Joint Board at its February 24, 1982 meeting and included a usage factor or other basic allocation factor, a high cost factor to provide additional interstate allocations for telephone companies in high cost areas, and a transition factor to ensure a non-disruptive shift from SPF to the new allocation method.[19] The specific options for a basic allocation factor, which included usage based, gross assignment and hybrid approaches, are discussed more fully below. The options for a high cost factor included one based on surrogate variables related to costs, such as low density and small exchange size, and one directly based on costs. Options for a transition time factor included the selection of a particular number of years or a ceiling on the dollar amount of the change in the interstate allocation that would be allowed in any one year.

8. On December 22, 1982, subsequent to the issuance of the November 1982 *Order*, the Commission adopted its *Third Report and Order* in the *MTS and WATS Market Structure* proceeding, establishing a plan for replacing the interstate division of revenues and settlements process with a system of tariffed access charges. Under the access charge plan, as modified on reconsideration, [20] a major portion of the NTS local exchange costs which are allocated to the interstate jurisdiction through separations [21] ultimately will be paid for directly by subscribers through flat charges instead of being bundled into the message charges for interstate services. The change to the new system will be phased in over a six year period beginning January 1, 1984.[22] Interexchange carriers will pay nationwide average access fees for certain interstate NTS local exchange plant costs including the costs of CPE, which are being phased out of separations, inside wire, NTS Category 6 COE and the Universal Service Fund which will provide rate support for high cost areas. [23] The Commission provided that the Universal Service Fund would be based on a high cost factor to be established by the Joint Board to "promote or preserve universal service by enabling high cost companies to establish local exchange rates that do not substantially exceed rates charged by other companies." CC Docket No. 78–72, Phase I, FCC 82–579 at 43 (1982). The Commission's decision adopting an access charge plan and Universal Service Fund mechanism removed a great deal of the uncertainty surrounding our choice of the particular elements for a new NTS local exchange plant allocation methodology within the generic formula.

9. At our March 1983 meeting, we adopted four basic principles to govern the allocation of NTS local exchange plant costs between the jurisdictions. We stated that the separations plan must: (1) Provide certainty to all parties; (2) be administratively workable; (3) ensure the permanent protection of universal service; and (4) be fair and equitable to all parties. At that time, we also decided on the basic outline of a new NTS allocation plan. We found that frozen percentage SPF should continue to be used as the basic allocation factor for at least one year. We also stated that we intended to recommend a new NTS allocation methodology that would result in fair, even-handed treatment of all states, telephone companies and subscribers while keeping existing nationwide jurisdictional separations at approximately the present level. We

The factor is rendered as SPF + .85 SLU + (2SLU × CSR), with SLU (subscriber line usage) as a measure of relative use and CSR (composite station rate) a factor related to interstate toll rates and the average length of haul for interstate toll calls. The multiplicative nature of the formula magnifies the allocative impact of increases in relative interstate usage.

[16] This action was intended to preserve the *status quo* in terms of the state and interstate percentage allocation of jointly used subscriber plant, although we recognized that the actual dollar level of the interstate allocation would continue to rise somewhat as a result of inflation and increases in NTS plant investment.

[17] At the same time that the Commission adopted the CPE plan, the Joint Board recommended amendments to the plan that would permit the capping of CPE accounts in advance of the previously established date to facilitate the implementation of CPE sale programs before January 1, 1983. CC Docket No. 80–286, 89 FCC 2d 607 (1982). After providing an opportunity for comment, CC Docket No. 80–286, 89 FCC 2d 604 (1982), the Commission adopted these amendments. CC Docket No. 80–286, 90 FCC 2d 52 (1982).

[18] In the course of our review of various proposals for such miscellaneous changes we have noted the desirability of making certain changes in the separations treatment of interexchange plant. However, we view the consideration of interexchange plant issues as beyond the purview of our present mandate, and thus do not address them here.

[19] The generic formula was stated as follows:
ACF = {UF + HCF) × T} + [SPF(1–T)]
Where:
ACF = Access Cost Factor
UF = Usage Factor
HCF = High Cost Factor
T = Transition Time Factor
SPF = Subscriber Plant Factor

[20] MTS and WATS Market Structure, CC Docket No. 78–72, Phase I, FCC 83–356, released August 22, 1983.

[21] At present NTS local exchange costs allocated to the interstate jurisdiction are recovered through the charges for interstate message services.

[22] The Commission has indicated that it will initiate a proceeding to review the results of the access charge decision before the end of the third year of the transition period.

[23] Interexchange carriers also will pay separately tariffed access charges for the use of traffic sensitive exchange facilities including Category 6 NTS plant in the origination and termination of their interstate services.

also found that a permanent high cost factor based on unseparated (total intrastate and interstate) NTS local exchange costs excluding CPE and inside wiring, should be adopted to protect universal service. In addition, we requested comments on: (1) The length and timing of the transition to the new NTS allocation factor; (2) the maximum change per year to be allowed in a local telephone company's interstate allocation; (3) what provisions, if any, should be made for companies that will experience extraordinary changes in their interstate allocation; and (4) the point at which the high cost factor should begin to apply—110 percent or 120 percent of the national average. In conclusion, we recommended that the Commission extend this Joint Board's mandate to include monitoring implementation of the access charge decision and the changes in jurisdictional separations. CC Docket No. 80–286, *Statement of Principles and Requests for Further Comments*, CC 3111, released March 23, 1983.

II. Allocation of Non-Traffic Sensitive Local Exchange Plant Costs

A. Background

1. NTS Plant

10. NTS local exchange plant includes CPE, inside wiring, the line from the subscriber's premises to the central office, and certain central office equipment.[24] This portion of local exchange plant is termed non-traffic sensitive because the costs associated with it do not vary with usage. Instead they are incurred to provide individual subscribers with dedicated circuits to the local central office and thus are largely a function of the number of subscribers connected to the network. As the Commission noted in its *Interim Decision* in Docket No. 16258, a general investigation of Bell System interstate rates:

> Unlike other classes of plant, such as dial switching equipment and exchange toll trunks, subscriber plant is not traffic sensitive, that is, it is not engineered to handle expected volumes of traffic. The purpose and function of subscriber plant are to make both local and long-distance telephone service available to the subscriber through connection with switching and trunk plant. It does so without regard to the volume or classes of calls the subscriber may originate or receive.

[24] A portion of Category 8 local dial switching equipment costs are presently allocated on a NTS basis in the *Separations Manual*. Unless otherwise specified, the term NTS COE refers to this plant. Certain Category 8 circuit equipment is also non-traffic sensitive.

AT&T Charges for Interstate and Foreign Communications Service, 9 FCC 2d 30, 102 (1967).

11. As we pointed out in our November 1982 *Order*, NTS local exchange plant which is used for both intrastate and interstate services, does not easily lend itself to jurisdictional allocation measures grounded in theoretical economics or otherwise rationally related to the basis upon which the costs are incurred. This stands in sharp contrast to traffic sensitive plant for which usage is a rational and generally accepted cost allocation method. Despite this, the *Minnesota Rate Cases*, 230 U.S. 352 (1913) and *Smith v. Illinois Bell Telephone Co.*, 282 U.S. 133 (1930) require the apportionment of jointly used carrier plant between intrastate and interstate operations. The search for a proper and reasonable method of effecting a jurisdictional separation of NTS telephone plant costs has challenged state and federal regulators as well as the industry for decades.

2. History of Separations

12. Separations procedures, especially those for NTS local exchange plant, have undergone numerous revisions.[25] In the early days of telephony, most Bell System separations studies, conducted in connection with state rate proceedings, reflected the "board-to-board" approach under which only the costs of facilities located on the trunk side of the originating local switchboard were allocated to toll operations. In *Smith*, the Supreme Court found that a separations apportionment should not "ignore altogether the actual uses to which property is put." 282 U.S. at 151. This eventually led to adoption of the "station-to-station" approach under which all local telephone plant is allocated between the jurisdictions. Usage based allocations of subscriber plant were used to implement this approach. State and federal regulators as well as the industry began to work together on separations problems in 1941 following interstate rate reductions and the appearance of serious disparities in interstate and intrastate toll rate structures.

13. Over the next thirty years, several different separations plans were employed. All of them were generally based on usage measures, although they varied greatly in effect depending on the degree of aggregation or disaggregation of the plant categories, the extent of direct assignment as opposed to usage allocation, and the application of various value factors to the relative use measures. Some of the value factors that were proposed or used included "calling availability" to reflect the increased value of extended area service, "deterrence" weightings to reflect differences in use between flat rate exchange service and message rate toll service, "standby time allocation" to reflect the fact that the average local loop and telephone are actually used for a very small period of time each day, and "distance weightings" based on the assumption that the value of telephone service increases with distance.

14. Although federal staff members and commissioners had been involved in the development of various separations plans, the Commission did not take any official action concerning separations until this issue was made a part of the general investigation of interstate rates in Docket No. 16258.[26] In 1965, the same year that proceedings in Docket No. 16258 were initiated, the Bell System and NARUC introduced a separations plan which had been developed at meetings in Denver, Colorado (the "Denver Plan") explicitly recognizing the concept of "relative value" in the design of apportionment factors. The Denver Plan required the apportionment of subscriber lines and station equipment on the basis of a use-user factor designed "to reflect the relative value of the availability for message toll use of subscriber line and station equipment plant."[27] It also introduced the application of weighting factors for toll minutes of use of local dial switching equipment. The mechanics of this approach quickly proved unworkable and AT&T and NARUC took the position that the value of availability as well as actual use of subscriber plant for toll services could be better recognized by a distance weighted usage factor related to the length of haul. 9 FCC 2d at 105.

[25] For a description of the history of separations, see NARUC FCC *Separations Manual*, February 1971, pp. 5–8; Gabel, *Development of Separations Principles in the Telephone Industry*, Michigan State University, 1967.

[26] In 1941, the Commission instituted a formal investigation of interstate rates, including separations procedures, in Docket No. 6328. Although formal hearings were held, a decision on separations was never issued and the proceeding was ultimately closed in 1966 after the initiation of the telephone rate investigation in Docket No. 16258.

[27] The independent telephone companies presented an alternative distance weighted plan, also based upon the assumption that value increases with distance, which would have produced a slightly higher interstate allocation than the AT&T NARUC plan. Western Union presented a third alternative that averaged a 25 percent availability factor with the actual use in each study area. The Commission rejected the independent telephone company availability plan as arbitrary and without a rational basis. 9 FCC 2d at 108.

15. The Commission declined to adopt distance as the sole measure of the value of toll calls. Instead, the Commission considered it important to take into account:

> [T]he fact that subscriber plant is not traffic sensitive; that its principal function is to provide subscribers with a constantly available access to and from the exchange and long-distance telephone networks; and that the costs of such plant are largely the function of this availability rather than use alone.

9 FCC 2d at 108. The Commission concluded that

> [M]ost significant is the fact that actual use of subscriber plant for long-distance service is restricted by the rate features of the toll rate schedules which, in contrast with exchange rate schedules, provide for individual charges for each message, and which are further based on time and distance.

Id. Although recognizing that the deterrent effect of the toll rate structure could not be quantified exactly, the Commission concluded that an appropriate allowance for this effect would be created by adding to each study area's actual interstate SLU a factor equal to 200 percent of the nationwide average interstate SLU for the total telephone industry.[28]

16. Contemporaneous with the closing of Docket No. 16258, the Commission instituted a new rulemaking proceeding to consider alternative separations plans proposed by NARUC and the telephone industry. *Jurisdictional Separations of Telephone Companies* (Docket No. 17975), 16 FCC 2d 317 (1969). The parties commenting in this proceeding argued that the Commission's plan, which employed a single uniform deterrence factor, ignored the fact that different deterrent effects were experienced in different service areas, failed to reflect adequately the increasing deterrent effect of the toll rate schedule as calling distances increased, offered no incentive for the development of additional interstate business in a given study area, and produced inequitable results among the states. The Commission modified the original formula in order to correct these deficiencies and provide for decreases in interstate allocations as interstate toll rates were reduced and the deterrent effect reduced. It reduced the first additive applied to study area SLU to 100 percent of nationwide average interstate SLU and provided for a second additive consisting of a modified SLU that reflected different rate (and thus deterrent) effects at different lengths of haul.[29] The Commission noted that there was "no means of precise mathematical measurement of the amounts necessary to give effect to all of the factors under consideration," but expressed the belief that the new procedures would produce fair and equitable results for all parties and represented "acceptable compromises between complex procedures which are costly to effectuate and less precise methods which are generally equitable and have the advantage of simplicity and ease of application." 16 FCC 2d at 328. In the same *Order*, the Commission incorporated the new separations procedures by reference into Part 67 of the Commission's Rules.

17. In 1970, the Commission initiated a further rulemaking concerning separations procedures in Docket No. 18866, and convened a Federal-State Joint Board pursuant to Section 410 of the Act[30] to recommend additional changes to the *Separations Manual*. That Joint Board concluded that the procedures then in use failed to reflect the wide variations in the deterrent effect of rate schedules for different distances, tended to inflate the costs of short haul toll and could not appropriately be used for the separation of costs between exchange and intrastate toll operations. The Joint Board recommended adoption of the current SPF formula (the "Ozark Plan")[31] to reflect more accurately the different deterrents to interstate use of subscriber plant in different study areas. The first part of the two part formula (.85 SLU) waa intended to assign th same cost per minute of use to exchange, intrastate toll and interstate toll operations. The second part of the formula reflected the different deterrent effect produced by the toll rate structure in each study area. The Joint Board's recommendations in Docket No., 18866 were adopted without modification by the Commission effective January 1, 1971. *Separations Procedures*, 26 FCC 2d 247 (1970).

3.Effect of SPF

18. Since the Ozark Plan was instituted, the operative effect of the SPF formula has called into question the validity of the deterrence theory, and the implementation of that theory in the Ozark Plan. The argument for adjusting interstate allocations in light of deterrence created by the interstate toll rate structure is based on the assumption that a generally usage based allocation method would assign an insufficient portion of NTS local exchange plant costs to interstate operations absent Compensation for the deterrent effect of message rate structures. However, the increase in relative interstate use over the past twelve years indicates that the message toll rate structure does not create insurmountable inhibitions to growth. It is probably true that, absent significant changes in calling patterns over time, a usage based factor more accurately reflects a proportional allocation of NTS plant if it is adjusted for the different effects that flat and message rate structures have on usage. Despite this, it is not apparent that a deterrence adjustment is necessary to produce an essentially reasonable allocation of NTS costs, especially in light of the significant and consistent growth in interstate relative use.

19. In addition, as was recognized when the Ozark Plan was first adopted, it is not possible to gauge the actual deterrent effect of a particular rate structure with any degree of precision. Even if the SPF formula accurately reflected the deterrent impact on toll usage produced by the rate strucutee in effect in 1970, it cannot be viewed as producing the same degree of accuracy today. The continued increase in Bell System interstate relative usage despite the availability of competitive alternatives, the emergence of measured local rates, as well as the growth of the importance of telecommunications in the overall economy indicate that an adjustment which might have been justified in 1970 cannot serve as a sound estimate of deterrence today. The multiplicative effect of SPF also creates anomalous results since the deterrence adjustments continue to magnify interstate allocations even though the growth in relative interstate use indicates that any actual deterrence that might exist is of decreasing importance. In fact, the divergence from actual use increases as relative interstate use

[28] The effectiveness of these separations changes was briefly stayed pending review or reconsideration, but was subsequently reaffirmed by the Commission without further modification. Memorandum Opinion and Order, 11 FCC 2d 493 (1968).

[29] This second additive consisted of the study area SLU multiplied by the ratio of the average interstate initial period station rate at the study area average interstate length of haul to the nationwide composite total toll initial period station rate at the nationwide average length of haul for all toll traffic nationwide. This ratio is essentially the same as the CSR ratio used in the SPF formula which is shown in footnote 15 supra.

[30] The establishment of this Joint Board predated the enactment of the current Section 410(c) of the Act, Pub. L. 92–131, approved September 30, 1971, 85 Stat. 363, which specifically requires the Commission to refer proceedings concerning jurisdictional separations to a board composed of three federal and four state commissioners for the preparation of a recommended decision.

[31] The plan was so name because the Technical Staff decided to recommend the plan at a meeting at lake of the Ozarks, Missouri.

VOL 48 ISS 199 OCT 13 1983 UMI

grows. Due to this, the proportion of subscriber plant costs, allocated to interstate, which is now approximately 26 percent nationwide, would eventually rise to an unsound level if use of the SPF formula were to continue.[32] In addition, the Commission froze SPF pending adoption of a new method for allocating NTS local exchange plant costs. As a result, both the 85 percent adjustment to SLU and th CSR ratio, which were originally designed to fluctuate as actual rates and traffic patterns changed, are now frozen and no longer reflect actual current values.

B. NTS Allocation Options

1. Usage Based Allocation Methodology

20. In the November 1982 *Order*, we described five basic allocation plans. Two of these plans allocated NTS local exchange plant costs on the basis of relative use. Another plan involved a gross assignment or flat percentage allocation approach which assigned a fixed percentage of NTS local exchange plant costs to each jurisdiction. We also described two hybrid plans which incorporated aspects of both the usage and gross assignment approaches. The first plan we described was a usage based approach, referred to as NUSLU, proposed by the telephone industry. It utilized SLU modified to include open end FX and CCSA/ONALS [33] usage, and included the effect of seven (calendar) day traffic studies. This allocation factor was intended to apply to NTS local dial switching equipment, subscriber lines, drop wire, inside wire, and terminal equipment in Accounts 231 and 234 other than customer premises equipment. The proponents of this plan predicted that it would produce a 60 percent decrease in interstate NTS cost assignments based on 1980 data. In the discussion of this plan in the November 1982 *Order* we noted that it would work very well with a usage based access charge approach.

21. The second usage based NTS allocation methodology we discussed was the Total Call Minutes (TCM) allocation factor adjusted to reflect off-peak usage. TCM was calculated by modifying the SLU formula to count half of the exchange holding time minutes of use in a given study area. The modified TCM plan included an off-peak discount which reduced the interstate allocation factor by 30 percent for evening minutes of use and 60 percent for night, weekend, and holiday minutes of use. The discount applied to the factor, not the interstate minutes of use. The modified TCM factor also applied to the open end of private lines terminating directly in the local public switched telephone network, and included interstate minutes of use over such facilities. This approach would apportion more NTS local exchange plant costs to the interstate jurisdiction than SLU or NUSLU but less than SPF. Assuming deregulation of CPE, but not inside wiring, the post-transition effect of this plan would be to reduce the current interstate NTS cost assignment by about 50 percent. In the discussion of this plan in the November 1982 *Order*, we noted that it would not necessarily minimize the threat of uneconomic bypass, and again pointed out that a usage based NTS allocation plan was most consistent with a usage based access charge approach.

2. Gross Assignment Methodology

22. A gross assignment allocation methodology involves use of a flat percentage interstate assignment, although the level of the assignment could range from 0 to 100 percent. Under a flat percentage assignment, a different percentage of costs could be allocated to the interstate jurisdiction for each study area or an equal percentage interstate allocation could be established for all study areas. The distinguishing feature of a flat percentage assignment is that it does not change as a result of changes in usage.

23. A flat percentage assignment allows greater stability and predictability by perventing changes in the interstate apportionment which could result from a usage based allocation. It therefore reduces incentives to manipulate usage patterns. We noted in the November 1982 *Order* that a flat percentage assignment was the separations approach most suited to use with a flat fee access charge, and would allow efficient pricing of access if the Commission discontinued per minute recovery of NTS plan costs. We also pointed out that this plan would provide relative stability in the interstate assignment, and eliminate existing concerns regarding the rapid growth of SPF.

3. Hybrid Allocation Methodology

24. A hybrid allocation methodology combines features of the flat percentage and usage based approaches. In the November 1982 *Order* we discussed the Buffered Gross Assignment (BGA) plan as one example of such an approach. This plan combined a flat percentage assignment of costs with a usage based adjustment designed to mitigate the change from SPF. It involved allocating 25 percent of NTS local exchange plant costs to interstate toll services with adjustments for areas with high SLUs or high costs. The BGA usage adjustment was a linear function of SLU, chosen so that the nationwide average interstate allocation would remain at 25 percent, although the proposed usage factor would substantially less with usage than SPF. The usage factor would require periodic downward adjustment to maintain the 25 percent nationwide average interstate allocation unless frozen SLU levels were used. If frozen SLU were used, however, this plan provided for an adjustment to reflect calendar day traffic studies and open end FX interstate minutes of use.

25. The other hybrid approach discussed in the November 1982 *Order* was referred to as NUSPF. It involved the allocation of NTS local exchange plant costs based on a frozen SPF weighted by service category. This plan separated NTS costs according to actual use, but insulted the allocation factor from usage changes caused by changing rate structures. Theoretically, this plan separated NTS costs in proportion to the actual use that would exist in the absence of measured use rate structures, approximating "customer service preference." The usage for each service employing NTS local exchange facilities would be weighted relative to flat rate service, with the new interstate allocation equal to weighted interstate use divided by total weighted use. The interstate allocation would be calculated for each study area using 1981 traffic data, and remain frozen. This approach would result in a nationwide interstate NTS allocation at approximately the current level.

26. In the November 1982 *Order* we noted that the weights used in calculating NUSPF appeared to be arbitrary and would be difficult to update. We also questioned whether pure "customer service perference" was in fact frozen over time. We further noted that this method might cause unproductive delays and distortions in modifying local rate structures to coincide with access charges.

4. Comments on Basic NTS Allocation Methodology

27. The parties filing comments in response to the Joint Board's November 1982 *Order* supported a variety of basic NTS allocation approaches. Several parties advocated gross assignment plans. These flat percentage assignment proposals ranged from a 100 percent intrastate allocation advocated by Rochester Telephone Company and Continental, to a 100 percent interstate allocation proposed by SBS. Both MCI and Southern Pacific stated that they would accept a flat assignment of 25 percent to the interstate jurisdiction. USTS also supported a flat assignment approach.

28. A number of parties advocated hybrid allocation approaches. Several parties, including GTE, Centel, United and USITA, proposed allocating NTS plant on the basis of current frozen SPF. The Rural Telephone Coalition recommended continued use of frozen SPF pending resolution of access charge issues. REA supported the use of forzen SPF until access changes were in place, but proposed the use of NUSPF as a permanent allocation factor. AT&T proposed setting the interstate NTS allocation at a fixed dollar amount for two years based on the persent interstate allocation under frozen percentage SPF. The Office of Management and Budget also supported this basic approach. In addition, the Ad Hoc Telecommunications Users Committee supported use of a separations method involving a fixed dollar allocation to the interstate jurisdiciton. The Wyoming Group stated that it would recommend a fixed NTS assignment at or close to the present allocation level if the Commission adopted a flat fee access charge approach.

29. The Tennessee Commission felt that the Buffered Gross Assignment plan was the best option. The Telephone Association of New England also supported the BGA plan with the Calling Capability Factor (CCF),[34] an allocation approach based on the relative number of subscribers using each service, as its second choice. The New York State Department of Public Service supported NUSPF. The Texas Statewide Telephone Cooperative, Inc. supported a hybrid allocation approach based on SLU with a pure usage additive calculated in a manner similar to NUSPF.

30. The Kansas Commission favored NTS allocations based on an alternative cost avoidance approach, allocating costs between the jurisdictions based on the ratio of the estimated cost of separate local distribution facilities for long distance and local service. The South Dakota PUC also supported this approach. Both the Kansas and South Dakota Commissions stated that they would accept the BGA plan as an interim allocation method. The Independent Alliance supported CCF as the basis for NTS allocations but stated that they might also accept the BGA plan. A number of parties including ARINC, the California PUC, Egyptian Telephone Cooperative, Golden West Telephone Company and the Michigan Action Group favored usage based NTS allocation plans. The Wyoming Group stated that it would support a usage based approach to NTS allocations if the Commission adopted a usage based access charge.

31. The overwhelming majority of the parties filing reply comments supported some form of forzen SPF as the basic NTS allocator at least for an initial period.[35] AT&T reiterated its proposal that interstate NTS cost allocations be frozen at the present 1983 dollar level. A number of parties, including USITA, Southwestern Bell, Telephone Association of New England, Texas Statewide Telephone Cooperative, Inc., Roseville Telephone Company and Moundridge Telephone Company, favored the use of frozen percentage SPF for NTS allocations, but specifically opposed use of a frozen dollar allocation. Several parties also suggested recalculation of frozen SPF to reflect seven day traffic studies, and other proposed changes involving the treatment of FX and CCSA/ONALS service, WATS access lines and ENFIA usage. A number of these parties also took the position that the use of frozen SPF for a limited transition period should be followed by use of a flat percentate interstate assignment for all study areas. USTS and WU opposed interstate NTS assignments based on frozen SPF. IBM recommended allocating all NTS costs to the interstate jurisdiction. Roseville Telephone Company proposed the use of frozen percentage SPF for two years followed by a transition to a flat 50 percent interstate assignment. Continental abandoned its previous proposal that all NTS costs be allocated to the intrastate jurisdiction, advocating the use of frozen SPF instead. At the opposite end of the spectrum, the Louisiana PSC supported the continued use of SPF as the basic allocation factor.

C. Standards for Evaluation of NTS Allocation Options

32. As previously indicated, the most important question facing the Joint Board involves the allocation of NTS local exchange plant costs between the jurisdictions. Total NTS local exchange plant in service for the Bell System and the Independent companies represented approximately $88 billion of investment in 1981. This constituted over half of the total telephone plant in service for that year. The basic task before this Joint Board is to develop a sound NTS cost allocation methodology consistent with the Communications Act and the public interest. The generic formula[36] providing for a basic allocation factor, a high cost factor and a transition period which the Joint Board adopted in February 1982 establishes a basic framework for development of a new NTS allocation methodology. The generic formula by itself, however, provides little guidance for the selection of the factors involved.

33. In the November 1982 *Order Requesting Further Comments* we asked for comments on a list of objectives and evaluation standards proposed by the Joint Board staff for use in evluating the various NTS allocation methodologies. The Joint Board staff took the position that the new NTS allocation methodology should be designed to accomplish the following substantive objectives: (1) Establishment of an appropriate interstate allocation of NTS local exchange plant costs consistent with existing market conditions, and technological developments that would prevent undue growth in the interstate NTS allocation; (2) prevention of shifts of NTS costs to the intrastate jurisdiction that cannot reasonably be absorbed by local rate payers; (3) recognition of the needs of high cost areas; (4) assignment of costs in a manner consistent with efficient utilization of the network which minimizes the threat of unecomomic "bypass" of the local exchange; (5) ensuring compatibility with intrastate cost separations; and (6) recognition of the federal principle of promoting interstate service competition.

34. The November 1982 *Order* also expanded these basic substantive objectives into a list of eleven standards for exaluation. The standards proposed for use in evluating the various NTS allocation plans included: (1) The stability and predictability of the interstate share of NTS exchange plant costs; (2) the limited impact of these costs apportionments on intrastate revenue requirements; (3) the feasibility of using a high cost factor (HCF) with a given plan; (4) whether efficient utilization of the network is promoted and unecomomic bypass is discouraged; (5) what broad principle, if any, underlies as given plan; (6) consistency

[32] In 1970, the Bell System, which owned the vast preponderance of the nation's subscriber plant, had an interstate SLU of 5.08 percent and an interstate SPF of 16.71 percent.

[33] See paragraph 96 for a discussion of FX and CCSA/ONALS service.

[34] The CCF plan was proposed by the Independent Alliance composed of Roseville Telephone Company, Anchorage Telephone Utility and Northern States Power.

[35] The extent to which the parties modified their earlier positions was probably due to the fact that the Commission adopted the access charge plan after the comments were filed, but before replies were due.

[36] The generic formula is set out in footnote 19 supra.

VOL
48
ISS
1
9
9
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13
1983
UMI

with the proposed access charge plans such that changes in the interstate cost allocation match changes in interstate revenues; (7) the ease of administration; (8) data availability; (9) auditability; (10) suitability of the new *Manual* for state toll/exchange cost apportionments; and (11) whether the plan is consistent with interstate service competition. The Joint Board requested comments on the validity and completeness of these standards in terms of the statutory requirements of the Communications Act, public interest considerations and other relevant developments. CC Docket No. 80-286, *Order Requesting Further Comments*. CC 32408 at para. 35, released November 15, 1982.

35. While the objectives and standards for evaluation set out in the November 1982 *Order* did not generate as much discussion as certain other issues, many of the parties filing comments used these standards as a framework for analyzing the various separations proposals. Almost all of the parties that criticized the evaluation criteria focused on the absence of a specifically stated standard concerning the preservation of universal service, and the fact that priorities were not assigned to the criteria. These parties argued that the preservation of universal service should be the Joint Board's overriding concern in developing revisions to the *Separations Manual*.

36. At the Joint Board's March 17, 1983 meeting, we adopted four basic principles to govern the allocation of NTS local exchange plant cost. Specifically, we provided that any NTS allocation plan must: (1) Ensure the permanent protection of universal service; (2) provide certainty to all parties; (3) be adminstratively workable; and (4) be fair and equtable to all parties. CC Docket No. 80-286, CC 3111 at 1, released March 23, 1983. These principles generally encompass the basic concerns expressed in the objectives and evaluation standards contained in the November 1982 *Order*, although they are stated in somewhat different terms.[37] Most importantly, in light of the Commission's access charge decision, we have restated our previously expressed concerns with efficient utilization of the telephone network, prevention of uneconomic bypass of the local exchange, compatibility with interstate service competition and existing technology,[38] in terms of the principle that the NTS allocation methodology adopted must be adminstratively workable, fair and equitable in light of all relevant circumstances, including developments at the federal level such as the Commission's adoption of an access charge plan.[39] The access charge plan adopted by the Commission is intended to achieve a number of the underlying goals we expressed in the November 1982 *Order*—promotion of network efficiency, prevention of uneconomic bypass and establishment of a sound basis for development of a competitive market for interexchange service. Therefore, we can reasonably simplify our analysis of these questions by focusing on the administrative feasibility, fairness and equitable nature of the various NTS allocation methodologies when used in conjunction with the system of access charges developed by the Commission. Although the Joint Board believes that implementation of the Commission's access charge plan must be monitored carefully to ensure that the benefits anticipated by the Commission do in fact result, the access charge plan adopted by the Commission must be considered in the development of an NTS allocation methodology.

37. The objectives and evaluation criteria contained in our November 1982 *Order* as summarized in the four basic principles discussed above provide a sound basis for the development of a new basic NTS allocation methodology. They reflect the challenge which has faced the Joint Board throughout this proceeding—the development of an NTS allocation methodology that will protect universal service, *and* promote the goals of network efficiency, elimination of uneconomic bypass of the local exchange and establishment of a sound and fair environment for the development of interexchange service competition.

D. Basic NTS Allocation Methodology

1. Equal Percentage Interstate NTS Allocation for All Study Areas

38. We believe that an equal percentage interstate allocation of NTS local exchange plant costs for all study areas in conjunction with appropriate protection for subscribers in high cost areas best serves the basic objectives discussed above. Accordingly, we recommend that the Commission adopt a basic 25 percent interstate allocation of NTS local exchange plant costs for all study areas effective January 1, 1986, subject to an appropriate transition period. Frozen percentage SPF would continue to be used through the end of 1985. As discussed in more detail later in this T3Order, we recommend that the basic 25 percent interstate allocation apply to investment in inside wiring and the new Subscriber Line Outside Plant Category 1.33 which includes non-wideband loops[40] between local central offices and subscriber premises used jointly for exchange service and toll message services, excluding WATS access lines,[41] as well as the associated maintenance, and depreciation expenses, and reserves. The present frozen percentage SPF would continue to apply to CPE investment and associated expenses until CPE is completely phased out of the separations process. Phasing in a new allocation factor for the CPE amounts still subject to separations in 1986 and 1987 would simply create unnecessary administrative burdens. The existing frozen percentage SPF would also continue to apply to the allocation of NTS Category 6 COE pending review of the need for changes in the treatment of this portion of Category 6 local dial switching equipment costs as non-traffic sensitive.

39. An equal basic percentage interstate allocation of the relevant NTS plant costs for all study areas is designed to produce fair and equitable results when used in conjunction with the access charge plan adopted by the Commission as well as to protect the universal availability of telephone service by allowing rate support to be targeted to high cost areas. Neither a usage based nor a hybrid allocation methodology would produce sound results under the Commission's access charge plan or foster the targeting of rate support to high cost areas.

40. Under the Commission's access charge plan, a major portion of NTS local exchange plant costs allocated to the interstate jurisdiction through separations will be recovered directly from subscribers in the form of flat fee access charges by the end of the transition period. The interstate allocation of CPE, inside wire and NTS Category 6 COE plant investment and expenses as well as the Universal Service Fund amount will continue to be recovered through carrier's carrier access charges. Under a usage based NTS allocation methodology, the percentage of NTS costs allocated to the interstate jurisdiction would vary widely from one study area to another. As a result, two study areas with equal NTS costs per subscriber would have substantially different interstate NTS allocations and therefore different flat fee subscriber access charges. A usage based NTS allocation methodology could produce high subscriber access charges even in areas with low costs if the interstate relative use was sufficiently high. Such a result is not equitable. A usage based NTS allocation methodology with the resulting high subscriber access charges in areas with high interstate relative use would also create a need for rate support in these areas, seriously undermining our efforts to target assistance to areas with high costs. Targeting rate support to high cost areas is very important in light of the limited amount which interexchange carriers can be required to pay through carrier's carrier access charges to help protect subscribers in these areas. If carrier's carrier access charges are too high, the interexchange carriers will turn to other means of local distribution for their traffic, bypassing the local exchange to avoid paying these charges. Using the limited funds available for rate support to assist areas with high relative interstate usage but average or low costs would reduce the amount available to assist subscribers in high cost areas.

41. A usage based NTS allocation methodology could also result in significant growth in the interstate allocation. At present, the NTS local exchange plant costs allocated to the interstate jurisdiction are recovered through the per minute charges for interstate message services. Under the Commission's access charge plan, a large portion of the interstate NTS local exchange plant costs will be recovered directly from subscribers. It is anticipated that this will allow reductions in interexchange message service rates stimulating toll calling and increasing interstate relative use. The increase in the interstate allocation which could result from a usage based allocation method would be contrary to our goals of ensuring certainty to all companies and subscribers, and maintaining a relatively stable total interstate cost allocation.

42. An increase in the nationwide interstate NTS allocation due to stimulation of interstate calling could also have a detrimental effect on the affordability of telephone service when combined with the Commission's access charge plan. An increase in interstate relative usage would result in a higher interstate NTS allocation and increased flat fee subscriber access charges. At some point, absent rate support for areas with high interstate relative use, this could cause certain subscribers to discontinue telephone service, leaving fewer subscribers from which the interstate NTS allocation could be recovered.

43. A hybrid NTS allocation plan which employed usage in determining the interstate allocation would suffer from the same drawbacks as an allocation methodology based purely on relative usage, although the problems would probably be less pronounced. Thus, a hybrid NTS allocation methodology would be preferable to a methodology based exclusively on usage. However, an equal percentage interstate allocation of the relevant NTS plant costs for all study areas is preferable to a hybrid approach.

44. An equal percentage NTS allocation for all study areas is designed to produce reasonable and fair results in conjunction with the Commission's access charge plan, and allow the targeting of rate support to high cost areas. Under such an NTS allocation methodoloy, each study area's interstate NTS allocation and the resulting subscriber access charges would be a function of the cost of service. This will produce a reasonable and equitable result when combined with rate support for areas with high costs. The fact that the basic interstate NTS allocation will be a function of costs will also allow the targeting of rate support to areas with high costs, not just high interstate NTS allocations. As previously stated, the targeting of rate support is extremely important in light of the limited amount of money which can be extracted from the interexchange carriers for this purpose without driving large users to bypass the local exchange. This allocation methodology will also produce a relatively stable nationwide interstate NTS allocation, although the allocation would increase gradually to reflect increases in NTS plant investment and associated expenses.

2. Level of Basic Interstate Allocation

45. For the reasons discussed in the previous section, we believe that SPF must be replaced by an equal percentage basic allocation for all study areas. We conclude that the level of this assignment should be set at 25 percent, which is approximately equal to the present nationwide average interstate allocation of NTS local exchange plant costs. Setting the basic allocation at this level will, on a nationwide aggregate basis, minimize the adjustments required by the transition from SPF to the new allocation methodology and preserve the relative levels of the existing intrastate and interstate allocations, although many individual study areas will experience substantial changes.

46. Wide ranging changes are presently taking place in the telecommunications industry as a result of the AT&T divestiture and the Commission's access charge decision. Although we have concluded that SPF must be replaced with an equal percentage interstate allocation for all study areas, we believe that the nationwide level of the interstate NTS allocation should not be changed at this time to avoid imposing additional implementation burdens on the industry and state and federal regulators. The replies filed in response to the November 1982 *Order* overwhelmingly supported maintenance of the status quo, although most of them were couched in terms of continued use of frozen percentage SPF. Under a separations approach involving an equal basic interstate percentage allocation of NTS costs for all study areas, we can best satisfy the desire for stability and certainty expressed in the comments by setting the basic interstate NTS allocation at 25 percent which is approximately equal to the present nationwide average interstate percentage allocation. Keeping the nationwide level of this allocation relatively constant will minimize the overall amount of change imposed on the industry as all study areas move toward use of an allocation figure which approximates the existing nationwide average.

47. Although many of the early comments in this proceeding advocated reducing the level of interstate NTS allocation, no one has presented a convincing reason to alter the basic level of the interstate NTS allocation since adoption of the Commission's access charge decision. Prior to that, the level of the interstate NTS allocation was very significant because these costs were recovered through usage based toll rates with the result that heavy toll users paid much more than their cost of connection to the network, and therefore had an incentive to bypass the local

[37] The principle of ensuring the permanent protection of universal service encompasses the concerns reflected in the second and third objectives and the second and third evaluation criteria. The principle of ensuring certainty to all parties covers the ideas reflected in the first objective and evaluation criteria.

[38] These concerns are reflected in the first, fourth and sixth objectives and the fourth, sixth, and eleventh evaluation criteria.

[39] These two basic principles also encompass the concerns expressed in the fifth objective and the fifth, seventh, eighth, nineth and tenth evaluation criteria among others.

[40] The new basic allocation factor would also apply to Category 8 subscriber line circuit equipment associated with jointly used non-wideband local loops. Circuit equipment includes central office equipment, other than switching equipment and automatic message recording equipment, used to derive transmission channels or to amplify, modulate, regenerate, test, balance or control communications signals.

[41] The Joint Board recommends direct assignment of WATS access lines to the appropriate jurisdiction.

exchange. The recovery of a major portion of interstate NTS costs through flat fee subscriber access charges will eliminate most of the problems which resulted from the SPF based interstate NTS allocation when those costs were recovered through toll rates. A few parties did suggest altering the present system to allocate all NTS costs to a single jurisdiction. These proposals met with little support from other parties, and we believe that there are serious questions concerning the legality of such approaches.

48. A number of other parties supported a fixed dollar allocation to the interstate jurisdiction, instead of a fixed percentage allocation. The net effect of this proposal over time would be an increase in the percentage of NTS plant costs allocated to the intrastate jurisdiction since no cost increases would be borne by the interstate jurisdiction. This is not consistent with our desire to maintain the existing basic nationwide division of costs. The effect of a fixed dollar allocation would also fail unequally on different companies and study areas. Areas with high growth rates would be penalized by having to absorb the full cost of connecting additonal subscribers. The fixed dollar plan would also penalize companies that wish to upgrade their facilities by dramatically increasing their intrastate allocation. As a result we do not recommend this approach.

49. The unquestionable need for a change in separations procedures has caused us to recommend an allocation method which substantially departs from the present approach. We are attempting, however, to minimize the resultant dislocations and difficulties by setting the basic NTS allocation at 25 percent. Although, we believe that this represents the appropriate interstate NTS allocation at present, development in this area should be monitored carefully so that appropriate changes can be made in the future if necessary. After implementation of the access charge decision is completed, the Joint Board and the Commission may wish to reexamine the level of the interstate NTS allocation.

3. Legality of 25 Percent Interstate NTS Allocation for All Study Areas

50. An equal percentage interstate allocation of NTS local exchange plant costs for all study areas satisfies the requirements of the Communications Act and the relevant case law concerning the separation of jointly used utility plant. Section 221(c) of the Communications Act, 47 U.S.C. 221(c) (1976), authorizes the Commission to separate telephone company plant between the jurisdictions. This section does not contain specific standards for separations, however, allowing the Commission broad discretion, consistent with the legislative purposes described in Section 1 of the Act, 47 U.S.C. 151 (1976).

51. The case law concerning the allocation of jointly used utility plant clearly recognizes the difficulty of apportioning such plant, requiring, at most, reasonable measures to reflect the dual use. In *Smith* v. *Illinois Bell Telephone Company*, the Supreme Court stated:

> While the difficulty in making an exact apportionment of the property is apparent, and extreme nicety is not required, only reasonable measures being essential, * * * by some practical method the different uses of the property [must] be recognized and the return properly attributable to the intrastate service * * * ascertained accordingly.

282 U.S. 133 at 150–51 (1930). In requiring the separation of telephone company plant, the court in *Southwestern Bell Telephone Company* v. *San Antonio* stated that

> A failure to trace each of the items to its unit will not defeat their consideration. Substantial and approximate correctness is enough where perfect accuracy is not attainable.

75 F.2d 880 at 885 (5th Cir. 1935). In *Colorado Interstate Gas Co.* v. FPC, the Supreme Court elaborated on this idea, stating:

> Judgment and discretion control both the separation of property and the allocation of costs when it is sought to reduce to its component parts a business which functions as an integrated whole * * *. These circumstances illustrate that considerations of fairness, not mere mathematics, govern the allocation of costs.

324 U.S. 581 at 591 (1945).

52. A basic interstate allocation of 25 percent of the relevant NTS local exchange plant costs for each study area satisfies the requirements of the Communications Act and the relevant case law concerning the allocation of jointly used utility plant. A purely cost based allocation of this plant between the jurisidictions would be extremely difficult to develop since the cost of this plant does not vary with usage. In light of this, we conclude that the Communications Act and the relevant case law require only that the allocation of NTS plant between the jurisdictions constitute a fair and reasonable recognition of the use of this plant by both intrastate and interstate services. As discussed above, the Joint Board believes that a basic 25 percent interstate allocation of NTS plant costs for all study areas is the most fair and reasonable method of allocating NTS local exchange plant costs at present.

4. Separations Manual Language for the Basic Allocation

53. The new 25 percent basic interstate allocation for the relevant NTS costs is implemented through a new Section 23.445 which provides that, effective January 1, 1986, 25 percent of the investment in Subscriber Line Outside Plant (OSP) Category 1.33 will be allocated to the interstate jurisdiction subject to the transition period provided for in Sections 23.446 and 23.447. CPE and NTS Category 6 COE will continue to be allocated on the basis of the existing frozen percentage SPF provided for in Section 23.444(a). A new paragraph 25.112 is added to segregate station connections from other station equipment and assure that it is allocated on the same basis as OSP Category 1.33. Minor changes are also made in paragraphs 42.322, 42.323 and 42.325 to allow maintenance expenses for OSP Category 1.33 to track the plant properly. A new paragraph 42.56 is added to ensure that expenses associated with inside wiring will be allocated in accordance with the plant involved. The provisions concerning the allocation of depreciation and reserves should track the allocation of the plant involved without changes in the *Manual* language.

E. The High Cost Amount

1. Summary of High Cost Provisions

54. The Joint Board also recommends that the Commission adopt two basic measures designed to protect telephone subscribers in high cost areas. The first measure involves an additional interstate expense allocation for study areas with relevant unseparated (*i.e.* total intrastate and interstate) NTS local exchange plant costs in excess of 115 percent of the national average for these costs. The second measure involves dividing the interstate end user common line access charge revenue requirement into a subscriber access charge portion and a high cost portion so that no subscriber will have to pay an interstate access charge that is more than twice the national average. Both the additional interstate expense allocation and the high cost portion of the interstate end user common line revenue requirement will be recovered through carrier's carrier access charges.

55. The costs considered in determining eligibility for the additional interstate expense allocation as well as the level of assistance for eligible study areas include: (1) A return component or revenue requirement for OSP Category 1.33 which includes non-wideband loops between local central offices and subscriber premises jointly used for exchange service and toll message services excluding WATS access lines; (2) maintenance and depreciation expenses associated with OSP Category 1.33; and (3) a portion of general expenses, certain other expenses and taxes proportionate to net OSP Category 1.33 investment as a percentage of total net telephone plant investment. The return component for OSP Category 1.33 is calculated using the actual debt/equity ratio for each study area, the actual cost of debt and the authorized interstate rate of return on equity. CPE, inside wire and NTS Category 6 COE are not taken into account in determining this additional interstate expense allocation.[42]

56. The level of assistance for each study area is determined by comparing each study area's relevant unseparated cost per working loop with the national average cost per working loop calculated on the basis of information which all study areas will be required to submit to the Exchange Carrier Association provided for by the Commission's access charge decision. The additional interstate expense allocation for each study area will be equal to the sum of the following times the number of working loops: (1) Fifty percent of the study area's relevant cost per working loop in excess of 115 percent of the national average, but not more than 160 percent of the national average; (2) sixty percent of the study area's relevant cost per working loop in excess of 160 percent of the national average, but not more than 200 percent of the national average; (3) seventy percent of the study area's relevant cost per working loop in excess of 200 percent of the national average, but not greater than 250 percent of the national average; and (4) seventy-five percent of the study area's relevant cost per working loop in excess of 250 percent of the national average. This calculation is performed separately from the allocation of investment, expenses and reserves pursuant to the other provisions of the *Manuol*. The amount calculated pursuant to the formula described above is then subtracted from the intrastate allocation developed pursuant to the other *Manual* provisions and added to the interstate allocation as an additional expense item to be recovered through carrier's access charges under the Commission's access charge plan. By reducing the revenue requirement which a local company is entitled to claim for intrstate ratemaking purposes this will help keep intrastate rates lower than they otherwise would be.

57. The second form of protection for subscribers in high cost areas involves a division of the interstate end user common line revenue requirement calculated pursuant to Part 69 of the Commission's Rules into a subscriber access charge amount and a high cost amount. The amount included in the subscriber access charge portion will eventually be recovered directly from subscribers through flat fee interstate access charges. The high cost portion of the end user revenue requirement will be recovered through carrier's carrier access charges. The entire interstate allocation of inside wire investment and associated maintenance and depreciation will also be recovered through carrier's access charges along with the costs of CPE and NTS Category 6 COE as provided in the Commission's access charge decision.

58. The division of the interstate end user common line revenue requirement into a subscriber access charge amount and a high cost amount is accomplished by comparing each study area's end user revenue requirement per working loop calculated pursuant to Part 69 of the Commission's Rules with the national average for this revenue requirement. The interstate end user common line revenue requirement in excess of 200 percent of the national average will be included in the universal service fund amount recovered through carrier's carrier access charges. This will ensure that subscribers in high cost areas do not pay interstate end user access charges that are more than twice the national average.

2. Protection for High Cost Areas

59. We believe that eligibility for an additional interstate allocation and the amount of the allocation should be based on unseparated, *i.e.*, total intrastate and interstate OSP Category 1.33 investment and related expenses, rather than on a surrogate variable. Both of these options for the high cost factor were discussed in the November 1982 *Order*. The surrogate variable approach involves development of a regression equation that relates average costs to one or more other variables such as subscriber density per square mile or the number of subscribers per exchange. Basing the high cost amount on surrogate variables would require identification of factors that correlate with high costs, and the provision of assistance only when these factors are present. The benefit of this approach is that it helps to ensure that assistance is directed to areas where high cost levels are attributable to factors other than poor management. However, there is no single variable that fully explains the differences in NTS local exchange plant costs. Use of several variables in calculating the high cost amount would also require the development and reporting of a significant amount of information in addition to that otherwise required for separation purposes, and would greatly complicate development of the regression formula. In addition, certain study areas which have legitimate high costs would inevitably be prevented from obtaining assistance because their cost levels were not attributable to the factors included in the regression formula.

60. We believe that the additional interstate expense allocation should be based directly on costs because this approach is less complicated and will better target rate support to areas with high costs. This system does not attempt to distinguish between the causes of high costs, and there may be occasional instances where this approach will result in assistance to companies whose high cost level is due, at least in part, to poor management, but we believe that the presence of state regulation will keep these instances to a minimum. The fact that the high cost protection applies only to costs in excess of 115 percent of the national average and is based on a sliding scale, which provides only partial protection, will limit possible incentives to increase costs. This approach is also superior to the use of surrogate variables from an administrative perspective since it will involve little data beyond that already required for the basic separations process.

61. Consistent with our goal of targeting rate support to areas which have high costs, we recommend use of the actual debt/equity ratio and the actual cost of debt for each study area [43] in calculating the relevant NTS

[42] CPE is excluded in determining the additional interstate expense allocation since it is being phased out of separations. Inside wire may also be deregulated and removed from separations eventually. In addition, the portion of NTS Category 6 COE now treated as non-traffic sensitive may be recategorized as traffic sensitive. It is also important to recognize that the cost per subscriber of CPE, inside wire and NTS Category 6 COE does not vary nearly as much from company to company as the loop cost does.

[43] We recommend use of the AT&T interstate authorized rate of return on equity along with the actual capital structure and cost of debt for the sake of uniformity in light of the inherent subjectivity of establishing a rate of return on equity and the wide variation in methods for calculating such a rate of return.

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1983
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local exchange plant costs. This is important because there are wide variations from company to company in the cost of debt, with some having an embedded cost of debt of less than 5 percent while others have a cost of debt which reflects the high interest rates of recent years. Failure to take this into account would undermine our efforts to direct rate support to the areas with the greatest need.

62. As previously stated, the Joint Board recommends that the rate support provided by the additional interstate expense allocation be limited to study areas with relevant NTS costs in excess of 115 percent of the national average, and based on a sliding scale which provides more protection for companies with higher costs. Both of these measures are designed to allow us to provide the maximum amount of assistance without producing economic inefficiency in the operation of the interexchange network or fostering uneconomic bypass of the local exchange. Establishing the point at which assistance to companies with costs in excess of the national average should begin involves a delicate balance between the need to insure the universal availability of affordable telephone service and the need to limit the high cost amount to a level which can be recovered through carrier's carrier access charges without resulting in economic inefficiency or uneconomic bypass. Due to the importance of this issue we requested further comments on whether assistance should be directed to companies with costs in excess of 110 percent or 120 percent of the national average in our March 1983 *Statement of Principles and Request for Further Comments*, CC 3111, released March 23, 1983. Based on the comments filed in response to this, and the other information gathered in this proceeding, we believe that limiting rate support to study areas with costs in excess of 115 percent of the national average represents the appropriate balance between these two considerations.

63. The sliding scale high cost support mechanism we recommend today will help protect the nationwide availability of telephone service at reasonable rates while limiting the amount to be recovered through carrier's carrier access charges. The sliding scale approach with a greater percentage of costs in the high cost bands allocated to the interstate jurisdiction and recovered through carrier's carrier access charges will limit support to areas with costs closer to the national average and allow maximum relief for subscribers in very high cost areas thus minimizing the costs which must be located onto interstate toll rates. This is important because providing rate support for companies with costs relatively close to the national average produces a much greater burden on the interstate jurisdiction than increasing the level of rate protection for extremely high cost companies.

64. As previously discussed, the information available to us at this time leads us to believe that the "kick in" point for high cost assistance and the sliding scale which we have chosen represent the optimal balance between the need for rate support in high cost areas and the need to avoid excessive toll loading. However, there are a number of factors at work whose impact cannot be predicted with a great degree of accuracy at this time. Only actual experience will tell whether this balance is correct. As a result, we believe that implementation of the access charge decision and the changes in jurisdictional separations must be carefully monitored so that appropriate adjustments can be made in a timely fashion if circumstances do not develop as we anticipate.

65. Division of the interstate end user common line revenue requirement calculated pursuant to Part 69 of the Commission's Rules into a subscriber access charge amount and a high cost amount is necessary to prevent unduly high flat fee subscriber access charges in high cost areas. In the case of a study area with NTS local exchange plant costs that are four times the national average, the application of the basic 25 percent interstate allocation and Part 69 of the Commission's Rules would produce an interstate end user access charge revenue requirement that is approximately four times the national average. Recovery of the entire amount of this revenue requirement through subscriber access charges would result in extremely high rates that could cause some subscribers to discontinue telephone service. Thus, the extent to which the interstate end user common line revenue requirement is to be recovered through subscriber access charges must be limited. Providing that the basic interstate end user common line revenue requirement will be recovered through carrier's carrier charges to the extent that it exceeds 200 percent of the national average appears to provide the necessary level of protection without unduly increasing the costs to be recovered through carrier's carrier charges.

3. Legality of Separations Based Protection for High Cost Areas

66. As previously mentioned, Section 221(c) specifically authorizes the Commission to separate local telephone company plant investment and expenses between the jurisdictions. Although Section 221(c) does not describe the criteria that are to be used in allocating these costs, the Commission and the Joint Board must be guided by the goals expressed in Section 1 of the Communications Act, 47 U.S.C. 151 (1976). We believe that this Section of the Act clearly sanctions consideration of the effect of separations on the universal availability of telephone service and justifies the provision of rate protection for subscribers in high cost areas. The Commission also took this position in its recent access charge decision. Our discretion to include special provisions for high cost study areas in the separations process is further bolstered by Section 4(i) of the Act, 47 U.S.C. 154(i) (1976).

4. Manual Language Concerning the High Cost Amount

67. The additional interstate expense allocation for high cost study areas and the division of the interstate end user common line revenue requirement into a high cost amount and a subscriber access charge amount is described in a new Section 6 to be added to the *Separations Manual*. Section 62.11 provides for submission of certain data to the Exchange Carrier Association to allow it to calculate national and study area average unseparated loop costs. This information may be updated on a quarterly basis at the company's option. Section 63.21 provides for calculation of the national average unseparated loop cost per working loop. Sections 63.11 and 63.22 govern calculation of the study area average unseparated loop cost per working loop. Section 64.11 provides for calculation of the amount of the additional interstate expense allocation for qualifying study areas. Parts 6 and 7 of the new Section 6 provide for division of the interstate end user common line revenue requirement into a high cost amount and a subscriber access amount.

F. Transition

68. We recommend that frozen percentage SPF continue as the NTS allocator through December 31, 1986, followed by a three year transition for most telephone companies from frozen SPF to the new basic NTS allocator of 25 percent. We believe that the maintenance of frozen SPF for two years is desirable to eliminate the need for telephone companies to deal with jurisdictional separations changes in the first two years of the access charge transition period. Beginning January 1, 1986, each study area will move from frozen SPF to the new NTS allocator in four equal steps. The high cost additive will also be phased in in four equal steps. We recommend limiting the total annual decrease, after the amount of the high cost additive is taken into account, in the interstate allocation of OSP Category 1.33 and inside wire for any study area to ten percentage points. This will result in an extended transition to the new NTS allocator of 25 percent for companies which would otherwise face larger annual decreases, although the high cost amount will still be phased in in four equal steps for these companies. We believe that this relatively limited transition period is adequate because most companies will not face large decreases in their interstate allocations, and the extended transition period will protect companies facing extraordinary changes.

69. The rules describing the basic allocation and high cost additive transitions are found in paragraphs 23.446, 23.447, and 65.13. Paragraph 23.446 describes the transition to the new allocator for companies which do not face annual decreases in their interstate allocations exceeding ten percentage points. These companies will move one fourth closer to the new allocator each year beginning on January 1, 1986, with the new allocation plan fully effective for these study areas on January 1, 1989. Paragraph 23.447 limits the total annual decrease in the interstate OSP Category 1.33 and inside wire allocation for any study area to ten percentage points. Paragraph 65.13 describes the phase in of the additional interstate allocation for high cost areas. An equal proportion of the high cost expense adjustment will be allocated to the interstate jurisdiction each year effective January 1, 1986, with all study areas receiving their full high cost expense adjustment by January 1, 1989. The provisions for calculation of the high cost amount of the interstate end user common line revenue requirement will not be phased in over a transition period. Instead they will be effective January 1, 1986.[44]

[44] The effectiveness of this provision, however, is subject to the Commission's recent decision to limit end user access charges for residential subscribers to $2.00 in 1984, $3.00 in 1985, and $4.00 in 1986, with a $6.00 cap on end user charges for business subscribers during this period. MTS and WATS Market Structure, Phase I, FCC 83-356, released August 22, 1983.

G. Monitoring

70. As indicated above, we believe that implementation of the Commission's access charge decision and the changes in jurisdictional separations which we recommend in this *Order* must be monitored carefully to ensure that the anticipated benefits result and allow for timely adjustments if adverse effects develop. Careful monitoring of the protection for high cost areas is particularly important to ensure that the proper balance has been chosen between the need to protect subscribers in high cost areas and the need to avoid excessive toll loading. We believe that the experience and expertise developed by this Joint Board during the course of this proceeding would be of considerable assistance to the Commission in monitoring the impementation of these changes. Accordingly, we renew our recommendation, initially made in our March *Statement of Principles and Request for Further Comments*, that the Commission extend the mandate of this Joint Board to include monitoring implementation of the Commission's access charge decision and the changes in jurisdictional separations adopted in this proceeding.

71. The Commission recently issued a *Notice of Proposed Rulemaking* in the *MTS and WATS Market Structure Inquiry* containing proprosals for a plan to monitor the effect of implementation of access charges. We believe that this is a necessary and important step. We also believe that the present Joint Board can provide the Commission with valuable assistance in monitoring the effect of access charge implementation and separations changes. In particular, the state commissioners will be in a position to learn of and bring to the Commission's attention at the earliest possible date, any adverse impacts in terms of subscriber disconnection or accelerating rates of bypass as a result of their direct involvement in regulating the provision of local exchange service.

72. The Commission's access charge decision and the changes in jurisdictional separations to be adopted in this proceeding will play a major role in shaping the future development of the telecommunications industry. This sector of the economy is increasingly crucial as we move into a new information age. Although the commission's access charge decision is intended to produce significant improvements in the telecommunications marketplace, the Commission's decision involves a very delicate balancing of often conflicting goals. The same is true of the recommendations which we are making to the Commission concerning the high cost factor. The information presently available leads us to conclude that the protective mechanisms we are recommending represent the optimal balance between protection of subscribers in high cost areas and excessive toll loading. However, unforeseen changes in technology or the economy could necessitate revision of these provisions.

73. We strongly support the basic high cost provisions discussed above and believe that eligibility for assistance should be based on NTS costs (excluding CPE, inside wire, and NTS Category 6 COE), rather than on a surrogate variable such as exchange size or the number of subscribers per square mile. We believe that at present this approach produces and appropriate level of protection for telephone subscribers in most arears without excessive toll loading. However, we are concerned that this approach appears to produce anomalous results in the case of Florida which would receive over 25 percent of the total Universal Service Fund. Much of this amount would go to very large companies serving urban and suburban areas. Although we are herein making our full recommendation to the Commission concerning all of the issues remaining for resolution in this proceeding, we intend to continue studying this situation. If we determine that the level of high cost support provided to Florida or any other area is inappropriate, we will issue a supplemental recommendation to the Commission.

III. Other Separations Changes

74. In addition to the adoption of a new basic allocation factor to replace SPF and a mechanism to protect subscribers in high cost areas, a number of changes in the *Separations Manual* are required to update it and ensure consistency with the FCC's access charge plan. We recommend that these changes become effective on January 1, 1984 at the same time as the new access charge tariffs.

A. Changes in Outside Plant Classifications

75. The *Separations Manual* established two major categories of Outside Plant—exchange plant (Category 1) and interexchange plant (Category 2). We are not making any significant change in those categories apart from the creation of a new Category 3 for host-remote complexes that is described in a subsequent section of this *Order*. The exchange and

interexchange Outside Plant (or "OSP") categories in the present *Manual* basically correspond with the local access and interexchange categories in the FCC access charge plan.

76. Some minor revisions within the exchange OSP category are appropriate to achieve greater consistency with the access charge plan, however. Exchange OSP is presently divided into three categories. OSP Category 1.1 consists of transmission facilities for wideband services from the customer premises to the interexchange point of demarcation. All other plant is divided between a loop or line portion on the customer side of an end office switch (Category 1.3) and a "trunk" portion from the end office switch to the interexchange demarcation point (Category 1.2). Portions of WATS access lines and private lines that may not utilize the end office switch that serves the customer are described as "trunks" for this purpose if such portions are located on the interexchange side of the switch.

77. We are making minor revisions in the categorization of this plant to separate out wideband loops and trunks. Category 1.1 will include wideband loops. Category 1.2 will include all trunks whether wideband or non-wideband and Category 1.3 will include non-wideband loops. This categorization of exchange plant is more consistent with the access charge plant categories. These changes are implemented through revisions in Paragraphs 23.211, 23.212 and 23.213, which define Categories 1.1, 1.2 and 1.3, and through numerous revisions in other provisions that refer to these plant categories.

78. We have decided that we should not adopt proposed language that would include the voice grade central office connecting facilities (VGCOCFs) used for MTS/WATS equivalent services in Category 1.3 because such lines are classified as "transport" lines for purposes of interstate access charges and accordingly belong in Category 1.2. We do not believe that any major change is required in the definition of Category 1.2 to achieve that result because the term "toll connecting trunk" in Paragraph 23.212 should be construed to encompass transmission facilities that connect any interexchange carrier facility that is used for "message" services with an end office switch or any other switch that may serve as an "entry" switch.

79. OSP Category 1.3 presently contains four subcategories—intrastate private line, interstate private line, jointly used subscriber lines and WATS lines, and TWX lines. These subcategories will be revised to include WATS access lines with private lines in order to achieve consistency with the rate elements in the Commission's access charge plan.

80. This approach is also consistent with our tentative conclusions in the November 1982 *Order*. Although we did not make a proposal at that time concerning the apportionment of jointly used subscriber lines, we did observe that under a usage based apportionment, private lines should no longer be directly assigned. We also observed that, if direct assignment of private line costs were to continue, the rationale for direct assignment of WATS access lines would be convincing. Therefore, we deferred making a recommendation on direct assignment of private lines and WATS access lines until we chose a basic allocation methodology for non-traffic sensitive plant. We also noted that some private lines could access local exchange facilities indirectly through a PBX. Since these PBXs (leaky PBXs) could both originate and complete long distance calls, we requested comment on whether an additional allocation of NTS plant to some or all private lines would be necessary.

81. Most of the parties commenting in response to the November 1982 *Order* supported direct assignment of WATS access lines in light of the access charge decision. These included the Ad Hoc Telecommunications Users Committee, which commented that WATS access lines are just another form of dedicated facility which cannot be shared. The National Data Corporation stated that WATS access lines should be directly assigned because they provide only interstate or intrastate service, and therefore no apportionment of "shared plant" is relevant. AT&T, Southwestern Bell, Southern Pacific, and USTS also agreed with direct assignment of WATS access lines. On the other hand, the Michigan Action Group asserted that WATS access lines should be treated no differently than MTS lines because they are technically the same. Golden West Telephone Cooperative and the New York State Department of Public Service agreed that WATS access lines should be treated like MTS. GTE stated that direct assignment of WATS access lines is unnecessary under frozen SPF. United alleged that there is no need to develop a jurisdictional allocation technique to allocate costs between services.

82. Consistent with our choice of a fixed percentage allocator for NTS plant, we now recommend continued direct assignment of costs associated with dedicated facilities for private line services, and WATS access. This is one of the many changes to the *Separations Manual* which coordinates the separations process with the FCC's access charge plan. Since we have recommended an allocation methodology for NTS local exchange plant which is not based on usage, and since continuing uncertainty remains concerning the scope of the "leaky PBX" problem, we do not recommend any change in the separations process solely to cure this problem.

B. Customer Premises Equipment (CPE)

83. The November 1982 *Order Requesting Further Comments* noted that some adjustments would be required in the previously adopted plan for the phased removal of CPE from the separations process in light of the entry of the *Modified Final Judgment* [48] implementing the Justice Department—AT&T settlement announced after the Joint Board had issued its recommendations concerning the CPE phase out. The November 1982 *Order* observed:

> Under such a reorganization of the Bell System, the current CPE separations plan would create accounting anomalies since the BOCs [Bell Operating Companies] would no longer maintain any CPE in Accounts 231 and 234 to be identified for separations purposes. This would make it difficult to continue the phase-out of the settlements contribution for the BOCs and would place the customers of those companies at a disadvantage with respect to customers of independent telephone companies since an immediate cessation of the CPE-based settlements contribution after only the first year of a five-year phase-out plan would undoubtedly lead to the sort of precipitous rate increase that the plan is intended to avoid. Moreover, the present plan may lead to unintended results if CPE is retained by AT&T. The phase-out plan is structured to provide a mechanism for the gradual and measured adjustment of exchange carriers to changed economic conditions brought about by the detariffing of CPE. There is neither any need nor any intent to have such a plan operate to the benefit of an interexchange carrier. Therefore, it is clear that some modifications to the CPE plan are required.
>
> CC Docket No. 80–286, CC 32408 at 82, released November 15, 1982.

84. The November 1982 *Order* invited comments on a proposal to combine the CPE base amount with other NTS components to produce an aggregated apportionment of "Subscriber Access Plant" that would produce the results envisioned by the CPE phaseout plan. We now believe that orderly continuation of the CPE phase out plan can be ensured despite the AT&T divestiture without these changes by addition of a new paragraph 11.251. This will ensure that the benefits of the phase out plan continue to flow to the BOCs and prevent the development of accounting anomalies.

[48] United States v. AT&T, 552 F. Supp. 131 (D.D.C. 1982), *affd. sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983).

C. Host-Remote Complexes and Digital Electronic Switches

85. The comments that were filed in 1981 suggested revisions in the *Manual* language relating both to outside plant and to central office equipment to reflect the increased use of digital electronic switches and the use of host-remote switching complexes. The November 1982 *Order* tentatively concluded that this subject should be addressed in order to reflect technological developments that have occurred since the present *Manual* language was devised. In the November 1982 *Order*, however, we did not recommend specific language because a study was being performed by the Joint USITA-Bell Digital Technology Task Group, and its recommendation was not yet available.

86. Host-remote complexes consist of a base switching unit linked to remote offices. The base switching unit is located in a central office, and the remote offices are located some distance away. These remote units consist primarily of subscriber line terminations, and usually depend on the host's central processing unit for call processing and inter-location switching functions, although some remote units have switching capability. These complexes have developed as a reuslt of recent advances in both analog and digital switching technology. Carriers sometimes build remote offices rather than additional central offices in order to save transmission and switching costs. That choice, however, can affect toll revenues adversely.

87. The Joint USITA-Bell Digital Technology Task Group has now proposed specific changes in the *Manual* to treat host-remote complexes and digital switches explicitly. All parties commenting on this issue agreed with these proposals. AT&T supported the proposal, as did the Central Telephone Company, GTE, the Rural Telephone Coalition, USITA, and the Texas Statewide Telephone Cooperatives, Inc.

88. We recommend adoption of the Task Group proposal for treating host-remote complexes as Category 6 Central Office Equipment. This is reflected in the proposed changes to Paragraphs 24.81 and 24.812. Furthermore, we are adopting the Task Group's proposal to add the words "analog or digital" in various references to electronic switches. As another part of its proposal, the Task Group suggested creating a new category of outside plant consisting solely of facilities linking remote locations with host offices, with the associated costs allocated on the basis of minutes-of-use miles. It would exclude from this new category the outside plant linking a host office to a remote location in the same exchange if the remote location lacked switching capacity (was a "dumb" remote location). This would be treated as subscriber line outside plant. We recommend that the new category include outside plant linking all remote units with host offices. We can find no compelling reason to allocate costs associated with the plant linking a dumb remote location to a host office located in the same exchange differently from costs associated with the plant linking a dumb remote to a host office located in another exchange.

89. Therefore, we have created a new Category 3 to encompass all host-remote OSP. We are recommending the adoption of a new Paragraph 23.23 to define the outside plant category and new Paragraphs 23.231, 23.61 and 23.611 to describe the apportionment method for that plant. We also endorse the Task Group's proposed changes dealing with circuit equipment, Paragraphs 24.05 through 24.0511, and trunk testing maintenance expense, Paragraphs 42.334 and 42.336. These conform to the apportionment methods applicable to host-remote OSP.

D. Treatment of ENFIA Services

90. ENFIA (Exchange Network Facilities for Interstate Access) is the generic term describing access facilities that telephone companies provide for the origination and termination of MTS/WATS equivalent services. Inasmuch as the present *Separations Manual* was written before the introduction of competition in "message" services, the *Manual* does not contain any language that expressly describes the apportionment of facilities that are used for the provision of these services nor does it describe the treatment to be afforded these services' interstate minutes in allocating local dial switching equipment, etc. We have determined that revision of the *Manual* to reflect OSP usage by competitive message services is not necessary because we are recommending a fixed percentage allocation of commonly used subscriber lines, and because OSP Category 1.2 is described to include "toll connecting facilities," which we construe as encompassing the transport facilities for all interexchange carriers.

91. In the November 1982 *Order* we tentatively agreed with commenting parties who suggested that *Manual* provisions relating to Category 6 Central Office Equipment (COE) should explicitly recognize ENFIA use. At present the *Separations Manual* does not expressly categorize ENFIA use of exchange facilities as either interstate or intrastate, although the Interim Cost Allocation Manual (ICAM) allocates costs to ENFIA as an interstate service. Telephone companies file their interstate ENFIA tariffs or contracts with the FCC and treat ENFIA revenues as interstate.

92. By way of introduction the November *Order* reviewed the difference between ENFIA A, B and C interconnection arrangements as well as the history of the ENFIA agreement. We tentatively proposed treating all usage or dial equipment minutes (DEMs) for ENFIA A and ENFIA C like exchange service usage and therefore not applying a toll weighting factor to it when apportioning Category 6 Central Office Equipment traffic sensitive costs. This proposal was based on the conclusion that ENFIA A and ENFIA C services use local switches like exchange service. However, we concluded that we needed additional information in order to determine whether ENFIA B use of local switches was sufficiently like MTS or WATS open-end use to warrant application of a toll weighting factor. We sought comment as to whether ENFIA B services used Category 6 Central Office Equipment in a manner sufficiently similarly to MTS usage to justify application of the MTS weighting factor to ENFIA B usage, or whether ENFIA B usage required a new, smaller weighting factor. We also tentatively recommended that providers of MTS/WATS equivalent services report their raw billed interstate minutes of use to local telephone companies. We further proposed that the *Manual* incorporate a statement of principles to govern the telephone companies' use of these numbers to compute usage sensitive allocation factors.

93. In commenting on the November 1982 *Order*, Continental Telecom, Inc. agreed with our proposed treatment of ENFIA usage. AT&T said that ENFIA A, B, and C usage should be unweighted. USTS agreed with our proposal for treatment of ENFIA A and ENFIA C services. Southern Pacific argued that no weighting factor should be applied to usage generaged by any of the ENFIA services. GTE argued that ENFIA A usage should be unweighted, but that ENFIA B usage should be weighted like MTS/WATS usage, with ENFIA C usage weighted like message telephone local and toll tandem use. The New York State Department of Public Service supported weighting ENFIA B usage, as did USITA and United. The Rural

Telephone Coalition rejected the entire proposal for treatment of ENFIA as unnecessarily favorable to AT&T.

94. In view of the comments, we have concluded that no useful purpose would be served by assigning different weights to different types of ENFIA connections. We accordingly recommend the addition of a new Paragraph 24.832 that will exempt all interstate dial equipment minutes of use of Category 6 Central Office Equipment by message services other than MTS and WATS from the toll weighting factors that are applied to MTS and WATS. That section will require that all interstate use of local dial switches, including ENFIA use, be counted as interstate.

95. Although we are not specifying the portion of Category 6 Central Office Equipment that is deemed to be non-traffic sensitive or the toll weighting factors for traffic sensitive equipment, the November 1982 *Order* proposed that the words "which represent the population" be added to the references to "sampling methods." No significant objections to this proposal have been raised in the comments, and we recommend its adoption.

E. FX and CCSA Services

96. In the November 1982 *Order*, we provided the following definitions of Foreign Exchange (FX) and Common Control Switching Arrangement (CCSA) services:

117. Foreign Exchange (FX) is a partially switched private line service offering which enables a customer to place calls to telephones in a distant or "foreign" exchange without paying MTS charges. Persons in the "foreign" exchange area can also place calls to the FX subscriber without paying MTS charges or using operator assistance to make a collect call. The FX subscriber receives two bills, usually from two different carriers. The bill for the "private line" covers service from the subscriber's telephone to the termination of his "line" at the central office switch in the foreign exchange. The subscriber also receives a bill for use of local exchange facilities in the "foreign exchange" or "open end" from the local carrier providing that service.

118. A Common Control Switching Arrangement (CCSA) is a leased private telecommunications system linked by dedicated lines through large switches located on a local telephone company's premises instead of PBX switches located on the customer's premises. While the dedicated lines are for the CCSA customer's exclusive use, he shares the switches with other private line service customers. A CCSA subscriber can also obtain the Off Network Access Lines Service (ONALS), an offering that provides much the same service as FX open-end access. The CCSA/ONALS subscriber also receives one bill for its "private line" and another for origination and termination services at each "open end." In the past both FX and CCSA/ONALS subscribers have been charged for origination and termination services at the "open end" at business local exchange (B–1) rates. *But see Pacific Telephone & Telegraph*, 88 FCC 2d 934 (1981).

CC Docket No. 80–286, CC 32408 at 39, released November 15, 1982.

97. Carriers have always treated FX and CCSA/ONALS open-end revenues, expenses and investment as intrastate. However, in *New York Telephone Company*, 76 FCC 2d 349, *recon. denied*, 81 FCC 2d 128, *aff'd sub nom. New York Telephone Co. v. FCC*, 631 F.2d 1059 (2d Cir. 1980), the FCC found that local exchange service used at the open-end by interstate FX and CCSA/ONALS subscribers is part of an end-to-end interstate service subject to its jurisdiction. Thus, interstate tariffs should have included charges for such open-end access, and interstate revenue requirements should have included related costs. In the *Second Supplemental Notice* in CC Docket No. 78–72, the FCC stated that it would resolve this situation through revisions to the *Separations Manual*. The order establishing this Joint Board directed us to revise the *Manual* to provide for interstate allocation of the revenues, investment, and expenses associated with interstate FX and CCSA/ONALS usage.

98. In the November 1982 *Order*, we made tentative recommendations to ensure that interstate FX and CCSA/ONALS service would be treated as interstate for purposes of jurisdictional separations. In allocating traffic sensitive central office equipment costs, we recommended that interstate FX and CCSA/ONALS open-end *unweighted* dial equipment minutes be added to interstate toll message service dial equipment minutes, *appropriately weighted*, to detemine the share of these costs that the interstate jurisdiction would bear. We also proposed interstate assignment of expenses and revenues attributable to interstate FX and CCSA/ONALS open-end access. We also proposed the *Manual* revisions that would be necessary for interstate treatment of FX and CCSA/ONALS interstate use if we adopted a usage sensitive allocation method for NTS local exchange plant.

99. Almost all of the parties commenting on the FX and CCSA/ONALS proposals expressed support. Only the Rural Telephone Coalition objected to the plan as excessively favorable to AT&T. The New York State Department of Public Service and Golden West Telephone Cooperative agreed that all revenues and expenses associated with interstate FX and CCSA/ONALS service should be allocated interstate, but Golden West argued that FX and CCSA/ONALS dial equipment minutes should be weighted. The Ad Hoc Telecommunications Users Committee, AT&T, Continental, GTE, Southern Pacific, USITA, United, and Southwestern Bell supported the interstate allocation, as well as unweighted treatment of FX and CCSA/ONALS dial equipment minutes.

100. We recommend that the *Manual* allocate all traffic sensitive plant costs, all expenses, and all revenues attributable to interstate FX and CCSA/ONALS open-end access services to the interstate jurisdiction as the November 1982 *Order* proposed. No toll weighting factor should apply to dial equipment minutes of use attributable to interstate FX and CCSA/ONALS use of central office equipment. Such treatment is appropriate because FX and CCSA/ONALS open-end services use local dial switches in the same manner as local exchange service and competitive message services. Since we are recommending a non-usage based allocation factor for non-traffic sensitive local exchange plant costs, there is no need to revise the *Manual* to include specific references to FX and CCSA/ONALS open-end usage in the allocation of those plant costs.

101. A new Paragraph 24.832 will be added to the *Manual* to include FX and CCSA/ONALS open-end usage in the traffic sensitive apportionment of local dial switches. That paragraph will also ensure that no toll weighting factor is applied to such usage. In addition, we recommend adding a new Paragraph 32.242 to the *Manual* in order to change the existing practice of crediting revenues from interstate FX and CCSA/ONALS open-end access service to intrastate operations. The reallocation of the interstate FX and CCSA/ONALS open end revenues, expenses and usage will become effective January 1, 1984.

F. Calendar Day of Business Day Traffic Studies

102. The November 1982 *Order* proposed changes in the usage studies performed for separations purposes. Under current separations procedures, telephone companies generally conduct five (business) day traffic studies to measure holding time minutes of use. That information is used to develop subscriber line usage (SLU) and dial equipment minutes of use. Each company typically performs annual studies for all of the central offices in a given study area. In the November 1982 *Order*, we tenatively concluded that five day studies were deficient because they ignored the traffic patterns caused by weekend toll rate discounts. Accordingly, we tentatively recommended a requirement that all cost companies employ seven (calendar) day studies as the new methodological basis for separations usage measurements. We noted that traffic sensitive plant represents a small dollar investment compared to non-traffic sensitive plant, and therefore concluded that an immediate change to calendar day studies would not result in significant dislocations.

103. We also reached a tenative decision not to specify use of seven (calendar) day studies in the *Manual*. Instead, we tentatively proposed insertion of the phrase "for all traffic" after the words "representative period" in Paragraph 11.212 on the ground that this language would satisfactorily establish the desired fundamental principle that traffic studies are to be based on a representative period for *all* traffic, while preserving the flexibility to accommodate different types of traffic studies in the future. We also believed such language would adequately describe an appropriate measurement methodology for services other than MTS, WATS and local exchange.

104. The comments filed in response to the November 1982 *Order* addressing this question, endorsed the concept of seven (calendar) day studies for all separations apportionment purposes that require a measurement of traffic. The comments do not present a satisfactory basis for concluding that the amendment of Paragraph 11.212 described in the November 1982 *Order* is not adequate to accomplish the desired result and we recommend adoption of that proposal.

G. Peak Period Usage

105. In the November 1982 *Order*, we also considered the possibility of using peak period traffic measurements for separations purposes. We requested comments on whether the use of peak period traffic measurements for cost allocation purposes would be unduly expensive or difficult in light of the fact that peak usage levels must be determined for engineering purposes. However, we tentatively concluded that total usage measurements should continue to be used since they appear to approximate peak period relative use. We based that conclusion on special studies which AT&T conducted and provided to NARUC in the early 1970's. Those studies revealed that substituting peak period relative use for total period relative use would produce no significant difference in the interstate revenue requirement.

106. Although AT&T argued that a new analysis would be time consuming and expensive, we tentatively decided that the cost of a new study was justifiable, given the dollar volume of the jurisdictional costs involved when both non-traffic sensitive and traffic sensitive costs are allocated based on usage. We also concluded that AT&T should begin the new study immediately so that the results would be available during the interexchange Joint Board proceeding to be instituted after completion of this proceeding.

107. The comments filed in response to the November 1982 *Order* generally opposed the performance of a new peak period traffic study. USITA, Continental, the New York Department of Public Service, Golden West Telephone Cooperative, GTE, United, Ad Hoc Telecommunications Users Committee, and AT&T argued against a new peak period traffic study. Only the Michigan Action Group and the Independent Alliance favored a new study. The fact that we have recommended a fixed percentage allocation methodology for NTS local exchange plant sharply reduces the magnitude of the costs affected by a change in usage measurements. As a result, we no longer believe that the benefits of a new peak period traffic study outweigh its costs, and we are not recommending that AT&T prepare a new comparative impact study.

H. A More Open Separation Process

108. In the November 1982 *Order*, we sought comments on possible modification of the current process for administering separations. We tenatively concluded that the current system under which AT&T played a leading role in administering the separations process needed to be revised due to increased competition, and elimination of the division of revenues process mandated by the *Modified of Final Judgement* in the AT&T antitrust case. Our objectives were: (1) To adapt the traditional jurisdictional separations and settlements process to the new telecommunications environment; and (2) to improve the separations implementation process through public access to information and rapid impartial resolution of *Manual* related disputes.

109. We proposed to introduce a more open separations process through the creation of an information bank to provide separations data to interested parties on a cost compensatory basis. We also proposed establishment of a technical body to recommend solutions to disagreements concerning separations. The comments on these issues were very divided. Although there was considerable support for a more open separations process, many of the commenting parties, particularly telephone companies, were opposed to divulging proprietary information. In fact this was the major objection to the proposal. The parties also disagreed concerning the need for or desirability of a technical staff to resolve disputes. Some of the parties suggested that the exchange carrier association established pursuant to the Commission's access charge decision could perform this function.

110. We now recommended that the FCC consider the establishment of a separations information bank at some time in the future. While we strongly endorse the principle of open separations, we believe that we lack adequate information concerning the data the bank should keep, and how the bank should be administered. We recommended that the FCC resolve these matters outside the context of this Joint Board proceeding. Such a course of action is permissible since these matters do not involve the separation of plant costs between the jurisdictions.

111. We have also concluded that creation of a Federal-State technical staff to resolve separations related disputes is undesirable. We believe that an additional layer of review prior to final resolution of separations disputes by the FCC, would produce few benefits and could needlessly delay final decisions. We are also concerned that the related expense might be excessive. While input from state regulators concerning these issues is important, we believe that the states can make their views known through other channels.

I. Business Relations Expense and Revenue Accounting Expense

112. In the November 1982 *Order*, we noted that AT&T's proposals for changes in the allocation of these two expense categories appeared to discriminate between AT&T and other interexchange carriers, and recommended rejection of the AT&T proposals. AT&T then revised its proposals to overcome our objections. While the new Revenue Accounting Expense proposal no longer seems to treat other carriers differently than AT&T, it is inconsistent with the FCC's access charge decision. While this is understandable due to the timing of the two proceedings, we cannot recommend the change in light of the access charge scheme adopted. It lumps all of these expenses into a single access category, intermingling costs which should be

VOL 48 ISS 199 OC 13 1983 UMI

VOL 48 ISS 199 OCT 13 1983 UMI

allocated to various access components. As a result, it does not represent an improvement over the current method, and might in fact be a step in the wrong direction. Due to this we do not recommend changing the current *Manual* language.

113. We do not believe that the new Business Relations Expense proposal is convincingly supported. Changing the method of allocation, from the relative number of state versus interstate business contacts to the relative number of state versus interstate messages, would appear to do nothing to aid in the development of carrier access charges. In fact, it would seem to confuse the costs of customer (specifically, business customer) access with carrier access in the scheme set out in the access charge decision. Until access charges are in effect, it is difficult to gauge the need for these changes. Therefore, we do not recommend any action to change the current separations practices at this time.

J. Advertising and Sales Expenses and the LATA Concept

114. In its comments in response to the November 1982 *Order*, AT&T added two new proposals to the changes which it had previously suggested for Revenue Accounting Expense and Business Relations Expense. Under the title "Modified Final Judgment Related Modifications," AT&T proposed changes concerning advertising and sales expenses and a proposal to deal with the exchange/interexchange categorization of circuit plant costs which essentially would add the LATA concept to the *Separations Manual*. We do not recommend adoption of either of these proposals. The modification in the procedures for apportioning Advertising and Sales Expenses would be inconsistent with the Commission's access charge rules. Although some changes in the existing apportionment may be warranted, we have not received any proposals which appear to be appropriate. We also recommend rejection of the proposal for adding the LATA concept to the *Manual*. Companies already should know that some interexchange plant will be intra-LATA, and, contrary to AT&T's contention, they will not be confused by this situation. The term "LATA" is also specific to AT&T and the Bell Operating Companies and should not be included in the *Manual*, which is intended for use by all companies.

K. Other Changes Proposed for the Separations Manual

115. In the November 1982 *Order*, we discussed a number of technical changes in the *Manual* proposed by various parties. Only a few of these items generated any comments or controversy. In this section we adopt most of the changes discussed in the November 1982 *Order*. In most cases the rationale for adopting these changes is the same as that set out in the November 1982 *Order*. A few of these proposals generated some degree of controversy or were reintroduced in a revised form after the November 1982 *Order*. These matters are discussed in more detail here. For convenience, we will follow the format and numbering plan of the November 1982 *Order*.

1. Exchange Trunks

116. The revisions in the description of OSP Category 1.2 plant discussed above supersede the proposals described in the November 1982 *Order*.

2. Land and Buildings Simplification

117. The proposal for land and buildings simplification would eliminate the weighting of manual central office equipment costs used in allocating Operating Room and Central Office Equipment Space (Category 1). The weighting accounts for the fact that manual switching and circuit equipment occupy different amounts of space per dollar of equipment costs than dial switching and automatic message recording equipment. AT&T argued that the advent of electronic office equipment has eliminated the need for this weighting. AT&T estimated that this change will transfer $750,000 of Bell System revenue requirements from the interstate to the intrastate jurisdiciton. We recommend adoption of this proposal changing Paragraph 22.321 of the *Manual*.

3. Direct Assignment Principle

118. We recommend adding a new Paragraph 11.26 to Section 1 of the *Manual* which will allow direct assignment to the appropriate jurisdiction of costs which have previously been identified as interstate or intrastate. This change will accommodate instances where a company provides services to a second company and identifies the billed amounts for those services as interstate or intrastate. Rather than book these amounts to the appropriate accounts and then apportion them between the jurisdictions according the *Manual*, the amounts would be directly assigned. This change is non-controversial, and AT&T estimates that it will not shift revenue requirements between the jurisdictions. We endorse this proposal since it will simplify the separations process at least in a small way and recommend that the FCC adopt the proposed new Paragraph 11.28.

4. Extended Area Service (EAS)

11.9. In the November 1982 *Order*, we concurred with AT&T's suggestion for direct assignment of the costs of extended area service to the local exchange. These costs appear in Account 644, Connecting Company Relations Expense, and Account 675, Other Expenses. Golden West objected to adoption of AT&T's recommendation, arguing (as USITA had earlier) that an EAS call is an interexchange call and should be treated as such. Continental and GTE agreed with the proposal. We reject Golden West's arguments on the same basis that we rejected USITA's arguments in the November 1982 *Order*. EAS is an exchange service, not an interexchange service. We recommend the direct allocation of EAS costs to exchange service, and propose revisions to Paragraphs 45.41 and 47.212 and the addition of Paragraph 45.414 to implement this change.

5. Property Tax Apportionment

120. This proposal would modify the separations treatment of property taxes in Account 307. Property taxes are now apportioned based on the separation of the cost of Telephone Plant in Service, Account 100.1. This proposal would allow property taxes levied solely on portions of Telephone Plant in Service to be apprortioned on the basis of the separation of the property upon which the tax is levied. This change provides the option of more closely relating tax allocations to the allocation of the plant being taxed. This is a noncontroversial change which would transfer about $2 million of Bell System revenue requirements to the interstate jurisdiction. We recommend that the FCC adopt implementing language changing Paragraph 49.31.

6. Weighted Standard Work Seconds (WSWSs)

121. In the November 1982 *Order*, we rejected AT&T's proposal to use Standard Work Seconds (SWSs) instead of Traffic Units as an apportionment method. This rejection applied to all areas in which it was proposed including manual switchboards, operators' quarters, operator-related TSPS costs, operator work time associated with the provision of directory assistance service, certain traffic expenses in accounts 624, 627 and 631 and number service record work expenses in account 624. We rejected the AT&T proposal primarily because SWSs do not include an allowance for waiting-to-serve time, an important consideration in non-electronic offices.

122. In commenting on our November 1982 *Order* AT&T revised its proposals, recommending the use of weighted standard work seconds designed to take into account the impact of waiting-to-serve time. AT&T noted that appropriate weighting would consider waiting-to-serve time and that SWSs, rather than traffic units are used on an industry-wide basis for administrative purposes. UTS and GTE also recommend use of SWSs with weighting to reflect waiting-to-serve time. GTE points out that although final allocation results are the same as traffic units, traffic units require a conversion of SWSs.

123. We recommend that the FCC adopt the use of WSWSs since it is a simplification of traffic units and will accommodate both the newer and older levels to office technologies. This change will affect paragraphs 11.212, 11.22, 22.322, 24.32, 24.331 and 24.334, and Section 4, Part 4 of the *Separations Manual*. A definition of "weighted standard work second" also is added to the Glossary.

7. TSPS Processor Use

124. AT&T initially proposed basing operator-related TSPS (Traffic Services Position System) central office equipment cost allocations on SWSs, but using processor real time to allocate the costs of TSPS stored program control, memory and remote trunk arrangements. In the November 1982 *Order*, we rejected the proposed used of SWSs for the reasons stated above, but tentatively accepted the use of processor real time as the basis for allocating the remaining TSPS costs. We did so based on AT&T's statements that portions of the TSPS investment now operate independently of operator involvement. AT&T, supported by United, subsequently proposed that operator-related TSPS costs be allocated on the basis of WSWSs. GTE argued that AT&T should be required to demonstrate a correlation between processor real time and remote trunk investment usage. Continental objected that the language in the proposal should be broadened to include non-Western Electric equipment by using the universal phrase "Program Controlled Traffic Services Positions" (PCTSP).

125. As stated above, we now recommend the use of WSWSs in the allocation of operator related TSPS costs. We also believe that AT&T has properly justified real time as a basis for the remaining allocation and we see no need to deviate from our earlier recommendation as a result of GTE's comments. We see no real need to change the reference from TSPS to PCTSP as Continental suggested. The acronym TSPS is commonly used and is so broadly understood in the industry that it can be considered a generic term. As a result, we see no reason to delete the term from the *Manual*. These actions require changes in Paragraph 11.22(3)(a) of the *Manual* and the Glossary, as well as the addition of a new Paragraph 24.35.

8. Revision of Directory Assistance Traffic Units

126. Operator work time associated with the provision of Directory Assistance Service is currently segregated based on whether the directory assistance call was received over a local trunk or a toll trunk. It is then separated among the operations by traffic units. AT&T initially proposed the use of SWSs and elimination of the classification based on the type of incoming trunk. It also proposed to specify that directory assistance investment includes switchboards, computers, and call distribution equipment. Furthermore, it proposed the use of the applicable tariff to determine the jurisdiction to which a call should be attributed. We rejected all of these changes in the November 1982 *Order*. AT&T then resubmitted these proposals, substituting WSWSs. United stated that it found this proposal acceptable. GTE had also supported the use of WSWSs earlier in the proceeding. As noted above, we recommend that the Commission adopt this part of the change. Paragraphs 24.331 and 44.121 of the *Manual* are revised to accomplish this.

9. Intercept

127. This change would modernize the *Manual* to recognize that intercept investment no longer consists of switchboards, but instead involves automated systems which do not include operators or switchboards. AT&T stated that this change should have no effect on Bell System jurisdictional revenue requirements. We recommend that the Commission adopt changes in Paragraphs 24.332 and 44.122 of the *Manual* implementing this proposal.

10. Network Administration

128. Network administration expenses in Accounts 621 and 624 are incurred in the administration of dial switching equipment operations. These expenses are now separated on the basis of relative numbers of traffic units. This proposal would base the allocation method on the separation of the related dial switching equipment in Central Office Equipment Categories 1 through 7. AT&T projects that this change would produce a shift of $60 million in revenue requirements to the intrastate jurisdiction. We recommend that the Commission adopt this proposal by changing Paragraphs 44.22, 44.41, 44.44, 44.441 and 44.442 of the *Manual*.

11. Modification for Special Services

129. In the November 1982 *Order*, we proposed that the *Manual* be changed to allow private line expenses in Account 622 to be allocated to private line services. The *Manual* now prohibits this. We recommend that the Commission adopt this proposal, since the commenting parties generally agreed with it, and it would conform the *Manual* to industry practice. Changes in Paragraphs 44.31 and 44.352 of the *Manual* are proposed to implement these changes.

12. Service Observing Expense

130. AT&T now wishes to call this portion of Account 622 "service evaluation expense," and change the way in which it is allocated. We rejected this change earlier on the same basis we rejected standard work seconds (SWSs), *i.e.*, that waiting to serve time was not reflected. AT&T now proposes a weighting factor to overcome our objections. United expressed its willingness to accept this change. We believe that the new proposal resolves the problems which we had discussed in the November 1982 *Order*. We recommend adoption of the proposal, which modifies Paragraph 44.32 of the *Manual*. We also accept AT&T's recommendation to modernize the *Manual*'s terminology and refer to this category as "Service Evaluation."

13. Determination of Exchange

131. The *Manual* currently allocates certain traffic expenses in Accounts 624, 627 and 631 by individual exchange, unless certain conditions apply. In that case the expenses may be apportioned by groups of exchanges. In the November 1982 *Order*, we endorsed AT&T's proposal to allocated Account 624 and 627 expenses by individual switchboard, and Account 631 expenses by study area. Nevertheless, as explained above, we rejected the use of SWSs as the new basis for allocating these expenses. AT&T then proposed the use of WSWSs. United expressed its support for the new proposal. While GTE accepted the use of WSWSs, it argued that it could not identify its Account 624 and 627 expenses by individual switchboard due to its "record-keeping systems and work force rotation between switchboards." GTE

added that "eliminating the option of allocation by groups of exchanges in favor of individual switchboards could force revisions to record keeping systems that would otherwise be unnecessary." We agree with GTE that the old method should be kept as an option. Therefore, as explained above, we propose to change Part 4, Section 4 only to reflect the use of WSWSs.

14. Wage and Hour Differential Ratio

132. In order to allocate certain types of operator wages, the *Manual* calls for detailed studies to develop weighting factors which account for unusual traffic patterns or wage differentials. In the November 1982 *Order*, we recommended elimination of these weighting factors and the associated studies on the ground that they were no longer necessary. Only GTE argued against the proposed change, noting that performing a wage and hour differential study is optional. GTE contended that it should be up to the company to decide whether such a study is needed and it urged that Paragraph 44.442 of the *Manual* remain unchanged. GTE has provided no substantial reason for allowing such discretion. We therefore reject GTE's proposal and recommend elimination of Paragraph 44.442.

15. Number Services Record Work

133. This proposal would disaggregate expenses in Account 624 into directory assistance, intercept, and calling card service. It would then apportion directory assistance and intercept expenses on the basis of WSWSs. Calling card service expense would be allocated based on credit card messages. We believe that this classification should be disaggregated, particularly to remove the mechanized service (calling card) expenses from the operator related expenses. We recommend that the FCC adopt the revised AT&T proposal and make the appropriate changes to Paragraph 44.45 of the *Manual*.

16. Rest and Lunch Rooms—Dining Services

134. This proposal would require that this expense in Account 626 be apportioned at the study area level, instead of separately for each exchange or group of exchanges as is the current practice. Consistent with our decision in "Determination of Exchanges" above, we now agree with GTE's argument that companies should have the option of whether to apportion by exchange or groups of exchanges or by study area. While United supported our November 1982 recommendation to accept the proposed change, there is no inconsistency between our present and earlier positions if we retain the option inherent in the current system. Therefore, we do not recommend that the FCC adopt this proposal.

17. Space Used by Another Company for Interstate Operations

135. The property in Building Category 5 is currently assigned directly to the interstate jurisdiction. GTE recommended that Category 5 be modified for multiple jurisdictional use. We previously recommended rejection of this proposal. GTE said, however, that it has twelve study areas that furnish land and building space to another company for both interstate and intrastate use, and that it now allocates that space by relative use. United supported the direct assignment of costs whenever possible and urged rejection of this proposal, nothing that Category 5 was established specifically for direct assignment of space to interstate operations. We are not persuaded by GTE's arguments, and affirm our recommendation in the November 1982 *Order* that the FCC reject GTE's suggested changes.

18. Outside Plant Simplification—Cable Conversion

136. The *Manual* now requires that outside cable plant be converted to equivalent 19 or 22 gauge pairs. However, GTE has pointed out that this conversion is necessary only when there is a mixture of gauges in a sheath or complement. Paragraph 23.3111 should be modified to remove the requirement that the equivalence be stated in 19 or 22 gauge. There will be no jurisdictional revenue requirement effect from this change. We recommend that the FCC adopt this proposal to change Paragraph 23.3111 of the *Manual*.

19. Plant Furnished to Another Company

137. GTE stated that it will submit this proposal to the future interexchange Joint Board as we suggested in the November 1982 *Order*. Therefore, we will not consider this issue here.

20. Material and Supplies

138. GTE had originally proposed that the basis for allocating Account 122 be changed from the apportioned cost of outside plant in service to the apportioned cost of central office equipment, large PBX equipment, and outside plant in service. It reasoned that Account 122 included central office and large PBX equipment. However, GTE has decided not to pursue this matter in light of the phase out of CPE. United continued to suggest language to allocate amounts in Account 122 associated with specific plant accounts according to the underlying plant account allocations. It agreed that the remainder in Account 122 could be allocated according to the separation of outside plant in service. Continental also continued to contend that revisions were necessary. It noted that even if large PBX equipment were phased out of the separations process, "the inclusion of central office equipment material and supplies in Account 122 is ample reason to adopt GTE's suggested change." We remain unconvinced that any changes are needed in the allocation of this category. We believe that the current method is sufficient to accommodate the concerns expressed by Continental and United. The fact that GTE withdrew its own proposal supports our decision to recommend that the FCC reject this change.

21. Test Desk Work—Trunk Testing

139. GTE stated that it will resubmit this proposal to the future interexchange Joint Board.

22. Interest Charged Construction

140. GTE resubmitted, with additional support, an earlier proposal to revise the *Manual* so that interest charged construction would be apportioned in a manner that was consistent with the basis on which the interest was accrued. AT&T supported this proposal but offered different language. United also supported GTE's proposal and offered a third proposed wording. Nevertheless, all agreed that the *Manual* should incorporate this methodology. Although we had tentatively recommended rejection in the November 1982 *Order*, we now agree that such a change is necessary. Since the differences in the various proposals do not appear to be significant, we recommend that the FCC adopt our proposed revisions to Paragraph 33.21.

23. Investment Credits—Net

141. Account 304, Investment Credits—Net, curently is segragated first between amounts associated with station connections and amounts associated with other plant accounts. The amounts associated with station connections then are allocated on the basis of apportioned station connections. The remaining amount is allocated on the basis of separated telephone plant in service excluding station connections. GTE proposed that the segregation between station connections and other plant should be eliminated and the total amount of investment credits should be allocated on the basis of separated telephone plant in service. We agree that segregating the investment credits between station connections and other plant accounts is unnecessary. We recommend that this change to Paragraph 33.11 be adopted by the FCC.

24. Interest Not Related to Capital Obligations

142. AT&T proposed "clarifying language" for the *Manual* to ensure that these charges would be allocated consistent with the apportionment of the individual item that caused the interest expense. In the November 1982 *Order* we tentatively concluded that this change was not needed. United and GTE have agreed. Although AT&T subsequently resubmitted its proposal with more supporting information, we still believe that no change is needed in this category. AT&T did not substantially improve the proposal which we found wanting in the November 1982 *Order*. We recommend that the FCC reject AT&T's proposal.

25. Separations Study Expense

143. United and Gold West agreed with our rejection of this GTE proposal to assign all costs of separations studies directly to the interstate and intrastate toll operations only. Since GTE has decided not to pursue this proposal now, we are not recommending any action in this area.

26. Other Operating Taxes

144. In the November 1982 *Order*, we proposed to treat franchise taxes in Account 307 as a separate item and apportion them based upon the apportionment of the accounts upon which they were levied. Such treatment is consistent with the apportionment of gross receipt taxes, social security taxes, and certain property taxes. United agreed with a separate classification for franchise taxes, but did not comment on the overall method of apportionment. GTE disagreed with the method of apportionment proposed in the November 1982 *Order*. It argued that franchise taxes should be allocated based on the apportionment of telephone plant in service. AT&T believed that our modification was unnecessary. It noted that establishing a separate classification for franchise taxes "would require extensive analysis since accounting records do not exist that have the necessary detail. * * *" We agree that our earlier proposal could have imposed a significant burden on many companies. As a result we have reconsidered our proposal, and recommend no change in the existing allocation method.

27. Central Office Power Equipment

145. The *Separations Manual* now allocates the cost of Central Office Equipment (COE) not assigned to any specific category in proportion to the cost of equipment directly assigned to categories. Central office power equipment used by only one category of COE is directly assigned to that category. Power equipment directly assigned to a specific category may either use the central 48 volt power supply as its power sources or rely upon a stand alone power source. GTE proposed to change Paragraph 24.1311 to specify that the cost of power equipment used by one category should be directly assigned to that category before the costs of common central office equipment are distributed among the categories. In the November 1982 *Order*, we proposed a change in Paragraph 24.131 which would permit the simplified study procedures GTE sought. Based upon the comments we have received, we now recommend that Paragraph 24.131 be revised as we proposed previously.

28. COE Emergency Power Equipment

146. The *Separations Manual* now distributes the cost of fixed emergency power equipment on the same basis as the cost of the power equipment it protects. It distributes the cost of portable emergency power plant among the categories based on the assignment of the costs of all other COE in the study area. GTE proposed that the *Separations Manual* treat portable emergency equipment as it now treats such fixed equipment. Cost causation principles appeared to support GTE's proposal. We believe, however, the result GTE sought could be achieved by deleting Paragraphs 24.1313 and 24.1314 and treating the costs of emergency power equipment the same as all other central office power equipment. In the November 1982 *Order*, we solicited comments concerning: (1) Whether there were any practical reasons for continuing to distinguish in the *Manual* between emergency power equipment and the remaining central office equipment; (2) the costs and benefits of changing the *Manual*; and (3) whether either of the two proposals would achieve the intended result. Based upon the comments we received, we now recommend that Paragraphs 24.1313 and 24.1314 be deleted, and Paragraphs 24.131 and 24.1311 be revised as proposed in the November 1982 *Order*.

29. Technical Wording Changes

147. In its June 1981 filing, AT&T suggests 46 pages of revisions to the *Manual* which would delete references to obsolete equipment and services, etc. We recommend adoption of these changes with four exceptions. AT&T argued that we were mistaken in our November 1982 recommendation that these four items be deferred to the future interexchange Joint Board. AT&T recommended that the following three questions be taken up now: (1) Centralized Ticket Investigation (CTI); (2) Rate and Route Switchboard Investment; and (3) Foreign Directory Expenses. Other parties also recommend disposition of CTI, and AT&T noted that the two remaining issues were small or noncontroversial.

148. Foreign Directory Expense is the expense associated with directories and traffic information records prepared for one locality and used in another. The changes proposed for Foreign Directory Expense in Account 649 would reflect the fact that AT&T now charges customers for out-of-town (foreign) telephone directories. This modification would address the expense incurred by the company which purchased the foreign directories. It would not address foreign directory expense incurred by the company which produced the directories.

149. AT&T recommended modification of the current procedure for treating Rate and Route Switchboard Investment in Account 221 to eliminate the grouping of Rate and Route switchboards with toll switchboards. The costs of Rate and Route switchboards would be allocated based on Rate and Route switchboard weighted standard work seconds (WSWSs). AT&T claimed that this change was necessary to apportion costs associated with centralized Rate and Route functions. It claimed that Rate and Route operations were generally centralized and could not be associated with one or a few toll switchboards.

150. Centralized Ticket Investigation Expenses in Account 624 include the wages of employees engaged in investigation activities in a centralized toll ticket investigation bureau. This modification would separate the toll ticket investigation expense on the basis of the volume of toll messages. Continental and United have also urged us to consider this matter.

151. We believe that our previous recommendation that consideration of these matters be deferred to the interexchange Joint Board was proper, because they are interexchange in nature. This is also true of the fourth item, Interexchange Circuit Plant. We invite the parties to resubmit these proposals at the appropriate future time.

152. Finally, Alascom stated that it still uses the *Manual* for the jurisdictional separation of TWX investment in Alaska. We will accordingly reinstate the proposed deletions of references to TWX.

153. As stated previously, other technical wording changes recommended in the November 1982 *Order* have been entirely non-controversial, and we recommend that the FCC adopt them.

IV. Ordering Clause

154. Accordingly, the Joint Board recommends, that the commission adopt the attached revisions to the *Jurisdictional Separations Manual* implementing the changes discussed above.[46]

William J. Tricarico,

Federal Communications Commission.

Appendix A—Separations Manual Revisions

1. Amend Paragraphs 11.212 and 11.22 (3)(a) to read as follows:

11.212 In the development of "actual use" measurements, measurements of use are: (1) Determined for telephone plant or for work performed by operating forces on a unit basis (*e.g.*, conversation-minute-mile per message, weighted standard work seconds per call) in studies of traffic handled or work performed during a representative period for all traffic and (2) applied to overall traffic volumes, *i.e.*, 24-hour rather than busy-hour volumes.

11.22(3a) Operator work time expressed in weighted standard work seconds in the basis for measuring the use of manual switching plant, except for that portion of traffic service position system (TSPS) investment that is not directly associated with operator positions. Real time (i.e., actual seconds) use of the TSPS processor is the basis for measuring the use of this plant, which inludes the stored program control, memory and remote trunk arrangement (RTA).

2. Add a new Paragraph 11.251 which reads as follows:

11.251. The procedures described in Paragraphs 11.25, 25.3, 42.55, 43.112, 47.211 and 51.22 shall apply for purposes of interstate apportionment of customer premises equipment for companies that provide exchange service regardless of the actual CPE attributable to regulated operations that is recorded on the books of the company. If the amount apportioned to interstate operations exceeds the amount of CPE attributable to regulated operations, the excess shall be deducted from the total investment or total expense apportioned to state operations. Notwithstanding the transfer of CPE from the BOCs to AT&T pursuant to the AT&T diverstiture,[47] responsibility for continuation of the five year phaseout of the interstate allocation of CPE shall remain with the BOCs.

3. Add a new Paragraph 11.26 which reads as follows:

11.26 Costs which have once been separated under procedures consistent with general principles set forth in this Manual, and are thus identifiable as entirely interstate or intrastate in nature, shall be directly assigned to the appropriate operation and jurisdiction.

4. Amend Paragraph 22.231 and 22.322 to read as follows:

22.231 Operating Room and Central Office Equipment Space—Category I—This category includes the space used by central office equipment (*e.g.*, circuit equipment, toll and local switchboards, including traffic service positions, operating rooms, dial switching equipment, automatic message recording equipment, power plants, cable vaults, and space used by personnel when installing or maintaining central office equipment). The cost of this space, excluding space used or reserved for another company's interstate operations as described in Paragraph 22.122, is apportioned among the operations in proportion to the separation of the cost of the following types of central office equipment:

(a) Manual switchboard equipment
(b) Circuit equipment
(c) Dial Switching equipment

22.322 Operators' Quarters—Category 2—This category includes space (other than operating rooms) used by switchboard operators, *e.g.*, operators' lounges and lunch rooms. The cost of this space is apportioned among the operations on the basis of the relative number of weighted standard work seconds for all switchboards involved.

5. Amend Paragraph 23.21 to read as follows:

23.21 Exchange Outside Plant—Category 1—This category includes the outside plant other than in Category 3 in the following three subcategories:

6. Amend Section 23.211 to read as follows:

23.211 Wideband Subscriber Line Outside Plant—Category 1.1—This category includes the outside plant between local central offices and subscriber premises used for wideband services.

7. Amend Paragraph 23.212 to read as follows:

23.212 Exchange Trunk Outside Plant (Wideband and Non-Wideband)—Category 1.2—This category includes outside plant between central offices or other switching points used by any common carrier for interlocal trunks wholly within an exchange or metropolitan service area, interlocal trunks carrying extended area service traffic, interlocal trunks with one or both terminals outside a metropolitan service area carrying some exchange traffic, toll connecting trunks, tandem trunks principally carrying exchange traffic, the exchange trunk portion of TWX and WATS access lines, the exchange trunk portion of private line local channels, and the exchange trunk portion of circuits between control terminals and radio stations providing very high frequency maritime service or urban or highway mobile service.

8. Amend Paragraph 23.213 to read as follows:

23.213 Subscriber Line Outside Plant Excluding Wideband—Category 1.3.—This category includes outside plant between local central offices and subscriber premises used for message telephone and TWX subscriber lines, for WATS access lines, for private line local channels and for circuits between control terminals and radio stations providing very high frequency maritime service or urban or highway mobile service. This category also includes outside plant between local central offices and public telephones.

9. Amend Paragraph 23.22 to read as follows:

23.22 Interexchange Outside Plant—Category 2—This category includes outside plant other than that included in Categories 1 and 3, used for message toll and toll private line services. It includes outside plant carrying intertoll circuits, tributary circuits, the interexchange channel portion of special service circuits, circuits between control terminals and radio stations used for overseas or coastal harbor service, interlocal trunks between offices in different exchange or metropolitan service areas carrying only message toll traffic and certain tandem trunks which carry principally message toll traffic.

10. Amend Paragraphs 23.23 and 23.231 which read as follows:

[46] All of the proposals and arguments not discussed herein have been considered and rejected.

[47] The Modified Final Judgement in United States v. AT&T, 552 F. Supp. 131, *affid sub. nom.* Maryland v. U.S. 51 U.S.L.W. 3628, February 28, 1983 generally requires AT&T to divest itself of its operating companies which provide local telephone service.

23.23 Host/Remote Message Outside Plant—Category 3—This category includes the cost of message host/remote location outside plant for which a message circuit switching function is performed at the host central office. It applies to outside plant facilities between host offices and all remote locations.

23.231 The procedures for apportioning the cost of Category 3 host/remote outside plant among the operations are set forth in Paragraph 23.6.

11. Amend Paragraph 23.3111 to read as follows:

23.31111 There are two basic methods for assigning the cost of cable to the various categories. Both of them are on the basis of conductor cross section. The methods are as follows:

(a) By section of cable, uniform as to makeup and relative use by categories. From an analysis of cable engineering and assignment records, determine in terms of equivalent gauge the number of pairs in use, or reserved, for each category. The corresponding percentages of use, or reservation, are applied to the cost of the section of cable, *i.e.*, sheath feet times unit cost per foot, to obtain the cost assignable to each category.

(b) By using equivalent pair miles, *i.e.*, pair miles expressed in terms of equivalent gauge. From an analysis of cable engineering and assignment records, determine * * * [leave the rest of the section as it is].

12. Amend Paragraph 23.42 to read as follows:

23.42 Wideband Subscriber Line Outside Plant—Category 1.1—The cost of outside plant assignable to this category in the study area is determined separately for each wideband subscriber line outside facility and assigned to the appropriate subsidiary category as follows:

Category 1.11 Subscriber line outside plant for interstate private line services.

Category 1.12 Subscriber line outside plant for intrastate private line services.

Category 1.13 Subscriber line outside plant for wideband message services.

13. Amend Paragraph 23.421 to read as follows:

23.421 The costs in Categories 1.11 and 1.12 are each assigned directly to the appropriate operation. The cost in Category 1.13 is segregated by type of wideband transmission facility and is apportioned between state and interstate operations on the basis of the relative number of minutes of use of each type of wideband facility in the study area.

14. Amend Paragraphs 23.43 and 23.44 to read as follows:

23.43 Exchange Trunk Outside Plant (Wideband and Non-Wideband)—Category 1.2—The cost of the exchange outside plant assignable to this category in the study area is separately identified for the following subsidiary categories:

Category 1.21 Trunk plant used exclusively for exchange message services.

Category 1.22 Trunk plant used exclusively for toll message services (excluding trunks used exclusively for WATS access) or jointly for exchange and toll message services.

Category 1.23 Trunk plant used for TWX access lines.

Category 1.24 Trunk plant used exclusively for interstate private line services and exclusively for interstate WATS access.

Category 1.25 Trunk plant used exclusively for state private line services and exclusively for interstate WATS access.

23.44 Subscriber Line Outside Plant Excluding Wideband—Category 1.3—The first step in apportioning the cost of the subscriber line outside plant among the operations is the determination of an average cost per working loop. This average cost per working loop is determined by dividing the total cost of subscriber line outside plant assigned Category 1.3 in the study area by the sum of the working loops described in subcategories 1.31, 1.32, 1.33 and 1.34. The cost of the subscriber line outside plant assigned Category 1.3 is further assigned to the following subsidiary categories and apportioned in accordance with Paragraphs 23.441—23.444:

Category 1.31 Subscriber line outside plant used exclusively for state private line services and exclusively for state WATS access.

Category 1.32 Subscriber line outside plant used exclusively for interstate private line services and exclusively for state WATS access.

Category 1.33 Subscriber line outside plant used jointly for exchange service and toll message services, excluding WATS access lines.

Category 1.34 Subscriber line outside plant used for TWX service.

15. Amend Paragraphs 23.441 and 23.442 to read as follows:

23.441 The cost of subscriber line outside plant assigned Category 1.34 for the study area is determined by multiplying the average cost per loop determined in Paragraph 23.44 by the number of working subscriber lines used in furnishing TWX service. The amount so assigned is apportioned between state toll and interstate toll on the basis of the relative number of TWX minutes of use for the study area.

23.442 The average subscriber line outside plant cost per loop determined in Paragraph 23.44 is applied to the counts of working loops used in furnishing state and interstate private line local channels (excluding wideband) and state and interstate WATS access, and the amounts so determined are assigned to categories 1.31 and 1.32 and are assigned directly to the appropriate operations.

16. Amend Paragraph 23.443 to read as follows:

23.443 The cost of subscriber line outside plant assigned Category 1.33 is determined by subtracting amounts assigned TWX service, private line and WATS access services in Paragraphs 23.441 and 23.442 from the total cost assigned Category 1.3 in the study area.

17. Amend Paragraphs 23.444 to read as follows:

23.444(a) The cost of subscriber line outside plant category 1.33 is apportioned between date and interstate in operations until January 1, 1986, by the application, to the cost of such plant, of a subscriber plant factor, which is the sum of the following:

(1) Annual average interstate subscriber line use (SLU), for the calendar year 1981,[48] representing the interstate use of the subscriber plant as measured by the ratio of interstate holding time minutes of use to total holding time minutes of use applicable to traffic originating and terminating in the study area, multiplied by .85, the nationwide ratio of (1) subscriber plant costs assignable to the exchange operation per minute of exchange use to (2) total subsciber plant cost per total minute of use of subscriber plant plus

(2) Twice the annual average interstate subscriber line use ratio for the study area for the calendar year 1981,[48] miltiplied by the annual average composite station rate ratio used for the calendar year 1981 (ratio of (1) the nationwide, industry-wide average interstate initial 3-minute station charge at the study area average interstate length of haul to (2) the nationwide, industry-wide average total toll initial 3-minute station charge at the nationwide

[48] In the case of a company that cannot calculate the average interstate subscriber line usage (SLU) ratio for the calendar year 1981, the average interstate SLU for the customarily used 12-month study period ending in 1981 may be utilized. In the case of a company for which no such 1981 annual average SLU exists, the annual average interstate SLU for the initial study period will be utilized.

average length of haul for all toll traffic for the total telephone industry).

(b) Effective January 1, 1986, the plant in OSP Category 1.33 shall be apportioned between the state and interstate operations as provided in Paragraphs 23.445–233.447.

18. Add new Paragraphs 233.445–23.447 which read as follows:

23.445 Effective January 1, 1986, 25 percent of the plant investment in OSP Category 1.33 will be allocated to the interstate operation, except as otherwise provided in Paragraphs 23.446–23.447.

23.446 The interstate allocation of OSP Category 1.33 plant investment for the years 1986, 1987 and 1988 will be as follows, subject to the limitation contained in Paragraph 23.447:

(a) 1986—The Section 23.444(a) allocation factor multiplied by .75 plus .0625.

(b) 1987—The Section 23.444(a) allocation factor multiplied by .5 plus .125.

(c) 1988—The Section 23.444(a) allocation factor multiplied by .25 plus .1875.

23.447 Limit on Change in Interstate Allocation.

(a) No study area's percentage interstate allocation for inside wire and OSP Category 1.33 plant investment as well as associated maintenance and depreciation shall decrease by the total of more than ten percentage points from one calendar year to the next as a result of the combined operation of Paragraphs 23.445, 23.446 and 65.1 through 65.13.

(b) The determination of whether the decrease in the interstate allocation for given study areas resulting from the operation of Paragraphs 23.446 and 65.1 through 65.13 exceeds ten percentage points shall be made by calculating a percentage interstate allocation for both of the years involved. This shall be done by dividing the interstate allocation of OSP Category 1.33 and inside wire plus associated expenses for each year as calculated pursuant to Paragraph 23.447(d) by the total unseparated investment in OSP Category 1.33 and inside wire plus associated expenses for the corresponding year as calculated pursuant to Paragraph 23.447(e).

(c) If the resulting percentage for the more recent of the two years is more than ten percentage points less than the percentage for the earlier year, the decrease in the interstate allocations shall be reduced pro rata for plant investment, maintenance and depreciation so that the difference between the two percentages does not equal more than ten percentage points.

(d) Add the following:

(1) the net interstate allocation of OSP Category 1.33 plant investment calculated pursuant to Paragraphs 23.445 and 23.446 multiplied by the authorized interstate rate of return.

(2) the net interstate allocation of inside wire calculated pursuant to Paragraphs 23.445 and 23.446 multiplied by the authorized interstate rate of return.

(3) the interstate allocation of maintenance and depreciation attributable to OSP Category 1.33 and inside wire investment calculated pursuant to Paragraphs 23.445 and 23.446.

(4) The amount of the additional interstate expense allocation calculated pursuant to Paragraphs 65.1 through 65.13.

(e) Add the following:

(1) the net unseparated OSP Category 1.33 plant investment multiplied by the authorized interstate rate of return.

(2) the net unseparated inside wire investment multiplied by the authorized interstate rate of return.

(3) the unseparated maintenance and depreciation attributable to OSP Category 1.33 and inside wire investment.

19. Add new Paragraphs 23.6 through 23.611 which read as follows:

23.6 Host/Remote Message Outside Plant Category and Apportionment Procedures

23.61 Host/Remote Message Outside Plant—Category 3—The cost of host/remote outside plant used for message circuits, i.e., circuits carrying only message traffic, is included in this category.

23.611 The cost of host/remote message outside plant for the study area is apportioned on the basis of the relative number of study area minutes-of-use miles applicable to such facilities.

20. Amend Paragraphs 24.131 and 24.1311 to read as follows:

24.131 The cost of common equipment not assigned to a specific category, e.g., power equipment, including emergency power equipment, aisle lighting and framework, including distributing frames, is distributed among the categories in proportion to the cost of equipment, including power equipment, directly assigned to categories.

24.1311 The cost of power equipment used by one category is assigned directly to that category, e.g., 130 volt power supply provided for circuit equipment. The cost of emergency power equipment protecting only power equipment used by one category is also assigned directly to that category.

Delete Paragraphs 24.1313 and 24.1314.

22. Amend Paragraph 24.32 to read as follows:

24.32 The cost of the following telephone switchboards is apportioned among the operations on the basis of the relative number of weighted standard work seconds handled at the switchboards under consideration.

23. Amend Paragraphs 24.331 and 24.332 to read as follows:

24.331 The cost of separate directory assistance boards is apportioned among the operations on the basis of the relative number of weighted standard work seconds handled at the boards under consideration. Directory assistance weighted standard work seconds are apportioned among the operations on the basis of the classification of these weighted standard work seconds as follows:

(a) Directory assistance weighted standard work seconds first are classified between calls received over toll directory assistance trunks from operators or customers and all other directory assistance calls.

(b) The directory assistance weighted standard work seconds of each type further are classified separately among the operations on the basis of an analysis of a representative sample of directory assistance calls of each type with reference to the locations of the calling and called stations for each call.

24.332 The cost of separate intercept boards and automated intercept systems in the study area is apportioned among the operations on the basis of the relative number of subscriber line minutes of use.

24. Amend Paragraph 24.334 to read as follows:

24.334 Where more than one auxiliary service is handled at an auxiliary board, the cost of the board is apportioned among the auxiliary services on the basis of the relative number of weighted standard work seconds for each service. The cost of that part of the board allocated to each auxiliary service is apportioned among the operations in the same manner as for a separate auxiliary board.

25. Add a new Paragraph 24.35 which reads as follows:

24.35 Traffic Service Position System investments are apportioned as follows:

(a) Operator position investments are apportioned on the basis of the relative weighted standard work seconds for the entire TSPS complex.

(b) Remote trunk arrangement (RTA) investments are apportioned on the basis of the relative processor real time (*i.e.*, actual seconds) required to process TSPS traffic originating from the end offices served by each RTA.

(c) The remaining investment at the central control location, such as the stored program control and memory, is apportioned on the basis of the relative processor real time (*i.e.*, actual seconds) for the entire TSPS complex.

26. Amend Paragraph 24.81 to read as follows:

24.81 Local dial switching equipment comprises all dial central office switching equipment not assigned other categories. Examples of local dial switching equipment are basic switching train, toll connecting trunk equipment, interlocal trunks, tandem trunks, terminating senders used for toll completion, toll completing train, call reverting equipment, weather and time of day service equipment, concentration equipment, and switching equipment at electronic analog or digital remote line locations.

27. Add a new Paragraph 24.812 to read as follows:

24.812 A host/remote local dial switching complex is composed of an electronic analog or digital host office and all of its remote locations. A host/remote local dial switching complex is treated as one local dial office. The current jurisdictional definition of an exchange will apply.

28. Amend Paragraph 24.821 to read as follows:

24.821 The segregation of the cost of local dial switching equipment is accomplished in each local dial office by the application of a non-traffic sensitive equipment factor appropriate for the particular type of equipment (step-by-step, panel, crossbar, electronic-analog or digitial, etc.) installed in the office and for the size of the office. The non-traffic sensitive factors are developed by means of analyses of the cost of local dial switching equipment in selected local dial offices which are representative of the several types and size ranges and which are chosen for study by sampling methods which represents the population.

29. Amend Paragraph 24.83 by substituting "Paragraph 23.444(a)" for "Para. 23.444."

30. Amend Paragraph 24.831 to read as follows:

24.831 The weighted toll dial equipment minutes of use applicable to each office are developed by application of a weighting factor appropriate for the particular type of equipment (step-by-step, panel, crossbar, electronic-analog or digital, etc.) installed in the office, the size of the office, and whether or not a majority of the traffic originated in the office also terminates in the office. The weighting factors for application to the toll minutes of use are developed by means of analyses of the traffic sensitive local dial switching equipment in local dial offices selected for study by sampling methods which represent the population. The analyses of the traffic sensitive items of equipment are made in sufficient detail to reflect the use of each item of equipment for exchange and for toll services.

31. Add a new Paragraph 24.832 which reads as follows:

24.832 Dial equipment minutes of use attributable to the origination or termination of interstate message services other than MTS and WATS that use local dial switching facilities shall be counted as interstate minutes of use, but shall not be deemed to be toll dial equipment minutes of use for purposes of the weighting factor described in Paragraph 24.831.

32. Amend Paragraph 24.02 to read as follows:

24.02 For apportionment among the operations, the cost of circuit equipment is assigned to the following subsidiary categories which are consistent with those established for outside plant:

(a) Exchange Circuit Equipment—Category 8.1.

(1) Wideband Exchange Loop Circuit Equipment—Category 8.11.

(2) Exchange Trunk Circuit Equipment (Wideband and Non-Wideband)—Category 8.12.

(3) Subscriber Line Circuit Equipment Excluding Wideband—Category 8.13.

(b) Interexchange Circuit Equipment—Category 8.2.

(1) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use—Category 8.21.

(2) Interexchange Circuit Equipment Used For Wideband Services—Category 8.22.

(3) All Other Interexchange Circuit Equipment—Category 8.23.

(c) Host/Remote Message Circuit Equipment—Category 8.3.

33. Amend Paragraphs 24.031, 24.032 and 24.033 to read as follows:

24.031 Wideband Exchange Loop Circuit Equipment—Category 8.11—The cost of exchange circuit equipment in this category is determined separately for each wideband facility. The respective costs are allocated to the appropriate operation in the same manner as the related exchange loop outside plant as described in Paragraphs 23.42 and 23.421.

24.032 Exchange Trunk Circuit Equipment (Wideband and Nonwideband)—Category 8.12—The cost of exchange circuit equipment associated with this category for the study area is assigned to subcategories and is allocated to the appropriate operation in the same manner as the related exchange trunk outside plant is described in Paragraphs 23.43 and 23.431.

24.033 Subscriber Line Circuit Equipment Excluding Wideband—Category 8.13—The cost of Circuit Equipment associated with exchange subscriber line plant excluding wideband for the study area is assigned to subcategories and is allocated to the appropriate operation in the same manner as the related Subscriber Line Outside Plant for non-wideband service as described in Paragraphs 23.44 through 23.447.

34. Delete Paragraphs 24.0321, 24.0322 and 24.0331 through 24.0332.

35. Add Paragraphs 24.05, 24.051 and 24.0511 which read as follows:

24.05 Apportionment of Host/Remote Message Circuit Equipment Among the Operations.

24.051 Host/Remote Message Circuit Equipment—Category 8.3. This category includes message host/remote location circuit equipment for which a message circuit switching function is performed at the host central office associated with outside plant Category 3 as defined in Paragraph 23.23.

24.0511 The category 8.3 cost of host/remote circuit equipment assigned to message services for the study area is apportioned among the exchange, intrastate toll, and interstate toll operations on the basis of the relative number of study area minutes-of-use-miles applicable to such facilities.

36. Add a new Section 25.112 which reads as follows:

25.112 The first step in the separation of station equipment is the segregation of station connections in Accounts 232 and 234 from all other investment. This plant is apportioned between the state and interstate operations on the same basis as OSP Category 1.33 described in Paragraphs 23.444 and 23.447.

37. Amend Section 25.12 to read as follows:

25.12 The next step is the assignment of the remaining plant to the five categories listed below and the determination of the cost of the plant so assigned. The basic procedures followed in making the assignments and cost determinations are (a) the identification of the units of stations equipment installed on customers' premises assignable to Categories 1, 2, 3 and 4, (b) determination of the related costs in these categories by the application of an

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appropriate average unit cost to the units so identified, and (c) the assignment of the remaining station equipment cost to Category 5.

38. Add Paragraph 32.242 to read as follows:

32.242 Revenues that are attributable to the origination or termination of interstate FX or CCSA like services shall be assigned to the interstate jurisdiction.

39. Amend Paragraph 33.11 to read as follows:

33.11 Amounts in this account are apportioned among the operations on the basis of the separation of the cost of Telephone Plant in Service—Account 100.1.

40. Amend Paragraph 33.21 to read as follows:

33.21 Interest charged to construction is apportioned among the operations on the basis of the apportionment of the cost of the portion of Telephone Plant Under Construction, Account 100.2, on which the interest charged to construction was accrued.

41. Amend Paragraphs 42.322 and 42.323 to read as follows:

42.322 Expense in this classification is segregated among (a) message services (excluding WATS access), (b) WATS access, (c) private line, (d) TWX and (e) wideband services, on the basis of the relative number of working subscriber loops provided for each of these services. In cases where substantial numbers of private line, WATS access, TWX or wideband service loops are provided, and where either the analyses in Paragraph 42.31 or analyses of trouble reports on private line, WATS access, TWX and wideband services indicate that the exchange circuit plant testing expense per loop associated with any of such services is significantly different from the corresponding expense per loop associated with message services (excluding WATS access), appropriate weighting factors are applied to the counts of loops used for private line, WATS access, TWX and wideband services. These weighting factors are based on periodic analyses of accounting or other records for a representative period.

42.323 Subscriber line and service order testing expense assigned message telephone (excluding WATS access) is apportioned between state and interstate operations on the same basis as that used for the apportionment of the cost of OSP Category 1.33.

42. Amend Paragraph 42.325 to read as follows:

42.325 Exchange circuit plant testing expense assigned private line services and WATS access are apportioned among the operations on the basis of the relative number of working loops (weighted if appropriate) used in furnishing exchange, state toll, interstate toll and WATS access private line local channels.

43. Amend Paragraph 42.334 to read as follows:

42.334 The expense of testing all other inter-office circuit plant is further segregated among (a) exchange trunk plant, (b) interexchange circuit plant, and (c) host/remote message circuit plant on the basis of the relative number of circuit miles provided for each of these classifications in the study area. In cases where substantial numbers of circuit miles are provided for TWX service, WATS access, or private line services (other than wideband special services) or exchange trunks, and where analyses of trouble reports or other records indicate that the testing expense associated with any of these classifications is significantly different from the corresponding expense per circuit mile associated with message interexchange service (excluding WATS access) circuit miles, appropriate weighting factors are applied to the counts of circuit miles for individual classifications to recognize this difference in testing expense. These weighting factors are based on periodic studies of charges to Account 603 for interoffice circuit plant testing during a representative period.

44. Add a new Paragraph 42.336 which reads as follows:

42.336 Host/Remote message circuit plant testing is apportioned among the exchange, intrastate toll, and interstate toll operations on the basis of study area minutes-of-use-miles.

45. Add a new Paragraph 42.56 which reads as follows:

42.56 Inside Wiring Installation Expense—Expenses associated with the installation of inside wiring shall be apportioned between state and interstate operations in accordance with the applicable factor for OSP Category 1.33 plant provided for in paragraphs 23.444 through 23.447).

46. Amend Section 4, Part 4 to read:

44.1 General.

44.11 Traffic expenses are included in the following accounts:

General Traffic Supervision—Account 621
Service Inspection and Customer Instruction—Account 622
Operators' Wages—Account 624
Rest and Lunch Rooms—Account 626
Operators' Employment and Training—Account 627
Central Office Stationery and Printing—Account 629
Central Office House Service—Account 630
Miscellaneous Central Office Expenses—Account 631
Public Telephone Expenses—Account 632
Other Traffic Expenses—Account 633
Joint Traffic Expenses, Dr.—Account 634
Joint Traffic Expenses, Cr.—Account 635

44.12 In general, traffic expenses are apportioned among the operations on the basis of the relative number of weighted standard work seconds. For this purpose, certain groups of weighted standard work seconds are apportioned among the operations as follows:

44.121 Directory assistance weighted standard work seconds at separate auxiliary service boards are apportioned among the operations on the basis of the classification of these weighted standard work seconds as follows:

(a) Directory assistance weighted standard work seconds first are classified between calls received over toll directory assistance trunks from operators or customers and all other directory assistance calls.

(b) The directory assistance weighted standard work seconds of each type further are classified separately among the operations on the basis of an analysis of a representative sample of directory assistance calls of each type with reference to the locations of the calling and called stations for each call.

44.122 Intercept weighted standard work seconds in the study area are apportioned among the operations on the basis of the relative number of subscriber line minutes-of-use applicable to each operation in the study area.

44.13 For some traffic expense accounts one set of factors is used to apportion the entire expense in the account among the operations. For other accounts the expense is segregated into two or more classifications and is apportioned separately for each classification. Some companies maintain subaccounts consistent with the specific classifications.

44.14 Traffic expense in each account or classification is apportioned among the operations separately for each exchange except where:

(a) it is difficult to determine the expense for individual exchanges,

(b) some exchanges have relatively small amounts of expense, or

(c) some exchanges have comparable cost levels or comparable portions of the operations.

Where any of the above conditions apply, the expense may be apportioned among the operations for groups of exchanges. A group of exchanges may include all exchanges in the study area.

44.15 For the purpose of this section "total weighted standard work seconds" includes an allowance for TWX when allocation to TWX is necessary.

44.2 General Traffic Supervision—Account 621.

44.21 Engineering—The expense of employees engaged in traffic engineering is apportioned among the operations on the basis of the apportionment of the combined cost of Central Office Equipment—Account 221 and Interexchange Outside Plant in Accounts 241 through 244.

44.22 Network Administration—The expense of employees engaged in traffic administration of dial switching equipment operations is apportioned among the operations on the basis of the apportionment of the cost of Central Office Equipment in Categories 1 through 7.

44.23 All Other—All other expense included in this account is apportioned among the operations on the basis of the relative number of total weighted standard work seconds.

44.3 Service Inspection and Customer Instruction—Account 622.

44.31 The expense in this account is ordinarily segregated into four classifications or subaccounts: (1) Service evaluation (2) private branch exchange, (3) TWX, and (4) customer instruction and miscellaneous.

44.32 Service Evaluation.

44.321 This classification includes the expense of traffic service evaluation forces engaged in evaluating the handling of message telephone traffic, in summarizing service evaluation data, and in directly supervising such work.

44.322 The expense is apportioned between exchange and toll for a study area on the basis of the relative number of exchange and toll service weighted evaluation seconds.

44.323 The toll expense is then apportioned on a study area basis between state and interstate operations on the basis of the relative number of toll minutes of use for each operation.

44.33 Private Branch Exchange.

44.331 This classification includes the expense of employees engaged in inspecting private branch exchange service and directly supervising such work. This includes the taking of observations of private branch exchange service, other than service observations by the regular service observing forces, and the expense of employment and instruction of private branch exchange operators when performed by the private branch exchange service organization.

44.332 The expense in this classification for the study area is apportioned among the operations on the basis of relative amounts of current billing excluding billing to non-affiliated telegraph companies and other telephone companies as determined by an analysis for a representative period.

44.34 Teletypewriter Exchange Service.

44.341 This classification includes the expense of employees engaged in inspecting or observing the handling of teletypewriter exchange service. It also includes the expense of training customers' personnel for such service.

44.342 The expense in this classification for the study area is apportioned between state toll and interstate toll operations on the basis of the relative number of state and interstate TWX traffic units or weighted standard work seconds.

44.35 Customer Instruction and Miscellaneous.

44.351 This classification includes the expense of employees engaged in instructing customers in methods of placing calls, in taking special observations in connection with the handling of individual service criticisms, and in similar activities.

44.352 Expense in this classification for the study area is apportioned among the operations on the basis of the relative amounts of current billing excluding billing to other telephone companies as determined by an analysis for a representative period.

44.4 Operators' Wages—Account 624.

44.41 For apportionment purposes, the following classifications of expense included in this account are considered: (1) Private branch exchange, (2) teletypewriter exchange, (3) network administration, (4) number services record work, and (5) all other.

44.42 Private Branch Exchange.

44.421 This classification includes the expense of private branch exchange operating and clerical employees.

44.422 Expense in this classification is first divided between that incurred in connection with the operation of private line service switchboards and all other.

44.4221 Expense incurred in connection with the operation of private line service switchboards is apportioned among the operations, by locations, on the same basis as that used for the apportionment of the cost of the private line service switchboards operated (See Paragraph 24.95).

44.4222 All other expense in this classification for the study area is apportioned among the operations on the basis of the relative number of subscriber line minutes-of-use in the study area.

44.43 Teletypewriter Exchange.

44.431 This classification includes the expense of teletypewriter exchange operating and clerical employees.

44.432 Expense in this classification is apportioned between state toll and interstate toll operations, by locations, on the basis of the relative number of state and interstate TWX traffic units or weighted standard work seconds.

44.44 Network Administration.

44.441 This classification includes the expense of switching administration, data administration, transmission administration, line and number administration, trunk administration and general administration and training for all of these functions.

44.442 Expense in this classification for the study area is apportioned among the operations on the basis of the apportionment of Central Office Equipment in Categories 1 through 7.

44.45 Number Services Record Work.

44.451 This classification includes the expense of updating and maintaining records for directory assistance, intercept, and calling card service functions.

44.452 Expense in this classification is first divided between directory assistance, intercept, and calling card service for the study area.

44.453 The expense incurred for the directory assistance function is apportioned among the operations for a study area on the basis of the weighted standard work seconds generated by the directory assistance offices in the study area.

44.454 The expense incurred for the intercept function is apportioned among the operations for a study area on the basis of the weighted standard work seconds generated by the intercept offices in the study area.

44.455 The expense incurred for the calling card service function is apportioned among the operations for a study area on the basis of the credit card messages for the study area.

44.46 All Other.

44.461 The expense in this classification is apportioned among the operations by exchanges or groups of exchanges on the basis of the relative number of weighted standard work seconds at each exchange or group of exchanges.

44.4611 Where an exchange has a separate toll payroll, or psyrolls, the

VOL
48
ISS
1
99
OC
13
1983
UMI

weighted standard work seconds consistent with the payroll, or payrolls, for each toll office are used to apportion the total expense for that office. The total weighted standard work seconds for all other offices may be used to apportion the totals of the separate payrolls for these other offices.

44.5 Rest and Lunch Rooms—Account 628

44.51 Dining Service—This classification includes the expense of operating lunch rooms for traffic department central office employees. Included are salaries of employees engaged in the operation of lunch rooms, associated house service expense, expenditures for food supplies, and other miscellaneous related expense, less lunch room receipts. This expense is apportioned among the operations separately for each exchange or for groups of exchanges on the basis of the relative number of total weighted standard work seconds in the exchange or group of exchanges.

44.52 All Other—The remaining expense in this account for the study area is apportioned among the operations on the basis of the relative number of telephone plus TWX weighted standard work seconds.

44.6 Operators' Employment and Training—Account 627

44.61 Teletypewriter Exchange Training—The expense of traffic employees, both instructors and trainees, incurred while attending a training course in TWX operating and clerical work is apportioned between state and interstate operations on the basis of the relative number of TWX weighted standard work seconds for the study area.

44.62 All other—The remaining expense in this account is apportioned among the operations separately for each switchboard, exchange or group of exchanges on the basis of the relative number of the telephone weighted standard work seconds applicable to each operation at the switchboard, exchange or group of exchanges. However, where significant proportions of both exchange traffic and outward toll traffic are handled at the same switchboard or group of switchboards, the weighted standard work seconds used for their apportionment must be additionally weighted. The weighing factors applied to the weighted standard work seconds for this purpose are derived by assigning a weight of one to all local operator weighted standard work seconds and an appropriate relative weight to all toll operator weighted standard work seconds. This toll weighing factor is based on periodic studies of the relative training requirements.

44.7 Central Office Stationery and Printing—Account 629; Central Office House Service—Account 630; Miscellaneous Centeral Office Expenses—Account 631

44.71 The expense in Accounts 629 and 630 for the study area is apportioned among the operations on the basis of the relative number of total weighted standard work seconds.

44.72 The expense in Account 631 is apportioned among the operations separately for each exchange or group of exchanges on the basis of the relative number of total weighted standard work seconds in the exchange or group of exchanges.

44.8 Public Telephone Expenses—Account 632

44.81 The expense incurred at attended pay stations handling toll to completion is assigned to toll, and is apportioned between state and interstate operations on the basis of the relative number of state toll and interstate toll weighted standard work second at each location.

44.82 The remaining expense in this account for the study area is apportioned among the operations on the basis of the relative number of study area subscriber line minutes-of-use.

44.9 Other Traffic Expenses—Account 633

44.91 Settlement Amounts—Amounts of settlements for traffic operating services performed by other companies re apportioned among the operations on bases consistent with the nature of the operating services.

44.92 All Other—All other expense in this account for the study area is apportioned among the operations on the basis of the relative number of total weighted standard work seconds for the study area.

44.0 Joint Traffic Expenses—Dr. — Account 634; Joint Traffic Expenses — Cr. — Account 635

44.01 Amounts in these accounts are apportioned among the operations on bases consistent with the nature of the traffic operating services received or provided.

47. Amend Paragraph 45.41 to read as follows:

45.41 The expense in this account is first assigned to (a) message toll telephone service excluding WATS access, (b) TWX service, (c) private line services and WATS access, and (d) extended area services (EAS) on the basis of an analysis during a representative period of the net settlement amounts associated with each of these services. This analysis excludes settlements with affiliated telephone companies and with non-affiliated telegraph companies.

48. Add a new Paragraph 45.414 which reads as follows:

45.414 Extended area service (EAS) expense is directly assigned to the exchange operation.

49. Amend Paragraph 47.212 to read as follows:

47.212 The second group consists of the expenses included in Accounts 668, 669, the engineering expense portion of Account 665 and the expenses included in Account 675, excluding extended area services (EAS) settlements, which are directly assigned to the exchange operation. Expenses in this group are apportioned among the operations on the basis of the separation of the cost of Telephone Plant in Service—Account 100.1, excluding the cost of plant assigned general office space and costs included in Accounts 201, 202, 203, 276 and 277.

50. Amend Paragraph 49.31 to read as follows:

49.31 Property Taxes—These taxes are apportioned among the operations on either (a) the basis of the separation of the cost of Telephone Plant In Service—Account 100.1 or (b) the basis of the separation of the cost of the property upon which the tax is levied. The latter apportionment shall be employed only in instances where property taxes are levied on portions of Telephone Plant In Service.

51. Add new Section 6 which reads as follows:

Section 6 Universal Service Factor

Part 1—General

61.1 General.

61.11 For purposes of Section 69.501(a) of the Rules of the Federal Communications Commission, the Universal Service Factor portion of the interstate approprtionment shall consist of an expense adjustment computed in accordance with this Section and the high cost portion of the interstate end user common line revenue requirement developed pursuant to Part 69 of the Federal Communications Commission rules also computed in accordance with this Section. The expense adjustment will be added to interstate expenses and deducted from state expenses after expenses and taxes have been apportioned pursuant to Section 4. Part 7 of this Section identifies a portion of the interstate end user common line revenue requirement developed pursuant to Part 69 of the Commission's Rules as a Universal Service Factor assignment.

61.12 The expense adjustment will be computed on the basis of data for a preceding calendar year which may be updated at the option of the carrier pursuant to Paragraph 62–21. The high cost portion of the end user common line revenue requirement shall be computed on the basis of projected revenue requirements developed pursuant to Part 69 of the Commission's Rules.

Part 2—Data Collection

62.1 Submission of Information to the Exchange Carrier Association.

62.11 In order to allow determination of the study areas which are entitled to an expense adjustment or the designation of a high cost portion of the interstate end user common line revenue requirement, each local telephone company must provide the Exchange Carrier Association established pursuant to Part 69 of the Commission's Rules with the information listed below for each of its study areas. This information is to be filed with the Association on June 30th of each year beginning in 1985. The information filed on June 30th of each year will be used in the jurisdictional allocations underlying the cost support data for the access charge tariffs to be filed the following October.

(a) Unseparated, *i.e.*, state and interstate, gross plant investment in Outside Subscriber Line Plant (OSP) Category 1.33. This amount shall be calculated as of December 31st of the year preceding each June filing.

(b) Unseparated depreciation reserve and accumulated deferred federal income taxes attributable to OSP Category 1.33 investment. These amounts shall be calculated as of December 31st of the year preceding each June filng, and shall be stated separately.

(c) Unseparated depreciation expense attributable to OSP Category 1.33. This amount shall be the actual depreciation expense for the calendar year preceding each June filing.

(d) Unseparated maintenance expense attributable to OSP Category 1.33. This amount shall be the actual maintenance expense for the calendar year preceding each June filing.

(e) Unseparated general expenses, other operating expenses in Accounts 671, 672 and 674, and taxes. The amount for each of these categories of expense shall be the actual amount for that expense for the calendar year preceding each June filing. The amount for each category of expense listed shall be stated separately.

(f) Unseparated gross telephone plant investment. This amount shall be calculated as of December 31st of the year preceding each June filing.

(g) Unseparated depreciation reserve and accumulated deferred federal income taxes attributable to total unseparated telephone plant investment. This amount shall be calculated as of December 31st of the year preceding each June filing.

(h) The number of working subscriber line outside loops used jointly for non-wideband exchange and message telephone service, excluding WATS access lines and TWX service, but including subscriber line outside plant associated with pay telephones. (OSP Category 1.33) This figure shall be calculated as of December 31st of the year preceding each June filing.

(i) The embedded cost of debt and the debt/equity ratio as of December 31st of the year preceding each June filing.

(j) The projected subscriber access charge revenue requirement calculated pursuant to Part 69 of the Commission's Rules. This figure shall be the revenue requirement projected for the calendar year following the June filing.

62.2 Updating Information Submitted to the Exchange Carrier Association.

62.21 Any telephone company may update the information submitted to the Exchange Carrier Association pursuant to Paragraph 62.1 (a) through (i) one or more times annually on a rolling year basis. Carriers wishing to update the preceding calendar year data filed June 30th may (1) submit data covering the last nine months of the previous calendar year and the first three months of the existing calendar year no later than September 30th of that year; (2) submit data on the last six months of the previous calendar year and the first six months of the existing year no later than December 30th of the existing year; and/or (3) submit data on the last three months of the second preceding calendar year and the first nine months of preceding calendar year no later than March 30th of the existing year.

Part 3—Calculation of Loop Costs for Expense Adjustment

63.1 National and Study Area Average Unseparated Loop Cost Per Working Loop.

63.11 Study Area Unseparated Loop Cost. For the purposes of calculation of the expense adjustment, the study area unseparated loop cost is equal to the sum of the following:

(a) Return component for net unseparated OSP Category 1.33 investment. This amount is calculated by deducting the depreciation reserve and accumulated deferred federal income taxes attributable to OSP Category 1.33 investment reported pursuant to Paragraph 62.11(b) from the gross plant investment in OSP Category 1.33 reported pursuant to Paragraph 62.11(a) to obtain the net unseparated OSP Category 1.33 investment. The net unseparated OSP Category 1.33 investment is multiplied by the study area's cost of capital. The cost of capital is calculated by multiplying the embedded cost of debt times the percent of the total capital that is debt and adding to this amount the product of the authorized interstate rate of return on equity times the percent of total capital that is equity as this information is reported in Paragraph 62.11(i).

(b) Depreciation expense attributable to OSP Category 1.33 investment as reported in Paragraph 62.11(c).

(c) Maintenance expense attributable to OSP Category 1.33 investment as reported in Paragraph 62.11(d).

(d) General, other expenses and taxes attributable to OSP Category 1.33 investment. This amount equals the net unseparated OSP Category 1.33 investment as calculated in Paragraph 63.11(a) multiplied by the unseparated general and other expenses and taxes as reported in Paragraph 62.11(e) divided by the unseparated net investment for total telephone plant for the study area. The unseparated net investment for total telephone plant for the study area equals the unseparated gross telephone plant investment as reported in Paragraph 62.11(f) minus the unseparated depreciation reserve and accumulated deferred federal income taxes attributable to total telephone plant as reported in Paragraph 62.11(g).

63.2 National and Study Area Average Loop Cost Per Loop.

63.21 National Average Unseparated Loop Cost Per Working Loop. This is equal to the sum of the unseparated loop costs for each study area in the country as calculated pursuant to Paragraph 63.11 divided by the sum of the working loops reported in Paragraph 62.11(h) for each study area in the country. The national average unseparated loop cost per working loop shall be calculated by the Exchange Carrier Association.

63.211 (a) The national average unseparated loop cost per working loop shall be recalculated by the Exchange Carrier Association to reflect the optional September, December and March update filings.

(b) Each new nationwide average shall be used in determining the additional interstate expense allocation for companies which made update filings by the most recent filing date.

(c) The calculation of a new national average to reflect the update filings shall not affect the amount of the additional

VOL 48 ISS 199 OCT 13 1983 UMI

interstate expense allocation for companies which did not make an update filing by the most recent filing date.

63.22 Study Area Average Unseparated Loop Cost Per Working Loop. This is equal to the unseparated loop cost for the study area as calculated pursuant to Paragraph 63.11 divided by the number of working loops reported in Paragraph 62.11(h) for the study area.

63.221 If a company elects to update the data which it has filed with the exchange Carrier Association as provided in Paragraph 62.21, the study area average unseparated loop cost per working loop and the amount of its additional interstate expense allocation shall be recalculated to reflect the updated data.

Part 4—Calculation of Expense Adjustment—Additional Interstate Expense Allocation

64.1 Expense Adjustment.

64.11 The expense adjustment (Additional interstate expense allocation) is equal to the sum of the following:

(a) Fifty percent of the study area average unseparated loop cost per working loop as calculated pursuant to Paragraph 63.22 in excess of 115 percent of the national average for this cost but not greater than 160 percent of the national average for this cost as calculated pursuant to Paragraph 63.21 multiplied by the number of working loops reported in Paragraph 62.11(h) for the study area.

(b) Sixty percent of the study area average unseparated loop cost per working loop as calculated pursuant to Paragraph 63.22 in excess of 160 percent of the national average for this cost, but not greater than 200 percent of the national average for this cost as calculated pursuant to Paragraph 63.21 multiplied by the number of working loops reported in Paragraph 62.11(h) for the study area.

(c) Seventy percent of the study area average unseparated loop cost per working loop as calculated pursuant to Paragraph 63.22 in excess of 200 percent of the national average for this cost, but not greater than 250 percent of the national average for this cost as calculated pursuant to Paragraph 63.21 multiplied by the number of working loops reported in Paragraph 62.11(h) for the study area.

(d) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to Paragraph 63.22 in excess of 250 percent of the national average for this cost as calculated pursuant to Paragraph 63.21 multiplied by the number of working loops reported in Section 62.11(h) for the study area.

Part 5—Transitional Expense Adjustment

65.1 Transition.

65.11 The expense adjustment for 1989 and subsequent years shall be the amount computed in accordance with Part 4.

65.12 No expense adjustment shall be made prior to 1986.

65.13 The expense adjustments for 1986 through 1988 shall be as follows:

(a) One-fourth of the amount computed in accordance with Part 4 in 1986;

(b) One-half of the amount computed in accordance with Part 4 in 1987; and

(c) Three-fourths of the amount computed in accordance with Part 4 in 1988.

Part 6—Calculation of Interstate End User Common Line Revenue Requirement

66.1 National and Study Area Average Interstate End User Revenue Requirement.

66.11 National Average Interstate End User Common Line Revenue Requirement Per Working Loop. This is equal to the sum of the interstate end user common line revenue requirement developed pursuant to Part 69 of the Commission's Rules for each study area in the country as reported in Paragraph 62.11(j) divided by the sum of the number of working loops reported in Paragraph 62.11(h) for each study area.

66.12 Study Area Average Interstate End User Common Line Revenue Requirement Per Working Loop. This is equal to the interstate end user common line revenue requirement developed pursuant to Part 69 of the Commission's Rules as reported in Paragraph 62.11(j) divided by the number of working loops reported in Paragraph 62.11(h) for the study area.

Part 7—Calculation of High Cost Portion of the Interstate End User Common Line Revenue Requirement

67.1 High Cost Portion Calculation.

67.11 If the study area interstate end user revenue requirement per working loop computed in accordance with Paragraph 66.12 does not exceed 200 percent of the nationwide average computed in accordance with Paragraph 66.11, no portion of this revenue requirement shall be designated as a high cost portion.

67.12 If the study area interstate end user revenue requirement per working loop does exceed 200 percent of the national average, a high cost amount shall be computed by multiplying the difference between the study area revenue requirement per loop and an amount that equals 200 percent of the national average by the number of working loops in the study area.

Glossary

Circuit—A fully operative communications path established in the normal circuit layout and currently used for message, WATS access, TWX, or private line services.

Complex—All groups of operator positions, wherever located, associated with the same call distribution and/or stored program control unit.

Concentration Equipment—Central office equipment whose function is to concentrate traffic from subscriber lines onto a lesser number of circuits between the remotely located concentration equipment and the serving central office concentration equipment. This concentration equipment is connected to the serving central office line equipment.

Host Central Office—An electronic analog or digital base switching unit containing the central call processing functions which service the host office and its remote locations.

Message service—Switched service furnished to the general public (as distinguished from private line service). This includes exchange switched services and all switched services provided by interexchange carriers and completed by a local telephone company's access services, e.g., open-end FX and CCSA/ONALs, MTS, WATS, Execunet.

Minutes-of-use-miles—The product of (a) the number of minutes of use and (b) the average route miles of the circuits involved.

Remote Line Location—A remotely located subscriber line access unit which is normally dependent upon the central processor of the host office for call processing functions.

Remote Trunk Arrangement (RTA)—Arrangement that permits the extension of TSPS functions to remote locations.

Study Area—A telephone holding company's operations within a single state.

Traffic Service Position System (TSPS)—A stored program electronic system associated with one or more toll switching systems which provides centralized traffic service position functions for several local offices at one location.

TSPS Complex—All groups of operator positions, wherever located, associated with the same TSPS stored program control unit.

Weighted Standard Work Second—A measurement of traffic operating work which is used to express the relative time required to handle the various kinds of calls or work functions, and which is weighted to reflect appropriate degrees of waiting to serve time.

Statement of Commissioner Marvin R. Weatherly

CC Docket No. 80286

Of all the issues faced by this Joint Board, the most important is the allocation of NTS exchange costs between the federal and state jurisdictions. This allocation decision is the *sine qua non* of achieving the national goal of universal telephone service. In my state, Alaska, universal rural service is still a goal, not a reality. Without substantial support from all telephone users who enjoy the ability to call into rural areas, telephone service in many high cost, low population rural exchanges cannot be sustained.

Most rural exchanges have relatively high toll calling and length of haul patterns. Under existing allocation formulas, all users do pay part of the cost of being able to call into rural areas. The use of the current separations methodology has allowed many rural areas to *begin* to enjoy universal telephone service. Without similar support mechanisms, telephone service cannot exist in many rural communities. The United States abounds in this type of community. Even with current levels of support, Alaska is struggling to *initiate* telephone service in most bush villages.

To rural America it seems foolhardy to change a system of rate support that has put telephones into 97% of all American homes (in Alaska we have a substantial way to go to reach this level). That system has served rural areas well up to now. But there is no doubt that it must be modified. The FCC's introduction of interstate toll competition and recently adopted access charges scheme undercut the premises underlying the current allocation methodologies. Changes are necessary to accommodate fair competition. However, these changes need not, and should not, impose a major cost burden on end users or otherwise be incompatible with the goal of universal service.

I concur in this Joint Board decision because it recognizes the problems of rural areas and takes some steps to remedy those problems in the new allocation methodologies. However, the decision is much less than I had hoped for. It will generally cause significant cost shifts away from the large users and onto the residential and small business users. While detailed cost statistics are not yet available to determine the precise impact on various communities, preliminary indications are that many end users will be subjected to substantial increases in basic telephone rates. I don't think this is either necessary or wise. These increases, together with the direct assignment of non-traffic sensitive costs to the end user imposed by the FCC under the new access charge rules and certain other FCC regulatory changes, e.g., the deregulation of CPE and inside wiring and accelerated depreciation, will cause an upward spiral in the basic monthly charge for most telephone subscribers. If too many subscribers, or potential subscribers, find the fixed monthly telephone charges higher than they can afford, the foundation of universal service will be imperiled.

Despite my reservations about this particular allocation scheme, I concur in it for two primary reasons. First, it recommends as national policy that, above a certain cost level, the federal jurisdiction should accept responsibility for *all NTS costs*. This is a critically important point. I believe this result is mandated by Section 1 of the Communications Act of 1934 which establishes as a national goal the availability "to all the people of the United States a rapid, efficient, Nation-wide, and world-wide and radio communication service with adequate facilities at reasonable charges." I am pleased that my colleagues on the Joint Board have agreed.

Having established the principle of federal responsibility beyond a certain level, the remaining issue is where to set the cost level for full federal responsibility. Here the Board's decision leaves much to be desired. The Board recommends that the high cost factor be applied to some NTS costs above 115% of the national average. However, the 100% federal assignment level is not reached until an exchange's NTS costs are 250% of the national average! The practical result is that the plan does cap the interstate allocated NTS assigned directly to end users in any community—a good conceptual result. But full federal cost recovery occurs only after high cost exchange subscribers have paid 100% more than their urban, average cost exchange brethen! Or 56% more if intrastate costs are also considered.

The 115% "trigger" sounds good in a press release. But our decision will force rural exchanges to charge their subscribers much more than 115% of what the local urban folk will pay. Let's take the example of an exchange company with an average $37.50 monthly NTS revenue requirement per subscriber (250% of the national average of $15 per month). Such a company is typical in Alaska and other high cost rural areas. Of that revenue requirement under the Board's recommended jurisdictional allocation and the Commission's access charge rules, $7.50 monthly will be recovered directly from the end user (following the transition period), double the federal NTS charge of $3.75 that a subscriber in an average cost area will pay. And this $7.50 only pays for the interstate access portion of the exchange's NTS costs. In addition, the intrastate jurisdiction will have to recover another $15.90 in NTS charges. If the state recovers its $15.90 revenue requirement through fixed user charges, as does the FCC for the federal share, and through the local exchange rates, the subscriber in this high cost exchange will pay total *fixed* monthly charges of $23.40 before any usage charges at all! And the subscriber cost doesn't stop there. These charges only pay the cost of the dedicated subscriber loop. The subscriber must pay, in addition, for exchange switching, lease or purchase of his own CPE, and toll charges.[49].

Another problem is that the cap provides only a relative "ceiling" on NTS costs. It does nothing to retard rises in the "floor" on NTS charges since the cap is stated as a percentage of the national average NTS costs. As the national average, on the "floor", increases, so will the actual dollar spread paid by the subscriber in the high cost exchanges as compared to the urban subscriber. The FCC appears committed in its access charge decision to shift NTS exchange costs from high volume toll users to individual exchange subscribers. This decision makes it inevitable that the national average charge to exchange subscribers will increase significantly, even apart from inflation.[50] Thus, the subscriber in a

[49] Toll usage in rural areas tends to be substantially higher than in urban areas because of the restricted size of the exchange area and transportation infrastructure. Thus, it is not difficult to imagine an average monthly telephone bill in many rural communities of $40 to $50 or more.

[50] This is illustrated by the FCC's statistics which reported-average monthly exchange revenues of $13.24 per telephone in 1980, which included the cost of CPE, inside wiring and local switching. (See Statistics of Communication Common Carriers, 1980, Table 4.) By comparision, the average revenue requirement for exchange NTS costs, exclusive of CPE, inside wiring and switching, to be recovered from the end user is now projected at $14.43 monthly, based on 1980 statistics (See Appendix A to the Joint Board Statement of Principals and Request for Further Comments, released March 23, 1983).

VOL 48 ISS 199 OCT 13 1983 UMI

high cost area will find a substantial increase in the "floor" at which the federal support will begin. Sadly, it can be demonstrated through a "cost causative" analysis that the basic exchange subscriber may be subsidizing the toll carriers and this subsidy will be further enhanced with the current direction taken by the FCC.[51]

Since individual subscribers will veiw all fixed monthly charges, whether or not listed as a separate line item on a statement, as the cost of local telephone service, I fear rapid increases in charges will have a particularly adverse effect on subscribership. As valuable as telephone service is in remote, high cost communities, many subscribers, or potential subscribers, will not be able to afford $30 to $40 monthly charges for service, exclusive of toll.

The second reason I concur in this decision is that it represents an effort to accommodate the views of several members of this Board who expressed fears of the by-pass threat to the traditional telephone network. I believe the by-pass threat is overstated (I admire the effectiveness of the hype from certain members of the telephone industry). Large volume users have had the ability to by-pass the network for years, and they will continue to employ by-pass facilities in the future when it proves economic or when the switched voice network does not meet their technological needs. The real solution to the by-pass problem, if and when it develops, is to equitably assign the NTS costs to all users who benefit from the existence of the national network. A small additional traffic sensitive charge to support universal service will not significantly alter the economic incentives to remain on the network which large users will receive in the form of reduced toll charges from the implementation of the FCC's access charge rules.

The difference between a one-half cent per minute universal service fund contribution, which the Board's recommendation contemplates, and a somewhat higher contribution of about one cent per minute that would be needed to support all NTS costs have 110% of the national average would have, in my opinion, a very marginal effect on by-pass economics and the amount of additional by-pass that could be expected. Nonetheless, several Board members were willing to support only the lower USF contribution limits. Therefore, the recommended allocation scheme is about the best that could be achieved under the circumstances.

I have supported, and I continue to support, a mechanism whereby the universal service fund will accept responsibility for all NTS costs have 110% of the national average. While such support will increase the revenue requirement of the universal service fund, that increase would not be so great as to cause an undue burden on the toll users or cause significant by-pass problems.

In sum, I concur in these Joint Board recommendations because the allocation approach is conceptually sound and it represents a significant achievement. Thus, I urge the Commission, or the Congress, to carefully consider raising the level of support provided to high cost exchange as necessary to protect universal telephone service to all areas of the nation.

Marvin R. Weatherly,
Commissioner, Member, Joint Board.

Dissenting Statement of Commissioner Anne P. Jones

In Re: Amendment of Part 67 of the Commission's Rule, CC Docket 80–286

In my Dissenting Statement to the Joint Board's "Statement of Principles and Request for Further Comments," I expressed my concern about the inconsistency between jurisdictional separations and the Commission's policies supporting competition in the intercity transmission market. I believe that this Joint Board should now address the threshold question directly whether the jurisdictional separation of costs continues to make any sense given the increasingly competitive nature of the telecommunications industry. By its decision to maintain the jurisdictional allocation of costs at approximately the existing proportion, the Joint Board majority has apparently indicated that it believes the answer to that question is yes. I strongly disagree.

Continuing to apportion the non-traffic sensitive costs of local exchange carries between the intrastate and interstate jurisdictions not only complicates unnecessarily the tariffing of local exchange access but also perpetuates the illusion that the separations process is a viable mechanism for subsidizing high-cost telephone companies. I simply do not understand how consumers will benefit from the pricing confusion and complexity created by the jurisdictional separation of costs that creates the mythical classifications of "interstate network access" and "intrastate network access." Similarly, I do not understand how consumers are protected from unreasonable local exchange rate increase when the telephone company, not the consumer, is the direct recipient of a subsidy from the Universal Service Fund and is not required to apply the subsidy directly to the allocated costs of local exchange service. What is to prevent a Bell Operating Company from subsidizing its intrastate toll business or, in the case of independent telephone companies, subsidizing other lines of business, rather than keeping basic telephone rates "low" or affordable"?

It is not clear to me that the Joint Board's recommendations can in any event be more than a temporary benefit to either high-cost telephone companies or their regulators. The days are numbered for regulators who believe they can mandate economically irrational behavior in the telephone industry. It is unrealistic to persist in the belief that dynamic telecommunications markets will adjust to a regulator's transition timetable to preserve "equities" among affected market participants. "Equity"-driven policies may be sustainable in a slow growth, static-technology industry. They are simply not viable in a dynamic growth industry such as telecommunications. Consequently, I fear that neither high-cost companies nor their state regulators will find the Joint Board's recommendations a solution to their respective financial and political ills. I am sure consumers will not.

I have discussed my proposal for separation reform elsewhere and need not repeat it here.[52] Suffice it to say that a 100% gross assignment approach to jurisdictional separations and a subsidy mechanism focused on specific telephone subscribers provide a sustainable approach to jurisdictional cost allocation and would fully support the FCC's policies promoting competition in the telecommunications industry. I hope my colleagues on the Commission will agree and will support this approach rather than the recommendations of the Joint Board.

[FR Doc. 83–27065 Filed 10–12–83; 8:45 am]
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[51] *The Allocation of Local Exchange Plant Investment To The Common Exchange and Toll Services On The Basis of Equalized Relative Cost Benefits: A Research Paper Supported by The Kansas Corporation Commission;* by Richard Gabel, William Melody, Bob Warnek, Bill Mihoc, May 23, 1983.

[52] See "Dissenting Statement of Commissioner Anne P. Jones *In Re:* In the Matter of Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80–286," March 23, 1983.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–77, Notice 1]

Transportation of Hazardous Liquids by Pipeline; Isolated Corrosion Pitting

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the standard governing isolated corrosion pitting on interstate hazardous liquid pipelines by replacing it with a standard similar to the one governing localized corrosion pitting on gas transmission lines. The current standard is too restrictive because it does not permit the use of technological advances in evaluating the strength of corroded pipe. This proposed amendment will reduce costs to industry and consumers without reducing public safety.

DATE: Interested persons are invited to submit written comments on this proposal before November 28, 1983. Late filed comments will be considered so far as practicable.

ADDRESS: Comments should be sent to the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, and identify the docket and notice numbers. All comments and other docket material are available in Room 8426 for inspection and copying between the hours of 8:30 a.m. and 5:00 p.m. each working day.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, (202) 426–2392.

SUPPLEMENTARY INFORMATION: By a letter dated May 21, 1982, The American Petroleum Institute (API), a National trade association involved in most areas of the petroleum industry, petitioned MTB to revise the Federal safety standard in § 195.416(g) governing isolated corrosion pitting. The API asked that the standard be revised to reflect the corrosion pitting criteria found in paragraph 451.6.2(a)(7) of the American Society of Mechanical Engineers (ASME) Code B31.4, "Liquid Petroleum Transportation Piping Systems" (1979 Edition).

With regard to steel pipe that is required to be examined for external corrosion, § 195.416(g) provides:

"If isolated corrosion pitting is found, the operator shall repair or replace the pipe unless—

(1) The diameter of the corrosion pits is less than the nominal wall thickness as measured at the surface of the pipe; and

(2) The remaining wall thickness at the bottom of the pits is at least 70 percent of the nominal wall thickness."

This standard was derived from a notice of proposed rulemaking (33 FR 10213; July 17, 1968) which in § 180.416(g) proposed that pipe be replaced if corrosion pitting reduces the original wall thickness by 10 percent or more. The technical basis for the modified version of the rule finally adopted as quoted above was not explained in the final rule document (34 FR 15473; Oct. 4, 1969).

On the basis of research conducted by Battelle Columbus Laboratories ("Summary of Research to Determine the Strength of Corroded Areas in Line Pipe", J. F. Kiefner and A. R. Duffy, July 20, 1971), as reflected in the B31.4 Code, API asserts in its petition that § 195.416(g) is unduly stringent. The current rule is said to cause pipe to be replaced or repaired when these remedial measures are not needed for safety.

The Battelle research developed and tested criteria, incorporating mathematical expressions of length and depth of corroded areas, to predict the pressure strength of corroded pipe. For pit depths equal to 80 percent or more of nominal wall thickness, the criteria require repair or replacement of pipe. For pit depths less than 80 percent of nominal wall thickness, the criteria permit continued operation of pipe at its current maximum pressure if the measured aggregate length of the corroded area is equal to or less than a calulated value. The pipe may be operated at a calculated reduced pressure if the length is longer than the calculated value.

The underlying premise of these criteria is that the minimum stress level at which pipe will fail in corrosion pits is 100 percent of the pipe's specified minimum yield strength (SMYS). Since the maximum operating pressure permitted under Part 195 produces a maximum stress level of 72 percent of SMYS, the criteria provide a 1.4 (100/72) factor of safety. This factor is greater than the minimum 1.25 factor of safety provided under § 195.406(a)(3) by hydrostatic pressure testing. The 1.25 factor, which results from limiting maximum operating pressure to 80 percent of test pressure, is generally accepted as a sufficient measure of pipeline integrity.

MTB concurs with API's criticism of the current standard for accepting or rejecting isolated corrosion pitting because it has no apparent scientific foundation and does not emphasize pipe strength. The remaining pressure strength of pipe material in a corroded area is the most important consideration in determining whether the pipe can safely continue in use. Although evaluating that strength is a complex problem, the Battelle criteria have gained recognition as an accpetable method of evaluation. Not only are the criteria including in the B31.4 Code, but they are also in the ASME B31.8 Code for gas pipelines and the ASME *Guide for Gas Transmission and Distribution Piping Systems*. In view of the safety provided by the Battelle criteria, their widespread acceptance by the industry, and the potential for cost savings, the MTB is proposing to grant API's petition and amend § 195.416(g) to allow use of the Battelle criteria.

Rather than including the criteria directly in 195.416(g), MTB believes that adopting a performance standard is a better rulemaking option, because it would permit the use of future technological developments. Although the B31.4 Code provisions that API recommended are not performance standards, the MTB standard in 49 CFR 192.485(b) for localized corrosion pitting on gas transmission lines is written in performance terms. This Part 192 standard for pipelines comparable to interstate hazardous liquid pipelines and operated in similar environments has provided an accpetable level of safety without enforcement difficulties since its adoption in 1978 (36 FR 12302). MTB proposes therefore, that this standard, which is set forth below in a slightly modified form to fit the Part 195 regulatory context, be adopted for isolated pitting on hazardous liquid pipelines subject to Part 195 instead of the current § 195.416(g). MTB believes there is no significant difference between the terms "isolated" and "localized" when used to describe corrosion pitting, and use of the latter term will provide consistency with Part 192 and the B31.4 Code provisions.

A noticeable difference between the proposed standard and the current one is that § 195.416(g) now does not expressly permit the reduction of operating pressure as an alternative remedy to repair or replacement of corroded areas. However, by Interpretation 82–8, issued August 16, 1982, MTB declared that §§ 195.416 (f) and (g) may be read together for purposes of understanding the standard for isolated corrosion pitting. Under that interpretation, pressure reduction in accordance with the general corrosion rule of § 195.416(f) is an allowable remedy for isolated corrosion, pitting. Introducing the new language from

VOL 48 ISS 199 OCT 13 1983 UMI

§ 192.485(b) that provides for pressure reduction does not, therefore, represent a change in the way § 195.416(g) is currently being enforced.

Under the proposed revised wording of § 195.416(g) as well as the current § 192.485(b), the key consideration in determining if a remedy is required is whether pitting exists to a degree where leakage might result. The Battelle criteria and the B31.4 Code provide a simple, objective means of making this determination. Operators may, of course, use any other demonstrably safe method, such as pressure testing in accordance with Part 195 requirements at 1.25 times maximum operating pressure, to verify that leakage from corrosion pits would not occur under normal operating conditions. Such conditions would include compliance with other corrosion control requirements of Part 195, which are intended to preclude further corrosion damage.

Classification

The Regulatory Flexibility Act (94 Stat 1164, 5 U.S.C. 601) requires a review of each proposed safety regulation issued after January 1, 1981, for its effect on small businesses, organizations, and governmental bodies. I certify that the regulation proposed by this notice will not have a significant economic impact on a substantial number of small entities because few, if any, interstate hazardous liquid pipelines are owned by small entities.

Since this proposed rule will have a positive effect on the economy of less than $100 million a year, will result in cost savings to consumers, industry, and governmental agencies, and no adverse effects are anticipated, the action is not "major" under Executive Order 12291. Also, it is not "significant" under Department of Transportation procedures. Further, MTB has determined that this proposal does not require a full draft Regulatory Evaluation under those procedures. While the proposed rule would provide definite cost savings for operators in many cases, the difference between the proposed and current requirements and the frequency at which savings would occur should result only in a minor cost savings impact on the industry as a whole.

List of Subjects in 49 CFR Part 195

Pipeline safety, External corrosion, General corrosion, Isolated corrosion pitting.

PART 195—[AMENDED]

In view of the above, the MTB proposes to revise § 195.416(g) to read as follows:

§ 195.416 External corrosion control.

* * * * *

(g) If localized corrosion pitting is found to exist to a degree where leakage might result, the pipe must be replaced or repaired, or the operating pressure must be reduced commensurate with the strength of the pipe based on the actual remaining wall thickness in the pits.

(49 U.S.C. 2002; 49 CFR 1.53 and Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington on October 6, 1983.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation Materials Transportation Bureau.

[FR Doc. 83-27793 Filed 10-12-83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR 17

Endangered and Threatened Wildlife and Plants: Proposed Endangered Status and Critical Habitats for Seven Plant and One Insect Species in Ash Meadows, Nevada and California

AGENCY: Fish and Wildlife, Service, Interior.

ACTION: Proposed rule and finding on a petition.

SUMMARY: The Service proposes to determine seven plant and one insect species to be Endangered species and to designate their Critical Habitats. This action is being taken because these species are restricted to the Ash Meadows region and ground water basin in Nye County, Nevada, and Inyo County, California, where they are facing intensifying threats. Imminent land development for housing subdivisions, clearing of land for road construction and agricultural purposes, pumping of ground water, and diversion of surface flows threaten the integrity of the species' habitat and therefore their survival. The proposed rule constitutes the Service's findings on a petition to list the plants. The Service seeks data and comments from the public on this proposal.

DATES: Comments from the public and the States of California and Nevada must be received by December 12, 1983. Public hearing requests must be received by November 28, 1983.

ADDRESSES: Interested persons or organizations can obtain information from and submit written comments to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street Portland, Oregon 97232 (phone 503/231-6131), or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (phone 703/235/1975).

SUPPLEMENTARY INFORMATION:

Background

The Ash Meadows region is a unique and diverse desert wetland located east of the Amargosa River in California and Nevada. This wetland is maintained by flow from several dozen springs and seeps which are fed by an extensive groundwater system which extends more than 100 miles northeast of Ash Meadows. Hundreds of plant and animal species, many of them endemic, are associated with this wetland and depend upon it for survival. The eight species that are the subjects of the proposal occur only in Ash Meadows These eight species are briefly described below.

1. The spring-loving centaury (*Centaurium, namophilum* Reveal, Broome, & Beatley var. *namophilum* Broome) was first recognized as a variety by Broome (1981). *Centaurium namophilum* was described by Reveal, Broome, and Beatley in 1973, although it had been collected as early as 1891 by Coville and Funston (Reveal, Broome, and Beatley, 1973). The spring-loving centaury is an erect annual reaching 4.5 dm in height and has pink flowers. It is found on "moist to wet clay soils along the banks of streams or in seepage areas" (Mozingo and Williams, 1980) and is often found with the Ash Meadows gumplant.

2. The Ash Meadows gumplant (*Grindelia fraxino-pratensis*, Reveal and Beatley) was described by Reveal and Beatley in 1971, although it had been collected as early as 1965 by Beatley (Reveal and Beatley, 1971). It is an erect biennial or perennial reaching 7 to 10 dm in height and has yellow inflorescences that have heads measuring 8 to 10 mm in diameter (Mozingo and Williams, 1980).

Its primary habitat is in saltgrass meadows along streams and pools but it occasionally occurs in alkali clay soils in drier areas (Cochrane, 1981), and its range includes portions of Nevada and California.

3. The Ash Meadows ivesia (*Ivesia eremica* (Coville) Rydberg) was first described as *Potentilla eremica* in 1892. It is a perennial with a tuft of leaves emerging from a woody root crown. The inflorescences bear few flowers and these have petals about 7 mm long. The Ash Meadows ivesia occurs only in Nevada in saline seep areas of light-colored clay uplands (Mozingo and Williams, 1981).

4. The Ash Meadows blazing star (*Mentzelia leucophylla* Brandegee) was described by Brandegee (1899) based on material collected by Purpus in 1898 (Reval, 1978a). It is a biennial or short-lived perennial with one to several white stems that reach a height of 5 dm, and its light yellow flowers occur in broad inflorescences (Mozingo and Williams, 1981). It occurs only in Nevada on sandy or saline clay soils along canyon washes and near springs and is often found with the Ash Meadows milk-vetch and the Ash Meadows sunray (Mozingo and Williams, 1981).

5. The Ash Meadows milk-vetch (*Astragalus phoenix* Barneby) was described in 1970, although it was collected as early as 1898 by Carl Anton Purpus (Barneby, 1970). It is "a low matted perennial forming mounds 40 to 50 cm across" and its "pinkish to purple flowers are borne on short, erect stems in the mat and commonly number only one or two per inflorescence" (Mozingo and Williams, 1981). The flowers are about 25 mm (1 inch) long. The Ash Meadows milk-vetch is found only in Nevada on "dry, hard, white, barren saline, clay flats, knolls, and slopes" (Mozingo and Williams, 1981).

6. The Ash Meadows sunray (*Enceliopsis nudicaulis* (A. Gray) A. Nelson var. *corrugata* Cronquist) was described in 1972 from material collected by Cronquist in 1968 (Cronquist, 1972), although Mozingo and Williams (1981) reported that earlier collections were made by others. This perennial plant occurs in 1 to 4 dm high clumps and has floral heads borne singly on leafless flower stalks. The ray flowers have yellow corollas and the disks are 2 to 3.5 cm (.8 to 1.4 inches) across. It occurs only in Nevada in dry washes on whitish saline soil associated with outcrops of pale, hard limestone.

7. The Amargosa niterwort (*Nitrophila mohavensis* Munz and Roos) was first collected by J. C. and A. R. Roos and then described by Munz and J. C. Roos in 1955. The plants are long-lived and low (up to 8 cm high) with small bright green leaves and small, inconspicuous flowers (Reveal, 1978b). It is found only in California on salt-encrusted alkaline flats at the south end of the Carson Slough near the Nevada border (Beatley, 1977).

8. The Ash Meadows naucorid (*Ambrysus amargosus* La Rivers) is an insect (Order Hemiptera, family Naucoridae) that was described in 1953 based on material collected by Ira La Rivers and T. Frantz in 1951 (La Rivers, 1953). It has been found only in Point of Rocks Springs and their outflow streams. It is a small aquatic insect reaching about 6 mm in length that is apparently unable to fly.

Many other plant and animal species are endemic to Ash Meadows. The Service proposed the Ash Meadows turban snail (*Fluminicola erythropoma*) as Threatened on April 28, 1978 (41 FR 17742); that proposal was withdrawn on December 10, 1979 (44 FR 70796) for administrative reasons as a result of the 1978 Amendments to the Endangered Species Act. Current evidence indicates that this species, as proposed, actually comprised more than one species. This area has an extraordinarily diverse freshwater mollush fauna, which is currently being studied by Dr. Dwight Taylor of Tiburon, California. Of special interest is the presence of two species flocks or complexes of snails which are found within a 5-mile radius within Ash Meadows and give Ash Meadows the highest concentration of endemic species in the United States. Most of these mollush species have not been scientifically described and named.

Five endemic fishes have been recorded from Ash Meadows. The Devil's Hole pupfish (*Cyprinodon diabolis*) was listed as Endangered on March 11, 1967 (32 FR 4001), and the Warm Springs pupfish (*Cyprinodon nevadensis pectoralis*) was listed as Endangered on October 13, 1970 (35 FR 16047). The Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*) and the Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*) were listed as Endangered by an emergency rule published on May 10, 1982 (47 FR 19995). Emergency protection for these two species was extended by a second emergency rule published on January 5, 1983 (48 FR 608) that also included Critical Habitats. Published simultaneously with this second emergency rule was a formal proposal for Endangered status and Critical Habitats under normal listing procedures for the Ash Meadows speckled dace and the Ash Meadows Amargosa pupfish (48 FR 617). A fifth endemic Ash Meadows fish species, the Ash Meadows killifish (*Empetrichthys merriami*), is now extinct.

One additional plant species not included in the present proposal is the Tecopa bird's beak (*Cordylanthus tecopensis*). This species has a wider but still restricted range that includes Ash Meadows.

Early homesteaders attempted to farm Ash Meadows using the free-flowing water from the springs for irregation. These efforts failed because the salty, clay soils were not suitable for crops. Agricultural practices in the late 1960's and early 1970's resulted in large tracts of land being plowed and the installation of groundwater pumps and diversion ditches to support a cattle-feed operation. These practices resulted in the destruction of many populations of plants and animals and their wetland habitats by alteration of the land surface and lowering of the water table. In 1976, the Supreme Court limited the amount of groundwater pumping in Ash Meadows to ensure sufficient water levels in the only known habitat of the Endangered Devil's Hole pupfish. The agricultural interests in Ash Meadows sold approximately 23 square miles of land to a real estate developer, Preferred Equities Corporation (PEC), in 1977.

While the Bureau of Land Management (BLM) is the principal landowner in Ash Meadows, PEC owns most of the surface water rights, which are currently designated for municipal use. Ground water pumping would be required to develop and support municipal and agricultural activities.

The initial phase of construction, when completed, would result in the destruction of Crystal Pool, Point of Rocks Springs, and Jack Rabbit Spring and possibly lower the level of other springs by ground water pumping. PEC's activities have already substantially altered surface flows and spring hole morphometry at these sites. PEC has recently constructed a multi-lane road which connects Ash Meadows at Point of Rocks Springs with Pahrump Valley, a continuing section of road (2 miles long and 80 feet wide) north of Jack Rabbit Springs, and an additional road (1.5 miles long and 30 feet wide) east of Crystal Pool. In addition, approximately 1,000 acres of cotton have been planted west of Point of Rocks Springs.

The terrestrial habitats of the Ash Meadows ecosystem are as fragile as the aquatic habitats. The endemic plant species are dependent upon the unique hydrological characteristics of the basin and nearly all require undisturbed soils for sustenance and propagation.

VOL
48
ISS
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13
1983
UMI

Previous governmental actions affecting these species began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be Endangered, Threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. These plant taxa included the Amargosa niterwort, spring-loving centaury (under the scientific name *Centaurium namophilum*), Ash Meadows gumplant, Ash Meadows blazing star, Ash Meadows ivesia, Ash Meadows milk-vetch, and the Ash Meadows sunray.

On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. That proposed rule included proposals of Endangered status for the spring-loving centaury (under the scientific name *Centaurium namophilum*), Ash Meadows ivesia, Ash Meadows blazing star, Ash Meadows milk-vetch, and the Amargosa niterwort. General comments on this proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 placed time limits for final action on proposed listings. On December 10, 1979, the Service published a notice of the withdrawal of the June 16, 1976, proposal (44 FR 79796) because the time period for final action on the proposal had expired.

On December 15, 1980, the Service published a notice of review of plant taxa (45 FR 82480). That notice identified the 7 plant taxa that are subjects of the present proposal as taxa for which the Service had sufficient biological information to support their being listed as Endangered or Threatened species.

On February 24, 1983, while the present proposed rule was being prepared, the Service received a petition from the Northern Nevada Native Plant Society. This petition requested that the Amargosa niterwort, Ash Meadows milk-vetch, Ash Meadows blazing star, spring-loving centaury, and the Ash Meadows sunray be listed as Endangered and the Ash Meadows gumplant be listed as Threatened. Publication of the present proposed rule satisfies the requirement of Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982, that a finding on a petition to revise the lists of Endangered and Threatened species be published within 12 months of the receipt of the petition. Endangered status, rather than Threatened, is being proposed for the Ash Meadows gumplant because the Service believes that the water demands of PEC's proposed development would result in the extinction of all native plant species, including the Ash Meadows gumplant, that are restricted to Ash Meadows.

Summary of Factors Affecting the Species

The Service's listing regulations (codified at 50 CFR Part 424; under revision to accomodate 1982 amendments) provide for a review of the five factors below when listing (or reclassifying or delisting) a species:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; and

(E) Other natural or manmade factors affecting its continued existence.

These factors, and their application to the subject species, are as follows:

(A) *The present or threatened destruction, modification, or curtailment of its habitat or range.* The subjects of this proposed rule occur only in Ash Meadows and depend on the integrity of this fragile ecosystem and flows from the Ash Meadows basin aquifer for their survival. A significant portion of plant habitat in Ash Meadows was eliminated in the 1960's when the Carson Slough was drained to facilitate peat mining. Following the cessation of peat mining, plowing for large-scale farming by Spring Meadows, Inc. removed most of the native plants in the northern portion of Ash Meadows and thereby destroyed most of the habitat of the spring-loving centaury, Ash Meadows gumplant, Ash Meadows ivesia, Ash Meadows blazing star, Ash Meadows milk-vetch, and the Ash Meadows sunray. Although Amargosa niterwort habitat was not plowed, free-flowing water to its habitat was halted by upstream plowing and reduction of spring flows resulting from ground water pumping.

The imminent threat to the existence of these species is the proposed development of Ash Meadows by PEC into a residential, recreational, industrial, and agricultural community. Construction activities would clear essential habitat, directly extirpating populations of these species, and adversely affect remaining populations by altering surface drainage patterns. Human habitation would require great quantities of potable water. Utilization of surface outflows from springs and pumping of the aquifer would destroy down-gradient wetlands by reducing or eliminating surface flows, lowering the water table, and interfering with ground water recharge. All of these species are directly dependent upon these sources of water. The Ash Meadows naucorid is an aquatic insect and would become extinct if its remaining spring habitat were pumped dry. The spring-loving centaury, Ash Meadows gumplant, and Ash Meadows ivesia require saturated soils near springs and their outflows and in seeps. The other four plant species occur in somewhat drier habitats, but still owe their existence to the availability of water near or at the soil surface.

Ground water pumping may seriously deplete water levels (directly and indirectly) upon which these species depend. In the past, pumping of ground water from nearby wells for agriculture lowered the water level in Devil's Hole in Ash Meadows and caused a severe decline in the population of the Endangered Devil's Hole pupfish; continued pumping could have caused the extinction of the species. In 1976, the U.S. Supreme Court ruled (*United States vs. Coppaert et al.*) that a minimum water level must be maintained to protect the Devil's Hole pupfish. Devil's Hole is the most sensitive spring in Ash Meadows, but all the springs are interconnected. The impact of ground water pumping from wells south of Devil's Hole appears to be greater than from those located in the north. Because agricultural and municipal activities require large volumes of water, and pumping of ground water from the northern areas may be necessary to supplement flows from the south, it is expected that the proposed development by PEC would create a demand for water throughout Ash Meadows.

Recent construction activities in Ash Meadows have continued the destruction of native plant and animal habitat that began with early agricultural activities. A significant area of land has already been altered by road construction in the vicinity of Crystal Pool and Point of Rocks and Jack Rabbit Springs. If development by PEC is completed, clearing of land will eliminate the following percentages of the Critical Habitats proposed in this rule: spring-loving centaury, 37 percent; Ash Meadow gumplant, 26 percent; Ash Meadows ivesia, 45 percent; Ash Meadow blazing star, 37 percent; Ash Meadows milk-vetch, 30 percent; Ash Meadows sunray, 39 percent; Ash Meadows naucorid, 100 percent. The remaining habitats would continue to face the other threats, including reduction in ground water levels and spring flow, described in this proposed rule.

PEC's long-term development plans call for direct alteration of many of these springs with construction to progress in 3 phases in the following areas: Phase I—Crystal Pool; Phase II—Point of Rocks Springs; Phase III—Fairbanks spring complex. The Nye County Commission has already approved phases I and II, and work has begun. Further, PEC, as principal owner of water rights, has made application to the State of Nevada to divert water from many of the other Ash Meadows springs, which will destroy more riparian habitat.

Initial construction activities in late spring and summer of 1981 severely altered the watercourse of two springs (Point of Rocks and Bradford) and related spring hole morphometry. The outflow channels of Crystal Pool and King Pool (Point of Rocks Springs) have been modified to increase flows, resulting in the lowering of pool levels 1–1.5 feet and consequently decreasing riparian habitat. These activities have eliminated some habitat of the spring-loving centaury.

The preferred habitat of the Ash Meadows naucorid had been the gravel-bottom outflow of Point of Rocks Springs. That habitat has been eliminated by channelization so that this insect now only occurs in reduced numbers in the spring pools.

Many plant populations in Asb Meadows have been reduced by off-road vehicle traffic. Most of the Rogers Spring population of the Ash Meadows milk-vetch was destroyed by an off-road vehicle race in 1968.

The spring loving centaury once occurred at sites outside of Ash Meadows near Beatty, Nye County, Nevada, and in Inyo County, California, near Tecopa and at Furnace Creek in Death Valley. It has not been found recently at these sites and is now considered extinct outside of Ash Meadows.

(B) *Overutilization for commercial, recreational, scientific, or educational purposes.* The extremely small population levels to which the Ash Meadows naucorid has been reduced make that species vulnerable to collection for scientific purposes.

(C) *Disease or predation* (including grazing). The spring-loving centaury, Ash Meadows gumplant, and the Ash Meadows ivesia are grazed by cattle and feral horses. The Ash Meadows gumplant has been found to be 90% depleted within a fenced area where cattle and horses graze near Ash Meadows Rancho.

(D) *The inadequacy of existing regulatory mechanisms.* The State Forester Fire Warden of the Nevada Division of Forestry maintains a list of critically endangered plants. That list includes the spring-loving centaury, Ash Meadows gumplant, Ash Meadows milk-vetch, and the Ash Meadows blazing star. Other than providing recognition of these species' status, inclusion on this list provides no legal protection of the individual plants or their habitats. The Amargosa niterwort is listed as endangered on the State of California list of rare and endangered species. That designation does not protect this species from the major threat to its existence, interruption of the water supply for its habitat.

(E) *Other natural or man-made factors affecting its continued existence.* Trampling by cattle and/or feral horses is a threat to the native plants throughout Ash Meadows.

Critical Habitat

50 CFR Part 424 defines "Critical Habitat" to include areas within the geographical area occupied by the species at the time the species is listed which are essential to the conservation of the species and which may require special management considerations or protection and specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Proposed Critical Habitat for the spring-loving centaury is as follows:

Nevada, Nye County, Ash Meadows: SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼S. 21: W½NW¼S. 23; NW¼NE¼, NE¼NW¼S. 28; SE¼SE¼S. 34; SW¼SW¼, E½SW¼S. 35; T 17 S, R 50 E. SW¼S. 1; NE¼NW¼, W½NW¼S. 2; E½NE¼S. 3; NE¼S. 7; SE¼SE¼S. 23; SE¼SW¼S. 24; T 18 S, R 50 E. NW¼SE¼S. 7; S½NW¼, SW¼S. 18; NW¼, NE¼SW¼S. 19; E½SW¼S. 20; N¼NW¼S. 29; NE¼NW¼S. 30; T 18 S, R 51 E.

These areas includes moist to wet clay soils along banks of streams or in seepage areas.

Proposed Critical Habitat for the Ash Meadows gumplant is as follows:

California, Inyo County, Ash Meadows: NE¼S. 30 southwest of the Nevada-California boundary; E½NW¼S. 30 southeast of Nevada-California boundary; SW¼NW¼, N½SW¼, NW¼SE¼S. 30; T 26 N, R 6 E.

Nevada, Nye County, Ash Meadows: SE¼NW¼S. 26; W½SW¼NE¼, W½NW¼ SE¼S. 3; W½NW¼, SW¼SW¼, E½SW¼, W½SE¼S. 35; T 17 S, R 50 E. N½SW¼S. 1; N½NW¼, SW¼SW¼S. 2; NE¼NE¼, NW¼NW¼S. 3; SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼S. 4; E½NE¼, NE¼SE¼S. 5; N½NE¼S. 7; NE¼SE¼S. 10. W½NW¼, NW¼SW¼S. 11; SW¼NE¼, E½SE¼S. 14; SW¼NW¼, SW½SE¼S. 20; W½SW¼ and SE¼SW¼S. 20 northeast of the Nevada-California boundary; E½NE¼, E½SE¼S. 23; W½SE¼S. 24; NW¼NE¼S. 29 northeast of the Nevada-California boundary; T 18 S, R 50 E. SW¼NW¼, NW¼SW¼S. 18, T 18 S, R 51 E.

These areas include saltgrass meadows along streams and pools or drier areas with alkali clay soils.

Proposed Critical Habitat for the Ash Meadows ivesia is as follows:

Nevada, Nye County, Ash Meadows: SW¼NE¼, W½SE¼S. 21; S½SW¼, SW¼SE¼S. 35; T 17 S, R 50 E. SW¼S. 1; N½NW¼, SW¼SW¼S. 2; NE¼NE¼S. 3; NW¼NE¼S. 12; N½NE¼, SE¼NE¼S. 23; N½NW¼, SW¼NW¼, NW¼SW¼S. 24; T 18 S, R 50 E.

These areas include saline seep areas of light-colored clay uplands.

Proposed Critical Habitat for the Ash Meadows milk-vetch is as follows:

Nevada, Nye County, Ash Meadows. W½NW¼, SW¼SW¼S. 14; SW¼NE¼, W½SE¼S. 21; NW¼SE¼S. 22; NW¼S. 28; T 17 S, R 50 E. SW¼, W½SE¼S. 1; NW¼NE¼, N½NW¼S. 12; SW¼SW¼S. 13; W½ NW¼S. 24; T 18 S, R 50 E. SE¼SW¼, SW¼ SE¼S. 7; N½NW¼, E½SW¼S. 18; NE¼ NW¼S. 19; T 18 S, R 51 E.

These areas include dry, hard, white, barren saline, clay flats, knolls, and slopes.

Proposed Critical Habitat for the Ash Meadows blazing star is as follows:

Nevada, Nye County, Ash Meadows: SW¼SW¼S. 15; S½NE¼, N½SE¼, SW¼SE¼S. 21; NW¼NW¼, S½NW¼, NE¼SE¼S. 22; NW¼SW¼S. 23; NW¼NE¼S. 28; SE¼SW¼, SE¼S. 35; SW¼SW¼S. 36; T 17 S, R 50 E. NW¼NW¼, SW¼SW¼, E½SW¼S. 1; NE¼NE¼, S½SE¼S. 2; N½NE¼S. 11; NW¼S. 12; T 18 S, R 50 E.

These areas include sandy or saline clay soils along canyon washes and near springs and seeps.

VOL 48 ISS 199 OCT 13 1983 UMI

Proposed Critical Habitat for the Ash Meadows sunray is as follows:

Nevada, Nye County, Ash Meadows: SW¼SE¼S. 15; SW¼NE¼, W½SE¼S. 21; NW¼NE¼S. 22; E½SE¼S. 34; SW¼NE¼, S½NW¼, SW¼, W½SE¼S. 35; T 17 S, R 50 E. SE¼S. 20; T 17 S, R 51 E. NW¼, SW¼, W½SE¼S. 1; E½NE¼, SW¼NW¼, NW¼ SW¼, E½SE¼S. 2; NE¼NW¼S. 12; E½ SW¼, W½SE¼S. 13; T 18 S, R 50 E. SW¼ SE¼S. 7; NW¼NE¼, SE¼SW¼S. 18; T 18 S, R 51 E.

These areas include dry washes or whitish, saline soil associated with outcrops of pale whitish limestone.

Proposed Critical Habitat for the Amargosa niterwort is as follows:

California, Inyo County, Ash Meadows: NW¼,SW¼S. 5; NE¼, E½NW¼, E½SW¼, SE¼S. 6; NE¼, E½NE¼S. 7; NW¼S. 8; T 25 N, R 6 E.

Thesea areas include salt-encrusted alkaline flats.

Proposed Critical Habitat for the Ash Meadows naucorid is Point of Rocks Springs, Ash Meadows, Nye County, Nevada.

Each of the above proposed Critical Habitats includes the entire known present range of the subject species. The activities that may adversely modify these Critical Habitats are described in the "Factors Affecting the Species" section of this proposed rule.

Effect of This Proposal if Published as a Final Rule

Endangered Species regulations already published in Title 50, § 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered animals. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale the Ash Meadows naucorid in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered animal species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes or to enchance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** set forth a series of general trade prohibitions and exceptions which apply to all Endangered plant species. The regulations pertaining to Endangered plants are found at 50 CFR 17.61 and are summarized below.

With respect to the seven plant species included in this proposed rule, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale any of these plant species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 provide for the issuance of permits, under certain circumstances, to carry out otherwise prohibited activities involving Endangered plant species.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. Permits for exceptions to this prohibition are available through Sections 10(a) and 4(d) of the Act, following the general approach of 50 CFR 17.72 until revised regulations are promulgated.

This rule, if made final, would allow development by Preferred Equities Corporation (PEC) to be met by enforcement action undertaken through Section 9 of the Endangered Species Act or civil injunction should such development jeopardize the existence of the Ash Meadows naucorid. Alteration of the surface or ground water levels in habitats supporting this species could likewise be countered by enforcement efforts.

If this proposal is published as a final rule, Section 7 of the Act would require Federal agencies to ensure that activities they authorize, find, or carry out are not likely to jeopardize the continued existence of these species, and to ensure that their actions do not result in the destruction or adverse modification of the Critical Habitats of the species. Section 7 would also require Federal agencies to consult with the Secretary to ensure that these Section 7 requirements are fulfilled. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Subsection 4(b)(8) of the Act requires that, to the maximum extent practicable, any proposal to designate Critical Habitat be accompanied by a brief description and evaluation of those activities which in the opinion of the Secretary may adversely modify such habitat if undertaken or may be impacted by such designation. Activities that may adversely affect these Critical Habitats include the activities carried out and planned by Preferred Equities Corporation (PEC) that would modify the springs and their outflows, disturb the land areas occupied by the plants, alter drainage patterns on which these plants depend, or draw down the water table to the extent that spring flows are reduced.

Activities that may be affected by the listing of these species as Endangered and designation of their Critical Habitats include PEC's activities in Ash Meadows. Listing these species as Endangered would not specifically preclude in their entirety housing, commercial, intensive agricultural, or industrial development in Ash Meadows. Full protection of these species would preclude a portion of the proposed PEC development. The exact extent of possible water conflict is currently unknown.

The total land area covered by the proposed Critical Habitats for these eight species is less than eleven square miles. Based on the best available scientific and commercial data, the Service believe that a smaller area for any of these species could result in extinction.

The Bureau of Land Management (BLM) has jurisdiction over nearly half of the areas that are included in these Critical Habitats. Present BLM activities are consistent with the conservation of these species and therefore will not be affected by this proposed action.

Subsection 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. Therefore, an impact analysis will be prepared prior to the time of a final rule and will be used as the basis of a decision on whether or not to exclude any area from Critical Habitat for any of the species included in the rule. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action.

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of these species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of these species;

(4) Current or planned activities which may adversely modify the subject areas which are being considered for Critical Habitats; and

(5) The foreseeable economic and other impacts of the Critical Habitat designations.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of preparation of a final rule as to whether this is a major Federal action that would significantly affect the quality of the human environment within the neaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Author

The primary author of this proposed rule is Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (phone 703/235–1975).

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La Rivers, I. 1953. New gelastocorid and naucorid records and miscellaneous notes, with a description of the new species, *Ambrysus amargosus* (Hemiptera: Naucoridae). The Wasmann Journal of Biology 11:83–98.

Mozingo, H. N., and M. Williams. 1980. Threatened and endangered plants of Nevada, U.S. Fish and Wildlife Service and Bureau of Land Management.

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Reveal, J. L. 1978b. Unpublished status report on *Nitrophilo mohovensis* Munz and Roos (Amargosa niterwort).

Reveal, J. L., and J. C. Beatley. 1971. Two new species from Nevada. Bull. Torrey Bot. Club 98:332–335.

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below.

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h), subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, by adding the following entry alphabetically to the table under the heading "Insects" as set forth below.

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
INSECTS							
Naucond, Ash Meadows	*Ambrysus amargosus*	U.S.A. (NV)	N/A	E	N/A	17.95(i)	N/A

3. It is further proposed to amend § 17.12(h), subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, by adding the following entries alphabetically to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Asteraceae—Aster family						
Enceliopsis nudicaulis	Ash Meadows sunray	U.S.A. (NV)	E	N/A	17.96(a)	N/A
Grindelia fraxino-pratensis	Ash Meadows gumplant	U.S.A. (CA,NV)	E	N/A	17.96(a)	N/A
Chenopodiaceae—Goosefoot family						
Nitrophila mohavensis	Amargosa niterwort	U.S.A. (NV)	E	N/A	17.96(a)	N/A
Fabaceae—Pea family						
Astragalus phoenix	Ash Meadows milk-vetch	U.S.A. (NV)	E	N/A	17.96(a)	N/A
Gentianaceae—Gentian family						
Centaurium namophilum var. *namophilum.*	Spring-loving centaury	U.S.A. (CA,NV)	E	N/A	17.96(a)	N/A
Loasaceae—Loasa family						
Mentzelia leucophylla	Ash Meadows blazing star	U.S.A. (NV)	E	N/A	17.96(a)	N/A
Rosaceae—Rose family						
Ivesia eremica	Ash Meadows ivesia	U.S.A. (NV)	E	N/A	17.96(a)	N/A

§ 17.95 [Amended]

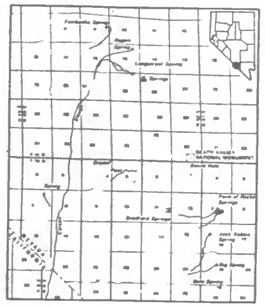
4. It is further proposed to amend § 17.95(i), Insects, by adding Critical Habitat of the Ash Meadows naucorid after that of the Palos Verdes blue butterfly as follows:

* * * * *

Ash Meadows Naucorid (Ambrysus amargosus)

Nevada, Nye County. Point of Rocks Springs.

ASH MEADOWS NAUCORID
Nye County, NEVADA



Known primary constituent elements include warm-water spring pools.

* * * * *

§ 17.96 [Amended]

5. It is further proposed to amend § 17.96(a) by adding Critical Habitat of the Ash Meadows sunray, as follows: (The position of this and the following plant Critical Habitat entries under § 17.96(a) will be determined at the time of publication of a fine rule):

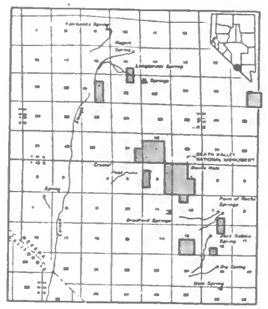
* * * * *

Family Asteraceae: Ash Meadows sunray

(Enceliopsis Nudicaulis var. *corrugata).*

Nevada, Nye County, Ash Meadows. SW¼SE¼S. 15; SW¼NE¼, W½SE¼S. 21; NW¼NE¼S. 22; E½SE¼S. 34; SW¼NE, S½NW¼, SW¼, W½SE¼S. 35; T 17 S, R 50 E. SE¼S. 20; T 17 S, R 51 E. NW¼, SW¼, W½SE¼S. 1; E½NE¼, SW¼NW¼, NW¼SW¼, E½SE¼S. 2; NE¼NW¼S. 12; E½SW¼, W½SE¼S. 13; T 18 S, R 50 E. SW¼SE¼S. 7; NW¼NE¼, SE¼SW¼S. 18; T 18 S, R 51 E.

ASH MEADOWS SUNRAY
Nye County, NEVADA



Known primary constituent elements include dry washes or whitish, saline soil associated with outcrops of pale whitish limestone.

* * * * *

6. It is further proposed to amend § 17.96(a) by adding Critical Habitat of the Ash Meadows gumplant as follows:

* * * * *

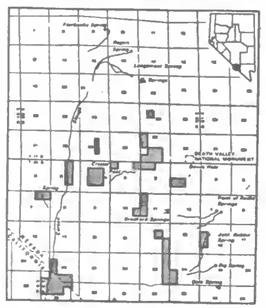
Family Asteraceae: Ash Meadows gumplant

(Grindelia fraxino-pratensis)

California, Inyo County, Ash Meadows: NE¼S. 30 southwest of the Nevada-California boundary; E½NW¼S. 30 southeast of Nevada-California boundary; E½NW¼S. 30 southeast of Nevada-California boundary; SW¼NW¼, N½SW¼, NW¼SE¼S. 30; T 26 N, R 6 E.

Nevada, Nye County, Ash Meadows: SE¼NW¼S. 26; W½SW¼NE¼, W½NW¼ SE¼S. 33; W½NW¼, SW¼SW¼, E½SE¼, W½SE¼S. 35; T 17 S, R 50 E. N½SW¼S. 1; N½NW¼, SW¼SW¼S. 2; NE¼NE¼, NW¼NW¼S. 3; SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼S. 4; E½NE¼, NE¼SE¼S. 5; N½NE¼S. 7; NE¼SE¼S. 10. W½NW¼, NW¼SW¼S. 11; SW¼NE¼, E½SE½S. 14; SW¼NW¼, SW¼SE¼S. 20; W½SW¼ and SE¼SW¼ S. 20 northeast of the Nevada-California boundary; E½NE¼, E½SE¼S. 23; W½SE¼S. 24; NW¼NE¼S. 29 northeast of the Nevada-California boundary; T 18 S, R 50 E. SW¼NW¼, NW¼SW¼S. 18, T 18 S, R 51 E.

ASH MEADOWS GUMPLANT
Inyo County, CALIFORNIA and Nye County, NEVADA



Known primary constitent elements include slatgrass meadows along streams and pools or drier areas with alkali clay soils.

* * * * * *

7. It is further proposed to amend § 17.96(a) by adding Critical Habitat of the Amargosa niterwort as follows:

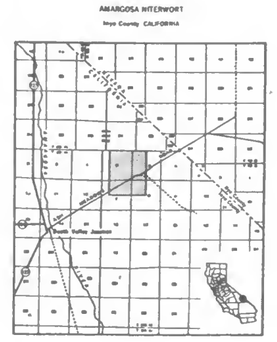
* * * * *

Family Chenopodiaceae: Amargosa niterwort

(Nitrophilia mohavensis)

California; Inyo County, Ash Meadows: NW¼SW¼S. 5; NE¼, E½NW¼, E½SW¼, SE¼S. 6: NE¼, E½NE¼S. 7; NW¼S. 8; T 25 N, R 6 E.

AMARGOSA NITERWORT
Inyo County CALIFORNIA



Known primary constituent elements include salt-encrusted alkaline flats.

* * * * *

8. It is further proposed to amend § 17.96(a) by adding Critical Habitat of the Ash Meadows milk-vetch as follows:

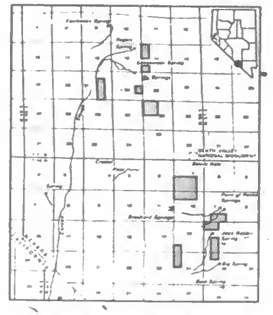
* * * * *

Family Fabaceae: Ash Meadows milk-vetch

(Astragolus phoenix)

Nevada, Nye County, Ash Meadows: W½NW¼, SW¼SW¼S. 14; SW¼NE¼, W½SE¼S. 21; NW¼SE¼S. 22; NW¼S. 26; T 17 S, R 50 E. SW¼, W½SE¼S. 1; NW¼NE¼, N½NW¼S. 12; SW¼SW¼S. 13; W½NW¼ S. 24; T 18 S, R 50 E. SE¼SW¼, SW¼SE¼S. 7; N½NW¼, E½SW¼S. 18; NE¼NW¼S. 19; T 18 S, R 51 E.

ASH MEADOWS MILK VETCH
Nye County, NEVADA



Known primary constituent elements include dry, hard, white, barren saline, clay flats, knolls, and slopes.

* * * * *

9. It is further proposed to amend § 17.96(a) by adding Critical Habitat of the spring-loving centaury as follows:

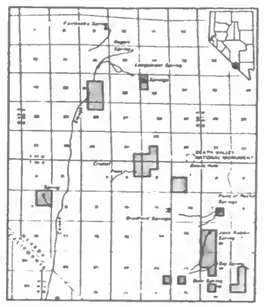
* * * * *

Family Gentianaceae: Spring-loving centaury

(Centaurium nomophilum var. *namophilum)*

Nevada, Ney County, Ash Meadows: SW¼NE¼, SE¼NW¼, E½SW¼, W½ SE¼S. 21; W½NW¼S. 23; NW¼NE¼, NE¼ NW¼S. 28; SE¼SE¼S. 34; SW¼SW¼, E½ SW¼S. 35; T 17 S, R 50 E. SW¼S. 1; NE¼ NW¼, W½NW¼S. 2; E½NE¼S. 3; NE¼S. 7; SE¼SE¼S. 23; SE¼SW¼S. 24; T 18 S, R 50 E. NW¼SE¼S. 7; S½NW¼, SW¼S. 18; NW¼, NE¼SE¼S. 19; E½SW¼S. 20; N½ NW¼S. 29; NE¼NW¼S. 30; T 18 S, R 51 E.

SPRING-LOVING CENTAURY
Nye County NEVADA



Known primary constituent elements include moist to wet clay soils along banks of streams or in seepage areas.

* * * * *

10. It is further proposed to amend § 17.96(a) by adding Critical Habitat of the Ash Meadows blazing star as follows:

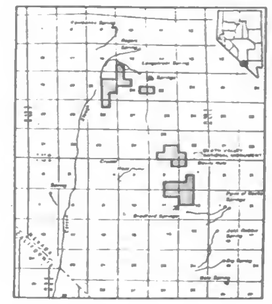
* * * * *

Family Loasaceae: Ash Meadows blazing star

(Mentzelia leucophylla)

Nevada, Nye County, Ash Meadows: SW¼SW¼S. 15; S½NE¼, N½SE¼, SW¼SE¼S. 21; NW¼NW¼, S½NW¼, NE¼SE¼S. 22; NW¼SW¼S. 23; NW¼NE¼S. 28; SE¼SW¼, SE¼S. 35; SW¼SW¼S. 36; T 17 S, R 50 E. NW¼NW¼, SW¼SW¼, E½SW¼, E½SW¼S. 1; NE¼NE¼, S½SE¼S. 2; N½NE¼S. 11; NW¼S. 12; T18 S, R 50 E.

ASH MEADOWS BLAZING STAR
Nye County, NEVADA



Known primary constituent elements include sandy or saline clay soils along canyon washes and near springs and seeps.

* * * * *

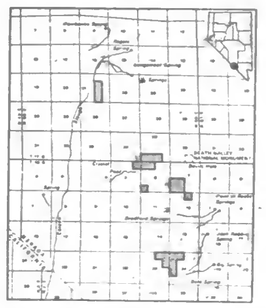
11. It is further proposed to amend § 17.96(a) by adding the Critical Habitat of the Ash Meadows ivesia as follows:

* * * * *

Family Rosaceae: Ash Meadows Ivesia

(Ivesia eremica)

Nevada, Nye County, Ash Meadows: SW¼NE¼, W½SE¼S. 21; S½SW¼, SW¼SE¼S. 35; T 17 S, R 50 E. SW¼S. 1; N½NW¼, SW¼SW¼S. 2; NE¼NE¼S. 3; NW¼NE¼S. 12; N½NE¼, SE¼NE¼S. 23; N½NW¼, SW¼NW¼, NW¼SW¼S. 24; T 18 S, R 40 E.



Known primary constituent elements include saline seep areas of light-colored clay uplands.

* * * * *

Dated: September 20 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-27670 Filed 10-12-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Chuquatonchee Creek Watershed, Mississippi; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); the Soil Conservation Service Guidelines (7 CFR Part 650); and the Soil Conservation Service, U.S. Department of Agriculture, give notice that an environmental impact statement is not being prepared for the Chuquatonchee Creek Watershed, Monroe, Clay, Chickasaw, and Pontotoc Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: A. E. Sullivan, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone (601) 960–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, A. E. Sullivan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control. The planned works of improvement include nine floodwater retarding structures, 7.3 miles of floodway, 46.7 miles of selective snagging, 1.2 miles of new channel and 3.9 miles of clearing and snagging.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting A. E. Sullivan.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: October 3, 1983.

A. E. Sullivan,

State Conservationist.

[FR Doc. 83-27771 Filed 10-12-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Office of Secretary

President's Commission on Industrial Competitiveness; Committee on Research, Development and Manufacturing (a Subcommittee of the President's Commission on Industrial Competitiveness); Meeting

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meeting.

SUMMARY: The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

Time and Place

October 25, 1983, 9:00 a.m., Suite 755, Essex House, 160 Central Park South, New York City, New York 10019.

Because of scheduling problems and difficulties in finding an appropriate location, less than 15 days notice is being given.

Agenda

To discuss workplan of the Committee regarding Research, Development and Manufacturing.

Public Participation

The meeting will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Egils Milbergs, Deputy Assistant Secretary for Productivity, Technology and Innovation, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–1581 on substantive issues or Yvonne Barnes, Departmental Committee Management Analyst, 202–377–4217 on issues regarding administration of the Commission.

Dated: October 7, 1983.

Egils Milbergs,

Deputy Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 83-27855 Filed 10-7-83; 4:19 pm]

BILLING CODE 3510-16-M

Foreign-Trade Zones Board

[Docket No. 37–83]

Proposed Foreign-Trade Zone—Chatham County, Georgia Within the Savannah Customs Port of Entry; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Savannah Airport Commission, a Georgia public corporation, requesting authority to establish a general-purpose foreign-trade zone in Chatham County, Georgia, within the Savannah Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 30, 1983. The applicant is authorized to make this proposal under Title 52, Chapter 10 of the Official Code of Georgia.

The proposed zone will cover 37 acres on sites at the area's airport and seaport. Site I will involve 4 parcels

VOL 48 ISS 199 OCT 13 1983 UMI

totalling 25 acres at the 3400-acre Savannah Municipal Airport in Savannah. An air cargo building is available for initial zone warehousing activities. There is also open space for firms needing separate facilities. Site II will cover 12 acres at the 800-acre Garden City Terminal of the Georgia Ports Authority on the Savannah River in Chatham County. Both sites will be operated by the Airport Commission. Savannah International Warehouse, Inc., will build and operate a public warehouse within Site II.

The application contains evidence of the need for zone services in the Savannah area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of products such as aircraft, electronic and food products. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Charles W. Winwood, Director, Inspection and Control, U.S. Customs Service, Southeast Region, 55 S.E. 5th St., Miami, FL 33131; and Colonel Charles A. Dominy, District Engineer, U.S. Army Engineer District Savannah, P.O. Box 889, Savannah, GA 31402.

As part of its investigation the examiner's committee will hold a public hearing on Nov. 2, 1983, beginning at 9:00 a.m. in Council's Chambers at the Savannah City Hall.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by October 28. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through December 2, 1983.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Director's Office, U.S. Dept. of Commerce District Office, 27 E. Bay Street, P.O. Box 9746, Savannah, GA 31401.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania Avenue, NW., Washington, D.C. 20230.

Dated: October 6, 1983.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 83-27859 Filed 10-12-83; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

Initiation of Countervailing Duty Investigations; Textiles, Apparel, and Related Products From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in the People's Republic of China of textiles, apparel and related products, described in Appendix A to this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. The decision to initiate does not imply any judgment whether the practices concerned are in fact bounties or grants. If our investigations proceed normally, we will make our preliminary determinations on or before December 6, 1983.

These investigations present significant and novel issues. Interested persons are invited to submit written views and to participate in a public conference on November 3 (continuing November 4 if necessary) on the issues raised by this petition, including the following issues: (1) Whether under the Act bounties or grants may be found in a non-market economy country; and (2) whether dual exchange rates in either a market or non-market economy can confer a bounty or grant where the entire trade sector is subject to a single rate and the currency is not freely convertible.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Claire A. Rickard, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377–4412.

SUPPLEMENTARY INFORMATION:

Petition

On September 12, 1983, we received a petition from counsel for the American textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union (later amended to include the American Apparel Manufacturers Association) on behalf of the U.S. industries producing textiles, apparel and related products. The petition alleges that producers, manufacturers, or exporters in the People's Republic of China (PRC) of those products receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act). Petitioners allege that the PRC provides the following benefits to its domestic producers of textiles, apparel, and related products:

—An "internal settlement rate" used to convert foreign exchange for Chinese enterprises engaged in foreign trade;
—preferential access to raw materials;
—foreign exchange loans;
—transportation; and
—preferential tax treatment.

The PRC is not a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore section 303 of the Act applies to these investigations. Under this section, because the merchandise under investigation is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten to cause material injury to a U.S. industry.

Initiation of Investigations

Although section 303 of the Act applies to these proceedings, section 103(b) of the Trade Agreements Act of 1979 requires conformity with certain provisions of Title VII of the Act, including section 702. That section sets forth the procedures for initiating a countervailing duty investigation.

Under section 702(c)(1) of the Act, we must determine, within 20 days after a countervailing duty petition is filed, whether a petition alleges the elements necessary for the imposition of a countervailing duty under section 701(a) of the Act, and contains information reasonably available to petitioner supporting the allegations. In accordance with section 702(c)(1), we are dismissing that part of the petition alleging bounties or grants with respect to transportation and preferential tax treatment because the petition contains no information supporting these allegations. We are also dismissing that aspect of the petition regarding foreign exchange loans because petitioners have not alleged how such loans, if they exist, constitute a bounty or grant within the meaning of the Act.

We are initiating countervailing duty investigations with respect to the remaining allegations to determine whether manufacturers, producers, or exporters in the PRC of textiles, apparel and related products as described in Appendix A to this notice, receive bounties or grants through dual exchange rates [1] or preferential access to raw materials. If our investigations proceed normally, we will make preliminary determinations by December 6, 1983.

[1] The petition states that "there are indications that additional internal exchange rates exist * * * to increase the amount of the export subsidy to the particular industry." Even if petitioners intended to allege that "additional internal exchange rates" benefit the PRC textiles and apparel industries, they provided no supporting information.

Hearing on Novel Issues

In view of the novelty of issues raised by the petition, we invite written comments and participation in a conference to which all persons interested in these issues are invited. The issues for comment include: (1) Whether under the Act a bounty or grant may be found in a non-market economy country; and (2) whether dual exchange rates can confer a bounty or grant where the entire trade sector is subject to a single rate and the currency is not freely convertible. The conference will be held on November 3 (continuing November 4 if necessary) at 9 a.m. in Room 3407 at the Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. This conference will not in any way replace the hearing, if requested, provided under section 774 of the Act.

Persons who wish to participate in the conference must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The person's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, participants must file preconference briefs in accordance with 19 CFR 355.34 and in at least 10 copies by October 27, 1983.

Oral presentations will be limited to issues raised in the briefs. Those wishing to appear will be notified of their time allocations.

Alan F. Holmer,
Deputy Assistant Secretary, Import Administration.
October 3, 1983.

Appendix A

The products covered by these investigations are textiles, apparel and related products, including those of all textile fibers.

The merchandise is currently classified under the item numbers of the Tariff Schedules of the United States Annotated (TSUSA) listed below.

LIST OF TSUSA CODES IN WHICH THE PEOPLE'S REPUBLIC OF CHINA PARTICIPATED IN IMPORTS OF THE UNITED STATES IN 1982 OR 1983

Yarns								
	302.5024	303.2040 308.5100	307.6810 308.7500	307.6850 308.9000	308.3000 310.5049	308.3500 310.6038	308.3500	
Cordage								
			315.8000 316.5500 316.5800					
Fabric								
319.0700 320.2030 320.3032 321.4092	320.0036 320.2032 320.3036	320.0058 320.2038 320.3092	320.1001 320.2044 320.4092	320.1003 320.2058 320.4094	320.1038 320.2092 320.8094	320.1040 320.2094 321.1058	320.1044 320.3026 321.3044	320.1058 320.3028 321.3060	320.1092 320.3030 321.3062X 321.3082
322.1092 322.3064 324.1052 325.3092 326.2038 326.3092 328.3092 336.6243 336.6453 337.5500 338.4003 338.5035	321.4094 322.2030 322.3092 324.1092 325.8064 326.2044 326.3094 328.4084 336.6247 337.1000 337.8025 338.4004 338.5036	231.7028 322.2032 322.4054 324.3052 326.0094 326.2058 326.4026 328.4092 336.6249 337.3010 337.8800 338.5006 338.5039	321.8026 322.2054 322.4084 324.6024 326.1026 326.2092 326.4032 331.4020 336.6251 337.2020 337.7200 338.5009 338.5041	322.1026 322.2072 322.4092 324.8024 326.1038 326.3026 326.4092 331.8090 336.6253 337.2030 337.9025 338.5015 338.5045	322.1044 322.2092 322.4094 325.1072 326.1040 326.3032 326.8022 335.7500 336.6255 337.2040 337.9035 338.5021 338.5046	322.1058 322.2094 322.8086 325.1074 326.1058 326.3036 327.2092 335.9500 336.6257 337.2050 338.1530 338.5024 338.5050	322.1076 322.3026 322.8094 325.1084 326.1092 326.3042 328.1074 336.1520 336.6441 337.3000 338.1570 338.5026 338.5064	322.1078 322.3054 323.1092 325.1092 326.2026 326.3044 328.2084 336.5000 336.6447 337.4000 338.2500 338.5029 338.5069	322.1084 322.3060 323.3092 325.2072 326.2032 326.3060 328.3032 336.6241 336.6449 337.5050 338.2700 338.5033
Special Construction Fabrics									
	346.1000 351.0500 355.8200	346.3545 351.2060 355.1800	346.5605 351.2095 355.2000	346.5625 351.2510 355.4530	346.5635 351.2560 355.6510	346.6050 351.4610 357.7010	346.6065 353.5036 358.1600	347.3360 353.5042 359.4000	348.3060 353.5067 359.5000
Textile Furnishings									
360.0600 360.4625 360.8300 361.4800 363.0510	360.1020 360.4815 360.8400 361.5000 363.0515	360.1515 360.4825 361.0520 361.5300 363.0520	360.1520 360.4835 361.0540 361.5420 363.0525	360.3000 360.4855 361.1000 361.5426 363.0530	360.4215 360.7000 361.1840 361.5650 363.1040	360.4225 360.7700 361.2600 361.5880 363.2550	360.4440 360.7800 361.4300 363.0120 363.2562	360.4445 360.7900 361.4500 363.0140 363.2564	360.4615 360.8200 361.4800 363.0200 363.2575

LIST OF TSUSA CODES IN WHICH THE PEOPLE'S REPUBLIC OF CHINA PARTICIPATED IN IMPORTS OF THE UNITED STATES IN 1982 OR 1983—Continued

363.2580	363.2590	363.3010	363.3020	363.3030	363.3040	363.4500	363.5115	363.5130	363.6015
363.6030	363.6540	363.7000	363.8000	363.8512	363.8525	363.8550	363.8555		364.0700
364.1300	364.1800	364.1800	364.2100	364.2300	364.2500	364.3000	364.3500	365.0000	365.0500
365.1120	365.1410	365.1420	365.1500	365.2900	365.3195	365.5010	365.5080	365.5095	365.6800
365.7200	365.7410	365.7460	365.7495	365.7600	365.7695	365.7700	365.7815	365.7817	365.7855
365.7865	365.8000	365.8100	365.8300	365.8400	365.8610	365.8620	365.8640	365.8660	365.8670
365.8680	365.9110	365.9120	366.1820	366.1840	366.1855	366.1885	366.1880	366.2120	366.2140
366.2160	366.2180	366.2420	366.2440	366.2460	366.2480	366.2720	366.2740	366.2760	366.2780
366.3000	366.3300	366.3900	366.4200	366.4600	366.4700	366.5100	366.5400	366.5720	366.8000
366.8300	366.8500	306.6900	366.7200	366.7500	366.7700	366.7925	366.7930	366.8400	367.1500
367.4000	367.4500	367.5500	367.6025	367.6035	367.6040	367.8080	367.8500		

Apparel

370.0400	370.0800	370.1200	370.1600	370.1700	370.1900	370.2100	370.4800	370.5200	370.6020
370.8040	370.8420	370.8820	370.8000	370.8420	370.8440	372.1020	372.1030	372.1036	372.1060
372.1070	372.1540	372.3500	372.4500	372.5000	372.6020	372.6520	372.6540	372.7000	372.7520
373.2200	374.3650	374.5500	374.6040	376.2430	376.2446	376.2825	376.2830	376.5609	376.5612
376.5618	376.5823	376.5630	378.0550	378.0553	378.0560	378.0580	378.1030	378.1035	378.1520
378.1530	378.1535	378.1540	378.2011	378.2030	378.3510	378.3530	378.5000	378.5500	378.6015
378.6020	378.6030	378.6530	379.0210	379.0220	379.0240	379.0405	379.0410	379.0810	379.0815
379.0820	379.0830	379.0840	379.0845	379.0820	379.0840	379.1520	379.1740	379.2310	379.2320
379.2330	379.2350	379.2360	379.2810	379.2820	379.2830	379.2640	389.2650	379.2810	379.2820
379.2830	379.3110	379.3120	379.3130	379.3140	379.3180	379.3170	379.3180	379.3190	379.3310
379.3320	379.3330	379.3332	379.3336	379.3338	379.3340	379.3350	379.3530	379.3540	379.3905
379.3925	379.3930	379.3940	379.3950	379.4010	379.4020	379.4030	379.4040	379.4050	379.4060
379.4070	379.4330	379.4610	379.4615	379.4620	379.4640	379.4650	379.4660	379.4670	379.4820
379.4910	379.4920	379.5210	379.5220	379.5221	379.5510	379.5520	379.5525	379.5530	379.5535
379.5540	379.5545	379.5550	379.5555	379.5560	379.5565	379.5600	379.5700	379.5800	379.6210
379.6215	379.6220	379.6230	379.6240	379.6250	379.6260	379.6270	379.6280	379.8300	379.6410
379.6420	379.6430	379.6440	379.6450	279.6470	379.6904	379.6908	379.6924	379.8964	379.6976
379.6984	379.6992	379.7250	379.7400	379.7530	379.7605	379.7610	379.7620	379.7630	379.7640
379.7650	379.7850	379.7900	379.8311	379.8315	379.8318	379.8340	379.8351	380.8352	379.8355
379.8360	379.8410	379.8420	379.8635	379.8725	379.8735	379.8905	379.8906	379.8910	379.8911
379.8915	379.8930	379.8935	379.8940	379.9010	379.9020	379.9025	379.9030	379.9035	379.9040
379.9250	379.9505	379.9510	379.9515	379.9520	379.9525	379.9530	379.9535	379.9540	379.9545
379.9550	379.9555	379.9560	379.9565	379.9570	379.9575	379.9580	379.9585	379.9805	379.9620
379.9625	379.9630	379.9635	379.9643	379.9645	379.9650	383.0015	383.0205	383.0206	383.0210
383.0211	383.0215	383.0216	383.0221	383.0225	383.0233	383.0250	383.0260	383.0265	383.0305
383.0306	383.0320	383.0330	383.0335	383.0340	383.0350	383.0355	383.0390	383.0505	383.0508
383.0520	383.0570	383.0810	383.0611	383.0615	383.0616	383.0620	383.0630	383.0805	383.0810
383.0815	383.0820	383.0825	383.0830	383.0835	383.0840	383.0841	383.0844	383.0845	383.0850
383.0855	383.0856	383.0860	383.1305	383.1320	383.1802	383.1803	383.1807	383.1806	383.1820
383.1841	383.1842	383.1857	383.1860	383.1905	383.1910	383.1930	383.1935	383.1940	383.2005
383.2014	383.2016	383.2020	383.2025	383.2035	383.2050	383.2052	383.2058	383.2060	383.2205
383.2210	383.2215	383.2220	383.2225	383.2230	383.2235	383.2240	383.2245	383.2250	383.2305
383.2310	383.2315	383.2320	383.2325	383.2330	383.2335	383.2340	383.2345	383.2350	383.2352
383.2354	383.2355	383.2356	383.2360	383.2365	383.2505	383.2515	383.2520	383.2525	383.2535
383.2550	383.2570	383.2575	383.2580	383.2590	383.2706	383.2707	383.2708	383.2709	383.2720
383.2725	383.2730	383.2731	383.2750	383.2551	383.2810	383.2815	383.2820	383.2830	383.2835
383.2836	383.2910	383.2920	383.3010	383.3020	383.3030	383.3040	383.3050	383.3060	383.3065
383.3070	383.3080	383.3085	383.3092	383.3200	383.3405	383.3415	383.3435	383.3440	383.3445
383.3446	383.3448	383.3450	383.3452	383.3455	383.3460	383.3465	383.3466	383.3600	383.3770
383.4010	383.4015	383.4200	383.4300	383.4515	383.4702	383.4704	383.4705	383.4707	383.4709
383.4711	383.4715	383.4720	383.4721	383.4730	383.4747	383.4748	383.4753	383.4755	383.4757
383.4759	383.4761	383.4763	383.4765	383.4816	383.4818	383.4820	383.4821	383.4825	383.4900
383.5020	383.5030	383.5035	383.5036	383.5038	383.5039	383.5040	383.5047	383.5049	383.5050
383.5052	383.5053	383.5055	383.5056	383.5060	383.5061	383.5062	383.5063	383.5065	383.5066
383.5070	383.5071	383.5072	383.5073	383.5075	383.5078	383.5080	383.5082	383.5086	383.5090
383.5295	383.5304	383.5308	383.5312	383.5316	383.5326	383.5332	383.5368	383.5376	383.5382
383.5386	383.5392	383.5396	383.5500	383.5830	383.5840	383.5845	383.6000	383.6200	383.6310

Apparel

383.6330	383.6340	383.6345	383.6350	383.6360	383.6371	383.6372	383.6395	383.6520	383.6650
383.7205	383.7210	383.7530	383.7540	383.7550	383.7560	383.7590	383.7732	383.7752	383.7764
383.7768	383.7772	383.7776	383.7782	383.7804	383.7812	383.7816	383.7822	383.7842	383.7844
383.7852	383.7854	383.7858	383.7862	383.7864	383.7868	383.7872	383.7874	383.7878	383.7882
383.8002	383.8003	383.8004	383.8005	383.8006	383.8043	383.8044	383.8045	383.8047	383.8070
383.8073	383.8110	383.8114	383.8115	383.8116	383.8117	383.8126	383.8135	383.8140	383.8145
383.8148	383.8100	383.8605	383.8620	383.8621	383.8635	383.8640	383.8645	383.8650	383.8660
383.8663	383.8665	383.8669	383.8670	383.8820	383.9010	383.9015	383.9020	383.9025	383.9030
383.9035	383.9036	383.9040	383.9041	383.9050	383.9051	383.9060	383.9065	383.9070	383.9071
383.9210	383.9211	383.9215	383.9220	383.9225	383.9230	383.9235	383.9240	383.9245	383.9246
383.9255	383.9260	383.9265	383.9270	383.9273	383.9276	383.9290	383.9291	383.9505	

Miscellaneous

385.3000		385.5300	385.5500	385.6000	385.7040	385.8500	386.0430	386.0600	386.0915
386.0925	386.0943	386.0960	386.1000	388.1315	386.1325	386.1343	386.1360	386.1500	386.3000
386.4000	386.5038	386.5040	386.5045	387.3200	387.3500	387.3700	388.4000	388.1000	389.2000
389.3000	389.4000	389.5000		389.6255	389.6265	389.7000			
702.0800	702.0800	702.1200	702.1400						
				702.5800	702.6000	702.7000	702.7500	792.8000	702.8500
702.9000	702.4500	703.0500	703.1000	703.1515	703.1800				
		704.0520	704.1020	704.1520	704.2000	704.3220	704.3240	704.4010	704.4025
704.4502	704.4504	704.4506	704.4508	704.4528	704.5015	704.6500	704.7000	704.7500	704.8520
704.8550	704.9000								
					706.3200	706.3400	706.3640	706.3650	706.3680
706.3700	706.3840	706.3850	706.3900		706.4106	706.4111	706.4121	706.4140	706.4150

LIST OF TSUSA CODES IN WHICH THE PEOPLE'S REPUBLIC OF CHINA PARTICIPATED IN IMPORTS OF THE UNITED STATES IN 1982 OR 1983—Continued

727.8200									
748.4565	748.4570	748.5048	748.4541	748.4543	748.4547	738.4549	748.4553	748.4555	748.4563
			748.5050	748.5065	748.5067	748.5520			

[FR Doc. 83-27579 Filed 10-12-83 8:45 am]
BILLING CODE 3510-DS-M

Export Trade Certificate of Review; Applications

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of export Trading Company Affairs, International Trade Administration, Department of Commerce has received applications for Export Trade Certificates of Review. This notice summarizes the conduct for which certificates are sought and invites interested parties to submit information relevant to the determination of whether the certificates should be issued.

DATES: Comments on these applications must be submitted on or before November 2, 1983.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to these applications as "Export Trade Certificate of Review, application number 83-00023 and/or application number 83-00024."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not tollfree numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of review. The regulations implementing Title III are found at 48 FR 10596-10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the issuance of Export Trade Certificates of Review," 48 FR 15937-10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the Federal Register identifying the persons submitting the application and summarizing the conduct proposed for certification.

The OETCA and the applicants have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the applications below. Information submitted by any person in connection with the applications is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities" or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: *United Export Trading Association, IH 35,* International Boulevard, Laredo, Texas 78041.

Application No.: 83-00023.

Date Received: September 23, 1983.

Date Deemed Submitted: September 27, 1983.

Members in Addition to Applicant: International Bonded Warehouses, Inc., IH 35 at International Boulevard, Laredo, Texas 78041; Ayoub Exports, Inc., 8650 Yermoland, El Paso, Texas 79983; Hidalgo Custom Bonded Warehouse, Inc. d/b/a Brady's, 104 South Bridge Street, Hidalgo, Texas 78557; Universal Bonded Stores, Inc., 1114-1116 Main Avenue, Laredo, Texas 78040; Capin's Duty Free Warehouse, 109 Nelson Avenue, Nogales, Arizona 85621; States Import-Export, Inc., Lot 2 at Entrada Development at Bridge Street, Hidalgo, Texas 78557; and Hugo's International Liquors, 6906 Commerce Avenue, El Paso, Texas 79915.

Summary of Application: The following is the summary of the export trade and export trade activities and methods of operation of United Export Trading Association (UETA), an unincorporated association comprised of member firms engaged in operating land port duty-free shops under U.S. Customs bonds and regulations on the U.S. side of the United States-Mexico border.

A. Export Trade

UETA will act as the exclusive purchasing agent for its member firms for tax-free and duty-free alcoholic beverages, tobacco and tobacco products and other products that are handled in bond exclusively for export trade (hereafter the "covered products") which the member firms, operating pursuant to U.S. Customs regulations and under Customs bond, sell exclusively for export to persons exiting the United States across the United States-Mexico land border.

B. Export Trade Activities and Methods of Operation

1. UETA will enter into agreements with suppliers for the purchase of covered products and will resell the covered products to its member firms exclusively for export.

2. UETA will warehouse the covered products prior to delivery to member firms and will provide related financing, transportation, insurance, accounting, and legal services.

3. Through UETA, the member firms may agree on all matters relating to the purchase, handling and sale of the covered products including the number of outlets for the covered products to be established in any location; the mix of products which UETA will supply; inventory levels of the covered products; the prices at which covered products may be sold for export; the internal distribution of profits or loss derived by UETA from the sale of covered products; the hours of operations of member outlets; the admission or exclusion of new members; and the sale of covered products or related services to non-members.

4. Subject to decisions of its governing committee, UETA will be the exclusive source of covered products for the member companies. The governing committee of UETA may impose territorial or price maintenance restrictions on its members or on non-members and may deal or refuse to deal with non-member outlets at its option and under such terms as the governing committee determines.

Applicant: *U.S. Export & Trading Company, P.O. Box 1698, Carlsbad, California 92008.*

Application #: 83–00024.

Date Received: September 23, 1983.

Date Deemed Submitted: September 27, 1983.

Members in Addition to Applicant: None.

Summary of Application: U.S. Export & Trading Company, a U.S. export trading company, incorporated in the State of California and located at P.O. Box 1698, Carlsbad, California 92008, submitted an application seeking certification for the following export trade activities and methods of operation and for its export trade worldwide.

A. Export Trade

U.S. Export & Trading Company represents a U.S. manufacturer of patented Ultraviolet Resistant PVC (UVR–PVC) irrigation pipe for export sales of this product.

B. Activities/Methods of Operation

U.S. Export & Trading Company is the sole representative of a U.S. manufacturer of patented Ultraviolet Resistant PVC irrigation pipe under an exclusive distribution agreement with respect to export sales. Under this exclusive distribution agreement, U.S. Export & Trading Company represents the manufacturer in foreign markets, identifies foreign stocking distributors for appointment by the manufacturer to exclusive distributorships, and is responsible for all details of exporting the manufacturer's products. The manufacturer agrees not to sell directly to other exporters in competition with U.S. Export & Trading Company.

Dated: October 7, 1983.

Irving P. Margulies,

Deputy General Counsel.

[FR Doc. 83–27790 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–25–M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; University of Wisconsin, et al.

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–248. Applicant: University of Wisconsin, Department of Anatomy, 1300 University Avenue, Madison, WI 53706. Instrument: Electron Microscope, Model H–600 with Accessories. Manufacturer: Hitachi Limited, Japan. Intended use of instrument: See notice on page 36505 in the **Federal Register** of August 11, 1983. Instrument ordered: April 29, 1983.

Docket No.: 83–253. Applicant: University of Wisconsin Medical School, Department of Ophthalmology, 600 Highland Avenue, Madison, WI 53792. Instrument: Electron Microscope, Model H–600–3 and Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of instrument: See notice on page 36505 in the **Federal Register** of August 11, 1983. Instrument ordered: March 29, 1983.

Docket No.: 83–263. Applicant: University of California, Davis, Department of Zoology, Storer Hall, Davis, CA 95616. Instrument: Electron Microscope, Model EM 410G and Accessories. Manufacturer: N. V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of instrument: See notice on page 36504 in the **Federal Register** of August 11, 1983. Instrument ordered: June 27, 1983.

Docket No.: 83–265. Applicant: Thomas Jefferson University, 1025 Walnut Street, Philadelphia, PA 19107. Instrument: Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 38869 in the **Federal Register** of August 26, 1983. Application received by Commissioner of Customs: August 1, 1983.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes of which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–27778 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council (Council Chairpersons/ Executive Directors/NMFS); Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended). The Gulf Council's Chairperson and Executive Director will meet jointly with the National Marine Fisheries Service (NMFS), and Chairpersons and Executive Directors of the following Regional Fishery Management Councils:

New England Council (Saugus, Massachusetts)
Mid-Atlantic Council (Dover, Delaware)
South Atlantic Council (Charleston, South Carolina)
Caribbean Council (Hato Rey, Puerto Rico)
Pacific Council (Portland, Oregon)
North Pacific Council (Anchorage, Alaska)
Western Pacific Council (Honolulu, Hawaii)

Agendas: The Council Executive Directors will meet to discuss:

Confidentiality procedures for Councils
Proposed Council operations guidelines
OMB modification of rules
Impacts of budget reduction on Council operations
Inclusion of fishery products in U.S. Agency for International Development commodities program
Theory of management
Effectiveness of framework measures
Responsiveness of NMFS to Council research requirements
Need for Council liaison staff in Washington
Other general administrative topics

The Council Chairpersons will meet to discuss:

Future of fisheries management under the Magnuson Act Budget
Council access to confidential statistics
Federal regulation outside the fishery conservation zone
Litigation affecting fishery management plans and Council operations
Current legislative bills affecting fisheries management
NMFS habitat conservation policy
Joint venture issues
Report on Executive Directors' session
Other business

DATE: The Executive Directors' meeting will convene at 8:30 a.m., on Wednesday, November 2, 1983, and recess at approximately 5 p.m. The Council Chairpersons' meeting will convene at 8:30 a.m., on Thursday, November 3, 1983; recess at approximately 5 p.m.; reconvene on Friday, at 8:30 a.m., and adjourn at approximately 3 p.m., on Friday, November 4, 1983.

ADDRESS: The meeting will be held in the Stardust Room of the Hilton Hotel, 3580 West Beach Boulevard, Biloxi, Mississippi.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: October 6, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–27736 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–22–M

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended).

Agendas:

The Gulf of Mexico Fishery Management Council will meet to discuss:

—Intercouncil Committee Action on Swordfish FMP
—Mackerel FMP Amendment Options
—Amendment to Shrimp and Stone Crab FMPs
—Appointment of Council Committee Members

DATES: The Council meeting will convene at 8:30 a.m., on Wednesday, November 16, 1983, and recess at approximately 5:00 p.m.; and reconvene at 8:30 a.m., Thursday, November 17, 1983, and adjourn at approximately 2:00 p.m.

ADDRESS: The meeting will be held at the Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, Florida, 33607.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: October 7, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–27782 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–22–M

Gulf of Mexico Fishery Management Council, Intercouncil Mackerel Advisory Panel and Intercouncil Mackerel Management Committee; Public Meeting

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), will convene Intercouncil Mackerel Advisory Panel members and Intercouncil Mackerel Management Committee members to amend the Mackerel Fishery Management Plan.

DATES: The advisory panel meeting will be convened at 2:00 p.m. on Monday, November 7, 1983, and will adjourn at approximately 5:00 p.m.; and reconvene at 8:00 a.m., Tuesday, November 8th, 1983, and adjourn at approximately 11:00 a.m. The management committee meeting will be convened at 2:00 p.m. on Tuesday, November 8, 1983, and will adjourn at approximately 6:00 p.m.; and reconvene at 8:00 a.m. on Wednesday, November 9, 1983; and adjourn at approximately 5:00 p.m.

ADDRESS: The meeting will take place at the Barclay Best Western Hotel, 5303 West Kennedy Boulevard, Tampa, Florida 33609.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: October 7, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–27783 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–22–M

VOL 48 ISS 199 OCT 13 1983 UMI

Pacific Fishery Management Council's Groundfish Management Team; Public Meetings

AGENCY: Pacific Fishery Management Council's Groundfish Management Team.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council has established a Groundfish Management Team (GMT) which will meet to discuss current groundfish management matters, develop objectives of a trawl mesh size study, develop final specifications for 1984 acceptable biological catches and optimum yields, review options recommended to the Council by the Groundfish Task Force to manage 1984 fisheries, develop a report to the Council at its November 9–10, 1983 meeting in Boise, Idaho, and other matters as directed by the Council. Time is scheduled for public comment at 3 p.m. and members of the public will be permitted to submit oral or written statements regarding these matters.

DATES: October 24, 1983 from 10 a.m. to 5 p.m.; October 25 and 26, 1983 from 8 a.m. to 5 p.m.

ADDRESS: The meeting will be held at the Oregon Department of Fish and Wildlife, 506 S.W. Mill Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 528 SW Mill Street, Portland, Oregon 97201, (503–221–6352).

(16 U.S.C. 1801 et seq.)

Dated: October 7, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–27861 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council; Public Comments on Foreign Fishing Applications

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Opportunity for Public Comments on Foreign Fishing Applications Received by the Mid-Atlantic Fishery Management Council.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended). As required by the Act, Section 204(b)(5), the Council announces that the public may comment on any and all foreign fishing applications received by the Council by November 7, 1983. The Council's staff will be available between 9 a.m. and noon on November 7, 1983, to receive comments, which may be made in person at the Council's Headquarter's Office, Federal Building, Room 2115—300 South New Street, Dover, Delaware, between the above-stated hours. In addition, written comments must be mailed in time to be received and reviewed by the Council, by November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: October 7, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–27864 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Apparel Products From Taiwan

October 7, 1983

Adjusting by the application of swing the levels of restraint established for cotton trousers in Category 347/348, wool sweaters in Category 445/446, women's, girls', and infants' trousers in Category 648, and down and feather-filled coats, jackets, and vests in Category 353/354/653/654, produced or manufactured in Taiwan and exported during the agreement year which began on January 1, 1983 and extends through December 31, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982, (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: The bilateral agreement of November 18, 1982, concerning cotton, wool, and man-made fiber textile products from Taiwan provides, among other things, for percentage increases in certain categories during an agreement year (swing), provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year. Pursuant to the terms of the bilateral agreement, the import restraint limits established for Categories 347/348, 445/446, and 648, exported during the twelve-month period which began on January 1, 1983, are being increased for the agreement year which began on January 1, 1983. The limit for Category 353/354/653/654 is being reduced from 219,406 dozen to 153,674 dozen to account for swing applied to the other three categories.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 22, 1982, there was published in the **Federal Register** (47 FR 57083) a letter dated December 16, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made textile products, including Categories 347/348, 445/446, 648, and 353/354/653/654, produced or manufactured in Taiwan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, if exported during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the levels of restraint previously established for these categories.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 7, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 16, 1982, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of goods exported during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983 of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Taiwan, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

[1] The term "adjustment" refers to those provisions of the bilateral agreement of November 18, 1982 concerning cotton, wool, and man-made fiber textile products from Taiwan, which provide,

Continued

Effective on October 13, 1983, the directive of December 16, 1982 is hereby further amended to adjust the levels of restraint established for Categories 347/348, 445/446, 648, and 353/354/653/654 to the following:

Category	Adjusted 12-mo. level of restraint[1]
347/348	963,639 doz. of which not more than 473,270 doz. shall be in Cat. 347 and not more than 764,030 dozen shall be in Cat. 348.
445/446	132,689 doz.
648	3,182,339 doz.
353/354/653/654	153,674 doz.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1982.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton, wool and man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–27857 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–25–M

Controlling Imports of Certain Wool Apparel Products From Mexico

October 7, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 13, 1983. For further information contact William Boyd, International Trade Specialist, 202/377–4212.

Background

Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico, the Government of the United States has decided to control imports of women's, girls' and infants' wool suits in Category 444, produced or manufactured in Mexico and exported during the agreement year which began on January 1, 1983 at the agreement level of 1,852 dozen. Charges of 1,807 dozen are being made to the level to account for imports in the category during the period January 1–August 31, 1983. As the data become available, further charges will be made to account for the period which began on September 1 and extends through the effective data of this action, as well as thereafter. The letter from the Chairman of CITA to the Commissioner of customs, which follows this notice implements this action.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 7, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, and extended between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 13, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 444, produced or manufactured in Mexico and exported on and after January 1, 1983 and extending through December 31, 1983, in excess of 1,852 dozen.[1]

Textile products in Category 444 which have been exported to the United States prior to January 1, 1983 shall not be subject to this directive.

Textile products in Category 444 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924)].

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–27856 Filed 10–12–83; 8:45 am]

BILLING CODE 3510–25–M

in part, that: (1) Specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year; (2) certain specific limits and sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equal quantity in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[1] The level of restraint has not been adjusted to reflect any imports exported after December 31, 1982. During the period January 1–August 31, 1983 imports in this category have amounted to 1,807 dozen.

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Graduate and Professional Opportunity Fellowships Program; Application Notice for Fiscal Year 1984

Applications from institutions of higher education for grants to make fellowship awards are invited under the Graduate and Professional Opportunity Fellowships Program (G*POP).

Authority for this program is contained in Part B of Title IX of the Higher Education Act of 1965, as amended. (20 U.S.C. 1134d–1134g)

The Graduate and Professional Opportunity Fellowships Program provides grants to institutions of higher education to support fellowships for graduate and professional study to students who demonstrate financial need and who are from groups which are traditionally underrepresented in graduate and professional study areas of high national priority.

Closing Date for Transmittal of Applications: An application for a grant must be postmarked or hand delivered by December 5, 1983.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.094, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Post Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: The Continuing Resolution enacted by the Congress on September 30, 1983, authorizes the funding level of $10,000,000 for this program for fiscal year 1984. Pending resolution of the final level of appropriations, applications are invited to allow sufficient time for their evaluation and for the completion of the grant process prior to the end of the fiscal year should funds become available. The Secretary will give first priority to providing continuation support for fellows in good academic standing in their second or third year of study. If there are sufficient funds available, the Secretary plans to allocate one to three new fellowships in each approved academic or professional area of study to an institution receiving an award. Congress will be asked again this year, if funds are appropriated, to waive the minimum $75,000 fellowship award to each institution.

Program Information: Each institutional applicant applying for new fellowships under this Application Notice will be ranked according to the selection criteria set out as 34 CFR 649.12, governing the Graduate and Professional Opportunity Fellowships Program. Under these criteria, each institutional applicant may apply for fellowships in up to six academic or professional areas of study, provided, among other criteria, that the choice of the area of study is justified by providing evidence of underrepresentation and evidence of national need.

The Secretary makes only one-year grant awards. Subject to conditions in the regulations and the appropriation of funds, any continuation support needed for students to complete degree programs will be provided in subsequent years.

The Department of Education is not bound to a specific number of grants or to the amount of any grant unless specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by Oct. 21, 1983, and may be obtained by writing the Graduate Programs Branch, Department of Education, (Room 3044, ROB–3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applicants must be prepared and submitted in accordance with the regulations, instructions, forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of a Graduate and Professional Opportunity Fellowships application not exceed 40 pages in length.

Applicable Regulations: Regulations applicable to these programs include the following:

(1) Regulations governing the Graduate and Professional Opportunity Fellowships Program (34 CFR Part 649).

(2) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact Dr. Louis J. Venuto, Office of Postsecondary Education, U.S. Department of Education (Room 3044, ROB–3), 400 Maryland Avenue, SW., Washington, D.C, 20202. Telephone: (202) 245–2347.

(20 U.S.C. 1134d–1134g)

(Catalog of Federal Domestic Assistahce No. 84.094, Graduate and Professional Opportunity Fellowships Program)

Dated: October 7, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–27830 Filed 10–12–83; 8:45 am]

BILLING CODE 4000–01–M

National Resource Centers Program and Foreign Language and Area Studies Fellowships Program; Application Notice for Non-Competing Continuation Awards for Fiscal Year 1984

Applications are invited for non-competing continuation awards under the National Resource Centers and Foreign Language and Area Studies Fellowships Programs. Applications are for the second year of a 2-year funding period established by last year's competition.

Authorizing Legislation: Authority for these programs is contained in Title VI, Section 602, of the Higher Education Act of 1965, as amended (20 U.S.C. 1122).

The National Resource Centers Program provides general assistance for nationally recognized centers of excellence in modern foreign languages and area studies and in modern foreign languages and international studies.

The Foreign Language and Area Studies Fellowships Program provides fellowships to meritorious students undergoing advanced training in modern foreign languages and related area studies. The fellowships are awarded through approved institutions of higher education with nationally recognized programs of excellence.

Program Information: For non-competing continuation awards, the selection criteria are contained in Part 75.253 of the Education Department General Administration Regulations, EDGAR, 34 CFR 75.253.

Closing Date for Transmittal of Applications: An application for a non-competing continuation grant, to be assured of consideration for funding, should be mailed or hand-delivered by December 5, 1983.

If the application is late, the Department of Education may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.015 (National Resource Centers and Foreign Language and Area Studies Fellowships Programs), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Serivce postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice, or receipt from a commercial carrier; or

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application which is hand-delivered should be taken to the U.S. Department of Education Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

Available Funds: A Continuing Resolution enacted by the Congress on September 30, 1983, effective through November 10, 1983, authorizes the funding level of $10,600,000 for the National Resource Center Program and $6,000,000 for Foreign Language and Area Studies Fellowships for Fiscal Year 1984. This would assure continued funding of existing grants at approximately last year's levels.

Application Forms: Application forms and program information packages are expected to be ready for mailing by October 14, 1983. They may be obtained by writing to the Division of Advanced Training and Research, Centers and Fellowships Branch, International Education Programs, U.S. Department of Education (Room 3923, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition. The Secretary suggests that the narrative portion of the application not exceed 30 pages. The Secretay further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the National Resource Centers and Foreign Language and Area Studies Fellowships Programs, 34 CFR Parts 655, 656, 757; and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further Information: For further information, contact Mr. Joseph F. Belmonte, Centers and Fellowships Branch, International Education Programs, U.S. Department of Education (Room 3923, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245–2356 (20 U.S.C. 1122).

(Catalog of Federal Domestic Assistance No. 84.015—National Resource Centers and Foreign Language and Area Studies Fellowships Programs)

Dated: October 6, 1983.

[FR Doc. 83–27829 Filed 10–12–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83–CERT–314]

Aluminum Company of America; Application for Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following application for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). End-users who have the capability to use natural gas in place of fuel oil at any of their facilities can arrange for direct purchases and transportation of the gas to those facilities under the Federal Energy Regulatory Commission's (FERC) fuel oil displacement program. The ERA certification is required by the FERC as a precondition to interstate transportation of fuel oil displacement gas in accordance with the procedures in 18 CFR Part 284, Subpart F.

Pertinent information regarding this application is listed below, while more detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

83–CERT–314.

Applicant: Aluminum Company of America, Pittsburgh, Pa.

Date Filed: September 22, 1983.

Facility: Lancaster, Pa.

Gas Volume: 100,320 Mcf per year.

Oil Displaced: 16,230 barrels of No. 6 fuel oil (2.8% sulfur).

Facility: Lebanon, Pa.

Gas Volume: 99,000 Mcf per year

Oil Displaced: 16,170 barrels No. 6 fuel oil (2.8% sulfur)

Sellers: Dave Baird Investments, Inc., Belmont, Mass., Robert W. Orr, Jr., Zanesville, Ohio; British American Petroleum, Ft. Lee, N.J.; Fox Oil and Gas, McMurray, Pa.; Phillips Petroleum Co., Butler, Pa.

Transporter: Columbia Gas Transmission Corp., Charleston, W. Va.; UGI Corp. (Gas Utility Div.), Reading, Pa.

To provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the Federal Register. The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of the above application may be requested by any interested person in writing within the ten-day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary in a particular case, further notice will be given to the applicant and any person filing comments in that case and will be published in the Federal Register.

VOL
48
ISS
1
9
9
OC
13
1983
UMI

Issued in Washington, D.C., on October 5, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-27854 Filed 10-12-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the Federal Register on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since Thursday, October 13, 1983. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Thursday, September 22, 1983.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; as shown in "For Further Information Contact." If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., October 5, 1983.

Yvonne M. Bishop,

Director, Stotistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form number	Form title	Type of request	Response frequency	Response Obligation	Respondent description	Estimated number of respondents:	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
RE-616 and ER-617	Surveys of Enrollments and Degrees in Nuclear-Related Disciplines.	Extension	Annual	Voluntary	Colleges and Universities.	150	75	Forms ER-616 and ER-617 track the number of enrollments and degrees in health physics/radiation protection and nuclear engineering. The information is used in reports by the Office of Energy Research.

[FR Doc. 83-27782 Filed 10-12-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board, Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board (ERAB).

Date and Time: November 3-4, 1983 from 9 a.m. to 4 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW, Room 8E-069, Washington, DC 20585.

Contact: Joan Snodderly, U.S. Department of Energy, Office of Energy Research (ER-6) 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: Briefing and discussions of:

- Consideration of ERAB Materials R&D Panel report.
- Consideration of report of Technical Panel on Magnetic Fusion.
- DOE and NRC initial response to LWR report.
- Discussion of National Energy Policy Plan.
- Public comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Joan Snodderly at the address or telephone number listed above. Requests must be receive five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Board is empowererd to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 7, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-27853 Filed 10-12-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CI83-452-000]

Castle Gas Company, Inc.; Application

October 7, 1983.

Take notice that on September 30, 1983, Castle Gas Company, Inc. ("Applicant"), 3829 Willow Avenue, Pittsburgh, Pennsylvania 15234, filed an application, pursuant to Section 7(b) of the Natural Gas Act and Section 157.30 of the Regulations thereunder, for limited-term authorization to abandon sales for resale in interstate commerce to Columbia Gas Transmission Corporation ("Columbia"), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1983, file with the Federal Energy Regulator Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules 211 and 214 (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules, a hearing will be held without further notice before the Commission on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of abandonment authorization is required by the public convenience and necessity. If a motion for leave to intervene is timely filed which requires a formal hearing, or if the Commission on its own motion believes a formal hearing is required, further notice of such hearing will be given.

Under the procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27835 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-2-000]

Colorado Interstate Gas Co.; Filing of Tariff Sheets

October 7, 1983.

Take notice that on October 3, 1983, Colorado Interstate Gas Company (CIG) tendered for filing Original Sheet Nos. 33A and 33B of its FERC Gas Tariff, Original Volume No. 1. Original Sheet Nos. 33A and 33B establish a new rate schedule for the Additional Incentive Charge (Rate Schedule AIC-1). The aforementioned rate schedule is requested to be effective September 29, 1983, pursuant to Commission Order Nos. 319 and 234-B pertaining to Docket Nos. RM81-29 and RM81-19 issued by the Commission on July 20, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27836 Filed 10-2-83; 8:45 am]

BILLING CODE 6717-01-M

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

[Docket Nos. TA83-2-22-003 (PGA83-2) (IPR83-2) and (AP83-2)]

October 7, 1983.

Take notice that Consolidated Gas Suppply Corporation (Consolidated) on September 30, 1983, filed a substitute tariff sheet pursuant to the Commission's August 31, 1983, suspension order in this proceeding and to make effective a voluntary reduction of 1.5¢ per Dt to reflect the prospective elimination of Order No. 93 costs from rates. The revisions reflected on Substitute Thirty-Fourth Revised Sheet No. 16 represent adjustments to Consolidated's semi-annual PGA and would become effective September 1, 1983.

Consolidated's substitute tariff sheet reflects recent modifications to pipeline supplier rates as required by Ordering Paragraph (E) of the August 31st order and the elimination of costs associated with certain Section 108 wells (for which applications for well determination filings were not timely filed) as required by Ordering Paragraph (F). Consolidated indicates it has filed for rehearing on this latter issue and eliminates such costs subject to its right to rehearing and appeal.

Consolidated also has voluntarily eliminated prospective costs associated with Order No. 93 from its rates in recognition of the recent U.S. Court of Appeal's decision vacating Order No. 93. This adjustment is also made subject to the right to collect a surcharge should the D.C. Circuit order be modified or reversed.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protest should be filed on or before October 21, 1983. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27837 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-139-000]

El Paso Natural Gas Co.; Tariff Filing

October 7, 1983.

Take notice that on September 30, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act,

VOL
48
ISS
1
9
9
OC
13
1983
UMI

the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Eighth Revised Sheet No. 27–C
Fifth Revised Sheet No. 27–D
Second Revised Sheet No. 27–D.1
First Revised Sheet No. 27–D.2
Original Sheet No. 27–D.3

El Paso states that the tendered tariff sheets, when accepted by the Commission and permitted to become effective, will amend its Rate Schedule G, which Rate Schedule is available to Southern California Gas Company ("SoCal") and Pacific Gas and Electric Company ("PGandE") for the purchase of gas from El Paso at the California border, to effect substitution of a minimum monthly bill for the annual minimum bill presently in effect under said Rate Schedule.

The currently effective minimum bill under Rate Schedule G obligates SoCal and PGandE to take, or failing to take to nonetheless pay for, during each calender year, a minimum annual quantity equal to 91% of a Buyer's Maximum Contracted Daily Demand ("MCDD") then in effect under their Service Agreement with El Paso, multiplied by the number of days in the year. Provision is made for reduction of the annual minimum bill obligation in the event of El Paso's failure to deliver 100% of the MCDD when such delivery level is requested by Buyer, and Buyer may make up any deficiency quantities paid for but not taken during the five calender years succeeding the year in which such deficiency occurred.

El Paso is proposing to revise said provision to establish a minimum monthly bill based on 75% of the dekatherm equivalent of El Paso's total certificated service obligation to SoCal and PGandE of 1,750 MMcf/d and 1,140 MMcf/d, respectively, calculated using the fixed cost component of the Commodity Charge rate in effect under Rate Schedule G. Provision is made for reduction of the minimum monthly purchase requirement in the event of El Paso's failure to deliver requested volumes and for return to the California customers, by credit to their bills, of any monthly deficiency payments made by such customers during any calendar year in which the aggregate of El Paso's sales to such customers during such year exceeds 75% of the sum of the annual equivalent of El Paso's total daily service obligations to the customers or when El Paso, through the operation of the minimum bill provision, would otherwise overrecover its fixed costs.

El Paso requests that the Commission grant any and all waivers of its rules, regulations and orders as may be necessary to permit the tendered tariff sheets to become effective thirty (30) days following the date of filing. In the event the Commission deems it necessary to suspend the effectiveness of the tendered tariff sheets, El Paso requests that such suspension be limited to one (1) day, or alternatively to a period such that the tendered tariff sheets may be made effective on or before December 17, 1983 (the scheduled effective date of El Paso's prior filing at Docket No. RP83–100–000 to revise the minimum bill provisions of Rate Schedule G before said filing was subsequently rejected by the Commission).

El Paso states that copies of the instant filing have been served upon all of its interstate pipeline system customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are file with the Commisison and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–27838 Filed 10–12–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER82–689–000]

Gulf Power; Refund Report

October 7, 1983.

Take notice that on September 22, 1983, Gulf Power ("GP") submitted for filing its Refund Report pursuant to a July 8, 1983 Commission Order Approving Settlement. GP states that the revenues collected from the wholesale customers for service rendered on or after March 1, 1983, are the same as those revenues that would be collected under the approved settlement rates effective on March 1, 1983, because the rates are the same.

GP further states that no refund compliance report was required by the Commission's final order, but GP confirms its compliance upon Staff request.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 14, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–27841 Filed 10–12–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP83–140–000]

Michigan Wisconsin Pipe Line Co.; Tariff Filing

October 7, 1983.

Take notice that on September 30, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Seventh Revised Sheet No. 667 and Alternate Second Revised Sheet No. 666, Alternative Seventh Revised Sheet No. 667, and Alternate Original Sheet No. 667A, under Rate Schedule X–64 of First Revised Volume No. 2 of its FERC Gas Tariff, to become effective November 1, 1983.

Michigan Wisconsin states that this filing has been made to reflect the redetermination of the monthly charge to the High Island Offshore System (HIOS) for services rendered by Michigan Wisconsin in accordance with a service agreement between Michigan Wisconsin and HIOS dated August 4, 1977, and authorized by Commission Order issued July 6, 1978, at Docket No. CP78–134.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–27842 Filed 10–12–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP84–1–000]

Michigan Wisconsin Pipe Line Co.; Tariff Filing

October 7, 1983.

Take notice that on October 3, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing to the Federal Energy Regulatory Commission (Commission) Original Sheet Nos. 19g, 19h and 19i which comprise Rate Schedule EUT–1 to Original Volume No. 1 of its FERC Gas Tariff.

Rate Schedule EUT–1 sets forth the terms pursuant to which Michigan Wisconsin will perform transportation pursuant to § 157.209 of the Commission's Regulations, under transportation agreements with end users which provide for rates which do not include an "Added Incentive Charge" as authorized by § 175.209(f) of the Commission's Regulations.

Michigan Wisconsin has requested that Rate Schedule EUT–1 be accepted for filing and become effective on August 5, 1983, pursuant to Commission Order Nos. 234–B and 319, pertaining to Docket Nos. RM81–19 and RM81–29, respectively, which became effective on August 5, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or beofre October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–27843 Filed 10–12–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TA84–1–49–000]

Montana-Dakota Utilities Co., Purchased Gas Cost Adjustment Filing

October 7, 1983.

Take notice that on September 30, 1983, Montana-Dakota Utilities Company (MDU) tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

Original Volume No. 4

Twenty-seventh Revised Sheet No. 3A
Second Revised Sheet No. 3B

First Revised Volume No. 2

Nineteenth Revised Sheet No. 10
Second Revised Sheet No. 10A

The proposed effective date of NDU's Pga filing is November 1, 1983.

MDU states that this tariff filing is being made pursuant to the Purchased Gas Adjustment Provisions of its FERC Gas Tariff. The proposed changes included a gas cost adjustment of 102.142 cents per Mcf for Rate Schedules G–1, PR–1, I–1 and X–1. In addition, MDU proposes a surcharge adjustment of 56.176 cents per Mcf applicable to Rate Schedules G–1, PR–1, and I–1.

Rate Schedule X–4 shows a gas cost adjustment of 105.540 cents per Mcf and a surcharge adjustment of 60.192 cents per Mcf. The proposed changes are supported by exhibits attached to the filing.

In addition, MDU states that Nineteenth Revised Sheet No. 10 reflects a gas cost adjustment for the sales under Rate Schedule X–5 of 53.843 cents per Mcf.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–27844 Filed 10–12–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP73–63–001]

Joint Petition; Natural Gas Pipeline Company of America and Napeco, Inc., Waiver of Condition

October 7, 1983.

Take notice that on September 23, 1983, Natural Gas Pipeline of America (Natural) and NAPECO, Inc. (NAPECO), pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, petitioned the Commission for a waiver of the condition imposed by the Federal Power Commission in the above-captioned docket in Ordering Paragraph (F)(10) of the *Order Adopting Settlement Proposal, Authorizing Sale of Gas at Applicable Area Rate, Authorizing Amendment of Purchased Gas Adjustment Clause and Terminating Proceedings* issued August 3, 1973 (hereinafter called "the 1973 Order"), redesignated Ordering Paragraph (F)(12) in the *Order Amending Order* issued August 2, 1974 (hereinafter called "the 1974 Order"). This condition requires that all natural gas reserves discovered or acquired as a result of activities financed under the revolving exploration fund authorized in the above-captioned proceeding shall be dedicated to service for Natural's customers and taken into Natural's system by the most feasible means.

The petitioners state that the order issued August 3, 1973 in the above-captioned docket, authorized Natural to: (1) Price its presently-owned natural gas production attributable to leases acquired by Natural prior to October 7, 1969, at the applicable area rate; (2) establish a revolving exploration and development fund comprised of the additional monies provided by the repricing of such production, plus the net income after taxes from all revenues received from natural gas and oil produced from reserves discovered or acquired as a result of activities financed with monies from the revolving exploration fund; and (3) modify applicable provisions of its FPC Gas Tariff Purchased Gas Adjustment Clause to reflect the granted authority.

On March 4, 1974, Natural filed a petition in the above-captioned docket seeking amendment of the authorization issued in the 1973 Order (1) to permit Natural to transfer to NAPECO, a wholly-owned subsidiary company, all additional revenues derived from the repricing of gas from Natural's producing properties as authorized in the 1973 order; (2) to permit NAPECO to employ funds from the revolving fund to conduct the exploration and development program; and (3) to require NAPECO to sell any gas found to Natural for use by Natural's customers. The requested amendments to the authorization issued in the 1973 Order were granted in the 1974 Order.

Ordering Paragraph (F)(10) of the 1973 Order, redesignated Paragraph (F)(12) in the 1974 Order, requires that "all natural gas reserves discovered or acquired as a result of the exploration activities financed under the revolving exploration fund shall be dedicated to service for Natural's customers, and taken into Natural's system by the most feasible

VOL 48 ISS 199 OCT 13 1983 UMI

means" (hereinafter called "customer dedication condition"). However, on May 31, 1978, Natural petitioned the Commission for a declaratory order that it was not required to connect certain marginally commercial wells which had been developed with monies from the revolving fund. By order dated November 24, 1978, in the above-referenced proceeding, the Commission granted that petition.

Natural and NAPECO state that they have recently become aware of a new situation involving marginally commercial reserves discovered through the expenditure of revolving fund monies in Lavaca County, Texas. In March, 1983, NAPECO participated in the drilling of the Natomas No. 1 Allen Well, and owns a 19 percent working interest therein. NAPECO's share of the proven reserves attributable to the Natomas No. 1 Allen Well is 262.6 MMcf, and the estimated daily deliverability attributable to NAPECO's share is 74.1 Mcf. The Natomas No. 1 Allen Well is 16 miles from Natural's nearest facilities, and 1.9 miles from the nearest facilities of any interstate pipeline. Therefore, Natural and NAPECO request that the Commission issue an order waiving the customer dedication condition of the 1973 and 1974 Orders in the above-referenced proceeding with respect to the Natomas No. 1 Allen Well.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27845 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-7-000]

Pacific Gas & Electric Co.; Termination

October 7, 1983.

Take notice that on October 3, 1983, Pacific Gas & Electric Company ("PG&E") submitted for filing a Notice of Termination.

PG&E states that a notice is hereby given that effective as of the date the Commission accepts and permits to become effective that certain contract entitled "Interconnection Agreement Between Pacific Gas and Electric Company and the City of Santa Clara", dated as of September 30, 1983, Rate Schedule R-1, effective as of January 1, 1983, and filed with the Federal Energy Regulatory Commission by Pacific Gas and Electric Company is to be cancelled with regard to the City of Santa Clara, California. However, Rate Schedule R-1 shall remain in effect with regard to the City of Redding, California.

Notice of the proposed cancellation has been served upon the City of Santa Clara.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27846 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-736-000]

Philadelphia Electric Co; Revised Filing

October 7, 1983.

Take notice that on September 27, 1983, Philadelphia Electric Company ("PEC") submitted for filing a Transmission Enhancement Facilities Agreement ("Agreement") dated September 23, 1983, which supplements the Extra High Voltage Transmission System Agreement ("EHV") dated April 7, 1967.

PEC states that the parties to both Agreements have approved this filing. The parties are as follows:

Company	Rate schedule
Atlantic City Electric Company	5
Baltimore Gas and Electric Company	20
Delmarva Power & Light Company	34
Jersey Central Power & Light Company	30
Metropolitan Edison Company	36
Pennsylvania Electric Company	57
Pennsylvania Power & Light Company	48
Philadelphia Electric Company	30
Potomac Electric Power Company	26
Public Service Electric and Gas Company	42
UGI Corporation	1

PEC further states that the Transmission Enhancement Facilities Agreement provides for a sharing among the signatories of the annual carrying charges at a rate of 20% on the investment by some of the signatories in certain facilities designed to enhance the transfer capabilities of the facilities provided for under the ENV Agreement, which will enable signatories to import economic electric power from systems west of the interconnection supply system of the signatories known as the PJM Interconnection. The signatories have agreed to share such charges because the enhancement benefits will rebound to all signatories.

PEC submits that an effective date of November 7, 1983 is a condition precedent to this Agreement. Therefore, PEC asserts that if the Commission does not accept this filing and the modifications to the PJM Agreement both in their entirety to become effective on November 7, 1983, both filings are deemed withdrawn.

PEC therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before October 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27847 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER 82-60-000 and ER82-388-000]

Public Service Company of Oklahoma; Refund Report

October 7, 1983.

Take notice that on September 16, 1983, Public Service Company of Oklahoma ("PSCO") submitted for filing a Refund Report in compliance with the Commission's Order Adopting Proposed Settlement, which was issued on June 22, 1983.

The Refund Report contained a summary tabulation of all refunds; tabulations for each wholesale customer, by delivery point, showing the monthly billing determinants, revenues under the interim and settlement (or refund) rates, the monthly revenue refunds and the monthly interest; and the workpaper underlying the interest calculation.

PSCO states that copies of this Refund Report are being sent to each party to the proceeding and to the Oklahoma Corporation Commission.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 17, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27848 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-29-001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

October 7, 1983.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on September 30, 1983 Twenty-Eighth Revised Sheet No. 12, Twenty-Eighth Revised Sheet No. 15 and Tenth Revised Sheet No. 16 to Second Revised Volume No. 1 and Thirty-Fourth Revised Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective November 1, 1983, reflect a net increase of 29.5¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S-2 rate schedules, a net increase of 29.4¢ per dt in the commodity charge under the ACQ rate schedule and a net increase of 0.1¢ per dt in the delivery charge under the X-20 rate schedule.

Transco states that the instant filing has been based upon a continuation of its pro rata purchase policy which was reflected in the last effective PGA on May 1, 1983 (Docket No. TA83-2-29-001) pursuant to the Settlement Agreement in Transco's Docket No. RP83-11. Discussions are currently being conducted in Docket No. RP83-11 looking toward an amendment to that Settlement Agreement which hopefully will lead to an amended PGA filing with a lower average cost of gas effective November 1, 1983 than reflected in the instant filing.

Transco describes the foregoing changes as follows:

A. Tracking Rate Increase Under PGA Clause

This rate change amounts to an increase of 0.9¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S-2 and ACQ rate schedules. This increase is comprised of: (a) a 7.0¢ per dt increase in the current gas cost adjustment and (b) a 6.1¢ per dt decrease in the Deferred Adjustment. The 6.1¢ decrease in the Deferred Adjustment represents the difference between the currently effective positive Deferred Adjustment of 14.5¢ per dt and the proposed positive deferred adjustment of 8.4¢ per dt which is required to eliminate, over the six-month period commencing November 1, 1983, the debit balance of $34,279,005 accumulated in Transco's Unrecovered Purchased Gas Cost Account (FERC Account No. 191) at August 31, 1983.

B. Tracking Rate Adjustment for Curtailment Credits

In its tracking rate filing effective May 1, 1983, Transco had reflected a negative surcharge of 0.1¢ per dt to return an estimated overrecovery of $198,896 related to demand charge credits as of April 30, 1983. The instant filing reflects an increase of 0.1¢ per dt in the commodity or delivery charge under Transco's CD, G, OG, E, PS, S-2 and X-20 rate schedules. This increase, which serves to eliminate the aforesaid negative surcharge, is detailed in Appendix D hereof. Transco currently estimates that with the elimination of this negative surcharge there will be a small positive imbalance in this account as of October 31, 1983. Since positive surcharges and negative surcharges will never precisely result in a zero balance in the account, Transco proposes to transfer the October 31, 1983 balance in the account to a separate subaccount of Account 191 and reflect such balance along with other balances in Account No. 191 in its next PGA deferred account surcharge.

C. Industrial Sales Program (ISP) Surcharge (RP83-11 Settlement Agreement, Article II C)

In its tracking rate filing made May 1, 1983, Transco included a reduction of 20¢ per dt pursuant to the terms of the "Settlement Agreement as to Rates of Transcontinental Gas Pipe Line Corporation (Settlement Agreement)" approved by the Commission in Docket Nos. RP83-11-000 and RP83-30-000 on April 28, 1983. This 20¢ per dt reduction was effective for the period May 1, 1983 through October 31, 1983 and has been eliminated from the instant filing.

As a result of the aforesaid Settlement Agreement, Transco established a special subaccount within FERC Account 191 to account for the actual costs of gas purchased under the Industrial Sales Program for the six-month period commencing May 1, 1983. Details of additions and reductions to said special subaccount are included in Transco's filing.

Pursuant to informal agreement of parties to Docket No. RP83-11, Transco agreed to amortize the estimated balance in the ISP subaccount at October 31, 1983 over the twelve-month period commencing November 1, 1983. The surcharge from such amortization amounts to 8.5¢ per dt.

Transco states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27850 Filed 10-12-83; 8:45 am]

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VOL
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[Docket No. RP 83-137-000]

Transcontinental Gas Pipe Line Corp. Proposed Changes in FERC Gas Tariff

October 7, 1983.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on September 30, 1983, tendered for filing certain tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff. The proposed changes would increase revenues from jurisdictional sales, transportation and storage services by approximately $138 million annually based upon the 12-month period ended June 30, 1983, as adjusted. The proposed effective date of this rate change is November 1, 1983. However, since Transco has agreed, as part of the Commission-approved settlement of its rate proceeding in Docket Nos. RP83-11-000 and RP83-000 not to place increased rates into effect prior to April 1, 1984, Transco anticipates that the Commission will suspend this filing for the full five month period provided in Section 4(c) of the Natural Gas Act.

Transco states that the principal causes of the rate increase are (1) increases in operating and maintenance expenses; (2) an increase in rate base due primarily to increased take or pay payments reflected during the test period ending March 31, 1984; (3) an increase in the overall rate of return and related income taxes; and (4) a reduction in projected sales due to competitive factors.

In addition, *pro forma* tariff sheets were filed which would permit Transco to reflect in its GSS and S-2 storage rates any changes in the GSS rate of Consolidated Gas Supply Corporation or the X-28 rate of Texas Eastern Transmission Corporation, respectively.

Transco has also included revised sheets to its Rate Schedule T transportation tariff (to be denominated Rate Schedule T-1). In addition to an increase in transportation rates, Transco is proposing to establish separate rate levels for (a) service within the customer's firm sales level, and (b) service in excess of such firm sales level. A new Rate Schedule T-11 covering transportation service for customers not qualifying for service under Rate Schedule T-1 is also included in this filing. The company states that such new rates schedule is being proposed primarily to accord with the provisions of Order No. 319, issued July 20, 1983 in Docket No. RM81-29-000.

Copies of the filing were served upon the Company's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 2.14 and Rule 2.11 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27849 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-50-000]

Valley Gas Transmission, Inc.; Purchased Gas Cost Adjustment Filing

October 7, 1983.

Take notice that on September 29, 1983, Valley Gas Transmission, Inc. (Valley) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, its proposed "Twenty-sixth revised Sheet No. 2A". The proposed effective date is November 1, 1983.

Valley states that this tariff sheet is filed pursuant to its currently effective Purchased Gas Cost Adjustment Provision. The proposed changes involve Valley's "Current Surcharge Adjustment" and "Current Gas Cost Adjustment". The adjustments are supported by computations attached to the filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27851 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-32-000]

Vermont Electric Cooperative, Inc. v. State of Vermont Public Service Board and Vermont Department of Public Service; Complaint and Petition for Declaratory Order

October 7, 1983.

Take notice that on September 23, 1983, Vermont Electric Cooperative, Inc. ("VEC") submitted for filing its Complaint and Petition for Declaratory Order against the State of Vermont Public Service Board ("Public Service Board") and the Vermont Department of Public Service ("Department") pursuant to 18 CFR 385.206 and 385.207.

VEC submits that the Public Service Board has violated section 210 of the PURPA regulation, 16 U.S.C. 824a-3, and has acted contrary to the FERC rules implementing section 210 by establishing by rule a procedure that will determine rates without regard to VEC's avoided cost. Also, the Public Service Board has incorporated, as a floor, a rate of 7.8 cents/Kwh, which is higher than VEC's full avoided cost. VEC further submits that the Department has required that VEC purchase power from the Department.

Therefore, VEC requests that the Commission issue a declaratory order that the actions of Public Service Board are contrary to PURPA regulations section 210.

VEC requests that the Commission:

(a) Order the Public Service Board and the Department of Public Services to answer in writing this complaint within a reasonable time to be specified by the Commission.

(b) Issue a declaratory order stating that PURPA and the FERC rules do not permit average or composite state-wide rates and do not require any individual utility to pay more than its full avoided cost.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27852 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-388-000]

Electodyne Research Corp., Claymont, Delaware; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 7, 1983.

On August 22, 1983, Electrodyne Research Corporation (Applicant), of 1617 Sweetbriar Road, Gladwyne, Pennsylvania 19035, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in Claymont, New Castle County, Delaware. The primary energy source for the facility will be anthracite coal culms. The useful thermal output, which is in the form of process steam, will be sold to industrial facilities producing sulfuric acid, petrochemicals, and refined gasses. The facility will be expansible to meet future increases in thermal output demand. The electric power production capacity of the facility will be 56,339 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 824 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27838 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-430-000]

Energy Co-Gen, Inc., Fort Morgan, Colorado; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 7, 1983.

On September 19, 1983, Energy Co-Gen, Inc. (Applicant) of 2906 Kittredge Park Road, Evergreen, Colorado 80439, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Sterling Colorado Beef Company in Fort Morgan, Colorado. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 2600 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27840 Filed 10-12-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51484; TSH-FRL 2434-3]

Certain Chemicals; Premanufacture Notices

Correction

In the issue of Thursday, October 6, 1983, on page 45596 in the third column, a correction to FR Doc. 83-25153 appeared. The second correction was inaccurate and should have appeared as follows:

* * * * *

2. On page 45596, in the third column, in the last line of the paragraph, "227-272" should read "227, 272".

BILLING CODE 1505-01-M

[OPTS-51465C; BH-FRL 2451-1]

Alkyl-Substituted Aromatic Amine; Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notice (PMN) PMN 83-663, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Jones, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-216, 401 M st., SW., Washington, D.C. 20460, (202-382-3748).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a EMN to RPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date of receipt.

On April 22, 1983, EPA received PMN 83-663 for alkyl-substituted aromatic amine. The PMN substance will be imported for use as a chain extender for polyurethanes. The submitter of the PMN claimed its identity, chemical identity, and the import volume to be confidential business information. Notice of receipt of the PMN was published in the Federal Register of May 6, 1983 (48 FR 20490). The original 90-day review period, including a voluntary suspension by the submitter, is scheduled to expire on October 6, 1983.

VOL 48 ISS 199 OCT 13 1983 UMI

EPA's detailed analysis of the substance described in the PMN addressed the following: Effects on human health, human exposure, environmental release, ecological effects, degree of risk relative to available commercial substitutes, potential marketability, and the identification of other information which may be required to resolve outstanding issues.

As a result of this analysis, EPA has reason to believe the following:

1. Exposure to the PMN substance may result in adverse health effects, among which may be carcinogenicity.

2. During processing and use of the PMN substance, the potential exists for significant worker exposure.

Based on this analysis, EPA finds that there is a possibility that the substance submitted for review in PMN 83–663 may be regulated under section 5(e) of TSCA. The Agency requires an extension of the review period to further investigate potential health effects and use conditions, to examine its regulatory options and to prepare the necessary documents, should regulatory action be required. An administrative order under section 5(e) must be issued no later than 45 days prior to expiration of the review period. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to January 4, 1984.

PMN 83–663 is available for public inspection in Rm. E–107, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: August 10, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83–27782 Filed 10–12–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

September 30, 1983.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Persons wishing to comment on any of these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–7231.

Part or section number	Title
Part 22 (Sections 22.201, 22.203, 22.204, 22.207, 22.208, 22.300, 22.307, 22.406, and 22.512).	Public Mobile Radio Services.
Part 63 (Sections 63.01–63.63, 63.65, 63.66, 63.71–63.601).	Section 214 Application and Supplemental Information Requirements for Domestic Facilities.
Section 64.804	Extension of Unsecured Credit for Interstate and Foreign Communications Services to Candidates for Federal Office.
Section 73.045	AM Antenna Systems.
Section 73.061	AM Directional Antenna Field Measurements.
Section 73.066	Remote Control Authorizations.
Section 73.099	Presunrise Service Authorizations (PSA).
Section 73.157	Special Antenna Test Authorizations.
Section 73.158	Directional Antenna Monitoring Points.
Section 73.274	Remote Control Authorizations.
Section 73.295	Use of Multiplex Subcarriers.
Section 73.548	Automatic Transmission System Monitoring and Alarm Points.
Section 73.574	Remote Control Authorizations.
Section 73.642	Subscription TV Licensing Policies.
Section 73.677	TV Remote Control Authorizations.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–27754 Filed 10–12–83; 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–820702AK: MM Docket No. 83–1030 etc.]

Applications for Consolidated Hearing; Baldwin Broadcasting, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Baldwin Broadcasting, Inc.	Martin, Ky	BPH–820702AK	83–1030
B. Floyd County Broadcasting Co, Inc.	Allen, Ky	BPH–820908AR	83–1031

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. 307(b), A, B
2. Contingent Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83–27743 Filed 10–12–83; 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–811001AH: MM Docket No. 83–1017 etc.]

Applications for Consolidated Hearing; Eagle Rock Broadcasting Company, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Eagle Rock Broadcasting Company, Inc.	Idaho Falls, Id	BPH–811001AH	83–1017
B. The First One Broadcast Group	Idaho Falls, Id	BPH–811110OAH	83–1018
C. Pamela Ericson	Idaho Falls, Id	BPH–820521AM	83–1019
D. Celestino Montoya	Idaho Falls, Id	BPH–820524AG	83–1020

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and applicant(s)

1. (See Appendix) B, C
2. Air Hazard B
3. Comparative A, B, C, D
4. Ultimate A, B, C, D

3. If there is any non-standardized issue(s) in the proceeding, the full text of this issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Issue(s)

To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8*, the applicant(s) is financially qualified: B (First One), C (Ericson)

[FR Doc. 83–27749 Filed 10–12–83; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Marcells' Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Marcell's Inc	Augusta, Georgia	BPH–811104AM	83–1025
B. Wavelengths, Inc	do	BPH–820122AS	83–1026
C. Clarence Everett Jones, d/b as Santee-Cooper Broadcasting Co., Augusta, Ga.	do	BPH–820622AE	83–1027
D. Jack A. Carpenter and O. Anne Carpenter, d/b as Carpenter Broadcasting Co.	do	BPH–820624BP	83–1028
E. Wafar Communications, Inc	Clearwater, S.C	BPH–820624BU	83–1029

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Main Studio, A.
2. (See Appendix), A, B.
3. Air Hazard, C.
4. 307(b), All Applicants.
5. Contingent Comparative, All Applicants.
6. Ultimate, All Applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant, Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

2. To determine with request to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8*, the applicant(s) is financially qualified: A (Marcell), B (Wavelength).

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s) and Deficiency

A (Marcell): Applicant requires $111,500 for the first 3 months operation and construction costs. It has not submitted any documentation that this amount is available.

B (Wavelength): Applicant requires $244,318 for the first 3 months operation and construction costs. It has not submitted any documentation that this amount is available.

[FR Doc. 83–27745 Filed 10–12–83; 8:45 am]

BILLING CODE 6712–01–M

* Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s) and Deficiency

B (First One). Applicant requires $114,000 for the first 3 months operation and construction costs. It has not submitted any documentation that this amount is available.

C (Ericson). Applicant requires $104,911 for the first 3 months operation and construction costs. She has not submitted any documentation that this amount is available.

Applications for Consolidated Hearing; San Luis Valley Broadcasting, Inc. and DBL Broadcasting Corp.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM docket No.
A. San Luis Valley Broadcasting, Inc.	Monte Vista, Colorado	820602AL	83-1032
B. DLB Broadcasting Corp	do	821021AR	83-1033

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A, B.
2. Comparative, A, B.
3. Ultimate, A, B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554, Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-27744 Filed 10-12-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-1010, File No. BPH-821129AH, et al.]

Phoenix Media Corp. et al.; Memorandum Opinion and Order

In re applications of Phoenix Media Corp., MM Docket No. 83-1010, File No. BPH-821129AH; Barnes, London, & Lockhart d/b/a/ Long Island Radio, MM Docket No. 83-1011, File No. BPH-830223AA; Island Sound Communications, MM Docket No. 83-1012, File No. BPH-830223AB; and Nassau Broadcasting, Inc., MM Docket No. 83-1013, File No. BPH-830223AF; for interim authority to operate the facilities of former station WLIR(FM) Garden City, New York (92.7 MHz, Channel 224, 1 kW at 521 feet).

Adopted: September 21, 1983.
Released: October 4, 1983.

By the Commission.

1. The Commission, by the Chief, Mass Media Bureau acting under delegated authority, has before it for consideration the above-captioned mutually exclusive applications for interim operating authority.

2. In June of 1981, the Commission denied the license renewal application for Station WLIR(FM), Garden City, New York, *Stereo Broadcasting, Inc.*, 87 FCC 2d 87 (1981). *Reconsideration denied*, 50, RR 2d 1346 (1982). On December 23, 1982, Stereo Broadcasters dismissed its appeal of the Commission's decision. On January 13, 1983, the Commission released a Public Notice (Mimeo #1775) inviting applications for the frequency. Although no restrictions were placed on the filing of proposals for operation of the frequency on a regularly licensed basis, we did state our intention to reject as unacceptable for filing any application for interim authority containing parties who would have any interest in filing for regular use of the frequency. Consequently, the above applicants are independent of any potential regular licensee of the facilities.

3. Applicants are required by §73.3580 of the Commission's Rules to give local notice of the filing of their applications. We have no indication that Nassau Broadcasting, Inc. published the required notice. To remedy this deficiency, Nassau Broadcasting must publish local notice of the application, if it has not already done so, and so inform the Review Board within 20 days of the release of this Order, or an appropriate issue will be specified by the Board.

4. We find that the above applicants for interim authority are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they are being designated in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered. That, pursant to Sections 5(d) and 309(e) of the Communications Act of 1934, as amended, the above applications are designated for oral argument before the Review Board at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine which of the above applications would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, That within 20 days of the release of this order, Nassau Broadcasting, Inc. shall inform the Review Board as to whether local notice of filing of the application has been published.

7. It is further ordered, That the applicants SHALL SUBMIT their respective showings under the comparative issue within twenty days of the release of this Order.

8. It is further ordered, That the interim operator authorized shall compute it net profits by the accounting methods used for Federal income tax purposes and shall pay over to recognized local charities those net profits. Distributions shall be made at intervals not exceeding every three months and shall be in an amount not less than 80% of the accumulated net profits so computed.

9. It if further ordered, That the interm operator authorized shall, six months after the commencement of operation, file with the Commission an accounting of its revenues, expenses and net profits, if any, and the distribution of such net profits, and shall continue to submit such accounts thereafter at intervals of not more than every six months, during the term of the interim operation. The accounting should be submitted to the Chief, Audio Services Division.

10. It if futher ordered, That to avail themselves of the opportuinty to be heard, the applicants shall within ten days of the release of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the oral argument and present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, purusant of Section 311(a)(2) of the Communications Act of 1934, as amended, forthwith upon release of the Order fixing the time and date of the oral argument, cause to be published in a newspaper of general

circulation in Garden City, New Jersey, a notice of the hearing, either individually or jointly, in the manner prescribed by § 73.3594 of the Commissions Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-27756 Filed 10-12-83; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Special Deliverys Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Special Deliverys, Inc.	Winamac, Indiana	BPH-820526AL	83-1014
B. Thomas Arnett	do	BPH-821021AN	83-1015
C. Northstar Communications, Inc.	do	BPH-821021AO	83-1016

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A
2. Comparative A, B, C
3. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-27748 Filed 10-12-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Expense Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on November 1 and 2, 1983. The meeting will begin at 9:00 a.m. on November 1 and wil be open to the public. The meeting location is: AT&T Conference Room A (10th Floor), 1120 20th Street NW, Washington, DC.

The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effectie attainment of Subcommittee objectives. Anyone not a member of a Subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393-4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-27751 Filed 10-12-83; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. 83-525]

Facilities Planning in the Caribbean Region

October 4, 1983.

Members of the Common Carrier Bureau staff will convene a meeting of interested parties to the Caribbean Planning Process in Room 330, FCC, 1200 19th Street, NW., Washington, D.C. at 10:00 a.m. on Thursday October 13, 1983.

The agenda of the meeting will include: (1) The submission of the costed alternative plans; and (2) any comments on material already submitted in the Process.

For additional information, contact Margot Bester (202) 632-4047.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-27752 Filed 10-12-83; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

October 5, 1983.

Working Group D: Economic Analysis.

Chairman: Dr. Kirit Patel (212) 599-1528.

Date: Tuesday, October 18, 1983.

Time: 10:00 a.m.-1:00 p.m.

Location: Federal Communications Commission, 2025 M Street NW., Room 7317, Washington, D.C. 20554.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-27753 Filed 10-12-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; American State Bancorporation, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or

VOL
48
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at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American State Bancorporation, Inc.*, Kenosha, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of American State Bank, Kenosha, Wisconsin. Comments on this application must be received not later than October 28, 1983.

2. *Harvard Bancorp., Inc.*, Harvard, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Harvard State Bank, Harvard, Illinois. Comments on this application must be received not later than November 4, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Jackson Financial Corporation*, Mayfield, Kentucky; to become a bank holding company by acquiring 96 percent of the voting shares of The First National Bank of Mayfield, Mayfield, Kentucky. Comments on this application must be received not later than October 28, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Energy Bancshares, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The Energy Bank, N.A., Dallas, Texas. Comments on this application must be received not later than November 2, 1983.

2. *LBT Corporation*, Shreveport, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Louisiana Bank & Trust Company, Shreveport, Louisiana. Comments on this application must be received not later than October 28, 1983.

3. *New State Bancshares, Inc.*, Littlefield, Texas, (a subsidiary of Independent Bankshares, Inc., Abilene, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of State Bancshares, Inc., Littlefield, Texas. Comments on this application must be received not later than November 2, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *SJNB Financial Corp.*, San Jose, California; to become a bank holding company by acquiring 100 percent of the voting shares of San Jose National Bank, San Jose, California. Comments on this application must be received not later than November 4, 1983.

Board of Governors of the Federal Reserve System, October 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27739 Filed 10-12-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; First Mid-Illinois Bancshares, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Mid-Illinois Bancshares, Inc.*, Mattoon, Illinois; to acquire 100 percent of the voting shares or assetts of Mattoon Bank, Mattoon, Illinois. Comments on this application must be received not later than November 2, 1983.

Board of Governors of the Federal Reserve System, October 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27740 Filed 10-12-83; 8:45 am]

BILLING CODE 6210-01-M

Additional Extension of Comment Period; SSG, Ltd.

SSG, Ltd, Miami, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 33 percent or more of the voting shares of Southeast Banking Corporation, Miami, Florida. Notice of the application was published Wednesday, August 17, 1983 at page 37304 of the **Federal Register**. The comment period for the application originally expired September 9, 1983. A notice extending the comment period to September 30, 1983, was published in the **Federal Register** (FR Doc. 83-25283) at page 41646 of the issue for September 16, 1983. This notice is to announce an additional extension of the comment period. Comments on this application should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. no later than December 2, 1981.

Board of Governors of the Federal Reserve System, October 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27741 Filed 10-12-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Chase Manhattan Corp.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute,

summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (consumer and mortgage lending, loan servicing and insurance agency activities; Connecticut): To make or acquire, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including, but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans secured by real property; to service loans and other extensions of credit; and to act as insurance agent for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities. These activities will be conducted by a subsidiary, Chase Manhattan Financial Services, Inc., from a *de novo* office in Greenwich, Connecticut. Comments on this application must be received not later than November 4, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Lincoln County Bancorp., Inc.*, Troy, Missouri (sale of credit related insurance: Missouri): To engage *de novo* in acting as agent for the sale of credit life, accident and health insurance directly related to extensions of credit by Peoples Bank of Lincoln County and Winfield Banking Company, subsidiaries of Lincoln County Bancorp, Inc. These activities would be performed in the cities of Troy, Hawk Point and Winfield, Missouri and the surrounding rural areas. Comments on this application must be received not later than November 2, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bancorp*, Los Angeles, California (asset-based lending and servicing activities, midwestern states): To engage, through its subsidiary, First Interstate Commercial Corporation, in making or acquiring loans and other extensions of credit, such as commercial loans secured by a borrower's inventory, accounts receivable or other assets, and servicing loans. These activities would be conducted from an office located in St. Louis, Missouri, serving the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Indiana, Michigan, Illinois, Wisconsin, and Texas. Comments on this application must be received not later than November 4, 1983.

Board of Governors of the Federal Reserve System, October 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27738 Filed 10-12-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Mellon National Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reason a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania (data processing activities; New York): Proposes to engage, through its subsidiary, Mellon Financial Services Corporation #1, in data processing activities, including: providing data processing and data transmission services, data bases or facilities (including data processing and data transmission hardware, software, documentation and operating personnel) for the internal operations of the holding company or its subsidiaries; and providing to others data processing and transmission services, facilities, data bases or access to such services, facilities, or data bases by any technologically feasible means in accordance with section 225.4(a)(8) of Regulation Y. These activities would be conducted from an office in New York, New York serving clients throughout the United States and overseas. Comments on this application must be received not later than October 28, 1983.

2. *Mellon National Corporation*, Pittsburgh, Pennsylvania (data processing activities; Massachusetts): Proposes to engage, through its subsidiary, Mellon Financial Services Corporation #1, in data processing activities, including: providing data processing and data transmission services, data bases or facilities (including data processing and data transmission hardware, software, documentation and operating personnel) for the internal operations of the holding company or its subsidiaries; and providing to others data processing and transmission services, facilities, data bases or access to such services, facilities, or data bases by any technologically feasible means in accordance with section 225.4(a)(8) of Regulation Y. These activities would be conducted from an office in Newton, Massachusetts, serving clients throughout the United States and overseas. Comments on this application must be received not later than October 26, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation*, Charlotte, North Carolina (sale of money orders; North Carolina, Virginia): To engage through its subsidiary, TranSouth Financial Corporation, in the retail sale of money orders having a face value of

VOL 48 ISS 199 OCT 13 1983 UMI

not more than $1,000. These activities will be conducted from an office in Waynesville, North Carolina and offices in the cities of Chesapeake, Grafton, Hampton, Newport News, Norfolk, Petersburg, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, in southern Virginia. The geographic areas to be served will generally be within a 25-mile radius of each office. Comments on this application must be received not later than November 2, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin (mortgage banking and servicing activities; the United States): To engage through its subsidiary, M&I Mortgage Company, Inc., Madison, Wisconsin, in originating, acquiring, selling and servicing residential and commercial mortgage loans for its own account or for the account of others, as well as making construction and development mortgage loans and performing such other incidential activities necessary to conduct a mortgage banking business. These activities would be conducted from an office in Madison, Wisconsin, serving all 50 states. Comments on this application must be received not later than October 26, 1983.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; Tennessee): To engage through its subsidiary, Norwest Financial Tennessee, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks. These activities will be conducted from an office in Kingsport, Tennessee. This notification is for approval to open an office at the aforementioned location, and to engage *de novo* in the aforementioned activities from said office. Said office will serve Kingsport, Tennessee, and nearby communities. Comments on this application must be received not later than October 26, 1983.

2. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; Illinois): To engage through its subsidiary, Norwest Financial Illinois, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks. These activities will be conducted from an office in Lisle, Illinois. This notification is for approval to open an office at the aforementioned location, and to engage *de novo* in the aforementioned activities from said office. Said office will serve Lisle and Chicago, Illinois; and nearby suburbs of Chicago, Illinois. Comments on this application must be received not later than October 26, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon (consumer loan; credit insurance activities; California): To engage through its existing indirect subsidiary, Bancorp Credit Services, Inc., in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or the account of others, incuding, but not limited to consumer loans, installment sales contracts and other forms of receivables; acting as insurance agent with regard to credit life and disability insurance, property and casualty insurance, solely in connection with extensions of credit by Bancorp Credit Services, Inc., Bancorp relies upon the provisions of Section 225.4(a)(1), 225.4(a)(3), and 225.4(a)(9)(i) of Regulation Y and Section 601(A) and 601(D) of Title VI of the Garn-St Germain Depository Institutions Act. These activities will be conducted from and office located in Sacramento, California, serving all of the incorporated City of Sacramento. Comments on this application must be received not later than November 4, 1983.

Board of Governors of the Federal Reserve System, October 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27742 Filed 10-12-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Economic Analysis, Line of Business Program; Clearance of Individuals and Organizations

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for clearance of a voluntary survey of individuals and organizations who have recently expressed interest in the FTC's Line of Business Program.

SUMMARY: The Federal Trade Commission's Line of Business program has collected sales, expense, profitability, and asset data by line of business from about 450 of the nation's largest manufacturing firms. Aggregated data for 1974, 1975, and 1976 have been made available to the public in Annual Line of Business Reports, and data for 1977, which are currently being processed, should be published by the end of this year. The disaggregated data are also available to employees of the Line of Business program who may use them for research.

Before deciding whether or not to collect and publish data for years subsequent to 1977, the Commission directed its staff to conduct an analysis of the costs and benefits of the program. The Commission has also invited all interested parties to comment on the program.

Although the Commission found the public comments very helpful it intends to ask for more specific information about the use and potential uses of Line of Business data. When combined with information from other sources, the results of the survey will provide the Commission with improved information on which to base its decision concerning future data collection.

DATE: Comments on the request for OMB review must be submitted on or before November 14, 1983.

ADDRESSES: Send comments to FTC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 30001, Washington, D.C. 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Ronald S. Bond, Deputy Director for Operation and Research, Bureau of Economics, Federal Trade Commission, Washington, D.C. 20580 (202) 634-7810.

By Direction of the Commission.

Dated: September 21, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-27735 Filed 10-12-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Medicare Program; Monthly Actuarial Rates and Monthly Premium Rate

Correction

In FR Doc. 83-26869, beginning on page 44914, in the issue of Friday, September 30, 1983, make the following corrections:

1. On page 44916, in Table 5, in the last column on the right under "High cost projection" for the year 1985, the third line now reading "9.8" should read "8.8".

2. On page 44917, also in Table 5, in the first column headed "June 30, 1983", in the third line "$.225" should read "$2,225".

BILLING CODE 1505-01-M

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Ophtholmic Device Section of the Ophthalmic; Ear, Nose, Throat; and Dental Device Panel

Date, time, and place. November 17 and 18, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, November 17, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, November 18, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; Dr. George C. Murray, National Center for Devices and Radiological Health (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendation for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before November 1 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 17, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's), and may discuss specific PMA's for IOL's. If discussion of all pertinent IOL issues is not completed, discussion will continue the following day. On November 18, the committee will discuss PMA's for contact lenses, neodymium:yitrium-aluminum-garnet (Nd:YAG) lasers, other ophthalmic devices, and general issues relating to these devices. Copies of both contact lens and Nd:YAG laser guidances will be available to persons wishing to receive them.

Closed committee deliberations. On November 17 and 18, the committee will conduct reviews of PMA's for IOL's. On November 18, the committee will conduct reviews of specific Nd:YAG laser PMA's. The committee will also discuss trade secret or commercial information relevant to PMA's for contact lens products and ND:YAG lasers. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportuntiy to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reason stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for

VOL 48 ISS 199 OCT 13 1983 UMI

the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commerical or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: October 5, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-27772 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82P-0388]

General Medical Co.; Drionic® Iontophoretic Sweat Inhibition Device; Panel Recommendation on Petition for Reclassification; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that requested comment on the recommendations of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel that the Drionic® Iontophoretic Sweat Inhibition Device not be reclassified from class III (premarket approval) into class I (general controls). This document corrects two typographical effors.

FOR FURTHER INFORMATION CONTACT: Thomas J. Callahan, National Center for Devices and Radiological Health (HFK-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-14544 appearing at page 24981 in the issue of Friday, June 3, 1983, the following corrections are made:

1. On page 24981, second column, under "Supplementary Information," third paragraph, first line, "October 18, 1982" is corrected to read "October 8, 1982".

2. On page 24983, second column, second full paragraph, third line, the word "arest" is corrected to read "arrest".

Dated: October 6, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-27773 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83G-0318]

Beatrice Foods Co.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition (GRASP 3G0287) has been filed on behalf of Beatrice Foods, proposing that use of gum acacia (arabic) in alcoholic beverages up to a maximum level of 20 percent in the finished preparation (liqueur) is generally recognized as safe (GRAS).

DATE: Comments by December 12, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leo F. Mansor, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status (21 CFR 170.35), notice is given that a petition (GRASP 3G0287) has been filed on behalf of Beatrice Foods Co., c/o 135 South La Salle, Chicago, IL 60603, proposing to amend § 184.1330 *Acacia (gum arabic)* (21 CFR 184.1330) to permit the use of gum acacia (arabic) in alcoholic beverages up to a maximum level of 20 percent in the finished preparation (liqueur).

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the format requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as preliminary indication of suitability for affirmation.

Interested persons may, on or before December 12, 1983, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the requested use is, or is not, GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 3, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-27774 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0312]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-yl]amino]-2, 6-di-*tert*-butylphenol as a stabilizer in rubber articles intended for repeated use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3750) has been filed by Ciba-Geigy Corp., Three Skyline Dr. Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-yl]amino]-2, 6-di-*tert*-butylphenol as a stabilizer in rubber articles intended for repeated use which comply with 21 CFR 177.2600.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 3, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-27775 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-01-M

Elanco Products Co.; Methagon™ (Flumethasone) Injection; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Elanco Products Co. providing for use of Methagon™ (flumethasone) Injection for cattle, horses, dogs, and cats for treating various rheumatic, allergic, dermatologic, and other disease states responsive to anti-inflammatory corticoids. The firm requested withdrawal of approval

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinksy, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46285, is the sponsor of NADA 33-239, which provides for use of Methagon™ (flumethasone) Injection for cattle, horses, dogs, and cats for treating various rheumatic, allergic, dermatologic, and other disease states responsive to anti-inflammatory corticoids.

The application was approved on February 3, 1966. Approval of this NADA has not been codified in the Code of Federal Regulations. By letter of June 20, 1983, the firm requested withdrawal of approval of the NADA because the product is not being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 33-239 and all supplements for Elanco's Methagon™ (flumethasone) Injection is hereby withdrawn, effective October 27, 1983.

Dated: October 6, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-27776 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Vital and Health Statistics National Committee; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-643), notice is hereby given that the Subcommittee on Disease Classification and Automated Coding of Medical Diagnoses of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k)(2) of the Public Health Service Act, as amended (42 U.S.C. 242k), will convene on Monday, November 7, 1983, at 9:00 a.m. and on Tuesday, November 8, at 9:00 a.m. in Room 729G of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The Subcommittee will hear presentations from experts bearing on several critical issues in disease classification, medical nomenclature, automated coding systems, and diagnostic related groups.

Futher information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone 301-436-7122.

Dated: October 4, 1983.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 83-27797 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-17-M

Vital and Health Statistics National Committee; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-643), notice is hereby given that the Subcommittee on Uniform Minimum Health Data Sets of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k)(2) of the Public Health Service Act, as amended, (42 U.S.C. 242k), will convene on Friday, November 4, 1983, at 9:00 a.m. in Room 729G of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The Subcommittee will review the experience of various users with the Uniform Hospital Discharge Data Set, explore any problems reported by users, and make recommendations regarding the items and their definitions.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone 301-436-7122.

Dated: October 4, 1983.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 83-27798 Filed 10-12-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-2088]

Termination of Classification for Multiple-Use Management; Idaho

1. Pursuant to the authority delegated by BLM Manual Section 1203—Delegation of Authority (48 FR 85), I hereby terminate the Bureau of Land

Management Multiple-Use Classification Order dated June 14, 1968, and published in the Federal Register June 20, 1968, Vol. 33, No. 120, Page 9120–9121, insofar as it affected the lands described below:

Boise Meridian, Idaho

Tps. 2 N., 1 N., 1 S., 2 S., 3 S., and 4 S., R. 6 W.

T. 5 S., R. 6 W.,
Secs. 1 and 2, all;
Secs. 11 to 14, inclusive;
Secs. 23 to 25, inclusive;
Sec. 26, N½, N½SW¼, SW¼SW¼, SE¼ SE¼, N½SE¼
Sec. 35, NE¼NE¼, S½NE¼, W½, SE¼;
Sec. 36, all;

Tps. 6 S., 7 S., 8 S., 9 S., 10 S., 11 S., 12 S., 13 S., 14 S., 15 S., and 16 S., R. 6 W.

T. 2 N., R. 5 W.,
Sec. 6, lots 4, 5, 6 and 7, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 7, W½NE¼, W½, SE¼;
Sec. 8, SW¼;
Secs. 17 to 20, inclusive;
Secs. 25 to 36, inclusive.
T. 1 N., R. 5 W.,
T. 1 S., R. 5 W.,
Secs. 1 to 29, inclusive;
Sec. 30, lots 1 to 7, inclusive, S½NE¼, E½ SW¼, SE¼;
Sec. 31, all;
Sec. 32, N½, SW¼SW¼, SE¼;
Secs. 33 to 36, inclusive.

Tps. 2 S., 3 S., 4 S., 5 S., 6 S., 7 S., 8 S., 9 S., 10 S., 11 S., 12 S., 13 S., 14 S., 15 S., and 16 S., R. 5 W.

T. 2 N., R. 4 W.,
Secs. 28 to 33, inclusive.
T. 1 N., R. 4 W.
Secs. 4 to 10, inclusive;
Sec. 14, S½N½, S½;
Secs. 15 to 36, inclusive.

Tps. 1 S., 2 S., 3 S., 4 S., 5 S., 6 S., 7 S., 8 S., 9 S., 10 S., 11 S., 12 S., 13 S., 14 S., 15 S., and 16 S., R. 4 W.

T. 1 S., R. 3 W.,
Sec. 5, lots 3 and 4, S½NW¼, SW¼;
Secs. 6 and 7, inclusive;
Sec. 8, W½;
Sec. 17, W½;
Secs. 18 to 22, inclusive;
Secs. 27 to 36, inclusive.

Tps. 2 S., 3 S., 4 S., 5 S., 6 S., 7 S., and 8 S., R. 3 W.

T. 9 S., R. 3 W.,
Secs. 1 to 12, inclusive;
Secs. 15 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 10 S., R. 3 W.,
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 11 S., R. 3 W.,
Secs. 5 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 27 to 34, inclusive.
T. 12 S., R. 3 W.,
Secs. 3 to 10, inclusive;
Secs. 15 to 23, inclusive;
Secs. 26 to 35, inclusive.
T. 13 S., R. 3 W.,
Secs. 2 to 11, inclusive;
Secs. 14 to 23, inclusive;
Secs. 26 to 36, inclusive.

Tps. 14 S., 15 S., and 16 S., R. 3 W.

T. 1 S., R. 2 W.,
Sec. 31, all.
T. 2 S., R. 2 W.,
Secs. 6 and 7, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 31, inclusive;
Sec. 32, W½.
T. 3 S., R. 2 W.,
Sec. 5, lots 3 and 4, S½NW¼, SW¼;
Secs. 6 to 9, inclusive;
Secs. 16 to 22, inclusive;
Secs. 27 to 34, inclusive.

Tps. 4 S., 5 S., 6 S., 7 S., and 8 S., R. 2 W.

T. 9 S., R. 2 W.,
Secs. 1 to 12, inclusive.
T. 14 S., R. 2 W.,
Secs. 6 to 8, inclusive;
Secs. 14 to 23, inclusive;
Secs. 26 to 36, inclusive.

Tps. 15 S., and 16 S., R. 2 W.

T. 4 S., R. 1 W.,
Secs. 27 to 34, inclusive;
Sec. 35, S½.
T. 5 S., R. 1 W.,
Secs. 2 to 36, inclusive.
T. 6 S., R. 1 W.,
Secs. 2 to 10, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 7 S., R. 1 W.,
Secs. 4 to 8, inclusive;
Secs. 17 and 18, inclusive.
T. 15 S., R. 1 W.,
Secs. 14 to 23, inclusive;
Secs. 25 to 36, inclusive.
T. 16 S., R. 1 W.,
T. 5 S., R. 1 E.,
Sec. 7, all;
Sec. 8, W½;
Secs. 17 to 19, inclusive;
Sec. 30, all.
T. 16 S., R. 1 E.,
Sec. 6, lots 8 to 20, inclusive, SE¼NW¼, E½SW¼;
Sec. 7, lots 5 to 16, inclusive, E½W½;
Sec. 18, lots 5 to 16, inclusive, E½W½;
Sec. 19, lots 5 to 16, inclusive, E½W½;
Sec. 30, lots 5 to 17, inclusive, E½NW¼, NE¼SW¼.

The area described above contains approximately 1,186,700 acres.

2. As provided in the classification order, the following lands were segregated from appropriation under the general mining laws:

Boise Meridian, Idaho

Jump Creek Falls Site

T. 2 N., R. 5 W.,
Sec. 27, SW¼;
Sec. 28, SE¼SE¼;
Sec. 33, NE¼, SE¼SW¼, SE¼;
Sec. 34, W½NW¼.

This site contains 640 acres.

The remaining lands described above in paragraph 1, have been and will continue to be open to the mining laws, applications, and offers under the mineral leasing laws.

3. The segregative effect on the lands described in this order will terminate upon publication of this notice in the Federal Register as provided by the regulation in 43 CFR 2461.5(c)(2).

4. At 9:00 a.m. on November 7, 1983, the lands shall be open to operation of the public land laws and the lands described in paragraph 2 open to the mining laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 9:00 a.m. on November 7, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Operations, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Larry L. Woodard,

Associate State Director.

October 3, 1983.

[FR Doc. 83-27766 Filed 10-12-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 14326]

California; Realty Action, Modified Competitive Sale of Public Land in Nevada County

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

Mount Diablo Meridian, California

T. 17 No., R. 6 E.,
Sec. 1, Lot 21.

Containing 3.03 acres more or less.

The above described land is being offered for sale under modified competitive bidding to the surrounding landowners as designated below. The parcel is completely surrounded by private land and is difficult and uneconomic to manage as part of the public lands. The parcel is not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning system, and the public interest would be served by offering this land for sale.

Surrounding landowners are: Robert and Jean Greensfelder, Fred and Nancy Stutsman, San Juan Gold.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

Federal law requires that bidders be U.S. Citizens or, in the case of corporation, subject to the laws of any State of the U.S. Proof of Citizenship shall accompany the bid. The sale will be conducted by oral bidding. Bids must be made by the principal or his agent at the time of the sale. No bids will be accepted for less than fair market value and bids for the parcel must include all the lands in the parcel. The apparent high bidder will be required to submit a nonrefundable deposit of one-fifth of the full bid price immediately after the sale. The remainder of the full price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and deposit shall be forfeited. The sale will be held at 10:00 A.M., December 16, 1983, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-27770 Filed 10-12-83; 8:45 am]

BILLING CODE 4310-84-M

[C-36674 D-I & K]

Colorado; Realty Action Sale of Public Land in Delta County

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value. All minerals except oil, gas, and coal beneath all the parcels will be sold to the successful high bidder pursuant to regulations found at 43 CFR Part 2720. Except as just stated the mineral interests being offered for conveyance have no known value. A bid will also constitute an application for conveyance of those mineral interests offered for conveyance. The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Parcel	Legal description	Acreage
C-36674	Delta, Co, 6th Principal Meridian, Colo.	
D	T. 15 S., R. 95 W., Sec. 13, SW¼SE¼.	40.00
E	T. 15 S., R. 94 W., Sec. 19, NE¼SE¼.	40.00
F	T. 15 S., R. 94 W., Sec. 29, W½NE¼.	80.00
G	T. 15 S., R. 94 W., Sec. 32, W½NW¼.	80.00
H	T. 15 S., R. 94 W., Sec. 28, NW¼SW¼.	40.00
I	T. 15 S., R. 94 W., Sec. 32, SW¼SE¼.	40.00
K	T. 15 S., R. 95 W., Sec. 33, N½NW¼,NE¼SE¼, N½NW¼ NE¼NE¼SE¼.	6.25

Parcels F and G will be sold at public auction by competitive bidding. Parcels D, E, H, and I will be offered by public auction to adjacent landowners by competitive bidding. Parcel K will be offered directly to John F. and Kathryn F. Wolf at the appraised fair market value. The sale will be held at 10:00 a.m., December 14, 1983, at the Montrose District Office, 2465 South Townsend Avenue, Montrose, Colorado.

Bidding Information and Instructions: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or in the case of a corporation, be subject to the laws of any state of the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent. Each bid must be for all the land in a specified parcel.

Method of Bidding: Bids may be made either by sealed bids or personally at the sale. Bids sent by mail will only be considered if received by the Bureau of Land Management, Montrose District Office, 2465 South Townsend, Montrose, Colorado 81402, prior to 2:00 p.m., December 13, 1983. Bids accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the "Department of the Interior-Bureau of Land Management" for not less than one-fifth of the amount of the bid, must be in a separate sealed envelope within the transmittal envelope. The sealed envelope must be marked in the lower left-hand corner "Sealed Bid, Public Land Sale C-36674, Parcel Number —— (D, E, F, G, H, or I), Sale to be December 14, 1983". Sealed bids will be opened following bidder registration.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid for each parcel is announced. If two or more envelopes are received containing valid bids of the same amount for the same parcel, the successful bid shall be determined by drawing. The highest sealed bid will be the base for oral bids. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these. The successful high bidder, whether by sealed or oral bid, will be required to submit the remainder of the land payment by cash, certified check, bank draft, money order, or any combination of these within 30 days after the determination of the highest bid.

The declared high bidder will be required to deposit a $50.00 non-refundable filing fee with an application for the minerals to be conveyed in addition to 20% of the bid immediately at the sale. Failure to deposit these sums will result in the disqualification of the high bidder.

Post Sale Instructions: If final payment is not received within the specified 30 days, the high bid is rejected, the deposit is forfeited, and the land will be offered to the second highest bidder, subject to the same terms and conditions. All unsuccessful sealed bids will be returned within 30 days of the sale.

Patents will contain the following reservations to the United States:

1. Rights-of-way for ditches and canals constructed by the authority of the United States (26 Stat. 391; 43 U.S.C. 945).

2. Oil, gas, and coal, with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe (43 U.S.C. 1719).

Further, patents will be subject to:

1. All valid existing rights,

2. Oil and gas leases involving all parcels.

If any of the parcels do not sell at the December 14, 1983 sale, the sale will be adjourned and the unsold parcel(s) will be reoffered on a continuing basis to the parties stated in paragraph two of this notice beginning on December 15, 1983 at 7:45 a.m. at the Montrose District Office until the parcels are sold or withdrawn. If any of parcels D, E, H, I,

VOL 48 ISS 199 OCT 13 1983 UMI

or K, remain unsold after January 15, 1984, the unsold parcels will be reoffered on a competitive basis at the next Montrose District sale.

Detailed information regarding this sale, including the planning documents and Environmental Assessment, is available for review in the Montrose District Office. For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Montrose District Office. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

Glen R. Marlow,

Montrose District Manager.

[FR Doc. 83-27769 Filed 10-12-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Capital Region, Public Affairs; Public Meeting

The National Park Service is seeking public comments and suggestions on the planning of the 1983 Christmas Pageant of Peace, which opens December 15 on the Ellipse, south of the White House.

A public meeting will be held at the National Capital Region Building, 1100 Ohio Drive SW., 2nd floor, on November 1, at 10 a.m.

Interested persons who would like to comment at the meeting should notify the National Park Service by October 24, by calling the Office of Public Affairs between 9 a.m. and 4 p.m., weekdays at 426-6700. Persons who cannot attend the meeting can send written comments to: Regional Director, National Capital Region, 1100 Ohio Drive SW., Washington, D.C. 20242.

Dated: October 5, 1983.

Manus J. Fish,

Regional Director, National Capital Region.

[FR Doc. 83-27808 Filed 10-12-83; 8:45 am]

BILLING CODE 4310-70-M

National Park System Advisory Board, Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the National Park System Advisory Board will be held at Yosemite National Park, California, October 27 and 28, 1983. Immediately prior to the general business sessions, the Advisory Board will tour sites in Golden Gate National Recreation Area, and Point Reyes National Seashore, California, on October 22-25, and Yosemite National Park on October 26.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System.

The members of the Advisory Board are: Mr. Alan J. Underberg (Chairman) Rochester, New York; Mr. D. Lindsay Pettus, Lancaster, South Carolina; Mr. Raymond J. Nesbit, Sacramento, California; Mr. Robert H. Adams, Valley Center, California; Honorable Gordon Allott, Englewood, Colorado; Mr. Charles Cushman, Sonoma, California; Mr. Fred E. Hummel, Carmichael, California; Dr. Robin Winks, New Haven, Connecticut; Mr. S. J. DiMeglio, McLean, Virginia; Mr. Harold E. Mischnick, Sr., Lincoln, Nebraska; Mr. John F. Turner, Moose, Wyoming, and Dr. Fred Wendorf, Dallas, Texas.

In its general business sessions starting at 9:00 AM at the Ahwahnee Hotel, Yosemite National Park, the Advisory Board will consider administrative matters pertaining to the Board; receive and discuss several committee reports; consider and make recommendations on proposed national historic landmark designations; and review and discuss policy and management issues affecting the National Park System.

The meeting will be open to the public. Space and facilities to accommodate members of the public at the business sessions are limited and persons will be accommodated on a first-come-first-served basis. Members of the public wishing to participate in the inspection tour must provide their own transportation. Any member of the public may file with the Advisory Board a written statement concerning matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements may contact Shirley Leikens, Advisory Boards and Commissions, National Park Service, Department of the Interior, Washington, D.C. 20240 (202-343-2012).

Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3328, Interior Building, 18th and C Streets NW., Washington, D.C.

Jean C. Henderer,

Chief, Cooperative Activities Division, National Park Service.

[FR Doc. 83-27807 Filed 10-12-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the fifty-eighth meeting of the Board for International Food and Agricultural Development (BIFAD) on October 28, 1983.

The purpose of the meeting is to hear reports on recent developments in AID agricultural research programs and the activities of the Joint Committee on Agricultural Research and Development (JCARD); discuss a critique of Regional Strategic Plans; and receive a presentation on the Botswana Agricultural Education Project.

An invitation has been extended to W. Arthur Lewis, Princeton University, to make a presentation on a current topic in international agricultural development (but as of this writing it is not known whether he will attend).

The meeting will begin at 9:00 a.m. and adjourn at 12:30 p.m., and will be held in Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Coordinator Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Respresentative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: October 6, 1983.

Curtis Barker,

Deputy Coordinator, Research and University Relations, Bureau for Science and Technology.

[FR Doc. 83-27778 Filed 10-12-83; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-166]

Import Investigations; Certain Computerized Jacquard Pattern Cutting Systems; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 7, 1983, under section 337 of the Tariff Act of 1930 (19 U.S. C. 1337), on behalf of Viable Systems, Inc., P.O. Box 438, Needham, Massachusetts 02192. The complaint alleges unfair methods of competition and unfair acts in the importation of certain computerized jacquard pattern cutting systems into the United States, or in their sale, by reason of alleged (1) direct infringement, (2) contributory infringement, and (3) induced infringement of claims 11 and 14 of U.S. Letters Patent 4,004,135. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order or, in the alternative, a permanent cease and desist order.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on October 5, 1983, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain computerized jacquard pattern cutting systems into the United States, or in their sale, by reason of alleged (1) direct infringement, (2) contributory infringement, and (3) induced infringement of claims 11 and 14 of U.S. Letters Pateht 4,004,135, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Viable Systems, Inc., P.O. Box 438, Needham, Massachusetts 02192.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Grosse Webereimaschinen GmbH, Im Starkfeld 51, Postfach 1520, D-7910 Neu-Ulm, West Germany

Jerry Valenta & Sons, Inc., 1083 Goffle Road, Hawthorne, New Jersey 07506.

(c) Gary Rinkerman, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E. Street NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR § 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: Gary Rinkerman, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-4693.

By order of the Commission.

Issued: October 7, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-27880 Filed 10-12-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-145]

Import Investigations; Certain Rotary Wheel Printers; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commissoin has determined not to review the presiding officer's initial determination (Order No. 32) granting a joint motion (Motion No. 145-40) by complainant Qume Corporation (Qume) and respondent Fujitsu, Ltd (Fujitsu) to terminate the above-captioned investigation as to Fujitsu on the basis of a settlement agreement.

Authority

Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983; to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: On April 13, 1983, the Commission voted to institute investigations No. 337-TA-145, *Certain Rotary Wheel Printers*, on the basis of a complaint filed by Qume. Notice of the investigation was published in the **Federal Register** on April 20, 1983. 48 FR 16975. The purpose of this investigation is to determine whether there is a violation of section 337 in the unauthorized importation and sale of certain rotary wheel printers by virtue of their alleged infringement of certain claims of U.S. Letters Patent 4,118,129 (the '129 patent).

On August 30, 1983, Qume and Fujitsu filed a joint motion (Motion No. 145-40) to terminate Fujitsu as a respondent to this investigation on the basis of a settlement agreement. The motion was unopposed. The presiding officer issued an initial determination (Order No. 32) granting Motion No. 145-40 on September 7, 1983.

A notice seeking comments on the proposed termination of Fujitsu was published in the **Federal Register** on Sept. 12, 1983. 48 FR 40961 (1983). No

petitions for review or public or agency comments have been received.

Copies of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

Issued: October 4, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–27881 Filed 10–12–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–158]

Certain Plastic Light Screw Anchors; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Gary Rankerman, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Arthur Wineburg, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: October 5, 1983.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 83–27882 Filed 10–12–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–148 (Preliminary)]

Fresh Cut Roses From Colombia

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: September 30, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially retarded, by reason of imports from Colombia of fresh cut roses, provided for in item 192.18 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. John MacHatton, Supervisory Investigator, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0439.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on September 30, 1983, on behalf of Roses, Inc., the U.S. commercial rose growers trade association. The Commission must make its determination in the investigation within 45 days after the date of the filing of the petition, or by November 14, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in the investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of the nonconfidential version of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certification of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before October 28, 1983, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on October 24, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator, Mr. John MacHatton (202–523–0439), not later than October 21, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. MacHatton.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: October 5, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–27883 Filed 10–12–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 377–TA–161]

Certain Trolley Wheel Assemblies; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Harold Brandt, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Jeffrey Neeley, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: October 5, 1983.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 83–27884 Filed 10–12–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–150]

Certain Self-Stripping Electrical Tap Connectors; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on December 19, 1983, in Room 201, the Waterfront Center, 1010 Wisconsin Avenue, NW., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to hear argument on objections to exhibits, to get as many exhibits as possible into the record before the hearing starts, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: October 4, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83–27885 Filed 10–12–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–116 and 117 (Final)]

Carton-Closing Staples and Nonautomatic Carton-Closing Staple Machines From Sweden

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a hearing to be held in connection with the subject investigations.

SUMMARY: The Commission hereby announces that a hearing will be held in connection with the subject investigations beginning at 10:00 a.m. on November 8, 1983.

EFFECTIVE DATE: October 5, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Miriam Bishop, Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436 (202–523–0291).

SUPPLEMENTARY INFORMATION:

Background.—On June 2, 1983, the United States International Trade Commission instituted the subject antidumping investigations and scheduled a hearing to be held in connection therewith for August 11, 1983 (48 FR 28559, June 22, 1983). On August 2, 1983, however, the Department of Commerce informed the Commission that it was extending the investigations in response to a request from Josef Kihlberg Trading AB, a Swedish producer of the subject merchandise (notice published in 48 FR 36304, August 10, 1983). The effect of the extension was to change the scheduled date for Commerce to make its final less-than-fair-value determinations in the investigations from August 9, 1983, to September 15, 1983. Accordingly, the Commission cancelled the hearing scheduled for August 11 (48 FR 36009, August 8, 1983). On September 8, 1983, Commerce again extended the investigations, this time postponing the scheduled date for its final determinations until October 17, 1983 (48 FR 40533, September 8, 1983). As Commerce cannot extend the investigations further (see section 735(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1673d(a)(2)), the Commission is now establishing the remainder of its schedule for the investigations, which must be completed within 45 days of the date of Commerce's final determinations of sales at less than fair value (see section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on November 8, 1983, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 26, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on October 28, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 3, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23, as amended by 47 FR 33682, August 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, August 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 14, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations (procedures for entering an appearance in the investigations were established in the Commission's original notice (48 FR 28559, June 22 1983)) may submit a written statement of information pertinent to the subject of the investigations on or before November 14, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, August 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, August 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

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Issued: October 6, 1983.
Kenneth R. Mason,
Secretary
[FR Doc. 83-27866 Filed 10-12-83; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30291]

Railroads; Pocono Northeast Railway, Inc;, Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of two notes in the principal amounts of $450,000 and $375,000 by the Pocono Northeast Railway, Inc.

DATES: This exemption will be effective on October 12, 1983. Petitions to reopen must be filed by November 1, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30291 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative, Peter A. Gilbertson, 1575 Eye Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor was absent and did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-27800 Filed 10-12-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgment

Notice is hereby given that Rohm and Haas Company ("R&H") has filed with the United States District Court for the Eastern District of Pennsylvania a motion to terminate the final decree in *United States* v. *Rohm and Haas Co.*, Civil No. 9068; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the decree, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The complaint in this case (filed on November 18, 1948) alleged that R&H and its co-conspirators had established and participated in a worldwide cartel to fix prices and allocate territories in the production and sale of acrylic products. The decree (entered on November 18, 1948) enjoins R&H from entering into any agreements or adopting any course of conduct with the purpose or effect of reinstating any of the cartel agreements; from establishing the prices or terms under which acrylic products will be resold; and from discriminating in price, terms or conditions of sale against purchasers of acrylic products on the basis of intended use. The decree also enjoins R&H from, among other things, agreeing with any person:

1. To allocate markets, territories or customers for the sale or distribution of any acrylic product;
2. to establish the terms and conditions to be imposed in licensing others under patents or inventions relating to acrylic products;
3. to fix, maintain or determine the prices to be charged to any other person for any acrylic product;
4. to restrict or limit the production, distribution or sale of acrylic products; and
5. to limit research in the field of acrylic products.

Under the decree, R&H was ordered to grant all applicants nonexclusive and royalty-free licenses concerning specified patents and patent applications of R&H. Each of the patents encompassed by this order has now expired.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the decree would serve the public interest. Copies of the complaint and final judgment, R&H's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone 202-633-2481), and at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, United States Courthouse, 601 Market Street, Room 2609, Philadelphia, Pennsylvania 19107. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202-633-2425).

Joseph H. Widmar,
Antitrust Division Director of Operations.

[FR Doc. 83-27821 Filed 10-12-83; 8:45 am]
BILLING CODE 4410-01-M

United States v. GTE Corporation; Proposed Final Judgment and Competitive Impact Statement

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the Department of Justice publishes copies of the public comments, and its response thereto, on the proposed Final Judgment filed in the case of *United States* v. *GTE Corporation*, Civil Action No. 83-1298.

The comments of the Public Service Commission of West Virginia, the State of Hawaii and MCI Telecommunications Corporation were accompanied by documentary exhibits. These appendices are not being published herein. The exhibits of the Public Service Commission of West Virginia and the State of Hawaii will be available for inspection by the public at either the office of the Clerk of the Court, United States Courthouse, John Marshall Place, Washington, D.C. 20001, or at the Legal Procedure Unit, Antitrust Division, Department of Justice, 10th Street and Constitution Avenue NW., Washington, D.C. 20530. The availability for public inspection of certain MCI exhibits must be determined by the Court pursuant to its July 15, 1983, Order temporarily sealing the MCI submissions. Once this issue is finally determined by the Court, any unsealed exhibits submitted by MCI will be available for inspection by the public at either the office of the Clerk of the Court or at the Legal Procedure Unit, Antitrust Division, Department of Justice.

Joseph H. Widmar,
Antitrust Division, Director of Operations.

United States of America, Plaintiff, v. *GTE Corporation*, Defendant; Civil Action No. 83-1298.

Comments of American Telephone and Telegraph Company

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), American Telephone and Telegraph Company ("AT&T") submits these comments with respect to the proposed Final Judgment in this action.

The Final Judgment would permit GTE Corporation to acquire Southern Pacific Communications Company and Southern Pacific Satellite Company from the Southern Pacific Company. GTE would thereby combine, through common ownership, the interexchange operations of these Southern Pacific companies with GTE's existing exchange operations (the "GTOCs") and with GTE's existing research, development, and manufacturing operations.

The Modification of Final Judgment ("MFJ") in *United States v. Western Electric*, No. 82-0192 (D.D.C.), requires AT&T to terminate its integrated ownership of these same kinds of operations. Pursuant to that judgment, AT&T will, on January 1, 1984, divest the Bell System's exchange operations and facilities in the form of reconfigured BOCs to be held by seven separately-owned regional holding companies. *See* Opinion, July 8, 1983, No. 82-0192 (D.D.C.) at 3 n.5.

The Final Judgment in this action and the Modification of Final Judgment in *United States v. Western Electric* thus differ fundamentally in the degree of integrated ownership that is permitted GTE and AT&T in the telecommunications industry. This difference has potentially significant effects upon AT&T in its relation with GTE as competitor, customer, supplier, and partner in the provision of telecommunications services and equipment:

1. The Southern Pacific telecommunications companies are major competitors of AT&T in the interexchange market. Under the Final Judgment, they will be operated under common ownership with GTE's exchange access facilities, whereas the Modification of Final Judgment prevents AT&T's continued integrated ownership of its interexchange and exchange operations.

2. AT&T's interexchange operations will be the principal customer of the GTOCs' exchange access service in most market areas, where AT&T will face real or potential competition from the GTOCs' affiliate, Southern Pacific, which will also receive access service from the GTOCs.

3. AT&T will compete with GTE's manufacturing operations for sales of equipment to GTE's affiliated exchange and interexchange operations.

4. Bell System companies and the GTOCs have heretofore engaged in the provision of telecommunications services under a partnership arrangement through which costs were apportioned and revenues shared under settlement agreements. Under the Final Judgment, the GTOCs will phase out their existing interexchange facilities and partnership agreements. (Competitive Impact Statement at 17-21, 48 FR at 22029).[1]

The Department of Justice has stated that GTE's common ownership of Southern Pacific's interexchange operations raises the same antitrust issues as those in *United States v. Western Electric Co.* (Competitive Impact Statement at 6, 48 FR at 22027), and in several respects the GTE Final Judgment parallels the MFJ. But on the fundamental issue of common ownership of exchange and interexchange facilities, GTE's Final Judgment reflects a different, inconsistent resolution of the Justice Department's suit to prevent GTE's unrestricted common ownership of such operations.

For these reasons, AT&T has grave concerns about its position in the industry as restructured by the MFJ and the Final Judgment. AT&T therefore requests the right to participate in support of its interests in further proceedings that the Court may order with respect to the Final Judgment, including GTE filings in implementation of the Final Judgment,[2] any response to public comments and the Justice Department's reply to such comments.

Respectfully submitted,
Alfred A. Green,
Jim G. Kilpatric,
Francine J. Berry,
195 Broadway,
New York, New York 10007
John D. Zeglis,
Lee M. Mitchell,
1722 Eye Street, N.W., Washington, D.C. 20006, (202) 429-4000
Attorneys for American Telephone and Telegraph Company.
Of Counsel:
Howard J. Trienens,
Sidley & Austin

Dated: July 15, 1983.

United States of America, Plaintiff, v. *GTE Corporation*, Defendant; Civil Action No. 83-1298.

Comments of Ameritech on the Proposed Final Judgment

These comments are submitted on behalf of American Information Technologies Corps., ("Ameritech"), the proposed holding company for the Bell operating companies in the states of Illinois, Indiana, Michigan, Ohio and Wisconsin. Ameritech will be an actual or potential competitor of GTE in certain non-regulated products and services, including CPE and directory advertising. The proposed decree (*GTE* Decree) will afford GTE substantially more competitive freedom than Ameritech will have, so long as the line-of-business restrictions of the Modified Final Judgment (*AT&T* Decree) in *U.S.* v. *Western Electric*, 1982-2 Trade Cas. (CCH) ¶ 64,900 (D.D.C. 1982), preclude Ameritech from providing interexchange telecommunications, information services and other products and services that GTE may provide. Nevertheless, Ameritech believes the basic provisions of the proposed decree are consistent with the common competitive objectives of the *GTE* and *AT&T* Decrees and are in the public interest.

A. Comparison of the GTE and AT&T Decrees

The common objective of the two decrees is to promote competition in intercity telecommunications and information services. The two decrees are designed to remove any incentive and ability of telephone operating companies to impede competition in those markets by improperly leveraging any monopoly characteristics of their local exchange franchises. Thus, both decrees are designed to prevent operating companies from favoring affiliated companies in those markets and from subsidizing intercity and information services with profits from their regulated exchange operations.

The two decrees contain identical substantive provisions requiring the Bell and GTE operating companies to provide equal access to all intercity carriers and information service providers and prohibiting discriminatory treatment of carriers and providers not previously or currently affiliated with the operating companies. (AT&T Decree ¶ II A, B; GTE Decree ¶ V VA, B). These provisions effectively remove any ability of the operating companies to impede competition in the intercity and information services markets.

As an additional safeguard, both decrees provide for structural separation of operating companies from intercity and information services functions, in order to remove any incentive for potential abuse of any exchange monopoly power in the intercity and information service market. However, the decrees fundamentally differ in the structural separation required.

The *AT&T* Decree achieves complete structural separation of the Bell System's exchange operations from its intercity and information services businesses by requiring AT&T to divest the Bell operating companies and by initially prohibiting the operating companies from engaging in interexchange telecommunications and information services. (*AT&T* Decree ¶ II D1.) The Bell

[1] The Bell System's divested BOCs may likewise be affected by the difference in the two decrees. For example, the BOCs are prohibited entirely from providing information services (MFJ, Section II), but the GTOCs may continue to offer information services through separate organizations (and, directly after five years).

[2] On July 5, in accordance with paragraph i(H) of the proposed Final Judgment, GTE filed proposed GTOC Exchange Areas, and, in accompanying documentation, GTE identified a number of instances where its proposals differed from BOC classifications of Bell-Independent traffic and of the resulting BOC associations of ITC territory with BOC LATAs. The Court's opinion of July 8, 1983 in *United States v. Western Electric* is dispositive of all questions—including those raised in GTE's July 5 submission—relating to BOC LATAs and the association of BOC LATAs with adjacent ITC territory. GTE's submission of Exchange Areas should therefore be modified to conform to the Court's July 8 opinion in the related AT&T case. *See* Memorandum Opinion dated May 6, 1983, granting the Department's request to treat the GTE proceedings as a "related case" to *United States v. Western Electric*, at pp. 3-4.

operating companies or their regional holding companies may re-enter the intercity and information services businesses with the approval of the Court upon a showing that their is no substantial possibility of their use of any monopoly power to impede competition in those markets. (*AT&T* Decree ¶ VIII C.)

The *GTE* Decree permits GTE to enter the intercity telecommunications business on a significant scale by acquiring Southern Pacific Communications Company (SPCC) and Southern Pacific Satellite Company (SPSC). To limit any incentive for the GTE operating companies to favor SPCC and SPSC over other intercity carriers and to prevent cross-subsidization, the *GTE* Decree contains a complex series of restrictions to maintain separation of the acquired entities from the operating companies. Thus, it provides for the separation of assets, facilities, directors, personnel, books of account, costs and expenditures (¶ IV A1, 2), prohibits the disclosure of proprietary operating company telecommunications information to the acquired entities (¶ IV A3), prohibits the acquired entities from obtaining certain support services from, or providing such services to, the operating companies (¶ IV A4), regulates the acquired entities' acquisition of services, products and information from GTE (¶ IV A7), and prohibits the operating companies and the acquired entities from jointly providing telecommunications or information services (¶ IV A6).

The *GTE* Decree contains a provision similar to that of the *AT&T* Decree prohibiting the GTE operating companies from providing interexchange telecommunications, but provides for a transitional phase-out of their existing interexchange operations. (*GTE* Decree ¶ V C.) Unlike the *AT&T* Decree, which prohibits the Bell operating companies from providing information services without the Court's approval, the *GTE* Decree permits the GTE operating companies to provide such services through separate subsidiaries or divisions, subject to certain separation requirements. (*GTE* Decree ¶ V D2.)

The *GTE* Decree does not contain provisions similar to those of the *AT&T* Decree that prohibit the Bell operating companies, without Court approval, from engaging in lines of business other than exchange telecommunications, exchange access, CPE marketing, directory advertising and monopoly services regulated by tariff. (*AT&T* Decree ¶¶ II D3, VIII A, B.) Thus, GTE is permitted to engage in any business within or without the telecommunications industry, subject to the decree's requirement of structural separation between its exchange operations and intercity and information services businesses.

In short, the two decrees have the identical purpose of preventing operating companies from impeding competition in the intercity and information services markets by leveraging their exchange franchises. The decrees impose substantively identical equal access and nondiscrimination obligations on the Bell and GTE operating companies, but adopt different structural models to promote competition in the intercity and information services markets.

B. The Adequacy of the GTE Decree

While the structural separation provisions of the *GTE* Decree are substantially different than the absolute line-of-business restrictions imposed on the Bell operating companies and their regional holding companies at the outset by the *AT&T* Decree, Ameritech believes the *GTE* Decree is fully adequate to ensure the common objectives of the two decrees. Indeed, the *GTE* Decree provides redundant protections against the GTE operating companies' leveraging of their exchange operations in the intercity or information service markets. First, the decree's equal access provision unequivocally requires that exchange access, information access and exchange services be provided to all intercity carriers and information service providers on an equal basis. (¶V A.) Second, the nondiscrimination provisions reinforce that obligation by prohibiting the operating companies from discriminating a favor of GTE's intercity or information services business in planning for and providing exchange or information access. (¶V B.) Third, the structural separation provisions of the decree effectively insulate the management and operation of GTE's exchange telecommunications business from its intercity and information services businesses and prohibit the joint marketing of intercity and information services with exchange services. (¶¶ IV A, B, C; V D.) Finally, the decree's provisions for the separation of assets, facilities, services, books of account and costs, combined with the ratemaking oversight provided by federal and state regulators, provided effective safeguards against any cross-subsidization of GTE's intercity and information services operations. (¶¶ IV A; V D2.) These redundant and mutually reinforcing safeguards effectively remove any opportunity for GTE to leverage its exchange operations in the intercity and information services businesses.

The Department of Justice distinguishes the different structural provisions of the *AT&T* and *GTE* Decrees on the ground that they address different factual contexts. The Department notes that AT&T "historically has been fulled integrated, with common facilities, personnel and joint and common costs." *Competitive Impact Statement* at p. 44. In the GTE context the Department states that "the separate subsidiary requirement is imposed on the two firms that have never been integrated . . . ." *Id.* Thus, "[u]nlike the situation in *AT&T*, where a vertically intergrated structure had been in existence for more than a century, GTE has never been operated in common with SPCC." *Id.* at p. 50.

C. The Public Interest

Approval of the *GTE* Decree will serve the public interest. The decree affords GTE the opportunity to engage in all aspects of the telecommunications business, as well as any business outside the telecommunications industry, while adequately protecting against the leveraging of any monopoly power by the GTE operating companies. It thus provides the public the benefits of a strong and effective competitor in GTE's existing and newly-acquired businesses, as well as any other business GTE may choose to enter in the future. In particular, it provides the benefit of GTE's participation in the intercity telecommunications market as a competitor of AT&T.

Indeed, Ameritech believes the structural model of the *GTE* Decree is substantially more consistent with the public interest than the rigid line-of-business restrictions of the *AT&T* Decree. Even if those restrictions are considered appropriate at the outset to effectuate the divestiture of the integrated Bell System, they are both unnecessary and contrary to the public interest once the Bell operating companies are divested. The equal access, nondiscrimination and structural separation provisions of the *GTE* Decree fully achieve the two decrees' common objective of promoting competition in the intercity market.

The line-of-business restrictions on the Bell regional and operating companies will not serve the public interest in the longer term. They limit the opportunities of the Bell regional companies to enter and become effective competitors in all but limited areas of the telecommunications industry. Of particular concern, they prevent the regional companies from engaging in intercity and information services, which are among the fastest growing and most profitable aspects of the industry. By restricting the Bell regional and operating companies' business opportunities, the line-of-business restrictions ultimately could compromise their ability to remain financially viable and to provide leading-edge technology to the millions of customers they serve.

Ameritech supports the basic concept of the *GTE* Decree as the appropriate structural model to permit the Bell regional companies to enter the intercity and information services markets in the future, consistent with the procompetitive objectives of the MFJ.

Conclusion

For the reasons stated, Ameritech supports the basic provisions of the proposed *GTE* Decree as consistent with the decree's competitive objectives and in the public interest. The equal access, nondiscrimination and structural separation provisions of the decree provide ample and redundant protection against any leveraging of GTE operating companies' exchange operations in competitive markets. The line of business restrictions initially imposed on the Bell operating companies by the *AT&T* Decree are not needed to prevent any such leveraging.

Kenneth E. Millard,
Jeffrey J. Kennedy,
Attorneys for Ameritech.

Of Counsel:
Kirkland & Ellis,
200 Randolph Drive, Chicago, Illinois 60601,
(312) 861-2000.
July 15, 1983.

Harry E. German, 962 Alla Avenue, Concord, CA. 94518

June 1, 1983.

Federal Communications Commission,
Washington, D.C.

Dear Gentleperson: I am writing to express my opposition to the proposed merger of *Southern Pacific Company's Sprint* system with that of GTE.

This proposed merger would form an oppressive, monopolistic communications company which would only serve to create unconstitutional restraint of trade and stifle competitive free enterprise, which will cause unconscionable impairment to the public interest in America.

The unlawful combination of *Sprint* and *GTE* would create excessively high phone rates by allowing absolute control of "communication corridors" and their corresponding tariff rate structures by GTE.

For this reason, such 'horizontal conglomerate growth' has been prevented by the patriotic fortitude of our members of the executive, legislative, and judicial branches of our government. To allow *GTE's* acquisition of *SPRINT*, would only serve to hasten the destruction of economic freedom of competition that is so cherished by the American people.

The collateral repercussions of allowing such an illegal combination would be to fuel the rise in inflation and interest rates by increasing the *daily* money supply by $750 million, and billions of dollars ———— in anticipated bank loans would be generated from such a massive dose of "borrowed money"—further increasing the money supply and raising interest rates. Should such an economic catastrophe be allowed to occur, most economists (such as Greenspan, Soloman, Dean Whittier, and Merle Lynch—and other well known brokerage houses and economists) have predicted interest rates of 20%–25%. Such business "arrangements" proposed by Southern Pacific and GTE would only serve to kill and destroy America's rebound from the recession.

Finally, it has often been mentioned to me (by Southern Pacific's management personnel) that *Southern Pacific Company's Sprint* subsidiary employs jamming devices that destroys the electronic capacity for communications via satellite that the *MCI* company relies upon to service its customers. The bad faith of Southern Pacific Company is already apparent, and could most easily be carried on to a greater degree by *GTE*. Southern Pacific Company has run the Sprint company (ie. the 'communications company') most profitably since its inception. Phone rates are only beginning to be competitive. Please do not allow these companies to erode the health of the economy. Please prevent non-competitive atmospheres in the industry. The American people look to our country's leaders to protect them from oppressive business enterprises. It is easily foreseeable by the most common layperson that railroad monopolies and communication oligopolies destroy our country's economic, social, and political structure.

Please make America stronger and strike down this proposal between Southern Pacific Company and GTE.

Sincerely,

Harry E. German.

United States of America, Plaintiff, v. *GTE Corporation,* Defendant; Civil Action No. 83-1298.

Comments of the State of Hawaii

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act,[1] commonly known as the Tunney Act, the State of Hawaii ("State"),[2] by its attorneys, hereby submits its comments on the "Final Judgment" entered into by the United States and the GTE Corporation ("GTE") and filed with this Court on May 4, 1983 in the above-captioned proceeding.

I. Interest of the State of Hawaii

Hawaii is one of the states of the Union. GTE, through its wholly-owned operating company, Hawaiian Telephone Company ("HTC") is the overwhelmingly dominant provider of telecommunications services in Hawaii. HTC currently provides intrastate exchange services and intrastate toll services in the State; interexchange services between the State and the Mainland; interexchange services between the State and United States overseas points such as Guam, American Samoa and the Northern Mariana Islands; and international services between the State and foreign points. Southern Pacific Communications Company ("SPCC"), now operating as GTE Sprint, currently provides interstate interexchange services between Hawaii and the Mainland.[3]

The Court's decision concerning both the acquisition itself and the conditions of the acquisition as embodied in the Final Judgment will have a direct and significant impact upon telecommunications services in Hawaii. The State is a user of these services, virtually all its citizens use these services and its economy is directly affected by the availability, quality and cost of these services. The State, therefore, has an interest to assure that adequate telecommunications services remain available in Hawaii, at reasonable cost.

II. Summary of Argument

Under the Tunney Act, the Court must consider whether the Final Judgment is consistent with the public interest. In making this determination, the Court is to consider "the competitive impact of the Judgment . . . and the impact of entry of such judgment upon the public generally."[4] As the Court has stated, it must assess both the effects on competition and on other important public policies.[5]

On the limited information which has been made available, neither interested parties nor the Court can make a reasoned assessment as to whether or not the Final Judgment comports with the public interest. The Final Judgment comports with the public interest. The Final Judgment approves the acquisition by GTE of a competitor in the Hawaii-Mainland interexchange telecommunications market. In vitally import areas, the provisions of the Final Judgment are confusing, unclear and conflict with the representations contained in the Competitive Impact Statement. A number of fundamental issues are unresolved, such as whether HTC currently the dominant interexchange carrier, serving Hawaii, is barred from providing interstate interexchange service and the entity or entities which will control the major facilities for the provision of Hawaii-Mainland interexchange service. Depending upon how these crucial issues are resolved, the Final Judgment also leaves unanswered basic policy issues, such as whether or not the provision of basic services will be disrupted and whether large rate increases in local service will result. The Final Judgment apparently would also necessitate a division between HTC's local exchange and interstate operations but provides no details as to bow the separated operations will be structured. There is no assurance that HTC can continue to provide an economically viable local exchange service.

Thus, the proposal before the Court presents very serious questions about the quality of competition, and the viability of the company which will continue to provide local exchange service as well as the effect on local rates. The Court in *United States* v *American Telephone & Telegraph Co.*, a precedent that the parties to the settlement seek to invoke, has addressed these issues. In contrast to that precedent, this case presents an acquisition where the acquiring company greatly benefits from the proposal. Thus the concern for the quality and price of local service and for the preservation of competition may be even greater in the instant case.

In the State's view, before the Court can even begin to make a public interest assessment, it must require, on the record, clarification of the terms of the Final Judgment. In addition, it must require the submission of additional information on the record which specifies the manner in which the Final Judgment will be implemented *e.g.*, a Plan of Reorganization. After these additional submissions are filed, the State and other interested persons will be in an adequate position and should be provided with an opportunity to comment on whether

[1] 15 U.S.C. 16(b) (1976). *See Memorandum Order* at 1, *United States* v. *GTE Corp.*, No. 83-1298 (D.D.C. filed June 10, 1983).

[2] These comments are filed by the State of Hawaii, acting through its Governor and the Department of Commerce and Consumer Affairs.

[3] HTC is the monopoly provider of local exchange services and international services. In partnership with AT&T, it is the overwhelmingly dominant provider of Hawaii-Mainland telephone services and possesses all but a negligible share of this market. HTC also is a major provider of Hawaii-Mainland private line services. HTC owns the facilities used to provide its excchange, domestic interexchange and foreign services. The State's pleading before the Federal Communications Commission concerning this acquisition set forth in greater detail the relevant markets in this case. *See, e.g.* State of Hawaii Petition to Deny Unless Conditioned, ENF-83-1 (filed Dec. 3, 1983) (refiled Dec. 6, 1982). State of Hawaii Reply ENF-83-1 (filed Dec. 30, 1982).

[4] 15 U.S.C. 16(e) (1976).

[5] *United States* v. *American Telephone & Telegraph Co.*, 522 F. Supp. 131 (D.D.C. 1982), *aff'd sum. sub nom. Moryland* v. *United States* — U.S. —, 103 S. Ct. 1240 (1983). The Court has stated that it "would be justified in rejecting the proposed decree of requiring its modification if it concluded that the decree unnecessarily conflicts with important public policies other than the policy embodied in the [antitrust laws]." *Id.* at 151.

or not the Final Judgment should be approved and what modifications, if any, must be made to further the public interest. In the State's view, the Court, if it approves the Final Judgment, should assure that HTC and the other operating companies do not bear the costs of equal access. Although the Court, with additional information, may find the Final Judgment is not in the public interest or other conditions may be warranted if it approves the acquisition, at a minimum, it should impose the conditions proposed by GTE and accepted by the Commission relative to Hawaii.

III. There is Insufficient Information for the Court To Assess Whether the Final Judgment Comports with the Public Interest

A. *Prohibition on Interexchange Services*

One of the most confusing aspects of the Final Judgment relates to the ability of HTC to continue to provide interstate interexchange services. Section V.C.1 of the Final Judgment appears by its terms to flatly prohibit any GTE operating company ("GTOC") including HTC,[6] from providing any interexchange services in the United States:[7]

> No GTOC shall provide interexchange telecommunications services or own jointly with GTE or any other person facilities that are used to provide such service . . .[8]

The Competitive Impact Statement ("CIS") appears to be at odds with the absolute prohibition against the provision of interexchange services that Section V.C.1 would suggest. The "explanation" in the CIS is that "there is a ban on the provision by the GTOCs of interexchange services *beyond those currently existing*."[9] The CIS states that there is "a general prohibition against *expansion* by the GTOCs of their present interexchange functions."[10] The implication of this statement is that HTC is free to continue to provide the interstate services that it offers but is prohibited from providing new types of interexchange services or generally expanding the scope of existing services.

Unlike the situation with the other independent companies, HTC actively markets interstate services. HTC maintains its own MTS and WATS tariffs with the Federal Communications Commission apart from the tariffs filed by AT&T for its MTS and WATS service.[11] AT&T's MTS and WATS tariffs provide for service from the Mainland to Hawaii[12] whereas HTC's MTS and WATS tariffs[13] provide for service from Hawaii to the Mainland.[14] In addition HTC maintains its own interstate private line tariffs.[15] Therefore, there can be little doubt that HTC in fact provides interstate services its role is not limited to the provision of interexchange facilities.

The interpretation of this provision has immediate and profound effects upon the State. A partnership comprised of HTC and the American Telephone & Telegraph Company ("AT&T"), provides interstate Message Telecommunications Service ("MTS") and Wide Area Telecommunications Services ("WATS") between Hawaii and the Mainland. HTC's partnership with AT&T differs from AT&T's partnership with any other GTE operating company, and indeed with any other independent telephone company.

A literal interpretation of Section V.C.1 presents a number of significant problems and uncertainties. First, it arises the spector of immediate and profound disruption of basic service. HTC is the overwhelmingly dominant provider of interstate telephone services between Hawaii and the Mainland. Indeed, until SPCC extended its SPRINT service to Hawaii on May 5, 1983,[16] HTC was the only facilities-owning carrier which provided these services although SPCC does not presently own the facilities that it uses to provide Hawaii-Mainland service. Although at the present time, alternatives to HTC exist in the provision of interstate telephone service, the other carriers providing these services, in the aggregate, possess only a negligible share of the Hawaii-Mainland telephone service market. It would be impossible for these carriers to immediately absorb all the customers of the dominant carrier and provide those carriers equal access to the local exchange. If the present provider were suddenly prevented from providing basic interstate telephone service, as the Final Judgment apparently suggests, services disruptions could occur[17] and there is nothing in the record to show how disruption would be avoided.

Moveover, as described in greater detail in II.B., *infra*, there is significant uncertainty surrounding the disposition of HTC's interexchange facilities, as well as the carrier or carriers which will utilize these facilities to provide Hawaii-Mainland telecommunications services. The uncertainties relating to the disposition of these facilities would only magnify the disruption resulting from an immediate ban in the continued provision of interstate interexchange services by HTC.

Second, an immediate ban on the provision of interexchange services could result in precipitous increases in local rates. HTC's interstate services are significantly more profitable than its intrastate operations. HTC expects to obtain approximately $164.2 million revennes for its interstateservices in 1982 and incur approximately $71.8 million in operating expenses for its interstate services in 1983. For local exchange service, it expects to obtain only approximately $140 million in revenues in 1983 but expects to incur approximately $101 million in operating expenses.[18]

If the revenues from HTC's interstate services are suddenly curtailed, a danger exists that the company may have to recover the sharp reduction in revenues from the local ratepayers, thereby threatening the public interest objective of maintaining universal service.[19] There is no showing of how HTC's viability will be maintained, or the effects on local exchagne service or local exchange rates.

In *United States v. American Telephone & Telegraph Company*, the court recognized the importance of protecting the local operating companies that provide basic service:

> [T]he Court expects . . . to do what it legitimately can to strengthen the ability of the Operating Companies to function as viable entities, not dependent upon inordinate rate increases for their survival. . . . [T]he health of the Operating Companies is . . . a legitimate concern of the Court. . . .

[6] HTC is specifically listed as a GTF Operating Company ("GTOC") in the Final Judgment, *see*, Final Judgment at II.K and App. A, *United States* v. *GTE Corp.*, No. 83-1298 (D.D.C. filed May 4, 1983) [hereinafter referred to as "Final Judgment"].

[7] Section V.C.1 of the Final Judgment specifically permits HTC to continue to provide international services. *Id.* at V.C.1.

[8] *Id.* at V.C.1.

[9] Competitive Impact Statement at 9, *United States v. GTE Corp.*, No. 83-1298 (D.D.C. filed May 4, 1983) [hereinafter referred to as "CIS"] (emphasis added).

[10] *Id.* at 18. (emphasis added)

[11] *See* Hawaiian Telephone Co., Tariff F.C.C. No. 4; Hawaiian Telephone Co., Tariff F.C.C. No. 13.

[12] *See* American Telephone & Telegraph Co., Tariff F.C.C. No. 259, at 17th Revised Page 15 through 6th Revised Page 23.1; American Telephone & Telegraph Co., Tariff F.C.C. No. 263, at 15th Revised Page 28.2.

[13] *See* Hawaiian Telephone Co., Tariff F.C.C. No. 1, at 5th Revised Page 8, 29th Revised Page 17. Hawaiian Telephone Co., Tariff F.C.C. No. 13, at 1st Revised

[14] HTC's Hawaii-Mainland MTS tariff contain the same rates as AT&T's Mainland-Hawaii MTS tariff but HTC's WATS tariff contains both rates and a rate structure which is different from those of AT&T.

[15] *See* Hawaiian Telephone Co., Tariff F.C.C. No. 5.

[16] *See Southern Pacific Communicotions Co.*, Transmittal No. 252, Mimeo No. 41583 (released May 9, 1983) (Memorandum Opinion and Order by the Chief, Common Carrier Bureau, Federal Communications Commission).

[17] In fact, interexchange carriers other than HTC depend upon the subscriber's capacity to tone signal, not pulse signal. Most subscribers in Hawaii are presently unable to tone signal.

[18] Hawaiian Telephone Company, "Category Cost-of-Service Study Total Company Contribution Analysis Test Year 1983 at Present Rates," Hawaii Public Utilities Commission, Docket No. 4588 Exh. HTC 1900 at 7.

[19] As described in III.B. the Final Judgment provides GTR with a number of options concerning HTC's interexchange facilities. To the extent that these options could be quickly implemented and to the extent that these alternatives would result in revenues to HTC, the shortfall would be lessened. Yet, there is no information provided on these matters. Until additional information is provided, it is impossible to assess whether and the extent to which inordinate rate increases can be avoided. Therefore, before it can approve the acquisition as consistent with the public interest, the Court must obtain such information and provide all the safeguards necessary to assure that universal service in Hawaii is not threatened. The Court stated that one of its principal objectives in exercising its Tunney Act responsibilities is the "protection of the principle of universal service. . . ." *United States v. American Telephone & Telegraph Co., No. 82-0192, slip op. at 150 (D.D.C. July 1983). See also* 47 U.S.C. § 151 (1976).

> There can be no doubt that the continued viability of the Operating Companies is in the public interest. These companies . . . assume the responsibility of providing basic local telephone service, and it is upon them, too, that will depend the realization of the goal of universal service; *i.e.*, the goal of providing affordable telephone service to all, including those who are not affluent oe who reside in relatively isolated areas.[20]

The Court must be provided with adequate informatio to be assured tht the goal of universal service is not threatened in Hawaii.

A further difficulty with the literal interpretation of Section V.C.1 is that it directly conflicts with Section 214 of the Communications Act of 1934. Section 214(a) provides that:

> No carrier shall discontinue, reduce, or impair service to a community or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the public nor future public convenience and necessity will be adversely affected thereby . . . .[21]

Authorization to discontinue service between Hawaii and the Mainland has not even been applied for, let alone granted by the Federal Communications Commission. Section V.C.1, if construed to require the immediate termination of service between Hawaii and the Mainland if approved by this Court, would force GTE in an untenable position; it could continue to provide Hawaii-Mainland telecommunications service via HTC and violate this Court's order or it could immediately terminate this service and violate Section 214 of the Communications Act. It is obvious that neither alternative would comport with the public interest.

If Section V.C.1 does not absolutely prohibit HTC from continuing to provide its existing domestic interexchange services, other issues are raised. There is no explantion or discussion as to the transition period—if indeed one exists—in which current services are permitted to continue or the time frame, if any, in which these services must terminate. There is no discussion as to whether HTC can or cannot provide existing service to new users or whether it can or cannot offer new interexchange services.

B. *Exemption for HTC's Foreign Services*

The Final Judgment contains an express exception to the ban, or possible ban, on the provision of interexchange services and the joint ownership of interexchange facilities for HTC's international services:

> [N]othing in this Final Judgment shall prohibit Hawaiian Telephone Company . . . from providing telecommunications services between Hawaii and . . . points outside of the United States, and owning the assets necessary to provide such services.[22]

The CIS describes this exception to apply to HTC's "international telecommunications" to "foreign countries."[23]

A question arises as to whether or not service between Hawaii and the United States-controlled Northern Mariana Islands is included within the exception for "international" services contained in Section V.C.1. Local, United States domestic and international telecommunications services for the Northern Mariana Islands are currently provided by the Micronesian Telecommunications Corporation ("MTC"), a wholly-owned subsidiary of HTC.[24] If telecommunications services between Hawaii and the Northern Mariana Islands are "domestic" interexchange services within the scope of the Section V.C.1, as both the Final Judgment and CIS clearly imply, HTC and MTC[25] could be prevented from providing such services. As there are no competitive alternatives, this would raise public interest concerns regarding possible disruptions of service. In the State's view, clarification is needed as to the status of service between Hawaii and United States-controlled points such as the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

C. *Prohibition on Interexchange Facilities*

In addition to the ban, or possible ban, on the provision of interexchange services, Section V.C.1 contains a stated prohibition on the ownership of joint facilities used to provide interexchange services. Specifically, Section V.C.1 provides that

> No GTOC . . . own jointly with GTE or any other person facilities that are used to provide [interexchange telecommunications] services, provided that nothing in this Final Judgment shall prohibit Hawaiian Telephone Company . . . from providing telecommunications services between Hawaii . . . and points outside the United States, and owning the assets necessary to provide such services.[26]

There are several apparent qualifications to the prohibition on the joint ownership of interexchange facilities. According to the CIS, Section V.C.2, V.C.3 and V.C.4 "allow several alternative methods by which the GTOCs' existing interexchange operations are to be phased out over a transition period."[27]

Section V.C.2 provides, in effect, that notwithstanding this prohibition, the interexchange switching and interexchange transmission in facilities in service on January 1, 1984 of the operating company may be leased to an interexchange carrier with which the company provided joint interexchange services.[28] With respect to HTC's Hawaii-Mainland services, this provision apparently would enable it to lease its interexchange facilities to AT&T.

Where no such leases have been established and where the operating company has not recovered its capital investment, Section V.C.3 permits a GTOC to replac[e] existing agreements with the BOCs with an agreement with an interexchange carrier (other than the acquired entities) that will permit the recovery of net book value of such capital investment and the costs thereof, including a return on debt or equity, so long as that agreement terminates when such net book value has been recovered.[29]

As PTC, unlike the other GTOCs, has an agreement with the AT&T Long Lines Department rather than with one of the entities generally understood to be a BOC, the scope of Section V.C.2 possibly could be construed to exclude HTC. Yet the definitions contained in the Final Judgment lead to a contrary result.[30] Moreover, the CIS, in explaining this provision, states that it "permits a limited retention of the division of revenues process for any interexchange facilities that are not leased by the GTOCs under Paragraph (V)(C)(2)."[31] There is no indication in the CIS to indicate any intent that HTC is excluded from the scope of this section. If this section is to apply at all to HTC,[32] apparently it would permit HTC to retain its present division of revenues agreement with AT&T or to replace this agreement with a comparable agreement with another interexchange carrier.

Section V.C.4 provides that if no leases or replacement agreements are made under the preceeding sections:

> [e]ach GTOC shall make its interexchange routing and transmission capacity provided by assets subject to Paragraph V.C.2 available to all interexchange carriers on nondiscriminatory terms and conditions, and may expand or modernize (but not replace) such interexchange routing and transmission facilities if it offers to make available such expanded or modernized capacity to all

[20] *American Telephone & Telegraph Co.*, No. 83-0192, slip op. at 12-13 (D.D.C. filed Apr. 20, 1983).

[21] 47 U.S.C. § 214(a) (1976).

[22] Final Judgment at V.C.].

[23] CIS, at 18.

[24] *See Micronesian Telecommunications Corporation*, Mimeo No. 002455 (released Aug. 5, 1981) (Memorandum Opinion, Order, and Authorization & Certificate issued by Chief, International Facilities Authorization and Licensing Division, Common Carrier Bureau, Federal Communications Commission).

[25] The confusion over this point is magnified by the very imprecise definition of a GTOC under Section II.K of the Final Judgment. That provision defines a GTOC to include "the corporations listed in Appendix of th[e] Final Judgment, . . . and *any entity directly or indirectly owned or controlled by a GTOC*, or affiliated through common ownership, but shall not include GTE Corporation or any affiliate of GTE not having an ownership interest in a GTOC." Final Judgment at II.K (emphasis added). It is not clear whether or not MTC would be included within this definition.

[26] Final Judgment at V.C.1.

[27] CIS, at 18.

[28] Final Judgment at V.C.2. This provision also includes certain interexchange facilities in a GTOC construction program.

[29] Final Judgment at V.C.3.

[30] The definition of the Bell Operating Companies ("BOCs"), however, is broadly defined to include the 22 operating companies listed in Appendix C, "their successors and assigns and any entity directly or indirectly owned or controlled by a BOC *or affiliated through common ownership*." Final Judgment, at II.D. (emphasis added). Since the AT&T Long Lines Department is "affiliated through common ownership" with the operating companies listed in Appendix C, the broad definition of "BOC" contained in the Final Judgment could be construed to include the AT&T Long Lines Department.

[31] CIS, at 19.

[32] In the State's view, the United States Department of Justice should clarify this issue

VOL 48 ISS 199 OCT 13 1983 UMI

interexchange carriers on non-discriminatory terms and conditions.[33]
This section appears to permit HTC to act as a "carrier's carrier" in which its interexchange facilities are made available to all interexchange carriers on a nondiscriminatory basis.

In addition to the alternatives that are listed in Section V, of the Final Judgment, GTE has two other options with respect to HTC's interexchange facilities. First, GTE could sell HTC's interstate interexchange facilities.

Second, GTR possibly can consolidate the interexchange operations of HTC into GTE Sprint and GTE Spacenet. Although GTE is clearly barred from directly effectuating such a transfer,[34] the Final Judgment possibly would not bare GTE from transferring HTC's interexchange facilities to the parent corporation, establishing a separate affiliate which provides only interexchange facilities, and consolidating this entity with GTE Sprint.[35] This possibility must be clarified.

Therefore, the Final Judgment provides the defendant in this proceeding, GTE, with a number of options with respect to the joint interexchange facilities owned by HTC. These options include, *inter alia*, entering a leasing or perhaps other arrangement with AT&T, making these facilities available to other carriers on a nondiscriminatory basis, selling the assets, and consolidating the assets with GTE Sprint or GTE Spacenet. The impact on competition is very different depending upon the option which the defendant selects. For example, entering a lease arrangement with AT&T or making the facilities available to other carriers on a nondiscriminatory basis may not have an anticompetitive impact; it may result in new competitors in the Hawaii-Mainland marketplace as a substitute for the elimination of the independence of SPCC. The consolidation of HTC's interexchange facilities with those of GTE Sprint, in contrast, would significantly lessen competition in that market. Prior to the acquisition, HTC and SPCC directly competed in the Hawaii-Mainland interexchange services market. If GTE selects this option, the acquisition will result in the elimination of one of these competitors without any alternative mechanism to substitute for this reduced competition. In short, until more information is provided on the disposition of HTC's facilities, if any, and the carrier or carriers which will utilize these facilities to provide Hawaii-Mainland services, a reasoned assessment of the impact of the acquisition on the public interest—either in terms of its competitive impact or its affect on local exchange service—is impossible.

[33] Final Judgment at V.C.4.

[34] Section IV.A.6 provides that "[t]he GTOCs and the acquired entities shall not jointly provide telecommunications or information services or jointly own the assets used to provide such services." *Id.* at IV.A.6.

[35] *See id.* at IV.D.1.

III. The Court Should Either Reject the Final Judgment or Defer Consideration Until It Obtains All Relevant Information

A. *No Decision Approving the Acquisition Should Be Made Until Conclusion of All FCC Proceedings*

Even on the limited information available, it is clear that the Final Judgment cannot be implemented without Federal Communications Commission action. For example, as noted above, if HTC can no longer provide Hawaii-Mainland services, HTC will have to seek authorization under Section 214 of the Communications Act to terminate that service. Similarly, Section 214 authorization would be required to implement most, if not all, of GTE's options concerning HTC's interexchange facilities.

Unless the Court rejects the Final Judgment outright, it must defer consideration until both the terms of the agreement are clarified and the requisite regulatory authority to implement its terms is obtained or denied.[36] This is not a situation where the Court should approve the acquisition and leave implementation "details" to the requisite regulatory authority. The issues which remain unresolved go to the heart of the public interest determination. Specifically, the Court cannot adequately assess the competitive impact of the acquisition or other matters integral to the public interest if it is not given definitive information concerning whether HTC, the dominant interstate telephone carrier serving Hawaii, will continue to provide intersate services; which carrier or carriers, if any, will replace HTC; or which entity or entities will control the dominant Hawaii-Mainland telecommunications facilities. If HTC is not to provide interexchange services, it is also critical to ascertain which carriers will provide each of the services to each of the domestic points currently served by HTC.[37]

B. *Additional Information Is Needed Concerning the Separation of Interexchange and Local Facilities*

If there is to be a separation of HTC's interexchange and exchange facilities,[38] additional questions arise concerning the division of these facilities. There are a number of facilities currently used to provide both exchange and interexchange services. These include land, buildings, cables, central office switching facilities, warehouses, underground conduits, manholes, toll terminals, *etc.*[39] The division of these assets could affect the quality, cost, and availability of local service. For example, in *United States v. American Telephone & Telegraph Co.*, the Court stated it would ensure that: the division of AT&T's assets will not leave the Operating Companies with outdated equipment for the access of the smaller interexchange carriers while AT&T retains the most modern, the most efficient switches and other facilities.[40]
Similarly, it is important, with respect to a division of assets, that the operating company not "be left with the expense of stranded capacity."[41]

The Final Judgment does not provide the safeguards that were presented in *United States v. American Telephone & Telegraph Company*. First, as the Court stated in *United States v. American Telephone & Telegraph Co.*,

> Perhaps the most important guarantee against improper manipulation is the one included in the proposed decree itself that assets will be divided according to the function they perform.[42]

With respect to multifunction facilities the Court applied a "predominant use test."[43] There are no comparable provisions in the Final Judgment.

Second, in *United States v. American Telephone & Telegraph Company*, the Court had the benefit of the views of the operating companies "independent of pressure from AT&T . . . ."[44] Although these operating companies were owned by AT&T, the impending divestiture made it possible for the Court to solicit the independent views of these operating companies on the division of assets. In this proceeding, in contrast, HTC is and will remain a wholly-owned subsidiary of GTE. As the letters attached to these Comments attest, HTC will not express any views concerning the division of assets or indeed on any other issue related to the acquisition apart from the views of its parent company. Therefore, a significant party in interest, HTC, will not be heard at all as a separate entity in this proceeding. This Court must establish procedures that provide a surrogate.

Third, in *United States v. American Telephone & Telegraph Co.*,

[36] This Court should not approve this acquisition on the assumption that the necessary authorizations will be obtained. For example, if HTC filed an application under Section 214 of the Communications Act for authority to discontinue its Hawaii-Mainland interexchange service, the Commission has the option to approve or to deny this application. The impact on the public interest will differ depending upon which decision the Commission makes.

[37] HTC and AT&T jointly provide MTS service between Hawaii and the Mainland. If AT&T is to substitute for HTC in the provision of this service, this is a fact which must be ascertained with certainty. AT&T's current MTS tariff does not include service between Hawaii and domestic points such as Alaska, Puerto Rico and the Virgin Islands. If HTC is not to provide interexchange services to these points, information needs to be provided as to which carrier or carriers will provide this service. A similar situation exists with respect to MTS service between Hawaii and the Northern Mariana Islands. *See* II.B, *supra*.

[38] Section V.C.1. of the Final Judgment appears to contemplate such a separation.

[39] *See United States v. American Telephone & Telegraph Co.*, 552 F. Supp. at 206.

[40] *United States v. American Telephone & Telegraph Co.*, No. 82–0192, slip op. at 12 (D.D.C. Apr. 20, 1983).

[41] *United States v. American Telephone & Telegraph Co.*, No. 82–0192, slip op. at 11 (D.D.C. July 8, 1983).

[42] *United States v. American Telephone & Telegraph Co.*, 552 F. Supp. at 206.

[43] *Id.* at 206–07.

[44] *United States v. American Telephone & Telegraph Company*, No. 82–0192, slip op. at 9–10 (D.D.C. July 8, 1983).

> [t]he Department of Justice . . . invited federal and state regulatory bodies as well as AT&T's competitors and other interested persons to examine the distribution of assets provided for in the plan of reorganization.[45]

In the State's view, it is important that GTE be required to provide a Plan of Reorganization and that a similar invitation for the examination of the planned utilization of HTC's interexchange facilities be provided in this proceeding. In addition, particularly in light of the nonparticipation of HTC, the Court should be given specific information on any distribution of assets before it renders a decision in this case.

IV. If the Court Approves the Acquisition, at the Very Minimum, it Should Impose the Conditions Proposed by GTE and Accepted by the Commission Relative to Hawaii

The Federal Communications Commission, in conditionally approving this acquisition, recognized "the special situation in the State of Hawaii"[46] justified the imposition of specific safeguards. Indeed, it is indisputable that prior to the acquisition, SPCC and HTC were in direct competition in the Hawaii-Mainland telephone service market and the acquisition eliminated that competition. The Commission noted that even GTE "conced[ed] in effect that the unique circumstances in Hawaii justify special remedial treatment"[47] and accepted what were in effect the conditions proposed by GTE.[48]

The Court, after it obtains the necessary information to make an informed public interest determination, may find that the imposition of additional conditions are necessary, or it may find that the acquisition is not in the public interest. If the Court determines to approve the acquisition, at the very minimum, it should condition the approval on the conditions relative to Hawaii that were proposed by the defendant and determined by the Commission to further the public interest. These conditions are as follows:

(a) GTE will cause SPCC, SPSC or any present or future subsidiary of SPCC or SPSC, and any successor organization, to include the state of Hawaii in any interexchange telecommunications service offering that is available on the United States Mainland to metropolitan areas equivalent in size to the Honolulu metropolitan area, and such offering shall be included in the same rate structure which applies on the United States Mainland.

(b) GTE will cause SPCC or any successor organization to extend to Hawaii as quickly or as soon as operationally feasible under the same rate structure that applies on the United States Mainland, all the SPRINT services SPCC provides on the United States Mainland at the date of the acquisition. GTE will also cause SPCC or any successor organization to extend to Hawaii as soon as operationally feasible point-to-point private line service under the same rate structure that applies on the United States Mainland. SPCC and any successor organization shall continue to provide all such services under the same rate structure that applies on the United States Mainland as long as such service is available from SPCC or any successor organization to metropolitan areas equivalent in size to Honolulu on the United States Mainland.[49]

V. The Costs of Providing Equal Access Should Not Be Borne by the Local Operating Companies

Another issue which is not resolved by the Final Judgment is how the costs of providing equal access will be recovered. Section V.A of the Final Judgment requires each GTOC to provide to all interexchange carriers and information service providers equal exchange access, information access, and exchange service for such access that is equal in type, quality and price for all interexchange carriers and information service providers.[50]

In *United States v. American Telephone & Telegraph Co.*, the Court noted agreement by all parties that the costs for equal access should "be recovered from the interexchange carriers, rather than through access charges levied on local ratepayers, because the expenditures represent improvements to the long distance network."[50] Yet, it noted that under existing allocation procedures, most of these costs would be recouped through intrastate tariffs.[51] The Court decided that AT&T and not the operating companies should be responsible for any cost of equal access and network configuration above those recovered through access charges.[52]

As the Court emphasized, "it is . . . most important that local rates not be burdened with unnecessary increase."[53] Therefore, the financial burden of providing equal access—which benefits interexchange service—shouldnot be placed upon HTC or the other GTOCs. The State suggests that GTE be made responsible for any costs related to the compliance of the equal access provisions.

Conclusion

The Final Judgment leaves a number of unanswered questions which are essential to an informed decision as to whether or not the acquisition is in the public interest. For example, it is not clear whether HTC is to continue to provide interexchange services after the Final Judgment is approved or whether it is barred from providing these services. If it can continue to provide these services, it is not clear whether or not it is for a limited time frame and if so what that time period is. If the Final Decree absolutely bars HTC from providing such services, no questions are raised concerning potential disruption of existing interexchange telephone service and potential danger to universal exchange service. In addition, there are serious issues concerning the relationship between Final Judgment and the Communications Act. If, HTC is immediately barred from the provision of service, a conflict arises with the Communications Act because the Federal Communications Commission has not certified that the public convenience and necessity require such a discontinuance. If the terms of Final Judgment are not to become effective until after the Commission acts, the Commission would in effect have a veto over a significant provision in the Final Judgment; in such a case, a Commission's decision not to grant the certificate would significantly alter the terms of the settlement.

Other questions also arise concerning the disposition of HTC's interexchange facilities, if in fact a disposition is to take place. The Final Judgment gives the defendant, GTE, a range of options and the public interest ramificaitons and competitive impact vary according to the choice made. In addition, there is no explanation as to how the division of HTC's interexchange and exchange assets are to be divided, if in fact such a division is to take place.

Because so many issues are unresolved, the State is of the view that neither interested parties nor the Court can make an informed judgment on the present record as to whether or not the Final Judgment serves the public interest. The State urges that the following procedures be established before the court acts on this acquisition. First, the Department and GTE should clarify the ambiguities in the terms of the Final Judgment and GTE should describe with particularity what, if anything, are its intentions with respect to HTC's interexchange facilities. Second, no action should be taken until the Commission acts upon any application for Section 214 authority to provide service terminate service and transfer facilities relating to Hawaii that are necessary to carry out the terms of the Decree; third, after these proceedings are concluded, and all the necessary applications obtained or denied, GTE in a Plan of Reorganization should submit precise information on any assets which are to be divided between HTC's exchange and interexchange operations. Fourth, after this information is provided and the requisite regulatory proceedings concluded, the parties should be provided with an opportunity to comment on the merits of the acquisition. At that time, the State for the first time will be in a position to adequately assess whether the acquisition and Final Judgment should be approved, rejected or conditioned including a condition that HTC be divested from GTE.

Respectfully submitted,
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[45] *United States v. American Telephone & Telegraph Co.*, 552 F. Supp. at 206.

[46] *Application of GTE Corporation and Southern Pacific Company for Consent to Transfer Control of Southern Pacific Communications Company and Southern Pacific Satellite Company*, FCC 83–299 [released July 1, 1983] at ¶61.

[47] *Id.* at n. 41.

[48] *Id.* at ¶64.

[49] *Id.* at 31.

[50] Final Judgment at V.A.

[51] *United State v. American Telephone & Telegraph Co.*, No. 82–0192, slip op. at 16 (D.D.C. July 8, 1983).

[52] *Id.*

[53] *Id.* at 18.

[54] *American Telephone & Telegraph Co.*, No. 82–0192, slip op. at 13 (D.D.C. Apr. 20, 1983).

VOL 48 ISS 199 OCT 13 1983 UMI

Executive Director, Division of Consumer Advocacy, Department of Commerce and Consumer Affairs, State of Hawaii
July 15, 1983.

United States of America, Plaintiff, v. *GTE Corporation*, Defendant; Civil Action No. 83–1298.

Comments of State of Michigan and Michigan Public Service Commission

The State of Michigan and the Michigan Public Service Commission, collectively "Michigan", by its counsel, respectfully submits the following comments concerning the proposed consent decree in the above cause pursuant to the Antitrust Procedures and Penalties Act, 115 U.S.C. § 16.

Michigan has a significant interest in this proceeding. General Telephone company of Michigan, one of the fifteen operating companies in the GTE Corporation system to be affected by the proposed Final Judgment, is the second largest provider of telephone service in the State of Michigan and the largest independent telephone company in the State. General Telephone Company of Michigan served some 436,000 main stations in the State as of year-end 1982. The company is regulated by the Michigan Public Service Commission with respect to securities, rates, charges, and conditions of service. These considerations make comments on behalf of Michigan appropriate in this proceeding. Michigan has also participated extensively and been granted intervenor status in the companion divestiture proceeding before this Court involving American Telephone & Telegraph Company in Civil No. 82–0192, Misc. No. 82–0025(PI).

Michigan notes with some curiosity the remedy accepted by the Department of Justice regarding this cause and GTE Corporation's acquisition of the subsidiaries of Southern Pacific Company. Given the pending split of the exchange and exchange access portions from the interexchange portions of the Bell System in the AT&T case, the consolidation of such operations in the subject case would seem to be at odds with the Department's principal theory for the remedy proposed for the Bell System. Nevertheless; Michigan does not oppose entry of the proposed Final Judgment. Michigan requests that the Court specifically approve the proposed designations and affiliations of General Telephone Company of Michigan's exchange areas as specified in the July 5, 1983 submission on that subject. Michigan further reserves its rights and jurisdiction to assure that future developments not specified in the proposed consent decree or other relevant materials do not negatively affect the regulated common carrier offerings of General Telephone Company of Michigan and its ratepayers.

In compliance with the proposed Final Judgment in this case, GTE Corporation on July 5, 1983 filed its proposed exchange area configurations. In that submission, GTE proposed that all General Telephone Company of Michigan exchanges be affiliated with one of the Michigan Bell Local Access and Transport Areas approved by the Court in AT&T's divestiture proceeding, Civil Action No. 82–0192, Misc. No. 82–0025(PI). Approval of these affiliations is in the public interest for several reasons. It would avoid costly, unnecessary network reconfiguration costs, would permit General Telephone Company of Michigan the maximum flexibility in its operations with minimum negative impact, and is consistent with the Court's July 8, 1983 Opinion in the AT&T divestiture proceeding.

The July 5, 1983 Memorandum in Support of GTE Corporation Exchange Area Submission, required to be filed by the proposed Final Judgment, aptly provides reasons for approval of the affiliations in Michigan. Among these considerations are the relatively low population density of most General Telehone Company of Michigan exchanges, the current lack of interest by interexchange carriers in entry into such exchanges, and communities of interest. Network and facility configurations also play a significant role. Approval of the exchange area submission and the affiliations with Michigan Bell's Local Access and Transport Areas requested therein promotes these interests and affords General Telephone Company of Michigan the necessary business freedom to continue its existing operations together with the duties and restrictions contained in the proposed consent decree.

Furthermore, approval of the July 5, 1983 submission and the proposed Michigan associations comports with this Court's actions in the AT&T proceeding. In section VII of the Opinion of July 8, 1983 on "Bell-Independent Traffic," the Court decreed that Bell Operating Company positions on the inter-LATA character of Bell-independent traffic would not be approved over the opposition of the Department of Justice and the States and that the traffic would be deemed intra-LATA for purposes of that decree. The Court stated:

"In a few instances, particularly in Oregon and Washington [and in Michigan], traffic was classified as inter-LATA by the particular Operating Company because it elected not to serve the relatively small Independent area in question.[236]

[236] The Department of Justice as well as the states involved oppose these classifications on the ground that even though the decree cannot impose a requirement that an Operating Company actually provide service to an area which it is permitted to serve, the purpose of the classifications is to define areas which the Operating Companies *May* serve. In that view, the particular traffic should be classified as intra-LATA and it would then be left to the state and federal regulators to determine whether the Operating Companies or any other carriers should be *obligated* to serve particular areas. See Department of Justice Response to Comments, April 4, 1983, at 8; State of Oregon Comments, March 15, 1983, at 3–5. The Court finds the position taken by the Department of Justice in this regard to be correct, since it will best ensure that the decree does not unnecessarily intrude upon the jurisdiction of the regulatory commissions to determine service responsibilities within their jurisdictions. Accordingly, the Operating Company classifications are hereby required to be modified to conform to the Department's position.

* * * * *

[241] In the few instances, such as those discussed in note 236 *supra*, where the Department of Justice and the Operating Companies took different positions with respect to whether particular traffic should be classified as intra-LATA or inter-LATA, the Court agrees with the position of the Department, and the classifications should, accordingly, be modified to conform to that position." Opinion of July 8, 1983, pp 127–128, 130.

Thus, the Court has sought to maximize the freedom of independents such as General Telephone Company of Michigan and avoid possible conflict with regulatory agencies. The same goals are achieved by approving the GTE exchange areas and associations for Michigan.

In Michigan's case, the Court's July 8, 1983 means that, with one exception, all Bell-independent traffic is intra-LATA in nature for purposes of both determining who may carry the traffic and asset transfers.[1] The one exception is Three Rivers-muskegon, which the Department of Justice did not disagree should be inter-LATA for asset transfer purposes only. The July 5, 1983 submission, however, effectively seeks to have all traffic between General Telephone Company of Michigan and Michigan Bell deemed intra-LATA for both purposes, with Alma associated with Michigan Bell's Saginaw LATA. The Court should approve the request, for recent traffic studies indicate that this affiliation has the least likelihood of causing stranded investment both for General Telephone Company of Michigan and Michigan Bell.[2] Negative rate implications for General Telephone Company of Michigan subscribers will thereby be avoided.

Beyond the foregoing considerations, the proposed consent decree presents several areas of potential concern to the customers of General Telephone Company of Michigan. For example, the acquisition could cause

[1] Michigan Bell in the February 17, 1983 submission classified as inter-LATA the traffic between itself and independent exchanges that homed on a GTE-owned Class 4 switch, resulting in five nonaffiliated "market areas." The Department of Justice in its April 5, 1983 response, however, submitted that traffic between Michigan Bell and market areas 1, 2, and 3 (Alpena, Alma, and Adrian) should be deemed intra-LATA, with Alma, associated with the Grand Rapids or Lansing LATA. The Court's July 8, 1983 Opinion adopted the Department's view. Michigan had also previously advised the Court in its May 16, 1983 response to the Court's April 20, 1983 Opinion that GTE had changed its position and now, in effect, had agreed with the Department of Justice position.

[2] The request should also be approved as being the consensus position of the companies in Michigan. As indicated in Michigan's March 15, 1983 comments on independent traffic classifications, a proceeding was subsequently held in Michigan to discuss and determine the effect of this issue on Michigan independents with the input of those companies. The result was a general agreement with the position expressed in footnote 236 of the July 8, 1983 Opinion. Thus, all independents in Michigan, through toll homing on GTE switches or otherwise, will be affiliated with Michigan Bell LATAs.

future investment to be concentrated on the service offerings of the acquired entities at the expense of regulated monopoly offerings. The corporate restructuring to transfer certain deregulated operations of General Telephone Company of Michigan to new or other existing subsidiaries could potentially affect its cost of debt. The sharing of certain services via contract or fully distributed cost methodologies has the potential to permit inappropriate cross subsidization. Finally, options for recovery by General Telephone Company of Michigan of its interexchange investment are, of course, not guaranteed. At this time, however, these potential negative impacts do not appear significant enough to require disapproval of the proposed decree. Rather, they may be addressed in the regulatory arena and through necessary and appropriate actions by General Telephone Company of Michigan to secure the best interests of its Michigan subscribers.

Michigan necessarily reserves the right to take such further positions as the facts and circumstances of the proposed consent decree develop more fully.

In sum, Michigan does not oppose entry of the proposed Final Judgment and respectfully urges adoption of the Michigan exchange area designations and classifications associated therewith.

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Dated: July 15, 1983.

United States of America, Plaintiff, v. *GTE Corporation*, Defendant; Civil Action No. 83–1298.

Comments of MCI Telecommunications Corporation on Proposed Settlement

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Table of Contents

I. Introduction
II. Background Information
A. GTE Corporation: The Entrenched Monopoly Exchange Carrier
B. SPCC: The New Interexchange Carrier
C. Overview of the Telecommunications Industry
Formation of the AT&T Monopoly
Formation of the Cartel
GTE's role in resisting competition
D. The Proposed Acquisition and Settlement.
III. The Proposed Settlement Will Facilitate Anticompetitive Conduct and Is Contrary to the Public Interest
A. The Proposed Settlement Will Permit GTE To Exploit Its Strategic Bottlenecks
Common ownership presents an insuperable structural problem
The terms of the proposed settlement do not remove GTE's ability to exploit its strategic bottlenecks
B. The Proposed Settlement Will Permit Collusion In The Relevant Market
C. The Proposed Settlement Will Promote Cross-Subsidization and Evasion of Rate Regulation
D. The Proposed Settlement Will Increase Barriers to Entry
IV. Conclusion

MCI Telecommunications Corporation ("MCI"), by its attorneys, respectfully submits these comments pursuant to section 16(b), (d) and (f)(4) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b), (d), (f)(4).

I. Introduction

The landmark resolution of *United States v. AT&T* has set the stage for genuine competition in the telephone industry. By requiring the nation's largest long distance carrier to divest the largest group of local telephone companies and by restricting those local companies to local exchange business, the Modified Final Judgment has markedly reduced the prospect of anticompetitive cross subsidization and abuse of bottleneck power over essential access facilities.

A significant reversal of those benefits is now threatened by GTE's acquisition of Southern Pacific Communications Company ("SPCC"). The second largest local exchange company would suddenly own the second largest non-AT&T long distance company. Once again the specter of interconnection discrimination and other anticompetitive practices is raised. What was taken apart in *United States v. AT&T* would be rebuilt in another form.

Common ownership by GTE of local and long distance telephone companies presents the same problems as have occurred with AT&T and the BOCs. The settlement proposed by the parties in this action, however, is much different than in *United States v. AT&T*. Instead of requiring divestiture, acquisition would be sanctioned.

Harm to competition from this acquisition is virtually inevitable due to the existence of structural bottleneck monopolies and to the demonstrated lack of effective or efficient means to prevent the abuse of that bottleneck power.

GTE's interconnection conduct and other actions relating to its own monopoly franchises have been as harmful and unlawful as AT&T's conduct with the BOCs. Furthermore, GTE and AT&T have long combined in a cartel controlling the long distance market. To enable a better informed evaluation of the proposed settlement here, MCI is submitting with its Comments an Appendix which discribes relevant GTE's conduct in this industry. Those materials which include sworn statements by MCI and GTE personnel together with GTE documents, demonstrate the reality of the problems threatened by this acquisition.

MCI welcomes vigorous competition from SPCC and has no objection if SPCC is sold—but not to a bottleneck monopolist engaged in a powerful cartel.

The $500 million premium being paid by GTE for SPCC shows the anticompetitive potential of this transaction. This nation's antitrust laws were not enacted to allow a fox to buy its way into the henhouse. The public interest is served by keeping the fox out of the henhouse, not by trying ineffectively to tie the fox's jaws and hoping that the rope holds at midnight when nobody is around.

II. Background Information

A. GTE Corporation: The Entrenched Monopoly Exchange Carrier

GTE is a $22 billion company which owns and operates a vertically-integrated telecommunications system. (GTE Corporation Annual Report 1982 at 8.) GTE's exchange telephone operations produced 94% of GTE's $2.3 billion consolidated operating income in 1982. (*Id.* at 27–29.)

Through its 17 domestic telephone companies, GTE provides local telephone service on a monopoly basis to 16 million telephones in 31 states.[1] GTE provides local exchange service to 8.73% of all telephones in the United States and 46% of all non-Bell telephones.[2]

Note.—In 1981, local telephone service was provided as follows:

Telephone company	Area		Telephones		Density (phones/square miles)
	Total square miles	Percent of total	Total number	Percent of total	
Bell	1,134,619	31.36	145,676,350	80.85	128.57
GTE	250,774	6.93	15,756,400	8.73	62.83
United	116,674	3.22	4,697,457,458	2.60	40.26
Continental	237,861	6.57	3,125,800	1.73	13.15
Central	30,549	0.84	1,806,600	1.00	59.14

[1] Outside the United States, GTE has telephone companies serving over 2 million phones in British Columbia and Quebec, and more than 165,000 phones in the Dominican Republic. (GTE 1981 Annual Report at 22; Statistical Supplement to 1981 Annual Report at 1.)

[2] See two column table above

VOL 48 ISS 199 OCT 13 1983 UMI

Telephone company	Area		Telephones		Density (phones/square miles)
	Total square miles	Percent of total	Total number	Percent of total	
Mid-continental	25,966	0.72	1,094,850	0.61	42.16
Other independents	940,383	25.99	8,056,555	4.47	8.58
Undesignated areas (inc. water)	881,759	24.37	0	0	0
Total	3,618,405	100.00	180,424,023	100.00	49.86

(NTIA Report No. 82-97, Telephone Areas Serviced by Bell and Independent Companies in the United States, Feb 1982, Table 1 at 3.)

GTE companies serve numerous cities with more than 100,000 telephones each—including Tampa, St. Petersburg, Clearwater and Sarasota, Florida; Ft. Wayne, Indiana; Erie, Pennsylvania; Lexington, Kentucky; and Covina, Downey, Huntington Beach, Long Beach, Ontario, Orange, Oxnard, Pomona, Redlands, Redondo, San Bernardino, San Fernando, Santa Barbara, Santa Monica, Thousand Oaks, West Los Angeles, Westminster and Whittier, California. (Telephony's 1982–83 Directory at 361 et seq.) Many GTE locations are served by SPCC or MCI.[2]

General Telephone of California is the largest GTE operating company, serving over 4 million telephones in 74 exchanges (an average of more than 56,000 telephones per exchange). General Telephone of Florida is the second largest company (also with an average of more than 50,000 telephones per exchange). California and Florida together account for approximately one-third of total GTE telephone company revenues. (*See* USITA 1982 Annual Statistical Volume II at 1; Appendix Tab 13 lists the assets and revenues of each GTE domestic telephone company.)

Eighty-three percent of GTE's telephone investment (excluding CPE) is in urban areas. (Appendix Tab 21, Potential Impact of AT&T/DOJ Settlement on GTE's Intercity and Exchange Networks, dated March 9, 1982, at 0662, 0664.)[4] Fifty-two percent of GTE's subscribers are served by just 11% of GTE's central offices. (Appendix Tab 26, GTE Basic Regulated Network Business Plan, dated July 16, 1982, at 6482.)

In 1982, GTE's subscribers made over 2.25 billion long distance calls and GTE's telephone companies received over $4.3 billion, or 56% of their total operating revenues, from providing switching and local interconnections to intercity carriers. (GTE Annual Report 1982 at 27.)

In 1982, GTE had 151 Class 4 toll switches and eight Class 3 toll switches used jointly with AT&T for long distance service under their "settlement" agreements. (Appendix Tab 26, GTE Basic Regulated Network Business Plan, dated July 16, 1982, at 6697.) GTE's 1980 intercity plant investments, including switching and transmission facilities, totalled $2.4 billion, exchange plant investments were $10.9 billion and CPE investments came to $2.3 billion. (Appendix Tab 21, Potential Impact of AT&T/DOJ Settlement on GTE's Intercity and Exchange Networks, dated March 9, 1982, at 0666.)

GTE also manufactures telephone equipment. GTE's Communications Products group produces a wide range of communications equipment, inluding central office switching equipment, PBX equipment, transmission equipment and telephones. The Communications Products group had 1982 sales of $2.5 billion and operating income of $151 million. (GTE Annual Report 1982 at 29.) Automatic Electric and Lenkurt, the primary companies in the Communications Products group, had 1981 sales of $1.1 billion (80% of which were to GTE domestic telephone companies) and net income of $12.5 million. (GTE Date on Manufacturing, Supply, Directory and Service Affiliates for the Year 1981 at 63–65.) Automatic Electric and Lenkurt manufactured 2.7 million telephones, central office switches accommodating 600,000 lines, and carrier equipment for 330,000 channels. (*Id.* at 74.) In 1969, AE-Lenkurt sales accounted for 37% of non-Bell telephone equipment purchases and over 90% of GTE operating company equipment purchases. *ITT* v. *GTE*, 449 F. Supp. 1158, 1182, 1190 (D. Hawaii 1978).

GTE Service Corporation provides legal, financial, personnel, administrative, advertising and other staff assistance to GTE companies. In 1981, GTE Service billed GTE companies $192 million, of which $110 million was billed to GTE's domestic telephone companies. (GTE Data on Manufacturing, Supply, Directory and Service Affiliates for the Year 1981 at 53.)

GTE Laboratories conducts basic and applied research for GTE companies. In 1981, GTE Labs allocated $44 million in research expenses to GTE domestic telephone companies. (*Id.* at 62.)

GTE Data Services provides data processing services to GTE telephone companies and other organizations. Data Services had 1981 operating revenues of $175 million, $153 million of which was contributed by GTE domestic telephone companies. (*Id.* at 105.)

GTE Directories provides telephone directory service, including sales of yellow page advertising. Directory advertising revenues from GTE domestic telephone companies totalled $267 million in 1981. (*Id.* at 92.)

Thus, in 1981, six GTE subsidiaries received more than $1.37 billion in transfer payments from GTE's domestic telephone companies. In contrast, GTE's 1981 consolidated net income was $.72 billion. (GTE Corporation Annual Report 1982 at 27.)

B. SPCC: The New Interexchange Carrier

SPCC, which began service in late 1973, is the second largest non-ATT intercity carrier. It accounts for approximately 20 percent of all non-Bell long distance telephone calls. SPCC serves more than 535,000 users in 45 states by handling more then 90,000 long distance calls each business day. (Southern Pacific Company 1982 Annual Report at 14.) It operates a $477 million nationwide telecommunication network including approximately 50 million miles of intercity channles. (*Id.*) SPCC's service is or shortly will be available in more than 300 metropolitan areas. (Some Straight Talk About Sprint; Update From Sprint.)

During 1982, SPCC's customer base more than doubled and SPCC increased its capital investment by more than $152 million. (Southern Pacific Company 1982 Annual Report at 14, 27.) SPCC added over 7 million circuit miles in 1981 by opening a route from Washington, D.C. through Atlanta and New Orleans to Houston. (Southern Pacific Company 1981 and Annual Report at 12.) Its 1982 revenues were $393 million and its operating income totalled $104 million. (Southern Pacific Company 1982 Annual Report at 14.)

C. Overview of the Telecommunications Industry

The $35 billion intercity telecommunications market is one of the most highly concentrated industries in the United States. Approximately 95% of all intercity voice-grade traffic is handled by AT&T. [5] The percentage of intrastate long distance traffic carried by AT&T is even higher. The historical basis for this high concentration provides a useful reference for identifying some of the forces which may shape the industry during the remainder of this century.

[5] Voice-grade toll and private line service is provided primarily by five carriers:

Carrier	Revenue	Percent
AT&T	$33,256M	95
MCI	1,073M	3
SPCC	393M	1
USTS	128M	—
Western Union	50M	—

Sources: 1982 AT&T Annual Report at 30; MCI 1983 Annual Report at 18; Southern Pacific 1982 Annual Report at 14; United States Transmission Systems, Inc. 1982 FCC Form P at 9; Western Union Corp. 1982 Annual Report at 17, 20. The Western Union figures are adjusted to exclude other revenue.

[2] GTE cities served by SPCC include Durham, N.C.; Erie, Pa.; Ft. Wayne, Ind.; Lexington, Ky.; York, Pa.; Tampa, Fla.; and Ontario, San Bernardino and Santa Barbara, Cal. (SPCC FCC Tariff No. 9 at 14–15G.) SPCC has stated that it expects to serve additional GTE cities shortly, such as Oxnard and Laguna Beach, Cal. (SPCC Update from Sprint at 1.)

GTE cities served by MCI include Durham; Erie; Ft. Wayne; Lexington; York; Tampa; Ontario; and Santa Barbara; as well as Clearwater, Fla.; Johnstown, Pa.; San Angelo, Tex.; Texarkana, Tex.; and Ventura, Cal. (MCI FCC Tariff No. 1 at 36.1; *see also* Handbook of Intercity Telecommunications Rates and Services (Economics and Technology, Inc. 1982) at Bl. 022, Table 1). MCI also expects to open terminals in GTE cities such as Long Beach and San Bernardino, California; Sarasota, Florida; LaFayette and Terre Haute, Ind.; Bloomington, Ill.; Muskegon, Mich., and Columbia, Mo.

[4] All GTE documents in the Appendix to these Comments bear a stamped number. For ease of reference, pages in those documents are referred to by the last four digits of the numbers appearing thereon.

Formation of the AT&T Monopoly

Initially, the only significant form of long distance communications in the United States was by telegraph, and the dominant telegraph carrier was Western Union Telegraph Company. (Federal Communications Commission, *Investigation of the Telephone Industry in the United States*, H.R. Doc. 340, 76th Cong., 1st Sess. 27 (1939), Ex. 1362A, at 33 [hereinafter cited as *"Investigation"*].) In settlement of a patent action brought by AT&T, *American Bell Tel. Co.* v. *Dowd* (C.C.D. Mass., filed Sept. 12, 1878), Western Union agreed to stay out of the telephone business. (*Investigation*, at 123–24.) AT&T subsequently eliminated virtually all other telephone competitors through more than 600 patent infringement actions. (*Investigations*, at 125.)

Following the expiration of the Bell patents in 1893 and 1984, AT&T refused to allow independents to interconnect with any AT&T or to share any facilities, such as underground conduit in metropolitan areas, owned or used by AT&T. (*Investigation*, at 136–37.)

By World War I, AT&T had virtually completed its acquisition of hundreds of independents in the most profitable areas of the country. AT&T had also constructed a nationwide long distance monopoly. With the adverse conditions of the Depression, this situation continued unchanged until World War II.

Formation of The Cartel

Microwave technology, developed by the U.S. Army Signal Corps during World War II (*See Economic Implications and Interrelationships Arising From Policies and Practices Relating to Customers Interconnection Jurisdictional Separation and rate Structures*, 61 F.C.C.2d 766, 779–80 (1976)), created the first competitive threat to AT&T's monopoly in intercity communications since the turn of the century. Microwave allowed intercity telecommunications to be carried more cheaply and efficiently than by cable. Because AT&T would have to construct microwave facilities just like anyone else, competition was again economically feasible. *See United States* v. *AT&T*, 524 F. Supp. 1336, 1353 & n. 71 (D.D.C. 1981).

AT&T responded to regulatory pressures from the FCC in the 1940s by unilaterally transferring a significant amount of costs from the intrastate rate bases of local telephone companies to AT&T's interstate rate base. R. Gabel, *Development of Separation Principles in the Telephone Industry*, 48, 50–51 (1967). The effect of AT&T's transfer of local exchange costs to the interstate rate base was to increase settlement payments to local telephone companies and to make long distance competition less attractive to potential entrants. Despite the availability of low-cost microwave technology, no independent telephone company sought to enter the long distance market and compete with AT&T.

In October 1951, AT&T and the independents began to put in place a new type of settlement plan. The result of the plan was to transfer $104 million from intrastate to interstate rate bases. (*Telecommunicotions Reports*, November 26, 1951, at 6.) This was accomplished by assigning to AT&T's interstate rate base an amount equal to *180 percent* of the costs representing AT&T's interstate usage of local exchange subscriber line facilities. (*United States* v. *AT&T*, written testimony of Charles R. Jones, at 9 & att. 6–7 (filed Nov. 23, 1981).)

Between 1952 and 1970, the Separations Manual underwent several additional revisions each time assigning atill more intrastate costs to the interstate rate base. The 1970 "Ozark Plan" assigned 330% of usage based local costs to interstate.[6]

AT&T was paying the independents to stay out of the long distance market. The independents could obtain higher profits by confining themselves to local service and accepting settlement payments equal to more than 300% of costs than by competing with AT&T and risking the loss of inflated settlement payments.

As settlement payments were growing, the cartel was also enhanced by the concentration of non-Bell local exchange business in the hands of five independents.[7] For example, GTE, the largest Independent, increased its market share four-fold.

	1935 (percent)	1969 (percent)
GTE share of:		
Independent telephones	12	46
Independent revenues	12	49
Independent plant investment	11	47

ITT v. *GTE*, 449 F.Supp. 1158, 1197–99 (D. Hawaii 1978).

For 30 years after the advent of inexpensive microwave transmission, not one independent sought to enter the long distance market. Despite increasing transmission economies, AT&T's interstate rates stopped declining and bagan increasing. The cartel was complete—AT&T was reaping monopoly profits in the long distance market and dividing them with its non-entering potential competitors. Far from impeding the cartel, state and federal regulators accepted the settlements process by which the cartel was maintained.

GTE's role in resisting competition

The first new competitor to enter the long distance market was not an independent telephone company. It was MCI, a start-up company using microwave transmission technology. *Microwave Communications, Inc.*, 18 F.C.C. 2d 953 (1969). Fearful of long distance competition, AT&T did, and continues to, deny MCI and other competitors equal local interconnections. *Bell Telephone Co.*, v. *FCC*, 503 F.2d 1250 (3d Cir. 1974), *cert. denied*, 422 U.S. 1026 (1975); *MCI* v. *FCC*, 561 F.2d 365 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1040 (1978); *MCI* v. *AT&T* 1982–83 Trade Cases ¶ 65,137 (7th Cir. 1983) (*"MCI I"*) *petitions for cert. filed* July 11, 1983; *United States* v. *AT&T*, 524 F. Supp. 1336 (D.D.C. 1981); and 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 103 S. Ct. 1240 (1983).

Fearful of the potential loss of their lucrative settlements payments, GTE and other independents also did, and continue to, deny MCI equal local interconnection.[8] (See *MCI* v. *AT&T et al.*, No. 79–1182 (D.D.C.) (*"MCI II"*).)

GTE has refused and continues to refuse to provide MCI with interconnections equal to those provided to AT&T. There are numerous ways in which the interconnection arrangements provided to MCI are critically inferior: (1) GTE provides AT&T with "trunk side" interconnections for long-distance communications while providing MCI with inferior "line-side" interconnections. (Appendix Tab 1, Affidavit of Bert C. Roberts, Jr. at ¶¶3–4.) Line-side interconnections result in a lower level of transmission quality that damages MCI's relations with its customers and places MCI at a substantial competitive disadvantage to AT&T. (*Id.*) (2) GTE's customers with rotary dial telephones—a substantial majority—cannot use MCI's service without purchasing special tone signaling equipment. (*Id.* at ¶8.) In contrast, GTE customers with rotary dial telephones can use AT&T's long distance service without any special tone signaling equipment. This limitation on MCI greatly restricts the market MCI can serve.[9] (*Id.*) (3) Those customers which MCI can serve must make a separate local telephone call using the line-side connections to gain access to MCI's long-distance service instead of being able to dial a simple single-digit access number as AT&T's users do. This not only inconveniences MCI's customers but can cause them to incur additional local charges (which GTE collects) not incurred by AT&T's customers. (*Id.*) (4) GTE refuses to provide automatic number identification ("ANI") to MCI but does provide it to AT&T. Consequently, unlike AT&T's customers, MCI's customers must identify themselves to

[6] Source: Written testimony of Charles Jones, at 9 & Att. 6 (filed Nov. 23, 1981) *United States* v. *AT&T*.

[7] See page 4 n. *, *supra*.

[8] GTE executives understood the effect of restricting MCI to users with touch-tone telephones: "Touch calling capability is critical (only 45% have it.)" (Appendix Tab 17, Executive Review of GTE OCC MTS Business Plan Status, dated May 25, 1982 at 6089; see also Appendix Tab 26, GTE Basic Regulated Network Business Plan, dated July 16, 1982 at 6636.]

[9] The following table illustrates the importance to GTE of its toll settlement revenues.

Year	GTE		
	Toll settlement revenues	Net income	Net income less toll settlements
1978	$2.427B	$.497B	($1.930B)
1979	2.857B	.559B	($2.298B)
1980	3.303B	.583B	($2.720B)
1981	3.893B	.716B	($3.177B)
1982	4.365B	.843B	($3.522B)

(GTE Corporation Annual Report 1982 at 27.)

VOL 48 ISS 199 1983 OCT 13 UMI

MCI by dialing an extra 5 or 7 digit authorization code. This too inconveniences MCI's customers, and also makes possible fraudulent misuse of authorization codes. MCI's need to police this misuse and reduce its losses is expensive and harms its relations with its legitimate customers. (*Id.*) (5) GTE refuses to provide MCI "answer supervision" as it does for AT&T. As a result, MCI cannot determine with certainty if or when a customer's call has been answered. MCI must incur extra costs for equipment which approximates this function. (*Id.*) (6) GTE often refuses to participate in joint trouble reporting or joint testing the MCI. (*Id.*) The result is that MCI must devote more time, people and equipment to testing and yet receive less accurate results.

GTE has had the technological capability to provide equal interconnection arrangements to MCI and other intercity carriers for many years in its local franchise areas. Yet GTE has steadfastly maintained an explicit corporate policy of denying MCI interconnections which it readily provides to AT&T and which smaller independent local telephone companies readily provide to MCI. MCI has frequently requested equal interconnections from GTE, offering to pay reasonable charges based on the cost of the interconnections. (Appendix Tab 1, Affidavit of Bert C. Roberts, Jr. at ¶ 10; Appendix Tab 3, Affidavit of Richard Q. Allen at ¶ 14.) GTE has explicitly responded that as a matter of policy it is unwilling to provide equal interconnection features such as rotary dial access, single or reduced digit access without a local call, ANI, answer supervision and joint testing.[10] (Appendix Tab 1, Affidavit of Bert C. Roberts, Jr. at ¶ 10; *see also* Appendix Tab 3, Affidavit of Richard Q. Allen at ¶ 15.)

High level GTE employees have admitted in depositions taken by the United States that OCCs, such as MCI, have "been quite consistent from the beginning" in requesting from GTE "a better arrangement, access, if you will to the network." (Appendix Tab 10, Excerpts from Deposition of William R. Hampton at 61–62.) GTE personnel have also testified that for as long as eight years GTE could have provided the OCCs with equal access features such as rotary dialing; "10XX" access, automatic number identification and toll quality trunk lines. (Appendix Tab 9, Excerpts from Deposition of William E. Starkey at 98–99, 104, 107.)

Independent telephone companies other than GTE readily provide MCI with equal exchange access. For example, subscribers of Northwest Iowa Telephone Company can use MCI's long distance service by dialing a one-digit number from any telephone, rotary dial or touch tone, and then dialing the area code and telephone number. No local call is required. The customer's identity is automatically made known to MCI through ANI. Answer supervision automatically alerts MCI when the person called answers the telephone. The interconnections between Northwest Iowa and MCI are high-quality four-wire trunks. MCI has located its terminal facility on Northwest Iowa's premises and calls which originate and terminate in Northwest Iowa's exchange areas are transmitted by microwave directly to MCI's network. If problems arise, the customer can at any time contact Northwest Iowa which checks its own lines and jointly tests lines with MCI whenever that is necessary. Using information such as ANI and answer supervision, MCI automatically calculates the customer's long distance charges and transmits that data to Northwest Iowa which includes the billing on the customer's regular monthly invoice. Northwest Iowa provides the same interconnections and assistance to AT&T. (Appendix Tab 1, Affidavit of Bert C. Roberts, Jr. at ¶ 5.)

Sugar land Telephone Company (Texas) provides essentially the same interconnections and assistance to MCI as does Northwest Iowa. (*Id.* at ¶ 6.) The same interconnections and assistance are provided by Sugar Land to AT&T. (Appendix Tab 2, Affidavit of Robert C. Brown, III at ¶ 10.) The switch used by Sugar Land to provide trunk-side interconnections to MCI is a 1–EAX switch manufactured by GTE's subsidiary Automatic Electric. (*Id.* at ¶ 4.) Under a purchase order from Sugar Land, Automatic Electric made the changes to the switch's software required to interconnect MCI's long-distance service. (*Id.* at ¶ 5.) The changes cost less than $14,000 and required 37 man-hours of work by Automatic Electric. (*Id.*) Yet GTE has refused to make these simple changes in identical switches in its own territory. (Appendix Tab 1, Affidavit of Bert C. Roberts, Jr. at ¶ 10; Appendix Tab 9, Excerpts from Deposition of William E. Starkey at 112–13.) Indeed, GTE has specifically stated in meetings with MCI representatives that GTE is not interested in the types of agreements MCI has with Northwest Iowa and Sugar Land Telephone Companies. (Appendix Tab 3, Affidavit of Richard Q. Allen at ¶ 15.)

Second, GTE actively sabotages in subtle but effective ways MCI's efforts to compete vigorously in the long-distance telecommunications market. For instance, GTE routinely causes critical delays, sometimes by many months past the due dates *established by GTE itself*, in providing even the lower-quality interconnections it makes available to MCI. (Appendix Tab 1, Affidavit of Bert C. Roberts, Jr. at ¶ 11.) Over 85% of the 348 GTE dedicated circuits ordered by MCI's Los Angeles office have been late. (Appendix Tab 6, Affidavit of Penny J. Kubitsky at ¶ 4.) Sixty-nine percent of the 148 GTE ENFIA circuits ordered by MCI's Santa Ana, California office also have been overdue. (Appendix Tab 7, Affidavit of Gaile A. Wixson at ¶ 4.) Fifty-two percent of all GTE interconnections ordered by MCI's Dallas terminal have been delayed. (Appendix Tab 3, Affidavit of Richard Q. Allen at ¶ 3.) For some cities, such as Byran/College Station, Texas, GTE has never provided an interconnection on time. (Appendix Tab 4, Affidavit of Gary Mendel at ¶ 4.)

In addition to inferior interconnection quality and interconnection delays, GTE inadequately services and repairs existing MCI circuits. GTE interconnections to Rockwell International, in Seal Beach, California, have failed to function on at least 30 occasions during the past two years. GTE has never offered a reasonable explanation for the disruption in service to this major customer of MCI. (Appendix Tab 8, Affidavit of Buddie J. Aubrey at ¶¶ 4 and 7.) GTE also has arbitrarily attempted to change the local access numbers to MCI's Execunet service, annoying many MCI customers. (Appendix Tab 5, Affidavit of Laurie Smith at ¶¶ 3–8.)

GTE's opposition to competition has not been limited to its relations with MCI. The FCC recently has found: "GTE has never entered a service market and competed with AT&T. GTE's history has primarily been one of cooperation with AT&T and participation in telephone industry solutions." *GTE-Telenet Merger*, 72 F.C.C.2d 111, 156 (1979). In its 1979 Strategic Plan, GTE frankly espoused a policy to "pursue [an] active program of acquisition or joint ventures that create the bargaining chips" to influence AT&T to provide service jointly. (*Id.* at 119.)

In 1972, GTE sought authority from the Federal Communications Commission to establish its own satellite communications system through its GTE Satellite Corporation ("GSAT") subsidiary. Earlier, GTE had unsuccessfully attempted to join AT&T in AT&T's own satellite venture. In its application to the Commission for an independent license, GTE represented that it would compete vigorously with AT&T if it were granted a license. Desiring to promote exactly this sort of competition, the Commission granted a license to GTE. Shortly thereafer, GTE abandoned its independent satellite system plans and announced that it had entered into a joint venture arrangement with AT&T to provide satellite service.

The Commission investigated the reasons for GTE's choice to abandon its independent system. *In re GTE Satellite Corp.*, 49 F.C.C. 2d 42 (1974). Judge Miller found that "AT&T did not coerce GSAT into abandoning its separate system proposal. In fact, if anything the converse is true." *In re GTE Satellite Corp.*, 57 F.C.C. 2d 153 (April 4, 1975), *adopted and off'd*, 57 F.C.C. 2d 147 (Dec. 16, 1975). Relying upon the testimony of a GSAT officer, Judge Miller found that GTE knew six months before its authorization was granted that it did not intend to construct a separate system. 57 F.C.C. 2d at 172. Judge Miller noted that a March 1973 GTE memo created the suspicion that GSAT even then never intended to construct a totally separate GSAT system and that it wanted a grant of its original proposal only for the purposes of negotiating a joint proposal with AT&T. Judge Miller commented, 57 F.C.C. 2d at 176.

[T]he record evidence suggests that at least six months before it received its separate system authorization, GSAT knew it was not going to build a separate system. It never informed the Commision of that fact. But it knew it. The record suggests that as early as March 9, 1973, GSAT's only motive in pursuing its separate system authorization was to obtain the necessary leverage to induce AT&T to abandon its (AT&T's) separate system and enter into a *combined* satellite system with it. Stated another way, GSAT may have been using the Commission's processes as a tool to secure a favorable satellite agreement with AT&T (emphasis in original).

The FCC recently authorized limited entry by carriers to offer local "cellular" radio telephone service. In each metropolitan area, one authorization is allocated to a local wireline telephone company. On June 7, 1982, GTE Mobilnet announced its plans jointly to provide service with AT&T's Advanced Mobile Phone Service (AMPS) in many of the largest metropolitan areas in the country. GTE will operate the systems in seven markets including Cleveland, Houston, indianapolis, Portland, San Francisco, San Jose and Tampa. (GTE-Mobilnet/AMPS June 7, 1982 Agreement at 3–4; GTE Corporation Annual Report 1982 at 3, 8.) The percentages of ownership allocated to GTE Mobilnet and AMPS vary in different cities. The June 7, 1982 agreement contains specific percentage allocations for GTE Mobilnet and AMPS for several cities. For example, in Atlanta, AMPS will have a 79% interest, while GTE has a 21% interest; in San Francisco AMPS will have a 49% interest, while GTE Mobilnet will have a 51% interest; in San Jose, GTE will have a 51% interest and AMPS will have a 49% interest.

Nor has GTE's propensity for abusing its local bottleneck power been limited to its relations with MCI. In *In re TeleCable*, 19 F.C.C. 2d 574 (1969), the Commission found that GTE and its subsidiaries, General Telephone of Illinois ("GTI") and GTE Communications ("GTEC"), conspired to prevent competing cable television companies from using GTE's utility poles (in an area where GTE had the local telephone monopoly) so that GTE's own cable television subsidiary could be awarded an important local franchise. The Commission found that, as a practical matter, the use of existing poles was necessary to provide cable television. *Id.* at 579. As the local monopoly telephone carrier in the area, GTI controlled the poles as part of its franchised monopoly. The Commission concluded that:

GTI took advantage of its monopoly position in the area and engaged in anticompetitive conduct which ensured the award of the franchises to GTEC.

Id. at 588.

In *ITT v. GTE*, 449 F. Supp. 1158 (D Hawaii 1978) (opinion following remand), the court found that GTE violated Section 1 of the Sherman Act by vertically integrating into the telecommunications equipment manufacturing market and then engaging in exclusive telephone equipment purchasing policies with its equipment subsidiaries. GTE is now subject to a consent decree providing injunctive relief in that case intended to protect the telephone equipment market from further abuses of GTE's power due to the vertical integration of its telephone operating companies and its equipment manufacturers. (Appendix Tab 14, Final Judgment, *ITT v. GTE*, No. 2759 (D.Ha. 1978.)

In 1979, the FCC ruled that GSAT and one of GTE's telephone companies, Hawaiian Telephone Company ("HTC"), had violated the Communications Act and numerous FCC orders by refusing to interconnect with American Satellite Corporation. The FCC fined GTE for its violations and stated:

"In sum, the conduct of these carriers, particularly HTC, clearly violated the terms of the earth station license and numerous prior Commission orders on the obligation of carriers to interconnect. Such preferential treatment as exhibited here borders on anti-competitive conduct. Further conduct of this sort by HTC or any affiliated carrier will be considered a very serious matter".

In re American Satellite Corp. v. Hawaiian Telephone Company and GTE Satellite Corp., 73 F.C.C. 2d 317, 324 (1979).

Other actions are now pending against GTE alleging that GTE has abused its monopoly power over local service. DASA Corporation, a manufacturer of telephone equipment, has brought suit against GTE alleging that GTE violated the antitrust laws by prohibiting interconnection of DASA's equipment with GTE's telephone operating company equipment. *DASA Corp. v. General Telephone Co.*, 1977–2 Trade Cases ¶61,610 (C.D. Cal. 1977), *rev'd sub nom. Phonetele, Inc. v. American Telephone and Telegraph Co.*, 664 F.2d 716 (9th Cir. 1982), *cert. denied*, 103 S. Ct. 785 (1983). The case is awaiting trial after remand by the Ninth Circuit, which reversed the district court's erroneous dismissal on exclusive jurisdiction grounds.

D. Proposed Acquisition and Settlement

Beginning in 1981, GTE started analyzing the long distance telephone service market with a view toward using its GSAT satellites to provide OCC service. By June 1, 1981 GTE had completed a detailed 200 page strategy report recommending de novo entry by GTE. (Appendix Tab 28, GTE Deregulated Network Strategy Summary Report, dated June 1, 1981.)

Throughout the next year top-level GTE officers continued to develop and refine plans for a "build-from-within GTE entry" into the long distance market. (Appendix Tab 17, Executive Review of GTE, OCC MTS Business Plan Status, dated May 25, 1982; Appendix Tab 18, Confidential GSAT OCC Business Plan Review from R.C. Calafell to Dr. T.A. Vanderslice, dated June 28, 1982 at 6752; Appendix Tab 29, Business Plan for a GTE OCC, dated July, 1982.) It was clear to GTE from the beginning that:

"Synergies alone are not significant enough to justify GTE ownership of intercity facilities. OCC and its related network investments must be attractive as a stand-alone business."

(Appendix Tab 16, GTE Deregulated Network Strategy Presentation to Dr. Vanderslice, dated June 18, 1981 at 5647; *see also* Appendix Tab 10, Excerpts from deposition of William R. Hampton at 19.)

As described to GTE's President, Thomas Vanderslice, the entry plan centered on use of four GSAT satellites approved for launch beginning in 1984. (Appendix Tab 18, Confidential GSAT OCC Business Plan Review from R.C. Calafell to Dr. T.A. Vanderslice, dated June 28, 1982 at 6783.) It was recommended that GTE provide MTS/WATS-type service to 144 cities by 1985 by using these satellites together with a number of earth stations connected by GTE's GTD-5 switches and optical fiber cable. (*Id.* at 6755–60.) This plan projected that GTE would grow rapidly and surpass MCI both in market share and revenue by 1986. (Appendix Tab 17, Executive Review of GTE, OCC MTS Business Plan Status, dated May 25, 1982 at 6128–29; Appendix Tab 29, Business Plan for a GTE OCC, dated July, 1982 at 7002.) By 1990, GTE expected to have 8.3% of the market, leaving AT&T with 71.5% and all remaining OCCs with 20.2%. (Appendix Tab 18, Confidential GSAT OCC Business Plan Review from R.C. Calafell to Dr. T.A. Vanderslice, dated June 28, 1982 at 6756; Appendix Tab 17, Executive Review of GTE, OCC MTS Business Plan Status, dated May 25, 1982 at 6123, 6128–29.)

Instead, in September, 1982, GTE opted to enter the OCC market by acquiring SPCC rather than by building from within.[11] As GTE's officers disclosed to the GTE Board of Directors on September 13, 1982, however, the acquisition route meant that GTE would not surpass MCI in market share. GTE's 1990 market share would range only from 4 to 7%—leaving ATT with from 76–85%. (Appendix Tab 20, GTE Board of Directors Featherbed Presentation, dated September 13, 1982 at 0180.) An internal analysis prepared for GTE Chairman Brophy also desclosed that acquiring SPCC at a cost of $750 million would make the initial book cost of SPCC's long-distance plant 87% higher than that of AT&T. (Appendix Tab 23, AT&T Versus Featherbed Competitive Cost Position.)

One month later, on October 16, 1982, GTE agreed to purchase SPCC and SPSC for approximately $750 million in cash. GTE also agreed to assume the acquired companies' debt, which was $265 million on December 31, 1982, as well as other leases and other obligations. (Southern Pacific Company 1982 Annual Report at 36.) Noting that the split between cash payments, debt assumption and acquired assets could vary, GTE's President identified the total cost of the acquisition as $1 billion: "I think the total package would be, we could say, close to a billion dollars." (Appendix Tab 12, Excerpts from Deposition of Thomas A. Vanderslice at 78–79.)

Therefore, to acquire companies whose assets totalled $477 million at the end of 1982, GTE agreed to incur costs of $1000 million—a premium of more than $500 million. In contrast, GTE valued the replacement cost of SPCC's network at $360 to $480 million. (Appendix Tab 20, GTE Board of Directors Featherbed Presentation, dated September 13, 1982 at 0162.)

On May 4, 1983, the United States filed this action to enjoin the acquisition under Section 7 of the Clayton Act for threatening to lessen long distance competition in GTE's monopoly franchise areas. GTE has stipulated that the complaint states a cause of action. Also on

[10] SPCC bases its recent antitrust action against AT&T and the BOCs, in part, upon AT&T's denial of "access to SPCC's system from ordinary rotary dial telephones, access without the need for a separate local telephone call, and answer supervision." Complaint ¶ 20a, *SPCC v. AT&T*, No. C 83–94 TEH (N.D.Cal. filed Jan. 7, 1983.) SPCC's antitrust action was filed after the acquisition agreement with GTE and it did not name GTE as a defendant.

[11] In early 1982, GTE had formed an evaluation team to evaluate SPCC as an acquisition. The project was code-named "featherbed"—a reference to the railroad business of Southern Pacific Company. (Appendix Tab 20, GTE Board of Directors Featherbed Presentation, dated September 13, 1982 at 0133.)

VOL
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May 4, 1983, the United States filed a proposed settlement which would allow the acquisition subject to certain conditions.

On June 10, 1983, this Court ruled that the acquisition could take place pending completion of Tunney Act proceedings. The Court specifically conditioned its ruling upon the understanding and commitment of GTE and Southern Pacific that the acquired companies would be held separate and that "the Court may require the acquisition to be undone if that should be appropriate in the public interest. ." *United States* v. *GTE*, No. 83–1298, slip op. at 3 n.4 (D.D.C. June 10, 1983).

III. The Proposed Settlement Will Facilitate Anticompetitive Conduct and is Contrary to the Public Interest

A proposed settlement cannot be in the public interest if there is a substantial risk that it cannot cure the antitrust violation alleged in the underlying complaint. *United States* v. *AT&T*, 552 F. Supp. 131, 148–51 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 103 S. Ct. 1240 (1983). That is precisely the problem with this settlement.

Section 7 of the Clayton Act, 15 U.S.C. 18, prohibits a company from acquiring the assets of another corporation "where the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly." The stated intent of Congress in enacting this section was "to cope with monopolistic tendencies in their incipiency and well before they have attained such effects as would justify a Sherman Act proceeding." S. Rep. No. 1775, 81st Cong., 2d Sess. 5 (1950). *See Hamilton Watch Co.* v. *Benrus Watch Co.*, 206 F. 2d 738, 741 (2d Cir. 1953).

The traditional analysis of vertical acquisitions under Section 7 has focused upon market foreclosure: "[T]he diminution of the vigor of competition which may stem from a vertical arrangement results primarily from a foreclosure of a share of the market otherwise open to competitors. . " *Brown Shoe Co.* v. *United States*, 370 U.S. 294, 328 (1962). *See also Fruehauf Corp.* v. *FTC*, 603 F. 2d 345, 352 (2d Cir. 1979) (the competitive significance of a vertical merger results primarily from the degree to which it may increase barriers to entry into the market or reduce competition by foreclosing competitors of the selling firm from access to the market or a substantial portion of it.)

Thus, in *Ford Motor Co.* v. *United States*, 405 U.S. 562 (1972), the Court held that Ford violated Section 7 when it purchased Autolite, an important spark plug manufacturer. The district court found "that the acquisition marked 'the foreclosure of Ford as a purchaser of about ten percent of total industry output.' " *Id.* at 568. The Supreme Court explicitly approved the district court's ultimate conclusion:

> Ford's entry into the spark plug market by means of the acquisition of the factory . . and the trade name "Autolite" had the effect of raising the barriers to entry into that market as well as removing one of the existing restraints upon the actions of those in the business of manufacturing spark plugs.

Id. at 568, 569; *see also United States* v. *E. I. duPont de Nemours*, 353 U.S. 586, 595 (1957) (DuPont's purchase of General Motors stock violated Section 7 by foreclosing a substantial portion of automobile finish market); *Filtrol Corp.* v. *Slick Corp.*, 1970 Trade Cases ¶ 73,035 at 88,048 (C.D. Cal. 1969) (manufacturer of fatty oils enjoined under Section 7 from acquiring sole producer of product commercially indispensable to fatty oils manufacturers because it would permit bottleneck control over the indispensable product), *aff'd per curiam*, 428 F. 2d 826 (9th Cir. 1970).

GTE's acquisition of SPCC inevitably would tend to foreclose competition in the intercity telecommunications market. Most significantly, the acquisition would increase GTE's incentive and opportunity to stifle competition through abuse of its monopoly exchange bottleneck. Moreover, the acquisition will promote cross-subsidization and evasion of rate regulation, will facilitate continued collusion between GTE and AT&T, and will increase barriers to entry in the long-distance market. The terms of the proposed settlement are inadequate to ensure equal exchange access or to maintain financial separation—especially given GTE's entrenched reliance upon market division and cross subsidization schemes. Indeed, the settlement's unnecessarily prolonged interconnection timetable demonstrates the inability of the Department of Justice adequately to check GTE's suppression of competition in the long-distance market.

A. The Proposed Settlement Will Permit GTE To Exploit Its Strategic Bottlenecks

This Court should disapprove the proposed settlement for the same reasons AT&T has been forced to divest its local telephone companies and the BOCs have been restricted from interexchange service. *United States v. AT&T*, 552 F.Supp. 131 (D.D.C. 1982), *off'd sub nom. Maryland v. United States*, 103 S. Ct. 1240 (1983). Just as AT&T abused its control over its local-service monopolies, GTE, even without owning a long distance subsidiary, consistently has refused to provide long distance carriers equal access to its local-service facilities. GTE's acquisition of SPCC would create an even greater incentive for GTE to exploit its local-service bottlenecks.

Simply stated, GTE's acquisition of SPCC is anti-competitive because GTE's monopoly control of local telephone facilities gives GTE a strategic bottleneck allowing it to discriminate against other intercity carriers. As the Department of Justice has explained:

> Firms seeking to provide intercity telecommunications services to customers in any market must reach those customers over facilities owned and operated by the firm providing local telecommunications services in that market. These local distribution facilities . . . are essential facilities to which firms providing intercity services must have non-discriminatory access in order to compete effectively over the full range of services. Thus, when a single firm provides both local, regulated telecommunications services in a given market, its control over local exchange monopolies gives it the ability—and its simultaneous presence as an intercity carrier provides it an economic incentive—to foreclose or impede competition in the provision of interexchange telecommunications in that market.

Competitive Impact Statement, 48 Fed. Reg. 22026 (1983) *United States* v. *GTE Corp.* (hereinafter "GTE Competitive Impact Statement.")

The *United States* v. *AT&T* case provides a textbook illustration of a local-telephone-service monopolist's ability to exploit its strategic bottleneck. This Court summarized the government's allegations in that case as follows:

> The government's claims with regard to the intercity services offerings of non-Bell carriers revolve around one central point: that because the Bell System (with its Operating Companies) possesses a monopoly in the distribution of local telecommunications services, meaningful competition in the provision of intercity services is precluded unless the non-Bell carriers are able to obtain interconnection with the Bell local distribution facilities under non-discriminatory terms and conditions.

United States v. *AT&T*, 524 F. Supp. 1336, 1352 (D.D.C. 1981). The Court stated that "[a]ny company which controls an 'essential facility' or a 'strategic bottleneck' in the market violates the antitrust laws if it fails to make access to that facility available to its competitors on fair and reasonable terms that do not disadvantage them." *Id. See also United States* v. *AT&T*, 552 F. Supp. at 162, 165, 171–72, 188, 195.

Under this fundamental doctrine, the anticompetitive exploitation of "strategic bottlenecks" had already been prohibited when Congress passed the Clayton Act. In *United States v. Terminal Railroad Association of St. Louis*, 224 U.S. 383 (1912), for example, the Supreme Court struck down an attempt by a limited group of railroads to purchase the sole rail terminal facility in St. Louis. The Court held that, because of an "extraordinary . . . topographical condition peculiar tot he locality," no other terminal could be built in the St. Louis area and that the defendants, therefore, would be overly tempted to discriminate unlawfully against their competitors. *Id.* at 405.

More recently, in *Otter Tail Power Co.* v. *United States*, 410 U.S. 366 (1973), the Court condemned a regional power company's refusal to permit a municipal electric company to interconnect and transfer power over the regional company's lines: "Otter Tail used its monopoly power in the cities in its service area to foreclose competition or gain a competitive advantage, or to destroy a competitor, all in violation of the antitrust laws." *Id.* at 377. *See also Hecht* v. *Pro-Football, Inc.*, 570 F.2d 982, 992 (D.C. Cir. 1977) (defendants wrongly refused to grant plaintiff access to football stadium: "The essential facility doctrine, also called the 'bottleneck principle,' states that 'where facilities cannot practically be duplicated by would-be competitors, those in possession of them must allow them to be shared on fair terms. It is illegal restraint of trade to foreclose the scarce facility.' "), *cert. denied*, 436 U.S. 956 (1978); *Woods Exploration and Producing Co.* v. *Aluminium Co. of America*, 438 F.2d 1286, 1300–01 (5th Cir. 1971) (defendants wrongly refused to allow plaintiffs to use defendants' gas pipeline, the only one in existence in the relevant location, and refused to grant plaintiffs an easement so that plaintiffs could build their own pipeline), *cert. denied*, 404 U.S. 1047 (1972); *Gamco, Inc.* v. *Providence Fruit & Produce Building, Inc.*, 194 F.2d 484, 488 (1st Cir.) (owners of unique produce shipping-and-selling building wrongly excluded competitors from using it), *cert. denied*, 344 U.S. 817 (1952).

Common ownership presents on insuperoble strucutrual problem

A company providing long distance service while controlling substantial local exchange monopoly has a very strong incentive to advance its own position through interconnection discrimination and cross subsidization practices. Equally important, due to the technical and regulatory compexity of the telecommunications industry, currently it is not possible effectively to preclude those anticompetitive practices by a common owner. Common ownership is a structural problem which requires a structural solution.

In approving the Bell System divestiture and service restriction settlement in *United Stotes* v. *AT&T*, this Court stressed that AT&T no longer would "be able to discriminate against intercity competitors . . . by obstructing its competitors' access to the local exchange network" and that because the "local Operating Companies will not be providing interexchange services . . . they will . . . have no incentive to discriminate." 552 F. Supp. at 165. The Court emphasized in particular that "the principal means by which AT&T has maintained monopoly power in telecommunications has been its control of the Operating Companies with their strategic bottleneck position." *Id.* at 171. *See also MCI* v. *AT&T*, 1982–83 Trade Cases ¶ 65,137 (7th Cir. 1983) *petitions for cert. filed* July 11, 1983; *Litton Corp.* v. *AT&T*, 700 F.2d 785 (2d Cir. 1983) *Petition for cert. filed* June 28, 1983.

Like predivestiture AT&T, GTE controls a nationwide group of local telephone monopolies.[12] Approval of the acquisition of SPCC by GTE would place GTE in an anticompetitive posture very similar to the one condemned by this Court, the Department of Justice, and SPCC[13] in *United States* v. *AT&T*. As the government concedes here: "The potential for abuse of [GTE's] monopoly power over exchange access . . . underlies the present action and the proposed Final Judgment." GTE Competitive Impact Statement, 48 Fed. Reg. at 22027. Nevertheless, the government naively proposes to allow GTE to acquire SPCC despite the impossibility of adequately controlling GTE's incentive and ability to abuse its monopoly bottleneck power.

Indeed, if the government were confident that the proposed settlement would adequately control GTE's conduct, paragraph VI A of that settlement would not restrict GTE from acquiring "any carrier, *other than the acquired entities*, providing interexchange telecommunications service in the United States." 48 Fed. Reg. at 22024 (emphasis added). Apparently the government believes that an insuperable structural problem would result were GTE to acquire *two* interexchange carriers.

As the government readily admits: "The proposed final judgment does not—and cannot, given the lack of complete structural separation—eliminate all possibilities for exercise of GTE's power as a regulated monopolist in its franchised serving areas." *Id.* at 22033. Indeed, the government acknowledges that the separate subsidiary requirement of the proposed settlement simply cannot eliminate GTE's incentive to engage in anticompetitive conduct. *Id.* at 22034. Nevertheless, the government believes that the conditions imposed on GTE by the proposed settlement are sufficient to deter GTE from abusing its local monopoly bottleneck to stifle competition in the long-distance market. This contention directly contradicts the government's position in *United States v. AT&T*.

The government straightforwardly states that in this case, "The basic antitrust theories are the same as those of *United States v. American Telephone and Telegraph Company*, No. 74–1698 (D.C.C.)." GTE Competitive Imapct Statement, 48 Fed. Reg. at 22027. As the government notes, the consent decree entered in *United States* v. *AT&T* mandates, among other things, (1) the divestiture by AT&T of the exchange telecommunications and exchange access functions of the BOCs, and (2) line of business restrictions for the divested BOCs barring them from providing interexchange services. GTE Competitive Impact Statement, 48 Fed. Reg. at 22027; *United States* v. *AT&T*, 552 F. Supp. at 180, 188–189. Thus, while the government itself states that its theory in this case is identical to its theory in *United States* v. *AT&T*, it now claims that structural separation is unnecessary to safeguard competition despite its insistence on structural separation in *AT&T*.

The government's purported rationale for this change of heart is that, "Unlike the situation in AT&T, where a vertically integrated structure had been in existence for more than a century, GTE has never been operated in common with SPCC." GTE Competitive Impact Statement, 48 Fed. Reg. at 22034. This statement demonstrates a fundamental error in the government's analysis: it is GTE's local telephone companies which have bottlemeck control power and rate-base cross subsidy potential—not SPCC. Indeed, SPCC need do very little other than use what GTE causes its telephone companies to offer. The proposed settlement will remove neither GTE's incentive nor ability to generate such "assistance" for SPCC.

In evaluating the settlement in *United States* v. *AT&T*, this Court noted that an alternative to the proposed decree would have been an injunction imposing "detailed constraints upon AT&T's activities." 552 F. Supp. at 166. The Court rejected such an alternative stating:

> it is unlikely that, realistically, an injunction could be drafted that would be both sufficiently detailed to bar specific anticompetitive conduct yet sufficiently broad to prevent the various conceivable kinds of behavior that AT&T might employ in the future.

552 F. Supp. at 166. Noting that the FCC had been totally unable to enforce "the laws governing AT&T's behavior" the Court concluded:

> Furhtermore, there is no reason to believe that, in the end, a judicially-created bureaucracy would be any more capable than the FCC itself of performing the unending task of vigilance and oversight that would be required to ensure that an integrated Bell System did not engage in anticompetitive conduct.

Id.

In 1982, it was also clear to SPCC that common ownership of local and long-distance telephone companies is a strucutural problem leading to uncontrollable anticompetitive conduct.

Indeed, the whole history of regulation of AT&T demonstrates that the FCC and other regulatory authorities have been unable to control AT&T anticompetive conduct or to deal adequately with antitrust issues raised by its structure.

SPCC Comments on Proposed Consent Decree at 48, *United States* v. *AT&T*.

The government's error in relying on a prior absence of common operations by GTE and SPCC is further demonstrated by the fact that the modified final judgment in *United States* v. AT&T requires not only complete structural separation of the BOCs from AT&T, but also requires that the BOCs themselves refrain from providing interexchange services.

In its Response to Public Comments on Proposed Modification of Final Judgment in *United States* v. *AT&T*, the government noted that the FCC, among others, had argued that the BOCs ought not be restricted from competing in the long-distance market:

> More specifically, it has been argued that accounting or quasi-structural regulatory remedies, such as a separate subsidiary requirement for the provision of competive

[12] To be sure, the "Bell System" included a larger local monopoly than GTE. The size of GTE's local monopoly is equivalent to one of the soon-to-be-formed regional operating companies. As GTE's Chairman replied when asked how important SPCC service to or from GTE cities would be to the success of Sprint: "In terms of universality of service, it can be important. You could have a competitive disadvantage if you didn't provide service to those companies, and competitors did." (Appendix Tab 11. Excerpts from Deposition of Theodore F. Brophy at 91.)

[13] In commenting upon the AT&T settlement, SPCC emphasized the importance of severing all ties between AT&T's local operating companies and AT&T Long Lines: Becuase AT&T has controlled the local exchanges, it could deny [long distance] competitors such as SPCC access to necessary local distribution facilities, it could provide inferior facilities when access was allowed, and it could charge discriminatory rates. The divestiture of the [Bell Operating Companies] is intended to reduce the identity of interest between AT&T and the local operating companies, thereby improving the opportunity for AT&T's [long-distance] competitors to obtain fair treatment.

SPCC Comments on Proposed Consent Decree at 6, *United States* v. *AT&T*. Now SPCC supports its acquisition by the nation's second largest local monopoly exchange company and seems unconcerned about the same anticompetitive effects it acknowledged one year earlier.

VOL 48 ISS 199 OCT 13 1983 UMI

products and services, would adequately safeguard competition.

47 Fed. Reg. 23320, 23336 (1982). While the government's response is extended, the clarity of its analysis merits quotation:

> If the BOCs, as rate base/rate of return regulated monopolists, were permitted to enter related competitive markets, they would have the means and incentive to disadvantage their competitors by cross-subsidization and discrimination in the terms and conditions of access to the local exchange. Neither of these problems has thus far proven amendable to successful regulatory solution. Indeed, the very basis for divestiture is that the anticompetitive problems inherent in the joint provision of regulated monopoly and competitive services are otherwise insoluble. Thus, permitting BOC entry into competitive markets would undermine the rationale for the divestiture that is the central remedial mechanism of the modification.
>
> * * * * *
>
> Particularly in a technologically dynamic industry such as telecommunications, there is little possibility that regulation is capable of detecting or preventing the very subtle forms of discrimination that would be available to the BOCs. Thus, even were it possible to prescribe in detail the appropriate technical parameters of interconnection under current technological conditions, regulators would have to have sufficient foresight to determine in advance the discriminatory potential inherent in tomorrow's technolgy, effectively to ensure fair competition. Even if it were possible, moreover, effectively to monitor the technical aspects of interconnection in an evolving technological environment, there would remain still more suble means of discrimination in operational activities, such as the timely provision, maintenance, testing, and restoration of facilities. In short, the BOCs, if permitted to engage in competitive activities, would have substantial ability to frustrate regulatory attempts to prevent discriminatory conduct.

Id.

This Court's ruling was equally incisive.

> The proposed decree prohibits the divested Operating companies from providing interexchange services. This restriction is clearly necessary to preserve free competition in the interexchange market.

552 F. Supp at 188.

Like the proposed final judgment here, the modified final judgment entered in *United States* v. *AT&T* required the BOCs to "provide access services to interexchange carriers which are equal in type, quality and price" to the access services provided to AT&T and its affiliites." 552 F. Supp at 196. Despite the detailed equal access requirements delineated in the modified final judgment, 552 F. Supp. at 195–200, 232–234, this Court nevertheless found that, if a BOC were permitted to provide interchange service, the complexity involved in providing equal interconnections to intercity carriers would allow the BOC to abuse its local monoploy bottleneck:

> The key to interexchange competition is the full implementation of the decree's equal exchange access provisions. If the operating companies were free to provide interexchange service in competition with the other carriers, they would have substantial incentives to subvert these equal access requirements. *The complexity of the telecommunicotions network would make it possible for them to establish and maintain an access plan that would provide to their own interexchange service more favorable treatment than that granted to the other carriers.* Such a result would perpetuate the very inequities that the proposed decree is designed to eliminate.

552 F. Supp. at 188 (citations omitted, emphasis added).

The danger that GTE, the largest independent telephone company in the United States, will continue to engage in anticompetitive conduct if allowed to offer interexchange services is at least as great as the danger in allowing the divested BOCs to do the same thing. The assets of GTE equal or exceed the assets of any regional operating company following divestiture in *United States* v. *AT&T*. Moreover, the 16 million telephones served by GTE tdtal only 1 or 2 percentage points less than the average number of telephones served by the regional operating companies. The 250,000 square mile area served by GTE substantially exceeds the average area that will be served by the regional operating companies. And unfortunately, anticompetitive conduct and antitrust violations are integral parts of GTE's recent history.

The terms of the proposed settlement do not remove GTE's ability to exploit its strategic bottlenecks

The Proposed Final Judgment would not result in equal exchange access for carriers such as MCI or preclude GTE from exploiting its strategic bottlenecks. In fact, the exchange access terms of the proposed settlement are considerably less rigorous than the exchange access terms of the MFJ, which will apply to fully divested carriers.

As a starting point, even the government must acknowledge that GTE has discriminated against MCI and others for many years and that it is doing so today. That is the conduct GTE and its employees have been used to since competition began. That is the "Strategic Thrust" recently characterized by GTE as "Fortress—hold off competition (1968–82)." (Appendix TAb 27, GTE Telephone Operations Long-Range Outlook—1983–1997, dated April, 1982 at 5699.) This discrimination-as-usual perspective also led a GTE Legal-Regulatory Subgroup to recommend that even if initially there would not be "any arrangement between GTE telcos and GTE OCC for carriage of MTS/WATS traffic . . . on an exclusive basis", still "[a]t a later date, depending upon the regulatory climate and other factors at that time, a closer working relationship with the GTE telcos might be pursued." (Appendix Tab 25, GTE OCC Business Legal/Regulatory Subgroup Position Paper Analysis of Regulatory/Legal Framework for OCC's, dated April 24, 1981 at 1309, 1379–80; see also Appendix Tab 15, Competitors' Regulatory Responses at 9152.)

Were the proposed settlement to be approved, GTE's incentive for exchange access discrimination would increase in the future. Not only would GTE own its own long distance carrier, its local telephone companies could lease $2 billion of their own toll switching and transmission facilities to AT&T on an exclusive basis without any equal interconnection requirement. (Proposed Settlement § V.C.2.)

Given the history of discrimination and these increased incentives to discriminate, it is noteworthy that the proposed settlement places no restrictions on communications between SPCC personnel or staff and GTOC personnel or staff. As long as "proprietary information" is not provided (*Id.* at § IV.A.3.) and no single group has managerial or operational authority" over both SPCC and a GTOC (*Id.* at § IV.B), any officer or employee of GTE or SPCC can communicate with any other as frequently they desire. There are no limits on GTE's control of SPCC and the GTOC's. Indeed, GTE's Chairman and President are expressly permitted directly to control SPCC and the GTOCs. (*Id.* at § IV.A.2. and B.) Similar control by John de Butts over AT&T and the BOCs was sufficient to put in motion events recounted for nearly one year during the trial in *United States* v. *AT&T*.

The proposed settlement does not provide sufficient separation between GTE, SPCC and the GTOCs to frustrate the development of interconnection discrimination. As long as GTE is allowed to own SPCC, no settlement could do so.

Nor will the equal access schedule result in real equal access. Under the terms of the proposed settlement, GTE is supposed to provide non-discriminatory access to interexchange carriers within 12 months of a written request or by a fixed date which varies by the type of GTE end office switch—*whichever time is later.* (Proposed Settlement App. B ¶ A.1.) Only one fixed date, January 1, 1985, will occur during the next three and one-half years.[14] (*Id.* at App. B ¶ A.1.(a).) MCI was informed by GTE personnel on May 24, 1983, that GTE has installed less than 20 of the 1–ESS or DMS–100 type switches for which equal access is due on January 1, 1985. In contrast, internal GTE documents show that in 1984 GTE will have over 6 million subscriber lines connected to digital and analog electronic switches—including over 4 million lines at GTE's Class A end offices or 64% of all such lines. (Appendix Tab 26, GTE Basic Regulated Network Business Plan, dated July 16, 1982 at 6690.)

The inadequacy of the proposed equal access schedule for specific GTE switches is demonstrated by MCI's experience in obtaining prompt, inexpensive equal access from Sugar Land Telephone Company. Under the proposed GTE schedule, 1–EAX and 2–EAX electronic switches are not due for equal access until September, 1987—more than four years in the future. Sugar Land installed a GTE Automatic Electric 1–EAX switch in 1975–76. (Appendix Tab 2, Affidavit of Robert C. Brown, III at ¶ 4.) In 1982 MCI asked Sugar Land for trunkside interconnection to its 1–EAX switch. Sugar Land agreed and on July 25, 1982, sent a purchase order to automatic Electric, asking that the switch be modified to provide trunkside interconnection to MCI. (*Id.* at ¶ 5, Attach. 2.) Automatic Electric accomplished the changes and the switch was in service one month and five days later on August 31, 1982. (*Id.* at ¶ 5.) Automatic Electric's invoice discloses that it only took 37 man hours of work to accomplish the changes. (*Id.* at ¶ 5, Attach. 3.). The total cost was $13,292.66, including $10,000.00 for the necessary software. (*Id.*) Thus GTE already has completed software changes to provide trunkside interconnections on 1–EAX switches. Software changes are essentially all that is required for equal access. (Appendix Tab 9, Excerpts from deposition of William E. Starkey at 98–99.) It simply cannot be in the public interest to delay equal interconnection for over four years when it can be accomplished in 37 man-hours of work.

Under the proposed settlement GTE need not provide equal access at end offices servicing 10,000 for fewer lines. (Proposed Settlement App. B ¶ A.1.(c).) GTE is also not required to provide equal access on step-by-step switches.[15] (*Id.* at App. B ¶ A.4.) In contrast, under the MFJ, for a BOC to be relieved of its equal access requirement at any size end office or for any switch, the BOC must seek permission from the Court and carry the burden of showing that for particular categories of services such access is not physically feasible. 552 F. Supp. at 233. Even then, any deviation can be only for the minimum divergence in access necessary, and for the minimum time necessary to achieve such feasibility. *Id.* MCI suggests that it is not in the public interest to exempt GTE from providing equal access without the requirement of any showing or with any limitations.

Not only is the access schedule improperly narrow and prolonged, it makes no attempt to provide GTE with any incentive for expedition or MCI or others with any improved access while the schedule moves slowly along. If equal access or carrier preselection or reduced digit access is not to be available for a lengthy period in an end office, MCI and every other interexchange carrier other than SPCC able to serve that office should have an equal opportunity to receive the limited premium access. If GTE's "partner" AT&T and GTE's interexchange carrier were receiving inferior access at a 1–EAX switch, GTE might just be able to convert the switch in less than four and one-half years. Of course the carrier receiving the limited premium access would pay a reasonable premium fee.[16]

Numerous other provisions in the proposed settlement are also inadequate. For example, paragraph V.A.3. purports to preclude SPCC from non-public GTOC information. No provision is included, however, for notifying MCI or others what public information exists or is being provided to SPCC. A recent illustration highlights the problem. In 1982, GTE was refusing to provide equal interconnections to MCI or even to discuss such interconnections. (Appendix) Tab 1, Affidavit of Bert C. Roberts, Jr. at ¶ 10; Appendix Tab 3, Affidavit of Richard Q. Allen at ¶ 15.) Yet in November, 1982, with no notice ot MCI, GTE "discussed and prioritized" with SPCC a long list of "Exchange Access Serivce Items." (Appendix Tab. 22, Letter from David O. Horton, GTE Services Corp. to Richard D. Petty, SPCC, dated November 23, 1982.)

Article III of the proposed settlement would remove all equal access obligation from "any GTOC, or any portion thereof" which GTE might sell to any non-affiliated person. Given GTE's long and continuing history of interconnection discrimination, there is no public interest basis for allowing GTE to receive a higher price by selling a GTOC or GTOC assets free from the settlement's equal access obligation. For example, GTE should not be able to circumvent the requirement to provide equal access from a particular end office by selling that exchange to another telephone company as the date for equal access approaches.

Paragraph VI.A. of the proposed settlement restricts GTE from acquiring another interexchange carrier for a 10 year period. GTE's bottleneck power comes from its local telephone monopolies—not from an interexchange carrier. Remarkably, the proposed settlement does not restrict GTE in any way from enlarging its bottleneck power by acquiring additional local telephone companies or exchanges. In fact, under the proposed settlement GTE could acquire BOCs or regional operating companies and rebuild the divested Bell System.

The criteria for determining GTE's exchange areas in the proposed settlement should be based on local service areas.[17] Paragraph II.H.1 of the proposed settlement provides instead:

> Any [GTOC] exchange are shall encompass one or more contiguous local exchange areas serving common social, economic, or other purposes, even where such configuration transcends municipal or other local governmental boundaries. . . .
>
> This criterion for delineating the GTOC's exchange areas is identical to the criterion applied by this Court in *United States v. AT&T* for defining the permissible scope of BOC LATAs. *United States v. AT&T*, 552 F.Sup. 131, 229 (1982). This Court explicitly stated in the *AT&T* case that the above quoted criterion did not limit the permissible scope of the BOC LATAs to being coexistensive with local service areas. *United Stateas v. AT&T*, Civ. No. 82–0192, slip. op. at 27–28 (D.D.C. April 20, 1983). Consequently, the Court permitted the BOCs to form LATAs substantially larger than local calling areas and frequently containing several switches performing Class 4 functions.

Incorporation here of the same criterion to determine the permissible scope of the GTOC's exchange areas would result in unnecessarily large GTOC exchange areas because the concerns which led the Court to approve large LATAs in *AT&T* are not present here. In *AT&T*, this Court had two primary concerns in determining the appropriate size of the LATAs: (1) Minimizing the incentive of the BOCs to discriminate against long-distance carriers by restricting the extent to which the BOCs could compete in toll and long-distance markets, and (2) insuring the ability of the BOCs to operate as viable entities. *United States v. AT&T*, Civ. No. 82–0192, slip op. at 11–14, 20 (D.D.C., April 20, 1983). Because the Court there was concerned with insuring the financial viability of the divested BOCs, the Court approved LATAs which would permit the BOCs to compete with long-distance carriers in many toll and long-distance markets.

Here, however, the Court should not be concerned with the financial viability of the GTOCs and therefore should not permit them to compete outside of local calling areas in toll and long-distance markets. GTE has made a free and independent business decision to acquire a long-distance telecommunications company while also retaining the GTOCs. It should not be the concern of the Court to oversee the wisdom of, and provide an insurance policy for GTE's business decisions by allowing the GTOCs to compete outside of local calling areas in toll and long-distance markets. GTE has represented to the FCC that its acquisition of SPCC would in no way impair the financial viability of the GTOCs. *In re Application of GTE Corp. and Southern Pacific Co. for Consent to Transfer Control of Southern Pacific Communications Co. and Southern Pacific Satellite Co.*, No. ENF–83–1, slip op. at 15 (F.C.C, July 1, 1983).

Furthermore, if this acquisition were to be approved, and it should not be, the Court rather than the government should be the one to approve Exchange Areas (¶ II.H.), approve the association of serving areas (¶ II.P.), approve any transfer of assests, stock, operation or services to SPCC (¶ IV.D.1.(e), and 2(e)), receive reports and affidavits from GTE officers (¶ II.F.), approve so-called separation procedures and equal procedures (¶ V.E.), enforce, implement or construe the settlement sua sponta (¶ VII.A.), and order further relief sua sponta (¶ VII.B.).

B. The Proposed Settlement Will Focilitate Collusion In the Relevant Market

For the last third of a century, this nation's telecommunication industry has been run by a cartel consisting of AT&T, GTE, and other

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[14] Under Appendix B ¶ A1 of the MFJ, the BOCs must offer equal exchange access at every end office by September 1, 1986. 552 F. Supp. at 233. Internal GTE documents suggest that GTE could provide comprehensive equal access in one year or less. (Appendix Tab 26, GTE Basic Regulated Network Business Plan, dated July 16, 1982 at 6623.)

[15] The Court has not been informed what switches or office sizes exist or are expected to exist in GTE's telephone companies. This deficiency alone precludes a public interest finding.

[16] The increased fee for limited premium access should reflect the greater of the cost or value differential as compared to any lesser grade of access.

[17] Though MCI objects now to the criteria contained in the proposed judgement for determining the permissible scope of GTE's exchange areas, MCI does not now comment on the exchange area plan proposed by GTE. MCI first received a copy of GTE's proposed plan on July 7, 1983. In view of the minimal time it has had to review GTE's proposed plan, and in view of the fact that this Court's ruling in *AT&T* regarding associations between the BOC LATAs and GTOCs was issued only one week ago, MCI intends to submit comments regarding GTE's proposed plan once it has had an adequate opportunity thoroughly to study the plan.

independents. All cartel participants have benefitted from AT&T's ability to extract monopoly profits from long-distance service. All participants have sought actively to stifle competition in the long-distance field.

Now, an important member of that cartel, GTE, desires to purchase one of the two largest new long-distance carriers, SPCC and MCI, which have managed to carve a small niche in the cartel's enormous long-distance market share. If SPCC is allowed to be assimilated, only MCI will remain outside the cartel and MCI, too, will be vulnerable to takeover by another cartel member.[18] Thus GTE's acquisition of SPCC— dangerous in itself—also represent a stepping stone toward resurrecting the cartel's longstanding 100% grip on long-distance telecommunications. *See, e.g., American Tobacco Co.* v. *United States*, 328 U.S. 781 (1946) ("big three" cigarette manufacturers effectively colluded to stifle competition by cheaper cigarette brands); *Interstate Circuit, Inc.* v. *United States*, 306 U.S. 208 (1939) (film distributors found to have colluded in order to maintain high film rental fees); *Yamaha Motor Co.* v. *F.T.C.*, 657 F.2d 971 (8th Cir. 1981), *cert. denied*, 456 U.S. 915 (1982) (joint venture agreement between competing manufacturers held to violate Section 7; *Engine Specialties, Inc.* v. *Bombardier Ltd.*, 605 F.2d 1 (1st Cir. 1979), *cert. denied*, 449 U.S. 890 (1980) (agreement between two companies to form jointly-owned manufacturing subsidiary held to constitute unlawful territorial allocation scheme).

GTE's central role in the cartel is unquestioned. SPCC itself stated that GTE, like other independents, is engaged in a "partnership," with AT&T and that their interests are "similar all the way." [SPCC Proposed Findings at 28, 258–59, *SPCC* v. *AT&T*, No. 78–545 (D.D.C.)).

Under paragraph V.C.2 of the proposed settlement, GTE's local telephone companies can retain $2 billion of toll facilities and lease them exclusively to AT&T. This not only presents a local/long distance conflict for the GTOCs, it provides an opportunity for AT&T, the BOCs and GTE to continue their collusive partnership.

For example, GTE could restrain SPCC from competing with the BOCs for intra-LATA traffic or with AT&T on some routes and in return GTE could receive increased toll switch lease payments for the rest of this century. GTE's President testified that GTE's plans do not anticipate that SPCC will provide intra-LATA service. (Appendix Tab 12, Excerpts from Deposition of Thomas A. Vanderslice at 99–100.) Moreover, GTE's Chairman testified "only after the settlement of the AT&T antitrust case" did GTE decide to acquire SPCC "to offset what we saw was a major erosion of our toll revenue." (Appendix Tab 11, Excerpts from Deposition of Theodore F. Brophy at 28).

A primary GTE concern throughout this period has been how best to maintain and protect its arrangements with AT&T. For example, Robert C. Calafell, a high level GTE employer assigned to the SPCC acquisition evaluation team emphasized the "implication of lesser impact on GTE/Bell relationship if we purchase *existing OCC* vs. throwing our lot in market with a new start." (emphasis in original) (Appendix Tab 19, Note from Robert C. Calafell to Thomas J. Vos, dated April 5, 1982, at 9882; see also Appendix Tab 26, GTE Basic Regulated Network Business Plan, dated July 16, 1982, at 6501 ("Throughout the 1983–1987 cycle, conduct business within the partnership to maximize benefits to GTE Telops and avoid undo strain on the . . . partnership").)

C. The Proposed Settlement Will Promote Cross-Subsidization and Evasion of Rate Regulation

The acquisition of an unregulated intercity carrier [19] by GTE, the owner of numerous regulated local operating companies, also provides obvious opportunities for GTE to cross-subsidize its operations and evade rate regulation. For example, GTE's local telephone companies could supply services to SPCC at bargain rates, thereby shifting costs and expenses from its unregulated long-distance carrier to its regulated local carriers. GTE could also have its local telephone companies overcharge all interexchange carriers, including SPCC, for exchange access and then transfer the excess funds to SPCC through another GTE subsidiary such as GTE Services Corporation by using inflated license contract payments. Through these subsidiaries, GTE can also shift profits from its regulated subsidiaries to its unregulated ones, including SPCC, by overpricing equipment and services to local ratepayers while underpricing different inputs to SPCC. Indeed, SPCC itself has argued that state and federal utility regulators are unable to prevent utilities from raising prices on monopoly services and cross-subsidizing competitive services. SPCC Proposed Findings at 28–29, *SPCC* v. *AT&T* (D.D.C. No. 78–545).

The proposed settlement prohibits SPCC and the GTOCs only from providing administrative, engineering, research and development services to each other. (¶ IV.A.4.) No mention is made of services such as advertising, maintenance, transportation or warehousing. At a minimum, SPCC and the GTOCs should be restricted to dealing with each other only in tariffed services.

The harm flowing from GTE's ability to cross-subsidize is twofold: (1) it hinders competition in the intercity telecommunications market by granting one competitor, SPCC, an unfair financial advantage and (2) it injures the ratepayers in GTE's local service areas who must pay extra for local service in order to subsidize GTE's long-distance efforts.

Stopping cross-subsidization was a principal benefit of the AT&T divestiture. In approving divestiture, this Court stated "if cross subsidization is a problem, a separate subsidy will not resolve it." 552 F. Supp. at 173. GTE's desire to own concurrently local-service and intercity telecommunication subsidiaries raises the very same potential for abuse.

No less an expert on cross-subsidization than Maxwell G. Killoch, the retired AT&T Assistant Vice President of Service Costs (who testified before this Court in *United States* v. *AT&T*) stated to the Chairman of the FCC:

"I strongly recommend that the proposed merger of GTE and SPCC be denied. GTE is presently in both regulated and unregulated markets. Their acquisition of SPCC would add another unregulated market for which they could use their monopoly power in the regulated market to subsidize various activities in the unregulated sector. In case after case, the FCC advocate, Professor William Melody has declared against the very economic assemblege for which GTE strives."

"For the same reasons that led the Justice Department to fight to separate the horizontal and vertical integration of Bell are applicable to GTE. Its acquisition of SPCC would indeed make GTE the new communications giant both vertically and horizontally organized along with all the other GTE foreign and domestic product markets."

As a voice of the public, I recommend that for all sound reasons in favor of public benefits and against the private benefit of GTE and SPCC, that the merger be denied." (Appendix Tab 24, Letter from Maxwell G. Killoch to Mark S. Fowler, dated November 2, 1982.)

D. The Proposed Settlement Will Increase Barriers To Entry

As the nation's second largest local-service provider, GTE will have substantial competitive advantages over other actual and potential intercity carriers if it is allowed to acquire SPCC. No other actual or potential long-distance competitor will have the ability to exploit local-service bottlenecks, the ability to extract collusive concessions from AT&T Long Lines, the ability to cross-subsidize and evade rate regulation or the ability to market "GTE Sprint" services to millions of subscribers of GTE telephone companies.[20]

The problem of entry barriers raised by GTE's acquisition of SPCC extends to the national market for intercity telecommunications. The value of an offer to provide intercity service rests in its capacity to reach as many points in the United States as possible. As a result, barriers to entry in those geographic areas where GTE has a local service monopoly inhibit entry in other parts of the country as well.

Finally, the effect of added barriers to entry in this case is heightened by the domination of the intercity market by AT&T. AT&T's market share is so high and GTE's propensity for collusion with Long Lines is so great, that new entry would be unlikely. As the Federal Communications Commission has stated in a related context: "An accommodation, however subtle, between a merged GTE-Talenet and AT&T would dramatically reduce existing competition, and would certainly chill most, if not all, potential entrants." *GTE-Telenet Merger*, 72 F.C.C. 2d 111, 136 (1979).

GTE has already recognized the substantial capital required for *de novo* entry. (GTE-SPCo § 214 Application to FCC at 3 (Oct. 26, 1982).) If this acquisition is permitted, it is highly improbably that any new firm will venture upon a *de novo* entry. GTE's Chairman has candidly stated: "I don't think there will be any new entrants into this field and I think there may be a diminution of the field." (Appendix Tab 11, Excerpts from Deposition of Theodore F. Brophy at 15.) Internal documents disclose GTE's expectation that an "obligopoly will result" in intercity services market. (Appendix Tab 16, GTE Deregulated Network Strategy Presentation to Dr. Vanderslice, dated June 16, 1981 at 5660.)

IV. Conclusion

The AT&T divestiture should mark the beginning of an exciting, turbulent period telecommunications competition. New competitors, new capital and new ideas should be unleashed. But the renaissance will be jeopardized before it begins if GTE is permitted to acquire SPCC. For all the reasons stated, this Court should reject the proposed settlement as contrary to the public interest.

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Dated: July 15, 1983.

Certificate of Service

Ross B. Bricker, an attorney, certifies that on Friday, July 15, 1983, he caused a copy of Comments of MCI Telecommunications Corporation on Proposed Settlement to be served by messenger upon all counsel listed on the attached service list.
Ross B. Bricker

U.S. District Court for the District of Columbia

United States of America, Plaintiff, v. *GTE Corporation*, Defendant, Civil Action No. 83–1298.

Comments of Satellite Business Systems on the Proposed Final Judgment

Satellite Business Systems ("SBS") hereby submits these Comments on the proposed Final Judgment submitted upon consent by the Department of Justice ("DOJ") and GTE Corporation.

Introduction

DOJ challenged GTE's acquisition of Southern Pacific Communications Company ("SPCC") and Southern Pacific Satellite Company ("SPSC") on the grounds that the resulting vertical integration of the local GTE telephone operating companies "creates both the incentive and ability, through abuse of monopoly power over local distribution facilities and through evasion of rate-of-return regulation and cross-subsidization, for the leverage of monopoly power in regulated markets to impede competition (or the development of competition) in related competitive (or potentially competitive) markets." Competitive Impact Statement ("CIS") at 4–5. These are the same theories that underlay the Government" in *United States* v. *American Telephone & Telegraph Co.*, Civ. Action No. 74–1698 (D.D.C.). The proposed Final Judgment, like the Modification of Final Judgment in that case, is aimed at eliminating the incentive and ability of a local monopoly carrier to cross-subsidize related interexchange carriers or to discriminate against unrelated interexchange carriers in the provision of access to the local exchange. *See* CIS at 7–9.

As an interexchange carrier unrelated to GTE through either corporate structure or traditional telephone industry "joint venture" arrangements,[1] SBS is vitally interested in assuring that the proposed Final Judgment will be effective in procuring for SBS and other competitive interexchange carriers equal and non-discriminatory access to GTE's local telephone networks.

The Proposed Final Judgment Should Be Clarified To Ensure That Unrelated Interexchange Carriers Timely Receive Access That Is, in Fact, Equal to Access Received by SPCC, SPSC, GTE, and AT&T

The proposed Final Judgment mandates provision "to all interexchange carriers" of "exchange access . . . and exchange services for such access on an unbundled, tariffed basis, that is equal in type, quality, and price for all interexchange carriers . . ." It further proscribes discrimination

"between the interexchange telecommunications services . . . of GTE . . . and the interexchange telecommunications services . . . of other persons in the:

* * * * * *

2. interconnection and use of [GTE's] exchange telecommunications of exchange access services and facilities or in the charges for each element of service; and

3. provision of new exchange access . . . services and the planning for and implementation of the construction or modification of facilities used to prove exchange access . . ."

Final Judgment, Section V. A, B.

This mandate is limited in two major respects. First, it does not address how interexchange carriers will obtain access to GTE exchange areas above the end, or class 5 equivalent, office, although interexchange carriers must receive access through the same class 4 equivalent switch and toll completing field used by AT&T and GTE for their interexchange traffic in order to receive access that is, in fact, "equal." Second, end offices need not be upgraded or modified to provide multiple carrier equal access until 1985 at the earliest, while access through numerous end offices may not be available to interexchange carriers before 1990, if ever.[2]

A. Equal access requires that all interexchange carriers be given access through the same GTE toll switch and toll completing field available to AT&T, GTE, SPCC and SPSC.

The Final Judgment ignores the fact that providing access to multiple carriers that is "equal in type and quality" requires not only modification of end offices, but the use of serving offices and trunks which form the interface between toll and local networks must also be of equivalent quality. Throughout the Tunney Act proceedings in *United States* v. *American Telephone and Telegraph Co.*, Civ. Action No. 74–1698 (D.D.C.), SBS demonstrated in its Comments that only such access is equal. *See* Comments of Satellite Business Systems on the Plan of Reorganization of the American Telephone and Telegraph Company Pursuant to the Modification of Final Judgment, February 14, 1983, at 11, 18–22, Appendix A.

Whatever the difficult economic trade-offs such access may have presented for the Bell Operating Companies, *see United States* v. *American Telephone & Telegraph Co.*, Civ. Action No. 82–0192 (D.D.C. July 8, 1983) at 8–11, such difficulties do not exist in this case. GTE now owns and will continue to own the

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[18] Numerous OCCs already have been acquired or have ceased operations; including Datran Corp., CPI Microwave, Microwave Service and Mitran. Although resellers inhibit AT&T's ability to discriminate against smaller users, resellers lack their own competitive transmission facilities.

[19] Competitive carriers like SPCC are not subject to FCC rate base regulatin. *In re: Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorization Therefor*, 85 F.C.C. 2d 1 (1980).

[20] This Court described AT&T's local-service bottlenecks and its ability to cross-subsidize operations as "the two main barriers that previously deterred firms from entering or competing effectively in the interexchange market." 552 F Supp. at 171. GTE now seeks to revive those barriers.

[1] The proposed Final Judgment seeks to prevent GTE from favoring, not only SPCC and SPSC, but also AT&T, with which GTE "participates in a joint venture . . . for the provision of intercity telephone services . . . known in the telecommunications industry as the 'partnership.'" CIS at 8.

[2] "Equal exchange access" must be "offered" through two types of end offices employing electronic stored program control-switches "no later than January 1, 1985," while access through stored program control switches is to be offered by January (GTD–5) or September (1–EAX and 2–EAX switches) 1987. Final Judgment, Appendix B, Section A.1.(a). Regardless of the schedule, SBS understands that the parties maintain that GTE need not actually provide such to any carrier access until "twelve . . . months after receipt of a written request from any interchange carrier other than AT&T".

Equal exchange access "shall be offered through end offices serving at least two-thirds of GTE's exchange access lines" by September 1, 1987, one full year after the Bell Operating Companies will have provided equal access at substantially all their end offices. 1990 is the final compliance date set forth in the Final Judgment for the remaining GTE offices, but there is no requirement that equal access be available at all GTE end offices by even that late date. End offices serving less than 10,000 lines and step by step offices are exonerated from equal access obligations and even larger offices need not provide equal access where "changed circumstances" make it economically infeasible to upgrade an end office.

VOL 48 ISS 199 OCT 13 1983 UMI

"above end office" switches in GTE exchange areas. According to information provided informally to SBS by GTE engineers, in many cases GTE now operates its network by routing both toll and some local traffic through the GTE class 4 equivalent office (which functions as a combined toll and local tandem switch). The difference in GTE's routing of toll and local traffic is not in the switch employed but in the trunking: toll traffic is routed on toll grade trunks between the class 4 and 5 offices, while separate trunks engineered for local quality are sometimes used to carry local calls between two end offices via the toll/tandem switch.

No reason appears that the toll traffic of all interexchange carriers should not receive precisely the same routing as AT&T's and GTE's own toll traffic. Accordingly, the Final Judgment or GTE's commitments pursuant to that Judgment should be clarified to make explicit that interchange traffic will be routed via the same GTE toll switches and toll trunks within GTE exchange areas as are used by AT&T and GTE for their interexchange traffic.

Furthermore, improvements in the quality of access provided to traffic terminating in GTE exchange areas can be made even before end offices are upgraded to equal access functions. Specifically, in all exchange areas where GTE has a toll (e.g., class 4 equivalent) switch and toll quality trunks connecting these switches with end offices, GTE can route all interexchange carrier traffic terminating in those exchange areas through these existing switches and toll grade trunks without any software changes or significant added costs. As long as sufficient capacity exists or can be efficiently added to handle the additional interexchange carrier traffic, there should be no significant additional cost to GTE to provide toll terminating service in this way, and GTE should be required to provide such routing. As end offices are upgraded to provide interexchange carriers equal access for origination of their traffic, that traffic should, of course, also be route through the existing toll trunks, which is GTE's current practice for toll traffic. Therefore, SBS seeks clarification from GTE as to its interim and long term equal access implementation plans for routing the toll traffic of competitive, non-partnership carriers.

B. The Final Judgment should be modified to clarify GTE's obligation to install new switching capacity.

The proposed Final Judgment mandates equal access only through end offices having switches either "technologically capable" of such access "or for which the capability of providing equal exchange access is commercially available" to GTE. Final Judgment, Appendix B, Section A.1. This appears to mean that GTE is not required to replace switches to furnish equal access. Yet the provisions calling for equal access through end offices serving two-thirds of GTE's exchange access lines by 1987, and for access through all end offices serving more than 10,000 lines by 1990, may require replacement, not merely upgrading, of switches. The Final Judgment should be clarified so that there will be no question that the access through the requisite number of end offices will be provided, even if that entails replacement of existing switches.

It is not clear why end offices of 10,000 or fewer lines should be entirely exempt from providing equal access. SBS understands that such end offices serve a significant percentage of GTE's customers. Depending upon the location of such offices, interexchange carriers may wish to serve them. It is not specific enough to declare that they are rural locations. As pointed out below, these offices may be associated with larger LATAs and constitute part of a vital market area. The parties should be required to identify the number and location of those exempt offices and to justify a refusal to offer equal access through such offices, at least where requests for such access are made.

To provide some access service in the potentially large GTE territory served by these smaller end offices, GTE has agreed to offer "a commercially available trunkside interconnect arrangement to all interexchange carriers, unless such access is not physically possible except at cost that clearly outweigh potential benefits to users of telecommunications services." Final Judgment, Appendix B, Section A.4. This "trunkside interconnection" capability is not further described, except for a brief mention in the Competitive Impact Statement, CIS at 30–31. It may be that this capability will be useful for interexchange carriers, but it should be further described.

C. The schedule for providing equal access should be accelerated.

SBS has not quarrel with the basic premise that the schedule for providing equal access should take account of GTE's existing network capabilities and of the demand for access services. CIS at 25–26. It is not clear, however, that the very lengthy periods provided in the proposed Final Judgment are necessary. The issue of demand has been appropriately treated by requiring a written request for access service before requiring its provision. What is not clearly appropriate is the amount of time GTE has been given to provide equal access, particularly through stored program control switches.

It appears that equal access can be made available through stored program control switches in advance of the dates set out in the proposed Final Judgment. Software for upgrading Western Electric switches similar to the GTD–5, 1–EAX and 2–EAX switches will be available from AT&T by 1985.[2] Thus, even if GTE were unable to develop its own software, or to obtain it from another vendor, AT&T should be a source for such software long before the 1987 date scheduled by the Final Judgment. Nor is it clear that the 1990 date for equal access through end offices serving more than 10,000 lines is reasonable. GTE should explain in more detail where and when it expects to obtain the necessary software and hardware to meet these schedules and why those switches requiring only software modification cannot be upgraded more quickly.

Of perhaps greater concern is the provision that permits delays in provision of equal access for 12 months beyond the already distant dates scheduled in Section A.1 of Appendix B. Thus, while GTE must "offer equal exchange access through certain end offices by certain dates," it "must 'provide' equal access to any carrier requesting such access only within 12 months after such a request." CIS at 28, n. 20.

SBS is aware of no technical reasons that would require so much time to implement equal access services at a particular end office, assuming that the "groundwork" required by the phase-in schedule (adjusted as discussed above) is met. *Id.* The parties should be required to submit data supporting a 12 month lead time for providing equal access at a particular end office and, in the event there is insufficient support, that time should be shortened.

Conclusion

For the foregoing reasons, SBS requests that the Final Judgment be clarified regarding the scope of GTE's obligation to provide equal access above the end office, to replace existing switches as necessary to provide equal access through the required number of end offices and to provide a phased-in schedule for equal access that will not unduly delay the ability of interexchange carriers to offer their services to customers in GTE's local telephone territory.

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Dated: July 15, 1893.
Respectfully submitted,
Sean A. McCarthy.

U.S. District Court for the District of Columbia

United States of America, Plaintiff, vs. *GTE Corporation*, Defendant; Civil Action No. 83–1298.

Comments of the Public Service Commission of West Virginia in Response to the Proposed Local Access and Transport Areas Filed by GTE Corporation

Dated: July 5, 1983.

The Public Service Commission of West Virginia (hereinafter "PSCWV") respectfully files with the Court and makes available to the GTE Corporation, and the Department of Justice the Comments of the PSCWV in response to GTE Corporation's proposal for the configuration of exchange areas in the State of West Virginia.

I. Preliminary Statement

Since the receipt on July 5, 1983, of GTE Corporation's (hereinafter "GTE") proposed LATA configurations in West Virginia the Public Service Commission of West Virginia and its Staff have been attempting to evaluate the proposal by GTE. After several discussions with GTE's West Virginia operating officers, we have determined that it is impossible to respond with specific cost studies to certain aspects of the LATA filing because we do not, at present, have the data which is necessary to determine the exact cost of rehoming GTE's exchanges in West Virginia's eastern panhandle.

The PSCWV respectfully requests that its Comments be viewed in light of this indicated limitation. Our analysis of the proposed LATA configuration is the best we can make by using the available data. The PSCWV will supplement our Comments if the data needed to make a more thorough analysis becomes available during the course of the proceeding.

The PSCWV also respectfully requests that these Comments be read in conjunction with the Comments filed with this Court by the PSCWV on March 19, 1983, in Civil Action No. 82–0192, *United States* v. *Western Electric Company, Inc.*, and *American Telephone and Telegraph Company* (hereinafter referred to as the "AT&T LATA case".) concerning the character of Bell-Independent Traffic. A review of the response of the United States and AT&T to the PSCWV's March 14, 1983 Comments will also be helpful to this Court.[1]

II. The Exchanges Which GTE Associated With the Bell Operating Company Clorksburg, West Virginia, LATA Should be Associated With the Hagerstown, Maryland, LATA

In its filing, GTE associated its Augusta, Burlington, Fort Ashby, Levels, Maysville, Moorefield, Paw Paw, Petersburg, Romney and Wardensville exchanges with the Bell Operating Company's (hereinafter "BOC") Clarksburg LATA. This assignment was based on the present toll facility configuration which homes these exchanges on the Clarksburg Class 4 switch. The Chesapeake and Potomac Telephone Company of West Virginia (hereinafter "CPWV"), however, in its October 4, 1982 filing with this Court in the AT&T LATA case, assigned its Keyser and Piedmont exchanges to the Hagerstown, Maryland LATA, even though these Class 5 offices presently also home on Clarksburg, because of its plans to rehome these offices to the Cumberland, Maryland Class 4 office. Since, almost exception, the traffic from the aforementioned GTE exchanges is directed toward either Keyser, Piedmont or Maryland exchanges in the Hagerstown, Maryland LATA, these GTE exchanges should not be permanently associated with the Clarksburg LATA. They should be assigned now to the Hagerstown, Maryland LATA instead of the Clarksburg LATA. In the alternative, this Court should allow sufficient flexibility to allow a change in LATA association for these exchanges when the network is reconfigured.

Attached as Exhibit No. 3 to these Comments are toll studies showing the calling volumes from the GTE exchanges mentioned herein. An examination of these shows that in most cases the five most frequently called points from each exchange are either other nearby GTE exchanges or are exchanges located in the Hagerstown, Maryland LATA. The extremely high toll volumes of 8.18 calls per main per month from Burlington to Keyser and 7.55 calls per main per month from Fort Ashby to Cumberland, Maryland unquestionably support inclusion of these communities, at this time, in the Hagerstown, Maryland LATA.

The extremely high community of interest between GTE's Ft. Ashby exchange and the Hagerstown, Maryland LATA is further demonstrated by a formal complaint presently pending before this Commission as WVPSC Case No. 83–117–T–C. The PSCWV also believes that this complaint can be resolved much more easily if Ft. Ashby is involved within the Hagerstown LATA. A copy of this Formal Complaint is attached as Appendix 4 to these comments.[2] A letter from GTE to the PSCWV, dated June 22, 1983, (attached as Appendix 5 hereto) also addresses the importance of the inclusion of Ft. Ashby in the Hagerstown, Maryland LATA.

The cost of rehoming these exchanges should be borne by AT&T since the need for rehoming was precipitated by AT&T's Modified Final Judgment. Moreover, AT&T is responsible for these exchanges being the rehomed and included in the Hagerstown, Maryland, LATA. This in consistent with this Court's decision dated July 8, 1983, Civil Action No. 82–0192 at pages 16–20, where it ultimately held AT&T liable for the costs of network configuration. Furthermore, the cost of rehoming the exchanges which costs approximately $1,000,000 can be much more easily absorbed by AT&T than by GTE's West Virginia operations.

Respectfully submitted,
Public Service Commission of West Virginia
By Counsel:
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July 22, 1983.

U.S. District Court for the District of Columbia

United States of America, Plaintiff, v. *GTE Corporation*, Defendant; Civil action No. 83–1298.

Response of the United States of American to Comments Filed Pursuant to the Antitrust Procedures and Penalties Act

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (the "Tunney Act"), the United States respectfully files the following response to the comments received from the public on the proposed final judgment in this civil antitrust action.[1]

Eight comments were received. MCI Telecommunications Corporation ("MCI") and an individual correspondent opposed the entry of any judgment that would allow GTE Corporation to offer interexchange telecommunication services other than those it currently offers in conjunction with American Telephone & Telegraph Co. ("AT &T"). Two other commentors, the State of Hawaii and Satellite Business Systems ("SBS"), primarily requested clarification, explanation or amplification of certain terms of the judgment.[2] The remaining commentors, the State of Michigan an American Information Technologies Corporation ("Ameritech"), filed comments in support of the entire proposed judgment or relevant elements of its proposed implementation.[3]

[1] See Response of the United States to Public Comments and Action on BOC determination concerning the intra-LATA or inter-LATA character of Bell-Independent Traffic dated April 4, 1983, at page 20 attached as Appendix 1 and Response of The Chesapeake and Potomac Telephone Companies to Comments addressed to their classification of Bell-Independent Traffic dated March 25, 1983, attached as Appendix 2.

[2] Since in its Comments both the Department of Justice and AT&T (CPWV) did not disagree with the PSCWV's assignment of the aforementioned exchanges to the Hagerstown, Maryland LATA, these exchanges are probably already included in that LATA under the terms of this Court's order in the AT&T LATA case, dated July 8, 1983, at page 130, fn 24.

[1] On May 4, 1983, the United States filed its complaint in this case. The United States simultaneously filed a proposed consent decree, which if entered by the Court, will conclude this action, and a competitive impact statement ("CIS") describing the events giving rise to the alleged violation and explaining the terms and competitive effects of the proposed final judgment. As required by the Tunney Act, a summary of the terms of the proposed final judgment was subsequently published in the Washington Post on May 12–18, 1983, and the complaint, proposed final judgment, and CIS were published in the FR 48 Fed. Reg. 22020 (May 16, 1983). (Hereafter, the proposed final judgment in this case is sometimes also referred to as the "proposed decree", and the CIS in this case is referred to as the "GTE CIS".) Under the Act, the period for public comment continued until July 15, 1983. *See United States* v. *GTE Corporation*, Civil No. 83–1298, Slip Op. at 1 (D.D.C. June 10, 1983).

[2] The State of Hawaii, however, took the position that the Court should not enter the proposed decree until these clarifications had been made.

[3] Subsequent to the comment period, AT&T filed a comment noting its interest in the matter and requesting permission to participate in any later proceedings, and the State of West Virginia filed comments directed solely to possible reconfigurations of GTE's existing facilities. MCI also stated that it may make further filings concerning the GTE exchange areas. As discussed below, whether such additional proceedings are warranted, after the Court has essentially

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[2] The GTD–5 is very similar to the Western Electric No. 5ESS, for which equal access software will be available in 1985. The 1–EAX is similar to the Western Electric No. 1ESS for which equal access capability will be available in 1984. See AT&T Response to Objections to its Plan of Reorganization, *United States* v. *American Telephone & Telegraph Co.*, Civ. Action No. 82–0192 (D.D.C. 1983) at A–11. The GTE 2–EAX is similar to the Western Electric No. 2BESS, for which equal access software will be available by later 1985. Plan of Reorganization, *United States* v. *American Telephone & Telegraph Co.*, Civil No. 82–0192, (D.D.C. 1982) at 12.

The Department has reviewed and evaluated all the comments submitted in order to determine whether, as permitted by the stipulation between the United States and GTE, it should withdraw its consent to the entry of the proposed judgment. The Department continues to believe that entry of the proposed judgment is in the public interest.

I. Legal Standards Governing the Court's Public Interest Determination

It is well established that the Department of Justice has broad discretion in controlling government antitrust litigation, including negotiating and agreeing to consent decrees in the settlement of civil antitrust laws. *See Sam Fox Publishing Co. v. United States*, 366 U.S. 683, 689 (1961); *Swift & Co. v. United States*, 276 U.S. 311, 331–32 (1928). This discretion is essential to effective enforcement of the antitrust laws, because the vast majority of government antitrust actions are resolved through the consent decree process. The Tunney Act reaffirms the long-standing equitable rule that the Court is to provide an independent "check upon the government's good faith and expertise" by conducting procedures to help it determine whether a negotiated decree is in the public interest. *United States v. Morgan Drive Away Inc.*, 1976–1 Trade Cas. (CCH) ¶50,949 at 69,151 (D.D.C. 1976). Although the Tunney Act provides a number of specific factors that a court may consider in making its determination, 15 U.S.C. § 16(e) (1) and (2), the fundamental public interest question is "[w]hether the relief provided (in a proposed judgment) is adequate to remedy the allegations of antitrust violation as set out in the complaint." *United States v. Bechtel*, 1979–1 Trade Cas. (CCH) ¶62,430 (N.D. Cal. 1979), *aff'd*, 648 F.2d 660 (9th Cir. 1981), *cert. denied*, 454 U.S. 1083 (1981).

The consent decree process normally entails compromise: each party generally concedes something which it might otherwise have won. *United States v. Armour & Co.*, 402 U.S. 673, 681 (1971) *United States v. Mid-America Dairymen Inc.*, 1977–1 Trade Cas. (CCH) ¶16,508 at 71,980 (W.D. Mo. 1977). Thus, a negotiated consent decree may be in the public interest even if, after prevailing at trial, the United States might have been awarded different or additional relief. As this Court has observed:

> If courts acting under the Tunney Act disapproved proposed consent decrees merely because they did not contain the exact relief which the court would have imposed after a finding of liability, defendants would have no incentive to consent to judgment, and this element of compromise would be destroyed. The consent decree would thus as a practical matter be eliminated as an antitrust enforcement tool, despite Congress' directive that it be preseved.

United States v. Western Electric Co., 552 F. Supp. 131, 151 (D.D.C. 1982) (hereafter *"AT&T (Decree)"*).[4] *As the Ninth Circuit observed in affirming Bechtel,*

> "[t]he court's role in protecting the public interest is one of ensuring that the government has not breached its duty to the public in consenting to the decree." *United States* v. *Bechtel Corp.*, 648 F.2d at 666.

II. GTE's Ownership of Exchange and Interexchange Companies

The proposed final judgment permits GTE Corporation to acquire the "Sprint" interexchange services formerly owned by Southern Pacific Company.[5] The Department believes the proposed decree represents a compromise which is in the public interest. As MCI correctly points out, the essential compromise of the decree is that the Department does not oppose the acquisition itself. In return, however, the Department obtained concessions which we believe not only effectively constrain GTE's ability to act anticompetitively, but also represent significant achievements in the creation of a more competitive environment in the telecommunications industry. The decree imposes strict structural separation between the regulated, monopoly GTE Operating Companies ("GTOCs") and the acquired unregulated interexchange carrier. Thus, even the basic compromise was carefully conditioned by structural barriers.[6] In addition to these structural limitations, the proposed decree imposes other significant obligations on GTE. It should be emphasized that the combination of a cap on and mandated phase-out of GTE's "partnership" with AT&T contained in Section V, the clear definition of equal exchange access, the imposition of a definite schedule for the provision of equal access, and the other injunctions contained in the decree, together constitute important steps toward the goal of a fully competitive telecommunications industry.

MCI's criticism of the Department's settlement uses the *AT&T* decree as a model. While that decree is indeed an appropriate model, the factual context of this case leads the Department to believe that the proposed decree is in the public interest as a negotiated, non-litigated resolution of the lawsuit.[7] As the Department stated in the GTE CIS, *AT&T* dealt with a situation in which the intercity enterprise served every one of its commonly-owned local monopolies, which together accounted for over 80% of the nation's telephones, and in which the local and intercity enterprises were served by a network characterized by predominantly common costs. In contrast, the instant case deals with two companies which have no previous relationship, no history of common costs (as well as a decree which prohibits

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concluded its review of the Bell Operating Companies Local Access and Transport Areas ("LATAs") and the related "associations" of the operating areas of the independent telephone companies (including GTE) in the related proceedings in the *AT&T* case is open to question. *See United States v. Western Electric Co.*, Civ. No. 82–0192, D.D.C. (July 8, 1983) (hereafter *"AT&T (LATAs)"*) *and id.*, (August 5, 1983).

[4] Several commentors suggest that the procedures utilized in the proceedings relating to the Modified Final Judgment in the *AT&T* case (*"AT&T* MFJ") be grafted onto the present proceedings. In addition, several of the comments, including those of the State of Hawaii, suggest that the Court should *suo sponte* modify the proposed judgment to impose additional conditions. State of Hawaii at 5, 23–24. Hawaii suggests that the Court should incorporate into the decree certain conditions imposed by the Federal Communications Commission in its July 1, 1983 order approving the acquisition, and impose other conditions (such as a "plan for reorganization") that are neither required by nor consistent with the proposed judgment. The Department strongly disagrees with the implicit assumption of Hawaii that the Court may alter the terms of the proposed judgment without the consent of the parties. *See United States v. AMPI*, 394 F. Supp. 29, 42 (W.D. Mo. 1975); *see also AT&T (Decree)*, 552 F. Supp. at 151–53. As the Court made explicit in *AT&T (Decree)*, it was the peculiar posture of the MFJ proceeding that required "that the decree . . . receive closer scrutiny than that which might be appropriate . . . in a more routine antitrust case." *Id.* at 153.

[5] Prior to the acquisition, these services were marketed under the name "Sprint" by Southern Pacific Communications Company, a subsidiary of Southern Pacific Company. The proposed decree also permits GTE to acquire Southern Pacific Company's other telecommunications subsidiary, Southern Pacific Satellite Company. This company is authorized by the Federal Communications Commission to launch and operate a domestic satellite communications system, a part of which was intended for use in providing Sprint services. Throughout the proposed final judgment, in contemplation of the change in corporate affiliations, the term "acquired entities" is used to refer to all these assets and enterprises acquired by GTE from Southern Pacific Co. See Proposed Final Judgment ¶ II(A), 48 FR at 22021. The services of the acquired entities are now offered by "GTE Sprint", as permitted by the proposed decree. For ease of reference, the acquired entities are referred to as "Sprint" throughout this response.

[6] The structural aspects of the decree, contained in Section IV, are explored in greater detail below.

[7] From a pragmatic standpoint the Department is no different from any other litigant in weighing a potential negotiated settlement, and so must balance the content of a definite and immediately-obtainable settlement against the uncertainty and delay inherent in litigation.

common costs in the future), an intercity carrier currently serving barely 1% of the nation's phones, and one with virtually no presence in cities served by GTE.

MCI argues, again from the *AT&T* model, that a ratebase-regulated local monopoly exchange carrier will have the incentive and ability to favor its commonly-owned intercity carrier. This theory is correct, and was the basis of both the *AT&T* and the present lawsuits. As the Department stated in the GTE CIS, "[t]he potential for abuse of monopoly power over exchange access and for evasion of regulatory constraints underlies the present action and the proposed Final Judgement."[8] The present proposed decree, however, must be seen in the factual context of this case.

GTE's incentive to favor Sprint stems from, and is dependent upon, a net increase in revenues to be realized from monopolization by Sprint of intercity telecommunications to and from each city served by one of its GTOCs. Under the present facts, however, monopolization by Sprint of traffic in and out of a GTOC city requires the diversion of that traffic from the partnership. Thus in calulating the incremental revenue effects of the diversion, GTE must look at both the foregone partnership revenues and the additional Sprint revenues (as well as many other factors). GTE must also keep in mind that any such diversion will be readily detectd by AT&T, which would be free to retaliate by cancelling the partnership agreement in whole or in part. This would leave GTE immediately with a significant stranded partnership investment (most notably its Class 4 switches).[9] Thus, diversion of any partnership traffic in any market raises the possibility of losing not just the partnership revenues related to that traffic, but all partnership revenues, and also raises the possibility of imposing on GTE the cost of the stranded partnership investment. Calculating its incentives under these conditions, it seems more likely that GTE will perceive its net incentive is to continue favoring the parthership, rather than Sprint.

MCI recognizes the existence of GTE's present incentive to favor the partnership by pointing out the preferential interconnections afforded the partnership by the GTOCs, which match those afforded the partnership by the BOCs. Nonetheless, MCI fails to acknowledge that the incentive to favor the partnership presently outweighs the incentive to favor Sprint. MCI also fails to recognize that the proposed decree neither creates the incentive to favor the partnership nor enhances it. In fact, Paragraph V(C) of the proposed decree strikes directly at that incentive by capping GTE's partnership investment at its present level, and requiring that that investment be phased out. In addition, the decree mandates the phase-in of full equal access for all carriers, thus seeking to eliminate GTE's ability to favor the partnership in the type, quality or price of interconnections granted.

At some point in the future, GTE's incentive to favor Sprint will likely predominate over its current incentives to continue favoring the partnership. By that time, however, the GTOCs will have in place switching and software technology capable of providing the equal access mandated by the decrees, pursuant to the obligations imposed by Section V and Appendix B. The GTOCs' adherence to the decree's equal access standards will then be judged not only against the requirements of the proposed decree, but also against two other benchmarks as well: one provided by the BOCs (freed of contrary incentives by the *AT&T* divestiture) and another provided by the conduct of the GTOCs in cities not served by Sprint. While some risks to competition will remain, the Department's right to seek divestiture under Section VII will both provide for full relief in case the GTOCs do discriminate against Sprint's rivals as well as decrease GTE's incentives to have the GTOCs so discriminate.

As the Department explained in the GTE CIS, the proposed decree "is designed to circumscribe GTE's ability, through cross-subsidization or discriminatory actions, to leverage the power the GTOCs enjoy in their regulated monopoly markets to foreclose or impair the development of competition in the related markets for the provision of interexchange telecommunications services and information services."[10] The corporate and operational separation obligations of Section IV of the Judgment place a clear structural impediment to anticomptitive cross-subsidization by prohibiting virtually all common costs. The requirement that the GTOCs provide "equal exchange access" to all interexchange carriers[11] seeks to preclude anticompetive discrimination and the provisions of Paragraph V(C) remove whatever lingering incentives the GTOCs may have to favor the "partnership" with AT&T. Thus, on balance, in the context of a consent decree, the proposed judgment entails a reasonable remedy for the violations alleged in the complaint, and, in its interconnection mandates and partnership provisions, provides some significant competitive benefits, continuing the transition to a competitive interexchange telecommunications industry begun in the AT&T case.

Significantly, MCI ignores the fact that the proposed judgment in this case in no way impedes the ability of the Department or of the Court to insure that the structural result of the acquisition does not engender any anticompetitive consequences. To the contrary, Paragraph VII(B) of the proposed decree provides that

> [u]pon application to this Court by the United States to enforce compliance with this Final Judgment, the Court may grant further relief, including but not limited to divestiture of the acquired entities or, at the election of GTE, divestiture of the GTOCs, if (1) GTE is found to have engaged in a pattern of substantial violations of Section IV Section V, or Appendix B of this Final Judgment, or (2) any GTOC is found to have violated Section IV, section V, or Appendix B of this Final Judgment in a manner that materially injures interexchange carriers or information service providers in their ability to offer services competitive with those offered by GTE or the acquired entities.

48 Fed. Reg. at 22024. Violation of the terms of the proposed judgment, whether independently constituting an antitrust violation or not, is thus a ground for the divestiture of either GTE's Sprint operations or its local operating companies. Furthermore, the proposed judgment does not bar any later action by the United States under § 2 of the Sherman Act. In short, should the modified structural and injunctive behavioral relief provided by the judgment prove inadequate, the Department can act, under the terms of the judgment or under the Sherman Act, to implement the ultimate structural remedy imposed on AT&T. Meanwhile, the efficacy of the various injunctive provisions of the judgment can be tested against the objective benchmarks of the practices of the divested BOCs and of the GTOCs in cities not served by Sprint.

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[8] GTE CIS at 5, 48 Fed. Reg. at 22027.

[9] The cancellation of the partnership agreement would also deprive GTOC customers in most locations of interexchange services, since the Sprint network is available to very few GTOC subscribers while the partnership network is available to all of them.

[10] GTE CIS at 9, 48 Fed. Reg. at 22027.

[11] Proposed Final Judgement ¶¶ V(A), V(B), and Appendix B, 48 Fed. Reg. at 22023, 22025–26.

VOL 48 ISS 199 OCT 13 1983 UMI

MCI also raises three specific types of anticompetitive conduct which it asserts are possible consequences of the acquisition: discrimination by the GTOCs in favor of Sprint, and against the remaining carriers; cross-subsidization of Sprint by the GTOCs; and collusion between GTE and AT&T.

Discrimination by the GTOCs

Having already addressed GTE's incentives to discriminate, we turn in further detail to the proposed decree's provisions circumscribing GTE's abilities to act on those incentives. Fundamentally, GTE has the ability to discriminate in favor of Sprint only in those GTOC-served cities that are also served by the Sprint network, currently nine cities.[12] Thus, even with substantial investment in the Sprint network, it will be some years before Sprint serves enough GTOC cities that the increase in revenues to be gained from preferential treatment of Sprint becomes sufficient to make that course of action attractive. During this same period of time, however, the GTOCs will have installed switches capable of serving all interexchange carriers equally at the GTOC cities most likely to be served by competitive carriers. Thus, by the time discrimination in favor of Sprint becomes financially attractive to GTE, that discrimination will also be easier to detect. Moreover, because the BOCs control over 80% of the nation's telephones, deviation from their interconnection practices should serve as an objective standard by which the GTOCs' practices can be measured, since the BOCs, associated with no interexchange carrier, will have no incentive to discriminate.

Finally, it must be recalled that in the *AT&T* case, the interconnection arrangements between the associated local and interexchange carriers antedated the entry of competing carriers, thereby making the task of defining discrimination more difficult. *GTE* presents a quite different situation: in this instance the definition of equality among all carriers arises in a situation in which there are competing voice-grade interexchange carriers, of which Sprint is the third largest.[13] Hence, GTOC conduct favoring Sprint over its competitors should be more readily detectable.

In addition to the equal access provisions themselves, there are additional provisions circumscribing GTE's ability to discriminate in favor of Sprint. One is the requirement of strict organizational separation between GTE's competitive enterprises (including Sprint) and the GTOCs set forth in Section IV. The basic tenet of that Section is set forth in Paragraph IV(A): "GTE shall maintain total separation between the acquired entities and GTE . . ." The section then continues at length to detail that separation. There can be no common lines of authority (other than the chief executive and chief operating officers of GTE)[14] between the two operations. These provisions also prohibit the kind of routine, informal, daily contacts to transact business between Sprint and the GTOCs that would constitute the most invidious discrimination, which would also be the most difficult to detect.

Each of the hypotheticals posed by MCI in its comments would violate one or more provisions of the proposed judgment. For example, the GTOCs' dealings with Sprint, as with AT&T and all other carriers, must be on an arms-length basis. Sprint, and all other carriers, must obtain access by tariffs which are uniformly applicable. The GTOCs cannot own any facilities in common with Sprint. Any other services which the GTOCs provide Sprint must be under tariff. And any Sprint purchases from other GTE enterprises must be at prices no more favorable than those offered to the GTOCs. Proposed Final Judgment ¶¶ IV(A)(1)–(7), V(A)–(C), 48 Fed. Reg. at 22022–24.

Cross-Subsidies

There is an inherent incentive for GTE to cross-subsidize from its regulated operations into its competitive services. No decree which permits the integration of regulated and unregulated operations, can entirely eliminate such an incentive. As explained in the Department of Justice Response to Public Comments, in *United States* v. *Western Electric Co.*, Civ. No. 82–0192 (D.D.C.), 47 FR 22320 (May 27, 1982) (hereafter "Justice MFJ Response"), the problem of cross-subsidy is inherently insoluble where both competitive and regulated services are offered over jointly owned or operated facilities, because

> there is simply no single correct formula for the allocation of . . . common costs among services. Moreover, even if such a formula existed, the possession by the BOCs of relevant cost information, the extent of common costs, and the high degree of discretion in the treatment of such costs . . . would very likely frustrate meaningful regulatory oversight. . . .

47 FR at 23336.

However, the proposed decree is designed substantially to eliminate the ability to carry out such cross-subsidies in this particular factual context. As mentioned in the preceding discussion, Section IV flatly requires that "GTE shall maintain total separation between the acquired entities and GTE. . . ." Thus, this section of the proposed decree not only cuts off overt and subtle avenues of integration in the operations of the GTOCs and Sprint, but also eliminates virtually all possibility of common costs between them. the GTOCs and Sprint are barred from utilizing common facilities. And with the exception of some very limited overhead administrative and research expenses (which must be reported to the Department),[15] the decree's virtual preclusion of common costs thus avoids the complex problems of cost allocation. Similarly, Paragraph IV(A)(4) eliminates another form of common costs by prohibiting the GTOCs or GTE's Telephone Operations Group from "directly or indirectly provid[ing] any administrative, research and development, or similar services to the acquired entities", or receiving such services from them.[16] The judgment's mandate of "total separation" between the competitive and regulated services thus effectively removes GTE's ability to integrate Sprint into its existing regulated operations. By precluding integration, the judgment removes the basic avenue through which integrated firms, such as AT&T, have traditionally been able to cross-subsidize without detection.

[12] Sprint currently serves only ten markets in which a GTOC is a local exchange provider: Ontario, San Bernardino and Santa Barbara, California; Tampa, Florida; Honolulu, Hawaii; Fort Wayne, Indiana; Lexington, Kentucky; Durham, North Carolina; and Erie and York, Pennsylvania. (SPCC Tariff No. 9) While for each of these, GTE could have the ability to preferentially route interexchange traffic over Sprint, some investment and time would be required to make the necessary rearrangements in interconnections. This rearrangement of interconnections would be readily detectable, since it would substantially change the quality of interconnection received by AT&T.

[13] According to the statistics provided by MCI, AT&T retains approximately 95% of the business; MCI provides 3% of the service; and Sprint provides 1%. MCI at 9. The MCI statistics do not include the revenues of SBS or other firms engaged in providing private line service, or of resellers utilizing private networks.

[14] The more subtle forms of discrimination would require integrated operations at the lowest levels of the corporate structure, which is strictly barred.

[15] GTE CIS at 12 n. 3, 48 Fed. Reg. at 22028 n. 3. Generally, administrative and research expenses not related to a specific function are allocated among all GTE subsidiaries in proportion to revenues. Those which are related to a specific function must be allocated to that subsidiary. Deviation from this formula should be detectable.

[16] The term "administrative" is used in its broadest sense, and includes such items as common buildings, trucks, garages, warehousing, and other supply-related facilities.

MCI misses the mark in disregarding the significance of the fact that Sprint is not currently integrated with the GTOCs, MCI at 37–38, and of the bar to such future integration. Prior to the acquisition, GTE and Sprint, by definition, had no integration and no common costs between them. The decree prohibits virtually every hypothetical form of integration and cross-subsidization which MCI has posed.[17] Thus, the risks of cross-subsidization should be substantially eliminated.

Collusion with AT&T

MCI also asserts that the decree facilities a future pattern of collusive conduct between GTE and AT&T. Apparently in support of this theory, MCI alleges that GTE paid a $500 million "premium" to purchase Sprint, thus leaving MCI as the only "independent" carrier.[18]

To the extend that this collusion would stem from or depend upon GTE's partnership with AT&T, the proposed decree does not create or enhance the possibility; to the contrary, it provides significant relief. The proposed decree mandates that the GTOCs withdraw from jointly providing facilities for interexchange traffic with AT&T. Thus, under the proposed decree, the partnership will diminish in importance as a motivating force for GTE conduct, while at the same time other obligations and changes in the industry will facilitate the detection of collusion.[19]

Finally, the proposed decree would permit further relief, and the antitrust laws are available, should such collusion occur.

III. Specific Provisions of the Proposed Decree

Equality of Access

MCI suggests that the proposed decree will not "result in real equal access." MCI at 44; *see also* SBS at 5. SBS suggests, *inter alia*, that the proposed decree should require in detail the manner by which the GTOCs will meet their equal access requirement. SBS at 5–7. These criticisms are essentially identical with comments received concerning the *MFJ*. *See* Justice MFJ Response, 47 FR at 23344–49. The Department, however, continues to believe that the GTOCs under this proposed decree, like the BOCs under the *AT&T* decree

> will be in a better position than the Department or a court to establish the most efficient configuration of switching and transmission facilities in a given exchange area to provide exchange access equal in type and quality to that provided AT&T. Depending on the nature of the local network, there may be several ways of configuring connecting arrangements to provide all carriers equal access. * * * Thus, the [decree's] . . . only requirement is that actual equality between competing carriers be achieved.

Id., 47 FR at 23344–45.

This approach, incorporated from the *AT&T* MFJ, was previously approved by this Court as "adequate to protect the public interest". *AT&T (Decree)*, 552 F. Supp. at 197. As SBS correctly observes, the proposed decree does not mandate that the GTOCs utilize their class 4 capacity to provide equal access. Rather, it provides the GTOCs with a series of options concerning both the future utilization of their class 4 capacity, and the manner in which they will achieve equal access.[20] It is not the intention of the proposed decree, nor is it in the public interest, to force GTE to incur substantial expense to offer equal access in a manner that would not be efficient.

The Equal Access Schedule

1. Equal Access Through Electronic Stored Program Control Switches

MCI's principal objection to the judgment's access provisions relates to the timing of equal access. MCI at 44–47. SBS also questions the length of time allowed for the GTOCs conversion to equal access. SBS at 9–11. These complaints essentially parallel comments filed during the MFJ proceeding.[21]

In fact, the schedule imposed on the GTOCs by this decree is not less strict than the terms of the MFJ. The MFJ requires that the BOCs commence equal access no later than September 1, 1984. This allows the BOCs to first offer equal access 32 months from the filing of the modification and 24 months from its entry. The proposed decree mandates that the GTOCs shall begin to offer equal access no later than January 1, 1985, only 18 months from the filing of the proposed judgment and just four months after the first BOC obligation. The MFJ mandates that equal access shall be available at all BOC electronic end office switches by September 1, 1986; the proposed decree requires the GTOCs to achieve the identical result by September 1, 1987. Thus, while GTE agreed to a decree sixteen months later than did AT&T, it must achieve the equal access result only twelve months later than the BOCs, despite AT&T's vast superiority in resources.[22]

GTE must ensure that over two-thirds of all GTOC access lines are capable of providing equal access by September 1,

[17] For example, because all services provided by a GTOC to Sprint must be provided by tariff or contract uniformly available to all carriers (including "maintenance, transportation and warehousing", MCI at 54), Sprint cannot have the advantage of "bargain rates". MCI also poses the possibility that the GTOCs could levy excessive access charges, thereby creating a "slush" fund for indirect return to Sprint. This, of course, would enhance the bypass threat from AT&T, MCI and others, and so might well be self-defeating if it lowers GTOC revenues.

[18] *See* MCI at 3. Of course, although MCI has the greatest revenues of all OCCs, it is far from the only other carrier in the field. For example, SBS also provides MTS/WATS type services in competition with AT&T, MCI and Sprint, as do U.S. Telephone Systems and Western Union. Dedicated private line services are provided by an additional group of carriers, including CSAT and RCA. Furthermore, resale carriers which formerly only used AT&T and OCC facilities have begun to lease portions of microwave and satellite capacity owned by other enterprises, intending to create networks which are largely independent of any of the existing carriers.

[19] Nor is the MCI citation to the initial FCC *Telenet* decision persuasive. MCI quotes from the Commission's decision imposing conditions upon the GTE-Telenet acquisition in 1979 as evidence of its cartel theory. MCI at 57. However, the Commission returned to that topic in its 1982 opinion removing these conditions:

> The Commission's principal concern in the merger proceeding was that a merged Telenet would not compete with any advanced communications offering of AT&T. GTE's incentives to reach an anti-competitive accomodation arise from GTE's role as a partner with AT&T in the provision of toll services. * * * However, since 1978, the facts indicate that GTE is no longer motivated to accommodate AT&T. Telenet has grown into a major competitor in the flourishing enhanced services filed and it is well positioned to compete with other enhanced service vendors.

GTE Telenet Monitoring, 91 FCC 2d 215 (1982). *See also Application of GTE Corp. and Southern Pacific Co. for Consent to Transfer Control of Southern Pacific Communicotions Co.*, No. ENF–83–1, FCC 83–289, Order Approving Acquisition (July 1, 1983) (hereafter "FCC Order Approving the Acquisition").

[20] Regardless of the options chosen, the GTOCs must achieve equal access, and so are barred from disposing of any assets necessary to fulfill this requirement. *See, e.g.*, Proposed Final Judgment ¶ V(C)(2), 48 FR at 22023.

[21] *See* Justice MFJ Response, 47 FR at 23348.

[22] In calendar year 1979, the GTE Laboratories total budget was $32.2 million, as contrasted with the Bell Laboratories budget of $1,065.8 million. While over 45% of the Bell Labs budget is allocated to research on telecommunications projects for the use of AT&T interexchange and exchange services, the GTE Laboratories research efforts are apparently more diversified, and have provided less support to its telecommunications enterprises. The manufacturing elements of the two firms are likewise vastly different in resources: in 1979, Automatic Electric had assets of $722.0 million, and sales of $1,237.8 million; Western Electric had assets of $7,062.2 million, and sales of $10,500.5 million. *See* General Telephone & Electric Co., *Data on Manufacturing, Supply, Directory & Service Affiliates for the Year 1979*, 60–67 (1980); American Telegraph & Telephone Co., *Bell System Statistical Manual: 1950–1980*, 1304, 1307, 1311 (1981); American Telephone & Telegraph Co., *Facts About Bell Labs*, 7, (1977).

1987. As the Department commented on the parallel provisions in the MFJ:

> The . . . issue is whether the phase-in period for provision of equal access is reasonable in view of the need to make changes in the network to offer such services. The provision of access required by the modification requires the reprogramming of existing stored program controlled switches to offer the enchanced interconnection arrangements, and the replacement of existing electromechanical switches with electronic equipment capable of providing equal access features. The Department believes that the time period permitted will provide proper incentives . . . to produce equal access expeditiously, but will not result in the wasteful expenditure of resources that might be required to accomplish the task in a much shorter period of time.

Justice MFJ Response, 47 FR at 23348–49. The Court's conclusion in the MFJ that such a transition period was "reasonable and not inconsistent with the public interest" is equally applicable to this case. *AT&T (Decree)*, 552 F. Supp. at 196.

It must also be remembered that, as in the MFJ, the equal access implementation schedule in the proposed decree specifies the latest permissible date at which specified access criteria are to be met, including dates at which specific types of switching equipment are to have equal access programs available. These dates reflect the commitments which GTE has received concerning equal access program availability. Although manufacturers (including GTE's own manufacturing subsidiary, Automatic Electric) [23] may have been reluctant to provide assurances of earlier equipment availability, GTE has significant incentives, and in fact an obligation, to advance this date, contrary to the assertion of MCI. MCI at 46. If the necessary software and hardware are available earlier, the proposed judgment requires that equal access also be available earlier, since it requires that equal access facilities be made available "as promptly as possible". *See* Proposed Final Judgment, Appendix B ¶ A(1), 48 FR at 22025.[24]

2. Provision of Interim Enhanced Interconnection Arrangements

The Department understands that interim arrangements, perhaps including some arrangements such as MCI's Sugar Land project, may enhance the interconnections of interexchange carrier prior to equal access. Both MCI and Sbs imply that such arrangements should be mandated within the proposed decree. MCI at 45–47; SBS at 6. The Department has continued in this case the approach which the Court found to be in the public interest in the MFJ: it has established reasonable deadlines by which MCI and other carriers, including Sprint, will achieve parity of access with the AT&T interexchange traffic, leaving any interim arrangements to the negotiations of interested interexchange and exchange carriers. Insofar as such arrangements are technically and economically feasible, without delaying the implementation of full equal access, their provision by the GTOCs would certainly be consistent with the proposed decree.[25]

The Step-by-Step Switch Provisions

Two provisions of the proposed decree relate to step-by-step ("SXS") switch technology, that is, technology antecedent to the electronic switches currently deemed capable of furnishing equal access. These provisions mandate (a) that all SXS switches serving more than 10,000 access lines be replaced, and (b) that GTE furnish the best available form of access available from the remainder of the SXS switches, prior to their replacement, unless economically infeasible. Commentors MCI and SBS appear to have generally misunderstood these provisions.

1. Obligation to Replace SXS Switches

The GTOCs are obligated under the decree to replace all SXS switches at end offices serving greater than 10,000 lines no later than December 31, 1990. Proposed Final Judgment, Appendix B ¶ A(1)(c), 48 FR at 22025.[26] Commentor SBS correctly recognizes that this obligation requires the retirement of a substantial number of existing SXS switches, and their replacement with electronic switches, but believes that the obligation should be more explicit. SBS at 7–8. The provisions of the decree mandate, and the Department and GTE clearly contemplate, that such replacements be accomplished within the time periods set forth in the decree, i.e., meeting both the two-thirds of all access lines deadline of September 1, 1987, and the 10,000 acess line deadline of December 31, 1990.

2. Switches Serving Fewer than 10,000 Access Lines

As does the MFJ, the proposed decree accepts that switch technology such as the SXS is apparently technically incapable of providing full equal access. The proposed decree permits the GTOCs to engage in a phased replacement program for its SXS technology without supervision under the decree, [27] except, of course, where that technology serves more than 10,000 access lines. This provision differs from the parallel provision of the MFJ in that the GTOCs are relieved from providing equal access through end offices which serve fewer than 10,000 lines with SXS technology, and need not seek waivers from the Court, as the BOCs must do under the MFJ.

Simultaneously, however, the GTOCs are required by the proposed judgment to develop, if feasible, improved means of interconnection for carriers with these SXS switches, until they are all ultimately replaced. Proposed Final Judgment, Appendix B ¶ A(4), 48 FR at 22025. This "trunkside" provision, which SBS suggests is unreasonably nebulous, is deliberately flexible: it is directed to technological methods which may become feasible in the future, but are currently unknown. It is the Department's view that, particularly at the so-called "semi-intelligent" or "directional" SXS switches, forms of remote units or patches may be feasible which would permit forms of interconnection at least improving upon the current ENFIA–A access. However, the Department recognizes that given technological uncertainty, it would be unwise to direct that future research and development for this conversion be committed along any one path.

IV. Issues Raised by Hawaii

The State of Hawaii expresses concern regarding several areas in which the proposed judgment would affect telecommunications services used by the State's residents. In particular, the State requests clarification regarding the provisions of Paragraph V(C) as it affects (1) the provision of interstate interexchange (i.e. Hawaii to mainland) services by the Hawaiian Telephone Company ("HTC"),[28] (2) the status and disposition of facilities owned by HTC and used to provide such service, and (3) the status of certain of HTC's international services and facilities. The State argues that the Court should not enter the proposed judgment until these clarifications are made. Moreover, the State argues that before the decree is entered GTE should be required to submit a "Plan of Reorganization" showing in advance the details of how HTC's interstate facilities will be phased-out pursuant to the provisions of Paragraph V(C). Finally, the State argues that "at the very minimum" the Court should compel the parties to rewrite their settlement to incorporate certain regulatory conditions imposed by the Federal Communications Commission in its Order of July 1, 1983, approving the acquisition under the Communications Act.

The Department believes that the measures suggested by Hawaii are not necessary. Paragraph V(C) states a general prohibition against the provision of interexchange services and the ownership of interexchange facilities by a GTOC.[29] As explained in the GTE CIS, at 17–21, 48 FR at 22031, this provision is intended to prohibit the GTOCs' provision of interexchange services, to prohibit the expansion of GTOCs' current ownership of interexchange facilities, and to require a phase-out of ownership of those facilities according to the requirements imposed in Paragraph V(C) (2), (3) and (4).[30] Each GTOC is then under an absolute prohibition against future vertical integration. Paragraph V(C)(1).

The Department fully expects that where regulatory approval is required prior to any disposition of interexchange operations pursuant to GTE's Paragraph V(C) obligations, that regulatory review and approval process will occur before the disposition can be consummated. The State of Hawaii likely would take the same active part in these proceedings as it has taken in many other regulatory proceedings which affected the interests of the State. This should adequately protect against any disruption of service or increase in rates that could threaten the public interest. The State's scenario of immediate and profound service disruption also assumes that AT&T, Sprint and MCI would all abandon the basic Hawaii-mainland service which they each currently offer, which seems a highly unlikely possibility.[31] Moreover, to clarify a point raised by the State, GTE would be free to consolidate HTC's interexchange operations with those of Sprint or GTE Spacenet Corp. (the successor to SPSC) or GSAT. *See* State of Hawaii at 17. This is consistent with the proposed decree's competitive rationale of separating rate-regulated exchange operations from unregulated interexchange operations. It is also consistent with the provision of Paragraph IV(A)(6) that "the GTOCs and the acquired entities shall not jointly provide telecommunications or information services or jointly own the assets used to provide such services."

In its comments, the State expresses particular concern about the fact that, unlike other GTOCs which simply concur in Bell tariffs, HTC participates in the partnership with AT&T through its own separate tariffs. These tariffs generally cover the Hawaii-to-mainland side of the interconnection partnership. *See* State of Hawaii at 7. For example, an MTS/WATS call from Hawaii to a mainland point is billed under the HTC tariff while a mainland-originated call to Hawaii is billed under the Bell tariff. Appropriate settlements are made pursuant to the agreements between the partners. Again, the Department fully expects that pursuant to its obligations under Paragraph V(C), GTE will take all necessary steps to discontinue offering Hawaii to mainland services through HTC. GTE of course would be free to continue to provide Hawaii-mainland services through a non-GTOC subsidiary such as Sprint. In sum, it is highly unlikely that the State's "spector of immediate and profound disruption of basic service" would ever materialize.

Hawaii further suggests that before the Court can assess the reasonableness of the settlement reached by the parties, the Court must first require and review a "plan of reorganization" setting forth all details of the disposition of HTC's interstate operations, and that the Court should await the outcome of any regulatory proceedings initiated pursuant to the plan. In essence, the State is suggesting a substantial delay before the Court could decide whether or not to enter the proposed Final Judgment. Such a delay is not necessary since the papers submitted under the Tunney Act, together with any further hearings deemed appropriate by the Court, adequately inform the Court concerning the issues presented, and

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[22] SBS suggests that equal access schedule could be advanced were GTE to acquire the necessary hardware and software from Western Electric Company. It is the Department's understanding that software is not interchangeable between analogous, but different, switches produced by the same manufacturer, much less by different manufacturers. Moreover, such software is proprietary, and Western Electric and Automatic Electric will compete to provide switches to the BOCs and GTOCs containing features reflected in the software. Hence, even if such software were interchangeable, as SBS suggests, there is no basis to assume that it would be available to Automatic Electric.

[23] In its comments, MCI suggests that its own experience with "equal access" from an Automatic Electric-manufactured switch at the Sugar Land Telephone Company demonstrates that a more prompt schedule is feasible. From the information available, however, the Department believes that the Sugar Land arrangement is not the equivalent of the equal access mandated by the decree, and may not be readily transferrable to other sites. Generally, the Sugar Land arrangement provides for ENFIA–A type interconnections for MCI customers located in the southern sector of the Houston SMSA. Under the Sugar Land arrangement, approximately 600 MCI customers who are directly served through one of Sugar Land's five exchange switches receive a "10XX" access to MCL and direct billing from Sugar Land. This is accomplished through an ENFIA–B type interconnection at that switch, and a separate agreement between Sugar Land and MCI under which the former provides MCI a monthly ticketed billing tape, which MCI in turn rates and returns to the company for its billings. The remainder of the MCI customers in the Sugar Land franchise area, and the MCI customers in the adjoining areas served by the MCI Sugar Land switch, are required to use the "7D+PIN+10D" access format, and are separately billed by MCI. Because the "equal access" has no access-tandem arrangement (as would be mandated by both the MFJ and the proposed decree), it is available to less than half of the Sugar Land access lines, and less than 10% of the total MCI subscriber base using the MCI terminal located at Sugar Land.

[24] Under the bar against discriminatory interconnections, the proposed decree prohibits any GTOC from concluding interim arrangements with Sprint for enhanced interconnections which it does not offer to all other carriers.

[25] MCI states that this provision allows the GTOCs to avoid providing equal access at end offices serving less than 10,000 lines, regardless of the switch technology in place. *See* MCI at 45 ("GTE need not provide equal access at end offices serving 10,000 or fewer lines"). To the contrary, the decree expressly contains two separate requirements: (1) the GTOCs must furnish equal access through any central office with an electronic switch no later than the dates specified in Appendix B, ¶ A, *and* (2) all end offices serving 10,000 or more lines must have electronic switching by December 31, 1990. Thus, if a GTOC end office serving 5,000 access lines is presently using a DMS switch for which an equal access software package is available, the GTOC must offer equal access features no later than January 1, 1985, because the equal access capacity is already available at that location; an end office serving 10,000 access lines with a SXS switch must install a stored program control switch capable of equal access no later than December 31, 1990 to offer equal access.

[26] In its proceeding in Docket 78–72, the FCC could impose obligations relating to smaller end SXS switches.

[27] HTC is a wholly-owned subsidiary of GTE and is defined as a GTOC by Paragraph II(K) and Appendix A of the proposed decree. HTC currently provides all exchange services in Hawaii, and also provides intrastate toll, interstate toll (i.e. Hawaii to mainland) service, and extensive international telecommunications services. Under GTE's July 5, 1983 submission to the Court, the State of Hawaii would constitute a distinct exchange area. Hence, HTC's intrastate services would not be affected by the decree. Further, HTC's international operations are specifically placed outside the provisions of the decree. *See* Proposed Final Judgment ¶ V(C)(3). Thus, HTC's interstate services and facilities are the only operations affected by the decree.

[28] Prior to entry of the proposed decree, Paragraph V(C)(1) will be corrected so that the current language "No GTOC shall provide interexchange telecommunications services or own jointly with GTE or any other person facilities used to provide such services . . ." will read "No GTOC shall provide telecommunications services or own, individually or jointly with GTE or any other person, facilities used to provide such services. . . ."

[29] Some exceptions may be necessary, in a few isolated instances, to permit continued GTOC ownership and operation of individual interexchange facilities within existing defense communications networks, e.g. AUTOVON. We have not yet been informed of any further details.

[30] *See* FCC Order Approving the Acquisition ¶ 63–64 (noting and listing the numerous carriers, including resellers, which actually or potentially could serve Hawaii).

permit a finding of public interest. The Court rejected proposals for such delays prior to entry of the decree in the *AT&T* case, which involved a significantly more complex division of substantially more assets.[32] The Court should similarly reject such proposals in this case. While the proposed decree requires the GTOCs' to withdraw from the provision of interexchange services, it permits them to phase out their ownership of interexchange facilities under the flexible scheme described in Paragraphs V(C) (2), (3) and (4). This disposition may take the form of sales or leases to other companies, intracompany transfers of assets, or simply the non-discriminatory offering of uncommitted interexchange routing and transmission capacity pending their gradual depreciation and phase-out.[33]

Hawaii also argues that, at a minimum, the Court should insert verbatim two regulatory conditions imposed by the FCC in its order approving the acquisition. These conditions were the result of much discussion and negotiation among GTE, the State of Hawaii, and the FCC staff during its review of the acquisition.[34] Ultimately, the FCC determined that certain of the suggested revised conditions should be imposed by the FCC in order to foster certain of its regulatory goals.[35] The Department does not believe such regulatory conditions are necessary or appropriate to its antitrust settlement with GTE,[36] since GTE is already under the obligations imposed by them by virtue of the FCC's order.

We now turn to specific clarifications regarding both HTC's interstate operations and its international operations. The State comments that there is uncertainty as to whether HTC is subject to Paragraph V(C)(2) and whether its existing agreements with AT&T Long Lines are subject to Paragraph V(C)(3).[37] The existing agreements between the GTOCs and AT&T are, in all but one instance, solely with the BOCs (in the instance of Hawaii, they are apparently with both a BOC and AT&T Long Lines). It is the unequivocal intention of the decree to include all of HTC's interstate operations within the scope of Paragraph V(C)(2) and to include HTC's existing agreements with AT&T Long Lines within the scope of Paragraph V(C)(3). Hence, this provision would permit HTC to replace its present division of revenues agreements with a comparable agreement. The parties will amend the language of Paragraph V(C)(3) accordingly before the proposed Final Judgment is entered.[38]

Finally, the State requests clarification regarding the exemption contained in Paragraph V(C)(1) of certain international operations of HTC. This exemption covers any telecommunications service (and any facilities used to provide such service) between the State of Hawaii and any point outside the fifty United States (including the District of Columbia). Hence, service between Hawaii and the Northern Mariana Islands is included within this exemption and thus would not be covered by Paragraph V(C)'s prohibitions and obligations. Likewise, service between Hawaii and Puerto Rico or the Virgin Islands is also within the Paragraph V(C)(1) exemption. Under the proposed decree, HTC could continue to provide these services without regard to the obligations contained in Paragraph V(C).

V. Comments Regarding Exchange and Serving Areas

Two comments were received concerning the proposed exchange and serving areas to be created by the GTOCs pursuant to Paragraphs II (H) and (R) of the proposed decree. The comments of the State of Michigan expressed its approval of the configurations proposed by GTE on July 5, 1983, for exchange areas, serving areas, and related associations within that state. The comments of the Public Service Commission of the State of West Virginia expressed its concern for the association of ten GTOC central offices with the Clarksburg Local Access and Transport Area ("LATA") of the Chesapeake & Potomac Telephone Company of West Virginia ("C&P"). According to West Virginia, C&P intends to reconfigure its facilities and include two central offices (Keyser and Piedmont) in its Hagerstown LATA because of an existing community of interest. These two offices are presently homed on Clarksburg, West Virginia. Because of its facilities network, however, the GTOC must associate ten tributary central offices with the Clarksburg LATA, rather than the Hagerstown LATA, despite an apparent community of interest between the communities served by these ten GTOC offices, the C&P Keyser and Piedmont offices, and Hagerstown. West Virginia suggests that either the ten GTOC offices be assoicated with Hagerstown at this time (with AT&T bearing the cost of the GTOCs reconfiguration) or that the Court "allow a change in LATA association for these exchanges when the network is reconfigured". West Virginia at 4.

While the Department has not yet determined whether to approve or disapprove GTE's proposed West Virginia exchanges, serving areas and related associations, the proposed decree allows for the flexibility which the state requests. The proposed decree permits the GTOC, at the time of any subsequent facilities reconfiguration, to apply to the Department and the court for any necessary changes in exchange or serving areas or associations, thus achieving the objective sought by West Virginia.

VI. Conclusion

The proposed decree is in the public interest. While it permits GTE to acquire Sprint, it does so under structural and injunctive limitations. These include equal access definitions, a timetable for the implementation of equal access by the GTE operating companies, a mandated elimination over time of the GTE–AT&T intercity partnership, and strict structural separation between the regulated, monopoly GTOCs and the acquired unregulated interexchange carrier, Sprint. We believe the decree not only will effectively constrain GTE's ability to act anticompetitively, but also will significantly aid in the creation of a more competitive environment in the telecommunications industry.

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[32] *See AT&T (Decree)*, 552 F. Supp. at 211 (rejecting proposals to defer entry until completion of regulatory proceedings), 213 (rejecting proposals to defer entry until submission of plans for reorganization).

[33] *See* GTE CIS at 17–21, 48 FR at 22031.

[34] *See* FCC Order Approving the Acquisition, at ¶¶ 61–64.

[35] In particular, the regulatory goal to be fostered is the FCC's long-standing Communications Act policy of integrating the rates and services offered to Hawaii with those offered on the mainland. *See, e.g., Establishment of Domestic Communications-Satellite Facilities by Non-Governmental Entities*, 38 FCC 2d 665, 695 (1972) (stating that the FCC's policy objective is that "service between Hawaii and all mainland points shall be provided at rates and on terms comparable to those obtained within the contiguous states").

[36] The Department does not take any position on the merits of those conditions under the Communications Act.

[37] The confusion arises from Paragraph V(C)(3)'s reference to GTOC assets "in any state" (since some of the partnership facilities are actually located in the Pacific Ocean) and the reference to "replacing existing agreements with the BOCs." *See* State of Hawaii at 15.

[38] Paragraph V(C)(3) will read:

Nothing contained herein shall prohibit a GTOC, in any location in which it has assets subject to Paragraph V(C)(2) for which it has not recovered its capital investment and for which the leases described in Paragraph V(C)(2) are not in effect, from replacing existing agreements with the BOCs or AT&T with an agreement with an interexchange carrier (other than the acquired entities) * * * [changes underscored].

Respectfully submitted,

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[FR Doc. 83–27820 Filed 10–12–83; 8:45 am]
BILLING CODE 4410–01–M

Drug Enforcement Administration

John Fred Maras, D.O.; Denial of Application

On July 25, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to John Fred Maras, D.O., Road 4, Box 59TL, Du Boise, Pennsylvania 15801 and c/o Rockview State Correctional Institute, Box A, Bellefonte, Pennsylvania 16823 (Respondent). The Order to Show Cause sought to deny an application for DEA registration in Schedules IIIN, IV and V executed December 22, 1982 by Respondent.

There were three statutory grounds under 21 U.S.C. 824(a) for the issuance of the Order to Show Cause. (1) On July 4, 1981, the Pennsylvania State Board of Osteopathic Medical Examiners revoked Respondent's medical license, thereby terminating his authority to possess, dispense, prescribe or otherwise handle controlled substances in Pennsylvania. (2) Respondent was convicted February 8, 1980 in the Court of Common Pleas of Blair County, Pennsylvania of 10 counts of illegal distribution of controlled substances in violation of 35 Pennsylvania Statutes 780–113(a)(14), felony convictions relating to controlled substances. (3) Respondent materially falsified the December 22, 1982 application by stating the question asking whether he is authorized to handle controlled substances under the laws of the state in which he operates or intends to operate was not applicable to him.

Respondent specifically waived his opportunity for a hearing on the issues raised by the Order to Show Cause and submitted a letter of explanation. The Acting Administrator finds that Respondent waived his opportunity for a hearing under 21 CFR 1301.54(c), and enters this Final Order on the record as it appears under 21 CFR 1301.54(d) and 1301.54(e).

Dr. Maras is currently incarcerated in a Pennsylvania state prison for 15 to 30 years. In his letter, he states that he does not have a license to practice in any state. DEA has consistently held when a registrant or applicant is without authority to handle controlled substances under the laws of the state in which he practices or intends to practice DEA is without legal authority to issue or maintain a registration. *Michael C. Barry, M.D.*, 48 F.R. 35777 (1983); *Floyd A. Santner, M.D.*, Dk. No 79–23, 47 F.R. 51831 (1982); *Marshall S. Tuck*, M.D. Dk. No. 80–28, 45 F.R. 85845 (1980). Since Dr. Maras lacks authority to possess, dispense, prescribe, administer or otherwise handle controlled substances in Pennsylvania, the Acting Administrator has no choice but to deny the application executed by Dr. Maras.

Respondent states in his letter that he inadvertently stated the question concerning state licensure did not apply to him. His explanation was that his last valid medical license was in Missouri, not Pennsylvania and that he hoped to have his Missouri license reinstated shortly. Respondent requested registration at an address in Du Boise, Pennsylvania. While the Acting Administrator is unpersuaded by this explanation, he need not reach the issue since DEA cannot register Dr. Maras in Pennsylvania.

It is the decision of the Acting Administrator to deny the application for DEA registration executed December 22, 1982 by Respondent. Accordingly, under the authority vested in the Attorney General by Section 304 of the Controlled Substances Act, 21 U.S.C. 824 and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator hereby denies the application for registration in Schedules IIIN, IV and V executed by John Fred Maras, D.O., effective immediately.

Dated: October 4, 1983.

Francis M. Mullen, Jr.,
Acting Administrator.

[FR Doc. 83–27804 Filed 10–12–83; 8:45 am]
BILLING CODE 4410–09–M

[Docket No. 83–11]

Joseph A. O'Brien; Denial of Application

On April 6, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Joseph A. O'Brien, 1079 West 5th, Eugene, Oregon 97402 (Respondent). The Order sought to deny an application Respondent executed on June 20, 1982, for registration as a researcher in Schedule I for reason that the Food and Drug Administration (FDA) denied his application for FDA registration as a Schedule I researcher. Therefore, DEA could not register Respondent under 21 U.S.C. 823(f).

Respondent, proceeding *pro se*, requested a hearing on the issues raised by the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Francis L. Young. Following prehearing procedures, Respondent submitted a "waiver of oral arguments" in which he explicitly waived his opportunity for a hearing. Judge Young *sua sponte* terminated the proceedings before him. Accordingly, the Acting Administrator finds that Respondent waived his opportunity for a hearing and enters this final order on the investigative file and the record as it appears. 21 CFR 1301.54(d) and 1301.54(e)

Under the Controlled Substances Act, the Department of Health and Human Services, Food and Drug Administration (FDA) is responsible for evaluating applications for research with controlled substances in Schedule I. 21 U.S.C. 823(f). Respondent had applied for DEA registration to conduct research with marijuana, a Schedule I controlled substance, at about the same time he filed a protocol with FDA. FDA disapproved Respondent's protocol on October 25, 1982. The memorandum disapproving the protocol stated that from the information Resondent submitted, FDA was unable to determine his competency or qualifications or scientific method of the plan. Respondent's application with FDA was handwritten and two pages long.

Applicants whose protocols are disapproved by FDA may avail themselves of the DEA administrative forum provided for in 21 CFR 1301.42. The Acting Administrator has examined the file in this matter, including the various submissions by Respondent, and concludes that FDA very properly disapproved this protocol.

Respondent possesses no post-graduate degree. His "reserach" was to be conducted in his home. Security for the cannabis plants would be provided by spraying "massive doses of insecticides" on the plants to prevent diversion. Once the "research" was completed, the plants would be burned in an incinerator on the site. Had a hearing been held, the FDA pharmacologist who reviewed the protocol would have testified that Respondent's protocol lacked the bare minimum of information necessary to assess the scientific merit of the application. Further, the proposed "research" was impossible without

VOL 48 ISS 199 OCT 13 1983 UMI

equipment and training which Respondent lacks.

21 U.S.C. 824(f) requires DEA to register practitioners whose protocols for reserach are approved by FDA unless the grounds for denial in 21 U.S.C. 824(a) exist. These grounds include material falsification of an application for registration (21 U.S.C. 824(a)(1)) and conviction of a felony relating to controlled substances (21 U.S.C. 824(a)(2)). Since FDA disapproved the protocol filed by Respondent, DEA will deny the application on that ground. However, the Acting Administrator is constrained to note the background facts of Mr. O'Brien's application.

Respondent was convicted in 1967 in state court in Oregon of possession of marijuana, then a felony under Oregon law. He failed to note that fact on his DEA application. In subsequent filings Respondent makes much of "decriminalization" of possession of marijuana in Oregon. The fact remains that possession was a felony in 1967. Certainly this would be an important fact in evaluating Respondent's DEA application.

Respondent was convicted in Oregon state court on July 20, 1983, of possession of more than one ounce of marijuana, a felony under Oregon law. The facts of that conviction show that Respondent was growing nearly 300 marijuana plants in his home on June 30, 1982. Local police officers serving a search warrant for a fugitive from the Oregon penitentiary at O'Brien's home found the plants growing in boxes inside the house.

It is clear to the Acting Administrator that this application and protocol are merely transparent shams for O'Brien to legitimize his illegal possession of marijuana. There is no hint of scientific merit in this application. The Controlled Substances Act permits "practitioners" who are authorized by FDA to be registered to conduct Schedule I research. Respondent falls far short of the definition of practitioner contained in 21 U.S.C. 802(20): " * * * a scientific investigator * * * licensed, registered, or otherwise permtted by the United States or the jurisdiction in which he practices or does research * * * to conduct research with respect to a controlled substance in the course of professional practice or research." DEA has denied registration to unqualified individuals like Mr. O'Brien, who seek registration as a legitimate way to obtain controlled substances. See *B. Earl Mahan*, 48 FR 20820 (1983) and *Michael J. McClara*, 46 FR 57375 (1981).

It is the decision of the Acting Administrator to deny the application filed by Joseph A. O'Brien on June 20, 1982, for reason that the FDA disapproved the protocol filed by O'Brien. Under the authority vested in the Attorney General by 21 U.S.C. 823 and 824 and delegated to the Administrator of the Drug Enforcement Administration by 28 CFR 0.100(b), the Acting Administrator denies the application filed by Joseph A. O'Brien, effective immediately.

Dated: October 4, 1983.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 83-27803 Filed 10-12-83; 8:45 am]

BILLING CODE 4410-09-M

Herbert W. Voorhies, M.D.; Denial of Application

On July 22, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Herbert W. Voorhies, M.S., 1091 Pine Oak Lane, Pasadena, California 91105 (Respondent), seeking to deny an application for DEA registration executed May 4, 1983 by Respondent. The statutory predicate under 21 U.S.C. 824(a)(2) was Respondent's conviction on December 21, 1979 in the United States District Court for the Middle District of Tennessee following a jury trial of 49 counts of distribution of controlled substances in violation of 21 U.S.C. 841(a)(1), felony convictions relating to controlled substances.

Respondent explicitly waived his opportunity for a hearing on the issues raised by the Order to Show Cause. The Acting Administrator finds that Respondent waived his opportunity for a hearing under 21 CFR 1301.54(c), and enters this Final Order on the record as it appears under 21 CFR 1301.54(d) and 1301.54(e).

DEA has previously considered the fitness of Dr. Voorhies to handle controlled substances. The former Acting Administrator entered a Final Order in *Herbert Webster Voorhies, M.D.*, Dk. No. 80-37, 46 FR 34859 (July 6, 1981) in which he revoked a Certificate of Registration previously issued to Respondent and denied an application for registration at a new address. The 1981 Final Order was based on a recommendation of Administration Law Judge Francis L. Young, following a hearing.

The Acting Administrator incorporates the findings contained in the 1981 Final Order. Respondent maintained a weight control practice in Nashville, Tennessee from which he illegally dispensed thousands of dosage units of amphetamine or amphetamine-like controlled substances. An audit by DEA investigators revealed very large shortages of such substances as dextroamphetamine sulphate, Dexamyl, and Dexedrine. Respondent regularly dispensed these drugs to "patients" who asked for certain drugs by name or nickname at the first visit and returned regularly to obtain the substance. Respondent dispensed amphetamines to individuals who never lost weight, or even gained weight, while receiving the drug. Expert witnesses testified at the criminal trial that these dispensing practices, including dispensing amphetamines to persons with histories of stomach ulcers, diabetes or blackouts, were not in the usual course of professional practice. Neither was Dr. Voorhies's practice of dispensing amphetamine to patients who wanted to stay awake or get ahead of a younger man on the job.

Respondent now requests registration in Schedule IV and V. He states he did not know of the existence of 21 U.S.C. 841 but thought he was conducting his practice legally.

Dr. Voorhies is no more fit today to handle any controlled substances than he was in 1981. He has submitted nothing to indicate otherwise. The sheer size of these violations preclude the Acting Administrator from registering Respondent. As Judge Young observed in 1981, there is no reason to disagree with the jury's finding of guilty nor for mitigating its effect. Respondent has submitted no new evidence to warrant any mitigation. He has not shown that he is now capable of responsibly and professionally handling controlled substances.

It is the decision of the Acting Administrator to deny the application of DEA registration executed May 4, 1983 by Respondent. Accordingly, under the authority vested in the Attorney General by Section 304 of the Controlled Substances Act, 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator hereby denies the application for registration executed by Herbert W. Voorhies, M.D., effective immediately.

Dated: October 4, 1983.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 83-27805 Filed 10-12-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-85]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Rotorcraft Technology.

DATE AND TIME: November 2, 1983, 8:30 a.m. to 5 p.m.; November 3, 1983, 8:00 a.m. to 4:30 p.m.; and November 4, 1983, 8:00 a.m. to 12 noon.

ADDRESS: Lewis Research Center, Cleveland, OH; Administration Building, Room 215.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Ward, National Aeronautics and Space Administration, Code RJL-2, Washington, DC 20546 (202/755-2375).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Rotorcraft Technology was established to assist NASA in assessing the current adequacy of rotorcraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in rotorcraft aerodynamics, acoustics, structures, dynamics, propulsion systems components, flight control, and avionics. The Subcommittee, chaired by Mr. Edward S. Carter, is comprised of ten members. The meeting will be open to the public up to the seating capacity of the room (approximately 60 persons including the Subcommittee members and participants).

Type of meeting: Open.
Agenda:
November 2, 1983
8:30 a.m.—Summary of NASA Fiscal Year 1983 Rotorcraft Research and Technology Programs and Program Planning for FY 1984—Ames and Langley Research Centers.
5 p.m.—Adjourn.
November 3, 1983
8 a.m.—Summary of NASA Fiscal Year 1983 Rotorcraft Research and Technology Programs and Program Planning for Fiscal Year 1984—Lewis Research Center.
11 a.m.—Federal Aviation Administration Engineering and Development Plan for Aircraft Icing.
1 p.m.—Briefings by Members.
4:30 p.m.—Adjourn.
November 4, 1983
8 a.m.—Working Session and Draft Summary Presentation.
12 noon—Adjourn.

Dated: October 4, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-27764 Filed 10-12-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-86]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Transport Aircraft.

DATE AND TIME: November 8, 1983, 8:30 a.m. to 4:30 p.m.; November 9, 1983, 8 a.m. to 3:30 p.m.

ADDRESS: NASA Headquarters, Federal Building 10B, Room 625, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Winblade, National Aeronautics and Space Administration, Code RJT-2, Washington, DC 20546 (202/755-3000).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Transport Aircraft has been established to assist the NASA in assessing the current adequacy of transport aircraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in transport advanced aerodynamics, avionics and controls, structures and materials, and propulsion. The Subcommittee, chaired by Russell Hopps, is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open
AGENDA:
November 8, 1983
8:30 a.m.—Chairperson's Opening Remarks.
8:45 a.m.—Executive Secretary's Report.
9 a.m.—NASA Budget Status and Aeronautics Long Range Plan.
10 a.m.—Systems Research & Technology Program Status Reports.
2:30 p.m.—Discussion of Systems Programs.
3:30 p.m.—The Future of Air Transport and NASA's Aeronautics Role.
4:30 p.m.—Adjourn.
November 9, 1983
8 a.m.—Emerging Technologies in Air Transportation.
9 a.m.—Discussion of Major Issues and NASA's Role in the Future of Air Transport Technology.
1 p.m.—Subcommittee Recommendations.
3:30 p.m.—Adjourn.

Dated: October 5, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-27785 Filed 10-12-83; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-317]

Baltimore Gas and Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-53, issued to Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1 located in Calvert County, Maryland.

The amendment would: (1) Provide changes to the Appendix A Technical Specifications (TS) to allow Cycle 7 operation, (2) revise the TS Limiting Conditions for Operation and Surveillance Requirements for the Auxiliary Feedwater System, (3) delete the Limiting Condition for Operation and Surveillance Requirements for certain post-accident Monitoring instruments, (4) change the TS for the indicating ranges of the remote shutdown monitoring instrumentation (5) change the surveillance requirements for Subchannels A-3 and B-3 of the automatic actuation logic for the Containment Spray Actuation System, and (6) provide Limiting Conditions for Operation and Surveillance Requirements for the Containment Vent Isolation Valves (MOV-6900 and MOV-6901).

The above proposed changes to the TS are in accordance with the licensee's application dated August 22, 1983, as supplemented September 1, 1983, September 16, 1983, and two supplements dated September 20, 1983.

Before issuance of the proposed license amendment, the Commission

will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of standards for conclusions regarding "no significant hazards considerations" by providing examples (48 FR 14870). In this regard, the TS changes resulting from the reload analysis for Cycle 7 operation conform to example (iii) in 48 FR 14870 which states that no significant hazards considerations are expected to exist if operation of the facility in accordance with the proposed amendment involves:

> For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable.

Accordingly, on this basis, the NRC staff proposes to determine that the TS changes associated with Calvert Cliffs Unit 1 Cycle 7 operation involve no significant hazards considerations. The remaining proposed changes to the TS do not conform to any of the examples provided in 48 FR 14870; the basis for the proposed no significant hazards consideration determination is presented herein.

Changes in the TS, associated with the Auxiliary Feedwater System, are required to reflect modifications to this system. These system modifications include the addition of an independent auxiliary feedwater train with a motor powered pump. A cross-connect is also provided between the Unit 1 and Unit 2 Auxiliary Feedwater Systems. In addition, the pre-set injection valves will be replaced with flow modulating valves.

In order to assure operability of the modified system, a period of poststartup testing will be required. During this period, the automatic start and flow modulating features of the auxiliary feedwater system may be inoperable. Accordingly, the licensee has requested a special test exception to be inserted in the TS to address startup testing of the auxiliary feedwater system.

With the automatic start and flow modulating features inoperable, the auxiliary feedwater system would consist of two, manually-started, steam driven, auxiliary feedwater pumps capable of supplying water to each of two steam generators. This configuration is identical to the auxiliary feedwater system in the as-licensed plant configuration which required operator action to initiate and adjust auxiliary feedwater flow. The licensee has performed safety analyses to evaluate the time required for operator response in situations requiring auxiliary feedwater flow.

The safety analyses performed to evaluate the effects of auxiliary feedwater flow deviations show that no flow for 10 minutes after the most severe undercooling transient, or runout flow for 10 minutes after the most severe overcooling transiet, is acceptable. Consequently, adequate time would be available to manually initiate and control auxiliary feedwater flow in the event that either of these transients were to occur during the proposed 30 day period. A period of 10 minutes is considered adequate for operator response. In order to assure that operators are aware of the status of the auxiliary feedwater system and the possibility that operator control may be required, the licensee will brief the operators on at least a weekly basis concerning the condition of the auxiliary feedwater system. Since operator response can adequately substitute for the automatic start and flow modulating features of the modified auxiliary feedwater system, accidents which result in auxiliary feedwater flow will not be more severe during the 30 days following Cycle 7 startup, during which the test exception will be applicable. The licensee has proposed additional changes to the Limiting Conditions for Operation (LCOs) for the Auxiliary Feedwater System. These proposed changes to the LCOs are equivalent to existing LCOs in that, should an auxiliary feedwater pump be inoperable (among a total complement of two steam driven pumps, and one motor driven pump) the proposed LCO would require that two auxiliary feedwater pumps would be operable within 72 hours. The existing LCO is based upon two steam driven auxiliary feedwater pumps and, in the event that one pump is inoperable, both pumps must be operable within 72 hours. A second proposed LCO would allow two of the three auxiliary feedwater pumps to be inoperable for up to 72 hours provided that the auxiliary feedwater cross/connect, and the Unit 2 motor driven auxiliary feedwater pump, are verified to be operable. This proposed LCO is at least equivalent to the existing LCO in that a total of two auxiliary feedwater pumps are required to be operable; in this case one Unit 1 and one Unit 2 auxiliary feedwater pump would be required.

A change to LCO is also proposed to address the changing of operational modes (e.g. from startup to power operation) with an inoperable auxiliary feedwater pump. Since no additional safety concerns are associated with changing operational modes with an inoperable auxiliary feedwater pump, no prohibition on such mode changes is appropriate.

The Surveillance Requirements have been proposed for modification to reflect changes to the auxiliary feedwater system. Prior to modification auxiliary feedwater flow was controlled via preset flow control valves. These valves were the subject of surveillance to assure that their position would permit a preset flow value. The TS required reverification of auxiliary feedwater flow control valve alignment should the auxiliary feedwater flow control valves be repositioned. Since these preset flow control valves have been replaced by air-operated modulating valves, this surveillance is no longer applicable. In place of this requirement, BG&E has proposed to perform a flow verification test each 18 months which would assure that each auxiliary feedwater pump delivers flow upon automatic initiation. In addition, BG&E has proposed a test of the dynamic head for the motor driven auxiliary feedwater pump. This proposed test would be conducted every 31 days to assure a dynamic head of at least 3100 ft on recirculation flow. This test frequency is consistent with dynamic head test currently required for the steam driven auxiliary feedwater pumps.

The above proposed changes to the Limiting Conditions for Operation and Surveillance Requirements for the Auxiliary Feedwater System do not allow a decrease in the operability or effectiveness of surveillance of the auxiliary feedwater system. Based upon the above, the proposed changes to the TS for the Auxiliary Feedwater System maintain or improve the readiness of this system to respond to emergency conditions and, therefore, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

BG&E has requested that certain post-accident monitoring instrumentation be deleted from the TS. Although these instruments would not be physically removed from their installed locations, they would no longer be the subject of TS requirements. These instruments include:

(1) Power Range Nuclear Flux Monitor—This instrument was judged to be unnecessary for post-trip reactor monitoring. The function of post-accident flux monitoring is adequately performed by the Wide Range Logarithmic Neutron Flux Monitor, which includes the power range flux indication and is addressed in the TS.

(2) Reactor Coolant Total Flow—Reactor coolant system total flow is considered a non-essential channel of instrumentation in the post-trip condition because of the availability of reactor coolant system (RCS) temperature indication, RCS subcooled margin and Reactor Coolant pumps status. In the absence of adequate core flow, RCS temperature and subcooled margin are indirect indicators of core flow conditions and provide adequate display to ensure appropriate actions are initiated by operations personnel to recover from any abnormal conditions existing in the post-trip condition.

Neither the Total Reactor Coolant Flow nor the Power Range Nuclear Flux Monitor is referenced in the emergency operating procedures. We therefore conclude that the proposed deletion of operability and surveillance requirements for the power range nuclear flux monitor and reactor coolant total flow, post accident, instumentation would not decrease the ability of the licensee to detect and correct abnormal post-accident conditions. Accordingly, the staff proposes to determine that the proposed deletion of the TS requirements for the subject post-accident monitoring instrumentation does not involve a significant hazards consideration.

The remote shutdown instrumentation allows the reactor operator to monitor key safety parameters from outside the control room. No automatic safety features are actuated from the remote shutdown instrumentation. Changes to Reactor Coolant Cold Leg Temperature, Steam Generator Pressure and Level and Wide Range Neutron Flux instrumentation as described in the applicable LCO, have been proposed.

With regard to Reactor Coolant Cold Leg Temperature (RCS)T_c, NUREG–0737, Item II.F.2 requires the installation of instrumentation for detection of inadequate core cooling. Accordingly, subcooled margin monitors have been installed utilizing, among other inputs, existing temperature measurement channel inputs. The initial installation of the subcooled margin monitors utilized (RCS)T_c narrow range temperature inputs. The detection range of the subcooled margin monitors was limited by the measurement range provided by the cold leg temperature measurement, channels required by the LCO to be from 0–600°F. The design of the subcooled margin monitors precludes providing any representative engineering data at temperature measurement ranges less than 212°F (boiling point of water) or greater than 705°F (critical point of water). The guidance contained in Reg. Guide 1.97 suggested modifications to provide temperature measurement ranges of 150°F to 750°F. Since temperature measurement ranges below the boiling point or above the critical point of water provided no useful input to the subcooled margin monitors and produce the undesirable effect of greater inaccuracy over the extended measurement ranges, a limited T_c measurement range between the two points that would provide useful input to the subcooled margin monitors, 212°F to 705°F, was selected.

Steam generator level measurement has been modified to provide an extended range of level indication. It had previously indicated level from −116 to +63.5 inches. The modification increases the range to −401 to +63.5 inches as required by the proposed LCO. The steam generator level measurement channel provides indication at the remote shutdown panel (2C43) and does not provide any control functions at the panel. The additional level range provides the operator with more representative information of actual steam generator inventory. Finally, the range of the "Wide Range Neutron Flux" instrumentation has been increased, as indicated in the proposed LCO, from .1 counts per second (cps)—150% power to .1 cps—200% power.

As indicated previously the remote shutdown instrumentation is provided for monitoring purposes and does not provide inputs for automatically actuated equipment; therefore, the changes as reflected in the proposed LCO do not change the course or severity of any analyzed accidents. Moreover, since the proposed changes to the instrumentation ranges provide equivalent or improved information, the usefulness of this instrumentation to provide post-accident information has not been degraded. On this basis, the staff proposes to determine that these proposed changes to the LCO for remote shutdown instrumentation do not involve significant hazards considerations.

The licensee has proposed a change in the Surveillance Requirements for subchannels A–3 and B–3 of the Containment Spray Actuation System (CSAS). The purpose of CSAS subchannels A–3 and B–3 is to isolate the service water supply to the spent fuel pool coolers on indication of high containment pressure; the licensee has proposed a plant modification which would move these functions to other CSAS actuation channels. CSAS subchannels A–3 and B–3 as reconstituted would perform the following functions on indication of high containment pressure: Trip the main feedwater, condensate booster, and heater drain pumps and close the main steam and feedwater isolation valves. These automatic actions would isolate the main feedwater system in the event of a steamline break thus preventing overpressurization of the containment. The same automatic features would also be added to the Steam Generator Isolation function.

The present surveillance requirement for subchannels A–3 and B–3, requiring monthly testing, is no longer appropriate for the reconstituted subchannels A–3 and B–3. Such testing, during reactor operation, would result in a reactor trip due to closure of the main steam isolation valves since the MSIVs cannot be bypassed during testing. The licensee has proposed that CSAS subchannels A–3 and B–3 be tested every 18 months during plant shutdown, which is appropriate considering the design of the associated equipment and the need to prevent unnecessary reactor scrams. Since the addition of automatic tripping of the pumps in the feedwater trains results in a less severe plant response to a main steamline break, the NRC staff proposes to conclude that the associated changes to the TS involve no significant hazards considerations.

The licensee has proposed changes to the TS to address LCOs and Surveillance Requirements for Containment Vent Isolation Valves. These valves are presently designated as Hydrogen Purge Outlet Valves (MOV–6900 and MOV–6901). These valves are presently non-automatic, motor operated, valves that are required by the TS to be maintained in the closed position during reactor operation (Modes 1, 2, 3 and 4). A modification to these valves would add an automatic isolation signal to close these valves on a Safety Injection Actuation Signal (SIAS). The licensee has proposed that the redesignated Containment Vent

VOL
48
ISS
1
99
OC
13
1983
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Isolation Valves be required to close automatically in less than 20 seconds as verified by periodic testing. Under reactor operating conditions Modes 1, 2, 3 and 4 the proposed LCO would require the valves to be maintained in the closed position and doubly isolated. In this case, double isolation includes removal of motive power (supply breaker open) and the use of a key-locked switch. Monthly surveillance would assure that the valves remain closed and doubly isolated. In addition, during core alterations or movement of irradiated fuel within containment, the licensee has proposed TS to require that these valves remain closed.

The proposed TS are consistent with other existing Calvert Cliffs Unit 1 TS for containment purge valves. In addition, both existing and proposed TS for valves MOV–6900 and MOV–6901 require these valves to be closed during reactor operation and during refueling operations; thus, the proposed TS would be at least as restrictive as existing TS. Accordingly, the NRC staff proposes to determine that the TS changes associated with the modified MOV–6900 and MOV–6901, the Containment Vent Isolation Valves, involve no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By November 14, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a writen petition for leave to intervene. Request for a hearing and petitions for leave to intervene shalll be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to and James A. Biddison, Jr., General Counsel, G and E Building, Charles Center, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 22, 1983 as supplemented September 1, 16 and two dated September 20, 1983 which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room located at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland, this 6th day of October, 1983.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–27807 Filed 10–12–83 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–62, and DPR–71 issued to Carolina Power & Light Company (the licensee), for the operation of the Brunswick Steam Electric Plant, (BSEP) Units 1 and 2 located in Brunswick County, North Carolina.

The amendment would revise the operating license and the provisions in the technical Specifications relating to changes to permit reactor operation at power levels up to 50% of rated thermal power with one recirculation loop out of service. Presently, Brunswick operating licenses require a unit to be in hot shutdown within 24 hours if an idle recirculation loop cannot be returned to service within 12 hours. The change proposed by the licensee would delete this license condition and modify the Technical Specifications (TSs) as necessary to provide for appropriate Average Power Range Monitor (APRM) flux scram trip and rod block settings, an increase in the safety limit Minimum Critical Power Ratio (MCPR) value and revisions to the allowable Average Planar Linera Heat Generation Rate (APLHGR) values suitable for use with an idle recirculation loop, in accordance with the licensee's application for amendment dated June 3, 1982.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By November 14, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intevene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition would specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial,or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petiton for leave to intervene or who had been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference schedules in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 377 and the following message addressed to Domenic B. Vassallo: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of the **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and § 2.714(d)

For further details with respect to this action, see application for amendment dated June 3, 1982, which is available for public inspection at the Commission's

Public Document Room, 1717 H Street, NW., Washington, D.C. and at Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Maryland this 5th day of October, 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-27868 Filed 10-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329 and 50-330]

Consumers Power Co. (Midland Plant, Units 1 and 2); Issuance of Director's Decision

Notice is hereby given that the Director, Office of Inspection and Enforcement, has issued a decision concerning a petition dated June 13, 1983, filed by Billie Pirner Garde of the Government Accountability Project on behalf of the Lone Tree Council and others. The petitioners had requested that the Commission take a number of actions with respect to the Midland Plant. The Director, Office of Inspection and Enforcement, has decided to grant in part and deny in part the petitioners' request.

The reasons for this decision are explained in a "Director's Decision" under 10 CFR 2.206 (DD-83-16), which is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and in the Local Public Document Room for the Midland Plant, located at the Grace Dow Memorial Library, 1910 W. St. Andrews Road, Midland, Michigan, 48640.

Dated at Bethesda, Maryland this 6th day of October, 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-27869 Filed 10-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424 and 50-425]

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia, City of Dalton, Georgia, (Vogtle Electric Generating Plant, Units 1 and 2; Receipt of Application for Facility Operating Licenses

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has docketed a portion of an application for facility operating licenses from Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, (the applicants) which would authorize the applicants to possess, use, and operate two pressurized water nuclear reactors (the facilities) located on the applicants' site in Burke County, Georgia. Each unit would operate at a reactor core power level of 3411 megawatts thermal. Construction of the facilities was authorized by Construction Permit Nos. CPPR-108 and CPPR-109, issued by the Atomic Energy Commission[1] on June 28, 1974. Construction of Unit 1 (CPPR-108) is anticipated to be completed by September 1986 and Unit 2 (CPPR-109) by March 1988.

The portion of the application docketed by the Commission on September 16, 1983, consisted of the Final Safety Analysis Report, which is currently undergoing review. Upon acceptance of the Environmental Report for review, the Commission will notice an opportunity for hearing on radiological safety and environmental issues to be considered during the review. After the Environmental Report has been accepted and analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a draft environmental statement will be prepared by the Commission's staff. Upon preparation of the draft environmental statement, the Commission will cause to be published in the Federal Register a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The draft environmental statement will focus only on matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of construction permits. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be noticed in the Federal Register.

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated September, 13, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Burke County Library, 4th Street, Waynesboro, Georgia 30830. Additionally, all correspondence documenting the staff's review of the application is available at these locations. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Office of Nuclear Reactor Regulation; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Dated at Bethesda, Maryland, this 6th day of October 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-27871 Filed 10-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289-SP (Management Phase)]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit No. 1); Order

October 7, 1983.

Oral argument on the various appeals from the Licensing Board's partial initial decisions concerning management competence and integrity[1] will be held at *9:30 a.m. on Thursday, December 1, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.* The allotment of time and order of presentation of argument will be announced in a subsequent order.

Each party is to provide the Secretary to this Board *by letter mailed no later than November 17, 1983,* with the name of the individual who will present oral argument on its behalf.

It is so ordered.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-27872 Filed 10-12-83; 8:45 am]

BILLING CODE 7590-01-M

[1] Pursuant to the Energy Reorganization Act of 1974, as amended, the Atomic Energy Commission (AEC) was abolished. The Nuclear Regulatory Commission assumed the licensing and related regulatory functions of the AEC.

[1] LBP-81-32, 14 NRC 381 (1981), and LBP-82-56, 16 NRC 281 (1982).

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Station); Exemption From Schedular Requirements

I

The Nebraska Public Power District (NPPD/the licensee) is the holder of Facility Operating License No. DPR-46 which authorizes NPPD to operate the Cooper Nuclear Station (CNS) at power levels not in excess of 2381 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Nemaha County, Nebraska. The license provides, among other things, that it is subject to all Rules, Regulations, and Orders of the Commission now or hereafter in effect.

II

On February 22, 1983, the environmental qualification rule for electrical equipment important to safety for nuclear power plants, 10 CFR 50.49, became effective. Subsection (g) of §50.49 requires that each holder of an operating license issued prior to February 22, 1983, shall by May 20, 1983, identify the electrical equipment important to safety within the scope of the rule already qualified and submit a schedule for either the qualification or the replacement of remaining electrical equipment subject to the rule. This schedule must establish a goal of final environmental qualification of the electrical equipment by the end of the second refueling outage after March 31, 1982, or by March 31, 1985, whichever is earlier. The rule also provides that the Director of the Office of Nuclear Reactor Regulation may grant request for extensions of this deadline to a date no later than November 30, 1985, for specific pieces of equipment if these requests are filed on a timely basis and demonstrate good cause for such an extension, such as procurement lead time, task complications, and installation problem.

III

On June 24, 1983, the licensee requested an extension from the dates specified in 10 CFR 50.49(g). The Cooper plant is on a one-year refueling cycle, and went into an outage shortly after the March 1982 date. Therefore, the end of the second refueling outage will occur in early September 1983. The licensee stated that additional time was needed because the rule expanded the scope of electrical equipment required to be qualified to a harsh environment, and the need to identify and qualify this additional equipment will require more time and another outage. The licensee specifically requested extension until the end of its 1985 outage but no later than November 30, 1985.

We have reviewed the licensee submittal and agree that good cause for a schedular extension of the rule exists for the following reasons: the close proximity of the plant's first refueling outage to the effective date of the rule; the plant is on a one-year refueling cycle; and the expanded scope of the rule to include non-safety-refety-related equipment (10 CFR 50.49(b)(2)) and post-accident monitoring equipment (10 CFR 50.49(b)(3)). However, since the licensee has not been able to complete identification of the specific equipment for which a schedular exemption is needed, we are unable to grant the full extent of the licensee's request. Because we find, however, that the licensee is working in good faith to meet the rule, an extension to the end of the third refueling outage after March 31, 1982, can be granted. This would place the licensee on approximately equal footing with plants operating on an 18-month refueling cycle. The licensee must complete qualification of all equipment by the end of the third outage but in any event no later than March 31, 1985. Requests for extension beyond that date must meet the specific criteria stated in 10 CFR 50.49(g).

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption:

Exemption is granted from the schedular requirement of §50.49(g) to extend the required date of final environmental qualification of electrical equipment from "the end of the second refueling outage after March 31, 1982, or by March 31, 1985, whichever is earlier" to "the end of the third refueling outage after March 31, 1982 or by March 31,1985, whichever is earlier."

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 3rd day of October, 1983.

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-27873 Filed 10-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-22, issued to Northern States Power Company (the licensee), for operation of the Monticello Nuclear Generating Plant located in Wright County, Minnesota.

The amendment would revise the provisions of the Technical Specifications to incorporate revised safety and operating limits associated with the operation of Monticello Nuclear Generating Plant with one recirculation loop out of service. The changes proposed by the licensee would provide for reduced Average Power Range Monitor (APRM) flux scram trip and rod block settings, an increase in the safety limit Minimum Critical Power Ratio (MCPR) value and revisions to the allowable Maximum Average Planar Linear Heat Generation Rate [(MAPLHGR) values suitable for use with an idle recirculation loop. Presently, the Monticello Technical Specifications wdould require plant shutdown if an idle recirculation loop cannot be returned to service within 24 hours. The amendment would authorize the plant to operate up to 50% of rated power for extended periods of time. Supporting the amendment request, is a report prepared by General Electric that presents the analysis for core performance, in accordance with the licensee's application for amendment dated July 2, 1982 as supplemented on October 5, 1982.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By November 14, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition

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for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition would specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 377 and the following message addressed to Domenic B. Vassallo: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 2, 1982, as supplemented October 5, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Bethesda, Maryland this 5th day of October, 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83–27874 Filed 10–12–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–352–OL; 50–353–OL]

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2); Notice and Order of Prehearing Conference

October 6, 1983.

As previously confirmed by Order of September 21, 1983, a prehearing conference will begin on the afternoon of October 17, 1983. The conference is expected to continue on October 18, and, if necessary, on October 19, 1983. The precise times and locations are:

October 17, 1983, 1:30 p.m.–4:30 p.m. and October 18, 1983, 9:00 a.m.–4:00 p.m., at:

Municipal Building, 140 Church Street, Phoenixville, Pennsylvania 19460

October 19, 1983, 9:00 a.m.–5:00 p.m., at:

Royersford Borough Hall, 300 Main Street, Royersford, Pennsylvania 19468

Members of the public are welcome to attend but there will be no opportunity for public participation during the daytime prehearing conference sessions which are the subject of this notice. Limited appearance sessions for statements by the public have been scheduled, by notice dated September 23, 1983, for the evenings of October 17 and 18, 1983, from 7:00 p.m. to 10:00 p.m., at the Phoenixville Municipal Building.

The subjects of the prehearing conference, in the approximate order in which they will be discussed, will be:

1. The status and extent of participation by: Consumers Education and Protective Association (CEPA), Keystone Alliance, Mr. Joseph H. White, III, and the interested government agencies (The Commonwealth of Pennsylvania, the Pennsylvania Consumer Advocate and the City of Philadelphia).

2. The hearing schedule for Contentions I–62, V–3a and V–3b, and V–4.

3. The status and schedule for review of offsite emergency plans by the Pennsylvania Emergency Management Agency (PEMA) and the Federal Emergency Management Agency (FEMA).

4. Preliminary discussion of reconsideration of rejection of AWPP Contention VI–1 (Pattern of Improper QA/QC), and schedule for further written submissions.

5. The status of admitted LEA Contentions I–8, I–15 and I–33M.

6. Admissibility of contentions on the environmental analysis of severe accidents proposed by Limerick Ecology Action (LEA) and the City of Philadelphia.

7. Admissibility of LEA proposed Contentions I–41 (systems interactions) and I–42 (environmental qualification).

8. Admissibility of LEA proposed emergency planning contentions within the scope of 10 CFR 50.47(d) (*i.e.*, primarily "onsite" emergency planning).

All parties and governmental participants are directed to attend the first day of the prehearing conference, with the exception of counsel for the Graterford Prisoners. (Del-Aware is no longer a party before this Licensing Board.) However, matters regarding the scheduling of offsite emergency planning matters, which could affect the interest of the prisoners, will be discussed whether or not counsel for the prisoners is in attendance.

Bethesda, Maryland, October 6, 1983.

It is so ordered.

For the Atomic Safety and Licensing Board.

Lawrence Brenner,

Chairman, Administrative Judge.

[FR Doc. 83–27875 Filed 10–12–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–329, 50–330; EA–83–109]

Applications, etc.; Consumers Power Co. (Midland Plant Units 1 and 2); Confirmatory Order for Modification of Construction Permits (Effective Immediately)

I

Consumers Power Company (the "licensee") is the holder of construction permits CPPR–81 and CPPR–82 issued by the Atomic Energy Commission (now the Nuclear Regulatory Commission, hereafter "Commission"), which authorize the construction of the Midland Plant, Units 1 and 2 (the "facility"). The facility is under construction in Midland, Michigan.

II

Since the start of construction, the facility has experienced significant quality assurance ("QA") problems. Although the licensee took corrective actions in each case, problems continued to be experienced in the implementation of its QA program.

An NRC Region III inspection, commenced in October 1982 and completed in January 1983, identified significant problems with the QA inspection process and with the conformance to design documents of installed components in the Diesel Generator Building ("DGB"). These findings were identified to the licensee in an exit meeting following the inspection in November 1982. The licensee subsequently made similar findings in other areas of the facility. In view of: (1) The widespread nature of the problems identified, (2) the history of QA problems at the facility, and (3) the ineffectiveness of past corrective actions to resolve these problems, the NRC staff requested the licensee to develop a comprehensive program to verify the adequacy of previous construction and to assure the adequacy of future construction. On December 2, 1982, the licensee directed that the majority of safety related work at the site be halted and presented to the staff the outlines of a Construction Completion Program ("CCP"). By letter dated December 30, 1982, the NRC confirmed the licensee's stopping work and other commitments undertaken by the licensee. In accordance with those commitments, the CCP was formally submitted to the staff on January 10, 1983.

The CCP is a program to provide guidance in the planning and management of the construction and QA activities necessary for completion of the facility in accordance with Commission regulations. The CCP has undergone revisions in response to questions and comments raised by the staff and by members of the public and was submitted in final form on August 26, 1983.

Part of the CCP is a Construction Implementation Overview ("CIO") to be conducted by an independent third party. The CIO effort is described in the CCP and documents provided to NRC on April 6 and 11, May 19, August 30 and September 9, 1983.

The CIO was necessitated by the NRC staff's loss of confidence in the licensee alone to implement an effective QA program. In response to this concern, the licensee has committed to keep the CIO in effect until the licensee has demonstrated to the NRC staff that a third party overview is no longer necessary to provide reasonable assurance that the facility can be constructed in compliance with the Commission's QA criteria (10 CFR Part 50, Appendix B). The licensee has proposed and the staff has approved, by letter dated September 29, 1983, Stone and Webster Engineering Corporation to perform the CIO.

III

The NRC staff has conducted a review of the CCP and has concluded that it constitutes a program which provides reasonable assurance that the facility can be satisfactorily completed in accordance with Commission requirements. I have concluded that the activities halted by the licensee on December 2, 1982, may resume provided they are conducted in accordance with the CCP. I, therefore, find that the public health, safety and interest requires that any continuation of construction be in accordance with the CCP and that the CCP be confirmed by order made immediately effective.

IV

Accordingly, pursuant to Sections 103 and 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, Construction Permits CPPR–81 and CPPR–82 are hereby modified to include the following provisions:

a. The licensee shall adhere to the Construction Completion Program, dated August 26, 1983, for the duration of construction of the facility.

b. The licensee shall maintain in effect the Construction Implementation Overview provision of the Construction Completion Program with the Stone and Webster Engineering Corporation as the third party overviewer until the Regional Administrator, NRC Region III, finds in writing that the third party overview is no longer necessary to provide reasonable assurance that the facility can be constructed in compliance with 10 CFR Part 50.

c. The licensee may make changes to the Construction Completion Program provided such changes (1) do not decrease its effectiveness, (2) are submitted to the Regional Administrator with appropriate justification, and (3) are approved in writing by the Regional Administrator prior to their implementation.

V

The licensee may request a hearing on this Order within 25 days of the date of this Order. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. A request for hearing shall not stay the immediate effectiveness of section IV of this order.

If a hearing is to be held concerning this Order, the Commission will issue an order designatiing the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 6th day of October, 1983.

For the Nuclear Regulatory Commission.
Richard C. DeYoung,
Director, Office of Inspection and Enforcement.

[FR Doc. 83-27870 Filed 10-12-83; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-20265]

List of Foreign Issuers Which Have Submitted Information Required by the Exemption Relating to Certain Foreign Securities

Foreign private issuers with total assets in excess of $3,000,000 and a class of equity securities held of record by 500 or more persons, of which 300 or more shareholders reside in the United States, are subject to the registration and reporting provisions of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)] (the "Act").[1]

Rule 12g3-2(b) (7 CFR 240.12g3-2(b)) provides as exemption from registration under Section 12(g) of the Act for a foreign issuer which submits on a current basis material specified in the Rule to the Commission. Such required material includes that information about which investors ought reasonably to be informed with respect to the issuer and its subsidiaries and which the issuer: (1) Has made public pursuant to the law of the country of its domicile or in which it is incorporated or organized, (2) has filed with a stock exchange on which its securities are traded and which was made public by such exchange and/or (3) has distributed to its security holders.

When it adopted Rule 12g3-2 and other rules relating to foreign securities (see Securities Exchange Act Release No. 8066, April 28, 1967), the Commission indicated that from time to time it would issue lists containing those foreign issuers which have obtained exemptions from the registration provisions of Section 12(g) of the act by providing the information specified in Rule 12g3-2(b). The purpose of the present release is to call to the attention of brokers, dealers and investors that some form of relatively current information concerning the foreign issuers included on the attached list is available in the public files of the Commission. The attached list includes those foreign issuers which, as of October 5, 1983, appear to be current in furnishing information under Rule 12g3-2(b).

The Commission also wishes to bring to the attention of brokers, dealers, and investors the fact that current information concerning certain foreign issuers may not be available in the United States. The Commission continues to expect that brokers and dealers will consider this fact in connection with their obligations under the federal securities laws to have a reasonable basis for recommending these securities to their customers. The Commission will continue to review activity in the markets for foreign securities to determine whether the present rules are achieving their purpose and whether further rules or rule revisions are necessary in the public interest or for the protection of investors.

Any questions regarding Rule 12g3-2 or the list included herein should be directed to Carl T. Bodolus, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 ((202) 272-2346). Requests for copies of the documents in the files should be directed to the Public Reference Room, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272-7450.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Dated: October 6, 1983.

George A. Fitzsimmons,
Secretary.

Company	File No.	Country
AGA	82-800	Sweden.
AMCA Resources, Ltd	82-434	Canada.
Abitibi Paper Co., Ltd	82-80	Do.
Afrikander Lease Ltd	82-245	South Africa.
Agnico-Eagle Mines Ltd	82-179	Canada.
Alaska Apollo Gold Mines Ltd.	82-843	Do.
Algoma Steel Corp. Ltd	82-99	Do.
Amark Explorations	82-458	Do.
Amerex Development Corp	82-642	Do.
American Chromium Ltd	82-527	Do.
American Pyramid Resources Inc.	82-384	Do.
Amhawk Resource Corp	83-742	Do.
Amore Resources Inc	82-402	Do.
Anglo American Corp. of South Africa.	82-87	South Africa.
Anglo American Gold Investment Co., Ltd.	82-146	Canada.
Anglo-Bomarc Mines Ltd	82-346	Do.
Anzona Silver Corp	82-418	Do.
Artesian Petroleum Corp	82-541	Do.
ASEA AB	82-736	Sweden.
Associated Recreation Corp.	82-710	Canada.
Aucan Resources Ltd	82-662	Do.
Avalanche Industries Ltd	82-620	Do.
Azora Minerals Inc	82-787	Do.
B. A. T. Industries Ltd	82-33	United Kingdom.
B. M. I. Capital Inc	82-528	Canada.
B. P. I. Resources Inc	82-321	Do.
B. S. N., S. A	82-771	France.
Baker Gold Ltd	82-780	Canada.
Bank of Canton Ltd	82-755	Hong Kong.
Bank of Montreal	82-126	Canada.
Bankeno Mines Ltd	82-182	Do.
Barrick Resources Corp	82-778	Do.
Barrington Properties Ltd	82-719	Do.
Basic Resources S.A	82-203	Luxembourg.
Bearcat Explorations Ltd	82-809	Canada.
Beauty Counselors International Inc.	82-725	Do.
Beaver Resources Inc	82-436	Do.
Beecham Group P.L.C	82-22	United Kingdom.
Belgium Standard Ltd	82-668	Canada.
Belmont Resources Inc	82-686	Do.
Berglynn Resources Inc	82-711	Do.
Black Gold Oil & Gas Ltd	82-703	Do.
Black Hill Minerals Ltd	82-729	Australia.
Bluesky Oil & Gas Ltd	82-473	Canada.
Blyvooruitzicht Gold Mining Co., Ltd.	82-89	South Africa.
The Boots Company P.L.C	82-788	United Kingdom.
Border & Southern Stockholders Trust Ltd.	82-267	Do.
Bowater Corporation P.L.C	82-3	United Kingdom.
Bracken Mines Ltd	82-219	South Africa.
Bralorne Resources Ltd	82-143	Canada.
Brascan Ltd	82-4	Do.
Breakwater Resources Ltd	82-653	Do.
Brican Resources Ltd	82-294	Do.
Bridge Resources Ltd	82-493	Do.
British Columbia Forest Products Ltd.	82-666	Do.
Broken Hill Proprietary Co., Ltd.	82-81	Australia.
Brunswick Oil N.L	82-410	Do.
Buffelsfontein Gold Mining Co. Ltd.	82-302	South Africa.
Burmah Oil Co. Ltd	82-5	United Kingdom.
Butler Mountain Minerals Corp.	82-727	Canada.
C. T. Explorands Ltd	82-782	Do.
Cadillac Explorations Ltd	82-519	Do.
Cal-Denver Resources Ltd	82-692	Do.
Cal-Dynamics Energy Corp	82-532	Do.
Camflo Mines Ltd	82-193	Do.
Camerco Inc	82-469	Do.
Can-Am Gold Resources	82-700	Do.
Canadex Resources Ltd	82-470	Do.
Canadian Imperial Bank of Commerce.	82-103	Do.
Canadian Barranca Corp., Ltd.	82-292	Do.
Canadian Marconi Co	82-86	Do.
Canadian Natural Resources Ltd.	82-749	Do.
Canadian Pawnee Oil Corp	82-733	Do.
Canadian Tungsten Mining Corp.	82-290	Do.
Canfic Resources Ltd	82-691	Do.
Cape Range Oil N.L	82-623	Australia.
Celanese Canada Ltd	82-171	Canada.
Central Pacific Minerals Ltd.	82-354	Do.
Century Energy Corp	82-640	Do.
Challenger International Services Ltd.	82-369	Do.
Chancellor Energy Resources Inc.	82-487	Do.
Charter Consolidated P.L.C	82-233	United Kingdom.
Chromasco Ltd	82-106	Canada.
Chuang's (Holdings) Ltd	82-789	Hong Kong.
Clear Mines Ltd	82-606	Canada.
Club Mediterranee	82-794	France.
Cochrane Oil & Gas Ltd	82-502	Canada.
Colby Resources Corp	82-417	Do.
Cold Lake Resources Inc	82-793	Do.
Cominco Ltd	82-107	Do.
Computer Services Corp	82-781	Japan.
Concept Resources Ltd	82-405	Canada.
Conex Australia N.L	82-319	Australia.
Conic Investment Co., Inc	82-777	Hong Kong.
Conigas Mines Ltd	82-166	Canada.
Consolidated Bathurst Ltd	82-172	Do.
Consolidated Cinola Mines Ltd.	82-310	Do.
Consolidated Durham Mines & Resources Ltd.	82-176	Do.
Consolidated Gold Fields P.L.C.	82-251	United Kingdom.
Consolidated Modderfontein Mines Ltd.	82-756	South Africa.
Consolidated Paymaster Resources Ltd.	82-783	Canada.
Consolidated Professor Mines Ltd.	82-625	Do.
Consumers Distributing Co., Ltd.	82-297	Do.
Continental Bank of Canada.	82-120	Do.
Continental Minerals Corp	82-663	Do.
Continental Silver Corp	82-421	Do.
Copper Bounty Mines Ltd	82-694	Do.
Copper Lake Explorations Ltd.	82-394	Do.
Cornwall Petroleum & Resources Ltd.	82-347	Do.
Corrida Oils Ltd	82-720	Do.
Coseka Resources Ltd	82-295	Do.
Cove Energy Corp	82-803	Do.
Cusac Industries Ltd	82-367	Do.
Czar Resources Ltd	82-406	Do.
Dai'Ei Inc.	82-230	Japan.
Daon Development Corp	82-344	Canada.
Deltamone Petroleum Ltd	82-543	Do.
DeBeers Consolidated Mines, Ltd.	82-91	South Africa.
Deelkraal Gold Mining Co., Ltd.	82-246	Do.
Denison Mines Ltd	82-155	Canada.
Deutsche Bank A.G	82-334	Germany.
Dickenson Mines Ltd	82-8	Canada.
Dofasco Ltd	82-114	Do.
Dominion Explorers Ltd	82-504	Do.
Dominion Textile Co., Ltd	82-113	Do.
Domtar Inc	82-18	Do.
Donegal Resources Ltd	82-427	Do.
Doornfontein Gold Mining Co., Ltd.	82-213	Do.
D'Or Val Mines Ltd	82-740	Do.
Double Eagle Energy & Resources Inc.	82-962	Do.
DRC Resources Corp	82-713	Do.
Dresdner Bank A.G	82-229	Germany.
Driefontein Consolidated Ltd.	82-124	South Africa.
Du Pont of Canada	82-19	Canada.
Durban Roodepoort Deep Ltd.	82-156	South Africa.
Dynamar Energy Ltd	82-779	Canada.
Dynamic Oil Ltd	82-702	Do.
Eagle Corp. Ltd	82-476	Australia.
East Daggafontein Mines Ltd.	82-42	South Africa.
East Rand Gold and Uranium Co., Ltd.	82-289	Do.
East Rand Proprietary Mines Ltd.	82-239	Do.
East West Resource Corp	82-787	Canada.
Eastern Petroleum Australia Ltd.	82-752	Australia.
Economy Inns, Inc	82-797	Canada.
Elanderand Gold Mining Co., Ltd.	82-266	South Africa.
Elders IXL	82-762	Australia.
Electra North West Resources Ltd.	82-716	Canada.
Energy Systems Holdings Ltd.	82-621	Hong Kong.
Enexco International Ltd	82-684	Canada.
Expo Oil N.L	82-489	Australia.
Exploration Aiguebelle Inc	82-745	Canada.
F. M. G. Telecomputer Ltd	82-759	Do.
Fairmont Gas & Oil Corp	82-629	Do.
Falconbridge Ltd	82-30	Do.
Fiat S.P.A	82-116	Italy.
Firan-Glendale Corp	82-600	Canada.
First Houston Oil & Minerals Ltd.	82-651	Do.
Fisons P.L.C	82-202	United Kingdom.
Flair Resources Ltd	82-583	Canada.
Flow Resources Ltd	82-709	Do.
Free State Development & Investment Corp. Ltd.	82-296	Do.
Free State Geduld Mines Ltd.	82-40	South Africa.
Fuji Photo Film Co., Ltd	82-78	Japan.
Galactic Resources Ltd	82-761	Canada.
Gallahad Petroleum Ltd	82-454	Do.
General American Properties Inc.	82-588	Do.
Geodome Petroleum Corp	82-744	Do.
Geometals N.L	82-396	Australia.
Glamis Gold Ltd	82-689	Canada.
Global Energy Corp	82-646	Do.
Glaxo Holdings Ltd	82-10	United Kingdom.
Gold Fields of South Africa Ltd.	82-204	South Africa.
Gold Fields Property Co., Ltd.	82-214	Do.
Gold Hawk Resources Ltd	82-505	Canada.
Gold Seeker Resources Ltd.	82-724	Do.
Goldale Investments Ltd	82-667	Do.
Golden Sceptre Resources Ltd.	82-754	Do.
Goldrich Resources Inc	82-818	Do.
Goldwinn Resources Ltd	82-555	Do.
Goliath Gold Mines Ltd	82-741	Do.
Gordon Resources Ltd	82-677	Do.
Gowganda Silver Mines Ltd.	82-513	Do.
Granada Exploration Corp	82-737	Do.
Great Eastern Mines Ltd	82-732	Australia.
Grootvlei Proprietary Mines Ltd.	82-222	South Africa.
Groundstar Resources Ltd	82-249	Canada.
Grove Explorations Ltd	82-343	Do.
Gulf Canada Ltd	82-101	Do.
Gulf Leisure International Properties Corp.	82-743	Monaco.
Gulf Titanium Ltd	82-756	Canada.
Hale Resources Ltd	82-443	Do.
Harmony Gold Mining Co., Ltd.	82-236	Do.
Harlogen Energy Ltd	82-597	Australia.
Heron Resources Ltd	82-785	Canada.
Highwood Resources Ltd	82-450	Do.
Highveld Steel & Vanadium Corp., Ltd.	82-598	South Africa.
Himac Resources Ltd	82-574	Canada.
Hong Kong and Shanghai Banking Corp.	82-683	Hong Kong.
Host Ventures Ltd	82-257	Canada.
Ican Resources Ltd	82-801	Do.
Imasco Ltd	82-118	Do.
Imperial Group P.L.C	82-316	United Kingdom.
Indusmin Ltd	82-201	Canada.
Interaction Resources Ltd	82-705	Do.
Intercontinental Technologies Corp.[1].	82-667	Do.
Interlake Development Corp.	82-537	Do.
International Phasor Telecom Ltd.	82-678	Do.
International Westward Development.	82-426	Do.
Interstrat Resources Inc	82-708	Do.
Investors Group	82-13	Do.
Irwin Toy Ltd	82-626	Do.
Island Mining & Exploration Co., Ltd.	82-555	Do.
Isuzu Motors Ltd	82-772	Japan.
Jafta International Inc	82-726	Canada.
Japan Air Lines	82-122	Japan.
Joutel Resources Ltd	82-502	Canada.
Kalebera Mining N.L	82-774	Australia.
Keely-Frontier Resources Ltd.	82-799	Canada.
Kennedy Resources Inc	82-550	Do.
Kerr Addison Mines Ltd	82-14	Do.
Kettle River Resources Ltd	82-666	Do.
Kinross Mines Ltd	82-220	South Africa.
Kirin Brewery Co., Ltd	82-188	Japan.
Kloof Gold Mines Co., Ltd	82-205	South Africa.
Knie Resources Inc	82-695	Canada.
Knobby Lake Mines Ltd	82-336	Do.
Lac Minerals Ltd	82-198	Do.
Lacana Mining Corp	82-265	Do.
Laidlaw Transportation Ltd	82-409	Do.
Lake Shore Mines Ltd	82-15	Do.
LaLuz Mines Ltd	82-237	Do.
Laredo Petroleums Ltd	82-480	Do.
Leader Resources Inc	82-577	Do.
Leichardt Explorations Ltd	82-322	Australia.
Lennard Oil	82-298	Do.
Leslie Gold Mines Ltd	82-223	South Africa.
Les Mines Est-Melartic Ltee.	82-212	Canada.
Libanon Gold Mining Co., Ltd.	82-215	South Africa.
Lincoln Resources Inc	82-349	Canada.
Lintex Minerals Ltd	82-757	Do.
Lodestar Energy Inc	82-573	Do.
London Silver Corp	82-802	Do.
Lonrho P.L.C	82-191	United Kingdom.
L'Oreal	82-735	France.
M. I. M. Holdings Ltd	82-173	Australia.
MacLean-Hunter Ltd	82-485	Canada.
Magnet Metals Ltd	82-299	Australia.
Majestic Resources Corp	82-721	Canada.
Majesty Resources Corp	82-674	Do.
Malartic Hygrade Gold Mines (Canada).	82-687	Do.
Malayan United Industries Berhad.	82-770	Malaysia.
Mammoth Resources Ltd	82-671	Canada.
March Resources Ltd	82-467	Do.
Mar-Gold Resources Ltd	82-751	Do.
Marievale Consolidated Mines Ltd.	82-224	South Africa.
Marshall Minerals Corp	82-722	Canada.
Megaline Resources Ltd	82-439	Do.
Mentor Exploration & Development Co. Ltd.	82-178	Do.
Meridien Oil N.L	82-397	Australia.
Merland Explorations Ltd	82-595	Canada.
Micro Focus PLC	82-795	United Kingdom.
Minerals and Resources Corp.	82-206	Bermuda.
Mix Resources Ltd	82-715	Canada.
Monarch Petroleum N.L	82-339	Australia.
Moet-Hennessy S.A	82-734	France.
Monte Christo Resources	82-785	Canada.
Mosport Park Corp	82-681	Do.
Mosquito Creek Gold Mining Co.	82-804	Do.
Murgold Resources Inc	82-786	Do.
Muscocho Edorations Ltd	82-716	Do.
N. B. U. Mines Ltd	82-511	Do.
N. R. D. Mining Ltd	82-356	Do.
Neomar Resources Ltd	82-382	Do.
New Dimensions Resources Ltd.	82-272	Do.
New Frontier Petroleum Inc.	82-341	Do.
Newhawk Gold Mines Ltd	82-739	Do.
Nexus Resources Corp	82-679	Do.
Nimslo International Ltd	82-650	Bermuda.
Nissan Motor Co., Ltd	82-207	Japan.
Noble Mines & Oils Ltd	82-509	Canada.
Nor-Quest Resources Ltd	82-374	Do.
Noranda Mines Ltd	82-156	Do.
North American Power Petroleums.	82-383	Do.
Northair Mines Ltd	82-305	Do.
Northcal Resources Ltd	82-786	Do.
Northern Energy Corp	82-764	Do.
Northern Horizon Resources corp.	82-680	Do.
Nowsco Well Service ltd	82-261	Do.
Nuspar Reeources ltd	82-464	Do.
OPI Ltd	82-693	Do.
Oakwood Petroleums Ltd	82-564	Do.
O'Brien Energy & Resources ltd.	82-262	Do.
Ocelot Industries Inc	82-331	Do.
Oliver Resources Ltd	82-664	Do.
Omni Resources Inc	82-385	Do.
Onaping Resources Ltd	82-273	Do.
Orbex Minerals Ltd	82-478	Do.
Otter Exploration N.L	82-320	Australia.
Overseas Inns S.A	82-166	Luxembourg.
P. C. R. Industries Ltd	82-656	Canada.
PLM AB	82-748	Sweden.
Packard Resources Ltd	82-704	Canada.
Pan Canadian Petroleum Ltd.	82-285	Do.
Pan Central Explorations Ltd.	82-432	Do.
Paragon Resources ltd	82-388	Do.
Pawnee Oil Corp	82-733	Do.
Pecos Resources ltd	82-524	Do.
Pelsart Resources N.L	82-484	Australia.
Petrogold Resources Ltd	82-699	Canada.
Petrohunter Energy Ltd	82-648	Do.
Petrox Energy & Minerals corp.	82-796	Do.
Pezamerican Resources ltd.	82-492	Do.
Philex Mining Ltd	82-136	Philippines.
Pilgrim Coal Corp	82-708	Canada.
Pole Resources Ltd	82-780	Do.
Pop Shoppes International Inc.	82-256	Do.
Power Corp. of Canada	82-137	Do.
Prairie Pacific Energy Corp	82-456	Do.
President Brand Gold Mining Co., Ltd.	82-39	South Africa.

[1] Foreign issuers may also be subject to such requirements of the Act by reason of having securities registered and listed on a national securities exchange in the United States or subject to the reporting requirements by reason of having registered securities under the Securities Act of 1933 [15 U.S.C. 77 a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)].

VOL 48 ISS 199 OC 13 1983 UMI

Company	File No.	Country
President Steyn Gold Mining Co., Ltd.	82-44	Do.
Prism Resources Ltd	82-375	Canada.
Quebec Explorers Corp., Ltd.	82-635	Do.
Quebec Sturgeon River Mines Ltd.	82-186	Do.
Queen Margaret Gold Mines N.L.	82-414	Australia.
Quinto Mining corp	82-475	Canada.
Racal Electronics P.L.C	82-481	United Kingdom.
Rainer Energy Resources Inc.	82-560	Canada.
Randfontein Estates Gold Mining Co.	82-267	Do.
Rank Organization P.L.C	82-17	United Kingdom.
Raymac Oil Corp	82-602	Canada.
Rayrock Resources Ltd	82-378	Do
Reed Stenhouse Companies Ltd.	82-254	Do.
Rio Sierra Silver Corp	82-731	Do.
Rogers Cablesystems Inc	82-335	Do.
Roman Corp. Ltd	82-345	Do.
Rosmac Resources Ltd	82-449	Do.
Rothmans International P.L.C.	82-84	United Kingdom.
Royal Bank of Canada	82-796	Canada.
Ruskin Development Ltd	82-648	Do.
Rustenburg Platinum Holdings Ltd.	82-241	South Africa
S. K. F.	82-139	Sweden
Sabina Industries Ltd	82-244	Canada.
Samantha Exploration N.L.	82-323	Australia
Samson Exploration N.L.	82-401	Do.
Santa Sarita Mining Co., Ltd.	82-338	Canada
Santos Ltd	82-34	Australia
Sanyo Electric Co., Ltd	82-264	Japan.
Sasol Ltd	82-631	South Africa
Saturn Energy & Resources Ltd.	82-613	Canada
Saxton Industries Ltd	82-790	Do.
Sceptre Resources Ltd	82-387	Do
Scheer Energy Development Corp.	82-333	Do
Scintilore Explorations Ltd	82-792	Do.
Scottie Gold Mines Ltd	82-351	Do
Shadowlex Resources Ltd	82-728	Do.
Share Mines & Oils Ltd	82-506	Do
Sharon Energy Ltd	82-530	Do
Shelter Oil & Gas Ltd	82-601	Do.
Sherritt Gordon Mines Ltd	82-29	Do
Shiseido Co., Ltd	82-225	Japan.
Siemens Aktiengesellschaft.	82-73	Germany
Silver Tusk Mines Ltd	82-723	Canada
Silverado Mines Ltd	82-348	Do
Silvermaque Mining Ltd	82-510	Do.
Sotheby Parke Bernet Group P.L.C.	82-337	United Kingdom.
South Africa Land & Exploration Co., Ltd.	82-59	South Africa
Source Perrier	82-291	France.
Southern Pacific Petroleum N.L.	82-353	Australia
Southvaal Holdings Ltd	82-197	South Africa
Spartan Capital Corp	82-160	Canada.
Spirit Petroleum Corp	82-730	Do.
Spooner Mines and Oils Ltd.	82-112	Do
St. Helena Gold Mines Ltd	82-232	South Africa
Stampede International Resources Ltd.	82-242	Canada.
Starburst Energy Corp	82-775	Do
States Exploration Ltd	82-645	Do.
Stateside Energy Corp	82-544	Do
Stelco Inc.	82-141	Do
Stilfontein Gold Mining Co., Ltd.	82-301	South Africa
Strata Energy Corp.	82-714	Canada
Sudbury Contact Mines Ltd	82-180	Do
Sundance-Gold Ltd	82-717	Do.
Sun Hung Kai Securities Ltd.	82-712	Hong Kong
Svenska Cellulosa Aktiebolaget SCA.	82-763	Sweden
Swan Resources Ltd	82-477	Australia.
Sydney Development Corp	82-641	Canada.
Taro-Vit Chemical Industries Ltd.	82-210	Israel
Taurus Resources Ltd	82-408	Canada.
Telefonos de Mexico S.A	82-332	Mexico.
Telstar Resources Corp	82-701	Canada.
Tenajon Silver Corp	82-736	Do.
Terra Mines Ltd	82-404	Do.
Teva Pharmaceutical Industries Ltd.	82-614	Israel.
Thorn EMI Ltd	82-373	United Kingdom
Titan Resources Ltd	82-773	Canada.
Toronto Dominion Bank	82-142	Do.
Tournigan Mining Explorations.	82-328	Do.
Trade Development Bank Holding S.A.	82-276	Luxembourg.
Transpacific Asbestos Inc	82-669	Canada.
Transvaal Consolidated Land & Exploration Co.	82-304	South Africa.
Treasure Cay Ltd	82-286	Bahamas.
Treasure Island Resources Corp.	82-750	Canada.
Treasure Valley Explorations Ltd.	82-791	Do.
Tri-Basin Resources Corp	82-468	Do.
Trident Resources Inc	82-707	Do.
Trinity Resources Ltd	82-610	Do.
Trojan Energy Corp	82-698	Do.
Tunkwa Copper Mines Ltd	82-753	Do.
Twentieth Century Energy Fund.	82-352	Do.
Unisel Gold Mines Ltd	82-236	South Africa
United Cambridge Mines Ltd.	82-746	Canada.
United Greenwood Explorations Ltd.	82-368	Do.
United Keno Hill Mines Ltd	82-61	Do.
United Rayore Gas Ltd	82-747	Do.
United Siscoe Mines Inc	82-194	Do.
Vaal Reefs Exploration and Mining Co., Ltd.	82-56	South Africa.
Venterpost Gold Mining Co., Ltd.	82-216	Do.
Ventora Resources Ltd	82-381	Canada.
Veronex Resources Ltd	82-364	Do.
Versatile Cornet Corp	82-390	Do.
Villebon Resources Ltd	82-676	Do.
Viscount Resources Ltd	82-420	Do.
Blakfontein Gold Mining Co., Ltd.	82-217	South Africa
Volvo	82-782	Sweden.
Vulcan Industrial Packaging Ltd.	82-300	Canada
Waddy Lake Resources Inc.	82-607	Do.
Wah Kwong Shipping & Investment Co. (Hong-Kong) Ltd.	82-789	Hong Kong.
Warrior Resources Ltd	82-363	Canada.
Waybo Resources Inc	82-766	Do.
Welkom Gold Mining Co., Ltd.	82-57	South Africa.
West Rand Consolidated Mines Ltd.	82-314	Do.
Western Allenbee Oil & Gas Co., Ltd.	82-670	Canada
Western Areas Gold Mining Co., Ltd.	82-268	South Africa
Western Deep Levels Ltd	82-58	Do.
Western Holdings Ltd	82-54	Do.
Westfort Petroleums Ltd	82-308	Canada.
Westmount Resources Ltd	82-392	Do.
Wharf Resources Ltd	82-675	Do.
Willsnour Resources Ltd	82-63	Do.
Windsor Resources Inc	82-554	Do.
Winkelhaak Mines Ltd	82-221	South Africa
Wright Hargreaves Mines Ltd.	82-60	Canada.
Yellowknife Bear Resources Inc.	82-778	Do.
Zambia Copper Investments Ltd.	82-227	Bermuda
Zone Petroleum Corp	82-424	Canada.

[1] Appears on Foreign Restricted List.

[FR Doc. 83-27858 Filed 10-12-83; 8:45 am]

BILLING CODE 8010-01-M

SYNTHETIC FUELS CORPORATION

Final Environmental Monitoring Plan Guidelines

AGENCY: U.S. Synthetic Fuels Corporation.

ACTION: Publication of Final Environmental Monitoring Guidelines.

SUMMARY: This notice publishes the Environmental Monitoring Plan Guidelines (the "Guidelines") which were adopted in final form on July 28, 1983, by the Board of Directors of the U.S. Synthetic Fuels Corporation to carry out the requirements of Section 131(e) of the Energy Security Act, Pub. L. 96-294, relating to environmental monitoring. Interim Final Guidelines were published in the **Federal Register** on April 1, 1983 (48 FR 14108-14113) and public commens were solicited at that time. Comments were received from industry; federal, state, and local agencies; Congress; and others.

EFFECTIVE DATE: July 28, 1983.

FOR FURTHER INFORMATION CONTACT: Steven M. Gottlieb, Director of Environment, U.S. Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822-6316.

For Copies of the Guidelines: Catherine McMillan, Director of Public Disclosure, U.S. Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822-6316.

SUPPLEMENTARY INFORMATION:

A. Background

Section 131(e) of the Energy Security Act (Pub. L. 96-294, 42 U.S.C. 8701, 8731) specifies that a Project Sponsor or Sponsors reveiving financial assistance from the United States Synthetic Fuels Corporation (the "Corporation") shall develop, in consultation with the Environmental Protection Agency ("EPA"), The Department of Energy ("DOE"), and appropriate state agencies ("Consulting Agencies"), an Environmental Monitoring Plan ("Plan") acceptable to the Corporation's Board of Directors. These Guidelines set forth the procedural steps to be taken and the broad substantive areas to be addresed in development of such Plans and the Environmental Monitoring Plan Outlines ("Outlines") upon which they are based.

The following section (Section B) discusses the major comments received by the Corporation on its Interim Final Guidelines and the Corporation's responses thereto. Section C describes revisions made to the Interim Final Guidelines by the Corporation based on its own review, i.e., not in response to specific comments received. To the extent practical, the changes discussed in each of these two sections are presented in the order in which they occur in the Guidelines.

B. Comments Received and Corporation Response

1. *Monitoring required by the Corporation is redundant to regulatory requirements.* New language has been added to Sections IV and VII.B of the Guidelines to clarify that the Corporation does not seek to impose redundant monitoring requirements on the Sponsor. Section IV of the Guidelines has been amended to emphasize that the purposes for including Compliance Monitoring in Outlines and Plans are to enable the Corporation to obtain copies of the monitoring data already being generated pursuant to a Project's permits and other governmental approvals as well as to provide the basis for determining the appropriate scope of Supplemental Monitoring (i.e., monitoring specified in an Outline or Plan which is not required by federal, state, and local permits, approvals, and other regulatory obligation). Language added to Section VII.B further emphasizes that the Corporation does not require any monitoring activities that are redundant to those required by a Project's permits, approvals, or other regulatory obligations.

2. *Monitoring of socioeconomic and water-use impacts should be required as part of the Monitoring Outlines and Plans.* The Corporation has not amended the Guidelines in response to this concern other than to incorporate a minor language change in Section IV to clarify the Corporation's previously stated intention not to require such monitoring in Outlines and Plans but rather to require such monitoring in appropriate cases as part of the Financial Assistance Agreement. The language in Section 131(e) which refers to the "monitoring of environmental and health-related emissions" does not appear to contemplate that socioeconomic and water consumption monitoring would be required pursuant to this provision, and therefore such monitoring is not included in the Guidelines. However, other provisions of the Energy Security Act (particularly Section 131(b)) provide the Corporation with the authority to require such monitoring outside of the Section 131(e) environmental monitoring process. The Corporation recognizes the importance of such monitoring and will require, by specific terms of the Finanical Assistance Agreements, that the Project Sponsor perform socioeconomic and water consumption monitoring in appropriate cases to determine Project-related impacts in these areas. While a formal consultation process between the Sponsor and the Consulting Agencies on these matters is not contemplated by statute, the Corporation intends to consult informally with appropriate agency officials on the scope of these monitoring requirements.

3. *An adequate description of the acceptability criteria is not provided.* The Guidelines have been amended to include the specific criteria by which an Outline or a Plan will be judged by the Corporation to be acceptable or not acceptable (Section VI). These criteria provide specificity to both the Project Sponsor and Consulting Agencies regarding those items which must be included in acceptable Outlines and Plans.

4. *The Corporation and the Consulting Agencies—or, alternatively, the Sponsor—should have the burden of justifying the need to monitor specific unregulated substances and of providing threshold values above which these substances must be monitored.* No amendment has been made in the Guidelines with regard to assigning a burden to any of the parties involved in developing an Outline or Plan requiring them to justify the need for specific monitoring relating to unregulated substances. The Corporation expects that during the consultation process the Project Sponsor and Consulting Agencies will provide justification to one another for proposing to include or exclude specific monitoring activities or protocols in an Outline or Plan. Ordinarily, these exchanges will be sufficient to enable the Sponsor and Consulting Agencies to resolve most issues among themselves. Where disagreement remains, the Corporation will, based on the justification provided, review the merits of each party's opinion as part of its acceptability review of an Outline or Plan. The Corporation feels that this procedure is sufficient to establish sound monitoring Outlines and Plans without assigning a formal "burden" to any of the parties to the process.

5. *Site-specific monitoring which is not applicable to replication should be required.* No change has been made in the Guidelines' requirements that site-specific monitoring be considered where it would yield information relevant to replication (Section VII.C). Language was added to Section VII.D.4 to clarify that replication refers to development of synthetic fuels plants in the same vicinity or in similar settings. It should be noted that the exemption from site-specific monitoring provided for by the Guidelines is a limited one for two reasons: (1) Site-specific monitoring will often have applicability to project replication for future facilities located in the same area or similar environmental settings and, therefore, would be appropriate as part of the Sponsor's Supplemental Monitoring program, and (2) site-specific monitoring is often required by permit, federal lease, or other requirements, and, therefore, would be included in the Compliance Monitoring section of the Sponsor's Environmental Monitoring Plan.

6. *The monitoring of unit operations for which emissions have been well characterized should not be required.* The Guidelines have been amended (Section VII.C) so that monitoring of emissions will not be required for those unit operations (e.g., certain coal preparation operations) which are common to other industries and for which comprehensive emissions data (including data on unregulated substances of environmental or health concern) are available. Where a substantial emissions data base already exists, further monitoring would be redundant.

7. *Monitoring of wastes disposed of off-site should be required.* The Guidelines have been amended to require Sponsors to monitor solid or hazardous wastes to be shipped off-site when the receivers of such wastes are not required to monitor them (Section VII.D.1). This avoids the situation where potentially hazardous synthetic fuels wastes would not be monitored either at the generating or the receiving end, as would occur in the case of certain synthetic fuels wastes which are presently exempted from hazardous waste regulations under the Resource Conservation and Recovery Act.

8. *A common Worker Registry format should be required or, alternatively, Sponsors should be permitted to develop their own formats.* The Guidelines have been amended to direct the Sponsor to work with the Consulting Agencies to promote a common Worker Registry format (Section VII.D.3). (DOE, in particular, will focus on matters relating to Worker Registries.) A common Worker Registry format would allow the data in the Worker Registries of several Sponsors to be consolidated easily, thus increasing the size of the data base and improving the statistical validity of epidemiological studies utilizing the data. In addition, the Guidelines also direct the Sponsor to maintain the Worker Registry for the life of the Project because it is essential that occupational health and safety data be collected and maintained over a period

VOL 48 ISS 199 OCT 13 1983 UMI

of time sufficient to assess the chronic, as well as the acute, occupational health and safety impacts resulting from the construction and operation of synthetic fuels facilities.

9. *The reporting requirements are excessive.* The Guidelines (Section IX) eliminate the requirement for monthly monitoring reports. Requiring monthly reports would place an unreasonable burden on the Sponsor relative to the value of obtaining data on a monthly basis. The data summaries required in the Sponsor's quarterly reports will provide sufficient detail for developing the Corporation's information base. In any event, the Corporation will retain the right of access (through terms of the Financial Assistant Agreement) to the Sponsor's raw monitoring data should the need arise to review these data. The Guidelines (Section IX) also eliminate the requirement for analysis of data in quarterly reports, because the amount of monitoring data generated during each quarter generally would not be sufficient to provide the basis for meaningful statistical analyses of trends and patters. Data analyses continue to be required in annual reports.

10. *Supplemental Monitoring data should be treated as confidential information or, alternatively, Supplemental Monitoring dato should be publicly available.* No amendment has been made in the Guidelines' requirements that monitoring information will be made available as authorized by law and that public information requests will be handled in accordance with the Corporation's Guidelines on Disclosure and Confidentiality. Several points are relevant to the comments received. The monitoring information submitted to the Corporation will primarily relate to emissions and ordinarily is not considered to be confidential because it generally cannot be used, absent other data, to deduce proprietary process information. In addition, most monitoring information will be presented in the form of summaries and analyses, which removes it and additional step from compromising proprietary process information. With regard to the specific case of data from the monitoring of environmental control systems which may be considered proprietary, a footnote has been added (Footnote 9) which provides for submission of non-proprietary summaries.

The Guidelines have been amended to require that a Sponsor's Environmental Monitoring Plan identify those types of information that are expected to be proprietary and those that are not (Section X). To facilitate release of non-confidential information, the Corporation will work with each Sponsor to determine, in advance of submission of information, generic areas of information to be generated during monitoring that should not be treated as confidential. Advance determinations will be require Sponsors to make information publicly available which is properly designated confidential; further, a stamp of "confidential" in accordance with an advance determination will not restrict the Corporation from reviewing the appropriateness of any claim of confidentiality in accordance with its "Guidelines on Disclosure and Confidentiality." Where information is properly designated as confidential, the Corporation may, where appropriate, encourage a Sponsor to make information available to interested agencies upon conditions acceptable to the Sponsor.

The Corporation anticipates that most monitoring information can be made available to the Consulting Agencies and, as appropriate, to other interested agencies without requiring a separate formal request to the Corporation to receive each data submittal made by a Sponsor. The public will have access to non-confidential information through minutes of Monitoring Review Committee meetings, quarterly reports, annual reports, and requests for information made under Section 121 of the Energy Security Act.

11. *Interested citizens and agencies other than the Consulting Agencies do not have opportunities to provide meaningful input to (1) the development of Environmental Monitoring Outlines and Plans, and (2) the review of data generated by monitoring activities.* No revisions to the Guidelines were deemed necessary to address this comment. The Corporation makes all Outlines and Plans (including drafts) and Consulting Agency comments publicly available through the Corporation's Public Reading Room (Section X), and encourages state Consulting Agencies to make Outlines and Plans available locally (Footnote 10). The public may comment at any time on these documents. With regard to input by agencies not designated as Consulting Agencies (Section 131(e) designates EPA, DOE, and the appropriate state agencies as the Corporation's sole Consulting Agenices), the Guidelines do not provide for project-specific consultation from other agencies. However, the Corporation has sought, and will continue to seek, input by agencies not designated as Consulting Agencies regarding generic issues, i.e., those which are not specific to any particular Outline of Plan. Also, such agencies can provide (and in some cases already have provided) input relating to project-specific matters to the Consulting Agencies.

The formal mechanism for review of monitoring data and developing recommendations for modification of Monitoring Plans is the Monitoring Review Committee, which is comprised of representatives of the Sponsor, the Consulting Agencies, and the Corporation (Section XI). Other agencies and the public can review such data through access to quarterly and annual monitoring reports and minutes of the Monitoring Review Committee meetings. Further, other agencies and the public may submit comments on any aspect of a Project's monitoring activities.

12. Supplemental monitoring should be limited by a cost ceiling or a time limitation. The Guidelines were not amended to require a cost ceiling for Supplemental Monitoring because the Corporation feels that in order for Supplemental monitoring activities to be scientifically sound they should be developed independent of the constraints of such a ceiling. Also, no single method or formula for setting a cost ceiling could properly be applied to all Projects, since the proper level of Supplemental Monitoring required for Projects will vary according to their processes, feedstocks, control technologies, etc., as they relate to potential environmental concerns. Additionally, the Corporation does not believe that fixing a cost ceiling for Supplemental Monotoring is essential because once Outlines and Plans are found acceptable by the Corporation, the scope of the Supplemental Monitoring programs, including specific monitoring tasks, monitoring frequencies, and duration of monitoring, is defined. Furthermore, the offset provision of the Guidelines (Section XI.B.2), which limits the extent of Supplemental Monitoring under normal circumstances to that specified in the Plan, will prevent increases in Supplemental Monitoring costs (see following section).

While no costs ceilings will be imposed, the Guidelines continue to provide that the Corporation will consider the costs to the Sponsor of Supplemental Monitoring relative to its potential benefits as part of its determination of acceptability of both Outlines and Plans (Section VI). However, any explicit cost/benefit approach to setting a cost ceiling would not be practical because the benefits of each Supplemental Monitoring task cannot readily be quantified, particularly prior to evaluating the results of its implementation. With respect to imposing a time limitation on Supplemental Monitoring, one of the acceptability criteria added to the Guidelines (Section VI) indicates that Supplemental Monitoring should continue only as long as necessary to produce a statistically sound body of data. The Corporation's intention is that Supplemental Monitoring is not necessarily required for the entire life of a Project, but rather should be continued until consistency in trends and patterns in the Project's emissions can be established with a high degree of certainty. (This does not apply to worker exposure monitoring, medical surveillance, or maintenance of Worker Registries since long-term monitoring, i.e., for the life of the Project, is necessary for meaningful characterization of occupational health and safety impacts.) The Guidelines were amended (Section V.B) to direct the Sponsor to state the approximate duration of each monitoring task in the Outline, and to provide more specific details on duration in the Plan. The duration specified in the Plan can be subsequently modified, as appropriate, to achieve the statistically sound body of data referred to in the Guidelines.

13. *The offset provision is scientifically unsound.* The Guidelines have not been amended with respect to the basic approach of the "offset provision" (Section XI.B.2) which states that under normal circumstances the Corporation will not require Supplemental Monitoring beyond that specified in the Plan unless the costs of the additional requirements have been, or are being, offset by the elimination of comparable costs. (The Guidelines' offset provision applies only to Supplemental Monitoring; the Corporation will not, and indeed cannot, authorize any changes to a Sponsor's Compliance Monitoring tasks.) A minor revision was added in the form of a footnote (Footnote 12) which specifies that offsets will not apply when monitoring tasks are modified or added because of changes in production, process, pollution control, or feedstock.

In the Corporation's view, the fundamental reason that "new" Supplemental Monitoring should not be required without a comparable reduction in existing Supplemental Monitoring requirements is to assure the Sponsor that it will not be subject to the prospect of an ever increasing monitoring burden. Moreover, this approach will ensure that a Sponsor's monitoring focuses on those areas of greater health or environmental concern. It is anticipated that over time some Supplemental Monitoring activities will, in relative terms, be of diminishing importance and can be eliminated or reduced in frequency when important new monitoring activities are deemed necessary. In the event that *all* monitoring activities appear to be essential and none should be eliminated or reduced in frequency—a situation which the Corporation does not "normally" expect to find—important Supplemental Monitoring activities can still be added to a Sponsor's monitoring program because the Guidelines give the Corporation the flexibility not to provide for comparable reductions where appropriate.

14. *Proper maintenance of the Sponsors' monitoring programs is not assured after termination of the Corporation.* The Energy Security Act directs the U.S. Department of Treasury to carry out the Corporation's function after termination of the Corporation.

C. Other Revisions to the Guidelines

The Corporation has made a number of additional revisions to the Guidelines based on its experience in implementing the Interim Final Guidelines and not in response to any particular comments received.

1. *Soil Monitoring.* The Corporation has amended the Guidelines to clarify and limit soil monitoring requirements (Section VII.D.2) so as not to require the Sponsor to monitor soil when no contamination has actually taken place. Soil monitoring, other than that required by permit, is required only when unregulated substances which have the potential to contaminate soil actually come into contact with it (as in the case of a product spill) and have a reasonable likelihood of being present in concentrations of environmental or health concern.

2. *Toxicological Testing.* The Guidelines no longer require that toxicological testing be considered by the Sponsor. This change was made because: (1) Toxicological testing is often open ended and could represent an unreasonable cost burden relative to other parts of the monitoring program; and (2) such testing is in the nature of a research and development function which is more appropriately addressed by federal agencies and research institutions.

3. *Other Supplemental Monitoring.* The Guidelines have been amended to provide that certain types of Supplemental Monitoring, such as ecological monitoring and monitoring of public nuisances (e.g., noise and odor), are not required except where source emissions data and other information indicate there is reason to believe that the Project could cause significant impacts in these areas (Section VII.D.4). The Sponsor is required only to indicate its commitment, in both the Outline and Plan, to perform such monitoring when circumstances warrant, as determined by the Sponsor or the Monitoring Review Committee. Requiring such monitoring when there is no indication of a potential problem would be inappropriate and burdensome.

4. *Monitoring Review Committee.* Two amendments were made to the Guidelines to ensure the timeliness of action of the Monitoring Review Committee and proper documentation of its meetings. First, the Monitoring Review Committee shall meet shortly after the issuance of the annual monitoring report by the Sponsor (Section XI.A). Second, minutes of each Committee meeting will be prepared by the Corporation (Section XI.B.1).

5. *Clarity.* The Corporation has added a definitions section and made numerous organizational and editorial changes to the Guidelines to improve their clarity. Also, specific acceptability criteria have been added (Section VI) to define the basis on which the Corporation's acceptability determinations will be made. Overall, all of the changes made, whether in response to comments or otherwise, have been designed to set forth a clear basis by which the Sponsor can achieve a sound monitoring program.

United States Synthetic Fuels Corporation Environmental Monitoring Plan Guidelines

Contents

I. Purpose
II. Statutory Basis
III. Definitions
IV. General Approach To Implementing Section 131(e)
V. Developing Environmental Monitoring Outlines and Plans
  A. General
  B. Contents of Outlines and Plans
  C. Development of Outlines
  D. Development of Plans
VI. Determination of Acceptability
VIII. Scope of Monitoring
  A. General
  B. Compliance Monitoring
  C. Supplemental Monitoring
  D. Substantive Monitoring Areas
    1. Source Monitoring
    2. Ambient Monitoring
    3. Worker Health and Safety Monitoring: Worker Registries
    4. Other Monitoring
VIII. Quality Assurance/Quality Control
IX. Data Management; Reporting Requirements

VOL
48
ISS
1
9
9
OC
13
1983
UMI

X. Confidential Information
XI. Monitoring Review Committees
A. Membership; Meetings
B. Functions
1. Data Review
2. Modification of Monitoring Requirements
XII. Amendments to Guidelines

I. Purpose

Section 131(e) of the Energy Security Act (Pub. L. 96-294, 42 U.S.C. 8701, 8731) specifies that a Project Sponsor or Sponsors receiving financial assistance from the United States Synthetic Fuels Corporation (the "Corporation") shall develop, in consultation with the Environmental Protection Agency ("EPA"), the Department of Energy ("DOE"), and appropriate state agencies, an Environmental Monitoring Plan acceptable to the Corporation's Board of Directors. In implementing this statutory mandate, the Corporation is utilizing a two-stage approach under which the Sponsor: (1) Develops an *Outline* of its Environmental Monitoring Plan, which will be incorporated into the Financial Assistance Agreement, and (2) develops an Environmental Monitoring *Plan* (based on the Outline) after the Financial Assistance Agreement is executed.

The purpose of these Guidelines is to set forth the procedural steps to be taken and the broad substantive areas to be addressed in developing Outlines and Plans. The Guidelines provide the basis on which the Corporation will determine the acceptability of Outlines and Plans. However, the Guidelines do not specify the substantive details required for an acceptable Outline or Plan since the actual development of an Outline and Plan is the responsibility of the Sponsor, in consultation with the appropriate agencies, and their contents will depend, in part, on the project-specific factors.

II. Statutory Basis

Section 131(e) of the Energy Security Act requires that:

> Any contract for financial assistance shall require the development of a plan, acceptable to the Board of Directors, for the monitoring of environmental and health-related emissions from the construction and operation of the synthetic fuels project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and appropriate state agencies.

The Conference Committee's Joint Explanatory Statement relating to this privision states, in pertient part:

> the monitoring of emissions—gaseous, liquid or solid—and the examination of waste, problems, worker health issues and other research efforts associated with any synthetic fuels project * * * will help to characterize and identify areas of concern and develop an information base for the mitigation of problems associated with the replication of synthetic fuels projects. The Corporation is not expected to involve itself in the development or execution of such plans except for the necessary approval. The conferees intend that development of the plans and actual data collection be reserved to the applicants for financial assistance after consultation with appropriate federal and state agencies. (Joint Explanatory Statement of the Committee of Conference; pp. 206-209 of Compilation of the Energy Security Act of 1980.)

III. Definitions

A. *Ambient Monitoring:* Monitoring of substances found (or projected to be found) in a project's emissions and discharges in the unconfined environment, including the air, water, and land in the vicinity of the Project.

B. *Comparable Permit:* A permit for a similar synthetic fuels facility or process, or an analogous facility or process in a non-synthetic fuels industry.

C. *Compliance Monitoring:* Environmental and health monitoring required by federal, state, and local permits, approvals, and other regulatory obligations, including (1) monitoring specified in any federal or state environmental impact statement or agency record of decision relating thereto, and (2) monitoring pursuant to federal or state lease requirements.

D. *Consulting Agencies:* The Administrator of the Environmental Protection Agency, the Secretary of Energy, and appropriate state agencies. The Administrator, the Secretary, and the Governor of the state in which the Project is located each designate a representative to perform the function of the respective Consulting Agency.

E. *(The) Corporation:* The United States Synthetic Fuels Corporation.

F. *Environmental Monitoring Outline (or Outline):* A summary of a Sponsor's monitoring obligations, as described in Section V.B.

G. *Environmental Monitoring Plan (or Plan):* A detailed description of a Sponsor's monitoring obligations, as described in Section V.B.

H. *Financial Assistance Agreement:* An agreement between the Corporation and the Sponsor providing for loans, loan guarantees, price guarantees, or joint venture assistance or a combination thereof.

I. *(The) Guidelines:* The Environmental Monitoring Plan Guidelines of the United States Synthetic Fuels Corporation

J. *Project:* Facilities for the production of synthetic fuels as described in the Financial Assistance Agreement and any dedicated mining operation at the Project site which is wholly or principally controlled by the Sponsor.

K. *Quality Assurance/Quality Control:* Activities and procedures designed to ensure that all information, data, and analyses resulting from monitoring are technically valid, accurate, precise, and reliable.

L. *Source Monitoring:* Monitoring of air emissions, water effluents, and solid wastes which are released from a Project's vents, stacks, pipes, etc., as well as the monitoring of fugitive air emissions from Project-related activity.

M. *Sponsor:* The entity or entities seeking financial assistance for a Project from the Corporation.

N. *Supplemental Monitoring:* Monitoring specified in an Outline or Plan which is not required by Compliance Monitoring.

O. *Worker Registry (or Registry):* A record-keeping system which integrates different types of occupational health and safety information, including worker exposure data, medical records, demographic data, and job classification.

IV. General Approach to Implementing Section 131(e)

The Corporation views the identification and characterization of areas of concern and the development of an information base for the mitigation of problems associated with the replication of synthetic fuels projects to be the fundamental purpose of environmental and health monitoring pursuant to Environmental Monitoring Plans under Section 131(e). Toward this end, the Corporation requires that the Sponsor perform a broad range of monitoring activities related to potential environmental and health impacts of its Project. While socioeconomic and water consumption monitoring are not required pursuant to Section 131(e) (which addresses environmental and health-related emissions), such monitoring will be required, as appropriate, by separate terms of a Project's Financial Assistance Agreement.

Environmental monitoring pursuant to Section 131(e) shall include Compliance Monitoring and, as appropriate, Supplemental Monitoring. Compliance Monitoring, whose fundamental purpose is to fulfill the Sponsor's regulatory obligations, is included as part of Section 131(e) environmental monitoring because the results of such monitoring are necessary both to provide the Corporation with a broad information base that is relevant to replication of

synthetic fuels projects and to provide the basis for evaluating the proper scope of Supplemental Monitoring. Each Sponsor should perform Supplemental Monitoring to provide information not provided by Compliance Monitoring, such as the types and amounts of certain unregulated substances emitted from a synthetic fuel plant.[1] The Sponsor should integrate Compliance and Supplemental Monitoring activities to create a sound monitoring program during the life cycle of the synthetic fuels Project.

The Corporation requires that the Environmental Monitoring Plan be developed in two stages. During the first stage, the Sponsor is required to develop an Environmental Monitoring Outline in consultation with the Consulting Agencies. This Outline, which should contain a general description of the Sponsor's monitoring tasks, must be found acceptable by the Corporation and, for those Projects receiving financial assistance, will be incorporated into the Financial Assistance Agreement. During the second stage, the Sponsor is required, by a date to be fixed in the Financial Assistance Agreement, to develop an Environmental Monitoring Plan in consultation with the Consulting Agencies. This Plan should contain a detailed description, based upon the terms of the Outline, of the specific monitoring tasks to be undertaken in connection with the Project and must also be found acceptable by the Corporation.

V. Developing Environmental Monitoring Outlines and Plans

A. General

To promote the timely development of sound Environmental Monitoring Outlines and Plans, with meaningful input from the Consulting Agencies, the procedural approach set forth below should be used in developing and reviewing Environmental Monitoring Outlines and Plans. In implementing these procedures, several general points relating to the consultation process should be made:

- While the Corporation has the ultimate statutory responsiblity for making acceptability determinations, the Corporation regards the Consulting Agencies' opinions and comments as fundamental to the development of an acceptable Outline and Plan.[2]
- Early meetings between the Sponsor and Consulting Agencies, and communications between them throughout the process of developing an Outline and Plan, are inherent to the Section 131(e) consultation process. At the same time, the Sponsor should bear in mind that it has the responsibility for developing its Outline and Plan and it should not unduly burden the Consulting Agencies in this effort.
- When a Sponsor has already begun to develop its Outline in consultation with the Consulting Agencies, repetition of the procedural steps set forth herein are not required to the extent they have already been effectively performed.
- To maximize coordination among the parties to the process—the Sponsor, the Consulting Agencies, and the Corporation—courtesy copies of all formal communications (draft and revised Outlines and Plans and all correspondence, including Consulting Agency comments and Sponsor's responses) from any party should be provided simultaneously to all other parties.

B. Contents of Outlines and Plans

An Environmental Monitoring *Outline* should be a general description of the Sponsor's Compliance and Supplemental Monitoring tasks. In the Outline, the Sponsor should: (1) Attach the monitoring requirements found in permits which it has already obtained or provide a summary of these requirements; (2) discuss the anticipated monitoring requirements (based on the terms of Comparable Permits) for permits not yet obtained; (3) state what substances will be monitored (both regulated and unregulated); and (4) indicate the general location where the monitoring will take place (i.e., source, ambient, or workplace), the general type of monitoring to be performed (such as high-volume sampler or personal dosimeter), and the approximate duration of monitoring tasks.

The Environmental Monitoring *Plan* should be a detailed description of the monitoring tasks set forth in the Outline. The Plan should include all of the specific monitoring terms and conditions of permits and other approvals, and the specific monitoring tasks relating to Supplemental Monitoring, including sampling, protocols, monitoring site locations, monitoring frequency, monitoring equipment, analytical methods, etc.[3] The Plan should also provide specific details on the duration of each monitoring task. Like the Outline, the Plan should also state what substances will be monitored; if a more detailed list of substances is available at this stage than when the Outline was prepared, such additional detail should be provided. Similarly, if more details are available on Compliance Monitoring requirements, these should also be provided in the Plan.

In developing its Outline and Plan, if the Sponsor is unable to identify the specific unregulated substances which may be of significant environmental or health concern, the Sponsor should provide a list of the classes of substances (e.g., phenols, polynuclear aromatic hydrocarbons, organic sulfur compounds) likely to be present in various emissions, liquid wastes, or solid wastes and the method(s) by which the specific substances within these classes will be identified and monitored.

In both the Outline and Plan, the Sponsor should provide, as appendices, sufficient background information on its Project to enable the Consulting Agencies to evaluate meaningfully the Outline and the Plan. This information should include an overall process description, a process block flow diagram, plot plans and layouts, and a detailed site description. The Sponsor should also make available to the Consulting Agencies and the Corporation studies, reports, data, etc., which are specifically referenced in the Outline or Plan and/or otherwise used to support the Sponsor's monitoring program.

Neither the Outline nor the Plan need be in any particular format, although both should clearly indicate which monitoring tasks fulfill Compliance Monitoring requirements and which represent Supplemental Monitoring. The Sponsor can tailor the format of its Outline and Plan according to its own needs, but consideration should be given to the comments of the Consulting Agencies regarding format.

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[1] The Corporation has previously notified Sponsors that they must consider the monitoring of unregulated substances. (See, e.g., the Corporation's Second Solicitation Section, Section IV.8.a.1, and Third Solicitation Section, Section III.B.6.b.2).

[2] EPA has prepared a monitoring reference manual for synthetic fuels processes ("Environmental Monitoring Reference Manual for Synthetic Fuels Facilities," EPA Document #600/6-83-027, July 1983) which indicates EPA's areas of interest. This manual contains no monitoring requirements; rather, it is a technical reference document which may be used by drafters and reviewers of Environmental Monitoring Plans.

[3] Sponsors may provide in their Outlines details on any or all aspects of environmental monitoring that are at a level of specificity not required in an Outline but appropriate for a Plan. However, the Corporation's acceptability determination regarding the Outline will be based solely on whether the requirements for an Outline have been met.

VOL 48 ISS 199 OCT 13 1983 UMI

C. Development of Outlines

The following is the sequence of steps which should be followed in developing Environmental Monitoring Outlines:

- For a Project proposal submitted under the Corporation's first three General Solicitations (or any future comparable solicitation), the Sponsor should initiate preparation of its Outline no later than immediately after passing the Corporation's strength review. If the Sponsor submits a proposal under a "Competitive Solicitation," the technical proposal should include a schedule for preparing an acceptable Outline; the schedule should provide for immediate initiation of Outline preparation if the technical proposal is found acceptable by the Corporation.
- The Sponsor's draft Outline should be submitted to the Consulting Agencies for their review and comment. (The Corporation will notify the Sponsor as to which Consulting Agency officials to contact.) The Sponsor should confer with the Corporation regarding the timing of submission of the draft Outline (as well as the revised Outline) so that an acceptable Outline can be prepared on a schedule consistent with the anticipated Financial Assistance agreement execution date.
- Consulting Agencies should provide written comments expeditiously to the Sponsor on the draft Outline. It is expected that, absent special circumstances, such comments will be provided within five weeks of receiving the draft.
- In responding to the comments of the Consulting Agencies, the Sponsor should prepare a revised Outline and/or should explain (in a cover letter to the Corporation) the specific reason(s) for not including any specific monitoring task suggested by the Consulting Agencies, as well as for not including monitoring in areas covered in the Guidelines.
- The Sponsor's revised Outline and other material submitted in response to the Consulting Agencies' comments should be submitted to the Consulting Agencies for final review.
- Absent special circumstances, the Consulting Agencies should submit to the Corporation their comments on the revised Outline within four weeks of receiving it.
- The Corporation will evaluate the revised Outline and the Consulting Agency comments and will determine the Outline's acceptability. (See Section VI, Determination of Acceptability.)

D. Development of Plans

The sequence for developing an Environmental Monitoring Plan, including the time periods for Consulting Agency comments, is analogous to that for an Outline set forth above. In brief, the Sponsor develops a draft Plan; it will be reviewed and commented on by the Consulting Agencies; a revised Plan and/or responsive comments will be prepared; final comments will be provided by the Consulting Agencies; and the revised Plan and comments thereon will be evaluated by the Corporation, which will make a determination as to its acceptability.

Each Financial Assistance Agreement will establish a date by which the Sponsor shall submit its final Environmental Monitoring Plan. It is anticipated that the Plan will be required approximately six months after the Financial Assistance Agreement is signed, depending on the complexity of the Plan and other Project-specific circumstances. Following the Plan's submittal, it must be found acceptable by the Corporation within a time fixed in the Financial Assistance Agreement (approximately two months from submission).[4]

VI. Determination of Acceptability

The Corporation will determine the acceptability of an Environmental Monitoring Outline and Plan by evaluating whether the Sponsor has, through its specific treatment of the substantive areas set forth in these Guidelines, developed a sound monitoring program. This evaluation will be performed in the context of the Corporation's overall environmental monitoring goal of identifying and charaterizing areas of concern and developing an information base for the mitigation of problems associated with the replication of synthetic fuels projects.

Specifically, in determining acceptability, the Corporation will consider whether the Sponsor has, in the level of detail appropriate to the Outline or the Plan: (1) Included all known and anticipated Compliance Monitoring tasks; (2) included an appropriate list of unregulated substances or classes of substances to be monitored; (3) proposed monitoring frequencies, locations, methods, and durations which are adequate to produce a statistically valid body of data; (4) developed satisfactory worker exposure and montoring surveillance programs and provided for the development of a Worker Registry; (5) provided for a sound Quality Assurance/Quality Control (QA/QC) program; (6) proposed an adequate reporting and data management program; and (7) committed to performing other monitoring should circumstances indicated that it is warranted, e.g., ecological monitoring and montoring of possible public nuisances.

In determing the acceptability of both Outlines and Plans, the Corporation will consider the Consulting Agencies' comments and monitoring recommendations and the Sponsor's responses to these comments and recommendations. The Corporation will also consider the costs to the Sponsor of monitoring relative to the potential usefulness of this information.

For Projects receiving financial assistance, an Environmental Monitoring Outlines found to be acceptable by the Corporation will then be incorporated into the Financial Assistance Agreement. As a general rule, if the Corporation does not find a Sponsor's Outline to be acceptable, it will not enter into a Financial Assistance Agreement until the Outline is made acceptable. With respect to Environmental Monitoring Plans, failure to submit an acceptable Plan as required by Section 131(e) (as well as failure to properly implement Plans determined to be acceptable by the Corporation) will be addressed under the default and remedy provisions of the Financial Assistance Agreement.

VII. Scope of Monitoring

A. General

Sponsors should monitor during all phases of a Project's life cycle: pre-construction (baseline), construction, operation, and post-operation (facility shut-down and site reclamation). Generally, Compliance Monitoring will be performed during each phase, while Supplemental Monitoring will be applicable primarily to the operational phase of the facility.[5]

B. Compliance Monitoring

A Sponsor's Compliance Monitoring activities are determined by the Project's permit requirements and other regulatory obligations. The Guidelines do not alter, or require duplication of, any Compliance Monitoring activities. Any change in permit conditions or other Compliance Monitoring requirements occurring after an Outline or Plan has been approved by the Corporation will automatically change the Outline or Plan accordingly.

[4] Where monitoring activities, e.g., baseline or construction monitoring, are to be initiated prior to a determination of Plan acceptability, the Outline should indicate when this monitoring will begin.

[5] Generally, Supplemental Monitoring during the operational phase would be peformed during steady-state conditions; however, limited Supplemental Monitoring may be required for non-steady-state conditions if significant emissions could occur, such as during a start-up period.

C. Supplemental Monitoring

Supplemental Monitoring should be performed by the Sponsor when such monitoring can produce environmental and health data, not otherwise required by Compliance Monitoring, which are relevant to project replication, i.e., data which are applicable to synthetic fuel facilities that may be built in the future using comparable technology or in the same vicinity or in similar settings. In developing it Supplemental Monitoring program, the Sponsor should address as appropriate the generic areas specified in Section D (Substantive Monitoring Areas) which include:

- Identification and characterization (i.e., determining the concentration) of unregulated substances, such as certain trace metals and hydrocarbons, which may be present at levels of significant health and environmental concern, e.g., concentrations which could result in (1) health effects such as carcinogenesis, mutagenesis, teratogenesis, reproductive effects, and other systemic disorders, and (2) environmental effects such as significant impacts on terrestrial and aquatic species.[6]
- Assessment of occupational exposures by performing industrial hygiene monitoring, conducting comprehensive medical surveillance of workers, and establishing a Worker Registry.
- Ecological monitoring where warranted based on the results of Ambient Monitoring (and not otherwise required by permit).
- Public nuisance monitoring (e.g., monitoring of noise and odor).

In identifying and characterizing unregulated substances, the Sponsor is encouraged to consider a two-phased approach. The purpose of the first phase is to identify the substances or groups of substances which are released from a Project, utilizing survey analytical techniques, such as gas chromatography/mass spectroscopy. Using the results of the first phase, monitoring will be redirected in the second phase for the purpose of providing detailed data (e.g., quantities and/or concentrations) on selected substances which are of significant environmental or health concern. (During phase two, some changes in anticipated monitoring tasks may be appropriate; see Section XI.B.2., "Modification of Monitoring Requirements").

In addition, the Sponsor should consider the following points in developing Supplemental Monitoring tasks in its Outline and Plan:

- The Sponsor's Supplemental Monitoring need not include monitoring which is relevant essentially to a specific Project at a specific site unless such monitoring has broader applicability to Project replication. (However, such site-specific monitoring, if required by permit, would be included as Compliance Monitoring in the Outline and Plan.)
- The Sponsor's Supplemental Monitoring need not include monitoring of unit operations which are common to established industries and which have already been well characterized with regard to unregulated substances, e.g., certain coal preparation operations.

D. Substantive Monitoring Areas

As part of a Sponsor's monitoring program (Compliance and Supplemental Monitoring), three generic areas of environmental and health monitoring—source, ambient, and workplace—should be performed. Additional monitoring, such as ecological monitoring, may also be appropriate in some cases.

1. Source Monitoring

- For air emission Source Monitoring, the Sponsor should monitor, as required by permit, for regulated substances, including those covered under applicable New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants (NESHAPs), etc., as well as for unregulated substances which may be emitted in concentrations of significant environmental or health concern.[7]
- For wastewater effluent Source Monitoring, including underground releases and releases into publicly owned treatment works (POTWs), the Sponsor should monitor, as required by permit, for regulated substances including those in NPDES permits or specified by EPA "consent decrees," as well as for unregulated substances which may be discharged in concentrations of significant environmental or health concern. The Sponsor should perform Supplemental Monitoring with regard to wastewater being discharged into POTWs if these facilities are not subejct to monitoring requirements under the National Pollutant Discharge Elimination System (NPDES).
- For solid and hazardous waste monitoring, the Sponsor should monitor such wastes pursuant to the requirements of the Resource Conservation and Recovery Act, as well as for unregulated substances which may be present at concentrations of significant environmental or health concern. The Sponsor need not perform on-site Supplemental Monitoring with regard to solid and hazardous wastes shipped to off-site facilities which is redundant to monitoring required of operators of these facilities.

2. Ambient Monitoring

- For ambient air monitoring, the Sponsor should monitor, as required by permit, those pollutants identified in EPA's PSD and NESHAP s regulations, and applicable state regulations, as well as for unregulated substances which, based on projections or the results of source monitoring, have a reasonable likelihood of being emitted to the unconfined environment and could result in concentrations of significant environmental or health concern.
- Where the Project will be discharging into surface waters, the Sponsor should monitor, as required by permit, regulated water quality parameters and pollutants as well as for unregulated substances which, based on projections or the results of source monitoring, have a reasonable likelihood of being discharged in concentrations of significant environmental or health concern.
- Where substances have the potential to impact groundwater, the Sponsor should conduct groundwater monitoring to identify contamination from leachates, discharges, or underground injection. Groundwater monitoring includes monitoring as required by the Safe Drinking Water Act, the Resource Conservation and Recovery Act, etc., as well as for unregulated substances which have a reasonable likelihood of being present in concentrations of significant environmental or health concern.
- Where substances come into contact with the soil and have the potential to contaminate it, the Sponsor should monitor such soil for regulated substances as required by permit, as well as for unregulated substances which have a reasonable likelihood of

[6] The Corporation views unregulated substances as including those substances not presently regulated under any law and those which may be regulated under one law but not another. For example, a substance may be regulated under the Occupational Safety and Health Act but not regulated under the Clean Water Act; monitoring for such a substance in the water would be a "Supplemental Monitoring" requirement, but in the workplace would be a "Compliance Monitoring" requirement.

[7] When Project emissions are determined to be below those levels for triggering permit-mandated monitoring (notably for prevention of significant deterioration (PSD) review), monitoring to determine the actual level of emissions (vis-a-vis calculated levels) of regulated substances should be performed where necessary to develop a data base relevant to Project replication. It is expected that such monitoring would be of short duration.

VOL 48 ISS 199 OCT 13 1983 UMI

being present in concentrations of environmental or health concern.

3. Worker Health and Safety Monitoring; Worker Registries

• The Sponsor should monitor potentially hazardous substances or conditions at the Project during routine work, maintenance, repair, and sampling activities throughout construction, operation, and decommissioning of the facility as required by the Occupational Safety and Health Administration and any other relevant regulatory agency. The Sponsor should also monitor for unregulated substances which may be present at concentrations of significant health concern in the workplace during operation.

• The Sponsor should develop and maintain a Worker Registry for the life of the Project. The Registry should include information from medical and work histories, physical examinations and industrial hygiene exposure records, and demographic and job category data. Registries should provide information which can be used to determine if health impacts, when identified in workers, are related to various substances or conditions to which workers had been exposed at the Project. The Specific areas covered by the Registry should relate to the known and suspected health concerns associated with the Project and its technology. The Sponsor should work with Consulting Agencies to promote commonality of Worker Registry format for each synthetic fuel technology and to develop the method by which the confidentiality of workers' identities will be protected.

4. Other Monitoring

• The Sponsor should commit to performing ecological monitoring in the event that substances emitted from the Project demonstrate the potential (based on Ambient Monitoring data) to significantly impact terrestrial and aquatic species; however, unless required by Compliance Monitoring, such monitoring should be performed only if the collection of such ecological data would allow the identification and characterization of areas of concern and develop an information base for the mitigation of problems associated with the replication of synthetic fuels plants in the same vicinity or in similar settings.

• The Sponsor should also commit to the monitoring of possible public nuisances, such as noise and odor, in the event that it becomes necessary to address public complaints.

VIII. Quality Assurance/Quality Control

The Environmenal Monitoring Outline and Plan should indicate what Quality Assurance/Quality Control (QA/QC) measures will be taken to assure that environmental and health monitoring data produced will be sound. The Outline should briefly indicate the Sponsor's proposed QA/QC program while the Plan should establish the specific requirements of a comprehensive QA/QC program.[8]

IX. Data Management; Reporting Requirements

The Sponsor should develop a data management program, in consultation with the Consulting Agencies, that addresses the acquisition, storage, retrieval, analysis, and reporting of the monitoring data for the life of the Project. The Sponsor should permanently retain all monitoring records; alternatively, the Sponsor should make the records available to the Corportion for archiving, with the exception of proprietary information, or dispose of them with the written consent of the Corporation. The basic approach for the data management program should be indicated in the Outline and the details of the program should be fully described in the Plan.

The Sponsor should submit to the Corportion quarterly and annual reports containing information, summaries, and analyses as indicated below:

• Quarterly reports should:

—Contain summaries of the environmental and health monitoring data collected during the prior quarter.

—Identify and characterize the unregulated substances present at concentrations of significant environmental and health concern.

—Contain copies of all compliance reports and analyses sent by Sponsors to the regulatory agencies during the prior quarter.

—Describe the Project's permit compliance status, including a description of any significant changes to the terms of permits and notices of violation issued to the Sponsor from the regulatory agencies.

—Identify potential problem areas encountered during the prior quarter, e.g., problems with monitoring techniques/procedures, sampling, quality control, etc., and indicate actual, anticipated, or possible solutions.

—Recommend modification or deletion of Supplemental Monitoring tasks not yielding useful data, including the basis for the recommendation.

• Annual reports should:

—Contain the fourth quarterly report.

—Summarize and analyze the monitoring information from all prior annual reports, the three prior quarterly reports, and the last quarterly report from the previous year, which shall include: (1) Identifying trends and patterns in the data; (2) summarizing and interpreting data from the Worker Registry; and (3) correlating the concentration of unregulated substances being monitored with the operating conditions of the Project and the performance of environmental controls.[9]

—Based upon monitoring data and the reports which have been submitted, indicated if there are any trends of environmental or health concern.

—Indicate whether any of the problem areas identified in previous quarterly or annual reports have been resolved and, if not, what mitigation measures should be taken.

X. Confidential Information

It is expected that, as a general rule, all monitoring data, data summaries, data analyses, reports, etc., provided to the Corporation by the Sponsor will not contain proprietary or otherwise confidential business information. Where certain types of monitoring data could reasonably contain proprietary information, these should be defined in the Environmental Monitoring Plan. Data will not be provided to federal or state agencies except as authorized by law and unless its confidentiality is protected.

The contents of all Environmental Monitoring Outlines and Plans (including drafts and revisions), all formal written comments of the Consulting Agencies on the Outlines and Plans, minutes of Monitoring Review Committee meetings, and all quarterly and annual reports will be publicly available.[10] Public information requests will be handled in accordance with the Corporation's Guidelines on Disclosure and Confidentiality.

XI. Monitoring Review Committees

A. Membership; Meetings

Each Financial Assistance Agreement will establish a Monitoring Review Committee (the "Committee") consisting of representatives of the Sponsor, the Consulting Agencies, and the Corporation. The Corporation's representative will act as chairperson for the Committee. The Committee will meet, at a mutually convenient time and place, at least once per year, within two months after the issuance of the annual report.

B. Functions

1. *Data Review.* Each Monitoring Review Committee will review the Sponsor's environmental and health monitoring information, including its quarterly and annual reports. The main purpose of this review is to determine if there are any significant findings among the data, e.g., trends or patterns in pollutant releases from the Project which could result in significant health or environmental impacts. The Corporation shall prepare minutes of each meeting which summarize all Committee discussions, findings, and recommendations.

2. *Modification of Monitoring Requirements.* Based on the Committee's ongoing review of monitoring information, members of the Committee can recommend to the Corporation that: (1) Certain monitoring tasks be discontinued, modified or added;[11] (2) new analytical techniques or instrumentation be substituted; or (3) the format of the quarterly and annual reports be changed.

The Corporation, after consultation with all Committee members, will authorize such changes in Environmental Monitoring Plan requirements as are appropriate, after reviewing the reasons therefor. Normally, the Corporation will not require Supplemental Monitoring beyond that specified in the Plan unless the costs of the additional requirements have been, or are being, offset by the elimination of comparable costs.[12]

XII. Amendments to Guidelines

Amendments to these Guidelines may be authorized in writing by the Corporation. All Sponsors with projects before the Corporation at the time any amendment is made will be notified immediately of such amendment. Copies of these Guidelines, as amended, will be available in the Corporation's Public Reading Room.

Len C. Axelrod,

Acting Executive Vice President, U.S. Synthetic Fuels Corporation.

October 6, 1983.

[FR Doc. 83-27734 Filed 10-12-83; 8:45 am]

BILLING CODE 6000-60-M

[8] Federal guidelines on QA/QC are available from EPA and the National Institute for Occupational Safety and Health. See "Development and Validation of Methods for Sampling and Analysis of Workplace Toxic Substances." Research Report DHHS (NIOSH) Publication No. 80-133, September, 1980; "Interim Guidelines and Specifications for Preparing QA Project Plans." EPA Report No. QAMS-005/80, December 29, 1980.

[9] It is expected that the Sponsor will monitor the efficiency of environmental control systems for all Source Monitoring activities; where such monitoring generates proprietary information on such systems, the Sponsor shall provide non-proprietary summaries.

[10] Copies of these documents will be available in the Corporation's Public Reading Room. The Corporation encourages the Consulting Agencies to make these documents available, particularly in the area in which the Project is located.

[11] Where production, process, pollution control, or feedstock changes occur that may reasonably be expected to affect Project emissions, monitoring tasks should be discontinued, modified, or added accordingly. However, modification of the Sponsor's Environmental Monitoring Plan shall have no effect on the Sponsor's monitoring responsibilities under federal, state, and local requirements.

[12] Offsets will not apply when monitoring tasks are modified or added because of changes in production, process, pollution control, or feedstock.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD-83-058]

National Boating Safety Advisory Council, Hybrid Personal Flotation Device Subcommittee; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Hybrid Personal Flotation Device Subcommittee to be held on Tuesday, November 8, 1983, at Stearns Manufacturing Company, Highway 10, Saulk Rapids, Minnesota, beginning at 10:00 a.m. and ending at 2:00 p.m. The agenda for the meeting will be as follows:

1. To discuss the feasibility of possibly granting Coast Guard approval for Hybrid Inflatable Personal Flotation Devices.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend this meeting as well as persons wishing to present oral statements should so notify the Executive Director no later than Friday, November 4, 1983. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BBS), Washington, D.C. 20593, or by calling (202) 426-1080.

Issued in Washington, D.C., October 6, 1983.

L. C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 83-27812 Filed 10-12-83; 8:45 am]

BILLING CODE 4910-14-M

[CGD-83-054]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Wednesday and Thursday, November 9 & 10, 1983, at the Marriott Pavilion Hotel, One Broadway, St. Louis, Missouri, beginning at 9:00 a.m. and ending at 4:00 p.m. on both days. The agenda for the meeting will be as follows:

1. Introduction of new Council Members.
2. Review of action taken at the 31st meeting of the Council.
3. Members Items.
4. Executive Director's Report.
5. Subcommittee Report on Accident Investigation and Reporting.
6. Subcommittee Report on Hybrid Life Preservers.
7. Subcommittee Report on Manufacturers' Role in Consumer Education.
8. Subcommittee Report on Memorandum of Understanding with the National Marine Manufacturers Association (NMMA).
9. Update on the Diver's Flag Regulation.
10. Presentation on White Water Safety.
11. Update on Alcohol and Boating.
12. Progress Report on the use of Strobe Lights as Visual Distress Signals.
13. Remarks by Chief, Office of Boating, Public, and Consumer Affairs.
14. Reply to Member's Items.
15. Chairman's Session.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-

VOL 48 ISS 199 OCT 13 1983 UMI

BBS), Washington, D.C., 20593, or by calling (202) 426–1080.

Issued in Washington, D.C. October 6, 1983.

L. G. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 83–27808 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–14–M

[CGD–83–056]

National Boating Safety Advisory Council, Subcommittee on Accident Investigation and Reporting; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Accident Investigation and Reporting to be held on Tuesday, November 8, 1983, at the Marriott Pavilion Hotel, One Broadway, St. Louis, Missouri, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. To finalize the Subcommittee's report for the full Council.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–BBS), Washington, D.C., 20593, or by calling (202) 426–1080.

Issued in Washington D.C. October 6, 1983.

L. C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 83–27810 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–14–M

[CGD–83–055]

National Boating Safety Advisory Council, Subcommittee on Manufacturers' Role in Consumer Education; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Manufacturers' Role in Consumer Education to be held on Tuesday, November 8, 1983, at the Marriott Pavilion Hotel, One Broadway, St. Louis, Missouri, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. To discuss the purpose and scope of the Subcommittee's inquiry.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G–BBS), Washington, D.C., 20593, or by calling (202) 426–1080.

Issued in Washington, D.C. October 6, 1983.

L. C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 83–27809 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–14–M

[CGD–83–057]

National Boating Safety Advisory Council, Subcommittee on the Memorandum of Understanding With NMMA; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on the Memorandum of Understanding with the National Marine Manufacturers Association (NMMA) to be held on Tuesday, November 8, 1983, at the Marriott Pavilion Hotel, One Broadway, St. Louis, Missouri, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. To discuss a draft Memorandum of Understanding between the Coast Guard and NMMA.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G–BBS), Washington, D.C. 20593, or by calling (202) 426–1080.

Issued in Washington, D.C. October 6, 1983.

L. C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 83–27811 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

Safety Defect Investigations of Volkswagen Brake Lines and Fuel Pump Electrical Circuits; Public Proceeding Postponed

The National Highway Traffic Safety Administration has postponed the public proceeding announced in the **Federal Register** of September 16, 1983 (48 FR 41669) regarding its initial determinations of safety related defects in certain vehicles manufactured or imported by Volkswagen of America, Inc. One initial determination covered service braking systems in 1975–1980 Volkswagen Rabbits and Sciroccos manufactured in Germany by Volkswagen A.G. The other initial determination covered certain components of the fuel pump electrical circuit in 1977–1980 Rabbits; 1976–1982 Sciroccos; 1980–1982 Jettas; 1976–1980 Dashers; 1980 Volkswagen pick-up trucks; 1980–1982 Volkswagen convertibles; 1976–1979 Audi Fox and 1980–1981 Audi 400 vehicles manufactured or imported by Volkswagen of America and equipped with gasoline-powered fuel injected engines. The meeting was to be held at 10 a.m. on October 12, 1983, in Room 2230 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590. It has been rescheduled for 10 a.m. on October 24, 1983 at the same location.

(Sec. 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 6, 1983.

George L. Parker,

Acting Associate Administrator for Enforcement.

[FR Doc. 83–27790 Filed 10–7–83; 2:55 pm]

BILLING CODE 4910–59–M

Research and Special Programs Administration

[Docket No. 83–1W; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Grant of Waiver

The Florida Gas Transmission Company petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the requirements of 49 CFR 192.611(e)(2) to permit the maximum allowable operating pressure (MAOP) to temporarily continue at 975 psig (72 percent of specified minimum yield strength) (SMYS) for a 4,900-foot section of its 24-inch gas transmission pipeline between MP 679.50 and MP 680.43. The area in which this segment of pipeline is located became a Class 3 location in May 1982, due to the added development of the Pepper Mill Subdivision in Orange County, Florida. Under § 192.611(e)(2), the company has 18 months from that date to confirm or revise the MAOP commensurate with the new class location.

In accordance with an application recently given final approval by the Federal Energy Regulatory Commission (FERC), Docket No. CP74–192, this segment of pipeline is to be converted to liquid petroleum product service, which would make the line subject to Part 195 rather than Part 192. Conversion to liquid service is expected to commence by December 31, 1986. As a result, this segment will need to continue in natural gas service for approximately 3 years after the time has expired for confirmation or revision of the MAOP in accordance with § 192.611(e)(2).

The pipeline was designed for an operating pressure of 975 psig in a Class 1 location. It was tested to 91 percent SMYS (1,230 psig) for a period of 8 hours. The pipeline has been under cathodic protection since original installation in 1959. The operating history of this segment shows there have been no leaks or failures and that the actual maximum operating pressure at the subdivision location has been 950 psig (70 percent SMYS). The replacement that would be required to comply with § 192.611(e)(2) will cost an estimated $500,000. This reconstruction would be unnecessary under Part 195 because liquid pipelines may operate at 72 percent of SMYS.

In response to this petition for waiver, MTB issued a notice of a petition for waiver inviting interested persons to comment (48 FR 36050, August 8, 1983). In this notice, MTB stated that considering the design, operating, and maintenance history, previous testing of the segment of pipeline, and the pending conversion of the pipeline to liquid service, a waiver of § 192.611(e)(2) is justified to permit continued operation of the 4,900 feet of the Florida Gas Transmission Company pipeline between MP 679.50 and MP 680.43 with a design factor of 0.72. MTB proposed to grant such a waiver until such time as this line is taken out of gas service or December 31, 1986, whichever is earlier.

Section 192.611(e)(2) is intended to minimize the possibility of catastrophic pipeline failure in populous areas. Therefore, to help reduce this risk before conversion occurs, a condition of the waiver would be that the hydrostatic pressure test that is required under Part 195, § 195.5(a)(4), for conversion of this segment of pipeline to liquid service shall be done prior to the date that confirmation or revision of the MAOP would otherwise be required under § 192.611(e)(2).

Three comments were received in response to the invitation to comment. All supported the granting of the waiver as proposed by MTB, particularly with the condition that the additional hydrostatic pressure test be conducted as proposed.

In consideration of the foregoing, MTB, by this order, finds that compliance with § 192.611(e)(2) is unnecessary for the reasons set forth in Notice 1, and that the requested waiver would not be inconsistent with pipeline safety. Accordingly, effective immediately, Florida Gas Transmission Company is granted a waiver from compliance with § 192.611(e)(2) regarding the segment of pipeline discussed above between MP 679.50 and MP 680.43 to permit continued operation with a design factor of 0.72 until such time as the line is taken out of gas service or December 31, 1986, whichever is earlier. The waiver is contingent upon the segment of pipeline being hydrostatically tested as described above.

(49 U.S.C. 1672; 49 CFR 1.53(a); Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on October 6, 1983.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 83–27794 Filed 10–12–83; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On October 5, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0058
Form Number: 1028
Type of Review: Revision
Title: Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code
OMB Number: 1545–0142
Form Number: 2220
Type of Review: Revision
Title: Underpayment of Estimated Tax by Corporations
OMB Number: 1545–0119
Form Number: 1099R
Type of Review: Revision
Title: Statement for Recipients of Total Distribution from Profit Sharing Retirement Plans and Individual Retirement Arrangements
OMB Number: 1545–0115
Form Number: 1099–MISC
Type of Review: Revision
Title: Statement of Recipients of Miscellaneous Income
OMB Number: 1545–0020
Form Number: 709
Type of Review: Revision
Title: United States Gift Tax Returns
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of Government Financial Operations

OMB Number: 1510–0043
Form Number: TFS–133, TFS–134 and TFS–135
Type of Review: Extension
Title: Notice of Accountability, Electronic Funds Transfer, Federal Recurring Payments
OMB Number: 1510–0029

Form Number: TFS 5118
Type of Review: Extension
Title: Depositor's Application for Payment of Postal Savings Certificates

U.S. Customs Service

OMB Number: None
Form Number: None
Type of Review: Existing Regulation
Title: Foreign Shipper's Declaration
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: October 5, 1983.

Cathy L. Thomas,

Departmental Reports, Management Office.

[FR Doc. 83–27795 Filed 10–12–83; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: On October 6, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980. Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0124
Form Number: 1120–DISC
Type of Review: Revision
Title: Domestic International Sales Corporation Return—1983, and its related Schedules K, N, and P
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of Government Financial Operations

OMB Number: 1510–0048
Form Number: None
Type of Review: Extension
Title: Minority Bank Deposit Program Savings and Loan Association Certification Form for Admission

Comptroller of the Currency

OMB Number: None
Form Number: None
Type of Review: Existing Regulation
Title: (A) 12 CFR 7.3025 (g)(1)(ii) Appraisal of Property Upon Transfer to Other Real Estate Owned/ Instructions to Appraiser. (B) 12 CFR 7.3025(h) Appraisal of Other Real Estate Owned/Annual.
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Cathy L. Thomas,

Departmental Reports, Management Office.

[FR Doc. 83–27865 Filed 10–12–83; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Reporting and Recordkeeping Requirement Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirement submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission. USIA is requesting approval of a form used in the processing of security clearance for prospective employees.

DATE: Comments must be received by November 15, 1983.

Copies: Copies of the request for clearance (SF–83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer: Charles N. Canestro, United States Information Agency, M/M, 400 C Street, SW., Washington, D.C. 20547, telephone (202) 485–8676. And OMB review: David S. Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395–7231.

SUPPLEMENTARY INFORMATION: Title: Foreign Residence Data. Form Number: IAP–10. Abstract: This form is intended to supplement other security investigation forms used in processing security clearances for prospective employees. It is used for the purpose of allowing investigators to contact people in the United States who have knowledge of a candidate's overseas residence and/or employment. By making contacts domestically, USIA can save both time and money that might otherwise be needed in conducting an overseas investigation.

Dated: October 7, 1983.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 83–27813 Filed 10–12–83; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 199
Thursday, October 13, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Election Commission	1
Federal Mine Safety and Health Review Commission	2
Federal Reserve Board	3, 4
Foreign Claims Settlement Commission	5
International Trade Commission	6
Legal Services Corporation	7, 8
National Council on Educational Research	9
Nuclear Regulatory Commission	10
Pacific Northwest Electric Power and Conservation Planning Council	11
Parole Commission	12, 13, 14
Synthetic Fuels Corporation	15
Tennessee Valley Authority	16

1

FEDERAL ELECTION COMMISSION

Federal Register No. 1411

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, October 12, 1983, 10 a.m.

CHANGE IN MEETING: The closed meeting scheduled for this date has been cancelled.

* * * * *

DATE AND TIME: Tuesday, October 18, 1983, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance, Litigation, Audits, Personnel.

* * * * *

DATE AND TIME: Thursday, October 20, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential Primary matching funds
Draft Advisory Opinion 1983–25: David Ifshin for Mondale Committee
Draft Advisory Opinion 1983–29: Robert A. Kenealey, for the City and County of San Francisco
Draft Advisory Opinion 1983–30: Mangotich on behalf of Dr. Conrad Joyner
Proposed Revision of 11 CFR 114.3 and 114.4—Communications by Corporations and Labor Organizations
Routine Administrative matters

PERSON TO CONTACT FOR MORE INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1450–83 Filed 10–11–83; 3:03 pm]

BILLING CODE 6715–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 6, 1983.

TIME AND DATE: 10 a.m., Friday, October 7, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will continue the meeting from October 6, 1983.

Item No. 2. Secretary of Labor, MSHA on behalf of Milton Bailey v. Arkansas-Carbona Company, Docket No. CENT 81–13–D. (Issues include determination of the interest to be assessed on back pay awards in discrimination cases under the Mine Act.)

It was determined by a unanimous vote of Commissioners that Commission business required that the meeting on this item be held and that no earlier announcement of the continuation was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1441–83 Filed 10–11–83; 11:22 am]

BILLING CODE 6735–01–M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m. Wednesday, October 19, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 11, 1983.

James McAfee,

Associate Secretary of the Board

[S–1451–83 Filed 10–11–83 3:22 pm]

BILLING CODE 6210–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m. Wednesday, October 19, 1983.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed revision of Regulation X (Rules Governing Borrowers Who Obtain Securities Credit.)
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 11, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1452–83 Filed 10–11–83 3:37 pm]

BILLING CODE 6210–01–M

5

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 6–83]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral

VOL
48
ISS
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99
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13
1983
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hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Monday, October 17, 1983 at 10:30 a.m.
Consideration of proposed and final decisions involving claims against the Government of the Czechoslovak Socialist Republic

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street NW., Room 409, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, D.C. October 7, 1983.

Judith H. Lock

Administrative Officer

[S–1440–83 Filed 10–11–83; 11:21 am]

BILLING CODE 4410–01–M

6

INTERNATIONAL TRADE COMMISSION

Executive Resources Board (ERB)

TIME AND DATE: 3:00 p.m., Wednesday, October 26, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Issues

1. Review of proposed IDP's for SES members and Executive Development Program participants for FY 1984.
2. Review of nominees for the SES and Managerial Development Programs for FY 1984.
3. Executive Development Seminar for SES candidates.
4. *External Awards*—Roger W. Jones Award.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1445–83 Filed 10–11–83; 1:43 pm]

BILLING CODE 7020–02–M

7

LEGAL SERVICES CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 12, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 8 a.m. to 5 p.m., Thursday, October 13, 1983, at the Sheraton Grand Ballroom, Second floor, Sheraton Hotel, 255 S.W. Temple, Salt Lake City, Utah 84101.

ADDITIONAL AUTHORITY FOR MEETING: While the Board of the Legal Services Corporation believes sufficient notice for this meeting had been given under the Government in the Sunshine Act, 5 U.S.C. 552b, a question has been raised as to the sufficiency of that notice. Therefore, the Board has voted unanimously that the meeting of the Board scheduled to be held October 13, 1983, in Salt Lake City, Utah, is necessary for the conduct of Corporation business and should be held as scheduled. This vote is recorded pursuant to 45 CFR 1622.4(b) and 45 CFR 1601.19(a) and 5 U.S.C. 552b(e)(1). The votes were:

Milton M. Masson (Aye), October 8, 1983
Robert E. McCarthy (Aye), October 10, 1983
Daniel Rathbun (Aye), October 7, 1983
Donald Santarelli (Aye), October 8, 1983

Donald P. Bogard,

President.

[S–1444–83 Filed 10–11–83; 1:18 pm]

BILLING CODE 6820–35–M

8

LEGAL SERVICES CORPORATION

Correction

The announcement of the postponement of the meeting of the Board of Directors of the Legal Services Corporation published in the **Federal Register** on Tuseday, October 11, 1983 (48 FR 46130) was a duplicate of the document filed with the Office of the Federal Register on October 3, 1983, and published in the **Federal Register** on Wednesday, October 5, 1983 (48 FR 45492). This duplicate announcement should not have been published.

BILLING CODE 1505–01–M

9

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

TIME AND DATE: October 17 and 18:

October 17, Monday
10 a.m. to 12 p.m. (open)
12 p.m. to 3:30 p.m. (open)
3:30 p.m. to 4:30 p.m. (closed)
October 18, 1983:
9 a.m. to 12 p.m. (open)

PLACE: National Science Foundation Conference Room, Room 615, 2000 L Street NW.

STATUS: 3:30 p.m. to 4:30 p.m. closed.

MATTERS TO BE DISCUSSED IN CLOSED SESSION: Discussion of Personnel.

FOR MORE INFORMATION CONTACT: Dr. Paul Gottfried, 202–254–7490.

Dated: October 11, 1983.

Dr. Paul Gottfried,

The National Council on Educational Research.

[S–1449–83 Filed 10–11–83; 2:43 pm]

BILLING CODE 4000–01–M

10

NUCLEAR REGULATORY COMMISSION

DATE: Week of October 10, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, October 13:*

3:00 p.m.
Briefing on Automatic Data Processing Organization (Public Meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

October 6, 1983.

Walter Magee,

Office of the Secretary.

[S–1439–83 Filed 10–11–83; 4:24 am]

BILLING CODE 7590–01–M

11

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATES: 10 a.m., October 19 and 20, 1983.

PLACE: Memorial Coliseum Complex, Wayerhaueser Room, Portland, Oregon.

MATTERS TO BE CONSIDERED:

Council Decision on Draft Report Issued by Salmon and Steelhead Advisory Commission
Council Decision on 1984 Workplans for Yakima Fish Passage Facilities
Status Report on WPPSS Cost-Effectiveness Analysis
Council Business
Public Comment will be taken after each item on the agenda

FOR FURTHER INFORMATION CONTACT: Ms. Bass Wong, (503) 222–5161.

Edward Sheets,

Executive Director.

[S–1442–83 Filed 10–11–83; 11:33 am]

BILLING CODE 00000–00–M

12

PAROLE COMMISSION

TIME AND DATE: 9 a.m. to 12:30 p.m., Tuesday, October 18, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

Appeals to the Commission of approximately 10 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–1446–83 Filed 10–11–83; 1:46 pm]

BILLING CODE 4410–01–M

13

PAROLE COMMISSION

The Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters.

TIME AND DATE: 10 a.m., Thursday, October 13, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–1447–83 Filed 10–11–83; 1:15 pm]

BILLING CODE 4410–01–M

14

PAROLE COMMISSION

TIME AND DATE:
1:30 p.m. to 5:30 p.m., Tuesday, October 18, 1983
9 a.m. to 5:30 p.m., Wednesday, October 19, and Thursday, October 20, 1983

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1a. Approval of minutes of open meeting of July 28 through July 28, 1983.
1b. Approval of minutes of open telephone conference meeting of August 23, 1983.
2. Reports from the Chairman, Vice Chairman, Commissioners, General Counsel, Director of Research, Case Operations, and Administrative Section.
3. Presentation: Dr. Andrew Von Hirsch (Scheduled for 9 a.m. October 20, 1983.)
4. (Revised 28 CFR 2.63) Rewarding prisoners for cooperation with law enforcement authorities.
5. Proposed extension of Parole on the Record from 90 to 180 days after the record review.
6. (28 CFR 2.20) Offense Severity Items:
a. Possession, Manufacturing, or distribution of Chemical Precursors used in illicit drug manufacturing.
b. Export Offenses.
c. Arson.
d. Perjury/Obstruction of Justice.
e. Possession of a dangerous weapon other than a firearm in an institution.
7. Proposed amendments to provide certain exceptions to the Commission's rule at 28 CFR 2.19(c).
8. Proposed increase in size of quorum for deciding Original Jurisdiction Cases (28 CFR 2.17a and 2.27a).
9. National Appeals Board Rules and Training Aids.
10. Dispositional Revocation Procedures (28 CFR 2.47).
11. Sworn testimony at Revocation Hearings.
12. Orderly incorporation of procedural changes.

Consent Agenda

The following consent agenda items, only if previously requested to be opended for discussion at the meeting on or before October 14, 1983.

13. Procedure Manual Revisions (effective 10/1/83).
14. Computation of the Parole Violator Term for parolees arrested near the end of their sentences.
15. Proposed adoption of 28 CFR 2.36 as a final rule.
16. Release of Juvenile Records.
17 (a) Confirmation of Raymond Essex as Hearing Examiner; (b) Confirmation of Thomas Moss as Hearing Examiner.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission (301) 492–5980.

[S–1448–83 Filed 10–11–83; 1:15 pm]

BILLING CODE 4410–01–M

15

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of said Policy.

MATTERS TO BE CONSIDERED:

Chairman's Opening Remarks
Approval of Minutes
Operations Report of the Acting Executive Vice President
Consideration of Amendments of Competitive Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Solicitation
Resolution to Close Meeting

Closed Session:

Briefing on Third Solicitation Oil Shale Projects
Review of Status of Gulf Coast Lignite Solicitation
Consideration of Request for Assistnce of Great Plains Coal Gasification Project
Third Solicitation Maturity/Strength Reviews
Consideration of the Enpex and Cottonwood Wash Projects
Other Project Solicitation, Evaluation and Negotiation Matters

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

DATE AND TIME: October 21, 1983 at 8 a.m. (m.d.t.).

PLACE: Hyatt Regency Hotel, Phoenix, Arizona.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone or Mr. Andrew P. Tashman, Legal Services Group (202) 822–6336.

United States Synthetic Fuels Corporation.

Leonard C. Axelrod,

Acting Executive Vice President.

October 11, 1983.

[S–1443–83 Filed 10–11–83; 12:33 pm]

BILLING CODE 0000–00–M

VOL 48 ISS 199 OC 13 1983 UMI

16

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1319]

TIME AND DATE: 7 p.m. (c.d.t.), Tuesday October 18, 1983.

PLACE: Southwestern at Memphis, Edward J. Meeman Center, Clough Hall, Room 200, 2000 North Parkway, Memphis, Tennessee.

STATUS: Open.

AGENDA ITEM: Approval of minutes of meetings held on September 27, 1983.

B—Purchase Awards

*B1. Negotiation 62-940321—Replacement turbine rotor and shaft for Browns Ferry Nuclear Plant, unit 2.

B2. Negotiation J6-833517—Process Computer replacement for Browns Ferry Nuclear Plant Units 1 through 3.

C—Power Items

C1. Renewal of power contract with Franklin, Kentucky.

C2. Agreement with the Board of Trustees of The University of Alabama in Huntsville for cooperation in the development, implementation, and administration of a program to encourage construction of new solar homes.

C3. Supplement to Contract TV-36914A with Battelle-Columbus Laboratories, Columbus, Ohio, to provide for technical assistance and perform technical tasks as requested by TVA.

C4. Letter agreement between the Institute of International Education and TVA whereby TVA will conduct an electric utility engineering training course for approximately 20 project participants from underdeveloped countries.

E—Real Property Transactions

E1. Abandonment of a 9-acre portion of the easement over TVA's Watsuga Hydro-Cranberry, Mountain City tap right of way located in Johnson City, Tennessee—Tract No. MCT-72.

F—Unclossified

F1. Request for approval of Control Data Corporation proposal to license software related to computer assisted piping analysis and support design system developed with TVA funds.

F2. TVA policy code relating to channelization, structural modification, and renovation of waters subject to TVA actions.

*Item approved by individual Board members. This would give formal ratification to the Board's action.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: October 11, 1983.

[S-1453-83 Filed 10-11-83; 4:00 pm]

BILLING CODE 8120-01-M

federal register

Thursday
October 13, 1983

Part II

Department of Health and Human Services

Food and Drug Administration

Vaginal Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; Advance Notice of Proposed Rulemaking

VOL 48 ISS 199 OCT 13 1983 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 351

[Docket No. 82N-0291]

Vaginal Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of a proposed rulemaking that would establish conditions under which over-the-counter (OTC) vaginal drug products are generally recongized as safe and effective and not misbranded. This notice is based on the recommendations of the Advisory Review Panel on OTC Contraceptives and Other Vaginal Drug Products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by January 11, 1984 and reply comments by March 19, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on December 8, 1978 a report on OTC vaginal drug products from the Advisory Review Panel on OTC Contraceptives and Other Vaginal Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the **Federal Register** a proposed rule containing: (1) The monograph recommended by the Panel, which establishes conditions under which OTC vaginal drug products are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. The Panel's findings appear in this document to obtain public comment before the agency reaches any decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it.

In its report, the Panel has recommended the use of various antimicrobials "for relief of minor vaginal irritation and itching," "for temporary relief of minor vaginal irritation and itching," and "for relief of minor vaginal soreness." The Panel is the third OTC advisory review panel to have made recommendations to FDA regarding the use of various OTC drugs in and around the vagina. The Topical Analgesic Panel,s recommendations were published in the **Federal Register** of December 4, 1979 (44 FR 69798), as part of the advance notice of proposed rulemaking for OTC external analgesic drug products; the Antimicrobial II Panel's recommendations were incorporated into the advance notice of proposed rulemaking for OTC antifungal drug products, published in the **Federal Register** of March 23, 1982 (47 FR 12480).

The Topical Analgesic Panel recommended that 0.5 percent hydrocortisone be considered generally recognized as safe and effective for "itchy genital and anal areas." FDA did not dissent from this recommendation. Therefore, as provided in 21 CFR 330.13, this drug was permitted to be marketed OTC. Previously, the drug has been available on a prescription basis only.

The Antimicrobial II Panel recommended that certain antifungals currently available only by prescription be considered generally recognized as safe and effective for "treatment of external feminine itching associated with vaginal yeast (candidal) infection." However, when this recommendation was published in the **Federal Register**, the agency dissented on the Panel's recommendation. The effect of FDA's action was that, in accordance with 21 CFR 330.13, these prescription drugs were prevented from entering the OTC market. The agency stated in its dissent that "self-treating the symptoms of itching around the vagina without knowing or treating the underlying cause of the itching could create a serious health hazard * * *. Furthermore, itching around the vagina can be a symptom of serious systemic disease, such as diabetes, or of a serious gynecological disorder, including trichomoniasis or gonorrhea" (47 FR 12480).

FDA received a number of comments disagreeing with the agency's dissent on the Antimicrobial II Panel's recommendation regarding the treatment of itching around the vagina. These comments asserted that the agency's statements made in response to this recommendation were not consistent with the fact that the agency did not dissent from the recommendation of the Topical Analgesic Panel regarding the use of 0.5 percent hydrocortisone for "itchy genital and anal areas."

The agency notes that the recommendations by the three panels relate to symptoms, such as itching and irritation, that consumers can indentify. The panels recommended that certain antipruritics and antimicrobials/antifungals be generally recognized as safe and effective and available for OTC use to treat these symptoms. The Topical Analgesic Panel recommended hydrocortisone for symptomatic relief of itching in the genital area external to the vagina. The Antimicrobial II Panel and this Panel recommended antimicrobials only for the symptomatic relief of itching, irritation, or soreness. Consumers, however, generally cannot identify the underlying causes of symptoms of this type. And, while the panels were concerned with relieving symptoms only, some of these drugs may actually have an effect on the underlying cause of the symptoms such as candidal infections and other sources of irritation. Yet, the panels were concerned with symptomatic relief only, not treatment, and in fact counseled against self-treatment.

Under the circumstances, the agency believes that the recommendations of the three panels are confusing and possibly contradictory. All three panels have concluded that a woman is unable to self-diagnose and self-treat vaginal infections and that professional consultation is essential for the proper diagnosis and treatment of vaginal infections. Yet, the Antimicrobial II Panel concluded that because vaginal yeast infection is extremely common and recurrent and is the most common cause of intense itching and redness of the vulva, the OTC use of a topical antifungal would be beneficial in relieving this discomfort until more definitive treament could be obtained. Even though self-diagnosis of candidal infections by a consumer generally is not possible, the Antimicrobial II Panel recommended that an antifungal be available for OTC use with a label warning that if the symptoms did not clear up within 14 days, the woman should consult a physician. The Vaginal Drug Products Panel concluded that proper treatment following professional consultation is essential for vaginal infections, but rationalized that because OTC drug products have been used by women to alleviate symptoms of vaginal irritation, itching, and soreness, they should continue to be available with a label warning that if the symptoms do not resolve in 1 week, the woman should consult a physician.

In light of the different recommendations from the three panels, previous agency actions, and the comments submitted in response to the advance notice of proposed rulemaking for OTC antifungal drug products, there appears to be uncertainty regarding the appropriateness of OTC drug products for treating the symptoms of itching, irritation, or soreness in or around the vagina. The agency is particularly concerned about: (1) the ability of a woman to recognize the nature or cause of the symptom(s) in order to determine which kind of drug product to select to treat them, e.g., an antipruritic or antifungal for the external areas, including the vulva, or an antimicrobial for intravaginal use; and (2) whether 1 to 2 weeks of self-medicating with an OTC drug product may pose an unacceptable delay in seeking professional attention if the symptom(s) are due to gonorrhea, trichomonas, candida, or other organisms that will not be eradicated by topical therapy with OTC drug products. The agency invites specific comment on these issues, and particularly invites comment for gynecolgists, family practitioners, other health professionals, women, and consumer groups dealing with health issues related to women.

As explained in the preambles to the advance notices of proposed rulemaking for antifungal and external analgesic drug products, no final agency decisions were made regarding the panel recommendations. Likewise, the purpose of this advance notice of proposed rulemaking on OTC vaginal drug products is to obtain comment before the agency makes a final decision on the panel recommendations.

In the notice of proposed rulemaking (tentative final monograph) for external analgesic drug products, published in the **Federal Register** of February 8, 1983 (48 FR 5863), the agency tentatively agreed with the Topical Analgesic Panel's recommendation that hydrocortisone can be safely used OTC for external genital itching if accompanied by appropriate warnings. The agency also invited specific comment on this proposal. The agency expects to set forth its position on OTC antifungal drugs for use external to the vagina in its proposed rulemaking (tentative final monograph) on antifungal drug products. The agency's position on the use of OTC drugs to treat conditions within the vagina will be set forth in its proposed rulemaking on vaginal drug products.

The agency is also aware of the Panel's recommendation that the professional labeling of products containing calcium propionate and sodium propionate include the indication "For the treatment of *Candida albicans*." The Panel's recommendation was based on a review of data and information submitted by Wyeth Laboratories on the product Propion Gel(R). This product was also reviewed under the Drug Efficacy Study Implementation (DESI) for a similar indication (for treatment of vulvovaginal candidiasis). In the **Federal Register** of June 4, 1982 (47 FR 24418), FDA published a notice denying a hearing and withdrawing approval of the new application (NDA) for Propion Gel (R) because the drug lacks substantial evidence of effectiveness. In that notice, the agency disagreed with the OTC Panel's recommendation that a professional labeling claim for the treatment of *Candida albicans* be permitted for calcium propionate and sodium propionate. The agency reiterates that conclusion here. Accordingly, FDA considers that professional labeling indication recommended by the Panel for calcium propionate and sodium propionate to be Category II.

In classifying calcium propionate and sodium propionate in Category I for the relief of minor vaginal irritations, the OTC Panel relied on the same studies reviewed and found inadequate by the agency under the DESI program. Because of the inadequacy of those studies and because of the uncertainty about the use of OTC drug products to treat vaginal irritations (discussed above), the agency will not at this time allow into the OTC marketplace products containing calcium propionate or sodium propionate for vaginal use. Sodium propionate and calcium propionate have not previously been marketed in OTC vaginal drug products and, therefore, may not be marketed OTC at this time under the provisions of 21 CFR 330.13. The agency invites comments and data which would support the Panel's recommendation on the safety and effectiveness of sodium propionate and calcium propionate as ingredients in OTC vaginal drug products.

The agency is not aware of the marketing of any drug product containing potassium sorbate as an active ingredient prior to adoption of the Panel's report, although at least one product has entered the marketplace since that time. Because potassium sorbate has not been marketed as a drug to a material extent and for a material time in the United States, the agency considers this ingredient to be a new drug within the meaning of section 201 (p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)). It may not be marketed until FDA has approved a new drug application (NDA) for such use.

FDA is aware that the Panel conducted an extensive review of data and information on the mutagenic and carcinogenic potential of povidone-iodine. The Panel recommended that this ingredient be classified in Category I pending FDA's review of new data that were submitted at the final Panel meeting (Refs. 1, 2, and 3). The agency has reviewed the data and concludes that they do not demonstrate povidone-iodine to be a potential mutagen or carcinogen. However, if any new information shows that the intravaginal use of povidone-iodine poses safety risks requiring immediate action, the agency will provide notice of its determination and take appropriate regulatory action.

FDA is aware that the Panel included in its report a discussion regarding the design of douching equipment. Because douching equipment is considered to be a device and not a drug, the agency is referring that portion of the Panel's report to the Bureau of Medical Devices for consideration. The Panel's discussion on douching equipment will not be further considered by the Office of Drugs.

After reviewing all comments submitted in response to this document, FDA will issue in the **Federal Register** a tentative final monograph for OTC vaginal drug products as a notice of proposed rulemaking. Under the OTC drug review procedures, the agency's position and proposal are first stated in the tentative final monograph, which has the status of a proposed rule. Final agency action occurs in the final monograph, which has the status of a final rule.

VOL
48
ISS
1
99
OC
13
1983
UMI

The agency's position on OTC vaginal drug products will be stated initially when the tentative final monograph is published in the **Federal Register** as a notice of proposed rulemaking. In that notice of proposed rulemaking, the agency also will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered when the notice of proposed rulemaking is published. At that time FDA also will consider whether the proposed rule has a significant impact on the human environment under 21 CFR Part 25 (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742).

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC vaginal drug products. Types of impact may include, but are not limited to costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC vaginal drug products should be accompanied by appropriate documentation.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC vaginal drug products submitted for consideration by the Panel. All the submitted information will be put on public display in the Dockets Management Branch, Food and Drug Administration, after November 14, 1983, except to the extent that the person submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, National Center for Drugs and Biologics (HFD–510) (address above).

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register.** On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions which would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph which are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Manufacturers are encouraged to voluntarily comply with the monograph at the earliest possible date.

In some advance notices of proposed rulemaking previously published in the OTC drug review, the agency suggested an earlier effective date. However, as explained in a number of tentative final monographs for OTC drug products, the agency has concluded that, generally, it is more reasonable to have a final monograph be effective 12 months after the date of its publication in the **Federal Register.** This period of time should enable manufacturers to reformulate, relabel, or take other steps to comply with a new monograph with a minimum disruption of the marketplace thereby reducing economic loss and ensuring that consumers have continued access to safe and effective drug products.

References

(1) OTC Volume 110057.
(2) Letter of December 27, 1978 from Robert G. Pinco to Armond M. Welch, included in OTC Volume 17BPAIII.
(3) Letter of February 16, 1979 from Robert G. Pinco to Armond M. Welch, included in OTC Volume 17BPAIII.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data on all active ingredients used in OTC vaginal contraceptives and other vaginal drug products was issued in the **Federal Register** of May 16, 1973 (38 FR 12840).

The Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness, and labeling of those products:

Elizabeth B. Connell, M.D., Chairman
Evelyn M. Benson, R. Ph.
Cynthia W. Cooke, M.D.
Myron Gordon, M.D.
William A. MacColl, M.D.
William H. Pearlman, Ph. D.
Louise B. Tryer, M.D.

The Panel was first convened on August 2, 1973, in an organizational meeting. Meetings at which vaginal drug products were discussed were held on September 28 and 29, October 19 and 20, November 18 and 19, 1973; January 13 and 14, February 8 and 9, March 8 and 9, March 29 and 30, May 9 and 10, June 6 and 7, July 18 and 19, September 20 and 21, November 8 and 9, December 16 and 17, 1974; January 23 and 24, February 7 and 8, March 14 and 15, April 27 and 28, June 23 and 24; July 24 and 25, September 18 and 19, November 7 and 8, December 11 and 12, 1975; February 26 and 27, April 22 and 24, July 22 and 23, August 24 and 25, October 8 and 9, November 19 and 20, December 16 and 17, 1976; January 14 and 15, March 11 and 12, May 20 and 21, June 22 and 23, July 27 and 28, October 1 and 2, November 4 and 5, December 15 and 16, 1977; February 3 and 4, March 13 and 14, April 28 and 29, May 19 and 20, June 8 and 9, July 10, 11, and 31, August 1 and 2, September 28 and 29, and December 7 and 8, 1978.

The minutes of the Panel meetings are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration (address above).

Two nonvoting liaison representatives served on the Panel. Virginia K. Rosenbaum, B.A., served as the consumer liaison. George A. Braun, Ph. D., served as industry liaison, and in his absence, Forrest C. Greenslade, Ph. D. The following FDA employees assisted the Panel: James P. Burns, Jr., Ph. D., served as Executive Secretary until September 1977, followed by A. T. Gregoire, Ph. D., Armond M. Welch, R. Ph., served as Panel Administrator. Lloyd G. Scott, R. Ph., served as Drug Information Analyst until November 1973, followed by Thomas Gingrich, R. Ph., until April 1975, followed by Anne W. Eggers, R. Ph., M.S., until September 1977. Elaine Euchner, R. Ph., served as Drug Information Analyst from April 1978 and William Best, R. Ph., also served from July 1978 until September 1978. George Kerner, M.S., also served as Consumer Safety Officer from February 1975 until July 1977.

The following persons appeared at their own or at the Panel's request to discuss vaginal drug products:

Gary Berger, M.D.
Louis Bleacher
David J. Brusick, Ph. D.
Nancy Chasen
Robert Choate
Richard A. Carchman, Ph. D.
Eugene Conrad, Ph. D.
John C. Cutler, M.D.
Paul A. Fehn, Ph. D.
Matthew Freund, M.D.
Leonard J. Goldwater, M.D.
Forrest C. Greenslade, Ph. D.
Stephen G. Hoag, Ph. D.
Roger Homm, B.S.
Marjorie Horning, Ph. D.
Margaret F. Jones, M.S., M.A.
Maryann Kane
Naomi Kaplan, M.D.
Louis Keith, M.D.
James C. Killeen, Jr., Ph. D.
Ruth Kirschstein, M.D.
S. Robert Kohn, Ph. D.
Eric Kunnas
Bertram Lift
Donald McNellis, Ph. D.
William Masters, M.D.
John Middleton, M.D.
Nathan Millman, Ph. D.
John Mothersell
Robert Pinco, Esq.
Kenneth Rothwell, M.D.
Roger Schnaare, Ph. D.
Daniel Siegel, Ph. D.
Charles Westoff, Ph. D.
Robert J. Weir, Ph. D.
Lillian Yin, Ph. D

No person who so requested was denied an opportunity to appear before the Panel to discuss vaginal drug products.

On January 23 and 24, 1975, the Panel held a symposium concerning scientific aspects of reproduction and fertility control and invited the following participants:

Gerald Bernstein, M.D., Ph. D.
Richard Blandau, M.D., Ph. D.
Forrest C. Greenslade, Ph. D.
Kurt Hirschhorn, M.D.
Sheldon J. Segal, Ph. D.
Thomas Shepard, M.D.
Richard Stambaugh, Ph. D.
Robert Staples, Ph. D.

A symposium on the effectiveness of vaginal contraceptives, which included a segment on consumer concerns about the labeling of vaginal drug products in general, was held on April 28 and 29, 1978, and included the following participants:

William C. Andrews, M.D.
Gary Berger, M.D.
Gerald Bernstein, M.D., Ph. D.
Ron Gray, M.D.
Bernard Greenberg, M.D.
Michelle Harrision, M.D.
Edna Johnson
Philip Kestelman
Jane Menken, Ph. D.
Harold Nash, Ph. D.
Howard Ory, M.D.
Samuel Pasquale, M.D.
Allan Rosenfield, M.D.
Christopher Tietze, M.C.
Ilene Wolcott

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent information submitted through December 8, 1978 in arriving at its conclusions and recommendations.

In this document the Panel presents its review and proposed monograph for OTC vaginal drug products except contraceptives. That portion of its review which dealt with OTC vaginal contraceptive drug products was published in the **Federal Register** of December 12, 1980 (45 FR 82014).

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel reviewed OTC vaginal drug products with respect to the following three categories:

Category I. Conditions under which OTC vaginal drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC vaginal drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

I. Submission of Data and Information

A. Submissions by Firms

Firm	Marketed products
Aloe Vera of America, Garland, TX 75042.	Vaginal Vaginal Douche, Vaginal Vaginal Cream.
Beecham, Inc., Clifton, NJ 07012.	Massengill Liquid Douche Concentrate.
Block Drug Co., Inc., Jersey City, NJ 07302.	Femicare Vaginal Douche Powder.
Boyle & Co., Los Angeles, CA 90022.	Triva Douche Powder.
Bristol-Meyers Co., New York, NY 10022.	Feminique Douche Liquid Concentrate.
G. M. Case Laboratories, San Diego, CA 92103.	PAF Douche Powder.
Chatlem Drug & Chemical Co., Chattanooga, TN 37409.	Meta-Cine Douche Powder Concentrate, Pamprin Concentrated Douche Powder.
Julius Schmid, Inc., New York NY 10019.	Vagisec Liquid.
McKesson Laboratories, Fairfield, CT 06430.	V. A. Douche Powder.
Meri Jo, Inc., Tampa, FL 33614.	Fina's Hygienic Powder.
Nordiff Laboratories, Inc., Fairfield, CT 06430.	Zonite Douche, Zonitora Feminine Deodorant Suppositories.
Phenex Laboratory, Inc., Chicago, IL 60641.	Complete Feminine Hygiene Antiseptic Deodorant Douche, Phenex Vaginal Hygiene Suppositories, Phenex Vaginal Therapeutic Suppositories.
The Purdue Frederick Co., Norwalk, CT 06856.	Betadine Douche.
Reed and Carnrick Pharmaceuticals, Kenilworth, NJ 07033.	Cleansing Douche Powders, Trichotine Liquid Douche Concentrate, Techotine Vaginal Douche.
Rystan Co., Inc., White Plains, NY 10605.	Prophyllin Powder.
R. Schattner Co., Washington, DC 20016.	Gynaseptic Vaginal Solution, Gynaseptic Vaginal Ointment.
Wyeth Laboratories, Inc., Philadelphia, PA 19101.	Propion Gel.

In addition, the following firms, groups, or individuals provided related information:

Carol Angle, M.D., University of Nebraska Medical Center, Omaha, NE 68105.—Camphor.
Beecham Products, Clifton, NJ 07012.—Boric Acid, Lactic Acid.
Center for Science in the Public Interest, Washington, DC 20036.—Talc.
Cosmetic, Toiletry and Fragrance Association, Washington, DC 20005.—Talc.
Foster D. Snell, Inc., General Laboratories, Florham Park, NJ 07932.—Pressure effects of douching.
International Playtex, Inc., Dover, DE 19901.—Polysorbate 20.
F. Nakamura, M. D., California State University, 1250 Bellflower Blvd., Long Beach, CA 90840.—Potassium Sorbate.
Ortho Research Foundation, Raritan, NJ 08869.—Selected bibliography on vaginal contraception and therapeutics.
Proprietary Association, Washington, DC 20006.—Indication language.
U.S. Borax Research Corp., Anaheim, CA 92801.—Boric Acid.
Vicks Chemical Co., Research Division, Mount Vernon, NY 10553.—Vaginal Douche delivery systems.

VOL
48
ISS
1
9
9
OC
13
1983
UMI

Young's Drug Products Corp., P.O. Box 385, Piscataway, NJ 08854.—Polysorbate 20.

B. Ingredients Reviewed by the Panel

1. *Labeled ingredients contained in OTC vaginal drug products.*

Alcohol
Alky aryl sulfonate
Allantoin
Alum
Alum (ammonium)
Amerchol L 101
Aromatic oils
Aromatics
Beeswax
Benzalkonium chloride
Benzethonium chloride
Benzocaine
Boric acid
Boro-glycerine
Calcium propionate
Camphor
Cetyl alcohol
Chlorothymol
Citric acid
Cocoa butter
Color
Disodium edetate
Eucalyptol
Fragrance
Glycerin
Glycerine
Hexachlorophene
Isopropyl myristate
Lactic acid
Lactose
Menthol
Methylparaben
Methyl salicylate
Octylphenoxy polyethoxyethanol, octylphenoxy polyethoxy ethanol
Oil of eucalyptus
Oil of peppermint
Oxyquinoline citrate
Oxyquinoline sulfate
Papain
Phenol
Polyoxyethylenenonyl phenol
Polyoxyethylene nonyl phenol
Polysorbate 20
Potassium aluminum sulphate
Potassium hydroxide
Povidone-iodine
Propylene glycol
Propylparaben
Propyl paraben
Purified water
Silica
Sodium bicarbonate
Sodium borate
Sodium carbonate
Sodium chloride
Sodium dioctyl sulfosuccinate
Sodium edetate
Sodium lactate
Sodium lauryl sulfate
Sodium perborate
Sodium phenolate
Sodium propionate
Sodium salicylate
Sodium salicylic acid phenolate
Sodium sulfate
Stabilized aloe vera gel
Steric acid
Talc
Tartaric acid
Thymol
Tragacanth
Vitamins D and A
Water soluble ingredients of chlorophyll
Zinc sulfate
Zinc sulphate

2. *Other ingredients reviewed by the Panel.*

Acetic acid (vinegar)
Potassium sorbate
Talc

C. Classification of Ingredients

The Panel adopted and used for the ingredients reviewed in this document nomenclature based on the currently accepted terminology stated in the 1978 edition of "USAN and the USP Dictionary of Drug Names." Any ingredients which do not have names established in USAN will be referred to by names recommended by FDA.

1. *Active ingredients.*

Acetic acid (vinegar)
Alkyl aryl sulfonate
Allantoin
Alum
Alum (ammonium)
Benzaklonium chloride
Benzethonium chloride
Benzocaine
Boric Acid
Boroglycerin (boro-glycerine)
Calcium propionate
Citric acid
Dioctyl sodium sulfosuccinate (sodium dioctyl sulfosuccinate)
Edetate disodium (disodium edetate)
Edetate sodium (sodium edetate)
Ergocalciferol (Vitamin D)
Hexachlorophene
Lactic acid
Nonoxynol 9 (nonyl phenoxy polyoxyethylene ethanol, nonylphenoxypotyethoxyethanol, polyoxyethylenenonyl phenol, polyexyethylene nonyl phenol)
Octoxynol 9 (octoxynol, octylphenoxy polyetnoxyethanol, octylphenoxy polyethoxy ethanol, *p*-Diisobutylphenoxypdyethoxyethanol, polyethylene glycol of mono-iso-octyl phenyl ether)
Oxyquinoline citrate
Oxyquinoline sulfate
Papain
Phenol
Phenolate sodium (sodium phenolate)
Potassium aluminum sulphate
Potassium sorbate
Povidone-iodine
Sodium bicarbonate
Sodium borate
Sodium carbonate
Sodium lactate
Sodium lauryl sulfate
Sodium perborate
Sodium propionate
Sodium salicylate
Sodium salicylic acid phenolate
Stabilized aloe vera gel
Tartaric acid
Vitamin A
Zinc sulfate (zinc sulphate)

2. *Inactive ingredients.*

Alcohol
Amerchol L 101
Aromatic oils
Aromatics
Beeswax
Camphor
Cetyl alcohol
Chlorothymol
Cocoa butter
Color
Eucalyptol
Fragrance
Glycerin (glycerine)
Isopropyl myristate
Lactose
Menthol
Methylparaben (methyl paraben)
Methyl salicylate
Oil of eucalyptus
Oil of peppermint
Polysorbate 20
Potassium hydroxide
Propylene glycol
Propylparaben (propyl paraben)
Purified water
Silica
Sodium chloride
Stearic acid (steric acid)
Sodium sulfate
Talc
Thymol
Tragacanth
Water soluble ingredients of chlorophyll

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include the submissions made by interested persons in response to the call-for-data notice published in the Federal Register of May 16, 1973 (38 FR 12840). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2) November 14, 1983, will be put on public display afterin the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Line Rockville, MD 20857.

II. General Discussion

A. Introduction

When it first convened, the Panel considered its specific mandate and general objectives. It recognized that its primary concern must be the evaluation and categorization of the ingredients under its review as defined by the enabling regulation; however, it was also deeply concerned about the health of women and their offspring, the latter both during intrauterine life and after birth. The Panel, therefore, concluded that, as a part of its mandate, it would give special attention to the issues involved in labeling and patient instruction, effectiveness rates, delivery systems, vaginal absorption, fetal and infant damage, mutagenicity, and carcinogenicity.

The Panel believes that it is particularly important for OTC vaginal drug product labeling to explain what benefits consumers can expect from the use of such products. For example, the labeling of contraceptive agents should clearly state that the use of such products is intended for the prevention of pregnancy. Conversely, the labeling of vaginal douches should clearly reveal the probable failure of such products when used for the prevention of pregnancy.

The Panel considers it essential, because proper use is important both in relation to safety and effectiveness, that each vaginal product be accompanied by instructions which are written in a manner easily understood by the average consumer.

Regarding vaginal douches, the Panel considers appropriate douching methods and the design of douching equipment to be as important for the safe and effective use of vaginal douches as the ingredients. Therefore, the Panel has devoted a section of this document to the methodology of douching and the design of the equipment. [See part IV. paragraph G. below—Vaginal Douche Equipment.)

The Panel also recognizes that OTC vaginal drug products might be used by the consumer inadvertently during early pregnancy. Moreover, these products might be used during lactation. The Panel has, therefore, included considerations of fetal and infant safety in this document.

The Panel also considered mutagenic and carcinogenic potential, a relatively new aspect of ingredient and product safety. Several ingredients under review have been subjected to in vitro or in vivo (animal) screening, or both, for mutagenic-carcinogenic potential.

The Panel is also concerned about the lack of information on the possible absorption of these ingredients from the vagina into the systemic circulation. It has been well established that many ingredients can be absorbed in this manner. The Panel recognizes that the potential for the development of toxicity and sensitivity reactions is theoretically greater with the use of vaginal suppositories than with vaginal douches. Nonliquid vehicles, which are designed to keep the medication in the vagina for a longer period, allow greater opportunity for systemic absorption. The significance of this factor is unknown, because there are no relevant data available at the present. However, since the technology required to generate information in this area is now becoming available, the Panel recommends that appropriate vaginal absorption studies be conducted on all of these ingredients wherever feasible.

B. Data Search

Prior to the information of the Panel, the FDA Medical Library conducted a literature search covering relevant American publications between 1950 and 1973. Additionally, interested people and firms submitted data on the ingredients and products which were to be reviewed. After a thorough review of these data, the Panel noted that the majority of the references cited were 10 years old or older. Virtually no studies could be found which had been carried out in accordance with today's standards for the evaluation of possible teratogenic, mutagenic, carcinogenic, or toxic effects of the ingredients in these products.

Because there was very little information in both the submissions and the FDA literature search, the Panel conducted its own independent review of the pertinent world literature and asked medical and scientific journals to run advertisements requesting additional data. However, only a limited amount of new material was obtained as a result of these efforts.

At the Panel's request, the industry liaison submitted, in April 1974, a listing of articles entitled "Selective Bibliography on Vaginal Contraception and Therapeutics" compiled by the Science Information Division of the Ortho Pharmaceutical Corporation. In addition, the Panel listened to testimony from interested parties and a number of invited consultants.

In summary, using every means at its disposal, the Panel attempted to gather and review all of the information available on the subjects under consideration before arriving at its conclusions and recommendations. However, the combined efforts described above served to substantiate the original observation that very little work had been done in this field in recent years.

C. Vaginal Anotomy and Physiology

The Panel reviewed both OTC vaginal contraceptives and other vaginal drug products. The background section on anatomy and physiology of the vagina was published in the Federal Register of December 12, 1980 (45 FR 82014) and will not be repeated in this document.

D. Drug Evaluation for Safety and Effectivensss

1. *Safety.* As all of the ingredients under its review are applied to the vagina, the Panel believes that the guidelines for safety testing are identical no matter what the ingredient, the vehicle, or the drug's intended pharmacological purpose. Although the Panel's discussion on safety testing as published in the Federal Register of December 12, 1980 (45 FR 82014) will not be repeated in this document, the Panel has included a comment on the safety of inactive ingredients contained in vaginal drug products (See part IV. paragraph D. below—Inactive Ingredients—Comments on Safety).

2. *Effectiveness.* Testing guidelines for vaginal drug products are outlined elsewhere in this document. (See part IV. paragraph F. Below—Testing Guidelines for Effectiveness of Vaginal Drug Products.) That portion of the Panel's review which deals with the effectiveness testing of vaginal contraceptive drug products was published in the Federal Register of December 12, 1980 (45 FR 82014).

E. Advertising

The Panel is aware that FDA has jurisdiction over the labeling but not the advertising of OTC drugs. Having completed its review of labeling provided in the submitted data and information, the Panel is concerned that control of labeling alone may be insufficient to assure the safe and effective use of vaginal drug products.

The Panel, therefore, concludes that the advertising of these products must be carefully monitored by those having the appropriate jurisdiction. Such advertising should carry over, reflect, or incorporate the approved terms and statements found in product labeling in the monograph which specify the indications for use, contraindications, and appropriate warnings to the consumer.

F. Labeling

The Panel reviewed the general and specific labeling requirements previously adopted by FDA for OTC drug products in Part 201 (21 CFR 201) and Part 369 (21 CFR 369). These regulations relate to labeling information concerning the identity of ingredients, directions for use, and general and specific warnings. The Panel considered these regulations and concludes that, in general, these requirements are appropriate for OTC vaginal drug products. The term "labeling," as understood by the Panel, refers to any language developed for the consumer and placed upon the carton, the container, and package inserts. Any special labeling which the Panel believes is indicated for a particular

VOL 48 ISS 199 OCT 13 1983 UMI

ingredient will be included in the ingredient evaluations below.

According to its mandate, the Panel reviewed and classified all of the labeling terms on the products submitted. Those terms classified in Category I are appropriate and may continue to be used. Terms in Category II are vague, poorly defined, or apt to promote impressions of unproven effectiveness. The Panel believes that the claims in Category III are potentially provable by scientific methods, but adequate data were not submitted to allow their approval as Category I claims. Any manufacturer who wishes to perform the necessary research to substantiate such claims should do so and submit the results to FDA for approval.

After careful consideration of all labeling submitted, the Panel recommends the following general labeling guidelines:

1. *Indications for use.* The indications for use should be simply and concisely stated. They should enable the consumer to have a clear understanding of the results which can be anticipated from the use of the product. Any statement regarding the indications for use should be specific and should be confined to the conditions for which the product is being recommended. A vaginal drug product may not contain additional indications for use on other areas of the body unless there are sufficient valid data to support such claims.

Claims of therapeutic benefit for treatment of specific vaginal infections must be restricted to professional labeling, e.g., for the treatment of trichomoniasis or moniliasis. Furthermore, any claim of such therapeutic benefit shall be based upon valid studies of effectiveness, by documenting cures proven by repeated cultures following the treatment regimen outlined for each specific infection for which a professional labeling claim is to be made.

2. *Ingredients.* The Panel concludes that it is important for the consumer to know all of the ingredients in a product because of the possibility of allergic states and idiosyncracies. For example, although aromatic compounds such as perfumes have no pharmacologic activity in vaginal drug products, these agents should be listed on the label because of their potential to sensitize. Although the Panel recognizes that current statutes require that only the active ingredients be listed, it strongly recommends that all inactive ingredients (including those which are necessary for formulation and product identification) also be listed, preferably with a statement of their quantity in metric units. The Panel further concludes that no product should be promoted on the basis of its inactive ingredients, nor should the label create a false impression of value beyond that which is scientifically valid.

3. *Principal display panel.* The Panel is aware of the current regulations regarding the principal display panel, statement of identity , and the declaration of net quantity of contents for OTC drugs and concurs with those requirements (21 CFR 201.60, 201.61, and 201.62).

4. *Effectiveness and cloimed advantages.* After reviewing the claims made by manuffcturers of vaginal drug products, the Panel concludes that certain claims for effectiveness have been made in the past without valid supporting data. Any language which promises specific health benefits which are unsubstantiated by the scientific information submitted is unacceptable. Futhermore, claims may not be used to promote the sale of these products unless these claims are specifically approved by the panel as set forth in this document. For example, manufacturers may not make use-effectiveness or comparative-effectiveness claims such as "better than" or "the most" unless valid scientific data have been provided upon which to base these claims. Further details on specific claims will be included in the appropriate sections of this document.

5. *Directions for use and warnings.* The label should consist of a clear statement of the usual effective dose. The phrase "except under the advice and supervision of a physician" should appear where appropriate. When an ingredient is known to induce a somewhat higher than average incidence of hypersensitivity reactions, an additional warning stating this fact should be included on the label.

G. Combination Policy

The Panel notes the regulation in 21 CFR 330.10(a)(4)(iv) which states:

> An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel observed that a number of the vaginal preparations under its review contain multiple ingredients. However, the Panel concludes that, in general, the fewer ingredients in a combination product, the safer and more rational the therapy. It further concludes that consumers should be exposed to the fewest possible ingredients and at the lowest possible dosage consistent with a satisfactory level of effectiveness. Thus, in gereral, OTC products containing a single, safe, and effective active ingredient are to be preferred over those having multiple active ingredients. Such an approach is totally in accord with established medical principles and will reduce the risks of toxic, allergic, or idiosyncratic reactions, as well as the possibility of unrecognized or undesirable drug interactions. The Panel concludes that OTC combination drugs should contain only those inactive ingredients which are absolutely essential for pharmaceutical necessity of product indentification. As previoulsy stated, the Panel believes that a listing of these inactive ingredients and the quantities present should be included in the product labeling. (See part II. paragraph F. above-Labeling.)

The Panel concludes that combination vaginal drug products should contain more than one active ingredient only if each of the ingredients is not only safe, but also makes a clear and specific contribution to the claimed effectiveness of the product.

1. *Combinations of Category I ingredients.* With regard to the vaginal products under its review, the Panel concludes that there are insufficient data to support combining any two or more Category I ingredients. Therefore, if a manufacturer combines two or more Category I ingredients, the specific ingredients as well as the combination product must be subjected to laboratory and clinical testing using the recommended testing guidelines for effectiveness outlined elsewhere in this document. (See part IV. paragraph F. below—Testing Guidelines for Effectiveness of Vaginal Drug Products.)

2. *Category II combinations.* The Panel concludes that any combination vaginal drug product which contains a Category II ingredient is to be placed in Category II. The Panel fully realizes that its recommendation pertains to the drug use of these combination products and not to the cosmetic use. However, the Panel recommends to FDA that any Category II ingredient which causes a combination product to be placed in Category II by virtue of its lack of safety be removed from the product regardless of whether its intended vaginal use is as a drug or as a cosmetic. This recommendation is made to ensure that the consumer is not exposed to ingredients which this Panel has judged to be unsafe.

The following combinations reviewed by the Panel contain at least one Category II ingredient. The Panel therfore concludes that these combinations are unsafe or ineffective for any OTC vaginal use.

a. Hexachlorophene, boric acid, zinc sulfate, potassium aluminum sulphate, tartaric acid, camphor, phenol, and octoxynol 9.

b. Phenol (greater than 1.5 percent), sodium borate, and sodium salicylate.

c. Sodium salicylic acid phenolate (greater than 1.5 percent phenol), boroglycerin (greater than 1 percent boron), and benzocazine.

d. Sodium salicylic acid phenolate (greater than 1.5 percent phenol), boroglycerin (greater than 1 percent boron), benzocaine, and povidone-iodine.

3. *Category III combinations.* The Panel concludes that available data are insufficient to permit final categorization of the following combination products.

The Panel recommends that these combinations be subjected to the appropriate testing guidelines for effectiveness for the specific indication which is claimed. (See part IV. paragraph F. below—Testing Guidelines for Effectiveness of Vaginal Drug Products.) If any of the ingredients in these combinations require evaluation for safety, this evaluation should be done in accordance with the safety guidelines contained in part II. paragraph D—Drug Evaluation for Safety—of the Panel's review of OTC vaginal contraceptive drug products published in the **Federal Register** of December 12, 1980 (45 FR 82020).

a. Citric acid and papain.

b. Oxyquinoline sulfate, alkyl aryl sulfonate, and disodium edetate.

c. Nonoxynol 9 and sodium edetate.

d. Alum (ammonium) and zinc sulfate.

e. Benzalkonium chloride and disodium edetate.

f. Sodium lactate, lactic acid, and octoxynol 9.

g. Phenol and sodium phenolate.

h. Sodium lauryl sulfate, sodium bicarbonate, and sodium carbonate.

i. Stabilized aloe vera gel, allantoin, vitamin A, and vitamin D.

j. Sodium perborate, sodium borate, and sodium lauryl sulfate.

k. Oxyquinoline citrate, boric acid alum, and zinc sulfate.

l. Sodium lauryl sulfate, sodium perborate, and sodium borate.

m. Calcium propionate, sodium propionate, and boric acid.

n. Sodium borate and sodium lauryl sulfate

III. Vaginal Drug Products

A. Introduction

The Panel was unable to find standard acceptable definitions of a "vaginal douche" and of a "vaginal suppository." It also had difficulty in attempting to define the actions of specific ingredients present in vaginal drug products. Therefore, in order to aid in the categorization of the ingredients under its review, the Panel developed the following definitions which are stated in terms of the actions of the ingredients.

B. Definitions of Terms

1. *Vaginal douche.* A vaginal douche is a liquid preparation used to irrigate the vagina over an indeterminate period for one or more of the following purposes; (1) cleansing, (2) producing soothing and refreshing effects, (3) deodorizing, (4) relieving minor irritations, (5) reducing the number of pathogenic microorganisms, (6) altering the pH so as to encourage the growth of normal vaginal flora, (7) producing an astringent effect, (8) lowering surface tension, (9) producing a mucolytic effect, or (10) producing a proteolytic effect.

2. *Vaginal suppository.* A vaginal suppository is a small globular mass, designed for easy introduction into the vagina. It is usually made of two major components—a vehicle and one or more chemical agents. It is solid at room temperature and either liquifies at body temperature or dissolves in vaginal fluids. Vaginal suppositories are designed to be used for one or more of the following purposes: (1) Producing soothing and refreshing effects, (2) deodorizing, (3) relieving minor irritations, (4) reducing the number of pathogenic microorganisms, (5) altering the pH so as to encourage the growth of normal vaginal flora, or (6) producing an astringent effect.

C. General Discussion

1. *Drug vs. cosmetic status.* The Panel reviewed the definitions of "drugs" and "cosmetics" as set forth in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)(B) and (i)(1)). With regard to the labeling of vaginal douches, it also reviewed the historical position of FDA in § 369.20 (21 CFR 369.20) which recommends that the label bear a statement, "Warning: Do not use more often than twice weekly unless directed by physician."

The Panel decided that certain labeling claims for vaginal products more properly fall within the cosmetic category, while other claims fit more accurately into the drug category. In this regard, the Panel recognizes that vaginal douches and suppositories may be viewed by a consumer as either cosmetics or drugs.

If the use of a vaginal douche produces only transitory changes in an essentially normal vagina by the removal of secretions and bacteria for example, it is then considered as having only a cleansing effect and thus may be classified as a cosmetic. However, the Panel observed that in the Federal Food, Drug, and Cosmetic Act the term "drug" means "articles intended for the use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals" (21 U.S.C. 321(g)(1)(B)). Therefore, the Panel concludes that certain ingredients in vaginal douches and suppositories under its review fall into this category as they prevent, mitigate, or treat disease. For example, ingredients may produce a beneficial effect by removing secretions and changing the vaginal flora either by suppressing or actually eliminating specific pathogens. In this instance, the Panel concludes that these agents are exerting a therapeutic effect and, therefore, are classified as drugs.

This classification as drug or cosmetic is determined by both the type of claim made for the product and the type and strength of ingredients present in the product. If an active ingredient is present in a therapeutic concentration, the product is a drug, even if that prouduct does not claim to produce the effect which will result from the action of the therapeutically effective ingredient.

As the result of its extensive deliberations on this matter, the Panel concludes that the first three parts of its definition of a vaginal douche are cosmetic claims, since the washing of any surface will result in: (1) Cleansing, and may also produce (2) soothing and refreshing, and (3) deodorizing effects. Similarly, the Panel concludes that the first two parts of its definition of a vaginal suppository: (1) Producing soothing and refreshing effects, and (2) deodorizing, are cosmetic claims. Vaginal products which make these claims only are not under the purview of this Panel and do not require testing for effectiveness.

The Panel deliberated at length as to whether the term "deodorant" should be regarded as a drug or cosmetic claim for a vaginal preparation. Taking into consideration the cosmetic product warnings in 21 CFR 740.12 with regard to feminine deodorant sprays, the Panel concludes that a deodorant claim for a vaginal preparation constitutes a cosmetic claim.

VOL 48 ISS 199 OCT 13 1983 UMI

In the Panel's opinion, the consumer generally believes that an offensive odor is diminished by a deodorant rather than simply being masked by a pleasant odor. Therefore, the Panel recommends that until a uniform definition of the term "deodorant" is rendered by FDA, and explicit statement describing the mode of action of a deodorant should be included in vaginal product labeling because the consumer is entitled to this information and should be told.

A deodorant may be effective because it: (1) Cleanses the vagina by removing secretions, seminal fluid, and contraceptive products; (2) reduces the number of microorganisms that cause vaginal and vulvar odors; or (3) masks the odors with a pleasant odor. Because currently marketed deodorants do not actually destroy disagreeable body odors but only diminish the perception of these odors, the Panel recommends that the term "destroys odor" not be incorporated into the labeling of deodorant vaginal products because it is not accurate. (See part IV. paragraph B.4. below—Category II labeling.)

The other actions of vaginal drug products ((4) through (10) for vaginal douches and (3) through (6) for vaginal suppositories) must be substantiated by testing if a claim is to be made, as discussed later in this document. (See part IV. paragraph G. below—Testing Guidelines for Effectiveness of Ingredients in Vaginal Drug Products.) Testing guidelines for vaginal suppositories marketed with a contraceptive claim were outlined in the Panel's review of vaginal contraceptive drug products, published in the Federal Register of December 12, 1980 (45 FR 82014).

2. *The use of precoital douching to influence the sex of offspring.* A method of influencing the sex of offspring by using acid or basic douches precoitally has been proposed and promoted by Shettles (Refs. 1 and 2), who claims an 80-percent success rate for his method. His basic assumption is that the X-bearing sperm (the female determinant) is larger, stronger (longer-lived), and more resistent to destruction by an acid environment than the smaller, Y-bearing sperm (the male determinant). According to his theory, just before or at the time of ovulation, the cervical mucous is most alkaline and, therefore, prone to favor male offspring; at other times of the cycle, fertilization is more likely to result in female offspring. In order to conceive a child of the desired sex, Shettles suggests that intercourse should be scheduled for those times when cervical mucous is more favorable to either X- or Y-bearing sperm. Shettles also proposes that alkaline or acid douches (soda acid or vinegar) can be used precoitally to alter the pH and facilitate the desired results.

Shettles' claim of 80 percent effectiveness when utilizing the entire method (douching, timing, etc.) has been supported by the work of one investigator who worked with artificial insemination (Ref. 3); others, however, have not been able to duplicate this work (Refs. 4 and 5). In vitro, it does not appear that the rate of X or Y sperm migration is influenced by the pH of the environment (Ref. 6). Much of the work in sex preselection using various methods, including douches, was reviewed by Glass (Ref. 7), and his conclusion was that it "would not be accurate to tell prospective parents that they can choose the sex of their child" using these methods. On the other hand, there are no reports of detrimental effects from using these methods other than the disappointment in failing to achieve the desired results; thus it does not appear necessary to warn against their use.

3. *Labeling guidelines for vaginal douches.* The Panel reviewed the history of douching as both a therapeutic and an elective procedure. There are no data to demonstrate clearly that routine douching is necessary for the normal, healthy woman. On the other hand, there would appear to be no medical contraindication to douching for the normal, healthy, nonpregnant woman who believes that she derives some benefit from this practice.

a. *Method of douching.* In order to develop guidelines and recommendations for the proper labeling of ingredients, the Panel believes that it is necessary to consider simultaneously the safety and the effectiveness of the method by which ingredients are delivered. Vaginal douching requires such consideration because:

(1) Its primary purpose is the irrigation of a body cavity (the vagina) lined by an absorptive mucosa which is, in itself, susceptible to chemical, mechanical, and thermal injury.

(2) The vagina is in direct continuity with the internal organs of reproduction (i.e., the uterus and fallopian tubes) and the abdominal cavity. In addition, it has a commonly derived and interrelated blood supply and lymphatic drainage with these organs.

(3) Improper douching practices and improper care of equipment may lead to pathogenic microorganisms being introduced into the vagina and upper reproductive tract.

As previously stated, the Panel concludes that there is no proven therapeutic usefulness for routine douching by the normal, healthy woman; however, the Panel is concerned with the methods of nontherapeutic douching insofar as safety to the consumer is concerned. The Panel disagrees with the practice, as recommended in several package inserts which it reviewed, of occluding the vaginal opening until the woman notes a sensation of fullness in the vagina or the lower abdomen, supposedly indicating distentation of the vagina with the fluid. Several reports in the literature suggest the possibility that douche fluid may be carried through the uterus and fallopian tubes and cause chemical pelvic peritonitis (Refs. 8 through 11). In one of these reports, the apparent relationship of peritonitis to occlusive or pressure douching is detailed in five cases (Ref. 10).

Although a causal relationship between the practice of vaginal occlusion during douching and peritonitis is not completely established by these reports, the Panel believes that common sense dictates that the use of high intravaginal hydrostatic pressure is potentially dangerous and that the warning based upon a "feeling of fullness" is too vague and variable to be of significant value in preventing injury. The Panel recommends that any reference to occlusion of the vaginal opening during douching be removed from all labeling, and that this practice be discouraged except at the direction of a physician.

b. *Contraindications.* There are no data available relative to the safety of douching during pregnancy. From a study of 1,600 women, of whom 510 were pregnant, approximately 12 percent of the pregnant women douched; Stock, Stock, and Hutto (Ref. 12) concluded that, in the absence of complications of pregnancy, such a practice would seem to be harmless. On the other hand, several reports detail case studies of fatal air embolism in pregnancy following vaginal insufflation with chemical powder (Refs. 13 through 16) and with air blown into the vagina during oral-genital sex play (Ref. 17).

In one article reviewed by the Panel, the author noted: "Pregnant women should never douche. Especially dangerous is the use of a syringe. Air may be forced into the uterine blood vessels with consequent fatal air embolism. Embolism with soap or disinfectant solutions may lead to intravascular hemolysis, also with fatal consequences" (Ref. 18). Several of the Panel members reported clinical experiences with the latter type of case in self-induced abortions, as well as the transtubal passage of douche solutions used for the same purpose. The increased vascularity of the uterus in pregnancy, the volume of the uteroplacental blood flow, and the large surface area of the vascular placental site all combine to place the pregnant woman at increased risk for these vascular accidents.

In addition, potential complications include the initiation of bleeding due to the detachment of placental implantation, rupture of the chorioamniotic membrance, introduction of intrauterine infection, and adverse effects of chemicals, either direct or absorbed, on the developing fetus.

The Panel concludes that the real and potential dangers associated with routine douching during pregnancy outweigh any possible benefits. The Panel, therefore, recommends that labeled instructions include an admonition against douching during pregnancy except on the advice and instruction of a physician.

Additionally, the Panel believes that there is a misconception among the public that douching is effective as a means of preventing pregnancy. All available data, however, suggest that douching is ineffective for this use (Ref. 19); and the Panel, therefore, believes that this should be prominently stated in all labeling.

c. *Limitations*—(1) *Frequency.* The Panel examined at length the issue of the frequency of nontherapeutic douching as stated in the labeling instructions given to the consumer. Instructions on all current labels caution against douching more than twice weekly except on the advice of a physician. Review of the scientific literature has failed to reveal data to support this labeling restriction. In fact, several studies report only transient effects, if any, of douching on the vaginal pH, and no adverse effects of daily douching on the vaginal mucosa (Refs. 20, 21, and 22).

There is no proof that the frequency of douching plays a role in adversely modifying the vagina flora, encouraging the development of chemical vaginitis, or producing injury due to resultant excessive dryness in most women. However, it must be noted that these effects have been observed, indicating that adverse effects will vary from one woman to another and from one solution to another. Therefore, the Panel recommends that no restriction be placed on the frequency of using OTC vaginal douches.

(2) *Adverse reactions.* Some individuals may experience adverse reactions to one or more of the ingredients present in a douche. Sensitivity may be signaled by the development of vaginal itching, redness, swelling, or pain in the vagina after douching. The onset of abdominal or vaginal pain while douching may be indicative of improper use of the douche, excessively high temperature of the fluid, or the presence of a serious disorder within the pelvic region.

The consumer should be warned of the potential for these adverse reactions and cautioned to discontinue douching and consult a physician if symptoms persist.

(3) *Minor vaginal irritation.* Although the Panel is unaware of any serious consequences which may result from prolonged douching, it believes that a specific time limitation of 1 week should be placed on the self-treatment of minor vaginal irritation or itching. If significant improvement has not occurred by that time the patient should consult a physician.

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IV. Categorization of Vaginal Drug Products

The following chart is included to assist the reader in quickly identifying each active ingredient claim and the category to which the Panel assigned the ingredient for that claim.

CATEGORIZATION OF ACTIVE INGREDIENTS

Active ingredients	Relief of minor irritation	Alters pH	Astringent	Lower surface tension and mucolytic
Acetic acid		III.		
Alkyl aryl sulfonate				III.
Allantoin	III.			
Aloe vera, stabilized	III.			
Alum			III.	
Benzalkonium chloride	III.			
Benzethonium chloride	III.			
Benzocaine	III.			
Boric acid	III.	III.	III.	III.
Boroglycerin	III.	III.	III.	III.
Calcium and sodium propionate	I.			
Citric acid		III.		
Dioctyl sodium sulfosuccinate				I.
Edetate disodium	III.			
Edetate sodium	III.			
Hexachlorophene	II.			

CATEGORIZATION OF ACTIVE INGREDIENTS—Continued

Active ingredients	Relief of minor irritation	Alters pH	Astringent	Lower surface tension and mucolytic
Lactic acid		III		
Nonoxynol 9	III			I.
Octoxynol 9	III			I.
Oxyquinoline citrate	III			
Oxyquinoline sulfate	III			
Papain				III.
Phenol	II			
Phenolate sodium	II			
Potassium sorbate	I			
Povidone-iodine	I			
Sodium bicarbonate		III		III.
Sodium borate	III	III	III	III.
Sodium carbonate		III		
Sodium lactate		III		
Sodium lauryk sulfate				I.
Sodium perborate	III	III	III	III.
Sodium salicylate	II			
Sodium salicylic acid phenolate	II			
Tarteric acid		III		
Zinc sulfate			III	

A. Category I Conditions

The following are Category I conditions under which vaginal drug products are generally recognized as safe and effective and not misbranded:

1. *Category I active ingredients*—a. *Ingredients for the relief of minor irritations of the vagina.*

Propionate (calcium or sodium salts)
Potassium sorbate
Providone-iodine

(1) *Propionate (calcium or sodium salts).* The Panel concludes that the propionates in concentrations up to 20 percent are safe and effective for OTC use in vaginal drug products which claim to relieve minor irritations of the vagina.

(i) *Safety.* Propionates are used extensively in the baking and dairy industry for mold retardation. Veterinarians use them for treating wound infection, otitis, conjunctivitis, and vaginitis; and they are used topically in humans to control otomycosis and epidermophytosis in a 0.5- to 10-percent concentration range (Ref. 1). The safety of these compounds is well established in the literature. Their acute toxicity is so low that it does not seem necessary or practical to determine the LD_{50} (Ref. 2). One investigator reported that 20 percent solutions caused no harmful effect in rabbit eyes (Ref. 3). A 10-percent solution, with a pH of 7.2, applied to the conjuntiva and nasal mucosa of human subjects caused only slight, temporary stinging; when applied to the intact skin of human subjects, 20 percent solutions, with pH values ranging from 7 to 8.5, produced no appreciable irritation (Ref. 3). The Panel, therefore, concludes that the propionates are safe for OTC use at concentrations up to 20 percent.

(ii) *Effectiveness.* The propionates are fungiostatic and bacteriostatic against a number of gram-positive cocci. Substantial clinical data have been submitted on a product containing the propionates that has been marketed for 30 years as a prescription item. These data show an 80-percent remission of itching and ultimate cure in nonpregnant women with mycotic vaginitls (Ref. 2). Even though these studies are 30 years old, enough data were presented to prove to the Panel that these ingredients would be of benefit to women with minor irritations of the vagina and that they are appropriate for OTC use within the labeling guidelines established below. (See Part IV. paragraph A.2.c.(1) below—Ingredients for the relief of minor irritations of the vagina.) Therefore, the Panel concludes that the propionates are effective ingredients for OTC use in the relief of minor irritations of the vagina. The only formulation reviewed by the Panel was a vaginal gel (Ref. 2).

(iii) *Dosoge and directions.* The Panel recommends that propionates be used in vagina doses of up to 2.3 grams (g) in concentrations of up to 20 percent in a vaginal gel twice daily.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) below—Ingredients for the relief of minor irritations of the vagina.)

(v) *Professional labeling.* The Panel is aware that the propionates are safe and effective for the physician-supervised treatment of *Candida albicans.* Therefore, the following professional labeling claim may be made for its use. "For the treatment of *Candida albicans.*" The Panel emphasizes that this is not an OTC labeling claim and should not appear on any consumer labeling which accompanies a vaginal drug product containing the propionates. Professional labeling for vaginal drug products in general is discussed elsewhere in this document. (See part IV. paragraph A.2.d. below—Professional labeling.)

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(2) *Potassium sorbate.* The panel conculdes that potassium sorbate in a concentration of 1 to 3 percent is safe and effective for OTC use as a vaginal douche for the relief of minor irritations of the vagina.

(i) *Safety.* The sorbates have been safely used as mold inhibitors in food for 20 years (Ref. 1) The Panel reviewed many animal and human toxicity tests using potassium sorbate (Refs. 2 and 3) and determined that the vaginal use of this ingredient does not pose any safety problem. The oral LD_{50} for potassium sorbate in rats has been found to be 7,360 milligrams per kilogram (mg/kg) of body weight.

In addition to the fact that this compound is nontoxic when ingested orally and applied vaginally, the Panel noted that in two studies of 132 and 122 women who used potassium sorbate for yeast vaginitis (*Candida albicans*), no incidence of allergic reaction or mucosal irritation was reported with the use of 1 and 5 percent solutions (Refs. 2 and 3). Burning sensations did result from the use of a 10-percent solution of potassium sorbate. The Panel concludes that potassium sorbate is safe for OTC use.

(ii) *Effectiveness.* The Panel reviewed clinical data which support the use of potassium sorbate in vaginal douches for the treatment of minor vaginal irritations. In one study of 132 women with longstanding yeast infections, the vagina was wiped clean and painted with a 1-percent solution of potassium sorbate in water or a 1-percent douche solution was used. In many of these cases, symptoms of irritation subsided after an initial treatment, and symptoms of irritation were still absent several months afterward. Objectively, cytologic smears (agar cultures) demonstrated diminished yeast growth after treatment with potassium sorbate (Ref. 2).

In a second study of 122 women (61 having yeast vaginitls alone, 51 having a mixture of yeast vaginitis plus *Trichomonas vaginalis,* and 10 having

Trichomonas vaginalis alone), the use of both 1-percent and 3-percent solutions (saturated cotton tampons) of potassium sorbate resulted in the gradual disappearance of symptoms in an average of 10 days for the 1-percent solution and an average of 7 days for the 3-percent solution. Objective signs of yeast infection gradually disappeared in an average of 14 days for the 1-percent solution and average of 7 days for the 3-percent solution. The investigators indicated that the use of a 3-percent solution resulted in fewer recurrences after therapy was discontinued (Ref. 3). The Panel concludes that potassium sorbate is effective for OTC use in the relief of minor irritations of the vagina.

(iii) *Dosage and directions.* The Panel recommends that potassium sorbate be used as a vaginal douche in a concentration of 1 to 3 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) below—Ingredients for the relief or minor irritations of the vagina.) The Panel also recommends Categhory I labeling for vaginal douches. (See part IV. Paragraph A.2.a. below—Package inserts for vaginal douches, and part IV. Paragraph A.2.b. below—Principal display panel.)

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(2) McKinnon, D. A., and E. B. Rodgerson, "A New treatment for Yeast Vaginitis," *Obstetrics and Gynecology,* 42:460–465, 1973.

(3) McKinnon, D. A., and E. B. Rodgerson, "Use of Potassium Sorbate for Treatment of Fungal Infections," *Obstetrics and Gynecology,* 45:108-110, 1975.

(3) *Providone-iodine.* The Panel concludes that providone-iodine in a concentration of 0.15 to 0.3 percent is safe and effective for OTC use as a vaginal douche for the relief of minor irritations of the Vagina.

(i) *Safety.* Acute and chronic toxicity studies of providone-iodine in animals and humans have shown little local or general toxicity and few sensitizations. In experimental animals, dilute solutions cause little or no irritation or sensitivity reaction when applied to open wounds, oral mucosa, vaginal mucosa, and the eye (Refs. 1 through 5). In its review, the Panel found ample evidence from clinical studies in humans attesting to the absence of significant local or general toxicity when providone-iodine, both in undiluted form and as a dilute douche, was used to cleanse and disinfect skin and mucous membranes (Refs. 2 and 6 through 16).

Providone-iodine is absorbed from mucous membranes and causes a transient rise in the serum protein-bound iodine level, athough proof of this is not constant in all studies. This elevation returns to normal in 7 to 30 days, and there is no evidence that this has clinical significance with respect to thyroid function (Refs. 9 through 12 and 16).

Two reports were reviewed which demonstrate that providone-iodine is capable of modifying the deoxyribonucleic acid of both bacterial and human diploid cells in vitro (Refs. 17 and 18). In certain cases, chemical modification of deoxyribonucleic acid has been shown to result in mutagenic alteration which, in turn, has been related to carcinogenic potential in animals (Ref. 19). Criticism of these studies (Refs. 20 and 21) emphasized that the altered environment conditions required for expression of the mutagenic potential in the bacterial system study, and the deoxyribonucleic stand-breakage in cultured human diploid cells treated with povidone-iodine may not be evidence of mutation, but rather a cytotoxic effect.

The Panel also reviewed the results of additional cytogenic toxicity and mutagenic studies (Refs. 20, 21, and 22). These studies included: micronucleus test, chromosome examination using bone marrow cells from Chinese hamsters, dominant lethal test, a mouse lymphoma assay, and a mammalian cell transformation assay. The test results were all negative for the mutational or clastogenic effect of providone-iodine.

In addition, the Panel reviewed a providone-iodine migration and absorption study in three experimental animal species using radioactively tagged providone-iodine (Ref. 20). Although there was evidence of absorption of iodine from the vagina into the systemic circulation, these experiments showed little or no flow of radioactively tagged providone-iodine into the uterus from the vagina. The Panel believes that the weight of the evidence is sufficient to conclude that povidone-iodine does not have a significant mutagenic or carcinogenic effect.

The Panel concludes that providone-iodine is safe when used as an OTC vaginal douche for the relief of minor vaginal irritations.

(ii) *Effectiveness.* Microbiocidal effectiveness of providone-iodine has been clearly demonstrated by in vitro studies against a variety of pathogenic bacteria, fungi, and protozoan organisms. Spermicidal and antiviral activity has also been demonstrated (Refs. 23, 24, and 25). In clinical studies, povidone-iodine has been shown to disinfect skin and mucous membrane, and to be effective as a cleansing douche (Refs. 13 and 26 through 30). The Panel concludes that povidone-iodine is effective when used as an OTC vaginal douche for the relief of minor vaginal irritations.

(iii) *Dosage and directions.* The Panel recommends that providone-iodine be used as a vaginal douche in a concentration of 0.15 to 0.3 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) below—Ingredients for the relief of minor irritations of the vagina.)

(v) *Professional labeling.* The following claims are supported by the submitted evidence and may be used only in professional labeling.

(*a*) The claim of "microbiocidal douche" is well supported by both in vitro and in vivo studies (Refs. 1, 2, 23, 24, 25, and 30).

(*b*) The claim of "clinically effective in vaginal moniliasis, T-vaginales vaginitis, and nonspecific vaginitis" is adequately supported by the data presented. However, because the treatment regimen includes the use of the dilute douche combined with application of the full-strength solutions to the vaginal mucosa, it is recommended that the labeling be changed to include the words "clinically effective in a program of treatment for . . . ."

(*c*) The professional labeling should also detail the therapeutic regimen used in the studies which resulted in clinical effectiveness so that the physician may appropriately advise the patient.

(*d*) While not affecting its safety, the possible effect of providone-iodine on serum protein-bound iodine should be made a part of labeling as a matter of information to the physician. The following wording is recommended: "The use of providone-iodine as a douche may cause a transient rise of serum protein-bound iodine."

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b. *Ingredients which lower surface tension and which produce a mucolytic or proteolytic effect.*

Anionic surface active agents (dioctyl sodium sulfosuccinate or sodium lauryl sulfate)

Nonionic surface active agents (nonoxynol 9 or octoxynol 9)

(1) *Anionic surface active agents (dioctyl sodium sulfosuccinate or sodium lauryl sulfate).* The Panel concludes that the anionic surface active agents dioctyl sodium sulfosuccinate and sodium lauryl sulfate in a concentration of 0.002 and 0.02 percent are safe and effective for OTC use as a vaginal douche to produce a mucolytic effect.

(i) *Safety.* Long-term toxicity studies in which animals (principally rats) were given these ingredients orally and intraperitoneally revealed that the toxic and lethal concentrations are extremely high when compared to the concentrations normally used in vaginal douche products (Refs. 1, 2, and 3). Human safety data show high oral tolerance (Ref. 4). Tests of local application of solutions of 1 percent or greater to mucous membranes have demonstrated irritation (Refs. 5 and 6), but this is a significantly greater concentration than the final concentration (0.00235 percent) generally used in vaginal douche products.

In a 25-percent concentration, sodium lauryl sulfate serves as a tumor "promoter" on mouse skin. However, this activity rapidly diminishes with reduced concentrations, and the ingredient has been shown to have no such activity at a 2-percent or lower concentration (Ref. 7). The Panel concludes that the testing proved that the ingredients are safe at concentrations of 0.2 percent or less.

(ii) *Effectiveness.* The anionic surface active agents are generally recognized as wetting, solubilizing, and mucolytic agents and are widely used as such by the pharmaceutical industry (Ref. 8).

The Panel is aware of an in vitro test which showed that sodium lauryl sulfate was active in lysing trichomonads and bacteria (Ref. 9). (This can be extrapolated to pertain also to dioctyl sodium sulfosuccinate.) This same study gave evidence of the in vivo mucolytic effect of the ingredient in a douche. The Panel, therefore, concludes that these two ingredients are recognized as mucolytic agents.

(iii) *Dosage and directions—(a) For products containing dioctyl sodium sulfosuccinate.* The Panel recommends that dioctyl sodium sulfosuccinate be used as a vaginal douche in a concentration of 0.002 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(b) For products containing sodium lauryl sulfate. The Panel recommends that sodium lauryl sulfate be used as a vaginal douche in a concentration of 0.01 to 0.02 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which lower surface tension and produce a mucolytic effect. (See part IV. paragraph A.2.c.(4) below—Ingredients which lower surface tension and produce a mucolytic effect.) The Panel also recommends Category I labeling for vaginal douche products. (See part IV. paragraph A.2.a. below—Package inserts for vaginal douches, and part IV. paragraph A.2.b. below—Principal display panel.) In addition, the Panel recommends that the following warning be required for these two ingredients when they are in concentrated forms which require mixing: "Avoid prolonged contact with the skin and avoid contact with the eyes."

(v) *Professional labeling.* The Panel concludes that sodium lauryl sulfate and dioctyl sodium sulfosuccinate are safe and effective for the physician-supervised treatment of *Trichomonas vaginalis* (Ref. 9). Therefore, the following professional labeling claim may be made for their use. "For the treatment of *Trichomonas vaginalis*." The Panel emphasizes that this is not an OTC labeling claim and should not appear on any consumer labeling which accompanies a vaginal douche product containing sodium lauryl sulfate or dioctyl sodium sulfosuccinate. Professional labeling for vaginal drug products in general is discussed elsewhere in this document. (See part IV. paragraph A.2.d. below—Professional labeling.)

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(2) *Nonionic surface active agents (nonoxynol 9 or octoxynol 9).* The Panel concludes that the nonionic surface active agents nonoxynol 9 and octoxynol 9 in concentrations of 0.0176 and 0.088 percent, respectively, are safe and effective for OTC use as a vaginal douche to produce a mucolytic effect.

(i) *Safety.* Nonoxynol 9 and octoxynol 9 are widely used in pharmaceutical preparations as nonionic surfactants. They have significant advantages over ionic surfactants with respect to stability and compatibility (Ref. 1). The Panel reviewed numerous animal eye and skin irritation studies which used concentrations of up to 25 percent and which showed slight to moderate irritation (Refs. 2 through 10). However, even at 100 percent concentration, these ingredients rarely sensitize or irritate human skin or mucous membranes. Manifestation of symptoms in animals dosed orally is related to gastrointestinal irritation, i.e., diarrhea and bloating, with little, if any, intestinal absorption or decomposition (Ref. 11).

The safety of these two ingredients was discussed in more detail in that portion of the Panel's review which dealt with OTC vaginal contraceptives, published in the **Federal Register** of December 12, 1980 (45 FR 82028–82030).

(ii) *Effectiveness.* The nonionic surface active agents are generally recognized as wetting, solubilizing, and mucolytic agents, widely used as such by the pharmaceutical industry. Since they act as detergents, the Panel has determinded that these two ingredients are to be considered effective mucolytic agents. The only dosage form containing these ingredients that the Panel reviewed was a vaginal douche (Refs. 8 and 10).

(iii) *Dosage and directions—(a) For products containing nonoxynol 9.* The Panel recommends that nonoxynol 9 be used as a vaginal douche in a concentration of 0.0176 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(b) For products containing octoxynol 9. The Panel recommends that octoxynol 9 be used as a vaginal douche in a concentration of 0.088 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which lower surface tension and produce a mucolytic effect. (See part IV. paragraph A.2.c.(4) below—ingredients which lower surface tension and produce a mucolytic effect.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. below—Package inserts for vaginal douches, and part IV. paragraph A.2.b. below—Principal display panel.)

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2. *Category I labeling.* The following specific labeling requirements are furnished to elaborate on the general labeling guidelines discussed elsewhere in this document. (See part II. paragraph F. above—Labeling.)

a. *Package inserts for vaginal douches.* The Panel has reviewed all of the currently used package inserts which provide the consumer general instructions for douching. The Panel concludes that the required information should be included in a package insert or other appropriate labeling. This information should be presented in language which can be easily read, easily understood, and readily retained by the consumer. At a minimum, this information should incorporate warnings and directions for douching.

Package inserts for use in professional labeling, e.g., in the treatment of vaginitis, should be separately prepared since the instructions for recommended method, frequency, and duration of treatment will differ significantly from those included with products intended solely for OTC use.

(1) *Recommended methods for douching.* The Panel reviewed the methods of douching as submitted by manufacturers of the various products. It observed that the instructions given to the consumer as to the use of these products and the required equipment ranged from none to explicit diagramed instruction sheets.

The Panel recommends that the following directions be included with douche products:

(i) All solutions requiring preparation should be thoroughly mixed according to the manufacturer's directions immediately prior to use. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(ii) Three body positions are presented in the instruction materials given to the consumer: Sitting, standing, and reclining. The reclining position is recommended as the most effective; however, either of the other two positions is usually adequate.

VOL 48 ISS 199 OCT 13 1983 UMI

(iii) Suspend the bag no more than 3 feet above the vagina. After the bag is filled and suspended, release the clamp so that the solution will expel any air out of the tubing before placing the nozzle into the vagina.

(iv) Insert the nozzle into the vagina, then release the clamp to permit the solution to flow gently into the vagina.

(v) Do not press the lips of the vagina around the nozzle. Allow free outflow of the solution.

(vi) All equipment, especially the tubing, should be thoroughly rinsed and allowed to brain before storage.

(vii) To use the bulb syringe, fill the bulb completely with solution, being careful to expel any air. Insert the nozzle gently into the vagina and exert only enough pressure to cause the solution to flow gently into the vagina.

(viii) To use prepackaged disposable units, insert the nozzle gently into the vagina and exert only enough pressure to cause the solution to flow gently into the vagina.

(2) *Warnings*—(i) "Do not use during pregnancy except upon the advice and under the supervison of a physician."

(ii) "Do not press the lips of the vagina around the nozzle. Overfilling the vagina may force fluid into the uterus (womb) and cause inflammation."

(iii) "Douching does not prevent pregnancy."

(iv) "If douching results in pain, soreness, itching, excessive dryness, or irritation, stop douching. If symptoms dersist, consult a physician."

(v) "Keep this and all drugs out of the reach of children."

(vi) When a douche contains an ingredient which is Category I for the treatment of minor vaginal irritation, the following warning must be included: "If minor irritation has not improved after 1 week of use, consult your physician."

b. *Principal display panel.* In addition to the promotional material for a product, the principal display panel of all vaginal douche products should contain certain information which the Panel believes to be important for the correct use of the product by the consumer.

(1) The Panel reviewed the principal display panels of submitted products and has found that vaginal douches are frequently not identified as such. It, therefore, recommends that the term "vaginal douche," "vaginal douche concentrate," "vaginal gel," or "vaginal suppository," appear on the principal display panel.

(2) In view of the commonly held misconception about the effectiveness of vaginal douches for the prevention of pregnancy, the Panel recommends that the principal display panel contain the following wording in a prominent position: "Does Not Prevent Pregnancy." This wording should appear on the label of the immediate outer container and all associated labeling. This statement is necessary in order to inform the consumer at the time of purchase, during conditions of ordinary use, and to correct misconceptions.

(3) The attractiveness and colorful appearance of many products may encourage children to open and consume the contents. Therefore, bottle containers should have a child-resistant cap, and the principal display panel and associated labeling should contain the phrase "Keep this and all drugs out of the reach of children", and display a poison control symbol as dictated by specific ingredients contained in the product.

c. *Indications and warnings.* The Panel recommends the following Category I labeling (indications and warnings) for vaginal drug products (ingredients) to be generally recognized as safe and effective and not misbranded, as well as specific labeling set forth under specific ingredient evaluations.

(1) *Ingredients for the relief of minor irritations of the vagina.*

(i) *Indications*—(*a*) "For relief of minor vaginal irritation and itching."

(*b*) "For temporary relief of minor vaginal irritation and itching."

(*c*) "For relief of minor vaginal soreness."

(ii) *Warnings*—(*a*) "Keep this and all drugs out of the reach of children."

(*b*) "Does Not Prevent Pregnancy."

(*c*) "Do not use during pregnancy except upon the advice and under the supervison of your physician."

(*d*) "If vaginal itching, redness, swelling, or pain develop, stop douching. Consult your physician if these symptoms persist."

(*e*) "If minor irritation has not improved after 1 week of use, consult your physician."

(2) *Ingredients which alter vaginal pH so as to encourage the growth of normal vaginal flora*—(i) *Indications.* "Helps keep vagina in its normal acid state."

(ii) *Warnings*—(*a*) "Keep this and all drugs out of the reach of children."

(*b*) "Does Not Prevent Pregnancy."

(*c*) "Do not use during pregnancy except upon the advice and under the supervison of your physician."

(*d*) "If vaginal itching, redness, swelling, or pain develop, stop douching. Consult your physician if these symptoms persist."

(3) *Ingredients which produce an astringent effect*—(i) *Indications.* "Astringent."

(ii) *Warnings*—(*a*) "Keep this and all drugs out of the reach of children."

(*b*) "Does Not Prevent Pregnancy."

(*c*) "Do not use during pregnancy except upon the advice and under the supervison of your physician."

(*d*) "If vaginal itching, redness, swelling, or pain develop, stop douching. Consult your physician if these symptoms persist."

d. *Professional labeling.* Some of the submissions provided to the Panel contain information indicating that the ingredients are intended for the treatment of specific disease conditions such as trichomoniasis or moniliasis. Separate professional labeling should be supplied to the physician for ingredients which have been proven to be safe and effective in the treatment of specific disease conditions.

Professional labeling should include, as a minimum, the following information:

(1) *Indication for use.* The specific disease states for which the ingredient has been proven to be effective.

(2) *Usual dosage, frequency, and duration of treatment.* The specific treatment regimen which has been shown to be effective in the treatment of the particular disease state.

(3) *Method of douching.* The specific directions for therapeutic douching as detailed in the above treatment regimen. (See part IV. paragraph A.2.a.(1) above—Recommended methods for douching).

(4) *Warnings.* Information to alert the physician to the contraindications and the possible adverse reactions to the use of the ingredient or product. Contraindications should include a history of sensitivity or adverse reaction to any of the ingredients or the product. Potential adverse reactions include the onset of pain, swelling, irritation, bleeding, or aggravation of symptoms.

B. Category II Conditions

The following are Category II conditions under which vaginal drug products are not generally recognized as safe and effective or are misbranded.

1. *Category II active ingredients.*

Hexachlorophene
Phenol (in concentrations greater than 1.5 percent)
Phenolate sodium (in concentrations greater than 1.5 percent phenol)
Sodium salicylic acid phenolate (in concentrations greater than 1.5 percent phenol)
Sodium salicylate

a. *Hexachlorophene.* Although there are insufficient data available concerning the antimicrobial effectiveness of hexachlorophene in vaginal douches, the Panel concludes that concentrations high enough to be effective for the relief of symptoms of minor vaginal irritation (greater than 0.75 percent) would not be safe for OTC use based on the reported toxicity of hexachlorophene. Therefore, the Panel classifies hexachlorophene as a Category II ingredient.

(1) *Safety.* Hexachlorophene has been widely used in the past as an antibacterial agent, particularly in nurseries for the newborn (Ref. 1). The central nervous system toxicity of hexachlorophene is well documented and has been reviewed by Lockhart (Ref. 2). The LD_{50} of hexachlorophene in the dog is 140 mg/kg, 150 to 200 mg/kg in the mouse, and 250 mg/kg in the guinea pig (Ref. 1). In experimental animals and in man, it has been shown that blood levels of approximately 1 microgram per milliliter (ug/mL) result in neuropathology, and higher levels result in fatality (Ref. 2).

Hexachlorophene has been shown to be absorbed through the skin (Ref. 3) and after oral administration (Ref. 2). Therefore, it is reasonable to assume that it can be absorbed through the vaginal mucosa. More recently, there has been evidence which links the use of hexachlorophene (0.5 percent) with fetal damage in nurses who were pregnant at the time they used it as a surgical scrub (Ref. 4 and 5). Based on safety concerns similar to those set forth here, FDA proposed in the **Federal Register** of January 7, 1972 (37 FR 219) to restrict the use of hexachlorophene in OTC drug formulations to "a level no higher than necessary to achieve the intended preservative function and in no event higher than 0.1 percent." In response to comments generated by the proposal, FDA concluded: ". . . based upon current benefit to risk ratio, that hexachlorophene is not necessary as a preservative in any drug and/or cosmetic products, which in normal use may be applied to mucous membranes or which are intended to be used on mucous membranes" (37 FR 23537). This prohibition for OTC use has been codified in 21 CFR 250.250(d). Because all vaginal products are intended to be used on mucous membranes they are covered by this regulation.

(2) *Effectiveness.* The Panel found no evidence to indicate that hexachlorophene in the concentration present in submitted products is effective against vaginal bacteria. In addition, no evidence was submitted to prove that this ingredient is effective in relieving the symptoms of minor irritations of the vagina.

(3) *Evaluation.* The Panel concludes that hexachlorophene should be excluded from all vaginal products based on the compound's potential to produce central nervous system toxicity in the conceptus or fetus. The Panel is unaware of new evidence that would establish the safety of the use of hexachlorophene in vaginal products and, therefore, sees no reason to recommend a change to existing FDA regulations.

References

(1) Gluck, L., "A Perspective on Hexachlorophene," *Pediatrics*, 51:400–406 1973.

(2) Lockhart, J. D., "How Toxic is Hexachlorophene?," *Pediatrics*, 50:229–235, 1972.

(3) Kopelman, A. E., "Cutaneous Absorption of Hexachlorophene in Low-Birth-Weight Infants," *Journal of Pediatrics*, 82:972–975, 1973.

(4) Check, W., "New Study Shows Hexachlorophene is Teratogenic in Humans," *Journal of the American Medical Association*, 240:513–514, 1978.

(5) "Hexachlorophene—Interim Caution Regarding Use in Pregnancy," *FDA Drug Bulletin*, August-September, 1978.

b. *Phenol, phenolate sodium, or sodium salicylic acid phenolate.* On the basis of the available data, the Panel concludes that preparations containing phenol in concentrations greater than 1.5 percent are unsafe for use in OTC vaginal products. In its review, the Panel considered phenol and phenolate sodium to exist in an equilibrium once they are in solution together. The Panel concludes that in this equilibrium, the total available phenol is more accurately represented by the sum of the concentrations of the phenol and phenolate ion, and is not dependent on the original proportions of the two substances.

(1) *Safety.* Phenol is a toxic chemical which is rapidly absorbed through normal skin and even more rapidly through abraded skin. There is little doubt that rapid absorption into the blood stream would occur after application to the vaginal mucosa (Refs. 1, 2, and 3). As little as 1.5 g ingested orally can cause nausea, vomiting, circulatory collapse, central nervous system disturbances, coma, necrosis of the mouth and gastrointestinal tract, and cardiac failure (Ref. 1). Phenol has also been shown to be absorbed and cause toxic reactions when incorporated into ointments at concentrations as low as 2 percent (Ref. 3).

Because of the well-known toxic effects of phenol in humans, the highly absorptive characteristics of the vaginal mucosa, and the large blood supply to the vagina which affords rapid uptake and distribution of absorbed substances, the Panel concludes that phenol is unsafe for vaginal use in concentrations greater than 1.5 percent.

(2) *Effectiveness.* Phenol is a mildly effective topical antibacterial agent, and a concentration of at least 1 percent is needed to exhibit bactericidal activity (Ref. 1). It is widely used as an ingredient in mouthwashes and anesthetic lozenges for the oral cavity and is also found in some rectal preparations. Many papers have been submitted to the Panel on the safety of the lower doses of phenol (1.4 percent) in the human oral cavity and in animal studies (Ref. 3), but the one study available in the literature on the effectiveness of phenol as an ingredient of vaginal products was poorly controlled (Ref. 4). Therefore, the Panel concludes that insufficient data are available to determine the effectiveness of phenol in concentrations greater than 1.5 percent.

(3) *Evaluation.* The Panel concludes that, due to its toxic character, phenol in concentrations greater than 1.5 percent should be removed from all vaginal drug products. This includes any compound, complex, or other formulation, e.g., phenolate, sodium and sodium salicylic acid phenolate which contains or delivers to the pharmacological site of action any phenol in concentrations greater than 1.5 percent.

This ingredient has also been reviewed by the Advisory Review Panel on OTC Topical Antimicrobial Drug Products in the **Federal Register** of September 13, 1974 (39 FR 33103), and the conclusions of that Panel were the same.

References

(1) Harvey, S. C., "Antiseptics and Disinfectants," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, pp. 990–991, 1975.

VOL 48 ISS 199 OCT 13 1983 UMI

(2) Deichmann, W. B., "Local and Systemic Effects Following Skin Contact with Phenol. A Review of the Literature," *Journal of Industrial Hygiene and Toxicology*, 31:148–154, 1949.
(3) OTC Volume 110031.
(4) Smith, C. E., and J. F. J. Clark, "Gynaeptic in the Treatment of Vaginitis," *Journal of the National Medical Association*, 55:317–319, 1963.

c. *Sodium salicylate.* The Panel concludes that sodium salicylate, which is generally recognized as an antipyretic, analgesic, and keratolytic agent (Regs. 1 and 2), is ineffective as an ingredient in vaginal products.

(1) *Safety.* No data were submitted to the Panel, nor is the Panel aware of any data which prove that sodium salicylate is safe when used intravaginally. The Advisory Review Panel on OTC Internal Analgesic and Antirheumatic Drug Products found this ingredient to be safe as an internal analgesic in doses of 325 to 650 mg every 4 hours. The Panel's review was published in the Federal Register of July 8, 1977 (42 Fr 35420). However, its findings can by no means be extrapolated to topical application to the vaginal mucosa.

(2) *Effectiveness.* This substance is included in a product with phenol and sodium hydroxide. The manufacturer calls this complex sodium salicylic acid phenolate, but the Panel doubts the existence of this complex. No data were submitted to the Panel which prove that sodium salicylate has any beneficial effect which would make it appropriate for inclusion in an OTC vaginal drug product.

(3) *Evaluation.* The Panel concludes that there are no data to support the use of sodium salicylate in vaginal drug products and, therefore, recommends that it be removed from all such products.

References

(1) "The Merck Index," 9th Ed., Merck and Co., Inc., Rahway, NJ, p. 1120, 1976.
(2) Woodbury, D. M., and e. fingl, "Analgesic-Antipyretics, Anti-Inflammatory Agents, and Drugs Employed in the Therapy of Gout," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, pp. 326–339, 1975.

2. *Category II combination vaginal drug products.* The following combinations reviewed by the Panel contain at least one Category II ingredient. This factor has led the Panel to conclude that these combinations are unsafe or ineffective for any OTC vaginal use. Therefore, the Panel has placed the following combinations in Category II.

(1) Hexachlorophene, boric acid, zinc sulfate, potassium aluminum sulphate, tartaric acid, camphor, phenol, and octoxynol 9.

(2) Phenol (greater than 1.5 percent), sodium borate, and sodium salicylate.

(3) Sodium salicylic acid phenolate (greater than 1.5 percent phenol), boroglycerin (greater than 1 percent boron), benzocaine.

(4) Sodium salicylic acid phenolate (greater than 1.5 percent phenol), boroglycerin (greater than 1 percent boron), benzocaine, and providone-iodine.

The Panel realizes that its recommendation pertains to the drug use of these combination products and not to the cosmetic use. However, the Panel recommends to FDA that any Category II ingredient which causes a combination product to be placed in Category II by virtue of its lack of safety be removed from the product regardless of whether its intended use is as a drug or as a cosmetic, in order to ensure that the consumer is not exposed to ingredients which this Panel has judged to be unsafe.

3. *Category II Labeling.* The Panel recognizes that labels containing inaccuracies and inconsistencies may mislead the consumer about the anticipated benefits of a product. The Panel concludes that such labeling is unacceptable and classifies such claims as Category II for vaginal drug products. In reviewing the various terms, the Panel rejected them for a number of reasons. While these reasons may not be mutually exclusive, they do serve to define unacceptable labeling practices. Terms were placed in Category II when they were found to promote impressions of unproven effectiveness, to be vaguely stated, or not amenable to proof by scientific methods. While some of these terms may at times be found on labeling for cosmetic products, it is the Panel's conclusion that they are no less false and misleading in cosmetic product labeling than when they are used in labeling for OTC vaginal drug products.

a. *Unproven claims that promote impressions of effectiveness.*

"Effectively cleanses."
"Effectively deodorizes."
"Cleans thoroughly."
"Destroys odor."
"Continued vaginal cleanliness."
"Alters vaginal pH."
"Virtually non-irritating."
"Hospital tested effectiveness."
"Prevents itch."
"Will not sting or irritate."
"Cleanses more thoroughly than other douches."
"Removes contraceptive jellies and creams."

b. *Claims that are vaguely stated.*

"Fortified triple strength."
"Scientifically balanced formula."
"Intimately understood."
"Changes water into a cleansing solution."
"Completely refreshed."
"Naturally safe ingredients."
"Formula like the natural environment in your body."
"pH of 3.5."
"Complete feminine hygiene."
"Routine feminine hygiene."
"Personal hygiene."
"Reduces the number of pathogenic organisms."
"Efective liquid."
"Nonacid."
"Hypoallergenic."
"Intended for all women who want to enjoy extra confidence in meeting people."
"As with all vaginal douches, its function is not to cover up odor."
"Unlike spray deodorants which offer -less protection."
"Feminine hygiene."
"Complete feminine daintiness."
"Clinically tested."
"Intimate cleanliness."
"Dainty and feminine."
"Gentle."
"Safe for delicate membranes."

c. *Claims that are not amenable to proof by scientific methods.*

"Contains only the mildest ingredients."
"Completely compatible with normal vaginal environment."
"Buffered to control a normal vaginal pH."
"Prevents disagreeable odors."

d. *Claims that imply a therapeutic value for a specific disease condition or require professional supervision and, therefore, represent misbranding for OTC use.*

"Antiseptic."
"Antibacterial."
"Vaginal antiseptic."
"Effective germ-killer."
"Therapeutic."
"For medicinal purposes."
"Use as directed by a doctor."
"Important, during menstruation, continue douching as instructed."

e. *Claims that imply unwarranted approval, e.g., the use of the following logos or symbols.*

Red cross logo.
Rx prescription logo.

f. *Instructions that may be potentially hazardous.* Any reference to occlusion of the vaginal opening during douching.

C. Category III Conditions

The following are Category III conditions for which available data are insufficient to permit final classification at this time.

1. *Category III active ingredients—a. Ingredients for the relief of minor irritations of the vagina.*

Allantoin
Aloe vera, stabilized
Benzocaine
Boron compounds (boric acid, boroglycerine, sodium borate, or sodium perborate)
Edetate salts (edetate disodium or edetate sodium)
Nonionic surface active agents (nonoxynol 9 or octoxynol 9)
Oxyquinoline compounds (oxyquinoline citrate or oxyquinoline sulfate)
Phenol (in concentrations less than 1.5 percent)
Quaternary ammonium compounds (benzalkonium chloride or benzethonium chloride)
Vitamin A and ergocalciferol (Vitamin D)

(1) *Allantoin.* The Panel concludes that allantoin is safe in the concentration below, but data are insufficient to prove its effectiveness for the relief of minor vaginal irritations.

(i) *Safety.* Allantoin has had a long history of use in topical preparations without specific reports of toxicity appearing in the literature. In addition, the Panel is aware that this ingredient was thoroughly reviewed by the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn and Sunburn Treatment and Prevention Products and was found to be safe by that Panel in its report published in the Federal Register of August 25, 1978 (43 FR 38256–38257). It was also found to be safe for application to the oral mucosa by the Advisory Review Panel on OTC Dentifrices and Dental Care Agents in its report published in the Federal Register of November 2, 1979 (44 FR 63284–63285). Consequently, the Panel believes that allantoin is safe for vaginal use.

(ii) *Effectiveness.* Allantoin, also known as 5-ureidohydantoin, is an end product of purine metabolism (Ref. 1). Its medicinal properties were discovered during World War I when it was noticed that maggot-infested wounds healed better than uninfested wounds. The maggots were the source for the production of allantoin, the substance to which the healing was attributed (Ref. 2). Since that time, allantoin has been used in topical preparations for the stimulation of tissue repair in pus forming wounds, resistant dermatologic ulcers, acne, seborrhea, and other dermatologic conditions. Allantoin is also included in oral dental preparations and has frequently been combined with antifungals and antiseptics in the treatment of minor skin or mucous membrane irritations.

The only dosage form containing allantoin that the Panel reviewed was a vaginal cream (Refs. 3 and 4). No data were presented which proved that this ingredient is effective in the treatment of minor vaginal irritations.

(iii) *Dosage and directions.* The Panel recommends that allantoin be used in vaginal creams in a concentrations of 0.33 percent.

(iv) *Labeling.* The Panel recommends the Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina.)

(v) *Evaluation.* The Panel recommends that allantoin be subjected to the studies outlined in the testing guidelines for vaginal drug products in order to prove its effectiveness. (See part IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

References

(1) "The Merck Index," 9th Ed., Merck and Co., Inc., Rahway, NJ, p. 35, 1976.
(2) Harvey, S. C., "Topical Drugs," *in* "Remington's Pharmaceutical Sciences," *15th Ed., edited by Osol, A., and J. E. Hoover, Mack Publishing Co., Easton, Pa, p. 729, 1975.*
(3) OTC Volume 110042.
(4) OTC Volume 110043.

(2) *Aloe vera, stabilized.* The Panel concludes that stabilized aloe vera is safe in the concentrations cited below, but that data are insufficient to prove its effectiveness for the relief of minor irritations of the vagina.

Aloe vera is a plant. For medicinal purposes, the leaves are cut and squeezed to produce an exudate. This exudate is not stable and deteriorates within several hours. A manufacturer submitted information on a vaginal cream and douche containing a stabilized form of aloe vera called "Stabilized Aloe Vera Gel" (Refs. 1 and 2).

(i) *Safety.* Aloe vera has been widely used in many areas of the world where the plant grows. The exudate from a freshly cut leaf is applied directly to the area that is to be treated. There are many reports of its use throughout history, even in the Papyrus Ebers 3,500 years ago. Treatment of minor burns, insect bites, and other conditions in which a wet dressing of aloe vera is used has been widely reported and handed down from generation to generation.

In the 1930's, several reports appeared in the scientific literature pertinent to the use of this substance for radium burns and ulcers, and no adverse effects were noted (Refs. 3 through 8). These reports, however, were not controlled studies and are presented only to support the safety of the ingredient.

In more than 100 reports of vaginal application of the stabilized aloe vera that were submitted to the Panel, no adverse side effects were reported (Ref. 1). In addition, the Panel notes that this same type of aloe vera product has been used as an oral solution for several years, and topically as a lotion and gel.

Standard animal testing procedures reviewed by the Panel have adequately demonstrated the safety of this substance in rats, dogs, and rabbits. The oral LD_{50} for rats is 21.5 grams per kilogram (g/kg). The oral LD_{50} for dogs was determined to be greater than 31.5 g/kg, with no deaths reported after 14 days of dosing. Acute dermal application for rabbits resulted in an LD_{50} determination of greater than 10 g/kg. No histopathic alterations were found in these animals, and no deaths or other signs of toxicity resulted from skin absorption of this substance (Ref. 1).

(ii) *Effectiveness.* Data submitted to the Panel indicate that stabilized aloe vera gel may be useful in the treatment of minor irritations of the vagina (Ref. 2).

Adequate in vitro testing shows the substance to be fungicidal and bacteriocidal for microorganisms such as *Candida albicans, Staphylococcus aureus, Streptococcus viridans, Trichomonas vaginalis,* and various tinea-causing microorganisms.

The clinical reports reviewed by the Panel were of an anecdotal nature with no indication of how the diseased states were diagnosed. There were no controls used; and, if culturing was used to identify the microorganisms, it was not reported. No reports of patient follow-ups were given (Ref. 1).

(iii) *Dosage and directions.* The Panel recommends that stabilized aloe vera be used in a cream base in a concentration of 75 percent and as a vaginal douch in a concentration of 90 percent. If applicable, the Panel further recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal; douches, and part IV.

VOL
48
ISS
1
99
OC
13
1983
UMI

paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that stabilized aloe vera be subjected to the studies outlined in the testing guidelines for vaginal drug products in order to prove its effectiveness. (See part IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

References

(1) OTC Volume 110043.
(2) OTC Volume 110042.
(3) Collins, C. E., "Alvagel as a Therapeutic Agent in the Treatment of Roentgen and Radium Burns," *The Radiological Review*, 57:137–138, 1935.
(4) Collins, C. E., and C. Collins, "Roentgen Dermatitis Treated with Fresh Whole Leaf of Aloe Vera," *American Journal of Roentgenology and Radium Therapy*, 33:396–397, 1935.
(5) Wright, C. S., "Aloe Vera in the Treatment of Roentgen Ulcers and Telangiectasis," *Journal of the American Medical Association*, 106:1363–1364, 1936.
(6) Waldron, C. H., and G. L. Jenkins, "Medicinal Agents in the Treatment of Burns," *American Professional Pharmacist*, 367:15–18, 1937.
(7) Rowe, T. D., B. K. Lovell, and L. M. Parks, "Further Observations on the Use of Aloe Vera Leaf in the Treatment of Third Degree X-Ray Reactions," *Journal of the American Pharmaceutical Association (Scientific Edition)*, 30:266–269, 1941.
(8) El Zawahry, M., M. R. Hegazy, and M. Helal, "Use of Aloe in Treating Leg Ulcers and Dermatoses," *Dermatology*, 12:68–73, 1973.

(3) *Benzocaine.* The Panel concludes that benzocaine is safe at the doses cited below, but that data are insufficient to prove its effectiveness for the relief of minor vaginal irritations.

(i) *Safety.* No human safety data on the use of benzocaine in vaginal drug products were presented to the Panel. However, benzocaine has been widely used as a topical anesthetic agent for many years. Topical use of benzocaine has been found to be very safe with only occasional allergic reactions being reported (Ref. 1). On rare occasions, methemoglobinemia has been reported (Ref. 2).

(ii) *Effectiveness.* As a component of rectal suppositories, benzocaine has activity in relieving pain and itching, and the Panel believes that this activity offers rationale for its inclusion in a vaginal drug product. The ingredient is generally recognized as an anesthetic agent in concentrations between 5 and 20 percent (Ref. 3); however, its presence in vaginal drug products is in such a low concentration (The only dosage form which contained benzocaine reviewed by the Panel was a combination vaginal suppository which claimed to have anesthetic properties (Ref. 4).) that the Panel recommends that testing be performed to substantiate its effective use.

(iii) *Dosage and directions.* The Panel recommends that benzocaine be used in vaginal suppositories in a concentration range of 0.2 to 0.65 percent.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina.) The Panel further recommends that the following additional indication and warning be present on all benzocaine-containing vaginal drug products.

(*a*) *Indication.* "Local anesthetic."

(*b*) *Warning.* "Do not use this product if you are allergic to local anesthetics."

(v) *Evaluation.* The Panel recommends that benzocaine be subjected to the studies outlined in the testing guidelines for vaginal drug products in order to prove its effectiveness. (See part IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

References

(1) "The Merck Index," 9th Ed., Merck and Co., Inc., Rahway, NJ, p.495, 1976.
(2) Jacobziner, H., "Briefs on Accidental Chemical Poisonings in New York City," *New York State Journal of Medicine*, 61:2322–2325. 1961.
(3) Adriani, J., et al., "The Comparative Potency and Effectiveness of Topical Anesthetics in Man," *Clinical Pharmacology and Therapeutics*, 5:49–62, 1964.
(4) OTC Volume 110022.

(4) *Boron compounds (boric acid, boroglycerine, sodium borate, and sodium perborate—all at concentrations greater than preservative levels (1 percent boron)).* The Panel concludes that the data submitted on the boron compounds are insufficient to prove that they are effective for any of the following uses for vaginal drug products: relieving minor irritations of the vagina, decreasing pathogenic microorganisms, altering vaginal pH so as to encourage the growth of normal vaginal flora, or producing an astringent, mucolytic, or proteolytic effect. Additionally, there is a question as to the safety of these ingredients when used by the pregnant woman because of possible adverse effects upon the fetus. The Panel, therefore, classifies these ingredients in Category III with respect to both safety and effectiveness.

Boron compounds have been used for many years, following the popularization of the use of boric acid by Lord Lister in England in 1875. Boron and its salts are readily soluble in water, glycerin, and alcohol, and have been widely used as antiseptics in the form of solutions, ointments, and powders in ear, nose, throat, and eye preparations, as irrigant solutions in many body cavities, and as dressings for burns. Because of a mild astringent action, talc with boric acid has been employed as a dusting powder for its drying, anti-inflammatory, and antipruritic effects. Boron compounds have also been widely used in industry as food preservatives, although in recent years their use has sharply declined.

As experience with the toxic aspects of the borates accumulated and as more effective therapeutic agents were developed, borates fell into disfavor except for a few relatively minor uses. This may be due in part to the findings of Novak and Taylor (Ref. 1) which suggest that, in concentrations greater than 2 percent, normal phagocytosis is inhibited by the borates, thus counteracting their antibacterial action. However, boron concentrations between 0.5 and 2 percent were found by these same investigators (Ref. 2) to be bacteriostatic against three types of pyogenic bacteria commonly found in the eye.

(i) *Safety.* Gleason (Ref. 3) has placed boric acid and sodium perborate in toxicity class three to four (moderate to highly toxic), indicating that their probable lethal dose in humans could range from 50 mg to 5 g/kg of body weight. In an adult, the mean lethal dose of boric acid probably exceeds 30 g. Sodium borate and boroglycerine are class three toxins (moderately toxic) with a probable lethal dose in humans ranging from 500 mg 5 g/kg of body weight (Ref. 3).

As the antiseptic use of boric acid became widespread, reports of poisonings resulting from ingestion, application of ointments, and irrigation of closed body cavities began to appear in the literature. The current literature is replete with survey reports of poisonings and toxicity (Refs. 4 through 10). Many of the clinical cases of boric acid poisonings have resulted from accidents or misuse of the pure material, and not from the use of ointments or preparations containing less than 10 percent boric acid. Nevertheless, a review of 113 cases of boric acid poisoning by Goldbloom and Goldbloom (Ref. 8) emphasized that boric acid is readily absorbed from abraded skin surfaces and mucous membranes, and that young infants are particularly sensitive to the toxic effects of boric acid. The highest organ concentration of boron was found in the brain and changes in the central nevous system consisted of edema and congestion of the brain and meninges. The review further indicated that of a group of 80 cases of boric acid poisonings in which adequate descriptions of signs and symptoms were recorded, nervous system symptoms were present in 67 percent. In younger patients, the common findings were those of meningeal irritation with convulsions, delirium, and coma appearing frequently. In adults, headache, marked weakness, and excitement or depression have been reported.

There are reports in the literature, which taken together, at least raise a question as to the potential teratogenicity or embryotoxicity of boron compounds. Ploquin (Ref. 11), reporting the work of Nguyen Phy Lich, indicated that boric acid (at 350 parts per million (ppm) as boron equivalent) in the diet of rats produced stillbirth or death 3 or 4 weeks after birth. Ploquin also related this finding to the earlier work of Caujolle et al. (Ref. 12) and the teratogenic effect observed by Ridgway and Karnofsky (Ref. 13). Landaur (Ref. 14), using the chick embryo technique to evaluate boric acid, found numerous skeletal anomalies unless riboflavin was given. The Panel recognizes that the latter test is of debatable value, relevant to humans, but still believes that such information is significant.

Weir and Fisher (Ref. 6) reported no adverse effects on the reproduction of rats receiving a diet containing either borax or boric acid at 117 and 350 ppm as boron equivalent. Litter size, weights of progency, and appearance were normal compared with those of the controls. However, rats fed borax or boric acid at 1,170 ppm as boron equivalent were found to be sterile. Microscopic examination revealed no viable sperm and atrophied testes in all males at the 1,170 ppm boron level. A similar result was obtained in male dogs treated at the same level. An attempt to obtain litters by mating females that were fed 1,170 ppm boron with males fed only the basal diet was unsuccessful. Examination of the ovaries of these females showed evidence of decreased ovulation. Although Weir and Fisher (Ref. 6) offered no suggestion as to the exact mechanism by which boron exposure resulted in sterility, it appears to be possible that the pituitary secretion of follicle stimulating hormone was inhibited.

In this same context, it is significant that in cases of boric acid poisoning the highest concentrations of boron have been found in the brain (Refs. 5 and 15). In a study by Dousset (Ref. 16) on the penetration of boron into the cerebrospinal fluid of the pregnant rat, an aqueous solution of boric acid was injected intraperitoneally into pregnant and nonpregnant rats in a dosage of 0.2 g of boron per kg of body weight. Boron could not be detected in the cerebrospinal fluid of the nonpregnant rats. It appeared, however, in substantial concentrations (4.7 ug/mL) in the cerebrospinal fluid of pregnant rats beginning on days 7 to 20 of gestation. These levels dropped abruptly after birth. The author concluded that the blood-brain, i.e., hemo-meningeal, barrier to the passage of boron is lowered during pregnancy.

The study by Dousset (Ref. 16) also suggests the possibility that boric acid may be absorbed from the vagina in early pregnancy when a woman does not know that she is pregnant, and that placental transfer of boron from the maternal compartment to the fetal compartment may lead to the localization and even concentration of boron in critical tissues, such as the neural tubes or brain of the developing embryo or fetus. Additionally, previously cited reports have shown that the fetus is particularly susceptible to the toxic action of chemical pollutants in general and that the placenta is not an effective barrier.

Because of its concerns about the safety of boron compounds, the Panel attempted to determine if there was any evidence that boric acid is absorbed to a significant extent from the vagina. In the review by Goldbloom and Goldbloom (Ref. 8), three cases of boric acid intoxication following the application of vaginal packs of boric acid were cited. Swate and Weed (Ref. 17) successfully treated vulvovaginal candidiasis with boric acid. Capsules containing 600 mg of boric acid were inserted in the vaginas of nonpregnat women twice daily for 14 days, and boric acid could not be detected in the serum. However, the Panel points out that a relatively insensitive turmeric paper test was used. Swate and Weed were of the opinion that traumatized vaginal mucosa could possibly absorb appreciable quantities of boric acid.

In studies described in a submission to the Panel (Ref. 18), plasma borate levels were determined in normal women (Group I), women with pre-existing vaginitis (Group II), and normal women who had been regular users of a boric acid douche for at least 5 years (Group III), Measured before and after douching with 0.8 percent acid, the borate levels remained at normal physiological levels in all three groups. The investigators concluded that the borate ion was not absorbed to any measurable extent from the vaginal tract. In the opinion of the Panel, this conclusion would have been on firmer ground if the borate concentration in the urine had also been measured because this is the major route for the excretion of boric acid (Ref. 5).

In laboratory experiments carried out on rabbits the half-time (t ½) for the disappearance of boric acid from the blood was found to be 6.5 to 11 hours (Ref. 19). When the rabbits' kidneys were damaged by sulfonamide treatment, boric acid disappeared much more slowly from the blood, i.e., t ½ = 12.5 to 73 hours. Absorption of boric acid in humans with impaired kidney function thus may lead to high blood levels of boric acid. Farr and Konikowski (Ref. 20) found the renal clearance rate for sodium perborate to be 40 and 39 mL per minute per 1.73 square meters (m^2) surface area in mice and humans, respectively. These rates are much lower than those for the glomerular filtration rate (125 mL per minute) or the urea clearance rate (70 mL per minute) calculated per 1.73 m^2 surface area in humans. The rate of disappearance of borate from blood has not been established.

In studies oh dogs by Pfeiffer et al. (Ref. 5) boric acid ointment was applied to burned areas or to wounds. Large amounts of borate were subsequently excreted in the urine but appreciable amounts also accumulated in the brain, liver, kidneys, and body fat. However, borate levels in the plasma were not reported.

Toxic symptoms of boron poisoning include gastrointestinal upsets, vomiting and diarrhea, gastrointestinal bleeding, central nervous system depression, acute erythematous rashes with exfoliation, systemic shock with vascular collapse, and many other symptoms referable to other body systems. Fatal doses by mouth range from 2 to 3 g for small children up to 30 g for adults. As much as 50 percent of the ingested or absorbed dose is excreted through sweat and the kidneys within 24 hours, although excretion continues for several weeks.

Following its review of the literature, the Panel concluded that boric acid in vaginal preparations might be hazardous to the fetus, breast-fed infant, and possibly to the woman herself. If boric acid preparations are to be used in the vagina, it would be important to determine the rate of vaginal absorption of boric acid particularly during early pregnancy, the rate of uptake and biological half-life of boric acid in critical fetal and maternal tissues, and the extent of excretion of boron in milk.

VOL 48 ISS 199 OCT 13 1983 UMI

Studies on the biochemical mechanisms by which boric acid exerts its toxic action are also needed. The affinity of boric acid for certain tissues and their molecular components may reside in its well-known property for forming complexes with polyhydroxy compounds, particularly those containing a 1:2-cis-diol group, e.g., certain carbohydrates and polyhydroxylated fatty acids, and with glycerol (Ref. 21).

(ii) *Effectiveness.* No data have been presented to the Panel which prove that the boron compounds are effective in treating conditions of the vagina which are amenable to self-diagnosis and self-treatment, i.e., relieving minor irritations of the vagina, decreasing pathogenic microorganisms, altering vaginal pH so as to encourage the growth of normal flora, or producing an astringent, mucolytic, or proteolytic effect. The only dosage forms containing these ingredients reviewed by the Panel were a vaginal powder, a vaginal gel, a vaginal suppository, and a hygienic powder.

(iii) *Dosage and directions.* The Panel is unable to recommend any concentrations greater than preservative levels (1 percent boron) at which boron compounds are safe and effective for use in vaginal drug products. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina. The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel concludes that the presence of the boron compounds in a vaginal preparation which could be used in early pregnancy presents a question of safety for the fetus. However, because the Panel cannot conclude that the ingredients are safe or not, it recommends that the boron compounds be subjected to the safety testing guidelines discussed in the first portion of the Panel's review of OTC vaginal contraceptive drug products, published in the **Federal Register** of December 12, 1980. (See part II. paragraph D.—Drug Evaluation for Safety (45 FR 82020).)

Because of the lack of effectiveness data, the Panel recommends that the boron compounds be subjected to the studies outlined in the testing guidelines for vaginal drug products in order to prove its effectiveness. (See part IV. paragraph F. below—Testing Guidelines for Effectiveness of Vaginal Drug Products.)

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(5) *Edetote salts (edetate disodium or edetate sodium).* The Panel concludes that data are insufficient to prove that the edetate salts edetate disodium or edetate sodium are safe and effective for the relief of minor vaginal irritations.

(i) *Safety.* Until very recently, it was believed that the edetate salts in vaginal drug products took part only in the metabolic process of binding calcium ions on flagellate surfaces. However, more recent studies have noted that the capacity of edetate salts to tie up certain metal ions may cause toxic effects (Regs. 1 and 2). Studies on female rats that were fed ethylenediaminetetraacetic acid (EDTA) during the early period of fertilization suggest that a subsquent loss of zinc ions led to numerous anomalies in the developing fetus (Refs. 1 and 2). These anomalies can be prevented by feeding the mother additional supplies of zinc, which then provide enough zinc so that the edetates become nonfunctional so far as the conceptus is concerned. Prior to 1970, the literature contained no references documenting these adverse effects from the use of the edetate salts.

The fact that supplemental ions can be used as such does not justify the use of the edetate salts in vaginal drug products if appotential hazard exists. The Panel is uncertain as to whether or not the edetate salts pose such a hazard when used in the low concentrations present in vaginal drug products. However, due to the serious nature of the adverse effects of these ingredients, as reported in the literature, the Panel recommends that they be further tested to prove their safety.

(ii) *Effectiveness.* The edetates have been used for many years in food processing, in the treatment of heavy metal poisoning, and as carriers for certain ions in industrial processes. Their use in vaginal douches is primarily in the treatment of flagellate microorganisms (Refs. 3, 4, and 5). Effectiveness depends upon the capacity of the edetates to tie up calcium ions on surface areas of the flagella, thereby interfering with the essential metabolism of the microorganism and eventually leading to the death of the flagellate. The Panel believes that through this activity there is a potential for the edetates to make the OTC claim of relieving minor irritations of the vagina, as well as the professional antibacterial claim of reducing the number of pathogenic microorganisms. The only dosage forms containing these ingredients reviewed by the Panel were a vaginal suppository and a vaginal douche.

(iii) *Dosage and directions.—(a) For products containing edetate disodium.* The Panel recommends that edetate disodium be used as a vaginal suppository at a concentration of 0.01 percent or as a vaginal douche at a concentration of 0.33 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(b) For products containing edetate sodium. The Panel recommends that edetate sodium be used as a vaginal douche at a concentration of 4.4 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part III. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.) In addition, the Panel recommends that the following information be contained in the labeling of products provided to health professionals.

(a) Indication for professional labeling. "For the treatment of *Trichomonas vaginalis.*"

(b) Warning. "Products containing edetate salts should not be used when pregnancy is either contemplated or suspected because of possible interference with organ development of the fetus."

(v) *Evaluation.* The Panel concludes that the presence of edetate disodium or edetate sodium in a vaginal preparation which could be used in early pregnancy presents a question of safety for the fetus. However, because the Panel cannot conclude that these ingredients are safe or not, it recommends that the edetate salts be subjected to the teratology testing descussed in the first portion of the Panel's review of OTC vaginal contraceptives, published in the **Federal Register** of December 12, 1980 (see part II. paragraph D.—Drug Evaluation for Safety (45 FR 82024)).

Data submitted to the Panel support the effectiveness of edetate salts in the treatment of trichomonas infections, which is a condition not amenable to self-diagnosis and self-treatment. The Panel recommends that additional studies be conducted to establish the safety and effectiveness of edetate sodium when used at a final concentration of 4.4 percent.

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(6) *Nonionic surface active agents (nonoxynol 9 or octoxynol 9).* The Panel concludes that the nonionic surface active agents nonoxynol 9 and octoxynol 9 are safe at the doses cited below, but that data are insufficient to prove that these ingredients are effective in relieving minor irritations of the vagina.

(i) *Safety.* The nonionic surface active agents have been found to be safe in the doses used in vaginal douche products. The safety of these ingredients is discussed above (see part IV. paragraph A.1.b.(2) above—Nonionic surface active agents (nonoxynol 9 or octoxynol 9)) and in that portion of the Panel's review which dealt with OTC vaginal contraceptives, published in the **Federal Register** of December 12, 1980 (45 FR 82028–82030).

(ii) *Effectiveness.* During its extensive evaluation of these ingredients, the Panel reviewed clinical data which indicated that a reduction of pathogenic vaginal microorganisms occurred after douching with a vaginal preparation containing nonoxynol 9 (Ref. 1). In vitro studies also reported the inhibition of *Trichomonas vaginalis* with this product and the ingredient alone (Ref. 1). The Panel, however, concludes that these clinical and in vitro data are inadequate to substantiate either the OTC claim of relieving minor irritations of the vagina or the professional antibacterial claim of reducing the number of pathogenic microoganisms. Therefore, the Panel recommends that further testing be conducted to substantiate these claims. (See part IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

(iii) *Dosage and directions.—(a) For products containing nonoxynol 9.* The Panel recommends that nonoxynol 9 be used as a vaginal douche in a concentration of 0.02 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(b) For products containing octoxynol 9. The Panel recommends that octoxynol 9 be used as a vaginal douche in a concentration of 0.088 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina.) The Panel also recommends the Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that the nonionic surface active agents nonoxynol 9 and octoxynol 9 be subjected to the studies outlined in the testing guidelines for vaginal drug products in order to prove their effectiveness. (See part IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

Reference

(1) OTC Volume 110019.

(7) *Oxyquinoline compounds (oxyquinoline citrate or oxyquinoline sulfate).* The Panel concludes that data are insufficient to prove that the oxyquinoline compounds oxyquinoline citrate or oxyquinoline sulfate are safe

VOL
48
ISS
1
99
OC
13
1983
UMI

and effective for the relief of minor irritations of the vagina.

(i) *Safety.* Oxyquinoline compounds were used extensively in the 1930's and 1940's for the treatment of gonorrhea and other infections. The oxyquinoline complexes with metal ions such as zinc and copper in solution, and the complex thus formed is believed to be an active antibacterial agent (Refs. 1, 2, and 3). In the treatment of gonorrhea, the agents were applied to the urethra and vagina in repeated, concentrated doses (Refs. 4, 5, and 6). In these studies there were no reports of adverse reactions.

Over the past few years, there has been increasing concern over the potential carcinogenicity of these substances. In a presentation to the Panel, Dr. Marjorie Horning postulated that, based on their chemical structure, these compounds would probably give positive results in the in vitro Ames and Huberman tests for mutagenicity, which may be predictive of carcinogenicity (Ref. 7). However, to the Panel's knowledge these tests have not been performed.

There have been numerous studies in animals on the carcinogenicity of 8-hydroxyquinoline. Many of these were reviewed and summarized by a working group of the World Health Organization's International Agency for Research on Cancer (Ref. 8). This working group, however, left the question of the carcinogenic potential of these substances unresolved. Some studies indicated significant carcinogenic effect while others did not. These studies included vaginal application in mice and rats but the results were inconclusive.

(ii) *Effectiveness.* The oxyquinolines are historically recognized to be antibacterial agents and, therefore, may be of value in relieving minor vaginal irritations. However, the Panel received no data which would substantiate an antibacterial claim. The only dosage form containing these ingredients reviewed by the Panel was a vaginal douche.

(iii) *Dosage and directions.* The Panel recommends that oxyquinoline citrate or oxyquinoline sulfate be used as a vaginal douche at a concentration of 2 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c. (1) above—Ingredients for the relief of minor irritations of the vagina.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that oxyquinoline citrate or oxyquinoline sulfate be subjected to the carcinogenicity testing presented in the first portion of the Panel's review on OTC vaginal contraceptives in order to prove their safety for use in OTC vaginal products. (See part II. paragraph D.5.—Mutagenicity and carcinogenicity studies, 45 FR 82022.)

The Panel further recommends that oxyquinoline citrate and oxyquinoline sulfate be subjected to the studies outlined in the testing guidelines for OTC vaginal drug products in order to prove their effectiveness. (See part IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

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(8) *Phenol.* The Panel concludes that data are insufficient to prove that phenol in concentrations of 1.5 percent and less is safe and effective for the treatment of minor irritations of the vagina.

(i) *Safety.* The safety of phenol has been extensively reviewed by the Advisory Review Panel on OTC Topical Antimicrobial Drug Products in the Federal Register of September 13, 1974 (39 FR 33133). Although not specifically concluding that phenol in a concentration of 1.5 percent and less is unsafe, that Panel stated that there are inadequate data on the elimination and the toxicity of this ingredient in young animals and thus recommended that further research in young animals be undertaken in order to define the toxicity potential of phenol in human infants.

The Advisory Review Panel on OTC Contraceptives and Other Vaginal Drug Products agrees with the OTC Topical Antimicrobial Drug Products Panel in that it believes that the use of phenol in concentrations of 1.5 percent or less does not present a known health hazard to the consumer. This Panel concludes, however, that since there are no safety data pertinent to the vaginal use of phenol, this ingredient should be further tested to prove its lack of systemic and local toxicity when applied to the vaginal mucosa.

(ii) *Effectiveness.* The Panel believes that phenol, by virtue of its antibacterial activity, could be effective in relieving minor vaginal irritations. Dosage forms containing this ingredient reviewed by the Panel were a vaginal douche, vaginal suppository, and vaginal ointment. However, no data to prove antibacterial effectiveness were submitted to this Panel.

The effectiveness of topically applied phenol was also reviewed by the Advisory Review Panel on OTC Topical Antimicrobial Drug Products (39 FR 33133). That Panel concluded that a demonstration of antibacterial effectiveness at 1.5 percent and less concentration was needed.

(iii) *Dosage and directions.* The Panel recommends that phenol be used at a concentration range of 0.31 to 1.5 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that phenol in concentrations of 1.5 and less be

subjected to the safety testing discussed in the first protion of the Panel's review of OTC vaginal contraceptives (see part II. paragraph D.2.c.(1)—Local toxicity studies, and part II paragraph D.4—Vaginal absorption studies (45 FR 82021 and 45 FR 82022)). The Panel also recommends that phenol in concentrations of 1.5 percent and less be subjected to the studies outlined in the testing guidelines for vaginal drug products in order to prove its effectiveness. (See part IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

(9) *Quaternary ammonium compounds (benzalkonium chloride or benzethonium chloride).* The Panel concludes that data are insufficient to prove that the quaternary ammonium compounds benzalkonium chloride and benzethonium chloride are safe and effective for the relief of minor vaginal irritations.

The quaternary ammonium compounds which are classified as cationic surfactants or detergents, and commonly known as "quaternaries," are organic substituted ammonium compounds, a class of amines. The biochemical and pharmacological properties of the quaternaries under consideration in this document, i.e., benzalkonium chloride and benzethonium chloride, are sufficiently similar to permit joint evaluation prior to their consideration as individual ingredients. When only one ingredient is discussed below, that is because data exist for only that specific ingredient.

The quaternaries consist of an organically (lipophilic)-substituted ammonium group in which the nitrogen atom is in a +5 oxidation state and is associated with a negative ion such as chloride or sulfate. They are wetting agents with detergent, keratolytic, and emulsifying properties. In the past, quaternaties have been considered to be germicidal for many microorganisms in vitro, although some strains of *Pseudomonas* species, *Mycobacterium tuberculosis*, and other gram-negative microorganisms have been considered to be resistant to this action. Gram-positive microorganisms generally are more susceptible to the germicidal action of the quaternaries than gram-negative microorganisms. Reports of antiviral, antifungal, and sporicidal activity are conflicting, probably due to variable conditions of study (Ref. 1).

Quaternaries readily dissolve in water and ionize. The nitrogen-substituted part of the molecule is positively charged and lipophilic; therefore, it imparts high surface activity to the compounds. The surface active ability is associated with the bactericidal activity of the quaternaries. The latter action is variously attributed to the inactivation of cellular enzymes, the denaturing of proteins, and the disruption of the cell membrane.

Anionic and cationic surfactants interfere with each other's germicidal activity and cannot be combined. On the other hand, nonionic surfactants (with the exception of polysorbate 80) can be combined with quaternaries and have been widely used as germicidal detergents. In the dilute solutions generally used, these compounds have been considered to be practically nontoxic and nonirritating to human tissue.

The Panel has noted that initially the quaternaries were received with enthusiam and have, in the past, been considered to be very safe and effective germicides. They have been widely used in clinical practice for wound and skin cleansing and instrument sterilization. However, after consideration of the material summarized below, the Panel has concluded that there is significant doubt concerning both the safety and effectiveness of these compounds (Refs. 1, 2, and 3).

Early estimations of the bactericidal activity of quaternaries were exaggerated. This occurred for various reasons. For example, the carryover of the quaternary comound resulting from its adsorbtion on the surface of the bacteria was enough to produce bacteriostasis in subculture. (Addition of a neutralizing chemical results in removal of the bacteriostatic effect.) Furthermore, the high surface activity of the quaternaries may cause "clumping" of bacteria, thus isolating a significant population of a false estimation of the actual reduction in the bacterial population (Ref. 1).

The quaternaries are inactivated by interaction with a variety of substances such as soaps, anionic surfactants, tissue, protein matter, cellulose, plastic, and cork. In addition, their antibacterial effect may be decreased or eliminated by contact with their container, gauze, or the tissue in the body to which the compound is being applied. Quaternary compounds also form a film on the skin surfaces that may be sterile on its outer surface (antibacterial), but remain contaminated on its inner surface.

Gram-negative microorganisms are relatively resistant to the antibacterial effect of quaternaries and, in fact, bacterial growth may actually be enhanced by the presence of a quaternary substance in the culture medium.

Outbreaks of *Pseudomonas* bacteremia in several hospitals have been shown to be due to the use of contaminated solutions of quaternary ammonium compounds (Refs. 2 through 6). Consequently, warnings and admonitions against the continued use of quaternaries as sterilizing agents have appeared in the editorial pages of several medical journals (Refs. 7, 8, and 9).

Thus, there is a large body of evidence demonstrating the relative ineffectiveness of quaternaries as bactericidal agents and raising significant concern as to their safety. Nevertheless, in the long marketing history of douches and vaginal compounds containing these ingredients, no vaginal or pelvic infections attributable to these compounds have been reported. Because specific investigations of these problems have not been carried out, however, this lack of reported adverse effects cannot be accepted as proof of safety.

Toxicologically, the quaternaries appear to be relatively safe when used in dilute solution and without occlusive dressings. Data from studies of local irritation and sensitization in humans support the conclusion of a low level of toxicity. There are no direct data on human systemic absorption in the data submitted to the Panel, although a warning of skeletal muscle weakness is noted, and caution is urged when quaternaries are used for irrigating body cavities (Ref. 10).

Finally, since the combination of quaternary compound with anionic surfactants and with Tween 80 would result in the inactivation of the quaternary's surface active ability, such combinations would be considered to be ineffective.

(i) *Safety.* In dilute solution or concentrations of 0.13 percent or less, benzalkonium chloride has low local and systemic toxicity and a wide margin of safety. Like other quaternary ammonium compounds, it is inactivated by soaps, protein, plastic, and cellulose. It may produce a film on skin surfaces which is sterile on its superficial surface, but contaminated with bacteria on its inner surface. Contamination of solutions containing benzalkonium chloride has been specifically implicated in outbreaks of bacteremia in hospital populations, as cited above. However, there is no evidence that vaginal drug products containing benzalkonium chloride as an ingredient have been associated with the introduction of pathogenic microorganisms into the vagina or resulted in gram-negative bacteremia.

Benzethonium chloride is generally recognized to be safe in dilute solutions when applied to the skin. In additions to

acute and chronic toxicity studies of this ingredient in animals, the Panel reviewed animal and human safety data for other quarternary ammonium compounds. Based on these reviews, the Panel concludes that benzethonium chloride, as a single ingredient, is safe in the concentrations used intravaginally. However, the Panel also believes that the addition of quaternaries to any vaginal product represents enough of a concern regarding sterility and the possible overgrowth of pathogenic microorganisms to warrant further microbiological testing in order to prove that these products are safe for OTC use.

(ii) *Effectiveness.* The only dosage form containing these ingredients reviewed by the Panel were a vaginal douche, a vaginal suppository, and a vaginal foam. However, the Panel did not receive any data which prove that the quaternaries are effective in the treatment of minor irritations of the vagina.

The bactericidal effectiveness of quaternary ammonium compounds is questioned today, not only when they are used under circumstances which deactivation of the quaternary solution occurs, but also because of laboratory techniques which may lead to mistaken conclusions of effectiveness.

In the past, and in many of the studies in the submitted data, benzalkonium chloride and benzethonium chloride have been considered to be superior bactericidal agents. However, in view of the significant doubts concerning the bactericidal effectiveness of this class of compounds, the Panel concludes that the quaternary ammonium compounds should be considered to be of unproven effectiveness for the OTC claim of relieving minor irritations of the vagina and the potential claim in professional labeling for reducing pathogenic microorganisms.

(iii) *Dosage and directions.*—(*a*) *For products containing benzalkonium chloride.* The Panel recommends that benzalkonium chloride be used in a concentration of 0.1 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(b) For products containing benzethonium chloride. The Panel recommends that benzethonium chloride be used in a concentration range of 0.2 to 0.5 percent. If applicable, the Panel recommends that the manufacture provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina.) The Panel also recommends Category I labeling for vaginal douches (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that the quaternary ammonium compounds benzalkonium chloride and benzethonium chloride be subjected to microbiological testing in order to prove that their use in vaginal products presents no threat of overgrowth of pathogenic microorganisms. (See part IV. paragraph F.1.b. below—Decreasing the number of pathogenic microorganisms). The Panel also recommends that the quaternaries be subjected to the studies outlined in the testing guidelines for vaginal drug products in order to prove its effectiveness. (See part IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

The Panel further recommends that the quaternaries be subjected to safety testing according to the guidelines discussed in the first portion of the Panel's review of OTC vaginal contraceptives. (See part II. paragraph D.—Drug Evaluation for Safety (45 FR 82020).)

References

(1) Sykes, G., "Disinfection and Sterilization," 2d Ed., J. B. Lippincott, Philadelphia, pp. 362–380, 1965.

(2) Malizia, W. F., et al., "Benzalkonium Chloride as a Source of Infection," *The New England Journal of Medicine*, 263:800–802, 1960.

(3) Frank, M. J., and W. Schaffner, "Contaminated Aqueous Benzalkonium Chloride: An Unnecessary Hospital Infection Hazard," *Journal of the American Medical Association*, 236:2418–2419, 1976.

(4) Kaslow, R. A., D. C. Mackel, and G. F. Mallison, "Nosocomial Pseudobactermia: Positive Blood Cultures Due to Contaminated Benzalkonium Antiseptic," *Journal of the American Medical Association*, 236:2407–2409, 1976.

(5) Dixon, R. E., et al., "Aqueous Quaternary Ammonium Antiseptics and Disinfectants: Use and Misuse," *Journal of the American Medical Association*, 236:2415–2417, 1976.

(6) Plotkin, S. A., and R. Austrian, "Bacteremia Caused by Pseudomonas Sp. Following the Use of Materials Stored in Solutions of a Cationic Surface-Active Agent," *American Journal of Medical Science*, 235:621–627, 1958.

(7) Hussey, H. H., "Benzalkonium Chloride: Failures as an Antiseptic," *Journal of the American Medical Association*, 236:2433, 1976.

(8) Fox, R. F., and I. Douglas-Wilson, Eds., "Failure of Detergent to Disinfect," *Lancet*, 2:306, 1958.

(9) Anonymous Editorial, "Bacteria in Antiseptic Solutions," *British Medical Journal*, 2:436, 1958.

(10) "AMA Drug Evaluations—1977," 3d Ed., American Medical Association, Chicago, pp. 890–891, 1977.

(10) *Vitamin A and ergocalciferol (Vitamin D).* The Panel concludes that vitamins A and D are safe in the concentrations cited below, but that data are insufficient to prove their effectiveness for the relief of minor irritations of the vagina.

(i) *Safety.* The Panel is unware of any safety problem associated with the topical use of vitamins A and D. These vitamins have been found to be safe for application to the rectal mucosa by the Advisory Review Panel on OTC Hemorrhoidal Drug Products.

(ii) *Effectiveness.* Vitamins A and D have been historically known as soothing, healing substances when used topically. The Advisory Review Panel on OTC Hemorrhoidal Drug Products, however, has thoroughly reviewed the claim of "wound-healing" and has found no basis for this claim. The only dosage form, containing these ingredients reviewed by the Panel was vaginal cream which claims to relieve minor irritations (Refs. 1 and 2). The Panel concludes that although these ingredients are known to have been used for the treatment of infections, burns, and wounds (Ref. 3), there are no data which substantiate their inclusion as active ingredients in a vaginal drug product.

(iii) *Dosage and directions.*—(*a*) *For products containing vitamin A.* The Panel recommends that vitamin A be used in vaginal creams in a concentration of 0.035 percent.

(*b*) *For products containing ergocalciferol.* The Panel recommends that ergocalciferol be used in vaginal creams in a concentration of 0.07 percent.

(iv) *Labeling.* The Panel recommends the Category I labeling for ingredients used for the relief of minor irritations of the vagina. (See part IV. paragraph A.2.c.(1) above—Ingredients for the relief of minor irritations of the vagina.)

(v) *Evaluation.* The Panel recommends that vitamins A and D be subjected to the studies outlined in the testing guidelines for vaginal drug products in order to prove their effectiveness. (See par' IV. paragraph F.1.a. below—Relieving minor irritations of the vagina.)

References

(1) OTC Volume 110042.

(2) OTC Volume 110043.

(3) Mandel, H. G., "Fat Soluble Vitamins-Vitamin A," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S., and A. Gilman, The MacMillan Co., New York, p. 1577, 1975.

b. *Ingredients which alter vaginal pH so as to encourage the growth of normal vaginal flora.*

Acetic acid
Boron compounds (boric acid, boroglycerine, sodium borate, and sodium perborate—all at concentration greater than preservative levels (1 percent boron))
Citric acid
Lactate (as either lactic acid or sodium lactate)
Sodium bicarbonate
Sodium carbonate
Tartaric acid

(1) *Acetic acid.* Although vinegar was not submitted for review, the Panel has evaluated this ingredient (also known as acetic acid solution) because it has a long history of use as a vaginal douche. Vinegar is approximately 4 to 6 percent acetic acid; the Panel concludes that this concentration is safe when properly diluted in vaginal douches. However, data are insufficient to prove that vinegar is effective in altering the vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora.

(i) *Safety.* When vinegar is used in the usual dose of 1½ teaspoonsful (7.5 mL) per liter (or per quart) of water as vaginal douche, the Panel concludes that it is safe for vaginal use.

(ii) *Effectiveness.* The only dosage form containing vinegar reviewed by the Panel was a vaginal douche. The Panel concludes that data are insufficient to determine the extent to which vaginal pH is altered by vinegar or if such action is of sufficient duration to encourage the growth of normal vaginal flora.

(iii) *Dosage and directions.* The Panel recommends that vinegar be used as a douche in a concentration of 1½ teaspoonsful (7.5 mL) per liter of water. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which alter vaginal pH. (See part IV. paragraph A.2.c.(2) above—Ingredients which alter vaginal pH so as to encourage the growth of normal vaginal flora.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* If vinegar is to be included as an active ingredient in any OTC vaginal drug product which claims to alter vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora, the Panel recommends that it be subjected to the studies outlined in the testing guidelines in order to prove its effectiveness. (See part IV. paragraph F.1.c. below—Altering vaginal pH so as to encourage the growth or normal vaginal flora.) The Panel recognizes the difficulty of regulating the use of household materials such as vinegar for self-prescribed uses such as vaginal douching. The use of a dilute vinegar solution as a cleansing, refreshing, and soothing douche is considered cosmetic and, therefore, not under the purview of this Panel. (See part III. paragraph C.1. above—Drug vs. cosmetic status.)

(2) *Boron compounds (boric acid, boroglycerine, sodium boarate, and sodium perborate—all at concentrations greater than preservative levels (1 percent boron)).* The Panel concludes that data are insufficient to prove that boron compounds are safe and effective for use in altering vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora. The Panel's review of the safety and effectiveness of boron compounds above includes reference to their use to alter vaginal pH (see part IV. paragraph C.1.a.(4) above).

(3) *Citric acid.* The Panel concludes that citric acid is safe in the concentrations generally used in vaginal douches, but that data are insufficient to prove that it is effective in altering vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora.

(i) *Safety.* Long medical use of weak acid douches for vaginal cleansing, and the notable lack of any report of irritation or toxicity, indicate that citric acid is safe for vaginal use. The Panel is aware of one animal toxicity study which determined the LD_{50} of citric acid in rats to be 975 mg/kg (Ref. 1).

(ii) *Effectiveness.* In vaginal douches, citric acid is used as a buffer to assist in maintenance of the slightly acidic pH of the normal vagina (3.0 to 5.5) (Ref. 2). The potential usefulness of this ingredient as a vaginal acidifier is supported by the fact that normal vaginal secretions are acidic (except at the time of ovulation) (Ref. 3). The only dosage form containing this ingredient reviewed by the Panel was a vaginal douche. However, no data have been presented to the Panel which demonstrate to what extent vaginal pH is altered by citric acid or prove that this action is of sufficient duration to result in a beneficial effect on the growth of normal vaginal flora.

(iii) *Dosage and directions.* The Panel recommends that citric acid be used as a douche in a concentration range of 0.1 to 0.5 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which alter vaginal pH. (See part IV. paragraph A.2.c.(2) above—Ingredients which alter vaginal pH so as to encourage the growth of normal vaginal flora.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that citric acid be subjected to the studies outlined in the testing guidelines in order to prove its effectiveness. (See part IV. paragraph F.1.c. below—Altering vaginal pH so as to encourage the growth of normal vaginal flora.)

References

(1) United States Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, "Toxic Substances List," p. 282, 1973.

(2) OTC Volume 110008.

(3) Long, J. H., et al., "The Vaginal Douche: Observations on Some of Its Effects," *Western Journal of Surgery, Obstetrics and Gynecology*, 71:122–127, 1963.

(4) *Lactate (as either lactic acid or sodium lactate).* The Panel concludes that lactic acid alone, and in combination with sodium lactate, is safe in the concentrations generally used as vaginal douches. However, the data are insufficient to prove that these ingredients are effective in altering vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora.

(i) *Safety.* The Panel has reviewed both animal and human toxicity data on lactic acid and its sodium salt. The LD_{50} of lactic acid has been determined to be 3.73 g/kg in rats and 1.81 g/kg in guinea pigs (Ref. 1). It has been given a toxicity rating of three (Ref. 2), meaning that pure lactic acid itself is moderately toxic, the probable oral human lethal dose being from 500 mg/kg to 5 g/kg.

VOL
48
ISS
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Although tests reported are not pertinent to the vaginal use of highly dilute solutions of lactic acid, dilute preparations of this substance do have a corrosive action on the esophagus and stomach (Ref. 2).

The safety of lactic acid as an ingredient in vaginal douches is supported not only by a long history of use without reported adverse effects, but also by general recognition in the medical literature (Refs. 3 through 7).

Sodium lactate is a neutral salt and is nontoxic. A long history of low toxicity in the use of sodium lactate in vaginal douche preparations indicates its safety for human use.

(ii) *Effectiveness.* The potential effectiveness of lactic acid and the lactic acid-sodium lactate combination in altering vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora is supported by the fact that lactic acid is present in the normal vagina and aids in maintaining the normal vaginal pH in an acid state. The only dosage form containing these ingredients reviewed by the Panel was a vaginal douche. The Panel received no data, however, to substantiate the above claim and, therefore, recommends that further testing be conducted.

(iii) *Dosage and directions.* The Panel recommends that lactic acid alone and in combination with sodium lactate be used as a douche in a concentration range of 0.4 to 1.3 percent. If applicable, the Panel further recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which alter vaginal pH. (See part IV. paragraph A.2.c. (2) above—Ingredients which alter vaginal pH so as to encourage the growth of normal vaginal flora.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that lactic acid and the combination of lactic acid and sodium lactate be subjected to the studies outlined in the testing guidelines in order to prove their effectiveness. (See part IV. paragaph F.1.c. below—Altering vaginal pH so as to encourage the growth of normal vaginal flora.)

References

(1) Smyth, H. F., Jr., J. Seaton, and L. Fischer, "The Single Dose Toxicity of Some Glycols and Derivatives," *Journal of Industrial Hygiene and Toxicology*, 23:259–268, 1941.

(2) Gosselin, R. E., et al., "Clinical Toxicology of Commercial Products. Acute Poisoning," 4th Ed., The Williams and Wilkins Co., Baltimore, MD, p. 71, 1976.

(3) "AMA Drug Evaluations—1973," 2d Ed., American Medical Association, Acton, MA, p. 627, 1973.

(4) Brewer, J. I., "Textbook of Gynecology," 3d Ed., The Williams and Wilkins Co., Baltimore, p. 219, 1961.

(5) Curtis, A. H., and J. W. Huffman, "A Textbook of Gynecology," 6th Ed., p. 624, 1950.

(6) Greenhill, J. P., "Office Gynecology," 9th Ed., Year Book Medical Publishers, Chicago, pp. 84 and 181, 1971.

(7) Kistner, R. W., "Gynecology: Principles and Practice," 2d Ed., Year Book Medical Publishers, Chicago, p. 81, 1971.

(5) *Sodium bicarbonate.* The Panel concludes that sodium bicarbonate is safe in the concentrations generally used in vaginal douches, but that data are insufficient to prove that it is effective in altering vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora.

(i) *Safety.* Sodium bicarbonate is a widely used ingredient in many OTC drugs. Its oral use was found to be safe by the Advisory Review Panel on OTC Antacid Drug Products in the Federal Register of June 4, 1974 (39 FR 19875) and by FDA (21 CFR 331). The use of sodium bicarbonate as an ingredient in vaginal douches is recognized in the general literature (Refs. 1 and 2); however, no indication for use or substantiation of safety for vaginal use is specifically mentioned.

(ii) *Effectiveness.* Sodium bicarbonate has been used as an antacid for stomach distress and as an antipruritic paste for bee stings. Alone of mixed with table salt it has also been used in eyewash, nose drops, gargle, otic preparation, and toothpaste. Sodium bicarbonate is available in powder form without restriction and can be found in most kitchens or medicine chests.

The rationale for including sodium bicarbonate in a douche presumably is because it will neutralize the acidity of vaginal secretions. However, observations have indicated that such an action is only temporary (Refs. 3 and 4).

The only dosage form containing this ingredient reviewed by the Panel was a vaginal douche. No data were presented to the Panel which indicate that sodium bicarbonate is effective in altering vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora.

(iii) *Dosage and directions.* The Panel recommends that sodium bicarbonate be used as a douche in a concentration range of 1 and 2 teaspoonsful per liter of water.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which alter vaginal pH. (See part IV. paragraph A.2.c.(2) above—Ingredients which alter vaginal pH so as to encourage the growth of normal vaginal flora.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* If sodium bicarbonate is to be included as an active ingredient in any OTC vaginal drug product which claims to alter vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora, the Panel recommends that it be subjected to the studies outlined in the testing guidelines in order to prove its effectiveness. (See part IV. paragraph F.1.c. below—Altering vaginal pH so as to encourage the growth of normal vaginal flora.) The Panel recognizes the difficulty of regulating the use of household materials such as sodium bicarbonate for self-prescribed uses such as vaginal douching. The use of dilute solutions of this ingredient as a cleansing, refreshing, and soothing douche is considered to be cosmetic and, therefore, not under the purview of this Panel. (See part III. paragraph C.1. above—Drug vs. cosmetic status.)

References

(1) Harvey, S. C., "Gastric Antacids and Digestants," In "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, p. 966, 1975.

(2) Swinyard, E. A., "Gastrointestinal Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., edited by A. Osol et al., Mack Publishing Co., Easton, PA, p. 736, 1975.

(3) Glynn, R., "Daily Douching: Effect on Vaginal Mucosa" *Obstetrics and Gynecology*, 22:640–642, 1963.

(4) Glynn, R., "Vaginal pH and the Effect of Douching," *Obstetrics and Gynecology*, 20:369–372, 1962.

(6) *Sodium carbonate.* The Panel concludes that data are insufficient to prove that sodium carbonate is safe and effective for use in altering vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora.

(i) *Safety.* The Panel is unaware of any data which prove that sodium carbonate is safe for vaginal use. Concentrated sodium carbonate is highly corrosive; its LD_{50} in rats is 4000 mg/kg (Ref. 1). Sodium carbonate is used in some antacid preparations.

(ii) *Effectiveness.* Sodium carbonate is a potent alkalinizing agent. (Ref. 2). The only dosage form containing this ingredient reviewed by the Panel was a vaginal douche. However, the panel is unaware of any data which demonstrate that sodium carbonate is effective in altering the vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora.

(iii) *Dosage and directions.* The Panel recommends that sodium carbonate be used as a douche at a concentration of 1 tablespoonful per liter of water.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which alter vaginal pH. (See part IV. paragraph A.2.c. above—Ingredients which alter vaginal pH so as to encourage the growth of normal vaginal flora.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that sodium carbonate be subjected to the studies outlined in the testing guidelines in order to prove its effectiveness. (See part IV. paragraph F.1.c. below—Altering vaginal pH so as to encourage the growth of normal vaginal flora.)

The Panel also recommends that sodium carbonate be subjected to the studies outlined in the testing guidelines discussed in the first portion of the Panel's review of OTC vaginal contraceptives. (See part II. paragraph D.—Drug Evaluation for Safety (45 FR 82020).)

References

(1) "Registry of Toxic Effects of Chemical Substances," Department of Health, Education, and Welfare, Washington, D.C., p. 1062, 1975.

(2) Swinyard, E. A., "Pharmaceutical Necessities," *in* "Remington's Pharmaceutical Sciences," 15th Ed., edited by A. Osol et al., Mack Publishing Co., Easton, PA, pp. 1265–1266, 1975.

(7) *Tartaric acid.* The Panel concludes that tartaric acid is safe when used in vaginal douches, but that data are insufficient to prove that it is effective in altering vaginal pH for a sufficient length of time to encourage the growth of normal vaginal flora.

(i) *Safety.* Tartaric acid is a fruit acid which is a byproduct of the fermentation process used in the wine industry. It has been used extensively in the soft drink industry, and the sodium salt has been used as a laxative. Strong solutions of tartaric acid are only mildly irritating (Ref. 1), but 30 g ingested orally can cause adverse gastrointestinal symptoms and circulatory disturbances (Ref. 2). The Panel considers tartaric acid to be safe at the low concentrations (0.047 percent) used in vaginal drug products.

(ii) *Effectiveness.* Tartaric acid is a weak acid, and as such is used as a buffer to maintain the acid pH of a douche solution. The only dosage form containing this ingredient reviewed by the Panel was a vaginal douche. However, no data were presented to the Panel which demonstrate the extent to which vaginal pH is altered by tartaric acid or prove that such an action lasts long enough to encourage the growth of normal vaginal flora.

(iii) *Dosage and directions.* The Panel recommends that tartaric acid be used as a douche in a concentration of 0.047 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which alter vaginal pH. (See part IV. paragraph A.2.c.(2) above—Ingredients which alter vaginal pH so as to encourage the growth of normal vaginal flora.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that tartaric acid be subjected to the studies outlined in testing guidelines in order to prove its effectiveness. (See part IV. paragraph F.1.c. below—Altering vaginal pH so as to encourage the growth of normal vaginal flora.)

References

(1) "The Merck Index," 9th Ed., Merck and Company, Inc., Rahway, NJ, p. 1174, 1976.

(2) Arena, J. M., "Toxicology—Symptoms—Treatment," *in* "Poisoning" 2d Ed., C. C. Thomas Publishers, Springfield, IL, p. 496, 1970.

c. *Ingredients which produce an astringent effect.*

Alum compounds (alum ammonium or potassium aluminum sulfate)
Boron compounds (boric acid, boroglycerine, sodium borate, sodium perborate—all at concentration greater than preservative levels (1 percent boron))
Zinc Sulfate

(1) *Alum compounds (alum ammonium or potassium aluminum sulfate).* The Panel concludes that alum compounds are safe in the concentrations present in the products submitted for review (0.037 to 0.06 percent), but that data are insufficient to prove that they are effective as astringents in the vagina at this concentration range. In concentrations known to produce an astringent action (0.5 to 5 percent), these ingredients are of unproven safety.

(i) *Safety.* Alum compounds have had a long history of medical use as douche ingredients and also enjoy widespread use in veterinary medicine as an astringent, antiseptic, and antimycotic (Ref. 1). Alum has a toxicity rating of two, which means that the probable lethal human dosage is from 5 to 15 g/kg of body weight. Large doses ingested orally may burn the mouth and pharynx (Ref. 2).

The Panel believes that alum compounds are safe for use in the vagina in a concentration of 0.037 and 0.06 percent; however, at generally recognized astringent concentrations of 0.5 to 5 percent, there are insufficient data to determine their safety when used in the vagina. Therefore, the Panel recommends that safety testing be done if these higher levels are to be used for producing an astringent effect in the vagina.

(ii) *Effectiveness.* The alum compounds are powerful astringents in acidic solution (pH of 6) and have very low antiseptic properties. The only dosage form containing these ingredients reviewed by the Panel was a vaginal douche. However, there are insufficient data to demonstrate the effectiveness of alum compounds as astringents when used in the vagina at the concentration levels in the vaginal drug products submitted for review. Therefore, the Panel recommends that testing be done on the currently marketed concentrations in order to substantiate the claim of astringency.

(iii) *Dosage and directions.* The Panel recommends that the alum compounds be used as a douche in a concentration range of 0.037 to 0.06 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which produce an astringent effect. (See part IV. paragraph A.2.c.(3) above—Ingredients which produce an astringent effect.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel's recommendation for the testing of alum compounds is in two parts:

(*a*) If the alum compounds are to be used in the dosage concentration range (0.037 to 0.06 percent) currently marketed, the Panel recommends that they be subjected to the studies outlined in the testing guidelines in order to prove their effectiveness. (See part IV. paragraph F.1.d. below—Producing an astringent effect.)

(*b*) If the alum compounds are to be used in the dosage range (0.5 to 5 percent) generally recognized as having an astringent action, the Panel recommends that they be subjected to the studies outlined in the safety testing guidelines discussed in the first portion of the Panel's review of OTC vaginal contraceptives. (See part II. paragraph D.—Drug Evaluation for Safety (45 FR 82020).)

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(1) Rossoff, I.S., "Handbook of Veterinary Drugs," Springer Publishing Co., New York, pp. 10–11, 1974.

(2) Gosselin, R. E. et al., "Clinical Toxicology of Commercial Products. Acute Poisoning," 4th Ed., The Williams and Wilkins Co., Baltimore, MD, P. 89, 1976.

(2) *Boron compounds (boric acid, boroglycerine, sodium borate, and sodium perborate—all at concentrations greater than preservative levels (1 percent boron)).* The Panel concludes that there are insufficient data to prove that boron compounds are safe and effective for use as astringents in the vagina. The Panel's review of the safety and effectiveness of boron compounds above includes reference to their use as an astringent in the vagina. (See part IV. paragraph C.1.a.(4) above.)

(3) *Zinc sulfate.* The Panel concludes that zinc sulfate is safe in the concentration (0.02 percent) present in the products submitted for review, but that data are insufficient to prove that it is effective as an astringent in the vagina at this concentration. In concentrations (0.2 to 1.0 percent) known to produce an astringent action, this ingredient is of unproven safety.

(i) *Safety.* Zinc sulfate is an astringent and weak antiseptic which dissolves in water to form an acidic solution (pH 4.5) (Ref. 1). Because of these properties, it has been used in ophthalmic preparations for many years. Zinc sulfate is also a recognized ingredient of astringent lotions (at 0.2 to 1.0 percent concentrations) used in the treatment of acne, impetigo, and poison ivy (Ref. 1). Veterinarians administer doses of 300 to 2000 mg of zinc sulfate to dogs as an emetic. Doses of 660 mg have been administered orally to humans in order to heal wounds (Ref. 2 and 3).

The Panel concludes that zinc sulfate is safe for use in the vagina in a concentration of 0.02 percent; however, there are insufficient data to determine the safety of this ingredient when used in the vagina in generally recognized astringent concentrations of 0.2 to 1.0 percent (Ref. 1). The Panel recommends that safety testing be done if these higher levels are to be used for producing an astringent effect in the vagina.

(ii) *Effectiveness.* The only dosage form containing zinc sulfate reviewed by the Panel was a vaginal douche. Although zinc sulfate is generally recognized as an astringent (Ref. 4), there are insufficient data to prove its effectiveness as an astringent for use in the vagina in the concentration in the product submitted for review. Therefore, the Panel recommends that testing be done on the currently marketed concentration in order to substantiate the claim of astringency.

(iii) *Dosage and directions.* The Panel recommends that zinc sulfate be used as a vaginal douche in a concentration of 0.02 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for ingredients which produce an astringent effect. (See part IV. paragraph A.2.c.(3) above—Ingredients which produce an astringent effect.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.3.a. above—Package inserts for vaginal douches, and part IV. paragraph A.3.b. above—Principal display panel.)

(v) *Evaluation.* The Panel's recommendation for the testing of zinc sulfate is in two parts:

(*a*) If zinc sulfate is to be used in the 0.02 percent concentration currently marketed, the Panel recommends that it be subjected to the studies outlined in the testing guidelines in order to prove its effectiveness. (See part IV. paragraph F.1.d. below—Producing an astringent effect.)

(*b*) If zinc sulfate is to be used in the 0.2 to 1.0 percent concentration range, the Panel recommends that it be subjected to the studies outlined in the safety testing guidelines reported in the first portion of the Panel's review of OTC vaginal contraceptives. (See part II. paragraph D.—Drug Evaluation for Safety (45 FR 82020).)

References

(1) Harvey, S. C., "Antimicrobial Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., edited by A. Osol et al., Mack Publishing Co., Easton, PA, pp. 1101–1102, 1975.

(2) O'Riain, S., H. J. Copenhagen, and J. S. Calnan, "The Effect of Zinc Sulphate on the Healing of Incised Wounds in Rats," *British Journal of Plastic Surgery*, 21:240–243, 1967.

(3) Husain, S. L., "Oral Zinc Sulphate in Leg Ulcers," *Lancet*, 1:1069–1071, 1969.

(4) OTC Volume 110022.

d. *Ingredients which lower surface tension or which produce a mucolytic or proteolytic effect.*

Alkyl aryl sulfonate
Boron compounds (boric acid, boroglycerine, sodium borate, and sodium perborate—all at concentrations greater than preservative levels (1 percent boron)).
Lactic acid
Papain

(1) *Alkyl aryl sulfonate.* The Panel concludes that alkyl aryl sulfonate is safe at the dosage concentration presently used in vaginal drug products, but that data are insufficient to prove that it is effective as a mucolytic agent under conditions of actual vaginal use.

(i) *Safety.* Alkyl arly sulfonate has been widely used as a dispersing agent in insecticides and dust sprays; it is also used commercially to remove insecticide residues from fruit (Ref. 1). There have been no reports of human toxicity attributed to the use of this ingredient even though there has probably been significant human ingestion. Several long-term animal experiments using alkyl aryl sulfonate (including reproduction studies) have revealed no evidence of toxicity (Refs. 2 and 3).

(ii) *Effectiveness.* Alkyl aryl sulfonate is generally recognized as an anionic surfactant, a wetting agent (Ref. 4). The only dosage form containing this ingredient reviewed by the panel was a vaginal douche. No studies were submitted to establish its effectiveness; therefore, the Panel recommends that this ingredient be subjected to testing in order to prove its effectiveness as a mucolytic ingredient in vaginal douches.

(iii) *Dosage and directions.* The Panel recommends that alkyl aryl sulfonate be used as a douche in a concentration of 0.1 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for mucolytic ingredients. (See part IV. paragraph A.2.c.(4) above—Ingredients which lower surface tension and produce a mucolytic effect.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.) In addition, the Panel recommends that the following warning be included in the labeling of vaginal products containing alkyl aryl sulfonate: "Avoid contact with the eyes."

(v) *Evaluation.* The Panel recommends that alky aryl sulfonate be subjected to the studies outlined in the testing guidelines to prove its effectiveness. (See part IV. paragraph F.1.f. below—Producing mucolytic or proteolytic effects.)

References

(1) Gosselin, R. E. et al., "Clinical Toxicology of Commercial Products. Acute Poisoning," 4th Ed., The Williams and Wilkins Co., Baltimore, MD, p. 177, 1976.

(2) Paynter, O. E., and R. J. Weir, Jr., "Chronic Toxicity of Santomerase Number 3 from Olefin (Dodecyl Benzene Sodium Sulfonate)," *Toxicology and Applied Pharmacology*, 2:641–648, 1960.

(3) Tusing, T. W., O. E. Paynter, and D. L. Opdyke, "The Chronic Toxicity of Sodium Alkylbenzenesulfonate by Food and Water Administration to Rats," *Toxicology and Applied Pharmacology*, 2:464–473, 1960.

(4) Gleason, M. N. et al., "Clinical Toxicology of Commercial Products. Acute Poisoning," 3d Ed., The Williams and Wilkins Co., Baltimore, MD, p. 10, 1969.

(2) *Boron compounds (boric acid, boroglycerine, sodium borate, and sodium perborate—all at concentrations greater than preservative levels (1 percent boron)).* The Panel concludes that data are insufficient to prove that boron compounds are safe and effective for use as a mucolytic or proteolytic agent under conditions of actual vaginal use. The Panel's review of the safety and effectiveness of boron compounds above includes reference to their use as agents to lower surface tension or to produce a mucolytic or proteolytic effect. (See part IV. paragraph C.1.a.(4) above.)

(3) *Lactic acid.* The Panel concludes that lactic acid is safe in the amounts used in vaginal douches, but that data are insufficient to prove that it is effective as a mucolytic agent under conditions of actual vaginal use.

(i) *Safety.* The Panel concludes that lactic acid is safe for use as a mucolytic agent in vaginal drug products when used within the dosage limit set forth below.

The Panel has discussed the safety of lactic acid above. (See part IV. paragraph C.1.b.(4)(i) above—Safety.)

(ii) *Effectiveness.* The only dosage form containing this ingredient reviewed by the Panel was a vaginal douche (Ref. 1). The Panel believes that lactic acid may have mucolytic properties that would substantiate its usefulness in a vaginal douche; however, no data proving such an action have been presented.

(iii) *Dosage and directions.* The Panel recommends that lactic acid be used as a douche in a concentration range of 0.04 to 1.3 percent. If applicable, the Panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The Panel recommends Category I labeling for mucoltic ingredients. (See part IV. paragraph A.2.c.(4) above—Ingredients which lower surface tension and produce a mucolytic effect.) The Panel also recommends Category I labeling for vaginal douches. (See part IV. paragraph A.2.a. above—Package inserts for vaginal douches, and part IV. paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that lactic acid be subjected to the studies outlined in the testing guidelines to prove its effectiveness. (See part IV. paragraph F.1.f. below—Producing mucolytic or proteolytic effects.)

Reference

(1) OTC Volume 110025.

(4) *Papain.* The Panel concludes that papain is safe in the doses generally used in vaginal douches, but that data are insufficient to prove that it is effective as a mucolytic or proteolytic agent under conditions of actual vaginal use.

(i) *Safety.* Papain has been used for many years in dermatologic preparations. The Panel is unaware of any adverse effects or evidence of sensitization resulting from the topical use of papain or of any problems arising from its use on open wounds. No specific animal or human toxicity studies were submitted to the Panel.

(ii) *Effectiveness.* Papain is a proteolytic agent that has been used for many years as a debriding agent in the treatment of wounds (Refs. 1, 2, and 3). Most of the documentation regarding the effectiveness of this ingredient comes from experience in dermatology and surgery, where its use has been widely accepted in the removal of scabs, pus, and decayed tissue. The only vaginal dosage form containing this ingredient reviewed by the Panel was a douche. No data were submitted to the Panel concerning the effectiveness of this enzyme in a vaginal douche.

(iii) *Dosage and directions.* The Panel recommends that papain be used as a douche in a concentration of 0.005 percent. If applicable, the panel recommends that the manufacturer provide the consumer with adequate directions stating how the product should be mixed to attain the proper concentration of the active ingredient.

(iv) *Labeling.* The panel recommends Category I labeling for mucolytic ingredients. (See part IV, paragraph A.2.c.(4) above—Ingredients which lower surface tension and produce a mucolytic effect. The Panel also recommends Category I labeling for vaginal douches. (See part IV, paragraph A.2.a. above—Package inserts for vaginal drug products, and part IV, paragraph A.2.b. above—Principal display panel.)

(v) *Evaluation.* The Panel recommends that papain be subjected to the studies outlined in the testing guidelines in order to prove its effectiveness. (See part IV, paragraph F.1.f. below—Producing mucolytic or proteolytic effects.)

References

(1) Sherry, S., and A. P. Fletcher, "Proteolytic Enzymes: A Therapeutic Evaluation," *Clinical Pharmacology and Therapeutics*, 1:202–226, 1960.

(2) Swinyard, E. A., "Surface-Acting Drugs," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, p. 958, 1975.

(3) "AMA Drug Evaluations—1977," 3d Ed., American Medical Association, Chicago, p. 1201, 1977.

2. *Category III labeling.* The Panel concludes that, while these terms may be amenable to proof by scientific methods, insufficient data were submitted to permit the Panel to reach a final conclusion as to their validity. Any manufacturer who wishes to make these claims must perform the necessary research to substantiate their validity and submit the results to FDA. The panel classifies the following terms in Category III.

a. Mucolytic
b. Proteolytic

D. *Inactive Ingredients—Comments on Safety.*

Even though the OTC drug review is primarily an evaluation of the safety, effectiveness, and labeling of "active" therapeutic ingredients, the Panel decided to comment on the safety of certain "inactive" ingredients which are contained in vaginal drug products. Accordingly, the Panel recommends that particulate materials, such as silica and talc, which ordinarily are regarded as inactive ingredients, be excluded from

VOL 48 ISS 199 OCT 13 1983 UMI

VOL 48 ISS 199 OCT 13 1983 UMI

vaginal products. The Panel makes this recommendation because it believes that particulate material is potentially hazardous, especially if it is not readily biodegradable, and is also dense, abrasive, or irritating to tissues.

1. *Silica (fine).* Silica (fine) is silicon dioxide, an insoluble, dense, hard, and abrasive material (Ref. 1). It is incorporated into certain douche powders for use as a flow promoter in the manufacturing process to facilitate product packaging.

Because silica (fine) does not contribute to the effects of a vaginal douche, the Panel has concluded that it can be considered an inactive ingredient. The Panel, however, is very concerned about the presence of particulate material in a vaginal douche, especially material having and abrasive nature. The introduction of silica (fine) into a soft tissue area such as the vagina is potentially hazardous. The Panel believes that it would be in the best interest of the consumer for manufacturers to remove such an inactive ingredient from any manufacturing process, thereby eliminating it from the final product formulation.

2. *Talc* Although talc is not an ingredient contained in any of the vaginal drug products reviewed by this Panel, a submission was made which suggested that there would be concern about the safety of talc if it were applied intravaginally (Ref. 2). This ingredient has been the subject of intense review by the Advisory Review Panel on OTC Antiperspirant Drug Products (43 FR 46694). In the course of that Panel's review, data were presented to show that there is considerable variation in the purity of various commercial talcs. For example, some contain contaminants of asbestos, a known lung carcinogen (Ref. 3 and 4). Other evidence showed that certain ovarian and cervical tumors were found to contain particles of talc. This suggests that talc itself may be a carcinogen (Ref. 3). Therefore, this Panel concludes that FDA should closely regulate any drugs or devices intended for use in the vagina to insure that only pure, cosmetic talc is used in any of these products.

3. *Camphor.* The Panel concludes that camphor is ineffective as an antibacterial ingredient at the low concentration present in vaginal douches and that at antimicrobial levels it would be unsafe for OTC or any use.

Camphor is an aromatic and soothing agent that has been used for many years in many forms. It is well recognized as a class five toxin (Ref. 5) when ingested (probable lethal human dose is 50 to 500 mg/kg of body weight), but few studies have focused on its effects when absorbed through skin or mucous membranes. Camphor has been used in mothballs, chest rubs for colds, and liniment. It is present in one vaginal douche product in a unit dose of 0.03 mg and at a level of 0.05 percent in the package; but there is very little information on its use or effectiveness in a vaginal douche. Presumably, it is present because of its aromatic and soothing effects.

a. *Safety.* When ingested or absorbed by humans, camphor has been known to cause vertigo, mental confusion, delirium, convulsions, coma, vomiting, respiratory failure, and even death (Ref. 6). A review of the current literature indicates that camphor is highly toxic when swallowed in the form of camphorated oil. In one case reviewed by the Panel, camphorated oil was mistakenly taken in place of castor oil to induce labor (Ref. 6). The patient collapsed almost immediately after ingesting 12 g of camphor and was lavaged 30 minutes later with apparent recovery. No camphor was present in the mother's blood sample 6 hours later; at 36 hours after ingestion the child was delivered. The infant has a pulse of 80 beats per minute, no respiration, poor muscle tone, and cyanotic extremities. Attempts at resuscitation failed to establish breathing and the child was pronounced dead 30 minutes after delivery. At the autopsy, camphor in significant amounts was found in all organs, and there was evidence of diffuse neuronal necrosis throughout the brain. Camphor was also found in the amniotic fluid and the cord blood. The apparent explanation is that camphor is conjugated in the mature liver to a metabolically incactive form and excreted through the urine, presumably protecting the mother but allowing a buildup in the amniotic fluid from which it may be reabsorbed and concentrated in fetal tissue.

b. *Effectiveness.* The Panel concludes that camphor is not effective for treating any vaginal conditions which are amenable to self-diagnosis and self-treatment, e.g., relieving minor irritations of the vagina, decreasing pathogenic microorganisms, altering vaginal pH so as to encourage the growth of normal vaginal flora, or producing an astringent or mucolytic effect. As stated above, it is probably present in vaginal drug products because of its aromatic, sooting action.

Although there are limited data available concerning the antimicrobial effectiveness of camphor in vaginal douches, the Panel believes, on the basis of the reported toxicity of camphor, that doses high enough to be antimicrobial in OTC vaginal douche preparations would not be safe.

c. *Evaluation.* Because nothing is known concerning the capacity of the fetal tissues to handle this very toxic substance, and because it appears to have no effective function in vaginal drug products, the Panel recommends that camphor be removed from all such drug products.

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(1) Merck Index, 9th Ed., Merck and Co., Inc., Rahway, NJ, p. 1099, 1976.

(2) OTC Volume 110001.

(3) Blejer, H. P., and R. Arlon, "Talc: A Possible Occupational and Environmental Carcinogen," *Journal of Occupational Medicine*, 15:92–97, 1973.

(4) Henderson, W. J. et al., "Talc and Carcinoma of the Ovary and Cervix," *Journal of Obstetrics and Gynoecology of the British Commonwealth*, 78:266–272, 1971.

(5) Gleason, M. N. et al., "Clinical Toxicology of Commercial Products. Acute Poisoning." 3d Ed., Williams and Wilkins Co., Baltimore, MD, p. 30, 1969.

(6) Riggs, J. et al., "Camphorated Oil Intoxication in Pregnancy: Report of a Case, *"Obstetrics and Gynecology*, 25:255–258, 1965.

E. Testing Guidelines for Safety of Vaginal Drug Products.

Saftey testing guidelines for all vaginally applied ingredients are discussed in the first portion of the Panel's review of OTC vaginal contraceptives. (See part II. paragraph D.—Drug Evaluation for Safety (45 FR 82020).) The Panel believes that because all of the ingredients under its review are applied to the vagina, the guidelines for safety testing are identical no matter what the ingreidents or the drug's intended pharmacological purpose.

F. Testing Guidelines for Effectiveness of Vaginal Drug Products.

1. *Vaginal douches.* The ultimate test of the effectiveness of a vaginal douche preparation is a clinical trial simulating condition of actual use. Effectiveness testing is required for those ingredients in vaginal douches that make the following drug claims: Relieving minor irritations of the vagina, decreasing the number of pathogenic microorganisms (professional labeling claim only), altering vaginal pH so as to encourage the growth of normal vaginal flora, producing an astringent effect, lowering surface tension, and producing a mucolytic or proteolytic effect. As mentioned earlier in this document, the Panel does not require effectiveness testing for douches which only make cosmetic cliams, e.g., "cleansing," because cosmetic claims are not within the purview of the Panel. The Panel

recommends that the following general testing guidelines be used to substantiate the corresponding claims.

a. *Relieving minor irritations of the vagino.* The Panel recognizes that douche products have been and will continue to be used by consumers to alleviate symptoms of vaginal irritations such as itching and burning. Therefore, in order to claim effectiveness for relief of these symptoms for any ingredient contained in a douche product, it will be necessary to carry out clinical studies to prove the validity of such a claim. Proof of effectiveness will consist of evidence (both subjective and objective) that the product relieves vaginal irritation; such evidence should be statistically significant when compared with appropriate controls. While allowing that such a claim is appropriate for an OTC drug product, the Panel concludes that the labeling should clearly state that if symptoms are not relieved after 1 week of use, professional consultation should be obtained. (See part IV. paragraph A.2. above—Category I labeling.)

b. *Decreasing the number of pathogenic microorganisms (restricted to professional labeling claims).* The Panel recognizes that douching may temporarily reduce the number of bacterial, parasitic, fungal, and viral microorganisms which may be present in the vagina. However, it is the Panel's opinion that women in general are unable to self-diagnose and self-treat vaginal infections and that professional consultation is essential for the proper treatment of these conditions. Therefore, the Panel is recommending that such claims be restricted to professional labeling.

The Panel is aware that certain ingredients under review have been shown to be anti-infective agents and, therefore, are being prescribed by physicians for the treatment of vaginal infections. In the event that such claims are made for these agents in professional labeling, the appropriate testing for safety and effectiveness (as described above under the evaluations of specific ingredients) should be required. In order to make therapeutic claims in professional labeling, a vaginal douche must be evaluated by in vitro and human testing. For example, an antimicrobial effect could be assessed by demonstrated clinical remission of the disease process.

c. *Altering vaginal pH so as to encourage the growth of normal vaginal flora.* The Panel recognizes that numerous claims have been made for the action of douches in lowering the vaginal pH so as to encourage the growth of normal vaginal flora. However, the evidence to date suggests that the pH changes induced by douching are transitory and, therefore, must be considered to be of little clinical significance. Nevertheless, if such a claim is to be made, appropriate testing for safety and effectiveness must be carried out. (See evaluations of specific ingredients above.)

The vaginal pH should be measured before and after douching. Direct measurement with a pH meter can be made by placing a pH glass electrode in the vagina without speculum separation of the vaginal walls (Ref. 1). Electrodes for this special purpose are commercially available. In addition, the pH of the douche solution itself must, of course, be measured.

The extent to which altering vaginal pH encourages the growth of normal flora can be ascertained by using various microbiological analyses (smears and cultures) to identify the exact microorganisms present in the vagina during times of varying pH.

d. *Producing an astringent effect.* Astringents are locally acting drugs that precipitate proteins but have so little penetration that they only affect the surface of cells. Consequently, the permeability of the cell membrane is reduced but the cell itself remains viable (Ref. 2). Astringents cause actual constrictions of the mucous membranes. The end result of astringent action is a reduction in local edema, inflammation, and exudation (Ref. 3). The irritation provoked by astringents shows that they may produce tissue damage; however, the injury is usually brief and easily repaired (Ref. 4).

Because astringent action depends on precipitation of proteins, this effect may be tested directly or by measuring certain biological effects such as diminished flexibility of tissues (Ref. 4). Appropriate histological tests for determining transient and possibly permanent effects of astringent douche ingredients on animal and human vaginal and cervical mucosa need to be performed. (See the first portion of the Panel's review of OTC vaginal contraceptives, part II. paragraph D.—Drug Evaluation for Safety (45 FR 82020).)

e. *Lowering surface tension.* The term "surfactant" is a convenient contraction of the term "surface active agent." The best known and oldest of the surface active agents is soap. The newer synthetic surfactants are most often referred to as detergents or wetting agents. Surfactants cause a lowering in surface tension. Although low surface tension does not guarantee good detergency, most good detergents do show low surface tension values (Ref. 5).

The surface activity of an ingredient may be easily evaluated by determining its surface tension and comparing this value with that of a standard solution of a reference detergent such as sodium oleate or sodium lauryl sulfate. Of the various devices which may be used to determine surface tensions, the most frequently used are the capillary tube, the stalagmometer, and the tensionmeter. For making such determinations, the tensionmeter, using the ring method, is the most widely used in industrial laboratories, with the Du Nouy form of this tensionmeter being favored (Ref. 5). This device measures the force necessary to pull a ring of known diameter, usually made of platinum, away from the surface of a liquid. It uses a torsion wire to measure the force of detachment and is calibrated by using a liquid of known surface tension and adjusting the indicator to show the correct reading at the point of detachment.

f. *Producing mucolytic or proteolytic effects.* One reason for using a douche with mucolytic or proteolytic properties is to remove cervical and vaginal mucus. Mucolytic properties of a douche may be readily ascertained by in vitro tests on bovine cervical mucus or human cervical mucus obtained at various phases of the menstrual cycle. Alterations in the rheological properties of cervical mucus such as viscosity, flow elasticity, spinnbarkeit, thixotropy, and lack of stickiness may serve as an index of mucolytic action. Alterations in the biological properties of cervical mucus following in vitro exposure to a douche, particularly sperm receptivity and penetrability, may also be observed. Procedures for studying the rheological and biological properties of cervical mucus may be found in the original literature (Ref. 6 and 7).

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(1) Masters, W. H., "The Sexual Response Cycle of the Human Female: Vaginal Lubrication," *Annals of the New York Academy of Sciences*, 83:301–317, 1959.

(2) Swinyard, E. A., "Surface-Acting Drugs," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Company, New York, p. 951, 1975.

(3) Osol, A., "Remington's Pharmaceutical Sciences," 15th Ed., Mack Publishing Co., Easton, PA., pp. 716–717, 1975.

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(5) Schwartz, A. M., and J. W. Perry, "Surface Active Agents," Interscience Publishers, Inc., New York, pp 263–271, 1949.

(6) Hafez, E. S. E., "Gamete Transport," *in* "Human Reproductioln," edited by E. S. E.

VOL 48 ISS 199 OCT 13 1983 UMI

Hafez and T. N. Evans, Harper and Row, New York, pp. 85–118, 1973.

(7) Moghissi, K. S., "The Effect of Steroidal Contraceptives on the Reproductive System," *in* "Human Reproduction," edited by E. S. E. Hafez and T. N. Evans, Harper and Row, New York, pp. 558–587, 1973.

2. *Vaginal suppositories.* Vaginal suppositories are used for one or more of the following purposes: (a) Producing soothing and refreshing effects, (b) deodorizing, (c) relieving minor irritations of the vagina, (d) reducing the number of pathogenic microorganisms, (e) altering the pH of the vagina so as to encourage the growth of normal vaginal flora, and (f) producing an astringent effect.

The Panel does not require effectiveness testing for suppositories which only make the cosmetic claims noted in (a) and (b) above because such claims as not within the purview of the Panel. The Panel, however, does require substantiation of claims (c) through (f) and has discussed testing guidelines for these types of claims earlier in this document. (See part IV. paragraph F.1. above—Vaginal douches.) These guidelines may be applied to vaginal suppositories as well as to vaginal douches.

G. Vaginal Douche Equipment.

1. *Geneal discussion.* The procedures for the review of OTC drugs published in the **Federal Register** of May 11, 1972, provide for the Panel's review of "any conditions relating to active ingredients, labeling indications, warnings and adequate directions for use, prescription or OTC status, and any other conditions necessary and appropriate for the safety and effectiveness of drugs covered by the monograph" (37 FR 9479). Because the effectivess and safety of douching depend on the ingredients, the method, and the equipment used, the Panel also evaluated douche equipment. The FDA Advisory Review Panel on Obstetrical and Gynecological Devices has not yet reviewed the equipment used for douching and has stated that it is most appropriate for this Panel to make its recommendations concerning this equipment at this time.

The Panel has serious concerns about any device which uses a nozzle with a single unshielded central opening. Direct application of such a nozzle into a patulous (expanded) cervix could allow the introduction of douche fluid or air into the uterus, fallopian tubes, and abdominal cavity. Introduction of douche fluid in this manner could subsequently result in chemical peritonitis and introduction of air could result in an air embolus. Accordingly, in the absence of more definitive data and because of the potential for producing problems, the Panel recommends that only nozzles with multiple openings be permitted. However, if a nozzle with a single opening is to be used, it must be shielded to deflect the douche-liquid stream. Furthermore, in order to minimize the danger of direct injury to the vaginal mucosa, the Panel believes that only blunt-ended nozzles should be permitted.

Some of the bulb-type syringes available to consumers are equipped with an occulsive shield that is designed to prevent the outflow of the douche liquid from the vagina. The Panel questions the safety of vaginal occlusion during douching because it believes that this practice potentially hazardous. Therefore, it recommends that occlusive shields not be allowed on douche devices.

2. *Evaluation of equipment currently available—a. Douche bag.* The currently available douche bags are of 1- and 2-quart volume. They are supplied with tubing and a clamp with a shutoff valve. Intravaginal pressure is exerted by gravity flow.

The douche bag apparatus contains a vaginal pipe or nozzle to be used for douching and, frequently, a rectal pipe or nozzle to be used for administering rectal enemas. The rectal pipe is shorter in length than the vaginal pipe and should not be used for douching because it has a single nonoccluded opening at the tip. For this reason, the Panel recommends that both nozzles be labeled as to their intended use ("For Rectal Enema" or "For Vaginal Douche") in order to avoid confusion and prevent possible adverse effects.

The Panel's specific recommendations regarding labeling for the safe use of douche bag equipment are presented earlier in this document. (See part IV. paragraph A.2.a.(1) above—Recommended methods for douching.)

b. *Bulb syringe.* The currently marketed bulb syringes have a volume range of 8 to 16 ounces. The vaginal pipe is attached directly to the bulb, and pressure is exerted by hand. The Panel's specific recommendations regarding labeling for the safe use of the bulb syringe are presented earlier in this document. (See part IV. paragraph A.2.a.(1) above—Recommended methods for douching.)

c. *Prepackaged disposable units.* The currently marketed prepackaged disposable units have a volume range of 3 to 9 ounces. The vaginal pipe is attached directly to the disposable container, and pressure is exerted by hand. The Panel's specific recommendations regarding labeling for the safe use of prepackaged disposable units are presented earlier in this document. (See part IV. paragraph A.2.a.(1) above—Recommended methods for douching.)

3. *Intravaginal pressure.* During its review of submitted material and subsequent literature search, the Panel became concerned about the lack of precise data concerning the intravaginal pressures which are produced during douching. There appeared to be no reliable information available regarding the amount of pressure which can be generated by the various disposable and reusable douche products currently on the market. The Panel was unable to determine whether or not douching might be hazardous for women, as has been suggested, and also whether one type of douching apparatus might be more dangerous than another. The Panel was also interested in knowing whether or not the method of douching (occluded vs. unoccluded) and the position during douching (erect or supine) made any significant difference in the intravaginal and intracervical pressures which could be generated by the various types of douching apparatus.

The Panel urged that industry undertake a study which might help in answering certain of the questions posed above. Such a study was subsequently conducted by a contract research consultant firm (Ref. 1). There were two major variables in the study design: The douching equipment itself and the women who used it. A douche bag (gravity flow), a bulb syringe (manual pressure), and five different disposable products (manual pressure) containing between 3 and 14 ounces of fluid were used. Eighteen women were evaluated, ranging in age from 21 to 44 years and having 0 to 3 children. The mean age of the total group was 30.3 years, the mean age of those with children was 35.6 years, and those without children 23.7 years. Seven of the women douched regularly and 11 did not. Each of the women used each of the douching techniques as assigned randomly on each day of testing.

The stated objective of the study was "to compare the intravaginal pressure produced by a douche bag used in a standard manner to that produced by the bulb syringe and by disposable douche products during both occlusive and nonocclusive douching." Prior to douching, a sterile tube was placed, always by the same gynecologist, along the posterior wall of the vagina with the open end opposite the cervical opening. All subjects douched in the sitting position, and the instructions provided with the products and apparatus were followed in all instances. Pressures were measured using a transducer, and permanent records were made with a strip-chart recorder.

Following completion of the study, a number of generalization could be made regarding pressure induced by douching: (a) Vaginal pressures were lower in women who had borne children. The differences in peak pressure values ranged from 1.8 millimeters (mm) of mercury to 6.5 mm of mercury with nonocclusive douching and from 3.5 mm of mercury to 11.7 mm of mercury with occlusive douching. This variation was believed to be due either to increased age or to greater vaginal elasticity following childbirth. (b) Higher pressures were observed in those who did not douche than in those who regularly douched. The reasons for this were unclear. The differences in mean peak pressures varied from 0.4 mm of mercury to 4.8 mm of mercury. (c) Peak intravaginal pressures were essentially the same for the douche bag and disposal products, using both occlusive and nonocclusive techniques. During nonocclusive douching with the douche bag, the mean pressure was 15.0 mm of mercury; and, disposable douches ranged from 6.7 mm of mercury to 20.1 mm of mercury with a mean peak of 14.2 mm of mercury. The median peak pressures were essentially the same. During occlusive douching, these values ranged 12.6 mm of mercury to 21.3 mm of mercury. (d) The total time taken and the pressures generated by douching varied directly with the volume of the solution employed. Douching time was 5.2 minutes with the douche bag and 1.5 minutes with the 3-ounce disposable product. Peak pressure with high volume douches (8 ounces or less) averaged 10.7 mm of mercury. (e) Occlusive techniques appeared to produce higher pressures than nonocclusive ones; but, with one single and minor exception, the variations were quite small, averaging 4.0 mm of mercury.

These data were of great help to the Panel as it formulated its guidelines for labeling. However, two issues are still unresolved: First, a quantification of the pressures which are generated by douching in the reclining position; and second, a determination of the amount of pressure which is transmitted into the endocervical canal and possibly the uterine cavity and fallopian tubes. In the latter issue, while such information would be of interest and importance, the Panel recognized the difficult technical and ethical considerations which would be involved in carrying out a study designed to answer this question.

4. *Volume of douche fluid.* The Panel recognizes that vaginal douching has been performed with volumes of fluid ranging from approximately 250 to 2,000 mL, with the usual amount being about 1,000 mL. The recent advent of disposable douches, which deliver a volume of 90 to 180 mL of solution, has raised the question of the effectiveness of these smaller volumes of fluid in carrying out the intended functions of a vaginal douche.

In a review of the literature, the Panel was able to find only one unpublished study on the comparative effectiveness of high and low volume douches in removing cellular material from the vagina. The results of this study were open to various interpretations. In the absence of further scientific information relative to douche volume, the Panel has decided that, for cosmetic uses, volume of the douche is not a consideration. However, if there are any therapeutic claims made for the douche, the manufacturer must prove that the volume of the douche product is adequate to achieve the claimed effect.

5. *Labeling of douche equipment.* The Panel recommends that instructions for douching and accompanying warnings be included with all douche equipment. (See part III. paragraph A.3. above—Category I labeling.)

Reference

(1) OTC Volume 110038.

List of Subjects in 21 CFR Part 351

Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), the agency advises in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations would be amended by adding in Part 351, new Subpart B, to read as follows:

PART 351—VAGINAL CONTRACEPTIVE AND OTHER VAGINAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

* * * * *

Subpart B—Vaginal Drug Products

Sec.

351.101 Scope.
351.103 Definitions.
351.110 Active ingredients for the relief of minor irritations of the vagina.
351.111 Active ingredients which lower surface tension and which produce a mucolytic or proteolytic effect.
351.112 Active ingredients which alter vaginal pH. [Reserved].
351.113 Active ingredients which produce an astringent effect. [Reserved].
351.120 Permitted combinations of active ingredients. [Reserved].
351.150 Labeling definitions applicable to vaginal drug products.
351.152 Principal display panel.
351.154 Label.
351.156 Labeling.
351.158 Label of vaginal drug products containing active ingredients which lower surface tension and which produce mucolytic or proteolytic effect.
351.162 Label of vaginal drug products containing active ingredients which alter vaginal pH.
351.164 Label of vaginal drug products containing active ingredients which produce an astringent effect.
351.180 Professional labeling.

Subpart B—Vaginal Drug Products

Authority: Sec. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

§ 351.101 Scope.

(a) An over-the-counter vaginal drug product in a form suitable for vaginal administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 351.103 Definitions.

As used in this subpart:

(a) *Vaginal douche.* A vaginal douche is a liquid preparation used to irrigate the vagina over an indeterminant period for one or more of the following purposes: cleansing, producing soothing and refreshing effects, deodorizing, relieving minor irritations, reducing the number of pathogenic microorganisms, altering the pH so as to encourage the growth of normal vaginal flora, producing an astringent effect, lowering surface tension, producing a mucolytic effect, or producing a proteolytic effect.

(b) *Vaginal suppository.* A vaginal suppository is a small globular mass, designed for easy introduction into the vagina. It is usually made of two major components—a vehicle and one or more chemical agents. It is solid at room temperature and either liquifies at body temperature or dissolves in vaginal fluids. Vaginal suppositories are

designed to be used for one or more of the following purposes: producing soothing and refreshing effects, deodorizing, relieving minor irritation, reducing the number of pathogenic microorganisms, altering the pH so as to encourage the growth of normal vaginal flora, or producing an astringent effect.

§ 351.110 Active ingredients for the relief of minor irritations of the vagina.

The active ingredients of the product consist of any of the following when used within the concentrations and dosage forms established for each ingredient.

(a) Propionates:

(1) Calcium propionate, 20 percent gel.

(2) Sodium propionate, 20 percent gel.

(b) Potassium sorbate, 1 to 3 percent douche.

(c) Povidone-iodine, .15 to .30 percent douche.

§ 351.111 Active ingredients which lower surface tension and which produce a mucolytic or proteolytic effect.

The active ingredients of the product consist of any of the following when used within the concentrations and dosage forms established for each ingredient.

(a) Dioctyl sodium sulfosuccinate, .002 percent douche.

(b) Nonoxynol 9, .0176 percent douche.

(c) Octoxynol 9, .088 percent douche.

(d) Sodium lauryl sulfate, .01 to .02 percent douche.

§ 351.112 Active ingredients which alter vaginal pH. [Reserved]

§ 351.113 Active ingredients which produce an astringent effect. [Reserved]

§ 351.120 Permitted combinations of active ingredients. [Reserved]

§ 351.150 Labeling definitions applicable to vaginal drug products.

(a) The following definitions draw distinctions between various parts of the labeling:

(1) According to the definition in section 201(m) of the Federal Food, Drug, and Costmetic Act (21 U.S.C. 321(m)) (the act), the term "labeling" means all labels and other written, printed, or graphic matter (e.g., package inserts) on or accompanying any article or any of its containers or wrappers.

(2) According to the definition in section 201(k) of the act, the term "label" specifically means that part of the labeling which appears on the immediate container of any article.

(3) According to the definition in § 201.60, the term "principal display panel" means that part of the label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

(b) The distinctions in paragraph (a) of this section are pointed out because certain information is to be contained in specific locations within the labeling of vaginal drug products. Accordingly, the labeling of the product contains all the information required by §§ 351.152, 351.154, 351.156, and all applicable information required by §§ 351.158, 351.160, 351.162, and 351.164. The label of the product contains all the information required by §§ 351.152, 351.154, and all applicable information required by §§ 351.158, 351.160, 351.162, and 351.164. And the principal display panel of the product contains all the information required by § 351.152, and all applicable information required by §§ 351.158, 351.160, 351.162, and 351.164.

§ 351.152 Principal display panel.

(a) *Statetment of identity.* The principal display panel of the product identifies the product as a "vaginal douche," "vaginal douche concentrate," "vaginal gel," or "vaginal suppository," as appropriate.

(b) *Other information.* The principal display panel of the product contains the following additional information:

(1) "DOES NOT PREVENT PREGNANCY."

(2) "Keep this and all drugs out of the reach of children."

§ 351.154 Label.

(a) *Warnings.* The label of the product contains the following warning under the heading "Warnings." "Do not use during pregnancy except upon the advice and under the supervision of your physician."

(b) *Other required information.* The label of the product contains the following additional information: *For products identified as a vaginal douche or vaginal douche concentrate.* Adequate directions stating how the product should be mixed to obtain the proper concentration of active ingredient.

§ 351.156 Labeling.

(a) *Methods for douching.* The package insert or other labeling of a product which is identified as a vaginal douche or vaginal douche concentrate contains the following information, as applicable, under the heading "Methods for douching."

(1) Adequate directions stating how product should be mixed to attain the proper concentration of active ingredient and a statement indicating that such a product should be mixed immediately prior to use.

(2) Appropriate instructions relevant to the use of a douche in a sitting, standing, and reclining position.

(3) A statement indicating that a douche bag should not be suspended more than 3 feet (91 centimeters) above the vagina.

(4) A statement explaining that after a douche bag is filled and suspended, the clamp should be released prior to placing the nozzle into the vagina so that the solution will expel any air from the tubing.

(5) A statement pointing out that the lips of the vagina should not be pressed around the nozzle, and free outflow of the solution should be permitted.

(6) A statement noting that all douche equipment, especially the tubing, should be thoroughly rinsed and allowed to drain prior to storage.

(7) Instructions for the use of a bulk syringe which state that the bulb should be completely filled with solution (with the user being careful to expel any air) and only enough pressure should be exerted to cause the solution to flow gently into the vagina.

(8) Instructions for the use of a prepackaged disposable unit which state that the nozzle should be inserted gently into the vagina and only enough pressure should be exerted to cause the solution to flow gently into the vagina.

(b) *Warnings.* The package insert or other labeling of a product which is identified as a vaginal douche or vaginal douche concentrate contains the following information under the heading "Warnings":

(1) "Do not press the lips of the vagina around the nozzle. Overfilling the vagina may force fluid into the uterus (womb) and cause inflammation."

(2) "Douching does not prevent pregnancy."

(3) "If douching results in pain, soreness, itching, excessive dryness, or irritation, stop douching. If symptoms persist, consult a physician."

§ 351.158 Label of vaginal drug products containing active ingredients for the relief of minor irritations of the vagina.

(a) *Statement of identity.* The principal display panel contains the established name of the drug, if any, and identifies the product as a "Vaginal drug product—For minor irritations."

(b) *Indications.* The label of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases:

(1) "For relief of minor vaginal irritation and itching."

(2) "For temporary relief of minor vaginal irritation and itching."

(3 "For relief of minor vaginal soreness."

(c) *Warnings.* The label of the product contains the following warning under the heading "Warnings":

(1) "If minor irritation has not improved after 1 week of use, consult your physician."

(2) *For products identified as a vaginal douche or vaginal douche concentrate:* "If symptoms continue or redness, swelling, or pain develop, stop douching. Consult your physician if these symptoms persist."

(d) *Directions.* The label of the product contains the following information under the heading "Directions", followed by "except under the advice and supervision of a physician."

(1) *For products containing calcium propionate or sodium propionate identified in § 351.110(a) (1) and (2).* "Apply to the vagina twice a day not to exceed 2.3 grams daily."

(2) *For products containing potassium sorbate identified in § 351.110(b).* "Use as a douche as needed."

(3) *For products containing providone-iodine identified in § 351.110(c).* "Use as a douche as needed."

§ 351.160 Label of vaginal drug products containing active ingredients which lower surface tension and which produce a mucolytic or proteolytic effect.

(a) *Statement of identity.* The principal display panel contains the established name of the drug, if any, and identifies the product as a "Vaginal drug product—For removing secretions."

(b) *Indications.* The label of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases:

(1) "Removes vaginal discharge."

(2) "Removes vaginal secretions."

(3) "Mild detergent action."

(4) "Thins out vaginal mucus discharge."

(c) *Warnings.* The label of the product contains the following warnings under the heading "Warnings".

(1) *For products identified as a vaginal douche or vaginal douche concentrate.* "If vaginal itching, redness, swelling, or pain develop, stop douching. Consult your physician if these symptoms persist."

(2) *For products identified as a vainol douche concentrate and containing dioctyl sodium sulfosuccinate identified in § 351.111(a) or sodium louryl sulfote identified in § 351.111(d).* "Avoid prolonged contact with the skin and avoid contact with the eyes."

(d) *Directions.* The label of the product contains the following information under the heading "Directions," followed by "except under the advice and supervision of a physician."

(1) *For products containing dioctyl sodium sulfosuccinate identified in § 351.111(a).* "Use as a douche as needed."

(2) *For products containing nonoxynol 9 identified in § 351.111(b).* "Use as a douche as needed."

(3) *For products containing octoxynol 9 identified in § 351.111(c).* "Use as a douche as needed."

(4) *For products containing sodium lauryl sulfate identified in § 351.111(d).* "Use as a douche as needed."

§ 351.162 Label of vaginal drug products containing active ingredients which alter vaginal pH.

(a) *Statement of identity.* The principal display panel contains the established name of the drug, if any, and identifies the product as a "Vaginal drug product—For modifying vaginal pH."

(b) *Indications.* The label of the product contains a statement of the indications under the heading "Indications" that is limited to the following phrase. "Helps keep vagina in its normal acid state."

(c) *Warnings.* The label of the product contains the following warning under the heading "Warnings": *For products identified as a vaginal douche or vaginal douche concentrate.* "If vaginal itching, redness, swelling, or pain develop, stop douching. Consult your physician if these symptoms persist."

(d) *Directions.* [Reserved]

§ 351.164 Label of vaginal drug products containing active ingredients which produce an astringent effect.

(a) *Statement of identity.* The principal display panel of the product contains the established name of the drug, if any, and identifies the product as a "vaginal drug product-Astringent."

(b) *Indications.* The label of the product contains a statement of the indications under the heading "Indications" that is limited to the following phrase: "Astringent."

(c) *Warnings.* The label of the product contains the following warning under the heading "Warnings": *For products identified as a vaginal douche or vaginal douche concentrate.* "If vaginal itching, redness, swelling, or pain develop, stop douching. Consult your physician if these symptoms persist."

(d) *Directions.* [Reserved]

§ 351.180 Professional labeling.

The labeling of the product provided to health professionals (but not to the general public) may contain the following additional indications:

(a) *For products containing calcium propionate or sodium propionate identified in § 351.110(a) (1) and (2).* "For the treatment of *Candida albicans.*"

(b) *For products containing providone-iodine identified in § 351.110(c).*

(1) "Microbiocidal douche."

(2) "Clinically effective in a program of treatment for vaginal moniliasis, T-vaginales vaginitis, and nonspecific vaginitis."

(3) "The use of providone-iodine as a douche may cause a transient rise of serum protein-bound iodine."

(4) The professional labeling should detail the therapeutic regimen used in the studies which resulted in clinical effectiveness.

(c) *For products containing dioctyl sodium sulfosuccinate identified in § 351.111(a) of sodium lauryl sulfate identified in § 351.111(d).* "For the treatment of *Trichomonas vaginalis.*"

Interested persons may, on or before January 11, 1984, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. These copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments replying to comments may also be submitted on or before March 19, 1984. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

Dated: September 21, 1983.

[FR Doc. 83–27586 Filed 10–7–83; 8:45 am]

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VOL
48
ISS
1
9
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Reader Aids

Federal Register
Vol. 48, No. 199
Thursday, October 13, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7
46005–46258.....11
46259–46486.....12
46487–46730.....13

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559

Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259

5 CFR

Ch. XIV.....45373
213.....46261
752.....45525
1255.....45373

7 CFR

2.....46261
51.....46487
301.....46262
752.....45526
906.....45374
908.....45526, 46488
910.....45374, 45755
919.....45374
929.....45374
981.....45374
991.....45374
1435.....45374
1901.....45532

Proposed Rules:
226.....45779
402.....46062
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
1065.....45117
1131.....46343

8 CFR

103.....45093
214.....45093
238.....45093
248.....45093

9 CFR

Proposed Rules:
92.....46355
317.....45118
319.....45118
350.....45755
362.....45755
381.....45118

10 CFR

2.....46489
50.....46489
55.....45223
71.....45381
761.....45746
710.....46499

Proposed Rules:
50.....45787

12 CFR

7.....46502
29.....45532
204.....46005, 46262
207.....45533
217.....45756, 46262
220.....45533
221.....45533
224.....45533
561.....45382
563.....45382
760.....46006

13 CFR

101.....45224
123.....45225
133.....46006

14 CFR

39.....45093, 45535, 46008, 46009, 46503
71.....45094, 45095, 45536, 45537, 46010, 46503
95.....46504
97.....45096
205.....46264
248.....46265
294.....46265
320.....45236
380.....46265
389.....45758

Proposed Rules:
Ch. I.....46358
21.....45214, 45565
25.....46216, 46250
29.....46250
39.....46070
61.....45214
65.....45214
71.....45118, 45566
107.....45214
109.....45214
121.....45214, 46218, 46250
135.....45214
145.....45214

16 CFR

453.....45537

Proposed Rules:
1212.....45405

1500.....45567
1513.....45567

17 CFR

145.....46010
146.....46010
147.....46010
229.....46012
230.....46012
231.....46012
239.....45386, 46012
240.....46012
241.....46012
270.....46012
274.....46012

Proposed Rules:

240.....45119

18 CFR

2.....46012
35.....46012
157.....46021
271.....45097, 46266–46268
274.....45097
282.....45758
385.....45388

Proposed Rules:

101.....46361
104.....46361
141.....46361
154.....46361
159.....46361
201.....46361
204.....46361
260.....46361
271.....46071
282.....45787
410.....45568

19 CFR

4.....46510
10.....46510
101.....45538
103.....45538
210.....45544

Proposed Rules:

101.....45409

20 CFR

404.....46142

Proposed Rules:

422.....46072

21 CFR

81.....45237, 45760, 46022
109.....45544
131.....45545
179.....46022
193.....45547
430.....46270
436.....46270
442.....46270
522.....46023
540.....45760
558.....45102, 46023, 46024, 46514, 46515
1308.....46516

Proposed Rules:

182.....45121
184.....45121
351.....46694

23 CFR

Proposed Rules:

658.....46545

24 CFR

570.....45760
888.....45547

Proposed Rules:

24.....46072

25 CFR

71.....45103

Proposed Rules:

140.....45789

26 CFR

1.....45761, 46272, 46296
4.....46272
31.....46296
35a.....45362

27 CFR

4.....45549
5.....45549, 46518
7.....45549
9.....45238, 45239, 46518–46524
170.....46526
240.....46526

Proposed Rules:

9.....46387

29 CFR

1601.....46298

Proposed Rules:

1908.....45411
1910.....45956
1926.....45872

30 CFR

251.....46025
913.....46528
917.....46299
935.....46027, 46301, 46530
938.....45389
946.....46028

Proposed Rules:

55.....45336
56.....45336
57.....45336
58.....45336
935.....45420

32 CFR

251.....45242

Proposed Rules:

199.....45791

33 CFR

100.....45244, 46531
117.....45245, 46532
130.....46178
131.....46178
132.....46178
151.....45704
155.....45704
157.....45718
165.....46533, 46534

Proposed Rules:

162.....45798

34 CFR

668.....45670
690.....45670

Proposed Rules:

350.....45568
351.....45568
352.....45568
353.....45568
354.....45568
355.....45568
357.....45568

36 CFR

60.....46306

Proposed Rules:

218.....45421

37 CFR

Proposed Rules:

1.....45424
2.....45424

38 CFR

Proposed Rules:

21.....45123, 45268, 45572

39 CFR

111.....45761, 46031

Proposed Rules:

111.....45269
3001.....46545

40 CFR

52.....45245, 45246, 46046, 46047, 46309
60.....46535, 46536
61.....46535
81.....46537
87.....46481
180.....46310
192.....45926
433.....45105
469.....45249
717.....45765

Proposed Rules:

51.....45269, 46152
52.....46081, 46391–46393, 46548
60.....45701, 46224, 46472
81.....46082, 46085, 46393, 46549–46553
141.....45502
162.....46397
180.....45573, 46395, 46396
228.....45798
261.....45210
464.....45573
465.....45573
1502.....46554
1508.....46554

41 CFR

Ch 1.....45392, 45557
Ch. 101.....45105
9–4.....45766
9–51.....45766
101–11.....46310
105–61.....45392

Proposed Rules:

101–41.....46554

42 CFR

51c.....45558
52b.....45558
55a.....45558
56.....45558
57.....45112
110.....45250
122.....45558
405.....45766

43 CFR

Subtitle A.....45664

Public Land Orders:

44 (Revoked by PLO 6478).....45401
98 (Revoked by PLO 6478).....45401
399 (Revoked in part by PLO 6477).....45395
698 (Revoked by PLO 6473).....45393
780 (Revoked by PLO 6478).....45401
3645 (Revoked by PLO 6472).....45393
5170 (Revoked in part by PLO 6477).....45395
5179 (Revoked in part by PLO 6477).....45395
5180 (Revoked in part by PLO 6477).....45395
5184 (Revoked in part by PLO 6477).....45395
6472.....45393
6473.....45393
6474.....45394
6475.....45394
6476.....45395
6477.....45395
6478.....45401
6479.....45559
6480.....46049
6481.....46049
6482.....46050

44 CFR

67.....46050, 46312

Proposed Rules:

67.....45425, 46085

45 CFR

13.....45251

46 CFR

160.....45113
162.....45727
380.....45559
542.....46175
543.....46175
544.....46175

Proposed Rules:

Ch. IV.....45269
7.....45574
10.....46556
24.....45425
25.....45425
26.....45425
30.....45425
31.....45425
32.....45425
35.....45425
70.....45425
71.....45425
75.....45425
77.....45425
78.....45425
90.....45425
91.....45425
94.....45425

96.....45425
97.....45425
107.....45425
108.....45425
109.....45425
157.....46558
163.....45425
188.....45425
189.....45425
192.....45425
195.....45425
196.....45425
508.....45800
524.....45270
531.....45270
536.....45270
538.....45272

47 CFR

0.....45652
1.....45652
2.....45560
73.....45401–45403
81.....45114, 45560
83.....45114, 45560
87.....45114
97.....45652

Proposed Rules:

67.....46556
73.....45428–45438
83.....45439

48 CFR

Ch. I.....46541

49 CFR

571.....46053
1033.....45257
1043.....45775
1162.....46542
1307.....46542

Proposed Rules:

Ch. X.....46399
27.....46399
195.....46589
218.....45272
1039.....45137
1155.....45440

50 CFR

17.....46053, 46328–46337
23.....45259, 45775
611.....45403, 46542
646.....45404
654.....46057
655.....45403, 45404
656.....45403
657.....45403
658.....46057
661.....45263
672.....46542
681.....46342

Proposed Rules:

17.....45574, 46086, 46590
23.....45575
611.....45804, 45806
663.....45274

LIST OF PUBLIC LAWS

Last Listing October 11, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.J. Res. 137 / Pub. L. 98–114 Authorizing and requesting the President to issue a proclamation designating the period from October 2, 1983, through October 8, 1983, as "National Schoolbus Safety Week of 1983". (Oct. 7, 1983; 97 Stat. 256) Price: $1.50

VOL 48 ISS 199 OCT 13 1983 UMI

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VOL
48
ISS
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9
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OC
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1983
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48
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Pages 46731-46962

federal register

Friday
October 14, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency
Biologics
Food and Drug Administration
Commodity Futures
Commodity Futures Trading Commission
Communications Common Carriers
Federal Communications Commission
Customs Duties and Inspection
Customs Service
Flood Insurance
Federal Emergency Management Agency
Food Additives
Food and Drug Administration
Food Assistance Programs
Food and Nutrition Service
Government Property Management
General Services Administration
Hazardous Waste
Environmental Protection Agency
Highways and Roads
Federal Highway Administration
Marine Safety
Coast Guard

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Milk Marketing Orders
Agricultural Marketing Service

Motor Vehicle Safety
National Highway Traffic Safety Administration

National Parks
National Park Service

Navigation (Water)
Coast Guard

Plant Diseases and Pests
Animal and Plant Health Inspection Service

Reporting and Recordkeeping Requirements
Securities and Exchange Commission

Securities
Securities and Exchange Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Waste Treatment and Disposal
Environmental Protection Agency

Water Pollution Control
Environmental Protection Agency

VOL 48 ISS 200 OCT 14 1983 UMI

Contents

Federal Register
Vol. 48, No. 200
Friday, October 14, 1983

Actuaries, Joint Board for Enrollment
NOTICES
Meetings:
46868 Actuarial Examinations Advisory Committee

Administrative Conference of United States
PROPOSED RULES
Recommendations:
46795 Freedom of Information Act; use for discovery purposes in litigation

Agricultural Marketing Service
RULES
46961 Lemons grown in Ariz. and Calif.
PROPOSED RULES
Milk marketing orders:
46797 Lake Mead; extension of time

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Forest Service; Soil Conservation Service.

Animal and Plant Health Inspection Service
RULES
Plant quarantine, foreign:
46732 Wheat diseases; interim

Army Department
NOTICES
Meetings:
46835 Science Board (3 documents)

Arts and Humanities, National Foundation
NOTICES
Meetings:
46902 Music Advisory Panel

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
46832 Procurement list, 1983; additions and deletions (2 documents)

Centers for Disease Control
NOTICES
Meetings:
46855 New control methods for amines development, personal monitoring methods development (NIOSH)

Civil Aeronautics Board
NOTICES
Hearings, etc.:
46828 Aerolineas de Baja
46828 Crescent Helicopters, Inc.
46828 Midway (Southwest) Airway Co.; postponement
46828 Regent Air Corp.; postponement
46829 Silver Kris Services Ltd.

Coast Guard
RULES
Safety zones:
46779 James River, Newport News, Va.
PROPOSED RULES
Navigation safety regulations:
46819 International standards; conforming amendments

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
46829 Agency information collection activities under OMB review
Organization, functions, and authority delegations:
46831 International Trade Administration

Commodity Futures Trading Commission
PROPOSED RULES
Domestic exchange-traded commodity options:
46797 Pilot program expansion for options on domestic agricultural commodities
NOTICES
Contract market proposals:
46833 Chicago Board of Trade; Government National Mortgage Association certificate delivery

Community Planning and Development, Office of Assistant Secretary
RULES
Community development block grants:
46778 Program administration; correction

Consumer Product Safety Commission
NOTICES
46914 Meetings; Sunshine Act (2 documents)

Customs Service
RULES
46740 Drawback; specialized and general provisions
PROPOSED RULES
Customs bonds:
46805 Sureties elimination; advance notice
46812 Merchandise, imported; transportation in bond
Vessels in foreign and domestic trades:
46808 Entry and clearance of vessels; advance notice
46810 Outward cargo declarations

Defense Department
See also Army Department.
NOTICES
Conflict of interests:
46835 Post-employment restriction waivers

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
46837 U.S. Aluminum Corp.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
46836 Container Corp. of America

Employment and Training Administration
NOTICES
Adjustment assistance:
46870 Atlas Bolt & Screw Co. et al.
46869 National Power Products, Inc., et al.
46869 Tree Machine Tool Co., Inc.; correction
Job Training Partnership Act:
46871 Performance standards; annual status report; calculation procedures issuance

Employment Standards Administration
NOTICES
Meetings:
46869 Sheltered Workshops Advisory Committee
46918 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Conn., Del., Fla., Mass., Mont., Pa., R.I., S.C., Utah, Va., and Wis.)

Energy Department
See Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Energy Information Administration
NOTICES
Forms; availability, etc.:
46837 Reseller/retailer's monthly petroleum product sales report (EIA-782B)
Meetings:
46844 National Petroleum Council

Environmental Protection Agency
RULES
Air quality planning purposes; designation of areas:
46782 Kansas
Waste management, solid; State plans:
46787 Puerto Rico and Virgin Islands
Water pollution; effluent guidelines for point source categories:
46942 Iron and steel manufacturing; final and interim
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
46823 Maine and Massachusetts
Hazardous waste programs; interim authorizations; State programs:
46824 Delaware
Water pollution; effluent guidelines for point source categories:
46944 Iron and steel manufacturing
NOTICES
Environmental statements; availability, etc.:
46850 Agency statements; weekly receipts
Toxic and hazardous substances control:
46851 Premanufacture notices receipts
46850 Premanufacture notification requirements; test marketing exemption approvals

Equal Employment Opportunity Commission
NOTICES
46914 Meetings; Sunshine Act

Federal Communications Commission
RULES
Common carrier services:
46791 Competitive carrier services rates and facilities authorizations

Federal Deposit Insurance Corporation
NOTICES
46914, 46915 Meetings; Sunshine Act (2 documents)

Federal Emergency Management Agency
RULES
Flood insurance program:
46789 Coverage, rates, sale, and adjustment of claims; assistance to private sector property insurers

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
46844 Cities Service Co. et al.
46845 Great Lakes Gas Transmission Co.
46845 Inter-City Minnesota Pipelines Ltd., Inc.
46845 K N Energy, Inc.
46846 Kentucky West Virginia Gas Co.
46846 Southern Natural Gas Co.
Natural gas companies:
46847 Small producer certificates, applications
Natural Gas Policy Act:
46928–46937 Jurisdictional agency determinations (3 documents)

Federal Highway Administration
RULES
Engineering and traffic operations:
46775 Uniform Traffic Control Devices Manual; amendments

Federal Home Loan Bank Board
NOTICES
46915 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
46915 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
46853 Chemical New York Corp.
46854 F.N.B. Corp.
46854 Norstar Bancorp, Inc.

Fish and Wildlife Service
NOTICES
46863 Agency information collection activities under OMB review
46862 Endangered and threatened species permit applications
Pipeline rights-of-way applications:
46861 Aransas National Wildlife Refuge, Tex.
Public entry and use:
46862 Back Bay National Wildlife Refuge, Va.

Food and Drug Administration
RULES
Food additives:
46773 Adjuvants, production aids, and sanitizers; colorants for polymers
46774 Adjuvants, production aids, and sanitizers; 2,2'-(2,5-thiophenediyl)bis(5-tert-butylbenzoxazole)
PROPOSED RULES
Biological products:
46815 Hepatitis requirements; shipment of blood product

NOTICES
Meetings:
46855 Acute toxicology studies workshop

Food and Nutrition Service
RULES
Child nutrition programs:
46731 Commodity supplemental food program; administrative funding formula

Forest Service
NOTICES
Land and resource management plans; roadless areas review, etc.:
46826 Klamath National Forest, Calif.
46826 Plumas National Forest, Calif.
Meetings:
46826 Los Padres National Forest Grazing Advisory Board
46827 Stanislaus National Forest Grazing Advisory Board

General Services Administration
RULES
Property management:
46788 Transportation documentation; accountabilty for tickets or coupons

Health and Human Services Department
See also Centers for Disease Control; Food and Drug Administration.
NOTICES
46854 Agency information collection activities under OMB review

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
46849 Cases filed
46847 Decisions and orders

Housing and Urban Development Department
See also Community Planning and Development, Offie of Assistant Secretary.
PROPOSED RULES
46817 Debarment, suspension and limited participation; correction

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
Committees; establishment, renewals, terminations, etc.:
46855 Land Use Advisors Committee; nominations for appointment or reappointment
Meetings:
46855 Fair Market Value Policy for Federal Coal Leasing Commission

International Trade Administration
NOTICES
Antidumping:
46829 Hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil
Meetings:
46831 President's Export Council

International Trade Commission
NOTICES
Import investigations:
46865 Flat-rolled carbon steel products from Belgium and West Germany
46866 Rotary wheel printers
46867 Self-stripping electrical tap connectors (3 documents)
46866 Tapered roller bearings and parts from Italy and Japan
46915 Meetings; Sunshine Act (2 documents)

Interstate Commerce Commission
RULES
Motor carriers:
46794 National Motor Freight Classification policy statement
NOTICES
Railroad services abandonment:
46868 Burlington Northern Railroad Co.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
46868 Agency information collection activities under OMB review

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc:
46860 Kikiktagruk Inupiat Corp.
Disclaimer of interest to lands:
46858 South Dakota
Management framework plans, review and supplement, etc.:
46858 Colorado
46856 Idaho
Meetings:
46861 Canon City District Advisory Council
46857 Lewistown District Advisory Council
Public lands for State indemnity selection applications:
46859 California
Sale of public lands:
46857 California; correction
46856 Idaho
Survey plat filings:
46859 Nevada
Survey plat filings and opening of public lands:
46860 Nevada
Wilderness areas; characteristics, inventories, etc.:
46857 Alabama, Florida, and Louisiana
46858 Utah

Legal Services Corporation
NOTICES
46916 Meetings; Sunshine Act

Maritime Administration
PROPOSED RULES
46825 Vessel financing assistance, obligation guarantees; extension of time

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
46871 Texas Utilities Generating Co. (2 documents)

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
46863 Beaufort Sea, Diapir Field, Alaska OCS mineral prelease and exploration proposals
Meetings:
46865 Minerals Accountability Advisory Committee
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
46864 Conoco Inc.
46864 ODECO Oil & Gas Co.
46864 Shell Offshore Inc.

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
46793 Window systems, power-operated; operation after shutting off of engine

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
46832 Mid-Atlantic Fishery Management Council
Senior Executive Service:
46832 Performance Review Board; membership

National Park Service
RULES
Special regulations:
46779, 46780 Delaware Water Gap National Recreation Area, Pa. and N.J.; interim (2 documents)

National Science Foundation
NOTICES
46902 Antarctic Conservation Act of 1978; permit applications, etc.
Meetings:
46903 Behavioral and Neural Sciences Advisory Panel (2 documents)
46903 Chemistry Advisory Committee

National Transportation Safety Board
NOTICES
46903 Accident reports, safety recommendations, and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
46905 Duquesne Light Co. et al.
46906 Omaha Public Power District
46906 Wisconsin Electric Power Co.

Occupational Safety and Health Administration
NOTICES
Variance applications, etc.:
46872 Block 67 Ltd.

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
46873 Bell System Pension Plan Trust et al.
46877 C. W. Alban & Co., Inc., et al.
46902 Harcourt Brace Jovanovich, Inc.; withdrawn
46891 National Roofing Industry Pension Plan et al.
46902 Wampum Hardware Co.; withdrawn

Research and Special Programs Administration
NOTICES
Hazardous materials:
46911, 46912 Applications; exemptions, renewals, etc. (2 documents)

Securities and Exchange Commission
RULES
Securities:
46736 Foreign securities; exemption from registration
PROPOSED RULES
Securities:
46801 Research reports

Small Business Administration
NOTICES
46908 Agency information collection activities under OMB review
Applications, etc.:
46907 Fine Art Funds Inc.
46907 Granite State Capital, Inc.
46908 Mount Vernon Venture Capital Co.
Disaster loan areas:
46907 Arizona
Meetings; regional advisory councils:
46908 New Hampshire
46909 Oklahoma
46908 Wisconsin

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
46827 Yampa River Park Public Water Based Recreation RC&D Measure, Colo.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
46817 Pennsylvania

Tennessee Valley Authority
NOTICES
46909 Agency information collection activities under OMB review (3 documents)

Transportation Department
See also Coast Guard; Federal Highway Administration; Maritime Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration
NOTICES
46910 Agency information collection activities under OMB review

Treasury Department
See Customs Service.

Separate Parts in This Issue

Part II
46918 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
46928 Department of Energy, Federal Energy Regulatory Commission

Part IV
46942 Environmental Protection Agency

Part V
46961 Department of Agriculture, Agricultural Marketing Service

VOL 48 ISS 200 OCT 14 1983 UMI

VOL
48
ISS
2
0
0
OC
14
1983
UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

1 CFR
Proposed Rules:
Ch. III 46795

7 CFR
247 46731
319 46732
910 46961
Proposed Rules:
1139 46797

17 CFR
230 46736
240 46736
Proposed Rules:
33 46797
230 46801

19 CFR
7 46740
10 46740
22 46740
113 46740
145 46740
158 46740
191 46740
Proposed Rules:
Ch. I 46805
4 (2 documents) 46808, 46810
18 46812
123 46812
144 46812

21 CFR
178 (2 documents) 46773, 46774
Proposed Rules:
610 46815

23 CFR
655 46775

24 CFR
570 46778
Proposed Rules:
24 46817

30 CFR
Proposed Rules:
938 46817

33 CFR
165 46779
Proposed Rules:
164 46819

36 CFR
7 (2 documents) 46779, 46780

40 CFR
81 46782
256 46787
420 46942
Proposed Rules:
52 46823
271 46824
403 46944
420 46944

41 CFR
101–41 46788

44 CFR
61 46789
62 46789

46 CFR
Proposed Rules:
298 46825

47 CFR
61 46791
63 46791

49 CFR
571 46793
1307 46794

Rules and Regulations

Federal Register
Vol. 48, No. 200
Friday, October 14, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 247

Commodity Supplemental Food Program; Amended Administrative Funding Formula

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Commodity Supplemental Food Program (CSFP) regulations to increase the portion of CSFP appropriations available to State and local agencies for program administration, consistent with the mandate of Pub. L. 98–92, amending Pub. L. 98–8. This change, effective for Fiscal Years 1984 and 1985, allows for the payment of the additional administrative costs incurred in distributing federally donated commodities to CSFP participants as part of the food package.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Barbara P. Sandoval, Director, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3748.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291, and has been determined to be nonmajor. The rule will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices, will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete. The rule has been reviewed in accordance with the requirements of the Regulatory Flexibility Act and will not have a significant economic impact on a substantial number of small entities. This rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Legislation

On September 2, 1983, the President signed Pub. L. 98–92. Section 2(8) of this law amends Section 209 of the Temporary Emergency Food Assistance Act of 1983 (Title II of Pub. L. 98–8) to modify the base from which CSFP administrative funds are derived. These regulations implement this amendment by requiring that CSFP administrative funding be available nationwide in amounts equal to the CSFP administrative costs of State and local agencies, except that such funding may not exceed 15 percent of the sum of (1) the annual program appropriation and (2) the value of commodities donated by the Department and distributed as part of the food package by CSFP local agencies.

Background

Some commodities purchased under the authority of the Commodity Credit Corporation (CCC) are donated to States for distribution to CSFP participants. Certain of these foods are given to participants as part of the CSFP food package, while others are distributed in addition to the package. Donated commodities expected to be available in Fiscal Year 1984 for use in food packages are rice (for pregnant and breastfeeding women and children) and nonfat dry milk. Because the cost of such foods is not charged to the program appropriation, their use reduces food package costs, and thus permits more persons to be served under the CSFP. Although the use of these commodities does reduce food costs, it also increases program administrative costs by enabling more persons to be served.

Section 209 of Pub. L. 98–8, as amended by Pub. L. 98–92 addresses this situation, increasing the amount of administrative funding available to States by broadening the base for administrative funding computations in two ways. The current base for CSFP administrative funding is set forth in section 5(a) of the Agriculture and Consumer Protection Act of 1973, as most recently amended by Pub. L. 97–98, which defines the base as "the amount appropriated for the provision of commodities." Pub. L. 98–92 amends this provision, incorporating the entire CSFP appropriation into the base. In addition, the Pub. L. 98–92 amendment includes in the base the value of CCC commodities distributed as part of the food package. As before, State and local agencies' CSFP administrative costs are funded up to a maximum of 15 percent of the base amount.

Earlier in the year, Congress enacted other legislation which served to defray costs of distributing CCC commodities for Fiscal Years 1982 and 1983. Section 209 of Pub. L. 98–8 provided that CCC funds totaling 15 percent of the book value of CCC commodities donated in Fiscal Year 1983 for use in the CSFP be paid to cover administrative expenses in connection with the distribution of these commodities. A supplemental appropriation in Pub. L. 98–63 made available $585,000 in CCC funds for use in retroactively paying CSFP costs associated with the distribution of CCC commodities in Fiscal Year 1982. These two laws contrast with the new funding formula in three ways. First, under these two laws additional administrative funding was provided from CCC, not from the CSFP appropriation. Second, this funding was intended to compensate for administrative costs associated with CCC commodities distributed *both* as part of, *and* in addition to, the food package. Third, the value of CCC commodities entered the computation base when the commodities were received by local agencies, not, as under amended Pub. L. 98–8, when the commodities are reported as distributed to participants.

Amended Administrative Funding Procedures for Fiscal Years 1984 and 1985 Consistent with Section 209 of Pub. L. 98–8, as amended by Pub. L. 98–92, these regulations provide that, for Fiscal Years 1984 and 1985, each State agency will receive in administrative funds its share of 15 percent of the total CSFP appropriation prorated on the basis of participation. State agencies will be guaranteed 75 percent of this amount in the event of reallocations. State agencies will also receive 15 percent of the value of CCC-donated commodities distributed in food packages. Before the start of Fiscal Years 1984 and 1985, the Food and Nutrition Service (FNS) will

VOL
48
ISS
2
0
0
OC
14
1983
UMI

estimate individual States' likely distribution levels for such commodities. Each State will receive 15 percent of the value of its estimated distribution of such commodities. FNS will identify and account for these funds separately from administrative funds provided as State agencies' pro rata shares of 15 percent of the total CSFP appropriation.

After the end of the fiscal year, FNS will compute the value of commodities reported as actually distributed in food packages to ensure that each State agency has received administrative funding in the amount of 15 percent of the value of such commodities, provided that this amount does not exceed actual administrative costs.

Because this regulation is necessary to provide additional administrative funds in accordance with Public Law 98–8, as recently amended by Public Law 98–92, and it is the Department's desire to make these funds available as soon as possible after the start of the fiscal year, Robert E. Leard, Administrator of the Food and Nutrition Service, has determined that good cause exists for issuing a final rather than a proposed rule. Similarly, good cause exists for making this rule effective less than 30 days following the date of promulgation because the rule relieves and existing restriction on funding, thus conferring a benefit on program participants and the State and local agencies administering the program.

List of Subjects in 7 CFR Part 247

Food assistance programs, Food donations, Grant programs, Social Programs, Indians, Infants and children, Maternal and child health, Nutrition education, Public assistance programs, CSFP, Women.

Accordingly, 7 CFR Part 247 is amended as follows:

PART 247—COMMODITY SUPPLEMENTAL FOOD PROGRAM

In 7 CFR 247.10, paragraph (b) is revised to read as follows:

§ 247.10 Administrative funding.

* * * * *

(b) *State agency funding.* (1) Funds for total State administrative costs for each of Fiscal Years 1984 and 1985 shall be allocated by FNS based on 15 percent of the sum of the annual appropriation for the program and the value of commodities donated by the Department and distributed by local agencies as part of the food package.

(2) From the portion of program funds equal to 15 percent of the program appropriation, each State shall receive a proportionate administrative grant based on its average participation reported (up to the authorized caseload level) for the latest three months for which data are available prior to the beginning of a fiscal year. Each State agency shall receive its share of this funding on a quarterly basis. FNS reserves the right to adjust participation figures used in this computation upward or downward to ensure adequate funds are allocated when FNS believes that the participation level reported will not reflect future plans for operation, such as when a State agency plans to start or terminate the program during the year, or when a State agency's participation has increased or decreased significantly during recent months.

(3) In addition to the funding provided under paragraph (b)(2) of this section, States shall receive administrative funding to support distribution of federally donated commodities distributed as part of the program food package. Prior to the beginning of both Fiscal Years 1984 and 1985, FNS shall estimate the value of such commodities expected to be distributed to participants by local agencies in each State during that fiscal year. Fifteen percent of this estimated amount shall be provided to each State agency. Funds provided under this paragraph shall be identified and accounted for by FNS separately from funds provided under paragraph (b)(2) of this section. After the end of the fiscal year, FNS shall compute the actual value of such commodities reported as distributed to participants by local agencies in each State. Unit values of such commodities shall be provided by the Agricultural Stabilization and Conservation Service. FNS shall make whatever adjustments are necessary to ensure that each State agency has received administrative funding equal to 15 percent of the value of such commodities reported as distributed to participants by its local agencies during the fiscal year.

(4) Participation of new State agencies during the course of the fiscal year will depend on the availability of funds.

(5) FNS shall use caseload assignments to ensure that funds appropriated are not exceeded. FNS reserves the right to periodically recover and redistribute unspent administrative funds and unused caseload slots.

(6) To ensure that State agencics can properly budget for program operations, FNS guarantees that 75 percent of the administrative funding provided to each State under paragraph (b)(2) of this section will be protected from recoveries during the current fiscal year.

(7) The State agency may retain a percentage of administrative funding for State level use, based on the following formula: 15 percent of the first $50,000; plus 10 percent of the next $100,000; plus 5 percent of the next $250,000. The State may retain a maximum amount of $30,000 annually for its administrative expenditures. However, if the State agency provides warehousing services, FNS approval may be requested at the beginning of the applicable fiscal year for funds greater than those allowed under the formula; provided, the State agency can document the need and ensure that the increase will not impose undue hardship on local agencies. The remaining funds and any unused funds at the State level shall be distributed to the local agencies.

* * * * *

(Sec. 5. Pub. L. 93–86, 87 Stat. 249, as added by sec. 1304(b)(2), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 612c note); sec. 1335, Pub. L. 97–98, 95 Stat. 1293 (7 U.S.C. 612c note); sec. 209, Pub. L. 98–8, 97 Stat. 35 (7 U.S.C. 612c note); sec. 2(8), Pub. L. 98–92 (7 U.S.C. 612c note))

(Catalog of Federal Domestic Assistance Program No. 10.565)

Dated: October 6, 1983

Robert E. Leard,

Administrator Food and Nutrition Service

[FR Doc. 83–27912 Filed 10–13–83; 8:45 am]

BILLING CODE 3410–30–M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 83–302]

Wheat Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA

ACTION: Interim rule.

SUMMARY: This document amends, on an emergency basis, the "Flag Smut (Foreign Strains)" regulations by renaming the regulations as the "Wheat Regulations"; by designating as prohibited articles seeds, plants, straw (other than straw without heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), chaff, and products of the milling process (i.e., bran, shorts, thistle, sharps and pollards) other than flour of *Triticum* spp. (wheat) from Afghanistan, India, Iraq, Mexico and Pakistan because Karnal bunt is known to exist in these countries; by designating as prohibited articles plants of *Triticum* spp. (wheat) and of *Aegilops* spp. (barb goatgrass, goatgrass) from foreign countries and localities where foreign strains of flag smut occur, and by allowing prohibited articles imported by the Department to enter the United States through certain designated ports of entry.

Articles designated as prohibited articles under the regulations are prohibited from being imported into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. This action is necessary in order to prevent the introduction into the United States of Karnal bunt and foreign strains of flag smut.

DATES: The effective date of the interim rule is October 14, 1983. Written comments must be received on or before December 13, 1983.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 637, Federal Building, 6505 Belcrest,Road Hyattsville, MD 20782, 301–436–8248.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. This action is necessary to prevent the introduction into the United States of Karnal bunt, *Tilletia indica* Mitra [*Neovossia indica* (Mitra) Munakar], and foreign strains of flag smut, *Urocystis agropyri* (Preuss) schroet.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Background

This document amends the "Flag Smut (Foreign Strains)" regulations (7 CFR 319.59 et seq.) by renaming the regulations as the "Wheat Regulations"; by designating as prohibited articles seeds, plants, straw (other than straw without heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), chaff and products of the milling process (i.e., bran, shorts, thistle, sharps and pollards) other than flour of *Triticum* spp. (wheat) from Afghanistan, India, Iraq, Mexico and Pakistan; and by designating as prohibited articles plants of *Triticum* spp. (wheat) and *Aegilops* spp. (barb goatgrass, goatgrass) from flag smut infested countries and localities. These regulations are intended to prevent the introduction into the United States of Karnal bunt and foreign strains of flag smut, both plant diseases that affect the designated articles. This document also amends § 319.59–2 to allow prohibited articles imported under certain conditions to enter the United States through certain designated ports of entry.

Karnal Bunt

Karnal bunt is an injurious plant disease that does not occur within the United States. Karnal bunt, caused by a highly infectious plant pathogenic smut fungus, *Tilletia indica* Mitra, [*Neovossia indica* (Mitra) Munakar], affects the seed heads of wheat, including triticale plants, and can substantially reduce the yield and lower the quality of the wheat seed heads. As a result, Karnal bunt can have serious economic consequences for wheat growers.

Prior to the publication of this document, the regulations did not contain provisions prohibiting the importation of the designated articles from these countries because of Karnal bunt. Karnal bunt has been known to exist in the countries of Afghanistan, India, Iraq and Pakistan. Recently, Karnal bunt was found to occur in Mexico.

Seeds, plants, straw (other than straw without heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), hulls, chaff and products of the milling process (i.e., bran, shorts, thistle, sharps and pollards), other than flour of *Triticum* spp. (wheat), are articles likely to be infested with or contaminated by Karnal bunt. At the present time, there are no known practical means of treating, inspecting or otherwise identifying such articles that are contaminated or infested with Karnal bunt. Therefore, in order to prevent the introduction into the United States of Karnal bunt it is necessary on an emergency basis to amend the regulations by designating as prohibited articles seeds, plants, straw (other than straw without heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), chaff, and other products of the milling process (i.e., bran, shorts, thistle sharps, and pollards), other than flour, of *Triticum* spp. (wheat), from countries infested with Karnal bunt.

The Department has made a determination that it is not necessary to regulate straw without heads that are processed or manufactured into articles such as toys, clothing or decorative wall hangings because it appears that these articles would not pose a significant risk of introducing Karnal bunt into the United States. Specifically, Karnal bunt is a disease spread by spores which are produced only in the seeds contained in wheat heads. Therefore, it is necessary to prohibit straw with heads from entry into the United States. Even without the heads, however, wheat straw from Karnal bunt infested areas could be contaminated with spores prior to the straw being processed or manufactured into an article. The manipulation of straw that occurs when it is cleaned, washed, bleached or otherwise processed or manufactured into articles would eliminate any significant risk that spores would survive the processing or manufacturing stage and somehow be introduced into the United States. Therefore, straw without heads processed or manufactured into articles such as wall hangings, toys or clothing are exempted from the list of regulated articles.

Karnal bunt is known to occur in the countries of Afghanistan, India, Iraq, Mexico and Pakistan. Therefore, the above named articles are regulated when coming from Afghanistan, India, Iraq, Mexico and Pakistan because they are likely to be infested with or contaminated by Karnal bunt when coming from these countries. The designation of these articles as prohibited articles prohibits them from being imported or offered for entry into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions.

VOL
48
ISS
2
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OC
14
1983
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Flag Smut

Foreign strains of flag smut are plant diseases caused by foreign strains of highly infectious fungi, *Urocystis agropyri* (Preuss) schroet, which attack wheat and substantially reduce its yield. It is not found in the United States.

Foreign strains of flag smut occur in Afghanistan, Algeria, Australia, Bangladesh, Bulgaria, Chile, People's Republic of China, Cyprus, Egypt, Falkland Islands, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Korea, Libya, Morocco, Nepal, Oman, Pakistan, Portugal, Romania, Spain, Tanzania, Tunisia, Turkey, Republic of South Africa, Union of Soviet Socialist Republics and Venezuela (these countries and localities are collectively referred to below as flag smut infested countries and localities).

Based on a recent review of the regulations concerning prohibited articles from flag smut infested countries and localities (7 CFR Part 319), it was discovered that plants of *Triticum* spp. (wheat) and *Aegilops* spp. (barb goatgrass, goatgrass) were not designated in the regulations as prohibited articles because of foreign strains of flag smut. Until the present time, it was not considered necessary to prohibit such plants because it did not appear that such plants were products imported from these countries into the United States. Recently, however, the Department has found that plants of *Triticum* spp. (wheat) and *Aegilops* spp. (barb goatgrass, goatgrass) are being occasionally offered for importation from flag smut infested countries. Such plants, coming from flag smut infested countries and localities, are as likely to be infested or contaminated with foreign strains of flag smut as any of the other prohibited articles. At present, there does not appear to be any feasible method for inspecting or treating such plants for foreign strains of flag smut, or other procedures for preventing the introduction of flag smut into the United States. Therefore, in order to prevent the possible introduction into the United States of accompanying foreign strains of flag smut, it is necessary, on an emergency basis, to designate plants of *Triticum* spp. (wheat) and *Aegilops* spp. (barb goatgrass, goatgrass) from flag smut infested countries and localities as prohibited articles. The designation of these plants as prohibited articles prohibits them from being imported or offered for entry into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions.

This document also amends the regulations by making some additional nonsubstantive changes to the list of prohibited articles because of foreign strains of flag smut. Specifically, prior to the publication of this document in the **Federal Register**, § 319.59 of Title 7 of the CFR regulated the following as prohibited articles because of foreign strains of flag smut:

> Grain, straw (other than straw, with or without heads, processed or manufactured for use indoors, such as for decorative purposes or for use as toys), hulls, chaff, and products of the milling process other than flour (i.e., bran, shorts, thistle sharps, and pollards) of *Triticum* spp. (wheat), of *Aegilops* spp. (barb goatgrass, goatgrass), or of any intergeneric cross which includes *Triticum* spp. (wheat) or *Aegilops* spp. (barb goatgrass, goatgrass) as a parent.

This document amends this list of regulated articles by substituting the term "seed" for the term "grain," by deleting the reference to "hulls," and by deleting the separate listing of any intergeneric cross which includes *Triticum* spp. (wheat), or *Aegilops* spp. (barb goatgrass, goatgrass), as a parent in the above list of prohibited articles. As explained below, these are not substantive changes.

The term "seed" is substituted for the term "grain" to conform to preferred nomenclature. These terms, as used in the regulations, mean the same thing.

The term "hulls" is deleted because the listed articles do not have hulls.

The specific reference to any intergeneric cross which includes *Triticum* spp. (wheat) or *Aegilops* spp. as a parent is not necessary and can be confusing. Specifically, the term "spp." is defined in § 319.59–1 of the regulations to mean "(a)ll species, clones, cultivars, strains, varieties, and hybrids of a genus." These intergeneric crosses are hybrids of *Triticum* spp. (wheat) or *Aegilops* spp. Therefore, since such seeds, straw, chaff, and products of the milling process of *Triticum* spp. (wheat) and *Aegilops* spp. are listed as prohibited articles, this includes such seeds, straw, chaff, and products of the milling process derived from any intergeneric cross which includes *Triticum* spp. (wheat) and *Aegilops* spp. as a parent, without a specific reference to these intergeneric crosses.

Imports of Prohibited Articles

As noted above, prohibited articles are allowed to be imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. Under the regulations in effect prior to the publication of this document, these articles were required to be imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agriculture Research Center East, Beltsville, MD 20705; imported pursuant to a Departmental permit issued for such articles which is kept on file at the Plant Germplasm Quarantine Center; imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases (including foreign strains of flag smut and Karnal bunt), injurious insects, and other plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and imported with a Departmental tag or label securely attached to the outside of the container containing the articles or securely attached to the articles if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such articles. Provisions in 7 U.S.C. 155 specifically authorize such articles to be imported for experimental or scientific purposes by the U.S. Department of Agriculture in accordance with such conditions. These specified procedures are necessary for purposes of identifying prohibited articles imported for experimental or scientific purposes; for assuring that the conditions for treatment, processing, growing, shipment, and disposal will be understood; and for assuring that qualified personnel are available to take necessary action in accordance with such conditions.

This document amends § 319.59 of the regulations to also allow prohibited articles imported with a Departmental permit to also be imported at any port of entry with an asterik listed in § 319.37–14(b) of the regulations. These are ports of entry where inspectors are stationed and authorized to take action in connection with the importation or offer of importation of any articles which are designated or would be designated in this subpart. These ports of entry are specifically equipped with inspection and treatment facilities to detect and take necessary action if the presence of accompanying injurious plant diseases, injurious insect pests, or other plant pests are found. The availability of these special ports makes it unnecessary to send such articles to the Germplasm Quarantine Center in Beltsville, Maryland, in all instances. The addition of these special ports of entry to the regulations will allow the imported articles to go directly from the nearest port of entry to the area where the scientific or experimental research is being conducted.

In addition to the amendments described above, this document amends the regulations by adding a definition of "Karnal bunt" and by renaming the "Flag Smut (Foreign Strains)" Regulations to "Wheat Regulations." This is done for purposes of clarity since with the publication of this interim rule regulating Karnal bunt, the regulations in Subpart 319 will regulate articles for foreign strains of flag smut and Karnal bunt, both diseases of wheat.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Alternatives were considered in connection with the interim rule. Consideration was given concerning whether (1) to make no changes with respect to these articles, or (2) to allow these articles to be imported by any importers in accordance with specified restrictions, such as requiring inspection and treatment; or (3) to designate the articles described above as prohibited articles and thereby prohibit them from being imported into the United States from designated countries unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. Alternative (3) is adopted because it has been determined that at this time there does not appear to be a feasible method for inspection or treatment of the designated articles for Karnal bunt or for flag smut, or other procedures for preventing the possible introduction into the United States of the accompanying plant disease (Karnal bunt or flag smut). However, as treatment measures are developed which can be shown to be effective for the life-span of the spore or as other safeguards are developed which will provide an effective method for identifying, treating or otherwise preventing the introduction of contaminated or infected articles and preventing its introduction into the United States, the Department will review its regulatory policy to see whether the importation restrictions can be modified such that the articles can be regulated in a less restrictive manner.

Finally, it appears that there is no feasible alternative to consider regarding the requirement in Executive Order 12291 that agencies choose the alternative that maximizes net benefits to society at the lowest net cost.

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. Specifically, the rule, among other things, designates as prohibited articles seeds, plants, straw (other than straw without heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), chaff and products of the milling process of *Triticum* spp. (wheat) from Mexico. Based on information compiled by the Department, it appears that in 1982 approximately 35, out of a total 2,037, metric tons of the designated articles imported into the United States were imported from Mexico.

Further, the rule also designates as prohibited articles (1) seeds, plants, straw (other than straw heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), chaff and products of the milling process to *Triticum* spp. (wheat) from Afghanistan, India, Iraq, and Pakistan, and (2) plants of *Triticum* spp. (wheat) and *Aegilops* spp. (barb goatgrass, goatgrass) from foreign countries and localities where foreign strains of flag smut occur.

Prior to the publication of this document, all articles, except plants from flag smut countries and localities were designated as prohibited articles. Further, based on information compiled by the Department, it appears that the proposal to regulate such plants would have little impact, if any, on small entities. Specifically, a review of imports through the ports of entry indicate that the volume of imports of such plants is so low that no commercial statistics have been kept on them. It appears that when such plants of the named species are imported from flag smut infested countries and localities, they are imported noncommercially and for decorative purposes only.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Plant diseases, Plants (Agriculture), Quarantine, Transportation, Karnal bunt, Flag smut, Wheat.

PART 319—FOREIGN QUARANTINE NOTICES

Under the circumstances referred to above, Part 319—Foreign Quarantine Notices is amended by amending "Subpart Flag Smut (Foreign Strains)" as follows:

Authority: Section 105, 107; 71 Stat. 32 and 34, as amended; 37 Stat. 854; secs. 7 and 9, 37 Stat. 317 and 318, as amended; sec. 10, 45 Stat. 468 (7 U.S.C. 150dd, 150ff, 155, 160, 162 and 164a); 7 CFR 2.17, 2.51 and 371.2(c).

§ 319.59 [Amended]

1. In Subpart 319.59, the title "Subpart Flag Smut (Foreign Strains)" is renamed "Subpart—Wheat Diseases."

2. In § 319.59(a) the words "or Karnal bunt" are added after the words "of foreign strains of flag smut" in the first sentence.

3. In § 319.59(b) the words "and Karnal bunt" are added after the words "including foreign strains of flag smut" in the first sentence.

4. In § 319.59–1 a new definition "Karnal bunt" is added in alphabetical order to read as follows:

Karnal bunt. A plant disease caused by a highly infectious plant pathogenic smut fungus, *Tilletia inidica* Mitra, (Neovossia Indica (Mitra) Manakur), which attacks wheat and substantially reduces its yield and substantially lowers the quality of the wheat grain, and which is new to or not widely prevalent or distributed within and throughout the United States.

5. In § 319.59–1 the definition of prohibited articles is revised to read as follows:

Prohibited article. Any class of seed, plant, or other plant product specified as prohibited articles in § 319.59–2(a) or (b).

6. In § 319.59–2 paragraph (a)(1)(i) would be revised to read as follows:

§ 319.59–2 Prohibited Articles.

(a)* * *

(1)(i) Seeds, plants, and straw (other than straw, with or without heads and which have been processed or manufactured for use indoors, such as for decorative purposes or for use as toys), chaff, and products of the milling process (i.e., bran, shorts, thistle sharps, and pollards) other than flour of *Triticums* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass).

7. In § 319.59–2 paragraph (b) is redesignated as paragraph (c) and a new paragraph (b) is added to read as follows:

VOL 48 ISS 200 OC 14 1983 UMI

§ 319.59–2 Prohibited Articles.

* * * * *

(b) The articles listed in paragraph (b)(1) of this section from the countries and locations listed in paragraph (b)(2) of this section are prohibited articles because of Karnal bunt:

(1) Seeds, plants, straw (other than straw without heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), chaff, and products of the milling process (i.e., bran, shorts, thistle sharps, and pollards) other than flour of *Triticum* spp. (wheat).

(2) Afghanistan, India, Iraq, Mexico and Pakistan.

8. In redesignated paragraph (c) of § 319.59–2 in the introductory text, the phrase "paragraph (a)" is revised to read "paragraphs (a) or (b)" and paragraph (c)(2) is revised to read as follows:

§ 319.59–2 Prohibited Articles.

* * * * *

(c) * * *

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Center East, Beltsville, MD 20705 or at any port of entry with an asterisk listed in 7 CFR 319.37–14(b).

* * * * *

Done at Washington, DC, this 11th day of October 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83–27993 Filed 10–13–83; 8:45 am]

BILLING CODE 3410–34–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 240

[Release Nos. 33–6493; 34–20264; File No. S7–951]

Foreign Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today announces the adoption of revisions to a current rule, known as the information-supplying exemption which exempts certain foreign securities from registration under the Securities Exchange Act of 1934. These revisions generally treat foreign securities quoted on the automated quotation system of the National Association of Securities Dealers ("NASDAQ") the same as foreign securities listed on a United States ("U.S.") exchange. Generally, non-Canadian foreign securities currently quoted on NASDAQ could continue to rely on the exemption indefinitely subject to certain conditions. Canadian securities, however, currently quoted on NASDAQ could continue to rely on the exemption until January 2, 1986. Revisions also are made to other rules to clarify the concept of voluntary entry into the U.S. capital markets.

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Carl T. Bodolus (202) 272–3246, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Foreign private issuers whose securities are not trading on one of the national securities exchanges are now exempt from registering with the Commission. The Commission today is revising that exemption so that it will no longer be available to foreign issuers whose securities trade on NASDAQ. This change is being made because the Commission believes that trading on NASDAQ is substantially the same as trading on an exchange and therefore the information available for NASDAQ traded companies should be essentially the same as the information available for exchange traded companies. The Commission will "grandfather" foreign private issuers who are now trading on NASDAQ and relying on the exemption. Canadian issuers will be grandfathered for two years and all other foreign issuers will be grandfathered indefinitely. However, no additional foreign equity securities can begin trading on NASDAQ unless they are registered with the Commission.

I. Background

The Commission is adopting revisions to Rule 12g3–2 (17 CFR 240.12g3–2) [1] under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. (1976 and Supp. III 1979)) that would terminate the availability of that exemptive rule to certain foreign issuers with securities quoted in NASDAQ and clarify several provisions of that rule.[2] Amendments to Rule 12g–3 (17 CFR 240.12g–3) and Rule 15d–5 (17 CFR 240.15d–5) relating to successor issuers further clarify the application of the periodic reporting requirements of the Exchange Act to issuers that acquire reporting issuers by the issuance of securities. The concept of the "essentially U.S. issuer" exemption in the definition of foreign private issuer in Rule 405 (17 CFR 230.405) and Rule 3b–4 (17 CFR 240–3b–4) is also revised. Rule 12g–1 (17 CFR 240–12g–1) is also clarified.

The Commission solicited public comments on these changes in Release No. 33–6433 (October 28, 1982) [47 FR 50292]. One hundred sixty-three comment letters were received on the proposals.[3] One hundred twenty-six were from individuals, thirteen from issuers, eight from the securities industry, five from law firms, three each from associations and banks maintaining facilities for American Depositary Receipts, two each from analysts and self-regulatory organizations, and one from a foreign securities exchange. Most commentators addressed only the proposal that the information-supplying exemption in Rule 12g3–2(b) be no longer available for securities quoted in an automated inter-dealer quotation system, *i.e.*, NASDAQ.

II. Registration for NASDAQ Listing

Proposed paragraph (d) (3) of Rule 12g3–2 would have denied the information-supplying exemption to securities quoted on NASDAQ. Foreign securities quoted only in the pink sheets would continue to be exempt under the information-supplying exemption in Rule 12g3–2(b). Virtually all comments received addressed this proposal.

A. Comments

Twenty-six commentators supported this proposal. These commentators stated that the proposal would result in more disclosure to investors, increase investor confidence, expand the Commission's ability to enforce the antifraud provisions, and would eliminate the unequal treatment of foreign issuers, who now can use the information-supplying exemption to get on NASDAQ, and U.S. issuers, who must register their securities for inclusion in NASDAQ. A Canadian broker stated that many investors prefer NASDAQ-quoted Canadian securities on the incorrect assumption that they

[1] Paragraph (b) of that rule exempts certain foreign securities from registration under section 12(g) of the Exchange Act if the issuer furnishes the Commission with copies of disclosure documents made public under foreign law or regulations. Release No. 33–6433 (October 28, 1982) [47 FR 50292] discusses this rule in more detail.

[2] As explained below, the the securities of issuers listed in accompanying Release No. 34–20265, and currently quoted in NASDAQ are generally grandfathered.

[3] Copies of these comment letters as well as a comment highlight prepared by the staff are in File No. S7–951 and are available for public inspection and copying at the Commission's Public Reference Room.

were registered with the Commission. Another individual stated that the proposal failed to go far enough and that the Commission should require Canadian issuers to report on Form 10–K, 10–Q and 8–K instead of Forms 20–F and 6–K. Some commentators stated that some Canadian corporations misuse the exemption and also make illegal distributions of their securities in the U.S.

One hundred thirty-three commentators opposed this proposal. Twenty-two commentators disagreed with the analysis in the proposing release that obtaining inclusion in NASDAQ is voluntary entry into the U.S. capital market for various reasons. Eight stated that the acts necessary to obtain inclusion in NASDAQ are minimal and should not be used to justify the imposition of Exchange Act reporting. Others noted that in the past the ADR depositary banks were allowed to list certain foreign securities and continue to pay the fees. Twelve stated that most foreign issuers have their securities included in NASDAQ as a convenience to U.S. shareholders and the issuer does not receive as many benefits as U.S. issuers.

Eighteen commentators opposing the proposals stated that they were unaware of any problems with the current rules and thirty-one stated that the information-supplying exemption provided investors with adequate information.

All commentators opposing the proposal assumed that many foreign issuers would withdraw from NASDAQ and have their securities traded in the pink sheets instead of registering. The following unfavorable consequences were identified: increased price spreads, decrease in information, price quotes not carried in newspapers, less liquid market and fewer institutions in the market, absence of NASD surveillance, and delays in execution of transfers. These factors could cause a price drop of twenty percent according to one estimate.

Other objections to this proposal are: increased red tape, increased burden on foreign issuers, loss of investment opportunities and limits on freedom of choice, forced trading in foreign markets, forced use of disreputable dealers or foreign brokers, increased Commission budget, unfair change in policy, inconsistency with Congressional interest, possible retaliation by foreign governments, and reinforced fears of foreign issuers that the Commission repeatedly changes its rules.

Two commentators estimated the cost of registering securities under Section 12(g). One estimated it to be $150,000. A law firm, representing some Canadian issuers with registered securities, estimated the cost to be $12,000–$15,000. A Canadian issuer subject to the reporting requirements of the Exchange Act stated it did not find reporting to be burdensome in terms of time or cost.

B. Revision of Rule 12g3–2

Since its commencement in 1971, NASDAQ has matured into a major securities market,[4] providing securities quoted on NASDAQ with heightened visibility and access to active trading markets. As a result, NASDAQ has become an attractive alternative to exchange listing for foreign issuers which desire access to U.S. trading markets for the convenience of their U.S. shareholders or to raise capital, but which wish to avoid registration under Section 12. Although registration is required for exchange listing, foreign securities have been included in NASDAQ without Section 12 registration through use of the information-supplying exemption of Rule 12g3–2(b), which was adopted in 1967, prior to the start of NASDAQ, and was intended to exempt from registration foreign issuers whose securities were traded in the U.S. without the voluntary action of the issuer.

In the past, foreign securities could be included in NASDAQ without the participation of the issuer; at present, however, the consent of the issuer is required before a foreign security can be quoted in NASDAQ.[5] Accordingly, the Commission believes that foreign securities included in NASDAQ should be regarded prospectively as voluntarily seeking U.S. trading markets, and hence should be denied the information-supplying exemption. Also, the Commission believes that the increased administrative sanctions available to the Commission resulting from the revisions are necessary. Finally, the Commission believes it is appropriate to eliminate any undue differences in the disclosure requirements of and the treatment of U.S. and foreign issuers with securities quoted on NASDAQ.

Nevertheless, the Commission acknowledges the concerns of many of the commentators. The Commission believes that applying the revisions prospectively and grandfathering the securities, as described below, is a pragmatic balance of these competing policies.[6]

Many of the foreign issuers that appear to be complying with the information-supplying exemption initially established it prior to the formation of NASDAQ or in its early years. As discussed above, until recently, persons other than the issuer could obtain the NASDAQ listing for foreign securities. Imposing the revised rule against such issuers could force them to withdraw from NASDAQ, consequently depriving U.S. investors of the accustomed market for such securities and, in some cases, reducing the depth and liquidity for these securities.

Securities of the non-Canadian issuers in compliance with the information-supplying exemption as of October 5, 1983 and currently quoted in NASDAQ are grandfathered indefinitely.[7] However, the exemption will be extended to the Canadian securities only until January 1986. The recent hot-issue market in securities from Canada has created problems and abuses of the rule. Some issuers appear to have used the exemption as a means to make unregistered, illegal distributions of their securities over NASDAQ.[8] Several commentators urged the Commission to address directly the problems associated with some of the issuers from Canada rather than using an overly broad approach as proposed. The adopted revision is consistent with the Commission's position of treating Canadian issuers the same as U.S. issuers for many purposes.[9] Canadian issuers generally must file the same reports as domestic issuers under the Exchange Act and, unlike other foreign issuers, are subject to the proxy regulations and the short-swing profit recovery provisions. Moreover, the requirements for Canadian issuers to ultimately register their securities under Section 12 do not appear to be particularly burdensome in light of the

[4] The monthly average share volume on NASDAQ for the first six months of 1983 was approximately three-fourths that of the New York Stock Exchange and nearly seven times larger than the volume of the American Stock Exchange.

[5] As explained in the proposing release, foreign securities may be included in NASDAQ directly or in ADR form. These amendments apply equally to both.

[6] Grandfathering is unusual in the securities laws, but see Section 3(a)(1) of the Securities Act and Section 12(f) of the Exchange Act.

[7] Unless, of course, the securities are delisted from NASDAQ or the issuer fails to maintain the information-supplying exemption.

[8] The Commission wishes to remind issuers and broker-dealers of their responsibilities during distributions of unregistered securities. See Release Nos. 33–4445 (February 2, 1962) [27 FR 2312] and 33–5168 (July 17, 1971).

[9] In 1980, the Commission solicited public comment on whether to eliminate the distinction between Canadian and other foreign private issuers. Few comments, even those from Canadian issuers, supported elimination. Release No. 33–6235 (September 2, 1980) [45 FR 63693].

VOL 48 ISS 200 OCT 14 1983 UMI

similarity of the accounting principles and disclosure standards of the U.S. and Canada. Canadian issuers, unlike other foreign issuers, can use Form S–18 and the limited offering exemption of Regulation A. The coming-to-rest concept in Release No. 33–4708 (July 9, 1964) [29 FR 9828] treats offerings of U.S. issuers in Canada the same as offerings in the U.S. due to the close nexus of the markets. The Commission believes the revised rule, as adopted, adequately addresses the problems without undue market interference. The two year time period was selected to provide Canadian issuers with sufficient time to adjust their procedures or to register their securities and for the market to take into account any changes in the way such securities trade.

The Commission considered the alternative of imposing seasoning or suitability tests as conditions for listing on NASDAQ in reliance on the information-supplying exemption. Commentators suggested tests such as a history of active trading in the foreign market: minimum income, minimum assets, and minimum capitalization. The Commission declined to adopt any of those tests because of the difficulty in forming objectively the proper test, and the lack of any specific theoretical basis for a particular test.

III. Other Revisions

The Commission received no adverse comments on the proposed revisions to the successor issuer rules and has adopted them without change.

Several commenters objected to the proposed repeal of paragraph (d) of Rule 12g3–2 that exempts from Section 12(g) registration the securities of a non-Canadian issuer with any class of securities registered under Section 12(b) or any issuer filing reports under Section 15(d). The major consequences of repealing paragraph (d) is to require some of the 83 foreign issuers now subject to a Section 15(d) reporting obligation to register under Section 12(g) and thereby making their securities subject to the Williams Act.[10] The commentators to the proposal pointed out potential problems due to inconsistent tender offer regulation among various countries.

The Williams Act has applied to Canadian and, since 1979, to other foreign equity securities registered under Section 12(b). Approximately 52 Canadian and 65 non-Canadian issuers have securities registered under this section. The proposal would merely end the anomaly of exempting foreign issuers now subject to reporting obligations because of the exchange listing of debt securities or because they have had a registration statement become effective under the Securities Act. Few problems have arisen due to the inconsistent regulations of various countries, but the Commission is aware of the possibility of such problems. As in the past, with respect to foreign securities subject to the Williams Act, such situations will continue to be resolved on a case-by-case basis.

Another consequence of the repeal of paragraph (d) and the consequent registration of securities under Section 12(g) is that certain Canadian issuers would become subject to the proxy requirements of Sections 14(a) and 14(c) of the Exchange Act and the rules thereunder and the short-swing profits provisions of Section 16 of the Exchange Act and the rules thereunder. One commentator stated that the proposal would make Securities Act registration of equity securities more burdensome, extend U.S. regulation to the internal corporate affairs of Canadian issuers, and conflict with the voluntarism principle explained in the proposing release.

More than 50 Canadian issuers are currently subject to such regulations and the repeal of paragraph (d) requires some of the 23 Canadian issuers subject to Section 15(d) to register their securities under Section 12(g). Few problems have arisen in the past under these rules. The Commission believes it is anomalous to exempt those Canadians that have made a registered public offering in the U.S., who would otherwise be subject to Section 12, but not those whose securities are listed on a U.S. exchange or are registered under Section 12 of the Exchange Act.

Foreign issuers that generally are owned and managed by U.S. persons are considered to be essentially U.S. issuers and are ineligible for any of the exemptions or forms available to other issuers organized under foreign law. As amended, Rule 405 and Rule 3b–4 set forth two elements to determine whether an issuer is an essentially U.S. issuer.[11] The first element is that fifty percent of the issuer's shares are held by U.S. residents. The second element is that one of three conditions is present: (1) The issuer's business be principally administered in the U.S.; (2) a majority of the issuer's directors or executive officers be U.S. persons; or (3) fifty percent of the assets of the issuer be located in the U.S. These elements combined concepts in the former and proposed definitions. The Commission believes these amendments will prevent evasion but are unlikely to apply to many issuers not intended to be covered by the concept.

[10] Sections 13(d), 13(e), 14(d), 14(e) and 14(f) of the Exchange Act regulate certain acquisitions of securities and tender offers.

[11] The conditions are in the except clause in the definition of a foreign private issuer. Rules 405 (17 CFR 230.405) and 3b–4 (17 CFR 240.3b–4).

Regulatory Flexibility Act

A copy of the Final Regulatory Flexibility Analysis is available upon request from the Office of International Corporate Finance, Room 3094 (3–6), Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C., 20549, telephone (202) 272–3248.

List of Subjects in 17 CFR Parts 230 and 240

Reporting and recordkeeping requirements, Securities.

Text of Amendments

17 CFR Chapter II is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising the definition of "Foreign Private Issuer" in § 230.405 to read as follows:

§ 230.405 Definitions of terms.

* * * * *

Foreign private issuer: The term "foreign private issuer" means any foreign issuer other than a foreign government except an issuer meeting the following conditions: (1) More than 50 percent of the outstanding voting securities of such issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and (2) any of the following: (i) The majority of the executive officers or directors are United States citizens or residents, (ii) more than 50 percent of the assets of the issuer are located in the United States, or (iii) the business of the issuer is administered principally in the United States. For the purpose of this paragraph, the term "resident," as applied to security holders, shall mean any person whose address appears on the records of the issuer, the voting trustee, or the depositary as being located in the United States.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

2. By revising paragraph (c) of § 240.3b–4 to read as follows:

§ 240.3b–4 Definition of "foreign government," "foreign issuer," and "foreign private issuer."

* * * * *

(c) *Foreign private issuer:* The term "foreign private issuer" means any foreign issuer other than a foreign government except an issuer meeting the following conditions: (1) More than 50 percent of the outstanding voting securities of such issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and (2) any of the following: (i) The majority of the executive officers or directors are United States citizens or residents, (ii) more than 50 percent of the assets of the issuer are located in the United States, or (iii) the business of the issuer is administered principally in the United States. For the purpose of this paragraph, the term "resident," as applied to security holders, shall mean any person whose address appears on the records of the issuer, the voting trustee, or the depositary as being located in the United States.

3. By revising § 240.12g–1 to read as follows:

§ 240.12g–1 Exemption from section 12(g).

An issuer shall be exempt from the requirement to register any class of equity securities pursuant to section 12(g)(1) if on the last day of its most recent fiscal year the issuer had total assets not exceeding $3,000,000 and, with respect to a foreign private issuer, such securities were not quoted in an automated inter-dealer quotation system.

4. By revising paragraphs (a) and (b) and adding new paragraph (c) to § 240.12g–3 to read as follows:

§ 240.12g–3 Registration of securities of successor issuers.

(a) Where in connection with a succession by merger, consolidation, exchange of securities or acquisition of assets, equity securities of an issuer, not previously registered pursuant to section 12 of the Act, are issued to the holders of any class of equity securities of another issuer which is registered pursuant to section 12 of the Act, the class of securities so issued shall be deemed to be registered pursuant to section 12 of the Act unless upon consummation of the succession such class is exempt from such registration other than by Rule 12g3–2 (§ 240.12g3–2 of this chapter) or all securities of such class are held of record by less than 300 persons.

(b) Where in connection with a succession by merger, consolidation, exchange of securities or acquisition of assets, equity securities of an issuer, which are not registered pursuant to section 12 of the Act, are issued to the holders of any class of equity securities of another issuer which is required to file a registration statement pursuant to section 12 but has not yet done so, the duty to file such statement shall be deemed to have been assumed by the issuer of the class of securities so issued and such issuer shall file a registration statement pursuant to section 12 of the Act with respect to such class within the period of time the predecessor issuer would have been required to file such a statement, or within such extended period of time as the Commission may authorize upon application pursuant to § 240.12b–25 of this chapter, unless upon consummation of the succession such class is exempt from such registration other than by Rule 12g3–2 (§ 240.12g3–2 of this chapter) or all securities of the class are held of record by less than 300 persons.

(c) An issuer that is deemed to have a class of securities registered pursuant to section 12 according to either paragraph (a) or (b) of this section shall file reports on the same forms and such class of securities shall be subject to the provisions of sections 14 and 16 to the same extent as the predecessor issuer, except as follows:

(1) An issuer that is not a foreign issuer shall not be eligible to file on Form 20–F (§ 249.220f of this chapter) or to use the exemption in Rule 3a12–3 (§ 240.3a12–3 of this chapter).

(2) A non-Canadian foreign private issuer shall be eligible to file on Form 20–F and to use the exemption in Rule 3a12–3.

(3) A Canadian foreign private issuer shall be eligible to file on Form 20–F and to use the exemption in Rule 3a12–3 only if the predecessor issuer filed on Form 20–F and was eligible to use such exemption and it does not have or has not had during the twelve months prior to the consummation of the succession a reporting obligation (suspended or active) under section 15(d) of the Act or a class of securities registered under section 12.

5. By revising section 240.12g3–2 to read as follows:

§ 240.12g3–2 Exemptions for American depository receipts and certain foreign securities.

(a)(1) Securities of any class issued by any foreign private issuer shall be exempt from section 12(g) of the Act if the class has fewer than 300 holders resident in the United States. This exemption shall continue until the next fiscal year end at which the issuer has a class of equity securities held by 300 or more persons resident in the United States. For the purpose of determining whether a security is exempt pursuant to this paragraph, securities held of record by persons resident in the United States shall be determined as provided in Rule 12g5–1 (§ 240.12g5–1 of this chapter) except that securities held of record by a broker, dealer, bank or nominee for any of them for the accounts of customers resident in the United States shall be counted as held in the United States by the number of separate accounts for which the securities are held. The issuer may rely in good faith on information as to the number of such separate accounts supplied by all owners of the class of its securities which are brokers, dealers, or banks or a nominee for any of them.

(2) Registration of any class of security by a foreign private issuer pursuant to section 12(g) of the Act shall be terminated ninety days, or such shorter period as the Commission may determine, after the issuer files a certification with the Commission that the number of holders resident in the United States of such class of security is reduced to less than 300 persons. The Commission shall, after notice and opportunity for hearing, deny termination of registration if if finds that there are 300 or more holders resident in the United States. Termination of registration shall be deferred pending final determination on the question of denial.

(b)(1) Securities of any foreign private issuer shall be exempt from section 12(g) of the Act if the issuer, or a government official or agency of the country of the issuer's domicile or in which it is incorporated or organized:

(i) Shall furnish to the Commission whatever information in each of the following categories the issuer since the beginning of its last fiscal year (A) has made or is required to make public pursuant to the law of the country of its domicile or in which it is incorporated or organized, (B) has filed or is required to file with a stock exchange on which its securities are traded and which was made public by such exchange, or (C) has distributed or is required to distribute to its security holders;

(ii) Shall furnish to the Commission a list identifying the information referred to in paragraph (b)(1)(i) of this section and stating when and by whom it is required to be made public, filed with any such exchange, or distributed to security holders;

(iii) Shall furnish to the Commission, during each subsequent fiscal year, whatever information is made public as described in (A), (B) or (C) of paragraph (b)(1)(i) of this section promptly after

VOL
48
ISS
2
0
0
OC
14
1983
UMI

such information is made or required to be made public as described therein;

(iv) Shall, promptly after the end of any fiscal year in which any changes occur in the kind of information required to be published as referred to in the list furnished under paragraph (b)(1)(ii) of this section or any subsequent list, furnish to the Commission a revised list reflecting such changes; and

(v) Shall furnish to the Commission in connection with the initial submission the following information to the extent known or which can be obtained without unreasonable effort or expense: the number of holders of each class of equity securities resident in the United States, the amount and percentage of each class of outstanding equity securities held by residents in the United States, the circumstances in which such securities were acquired, and the date and circumstances of the most recent public distribution of securities by the issuer or an affiliate thereof.

(2) The information required to be furnished under paragraphs (b)(1)(i) and (b)(1)(ii) of this section shall be furnished on or before the date on which a registration statement under section 12(g) of the Act would otherwise be required to be filed. Any issuer furnishing information under paragraph (b)(1)(i) of this section shall notify the Commission that it is furnished under that paragraph.

(3) The information required to be furnished under this paragraph (b) is information material to an investment decision such as: the financial condition or results of operations; changes in business; acquisitions or dispositions of assets; issuance, redemption or acquisitions of their securities; changes in management or control; the granting of options or the payment of other remuneration to directors or officers; and transactions with directors, officers or principal security holders.

(4) Only one complete copy of any information or document need be furnished under paragraph (b)(1) of this section. Such information and documents need not be under cover of any prescribed form and shall not be deemed to be "filed" with the Commission or otherwise subject to the liabilities of section 18 of the Act. Press releases and all other communications or materials distributed directly to securityholders of each class of securities to which the exemption relates shall be in English. English versions or adequate summaries in English may be furnished in lieu of original English translations. No other documents need be furnished unless the issuer has prepared or caused to be prepared English translations, versions, or summaries of them. If no English translations, versions, or summaries have been prepared, a brief description in English of any such documents shall be furnished. Information or documents in a language other than English are not required to be furnished. If practicable, the Commission file number shall appear on the information furnished or in an accompanying letter.

(5) The furnishing of any information or document under paragraph (b) of this rule shall not constitute an admission for any purpose that the issuer is subject to the Act.

(c) Depositary Shares registered on Form F–6 (§ 239.36 of this chapter), but not the underlying deposited securities, are exempt from section 12(g) of the Act under this paragraph (c).

(d) The exemption provided by paragraph (b) of this rule shall not be available for the following securities:

(1) Securities of a foreign private issuer that has or has had during the prior eighteen months any securities registered under section 12 of the Act or a reporting obligation (suspended or active) under section 15(d) of the Act;

(2) Securities of a foreign private issuer issued in a transaction to acquire by merger, consolidation, exchange of securities, or acquisition of assets, another issuer that had securities registered under section 12 of the Act or a reporting obligation (suspended or active) under section 15(d) of the Act; and

(3) Securities quoted in an "automated inter-dealer quotation system" or securities represented by American Depositary Receipts so quoted unless all the following conditions are met:

(i) Such securities were so quoted on October 5, 1983 and have been continuously traded since;

(ii) The issuer is in compliance with the exemption in paragraph (b) of this section on October 5, 1983 and has continuously maintained the exemption since; and

(iii) After January 2, 1986, the issuer is organized under the laws of any country except Canada or a political subdivision thereof.

6. By redesignating the first paragraph of § 240.15d–5 as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 240.15d–5 Reporting by successor issuers.

* * * * *

(b) An issuer that is deemed to be a successor issuer according to paragraph (a) of this section shall file reports on the same forms as the predecessor issuer except as follows:

(1) An issuer that is not a foreign issuer or that is a North American foreign private issuer shall not be eligible to file on Form 20–F (§ 240.220f of this chapter).

(2) A non-North American foreign private issuer shall be eligible to file on Form 20–F.

Statutory Basis

These amendments are adopted pursuant to authority in Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933; Sections 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57,; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565–574; secs. 1, 2, 82 Stat. 454; sec. 28(c), 84 Stat. 1435; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 78*o*(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

October 6, 1983.

[FR Doc. 83–27934 Filed 10–13–83; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 7, 10, 22, 113, 145, 158, and 191

[T.D. 83–212]

Customs Regulations Revision Relating To Drawback; Specialized and General Provisions

AGENCY: Customs Service, Treasury.

ACTION: Final revision.

SUMMARY: As a part of the general revisions of the Customs Regulations, the Customs Service is revising its regulations which govern drawback. Drawback is a refund or remission, in whole or in part of a customs duty, internal-revenue tax, or fee lawfully assessed or collected because of a particular use made of the merchandise on which the duty, tax, or fee was assessed or collected. The rationale for drawback has always been to encourage American commerce or manufacturing, or both. This revision sets forth the general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims. This revision also follows a new format, and includes changes or additions in language to clarify the current provisions. Some of the substantive changes are new and some are based upon interpretative rulings. Furthermore, based upon the comments received from the public in response to the notice of proposed revision and Customs initiative, other changes have been made in the document as proposed, especially with regard to "same condition" drawback and the notice of exportation procedures.

EFFECTIVE DATE: December 12, 1983.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: George Steuart, Carriers, Drawback and Bonds Division (202–566–5856);

Operational aspects: Betty L. Colburn, Duty Assessment Division (202–566–5307);

Audit aspects: Maury Johnson, Regulatory Audit Division (202–566–2812); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Drawback is a refund or remission, in whole or in part of a customs duty, internal-revenue tax, or fee lawfully assessed or collected because of a particular use made of the merchandise on which the duty, or tax, or fee was assessed or collected.

The rationale for drawback has always been to encourage American commerce or manufacturing, or both. It permits the American manufacturer to compete in foreign markets without the handicap of including in his costs, and consequently in his sales price, the duty paid on imported merchandise.

Two examples of drawback follow:

1. "A" imports Australian grease wool, and produces from it wool top which is sold in the United States. At a later date, "A" uses domestic grease wool of the same kind and quality to produce wool top and the wool top is exported. "A" can claim and receive drawback in the duty he paid on the Australian grease wool.

2. "B" imports semiconductors which he uses in manufacturing television sets. If the television sets are exported, "B" may claim and receive drawback on the duty paid on the semiconductors.

This revision is part of the general revision of the Customs Regulations and amends Chapter 1, title 19, Code of Federal Regulations (19 CFR Chapter I), by removing present Part 22 and adding a new Part 191.

Part 191 sets forth the general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims. Part 191 follows a new format, and contains changes or additions in language to clarify the current provisions. Substantive changes to Part 22 have been made in Part 191. Some of the changes are new and some are based upon interpretative rulings. Revised Part 191 is divided into sixteen subparts.

Significant changes adopted in the revision include:

1. Defining the primary terms used throughout the revision;

2. Removing the application procedure which precedes the filing of the drawback proposal and approval of a specific drawback contract;

3. Providing a sample drawback proposal to a prospective drawback claimant upon request;

4. Providing for the use of a general drawback contract prepared by Customs Headquarters and published in the Customs Bulletin for use by any manufacturer or producer desiring drawback who can comply with the conditions of the contract;

5. Retaining the certified notice of exportation procedure in 2 circumstances used to establish exportation of articles for drawback purposes;

6. Discussing materials used for construction and equipment of vessels and aircraft built for foreign account and ownership;

7. Discussing same condition drawback;

8. Discussing distilled spirits, wines, or beer which is unmerchantable or does not conform to sample or specification; and

9. Removing regulations relating to bags and meat wrappers, sugar and syrups, linseed oil, crude petroleum and petroleum derivatives, piece goods and fur skins and skin articles.

Notice of Proposed Revision

On August 26, 1982, Customs published a document in the Federal Register (47 FR 37563), providing the public with 90 days to submit written comments on the proposed revision of the drawback regulations. Commenters had until November 24, 1982, to submit their comments. Customs received several requests to extend the period of time for the submission of comments claiming that because of the complexity of the issues involved, additional time was needed to prepare and submit thorough comments. Customs believed that the requests had merit and, therefore, extended the period of time for the submission of written comments for approximately 60 days to January 21, 1983. Customs received over 150 comments on the proposed revision. In general, the commenters considered the proposed revision to be a vast improvement over Part 22 and offered suggestions for further consideration. Two major areas of concern in the proposed revision related to same condition drawback and the elimination of a certified notice of exportation procedure. Based upon the comments received and Customs initiative, numerous changes have been made relating to same condition drawback which we believe are responsive to the concerns of the commenters. Customs also has determined to retain the certified notice of exportation procedure in the following two specified circumstances:

1. Certification of notice of exportation at the time of exportation; and

2. Certification of notice of exportation by mail.

Discussion of Comments

Subpart A

Comment: A statement should be added to Subpart A that the new regulations will not abrogate drawback contracts in existence at the time the final rule becomes effective. Analysis: It is Customs position that a drawback contract in existence at the time the final rule becomes effective will be honored by Customs and will remain in effect for its duration. Drawback claimants operating under an existing contract need not file a new proposal. Customs believes, however, there is no need to place such a statement in the regulations.

Comment: The definition of "drawback" in § 191.2(a) should be amended by either removing the references to "duty or tax" or be expanded to include the term "fee."

Analysis: Because same condition drawback includes the term "fee," Customs has expanded the definition to include this term.

Comment: The statutory phrase "less 1 per centum" is not included in the definition of "drawback."

Analysis: By providing in the definition "in whole or in part," Customs has included all types and percentages of drawback returns. For example, for merchandise exported from a Customs warehouse, the return of drawback is 100 percent of the duties paid.

Comment: There should be a reference in the drawback definition to the non-

VOL
48
ISS
2
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OC
14
1983
UMI

payment of drawback on products and by-products of wheat.

Analysis: Although such a reference is provided in 19 U.S.C. 1313(a), Customs believes that this provision is not of sufficient general interest to be included in § 191.2(a).

Comment: Section 191.2(a) provides for drawback because of a "particular use made of the merchandise." Therefore, there should be a separate definition of "same condition drawback" (which is based upon imported merchandise not being "used" within the United States); or in the alternative, the drawback definition also should define the "use" to which merchandise must be put to obtain drawback upon exportation.

Analysis: Customs considers the exportation of merchandise to be a "use" within the definition of drawback; and therefore, this definition also includes same condition drawback. Furthermore, same condition drawback is discussed in § 191.4(a)(9).

Comment: The term "designated merchandise" should be removed from § 191.2(b) and the term "imported merchandise" should be added in its place. A delineation of the terms "designated" and "identified" should be made.

Analysis: Customs considers the term "designated merchandise" to be a technical term of art and should be retained. "Identification" is being used here in a common, non-technical meaning. To clarify this point, the definition in § 191.2(b) has been changed to read:

(b) *Designated Merchandise.* Designated merchandise means imported duty-paid merchandise or drawback products identified (either physically or by accounting records), by a drawback claimant as the basis for a drawback claim under 19 U.S.C. 1313(b).

Comment: The phrase "manufactured * * * under a drawback contract" in § 191.2(g) should be clarified so that the claimant would know that drawback can be claimed on goods exported prior to approval of the contract.

Analysis: Customs believes this addition is unnecessary. Section 22.4(n) (which provided that no drawback would be allowed on articles exported before the date of Customs receipt of an application for drawback) was removed by T.D. 79–65 (44 FR 11061). Furthermore, § 191.61 provides that drawback claims may be filed and completed within three years after the date of exportation of the articles on which drawback is claimed.

Comment: The last sentence of § 191.2(g) is confusing and, therefore, should provide a clarifying reference to drawback products used in secondary manufacture. Another suggestion involved using the phrases "dual status" or "dual characteristics" in the last sentence.

Analysis: Customs has reviewed this sentence and concluded that it is clear and that any additional language would be surplusage.

Comment: Section 191.2(h) should permit as an option the submission of computer-generated Customs Forms 7543, 7573, 7575 A&B, and 7577 A&B, plus any other forms that may be appropriate. All forms should be "8½ x 11" and require only one signature. Customs Form 7583, listed as a current form, was discontinued. It is suggested that Customs Form CF 7585 is intended, since it is listed in proposed § 191.82(e)(2).

Analysis: Customs believes that references in the regulations to computer-generated forms and their size are inappropriate. Computer-generated forms may be used provided they follow the same format, contain all of the information required, state the form number and title and contain the necessary certification(s) and signature(s). Customs notes, however, that a reduction from "8½ x 14" to "8½ x 11" is planned for all forms. If only one signature is needed, only that signature will be required on the new form. CF 7583 was abolished. CF 7585 will be indicated in its place. This error also appears under § 191.163(e); Therefore, the "7583" is changed to "7585" in both sections.

Comment: The language of § 191.2(m) defining "the same kind and quality" should be clarified, and examples should be added.

Analysis: Customs believes that the language of this definition is clear and disagrees with the suggestion to add examples because they may prove to be misleading and provide little assistance.

Comment: The definition of "verification" in § 191.2(o) is so broad that it places no limitation upon the authority of a Customs auditor in conducting a verification. Therefore, there would be unnecessary requests for information by the auditor. Verification should not entail all records and the examination should apply only to those records involved in the drawback program.

There were several suggestions to modify the language of the definition including limiting the examination of records to import, manufacture, and export documents or adding the words * * * "and maintained in the ordinary course of the business." It is claimed that the auditor does not have an absolute right to demand the financial records of a drawback claimant, based upon the holding in CSD 82–38, dated October 5, 1981 (published in Vol. 16 No. 9, Cus. Bul. p. 16, March 3, 1982), which held,* * *. "Absent a cogent reason, an auditor does not have an absolute right to demand the financial records of a drawback claimant who has made available records which *prima facie* show importation, manufacture, and exportation for purposes of the drawback law."

Analysis: It is Customs position that the definition as written is correct. The definition is not as broad as the commenters suggest. Examination concerns only those transactions involving drawback. However, the scope of the audit, which includes the examination of financial records, is reserved by Customs, not the claimant. The reservation by Customs of the right to include in its examination all financial records, must be read in light of CSD 82–38. Although Customs will examine first the importation, manufacturing; and exportation records. it reserves absolutely the right to demand all financial records for examination.

Customs notes that it does not prescribe the specific record system for a claimant to maintain. This allows claimants to use their own accounting systems in support of claims and precludes the use of singular purpose systems. Additionally, in the performance of the examination of records, Customs generally can accommodate central or decentralized control of records by a claimant.

Comment: Clarification for the term "group of claims" was requested.

Analysis: In the performance of a verification, Customs may select one claim or a multiple number of claims under one contract. Under some circumstances, claims under all contracts may be selected. Therefore, this phrase is used.

Comment: The language of § 191.10(c) should be substituted for § 191.2(o) claiming this would appropriately reduce the authority of the auditor.

Analysis: Section 191.10(c) represents a repeat of the authority for verification contained in § 22.43(c) and is considered properly placed. The definition for verification is new and its purpose is to provide additional explanation for drawback claimants based upon previous interactions between the public and Customs. Therefore, the suggestion is not adopted.

Comment: The definition of "abstract of manufacturing records" in § 191.2(p) is unnecessary in that Customs Forms 7575 and 7577 are "the abstracts of a manufacturer's records."

Analysis: Customs disagrees because claimants should know they may provide an abstract of their own which does not involve using Customs forms. Mere reference to only those forms as abstracts may lead claimants to believe they are the only means of submitting an "abstract" of manufacturing records.

Comment: A definition should be added to § 191.2 to discuss the term "first-in-first-out (FIFO)." Other terms such as "use," "used in," and "appearing in" also should be defined in this section.

Analysis: Customs has determined not to adopt these suggestions. Although FIFO was given special attention in the proposed rule, this revision has been changed to reflect that any acceptable accounting principle may be used to show use in manufacture, shipping, etc. If Customs were to describe one method, we would have to describe all methods. Also, FIFO is not an accounting method unique to drawback.

Concerning the suggestions that the other terms be added, Customs believes it is better to define those terms in its ruling opinions on a case-by-case basis.

Comment: A reference should be added to § 191.3 relating to sugar import fees.

Analysis: Customs disagrees. The present section is not all-inclusive but includes a general listing of duties subject to drawback.

Comment: A new subsection should be added to § 191.4(a)(2) to include the holding of a Customs Service Decision allowing claimants to treat a commercial lot of imported duty-paid merchandise as domestic merchandise for purposes of substitution drawback.

Analysis: Customs disagrees because there is no provision in the revision which parallels § 22.5(a)(5), (which required records to be kept to indicate that domestic merchandise was used in manufacture). Therefore, it is unnecessary to change § 191.4(a)(2).

Comment: There should be a reference in § 191.4(a)(2) to substitution of same condition merchandise.

Analysis: Customs cannot adopt this suggestion because substitution in this context requires legislation.

Comment: There should be a reference in § 191.4(a)(2) to substitution of merchandise in foreign trade zones.

Analysis: Customs notes that substitution in a foreign trade zone is permitted only under the substitution drawback statute, not under the foreign trade zone statute. Manufacturing under substitution drawback can apply to a zone because a zone is considered in the United States. However, it is impractical to describe all interfaces between drawback and other laws in the regulations.

Comment: Drawback under 19 U.S.C. 1313(c), as discussed in § 191.4(a)(3), should be limited to those claimants who cannot claim drawback under any other drawback procedure.

Analysis: Customs does not have the statutory authority to write such a regulation.

Comment: Because of the difficulty faced in what is meant by "domestic tax-paid" alcohol in 19 U.S.C. 1313(d), it is suggested that § 191.4(a)(4) be changed to include "distilled spirits."

Analysis: "Domestic alcohol" in 19 U.S.C. 1313(d) does not include anything other than tax-paid alcohol as set forth in 27 CFR 5.22(a) and 19.597(a)(1), nor does it include beverage alcohols referred to as distilled spirits in 26 U.S.C. 5171. When the Internal Revenue Code was amended by Pub. L. 85–859, the Customs statute was not amended. Customs recognizes the problem. At this time, however, we cannot adopt the suggestion.

Comment: Sections 191.4(a) (5) and (6) should be deleted from the regulations and the law as they are obsolete provisions.

Analysis: Customs agrees that drawback on imported salt for curing fish, and the exportation of packed or smoked meats cured in the United States with imported salt are forms of drawback not currently in use. However, we believe that the statutory reference to them should be made in the regulations.

Comment: Section 191.4(a)(9) can be used to require that imported merchandise exported in the same condition must be exported under Customs supervision.

Analysis: This is incorrect. In accordance with the Pub. L. 96–609, supervision is applicable only to destruction of the imported merchandise and not to exportation.

Comment: Section 191.4(a)(10) is inaccurate because: (1) Same condition merchandise should be covered under this section; (2) there is no reference to "articles of domestic manufacture and production"; and (3) there is no reference to "drawback," "direct identification," or "substitution."

Analysis: Customs notes that when 19 U.S.C. 1313(j) was promulgated, 19 U.S.C. 1309(b) was not amended. Although this later provision covers vessel supplies which are "articles of domestic manufacture or production," a phrase which confers drawback under the manufacturing drawback provisions, section 1309(b) contains no language which would confer drawback under the same condition drawback law. Until such time as 19 U.S.C. 1309(b) is so amended, merchandise placed aboard vessels as supplies cannot be considered as having been exported for purposes of 19 U.S.C. 1313(j). Customs is amending § 191.4(a)(10) by adding a reference to "article of domestic manufacture and production." However, there is no need to refer to "drawback," "direct identification," or "substitution" as suggested because "articles of domestic manufacture or production" cover manufactured drawback articles.

Comment: Section 191.4(a)(4)(11) should be changed to include the language "merchandise upon which duties have been paid." Also, merchandise must be exported or shipped within 3 years after the date of its importation, rather than 5 years as set forth in the proposal.

Analysis: Although Customs used the term "duty paid" merchandise in § 191.4(a)(11), that section is being amended by removing that term and adding the suggested language because it does more clearly reflect the statutory language. The 5-year period as set forth in the revision is correct. The 3-year period was extended to 5-years by Pub. L. 95–410 (Oct. 3, 1978).

Comment: There should be a reference to same condition drawback in § 191.4(b).

Analysis: Customs disagrees because that section is limited to a particular type of drawback, i.e., internal revenue taxes on unmerchantable alcohol beverages.

Comment: Records should be retained for at least 3 years after "liquidation," rather than 3 years after "payment" of claims as set forth in § 191.5. Records required to be kept by manufacturers or producers also should be kept by agents or customhouse brokers.

Analysis: Customs considered amending the regulations to use the term "liquidation;" however, that proposal was rejected. Customs believes that because § 191.5 merely states the time frame for the retention of records, it would be inappropriate to expand that section to include other recordkeepers.

Comments: Proposed § 191.6(a) appears to exclude attorneys from the category of individuals authorized to sign drawback documents. The requirement that an attorney needs a power of attorney is objectionable in light of the Administrative Procedure Act, specifically 5 U.S.C. 555(b) (relating to the right of a person compelled to appear in person before an agency being entitled to be accompanied, represented, and advised by counsel); and with

VOL
48
ISS
2
0
0
OC
14
1983
UMI

regard to filing protests, conflicts with 19 CFR 174.3(a)(1).

Legal Determination 79-0131 (May 15, 1979), was criticized. The ruling related to whether an attorney in general practice who has been granted a Customs power of attorney, may sign and file forms connected with drawback or any other Customs matter for his client. The ruling held that because the attorney is not considered a "regular employee" of an importer, he cannot transact Customs business on behalf of his client unless he is licensed as a customhouse broker.

A power of attorney should be required only when the signee is not an officer or a person whom the claimant warrants to be an authorized employee of the corporation for which he is signing. One signature should be required unless additional non-related parties are involved in the transaction.

Analysis: It is Customs position that attorneys cannot bind corporations, partnerships, or sole proprietorships without a power of attorney to do so. An attorney, therefore, is required to have power of attorney to sign drawback documents. However, the commenter is correct that no power of attorney to file a protest is required of an attorney in accordance with 19 CFR 174.3(a)(1). Upon reconsideration, Customs is of the opinion that the references to protests in § 191.6(b)(12), as well as the items discussed in § 191.6(b) (10) and (11), are not technically drawback documents and, therefore, are being removed from the revision.

Customs believes that the reference to the Administrative Procedures Act is misplaced because no one is compelled to appear before Customs in order to apply for drawback. Customs has decided to reconsider Legal Determination 79-0131. Any decision on that ruling will be the subject of a separate document.

Customs cannot broaden the scope of who has authority to sign drawback documents without a power of attorney. Corporations must have on file with Customs a legal document showing that they agree to be bound in drawback matters by the signature of a particular person. Customs requires two signatures on specified Customs Forms because very often only the second party has actual knowledge of certain facts needed by Customs.

Comment: Section 191.7 should be clarified as to with whom a protest is to be filed.

Analysis: This comment has merit, and this section has been revised to reflect the procedure set forth in Part 174, Customs Regulations.

Comment: Section 191.8(b) should be modified to indicate that same condition drawback articles need not be exported under Customs supervision. There is no need to have any reference to "use" in this section.

Analysis: We believe this section, as well as § 191.4(a)(9), previously discussed, is clear as drafted. Customs supervision is applicable only to destruction of the imported merchandise. Customs believes the reference to "use," although not required here, is helpful to the reader.

Comment: Section 191.8(c) should include language that duties must have been paid on merchandise upon which drawback is sought, and that the limitation for exportation from warehouse should be 3 and not 5 years.

Analysis: It is understood that duty has been paid when drawback is sought on merchandise for any reason, or, at least, drawback would not be paid unless duty had been paid on the merchandise. The time limit for merchandise to be exported or shipped is now 5 years, as noted above.

Comment: Section 191.10(b) makes compulsory the verification of information concerning a claimant's factories located in other regions by the use of the word "shall." It is suggested the words "required by" should be changed to "provided by."

Analysis: This comment has merit. Therefore, the words "required by" are being removed, and the words "provided for in" are being added in its place. The word "shall" is being removed and the word "may" is being added in its place.

Comment: The regulations do not consider multi-plant operations with centralized control over drawback records at a home office location.

Analysis: It is Customs position the commenters concerned with their centralization of records should include this information in their contract. Generally, a verification will be limited to that location.

Comment: In proposed § 191.10(d), the postponement for payment of all the claimant's drawback pending completion of a verification and the issuance of a report by Regulatory Audit may pose severe financial hardships in the event a verification or issuance of a report was delayed. Suggestions were made to establish a maximum period of postponement for liquidations from the initiated date of postponement. The suggested period was from 60-90 days from the date of postponement. Others suggested the postponement should apply only to those claims under the same contract subject to verification.

Analysis: These comments have merit. The regulation is being revised to provide for postponement of payment on only those claims selected for verification. However, specifying a maximum period of postponement is considered too restrictive. In the event a substantial error is revealed during the verification, Customs may postpone liquidation of all related product line claims, or in its discretion, all claims.

Comment: The use of the phrase "within a specified time" in proposed § 191.10(e) should be changed to show the claimant has a fixed specific time to amend defective drawback contracts. It is suggested that 90 days is appropriate.

Analysis: It is Customs opinion that use of a specified time would be restrictive, both to Customs and the claimants. Contract deficiencies must be corrected timely. Required changes to contracts will vary in complexity. These matters are best resolved between the responsible Customs Service official and the claimant. The suggestion is not adopted.

Comment: The question was raised whether the claimant still has the right to file a protest.

Analysis: This is correct.

Comment: Section 191.11(a) should be amended to exempt Government instrumentalities operating with nonappropriated funds from the requirement of obtaining bonds relating to drawback claims.

Analysis: Customs believes that although these instrumentalities are required to obtain bonds, Customs has determined to waive the surety requirements on accelerated bonds and exporter's summary procedure bonds. This section is being amended accordingly.

Comments: Section 191.11(c)(2) is limited to drawback being available only to a supplier; however, if the supplier of the merchandise is the manufacturer, producer, etc., he has the right under § 191.73(b) to endorse the drawback to anyone he chooses.

Analysis: This comment has merit and, therefore, § 191.11(c)(2) is being amended by adding "or any of the parties specified in § 191.73(b) of this part" after the word "supplier."

Comment: The section heading of § 191.13 "Guantanamo Bay" is insufficient to reflect the information contained therein which also refers to payments or nonpayments of drawback on merchandise shipped to insular possessions or trust territories.

Analysis: The comment has merit and the section heading is being changed to read:

"Guantanamo Bay, insular possessions, trust territories."

Subpart B

Comment: Section 191.21(a) should be clarified to distinguish sufficiently between a specific drawback contract and a general drawback contract.

Analysis: This comment has merit. The first sentence of this section is being revised by adding at the beginning, "Unless operating under a general drawback contract * * *.

Customs desires claimants to use the least complex procedure. General contracts reduce the burden on both Customs and the public. A claimant should not use both a general and a specific drawback contract.

Comment: Section 191.21(a)(1) may be confusing when read with § 191.22(d) in that it may be believed that brokers or issuers of certificates of delivery may be required to file drawback proposals.

Analysis: Customs disagrees. Section 191.21 makes it clear that only manufacturers and producers of articles need drawback contracts. There is no requirement for a broker to have a drawback contract.

Comment: Persons keeping complementary records pursuant to § 191.21(a)(1) should be able to sign those records.

Analysis: Customs agrees. Because complementary records are kept by the person for whose account the products are manufactured or produced when the manufacturer or producer is unable to do so, the following sentence is being added at the end of that section:

Complementary records may be signed by the complementary recordkeeper in accordance with § 191.6(a) of this part.

Comment: Language should be added to Subpart B to the effect that claimants need only keep "reasonable records" to show compliance with the law, and that drawback should ensue unless "contrary information" is found in the claimant's records.

Analysis: Customs disagrees. The claimant's records must show compliance with the requirements of the law and regulations. Customs cannot permit a lessening of this burden. Adoption of the suggestion would place the burden on Customs in those cases where the claimant's records indicate a lack of compliance.

Comment: Section 191.21(a)(2) should be amended so as not to require subcontractors to submit contracts, general or otherwise.

Analysis: This section has been amended to clarify that subcontractors may use a general contract which requires a minimum of work on their part.

Comment: Section 191.21(a)(2) should be clarified to indicate that it is drawback merchandise which must be identified.

Analysis: Customs disagrees. The terms "material" indicates that it is the merchandise which must be identified, which possibly may not be the drawback merchandise after handling by the subcontractor. This regulation applies only to identification.

Comment: Section 191.22 should be revised to avoid confusion between recordkeeping requirements for 19 U.S.C. 1313(a) and 19 U.S.C. 1313(b).

Analysis: Section 191.22(a) indicates that that section concerns direct identification drawback and that substitution drawback recordkeeping requirements are found in § 191.32.

Comment: The Following language should be added at the end § 191.22(a)(4) "* * * unless the claimant has selected to utilize the schedule method in their proposal to Customs."

Analysis: Customs disagrees. A schedule merely indicates the amount of merchandise used in manufacture during the period. Use of a schedule does not obviate the necessity of filing manufacturing abstracts, which show compliance with the time frames for receipt, use in manufacture, and exportation.

Comment: In § 191.22(a)(5)(i), the values of each product at the time of separation should be taken into consideration only if they are over a specific percentage, e.g., 5 percent in relation to each other.

Analysis: Customs cannot adopt this suggestion because the present language provides us with the flexibility needed to determine when a value is *de minimis* with regard to the values of its relative products.

Comment: The 1-month abstract period specified in § 191.22(a)(5)(ii) is too short and should be for several months. The drawback contract rather than the regulation should provide the abstract period.

Analysis: Customs does not agree. A 1-month limitation provides a safeguard against a claimant receiving more drawback than entitled. Furthermore, the regulation does provide for approval by Customs of a longer manufacturing abstract period. Also, having a limitation on the abstract period leads to uniformity for liquidators and auditors.

Comment: The reference to "weighted average" in § 191.22(a)(5)(ii) should be deleted because it does not recognize market fluctuations during the abstract period.

Analysis: Customs disagrees because it is precisely the market values over a manufacturing period which are used to determine a weighted average for by-products.

Comment: In § 191.22(a)(5)(ii), each manufacturing period should be considered the time of separation, rather than the entire time period covered by the claim, with the weighted average market value assigned for each period.

Analysis: Customs cannot adopt this suggestion. If a claim is made for goods manufactured over more than one abstract period, then unit relative values based on the entire manufacturing period must be ascertained.

Comment: The term "designated" in § 191.22(b) is misleading.

Analysis: Customs agrees and has removed this word.

Comment: Identification of two or more lots of merchandise used for drawback purposes in § 191.22(c) should not be limited to first-in-first-out (FIFO) accounting principles.

The word "shall" in the first sentence should be changed to "may". The phrase "or any other accounting procedure approved by Customs" should be added at the end of the first sentence to permit use of other accounting procedures.

Analysis: Customs believes this comment has merit and is so revising this section. Therefore, other accounting procedures such as "low-to-high," "identification," and "blanket identification" may be used.

Comment: Drawback claimants should not have to account for domestic consumption since in doing so, they may lose drawback.

Analysis: Customs has held, in effect, that if a claimant is using FIFO or any acceptable accounting method for such commingled goods, the claimant need not account for domestic consumption. Accordingly, there is no need to add this to the regulations.

Comment: Section 191.22 should apply only to 19 U.S.C. 1313(a) drawback and a separate section should apply to substitution drawback under 19 U.S.C. 1313(b).

Analysis: Customs believes that the appropriate sections are clear. Section 191.22(a) provides the record requirements for direct identification and other non-substitution manufacturing drawback and refers the reader to § 191.32 for record requirements 19 U.S.C. 1313(b). The last sentence of § 191.22(c) is being deleted (as discussed below). Section 191.31 advises that the procedures set forth in subparts A and B are applicable to 19 U.S.C. 1313(b) except as noted in subpart C.

VOL
48
ISS
2
0
0
OC
14
1983
UMI

Comment: Sections 191.22 (b) and (c) should be amended to cover single lot and multiple lot identification.

Analysis: Customs disagrees because single lots need no further identification.

Comment: The last sentence of § 191.22(c) is misleading in that it is claimed that FIFO must be used to designate merchandise for drawback under 19 U.S.C. 1313(b).

Analysis: To clarify this, Customs is removing the last sentence of this section and adding a new § 191.32(e) to read as follows:

(e) Designation

A manufacturer or producer may designate any merchandise which it has used in manufacturing or production.

Comment: The first sentence of § 191.25(b)(2) should be revised by removing the language through "Customs Headquarters" and adding in its place "a letter modifying an existing contract." There should be additions to the list of changes covered by the modification which can be approved by the regional commissioner.

Analysis: Customs disagrees. To change the first sentence would remove from the regulations the types of contracts which can be approved by the regions, which otherwise requires Headquarters approval. Customs believes that there should be no expansion of the list of changes covered by the modification.

Comment: One commenter asks whether § 191.25(b)(2) allows a regional commissioner to revoke a contract approved by Headquarters.

Analysis: Section 191.25(b)(2) delineates the instances when approval of specified modifications are submitted to the regions. When they are received by the regions and approved, the region notifies Headquarters and the modified contract becomes effective. If the existing contract was approved at Headquarters, this is no impediment to the region's action. The contract is not revoked by this action.

Comment: Section 191.25(c) should be amended by adding "without prejudice" at the end of the sentence.

Analysis: Customs agrees and has added " * * * "without prejudice to claims existing thereunder" at the end of the sentence.

Comment: The phrase " * * * "in accordance with § 191.23 of this part" * * * should be removed from the first sentence of § 191.26.

Analysis: Customs disagrees. The cross-reference is used to inform the party renewing the contract which Customs office should be notified of the request.

Comment: Section 191.26 should provide a time limit to indicate when Customs should be notified on an intent to renew the contract.

Analysis: Customs believes that a specific time period is unnecessary. Customs will accept a request to renew a contract at any time prior to the expiration of the 15-year period.

Comment: A question was raised whether only Headquarters can renew a contract approved by Headquarters.

Analysis: Customs notes that under present guidelines, if Headquarters approves the original contract, then it approves the renewal.

Subpart C

Comment: It appears from the language of § 191.32(a)(1) that claimants under 19 U.S.C. 1313(b) can continue to designate the imported merchandise most advantageous to them.

Analysis: This is correct. It is believed that if a claimant under 19 U.S.C. 1313(b) uses FIFO (or any other approved method) for identifying or proving use of merchandise in manufacture, then that claimant must use that method for designating merchandise for drawback. This is not so. As noted above, we have amended § 191.22(c) and added § 191.32(e), for clarification.

Comment: Section 191.32(a) should include a reference to rulings holding that merchandise not proved to be imported is considered domestic merchandise.

Analysis: This is not necessary since there is no reference to the use of domestic merchandise in § 191.32(a).

Comment: Section 191.32(a)(2) does not sufficiently distinguish between "used" and "appearing in" methods.

Analysis: This comment has merit. The word "or" is being added to this section immediately before the word "appearing."

Comment: Because § 191.31 refers to Subparts A and B, the question is raised whether is it necessary to include a paragraph on valuable waste in § 191.32(b) in light of paragraph 191.22(a)(2) on this subject matter.

Analysis: Customs believes both sections are necessary. "Valuable waste" is discussed in § 191.22(a)(2) and "valuable waste records" are discussed in § 191.32.

Comment: The exchange of petroleum provision in § 191.32(c) should be extended to all fungible goods.

Analysis: Legislation would be necessary to accomplish this.

Comment: The language in the second sentence of § 191.33 after "separation of the products * * * " should be deleted.

Analysis: Customs disagree. That information is needed to prepare claims.

Comment: The relative values in § 191.33 should be ignored if the difference in value between by-products is small (e.g., 5 percent).

Analysis: The present language give Customs flexibility in determining when a value is *de mininus* with regard to the values of its relative products. Customs believes that adoption of the suggestion would complicate the administration of the relative value aspects of the law.

Comment: Objections were raised regarding the one-month time limitation and the use of the term "weighted" in § 191.33.

Analysis: Customs believes the sections should not be changed for the reasons previously discussed.

Comment: Section 191.34 should be amended to allow the general agents' drawback contract under 19 U.S.C. 1313(b) extended to claimants using agents under 19 U.S.C. 1313(a).

Analysis: There is no necessity for an agent's drawback contract under 19 U.S.C. 1313(a). Under 19 U.S.C. 1313(a), because only the imported merchandise is being subjected to manufacture, it would be surplusage for a principal to operate under the general drawback contract of 19 U.S.C. 1313(a) and have his agent obtain an agent's contract. Under 19 U.S.C. 1313(a), the agent need only operate under a general drawback contract.

Subpart D

Comment: The language of Subpart D does not sufficiently reflect contract terminology involving offer and acceptance.

Analysis: This comment has merit. Clarifying changes have been made to § 191.42 and 191.43.

Comment: Subpart D should provide a listing of approved general drawback contracts available to the public.

Analysis: Customs publishes as Treasury Decisions general drawback contracts when they are offered. However, to include a listing of these contracts in the regulations would require continuous amendment of the regulations as new contracts are published. Customs believes this is unnecessary.

Comment: Section 191.42(b), which provides specified information that must be provided by a manufacturer or producer to Customs under a general drawback contract, should be expanded to include:

(1) Imported merchandise to be used;
(2) Exported product;
(3) Basis of claim; and
(4) Designated merchandise.

Analysis: Customs disagrees because inclusion of this additional data is not necessary and submission would pose a burden on the claimant.

Comment: A regional commissioner should acknowledge within 60 days, receipt of a letter of acceptance by the manufacturer or producer of an offer for a general drawback contract in § 191.43.

Analysis: Acknowledgement by the regional commissioner is a matter of courtesy and ordinarily will be done within a reasonable time-frame. Customs believes a 60 day requirement is unnecessary.

Comment: The reference in § 191.44 to renewal of a contract by the regional commissioner "upon satisfactory review" should be removed because that phrase is too ambiguous and subjective, and the regional commissioners should not be required to conduct any review.

Analysis: Customs agrees. The phrase "Upon satisfactory review" may be confusing and is unnecessary. Therefore, the entire second sentence is being removed.

Subpart E

Comment: Customs should retain the certified notice of exportation procedure. Eliminating this procedure effectively will deny claimants drawback. When the claimant is not the direct exporter, the claimant often is unable to obtain the necessary documentary evidence of exportation from the exporter. The exporter may refuse to provide the data to the claimant because of business confidentiality or bear the administrative expense of providing supporting documents. The claimant must expend more money to obtain the document required for the uncertified procedure. The proposed revision is discriminatory in those situations when the claimant is not the direct exporter because proof of exportation may be available only by means of the certified notice of exportation. Customs refusal to expend time and effort required to certify the notice of exportation *after* exportation has occured is understood. However, it is noted that only a minimal amount of effort is required to perform the certification when the manifest, shipper's export declarations, and notices of exportation are all submitted properly *at the time* of exportation.

Analysis: Customs believes these comments have merit and has determined to retain the certified notice of exportation procedure in the following two circumstances:

1. Certification of notice of exportation at the time of exportation, and

2. Certification of notice of exportation by mail.

To accomplish this, the word "Uncertified" is being removed from § 191.51(a) and the section heading of § 191.52. Section 191.52(c) has been rewritten and divided into two paragraphs, (c)(1) and (c)(2). Paragraph (c)(1) permits the certified notice of exportation procedure and paragraph (c)(2) provides the uncertified notice of exportation procedure.

Comment: Section 191.52(b)(3) should be revised by removing the word "gross" and require only "net weight";

Analysis: Customs disagrees. For regulatory audit purposes, gross weight needs to be specified.

Comment: The reference in § 191.52(c) (now § 191.52(c)(2) as rewritten), to "or certified copies thereof" should be removed in order to conform to C.S.D. 82–59 (Vol. 16, No. 16, Cus. Bul. p. 33).

Analysis: Customs disagrees. That ruling merely stated that copies of bills of lading, etc., which indicate that the goods were received by the exporting carrier, would be sufficient to support a notice of exportation. This is the "certification" to which § 191.52(c) refers.

Comment: A "domestic" bill of lading covering a motor carrier shipment to a Mexican border point should be an acceptable document to support an uncertified notice of exportation. A so-called "domestic" bill of lading to a Mexican or Canadian customer should be deemed acceptable.

Analysis: Customs disagrees. Intermodal and inland bills of lading are not acceptable as proof of exportation as set forth in C.S.D. 82–59.

Comment: The numbering provision of § 191.52(d) should be eliminated.

Analysis: Customs disagrees and believes the numbering is necessary for identification purposes.

Comment: The reference to same condition drawback in § 191.53(b) should be removed.

Analysis: Customs disagrees because Subpart E is concerned with methods of proving exportation for manufacturing and same condition drawback.

Comment: The word "may" in § 191.53(c) should be removed and the word "shall" added in its place.

Analysis: Customs agrees. The regional commissioners should grant summary procedure when it is concluded that its use would contribute to administrative efficiency.

Comment: Section 191.53(d) should be deleted because no bond is needed for operation under the exporter's summary when a claimant has obtained a bond to file drawback claims under the accelerated payment procedure.

Analysis: Both bonds are necessary as they cover different aspects of drawback. Furthermore, many drawback claimants operating under summary procedure do not operate under the accelerated procedure.

Comment: The reference in § 191.53(e)(1) to "identity and location of the ultimate consignee of the exported articles" should be removed because collection of this data is a burden.

Analysis: Customs notes that the requirement to submit this data is contained in existing § 22.7(d)(2)(ii) and is still needed.

Comment: The reference in the second sentence of § 191.53(e)(2) to same condition drawback should be removed because the subject is covered by Subpart N.

Analysis: Customs disagrees because this section deals with exporter's summary procedure, and we want to make it clear that this procedure can be used with same condition drawback as well as with manufacturing drawback.

Comment: The reference in § 191.53(e)(3) to a "chronological summary" should be removed because the requirement causes needless, excessive paperwork with no apparent benefit to claimants or Customs.

Analysis: The chronological order is necessary so that the timeliness of exportation can be determined after a rapid review by the liquidator. Otherwise, it would be easy to overlook the oldest export date.

Comment: Some of the items on the format in § 191.53(e)(3) are claimed to be unnecessary. It is suggested the phrases "Marks & Nos.", "Schedule B No.," and "Destination" be removed. The submission of all the data should not be mandatory. One commentor suggests rewording or redesigning the chronological summary because of the extensive current use of data processing and the cost of programing.

Analysis: This comment has some merit. Customs has determined to revise the language of § 191.53(e)(3) to provide that the format shall be acceptable to the regional commissioner and shall contain "substantially the data provided for in the following sample format."

Comment: The last sentence of § 191.54(c) should be removed because it places a burden on the postmaster.

Analysis: This suggestion is not adopted because Customs and the claimant want to know where a copy of the notice of exportation will be available if the exporter/claimant loses his copy. Second, the exporter or his agent, to whom the postmaster gives the original notice of exportation and one copy, may not be the drawback claimant.

VOL
48
ISS
2
0
0
OC
14
1983
UMI

Comment: Section 191.54(c) "Certification" should be redesignated as § 191.54(a)(2) and proposed § 191.54(a), "Procedure," should be redesignated as § 191.54(a)(1).

Analysis: Customs agrees and has so changed the revision.

Comment: Section 191.55(b) should be amended to conform to the change made to § 191.11(c)(2) relating to other parties for whom drawback is available.

Analysis: This suggestion is adopted.

Comment: Section 191.55(b) should permit the applicable parties to use the exporter's summary procedure.

Analysis: Customs agrees and is adding a reference to § 191.53 at the end of the sentence.

Comment: Section 191.57, relating to examination of merchandise, should be removed because the language is too broad.

Analysis: Customs disagrees. It is necessary to inform drawback claimants of Customs right to examine any merchandise to be exported with drawback.

Subpart F

Comment: The phrase in § 191.61, "including those issued by one Customs officer to another," should be removed. It was unclear as to what documents are being referred to.

Analysis: Customs disagrees. The documents refer to the notice of exportation.

Comment: Section 191.62(a)(1) should be amended to allow claimants to file documents with "any" district director, rather than "the appropriate" district director.

Analysis: Customs disagrees. Claims should be filed with a district director under the jurisdiction of the regional commissioner where the drawback contract is filed. Each claim will be liquidated at that location unless the claimant requests the regional commissioner who has the contract on file to transfer the contract to another location where claimant indicates the claim is to be liquidated.

Comment: After "Customs Form 7575" in § 191.62(a), add "–A, if claiming under 19 U.S.C. 1313(a), or Customs Form 7575–B if claiming under 19 U.S.C. 1313(b)."

Analysis: Customs agrees; this addition would distinguish between and cover (a) and (b) claims.

Comment: The reference in § 191.62(b)(2), as well as in § 191.52(a), to uncertified Customs Form 7511 should not be required if documentary evidence supports exportation.

Analysis: Customs disagrees because Customs Form 7511 is a signed representation to Customs that exportation occurred. The evidence of exportation used to support the Customs Form 7511 (e.g., bill of lading), concerns parties other than Customs certifying receipt and exportation. The Customs Form 7511 is a document which can be the basis of criminal action under 18 U.S.C. 1001 and 18 U.S.C. 550.

Comment: The examples should be removed from § 191.62 (c)(1) and (c)(2).

Analysis: Customs disagrees. In this instance, the examples are beneficial.

Comment: Section 191.65(a), referring to when certificates of delivery are required, should specifically set out that these certificates are to be used to record transfers of same condition drawback merchandise.

Analysis: Although § 191.145 (redesignated as § 191.141(e)), provides that the provisions relating to direct identification drawback apply to same condition drawback when not inconsistent, we believe this comment has merit. Therefore, in the last sentence of that section, a specific cross-reference to § 191.65 is being added.

Comment: Section 191.66 should emphasize the fact that the principal needs to submit only a certificate of manufacture or certificate of manufacture and delivery when the principal uses agents to accomplish some or all of the manufacturing process.

Analysis: Section 191.66(b) is being revised by adding a provision that in certain circumstances, Customs will waive the requirement for an agent to file certificates of manufacture and delivery.

Comment: The words "prepared and executed by the importer" should be added after "Customs Form 7543" in § 191.65(a). Also, the words "prepared and executed by the manufacturer" should be added after "Customs Form 7577" in § 191.66(a).

Analysis: Customs disagrees. Both forms are self-explanatory concerning how they should be completed.

Comment: In § 191.66(f)(1), the "–B" after "Customs Form 7577" should be deleted.

Analysis: Customs agrees and is making the change.

Comment: A question was raised whether the phrase "evidence of clearance" means the same as "evidence of exportation."

Analysis: The meanings are the same. Customs believes the new reference to "clearance" is a better choice of words.

Subpart G

Comment: Courtesy notices should be issued for all drawback liquidations. Bulletin notices should be coded to differentiate between payments of accelerated drawback and final liquidation.

Analysis: Courtesy notices are generated from the Customs Headquarters Data Center and are issued at the time of each drawback liquidation. However, the courtesy notice is not generated for accelerated payments. Section 159.9(d), Customs Regulations, states that Customs will endeavor to provide importers or their agents with a courtesy notice. We include drawback claimants who have liquidated claims because notices are generated for all liquidations. However, because accelerated payments are not liquidations, these payments are not posted as bulletin notices.

Comment: There should be a provision added to § 191.71 to cover a situation when the drawback liquidator is unable to secure the import entry. It is suggested that if Customs is unable to secure import entries necessary for liquidations within 6 months after the claim is filed, the claimant has the right to reconstruct the entry.

Analysis: In such instances, reconstruction of the import entry by the importer or claimant would be the basis for liquidation in accordance with § 191.71. However, this matter is better discussed in a manual supplement to Customs officers rather than in the regulations.

Comment: In § 191.71(d), there should be a cross-reference in § 159.1 wherein the term "liquidation" is defined.

Analysis: Customs believes that this cross-reference is unnecessary.

Comment: The heading and language of § 191.71(e)(1) are confusing and should be clarified.

Analysis: This comment has merit. The section heading is being changed to read "Distribution and value for multiple products." In § 191.71(e)(1), the phrase "manipulation of imported" is being removed and the phrase "manufacture or production of" is being added in its place.

Although 19 U.S.C. 1313(a) refers to "manipulation," this term may be confusing. Under the statute, a manufacture or production must occur. Because the exported articles may be manufactured with imported or domestic merchandise or a combination thereof, unless the word " imported" is deleted, claimants may feel relative values do not apply when domestic merchandise is used to produce the exported articles.

Comment: Similar suggestions for clarification were made concerning § 191.71(e)(2). Additionally, there should be a reference in § 191.71(e)(2) to 19 U.S.C. 1313(b).

Analysis: This comment has merit. The suggestion relating to 19 U.S.C. 1313(b) is being adopted by removing the reference to 19 U.S.C. 1313(a). Therefore, § 191.71(e)(2) is being amended to read:

(2) *Value.* The values to be used in computing the distribution of drawback where two or more products result from the manufacture or production of merchandise under drawback conditions shall be the market value unless another value is approved by Customs.

Comment: Section 191.72(b) should be clarified to indicate that when unliquidated accelerated drawback amounts in claims filed (rather than actual claims as proposed), exceed the estimated amount of accelerated drawback to be received over the bond period, the regional commissioner is to demand additional coverage.

Analysis: Customs agrees. Therefore, in the last sentence of this section, the word "actual" is being removed and the words "outstanding unliquidated" are added in its place. This will emphasize that only unliquidated entries can be charged against the estimated total accelerated drawback during the bond period when the regional commissioner must decide whether to demand additional coverage.

Comment: The language should be changed in § 191.72(d) so that regional commissioners shall deny the privilege to receive accelerated drawback to those claimants who "consistently" file claims in excess of the amount due.

Analysis: Customs disagrees. The operative word currently in that section is "repeatedly." "Consistently" would require a finding by the regional commissioner that the claimant uniformly and always files overclaims. "Repeatedly" implies a frequency of overclaims to the point that the revenue is threatened, but does not require constant and uniform filings of overclaims.

Comment: The language of § 191.72(d) should be changed in part to read "accelerated payment will be denied to claimants who are repeatedly delinquent in remitting excess payments received."

Analysis: To do so would allow claimants repeatedly to file over-claims and retain the privilege of accelerated drawback as long as the overpayments they receive are promptly returned to the Government. Thus, they would be getting interest free loans. Additionally, the words "the right to receive" appear to be misleading and are being removed.

Comment: Section 191.73(a) should provide that an importer may reserve the right to drawback.

Analysis: Customs believes that the section should not be changed. However, it is noted that drawback may be assigned to an importer under § 191.73(b).

Comment: The phrase in § 191.73(a) "at the time of sale or consignment of the articles" should be removed.

Analysis: Customs agrees. Reservation of the right to drawback may be made at a time other than at the time of sale or consignment. Therefore, the phrase is being deleted.

Comment: An example (such as "The undersigned hereby authorizes, etc. (claimant) to receive drawback * * *") should be included in 191.73(b).

Analysis: Customs believes that an example is not necessary in this case.

Subpart H

No Comments.

Subpart I

Comment: Section 191.93(e)(1) should be amended to include those activities which confer eligibility for drawback on supplies laden aboard vessels.

Analysis: Customs disagrees because the activities are included on Customs Form 7514.

Comment: Because of the multitude of ladings of fuel on foreign-bound aircraft by single suppliers who now must list each aircraft or vessel on the reverse of Customs Form 7514, § 191.93(j)(2) should be amended to provide the composite notice required by this section to list only the total amount of fuel laden during a calendar month.

Analysis: Customs is unable to adopt this suggestion. Each form must be signed by the owner or operator of the vessel or aircraft who has "knowledge of the facts" that the fuel was laden and is to be used in foreign travel, as provided in § 191.93(j)(3). Owners and operators would be unable to complete the "Declaration of Master or other Officer" as required on this form if the form covers fuel ladings on many aircraft or vessels which: (1) Are not listed on the form and (2) are not owned by the person or agent completing the form. The person supplying the fuel in most instances involving aircraft is not the owner or operator of the aircraft.

Subpart J

No comments.

Subpart K

Comment: Section 191.113(a), does not conform to the language of 19 U.S.C. 1313(g), in discussing the materials which are eligible for drawback under that provision.

Analysis: The language after the phrase "and not" is to conform to rulings which have held that "repair" of a vessel was not the "construction" thereof, and that certain furnishings, luxury items and the like, not a part of the vessel nor necessary by law or regulation for the safe operation of the vessel, cannot be the subject of drawback.

Customs rulings follow the intent of Congress. If an article is not attached to, or made a part of, a vessel or is merely placed aboard the vessel and not required for safe operation of the vessel or safety of the crew, Congress did not intend that it be the subject of drawback.

Subpart L

No comments.

Subpart M

Comment: Section 191.131(a) should be amended to include foreign trade zones.

Analysis: Customs disagrees because merchandise in a foreign trade zone is not the type of Customs custody to which this section relates.

Comment: The proposed reduction of the period of time in which to file a bill of lading in § 191.136(a) from 2 years to 6 months is too short. This limitation could cause problems, and therefore it is suggested that a provision be added to permit an extension. Under paragraph (d), it is suggested that the definition of "bill of lading" be included in this section.

Analysis: Under § 191.136(a), Customs agrees that a longer period of time is needed. Therefore the "6 months" will be changed to read "2 years." With this change, no extension should be needed and an extension would not be granted. C.S.D. 82–59 describes in detail the three principal types of bills of lading and their use. Therefore, no addition to paragraph (d) is needed.

Subpart N

General Statement

Customs received considerable comments objecting to the proposed regulations on same condition drawback. Commenters' objections related to provisions on the operational time frames, examination of the merchandise, and legal issues. It is claimed that the proposal makes it almost impossible to claim drawback.

Comment: The title of Subpart N, "Same Condition Drawback" is misleading because that subpart also discusses rejected merchandise under 19 U.S.C. 1313(c).

Analysis: Customs agrees and has revised the title of Subpart N to read "Same Condition and Rejected

VOL
48
ISS
2
0
0
OC
14
1983
UMI

Merchandise Drawback." The section numbers under Subpart N have been redesignated to conform to this change.

Comment: Section 191.141(a) (redesignated as § 191.141(a)(1)) should be rewritten to emphasize that imported merchandise destroyed under Customs supervision need not be in the same condition.

Analysis: Customs believes the legislative history is clear that when destroyed, the merchandise must be in the same condition as when imported. This is clear from the intent of law. If it were not so, anyone could import an article, allow it to deteriorate, and then receive drawback. The same importer could put the article to its intended use which is prohibited by the statute (see C.S.D. 81–222 of May 27, 1981, Vol. 15, Cus. Bul. p. 1171) and then claim the article had merely deteriorated and not used prior to destruction.

Comment: Subpart N should provide that certificates of delivery are acceptable for same condition drawback.

Analysis: Customs has so stated this in rulings, and Subpart N specifically states that where applicable, the provisions for manufacturing drawback apply to same condition drawback. Moreover, § 191.142(a), (redesignated as section 191.141(b)(1)), states transfers will be documented by certificate of delivery.

Comment: Subpart N should incorporate a definition of "same condition," in addition to "use." Operations, which do not constitute a use should leave the article in its same condition. This commenter also asked if all processes not amounting to a process of manufacture leave an article in its same condition.

Analysis: "Use" is defined in § 191.141(c), (redesignated as § 191.141(a)(3)). However, questions relating to "same condition" are more properly the subject of Customs rulings rather than the regulations.

Comment: Section 191.142(a), (redesignated as § 191.141(b)(1)), should be changed to permit the same condition claim to be filed with any Customs officer at the port of exportation rather than with "any district director."

Analysis: This comment has merit. Therefore, this section is being amended by removing "with any district director" in the first sentence and adding in its place, * * * "with the regional commissioner, or the district (area) director, or port director, if authority has been delegated to that official by the regional commissioner."

Comment: Section 191.142(a), (redesignated as § 191.141(b)(1)), should be amended by removing the word "certify" in the third sentence, and adding the word "state" in its place.

Analysis: Customs disagrees. The claimant is required to certify by signature on an affidavit attesting to the condition of the merchandise to be exported.

Comment: The last sentence of § 191.142(a), (redesignated as § 191.141(b)(1)), should be changed to "* * * Transfer when the claimant is not the importer shall be documented by the use of certificates of delivery attached to Customs Form 7539."

Analysis: Customs disagrees. The proposed sentence is satisfactory.

Comment: Other comments on § 191.142 included:

There is no intent in the same condition drawback statute that prior notice of exportation and examination of same condition merchandise are required to obtain the benefits of that law. Prior notice and filing requirements will limit, or may eliminate, potential same condition drawback claimants. Although exporter's summary procedure obviates prior notice of exportation, many claimants may not qualify for this procedure. Filing documents prior to exportation is unrealistic and was not contemplated by the law. Prior notice and examination for same condition drawback is too stringent a procedure. There should be no prior notice of same condition drawback.

The 12-working day filing period in § 191.142(b), (redesignated as § 191.141(b)(2)), is too long and should be shortened to 5 days or 3 days. District directors should have authority to give a blanket waiver of the prior notice requirement. It is suggested that after a certain period of time, a claimant, operating under the summary procedure or generally under the same condition drawback regulations, and who has made a certain number of claims without incident, should be relieved of the requirement of prior notice.

Commenters stated that no exmination of any kind, as discussed in § 191.142 (c)(1) and (c)(2), (redesignated as § 191.141 (b)(3)(i) and (b)(3)(ii)), should be required as this was never contemplated by the statute. Subsection (b)(3)(ii) should be completely removed and the following added in its place: "The Customs officer at the port of export may examine any merchandise to be exported with drawback." Examination for same condition drawback as drafted is too stringent.

Alternatives to the examination requirement were suggested. The 10 days afforded the district director to inform the claimant whether examination would be required should be shortened to 3 days or less. The district director should be given the authority to give a blanket waiver of examination to claimants.

If examination is required, it should be conducted with the same frequency as the immediate delivery examinations with imported merchandise (i.e. not more than 10 percent examination, with such examination to be evenly and randomly accomplished). Section 191.142(c)(2) (redesignated as § 191.141(b)(3)(ii)) and 191.142(b), (redesignated as §§ 191.141(b)(2)), should be amended to read: "Filed with the Customs officer at the port of examination not later than the date of exportation and not sooner than 12 working days prior to exportation."

Analysis: Although the phrases "prior notice" or "prior filing" and the word "examination" are not statutory, Customs believes that some steps are necessary to avoid revenue losses, and there should be some method to handle the many contemplated exportations. Customs agrees that its operational guidelines and the proposed regulations proved to be too restrictive, although Customs has the authority to promulgate such "rules and regulations" under 19 U.S.C. 1313(k).

Customs has determined that regional commissioners (or their delegates) should be given authority to grant blanket waivers of the prior notice requirement. Of course, the prior notice waiver notwithstanding, Customs has the right to examine any merchandise prior to exportation. Claimants who do not qualify for exporter's summary procedure, or who do not wish to use the procedure, should be allowed to export merchandise under same condition drawback without prior notice under certain circumstances.

Therefore, Customs is revising proposed section 191.142(b), (redesignated as § 191.141(b)(2)) by further subdividing this redesignated section into paragraphs 191.141 (b)(2)(i) and (b)(2)(ii) to provide for:

1. Filing of Customs Form 7539 at least 5 working days prior to the date of intended exportation unless Customs approves a shorter period; and

2. Waiving of prior notice by the appropriate Customs officer in his discretion at any time, or mandatory waiving if the exporter/claimant files 6 consecutive claims free of substantial error, provided further that such exporter/claimant has operated under the same condition program a minimum of 6 months.

Customs also is revising the language of proposed § 191.142 (c)(1) and (c)(2), (redesignated § 191.141 (b)(3)(i) and (b)(3)(ii)), by:

1. Changing the proposed 10 working day notice requirements to 3 working days; and

2. Changing the proposed 10 working day examination requirement to 5 working days.

Furthermore, Customs is:

3. Adding a new § 191.141(b)(3)(iii) relating to examination procedures to be used by Customs; and

4. Removing proposed § 191.142 (d)(1) and (d)(2).

Comment: Section 191.143 should be amended to allow 3 years after exportation for filing and completing the same condition drawback claims.

Analysis: This comment has merit, and Customs is so revising proposed § 191.143 (redesignated as § 191.41(c)).

Comment: Section 191.44 also should be amended to allow 3 years after exportation for filing and completing the same conditon drawback claims.

Analysis: Customs also is revising § 191.144 (redesignated as § 191.141(d)) to accomplish this. Furthermore, the reference in the second sentence of redesignated § 191.141(d) to Customs Form 7539 is being removed because a completed entry includes more than this form.

Comment: Section 191.146(a) should be clarified as to the destruction of the merchandise under same condition drawback.

Analysis: This comment has merit. This section (redesignated as § 191.141(f)(1)) is being so revised.

Comment: The requirement in § 191.146(a) that claimants certify the merchandise is in the same condition and was not used prior to destruction is not consistent with the law. It is claimed that there is no requirement that the merchandise be in the same condition at the time of destruction.

Analysis: The statutory language and the legislative history make it clear that if a claimant uses destruction in place of exportation to claim same condition drawback, in order to do so, at the time of destruction, the merchandise must be in the same condition as when imported. If there were no such requirement, anyone could import an article, change its condition by any method, then destroy the article and claim drawback. Certifying that the merchandise is in the same condition at the time of destruction is no different than such certification on the Customs Form 7539 prior to exportation. We require such certification so that if and when examination is waived, or if a claimant is given a waiver of prior notice, he will be not likely to run afoul of 18 U.S.C. 550 or 18 U.S.C. 1001 by filing a false affidavit. Requiring such certification is permitted by 19 U.S.C. 1313(k).

Comment: In § 191.147, accelerated drawback should apply to same condition drawback.

Analysis: This is correct and is in accordance with T.D. 81–242, dated September 4, 1981. Further, Subpart N states in 191.145, (redesignated as § 191.141(e)), that the provisions relating to direct identification drawback shall apply to claims for drawback under same condition, provided the provisions do not conflict. Nevertheless, because § 191.72(a) refers only to Subpart F, that section is being revised by adding a cross-reference to Subpart N.

Comment: Section 191.147(a) should be amended to provide that drawback claims should be liquidated within 60 days rather than "as determined by the regional commissioner."

Analysis: Section 209 of Pub. L. 95–410 added a new section 504 to the Tariff Act of 1930 (19 U.S.C. 1504), setting forth time frames for the liquidation of entries, or withdrawals of merchandise for consumption. However, this section does not apply to the liquidation of drawback entries. Customs believes no time limit should be imposed.

Comment: The regulations should provide that if a drawback liquidator determines that a drawback claim is incomplete, he must notify the drawback claimant and afford the claimant an opportunity to substantiate the validity of the claim before it is liquidated.

Analysis: Customs believes this suggestion has merit. Therefore proposed § 191.147 (redesignated as § 191.141(g)) is being revised by:

(1) Redesignating proposed paragraph (a) as paragraph (1);

(2) Adding a new paragraph (2) to incorporate the substance of the commenter's suggestion; and

(3) Redesignate proposed paragraph (b) as paragraph (3).

Comment: Section 191.148(a)(2) should not state that rejected merchandise drawback under 19 U.S.C. 1313(c) is a limited form of same condition drawback under 19 U.S.C. 1313(j)). Rejected merchandise should be treated as a separate statutory and drawback concept.

Analysis: Customs agrees that the language of this proposed section may be misleading. Customs recognizes the separate statutory authority of both same condition and rejected drawback. Proposed § 191.148(a)(2), (redesignated as § 191.142(a)(2)), is being revised merely to indicate rejected merchandise may be the subject of a same condition drawback claim.

Comment: There is no time limit specified for filing a rejected merchandise claim in § 191.148(b) (1) or (2). The question is raised whether the time limit is the same as for the same condition drawback.

Analysis: To claim drawback for rejected merchandise, the claimant must file Customs Form 7539, which contains details of the alleged failure to meet specifications, at the time the merchandise is returned to Customs custody. Customs must examine the merchandise to determine if in fact it does not meet specifications or was shipped without the consent of the consignee. The claimant is required to file the entry at the time the merchandise is returned to Customs, so he is under a time limit.

Proposed § 191.148(b)(1), (redesignated as § 191.142(b)(1)), is being clarified to emphasize this point.

Comment: The phrase "reasonable extensions" in § 191.148(b)(4) is too broad.

Analysis: Customs disagrees. Customs Headquarters and the field offices review each request on a case-by-case basis in determining whether to grant an extension and the length any extension granted. The phrase provides Customs with sufficient latitude in setting the extension.

Comment: No examination should be required under 19 U.S.C. 1313(c).

Analysis: Although that section does not explicitly mention examination, it does require that merchandise be returned to Customs custody "for exportation." Unless Customs can examine the merchandise, we cannot determine whether in fact it does not meet specifications. This was the intent of Congress in requiring the return of the rejected merchandise.

Comment: Section 191.148(b)(5) requires the exporter/claimant of rejected merchandise to establish the fact of exportation described in § 191.52, (as revised in this final rule), which requires a notice of exportation supported by a bill of lading. Currently, § 22.33(f), Customs Regulations, requires only the bill of lading.

Analysis: Customs agrees and believes it is unnecessary to require additional paperwork for rejected merchandise claimants, especially since the merchandise is returned to Customs custody prior to exportation. Therefore, proposed § 191.148(b)(5), (redesignated as § 191.142(b)(5)), is being revised to indicate that if a bill of lading is provided Customs, no notice of exportation is required.

Subpart O

Comment: Subpart O should be amended to give alcoholic beverages the

VOL 48 ISS 200 OCT 14 1983 UMI

same status as domestic alcohol under 19 U.S.C. 1313(d).

Analysis: Prior to 1959, the Internal Revenue Code treated domestic alcohol and distilled spirits differently. As a result, Customs did (and still does) not consider whiskey, brandy, rum, etc. as "domestic alcohol." 19 U.S.C. 1313(d) allows drawback only on domestic alcohol.

In 1959, the Internal Revenue Code was amended to allow drawback under the concept that any product of a distilled spirits plant for beverage use was eligible. However, at that time, 19 U.S.C. 1313(d) was not amended by the Congress. Therefore, Customs still holds that in order to come under the first paragraph of 19 U.S.C. 1313(d), the "alcohol" used must be "Spirits distilled at more than 160 degrees of proof, which lack the taste, aroma, and other characteristics generally attributed to whiskey, brandy, rum, or gin, and which are substantially neutral in character * * *," as defined in 27 CFR 19.597(a)(1).

Comment: Section 191.158 allows the claimant 90 days to export the unmarketable distilled spirits from the date of acceptance of the drawback entry, the time period being conclusive unless a written request is made for additional 90 days. The commenter notes this time frame does not apply in Subpart N to rejected merchandise other than distilled spirits.

Analysis: Section 191.158 tracks the present internal revenue regulations applicable to unmarketable spirits. Customs administers the payment of drawback for unmarketable spirits. Under 19 U.S.C. 1313(c), the rejected merchandise must not meet sample or specification at the time of importation. Unmarketable spirits may be perfect at importation, but become unmarketable after importation. Rejected merchandise provisions and unmarketable spirits provisions are two different drawback concepts and are handled differently. If an importer wishes to receive drawback on the *duty* paid on distilled spirits, he must apply and meet the standards of 19 U.S.C. 1313(c) and the requirements of those attendant regulations. Subpart O refers only to internal revenue taxes.

Comment: The statute authorizing refund on internal revenue taxes on distilled spirits which are unmarketable, (26 U.S.C. 5062(c)), requires the Secretary to "refund, remit, rebate, or credit" but does not refer to "drawback". The benefit authorized by 26 U.S.C. 5062(c) does not meet the definition of "drawback" as stated in § 191.2. To define drawback as "in refund * * *" would not be appropriate as applied to the Internal Revenue Code. It is suggested that these regulations be included with other regulations dealing with a refund and for a cross-reference be put in Part 191. Alternatively, § 191.0, ("Scope"), might be expanded to include certain refunds, etc.

Analysis: Customs believes no change is necessary.

Customs definition of "drawback" is a refund of duties and internal revenue tax paid, etc. Also, the definition of "duties" in the present regulations includes internal revenue taxes. Notwithstanding the enabling legislation's reference to "refund, remit, etc., " the return of those taxes paid under 26 U.S.C. 5062(c) fits our definition of "drawback." Because Customs is the agency refunding those taxes, we prefer to call it "drawback."

Comment: Under 26 U.S.C. 5062(c) only the importer may receive the refund of internal revenue taxes for unmerchantable spirits provided under Subpart O. Therefore, it should be made clear that the term "exporter/claimant" in § 191.148(b) can refer only to the importer for purposes of Subpart O.

Analysis: Under 19 U.S.C. 1313(c), to which Subpart N refers in part, the importer or consignee can apply for and receive duties for rejected merchandise. Therefore, should a claimant under 26 U.S.C. 5062(c) wish to receive the *duty* paid as drawback, such claimant need not be the importer but could be the consignee and must meet the burden of proof under Subpart N. A consignee also may obtain internal revenue taxes under 19 U.S.C. 1313(c) or 1313(j) provided he meets the requirement of the applicable regulations in Subpart N. However, the comment with respect to Subpart O is correct and therefore §§ 191.152, 191.153(b) and 191.158 are being amended so that the export/claimant can be only the importer.

Subpart P

Comment: There should be included in § 191.163(a) the phrase "including foreign trade zones" after "* * * on articles manufactured or produced in the United States * * *"

Analysis: This is superfluous inasmuch as foreign trade zones are in the United States. Anything manufactured or produced in a zone is manufactured or produced in the United States.

Other Changes

1. T.D. 82–204 (47 FR 49355, Nov 1, 1982), made extensive revisions to the Customs Regulations relating to bonded warehouses. Section 22.28(d), Customs Regulations, was so amended. Therefore, to conform to T.D. 82–204, it is necessary to amend the parallel section in the revision to § 22.28(d) which is § 191.133(c).

2. To conform the Customs Regulations to the changes made by the removal of Part 22, Customs Regulations, and the addition of new Part 191, Customs Regulations, the notice document proposed to amend Parts 7, 10, 113, 145, and 158. Subsequent to the publication of the proposed revision on August 26, 1982, section 7.8, Customs Regulations, was amended by T.D. 83–7 (48 FR 228, January 4, 1983), by removing the parenthetical phrase at the end of that section. Therefore, there is no need to further amend § 7.8 in this document.

3. Section 22.20a, and its parallel § 191.72, relating to accelerated payment of drawback claims, provides that a claimant, requesting accelerated payment of a claim, shall submit with the claim a computation of the amount thereon, and shall also file with Customs for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611. Part 113, Customs Regulations, however, provides for approval of bonds by the Commissioner of Customs and the district director, but does not provide for approval of bonds by the regional commissioner. Specifically, section 113.14(x)(1), relating to single entry bond, Customs Form 7609, for Accelerated Payment of Drawback (single entry), and § 113.14(x)(2), relating to term bond, Customs Form 7611, for Accelerated Payment of Drawback (term), are subject, after execution, to approval by the district director. To remove this inconsistency between Parts 22 (and Proposed Part 191) and Part 113 as well as make other technical clarifications, this document amends by revising, adding, and removing the following provisions to provide that authority for approval or rejection of accelerated drawback payment shall remain with the regional commissioners:

1. Section 191.72(b), (revised);
2. Subpart B — "Classes and Approval of Bonds" in the index to Part 113, (revised);
3. Section 113.11(b), (revised);
4. Section 113.13a, (new);
5. Sections 113.14 (x)(1) and (x)(2), (removed);
6. Section 113.16, (revised); and,
7. Section 113.18, (revised).

Removal From Regulations

The following sections of Part 22 are removed from the revision:

1. Sections 22.6 (a), (b), (c), and (d), relating to general drawback rates;
2. Section 22.6(e), relating to bags and meat wrappers;

3. Section 22.6(f), relating to sugars and syrups;
4. Section 22.6(g), relating to linseed oil;
5. Section 22.6(g–l), relating to crude petroleum and petroleum derivatives;
6. Section 22.6(h), relating to piece goods;
7. Section 22.6(i), relating to fur skins and fur skin articles;

By removing from the revision the sections set forth in numbers 2–7 above, however, no member of the public would be forfeiting any rights and benefits. Questions concerning these substantive areas, which may arise in the future, may be addressed by a request for a ruling pursuant to Part 177, Customs Regulations (19 CFR Part 177). A drawback proposal may be submitted pursuant to Subpart B. Also, Customs Headquarters will publish as Treasury Decisions, as it has already done so in some cases, general drawback contracts under Subpart D on the above sections.

Editorial Changes

Throughout the revision, numerous editorial changes have been made to clarify and simplify the language contained in the drawback regulations, as well as correct typographical errors.

Conforming Changes

Various parts of Chapter I, title 19, Code of Federal Regulations, have sections which contain cross-references to Part 22. This document amends those sections of the Customs Regulations by conforming the cross-references found therein to new Part 191.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. An analysis of this determination is appended hereto.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, *et seq.*), it is hereby certified that the revision of Part 22 will not have a significant economic impact on a substantial number of small entities. An analysis of this determination is appended hereto.

Paperwork Reduction Act

Pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), this document is subject to review by the Office of Management and Budget (OMB). The proposed revision, approved by OMB, was assigned No. 1515–0094.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 22

Customs duties and inspection, Exports, Imports, Claims, Drawback.

19 CFR Part 113

Customs duties and inspection, Exports, Imports, Surety bonds.

19 CFR Part 191

Customs duties and inspection, Exports, Imports, Claims, Drawback.

Amendments to the Regulations

Chapter 1, "United States Customs Service," of Title 19, Code of Federal Regulations (19 CFR Chapter 1), is amended as set forth below.

William von Raab,
Commissioner of Customs.

Approved: September 21, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 22—DRAWBACK [REMOVED]

Charter I of title 19, Code of Federal Regulations, is amended by removing Part 22.

Chapter I of title 19, Code of Federal Regulations, is further amended by adding a new part, Part 191, to read as follows:

PART 191—DRAWBACK

Sec.
191.0 Scope.

Subpart A—General Provisions

191.1 Authority of the Commissioner of Customs.
191.2 Definitions.
191.3 Duties subject to drawback.
191.4 Types of drawback.
191.5 Retention of records.
191.6 Authority to sign drawback documents.
191.7 Protests.
191.8 Time limitations.
191.9 Falsification of drawback claims.
191.10 Verification of drawback claims.
191.11 Merchandise in which a United States Government interest exists.
191.12 Drawback on duties paid to Puerto Rico.
191.13 Guantanamo Bay, insular possessions, trust territories.

Subpart B—Specific Drawback Contracts

191.21 Drawback proposal.
191.22 Records, storage, identification.
191.23 Approval.
191.24 Schedules and supplemental schedules.
191.25 Modification of contracts.
191.26 Termination or removal.

Subpart C—Use of Substituted Merchandise

191.31 Drawback substitution.
191.32 Records and general provisions.
191.33 Multiple products.
191.34 Agency.

Subpart D—General Drawback Contracts

Sec.
191.41 Applicability
191.42 Procedures.
191.43 Acknowledgement.
191.44 Termination or renewal.
191.45 Payment.

Subpart E—Evidence of Exportation

191.51 Alternative procedures.
191.52 Notice of exportation.
191.53 Exporter's summary.
191.54 Certified notice of exportation by mail.
191.55 Exportation by the Government.
191.56 Amendment of evidence of exportation.
191.57 Examination of the merchandise.

Subpart F—Completion of Drawback Claims

191.61 Time for filing.
191.62 Filing procedure.
191.63 Summary of papers filed.
191.64 Supplemental filing.
191.65 Certificate of delivery.
191.66 Certificates of manufacture and delivery.
191.67 Landing certificates.

Subpart G—Payment and Liquidation of Drawback Claims

191.71 Liquidation.
191.72 Accelerated payment.
191.73 Person entitled to receive drawback.

Subpart H—Internal Revenue Tax on Flavoring Extracts and Medicinal or Toilet Preparations (including Perfumery) Manufactured From Domestic Tax-Paid Alcohol

191.81 Drawback allowance.
191.82 Procedure.
191.83 Additional requirements.
191.84 Alcohol, tobacco and firearms certificates.
191.85 Liquidation.
191.86 Amount of drawback.

Subpart I—Supplies for Certain Vessels and Aircraft

191.91 Drawback allowance.
191.92 Procedure.
191.93 Drawback notice of lading.
191.94 Drawback entry.

Subpart J—Meats Cured With Imported Salt

191.101 Drawback allowance.
191.102 Procedure.
191.103 Refund of duties.

Subpart K—Materials for Construction and Equipment of Vessels and Aircraft Built for Foreign Account and Ownership

191.111 Drawback allowance.

Sec.
191.112 Procedure.
191.113 Expiration of terms.

Subpart L—Foreign-Built Jet Aircraft Engines Processed in the United States

191.121 Drawback allowance.
191.122 Procedure.
191.123 Drawback entry.
191.124 Refund of duties.

Subpart M—Merchandise Exported From Continuous Customs Custody

191.131 Drawback allowance
191.132 Merchandise released From Customs custody.
191.133 Continuous Customs custody.
191.134 Filing the entry.
191.135 Merchandise withdrawn from warehouse for exportation.
191.136 Bill of Lading.
191.137 Landing certificates.
191.138 Procedures.
191.139 Amount of drawback.

Subpart N—Same Condition and Rejected Merchandise/Same Condition/Drawback

191.141 Drawback.
191.142 Merchandise not conforming to sample or specifications or shipped without the consent of the consignee.

Subpart O—Distilled Spirits, Wines, or Beer Which Are Unmerchantable or Do Not Conform to Sample or Specifications

191.151 Refund of taxes.
191.152 Procedure.
191.153 Documentation.
191.154 Return to Customs custody
191.155 No exportation by mail.
191.156 Destruction of merchandise.
191.157 Liquidation.
191.158 Time limit for exportation or destruction.

Subpart P—Merchandise Transferred to a Foreign-Trade Zone From Customs Territory

191.161 Drawback allowance.
191.162 Zone-restricted merchandise.
191.163 Articles manufactured or produced in the United States.
191.164 Merchandise transferred from continuous Customs custody.
191.165 Same Condition merchandise and merchandise not conforming to sample or specifications or shipped without the consent of the consignee.
191.166 Person entitled to receive drawback.

Authority: R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1313, 1624. Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

Subpart A—General Provisions

§ 190.1 Scope.

This part sets forth general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims.

§ 191.1 Authority of the Commissioner of Customs.

Pursuant to Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, the Commissioner of Customs, with the approval of the Secretary of the Treasury, shall prescribe rules and regulations regarding drawback.

§ 191.2 Definitions.

(a) *Drawback.* "Drawback" means a refund or remission, in whole or in part, of a customs duty, internal revenue tax, or fee lawfully assessed or collected because of a particular use made of the merchandise on which the duty, tax, or fee, was assessed or collected.

(b) *Designated merchandise.* "Designated merchandise" means imported duty-paid merchandise or drawback products identified (either physically or by accounting methods), by drawback claimant as the basis for a drawback claim under 19 U.S.C. 1313(b).

(c) *Drawback proposal.* A "drawback proposal" means a written document executed by a manufacturer or producer which contains an offer to operate under the drawback law and regulations.

(d) *Drawback acceptance.* "Drawback acceptance" means a letter from Customs to the manufacturer or producer accepting the proposal. Regional commissioners of Customs accept proposals filed pursuant to 19 U.S.C. 1313(a). U.S. Customs Headquarters accepts proposals in all other cases.

(e) *Specific drawback contract.* A "specific drawback contract" means the drawback proposal and the drawback acceptance. Synopses of contracts are published in the weekly "Customs Bulletin," where each contract is assigned an identifying Treasury Decision (T.D.) number.

(f) *General drawback contract.* A "general drawback contract" means a contract offer prepared by Customs and published in the "Customs Bulletin", and a letter of acceptance by anyone able to comply with its terms and conditions. Letters of acceptance to adhere to the terms shall be filed with a regional commissioner.

(g) *Drawback product.* A "drawback product" means a finished or partially finished product manufactured in the United States under a drawback contract. A drawback product may be exported with a claim for drawback, or it may be used in the further manufacture of other drawback products by manufacturers who have appropriate drawback contracts, in which case drawback is claimed upon exportation of the ultimate product. For purposes of 19 U.S.C. 1313(b), drawback products may be designated as the basis for drawback or deemed to be domestic merchandise.

(h) *Drawback entry.* A "drawback entry" means a document containing a description of, and other required information concerning, exported or destroyed articles on which drawback is claimed. Depending on the type of drawback applied for, entries are filed on Customs Form 7512, 7539, 7573, 7575, 7579, or 7585.

(i) *Drawback claim.* A "drawback claim" means the drawback entry and related documents required by these regulations which together constitute the request for drawback payment.

(j) *Direct identification drawback.* "Direct identification drawback" means drawback authorized under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)). See section 191.4(a)(1) of this part.

(k) *Substitution drawback.* "Substitution drawback" means drawback authorized under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)). See section 191.4(a)(2) of this part.

(l) *Fungible merchandise.* "Fungible merchandise" means merchandise which for commercial purposes is identical and interchangeable in all situations.

(m) *Same kind and quality merchandise.* "Same kind and quality merchandise" means merchandise which may be substituted under substitution drawback. Fungible merchandise is always same kind and quality merchandise; however, same kind and quality merchandise is not always fungible merchandise.

(n) *Schedule.* A "schedule" means a document filed by a drawback claimant showing the quantity of imported material used or appearing in each unit of product exported with drawback or showing the different styles or the capacities of containers for the products.

(o) *Verification.* "Verification" means the examination of any and all records, (see § 162.1a(a) of this chapter), maintained by the claimant, whether or not specifically described in the claimant's proposal, which are required by the regulatory auditor to render a meaningful recommendation concerning the drawback claimant's conformity to the law and regulations and the determination of supportability, correctness, and validity of the specific claim or groups of claims being verified. Verification also includes a determination that the exported product was produced in conformity with the drawback manufacturing process, as described and approved in the claimant's proposal.

(p) *Abstract of manufacturing records.* "Abstract of manufacturing records" means a summary of original documents. A Drawback Entry and Certificate of Manufacture for Exported Articles, Customs Form 7575, or Certificate of Manufacture and Delivery Customs Form 7577, when properly completed, may serve as abstracts of manufacturer's records.

§ 191.3 Duties subject to drawback.

The duties subject to drawback include:

(a) All ordinary Customs duties;

(b) Dumping duties assessed under title VII, Tariff Act of 1930, as amended (19 U.S.C. 1673,);

(c) Countervailing duties assessed under sections 303 and 701, Tariff Act of 1930, as amended (19 U.S.C. 1303, 1671); and

(d) Marking duties assessed under section 304(c), Tariff Act of 1930, as amended (19 U.S.C. 1304(c)).

§ 191.4 Types of drawback.

(a) *Drawback of duties and taxes.* Drawback of duties and taxes ordinarily are authorized in the following instances:

(1) *Direct identificotion drawback.* Drawback of duties is provided for in section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), upon the exportation of articles manufactured or produced in the United States wholly or in part with the use of imported merchandise.

(2) *Substitution drawback.* If imported duty-paid merchandise and duty-free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed 3 years from the receipt of the imported merchandise by the manufacturer or producer of the articles, drawback is provided for in section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), upon the exportation of any of the articles, even though none of the imported merchandise may actually have been used in the manufacture or production of the exported articles. The amount of drawback is the same as that which would have been allowed had the merchandise used therein been imported.

(3) *Merchandise not conforming to sample or specifications or shipped without consent of consignee.* Drawback is provided for in section 313(c), Tariff Act of 1930, as amended (19 U.S.C. 1313(c)), upon the exportation of imported merchandise not conforming to sample or specifications or shipped without consent of the consignee.

(4) *Drawback of internal-revenue taxes.* Drawback of internal-revenue taxes is provided for in section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic tax-paid alcohol.

(5) *Imported salt for curing fish.* Drawback of duties if provided for in section 313(e), Tariff Act of 1930, as amended (19 U.S.C. 1313(e)), on salt imported in bond and used in curing fish. (See section 10.80 of this chapter.)

(6) *Exportation of meats cured with imported salt.* Drawback of duties is provided for in section 313(f), Tariff Act of 1930, as amended (19 U.S.C. 1313(f)), in amounts of not less than $100, upon the exportation of packed or smoked meats cured in the United States with imported salt.

(7) *Material for construction and equipment of vessels and aircraft built for foreigners.* Drawback of duties is provided for in section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), on materials imported and used in constructing and equipping vessels and aircraft built for foreign account and ownership or for the government of any foreign country, even though these vessels and aircraft may not be exported within the strict meaning of the term.

(8) *Foreign-built jet aircraft engines processed in the United States.* Drawback of duties is provided for in section 313(h), Tariff Act of 1930, as amended (19 U.S.C. 1313(h)), in amounts of not less than $100, upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt or reconditioned in the United States with the use of imported merchandise, including parts.

(9) *Same condition drawback.* Drawback of duties is provided for in section 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)), on imported merchandise exported in the same condition as when imported, or destroyed under Customs supervision and not used within the United States before such exportation or destruction.

(10) *Supplies for certain vessels and aircraft.* Drawback of duties and taxes is provided for in section 309(b), Tariff Act of 1930, as amended (19 U.S.C. 1309(b)), on articles withdrawn from bonded warehouses, bonded manufacturing warehouses, continuous Customs custody elsewhere than a bonded warehouse, or foreign trade zones and articles of domestic manufacture or production, which are laden as supplies upon certain vessels or aircraft of the United States or as supplies including equipment upon or used in the maintenance or repair of certain foreign vessels or aircraft.

(11) *Merchandise exported from continuous Customs custody.* Drawback of duties is provided for in accordance with section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), upon the exportation to a foreign country, or the shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, of merchandise upon which duties have been paid which has remained continuously in bonded warehouse or otherwise in Customs custody since importation, provided it was exported or shipped within 5 years after the date of its importation.

(12) *Merchandise transferred to a foreign trade zone from Customs territory.* Drawback of duties and taxes is provided for in accordance with the fourth proviso of section 3 of the Foreign Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c), on merchandise transferred to a foreign trade zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage.

(b) *Refund of internal revenue taxes on imported distilled spirits, wines, or beer.* Refund, remission, abatement, or credit of internal revenue taxes paid or determined incident to importation on imported distilled spirits, wines, and beer is provided for in accordance with section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)), upon the exportation, or destruction under Customs supervision of these articles found after entry to be unmerchantable or not to conform to sample or specifications and which are returned to Customs custody.

§ 191.5 Retention of records.

All records required to be kept by the manufacturer or producer under this part with respect to drawback claims, and records kept by others to complement the records of the manufacturer or producer (see sections 191.21(a)(1) and 191.22(d) of this part), shall be retained for at least 3 years after payment of such claims.

§ 191.6 Authority to sign drawback documents.

(a) *Who shall sign.* Documents listed in paragraph (b) of this section shall be signed by one of the following:

VOL 48 ISS 200 OCT 14 1983 UMI

VOL
48
ISS
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14
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(1) The president, a vice president, secretary, or treasurer of a corporation;
(2) A full partner of a partnership;
(3) The owner of a sole proprietorship; or
(4) Any person other than those described in paragraphs (a)(1) through (a)(3) of this section with a power of attorney. (See subpart C of Part 141 of this chapter.)

(b) *List of documents.* The following documents require execution in accordance with paragraph (a) of this section:
(1) Drawback entries.
(2) Certificates of delivery.
(3) Certificates of manufacture.
(4) Abstracts of manufacturing records.
(5) Proposals of manufacturers or producers, schedules, and supplemental schedules.
(6) Proposals of subcontractors.
(7) Letter of intention to adhere to general drawback contracts.
(8) Endorsements of exporters on bills of lading or notices of exportation.
(9) Authorizations by manufacturers, producers, exporters, or agents to pay drawback to other persons.

§ 191.7 Protests.

Protest procedures shall be in accordance with Part 174 of this chapter.

(Sec. 514, 46 Stat. 734, as amended: 19 U.S.C. 1514).

§ 191.8 Time Limitations.

(a) *General time limit.* Drawback shall be allowed only if the completed article is exported within 5 years after importation of the merchandise identified or designated to support the claim.

(19 U.S.C. 1313(i))

(b) *Same condition drawback.* Drawback shall be allowed on imported merchandise if, before the close of the 3-year period beginning on the date of importation, the merchandise is exported in the same condition as when imported, or destroyed under Customs supervision, and is not used within the United States before such exportation or destruction.

(19 U.S.C. 1313(j)).

(c) *Merchandise in continuous Customs custody.* Drawback shall be allowed on imported merchandise which is exported, or shipped from continuous Customs custody to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, only if exported or shipped within 5 years after the date of its importation.

(Sec. 557(a), 46 Stat. 744, as amended: 19 U.S.C. 1557(a)).

§ 191.9 Falsification of drawback claims.

Any person who knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback upon the exportation of merchandise or knowingly or willfully makes or files any false document for the purpose of securing the payment to himself or others of any drawback on the exportation of merchandise greater than that legally due, shall be fined not more than $5,000 or imprisoned no more than 2 years, or both, and the merchandise or its value shall be forfeited.

(Sec. 550, 82 Stat. 718; 18 U.S.C. 550).

§ 191.10 Verification of drawback claims.

(a) *Claims.* A drawback claim filed under a drawback contract shall be subject to verification by the regional Regulatory Audit Division under the jurisdiction of the regional commissioner in whose region the claim is filed when the factory covered by the claim also is located in the same region.

(b) *Two or more factories.* If the claim selected for verification is filed in one region and one or more factories covered by the claim is located in another region, the regional commissioner selecting the claim for verification, in addition to taking the verification action provided for in paragraph (a) of this section, may forward copies of the claim and the drawback contract, and request for verification to the regional commissioners in whose regions the other factories are located.

(c) *Method.* The verifying official shall verify the claim and material set forth in the related drawback contract. Verification shall include an examination of the manufacturing records and all the accounting and financial records relating to the transaction(s).

(d) *Liquidations.* When a claim has been selected for verification, the appropriate Customs official will be notified of the claimant's identity, and liquidation will be postponed on only those claims selected for verification. Postponement will continue until the in effect verification has been completed and the appropriate Deputy Assistant Regional Commissioner (Regulatory Audit) issues a report. In the event a substantial error is revealed during the verification, Customs may postpone liquidation of all related product line claims, or in Customs discretion, all claims.

(e) *Errors in drawback proposals.*—(1) *Contracts accepted by Customs Headquarters.*—(i) *Action by regional commissioner.* If verification of a drawback claim filed under a drawback contract accepted by Headquarters reveals errors or deficiencies in the drawback proposal on which the contract was based, the regional commissioner shall furnish a copy of the audit report to Headquarters (Attention: Drawback and Bonds Branch, Office of Regulations and Rulings).

(ii) *Action by Headquarters.* A regional commissioner forwarding an audit report to Headquarters shall suspend liquidation of all drawback claims filed under the contract. Headquarters shall offer the claimant an opportunity to correct its proposal within a specified time.

(iii) *If claimant does not correct proposals.* If the claimant does not take corrective action within the prescribed time, the appropriate regional commissioner shall liquidate the claim(s) "no drawback."

(2) *Contracts accepted by regional commissioner.* The regional commissioner shall offer the claimant an opportunity within a specified time to amend proposals that are the basis of contracts which he has accepted. If the claimant does not take corrective action within the prescribed time, the regional commissioner shall liquidate the claim(s) "no drawback."

§ 191.11 Merchandise in which a United States Government interest exists.

(a) *Restricted meaning of Government.* A United States Government instrumentality operating with nonappropriated funds shall not be considered a Government entity within the meaning of this section. Surety on any drawback bond undertaken by these instrumentalities will not be required.

(b) *Certificate.* With each drawback entry, except those filed pursuant to section 313(c) and 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313(c), (j)), the drawback claimant shall certify whether or not the merchandise concerned was sold to the United States Government.

(c) *Allowance of drawback.* If the merchandise was sold to the United States Government, drawback shall be available only to the:

(1) Department, branch, or agency of the United States Government, which purchased it; or

(2) Supplier, or any of the parties specified in § 191.73(b) of this part, provided the claim is supported by documentation signed by a proper officer of the department, branch or agency concerned certifying that the right to drawback was reserved by the supplier with the knowledge and consent of the department, branch, or agency.

§ 191.12 Drawback on duties paid to Puerto Rico.

Any drawback of duties authorized under this part shall be paid from special fund 20X6587(A/R), Refunds, Transfers and Expenses of Operations, Puerto Rico, U.S. Customs Service, if the duties were originally paid into this fund (see 19 U.S.C. 1313(l)).

§ 191.13 Guantanamo Bay, insular possessions, trust territories.

Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes. However, under 19 U.S.C. 1313, there is no authority of law for the allowance of drawback of Customs duty on articles manufactured or produced in the United States and shipped to Puerto Rico, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

Subpart B—Specific Drawback Contracts

§ 191.21 Drawback proposal.

(a) *Proper applicant.* Unless operating under a general drawback contract, each manufacturer or producer of articles intended for exportation with drawback, whether a primary, intermediate, or final manufacturer or producer of the articles and whether or not the owner of the merchandise used in the manufacture or production, shall apply for a specific drawback contract by submitting a drawback proposal. Procedures for adhering to a general drawback contract are provided in Subpart D.

(1) *Complementary recordkeeper.* Each person who keeps complementary records as provided for in section 191:22(d) of this part shall file a proposal describing these records in accordance with the procedure prescribed in this section. Complementary records may be signed by the complementary recordkeeper in accordance with § 191.6(a) of this part.

(2) *Subcontractors.* If a manufacturer or producer having a drawback contract engages a subcontractor to perform work which for drawback purposes does not constitute a manufacture or production, with the use of material which the principal plans to make the subject of a drawback claim, the subcontractor, unless operating under a general drawback contract, shall prepare a drawback proposal to establish how it will maintain the identification of the merchandise. The proposal, which is subject to the provisions of this section, is required only if the work performed by the subcontractor results in a problem in identification of the merchandise (for example, by changing its form or quantity).

(b) *Contents.* The proposal of each manufacturer or producer, complementary recordkeeper, and subcontractor shall:

(1) Describe his manufacturing operation fully and method of compliance with all requirements of the drawback law and regulations;

(2) State that the records of identification, manufacture or production, and storage prescribed in § 191.22 will be maintained; and

(3) Contain an agreement to follow the methods and keep records concerning drawback procedures.

(c) *Sample proposal.* Except for direct identification drawback, the Drawback and Bonds Branch, Office of Regulations and Rulings, Customs Headquarters, upon request, shall provide each prospective, drawback applicant with a sample drawback proposal to assist the prospective applicant in preparing its submission. Sample proposals for direct identification drawback shall be provided by the regional commissioner upon request.

(d) *Submission.* Each manufacturer or producer who proposes to file for drawback exclusively under the provisions of sections 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), shall submit the proposal described in paragraph (b) of this section, in duplicate, to the regional commissioner where its drawback entries will be liquidated. Each manufacturer or producer who proposes to file for drawback under the provision of section 313(b), (d), (g), or (h), Tariff Act of 1930, as amended (19 U.S.C. 1313(b), (d), (g), (h)), or in any combination of section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), with section 313(b), (d), or (g), shall submit the proposal described in paragraph (b) of this section, in triplicate, to Customs Headquarters (Attention: Drawback and Bonds Branch, Office of Regulations and Rulings).

(e) *Two or more regions involved.* If drawback entries are to be liquidated at more than one regional office, the manufacturer or producer shall file two additional copies of the proposal for each additional office.

§ 191.22 Records, storage, identification.

(a) *Records for direct identification and other non-substitution manufacturing drawback. (1) General Rule.* Except for record requirements under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), set forth in § 191.32 of this part, each manufacturer or producer shall keep records to establish for all articles manufactured or produced for exportation with drawback:

(i) The date or inclusive dates of manufacture or production;

(ii) The quantity and identity of the imported duty-paid merchandise or drawback products used in, or, if claim for waste is waived, and there are no multiple products, the quantity and identity of the imported merchandise or drawback products appearing in the articles manufactured or produced;

(iii) The quantity and description of the articles manufactured or produced;

(iv) The quantity of waste incurred. If claim for waste is waived and the appearing in basis is used, waste records need not be kept unless required to establish the quantity of imported duty-paid merchandise or drawback products appearing in the articles; and

(v) That the finished articles on which drawback is claimed were exported within 5 years after the importation of the duty-paid merchandise.

(2) *Valuable waste.* When waste has a value and the manufacturer or producer has not limited its claims to the quantity of imported duty-paid merchandise or drawback products appearing in the articles it shall keep records to show the factory value of the imported duty-paid merchandise or drawback products used and the factory value of the waste. In liquidating the drawback entry, the quantity of imported duty-paid merchandise or drawback products used will be reduced by an amount equal to the quantity of merchandise the value of the waste would replace.

(3) *Duty-free or domestic merchandise.* The records of the manufacturer or producer shall show the quantity, if any, of duty-free or domestic merchandise used, when these records are necessary to determine the quantity of imported duty-paid merchandise or drawback products used in the manufacture or production of the articles or appearing in them.

(4) *Filing an abstract.* The drawback claimant shall file with the entry an abstract of the records of the manufacturer or producer.

(5) *Multiple products.*

(i) *General rule.* Where two or more products result from the use of merchandise, records shall show the value of each product at the time of separation.

(ii) *Claim covering a manufacturing period.* Where the operation results in two or more products and a claim covers a manufacturing period rather

VOL
48
ISS
2
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OC
14
1983
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than a manufacturing lot, the time of separation of the products shall be considered the entire period covered by the claim, and the value per unit of product is its weighted average market value for the period. Manufacturing periods in excess of one month may not be used without specific approval of Customs.

(b) *Storage and identification.* The merchandise and articles to be exported shall be stored in a manner which will enable the manufacturer, producer, or claimant (1) to determine, and the Customs officials to verify, the applicable import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers; and (2) to identify with respect to that import entry, certificate of delivery, or certificate of manufacture and delivery, the imported duty-paid merchandise or drawback products used in the manufacture or production.

(c) *Identification of two or more lots.* Manufacturers, producers, or claimants may identify for drawback purposes commingled lots of fungible merchandise and commingled lots of fungible products by applying first-in-first-out (FIFO) accounting principles or any other accounting procedure approved by Customs.

(d) *Complementary records.* When Customs Headquarters or the regional commissioner, in appropriate cases, determines that a manufacturer or producer is unable to record all the information required for drawback, complementary records covering the information not available to the manufacturer or producer may be kept by the person(s) in the United States for whose account the products are manufactured or produced; and abstracts of these records shall be filed with the drawback entry. (See § 191.21(a)(1)).

(e) *Records and storage of merchandise by persons required to certify its delivery.*—(1) *Storage and records.* Each person required by § 191.65 and 191.66(d) of this part to certify the delivery of imported merchandise or drawback products shall store this merchandise and products while in his possession and maintain records to show the:

(i) Quantity, identity, and description of the merchandise or products;

(ii) Date on which the merchandise or products were received by him;

(iii) Person from whom received;

(iv) Date delivered by him to other persons; and

(v) Persons to whom these deliveries were made.

(2) *Certificate or endorsements.* These records shall be the basis of the certificates or endorsements required by §§ 191.65 and 191.66(d) of this part.

§ 191.23 Approval.

(a) *General rule.* If the required proposal(s) comply with the law and regulations, the regional commissioner in a case under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), or Customs Headquarters in a case under section 313 (b), (d), (g), or (h), Tariff Act of 1930, as amended (19 U.S.C. 1313 (b), (d), (g), or (h)), or in any combination of section 313 (a) with section 313 (b), (d), or (g), shall approve the drawback contract for a period of 15 years from the date of approval. (See § 191.26 of this part.)

(b) *Two or more regions.* When a proposal under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), shows that entries are to be filed with more than one regional commissioner, the regional commissioner at the place first listed in the proposal has the authority to approve or disapprove the contract.

(c) *Drawback entries filed before contract issued.* Drawback entries may be filed before the drawback contract covering the claim is approved, but no drawback shall be paid until the contract is approved.

(d) *Payment of drawback.* After approval of the contract, drawback will be paid on articles manufactured or produced and exported in accordance with the law, regulations, and contract.

§ 191.24 Schedules and supplemental schedules.

When a drawback contract provides that drawback shall be based upon a schedule filed by the manufacturer or producer, the appropriate regional commissioner where the entry is filed or Customs Headquarters, in accordance with § 191.23 of this part, shall review, and if satisfactory, approve the drawback schedule. If the contract authorizes the filing of supplemental schedules, schedules may be revised as necessary by the holder of the drawback contract. These revised supplemental schedules, if approved by the appropriate regional commissioner, shall be used to liquidate drawback claims.

§ 191.25 Modification of contracts.

(a) *Supplemental proposals.* A manufacturer or producer desiring to modify an existing contract shall prepare a supplemental proposal in the form of the original proposal. The supplemental proposal shall contain all information necessary for a complete contract, as provided in § 191.21 of this part.

(b) *Approval.*—(1) *General.* Except as provided in paragraph (b)(2) of this section, the appropriate regional commissioner or Customs Headquarters shall approve a new drawback contract pursuant to § 191.23 of this part, for a period of 15 years from the date of its approval if the supplemental proposal complies with the law and regulations.

(2) *Limited modifications.* A supplemental proposal to modify an existing contract under section 313(b), (d), or (g), Tariff Act of 1930, as amended, which otherwise would be submitted to Customs Headquarters, shall be submitted to the appropriate regional commissioner for approval provided the changes covered by the modification are limited to:

(i) A change in location of the factory of the manufacturer or producer;

(ii) An additional factory at which the methods followed and the records maintained are the same as those at another factory operating under an existing drawback contract of the manufacturer or producer;

(iii) The succession of a sole proprietorship, partnership, or corporation to the operations of the manufacturer or producer; or

(iv) Any combination of the foregoing changes.

(c) *Effect.* The new drawback contract shall supersede the contract which it modifies, and the Customs official who approves the new contract shall revoke the pre-existing contract without prejudice to claims existing thereunder.

§ 191.26 Termination or renewal.

Drawback contracts shall terminate 15 years from the date of approval unless, prior to the expiration of each 15-year period, the manufacturer or producer in accordance with § 191.23 of this part requests the applicable regional commissioner or Customs Headquarters to renew the contract for another 15-year period. A contract issued under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), covering two or more regions, shall be renewed by the regional commissioner who approved the contract. A manufacturer or producer may terminate its contract at any time by writing to the appropriate regional commissioner or Customs Headquarters, as applicable.

Subpart C—Use of Substituted Merchandise

§ 191.31 Drawback substitution.

The procedures set forth in subparts A and B of this part are applicable to drawback under the substitution.

provision (19 U.S.C. 1313(b)), except as otherwise provided in this subpart.

§ 191.32 Records and general provisions.

(a) *Records for substitution drawback.* The records of the manufacturer or producer of articles manufactured or produced in accordance with section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), shall establish:

(1) The identity and specifications of the merchandise designated;

(2) The quantity of merchandise of the same kind and quality as the designated merchandise used to produce (or appearing in) the exported articles;

(3) That, within 3 years after receiving the designated merchandise at its factory, the manufacturer or producer used it in manufacturing or production and that during the same 3-year period, it manufactured or produced the exported articles; and

(4) That the completed articles were exported within 5 years after importation of the designated merchandise.

(b) *Valuable waste records.* When drawback claims are not limited to the quantity of merchandise appearing in the articles manufactured or produced for exportation with drawback, the records of the manufacturer or producer shall show the quantity and value of both the merchandise used in the manufacture or production of the articles and valuable waste incurred in order that the deduction provided for in § 191.22(a)(2) may be made in liquidation.

(c) *Exchanged petroleum.* To comply with paragraph (a)(3) of this section, the use of domestic crude petroleum exchanged for imported crude petroleum in conformity with Presidential Proclamation No. 3279 of March 10, 1959, as amended, and the Oil Import Regulations issued thereunder, shall constitute use of the imported crude petroleum provided no certificate of delivery on Customs Form 7543 is issued covering this imported crude petroleum.

(d) *Use by same manufacturer or producer at different plants.* Duty-paid merchandise or drawback products used at one plant of a manufacturer or producer within 3 years after the date on which the material was received may be designated as the basis for drawback on articles manufactured or produced in accordance with these regulations at other plants of the same manufacturer or producer.

(e) *Designation.* A manufacturer or producer may designate any merchandise which it has used in manufacturing or production.

§ 191.33 Multiple products.

When two or more products are produced concurrently in an operation under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), drawback shall be distributed to each product in accordance with its relative value at the time of separation. Where the abstract covers a manufacturing period rather than a manufacturing lot, the entire period of the abstract is the time of separation of the products and the value per unit of product is the weighted average market value for the abstract period.

§ 191.34 Agency.

(a) *General rule.* If an owner of imported or domestic merchandise furnishes this merchandise to an agent in accordance with a contract between the two parties, and the agent manufactures from it articles for the owner's account, the owner shall be considered as the user of the merchandise.

(b) *Contracts required.*—(1) *Owner's contract.* An owner of merchandise who wishes to be considered a manufacturer pursuant to paragraph (a) of this section shall apply for a drawback contract under subpart B of this part. The proposal shall describe the agency arrangement and explain how the owner and agent together will comply with the drawback law and regulations.

(2) *Agent's contract.* Each agent operating under this section must have a drawback contract covering the articles manufactured.

Subpart D—General Drawback Contracts

§ 191.41 Applicability.

A general drawback contract is designed to simplify drawback procedures for certain common manufacturing operations but does not preclude or limit the use of drawback proposals and specific drawback contracts.

§ 191.42 Procedures.

(a) Customs Headquarters shall from time to time prepare and publish in the "Customs Bulletin" an offer for a general drawback contract in situations where numerous manufacturers or producers have similar operations and wish to claim drawback.

(b) Any manufacturer or producer who can comply with the terms and conditions of the published offer for a general drawback contract may adhere to it by notifying a regional commissioner in writing of its acceptance and providing him with the following information:

(1) Name and address of adherent;

(2) Factories which will operate under the contract;

(3) If a corporation, the names of officers or persons with power of attorney who will sign drawback documents on behalf of the adherent.

§ 191.43 Acknowledgement.

The regional commissioner shall acknowledge in writing the receipt of the letter of acceptance of the manufacturer or producer of an offer for a general drawback contract. The general drawback contract for that manufacturer or producer shall be effective for a period of 15 years from the date of the letter of acknowledgement.

§ 191.44 Termination or renewal.

A general drawback contract shall terminate 15 years from the date of the letter of acknowledgement unless, prior to the expiration of the 15-year period, the manufacturer or producer requests the applicable regional commissioner to renew the contract for another 15-year. A manufacturer or producer may terminate its contract at any time.

§ 191.45 Payment.

Drawback will be paid on articles manufactured or produced and exported in accordance with the law, regulations, and general drawback contract.

Subpart E—Evidence of Exportation

§ 191.51 Alternative procedures.

Exportation of articles for drawback purposes shall be established by complying with one of the following procedures:

(a) Notice of exportation, § 191.52;

(b) Exporter's summary, § 191.53;

(c) Certified notice of exportation for mail shipments, § 191.54;

(d) Notice of lading for supplies on certain vessels or aircraft, § 191.93, or

(e) Notice of transfer for articles manufactured or produced in United States which are transferred to a foreign trade zone, § 191.163.

§ 191.52 Notice of exportation.

(a) *Filing.* A drawback claimant may support the drawback claim with a notice of exportation on Customs Form 7511 for each shipment of merchandise covered by the claim.

(b) *Contents.* The notice of exportation shall show the:

(1) Name of exporting vessel or other carrier;

(2) Number and kinds of packages and their marks and numbers;

VOL
48
ISS
2
0
0
OC
14
1983
UMI

(3) Description of the merchandise, including its weight (gross and net), gauge, measure, or number;
(4) Name of the exporter; and
(5) Country of ultimate destination.

(c) *Documentary evidence of exportation.* (1) *Notice of exportation certified by Customs at the time of exportation.* The exporter-claimant shall file simultaneously with the appropriate Customs officer, Customs Form 7511 and the shipper's export declaration or the ocean/airway export bill of lading. The Customs officer shall review both forms and determine whether the information contained therein is accurate. Upon receipt of the outbound manifest, the Customs officer shall compare that document with Customs Form 7511 to verify the facts of exportation. Upon compliance with this procedure, the Customs officer shall certify Customs Form 7511, and return the certified copy and one uncertified copy of this document to the exporter-claimant.

(2) *Uncertified notice of exportation.* An uncertified notice of exportation shall be supported by documentary evidence of exportation, such as the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, issued by the exporting carrier. Supporting documentary evidence shall establish fully the time and fact of exportation and the identity of the exporter.

(d) *Numbering.* Prior to filing a notice of exportation with the drawback entry, the claimant shall assign to the notice a number which shall be stamped or endorsed on the original and each copy of the notice. The number assigned shall correspond to that of the supporting document, such as the bill of lading, air waybill, or cargo manifest, filed with the notice of exportation. If the supporting document covers more than one notice of exportation, the claimant shall assign to each notice the same number; but, each notice shall be further identified by an alphabetic designation beginning with the letter "A". It shall give a different alphabetic designation to each notice having the same number. If the supporting document has no number. It shall number consecutively each notice of exportation.

§ 191.53. Exporter's summary.

(a) *Eligibility.* This procedure shall be available to improve administrative efficiency.

(b) *Application.* The exporter-claimant shall request permission to use this procedure with the regional commissioner where the drawback claim will be filed, unless in cases of merchandise the subject of same condition drawback, the regional commissioner has delegated authority to approve requests to a district director. In that circumstance, the request shall be made with the district director.

(c) *Approval.* The regional commissioner, or the district director, if applicable in the case of merchandise the subject of same condition drawback, shall grant permission to use this procedure if he concludes that its use would contribute to administrative efficency, and the exporter claimant is not delinquent or otherwise remiss in his transactions with Customs.

(d) *Bond.* The exporter-claimant shall furnish a drawback export bond on Customs Form 7613, or shall designate rider "K" on General Term Bond. Customs Form 7595, in an amount equal to 25 percent of the drawback to be claimed on entries filed by him during the term of the bond.

(e) *Documentary evidence.*—(1) *Records.* The exporter-claimant shall maintain complete and accurate records of exportation, including the identity and location of the ultimate consignee of the exported articles. The exporter shall retain these records for at least 3 years after payment of such claims.

(2) *Additional evidence.* The exporter-claimant shall support the drawback entry with a chronological summary of the exports and any additional evidence required by Customs officers to establish fully the identity of the exported articles and the fact of exportation. In the case where the exporter-claimant uses this procedure for merchandise the subject of same condition drawback, he shall show also that the merchandise was exported in the same condition as when imported.

(3) *Format of chronological summary.* The chronological summary of the exports shall be in a format acceptable to the regional commissioner with whom drawback claims are filed and shall contain substantially the data provided for in the following sample format:

Chronological Summary of Exports

Drawback entry No.———.
Exporter/claimant ———.
Period from ———to———.

Date of export	Exporting carrier	Freight or air waybill, bill of lading, manifest No. etc [1]	Marks and numbers	Description	Net quantity	Schedule B No.	Destination
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

[1] This number is to be used to associate the claim with exportation evidence retained by claimant.

§ 191.54 Certified notice of exportation by mail.

(a)(1) *Procedure.* If the merchandise on which drawback is to be claimed is exported by mail or parcel post, the exporter or his agent shall complete a notice of exportation on Customs Form 7511 in triplicate and file it with the postmaster at the place of mailing. The merchandise shall be delivered to the postmaster at the same time and mailed under his supervision.

(2) *Certification.* After the package is mailed, the postmaster shall certify one copy of the notice of exportation and return this copy and one uncertified copy to the exporter or his agent for subsequent filing with the drawback entry. The postmaster shall retain one copy as his record of the transaction.

(b) *Waiver of withdrawal.* A waiver of the right to withdraw a package from the mail shall be stamped or written on each package for export, signed by the exporter.

§ 191.55 Exportation by the Government.

(a) *Claim by U.S. Government.* When a department, branch, or agency of the United States Government exports products with the intention of claiming drawback, it may establish the exportation in the manner provided in §§ 191.52 or 191.53. No bond shall be required when the United States Government claims drawback.

(b) *Claim by supplier.* When a supplier of merchandise to the Government or any of the parties specified in § 191.73(b) of this part claims drawback, exportation shall be established under §§ 191.52 and 191.53.

§ 191.56 Amendment of evidence of exportation.

At any time within the 3-year period prescribed for the completion of the drawback claim, the export or its agent may amend as notice of exportation or exporter's summary, provided the regional commissioner is satisfied that the amendment is complete and correct. A written request for amendment with supporting evidence shall be submitted to the regional commissioner where the drawback entry is filed

§ 191.57 Examination of the merchandise.

The district director may examine any merchandise to be exported with drawback for any reason deemed appropriate.

Subpart F—Completion of Drawback Claims

§ 191.61 Time for filing.

A drawback entry and all documents necessary to complete a drawback claim, including those issued by one Customs officer to another, shall be filed or applied for, as applicable, within 3 years after the date of exportation of the articles on which drawback is claimed, except that any landing certificate required under § 191.67(d) of this part shall be filed within the time limit prescribed therein. Claims not completed within the 3-year period shall be considered abandoned. No extension will be granted unless it is established that a Customs officer was responsible for the untimely filing.

§ 191.62 Filing procedure.

(a) *Entry and certificate of manufacture.*—(1) *Customs Form 7575.* Except as provided in paragraph (a)(2) of this section, the drawback claimant shall file with the appropriate district director the drawback entry and certificate of manufacture in duplicate on Customs Form 7575:—A, if claiming under 19 U.S.C. 1313(a) or Customs Form 7575—B, if claiming under 19 U.S.C. 1313(b). The district director may require an additional copy for administrative use.

(2) *Customs Form 7573.* The drawback claimant shall file with the appropriate district director the original drawback entry on Customs Form 7573 in the two instances listed below. The district director may require an additional copy for administrative use.

(i) *Certificates of manufacture filed prior to entry.* When the drawback claimant files a certificate of manufacture prior to the filing of the entry, it shall file the entry on Customs Form 7573 and refer to the certificates of manufacture in the entry by the official number instead of describing the particulars of importation and manufacture.

(ii) *Purchase of manufactured articles for exportation.* A purchaser of a completely manufactured article who exports it and claims drawback shall file an entry on Customs Form 7573 accompanied by a certificate of manufacture and delivery on Customs Form 7577, if that certificate is not already on file.

(3) *Filing in two or more regions.* If the drawback entry is filed in a region other than where the certificate of manufacture is on file, the regional commissioner with whom the certificate is on file, after liquidation and at the request of the person filing the certificate or to whom such merchandise was delivered, shall transmit to the regional commissioner where the entry is filed an extract on Customs Form 4537. The extract shall be considered an original certificate for liquidation purposes.

(4) *Two or more shipments.* One entry may cover several shipments.

(b) *Evidence of exportation.*—(1) *Notice of exportation.* When the entry covers exports under § 191.52(c)(2) of this part, the claimant shall file with the entry one copy of the notice of exportation and the original or a certified copy of the supporting document. For an entry under 191.52(c)(1) and 191.54, the claimant shall file with the entry one copy of the notice of exportation.

(2) *Evidence of right to drawback.* The notice of exportation shall show that the merchandise was shipped by the person filing the drawback entry, or shall be endorsed by the person in whose name the merchandise was shipped showing that the person filing the entry is authorized to claim drawback and receive payment.

(3) *Chronological summary of exports.* For exports under § 191.53 of this part, the claimant shall file with the entry one copy of the chronological summary of exports.

(c) *Multiple claimants.*—(1) *Notice of Exportation.* Where more than one party claims drawback (e.g., a chemical manufactured under drawback regulations is exported in a container also manufactured under drawback regulations), each drawback claimant shall file a separate notice of exportation describing the component product to which its claim will relate. Each notice shall show the name of the claimant and bear a statement that the claim shall be limited to its respective component product. The exporter shall endorse the notices, as required, to show the respective interests of the claimants. The notice of exportation shall be numbered in accordance with § 191.52(d) of this part.

(2) *Exporter's summary procedure.* Where more than one party claims the drawback (e.g., a chemical manufactured under drawback regulations is exported in a container also manufactured under drawback regulations), and the parties elect to use the exporter's summary procedure, each drawback claimant shall complete and file a chronological summary of exports for the respective component product to which its claim will relate. Each claimant shall identify in the chronological summary the name of the other claimant or claimants and the component product for which each will claim drawback independently.

(d) *Vessels or aircraft.* For drawback under section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), the claimant shall file with the drawback entry a copy of the part of the construction contract showing that the vessel or aircraft was built for foreign account and ownership. In the case of a vessel, except a warship, the claimant also shall file a certificate of clearance for a foreign port and a certified copy of the registry certificate or, in its place, a certificate of the consul of the foreign nation to which the vessel belongs, showing that the vessel has been documented under the flag of that country. No certificates of clearance or foreign documentation shall be required for a warship.

§ 191.63 Summary of papers filed.

The claimant may file with the drawback entry a summary, in duplicate, of the papers filed showing the date of application for official documents. When verified, one copy of the summary shall be receipted and returned to the claimant, and the other copy attached to the drawback entry.

§ 191.64 Supplementary filing.

With the permission of the regional commissioner, a claimant may amend or correct a drawback entry or file a timely supplemental entry. Corrections or amendments permitted shall be certified by the appropriate parties.

§ 191.65 Certificate of delivery.

(a) *When required.* If the merchandise used in the manufacture of the exported articles was not imported by the manufacturer of the articles, no drawback shall be allowed until the drawback claimant files with the regional commissioner where the claim is to be liquidated a certificate of delivery in duplicate on Customs Form 7543, or official evidence of the existence of the certificate filed at another place. The certificate of delivery must describe the merchandise delivered, tracing it from the custody of the importer to the custody of the manufacturer. If the certificate of delivery covers only one importation.

VOL
48
ISS
2
000
OC
14
1983
UMI

the manufacturer may refer to it in its certificate of manufacture rather than describe the importation.

(b) *Intermediate transfer.* If the merchandise was not delivered directly from the importer to the manufacturer, each intermediate transfer shall be described on the certificate of delivery certified by the person through whose possession the merchandise passed.

(c) *Consignee as importer.* When the consignee named in an entry summary declares another person to be the actual owner, the consignee shall be considered the importer for drawback purposes, even though the consignee files an owner's declaration under section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)). The drawback claimant shall file a certificate of delivery showing the initial transfer from the consignee to the person to whom delivery was made.

(d) *Warehouse transfers and withdrawals.* The person in whose name merchandise is withdrawn from a bonded warehouse shall be considered the importer for drawback purposes. No certificate of delivery is required covering prior transfers of merchandise while in a bonded warehouse.

§ 191.66 Certificate of manufacture and delivery.

(a) *When required.* If the imported merchandise has undergone some process of manufacture before delivery, and the wholly or partially manufactured article thereafter is used in the manufacture of some other article for exportation, or when completely manufactured articles are purchased for exportation without further manipulation, the drawback claimant, whether the manufacturer or the exporter, shall file a certificate of manufacture and delivery on Customs Form 7577.

(b) *Subcontractors.* (1) If a subcontractor performs work, which for drawback purposes does not constitute a manufacture or production, with the use of merchandise the principal plans to make the subject of a drawback claim, and (2) if there is a problem in identifying the merchandise the subcontractor returns to the principal from the merchandise received from the principal, the subcontractor shall complete a certificate of manufacture and delivery. If there is no problem of identification, the subcontractor shall complete only a certificate of delivery. If complementary records are maintained by a subcontractor's principal (see § 191.22(d)), and Customs determines no problems of identification exist, it may waive the filing of certificates of delivery and manufacture for transfers between principal and subcontractor, whether the subcontractor's operation involves manufacture or not.

(c) *Identifying certificates of manufacture and delivery.* Drawback claimants may identify the relevant certificates of manufacture and delivery on drawback entries covering the exported articles rather than describe the importation and manufacture.

(d) *Certification of intermediate transfer.* Any intermediate transfer of manufactured articles shall be certified on the certificate of manufacture and delivery.

(e) *Entry filed at place other than where certificate filed.* If the drawback entry is filed at a place other than where the certificate of manufacture and delivery is on file, the regional commissioner may transmit to the place where the drawback entry is filed an extract on Customs Form 4537

(f) *Special requirements for agency transactions.*—(1) *Requirement of agent.* Each agent manufacturer who conducts operations under § 191.34 of this part shall furnish the principal for whom it processed merchandise a certificate of manufacture and delivery on Customs Form 7577 completing only the portion applicable to the operation so conducted, relating to the substituted or designated merchandise, and identifying the owner of the articles for whom processing was conducted.

(2) *Requirement of principal.* The principal for whom processing was conducted under section 191.34 of this part shall complete and file a certificate of manufacture or drawback entry, as appropriate, and attach to it the certificates from its agent or agents.

§ 191.67 Landing certificates.

(a) *When required.* A landing certificate shall be required:

(1) Whenever the district director at the port of exportation or the port where the drawback entry is filed, or the regional commissioner for the region where the drawback claim is liquidated, has reason to believe that the shipment is not a bona fide exportation;

(2) When Customs Headquarters specifically directs that the landing certificate be produced;

(3) When law or regulations otherwise requires a landing certificate; or

(4) For every aircraft which departs from the United States under its own power if drawback is claimed on the aircraft or any part thereof. A landing certificate for aircraft shall show the exact time of landing in the foreign country and describe the aircraft or parts thereof on which drawback is claimed in sufficient detail to enable Customs officers to identify them with the documentation used to establish exportation, such as the notice of exportation, bill of lading, air waybill, or other approved documentation.

(b) *Time of filing.* Any required landing certificate shall be furnished prior to the liquidation of the entry.

(c) *Signature.* Any required landing certificate shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the landing certificate may be signed by the consignee or the carrier's agent at the place of unlading.

(d) *Notice of requirement.* Customs shall provide notice in writing to an exporter or its agent required to supply a landing certificate pursuant to paragraphs (a)(1) or (a)(2) of this section. The exporter or its agent shall file the landing certificate within 1 year from the date of the notice unless Customs Headquarters grants an extension.

(e) *Inability to produce landing certificates.* (1) When a landing certificate is required and cannot be produced, an application for its waiver may be made to the regional commissioner through the district director within the time required for filing the certificate, accompanied by such evidence of clearance and landing abroad as may be available. The application shall be granted if the regional commissioner is satisfied by the evidence submitted that the merchandise has been exported. If the regional commissioner is not so satisfied, he shall transmit the application and its accompanying evidence to Headquarters, U.S. Customs Service, for final determination.

(2) *Required by the district director.* When a landing certificate is required by a district director under paragraph (a)(1) of this section, he may accept other satisfactory evidence of foreign landing in place of the certificate.

Subpart G—Payment and Liquidation of Drawback Claims

§ 191.71 Liquidation.

(a) *Time of liquidation.* Drawback claims may be liquidated after.

(1) Final liquidation of the import entry; or

(2) Deposit of estimated duties on the imported merchandise and before liquidation of the import entry.

(b) *Claims based on estimated duties.*—(1) *Eligibility.* Drawback may be paid on estimated duties if the import entry has not been liquidated and the drawback claimant and any other party

responsible for the payment of liquidated import duties each files a written request for payment of each drawback entry, waiving any right to payment or refund under other provisions of law.

(2) *Adjustment.*—(i) *Drawback entry.* A drawback claim, once liquidated on the basis of estimated duties, thereafter shall not be adjusted by reason of a subsequent liquidation of an import entry.

(ii) *Importer entry.* However, if final liquidation of the import entry discloses that the total amount of import duty is different from the total estimated duties deposited, the party responsible for the payment of liquidated duties, as applicable, shall be liable for 1 percent of all increased duties found to be due on that portion of merchandise recorded on the drawback entry or shall be entitled to a refund of 1 percent of all excess duties found to be paid on that portion of the merchandise recorded on the drawback entry.

(c) *Claims based on liquidated duties.* Drawback shall be based on the final liquidated duties paid that have been made final by the importer's written acceptance of the liquidation or by operation of law.

(d) *Liquidation procedure.* When the drawback claim has been completed by the filing of the entry and other necessary documents, and exportation of the articles has been established, the regional commissioner shall determine drawback due on the basis of the complete drawback claim and the drawback contract.

(e) *Distribution and value for multiple products.*—(1) *Distribution.* Where two or more products result from the manufacture or production of merchandise, drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

(2) *Value.* The values to be used in computing the distribution of drawback where two or more products result from the manufacture and production of merchandise under drawback conditions shall be the market values unless another value is approved by Customs.

(f) *Payment.* The regional commissioner shall certify the amount of drawback due to the person making entry or other person authorized to receive payment under § 191.73 of this subpart.

§ 191.72 Accelerated payment.

(a) *Eligibility.* A drawback claimant not delinquent or otherwise remiss in transactions with Customs is eligible for accelerated payment of drawback on claims which are properly prepared and fully completed in accordance with either Subpart F or N of this part.

(b) *Submission with request.* A claimant who requests accelerated payment of a claim shall file with the claim a computation of the amount due, and, for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611, guaranteeing the refund of any excess payment as provided in section 113.13a of this chapter. In place of filing Customs Form 7609 or 7611, a claimant may provide appropriate coverage by executing the approved rider "P" on a General Term Bond for Entry of Merchandise, Customs Form 7595, at the time of filing Customs Form 7595. Rider "P", whether submitted to the district director with Customs Form 7595 initially or added to that bond later, shall be approved by the regional commissioner. When a rider is to be designated on Customs Form 7595, the amount of the bond shall be increased by the estimated amount of accelerated drawback to be claimed during the term of the bond. If outstanding unliquidated accelerated drawback claims exceed the estimated amount of accelerated drawback, the regional commission or shall require additional bond coverage.

(c) *Approval.* A regional commissioner who approves the claim for accelerated payment shall certify it for payment within 3 weeks after filing. After liquidation, the regional commissioner shall certify payment of any amount due or demand a refund of any excess amount paid.

(d) *Repeated erroneous computation of drawback claims.* Accelerated payment will be denied to claimants who repeatedly file claims in excess of the amount due.

§ 191.73 Person entitled to receive drawback.

(a) *Exporter; reservation by manufacturer or producer.* The person named as exporter on the notice of exportation or in bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies of these documents, shall be deemed to the exporter and entitled to drawback, unless the manufacturer or producer shall reserve the right to claim drawback. The manufacturer or producer who reserves this right may claim drawback, and he shall receive payment upon production of satisfactory evidence that the reservation was made with the knowledge and consent of the exporter.

(b) *Agent or person designated to receive drawback.* Drawback may be paid to the agent of the manufacturer, producer, or exporter, or to the person the manufacturer, producer, exporter, or agent directs in writing to receive drawback payment.

Subpart H—Internal-Revenue Tax on Flavoring Extracts and Medicinal or Toilet Preparations (Including Perfumery) Manufactured From Domestic Tax Paid Alcohol

§ 191.81 Drawback allowance.

(a) *Drawback.* Section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), provides for drawback of internal-revenue tax upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from the domestic tax-paid alcohol (see § 191.4(a)(4)).

(b) *Shipment to Puerto Rico, the Virgin Islands, Guam, and American Samoa.* Drawback of internal-revenue tax on articles manufactured or produced under this subpart and shipped to Puerto Rico, the Virgin Islands, Guam, or American Samoa shall be allowed in accordance with section 7653(c) of the Internal Revenue Code (26 U.S.C. 7653(c)). However, there is no authority of law for the allowance of drawback of internal-revenue tax on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced in the United States and shipped to Wake Island, Midway Islands, Kingman Reef, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

§ 191.82 Procedure.

(a) *General.* Other provisions of this part relating to direct identification drawback shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

(b) *Manufacturing record.* The manufacturer of flavoring extracts or medicinal or toilet preparations on which drawback is claimed shall record the products manufactured, the quantity of waste, if any, and a full description of the alcohol. These records shall be available at all times for inspection by Customs officers.

(c) *Additional information required on the manufacturer's proposal.* The manufacturer's proposal shall state the quantity of domestic tax-paid alcohol contained in each product on which drawback is claimed.

(d) *Variance in alcohol content.*—(1) *Variance of more than 5 percent.* If the percentage of alcohol contained in a medicinal preparation, flavoring extract

VOL
48
ISS
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14
1983
UMI

or toilet preparation varies by more than 5 percent from the percentage of alcohol in the total volume of the exported product as stated in a previously approved proposal, the manufacturer shall apply for a new drawback contract pursuant to section 191.25 of this part. If the variation differs from a previously filed schedule, the manufacturer shall file a new schedule incorporating the change.

(2) *Variance of 5 percent or less.* Variances of 5 percent or less of the volume of the product shall be reported to the regional commissioner where the drawback entries are liquidated. The regional commissioner may allow drawback without specific authorization from Customs Headquarters.

(e) *Customs forms.* The following Customs forms shall be used in place of the corresponding forms used in the case of articles manufactured with the use of imported merchandise:

(1) Drawback Entry for Tax-Paid Alcohol, Customs Form 7579.

(2) Certificate of Manufacture and Delivery, Customs Form 7585.

(3) Certificate of Delivery of Alcohol Tax-Paid, Customs Form 7545.

(f) *Time period for completing claims.* The 3-year period for the completion of drawback claims prescribed in § 191.61 of this part shall be applicable to claims for drawback under this subpart.

(g) *Filing of drawback entries on duty-paid imported merchandise and tax-paid alcohol.* When the drawback entry covers duty-paid imported merchandise in addition to tax-paid alcohol, the claimant shall file one set of entries for drawback of Customs duty and another set for drawback of internal-revenue tax.

(h) *Description of the alcohol.* The description of the alcohol stated in the entry may be obtained from the description on the package containing the tax-paid alcohol.

§ 191.83 Additional requirements.

(a) *Manufacturer claims domestic drawback.* In the case of medicinal preparations and flavoring extracts, the claimant shall file with the drawback entry, or endorse on the entry or certificate of manufacture, a declaration of the manufacturer showing whether a claim has been or will be filed by the manufacturer with the regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for domestic drawback on alcohol under sections 5131, 5132, 5133, and 5134, Internal Revenue Code, as amended (26 U.S.C. 5131, 5132, 5133, and 5134).

(b) *Manufacturer does not claim domestic drawback.*—(1) *Submission of statement.* If no claim has been or will be filed with the Bureau of Alcohol, Tobacco, and Firearms for domestic drawback on medicinal preparations or flavoring extracts, the manufacturer shall submit a statement, in duplicate, setting forth that fact to the appropriate regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for the region in which the manufacturer's factory is located.

(2) *Contents of the statement.* The statement shall show the:

(i) Quantity and description of the exported products;

(ii) Identity of the alcohol used by serial number of package or tank car;

(iii) Name and registry number of the warehouse from which the alcohol was withdrawn;

(iv) Date of withdrawal;

(v) Serial number of the tax-paid stamp or certificate, if any; and

(vi) Customs region where the drawback claim will be filed.

(3) *Verification of the statement.* The regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms, shall verify receipt of this statement, forward the original of the document to the Customs region designated, and retain the copy.

§ 191.84 Alcohol, Tobacco and Firearms certificates.

(a) *Request.* The drawback claimant or manufacturer shall file a written request with the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms, in whose region the alcohol used in the manufacture was withdrawn requesting him to provide the regional commissioner of Customs, with whom the drawback claim will be processed, a tax-paid certificate on Alcohol, Tobacco and Firearms Form 5100.4 (Certificate of Tax-Paid Alcohol).

(b) *Contents.* The request shall state the:

(1) Quantity of alcohol in taxable gallons;

(2) Serial number of each package;

(3) Serial number of the stamp, if any;

(4) Amount of tax paid on the alcohol;

(5) Name, registry number, and location of the warehouse;

(6) Date of withdrawal;

(7) Name of the manufacturer using the alcohol in producing the exported articles;

(8) Address of the manufacturer and his manufacturing plant; and

(9) Customs region where the drawback claim will be processed.

(c) *Request accompanied by Customs Form 7545.* If the request is accompanied by Customs Form 7545 showing any of the information required by paragraph (b) of this section, that information need not be repeated in the request.

(d) *Extracts of Alcohol, Tobacco and Firearms certificates.* If a certification of any portion of the alcohol described in the Bureau of Alcohol, Tobacco and Firearms Form 5100.4 is required for liquidation of drawback entries processed in another region, the regional commissioner of Customs, on written application of the person who requested its issuance, shall transmit a copy of the extract from the certificate for use at that regional office. The regional commissioner shall note that the copy of the extract was prepared and transmitted.

§ 191.85 Liquidation.

The regional commissioner shall determine the amount of drawback due by reference to the certificate of manufacture and the drawback contract under which the drawback claimed is allowable.

§ 191.86 Amount of drawback.

(a) *Claim filed with Bureau of Alcohol, Tobacco and Firearms.* If the declaration required by § 191.83 of this part shows that a claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback, drawback under section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), shall be limited to the difference between the amount of tax paid and the amount of domestic drawback claimed.

(b) *Claim not filed with Bureau of Alcohol, Tobacco and Firearms.* If the declaration and verified statement required by § 191.83 show that no claim has been or will be filed by the manufacturer with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback, the drawback shall be the full amount of the tax on the alcohol used.

(c) *No deduction of 1 percent.* No deduction of 1 percent shall be made in drawback claims under section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)).

(d) *Payment.* The drawback due shall be paid in accordance with § 191.71(f) of this part.

Subpart I—Supplies for Certain Vessels and Aircraft

§ 191.91 Drawback allowance.

Section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), provides for drawback on articles laden as supplies on certain vessels or aircraft of the United States or as supplies including equipment upon, or used in the maintenance or repair of, certain foreign vessels or aircraft (see § 191.4(a)(10)).

§ 191.92 Procedure.

(a) *General.* Other provisions of this part apply to claims filed under this subpart insofar as applicable and not inconsistent with the provisions of this subpart.

(b) *Customs forms.* Drawback notices of lading on Customs Form 7514 shall be filed in place of notices of exportation on Customs Form 7511 or other evidence of exportation (see § 191.93).

§ 191.93 Drawback notice of lading.

(a) *Number of copies and place of filing.* The notice of lading on Customs Form 7514 shall be filed in quadruplicate with the district director at the port of lading.

(b) *Time of filing.* The drawback notice of lading may be filed either before or after lading of the articles. If filed after lading, the notice shall be filed within 3 years after exportation of the articles.

(c) *Contents of notice. The notice of lading shall show:*

(1) Name of the vessel or identity of the aircraft on which articles were or are to be laden;

(2) Number and kind of packages and their marks and numbers;

(3) Description of the articles and their weight (net), gauge, measure, or number,

(4) Name of the exporter; and

(5) Customs region where the drawback entry is to be filed.

(d) *Assignment of numbers and return of one copy.* The district director shall assign a number to each notice of lading and return one copy to the exporter for delivery to the master or authorized officer of the vessel or aircraft.

(e) *Declaration.*—(1) *Requirement.* The master or an authorized officer of the vessel or aircraft, or a representative of the owner or operator of the vessel or aircraft having knowledge of the facts and holding a Customs power of attorney shall complete the section of the drawback notice entitled "Declaration of Master or Other Officer," which was delivered by the exporter.

(2) *Procedure if notice filed before lading.* If the notice is filed before lading of the articles, the declaration must be completed on the copy of the numbered drawback notice that was filed with the district director and returned to the exporter for this purpose.

(3) *Procedure if notice filed after lading.* If the drawback notice is filed after lading of the articles, the drawback claimant may file a separate document containing the declaration required on the Drawback Notice, Customs Form 7514.

(4) *Filing.* The drawback claimant shall file with the district director both the drawback entry and the drawback notice or separate document containing the declaration of the master or other officer or representative.

(f) *Information concerning class or trade.* Information about the class of business or trade of a vessel or aircraft is required to be furnished in support of the drawback entry if the vessel or aircraft is American.

(g) *Vessel or aircraft required to clear or obtain a permit to proceed.* After the vessel or aircraft has cleared or obtained a permit to proceed, the district director at the port of lading shall complete the section entitled "Customs Certification" on one of the copies of the notice of lading. He shall return the completed copy and one other copy to the exporter or the person designated by the exporter for subsequent filing with the drawback entry.

(h) *Vessel or aircraft not required to clear or obtain a permit to proceed.* If the vessel or aircraft is not required to clear or obtain a permit to proceed to another port, the district director shall return to the exporter or the person designated by the exporter two copies of the notice with a statement of the facts in this case for subsequent filing with the drawback entry. The drawback claimant shall file with its claim an itinerary of the vessel or aircraft for the immediate voyage or flight showing that the vessel or aircraft is engaged in a class of business or trade which makes it eligible for drawback.

(i) *Articles laden or installed on aircraft as equipment or used in the maintenance or repair of aircraft.* The regional commissioner where the drawback claim is filed shall require a declaration or other evidence showing to his satisfaction that articles have been laden or installed on aircraft as equipment or used in the maintenance or repair of aircraft.

(j) *Fuel laden on vessels or aircraft as supplies.*—(1) *Composite notice of lading.* In the case of fuel laden on vessels or aircraft as supplies, the drawback claimant may file with the regional commissioner a composite notice of lading on the reverse of Customs Form 7514, for each calendar month describing all of the drawback claimant's deliveries of fuel supplies during the one calendar month at a single port or airport to all vessels or airplanes of one vessel owner or operator or airline.

(2) *Contents of composite notice.* The composite notice shall show for each voyage or flight, either on the reverse of Customs Form 7514 or on a continuation sheet:

(i) Identity of the vessel or aircraft;

(ii) Description of the fuel supplies laden;

(iii) Quantity laden; and

(iv) Date of lading.

(3) *Declaration of owner or operator.* A vessel or airline representative having knowledge of the facts and holding a Customs power of attorney shall complete the section "Declaration of Master or Other Officer" on Customs Form 7514.

(4) *District Director's certification.* The district director shall note the clearance of the vessel or aircraft at the end of each line relating to a voyage or flight.

(k) *Desire to land articles covered by notice of lading.* The master of the vessel or commander of the aircraft desiring to land in the United States articles covered by a notice of lading shall apply for a permit to land those articles under Customs supervision. All articles landed, except those transferred under the original notice of lading to another vessel or aircraft entitled to drawback, shall be considered imported merchandise for the purpose of section 309(c), Tariff Act of 1930, as amended (19 U.S.C. 1309(c)).

§ 191.94 Drawback entry.

The drawback entry shall be filed on Customs Form 7573 or 7575, as applicable, modified to read "lade" (or "use"), "laden" (or "used"), or "lading" or "using") instead of "export," "exported," or "exporting." The "Declaration of Exportation" shall be amended to read as follows:

Declaration of Lading or Use

I, (member of firm, officer representing corporation, agent, or attorney) of declare that according to my knowledge and belief, the particulars of lading (or use) stated in this entry, the notices of lading, and receipts are correct, and that the merchandise is not to be relanded in the United States or any of its possessions, but is to be (has been) used on the vessels or aircraft so named for (state specifically, such as supplies, equipment, maintenance, or repair) as specified in section 309, Tariff Act of 1930, as amended.

Date 19

(Shipper or agent)

(Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309)

Subpart J—Meats Cured with Imported Salt

§ 191.101 Drawback allowance.

Section 313(f), Tariff Act of 1930, as amended (19 U.S.C. 1313(f)), provides for the allowance of drawback upon the

VOL
48
ISS
2
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OC
14
1983
UMI

exportation of meats cured with imported salt (see § 191.4(a)(6)).

§ 191.102 Procedure.

(a) *General.* Other provisions of this part relating to direct identification drawback shall apply to claims for drawback under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

(b) *Customs form.* The forms used for other drawback claims shall be used and modified to show that the claim is being made for refund of duties paid on salt used in curing meats.

§ 191.103 Refund of duties.

Drawback shall be refunded in aggregate amounts of not less than $100 and shall not be subject to the retention of 1 percent of duties paid.

Subpart K—Materials for Construction and Equipment of Vessels and Aircraft Built for Foreign Accounts and Ownership

§ 191.111 Drawback allowance.

Section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), provides for drawback on imported materials used in the construction and equipment of vessels and aircraft built for foreign account and ownership, or for the government of any foreign country, notwithstanding that these vessels or aircraft may not be exported within the strict meaning of the term (see § 191.4(a)(7)).

§ 191.112 Procedure.

Other provisions of this part relating to direct identification drawback shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

§ 191.113 Explanation of terms.

(a) *Materials.* Section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), applies only to materials used in the original construction and equipment of vessels and aircraft and not to materials used for alteration or repair, or to materials not required for safe operation of the vessel or aircraft.

(b) *Foreign account and ownership.* Foreign account and ownership, as used in section 313(g), Tariff Act of 1930, as amended, means only vessels or aircraft built and equipped for the account of an owner or owners residing in a foreign country and having a bona fide intention that the vessel or aircraft, when completed, shall be owned and operated under the flag of a foreign country.

Subpart L—Foreign-Built Jet Aircraft Engines Processed in the United States

§ 191.121 Drawback allowance.

Section 313(h), Tariff Act of 1930, as amended (19 U.S.C. 1313(h)), provides for drawback on the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts (see § 191.4(a)(8)).

§ 191.122 Procedure.

Other provisions of this part shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

§ 191.123. Drawback entry.

(a) *Filing of entry.* Drawback entries covering these foreign-built jet aircraft engines shall be filed on Customs Form 7575–A, appropriately modified, to show that the entry covers jet aircraft engines processed under section 313(h), Tariff Act of 1930, as amended.

(b) *Contents of entry.* The entry shall show the country in which each engine was manufactured and describe the processing performed thereon in the United States.

§ 191.124 Refund of duties.

Drawback shall be refunded in aggregate amounts of not less than $100, and shall not be subject to the deduction of 1 percent of duties paid.

Subpart M—Merchandise Exported From Continuous Customs Custody

§ 191.131 Drawback allowance.

(a) *General.* Section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), provides for drawback on the exportation, or the shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, of merchandise upon which duties have been paid continuously in bonded warehouse or otherwise in Customs custody since importation (see § 191.4(a)(11)).

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

(b) *Guantanamo Bay.* Guantanomo Bay Naval Station shall be considered foreign territory for drawback purposes under this subpart. However, imported merchandise which has remained continuously in bonded warehouse or otherwise in Customs custody since importation is not entitled to drawback of duty when shipped to Puerto Rico, Canton Island, Enderbury Island, or Palmyra Island.

§ 191.132 Merchandise released from Customs custody.

No remission, refund, abatement, or drawback of duty shall be allowed because of the exportation of any merchandise after its release from Government custody, except in the following cases:

(a) When articles are exported on which drawback is expressly provided for by law:

(b) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to statute and regulations prescribed by the Secretary of the Treasury: or

(c) When articles entered under bond are destroyed within the bonded period, as provided in section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)), or destroyed within the bonded period by death, accidental fire, or other casualty, and proof of destruction is furnished to the satisfaction of the Secretary of the Treasury, in which case any accrued duties shall be remitted or refunded and any condition in the bond that the articles shall be exported shall be deemed to have been satisfied (see 19 U.S.C. 1558).

§ 191.133 Continuous Customs custody.

(a) *Merchandise released under an importer's bond and returned.* Merchandise released to an importer under a bond prescribed by § 142.4 of this chapter and later returned to the public stores upon requisition of the district director shall not be deemed to be in the continuous custody of Customs officers.

(b) *Merchandise released under a temporary importation bond.* Merchandise released under a temporary importation bond as provided for in Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), shall not be deemed to be in the continuous custody of Customs officers.

(c) *Merchandise released from warehouse.* For purpose of this part, in the case of merchandise entered for warehouse, Customs custody shall be deemed to cease when duty has been paid and the district director has authorized the withdrawal of the merchandise.

(d) *Merchandise not warehoused, examined elsewhere than in public stores.*—(1) *General rule.* Except as stated in paragraph (d)(2) of this section, merchandise examined elsewhere than at the public stores, in accordance with

the provisions of § 151.7 of this chapter, shall be considered released from Customs custody upon completion of final examination for appraisement.

(2) *Merchandise upon the wharf.* Merchandise which remains on the wharf by permission of the district director shall be considered to be in Customs custody, but this custody shall be deemed to cease when the Customs officer in charge accepts the permit and has no other duties to perform relating to the merchandise, such as measuring, weighing or gauging.

(Sec. 557, 46 Stat. 744, as amended, 19 U.S.C. 1557)

§ 191.134 Filing the entry.

(a) *Direct export.* At least 6 hours before lading the merchandise on which drawback is claimed, the importer or the agent designated by him in writing shall file with the district director a direct export entry on Customs Form 7512 in duplicate.

(b) *Merchandise transported to another port for exportation.* The importer of merchandise to be transported to another port for exportation shall file in triplicate with the district director an entry naming the transporting conveyance, route, and port of exit. The district director shall certify one copy and forward it to the district director at the port of exit. A bonded carrier shall transport the merchandise in accordance with the applicable regulations. Manifests shall be prepared and filed in the manner prescribed in § 144.37 of this chapter.

§ 191.135 Merchandise withdrawn from warehouse for exportation.

The regulations in Part 18 of this chapter concerning the supervision of lading and certification of exportation of merchandise withdrawn from warehouse for exportation without payment of duty shall be followed to the extent applicable.

§ 191.136 Bill of lading.

(a) *Filing.* In order to complete the claim, a bill of lading covering the merchandise described in the export entry shall be filed within 2 years after the merchandise is exported.

(b) *Contents.* The bill of lading shall show either that the merchandise was shipped by the person making the claim or bear an endorsement of the person in whose name the merchandise was shipped showing that the person making claim is authorized to receive the drawback.

(c) *Limitation of the bill of lading.* The terms of the bill of lading may limit and define its use by stating that it is for Customs purposes only and not negotiable.

(d) *Inability to produce bill of lading.* When a required bill of lading cannot be produced, the person making the drawback entry may request the regional commissioner, through the district director, within the time required for the filing of the bill of lading, to accept a statement setting forth the cause of failure to produce the bill of lading and such evidence of exportation and of its right to make the drawback entry as may be available. The request shall be granted if the regional commissioner is satisfied by the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been exported, and that the person making the drawback entry has the right to do so. If the regional commissioner is not so satisfied, he shall transmit the request and its accompanying evidence to Headquarters, U.S. Customs Service, for final determination.

(e) *Extracts of bills of lading.* Regional commissioners may issue extracts from bills of lading filed with drawback entries.

§ 191.137 Landing certificates.

When required, a landing certificate shall be filed within the time prescribed in § 191.67 of this part.

(Sec. 557, 46 Stat. 744, as amended, 19 U.S.C. 1557)

§ 191.138 Procedures.

When the drawback entry has been completed and the bill of lading filed, together with the landing certificate, if required, the reports of inspection and lading made, and the clearance of the exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the regional commissioner shall verify the importation by referring to the import records to ascertain the amount of duty paid on the merchandise exported. To the extent appropriate and not inconsistent with the provisions of this subpart, drawback claims shall be liquidated in accordance with the provisions of §§ 191.61 and 191.71 of this part.

§ 191.139 Amount of drawback.

Drawback due under this subpart shall not be subject to the retention of 1 percent.

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

Subpart N—Same Condition and Rejected Merchandise Drawback

§ 191.141 Same Condition Drawback.

(a) *General Provisions.* (1) *Allowance.* Section 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)), provides for drawback on imported merchandise exported in the same condition as when imported, or destroyed under Customs supervision and not used within the United States before such exportation or destruction (see § 191.4(a)(9)).

(2) *Time of exportation or destruction.* Drawback shall be allowed on imported merchandise if exported or destroyed under paragraph (a)(1) of this section before the close of the 3-year period beginning on the date of importation.

(3) *Use.* The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on the imported merchandise itself, not amounting to manufacture or production for drawback purposes shall not be treated as a use of that merchandise for purposes of applying paragraph (a)(1) of this section.

(b) *Filing and documentation prior to exportation.* (1) *Filing.* An exporter-claimant who desires to export merchandise with drawback under 19 U.S.C. 1313(j) shall file with the regional commissioner, or the district (area) director, or port director, if authority has been delegated to that official by the regional commissioner, a completed Customs Form 7539. The exporter-claimant also shall furnish a copy of the import entry or identify the import entry, date of entry, and port of entry under which the merchandise was imported into the United States. It shall certify that the merchandise is in the same condition as when imported and not used within the United States before such exportation. Transfers shall be documented by certificates of delivery (see § 191.65).

(2)(i) *Time of filing.* The completed Customs Form 7539 shall be filed with the regional commissioner or district (area) director, or port director, if authority has been delegated to that official by the regional commissioner, at least 5 working days prior to the date of intended exportation of the merchandise, unless the Customs officer approves a shorter filing period.

(ii) *Waiver of prior notice of intent to export.* A request for a waiver of prior notice by an exporter-claimant shall be in writing to the regional commissioner, or the district (area) director or port director, if authority has been delegated to that official by the regional commissioner. The appropriate Customs officer may waive prior notice at any

VOL
48
ISS
2
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0
OC
14
1983
UMI

time for any exporter-claimant. An exporter-claimant shall be granted this waiver after filing with the appropriate Customs official six consecutive claims free of substantial error, provided that such exporter-claimant has operated under the same condition program for a minimum of six months. An exporter-claimant who repeatedly files inaccurate claims may have the privilege (of filing without prior notice) revoked. Customs will so notify the exporter-claimant in writing of the revocation as soon as possible.

(3) *Examination.* (i) *Decision to examine.* Within 3 working days after Customs Form 7539 is filed, the exporter-claimant shall be notified whether Customs will examine the merchandise. If the exporter-claimant is not notified within the 3-day period, the exporter-claimant shall export the merchandise without delay.

(ii) *Time and place of examination.* If the appropriate Customs officer determines to examine the merchandise, he shall notify the exporter-claimant of the time and place of the examination. The examination shall be completed within 5 working days after the filing of Customs Form 7539, unless failure to examine during this period is caused by the exporter-claimant. If the examination is completed at a port other than the port of intended exportation, the exporter-claimant shall transport the merchandise in-bond to the port of exportation.

(iii) *Extent of examination.* The appropriate Customs officer may permit release of merchandise without examination, or may examine routinely (to the extent he determined necessary) items exported, provided such examinations do not exceed 10 percent of the total items exported (i.e., merchandise in one of ten claims could be examined). If the Customs officer believes it is necessary to examine more than 10 percent of the exported items, he shall present the reasons to Headquarters and obtain approval for such other examination.

(c) *Completion of drawback entry for exported merchandise.* Within 3 years after exportation of merchandise under § 191.141(b), an exporter-claimant shall complete his drawback claim by filing with the same Customs officer who received Customs Form 7539 evidence of exportation under the procedures described in § 191.52 (notice of exportation) or § 191.54 (certified notice of exportation by mail) of this part.

(d) *Alternative procedure for exported merchandise.* In place of the procedures set forth in §§ 191.141 (b) and (c), an exporter-claimant may apply with the regional commissioner, or the district (area) director, if authority has been delegated to that official by the regional commissioner, for permission to use the exporter's summary procedure (see § 191.53). If the request is approved, the exporter-claimant shall complete a drawback claim no later than 3 years after exportation. When this alternative procedure is used, no prior notice of intent to export or examination is necessary for purposes of obtaining drawback.

(e) *General.* The provisions relating to direct identification drawback shall apply to claims for drawback under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart. Specifically, §§ 191.22 (b) and (c), and 191.65 are applicable to drawback under 19 U.S.C. 1313(j).

(f) *Drawback on destroyed merchandise.* (1) *Procedure.* A claimant desiring to destroy merchandise to collect drawback under same condition drawback shall file with the regional commissioner, or the district (area) director or port director, if authority has been delegated to that official by the regional commissioner, a completed Customs Form 7539. At least 7 working days prior to the intended date of destruction, the exporter—claimant shall notify the appropriate Customs officer of the time and place of destruction, by submitting Customs Form 3499 with Customs Form 7539 at the location wherein the destruction is to occur. It shall certify that the merchandise is in the same condition as when imported and not used within the United States before such destruction. Destruction of merchandise after such notification on Customs Form 3499 shall be deemed to have occurred under Customs supervision.

(2) *Completion of drawback entry.* After destruction, the claimant and district director or his designee who witnessed destruction shall certify on Customs Form 7539 or an attachment thereto the time and place of destruction.

(g) *Liquidation of the drawback claim.* (1) Entries shall be liquidated or reliquidated in the region or districts as determined by the regional commissioner.

(2) Upon review of a drawback claim by the liquidator, if the claim is determined to be incomplete, the liquidator shall notify promptly the claimant, who shall then have the opportunity to amend the claim prior to its denial. The claimant shall respond in writing within 20 days of Customs notice.

(3) If the claim is denied, the claimant shall be notified in accordance with §§ 159.9 and 159.10 of this chapter.

§ 191.142 Merchandise not conforming to sample or specifications or shipped without the consent of the consignee.

(a) *General.* (1) Section 313(c), Tariff Act of 1930, as amended (19 U.S.C. 1313(c)), provides for drawback upon the exportation of imported merchandise not conforming to sample or specifications or shipped without the consent of the consignee. The merchandise must be returned to Customs custody for exportation within 90 days after release from Customs custody unless Customs authorizes a longer period (see § 191.4(a)(3)).

(2) Rejected merchandise may be the subject of a same condition drawback claim in accordance with § 191.141(a)–(f).

(b) *Procedure.* (1) The exporter-claimant shall file with any district director a drawback entry on Customs Form 7539 at the time the merchandise is returned to Customs custody.

(2) The exporter-claimant also shall submit documentation to establish that the merchandise does not conform to sample or specifications or was shipped without the consent of the consignee.

(3) The district director shall approve the place of delivery of the merchandise if he is satisfied that the merchandise does not conform to sample or specifications or was shipped without the consent of the consignee.

(4) The exporter-claimant shall return the merchandise to Customs custody within 90 days after the date the merchandise was originally released from Customs custody unless an extension of time is specifically authorized in writing by the district director or other appropriate Customs official. A reasonable extension of time will be granted if the failure to comply with the 90 day provision is beyond the control of the applicant. Drawback shall be denied on merchandise returned to Customs custody after the authorized time period, including any extension.

(5) The exporter-claimant shall export the merchandise under Customs supervision and shall provide proof of exportation by filing with the same district director who received the Customs Form 7539 a notice of exportation certified by a Customs officer under § 191.52(c)(1), or otherwise supported by those documents set out in § 191.52(c)(2) except that if a bill of lading is submitted proving exportation, no notice of exportation shall be required. The exporter-claimant also may establish exportation by mail as set out in § 191.154.

(6) Drawback under this section is payable to the exporter-claimant who is the importer of record or the actual owner named in the import entry. The procedures for liquidating a drawback claim shall be the same as under § 191.141(g).

Subpart O—Distilled Spirits, Wines, or Beers Which Are Unmerchantable or Do Not Conform to Sample or Specifications

§ 191.151 Refund of taxes.

Section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)), provides for the refund, remission, abatement or credit to the importer of internal-revenue taxes paid or determined incident to importation, upon the exportation, or destruction under Customs supervision, of imported distilled spirits, wines, or beer found after entry to be unmerchantable or not to conform to sample or specifications and which are returned to Customs custody (see § 191.4(b)).

§191.152 Procedure.

The export procedure shall be the same as that provided in § 191.142(b) except that the claimant must be the importer and as otherwise provided in this subpart.

§191.153 Documentation.

(a) *Entry.* Customs Form 7539, appropriately modified, shall be used to claim drawback under this subpart.

(b) *Documentation.* The drawback entry for unmerchantable merchandise shall be accompanied by a certificate of the importer setting forth in detail the facts which cause the merchandise to be unmerchantable and any additional proof that the district director requires to establish that the merchandise is unmerchantable.

§191.154 Return to Customs custody.

There is no time limit for the return to Customs custody of distilled spirits, wine, or beer subject to refund of taxes under the provisions of this subpart.

§191.155 No exportation by mail.

Merchandise covered by this subpart shall not be exported by mail.

§191.156 Destruction of merchandise.

(a) *Action by the importer.* A drawback claimant who proposes to destroy rather than export the distilled spirits, wine, or beer shall state that fact on Customs Form 7539.

(b) *Action by Customs.* Distilled spirits, wine, or beer returned to Customs custody at the place approved by the district director where the drawback entry was filed shall be destroyed under the supervision of the Customs officer who shall certify the destruction on Customs Form 3499.

§191.157 Liquidation.

No deduction of 1 percent of the internal revenue taxes paid or determined shall be made in allowing claims under section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)).

§191.158 Time limit for exportation or destruction.

Merchandise not exported or destroyed within 90 days from the date of notification of acceptance of the drawback entry shall be considered unclaimed, unless upon written request by the importer, the district director grants an extension of not more than 90 days.

Subpart P—Merchandise Transferred to a Foreign Trade Zone From Customs Territory

§191.161 Drawback allowance.

The fourth provision of section 3 of the Foreign Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c) provides for drawback on merchandise transferred to a foreign trade zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage, provided there is compliance with the regulations of this subpart (see § 191.4(a)(12)).

§191.162 Zone-restricted merchandise.

Merchandise in a foreign trade zone for the purposes specified in § 191.161 shall be given status as zone-restricted merchandise on proper application (see § 146.25 of this chapter).

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§191.163 Articles manufactured or produced in the United States.

(a) *Procedure for filing documents.* Except for the evidence of exportation procedure, the drawback procedures prescribed in this part shall be followed as applicable to drawback under this subpart on articles manufactured or produced in the United States with the use of imported or substituted merchandise, and on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced with the use of domestic tax-paid alcohol.

(b) *Notice of transfer.*—(1) *Proof of export.* The notice of zone transfer on Customs Form 7514 shall be in place of the documents under subpart E to establish the exportation.

(2) *Filing procedures.* The notice of transfer, in triplicate, shall be filed with the district director where the foreign trade zone is located prior to the transfer of the articles to the zone, or within 3 years after the transfer of the articles to the zone. A notice filed after the transfer shall state the foreign trade zone lot number.

(3) *Contents of notice.* Each notice of transfer shall show the:

(i) Number and location of the foreign trade zone;

(ii) Number and kind of packages and their marks and numbers;

(iii) Description of the articles, including weight (gross and net), gauge, measure, or number;

(iv) Name of the transferor, and

(v) Place where the drawback entry is to be filed.

(c) *Action of the district director on the notice of transfer.—(1) Assignment of number.* The district director shall assign a number to each notice of transfer, return one copy to the transferor and forward another copy to the Customs officer at the foreign trade zone.

(2) *Certification and forwarding notice to transferor.* After articles have been received in the zone, the Customs officer in charge at the zone shall certify on a copy of the notice of transfer the receipt of the articles and forward the notice to the transferor or the person designated by the transferor.

(d) *Foreign trade zone operator's certificate.* Before filing the certified copy of the notice of transfer with the drawback entry, the transferor shall obtain the foreign trade zone operator's certification of receipt of the articles in the zone (see § 191.164(d)(2)).

(e) *Drawback entries.* Drawback entries shall be filed on Customs Form 7573, 7575, 7579, or 7585, as applicable, appropriately modified, to indicate that the merchandise was transferred to a foreign trade zone. The "Declaration of Exportation" shall be modified as follows:

DECLARATION OF TRANSFER TO A FOREIGN TRADE ZONE

I, ———— (member of firm, officer representing corporation, agent, or attorney), of ————, declare that, to the best of my knowledge and belief the particulars of transfer stated in this entry, the notices of transfer, and receipts are correct, and that the merchandise was transferred to a foreign trade zone for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption.

Dated: ————.

————,

Transferor or agent.

(Sec. 3, 48 Stat. 999, as amended, 19 U.S.C. 81c)

VOL 48 ISS 200 OCT 14 1983 UMI

§ 191.164 Merchandise transferred from continuous Customs custody.

(a) *Procedure for filing claims.* The procedure described in Subpart M of this part shall be followed as applicable, to drawback on merchandise transferred to a foreign trade zone from continuous Customs custody.

(b) *Drawback entry.* Prior to the transfer of merchandise from continuous Customs custody to a foreign trade zone, the importer or a person designated in writing by the importer for that purpose shall file with the district director a direct export entry on Customs Form 7512 in duplicate. The district director shall forward one copy of Customs Form 7512 to the Customs officer in charge at the zone.

(c) *Certification by Customs and zone operator.* After the merchandise has been received in the zone, the Customs officer in charge at the zone shall certify on the copy of Customs Form 7512 the receipt of the merchandise and forward the form to the transferor or the person designated by the transferor to obtain the foreign trade zone operator's certification. After obtaining and executing the certifications provided for in paragraph (d) of this section, the transferor shall resubmit Customs Form 7512 to the district director in place of the bill of lading required by § 191.136 of this part.

(d) *Modification of drawback entry.* (1) *Indication of transfer.* Customs Form 7512 shall be modified to indicate that the merchandise is to be transferred to a foreign trade zone.

(2) *Endorsement.* The transferor or person designated by the transferor shall endorse Customs Form 7512 as follows, for execution by the foreign trade zone operator:

Certification of Foreign Trade Zone Operator

The merchandise described in the entry was received from ———— on ————, 19——; in Foreign Trade Zone No. ——, ———— (City and State)
Exceptions: ————, ————
(Name and title)
By ———— (Name of operator)

(3) *Transferor's declaration.* The transferor shall declare on Customs Form 7512 as follows:

Transferor's Declaration

I, ————, of the firm of ————, declare that the merchandise described in this entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it was transferred to Foreign Trade Zone No. ——, located at ————, (City and State) for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption. I further declare that to the best of my knowledge and belief, this merchandise is the same in quantity, quality, value, and package, unavoidable wastage and damage excepted, as it was at the time of importation; that no allowance nor reduction of duties has been made for damage or other cause except as specified in this entry; and that no part of the duties paid has been refunded by drawback or otherwise.

Dated:
———— (Transferer)

(Sec. 3, Stat. 999, as amended; 19 U.S.C. 81c)

§ 191.165 Same condition drawback merchandise and merchandise not conforming to sample or specifications or shipped without the consent of the consignee.

(a) *Procedure for filing claims.* The procedures described in § 191.141, relating to same condition drawback merchandise, and § 191.142 relating to rejected merchandise, shall be followed as applicable to drawback under this subpart for same condition drawback merchandise and merchandise not conforming to sample or specifications, or merchandise shipped without the consent of the consignee.

(b) *Drawback entry.* Before transfer of the merchandise to a foreign trade zone, the importer or a person designated in writing by the importer for the purpose shall file with the district director an entry on Customs Form 7539 in duplicate. The district director will forward one copy of Customs Form 7539 to the Customs officer in charge at the zone.

(c) *Certification by Customs and zone operator.* After the merchandise has been received in the zone the Customs officer in charge at the zone shall certify on the copy of Customs Form 7539 the receipt of the merchandise and forward the form to the transferor or the person designated by the transferor to obtain the foreign trade zone operator's certificate. After obtaining and executing the certifications provided for in paragraph (d) of this section, the transferor shall resubmit Customs Form 7539 to the district director, in place of the bill of lading required by § 191.136 of these regulations.

(d) *Modification of drawback entry.* (1) *Indication of transfer.* Customs Form 7539 shall be modified to indicate that the merchandise is to be transferred to a foreign trade zone.

(2) *Endorsement.* The transferor or person designated by the transferor shall endorse Customs Form 7539 as follows, for execution by the foreign trade zone operator:

Certification of Foreign Trade Zone Operator

The merchandise described in this entry was received from ———— on ————, 19——, in Foreign Trade Zone No. ——, ———— (City and State).
Exceptions: ————.
———— (Name of operator)
By ———— (Name and title)

(3) *Transferor's declaration.* The transferor shall declare on Customs Form 7539 as follows:

Transferor's Declaration

I, ————, of the firm of ————, declare that the merchandise described in the within entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it was transferred to Foreign Trade Zone No. ——, located at ————, (City and State) for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption. I further declare that to the best of my knowledge and belief, that said merchandise is the same in quantity, quality, value, and package as specified in this entry; that no allowance nor reduction in duties has been made; and that no part of the duties paid has been refunded by drawback or otherwise.

Dated: ————.
———— (Transferor)

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 191.166 Person entitled to receive drawback.

The person named in the foreign trade zone operator's certification on the notice of transfer or the drawback entry, as applicable, shall be considered to be the transferor. Drawback shall be paid to the transferor or to the person to whom the transferor directs in writing to be paid.

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

(R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnt. 11), 1313, 1624))

(Approved by the Office of Management and Budget under Control Number 1515–0094.)

Conforming Amendments

Parts 7, 10, 113, 145, and 158

To conform the Customs Regulations to the changes made by the removal of Part 22, Customs Regulations and the addition of new Part 191, Customs Regulations, Parts 7, 10, 113, 145, and 158 are amended in the following manner:

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

§ 7.1 [Amended]

1. § 7.1(a), Customs Regulations is amended by substituting "§§ 191.85 and 191.86" in place of "§ 22.28" appearing at the end of the paragraph.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.38 [Amended]

§ 10.38(f), Customs Regulations, is amended by substituting "§ 191.10" in place of "§ 22.43".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 113—CUSTOMS BONDS

1. Subpart B—"Classes and Approval of Bonds" of the index to Part 113 is amended by adding after heading §113.13, a new heading §113.13a to read "Bonds approved by the regional commissioner."

2. Section 113.11(b), Customs Regulations, is amended by renumbering paragraph (b)(2) as (b)(3), and adding a new paragraph (b)(2) to read as follows:

§113.11 Names and classes of bonds.

* * * * *

(b) * * *

(2) Those approved by the regional commissioner (see section 113.13a).

3. Part 113 is amended by adding a new §113.13a to read as follows:

§113.13a Bonds approved by the regional commissioner.

The following bonds are subject, after execution, to approval by the regional commissioner:

(a) *Single entry bond, Customs Form 7609.* Bond for accelerated payment of Drawback (Single Entry), Customs Form 7609, in an amount equal to the amount of accelerated payment to be received on the entry covered.

(b) *Term bond, Customs Form 7611.* Bond for Accelerated Payment of Drawback (Term), Customs Form 7611, in an amount sufficient to cover the maximum amount of accelerated payment to be outstanding at any time during the period of the bond.

§113.14 [Amended]

4. Sections 113.14(x)(1) and (x)(2), Customs Regulations, are removed and reserved.

5. Section 113.14(y), Customs Regulations, is amended by substituting "section 191.53" in place of "section 22.7."

6. Section 113.16 is amended by revising the section heading and first sentence to read as follows:

§113.16 Amount of bond approved by the regional commissioner or director.

The amount of any Customs bond approved by the regional commissioner or district director shall not be less than $100, except when the law or regulation expressly provides that a lesser amount be taken. * * *

7. Section 113.18 is amended by revising the first sentence to read as follows:

§113.18 Retention of approved bonds.

All the bonds approved by the regional commissioner, described in section 113.13a, or by the district director, described in section 113.14, except the Bond of Claimant of Seized Goods for Costs of Court, Customs Form 4615, shall remain on file in their respective offices.

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 145—MAIL IMPORTATIONS

§145.72 [Amended]

Section 145.72(e), Customs Regulations, is amended by substituting "section 191.142" in place of "22.33."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

§158.45 [Amended]

Section 158.45(b), Customs Regulations, is amended by substituting "Part 191" in place of "Part 22" at the end of the paragraph.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PARALLEL REFERENCE TABLE

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.0	New.
191.1	New.
191.2	New.
191.3	22.41.
191.4	22.1.
191.5	22.46.
191.6	22.45.
191.7	22.44.
191.8	New.
191.9	New.
191.10(a), (b), (c), and (d)	22.43.
191.10(e)	New.
191.11	22.42.
191.12	New
191.13	22.2.
191.21(a)	New.
191.21(a)(1)	22.4(k).
191.21(a)(2)	New.
191.21(b)	22.4(h).
191.21(c)	New.
191.21(d)	22.4(h).
191.21(e)	22.4(f).
191.22(a)(1)(i),(ii),(iii),(iv)	22.4(a).
191.22(a)(1)(v)	22.4(b).
191.22(a)(2), (3), (4), and (5)(i)	22.4(a).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.22(a)(5)(ii)	New.
191.22(b)	22.4(b) and (c).
191.22(c)	22.4(f).
191.22(d)	22.4(e).
191.22(e)	22.4(d).
191.23(a) and (b)	22.4(j).
191.23(c)	22.4(i).
191.23(d)	22.4(m)
191.24	22.4(p).
191.25	22.4(o).
191.26	22.4(r)
191.31	New.
191.32(a)(1), (2), (3)	22.5(a).
191.32(a)(4)	22.4(b).
191.32(b)	22.5(b)
191.32(c)	22.5(e)
191.32(d)	22.5(c).
191.32(e)	New.
191.33	New.
191.34	New.
191.41	New.
191.42	New.
191.43	New.
191.44	New.
191.45	New.
191.51(a), (b), and (c)	22.7(a)
191.51(d)	New.
191.51(e)	New.
191.52(a), (b), and (c)	22.7(b), (c)(1).
191.52(d)	22.7(c)(2).
191.53(a)	22.7(d)(1).
191.53(b), (c), (d), and (e)(1)	22.7(d)(2).
191.53(e)(2)	22.7(d)(1).
191.53(e)(3)	22.7(d)(3).
191.54(a)	22.8(a), (c).
191.54(b)	22.8(b).
191.55(a) and (b)	22.9(a).
191.56	22.11.
191.57	22.12.
191.61	22.13(a).
191.62(a)(1)	22.13(a).
191.62(a)(2)	22.13(a), (c), and (e).
191.62(a)(3)	22.13(d).
191.62(a)(4)	22.13(a).
191.62(b)	22.13(a).
191.62(c)	New.
191.62(d)	22.13(f).
191.63	22.13(b).
191.64	22.13(g).
191.65	22.15.
191.66(a)	22.16(a).
191.66(b)	New.
191.66(c)	22.16(b).
191.66(d)	22.16(c).
191.66(e)	22.16(d).
191.66(f)	New.
191.67(a)	22.17(a).
191.67(b)	22.13(b)
191.67(c)	22.17(b).
191.67(d)	22.17(c).
191.67(e)(1)	22.17(e).
191.67(e)(2)	22.17(d).
191.71(a)	22.20(a).
191.71(b)	22.20(b).
191.71(c)	22.20(c).
191.71(d)	22.20(d).
191.71(e)	22.20(e)
191.71(f)	22.20(f).
191.72	22.20a.
191.73(a)	22.21(a).
191.73(b)	22.21(b).
191.81(a)	22.22(a).
191.81(b)	22.22(b).
191.82(a)	22.23(a).
191.82(b)	22.24.
191.82(c)	22.23(b).
191.82(d)	22.23(f).
191.82(e)	22.23(d).
191.82(f)	22.23(a).
191.82(g)	22.23(c).
191.82(h)	22.24.
191.83	22.23(e)
191.84(a)	22.25(a).
191.84(b)	22.25(b).
191.84(c)	22.25(c).
191.84(d)	22.25(d).
191.84(e)	22.25(e)
191.85	22.26(a)

VOL 48 ISS 200 OCT 14 1983 UMI

PARALLEL REFERENCE TABLE—Continued

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.86(a) and (b)	22.26(b)
191.86(c)	22.26(d).
191.86(d)	22.26(c).
191.91	22.18(a).
191.92	22.18(b).
191.93(a), (b), (c), (d) and (e)	22.18(c).
191.93(f)	22.18(h).
191.93(g) and (h)	22.18(d).
191.93(i) and (j)	22.18(l).
191.93(k)	22.18(g).
191.94	22.18(k).
191.101	New.
191.102(a)	22.19(a).
191.102(b)	22.19(b).
191.103	22.19(a).
191.111	New.
191.112	New.
191.113	New.
191.121	22.26a(a).
191.122	New.
191.123(a) and (b)	22.26a(b).
191.124	22.26a(a) and a(c).
191.131	22.27(a) and 22.27(b).
191.132	22.28(a).
191.133(a) and (b)	22.28(b).
191.133(c)	22.28(d).
191.133(d)(1)	22.26(e).
191.133(d)(2)	22.26(c).
191.134(a)	22.29(a).
191.134(b)	22.29(b).
191.135	22.29(c).
191.136(a), (b), and (c)	22.29(d).
191.136(d)	22.29(g).
191.136(e)	22.29(f).
191.137	22.29(h).
191.138	22.30(a) and (b).
191.139	22.30(a).
191.141	New.
191.142	22.31–22.35.
191.151	New.
191.152	New.
191.153	New.
191.154	New.
191.155	New.
191.156	New.
191.157	New.
191.158	New.
191.161	22.36(a).
191.162	22.36(b).
191.163(a)	22.37(a).
191.163(b)(1)	22.37(a).
191.163(b)(2)	22.37(b) and (c).
191.163(b)(3)	22.37(b).
191.163(c) and (d)	22.37(d):
191.163(e)	22.37(e).
191.164(a), (b), and (c)	22.38(a).
191.164(d)	22.38(b).
191.165(a), (b), and (c)	22.39(a).
191.165(d)	22.39(b).
191.166	22.40.

PARALLEL REFERENCE TABLE

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
	191.0.
	191.1.
	191.2.
22.1	191.4.
22.2	191.13.
22.3	Deleted.
22.4(a)	191.21(a) and (a)(2). 191.22(a)(1) (i)–(iv), 191.22(a)(2)–(5)(f).
22.4(b)	191.22(a) (5), (ii) 191.22(a)(1)(v), 191.22(b);
22.4(c)	191.32(a)(4). 191.22(b).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
22.4(d)	191.22(e).
22.4(e)	191.22(d).
22.4(f)	191.22(c).
22.4(g)	Deleted.
22.4(h)	191.21(b), (d). 191.21(c)
22.4(i)	191.21(e).
22.4(j)	191.23(a), (b).
22.4(k)	191.21(a)(1). 191.21(a)(2).
22.4(l)	191.23(c).
22.4(m)	191.23(d).
22.4(n)	Deleted.
22.4(o)	191.25.
22.4(p)	191.24.
22.4(q)	Deleted.
22.4(r)	191.26.
22.5(a)	191.31.
22.5(b)	191.32(a) (1)–(3).
22.5(c)	191.32(b).
22.5(d)	191.32(e).
22.5(e)	Deleted.
22.8(a)–(g)	191.32(c). 191.33.
22.6(g–1)	191.34.
22.6(h) and (i)	Deleted.
22.7(a)	Deleted.
22.7(b)	191.51(a)–(c). 191.51(d) and (e).
22.7(c)(1)(b)	Deleted.
22.7(c)(2)	191.52(a)–(c).
22.7(d)(1)	191.52(d).
22.7(d)(2)	191.53(a), (e)(2). 191.53(b)–(d); (e)(1).
22.7(d)(3)	191.63(a)(3).
22.8(a)–(c)	191.54(a)–(b).
22.9(a)	191.55(a)–(b).
22.9(b)	Deleted.
22.10	Deleted.
22.11	191.56.
22.12	191.57.
22.13(a)	191.61, 191.62(a)(1) and (2) (4); 191..62(b).
22.13(b)	191.63, 191.67(b).
22.13(c) and (e)	191.62(a)(2).
22.13(d)	191.62(a)(3) 191.62(c).
22.13(f)	191.62(d).
22.13(g)	191.64.
22.15	191.65.
22.16(a)	191.66(a). 191.66(b)
22.16(b)	191.66(c).
22.16(c)	191.66(d).
22.16(d)	191.66(e). 191.66(f).
22.17(a)	191.67(e).
22.17(b)	191.67(c).
22.17(c)	191.67(d).
22.17(d)	191.67(a)(2).
22.17(e)	191.67(e)(1).
22.18(a)	191.91.
22.18(b)	191.92.
22.18(c)	191.93(a)–(e).
22.18(d)	191.93(g) and (h).
22.18(e)	Deleted.
22.18(g)	191.93(k).
22.18(h)	191.93(f).
22.18(j)	191.93(i) and (j).
22.18(k)	191.94.
22.19(a)	191.101. 191.102(a), 191.103.
22.19(b)	191.102(b). 191.111. 191.112. 191.113.
22.20(a)–(d)	191.71(a)–(d).
22.20(e)	191.71(e).
22.20(f)	191.71(f).
22.20a	191.72.
22.21(a)–(b)	191.73(a)–(b).
22.22(a) and (b)	191.81(a) and (b).
22.23(a)	191.82(a), (f).
22.23(b)	191.82(c).
22.23(c)	191.82(g).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
22.23(d)	191.82(e).
22.23(e)	191.83.
22.23(f)	191.82(d).
22.24	191.82(b) and (h)
22.25(a)–(c) and (e)	191.84(a)–(d).
22.25(d)	Deleted.
22.26(a)	191.65.
22.26(b)	191.86(a) and (b)
22.26(c)	191.86(d).
22.26(d)	191.86(c).
22.26a(a)	191.121. 191.122.
22.26a(b)	191.123(a) and (b).
22.26a(a), a(c)	191.124.
22.27(a) and (b)	191.131.
22.28(a)	191.132.
22.26(b)	191.133(e) and (b).
22.26(c)	191.133(d)(2).
22.26(d)	191.133(c).
22.26(e)	191.133(d)(1).
22.29(a) and (b)	191.134(a) and (b).
22.29(c)	191.136.
22.29(d)	191.136(a)–(c).
22.29(e)	Deleted.
22.29(f)	191.136(e).
22.29(g)	191.136(d).
22.29(h)	191.137.
22.30(a) and (b)	191.138.
22.30(a)	191.139. 191.141
22.31–22.36	191.142. 191.151–191 158
22.36(a)	191.161.
22.36(b)	191.162.
22.37(a)	191.163(a).
22.37(a)	191.163(b)(1).
22.37(b), (c)	191.163(b)(2).
22.37(b)	191.163(b)(3).
22.37(d)	191.163(c) and (d).
22.37(e)	191.163(e).
22.38(a)	191.164(a)–(c).
22.38(b)	191.164(d).
22.39(a)	191.165(a)–(c)
22.39(b)	191.165(d).
22.40	191.166.
22.41	191.3.
22.42	191.11. 191.12
22.43	191.10(a)–(d) 191.10(e).
22.44	191.7. 191.8 191.9
22.45	191.6.
22.46	191.5. 191.41–191.45

Attachment—Analysis of Drawback Revision

We have reviewed the proposed revisions to drawback in order to assess the need to complete an economic impact analysis consistent with (a) the Regulatory Flexibility Act (RFA) or (b) Executive Order 12291. We conclude that the impact magnitude does not meet the criteria of the Executive Order as specified in Section 1 (b), and thus a regulatory impact analysis need not be initiated. And, in respect to the RFA, the proposal's impact will not reach a significant level. In fact, the proposal's major effects will focus on *simplifying procedures* in which the small operator applying for drawback benefits.

Drawback refers to the refund of import duties and taxes upon that merchandise's export. Numerous different kinds and types of drawback exist.

TABLE 1.—DRAWBACK PAID

[Millions of dollars]

Fiscal year:	
1980	$177.9
1981	274.9
1982	261.6

TABLE 2.—1982 DRAWBACK PAID BY REGION

	1982 total (millions of dollars)	Dollars per entry filed
Total	$261.6	$7,200
North East	34.5	5,800
New York	62.6	4,200
South East	26.5	15,300
South Central	37.5	38,400
South West	8.2	5,700
Pacific	35.8	5,800
North Central	56.2	11,400

TABLE 3.—TOTAL NUMBER OF DRAWBACK ENTRIES

[Thousands]

	Filed	Liquidated
Fiscal year:		
1978	20.3	17.9
1979	21.2	21.5
1980	24.3	23.2
1981	29.1	26.7
1982	36.3	34.1

TABLE 4.—REGIONAL DRAWBACK ENTRIES FILED

	Fiscal year 1982	Fiscal year 1983 through April
North East	6,012	3,123
New York	15,012	8,639
South East	1,732	1,238
South Central	977	520
South West	1,429	1,021
Pacific	8,168	4,783
North Central	4,934	2,935
Total	38,264	22,260

However, the most frequently used types are (1) "direct identification" drawback [the export of merchandise comprised wholly or partly of the imported goods]; (2) "substitution" drawback (use of domestic merchandise in an exported product, substituting for drawback refund purposes the domestic component for the same previously imported component); and (3) "same condition" drawback (export or destruction of merchandise within 3 years of its importation and without use within the U.S. during that period).

Scope of Drawback Facility

About 5,000 companies apply for drawback refunds yearly with the 100 largest of these groups accounting for most of the claims. Claims totaled $261.6 million in FY 1982 (see Table 1) with the greatest volume refunded in North East and North Central Regions (see Table 2). As the practice of drawback has become more widely known, the number of entries has expanded. Over the last four fiscal years, drawback entries filed rose by nearly 80 percent to 36,000 (see Table 3). Customs processing has more than kept pace with this expension with liquidations over the same period expanding by 91 percent. Again, New York was the largest region of filing, followed by North East and Pacific (see Table 4).

Principal Changes by the Revision

The proposed revisions result in greater operational simplification and clarification than at present, particularly for the most frequently used classes of drawback. In the few cases of substantive change, those changes have the practical effect of liberalizing prior requirements, with clear benefit to claimants.

For example, the proposed application procedure has been simplified with the elimination of CF 4477. Instead, Customs will publish and provide to potential claimants a series of sample drawback proposals. Also, drawback claims at present are subject to nearly 100 percent verification. Under the proposed revisions, an audit verification approach will be implemented, speeding up the claims process. In modifying an existing drawback contract, a claimant at present would have to submit a new application. Under the revisions, he will simply provide a supplemental statement to Customs, in effect revising the original contract. In another principal change regarding proof of export, at present the good's landing certificate is required to establish the fact of export. The revisions will provide greater flexibility to claimants by allowing the use of several other documents.

[FR Doc. 83-27823 Filed 10-13-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 82N-0342]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Colorants for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to establish a category called "colorants for polymers" for coloring agents used in polymeric food-contact materials. The action is based on a proposal published in the Federal Register of June 6, 1972. The agency is not including in this final rule the various colorants that were listed in the 1972 proposal, but will publish in a future issue of the Federal Register a document that addresses those colorants.

DATES: Effective October 14, 1983; comments by November 14, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 6, 1972 (37 FR 11255), FDA published a proposed regulation entitled, "Colorants for plastic," that would establish a section in the Code of Federal Regulations (CFR) for coloring agents used in plastics intended for food-contact use. That document also proposed to list a number of substances for use as colorants in plastics. The proposal responded to five food additive petitions that had requested approval for the use of colorants in various food-contact plastics.

The agency received eight comments on the proposal, but none of these comments addressed the use of the term "colorant" or the issue of establishing such a category in the CFR. This regulation establishes the category of "colorants for polymers" and clarifies the terminology that is to be properly applied to these substances. It does not affect the regulatory status of those substances currently approved or proposed for use as colorants for polymers, even though existing regulations may refer to such substances by another name. Thus, despite the number of years that has elapsed since the proposal, the agency believes that it is appropriate to proceed to a final rule without reproposing the matter.

This final rule establishes a section in the CFR entitled "colorants for polymers." The agency has chosen to use the term "polymers" because it is scientifically more precise than the term "plastics."

This regulation does not deal with the colorant substances listed in the 1972 proposal. FDA will publish its response to those comments on the proposal that addressed the individual substances and its decision on those substances in a future issue of the Federal Register. Elsewhere in this issue of the Federal Register, FDA is publishing a final regulation that permits the use of an optical brightener for use as a colorant in food-contact polymers. That substance will be included in the list of

VOL
48
ISS
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14
1983
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colorants for polymers that will be codified at 21 CFR 178.3297(e).

The 1972 proposal did not define the term "colorant." The agency now believes that a precise definition of the term is necessary to prevent confusion between the terms "colorant" and "color additive."

The term "color additive" is defined in section 201(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(t)) as "* * * a dye, pigment, or other substance * * * [which] when added or applied to a food * * * is capable * * * of imparting color thereto * * *". FDA's regulations further expand the definition of color additive and distinguish color additives from "substances including migrants from packaging materials which do not contribute [to food] any color apparent to the naked eye" (21 CFR 70.3(f)). FDA is defining the term "colorant" as a coloring agent that is not a color additive. If migration of a coloring agent from a food-contact material results in coloring of food, the regulation makes it clear that the migrating substance is a color additive and not a colorant.

The agency recognizes that it has used a number of terms other than the term "colorant" when it has previously regulated substances for use in imparting color to food-contact materials, i.e., as colorants, as defined below. This regulation establishes a consistent terminology and definition for "colorants for polymers." It does not affect the regulatory status of various substances which, although they are being used as "colorants" as defined in the regulation below, are identified in the CFR by some other term, such as "color" or "pigment." The agency is considering the need for further amendment of existing regulations to bring them into conformance with the new § 178.3297.

Because there has been considerable time between the 1972 proposal and this final rule, the agency is giving interested persons until November 14, 1983, to comment on any aspect of this final rule. FDA will consider making revisions to the final regulation after it has reviewed the comments. FDA does not believe that this final regulation differs significantly from that portion of the 1972 proposal on which this final rule is based. Accordingly, this final regulation is effective October 14, 1983.

The agency has determined under 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201 (s) and (t), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended, 74 Stat. 397 (21 U.S.C. 321 (s) and (t), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended by adding new § 178.3297, to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.3297 Colorants for polymers.

The substances listed in paragraph (e) of this section may be safely used as colorants in the manufacture of articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions and definitions set forth in this section:

(a) The term "colorant" means a dye, pigment, or other substance that is used to impart color to or to alter the color of a food-contact material, but that does not migrate to food in amounts that will contribute to that food any color apparent to the naked eye. For the purpose of this section, the term "colorant" includes substances such as optical brighteners and fluorescent whiteners, which may not themselves be colored, but whose use is intended to affect the color of a food-contact material.

(b) The colorant must be used in accordance with current good manufacturing practice, including use levels which are not in excess of those reasonably required to accomplish the intended coloring effect.

(c) The colorant must conform to the specifications and extraction limits where indicated. Conformance to the extraction limits must be determined by established methods or their equivalent. Copies of the analytical methods and extraction procedures are available free of charge upon request from the Bureau of Foods, Division of Food and Color Additives (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204. If the finished food-contact article is itself the subject of a regulation promulgated under section 409 of the act, it shall also comply with any specifications and limitations prescribed for it by that regulation.

(d) [Reserved]

(e) *List of substances.* [Reserved]

Interested persons may, on or before November 14, 1983, submit to the Dockets Management Branch (address above) written comments regarding this regulation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective October 14, 1983.

(Secs. 201 (s) and (t), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended, 74 Stat. 397 (21 U.S.C. 321 (s) and (t), 348, 371(a))

Dated: September 23, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–28021 Filed 10–13–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR PART 178

[Docket Nos. 80F–0116 and 81F–0394]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; 2,2'-(2,5-Thiophenediyl) bis (5-Tert-Butylbenzoxazole)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,2'-(2,5-thiophenediyl) bis (5-*tert*-butylbenzoxazole) as a colorant for polymers to be used in food-contact materials of polypropylene, polyethylene, polystyrene, rubber-modified polystyrene, and polyvinyl chloride. This action responds to two petitions filed by Ciba-Geigy Corp.

DATES: Effective October 14, 1983; objections by November 14, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 16, 1980 (45 FR 32433), FDA announced that a food additive petition (FAP 6R3185) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502 (now Hawthorne, NY 10532), proposing to amend Part 178 (21 CFR Part 178) to provide for the safe use of 2,2'-(2,5-thiophenediyl)-bis(5-*tert*-butylbenzoxazole) as a colorant for food-contact materials of polyethylene, polystyrene, rubber-modified polystyrene, and polyvinyl chloride.

In another notice published in the **Federal Register** of January 12, 1982 (47 FR 1332), FDA announced that a food additive petition (FAP 1B3550) has been filed by Ciba-Geigy Corp., Ardsley, NY 10502 (now Hawthorne, NY 10532), proposing that Part 178 be amended to provide for the safe use of 2,2'-(2,5-thiophenediyl) bis(5-*tert*-butylbenzoxazole) as an optical brightener (colorant) for poly-propylene intended to contact food.

FDA has evaluated data in the petitions and other relevant material, and concludes that the proposed food additive uses are safe and that the regulations should be amended as set forth below.

In accordance with § 171.1 (h) (21 CFR 171.1 (h)), the petitions and the documents that FDA considered and relied upon in reaching its decision to approve the petitions are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1 (h) (2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

Elsewhere in this issue of the **Federal Register**, the agency is publishing a final rule that will establish a new section, § 178.3297 *Colorants for polymers*, to provide for the safe use of food additives such as 2,2'-(2,5-thiophenediyl) bis(5-*tert*-butylbenzoxazole).

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3297 by adding new paragraph (e), to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.3297 Colorants for polymers.

* * * * *

(e) List of substances:

Substances	Limitations
2,2'-(2,5-Thiophenediyl)-bis (5-*tert*-butylbenzoxazole) (CAS Reg. No. 7128–64–5).	For use as an optical brightener only: 1. At levels not to exceed 0.05 percent by weight of the following polymers: olefin polymers complying with § 177.1520(c) of this chapter, item 2.1, 2.3, 3.1, 3.3, or 4; polystyrene and rubbermodified polystyrene complying with § 177.1640 of this chapter; and polyvinyl chloride. The finished polymers shall contact foods only of the types identified in table 1, § 176.170(c) of this chapter, under categories I, II, IV–B, VI–A, VI–B, and VIII under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter. 2. At levels not to exceed 0.05 percent by weight of polypropylene complying with § 177.1520(c) of this chapter, item 1.1, 1.2, or 1.3. The finished polymer shall contact foods only of the types identified in table 1, § 176.170(c) of this chapter, under categories I, II, IV–B, VI, VII–B, and VIII under conditions of use A through H described in table 2 of § 176.170(c) of this chapter. 3. At levels not to exceed 0.01 percent by weight of polypropylene complying with § 177.1520(c) of this chapter, item 1.1, 1.2, or 1.3. The finished polymer shall contact foods only of the types identified in table 1, § 176.170(c) of this chapter, under categories III, IV–A, V, VII–A, and IX under conditions of use A through H described in table 2 of § 176.170(c) of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 14, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on the objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 14, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C.) 321(s), 348))

Dated: September 23, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–28022 Filed 10–13–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. 79–17]

Traffic Control Devices on Federal-Aid and Other Streets and Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document revises the existing regulation which prescribes procedures for obtaining basic uniformity of traffic control devices on all streets and highways as prescribed in the Manual on Uniform Traffic Control Devices (MUTCD).

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: Philip O. Russell, Chief, Traffic Control Standards and Applications Branch, Office of Traffic Operations, 202–426–0411, or Michael J. Laska, Office of the Chief Counsel, 202–426–0761. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The MUTCD [1] has been approved by the Federal Highway Administrator as the national standard for all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The MUTCD also has been specifically approved by the FHWA for application of all Federal-aid highway projects (23 CFR 625.3(c)(1)).

The existing regulation on the MUTCD appears as Subpart F of Part 655 of title 23, Code of Federal Regulations (23 CFR Part 655F).

[1] May be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (GPO Stock Number 050–001–81001–8). It is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

VOL
48
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14
1983
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A notice of proposed rulemaking (NPRM) was published on September 27, 1979, under FHWA Docket No. 79-17 (44 FR 55598). The NPRM proposed to amend the existing regulation for traffic control devices on Federal-aid and other streets and highways to eliminate redundant and inapplicable material and to reorganize and consolidate the remaining provisions.

Based upon a review of comments received in response to the NPRM, the FHWA prepared final revisions to the existing regulation. A final rule incorporating such revisions was published on January 8, 1981 (46 FR 2038), and was to become effective January 30, 1981. However, on January 29, 1981, a memorandum was issued by the President (46 FR 11227) which among other things, directed certain agency heads to postpone, for 60-days, the effective dates of regulations which had been promulgated, but scheduled to become effective during that 60 day period. On February 4, 1981, the Department of Transportation postponed all regulations subject to the President's directive and on March 30, 1981, the final rule on traffic control devices was withdrawn pending further revision. The requirements and provisions of the CFR which the January 8, 1981, final rule would have amended have remained in effect during this period. Based upon full consideration of the comments received in response to the NPRM and on a further review of the regulation and its impact, the FHWA is making final revisions to the existing regulation. The revision to the existing regulation deletes information pertaining to movable bridges, trail markers, and wrong-way traffic controls, since standards and guidelines for these devices have been incorporated into the MUTCD. Much of the material on project procedures, funding, and target dates which is no longer pertinent to the regulations is deleted. Color specifications for sign materials which provide a method for determining the color of retroreflective sign materials are added in an Appendix. References to standards for specific information signs, traffic control plans, and needs inventories are outlined, as well as provisions for the use of higher cost materials on Federal-aid projects. A restatement of MUTCD applicability is provided and provisions for use of Federal funds for reinstallation of traffic control devices are included.

Discussions of Major Comments and Revisions

All comments received on the NPRM were submitted by State highway agencies. These comments were reviewed and analyzed by the FHWA. Some comments resulted only in editorial changes and other suggested changes were considered inappropriate for inclusion in the regulation. The remaining comments brought about substantive changes in the regulation.

The proposed requirement for mandatory compliance with official MUTCD changes within 2 years was deleted from the NPRM in response to the majority of comments received. Therefore, Section 655.603(b) is changed to provide that the States shall adopt the changes within 2 years of issuance by the FHWA, and § 655.603(d)(4) is changed to state that the FHWA may establish target dates for compliance of traffic control device installations.

Two comments concerned the requirement for States to have a program for upgrading substandard devices and installing needed devices. Section 655.603(d)(1) is changed to show clearly that the requirement for such a program previously existed and is still a provision of 23 CFR 1204.4, Highway Safety Program Standard 13, Traffic Engineering Services.

The requirement in § 655.604(a) that upgrading programs be based on inventories made in accordance with 23 CFR 1204.4, Highway Safety Program Standards, is changed to a recommendation since a mandatory provision would be inconsistent with the basic regulation, 23 CFR 1204.4

Section 655.606, Higher Cost Materials, has been rewritten in response to comments on the ambiguous and redundant nature of the proposed wording.

The FHWA has determined that this document does not contain a major rule pursuant to Executive Order 12291 or a significant regulation under the Department of Transportation's regulatory policies and procedures. The economic impact of these revisions is so minimal as not to require preparation of a full regulatory evaluation. For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing and under the authority of 23 U.S.C. 109(d), 114(a), 217, 315, 402(a); 23 CFR 1204.4; and 49 CFR 1.48(b), the FHWA hereby amends 23 CFR Part 655, by revising Subpart F to read as set forth below

List of Subjects in 23 CFR Part 655

Design standards, Grant programs—transportation, Highways, and roads, Signs, Traffic regulations, Incorporation by reference.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 and former OMB Circular A-95 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 30, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Higway Administration.

Part 655 is amended by revising Subpart F to read as follows:

PART 655—TRAFFIC OPERATIONS

Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways

Sec.

655.601 Purpose.
655.602 Definitions.
655.603 Standards.
655.604 Achieving basic uniformity.
655.605 Project procedures.
655.606 Higher cost materials.
655.607 Funding.
Appendix—Alternate method of determining the color of retroreflective sign materials.

Authority: 23 U.S.C. 109(d), 114(a), 217, 315, 402(a), 23 CFR 1204.4; and 49 CFR 1.48(b).

Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways

§ 655.601 Purpose.

To prescribe the policies and procedures of Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices on all streets and highways in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).[1]

§ 655.602 Definitions.

The terms used herein are defined in accordance with definitions and usages contained in the MUTCD and 23 U.S.C. 101(a).

§ 655.603 Standards.

(a) *National MUTCD.* The MUTCD approved by the Federal Highway Administrator is the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C 109(d) and 402(a). The national MUTCD is specifically approved by the FHWA for application on any highway project in which Federal highway funds participate and on projects in federally administered areas where a Federal department or agency controls the highway or supervises the traffic operations.

(b) *State or other Federal MUTCD.* (1) Where State or other Federal agency MUTCDs or supplements are required, they shall be in substantial conformance with the national MUTCD. Changes to the national MUTCD issued by the FHWA shall be adopted by the States or other Federal agencies within 2 years of issuance. The FHWA Regional Administrator has been delegated the authority to approve State MUTCDs and supplements.

(2) The Direct Federal Program Administrator has been delegated the authority to approve other Federal agency MUTCDs with the concurrence of the Office of Traffic Operations. States and other Federal agencies are encouraged to adopt the national MUTCD as their official Manual on Uniform Traffic Control Devices.

(c) *Color Specifications.* Color determinations and specifications of sign and pavement marking materials shall conform to requirements of the FHWA Color Tolerance Charts.[2] An alternate method of determining the color of retroreflective sign material is provided in the Appendix.

(d) *Compliance.* (1) Existing Highways. Each State, in cooperation with its political subdivisions, and Federal agencies shall have a program as required by Highway Safety Program Standard Number 13, Traffic Engineering Services (23 CFR 1204.4) which shall include provisions for the systematic upgrading of substandard traffic control devices and for the installation of needed devices to achieve conformity with the MUTCD.

(2) New or reconstructed highways. Federal-aid projects for the construction, reconstruction, resurfacing, restoration, or rehabilitation of streets and highways shall not be opened to the public for unrestricted use until all appropriate traffic control devices, either temporary or permanent, are installed and functioning properly. Both temporary and permanent devices shall conform to the MUTCD.

(3) Construction area activities. All traffic control devices installed in construction areas using Federal-aid funds shall conform to the MUTCD. Traffic control plans for handling traffic and pedestrians in construction zones and for protection of workers shall conform to the requirements of 23 CFR Part 630, Subpart J, Traffic Safety in Highway and Street Work Zones.

(4) MUTCD changes. The FHWA may establish target dates for achieving compliance with changes to specific devices in the MUTCD.

(e) *Specific information signs.* Standards for specific information signs are contained in 23 CFR Part 655, Subpart C, National Standards for Specific Information Signs.

§ 655.604 Achieving basic uniformity.

(a) *Programs.* Programs for the orderly and systematic upgrading of existing traffic control devices or the installation of needed traffic control devices on or off the Federal-aid system should be based on inventories made in accordance with 23 CFR 1204.4, Highway Safety Program Standards. These inventories provide the information necessary for programming traffic control device upgrading projects.

(b) *Inventory.* An inventory of all traffic control devices is required by Highway Safety Program Standard Number 13, Traffic Engineering Services (23 CFR 1204.4). Highway planning and research funds and highway related safety grant program funds may be used in statewide or systemwide studies or inventories. Also, metropolitan planning (PL) funds may be used in urbanized areas provided the activity is included in an approved unified work program.

§ 655.605 Project procedures.

(a) *Federal-aid highways.* Federal-aid projects involving the installation of traffic control devices shall follow procedures as established in 23 CFR Part 630, Subpart A, Federal-Aid Programs Approval and Project Authorization. Simplified and timesaving procedures are to be used to the extent permitted by existing policy.

(b) *Off-system highways.* Certain federally funded programs are available for installation of traffic control devices on streets and highways that are not on the Federal-aid system. The procedures used in these programs may vary from project to project but, essentially, the guidelines set forth herein should be used.

§ 655.606 Higher cost materials.

The use of signing, pavement marking, and signal materials (or equipment) having distinctive performance characteristics, but costing more than other materials (or equipment) commonly used may be approved by the FHWA Division Administrator when the specific use proposed is considered to be in the public interest.

§ 655.607 Funding.

(a) *Federal-Aid Highways.* (1) Funds apportioned or allocated under 23 U.S.C. 104(b) are eligible to participate in projects to install traffic control devices in accordance with the MUTCD on newly constructed, reconstructed, resurfaced, restored, or rehabilitated highways, or on existing highways when this work is classified as construction in accordance with 23 U.S.C. 101(a). Federal-aid highway funds for eligible pavement markings and traffic control signalization may amount to 100 percent of the construction cost. Federal-aid highway funds apportioned or allocated under other sections of 23 U.S.C. are eligible for participation in improvements conforming to the MUTCD in accordance with the provisions of applicable program regulations and directives.

(2) Traffic control devices are eligible, in keeping with paragraph (a)(1) of this section, provided that the work is classified as construction in accordance with 23 U.S.C. 101(a) and the State or local agency has a policy acceptable to the FHWA Division Administrator for selecting traffic control devices material or equipment based on items such as cost, traffic volumes, safety, and expected service life. The State's policy should provide for cost-effective selection of materials which will provide for substantial service life taking into account expected and necessary routine maintenance. For these purposes, effectiveness would normally be measured in terms of durability, service life and/or performance of the material. Specific projects including material or equipment selection shall be developed in accordance with this policy. Proposed work may be approved on a project-by-project basis when the work is (a) clearly warranted, (b) on a Federal-aid system, (c) clearly identified by site, (d) substantial in nature, and (e) of sufficient magnitude at any given location to warrant Federal-aid participation as a construction item.

(3) The method of accomplishing the work will be in accordance with 23 CFR Part 635 Subpart A, Contract Procedures.

(b) *Off-system highways.* Certain Federal-aid highway funds are eligible to participate in traffic control device improvement projects on off-system highways. In addition, Federal-aid highway funds apportioned or allocated in 23 U.S.C. are eligible for the installation of traffic control devices on any public road not on the Federal-aid system when the installation is directly related to a traffic improvement project on a Federal-aid system route.

[1] The MUTCD, which is incorporated by reference at 23 CFR 625.3, may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402 (GPO Stock No. 050-001-81001-8). It is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

[2] Available for inspection from the Office of Traffic Operations, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

VOL 48 ISS 200 OCT 14 1983 UMI

Appendix—Alternate Method of Determining the Color of Retroreflective Sign Materials

1. The FHWA Color Tolerance Charts provide that conventional color measuring instruments such as spectrophotometers and tristimulus photoelectric colorimeters should not be used for measurement of retroreflective material colors and that such materials should be evaluated visually using the Color Tolerance Charts and paying strict attention to prescribed illumination and viewing conditions.

2. As an alternate to visual testing, the diffuse day color of retroreflective sign material may be determined in accordance with ASTM E 97, "Standard Method of Test for 45-Degree, 0-Degree Directional Reflectance of Opaque Specimens by Filter Photometry." Geometric characteristics must be confined to illumination incident within 10 degrees of, and centered about, a direction of 45 degrees from the perpendicular to the test surface; viewing is within 15 degrees of, and centered about, the perpendicular to the test surface. Conditions of illumination and observation must not be interchanged.

3. Standards to be used for reference are the Munsell Papers designated in Table 1 or Table II, attached. The papers must be recently calibrated on a spectrophotometer. Acceptable test instruments are:

a. Gardner Multipurpose Reflectometer or Model XL 20 Color Difference Meter,

b. Gardner Model Ac–2a or XL 30 Color Difference Meter,

c. Meeco Model V Colormaster,

d. Hunter lab D25 Color Difference Meter, or

e. Approved equal.

4. Average performance sheeting is identified as Types I and II sheeting and high performance sheeting is identified as Types III and IV sheeting in Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects [3] (FP–79, Section 633).

[3] This document is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

TABLE I.—COLOR SPECIFICATION LIMITS AND REFERENCE STANDARDS, TYPES I AND II SHEETING

Color	Chromaticity coordinates [1] (corner points)								Reflectance limits (percent Y) Y		Reference [2] standard (munsell papers)
	1		2		3		4				
	x	y	x	y	x	y	x	y	Minimum	Maximum	
White [3]	.305	.290	.350	.342	.321	.361	.276	.308	35	—	8.3Gy 6.77/0.8.
Red	.602	.317	.664	.336	.644	.356	.575	.356	8	12	8.2R 3.78/14.0.
Orange	.535	.375	.607	.393	.582	.417	.535	.399	18	30	2.5YR 5.5/14.0
Brown	.445	.353	.604	.396	.556	.443	.445	.386	4	9	5.0YR 3/6.
Yellow	.482	.450	.532	.465	.505	.494	.475	.485	29	45	1.25Y 6/12.
Green	.130	.369	.180	.391	.155	.460	.107	.439	3.5	9	0.65BG 2.84/5.45.
Blue	.147	.075	.176	.091	.176	.151	.106	.113	1.0	4	5.8PB 1.32/6.8.

[1] The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 standard colorimetric system measured with standard illumination source C.
[2] Silver white is an acceptable color designation.
[3] Available from Munsell Color Company, 2441 Calvert Street, Baltimore, Maryland 21218.

TABLE II.—Color Specification Limits and Reference Standards, Types III and IV Sheeting

Color	Chromaticity Coordinates [1] (corner points)								Reflectance limits (percent Y) Y		Reference [2] standard (munsell papers)
	1		2		3		4				
	x	y	x	y	x	y	x	y	Min.	Max.	
White [3]	.303	.287	.368	.353	.340	.380	.274	.316	27	.....	5.0PB 7/1.
Red	.613	.297	.708	.292	.636	.364	.558	.352	2.5	11	7.5R 3/12.
Orange	.550	.360	.630	.370	.581	.418	.516	.394	14	30	2.5YR 5.5/14.
Yellow	.498	.412	.557	.442	.479	.520	.438	.472	15	40	1.25Y 6/12.
Green	.030	.380	.166	.346	.286	.428	.201	.776	3	8	10G 3/8
Blue	.144	.030	.244	.202	.190	.247	.066	.208	1	10	5.8PB 1.32/6.8.

[1] The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 standard colorimetric system measured with standard illumination source C.
[2] Silver white is an acceptable color designation.
[3] Available from Munsell Color Company, 2441 Calvert Street, Baltimore, Maryland 21218.

[FR Doc. 83–27777 Filed 10–13–83; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R–83–1005]

Community Development Block Grants

Correction

In FR Doc. 83–25749, beginning on page 43538 as "Part IV" in the issue of Friday, September 23, 1983, make the following corrections.

1. On page 43543, third column, the thirteenth line from the bottom of the page should have read: "however, the Act (at section 105(a)(15))".

2. On page 43551, first column, seventh line of the first complete paragraph, "are a"should have read "area".

3. On page 43560, seventh line of the second column, in § 570.201(c)(1), "CDB" should have read "CDBG".

4. On page 43561, first column, § 570.201, the sixth line of paragraph (j), "displayed" should have read "displaced", and in the seventh line of paragraph (k), "building" should have read: "buildings".

5. On page 43564, second column, the second line of § 570.301(a)(1)(ii)(B) should have read "provisions of Subpart C, and;".

6. On page 43571, third column in § 570.611(a)(2), the second line should have read: "Attachment O of the OBM Circulars, the".

7. On page 43572, third column, in the third line of § 570.700(a),"106(a) of the Act "should have read "106(b) of the Act".

8. On page 43574, third column, the fourth line of § 570.901(b)(1)(i)(E) should have read: "a majority of low and moderate".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Hampton Roads, VA, Regulation 83–22]

Safety Zone Regulations: James River, Newport News, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the James River near Newport News, Virginia, on 27 September 1983. This zone was established to prevent further damage to the James River Bridge and its fender systems which were severely damaged by a collision with a vessel on 26 September 1983. Entry of tugs with tows astern into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 7:00 PM, Eastern Daylight Saving Time, 27 September 1983. It terminates on 31 December 1983, or when the fender system is replaced, whichever comes first.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. K. Six Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510 (804) 441–3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent further damage to the James River Bridge.

Drafting Information

The drafter of this regulation is Lieutenant M. J. Pontiff, project officer for the Captain of the Port.

Discussion of Regulation:

To minimize the potential for major structural damage to the James River Bridge, no tug with a tow astern will be permitted to enter, or transit this safety zone unless specifically authorized by the Coast Guard Captain of the Port, Hampton Roads, Virginia. This action is necessary due to the damage sustained by the bridge fender system in a collision with a vessel. The sustained damage is of such a degree that the birdge support structure is exposed and another collision may cause the failure of the entire bridge structure. This rule is in response to a request by the Virginia Department of Highways for Coast Guard assistance in precluding tugs with tows astern from transiting the area. A previous safety zone was in effect for tugs with astern tows from the south entering into the area of the James River. The old bridge fender system to the north was removed as part of the planned demolition of the old bridge and construction of the new bridge fender system leaving the north side of the bridge unprotected.

This safety zone is established to expand the scope of Title 33 Code of Federal Regulations 165.T526 to cover all tugs with tows astern approaching the James River Bridge from either direction.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation: In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by removing § 165.T526, and by adding a new § 165.T533 to read as follows:

§ 165.T533 Safety Zone: James River, Virginia.

(a) *Location.* The following area is a safety zone: The water within one hundred yard radius of the James River Bridge lift bridge over the James River in position 37 00'10"N, 76 28'10"W.

(b) *Regulations:*

(1) In accordance with the general regulations in § 165.23 of this part, tugs with tows astern may not enter or transit this zone.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: September 29, 1983.

L. J. Balok,

Commander, U.S. Coast Guard, Captain of the Port, Hampton Roads, Coast Guard.

[FR Doc. 83–27978 Filed 10–13–83; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF INTERIOR

National Park Service

36 CFR Part 7

Delaware Water Gap National Recreation Area, Pennsylvania and New Jersey; Commercial Vehicles Regulations

AGENCY: National Park Service, Interior.

ACTION: Interim rule, with request for comments.

SUMMARY: This interim rule pertains to operation of commercial vehicles on U.S. Highway 209 within Delaware Water Gap National Recreation Area, Pennsylvania. Pub. L. 98–63 provided for the establishment of a fee schedule for commercial vehicles exempted from the prohibition found at 36 CFR 5.6. The fee schedule herein described has been determined by the National Park Service to apply to commercial vehicles which are either (i) operated by businesses based within the recreation area; (ii) operated by businesses which, as of July 30, 1983, operated a commercial vehicle facility in Northhampton, Monroe, or Pike Counties, Pennsylvania, and the vehicle operation originates or terminates at such facility. Commercial vehicles which are (iii) operated in order to provide services to businesses and persons located in or contiguous to the boundaries of the recreation area are exempted from payment of a fee.

DATES: The fee schedule shall become effective upon publication of this rule; however, written comments, suggestions, or objections will be accepted until November 14, 1983. The comments, suggestions, or objections will then be reviewed, and the fee schedule will be adjusted, if necessary, and published as a final rule in the **Federal Register.**

ADDRESS: Comments should be directed to: Superintendent, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324.

FOR FURTHER INFORMATION CONTACT: Albert A. Hawkins, Superintendent, Delaware Water Gap National Recreation Area, Telephone (717) 588–6637.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1983, that portion (21

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miles) of U.S. Highway 209 within the boundaries of Delaware Water Gap National Recreation Area (DWGNRA) was transferred from the Commonwealth of Pennsylvania to the National Park Service (NPS). In accordance with NPS regulation 36 CFR 5.6, which prohibits the use of roads in park areas by commercial vehicles, it was announced that Highway 209 would be closed to commercial vehicles on April 25, 1983. On April 23, 1983, the Director, National Park Service, announced a 180-day delay in the implementation of the closure of the road to commercial vehicles. On July 12, 1983, the United States District Court for the District of New Jersey ordered the Department of the Interior to enforce the commercial vehicle prohibition of 36 CFR 5.6 for the section of Highway 209 contained within the recreation area, but stayed enforcement of the order until September 12, 1983, to permit NPS to determine whether to invoke an "emergency" rule pursuant to 36 CFR 5.6. On July 30, 1983, Pub. L. 98–63 was enacted, closing Highway 209 in accordance with the regulation, authorizing the exemption of some commercial vehicles, and directing that fees be established for certain commercial vehicle operations on Highway 209. The fee schedule may not exceed $10.00 per trip. The fees collected are for the management, operation, construction, and maintenance of Highway 209 within the boundary of the recreation area. This rule establishes a fee schedule based on the number of axles of lightweight and heavy vehicles.

Vehicles authorized to operate within DWGNRA by Pub. L. 98–63 are those vehicles which are: (i) Operated by businesses based within the recreation area; (ii) operated by businesses which, as of July 30, 1983, operated a commercial vehicular facility in Monroe or Pike Counties, Pennsylvania, and the vehicular operation originates or terminates at such facility; or (iii) operated in order to provide services to businesses and persons located in or contiguous to the boundaries of the recreation area.

A special regulation implementing the closure with exceptions, contained in a separate rulemaking, also provides an exception for commercial vehicular facilities located in Northhampton County, as well as Monroe and Pike Counties, Pennsylvania. This was based upon the legislative history for Pub. L. 98–63.

In accordance with Pub. L 98–63, NPS is promulgating a special regulation in § 7.71 to implement a fee schedule. The agency finds that it is in the public interest to promulgate this rule as an emergency rule prior to public comment. The closure and exceptions provision of Pub. L. 98–63 terminates on December 31, 1983. Congress directed that, in the interim, a commission be established to make recommendations to Congress regarding a permanent transportation improvement program in the affected area within 90 days of enactment of the Act, on October 30, 1983. The commission was directed, among other things, to evaluate the statutory closure and exceptions and the effect of the fees on the use of the road by commercial vehicles. It would defeat congressional intent to delay implementation of the program by engaging in the time-consuming process of issuing a proposed regulation. Under normal public comment procedures it would be 90 days before a final regulation could be adopted, i.e., late November 1983. This delay would inhibit the gathering of appropriate baseline data and information on public use and commercial activities during this closure, as temporarily adjusted by Congress in Pub. L. 98–63. These regulations must be effective upon publication, otherwise the commission will not be able to provide the full report congressionally requested.

Compliance with Other Laws

An Environmental Assessment and Finding of No Significant Impact has been prepared on the imposition of the fee schedule. The final EIS on the management of Route 209 (September 1982) addresses the impacts of commercial vehicular traffic on Route 209 and the diversion of that traffic. Copies of these documents are available at the address noted at the beginning of this notice. The Department has determined that it is not necessary to prepare any additional documents concerning this regulation in order to comply with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.).*

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291, and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The rulemaking contains no provisions that would entail the collection of information or require compliance with 44 U.S.C. 3501 *et seq.*

Drafting Information

The principal authors of this rulemaking are Paul Anderson and James Arnott, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania.

Authority

Pub. L. 98–63 and Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended 16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National parks.

PART 7—[AMENDED]

In consideration of the foregoing, 36 7.71 is amended by the addition of a new paragraph (e) as follows:

§ 7.71 Delaware Water Gap National Recreation Area.

* * * * *

(e) *Commercial Vehicle Fees*—(1) *Fee Schedule.* Fees will be charged for these commercial vehicular uses as described in subsection (d)(1)(i) and (ii), based upon the number of axles and wheels on the vehicle regardless of load or weight, as follows:

(i) Two axle cars/vans or pickups	$0.50
(ii) Two axle 4-wheel vehicle with trailer	1.00
(iii) Two axle 6-wheel vehicle	2.00
(iv) Three axle vehicle	3.00
(v) Four axle vehicle	4.00
(vi) Five or more axle vehicle	5.00

The fees charged are for one trip, one way.

(2) *Exceptions.* The following commercial vehicles are exempt from the commercial fee requirements.

(i) Vehicles necessary to provide services to businesses or persons within, or contiguous to the recreation area.

(ii) Any vehicle owned by a Federal, State or municipal agency.

(iii) Any vehicle owned or operated by a publicly owned utility company.

(iv) Any vehicle operated by a non-profit or educational organization.

(v) Any commercially licensed vehicle or vehicle otherwise identified as a commercial vehicle, when at that particular time it is being used for non-commercial purposes.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–28105 Filed 10–13–83; 8:45 am]

BILLING CODE 4310–70–M

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36 CFR Part 7

Delaware Water Gap National Recreation Area, Pennsylvania and New Jersey; Commercial Vehicle Regulations

AGENCY: National Park Service, Interior.

ACTION: Interim rule, with request for comments.

SUMMARY: This interim rule pertains to operation of commercial vehicles on U.S. Highway 209 within Delaware Water Gap National Recreation Area, Pennsylvania. Pub. L. 98–63, closed Highway 209 to all commercial vehicular traffic except for commercial vehicles which are either: (i) Operated by businesses based within the recreation area; (ii) operated by businesses which, as of July 30, 1983, operated a commercial vehicular facility in Monroe or Pike Counties, PA, and the vehicle operation originates or terminates at such facility; or (iii) operated in order to provide services to businesses and persons located in or contiguous to the boundaries of the recreation area. The National Park Service has also determined to allow under this rulemaking the operation of commercial vehicles operated by businesses which, as of July 30, 1983, operated a commercial vehicular facility in Northampton County, PA, and the vehicle operation originates or terminates at such facility. This interim rule implements the statutory exceptions to 36 CFR 5.6 enacted by Pub. L. 98–63 and the NPS determination to include Northampton County operations within the exception.

DATE: This rule shall become effective upon publication; however, written comments, suggestions or objections regarding Northampton County vehicular operations will be accepted until November 14, 1983. The comments, suggestions or objections will then be reviewed, and the regulation will be adjusted, if necessary, and published in the Federal Register.

ADDRESS: Comments should be directed to: Superintendent, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324.

FOR FURTHER INFORMATION CONTACT: Albert A. Hawkins, Superintendent, Delaware Water Gap National Recreation Area, Telephone (717) 588–6637.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1983, that portion (21 miles of U.S. Highway 209 within the boundaries of Delaware Water Gap National Recreation Area was transferred from the Commonwealth of Pennsylvania to the National Park Service. In accordance with National Park Service regulation 36 CFR 5.6 which prohibits the use of roads in park areas by commercial vehicles, it was announced that Highway 209 would be closed to commercial vehicles on April 25, 1983. On April 23, 1983, the Director, National Park Service, announced a 180-day delay in the implementation of the closure of the road to commercial vehicles. On July 12, 1983, the United States District Court for the District of New Jersey ordered the Department of Interior to enforce the commercial vehicle prohibition of 36 CFR 5.6 for the section of Highway 209 contained within the recreation area, but that enforcement of the order be stayed until September 12, 1983, to permit the National Park Service to determine whether to invoke an "emergency" rule pursuant to 36 CFR 5.6. On July 30, 1983, Pub. L. 98–63 was enacted closing Highway 209 in accordance with the regulation, authorizing the exemption of some commercial vehicles, and directing that fees be established for certain commercial vehicle operations on Highway 209.

The commercial vehicles authorized to operate within the boundaries by Public Law 98–63 are those vehicles: (i) Operated by businesses based within the recreation area; (ii) operated by businesses which, as of July 30, 1983, operated a commercial vehicular facility in Monroe or Pike Counties, PA, and the vehicular operation originates or terminates at such facility; or (iii) operated in order to provide services to businesses and persons located in or contiguous to the boundaries of the recreation area. In addition, the Statement of Managers in the Conference Report for Public Law 98–63 provided:

> In the development of the regulations by the Interior Department required to implement the prohibition, the business facilities in Northampton County, Pennsylvania, operating on the date of enactment, may also, along with Monroe and Pike Counties, Pennsylvania, use Highway 209 within the counties of the Delaware Water Gap National Recreation Area.

In accordance with these provisions, the National Park Service (NPS) is promulgating a special regulation at § 7.71 to implement the statutorily mandated exceptions to the closure of park roads to commercial vehicles contained in 36 CFR § 5.6. The NPS has also determined to include Northhampton County operations in the exception, along with those in Monroe and Pike Counties.

The NPS will propose a fee schedule as authorized by Public Law 98–63, in a separate rulemaking.

The agency finds that it is in the public interest to promulgate this rule as an emergency rule prior to public comment. The closure and exceptions provision of Pub. L. 98–63 terminates on December 31, 1983. Congress directed that, in the interim, a commission be established to make recommendations to Congress regarding a permanent transportation improvement program in the affected area within 90 days of enactment of the Act, on October 30, 1983. The commission was directed, among other things, to evaluate the statutory closure and exceptions. It would defeat Congressional intent to delay implementation of the program by engaging in the time consuming process of issuing a proposed regulation. Under normal public comment procedures, it would be 90 days before a final regulation could be adopted, i.e., late November 1983. This delay would inhibit the gathering of appropriate base-line data and information on public use and commercial activities during this closure, as temporarily adjusted by Congress in Pub. L. 98–63. These regulations must be effective on publication, otherwise the commission will not be able to provide the full report congressionally requested.

This rule is also being published as an interim final rule, effective immediately because it relieves a restriction on these authorized commercial operations. However, interested persons may submit written comments, suggestions, or objections regarding Northampton County operations to the address noted on the beginning of the rulemaking.

Compliance with Other Laws

The Department has determined that it is not necessary to prepare any additional documents concerning this regulation in order to comply with the National Environmental Policy Act (42 U.S.C. 4321 *et seq* .). The final EIS on the management of Route 209 (September 1982) addresses the impacts of commercial vehicular traffic on Route 209 and the diversion of that traffic. Copies of this EIS are available at the address noted at the beginning of this notice.

The Department of Interior has determined that this rulemaking is not a "major rule" within the meaning of E. O. 12291, and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The rulemaking contains no provisions that would entail the collection of information or require compliance with 44 U.S.C. 3501 *et seq.*

Drafting Information

The principal authors of this rulemaking are Paul Anderson and James Arnott, Delaware Water Gap

National Recreation Area, Bushkill, Pennsylvania.

Authority

Pub. L. 98-63 and Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National parks.

PART 7—[AMENDED]

In consideration of the foregoing, 36 CFR 7.71 is amended by the addition of a new paragraph (d) as follows:

§ 7.71 Delaware Water Gap National Recreation Area.

* * * * *

(d) *Commercial Vehicles* (1) Notwithstanding the prohibition of commercial vehicles set forth at Section 5.6 of this Chapter, the following commercial vehicles are authorized to use that portion of U.S. Highway 209 located within the Delaware Water Gap National Recreation Area: (i) Those operated by businesses based within the recreation area; (ii) those operated by businesses which as of July 30, 1983, operated a commercial vehicular facility in Monroe, Pike, or Northhampton Counties, PA, and the vehicle operation originates or terminates at such facility; or (iii) those operated in order to provide services to businesses and persons located in or contiguous to the boundaries of the recreation area.

(2) *Contiguous Areas.* All land within the exterior boundaries of Lehman, Delaware, Milford, Dingman, Stroud, Westfall, Middle Smithfield, Smithfield and Upper Mount Bethel townships is deemed contiguous to the recreation area.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 28106 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA Action KS 998; AD-FRL 2448-6]

Revision of State Implementation Plan; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The State of Kansas submitted a request on July 2, 1981 that EPA redefine the boundaries of attainment areas in Kansas. The request resulted from the new baseline area definition in the August 7, 1980 Federal Register at 45 FR 52715. The state requested that the areas presently defined in the Code of Federal Regulations as "Remainder of State" and "Entire State" be redefined on a county by county basis for each pollutant.

Today's action approves the substance of the request in accordance with EPA's regulations governing the establishment of baseline areas.

DATE: Effective November 14, 1983.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106;

Kansas Department of Health and Environment, Bureau of Air Quality and Occupational Health, Forbes Field, Topeka, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (816) 374-3791; FTS 758-3791.

SUPPLEMENTARY INFORMATION: On July 2, 1981, the Kansas Department of Health and Environment requested that EPA change the boundaries of the attainment areas in Kansas. The request included a list of all counties in the state and proposed that each county be designated as a separate attainment area for each pollutant for which attainment designations were made under Section 107(d) of the Clean Air Act. (See 40 CFR 81.317 for the specific designations relating to Kansas.) Approval of this request will not alter the attainment status of any area of the state, but will merely redraw the boundaries of the portions of the state which are designated attainment or unclassifiable areas.

The Kansas request is a result of the new "baseline area" definition contained in the August 7, 1980 Prevention of Significant Deterioration regulations [see 40 CFR 52.21(b)(15)]. In the preamble to the PSD regulations (45 FR 52716, August 7, 1980), EPA indicated that states may submit redefined attainment or unclassifiable area boundaries that were previously included within a larger clean area. EPA suggested that states may wish to effect such redesignations in order to establish smaller baseline areas for PSD review purposes. In general, baseline areas are those designated attainment or unclassifiable under Section 107(d) of the Act. The first permit application filed within such an area establishes the baseline air quality for the entire area, and the impact of any new source proposing to locate within the area will be measured against this baseline to determine the maximum allowable emissions. The preamble to the August 7, 1980 PSD final rulemaking (45 FR 52715) stated that EPA will redesignate areas as new attainment or unclassifiable areas if it agrees that the available data support the change, and if no sources subject to PSD regulations have located in, or significantly impact on, a clean area being considered for redesignation.

No action was taken by EPA, Region VII on the July 2, 1981 request from Kansas because at the national level, EPA was preparing to issue a proposed rulemaking which would allow blanket attainment designations for sulfur dioxide (SO_2) and Total Suspended Particulate matter (TSP) to be interpreted as establishing individual attainment designations for each county in a blanket area. The national proposal was published in the **Federal Register** on January 21, 1982 (47 FR 3011). No final action has been taken on that proposal to date. For that reason, EPA proposed to approve the Kansas request on April 8, 1983 (48 FR 15273), and is taking action to approve the request today. Today's action relates only to the Kansas request for redesignation of July 2, 1981 and the specific attainment status list attached to that request. It is not intended to interpret the phrases "Remainder of State" and "Entire State", as found at 40 CFR 81.317. This rulemaking does not pertain to any requests for redesignation of nonattainment areas.

Presently, the entire State of Kansas is designated (See 40 CFR 81.317) as one area that is "Better Than National Standards" for SO_2. For TSP, part of Wyandotte County is designated at 40 CFR 81.317 as nonattainment for the primary standard, part of Wyandotte County is designated as nonattainment for the secondary standard, part of Topeka is designaed as nonattainment for the secondary standard, while the remainder of the state is classified as one that is "Better Than National Standards." Wyandotte, Johnson and Douglas Counties are designed as nonattainment for ozone while the remainder of the state designated as "Cannot Be Classified or Better Than National Standards." The entire state is designated as "Cannot Be Classified or Better Than National Standards" for nitrogen dioxide (NO_2). The state's July 2, 1981 submittal requested that each county in the areas presently classified as either "Cannot Be Classified" or "Better Than National Standards" be redesignated as individual attainment area for each pollutant. After the effective date of today's rulemaking, a permit application for construction within the previously undifferentiated areas would establish the baseline air quality only for the county or counties in which the proposed source would have a significant impact rather than the entire state or remainder of the state. A source is considered to impact an area if it changes the air quality by one $\mu g/m^3$ or more of sulfure dioxide or particulate matter on an annual basis. (See 45 CFR 52716, August 7, 1980.)

Since a designated PSD "area" can be no smaller than the area of significant impact of a source, a permit application for a source which will have a significant impact on the air quality of more than one county will establish all of the significant by affected counties as a single attainment "area." Additionally, the boundaries of a redesignated area may not encroach upon the area of impact of any major stationary source or major modification that has already established the baseline date for the area or part of any area proposed for redesignation (45 FR 52716, August 7, 1980).

At this time, only two pollutants, SO_2 and TSP are subject to PSD determinations. There have been six PSD permit applications for sources in Kansas which would determine the baseline date for some redesignated areas. Dispersion analysis indicates that only one PSD source of SO_2 located in Pottawatomie County has a significant impact in any adjacent county, Nemaha County. No particulate PSD sources have been found to have a significant impact in an adjacent county.

Summary of Public Comments.

The Region VII office received no comments during the 60 day comment period.

Action

EPA is reclassifying each county in the area classified at 40 CFR 81.317 as "Better Than National Standards" for SO_2 (the entire state) on a county by county basis for this pollutant. Each county is classified as a separate SO_2 attainment area, except that Pottawatomie County and Nemaha County are combined into one SO_2 attainment area.

EPA is reclassifying each county in the area that is classified at 40 CFR 81.317 as "Better Than National Standards" for TSP on a county by county basis for this pollutant. Each county becomes a separate TSP attainment area, except for Shawnee and Wyandotte Counties. The part of Shawnee County that is presently classified nonattainment for the secondary TSP standard will remain a nonattainment area, with the remainder of the county as a separate attainment area. The parts of Wyandotte County that are classified at 40 CFR 81.317 as nonattainment for either primary or secondary TSP standards will remain nonattainment areas, with the remainder of the county a separate TSP attainment area.

Each county in an area classified at 40 CFR 81.317 as "Cannot Be Classified or Better Than National Standards" for CO is reclassified on a county by county basis as a separate attainment area except for Sedgwick County. The portion of Sedgwick County classified at 40 CFR 81.317 as nonattainment for CO remains nonattainment for that pollutant. The remainder of the county is designated as a separate CO attainment area.

Each county in the area classified as "Cannot Be Classified or Better Than National Standards" for ozone is reclassified as a separate ozone attainment area. Douglas, Johnson and Wyandotte Counties remain nonattainment for ozone.

Each county in the State of Kansas is reclassified as separate nitrogen dioxide attainment areas.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities because it imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

This notice of final rulemaking is issued under the authority of Sections 107 and 301 of the Clean Air Act, as amended.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 4, 1983.

William D. Ruckelshaus,

Adminstrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

* * * * *

Subpart C—Section 107 Attainment Status Designations

* * * * *

1. Section 81.317 is revised to read as follows:

§ 81.317 Kansas

Designated area (county)	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Kansas—TSP				
Allen County				X
Anderson County				X
Atchinson County				X
Barker County				X
Barton County				X
Burton County				X
Brown County				X
Butler County				X
Chase County				X
Chautauqua County				X
Cherokee County				X
Cheyenne County				X
Clark County				X
Clay County				X
Cloud County				X
Coffey County				X
Comanche County				X
Cowley County				X
Crawford County				X
Dickinson County				X
Decatur County				X
Doniphan County				X
Douglas County				X
Edwards County				X
Elk County				X
Ellis County				X
Ellsworth County				X
Finney County				X
Ford County				X
Franklin County				X
Geary County				X
Gove County				X
Graham County				X
Grant County				X

Designated area (county)	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Gray County				X.
Greeley County				X.
Greenwood County				X.
Hamilton County				X.
Harper County				X.
Harvey County				X.
Haskell County				X.
Hodgeman County				X.
Jackson County				X.
Jefferson County				X.
Jewell County				X.
Johnson County				X.
Kearney County				X.
Kingman County				X.
Kiowa County				X.
Labette County				X.
Lane County				X.
Leavenworth County				X.
Lincoln County				X.
Linn County				X.
Logan County				X.
Lyon County				X.
McPherson County				X.
Marion County				X.
Marshall County				X.
Meade County				X.
Miami County				X.
Mitchell County				X.
Montgomery County				X.
Morris County				X.
Morton County				X.
Nemaha County				X.
Neosho County				X.
Ness County				X.
Norton County				X.
Osage County				X.
Osborne County				X.
Ottawa County				X.
Pawnee County				X.
Phillips County				X.
Pottawatomie County				X.
Pratt County				X.
Rawlins County				X.
Reno County				X.
Republic County				X.
Rice County				X.
Riley County				X.
Rooks County				X.
Rush County				X.
Russell County				X.
Saline County				X.
Scott County				X.
Sedgwick County				X.
Seward County				X.
Shawnee County:				X.
a. Topeka, Kansas, area bounded by Kansas River on the east and south Vail Avenue on the west and Lyman Avenue on the north.		X.		
b. Remainder of County				X.
Sheridan County				X.
Sherman County				X.
Smith County				X.
Stafford County				X.
Stanton County				X.
Stevens County				X.
Sumner County				X.
Thomas County				X.
Trego County				X.
Wallace County				X.
Wabaunsee County				X.
Washington County				X.
Wichita County				X.
Wilson County				X.
Woodson County				X.
Wyandotte County:				X.
A. Most of the area between I-635 and the Missouri state line.	X.			
B. An area extending about three miles west of the above area.		X.		
C. Remainder of the County				X.

Designated area (county)	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Kansas—SO_2				
Allen County				X.
Anderson County				X.

Designated area (county)	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Atchison County				X.
Barber County				X.
Barton County				X.
Bourbon County				X.
Brown County				X.
Butler County				X.
Chase County				X.
Chautauqua County				X.
Cherokee County				X.
Cheyenne County				X.
Clark County				X.
Clay County				X.
Cloud County				X.
Coffey County				X.
Comanche County				X.
Cowley County				X.
Crawford County				X.
Decatur County				X.
Dickinson County				X.
Doniphan County				X.
Douglas County				X.
Edwards County				X.
Elk County				X.
Ellis County				X.
Ellsworth County				X.
Finney County				X.
Ford County				X.
Franklin County				X.
Geary County				X.
Gove County				X.
Graham County				X.
Grant County				X.
Gray County				X.
Greeley County				X.
Greenwood County				X.
Hamilton County				X.
Harper County				X.
Harvey County				X.
Haskell County				X.
Hodgeman County				X.
Jackson County				X.
Jefferson County				X.
Jewell County				X.
Johnson County				X.
Kearney County				X.
Kingman County				X.
Kiowa County				X.
Labette County				X.
Lane County				X.
Leavenworth County				X.
Lincoln County				X.
Linn County				X.
Logan County				X.
Lyon County				X.
McPherson County				X.
Marion County				X.
Marshall County				X.
Meade County				X.
Miami County				X.
Mitchell County				X.
Montgomery County				X.
Morris County				X.
Morton County				X.
Pottawatomie and Nemaha Counties				X.
Neosho County				X.
Ness County				X.
Norton County				X.
Osage County				X.
Osborne County				X.
Ottawa County				X.
Pawnee County				X.
Phillips County				X.
Pratt County				X.
Rawlins County				X.
Reno County				X.
Republic County				X.
Rice County				X.
Riley County				X.
Rooks County				X.
Rush County				X.
Russell County				X.
Saline County				X.
Scott County				X.
Sedgwick County				X.
Seward County				X.
Shawnee County				X.
Sheridan County				X.
Sherman County				X.
Smith County				X.
Stafford County				X.
Stanton County				X.
Stevens County				X.

VOL 48 ISS 200 OCT 14 1983 UMI

Designated area (county)	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Sumner County				X.
Thomas County				X.
Trego County				X.
Wabaunsee County				X.
Wallace County				X.
Washington County				X.
Wichita County				X.
Wilson County				X.
Woodson County				X.
Wyandotte County				X.

KANSAS—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Allen County		X.
Anderson County		X.
Atchison County		X.
Barber County		X.
Barton County		X.
Bourbon County		X.
Brown County		X.
Butler County		X.
Chase County		X.
Chautauqua County		X.
Cherokee County		X.
Cheyenne County		X.
Clark County		X.
Clay County		X.
Cloud County		X.
Coffey County		X.
Comanche County		X.
Cowley County		X.
Crawford County		X.
Decatur County		X.
Dickinson County		X.
Doniphan County		X.
Douglas County	X [1]	
Edwards County		X.
Elk County		X.
Ellis County		X.
Ellsworth County		X.
Finney County		X.
Ford County		X.
Franklin County		X.
Geary County		X.
Gove County		X.
Graham County		X.
Grant County		X.
Gray County		X.
Greeley County		X.
Greenwood County		X.
Hamilton County		X.
Harper County		X.
Harvey County		X.
Haskell County		X.
Hodgeman County		X.
Jackson County		X.
Jefferson County		X.
Jewell County		X.
Johnson County	X [1]	
Kearney County		X.
Kingman County		X.
Kiowa County		X.
Labette County		X.
Lane County		X.
Leavenworth County		X.
Lincoln County		X.
Linn County		X.
Logan County		X.
Lyon County		X.
McPherson County		X.
Marion County		X.
Marshall County		X.
Meade County		X.
Miami County		X.
Mitchell County		X.
Montgomery County		X.
Morris County		X.
Morton County		X.
Nemaha County		X.
Neosho County		X.
Ness County		X.
Norton County		X.
Osage County		X.

KANSAS—O_3—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Osborne County		X.
Ottawa County		X.
Pawnee County		X.
Phillips County		X.
Pottawatomie County		X.
Pratt County		X.
Rawlins County		X.
Reno County		X.
Republic County		X.
Rice County		X.
Riley County		X.
Rooks County		X.
Rush County		X.
Russell County		X.
Saline County		X.
Scott County		X.
Sedgwick County		X.
Seward County		X.
Shawnee County		X.
Sheridan County		X.
Sherman County		X.
Smith County		X.
Stafford County		X.
Stanton County		X.
Stevens County		X.
Sumner County		X.
Thomas County		X.
Trego County		X.
Wabaunsee County		X.
Wallace County		X.
Washington County		X.
Wichita County		X.
Wilson County		X.
Woodson County		X.
Wyandotte County	X [1]	

[1] EPA Designation replaces state designation.

KANSAS—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Allen County		X.
Anderson County		X.
Atchison County		X.
Barber County		X.
Barton County		X.
Bourbon County		X.
Brown County		X.
Butler County		X.
Chase County		X.
Chautauqua County		X.
Cherokee County		X.
Cheyenne County		X.
Clark County		X.
Clay County		X.
Cloud County		X.
Coffey County		X.
Comanche County		X.
Cowley County		X.
Crawford County		X.
Decatur County		X.
Dickinson County		X.
Doniphan County		X.

KANSAS—CO—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Douglas County		X.
Edwards County		X.
Elk County		X.
Ellis County		X.
Ellsworth County		X.
Finney County		X.
Ford County		X.
Franklin County		X.
Geary County		X.
Gove County		X.
Graham County		X.
Grant County		X.
Gray County		X.
Greeley County		X.
Greenwood County		X.
Hamilton County		X.
Harper County		X.
Harvey County		X.
Haskell County		X.
Hodgeman County		X.
Jackson County		X.
Jefferson County		X.
Jewell County		X.
Johnson County		X.
Kearney County		X.
Kingman County		X.
Kiowa County		X.
Labette County		X.
Lane County		X.
Leavenworth County		X.
Lincoln County		X.
Linn County		X.
Logan County		X.
Lyon County		X.
McPherson County		X.
Marion County		X.
Marshall County		X.
Meade County		X.
Miami County		X.
Mitchell County		X.
Montgomery County		X.
Morris County		X.
Morton County		X.
Nemaha County		X.
Neosho County		X.
Ness County		X.
Norton County		X.
Osage County		X.
Ottawa County		X.
Pawnee County		X.
Phillips County		X.
Pottawatomie County		X.
Pratt County		X.
Rawlins County		X.
Reno County		X.
Republic County		X.
Rice County		X.
Riley County		X.
Rooks County		X.
Rush County		X.
Russell County		X.
Saline County		X.
Scott County		X.
Sedgwick County:		
a. Wichita, Kansas area bounded by Grove Street on the east, 13th Street on the north, the Arkansas River on the west and Kellogg Avenue on the south.	X	
b. Remainder of County		X.
Seward County		X.
Shawnee County		X.
Sheridan County		X.
Sherman County		X.
Smith County		X.
Stafford County		X.
Stanton County		X.
Stevens County		X.
Sumner County		X.
Thomas County		X.
Trego County		X.
Wabaunsee County		X.
Wallace County		X.
Washington County		X.
Wichita County		X.
Wilson County		X.
Woodson County		X.
Wyandotte County:		
a. Kansas City Kansas area bounded by: 6th Street on the east, Washington on the north, 16th street on the west, and Barnett Street on the south.		X.
b. Remainder of County		X.

KANSAS—NO_2

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Allen County		X.
Anderson County		X.
Atchison County		X.
Barber County		X.
Barton County		X.
Bourbon County		X.
Brown County		X.
Butler County		X.
Chase County		X.
Chautauqua County		X.
Cherokee County		X.
Cheyenne County		X.
Clark County		X.
Clay County		X.
Cloud County		X.
Coffey County		X.
Comanche County		X.
Cowley County		X.
Crawford County		X.
Decatur County		X.
Dickerson County		X.
Doniphan County		X.
Douglas County		X.
Edwards County		X.
Elk County		X.
Ellis County		X.
Ellsworth County		X.
Finney County		X.
Ford County		X.
Franklin County		X.
Geary County		X.
Gove County		X.
Graham County		X.
Grant County		X.
Gray County		X.
Greeley County		X.
Greenwood County		X.
Hamilton County		X.
Harper County		X.
Harvey County		X.
Haskell County		X.
Hodgeman County		X.
Jackson County		X.
Jefferson County		X.
Jewell County		X.
Johnson County		X.
Kearney County		X.
Kingman County		X.
Kiowa County		X.
Labette County		X.
Lane County		X.
Leavenworth County		X.
Lincoln County		X.
Linn County		X.
Logan County		X.
Lyon County		X.
McPherson County		X.
Marion County		X.
Marshall County		X.
Meade County		X.
Miami County		X.
Mitchell County		X.
Montgomery County		X.
Morris County		X.
Morton County		X.
Nemaha County		X.
Neosho County		X.

KANSAS—NO_2—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Ness County		X.
Norton County		X.
Osage County		X.
Osborne County		X.
Ottawa County		X.
Pawnee County		X.
Phillips County		X.
Pottawatomie County		X.
Pratt County		X.
Rawlins County		X.
Reno County		X.
Republic County		X.
Rice County		X.
Riley County		X.
Rooks County		X.
Rush County		X.
Russell County		X.
Saline County		X.
Scott County		X.
Sedgwick County		X.
Seward County		X.
Shawnee County		X.
Sheridan County		X.
Sherman County		X.
Smith County		X.
Stafford County		X.
Stanton County		X.
Stevens County		X.
Sumner County		X.
Thomas County		X.
Trego County		X.
Wabaunsee County		X.
Wallace County		X.
Washington County		X.
Wichita County		X.
Wilson County		X.
Woodson County		X.
Wyandotte County		X.

[FR Doc. 83-27647 Filed 10-13-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 256

[SW-2-FRL 2452-2]

Approval of Puerto Rico and Virgin Islands Solid Waste Management Plans

AGENCY: Environmental Protection Agency, Region II.

ACTION: Final rule

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the Commonwealth of Puerto Rico and the Virgin Islands have received Federal financial assistance for the development of a Solid Waste Management Plan. Puerto Rico and the Virgin Islands have submitted to the U.S. Environmental Protection Agency (EPA or the Agency) their adopted Solid Waste Management Plan. Today, EPA is announcing its approval of the Puerto Rico and Virgin Islands Solid Waste Management Plans. Approval of these plans indicates that each plan meets the requirements set forth in RCRA which provides for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Puerto Rico and Virgin Islands Solid Waste Management Plans. This approval should be of special interest because of two provisions of RCRA. First, RCRA requires that effective with the date of approval, plans prohibit the establishment of open dumps in the State. Second, only States with approved plans can establish compliance schedules, for purposes of RCRA, for entities engaged in open dumping. These compliance schedules lead to the upgrading of facilities classified as open dumps by September 13, 1984. Open dumping is prohibited by RCRA except where the practice is on a compliance schdule established under an EPA approved State plan.

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT: David Savetsky, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278. (212) 264-5175.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, [44 FR 45066] EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976. The guidelines reflect the minimum statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) section of 4003 of RCRA and which contain provisions for revision. Briefly, these requirements are:

1. The plan shall identify the responsibilities of State, local and regional authorities in the implementation of the State plan; the distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and the means for coordinating regional planning and implementation under the State plan;

2. The plan shall prohibit the establishment of new open dumps

VOL 48 ISS 200 OCT 14 1983 UMI

within the State and contain requirements that all solid waste be utilized for resource recovery or disposed of in sanitary landfills, as defined by section 4004(a) of RCRA, or otherwise disposed of in an environmentally sound manner. The State prohibition must be effective as of the date on which EPA approves the plan;

3. The plan shall provide for the closing or upgrading of all existing open dumps within the State;

4. The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long term contracts for supply of solid waste to resource recovery facilities; and

5. The plan must contain specific provisions for revision. The guidelines also addressed section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities engaged in the prohibited act of open dumping. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inability to utilize other public or private alternatives to comply with the prohibition.

Response to Comments

On November 4, 1981 [46 FR 54772] the Puerto Rico Solid Waste Management Plan was noticed for public review and comment. The Virgin Islands Solid Waste Management Plan was similarly noticed on October 14, 1982 [47 FR 45887]. No substantive comments were received on these plans.

Finding

I have reviewed the Solid Waste Management Plans submitted by Puerto Rico and Virgin Islands for approval. I find that the Puerto Rico and the Virgin Islands plans meet the requirements of RCRA for approval. Under authority of section 4007 of RCRA, I approve the Puerto Rico and Virgin Islands solid waste management plans. The plans prohibit the establishment of open dumps. Also, the plans provide for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date, entities engaged in open dumping may, pursuant to the plan, approach Puerto Rico and the Virgin Island for further information on compliance schedules and necessary demonstrations. Parties that receive compliance schedules satisfying section 4005 from EPA approved States and that are in compliance with these schedules are not in violation of the open dumping prohibition in section 4005. Such compliance schedules cannot extend beyond September 13, 1984.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of the Puerto Rico and Virgin Islands Solid Waste Management Plans will not have a significant economic impact on a substantial number of small entities. These approvals will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 256

Grant programs, Environmental protection, Waste treatment and disposal.

Authority: Sec. 4007(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. (6947)).

Dated: September 30, 1983.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83–27955 Filed 10–13–83; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–41

[FPMR Amdt. G–64]

Accountability for Tickets or Coupons

AGENCY: Office of the Comptroller, GSA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations by requiring Federal agencies to maintain accounting and administrative control, including individual accountability, of tickets and other transportation documents received in exchange for Government Transportation Requests (GTR).

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Claims Branch, Office of Transportation Audits (202–786–3014).

SUPPLEMENTARY INFORMATION: The General Accounting Office Act of 1974, Pub. L. 93–604, transferred from the Comptroller General of the United States to the Administrator of General Services authority for the audit and adjustment of payments to carriers and forwarders furnishing transportation services for the account of the United States. With this authority, General Services Administration (GSA) also has the responsibility for prescribing uniform procedures and transportation related forms governing the accounting of such payments. Since this amendment stresses a function that agencies should be performing, GSA believes that a general notice of proposed rulemaking and a delayed effective date are unnecessary. GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

Title 41, Part 101–41 of the Code of Federal Regulations is amended as follows:

1. The authority for Part 101–41 is:

Authority: 31 U.S.C. 3726, and 40 U.S.C. 486(c)

2. The table of contents for Part 101–41 is amended by revising the entry for § 101–41.212 to read:

Sec.

101–41.212 Accountability for tickets or coupons.

Subpart 101–41.2—Passenger Transportation Services Furnished for the Account of the United States

3. Section 101–41.212 is revised to read as follows:

§ 101–41.212 Accountability for tickets or coupons.

Federal agencies shall maintain adequate accounting and administrative control, including individual accountability, of tickets and other transportation documents received in exchange for GTR's or other procuring instruments. Agency regulations should caution travelers and other accountable persons that failure to account for these documents may result in personal liability.

Dated: September 20, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–27952 Filed 10–13–83; 8:45 am]

BILLING CODE 6820–34–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 61 and 62

[Docket No. FEMA–FIA]

National Flood Insurance Program; Assistance to Private Sector Property Insurers

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule revises the National Flood Insurance Program (NFIP) regulations dealing with the issuance of flood insurance policies and the adjustment of claims arising under such contracts of insurance and establishes a program of assistance to private sector property insurance companies in the provision of NFIP flood insurance coverage to policyholders insured by these companies for other lines of property insurance business.

EFFECTIVE DATE: November 15, 1983.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 C Street, SW., Washington, D.C. 20472; telephone number (202) 287–0740.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Act of 1968, as amended (Pub. L. 90–448, 42 U.S.C. 4001) establishes the direction of having the National Flood Insurance Program "carried out to the maximum extent practicable by the private insurance industry" (42 U.S.C. 4001) and authorizes the Director, FEMA, to "encourage and arrange for . . . appropriate financial participation and risk sharing in the program by insurance companies" (42 U.S.C. 4011). Clearly, the rationale for the enabling legislation recognizes the benefits to be derived from the operation of a national program of flood insurance by private sector property insurers, who are the traditional providers of insurance to the public. In this connection, the Act declares, as its purpose, that there be " a flood insurance program by means of which flood insurance, over a period of time, can be made available on a nationwide basis through the cooperative efforts of the Federal Government and the private insurance industry" (42 U.S.C. 4001). Thus, it was felt that the public would best be served if the flood insurance program was grounded in the considerable insurance expertise reposing in the private sector. Also, if the program is to be truly "nationwide" in scope, it must effectively penetrate its potential insurance market in every flood hazard area in the nation.

To reach this market and to assist private sector property insurers improve insurance service to their policyholders, it is the purpose of this rulemaking to establish a "Write-Your-Own" (WYO) program of flood insurance whereby an individual insurer will be able to market Federal flood insurance coverage under its own name to any of its applicants for insurance or policyholders, who are insured by the company against other property insurance perils, e.g., under a homeowners policy. The principal beneficiary of this arrangement will be those policyholders of private sector insurers who presently need but do not have flood insurance coverage. The coverage will be provided under the auspices of the National Flood Insurance Program, pursuant to the program's regulations, and will be identical to the coverage offered by the NFIP, at the same costs to the policyholder. Inasmuch as the rates charged under the NFIP are subsidized, insurers offering NFIP coverage to their policyholders will be in the position of conducting business at a loss and, to insulate such insurers from loss, the WYO arrangements will provide for Government reimbursement of all flood insurance losses sustained by WYO insurers, after application of flood insurance premium funds to the insurers' losses and expenses (i.e., to the extent the premium funds are insufficient to defray expenses and loss costs). Under WYO arrangements, therefore, insurers will issue and service policies of flood insurance to their customers, pay agents' commissions, losses and loss adjustment expenses, just as these companies would do in the case of their customary lines of property insurance business.

It is the intention of this regulation to authorize a program of WYO flood insurance coverage.

On July 29, 1983, FEMA published a proposed rule to effectuate the program (48 FR 34482). The agency received fourteen comments of which eleven were supportive (with some questions, to be addressed herein), one expressed concerns, and two were non-supportive. The individual objecting to the rule believed that it would "not achieve the stated goals . . . to penetrate the untouched market that exists for flood insurance." The reasons cited for this position were that agents do not aggressively market the coverage and that recent reductions in coverage affecting finished basements contribute to an attitude that flood insurance is "worthless insurance." We disagree with this position and point to the NFIP's policies-in-force base which now stands at over 1.9 million policyholders and which has been growing at the rate of 8000 policies per month over the past several months, as follows:

March, 1983—6,000
April, 1983—11,000
May, 1983—9,000
June, 1983—9,000
July, 1983—6,000
August, 1983—7,000

Concerning the finished basement exclusion, this was addressed on August 29, 1983, in FEMA's final rule on "Coverage, Sales and Eligibility Provisions" (48 FR 39066). Several comments were received as to the exclusion, some supportive, some non-supportive and the rule was modified, to balance the concerns raised, by including additional covered items.

The individual not supporting the proposed rule also expressed concern, as did another person, that the servicing of federal flood insurance coverage by a number of private sector insurance companies might present logistical problems to FEMA's disaster assistance component which requires prompt access to NFIP policy and claims files and records, including computer records, to facilitate FEMA's disaster response and recovery efforts, particularly as respects the need to avoid duplicate payment of federal funds (disaster relief and flood insurance proceeds). A few observations concerning the handling of the important task of coordinating disaster payouts with flood insurance claims proceeds is warranted.

Firstly, it is expected that FEMA's disaster assistance component can obtain copies of insurance worksheets and proofs of loss by the direct expedient of requiring documentation

VOL 48 ISS 200 OCT 14 1983 UMI

from applicants for disaster relief as a condition for the assistance. The thought also occurs that, just as FEMA's disaster component obtains such documentation from private sector insurers today in the case of windstorm or tornado disaster events, so, too, can similar conventions be worked out with respect to WYO companies. FIA will work with FEMA's disaster component to effectuate such arrangements, which will most likely be fashioned along the following lines:

When a Presidential Disaster Declaration involving a flood is announced, the NFIP Servicing Agent will alert the WYO companies and request that they compile the needed information on a continuing basis and submit it to the Servicing Agent (or if a Flood Insurance Claims Office [F.I.C.O.] is established at the disaster site, directly to the F.I.C.O. office).

All information will be transmitted to the Servicing Agent, who will in turn forward this to the FEMA disaster field office.

The information will include a list of names and addresses of all Insureds who are making a claim and the amount of payment made for building and contents damage. In the event the applicant for disaster assistance is unable to furnish this documentation to the disaster center at the time of the the claim payment, a copy of the building and contents worksheets and the proof of loss and the amount paid will be sent to the Servicing Agent and be made available to disaster assistance personnel at the site.

Additionally, all of the policies sold by WYO companies and the claims activities generated thereby will be reflected on the NFIP computer records administered by the Federal Insurance Administration. Disaster Assistance Programs personnel in the field will be able to access this information readily through the use of computer equipment at the FEMA disaster center. The information will also be available at the NFIP F.I.C.O.

A second concern was expressed by the Office of Disaster Assistance Programs as to whether a WYO policy is an "adequate policy" for purposes of imposing purchase and maintenance requirements on applicants for disaster assistance, with the further suggestion that this matter should be addressed by regulation. The rule as proposed would not have authorized the issuance of any flood isurance coverage under the WYO program which is not the same as the coverage afforded by the Standard Flood Insurance Policy (see 48 FR, at 34483) and the final regulation will not be changed in this respect.

A national mortgage bankers association strongly supported the WYO proposal because it fosters increased participation in the NFIP by the private sector insurance industry. The association questioned whether the NFIP would continue to sell flood insurance under the existing program and the answer is in the affirmative. The association also requested further information as to the government "subsidization" of the program and offered the advice that "care should be taken to adopt procedures that are consistent with insurance companies present operating practices."

The "subsidization" is, in practice, a reimbursement to the WYO company for its expenses and for losses paid-which, together, exceed the collected premium. The NFIP, as established by Congress, is a subsidized program in that the premium charged for flood insurance, which is fixed by the Administrator, is not sufficient to cover the losses and expenses incurred under the present mode of operation. This subsidization of the premium paid by taxpayers for the coverage will continue under the WYO program. As to the second concern, arrangements with the WYO companies will recognize the usual and customary business practices of the private sector insurers, including their commission arrangements. This has been clarified in the rule at § 62.23(a).

The mortgage bankers association also requested that mortgagees renewing NFIP policies be apprised in advance of issuance of renewal coverage of any WYO replacement policy which may be issued by a participating insurer in respect to the same risk. FEMA understands that this is a problem, today, in the private sector property insurance market and intends, in such cases, to promptly remit renewal premium funds back to the mortgagee and mortgagor where the latter has opted to obtain coverage through the private sector WYO market.

A public insurance adjustment firm expressed concern that WYO company staff claims adjusters might be "liberal on flood loss payments," especially when handling combined wind and flood losses. FIA has had experience in utilizing company staff adjusters under such circumstances and believes the staff adjuster's tendency will be to adjust the loss fairly from the standpoint of both the government and the Company. In addition, both the Comptroller General and FIA will have the ability to audit the claim files under the arrangements with the WYO companies so as to review the WYO company's claims adjustments is this regard.

A national trade association of professional insurance agents representing more than 40,000 independent property and casualty insurance agents in the 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands, viewed the WYO concept as a "very favorable development" and "an excellent opportunity for participating insurance companies to regain involvement in the NFIP," while, at the same time, benefiting "both the independent insurance agent and the consumer."

The professional insurance agents association submitted comments from its member-agents "who are all supportive of the 'Write-Your-Own' program" and expressed the belief that the NFIP should examine whether compensation for agents is realistic under the program and strive to retain its present business while developing new business so as to temper the need for rate increases. FIA is cognizant of these objectives and will keep them in mind as the WYO program evolves. The supportive comments from the members of the agents association included suggestions that commission and reinsurance arrangements be reviewed, that business interruption coverage be considered along with buy-back provisions for the policy's exclusions, that government interference be minimal and that pricing of the product be reasonable. FIA shall bear these concepts in mind, as well.

FEMA has determined, based upon an Environmental Assessment, that this rule does not have significant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 "C" Street, S.W., Washington, D.C. 20472.

These regulations do not have a significant economic impact on a substantial number of small entities and have not undergone regulatory flexibility analysis.

The rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981 and, hence, no regulatory analysis has been prepared.

FEMA has determined that the rule does not contain a collection of information requirement as described in Section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 61 and 62

Flood insurance.

Accordingly, Parts 61 and 62 of Subchapter B of Chapter 1 of Title 44 are amended as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. Section 61.13 is amended by the addition of new paragraph (f) as follows:

§ 61.13 Standard Flood Insurance Policy.

* * * * *

(f) The Standard Flood Insurance Policy and endorsements may be issued by private sector "Write-Your-Own" (WYO) property insurance companies, based upon flood insurance applications and renewal forms, all of which instruments of flood insurance may bear the name, as Insurer, of the issuing WYO Company. In the case of any Standard Flood Insurance Policy, and its related forms, issued by a WYO Company, wherever the names "Federal Emergency Management Agency" and "Federal Insurance Administration" appear, the WYO Company is authorized to substitute its own name therefor. Standard Flood Insurance Policies issued by WYO Companies may be executed by the issuing WYO Company as Insurer, in the place and stead of the Federal Insurance Administrator.

PART 62— SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

2. Part 62 is amended by the addition of a new Subpart C, as follows:

Subpart C—Write-Your-Own (WYO) Companies

§ 62.63 WYO Companies authorized.

(a) Pursuant to section 1310 of the Act, the Administrator may enter into arrangements with individual private sector property insurance companies whereby such companies may offer flood insurance coverage under the Program to eligible applicants for such insurance, including policyholders insured by them under their own property insurance business lines of insurance pursuant to their customary business practices including their usual arrangements with agents and producers, in any State in which such WYO Companies are licensed to engage in the business of property insurance.

(b) Any duly licensed insurer so engaged in the Program shall be a WYO Company.

(c) A WYO Company will arrange for the issuance of flood insurance in any amount within the maximum limits of coverage specified in § 61.6 of this subchapter, as Insurer, to any person qualifying for such coverage under Parts 61 and 64 of this subchapter who submits an application to the WYO Company; coverage shall be issued under the Standard Flood Insurance Policy.

(d) A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment and defense of all claims arising from policies of flood insurance it issues under the Program, based upon the terms and conditions of the Standard Flood Insurance Policy.

(e) In carrying out its functions under this Subpart, a WYO Company shall utilize its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act and regulations prescribed by the Administrator pursuant to the Act.

(f) To facilitate the marketing of flood insurance coverage under the Program to policyholders of WYO Companies, the Administrator will enter into arrangements with such companies whereby the Federal Government will be a guarantor in which the primary relationship between the WYO Company and the Federal Government will be one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended.

(g) WYO Companies shall not be agents of the Federal Government and are solely responsible for their obligations to their insureds under any flood insurance policies issued pursuant to arrangements entered into with the Administrator.

(National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (3 CFR 1978 comp., p. 329), E.O. 12127, dated March 31, 1979 (3 CFR 1979 comp., p. 376), Delegation of Authority to Federal Insurance Administrator)

Issued at Washington, D.C., October 12, 1983.

Jeffrey S. Bragg,

Federal Insurance Administrator.

[FR Doc. 83-28160 Filed 10-13-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 63

[CC Docket No. 79-252]

Policy and Rules Concerning Rates for Competitive Carrier Services and Facilities Authorizations Therefor

AGENCY: Federal Communications Commission.

ACTION: Policy Statement; Third Report and Order.

SUMMARY: The Commission's Common Carrier Bureau, by delegated authority, is extending the policies in the Competitive Carrier Rulemaking, CC Docket No. 79–252, to Hawaii, Puerto Rico, the U.S. Virgin Islands, and other offshore domestic points. In that Rulemaking, the Commission has reduced its regulatory oversight of those carriers which do not possess market power, *i.e.*, power to control price in the marketplace. These policies previously applied to such carriers serving points within the 48 contiguous states and those serving Alaska. This action brings the rulemaking into conformance with the Record Carrier Competition Act of 1981.

DATE: The policies adopted in this Third Report and Order are effective October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mark C. Wolf, Common Carrier Bureau, (202) 254–6100.

List of Subjects

47 CFR Part 61

Communications common carriers. Tariffs.

47 CFR Part 63

Communications common carriers, Common carrier facilities, Extension of lines.

Third Report and Order

In the matter of policy and rules concerning rates for competitive carrier services and facilities authorizations therefor; CC Docket No. 79–252.

Adopted September 28, 1983.
Released: October 6, 1983.

By the Common Carrier Bureau.

1. In our *Third Further Notice of Proposed Rulemaking* in CC Docket No. 79–252, Mimeo CC 33457, released June 14, 1983, 48 FR 28292 (June 21, 1983) (*Third Notice*), the Bureau, under delegated authority, solicited comments on whether the policies of the

VOL
48
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Competitive Carrier Rulemaking should be extended to carriers providing service to domestic points outside the continental United States. These policies currently apply to carriers which do not possess market power, *i.e.*, power to control price in the marketplace, serving within the forty-eight contiguous States and those serving Alaska.[1] Comments on the proposal were received on July 21, 1983.[2] and reply comments were received on August 5, 1983.[3] Based on our review of the record and other considerations, we affirm the tentative conclusion to extend the policies of the Competitive Carrier Rulemaking to all domestic points outside the continental United States.

Background

2. The history of this proceeding is set forth in the Commission's previous decisions[4] and need not be repeated here. Briefly, however, the purpose of the Competitive Carrier Rulemaking is to streamline or eliminate regulation of communications common carriers when the cost of such regulation outweighs the benefits. Hawaii, Puerto Rico, the U.S. Virgin Islands and other offshore domestic points have been excluded from the scope of the Competitive Carrier Rulemaking because of possible policy, legal, economic, or facility program considerations unique to those areas. *First Report and Order, supra*, n. 4, at n. 95 and paras. 132–34. However, in its *Reconsideration Order, supra*, n. 4, at para. 12, the Commission reexamined this exclusion in light of the enactment of the Record Carrier Competition Act of 1981 (47 U.S.C. 222) (the RCCA). Specifically, the Commission noted that under the RCCA, all of the States, Territories and possessions of the United States, and the District of Columbia, are considered domestic points. *See Puerto Rico Communications Authority*, FCC 83–28, released February 8, 1983, at paras. 22–25. Accordingly, the Commission expressed its opinion that there was no longer any reason why the policies of the Competitive Carrier Rulemaking should not be extended to carriers serving all domestic points outside the continental United States, and authority was delegated to the Bureau to solicit and consider public comments on this matter in order to develop a record on and resolve the issue. *Reconstruction Order* at para. 12.

Discussion

3. Generally, the commenting parties support the proposal to bring all domestic offshore points within the scope of this proceeding.[5] RCA Globcom, however, argues that the extension of these policies to Guam is not warranted. Telecommunications services involving Guam, it states, present "peculiar problems" requiring "special considerations." RCA Globcom points to Guam's geographic isolation from the rest of the United States and its small permanent civilian population. It notes further that unlike any other U.S. offshore location, Guam is not served by any U.S. domestic communications facilities but by higher cost international cable and satellite facilities. Another special consideration, asserts RCA Globcom, is that public telephone service to the Guam civilian population is provided exclusively by a governmental entity, Guam Telephone Authority (GTA), which derives a significant portion of its operating revenues from overseas telephone service provided on an interconnected basis with RCA Globcom. Because GTA has been in a "precarious" financial situation in recent years, argues RCA Globcom, unregulated entry of new resale carriers in the Guam market[6] could significantly reduce GTA's revenues and have a substantial detrimental effect on all telephone service to Guam.[7] Finally, RCA Globcom asserts that the Guam telephone market is not large enough or growing at a fast enough rate to sustain the same degree of competition that the Commission has found to be feasible on the U.S. Mainland or in larger offshore markets such as Hawaii and Puerto Rico. Therefore, it urges that Guam should be excluded from the scope of the Competitive Carrier proceeding for three years, after which some deregulation of the Guam market could be allowed if, at that time, the Commission finds that such action will not impair existing services and carriers.

4. We are unpersuaded by RCA Globcom's arguments for excluding Guam from the scope of *Competitive Carrier*. Although its position rests primarily on the assertion that entry by unregulated resellers into the Guam market will adversely affect existing carriers and services there, it has failed to demonstrate how this would occur.[8] Indeed, it has not even alleged that such resellers could exercise any degree of market power to the detriment of the public. And, after all, under the policies of the Competitive Carrier Rulemaking, possession of market power by a carrier is the basis for continuing to subject it to the full panoply of Title II regulation. Finially, we believe that extending the policies of the Competitive Carrier Rulemaking to Guam is supported, if not mandated, by the RCCA for reasons similar to those set forth by the Commission in *Puerto Rico Communications Authority*, *supra*. Therefore, we deny RCA Globcom's request that Guam be excluded from this proceeding.

5. In addition, we note that Hawaii, Puerto Rico, the U.S. Virgin Islands, and Guam are all now served, to varying degrees, by international facilities. For this reason, even though they may be classified as non-dominant, carriers serving these points are advised to participate in the Commission's international planning processes if they seek to make their service needs known. Moreover, we emphasize that the extension of the scope of the Competitive Carrier Rulemaking to these domestic offshore points does not in any way affect any carrier's responsibilities under the Communications Satellite Act of 1962, 47 U.S.C. 701, *et seq.*, the relevant sections of the INTELSAT Agreements, or the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34–39. Nor does it affect any of the policies and issues involved in ongoing Commission proceedings such as *Earth Station Ownership* and *Direct Access*.

Ordering Clauses

6. Accordingly, it is ordered, pursuant to Sections 4 (i) and (j), 201–205, 214, 303,308, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 201–205, 214, 303, 308, and 403, and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, That the policies set forth here are adopted. Pursuant to Section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, a Final Regulatory Flexibility Analysis has been prepared and appears as Attachment A.

7. It is further ordered, That the Secretary shall cause this Third Report and Order to be printed in the Federal Register and that the policies adopted herein shall become effective October 14, 1983.[9]

Federal Communications Commission.
Jack D. Smith,
Chief, Common Carrier Bureau.

Appendix A—Final Regulatory Flexibility Analysis

Need for and objectives of the rule: The objective of the Competitive Carrier Rulemaking is to eliminate burdensome and unnecessary regulation of carriers found to lack market power. After this proceeding was initiated, Congress enacted the Record Carrier Competition Act of 1981, 47 U.S.C. § 222, which intended, among other things, to stimulate the introduction of telecommunications services between the U.S. Mainland and offshore domestic points, including States, Territories, and U.S. possessions. After consideration of all the relevant factors, the Commission believes that the pro-competitive policies which have already been adopted for carriers serving the 48 contiguous States and Alaska and which are currently being considered in this proceeding, and the benefits thereof, should be extended to all domestic points, whether within or outside of the continental United States.

Summary and assessment of issues: Aside from a reiteration of arguments previously raised in this proceeding and not addressed by this action, issues were raised as to whether deregulation of the Guam telecommunications market is appropriate and whether unregulated competition there would result in a substantial detrimental effect on all telephone service provided to Guam. The agency has concluded that the arguments offered in support of these issues failed to demonstrate conclusively that special considerations remain as to why the policies of this proceeding should not apply to Guam. No changes were made to the proposed policies as a result of the comments received on this matter.

Alternatives considered: None.

[FR Doc. 83-27746 Filed 10-13-83; 8:45 am]
BILLING CODE 6712-01-M

[1] As stated in the Third Notice, comments as to carriers serving Alaska are not being considered. The policies in this proceeding were extended to Alaska in the Commission's Reconsideration Order, *infra* n. 4, at para. 12. *See* Third Notice, at n. 8.

[2] The following parties filed comments: RCA Global Communications, Inc. (RCA Globcom), IT&E Overseas, Inc. (IT&E), MCI Telecommunications Corporation (MCI), Satellite Business Systems (SBS), GTE Sprint Communications Corporation (GTE Sprint), the State of Hawaii (Hawaii), Rochester Telephone Corporation (Rochester Tel), and Puerto Rico Telephone Company (PRTC).

[3] Reply comments were filed by all of the above parties except GTE Sprint and Rochester Tel.

[4] *See* First Report and Order, 85 FCC 2d 1 (1980); Further Notices of Proposed Rulemaking, 84 FCC 2d 445 (1981) and FCC 82–187, released April 21, 1982, 47 FR 17308 (April 22, 1982); Second Report and Order, 91 FCC 2d 59 (1982), *recon.*, FCC 83–60, released March 21, 1983 (Reconstruction Order).

[5] Several commenting parties also ask us to broaden the class of carriers considered to be non-dominant. Inasmuch as this issue is beyond the limited scope of the Third Notice, we need not consider it here. However, we expect this issue to be addressed in the near future.

[6] On December 15, 1982, the Bureau released an Order and Certificate granting IT&E's request for authorization to resell common carrier services and/or facilities for interstate communications throughout the contiguous United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, the State of Hawaii, and Guam in File No. W–P–C–4571. RCA Globcom filed a petition for reconsideration of that action which is pending. In addition, the Bureau granted the request of Pacific Network Communications Corporation (PACNET) to extend its data resale communications services from Hawaii to Guam in an Order and Certificate, Mimeo 1665, released January 19, 1982.

[7] As an example of GTA's financial condition, RCA Globcom states that "it has been reported" that GTA is presently not complying with loan agreements with the Rural Electrification Administration.

[8] As indicated, RCA Globcom's concern is based upon GTA's alleged precarious financial condition. New entrants into the Guam market, however, will not be competing with GTA for intra-island service but with RCA Globcom for overseas service. In fact, since such entrants would presumably interconnect with GTA, they could provide GTA with additional sources of revenue. Moreover, additional entry could provide the people of Guam with alternative services which may not now be available. Finally, as the Bureau found in the PACNET decision, *supra* n. 6, at para. 5, resellers leasing existing facilities from carriers now serving Guam will provide more intensive use of those facilities.

[9] The Bureau finds that because these policies relieve restrictions on competition and public benefits will be derived from putting them into effect without delay, an immediate effective date is in the public interest. *See* 5 U.S.C. 553(d).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82–07; Notice 3]

Federal Motor Vehicle Safety Standards; Power Operated Window Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule, response to petition for reconsideration.

SUMMARY: This notice responds to a petition for reconsideration filed by General Motors Corporation with regard to the agency's recently issued rule amending Federal Motor Vehicle Safety Standard (FMVSS) No. 118, *Power-Operated Window Systems*. GM requested that the agency clarify the language of this amendment, which permits operation of power windows during the interval between the shutting off of a vehicle engine and the opening of a door. NHTSA agrees that the clarification suggested by GM is consistent with the agency's intent in originally amending the standard, and the agency is therefore further amending the standard accordingly.

DATE: This amendment is effective on October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Erickson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–2720).

SUPPLEMENTARY INFORMATION: On May 5, 1983, NHTSA published a final rule amending FMVSS 118 (49 CFR 571.118), in response to a rulemaking petition filed by General Motors Corporation. The GM petition requested that the standard be amended to permit operation of power windows during the interval between the shutting off of a "running engine" and the opening of the vehicle's front doors. GM sought this amendment to permit it to offer power window systems which GM believes are more convenient to use. Prior to this amendment, vehicles had to be designed so that a driver who shut his or her vehicle's engine off but remained in the vehicle would have to turn the vehicle ignition back to the "ON" or "ACCESSORY" position in order to operate the windows.

FMVSS 118 was originally issued to prevent injuries resulting from automotive power windows closing on small children. Prior to the issuance of that standard, such injuries most often occurred when children operated the windows without the driver present. The standard seeks to minimize the likelihood of this unsupervised operation of the windows by requiring that operation of the windows be controlled by a key, typically the ignition key. This requirement assures, in most instances, that the driver is present in the vehicle when power windows are operable.

The GM petition was found by the agency to be consistent with this concept of positive key control of power window operation. Between the time a running engine is shut off and the opening of a front door, the driver of the vehicle would in all likelihood still be in the vehicle and able to assure that children in the vehicle were not playing with the windows. Therefore, the agency granted the GM rulemaking petition and amended FMVSS 118 to permit window operation during that time interval. See 48 FR 20237, May 5, 1983.

On June 3, 1983, GM requested that the agency clarify the language adopted in the May 5th amendment, either by issuing an interpretation concerning the specified language or by amending the language. The problem pointed out by GM is that most power window systems do not actually sense whether an engine is running. Instead, they sense the position of the ignition locking device, which usually correlates very closely with the operation or nonoperation of the engine. Thus, for example, in a system designed to comply with the amended standard by sensing the key position, if the ignition key were turned to the "ON" position and then the "OFF"

VOL 48 ISS 200 OCT 14 1983 UMI

position, the power windows would remain operable until a front door opened. However, strictly speaking, this hypothetical situation might not involve turning off a "running engine," (for example, when the engine stalls). Therefore, such a system could be considered in violation of the standard.

The agency agrees with GM that there is no significant safety-related difference between window systems which sense key position and those which sense engine operation. The important consideration from the agency's perspective is the assurance that the driver is likely to be present in the vehicle to supervise operation of the power windows. These two possible system designs appear to provide equal assurance that the driver is present. Requiring that the power window system sense engine operation in addition to key position would, on the other hand, add substantially to the cost of such systems. Therefore, NHTSA is herein amending FMVSS 118 to clarify the time interval during which power window operation is permissible, consistent with the GM request. This action is being taken in the form of an amendment to the standard rather than as an interpretation, to provide the clearest public notice of the requirements of FMVSS 118. This amendment is consistent with the original intent of the May 5th amendment.

The agency is making this amendment effective immediately upon publication since the amendment merely clarifies an existing provision of FMVSS 118. The agency finds that making this amendment effective immediately is in the public interest in accordance with section 103(e) of the National Traffic and Motor Vehicle Safety Act, because the amendment will facilitate the use of more convenient power window systems at an early date. Also, since the amendment does not add any substantive requirements to FMVSS 118, providing 180 days lead time is unnecessary.

NHTSA has determined that this proceeding does not qualify as a "major rule" within the meaning of section 1, paragraph (b), of Executive Order 12291 because it is not likely to have an effect on the economy of $100 million or more, to result in a major increase in costs or prices, or to have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States firms to meet foreign competition. Similary, this section is not deemed "significant" for purposes of Department of Transportation procedures for internal review of regulatory actions. The economic impacts of this amendment are so minimal as to not warrant preparation of a full regulatory evaluation, since the amendment merely clarifies regulatory language permitting the use of certain systems which were prohibited prior to May 5, 1983.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact of this rulemaking action on small entities. I certify that this action will not have a significant economic impact on a substantial number of small entities, including small organizations or governmental units. Therefore, a regulatory flexibility analysis is not required for this action. The agency has concluded that few, if any, manufacturers of power window systems are small entities, and that the impacts of this rule on any manufacturer should be minimal. There would be no significant impact on the cost of new vehicles manufactured in accordance with the new provision. Therefore, there should be no significant impact on small entities which purchase vehicles with power windows.

NHTSA has evaluated this action in accordance with the National Environmental Policy Act and concluded that the environmental consequences of this action will be of such limited scope that they will not have a significant effect on the quality of the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

§ 571.118 [Amended]

In consideration of the foregoing, 49 CFR 571.118 is amended as follows:

1. Section S3(d) is revised to read as follow:

* * * * *

(d) During the interval between the time the locking device which controls the activation of the vehicle's engine is turned off and the opening of either of a two-door vehicle's doors or, in the case of a vehicle with more than two doors, the opening of either of its front doors.

(Secs. 103,119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on October 7, 1983.

Diane K. Steed,

Deputy Administrator.

[FR Doc. 83–27986 Filed 10–13–83; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1307

[Ex Parte No. MC–96 (Sub-1)]

Investigation Into Motor Carrier Classification

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental notice to Final Policy Statement.

SUMMARY: at 48 FR 10063, March 10, 1983, the Commission found that the National Motor Freight Classification (NMFC) required revision. The Commission further concluded that the tentative findings concerning the NMFC set forth in an interim decision (decided April 27, 1983 and printed at 364 I.C.C. 906), should be modified. By this notice, the Commission rescinds its ranking of underlying liability factors. Petitioners dispute our ranking of the factors underlying liability. They contend that the record does not support a ranking of the liability factors and that the ranking is unnecessary, impractical, and generally inconsistent with our goal of simplification and our refusal to establish a specific ranking of the classification factors. The Commission also denies further hearing requested by The National Classification Committee.

DATES: This decision shall be effective on October 14, 1983. The compliance date is December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (D.C. metropolitan area) or toll free (800) 424–5403.

Decided: October 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison, Commissioners Andre and Gradison would have granted the petition in full.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–27925 Filed 10–13–83; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 48, No. 200
Friday, October 14, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

The Use of the Freedom of Information Act for Discovery Purposes

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments.

SUMMARY: The Administrative Conference's Committee on Governmental Processes has under consideration a draft recommendation on the use of the Freedom of Information Act for discovery purposes in litigation. Interested persons are invited to comment on the draft recommendation.

DATE: Comments due by Monday, November 7, 1983.

ADDRESS: Send comments to: David M. Pritzker, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: David M. Pritzker, 202–254–7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Governmental Processes has under consideration a draft recommendation on the use of the Freedom of Information Act (FOIA) for discovery purposes in litigation. The draft recommendation is based on a study prepared by Professor Edward A. Tomlinsom of the University of Maryland School of Law. Copies of his report may be obtained from the Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: 202–254–7065).

The purpose of this study has been to determine whether the existence of two distinct mechanisms for obtaining information from the government, both available to persons litigating with the government, has caused unnecessary burdens on government agencies. The study recognizes that discovery procedures and the FOIA were originally designed to serve quite different purposes. The function of the Act has been to promote open government, while discovery is primarily designed to help resolve lawsuits.

The proposed recommendation is based on the belief that a party in litigation with the government has at least as great an interest in having access to government records as other requesters under FOIA, and therefore should not be denied that access. However, the recommendation suggests a notice provision that is intended to alleviate perceived disadvantages to government counsel engaged in preparation for trial or other aspects of litigation. In addition, it appears that though agencies perceive problems in the criminal area with respect to the FOIA, these problems are not based on discovery. Rather, they may raise broader problems related to the access to criminal investigative files now available under the FOIA that should be addressed directly through changes in the nature of the exemptions specified in the Act.

Finally, there is also a perception that FOIA requests are frequently used for the primary purpose of staying judicial proceedings. The committee is interested in comments on the accuracy of this perception. If it is an accurate perception, is this an area best left to the courts?

The committee invites comments on the draft recommendation, and requests that they be submitted to the address given above, not later than Monday, November 7, 1983.

Draft Recommendation: The Use of the Freedom of Information Act for Discovery Purposes

Introduction

The Freedom of Information Act (FOIA) and discovery provide separate mechanisms for obtaining the disclosure of government documents. Any person may invoke at any time the release provisions of the FOIA by requesting an agency to disclose any agency records reasonably described by the requester. A requester's need for the records and his purpose in making the request normally do not affect the requester's right to obtain disclosure. The agency must release the requested records unless they fall within one of the nine exemptions specified in the Act. On the other hand, a person may obtain the disclosure of government documents through discovery only if he is a party to a judicial or administrative proceeding and if the procedural rules governing the proceeding include provisions for discovery. If both these conditions are satisfied, the party may normally obtain from the government through discovery unprivileged documents relevant to the subject matter of the pending proceeding.

The separate disclosure mechanisms established by the FOIA and by discovery serve different purposes. Congress' fundamental design when it enacted the FOIA in 1966 was to permit the public to inform itself about the operations of government. All members of the public are beneficiaries of the Act because Congress' goal was a better informed citizenry. A requester's rights under the Act are therefore neither diminished nor enhanced by his status as a party to litigation or by his litigation generated need for the requested records. Discovery, on the other hand, serves as a device for narrowing and clarifying the issues to be resolved in litigation and for ascertaining the facts, or information as to the existence or whereabouts of facts, relevant to those issues. In the discovery context, a party's litigation generated need for documents does affect the access available to him and may result in the disclosure to him of documents not available to the public at large.

The purposes of these two disclosure mechanisms indicates what the relationship between them should be. The FOIA provides one level of access to government documents; under current law, that access is uniformly available to any person upon request. Discovery provides a second level of access available only to parties to litigation. A party's access in discovery to government documents which he needs for litigation purposes is independent of the access available to any member of the public under the FOIA.

Present law and practice is largely consistent with this ideal relationship between the FOIA and discovery. Discovery does in fact provide parties to litigation with the more reliable mechanism for obtaining from the government the information which they need to prepare for trial or hearing. Parties to litigation nevertheless use the FOIA for discovery purposes because

VOL
48
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they hope to obtain the release of additional agency records for use in litigation, or to obtain the release of records at an earlier time. Limitations on the availability of discovery explain these uses of the FOIA. Although discovery does function as a disclosure device, its primary function is to aid in the resolution of controversies between parties in litigation. Discovery is a pretrial procedure designed to permit the parties to a proceeding to prepare for trial or, if possible, to settle the controversy without a trial. It is not designed to provide the parties with the level of access to government documents furnished to the general public by the FOIA; and even the most generous rules of discovery does not always provide the parties with that level of access.

Constraints of time and subject matter limit the government's disclosure obligations in the discovery context. Full discovery is normally available to the parties only for a short period of time before trial or hearing and only with respect to documents that are relevant, or may lead to information that is relevant, to the pending action. Less generous discovery is available in criminal proceedings than in civil actions; and, in some administrative adjudications, no formal discovery is available at all. Recent reform efforts have sought to keep civil discovery in the federal courts within reasonable bounds by emphasizing that the purpose of discovery is not the disclosure of information but the simplification of the matters in dispute. The 1980 and 1983 amendments to the discovery rules in the Federal Rules of Procedure adopt that approach and seek to prevent "overdiscovery" by increasing the trial judge's supervisory role.

Recent proposals to amend the FOIA have included provisions temporarily closing the FOIA to a party to a pending proceeding who is seeking the release of agency records related to the subject matter of the proceeding.[1] These provision treat a FOIA requester who is party to a pending proceeding differently from other FOIA requesters, for example, by tolling the time for responding to his request for agency records that are available for release to the public at large. The rationale behind these proposals is that the availability of the FOIA permits a party to litigation to divert government resources and to impair the ability of the government to bring cases to trial. A party is able to do this by making duplicative FOIA and discovery requests for the same documents and by making FOIA requests that circumvent restrictions applicable in discovery (i.e., requests that seek the release of agency records which, at the time of the FOIA request, the government need not produce in discovery).

The rationale for limiting the use of the FOIA by parties to pending civil proceedings is not convincing. A party who uses the FOIA for discovery purposes is seeking access to government records that are available to any member of the public, but which may not be available to the party through discovery at the time of the FOIA request. It is not appropriate for an agency to deny a party that access when it affords it to other FOIA requesters whose interest in obtaining the release of agency records related to a pending proceeding will almost surely be less than that of the party. The agency's public information office should therefore treat a FOIA request from a party to civil litigation no differently than it treats other FOIA requests for the same records.

The use of the FOIA for discovery purposes is nevertheless a matter of valid concern to the government because that use, unlike other uses of the FOIA, may disadvantage the government's position in litigation in several significant ways. First, a party in litigation with the government may obtain the release of agency records without the knowledge of government counsel and then seek to use those records to surprise government counsel at trial or hearing. Second, a party in litigation with the government may disrupt the government's trial preparation by seeking, perhaps on the eve of the trial or hearing, the release under the FOIA of records in the government's litigation files. In these cases, the government must divert its attention from trial preparation in order to prevent a FOIA release to an opposing party of sensitive, nondisclosable records. Under the FOIA, unlike in discovery, the government does not enjoy the protection of a cut-off date for the making of requests or of a neutral judge to resolve disputes between the parties. Third, a party in litigation with the government may request the government to produce the same documents under the FOIA and in discovery, thus necessitating duplicative searches and releases. In these cases, the government's primary concern is not the extra burden imposed on the agency's public information office in processing the party's FOIA request, but the burden imposed on counsel representing the government to protect himself from duplicative effort, to avoid inadvertent or mistaken FOIA releases, and to keep himself informed of the government doucments obtained by opposing parties. These disadvantages to the government are real, but they do not accompany most uses of the FOIA for discovery purposes.

If the FOIA remains fully available to a party in civil litigation with the government, the potential disadvantages to the government may be alleviated by requiring the party to notify government counsel of all FOIA request made or maintained by or on behalf of the party for the purpose of obtaining information for use in that litigation. If cousel representing the government receives notice of these FOIA requests, he will be able to learn what records the agency is releasing, or has released, in response to the requests, thus eliminating any danger of surprise at trial or hearing. Advance notice of a party's FOIA requests may also permit government counsel to coordinate FOIA and discovery searches for the same records and to aviod duplicative releases. Counsel will therefore be in a stronger position to protect his litigation files, although he may still need to divert his attention from trial preparation in order to assist the agency's public information office in resisting the disclosure of exempt records.

It may be argued that the foregoing conisiderations apply equally well to criminal proceedings. However, the committee is concerned that FOIA requests are sometimes used in criminal cases to obtain law enforcement records in order to uncover enforcement strategies, dry up government sources of information, and identify informants. Barring party litigants from use of the FOIA would not solve this problem. Limiting the FOIA in this way would not give increased protection to law enforcement records because it would only affect some requesters, for a limited period of time—i.e., parties to a proceeding during the pendency of the proceeding. If there are abuses in this area, the soultion would seem to lie in increasing the substantive protection afforded law enforcement records by enlarging the FOIA exemption afforded to materials in criminal investigative files, and by exluding altogether from the Act's coverage certain types of informant and organized crime records.[2]

[1] See, e.g., S. 774, 98th Cong., 1st Sess. (1983), which was ordered favorably reported by the Senate Judiciary Committee on June 16, 1983.

[2] See S. 774, 98th Cong., 1st Sess., Sections 10, 14 (1983).

Recommendations

1. (a) Congress should not amend the Freedom of Information Act (FOIA) to deny a party to a pending judicial civil or administrative proceeding the same timely access to nonexempt agency records that is available to other FOIA requesters.

(b) Congress should address the problems of abuses of the FOIA in criminal matters by enlarging the exemption afforded to materials in criminal investigative files, and by adopting carefully drawn exclusions from the Act's coverage of informant and organized crime records.

2. (a) Congress should amend the Freedom of Information Act to require a party to a judicial civil action or an administrative adjudication, to which the government is also a party, to notify counsel for the government of any FOIA requests made or maintained by the party, by his counsel, or by some other person acting on the party's behalf, during the pendency of the proceeding for the purpose of securing the release of agency records for use in the proceeding.

(b) Congress should also provide that, if a party does not comply with this notice requirement for making or maintaining a FOIA request, the court or agency conducting the proceeding may preclude the party from using in any fashion in the preceeding any agency records released in response to the request.

(5 U.S.C. 574)

Dated: October 11, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 83-20819 Filed 10-13-83; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1139

[Docket No. AO-374-A8]

Milk in the Lake Mead Marketing Area; Extension of Time for Filing Briefs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing briefs.

SUMMARY: This notice extends the time for filing briefs on the record of the hearing held August 16–17, 1983, at Las Vegas, Nevada, concerning proposals to amend the Lake Mead marketing order. Counsel for the proponent cooperative association requested more time to review the hearing record and to prepare a brief. The request was based in part upon a delay in the delivery of the transcript of the hearing.

DATE: Briefs are now due on or before October 20, 1983.

ADDRESS: Briefs (4 copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing: Issued August 1, 1983; published August 5, 1983 (48 FR 35652).

Notice is hereby given that the time for filing briefs, proposed findings and conclusions on the record of the public hearing held August 16–17, 1983, at Las Vegas, Nevada, with respect to the tentative marketing agreement and to the order regulating the handling of milk in the Lake Mead marketing area pursuant to notice of hearing issued August 1, 1983 (48 FR 35652) is hereby further extended to October 20, 1983.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

List of Subjects in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C. on October 7, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-27924 Filed 10-13-83; 8:45 am]

BILLING CODE 3410-02-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program To Include Options on Domestic Agricultural Commodities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") previously adopted regulations governing a three-year pilot program to permit the trading of commodity options on domestic boards of trade. Initially, the pilot program permitted trading only in options on commodity futures contracts. Subsequently, the pilot program was expanded to permit the trading of options on physical commodities. However, because of the statutory bar found in Section 4c of the Commodity Exchange Act 7 U.S.C. 6c (1976) ("Act"), the pilot program did not provide for the trading of options on domestic agricultural commodities.

As part of the Commission's reauthorization, the Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294 (1933) repealed the statutory bar to the trading of options on domestic agricultural commodities and provided that the Commission could establish a pilot program not to exceed a period of three years for the trading of options on domestic agricultural commodities. These proposed rules, if adopted, would permit the trading of options on domestic agricultural commodities in a three-year pilot program under essentially the same conditions which apply to the Commission's ongoing option pilot program.

DATE: Comments must be received by December 13, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to domestic agricultural options.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counel, Division of Economics and Education at the above address, telephone (202) 254–6990.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 3, 1981, the Commission published regulations governing a three-year pilot program for the trading of options on certain commodity futures contracts. 46 FR 54500. The Commission noted that in adopting those rules it was "exercising only one aspect of its jurisdiction with respect to options" [1] and on the same date, published a separate notice of proposed rulemaking reaffirming its intention to adopt rules to permit the trading of options on actual commodities ("physicals"). 46 FR 54570. On December 22, 1982, the Commission adopted regulations expanding the pilot option program to include options on physical commodities. 47 FR 56996. At that time, the Commission noted that the

[1] 46 FR 54501 (November 3, 1981).

VOL 48 ISS 200 OCT 14 1983 UMI

first phase of the pilot options program was completed.

Section 206 of the Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294, 2301 (1983) provides that the Commission may establish a pilot program not to exceed three years for the trading of commodity options "[w]ith respect to any commodity regulated under this Act and specifically set forth in Section 2(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974 * * *."[2] For over four decades prior to the enactment of this provision, options trading on these domestic agricultural commodities was prohibited. 7 U.S.C. 6c(b) (1970). In permitting the pilot program for domestic agricultural options, Congress believed that such options might provide farmers with a beneficial marketing tool which offers price protection without requiring the sacrifice of potential profits from favorable price movements. Congress also believed that the abuses which characterized the trading of options in the 1930's were unlikely to recur. S. Rep. No. 384, 97th Cong., 2d. Sess. 49-50 (1982). Accordingly, as the Conference Committee reported, Congress:

permit[ted] the Commission to authorize commodity option transactions during a pilot program in as many agricultural commodities as will provide an adequate test of these options * * *.

The conferees intend that the pilot program should, wherever possible, be 'folded into' existing option pilot programs, using the same kind of regulatory scheme already in place for these other options pilot programs. H.R. Rep. No. 964, 97th Cong., 2nd Sess. (1982) at p. 40.

II. Commission Initiatives on Domestic Agricultural Commodity Options

Following the recent statutory amendments, the Commission began its inquiry into the feasibility and desirability of trading options on domestic agricultural commodities. As part of this inquiry, the Commission published an advance notice of proposed rulemaking which raised eight specific issues relating to the potential use of such options and the appropriate regulatory structure and form of the pilot program. 48 FR 6128 (1983). The specified issues included: potential uses for agricultural options; whether agricultural options in the pilot program should be based on physicals as well as futures; whether option trading should only be allowed on an exchange designated to trade a futures contract on the same agricultural commodity; the number of option contracts which should be permitted; whether options should be prohibited on particular agricultural commodities; whether Commission Rule 33.4(d)(1) providing for the justification of option expirations which are less than ten business days before the earlier of the last trading day or first notice day of the underlying future is appropriate for agricultural options; whether there should be minimum standards for option grantors; and whether additional or different customer protection measures are required for options on domestic agricultural commodities. Commentators were also requested to raise any other issues which, in their view, were pertinent. Thirty-five comments were received by the Commission in response to this notice. A majority of those commenting were agricultural producers or organizations representing such producers.

In addition, the Commission, under the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I, Section 1, *et seq.*, as amended, chartered an Agricultural Options Advisory Committee to provide additional input with respect to the pilot program. The function of this Advisory Committee is to assess various policy alternatives and practical considerations relating to the development of an agricultural options pilot program. Its composition is broad-based and includes a sizeable number of producers or their representatives. Meetings of the Agricultural Options Advisory Committee were held in Washington, D.C. on June 23 and July 28, 1983. During these meetings, the Agricultural Options Advisory Committee explored various policy alternatives for a pilot program for domestic agricultural commodity options.[3]

The Commission also conducted a series of public meetings in nine cities across the nation. Specifically, meetings were held in: Atlanta, Georgia; Cedar Rapids, Iowa; Indianapolis, Indiana; Kansas City, Missouri; Lubbock, Texas; Memphis, Tennessee; Minneapolis, Minnesota; St. Louis, Missouri; and Reno, Nevada. These public meetings provided an additonal opportunity for interested members of the public to express their views concerning the development of a pilot program for options on domestic agricultural commodities.

After carefully considering the views expressed by the members of the Commission's Advisory Committee, comments by the public received in response to its advance notice of proposed rulemaking, and the views of the public elicited during the nationwide public meetings, the Commission is proposing regulations to permit the trading of options on domestic agricultural commodities.

III. Issues Related to the Pilot Program

In developing these proposed regulations for the trading of options on domestic agricultural commodities, the Commission has examined a number of issues. These include the potential use of such options; whether options on futures or physicals are preferred; the structure of trading; and whether any additional or different trading requirements, terms and conditions, or customer protections are required. The primary issue to be addressed, of course, is the potential utility of such options and whether domestic agricultural options would have a *bona fide* commercial use in reducing risk. The consensus that the Commission found is that agricultural options would indeed have *bona fide* uses for the reduction of risk of commercials. Generally, members of the Advisory Committee were of the opinion that:

ag options are potentially a valuable new risk management tool and that for the producer they offer a more specific means of dealing with output risks than hedging and do not involve subsequent margin calls. This is also important to the ag lenders.

TR. July 28, p. 144. Moreover, the consensus of Committee members was that the characteristic of options which enables producers to share in rising prices while being protected against a decline in prices would constitute a valuable adjunct to producers' ability to hedge in the futures market. *Id.* However, members of the Committee pointed out that the extent of actual commercial use of agricultural options will depend greatly upon the level of premiums, which can be determined only after trading has begun.[4] In addition, the Committee's members recognized that the degree of producer participation may also depend on relative cash prices and support levels.

Furthermore, of the thirty-five commentators, all twenty who responded to this issue in the Commission's advance notice of proposed rulemaking, 48 FR 6128, commented positively on the potential utility of domestic agricultural options. Among their observations were that options would permit producers to fix their total possible trading losses, would allow benefits similar to participation in the futures market at a lower cost than the futures markets, and would make the overall producer-marketing chain more efficient. Some commentators also opined that options would provide new hedging strategies and would provide price protection without exacerbating the hedging risks associated with poor crops. The Commission agrees that domestic agricultural options can serve a risk reducing function to commercial entities. In this regard, commodity options provide a means to manage commercial risk which supplements and complements the hedging opportunities provided by futures markets.

For those responding to the question on the structure of the pilot program for domestic agricultural options raised in the Federal Register notice, the consensus was that initially restricting the program to options on futures was preferred. Generally, commentators stated that the complexity of, and possible adverse impact on deliverable supplies from, options on physicals suggest that initially they not be included in the pilot program. These commentators believed that once experience has been gained from the pilot program and a track record established, the program could be expanded to include options on physicals. The opinions of the various members of the Advisory Committee paralleled those of the commentators on the Federal Register release, with the clear majority favoring a program limited initially to options on futures. TR. July 28, pp. 146-151.

In light of the views of the majority of commentators and members of the Advisory Committee that the agricultural option program should initially include only options on futures, the trading experience in the existing pilot program with options on futures, the apparent preference of potential users for options on futures rather than physicals, and the lack of experience with any actively-traded contracts for options on physicals, the Commission has determined initially to restrict the pilot program in domestic agricultural options to options on futures. In so doing, the Commission has chosen to exercise at this time only a portion of its jurisdiction with respect to options on agricultural commodities. As experience is gained in the trading of options on agricultural futures, the Commission will consider whether, and under what circumstances, trading in options on agricultural physicals should be permitted.

In determining to provide for options on domestic agricultural commodity futures contracts, the Commission has also determined to fold the regulation of these options into the existing pilot program for options on futures to the greatest degree possible. The Commission's experience is that the existing regulatory structure has worked well. Moreover, unless a need is specifically indicated, providing for different regulations to govern the trading of options on domestic agricultural commodity futures contracts would add unnecessary and duplicative regulations. Accordingly, the requirements for designation of options on futures contracts, including, among others, minimum volume levels[5] and the requirement that the option trade on the same board of trade as the underlying futures contract,[6] will apply to the designation of options on futures contracts in domestic agricultural commodities as well as to all other commodities.[7]

The Commission in its advance notice of proposed rulemaking also requested comment on whether specific grantor eligibility requirements should be required. Grantor eligibility is relevant chiefly to options on physicals in the context of the grantor's ability to make or take physical delivery. Because the Commission's proposal provides for options on futures only, which by regulation must be exercised by book entry,[8] the issue of grantor eligibility can be more appropriately analyzed in conjunction with any subsequent proposal to permit options on physical domestic agricultural commodities.

On a related issue, the Commission also considered whether additional or different customer protections should be provided for those trading domestic agricultural options. The overwhelming consensus of both the commentators and the Advisory Committee was that the protections found in the current pilot options program are sufficient and that both programs should provide equivalent protections to options customers. TR. July 28, pp. 206-207. The Commission, however, is again specifically requesting comment on whether any additional or different customer portection measures—such as disclosures different than those now required by Commission Rule 33.7—should be required for options on domestic agricultural commodities. Of course, the Commission itself is carefully monitoring the pilot options program and, should problems become apparent which require greater customer protections, the Commission will undertake appropriate remedial action.

In this regard, the Commission wishes to emphasize that under the current pilot program a futures commission merchant is required to provide an option customer or a prospective option customer, prior to the person's entering into any transaction involving a commodity option, with, among other things:

A description of all costs in addition to the purchase price which may be incurred if the commodity option is exercised, including the amount of commissions (whether termed sales commissions or otherwise), storage, interest, and all similar fees and charges which may be incurred; and

An explanation and understanding of an option grantor's initial margin requirement and obligation to provide additional margin in connection with such an option position, or a position in a futures contract, if applicable.

Commission Rule 33.7(b)(2) (v) and (vi). These provisions require an FCM to disclose to an option customer or a prospective option customer whether, and under what conditions, the exercise of a commodity option could result in the establishment of a position in a futures contract with a substantially higher margin requirement than the ordinary futures position. For example, if the exercise of a commodity option at a particular point in time would result in a futures position that requires 100 percent or virtually 100 percent margin because trading in that future is about to expire, an FCM must apprise the option customer or potential option customer of

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[2] Prior to the enactment of the Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, 88 Stat. 1389 (1974) the term "commodity" was defined in Section 2(a) of the Act as meaning: wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Irish potatoes, wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice.

[3] Citations to the transcript of proceedings of the Agricultural Options Committee read TR. ——, p. ——. Transcripts of these meetings contain the assessments and views of committee members. These transcripts, along with the official minutes, comprise the record of the proceedings of the Advisory Committee.

[4] Any board of trade applying for designation as a contract market for trading options as a domestic agricultural commodity must, as is the case for any other commodity option,

Continued

[p]rovide [ ] that the clearing organization must receive from each of its clearing members, that each clearing member must receive from each other person for whom it clears commodity option transactions, and that each futures commission merchant must receive from each of its option customers, the full amount of each option premium at the time the option is purchased. Commission Rule 33.4(a)(2).

[5] *See*, Commission Rule 33.4(a)(3), 17 CFR 33.4(a)(5)(iii).

[6] *See*, Commission Rule 33.4(a)(3), 17 CFR 33.4(a)(3).

[7] In addition, as with options for all other commodities, Commission Rule 33.4(a)(5)(iii) would require that for options on domestic agricultural commodities, "commercial interests * * * participate[ ] in formulating the options contract for which designation is sought. * * *"

[8] *See*, Commission Rule 33.4(a)(4)(ii).

VOL 48 ISS 200 OCT 14 1983 UMI

the circumstances relating to that eventuality before the person enters into the option transaction. This requirement will apply equally to trading in options on domestic agricultural futures contracts.

In addition, under current Commission rules, FCMs must make and retain a record of all written option customer complaints, and a record of all oral option customer complaints which result in, or which would result in, an adjustment to the option customer's account in an amount in excess of one thousand dollars. The record relating to such complaints must include the date the complaint was received, the associated person who serviced or the introducing broker who introduced the account, a general description of the matter complained of, and what, if any, action was taken by the FCM in regard to the complaint. Commission Rule 33.4(b)(4). The Commission wishes to make clear that "a general description of the matter complained of" must include a reference to the underlying commodity futures contract involved in an option customer's complaint. The Commission will be particularly interested in determining, as part of its evaluation of the domestic agricultural options pilot program, the number of complaints arising from exchange trading of commodity options involving domestic agricultural commodities in comparison with the number of complaints arising from exchange trading of other commodity options.

One additional issue which was raised in the advance notice of proposed rulemaking and which also received considerable attention from members of the Advisory Committee was the expiration date of the option vis-a-vis the expiration of the futures. All of the eight commentators who addressed this question agreed that current Commissions Rule 33.4(d)(1) which provides that a board of trade must justify an option expiration date later than ten days before the earlier of the first notice day or last trading day of the underlying futures contract should be retained in its present form for options on agricultural commodities. However, the Advisory Committee did not achieve a consensus on this issue. Some members, believing that it would provide more flexiblity and hedging protection for producers, argued for option expirations less than ten days before the expiration of the future. Others supported retention of the current rule based upon the possibility of increased susceptibility of the futures market to congestion or manipulation during the end of the delivery period. A few members suggested consideration of the expiration question on a case-by-case basis. TR. July 28, pp. 178–181.

The Commission is proposing that current Rule 33.4(d)(1) be retained. As noted by the commentators and some Advisory Committee members, the concerns regarding potential manipulation which formed the basis for adoption of the rule initially apply at least as strongly to domestic agricultural futures as to other futures contracts. In light of the potential for manipulation of an expiring futures contract, the Commission believes that a cautious approach is warranted. Further, the Commission notes that the provisions of Commission Rule 33.4(d)(1) will in fact allow the Commission to consider the justification for an option expiration which is less than ten days before the expiration or first notice day of the futures. The Commission is thus able to balance, on a case-by-case basis, the commercial utility of an option's expiration date against any attendant risks of disruption to a particular futures contract. Finally, the Commission notes that in those cases where such later option expiration exceptions are not deemed advisable, persons wishing to maintain price protection may do so through use of the futures contract for this limited period of time.

Finally, in addition to exchange-traded options on physical commodities other than options on domestic agricultural commodities, which are permitted to be traded under the existing pilot program, Section 4c(c) of the Act and Commission Rule 32.4, 17 CFR 32.4, provide that options on the actual cash commodity may be traded between producers, processors, commercial users, or merchants. The Commission recognizes that there may be possible benefits to commercials and to producers from the trading of these "trade" options in domestic agricultural commodities.[9] On the other hand, in light of the lack of recent experience with agricultural options and because the trading of exchange-traded options is subject to more comprehensive oversight, caution would suggest proceeding in a gradual fashion by initially permitting only exchange-traded agricultural options. Accordingly, the Commission is seeking comments from the public concerning the advisability of permitting at this time trade options between commercials in domestic agricultural commodities. Commentators are specifically requested to address the potential uses for these options, whether their granting and purchase should be restricted to commercial enterprises meeting minimum volume or net-worth criteria, or whether other restrictions are advisable.

[9] For instance, the Commission believes that currently many agricultural producers obtain price protection indirectly from futures markets through forward contracting with first handlers or merchants who in turn hedge directly in futures contracts. Producers and merchants may wish to engage in a similar "pass through" arrangement in the case of options. An amendment to Rule 32.4 would be necessary to permit this arrangement.

IV. The Proposed Regulations

In proposing the regulations on agricultural options, the Commission has attempted to incorporate the agricultural pilot program into its existing options pilot program wherever possible. Accordingly, the Commission is proposing to amend Commission Rule 33.4 to provide that options on agricultural commodities be on a futures contract and not directly on the physical commodity. As explained above, the Commission believes that the agricultural options program should forward at this time only in that area in which the Commission has had experience.

The Commission, in proposed Rule 33.4(a)(6), would permit designation for each board of trade of no more than two options on domestic agricultural commodities. Many commentators and members of the Advisory Committee suggested that the Commission should not specify the number of options on agricultural commodities for which an exchange could be designated. TR. July 28, pp. 154–176. The commentators and Committee members contended, generally, that the exchanges could be relied upon to request designation in no more commodities than the exchanges could effectively regulate under their self-regulatory responsibilities. While the Commission has every confidence in the integrity of the exchanges' self-regulatory programs, the Commission believes that, in light of the fact that domestic agricultural options have been prohibited from trading in this country for four decades, caution is warranted. In this regard, the Commission believes that by permitting each board of trade to be designated in two options on domestic agricultural commodities, a sufficient number of option contracts will be traded to permit an adequate test for the pilot program. Moreover, it should be noted that under current rules, each exchange is already permitted two options contracts in commodities other than agricultural commodities. As more experience is gained with these contracts, the Commission will reevaluate the limitation on the number of contracts per board of trade.

Related to the number of option contracts permitted on each board of trade are the issues of whether the Commission should in some way apportion option contracts so that the widest number of commodities is covered by the pilot program and whether the Commission should restrict the trading of options to certain agricultural commodities. Generally, commentators and members of the Advisory Committee believed that the exchanges themselves, by focusing on their most viable contracts, would request designation in a variety of commodities. TR. July 28, pp. 154–176. As a consequence of the requirement that options on futures contracts be offered only by the exchange trading the underlying futures contracts, the Commission believes that the exchanges will indeed seek designation in a variety of agricultural commodities. In addition, the Commission believes that no restriction of options to specific commodities is necessary. The Commission is confident that the existing designation requirements found in Commission Rules 33.4, 33.5, and 33.6 are sufficient to ensure that options will not be permitted where the underlying futures contract would be adversely affected. Accordingly, the Commission believes that no regulation apportioning specific agricultural commodity options or restricting them to specified commodities is required.

V. Related Matters

A. *The Regulatory Flexibility Act*

The Regulatory Flexibility Act (FRA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small businesses. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA. 47 FR 18618 (April 30, 1982). These proposed rules would permit and govern the trading of options on domestic agricultural futures contracts on various contract markets and, therefore, if promulgated, would not have a significant economic impact on a substantial number of small entities. Accordingly, for the above reason and pursuant to Section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Acting Chairman, on behalf of Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comments from any firms or other persons which believe the promulgation of these rule amendments might have a significant impact upon their activities.

List of Subjects in 17 CFR Part 33

Commodity exchange, Commodity exchange designation procedures, Commodity exchange rules, Commodity futures, Consumer protection, Fraud, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and in particular Sections 2(a)1, 4c(a), 4c(b), 4c(c), 4c(d), and 8a thereof, 7 U.S.C. 2 and 4, 6c(a), 6c(b), 6c(c), 6c(d), and 12a, the Commission hereby proposes to amend Chapter 1 of Title 17 of the Code of Federal Regulations as follows:

* * * * *

PART 33—REGULATION OF DOMESTIC EXCHANGE—TRADED COMMODITY OPTION TRANSACTIONS

1. Section 33.4 is proposed to be amended by revising the introductory paragraph and paragraph (a)(6) to read as follows:

§ 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery on any commodity regulated under the Act, or options on physicals in any commodity regulated under the Act other than those commodities which are specifically enumerated in Section 2(a)(1)(A) of the Act, when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought

(a) Such board of trade—

* * * * *

(6) For commodities not specifically enumerated in section 2(a)(1)(A) of the Act, is not designated as a contract market for more than one other commodity option on a commodity not enumerated in Section 2(a)(1)(A) of the Act; and for those commodities which are specifically enumerate in Section 2(a)(1)(A) of the Act, is not designated for more than one other commodity option in a commodity which is specifically enumerated in Section 2(a)(1)(A) of the Act.

Issued in Washington, D.C. by the Commission on October 7, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-27935 Filed 10-13-83; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release Nos. 33-6492, 34-20261; File No. S7-996]

Research Reports

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is publishing for comment, as the first part of its "sunset" review of the "100" series of rules under the Securities Act of 1933, proposed amendments to Rule 139, which provides guidance under the Securities Act as to the publication of broker-dealer research reports which contain information, opinions or recommendations regarding a registrant in the process of registering securities for public sale. The proposed amendments would expand the class of publications that come within the protection of the Rule by updating its requirements to accord with the Integrated Disclosure System. The Commission also is soliciting comment on the need for changes to Rules 137 and 138, other rules giving guidance as to permissible research reports.

DATE: Comments must be received on or before December 15, 1983.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: V. Gerard Comizio (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is asking for comment on its rules for research reports issued by broker-dealers. The revisions would increase the research reports that broker-dealers may issue about companies who are in the process of

VOL
48
ISS
2
0
0
OC
14
1983
UMI

registering securities for public sale. Restrictions on research reports about companies who are well followed in the marketplace would be less than on those about other companies. This change is consistent with the Commission's Integrated Disclosure System, which recognizes the important role research reports play in providing information to the market and distinguishes among companies according to their marketplace following. The proposed amendments are to Rule 139 [17 CFR 230.139] under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77(a) et seq. (1976 and Supp. IV 1980)]. They would reduce substantially the Rule's conditions with respect to information, opinions or recommendations concerning registrants eligible to use the short form registration statements under the Securities Act, Form S–3 [17 CFR 239.13] or F–3 [17 CFR 239.33]. With respect to other registrants, the proposed amendments would revise the publication and comprehensive list requirements of the Rule to permit the publication of research reports which are distributed in the regular course of business and contain information, opinions or recommendations regarding at least a substantial number of companies in the registrant's industry. Finally, the proposed amendments provide additional clarification and delete redundant language.

While the Commission at this time is not proposing amendments to Rules 137 and 138 [17 CFR 230.137 and 320.138], which also provide guidance under Section 5 with respect to broker-dealer research reports, comment is solicited as to whether revision of those rules also would be appropriate and, if so, in what respect.

I. Background

Section 5 of the Securities Act governs the type and manner of disclosure regarding securities in registration.[1] Where no exemption from registration is available, Section 5 requires that any offers to sell securities in registration be made only under certain conditions,[2] in order to lessen the opportunity to condition the market as to the security in registration.[3]

In this context, questions arise concerning the status of broker-dealer research reports under Section 5. Specifically, research reports containing information, opinions or recommendations with respect to a proposed offering, under certain circumstances, may be considered offers to sell under Section 5(c), particularly when a broker-dealer is a participant in the distribution. In addition, research reports disseminated by participating broker-dealers in the waiting or post-effective periods which do not meet Section 10 prospectus requirements or are not accompanied by a Section 10 prospectus may violate section 5(b)(1) or (2).

These issues and concerns relating to the dissemination of broker-dealer research reports during a distribution were examined in 1969 in the *Wheat Report*. That Report recommended that the Commission adopt specific standards to provide guidance as to permissible broker-dealer activity under Section 5 during the registration process.[4] Rules 137, 138 and 139 were promulgated in 1970 pursuant to the *Wheat Report* recommendations to provide guidance and safe harbor protection under Section 5 regarding the dissemination of broker-dealer research reports which discuss a registrant in registrations.[5]

Rule 137 clarifies the status of persons not participating in a distribution. The Rule permits persons not having any arrangements with participants in the distribution to publish, in the regular course of business, information, opinions or recommendations regarding the securities of a reporting company in registration. The purpose of the Rule is to confirm that persons not participating in a distribution are not restricted by Section 5 and thus have no limits as to publications concerning companies in registration.

Under Rule 138, broker-dealer participating in a distribution may, in the regular course of business, publish and disseminate research reports which contain information, opinions or recommendations regarding non-convertible senior securities where the offering is for common stock. Conversely, where the offering is for non-convertible senior securities, research reports may discuss the registrant's common stock. Inasmuch as the markets for non-convertible senior securities and common stock differ significantly, Rule 138 provides a safe harbor in circumstances where the opportunity to condition the market is lessened. The Rule is limited to registrants eligible to use Form S–2 [17 CFR 239.12] or F–2 [17 CFR 239.32] because reports on a nonreporting registrant's nonconvertible securities present the possibility that the market for its common stock could be conditioned.[6]

Rule 139 provides safe harbor protection under Section 5 to participating broker-dealers distributing information, opinions or recommendations concerning reporting companies with securities in registration. Currently, the Rule states that Section 5 is not violated by distribution of research reports if the following conditions are met: (1) The publication containing the information, opinion or recommendation has been distributed with reasonable regularity for at least the past two years on an annual or more frequent basis and each issue contains a comprehensive list of securities currently recommended; (2) the information, opinion or recommendation is not given special prominence; (3) an opinion or recommendation at least as favorable was included in either the last publication of the same character or in a subsequent publication of a different character distributed by the dealer prior to his participation in the offering; and (4) the publication does not include projections of sales or earnings beyond the registrant's current fiscal year (or following fiscal year if within the last six months of the current fiscal year).

The Commission has had thirteen years of administrative experience with Rules 137, 138 and 139 and believes that the Rules have provided needed guidance and safe harbor protection

[1] Unless otherwise specified, the term "in registration" is used in this release to describe the entire registration process from the pre-filing period until prospectus delivery requirements have been satisfied.

[2] The following describes the operation of Section 5 as it affects broker-dealer research reports. In the pre-filing period, Section 5(c) prohibits offers to sell securities by means of a prospectus or otherwise. During the period after the registration statement has been filed, but prior to effectiveness, Section 5(b)(1) provides that written offers may be made only by means of a prospectus meeting the requirements of Section 10 of the Securities Act. This would include a preliminary or "red herring" prospectus complying with Section 10(b) and Rule 430 [17 CFR 230.430] thereunder, a "tombstone ad" complying with Section 2(10) and Rule 134 [17 CFR 230.134] thereunder, or a summary prospectus prepared by an independent organization complying with Section 10(b) and Rule 431 thereunder [17 CFR 230.431]. In the the post-effective period, Section 5(b)(2) provides that, unless an exemption from the prospectus delivery requirements is available, all sales or confirmations of sales must be accompanied or preceded by a Section 10 prospectus.

[3] The terms "offer to sell" and "prospectus" are defined broadly in Sections 2(3) and (10) and have been interpreted to encompass pre-filing publicity efforts by participants in an offering which, although not couched in terms of an express offer, may condition the market and stimulate interest in a proposed offering. *See, e.g., In the Matter of Loeb Rhodes & Co.*, 38 SEC 843 (1959); *In the matter of First Maine Corporation*, 38 SEC 882 (1959).

[4] *See Disclosure to Investors—A Reappraisal of Administrative policies under the '33 and '34 Acts (March 1969) ("Wheat Report").*

[5] Release No. 33–5101 (November 19, 1970) [35 FR 18457].

[6] *See Wheat Report* at 142–3.

under Section 5. At the same time, however, the Commission believes that certain regulatory and market developments since 1970 make it appropriate to propose revisions of Rule 139 and to solicit comment as to the need for changes to Rules 137 and 138.[7]

One of the most significant developments since 1970 has been the implementation of the Integrated Disclosure System. This system combines the registration system under the Securities Act and the continuous reporting system under the Securities Exchange Act of 1934 ("Exchange Act")[8] into a single, streamlined disclosure system. Having begun development of that system by enhancing the content and quality of Exchange Act reports,[9] the Commission turned to the Securities Act registration process. As the Commission noted at that time,[10] the basic issues relating to Securities Act disclosure, *i.e.*, the type of information to be disclosed and the dissemination of that information, must be considered in light of the composition of today's securities markets.

Among the varied participants in the markets are: (1) Financial analysts, who constantly digest and synthesize information and act as essential conduits in the continuous flow of information to investors,[11] and (2) the financial press, which facilitates the broad dissemination of timely and material corporate information. Thus, the Commission relied heavily on the existence of timely and complete corporate information in the marketplace to streamline the Securities Act registration process. This reliance is most evident in the Commission's three tier system of registration. Form S–3, for example, is available only to reporting companies who are well followed in the marketplace; it relies on the efficient market theory in allowing maximum use of incorporation by reference of Exchange Act reports.

In addition to regulatory changes, the securities markets and the activities of its participants, including the research publication practices of brokerage firms, have evolved. For example, the Commission understands that the frequency with which analysts move from one broker to another, taking with them their special expertise and the publications reflecting that expertise, has increased.

II. Proposed Revisions

A. Registrants Eligible for Form S–3 or F–3

The most significant proposed revision of Rule 139 updates the Rule's requirements with repsect to reports on registrants eligible to use Form S–3 or F–3. Proposed new paragraph (a) would relate to broker-dealers participating in a distribution of securities by registrants which meet (1) the registrant requirements of either of those forms and (2) the transaction requirements of General Instruction I.B(1) or (2) (float and investment grade criteria) of the repective forms. It would allow broker-dealers to publish information, opinions or recommendations as to a company in registration or any of its securities if the publication is distributed with reasonable regularity in the normal course of business.

The registrant and transaction requirements of Forms S–3 and F–3 are included in proposed paragraph (a) so that the broadened safe harbor of that paragraph would be available for discussions of seasoned reporting companies which meet a minimum float test [12] or are issuing non-convertible investment grade debt or preferred securities.[13] In the case of equity securities, the float requirement assures that the registrant discussed will be one with a widespread following in the marketplace. Generally, short form registration is possible because the Exchange Act continuous reporting system and activities of the various market participants assure a steady stream of corporate information into the marketplace with respect to at least those companies eligible to use Form S–3 or F–3. Research reports play a role critical to the efficient functioning of the trading markets by digesting and analyzing this continuous stream of information. Moreover, the Commission believes that widespread market following greatly lessens the potential for the abuses Section 5 was intended to prevent. Thus, the proposal requires only that participating broker-dealers not deviate from established publication schedules and formats. For example, if the publication normally covers only one S–3 registrant, that publication could be continued under the proposal. Of course, such a publication should be fully consistent with the scope and format of prior publications and thus would not draw special attention to an S–3 or F–3 registrant.

The investment grade security criteria are based on the belief that investment grade debt or preferred securities are purchased primarily on the basis of interest rates and security ratings and thus are to a large degree fungible. Investors generally evaluate new offerings of such securities by looking at comparably rated securities of other registrants. This fungibility makes price manipulation very difficult and, thus, the opportunity to condition the market is lessened.[14]

B. Other Registrants

Research reports concerning reporting companies which do not meet the Form S–3 or F–3 registrant and transaction criteria would be governed by proposed new paragraph (b). This paragraph would replace, and make a number of revisions to, current paragraphs (a), (b) and (c). First, proposed paragraph (b)(1) would revise the requirements set forth in existing paragraph (a) for regular two year publication and a comprehensive list by: (1) Eliminating the two year standard and requiring instead that protected research reports be published in the normal course of business; and (2) replacing the comprehensive list requirement with a requirement that the reports be sufficiently comprehensive to include similar information, opinions or recommendations regarding at least a

[7] While the Commission is not proposing specific revisions to Rules 137 and 138, at this time, it notes that adoption of amendments to Rule 139 may necessitate coordinating changes to Rules 137 and 138.

[8] 15 U.S.C. 78a et seq. (1976 and Supp. III 1979).

[9] *See* Release No. 33–6231 (September 2, 1980) [45 FR 63660], amending Form 10–K [17 CFR 249.310] and Rule 14a–3 [17 CFR 240.14a–3]; Release No. 33–6233 (September 2, 1980) [45 FR 63660], amending Articles 3, 5, and 12 of Regulation S–X [17 CFR Part 210]; Release No. 33–6234 (September 2, 1980) [45 FR 63660], adopting uniform financial statement requirements; and Release No. 33–6288 (February 9, 1981) [46 FR 12480], amending Form 10–Q [17 CFR 249.308a]

[10] *See* Release No. 33–6235 (September 2, 1980) [45 FR 6393], proposing Forms A, B, and C under the Securities Act.

[11] Financial analysts generally publish their research and analysis in so-called research reports.

[12] General Instruction I.B(1) of Form S–3 requires that the aggregate market value of stock held by non-affiliates must be either (1) 150 million dollars or more or (2) 100 million dollars or more and the registrant must have had an annual trading volume of such stock of 3 million shares or more. General Instruction I.A(4) of Form F–3 requires that the aggregate market value worldwide of voting stock held by non-affiliates is the equivalent of 300 million dollars or more.

[13] Both forms define non-convertible debt securities as investment grade if, at the time of effectiveness of the registration statement, at least one nationally recognized statistical rating organization (as that term is used in Rule 15c3–1(c)(2)(vi)(F) under the Exchange Act [17 CFR 240.15c3–1(c)(2)(vi)(F)] has rated the security in one of its generic categories that signifies investment grade. The instructions in both forms note that the four highest rating categories (within which there may be subcategories or gradations indicating relative standing) typically signify investment grade.

[14] In Release No. 34–19565 (March 4, 1983) [48 FR 10628] adopting amendments to Rule 10b–6, the Commission noted, with respect to exception (xiii) for investment grade securities, generally trade in accordance with a concept of relative value.

VOL
48
ISS
2
0
0
OC
14
1983
UMI

substantial number of companies in the industry of the registrant.

The Commission believes that where a publication covers a broad range of companies in an industry and is issued not on a sporadic but on a regular schedule, the possibility that such a publication could condition the market is lessened. Many brokerage firms which underwrite securities, however, publish research reports on a regular basis, but may change their reports' format or scope more often than every several years. Moreover, many regularly published reports contain discussions of numerous companies in similar businesses but do not provide comprehensive lists covering different industries.[15]

In light of these developments, the Commission believes that the two year publication requirement is no longer necessary. An ongoing schedule of normal publication activity of reasonable regularity would continue to effectuate the purpose of Section 5 and, at the same time, recognize the flexibility demanded by current research practices.

As to revision of the comprehensive list requirement, the *Wheat Report* noted the possibility that an industry survey could condition the market.[16] The Commission believes, however, that this possibility may be lessened where research reports discussing the registrant contain similar information, opinions or recommendations with respect to a substantial number of other companies in the registrant's industry. The opportunity for the abuses Section 5 was enacted to correct may still be present, however, where a research report covers only a few companies constituting a sub-industry group or where an entire industry is composed of a small number of companies. While the Commission contemplates that the term "industry" for purposes of Rule 139 would refer to broad categories of similar business (*e.g.*, banking, airlines, steel) and not narrowed groups of sub-industries, the Commission seeks comment on whether it should define the term "industry" and, if so, what that definition should be. The Commission also seeks comment as to other alternatives which would ensure a sufficiently broad discussion of various securities.

Second, existing paragraph (b) is proposed to be revised (as new paragraph (b)(2)(i)) by adding the word "materially" to the requirement that the information, opinion or recommendation be given no greater space or prominence than that given other securities. The Commission believes that the no greater space or prominence provision continues to be necessary to avoid the risk of conditioning the market, but also believes that the requirement may be made more flexible by adding a materiality standard.

The Commission is proposing to retain the projections condition of existing paragraph (b) without change. The Commission recognizes that its position with respect to projections made by registrants has changed since Rule 139 was adopted; projections by registrants are encouraged and granted safe harbor protection under Rule 175 [17 CFR 230.175].[17] While the Commission is proposing no change to the Rule 139 projections provision, it solicits specific comment as to what treatment should be accorded projections made by broker-dealers in research reports.

Third, existing paragraph (c) is proposed to be revised (as new paragraph (b)(3)) to simplify and clarify the requirement as to the favorable opinion or recommendation in the last publication. The revised language would indicate that the "at least as favorable" opinion or recommendation must have been contained in the last publication of any type discussing the registrant or its securities which was distributed by a dealer before commencement of participation in the offering.

Finally, the Commission is proposing to simplify and clarify Rule 139 by making four changes in the introductory paragraph to the Rule. First, the reference to publication activities "in the regular course of business" in the introductory paragraph is proposed to be deleted because this requirement will be contained in new paragraph (a) as to qualified S–3 or F–3 registrants and new paragraph (b) as to other companies. Second, the reference to a registrant which "has filed or proposes to file" a registration statement is proposed to be revised to read "proposes to file, has filed or has an effective" registration statement. This revision would make clear that the Rule applies to all time periods in the registration process. Third, the provision regarding dealers who are or will be "a member of the underwriting syndicate or dealer group" is proposed to be revised to read "participate in the distribution." The Commission believes this term is more flexible and better reflects current corporate financing practices. Fourth, while the Rule currently addresses information, opinions or recommendations regarding only the securities in registration, the proposed revision addresses publication of information, opinions or recommendations with respect to the registrant or any class of its securities.[18]

III. Interim No Action Position

In the recent release adopting amendments to Rule 10b–6,[19] the Commission noted that research reports which exceed the limitations currently contained in Rule 139, in some instances, may constitute neither inducements to purchase for Rule 10b–6 purposes nor offers for sale or offers to sell securities for purposes of Section 2(10) and 5(c) of the Securities Act. The Commission cited as examples (1) industry or sub-industry reports disseminated as part of a firm's continuing research program which are similar in tone and appearance and are distributed with reasonable regularity in the normal course of business and discuss registrants without giving special treatment to the security to be distributed and (2) reports that constitute a factual or statistical update on a registrant in an industry or sub-industry regularly covered by the firm. In that release, the Commission also noted that it might reconsider the treatment of research reports under Rule 10b–6 in light of its review of Rule 139. Commentators may wish to address whether Rule 10b–6 should be modified to be consistent with the proposed amendments to Rule 139.

Pending adoption of amendments to Rule 139, the staff reaffirms the position taken in Release No. 34–19565 that it will not recommend that the Commission take enforcement action under Sections 2(10) and 5(c) of the Securities Act if a broker-dealer issues research reports consistent with the position under Rule 10b–6 stated in that Release.

IV. Statutory Authority

The revisions of Rule 139 are being proposed pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933.

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

V. Text of Proposal

In accordance with the foregoing, it is proposed to amend Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

By revising § 230.139 to read as follows:

§ 230.139 Definition of "offer for sale" and "offer to sell" in sections 2(10) and 5(c) in relation to certain publications.

Where a registrant which is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 proposes to file, has filed or has an effective registration statement under the Securities Act of 1933 relating to its securities, the publication or distribution by a dealer of information, an opinion or a recommendation with respect to the registrant or any class of its securities shall not be deemed to constitute an offer for sale or offer to sell the securities registered or proposed to be registered for purposes of sections 2(10) and 5(c) of the Act, even though such dealer is or will be a participant in the distribution of such securities, if the conditions of paragraph (a) or (b) have been met:

(a) The registrant meets the registrant requirements of Form S–3 (§ 239.13 of this chapter) or Form F–3 (§ 239.33 of this chapter) and the transaction requirements of either paragraph (B)(1) or (2) of General Instruction I of the respective form and such information, opinion or recommendation is contained in a publication which is distributed with reasonable regularity in the normal course of business; or

(b)(1) Such information, opinion or recommendation is contained in a publication which:

(i) Is distributed with reasonable regularity in the normal course of business and

(ii) Includes similar information, opinions or recommendations with respect to a substantial number of companies in the registrant's industry;

(2) Such information, opinion or recommendation:

(i) Is given no materially greater space or prominence in such publication than that given to other securities or registrants and

(ii) Does not include projections of sales or earnings beyond the registrant's current fiscal year or following fiscal year if within the last six months of the current fiscal year; and

(3) An opinion or recommendation at least as favorable as to the registrant or any class of its securities was published by the dealer in the last publication of such dealer addressing the registrant or its securities prior to the commencement of participation in the distribution.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; Secs. 205, 109, 48 Stat. 906, 908; Sec. 8, 68 Stat 685; Sec. 306(a)(2), 90 Stat. 57; 15 U.S.C. 77f, 77g, 77j, 77s(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

Dated: October 5, 1983.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that proposed Rule 139, if promulgated, will not have a significant impact on a substantial number of small entities. The reason for this certification is as follows: Rule 139 provides guidance and non-exclusive safe harbor protection under Section 5 of the Securities Act of 1933 with respect to the publication of research reports by broker-dealers who participate in distributions of securities. The proposed amendments would expand the class of broker-dealers publications which come within the protection of the Rule. The type of business done by small broker-dealers is such that they generally do not need to use the Rule. Few small broker-dealers underwrite securities. 4,596 broker-dealers are classified as small entities for purposes of the Regulatory Flexibility Act. Of those, 463 reported underwriting profits or losses in 1982. Those small broker-dealers that do underwrite securities earn relatively minor amounts of underwriting income. Only half of the broker-dealers that underwrite securities derive over $50,000 in annual income from underwriting. Moreover, small broker-dealers that underwrite securities generally underwrite local offerings, such as municipal securities, which are unlikely to involve the reporting companies covered by Rule 139. Finally, proposed Rule 139 imposes no additional burden on any entity.

Dated: October 6, 1983.

John S. R. Shad,

Chairman.

[FR Doc. 83-27935 Filed 10-13-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

Elimination of Sureties on Customs Bonds

AGENCY: Customs Service, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Customs is considering a revision of its bonding policy to eliminate the requirements in the Customs Regulations of having a surety on a Customs bond in certain instances. This change is being considered because the additional security of a surety appears in many cases to be unnecessary. Further, the increased costs of premiums, which are ultimately passed on to the consumer, may not be warranted in view of the minimal potential risks to the revenue of the United States. The public is invited to comment on the merits of the proposal and the various alternative ways in which the change of policy may be implemented. If it is finally decided to change the policy and eliminate the surety requirement on Customs bonds, numerous amendments to the Customs regulations will be necessary and will be the subject of a notice of proposed rulemaking published in the Federal Register.

DATE: Comments and requests for a public hearing must be received on or before December 13, 1983.

ADDRESS: Comments (preferably in triplicate) and requests for a public hearing should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229

FOR FURTHER INFORMATION CONTACT: William Rosoff, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5856).

SUPPLEMENTARY INFORMATION:

Background

The contract of suretyship is an agreement whereby one person binds himself to answer for the debt, default, or miscarriage of another. Every suretyship contract involves three parties known as the principal, the surety, and the creditor.

The principal is the person for whose account the contract is made and whose debt or default is the subject of the transaction. With respect to Customs transactions the principal is an importer, broker, carrier, cartman, lighterman, warehouse proprietor, public gauger, or some other person engaging in a Customs transaction.

The one to whom the debt or obligation runs, the obligee in suretyship, is called the creditor. In the

[15] For example, comment letters received in connection with the recent revisions of Rule 10b–6 indicated that many brokerage firms regularly publish industry surveys rather than comprehensive lists. Release No. 34–19565, File No. S7–921.

[16] *Wheat Report* at 143.

[17] Release No. 33–6084 (June 25, 1979) [44 FR 38810].

[18] A similar change also is reflected in proposed paragraph (b)(3).

[19] Release No. 34–19565.

VOL
48
ISS
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14
1983
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case of Customs transactions the creditor is the U.S. Customs Service.

The surety is the person who agrees that the debt or obligation running from the principal to a creditor shall be performed and who undertakes on its own part to perform it if the principal does not. The surety receives a fee from the principal for undertaking the responsibility. This fee is known as a premium.

In the case of Customs transactions, suretyship generally is a lending of credit for a fee to aid a principal who has insufficient credit or financial resources on its own, and is a direct contract to pay the principal's debt or perform his obligation in case of the principal's default. The contract is created for the protection of the creditor, the U.S. Customs Service, to whom the surety obligates himself. Customs is, therefore, the person with whom the surety contracts and the beneficiary of the surety's obligations rather than the principal.

When merchandise, other than noncommercial merchandise, accompanying a traveler arrives in the United States, it ordinarily remains in Customs custody until the importer, consignee, or the authorized agent of either, establishes ownership and complies with the applicable Customs laws and regulations or laws and regulations enforced by Customs for other Federal and State agencies. In some instances, especially in the case of duty-free noncommercial importations, the merchandise may be released to the importer, consignee, or an authorized agent merely upon furnishing proof of ownership, and no formal documentation is required. However, in most cases involving commercial importations, the presentation to Customs of formal documentation is required to obtain release of the merchandise. The Customs transaction releasing the merchandise to the importer is referred to as an "entry".

As a part of the entry documentation, the importer, consignee, or an authorized agent usually is required to file with Customs a bond with an approved surety. The bond, among other things, guarantees that proper entry, with payment of estimated duties and taxes when due, will be made for imported merchandise and that any additional duties and taxes subsequently found to be due will be paid. The bond also guarantees redelivery of imported merchandise to Customs custody for examination or inspection if found not to comply with applicable laws and regulations. Redelivery may be required as a result of a failure to properly mark, lable, clean, or fumigate the imported merchandise; or a failure to destroy or export the imported merchandise, if appropriate.

A bond with appropriate surety also may provide, as a condition of its satisfaction, for the production of any missing invoices, declarations, certificates, or other documents required in connection with the entry of imported merchandise, in the form and within the time required.

Bonds with surety are used to secure other Customs transactions besides those of importers. For example, carriage of imported merchandise that has not been examined or appraised by Customs must be secured by a Customs bond to guarantee performance of various Customs obligations. Those performance bonds are required from bonded carriers, bonded cartage and lighterage operators, and persons who are authorized to carry merchandise when bonded carrier facilities are not reasonably available. Among other things those persons are contractually bound to safely deliver that merchandise to Customs at the destination. They are bound to report arrival of the merchandise to Customs at the destination so that it can be examined for Customs purposes and they are bound not to deliver that merchandise to the ultimate consignee until Customs determines that it can be released. If the bond principal fails to perform as agreed, the principal and surety become liable for payment to Customs of liquidated damages. The demand for liquidated damages is initially made on the principal and if the principal fails to pay the liquidated damages claim a demand is made upon the surety for payment.

A similar bonding situation exists for persons who operate Customs bonded warehouses, container stations, and foreign-trade zones. A bond, with surety, from these people is needed to protect the Government from loss. Generally, imported merchandise is placed in such places before the amount of duty due has been determined. Moreover, until that merchandise is withdrawn for consumption, no duty is paid by the importer. The bond given by such persons serves as a guarantee that the stored merchandise will be kept safely and that it will be released only when authorized by Customs.

Other bonds are required in special instances. For example, persons who use the accelerated drawback program are required to file a bond with appropriate surety to guarantee repayment of any money erroneously paid. Another special bond is that required of copyright owners who claim that an imported article infringes that copyright and request Customs to detain that article pending a final determination on the infringement claim. That bond insures that any damage caused to the importer by an erroneous detention will be compensated for by the copyright owner claiming infringement.

Presently, there are approximately 50 different forms of Customs bonds in use, all of which require a surety. Part 113, Customs Regulations (19 CFR Part 113), sets forth a description of the various bonds and the general requirements applicable to Customs bonds including the surety requirement. It contains the general authority and powers of the Commissioner of Customs to require bonds, the classes of bonds, procedures for their approval and execution, general and special bond requirements, requirements which must be met to be either a principal or a surety, requirement concerning the production of documents, and the authority and manner of assessing damages and of cancelling the bond or charges against a bond.

The statutory authority for requiring bonds with surety is found in section 623, Tariff Act of 1930, as amended (19 U.S.C. 1623). Section 623 provides that in any case in which a bond or other security is not specifically required by law, the Secretary of the Treasury may by regulation or specific instruction require, or authorize Customs officers to require, such bonds or other security as may be deemed necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Customs Service may be authorized to enforce.

The above authority has been relied upon for promulgating regulations requiring bonds with surety for most Customs transactions. However, in three instances there is specific statutory authority for a bond with surety to cover the Customs transaction involved.

Section 555, Tariff Act of 1930, as amended (19 U.S.C. 1555), relating to bonded warehouses, provides that before any imported merchandise not finally released from Customs custody shall be stored in bonded warehouses, the owner or lessee of the warehouse shall give a bond in such amount and with such sureties as may be approved by the Secretary, to secure the Government against any loss or expense connected with or arising from the deposit, storage, or manipulation of merchandise in the warehouse.

Section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608), relating to

claims of an interest in seized vessels, vehicles, merchandise or baggage, indicates that a bond to pay court costs of condemnation proceedings shall be given by the claimant with sureties approved by Customs.

Section 463, title 22, United States Code (22 U.S.C. 463), provides that the owners or consignees of every armed vessel sailing out of U.S. ports or under the jurisdiction of the U.S., belonging wholly or in part to a U.S. citizen, shall, before clearing, give a bond to the U.S. with sufficient sureties, in double the amount of the value of the vessel and cargo on board, including her armanent, conditioned that the vessel shall not be employed by the owners to cruise or commit hostilities against the subjects, citizens, or property of anyone with whom the U.S. is at peace.

With the exception of the above three provisions, the requirement for a surety on a Customs bond is established by regulation. Customs has for many years imposed this regulatory requirement upon all segments of the importing community. The cost of premiums charged by the surety industry is an expense to the importing community which increases its cost of doing business and is ultimately passed on to the consumer. The additional security of surety appears in many cases to be unnecessary. This is particularly true with respect to importers who have done business with Customs for many years without problems. The type of merchandise imported is also a significant factor in determining the potential risk to the revenue.

Customs is considering revision of its existing bond policy to eliminate the requirements in the Customs Regulations of having a surety on a Customs bond in certain instances. The purpose of this notice is to afford the public a meaningful opportunity to participate at an early stage in the development of this proposal by submitting comments on the merits of the proposal, the alternative ways set forth in this document for implementation of this change of policy and by suggesting additional alternatives to those presented.

Numerous alternative approaches are possible. The complete elimination of sureties other than on bonds taken pursuant to the three statutory provisions set forth above which require surety is one possible approach. Customs bonds would then be submitted with only the signature of the principal. The principal would be solely responsible for the performance of the bond conditions and solely liable for their breach. If this approach is adopted, Customs would probably seek legislation eliminating the statutory requirement for surety under 19 U.S.C. 1555 and 1608, and 22 U.S.C. 463. If this approach is adopted the question arises as to whether or not Customs should seek legislation to require a fee to accompany each bond which would be placed in a fund to compensate the Government for any loss resulting from breach of the bond conditions by principals. If such a fund is established the fee could be either a flat fee per bond or a fee based upon the dollar amount of the bond. In either event Customs contemplates that any fee would be substantially less than the present premium charges of surety companies and would result in substantial savings to principals. If a fee is charged the fee would be periodically adjusted based upon the loss resulting from breach of the bond conditions by principals. In order to insure that substantial increases in any fee does not occur, and unjustly cause increases in fees to principals who satisfactorily perform under the bond, if this approach is adopted, Customs would vigorously pursue collection action against principals who breach bond conditions.

Another option is to eliminate the requirement for a surety on bonds less than a set monetary amount. Pub. L. 83-243 (67 Stat. 517) requires that all commercial imports valued over $250 be covered by a formal entry. Section 142.4, Customs Regulations (19 CFR 142.4), provides that, with certain exceptions, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, unless covered by a bond secured by an approved corporate surety or secured by cash deposits or obligations of the United States.

While the imposition of bonding and surety requirements may be necessary both in terms of import control and revenue protection for large commercial shipments, Customs believes that the same rationale does not apply to small shipments (e.g., those valued less than $1,000).

Customs estimates that it would cost an inexperienced importer attempting to import a duty-free, unrestricted, commercial shipment valued at $300, approximately $100 for a customs broker's fees and for use of the broker's surety-backed bond.

The $250 formal entry limit has been in existence since 1953 without any upward adjustment for inflation. If the limit had been adjusted for price changes, it would have been $1,144 in September 1982 (based on the International Monetary Fund's unit value index of U.S. general imports). Accordingly, if the requirement for a surety bond were to be applied only to entries valued over $1,000 (or perhaps somewhat above $1,000), the actual risk to the Government would not be any greater (relatively) than under the $250 formal entry limit of 1953.

Since February 4, 1980, the North Central Customs Region has been conducting a pilot program of accepting formal entries valued not more than $1,000 without surety or the required bond. The program has been running smoothly with no incidents requiring redelivery of merchandise or the imposition of a penalty.

For the foregoing reasons, Customs believes that there is no justification in terms of cost benefit or public service to support the continued imposition of the bonding requirement for entries valued less than $1,000. Instead, Customs believes that its regulations could be amended to eliminate the necessity of providing bonds supported by surety or cash deposit on small value shipments which, by law, require a formal entry.

While cost data has not been developed for amounts greater than $1,000, Customs would appreciate receiving comments from interested parties on the above alternative and amounts greater than $1,000 (e.g. $5,000, $10,000).

The use of cash or monetary obligations of the Government as an alternative to a surety could be used to eliminate sureties even on bonds where surety is specifically required by statute. This option is specifically authorized by section 623(e), Tariff Act of 1930, as amended, (19 U.S.C. 1623(e)), which provides that the Secretary of the Treasury is authorized to permit the deposit of money or obligations of the United States, in such amount and upon such conditions as he may by regulation prescribe, in lieu of sureties on any bond required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce.

Use of this option would bypass the need to have legislation amending 19 U.S.C. 1555 and 1608, and 22 U.S.C. 463.

Another alternative providing for elimination of sureties on importer's bonds could be based on an assessment of each importer's reliability. Features of this alternative would include standards for making that assessment. For example, an importer might not be eligible unless the importer had at least

VOL 48 ISS 200 OCT 14 1983 UMI

one entry per week for a 52-week period. Additional eligibility requirements could be prompt payment of all Customs bills and full compliance with all entry requirements such as the prompt redelivery for exportation of inadmissible merchandise on demand during the same 52-week period. Other requirements might be the absence of violations of the Customs laws and other laws and regulations administered by Customs. Similar requirements would be established for individuals engaged in other classes of Customs transactions (e.g. cartmen, lightermen, warehouse proprietors, etc.)

An alternative providing for elimination of sureties on bonds securing specific types of merchandise or transactions could apply to importations of merchandise that has been examined by Customs, importations of duty-free merchandise, importations of merchandise on which no issue of admissibility exists, and importations below a certain value.

Another option would be for Customs to retain the present bonding system but offer importers and other persons engaged in transactions with Customs for which a bond is required the alternative of using a contract surety. Participation in this program would be completely voluntary. Under this alternative Customs would enter into a contract with a commercial surety under the procurement regulations to act as surety for substantially all Customs transactions at rates Customs believes would be significantly below rates currently offered. If the party engaging in a Customs transaction desired to use this alternative method, it would, at the time the bond is normally filed for the type of transaction involved, indicate that it wanted to use the contract surety. By contract with the surety, Customs would collect the premium payments and turn them over to the surety on a periodic basis. Under the terms of the contract between the surety and Customs, the surety would make payments to Customs for breaches of the bond obligations. The surety would engage in the normal collection efforts of any commercial surety to recover sums paid out to Customs.

Other alternative approaches in addition to the above obviously exist. Commenters are invited to propose these alternatives in their comments and discuss the manner in which the proposed alternatives can be implemented.

Executive Order 12291

This document will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

It appears that the rule, if promulgated, may have a significant economic impact on a substantial number of small entities, and thus require an initial regulatory flexibility analysis in accordance with the provisions of section 3 of the Regulatory Flexibility Act (the "Act") (5 U.S.C. 603). The Customs office responsible for the preparation of the analysis under the Act is in the process of determining whether such an analysis is indeed necessary. Accordingly, if it is decided to proceed with this matter, the notice of proposed rulemaking will (1) have as an attachment the initial regulatory flexibility analysis or (2) contain a certification by the Secretary of the Treasury that the analysis is not, in fact, required by the Act.

Comments

Before proceeding to a notice of proposed rulemaking on this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

If the commenters indicate interest in a public hearing, one will be held. Written requests for a public hearing should be directed to the Regulations Control Branch at the above address. Only commenters on this notice will be authorized to participate in the public hearing. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Authority

This document is issued under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 623, as amended, 624, 46 Stat. 759 (19 U.S.C. 1623, 1624).

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,
Commissioner of Customs.

Approved: October 3, 1983

John M. Walker, Jr.,
Assistant Secetary of the Treasury.

[FR Doc. 83-27825 Filed 10-13-83; 8:45 am]
BILLING CODE 4820-02-M

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19 CFR Part 4

Entry and Clearance of Vessels

AGENCY: Customs Service, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: There has been a lack of uniformity in the application of the entry and clearance requirements of the navigation laws to vessels engaged in the lightering of import and export cargo between the United States and vessels located beyond the territorial waters of the United States. Customs has under consideration the clarification of the applicability of these requirements to vessels engaged in the following transactions:

1. Transporting (by foreign or American lighters and other vessels) export merchandise out of the United States to be transshipped at a point on the high seas to usually larger vessels that will be engaged in the transportation of the export merchandise to a foreign country.

2. Transporting (by American lighters and other vessels) import merchandise to the United States after transshipment on the high seas from usually larger vessels that have engaged in the transportation of the import merchandise to that point from a foreign country (foreign lighters and other vessels engaged in this type of movement are uniformly now subject to the entry requirements of the navigation laws).

The public is invited to submit written comments on the merits of this clarification, offer alternative approaches, and suggest other areas relating to this subject which Customs should consider.

DATE: Comments should be received on or before December 13, 1983.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Edward B. Gable, Jr., Carriers, Drawback & Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Formal entry of a vessel is now required by section 434 (if an American vessel) or section 435 (if a foreign vessel), Tariff Act of 1930, as amended (19 U.S.C. 1434, 1435). These entry requirements of the nagivation laws are derived from provisions of the Act of March 2, 1799 (e.g. section 2774, Revised Statutes of the United States). Regulations implementing these entry requirements are set forth in §§ 4.3 and 4.9, Customs Regulations (19 CFR 4.3, 4.9). Clearance of a vessel is required by section 4197, Revised Statutes, as amended (46 U.S.C. 91). This requirement is derived from section 93 of the Act of March 2, 1799. Regulations implementing these clearance requirements are set forth in § 4.60, Customs Regulations (19 CFR 4.60).

These vessel entry and clearance requirements of the navigation laws are basic to the proper discharge of primary missions of Customs (i.e., (1) assessment and collection of import duties and taxes, and (2) control of carriers, persons, and articles entering or departing the United States and the enforcement of statutory restrictions and prohibitions). Clarification of the applicability of the entry and clearance requirements is considered necessary because of technological advances in water transportation and in the transportation of cargo since the Act of March 2, 1799. This is especially true in recent years with the increased use of vessels to transport import and export cargo between the United States and foreign countries via locations on the high seas beyond the territorial waters of the United States. At those locations the import and export cargo is transshipped to and from lighters and other vessels arriving from and departing for the United States with the cargo.

Section 434, Tariff Act of 1930, as amended (19 U.S.C. 1434) uses the language "arriving in the United States from a foreign port or place" and section 4197, Revised Statutes, uses the term "bound to a foreign port." Clarification of these phases is essential to a proper application of the law. For example, the question has been raised as to whether the statutory language is applicable to lighters and other vessels arriving in the United States with import cargo transshipped from a vessel on the high seas or bound out of the United States with export cargo for transshipment to a vessel on the high seas.

If the entry and clearance requirements of the navigation laws are not applicable to lighters and other vessels transporting import and export cargo in and out of the United States from and to vessels located on the high seas, it would be, at least theoretically, possible for the bulk of the import and export cargo of the United Staes to be transported in vessels not subject to statutory entry and clearance requirements upon arrival at or departure from the United States. This would clearly be contrary to the legislative purpose sought to be accomplished by the entry and clearance requirements of the navigation laws and would create severe problems for Customs in carrying out the missions of the agency.

The proposed clarification of the term "foreign place" in section 434, Tariff Act of 1930, as amended, as including a place on the high seas where import cargo will be transshipped to a lighter or other vessel for shipment to the United States will permit uniform application of the entry requirements of the navigation laws to all vessels actually arriving in the United States with import cargo. The clarification will not mean that the entry requirements of the navigation laws of the United States will be applied to vessels transporting import cargo from foreign ports or places to the locations on the high seas.

The proposed clarification of the term "foreign port" in section 4197, Revised Statutes, as amended, as including a place on the high seas where export cargo will be transshipped from a lighter or other vessel for shipment to a foreign country, in Customs opinion, must be read in conjunction with section 4201, Revised Statutes (46 U.S.C. 96), prescribing the form of clearance to be granted in vessel on departure "to a foreign port or place," and in conjunction with title 13, United States Code, section 301-307, as amended, providing for the collection of detailed statistics on imports into and exports from the United States. The clarification will permit uniform application of the clearance requirements of the navigation laws to all vessels actually departing the United States with export cargo. The clarification will not mean that clearance requirements of the navigation laws of the United States will be applied to vessels transporting export cargo laden at locations on the high seas for shipment to foreign ports or places.

It is believed that comments by the United States Court of International Trade in *Mount Washington Tanker Company, a Subsidiary of Victory Carriers, Inc.* v. *United States*, 505 F. Supp. 209, 1 CIT 32, are pertinent to the proposed clarification of the entry and clearance laws. In that case the Court considered certain language in section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), a statute which provides, in part, for dutiability of "the expenses of repairs made in a foreign country" upon certain vessels. The facts in the case show that employees of a foreign vessel repair corporation were flown to the vessel from the foreign country. They then travelled with the vessel for a month and a half performing numerous repairs to the vessel while it was on the high seas. One of the issues before the Court was whether the repairs made on the high seas by the employees of the foreign vessel repair corporation were dutiable within the meaning of the statutory language providing for duty on "the expenses of repairs made in a foreign country." The Court held that the repairs made on the high seas by the employees of the foreign corporation, flown from the foreign country to the vessel for the purpose of making the repairs, were dutiable.

In reaching its conclusion in the *Mount Washington* case, the Court cited *Procter & Gamble Manufacturing Co.*, v *United States*, 19 CCPA 415, *cert. denied*, 287 U.S. 629, 53 S. Ct. 82 (1932), which states, in part, that when "it appears that a literal interpretation of the statute involved would produce a result contrary to the apparent legislative intent, then the letter of the statute must yield and the legislative intent be carried out." In the *Procter & Gamble* case, the issue raised was whether whale oil produced aboard a Norweigan ship and brought in the United States was dutiable under a statute providing for duty "upon all articles when imported from any foreign country." In affirming the lower Court's holding that the statute included importations from the high seas, the United States Court of Customs and Patent Appeals, citing the Supreme Court case of *Burnett* v. *Chicago Portrait Co.*, 285 U.S. 52 S. Ct. 275, (1932), stated:

> There is no hard and fast definition for the term 'foreign country,' as it appears in the acts before us. Such meaning may be broad or narrow, as the apparent intent of the statute requires.

The Court also cited *The Brig Concord*, 13 U.S. (9 Cranch) 387 (1815), where the Supreme Court held that

VOL 48 ISS 200 OCT 14 1983 UMI

goods, captured on the high seas by an American privateer from a neutral Spanish ship, were dutiable when brought into the United States to be commingled and sold in the commerce of the United States.

The Court in *Mount Washington* stated that the *Procter & Gamble* and *Brig Concord* cases "demonstrate clearly that the courts are mindful of the legislative purpose sought to be accomplished by the tariff laws of the United States. Indeed, the Court of Customs and Patent Appeals in *Procter & Gamble* noted that: 'If this language (foreign country) were to be literally construed, therefore, goods that come from the high seas might seem not to be imported from a foreign country, for the high seas are the common property of all nations and the exclusive property of none.' " The Court went on to state "it is clear that in interpreting the meaning of statutory terms used in tariff laws the courts have not been inflexible, but have striven to effectuate the animating purpose of the legislation."

The Court in *Mount Woshington* stated in its conclusion that "were the statutory language 'foreign country' to exclude the high seas from its ambit, the legislative purpose of section 1466 would be frustrated. It is apparent from a reading of all the cases cited * * * that the courts, in all instances, have furthered, not frustrated the legislative purpose of the statutes under examination The cases reveal that the interpretation of the words 'foreign country' is based upon the courts' understanding of the purpose and intent which underlie the governing statutes. In the words of Mr. Justice Reed in *United States* v. *Spelar*, 338 U.S. 217, 221 (1949), 'the legislative will must be respected.' Thus to fulfill the legislative intent the term 'foreign country' has been interpreted to mean a place foreign to or outside the territorial limits of the United States * * *

That the term 'foreign country' has no definitive meaning, apart from its statutory setting, may also be gleaned from the concurring opinion of Mr. Justice Frankfurter in *Spelar*, in which he stated that:

"To assume that terms like 'foreign country' and 'possessions' are self-defining, not at all involving a choice of judicial judgement, is mechanical jurisprudence at its best. These terms do not have fixed and inclusive meanings, as is true of mathematical and other scientific terms. Both 'possessions' and 'foreign country' have penumbral meanings, which is not true, for instance, or the verbal designations for weights and measures. It is this precision of content which differentiates scientific form most political, legisative and legal language. * * * To exclude the high seas from the statutory words 'foreign country' in the present case * * * would frustrate the legislative purposes * * * "

Comments

Before proceeding to a notice of proposed rulemaking on this matter, Customs invites written comments from all interested parties on the clarification under consideration and on suggestions of related areas which should be studied. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

If after the comments are received and analyzed, it is determined to proceed, a notice of proposed rulemaking will be published in the **Federal Register** providing interested parties ample opportunity to submit written comments on specific proposals for regulatory amendments.

Executive Order

This document will not result in a regulation which is a "major rule" as defined in section 1(b) of Executive Order 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

It appears that the rule, if promulgated, may have a significant economic impact on a substantial number of small entities, and thus require an initial regulatory flexibility analysis in accordance with the provisions of section 3 of the Regulatory Flexibility Act ("the Act") (5 U.S.C. 603). A determination will be made whether such an analysis is indeed necessary. Accordingly, if it is decided to proceed with this matter, the notice of proposed rulemaking will have (1) as an attachment the initial regulatory flexibility analysis or (2) a certification by the Secretary of the Treasury that the analysis is not, in fact, required by the Act.

Authority

This document is issued under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 2, 3, 23 Stat. 118, as amended, 119, as amended (46 U.S.C. 2, 3), section 624, 46 Stat. 759, as amended (19 U.S.C. 1624).

List of Subjects in 19 CFR Part 4

Customs duties and inspections, Exports, Freight, Harbors, Imports, Maritime carriers, Reporting and recordkeeping requirements, Vessels.

Drafting Information

The principal authors of this document were Edward Gable, Carrier Rulings Branch, and John Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,
Commissioner of Customs.

Approved: October 3, 1983.

John W. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 83-27824 Filed 10-13-83; 8:45 am]
BILLING CODE 4820-02-M

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19 CFR Part 4

Proposed Customs Regulations Amendments Relating to Outward Cargo Declarations

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to outward cargo declarations used in connection with the clearance of vessels. The amendments would: (1) State that while a Customs Form will not be considered an equivalent commercial document, a cargo list in a format similar to Customs Form 1302 is acceptable for Customs purposes as an equivalent commercial document; (2) specify the information required on Customs Form 1302–A, or on the attached copies of bills of lading or equivalent commercial documents; and (3) delete reference to Customs Form 1302 from certain sections of the regulations.

These amendments are being proposed to conform the regulations to statute, and to improve procedures for providing necessary information to Customs.

DATE: Comments must be received on or before December 13, 1983.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Donald H. Reusch, Carriers, Drawback and Bonds Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. (202–566–5706.)

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 96–275, an Act "to protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements," amended 46 U.S.C. 93 to provide that copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the vessel manifest shall be attached to the manifest and delivered to the appropriate Customs officer at the time the manifest is delivered.

Section 4.63(a), customs Regulations (19 CFR 4.63(a)), currently provides, in part, that no vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports, unless there has been filed with the district director of Customs at the port from which clearance is being obtained: (1) A Cargo Declaration (Customs Form 1302), or a Cargo Declaration Outward with Commercial Forms (Customs Form 1302–A), either form with copies of bills of lading or equivalent commercial forms; or (2) an incomplete Cargo Declaration as provided for in § 4.75, Customs Regulations (19 CFR 4.75).

While existing procedures are satisfactory for many carriers, certain carriers would like to use the Customs Form 1302 as an "equivalent commercial document or form" instead of submitting copies of bills of lading. It is contended that, because of the advent of computerized print-outs and the automated data processing of outward manifests, it is much easier for many of the carriers to present a completed Customs Form 1302 as an equivalent commercial document or form, than to assemble copies of bills of lading. The National Committee on International Trade Documentation, on behalf of a group of carriers, has requested that a completed Customs Form 1302 be accepted as an equivalent commercial document.

Customs has determined that while a Customs form is not an equivalent commercial document, a computerized print-out in the format of the Customs Form 1302, with appropriate deletions so that it is not a "Customs form," would be acceptable as an equivalent commercial document or form. Accordingly, Customs proposes to amend § 4.63(c) to provide that a cargo listing a format similar to Customs Form 1302 is acceptable as an equivalent commercial document.

Customs proposes to add a new paragraph (d) to § 4.63, which would pertain to the information submitted on Customs Form 1302–A and the bills of lading or equivalent commercial documents. Existing § 4.63 (d) and (e) would be redesignated as § 4.63 (e) and (f), respectively.

Customs also proposes to delete reference to Customs Form 1302 from § 4.63, except for the provision of proposed § 4.63(c) with respect to an equivalent commercial document, in order to simplify § 4.63, and to simplify procedures for providing necessary information to Customs. It is also proposed to delete reference to Customs Form 1302 from §§ 4.62, 4.75 (a), (b), and (c), 4.82(a), 4.87 (b), (f), and (g), 4.88(c), and 4.89(a), Customs Regulations (19 CFR 4.62, 4.75 (a), (b), and (c), 4.82(a), 4.87 (b), (f), and (g), 4.88(c), 4.89(a)).

Pub. L. 96–275 further amended 46 U.S.C. 93 to provide that certain information shall be included on the manifest, or on the attached copies of bills of lading or equivalent commercial documents. This information would be required in proposed § 4.63(c).

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Imports, Cargo vessels, Reporting requirements.

Proposed Regulations Amendments

It is proposed to amend Part 4, Customs Regulations (19 CFR Part 4), in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. It is proposed to revise § 4.63 to read as follows:

§ 4.63 Outward cargo declaration; shippers' export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see § 4.87(b)), unless there has been filed with the appropriate Customs officer at the port from which clearance is being sought:

(1) A Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, with copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest attached thereto in such manner as to constitute one document, together with a properly executed Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300, and export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce; or

(2) An incomplete Cargo Declaration as provided for in § 4.75.

(b) Except as hereafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, in the marginal column headed "B/L No." If an export declaration is not required for a shipment, a notation shall be made on the Cargo Declaration (Customs Form 1302–A) describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see 15 CFR 30.39, 30.50–30.57) where the particular exemption is provided. If shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial form is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required.

(c) The following minimal information shall be included on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A (other information required to be on a Customs Form 1302–A as shown on the form itself must also be included thereon) or on attached copies of bills of lading or equivalent commercial documents:

(1) Name and address of shipper;

(2) Description of the cargo (see paragraph (d) of this section);

(3) Number of packages and gross weight (see paragraph (d) of this section);

(4) Name of vessel or carrier;

(5) Port of exit (this shall be the port where the merchandise is loaded on the vessel); and

(6) Port of destination (this shall be the foreign port of discharge of the merchandise).

A Customs form will not be considered an equivalent commercial document. If a commercial form similar to a Customs form is used, it shall contain no indicia of a Customs form (such as the agency name or OMB number). A cargo list in a format similar to Customs Form 1302 (which can no longer be used as an outward cargo declaration) is acceptable as an equivalent commercial document.

(d) If the bills of lading or equivalent commercial documents attached to the Customs Form 1302–A show on their face the cargo information required by columns 6, 7, and either column 8 or 9, of the Customs Form 1302–A, that information need not be shown again on the Customs Form 1302–A. However, in that case the cargo information must be incorporated by a suitable reference on the face of the Customs Form 1302–A such as "Cargo as per attached commercial forms."

VOL
48
ISS
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(e) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, or commercial document attached to the Cargo Declaration and made a part thereof in accordance with paragraph (a)(1) of this section, shall clearly show for such shipment the number, date, and class of such Customs entry or withdrawal (i.e., T. & E., Wd. T. & E., I. E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the merchandise is laden for exportation.

(f) Customs officers shall accept a Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, covering containerized or palletized cargo which indicates by the use of appropriate words of qualification (see sec. 4.7a(c)(3)) that the declaration has been prepared on the basis of information furnished by the shipper.

§ 4.62 [Amended]

2. It is proposed to amend § 4.62 by removing the words "Cargo Declaration, Customs Form 1302" and inserting, in their place, the words "Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A."

§§ 4.75, 4.82, 4.87, 4.88 and 4.89 [Amended]

3. It is proposed to amend § 4.75 (a), (b), and (c), § 4.82(a), § 4.87 (b), (f), and (g), § 4.88(c), and § 4.89(a), by removing the words (Cargo Declaration, Customs Form 1302 or 1302-A" and inserting, in their place, the words "Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A."

(R.S. 251, as amended, 4197, as amended, 4199, as amended, section 624, 46 Stat. 759 (19 U.S.C. 66, 1624; 46 U.S.C. 91, as amended, 93, as amended).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the proposed amendments will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendments, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because this document will not result in a regulation which will be a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis as prescribed by section 3 of the E.O. is not required.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,
Commissioner of Customs.

Approved:

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 83–28179 Filed 10–13–83; 8:45 am]
BILLING CODE 4820–02–M

Transportation of Merchandise in Bond

19 CFR Parts 18, 123, and 144

AGENCY: Customs Service, Treasury.
ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide more control over imported merchandise transported in bond from the port of entry to the port of destination or port of exportation. In-bond transportation means the merchandise is moved under contract (bond) guaranteeing delivery to Customs and payment of duties and taxes. With few exceptions, existing regulations do not set a time for the receipt and delivery of in-bond merchandise by a forwarding carrier, or notification to Customs of the arrival of the merchandise at the port of destination or exportation. As a result, the security of that merchandise is jeopardized. These proposed amendments would establish time periods for the receipt, delivery, and notification to Customs of arrival of imported merchandise transported in bond within the United States. The proposal also provides that presentation to Customs of the in-bond document accompanying the merchandise will be acceptable as proof of delivery, and that the new in-bond control system will be applicable to truck shipments of in-bond merchandise transiting the United States to Canada or Mexico.

DATES: Comments must be received on or before December 13, 1983.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: J. Bradley Lund, Office of Inspection and Control (202–566–5354);

Entry Aspects: Jerry Laderberg, Entry Procedures and Penalties Division (202–566–5765);

Bond Aspects: William Lawlor, Carriers, Drawback and Bonds Division (202–566–5856); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Under sections 552 and 553, Tariff Act of 1930, as amended (19 U.S.C. 1552, 1553), any merchandise arriving at a port of entry in the United States, other than expolosives and merchandise the importation of which is prohibited, may be entered without appraisement or payment of Customs duty for: (1) Transportation in bond to any other port of entry; or (2) transportation in bond through the United States for exportation. Either transportation must be made under the rules and regulations prescribed by the Secretary of the Treasury, most of which are set forth in Part 18, Customs Regulations (19 CFR Part 18).

The Customs Regulations do not specifically provide for the time of receipt, delivery, or notification to Customs of arrival of merchandise transported in bond, except for transit air cargo and merchandise being transported for exportation (§§ 6.21 and 18.20, Customs Regulations (19 CFR 6.21, 18.20)). As a result, the security of the merchandise and compliance with Customs laws are jeopardized. Therefore, on August 13, 1976, a notice

of proposed rulemaking was published in the **Federal Register** (41 FR 34271), to amend Part 18, and §§ 123.42, 123.64, 144.36, 144.37, Customs Regulations (19 CFR Part 18, §§ 123.42, 123.64, 144.36, 144.37), to establish time limits of general applicability for the handling of in-bond movements of imported merchandise. However, due to the passage of time and events subsequent to the publication of that notice, it has been decided not to proceed with a final rule at this time, but to publish this second notice of proposed rulemaking and again solicit public comment in the matter.

Accordingly, this notice proposes to amend § 18.2(a), Customs Regulations, to provide that within 5 working days after presentation of an entry for merchandise to be transported in bond, the forwarding carrier would be required to take receipt of the merchandise provided the lay order period or any extension of that period had expired and no other entry had been filed. If the forwarding carrier failed to take receipt of the merchandise in the required period, the transportation entry would be canceled and the merchandise treated as unclaimed as of the date of original arrival.

The notice also proposes to amend § 18.2(c), Customs Regulations, to provide that, except for transit air cargo provided for in § 6.21, Customs Regulations, bonded merchandise destined to a final port in the United States, or for exportation from the United States, would be required to be delivered to Customs at the port of destination or exportation within 30 days, if transported by land, or within 60 days if transported on board a vessel in the U.S. coastal trade, after the date of receipt by the forwarding carrier at the port of origin. Failure to comply with this time limit would constitute an irregular delivery and subject the initial bonded carrier to penalties under § 18.8, Customs Regulations.

Furthermore, it is proposed to amend §§ 18.2(d) and 18.7(a), Customs Regulations, to require a carrier delivering bonded merchandise to surrender the in-bond manifest to the district director within 2 working days, after arrival of any portion of the in-bond shipment at the port of destination or delivery of the merchandise to the exporting carrier at the port of exportation. As noted above, failure to comply with this time limit would constitute an irregular delivery and subject the initial bonded carrier to applicable penalties under § 18.8, Customs Regulations.

In addition to these time limits, this notice proposes an amendment to § 18.8, Customs Regulations, to provide that an acceptable proof of proper delivery of bonded merchandise to Customs at the port of destination or exportation would be a properly receipted copy of the in-bond document (the appropriate Customs Form 7512 of 7520, or the TIR carnet). It is proposed to amend § 18.2(b), Customs Regulations, to provide that the in-bond document and Customs control card (Customs Form 7512–C, Transportation Entry of Manifest of Goods) be prepared by the carrier, shipper, or customhouse broker whenever merchandise is being transported in bond. The Customs in-bond document may be signed by the carrier, customhouse broker, or agent of the carrier.

Customs Form 7512–C previously consisted of a two-part (identical) carbon set. The new Customs Form 7512–C also is a two-part carbon set but the parts are not identical. It is proposed to amend the Customs Regulations by deleting the words "in duplicate" after the words "Customs Form 7512–C" wherever they appear and to substitute the word "destination" for "duplicate" wherever that word appears in the Customs Regulations in reference to the second part of Customs Form 7512–C. Several other editorial changes and conforming amendments also are proposed to Part 18, Customs Regulations.

These proposed amendments to the general provisions contained in §§ 18.1–18.8, Customs Regulations, for transportation in bond would apply to (1) merchandise in transit through the United States to foreign countries (§§ 18.20–18.24, Customs Regulations), and (2) merchandise withdrawn from warehouse for transportation or transportation and exportation (§§ 144.36 and 144.37, Customs Regulations).

The proposed in-bond control system also would apply to baggage in transit from port-to-port in Canada or Mexico through the United States (§ 123.64, Customs Regulations). The proposal is also applicable to an in-bond control system of truck shipments transiting the United States, except when otherwise provided, by adding a new paragraph to § 123.42, Customs Regulations.

Authority

The authority for the proposed amendments is R.S. 251, as amended, sections 552, 553, 557, 623, 624, 46 Stat. 742, as amended, 744, as amended, 759, as amended (19 U.S.C. 66, 1552, 1553, 1557, 1623, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), from 9:00 a.m. to 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

E.O. 12291 and Regulatory Flexibility Act

It has been determined that the proposed amendments are not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulations set forth in this document, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 18

Common carriers, Customs duties and inspection, exports, freight forwarders, imports, surety bonds.

19 CFR Part 123

Canada, Mexico, motor carriers.

19 CFR Part 144

Warehouses.

Proposed Amendments

It is proposed to amend Parts 18, 123, and 144, Customs Regulations (19 CFR Parts 18, 123, 144), in the following manner:

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. Paragraph (a)(1), the first sentence of paragraph (b), and paragraphs (c) and

VOL
48
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1983
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(d) of § 18.2 would be revised to read as follows:

§ 18.2 Receipt by carrier; manifest.

(a)(1) *Merchandise other than from warehouse delivered to bonded carrier.* Except as set forth in paragraph (a)(2) of this section, within 5 working days after presentation of an entry for merchandise to be transported in bond, the forwarding carrier shall take receipt of the merchandise if any lay order period and extension thereof have expired and no other entry is filed. If the forwarding carrier fails to take receipt of the merchandise within the prescribed period, the transportation entry shall be canceled and the merchandise shall be treated as unclaimed as of the date of original arrival.

(2) When merchandise is delivered to a bonded carrier for transportation in bond, the merchandise shall be laden on the conveyance under supervision of a Customs officer unless—

(i) The transporting conveyance is not to be sealed with Customs seals, or

(ii) The lading inspector accepts the check of the carrier as to the merchandise laden. The carrier's receipt shall be given immediately to the lading inspector on the Customs in-bond document (the appropriate Customs Form 7512 or 7520, or the TIR carnet) covering the merchandise. In the case of a carnet, the receipt shall be given on the appropriate vouchers in the following form:

Received the cargo listed herein for delivery to Customs at the indicated port of designation or exportation, or for direct exportation.

Name of Carrier (or Exporter) _____

Attorney-in-fact or Agent of Carrier (or Exporter)

Date _____

(b) A Customs in-bond document, containing a description of the merchandise, and Customs control card (Customs Form 7512–C), shall be prepared by the carrier, shipper, or customhouse broker whenever merchandise is being transported in bond. The Customs in-bond document shall be signed by the carrier, customhouse broker, or agent of the carrier. * * *

(c)(1) After the merchandise has been laden and the in-bond carrier or his agent has receipted the in-bond document, either Customs Form 7512 or 7520 (in duplicate), or the carnet, together with the related Customs Form 7512–C (destination), shall be delivered as a manifest to the conductor, master, or person in charge to accompany the merchandise to its port of destination or exportation. If more than one conveyance is used to transport merchandise, the Customs Form 7512–C (destination) shall accompany the first conveyance, and two copies of Customs Form 7512 shall accompany each conveyance as a manifest of the merchandise transported by that conveyance. A TIR carnet (see § 18.3(b)) shall not be used if more than one conveyance is required.

(2) Except transit air cargo provided for in § 6.21 of this chapter, bonded merchandise destined to a final port of destination in the United States, or for export from the United States, shall be delivered to Customs at the port of destination or exportation within 30 days after the date of receipt by the forwarding carrier at the port of origin, if transported on land. If the merchandise is transported on board a vessel engaged in the United States coastal trade, delivery to Customs at the port of destination or exportation shall be within 60 days after the date of receipt by the forwarding carrier at the port of origin. Failure to deliver the merchandise within the prescribed period shall constitute an irregular delivery and the initial bonded carrier shall be subject to applicable penalties (see § 18.8).

(d) Promptly, but no more than 2 working days, after the arrival of any portion of the in-bond shipment at the port of destination, the delivering carrier shall surrender the in-bond manifest (the in/bond document and related Customs Form 7512–C (destination)) to the district director as notice of arrival of the merchandise. If the in-bond manifest is lost in transit, the in-bond carrier shall report the arrival of the merchandise within the prescribed period and shall be responsible for obtaining copies of the original in-bond manifest. Failure to surrender the in-bond manifest or report the arrival of bonded merchandise within the prescribed period shall constitute an irregular delivery and the initial bonded carrier shall be subject to applicable penalties (see § 18.8).

2. Paragraph (b) of § 18.3 would be revised to read as follows:

§ 18.3 Transshipment; transfer by bonded cartmen.

* * * * *

(b) When bonded merchandise, other than merchandise covered by a TIR carnet, is to be transshipped to more than one conveyance, the carrier, agent of the shipper, customhouse broker, or forwarder shall prepare for each such conveyance, two additional copies of the Customs Form 7512 which accompanied the merchandise to the place of transshipment. The Custom Form 7512 and Customs Form 7512–C (destination) which accompanied the shipment to the place of transshipment shall be presented to the district director there. The Customs officer supervising the transshipment shall execute a certificate of transfer on all copies of the Customs Form 7512. The original copies of the Customs Form 7512 and the related Form 7512–C (destination) shall be delivered to the conductor, master, or person in charge of the first conveyance. Two additional copies of the Customs 7512 shall be delivered to the person in charge of each additional conveyance in which the merchandise is forwarded for delivery to the district director at the port of destination or exportation.

3. Paragraph (a) of § 18.7 would be revised to read as follows:

§ 18.7 Lading for exportation, verification of.

(a) Promptly, but no more than 2 working days, after arrival of any portion of the in-bond shipment at the port of exportation, the delivering carrier shall surrender the in-bond manifest (the in-bond document and related Customs Form 7512–C (destination)) to the district director as notice of arrival of the merchandise. If the in-bond manifest is lost in transit, the in-bond carrier shall report the arrival of the merchandise within the prescribed period and shall be responsible for obtaining copies of the original in-bond manifest. Failure to surrender the in-bond manifest or report the arrival of bonded merchandise within the preseribed period shall constitute an irregular delivery and the initial bonded carrier shall be subject to applicable penalties (see § 18.8).

* * * * *

4. Paragraph (a) of § 18.8 would be revised to read as follows:

§ 18.8 Liability for shortage, irregular delivery, or nondelivery; penalties.

(a) The initial bonded carrier shall be responsible for shortage, irregular delivery, or nondelivery at the port of destination or exportation of bonded merchandise received by it for carriage. An acceptable proof of proper delivery of bonded merchandise to Customs at the port of destination or exportation is a properly receipted copy of the in-bond document (the appropriate Customs Form 7512 or 7520, or the TIR carnet). When sealing is waived, any loss found to exist at the port of destination or exportation shall be presumed to have occurred while the merchandise was in the possession of the carrier, unless conclusive evidence to the contrary is produced.

* * * * *

5. The last sentence of paragraph (b) of § 18.13 would be revised to read as follows:

§ 18.13 Procedure; manifest.

* * * * *

(b) * * * Two copies of Customs Form 7520 and the related Customs Form 7512–C (destination) shall be delivered to the carrier to accompany the baggage and shall be delivered by the carrier to the district director at the port of destination as a notice of arrival.

* * * * *

§ 18.20 [Amended]

6. Paragraph (c) of § 18.20 would be amended by removing the last sentence.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. Paragraphs (c)(1) and (d) of § 123.42 would be amended by substituting the word "destination" for the word "(duplicate)".

2. Section 123.42 would be amended by adding a new paragraph (g) to read as follows:

§ 123.42 Truck Shipments transiting the United States.

* * * * *

(g) *Forwarding procedure.* Except as otherwise provided in this section, merchandise transported in trucks shall be forwarded in accordance with the general provisions for transportation in bond §§ 18.1–18.8 of this chapter).

* * * * *

§ 123.64 [Amended]

3. Paragraph (b) § 123.64 would be amended by substituting the word "(destination)" for the word "(duplicate)".

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

§ 144.36 [Amended]

Paragraph (c) of § 144.36 and paragraph (a) of § 144.37 would be amended by removing the words, "in duplicate".

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: September 21, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83–27971 Filed 10–13–83; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 610

[Docket No. 82N–0029]

Hepatitis Requirements; Proposed Amendment To Permit Shipment of any Blood Product Before Test for Hepatitis B Surface Antigen Is Completed

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics regulations to permit, where written approval is obtained from the Director, Office of Biologics, shipment of any blood product for further manufacturing, such as source leukocytes for manufacturing interferon, before the test for hepatitis B surface antigen (HB_sAg) is completed and the test results are received by the collection facility. This action will confirm that a blood product can be shipped for manufacture before the test the HB_sAg is completed and is expected to increase the availability of new and valuable blood products are that important to the medical community.

DATES: Comments by December 13, 1983. FDA proposes that any final rule based on this proposal be effective on its date of publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205; 301–443–1306.

SUPPLEMENTARY INFORMATION: Interferon is a protein produced by cells in response to some stimulation, usually by a virus. At least three varieties of interferon have been identified. One type, leukocyte interferon, is produced by leukocytes (i.e., white blood cells). A second type, fibroblast interferon, is generated by fibroblasts (i.e., cells that form connective tissue in skin and other organs). The third type, immune interferon, is apparently made by T lymphocytes (part of the body's immune system). Although each type of interferon is naturally produced in the human body, interferon can also be produced commercially using the various cells obtained from human donors.

The leukocytes used in the commercial production of leukocyte interferon are generally obtained from the "buffy coat" (i.e., a layer of white cells formed between the red cells and plasma when whole blood is centrifuged). Source leukocytes (leukocytes collected for further manufacturing) are a component of blood and are usually obtained from a donor either by collection of whole blood or by plasmapheresis. Therefore, source leukocytes are biological products subject to the licensing provisions of section 351(a) of the Public Health Service Act (42 U.S.C. 262).

According to current information, the optimum production of interferon from source leukocytes is achieved within 24 hours after the collection of the source leukocytes. Consequently, there is a need to use the source leukocytes for manufacturing interferon as soon after collection as possible.

In January 1981, FDA's former Bureau of Biologics made available revised guidelines for the collection of source leukocytes for further manufacturing. The revised guidelines allow the immediate shipment of source leukocytes to the manufacturing facility before the test for HB_sAg is completed, provided procedures to be followed are approved by FDA. When any final rule based on this proposal is published in the **Federal Register,** FDA may update its 1981 guidelines for collection of source leukocytes for further manufacturing, to make the guidelines consistent with this final rule.

The last sentence of § 610.40(b)(3) (21 CFR 610.40(b)(3)) now provides that, except for emergencies, blood, plasma, or serum shall not be used as a biological product or issued for use in manufacturing a biological product, until the test for HB_sAg is completed and the written results are received by the collection facility. FDA believes that § 610.40(b)(3) permits the shipment of blood, plasma, serum, or other blood products, including leukocytes, before receipt of test results where the products are not "issued for use in manufacturing a biological product," i.e. are not used in manufacturing a biological product before receipt of test results. Section 610.40(b)(3) could, however, be interpreted as prohibiting such shipments. To eliminate this ambiguity, FDA is proposing to remove the last sentence in § 610.40(b)(3) and add new § 610.40(b)(4) to make clear that such shipments of blood, plasma, serum, or other blood products are permitted under certain conditions with written approval of FDA.

VOL
48
ISS
200
OC
14
1983
UMI

The proposed amendment to § 610.40(b) is consistent with past agency practice regarding shipment of biological products. At the request of a physician, hospital, or other medical facility, § 640.2(f)) (21 CFR 640.2(f) permits the emergency shipment of blood before all required tests are completed, where certain conditions are met and immediate shipment is essential to assure the timely arrival of the product.

In addition, the agency autorizes "in-house" shipments of Source Plasma (Human) before the test for HB_sAg is completed. Such authorization is restricted to shipment between locations of the same firm (licensee); for example, a collection facility may ship the product to the fractionation/testing facility before the test for HB_sAg is completed, provided both facilities are owned and operated under the same license. Strict quarantine procedures are to be observed during the collection, shipment, and receipt of the product until the test for HB_sAg has been completed and the test results are known. Procedures must also be in place at the manufacturing facility for quarantine and appropriate disposal of any units found reactive when tested for HB_sAg. See FDA's Compliance Program 7342.002, "Inspection of Source Plasma Establishments."

FDA is now proposing that, to obtain such an approval for the shipment of blood, plasma, serum or other blood products, from FDA, both the collection facility and manufacturing facility would be required to establish specific procedures for collection, shipment, and quarantine of a product before testing is completed. These procedures are similar to the procedures described in the source leukocytes guidelines discussed above. The procedures include:

1. A system for communicating the test results to the manufacturing facility;
2. Procedures for quarantine at the collection facility of the untested or incompletely tested blood product and for quarantine of the blood product at the manufacturing facility until test results have been received;
3. Procedures at the manufacturing facility for identification and disposal of any blood product that is found HB_sAg reactive; and
4. Specific labeling warnings for the possibly infectious blood product while it is being shipped to ensure that persons handling such a blood product know that it may be infectious.

Use of control procedures such as those described above, where approved by FDA, will permit the shipment of blood, plasma, serum or other blood products before test results for HB_sAg are received, while ensuring that such a product will be quarantined and will not be used in manufacturing until the test results are received by the manufacturing facility.

For leukocytes the Office of Biologics currently requires that the collection facility first obtain a written agreement with the manufacturing facility that describes any control procedures to assure that the leukocytes are not used to make interferon before the HB_sAg test results are received at the manufacturing facility. The collection facility must furnish a copy of the agreement to the Office of Biologics as part of its obtaining approval of the shipments.

Accordingly, the agency proposes to amend the biologics regulations by removing the last sentence in § 610.40(b)(3) and by issuing new § 610.40(b)(4) to permit the shipment in emergency situations or with written approval of the Director, Office of Biologics, of blood, plasma, serum, or any other blood products for further manufacturing before the test for HB_sAg is completed and written test results are received by the collection facility.

Thus, FDA is proposing to relieve an apparent restriction within the meaning of 21 CFR 10.40(c)(4)(i), resulting from a misinterpretation of an existing regulation. Accordingly, FDA intends that, if promulgated, the final rule take effect upon the date of its publication in the Federal Register.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act of 1980

Section 610.40(b)(4) of this proposed rule contains collection of information requirements. FDA has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these collection of information requirements under section 3504(h) of the Paperwork Reduction Act of 1980 as interpreted by OMB in 5 CFR Part 1320 (see 48 FR 13666; March 31, 1983). Other organizations and individuals desiring to submit comments on the collection of information requirements should direct them the FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, Rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Richard Eisinger.

In this proposed rule (when a person meets certain conditions and obtains prior written approval of FDA), FDA is proposing more flexible product testing requirements to reduce some what these information collection requirements.

The agency has examined the economic impact of this proposed rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined, in the Regulatory Flexibility Act (Pub. L. 96–354). In emergency situations or with written approval of the Director, Office of Biologics, the proposed rule would permit the shipment of any blood product for further manufacturing before the test for HB_sAg is completed and written test results are received by the collection facility. Thus, the proposed rule will relieve an apparent restriction on a specific segment of the biologics industry, which is expected to result in the increased production of a new and valuable resource (interferon) that is important to the medical community. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 610 be amended in § 610.40 by removing the last sentence in paragraph (b)(3) and adding new paragraph (b)(4), to read as follows:

List of Subjects in 21 CFR Part 610

Biologics, Labeling.

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

§ 610.40 Test for hepatitis B surface antigen.

* * * * *

(b) * * *

(4) Except as provided below, a collection facility shall not ship any blood product as a biological product or ship such as blood product where it is intended for use in manufacturing a biological product until the test for hepatitis B surface antigen is completed and the written test results are received by the collection facility. Notwithstanding the provisions of § 610.1 of this chapter, in the case of an emergency, or as otherwise approved in writing by the Director, Office of Biologics, a collection facility may ship a blood product before the test for hepatitis B surface antigen is completed. To obtain approval for such shipments, the collection facility shall submit a description of the control procedures to be used by both the collection facility and the manufacturing facility to the Director, Office of Biologics (HFN–800), National Center for Drugs and Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205. The control procedures to be used by the collection facility and the maunfacturing facility shall include, but may not be limited to, a system of communicating the test results to the manufacturing facility, use of specific labeling warnings for the product to ensure that persons handling the shipment know that it may be infectious, procedures for quarantine of the untested or incompletely tested product both at the collection facility and at the manufacturing facility, and a procedure at the manufacturing facility to identify, preclude use of, and dispose of any blood product that is received and later found to be reactive for hepatitis B surface antigen.

* * * * *

Interested persons may on or before December 13, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated August 31, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–27919 Filed 10–13–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 24

[Docket No. R–80–831]

Debarment, Suspension and Limited Denial of Participation

Correction

In FR Doc. 83–27550 beginning on page 46072 in the issue of Tuesday, October 11, 1983, make the following correction:

On page 46072, second column, second paragraph, under the entry "DATES," "Comments must be received on or before October 11, 1983" should read "Comments must be received on or before December 12, 1983".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Comment Period and Opportunity for Public Hearing on the Modification to the Pennsylvania Permanent Regulatory Program

AGEANCY: Office of Surface Mining Reclamation and Enforcement (OSM) Interior.

ACTION: Proposed rule and withdrawal of a State program amendment and of a proposed modification of deadline.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by Pennsylvania to: (1) Amend the state program by replacing the inspection and enforcement policy statements number 200 and 300 previously approved by the Secretary, and (2) satisfy condition (j)(2) imposed by the Secretary of the Interior on the approval of the Pennsylvania State Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Condition (j)(2) relates to the mandatory review of permits for a pattern of violations.

Pennsylvania has withdrawn an earlier program amendment submitted on July 5, 1983, intended to satisfy condition (j)(2). The amendment previously submitted by the State is now being withdrawn because it has determined the amendment would not be consistent with the proposed inspection and enforcement policy statement being announced by this notice. Additionally, OSM is withdrawing the proposed modification of deadline for condition (j)(2), published in the Federal Register dated June 30, 1983 (48 FR 30149).

This document sets forth the times and locations that the Pennsylvania program and proposed amendment are available for public inspection the comment period during which interested persons may submit written comments on the proposed amendment, and information pertinent to the public hearing.

DATES: Written comments relating to Pennsylvania's proposed modification of its program not received on or before 4:00 p.m. on November 14, 1983, will not necessarily be considered.

If requested, a public hearing will be held on November 3, 1983, beginning at 10:00 a.m. at the location shown below under "ADDRESSES."

ADDRESSES: Written comments should be mailed or hand-delivered to: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101.

If a public hearing is held, its location will be at: The Penn Harris Motor Inn and Convention Center at Camp Hill bypass at U.S. 11 and 15, Camp Hill, Pennsylvania at the Keystone-A Convention Room.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101; telephone (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of Pennsylvania program, the proposed amendment, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM offices and the Office of State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C 20240
Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101
Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 17120

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than Harrisburg, Pennsylvania, will not necessarily be considered and

VOL
48
ISS
2
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OC
14
1983
UMI

included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business *four* working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office in "ADDRESSES" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Pennsylvania State Program

On February 29, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Pennsylvania. On October 22, 1980, following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary of the Interior disapproved the program. The State resubmitted its program on January 25, 1982, and, subsequently the Secretary approved the program conditioned on the correction of minor deficiencies. Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 Federal Register (47 FR 33050).

III. Submission of Program Amendment and Material To Satisfy Conditions

By a letter dated September 7, 1983, Pennsylvania submitted to OSM pursuant to 30 CFR 732.17, certain revisions to the inspection, enforcement and penalty procedures to be implemented by the State. These revisions supplement Pennsylvania's approved regulations and are contained in policy statements intended to replace policy statements number 200 and 300 in the approved State program. The revised policy statements address inspection and monitoring, enforcement, withholding or suspension of a mine operator's permit or license, bond forfeiture, consent orders and decrees, and civil and criminal penalty sanctions.

The section on inspection and monitoring describes when and how mining operations will be inspected. The statement provides for a monitoring program consisting of field inspections and a review of self-monitoring data submitted to the Pennsylvania Department of Environmental Resources (DER) by operators. Complete, partial and follow-up inspections are defined.

The section on enforcement provides that DER will implement its enforcement policy by directing available resources towards the most serious environmental, health or safety problems. DER intends to cite all violations observed during inspections by either serving the operator with notice through the inspection report or by issuance of a "compliance order." The policy statement provides examples of violations that could be noted in inspection reports and not necessarily subject to a compliance order.

Compliance orders may be issued to: (1) Extend an abatement date previously established in an inspection report, (2) to address site conditions that constitute an existing or potential danger to the health and safety of the public or operational personnel, or (3) to address a condition that is causing or could be expected to cause environmental degradation. The policy statement also describes the situations in which a compliance order can be used to require cessation of mining.

The amendment explains the role of bond forfeiture as an alternative enforcement measure and also defines other alternative enforcement actions such as, consent decree, consent adjudications, consent orders/agreements, equity actions and criminal prosecution.

The amendment provides for all violations cited to be reviewed for a civil penalty assessment and describes the civil penalty assessment calculation procedure for both mandatory assessment and discretionary assessment. The civil penalty policy statement describes the process for providing notice of the assessment to the operator, for requesting and conducting informal conference and for final resolution of the penalty through a consent assessment or issuance of an "Assessment Notice."

Also included in the revised policy statement is Pennsylvania's new submission intended to satisfy condition (j)(2) relating to the mandatory review of permits for a pattern of violations. The amendment announced in the Federal Register dated July 20, 1983, pertaining to condition (j)(2) is withdrawn by Pennsylvania's letter dated September 7, 1983, and is replaced by the new policy statement amendment being announced for public comment by this publication of the Federal Register.

The new amendment provides for suspension or revocation of a permit to be taken when a series of compliance orders have been issued at a site that indicate a pattern of violations exists from either willful conduct or an unwarranted failure to comply with the approved permit conditions.

"Willful conduct" is defined as an act or omission that is committed by a person who intends the result which actually occurs. "Unwarranted failure to comply" is defined as where the operator knowingly fails to prevent the occurrence or to abate any violation due to indifference or lack of diligence. The amendment explains the process for determining that a pattern exists and the procedure for issuing an order to show cause.

In the Federal Register dated June 30, 1983 (48 FR 30149) OSM announced for public comment, Pennsylvania's request for an extension of time to satisfy condition (j)(2). OSM is now withdrawing that proposed rule because the State has submitted an amendment intended to satisfy condition (j)(2) and further consideration of an extension of time to satisfy the condition is not necessary. If the amendment submitted to satisfy condition (j)(2) is not approved, the Secretary will establish a reasonable deadline for Pennsylvania to satisfy the condition.

The Secretary seeks public comment on these proposed amendments to the Pennsylvania program and whether the material submitted satifies condition (j)(2). If these amendments are approved, they will become part of the Pennsylvania program and condition (j)(2) in 30 CFR 938.11 will be removed.

IV. Procedural Matters

1. *Complionce with the Notional Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: October 7, 1983.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–27833 Filed 10–13–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

[CGD 83–004]

Navigation Safety Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to revise the Navigation Safety Regulations. These regulations are applicable to each self-propelled vessel of 1600 gross tons (grt) or more operating on the navigable waters of the United States, except the Saint Lawrence Seaway. This proposal would conform the requirements under the Port and Waterways Safety Act to certain international standards including: operating requirements adopted in a revision to the International Convention for Safety of Life at Sea, 1974 (SOLAS '74); and carriage of Automatic Radar Plotting Aids (ARPA), speed and distance indicators, rate of turn indicators, RPM indicators and pitch and mode indicators as adopted in November, 1981, by the International Maritime Organization (IMO) as part of the first set of amendments to the International Convention on Safety of Life at Sea, 1974 (SOLAS). It would also modify the requirements for manuevering tables and data and amplify the regulations pertaining to non-operating equipment.

DATES: Comments must be received on or before December 13, 1983.

ADDRESSES: Comments referencing CGD 83–004 should be submitted to Commandant (G–CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to, and will be available for inspection and copying, at the Marine Safety Council, U.S. Coast Guard Headquarters, Room 4402, 2100 Second St., SW., Washington, D.C., between the hours of 8 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas J. Falvey, Project Manager, (202) 426–4958.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his or her name and address, identify this notice as CGD 83–004, and give the reasons for the comment. Persons desiring acknowledgment of receipt should enclose a stamped, self-addressed postcard or envelope.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned. One may be held if requested by anyone raising a genuine issue.

Drafting Information

The principal persons involved in drafting this rulemaking are: Mr. Thomas J. Falvey, Project Manager, Office of Marine Environment and Systems, and Mr. Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Regulatory Background

Regulations to govern the operation of all major vessels in U.S. waters were introduced by an Advanced Notice of Proposed Rulemaking (ANPRM) on June 28, 1974 (39 FR 24157) in response to the Ports and Waterways Safety Act of 1972. Based upon comments received on the ANPRM, a Proposed Rule to establish a new Part to 33 CFR, Part 164, entitled "Navigation Safety Regulations" was published on May 6, 1976 (41 FR 18766). These regulations, which were applicable to all vessels 1600 grt or more operating on U.S. waters, were published as a Final Rule on January 31, 1977 (42 FR 5956).

The Port and Tanker Safety Act (PTSA) of 1978 required an automatic radar plotting aid (ARPA) by July 1, 1982, on all vessels 10,000 grt or more carrying oil or hazardous materials in bulk as cargo or in residue in U.S. waters. A Proposed Rule to implement this requirement was published on February 21, 1980 (45 FR 11790). The Final Rule was published on August 14, 1980 (45 FR 54037).

A Proposed Rule to implement improved steering gear standards on tank vessels 10,000 grt or more was published on February 12, 1979 (44 FR 9035). That rule proposed adopting standards agreed to at the 1978 International Conference on Tanker Safety and Pollution Prevention (TSPP), as well as the improved steering gear requirements mandated by Section 5 of the PTSA. A Final Rule implementing these regulations was published on November 19, 1979 (44 FR 66530).

Steering Gear Drills and Tests

This proposal would conform steering gear drills, tests and certain operating requirements to those developed by the 1978 International Conference on Tanker Safety and Pollution Prevention (TSPP). The TSPP Conference was held under the auspices of the International Maritime Organization (IMO) and the United States was a participant. The result of this conference was the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS '74). SOLAS '74 was ratified by the U.S. on September 7, 1978 and entered into force internationally on May 25, 1980. The Protocol was ratified by the U.S. on August 12, 1980 and entered into force internationally on May 1, 1981. This proposal deals with new SOLAS regulation 19–1, Operation of Steering Gear, and 19–2, Steering Gear—Testing and Drills, added by the Protocol to

VOL
48
ISS
2
0
0
OC
14
1983
UMI

Chapter V, Safety of Navigation, of SOLAS.

SOLAS regulation 19–1 requires that where navigation demands special caution, ships shall have more than one steering gear power unit in operation when such units are capable of simultaneous operation.

SOLAS regulation 19–2 requires that within 12 hours prior to departure, the ships steering gear, including auxiliary gear and all steering alarms, must be checked and tested by the ship's crew. Simple operating instructions with change-over procedures must be posted on the navigating bridge and in the steering gear compartment. Emergency steering drills must be held at least once every three months. The results of the tests, checks and drills must be recorded in a ship's log book.

In January of 1979 a study (Paper DE XX/2/1) was submitted to IMO by the United States dealing with steering system failures. The following observations from the study were made:

1. Approximately 90% of the steering gear casualties covered by the study resulted in a grounding or collision.

2. Unfamiliarity with, and lack of maintenance of, equipment was a common contributing factor.

In the summary of the National Transportation Safety Board (NTSB) Report titled "Progress toward Improvements in Marine Steering Reliability" the NTSB believed the Coast Guard should implement unilaterally a requirement for all vessels entering the U.S. ports and waterways to perform specific steering gear tests, including activation of alarm systems by simulation of power interruptions to each of the steering motors.

As a result of the NTSB investigations into the collision and fire between the S/S C. V. SEA WITCH and S/S ESSO BURSSELS (Belgium); the collision between the S/S MARINE FLORIDIAN and the BENJAMIN HARRISON MEMORIAL BRIDGE at Hopewell, Virginia; and the collision of the S/S SITALA (France) with moored vessels at New Orleans, Louisiana, the NTSB made the following recommendations to the Coast Guard:

1. Emergency drills for loss of steering control should be required and logged.

2. Require additional specific steering gear tests including the switching from one steering gear control system to the other, from hydraulic control to electric control and back, from one source of electrical power for the steering motors to the other and back, and the activation of alarm systems by simulation of power interruptions to each of the steering motors

If this proposed regulation is adopted all self-propelled vessels of 1600 grt or greater would be required to:

1. Test the steering gear under manual control immediately before or upon entering U.S. waters (proposed § 164.11(s));

2. Have at least two steering gear power units in operation, if such units are capable of simultaneous operation (proposed § 164.11(t));

3. Detail the procedures on conducting the steering gear tests (proposed § 164.25(a)(1));

4. Conduct emergency steering drills at least once ever three months (proposed § 164.25(d));

5. Have instructions for steering gear change-over procedures permanently displayed on the navigating bridge and in the steering gear compartment (proposed § 164.35(k)(1));

Section 164.39(o), (p), (q) and (r), which contain certain similar requirements for tankers over 10,000 grt, would be eliminated to avoid duplication of the regulation. § 164.39(s) would be deleted as an editorial amendment. In § 164.39 "tank vessel" is replaced by "tanker". This change is necessary to conform to definitions in existing statutes and regulations. The definition of tank vessel is removed. This change in terms has no impact on the applicability of the regulation.

This proposed rule contains a recordkeeping requirement as defined by the Paperwork Reduction Act of 1980 (94 Stat. 2812) by requiring the logging of drills and tests in a ship's log. The keeping of an official logbook was approved by the Office of Management and Budget on September 21, 1982, OMB No. 2115–0071. The logging of these particular drills would be an insignificant increase in that recordkeeping burden.

Shipboard Navigational Equipment

SOLAS '74 entered into force internationally on May 25, 1980. Before the adoption, the International Maritime Organization (IMO) had already begun work on the first set of amendments of SOLAS '74. The first set of amendments to SOLAS '74 were completed and adopted at the Forty-fifth session of the Maritime Safety Committee (MSC) of IMO held in November, 1981. These amendments have subsequently been distributed to member governments for consideration. These amendments will be accepted internationally unless, before 1 March 1984, more than one third of Contracting governments to SOLAS '74 or contracting governments the combined merchant fleets of which constitute no less than fifty per cent of the gross tonnage of the world's merchant fleet, have notified IMO of their objections. Included in the amendments is a revision to Chapter V, regulation 12, requiring additional navigational equipment. This equipment includes ARPA, speed logs, RPM indicators, rate of turn indicators, and pitch and mode indicators.

The U.S. actively participated at all levels of development of the amendments. Public comment was invited, with active industry participation, on all aspects of development of the U.S. position. The amendments to Chapter V, regulation 12, are generally consistent with those positions. This rulemaking proposes amending the Navigation Safety Regulations to be consistent with the navigational equipment requirements of the pending Chapter V SOLAS amendments.

The proposed equipment requirements are consistent with those in the pending SOLAS amendments. The proposed implementations schedules are consistent with the expected SOLAS implementation dates. Except where noted in the proposed regulations, the effective date for the equipment requirements will be 1 September 1984, the proposed effective date of the SOLAS amendments. In the event the required government objections are deposited with IMO by 1 March 1984, these proposed requirements will be withdrawn and reconsidered.

Proposed § 164.35(l) would require an indicator readable from the centerline conning position showing the rate of revolution of each propeller (RPM indicator). Proposed § 164.35(m) would require an indicator readable from the centerline conning position, showing the pitch (control settings) of controllable pitch propellers, if fitted with such propellers. Proposed § 164.35(n) requires an indicator readable from the centerline conning position showing the direction and amount of thrust of lateral thrust propellers, if fitted with such propellers.

The existing § 164.38 requirements will remain essentially unchanged, except to delete the requirements for a certification label on the ARPA. This section now requires, under the authority of the PTSA, an ARPA on all vessels 10,000 grt or more carrying oil or hazardous materials in bulk as cargo or in residue. A tanker, ore/bulk/oil carrier (OBO), containership, or general cargo ship in this category actually carrying oil or hazardous materials is presently subject to the existing ARPA requirements of § 164.38.

The proposed § 164.38 will expand the ARPA requirements to certain vessels not now required to be ARPA equipped. The proposed requirements are consistent with the SOLAS amendments as to sizes and classes of vessels affected, and the required implementation dates. As proposed, an ARPA is to be installed on:

(1) Ships of 10,000 gross tons and upwards, constructed on or after 1 September 1984;

(2) Tank vessels constructed before 1 September 1984 as follows:

(a) If of 40,000 gross tons and upwards by 1 January 1985;

(b) If of 10,000 gross tons and upwards but less than 40,000 gross tons, by 1 January 1986;

(3) Ships constructed before 1 September 1984, that are not tank vessels, as follows:

(a) If of 40,000 gross tons and upwards by 1 September 1986;

(b) If of 20,000 gross tons and upwards, but less than 40,000 gross tons, by 1 September 1987;

(c) If of 15,000 gross tons and upwards, but less than 20,000 gross tons, by 1 September 1988.

A tank vessel is defined as a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue. OBO's, and general cargo vessels and containerships with deep tanks, would meet this definition, and be subject to the proposed requirements for such vessels. Therefore, while these vessels are currently required to have an ARPA only if actually carrying oil or hazardous materials in bulk as cargo or residue, they would have to have an ARPA even if operating clean and gas free, as specified in the above schedule.

A tanker is defined by statute and in § 164.39 as a self-propelled tank vessel constructed or adapted *primarily* to carry oil or hazardous materials in bulk in the cargo space.

Performance standard requirements for ARPA's on vessels subject to the existing § 164.38 remain essentially unchanged. A manufacturer's certification label will no longer be required on the ARPA. An ARPA installed on vessels before 1 September 1984 must meet either the MARAD standard, or the IMO standard with both visual and audible alarms. ARPA's installed on or after 1 September 1984 must meet the IMO standards with both visual and audible alarms. ARPA's installed before 1 September 1984 not meeting the IMO standard are acceptable until 1 January 1991.

Maneuvering Tables

The existing regulations (§ 164.35(g)) require turning circle diagrams for both port and starboard turns, and time and stop distances for full and *half* speeds, to be prominently displayed on a fact sheet in the wheelhouse. These requirements differ from IMO's Resolution A.209(VII) "Recommendation on Information to be Included in the Maneuvring Booklets", which recommends turning circle diagrams for full and *slow* speeds. It is therefore proposed to allow turning circle diagrams, and time and stop distances, for either full and *half* speeds, or full and *slow* speeds. This should minimize conflict between the U.S. requirements and the international recommendation.

Non-operating Equipment

The existing regulations (§ 164.53(a)) allow a vessel on which required equipment stops operating properly to complete its voyage. Due to the variations on the interpretation of the meaning of competion of a voyage, it is proposed to allow a vessel with inoperative equipment only to continue to its first U.S. port of call. A vessel may then be allowed to continue to its next port of call if a deviation is granted by the Captain of the Port (§164.55), or may be required to effect repairs before the departure.

Evaluation and Certification

This rule has been evaluated under Executive Order 12291 and DOT Order 2100.5 of May 22, 1980, "Policies and Procedures for Simplification, Analysis, and Review of Regulations", and has been determined to be neither major nor significant. A draft regulatory evaluation has been prepared and placed in the docket. Costs for this regulation are essentially limited to installation and maintenance of the navigational equipment. In order to meet the SOLAS requirements that become effective on September 1, 1984, it is expected that most vessels would be brought into compliance regardless of the outcome of this proposed rule. The expected useful life of the equipment is 10 years. Accordingly, the total cost has been prorated over its useful life. Assuming that the vessels affected by this rule installed the required equipment solely because of these requirements, it is estimated that the total costs for this regulation discounted over a period of 10 years is $25.9 million. Benefits from reduced collisions and groundings over this same period are estimated at $49.6 million, for an estimated net benefit of $23.7 million. The costs of this proposed regulation per vessel is less than 2 days operating costs. For these reasons, under Section 605(b) of the Regulatory Flexibility Act (94 Stat 1164) it is certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 164

Marine safety, Navigation (water), Waterways.

PART 164—[AMENDED]

In consideration of the foregoing, it is proposed to amend 33 CFR Part 164 as follows:

1. By revising § 164.01 as follows:

§ 164.01 Applicability.

(a) This part (except as specifically limited herein) applies to each self-propelled vessel of 1600 or more gross tons (except foreign vessels described in § 164.02) when it is operating in the navigable waters of the United States except the St. Lawrence Seaway.

2. In § 164.11, by adding new paragraphs (s) and (t):

§ 164.11 Navigation underway: General.

The owner, master, or person in charge of each vessel underway shall make sure that:

* * * * *

(s) Upon entering U.S. waters, the steering wheel or lever on the navigating bridge is operated to determine if the steering equipment is operating properly under manual control, unless the vessel has been steered under manual control from the navigating bridge within the preceding 2 hours;

(t) At least two of the steering gear power units on the vessel are in operation when such units are capable of simultaneous operation.

2. By revising § 164.25(a)(1), and adding a new § 164.25(d) as follows.

§ 164.25 Tests before entering or getting underway.

(a) * * *

(1) Primary and secondary steering gear. The test procedure includes, where applicable, the operation of the following:

(i) Each remote steering gear control system.

(ii) Each steering position located on the navigating bridge.

(iii) The main steering gear from the emergency power supply, if installed.

(iv) Each rudder angle indicator in relation to the actual position of the rudder.

(v) Each remote steering gear control system power failure alarm.

(vi) Each remote steering gear power unit failure alarm.

(vii) The full movement of the rudder to the required capabilities of the steering gear.

VOL
48
ISS
2
0
0
OC
14
1983
UMI

(viii) A visual inspection of the steering gear and its connecting linkage.

* * * * *

(d) No vessel may enter, or be operated on, the navigable waters of the United States unless the emergency steering drill described below has been conducted within 48 hours prior to entry, and logged in the vessel logbook, unless the drill is conducted and logged on a regular basis at least once every three months. This drill must include at a minimum the following:

(1) Operation of the main steering gear from within the steering gear compartment;

(2) Operation of the means of communications between the navigating bridge and the steering compartment;

(3) Operation of the altenative power supply for the steering gear if the vessel is so equipped.

3. By providing § 164.35(g) (1) and (2), and adding new §§ 164.35 (k), (l), (m) and (n) as follows:

§ 164.35 Equipment all vessels.

* * * * *

(g) * * *

(1) A turning circle diagram to port and starboard that shows the time and distance of advance and transfer required to alter course 90 degrees with maximum rudder angle and constant power settings, for either full and half speeds, or for full and slow speeds.

(2) The time and distance to stop the vessel from either full and half speeds, or from full and slow speeds, while maintaining approximately the initial heading with minimum application of the rudder;

* * * * *

(k) Simple operating instructions with a block diagram, showing the change over procedures for remote steering gear control systems and steering gear power units, permanently displayed on the navigating bridge and in the steering gear compartment.

(l) An indicator readable from the centerline conning position showing the rate of revolution of each propeller.

(m) If fitted with controllable pitch propellers, an indicator readable from the centerline conning position showing the pitch and operational mode of such propellers.

(n) If fitted with lateral thrust propellers, an indicator readable from the centerline conning position showing the direction and amount of thrust of such propellers.

4. By revising § 164.38 as follows:

§ 164.38 Automatic radar plotting aids (ARPA).

(a) The following definitions are used in this section—

"Bulk" means material in any quantity that is shipped, stored, or handled without benefit of package, label, mark or count and carried in integral or fixed independent tanks.

"Constructed" means a stage of construction where:

(1) The keel is laid; or

(2) Construction identifiable with a specific ship begins; or

(3) Assembly of that ship has commenced comprising at least 50 tons or 1 percent of the estimated mass of all structural material, whichever is less.

"Hazardous material" means—

(1) A flammable liquid as defined in 46 CFR 30.10–22 or a combustible liquid as defined in 46 CFR 30.10–15;

(2) A material listed in table 151.05, table 1 of 46 CFR Part 153, or table 4 of 46 CFR 154; or

(3) A liquid, liquefied gas, or compressed gas listed in 49 CFR 172.101.

"Self-propelled vessel" includes those combinations of pushing vessel and vessel being pushed ahead which are rigidly connected in a composite unit and are required by Rule 24(b) of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) (App. A to 33 CFR Part 81) to exhibit the lights prescribed in Rule 23 for a "Power Driven Vessel Underway".

"Tank vessel" means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous materials in bulk as cargo or cargo residue.

(b) An Automatic Radar Plotting Aid (ARPA) that complies with the standard for such devices adopted by the International Maritime Organization in its "Operational Standards for Automatic Radar Plotting Aids", (Appendix A), except as provided by paragraph (c), and that has both audible and visual alarms, must be installed in accordance with the following schedule.

(1) Each self-propelled vessel, except a public vessel, of 10,000 gross tons or more carrying oil or hazardous materials in bulk as cargo or in residue on the navigable waters of the United States, or which transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States must be equipped with an ARPA.

(2) Each tank vessel constructed before 1 September 1984, and not required to be ARPA equipped by paragraph (b)(1) of this section, operating on the navigable waters of the United States, must be equipped with an ARPA—

(i) If of 40,000 gross tons or more, by 1 January 1985;

(ii) If of 10,000 gross tons or more but less than 40,000 gross tons, by 1 January 1986.

(3) Each self propelled vessel constructed before 1 September 1984, and that is not a tank vessel, and is not carrying oil or hazardous material in bulk as cargo or in residue operating on the navigable waters of the United States, must be equipped with an ARPA—

(i) If of 40,000 gross tons or more, by 1 September 1986;

(ii) If or 20,000 gross tons or more, but less than 40,000 gross tons, by 1 September 1987;

(iii) If of 15,000 gross tons or more, but less than 20,000 gross tons, 1 September 1988.

(4) Each vessel of 10,000 gross tons or more constructed on or after 1 September 1984 must be equipped with an ARPA.

(c) Devices installed prior to 1 September 1984, that comply with the U.S. Maritime Administration's "Collision Avoidance System Specification" (Appendix B), and do not comply with the IMO Standard, may be retained until 1 January 1991.

§ 164.39 [Amended]

5. § 164.39, is amended as follows: By deleting paragraph (b)(1), and redesignating paragraphs (b)(2) through (b)(8) as (b)(1) through (b)(7); by deleting existing paragraphs (o), (p), (q), (r), and (s); by redesignating paragraph (t) as paragraph (o); by replacing tank vessel with tanker.

6. By adding a new § 164.40 as follows:

§ 164.40 Devices to indicate speed and distance.

(a) Each vessel required to be fitted with an Automatic Radar Plotting Aid (ARPA) under § 164.38 (b)(2), (3) and (4), must be fitted with a device to indicate speed and distance of the vessel either through the water, or over the ground. The device must meet the following specifications:

(1) The display must be easily readable on the bridge by day or night;

(2) Errors in the indicated speed, when the vessel is operating free from shallow water effect, and from the effects of wind, current and tide, should not exceed 5 per cent of the speed of the vessel, or 0.5 knots, whichever is greater.

(3) Errors in the indicated distance run, when the vessel is operating free from shallow water effect, and from the effects of wind, current, and tide, should not exceed 5 per cent of the distance run of the vessel in one hour or 0.5 nautical miles in each hour, whichever is greater.

7. By adding a new § 164.42 as follows:

§ 164.42 Rate of turn indicator.

Each vessel of 100,000 gross tons or more constructed on or after 1 September 1984 shall be fitted with a rate of turn indicator.

8. By revising § 164.53(a) as follows:

§ 164.53 Deviations from rules and reporting: Non-operating equipment.

(a) If during a voyage any equipment required by this part stops operating properly, the person directing the movement of the vessel may continue to the next port of call subject to the directions of the District Commaender or the Captain of the Port, as provided by Part 160 of this chapter.

* * * * *

(33 U.S.C. 1223; 49 CFR 1.46)

Dated August 24, 1983.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 83-27977 Filed 10-13-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 2375-7]

Approval and Promulgation of Implementation Plans; Maine Open Burning Regulation and Massachusetts New Source Review Regulations Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and correction.

SUMMARY: EPA is proposing to approve partially a revision to the Maine State Implementation Plan (SIP) which limits open burning. We are proposing to disapprove three provisions of the submittal which are less restrictive than the present SIP. The intended effect of this revision, which is being proposed under Section 110 of the Clean Air Act, is to maintain air quality. This notice also corrects a regulation citation and a typographical error that appeared in EPA's proposed approval of the Massachusetts regulations for review of new sources in nonattainment areas.

DATES: Comments must be received on or before November 14, 1983.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203 and the Maine Department of Environmental Protection, Bureau of Air Quality Control, State House, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, State Air Programs Section, Air Management Division, JFK Federal Building, Boston, MA 02203, (617) 223–5130.

SUPPLEMENTARY INFORMATION: On January 11, 1983, the Commissioner of the Maine Department of Environmental Protection (DEP) submitted a revision to Maine's open burning regulation for inclusion in the SIP. The revision is less stringent than the present SIP because it allows open burning at dumps serving less than 1000 people, open burning of household trash and open burning of leaves. A clarification of the types of burning for hazardous abatement that are permissible has been added.

DEP did not submit any technical support demonstrating that the three proposed relaxations would not cause or contribute to violations of National Ambient Air Quality Standards. Further, EPA's criteria for classification of solid waste disposal facilities and practices, promulgated under authority of Section 4004 of the Resource Conservation and Recovery Act, prohibit all open dump burning. See 40 CFR 257.3–7. Therefore, we are proposing to disapprove these relaxations.

We are approving a change to a provision of the open burning regulation concerning burning for hazardous abatement purposes. The present SIP states that "burning for the control of any disease, virus or similar hazard to public health" is permissible. DEP knows of no instances where such burning has been used and, therefore, believes the provision is unnecessary. The new regulation contains a general provision allowing burning for hazard abatement and a provision allowing burning for containment or control of spills of gasoline, kerosene, heating oil or similar petroleum products. As an example of hazard abatement and a provision allowing burning for containment or control of spills of gasoline, kerosene, heating oil or similar petroleum products. As an example of hazard abatement, DEP cited the controlled burning of grass fields which may pose a threat to forests or other property. Permits for burning for hazardous abatement purposes must be obtained from the local fire warden, forest ranger or local fire prevention official. We recognize that in some instances burning may be the proper method of controlling a hazard and agree with DEP that this provision provides clarification to the open burning regulation. We do not consider the two provisions regarding burning for hazardous abatement relaxations of the SIP that require technical support.

The present Maine SIP regarding open burning, § 559 of the Maine statutes, was approved on May 31, 1972. The SIP prohibits all open burning with a few narrow exceptions: burning for agricultural purposes, prevention of disease or hazard, training or research and burning for disposal of materials generated by demolition of any building or clearing of land for the purpose of construction of highways, railroads, powerlines or commerical, industrial or recreational buildings.

With the exception of the three less stringent provisions (open dump burning, residential burning of household trash and residential burning of leaves) and the change regarding burning for hazardous abatement described above, the proposed SIP revision is equivalent to the present SIP but is written in a different format. By incorporating the new format into the SIP, the public, EPA and DEP will easily be able to compare the state regulations with the federal SIP. Therefore, we are proposing to approve the submittal of Chapter 102 Open Burning with the exception of the provisions allowing open dump burning, and burning of household trash and leaves. Upon final approval, Chapter 102 will replace § 599 which was approved on May 31, 1972.

Proposed Action

We are proposing the following action on Chapter 102.

Open Burning:

(1) Disapproval of three provisions which would allow:

(a) open dump burning at towns serving less than 1000 people,

(b) burning of household trash where no municipal property tax supported trash collection service is available, and

(c) burning of leaves, brush, deadwood and tree cuttings by individual land or home owners where no municipal property tax supported trash collection service is available.

(2) Approval of all other provisions of Chapter 102 Open Burning.

Correction to Massachusetts Revision

The corrections to the proposed approval of the Massachusetts New Source Review Regulations published on May 9, 1983 (48 FR 20766) are as follows:

1. On page 20968 in the middle of column three, 310 CMR 7.02(b)(5) is corrected to 310 CMR 7.02(2)(b)(5) and 310 CMR 7.02(b)(6) is corrected to 7.02(2)(b)(6).

On page 20968 at the top of column three "construction" is corrected to "reconstruction."

Under 5 U.S.C. Section 605 (b), the Administrator has certified that this action will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether it meets the requirements of Sections 110(a)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. The revisions are being proposed pursuant to Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: May 26, 1983.

Paul G. Keough,

Acting Regional Administrator Region I.

[FR Doc. 83-27964 Filed 10-13-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-3-FRL 2452-1]

Delaware; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Tentative decision to authorize the State and notice of public hearing and public comment period.

SUMMARY: The State of Delaware has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). EPA has revised Delaware's application for Final Authorization and has made the tentative decision that Delaware's hazardous waste program satisfies all of the requirements necessary to qualify for Final Authorization and operate the authorized State program in lieu of the Federal program. Delaware's application for Final Authorization is available for public review and comment and a public hearing will be held to solicit comments on the application.

DATES: A public hearing is scheduled for November 14, 1983. The State of Delaware will participate in the public hearing held by EPA on this subject. All comments on the Delaware Final Authorization applications must be received by the close of business on November 20, 1983.

ADDRESSES: Copies of the Delaware Final Authorization application are available during normal business hours at the following addresses for inspection and copying: Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, DE 19903 (Phone: 302/736-4781 contact: Ken Weiss); 14 Ashley Place, Wilmington, DE 19804 (Phone: 302/571-3242 contact: Linda Neel); or 418 N. duPont Highway, Georgetown, DE 19947 (Phone: 302/856-5360 contact Roslyn Rebel); U.S. EPA Headquarters Library (PM211A), 401 M Street SW., Washington, D.C. 20460 (Phone: 202/382-5926); U.S. EPA, Region III, Library, 2nd Floor, Sixth and Walnut Streets, Philadelphia, PA 19106 (Phone: 215/597-0580 contact: Diane McCreary). Written comments should be sent to Wayne S. Naylor, State Programs Section (3AW31), U.S. EPA Region III, Sixth and Walnut Streets, Philadelphia, PA 19106 (Phone: 215/597-7239). EPA will hold the public hearing on November 14, 1983 at 7:30 p.m. in Room 125, Clayton Hall, University of Delaware, Newark, Delaware.

FOR FURTHER INFORMATION CONTACT: Anthony J. Donatoni, Chief, State Programs Section (3AW31), U.S. EPA, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-7937.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980 Federal Register (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended, to protect human health and the environment from the improper manangement of hazardous waste. Included in these regulations, which became effective November 19, 1980, were provisions for a transitional stage in which States would be granted interim program authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program has taken effect. Phase I of the Federal program, published in the May 19, 1980 Federal Register (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The State of Delaware received Interim Authorization for Phase I on February 25, 1981.

In the January 26, 1981 Federal Register (26 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste management facilities. EPA offered to States the second phase of Interim Authorization in components in order to authorize State programs as expeditiously as possible and because some of the standards for hazardous waste treatment, storage, and disposal facilities (40 CFR Part 264) have been promulgated at different times. Component A, published in the Federal Register January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the Federal Register January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the Federal Register July 26, 1982 (47 FR 32274), contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills. These Component C standards for permitting surface impoundments and waste piles superseded the Componenent A standards for permitting storage and treatment in surface impoundments and waste piles published on January 12, 1981.

40 CFR 271 provides that states may apply for Final Authorization at any time after the promulgation of the last component for Phase II. The Final Authorization is a permanent authorization (subject to withdrawal for cause), which may be granted by EPA if the Agency finds that the state program is (1) "equivalent" to the Federal program, (2) consistent with the Federal program and other state programs and (3) provides for adequate enforcement.

States need not have obtained Interim Authorization in order to qualify for this type of authorization. EPA regulations for Final Authorization appear at 40 CFR §§ 271.1–271.23.

On August 1, 1983, Delaware submitted a complete application for Final Authorization in lieu of applying for Phase II Interim Authorization. EPA has reviewed Delaware's application, and has tentatively determined that the State's program meets all of the requirements necessary for Final Authorization. In accordance with Section 3006 of RCRA and 40 CFR 271.20(d), the Agency will be holding a public hearing on its tentative determination on November 14, 1983 in Room 125, Clayton Hall, University of Delaware, Newark, Delaware, at 7:30 pm. Persons may also submit written comments in the determination up until November 20, 1983.

Copies of Delaware's application are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

EPA will consider all public comments on its tentative determination. Issues raised by those comment may be the basis for decision to deny final authorization to Delaware.

EPA expects to make a final decision on whether Delaware's application meets the requirements for Final Authorization by January 12, 1984. EPA will give notice of this decision in the **Federal Register.**

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Stanley Laskowski,

Acting Regional Administrator.

[FR Doc. 83-27946 Filed 10-13-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 298

Obligation Guarantees; Extension of Comment Period

AGENCY: Maritime Administration (MARAD), DOT.

ACTION: Extension of time to file comments on proposed rulemaking.

SUMMARY: On August 18, 1983, the Maritime Administration published in the **Federal Register** (48 FR 37453) a notice of proposed rulemaking seeking comments by October 17, 1983, on a proposed change in 46 CFR Part 298, the regulation that implements provisions of Title XI of the Merchant Marine Act, 1936, as amended. Requests have been received for an extension of the comment period.

DATE: Notice is hereby given that the closing date for comments concerning the notice of proposed rulemaking is extended to the close of business on November 17, 1983.

ADDRESS: Send the original and one copy of the comments to the Secretary, Maritime Administration, Room 7300, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzerald, Director, Office of Ship Financing, Maritime Administration (202) 382-0389.

By order of the Maritime Administrator, Department of Transportation.

Dated: October 7, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-27878 Filed 10-13-83; 8:45 am]

BILLING CODE 4910-81-M

VOL 48 ISS 200 OCT 14 1983 UMI

Notices

Federal Register
Vol. 48, No. 200
Friday, October 14, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Land and Resource Management Plan; Plumas National Forest, Lassen, Plumas and Sierra Counties, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a national environmental impact statement in January 1979. This environmental impact statement documented the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million acre National Forest system. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were more suitable for wilderness and which should be used for other purposes.

In the Pacific Southwest Region RARE II dealt with over 6 million acres located in California only. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979 the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to manage 46 acres in California for other than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically to only the 46 roadless areas in California, it sets binding precedent in any Federal District Court in the Ninth Circuit. Because of the October 1982 court decision, National Forest roadless areas studied for wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II wilderness and nonwilderness areas during the Forest Planning process.

The reevaluation of areas on the Plumas National Forest will be done as part of the Forest's land and resource management plan.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in areas recommended in RARE II for wilderness, and management for other uses will continue in areas recommended for nonwilderness.

On the Plumas National Forest, no roadless areas were recommended for wilderness and two roadless areas of 12,200 acres were recommended for nonwilderness. These areas will now be reevaluated. They include:

Name	Gross acres	Net national forest acres
Grizzly Peak	6,700	6,700
Adams Peak	5,500	5,500

Also on the Plumas National Forest, two roadless areas totaling 11,050 acres were studied for their wilderness potential in the Mohawk Unit Plan and were recommended for other than wilderness. These areas also will be reevaluated. They include:

Name	Gross acres	Net national forest acres
Lakes Basin	6,050	6,050
Dixon Creek	5,500	5,500

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be a briefing session held November 9, 1983 at 7:00 p.m. in the Card Community Center, 545 Vallonbrosa Avenue, Chico, California to further explain, discuss, and gather information about the roadless areas and the reevaluation process. Also, Forest Officer's will be available to talk to at the Plumas National Forest Supervisor's Office in Quincy November 7–11, during normal office hours.

For further information about the proposed reevaluation, contact: Robert W. Jessen, Recreation Officer, Plumas National Forest, P.O. Box 1500, Quincy, CA 95971; (916) 283–2050.

Dated: October 5, 1983.

Lloyd R. Britton,
Forest Supervisor, Plumas National Forest.

[FR Doc. 83–27904 Filed 10–13–83; 8:45 am]
BILLING CODE 5440–01–M

Los Padres National Forest Grazing Advisory Board; Meeting

The Los Padres National Forest Grazing Advisory Board will meet at 9:00 a.m. on November 9, 1983, at the Santa Lucia District Ranger Station, 1616 Carlotti Drive, Santa Maria, California. The purpose of this meeting is to consider: (1) Priorities for use of range betterment funds, (2) allotment management plans, and (3) review of summer field tour.

The meeting will be open to the public. Persons who wish to attend should notify me at 42 Aero Camino, Goleta, California 93117 (telephone 805–968–1578). Written statements may be filed with the committee before or after the meeting.

Dated: October 6, 1983.

David M. Waite,
Acting Forest Supervisor.

[FR Doc. 83–27905 Filed 10–13–83; 8:45 am]
BILLING CODE 3410–11–M

Land and Resource Management Plan, Klamath National Forest, Siskiyou County, California; Intent to Reevaluate Roadless Areas

The Department of Agriculture Forest Service issued a national environmental impact statement, January 1979, documenting the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million acre National Forest system: The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for wilderness and which should be used for other purposes.

In the Pacific Southwest Region, RARE II Final Environmental Impact Statement dealt with over 6 million acres located in California. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness. On the Klamath National Forest, 82,342 acres were RARE II recommended Wilderness, 52,993 acres were recommended further planning and 254,715 acres were recommended nonwilderness.

In 1979 the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to manage 46 areas in California for other than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed the lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically to only the 46 roadless areas named in the suit, it could set precedent in other Federal District Courts in the Ninth Circuit. Nine RARE II nonwilderness recommended roadless areas on the Klamath are included in the California State Suit.

Because of the October, 1982 court decision and subsequent Department of Agriculture direction, roadless areas recommended for wilderness potential during RARE II will be reevaluated along with other roadless areas previously evaluated through unit planning. This Notice is being issued because of the recent revision in 36 CFR 219.17 which allows further evaluation of RARE II recommended wilderness and nonwilderness areas and other roadless areas during Forest planning. (See Federal Register Vol. 48, No. 174, Wednesday September 7, 1983 pages 40381–40383).

The reevaluation of roadless areas on the Klamath National Forest will be done as part of the Forest's land and resource management plan and Environmental Impact Statement process.

During the reevaluation process, interim management direction will be aimed at carrying out those activities that will not preclude the option of wilderness or other Multiple Uses at the conclusion of the reevaluation. Wilderness values will be maintained in areas recommended in RARE II for wilderness, Further Planning and State Suit area. Management for other uses will continue in recommended for nonwilderness non State Suit areas.

In the reinventory of roadless areas on the Forest, and contiguous areas on adjacent Forests that meet the roadless reinventory criteria, four areas are RARE II recommended wilderness. Eight are all or part non wilderness non state suit areas. Four were inventoried and evaluated as part of Unit Planning, 1 in the King Unit Plan and 2 in the Medicine Lake Unit Plan and 1 in the Blue Creek Unit Plan. The Blue Creek area is near the Siskiyou Roadless Area. These reinventoried areas include 51,916 acres of non RARE II roadless areas, 82,342 of RARE II recommended wilderness and RARE II Further Planning and nonwilderness State Suit Areas on the Klamath National Forest. These acres will be reevaluated for wilderness and non wilderness uses. They include on the Klamath National Forest:

Roadless area name (numbers)	Acres	Planning status
Siskiyou (A5701, B5701)	131,957	W, NW.
Kangaroo (05703)	42,111	NW.
Kelsey (A5070, B5070)	4,506	W, NWNS.[1]
Snoozer (A5077, B5077)	20,182	W, NW.
Orleans Mt. (A5079, B5079, C5079)	98,812	W, FP, NW
Callahan Flow (05065)	2,000	NWNS.[1]
Grider (05067)	11,298	NW.
Portuguese (05074)	40,424	NW.
Shackleford (05078)	4,685	NW.
Mt. Hoffman (05066)	509	NWNS.[1]
Tom Martin (05069)	5,170	NWNS.[1]
Box Camp (05071)	900	NWNS.[1]
Muse (05072)	209	NWNS.[1]
Boulder (05073)	500	NWNS.[1]
Crapo (05076)	1,500	NWNS.[1]
Black (05080)	8,100	NWNS.[1]
Russian (A5081, B5081)	33,200	NW, NWNS.[1]
Johnson—(05068) expanded includes: Cub (05272), Flame (05273), Jacobs (05274), Ten Bear	23,056	NW, NWNS.[1]

[1] Areas reinventoried and not included in the Klamath National Forest Draft Environmental Input Statement (December, 1982).

NOTES.—W—Recommended Wilderness. NW—Recommended Non Wilderness State Suit. NWNS—Non Wilderness Non Suit. R—Non RARE II Roadless Area.

Summary descriptions of the roadless areas and the reevaluation process will be distributed to individuals and groups on the Forest mailing list and to others requesting a copy. In addition, there will be a public meeting in Yreka, California on November 16, 1983 at the Forest Headquarters on the reinventory and to further explain and discuss the reevaluation of roadless areas. A map of the areas will be provided for comment on the boundaries of the areas.

For a copy of information of the roadless areas inventoried and to be reevaluated on the Klamath National Forest contact: Lewis G. Manhart, Land Management Planning Officer, 1312 Fairlane Road, Yreka, CA 96097 (phone 916–842–6131).

Dated: October 3, 1983.

Robert L. Rice,
Forest Supervisor, Klamath National Forest.

[FR Doc. 83–27956 Filed 10–13–83; 8:45 am]
BILLING CODE 3410–11–M

Stanislaus National Forest Grazing Advisory Board; Meeting

October 6, 1983.

The Stanislaus National Forest Grazing Advisory Board will meet at 8:00 p.m., on November 16, 1983, in Conference Room A, of the Forest Supervisor's Office, 19777 Greenley Road, Sonora, California. The purpose of this meeting is to consider (1) priorities for use of range betterment funds, and (2) allotment management plans. This is the Board's third semi-annual meeting.

The meeting will be open to groups and individuals who have an interest in range management. Persons who wish to attend should notify me at 19777 Greenley Road, Sonora, California 95370, (209) 532–3671. Written statements may be filed with the committee before or after the meeting.

The committee has not established rules for public participation.

Dated: October 5, 1983.

Blaine L. Cornell,
Forest Supervisor.

[FR Doc. 83–27930 Filed 10–13–83; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Yampa River Park Public Water Based Recreation RC&D Measure, Colorado; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Yampa River Park Public Water Based Recreation RC&D Measure, Routt County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado 80211, telephone (303) 837–4275.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State

VOL
48
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Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this measure.

This public water based recreation measure concerns a plan to develop city owned and operated properties along the Yampa River into daylight hour passive and active recreational use. A city wide bicycle path will be completed on this development along with picnicing and special recreational uses such as kayaking and cold water fishing. Other planned works of improvement include picnic tables, barbecue grills, trash containers, park benches, group shelter, children's gym, horseshoe pit, sanitary facility, parking lot, foot bridges, and underground sprinkler system. Trees, shrubs and grasses will be planted and rock will be placed into the river bed to improve cold water fish habitat and kayaking.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 19, 1983.

Sheldon G. Boone,

State Conservotionist.

[FR Doc. 83-27911 Filed 10-13-83; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 83-10-22]

Hearings; Fitness Determination of Flightcenter, Inc. d/b/a Aerolineas de Baja

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order to Show Cause.

SUMMARY: The Board is proposing to find that Flightcenter, Inc. d/b/a Aerolineas de Baja is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 27, 1983. Persons objecting to the tentative findings must support their objections with relevant and material facts.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, kand with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Barbara Dunnigan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5918.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-22 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-10-22 to that address.

By the Civil Aeronautics Board: October 6, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27980 Filed 10-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-10-20]

Hearings; Fitness Determination of Crescent Helicopters, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order to Show Cause.

SUMMARY: The Board is proposing to find that Crescent Helicopters, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 26, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Timothy E. Carmody, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5121.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-20 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-10-20 to that address.

By the Civil Aeronautics Board: October 6, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27981 Filed 10-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41454]

Midway (Southwest) Airway Co., Fitness Investigation; Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled proceeding, earlier scheduled to be held on October 11, 1983, is hereby postponed to October 18, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-27979 Filed 10-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40813]

Regent Air Corp., Fitness Investigation; Postponement of Hearing

Recently I have been informed that counsel for the Bureau of Domestic Aviation has become ill with mononucleosis. Accordingly, it is necessary to postpone the hearings which are now scheduled to begin on October 24, 1983.

Notice is hereby given that the hearing in the above-entitled matter is assigned to commence on November 14, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 7, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-27978 Filed 10-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-10-23]

Fitness Determination of Silver Kris Services Ltd.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—order to show cause.

SUMMARY: The Board is proposing to find that Silver Kris Services Ltd. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 27, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-23 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-10-23 to that address.

By the Civil Aeronautics Board: October 6, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27982 Filed 10-13-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.

Title: Small Busines Export Development Assistance Program (Interim and Final Reports).

Form Numbers: Agency—ITA-4095P; OMB—N/A.

Type of Request: New collection.

Burden: 28 respondents; 210 reporting hours.

Needs and Uses: The information will be used to evaluate program achievements by organizations receiving Small Business Export Development Assistance Program grants, and to make recommendations to Congress concerning continuation and/or expansion of the program.

Affected Public: State or local governments, businesses or other for-profit, non-profit institutions, small business or organizations.

Frequency: At end of 3 months, 9 months and 12 months.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: Office of the Secretary.

Title: Self-Identification of Handicapping Condition

Form Numbers: Agency—CD-400; OMB—N/A.

Type of Request: Existing collection in use without an OMB control number.

Burden: 1,000 respondents; 83 reporting hours.

Needs and Uses: The information collected on this form will be used in conjunction with affirmative action plans and programs for the handicapped.

Affected Public: Individuals or households, Federal agencies or employees.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: Bureau of Economic Analysis (BEA).

Title: Unemployment Insurance Payments by County.

Form Numbers: Agency—N/A; OMB—0608-0038.

Type of Request: Reinstatement.

Burden: 50 respondents; 300 reporting hours.

Needs and Uses: The data collected from state employment security agencies are needed to prepare and develop the Regional Personal Income Accounts of the United States. BEA uses the data to prepare state and county personal income estimates.

Affected Public: State and local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Tim Sprehe, 395-4814.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Ed Michals,

Departmental Clearance Officer.

[FR Doc. 83-27917 Filed 10-13-83; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-351-012, A-351-014]

Hot-Rolled Carbon Steel Plate and Hot-Rolled Carbon Steel Sheet From Brazil; Preliminary Affirmative Determinations of Critical Circumstances

AGENCY: International Trade Administration, Commerce.

ACTION: Notice

SUMMARY: We have preliminarily determined that "critical circumstances" do exist in the antidumping investigations of hot-rolled carbon steel plate and hot—rolled carbon steel sheet from Brazil. Therefore, we are amending the suspension of liquidation ordered in the Preliminary Determinations of Sales at Less Than Fair Value published on September 7, 1983 to apply to all unliquidated entries of the subject merchandise which were entered, or withdrawn from warehouse, for consumption on or after June 9, 1983, which is 90 days before the date on which the suspension of liquidation was first ordered. We have also notified the U.S. International Trade Commission (ITC) of these determinations.

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth K. Haldenstein, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-4136.

SUPPLEMENTARY INFORMATION: We preliminarily determine that "critical circumstances" exist in the antidumping investigations of hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil, as provided in section 733(e)

VOL 48 ISS 200 OCT 14 1983 UMI

of the Tariff Act of 1930, as amended (19 U.S.C. 1673(b) (the Act).

Case History

On January 31, 1983, we received a petition from counsel for Bethlehem Steel Corporation on behalf of the domestic hot-rolled carbon steel plate and hot-rolled carbon steel sheet industry. In accordance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate antidumping investigations. We notified the ITC of our action and initiated the investigations of February 28, 1983 (48 FR 8320–3821). On March 17, 1983, we were informed by the ITC that there is a reasonable indication that imports of hot-rolled carbon steel plate and hot-rolled carbon steel sheet are materially injuring a U.S. industry.

Questionnaires were presented to Companhia Siderurgica Paulista (COSIPA), Companhia Siderurgica Nacional (CSN), and Usinas Siderurgicas de Minas Gerais S/A (USIMINAS), on March 21, 1983. The responses were received on May 24, 1983. On July 5, 1983, we received an allegation that sales of these products in Brazil were at prices which were below the cost of production and requested responses to cost questionnaires. The cost responses were received on August 8, 1983.

The preliminary determinations in these investigations were originally due by July 11, 1983. We subsequently determined that these investigations were "extraordinarily complicated" as defined in section 733(c)(1)(B) of the Act, and we extended the deadline for making our preliminary determinations to August 29, 1983 (48 FR 28680). Our preliminary determinations were published on September 7, 1983 (48 FR 40419).

On September 6, 1983, counsel for the petitioner amended its January 31, 1983 petition to allege that "critical circumstances" exist in the antidumping investigations of hot-rolled carbon steel sheet and hot-rolled carbon steel plate, pursuant to section 733(e) of the Act. On September 16, 1983, based on a request from counsel for respondents, we postponed the date of our final determinations in these cases to not later than January 20, 1984 (48 FR 43365).

Scope of Investigations

The products covered by these investigations are hot-rolled carbon steel plate and hot-rolled carbon steel sheet. The term "hot-rolled carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615 and 607.9400 of the *Tariff Schedules of the United States Annotated* (TSUSA); and hot-rolled carbon steel plate which has been coated or plated with metal including any material which has been painted or otherwise covered after having been coated or plated with metal, as currently provided for in items 608.0710 and 608.1100 of the TSUSA. Semifinished products of solid rectangular cross sections with a width at least four times the thickness in the cast condition or processed only through primary mill hot rolling are not included.

Hot-rolled carbon steel plate is used in the construction of bridges, mining equipment, pressure vessels, railroad freight and passenger cars, ships, line pipe, industrial machinery, machine parts, and a large variety of other products.

The term "hot-rolled carbon steel sheet" covers hot-rolled carbon steel products, whether or not corrugated or crimped and not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 8 inches in width and over 0.1875 inch in thickness and in coils as currently provided for in item 607.6610 of the TSUSA.

Hot-rolled carbon steel sheet is used in the construction of automobiles, industrial machinery and products, pipe, and a large variety of other products.

Preliminary Affirmative Determinations of Critical Circumstances

Counsel for petitioner alleged that imports of hot-rolled carbon steel sheet and hot-rolled carbon steel plate from Brazil present "critical circumstances." Under Section 733(e)(1) of the Act, critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2) (a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

In preliminarily determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period, we considered the following factors: recent import penetration levels; changes in import penetration since the date of the ITC's preliminary affirmative determination of injury; whether imports have surged recently; whether recent imports are significantly above the average calculated over several years (1980–1982); and whether the patterns of imports over that three-year period may be explained by seasonal swings. Based upon our analysis of the information, we preliminarily determine that imports of the products covered by these investigations do appear massive over a relatively short period.

We therefore proceeded to consider whether there is a history of dumping of hot-rolled carbon steel sheet and hot-rolled carbon steel plate from Brazil in the United States or elsewhere. We reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping orders, and found no past U.S. antidumping determinations on hot-rolled carbon steel sheet or hot-rolled carbon steel plate from Brazil. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. On May 18, 1983, in Commission Recommendation No. 1230/83/ECSC, the Commission of the European Communities imposed antidumping duties on imports of sheets and plates, of iron and steel, not further worked than hot-rolled of a thickness of 3 mm or more, originating in Brazil. This recommendation included merchandise both within and outside the scope of our investigations.

We also considered whether the person by whom, or for whose account, these products were imported knew or should have known that the exporters were selling these products at less than fair value. It is the Department's position that a reasonable basis to believe or suspect that the importer knew or should have known that a product was being sold at less than its fair value exists where margins calculated on the basis of responses to the Department's questionnaire are sufficiently large that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were sufficiently below home market sales prices. In this case, the margins calculated on the basis of responses to the Department's questionnaire are sufficiently large, even though there is no corporate relationship between the exporters and importers, that there is a reasonable basis to believe or suspect that the importers knew or should have known that the merchandise was being sold in the United States at less than fair value.

For the reasons described above, we preliminarily determine that "critical circumstances" do exist with respect to hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, we are amending the suspension of liquidation ordered in the Preliminary Determinations of Sales at Less Than Fair Value published September 7, 1983 (48 FR 40419) to apply to all unliquidated entries of the subject merchandise which were entered, or withdrawn from warehouse, for consumption, on or after June 9, 1983, which is 90 days before the date on which the suspension of liquidation was first ordered.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC if our determinations. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Dated: October 6, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-27918 Filed 10-13-83; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 41-1 (Amdt.1); DOD Reference 10-3, 40-1; Effective Date 10-2-83]

Organization and Function Order

ITA Organization and Function Order 41-1 of May 2, 1983 (48 FR 26854) is amended to realign the functions of the Information Projects Staff and the Office of Management and Systems into an Office of Organizations and Management Support and an Office of Information Resources Management and to rename of the Office of Budget as the Office of Financial Management with responsibility for providing accounting services.

1. Part III, Section 2.01 is amended to read:

.01 The *Director of Administration* who is the principal advisor to the Under Secretary and the Deputy Under Secretary on management policy for the International Trade Administration. The Director of Administration directs the following offices.

2. Part III, Section 2.01, subparagraph b is amended to read:

b. The *Office of Organization and Management Support* provides management and organization analysis, including management studies and surveys and organizational planning studies; performs the committee management, directives management, records management, forms management, correspondence management and reports management functions for ITA; coordinates GAO and Inspector General activity in ITA; coordinates activity under the Freedom of Information Act and the Privacy Act of 1974; operates the ITA Secretariat; monitors the quality, timeliness, and cost of administrative services provided centrally to ITA, and takes steps to improve those services; and provides liaison with its counterpart offices at the Department level and with the Office of Inspector General.

3. Part III, Section 2.01, subparagraph c is amended to read:

c. The *Office of Financial Management* formulates, presents, executes, and assesses program effectiveness of the ITA budget and accounting; effects financial, budgetary and accounting controls; prepares budget and accounting reports; and provides liaison with its counterpart offices at the Department level.

4. Part III, Section 2.01, a new subparagraph d is added to read:

d. The *Office of Information Resources Management* develops and administers strategic plans, policies, and standards for ITA acquisition and use of information technology and office automation; conducts and IRM security program; provides central administration for ITA use of data centers and services; operates ITA-wide text-processing, communications and remote date center facilities and operations center; provides in-house consulting and technical assistance to promote the use of information technology in ITA; manages the development of an Administrative Information Management System and an ITA management decision support system; and provides liaison with its counterpart offices at the Department level.

5. These changes constructively amend the organization chart attached to Organization and Function Order 41-1 dated May 2, 1983.[1]

Lionel H. Olmer,

Under Secretary for International Trade.

[Fr Doc. 83-27909 Filed 10-13-83; 8:45 am]

BILLING CODE 3510-25-M

Subcommittee on Export Administration of the President's Export Council; Partially Closed Meeting

A meeting of the Subcommittee on Export Administration will be held October 26, 1983, 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979 that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

General Session: 9:30–11:15. Discussion on economic impact and update on Export Administration Act.

Executive Session: 1:45–3:30 p.m. Discussion of matters properly classified under Executive Order 12356, dealing with matters pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Act. A Notice of Determination to close meetings or portions of meetings of the Subcommittee to the public on the basis of 5 U.S.C. 522b(c) (1) was approved on February 2, 1983, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce (202) 377–1455.

For further information, contact Debbie Kappler (202)377–1377.

Dated: October 11, 1983.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83-27897 Filed 10-13-83; 8:45 am]

BILLING CODE 3510-25-M

[1] Filed with the original.

VOL
48
ISS
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National Oceanic and Atmospheric Administration

Membership of National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of membership of NOAA Performance Review Boards.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4), NOAA announces the appointment of a supplemental member of the Group B, NOAA Performance Review Boards; Orcutt P. Drury, Deputy Director, Office of Strategic Resources, Department of Commerce. His period of appointment is from October 15, 1983 to August 1, 1985. Reference Notice of Membership published July 26, 1983 in **Federal Register** Volume 48, No. 144, page 33927.

DATE: The effective date of service of appointee to the NOAA Performance Review Board is October 15, 1983.

FOR FURTHER INFORMATION CONTACT: Robert P. Gajdys, Personnel Officer, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443–8781.

Dated: October 7, 1983.

Samuel A. Lawrence,

Director, Office of Administrative, and Technical Services.

[FR Doc. 83–27915 Filed 10–13–83; 8:45 am]

BILLING CODE 3510–12–M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Department of Commerce.

ACTION: Notice.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Scientific and Statistical Committee which will meet to discuss data needs for fishery management plans, as well as discuss other fishery management matters.

DATES: The public meeting will convene on Wednesday, November 2, 1983, at approximately 10 a.m., and will adjourn at approximately 4 p.m. The meeting may be lengthened or shortened or agenda items rearranged depending upon progress of same, and will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Phone: (302) 674–2331.

Dated: October 11, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–27983 Filed 10–13–83; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add and delete from Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments must be Received on or Before: November 18, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 8455

Medal, Good Conduct, Marine Corps
8455–00–261–4501
Medal Set, Good Conduct, Air Force
8455–00–082–5528
Medal Set, Good Conduct, Army 8455–00–269–5761
Medal Set, Women's Army Corps 8455–00–269–5783
Medal Set, Army of Occupation, WW II 8455–00–269–5763
Medal Set, Asiatic-Pacific Campaign 8455–00–269–5784
Medal Set, WW II Victory 8455–00–269–5782

SIC 0782

Grounds Maintenance Buliding, 2600 Base Chapel and Buildings 4592 and 4593, Bergstrom Air Force Base, Texas

SIC 7349

Janitorial Service, FAA Facilities, ARTCC Hampton, Georgia
Janitorial/Custodial, Federal Building, U.S. Post Office, and Courthouse, 825 Jadwin Avenue, Richland, Washington

Deletions

It is proposed to delete the following commodities from Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 6530

Cover, Litter
6530–00–784–1035

Class 7920

Cloth, Polishing
7920–00–205–3170
7920–00–664–0103

C. W. Fletcher,

Executive Director.

[FR Doc. 83–27974 Filed 10–13–83; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1983; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletions from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other sererely handicapped.

EFFECTIVE DATE: October 14, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 24, July 8, July 22, August 5, and August 19, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 29038, 48 FR 31446, 48 FR 33513, 48 FR 35695, and 37687) of proposed additions to and deletions from Procurement List 1983, November 18, 1982 (47 FR 52101).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1983:

Class 2540

Mirror and Bracket Assembly 2540–00–575–8392

Class 4240

Harness, Head 4240–00–961–1064

SIC 0782

Grounds Maintenance and Sprinkler System Maintenance, Hospital Building 2430 and Four New Athletic Fields:
Softball, Little League, Soccer (Practice), and Little League (Practice) Edwards Air Force Base, California

SIC 5947

Operation of Visitors Center Gift Shop Department of the Treasury Bureau of Engraving and Printing, 14th & C Streets, S.W., Washington, D.C.

SIC 9199

Administrative Services, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia

Deletions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C 46–48c, 85 Stat. 77.

Accordingly, the following services are hereby deleted from the Procurement List 1983:

SIC 0782

Grounds Maintenance
Mare Island Housing Areas:
Coral Sea Village, Bldg. 301D–4
Farragut South, Bldg. 302D–3
Farragut Central, Bldg. 303E–3
Farragut North
Mare Island Naval Shipyard Vallejo, California

SIC 7369

Commissary Shelf Stocking, Rough and Ready Isle, Stockton, California
Commissary Shelf Stocking, Puget Sound Naval Shipyard, Bremerton, Washington

C. W. Fletcher,

Exective Director.

[FR Doc. 83–27975 Filed 10–13–83; 8:45 am]

BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Amendments Relating to the government National Mortgage Association Certificate Delivery Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has submitted a proposal to revise its Government National Mortgage Association Certificate Delivery ("GNMA–CD") futures contract. Since the GNMA–CD futures contract is now dormant within the meaning of Commission Rule 5.2 (47 FR 29515 (July 7, 1982)), the CBT has expressed its written intention to seek Commission approval pursuant to the requirements of Rule 5.2 to recommence trading under the revised terms and conditions. The Commodity Futures Trading Commission ("Commission") has determined that these matters are of major economic significance and that, accordingly, publication of these matters is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 14, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CBT GNMA–CD futures contract.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: The CBT has submitted a proposal to amend its GNMA–CD futures contract. The GNMA–CD futures contract is now dormant within the meaning of Commission Rule 5.2 (47 FR 29515 (July 7, 1982)). The CBT has expressed its written intention to seek Commission approval pursuant to the requirements of Rule 5.2 to recommence trading in GNMA–CD futures contracts under the revised terms and conditions.

The Exchange is proposing major revisions to the terms and conditions of the GNMA–CD contract, including a change to conversion factor invoicing, an increase in the invoice price cap to 102.5, and an expansion of the delivery coupon window to six months. Standards would also be modified to allow delivery of securities issued under the new GNMA–II program. Other significant revisions to the contract terms and conditions include extending the last day of trading to seven business days prior to the last business day of the month and changing the delivery period to the last three business days of the month. Under the proposed amendments, the contract name would change from its current title to "Government National Mortgage Association-II (GNMA–II) futures contract."

Under the CBT's proposal, the current yield equivalence invoicing would be replaced with conversion factor invoicing. The Exchange submits that the proposed conversion factor invoicing would expand the deliverable supply of the contract by narrowing the marginal cost differentials for delivering non-optimal coupons. The Exchange further indicates that the proposed conversion factor invoicing would improve the hedging use of the contract by providing stable hedge ratios. The Exchange submits that under the current yield equivalence invoicing, the ratio of the invoice amount to the futures price varies over the range of possible market yields and must be adjusted as yields change, whereas under the proposed conversion factor invoicing hedge ratios would be constant regardless of market needs.

The Exchange is additionally proposing to revise the price cap of the contract from par (100.0) to 102.5. The Exchange believes the proposed 102.5 price cap would improve the contract

VOL 48 ISS 200 OCT 14 1983 UMI

because it would balance the need to hedge forward commitments for mortage production during declining rates with the need to prevent delivery of high premium GNMAs. The Exchange states that the proposed price cap would limit deliveries of premium GNMAs to coupons no greater than 0.5% above the coupon at par. The CBT maintains that the proposed 102.5 price cap is preferable to the current par cap because it would insulate the futures price from the effects of FHA-rate-change announcements. In the event of downward rate changes, the Exchange indicates that the proposed 102.5 price cap would ensure deliverability of the current coupon through at least one downward change, which in turn would stabilize hedge and spread relationships on the contract.

Under the CBT's proposal, the delivery window for coupons issued at prior current production rates would be expanded from the current three months after a downward rate change to a six month period prior to and including the delivery month. The Exchange believes the 6-month window, combined with the higher 102.5 price cap and conversion factor invoicing, would facilitate hedge and spread transactions on the contract in volatile markets, attract more local trading and improve liquidity. Further, the revised contract would permit delivery of any coupon at or below the current production rate in effect on the 15th of the month preceding the delivery month. The current contract does not permit delivery of a new coupon until 45 days after the production rate change. The Exchange maintains that the current 45-day period excludes new GNMAs issued by the larger originators who require less origination time and that the revised period would therefore improve the pricing of the contract.

Further, the CBT submission includes a revision to the contract standards which would allow for the delivery of securities issued under the new GNMA–II program (HUD Prospectus 11717–II), which was initiated on July 1, 1983. The CBT states that the inclusion of GNMA–II securities in the deliverable grade reflects Exchange anticipation that the GNMA–II program will dominate new GNMA issuance. The Exchange indicates that the new GNMA–II securities will differ in several ways from the standard GNMAs (HUD 1717), which are currently deliverable on the contract and which will continue to be deliverable under the revised rules. First, GNMA IIs will provide payments through, and be transferable on, the books of a central paying and transferring agent (Chemical Bank). Standard GNMAs require each individual issuer to maintain ownership records and provide direct payment to holders of its GNMAs. Second, GNMA II securities will be based on either custom pools, where all mortgages are contributed by the same issuer, or, multiple issuer pools, where mortgage loans from two or more issuers are included in a single pool. Custom pools are similar to the currently deliverable standard GNMA pools and will be $1 to $3 million in amount. Multiple issuer pools will be much larger than standard GNMA pools, and provide for pool diversification. Third, GNMA–II securities will provide payment of interest and principal at a later date. Standard GNMAs must provide payment by the 15th of each month whereas GNMA–II securities will provide payment by check dated and mailed at a later time in the month. In addition, buy-down mortgages will be included in GNMA–II pools and will be deliverable on the contract. The Exchange believes that although the existing GNMA program will continue to operate, GNMA issuers and investors will prefer GNMA–II securities because of the centralized payment system and pool diversification. The CBT maintains that eventually most of the new issuance in GNMAs will likely occur under the GNMA–II program and therefore the Exchange proposes to make GNMA–II securities deliverable on the contract.

The CBT's submission also includes significant revisions to the last day of trading and the delivery period. Under the proposal, the delivery of GNMAs would be changed from the 16th of the month to the last three business days of the month. The last day of trading would be changed from the current five business days prior to the delivery day to seven business days prior to the last business day of the month. The Exchange believes that these changes would improve the contract by reducing the potential for delay in futures delivery due to cash market delays. The Exchange indicates that when futures deliveries occur after the first delivery day, i.e., either of the last two business days of the month, the short would forfeit accrued interest for these days and, as in the cash market, longs would not be penalized for later deliveries.

In accordance with Commission Rule 1.61, the Exchange has proposed speculative position limits of 5,000 contracts net long or short in all contract months combined and 5,000 contracts net long or short in the spot month.

Because the existing GNMA–CD contract is currently dormant within the meaning of Commission Rule 5.2, the CBT has expressed its written intention to recommence trading in the contract under the above noted revisions to the terms and conditions in accordance with the requirements of Rule 5.2. The Exchange submits that the revised GNMA contract would track current FHA/VA mortgage production rates closely and would therefore be useful for hedging mortgages. In addition, the Exchange believes the contract would be used extensively for price basing of cash market transactions because the revised contract would provide market participants with price information on the coupon which is being tracked by the contract.

The Commission believes the CBT's expressed intentiona to recommence trading in the revised GNMA–CD futures contract in accordance with Commission Rule 5.2 is of major economic significance. The Exchange ceased to list trading months in December 1981. Further, the Commission has not conducted a thorough review of the terms of this contract for some time, nor is there a comparable contract being traded. Accordingly, the Commission believes that resumption of trading in the contract raises questions concerning its overall conformity with cash market practices and its economic purpose. With regard to the proposed recommencement of trading in certificate delivery GNMAs, CBT also plans to amend several existing contract terms and conditions, as noted above. The Commission believes that these intended contract revisions are of major economic significance because of their potential effects on deliverable supplies and the hedging and pricing characteristics of the GNMA–CD contract. Comments with regard to the CBT's plans both to recommence trading and to amend certain contract terms and conditions would assist the Commission in determining whether these proposals should be approved.

In accordance with Section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (Supp. 1982), the Commission has determined that the proposed rule amendments submitted by the CBT concerning its GNMA–CD futures contract and its intention to seek approval for the recommencement of trading under the revised terms and conditions are of major economic significance. Accordingly, the CBT's proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by November 14, 1983. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on October 11, 1983.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 83-27951 Filed 10-13-83; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Conduct of Employees; Postemployment Restrictions; Waiver

Section 207(f), title 18, United States Code authorizes the Secretary of Defense to waive the postemployment restrictions of section 207 (a), (b), and (c), title 18, United States Code, to permit a former employee with outstanding scientific or technological qualifications to make appearances before or communications to the Department in connection with a particular matter which requires such qualifications where it has been determined that such a waiver would serve the national interest.

It has been established to my satisfaction that Dr. Carl F. Romney, currently the Deputy Director for Research of the Defense Advanced Research Projects Agency, has outstanding knowledge and technical qualifications in the field of seismic studies. His background in this area makes him uniquely qualified to conduct and manage scientific research to improve seismological capabilities to monitor nuclear explosions. I am satisfied that it will serve the national interest to permit Dr. Romney to take the position of Technical Director of the Center for Seismic Studies to be staffed pursuant to a contract between the Defense Advanced Research Projects Agency and Scientific Applications, Inc., his prospective employer. I am satisfied that these activities are in a scientific or technological field and require the qualifications stated.

I have, therefore, waived the postemployment prohibitions of section 207 (a), (b), and (c), title 18, United States Code, in consultation with the Director of the Office of Government Ethics, with respect to contact by Dr. Romney with officials of the Department of Defense, to permit him to undertake the stated activities as an employee of Science Applications, Inc.

This notice was signed by Paul Thayer, Deputy Secretary of Defense, on September 26, 1983.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.

October 7, 1983.

[FR Doc. 83-27882 Filed 10-13-83; 8:45 am]
BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Ad Hoc Subgroup on Army Utilization; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the folowing Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Thursday and Friday, November 3 and 4, 1983.

Times: 0830–1700 hours, both days (Closed).

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on Army Utilization of Space Assets will meet for classified briefings and discussions on the capabilities of currently available and future space assets to enhance the Army's ability to carry out its mission. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph: (1) Thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,
Administrative Officer.

[FR Doc. 83-27900 Filed 10-13-83; 8:45 am]
BILLING CODE 3710-08-M

Army Science Board; Ad Hoc Subgroup on Light Equipment; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday and Wednesday, November 8 and 9, 1983.

Times: 0830–1700 hours, both days (Closed).

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on Light Equipment will meet for classified briefings and discussions. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph: (1) Thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,
Administrative Officer.

[FR Doc. 83-27899 Filed 10-13-83; 8:45 am]
BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of meeting: Thursday—3 November 1983.

Times: 0830–1700 hours, (Closed).

Place: The Pentagon, Washington, D.C.

Agenda:

The Army Science Board Ad Hoc Subgroup on Near Term Implementation of "How to Fight" will meet for classified briefings and disucssions as a follow-on to the 1983 ASB Summer Study on the Army Future Development Goal. The subgroup's task is to determine necessary procurement adjustments in the 1985 budget to bring off fully-integrated AirLand Battle capabilities by the end of 1988. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner,

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may be contacted for further information at (202) 695–3039 or 697–9703.

William B. Blake,

Acting Administrative Officer.

[FR Doc. 83–28258 Filed 10–13–83; 10:18 am]

BILLING CODE 3710–82–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–83–018; OFP Case No. 55069–9236–20–24]

Container Corporation of America; Acceptance of Petition for Exemption and Availability of Certification

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition for exemption and availability of certification by Container Corporation of American for its Vernon Plant.

SUMMARY: On August 1, 1983, Container Corporation of America (CCA), Los Angeles, Calif., filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant at its Vernon plant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982). CCA seeks an exemption for a proposed powerplant consisting of a gas turbine generator to produce electricity and a waste heat recovery boiler to generate process steam. A duct burner is included in the system to produce additional steam when the plant steam demand exceeds the heat capacity of the waste heat recovery boiler. The powerplant system will be capable of burning natural gas or distillate fuel and will be located at CCA's Vernon Plant in Los Angeles County, California. It is expected that virtually all of the net annual electric power produced by the cogenerator will be sold to Southern California Edison Company (SCE) making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR § 500.2.

Within thirty days of the receipt of the petition, ERA found it to be incomplete due to minor deficiencies and so notified CCA. On September 23, 1983 additional data and information addressing the deficiencies were received from CCA. ERA has determined that the amended petition appears to include sufficient evidence to support an ERA determination and it is therefore accepted pursuant to § 501.3 of the final rules. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR §§ 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, from 8:00 a.m. to 4:00 p.m. Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before November 28, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585

Docket No. ERA–FC–83–018 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–073G, Washington, D.C. 20585, Phone (202) 252–8182

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–235, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: CCA proposes to install a cogeneration system at its Vernon plant; Los Angeles County, California, which will (1) generate electrical power for sale to SCE, and (2) produce steam to meet the plant's process requirements. The proposed cogeneration system will be operated by CCA. The system will consist of a gas turbine generator which will produce electric power and a waste heat recovery boiler coupled with a duct burner which will produce process steam for CCA's use in its plant processes.

CCA expects to sell virtually all the net annual electric power generation to SCE. The sale of more than 50 percent of the facility's net annual electric power-generation causes it to be classified as an electric powerplant under FUA (10 CFR 500.2). It is therefore subject to the Title II construction and fuel use prohibitions contained in the Act.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), CCA has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.28 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), CCA has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that CCA is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on October 6, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–27999 Filed 10–13–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–317]

U.S. Aluminum Corp.; Notice of Application for Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following application for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). End-users who have the capability to use natural gas in place of fuel oil at any of their facilities can arrange for direct purchases and transportation of the gas to those facilities under the Federal Energy Regulatory Commission's (FERC) fuel oil displacement program. The ERA certification is required by the FERC as a precondition to interstate transportation of fuel oil displacement gas in accordance with the procedures in 18 CFR Part 284, Subpart F.

Pertinent information regarding this application is listed below, while more detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

83–CERT–317.

Applicant: U.S. Aluminum Corp.

Date Filed: September 29, 1983.

Facility: Marietta, Pa.

Gas Volume: 182,500 Mcf per year.

Oil Displaced: 1,000,000 gallons of No. 4 fuel oil (0.1% sulfur).

Seller: POI Energy, Inc., Cleveland, Ohio.

Transporter: Columbia Gas Transmission Corp., Charleston, W. Va.; UGI Corp., Reading, Pa.

To provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the **Federal Register.** The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of the above application may be requested by any interested person in writing within the ten-day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary in a particular case, further notice will be given to the applicant and any person filing comments in that case and will be published in the **Federal Register.**

Issued in Washington, D.C., on October 6, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–28000 Filed 10–13–83; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Solicitation of Comments

AGENCY: Energy Information Administration, DOE.

ACTION: Request for comments on the proposed revisions to Form EIA–782B, "Reseller-Retailer's Monthly Petroleum Product Sales Report."

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed revision of a form and invites comments. The Energy Information Administration (EIA) is proposing a revision to the Form EIA–782B that was cleared by the Office of Management and Budget (OMB) in August 1982 for use through August 1985. The EIA–782 series is necessary to collect information on monthly state sales volumes and prices for refined petroleum products sold to various types of customers, and on monthly state sales volumes of refined petroleum products sold into states for consumption in that state. The data obtained by this survey are published primarily in the *Petroleum Marketing Monthly* (DOE/EIA–0380). A copy of the revised form and instructions is reproduced following this notice.

DATE: Written comments must be received by EIA within 30 days following the publication of this notice.

ADDRESS: Comments should be sent to Mr. Robert R. German at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. German, EI–43, Energy Information Administration; U.S. Department of Energy; Mail Station: 2H–058 Forrestal; Washington, D.C. 20585; Phone (202) 252–9600.

SUPPLEMENTARY INFORMATION:

I. Current Action
II. Request for Comments

I. Current Action

EIA proposes to implement the Form EIA–782B, "Reseller/Retailer's Monthly Petroleum Product Sales Report," a revised version of Form EIA–782B, "Monthly No. 2 Distillate Sales Report." EIA is concurrently submitting to OMB a clearance package for the revised Form EIA–782B. Results of the consultation, as well as changes warranted in response to this public review and comment will be made available to OMB.

At present, the Form EIA–782B is used to collect data from a stratified random sample of resellers and retailers of No. 2 distillate products. As stated in the April 9, 1982, **Federal Register** Notice on Public Hearings and the June 1, 1982, Supporting Statement for the EIA–782 Survey, in subsequent phases of this survey, samples of resellers and retailers of other petroleum products will be selected. The proposed revised EIA–782B will be used to collect data from a new sample of motor gasoline resellers, and residual fuel oil resellers/retailers, in addition to distillate fuel oil reseller/retailers, drawn from the EIA–764, "Petroleum Products Sales Identification Survey," attribute survey frame.

The data collected by the revised EIA–782B will be incorporated in

relevant EIA publications including: "Petroleum Marketing Monthly" (DOE/EIA–0380), "Monthly Energy Review" (DOE/EIA–0035), and "Weekly Petroleum Status Report" (DOE/EIA–0208). Sales price data for reseller/retailers will be displayed on State, regional and national levels for various categories of sales for No. 2 distillate, motor gasoline, and residual fuel oil. These data will be used by the EIA as input to the State Energy Data Series and the Short Term Integrated Forecasting System. In addition, these data will be used by the Congress to perform various price analyses, and more than 35 State governments for trend analysis, demand modeling and forecasting, policy evaluation and analysis, contingency preparedness, and budgetary planning.

II. Request for Comments

The EIA invites public comment on the planned revisions within *30* days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

As a potential data provider:

a. Are the instructions and definitions clear and sufficient? If not, what instructions require clarification?

b. Can data be submitted using the definitions included in the instructions?

c. Can the data be submitted in accordance with the response time specified in the instructions?

d. How many hours, including time for preparation and administrative review, will your organization require to complete and submit the form?

e. What is the estimated cost of completing the form, including the direct and indirect costs associated with the data collection? Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, automatic data processing, and other administrative costs directly attributable to providing this information.

f. Do you know of other Federal, State or local agencies that collect similar data? (If yes, please identify.)

g. How can the form be improved?

As a potential data user:

a. Do you need data at the levels of detail indicated on the form?

b. For what purposes would you use these data? (Be specific.)

c. How could the form be improved to better meet your specific data needs?

d. Are there alternative sources of data and do you use them? What are their deficiencies?

EIA is also interested in receiving comments from persons as to their views on the need for the collection of this information.

Comments submitted in response to this notice will be made available to OMB for consideration of approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., October 7, 1983.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

EIA-782B:
RESELLER/RETAILER'S MONTHLY PETROLEUM PRODUCT SALES REPORT
Schedule II

DRAFT

IDENTIFICATION DATA
1. Firm Name
2. DOE Identification Number
3. Page ___ of ___
4. Reference Month (Mo. Yr.)
5. Type of Report (Check one)
(1) ☐ Original
(2) ☐ Revision, to Report Dated (Mo. Yr.)
6. Enter the abbreviation of the state for which this schedule is being filed. A separate Schedule II should be filed for each state. *(See Appendix A for state abbreviations.)* STATE

- Exclude from all calculations any material prior period adjustments. See General Instruction II.
- Exclude all taxes from sales data. See General Instruction III.
- Exclude all sales to refinery and gas plant operators.

PART III: MONTHLY STATE SALES OF FINISHED MOTOR GASOLINE *(Report volumes in thousands gal., prices in 30.000 per gal.)*

Line No.	Product (Refer to definitions)	RETAIL SALES (Direct Sales to End-Users): SALES THROUGH COMPANY-OPERATED RETAIL OUTLETS Volume (M)	SALES THROUGH COMPANY-OPERATED RETAIL OUTLETS Unit Price (M)	SALES TO OTHER END-USERS Volume (M)	SALES TO OTHER END-USERS Unit Price (M)	WHOLESALE SALES (Sales for Resale) Volume (M)	WHOLESALE SALES (Sales for Resale) Unit Price (M)
7	Finished Leaded Regular Motor Gasoline						
8	Finished Unleaded Regular Motor Gasoline						
9	Finished Premium Motor Gasoline						

PART IV: MONTHLY STATE SALES OF NO. 2 DISTILLATES *(Report volumes in thousands gal., prices in 30.000 per gal.)*

Line No.	Product (Refer to definitions)	RETAIL SALES (Direct Sales to End-Users): RESIDENTIAL SALES Volume (M)	RESIDENTIAL SALES Unit Price (M)	COMMERCIAL/ INSTITUTIONAL SALES Volume (M)	COMMERCIAL/ INSTITUTIONAL SALES Unit Price (M)	INDUSTRIAL SALES Volume (M)	INDUSTRIAL SALES Unit Price (M)	SALES THROUGH COMPANY-OPERATED RETAIL OUTLETS Volume (M)	SALES THROUGH COMPANY-OPERATED RETAIL OUTLETS Unit Price (M)	SALES TO OTHER END-USERS (Includes Sales to Utilities and Agriculture) Volume (M)	SALES TO OTHER END-USERS (Includes Sales to Utilities and Agriculture) Unit Price (M)	WHOLESALE SALES (Sales for Resale) Volume (M)	WHOLESALE SALES (Sales for Resale) Unit Price (M)
10	No. 2 Diesel Fuel												
11	No. 2 Fuel Oil			-									

Note: Lines 12 to 16 are not applicable to this form.

PART V: MONTHLY STATE SALES OF RESIDUAL FUEL OIL *(Report volumes in thousands gal., prices in 30.000 per gal.)*

Line No.	Product (Refer to definitions)	RETAIL SALES (Direct Sales to End-Users): Volume (M)	RETAIL SALES (Direct Sales to End-Users): Unit Price (M)	WHOLESALE SALES (Sales for Resale): Volume (M)	WHOLESALE SALES (Sales for Resale): Unit Price (M)
12	Residual Fuel Oil with 1 percent or less sulfur				
16	Residual Fuel Oil with greater than 1 percent sulfur				

EIA-782B (9-83)

U.S. DEPARTMENT OF ENERGY
Energy Information Administration

Form Approved
OMB NO.

EIA-782B:
RESELLER/RETAILER'S MONTHLY PETROLEUM PRODUCT SALES REPORT
Schedule I

DRAFT

This report is mandatory under the authority of P.L. 93-275, the Federal Energy Administration Act of 1974, and the Energy Conservation and Production Act of 1976, P.L. 94-385, as amended. Failure to comply may result in the imposition of criminal fines, civil penalties, and other sanctions as provided by law. See instructions for provisions concerning confidentiality of data.

PART I. IDENTIFICATION DATA *Complete items 1 thru 7 for new respondents and corrections to label only.*
1. Name
2. Name of Contact Person
3. Contact's Telephone Number ( ) -
4. Street/Box/RFD
5. City
6. State
7. Zip Code
8. Reference Month (Mo. Yr.)
9. Type of Report (Check one)
(1) ☐ Original
(2) ☐ Revision, to Report Dated (Mo. Yr.)
10. Date of This Report (Mo. Da. Yr.)
11. Type of Entity (Check one)
(1) ☐ Reseller
(2) ☐ Gas Plant Operator
(3) ☐ Reseller
(4) ☐ Reseller/Reseller
(5) ☐ Reseller
12. The Number of Bases For Which You Are Reporting
13. Which of the following best describes this form at the end of this reference month?
(1) ☐ In operation
(2) ☐ Temporarily or seasonally inactive
(3) ☐ Sold or leased to another ... See the Specific Instructions
(4) ☐ Permanently ceased operations ... See the Specific Instructions

PART II. CERTIFICATION
I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.
14. Name
15. Title
16. Signature
17. Date of Signing

This is a U.S.C. 1001 notice to a criminal offense for any person knowingly and willfully to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

EIA-782B (9-83)

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U.S. DEPARTMENT OF ENERGY
Energy Information Administration

Form Approved
OMB NO.

INSTRUCTIONS FOR FILING THE EIA-782B RESELLER/RETAILER'S MONTHLY PETROLEUM PRODUCT SALES REPORT

DRAFT

GENERAL INFORMATION

I. Purpose

The EIA-782B is designed to provide data on the sales of motor gasoline, No. 2 distillate, and residual fuel oil (volumes and prices) to various categories of end-users and resellers.

These data are collected pursuant to the provisions of the Federal Energy Administration Act of 1974, P.L. 93-275, and the Energy Emergency Preparedness Act of 1982, P.L. 97-229. The data are used by the Department of Energy (DOE) in reviewing petroleum product supply, demand and price changes.

II. Who Must Submit

A scientifically selected sample of resellers and retailers must prepare and file the EIA-782B each month. Submit a single Schedule I as a cover sheet, and a separate Schedule II for those states listed on the company identification label affixed to the form.

III. Where to Submit

Send the completed EIA-782B to:

Energy Information Administration
EI-43
Mail Station 88-079 Forrestal
U.S. Department of Energy
Washington, D.C. 20585

Certified computer printouts that are generally in the format of the EIA-782B will be accepted. Request DOE approval in advance by calling the number below if you plan to submit computer printouts.

If you have any questions concerning any of the EIA-782B instructions, call toll free 800-638-8812.

IV When to Submit

The EIA-782B must be submitted to DOE no later than 30 calendar days after the close of each reference month. For example, if the reference month is June 1984, the report must be submitted to DOE by July 30, 1984

V Sanctions

This report is mandatory under Public Laws 93-275 and 96-102. Failure to comply with reporting requirements may result in criminal fines, civil penalties, and other sanctions as provided by law.

VI. Provisions for Confidentiality of Information

Information on this form is collected for statistical purposes and will not be published by the DOE in individually identifiable form. However, upon receipt of a request for individually identifiable information, the DOE will follow the procedures listed below:

1. The information contained in this form will be kept confidential to the extent that it satisfies the criteria set forth in the Freedom of Information Act (FOIA) exemption for trade secrets and confidential commercial information and DOE regulations implementing the FOIA, and is prohibited from public release by the Trade Secrets Act, 18 U.S.C. § 1905.

GENERAL INFORMATION (Continued)

DRAFT

Upon receipt of a request for disclosure of this information under the FOIA, the DOE shall, in accordance with the procedures and criteria provided in 10 C.F.R. § 1004.11, make a final determination whether the information is exempt from disclosure. To assist us in this determination, respondents should demonstrate to the DOE that their information constitutes trade secrets or commercial or financial information whose release would cause substantial harm to their company's competitive position. A letter accompanying the submission that explains (on an element-by-element basis, if possible) the reasons why the information would cause the respondent substantial competitive harm if released to the public would aid in this determination. A new justification does not need to be provided each time information is submitted on the form, if the company has previously submitted a justification for that information and the justification has not changed.

2. Requests from other Federal agencies for information from this form shall be evaluated in accordance with the DOE Policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA (45 Fed. Reg. 59817 (1980)). Respondents should be aware that the information is also subject to release to State agencies for limited purposes and when the State can assure protection of the information from any further release.

3. Except as otherwise provided by law, the information will also be made available in response to an order of a Court of competent jurisdiction, or upon written request, to the Congress, any Committee of Congress, the General Accounting Office, or other Congressional agencies authorized by law to receive such information.

GENERAL INSTRUCTIONS

I. Report all volumes in thousands of gallons, e.g., report 9,500 gallons as 7, and 9,400 gallons as 8. Enter zero (0) for both volume and price if no volumes were sold. Enter 1 for volumes between 0 and 1,499. Note: One barrel is equal to 42 gallons.

II. Enter data reflecting sales made during the reference month only. Exclude from all calculations any material prior period adjustments for volumes and/or prices, and revise the report(s) for the appropriate prior period(s).

Revisions to prior month's reports are required for any adjustments or changes that, in the respondent's best judgment, would materially change the respondent's prior report(s).

Material adjustments or changes to sales volumes or prices are those that, by their inclusion in current month's data or their exclusion from prior month's data, would cause reported volumes or unit prices to be unrepresentative of the actual monthly level of sales or of the actual unit prices paid by customers in that month.

III. Report unit prices and costs in decimals of U.S. dollars and expressed to the nearest tenth of a cent (e.g., $1.0661). Unit prices are to be determined by dividing the total revenues derived from the sales of the product during the reference month by the total number of gallons sold. The unit price is the same as the weighted average price for all sales of that particular product to a particular group of customers or class-of-trade. These prices should exclude all taxes but include all transportation costs that were paid as part of the sales price at the point of sale. Do not calculate unit prices using rounded volumes.

IV Report only the data for the products listed; DOE is not seeking full coverage of all petroleum products sold.

V Exclude amounts supplied to exchange partners except where the amount given up exceeds the amount received and the imbalance is invoiced as a sale during the reference month.

VI. If firms do not maintain information sufficient to provide actual sales volumes and unit prices by the customer categories specified on the forms, estimates of sales volumes and unit prices may be provided. The basis for the estimates must be consistent with the standard accounting records maintained by the firm. The

GENERAL INSTRUCTIONS (Continued)

estimating procedure and data supporting the estimates should result in a reasonably accurate estimate which will be subject to review.

VII Exclude all sales to refiners and gas plant operators.

VIII. Report sales in the state where the transfer of title occurred. For FOB sales at a refinery/terminal, the state is the one in which the refinery/terminal is located. For delivered sales (by any mode of conveyance), the state is the one in which the buyer received the product. See Appendix A for list of state abbreviations.

IX. Report the entire firm's sales of the covered products. This includes sales made by the parent, affiliates, and subsidiaries.

SPECIFIC INSTRUCTIONS

Schedule I
Part I
Identification

DRAFT

Item	Instruction
1 thru 7	Complete items 1 thru 7 if you are a new respondent, or if information shown on the label is incomplete or incorrect. If changes need to be made, cross out the inappropriate information on the label and enter the correct information in the space(s) to the right of the label.
8	Enter the month and year of the reference month.
9	Check the type of report that is being submitted.
12	Enter the number of Schedule II pages submitted with Schedule I. This will reflect the total number of states for which reports are being submitted
10	Enter the date this report is being filed.
11	Mark the appropriate type of entity according to the definitions provided. Refiners operating in more than one capacity should mark "refiner." Firms engaging in both reselling and retailing should mark "reseller/retailer." The type of entity marked should not change from month to month but should reflect the activity of the firm throughout the year
13	Enter the status of the firm at the end of the reference month entered in item 8. If the firm has been sold or leased to another, or has permanently ceased operation, submit a letter to DOE stating the applicable action. Use the address listed under "Where to Submit" in the General Information section. If the firm has been sold or leased, provide the name and address of the company your firm has been sold or leased to. If the firm has permanently ceased operation, provide the date the firm ceased operation

Schedule I
Part II
Certification

Item	Instruction
14 thru 17	Enter the name and title of the individual designated by the firm to sign the certification. The individual must sign in the space provided on the form and enter the date of the signing.

Schedule II
Identification Data

Item	Instruction
1	Enter the name of the reporting firm
2	Enter the 10-digit identification number assigned to the reporting firm for this survey. This is the number printed in the upper left corner of the company identification labels which have been provided to you.
3	Sequentially assign a page number to each Schedule II page. Enter the total number of pages being submitted in item 10 on Schedule I.

SPECIFIC INSTRUCTIONS (Continued)

Schedule II
Identification Data
(Continued)

Item	Instruction
4	Enter the month and year of the reference month for which this schedule is being submitted.
5	Check whether this is an original or revised report.
6	Enter the abbreviation for the state. See Appendix A for list of state abbreviations.

Schedule II
Part III
Monthly State Sales of
Finished Motor Gasoline

Item	Instruction
7 thru 8	Include in the column headed "Sales to Other End-Users" all direct sales to end-users that were not made through company-operated retail outlets. Include sales of both leaded and unleaded premium motor gasoline in the category "finished premium motor gasoline." Report the entire volume of gasohol (both the unleaded gasoline and the alcohol) in the category "finished premium motor gasoline."

DRAFT

Schedule II
Part IV
Monthly State Sales of
No. 2 Distillates

Item	Instruction
10 and 11	Report volume and price data in accordance with what the product was sold as, regardless of the actual specifications of that product. If a No. 2 Distillate was sold as a diesel fuel, report that volume and price in the category "No. 2 Diesel Fuel." If a No. 2 Distillate was sold as a heating or fuel oil, report that volume and price in the category "No. 2 Fuel Oil" even if that product conformed to the higher specifications of a diesel fuel. If sales of a No. 2 Distillate were made for which no determination can be made as to whether the product was specifically sold as either a fuel oil or a diesel fuel, sales volumes and prices should be classified in accordance with your best estimate of the intended use of the product regardless of the product specification; i.e., sales of No. 2 Distillate that you believe will be used for heating purposes or as a boiler fuel should be reported under "No. 2 Fuel Oil." sales of No. 2 Distillate that you believe will be used as transportation fuels should be reported as "No. 2 Diesel Fuel." Include in the category "Residential Sales" those sales of No. 2 fuel oil to individual customers or households (as opposed to businesses or institutions). Sales to apartment buildings/complexes or other multi-family dwellings should be excluded from the "Residential Sales" category but included in the "Commercial/Institutional Sales" category. For those sales to residential facilities for which the respondent is unsure as to where those sales are to be reported, respondents are asked to report those sales in the category that, in their best judgment, is more appropriate. Include under the category of "Commercial/Institutional Sales" those sales of either No. 2 Fuel Oil or No. 2 Diesel Fuel to firms engaged in transportation, wholesale or retail trade, finance, insurance and real estate. Also include sales to apartment buildings/complexes and other multi-family dwellings, hotels and office buildings or complexes, sales to local, state or federal governmental facilities or organizations, along with military sales including those directed to

SPECIFIC INSTRUCTIONS (Continued)

Schedule II
Part IV
Monthly State Sales of
No. 2 Distillates
(Continued)

Item	Instruction
10 thru 11 (Continued)	post exchanges. Sales to schools, hospitals, religious institutions, universities or other government-supported organizations are also to be included in this category.

Include under the category "Industrial Sales" those sales of either No. 2 Fuel Oil or No. 2 Diesel Fuel to public or private firms engaged in mining, construction, or manufacturing.

Include under the category "Sales Through Company-Operated Retail Outlets" those sales of No. 2 diesel made through company-operated retail outlets which are subject to motor fuel gallonage taxes. Refer to the definition of company-operated retail outlets.

Include under the category "Sales to Other End-Users" (e.g., sales to agricultural customers or to utilities) sales of either No. 2 Fuel Oil or No. 2 Diesel Fuel to end-use customers not included in any of the above four categories.

Schedule II
Part V
Monthly State Sales of
Residual Fuel Oil

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Item	Instruction
17 thru 18	Include under the category "Retail Sales" all direct sales to end-users. Include under the category "Wholesale Sales" all sales to resellers.

DEFINITIONS

1. Affiliate/Subsidiary – Entities directly or indirectly controlled by a parent.
2. ASTM – The acronym for the American Society for Testing and Materials.
3. Commercial/Institutional – Firms engaged in transportation, wholesale or retail trade, finance, insurance, and real estate. Also included are apartment buildings/complexes and other multi-family dwellings, hotels, and office buildings or complexes, local, State or Federal facilities or organizations including the military, schools, hospitals, religious institutions, universities and all other government-supported organizations.
4. Company-Operated Retail Outlet – Any retail outlet (e.g., a gas station) selling gasoline or diesel fuel which is owned by, leased by, salaried employees of the company and/or under the direct control of the firm filling this report by virtue of the ability to set the retail product price and directly collect all or part of the retail margin. This category includes retail outlets: (1) being operated by its subsidiaries and affiliates, and/or (2) involving personnel services contracted by the firm
5. Distillate Fuel Oil – A general classification for one of the petroleum fractions produced in conventional distillation operations. It is used primarily for space heating, on-and off-highway diesel engine fuel (including railroad engine fuel and fuel for agriculture machinery), and electric power generation. Included are products known as No. 1, No. 2, and No. 4 fuel oils, and No. 1, No. 2, and No. 4 diesel fuels.
   a. No. 2 Distillate – A petroleum distillate which meets the specifications for No. 2 Heating or Fuel Oil as defined in ASTM D 396 and/or the specifications for No. 2 Diesel Fuel as defined in ASTM D 975.
      (1) No. 2 Diesel Fuel – A distillate fuel oil of lower volatility with a boiling range between 540-640°F for use in high-speed diesel engines generally operated under uniform speed and load conditions. Includes Type R-R diesel fuel used for railroad locomotive engines, and Type T-T for diesel-engine trucks. Properties are defined in ASTM Specifications D 975.

DEFINITIONS (Continued)

(2) No. 2 Fuel Oil – A distillate fuel oil for use in atomizing type burners for domestic heating, or for moderate capacity commercial-industrial burner units. ASTM Specification D 396 specifies for this grade temperatures at the 90-percent point between 540°F and 640°F, and kinematic viscosities between 2.0 and 3.6 centistokes at 100°F

6. Finished Motor Gasoline – A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, that have blended to form a fuel suitable for use in spark-ignition engines. Specifications for motor gasoline, as given in ASTM Specification D 439 or Federal Specification VV-G-1800B, include a boiling range of 122° to 158°F at the 10 percent point to 365° to 374°F at the 90 percent point and a Reid vapor pressure range from 9 to 15 psi. "Motor gasoline" includes finished leaded gasoline, finished unleaded gasoline, and gasohol. Blendstock is excluded until blending has been completed. (Alcohol that is used in the blending of gasohol is also excluded.)
   a. Regular Gasoline – As defined in ASTM D 439 and EPA Specifications, gasoline anti-knock designation equal to or less than 3. INCLUDES both leaded regular gasoline and unleaded regular gasoline. EXCLUDES any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and no longer separately identified.
      (1) Leaded Regular Gasoline – As defined in ASTM D 439 and Environmental Protection Agency (EPA) Specifications, gasoline anti-knock designation 3 produced with the use of any lead additives or which contain more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus.
      (2) Unleaded Regular Gasoline – As defined in ASTM D 439 and EPA Specifications, gasoline anti-knock designation 2 containing not more than 0.05 grams of lead per gallon and not more than 0.005 grams of phosphorus.
   b. Premium Gasoline – As defined in ASTM D 439 and EPA Specifications, gasoline anti-knock designation equal to or greater than 4. Includes both LEADED premium gasoline as well as UNLEADED premium gasoline. Also includes for this survey the entire volume of GASOHOL, both the gasoline and the alcohol.
      (1) Leaded Premium Gasoline – As defined in ASTM D 439 and EPA Specifications, gasoline anti-knock designation 5 produced with the use of any lead additives or which contains more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus.
      (2) Unleaded Premium Gasoline – As defined in ASTM D 439 and EPA Specifications, gasoline anti-knock designation 4 containing not more than 0.05 grams of lead per gallon or not more than 0.005 grams of phosphorus.
7. Firm – Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity, however organized, including charitable, educational, or other cheritable institutions, and the Federal government including operations, departments, Federal agencies, and other instrumentalities, and State and local governments. A firm includes a parent and those affiliates/subsidiaries (if any) directly or indirectly controlled by the parent.
8. Gas Plant Operator – Any firm, including a gas plant owner, which operates a gas plant and keeps the gas plant records. A gas plant is a facility in which natural gas liquids are separated from natural gas, or in which natural gas liquids are fractionated or otherwise separated into natural gas liquid products or both.
10. Gasohol – A blend of finished motor gasoline (leaded or unleaded) and alcohol (generally ethanol but sometimes methanol) in which 10 percent or more of the product is alcohol. For purposes of the EIA-782, report as "Finished Premium Motor Gasoline."
11. Industrial – Firms engaged in mining, construction, or manufacturing.
12. Parent – A firm that directly or indirectly controls another entity.
13. Reference Month – The calendar month and year to which the reported cost, price, and volume information relates.

DEFINITIONS (Continued)

14. Refiner – A firm or the part of a firm that refines products or blends and substantially changes products, or refines liquid hydrocarbons from oil and gas field gases, or recovers liquefied petroleum gases incident to petroleum gases incident to petroleum refining and sells those products to resellers, retailers, reseller/retailers or ultimate consumers. "Refiner" includes any owner of products which contracts to have those products refined and then sells the refined products to resellers, retailers, or ultimate consumers.
15. Reseller – A firm (other than a refiner) that carries on the trade or business of purchasing refined petroleum products and reselling them without substantially changing their form to purchasers other-than-ultimate consumers.
16. Reseller/Retailer – A firm (other than a refiner) that carries on the trade or business activities of both a reseller and a retailer; i.e., purchasing refined petroleum products and reselling them without substantially changing their form to purchasers who may be either ultimate or other-than-ultimate consumers.
17. Residential – In cases of sales of No. 2 Fuel Oil, includes individual customers or households (as opposed to businesses or institutions) who ostensibly use the fuel in a residence. Sales to apartment buildings/complexes or to other multi-family dwellings are excluded from the "Residential Sales" category and are included in the "Commercial/Institutional Sales" category.
18. Residual Fuel Oils – The topped crude of refinery operations, includes No. 5 and No. 6 fuel oils as defined in ASTM Specification D 396 and Federal Specification VV-F-815C; Navy Special fuel oil as defined in Military Specification MIL-F-859E including Amendment 2 (NATO Symbol F-77); and Bunker C fuel oil. Residual fuel oil is used for the production of electric power, space heating, vessel bunkering, and various industrial purposes.
19. Reseller – A firm (other than a refiner, reseller, or reseller/retailer) that carries on the trade or business of purchasing refined petroleum products and reselling them to ultimate consumers without substantially changing their form.
20. Sale – The transfer of title from the seller to a buyer for a price. EXCLUDE: Intrafirm transfers, products consumed directly by the reporting firm, or sales of bonded fuel. Also exclude products delivered/loaned to exchange partners except where the amount given up exceeds the amount received and the differential is invoiced as a sale during the reference month.
21. Unit Price – Total revenue derived from the sale of product during the reference month divided by the total volume sold; also known as the weighted average price. Total revenue should exclude all taxes but include transportation costs that were paid as part of the purchase price.
22. United States – The 50 states and the District of Columbia

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APPENDIX A

LIST OF STANDARD STATE ABBREVIATIONS

AL – Alabama	KY – Kentucky	ND – North Dakota
AK – Alaska	LA – Louisiana	OH – Ohio
AZ – Arizona	ME – Maine	OK – Oklahoma
AR – Arkansas	MD – Maryland	OR – Oregon
CA – California	MA – Massachusetts	PA – Pennsylvania
CO – Colorado	MI – Michigan	RI – Rhode Island
CT – Connecticut	MN – Minnesota	SC – South Carolina
DE – Delaware	MS – Mississippi	SD – South Dakota
DC – District of Columbia	MO – Missouri	TN – Tennessee
FL – Florida	MT – Montana	TX – Texas
GA – Georgia	NE – Nebraska	UT – Utah
HI – Hawaii	NV – Nevada	VT – Vermont
ID – Idaho	NH – New Hampshire	VA – Virginia
IL – Illinois	NJ – New Jersey	WA – Washington
IN – Indiana	NM – New Mexico	WI – Wisconsin
IA – Iowa	NY – New York	WV – West Virginia
KS – Kansas	NC – North Carolina	WY – Wyoming

[FR Doc. 83-28003 Filed 10-13-83; 8:45 am]
BILLING CODE 6450-01-C

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Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity; Meeting

Notice is hereby given that the Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity will meet in October 1983. The National Petroleum Council was established to provide advice, information, and recommendations to The Secretary of Energy on matters relating to oil and natural gas or the oil and gas industries. The Committee on Petroleum Inventories and Storage Capacity will study and update the analysis of minimum operating levels as well as update the estimates of total storage capacity available for use. The Subcommittee was established to assemble information, and report to the Committee on matters relating to petroleum inventories and petroleum product storage capacities. The Secondary and Tertiary Task Group of the Subcommittee was established to develop a methodology to estimate more precisely the storage capacity of the secondary and tertiary segments of the pretroleum distribution system.

The Secondary and Tertiary Storage Task Group will hold its meeting on Friday, October 28 1983, starting at 9:00 a.m., in the Hartsfield Room of the Holiday Inn North, 1380 Virginia Avenue, Atlanta, Georgia.

The tentative agenda for the Task Group meeting follows.

1. Review the proposed secondary petroleum distribution system survey, instructions, and sampling and aggregation procedures.

2. Review individual Task Group members preliminary drafts of tertiary storage capacity.

3. Discuss coordination of the secondary and tertiary task group draft with the Coordinating Subcommittee draft.

4. Review time schedule for completion of the Task Group assignment.

5. Discuss any other matters pertinent to the overall assignment of the Task Group.

6. Public Comment (10 minute rule).

The meeting is open to the public. The Chairman of the Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should contact Jimmie L. Petersen, Office of Oil and Gas, Energy Information Administration, Forrestal Building, Room 2H–058, Washington, D.C., 202/252–6401, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review approximately 30 days following the meeting at the Freedom of Information Public Reading Room, Room 1E–190, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 7, 1983.

J. Erich Evered,

Administrator, Energy Informotion Administration.

[FR Doc. 83–27895 Filed 10–13–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CI73–845–000, et al.]

Cities Services Services Company, et al.; Applications To Amend Certificates To Establish Entitlement To Section 109 Price[1]

October 11, 1983.

Take notice that each of the Applicants listed herein has either filed a petition to amend certificate pursuant to Section 7 of the Natural Gas Act or a notice of change in rate which is being treated as a petition to amend certificate to establish Applicant's right to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd* v. *FERC*, 649 F2d.376, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission in all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
CI73–845–000 Aug. 22, 1983	Cities Service Company, P.O. Box Oklahoma 74102	Southern Natural Gas Company	[2]	
CI76–750–001 Sept. 19, 1983	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	Transco Gas Supply Company	[2]	
CI77–364–002 Sept. 21, 1983	do	Columbia Gas Transmission Corporation	[2]	
CI77–422–001 Sept. 12, 1983	do	Transcontinental Gas Pipeline Corporation	[2]	
CI78–493–001 Sept. 21, 1983	do	United Gas Pipeline Company	[2]	
CI78–706–001 Sept. 19, 1983	do	El Paso Natural Gas Company	[2]	
CI78–1104–001 Sept. 21, 1983	do	United Gas Pipeline Company	[2]	
CI79–188–001 Sept. 21, 1983	do	El Paso Natural Gas Company	[2]	
CI81–121–002 Sept. 2, 1983	Diamond Shamrock Corporation, P.O. Box 631, Amarillo, Texas 79173.	Transcontinental Gas Pipe Line Corporation	[2]	
CI81–158–001 Sept. 19, 1983	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	Northern Natural Gas Company	[2]	

[1] Applicant proposes to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order issued in *Tenneco Exploration Ltd.* v. *FERC*, 649 F. 2d 376.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83–27985 Filed 10–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–1–51–000; PGA84–1 and IPR84–1]

Great Lakes Gas Transmission Company; Proposed Changes in FERC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

October 11, 1983.

Take notice that on September 30, 1983, Great Lakes Gas Transmission Company (Great Lakes) tendered for filing Forty-fourth Revised Sheet No. 57, and Seventh Revised Sheet No. 57–A to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1983.

Forty-fourth Revised Sheet No. 57 includes a revised purchased gas cost adjustment which reflects a decrease in the cost of gas purchased from TransCanada Pipe Lines Limited, its sole supplier of natural gas, as a result of a decrease in the heat content of the gas.

In addition, the revised tariff sheet reflects a purchased gas cost surcharge resulting from maintaining an unrecovered purchased gas cost account for the period commencing March 1, 1983, and ending August 31, 1983.

Seventh Revised Sheet No. 57–A reflects the estimated incremental pricing surcharge for the six month period commencing November 1, 1983, and ending April 30, 1984. No incremental costs are estimated for this period.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–27986 Filed 10–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–1–45–000; PGA84–1]

Inter-City Minnesota Pipelines Ltd., Inc., Purchased Gas Adjustment Clause Filing

October 11, 1983.

Take notice that on September 30, 1983, Inter-City Minnesota Pipelines, Ltd., Inc. (Minnesota Pipelines) tendered for filing Twentieth Revised Sheet No. 4 to Original Volume No. 1 of Minnesota Pipelines' FERC Gas Tariff. Minnesota Pipelines has requested that the sheet be suspended only for such time as is necessary to allow an effective date of November 1, 1983, for the rates set out therein.

Minnesota Pipelines represents that Twentieth Revised Sheet No. 4 reflects the current Account 191 surplus and passes that amount through to its customers. These amounts are primarily due to short periods during which border price reduction and incentive prices were in effect prior to being reflected in previous PGA applications. In addition, proposed Twentieth Revised Sheet No. 4 reflects (1) the reversion to pre-incentive prices for both eastern and western zone sales effective November 1, 1983; and (2) the projected reinstatement of the incentive price in July 1984, when sales under NEB Licenses GL–28 and GL–29 again reach Canadian incentive price levels.

Minnesota Pipelines proposes use of estimated volumes in order to allow the prospective incentive price benefit to be available, as an annualized credit, to its customers throughout the year.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–27987 Filed 10–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–1–53–000; PGA84–1]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

October 11, 1983.

Take notice that on September 30, 1983, K N Energy, Inc. (K N Energy) tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Gas Cost Adjustment provision (Section 19) and the Incremental Pricing Surcharges provision (Section 20) of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1 to reflect an increase in the cost of gas and to amortize certain unrecovered gas costs. The proposed changes would

VOL 48 ISS 200 OCT 14 1983 UMI

increase the commodity rate under each of K N Energy's jurisdictional rate schedules by 19.18 cents per Mcf, of which 8.70 cents per Mcf represents the increase in the base gas cost and 10.48 cents per Mcf the increase in the unrecovered gas cost surcharge. Included in the surcharge is the recovery of NGPA prices for certain company owned production authorized by previous rate case settlements, and the effects of adoption of the separate sub-account methodology for Account 191 as ordered by the Commission. This filing is proposed to become effective on December 1, 1983.

Copies of the filing were served upon the company's jurisdictional customers, interested public bodies, and all direct and indirect customers which will be subject to the incremental pricing provisions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27968 Filed 10-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-46-000]

Kentucky West Virginia Gas Company; Proposed Change in Rates

October 11, 1983.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on September 30, 1983, tendered for filing with the Commission its Twenty-Eighth Revised Sheet No. 27 and Eighth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1983.

Kentucky West states that the change in rates results from the application of the Purchase Gas Cost Adjustment provision in Section 18, General Terms and Conditions of FERC Gas Tariff, First Revised Volume No. 1.

Kentucky West states that effective November 1, 1983, the Company has exercised its rights under the economic or market-out clauses of various contracts of its producer affiliates, Kepco and Philadelphia Oil Company; for Devonian Shale gas purchased under Section 107 of the NGPA, Kentucky West has specified that it would not pay a total price in excess of $4.00 pere dth.

Kentucky West also requests a a waiver of all applicable rules, orders, and regulations of the Commission to the extent necessary to permit the amortization of Unrecovered Purchased Gas Costs for the period over a one-year period, i.e., two PGA filings.

Kentucky West further states that, in making the instant filing, it does not waiver or prejudice its right to continue to prosecute its petition for review with the United States Court of Appeals for the Fifth Circuit of the Commission's Order dated December 2, 1982, denying Kentucky West's application for rehearing of the Order issued April 30, 1982 in Docket Nos. TA82-2-46-001 (PGA-2) (IPR82-2). *(Kentucky West Virginia Gas Company vs FERC,* Case No. 82-4595—filed December 3, 1982).

Kentucky West further states that, in making the instant filing, it does not waive any rights it may have to filing to charge and collect NGPA prices for all Company-owned production retroactive to December 1, 1978, nor does it waive any rights to collect any carrying charges or interest charges applicable thereto.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commission and upon each party on the service list of Docket No. RP83-48.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27969 Filed 10-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-58-005]

Southern Natural Gas Company; Proposed Changes in FERC Gas Tariff

October 11, 1983.

Take notice that Southern Natural Gas Company (Southern) on September 30, 1983, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Volume No. 2 and First Revised Volume No. 2A. The revised tariff sheets would reduce the jurisdictional revenues for gas sales and transportation services by $32,505,420 annually over the rates originally filed in Southern's Docket No. RP83-58-001.

Southern states that on March 31, 1983 it filed a general rate increase in Docket No. RP83-58-001 to become effective on May 1, 1983. By its order issued April 29, 1983, the Commission accepted the revised tariff sheets for filing and suspended their effectiveness until October 1, 1983, subject to certain conditions. In compliance with the Commission's April 29, 1983 order, Southern's filing reflects (i) the elimination of all costs associated with facilities that will not be in service as of September 30, 1983, (ii) the actual balance of advance payments in Account No. 166 as of September 30, 1983, and (iii) a balance for take-or-pay payments based on the average of 13 monthly balances for the period ending September 30, 1983.

The filing reflects the current level of purchased gas as included in Southern's Purchased Gas Adjustment (PGA) filing of August 31, 1983. It also reflects a reduction in Southern's main line depreciation rate from 3.30% to 3.00% pursuant to a Stipulation and Agreement in Docket No. RP82-116-000.

Southern requests that the proposed tariff sheets be allowed to be substituted for the tariff sheets previously suspended by the Commission's order of April 29, 1983. Since the proposed tariff sheets contain the same costs included in Southern's rate filing, modified in accordance with the Commission's April 29, 1983 order in this docket, Southern requests the Commission to grant such waivers as may be necessary to allow the proposed tariff sheets to become effective October 1, 1983.

Copies of this filing were served upon Southern's jurisdictonal customers, interested state public service commissions and all parties of record.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27970 Filed 10-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS68-48-000, et al.]

Baurch-Foster Corp., BFO Energy, Inc., et al.; Applications for "Small Producer" Certificates [1]

October 11, 1983.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS68-48-000	Oct./4/83 [1]	Baurch-Foster Corporation, BFO Energy, Inc., 1160 One Energy Square, 4925 Greenville Avenue, Dallas, Texas 75206.
CS71-515-000	Sept./26/83 [2]	Howell Petroleum Corporation, (Petro-Search, Inc.), 1010 Larmar, Suite 1800, Houston, Texas 77002.
CS83-73-001	Sept./19/83 [3]	Energy Methods Corporation, EM Nominee Partnership, 303 East 17th Avenue, Suite 500, Denver, Colorado 80203-1286.
CS83-123-000	Sept./21/83	Eileen and Giangiorgio Romano, co-trustees of the Kevin P. Romano Irrevocable Trust, Number One, Trust Energy Department, P.O. Box 1, First Nat'l Bank & Trust Co, Tulsa, Oklahoma 74193.
CS83-124-000	Sept./22/83	Evergreen Resources, Inc, 425 South Cherry Street, Suite 900, Denver, Colorado 80222.
CS83-125-000	Sept./23/83	NOVA Petroleum Corporation, 1640 Grant Street, Suite 200, Denver, Colorado 80203.
CS83-126-000	Sept./28/83	States Petroleum Inc., 1121 Katy Fwy., #450, Houston, Texas 77079.
CS83-128-000	Sept./30/83	G.W. Schultz, 6337 NW 63rd, Oklahoma City, Oklahoma 73132.
CS84-1-000	Oct./3/83	Chartnerhall America, Inc., 1625 Broadway, Suite 1970, Denver, Colorado 80202.
CS84-2-000	....do	E. Alex Phillips, 1200 Philtower Bldg., Tulsa, Oklahoma 74103.
CS84-3-000	....do	Park Oil & Gas, Inc., 4500 Clearview Parkway, Suite 201, Metairie, Louisiana 7002.
CS84-4-000	Oct. 4, 1983	Ewell N. Walsh, P.O. Box 254, Farmington, New Mexico 87499.
CS84-5-000	....do	Bonnie Vistica, P.O. Drawer 419, Farmington, New Mexico 87499.
CS84-6-000	....do	Patricia Gottlieb, P.O. Drawer 419, Farmington, New Mexico 87499.
CS84-7-000	....do	Fraley Energy Company, 800 Fouts, Amarillo, Texas. 79121.
CS84-8-000	Oct. 5, 1983	S T Joint Venture 1983 A, P.O. Box 552, Westport, Connecticut 06881.

[1] Baurch-Foster Corporation requests that the Commission include BFO Energy Inc., to its Small Producer Certificate.
[2] Howell acquired Petro-Search Inc., effective January 30, 1979, through a stock purchase.
[3] Applicant requests that the name of EM Nominee Partnership Company be included as an additional et al to Energy Methods Corporation.

[FR Doc. 83-27984 Filed 10-13-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of August 22 Through August 26, 1983

During the week of August 22 through August 26, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Richard M. Holman, 8/23/83; HFA-0160

Richard M. Holman filed an Appeal from a denial by the Albuquerque Operations Office of a Request for Information which he had submitted under the Privacy Act. After the Appeal was filed, the Albuquerque Office indicated that it no longer objected to providing to Holman all of the documents that he originally requested. The DOE therefore dismissed the Appeal as moot.

James B. Metzger, 8/26/83; HFA-0155

James B. Metzger filed an Appeal from a denial by the Director of the DOE's Procurement Management Systems and Analysis Division of a Request for information which Metzger had submitted under the Freedom of Information Act. Metzger sought the release of a proposal for a prototype facility for obtaining methane gas from waste products. The proposal was withheld in its entirety pursuant to Exemption 4 of the Act. In affirming the Director's determination, the DOE found (i) that although much of the information appeared to be "off-the-shelf" technology, release of the information would provide valuable insights into the submitter's organization of data and unique approach to the project and (ii) that even though some of the requested material may be owned by Metzger and not by the submitter, this information is inextricably intertwined with

material to which the submitter clearly has rights and which, if released, would likely cause substantial competitive harm. Accordingly, the Appeal was denied.

Remedial Order

Atlantic Richfield Co., 8/24/83; BRO-0293

Atlantic Richfield Company objected to a Proposed Remedial Order issued to the firm by the Office of Special Counsel. The OSC had alleged that Arco retroactively reallocated to motor gasoline $62.9 million in costs associated with No. 2 oils, products that had been decontrolled. The OSC therefore claimed that Arco violated the prohibition against reallocating costs from decontrolled products to controlled products, set forth at 10 CFR 212.83(d)(2)(ii). Arco contended that the prohibition did not apply to costs incurred prior to April 21, 1976, the effective date of that regulation, that the OSC's interpretation of the prohibition violates the dollar-for-dollar passthrough provisions of the Emergency Petroleum Allocation Act of 1973, and that the firm was permitted to submit revised allocation reports pursuant to 10 CFR 212.126(d)(2). The DOE rejected each of these arguments, stating that the prohibition against cost reallocations applied to all costs, regardless of when they were incurred, that under this interpretation firms could still recover all of their increased product costs, and that the limited circumstances under which reallocations could be made pursuant to § 212.126(d)(2), did not apply to Arco.

Motions for Discovery

Mountain Fuel Supply Co., 8/23/83; HRD-0084

Mountain Fuel Supply Company filed two Motions for Discovery directed to the Economic Regulatory Administration (ERA) in connection with the firm's Statement of Objections to a Proposed Remedial Order (PRO) issued to the firm. In its first discovery motion, Mountain Fuel sought all internal agency memoranda relating to the issue of operators' liability for overcharges and to the DOE's position concerning violations of the DOE price regulations committed by the Department of Interior and the refund of overcharges resulting from such violations. In considering Mountain Fuel's first discovery motion, the DOE found that Mountain Fuel sought these documents in order to support a claim of selective enforcement in connection with the PRO issued to the firm. In denying the requested discovery, the DOE found that Mountain Fuel had not made a preliminary showing that the ERA had departed in any manner from its regular enforcement practice of issuing a PRO to the operator of the relevant property. In considering Mountain Fuel's second discovery motion, the DOE found that discovery of audit work papers and answers to interrogatories concerning the factual basis for the amount of overcharges alleged in the PRO was relevant and material. Accordingly, discovery of that information was granted. The DOE further found, however, that interrogatories that requested DOE auditors to state their understanding of the operating practices of Mountain Fuel and other working and royalty interest owners of the relevant property would not provide information useful in determining the validity of the conclusions of the PRO. Accordingly, that portion of Mountain Fuel's second discovery motion was denied.

Utex Oil Company, 8/22/83; HRD-0081 HRH-0081

Utex Oil Company filed Motions for Discovery and Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order (PRO) issued to the firm. In its Discovery Motion, Utex sought documents prepared in connection with DOE rulemakings and DOE audit records concerning the properties which are the subject of the PRO. Utex also requested responses to interrogatories from DOE auditors and other knowledgeable parties regarding previous DOE audits of the subject properties, the measurement of base period crude oil production from the properties, and the selection of a posted price for the property. In considering the Utex requests, the DOE found that the publicly available administrative record of the rulemakings was sufficient to enable the firm to determine the validity of the PRO's legal findings. With respect to the other Utex requests, the DOE found that the firm had not established that the requested discovery was necessary to resolve essential factual issues raised in the PRO. Accordingly, the Motion for Discovery was denied.

In its Motion for Evidentiary Hearing, Utex requested an opportunity to present testimony regarding its positions on the above issues and to cross examine the DOE auditors. Utex also sought to question a member of the Ute Indian tribe regarding the tribe's willingness to contribute to the refund of overcharges. In considering these requests, the DOE found that such testimony was not necessary to resolve essential issues of fact. Accordingly, the DOE concluded that an evidentiary hearing would not be warranted.

Interlocutory Order

Texaco Inc., 8/24/83; HRZ-0159

Texaco, Inc. filed requests to deem the Office of Special Counsel to have admitted factual contentions made by the firm in connection with its objections to a Proposed Remedial Order issued to it by OSC. The OHA granted the requests in part. However, the OHA found that several of the requests for "authentication admissions" should be denied because Texaco had failed to provide documentation in support of its requests.

Request for Modification and/or Recission

Economic Regulatory Administration/ RAMCO Oil Company, 8/26/83; HRR-0068

The Economic Regulatory Administration sought reconsideration of a portion of the dicta in a Remedial Order which OHA had issued to Ramco Oil Company, Inc., *Ramco Oil Co.*, 11 DOE ¶ 83,008 (1983). To avoid any ambiguity, OHA modified that dicta, and reasserted its well-established position that increased product costs accumulated prior to November 1, 1973, could not be banked for later recoupment. The modification did not alter the result in the earlier *Ramco* decision.

Refund Applications

Ozona Gas Processing Plant I/Nalley, Inc., 8/25/83; RF27-3

Nalley, Inc. filed an Application for Refund for a portion of the Ozona I consent order fund. After analyzing Nalley's claim, the Office of Hearings and Appeals found that Nalley qualified for a refund under the procedures set forth in *Office of Enforcement*, 10 DOE $85,056 (1983). Accordingly, Nalley was granted a refund of ¶ 18,902 plus interest.

Standard Oil Company (Indiana)/Autry Petroleum Company, 8/24/83; RF21-12165

The OHA issued a Decision and Order approving refunds from the *Amoco* escrow account for 223 resellers of Amoco middle distillates. Standard Oil Co. (Indiana)/Akin Oil Co., 10 DOE ¶85,076 (1983). Subsequently, the attorneys representing all 223 firms, apprised the OHA of an error in the Appendix to that Decision. According to the Appendix, Autry Petroleum Company was entitled to a refund of $990 based on a total purchase of 2,843,221 gallons of Amoco middle distillates. Autry's application, however, indicated purchases of 3,843,221 gallons of Amoco middle distillates. After reviewing Autry's application, the OHA determined that the 3,843,221 figure was accurate. Since the original $990 refund had already been disbursed, the OHA remedied the error made in the March 10 Decision by granting Autry a supplementary refund based upon purchases of 1,000,000 gallons of middle distillates. The supplementary refund granted in this proceeding equaled $362.

Standard Oil Company (Indiana)/F.M. Middlebrook, 8/26/83; RF21-7128, RF21-7129

The DOE issued a Decision and Order concerning an Application for Refund filed by F.M. Middlebrook, a retailer of Amoco motor gasoline and a consumer of Amoco middle distillates. The firm elected to apply for a refund based upon the presumption of injury and the formulae outlined in Office of Special Counsel, 10 DOE ¶ 85,048 (1982). In considering the application, the DOE concluded that the applicant should receive a refund based upon the total volume of its Amoco motor gasoline and middle distillates purchases. The refund granted in this proceeding totals $369.

Standard Oil Company (Indiana)/Four Ways Service, Et Al., 8/25/83; RF21-10851, Et Al.

The DOE issued a Decision and Order concerning 67 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 67 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $56,513.

Standard Oil Co. (Indiana) JOHN COCONATO, Et Al., 8/23/83; RF21-11123, Et Al.

The Illinois Service Station Operators Association filed applications for a portion of the Standard Oil Company (Indiana) (Amoco) refund money on behalf of 24 motor gasoline retail outlets operated by its members. In its application, the ISSOA contended that these applicants had been injured by more than the presumptive levels adopted in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). Specifically the ISSOA maintained that these firms were injured by 3.3 cents per gallon, because they were unable to obtain the maximum lawful profit margin established by the federal price regulations during the period and because the prices which the group paid were higher than those published in an Amoco annual report. The DOE rejected the ISSOA's contention that an inability to charge the maximum lawful selling price constituted the type of injury that special refund proceedings were designed to redress and noted that many retailers, not just those who purchased Amoco motor gasoline, were unable to achieve their maximum permissible profit margins due to a variety of competitive market factors. In addition, the DOE rejected the ISSOA's contention that the pricing information which it provided established that Amoco had charged these applicants more than it was permitted, since ISSOA did not indicate how the prices were derived and did not establish that those prices were the maximum lawful selling prices applicable to the dealers which it represented. Finally, although each of the applicants failed to establish that it should be granted a refund in an amount in excess of that allocated to it by the presumption method, each was granted a refund based upon the presumption of injury and the formulae set forth in *Office of Special Counsel*, 10 DOE at 88,233. The total amount of refunds approved in this Decision and Order was $33,273.

Standard Oil Company (Indiana) Northwest Airlines, Inc., Et Al., 8/26/83; RF21-8087, Et Al.

The DOE issued a Decision and Order concerning Applications for Refund filed by 10 major airlines that were end-users of Amoco kerosene-type aviation jet fuel. In considering these applications, the DOE concluded that each of the applicants should receive a refund based upon the total volume of its Amoco aviation jet fuel purchases multiplied by 100 percent of the volumetric refund amount established in the Amoco refund proceeding. The refunds granted in this proceeding total $1,786,641.

Standard Oil Company (Indiana) Scott County Highway Dept., Et Al., 8/22/83; RF21-6159, Et Al.

The DOE issued a Decision and Order concerning 41 Applications for Refund filed by consumers of Amoco motor gasoline and middle distillates. All of the applicants elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 41 applicants should receive a refund based upon the total volume of its eligible Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $8,314.

Standard Oil Company (Indiana) Staskopf Oil Co., Inc., Et Al., 8/22/83; RF21-4302, Et Al.

The DOE issued a Decision and Order concerning 14 Applications for Refund filed by 7 firms which operate as both retailers and wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 7 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $14,662.

Protective Order

The following parties filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name and Case No.

ERA/Fuel Oil Supply & Terminaling, Inc.—HRJ-0040

Dismissals

The following submissions were dismissed:

Name and Case No.

Anthony Ross—RF21-7535.
Beaverdam Truck Plaza—RF21-11910.
Charles Buttice—RF21-11353.
Chester Hall Standard Service—RF21-11901.
Chevy Chase Village—RF21-8744.
City of Madison—RF21-8639.
Davies Oil Co., Inc.—RF21-7928.
Duluth, Missabe and Iron Range Railway Co.—RF21-6686.
Earle Byrd—RF21-10112.
Fruehauf Corporation (Ft. Wayne Plant)—RF21-10950.
George Friesen standard Products—RF21-10765.
Great Northern Truck Rentals—RF21-11418.
Hillcrest Retirement Village, Inc.—RF21-11344.
J. C. Bell—RF21-11017, RF 21-6155
James Hardy—RF21-6156.
Kennedy's Amoco—RF21-7016.
Leona Voigt—RF21-12169.
Lewis Hood—RF21-7672, RF21-7673.
Pittman, David H.—RF21-6822.
Pfaff Oil Company—RF21-6366.
Robert M. Martin Oil Co., Inc.—RF21-6153.
Salt Lake City Corp.—RF21-4306.
U-Tote-M—RF21-11423.
Village of Glen Ellyn—RF21-11430.

The following Amoco refund Applications were dismissed on the grounds that the applicant had already received a refund directly from Amoco.

Armour Food Co.—RF21-10449
Motor Wheel Corp.—RF21-11763

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 6, 1983.

[FR Doc. 83-28002 Filed 10-13-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of July 29, 1983 Through August 5, 1983

During the Week of July 29 through August 5, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: October 6, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

VOL 48 ISS 200 OC 14 1983 UMI

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 29 through Aug. 5, 1983]

Date	Name and location of applicant	Case No.	Type of submission
July 20, 1983	Wheelock Oil Company, Dallas, Texas	HRD-0152 and HRH-0152.	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Wheelock Oil Company in response to the June 3, 1982, Proposed Remedial Order (Case No. HRO-0069) issued to Cordele Operating Company.
Aug. 1, 1983	Kadison, Pfaelzer, Woodard, Quinn & Rossi, Los Angeles, California.	HFA-0173	Appeal of an Information Request Denial. If granted: The July 1, 1983, Information Request Denial issued by the Office of Special Counsel would be rescinded, and Kadison, Phaelzer, Woodard, Quinn & Rossi would receive access to a memorandum involving Subpart K of Part 212 of the price regulations pertaining to gas processors.
Do	Mobil Oil Corporation, New York, New York	HRD-0154 and HRH-0154.	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Mobil Oil Corporation in response to the December 30, 1981, Proposed Remedial Order (Case No. HRO-0030) issued to Mobil Oil Corporation.
Do	Mobil Oil Corporation, New York, New York	HRD-0153	Motion for Discovery. If granted: Discovery would be granted to Mobil Oil Corporation in connection with the Statement of Objections submitted in response to the September 18, 1981 Proposed Remedial Order (Case No. HRO-0014) issued to Mobil Oil Corporation.
Do	New York Petroleum, Inc., Washington, D.C.	HEF-0023	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR, Part 205, Subpart V, in connection with the January 19, 1979 Order of Dismissal adopting the proposed settlement agreement between New York Petroleum, Inc. and DOE.
Aug. 3, 1983	Pacific Power and Light Company, Portland, Oregon	HFA-0174	Appeal of an Information Request Denial. If granted: The July 26, 1983, Freedom of Information Request Denial issued by the Freedom of Information Office, Portland, Oregon would be rescinded, and Pacific Power and Light Company would receive access to Bonneville Power Administration files relating to Bridge Loan Agreements, including documents regarding the disbursement of funds from an escrow account.
Aug. 4, 1983	Laketon Asphalt Refining, Inc., Washington, D.C.	HRD-0156 and HRH-0155.	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Laketon Asphalt Refining, Inc. in response to the July 5, 1983, Proposed Decision and Order (Case No. HEE-0051) issued to Department of Interior.

REFUND APPLICATIONS RECEIVED

[Week of July 29, 1983 to Aug. 5, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No. assigned
Aug. 5, 1983	Pennzoil Company/Gulf Oil Corporation	RF10-60.
Do	Pennzoil Company/Standard Oil Company (Indiana)	RF10-61.
Aug. 1, 1983 to Aug. 5, 1983	Amoco-Refund Applications	RF21-12032 through RF21-12150.

[FR Doc. 83-28001 Filed 10-13-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2451-7]

Availability of Environmental Impact Statements Filed October 3 Through October 7, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, general information (202) 382-5075 or (202) 382-5076.

EIS No. 830542, Final, AFS, CO, Grand Mesa, Uncompahgre and Gunnison NFs, Land & Resource Mgmt. Plan, Due: Nov. 14, 1983.

EIS No. 830543, Final, COE, OK, FL Gibson Dam Powerhouse Extension, Hydropower Units, Ft. Gibson Lake, Due: Nov. 14, 1983.

EIS No. 830544, Final, COE, TX, Buffalo Bayou and Tributaries Flood Damage Prevention, Harris County, Due: Nov. 14, 1983.

EIS No. 830545, Draft, COE, MS, Sowashee Creek Flood Control Project, Meridan, Lauderdale County, Due: *Nov. 30, 1983.

EIS No. 830546, Draft, FHW, IN, Broadway and Macedonia Avenues Corridor Improvement, Delaware County, Due: *Dec. 5, 1983.

EIS No. 830547, Draft, FHW, VA, Temple Ave. Ext., Conduit Rd to VA-36, Chesterfield/Prince George Counties, Due: Nov. 28, 1983.

EIS No. 830548, Final, AFS, CO, San Juan National Forest, Land and Resource Management Program, Due: Nov. 14, 1983.

EIS No. 830549, D Suppl, FHW, CA, US 101/Santa Barbara Crosstown Freeway Construction, Santa Barbara County, Due: *Dec. 1, 1983.

EIS No. 830550, Draft, UAF, SEV, WY NB Peacekeeper System Deployment, Minuteman Silos, FE Warren AFB, Due: Nov. 28, 1983.

EIS No. 830551, Draft, COE, NY, Sheepshead Bay Navigational Improvements, Kings County, Due: Nov. 28, 1983.

EIS No. 830552, D Suppl, IBR, CO, Ruedi Reservoir Round 2 Water Sale, Fryingpan-Arkansas Project, Due: *Dec. 5, 1983.

EIS No. 830553, Final, USN, VA, East Coast Landing Craft Air Cushion Operational Base, Location, Due: Nov. 14, 1983.

Amended Notice:

EIS No. 830381, Draft, ICC, MT, Tongue River Railroad C/O Certificate, Custer/Rosebud/Powder R. Counties, Published FR July 22, 1983—Review extended, Due: Oct. 21, 1983.

Dated: October 11, 1983.

Pasquale A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 83-28006 Filed 10-13-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59134A/59135A (TS-FRL-2451-6)]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: This notice announces EPA's approval of TM-83-77, and Tm-83-79, two applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-205, 401 M St. SW., Washington, D.C. 20460, (202-382-3736).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manfacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unerasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-77.

Date of Receipt: August 22, 1983.

Notice of Receipt: September 2, 1983 (48 FR 39978).

Applicant: Confidential.

Chemical: (Generic) Substituted benzocyazole ethylidine.

Use: (Generic) Industrial Coating.

Production Volume: Confidential.

Number of Customers: Approximately 15.

Exposure Information: Approximately 8 workers could be dermally exposed to the test market substance during manufacturing operations and an additional 8 workers could have potential dermal exposure during processing. However, exposure will be limited by the use of protective equipment, including working under a hood and use of gloves. Exposure during use is expected to be negligible.

Test Marketing Period: 9 months.

Commencing on: October 3, 1983.

Risk Assessment: No significant health or environmental concerns were identified. Workplace exposures will be of short duration and limited by use of protective equipment, with negligible exposure during use. Release to the environment from manufacture and use of the new substance is expected to be very low.

Public Comments: None.

TME 83-79

Date of Receipt: August 26, 1983.

Notice of Receipt: September 9, 1983 (48 FR 40781).

Applicant: Confidential.

Chemical: Mono and polycarbocyclic poly(ester-amide) (Generic).

Use: Confidential.

Production Volume: Confidential.

Number of Customers: 1.

Worker Exposure: Confidential.

Test Marketing Period: 1 year.

Commencing on: October 3, 1983.

Risk Assessment: No significant health or environmental concerns were identified for the TME substance based on the type of polymer, the molecular weight and its insolubility in water.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: October 3, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-27947 Filed 10-13-83; 8:45 am]

BILLING CODE 6560-50-M

([OPTS-51488] BH-FRL 2452-3)

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notices (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notice are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-three PMNs and provides a summary of each.

DATES: Close of Revew Period:

PMN 83-1325, 83-1327, 83-1328, 83-1329, 83-1330, 83-1331, 83-1332, 83-1333, 83-1334, and 83-1335, December 28, 1983.

PMN 84-1, 84-2, 84-3, 84-4, 84-5, and 84-6, December 31, 1983.

PMN 84-7, 84-8, and 84-9, January 1, 1984.

PMN 84-10, January 2, 1984.

PMN 84-11, 84-12, and 84-13, January 3, 1984.

Written comments by:

PMN 83-1325, 83-1327, 83-1328, 83-1329, 83-1330, 83-1331, 83-1332, 83-1333, 83-1334, and 83-1335, November 28, 1983.

PMN 84-1, 84-2, 84-3, 84-4, 84-5, and 84-6, December 1, 1983.

PMN 84-7, 84-8, and 84-9, December 2, 1983.

PMN 84-10, December 3, 1983.

PMN 84-11, 84-12, and 84-13, December 4, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51488]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 83-1325

Importer. Confidential.

Chemical. (S) 1-H-imidazole-1-carboxamide, N, N'-1,5 naphthalenediylbis.

Use/Production. (G) Open, non-dispersive use. Prod. range: 3,000-10,000 kg/yr.

Toxicity Data. Acute oral: >10 g/kg; Ames Test: Not mutagenic.

VOL 48 ISS 200 OCT 14 1983 UMI

Exposure. Manufacture: dermal and inhalation, a total of 7 workers, up to 20 hrs/batch, up to 2 batches/yr.
Environmental Release/Disposal. 1–3 kg/batch released to water with ½–2 kg to land. Disposal by landfill.

PMN 83–1327

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (S) Nickel dibenzyldithiocarbamate.
Use/Production. (S) Antidegradant for chlorosulfonated polyethylene rubber. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Slight, Eye—Mild; Inhalation: >5.8 mg/L.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–1328

Manufacturer. Confidential.
Chemical. (G) Organic salt of quaternary aliphatic amine.
Use/Production. (S) Industria urethane polymerization catalyst. Prod. range: Confidential.
Toxicity Data. Acute oral: 3.26 g/kg; Acute dermal: >8.0 g/kg; Irritation: Skin—Irritant; D.O.T. skin corrosivity study—Corrosive.
Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 16 da/yr.
Environmental Release/Disposal. No release.

PMN 83–1329

Manufacturer. Confidential.
Chemical. (G) Vinyl chloride, hydrocarbon elastomer, polyolefin copolymer.
Use/Production. (G) Impact modifier, elastomer and surfactant for polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. 2 kg/batch released to air with 1-5 kg/batch to land. Disposal by landfill.

PMN 83–1330

Manufacturer. Confidential.
Chemical. (G) Vinyl chloride, hydrocarbon elastomer, polyolefin copolymer.
Use/Production. (G) Impact modifier, elastomer and surfactant for polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. 2 kg/batch released to air with 1-5 kg/batch to land. Disposal by landfill.

PMN 83–1331

Manufacturer. Confidential.
Chemical. (G) Vinyl chloride, hydrocarbon elastomer, polyolefin copolymer.
Use/Production. (G) Impact modifier, elastomer and surfactant for polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. 2 kg/batch released to air with 1-5 kg/batch to land. Disposal by landfill.

PMN 83–1332

Manufacturer. Confidential.
Chemicol. (G) Vinyl chloride, hydrocarbon elastomer polyolefin copolymer.
Use/Production. (G) Impact modifier, elastomer and surfactant for polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. 2 kg/batch released to air with 1-5 kg/batch to land. Disposal by landfill.

PMN 83–1333

Manufacturer. Confidential.
Chemical. (G) Vinyl chloride, hydrocarbon elastomer copolymer.
Use/Production. (G) Impact modifier, elastomer and surfactant for polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. 2 kg/batch released to air with 1-5 kg/batch to land. Disposal by landfill.

PMN 83–1334

Manufacturer. Confidential.
Chemical. (G) Vinyl chloride, hydrocarbon elastomer copolymer.
Use/Production. (G) Impact modifier, elastomer and surfactant for polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. 2 kg/batch released to air with 1-5 kg/batch to land. Disposal by landfill.

PMN 83–1335

Manufacturer. Confidential.
Chemical. (G) Vinyl chloride, hydrocarbon elastomer copolymer.
Use/Production. (G) Impact modifier, elastomer and surfactant for polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. 2 kg/batch released to air with 1–5 kg/batch to land. Disposal by landfill.

PMN 84–1

Manufacturer. Confidential.
Chemical. (G) Polyester of dicarboxylic acids and difunctional alcohols.
Use/Production. (S) Industrial resin binder component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 3 workers, up to 8 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air with less than 10 to 100 kg/yr to land. Disposal by approved landfill.

PMN 84–2

Manufacturer. Confidential.
Chemical. (G) Amine salt of a modified carboxyl terminated polyester urethane polymer.
Use/Production. (S) Industrial fabric coating and finishing. Prod. range: 4,000–50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation, a total of 8 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. No release.

PMN 84–3

Manufacturer. GTE Products Corporation.
Chemical. (G) Modified magnesium fluorogermanate.
Use/Production. (S) Luminescent chemical used in fluorescent and high pressure mercury vapor lamps. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal, a total of 15 workers, up to 1.0 hrs/da, up to 4 da/yr.
Environmental Release/Disposal. 0.5 to 1.2 kg/batch released to air with 0.1 kg/batch to land. Disposal by landfill.

PMN 84–4

Manufacture. Confidential.
Chemicals. (G) Tannins, methylamino methylated.
Use/Production. (G) Water treatment additive, coagulant use. Prod. range: Confidential.
Toxicity Data. Acute oral: 17.5 ml/kg; Ames Test: Nonmutagenic; LC_{50} 96 hr (Rainbow trout)—69.9 mg/1; LC_{50} 96 hr (Bluegill sunfish)—58.8 mg/1.
Exposure. Manufacture: dermal, a total of 7 workers, up to 12 hrs/da, up to 175 da/yr.
Environmental Release/Disposal. Trace amounts release to water. Disposal by publicly owned treatment works POTW and landfill.

PMN 84–5

Manufacturer. Soluol Chemical Company, Inc.

Chemical. (G) Aliphatic polyester, cyclohexane diisocyanato based polyurethane.
Use/Production. (S) Industrial castable urethane resin. Prod. range: 1,000–50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation, a total of 6 workers, up to 8 hrs/da, up to 25 da/yr.
Environmental Release/Disposal. No release.

PMN 84–6

Manufacturer. Soluol Chemical Company, Inc.
Chemical. (G) Polyurethane based on TDI and a polycarbonate.
Use/Production. (S) Industrial castable urethane resin. Prod. range: 1,000–50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal and inhalation, a total of 6 workers, up to 8 hrs/da, up to 25 da/yr.
Environmental Release/Disposal. No release.

PMN 84–7

Manufacturer. The Sherwin-Williams Company.
Chemical. (S) N,N,N'N'-tetraglycidyl-1.3-bisaminomethyl cyclohexane.
Use/Production. (S) Industrial epoxy resin. Prod. range: Confidential.
Toxicity Data. Acute oral: Males—128 mg/kg, Females—112 mg/kg; Irritation: Skin—Corrosive; Ames Test: Weakly mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by incineration and approved landfill.

PMN 84–8

Manufacturer. Confidential.
Chemical. (G) Polyfunctional copolymer of styrene with alkyl acrylate and substituted alkyl methacrylates.
Use/Production. (G) Component of an industrial coating which will have an open use. Prod. range: 5,000–50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 29 workers, up to 4 hrs/da, up to 13 da/yr.
Environmental Release/Disposal. 3 to 15 kg/batch released to land. Disposal by incineration.

PMN 84–9

Manufacturer. Confidential.
Chemical. (G) Polyester from vegetable oil fatty acids, alkane triol, alkanoic anhydride and carbomonocyclic acids.
Use/Production. (G) The new substance will be used as a vehicle in formulating industrial finishes which have an open use. Prod. range: 10,000–15,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 22 workers, up to 4 hrs/da, up to 22 da/yr.
Environmental Release/Disposal. 3 to 10 kg/batch released to land. Disposal by landfill.

PMN 84–10

Importer. Confidential.
Chemical. (G) Polymer of N,N'-biscycloaminoalkylene diamine and an alkanoic acid.
Use/Import. (G) Plastic additive. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: 5.4 mg/L; Ames Test: Negative.
Exposure. Import: dermal, a total of 1 worker, up to 5 min, up to 250 da/yr.
Environmental Release/Disposal. Minimal release.

PMN 84–11

Manufacturer. Confidential.
Chemical. (G) Alkylated cycloalkanone, bis[(4-azidophenyl)methylene]-.
Use/Production. (G) Coating component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–12

Manufacturer. Confidential.
Chemical. (G) Aliphatic polycarbonate urethane.
Use/Production. (S) Polymeric coating for industrial, commercial and consumer use. Prod. range: 15,000–45,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 workers, up to 4 hrs/da, up to 8 da/yr.
Environmental Release/Disposal. No release.

PMN 84–13

Manufacturer. Confidential.
Chemical. (G) Disubstituted benzene.
Use/Production. (G) Industrial plastic additive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 workers, up to ½ hr/da, up to 30 da/yr.
Environmental Release/Disposal. Confidential.

Dated: October 7, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

[FR Doc. 83-27989 Filed 10-13-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Proposed Acquisition of Alexander, Scriver and Associates; Chemical New York Corp.

Chemical New York Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire indirectly voting shares of Alexander, Scriver and Associates, Denver, Colorado.

Applicant states that the proposed subsidiary would engage in those activities which may be engaged in by an investment adviser and additionally, would furnish general economic advice and statistical forecasting services, all in conformance with § 225.4(a)5 of the Board's Regulation Y. These activities would be performed from offices of Applicant's subsidiary in Denver, Colorado, and the primary geographic area to be served is the state of Colorado, and on a secondary incidental basis said activities would be performed nationwide. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or

VOL 48 ISS 200 OCT 14 1983 UMI

at the Federal Reserve Bank of New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 7, 1983.

Board of Governors of the Federal Reserve System, October 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27937 Filed 10-13-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Consumer Finance Offices; F.N.B. Corp.

F.N.B. Corporation, Hermitage, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire certain offices, receivables and personnel of Carson Consumer Discount Company, Wellsboro, Pennsylvania.

Applicant states that the proposed offices would engage in the activities of making or acquiring for its own account or the account of others, loans or other extensions of credit. These activities would be performed from offices of Applicant's subsidiary in St. Mary's Grove City, New Castle, Uniontown, and Port Allegheny, Pennsylvania, and the geographic areas to be served are Elk County, Sharon, New Castle, Fayette County, and McKean County, respectively. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank not later than November 7, 1983.

Board of Governors of the Federal Reserve System, October 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27938 Filed 10-13-83; 8:45am]

BILLING CODE 6210-01-M

Proposed Expansion of Service Area Into The State of Maine; Norstar Bancorp, Inc.,

Norstar Bancorp, Inc., Albany, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in certain nonbanking activities through its subsidiary, Norlife Reinsurance Company, Phoenix, Arizona.

Applicant states that the subsidiary would engage in the activities of underwriting, as reinsurer, credit life and credit accident and health insurance in connection with extensions of credit by the banking subsidiaries of Northeast Bankshares Association, a wholly-owned subsidiary of Norstar Bancshares. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and the geographic area to be served is the State of Maine. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later then November 7, 1983.

Board of Governors of the Federal Reserve System, October 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27939 Filed 10-13-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 7.

Office of the Secretary

Subject: Provider Data Collection—NEW.

Respondents: Business and other for-profit organizations.

OMB Desk Officer: Milo Sunderhauf.

Social Security Administration

Subject: Application for Benefits Under the Belgium-U.S. International Social Security Agreement (SAA-799 (9-83))—NEW.

Respondents: Selective Social Security applicants.

Subject: Petition to Obtain Approval of a Fee for Representing a Claimant Before the Social Security Administration (SSA-1560-U4, SSA-1559-U4) (0960-0104)—REVISION.

Respondents: Representatives of Social Security claimants.

OMB Desk Officer: Milo Sunderhauf.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (Name of OMB Desk Officer.)

Dated: October 11, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Monagement Analysis and Systems.

[FR Doc. 83-28004 Filed 10-13-83; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

Development of Personal Monitoring Methods for Amines Development of New Control Methods; Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Development of Personal Monitoring Methods for Amines

Date: October 25, 1983.

Time: 1:00-5:00 p.m.

Place: Conference Room B, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To review and discuss a project on the development of personal monitoring methods for Amines.

Additional information may be obtained from: Alexander W. Teass, Ph.D., Division of Physical Sciences and Engineering, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684-4233, Commercial: 513/684-4233.

Development of New Control Methods

Date: November 10, 1983.

Time: 9:30 a.m.-1:30 p.m.

Place: Conference Room B, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To review and discuss a project on the development of new control methods. Electrostatic methods will be investigated initially. These methods will be used to control particulate emissions in various industrial processes.

Additional information may be obtained from: Keith G. Crouch, Ph.D., Division of Physical Sciences and Engineering, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684-4255, Commercial: 513/684-4255.

Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Dated: October 6, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83-27923 Filed 10-13-83; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Workshop on Acute Studies; Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a Workshop on Acute Studies to be conducted by Allen H. Heim, Director, Office of Science Coordination.

DATE: The workshop will be held from 9 a.m. to 4:30 p.m., Wednesday, November 9, 1983.

ADDRESS: The workshop will be held in the General Services Administration (GSA) Auditorium in the GSA Bldg., 7th and D Sts. SW., Washington, DC 20407.

FOR FURTHER INFORMATION CONTACT: Phillip Johns, Office of Science Coordination (HF-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4490.

SUPPLEMENTARY INFORMATION: The FDA has received many inquiries concerning requirements for acute toxicology studies. The FDA has invited representatives from several industries, government agencies and representatives from programs within FDA to review and discuss the toxicology and scientific basis for acute studies. At the workshop the public will be invited to submit written questions for discussion during the afternoon session. Attendance will be limited only by available space.

Dated: October 7, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-27916 Filed 10-13-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Commission on Fair Market Value Policy for Federal Coal Leasing; Meeting

AGENCY: Commission on Fair Market Value Policy for Federal Coal Leasing.

ACTION: Notice of location of Denver, Colorado, meeting.

SUMMARY: Notice is hereby given that the previously announced October 25-26, 1983, meeting of the Commission on Fair Market Value Policy for Federal Coal Leasing will be held at Stouffer's Denver Inn, 3203 Quebec Street, Denver, Colorado. The meetings will convene at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: F. Scott Bush, Executive Director, or Sorrell Caplan, Public Affairs Director, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 20036. Phone: (202) 632-6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Pub. L. 98-63, signed July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92-463).

Dated: October 12, 1983.

David F. Linowes,

Chairman.

[FR Doc. 83-28183 Filed 10-13-83; 9:06 am]

BILLING CODE 4310-10-M

Council's Land Use Advisors Committee; Public Invitation

The Federal and State Co-Chairman of the Alaska Land Use Council are soliciting nominations for appointment or reappointment to the Council's Land Use Advisors Committee.

The Land Use Advisors Committee, mandated by Section 1201(m)(1) of the Alaska National Interest Lands Conservation Act. The Committee plays a key role in the public participation program established by the Alaska Land Use Council. Among other responsibilities, the Committee makes recommendations concerning the Council's annual work program and actions of the Federal agencies as they implement the Alaska Lands legislation.

The Alaska Lands Act requires that the Land Use Advisors Committee be representative of a balance between the State and national interests concerned with the use of federally-owned public lands and resources in Alaska and the several geographic regions of the State. Members of the Committee serve without compensation but are reimbursed for necessary approval travel.

If you are interested in serving on the Land Use Advisors Committee send a letter of interest along with a resume to: Alaska Land Use Council, Governor Bill Sheffield, State Cochairman, Vernon R. Wiggins, Federal Cochairman, P.O. Box 10020, Anchorage, Alaska 99510.

The deadline for filing your letter of interest is November 17, 1983. For

further information you may write to the above address or call (907) 272-3422.

William P. Horn,

Deputy Under Secretary.

[FR Doc. 83-27900 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

Fire Management Plan/MFP Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and intent to amend Malad management Framework Plan (MFP).

SUMMARY:

Description of Proposed Planning Action: BLM is proposing to amend the Malad MFP to include fire management planning objectives. Specifically, the following language would be incorporated into the MFP.

F-1 Implement the Deep Creek Fire Management Plan which designates the type of fire suppression action that will be undertaken within the MFP area.

The Fire Management Plan establishes four (4) management units as follows:

Proposed Fire Management Areas:

(Fire Management Area 1.— The areas identified under this category have 14,720 acres which includes isolated tracts of public lands, communication sites, interstate and energy rights-of-way corridors, and BLM campgrounds. It includes the Bowen Canyon Bald Eagle ACEC high value timber zones along with critical deer winter ranges.

BLM will respond to fires on or threatening public land in this area as the highest priority. Full fire suppression will be initiated and maintained.

Fire Management Area 2.— The areas identified include two (2) large areas which are located in the Northern half of the planning unit and the far southeast end of the unit, totalling 70,960 acres. Lands in this category contain the highest natural resource values in the resource area. Major resource values include range, forestry, watershed, wildlife and visual. The terrain is steep and rugged with limited access.

BLM will respond to fires within this management area as a high priority, initiating a rapid and sustained suppression effort. During low fire danger, however, BLM may initiate less than full suppression. The use of dozers will be limited on the steep fragile slopes.

Fire Management Area 3.— The areas identified include two (2) large areas which are located in the southcentral part of the planning unit. The total number of acres is 46,080. This category consists primarily of high value wildlife habitat and range forage. Recreational activities involve deer hunting and firewoood gathering. There are many roads throughout the area, providing good access to BLM lands. These roads can act as fire breaks and will stop most fires. The management area has moderate timber value, but since the trees grow on the moist northern slopes there is limited chance of fires destroying this value.

The degress of suppression action which BLM will take on fires within the management area will depend on the resources which are threatened. Some fires may receive less than full suppression. The safety of the suppression forces and the cost effectiveness of the control action will be prime fire management considerations. Special attention will be given to preventing fires form spreading to private lands.

Fire Management Area 4.— This area is the Black Pine Limited Suppression Area which includes 82,880 acres, located in the southwest portion of the management unit. It has a very low fire occurrence and is not very sensitive to fire. Many fires may require less than full suppression and some may be allowed to burn out.

Note.— The fires referred to throughout the plan are in no way to be construed as "prescribed fires." All fires covered in this plan are wildfires and as such shall be suppressed, contained, controlled, and extinquished. The proposed actions change only the degree of intensity with which the BLM will pursue the containment of wildfires. Many fires, by virtue of when and where they occur and what they are burning are "self-contained" or will burn out whether or not BLM intercedes with a full suppression action. BLM intention is to avoid spending dollars on sophisticated equipment manned by highly trained firefighters only to suppress fires that present no hazard. No distinction will be made as to whether a fire's origin is lightning caused or suspected to be human-caused. The area manager may elect to fully suppress suspected human-caused fires to deter incendiary ignitions.

Geogaphic Area: The Deep Creek Fire Management Plan area lies within the Deep Creek Resource Area, one of two resource areas within the Burley District in southcentral Idaho. It inclndes all of Oneida County, and portions of Power and Cassia Counties.

General Types of Issues Anticipated: No adverse comments anticipated at this time.

Disciplines Represented and Used To Prepare Amendment: Resource area and fire management.

Supplementary Information: Detailed information concerning the Deep Creek Fire Management Plan including the evironmental analysis and the record of public discussions is available for review at the Burley District Office, Route 3, Box 1, Burley, Idaho 83318. Telephone: 208-678-5514.

Public Particpotion Opportunities: There will be no public hearings scheduled at this time. For a period of 30 days interested parties may submit comments to the Burley District Manager at the above address. Any adverse comments may be evaluated by the District Manager who may vacate or modify this planning action and issue a final determination.

Dated: October 6, 1983.

Jimmie L. Pribble,

Acting District Manager.

[FR Doc. 83-27922 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

[I-20071]

Realty Action; Direct Sale of Public Lands in Owyhee County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described land has been examined, and through land use planning, which included public input, it has been determined that the sale of the tract is consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will be offered by direct sale at the appraised fair market value to Niceview Investors, c/o Ansel Slome, Esq., 450 North Roxbury, CA 90210, based on historic use and value of added improvements.

Boise Meridian, Idaho

T. 5 S., R. 3 E., Boise Meridian, Idaho
Sec. 34, NE¼NE¼SE¼
Containing 10 acres.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way for ditches or canals constructed by authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

The land will not be offered for sale until at least 60 days after the date of this notice. The sale will be held at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Additional information concerning the land and conditions of the sale may obtained from Ralph Miller, Realty Specialist, at the above address or by calling 208-334-1582.

SUPPLEMENTARY INFORMATION: For a period of forty-five (45) days from the date of this Notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the District Manager, this action will become the final determination of the Department of the Interior.

DATED: October 6, 1983.

J. David Brunner,

Associate District Manager.

[FR Doc. 83-27921 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Lewistown District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lewistown District Advisory Council will meet October 28, 1983. The agenda will be:

October 28, 1983:

10:00 a.m. Bitter Creek Wilderness
11:00 a.m. Sales and Exchanges
11:30 a.m. BLM Plowout Policy

Public comment will be sought during the meeting.

DATES: October 28, 1983; 10:00 a.m.

ADDRESS: Lewistown District Office, Airport Road.

FOR FURTHER INFORMATION CONTACT: Glenn W. Freeman, District Manager, Bureau of Land Management, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewistown District Advisory Council is authorized under Section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739). The Council advises the District Manager concerning the planning for and management of the public lands administered within the Lewistown District.

[Serial Nos. CA-14374 Through CA-14376]

Realty Action; Noncompetitive Sale of Public Lands in Kern County; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: State of California: Realty Action—Noncompetitive Sale of Public Lands in Kern County. Serial Nos. CA-14374 through CA-14376.

SUMMARY: These documents correct the legal descriptions of lands described in page 33754, in the **Federal Register** of Monday, July 25, 1983 for CA-14374, CA-14375, and CA-14376.

Mount Diablo Meridian

T. 28 S., R. 40 E.
Secs. 4 and 5, Tract 41, 2.5 acres.
T. 28 S., R. 40 E.
Secs. 4 and 5, Tract 42, 2.5 acres.
T. 28 S., R. 40 E.
Sec. 4, Tract 43, 5.0 acres.
Dated: September 30, 1983.

Wes Chambers,

Acting District Manager.

[FR Doc. 83-27769 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

Alabama, Florida and Lousiana Islands; Wilderness Inventory Proposals and Commencement of Public Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of public comment period on Wilderness Inventory Proposals for BLM-administered islands in Alabama, Florida Louisiana.

SUMMARY: Initial wilderness inventories of BLM-administered islands in Florida and Louisiana, and an intensive inventory of islands in Alabama, were conducted in 1983. Findings and proposed wilderness inventory decisions are now being announced under the authority of Section 603 of the *Federal Land Policy and Management Act* and in accordance with the guidelines in the September 27, 1978 BLB *Wilderness Inventory Handbook;* Organic Act Directive No. 78-61, Change 3; and BLM Washington Office memorandum dated July 22, 1981.

DATE: Comments should be submitted by January 12, 1984. See below for further details.

ADDRESS: Comments should be sent to: District Manager, Jackson District Office, Bureau of Land Management, P.O. Box 11348, Delta Station, Jackson, Mississippi 29213.

FOR FURTHER INFORMATION CONTACT: Caroline Albright, (601) 960-5961.

SUPPLEMENTARY INFORMATION: Following are the proposed wilderness inventory decisions, by state:

1. *Alabama:* All BLM islands in Alabama should be dropped from further wilderness study because they clearly and obviously do not have wilderness qualities: No. of islands, 13; total acres, 54.52.

2. *Florida:* All BLM islands in Florida should be dropped from further wilderness study because they clearly and obviously do not have wilderness qualities: No. of islands, 3; total acres, 1.67.

3. *Louisiana:* All BLM islands in Louisiana should be dropped from further wilderness study because they clearly and obviously do not have wilderness qualities: No. of islands, 2; total acres, 4.39.

Situation evaluations were prepared for all BLM islands, in groups determined according to similarities in characteristics and location. All of these situation evaluations, including maps, are available from the office listed below, along with a three-page summary of the Wilderness Review. In addition, detailed maps of individual islands are available, free of charge, upon request.

During the formal comment period, written comments are encouraged. Because of the large area covered by the inventories and the long distances to BLM offices, public meetings are not planned. Instead, the summary of the Wilderness Review will be distributed to county officials in all counties where islands are located, state officials, other Federal agencies, interest groups and individuals who have expressed an interest in the public lands, as well as through telephone contacts, press releases, and other media announcements. In addition, all inventory files, maps, photos and other data used in the inventory are available for public inspection during regular office hours at the Jackson District Office, Bureau of Land Management, in Jackson, Mississippi.

All public comments received during the 90-day period will be recorded, analyzed, evaluated, and filed for future reference. All comments will be treated equally; responses received after the comment period may be considered so long as they can be reviewed without delaying the final decision.

VOL
48
ISS
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After the comment period closes, BLM will publish a final decision in the Federal Register. At that time, those islands not designated for further inventory or study will be released from wilderness-related management restrictions as set forth in Section 603(c) of the Federal Land Policy and Management Act.

Copies of the three-page summary of the Wilderness Review, along with the situation evaluations and maps, are available from the District Manager, Jackson District Office, at the address given above.

Pieter J. VanZanden,

Acting Eastern States Director.

[FR Doc. 83-27902 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

Amendment to Management Framework Plan, Gunnison Basin Planning Unit, Montrose District, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification of intent to consider an amendment to the Gunnison Basin Management Framework Plan.

SUMMARY: The Bureau of Land Management (BLM) is considering amending certain winter closure provisions in the Gunnison Basin Management Framework Plan (MFP).

DATES: The public is invited to provide input during public meetings. One public meeting will be held in Denver on November 1, 1983, 7:00 p.m. at the Botanical Gardens in Denver, Colorado. Another is scheduled for November 7, 1983 at 7:00 p.m. in Gunnison, Colorado, at the County Courthouse. These meetings will be announced in local and regional newspapers.

ADDRESS: Send comments or requests for further information to: Terry Reed, Area Manager, Gunnison Basin Resource Area, Bureau of Land Management, 11 South Park, Montrose, Colorado 81401.

SUPPLEMENTARY INFORMATION: Recommendations and decisions in the Gunnison Basin MFP call for a winter closure of certain public lands.

The closure is from December 1 to March 31 of each year and involves all vehicles including snowmobiles. The intent of the closure is to prevent disturbance of deer and elk, thus facilitating better forage use and dispersion of these animals, and to prevent harassment of other wintering wildlife.

Some segments of the public contend that the closure is not necessary and results in problems and conflicts with other uses of the public lands. The BLM has determined a need for a re-assessment of the MFP decision. An environmental assessment evaluating impacts of the proposed action and alternatives will be prepared by the BLM if an MFP amendment is proposed.

Approximately 167,000 acres of public land in Gunnison and Saguache Counties, Colorado, could be affected by this action. In the Off-road Vehicle Designation Order, CO-030-8101, the area involved was separated into these five wildlife wintering areas: McIntosh, Signal Peak, Tomichi, South Parlin Flats, and Sapinero.

The following questions wil be addressed during consideration of an amendment:

(1) Do the closures influence the amount of big game use in the closed area or significantly alter big game utilization patterns?

(2) What effect do the winter wildlife closures have on winter recreation activities, and what effect do these activities have on big game distribution?

(3) What effect do the winter wildlife closures have on spring grazing conditions for domestic livestock?

(4) What will be the results and environmental impacts of adjustments in the closure boundaries or elimination of winter closures?

(5) Should existing closure dates or conditions be adjusted because of conflicts with other public land uses and resource values?

Glen Marlow,

District Manager, Montrose District.

[FR Doc. 83-27902 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

[M-45059-B(SD)]

South Dakota; Issuance of Disclaimer of Interest to Lands in South Dakota

October 3, 1983

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States of America, pursuant to the provisions of Section 315 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1745 (1976), intends to disclaim and release, to owner of record Ralph F. Rosenbaum, of Jefferson, South Dakota, all interest in the following described property to-wit:

5th Principal Meridian

T. 90 N., R. 49 W.,
Sec. 32, lots 6 and 7.

The area described contains 15.07 acres in Union County.

The United States through the Bureau of Land Management (BLM) claimed these lands for a time under the principle enunciated in *Towl v. Kelly*, 54 I.D. 455 (1934):

Where surveyed public lands of the United States bordering upon a navigable stream, and to which the United States has not parted with title, are eroded in their entirety by the action of the stream, and later restored by accretion, title to the lands so restored is in the United States, and not in the owners of the remote nonriparian lands, which for a time were the shore lands.

That holding was overruled in *Ralph F. Rosebaum, et al.* 66 IBLA 374 (1982) and since the United States has no other basis for a claim on the lands, it is proper for BLM to issue a disclaimer to the record title holder.

Any person wishing to submit a protest or comments on the above disclaimer should do so in writing before the expiration of 90 days from the date of publication of this notice. If no protest(s) received, the disclaimer will be effective on the date set out below.

EFFECTIVE DATE: Disclaimer of title and release of all interest of the United States shall issue on January 3, 1984.

ADDRESS: Information concerning these lands and the proposed disclaimer may be obtained from and protest filed with: Montana State Director, Bureau of Land Management, 222 No. 32nd Street, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, (406) 657-6090.

Roland F. Lee,

Chief, Branch of Land Resources.

[FR Doc. 83-27913 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

[UT-910-4310-84]

Utah; Final Wilderness Inventory Decisions on the Reassessment of Units Set Aside and Remanded by IBLA

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: This notice announces the BLM Utah State Director's wilderness inventory decisions on those units within Utah that the Interior Board of Land Appeals (IBLA) set aside and remanded for reassessment. That decision was dated April 16, 1983. The reassessment of all or parts of these units was conducted in accord with the instructions by IBLA in that pertinent information relating to those items or factors on remand was reassessed. Where IBLA affirmed or upheld certain aspects of the earlier decison those factors were not reassessed, except where an interrelationship exists, with other factors. No conclusions of fact upheld by IBLA have been reconsidered upon reassessment. Included in the reassessment was a public comment period in which a number of comments were received and which have been examined and considered in making the final decision.

Pursuant to authority delegated by the BLM Director, it has been determined that the public lands administered by BLM within the wilderness inventory units listed herein have been inventoried according to the provisions of Section 201(a) and 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) and Section 2(c) of the Wilderness Act of 1964.

The final decision on each inventory unit as reassessed is as follows:

Unit No.	Unit name	Decision on Unit or portion of unit remanded
UT-020-037	Newfoundland Mountains.	Drop from further study.
UT-020-129/050-130A	Dugway Mountains.	Do.
UT-040-075	Horse Spring Canyon.	Do.
UT-040-076	Carcass Canyon.	Do.
UT-040-077	Mud Springs Canyon.	Do.
UT-040-078	Death Ridge	Identify 62,870 acres as WSA.
UT-040-079	Burning Hills	Indentify 61,550 acres as WSA.
UT-040-204[1]	Central Wah Wah.	Drop from further study
UT-040-248	Wahweap	Identify 134,400 acres as WSA.
UT-040-275 [1]	The Cockscomb.	Identify 10,080 acres as WSA.
UT-050-238	Mt. Ellen/Blue Hills.	Drop from further study.
UT-050-241	Fiddler Butte	Add approx. 35,800 acres to existing WSA.
UT-050-248	Mt. Pennell	Drop from further study.
UT-060-068A	Desolation Canyon.	Add 41,800 acres to existing WSA and also create a new WSA of 7,500 acres. [2]
UT-060-068B	Floy Canyon	Identify 72,605 acres as WSA.
UT-060-100B	Flume Canyon	Add 3,250 acres to existing WSA.
UT-060-100C	Coal Canyon	Add 17,615 acres to existing WSA.
UT-060-181	Mancos Mesa	Identify 51,440 acres as WSA.
UT-060-730	Winter Ridge	Identify 42,462 acres as WSA.

[1] This is a new unit, originally considered part of UT-040-247 (Paria-Hackberry).
[2] New WSA created UT-060-068C (Jack Canyon).

The acreage dropped from further consideration as wilderness in each inventory unit listed above will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94-579. Those identified as wilderness study areas (WSAs) will undergo further study.

The final decision announced herein is scheduled to become effective on November 14, 1983, or 30 days after publication of this notice. For purposes of this decision, each unit is considered separable from every other unit under wilderness review. Should any amendment to the decisions listed herein be made by the Utah BLM State Director as a result of new information received following this announcement, that amendment will be formally published in the Federal Register and will not become effective until 30 days following such publication. This 30 day extension will apply only to the amendment and not to these decisions.

Upon publication of these decisions in the Federal Register, a 30 day appeal period is initiated. Any person who has disagreement with this decision and has information which may influence the decision may file an appeal with the Interior Board of Land Appeals by following administrative procedures applicable to formal appeals. These are published in the Code of Federal Regulations under 43 CFR Part 4. A copy of any notice of appeal must be filed with the Utah State Director (930), Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111, so that the case files can be transmitted to IBLA. To avoid summary dismissal of the appeal, these must be in strict compliance with the regulations found in 43 CFR 4.411. The rules of practice require that a copy of the notice of appeal, any statement of reasons written arguments, or briefs, must be served on the Regional Solicitor, Intermountain Region, U.S. Department of the Interior, Suite 6201 Federal Building, 125 South State Street. Salt Lake City, Utah 84138, and provide proof of service in accordance with 43 CFR 4.401(c) within 15 days of filing any document in connection with an appeal.

Copies of each inventory unit "Summary, Decision and Rationale for Decision" reassessed may be obtained from the BLM Utah State Office (Public Room), University Club Building, 136 East South Temple Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, BLM, Utah State Office, (801) 524-4257.

Dated: Oct 4, 1983.

Roland G. Robison,

State Director.

[FR Doc. 83-27928 Filed 10-13-83; 8:46 am]

BILLING CODE 4310-84-M

Termination of the Segregative Effect of State of California Application for Indemnity Selection

October 6, 1983.

The segregative effect of State of California State Lands Commission application dated February 5, 1962, Serial No. CA 12321, is hereby cancelled insofar as it affects the following described lands:

Mount Diablo Meridian

T. 16 N., R. 14 W.,
Sec. 28, SW¼NE¼, SE¼NW¼.
T. 20 N., R. 17 W.,
Sec. 7, Lot 4.
T. 20 N., R. 17 W.,
Sec. 1, Lots 7 and 8.
T. 24 N., R. 16 W.,
Sec. 15, S½SW¼;
Sec. 21, Lots 1, 2, and SE¼NE¼, NE¼SE¼, SW¼SE¼;
Sec. 22, Lots 1, 2, and 4.
T. 23 N., R. 14 W.,
Sec. 30, N½ Lot 6.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 83-27932 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Notice of Filing of Plats of Survey

1. The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on October 3, 1983.

Mount Diablo Meridian, Nevada

T.20N., R. 54E., Group No. 594.
T.15N., R. 20E., Supplemental Plat
T.32N., R. 45E., Supplemental Plat

The above surveys were accepted August 25, 1983.

T.39N., R. 52E., Group No. 574
T.27N., R. 56E., Group No. 588
T.31N., R. 46E., Group No. 589
T.24N., R. 37E., Group No. 593

VOL
48
ISS
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The above surveys were accepted September 14, 1983.

The purpose of this notice is to inform the public and interested State and local government officials of the filing of plats of survey. Inquiries concerning these surveys shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Chief, Deputy State Director, Operations.

[FR Doc. 83-27958 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

Nevada, Notice of Filing of Plats of Survey and Order Providing for Opening of Lands

October 6, 1983.

1. The Plats of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on December 5, 1983.

Mount Diablo Meridian, Nevada

T. 28 N., R. 56 E.

2. The land within the above township ranges from about 5,600 to 7,600 ft. above sea level. The east portion of the township is located on the western slope of the Ruby Mountains, the remainder lies in the Huntington Valley. The soil varies from sandy clay loam in the valley to gravelly with rocky outcroppings in the mountains.

Vegetation consists of sagebrush, rabbitbrush, greasewood and crested wheatgrass in the valley and scattered to heavy juniper, pinion, mahogany, aspen, and wild rose bushes in the mountains.

The township is drained by Brown Creek, Pearl Creek, and Frost Creek, all of which flow westerly thru the area.

Ranches are located in sections 1, 9, 12, 21 and 28.

Principal users of the area are cattlemen. Access into the township is provided by numerous improved and unimproved roads. No mineral formations of consequence were noted during the survey.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby open to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m. on December 5, 1983, shall be considered as simultaneously filed at the time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Chief, Deputy State Director, Operations.

[FR Doc. 83-27959 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14880-A]

Alaska Native Claims Selection; Kikiktagruk Inupiat Corporation

On January 3, 1974, Kikiktagruk Inupiat Corporation, for the Native village of Kotzebue, filed selection application F-14880-A, as amended, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (ANCSA), for the surface estate of certain lands in the vicinity of Kotzebue.

An Executive Order of May 4, 1907, authorized up to 40 acres be reserved for school purposes at Kotzebue. The lands reserved for school purposes were surveyed as U.S. Survey No. 2083, containing 39.41 acres. On July 15, 1968 Public Land Order (PLO) 4497 partially revoked the 1907 Exective Order, leaving 19.58 acres withdrawn for school purposes and administered by the Bureau of Indian Affairs (BIA).

On January 3, 1980 ANCSA section 3(e) case file F-64734 was established for these lands. The lands were not withdrawn for national defense purposes, were not lands in the National Park System, nor were they former reserves selected pursuant to section 19(b) of ANCSA. Therefore, they are subject to a determination pursuant to section 3(e) of ANCSA, which states:

> "Public lands" means all Federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing lands actually used in connection with the administration of any Federal installation . . .

The Bureau of Land Management made a section 3(e) determination on September 23, 1983 for certain lands in case file F-64734. These lands have been determined to be public lands and will be approved for conveyance to Kikiktagruk Inupiat Corporation in this document. A separate section 3(e) determination will be made on those lands remaining in case file F-64734 at a later date.

As to the lands described below, application F-14880-A, as amended, submitted by Kikiktagruk Inupiat Corporation, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. The lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, containing approximately 3 acres, is considered proper for acquisition by Kikiktagruk Inupiat Corporation, and is hereby approved for conveyance pursuant to section 14(a) of ANCSA:

That portion of U.S. Survey No. 2083, Tract 5, located at Kotzebue, Alaska further described as:

Beginning at corner No. 3 of Tract 5 of U.S. Survey No. 2083, the true point of beginning; thence S., 45°54' E. on line 3-4 of Tract 5 for a distance of 496.32 feet to corner No. 4 of Tract 5 of U.S. Survey No. 2083; thence S 59°54'40" W. on a portion of line 4-1 of Tract 5 for a distance of 318 feet, more or less, to corner No. 3 of I.C. 024; thence N. 45°54' W. on the eastern boundary of I.C. 024 for a distance of 409 feet, more or less, to a point on line 2-3 of Tract 5 of U.S. Survey No. 2083; thence N. 43°56'30" E. on a portion of line 2-3 of Tract 5 for a distance of 305 feet, more or less, to corner No. 3 of Tract 5 of U.S. Survey No. 2083, the point of beginning.

Containing approxmately 3 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

> The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to section 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, F-024741, 80 feet in width for Third Avenue, Kotzebue, a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317); and

4. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kikiktagruk Inupiat Corporation is entitled to 161,280 acres of land selected pursuant to section 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 118,315 acres. The remaining entitlement of approximately 42,965 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 Code of Federal Regulations (CFR) 2652.4, conveyance of the subsurface estate shall be issued to NANA Regional Corporation, Inc., when the surface estate is conveyed to Kikiktagruk Inupiat Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of Kikiktagruk Inupiat Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 CFR Part 4, Subpart E, as revised. However, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until November 14, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Bureau of Indian Affairs, Box 3-8000, Juneau, Alaska 99801

Kikiktagruk Inupiat Corporation, Box 333 Kotzebue, Alaska 99752

NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-27973 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

Canon City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Canon City District Advisory council meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Canon City District Advisory Council will be held on Thursday and Friday, November 17 and 18, 1983.

The Council will meet from 1 pm to 5 pm on November 17th at the San Luis Savings and Loan Building, 401 Edision, Alamosa, Colorado. On November 18th from 8 am to 1 pm a field trip to view the Blanca Wildlife habitat area and other resource uses is planned.

The agenda will include:

1. The Northeast Resource Area Draft Resource Management Plan and Environmental Impact Statement.

2. Potential land disposals.

3. Public presentations to the council (open invitation).

The meeting is open to the public, transportation for the field trip is the responsibility of the individual. Persons interested may make oral presentations to the council between 1:30 pm and 2:30 pm Thursday, November 17th, or they may file written statements for the council's consideration. The District Manager may limit the length of oral presentation depending on the number of people wishing to speak.

ADDRESS: Anyone wishing to make a presentation to the council orally or in writing should notify the District Manager, Bureau of Land Management, 3080 East Main (P.O. Box 311), Canon City, Colorado 81212 by November 16, 1983.

SUPPLEMENTARY INFORMATION: Summary minutes of the meeting will be available for public inspection and reproduction during regular working hours at the District Office within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Glenn Wallace (303) 275-0631.

Stuart L. Freer,

Associate District Manager.

October 7, 1983.

[FR Doc. 83-27941 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Texas; Right-of-Way Application; Northern Natural Gas Co.

Notice is hereby given that under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (37 Stat. 576), that Northern Natural Gas Company has applied for a right-of-way permit to construct, operate, and maintain a 30-inch natural gas pipeline across the Matagorda Island Unit of the Aransas National Wildlife Refuge in Calhoun County, Texas.

This proposed pipeline will transport natural gas from offshore to onshore and thereby into intrastate commerce. It is

VOL
48
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necessary to cross refuge lands to get onshore, to minimize pipeline length, and to minimize environmental disturbances by following an existing pipeline corridor. The proposed pipeline will lay from Matagorda Island Block 624 to Matagorda Island Block 727 and then parallel the existing Matagorda Offshore Pipeline System across Matagorda Island and through San Antonio Bay to a point onshore.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be considering whether this application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within thirty (30) days by sending their comments, with their name and address, to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION:
Public Notice.

DATES: Comments must be submitted on or before November 14, 1983.

ADDRESSES: All written comments are to be submitted to: Regional Director, U.S. Fish and Wildlife Service (RE), P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Fisher, Realty Specialist, Division of Realty, Region 2, U.S. Fish and Wildlife Service, 500 Gold Avenue S.W., Albuquerque, New Mexico 87103, Telephone: (505) 766–2174.

Michael J. Spear,
Regional Director.

[FR Doc. 83–27908 Filed 10–13–83; 8:45 am]
BILLING CODE 4310–55–M

Public Notice: Public Entry and Use: Back Bay National Wildlife Refuge, Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This document provides for additional vehicular access to the Back Bay National Wildlife Refuge, Virginia. As amended on August 7, 1980 (45 FR 52392), the regulations published in 45 FR 35823, May 28, 1980 (50 CFR Part 26), and the extension of those regulations published in 48 FR 1503, January 13, 1983, remain in full force and effect. Action under this notice is necessitated by enactment on October 1, 1983 of Public Law 98–107 which reads in part:

Public Law 96–315 is hereby amended by adding the following new section:

3(f) Up to 15 additional permits shall be granted to those persons meeting any one of the following conditions:

(1) A resident as of July 1, 1982, who held a valid Fish and Wildlife Service access permit for improved property owners at any time during the period from July 19, 1976, through December 31, 1979.

(2) Anyone in continuous residency since 1976 residing in the area bounded on the north by the refuge boundary and on the south by a straight line passing through a point on the east-west prolongation of the centerline of Albacore Street, Whaleshead Club Subdivision, Currituck County, North Carolina.

(3) Any permanent full-time resident as of April 1, 1983, not otherwise eligible who can substantiate to the Secretary of the Interior that access is essential to their maintaining a livelihood.

The Regional Director, U.S. Fish and Wildlife Service, Region 5, Newton Corner, Massachusetts will make the decision on who qualifies for and receives a permit under this amendment. Applications will be considered in the order received and no more than 15 will be issued. Permits issued under this amendment will be valid to 12 a.m. (midnight), November 10, 1983, unless further legislation is enacted into law to continue the provisions contained in Public Law 98–107 which expires November 10, 1983. With regard to condition (3) above, the following criteria for qualifying for a permit will be in effect:

(a) Permanent full-time resident of an area bounded on the north by the refuge boundary and on the south by a straight line passing through a point on the east-west prolongation of the centerline of Albacore Street, Whaleshead Club Subdivision, Currituck County, North Carolina,

(b) such permanent full-time residency to have commenced on or before April 1, 1983, and

(c) full-time continuous employment in the Norfolk, Virginia area.

Permits issued under condition number (3) will be void upon termination of full-time employment in the Norfolk, Virginia area or when any of the above criteria are no longer being met.

DATE: The provisions of this document are in effect October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, Region 5, U.S. Fish and Wildlife Service. One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (Area Code 619 965–5100, ext. 200).

SUPPLEMENTARY INFORMATION: The following procedures must be followed for individuals who qualify under the revised access eligibility conditions and who wish to make application for an access permit:

1. Secure an "Application for a Mortorized Vehicle Permit" at the Back BAy National Wildlife Refuge Office, Pembroke Office Park, Pembroke #2, Suite 218, Virginia Beach, Virginia 23462 (Area Code 804 490–0505).

2. Complete and mail via registered mail return receipt requested, the above application to: Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts 02158. Permits will be issued by the Regional director.

Applications will be procesed on a first received basis until the fifteenth permit application is received. In the event that the application investigation reveals that one of the first fifteen applicants does not meet the revised access conditions and criteria and is ineligible for a permit, the sixteenth permit applicant will be considered. This procedure will be followed until up to but not more than 15 additional access permits are issued.

Dated: October 11, 1983.

F. Eugene Hester,
Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 83–27997 Filed 10–13–83; 8:45 am]
BILLING CODE 4310–55–M

Endangered Species Permit; National Zoological Park et al.; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: National Zoological Park, Washington, DC, PRT 2–11118.

The applicant requests a permit to take, import, export and purchase in interstate or foreign commerce blood, semen, other tissues or whole carcasses from any endangered wildlife throughout the world for scientific research (genetic, reproductive and other biomedical evaluation). The tissues are to be obtained from animals in the wild and in zoos. Wild animals are to be immobilized, but not harmed, for collection of tissues.

Applicant: Anthony L. Devroude, Las Vegas, NV, PRT 2–10977.

The applicant requests a permit to import 2 captive-bred golden conures (*Aratinga guarouba*) from Carterton Breeding Aviaries, Oxford, England, for enhancement of propagation and survival.

Applicant: International Animal Exhange, Ferndale, MI, PRT 2–11187.

The applicant requests a permit to purchase one female mongoose lemur (*Lemur mongoz*) in interstate commerce from Lincoln Park Zoo, Chicago, IL, and export it to Seoul Grand Park Zoo, Seoul, Korea, for enhancement of propagation and survival.

Applicant: International Animal Exchange, Ferndale, MI, PRT 2–11188.

The applicant requests a permit to purchase one female mandrill (*Popia sphinx*) from Kannah Creek Wildlife Park, Whitewater, Co, and export it to Seoul Grand Park Zoo, Seoul, Korea, for enhancement of propagation and survival.

Applicant: Clarence H. Birr, St. Cloud, MN, PRT 2–11189.

The applicant requests a permit to import 4 pair of captive-bred Elliot's pheasants (*Syrmoticus ellioti*), 3 pair of bar-tailed pheasants (*S. humiae*). 1 pair of Mikado pheasants (*S. mikado*), and 2 pair of brown-eared pheasants (*Crossoptilon mantchuricum*), from Ray Schroder, Kitscoty, Alberta, Canada, for enhancement of propragation and survival.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 a.m. 4:15 p.m.) in Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service. P.O. Box 3654, Arlington, Virginia 2203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT 2 number when submitting comments.

Dated: October 11, 1983.

Larry La Rochelle,
Acting Chief, Permit Branch, Federal Wildlife Permit Branch, Fish and Wildlife Service.

[FR Doc. 83–27996 Filed 10–13–83; 8:45 am]
BILLING CODE 4310–55–M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer at 202–395–7340.

Title: Federal Fish and Wildlife Permit/License (An amendment authorizing the taking of golden eagles or their parts, eggs, or nests in a specified depredation area, and subsequent possession and transportation of such eagles for falconry purposes otherwise prohibited by 50 CFR 22).

Bureau Form Numbers: 3–200
Frequency: On occasion
Description of Respondents: Individuals or households, State and local Governments
Annual Responses: 25,043
Annual Burden Hours: 21,111
Service Clearance Officer: Arthur J. Ferguson, 202–653–7499

Don W. Mimnich,
Acting Associate Director—Wildlife Resources.

October 4, 1983.

[FR Doc. 83–27980 Filed 10–13–83; 8:45 am]
BILLING CODE 4310–55–M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for Outer Continental Shelf (OCS) mineral prelease and exploration proposals on the Alaska OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and findings of no significant impact (FONSI's) prepared by the MMS for the following oil and gas prelease and exploration activities proposed on the Alaska OCS. This listing includes all proposals for which environmental documents were prepared by the Alaska OCS Region in the 3-month period preceding this notice.

Activity/Operator

Exploration Drilling Program for Beaufort Sea (Diapir Field); Exxon Company U.S.A., as operator for itself.

Location

Exxon is proposing to build a gravel island or emplace a Concree Island Drilling System (CIDS) at one of three primary proposed sites on OCS Leases Y 0279 and Y 0280, and situated about 20 miles northwest of Cape Halkett. From each of the locations, Exxon proposes to drill up to two exploratory wells. A decision on the location of the initial site has not been reached. Depending upon the results of the first well, subsequent wells may be drilled. A maximum of 11 gravel island or CIDS sites with 22 wells might be needed to facilitate geological evaluation and description. Proposed drilling locations are described as follows:

Lease No.	Location	Latitude/longitude
OCS–Y 0261	7,350' FWL; 4,600' FNL	71°01'07.06" N., 153°26'08.99" W.
OCS–Y 0261	2,850' FSL; 5,200' FEL	71°00'12.44" N., 153°26'23.90" W.
OCS–Y 0262	6,800' FSL; 3,200' FWL	71°00'51.85" N., 153°22'10.94" W.
OCS–Y 0262	4,700' FSL; 3,200' FEL	71°00'31.69" N., 153°17'28.16" W.
OCS–Y 0272	4,200' FSL; 4,450' FEL	71°03'02.02" N., 152°46'21.20" W.
OCS–Y 0274	2,200' FNL; 6,400' FWL	71°04'32.52" N., 152°32'53.86" W.
OCS–Y 0274	2,850' FSL; 4,450' FEL	71°02'46.90" N., 152°30'28.05" W.
OCS–Y 0279	2,600' FNL; 6,800' FEL	71°01'55.21" N., 152°47'33.05" W.
OCS–Y 0280	6,500' FEL; 4,200' FNL	71°01'38.75" N., 152°39'27.95" W.
OCS–Y 0280	1,300' FWL; 800' FNL	71°02'12.60" N., 152°43'27.81" W.
OCS–Y 0296	4,100' FNL; 7,550' FWL	70°56'16.90" N., 151°53'00.0.4" W.

Environmental Assessment

No. AK–83–03.

FONSI Date

September 16, 1983.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Alaska OCS.

The EA's examine the potential environmental effects of activities described in the proposal and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposal constitutes major Federal actions that significant affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

The FONSI and associated EA for the activity listed above are available for public inspection between the hours of 8 a.m. and 4 p.m., Monday through Friday

(excluding lunch hour, 11:30 a.m. to 12:30 p.m.) at: Minerals Management Service, Alaska OCS Region, Office of the Regional Supervisor, Field Operations, 800 A Street, Suite 205, Anchorage, Alaska 99501, Phone: (907) 271–4303.

Persons interested in reviewing specific environmental documents, or obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS, are encouraged to contact the above listed MMS office.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Irven F. Palmer, Jr.,

Acting Regional Manager.

[FR Doc. 83-27957 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 5545, Block 120, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Dulac, Louisiana.

Purpose: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday though Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

Dated: October 5, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-27929 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Conoco, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the Grand Isle/CATCO Federal Unit Agreement No. 14–08–0001–2021, submitted on September 30, 1983, a proposed annual plan of development/production describing the activities it proposes to conduct on the Grand Isle/CATCO Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 5, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-27985 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Shell Offshore, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0694, Block 28, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 4, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-27940 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-MR-M

Advisory Committee on Minerals Accountability; Monthly Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of monthly meeting.

SUMMARY: The purpose of the Advisory Committee on Minerals Accountability is to develop over a 1-year period an expanded policy of cooperation with States and Indian Tribes in the royalty management area and to develop a detailed plan for carrying out Federal/State/Indian cooperation on a comprehensive basis.

The purpose of the Advisory Committee meeting will be to discuss several matters of business that the Committee members wish to review. They include but are not limited to a discussion relating to the Bureau of Indian Affairs and its administrative relationship with the Minerals Management Service and the onshore inspection function as it relates to MMS. Messrs. John W. Fritz, Deputy Assistant Secretary—Indian Affairs (Operations), and Gil Lockwood, Chief, Office of Inspection and Enforcement, Bureau of Land Management, will be available to the Committee and will make a presentation concerning their respective areas. The above mentioned topics will be discussed on the first day of the Advisory Committee meeting, Wednesday, October 26. The second day of the meeting, Thursday, October 27, will be a closed Executive Session of the Committee to discuss the final report of the Committee to the Secretary of the Interior.

Notice of the next monthly meeting will be published 15 days before the meeting is to take place.

DATE: Wednesday, October 26, and Thursday, October 27, 8:30 a.m.

ADDRESS: Stouffer's Denver Inn, 3203 Quebec Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Department of the Interior, 18th and C Streets, NW., Room 4216, Washington, D.C. 202240, telephone: (202) 343–3526.

SUPPLEMENTARY INFORMATION: The Advisory Committee was created by the Secretary of the Interior on November 15, 1982 (Order No. 3071).

The Committee will have one or more Executive Sessions at this meeting.

Dated: October 11, 1983.

John T. Sullivan, Jr.

Assistant to the Director, Minerals Management Service.

[FR Doc. 83-27950 Filed 10-13-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–146 and 147 (Preliminary)]

Certain Flat-Rolled Carbon Steel Products From Belgium and the Federal Republic of Germany

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: September 29, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Belgium and the Federal Republic of Germany (West Germany) of the flat—rolled carbon steel products provided for in item 607.66 of the tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Rausch, Office of Investigations, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436, telephone 202–523–0286.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on September 29, 1983, by counsel on behalf of the Gilmore Steel Corp., Portland, Oreg. The Commission must make its determination in these investigations within 45 days after the date of the filing of the petition, or by November 14, 1983 (19 CFR 207.17).

Participation

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before November 2, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business data." Confidential submissions must conform with the requirements of §201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business fata, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on October 26, 1983, at the

VOL
48
ISS
200
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1983
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U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. Lawrence Rausch (202–523–0286), not later than October 24, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington,D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Rausch.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

(Issued: October 4, 1983

Kenneth R. Mason,

Secretary.

[FR Doc. 83–27880 Filed 10–13–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–145]

Certain Rotary Wheel Printers; Extension of Deadline for Commission Decision Regarding Review of Initial Determination

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has extended the date on which Order No. 31, an initial determination granting a motion to designate this investigation "more complicated," will become the Commission determination, in the absence of Commission review. The period for deciding whether to review the initial determination has been extended to November 1, 1983. The Commission has extended the deadline in order to remand the initial determination to the presiding officer for further findings in support of the presiding officer's designation of the case as "more complicated," and for findings from the presiding officer regarding when an initial determination on violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) can be certified to the Commission. The Commission has directed the presiding officer to file the required findings no later than Monday, October 17, 1983. The Commission will consider written comments on the initial determination, as clarified and supplemented, from parties to the investigation if received by close-of-business, Monday, October 24, 1983.

AUTHORITY: The authority for Commission disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in rule § 210.53(h) of the Commission's Rules of Practice and Procedure (to be codified at 19 CFR 210.53(h)).

SUPPLEMENTARY INFORMATION: On April 20, 1983, the Commission instituted Inv. No. 337–TA–145, *Certa Rotary Wheel Printers*, on the basis of a complaint filed by Qume Corporation (Qume). 48 FR 16975. The purpose of the investigation is to determine whether there is a violation of section 337 in the unauthorized importation and sale of certain rotary wheel printers by virtue of their alleged infringement of certain claims of U.S. Letters Patent 4, 118,129. The notice of investigation was amended on July 27, 1983 to add five additional respondents. 48 FR 34149.

On August 25, 1983, respondent Brother Industries, Ltd. filed a motion to designate the investigation "more complicated" within the meaning of section 337(b)(1) of the Tariff Act of 1930 and § 210.15 of the Commission Rules of Practice and Procedure. (Motion No. 145–37). Brother Industries sought to extend the period of investigation to the maximum allowable period of 18 months. The presiding officer granted Motion No. 145–37 on Sept. 6, 1983. No petitions for review or agency comments were received.

Copies of the Commission's action and order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.—in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–1627.

Issued: October 6, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–27881 Filed 10–13–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–120 and 122 (Final)]

Certain Tapered Roller Bearings and Parts Thereof From Japan and Italy

AGENCY: International Trade Commission.

ACTION: In conformance with the determination of the International Trade Administration of the Department of Commerce to amend its schedule for the conduct of the referenced investigations (48 FR 43365, Sept. 23, 1983), the Commission hereby revises its schedule as follows: the prehearing conference will be held on January 18, 1984; the hearing will be held on January 25, 1984; and the Commission's final determinations shall be issued on or before February 27, 1984.

EFFECTIVE DATE: October 4, 1983.

SUPPLEMENTARY INFORMATION: The Commission instituted these final antidumping investigations effective August 30, 1983, and scheduled a hearing to be held in connection therewith for November 30, 1983 (48 FR 44280, Sept. 28, 1983). On September 23, 1983 (48 FR 443365), the Department of Commerce extended the investigations in response to requests from the petitioner and from producers of the subject merchandise in Japan and Italy. The effect of the extensions was to change the scheduled date for Commerce to make its final determinations from November 7, 1983, to January 12, 1984. Accordingly, the Commission is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's hearing, which was to have been held on November 30, 1983, has been rescheduled to begin at 10 a.m. on January 25, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 16, 1984. All persons desiring to appear at the hearing and make oral presentations should filed prehearing briefs and attend a prehearing conference to be held at 10 a.m. on January 18, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is January 20, 1984. A public version of the prehearing staff report containing preliminary findings of fact in these investigations will be placed in the public record on January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Eninger (202–523–0312), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

Issued: October 5, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–27888 Filed 10–13–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–150]

Import Investigations; Certain Self-Stripping Electrical Tap Connectors; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Chieftain-Uniworld Corporation, 30 Sagamore Hill Drive, Port Washington, N.Y. 11050.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 29, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: October 11,.1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–28078 Filed 10–13–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–150]

Import Investigations; Certain Self-Stripping Electrical Tap Connectors; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Blazer International Corporation, 3800 North Acorn, Franklin Park, Illinois 60131.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 29, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: October 11, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–28077 Filed 10–13–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–150]

Import Investigations; Certain Self-Stripping Electrical Tap Connectors; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Allison Corporation, 630 West Mt. Pleasant Avenue, Livingston, New Jersey 07039.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of

the initial determination. The initial determination in this matter was served upon the parties on September 29, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Rubyu J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: October 11, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–28078 Filed 10–13–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6 (Sub-No. 166)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment In Teton County, Mt; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its line of railroad between milepost 29.80 near Choteau milepost 51.21, at the end of the line near Pendroy, a distance of 21.41 miles, in Teton County, MT. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–27928 Filed 10–13–83; 8:45 am]

BILLING CODE 7035–01–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Westin Hotel, North Michigan Avenue at Delaware, Chicago, Illinois on November 10, 1983, beginning at 9:00 a.m.

The purpose of the meeting is to prepare recommended questions for the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 United States Code, section 1242(a)(1)(B). A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the subject of the meeting falls within the exceptions to the open meeting requirement set forth in Title 5 United States Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: October 11, 1983.

Leslie S. Shapiro,

Advisory Committee Monagement Officer, Joint Boord for the Enrollment of Actuories.

[FR Doc. 83–27987 Filed 10–13–83; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of forms under review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Bureau of Labor Statistics
Monthly Report on Employment, Plant Hours, and Straight-time Payrolls in Selected Shipyards
1220–0002; BLS 1360
Monthly
Other/Shipyards; small business
204 responses; 136 hours; one form

The Bureau of Labor Statistics (BLS) produces an index of straight-time hourly earnings from a survey of shipyard payrolls. The program is conducted under contractural arrangements with the Naval Sea Systems Command of the U.S. Department of Navy. The purpose of this program is to produce a straight-time earnings index series for the shipbuilding industry. These indexes are used by the Navy Department and by the Maritime Administration for the adjustment of reimbursements to shipbuilders for labor costs incurred on certain government contracts.

Employment Standards Administration
Report of Section 10(h)(1) Adjustment Payments in Support of Claim for Reimbursement
LS–230
On occasion/Semi-annually
Businesses or Other For-Profit
50 responses; 125 hours; one form

The form is used by insurance carriers and self-insurers to request reimbursement for payments made under Section 10(h)(1) of the Longshoreman's and Harbor Worker's Compensation Act.

Signed at Washington, D.C. this 11th day of October, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–28012 Filed 10–13–83; 8:45 am]

BILLING CODE 4510–24–M

Employment Standards Administration

Advisory Committee on Sheltered Workshops

A meeting of the Advisory Committee on Sheltered Workshops will be held in the Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. on November 1, 1983, from 8:30 a.m. to 5:00 p.m. in Room N–5437 and on November 2, from 8:30 a.m. to 3:30 p.m. in Room N–3437. The mission of the Advisory Committee is to provide guidance to the Department in the administration and enforcement of the Fair Labor Standards Act as it relates to the employment of handicapped individuals with impaired productivity at special lower minimum wages in sheltered workshops and in hospitals and institutions.

Several subcommittees of the Advisory Committee will hold meetings in the Frances Perkins Building on October 31, 1983, in Room N–3437 from 1:00 p.m. to 5:00 p.m. The subcommittees which will meet on October 31 are: The subcommittee to review acceptable methods of establishing piece rates in sheltered workshops; the subcommittee to review the sheltered workshop application forms; the subcommittee to develop plans for providing training for workshop personnel to improve compliance with the Fair Labor Standards Act; and the subcommittee to review the patient-worker regulations (29 CFR Part 529).

Among the agenda items to be considered by the Advisory Committee are: A review of the actions taken by the Department with respect to the recommendations made by the Advisory Committee at the last meeting; the reports and recommendations of the subcommittees; an interim report on the status of the Washington State pilot project to provide evaluation and training for handicapped individuals in competitive industry; and the extent to which a learning disability may qualify as a handicap under the Fair Labor Standards Act. Other items may also be included on the agenda or introduced during the meeting.

Members of the public are invited to attend the proceedings, including the meetings of the subcommittees. Written data, views, or arguments pertaining to the business before the Committee are invited. Such comments must be received by the Committee's Secretariat prior to November 1, 1983.

Telephone inquiries and communications concerning this meeting should be directed to: Arthur H. Korn, Secretariat for the advisory Committee on Sheltered Workshops, Rm C4316, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone number (202) 523–8727. This is not a toll free telephone number.

Signed in Washington, D.C. this 11th day of October 1983.

William M. Otter,

Administrator.

[FR Doc. 83–28013 Filed 10–13–83; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

[TA–W–14,391]

Tree Machine Tool Co., Inc., Racine, Wisconsin; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 83–3969 appearing on page 6803 in the **Federal Register** of February 15, 1983, the date of the petition in the Appendix under petitioner Tree Machine Tool Company, Inc., Racine, Wisconsin should be corrected to read "January 27, 1983."

Signed at Washington, D.C. this 6th day of October 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–28008 Filed 10–13–83; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 26, 1983—September 30, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revaled that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,582; National Power Products, Inc., Belmont, NH

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,541; Butte, Anaconda & Pacific Railway Co., Anaconda, MT

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,623; Elgin, Joliet & Eastern Railway Co., East Joliet Yard, Joliet, IL

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–14,626; Elgin, Joliet & Eastern Railway Co., Joliet Mill Yard, Joliet, IL

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–14,627; Elgin, Joliet & Eastern Railway Co., Waukegan Yard, Waukegan, IL

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–14,628; Elgin, Joliet & Eastern Railway Co., South Chicago Yard, Chicago, IL

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–14,401; Warner & Swasey Co., Turning Machine Div., Solon, OH

A certification was issued covering all workers separated on or after April 1, 1983.

TA–W–14,402; Warner & Swasey Co., Turning Machine Div., Cleveland, OH

A certification was issued covering all workers separated on or after April 1, 1983.

TA–W–14,658; Wheeling-Pittsburgh Steel Corp., Wheeling, WV

A certification was issued covering all workers separated on or after May 12, 1982.

TA–W–14,435; Blair Footwear, Inc., Altoona, PA

A certification was issued covering all workers separated on or after February 10, 1982 and before April 23, 1983

I hereby certify that the aforementioned determinations were issued during the period September 26, 1983–September 30, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 4, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–28010 Filed 10–13–83; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 30th day of September 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Atlas Bolt & Screw Co. (USWA)	Cleveland, OH	9/26/83	9/23/83	TA–W–15, 025	Screws for metal buildings.
Diamond Chain Co., Div. of Amsted, Inc. (USWA)	Indianapolis, IN	9/26/83	9/20/83	TA–W–15, 026	Roller chains for power transmissions.
Electric Steel Co. (workers)	Akron, OH	9/20/83	9/13/83	TA–W–15, 027	Agricultural rims & wheels for farm industry.
FMC Corp., Alkali Chemicals Div. (ICWU)	Modesto, CA	9/26/83	9/22/83	TA–W–15, 028	Barium carbonate, barium nitrate strontium carbonate, strontium nitrate.
Kanawha Manufacturing Co., Foundry Dept., Yard Dept. (workers).	Charleston, WV	9/23/83	9/21/83	TA–W–15, 029	Flywheel, washer track, bracket, roller drum case reducer case, gear, drill head housing, mounting plate—other misc. castings.
National Gypsum Corp., Cement Div. (UCLGAW)	Alpena, MI	9/22/83	9/13/83	TA–W–15, 030	Cement.
Rockwell International (UAW)	Allegan, MI	9/22/83	9/19/83	TA–W–15, 031	Drive lines for heavy equipment and trucks.
Towmotor Corp. (UAW)	Mentor, OH	9/22/83	9/20/83	TA–W–15, 032	Industrial lift trucks.
Universal Foundry Co. (UAW)	Oshkosh, WI	9/26/83	9/20/83	TA–W–15, 033	Iron and aluminum parts.
Warren Shirt Co. (workers)	Lebanon, PA	9/22/83	9/19/83	TA–W–15, 034	Men's and boys' outerwear.
Alatex, Inc., Troy Plant (ACTWU)	Troy, AL	9/21/83	9/16/83	TA–W–15, 035	Dress shirts.
Alatex, Inc., Pike Plant (ACTWU)	Troy, AL	9/21/83	9/16/83	TA–W–15, 036	Do.
A. P. Green Refractories Co. (Aluminum Brick & Glass Wkrs.).	Massillon, OH	9/27/83	9/24/83	TA–W–15, 037	Refractory bricks.
Lee C. Moore Corp. (USWA)	Pittsburgh, PA	9/27/83	9/23/83	TA–W–15, 038	Oil and gas well drilling equipment.
Orient International Corp., Monroe Furniture Div. (workers)	Tampa, FL	9/27/83	9/8/83	TA–W–15, 039	Wood dinette chairs.
Portec, Inc., Forgings Div. (Boilermakers)	Canton, OH	9/27/83	9/22/83	TA–W–15, 040	Steel forgings.
Powermatic/Burke (workers)	Cincinnati, OH	9/27/83	9/16/83	TA–W–15, 041	Milling machines.
Schwinn Bicycle Co. (UAW)	Chicago, IL	9/27/83	9/23/83	TA–W–15, 042	Bicycles, exercisers, component parts.
Stearns Magnetics, Inc. (USWA)	Cudahy, WI	9/27/83	9/21/83	TA–W–15, 043	Magnetic coke oven openers, taconite separators, WPD separators, HDS high speed, magnetic permanent pulley.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Vulcan Corporation (workers)	Amesbury, MA	9/26/83	9/12/83	TA–W–15, 044	Unit soles for shoes.
Wing Shoe Corp., Tic Tac-Toes Div. (wkrs)	Skowhegan, ME	9/21/83	9/15/83	TA–W–15, 045	Shoes—ladies, canvas-leather.
Carter Leather Goods Company (company)	New York, NY	9/29/83	9/23/83	TA–W–15, 046	Clutches, french purses, key cases, men's and ladies' wallets, personal small leather goods.
Electric M & R, Inc. (workers)	Bethel Park, PA	9/26/83	9/14/83	TA–W–15, 047	Armature coils and field coils, motor repair
Mighty Atlas Shoe Corp. (workers)	Nashua, NH	9/26/83	8/30/83	TA–W–15, 048	Men's work shoes.
Morgan Engineering (UAW)	Alliance, OH	9/30/83	9/26/83	TA–W–15, 049	Grabes, trackwheels, pony trucks, transfer cars, load and unload systems, shafting, end trucks.
P T Components, Inc., Link Belt Bearing Div (USWA)	Indianapolis, IN	9/29/83	9/27/83	TA–W–15, 050	Power transmission roller chains.
P T Components, Inc., Link Belt Industrial Chain Div (USWA).	Indianapolis, IN	9/29/83	9/27/83	TA–W–15, 051	Power transmission roller chains.

[FR Doc. 83–28009 Filed 10–13–83; 8:45 am]

BILLING CODE 4510–30–M

Issuance of the Calculation Procedures for the Secretary's Performance Standards for FY 1984 Under Title II–A of the Job Training Partnership Act (JTPA) in Relation to the Approved JTPA Annual Status Report (JASR)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice advises that letters have been sent to each of the States concerning the calculation of the performance standards for FY 1984 in relation to the approved JTPA Annual Status Report (JASR).

FOR FURTHER INFORMATION CONTACT: Ms. Kay Albright, Telephone (202) 376–6620.

SUPPLEMENTARY INFORMATION: On April 12, 1983, the Employment and Training Administration published a public notice (48 FR 15752) advising that the Secretary's performance standards for the initial nine months of JTPA Title II–A had been transmitted to the Governors. At the time the nine-months performance standards were issued, the Department did not have final JTPA reporting procedures in place. Therefore, the performance standards were generically defined. With the JTPA reporting requirements now established, the Department is issuing an explanation of how these standards are to be calculated using the data provided in the JASR. This action does not change the performance standards issued on April 12, 1983. Rather, the calculations are provided to facilitate the uniform establishment of the SDA performance standards and the end-of-year assessment of actual performance compared to the performance standards.

Signed in Washington, D.C. this 7th day of October 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83–2801: Filed 10–13–83; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–82–83–C]

Texas Utilities Generating Co.; Petition for Modification of Application of Mandatory Safety Standard

Texas Utilities Generating Company, 2001 Bryan Tower, Dallas, Texas 75201 filed a petition to modify the application of 30 CFR 77.201–1 (methane tests) to its Martin Lake Strip (I.D. No. 41–02632) located in Panola County, Texas, its Monticello Strip (I.D. No. 41–01900) located in Titus County, Texas and its Sulphur Springs Strip (I.D. No. 41–02778) located in Hopkins County, Texas. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that tests for methane be conducted each operating shift in structures, enclosures, or other facilities in which coal is handled or stored.

2. Petitioner has been mining Texas lignite coal since 1971. All tests for methane performed by the company and by MSHA personnel indicate that methane has never been found at any facility in or at the mines. Air sample analysis history reveals that measurable quantities of methane are nonexistent in the mines. In addition, laboratory testing has been performed by an independent laboratory on a sample of lignite taken from the mines to analyze the gases given off by the coal. At room temperature and elevated temperatures held for prolonged periods of time, the gas analysis reveals that less than .01 percent of methane could be detected.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 14, 1983. Copies of the petition are available for inspection at that address.

Dated: October 5, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83–28007 Filed 10–13–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–82–84–C]

Texas Utilities Generating Co.; Petition for Modification of Application of Mandatory Safety Standard

Texas Utilities Generating Company, 2001 Bryan Tower, Dallas, Texas 75201 has filed a petition to modify the application of 30 CFR 77.211(b) (methane tests) to its Martin Lake Strip (I.D. No. 41–02632) located in Panola County, Texas, its Monticello Strip (I.D. No. 41–01900) located in Titus County, Texas and its Sulphur Springs Strip (I.D. No. 41–02776) located in Hopkins County, Texas. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that methane tests be conducted before any electric equipment is energized or repaired, unless equipped with a continuous methane monitoring machine.

2. Petitioner has been mining Texas lignite coal since 1971. All tests for

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methane performed by the company and by MSHA personnel indicate that methane has never been found at any facility in or at the mines. Air sample analysis history reveals that measurable quantities of methane are nonexistent in the mines. In addition, laboratory testing has been performed by an independent laboratory on a sample of lignite taken from the mines to analyze the gases given off by the coal. At room temperature and elevated temperatures held for prolonged periods of time, the gas analysis reveals that less than .01 percent of methane could be detected.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 14, 1983. Copies of the petition are available for inspection at that address.

Dated: October 5, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28008 Filed 10-13-83; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[V-83-2]

Block 67 Limited; Grant of Permanent Variance

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Grant of variance.

SUMMARY: This notice announces the grant of a permanent variance to Block 67 Limited, from the standard prescribed in 29 CFR 1910.66(b)(3), concerning the design requirements of powered platforms for exterior building maintenance.

DATES: The effective date of the variance is October 14, 1983.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3662, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523-7183.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffen Square Building, Room 602, Dallas, Texas, 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 2320 LaBranch Street, Room 2118, Houston, Texas 77004.

I. Background

In January of 1982, Block 67 Limited, s/Gerald D. Hines Interests, made application pursuant to section 6(d) of the Occupational Safety and Health Act (29 U.S.C. 655(d)) and 29 CFR 1905.11, for a permanent variance from portions of the safety and health standards prescribed in 29 CFR 1910.66(b)(3). This provison refers to and incorporates parts II and III of the American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance, ANSI A120-1970. Section 21 of Part III of this standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platform shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of live and dead loads on the working platform. Further, the face of the building shall be provided with T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform.

The address of the place of employment affected by the variance application is as follows: Texas Commerce Tower in United Energy Plaza, 600 Travis Street, Houston, Texas 77002.

Notice of the Block 67 Limited application for variance, and a grant of interim order effective on the date of publication, was published on May 13, 1983, in the Federal Register (48 FR 21676-77). The notice invited interested persons to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for variance.

One comment was received concerning the request for variance. The writer commented as follows:

(1) A second instrument for wind velocity should be required on the main platform to alert workers to cease work when local wind conditions change;

(2) The static lines be fastened in a manner that will not develop anchor stresses greater than 5,000 pounds;

(3) Provision should be made for emergency rescue should the equipment fail or winds greatly exceed the working limit;

(4) An annual testing program developed by the design engineers should be included in the variance terms; and,

(5) The gaps and openings on the platform for upward air flow should be designed to prevent hazards of falling materials, equipment or tools from the platform.

With regard to these assertions, OSHA made the following determinations:

(1) The design of the intermittent stabilization system and the powered platform is such that any potentially hazardous wind conditions on the platform will be reflected by the instrumentation on the roof of the building.

(2) The static lines are fastened in such a manner that they will not develop anchor stresses greater than 5,000 pounds.

(3) Because appropriate action in an emergency situation cannot necessarily be anticipated, the standard requires that two-way communication be provided for each powered platform for use in an emergency. It further requires that this two-way communication be established before any action is instigated in an emergency.

(4) 29 CFR 1910.66 already requires periodic maintenance and inspection of the equipment, and a provision in the variance order requires also that operators have knowledge of and training in the operation of the intermittent stabilization system.

(5) A provision in the variance order speaks to this concern.

II. Facts

The applicant is the owner of the above noted building which has a rise of approximately 1000 feet. He will purchase a powered platform to be used for exterior maintenance of this building.

The applicant will provide a system of intermittent stabilization of his Type "F" (four-point suspension) powered platform on the southwest building facade to prevent horizontal translation of the platform with respect to the face of the building. The system will consist of stainless steel round head machine screws, threaded into stainless steel building anchors located in the facade's spandrel panel at every third floor (approximately 40 feet) from the ninth to the fifty-fourth floor, and at every other floor (approximately 28 feet) from the fifty-fourth floor to the seventy-second floor. They are spaced horizontally, in vertical rows, to allow a stabilization for each of the two suspension wire ropes near each end of the platform. The stabilization attachments, quick connect-quick disconnect ties, each containing a fixed length lanyard and two nylon rollers to allow positioning of the suspension wire ropes vertically parallel to the face of the building, will be attached to each anchor as each elevation of tie-in anchorage is reached during the descent of the working platform. The process will be reversed as the platform ascends. The removal will be assured in that the platform will be provided with electrical interlocks to interrupt power to its hoist(s) in the event either interlock contacts a stabilizer during the ascent of the platform. The platform will also be equipped with building facade rollers.

The platform has been designed for two modes of operation on the building's southwest facade. The first is the main 40 foot by 2½ foot platform, which will be used for window cleaning and light maintenance of the curtain wall area between the two end buttresses. The second mode is a small auxiliary triangular shaped platform, approximately 54 inches by 80 inches overall, which will be secured on the inboard side at one or the other end of the main platform, to allow the triangular shaped masonry buttresses to be occasionally serviced. The maximum projection inboard will be 54 inches. The appendage platform will be positively secured to the main platform by L-shaped hooks and gravity lock pins.

The applicant contends that its alternative method of securing the powered platform, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

III. Decision

On the basis of engineering data submitted to OSHA and discussions between the parties, an order was prepared which OSHA feels confident provides an environment as safe and healthful as that provided by the standard. Included among the requirements are the following:

(a) A requirement for suspension rope angulation in order to exert a specified minimum pressure of the powered platform against the face of the building;

(b) A positive means of assuring knowledge of the wind velocity at the highest point on the building;

(c) Use of a full-body harness including leg straps which, together with a short lanyard and an automatic locking rope grab, is designed to prevent injury to an employee in the event of a fall; and,

(d) Specific requirements for strength and other safety aspects of the powered platform and its appurtenances.

The applicant will be required to comply not only with the requirements contained in the Order, but with all other applicable provisions of 29 CFR 1910.66.

IV. Order

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 9-83 (48 FR 35736), it is ordered that Block 67 Limited be, and is hereby, authorized to comply with the requirements of this Order set out below in lieu of complying with that portion of § 1910.66(b)(3) of the Occupational Safety and Health Standards that requires the building to be provided with T rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform.

All other provisions of the standard are unaffected by this variance order, and Block 67 Limited, must continue to comply with them in conjunction with the terms of this Order.

1. The employer shall assure that all procedures required for the proper functioning of the intermittent stabilization system are carried out, in particular the requirement for connecting the lanyards attached to the suspension ropes to the building anchors during the descent of the platform.

2a. The main platform shall be no greater than 40 feet in length nor 2½ feet in width.

2b. The main platform with its appendage shall not be more than 40 feet long and 7 feet in overall width at the appendage.

3. The weight of the platform (no load) shall be no less than 1500 pounds.

4. The platform shall have openings or gaps to facilitate upward air flow, which shall be of such size that equipment or tools cannot fall through them.

5. The suspension rope angulation shall be designed into the suspension system and the tie-in lanyard so that the platform shall exert a minimum pressure of approximately 8 pounds against the face of the building.

6. The anchors in the face of the building shall be spaced vertically a maximum distance of 43 feet apart. The minimum tensile strength of the anchor bolt shall be 600 pounds.

7. The powered platform shall not operated when the wind velocity is 25 miles per hour or greater. At the very least, an instrument which will accurately measure wind velocity shall be located on the roof of the building.

8. Operators shall be provided with full-body, parachute-type harnesses, which include leg straps, connected to a lanyard of no greater than 3 feet in length. This lanyard shall, in turn, be connected by means of an automatic blocking rope grab to a horizontal wire rope fastened in a taut manner across the rear of the platform. The ends of this wire rope shall be secured to structural members of the platform, and the midpoint of the rope secured to the rear guardrail. This system, consisting of the harness, the lanyard, the anchorage points, and any additional hardware involved, shall at a minimum be capable of withstanding a static load of 5000 pounds.

9. The platform shall be provided with a sensing device that will interrupt its power supply in the event that the platform contacts the tie-in lanyard assembly, to prevent further ascent and ensure that the lanyard assembly can be disengaged from the building anchor.

10. The intermittent stabilization system including its building anchor, shall have a factor of safety of 4 against failure.

11. Operators shall have knowledge of and training in the operation of the intermittent stabilization system.

12. The employer shall comply with all provisions in this interim order and, in addition, shall not be relieved from compliance with all other applicable provisions of 29 CFR 1910.66.

Block 67 Limited shall give notice to affected employees of the terms of this Order, as soon as possible, by the same means required to be used to inform them of the grant of interim order.

Effective date: This order shall become effective on October 14, 1983 and shall remain in effect until modified or revoked in accordance with Section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C., this 11th day of October, 1983.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 83-28014 Filed 10-13-83; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

The Bell System Pension Plan Trust, et al; Grant of Individual Exemptions

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Bell System Pension Plan Trust, the Bell System Management Pension Plan Trust, the Bell System Trust (the AT&T Trust), the General Electric Puerto Rico, Inc. Pension Plan, and the General Electric Pension Trust (the GE Trust; collectively, the Trusts) Located in New York, New York

[Exemption Application Nos. D–3789, D–3790, D–3791, D–3792 and D–3793, Prohibited Transaction Exemption 83–163]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the following transactions:

(1) The disbursement of permanent mortgage financing by the Trusts to Oxford-Ansco Development Company (Oxford), or directly to one or more of certain construction lenders, or affiliates thereof, for use in repaying construction financing originated by the construction lenders, and the receipt by such lenders of such disbursements;

(2) Other transactions resulting from agreements among and between the trusts, Oxford and the construction lenders as a result of the Trusts' commitment to disburse permanent financing including the acquisition and sale by the Trusts of equity interests in the subject property, provided such transactions have been negotiated, and will be effected, on an arm's-length basis; and

(3) Following the acquisition of an equity interest by one or both Trusts, the leasing of space in the property which is the subject of the Trusts' investment to parties in interest with respect to the Trusts provided that the terms of the leases are as favorable to the Trusts as leases offered to unrelated parties occupying similar space; and such leasing arrangements are approved on behalf of the Trust by fiduciaries not affiliated or otherwise related to such lessees in any manner which would affect the exercise of their judgment as fiduciaries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 1, 1983 at 48 FR 30485.

Written Comments

The Department received one written comment on the notice which did not address the merits of the proposed transaction. Therefore, after consideration of the entire record, including the comment, the Department has determined to grant the exemption.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Victor T. Bazzone, M.D., P.A. Profit Sharing Plan (the Plan) Located in Gulfport, Mississippi

[Exemption Application No. D–3851, Prohibited Transaction Exemption 83–164]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of certain unimproved real property (the Lots) by the Plan to Victor T. Bazzone, M.D. and Mr. N. A. Achee, parties in interest with respect to the Plan, provided the sales price is no less than the fair market value of the Lots on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983, at 48 FR 36696.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Bell System Trust Located in New York, New York

[Exemption Application No. D–4044; Prohibited Transaction Exemption 83–165]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective December 29, 1982, to: (1) the acquisition by the Bell System Trust (the Trust) of a parcel of land and the improvements thereon (the Property), as described in the application; (2) the extension of credit by Equitable Life Assurance Society of the United States to the Trust; and (3) the existing, renewal and future lease of space in the Property to certain parties in interest with respect to the Trust.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33554.

For Further Information Contact: Paul R. Antsen of the Department, telephone (202) 523–8915. (This is not a toll-free number.)

Servisco Employees' Retirement Pension Plan (the Plan) Located in Hillside, New Jersey

[Exemption Application No. D–4062; Prohibited Transaction Exemption 83–166]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the purchase by the Plan of a Model 9020 NCR computer equipment (the Computer Equipment), from an unrelated person for the benefit of Servisco (the Employer), a party in interest with respect to the Plan; (2) the transfer by the Employer of a trade in allowance on certain equipment it owns to the Plan in order for the Plan to purchase the Computer Equipment; and (3) the subsequent leasing (the Lease) of the Computer Equipment by the Plan to the Employer, provided the terms and conditions of the Lease are and will remain at least as favorable to the Plan as an arm's-length transaction would be with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 19, 1983 at 48 FR 32895.

Comments and Hearing Requests: The applicant notified the Department that it was unable to comply with the notification to interested persons as set forth in the notice of pendency. Pursuant to discussions with the Department, the applicant notified interested persons on August 12, 1983 and informed interested persons that the comment period had been extended to September 12, 1983. The Department received one comment in favor of the proposed exemption.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Doe-Anderson Advertising Agency, Inc. Profit Sharing Plan (the Plan) Located in Louisville, Kentucky

[Exemption Application No. D–4166 Prohibited Transaction Exemption 83–167]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the continuation past June 30, 1984 of a lease of certain improved real property by the Plan to the Doe-Anderson Advertising Agency, Inc., the sponsor of the Plan, provided that the terms of such lease are at least as favorable to the Plan as the Plan could obtain in a lease with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on Friday, August 12, 1983 at 48 FR 36698.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

The Show Low Medical Clinic, P.C. Employee Money Purchase Pension Plan (the Pension Plan) and the Show Low Medical Clinic, P.C. Employee Profit Sharing Plan (the Profit Sharing Plan; Collectively, the Plans) Located in Show Low, Arizona

[Application Nos. D–4341 and D–4355 Prohibited Transaction Exemption 83–168]

Exemption

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the proposed loan (the Loan) of $97,000 by the Plans to the Garver Trust, a party in interest with respect to the Plans, provided that the terms and conditions of the Loan are at least as favorable to the Plans as those which the Plans could receive in a similar transaction with an unrelated party; (2) the personal guarantee of payments by the Garver Trust on the Loan by Paddy R. Garver, M.D.; and (3) the guarantee of payments by the Garver Trust on the Loan by the Show Low Medical Clinic P.C.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36699.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Coldwell Banker Commercial Group, Inc. (CBCG) Located in Los Angeles, California

[Exemption Application No. D–3966; Prohibited Transaction Exemption 83–169]

Preamble

The applicant's representative informed the Department that a representation made by the applicant in the exemption application which appeared in paragraph 10 of the Summary of Facts and Representations in the proposed exemptions was inaccurate. The representation was that one method by which Mortgage Pools might terminate was by the repurchase by CBCG of all of the mortgage loans (Project Loans) and all property acquired in respect of any Project Loan remaining in the Mortgage Pool. The applicant's representative stated that CBCG does not plan to terminate Mortgage Pools in this fashion and that Mortgage Pools will terminate, as described in paragraph 10 of the Summary of Facts and Representations and as described in the pooling and servicing agreement (Pooling and Servicing Agreement) which is made available to investing plans prior to their investment in a Mortgage Pool, upon the later of the final payment or other liquidation of the last Project Loan in such Mortgage Pool or the disposition of all property acquired upon foreclosure of any Project Loan. The Department notes and incorporates herein the applicant's amendment to the proposed exemption. Since the amendment is not of a substantive nature, the Department has decided to grant the exemption as proposed and amended herein, without republication in the Federal Register.

I. Transactions

A. Effective November 30, 1982, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving mortgage pools (Mortgage Pools) in which employee benefit plans will invest:

(1) The direct or indirect sale, exchange or transfer of certificates (Certificates) representing interests in Mortgage Pools in the initial issuance of Certificates between CBCG and an investing plan when CBCG Dean Witter Reynolds, Inc. (Dean Witter), the trustee (Trustee) of a Mortgage Pool or a mortgagor of such Mortgage Pool is a party in interest with respect to such plan, provided that the plan pays no more than fair market value for such Certificates, and provided further that the rights and interests evidenced by such Certificates are not subordinated to the rights and interests evidenced by other Certificates of the same Mortgage Pool; and

(2) The continued holding of Certificates acquired by a plan pursuant to subparagraph (1), above.

VOL 48 ISS 200 OCT 14 1983 UMI

B. Effective November 30, 1982, the restrictions of sections 406(a), 406(b) (1) and (2) 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the direct or indirect sale, exchange or transfer of Certificates in the initial issuance of Certificates of a Mortgage Pool between CBCG and an investing plan, and the continued holding of such Certificates, when CBCG, Dean Witter or the Trustee of such Mortgage Pool is a fiduciary with investment discretion with respect to the plan assets invested in such Certificates, provided that:

(1) The plan pays no more for such Certificates than the plan would have paid in an arm's length transaction;

(2) The rights and interests evidenced by such Certificates are not subordinated to the rights and interests evidenced by other Certificates of the same Mortgage Pool;

(3) Such sale, exchange or transfer is expressly approved by a fiduciary independent of CBCG or the Trustee or any affiliate thereof, who has authority to manage and control those plan assets being invested in the Certificates;

(4) The total value of Certificates purchased by the plan does not exceed 25 percent of the amount of the issue; and

(5) At least 50 percent of the aggregate amount of the issue is acquired by persons independent of CBCG or the Trustee.

C. Effective November 30, 1982, the restrictions of sections 406(a), 406(b) (1) and (2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to transactions in connection with the servicing and operation of the Mortgage Pool provided that:

(1) Such transactions are carried out in accordance with the terms of the Pooling and Servicing Agreement; and

(2) Such Pooling and Servicing Agreement is made available to investors before they purchase Certificates in a Mortgage Pool.

D. Effective November 30, 1982, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or who has a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act), solely because of the ownership by such plan of a Certificate.

II. General Conditions

A. The relief provided under Section I above, is available only if the following conditions are met:

(1) The Trustee for each Mortgage Pool must not be an affiliate of CBCG; provided, however, the Trustee shall not be considered to be an affiliate of CBCG solely because the Trustee has succeeded to the rights and responsibilities of CBCG pursuant to the terms of the Pooling and Servicing Agreement providing for such succession upon the occurrence of one or more events of default by CBCG; and

(2) The sum of all payments made to and retained by CBCG in connection with a Mortgage Pool, and all funds inuring to the benefit of CBCG as a result of the administration of any Mortgage Pool, must represent not more than adequate consideration for selling the Certificates, plus reasonable compensation for services provided by CBCG and the Trustee of the Mortgage Pool, and by Dean Witter as underwriter.

III. Definitions

A. For the purposes of this exemption, the term "Mortgage Pool" means an investment pool the corpus of which

(1) is held in trust; and

(2) consists solely of

(a) interest bearing obligations secured by multi-family residential property;

(b) property which had secured such obligations and which has been acquired by foreclosure;

(c) Federal Housing Authority debentures; and

(d) undistributed cash.

B. For the purposes of this exemption, the term "Certificate" means a certificate representing a beneficial undivided fractional interest in a Mortgage Pool and entitling the holder of such certificate to pass-through payment of principal and interest from the Project Loans, less any fees retained by CBCG.

C. For the purposes of this exemption, the term "affiliate" of another person means:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, or relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director, or partner.

For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

D. For the purposes of this exemption, a person will be "independent of CBCG or the Trustee" only if:

(1) Such person is not an affiliate (as defined in Section III(C) of this exemption) of CBCG or the Trustee; and

(2) Neither CBCG nor the Trustee, nor any affiliate thereof, is a fiduciary who has investment management authority or renders investment advice with respect to the assets of such person.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27321.

For Further Information Contact: Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 11th day of October 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-27992 Filed 10-13-83; 8:45 am]

BILLING CODE 4510-29-M

C. W. Alban & Co., Inc., et al.; Grant of Individual Exemptions

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

C. W. Alban & Co., Inc., Employees Profit Sharing Trust Fund (the Plan) Located in St. Louis, Missouri

[Application No. D-2882]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the past lease (the 1974 Lease) of a parcel of real property by the Plan to C. W. Alban & Co., Inc. (the Employer), the Plan sponsor. The 1974 Lease was entered into before the effective date of the Act but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act; (2) the proposed lease (the Lease) of three contiguous parcels of real property (the Property(ies)) by the Plan to the Employer; (3) the possible purchase of the Properties from the Plan by the Employer pursuant to a right of first refusal given the Employer by the Plan; and (4) the Employer's agreement to reimburse the Plan for any loss suffered upon sale of any of the Properties.

Effective Date: The effective date for the proposed exemption for the 1974 Lease, if granted, will be January 1, 1975. The effective date for the exemption proposed for the other transactions, if granted, will be the date the exemption grant is published in the **Federal Register**.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 38 participants and total net assets of approximately $394,000 as of December 31, 1982. The Plan trustees at the time the 1974 Lease was entered into were Thomas A. Wright, president of the Employer, Lucille M. Hempen, an employee of the Employer, and John M. Murphy, a certified public accountant. The current Plan trustees are Messrs. Wright and Murphy and Mr. Gary Smith, secretary-treasurer of the Employer.

2. On December 30, 1974, the Plan purchased the Property located at 909 South Grand Boulevard, St. Louis, Missouri, which was and remains unencumbered, for cash from unrelated third parties. On the same date, the Plan and the Employer entered into the 1974 Lease of the Property which provided for an initial five year term at a net rental of 10 percent of the value of the land and improvements. The 1974 Lease was renewed in 1979 for an additional five year term at the same rental.[1]

3. Mr. Glenn Boehm, a real estate investment advisor who is independent of the Plan and the Employer, has stated that the rentals for the initial term of the 1974 Lease and for the renewal term were higher than comparable rentals for similar properties at the time each rental was negotiated. The applicant represents that the amount by which such rentals exceeded the fair rental value of the Property did not cause the annual additions to the Plan participants' accounts to exceed the limitations of section 415 of the Code.

4. The building at 909 South Grand Boulevard is contiguous with two other buildings (located, respectively, at 901 and 905 South Grand Boulevard) owned by the Plan and leased to the Employer, all of which Properties together comprise the Employer's business offices.[2] Mr. Boehm has appraised the

[1] The Department is not proposing exemptive relief for the 1979 renewal of the 1974 Lease and the applicant represents that it will pay any excise taxes assessed by the Internal Revenue Service under section 4975(c)(1) of the Code within 90 days of the publication of the exemption grant in the **Federal Register**.

[2] The Property located at 905 South Grand Boulevard is owned by the A. T. Redevelopment Corporation, which is wholly-owned by the Plan.

VOL
48
ISS
2
0
0
OC
14
1983
UMI

Properties at a fair market value of $157,750.00 as of August 12, 1982. The lease of the Property located at 901 South Grand Boulevard was entered into prior to July 1, 1974 and the applicant represents that the lease is covered under the transition rules contained in sections 414 and 2003 of the Act. The lease of the Property located at 905 South Grand Boulevard was entered into on July 15, 1975.[3] Both of these leases are currently in effect and both Properties are unencumbered.

5. The applicant proposes to terminate the leases of the Properties and consolidate them into the Lease, which would commence on the date the exemption is granted. The Lease would have an initial term of ten years and the Employer would have the option to renew the Lease for one additional five-year term. The rental during the initial term would be the higher of the fair rental value determined by an independent appraiser, or the annual rental currently being paid by the Employer for the lease of the Properties, which is $15,430. If the Lease is renewed, the rental will be the fair rental value as determined by an independent appraiser, but will not be lower than the rental paid in the initial term. The applicant represents that the amount by which such rentals would exceed the fair rental value of the Properties would not cause the annual additions to the Plan participants' accounts to exceed the limitations of section 415 of the Code. The Lease would be a triple net lease under which the Employer would pay all taxes, insurance, repairs and maintenance relating to the inside and outside of the Properties.

6. In addition, in the event the Plan during the original term of the Lease or during the renewal term, if any, elects to sell or otherwise transfer title to the Properties to an unrelated third party, the Employer shall have the first right to purchase or otherwise acquire title thereto. The Plan will notify the Employer in writing of the terms and conditions for which it elects to sell and if the Employer does not exercise the option to purchase or otherwise acquire title within thirty (30) days after the receipt of the notice, this option shall be deemed waived. Finally, in the event that the Plan sells or otherwise disposes of any of the Properties at a price below the Plan's original cost, the Employer will reimburse the Plan for the entire amount of such loss.

7. Pioneer Bank and Trust Company (the Bank) which is independent of the Employer and the Plan, is the Plan's trustee and has the sole and exclusive authority to decide on the Plan's behalf whether to enter into the Lease. The Bank will also monitor the terms and conditions of the Lease, the Employer's right of first refusal and the indemnification agreement to ensure the Employer's compliance therewith. The Bank has stated that it will not enter into the Lease unless it believes that it would be in the Plan's interests to do so and that the terms and conditions of the Lease are superior to those the Plan could obtain from an unrelated party.

8. Moreover, after having evaluated the Plan's portfolio and after considering the Plan's liquidity needs, the Bank has determined that it would be appropriate for the Plan to retain the Properties. The Bank further states that because of the depressed real estate market, it would be imprudent at this time for the Plan to sell the Properties.

9. In summary, the applicant represents that the transactions satisfy the statutory critria of section 408(a) due to the following:

a. Mr. Boehm has stated that the initial and renewal term rentals under the 1974 Lease were higher than comparable rentals on similar properties;

b. The Bank, which will have exclusive authority to act on the Plan's behalf regarding the Lease, has stated that it will not enter into the Lease unless it has determined that it would be in the Plan's interests and that the terms and conditions of the Lease are superior to those the Plan could obtain from an unrelated party;

c. The Employer must match the terms and conditions of an offer from an unrelated third party in order to purchase the Properties pursuant to its right of first refusal; and

d. The Employer will reimburse the Plan for any loss suffered upon the sale or other disposition of any of the Properties leased.

Tax Consequences of Transactions

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

The Pension Plan for Salaried Employees of the Dayton-Walther Corporation and Subsidiaries (the Pension Plan) and the Pension Agreement Between the Dayton Division of the Dayton-Walther Corporation and Subsidiaries (the Dayton Pension Plan (Collectively, the Plans) Located in Dayton, Ohio

[Application Nos. D–3483 & D–3484]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the code shall not apply to the continued leasing by the Plans to the Dayton-Walther Corporation (the Employer), of two parcels of real property which are owned by the Plans, pursuant to certain proposed amendments to the current leases.

Effective Date: If granted, the proposed exemption will be effective June 30, 1984.

Summary of Facts and Representations

1. The Plans are both defined benefit plans. As of December 31, 1981, the Pension Plan had 832 participants and net assets of approximately $17,149,360 and the Dayton Pension Plan had 777 participants and net assets of approximately $9,517,151. The trustee (the Trustee) of the Plans is the Winters National Bank and Trust Company of Dayton, Ohio. Investment decisions for the Plans are made by four independent investment managers whose performance is reviewed annually by a pension committee consisting of four members of the board of directors of the Employer. The assets of the Plans are commingled for investment purposes.

2. The Plans are the owners of two parcels of improved real property (the Miami Chapel Poperty and the Headquarters Property, respectively) which are leased to the Employer. The Miami Chapel Propery is located south of Miami Chapel Road along the southeast right of way line of the Baltimore and Ohio Railroad in Dayton, Ohio. The Headquarters Property is located at 2800 East River Road in Moraine, Ohio, which is a suburb of Dayton. The applicants state that the properties aggregately represent less than 4.5% of the Pension Plan's assets and less than 12.2% of the Dayton Pension Plan's assets.

3. On January 24, 1960, the Trustee entered into a lease agreement with the Employer for the Miami Chapel Property. The Miami Chapel Lease, which is triple net, was for an initial ten year term and granted the Employer renewal options for two additinal five year periods at an annual rental rate of $35,000, payable in monthly installments of $2,916.67. The application states that this arrangement provided the Plans with a rental return comparable to that obtainable by the Plans from unrelated third parties. The Miami Chapel Lease was renewed on October 14, 1979, for an additional five year term ending on October 14, 1984. The renewal is under the same terms and conditions as the original lease but provides for an increased payment of $51,200 annually, payable in monthly installments of $4,266.66, which is the amount determined to be the fair market rental value by the Trustee based on a 1979 appraisal made by Mr. E. W. Raether, a vice president of The American Appraisal Company, headquartered in Milwaukee, Wisconsin.

4. The Headquarters Property was leased by the Trustee to the Employer pursuant to a lease (the Headquarters Lease) dated July 30, 1970. The Headquarters Lease, which is also triple net, provides for a twenty-five year term ending on July 31, 1995, with options exercisable by the Employer to renew the lease for two additional ten year terms. The rental rate for the initial lease term and any renewals was set at $174,800 per year, payable in monthly installments of $14,566.60.

5. The applicants propose to amend both leases, effective June 30, 1984, to adjust the rental rates under the leases to reflect the then-current fair market rental value as determined by two qualified independent appraisers, one of the whom will be selected by the independent fiduciary for the Plans and one of whom will be selected by the Employer.[4] The two appraisers will select a figure for each property which is mutually acceptable to them, or in the event that the two appraisers cannot agree, they will select a third appraiser whose determination as to fair market rental value will be binding on both the Plans and the Employer.

6. The applicants propose to amend the Miami Chapel Lease, which is due to expire on October 14, 1984, to provide the Employer with the option, subject to the approval of the independent fiduciary for the Plans, to renew the lease for two additional five year periods, beginning on October 15, 1984 and October 15, 1989, respectively, and ending on October 14, 1989 and October 14, 1994. In addition to the above-described readjustment of the rental rate to take place on June 30, 1984, the rental rate will be readjusted once every three years during the renewal periods to reflect the then-current fair market rental value as determined by qualified independent appraisers by the method set forth above.

7. The applicants also propose to amend the Headquarters Lease to shorten the term of the lease to a 22 year term ending on July 31, 1992, instead of July 31, 1995, and to replace the Employer's two ten year renewal options with two five year renewal options, the exercise of such options being subject to the approval of the independent fiduciary for the Plans. In addition to the rental payment adjustment to take place on June 30, 1984, the fair market rental value of the Headquarters Property will be re-appraised every three years over the lease term and any renewal periods thereafter and the rental rate will be adjusted accordingly.

8. Mr. Lee W. Scroggins (Mr. Scroggins), president of Clayton L. Scroggins Associates, Inc. (Scroggins, Inc.), a Cincinnati-based corporation engaged in management consulting, has agreed to act as an independent fiduciary for the Plans with respect to the leases. Scroggins, Inc. administers and serves in a fiduciary capacity to over three hundred pension plans. Mr. Scroggins states that he is fully acquainted with the nature and scope of fiduciary requirements regarding employee benefit plans, including those applicable to plan trustees, administrators, and investment advisors. Scroggins, Inc. and Mr. Scroggins are independent of the Employer. Mr. Scroggins has reviewed the Plans' portfolios and financial statements as well as the terms and conditions of the proposed lease amendments and has determined that the proposed transactions are in the best interest of the Plans and their participants and beneficiaries. Mr. Scroggins states that the Plans' portfolios are well diversified; that the proposed transactions involve a relatively low percentage of the Plans' assets; that it is his opinion that the rental payments to the Plans have and will continue to meet or exceed those obtainable from an unrelated party; and that the properties involved would be easily marketable by the Plans in the event of any termination in the leasing arrangements. Mr. Scroggins will monitor the rental charges and payments to the Plans, will determine whether the leases should be renewed and will take any steps necessary to enforce the rights of the Plans with respect to the subject transactions.

9. In summary, the applicants represent that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (1) the Plans will receive the fair market rental value for the properties as determined by qualified independent appraisers on June 30, 1984 and once every three years thereafter over the terms of the leases; (2) the proposed transactions involve less than 4.5% of the Pension Plan's assets and less than 12.2% of the Dayton Pension Plan's assets; (3) the terms and conditions of the lease amendments have been approved and will be monitored and enforced by the independent fiduciary for the Plans; and (4) the independent fiduciary has reviewed the Plans' portfolios and financial statements as well as the terms and conditions of the lease amendments and has determined that the proposed transactions are in the best interest of the Plans and their participants and beneficiaries.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

Brigham Surgical Group Foundation, Inc., Pension Plan (the Plan), Located in Boston, Massachusetts

[Application No. D–3905]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A)

[3] This lease constitutes a prohibited transaction with regard to which the applicant represents that it will pay any excise taxes assessed by the Internal Revenue Service under section 4975(c)(1) of the Code within 90 days of the publication of the exemption grant in the **Federal Register**.

[4] The applicants represent that both the Miami Chapel Lease and the Headquarters Lease are encompassed until June 30, 1984 by the transitional rules of section 414 of the Act. The Department expresses no opinion as to the applicability of section 414 of the Act with regard to the leases.

VOL
48
ISS
2
0
0
OC
14
1983
UMI

through (E) of the Code shall not apply to the loan of $180,000 by the plan to the Brigham Surgical Group Foundation, Inc. (the Plan Sponsor) over a 15-year period provided the terms of the loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution money purchase retirement plan. There are approximately 52 Plan participants. As of June 30, 1981 the Plan had total assets of $1,409,938. The trustees of the Plan are John A. Mannick, M.D., and Douglas F. MacGregor (the Trustees). The Trustees are related to the Plan Sponsor.

2. The Plan Sponsor is a tax-exempt educational organization engaged in teaching surgery at the undergraduate and graduate levels and operating the Department of Surgery at the Harvard Medical School at Brigham and Women's Hospital in Boston, Massachusetts.

3. On September 30, 1982, the Plan Sponsor purchased the land and buildings located at 110 Cypress Street, Brookline, Massachusetts (the Property) from the American Heart Association for $255,000. The plan Sponsor is spending an additional $100,000 for improvements on the Property. The Property will be occupied by the Plan Sponsor for its own offices.

4. It is proposed that the Plan lend to the Plan Sponsor the amount of $180,000 (the Loan). The proceeds of the Loan will be used for the Plan Sponsor's general operating expenses. The Plan has sufficient liquid assets to fund the Loan and will not be required to sell any of its assets.

5. The Loan will be evidenced by a promissory note of the Plan Sponsor (the Note). The Note would be for a period of 15 years and at an interest rate of 15%. The Note would provide for amortized repayments of principal and interest on a monthly basis. The Loan will represent approximately 13% of the total assets of the Plan.

6. The Loan will be secured by a first mortgage on the Property. An independent appraisal of the Property performed by James H. Boyle, Jr., SRPA of Boyle and Company has established its fair market value at $270,000 as of July 27, 1983.

7. William O. Rizzo, Esquire will serve as the independent fiduciary for the Loan (the Independent Fiduciary). He is a member in good standing of the Bar of the Commonwealth of Massachusetts, and represents that during such time as he remains engaged as the fiduciary responsible for the Loan neither he nor any law firm with which he is associated will represent the Plan Sponsor in matters other than with respect to its duties as the Independent Fiduciary for the Plan. The Independent Fiduciary has also stated that he understands his duties, responsibilities and liabilities under the Act.

8. The Independent Fiduciary has reviewed the Loan and the portfolio of the Plan's assets and has determined that the Loan is in the interests of the Plan and its participants and beneficiaries and is in accordance with the diversification and prudence requirements of the Act.

9. The Independent Fiduciary has reviewed the appraisal of the Property prepared by Boyle and Company establishing the value of the property and is assured that the Property represents 150 percent of the amount of the Loan. He will determine that at all times the Loan is secured by a valid first mortgage on the Property and that it remains at least equal to 150 percent of the unpaid balance of the Loan. In the event the Property at any time falls below this value, he will declare the full amount due and payable unless the Plan Sponsor posts additional collateral in a form and amount satisfactory to the Independent Fiduciary.

10. Independent Fiduciary will verify at the time of the making of the Loan that the interest rate is consistent with the interest rate being charged for comparable loans in the geographical vicinity of the Plan. He will verify that the monthly installments on the Loan are made on a timely basis. Repayments of the Loan will be made directly to the Trustees, who shall make available to the Independent Fiduciary all necessary books and records to facilitate his verification of timely Loan payments. In addition, the Independent Fiduciary shall take all actions necessary to enforce the rights of the Plan under the Loan.

11. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The Plan will receive a secure rate of return over a relatively long period on a portion of its assets;

(2) The Loan will be adequately secured; and

(3) The Plan's independent fiduciary has determined that the Loan is in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Lanson Industries, Inc. Profit Sharing Plan (the Plan), Located in Birmingham, Alabama

[Application No. D-4196]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1)(A) through (E) of the Code shall not apply to the extension of credit by the Plan to Lanson Industries, Inc. (the Employer) on June 9, 1979, in connection with the Employer's acquisition of stock (the Stock) from the Plan, provided the terms and conditions of the transaction were at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

Effective Date: The effective date of the proposed exemption, if granted, will be June 9, 1979.

Summary of Facts and Representations

1. The Employer is a closely-held corporation engaged in the business of defense contracting. Virtually 100 percent of the Employer's sales are to the United States Department of Defense. The Employer maintains its principal place of business in Cullman, Alabama.

2. The Plan, which has been in existence since October 31, 1978, is a profit sharing plan with 250 participants. The trustee of the Plan (the Trustee) is First Alabama Bank of Birmingham, Birmingham, Alabama. The Trustee makes investment decisions for the Plan. Other than serving as Trustee, the bank has never maintained a commercial relationship with the Employer.

3. In 1975, the Employer established an employee stock ownership plan (the ESOP) as a predecessor to the Plan for the benefit of its employees and the employees of its subsidiaries. The trustee of the ESOP was Central Bank of Birmingham, an unrelated entity, located in Birmingham, Alabama. For the plan year ending in 1975 and 1976, the Employer contributed the Stock to the ESOP. The Stock is nonvoting Employer common stock. Immediately prior to October 31, 1978, the Stock constituted approximately 100 percent of the ESOP's total assets and represented 59,498 shares having a fair market value of over $1.6 million. Also prior to October 31, 1978, the Employer had never declared a dividend with respect to its Stock. Further, there was no recognized market for the Employer's Stock.

4. In the fall of 1978, officials of the Employer determined it would be appropriate for the ESOP to be converted into the Plan. One of the reasons for the conversion was that the Employer had been experiencing difficulty with the Internal Revenue Service (the Service) regarding the valuation of the Stock contributed to the ESOP. The controversy with the Service was already in litigation before the United States District Court for the Northern District of Alabama (the District Court) for the Employer's tax years ending October 1975 and 1976. The Employer believed the litigation would continue indefinitely, involve great expense and constitute nonproductive management time. Therefore, it was felt that the ESOP should be converted to the Plan to enable the Employer to make cash contribuions.[5]

5. The Employer also felt that the existing ESOP did not appropriately meet the needs of the participants as well as a profit sharing plan could because of its fluctuating financial performance as a defense contractor. In addition, the Employer was at the time (and continues today as) a closely-held corporation with no recognized market for its Stock. Moreover, the Stock held by the ESOP was generally a non-income producing asset paying only one dividend in the years the Employer and/or its predecessor corporations had been in existence. Therefore, the Employer believed conversion of the ESOP to the Plan was warranted.

6. In the fall of 1978, the Employer and its representatives conducted discussions with the Trustee to explore the feasibility of the Employer's adopting the Trustee's Master Profit Sharing Plan and converting the ESOP into that plan. At the time, the Trustee was not the trustee of the ESOP. Additionally at that time (and continuing to the present time), the Employer and the Trustee did not have a commercial banking relationship. The Trustee's Investment Committee determined it would be acceptable to convert the ESOP into the Plan only if the Stock could be sold. In view of the lack of a market for the Stock, the Employer offered to purchase the Stock from the Trustee based upon its independent appraised value as determined by Coomer as of October 31, 1977. The offer was contingent on the Trustee's accepting as a down payment 10 percent of the purchase price for the Stock, with the balance payable over a ten year period in nine equal annual installments. The obligation was to be evidenced by a promissory note (the Note) and the Note was to be secured by the Stock being purchased. The Employer further conditioned its offer upon the Trustee's acceptance of an interest rate of 8 percent and a provision for release from the security agreement of 10 percent of the Stock upon each installment of principal paid by the Employer. The Trustee agreed to the method of computing the price for the Stock except that it demanded an independent appraisal be obtained as of October 31, 1978. The Trustee also agreed to the amount of the downpayment proposed and the terms for payment of the note. However, the Trustee was unwilling to release any of the Stock from its security interest unless there was an independent appraisal and a determination that the Stock it retained had a value at least equal to 125 percent of the remaining principal balance of the Note. Additionally, the Trustee required the interest rate for the Note to be based upon one-half percent above the Treasury Bill rate for U.S. Treasury Bills due on November 15, 1987 as of the time of the transaction. This was equated to 9 percent of the unpaid principal amount.

7. The conditions imposed by the Trustee were accepted by the Employer and on October 31, 1978, an agreement was signed. Thereafter, an application for a favorable determination letter was filed with the Service and the independent appraisal was obtained from Coomer. The Coomer appraisal valued 59,498 shares of the Stock at $28.06 per share as of October 31, 1978. The Trustee also determined that the appraisal as well as previous appraisals conducted by Coomer accurately reflected the fair market value of the Stock held by the ESOP.

8. Upon receipt of the favorable determination letter and an examination of the 1978 Coomer appraisal by the Trustee, the parties closed the transaction on June 9, 1979. The Employer paid the trustee the sum of $166,953 and executed and delivered its Note in the amount of $1,502,585, payable in nine equal installments of $166,953 commencing on June 5, 1980 and thereafter on June 5th of each year through and including June 5, 1988. The Note, which represented over 69 percent of the Plan's total assets after the Employer's first year cash contribution to the Plan, carried a stated interest rate on the unpaid principal balance of 9 percent per annum simple interest, payable quarterly on the last day of July, October, January and April of each year. No sales commission was charged with respect to the transaction.

The Note was secured by the Stock purchased by the Employer. Additionally, the Note represented an unconditional obligation of the Employer. The Trustee as payee of the Note was given a higher priority position than it would have had as the owner of the Stock.

9. Since June 5, 1979, the Employer has made all payments of principal and interest to the Trustee. As of February 14, 1983, the remaining unpaid principal balance of the Note was $1,001,723 and it represented approximately 31 percent of the Plan's assets. Also, the Employer has not requested that the Trustee release any portions of the Stock held as collateral.

10. By letters dated December 21, 1982, the Area Administrator (the Area Administrator) of the Atlanta Field Office of the Department concluded his investigation of the Plan as well as the activities of the Trustee and certain members of the Plan's Administrative Committee (the Co-Fiduciaries). Based on facts gathered during the investigation, the Area Administrator indicated it appeared that the Trustee and the Co-Fiduciaries had violated several provisions of the Act by reason of the June 1979 transaction. The Area Administrator believed that the investment of such a large portion of the Plan's assets in the Note constituted a violation of the fiduciary prudence and diversification provisions of section 404 of the Act. In addition, the Area Administrator found that the acquisition

[5] Mr. Donald Coomer (Mr. Coomer) an unrelated certified public accountant, affiliated with the accounting firm of Coomer and Associates of Nashville, Tennessee valued 2,738 shares of the Stock contributed by the Employer to the ESOP at $97.50 per share for the plan year ending October 31, 1975. Based on the appraisal, the Employer claimed a deduction of $266,955. The Service, based upon an evaluation by the stock brokerage firm of Chapman and Associates (Chapman) of Atlanta, Georgia determined that the value of the Stock was $15.99 per share and that the Employer could only claim a deduction of $36,457. For the fiscal year ending October 31, 1976, the Employer contributed 26,255 shares of the Stock to the ESOP which were valued by Mr. Coomer at $17 per share. The Employer claimed a tax deduction of $447,074. However, the Service again disagreed with the appraisal and determined that the Stock, as valued by Chapman, had a fair market value of $6.56 per share. Accordingly, the Service allowed a deduction of $167,255.

Because of the discrepancy in the appraised value of the Stock, the Employer paid the tax deficiency, filed a claim for refund and upon rejection of such claim, initiated a lawsuit in the District Court. On July 24, 1980, the District Court issued a Decree and Memorandum Opinion finding that the fair market value of the Stock for the years ending October 31, 1975 and October 31, 1976 was $86.66 and $15.14, respectively. No appeal was taken from the decision and the District Court entered a final order.

VOL 48 ISS 200 OCT 14 1983 UMI

and holding of the Note was prohibited by sections 406 and 407 of the Act inasmuch as the Employer was a party in interest with respect to the Plan. The Area Administrator also believed that the percentage limitations contained in section 407(e) of the Act had not been complied with because the Note, which was not part of a larger debt issued to other parties, was traded only to the Plan. The Area Administrator further felt that the Co-Fiduciaries to the Plan had violated section 412(a) of the Act by handling Plan funds without obtaining the required bonding. Because of the aforementioned violations, the Area Administrator recommended that the Trustee and Co-Fiduciaries take corrective action.

After further correspondence and a meeting with the Area Administrator, the Employer filed a request for an administrative exemption. The exemption would permit the extension of credit by the Plan to the Employer in connection with the June 1979 sale of the Stock. By letter dated February 17, 1983, the Area Administrator was notified of the filing of the exemption application and was provided with a copy of the application.

11. Mr. Charles S. Northen, III (Mr. Northen), Senior Vice President and Trust Officer of Central Bank of the South, represented the Trustee prior to and at the time the transaction was consummated. During this period, Mr. Northen was in charge of both the Trust Department and the Investment Division of the Trustee bank. In affidavits dated March 28, April 29 and July 21, 1983, Mr. Northen has shared his insights into the propriety of the transaction, which he believed was covered by section 408(e) of the Act, and the authorization given the Trustee to review, approve or terminate the transaction at its behest.

Mr. Northen did not want the Trustee to accept conversion of the ESOP into the Plan until a plan of divestiture of the Stock could be agreed upon. He indicated the bank had never served as a trustee and/or plan administrator of an ESOP. Indeed, he was somewhat skeptical of ESOPs in view of the fact that such plans typically invested 100 percent of their assets in employer securities.

Mr. Northen indicated he reviewed various documentation (i.e., financial statements for the Employer, valuations given the Stock by Coomer and Chapman and other correspondence) and placed particular emphasis on determining from these materials what the fair market value of the Stock had been as of October 31, 1975 and October 31, 1976. Based on this review, he concluded the Coomer valuations accurately reflected the fair market value of the Stock on those dates as the appraisals had considered the relevant factors set forth in Rev. Rul. 59–60, which is the principal valuation standard promulgated by the Service. In his opinion, the Chapman valuations did not follow these guidelines.

After receiving the plan of divestiture from counsel for the Employer, Mr. Northen said he reviewed it but felt that a valuation of the Stock as of October 31, 1977 was not the correct measuring point since so much time had elapsed and it was practically October 31, 1978. Accordingly, he concluded that the Trustee could sell the Stock at a price determined by Coomer if such valuation was conducted as of October 31, 1978 and if Coomer's appraisal was consistent with prior year appraisals. He also believed the Employer was the most appropriate purchaser for the Stock because of the Stock's lack of marketability. He indicated a third party purchaser would demand a discount for such lack of marketability.

With respect to the terms of the Note, Mr. Northen indicated that First Alabama had not engaged in any transaction comparable to the one proposed and thus he had no prior transaction to use as a guide. Nevertheless, it was his opinion that the Note should command an interest rate higher than the 8 percent rate of interest initially proposed by the Employer. This, he conceded, was dictated by three factors. Firstly, the rate of return on First Alabama's Income Common Trust Fund for the year ending October 31, 1978 (exclusive of market fluctuations) was 7.5 percent as was the five year average for that fund. Secondly, the interest rate on a U.S. Treasury note with a maturity coinciding with that of the Note was approximately 7.625 percent although the patterns of payment of both principal and interest for such instruments differed. Thirdly, the decision to impose a higher interest rate on the Note was made in light of First Alabama's historical rate of return by the bank on assets held in similar plans. The average rate of return for the prior eight year period was 7.09 percent. Accordingly, Mr. Northen decided to peg the interest rate for the Note to a rate equal to one half percent above the rate on a U.S. Treasury note maturing on November 15, 1987. Such rate was 9 percent as discussed above.

With respect to the deferred payment arrangement enabling the Employer to acquire the Stock, Mr. Northen said he was agreeable to the proposal because a discount factor would not be applied to the purchase price for the Stock. Thus, benefits to Plan participants would not be eroded. However, he was not in favor of the initial provisions sanctioning the release of the Stock collateralizing the Note, as discussed above.

With regard to the propriety of the Stock serving as collateral for the Note, Mr. Northen provided the following information. Firstly, he recognized that prior to the transaction, the only asset held by the ESOP was the Stock. If the Employer's financial condition deteriorated, then the value of the Stock would also decline. Assuming the transaction was consummated, he felt the Plan would at least have cash equal to 10 percent of the value of the stock and would hold as security 100 percent of the Stock purchased by the Employer. Moreover, he felt the Plan's position was further enhanced by the fact that the Note was a general obligation of the Employer and as such, the Plan held a higher priority position than it would have had as owner of the Stock. In addition, he stated that as each year goes by and the Employer has made payments to principal, the value of the collateral as a percentage of the outstanding loan has increased. Finally, Mr. Northen concluded that the honesty, integrity and good business judgment of the Employer and its principals along with the Employer's strong debt coverage ratio minimized the possibility that the Note would not be satisfied.

On the issue of the diversification of the Plan's assets, Mr. Northen said that as a general rule he did not want any qualified plan to have more than 10 percent of its assets invested in any one investment. For the reasons expressed above, he indicated he was convinced that the only way to effect a divestiture of the Stock was to sell it to the Employer under a deferred payment arrangement. Although he was aware that the Note would initially represent over 69 percent of the Plan's assets after the Employer's first year cash contribution to the Plan, he felt each payment of principal and interest would reduce the Plan's asset percentage represented by the Note. At October 31, 1982, he observed, the Note represented 31 percent of the Plan's assets. While it was his opinion that diversification of the Plan's assets was not in accordance with the Trustee's policy, substantial diversification of the Plan's assets had been obtained and the procedure adopted was the only feasible means of achieving this result.

12. In summary, it is represented that the transaction satisfies the criteria of section 408(a) of the Act because: (a) it has allowed the Plan to increase its liquidity and investment yield; (b) the Plan has received the fair market value price for the Stock as determined by an independent appraisal; (c) the Trustee has reviewed the transaction and has determined it to be in the best interests of the Plan's participants and beneficiaries; and (d) the continuing rights of the Plan and its participants and beneficiaries have been and are being protected by the Trustee.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

The Lumbermen's of Washington, Inc. Restated Employee Stock Ownership Plan (the Plan), Located in Seattle, Washington

[Application No. D–4206]

Proposed Exemption

The department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to: (1) the acquisition on March 1, 1982 of certain notes (the Notes) of Lanoga Corporation (Lanoga) which was the sponsor of the Plan at the time of the acquisition of the Notes; and (2) the holding of the Notes by the Plan for the period March 1, 1982 through January 1, 1983.

Effective Date: If this proposed exemption is granted, the effective date will be March 1, 1982.

Summary of Facts and Representations

1. The Plan, which until March 1, 1982 was sponsored by Lumbermen's of Washington, Inc. (Lumbermen's) was an employee stock ownership plan until January 1, 1983. Effective January 1, 1983 the Plan was merged (the Combination) with the United Building Centers Pension Plan and the Spenard Builders Money Accumulation Plan into a single plan i.e., the Lanoga Corporation Defined Benefit Pension Plan (the Plan) which was at that time and which currently is sponsored by Lanoga. At the time of the Combination, the Plan had 68 participants and assets which consisted of 30,194 shares (the Shares) of the common stock of Lumbermen's, $16,000 in a short-term investment fund and $361 in cash. The Shares represented 24% of the total common stock of Lumbermen's. Prior to the Combination, the trustee (the Trustee) of the Plan was the Seattle-First National Bank located in Seattle, Washington.

2. The applicant represents that in a written purchase offer (the Purchase Offer) dated February 22, 1982 and addressed to all shareholders of Lumbermen's (a closely-held corporation), Lanoga offered to buy all, and not less than all, of the outstanding capital stock of Lumbermen's, (*i.e.*, 125,777 shares) for $4,150,000.00. The purchase price was allocated to selling shareholders rateably in proportion to their respective number of shares. The pruchase price was payable as follows: $1,800,000.00 in cash and the balance of $2,350,000.00 evidenced by the Notes which are 10-year subordinated notes executed by Lanoga. The terms of purchase were the same for the Plan as for every other shareholder. All shareholders were to receive $32.99 per share, payable 43% in cash and 57% in Notes.

3. The Notes are payable in ten equal installments of principal and interest and bear interest at the rate of 11 percent per annum. In the event of a default by Lanoga in its obligations under the Notes, the then remaining balance of the principal evidenced by any Note, together with interest accrued, may, at the option of the registered holder of the Note, be accelerated and become immediately due and payable without a period of grace. The Notes are subject to a right of setoff in satisfaction of an indemnity in favor of Lanoga by shareholders of Lumbermen's who jointly and severally covenant against any breach of representations and warranties described in the Purchase Offer. If the right of setoff is exercised, it shall be applied ratably in proportion to amounts then outstanding on the Notes. The fair value of the Notes for setoff and other purposes shall be calculated by discounting the amount of future principal installments by a per annum discount of 5%, applied to the time remaining until the maturity of the respective installments. Exhaustion of the principal of such notes by setoff shall not relieve the selling shareholders or redeeming shareholders of their indemnification obligations under the Purchase Offer.

4. The Purchase Offer was accepted by all shareholders including Robert M. Slettedahl (Slettedahl) and Lawrence Knudsen (Knudsen) the administrators of the Plan acting on behalf of the Plan. On March 1, 1982, the above described transaction was closed, except that the Notes to be issued to the Plan were left in escrow pending approval of this application for exemption. Because of the large percentage of the Plan's assets that were represented by the Shares, the acquisition and holding of the Notes by the Plan has resulted in the Plan having more than 25 percent of its assets invested in the Notes. Accordingly, the Plan has been prohibited from acquiring or holding the Notes because the Plan was acquiring and holding non-qualifying employer securities as defined under section 407 of the Act. As of January 1, 1983, because of the Combination and the resulting increase in assets, the Notes represented approximately 7 percent of the assets of the New Plan.

4. The applicant is requesting an exemption which would permit the acquisition of the Notes by the Plan and and the holding of the Notes of the Plan until January 1, 1983. The applicants represent that such acquisition and holding of the Notes was in the best interests of the participants of the Plan. Specifically, the applicant represents that although the Note has a stated interest rate of 11 percent, the economic cost of holding the Note is its cash-in-value. Holding the Note is equivalent to giving up $463,009 today to receive $95,797 per annum for 10 years. The present value of 10 payments of $95,797, when discounted at 16 percent, equals, $463,009. In effect, a holder of the Note gains 16 percent in return over the term of the Note. The applicant represents that this rate of return can be favorably compared with returns from other comparable investments like corporate bonds that mature in 10 years. The current yield-to-maturity available on these corporate bonds is lower than 16 percent. The applicant further represents that one of the risk factors related to holding corporate bonds is the possible loss in their market value if they were to be sold before maturity. Market value (i.e. cash-in-value) of bonds is dependent upon the market interest rate level, which is by no means constant. Thus if the bondholders are obligated to sell their holdings in times of higher interest rates, capital losses have to be incurred. In comparison, the Note is relatively free of this risk factor because its cash-in value is predetermined by discounting the remaining cash flow at a constant 16 percent.

5. The applicant represents that prior to the acceptance by Slettedahl and Knudsen of the Purchase Offer on behalf of the Plan each employee participant accepted and approved the acceptance of the transaction. In addition, the Trustee at the time of The Purchase Offer, acting as an independent fiduciary of the Plan, represents that the transaction was and is: (1) in the best interests of the participants and

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beneficiaries of the Plan; (2) protective of the participants and beneficiaries of the Plan; and (3) prudent and appropriate for the Plan.

6. In summary, the applicant represents that the transaction satisfied the requirements of section 408(a) of the Act because: (1) the Trustee represents that it was in the best interests of the participants and beneficiaries of the Plan; (2) the Notes were a prudent and appropriate investment for the Plan; and (3) the Plan received the same consideration as all other shareholders of Lumbermen's and all other such shareholders voted in favor of the transaction.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

The Supplemental Pension Plan of Consolidated Rail Corporation (the Plan), Located in Philadelphia, Pennsylvania

[Application No. D–4272]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the cash sale on January 18, 1983 (the Closing Date) to the Consolidated Rail Corporation (Conrail), a party in interest with respect to the Plan, by the Penn Central Pension Fund Liquidating Account (the Liquidating Account), which holds certain Plan assets, of all shares owned by the Liquidating Account of common stock of the Pennsylvania Car Leasing Company (the Leasing Company) and the transfer of certain related assets between Conrail and the Liquidating Account pursuant to the terms of a stock purchase agreement dated January 11, 1983 (the Agreement), described below, provided the net amount received by the Liquidating Account was no less than the fair market value of the assets it transferred to Conrail on the dates of such transfer.

Effective Date: If the proposed exemption is granted, the exemption will be effective as of January 11, 1983.

Summary of Facts and Representations

1. *The Plan.* The Plan is a defined benefit pension plan established by Conrail effective April 1, 1976, and qualified under section 401(a) of the Code. As of December 31, 1981, 29,807 individuals participated in the Plan. As of January 1, 1982, the Plan's total assets were valued at $369,424,669. Plan assets are held in the Penn Central Pension Trust (the Trust), a collective fund trusteed by the Girard Bank (the Trustee), which is not related to Conrail through either stock ownership or interlocking directorships. The applicant represents that the Trustee's business ties to Conrail are not significant enough to influence the Trustee in discharging its fiduciary duties with respect to the Trust. In 1982, the Trustee derived 0.03% of its income from business with Conrail, and in prior years such percentage was even smaller.

2. *Conrail and the Trust.* Conrail was created by the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C.A. 701, *et seq.* (the Rail Act), to replace Penn Central Transportation Company and other bankrupt railroads in providing rail service to the midwest and northeast regions of the United States. In order to ensure uninterrupted pension payments to retirees of the bankrupt railroads, the Rail Act transferred to Conrail assets and obligations of all of the pension plans maintained by railroads whose functions Conrail acquired. In connection with the transfer, on April 1, 1976, Conrail succeeded to Penn Central Transportation Company's rights under the Trust. Because Conrail did not assume responsibility for all of the plans participating in the Trust, arrangements were made to permit the withdrawal of certain plans from the Trust.

3. *The Liquidating Account.* To avoid unfairness either to withdrawing or to remaining plans in the Trust, assets of the Trust that had been historically designated by Penn Central Transportation Company as "unmanageable," such as private placements and restricted employer securities that were not readily marketable or distributable in kind, were segregated by the Trustee into the Liquidating Account, which, according to the applicant, is a separate bank collective trust as defined in 29 CFR 2520.103–3. By Declaration of Trust dated July 28, 1976, the Trustee undertook the administration of the Liquidating Account and the management of its assets. The investment policy under the Declaration of Trust is to dispose of the Liquidating Account's assets in an orderly manner, and to distribute the proceeds to participating plans. Each plan participating in the Trust was assigned units in the Liquidating Account in proportion to its interest in the Trust. Participation in the Liquidating Account was made a condition of withdrawal from the Trust. The Plan owns an interest of approximately 90% in the Liquidating Account. Thirty-two other plans participate in the Liquidating Account, none of which, alone or in conjunction with other plans maintained by the same employer, owns an interest in excess of 5%. Penn Central Corporation (Penn Central) and one of its subsidiaries, Pennsylvania Company (Pennco), both of which are among the parties to the Agreement, are parties in interest with respect to five of these plans, namely those maintained by Clearfield Bituminous Coal Corp., Cleveland Union Terminals Co., Depatch Shops, Inc., Penn Central Park, Inc., and Western Warehousing Co. However, no exemption has been sought with respect to transactions between the Liquidating Account and Penn Central and Pennco pursuant to the Agreement because the applicant believes such transactions are exempt by virtue of Prohibited Transaction Exemption 80–51 (PTE 80–51, 45 FR 49709, July 25, 1980).[6] The applicant believes that neither Penn Central nor Pennco are parties in interest with respect to the Plan because although Penn Central does employ a relatively small number of individuals who are participants in the Plan, Penn Central does not contribute to the Plan, play any role in its administration, or otherwise act as an "employer" within the meaning of section 3(5) of the Act in relation to the Plan.[7]

4. *The Leasing Company.* The Leasing Company is a corporation established in 1959 for the purpose of purchasing approximately 10,000 railroad cars and leasing them to The Pennsylvania Railroad Company, a predecessor of Penn Central Transportation Company and Penn Central. In 1959, the Leasing Company and The Pennsylvania Railroad entered into a 20-year lease (the Lease) with an option on the part of the lessee to renew for an additional 10 years. Pursuant to the Rail Act, Conrail succeeded to the rights and obligations under the Lease on April 1, 1976. In 1979, Conrail exercised the renewal option. As of the Closing Date, the Leasing Company owned approximately 5,060 of the original railroad cars covered by the Lease. The remaining cars were either lost or destroyed. As required under the Lease, their value was replaced by cash payments from the lessee into a Destroyed Car Replacement Fund (the Replacement Fund). Payments into the Replacement Fund were maintained in two separate accounts, depending on whether the payment was made during the initial term of the Lease or during the renewal term. On the Closing Date, the principal value of the combined accounts was approximately $10,587,000. In addition, payments made during the initial term of the Lease had earned accumulated interest of approximately $4,000,000, and payments made during the renewal term of the Lease had earned accumulated interest of approximately $1,560,000.

5. *Disputes between Conrail and the Leasing Company.* The Replacement Fund was the focal point of controversies between Conrail and the Leasing Company. Prior to August 1, 1979, payments into the Replacement Fund were based on the greater of the purchase price of the railroad cars less depreciation or the scrap value of the railroad cars. The Leasing Company contended that Conrail used an improper method of calculating the scrap value of the cars. Under the method advocated by the Leasing Company, payments would have been increased by approximately $691,482. The Leasing Company asserted that Conrail owed it this amount. The Leasing Company also disputed Conrail's claims that the terms of the Lease entitled Conrail to the interest earned on money in the Replacement Fund and to direct that the Fund be invested in additional railroad cars.

6. *Owners of the Leasing Company.* Prior to August 1, 1979, Penn Central and Pennco were the sole owners of the Leasing Company. An option to purchase, 20,000 shares of common stock of the Leasing Company for $200,000 was among the Trust assets segregated into the Liquidating Account and was exercised by the Liquidating Account on August 1, 1979, when the stock was valued for accounting purposes at approximately $3,275,000. (The Pennsylvania Railroad Company had contributed this option to the Trust in 1962.) Prior to July 21, 1979, the Leasing Company declared a 3,000 share common stock dividend (the Stock Dividend) which were distributed to Penn Central and Pennco on July 21, 1979, giving Penn Central and Pennco a total of 5,000 shares of the Leasing Company common stocks as of August 1, 1979.

7. *The Lawsuit.* On or about July 13, 1979, the Leasing Company issued a revised balance sheet for the calendar year 1978 reflecting certain financial adjustments (the Financial Revisions). After July 1, 1979, the Leasing Company issued a promissory note to Penn Central obligating the Leasing Company to pay $641,035 in debt, with 6% interest, to Penn Central (the Cash Advance Note). The Leasing Company entered into a tax allocation agreement with Penn Central on June 22, 1979, and on July 21, 1979, the Leasing Company issued six promissory notes to Penn Central obligating the Leasing Company to pay $4,308,453 in debt, with 6% interest, to Penn Central. Penn Central asserted a claim under the tax allocation agreement for the period January 1, 1979 to August 1, 1979 (the Tax Allocation Agreement). On April 15, 1981, the Trustee and the Leasing Company instituted a lawsuit against Penn Central and Pennco in the U.S. District Court for the Eastern District of Pennsylvania (the Court; Civil Action No. 81–1539 and Misc. No. 79,469) alleging that the Stock Dividend, the Cash Advance Note, the Financial Revisions, and the Tax Allocation Agreement are improper, illegal, null and void acts under state and federal law. The complaint accuses Penn Central and Pennco of causing the Leasing Company to improperly declare the Stock Dividend (paid to Penn Central and Pennco) in anticipation of the Trustee's exercise of the Liquidating Account's option. Until the Closing Date, the Stock Dividend was held in a custodial account (the Custodial Account) at the Philadelphia National Bank (the Custodian) pending resolution of the dispute over the propriety of the Stock Dividend. At the Closing Date, the proceeds from the sale of the 3,000 shares comprising Stock Dividend and certain dividends attributable to same were placed in the Custodial Account. The 20,000 shares owned by the Liquidating Account, the 2,000 shares owned by Penn Central and Pennco, and the 3,000 shares comprising the Stock Dividend and held in the Custodial Account constituted all of the outstanding stock of the Leasing Company from August 1, 1979 until the Closing Date. Depending on the outcome of the litigation with respect to the Stock Dividend issue, the Liquidating Account's interest in the Leasing Company was either 80%, i.e., 20,000 of 25,000 shares (including the Stock Dividend, the Liquidating Account's 20,000 shares, and the 2,000 undisputed shares owned by Penn Central and Pennco) or 90.91% (20,000 or 22,000 shares, excluding the Stock Dividend). A proposed settlement of the litigation was reached on April 7, 1983, and the parties are in the process of preparing a formal settlement agreement to be executed by each of them subject to approval by the Court. Under the proposed settlement, the Liquidating Account's interest in the Leasing Company would have been 90.91%.

8. *The Sale and The Agreement.* On December 20, 1982, Conrail offered to purchase the common stock of the Leasing Company. Penn Central, Pennco, and the Trustee, on behalf of the Liquidating Account (collectively, the Sellers) accepted Conrail's offer. As required by the offer, Conrail and the Sellers executed the Agreement, which set forth the terms and conditions of the sale, described in pertinent part below:

(a) *Transactions on the Closing Date:*

(i) Purchase by Conrail of all outstanding shares of common stock of the Leasing Company for a price of $11,200,000 cash payable on the Closing Date to the Custodial Account on behalf of the Sellers.

(ii) Waiver of all claims by the Sellers and Conrail against each other arising out of the Lease. Conrail agreed not to assert any claim against the Leasing Company with respect to the Lease accruing on or before the Closing Date, which could be asserted against the Sellers pursuant to their obligation to indemnify Conrail (see (e), below).

(b) *Transactions before the Closing Date:*

(i) Payment to Conrail by the Leasing Company of the following amounts of interest on payments to the Replacement Fund:

(A) $419,231 consisting of (I) interest earned before August 1, 1979 on Replacement Fund payments made before that date, and (II) interest earned on such interest from August 1, 1979 through December 28, 1982, less $35,785 due from Conrail for pre-August 1, 1979 expenses;

(B) $1,498,994 earned from August 2, 1979 to the Closing Date; and

(C) $43,194 paid by Conrail after August 1, 1979 regarding Replacement Fund payments made before August 1, 1979.

(ii) Payment of $33,543 to Penn Central by the Leasing Company, representing the net amount payable for general administrative, and miscellaneous expenses between the Leasing Company and Penn Central.

(iii) Relinquishment by Conrail to the Sellers of all right, title, and interest in

[6] The Department is expressing no opinion herein as to the application of PTE 80–51 to such transactions.

[7] In Advisory Opinion 81–78A, issued to Bruce A. Miller on October 29, 1981, the Department stated that the definition of an "employer" for purposes of section 3(14)(C) of the Act must be viewed in light of section 3(5). The Department concluded that merely employing some plan participants, in itself, did not make a corporation a party in interest with respect to the plan. However, the Department is expressing no opinion herein as to the status of either Penn Central or Pennco as an employer within the meaning of section 3(5) or 3(14)(C) of the Act in relation to the Plan.

the Penn Car Equipment Trust Agreement and Lease account maintained at Citibank, N.A., which holds part of the assets of the Replacement Fund.

Although the Replacement Fund's assets were owned by the Leasing Company, such assets could not be disbursed before the Closing Date due to the conflict between the Leasing Company and Conrail over their respective rights to these assets; (see 5, above.)

(iv) Distribution to the Custodial Account as a dividend to the Sellers of all remaining assets of the Leasing Company (other than the assets described in (b)(i) and (ii), above, and (c)(i), below).

(v) Execution of an amended custodial agreement by Conrail, the Sellers, the Leasing Company and the Custodian.

(vi) Receipt of a waiver by Conrail from the Board of Directors of the U.S. Railway Association (USRA) with respect to Conrail's acquisition of all outstanding shares of the Leasing Company. (The applicant explains that the USRA is a federal agency which was created by the Rail Act to monitor the activities of Conrail. Conrail has borrowed federal funds pursuant to a financing agreement with USRA. Under the terms of such financing agreement, Conrail may not acquire a subsidiary unless it is granted a waiver by the Board of Directors of USRA. Accordingly, as a condition to the subject transaction, a waiver was applied for and obtained from the USRA Board of Directors. USRA's interest in the subject transaction was primarily from the perspective of a creditor of Conrail, according to the applicant.)

(c) *Representations and warranties by the Liquidating Account to Conrail:*

(i) That the Leasing Company's only assets on the Closing Date were the railroad cars leased to Conrail, the Lease, and a book asset consisting of accrued rent under the Lease;

(ii) That the Leasing Company has no current or deferred liabilities, other than liabilities for deferred taxes and liabilities which have been provided for by the transfer of funds into the Custodial Account (see 9 below. The applicant represents that it is a standard requirement for any seller of stock to disclose all liabilities to the purchaser and that if this representation were found to be incorrect, the Sellers would be obligated to pay any subsequently discovered liabilities of the Leasing Company in proportion to their former interests in the Leasing Company.)

(d) *Tax Returns and Payments:*

(i) The Liquidating Account, through the Trustee, is obligated to cause all tax returns of the Leasing Company for periods ending on or before December 31, 1982 to be filed and to cause all liabilities to the returns to be discharged. (The applicant states that all of the Sellers will share such liabilities in proportion to their respective interests in the Leasing Company, as determined in the litigation described in 7, above. The applicant explains that when a corporation is acquired through the purchase of its stock, provisions such as this are customary to protect the purchaser, who generally assumes the seller's liabilities, for liabilities relating to periods before the purchase.)

(ii) Conrail is obligated to include the Leasing Company in Conrail's tax returns for the period between January 1, 1983 and the Closing Date, pursuant to the election permitted under 26 CFR 1.1502-76(b)(5), so that the Leasing Company has no obligation to file a separate return for the period.

(e) *Indemnification:* The Sellers agreed to indemnify conrail from claims against or liabilities of the Leasing Company relating to its acts, omissions, obligations, or conduct of business on or before the Closing Date. The obligation to indemnify includes all tax liabilities of the Leasing Company for periods ended on or before December 31, 1982 and all tax liabilities attributable to the Leasing Company's income other than interest income for the period January 1, 1983 through the Closing Date. The obligation does not include tax liabilities relating to interest from the Replacement Fund distributed to Conrail, tax liabilities arising from an election by Conrail under section 338 of the Code, and tax liabilities for deferred taxes reflecting on the Leasing Company's balance sheet on the Closing Date. Any indemnification will be provided by the Sellers, based on their respective ownership interests in the Leasing Company, as determined by settlement of or final judgment of the litigation described in 7, above. The Sellers are not obligated to indemnify Conrail or the Leasing Company to the extent that Conrail waives its right to indemnification for breaches of representations at or prior to the Closing Date and for claims aggregating less than $25,000. As to all obligations of the Leasing Company other than federal and state income tax liabilities, the obligation to indemnify expires three years from the Closing Date. As to the Leasing Company's federal and state income tax liabilities, the obligation to indemnify expires six months after the expiration of the applicable statutes of limitation.

(f) *Finder's Fee.* Neither Conrail nor any of the Sellers or any subsidiary or affiliate of either has entered, directly or indirectly, into any agreement with any person, firm, or corporation for the payment of any commission, brokerage, or "finder's fee" in connection with the subject transaction.

The applicant states that the subject transaction took place on the Closing Date in accordance with the provisions of the Agreement, under which Conrail and the Leasing Company resolved their controversies over the Replacement Fund. In this regard, the price paid by Conrail for the stock reflected concessions on the part of Conrail in response to the Leasing Company's contention that certain payments to the Replacement Fund were based on an improper valuation method. Similarly, the distribution to Conrail of the interest described in (b)(i), above, reflected concessions on the part of the Leasing Company in response to Conrail's claims that it was entitled to the interest earned by the Replacement Fund and that it has the right to direct that the Replacement Fund be invested in railroad cars.

9. *The Amended Custodial Agreement.* Pursuant to the terms of the amended custodial agreement dated January 18, 1983 (see 8(b)(v), above), the Custodian established four custodial accounts to hold assets relating to the sale, the Agreement, and the pending litigation. Account A holds $1,646,465, which is the sum of the proceeds from the stock sale and pre-closing dividends attributable to the Stock Dividend. Account B holds funds sufficient ($8,500,000) to satisfy Penn Central's claims against the Leasing Company under the Cash Advance Note, the Tax Allocation Agreement, and the Financial Revisions. The amounts in Account A and Account B will be disbursed in accordance with the terms upon which the litigation is resolved. (See 7, above.) Account C holds funds sufficient ($5,500,000) to satisfy the expenses and obligations of the Leasing Company assumed by the Sellers, including tax liabilities and the indemnification of Conrail (see 8.d(i) and 8.e, above). Account D held all other assets received by the Custodian and was distributed to the Sellers on January 21, 1983. Any excess remaining after resolution of the pending litigation and after satisfaction of the Leasing Company's obligations assumed by the Sellers will be disbursed to the Sellers in proportion to their respective interests in the Leasing Company, as determined by settlement of or final judgment in the litigation. An Amended Stipulation and Agreement executed by the parties to the pending litigation on January 11, 1983, provides in part, that (a) if such parties agree or if the final judgment in the litigation determines that the Stock Dividend, the Tax Allocation Agreement, the Financial Revisions, or the Cash Advance Note were valid and proper acts in whole or in part, the rights of Penn Central and/or Pennco resulting therefrom shall be satisfied solely from the custodial account established for such purposes in the amended custodial agreement, and not from the assets of the Leasing Company, the Trustee, or any other entity; and (b) the Leasing Company shall continue as a party to the pending litigation, which shall proceed as if the stock ownership and management of the Leasing Company continued as it existed immediately prior to the sale of the stock Conrail.

10. *Costs, Proceeds, Received, and Fair Market Value of the Transferred Assets: Liquidating Account's Share.* Because the Trustee had been conducting the affairs of the Leasing Company since 1979, the applicant believes that the Trustee was in an excellent position to assess the value of the Leasing Company and the merits of Conrail's offer. The Trustee determined that Conrail had offered the Liquidating Account fair market value for its interest in the Leasing Company. Among the factors the Trustee considered in determining fair market value were the respective claims of Conrail and the leasing Company pertaining to the Replacement Fund. Based upon the advice of legal counsel as to the strength of the claims, the Trustee concluded that under Conrail's offer the Leasing Company, and thus the Liquidating Account, would receive no less than fair value for its claims against Conrail and would pay no more than fair value for Conrail's claims against it.

In providing the following representations regarding costs, fair market value, and the proceeds received under the subject transaction, the Trustee has stated the values realized as a result of the proposed settlement agreement mentioned in 7, above:

(a) *Liquidating Account's Total Costs in Acquiring, Holding, and Selling Shores of the Leasing Company.* The Liquidating Account paid $200,000 when it exercised its option to purchase the 20,000 shares of the Leasing Company of August 1, 1979. Since that date, the Liquidating Account has paid $214,010.73 in counsel fees with respect to its investment in the Leasing Company. Of this amount, approximately $150,000 was incurred for the pending litigation and the balance for the sale of the shares to Conrail. The only other payments by the Liquidating Account with respect to the Leasing Company investment have been the standard fees charged by the Trustee for holding the Liquidating Account's interest in the Leasing Company. The fee was at the rate of $1 per $1,000 on the estimated market value of the investment. In addition to these payments from the Liquidating Account, payments have been made by the Leasing Company itself for accounting, tax services, litigation expense, and general administrative costs of $547,351, all of which were paid from the Leasing Company's earnings.

(b) *Foir Market Value of Liquidating Account Assets Surrendered to Conrail in the Agreement.* The Trustee estimates that the fair market value of the assets surrendered or transferred to Conrail by the Liquidating Account in the subject transaction was approximately $7,250,000 if the railroad cars had been sold as a block and the transaction had been made with any purchaser other than Conrail. The Trustee was able to obtain substantially more than the fair market value because the Leasing Company was worth more to Conrail as explained in 11, below.

(c) *Total Amounts To Be Received by the Liquidating Account pursuant to the Agreement.* As of April 17, 1983, the Liquidating Account's share of the total value of the Leasing Company was approximately $19,900,000. Approximately half of this amount was received pursuant to the Agreement, and the balance is attributable to other assets of the Leasing Company which cannot be allocated among the Sellers before the lawsuit described in 7, above, is settled or otherwise concluded.

11. *The Trustee's Reasons for Entering into the Sole and the Agreement.* After substantial investigation, the Trustee concluded that it was in the best interests of the Liquidating Account, and hence the Plan and its participants and beneficiaries, to accept Conrail's offer. The Trustee considered the following factors in reaching this conclusion.

First, the declining demand for railroad cars, the possibility that the Leasing Company might lost its lease income, and the status of the Leasing Company as a taxable corporation convinced the Trustee that the Leasing Company should be sold at this time. Over the years, a surplus of railroad cars had developed. Many of the cars in the Leasing Company's fleet were designed for use in the coal and steel industries. The depressed condition of these industries and of the economy in general reduced the value of the Leasing Company's railroad cars. Scrap steel, the value of which is directly related to the health of the steel industry, provided the only other market for cars that could not be used as railroad cars. In the past year, several companies in the business of leasing railroad cars had gone into bankruptcy. Analysts familiar with the coal, steel, and railroad industries were not optimistic about the chances for significant recovery in the foreseeable future.

An important source of income for the Leasing Company was the Lease (see 4, above). The U.S. Department of Transportation (DOT) is the controlling stockholder of Conrail. The Northeast Rail Service Act of 1981, 45 U.S.C.A. 1101, *et seq.*, prescribes ground rules for the return of Conrail to the private sector. In general, DOT may sell Conrail as an entity at any time. If certain profitability tests are met during 1983, DOT must sell Conrail as an entity. If the tests are not met, DOT may dispose of Conrail and its assets in any manner. The Trustee was concerned over the effect any sale or dismemberment of Conrail might have had on the Lease, which permitted Conrail to withdraw from the Lease in whole or in part upon 30 days written notice to the Leasing Company. Conrail management had informed the Trustee that financial considerations might force Conrail to terminate the Lease and return the railroad cars to the Leasing Company.

The Leasing Company's net income is subject to federal income tax. As long as the Liquidating Account owned the Leasing Company, approximately 50% of the Liquidating Account's share of the Leasing Company's income was spent in taxes. The Trustee believed that Liquidating Account investments should take advantage of the Liquidating Account's tax-exempt status.

Second, the Trustee believed that the plans participating in the Liquidating Account would derive greater benefit from the sale of the Leasing Company's stock than from the sale of its assets. The Leasing Company's railroad cars had a depreciated tax cost to the Leasing Company well below the price that could be obtained for the cars, according to the applicant. Thus, the sale of the cars would have caused the Leasing Company to incur income tax liabilities estimated by the Trustee at approximately $2,000,000. The liabilities ultimately would have been borne by the Liquidating Account and the Leasing Company's other stockholders. Because the stock of the Leasing Company was sold, however, the gain attributable to the difference between the value and the depreciated cost of the railroad cars was realized directly by the tax-exempt Liquidating Account.

VOL 48 ISS 200 OCT 14 1983 UMI

Finally, the Trustee determined that Conrail was the most desirable, if not the only, purchaser for the Leasing Company. Beginning in 1979, the Trustee conducted discussions with Conrail and other parties for the purpose of selling the stock and/or equipment of the Leasing Company. These efforts did not bear fruit until late 1982, when Conrail expressed a serious interest in acquiring the Leasing Company. In order to provide a basis for evaluating Conrail's offer, the Trustee solicited bids on the Leasing Company's railroad cars from three dealers. One refused to bid due to the depressed state of the market. The other two dealers were reluctant to bid. Each, however, informed the Trustee that if it were to bid its bid would be in the range of $3,000,000 to $5,000,000 for the entire fleet. These figures were substantially lower than Conrail's offer, and the dealers never submitted formal bids.

The Trustee had reason to believe that the Leasing Company was worth more to Conrail than to another purchaser. On termination of the Lease (see 4, above), Conrail would have been required to repair the railroad cars, to assemble the cars at a location selected by the Leasing Company, to store the cars, and to deliver them to the Leasing Company. Conrail avoided these costs by purchasing the Leasing Company. The applicant states that Conrail's cost savings were reflected in the price Conrail paid for the Leasing Company stock. Also, under rules promulgated by the American Association of Railroads, the Leasing Company's railroad cars would have had to be repaired before a railroad other than Conrail could use the cars on its lines. Conrail can use the railroad cars on its lines without making repairs. Moreover, the sale of the Leasing Company's 5,060 cars was the largest single transaction in used railroad cars in history, according to the applicant. The need to sell all of the cars restricted the number of potential buyers and nearly assured that a buyer other than Conrail would have required financing, probably from the Leasing Company's stockholders. In the Trustee's opinion, such financing would have been imprudent and inconsistent with the Liquidating Account's investment policy. For all of these reasons, the Trustee is convinced that the offer it ultimately obtained from Conrail was far better than any which would have been obtained from any other source.

12. *Summary.* In summary, the applicant represents that the subject transaction satisfied the exemption criteria provided under section 408(a) of the Act for the reasons described in 11, above, and also because (a) the transaction enabled the Plan to convert into cash an asset not readily marketable and which was an uncertain source of income, (b) the transaction gave the Plan a very favorable return on its investment in the Leasing Company (c) the Trustee, who is independent of Conrail, has determined that the transaction was clearly in the best interests of the Plan and its participants and beneficiaires, (d) the Trustee has determined that the sales price received by the Plan was no less than the fair market value of the Plan's share of the transferred assets on the dates of the transfers, (e) the participation of Penn Central and Pennco, which are both independent parties, in the subject transaction on the same terms and conditions as the Liquidating Account also ensure overreaching and protects the interests of Plan participants and benficiaries, and (f) the transferred assets constitute a comparatively small percentage of the Plan's total assets.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Guy C. Clayton, D.D.S., P.C., Profit Sharing Retirement Plan (the Plan), Located in Hampton, Virginia

[Application No. D-4304]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the code shall not apply to the proposed cash sale of a 1.32 acre parcel of real property (the Property) by the Plan to Dr. Guy C. Clayton, the trustee of the Plan (the Trustee) for $120,000 provided that this amount is not less than the fair market value of the Property as of the date of sale.

Summary of Facts and Representations

1. The Plan is a defined contribution pension plan with 3 participants. The Plan had total assets of $314,316.22 as of February 28, 1983. The Trustee has complete discretion with respect to investment of Plan assets. The Trustee is also the sole shareholder of Guy C. Clayton, D.D.S., P.C., a professional corporation engaged in the practice of dentistry.

2. In December, 1973, the Doctors Clayton, Dailey and Associates, Ltd. Employee Pension Plan (the Predecessor Plan) bought a 2.43 acre parcel of undeveloped land (the Land) from Coliseum Park Corporation, an unrelated party with respect to the Plan, for a total price of $158,757.00. On December 29, 1976 the Land was appraised for $185,000.

3. In December, 1977, the Old Point National Bank (the Bank), acting as trustee of the Predecessor Plan, recommended that the Land be offered for sale. A "for sale" sign was placed on the Land on March 16, 1978 and a "for sale owner will subdivide" sign was placed in Febuary, 1979. The applicant represents that the parties involved determined not to list the Land with a realtor and thus save the expense of real estate commissions because the Land was centrally located, was near the largest shopping mall in Hampton, Virginia and was in an area that was being developed with in increasing number of doctors' offices and related medical facilities.

4. On April 29, 1980 the Predecessor Plan was dissolved and the Plan received 54.39% of the Land in fee simple, amounting to 1.32 acres. Dr. Dailey's pension plan received the remaining 1.11 acres. The Bank was appointed trustee of the successor Plan and, at its recommendation, the Property continued to be offered for sale. On October 23, 1980 the Bank resigned as trustee of the Plan and was replaced by Dr. Clayton, who appointed the Bank custodian for the Plan. The Property remained for sale, with the Bank maintaining the "for sale, owner will subdivide" sign. Following the dissolution of the Predecessor Plan, the asking price for the Property ranged from $120,000 to $150,000.

5. The Bank represents that while it was the trustee of the Predecessor and successor Plans, it received no offers to purchase the Land, the Property, nor any portions thereof. The Trustee represents that, since assuming this position on October 23, 1980, he has never received an offer for the Property nor any portion thereof. The applicant represents that Dr. Dailey's pension plan sold its share of the Land on November 30, 1980, for $110,000 without the benefit of a realtor and with owner financing.

6. On October 6, 1982, the Trustee commenced construction of an office complex on the Property. No assets of the Plan have been or will be used to finance construction of this office complex. The applicant recognizes that the use of the Property constitutes a prohibited transaction as described in the Act and represents that he will pay, within 60 days of the date of the grant of an individual exemption by the Department for the sale of the Property by the Plan, all excise taxes which are applicable under section 4975(a) of the Code as a result of such use.

7. On May 11, 1983, the Trustee paid the Plan $4,736.71 representing seven months of ground rent at the rate of $650 a month. The ground rental rate was determined on March 23, 1983 by Thomas W. Meehan, the independent appraiser who performed the appraisal of the Property, as discussed below. A late payment penalty of the prime rate of interest plus 1% per annum was also paid. The penalty rate was determined by the Real Estate and Trust divisions of the Bank. The applicant represents that he will make timely rental payments until an exemption is granted.

8. The applicant seeks an exemption to allow the Plan to sell the Property to the Trustee at its appraised fair market value. Mr. Thomas W. Meehan, a residential member of the American Institute of Real Estate Appraisers appraised the Property and determined that as of December 9, 982, it had a fair market value of $120,000. The sale will be for cash with no fees or expenses assessed to the Plan.

9. The applicant represents that the proposed sale of the Property to the Trustee will be in the best interests of the Plan because: (a) the Property, as part of a larger whole, has been offered for sale from March, 1978 through October 1982 and neither the Predecessor Plan nor the successor Plan received any offers during this period; and (b) the Bank, acting as custodian, and the Trustee believe that the Plan would be better served by investing in a medium other than the real estate currently owned.

10. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because: (a) the Property will be sold at its appraised market value as determined by a qualified independent appraiser; (b) the sale will be a one-time transaction for cash and the Plan will not incur any sales commissions or other expenses with respect to the sale; and (c) the Trustee represents that the sale of the Property will be in the best interest of the Plan and its participants and beneficiaries.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

First Railroad & Banking Company of Georgia Retirement Plan (the Plan), Located in Augusta, Georgia

[Application No. D-4307]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale by the Plan of 9,249 shares of stock of First Georgia Bancshares, Inc. (Bancshares) to First Railroad & Banking Company of Georgia (FRR), for the higher of $8.50 per share of the "Asked" price quoted on the National Association of Securities Dealers Automated Quotations System (NASDAQ) on the date of the sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with approximately 725 participants. Georgia Railroad Bank & Trust Company (the Trustee) acts as trustee of the Plan, which was established for the benefit of the eligible employees of FRR and its various subsidiaries, including the Trustee.

2. Between January 2, 1968, and January 7, 1973, the Plan acquired 9,249 shares of Bancshares. Bancshares is a Georgia corporation with its main office in Atlanta, Georgia, whose principal asset is a 20% interest in first Georgia Bank (FGB), which is also located in Atlanta. The remaining 80% of FGB is owned by FRR, such interest having been acquired, effectively, in 1975 with the purchase by FRR of preferred shares of FGB, convertible at the option of the holder into 80% of the outstanding shares of common stock of FGB (in 1975 Bancshares owned 100% of FGB). On and as of December 31, 1978, FRR exercised the conversion rights as to its preferred stock of FGB, thereby becoming the owner of 80% of the outstanding common shares.

3. The Plan has a total cost in its 9,249 shares of Bancshares of $177,348.64, or an average cost per share of $19.17. At present, Bancshares common stock is traded over-the-counter, and there are only two market makers for the shares, both firms being essentially regional in nature. they are Johnson, Lane, Space, Smith & Company, and First Southeastern Securities. Each firm at present has a $5.50 per share bid on Bancshares common stock.

4. FRR now proposes to purchase the Plan's shares of Bancshares for $8.50 per share. The applicants represent that for the last two years, Bancshares common stock has traded on the over-the-counter market at prices in the $5.00 range. Prior to such time, the shares were traded at a lower price and several years ago were selling as low as $2.00 per share. The proposed purchase price of $8.50 per share was determined because: (1) from time to time recently, FRR has purchased small lots of such shares directly from the owners (and not through a broker or established market) for approximately the same price; and (2) to some extent, the $8.50 price is a conservative estimate of the book value of the corporation. The applicants represent that if on the date of sale the "Asked" price quoted on NASDAQ is higher than $8.50 per share, then the "Asked" price quoted on NASDAQ shall be the sales price to FRR for the 9,249 shares of Bancshares.

5. The sale of the stock will be for cash, and no sales commission or other brokerage charges would be paid. The applicants represent that no dividends have been paid by Bancshares on this stock since the date of its acquisition by the Plan, and there is little possibility that Bancshares will commence dividend payments with respect to its common stock in the foreseeable future, due to its adverse financial position.

6. In summary, the applicants represent that the proposed transaction will satisfy the criteria of section 408(a) of the Act because: (1) the sale is a one-time transaction for cash, and no sales commission or brokerage charges will be paid; (2) the proposed purchase price is considerably higher than the price bid by the two market makers for the stock, and than the price at which it is currently traded on the over-the-counter market; (3) the sale will permit the Plan to divest itself of non-income producing asset; and (4) the trustee has determined that the proposed transaction is appropriate for the Plan and in the best interests of its participants and beneficiaries.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

International Medical Prosthetics Research Associates Profit Sharing and Pension Plans (the Plans), Located in Phoenix, Arizona

[Application No. D–4314]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the loan of $50,000 by the Plans to the International Prosthetics Research Associates, Inc. (the Employer) for a one-year period, renewable for up to four additional one-year periods, provided the terms of the loan are at least as favorable to the Plans as those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plans are a profit sharing and a defined benefit penson plan. They had approximately 17 participants and total assets of $444,000 as of June 30, 1983.

2. The Trustee of the Plans is First Interstate Bank of Arizona, N.A. (the Trustee). The Trustee is an independent trustee which has heretofore maintained no relationship of any kind with the Employer, or its shareholders of officers. It has substantial experience in dealing with employee benefit plans, and the Pension Trust Division of the Trustee has full legal powers to act as trustee or custodian, and administers hundreds of similar plans.

3. The Employer is an Arizona corporation engaged in the manufacturing of medical prosthetic devises. The Employer is owned by five shareholders, including Harold and Elizabeth Green (the Greens), who are the principal shareholders.

4. The applicant proposes that the Plans make a loan of $50,000 to the Employer (the Loan) for a one year period. This amount represents approximately 11 percent of the total assets of the Plans. The Plans have cash available to fund the Loan.

5. The Loan will have an initial term of one year, and be renewable, in the sole discretion of the Trustee, for up to four additional one-year periods. The Loan would be evidenced by a promissory note of the Employer (the Note) and would bear interest at the prevailing Phoenix, Arizona prime rate plus two percent, to be adjusted daily, but in no event will the interest rate be less than 12 percent. The interest on the Loan will be repaid in quarterly installments and the principal will be repaid at the end of the Loan term.

6. The collateral that will secure the Loan (the Collateral) consists of unencumbered manufacturing equipment, leasehold improvements, and furniture and fixtures having a current net book value of approximately $225,000. The Trustee has reviewed an independent appraisal of the Collateral and has determined that its fair market value is more than adequate to secure the Loan. The Trustee represents that the fair market value of the Collateral is in excess of $150,000, or 300 percent of the amount of the Loan. The Trustee further represents that it will oversee all transactions which would affect the Collateral, and will insure that a security agreement and a UCC–1 Financing Statement are prepared to secure the Plans' security interest in the Collateral. In addition, the Trustee will require periodic, independent verification as to the adequacy of the Collateral. In the event the Collateral ever falls below 150 percent of the outstanding balance of the Loan, the Trustee will have the option of requiring the Employer to pledge additional security or, in the alternative, the Trustee may accelerate the Note and consider the unpaid principal balance immediately due and payable. The Trustee has determined that the interest rate to be paid is a fair rate of return and with a floor of 12% makes the transaction very beneficial to the Plan.

7. The Greens will personally guarantee the repayment of the Loan. The Trustee has reviewed the financial statements of the Greens and has determined that their estimated net worth as of June 30, 1982 was at least $3,000,000.

8. The Trustee has represented that it has:

(1) Examined the overall investment portfolio for the Plans and considered their cash flow needs;

(2) Given consideration to the necessity of a sale of any assets of the Plans;

(3) Examined the diversification of the Plans' assets in light of the Loan; and

(4) Reviewed the terms of the Loan as such terms comport with the Plans' investment schemes.

The Trustee further represents that it will:

(1) Take steps to insure that all payments due on the Loan are timely made;

(2) Assure that the Collateral is adequate to secure the Loan throughout the Loan term;

(3) Monitor all Loan payments according to their terms;

(4) Take all actions it deems necessary to enforce the terms of the Loan; and

(5) Have the authority to call the Loan at any time.

9. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) It provides an excellent, steady rate of return on the Plans' assets;

(2) It will be adequately secured; and

(3) The Plans' Trustee has determined that the Loan is in the interests of and protective of the Plans and their participants and beneficiaries.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of exemption.

Signed at Washington, D.C., this 11th day of October, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83–27990 Filed 10–13–83; 8:45 am]

BILLING CODE 4510–29–M

The National Roofing Industry Pension, et al., Proposed Exemptions

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The National Roofing Industry Pension Plan (the Plan), Located in Miami, Florida

[Application No. D–4335]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed purchase by the Plan of certain real property (the Property) for cash in the amount of $670,000 from the United Union of Roofers, Waterproofers and Allied Workers (the Union), provided that this amount is not greater than the fair market value of the Property at the time it is purchased by the Plan.

Summary of Facts and Representations

1. The Plan is a jointly-administered multiemployer pension plan. As of April 1, 1983, the Plan had 20,000 participants and assets of $83,000,000. Of such assets, the Northern Trust Company (the Bank) located in Chicago, Illinois exercises discretionary investment responsibility within guidelines established by the trustees of the Plan for approximately $42,000,000. The subject exemption pertains to assets under the management of the Bank. The trustees (the Trustees) of the Plan are Roy E. Johnson and David Fitzgerald (the Union Trustees) and William H. Branson, Jr. and William R. Steinmetz who represent contributing employers to the Plan. The Union Trustees are also officers of the Union. All of the participants in the Plan are members of the local unions which are affiliated with the Union.

2. The applicants are requesting an exemption for the purchase by the Plan of the Property for cash in the amount of $670,000. An independent party, Thos. J. Owen & Son, Inc., (Owen) real estate consultants and appraisers located in Washington, D.C., appraised the Property on January 10, 1983. Owen represents that as of January 10, 1983 the Property had a fair market value of $670,000. The Property consists of an unimproved parcel of land in an office park located in Prince Georges County, Maryland. Such office park consists of low-rise and high-rise office buildings with the Property being the last remaining undeveloped land in the park

3. The Trustees represent that the proposed purchase of the Property by the Plan will be in the best interests of the participants and beneficiaries of the Plan. Specifically, the Trustees represent that the Property will be a good investment based on its potential increase in value as raw land or its potential increase in value if improvements are placed on it. In addition, the Bank, acting as an independent fiduciary of the Plan represents that the proposed purchase of the Property by the Plan will be in the best interests of the participants and beneficiaries of the Plan.

4. In summary, the applicants represent that the proposed transaction will satisfy the criteria of section 408(a) of the Act as follows: (1) the transaction will be a one time transaction for cash; (2) the Trustees represent that the transaction will be in the best interests of the participants and beneficiaries of the Plan; (3) the transaction will be

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48
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approved by the Bank, an independent fiduciary of the Plan; (4) the price of the Property was determined by an independent appraiser; (5) the transaction will represent a small percentage of the assets of the Plan; and (6) the Plan will obtain the Property which has the potential for appreciation in value.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Harvey's Wagon Wheel, Inc. Profit Sharing Plan (the Plan) Located in Stateline, Nevada

[Application No. D–4343]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The assignment and sale for cash by the Plan to Harvey's Wagon Wheel, Inc. (the Employer) of the Plan's interest in certain loans (the Loans) executed by Hickory Brothers, Inc. (HBI); (2) the assignment and sale for cash by the Plan to the Employer of certain land and improvements (the Geer Property); and (3) as an alternative to (2), the payment by the Employer to the Plan of an amount representing the excess of the amount that would be paid under alternative (2) over the amount actually realized in a sale to an unrelated third party; provided that the terms and conditions of the assignment and sale under (1) and (2) are at least the fair market value of the Loans and the Geer Property at the time of the assignment and sale.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan covering substantially all employees of the Employer. As of December 31, 1982, Plan assets totalled $9,045,879 and the Plan had 1,115 active participants. The Plan is administered by a seven member committee of officers and employees of the Employer (the Committee). The trustee of the Plan assets is the First Interstate Bank of Nevada (the Trustee). Investment decisions heretofore had been made by the Committee; however, recently an investment manager has been appointed to make investment decisions for the Plan.

2. The Employer is a Nevada corporation operating a resort hotel at Stateline, South Lake Tahoe, Nevada. The stock of the Employer is held by Harvey A. Gross, the current Chairman of the Board of the Employer, and the Llewellyn F. Gross Trust.

3. Between April 18, 1978 and April 1, 1980, the Plan entered into seven loan transactions with HBI, a local real estate developer. These loans were evidenced by promissory notes and secured by a deed of trust on parcels of real property then under development by HBI in Minden, Nevada. On April 1, 1980, the prior loans were consolidated with a note in the amount of $994,499 and a new deed of trust to secure the combined loans; however, the new deed of trust failed to include approximately 96 acres of unimproved land which had been previously encumbered in the original April 18, 1978 deed of trust. This error was repeated in still another new deed of trust for the April 1, 1981 renewal loan in the amount of $1,607,496. One final loan in the amount of $14,508 was made on July 22, 1981. The combined amount of the Loans to HBI totalled $2,380,105 of which the Plan has received principal payments in the amount of $988,100 to date. The Loans have been in default since October 1, 1981 as a result of failure to make a semi-annual installment payment. On November 19, 1981, HBI filed a voluntary petition under Chapter 11 of the Bankruptcy Act which prevented the Plan from proceeding to foreclose against whatever real property secured the Loans. HBI currently remains in reorganization under Chapter 11 of the Bankruptcy Code and the Employer is pursuing negotiations with the debtor in possession and other creditors for the purpose of reorganizing or liquidating the debtor should the proposed subject prohibited transaction exemption be granted. As of January 31, 1983 the Loans had an unpaid principal and interest balance in the amount of $1,807,910.

On March 8, 1982, Richard W. Hewitt, SRPA (Hewitt), conducted an independent appraisal (the Appraisal) of the real estate securing the Loans. The Appraisal indicated that the value of such real estate was $1,112,500; however, this amount must be reduced by $69,000 based on the existence of senior deeds of trust on certain lots which make up the collectively secured real estate. Because of the omissions of certain unimproved real estate from the successor deeds of trust (discussed above), that portion of the real estate securing the Loans valued at $950,000 is subject to the combined claims of several unsecured creditors totalling $246,000 exclusive of any claims by the Plan. On July 26, 1983, Hewitt reviewed his prior appraisal and stated that the value of the real estate which secured the Loans had not changed from his original valuation.

On March 26, 1982, the Plan filed suit against Lawyers Title Insurance Company of Minden, Nevada (Lawyers Title) in Nevada State Court, alleging that Lawyers Title prepared certain title reports, deeds of trust, amendments to deeds of trust, title insurance policies and other documents, which did not accurately reflect the parties' intent regarding the security for the Loans. The applicant suggests this omission of the 96 acres of unimproved land from the second and subsequent deeds of trust which secured the Loans has jeopardized the Plan's security interest in the Loans. At the present time, the lawsuit is dormant.

4. On June 4, 1979, the Plan loaned $175,000 to G.D.H. Development Corporation, Inc. and Richard and Michelle Geer (collectively, the Borrowers). This loan was secured by two unimproved lots. The Borrowers used the proceeds of such loan to construct a house on one of the lots (the Geer Property), located on Highway 50 in Zephyr Cove, Nevada. On July 22, 1980, the Plan conveyed to the Borrowers its security interest in the second lot in exchange for a principal payment of $50,000 and a second deed of trust on two other parcels. The Borrowers defaulted on the remaining principal repayment when it fell due on December 7, 1980. The trustee under the deed of trust held a foreclosure sale on April 30, 1981, at which time the Plan purchased the Geer Property, which included a partially constructed house, for $167,326. The Plan currently holds the Geer Property as a Plan asset. As of April 21, 1982, Hewitt had determined the fair market value of the Geer Property to be $154,000. On July 26, 1983, Hewitt reviewed his prior appraisal of the Geer Property and stated that its value had not changed from his original valuation.

5. Early in 1982, the San Francisco Area Office of the Department concluded an investigation of the Plan. Pursuant to that investigation, the Area Administrator alleged that the actions of the Committee in authorizing the Loans to HBI and in extending credit on the Geer Property to the Borrowers were imprudent. The Area Administrator has agreed to take no actions with respect to these allegations if the matter is resolved as outlined below. Under an agreement between the Employer and the Plan (the Agreement), the Employer will pay the Plan an amount equal to all unpaid principal and accured interest on the Loans and all Plan expenses relating to the recovery of the amounts due under the Loans. In return the Plan will assign to the Employer all evidence of the Loans and the deed of trust securing the Loans, all of the Plan's rights as a secured and unsecured creditor of HBI, and its rights arising out of pending litigation involving claims against Lawyers Title in connection with actions taken by Lawyers Title to perfect the Loans. In addition, the Agreement provides that the Employer will purchase for cash the Geer Property from the Plan for an amount representing all the Plan's expenses relating to the acqnisition and holding of the Geer Property, including unpaid principal and interest, costs of foreclosure and subsequent Plan expenses incurred up to the closing date of the Agreement, less the amount, if any, of cash consideration received by the Plan through any sale of the Geer Property to an unrelated third party. The Agreement provides that the Plan will pay no fees, expenses or commissions with respect to transactions which will occur pursuant to the Agreement.

6. The applicants represent that no member of the Committee had any business or family relationship with HBI or the Borrowers during the period of the subject transactions. However, between May 19, 1980 and September 4, 1980 the Employer, for its own account, made construction loans to HBI aggregating $356,700. The unpaid balance on these loans when HBI commenced its Chapter 11 proceeding was approximately $184,000. The loans were secured by deeds of trust on three lots in the HBI subdivision and the Employer's security is junior to that of the Plan.

7. The Trustee has agreed to assume the role of an independent fiduciary for purposes of the transactions which are the subject of this exemption application. The Trustee represents it is familiar with the subject transactions, the Agreement and the current status of the Plan's assets. Based on their knowledge of the relevant facts and circumstances, the Trustee has determined that the execution of the Agreement is in the best interests of the Plan and its participants and beneficiaries.

8. In summary, the applicants represent that the transactions embodied in the Agreement satisfy the statutory criteria of section 408(a) of the Act because: (a) the Plan has the opportunity to dispose of currently nonproductive and high risk assets on favorable terms and invest the proceeds in a manner that will produce a better investment return for the Plan and its participants and beneficiaries; (b) the proposed transactions under the Agreement involve a one-time transfer for cash based on determination by an independent appraiser that the amounts involved represent fair market values; (c) the San Francisco Area Administrator has reviewed the terms of the Agreement and agreed to take no further actions against the Plan if the matter is resolved in accordance with its terms; and (d) an independent fiduciary familiar with the relevant facts and circumstances has determined that the execution of the Agreement is appropriate and in the best interests of the Plan and its participants and beneficiaries.

For Further Information Contact: Paul R. Antsen of the Department, telephone (202) 523–6915. (This is not a toll-free number.)

General Motors Hourly-Rate Employees Pension Plan (Hourly Plan), General Motors Retirement Program for Salaried Employees (Salaried Plan) and General Motors Frigidaire Special Pension Plan (Frigidaire Plan, collectively the Plans) Located in New York, New York

[Application Nos. D–4409, D–4410, and D–4411]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the past and proposed lease of office space (the Merrill Lynch Lease) or to the renewal or expansion thereof, by the Plans to Merrill Lynch, Pierce, Fenner & Smith (Merrill Lynch), a party in interest with respect to the Plans, provided that the terms and conditions of the Merrill Lynch Lease are at least as favorable to the Plans as those obtainable from an unrelated party. The subject office space is located in a building (the Property) owned by the Plans.

Effective Date: The proposed exemption, if granted, will be effective February 15, 1983.

Summary of Facts and Representations

1. The Hourly Plan, Salaried Plan and Frigidaire Plans are defined benefit plans with 721,804, 207,942 and 83 participants, respectively, and approximately $7.56 billion, $7.6 billion and $900,000 in assets, respectively. Mellon Bank, N.A., a national banking association, is the Plans' trustee (Trustee). The Finance Committee of the Board of Directors of General Motors Corporation (GM), the Plans' sponsor, is the named fiduciary of each Plan and is empowered to appoint the Plans' investment managers.

2. On December 20, 1982, the Finance Committee entered into a purchase agreement negotiated at arm's-length with Oxford-Ansco Development Company (Oxford), a Colorado partnership which is unrelated to GM and its affiliates and subsidiaries, for the purchase of the Property for $15 million in cash. On December 22, 1982, the Finance Committee appointed Interfirst Bank Dallas, N.A. (Interfirst) to act as investment manager on behalf of the Plans with regard to the Property. As of December 31, 1982, Interfirst, which is unaffiliated with GM, had acquired and was managing for employee benefit plans, real estate assets having a fair market value of $256,892,819. Interfirst's banking relationship with GM and its divisions, subsidiaries and affiliates consists of lines of credit and demand deposit accounts each of which constitutes respectively, less than one percent of the Bank's outstanding loans and demand deposit accounts.

3. The Plans purchased the Property on February 15, 1983 and participated in the purchase in the following amounts: Hourly Plan—$8,998,965; Frigidaire Plan—$1,035; Salaried Plan—$6,000,000. The Property consists of an office building and the underlying land in downtown Colorado Springs, Colorado, known as the Colorado Square. The Property is a six-year old 14-story 98 percent office building centrally located in the Colorado Springs downtown business district. It has 219,000 square feet of net rentable space excluding storage area including 10,684 square feet of retail space. An enclosed pedestrian overpass connects the building to a city-owned 390-space parking garage.

4. Colorado Interstate Gas (CIG), a subsidiary of the Coastal Corporation, a major public corporation, is the principal tenant, occupying 85 percent of the total net rentable space under a long-term lease having a termination date of September 15, 1996. The remainder of the building is rented to various tenants including Merrill Lynch, which currently

occupies 6,351 square feet, representing 2.8 percent of the net rentable space of the building. Merrill Lynch's current annual rental is $73,920 representing approximately 3.53 percent of the total annual rental of the building. The applicant represents that the Merrill Lynch Lease was originally negotiated by Oxford, the builder and then owner of the Property, in arm's-length negotiations that took place prior to and not in contemplation of the Plans' purchase of the Property. The Merrill Lynch Lease, as amended, was originally entered into on July 1, 1977 and is scheduled to expire on June 30, 1987. Merrill Lynch currently performs brokerage services for the Plans and is by reason of such services a party in interest to the Plans within the meaning of section 3(14)(B) of the Act.

5. The applicant requests an exemption for the Merrill Lynch Lease and for any renewal or expansion thereof provided that such renewal or expansion is on terms at least as favorable to the Plans as terms offered to unrelated parties for similar space and provided further that such renewals or expansions are approved and monitored on behalf of the Plans by Interfirst or another investment manager which is not affiliated or otherwise related to GM or Merrill Lynch in any manner which would affect the exercise of such investment manager's judgment as a fidicuary of the Plans.

6. In summary, the applicant represents that the transaction described herein satisfies the statutory criteria of section 408(a) of the Act due to the following:

(a) The Merrill Lynch Lease was negotiated at arm's-length by unrelated parties prior to and not in contemplation of the Plans' purchase of the Property;

(b) Any renewal or expansion of the Merrill Lynch Lease will be negotiated by Interfirst or another independent fiduciary;

(c) Interfirst of another independent fiduciary will monitor and enforce the terms of the Merrill Lynch Lease on the Plans' behalf; and

(d) The annual rental due under the Merrill Lynch Lease constitutes approximately 3.5% of the net rentable space in the Property and substantially less than one percent of the assets of each of the Plans.

For Further Information Contact: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

M & M Manufacturing Company, Inc. Employees Profit Sharing Plan (the Plan) Located in Dallas, Texas

[Application No. D–4425]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of a parcel of real property (the Property), by the Plan to M & M Building & Equipment Company (the Partnership), a party-in-interest with respect to the Plan, provided that the sales price is at least the fair market value at the time of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 98 participants and is a part of the Master Profit Sharing Plan of the First National Bank of Fort Worth (the Trustee). As of April, 1983 the Plan had total assets of $1,065,128. The Trustee is the sole trustee of the Plan and maintains sole and exclusive powers over all trust investments. The applicant represents that neither the Partnership nor M & M Manufacturing Company, Inc. (the Employer) maintain any banking relationships with the trustee, with the exception of a loan to an individual shareholder of the Employer. Said loan amounts to less than . 00025% of the total assets of the Trustee.

2. The Employer is engaged in the manufacture of sheet metal products primarily related to the air conditioning business. Messrs. R. D. Stepp, M. D. Stepp, J. L. Stepp, and S. S. Priester own 100% of the outstanding shares of the Employer and are partners in the Partnership. The Partnership owns certain land and improvements immediately adjacent to the Property, which it leases to the Employer.

3. On March 30, 1979, the Plan purchased the Property, an undeveloped parcel of land located within an industrial park, from Southwestern States Management Company, an unrelated party with respect to the Plan. The Plan paid $56,4579.50 or $1.25 per square foot. The Trustee represents that the purchase price was 7% below the 1979 appraised value. The Plan paid cash for the property, which was and remains free of any indebtedness. The applicant represents that the Property has never been used by the Employer, either directly or indirectly. The Property produces no income for the Plan. The applicant represents that although a "for lease" sign has been on the front of the Property for three years, no party has ever inquired about leasing it. Within the past six months the Employer has received two inquiries from unrelated parties regarding the possible purchase of the Property at prices significantly below the appraised value, as discussed below (i.e. $1.50 and $2.25 per square foot). The Trustee represents that it purchased the Property as an investment for the Plan and that the price and location of the Property made the purchase advantageous for the Plan. The Trustee further represents that while it knew that the proximity of the Property to the Employer's facility made the Employer a potential purchaser of the Property, it was the Trustee's opinion that other manufacturing concerns was also potential purchasers of the Property.

4. The applicant seeks an exemption to allow the Plan to sell the Property for cash to the Partnership at its appraised value. Mr. Michael B. McKinney, MAI, SPRA, of Cushman & Wakefield of Texas, Inc. appraised the Property and determined that, as of March 28, 1983, it had a fair market value of $125,000 or $2.75 per square foot. In a letter dated June 28, 1983, Mr. McKinney represents that the Property would not have any additional value to the Employer over and above that of another user. Mr. McKinney represents that the basis for his opinion is the fact that, "the Property is of sufficient size to be developed independently of any adjoining land areas and would not present any specific motivational influences to the adjacent land owners." Mr. McKinney further represents that as a result of the above mentioned factors, the Employer would not be in any more compelling position to acquire and develop the Property than a typical market purchaser/user. The Plan will pay no sales commission on the sale of the Property and will bear no expense relative to the sale.

5. The Trustee represents that the sale of the Property to the Partnership is in the best interests of the Plan because (a) the area in which the Property is located has developed over the years and is at an attractive point for the Plan to divest itself of the Property; (b) the area, under current economic conditions, is not experiencing current rapid development; (c) future rapid development of the area is not expected; (d) the Trustee is aware of no offer from any party unrelated to the Employer willing to pay the appraised value for the Property; and (e) the proceeds of the proposed transaction can be reinvested elsewhere to the best interest of Plan participants.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the sale will be a one time transaction for cash; (b) no expenses connected with the sale of the Property will be borne by the Plan; (c) the Plan will be able to convert a non-income producing appreciated investment into income producing investments; and (d) the Trustee represents that the sale would be in the best interests of the Plan, its participants and beneficiaries, because the area in which the Property is located has appreciated over the years and future rapid development is not expected, making this an attractive point at which to dispose of the Property.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Pension Plan for Employees of Georgia Power Company (the Plan) Located in Atlanta, Georgia

[Application No. D–4435]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code shall not apply to the sale by the First National Bank of Atlanta Collective Timberland Trust (the Trust) of an easement to Georgia Power Company, the employer maintaining the Plan, provided the price paid is no less than the fair market value of the easement on the date of sale.

Summary of Facts and Representations

1. The Plan is a pension plan that had approximately 14,244 participants and total assets of $353,028,478 as of December 31, 1982. The investment decisions for the Plan are made by the trustee (the Trustee), the First National Bank of Atlanta (First National), a full service banking institution incorporated under the laws of Georgia. First National is one of several financial institutions and organizations serving as trustee through which the assets of the Georgia Power Company (the Employer) and its affiliated corporations' pension plans (the Plans) are invested. First National holds assets with a value in excess of $401,487,000 as trustee under the above qualified Plans.

2. Section 6 of the Plan's trust agreement provides that the Trustee may transfer all or a portion of the assets of the Plan to the Southern System Pooled Trust (the Pooled Trust), a trust which is sponsored by Southern Company Services, an affiliated corporation of the Employer. The Pooled Trust is a collective trust which is used for investment on an undivided basis of the assets of trusts executed as part of the Plan and the Plans for the affiliated corporations (Affiliated Corporations) of the Employer. The Affiliated Corporations are Alabama Power Company, Gulf Power Company, Mississippi Power Company, Southern Company Services, Inc., and Southern Electric Generating Company. Both the Affiliated Corporations and the Employer are wholly-owned subsidiaries of the Southern Company, a publicly traded utility holding company.

3. By amendment dated September 28, 1981, section 5 of the Pooled Trust was amended to provide that the Trustee shall be authorized to transfer all or any part of the assets of the Pooled Trust to the First National Bank of Atlanta Collective Timberland Trust-II (the Timberland Trust), a collective trust fund maintained by First National for qualified employee benefit trusts. It is represented that the Pooled Trust is in no way affiliated with or related to any of the other trusts whose assets have been invested through the Timberland Trust. The Timberland Trust primarily invests in interests (including ownership or leasehold interests) in timber, in timberland, and in contracts or agreements for cutting and/or use of timber thereon or in such other assets as the Trustee deems to be appropriate to maintain proper liquidity for the Timberland Trust. The total value of the assets in the Timberland Trust as of December 31, 1982 was $20,807,167. Of this amount, $3,871,412 represents the value of assets held for the benefit of the pension plan trusts for the Affiliated Corporations and the Employer. It is represented that the Plan's share is approximately 44.5 percent of that amount. The Employer, incorporated under the laws of Georgia, provides electrical power throughout the State of Georgia and therefore regularly acquires property interests over which to run its transmission lines in the ordinary course of business.

4. In November of 1982, the Trustee, on behalf of the Timberland Trust, purchased thirteen parcels of real property (the Properties), containing approximately 2,600 acres, located in Hancock County, Georgia, from Greensboro Lumber Company, an independent third party, at an approximate average cost per acre of $800 ($450 for timber and $350 for the underlying land). It is represented that at the time of purchase, the Trustee was aware of negotiations between Greensboro Lumber Company and the Employer for the acquisition of an easement for a right-of-way encompassing 16.565 acres (the Easement). However, due to the minimal number of acres involved in these negotiations compared to the total size of the Properties, such knowledge in no way affected the decision to acquire the Properties. It is further represented that the Trustee did not undertake any discussions with the Employer prior to its purchase of the Properties.

5. In March of 1983, the Trustee received a letter from Ronald C. Kester, Superintendent, Land & Right of Way Acquisition of the Employer offering to purchase the Easement for $700 per acre, for a total price of $11,595. The Employer stated that because of the increasing demand for electricity in Hancock County, it is proposing to construct an electric transmission line which will cross the Properties. The applicant represents that the Employer made the purchase offer in lieu of exercising its condemnation rights under power of eminent domain contained in Official Code of Georgia (the Georgia Code) § 22–3–20.

6. Under the Georgia Code, any person operating or constructing or preparing to construct a plant for generating electricity shall have the right to purchase, lease, or condemn rights of way or other easements over lands of others in order to run power lines, maintain dams, flow backwater, or carry on other activities necessary for constructing and operating such a plant provided that person first pays just compensation to the owner of the land to be affected.

7. Thus, the applicant is requesting an exemption which allows the Timberland Trust to sell the Easement to the Employer for $11,595 in cash. No sales commissions will be paid. An appraisal performed on April 19, 1983 by Ray D. Sosebee (Mr. Sosebee), an independent appraiser in Mableton, Georgia, valued the Easement at $11,595. In the opinion of Mr. Sosebee, the balance of the Properties will not suffer any consequential damages by reason of this proposed Easement. The Properties will have the same utility after the taking as they do before the taking.

VOL 48 ISS 200 OCT 14 1983 UMI

8. Charles M. Tarver (Mr. Tarver), vice president of First National, states that he has reviewed the terms of the proposed acquisition by the Employer of the Easement. As a result of such review, Mr. Tarver has determined that the consummation of the proposed transaction, in lieu of the alternative process effected by the threat of condemnation under eminent domain, will be in the interest and protective of the rights of the participants and beneficiaries of the plans, on whose accounts the assets in the Timberland Trust are held and invested. Mr. Tarver further states that the purchase price offered by the Employer of $700 per acre for the Easement on the underlying land represents an approximate increase of 100% even if the underlying land has no additional realizable value after the granting of the Easement. The granting of the proposed Easement will not adversely affect the potential realizable value of the timber contained on the subject property nor the property contiguous thereto. Moreover, the Timberland Trust will be given ample opportunity to remove and realize the value of all timber contained on the subject Properties.

9. In summary, the applicant represents that the sale of the Easement meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) the Trustee has determined that the consummation of the proposed transaction will be in the interest and protective of the rights of the participants and beneficiaries of the plans, on whose accounts the assets in the Timberland Trust are held and invested; (b) it is a one time transaction for cash; (c) no commissions will be paid by the Timberland Trust; and (d) the fair market value of the Easement was determined by a qualified appraiser.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Rome Radiology Group, P.A. Money Purchase Pension Plan (the Plan) Located in Rome, Georgia

[Application No. D–4457]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) a loan (the Loan) of $285,000 by the Plan to Rome Financial Group (the Partnership) provided the terms of the transaction are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated third party; and (2) the guarantee of repayment of the Loan by the Partners (the Partners) of the Partnership who are shareholders (the Shareholders) of Rome Radiology Group, P.A. (the Employer).

Background

On Friday, April 1, 1983 at 48 FR 14076, a notice of pendency for a loan transaction involving the above mentioned parties was published in the Federal Register. Subsequent to the publication of the proposed exemption, the applicants indicated they wished to restructure the terms of the transaction and also withdraw the exemption request. The notice of withdrawal was published in the Federal Register on June 14, 1983 at 48 FR 27312. Accordingly, another notice of pendency is being republished as follows.

Summary of Facts and Representations

1. The Employer, which is engaged in the medical practice of radiology, maintains its principal place of business at 300 West Sixth Street, Rome, Georgia. The Shareholders are Messrs. Lucius S. Smith; Jack R. Edgens; Edward W. Brewster, Jr.; John T. Woods, III; Jefferson D. Hanks, Jr.; and William P. Harbin. Each Shareholder has a one-sixth interest in the outstanding capital stock of the Employer corporation. The Shareholders are also the Partners of the Partnership which was formed for the purpose of owning, developing, operating, leasing and otherwise dealing with real and personal property.

2. The Plan is a money purchase pension plan with six participants and total assets of $1,714,395 as of June 30, 1983. The trustee of the Plan (the Trustee) is National City Bank of Rome, Rome, Georgia. The Trustee is responsible for making certain investment decisions for the Plan to the extent these investments are not earmarked by the participants. Otherwise, Plan participants earmark investments with respect to their respective Plan accounts.

3. In 1980, the Partnership acquired certain land (Parcel One) Located at 1104 Martha Berry Boulevard, Rome, Georgia from an unrelated party. A building (the Building) was subsequently constructed on Parcel One for commercial rental to unrelated parties. Construction financing for the Building was obtained from the Trustee in the amount of $145,000. The loan originally had a ninety day term but this was modified pursuant to a note dated August 24, 1981. The note calls for 23 monthly payments of $1,810 each, with the entire principal balance due and payable in the twenty-fourth month. The note bears interest at the rate of 12¾ percent per annum, is personally guaranteed by the Partners and is secured by Parcel One, the Building and certain improvements. As of July 22, 1983, the outstanding principal balance of the loan was $138,493.

4. On February 2, 1982, the Partnership acquired from unrelated parties an adjacent tract of land improved by two old houses (Parcel Two) for the purpose of providing additional parking for occupants of the Building. Parcel Two is located at 504 and 506 MacDonald Street, Rome, Georgia. Parcel Two was purchased for $38,500. The purchase price was financed with the proceeds of a ninety day loan from the Trustee which was made on March 10, 1982. The loan was renewed for an additional period and it bears interest at the rate of 15½ percent per annum. The loan is guaranteed by the Partners. As of July 22, 1983, the outstanding balance of the loan was $38,500.[1]

5. The Partnership desires to consolidate the Trustee loans and acquire additional funds for operation and renovation expenses associated with Parcels One and Two. The Partnership also desires to use the additional funds to purchase another parcel of land. The Partnership will then move the houses presently situated on Parcel Two to the new parcel. Therefore, the Partners are requesting an administrative exemption in order to borrow $285,000 from the Plan. The Loan will have a fifteen year term and it will bear interest at the rate of 14 percent per annum. The Loan will be payable in 180 monthly installments of principal and interest in the amount of $4,950 each. The Loan will be secured by a first in priority deed on Parcels One and Two and all improvements located thereon, including the Building. As additional security, the Loan will be secured by the Employer's accounts receivable (the Receivables).[2] The Loan will also be personally guaranteed, jointly and severally, by the Partners who had a combined net worth in excess of $1.9 million as of July 22, 1983.

6. Upon closing of the Loan, a promissory note will be executed by the Partnership to evidence the obligation along with the deed, security agreement and UCC financing statement. The security agreement will provide that an independent fiduciary designated to oversee the Loan will have the right to demand additional collateral in the event the value of the collateral falls below 150 percent of the outstanding balance of the Loan. Parcels One and Two will also be insured by the Partnership and the Plan will be named the beneficiary of the insurance policy.

7. On July 14, 1982 and August 3, 1982, Mr. Connell S. Norton (Mr. Norton), an independent appraiser from Rome, Georgia, valued Parcels One and Two. Mr. Norton placed the fair market value of Parcel One at $192,000 and Parcel Two at $39,500.

8. The Employer's Receivables represent collectibles from patients and claims from insurance companies, Medicare and other sources. On July 2, 1982, the principal balance outstanding of the Receivables was $451,554. Approximately 71 percent of the Receivables was between 0 to 120 days old and 29 percent over 120 days old. Historically, the Employer collected 86 percent of its Receivables in 1980 and 88 percent in 1981.

9. Mr. John M. Graham, III (Mr. Graham), a partner in the law firm of Smith, Shaw, Maddox, Davidson and Graham, located in Rome, Georgia has agreed to serve as the independent fiduciary for the Loan. Mr. Graham's law firm represents both the Partnership and the Employer. In addition, the firm has represented various of the principals involved in these organizations. After a review of the law firm's fees for 1981 and 1982 Mr. Graham represents that the total fees paid by the entities and their principals have totaled less than one-half of one percent of the firm's total fees.

Mr. Graham indicated he is personally familiar with the federal laws relating to qualified retirement plans inasmuch as he has participated in the drafting and planning of qualified pension and profit sharing plans and working in the area of pension, profit sharing and employee benefits. Mr. Graham also serves as the chairman of the Trust Committee of the First National Bank of Rome (First National) and is on the Board of Directors of this bank.

Mr. Graham has reviewed the entire file concerning the exemption application including a letter of October 25, 1982 from Mr. Gregory C. Wilkes (Mr. Wilkes), Senior Vice President and Trust officer of the Trustee bank. In that letter, Mr. Wilkes opines that the Loan is an appropriate investment for the Plan since it fits in well with the investment objectives of the Plan as well as the Trustee's practice of utilizing fixed income investments to achieve these objectives. Mr. Graham has independently verified the representatives contained in Mr. Wilkes' letter and states that the investment strategy described therein is accurately portrayed and reflects sound business judgment.

Besides reviewing the terms of the Loan, Mr. Graham states that he is familiar with Parcels One and Two inasmuch as he has examined the title, inspected the site on which the parcels are located, examined comparable properties and reviewed the appraisal prepared by Mr. Norton. In addition, Mr. Graham represents that he is aware of the financial statuses of the Plan participants who are the guarantors of the Loan. Based on the above, Mr. Graham asserts that he is satisfied entirely with the security for the transaction and he represents that the proposed Loan is one which is entirely appropriate and consistent with the interests of the beneficiaries and the long-term investment objectives established for the Plan. In his conversations with lending institutions and lenders in Rome, Georgia, Mr. Graham also finds that the rate of interest to be paid on the Loan is a highly competitive rate for the type of loan being undertaken.

The Trustee, which is unrelated to First National, will monitor the Loan to ensure repayment and otherwise protect and enforce the interests of the Plan. The Trustee will serve as an ongoing Loan monitor only after the indebtedness of the Partnership to the Trustee is satisfied and the Loan is funded. The Trustee will be required to ensure that the value of the collateral is at all times 150 percent of the outstanding Loan balance and will require the Partnership to pledge additional security if the value of the collateral falls below this level.

10. In summary, it is represented that the proposed transaction will satisfy the requirements of section 408(a) of the Act because: (a) The loan will be secured by a first in priority deed on Parcels One and Two as well as by a first security interest in the Receivables; (b) the collateral for the Loan will at all times have a value of at least 150 percent of the outstanding Loan balance; (c) the Partners will personally guarantee the Loan; (d) Mr. Graham as a fiduciary for the Plan has approved the Loan and determined that the Loan is appropriate for the Plan and in the best interests of its participants and beneficiaries; and (e) the Trustee will monitor the Loan to ensure its repayment.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

The Eye and Ear Clinic of Charleston, Inc. Pension Plan (the Plan) Located in Charleston, West Virginia

[Application No. D–4503]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $300,000 (the Loan) by the Plan to The Eye and Ear Clinic of Charleston, Inc. (the employer), provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party on the date of the consummation of the transaction.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan sponsored by the Employer. The trustee of the Plan is The Charleston National Bank (the Trustee), which is primarily responsible for investment decisions with regard to the assets of the Plan. Some of the Plan's assets are managed by E. F. Hutton. While the Employer has a Pension Committee which periodically consults with the Trustee on investment matters, the Pension Committee does not direct the Trustee as to Plan investments. As of December 31, 1982, the Plan had 124 participants and net assets of $1,763,521.

2. The Employer is primarily engaged in the practice of medicine and the provision of medical/surgical services as a 35-bed eye, ear, nose and throat hospital. The stock of the Employer is equally owned by eight physicians who maintain their offices in the same physical plant as the hospital.

3. On December 16, 1982, the Employer entered into a purchase agreement with Orb Corporation to purchase the land and building (the

[1] The application states that Parcel Two is further encumbered by a construction loan with an outstanding balance of $64,584 as of July 22, 1983. The construction loan will be satisfied from the proceeds of the proposed Loan.

[2] The application states that the new parcel will not be pledged as collateral for the Loan since it has not yet been selected by the Partners. In addition, the application states that the Loan is more than adequately secured by Parcels One and Two.

VOL 48 ISS 200 OCT 14 1983 UMI

Property) which the Employer had been leasing and occupying as its principal place of business. The total purchase price was $2,000,000, and $300,000 was required as a down payment as of the closing date, April 1, 1983. The remaining $1,700,000 has been financed by the seller through five promissory notes in the amount of $340,000 each, payable in 120 equal monthly installments of principal and interest at the rate of 12%. The notes are secured by a first lien deed of trust on the Property.

4. The Employer proposes to enter into the Loan with the Plan and use the proceeds to replenish its operating cash which was used to make the down payment on the Plan and the Loan, which represents approximately 17% of the Plan's assets, to be repaid in equal monthly payments of principal and interest over a five-year term, and will bear an interest rate of 1% over prime as determined by the Trustee, with a floor of 9%, adjusted quarterly. The Employer may prepay any or all amounts due under the Loan at any time.

5. The Loan will be collateralized by a recorded second lien deed of trust on the Property and a recorded security interest in the Employer's accounts receivable. Mr. Calvert L. Estill (Mr. Estill), who has been actively engaged in real estate sales and appraisals since 1955, appraised the Property as of December 15, 1982. Mr. Estill determined the fair market value to be $2,275,000 without reference to the then-existing lease to the Employer. Taking into account the lease to the Employer, which would have expired in mid-1986 and was favorable to the Employer, Mr. Estill appraised the Property at $2,000,000. The Property will be fully insured at the Employer's expense.

The Employer's accounts receivable as of June 30, 1983, totalled $1,993,449. Of that amount, $166,140 has been turned over to a collection agency and is considered bad debts. Of the remaining amount, approximately 10% is considered to represent future uncollectible amounts due to contractual adjustments or bad debts. Thus, the net accounts receivable totalled $1,627,964. There are no existing liens on the Employer's accounts receivable.

The value of the Property and the accounts receivable, less the first lien on the Property, exceeds 150% of the amount of the Loan.

6. The Trustee is serving as the independent fiduciary to the Plan in the proposed Loan. The Trustee and the Employer have a general banking relationship which includes the maintenance by the Employer of two demand deposit accounts and a line of credit used for periodic working capital borrowing. However, the relationship is considered insignificant to the Trustee's operations as a whole because the Employer's involvement amounts to less than ½o of 1% of the Trustee's total assets.

7. Having reviewed the terms and conditions of the Loan, the Trustee has concluded that it is appropriate, suitable and in the best interests of the Plan and its participants and beneficiaries. In order to reach a conclusion with regard to the Loan, the Trustee reviewed the Plan investment portfolio in detail and determined that substantial amounts of liquid assets are available and more will become available during the remainder of 1983. It is not anticipated that any assets will have to be sold prior to maturity in order for the Plan to make the Loan. The Trustee believes that much of the liquid asset portion of the Plan's assets should be invested in good-yielding but safe intermediate-term fixed income investments as well as equities. The Trustee further believes the Loan to be a safe investment and considers that the yield on the Loan makes it a more desirable investment for the Plan than available alternative intermediate-term investments.

The Trustee determined that the Loan interest rate is comparable to the rate the Trustee uses in making commercial loans with similar terms and collateral. The Trustee reviewed the Employer's accounts receivable including detail account listings, aging reports and historical collection information and, based on this review, concluded that it would make a loan of $450,000 to the Employer secured solely by the accounts receivable.

In addition to making the decision for the Plan to engage in the Loan and setting and adusting the Loan interest rate on a quarterly basis, the Trustee will also ensure that at all times throughout the term of the Loan the collateral securing the Loan will have a net value of not less than 150% of the Loan's outstanding principal plus interest due. Further, the Trustee will enforce collection in the event of default.

8. In summary, it is represented that the proposed Loan will satisfy the statutory criteria of section 408(a) of the Act because: (a) The Trustee has determined, based on a review of the Plan's portfolio and of the terms and conditions of the proposed transaction, that the Loan is in the best interest of the Plan and its participants and beneficiaries; (b) the Trustee will adjust the interest rate on the Loan on a quarterly basis to reflect the then current fair market interest rate for similar loans; (c) the Trustee will monitor the value of the collateral to ensure that it is maintained at a level equal to or exceeding 150% of the Loan balance; and (d) the Trustee will take appropriate action throughout the term of the Loan to enforce the Employer's obligations under the Loan.

For Further Information Contact: Mrs. Mary Jo Fite of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Herbert E. Hatcher, D.D.S., P.A. Pension Plan and Trust (the Plan), Located in Cary, North Carolina

[Application No. D-4513]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of a condominium, it owns in Atlantic Beach, North Carolina and certain related personal property to Dr. Herbert E. Hatcher (Dr. Hatcher), a party in interest with respect to the Plan, provided the price paid for each is no less than the fair market value of the property on the date of the sale.

Summary of Facts and Representotions

1. The Plan is a defined benefit plan that had 5 participants and total assets of $336,615 as of October 31, 1982. The investment decisions of the Plan are made by the trustee (the Trustee), Dr. Hatcher, the sole shareholder of Hubert E. Hatcher, D.D.S., P.A. (the Employer). The Employer is a professional corporation organized under the laws of the State of North Carolina primarily to provide dental service in Cary, North Carolina.

2. In 1979, the Trustee purchased from certain unrelated parties, a condominium (the Condominium), located at Unit 91-8½ Marina, Atlantic Beach, North Carolina [3] for $75,000 and certain related personal property (the Personal Property) for the Condominium, which cost $9,228. It was felt that the purchases were a good investment for the Plan.

[3] The main industry of Atlantic Beach is tourism and tourist season runs from April 1 of each year to September 1.

3. On the advice of advisors who were helping to administer the Plan at that time, the Plan entered into an oral lease in 1979 with Dr. Hatcher to rent the Condominium on a daily basis, at a rate not less than the then fair market rental rate for the Condominium. From the period of 1979 to 1982, the Condominium generated total income of $23,644 and had related costs and expenses (quarterly and special assessments, repairs, utilities, flood and multiple peril insurance, and property taxes, etc.) amounting to $13,725. As a result, the average return on the above investment to the Plan was only 3.31% for the above period.

4. In addition to the fact that the Condominium is low income producing, the Trustee believes that the saturation of condominiums in the area of the Condominium will have an effect on the ability of the Plan to maximize the rental of the Condominium in the future. Thus, the Trustee proposes to sell the Condominium and the Personal Property to Dr. Hatcher for a total price of $114,346 in cash. No sales commission will be paid by the Plan. There are no mortgages, security interests or encumbrances on the Condominium or on the Personal Property. An appraisal of the Condominium performed by C. Phillip Nelson of Trident Financial Corporation, New Bern, North Carolina, on March 4, 1983, valued the Condominium at $112,500. An appraisal of the Personal Property performed by Tom Noe & Company of Morehead City, North Carolina, on July 7, 1983, valued the Personal Property at $1,795. It is represented that the prohibited transaction excise tax imposed under Code section 4975 for the years 1979 through 1982 has been paid by Dr. Hatcher, and Form 5330—*Return of Initial Excise Taxes Related to Pension and Profit Sharing Plans*—has been filed for each of the subject years. In addition, the applicant has represented that within 60 days of the date of the granting of an exemption, Dr. Hatcher will pay any additional excise taxes due as a result of his leasing the Condominium.

5. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because: (a) the Trustee has determined that the proposed transaction would be appropriate for the Plan and in the best interest of the Plan's participants and beneficiaries; (b) it is a one-time transaction for cash; (c) no sales commission will be paid by the Plan; and (d) Dr. Hatcher has agreed to pay any additional prohibited transaction excise taxes with respect to the leasing of the Condominium from the Plan within 60 days of receipt of the prohibited transaction exemption.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

First Savings and Loan Association of El Paso Profit Sharing Trust (the Plan), Located in El Paso, Texas

[Application No. D-4539]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale of certain mortgage loans (the Loans) by the Plan to First Financial Banking Center (the Employer), the sponsor of the Plan, at a price equal to the higher of the outstanding principal balances of the Loans plus accrued interest or the fair market value of the Loans as of the date of sale.

Summary of Facts and Representations

1. The Plan is a defined contribution pension plan with 25 participants. The trustee of the Plan is the Administrative Committee of the First Savings and Loan Profit Sharing Trust. The Plan was terminated effective June 30, 1982. No termination distributions have been made to participants and beneficiaries of the Plan. As of May 17, 1983 the Plan had assets of approximately $402,629.

2. Approximately 12.6% of the Plan's assets are invested in 4 third party mortgage loans. The Loans were made over the years directly to the borrowers by the Plan from its own funds. The Loans were made to unrelated third parties and none of the Loans are currently or have ever been in default. The Loans bear interest rates ranging from 9% to 9.875%. As of May 17, 1983, the outstanding balances of the Loans totalled $51,068.26.

3. The applicant represents that it would be impractical to give each participant an undivided interest in each of the Loans as a distribution from the Plan due to the Plan's termination. The applicant further represents that the Plan desires to give each participant cash only but that selling the Loans to a third party would result in lesser proceeds to the participants due to the selling costs that would be incurred and the fact that the fair market value of the Loans is below the value of the outstanding balances.

4. An exemption is requested to allow the Employer to purchase the Loans for cash at a price equal to the higher of the outstanding principal balances of each Loan plus accrued interest or the fair market value of each Loan. An appraisal of the Loans was performed by an independent appraiser, Mr. Harold Hahn (Hahn), Vice President for residential lending of Mortgage Investment Company of El Paso, Texas. Hahn represents that as of May 17, 1983 the actual fair market value of the Loans was $46,196.57. Hahn further represents that as of May 17, 1983 the outstanding principal balance of each Loan exceeds its fair market value. The Plan will not incur any expenses with respect to the sale.

5. In summary, the applicant represents that the proposed sale of the Loans satisfies the statutory criteria of section 408(a) of the Act as follows: (a) the trustee of the Plan represents that the proposed sale is in the interests of the Plan; (b) the proposed sale will be a one time transaction for cash; (c) the Plan will not incur any expenses with respect to the proposed sale; (d) the Plan will be able to sell the Loans at a price equal to or greater than their appraised fair market value; (e) the proposed sale will enable the Plan to distribute its assets; and (f) the proposed sale will enable the Plan's participants to receive greater benefits than if the Loans were sold to third parties.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

The Hy-Vee Employees' Trust (the Plan), Located in Chariton, Iowa

[Application No. D-4545]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the proposed purchase (the Purchase) by the Plan of certain real

VOL 48 ISS 200 OCT 14 1983 UMI

property (the Property) from Hy-Vee Food Stores, Inc. (the Employer), the sponsor of the Plan, for cash in the amount of $1,100,000, provided that this amount is not greater than the fair market value of the Property at the time of sale; and (2) the subsequent leaseback (the Leaseback) of the Property to the Employer, provided that the terms and conditions of the Leaseback are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan as of November 15, 1982 had approximately 6,000 participants and assets of $20,000,000. The Plan trustees (the Trustees) are Dwight C. Vredenburg, Marion Coons, Ronald Pearson, C. K. Crist and Maz Probasco all of whom are officers of the Employer. The Employer operates a chain of 136 supermarkets.

2. The applicant is requesting an exemption which will permit the Purchase and the Leaseback. The Property consists of a supermarket located in Pleasant Hill, Iowa. An independent party, the Iowa Appraisal and Research Corporation (Iowa Appraisal) which is located in Des Moines, Iowa appraised the Property on June 21, 1982. Iowa Appraisal represents that the fair market value of the Property on June 21, 1982 was $1,100,000. The Plan will purchase the Property for cash in the amount of $1,100,000 provided that this amount is not greater than the fair market value of the Property at the time of sale. The Plan will not pay any sales or closing costs in the proposed transaction.

3. Immediately following the Purchase, the Plan will enter into a lease (the Lease) by which the Plan will lease the Property to the Employer. The Lease will be for a period of 20 years with the rental rate to be set at 15 percent of the price of the Purchase. In addition, the Plan will receive annually 1 percent of all gross sales of the Property to the extent they exceed $17,391,000. The Property is a new supermarket which does not have an established sales record. The applicant represents, however, that it is not at all unusual for a successful supermarket to have sales in excess of $17,391,000. The applicant further represents that the 15 percent rental rate is the current rate for this type of transaction as determined by the Trustees and Employer based upon other lease negotiations and through discussions with investment bankers. The Employer will be responsible for all expenses on the Property.

4. An independent party, Banco Real Estate Advisors (Banco) located in Minneapolis, Minnesota and a subsidiary of Northwestern Bancorporation has examined the proposed transactions. Banco is a registered investment advisor under the Investment Advisors Act of 1940 which provides real estate investment advice, planning, acquisition and servicing to public and private pension funds and other institutional clients. Banco represents that the Purchase and Leaseback are prudent investments for the Plan and the terms and conditions of the Purchase and Leaseback are at least arms-length. Specifically, Banco represents that: (1) the Property is the only supermarket in Pleasant Hill, a growing suburb of Des Moines, Iowa; (2) the 15 percent rental rate is an attractive rate when compared to other available long term interest rates; (3) because food prices tend to escalate the percentage rental will increase the investment yield to the Plan; and (4) ownership of the Property will provide the Plan with investment diversification. In addition, the Trustees represent that the Purchase and Leaseback are in the best interests of the participants and beneficiaries of the Plan. Another independent party, the United Central Bank of Des Moines, N.A. a national banking association located in Des Moines, Iowa will monitor the terms and conditions of the Lease on behalf of the Plan and will enforce any rights the Plan has therein.

5. In summary, the applicants represent that the Purchase and Leaseback will satisfy the criteria of section 408(a) of the Act as follows: (1) the Trustees represent that the transactions are in the best interests of the participants and beneficiaries of the Plan; (2) the transactions have been approved and will be monitored by independent parties; (3) the price used in the Purchase will be determined by an independent appraisal; (4) the Plan will receive an attractive rate of return and (5) the Plan will diversify its investments.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Gerald D. Capoot, M.D., P.C., Pension Plan (the Plan), Located in Denver, Colorado

[Application No. D–4614]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a certain parcel of unimproved real property (the Property) by the Plan to Dr. Gerald D. Capoot (Dr. Capoot), a disqualified person with respect to the Plan, provided that the price paid is not less than the greater of (1) the fair market value of the Property on the date of sale; or (2) the Plan's total cash outlay with respect to the Property as of the date of sale plus the outstanding balance of the mortgage on the Property.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan that had one participant and total assets of $182,772 as of May 31, 1982. The investment decisions of the Plan are made by the trustee (the Trustee), Dr. Capoot, the sole shareholder of Gerald D. Capoot, M.D., P.C. (the Employer). The Employer is engaged in the practice of medicine, specializing in otolaryngology.

2. On November 24, 1981, the Trustee purchased the Property, located at 1752 Montane Drive, Golden, Colorado, from an unrelated party, for $149,900. The Property was financed as follows: (1) the Plan paid $36,400.61 at closing; and (2) executed a note (the Mortgage), secured by a deed of trust, to the First National Bank of Denver (the Bank), Denver, Colorado, an unrelated party.

3. The Property, which was purchased with the anticipation of appreciation, has been and continues to be non-income producing. As of July 25, 1983, the Property represented 83% of the assets of the Plan. The Plan's costs and expenses (downpayment, mortgage payments, property taxes, etc.) of the Property amounted to $73,132.

4. In addition to the fact the Property represents a high percentage of Plan assets and is non-income producing, the Trustee believes that, as a result of the weak real estate market since the original purchase, the anticipated appreciation has not taken place. The Trustee, therefore, proposes to sell the Property to himself, as an individual, for the cash price equal to the greater of the fair market value of the Property or the Plan's total cash outlay for the Property to the date of sale plus the outstanding balance of the Mortgage. No commission will be charged with respect to the sale. The outstanding balance of the Mortgage, as of July 1, 1983, was $103,216. The Plan's total cash outlay for the Property plus the outstanding balance on the mortgage equals $176,348. The Bank has agreed to allow Dr. Capoot to assume the Mortgage at no cost to the Plan, provided the exemption is granted. An appraisal performed by Gary L. Berz of Jefferson County, Colorado, on June 2, 1983, valued the Property at $150,000. It is represented that the Property is not of special value to the Employer or to Dr. Capoot.

5. In summary, the application represents that the proposed transaction satisfies section 4975(c)(2) of the Code due to the following: (a) the Trustee has determined that the transaction is in the best interests of the participant and his beneficiaries; (b) it is a one-time transaction for cash; (c) the sales price will be equal to the greater of the fair market value of the Property or the Plan's total cash outlay to the date of sale plus assumption of the Mortgage; and (d) no commissions will be charged with respect to the Plan.

Notice to Interested Persons: Since Dr. Capoot is the only participant affected by the transaction, there is no need to distribute notice to interested persons. Comments and hearing requests are due 30 days after the date of publication in the Federal Register.

For Further Information Contact: Mr. Horace C. Green of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Farnsworth Realty and Development Company Profit Sharing Thrift Plan (the Plan), Located in Mesa, Arizona

[Application No. D–4668]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale for $526,200 of certain real property (the Real Property) by the Plan to Farnsworth Realty and Development Company (the Employer), provided the price paid for the Real Property is not less than its fair market value at the time the sale is consummated.

Background

On October 27, 1981, a notice of pendency for the sale of the Real Property was published in the Federal Register at 46 FR 52454. On February 2, 1982, the grant of the exemption appeared in the Federal Register at 47 FR 4772. According to the applicant, the transaction was not consummated after the exemption was granted because the Employer had difficulty obtaining funds from a lending institution with which to effectuate the sale. Therefore, another notice of pendency is republished as follows.

Summary of Facts and Representations

1. The Plan is a defined contribution plan, established by the Employer on July 1, 1967. As of June 30, 1982, the Plan has total assets of $1,803,542. On June 30, 1983, the Plan had 190 participants, 51 of whom were affiliated with the Employer. The remaining 139 participants were affiliated with Farnsworth Construction Company, a wholly-owned subsidiary (the Subsidiary) of the Employer.

2. The Plan trustees (the Trustees) are Messrs. Ross N. Farnsworth, Reuben Eager, and David Palmer. These individuals also serve as officers of the Employer and its Subsidiary. The Trustees make investment decisions for the Plan through the Profit Sharing Plan Committee.

3. The Employer and Subsidiary are corporations organized under the laws of the State of Arizona. The Employer is engaged in the sale of homes, real estate management and in performing financial and accounting activities in connection with such sales. The Subsidiary constructs commercial projects for sale to third parties and residential homes and condominiums for sale to the Employer.

4. Among the assets of the Plan is the Real Property which consists of 29.232 acres of unimproved land. The Real Property is located on the northeast corner of Bush Highway and Brown Road near Mesa, Arizona. The Real Property was conveyed to the Plan on March 15, 1977 by the Employer. The conveyance represented an in kind contribution by the Employer.[4]

5. On June 7, 1977, the Real Property was initially appraised by Mr. R. Veldon Naylor (Mr. Naylor) of Mesa, Arizona. Mr. Naylor is an independent MAI appraiser with considerable experience in the business of conducting real estate sales and appraisals. He has performed annual appraisals of the Real Property since it was acquired by the Plan. At the time of the initial appraisal, Mr. Naylor placed the fair market value of the Real Property at $190,000. According to the most recent appraisal report prepared by Mr. Naylor, the Real Property had a fair market value of $526,200 as of May 11, 1983.

6. The Plan proposes to sell the Real Property to the Employer for cash within ninety days of the granting of this exemption. The sale will be evidenced by a sales contract to be executed by the parties upon the granting of the exemption. It is the intent of the parties to base the sales price on the higher of either the current market valuation of $526,200 or a valuation determined by an independent appraiser at the time of sale. The Plan will not incur any real estate commissions or fees in connection with the sale.

7. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) the sale will be a one-time transaction for cash; (b) the sales price of the Property will be based on an independent appraisal; (c) the terms of the sale will permit the Plan to receive cash proceeds equivalent to the current fair market value of the real Property or a greater value as determined by an independent appraisal at the time of the sale; (d) the sale will enable the Plan to divest itself of an asset producing no income; (e) the Plan will incur no real estate commissions or fees in connection with the sale; (f) the sale will allow the Plan to improve its liquidity position and enable diversification of Plan investments into income-producing assets; and (g) the Trustees have determined that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his

[4] This proposed exemption is limited to the sale of the Property by the Plan to the Employer. Documentation in support of this exemption indicates the Employer has made five contributions of real property to the Plan between January 15, 1975 and March 14, 1980. This proposed exemption does not exempt any of the contributions of real property by the employer to the Plan to the extent such contributions constituted prohibited transactions.

VOL
48
ISS
2
00
OC
14
1983
UMI

duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 11th day of October, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-27991 Filed 10-13-83; 8:45 am]

BILLING CODE 4510-29

[Exemption Application No. D-3660]

Withdrawal of Proposed Exemption Involving Harcourt Brace Jovanovich, Inc. Pension Plan (the Plan) Located in New York, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Withdrawal of notice of pendency of a proposed exemption.

SUMMARY: This publication gives notice of the withdrawal by the Department of a notice of pendency of a proposed exemption previously published in the **Federal Register** on December 10, 1982, involving an application filed on behalf of the Plan from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). A public hearing was held on April 29, 1983, in New York, New York in connection with the proposed exemption. After careful consideration of the complete record of the exemption proceeding, the Department has determined that it cannot find that the transactions for which exemptive relief was proposed in the notice of pendency meet the requisite statutory criteria for an administrative exemption as set forth in section 408(a) of the Act. Accordingly, the notice of pendency if hereby withdrawn.

Signed at Washington, D.C. this 6th, day of October, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-27988 Filed 10-13-83; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-4079 and D-4080]

Withdrawal of the Proposed Exemption Involving the Wampum Hardware Co., Employees Profit Sharing Plan, and the Wampum Hardware Co., Money Purchase Plan (the Plans) Located in New Galilee, Pennsylvania

In the **Federal Register** dated July 5, 1983 (48 FR 30797), the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency concerned an application filed on behalf of the Plans.

In a letter of August 3, 1983, the applicant's representative notified the Department that an exemption for the transaction described in the above-cited notice was no longer sought because the sponsor of the Plans is experiencing sensitive labor negotiations which could possibly be upset by the above exemption. Accordingly, the representative requested that the application for exemption be withdrawn from consideration by the Department.

The request for withdrawal is hereby granted.

Signed at Washington, D.C. this 6th day of October, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-27989 Filed 10-13-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Training) to the National Council on the Arts will be held on November 1-2, 1983, from 9:00 a.m.-5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on November 2, 1983, from 2:00-3:30 p.m. to discuss guidelines and policy.

The remaining sessions of this meeting on November 1, from 9:00 a.m.-5:30 p.m.; November 2, from 9:00 a.m.-2:00 p.m.; and November 2, from 3:30 p.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: October 7, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-27935 Filed 10-13-83; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978. Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-7934.

SUPPLEMENTARY INFORMATION: On August 25, 1983 and September 2, 1983, the National Science Foundation published a notice in the **Federal Register** of permit applications received. On October 3, 1983 permits were issued to: CAPT Brian H. Shoemaker, USN, Jonathan Berg, Virginia Zinsmeister.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 83-27931 Filed 10-13-83; 8:45 am]

BILLING CODE 7555-01-M

Behavioral and Neural Sciences Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences, Subpanel for Linguistics.

Date and time: November 3 and 4, 1983; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Paul G. Chapin, Program Director, Linguistics Program, Room 320, National Science Foundation, Washington, D.C. 20550, (202) 357-7696.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in linguistics.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 11, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-27944 Filed 10-13-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Behavioral and Neural Sciences, Subpanel for Sensory Physiology and Perception Program; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel for Sensory Physiology and Perception Program of the Advisory Panel for Behavioral and Neural Sciences.

Date and time: November 2, 3, and 4, 1983: 9:00 a.m. to 5:00 p.m. each day.

Place: Rooms 338 and 1240, National Science Foundation, 1800 G St. NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Michael D. Oberdorfer, Staff Associate, Sensory Physiology and Perception Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7471.

Purpose of panel: To provide advice and recommendations concerning support for research in neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 11, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-27943 Filed 10-13-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.

Date and time: November 3-4, 1983; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Part open; open November 3-9:00 a.m. to 5:00 p.m., closed November 4-9:00 a.m. to 5:00 p.m.

Contact person: Dr. Arthur Findeis, Acting Director, Division of Chemistry, Room 340, National Science Foundation, Washington, D.C. 20550, (202) 357-7503.

Summary minutes: May be obtained from Dr. Arthur Findeis.

Purpose of Committee: To provide advice and recommendations concerning NSF support for research in chemistry.

Agenda: The meeting will involve briefing of the Committee by NSF staff on items of topical interest to the Committee. The closed session will involve review of pending proposals.

Reason for closing: The meeting will deal with a review of proposals containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 11, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-27942 Filed 10-13-83; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Recommendation Responses; Availability

Rcommendation responses from:

Railroad—*Federal Railroad Administration: Jun. 8: R-83-30 through R-83-32:* Will shortly issue an advance notice of proposed rulemaking which will create a forum for the review of a broadbased set of solutions including the three specific NTSB recommendations. The notice will review the events which have occurred pertaining to alcohol and drug abuse, contain options for dealing with the matter, and request input from the interested parties. *Jul. 26: R-83-14:* Has developed a model plan of required inspection practices has incorporated it into FRA's track safety standards. Has developed and implemented a training program which includes increasing the number of instructional classes offered to industry labor and management to 150. Has established a required inspection plan in the safety regulations which will assist in training railroad personnel in the detection of unsafe conditions. *R-83-14 and R-83-15:* Has met

VOL
48
ISS
2
0
0
OC
14
1983
UMI

with the Association of American Railroads, the Federal Highway Administration, the American Trucking Association, Inc., and the Research and Special Programs Administration to address action that may be required to ensure that hazardous material information is contained on waybills for Trailer-On-Flat-Car (TOFC) and Container-On-Flat-Car (COFC) shipments. In conjunction with the Federal Highway Administration, has completed an extensive regulatory compliance study which sampled TOFC and COFC shipments designated as freight-all-kind to determine if shipments contained hazardous materials and that appropriate shipping papers were prepared. Has completed a comprehensive regulatory compliance study.

Research and Special Programs Administration: Jun. 20: R–85–5: In consultation with the Federal Railroad Administration and the Federal Highway Administration, the Materials Transportation bureau has reviewed the NTSB report and evaluated the adequacy of the present hazardous materials regulations which are designed to provide emergency response personnel with adequate and timely information concerning hazardous materials shipments. *R–83–6:* The American Trucking Associations, Inc. has in place standard safety procedures for the transportation of hazardous materials by truck, including Trailer-On-Flat Car operations. *Jul. 14: R–81–98:* Is examining the feasibility of proceeding with further rulemaking to preclude use of the empty placard.

National Railroad Possenger Corporation: Jun. 27: R–83–21 and *R–83–22:* Will monitor the National Weather Summary so that the Control Center can better coordinate safe train movements with the railroads charged with dispatching, operating, or otherwise controlling the movement of Amtrak trains. *R–83–23:* Through the National Safety Council, has distributed 2,140 Emergency Evacuation Manuals to emergency medical service units throughout the country. *R–83–24:* Planning a yearly refresher training program in emergency procedures for onboard employees which will include operation of emergency techniques for various types of Amtrak cars, basic information, and new material received between classes. Program will be on line by November 1, 1983. *R–83–25:* Believes that current 2-hour lighting requirement is a reasonable length of time in an emergency situation. *R–83–26:* Distributed National Bulletin OB–83–01 which states that train attendants in sleeping cars must advise passengers that he/she has received special training in handling unusual or emergency situation; to notify attendant immediately of any emergency on the train; and that he/she is available for passenger questions about procedures and locations of exit doors, emergency windows, and fire extinguishers.

Association of American Railroads: Jul. 20: R–83–7: Is researching its evaluation process concerning track inspection defect data for tracks carrying passenger trains or trains with hazardous material. Has requested chief operating officers to re-evaluate and strengthen their programs concerning trains carrying hazardous materials and emergency response information for hazardous materials being carried. *R–83–9:* A schedule of Trailer-On-Flat-Car and Container-On-Flat Car shipments project is forthcoming.

New York City Transit Authority: Jun. 28: R–82–35: Has published a new comprehensive training manual entitled "Track and Signals." *R–83–39:* Modernization to eliminate the use of two different types of train control signal systems is scheduled to be completed in 1986. *R–82–41:* Updated training manuals pertaining to operating and emergency procedures have been recently published. *R–82–42:* Revised procedures for notification of emergency and rescue personnel to eliminate delays is in draft form awaiting approval. Jul. 14: *R–82–22:* Expects newly designed end door decals to be ready by August 1, 1983 and installed on all R–10 through –42 subway cars by the first week of September 1983. *R–82–23:* Believes that a stricter enforcement program to prevent passenger movement between cars is impractical. However, is working on some educational programs to further inform passengers of the hazards associated with crossing between cars.

The Greater Cleveland Regional Transit Authority: Aug. 16: R–83–77: Beginning August 1, 1983, and repeated quarterly thereafter, stopping distance tests will be conducted on all types and combination of equipment. *R–83–78:* A rail operating order stating that operators and conductors must not engage in unnecessary conversation with passengers or other employees was issued to all operating personnel.

Government of the District of Columbia: Jun. 24: R–82–79: Has obtained a bus to be renovated and equipped as a mobile communications and command vehicle, and has completed operating procedures for Metrorail incidents and evacuation procedures for mass casulties. *R–82–80:* Has identified needed computer hardware, sources of hardware, and approximate cost. *R–82–81:* In cooperation with the Washington Metropolitan Area Transit Authority, the D.C. and Arlington, County Fire Departments conducted a simulated emergency drill on April 22, 1983. Plans to conduct other drills on scheduled basis.

Seaboard System Railroad: Jun. 30: R–82–98: Believes that present rules concerning approaching trains are adequate if complied with strictly. *R–82–100:* Believes that present rules requiring the signal information being communicated between members of the crew on the engine is adequate. *Jul. 22: R–83–46:* Believes that present practice of describing hazardous materials on waybill is consistent with the recommendation. *R–83–47:* Is currently evaluating the benefits to be derived from including emergency response guidance information on the hazard graph for tank cars containing residual quantities of hazardous materials. *R–83–48:* Will stress to train crews and supervisory personnel the importance of examining each waybill closely, paying special attention to tank cars and will instruct that any car containing a questionable commodity should be furnished the emergency response groups. *R–83–49:* Will issue instructions that first supervisor on scene contact emergency response personnel immediately to insure that they have proper information. *R–83–50:* Currently analyzing portion of recommendation which requires engineers to annually attain train dynamics analyzer classes. *R–83–51:* Believes that current training program with train dynamic analyzer provides sufficient instruction to engineers to understand proper train handling procedures.

Southeastern Pennsylvania Transportation Authority: Jul 13: R–82–21: Inclosed examples of the literature and aids which it will use in the Grade Crossing/Railroad Safety Program instruction. *R–82–111:* Recent developments with the single rail diesel self-propelled passenger cars (RDC) and plans to improve the Fox Chase Line has resulted in temporary suspension of trains on the line. Have applied for Federal grants to electrify operation of trains over the line to eliminate the use of RDC cars. *R–82–112:* Inclosed a description of the methods used to bring the circumstances of the January 2, 1982, train collision with a gasoline truck at Southampton, Pennsylvania, to the attention of employees.

Southern Pacific Transportation Company: Jun. 29: R–83–1 through *–4:* Currently uses ultrasonic and/or magnetic equipment to inspect for internal defects every 3 months or primary main tracks and, depending on the commodities being moved, train speed, and rail weight and age, quarterly or biennially on secondary main tracks and siding. Additionally, employees visually check rails while making route track inspections. *Aug. 11: R–83–60 and –61:* Because of the nature of railroad activity, the impossibility for railroad officers to constantly observe and monitor employees, peer pressure, and come employees ability to conceal their abuse of alcohol, believes that recommendations are not practical and are not producing the desired results.

American Trucking Associations, Inc.: Jul. 15: R–83–12: Published articles on facts, conditions, and circumstances of the accident which occurred at Thermal, California, on January 7, 1982, in Transport Topics, and industry newspaper, and Safety Bulletin, a monthly publication issued to trucking industry safety representatives. *R–83–13:* Is available to discuss with the Association of American Railroads, the Federal Highway Administration, the Federal Railroad Aministration, and the Research and Special Programs Administration its programs and to review any government or industry procedures that will enhance the safety of hazardous materials transportation.

Burlington Northern Railroad: Jul. 1: R–83–27: Ninety-nine weather alert scanners have been placed into service at strategic locations on its property to monitor National Weather Service broadcasts throught the National Oceanic Atmospheric Administration weather radio network.

Illinois Central Gulf: Jul. 6: R–81–76: Completed on Jun. 10 work for upgrading the Williams Boulevard and Illinois Central Gulf Railroad grade crossing.

Commonwealth of Virginia: Jun. 9: R–83–52: Is reviewing the overall State Hazardous Materials Emergency Response Program to determine the best approaches to upgrade hazardous materials emergency response procedures, knowledge, and capabilities throughout the State; has stationed at Roanoke City a fully equipped hazardous materials emergency response vehicle for use in the greater Roanoke Valley Area; is broadening its hazardous materials training program by employing additional personnel; and is re-emphasizing the responsibilities of local government emergency services coordinators and local government hazardous materials response personnel.

The Washington Terminal Company: Jun. 21: R–83–47: Have implemented the following procedures: daily supervisory checks of all crews reporting for duty and documentation in a log; require that each operating crewmember sign the register sheet which is witnessed by a crew dispatcher; and displays signs and posters and distributes literature in the crew dispatcher's area and train and engine employees' lounge on the costly and destructive problems of drug and alcohol abuse.

Public Utilities Commission, State of California: Jun. 28: R–83–45: Believes that alcohol abuse does not appear to be a critical problem on only commuter line operating 50 miles between San Francisco and San Jose, California. However, will continue to be alert to alcohol abuse.

Governor of the State of New York: Jun. 13: R–44 and –45: have not passed any specific legislation regarding the effect of alcohol on railroad employees. However, have general State laws that would apply regarding reckless endangerments. Will cooperate and assist the Federal Railroad Administration in any effort to eliminate accidents on the railroad caused by alcoholism.

Governor of the State of Michigon: Jun. 7: R–44 and –45: Will review current practices on checking alcohol abuse on railroads and will review legal base for a more thorough aproach to improve operational safety. Also, will explore legislative requirements with the Michigan Legislature.

Governor of the State of Wisconsin: Jun. 6: R–44 and –45: Since the State of Wisconsin does not have any commuter rail systems, does not contemplate any action with respect to recommendations.

Chessie System Railroads: Aug. 15: R–83–35: Supervisors have ridden with each passenger train engineer during trips between Brunswick, Maryland, and Washington, D.C. *R–83–36:* Have expanded educational program for operating train crews to instruct them about the effects of alcohol on performance of duties and shall place additional emphasis on Rule G in next round of operating rules classes. *R–83–60 and –61:* Have extensively checked employees for compliance with Rule G in the past and plans to continue to do so in the future. Offers an Alcohol Rehabilitation Program in recognition of the situation and as a way of increasing the possibility that such employees will be able to overcome their problems and operate in a safe, sober manner.

Richmond, Fredericksburg and Potomac Railroad Company: Aug. 15: R–83–60 and –61: Believes that current procedures regarding physical fitness of employees and training programs comply with recommendations.

Terminal Railroad Association of St. Louis: Aug. 11: R–83–60: Has taken action to insure that its officers observe the members of its train and engine crews at the commencement of their respective tours of duty and at least on one other occasion during their tours of duty to insure that they are physically fit and capable of complying with its operating and safety rules. All other operating department employees are observed on a consistent basis. *R–83–61:* Has on ongoing program with the objective of training all of its supervisory employees to be aware of their responsibilities to other employees and appropriate actions to take when rules are violated.

Duluth Missable and Iron Range Railway Company: Jul. 29: 4–83–60 and –61: Believes that current procedures regarding physical fitness of employees and training programs comply with recommendations.

Elgin, Joliet and Eastern Railway Company: Jul. 27: R–83–60 and –61: Believes that current procedures regarding physical fitness of employees and training programs comply with recommendations.

Bessemer and Lake Erie Railroad Company: Jul 26: R–83–60: Has established procedures whereby management personnel contact operating department employees reporting for duty to ascertain that they are physically fit and capable of complying with operating rules. R–83–61: Believes that current procedures on training programs comply with recommendation.

The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company:' Jul. 21: R–83–60 and –61: Believes that current procedures regarding physical fitness of employees comply with recommendations.

Cambria and Indiana Railroad Company: Jul. 20: R–83–60 and –61: Believes that current procedures regarding physical fitness of employees and training programs comply with recommendations.

Chicago & Illinois Midland Railway Company: Jul. 19: R–83–60 and –61: Recently revised Rule G with more explicit and stringent requirements than the previous rule and has advised supervisory personnel to be aware of the present trends toward drug and alcohol abuse. Recently entered into a widespread and well founded rehabilitation activity, appointing an on-the-property advisory board.

Southern Railway System: Aug. 18: R–83–60 and –61: Believes that current procedures regarding physical fitness of employees and training programs comply with recommendations. Inclosed a copy of pertinent rules.

Lake Superior & Ishpeming Railroad Company: Aug. 24: R–83–60 and –61: Has instructed management personnel to make spot checks to determine the physical fitness of department employees to help eliminate the possibility of violations.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

Effie M. Upshaw,

Alternate Federal Register Liaison Officer.

October 11, 1983.

[FR Doc. 83–27927 Filed 10–13–83; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–412A]

Duquesne Light Co., et al.; Receipt of Antitrust Information

The Duquesne Light Company has submitted antitrust information accompanying its application for an operating license for a pressurized water reactor (Beaver Valley Power Station, Unit 2) in Beaver County, Pennsylvania, located on the southern shore of the Ohio River, approximately 22 miles northwest of Pittsburgh, Pennsylvania. The data submitted contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage. The construction permit holders for Beaver Valley Power Station, Unit 2 are Duquesne Light Company, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company.

On completion of the staff's antitrust review, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under Section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, D.C. and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be submitted for a period of 30 days after the date of the **Federal Register** notice. The results of any reevaluation that is requested will also be published in the **Federal Register** and copies sent to the Washington, D.C. and local document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the local public document room at the B. F. Jones

VOL 48 ISS 200 OC 14 1983 UMI

Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the applicant's activities since the construction permit antitrust review should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Site Analysis Branch, Office of Nuclear Reactor Regulation, on or before November 14, 1983.

Dated at Bethesda, Maryland, this 6th day of October, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-27994 Filed 10-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components", to the Omaha Public Power District (the licensee), which revised the inservice inspection program for the Fort Calhoun Station, Unit No. 1 located in Washington County, Nebraska. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50.

The relief relieves the licensee from certain code requirements for: (1) Specific pumps associated with system such as safety injection, component cooling, and raw water, (2) specific valves associated with systems such as safety injection, component cooling, and containment purge, and (3) all plant snubbers. The listings of the specific pumbs and specific valves, and the specific code requirements from which the licensee is requesting relief are contained in the licensee's relief request of July 7, 1983. The relief for the pumps and valves is effective September 26, 1983 and is valid until September 26, 1984. The relief for the snubbers is effective September 26, 1983 and is valid until September 26, 1993.

The request for relief complies with the standard and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate finding as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and related Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see: (1) The request for relief dated July 7, 1983, (2) the letter to the licensee dated September 30, 1983, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska. A copy of items (2) and (3) may be obtained upon requet addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of September, 1983.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-27995 Filed 10-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-266]

Wisconsin Electric Power Co.; Point Beach Nuclear Plant Unit No. 1; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 75 to Facility Operating License No. DPR-24, issued to Wisconsin Electric Power Company (the licensee), which revised the license for operation of the Point Beach Nuclear Plant Unit No. 1 (the facility) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendment was effective as of the date of its issuance.

The amendment allows repair of steam generators by replacement of major components.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the Federal Register on July 12, 1982 (47 FR 30125). A request for hearing was filed on August 10, 1982 by Wisconsin's Environmental Decade. Following a Special Prehearing Conference held on November 19, 1982 on this matter, the Atomic Safety and Licensing Board (ASLB) dismissed WED's Petition for Leave To Intervene by Order dated December 10, 1982. The ASLB cited WED's failure to proffer one good contention with adequate bases and WED's willful absence from the Special Prehearing Conference as grounds for dismissal. Though appealed by WED, the ASLB Order has been upheld by the Atomic Safety and Licensing Appeal Board (ASLAB) in their March 22, 1983 decision.

The Commission has prepared an Environmental Impact Statement related to the action and has concluded that there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the Facility dated May 1972.

For further details with respect to the action see: (1) The application for amendment dated May 27, 1982, as supplemented July 27, August 9, 1982 and March 1, 1983, (2) Amendment No. 75 to License No. DPR-24, (3) the Commission's related Safety Evaluation, and (4) Final Environmental Impact Statement. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. and at the Joseph P. Mann Public Library, 1516 16th Street, Two Rivers, Wisconsin. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing; a copy of item (4) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 30th day of September 1983.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Operating Reactors, Branch No. 3, Division of Licensing.

[FR Doc. 83-27996 Filed 10-13-83; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2105]

Arizona; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Counties of Gila, Graham, Greenlee, Pima, Pinal, Santa Cruz and Yavapai, in the State of Arizona, constitute a disaster loan area because of damage resulting from severe storms and flooding beginning on or about September 23, 1983. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on December 5, 1983, and for economic injury until July 5, 1984, at:

U.S. Small Business Administration, 3030 North Central Avenue—Suite 1201, Phoenix, Arizona 85012

U.S. Small Business Administration, Federal Office Building, Room 3V, 301 West Congress, Box 33, Tucson, Arizona 85701

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.125
Homeowners without credit available elsewhere	6.125
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	11.375

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Public Law 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 7, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 83-28016 Filed 10-14-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/82-0417]

Fine Art Funds Inc.; Application for a License To Operate as a Small Business Investment Company

An Application for a License to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Fine Art Funds Incorporated (Fine Art), 25 East 77th Street, New York, New York 10021, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1983).

The officers, directors and their shareholding of the Applicant are as follows:

Stephen Maitland-Lewis, 70 East 77th Street, New York, New York 10021, President, Treasurer and Director, 33 percent.

Monika Maitland-Lewis, 70 East 77th Street, New York, New York 10021, Vice President, Secretary and Director, 22 percent.

Burt Alimansky, 41 East 66th Street, New York, New York, Director.

Andrew Arthur, 575 Lexington Ave., New York, New York, Director.

Gordon Myers, 6, St. Mary Abbot's Court, Warwick Gardens, Kensington, London, England, W148RA, Director.

The Applicant, Fine Art, a New York corporation, will begin operations with $1,000,000 paid-in capital and paid-in surplus. Fine Art will conduct its activities primarily in the state of New York but will consider investments in other areas within the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 6, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-28017 Filed 10-13-83; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 01/01-0326]

Granite State Capital, Inc.; Notice of Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1983)] under the name of Granite State Capital, Inc., 10 Fort Eddy Road, Concord, New Hampshire 03301, for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder are as follows:

William R. Felder, Cablevision Service Co. Inc., Box 1010, Exeter, NH 03833, President & Director

Richard Carey, Brockhouse Corp., Exeter Industrial Pk., Exeter, NH 03833, Treasurer & Director

Russell F. Hilliard, 10 Centre Street, Concord, NH 03301, Secretary

Justus R. Cantus, The Ashuelot National, 33 West Street, Keene, NH 03431, Director

Federick H. Manning, Indian Head Bank, 40 East Pearl Street, Nashua, NH 03431, Director

Stuart D. Pompian, The Commons, Howerhill, NH 03765, Manager

New Hampshire Business Development Corporation (NHBDC), 10 Fort Eddy Road, Concord, NH 03301

NHBDC is a 32 year old State Chartered business development corporation whose members are 83 banks and other financial institutions.

The Applicant will begin with capitalization of $995,000 which will be a source of both equity and debt financing to qualified small business concerns for expansion and working capital.

The applicant does not intend to use the services of an investment adviser but will provide consulting services to its clients and other small concerns.

Matters involved in SBA's consideration of the application include the general business reputation and

character of the proposed management and owner including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (15) days from the date of publication of this Notice, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Concord, NH.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 6, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-28015 Filed 10-13-83; 8:45 am]

BILLING CODE 8020-01-M

Reporting and Recordkeeping Requirement for OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chaper 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before November 18, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies: Copies of the proposed form, the requests for clearance (S.F. 83), supporting statement, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St. NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

Form submitted for review:

Title: Nomination for the Small Business Form No.: Prime Contractor of the Year Award SBA 1375

Frequency: Annually

Description of Respondents: Federal Agencies who wish to submit a nomination for the regional award for any small business firm that is considered to be the most outstanding prime contractor for their procuring activity

Annual Responses: 600

Annual Burden Hours: 600

Type of Request: New

Dated: October 7, 1983.

Elizabeth M. Zaic,

Chief, Paperwork Monogement Branch, Small Business Administrotion.

[FR Doc. 83-28018 Filed 10-13-83; 8:45 am]

BILLING CODE 8025-01-M

Mount Vernon Venture Capital Co.; Issuance of a Small Business Investment Company License

[License No. 05/05-0174]

On August 11, 1983, a notice was published in the **Federal Register** (36552) stating that an application has been filed by Mount Vernon Venture Capital Company, with the Small Business Administration (SBA) pursuant to § 107.102 of the Requlations govening small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business August 26, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0174 on September 29, 1983, to Mount Vernon Venture Capital Company to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 50.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: October 6, 1983.

[FR Doc. 83-27893 Filed 10-13-83; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Meeting, New Hampshire; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Concord, New Hampshire will hold a public meeting at 10:00 A.M. on Tuesday, November 1, 1983, in the Federal Building, 55 Pleasant Street, Concord, New Hampshire, Room 304, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Bert Teague, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301 (603) 224-4041.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 6, 1983.

[FR Doc. 83-27895 Filed 10-13-83; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council Meeting, Wisconsin; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Madison, Wisconsin, will hold a public meeting at 1:30 p.m. on Thursday, October 20, 1983, at the Ruess Federal Building, Room 290A, 310 West Wisconsin Avenue, Milwaukee, Wisconsin, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call C. A. Charter, District Director, U.S. Small Business Administration, 212 East Washington Avenue, Room 213, Madison, Wisconsin, 53703, (608) 264-5205.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 6, 1983.

[FR Doc. 83-27894 Filed 10-13-83; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council Meeting, Oklahoma; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Oklahoma City, Oklahoma, will hold a public meeting Thursday, November 3, 1983 from 12:00 noon to 3:00 P.M. at the Alfred P. Murrah Federal Building, Room 629, 200 N.W. 5th Street, Oklahoma City, Oklahoma, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert K. Ball, District Director, U.S. Small Business Administration, 200 N.W. 5th Street, Suite 670, Oklahoma City, Oklahoma 73102, (405) 736-5237.

Jean M. Nowak,

Director, Office of Advisory Councils.

Octoer 6, 1983.

[FR Doc. 83-27896 Filed 10-13-83; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2523, FTS 858-2523

Type of Request: Regular Submission, existing collection in use without an OMB control number

Title of Information collection: TVA's Procurement Format including Invitation to Bid, Requests for Proposal, Requests for Quotations, and related procurement documents

Frequency of Use: On occassion

Type of Affected Public: Businesses or other for-profit entities and small businesses

Small Businesses or Organizations Affected: Yes

Federal Budget Functional Category Code: 999

Estimated Number of Annual Responses: 174,000

Estimated Total Annual Burden Hours: 162,342

Need For and Uses of Information: TVA must procure equipment, materials, and services to fulfill its statutory obilgations. This activity must be conducted in compliance with a variety of applicable laws, regulations, and Executive orders. Vendors or purchasers who voluntarily seek to contract with TVA are affected.

Dated: October 7, 1983

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 83-27905 Filed 10-13-83; 8:45 am]

BILLING CODE 8120-01-M

Public Information Collection Requirements and Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Public Information Collection Requirements Under OMB Review.

SUMMARY: The Tennessee Valley Authority (TVA) has submitted for OMB review the following information collection requirements contained in current rules in cooperation with OMB's Paperwork Reduction Act regulations.

Requests for information, including copies of related forms in use and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2523, FTS 858-2523

Type of Request: Existing Collection in Use Without an OMB Control Number

Title of Information Collection: Section 26a Permit Application

Frequency of Use: On occasion

Type of Affected Public: Individuals and households, State and local governments, farms, businesses or other for-profit, Federal agencies and employees, non-profit institutions and small businesses or organizations

Small Businesses or Organizations Affected: Yes

Federal Budget Functional Category Code: 452

Estimated Number of Annual Responses: 1,820

Estimated Total Annual Burden Hours: 5,460

Estimated Annual Cost from Federal Government: $900,000

Need For and Uses of Information: Section 26a of the Tennessee Valley Authority Act of 1933, as amended, requires that TVA review and approve plans for the construction, operation, and maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. The information collected is used to assess the impact of the proposed project on the statutory TVA programs and determine if the project can be approved. Rules on the application for review and approval of such plans are published in 18 CFR Part 1304 Subpart B.

Dated: October 7, 1983.

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 83-27906 Filed 10-13-83; 8:45 am]

BILLING CODE 8120-01-M

Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority,

100 Lupton Building, Chattanooga, TN 37401; (615) 751–2523, FTS 858–2523
Type of Request: Regular submission, proposed new collection
Title of Information Collection: Residential Energy Conservation Attitude Survey
Frequency of Use: Annually
Type of Affected Public: Individuals and households
Small Businesses or Organizations Affected: None
Federal Budget Functional Category Code: 271
Estimated Number of Annual Responses: 2,280
Estimated Total Annual Burden Hours: 1,140
Estimated Annual Cost to TVA from Nonappropriated Funds: $145,184

Need For and Uses of Information: TVA needs to estimate the potential for residential consumers to participate in its energy conservation programs. This requires information on their awareness, attitudes, reasons, intentions, and behavior toward these programs. Market potential, market share, and market penetration will be estimated for program evaluation and load forecasting.

Dated: October 7, 1983.

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 83-27907 Filed 10-13-83; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB September 17–October 3, 1983

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports,and recordkeeping requirements, transmitted by the Department of Transportation, during the period Sept. 17–Oct. 3, 1983, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395–7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OBM for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OBM approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.
(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.
(3) The name of the DOT Operating Administration or Secretarial Office involved.
(4) The title of the information collection request.
(5) The form numbers used, if any.
(6) The frequency of required responses.
(7) The persons required to respond.
(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Sept. 17–Oct. 3, 1983:

DOT No: 2230.
OMB No: 2115–0076.
By: United States Coast Guard.
Title: Safety Zones.
Forms: None.
Frequency: On occasion.
Respondents: Users of Waterways.
Need/Use: Safety zones are established to protect vessels, structures, water or shore areas. This information collection is needed and used to evaluate the need for a safety zone, to establish appropriate restrictions, and to define the geographic area and timeframe. Those who wish to appeal against established safety zones are included here in the burden estimate.

DOT No: 2231.
OMB No: New.
By: United States Coast Guard.
Title: Cooperative Vessel Traffic Management System.
Forms: None.
Frequency: On occasion.
Respondents: Any person directly affected.
Need/Use: This information is needed to allow those persons who are directly affected by 33 CFR 161.200–299 to request a deviation from any requirement that will not reduce the level of safety.

DOT No: 2232.
OMB No: New.
By: Research and Special Programs Administration.
Title: Approval of Shipment of Tear Gas and Devices Containing Tear Gas.
Forms: None.
Frequency: One time for each packaging respondent once approved.
Respondents: Shippers of tear gas.
Need/Use: To verify the packaging of tear gas and devices containing tear gas so as to ascertain that there will be no inadvertent release of tear gas in transportation.

DOT No: 2233.
OMB No: New.
By: Maritime Administration.
Title: Voluntary Tanker Agreement.
Forms: None.
Frequency: On occasion.
Respondents: Tanker owners/companies.
Need/Use: Needed for national defense planning by Maritime Administration and the Department of Defense.

DOT No: 2234.
OMB No: 2127–0017.
By: National Highway Traffic Safety Administration.
Title: Odometer Complaint Form.
Forms: HS–387.
Frequency: On occasion.
Respondents: Individual purchasers of automobiles.
Need/Use: This form is used by complainants to provide information about used or new cars purchased in sufficient detail to allow the agency to determine whether odometer fraud is likely.

DOT No: 2235.
OMB No: 2115–0064.
By: United States Coast Guard.
Title: Certificate of Registration.
Forms: CG–4510.
Frequency: N/A.
Respondents: Since this is a recordkeeping requirement, there are no respondents. The recordkeepers are U.S. Registered pilots on the Great Lakes.
Need/Use: The registration card is needed and used by the registered pilots as identification. 46 U.S.C. 216B(B) requires the Seretary of Transportation to issue documentary evidence or registration of United States registered pilots, and requires pilots to carry this document at all times when in the service of a vessel.

DOT No: 2236.
OMB No: None.
By: Research and Special Programs Administration.
Title: DOD Certificate of Equivalency.
Forms: None.
Frequency: On Occasion.
Respondents: Shippers utilizing DOD packaging.
Need/Use: To permit shippers to utilize DOD packaging certified as equal to or better than DOT required packagings.

DOT No: 2237.
OMB No: 2115–0078.
By: United States Coast Guard.
Title: Operations Manual.
Forms: None.
Frequency: On occasion.
Respondents: Businesses—Bulk Oil Facilities.
Need/Use: This information requirement is needed to establish procedures for transferring oil to reduce the number of oil spills caused by defective procedures and human error; and to control and decrease the effects of spills that occur.

DOT No: 2238.
OMB No: 2115–0063.
By: United States Coast Guard.
Title: U.S. Merchant Mariners Document with Various Endorsements.
Forms: CG–2838.
Frequency: On Occasion.
Respondents: All personnel manning or employed aboard U.S. merchant vessels.
Need/Use: This requirement is needed to ensure the effectiveness of the commercial vessel safety program. The information is used by the Coast Guard and shipping companies to determine qualifications of shipboard personnel, and to ensure that only qualified personnel sail U.S. merchant vessels.

Jon Seymour,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 83-27972 Filed 10-13-83; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes November 15, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, D.C.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9142–N	EVA, Eisenbahn-Verkehrsmittel GmbH, Schillerstr Dusseldort, West Germany.	49 CFR 173.315	To authorize shipment of bromotrifluoromethane, classed as a nonflammable gas in non-DOT specification IMO Type 5 portable tanks. (Modes 1, 2, 3.)
9143–N	McCarthy Tank and Steel Co., Bakersfield, CA	49 CFR 173.119, 173.245, 173.343–5, 173.346, 178.340–7, and 178.342–5.	To manufacture, mark and sell non-DOT specification cargo tanks complying in general with DOT Specification MC–307/312 except for bottom outlet valve variations for shipment of waste flammable, corrosive or poison B liquids or semi-solids. (Mode 1.)
9144–N	Cajun Bag & Supply Co., Crowley, LA	49 CFR 173.154, 173.182, 173.245, and 175.3	To manufacture, mark and sell non-DOT specification polyethylene lined polypropylene bulk bags of approximately 2,000 pound capacity for shipment of certain oxidizers and corrosive solids. (Modes 1, 2, 3, 4.)
9145–N	Exxon Pipeline Co., Houston, TX	49 CFR 173.119	To authorize shipment of various flammable liquids in portable pipeline meter provers which are permanently mounted on trucks or trailers. (Mode 1.)
9146–N	Blefa-Felser GmbH Postfach, West Germany	49 CFR 175.3 and 178.116	To manufacture, mark and sell non-DOT specification 55 gallon capacity metal drums comparable to DOT Specification 17E except for decrease in overall thickness to 1mm for shipment of those commodities presently authorized in DOT Specification 17E. (Modes 1, 2, 3, 4.)
9147–N	Columbia Nitrogen Corp., Augusta, GA	49 CFR 172.301(a)	To authorize ammonium nitrate fertilizer, classed as an oxidizer contained in multi-wall paper bags with a polyethylene liner up to 100 pounds capacity to be shipped without an identification number displayed on the bags. (Modes 1, 2.)
9148–N	Chas. Martin Inspection and Controls, Inc., Pasadena, TX.	49 CFR 173.119(m)(12) and 177.848	To authorize shipment of acrylonitrile in glass bottles overpacked in fiberboard lined DOT Specification 19B wooden boxes without use of absorbent cushioning material and to authorize packages of organic peroxides and packages of corrosive materials to be shipped in the same transport vehicle. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9149–N	Ethyl Corp., Baton Rouge, LA	49 CFR 173.354(a)(6)	To authorize shipment of motor fuel antiknock compound, Class 6 poison in non-DOT specification IMO Type 1 portable tank of 189 psig design pressure. (Modes 1, 2, 3.)
9150–N	Hoover Universal, Inc., Beatrice, NE	49 CFR 173.119, 173.256, 173.266, and Part 173, Subpart F.	To manufacture, mark and sell non-DOT specification polyethylene portable tanks of 320 gallon capacity equipped with a 2-inch bottom outlet incorporating a discharge valve, for shipment of various flammables, corrosives and oxidizers. (Modes 1, 2, 3.)
9151–N	ARCO Aluminum, Terre Haute, IN	49 CFR 173.315	To authorize shipment of liquefied carbon dioxide in a 6 ton capacity non-DOT specification insulated, steel tank. (Mode 1.)
9152–N	Halliburton Services, Duncan, OK	49 CFR 172.403(c)(1)	To authorize shipment of densometers containing small amounts of radioactive materials, without the radioactive yellow II label. (Mode 1.)
9153–N	Ford Aerospace & Communications Corp., Newport Beach, CA.	49 CFR 172.101 and 173.93(a)(10)	To reclassify and ship a certain Class A propellant explosive as Class B explosive when packaged in specific non-DOT specification fiber drums. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C. on October 3, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-27816 Filed 10-13-83; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulations of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments period closes October 27, 1983.

ADDRESS: Address comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application No.	Applicant	Renewal of exemption
2582–X	Union Carbide Corp. Danbury, CT	2582
2582–X	Matheson Gas Products, Secaucus, NJ	2582
2805–X	Union Carbide Corp., Danbury, CT	2805
3128–X	U.S. Department of Defense, Washington, DC	3128
3569–X	NL McCullough/NL Industries, Inc., Houston, TX	3569
4291–X	Pacific Engineering & Production Co. of Nevada, Henderson, NV	4291
5716–X	Virginia Chemicals, Inc., Portsmouth, VA	5716
5923–X	Union Carbide Corp., Danbury, CT	5923
5967–X	Rocket Research Corp., Redmond, WA [1]	5967
6007–X	Nuclear Products Co., El Monte, CA [2]	6007
6250–X	U.S. Department of Defense, Washington, DC	6250
6523–X	FMC Corp., Philadelphia, PA	6523
6536–X	Utility Propane Co., Elizabeth, NJ	6536
6588–X	Robertshaw Controls Co., Anaheim, CA	6589
6978–X	Liquid Energy Corp., The Woodlands, TX	6978
7056–X	Diamond Shamrock Corp., Irving, TX	7056
7605–X	U.S. Department of Defense, Washington, DC	7605
7607–X	Foxboro Analytical, South Norwalk, CT	7607
7682–X	Born Free Plastics, Inc., Gardena, CA [3]	7682
7907–X	Hercules, Inc., Wilmington, DE [4]	7907
8051–X	Mauser-Werke GmbH Brul, West Germany, NY [5]	8051
8129–X	Chemical Waste Management, Inc., Oak Brook, IL	8129
8214–X	Thiokol Corp., Odgen, UT	8214
8236–X	Ford Motor Co., Dearborn, MI	8236
8236–X	Talley Industries of Arizona, Inc., Mesa, AZ [6]	8236
8244–X	Halliburton Services, Inc., Duncan, OK	8244
8279–X	Hamler Industries, Inc., Chicago Heights, IL	8279
8287–X	Rohm & Haas Co., Philadelphia, PA	8287
8307–X	U.S. Department of Energy, Washington, DC [7]	8307
8309–X	Carrier Corp., Syracuse, NY	8309
8348–X	Frell, Inc., Corpus Christi, TX	8348
8354–X	Compagnie des Containers Reservoirs, Paris, France	8354
8548–X	Solvent Service, Inc., San Jose, CA	8548
8567–X	Georgia Equipment Manufacturing, Inc., Newnan, GA	8567
8606–X	Makhteshim Derom (Ramat Hovav) Ltd., Beer Sheva, Israel	8606
8640–X	Fruehauf Corp., Omaha, NE	8640
8660–X	Hach Co., Ames, IA	8660
8678–X	Eurotainer S.A., Paris, France	8678
8698–X	Union Carbide Corp., Danbury, CT	8698
8706–X	Prairie State Equipment, Inc., Sioux Falls, SD	8706
8708–X	Great Lakes Chemical Corp., El Dorado, AR	8708
8712–X	Allied Chemical, Morristown, NJ	8712
8716–X	Foote Mineral Co., Exton, PA	8716
8732–X	Ashland Services Co., Dublin, OH	8732
8732–X	Delta Solvents & Chemicals Co., Longview, TX	8732
8732–X	Union Carbide Corp., Danbury, CT	8732
8735–X	Letica Corp., Rochester, MI	8735
8736–X	Pressure Transport, Inc., Austin, TX [8]	8736
8870–X	Everpure, Inc., Westmont, IL [9]	8870
9817–X	Morrison-Knudsen Company, Inc., Boise, ID [10]	8917
6927 –X	HTL Industries, Inc., Duarte, CA [11]	8927
9061–X	The S. S. I. Group Ltd., Fairdale, KY [12]	9061

[1] Request to extend the service life restriction on pressure vessels covered by exemption.

[2] To renew and to modify terminology of the exemption to coincide with latest regulatory amendments to radioactive materials provisions.

[3] To renew and to authorize certain drum design changes.

[4] To renew and to authorize the use of DOT-E 7769 polyethylene drums, for shipment of nitrocelluloses, wet with not less than 20% water, classed as a flammable solid.

[5] To authorize hydrobromic acid solutions, corrosive material as an additional commodity.

[6] To renew and to authorize a new electric squib design.

[7] To renew and to provide for shipments of smoke generators no longer charged with nitrogen.

[8] To renew and to modify exemption to include refinery source gases.

[9] To authorize water as an additional mode of transportation.

[10] To amend requirements pertaining to radiographic examination of bins, to authorize more than eight bins, and to remove restriction requiring bins to be stowed below deck.

[11] To modify certain physical test criteria and marking requirements.

[12] To authorize rail as an additional mode of transportation, and to allow more than 10 lbs. of calcium carbide per transport vehicle.

Application No.	Applicant	Parties to exemption
3415–P	Aerojet Strategic Propulsion Co., Sacramento, CA [1]	3415
4884–P	Air Products and Chemicals, Inc., Pensacola, FL [2]	4884
6543–P	Rohm and Haas Co., Philadelphia, PA	6543
7060–P	Med-Air Express, Inc., Fairfield, NJ	7060
7070–P	Degussa Corp., Teterboro, NJ	7070
8077–P	Rohm and Haas Co., Philadelphia, PA	8077
8129–P	F.T.C. Hazardous, Inc., Philadelphia, PA	8129
8129–P	Georgia Institute of Technology, Atlanta, GA	8129
8180–P	Rohm and Haas Co., Philadelphia, PA	8180
8308–P	American Priority Enterprises, Inc., Rahway, NJ	8308
8451–P	Stresau Laboratory, Spooner, WI	8451
8508–P	FMC Corp., Philadelphia, PA	8508
8508–P	Olin Corp., Stamford, CT	8508
8508–P	Reagent Chemical & Research, Inc., St. Gabriel, LA	8508

[1] Request party status and to authorize an alternate tie down method of rocket motor to a flat-bed vehicle.

[2] Request party status and to authorize flammable liquids as additional commodities.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 4, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-27818 Filed 10-13-83; 8:45 am]

BILLING CODE 4910-60-M

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 200
Friday, October 14, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1, 2
Equal Employment Opportunity Commission	3
Federal Deposit Insurance Corporation	4, 5
Federal Home Loan Bank Board	6
Federal Maritime Commission	7
International Trade Commission	8, 9
Legal Services Corporation	10

1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Wednesday, October 19, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *UFFI Options: CHAP on Formaldehyde*
The Commission will reconsider options related to potential future actions which the Commission may wish to take in connection with urea-formaldehyde foam insulation and other products containing formaldehyde, including the possibility of the formation of a Chronic Hazard Advisory Panel to consider the chronic health effects of exposure to formaldehyde from consumer products.
2. *Pressed Wood: Status Report*
The staff will brief the Commission on its current work relating to formaldehyde emissions from pressed wood products.

Closed to the public: 3:00 p.m.:

3. *Enforcement Matter (OS 4540)*
The Commission will consider Enforcement Matter OS 4540.

For a recorded message containing the latest agenda information: call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301–492–6800.

[S–1456–83 Filed 10–12–83; 11:02 am]

BILLING CODE 6355–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10:00 a.m., Thursday October 20, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Oral contraceptives: PPPA Exemption*
The Commission will consider whether to re-propose for public comment an exemption from PPPA standards for certain cyclically administered oral contraceptives in mnemonic packages. The Commission is considering re-proposal in light of the number of years which have elapsed since the exemption was originally proposed.
2. *Metal Chimneys: Options*
The Commission will consider the possibility of issuing an Advance Notice of Proposed Rulemaking for factory-built metal chimneys.
3. *Voluntary Standards: Baby Gates & Enclosures: Status*
The staff will brief the Commission on the status of voluntary standards efforts for baby walkers and baby gates/enclosures.
4. *Voluntary Standards: Children's Products: Status*
The staff will brief the Commission on the status of voluntary standards efforts for children's products, including strollers and carriages, high chairs, cribs, playpens, home playground equipment, and non-powder guns and projectiles.

For a recorded message containing the latest agenda information: call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301–492–6800.

[S–1455–83 Filed 10–12–83; 11:02 am]

BILLING CODE 6355–01–M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, October 18, 1983.

PLACE: Commission Conference Room No. 200, Second Floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote/s.
2. A Report on Commission Operation (Optional).
3. Freedom of Information Act Appeal No. 83–8–FOIA–139–HQ, concerning a request for small portions of intra-agency memoranda.
4. Freedom of Information Act Appeal No. 83–07–FOIA–154/155–CH, concerning a request for memoranda from the case files.
5. Freedom of Information Act Appeal No. 83–8–FOIA–85–CL, concerning a request for a charge file.
6. Freedom of Information Act Appeal No. 83–8–FOIA–125–ME, concerning a request for a copy of a closed ADEA file.
7. Freedom of Information Act Appeal No. 83–7–FOIA–150–NY, concerning a request for a copy of undisclosed portions of a closed age file.
8. Freedom of Information Act Appeal No. 83–7–FOIA–92–ME, concerning a request for documents contained in a closed ADEA charge file.
9. Freedom of Information Act Appeal No. 83–6–FOIA–26–PX, concerning a request for documents from a closed Title VII charge file.
10. Proposed Sec. 628, Pregnancy, Volume II of the EEOC Compliance Manual.
11. Proposed National Litigation Plan.

Closed:

1. Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice Issued: October 11, 1983.

[S–1454–83 Filed 10–12–83; 10:50 am]

BILLING CODE 6570–06–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:04 p.m. on Friday, October 7, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Deschules Bank, Redmond, Oregon, which was closed by the Superintendent of Banks for the State of Oregon on Friday, October 7, 1983; (2) accept the bid for the transaction submitted by United States National Bank of Oregon, Portland, Oregon; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. John F. Downey, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 11, 1983.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–1459–83 Filed 10–12–83; 11:18 am]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:10 p.m. on Monday, October 10, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider two matters regarding financial assistance pursuant to section 13 of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), and (c)(8), and (c)(9)(A)(ii)).

Dated: October 11, 1983.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–1458–83 Filed 10–12–83; 11:17 am]

BILLING CODE 6714–01–M

6

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Friday, October 21.

PLACE: Board Room, Sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6970).

MATTERS TO BE CONSIDERED:

Financial Reporting Requirements

[No. 59, October 12, 1983]

[S–1463–83 Filed 10–12–83; 3:49 pm]

BILLING CODE 6720–01–M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., October 19, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 9847–8: Modification of the U.S. Atlantic/Brazil Pool Agreement to amend minimum sailing requirements.
2. Agreement No. 7593–8: Modification of the Hoegh Lines Joint Service Agreement to add two new members and authorize intermodal service.
3. Kugkaktlik, Ltd: Proposed extension and expansion of exemption from the provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

Portions closed to the public:

1. Pooling and Space Charter Agreements of Japanese Carriers—Petition for reconsideration filed by Proponents.
2. Docket No. 83–26: Pacific Coast European Conference (Agreement No. 5200)—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1457–83 Filed 10–12–83; 11:00 am]

BILLING CODE 6730–01–M

8

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–45]

TIME AND DATE: 11 a.m., Friday, October 28, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Investigation 731–TA–145 (Preliminary) (Certain Steel Valves and Parts Thereof from Japan)—briefing and vote.
6. Investigation 337–TA–129 (Certain Limited-Charge Cell Culture Microcarriers)-briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1460–83 Filed 10–12–83; 12:14 pm]

BILLING CODE 7020–02–M

9

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–44A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 45869, October 7, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 19, 1983.

CHANGES IN THE MEETING: By unanimous consent, Commissioners Eckes, stern, Haggart, and Lodwick determined that Commission business requires the change in time for the meeting and directed the issuance of this notice at the earliest practicable time. There is no other change to the agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1461–83 Filed 10–12–83; 12:14 pm]

BILLING CODE 7020–02–M

VOL
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10

LEGAL SERVICES CORPORATION

Provision for the Delivery of Legal Services Committee Meeting

TIME AND DATE: 10 a.m. to 1 p.m., Thursday, October 20, 1983.

PLACE: GSA Central Office Auditorium, 18th and F Streets NW., Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Reginald Heber Smith Community Lawyers Fellowship Program.
3. Legal Clinics—Panel Discussion.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: October 12, 1983.

Donald P. Bogard,

President.

[S–1462–83 Filed 10–12–83; 2:35 pm]

BILLING CODE 6820–35–M

federal register

Friday
October 14, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication to the **Federal Register** are listed with each State.

Connecticut: CT83–3021	June 3, 1983.
Delaware: DE82–3015	June 4, 1982.
Massachusetts: MA83–3046	Sept. 23, 1983.
Montana: MT83–5101	Feb. 18, 1983.
Pennsylvania:	
PA81–3090	Dec. 18, 1981.
PA82–3007	Feb. 26, 1982
PA82–3010	Mar. 5, 1982.
Rhode Island: RI83–3042	Aug. 19, 1983.
South Carolina: SC80–1092	Aug. 22, 1980.
Utah: UT83–5120	Sepl. 30, 1983.
Virginia	
VA83–3029	Do.
VA83–3035	Do.
VA83–3036	Do.
VA83–3038	Do.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida: FL81–1252(FL83–1083)	June 26, 1981.
Pennsylvania: PA81–3051(PA83–3047)	Sep. 4, 1981.
Wisconsin:	
WI82–2017(WI83–2081)	Mar. 19, 1982.
WI82–2018(WI83–2082)	Do.
WI82–2021(WI83–2082)	Do.

Signed in Washington, D.C., this 7th day of October 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits	
DECISION NO. CT83-3021 - MOD. #6 (Cont'd)			
CHANGE: (Cont'd)			
PLUMBERS & STEAMFITTERS:			
Area 1	17.64	2.82	
Area 4	18.00	3.67+m	
Area 7	18.17	2.50	
Area 8	18.90	2.77+p	
Area 9	20.77	3.40+q	
Jobs bid with a total mechanical contract of $325,000 or less	15.58	3.40+q	
ROOFERS			
Area 2			
Composition	13.80	2.725	
Slate, tile	14.30	2.725	
SHEET METAL WORKERS:			
Area 1	17.69	1.64+	
		19.25%	
Area 2	17.10	4.08+%	
SPRINKLER FITTERS	18.95	4.23	
STEAMFITTERS:			
Area 1	18.20	4.16	

	Basic Hourly Rates	Fringe Benefits	
DECISION NO. DE82-3015 - MOD. #7 (47 FR 24526 - June 4, 1982)			
State of Delaware			
CHANGE:			
ROOFERS:			
Composition, damp & waterproofing	18.17	2.73+j	
Mechanic II - Handle and transport all materials tools, and equipment; clean-up debris	8.25	2.73+j	

	Basic Hourly Rates	Fringe Benefits	
DECISION NO. SC80-1092 - MOD. #1 (45 FR 56301 - August 22, 1980)			
Aiken, Allendale, Bamberg, Barnwell, Calhoun, Edgefield, Hampton and Orangeburg Counties, South Carolina			
OMIT:			
Hampton County			
DECISION NO. UT83-5120 - MOD. #1 (48 FR 44992 - Sept. 30, 1983)			
Statewide, Utah			
CHANGE:			
IRONWORKERS:			
Fence Erectors; Ornamental; Reinforcing; Structural	15.65	3.25	

	Basic Hourly Rates	Fringe Benefits	
DECISION NO. WI83-2074 - MOD. #1 (48 FR 43535 - Sept. 23, 1983)			
Ashland, Bayfield, and Douglas Co., Wisconsin			
CHANGE:			
CARPENTERS:			
Ashland County: Residential	10.36	2.35	

	Basic Hourly Rates	Fringe Benefits	
DECISION NO. RI83-3042 - MOD. #3 (48 FR 37809 - August 19, 1983)			
Statewide, Rhode Island			
CHANGE:			
BUILDING CONSTRUCTION:			
PAINTERS	16.08	2.33	
SPRINKLER FITTERS	18.46	3.16	

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits	
DECISION NO. CT83-3021 - MOD. #6 (48 FR 25090 - June 3, 1983)			
STATEWIDE			
CHANGE:			
ASBESTOS WORKERS	19.74	3.49	
Area 1	18.20	3.31	
Area 2	16.88	3.38	
Area 3	16.16	1.565+ 10%	
BOILERMAKERS			
BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS:			
BUILDING CONSTRUCTION	16.80	2.10+a	
Area 4			
HEAVY & HIGHWAY:			
Area 1	12.60	3.35	
Area 2	13.37	2.58	
Areas 3 & 4	13.60	2.35	
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; RESILIENT FLOOR LAYERS;			
BUILDING CONSTRUCTION:			
Area 1	15.00	1.80	
Area 2	14.73	1.80	
Area 3	15.05	2.30+ b+c	
Area 4	15.45	2.00	
Area 5	15.70	2.00	
Area 6	16.20	1.68	
Carpenters			
Millwrights			
HEAVY & HIGHWAY CONSTRUCTION:			
Areas 1 & 2	14.45	1.75+d	
Area 3	14.85	1.90+ c+d	
Area 4	14.80	1.95+d	
Area 5	13.95	1.90+d	
Area 6	15.10	1.68+d	
ELECTRICIANS	15.80	3.56+3%	
Area 5			
ELEVATOR CONSTRUCTORS:	18.01	3.00+ 2+g	
Elevator Constructors			
Helpers	12.61	3.00+ 2+g	
Probationary Helpers	9.005		
GLAZIERS	16.68	2.82+h	

	Basic Hourly Rates	Fringe Benefits	
LABORERS (BUILDING:			
Group 1	12.35	2.35	
Group 2	12.60	2.35	
Group 3	13.10	2.35	
Group 4	12.85	2.35	
Group 5	12.35	2.35	
LABORERS (HEAVY & HIGHWAY)			
Group 1	12.35	2.35	
Group 2	12.60	2.35	
Group 3	12.85	2.35	
Group 4	13.00	2.35	
PAINTERS			
Area 5:			
Brush, roller, tapers	15.60	1.95+i	
Vinyl & wall coverings	17.00	1.95+i	
Steel	17.40	1.95+i	
Epoxy	18.50	1.95+i	
Residential	13.40	1.95+i	
Area 6:	13.85	1.95+i	
Brush			
Paperhangers (except residential), tapers,	12.15	3.75	
Catalyzed-epoxy Spray	12.65	3.75	
Area 8:	18.225	3.75	
Brush, sandblasting	13.50	1.77	
Tapers	14.05	1.77	
Paperhangers	14.00	1.77	
Spray	16.15	1.77	
Structural steel	13.75	1.77	
Area 9:			
Brush	14.65	2.41	
Rollers	15.16	2.41	
Paperhangers, tapers, tips, structural steel, sandblasting, swing scaffold, window jacks, bosun chair, steam cleaning, sandblasting	15.65	2.41	
Project of $75,000 or less:			
Brush	13.65	2.41	
Rolling	14.15	2.41	
Spray	14.90	2.41	

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits
DECISION NO. MA83-3046 - MOD. #1 (48 FR 43524 - September 23, 1983) ESSEX, SUFFOLK, MIDDLESEX, NORFOLK, BRISTOL, PLYMOUTH, BARNSTABLE, DUKES AND NANTUCKET COUNTIES, MASS.		
CHANGE:		
ASBESTOS WORKERS	18.06	3.82
ELECTRICIANS		
Area 11	16.93	1.00+ 17.5%
ELEVATOR CONSTRUCTORS	19.31	3.00
ELEVATOR CONSTRUCTORS' HELPERS	13.52	3.00
ELEVATOR CONSTRUCTORS' PROBATIONARY HELPERS	9.655	
PAINTERS		
Area 3:		
Brush	16.08	3.15
Wall coverings	16.33	3.15
Spray; Sandblast	17.08	3.15
Steel	18.20	3.15
Repaint	13.67	3.15
Residential	12.06	3.15
PLUMBERS, PIPEFITTERS & STEAMFITTERS		
Area 1:		
Plumbers	18.48	4.60
Repairs: Replacing defective fixtures, appliances and defective piping, valves or fittings serving same (which means the fixtures and appliances in a single family house, one apartment, or not more than one group of fixtures in same building that tie into the same soil or waste stack. Replacing of piping limited to piping in the same immediate area of items served by the piping.)	17.50	4.60
SHEET METAL WORKERS		
Area 1	19.30	4.69
Residential	13.51	3.44
TRUCK DRIVERS (BUILDING, HEAVY & HIGHWAY):		
Class I	12.86	3.00+ a+f
Class II	13.03	3.00+ a+f
Class III	13.10	3.00+ a+f
Class IV	13.22	3.00+ a+f
Class V	13.32	3.00+ a+f
Class VI	13.61	3.00+ a+f
Class VII	13.90	3.00+ a+f
DECISION NO. MT83-5101 - MOD. #4 (48 FR 7370 - Feb. 18, 1983) Statewide, Montana		
Change:		
PLUMBERS:		
Area 2	17.45	2.42

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA81-3090 MOD. NO. 7 (46 FR 61813 - December 18, 1981) Lycoming County, Pennsylvania		
CHANGE:		
Asbestos Workers	$16.33	2.31
Ironworkers	17.265	3.745
DECISION NO. PA82-3007 MOD. NO. 17 (47 FR 8529 - February 26, 1982) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania		
CHANGE:		
Carpenters:		
Residential Under 4 stories Bucks, Delaware and Montgomery Counties	14.57	4.97
All other work	14.67	4.91
Lathers		
Zone 1	14.67	4.97
Millwrights	15.17	4.91
Electricians:		
Commercial		
Zone 5	13.59	1.89+3%
Zone 6	16.35	1.57+ 10%
Zone 8	17.77	.96+ 10%
DECISION NO. PA82-3010 MOD. NO. 8 (47 FR 9684 - March 5, 1982) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania		
CHANGE:		
Asbestos Workers:		
Clinton County	16.33	2.31
Ironworkers:		
Huntingdon & Mifflin Cos.	17.265	3.745
Line Construction:		
Clinton County		
Linemen, dynamite man, heavy equipment operators	15.64	.65+ 3-3/8%
Winch truck operators	10.94	.65+ 3-3/8%
Groundman	10.46	.65+ 3-3/8%
Roofers:		
Clinton County:		
Composition and Kettleman	14.55	2.10
Sheet metal workers		
Clinton County	13.92	2.00[8]

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits
DECISION NO. VA83-3038- MOD. # 1 (48 FR 45002-SEPTEMBER 30, 1983) THE INDEPENDENT CITIES OF CHESAPEAKE, HAMPTON, NEWPORT NEWS, NORFOLK, PORTSMOUTH, & VIRGINIA BEACH		
DELETE: PAINTER		
DECISION NO. VA83-3029- MOD. # 1 (48 FR 45000-SEPTEMBER 30, 1983) BEDFORD, BOTETOURT, CARROLL, CRAIG, FLOYD, FRANKLIN, GILES, HENRY, MONTGOMERY, PATRICK, PULASKI, & ROANOKE. THE CITIES OF BEDFORD, GALAX, MARTINSVILLE, RADFORD, RADFORD, & SALEM		
ADD: TRANSIT MIX TRUCK DRIVER	$7.65	
DECISION NO. VA83-3036- MOD. # 1 (48 FR 45002-SEPTEMBER 30, 1983) ALLEGHANY, AUGUSTA, BATH, CLARKE, FREDERICK, HIGHLAND, PAGE, ROCKBRIDGE, ROCKINGHAM SHENANDOAH, & WARREN		
ADD: LANDSCAPE WORKER	6.91	
DECISION NO. VA83-3035- MOD. #1 (48 FR 45001-SEPTEMBER 30, 1983) ALBEMARLE, FAUQUIER, FLUVANNA, GREENE, LOUDOUN, LOUISA, MADISON, ORANGE, PRINCE WILLIAM, & RAPPAHANNOCK		
DELETE: FORM SETTER	5.63	

SUPERSEDEAS DECISION

STATE: FLORIDA

COUNTIES: BAY, ESCAMBIA, OKALOOSA, SANTA ROSA, & WALTON

DECISION NUMBER: FL83-1083 DATE: DATE OF PUBLICATION

Supersedes Decision No.: FL81-1252 dated June 26, 1981 in 46 FR 33179.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS--Consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 6.84	
BRICKLAYERS	8.30	
CARPENTERS	6.23	
CEMENT MASONS	7.23	
DRYWALL FINISHERS	8.78	
DRYWALL HANGERS	8.68	
ELECTRICIANS	7.01	
INSULATORS--Batt	4.47	
INSULATORS--Blown	4.69	
LABORERS, General	4.27	
LATHERS	8.00	
PAINTERS	6.27	
PLASTERERS	12.00	
PLUMBERS & PIPEFITTERS	6.93	
ROOFERS	5.58	
SHEET METAL WORKERS	5.50	
SOFT FLOOR LAYERS	$ 7.78	
TILE SETTERS	7.19	
TRUCK DRIVERS	4.27	
WELDERS-Receive rate prescribed for craft for which welding is incidental.		
POWER EQUIPMENT OPERATORS:		
Backhoe	6.05	
Bulldozer	5.00	
Crane	6.75	
Forklift	5.50	
Front End Loader	4.72	
Grader	5.04	
Fan	4.75	
Paver	4.98	
Roller	5.34	
Tractor	5.00	

Dolleted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

UMI 1983 OC 14 VOL 48 ISS 200 0

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Luzerne
DECISION NUMBER: PA83-3047 DATE: Date of Publication
Supersedes Decision No. PA81-3051 dated September 4, 1981, in 46 FR 44653.
DESCRIPTION OF WORK: Building Construction, including single family homes and apartments up to and including 4 stories, excluding Sewage and Water Treatment plant projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.33	2.31
BOILERMAKERS	19.33	2.415
BRICKLAYERS: Stonemasons: Rescopeck, Hollenback and Salem Townships	13.85	1.86
Remainder of County	15.70	2.00
CARPENTERS: Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf and lower part of Salem Twps.	14.40	2.25
Remainder of County	14.99	2.25
CEMENT MASONS: Pittston, Yatesville, Laflin, Exeter Wyoming, Duryea and Avoca	15.65	
All North of Hazleton, extending half-way between Wilkes-Barre and Hazleton, Harleigh, Jeddo, Cranberry; Foster Twps., Butler Twps., Dennison Twps., Sugarloaf Twps., Conyngham, Drums, S. Johns, Borough of Freeland & White Haven, Banks Twps; Beaver Meadows, Treskow, Jeansville & Auden ried	13.50	.01
Remainder of County	12.78	
ELECTRICIANS: That portion east of a line following the Susquehanna River south to the City of Pittston, east & south on the limits of Pittston but excluding it, to U. S. Highway 11, east on 11 to Dupont Borough & Highway 215, and southeast on 215. Also that portion of Luzerne County south and east of a line following the Thornhurst Road, southwest to State Highway 115 and southeast on 115 to the Monroe County line.		
Zone A - From 20 to 30 miles from zero milestone marker	15.50	3.00+ 3%
Zone B - All distance beyond 30 miles	16.00	3.00+ 3%
Hazleton, Nescopeck, Hollenbach, Black Creek, Sugar Loaf, Hazle, Butler, Foster Twps., and the Borough of White Haven in their entirety and that portion of Dennison Twp., south and west of the Central Railroad of New Jersey line between Wright Township and White Haven	14.92	2.20+ 3%+a
Remainder of County	15.99	2.33+ 3%
ELEVATOR CONSTRUCTORS	15.60	3.00+ c+d
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	3.00+ c+d
ELEVATOR CONSTRUCTORS' (PROB.)	50%JR	
GLAZIERS	13.04	2.90
IRONWORKERS: Structural & Ornamental Reinforcing	17.85 17.75	.10+e .10+e
LABORERS: Hazleton: Laborers	10.19	2.60
Mason tenders including scaffold builders	10.59	2.60

DECISION NO. PA83-3047

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D) Pneumatic, electric and mechanical tool operators 2" pumps - non-metallic pipelaying and making joint clay, terra cotta, ironstone vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blasters' helpers, Power buggies, walk along hoist	10.29	2.60
Plasterers' tenders, blasters, and wagon drill operators	10.44	2.60
Remainder of County: Building Unskilled Laborers	12.87	2.60
Semi skilled laborers, pneumatic and other mechanical tool operators; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason; non-mentallic pipelayer & making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material, cement finishers and blasters' helpers	13.07	2.60
Plasterers' tenders, blaster, wagon drill operators	13.19	2.60
Mason tender and scaffold builders	13.27	2.60
LATHERS: Pittston, Avoca, Dupont & Duryea	12.04	.11
Remainder of County	14.99	2.25
LEADBURNERS	10.75	.66+f
LINE CONSTRUCTION: Linemen, Dynamitemen, Heavy equipment operator	15.64	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
Winch truck driver	10.94	.65+ 3 3/8%
MARBLE SETTERS: Pittston & Hazleton	12.80	
Remainder of County	13.80	.95
MILLWRIGHTS	16.57	2.25
PAINTERS: Pittston: Brush and Roller	13.90	1.20
Structural Steel	14.90	1.20
Remainder of County: Brush	12.55	2.35
Tapers	13.21	2.35
Hazardous	14.21	2.35
PILEDRIVERMEN	14.82	6.16+ g
PLASTERERS: Hazleton	13.50	.01
Pittston, Yatesville, Laflin, Exeter, Wyoming, Duryea and Avoca	13.50	.01
Remainder of County	12.78	
PLUMBERS	15.24	3.95
POWER EQUIPMENT OPERATORS: Group 1	16.24	22.6% +a
Group 2	15.95	"
Group 3	15.07	"
Group 4	14.30	"
Group 5	13.82	"
Group 6	12.90	"
Group 7	16.49	"
Group 7-A	16.74	"
Group 7-B	16.99	"

DECISION NO. PA83-3047

	Basic Hourly Rates	Fringe Benefits
ROOFERS: Roofers, Composition and Kettlemen	14.55	2.10
SHEET METAL WORKERS	15.92	1.96
SOFT FLOOR LAYER	11.94	2.25
STEAMFITTERS	14.79	4.35
SPRINKLER FITTERS	16.92	3.23
TRUCK DRIVERS: Pittston: Class 1	11.82	
Class 2	11.89	
Class 3	12.38	
Remainder of County: Pickup, service dump and flat including 2 license	8.07	h+j
All trucks over 2 license	8.12	h+j
Fork lifts; Tow motors; tired loaders	8.08	h+j
WELDERS: Receive rate for craft		

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

GROUP 1 - Machines doing hook work; any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to above

GROUP 2 - All types of Cranes & backhoes; Cableways; Draglines; Keystones; All types of shovels; Derricks; Trench Shovels; Trenching machines; Hoists with two towers; Pavers, 21E & over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All Front end loaders, 3½ cu. yds. & over; Tandem scrapers; pippin type backhoes; Boat captains; Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift & over; Machines similar to above

GROUP 3 - Conveyors; Building hoists (single drum); Scrapers & Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers & tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 3½ cu. yds.; Mechanic-welder; Motor patrols; Driller helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machines similar to above.

GROUP 4 - Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line graders; Fine grade machines; Road finishing machines; Concrete breaking machines; rollers; seaman pulverizer mixer; power brooms; seeding spreaders; fireman (for power equipment); machines similar to above

GROUP 5 - Fireman, Grease truck

GROUP 6 - Oilers & deck hands (personnel boats); Core drill helper

GROUP 7 - All Machines with booms (including jib, masts, leads, etc.); 100 ft and over

GROUP 7-A - 150 ft and over

GROUP 7-B - 200 ft and over

DECISION NO. PA83-3047

TRUCK DRIVER CLASSIFICATIONS
PITTSTON

Class 1: Helper; Stake body truck (single axle dumpster)

Class 2: Dump trucks; Tandem and batch trucks; Semi-trailers; Agitator mixer trucks; Ready mix and dumpcrete type vehicles asphalt distributors; farm tractor when used for transportation; stake body truck (tandem)

Class 3: Euclids type; Off-highway equipment - back or belly dump trucks and double-hitched equipment; Straddle (Rosa Carrier); Low-bed trailers

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: C, D, E and Good Friday.

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

e. Employer contributes $3.70 per hour to Health and Welfare and Pension Fund.

f. Paid Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

h. $41.00 per month for employees who have worked 60 hours or more during the month.

j. $25.00 per month for employees employed for over 13 weeks.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

UMI 1983 OCT 14 00 2 ISS 48 VOL

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Greene Lake, Marquette, Waupaca, Waushara, & Winnebago

DECISION NO.: WI83-2081

DATE: Date of Publication

Supersedes Decision No.: WI82-2017 dated March 19, 1982 in 47 FR 12031

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS (except Marquette Co.)	$17.56	1.80
Marquette County	17.10	2.94
BOILERMAKERS	16.12	2.825
BRICKLAYERS & STONEMASONS	12.75	2.09
CARPENTERS & SOFT FLOOR LAYERS	13.66	2.11
CEMENT MASONS	12.25	2.09
ELECTRICIANS (all but lower part of Marquette and Green Lake Cos.	15.45	1.55 + 6%
Southern Parts of Green Lake & Marquette Cos.	15.54	1.33+ 12 3/4%
ELEVATOR CONSTRUCTORS:		
Constructors	17.125	2.69
Helpers	11.99	2.69
Helpers (Prob.)	8.56	
IRONWORKERS:		
Extreme East Part of Co. Including Lake, Winnebago, Menasha, & Neenah Counties	14.81	5.55
Remainder of Counties	14.08	2.95
LATHERS	12.61	3.16
MILLWRIGHTS & PILEDRIVERMEN	14.06	2.11
PAINTERS:		
Brush & Structural Steel	13.35	1.55
Spray & Sandblasting	14.10	1.55
PLASTERERS	12.75	2.15
PLUMBERS:		
Waupaca & Townships of Menasha & Neenah	17.45	2.90
Marquette County	13.55	2.95
Remainder of Counties	13.72	4.36
ROOFERS	12.40	1.70
SHEET METAL WORKERS	13.66	5.37
TILE SETTERS & TERRAZZO MECHANICS	12.75	2.15
LABORERS:		
General	11.03	1.43
Plaster Tenders	11.13	1.43
Jackhammer	11.28	1.43
POWER EQUIPMENT OPERATORS:		
Group 1	15.22	2.90
Group 2	14.92	2.90
Group 3	14.56	2.90
Group 4	14.44	2.90
Group 5	13.88	2.90
Group 6	13.41	2.90

DECISION NO. WI83-2081 Page 2

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Hydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (Well Points), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Rammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Aphalt Plants), Air Compressor (300 CFR or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under): Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTY: Juneau

DECISION NUMBER: WI83-2082

DATE: Date of Publication

Supersedes Decision No. WI82-2018, dated March 19, 1982 in 47 FR 12033

DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.10	2.94
BOILERMAKERS	16.12	2.825
BRICKLAYERS	15.18	3.95
CARPENTERS:		
South of HWY #21 & East of County Trunk #80:		
Carpenters and Soft Floor Layers	13.66	2.11
Millwrights & Pile-drivermen	14.06	2.11
Camp Douglad, Huster, Elroy & Vic.:		
Carpenters and Soft Floor Layers	13.66	2.11
Millwrights & Pile-drivermen	14.06	2.11
N. E. Section of County above Camp Douglas:		
Carpenters & Soft Floor Layers	13.66	2.11
Millwrights & Pile-drivermen	14.06	2.11
CEMENT MASONS	14.38	1.50
ELECTRICIANS	15.13	.75+ 11½%
ELEVATOR CONSTRUCTORS:		
Constructors	15.22	2.465
Helpers	10.65	2.465
Helpers (Prob.)	7.61	
GLAZIERS	15.08	1.58
IRONWORKERS	14.08	2.95
LABORERS:		
General	11.62	1.43
Mortar Mixer	11.77	1.43
Jackhammer Operator	11.77	1.43
LATHERS	13.76	1.91
PAINTERS:		
Brush	12.53	1.00
Structural Steel	12.80	1.00
Swing Stage	12.85	1.00
PLASTERERS	13.08	.90
PLUMBERS & STEAMFITTERS	16.75	2.50
ROOFERS	13.00	
SHEET METAL WORKERS	14.41	1.56
TILE SETTERS	13.75	1.60
POWER EQUIPMENT OPERATORS:		
Group 1	15.22	2.90
Group 2	14.92	2.90
Group 3	14.56	2.90
Group 4	14.44	2.90
Group 5	13.88	2.90
Group 6	13.41	2.90

DECISION NO. WI83-2082 Page 2

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Hydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (Well Points), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Rammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Aphalt Plants), Air Compressor (300 CFR or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Gresser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

VOL
48
ISS
2
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14
1983
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DECISION NO. WI83-2083 Page 2

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Hydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (D-6), Front-loader (over 40 H.P.), Forklift (25' and over), Motor Patrol, End-Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Plant Operator, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P. Pumpcrete), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete Pump Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Asphalt Plants), Air Compressor (300 CFM or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontally), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Silo Jacks), Concrete Saws, Electric Machines, Heaters (mechanical), Tarpaulin Operators, Compressors (under 300 CFM); Welding Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the Labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: La Crosse, Monroe, & Vernon

DECISION NUMBER WI83-2083

Supersedes Decision No. WI82-2021 dated March 19, 1982, in 47 FR 12034

DESCRIPTION OF WORK: Building Construction and Residential Construction in La Crosse County Only

DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.10	2.94
BOILERMAKERS	16.12	2.825
BRICKLAYERS	15.05	1.60
CARPENTERS	13.66	2.11
Millwrights & Pile-driverman	14.06	2.11
CEMENT MASONS	14.38	1.50
ELECTRICIANS	15.79	1.55 + 3%
ELEVATOR CONSTRUCTORS:		
Constructors	15.03	2.69
Helper	10.52	2.69
Helper (Prob.)	7.515	
GLAZIERS	13.99	1.58
IRONWORKERS: (A. Bridges & N.W. corner of County)	14.08	2.95
LABORERS:		
General, Mason Tenders	11.62	1.43
Mortar Mixers, Air Hammer Operator, Air Spade Operator, & Jack Hammer Operator	11.77	1.43
LATHERS	13.25	1.51
PAINTERS:		
Brush	12.53	1.00
Structural Steel	12.80	1.00
Spray & Sandblaster	13.22	1.00
PLASTERERS	13.08	.90
PLUMBERS & STEAMFITTERS	16.75	2.50
ROOFERS	14.27	
SHEET METAL WORKERS	14.41	1.56
SOFT FLOOR LAYERS	12.61	3.16
TERRAZZO MECHANIC & TILE SETTERS	13.75	1.60
TRUCK DRIVERS:		
Dump Truck	10.27	a

Footnotes:
a. to read $152.74 per month Health & Welfare

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	15.22	2.90
Group 2	14.92	2.90
Group 3	14.56	2.90
Group 4	14.44	2.90
Group 5	13.88	2.90
Group 6	13.41	2.90

[FR Doc 83-27866 Filed 10-13-83; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
October 14, 1983

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under Natural Gas Policy Act of 1978

VOL
48
ISS
2
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OC
14
1983
UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 980]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 7, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
DATE ISSUED OCTOBER 7, 1983

VOLUME 980

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMAREX INC				RECEIVED:	09/16/83	JA: LA			
8355893	83-0619	1703320152		107-DP		EISWORTH #1	COMITE	1697.0	TRANSCONTINENTAL
-AMERADA HESS CORPORATION				RECEIVED:	09/16/83	JA: LA	LELEUX	1095.0	
8355886	83-1223	1711321197		107-DP		SARVER #1 MT-3 RD SUA			
-AMOCO PRODUCTION CO				RECEIVED:	09/16/83	JA: LA	SOUTH THORNWELL	1095.0	COLUMBIA GAS TRAN
8355876	82-2246	1702321656		103		LACASSANE "A" #8	SCHWAB	2920.0	COLUMBIA GAS TRAN
8355895	83-0636	1707720282		107-DP		RAVENSWOOD CO INC #3	WEST HACKBERRY	18.0	VALLEY GAS TRANSM
8355875	82-2230	1702321631		103		STATE LEASE 42 #170 WH HF CAM C NVU	WEST HACKBERRY	350.0	VALLEY GAS TRANSM
8355872	82-2122	1702321656		103		STATE LEASE 42 #175 WH HF CAM C SU	SOUTH JENNINGS	730.0	UNITED GAS PIPELI
8355801	82-2071	1705320708		103		W E WALKER WELL #13 SJ U SU			
-ANDERSON OIL CO INC				RECEIVED:	09/16/83	JA: LA	CHOUDRANT	219.0	TEXAS EASTERN TRA
8355863	83-358	1706120350		102-4	103	PIPES #1 7250 HOSS RA SUA			
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/16/83	JA: LA	SPANISH LAKE	275.0	
8355885	83-1224	1707522967		107-DP		DELACROIX CORP "A" #3			
-ARKLA EXPLORATION COMPANY				RECEIVED:	09/16/83	JA: LA	MONROE	7.0	ARKANSAS LOUISIAN
8355919	83-0936	1711123974		103		FROST LUMBER #23	MONROE	7.0	ARKANSAS LOUISIAN
8355807	83-0937	1711123977		103		FROST LUMBER #26	MONROE	7.0	ARKANSAS LOUISIAN
8355920	83-0933	1711123973		103		FROST LUMBER CO #22	MONROE	8.0	ARKANSAS LOUISIAN
8355791	83-0935	1711123975		103		FROST LUMBER CO #24	MONROE	7.0	ARKANSAS LOUISIAN
8355790	83-0936	1711123976		103		FROST LUMBER CO #25	MONROE	55.0	ARKANSAS LOUISIAN
8355855	83-0930	1711123968		103		FROST LUMBER CO #27	MONROE	8.0	ARKANSAS LOUISIAN
8355794	83-0931	1711123967		103		FROST LUMBER COMPANY #20	MONROE	8.0	ARKANSAS LOUISIAN
8355793	83-0932	1711123972		103		FROST LUMBER COMPANY #21	MONROE	8.0	ARKANSAS LOUISIAN
-BROWN OPERATING & MANAGEMENT CORP				RECEIVED:	09/16/83	JA: LA			
8355792	83-0940	1707722419		108		CECIL BARLOW #2 SERIAL #157649	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8355864	83-0947	1707722415		108		CECIL BARLOW #3 SERIAL #157650	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8355865	83-0946	1707722416		108		CECIL BARLOW #4 SERIAL #157651	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8355909	83-0943	1707722327		108		J BARLOW #2 SERIAL #156763	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8355910	83-0942	1707722328		108		J BARLOW #3 SERIAL #156764	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8355911	83-0941	1707722329		108		J BARLOW #4 SERIAL #156765	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8355867	83-0944	1707722815		108		JOEL BROWN FEE #10 SERIAL #162422	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8355866	83-0945	1707722790		108		JOEL BROWN FEE #5 SERIAL #162211	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
-CALDWELL WALTER M III				RECEIVED:	09/16/83	JA: LA			
8355824	83-822	1707320791		103	108	CALDWELL #1 152760	MONROE GAS ROCK	4.4	MID LOUISIANA GAS
-CHEVRON U S A INC				RECEIVED:	09/16/83	JA: LA			
8355896	83-0643	1707720231		107-DP		L J HARLAUX #1 18100 TUSC RA SUK	MOORE-SAMS	73.0	TEXAS EASTERN TRA
-CONOCO INC				RECEIVED:	09/16/83	JA: LA			
8355922	82-3744	1707520270		102-4		S/L 978 WELL #44	WEST DELTA BLOCK 53	400.0	TENNESSEE GAS PIP
8355806	82-2539	1707520273		102-4		S/L 979 W D BLK 56 #24	WEST DELTA BLOCK 53	900.0	TENNESSEE GAS PIP
8355918	82-3745	1707520272		102-4		S/L 979 WD BLK 53 WELL #23	WEST DELTA BLOCK 53	600.0	TENNESSEE GAS PIP
-DELTA ENERGY RESOURCES INC				RECEIVED:	09/16/83	JA: LA	SOUTH IOWA	0.0	TENNESSEE GAS PIP
8355857	82-2074	1701921058		103		PHILLIP W ST ROMAIN #1			
-EDWIN L & BERRY R COX				RECEIVED:	09/16/83	JA: LA	ELLIS	360.0	LOUISIANA GAS SYS
8355896	83-0634	1700120764		102-4		MENSGEMS #1 BATH-3 RA SUA			
-ERGON INC				RECEIVED:	09/16/83	JA: LA	MONROE	11.1	TEXAS GAS TRANSMI
8355808	83-845	1711124003		103	107-TF	J SAVAGE #1 VUQQ			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8355917	83-867	1711122555		103	107-TF	JAMES K AULDS #1	MONROE	9.0	TEXAS GAS TRANSMI
8355916	83-848	1711123832		103	107-TF	JAMES K AULDS #2	MONROE	7.0	TEXAS GAS TRANSMI
8355915	83-849	1711124001		103	107-TF	JAMES K AULDS #3	MONROE	8.1	TEXAS GAS TRANSMI
8355914	83-850	1711124004		103	107-TF	MAE AULDS #1	MONROE	6.8	TEXAS GAS TRANSMI
8355878	83-853	1711123991		103	107-TF	D & HICKS ESTATE #1	MONROE	11.7	TEXAS GAS TRANSMI
-EXXON CORPORATION				RECEIVED:	09/16/83	JA: LA			
8355898	82-1141	1710922526		103		LATERRE CD INC #40	LIRETTE	70.0	COLUMBIA GAS TRAN
-FRANKS & BASS ETAL				RECEIVED:	09/16/83	JA: LA			
8355819	82-3194	1706120175		102-4		B R PESNELL #1 PESNELL RA SUA	UNIONVILLE	270.0	MANVILLE FOREST P
8355804	82-3175	1706120286		102-4		M B GILL EST A #2	UNIONVILLE	8.0	MANVILLE FOREST P
8355820	82-3180	1706120286		102-4		M B GILL EST A #2-D	UNIONVILLE	8.0	MANVILLE FOREST P
8355873	82-0456	1706120214		102-4		T L JAMES A1-D CVD RA SUA	UNIONVILLE	600.0	MANVILLE FOREST P
-FRANKS & PETROFUNDS INC				RECEIVED:	09/16/83	JA: LA			
8355888	82-1373	1701320528		103		DAVIS BROS LBR CO J #1 U PET SUJ	WEST BRYCELAND	365.0	UNITED GAS PIPELI
8355887	83-1222	1701320548		103		THURMOND EST #1 HOSS A SUO	WEST BRYCELAND	386.0	UNITED GAS PIPELI
-FRANKS PETROLEUM INC				RECEIVED:	09/16/83	JA: LA			
8355921	82-0612	1706120185		102-2		J A,RAOB #1 L CV RA SUA	CHOUDRANT	47.0	LOUISIANA GAS PUR
-FRANKS PETROLEUM INC ETAL				RECEIVED:	09/16/83	JA: LA			
8355889	82-1142	1701320381		103		C M CARTER #1 VUA	WEST BRYCELAND	511.0	LOUISIANA GAS INT
8355837	83-0730	1707321055		102-2		E J JOSEPH JR #1 GR RA SUE	PETTICOAT BAYOU	0.0	TEXAS GAS TRANSMI
8355876	82-2159	1702321542		102-2		MUNEZ #1 ROB CHAM RA SUA	GRAND CHENIERE	450.0	UNITED GAS PIPELI
8355878	83-1221	1701320546		103		W D ROBERSON C #1-ALT HOSS B SUU	WEST BRYCELAND	0.0	LOUISIANA GAS PUR
-GATOR HAWK GAS CO				RECEIVED:	09/16/83	JA: LA			
8355821	83-0844	1711123711		108		MO PAC R R CO #18	MONROE	0.0	CUSTER K PRIMOS
-GETTY OIL COMPANY				RECEIVED:	09/16/83	JA: LA			
8355892	83-0685	1703108418		108		THELMA WASH #1 (#032890) PET SUV	LOGANSPORT	12.0	TENNESSEE GAS PIP
-GOLDKING PRODUCTION COMPANY				RECEIVED:	09/16/83	JA: LA			
8355923	83-1356	1710120532		102-3		SHERROD M JONES #1	EAST LONGVILLE	807.0	TRUNKLINE GAS CO
8355925	83-1344	1710121226		102-3		SL 8808 #1	W TURNPOINT	0.0	LOUISIANA INTRAST
8355924	83-1345	1710121226		102-3		SL 8808 #1-D	W TURNPOINT	0.0	LOUISIANA INTRAST
8355879	83-1343	1710121226		102-3		SL 8808 #1-T	W TURNPOINT	0.0	LOUISIANA INTRAST
-GREAT SOUTHERN OIL & GAS CO INC				RECEIVED:	09/16/83	JA: LA			
8355868	82-2146	1701920855		103		ARTHUR HOLLINS III #1	SOUTH LAKE CHARLES	27.0	UNITED GAS PIPELI
-GULF OIL CORPORATION				RECEIVED:	09/16/83	JA: LA			
8355787	82-0293	1707522763		103		J G TIMOLAT "B" 147 WB 6B (RG) SU	WEST BAY	11.0	TEXAS EASTERN TRA
8355912	82-0296	1707522797		103		J G TIMOLAT "B" 150 WB 6B (RG) SU	WEST BAY	73.0	TEXAS EASTERN TRA
8355786	82-0292	1707522759		103		J O TIMOLAT B 146 WB 6B (RG) SU	WEST BAY	38.0	TEXAS EASTERN TRA
8355788	82-0294	1707522764		103		J G TIMOLAT B 148 WB 6B (RG) SU	WEST BAY	146.0	TEXAS EASTERN TRA
8355891	82-0836	1705721845		103		S L PP 192 0285 TB D-6 RA SU	TIMBALIER BAY	77.0	TENNESSEE GAS PIP
8355869	82-0411	1707522750		103		S L 195 OG WELL #98	WEST BLACK BAY	24.5	SOUTHERN NATURAL
-KERR-MCGEE CORPORATION				RECEIVED:	09/16/83	JA: LA			
8355926	82-2053	1707520202		103		S L 1227 82-1D	BRETON SOUND BLOCK 32	912.5	SOUTHERN NATURAL
8355868	82-0317	1707520245		103		S L 2326 845-D BRS 20 5800' RA SU	BRETON SOUND BLOCK 20	2.0	SOUTHERN NATURAL
-LOCK ARBOR PRODUCTION CO				RECEIVED:	09/16/83	JA: LA			
8355826	83-820	1707321956		103	108	SMITH #22	MONROE	9.0	UNITED GAS PIPE L
-LOUISIANA LAND & EXPLORATION CO				RECEIVED:	09/16/83	JA: LA			
8355858	82-2138	1702321639		103		ESTATE DR M D MILLER #2-D	SOUTH GRAND CHENIERE	414.1	TENNESSEE GAS PIP
-LUFFEY GAS CORP				RECEIVED:	09/16/83	JA: LA			
8355880	83-1232	1711123930		103	107-TF	B F HAYES JR #1	MONROE	9.0	WEST MONROE GAS G
-M & M RENTALS				RECEIVED:	09/16/83	JA: LA			
8355823	83-825	1711123928		103	108	FROST LUMBER IND INC #2	MONROE	14.6	PETRO LEWIS CORP
-MAY PETROLEUM INC				RECEIVED:	09/16/83	JA: LA			
8355883	83-1229	1704520703		103		AVERY ISLAND INC #3 (176685)	AVERY ISLAND	73.0	MONTEREY PIPELINE
8355844	83-0664	1703121918		102-4		FORD "A" 1-ALT (180899) ROD RA SU D	BETHANY LONGSTREET	365.0	ARKANSAS LOUISIAN
8355882	83-1230	1705520243		102-4		L BOUDREAUX #1 BOL MEX 2 RA SUA	SCOTT	365.0	
8355843	83-0663	1705121911		102-4		LELA MPS "A" #1 180849 ROD SU K	BETHAN LONGSTREET	182.5	ARKANSAS LOUISIAN
8355881	83-1231	1705520161		103		M E MCCONNELL #1 (168981)	DUSON	365.0	TRANSCONTINENTAL
8355871	83-1007	1705520173		103		M E MCCONNELL #2 DISC SUA	DUSON	182.5	TRANSCONTENTAL GA
8355897	83-0647	1705520196		103		M E MCCONNELL #3 (168573)	DUSON	1095.0	TRANSCONTINENTAL
8355803	82-2967	1705120454		108		OLINKRAFT #1 (146224) CV RA SUII	CASPIANA	16.2	ARKANSAS LOUISIAN
8355886	83-1228	1703121771		103		WILSON "B" #1 HOSS T RA SU W	BETHANY LONGSTREET	365.0	ARKANSAS LOUISIAN
-MID LOUISIANA GAS COMPANY				RECEIVED:	09/16/83	JA: LA			
8355838	83-0816	1711122749		108		MLGC FEE GAS #1008	MONROE GAS FIELD	21.2	MID LOUISIANA GAS
8355868	83-0815	1711122750		108		MLGC FEE GAS #1001	MONROE GAS FIELD	15.9	MID LOUISIANA GAS
8355816	83-0789	1707321791		108		MLGC FEE GAS #1086	MONROE GAS FIELD	21.6	MID LOUISIANA GAS
8355797	83-0790	1707321795		108		MLGC FEE GAS #1098	MONROE GAS FIELD	19.9	MID LOUISIANA GAS
8355798	83-0791	1711123592		108		MLGC FEE GAS #1116	MONROE GAS FIELD	18.9	MID LOUISIANA GAS
8355901	83-0798	1711123617		108		MLGC FEE GAS #1122	MONROE GAS FIELD	20.6	MID LOUISIANA GAS
8355902	83-0799	1711123653		108		MLGC FEE GAS #1124	MONROE GAS FIELD	20.1	MID LOUISIANA GAS
8355903	83-0800	1711123655		108		MLGC FEE GAS #1126	MONROE GAS FIELD	17.4	MID LOUISIANA GAS
8355904	83-0801	1711123656		108		MLGC FEE GAS #1127	MONROE GAS FIELD	20.6	MID LOUISIANA GAS
8355905	83-0802	1711123695		108		MLGC FEE GAS #1130	MONROE GAS FIELD	20.9	MID LOUISIANA GAS
8355906	83-0803	1711123664		108		MLGC FEE GAS #1131	MONROE GAS FIELD	13.4	MID LOUISIANA GAS
8355814	83-0795	1711123666		108		MLGC FEE GAS #1133	MONROE GAS FIELD	3.5	MID LOUISIANA GAS
8355799	83-0795	1711123666		108		MLGC FEE GAS #1135	MONROE GAS FIELD	3.5	MID LOUISIANA GAS
8355800	83-0796	1711123696		108		MLGC FEE GAS #1141	MONROE GAS FIELD	17.9	MID LOUISIANA GAS
8355899	83-0796	1711123727		108		MLGC FEE GAS #1143	MONROE GAS FIELD	6.1	MID LOUISIANA GAS
8355900	83-0797	1711123728		108		MLGC FEE GAS #1146	MONROE GAS FIELD	5.5	MID LOUISIANA GAS
8355817	83-0792	1711123730		108		MLGC FEE GAS #1146	MONROE GAS FIELD	16.6	MID LOUISIANA GAS
8355908	83-0783	1711123731		108		MLGC FEE GAS #1148	MONROE GAS FIELD	19.8	MID LOUISIANA GAS
8355849	83-0809	1711123732		108		MLGC FEE GAS #1149	MONROE GAS FIELD	10.4	MID LOUISIANA GAS
8355856	83-0810	1711123659		108		MLGC FEE GAS #1150	MONROE GAS FIELD	9.9	MID LOUISIANA GAS
8355853	83-0811	1711123683		108		MLGC FEE GAS #1151	MONROE GAS FIELD	12.5	MID LOUISIANA GAS
8355845	83-0812	1711123698		108		MLGC FEE GAS #1152	MONROE GAS FIELD	8.4	MID LOUISIANA GAS
8355846	83-0813	1711723700		108		MLGC FEE GAS #1154	MONROE GAS FIELD	16.6	MID LOUISIANA GAS
8355847	83-0814	1711123701		108		MLGC FEE GAS #1155	MONROE GAS FIELD	11.9	MID LOUISIANA GAS
8355850	83-0772	1711123780		108		MLGC FEE GAS #1167	MONROE GAS FIELD	16.5	MID LOUISIANA GAS
8355856	83-0785	1711123781		108		MLGC FEE GAS #1168	MONROE GAS FIELD	8.1	MID LOUISIANA GAS
8355831	83-0774	1711123784		108		MLGC FEE GAS #1171	MONROE GAS FIELD	7.5	MID LOUISIANA GAS
8355795	83-0786	1711123744		108		MLGC FEE GAS #1172	MONROE GAS FIELD	18.7	MID LOUISIANA GAS
8355796	83-0787	1711123739		108		MLGC FEE GAS #1174	MONROE GAS FIELD	12.3	MID LOUISIANA GAS
8355832	83-0775	1711123748		108		MLGC FEE GAS #1175	MONROE GAS FIELD	12.8	MID LOUISIANA GAS
8355833	83-0776	1711123741		108		MLGC FEE GAS #1176	MONROE GAS FIELD	9.4	MID LOUISIANA GAS
8355834	83-0777	1711123814		108		MLGC FEE GAS #1178	MONROE GAS FIELD	10.5	MID LOUISIANA GAS
8355828	83-0779	1711123815		108		MLGC FEE GAS #1180	MONROE GAS FIELD	21.3	MID LOUISIANA GAS
8355829	83-0780	1711123817		108		MLGC FEE GAS #1181	MONROE GAS FIELD	17.7	MID LOUISIANA GAS
8355907	83-0804	1711123830		108		MLGC FEE GAS #1187	MONROE GAS FIELD	4.7	MID LOUISIANA GAS
8355818	83-0805	1711123858		108		MLGC FEE GAS #1193	MONROE GAS FIELD	8.8	MID LOUISIANA GAS
8355850	83-0806	1711123860		108		MLGC FEE GAS #1195	MONROE GAS FIELD	8.4	MID LOUISIANA GAS
8355851	83-0807	1711123861		108		MLGC FEE GAS #1196	MONROE GAS FIELD	7.2	MID LOUISIANA GAS
8355852	83-0808	1711123868		108		MLGC FEE GAS #1199	MONROE GAS FIELD	16.6	MID LOUISIANA GAS
8355839	83-0819	1711122680		108		MLGC FEE GAS #957	MONROE GAS FIELD	18.7	MID LOUISIANA GAS
8355840	83-0818	1711122687		108		MLGC FEE GAS #964	MONROE GAS FIELD	18.2	MID LOUISIANA GAS
8355841	83-0817	1707521446		108		MLGC FEE GAS #970	MONROE GAS FIELD	21.7	MID LOUISIANA GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-MIDROC OPERATING CO				RECEIVED:	09/16/83	JA: LA
8355842	82-2826	1711122948		102-2		PRICE RA SU B DILLARD #1
-MOBIL OIL EXPLORATION & PROD S E				RECEIVED:	09/16/83	JA: LA
8355861	82-2265	1701921048		103		MATHILDA MILLER #75
-NOE & WOODS				RECEIVED:	09/16/83	JA: LA
8355815	83-0768	1711123492		108		UNION A #11
8355898	83-0769	1711123493		108		UNION A #12
8355835	83-0770	1711123522		108		UNION A #13
8355836	83-0771	1711123497		108		UNION FEE #9
-PETE CALDWELL DRLG CO INC				RECEIVED:	09/16/83	JA: LA
8355889	83-823	1707321686		103	108	JAMES & PENNY PATRICK #1
8355818	83-824	1707321816		103	108	JAMES L MCGUIRE #1
-PITTS OIL CO E DALLAS PROD INC				RECEIVED:	09/16/83	JA: LA
8355811	83-0827	1706120288		107-TF		MORRIS #1 WELL NAME CODE #607579
8355812	83-0828	1706120299		107-TF		WADE #1 WELL NAME CODE #605575
-PRIMOS PRODUCTION CO				RECEIVED:	09/16/83	JA: LA
8355877	83-0852	1711123778		103		MO PAC RR CO #43
-ROWE INC				RECEIVED:	09/16/83	JA: LA
8355813	83-851	1711124016		103	107-TF	NEWCOMB #1
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	09/16/83	JA: LA
8355842	82-0620	1701120611		103		LUTCHER-MOORE LOR CO #13
-TERRONNE PETROLEUM CORP				RECEIVED:	09/16/83	JA: LA
8355827	83-0778	1707320467		108		BRIGGS A #1 S/N 144387
-TOCE OIL COMPANY INC				RECEIVED:	09/16/83	JA: LA
8355805	82-2267	1701921103		103		J C NICKERSON FEE #1
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED:	09/16/83	JA: LA
8355815	82-2252	1700320236		103		J A BEL #2
-TWIN CITY GAS				RECEIVED:	09/16/83	JA: LA
8355822	83-826	1706721698		103	108	HART #1
8355825	83-821	1706721699		103	108	HART #3
-UNION DIVERSIFIED INC				RECEIVED:	09/16/83	JA: LA
8355789	83-0938	1711123958		107-TF		WHEELER ET AL #2
-VICTORIA LAND & INVESTMENT CO				RECEIVED:	09/16/83	JA: LA
8355859	82-2142	1701921031		103		E O DAUGHENBAUGH #4
-VIKING RESOURCES (LA)				RECEIVED:	09/16/83	JA: LA
8355802	83-0961	1711123754		108		UNION PRODUCING B #4

MONTANA BOARD OF OIL & GAS CONSERVATION -

-MIDLANDS GAS CORPORATION				RECEIVED:	09/19/83	JA: MT
8355982	11-82-292	2507121849		103		2933 SETZER 2
-MONTERREY PETROLEUM CORP				RECEIVED:	09/19/83	JA: MT
8355980	11-82-285	2507321605		102-2		BISHOP 4-2 - T26N-R2E
8355979	11-82-284	2501521535		102-2		HOLLANDSWORTH 1-15 - T27N-R3E
8355977	11-82-283	2501521583		102-2		MCLEAN 13-7 - T26N-R3E
-SOUTHLAND ROYALTY CO				RECEIVED:	09/19/83	JA: MT
8355985	11-82-291	2507121695		108		1-6-25NE
-TRICENTROL UNITED STATES INC				RECEIVED:	09/19/83	JA: MT
8355981	11-82-286	2500522165		102-4		BIEBINGER 13-16-T26N-R17E
8355984	11-82-288	2500522272		102-4		BOGGESS 1-13-T25N-R17E
8355986	11-82-290	2500522280		102-4		KANE 32-15-31-18
8355983	11-82-289	2500522279		102-4		KANE 5-8-T30N-R18E
8355978	11-82-287	2500522224		102-4		MORGAN 33-9-T25N-R10E

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-J C WELL CO INC				RECEIVED:	09/19/83	JA: NY
8356038	5572	3102913631		103		GIALLANZA #1

WEST VIRGINIA DEPARTMENT OF MINES

-ASHLAND EXPLORATION INC				RECEIVED:	09/16/83	JA: WV
8355966		4708100626		107-DV		BEDFORD LAND CO #20 - 896471
8355968		4703901707		108		BRIAR MTN COAL & COKE #5 - 030830
8355963		4701900141		108		EASTERN GAS & FUEL #36 - 038880
8355967		4701900161		108		EASTERN GAS & FUEL #49 - 042490
8355964		4703903518		108		EASTERN GAS & FUEL #66 - 088711
8355969		4705901055		107-DV		ELK CREEK COAL CO #23 - 896331
8355927		4700501397		107-DV		F W PRICHARD #4 - 095012
8355970		4701900129		108		J F B PEYTON #5 - 094181
8355931		4701900506		107-DV		J F B PEYTON #4 - 095242
8355928		4704700882		107-DV		LON B ROGERS #25 - 94931
8355965		4706500795		108		MCDONALD-ALTIZER #1 - 032760
8355929		4700501412		107-DV		PARDEE LAND CO #73 - 094311
8355930		4700501363		107-DV		SOUTHERN LAND CO #13 - 093682
-BEREA OIL AND GAS CORPORATION				RECEIVED:	09/19/83	JA: WV
8355999		4700121645		103		WARE #1
-CABOT OIL & GAS CORP				RECEIVED:	09/19/83	JA: WV
8355992		4707900541		107-DV		BLACK BETSY #6
8355996		4703901577		107-DV		S E CHILDRESS #1
8355997		4703901218		107-DV		SILER COAL & LAND #17
8355998		4703900223		107-DV		TOMPKINS #9
-CONTINENTAL PETROLEUM CO				RECEIVED:	09/16/83	JA: WV
8355943		4702103955		107-DV		BAME #1
8355940		4702103881		103		JONES #7-A
8355942		4702103881		107-DV		JONES #7-A
8355932		4702103880		107-DV		JONES #9-A
-FRANKLIN ADKINS				RECEIVED:	09/19/83	JA: WV
8355988		4709921776		108		JERRELL #2
8355989		4709921750		108		LENA FERGUSON #1
-HERITAGE GAS				RECEIVED:	09/19/83	JA: WV
8355990		4701500956		108		WELL #1
-J C BAKER AND SON INC				RECEIVED:	09/19/83	JA: WV
8355987		4700701682		108		BYRD & ROBINSON
-KENNETH DAVIS				RECEIVED:	09/19/83	JA: WV
8356037		4709921721		108		NANCY CAPEHART #1
-L & M PETROLEUM INC				RECEIVED:	09/16/83	JA: WV
8355934		4707321288		107-DV		CRAWFORD DELONG #1
8355935		4709520851		103		GRIFFIN/TAGGART #2
8355936		4709520877		103		MOORE/GRIFFIN #1
-NORMAN SLAUGHTER				RECEIVED:	09/19/83	JA: WV
8356036		4703501053		107-DV		E C RHODES #1
-NRM PETROLEUM CORPORATION				RECEIVED:	09/19/83	JA: WV
8356018		4709702383		103		BRACE #1

FIELD NAME	PROD	PURCHASER
STOWE CREEK	180.0	LOUISIANA GAS INT
LOCKPORT	142.0	UNITED GAS PIPE L
MONROE GAS	19.7	DEVON CORP
MONROE GAS	19.7	DEVON. CORP
MONROE GAS	19.5	DEVON CORP
MONROE GAS	19.0	DEVON CORP
MONROE GAS ROCK	7.3	MID LOUISIANA GAS
MONROE GAS	1.0	MID LOUISIANA GAS
CALHOUN	365.0	LOUISIANA GAS PUR
CALHOUN	365.0	LOUISIANA GAS PUR
MONROE	10.3	PETRO-LEWIS FUNDS
MONROE	0.0	WEST MONROE GAS G
SHOATS CREEK	95.0	TRUNKLINE GAS CO
MONROE	16.3	IMC EXPLORATION C
GILLIS ENGLISH BAYOU	500.0	
OBERLIN	53.0	UNITED GAS PIPELI
MONROE	0.0	LOUISIANA GAS SER
MONROE	1.0	LOUISIANA GAS SER
MONROE GAS	4.0	WEST MONROE GAS G
SOUTH MANCHESTER	0.0	UNITED GAS PIPE L
MONROE	10.0	PRIMOS PRODUCTION
BOWDOIN	72.0	KM ENERGY INC
WILDCAT	25.0	BANNATYNE GATHERI
WILDCAT	25.0	BANNATYNE GATHERI
WILDCAT	25.0	BANNATYNE GATHERI
BOWDOIN-SWANSON CREEK	17.0	MONTANA-DAKOTA UT
WILDCAT	2.5	NORTHERN NATURAL
HUEBSCHWERLEN UNIT	16.4	NORTHERN NATURAL
TIGER RIDGE UNIT	41.2	NORTHERN NATURAL
TIGER RIDGE UNIT	31.2	NORTHERN NATURAL
SHERARD UNIT	19.9	NORTHERN NATURAL
ALDEN - LANCASTER	9.0	NATIONAL FUEL GAS
PAINT CREEK	14.0	COLUMBIA GAS TRAN
PAINT CREEK	17.0	COLUMBIA GAS TRAN
PAINT CREEK	17.0	COLUMBIA GAS TRAN
PAINT CREEK	19.0	COLUMBIA GAS TRAN
PAINT CREEK	16.0	COLUMBIA GAS TRAN
LOGAN-WYOMING	14.0	CONSOLIDATED GAS
COAL RIVER	33.0	CONSOLIDATED GAS
PAINT CREEK	6.0	COLUMBIA GAS TRAN
PAINT CREEK	24.0	COLUMBIA GAS TRAN
VIRGINIA	190.0	CONSOLIDATED GAS
LOGAN-WYOMING	16.0	CONSOLIDATED GAS
LOGAN/WYOMING	14.0	CONSOLIDATED GAS
LOGAN WYOMING	5.0	
VALLEY	24.0	CONSOLIDATED GAS
POCATALICO	16.8	TENNESSEE GAS PIP
WATERSNED	15.0	TENNESSEE GAS PIP
WASHINGTON	8.0	TENNESSEE GAS PIP
MALDEN	3.0	TENNESSEE GAS PIP
GLENVILLE NORTH	30.0	COLUMBIA GAS TRAN
GLENVILLE NORTH	30.0	COLUMBIA GAS TRAN
GLENVILLE NORTH	30.0	COLUMBIA GAS TRAN
GLENVILLE NORTH	30.0	COLUMBIA GAS TRAN
LINCOLN	10.0	COLUMBIA GAS TRAN
LINCOLN	10.0	COLUMBIA GAS TRAN
OTTER	3.6	COLUMBIA GAS TRAN
SALT LICK DIST	10.0	CONSOLIDATED GAS
CENTRAL DIVISION	15.0	COLUMBIA GAS TRAN
FRENCH CREEK	10.0	
CENTERVILLE	10.0	COLUMBIA GAS TRAN
CENTERVILLE	10.0	COLUMBIA GAS TRAN
RIPLEY	20.0	COLUMBIA GAS TRAN
TALLMANSVILLE	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8355993		4709702379		103		FOSTER #1
8356021		4706306099		103		L & MOSS C #2
8356020		4709702841		103		MOLLIE MC COY #1 (2)
8356019		4709702844		103		TAYLOR #5
-PEAKE OPERATING CO				RECEIVED:	09/16/83	JA: WV
8355983		4708100574		102-4		CRAB ORCHARD #1-AC
-PETRO-LEWIS CORPORATION				RECEIVED:	09/16/83	JA: LA
8355941		4709701468		108		MINKLE "E" #1
8355944		4708301187		108		REGER 1-22
8355945		4708100275		108		MCDANIEL #1
8355946		4709700986		108		MOLLIE E GRIFFITH #1
8355947		4709701403		108		REGER "A"
8355948		4709701858		108		RUSSELL C JONES #1
8355939		4709701499		108		TKE J & J #1
8355949		4709701423		108		TKE KINCAID #1
8355950		4709701445		108		TKE SNREWE #1
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	09/16/83	JA: WV
8355958		4708100994		108		DOVE SHAFFER #1
8355952		4708505238		102-3		GLEN KERNS #1
8355957		4709100980		108		LAWLIS-LOAR #1
8355956		4708100988		108		LOAR LAWLIS #1
8355953		4708100817		108		M KRAGHT #1
8355938		4707301465		107-DV		M L SIMMINTON #1
8355961		4708505269		102-3		MATILDA WEST #1
8355951		4708505237		102-3		RALPH KUHN #1
8355960		4708505255		102-3		RALPH MAZE #1
8355959		4708505252		102-3		RALPH MAZE #4
8355954		4700101089		108		RYAN-ROBINSON #1
8355955		4700101119		108		WILSON-NICOLA #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/16/83	JA: WV
8355976		4706100322		108		RORY D #1
-QUAKER STATE OIL REFINING CORP				RECEIVED:	09/16/83	JA: WV
8355937		4703923811		103		J N CARTE #12
-QUAKER STATE OIL REFINING CORP				RECEIVED:	09/19/83	JA: WV
8356011		4703923856		103		C KAY #1
8356008		4703923850		103		H L PAXTON #1
8356007		4703923857		103		IVANA CO #1
8356009		4703923863		103		J A HOLT #1
8356004		4703923849		103		J C LARCH #2
8356001		4703923812		103		J N CARR #13
8356000		4703923813		103		J H COPENHAVER #17
8356005		4703923814		103		J H COPENHAVER #18
8356002		4703923821		103		JOHN RAY #3
8356003		4703923819		103		O GILBERT #15
8356006		4703923847		103		OPAL DICK #1
8356010		4703923841		103		W N WALKER #1
-R & R PETROLEUM INC				RECEIVED:	09/16/83	JA: WV
8355974		4700101683		103		GENEVA WARE #1
8355975		4704700885		102-2		GEORGIA PACIFIC #7
8355972		4704700885		103		GEORGIA PACIFIC #7
8355973		4708300407		103		KEELEY #5
8355971		4708300407		107-DV		KEELEY #5
-ROGERS & SCULL				RECEIVED:	09/19/83	JA: WV
8355991		4701303521		107-DV		RAYMOND LAUGHLIN #1
-ROYAL RESOURCES CORP				RECEIVED:	09/19/83	JA: WV
8356031		4700701505		108		BROWN G SINGLETON #1
8356027		4700701543		108		CONRAD #1B
8356028		4700701542		108		CONRAD #1F
8356029		4700701507		108		DUCKWORTH - BLAKE #1
8356035		4700701525		108		FISHER #1
8356030		4700701506		108		FLEMING #1
8356034		4700701498		108		JOHNSON #1
8356033		4700701499		108		KNICELY #1
8356032		4700701500		108		SQUIRES #2
-STONESTREET LANDS CO				RECEIVED:	09/16/83	JA: WV
8355962		4701303394		103		R L MAY #2-S-298
-STONESTREET LANDS CO				RECEIVED:	09/19/83	JA: WV
8356017		4701303429		103		BRANNON #1-S-311
8356013		4701303446		103		HILDRETH #2-S-364
8356012		4701303447		103		JUSTICE #1-S-365
8356026		4701303448		103		JUSTICE #2-S-366
8356014		4701303443		103		KING #3-S-361
8356025		4701303456		103		LANCASTER #1-S-326
8356024		4701303457		103		LANCASTER #2-S-327
8356016		4701303432		103		LLOYD GAINER #1-S-324
8356015		4701303436		103		LLOYD GAINER #4-S-335
8356022		4701303464		103		TANNER #1-S-328
8356023		4701303459		103		TANNER #1-S-329
-UNION DRILLING INC				RECEIVED:	09/19/83	JA: WV
8355994		4709702334		103		MARTIN ZICKEFOOSE #1-1750
-UNITED PETRO LTD				RECEIVED:	09/19/83	JA: WV
8355995		4701303564		103		L C SAMPSON #1

FIELD NAME	PROD	PURCHASER
TALLMANSVILLE	0.0	COLUMBIA GAS TRAN
CASSITY	0.0	COLUMBIA GAS TRAN
ALEXANDER	0.0	COLUMBIA GAS TRAN
ALEXANDER	0.0	COLUMBIA GAS TRAN
(TRAP HILL DISTRICT)	5.0	
UNION	0.2	PARTNERSHIP PROPE
UNION	2.6	PARTNERSHIP PROPE
UNION	4.3	PARTNERSHIP PROPE
UNION	9.0	PARTNERSHIP PROPE
UNION	11.5	PARTNERSHIP PROPE
UNION	1.6	PARTNERSHIP PROPE
UNION	1.9	PARTNERSHIP PROPE
UNION	4.5	PARTNERSHIP PROPE
UNION	1.8	PARTNERSHIP PROPE
TAYLOR DRAIN	43.0	CONSOLIDATED GAS
GRANT	113.0	CONSOLIDATED GAS
CLEMTOWN	17.3	CONSOLIDATED GAS
CLEMTOWN	25.0	CONSOLIDATED GAS
CLEMTOWN	48.0	CONSOLIDATED GAS
LAFAYETTE	226.0	COLUMBIA GAS TRAN
GRANT	1670.0	CONSOLIDATED GAS
GRANT	92.0	CONSOLIDATED GAS
GRANT	98.0	CONSOLIDATED GAS
GRANT	15.0	CONSOLIDATED GAS
CLEMTOWN	14.0	CONSOLIDATED GAS
CLEMTOWN	17.0	CONSOLIDATED GAS
SOUTH BURNS CHAPEL	19.3	CONSOLIDATED GAS
ELK DISTRICT	4.4	COLUMBIA GAS TRAN
ELK DISTRICT	4.4	COLUMBIA GAS TRAN
ELK DISTRICT	8.4	COLUMBIA GAS TRAN
ELK DISTRICT	3.7	COLUMBIA GAS TRAN
ELK DISTRICT	16.4	COLUMBIA GAS TRAN
BIG SANDY DISTRICT	14.6	COLUMBIA GAS TRAN
ELK DISTRICT	4.4	COLUMBIA GAS TRAN
ELK DISTRICT	11.8	COLUMBIA GAS TRAN
ELK DISTRICT	11.8	COLUMBIA GAS TRAN
ELK DISTRICT	8.4	COLUMBIA GAS TRAN
ELK DISTRICT	7.3	COLUMBIA GAS TRAN
ELK DISTRICT	10.2	COLUMBIA GAS TRAN
ELK DISTRICT	11.8	COLUMBIA GAS TRAN
VALLEY DISTRICT	10.8	COLUMBIA GAS TRAN
BIG CREEK	10.8	COLUMBIA GAS TRAN
BIG CREEK	10.8	COLUMBIA GAS TRAN
ROARING CREEK	20.0	COLUMBIA GAS TRAN
ROARING CREEK	20.0	COLUMBIA GAS TRAN
LEE DISTRICT	8.8	ROARING FORK GAS
SALT LICK DISTRICT	5.1	EQUITABLE GAS CO
SALT LICK	8.3	EQUITABLE GAS CO
SALT LICK DISTRICT	13.0	EQUITABLE GAS CO
SALT LICK DISTRICT	9.8	EQUITABLE GAS CO
HOLLY DISTRICT	8.4	EQUITABLE GAS CO
SALT LICK DISTRICT	9.8	EQUITABLE GAS CO
SALT LICK DISTRICT	4.6	EQUITABLE GAS CO
HOLLY DISTRICT	3.7	EQUITABLE GAS CO
SALT LICK DISTRICT	6.4	EQUITABLE GAS CO
ELMIRA	11.6	COLUMBIA GAS TRAN
ELMIRA	13.5	COLUMBIA GAS TRAN
ELMIRA	0.0	COLUMBIA GAS TRAN
ELMIRA	11.3	COLUMBIA GAS TRAN
ELMIRA	17.4	COLUMBIA GAS TRAN
ELMIRA	5.6	COLUMBIA GAS TRAN
ELMIRA	10.8	COLUMBIA GAS TRAN
ELMIRA	19.5	COLUMBIA GAS TRAN
ELMIRA	11.3	COLUMBIA GAS TRAN
ELMIRA	14.0	COLUMBIA GAS TRAN
ELMIRA	20.1	COLUMBIA GAS TRAN
ELMIRA	11.3	COLUMBIA GAS TRAN
ROCK CAVE - DISTRICT	0.0	COLUMBIA GAS TRAN
RUSH RUN	10.0	CONSOLIDATED GAS

[FR Doc. 83-27961 Filed 10-13-83; 8:46 am]

BILLING CODE 6717-01-C

[Volume 981]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 7, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for detrmination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1,000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,00 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

DATE ISSUED OCTOBER 7, 1983

VOLUME 981

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						TEXAS RAILROAD COMMISSION			
-A L SAUDER JR				RECEIVED:	09/19/83	JA: TX			
8356067	F-09-065812	4249732457		103		JOHNNIE MARIE "A" "C" #1	BOONSVILLE (BEND CONG	128.8	DELHI GAS PIPELIN
-A R ARCHER JR				RECEIVED:	09/19/83	JA: TX			
8356165	F-08-071588	4237100000		102-4		FOSTER 4	ABELL (GRAYBURG 2050)	79.2	EL PASO NATURAL G
8356166	F-08-071589	4237133733		102-4		RYAN 3	ABELL (GRAYBURG 2050)	79.2	EL PASO NATURAL G
-ABRAXAS PETROLEUM CORP				RECEIVED:	09/19/83	JA: TX			
8356075	F-04-066524	4224931546		102-2		DUNN #1	PAUL WHITE (YEGUA)	175.8	NUE-WELLS PIPE LI
8356076	F-04-066525	4224931640		102-2		PEREZ #1	MUERTO CREEK (YEGUA 2	788.8	NUE-WELLS PIPE LI
-ADA OIL EXPLORATION CORP				RECEIVED:	09/19/83	JA: TX			
8356126	F-03-070285	4205100000		102-2		NEWMAN-GERDES #4	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-ADOBE OIL & GAS CORPORATION				RECEIVED:	09/19/83	JA: TX			
8356088	F-02-067164	4212331260		102-4	103	HAGEN #1	HENZE (LOWER WILCOX H	0.0	
-AEGEAN OIL CORP				RECEIVED:	09/19/83	JA: TX			
8356255	F-03-072422	4228751402		102-2		DUBE UNIT WELL #1	HOOKER CREEK (NAVARRO	71.0	ORECA GAS CORP
-ALPAR RESOURCES INC				RECEIVED:	09/19/83	JA: TX			
8356091	F-10-067389	4235731292		103		PARNELL 1-475	NORTHRUP (MORROW)	144.0	
8356092	F-10-067310	4235731312		103		PARNELL 1-476	NORTHRUP (CLEVELAND)	100.0	
-AMERICAN INTERNATIONAL ENERGY CORP				RECEIVED:	09/19/83	JA: TX			
8356172	F-02-071701	4223931816		103		.EVERETT L SIMMONS #1	STEWART (5550)	341.0	UNITED TEXAS TRAN
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	09/19/83	JA: TX			
8356289	F-78-072554	4215131656		103		PEARCE HOLLAND "A" #7	PARDUE (ELLENBURGER)	15.0	
-AMOCO PRODUCTION CO				RECEIVED:	09/19/83	JA: TX			
8356070	F-04-065931	4247933514		107-TF		KILLAM-HURD-AMOCO /I/ #1	CASA VERDE (WILCOX LO	1180.0	UNITED TEXAS TRAN
-ANADARKO PRODUCTION COMPANY				RECEIVED:	09/19/83	JA: TX			
8356246	F-09-072451	4236700000		108		JOHN T JACKSON	BOONESVILLE	12.0	LONE STAR GAS CO
-ANDERSON PETROLEUM INC				RECEIVED:	09/19/83	JA: TX			
8356053	F-7C-060937	4210533707		103	107-TF	JOE FRIEND ESTATE "A" 2-25	ALDWELL RANCH (CANYON	400.0	OZONA PIPELINE CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/19/83	JA: TX			
8356243	F-02-072439	4229733285		102-4		ARCO SANGER ESTATE #1	MOUNTAIN VIEW (BARTOS	525.0	ARCO CHEMICAL CO
-ARMADA RESOURCES INC				RECEIVED:	09/19/83	JA: TX			
8356048	F-03-061325	4208931015		103		LEHRER A-2	EASTER (YEGUA 6200')	164.3	TENNESSEE GAS PIP
-BANAM CORP				RECEIVED:	09/19/83	JA: TX			
8356082	F-7B-067003	4215100000		102-4		ANOCO-HORTON #2-5	SATURDAY EAST (CANYON	9.8	CONOCO INC
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:	09/19/83	JA: TX			
8356237	F-08-072424	4249531578		103		M J BASHARA #68	KEYSTONE SW (SAN ANDR	34.0	SID RICHARDSON CA
-BEACH EXPLORATION INC				RECEIVED:	09/19/83	JA: TX			
8356158	F-8A-071265	4203330861		103		SHORTES #2	ACKERLY (DEAN SAND)	16.0	TEXACO INC
-BILL J GRAHAM				RECEIVED:	09/19/83	JA: TX			
8356228	F-08-072595	4237100000		103		BENOIT #3	LEHM APCO (1600)	1.8	ADOBE GAS CO
8356230	F-08-072597	4237100000		103		BENOIT #4	LEHM APCO (1600)	1.8	ADOBE GAS CO
8356229	F-08-072596	4237100000		103		BENOIT #7	LEHM APCO (1600)	8.3	ADOBE GAS CO
8356231	F-08-072598	4247500000		103		ROACH #4	WARD SOUTH	6.2	WESTAR TRANSMISSI
8356233	F-08-072600	4247500000		103		ROACH #5	WARD SOUTH	9.9	WESTAR TRANSMISSI
8356232	F-08-072599	4247500000		103		ROACH #6	WARD SOUTH	6.5	WESTAR TRANSMISSI
-BRACKEN EXPLORATION CO				RECEIVED:	09/19/83	JA: TX			
8356247	F-10-072654	4221151254		103		FILLINGIM #1-20	BUFFALO WALLOW (HUNTO	36.0	NATURAL GAS PIPEL

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BRC PETROLEUM INC				RECEIVED:	09/19/83	JA: TX			
8356081	F-83-066989	4207100000		102-4	103	WILLIAM L PATTILLO #3	TURTLE BAY (F-1A F8-1	15.0	UNITED TEXAS TRAN
-BURGER KEN				RECEIVED:	09/19/83	JA: TX			
8356238	F-10-072625	4217931338		103		CHRIS #1 (ID# 105488)	PANHANDLE WEST	60.0	CABOT PIPELINE CO
-BURMEIT CORPORATION				RECEIVED:	09/19/83	JA: TX			
8356050	F-10-057948	4223300000		103		DEAHL #2	PANHANDLE	0.0	PANHANDLE EASTERN
-BURNS PETROLEUM				RECEIVED:	09/19/83	JA: TX			
8356222	F-09-072379	4200933869		102-4		COWAN & MCKINNEY "GG" #1	LAKE KICKAPOO E	27.0	E A WOOD-OPERATIN
8356223	F-09-072380	4200934973		102-4		COWAN & MCKINNEY "HH" #1	LAKE KICKAPOO E	27.0	E A WOOD - OPERAT
8356224	F-09-072381	4200935657		102-4		COWAN & MCKINNEY "EK" #1	LAKE KICKAPOO E	18.0	E A WOOD - OPERAT
-C R TARRANT PRODUCTION CO				RECEIVED:	09/19/83	JA: TX			
8356221	F-7B-072575	4213953880		102-4		C R RAY #1 (105986)	GERGE (STRAWN 5D)	198.0	SOUTHWESTERN GAS
-C-K RESOURCES INC				RECEIVED:	09/19/83	JA: TX			
8356228	F-04-072299	4227300000		102-4		HENRY LEHMAN #3 ID NO PENDING	RICARDO E (6715'GAS)	245.0	HOUSTON PIPE LINE
-CANYON RESOURCES INC				RECEIVED:	09/19/83	JA: TX			
8356142	F-7B-070925	4235331575		103		SOUTH LAKE TRAMMEL UNIT #49	LAKE TRAMMEL S (CANYO	7.5	PALO DURO PIPELIN
8356141	F-7B-070924	4235331576		103		SOUTH LAKE TRAMMEL UNIT #50	LAKE TRAMMEL S (CANYO	7.5	PALO DURO PIPELIN
-CAPROCK ENGINEERS INC				RECEIVED:	09/19/83	JA: TX			
8356273	F-10-072585	4217931387		103		ZACK #1 (ID 105426)	PANHANDLE GRAY	48.0	CABOT PIPELINE CO
8356258	F-10-072673	4217931388		103		ZACK #2 (ID# 05426)	PANHANDLE GRAY	48.0	CABOT PIPELINE CO
-CARL W JONES				RECEIVED:	09/19/83	JA: TX			
8356212	F-06-072221	4239330878		102-4		H H JONES #1	SWANSON LANDING (RODE	100.0	ARKANSAS LOUISIAN
-CASS OIL CO				RECEIVED:	09/19/83	JA: TX			
8356052	F-7C-060572	4243532621		103	107-TF	ALLISON-ESPY 4401	SAWYER (CANYON)	46.0	EL PASO NATURAL G
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	09/19/83	JA: TX			
8356096	F-02-067457	4246932019		102-4	103	MCFADDEN "A" #18	KAY CREEK (5325)	0.0	CHAMPLIN PETROLEU
8356122	F-02-069867	4246932036		102-4	103	MCFADDEN "A" #19	KAY CREEK	0.0	CHAMPLIN PETROLEU
-CHARLES M CHILDERS				RECEIVED:	09/19/83	JA: TX			
8356099	F-7C-067786	4239932015		108		ALEXANDER #1	ALEXANDER (MORRIS)	3.5	UNION TEXAS PETRO
8356100	F-7C-067788	4239931699		108		BEAN #1 09049	HENSON JENNINGS	11.4	UNION TEXAS PETRO
8356101	F-7B-067789	4208332470		108		BILLINGS #1	BILLINGS-DUNN GRAY	7.9	UNION TEXAS PETRO
-CITIES SERVICE COMPANY				RECEIVED:	09/19/83	JA: TX			
8356062	F-06-064714	4245930497		102-2	107-TF	PHILLIPS E #1	GLADEWATER	788.0	
-CMC ENERGY INC				RECEIVED:	09/19/83	JA: TX			
8356208	F-04-072161	4213100000		108		BLEVINS #3 I D #5564)	BENAVIDES BLEVINS (2)	8.2	ESPERANZA TRANSMI
-COASTAL OIL & GAS CORP				RECEIVED:	09/19/83	JA: TX			
8356139	F-8A-070905	4216532558		103		SO HARRIS UNIT 7-4X	HARRIS	5.0	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED:	09/19/83	JA: TX			
8356136	F-01-070856	4232331417		103		N J CHITTIM #6936	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
-CORPENING ENTERPRISES				RECEIVED:	09/19/83	JA: TX			
8356289	F-03-072183	4248100000		103		EDWIN SCHOENEBERG #1	KULCAK-GRETA 4900	133.0	UNITED TEXAS TRAN
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	09/19/83	JA: TX			
8356148	F-02-071025	4270330282		102-4		STATE TRACT 596-L NE/4 WELL #4-L	SHERMAN OFFSHORE S W	0.0	HOUSTON PIPELINE
8356137	F-02-070866	4260330201		102-4		STATE TRACT 702-S WELL #1-U	STEAMBOAT PASS S (500	0.0	HOUSTON PIPELINE
-CRYSTAL PETROLEUM CORPORATION				RECEIVED:	09/19/83	JA: TX			
8356043	F-10-055738	4229531177		103		SCHULTZ "M" #1	KIOWA CREEK (TONKAWA)	0.0	
-COURSON OIL & GAS INC				RECEIVED:	09/19/83	JA: TX			
8356184	F-10-071893	4235731052		107-TF		ARCHER-DENDY 1-25C	WAKA W (CLEVELAND)	270.0	TRANSWESTERN PIPE
8356183	F-10-071886	4235731281		107-TF		JOYCE #1-659C	ELLIS RANCH (CLEVELAN	70.0	NORTHERN NATURAL
-CRYSTAL OIL AMD LAND COMPANY				RECEIVED:	09/19/83	JA: TX			
8356194	F-06-071976	4236530947		108		A JERNIGAN #B-1	PANOLA	16.2	UNITED GAS PIPELI
8356193	F-06-071975	4236530946		108		A JERNIGAN #B-2	PANOLA	16.2	UNITED GAS PIPELI
8356192	F-06-071976	4236530978		108		A JERNIGAN #B-3	PANOLA	16.2	UNITED GAS PIPELI
8356191	F-06-071975	4236530170		108		DOUGLAS ESTATE #2	PANOLA	2.7	UNITED GAS PIPELI
-CSA EXPLORATION LTD				RECEIVED:	09/19/83	JA: TX			
8356085	F-03-067884	4248132447		102-4		GUS USTYNIK #1	SPANISH CAMP 3868	100.0	
-DALLAS SUNBELT OIL & GAS INC				RECEIVED:	09/19/83	JA: TX			
8356264	F-7B-072492	4213334663		102-4		TARVER "B" #1 (19641)	HAWK EYE (ADAMS BRANC	1.0	SOUTHWESTERN GAS
8356273	F-7B-072581	4213334837		102-4		TARVER "B" #10 (19641)	HAWK EYE (ADAMS BRANC	6.0	SOUTHWESTERN GAS
8356272	F-7B-072580	4213334839		102-4		TARVER "B" #12 (19641)	HAWK EYE (ADAMS BRANC	5.0	SOUTHWESTERN GAS
8356274	F-7B-072583	4213334848		102-4		TARVER "B" #13 (19641)	HAWK EYE (ADAMS BRANC	2.0	SOUTHWESTERN GAS
8356265	F-7B-072493	4213334666		102-4		TARVER "B" #2 (19641)	HAWK EYE (ADAMS BRANC	1.0	SOUTHWESTERN GAS
8356266	F-7B-072494	4213334697		102-4		TARVER "B" #3 (19641)	HAWK EYE (ADAMS BRANC	1.0	SOUTHWESTERN GAS
8356267	F-7B-072495	4213334698		102-4		TARVER "B" #4 (19641)	HAWK EYE (ADAMS BRANC	1.0	SOUTHWESTERN GAS
8356268	F-7B-072496	4213334787		102-4		TARVER "B" #6 (19641)	HAWK EYE (ADAMS BRANC	1.0	SOUTHWESTERN GAS
8356271	F-7B-072499	4213334835		102-4		TARVER "B" #8 (19641)	HAWK EYE (ADAMS BRANC	2.0	SOUTHWESTERN GAS
-DELAWARE VISA ENERGY CORP				RECEIVED:	09/19/83	JA: TX			
8356041	F-09-042837	4249732020		103		DONALDSON #1	BOONSVILLE (BEND CONG	134.0	NATURAL GAS PIPEL
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	09/19/83	JA: TX			
8356257	F-10-072678	4235700000		108		CARL ELLIS "E" #1	ELLIS RANCH	3.0	NATURAL GAS PIPEL
8356181	F-10-071878	4229530968		103		W A MURPHY "B" 9 2-427	LIPSCOMB	230.0	CORONADO TRANSMIS
-EADS OPERATING CO				RECEIVED:	09/19/83	JA: TX			
8356063	F-04-065265	4235532035		102-4		STATE TRACT 686 WELL #3	NUECES BAY WEST (FRIO	23.4	
-EDWIN L COX				RECEIVED:	09/19/83	JA: TX			
8356116	F-04-069555	4247933572		102-4	107-TF	OMILOS RANCH #6		369.0	TRANSCONTINENTAL
-EMERALD PETROLEUM CORP				RECEIVED:	09/19/83	JA: TX			
8356039	F-09-032156	4223732957	4	103		T A SPENCER A #1	RUSMAG	2.2	LONE STAR GAS CO
-ENERGY RESERVES GROUP INC				RECEIVED:	09/19/83	JA: TX			
8356213	F-7C-072227	4208131136		103		J E CHAPPELL "A" #15	JAMESON (STRAWN)	11.7	UNION TEXAS PETRO
-ENRE CORP				RECEIVED:	09/19/83	JA: TX			
8356171	F-7B-071686	4205934161		102-4		SNYDER MINERAL TRUST 139 #2 (19992)	SMI (PALO PINTO)	20.8	BENGAL GAS TRANSM
8356219	F-7B-072195	4205933973		102-4		SNYDER MINERAL TRUST 143 #1	S M T (ELLEN)	1.0	BENGAL GAS TRANSM
-ENRICH OIL CORPORATION				RECEIVED:	09/19/83	JA: TX			
8356204	F-7B-072000	4235331450		102-4		J M MCLAUGHLIN #11012	JMM SOUTH (COOK)	344.0	SUN OIL CO
-EXXON CORPORATION				RECEIVED:	09/19/83	JA: TX			
8356161	F-06-071442	4207330500		102-4	107-TF	DAVID ALLEN BARNES #1	OVERTON (COTTON VALLE	352.8	ARMCO STEEL CORP
8356249	F-04-072458	4235532104		102-4		FLOUR BLUFF STATE "A" 6-F (10249)	FLOUR BLUFF (M-99)	36.5	ARMCO STEEL CORP
8356168	F-03-071647	4207314335		103		GALVESTON BAY STATE "A" 0193	RED FISH REEF (FB A-3	60.0	ENTEX INC
8356072	F-06-066217	4240131571		102-4		J R BOX OIL UNIT 1 #1	OVERTON N E (PETTIT)	93.0	ARMCO STEEL CORP
8356167	F-04-071591	4226130801		102-4		JOHN G KENEDY "C" 24-D (ID PENDING)	MIFFLIN (I-30 E)	500.0	NATURAL GAS PIPEL
8356098	F-03-067651	4247330382		103		KATY GAS FIELD UNIT I W-53	KATY (FIRST WILCOX) F	912.0	ARMCO STEEL CORP
8356211	F-04-072207	4227331747		103		KING RANCH BORREGOS 589 (105950)	BORREGOS (V-35)	700.0	ARMCO STEEL CORP
8356313	F-04-072595	4213136171		103		PAUL E WHITE B 115 06196	LUNDELL	2.2	ARMCO STEEL CORP
8356166	F-04-071585	4221531279		102-4		SANTA FE RANCH "B" 78 (ID PENDING)	SANTA FE SOUTH (G-62	514.0	NATURAL GAS PIPEL
8356190	F-04-071948	4226130813		102-4		SARITA GAS UNIT #8 WELL 1 (PENDING)	SARITA (1500)	200.0	NATURAL GAS PIPEL
8356315	F-04-072602	4213135863		103		V KOHLER A-146 05632	KOHLER NE (MIRANDO 02	3.7	TENNESSEE GAS PIP
-FAGADAU ENERGY CORP				RECEIVED:	09/19/83	JA: TX			
8356290	F-09-072550	4200937090		102-4		ROY WOLF #1	BEREND-WOLF (MIDDLE C	18.0	BLUEGROVE GASOLIN
8356291	F-09-072556	4207700000		102-4		SCALING RANCH "F" #3	TALLY (CONGL)	32.0	BLUEGROVE GASOLIN
-FALCON PETROLEUM COMPANY				RECEIVED:	09/19/83	JA: TX			
8356129	F-10-070380	4235731295		102-4		MARK K #1	NERMAN (MORROW UPPER)	0.0	
-FRANK CASS				RECEIVED:	09/19/83	JA: TX			
8356189	F-7C-071926	4243532624		103	107-TF	ZAPATA 2301 (RRC NO NOT AVAILABLE)	SAWYER (CANYON)	10.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	09/19/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356856	F-06-062666	4200700000		102-4		TEXAS STATE TRACT 118 #2	BARTELL PASS (FRIO G)	300.0	
	-GHR ENERGY CORP			RECEIVED:	09/19/83	JA: TX			
8356069	F-84-065911	4247933643		102-4		FAUSTO #1-C	M M A (WILCOX 8100)	500.0	NATURAL GAS PIPEL
8356073	F-84-066320	4247933643		102-4	107-TF	FAUSTO #1-T	FAUSTO (LOBO)	250.0	NATURAL GAS PIPEL
8356113	F-84-069258	4250531592		102-4	107-TF	MCMURREY #28	MCMURREY (LOBO)	900.0	NATURAL GAS PIPEL
	-GUADALUPE OIL & GAS CO			RECEIVED:	09/19/83	JA: TX			
8356162	F-82-071475	4212331311		102-4		ANNIE MARIE VAUGHN #1	PROPOSED JENNIE BELL	140.0	BAM ENERGY INC
	-GULF AMERICAN OIL & GAS CO			RECEIVED:	09/19/83	JA: TX			
8356130	F-82-070445	4244900000		103		FDX #1	PRIDHAM LAKE (4300')	148.0	HOUSTON PIPE LINE
	-GULF OIL CORP			RECEIVED:	09/19/83	JA: TX			
8356254	F-88-072463	4247530395		108		HUTCHINGS STOCK A55M #922	MONAHANS SOUTH (QUEEN	1.0	VALERO TRANSMISSI
8356253	F-88-072462	4247530426		108		HUTCHINGS STOCK A55M #935	MONAHANS SOUTH (QUEEN	1.0	VALERO TRANSMISSI
	-GULF OIL CORPORATION			RECEIVED:	09/19/83	JA: TX			
8356256	F-88-072465	4238930955		108		HORRY L #2	WORSHAM (CHERRY CANYO	11.8	TRANSWESTERN PIPE
8356251	F-88-072468	4247532829		103		HUTCHINGS STOCK A55M #1270	WARD-ESTES NORTH	5.7	CABOT CORP
8356255	F-88-072466	4249501295		108		KEYSTONE CATTLE CO #141	KEYSTONE SOUTH	1.0	CABOT CORP
8356252	F-88-072461	4210930919		108		TXL "CX" (NCT-A) 06	GERALDINE (FORD)	3.0	CONOCO INC
8356177	F-88-071824	4210302249		108		W M WADDELL #802	SAND HILLS (JUDKINS)	14.7	M & T GATHERING C
8356176	F-88-071823	4210310057		108		W M WADDELL #820	SAND HILLS (JUDKINS)	15.4	M & T GATHERING C
	-GULF SANDS OIL CO			RECEIVED:	09/19/83	JA: TX			
8356084	F-82-067024	4202551952		103		SCHNEIDER ESTATES #1 ID NO PENDING	TYNAN (FRIO 2800)	31.0	GULF STATES EQUIT
8356083	F-82-067023	4202511958		102-4		TEX-TOM #1A ID NO PENDING	TYNAN	89.0	GULF STATES EQUIT
	-HANSON MINERALS CO			RECEIVED:	09/19/83	JA: TX			
8356173	F-82-071702	4225531039		102-4		SAMSEL GAS UNIT #1	MALO DOMINGO (WILCOX	1095.0	PANHANDLE GAS CO
	-HAWN BROTHERS-CHAPMAN OIL-LA FETE			RECEIVED:	09/19/83	JA: TX			
8356215	F-81-072255	4231131814		102-4		SOUTH TEXAS SYNDICATE -A- #103	BIG MULE (5500 SAND)	65.0	ESPERANZA TRANSMI
8356217	F-81-072255	4231131796		102-4		SOUTH TEXAS SYNDICATE #1	BIG MULE (5500' SAND)	13.0	ESPERANZA TRANSMI
8356216	F-81-072254	4231131827		102-4		SOUTH TEXAS SYNDICATE #2020	BIG MULE (5500 SAND)	25.0	ESPERANZA TRANSMI
	-HCW EXPLORATION INC			RECEIVED:	09/19/83	JA: TX			
8356207	F-18-072028	4217900000		108		REX MCKAY #1	PANHANDLE WEST	19.8	KERR-MCGEE CORP
	-HENDERSON CLAY PRODUCTS INC			RECEIVED:	09/19/83	JA: TX			
8356155	F-06-071200	4240131582		102-2		ALICE CHRISTIAN ESTATE -B-	PAIGE CHRISTIAN (TRAV	1095.0	B & A PIPE LINE C
	-HENRY ENERGY CORP			RECEIVED:	09/19/83	JA: TX			
8356259	F-09-072678	4200937098		103		COWAN-MCKINNEY #3 (23330)	HULL-SILK-SIKES (3800	1.0	LONE STAR GAS CO
	-HENRY PETROLEUM CORP			RECEIVED:	09/19/83	JA: TX			
8356124	F-8A-069906	4211500000		103		STUART ESTATE #2-1Y	KEY WEST (SPRABERRY)	0.0	PHILLIPS PETROLEU
8356087	F-7C-067098	4238500000		103		UNIVERSITY 29 #2-Y	SPRABERRY (TREND AREA	0.0	J L DAVIS
	-HEXAGON OIL & GAS INC			RECEIVED:	09/19/83	JA: TX			
8356163	F-7B-071581	4235331132		102-4	103	B C HOWARD #1	VOGAN (STRAWN REEF)	14.0	LTX INC
	-HILL INTERNATIONAL PRODUCTION CO			RECEIVED:	09/19/83	JA: TX			
8356287	F-06-072531	4234730691		102-4		MOORE #1	TOOLAN (PETTIT LO)	0.0	LIBERTY NATURAL G
	-HILLIARD OIL & GAS INC			RECEIVED:	09/19/83	JA: TX			
8356227	F-7C-072394	4245330317		102-4		NOELKE #1	SHEFFIELD SE (FUSSELM	162.0	INTRATEX GAS CO
	-HNG OIL COMPANY			RECEIVED:	09/19/83	JA: TX			
8356178	F-03-071840	4224531422		103		BLAUW-PAETZ #2	STOWELL EAST (CRAWFOR	155.0	WINNIE PIPE LINE
	-HUMBLE EXPLORATION CO INC			RECEIVED:	09/19/83	JA: TX			
8356149	F-03-071027	4214900000		102-2	103	MOSS #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
	-J H PURVIS			RECEIVED:	09/19/83	JA: TX			
8356270	F-08-072498	4217332148		103		HARBISON #1	SPRABERRY (TREND AREA	29.5	EL PASO NATURAL G
8356269	F-08-072497	4217331311		103		HENDRICKSON #1	SPRABERRY (TREND AREA	28.1	PHILLIPS PETROLEU
	-J PAUL GOLDSMITH			RECEIVED:	09/19/83	JA: TX			
8356205	F-03-072001	4206130915		102-2		MARDEN LAB5 #1	BRYAN (WOODBINE)	231.0	FERGUSON CROSSING
	-JACK L PHILLIPS			RECEIVED:	09/19/83	JA: TX			
8356312	F-06-072590	4220331010		103		E RAVENS #2 11071	BETHANY (TRAVIS PEAK	58.0	TEJAS GAS CORP
	-JOHN L COX			RECEIVED:	09/19/83	JA: TX			
8356119	F-8A-069687	4211531818		103		DEE SEELY #1	ACKERLEY (DEAN SAND)	0.0	
8356106	F-8A-068426	4211531805		103		ETHEREDGE #3 RRC 066184	ACKERLEY (DEAN SAND)	3.0	
8356120	F-08-069688	4231732703		103		GLEN COX #2 RRC #21955	SPRABERRY (TREND AREA	10.0	NORTHERN GAS PROD
8356089	F-08-067252	4231700000		103		MARY ROGERS #5 RRC #21872	SPRABERRY (TREND AREA	10.0	NORTHERN GAS PROD
8356117	F-7C-069681	4238332519		103		MCMASTER B #1	SPRABERRY (TREND AREA	10.0	UNION TEXAS PETRO
8356095	F-7C-067416	4246100000		103		NEAL "30-D" #1	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8356090	F-7C-067266	4238300000		103		ROCKEN 13 "B" 07 RRC 004469	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8356096	F-7C-067385	4238300000		103		ROCKER B "120" #1	SPRABERRY (TA)	10.0	EL PASO NATURAL G
	-JUTCO OPERATING			RECEIVED:	09/19/83	JA: TX			
8356157	F-83-071224	4214931446		102-2		BOSS FOUR #1		250.0	PHILLIPS PETROLEU
	-KAARI OIL CO			RECEIVED:	09/19/83	JA: TX			
8356214	F-10-072236	4206531427		103		W E COBB #2-20 (ID#05414)	PANHANDLE CARSON	40.0	CABOT PIPELINE CO
	-KEN PETRDLEUM CORP			RECEIVED:	09/19/83	JA: TX			
8356107	F-02-069027	4239100000		102-4		MARBERRY #5	MCFADDIN (5175)	180.0	
	-KILROY CO OF TEXAS			RECEIVED:	09/19/83	JA: TX			
8356074	F-83-066322	4270830282		102-4		STATE TRACT 31-L #3	HIGH ISLAND BLOCK 31-	76.0	UNITED TEXAS TRAN
	-KIMBERLIN & HUITT			RECEIVED:	09/19/83	JA: TX			
8356110	F-09-069042	4250300000		102-4		GOLDSTON #1	GRAHAM N (STRAWN 3450	8.0	MID-STATE GAS COR
8356109	F-84-069041	4250300000		102-4		GOLDSTON #2	GRAHAM N (STRAWN 3450	8.0	MID-STATE GAS COR
8356108	F-09-069040	4250300000		102-4		GOLDSTON #3	GRAHAM N (STRAWN 3450	8.0	MID-STATE GAS COR
	-L & B OIL CO INC			RECEIVED:	09/19/83	JA: TX			
8356188	F-08-071924	4217331400		102-4		BAILEY #I-U	DEWEY LAKE 5 (WOLFCAM	200.0	PHILLIPS PETROLEU
	-LAEL INC			RECEIVED:	09/19/83	JA: TX			
8356186	F-10-071919	4248300000		103		CHARLES #1	PANHANDLE	46.1	HIGH PLAINS NATUR
	-LARIAT OIL & GAS			RECEIVED:	09/19/83	JA: TX			
8356170	F-78-071666	4242933423		102-4		BROOKS #1-C (19771)	PARKS (STRAWN)	160.0	WARREN PETROLEUM
8356169	F-78-071665	4242933677		102-4		BROOKS #3	PARKS (STRAWN)	0.0	WARREN PETROLEUM
	-MAJOR EXPLORATION INC			RECEIVED:	09/19/83	JA: TX			
8356146	F-84-070991	4224931623		102-2		STOUT 1-B	ALICE (STILLWELL)	150.0	DELHI GAS PIPELIN
8356147	F-84-070992	4224931518		102-2		STOUT-MARTENS #1	ALICE (YEGUA)	300.0	DELHI GAS PIPELIN
	-MARK PRODUCING INC			RECEIVED:	09/19/83	JA: TX			
8356121	F-06-069757	4240131619		103		PINCHAM #2 (LEASE NO NOT ASSIGNED)	CALEDONIA (RODESSA)	4.4	
	-MCCRACKEN OIL TRUST			RECEIVED:	09/19/83	JA: TX			
8356219	F-78-072289	4209331066		102-4		NORM PIERSON #1 (19851)	PIERSON MARBLE FALLS	0.0	SOUTHWESTERN GAS
	-MCMORAN EXPLORATION CO			RECEIVED:	09/19/83	JA: TX			
8356066	F-04-065666	4270030053		102-4		STATE TRACT 1068-L SE/4 #1	8LOCK 1068-L	0.0	VALLEY PIPE LINE
	-MCMORAN PRODUCTION CO			RECEIVED:	09/19/83	JA: TX			
8356111	F-84-069078	4221531050		103		JONES #1	MCALLEN	360.0	TRANSCONTINENTAL
8356123	F-02-069894	4205730295		103		STATE TRACT 659-L NW/4 #4U	SIX-SIXTY	650.0	MATAGORDA PIPE LI
	-MEWBOURNE OIL COMPANY			RECEIVED:	09/19/83	JA: TX			
8356180	F-10-071861	4229531270		10-4	103	ECCLES UNIT #2 ID # N/A	8OOKER EAST (MORROW U	529.2	CALICHE PIPELINE
8356183	F-10-068269	4235731539		103		GEORGE "51" #1 ID# N/A	PERRYTON (MORROW UPPE	0.0	CALICHE PIPELINE
	-MILESTONE PETROLEUM INC			RECEIVED:	09/19/83	JA: TX			
8356156	F-02-071087	4228531705		102-4		OBELGONER 1	ASHFORD (YEGUA)	166.0	TEXAS EASTERN TRA
	-MITCHELL ENERGY CORPORATION			RECEIVED:	09/19/83	JA: TX			
8356068	F-09-069583	4249700000		108-ER		A BROWN #1	BOOMSVILLE	0.0	SOUTHWESTERN GAS
8356305	F-09-072575	4225700000		108		ADDA MAY SHIELDS #5 18516	SOUTHWESTERN (CADDO R	0.0	SOUTHWESTERN GAS
8356306	F-09-072576	4249700000		108		BILBERRY-MCCLURE #1 028568	BOOMSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8356307	F-09-072577	4225700000		108		J R HALSELL #2 021186	ARCO (CONGLOMERATE)	0.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356288	F-09-072552	4223735062		103		M D MUTTOM #3 822329	WOODKIRK (STRAWN)	17.9	BRAZOS FUEL CO
8356308	F-09-072578	4249700000		108		REX BIRD #1 17761	MORRIS (CONSOLIDATED	0.0	NATURAL GAS PIPEL
	-MOBIL PRDG TEXAS & NEW MEXICO INC			RECEIVED:	09/19/83	JA: TX			
8356280	F-7C-072520	4246100000		108		C W RYBURN #3	SPRABERRY (TREND AREA/	1.1	UNION TEXAS PETRO
8356311	F-8A-072587	4221933786		103		NORTH CENTRAL LEVELLAND UNIT #373	LEVELLAND	3.0	AMOCO PRODUCTION
8356293	F-08-072561	4232900118		108		PRESTON SPRABERRY UNIT #11-1	SPRABERRY/TREND AREA	5.5	EL PASO NATURAL G
8356294	F-08-072562	4232900339		108		PRESTON SPRABERRY UNIT #12-2	SPRABERRY/TREND AREA	0.1	EL PASO NATURAL G
8356295	F-08-072563	4232901557		108		PRESTON SPRABERRY UNIT #13-3	SPRABERRY/TREND AREA	5.8	EL PASO NATURAL G
8356296	F-08-072564	4232901177		108		PRESTON SPRABERRY UNIT #21-1	SPRABERRY/TREND AREA	0.3	EL PASO NATURAL G
8356297	F-08-072565	4232901168		108		PRESTON SPRABERRY UNIT #21-2	SPRABERRY/TREND AREA	0.8	EL PASO NATURAL G
8356298	F-08-072566	4232901163		108		PRESTON SPRABERRY UNIT #38-7	SPRABERRY/TREND AREA	1.2	EL PASO NATURAL G
8356299	F-08-072567	4232900855		108		PRESTON SPRABERRY UNIT #41-8	SPRABERRY/TREND AREA	0.1	EL PASO NATURAL G
8356389	F-08-072589	4232901162		108		PRESTON SPRABERRY UNIT #42-6	SPRABERRY/TREND AREA	0.5	EL PASO NATURAL G
8356292	F-08-072540	4232901891		108		PRESTON SPRABERRY UNIT #7-A	SPRABERRY/TREND AREA	7.3	EL PASO NATURAL G
8356283	F-08-072523	4232901118		108		SHACKELFORD SPRABERRY UNIT #1-26	SPRABERRY/TREND AREA	0.3	EL PASO NATURAL G
8356282	F-08-072522	4232901119		108		SHACKELFORD SPRABERRY UNIT #1-25	SPRABERRY/TREND AREA	0.3	EL PASO NATURAL G
8356284	F-08-072524	4232901182		108		SHACKELFORD SPRABERRY UNIT #1-3	SPRABERRY/TREND AREA	0.8	EL PASO NATURAL G
8356281	F-08-072521	4232900930		108		SHACKELFORD SPRABERRY UNIT #13-3	SPRABERRY/TREND AREA	0.5	EL PASO NATURAL G
8356285	F-08-072525	4232900725		108		SHACKELFORD SPRABERRY UNIT #67-1	SPRABERRY/TREND AREA	0.8	EL PASO NATURAL G
8356059	F-10-064151	4221131498		102-4		URSCHEL ESTATE SEC 13 #1	URSCHEL ESTATE (MORRO	120.0	WESTAR TRANSMISSI
8356310	F-08-072586	4230130412		102-4		W D JOHNSON F #8	DIMMIT (CHERRY CANYON	46.4	INTRATEX GAS CO
	-MONSANTO COMPANY			RECEIVED:	09/19/83	JA: TX			
8356152	F-8A-071078	4241532103		103		DIAMOND M UNIT 8F-12	DIAMOND M UNIT (CANYO	9.8	DIAMOND M-SHARON
8356153	F-8A-071072	4242531834		103		DIAMOND M UNIT #1-8A	DIAMOND M UNIT (CANYO	5.8	DIAMOND M-SHARON
	-MONTGOMERY PRODUCTION INC			RECEIVED:	09/19/83	JA: TX			
8356276	F-7B-072506	4235331349		103		L S HOWARD #1 819292	ESTABAN (ELLENBURGER)	44.0	PALO DURO PIPELIN
	-MAJ PRODUCING CO			RECEIVED:	09/19/83	JA: TX			
8356079	F-7C-066736	4223500000		103		JAY "A" #2	CHRISTI (CANYON 6800)	0.0	NORTHERN NATURAL
	-NATURAL GAS ANADARKO INC			RECEIVED:	09/19/83	JA: TX			
8356182	F-10-071883	4235731108		107-TF		BENNY #1-404	TURNER (CLEVELAND)	140.0	TRANSWESTERN PIPE
	-NORTHRIDGE OIL CO			RECEIVED:	09/19/83	JA: TX			
8356187	F-09-071922	4223735258		103		COOPER #1	BARFIELD CONGLOMERATE	26.0	TUFCO
	-NUGGET OIL CORP			RECEIVED:	09/19/83	JA: TX			
8356135	F-02-070776	4217531680		102-4		PEREIRA #1-C	DIAL (HOCKLEY 3380')	90.0	UNITED GAS PIPE L
8356115	F-02-069297	4217531680		102-4		PEREIRA #1-T	DIAL (4270')	45.0	UNITED GAS PIPE L
	-O B K INC			RECEIVED:	09/19/83	JA: TX			
8356185	F-7B-071915	4236300000		103		WADDELL-TEICHMAN NO 1	WADDELL RANCH (CONG)	78.0	INTRASTATE GATHER
	-O I L ENERGY INC			RECEIVED:	09/19/83	JA: TX			
8356203	F-7C-071995	4245131132		103		PERRY L-13	S S R (CANYON UPPER)	4.0	EL PASO HYDROCARB
	-OJB INC			RECEIVED:	09/19/83	JA: TX			
8356056	F-7B-061306	4208332781		102-2		RICHARD VAUGHN #3	COLEMAN COUNTY REGULA	0.0	LONE STAR GAS CO
	-PALO PETROLEUM INC			RECEIVED:	09/19/83	JA: TX			
8356078	F-7C-066589	4238300000		102-2	103	MERTZ "4" #1	SPRABERRY (TREND AREA	0.0	
8356077	F-7C-066588	4238300000		102-2	103	UNIVERSITY 2 BLOCK 12 "A" #2	SPRABERRY (TREND AREA	0.0	
	-PATTERSON PETROLEUM INC			RECEIVED:	09/19/83	JA: TX			
8356250	F-83-072459	4214931548		102-2		GROVER SHADE #3	GIDDINGS (AUSTIN CHAL	108.0	PHILLIPS PETROLEU
	-PETRO-LEWIS CORPORATION			RECEIVED:	09/19/83	JA: TX			
8356106	F-03-068954	4205100000		102-2		HAMILTON-ALBRECHT #1	GIDDINGS	0.0	CLAJON GAS CO
8356201	F-7C-071988	4210500000		108		UNIVERSITY C #2	FARMER (SAN ANDRES)	3.7	J L DAVIS
8356200	F-7C-071987	4210532037		108		UNIVERSITY C #7	FARMER (SAN ANDRES)	2.5	J L DAVIS
8356198	F-7C-071985	4210532616		108		UNIVERSITY 50 811	FARMER (SAN ANDRES)	13.2	J L DAVIS
8356197	F-7C-071984	4210532764		108		UNIVERSITY 50 813	FARMER (SAN ANDRES)	4.2	J L DAVIS
8356199	F-7C-071986	4210532766		108		UNIVERSITY 50 815	FARMER (SAN ANDRES)	3.1	J L DAVIS
	-PITTS OIL CO & DALLAS PROD INC			RECEIVED:	09/19/83	JA: TX			
8356140	F-06-070918	4242330671		102-4		CLARK ESTATE #1	CHAPEL HILL NE (TRAVI	274.0	
	-PRECISION DRILLING CO INC			RECEIVED:	09/19/83	JA: TX			
8356286	F-7B-072528	4208333579		103		HARDY BLUE 08673	COLEMAN COUNTY REGULA	50.0	LONE STAR GAS CO
	-PREMCO PETROLEUM INC			RECEIVED:	09/19/83	JA: TX			
8356068	F-7B-065885	4242933376		102-4		LESTER CLARK #1	REID-MCLENNAN (MISS)	83.0	PETROLEUM CORP OF
8356136	F-02-070752	4228531679		102-4	107-TF	RENGER GAS #1	WORD NORTH (EDWARDS)	360.0	LONE STAR GAS CO
	-PRINGLE PETROLEUM INC			RECEIVED:	09/19/83	JA: TX			
8356069	F-83-056879	4220100000		102-4		MARIETTA #1	TOMBALL (6400 YEGUA)	50.0	H&M INTRASTATE GA
	-R C HAGEMS			RECEIVED:	09/19/83	JA: TX			
8356160	F-04-071378	4247933611		102-4		E P LEAL #3 (NA)	LEAL (YEGUA)	182.0	ESPERANZA TRANSMI
	-RANKIN OIL CO			RECEIVED:	09/19/83	JA: TX			
8356138	F-7C-070902	4208130628		103		ARLEDGE #3	ARLEDGE	1.0	SUN GAS CO
8356241	F-7C-072431	4208130724		103		CALLA MAE "C" #1	ARLEDGE	3.0	SUN GAS CO
8356261	F-08-072484	4237100000		108		J O SMITH #3	T C I	7.0	EL PASO NATURAL G
8356263	F-08-072488	4200331812		103		SEIDEL #3	FUHRMAN-MASCHO	2.0	PHILLIPS PETROLEU
8356262	F-08-072432	4200332239		103		THORNBERRY #1	FUHRMAN-MASCHO	2.0	PHILLIPS PETROLEU
8356262	F-08-072485	4200332240		103		THORNBERRY #3	FUHRMAN-MASCHO	2.0	PHILLIPS PETROLEU
8356260	F-08-072483	4200333167		103		WINTER #1	FUHRMAN-MASCHO	1.0	PHILLIPS PETROLEU
	-ROBERT E BYRNE			RECEIVED:	09/19/83	JA: TX			
8356159	F-7B-071358	4213332632		102-4		MILLS-GHOLSON #1	GENEVIEVE (STRAWN)	0.0	LONE STAR GAS CO
	-SANTA FE ENERGY PRODUCTS CO			RECEIVED:	09/19/83	JA: TX			
8356202	F-10-071989	4255731059		107-TF		WILLIS HARDY #2-49	ELLIS RANCH (CLEVELAN	1431.0	TRANSWESTERN PIPE
	-SANTA FE-WINDSOR PRODUCING CO			RECEIVED:	09/19/83	JA: TX			
8356061	F-03064574	4228700000		103		FRANCIS ZOCH UNIT #1	GIDDINGS (BUDA)	109.0	PERRY PIPELINE CO
8356112	F-03-069205	4228700000		102-2	103	LOVINGS #1	GIDDINGS (AUSTIN CHAL	109.0	PERRY PIPELINE CO
	-SCANDRILL INC			RECEIVED:	09/19/83	JA: TX			
8356239	F-09-072427	4250336457		102-4		SCAN-KING "E" #10	WOODWARD RANCH (STRAW	29.2	J M TAYLOR GAS CO
8356277	F-09-072507	4223735105		103		W L RICHARDS #12	BRYSON EAST	42.0	LONE STAR GAS CO
	-SENECA PETROLEUM INC			RECEIVED:	09/19/83	JA: TX			
8356105	F-7C-068875	4241300000		103	107-TF	MEADOR #3	SAWYER (CANYON)	72.0	INTRATEX GAS CO
	-SHELL OIL CO			RECEIVED:	09/19/83	JA: TX			
8356093	F-04-067344	4221531239		102-4		HARMAN RANCH #14	MONTE CHRISTO (VICKSB	600.0	VALERO TRANSMISSI
8356156	F-04-071201	4221531300		102-4		HARMAN RANCH #17	MONTE CHRISTO (VKSBG	800.0	VALERO TRANSMISSI
8356064	F-04-065567	4242731659		103		LACOPITA GAS UNIT #2	LACOPITA (VICKSBURG 2	300.0	TENNESSEE GAS PIP
	-STRINGER OIL & GAS			RECEIVED:	09/19/83	JA: TX			
8356150	F-7C-071051	4238332446		103		UNIVERSITY 10 - 31 #1			
	-SUN EXPLORATION & PRODUCTION CO			RECEIVED:	09/19/83	JA: TX			
8356145	F-04-070966	4221530849		102-4		A W BEAURLINE #3	SPRABERRY (TREND AREA	0.0	
8356144	F-04-070961	4242731622		102-4		DE LOPEZ C V -A- #4	SPRABERRY (TREND AREA	0.0	
8356132	F-08-070675	4222733038		103		M C HYDEN #7	BEAURLINE	219.0	TENNESSEE GAS PIP
8356300	F-8A-072569	4221933814		103		SOUTHEAST LEVELLAND UNIT #142A	LA REFORMA	788.0	FLORIDA GAS TRANS
8356302	F-8A-072571	4221933805		103		SOUTHEAST LEVELLAND UNIT #299	LUTHER S E (SILURIAN-	175.0	GETTY OIL CO
8356304	F-8A-072573	4221933816		103		SOUTHEAST LEVELLAND UNIT #300	LEVELLAND	8.0	AMOCO PRODUCTION
8356301	F-8A-072570	4221933815		103		SOUTHEAST LEVELLAND UNIT #301	LEVELLAND	10.0	AMOCO PRODUCTION
8356303	F-08-072572	4246131997		103		SOUTHWEST MCELROY UNIT #47	LEVELLAND	5.0	AMOCO PRODUCTION
	-SUPERIOR OIL CO			RECEIVED:	09/19/83	JA: TX			
8356114	F-04-069278	4205132442		102-2	103	COCHRAN OIL UNIT #1 #1	LEVELLAND	7.0	AMOCO PRODUCTION
8356127	F-04-070362	4221531333		102-4	103	F I JOHNSON #23	MCELROY	5.0	PHILIPS PETROLEUM
8356058	F-08-063134	4238931270		103		FORTUNE UNIT #2-R			
8356125	F-03-070275	4233930582		103		LAKE CREEK UNIT #33	CALDWELL NE (GEORGETO	36.0	FERGUSON CROSSING
							MONTE CHRISTO (5950)	35.0	FLORIDA GAS TRANS
							CHAPMAN DEEP (ATOKA)	1460.0	VALERO TRANSMISSI
							LAKE CREEK (NO 5 SAND	0.0	TRUNKLINE GAS CO

VOL 48 ISS 200 OCT 14 1983 UMI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-YANA OIL & GAS CORP				RECEIVED:	09/19/83	JA: TX			
8356128	F-04-070373	4221531324		103		FIRST NATIONAL BANK OF HARLINGEN #1	MCCOOK SOUTH (5,350')	146.0	FLORIDA GAS TRANS
-YARINA OIL CO				RECEIVED:	09/19/83	JA: TX			
8356053	F-01-000055	4228336888		103		C N COOKE #23	COOKE (EDWARDS LIME)	19.0	ESPERANZA TRANSMI
-YER TRUE INC				RECEIVED:	09/19/83	JA: TX			
8356046	F-10-056156	4234100000		103		BRENT 62-1	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8356045	F-10-056158	4234100000		103		BRENT 62-3	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8356046	F-10-056159	4234100000		103		BRENT 62-4	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8356047	F-10-056168	4234100000		103		BRENT 66-2	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8356048	F-10-056169	4234100000		103		BRENT 66-3	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
-TEMPLETON CO				RECEIVED:	09/19/83	JA: TX			
8356248	F-7C-072428	4239932698		102-4		J C CARTER #1	HERITAGE (JENNINGS)	40.0	UNION TEXAS PETRO
-TENNECO OIL COMPANY				RECEIVED:	09/19/83	JA: TX			
8356314	F-02-072597	4212533288		103		H O ANGERSTEIN #2-U	COTTONWOOD CREEK SOUT	36.5	TENNECO POLYMERS
8356118	F-03-069640	4220131434		102-4		STOCKDICK E G #1	KATY EAST (WILCOX 18,	0.0	TENNECO POLYMERS
-TEXACO INC				RECEIVED:	09/19/83	JA: TX			
8356057	F-04-063010	4247933703		103	107-TF	HELEN BONUGLI #1	JUANITA	1895.0	INTRASTATE GAS GA
-THE ANSCHUTZ CORPORATION				RECEIVED:	09/19/83	JA: TX			
8356080	F-03-066753	4203931327		102-4		ADA SHARPE UNIT #1	DANBURY SW	431.0	DOW CHEMICAL USA
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	09/19/83	JA: TX			
8356065	F-7C-065634	4210534125		102-4		INGHAM ESTATE "A" #1	INGHAM (FUSSELMAN)	350.0	
8356195	F-7C-071979	4210534517		102-4		UNIVERSITY 31-4 #2	UNIVERSITY 31 (QUEEN)	46.0	PHILLIPS PETROLEU
8356196	F-7C-071980	4210534518		102-4		UNIVERSITY 31-9E #2	UNIVERSITY 31 (QUEEN)	360.0	PHILLIPS PETROLEU
-TOM MCGEE CORP				RECEIVED:	09/19/83	JA: TX			
8356245	F-10-072446	4229531320		102-4		KIRSCHMAN #2	DUKE-MAY (TONKAWA)	18.3	DIAMOND SHAMROCK
8356244	F-10-072445	4229531275		102-4		LONGHOFER #1	DUKE-MAY (TONKAWA)	18.5	DIAMOND SHAMROCK
-TOP O'TEXAS PRODUCTION INC				RECEIVED:	09/19/83	JA: TX			
8356236	F-10-072423	4217931324		103		HAYDEN #1 (ID# 05428)	PANHANDLE GRAY	150.0	PHILLIPS PETROLEU
8356225	F-10-072382	4217931323		103		HAYDEN #2 (ID# 05428)	PANHANDLE GRAY FIELD	160.0	PHILLIPS PETROLEU
-TRINITY RESOURCES INC				RECEIVED:	09/19/83	JA: TX			
8356175	F-02-071808	4223931872		102-4	103	CANERDAY #3	PALMETTO BEND W (A-15	408.0	LONE STAR GAS CO
-TRITON OIL & GAS CORP				RECEIVED:	09/19/83	JA: TX			
8356218	F-7C-072285	4239932467		102-4		BOWEN ESTATE #1	FRITZESS (GARDNER SD)	110.0	UNION TEXAS PETRO
-TXO PRODUCTION CORP				RECEIVED:	09/19/83	JA: TX			
8356202	F-08-068234	4237133774		103		ARCO "75" #4	CHENOT N (WICHITA-ALB	100.0	DELHI GAS PIPELIN
8356279	F-09-072511	4233731835		103		BURKE "C"	SEAY (CADDO CONGLOMER	30.0	J L DAVIS
8356278	F-09-072510	4233732045		103		BURKE "E"	SEAY (CADDO CONGLOMER	30.0	J L DAVIS
8356086	F-04-067096	4226130525		102-4		ERCK #19	MCGILL ('9400' SEGMENT	0.0	DELHI GAS PIPELIN
8356073	F-03-066212	4248132458		103		LEHRER #1	WHARCO-SMILLING (WILC	0.0	DELHI GAS PIPELIN
8356055	F-04-062561	4221531107		103		PAINTER #7	MERCEDES (1-P)	0.0	TENNESSEE GAS PIP
8356143	F-05-070943	4234933216		103	107-TF	WEED "A" #1	ROUNDHOUSE (HAYNESVIL	0.0	DELHI GAS PIPELIN
-UNION OIL COMPANY OF CALIF				RECEIVED:	09/19/83	JA: TX			
8356234	F-8A-072404	4230330920		102-2		D C HORNE #1	EDMISSON (CLEAR FORK)	10.0	
8356176	F-01-071778	4218534364		102-2		PAMELA ACTON #3	MASSIE (STRAWN)	200.0	INTRATEX GAS CO
8356179	F-01-071852	4210534483		102-2		PAMELA ACTON #4	MASSIE (STRAWN)	180.0	INTRATEX GAS CO
8356226	F-08-072393	4243131298		303		W L FOSTER JR "B" #13	CONGER (PENN)	300.0	
-VIRLAR EXPLORATION INC				RECEIVED:	09/19/83	JA: TX			
8356233	F-03-070730	4248132472		102-4		BRANDL 1-T	WILDCAT PROPOSED EL C	91.0	DELHI GAS PIPELIN
-W M LAUGHLIN				RECEIVED:	09/19/83	JA: TX			
8356248	F-04-072456	4213100000		3?8		WOLFE #1	INDEPENDENCE SOUTH (3	20.8	VALLEY GAS TRANSM
-WESTLAND OIL DEVELOPMENT CORP				RECEIVED:	09/19/83	JA: TX			
8356206	F-08-072822	4237130585		302-4		SAM'S STATE "A" #1	PECOS GRANDE FIELD	365.0	LONE STAR GAS CO
-WOLSEY OIL INC				RECEIVED:	09/19/83	JA: TX			
8356151	F-09-071059	4223700000		108		R L MORRIS RRC #36893	WEILER (MARBLE FALLS)	0.0	CITIES SERVICE CO
-WOOD & LOCKER INC				RECEIVED:	09/19/83	JA: TX			
8356131	F-08-070555	4217331281		102-4		BLALOCK "1" #1-X	MUTT (LOWER WOLFCAMP)	18.0	
-WOOLF & MAGEE INC				RECEIVED:	09/19/83	JA: TX			
8356042	F-03-055134	4229131425		103		BARROW UNIT #1 RRC #097930	HANKAMER	100.0	TEXAS EASTERN TRA
-WRG OIL & GAS INC				RECEIVED:	09/19/83	JA: TX			
8356097	F-02-067562	4220131185		102-4		JESSIE A TUCKER A/3	DELHI NORTH (6400)	24.0	TRUNKLINE GAS CO

[FR Doc. 83-27962 Filed 10-13-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 982]

By Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 7, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New Reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 982

DATE ISSUED OCTOBER 7, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ARKANSAS OIL & GAS COMMISSION									
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/21/83	JA: AR			
8356532		0302710008		103		MAGNOLIA SMACKOVER POOL UNIT 3-K-1	MAGNOLIA	25.0	ARKANSAS LOUISIAN
8356533		0302710953		103		MAGNOLIA SMACKOVER POOL UNIT 3-L-1	MAGNOLIA	0.0	ARKANSAS LOUISIAN
8356534		0302710799		103		MAGNOLIA SMACKOVER POOL UNIT 4-G-1	MAGNOLIA	3.0	ARKANSAS LOUISIAN
8356535		0302710996		103		MAGNOLIA SMACKOVER POOL UNIT 4-M-1	MAGNOLIA	10.0	ARKANSAS LOUISIAN
8356536		0302710605		103		MAGNOLIA SMACKOVER POOL UNIT 4-I-1	MAGNOLIA	33.0	ARKANSAS LOUISIAN
8356537		0302710913		103		MAGNOLIA SMACKOVER POOL UNIT 4-K-1	MAGNOLIA	66.0	ARKANSAS LOUISIAN
8356538		0302710984		103		MAGNOLIA SMACKOVER POOL UNIT 4-N-1	MAGNOLIA	10.0	ARKANSAS LOUISIAN
8356539		0302710956		103		MAGNOLIA SMACKOVER POOL UNIT 4-O-1	MAGNOLIA	3.0	ARKANSAS LOUISIAN
8356540		0302710916		103		MAGNOLIA SMACKOVER POOL UNIT 4-P-2	MAGNOLIA	66.0	ARKANSAS LOUISIAN
8356541		0302710772		103		MAGNOLIA SMACKOVER POOL UNIT 4-R-1	MAGNOLIA	32.0	ARKANSAS LOUISIAN
8356542		0302710790		103		MAGNOLIA SMACKOVER POOL UNIT 4-S-1	MAGNOLIA	29.0	ARKANSAS LOUISIAN
8356543		0302710805		103		MAGNOLIA SMACKOVER POOL UNIT 5-P-1	MAGNOLIA	11.0	ARKANSAS LOUISIAN
8356544		0302710833		103		MAGNOLIA SMACKOVER POOL UNIT 5-P-2	MAGNOLIA	98.0	ARKANSAS LOUISIAN
8356545		0302710759		103		MAGNOLIA SMACKOVER POOL UNIT 5-Q-1	MAGNOLIA	11.0	ARKANSAS LOUISIAN
8356546		0302710747		103		MAGNOLIA SMACKOVER POOL UNIT 5-S-1	MAGNOLIA	21.0	ARKANSAS LOUISIAN
8356547		0302710806		103		MAGNOLIA SMACKOVER POOL UNIT 6-R-1	MAGNOLIA	15.0	ARKANSAS LOUISIAN
8356548		0302710832		103		MAGNOLIA SMACKOVER POOL UNIT 6-T-1	MAGNOLIA	6.0	ARKANSAS LOUISIAN
-ARKOMA PRODUCTION CO				RECEIVED:	09/21/83	JA: AR			
8356508		0313110242		103		HAZEL #2	BONANZA	150.0	ARKANSAS LOUISIAN
-BROCK HYDROCARBONS INC				RECEIVED:	09/21/83	JA: AR			
8356524		0303310104		103		PHILLIPS #1-30-C	RUDY	0.0	
8356525		0303310104		102-4		PHILLIPS #1-30-T	RUDY	0.0	
-CLEMENTS ENERGY INC				RECEIVED:	09/21/83	JA: AR			
8356531		0302710856		103		MUDGENS #1	FROG LEVEL	138.0	DOW CHEMICAL CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	09/21/83	JA: AR			
8356499		0313110205		103		GLEN JONES #1-20C	GRAGG	38.0	
8356498		0313110205		103		GLEN JONES #1-20T	GRAGG	830.0	
-DOME PETROLEUM CORP				RECEIVED:	09/21/83	JA: AR			
8356501		0313110235		103		ELKINS #6-11	UNNAMED	178.9	
-EXXON CORPORATION				RECEIVED:	09/21/83	JA: AR			
8356508		0308310072		102-3		TANNER GAS UNIT #1	BOONEVILLE	689.0	
-GULF OIL CORPORATION				RECEIVED:	09/21/83	JA: AR			
8356523		0303310108		103		D BYARS #2-10	KIBLER WILLIAMS	429.0	ARKANSAS LOUISIAN
8356520		0311510159		102-3		SHINN #2-1	KNOXVILLE	286.0	ARKANSAS LOUISIAN
-HADSON PETROLEUM CORP				RECEIVED:	09/21/83	JA: AR			
8356507		0308310124		103		BANNING #1-7	SCRANTON	0.0	ARKANSAS LOUISIAN
-HANNAH OIL & GAS CO				RECEIVED:	09/21/83	JA: AR			
8356513		0304710234		103		KAY A #1-C	PETER PENDER	135.0	
8356514		0304710234		102-4		KAY A #1-T	PETER PENDER	0.0	
-HAWKINS OIL & GAS INC				RECEIVED:	09/21/83	JA: AR			
8356522		0303310084		102-4		MORSE #1-33-T	DYER	768.5	ARKANSAS WESTERN
-HUGGS INCORPORATED				RECEIVED:	09/21/83	JA: AR			
8356515		0313911490		102-4		FIRST LAND & TIMBER #1	GREGORY	182.5	ARKANSAS LOUISIAN
-J M HUBER CORPORATION				RECEIVED:	09/21/83	JA: AR			
8356506		0308310071		103		SPENCER #1-29	DELAWARE	0.0	ARKANSAS LOUISIAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LADD PETROLEUM CORPORATION				RECEIVED:	09/21/83	JA: AR			
8356530		0302210472		103		KIRKPATRICK #4	DORCHEAT MACEDONIA	0.0	ARKANSAS-LOUISIAN
8356529		0302710977		103		SMITH-SOUTER	DORCHEAT-MACEDONIA	0.0	ARKANSAS LOUISIAN
-REVERE CORP				RECEIVED:	09/21/83	JA: AR			
8356499		0313110243		103		REVERE JOHNSON #1-10	BONANZA	80.3	ARKANSAS LOUISIAN
-SAMSON RESOURCES COMPANY				RECEIVED:	09/21/83	JA: AR			
8356582		0306310102		103		FLOWERS UNIT #2	SPADRA	287.4	ARKANSAS LOUISIAN
-SEECO INC				RECEIVED:	09/21/83	JA: AR			
8356511		0304710230		102-4		ALICE HARGER #1-27	AETNA	0.0	
8356512		0304710167		103		BECK #2-30	ROCK CREEK	300.0	
8356510		0304710211		102-4		MORSE #3-30-T	LONE ELM	0.0	ARKANSAS WESTERN
-TEXLAND PETROLEUM INC				RECEIVED:	09/21/83	JA: AR			
8356495		0313110196		102-4		SHELL-JOHNSON #1-C	BONANZA FIELD CATOKA	1671.9	ARKANSAS LOUISIAN
8356496		0313110196		103		SHELL-JOHNSON #1-T	BONANZA FIELD	2561.9	ARKANSAS LOUISIAN
-TIDELAND EMERGY INC				RECEIVED:	09/21/83	JA: AR			
8356526		0307310732		103		ELCO #1-1	WEST BRADLEY FIELD	10.0	BRANCH INVESTMENT
-TOWNER PETROLEUM CO				RECEIVED:	09/21/83	JA: AR			
8356494		0303110239		103		FT CHAFFEE #12-1	MASSARD PRAIRIE	0.0	ARKANSAS LOUISIAN
-TXO PRODUCTION CORP				RECEIVED:	09/21/83	JA: AR			
8356505		0308310108		102-4		ARKANSAS KRAFT "A" #1	DELAWARE	3218.3	
8356521		0303310102		102-4		CARTER "B" #1	ALMA	1312.5	COLUMBIA GAS TRAN
8356519		0311510172		102-4		FOREHAND #2	FERGERSON	68.3	COLUMBIA GAS TRAN
8356504		0308310121		102-4		HIXSON "C" #1	PARIS	78.8	
8356509		0306710085		103		KEITH #1	WESTA	141.8	COLUMBIA GAS DEVE
8356503		0308310112		102-4		KERM "A" #1	SCRAMTON	1050.0	COLUMBIA GAS DEVE
8356517		0311510143		102-4		POWERS "F" #1-C	DENVER	249.6	COLUMBIA GAS TRAN
8356518		0311510145		102-4		POWERS "F" #1-T	DOVER	11.8	COLUMBIA GAS TRAN
8356516		0312510161		102-4		SINGLETON #1	OAK GROVE	0.5	
-WEISER-BROWN OIL COMPANY				RECEIVED:	09/21/83	JA: AR			
8356528		0307110248		102-4		ROBERTSON-JOHNSTON #1-21 C	UNION CITY	36.5	
8356527		0307110248		102-4		ROBERTSON-JOHNSTON #1-21 T	UNION CITY	73.0	
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMADARKO PRODUCTION COMPANY				RECEIVED:	09/21/83	JA: MT			
8356461 12-82-297		2508521383		102-2		PICARD A-2	ANVIL	116.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	09/21/83	JA: MT			
8356439 12-82-295		2509121482		103		WALTER GOETZ FEE 44-10	COMERTOWN	74.0	PHILLIPS PETROLEU
-PETROLEUM CORP OF AMERICA				RECEIVED:	09/21/83	JA: MT			
8356462 12-82-296		2507121818		102-2		ANDERSON 2-0161	EAST LORING	35.0	KN ENERGY INC
8356438 12-82-293		2507121813		102-2		MURDOCK 2-1261	EAST LORING	35.0	KN ENERGY INC
-TEXACO INC				RECEIVED:	09/21/83	JA: MT			
8356440 12-82-296		2508321645		102-2		W E MCCHESNEY JR #2	INTAKE II	258.8	MONTANA-DAKOTA UT
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AKRON OIL CORP				RECEIVED:	09/21/83	JA: OH			
8356318		3403126969		107-TF		SIMEER-BEYERS #1	CLARK	10.0	
8356317		3403126946		107-TF		WILLIAMSON #1	CLARK	10.0	
-AIWOOD RESOURCES INC				RECEIVED:	09/21/83	JA: OH			
8356319		3411523240		103	107-TF	EWART #1	MCCONNELSVILLE	15.0	K5T OIL & GAS CO
-HERMAN J SNAFER				RECEIVED:	09/21/83	JA: OH			
8356320		3411521423		107-TF		OVERNITE TRANS UNIT #1	RICHFIELD	150.0	EAST OHIO GAS CO
-DILL BLAIR INCORPORATED				RECEIVED:	09/21/83	JA: OH			
8356323		3402920719		103	107-TF	SIDWELL #2	WILDCAT	12.0	EAST OHIO GAS CO
-CA D' ORA INC				RECEIVED:	09/21/83	JA: OH			
8356322		3416727414		103		MERBERT ARNOLD #1	WATERTOWN	3.7	
-CHARLES L WOOD				RECEIVED:	09/21/83	JA: OH			
8356323		3459234920		103	107-TF	COSS #1 3405923492 14	MONROE	12.0	COLUMBIA GAS TRAN
8356324		3459234930		103	107-TF	GIBSON #2 3405923493 14	MONROE	12.0	COLUMBIA GAS TRAN
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	09/21/83	JA: OH			
8356325		3411122967		107-DV		BLANEY REALTY #3	WASHINGTON	25.9	
-DART OIL COMPANY				RECEIVED:	09/21/83	JA: OH			
8356326		3413320183		108		ANGEBRANDT #1		6.0	EAST OHIO GAS CO
8356329		3413321457		108		BRITTAN #1		7.8	POI ENERGY INC
8356330		3415722747		108		COWENS #1		5.0	ALUMINUM SMELTING
8356331		3415722819		108		KNUTTY NO 1		5.0	ALUMINUM SMELTING
8356328		3413321234		108		KOVOLYAN #1		10.0	POI ENERGY INC
8356327		3413320363		108		SEKEL ESTATE #1		1.0	EAST OHIO GAS CO
-DAVID A WALDRON & ASSOC INC				RECEIVED:	09/21/83	JA: OH			
8356332		3415321421		107-TF		HANLA UNIT #1	COPLEY	30.0	
-DOME PRODUCING				RECEIVED:	09/21/83	JA: OH			
8356333		3409321217		107-TF		PAUL-BARTTER #1	COLUMBIA	20.0	COLUMBIA GAS OF O
-DORFMAN PRODUCTION CO				RECEIVED:	09/21/83	JA: OH			
8356337		3409921680		103	107-TF	BEHRINGER UNIT #2	DAMASCUS	12.0	COLUMBIA GAS TRAN
8356335		3409921587		103	107-TF	HAWKINS "A" UNIT #2	DAMASCUS	12.0	COLUMBIA GAS TRAN
8356334		3409921567		103	107-TF	KILE UNIT #2	DAMASCUS	12.0	COLUMBIA GAS TRAN
8356336		3409921595		103	107-TF	KILE UNIT #3	DAMASCUS	12.0	COLUMBIA GAS TRAN
8356338		3409921601		103	107-TF	TRACY UNIT #1	DAMASCUS	12.0	COLUMBIA GAS TRAN
8356339		3409921609		103	107-TF	TRACY UNIT #2	DAMASCUS	12.0	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED:	09/21/83	JA: OH			
8356340		3408323342		103		ED-3A DAVIDSON	JACKSON	18.8	
-ENERGEX OIL & GAS CORP				RECEIVED:	09/21/83	JA: OH			
8356341		3416320798		103	107-TF	RHEINSCHELD #2	SWAN TOWNSHIP	0.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED:	09/21/83	JA: OH			
8356343		3400722540		103	107-TF	MARRISON UNIT #1		28.8	
8356344		3405520246		107-RT		MILLER #17		18.0	COLUMBIA GAS TRAN
8356342		3400722241		103	107-TF	WILSON #1		20.0	
-ENTERPRISE ENERGY CORP				RECEIVED:	09/21/83	JA: OH			
8356345		3611523123		103	107-TF	MURRAY #2	MEIGSVILLE	18.2	
-ENVIROGAS INC				RECEIVED:	09/21/83	JA: OH			
8356346		3400922814		107	107-TF	SUNDAY CREEK COAL #9E	DOVER	18.2	
-FRANKLIN GAS & OIL CO INC				RECEIVED:	09/21/83	JA: OH			
8356347		3408323338		103		D P & L M SHELDON #3	JEFFERSON	0.0	EAST OHIO GAS CO
-GASEARCH INC				RECEIVED:	09/21/83	JA: OH			
8356348		3400722162		103	107-TF	KIRBY #6	CHERRY VALLEY	20.0	AMERICAN ENERGY S
-GENERAL ELECTRIC CO				RECEIVED:	09/21/83	JA: OH			
8356349		3405520519		103	107-TF	STEWART UNIT #1	MIDDLEFIELD	20.0	EAST OHIO GAS CO
-GREENLAND PARTNERSHIP 83-1				RECEIVED:	09/21/83	JA: OH			
8356316		3612725911		107-TF		DISHON #2	SALT LICK	15.0	
-HATFIELD JOHN J				RECEIVED:	09/21/83	JA: OH			
8356365		3416923577		103		WERTZ 2A	BAUGHMAN	18.0	
-HICKMAN RICHARD W				RECEIVED:	09/21/83	JA: DH			
8356395		3408924717		103		HICKMAN #2B	FALLSBURY	2.0	NATIONAL GAS & OI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356396		3408924718		103		HICKMAN #3B	FALLSBURY	2.0	NATIONAL GAS & OI
8356397		3408924719		103		HICKMAN #4B	FALLSBURY	2.0	NATIONAL GAS & OI
-NLN DRILLING INC				RECEIVED:	09/21/83	JA: OH			
8356350		3400722235		107-TF		SEELEY #2	RICHMOND	3.0	PDI ENERGY INC
-INDUSTRIAL NATURAL GAS CORP				RECEIVED:	09/21/83	JA: OH			
8356351		3406120302		103		CLARK 1-19	HARLEM	365.0	COLUMBIA GAS OF O
8356352		3406120306		103		IRWIN 1-20	HARLEM	548.0	COLUMBIA GAS OF O
-J D DRILLING CO				RECEIVED:	09/21/83	JA: ON			
8356359		3410522701		107-DV		DEBRA & TAMMY FITCH #1	LEBANON	6.0	COLUMBIA GAS TRAN
8356361		3410522722		107-DV		GEORGE R HOLMAN #1	SUTTON	9.0	COLUMBIA GAS TRAN
8356355		3410522487		107-DV		GEORGE THEISS #1	SUTTON	6.0	COLUMBIA GAS TRAN
8356353		3410522374		107-DV		HOWARD & NANCY ERWIN #1	MARLEM	7.0	COLUMBIA GAS TRAN
8356360		3410522720		107-DV		JAMES RALPH TURNER #1	SUTTON	6.0	COLUMBIA GAS TRAN
8356354		3410522479		107-DV		JOE & ARDETH PROFFITT #1	SUTTON	7.0	COLUMBIA GAS TRAN
8356356		3410522507		107-DV		LEDA KRAEUTER #1	SUTTON	9.0	COLUMBIA GAS TRAN
8356358		3410522517		107-DV		SUSAN PIGOTT #1	OLIVE	7.0	COLUMBIA GAS TRAN
8356357		3410522509		107-DV		VICTOR & MARY HYSELL #1	CHESTER	9.0	COLUMBIA GAS TRAN
-JAMES E DIDDLE				RECEIVED:	09/21/83	JA: OH			
8356362		3410522721		107-DV		ROGER & MARVIENE BEEGLE #1	LEBANON	8.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED:	09/21/83	JA: OH			
8356364		3403124963		107-TF		MILO YODER #6256	KEENE	3.0	COLUMBIA GAS TRAN
8356363		3403124954		107-TF		R WAYNE MULLETT #6254	KEENE	5.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED:	09/21/83	JA: OH			
8356366		3411924761		108		LUTZ #1		9.0	COLUMBIA GAS TRAN
-LLP GAS & OIL CORP				RECEIVED:	09/21/83	JA: OH			
8356367		3415723886		103		WIDDER #1	BOLIVAR	38.0	EAST OHIO GAS CO
-M C F OIL CO				RECEIVED:	09/21/83	JA: OH			
8356368		3407523217		103		ENOS A & ANNA N BYLER #1	MONROE	5.0	COLUMBIA GAS TRAN
-MAJ				RECEIVED:	09/21/83	JA: OH			
8356369		3414520294		107-DV		CLETIS & IMEZ DUMMITT #4	MADISON	8.4	
-MARK RESOURCES CORP				RECEIVED:	09/21/83	JA: OH			
8356370		3400722225		103		R FREDERICK #1	KINGSVILLE	38.0	EAST OHIO GAS CO
8356371		3400722250		103		T W KISTER #4	KINGSVILLE	38.0	EAST OHIO GAS CO
-MILLER OIL & GAS CO				RECEIVED:	09/21/83	JA: OH			
8356372		3407524078		107-TF		A MERSHBERGER #2	MECHANIC	14.0	COLUMBIA GAS TRAN
-MORGAN-PENNINGTON INC				RECEIVED:	09/21/83	JA: OH			
8356373		3415321296		107-TF		BLANKENSHIP #1	NORTON	18.3	EAST OHIO GAS CO
-NEIL R. WYNN				RECEIVED:	09/21/83	JA: OH			
8356374		3416727503		103		W F GILLS #5	WARREN	3.0	RIVER GAS CO
-O-TEX OIL & GAS INC				RECEIVED:	09/21/83	JA: OH			
8356328		3407523696		103		PIAR #3	MONROE	125.0	COLUMBIA GAS TRAN
-OHIO HYDROCARBONS INC				RECEIVED:	09/21/83	JA: OH			
8356382		3416320759		103		HAROLD ZIMMERMAN #1	MCCARTHUR	18.0	TENNESSEE GAS PIP
8356383		3416320760		103		HAROLD ZIMMERMAN #2	MCCARTHUR	18.0	TENNESSEE GAS PIP
8356379		3400922677		103		MCVEN #7	MCCARTHUR	18.0	TENNESSEE GAS PIP
8356380		3416320671		103		PLOSKI #2	MCCARTHUR	18.0	TENNESSEE GAS PIP
8356381		3416320727		103		PLOSKI 8	MCCARTHUR	18.0	TENNESSEE GAS PIP
-ONEAL PETROLEUM INC				RECEIVED:	09/21/83	JA: OH			
8356377		3405922099		108		D SHRIVER #2		9.9	COLUMBIA GAS TRAN
8356376		3405922029		108		E ROBINS #2		2.5	COLUMBIA GAS TRAN
8356375		3405922028		108		E ROBINS #3		8.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	09/21/83	JA: OH			
8356424		3411521521		108		FLOYD HARKER #1		2.0	NATIONAL GAS & OI
8356425		3411923817		108		FRANCIS THOMPSON #1		4.0	NATIONAL GAS & OI
8356426		3411924081		108		FRANCIS THOMPSON #2		4.0	NATIONAL GAS & OI
-OXI OIL CORP				RECEIVED:	09/21/83	JA: OH			
8356384		3407322844		103		SCHWAB #1	BENTON	15.0	
8356385		3407322845		103		SCHWAB #2	BENTON	15.0	
-PENN-OHIO ENERGY CORP				RECEIVED:	09/21/83	JA: OH			
8356387		3407529640		107-TF		ABE SCHLABACH B-2-1A	BERLIN TOWNSHIP	75.0	COLUMBIA GAS TRAN
8356386		3407522919		107-TF		TILLIE HOCHSTETLER B-3-1	BERLIN TOWNSHIP	75.0	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED:	09/21/83	JA: OH			
8356389		3400722243		103	107-TF	BRITTON #1	ANDOVER	48.0	
8356388		3400722201		103	107-TF	HARROFF #CG-2	ROME	32.0	
8356390		3400722260		103	107-TF	MCCLURG #1	ANDOVER	50.0	
8356391		3400721847		102-3		RHOA #3 WELL	NEW LYME	500.0	
-POMINEX INC				RECEIVED:	09/21/83	JA: OH			
8356392		3409921606		103	107-TF	SWANSTON CHILDREN'S HOME #2	CANFIELD	18.0	
-PROVIDENT OIL & GAS				RECEIVED:	09/21/83	JA: OH			
8356393		3415321306		107-TF		MAUPIN #1	RICHFIELD	25.5	EAST OHIO GAS CO
-QUADRANT EXPLORATION				RECEIVED:	09/21/83	JA: OH			
8356394B		3416726736	D	107-DV		MORRIS #1-1	FEARING TWP	0.0	RIVER GAS CO
8356394A		3416726736		103		MORRIS #1-1	FEARING TWP	0.0	RIVER GAS CO
-RPJ ENERGY FUND MANAGEMENT INC				RECEIVED:	09/21/83	JA: OH			
8356398		3405923497		107-TF		WELLS #1	ADAMS	12.0	
-RSC ENERGY CORP				RECEIVED:	09/21/83	JA: OH			
8356399		3411925732		103	107-TF	CONSOLIDATION COAL - CR #2	SALEM	29.0	REPUBLIC STEEL CO
8356400		3411925733		103	107-TF	CONSOLIDATION COAL - CR #3	SALEM	42.0	REPUBLIC STEEL CO
-S & R OIL CO				RECEIVED:	09/21/83	JA: OH			
8356401		3415723570		103	107-TF	RHINE OIL CO #1	YORK	24.0	EAST OHIO GAS CO
8356402		3415723571		103	107-TF	RHINE OIL CO #2	YORK	18.0	EAST OHIO GAS CO
8356403		3415723572		103	107-TF	RHINE OIL CO #3	YORK	18.0	EAST OHIO GAS CO
-SHONGUM OIL & GAS INC				RECEIVED:	09/21/83	JA: OH			
8356405		3412122967		107-DV		HAMILTON #1	BROOKFIELD	0.0	
8356404		3412122953		107-DV		STILL #1	NOBLE	0.0	
8356407		3412122971		107-DV		VIRGINIA GENTRY #1	BROOKFIELD	0.0	
8356406		3412122969		107-DV		VIRGINIA GENTRY #2	BROOKFIELD	0.0	
-STOCKER&SITLER INC				RECEIVED:	09/21/83	JA: OH			
8356420		3415723132		108		BURKY LEASE #1		9.0	EAST OHIO GAS CO
8356423		3415723535		103	107-TF	DAYTON SPECHT UNIT #1	AUBURN	20.0	REPUBLIC STEEL CO
8356408		3415722567		108		GORDON UNIT #1		4.0	EAST OHIO GAS CO
8356409		3415722550		108		GORDON UNIT #2		3.0	EAST OHIO GAS CO
8356419		3415723126		108		HENRY HERSHBERGER UNIT #1		5.0	EAST OHIO GAS CO
8356414		3415722594		108		HOGUE UNIT #1		5.0	EAST OHIO GAS CO
8356416		3415722597		108		HOGUE UNIT #2		5.0	EAST OHIO GAS CO
8356410		3415722551		108		KAUFMAN UNIT #1		3.0	EAST OHIO GAS CO
8356412		3415722579		108		KAUFMAN UNIT #2		7.0	EAST OHIO GAS CO
8356411		3415722578		108		KAUFMAN UNIT #3		10.0	EAST OHIO GAS CO
8356413		3415722593		108		LELA GORDON UNIT #1		4.0	EAST OHIO GAS CO
8356415		3415722595		108		LELA GORDON UNIT #2		4.0	EAST OHIO GAS CO
8356417		3415722611		108		NORMA JOHNSON UNIT #1		13.0	EAST OHIO GAS CO
8356418		3415722689		108		NORMA JOHNSON UNIT #2		5.0	EAST OHIO GAS CO
8356421		3415723350		108		WAYNE SPECHT UNIT #1		4.0	EAST OHIO GAS CO
8356422		3415723520		103	107-TF	YOUNGEN UNIT #2	AUBURN	16.0	REPUBLIC STEEL CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TOWNER PETROLEUM CO				RECEIVED: 09/21/83 JA: OH					
8356427		3406726080		103	107-TF	HALLE 01	FREEPORT	27.0	TENNESSEE GAS PIP
-VICTOR MCKENZIE				RECEIVED: 09/21/83 JA: OH					
8356428		3412725980		103		RAYMOND KING 01	THORN	6.0	NATIONAL GAS & OI
-VIKING RESOURCES CORP				RECEIVED: 09/21/83 JA: OH					
8356429		3408520453		103	107-TF	BROADWATER 04	MADISON	30.0	
8356430		3413321390		103	107-TF	FRANK 01	COPLEY	30.0	
8356432		3416727101		108		J SNIDER 02		5.0	ASHLAND OIL INC
8356433		3416727102		108		J SNIDER 03		5.0	ASHLAND OIL INC
8356434		3416923554		103		ROBERT HATFIELD 02	CHIPPEWA	30.0	
8356431		3416727080		108		SNIDER 04		12.0	SHELL CHEMICAL CO
-WILLIAM F HILL				RECEIVED: 09/21/83 JA: OH					
8356435		3407524021		103		LEWI MILLER 01	KILLBUCK	6.0	
-WILLIAM N TIPKA				RECEIVED: 09/21/83 JA: OH					
8356436		3415723149		108		J RIDENOUR 02		8.0	EAST OHIO GAS CO
########## PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES ##########									
-CASTLE GAS CO INC				RECEIVED: 09/22/83 JA: PA					
8356480	21005	3706325097		108		H NEESE #2 (C-611) IND-25097	YOUNG TOWNSHIP	21.0	PEOPLES NATURAL G
8356481	21006	3706325103		108		H NEESE #3 (C-610) IND-25103	YOUNG TOWNSHIP	21.0	PEOPLES NATURAL G
8356479	21004	3706324013		108		J HUGHEY #2 (PNG-85244) IND-24013	BLACKLICK TOWNSHIP	21.0	PEOPLES NATURAL G
8356482	21007	3706325102		108		J NICELY #1 (C-608) IND-25102	YOUNG TOWNSHIP	21.0	PEOPLES NATURAL G
8356483	21008	3706325610		108		J NICELY #2 (C-705) IND-25610	YOUNG TOWNSHIP	21.0	PEOPLES NATURAL G
8356484	21009	3706326145		108		J NICELY #3 (C-712) IND-26145	YOUNG TOWNSHIP	21.0	PEOPLES NATURAL G
8356485	21010	3706323425		108		M PREVITE #1 (PNG-5069) IND-23425	GRANT TOWNSHIP	5.0	PEOPLES NATURAL G
8356487	21012	3706323462		108		P RICE #1 (PNG-5095) IND-23462	GRANT TOWNSHIP	17.0	PEOPLES NATURAL G
8356486	21011	3706322470		108		R & P COAL CO (142A) #1 (C-193)	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356472	20997	3706326537		108		R & P COAL CHERRY RUN DAM #10 C-746	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356473	20998	3706326609		108		R & P COAL CHERRY RUN DAM #11 C-747	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356474	20999	3706326638		108		R & P COAL CHERRY RUN DAM #12 C-748	CENTER TOWNSHIP	51.0	COLUMBIA GAS TRAN
8356475	21000	3706326675		108		R & P COAL CHERRY RUN DAM #13 C-751	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356476	21001	3706326676		108		R & P COAL CHERRY RUN DAM #14 C-752	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356477	21002	3706326805		108		R & P COAL CHERRY RUN DAM #15 C-755	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356478	21003	3706326828		108		R & P COAL CHERRY RUN DAM #16 C-756	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356464	20989	3706326417		108		R & P COAL CHERRY RUN DAM #2 C-738	CENTER TOWNSHIP	51.0	COLUMBIA GAS TRAN
8356465	20990	3706326418		108		R & P COAL CHERRY RUN DAM #3 C-739	CENTER TOWNSHIP	51.0	COLUMBIA GAS TRAN
8356466	20991	3706326419		108		R & P COAL CHERRY RUN DAM #4 C-740	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356467	20992	3706326420		108		R & P COAL CHERRY RUN DAM #5 C-741	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356468	20993	3706326484		108		R & P COAL CHERRY RUN DAM #6 C-742	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356469	20994	3706326517		108		R & P COAL CHERRY RUN DAM #7 C-743	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356470	20995	3706326518		108		R & P COAL CHERRY RUN DAM #8 C-744	CENTER TOWNSHIP	51.0	COLUMBIA GAS TRAN
8356471	20996	3706326536		108		R & P COAL CHERRY RUN DAM #9 C-745	CENTER TOWNSHIP	21.0	COLUMBIA GAS TRAN
8356463	20988	3706326345		108		R BUTERBAUGH #4 (C-688) IND-26345	GRANT TOWNSHIP	41.0	COLUMBIA GAS TRAN
-CHARLES L VALONE				RECEIVED: 09/22/83 JA: PA					
8356458	19265	3704920563		108		VALONE #3	NORTH EAST	6.0	NATIONAL FUEL GAS
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED: 09/21/83 JA: PA					
8356437	16262	3700500000		108		MARY C WOLFFE &90560	PA NW SHALLOW	1.0	COLUMBIA GAS TRAN
-DOC-MCC SERVICE CO				RECEIVED: 09/22/83 JA: PA					
8356444	18236	3712921912		108		F N STONER TRUST 761-6	EAST HUNTINGTON	12.0	TEXAS EASTERN TRA
8356445	18245	3712922035		108		WALLACE L LOWE 1560-2	EAST HUNTINGTON	3.6	TEXAS EASTERN TRA
-ENVIROGAS INC				RECEIVED: 09/22/83 JA: PA					
8356462	20968	3704922417		107-TF		J REA #1	ELK CREEK	18.0	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED: 09/22/83 JA: PA					
8356492	21042	3706522709		103		JEANETTE W CRAFT A-1 F-3616	BIG RUN	21.0	CONSOLIDATED GAS
8356493	21043	3706522710		103		JEANETTE W CRAFT B-2 F-3617	BIG RUN	22.0	CONSOLIDATED GAS
-INGRAM ENTERPRISES INC				RECEIVED: 09/22/83 JA: PA					
8356457	20763	3703921953		107-TF		TAUTIN #1	COONS CORNERS - CONNE	36.0	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED: 09/22/83 JA: PA					
8356455	20729	3706327489		102-4		MARTIN SERRO #1	YOUNG	8.0	PEOPLES NATURAL G
8356446	18762	3708522202		108		RONALD ALTMAN #1	COWANSHANNOCK	28.0	PEOPLES NATURAL G
-JAMES F SCOTT				RECEIVED: 09/22/83 JA: PA					
8356454	20404	3706522762		103		THORNTON MCNEIL PS-458	BIG RUN BOROUGH GASKI	0.2	
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED: 09/22/83 JA: PA					
8356456	20762	3706327551		103		IRVINE #2	CN & RL IRVINE	37.5	PEOPLES NATURAL G
-LONG II				RECEIVED: 09/22/83 JA: PA					
8356488	21015	3706522360		108		HENNEN #1	WINSLOW	18.5	COLUMBIA GAS TRAN
8356489	21016	3706522219		108		HIMES #1	BROOKVILLE	12.0	COLUMBIA GAS TRAN
8356490	21017	3706522221		108		WAYNE L NIMES #3	BROOKVILLE	12.0	COLUMBIA GAS TRAN
-M & E ASSOCIATES				RECEIVED: 09/22/83 JA: PA					
8356467	18788	3706522352		108		GORDON MILLER #1	PUNXSUTAWNEY BORO	8.0	T W PHILLIPS GAS
-MERIDIAN EXPLORATION CORP				RECEIVED: 09/22/83 JA: PA					
8356491	21024	3703921838		103		N BOYLAN #645-1	CAMBRIDGE	30.0	COLUMBIA GAS TRAN
8356451	19303	3703921838		107-TF		N BOYLAN #645-1	CAMBRIDGE	30.0	COLUMBIA GAS TRAN
8356453	19316	3704922249		102-2		SMITH UNIT #611-2	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8356452	19304	3704922249		107-TF		SMITH UNIT #611-2	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
-PENN PROJECTS LTD DRILLING PROGRAM				RECEIVED: 09/22/83 JA: PA					
8356461	20961	3712922088		102-4		A LLOYD FENTON #1	EAST HUNTINGTON	25.0	
-PEOPLES NATURAL GAS CO				RECEIVED: 09/22/83 JA: PA					
8356459	20766	3706327494		103		GEORGE K MCKITRICK #2 IND-27494	W PENNA - UPPER DEVON	21.0	PEOPLES NATURAL G
8356460	20767	3706327495		103		R M MEHRIG #3 - IND-27495	W PENNA - UPPER DEVON	66.0	PEOPLES NATURAL G
8356458	20765	3706327462		103		STANLEY ROCKWELL #3 IND-27462	W PENNA UPPER DEVONIA	16.0	PEOPLES NATURAL G
-RENNIE KELLY ENTERPRISES				RECEIVED: 09/22/83 JA: PA					
8356448	18896	3706521966		108		JOHN J FIRMENT #1	GASKILL	8.0	T W PHILLIPS GAS
8356449	18895	3706323938		108		MIKE YANKASKY #1 (10A)	CANOE	8.0	T W PHILLIPS GAS
########## DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA ##########									
-UNION OIL COMPANY OF CALIF				RECEIVED: 09/21/83 JA: CA 2					
8356443	OCS-P-17-83	0431120547		102-5		SANTA CLARA UNIT 85-16	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING

[FR Doc. 83-27963 Filed 10-13-83; 8:48 am]

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federal register

Friday
October 14, 1983

Part IV

Environmental Protection Agency

Iron and Steel Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards

VOL
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 420

[WH-FRL-2408-8]

Iron and Steel Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final and interim regulation.

SUMMARY: EPA is promulgating final and interim modifications to the regulation which limits effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in manufacturing steel. EPA agreed to promulgate these modifications in an agreement which settled the various lawsuits brought against EPA by the steel industry and the Natural Resources Defense Council, Inc., challenging the final steel industry regulation promulgated by EPA on May 27, 1982 (47 FR 23258).

In this notice, EPA is promulgating an interim rule regarding the calculation of mass-based pretreatment standards (establishing the maximum amount of a pollutant which may be discharged per 1,000 pounds of product) and a final rule regarding the compliance date for the steel industry categorical pretreatment standards.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on October 28, 1983. This final and interim regulation shall become effective November 27, 1983.

Under Section 509(b)(1) of the Clean Water Act judicial review of this regulation can be obtained only by filing a petition to review in the United States Court of Appeals within 90 days after this regulation is considered issued for purposes of judicial review. Under Section 509(b)(2) of the Clean Water Act, the requirements of the regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Comments on the interim rule § 420.04 must be submitted on or before November 14, 1983.

ADDRESSES: Send comments to: Mr. Ernst P. Hall, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention EGD Docket Clerk, Iron and Steel Rules (WH-552).

The supporting information and all comments on this notice will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library). The EPA information regulation provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions regarding this notice may be addressed to Mr. Gary Amendola, Senior Iron and Steel Industry Specialist, at (216) 835-5200.

SUPPLEMENTARY INFORMATION:

I. Legal Authority
II. Background
A. Prior Regulation
B. Challenges to the Prior Regulation
C. Settlement Agreement
III. Final and Interim Modifications to the Regulation
A. Calculation of Mass-Based Pretreatment Standards
B. Pretreatment Standards Compliance Date
IV. Promulgation Without Formal Notice and Comment
V. Solicitation of Comments
VI. Regulatory Impact Analysis and Regulatory Flexibility Analysis
VII. OMB Review
VIII. List of Subjects in 40 CFR Part 420

I. Legal Authority

The regulation contained in this notice is promulgated under the authority of sections 301, 304, 306, 307, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 92-517).

II. Background

A. Prior Regulation

On January 7, 1981, EPA proposed best practicable control technology currently available (BPT), best available technology economically achievable (BAT), and best conventional pollutant control technology (BCT) effluent limitations, and, new source performance standards (NSPS), pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS) for the iron and steel manufacturing point source category (steel industry), 48 FR 1858. EPA published the final regulation on May 27, 1982, 47 FR 23258. The preamble to the final regulation describes the history of the rulemaking.

B. Challenges to the Prior Regulation

Certain members of the steel industry, the American Iron and Steel Institute, and the Natural Resources Defense Council, Inc. (NRDC) filed petitions to review the final steel industry regulation. These challenges were consolidated into one lawsuit by the Third Circuit Court of Appeals. (*National Steel Corp. v. EPA*, No. 82-3225 and Consolidated Cases).

C. Settlement Agreement

On February 24, 1983, the parties in the consolidated lawsuits entered into a comprehensive Settlement Agreement which resolved all the issues raised by the petitioners. In the Settlement Agreement, EPA agreed to publish a notice of proposed rulemaking and to solicit comments regarding certain modifications to the final steel industry regulation. In addition, EPA agreed to publish proposed additions to the preamble to the regulation. The petitioners agreed that if, after EPA has taken final action under the Settlement Agreement, each individual provision of the final steel industry regulation and each addition to the preamble is substantially the same as, and does not alter the meaning of, language set forth in the Settlement Agreement, then they will dismiss the various lawsuits challenging the final steel industry regulation. The notice of proposed rulemaking on proposed changes to the regulation is published elsewhere in today's **Federal Register.**

EPA also agreed to propose and take final action on an amendment to the general pretreatment regulations (40 CFR Part 403) which would allow non-contact cooling waters which are contaminated with significant quantities of pollutants to be reclassified from "dilute" to "unregulated" wastestreams for purposes of the combined wastestream formula contained in 40 CFR 403.6(e). The proposal to implement that part of the Settlement Agreement is included in the notice of proposed rulemaking referred to above.

Finally, EPA agreed to publish the final and interim modifications to the steel industry regulation discussed below.

III. Final and Interim Modifications to the Regulation

A. Calculation of Mass-Based Pretreatment Standards

The effluent limitations guidelines, new source performance standards and pretreatment standards for existing and new sources established in 40 CFR Part 420 (iron and steel manufacturing point source category) are "mass-based" limitations and standards. These mass-based limitations and standards establish the maximum amount of a pollutant which may be discharged per 1,000 pounds of product. The Agency's NPDES permit regulations, 40 CFR 122.45(b)(2), establish a method for deriving the applicable product basis for applying the effluent limitations and standards for direct dischargers. However, neither the General Pretreatment Regulations (40 CFR Part 403) nor the steel industry pretreatment standards (40 CFR Part 420) presently contain a comparable method for deriving the production basis for those who discharge wastewaters to publicly owned treatment works (POTWs).

In accordance with the Settlement Agreement, the Agency is promulgating an interim regulation which establishes the method for calculating the applicable mass-based pretreatment standard. This regulation, in large measure, mirrors the existing regulation by which mass-based effluent limitations for direct dischargers are calculated.

The Agency solicits comments on the interim regulation.

B. Pretreatment Standards Compliance Date

In the Settlement Agreement, all parties agreed that July 10, 1985 (3 years after the effective date of the iron and steel pretreatment standards) was the appropriate deadline for compliance with those standards. The Agency stated in the preamble to the final steel industry regulation that July 10, 1985 was the applicable compliance deadline but had not promulgated a regulation which specifically established that deadline. In the Settlement Agreement, the Agency agreed to add the following language to this preamble: The final compliance date for the categorical pretreatment standards set forth in 40 CFR Part 420 is July 10, 1985, unless otherwise extended.

IV. Promulgation Without Formal Notice and Comment

The Administrator has determined that there is a good cause to promulgate these two modifications to the iron and steel category regulation on an interim and final basis, respectively. For the reasons set out below, the Administrator believes that it is appropriate to promulgate these modifications as a final regulation because, under the circumstances, it is not necessary to seek comment.

With respect to 40 CFR 420.05 (pretreatment standards compliance date), the Agency previously stated in the preamble to the May 27, 1982 final steel industry regulation that July 10, 1985 was the compliance deadline for the pretreatment standards for existing sources established in the regulation (47 FR 24554; June 7, 1982). The addition of 40 CFR 420.05 merely codifies the Agency's previously stated intent and therefore constitutes an interpretive regulation. Moreover, all parties which challenged the final iron and steel industry regulation have agreed that the Agency would promulgate this modification as a final regulation.

With respect to 40 CFR 420.03, (calculation of mass-based pretreatment standards) this addition to the regulation simply establishes the basis for indirect dischargers to calculate the mass-based pretreatment standards applicable to their facility. This provision is substantially the same as the existing provision applicable to direct dischargers. In the Settlement Agreement, the parties agreed that the Agency would publish this regulation on an interim basis.

V. Solicitation of Comments

EPA requests comments on the interim rule 40 CFR 420.04 set out in this notice.

VI. Regulatory Impact Analysis and Regulatory Flexibility Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Agency previously prepared such an analysis regarding the May 27, 1982 final steel industry regulation. This regulation is not major because it simply clarifies the effective date for pretreatment standards and the manner in which mass-based pretreatment standards are calculated.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* EPA must prepare a Regulatory Flexibility Analysis for all proposed regulations that have a significant impact or a substantial number of small entities. In the preamble to the May 27, 1982 final steel industry regulation, the Agency concluded that there would not be a significant impact on any segment of the regulated population large or small. For that reason, the Agency determined that a formal regulatory flexibility analysis was not required. That conclusion is equally applicable to this regulation. The Agency is not, therefore, preparing a formal analysis for this regulation.

VII. OMB Review

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Room M2404, U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460 from 9:00 a.m. to 4:00 p.m. Monday through Friday excluding Federal holidays.

VIII. List of Subjects in 40 CFR Part 420

Iron, Steel, Water pollution control, Wastewater treatment and disposal.

Dated: September 27, 1983.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble 40 CFR Part 420 is amended as shown:

PART 420—IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

1. The authority citation for part 420 reads as follows:

Authority: Sec. 301; 304 (b), (c), (e), and (g); 306 (b) and (c); 307; 308 and 501, Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311; 1314 (b), (c), (e), and (g); 1316 (b) and (c); 1317; 1318; and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567; Pub. L. 95-217.

2. EPA amends the General Provisions by adding §§ 420.04 and 420.05 to read as follows:

§ 420.04 Calculation of Pretreatment Standards.

(a) Pretreatment standards shall be calculated for each operation using the applicable average rate of production reported by the owner or operator of the facility to the Control Authority in accordance with 40 CFR 403.12(b)(3).

(b) The average rate of production reported by the owner or operator in accordance with 40 CFR 403.12(b)(3) shall be based not upon the design production capacity but rather upon a reasonable measure of actual production of the facility, such as the production during the high month of the previous year, or the monthly average for the highest of the previous 5 years. For new sources or new dischargers, actual production shall be estimated using projected production.

(c) If, due to a change of circumstances, the average rate of production for an operation reported by the owner or operator of the facility to the Control Authority in accordance with 40 CFR 403.12(b)(3) does not represent a reasonable measure of actual production of that operation, the owner or operator must submit to the Control Authority a modified average rate production.

§ 420.05 Pretreatment Standards Compliance Date.

The final compliance date for the categorical pretreatment standards set forth in 40 CFR Part 420 is July 10, 1985.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 403 and 420

Iron and Steel Manufacturing Point Source Category; Effluent Limitation Guidelines, Pretreatment Standards; and New Source Performance Standards; and General Pretreatment Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes modifications to the regulation which limits effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in manufacturing iron and steel. EPA agreed to propose these modifications in a settlement agreement which resolved the various lawsuits brought against EPA by the steel industry and the Natural Resources Defense Council, Inc., challenging the final iron and steel industry regulation promulgated by EPA on May 27, 1982, 47 FR 23258.

The proposed modifications include: (1) An amendment to the "water bubble" rule (an alternate effluent limitations policy, under which dischargers with multiple outfalls may discharge greater amounts of pollutants from outfalls where treatment costs are high in exchange for an equivalent decrease from outfalls at the same plant where abatement is less expensive); (2) certain modifications of the effluent limitations for "best practicable control technology currently available: (BPT); "best available technology economically achievable" (BAT); "best conventional pollutant control technology" (BCT); and, "new source performance standards" (NSPS) for direct discharges; and (3) certain modifications to the pretreatment standards for new and existing indirect discharges (PSNS and PSES). In addition, EPA agreed to propose additional preamble language regarding the steel industry regulation. The Agency is also proposing an amendment to the General Pretreatment Regulations (40 CFR Part 403) which permits reclassification of non-contact cooling water flows contaminated with significant quantities of pollutants from "dilute" to "unregulated" for purposes of the combined waste stream formula contained in 40 CFR 403.6(e).

DATES: Comments on this proposal must be submitted on or before November 14, 1983.

ADDRESSES: Send comments to: Mr. Ernst P. Hall, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention EGD Docket Clerk, Proposed Iron and Steel Rules (WH–552).

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library). The EPA information regulation provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Amendola, Senior Iron and Steel Industry Specialist, at (216) 835–5200.

SUPPLEMENTARY INFORMATION:

I. Legal Authority
II. Background
  A. Prior Regulation
  B. Challenges to the Prior Regulation
  C. Settlement Agreement
III. Proposed Modifications to the Iron and Steel Manufacturing Point Source Category Regulation
  A. Alternative Effluent Limitations (Water Bubble)
  B. Removal Credits for Phenols (4AAP)
  C. Subparts B and C—Sintering and Ironmaking Subcategories
  D. 301(g) Water Quality Variance for Ammonia-N and Phenols (4AAP)
  E. Blast Furnace Flow Related Issue
  F. Subpart I Acid Pickling Subcategory, Sulfuric and Hydrochloric, Acid Pickling Segments
  G. Subpart G Cold Forming Subcategory, Cold Worked Pipe and Tube Segments
  H. Hot Coating Subcategory
IV. Proposed Amendments to the Preamble to the Regulation
  A. Pretreatment issues
  B. Central Treatment
V. Proposed Modification to the General Pretreatment Regulation, § 403.6(c)
VI. Environmental Impact of the Proposed Modifications to the Steel Industry Regulation
VII. Solicitation of Comments
VIII. Executive Order 12291
IX. Regulatory Flexibility Analysis
X. OMB Review
XI. List of Subjects:
  A. 40 CFR Part 403
  B. 40 CFR Part 420

I. Legal Authority

The regulation described in this notice is proposed under authority of sections 301, 304, 306, 307, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 W.S.C. 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 92–517).

II. Background

A. Prior Regulation

On January 7, 1981, EPA proposed a regulation to establish Best Practicable Control Technology Currently Available (BPT), Best Available Technology Economically Achieveable (BAT), and Best Conventional Pollutant Control Technology (BCT) effluent limitations and New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS) for the iron and steel manufacturing point source category PSES, and PSNS for the iron and steel manufacturing point source category (steel industry); 46 FR 1858. EPA published the final steel industry regulation on May 27, 1982, 47 FR 23258. The preamble to the final steel industry regulation describes the history of the rulemaking action.

B. Challenges to the Prior Regulation

After publication of the steel industry regulation, certain members of the steel industry, the American Iron and Steel Institute, and the Natural Resources Defense Council, Inc., filed petitions to review the regulation. These challenges were consolidated into one lawsuit by the Third Circuit Court of Appeals. (*National Steel Corp. v. EPA*, No. 82–3225 and Consolidated Cases).

C. Settlement Ageement

(1) *Agreement to Modifications and Changes.* On February 24, 1983, the parties in the consolidated lawsuits entered into a comprehensive settlement agreement which resolved all issues related to the steel industry regulation raised by the petitioners. As a result of that settlement agreement, the United States Court of Appeals issued an order on March 9, 1982 which stayed briefing in the lawsuits. In the settlement agreement, EPA agreed to publish a notice of proposed rulemaking and to solicit comments regarding certain modifications to the final steel industry regulation. In addition, EPA agreed to publish proposed additons to the preamble to the regulation. If, after EPA has taken final action under the settlement agreement, each individual provision of the final steel industry regulation and each addition to the preamble is substantially the same as, and does not alter the meaning of, language set forth in the settlement ageement, the petitioners will dismiss the various lawsuits challenging the final steel industry regulation

EPA also agreed to take final action on a proposed amendment to the general pretreatment regulations (40 CFR Part 403) which would allow reclassification of non-contact cooling waters contaiminated with significant quantities pollutants from "dilute" to "unregulated" for purposes of the combined waste stream formula to 40 CFR 403.6(e).

(2) *Stay of Certain Effluent Limitations.* As part of the Settlement Agreement, the parties jointly requested the United States Court of Appeals for the Third Circuit in *National Steel Corp. v EPA*, to stay the effectiveness of certain sections of 40 CFR Part 420 pending final action by EPA on each respective modification or additon. Copies of the settlement agreement were promptly sent to EPA Regional Offices and State NPDES permit-issuing authorities after it was executed. On March 9, 1983, the Court entered an order staying those sections of the regulation promulgated on May 27, 1982 which EPA is proposing to amend.

All limitations and standards contained in the final steel industry regulation published in May 27, 1982 which are not specifically listed in the attached proposed regulation are not stayed by the order entered by the court. EPA is not proposing to delete or modify any of those limitations and standards in this notice.

III. Proposed Modifications to the Iron and Steel Manufacturing Point Source Category Regulation

The following are the changes to the steel industry regulation EPA is proposing:

A. Section 420.03 Alternative Effluent Limitations (Water Bubble)

The proposed amendments to the water bubble rule for the iron and steel manufacturing point source category regulation provide that the alternative effluent limitations established under the water bubble must result in a decrease in the discharge of traded pollutants from the amount allowed by the generally applicable limitations. The water bubble rule established by the final regulation published on May 27, 1982, provided that there could be no increase in the discharge of pollutants beyond that allowed by the generally applicable limitations. The preamble amendments presented in Section V of this notice describes the proposed revisions to the water bubble rule.

In the settlement agreement, the Agency agreed to propose to amend the preamble to the regulation as follows:

> As part of the settlement, EPA is proposing to amend its bubble rule for the steel industry. As originally promulgated, the rule provided that a discharger could qualify for alternative effluent limitations as long as its discharge from a combination of outfalls met certain requirements (water quality standards) and restrictions and would not exceed the total mass of each pollutant otherwise allowed under the regulation. Under the revised rule being proposed today, a discharger would have to meet the same requirements and restrictions, but would qualify for alternative effluent limitations only if it achieves a net reduction from the total mass of each traded pollutant.
>
> The amended regulation provides that the permit-issuing authority must determine an "appropriate net reduction amount" in each case. In making that determination, it is intended that the permit writer will examine historical discharge levels and seek to achieve those reductions that are attainable at a facility through good engineering practices, improved operations and supervision of existing treatment systems or other feasible modifications, *e.g.*, non-process flow segregation or chemical addition, if they can be achieved without requiring significant additional expenditures. It is intended that in reviewing opportunities for appropriate reductions, the permit writer will require only those measures which result in non-trivial (substantial) effluent reductions and which will not require significant additional expenditures.
>
> The minimum net reduction in all cases for each pollutant traded is to be the amount specified in the regulation. The amount is expressed in terms of percentages of the amount by which a discharger proposes to exceed the otherwise applicable effluent limitations established in this regulation. The Agency proposes approximately 15 percent for Total Suspended Solids (TSS) and Oil and Grease (O&G) and approximately 10 percent for all other traded pollutants.
>
> In the simplest case, for example, a discharger might propose to exceed the allowable limitation for TSS on Outfall A by 100 pounds and then make up the amount on Outfall B by reducing its allowable discharge by 100 pounds. The net reduction provision would require that, at a minimum, the allowable discharge from Outfall B (or any other outfall which the discharger has included in the bubble trade) be reduced by approximately 115 pounds. In making a determination of the "appropriate net reduction amount," the permit writer will require further, non-trivial (substantial) reductions only if he determines that they can be achieved without significant additional expenditures.
>
> This amendment results from settlement of litigation among several parties with significantly divergent views of the water bubble rule. This provision does not represent the Agency view on whether it is either a legally required condition of a bubble rule under the Clean Water Act or any other environmental statute or required as a matter of policy, nor shall it be taken as an indicator of what the Agency may or may not require in any other regulations establishing effluent limitations guidelines under the Clean Water Act.
>
> In reaching this accord, the parties do not imply any changes in their positions. In the interest of avoiding protracted litigation and of expediting the installation of pollution controls for this industry, the parties have reached an overall settlement of many issues that they view as beneficial. In that context, the parties have agreed to resolve their differences with this settlement.

B. Section 420.06 Removal Credits for Phenols (4AAP)

EPA proposes to add § 420.06 which specifies that pretreatment removal credits for phenols (4AAP) may be granted when phenols (4AAP) is used as an indicator or surrogate pollutant. Under the general pretreatment regulations, a categorical pretreatment standard may be revised to reflect removal of indicator or surrogate pollutants if the standard specifies that such revisions are permissible (40 CFR 403.7(a)). The final regulation published on May 27, 1982, did not specify that removal credits would be granted for phenols (4AAP). The Agency believes that the biological treatment systems employed at publicly owned treatment works will, in large measure, remove those pollutants for which phenols (4AAP) is used as an indicator pollutant to the same degree as they remove phenols (4AAP). Accordingly, EPA proposes to revise the steel industry regulations to provide that removal credits may be granted for phenols (4AAP).

In the settlement agreement, the Agency agreed to propose to amend the preamble to the regulation as follows:

> Removal allowances pursuant to 40 CFR 403.7(a)(1) may be granted for phenols (4AAP) limited in 40 CFR Part 420 when used as an indicator or surrogate pollutant. Of course, when phenols (4AAP) are not used as an indicator or surrogate pollutant, removal allowances may also be granted.

C. Subparts B and C—Sintering and Ironmaking Subcategories

The proposed BAT, NSPS, PSES, and PSNS ironmaking and sintering limitations and standards for lead and zinc are slightly higher than those contained in the final steel industry regulation published on May 27, 1982. After promulgating the final regulation, EPA learned that the final limitations for ironmaking operations (blast furnaces) were based in part upon data obtained at a plant with treatment operations more extensive than the EPA model treatment system. Therefore, these data may not be an appropriate basis for the limitations and standards. The limitations and standards proposed today are based upon data obtained from steelmaking operations using the applicable BAT model treatment system. The model treatment systems used to develop the limitations and standards for steelmaking operations are the same as those considered for sintering and ironmaking operations. Because wastewaters from steelmaking operations are similar in character and treatability to wastewaters from

VOL 48 ISS 200 OCT 14 1983 UMI

sintering and ironmaking operations with respect to toxic metal pollutants, the Agency believes that it is appropriate to rely upon that data in proposing modified lead and zinc limitations and standards for sintering and ironmaking operation. Volume I of Development Document (EPA 440/1–82/024, May 1982, pages 13, 18, 19, 27, 31, 34, 35, 40, 41, 46, 51, 55, 59, 63, 64, 66–68, and 409–427) contains the relevant data relating to steelmaking operations.

EPA is proposing modifications to the BAT limitations and PSES for total cyanide and to establish a new subdivision for existing indirect blast furnace dischargers which would contain standards which are the same as the generally applicable PSES except that the proposed ammonia-N and phenol standards are less stringent. These standards are only applicable to the two existing iron blast furnace operations which discharge their wastewater into POTWs. These operations are located in Chicago, Illinois and discharge their wastewater into the Metropolitan Sanitary District system. Compliance with the proposed cyanide BAT limitations and PSES could be accomplished through the use of wastewater treatment technologies other than the model BAT and PSES alkaline chlorination technology. The proposed changes would, accordingly, give the industry added flexibility. EPA is not, however, proposing any changes to the BAT limitations and pretreatment standards (except as noted above for existing indirect dischargers) for ammonia-N and phenols (4AAP) contained in the final regulation.

D. Section 301 (g) Water Quality Variance for Ammonia-N and Phenols (4AAP)

The availability of variances from the BAT limitations for non-toxic nonconventional pollutants as allowed under Section 301(g) of the Clean Water Act can significantly affect the cost of compliance for a discharger. Section 301(g) variances can, however, only be granted in cases where the granting of the variance will not interfere with attainment of existing water quality standards. Certain parties to the Settlement Agreement have sought a clarification regarding the availability of Section 301(g) variances for steel industry dischargers. In the Settlement Agreement, the Agency agreed to propose to amend the preamble to the final regulation as follows:

> The BPT referred to in section 301(g) of the Clean Water Act is either (a) the requirement applicable to the facility as a result of the BPT limitation contained in the steel industry regulation, or (b) the requirement applicable to a facility as a result of the BPT limitation contained in the steel industry regulation which is or may be modified after February 24, 1983 by a fundamentally different factors ("FDF") variance, (40 CFR 125.31), or the net/gross provisions of the NPDES permit regulations (40 CFR 122.63(h). Section 301(g) variances may be granted for ammonia-N discharges from blast furnaces and from sinter plants when sinter plant wastewaters are treated with blast furnace wastewaters. Section 301(g) variances may also be granted for phenols (4AAP) discharges from blast furnaces and from sinter plants when sinter plant wastewaters are treated with blast furnace waters if the applicant discharging phenols performs appropriate analyses (*e.g.*, GC or GC/MS) of the effluent which demonstrate that the effluent does not contain significant amounts of toxic pollutants. Of course, no variance may be granted pursuant to section 301(g) unless the demonstration called for by that section has been made.

E. Blast Furnace Flow-Rated Safety Issue

In the settlement agreement, the Agency agreed to propose to amend the preamble to the regulation as follows:

> It has been brought to the Agency's attention that one facility contends that it may encounter a safety problem related to the maintenance of gas seal pressures resulting from efforts to reduce its blast furnace flows to those contemplated by the EPA model. Such a safety related flow problem may result in difficulty in meeting blast furnace mass limitations at the facility. Safety related issues were not raised prior to promulgation of the effluent limitations guidelines and were, therefore, not considered by the Agency in the rulemaking. The Agency has not received any information that this may be a problem at any other facility. If it appears that there is a safety problem at that particular site related to flow reduction (or the total cost of compliance with the BAT requirements, including the cost of remedying the safety problem is substantially greater than the EPA model treatment system cost estimate) then either or both of those circumstances may be an appropriate basis for a FDF variance for that facility. Any application for such a variance shall be in accordance with and satisfy the requirements of 40 CFR Part 125 Subpart D.

F. Subpart I—Acid Pickling Subcategory, Sulfuric and Hydrochloric Acid Pickling Segments

In accordance with the settlement agreement, the proposed BPT and BAT limitations and NSPS, PSES, and PSNS for zinc are slightly higher than those contained in the final regulation.

G. Subpart J—Cold Forming Subcategory, Cold Worked Pipe and Tube Segments

The final regulation limited all cold worked pipe and tube operations to zero discharge at each level of treatment (BPT, BAT, NSPS, PSES, PSNS, and BCT). The model treatment system relied upon by the Agency as the basis for the final limitations and standards includes the recycle of the oil or water solution and, when appropriate, contract hauling of a small oil solution blowdown. The proposed regulation would permit nominal discharges of the spent oil or water solution (rather than contract hauling), and also specifies that appropriate limitations and standards for process wastewaters which are not regulated by the prior regulation are to be developed on a case-by-case basis. The proposed effluent limitations and standards for cold worked pipe and tube operations are based upon the cold rolling model treatment systems and a model flow rate of 5 gallons per ton.

H. Subpart L—Hot Coating Subcategory

The proposed regulation contains modified effluent limitations and standards for zinc. These limitations and standards are based upon the same effluent concentration as are the proposed zinc limitations and standards for acid pickling operations (0.20 mg/l). The proposed regulation contains a provision requiring that hot coating treatment facilities presently achieving zinc discharge levels more stringent than the proposed limitations and standards continue to do so. The proposed regulation also provides that the proposed limitations may be used as a basis for determining alternative limitations under 40 CFR 420.03 (water bubble rule) even for those facilities presently achieving discharge levels more stringent than the proposed limitations and standards.

IV. Proposed Amendments to the Preamble to the Regulation

A. Pretreatment Issues

(1) *Flow Monitoring for Combined Wastestream Formula.* In the settlement agreement, the Agency agreed to propose to amend the preamble to the regulation as follows:

> Under § 403.12(b)(4) of the General Pretreatment Regulations, a facility must monitor the flow of regulated process streams and other streams "as necessary" to allow use of the Combined Wastestream Formula. A facility must monitor the flows of its regulated streams. However, a facility can avoid monitoring its other streams (unregulated and dilute) under this section by agreeing to meet a mass limitation at least as stringent as the one which would be calculated under the Combined Wastestream Formula if these other streams were taken into consideration. An integrated iron and steel facility combining regulated process streams with either unregulated or dilute streams, or both, can avoid monitoring the flows of those streams if it agrees to meet the mass limit calculated solely through use of the limits applicable to the regulated streams. Such a limit would be as stringent as any which could possibly be derived under the formula if either the unregulated or dilute streams, or both, were taken into consideration. If, however, the facility desires to take into account potential pollutants contained in these unregulated or dilute streams, monitoring of these streams will be required to enable calculation of the alternative limit under the formula.
>
> It should be noted that it is an entirely different matter where concentration-based rather than mass-based limits are involved. A facility cannot, for example, avoid monitoring unregulated or dilute streams by agreeing to meet the concentration limit applicable to its regulated streams. This is because application of the formula could result in a more stringent concentration-based limit if the unregulated or dilute streams were taken into consideration.

(2) *Monitoring Data for Temporarily Closed Plants.* In the settlement agreement, the Agency agreed to propose to amend the preamble to the regulation as follows:

> The pretreatment regulations should be construed to establish that temporarily closed plants are required to submit a baseline monitoring report if recommencement of discharge is expected, but need not include the monitoring information unless the plant wants to submit historical data and this is acceptable to the Control Authority. Monitoring data should be submitted within a reasonable time after reopening the plant. For those plants that are operating at a reduced rate of production, a complete baseline monitoring report is required. The report should include monitoring data based upon the present average rate of production. If the plant calculates its limits through use of the Combined Wastestream Formula, it will be necessary to inform the Control Authority of any significant change in the values used to calculate this limit. *See* 40 CFR 403.6(e) (1982).

(3) *Flow Estimates for Combined Wastestream Formula.* In the settlement agreement, the Agency agreed to propose to amend the preamble to the regulation as follows:

> Flows from integrated facilities can be estimated when it is difficult or nearly impossible to monitor the flows to achieve an actual reading. 40 CFR 403.12(b)(4) (1982) lists the flow measurement requirements, and states in part that "the Control Authority may allow for verifiable estimates of these flows [regulated streams and other streams necessary to allow use of the Combined Wastestream Formula] where justified by cost of feasibility considerations."

(4) *Mass-Based and Concentration-Based Pretreatment Standards.* In the settlement agreement, the Agency agreed to propose to amend the preamble to the regulation as follows:

> If an integrated plant is required to comply with a categorical pretreatment standard expressed only in the mass-based limits and with another categorical pretreatment standard expressed only in concentration-based limits, a mass-based limit should be applied to the combined flow. To accomplish this under the formula, the concentration limit may be converted to a mass limit by multiplying the concentration limit by the average or other appropriate flow of the regulated stream to which that limit applies.

B. Control Treatment

In the settlement agreement, the Agency agreed to propose to amend the preamble to the regulation as follows:

> Industry petitioners believe that they are entitled to obtain a FDF variance under 40 CFR Part 125 Subpart D for an individual process (a) where the removal costs are wholly out of proportion to the removal costs considered during development of the national limits, or (b) where other factors solely related to that individual process would result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits, even though EPA may have considered such costs or such other factors in making its determination pursuant to 40 CFR 420.01(b). EPA does not concede that petitioners' contention is a correct interpretation of applicable law, but does not agree that the discussion in the preamble (47 FR 23267 (Column 3) (May 27, 1982)) was not intended to preclude this contention.

V. Proposed Modification to the General Pretreatment Regulations, § 403.6(c)

In the combined wastestream formula, the term "dilution stream" is defined to include boiler blowdown and non-contact cooling water streams, among others. However, in certain circumstances (e.g., where recycled cooling water is treated with algaecides) non-contact cooling water or boiler blowdown could contain significant concentrations of regulated pollutants. The Agency today proposes to refine the meaning of dilution stream to address this situation. Where non-contact cooling water or a boiler blowdown stream contains a significant amount of a pollutant, and an industrial user combines this wastewater with its regulated process wastestream(s) prior to treatment, resulting in a substantial reduction of that particular pollutant, the Control Authority will be authorized to exercise its discretion to classify this stream as either a dilution or an unregulated stream. The term "Control Authority" refers either to the POTW if it has an approved pretreatment program, or to the Approval Authority (EPA or the NPDES State) if the POTW has no approved program.

Before the Control Authority can exercise its discretion to classify such a stream, the industrial user must provide engineering, production, and sampling and analysis information sufficient to allow a determination by the Control Authority on how the stream should be classified.

VI. Environmental Impact of the Proposed Modifications to the Steel Industry Regulation

EPA's estimates of the industry-wide direct discharges of toxic metals and total cyanide under the final steel industry regulation and the regulation as modified by this proposal are presented below. Volume I of the Development Document contains a compilation of estimated industry-wide discharges on a subcategory specific basis. The estimated discharges of other pollutants limited by the final steel industry regulation would be the same under the regulation as modified by this proposal. These estimates do not take into account the proposed change in the water bubble rule which would result in a decrease in the amount of pollutants discharged at those facilities using the rule.

(Discharge in tons/year)

	Untreated wastewaters	BPT	BAT
	Prior Regulations		
Toxic Metals	121,900	462	273
Total Cyanide	17,000	431	96
Proposed Regulation			
Toxic Metals	121,900	468	280
Total Cyanide	17,000	431	100

VII. Solicitation of Comments

EPA invites public participation in this rulemaking and requests comments on the proposals discussed or set out in this notice. The Agency asks that any deficiencies in the record of this proposal be pointed to with specificity and that suggested revisions or corrections be supported by data.

VIII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Agency previously prepared such an analysis regarding the May 27, 1982 final steel industry regulation. This proposed regulation is not major because it does not fall within the criteria for major regulations established in Executive Order 12291.

VOL 48 ISS 200 OCT 14 1983 UMI

IX. Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. In the preamble to the May 27, 1982 final steel industry regulation, the Agency concluded that there would not be a significant impact on any segment of the regulated population, large or small. For that reason, the Agency determined that a formal regulatory flexibility analysis was not required. That conclusion is equally applicable to this regulation. The Agency is not, therefore, preparing a formal analysis for this regulation.

X. OMB Review

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Room M2404, U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460 from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding Federal holidays.

XI. List of Subjects

40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

40 CFR Part 420

Iron, Steel, Water pollution control, Wastewater treatment and disposal.

Dated: September 27, 1983.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble, EPA is proposing to amend 40 CFR Part 420 as follows:

PART 420—[AMENDED]

1. The authority citation for Part 420 reads as follows:

Authority: Sections 301; 304 (b), (c), (e), and (g); 306 (b) and (c); 307; 308 and 501, Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311; 1314 (b), (c), (e), and (g); 1316 (b) and (c); 1317; 1318; and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567; Pub. L. 95–217.

2. By revising § 420.03 to read as follows:

§ 420.03 Alternative effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available, best available technology, and best conventional technology.

(a) Except as provided in paragraphs (b)(1) through (b)(3) of this section, any existing point source subject to this part may qualify for alternative effluent limitations to those specified in Part 420, Subparts A though L for a number of its processes representing the degree of effluent reduction attainable by the application of best practicable control technology currently available, best available, technology economically, achievable, and best conventional technology. The alternative effluent limitations for each pollutant are determined for a combination of outfalls by totaling the mass limitations of each pollutant allowed under Subparts A though L and subtracting from each total an appropriate net reduction amount. The permit authority shall determine an appropriate net reduction amount for each pollutant traded based upon consideration of additional available control measures which would result in non-trival (substantial) effluent reductions and which can be achieved without requiring significant additional expenditures at any outfall(s) by which the discharges from any waste steam(s) in the combination for which the discharge is projected to be better than required by this regulation.

(b) In the case of Total Suspended Solids (TSS) and Oil and Grease (O&G), the minimum net reduction amount shall be approximately 15 percent of the amount(s) by which any waste stream(s) in the combination will exceed otherwise allowable effluent limitations. For all other traded pollutants, the minimum net reduction exceeds otherwise allowable effluent limitations. For all other traded pollutants, the minimum net reduction amount shall be approximately 10 percent of the amount(s) by which the discharges from any waste stream(s) in the combination will exceed otherwise allowable effluent limitations for each pollutant under this regulation.

(1) A discharger cannot qualify for alternative effluent limitations if the application of such alternative effluent limitations would result in violation of any applicable State water quality standards.

(2) Each outfall from which process wastewaters are discharged must have specific, fixed effluent limitations for each pollutant limited by the applicable Subparts A though L.

(3) Subcategory-Specific restrictions.

(i) There shall be no alternate effluent limitations for cokemaking process wastewaters.

(ii) There shall be no alternative effluent limitations for cold forming process wastewaters.

3. By adding a new § 420.06 to read as follows:

§ 420.06 Removal Credits for Phenols (4AAP).

Removal allowances pursuant to 40 CFR 403.7(a)(1) may be granted for phenols (4AAP) limited in 40 CFR Part 420 when used as an indicator or surrogate pollutant.

4. The table in § 420.23 is amended by revising the entires for cyanide, lead, and zinc as follows:

§ 420.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * * *

SUBPART B

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Cyanide[1]	0.00300	0.00150
* * * * * *		
Lead	0.000451	0.000150
Zinc	0.000676	0.000225
* * * * * *		

5. The table in § 420.24 is amended by revising the entries for lead and zinc as follows:

§ 420.24 New source performance standards (NSPS).

* * * * * *

SUBPART B

Pollutant or pollutant property	New Source Performance Standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Lead	0.000451	0.000150
Zinc	0.000676	0.000225
* * * * * *		

6. The table in § 420.25 is amended by revising the entries for cyanide, lead, and zinc as follows:

§ 420.25 Pretreatment standards for existing sources (PSES).

* * * * * *

SUBPART B

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Cyanide[1]	0.00300	0.00150
* * * * * *		
Lead	0.000451	0.000150
Zinc	0.000676	0.000225
* * * * * *		

7. The table in § 420.26 is amended by revising the entries for lead and zinc as follows:

§ 420.26 Pretreatment standards for new sources (PSNS).

* * * * * *

SUBPART B

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Lead	0.000451	0.000150
Zinc	0.000676	0.000225
* * * * * *		

8. By adding a new paragraph (c) to § 420.31 to read as follows:

§ 420.31 Special Definitions.

* * * * * *

(c) The term "existing indirect dischargers" means only those two iron blast furnace operations with discharges to publicly owned treatment works prior to May 27, 1982.

9. The table in paragraph (a) of § 420.33 is amended by revising the entries for cyanide, lead, and zinc as follows:

§ 420.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * * *

(a) * * *

SUBPART C

Pollutant or pollutant property	BAT effluent limitations	
	Maximum, for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Cyanide	0.000175	0.000876
* * * * * *		
Lead	0.000263	0.0000878
Zinc	0.000394	0.0000131
* * * * * *		

10. The table in paragraph (a) of § 420.34 is amended by revising the entries for lead and zinc as follows:

§ 420.34 New source performance standards (NSPS).

* * * * * *

(a) * * *

SUBPART C

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131
* * * * * *		

11. The table in paragraph (a) of § 420.35 is amended by revising the entries for cyanide, lead, and zinc as follows:

§ 420.35 Pretreatment standards for existing sources (PSES).

* * * * * *

(a) * * *

SUBPART C

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Cyanide	0.00175	0.000876
* * * * * *		
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131
* * * * * *		

12. By adding a new paragraph (c) to § 420.35 as follows:

* * * * * *

(c) Existing Indirect Dischargers.

SUBPART C

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0350	0.0175
Cyanide	0.00175	0.000876
Phenols (4AAP)	0.000175	0.0000584
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131

13. The table in paragraph (a) of § 420.36 is amended by revising the entries for lead and zinc as follows:

§ 420.36 Pretreatment standards for new sources (PSNS).

* * * * * *

(a) * * *

SUBPART C

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Lead	0.000263	0.0000876
Zinc	0.000394	0.000131
* * * * * *		

14. Section 420.92 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(5) as follows:

§ 420.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * * * *

(a) * * *

(1) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
* * * * * *		
Zinc	0.000701	0.000234
* * * * * *		

(2) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000225	0.0000751

(3) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000451	0.0000150

(4) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pound per 1,000 lb) of product	
Zinc	0.00125	0.000417

(5) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

(b) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00123	0.000409

(2) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000701	0.000234

(3) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00255	0.000851

(4) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

(5) * * *

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/day	
Zinc	0.327	0.109

15. Section 420.93 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(5) as follows:

§ 420.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * * *

(a) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000701	0.000234

(2) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000225	0.000751

(3) * * *

SUBPART I

Pollutant or pollutant property	BAT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000451	0.000150

(4) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00125	0.000417

(5) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

(b) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00123	0.000409

(2) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000701	0.000234

(3) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00255	0.000851

(4) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

(5) * * *

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.327	0.109

16. Section 420.94 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(4) as follows:

§ 420.94 New sources performance standards (NSPS).

* * * * * *

(a) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	New source Performance Standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000125	0.0000417

(2) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.0000751	0.0000250

(3) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000100	0.0000334

(4) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000175	0.0000584

(5) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

(b) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000150	0.0000501

(2) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pound per 1,000 lb) of product	
Zinc	0.000100	0.0000334

(3) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pound per 1,000 lb) of product	
Zinc	0.000275	0.0000918

(4) * * *

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

* * * * * *

17. Section 420.95 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(5) as follows:

§ 420.95 Pretreatment standards for existing sources (PSES).

* * * * * *

(a) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000701	0.000234

(2) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000225	0.0000751

(3) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000451	0.000150

(4) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00125	0.000417

(5) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

* * * * * *

(b) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00123	0.000409

(2) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000701	0.000234

(3) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 ob) of product	
Zinc	0.00255	0.000851

(4) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.00164

(5) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0327	0.109

18. Section 420.96 is amended by revising the entry for zinc in the tables in paragraphs (a)(1) through (a)(5) and (b)(1) through (b)(4) as follows:

§ 420.96 Pretreatment standards for new sources (PSNS).

* * * * * *

(a) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000125	0.0000417

(2) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.0000751	0.0000250

(3) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000100	0.0000334

(4) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000175	0.0000584

(5) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

(b) * * *
(1) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000150	0.0000501

(2) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000100	0.0000334

(3) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000275	0.0000918

(4) * * *

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

* * * * * *

19. To redesignate the existing text of § 420.100 as paragraph (a) and to add a new paragraph (b) as follows:

§ 420.100 Applicability; description of the cold forming subcategory.

* * * * * *

(b) The limitations and standards set out below for cold worked pipe and tube operations shall be applicable only where cold worked pipe and tube wastewaters are discharged at steel plant sites. No limitations are applicable or allowable where these wastewaters are hauled off-site for disposal or are otherwise not discharged at steel plant sites. The limitations and standards set out below for cold worked pipe and tube operations shall be applicable only to the blowdown of soluble oil or water solutions used in cold worked pipe and tube forming operations. Limitations for other wastewater sources from these operations must be established on a site-specific basis.

20. By revising §420.102(b) (1) and (2) as follows:

§420.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * * *

(b) *Cold worked pipe and tube.*
(1) Using water:

SUBPART J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
pH	[2]	[2]

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0

(2) Using oil solutions:

SUBPART J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	
pH	[2]	[2]

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0

21. By revising § 420.103(b) (1) and (2) as follows:

§ 420.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BPT).

* * * * *

(b) Cold worked pipe and tube.
(1) Using water:

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

(2) Using oil solutions:

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters

22. By revising § 420.104(b) (1) and (2) as follows:

§ 420.104 New source performance standards (NSPS).

* * * * *

(b) *Cold worked pipe and tube mills.*
(1) Using water:

SUBPART J

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are cotreated with descaling or combination acid pickling wastewaters

(2) Using oil solutions:

SUBPART J

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	
pH	[2]	[2]

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

23. By revising § 420.105(b) (1) and (2) to read as follows:

§ 420.105 Pretreatment standards for existing sources (PSES).

* * * * *

(b) *Cold worked pipe and tube mills.*
(1) Using water:

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters

(2) Using oil solutions:

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

24. By revising § 420.106(b)(1) and (2) to read as follows:

§ 420.106 Pretreatment standards for new sources (PSNS).

* * * * *

(b) *Cold worked pipe and tube mills.*
(1) Using water:

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

(2) Using oil solutions:

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold forming wastewaters are treated with descaling or combination acid pickling wastewaters.

25. By revising § 420.107(b) (1) and (2) to read as follows:

§ 420.107 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology (BCT).

* * * * *

(b) *Cold worked pipe and tube.*
(1) Using water.

SUBPART J

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	([1])0.000522	([1])0.000209
pH		

[1] Within the range of 6.0 to 9.0.

(2) Using oil solutions.

SUBPART J

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	([1])0.000522	([1])0.000209
pH		

[1] Within the range of 6.0 to 9.0.

26. By redesignating the existing text of § 420.120 as paragraph (a) and adding a new paragraph (b) as follows:

§ 420.120 Applicability; description of the hot coating subcategory.

* * * * *

(b) The BPT and BAT limitations for zinc set out below are not applicable to hot coating operations with wastewater treatment facilities achieving, during periods of normal production, zinc discharge levels more stringent than those BPT and BAT limitations. For such operations, the BPT and BAT limitations for zinc shall be determined on a case-by-case basis based upon the existing performance of the wastewater treatment facility. The permitting authority shall evaluate representative effluent data from the wastewater treatment facility during periods of normal production in establishing the case-by-case BPT and BAT limitations. The BPT and BAT limitations specified in 40 CFR 420.122 and 420.123 may be used as the basis for calculating total mass limitations for zinc pursuant to 40 CFR 420.03.

27. Section 420.122 is amended by revising the entry for zinc in the tables in paragraphs (a)(1), (b)(1), and (c) as follows:

§ 420.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * *

(a) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00150	0.000500

(b) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00601	0.00200

(c) * * *

28. Section 420.123 is amended by revising the entry for zinc in the tables in paragraphs (a)(1), (b)(1), and (c) as follows:

§ 420.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

(a) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.327	0.109

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00150 [1]	0.000500

(b) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00601	0.00200

(c) * * *

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

29. Section 420.124 is amended by revising the entry for zinc in the table in paragraphs (a)(1), (b)(1), and (c) as follows:

§ 420.124 New source performance standards (NSPS).

* * * * *

(a) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000376	0.000125

(b) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00150	0.000500

(c) * * *

SUBPART L

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

30. Section 420.125 is amended by revising the entry for zinc in the tables in paragraphs (a)(1), (b)(1), and (c) as follows:

§ 420.125 Pretreatment standards for existing sources (PSES).

* * * * *

(a) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00150	0.000500

(b) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of Product	
Zinc	0.00601	0.00200

(c) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

31. Section 420.126 is amended by revising the entry for zinc in the tables in paragraphs (a)(1), (b)(1) and (c) as follows:

§ 420.126 Pretreatment standards for new sources (PSNS).

* * * * *

(a) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.000376	0.000125

(b) * * *
(1) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Zinc	0.00150	0.000500

(c) * * *

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/day	
Zinc	0.0491	0.0164

PART 403—[AMENDED]

EPA proposes to amend 40 CFR Part 403 as follows:

1. The authority citation for Part 403 reads as follows:

Authority: Sections 301; 304(b), (c), (e), and (g); 306(b) and (c); 307; 308 and 501, Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311; 1314(b), (c), (e), and (g); 1316(b) and (c); 1317; 1318; and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567; Pub. L. 95–217.

2. Section 403.6 (e)(1) (i) and (ii) are amended by revising the definition for F_D. As revised, the definition for F_D in both paragraphs reads as follows:

§ 403.6 National Pretreatment Standards: Categorical Standards.

F_D = the average daily flow (at least a 30-day average) from (a) boiler blowdown

streams and non-contact cooling streams; provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an Industrial Users regulated process wastestream(s) will result in a substantial reduction of that pollutant, the Control Authority, upon application of the Industrial User, may exercise its discretion to determine whether such stream(s) should be classified as dilute or unregulated. In its application to the Control Authority, the Industrial User must provide engineering, production, sampling and analysis and such other information so that the Control Authority can make its determination, or (b) sanitary wastestreams (where such streams are not regulated by a categorical Pretreatment Standard) or (c) from any process wastestreams which were or could have been entirely exempted from categorical Pretreatment Standards pursuant to paragaph 8 of the *NRDC* v. *Costle* Consent Decree (12 ERC 1833) for one or more of the following reasons (see Appendix D):

(1) the pollutants of concern are not detectable in the effluent from the Industrial User (paragraph (8)(a)(iii));

(2) the pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii);

(3) the pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii); or

(4) the wastestream contains only pollutants which are compatible with the POTW (paragraph (8)(b)(i)).

[FR Doc. 83-27781 Filed 10-13-83; 8:45 am]
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VOL
48
ISS
200
OC
14
1983
UMI

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Friday
October 14, 1983

Part V

Department of Agriculture

Agricultural Marketing Service

Lemons Grown in California and Arizona; Limitation of Handling

VOL
48
ISS
2
0
0
OC
14
1983
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 433]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Lemons that may be shipped to market at 230,000 cartons during the period October 16–22, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 16, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on October 11, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act.

Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these reguatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.733 is added as follows:

§ 910.733 Lemon Regulation 433.

The quantity of lemons grown in California and Arizona which may be handled during the period October 16, 1983, through October 22, 1983, is established at 230,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 13, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-28279 Filed 10-13-83; 11:40 am]

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VOL
48
ISS
2
0
0
OC
14
1983
UMI

Reader Aids

Federal Register
Vol. 48, No. 200
Friday, October 14, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7
46005–46258.....11
46259–46486.....12
46487–46730.....13
46731–46962.....14

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266, 46795
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559
Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259

5 CFR

Ch. XIV.....45373
213.....46261
752.....45525
1255.....45373

7 CFR

2.....46261
51.....46487
247.....46731
301.....46262
319.....46732
752.....45526
906.....45374
908.....45526, 46488
910.....45374, 45755, 46961
919.....45374
929.....45374
981.....45374
991.....45374
1435.....45374
1901.....45532
Proposed Rules:
226.....45779
402.....46062
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
1065.....45117
1131.....46343
1139.....46797

8 CFR

103.....45093
214.....45093
238.....45093
248.....45093

9 CFR

Proposed Rules:
92.....46355
317.....45118
319.....45118
350.....45755
362.....45755
381.....45118

10 CFR

2.....46489
50.....46489
55.....45223
71.....45384
761.....45746
710.....46499
Proposed Rules:
50.....45787

12 CFR

7.....46502
29.....45532
204.....46005, 46262
207.....45533
217.....45756, 46262
220.....45533
221.....45533
224.....45533
561.....45382
563.....45382
760.....46006

13 CFR

101.....45224
123.....45225
133.....46008

14 CFR

39.....45093, 45535, 46008, 46009, 46503
71.....45094, 45095, 45536, 45537, 46010, 46503
95.....46504
97.....45096
205.....46264
248.....46265
294.....46265
320.....45236
380.....46265
389.....45758
Proposed Rules:
Ch. I.....46358
21.....45214, 45565
25.....46218, 46250
29.....46250
39.....46070
61.....45214
65.....45214
71.....45118, 45566
107.....45214
109.....45214
121.....45214, 46218, 46250
135.....45214
145.....45214

VOL
48
ISS
2
0
0
OC
14
1983
UMI

16 CFR
453 45537
Proposed Rules:
1212 45405
1500 45567
1513 45567

17 CFR
145 46010
146 46010
147 46010
229 46012
230 ..... 46012, 46736
231 46012
239 ..... 45386, 46012
240 ..... 46012, 46736
241 46012
270 46012
274 46012
Proposed Rules:
33 46797
230 46801
240 45119

18 CFR
2 46012
35 46012
157 46021
271 ..... 45097, 46266–46268
274 45097
282 45758
385 45388
Proposed Rules:
101 46361
104 46361
141 46361
154 46361
159 46361
201 46361
204 46361
260 46361
271 46071
282 45787
410 45568

19 CFR
4 46510
7 46740
10 ..... 46510, 46740
22 46740
101 45538
103 45538
113 46740
145 46740
158 46740
191 46740
210 45544
Proposed Rules:
Ch. I 46805
4 ..... 46808, 46810
18 46812
101 45409
123 46812
144 46812

20 CFR
404 46142
Proposed Rules:
422 46072

21 CFR
81 ..... 45237, 45760, 46022
109 45544
131 45545
178 ..... 46773, 46774
179 46022
193 45547
430 46270
436 46270
442 46270
522 46023
540 45760
558 ..... 45102, 46023, 46024, 46514, 46515
1308 46516
Proposed Rules:
182 45121
184 45121
351 46694
610 46815

23 CFR
655 46775
Proposed Rules:
658 46545

24 CFR
570 ..... 45760, 46778
888 45547
Proposed Rules:
24 ..... 46072, 46817

25 CFR
71 45103
Proposed Rules:
140 45789

26 CFR
1 ..... 45761, 46272, 46296
4 46272
31 46296
35a 45362

27 CFR
4 45549
5 ..... 45549, 46518
7 45549
9 ..... 45238, 45239, 46518–46524
170 46526
240 46526
Proposed Rules:
9 46387

29 CFR
1601 46298
Proposed Rules:
1908 45411
1910 45956
1926 45872

30 CFR
251 46025
913 46528
917 46299
935 ..... 46027, 46301, 46530
938 45389
946 46028
Proposed Rules:
55 45338
56 45336
57 45336
58 45336
935 45420
938 46817

32 CFR
251 45242
Proposed Rules:
199 45791

33 CFR
100 ..... 45244, 46531
117 ..... 45245, 46532
130 46178
131 46178
132 46178
151 45704
155 45704
157 45718
165 ..... 46533, 46534, 46779
Proposed Rules:
162 45798
164 46819

34 CFR
668 45670
690 45670
Proposed Rules:
350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568

36 CFR
7 ..... 46779, 46780
60 46306
Proposed Rules:
216 45421

37 CFR
Proposed Rules:
1 45424
2 45424

38 CFR
Proposed Rules:
21 ..... 45123, 45268, 45572

39 CFR
111 ..... 45761, 46031
Proposed Rules:
111 45269
3001 46545

40 CFR
52 ..... 45245, 45246, 46046, 46047, 46309
60 ..... 46535, 46536
61 46535
81 ..... 46537, 46782
87 46481
180 46310
192 45926
256 46787
420 46942
433 45105
469 45249
717 45765
Proposed Rules:
51 ..... 45269, 46152
52 ..... 46081, 46391–46393, 46548, 46823
60 ..... 45701, 46224, 46472
81 ..... 46082, 46085, 46393, 46549–46553
141 45502
162 46397
180 ..... 45573, 46395, 46396
228 45798
261 45210
271 46824
403 46944
420 46944
464 45573
465 45573
1502 46554
1508 46554

41 CFR
Ch 1 ..... 45392, 45557
Ch. 101 45105
9–4 45766
9–51 45766
101–11 46310
101–41 46788
105–61 45392
Proposed Rules:
101–41 46554

42 CFR
51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 45766

43 CFR
Subtitle A 45664
Public Land Orders:
44 (Revoked by PLO 6478) 45401
98 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
6472 45393
6473 45393
6474 45394
6475 45394
6476 45395
6477 45395
6478 45401
6479 45559
6480 46049
6481 46049
6482 46050

44 CFR
61 46789
62 46789
67 ..... 46050, 46312

Proposed Rules:
67 ..... 45425, 46085

45 CFR
13 45251

46 CFR
160 45113
162 45727
380 45559
542 46175
543 46175
544 46175
Proposed Rules:
Ch. IV 45269
7 45574
10 46556
24 45425
25 45425
26 45425
30 45425
31 45425
32 45425
35 45425
70 45425
71 45425
75 45425
77 45425
78 45425
90 45425
91 45425
94 45425
96 45425
97 45425
107 45425
108 45425
109 45425
157 46556
163 45425
188 45425
189 45425
192 45425
195 45425
196 45425
298 46825
508 45800
524 45270
531 45270
536 45270
538 45272

47 CFR
0 45652
1 45652
2 45560
61 46791
63 46791
73 45401–45403
81 ..... 45114, 45560
83 ..... 45114, 45560
87 45114
97 45652
Proposed Rules:
67 46556
73 45428–45438
83 45439

48 CFR
Ch. I 46541

49 CFR
571 ..... 46053, 46793
1033 45257
1043 45775
1162 46542
1307 ..... 46542, 46794
Proposed Rules:
Ch. X 46399
27 46399
195 46589
218 45272
1039 45137
1155 45440

50 CFR
17 ..... 46053, 46328–46337
23 ..... 45259, 45775
611 ..... 45403, 46542
646 45404
654 46057
655 ..... 45403, 45404
656 45403
657 45403
658 46057
661 45263
672 46542
681 46342
Proposed Rules:
17 ..... 45574, 46086, 46590
23 45575
611 ..... 45804, 45806
663 45274

LIST OF PUBLIC LAWS

Last Listing October 13, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 2972/Pub. L. 98–115 Military Construction Authorization Act, 1984. (Oct. 11, 1983; 97 Stat. 757) Price: $3.50

H.R. 3263/Pub. L. 98–116 Military Construction Authorization Act, 1984. (Oct. 11, 1983; 97 Stat. 795) Price: $1.75

H.R. 3871/Pub. L. 98–117 To amend the Omnibus Budget Reconciliation Act of 1982 to provide that the figure used in determining hourly rates of pay for Federal employees not be changed before the comparability adjustment in the rates of pay for such employees has been made for fiscal year 1984. (Oct. 11, 1983; 97 Stat. 802) Price: $1.50

H.R. 4101/Pub. L. 98–118 To extend the Federal Supplemental Compensation Act of 1982, and for other purposes. (Oct. 11, 1983; 97 Stat. 803) Price: $1.50

VOL
48
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882

VOL
48
ISS
2
0
0
OC
14
1983
UMI

VOL
48
ISS
201
OCT
17
1983
UMI

10-17-83
Vol. 48 No. 201

federal register

Monday
October 17, 1983

Book 2 of 2 Books

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VOL
48
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201
OC
17
1983
UMI

10-17-83
Vol. 48 No. 201
BOOK 2:
Pages
47579-48214

federal register

Book 2 of 2 Books
Monday, October 17, 1983

47582 Part XIV—Department of Transportation
47702 Part XV—Department of the Treasury
47856 Part XVI—ACTION
47858 Part XVII—Advisory Council on Historic Preservation
47860 Part XVIII—Architectural and Transportation Barriers Compliance Board
47862 Part XIX—Council on Environmental Quality
47864 Part XX—Environmental Protection Agency
47928 Part XXI—Equal Employment Opportunity Commission
47934 Part XXII—Federal Emergency Management Agency
47946 Part XXIII—Federal Mediation and Conciliation Service
47948 Part XXIV—General Services Administration
47970 Part XXV—International Development Cooperation Agency, Agency for International Development
47972 Part XXVI—National Aeronautics and Space Administration
47976 Part XXVII—National Capital Planning Commission
47978 Part XXVIII—National Foundation on the Arts and the Humanities, National Endowment for the Humanities
47980 Part XXIX—National Science Foundation
47982 Part XXX—Office of Management and Budget
47990 Part XXXI—Office of Personnel Management
47998 Part XXXII—Panama Canal Commission
48002 Part XXXIII—Pennsylvania Avenue Development Corporation
48004 Part XXXIV—Pension Benefit Guaranty Corporation
48012 Part XXXV—Railroad Retirement Board
48018 Part XXXVI—Selective Service System
48020 Part XXXVII—Small Business Administration
48024 Part XXXVIII—Veterans Administration
48038 Part XXXIX—Civil Aeronautics Board
48056 Part XL—Commodity Futures Trading Commisson
48064 Part XLI—Consumer Product Safety Commission
48074 Part XLII—Farm Credit Administration
48080 Part XLIII—Federal Communications Commission
48104 Part XLIV—Federal Energy Regulatory Commission, DOE
48110 Part XLV—Federal Home Loan Bank Board
48114 Part XLVI—Federal Maritime Commission
48120 Part XLVII—Federal Trade Commission
48134 Part XLVIII—Interstate Commerce Commission
48150 Part XLIX—National Credit Union Administration
48156 Part L—Nuclear Regulatory Commission
48190 Part LI—Securities and Exchange Commission

VOL
48
ISS
201
OC
17
1983
UMI

federal register

Monday
October 17, 1983

Part XIV

Department Of Transportation

Office of the Secretary

Department Regulations Agenda; Semi-Annual Summary

VOL
48
ISS
201
OC
17
1983
UMI

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Ch. 1

23 CFR Chs. I and II

33 CFR Chs. I and IV

41 CFR Ch. 12

46 CFR Chs. I and III

49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 83-2]

Department Regulations Agenda; Semi-Annual Summary

AGENCY: Department of Transportation.

ACTION: Department Regulations Agenda.

SUMMARY: The Regulations Agenda is a semi-annual summary of all current and projected rulemakings, reviews of existing regulations and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated, or for which action has been completed since the last Agenda. The Agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Department's regulatory activity.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the Agenda are 400 Seventh Street, S.W., Washington, D.C. 20590, except for the Federal Aviation Administration and the St. Lawrence Seaway Development Corporation, which are located at 800 Independence Avenue, S.W., Washington, D.C. 20591, and the U.S. Coast Guard, which is located at 2100 Second Street, S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the Agenda, in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-4723.

Specific

For further information about any particular item on the Agenda, contact the individual listed in the column headed "Agency Contact" for that item.

SUPPLEMENTARY INFORMATION:

Table of Contents

Supplementary Information:
Background
Definitions
Explanation of Information on the Agenda
Regulatory Flexibility Act
Explanation of Information on the Agenda
General
Mailing Lists for Regulatory Documents
General Rulemaking Contact Persons
Public Rulemaking Dockets
Request for Comments
Purpose
Agenda
Appendix A - Instructions for Obtaining Copies of Regulatory Documents
Appendix B - General Rulemaking Contact Persons
Appendix C - Public Rulemaking Dockets

Background

Improvement of government regulations is a prime goal of the Reagan Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals, and in accordance with Executive Order 12291 ("Federal Regulation"; 46 FR 13193; February 19, 1981) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semi-annual Regulations Agenda for publication in the **Federal Register**. The Agenda summarizes all current and projected rulemaking, reviews of existing regulations and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last Agenda.

The Agendas are based on reports submitted by the initiating offices by the end of January and August each year. After these reports are consolidated for, and reviewed by, the Department Regulations Council, the Department's Regulations Agenda is prepared and published in the **Federal Register**. The Department's last Agenda was published in the **Federal Register** on April 25, 1983 (48 FR 18200). The next one is scheduled for publication in the **Federal Register** in April 1984.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Pub.L. 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared, i.e., those regulations that would have a significant economic impact on a substantial number of small entities. The symbol "†" appears at the left margin, prior to the title, for each significant and nonsignificant regulation in this Agenda for which a Regulatory Flexibility Analysis will be, or has been, prescribed. In addition, where the RFA applies to a significant regulation in this Agenda, that fact is noted in the regulation's summary under subheading E, "Analysis," by the addition of a slash (/) after the words "Regulatory Evaluation" or "Regulatory Impact Analysis," followed by the words "Regulatory Flexibility Analysis." In addition, subheading D. "Effects on Small Entities" will indicate whether a Regulatory Flexibility Analysis is required by a "yes" or a "no."

The RFA also requires that each year the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding twelve months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last Agenda. The symbol "†" also will appear in the left margin, prior to the title, and a "yes" or "no" will be found under subheading D, for each such regulation. It should be noted, however, that after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities and a full RFA review will be unnecessary.

Definitions

The Agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that in the judgment of the head of the initiating office, or the Secretary, or the Deputy Secretary -

(a) Is a major regulation;

(b) Concerns a matter on which there is substantial public interest or controversy;

(c) Has a major impact on another operating administration or other parts of the Department or other Federal Agency;

(d) Has a substantial effect on State and local governments;

(e) Has a substantial impact on a major transporation safety problem;

(f) Initiates a substantial regulatory program or change in policy;

(g) Is substantially different from international requirements or standards; or

(h) Otherwise involves important Department policy.

(3) *Major regulation* means a significant regulation for which a Regulatory Impact Analysis is required to be prepared.

(4) *Emergency regulation* means (a) a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the **Federal Register**; or (b) is governed by short-term statutory or judicial deadlines.

(5) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

A preliminary and final Regulatory Impact Analysis is required for each proposed and final regulation, respectively that

(1) Is likely to result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major effect on the general economy in terms of costs, consumer prices, or production;

(c) A major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions;

(d) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; or

(2) The Secretary or head of the initiating office determines deserves such an analysis.

Explanation of Information on the Agenda

The Regulations Agenda is divided by initiating offices. For each initiating office the Agenda is divided into three categories: (1) current and projected rulemakings, (2) reviews of existing regulations, and (3) completed actions. These categories are further subdivided into priority rulemakings (or regulations) and other rulemakings. Priority rulemakings are divided into major and non-major, with non-major including all significant rulemakings that do not require a regulatory impact analysis. The "other rulemakings" include all those defined by the Department as nonsignificant, including the routine and frequent rulemakings. For each entry, the Agenda provides the following information: (1) a short descriptive title; (2) a summary; and (3) a timetable, including the earliest expected date for a decision on whether to issue the proposed or final regulation, or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12291 and the Department's Regulatory Policies and Procedures.)

The summary includes: (1) an abstract of the review or the proposed or final regulation; (2) the related regulatory citation in the Code of Federal Regulations; (3) the legal basis for the action being taken or the regulation being reviewed; and (4) a statement as to whether the Regulatory Flexibility Act applies because of the rulemaking's effect on small entities. It also includes (5) a listing of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Impact Analysis or Evaluation, an Environmental Impact Statement (EIS), a Regulatory Flexibility Analysis, or an Urban Impact Analysis. It should be noted that, even though a Regulatory Impact Analysis is not required for some items on the Agenda, the Department requires an economic analysis for all of its regulations. This economic analysis is contained in the Regulatory Evaluation. (6) If there is information that does not fit in the above categories, it will be included under a separate heading, entitled "Additional Information". Finally, for each entry, the summary includes (7), an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the Agenda.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it is contained in parentheses immediately following the short descriptive title of the rulemaking. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number. The Federal Highway Administration also provides an FHPM number at this point for easier reference by those who use the Federal-aid Highway Program Manual (FHPM). The numbers following the FHPM represent, respectively, the volume, chapter, section and subsection at which the material is located in the FHPM.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposal or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review, under Executive Order 12291, must follow such a decision. For major rules, this review could take 60 days or more. If any document is issued, publication in the **Federal Register** would follow within a few days. In addition, these dates are based on current schedules. Subsequently received information could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

It should be noted that some of the items on the Agenda result from programs that were established to review existing regulations and revoke or revise those regulations that the initiating office determined were not achieving their intended purpose.

Projects under regulatory development that resulted from a review of existing regulations to determine whether they should be revoked or revised are preceded by the word "Review" in the "Title" column. Because some reviews can be large-scale undertakings, and because there are already a number of these in the regulatory development process, the Department thought it would provide the public with valuable information if it indicated not only which regulatory reviews are under consideration but also which reviews have now reached the stage where proposed revisions are being, or have been, prepared. The number of regulatory projects that an initiating office can handle is limited by available resources. Therefore, the number of projects in the regulatory development stage may limit the number of reviews that can be added.

General

To allow for easier use of the Agenda and for quick comparison with earlier Agendas, the Department has instituted the following additional procedures in the Agenda: (1) Items listed on the Agenda retain the same order in each semi-annual publication. If subheadings are used within an initiating office's listing, then the same order is retained within each subheading. (2) New items generally are added at the end of the appropriate portion of the Agenda and are identified by an asterisk ("*") on the left side of the "Title" when first added. (3) New substantive information added to items that were on an earlier Agenda is printed in italics.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for copies of regulatory documents, including the Department's Semi-Annual Regulations Agenda, issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's Regulations Agenda, which will be updated and published in the **Federal Register** every year during April and October. By using the Agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the **Federal Register**, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

General Rulemaking Contact Persons

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the Agenda. This appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the Agenda.

Public Rulemaking Dockets

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

Request for Comments

Agenda

Our Agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information as well as make the Agenda easier to use. We would also like you, the public, to make suggestions or comments on how the Agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from Agenda to Agenda? Do you find that the format for setting out the information enables you to use the Agenda easily? Do you find that the explanation of the information in the Agenda is clearly explained in the preamble to the Agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

Reviews

In an effort to comply further with the spirit of Executive Order 12291 and the Regulatory Flexibility Act, we are also seeking suggestions on existing regulations that should be included in our review of existing regulations list; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary, at the appropriate address noted in the "Addresses" paragraph above.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that are targeted for review under the RFA. Those comments should be addressed to the "contact" person of the operating administration involved, at the appropriate address noted in the "Addresses" paragraph above.

It should be noted that in February 1981, the Department initiated a systematic review of over 40 of its most costly and controversial existing regulations for possible revision/rescission. Most of these reviews are now completed and a second group of Department of Transportation regulations have been selected for priority review treatment. Reviews for certain regulations in this second group have also been completed. Regulations selected for either the first or second round of this priority review process are listed under the subheading "Priority Regulations" in the review portion of the Agenda.

Purpose

The Department is publishing this Regulations Agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity.

Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the **Federal Register** does not impose any binding obligation on the Department, or any of the offices within the Department, with regard to any specific item on the Agenda or the Review List. Regulatory action in addition to the items listed is not precluded. If further information is desired on any of the items listed in the Agenda or the Review List, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the Agenda, in general, or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, D.C. on August 25, 1983.

James H. Burnley IV,

Acting Secretary of Transportation.

VOL 48 ISS 201 OCT 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Office of the Secretary

OST

Current and Projected Rulemakings

Priority Rulemakings: Major

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Allocation of "Slots" at Washington National Airport.	**Abstract:** Proposed amendment to establish procedures for allocating the hourly number of instrument flight operations (takeoffs and landings) or "slots" that may be reserved at Washington National Airport (WNA) in accordance with the FAA's High Density Rule. This proposal is considered a significant rulemaking project due to substantial public interest and potential costs to airlines. The Civil Aeronautics Board and the Department of Justice have expressed concerns about continuing the antitrust immunity under which the airline scheduling committees currently allocate slots at WNA. A new method of allocation may become necessary. **CFR Citation:** 14 CFR pt. 93 **Legal Authority:** 49 U.S.C. 1303, 1347, 1348 (a), (b), and (c), and 1354(a); (Sections 103, 306, 307 (a), (b), and (c), and 313(a), Federal Aviation Act of 1958, as amended); 49 U.S.C. 1655(c), (Sec. 6(c) DOT Act); Sec. 2, Act for the Administration of Washington National Airport, 54 Stat. 688. **Effects on Small Entities:** No **Analysis:** Regulatory Impact Analysis **Additional Information:** The CAB in conjunction with the FAA commissioned the Polinomics Research Laboratories, Inc., to research the allocation problem A report of its findings has been prepared. Another report by Econ, Inc. analyzing a slot allocation auction procedure has been prepared under an FAA contract. The emergency regulation was published in the Federal Register on November 3, 1980 (45 FR 72637). The NPRM for a long term solution to the slot allocation problem was issued on October 27, 1980 (45 FR 71236). A public hearing was held on February 13, 1981, and the comment period was extended until February 26, 1981 (46 FR 932, January 5, 1981). **Agency Contact:** Harvey Safeer, (202) 426-3331	NPRM Comment Period Extended Public hearing To be withdrawn	10/27/80 1/5/81 2/3/81	45 FR 71236 46 FR 932
Nondiscrimination on the Basis of Handicap.	**Abstract:** The Department's section 504 rule is one of those selected for priority review. In addition, a May 1981 Federal Court of Appeals decision said that section 504 of the Rehabilitation Act of 1973 did not authorize the Department's rule as it affects mass transit. The Department published an interim final rule changing the transit portion of the rule on July 20, 1981 (46 FR 37488) to conform to the Court's decision. Other parts of the rule will be revised in light of the decision and as part of the priority review of the regulation, with an NPRM to be issued proposing any appropriate changes. The section 504 rule is a controversial regulation affecting all parts of DOT as well as many providers and users of DOT-funded or operated programs. The mass transit section of the rule is controversial and changes to the rule will be of considerable interest to the public. These regulatory actions are necessary in order to make the rule consistent with the Court's decision and the Administration's regulatory policy. Section 317(c) of the Surface Transportation Assistance Act of 1982 directed the Department to publish a NPRM within 90 days after the date of enactment. **CFR Citation:** 49 CFR pt. 27 **Legal Authority:** 29 U.S.C. 794, (Section 504 of the Rehabilitation Act of 1973, as amended); 49 U.S.C. 1612(a), (Section 16(a) of the Urban Mass Transportation Act of 1964, as amended); 23 U.S.C. 142 nt, (Section 165(b) of the Federal-aid Highway Act of 1973, as amended). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation. (Interim amendment); Regulatory Impact Analysis (NPRM for comprehensive revision). **Additional Information:** The Final Rule establishing the Department's section 504 regulations was published May 31, 1979 (44 FR 31442). Interim final rule published July 20, 1981 (46 FR 37488). **Agency Contact:** Robert C. Ashby, (202) 426-4723	NPRM *FR*	*9/8/83* *4/84*	*48 FR 40684*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Office of the Secretary

OST

Current and Projected Rulemakings

Priority Rulemakings: Major—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Construction Differential Subsidy (CDS) Repayments; Total Repayment Policy.	**Abstract:** The regulation would amend 46 CFR Part 276 which would set forth the Department's policy in considering requests for repayment of construction-differential subsidy as authorized under the provision of the Merchant Marine Act of 1936, as amended. **CFR Citation:** 46 CFR Part 276 **Legal Authority:** 46 U.S.C. 1114(b), 1117, 1156 and 1204, Sec. 204(6), 207, 506, and 714, Merchant Marine Act, 1936, as amended. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** First NPRM, Nov. 2, *1978 (43 FR 51045);* Second NPRM, May 5, 1980 (45 FR 29610), Interim Rulemaking, October 15, 1980 (45 FR *68393).* Amendment to Interim Rule, November 24, 1980 (45 FR *77445).* The interim rule was invalidated by the U.S. Court of Appeals of the D.C. Circuit in 1982. *Third NPRM, January 31, 1983 (48 FR 4408). Public comment period closed on April 1, 1983.* Comment period on NPRM extended until May 2, 1983. **Agency Contact:** W. Danforth Walker, (202) 426-4382 and Warren Dean, (202) 426-2972.	*NPRM* NPRM NPRM FR	*11/78* 5/80 1/83 *11/83*	*43 FR 51045* 45 FR 29610 48 FR 4408

Priority Rulemakings: Non-Major

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Title VI Civil Rights Regulation	**Abstract:** The proposed regulations would assemble in one package all DOT procedures and requirements concerning all recipients of financial assistance under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-4). This rulemaking is significant because substantial public interest is anticipated and it will affect all of the DOT elements and the administration of all grant programs. The Department has an existing Title VI regulation dating from 1970, and a Title VI order promulgated by Secretary Coleman on Jan. 19, 1977, and reaffirmed by Secretary Adams in March of that year. This rule is undergoing a priority regulatory review within the Department, and changes may be proposed based on the results of this review. **CFR Citation:** 49 CFR pt. 21 **Legal Authority:** 42 U.S.C. 2000d-4 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** NPRM published in the Federal Register January 19, 1981, (46 FR 5588). No further action will be taken on this NPRM pending the outcome of the priority regulatory review. Comment period closed April 20, 1981. **Agency Contact:** Shirley Lloyd (202) 426-4754	NPRM To be withdrawn	1/19/81	46 FR 5588
Minority Business Enterprise Program (Direct Contracting).	**Abstract:** This regulation would implement the requirements of DOT Order 4000.7A for DOT operating elements to take affirmative action to assure that minority business enterprises participate in Departmental procurement programs. This rulemaking is significant because substantial public interest is anticipated given the proposed action's potential impact on DOT's procurement programs. It is needed to implement the provisions of the DOT Order 4000.7A by providing detailed instructions for carrying out the affirmative action requirements of the order and to supplement the 1978 amendments to the Small Business Act.	NPRM To be withdrawn.	5/17/79	44 FR 28928

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Office of the Secretary

OST

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
	CFR Citation: 49 CFR pt. 23 **Legal Authority:** Executive Order 11625; Executive Order 12138; 45 U.S.C. 803; P.L. 95-507. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** NPRM was published on May 17, 1979 (44 FR 28928). The comment period closed on July 16, 1979. The Department published a final rule concerning its financial assistance programs on March 31, 1980 (45 FR 21172). The Department has concluded that further rulemaking in the direct contracting field is unnecessary at this time, and intends to withdraw this proposed rule. **Agency Contact:** Robert C. Ashby, (202) 426-4723			
Review: Minority Business Enterprise Program (Financial Assistance Programs).	**Abstract:** The Department is reviewing its regulation establishing a minority business enterprise (MBE) program in its financial assistance programs (49 CFR Part 23). This regulation has been controversial, is of interest to most DOT grant recipients and contractors, and affects the operations of all DOT financial assistance programs. As part of the Administration's program of reviewing regulations that are costly or controversial, the Department has decided that it is necessary to consider *administrative* revisions of the existing rule. The aim of the revisions would be to reduce regulatory burdens associated with the present rule *and clarify the administration of some provisions about which questions have been raised.* **CFR Citation:** 49 CFR pt. 23 **Legal Authority:** 42 U.S.C. 2000d; (Title VI of the Civil Rights Act of 1964); Title 49 U.S.C. 1730; 45 U.S.C. 906; 49 U.S.C. 1615. **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis (for NPRM). **Additional Information:** Final Rule published March 31, 1980 (45 FR 21172). NPRM to make interim amendment to this final rule, proposing to delete two controversial provisions, pending revision of the entire rule, published March 12, 1981 (46 FR 16282). Final rule for interim amendment published April 27, 1981 (46 FR 16202). Further action to revise existing rule under consideration. **Agency Contact:** Robert Ashby, (202) 426-4723	Further Action to be determined.		
Public Availabiltiy of Information.	**Abstract:** This involves a revision of DOT's Freedom of Information Act regulations. Specific areas to be revised may include the fee schedule and the policy on waivers of fees for public interest groups and the press. This rulemaking is significant because of substantial public interest. It is needed because the Freedom of Information Regulations need periodic revision to keep current with changes in case law, policy, and implementation costs. **CFR Citation:** 49 CFR pt. 7 **Legal Authority:** 5 U.S.C. 552 (Freedom of Information Act) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** The regulations were last revised in 1975. (40 FR 7915). A new revision is currently under internal development. **Agency Contact:** Greg Wolfe (202) 426-4710	Further action to be determined.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Office of the Secretary

OST

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—State Transportation Agencies' EEO Affirmative Action Programs.	**Abstract:** The proposed regulation would set forth requirements and procedures for all State Departments of Transportation (DOTs) equal employment opportunity compliance programs. It would also consolidate FHWA, FRA, and UMTA responsibilities in this area. This proposed regulation is significant because it would affect the equal opportunity employment programs of all State transportation agencies. It is needed because OST, FHWA, FRA, and UMTA each have responsibility for implementing the equal employment opportunity programs of State DOTs. This proposed rule would assure full coordination among these departmental elements, reduce the burden on the recipients, simplify reporting requirements, and eliminate duplication of effort. **CFR Citation:** 49 CFR 1.48(c), 2.49(u), 1.51(a) **Legal Authority:** Section 22(a) of the Federal-Aid Highway Act of 1968, as amended; Section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976; (49 U.S.C. 1615) (Section 19 of the Urban Mass Transportation Act of 1964, as amended); (29 U.S.C. 794). (Section 504 of the Rehabilitation Act of 1973). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** The proposed regulation was forwarded to EEOC for review and coordination. The primary issue addressed by this proposal was raised in the course of reviewing a related regulation. Further action will be delayed pending the outcome of that review. **Agency Contact:** Shirley Lloyd, (202) 426-4754	Further action to be determined.		
*Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	**Abstract:** This regulation would establish cost-effective policies and procedures governing Federal and Federally-assisted relocation assistance and real property acquisition programs under the Uniform Act. The Department published this NPRM at the request of OMB, and it is anticipated that when a final rule is issued, it will serve as a model for other Federal agencies covered by the Uniform Act. **CFR Citation:** 49 CFR pt. 251 **Legal Authority:** 42 U.S.C. 4601 *et seq.* **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Lynne Adams-Whitaker, (202) 426–4723	NPRM FR	4/14/83 Fall 1983	48 FR 16198

Other Rulemakings

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Consolidation of Transportation Grants to U.S. Territories.	**Abstract:** The regulation would comply with Title V of Pub. L. 95-134, which permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements. **CFR Citation:** 49 CFR pt. 29 **Legal Authority:** P.L. 95-134, Title V **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Irving Glasser (202) 426-4455	NPRM Further action to be determined.	1/6/79	44 FR 1765

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Office of the Secretary

OST

Current and Projected Rulemakings

Other Rulemakings—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs.	**Abstract:** This regulation would prohibit age discrimination by recipients of DOT financial assistance programs. **CFR Citation:** None **Legal Authority:** P.L. 94-135, Title III **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Ira Laster, (202) 426-4380	NPRM Further action to be determined.	10/22/79	44 FR 60946
Suspension and Debarment of Contractors.	**Abstract:** This regulation would establish procedures for imposition of debarment and other sanctions against contractors when it is demonstrated that DOT funds are improperly used. **CFR Citation:** 49 CFR Pt. 29 **Legal Authority:** 49 U.S.C. 1651 et seq **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Lynne Adams-Whitaker, (202) 426-4723	NPRM *FR*	12/13/82 *Fall 1983*	347 FR 55700
*Standard Time Zone Boundaries in the State of Alaska.	**Abstract:** This regulation reduces from four to two the number of time zones in Alaska by including within the Yukon time zone (9 hours behind Greenwich Mean Time) the entire State except the westernmost Aleutian Islands (west of 169 degrees 30 minutes west longitude), which is included in the Alaska-Hawaii time zone (10 hours behind). An amendment to the Final Rule may be issued to specify in technical terms the boundary between the two zones in the waters off Alaska; this has been requested by Federal agencies publishing navigation charts. **CFR Citation:** 49 CFR Part 71 **Legal Authority:** 15 U.S.C. 260 *et seq* **Effects on Small Entities:** No **Analysis:** None **Additional Information:** An NPRM was published June 30, 1983 (48 FR 30307) and the closing date for the comment period was August 29, 1983. A final rule was published September 22, 1983 (48 FR 43270). **Agency Contact:** Robert I. Ross, (202) 426–5723	NPRM FR Further action to be determined.	6/30/83 9/22/83	48 FR 30307 48 FR 43276

Reviews of Existing Regulations

Priority Reviews

Title	Summary	Timetable		
		Action	Date	Cite
Title VI Regulation	**Abstract:** This regulation prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving DOT financial assistance, provides examples of prohibited practices, and establishes enforcement procedures. Because the regulation affects all DOT financial assistance programs, creates administratives burdens for DOT and its recipients, and is an old regulation that has not been extensively revised since the early 1970s, it is an appropriate subject for a priority regulatory review, which will be led by the Departmental Office of Civil Rights with the participation of other affected DOT offices. The purpose of the review will be to make recommendations for how to carry out Title VI of the Civil Rights Act of 1964 and prevent discrimination in DOT-assisted programs more efficiently and with fewer administrative burdens. **CFR Citation:** 49 CFR pt. 21	Further action to be determined.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Office of the Secretary

OST

Reviews of Existing Regulations

Priority Reviews—Continued

Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 42 U.S.C. 2000(d) (Title VI of the Civil Rights Act of 1964). **Effects on Small Entities:** No **Agency Contact:** Shirley Lloyd, (202) 426-4754			

Completed Actions

Priority Rulemakings: Non-Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Intergovernmental Review of Federal Programs.	**Abstract:** The proposed rule *implements* Executive Order 12372, which replaces OMB Circular A–95 with a new system to ensure effective Federal-state-local consultation with respect to DOT programs. The rule is significant because it implements government-wide policy and will make important changes in DOT relationships with state and local governments. It is needed because the Executive Order requires all Executive agencies to issue implementing regulations. **CFR Citation:** 49 CFR Part 31; *23 CFR pt. 720* **Legal Authority:** Executive order 12372; 42 U.S.C. 4231(a), 3 U.S.C. 301, (Section 401(a) of the Intergovernmental Cooperation Act). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** The President signed Executive Order 12372 on July 14, 1982. Executive agencies, including DOT, worked with each other and OMB to draft substantively consistent implementing rules. **Agency Contact:** Robert C. Ashby, (202) 426-4723	NPRM FR	1/24/83 *6/24/83*	48 FR 3186 *48 FR 29264*
Participation by Minority Business Enterprises in Department of Transportation Programs.	**Abstract:** Section 105(f) of the Surface Transportation Assistance Act of 1982 requires ten percent of the funds authorized by the Act to be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals. This rulemaking *adds* a new Subpart D to the Department's existing Minority Business Enterprise (MBE) rule (49 CFR Part 23) to implement the statute. The rulemaking is significant because it affects all contracting in FHWA and UMTA programs and because of substantial public and Congressional interest. **CFR Citation:** 49 CFR Part 23, Subpart D **Legal Authority:** Section 105(f) of the STAA of 1982 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Robert C. Ashby, (202) 426–4723	NPRM FR	2/28/83 *7/21/83*	48 FR 8416 *48 FR 33432*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG **Current and Projected Rulemakings**

Priority Rulemakings: Major

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Title	Summary	Timetable		
		Action	Date	Cite
Review: Construction and Equipment; Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (Docket No. 77-069).	*This rulemaking has been moved from "Priority Rulemaking: Major" to "Other Rulemakings" for the following reasons: (1) the draft evaluation for the NPRM indicates that the rulemaking does not meet the criterion for a "major" classification because of costs and (2) only seven responses to the ANPRM were received from a sample of approximately 217 liquefied gas ships certificated to trade in the U.S. This response does not indicate "significant public interest" in the proposal. Therefore, the rulemaking is being reclassified as "non-significant".*			
Damage Stability and Flooding Protection Standards for Great Lakes Bulk Dry Cargo Vessels (Docket No. CGD 80-159).	**Abstract:** Would require a level of subdivision for new ships which is at least equivalent to that required for Maritime Administration construction loan guarantees. Would reduce the risk of catastrophic sinking and increase the time available to utilize recently improved survival gear. This project is significant because it would initiate a significant change in policy which differs substantially from international standards. Additionally, it could result in a major price increase for an individual industry. **CFR Citation:** 46 CFR pts. 45, 93 **Legal Authority:** 46 U.S.C. 375, (RS 4405); 46 U.S.C. 391, (R.S. 4417); 46 U.S.C. 416, (R.S. 4462). **Effects on Small Entities:** No **Analysis:** Regulatory Impact Analysis **Additional Information:** *None* **Agency Contact:** Lt. Curelli, (202) 426-2187	ANPRM *NPRM*	2/28/83 *9/84*	48 FR 8312
Segregated Ballast, Dedicated Clean Ballast, and Crude Oil Washing on *Existing* Tank Vessels of 20,000 to 40,000 Deadweight Tons. (Docket No. CGD 82-028).	**Abstract:** This project would amend 33 CFR *pt. 157* for the purpose of implementing the tanker construction and equipment standards in Sections (7)(E) and (H) of R.S. 4417a, as amended by the Port and Tanker Safety Act of 1978. These statutes require tank vessels of 20,000 to 40,000 DWT that are 15 years old or older to have segregated ballast tanks, dedicated clean ballast tanks or a crude oil washing system by January 1, 1986 or the date they reach 15 years of age, *whichever occurs later.* This rulemaking is considered significant because of economic impact on industry *and,* Congressional and Administration interest. It is needed because implementing standards mandated by the Port and Tanker Safety Act, will reduce operational pollution from ballasting, tank cleaning and sludge removal on existing tank vessels that are 15 years old or older. **CFR Citation:** 33 CFR pt. 157 **Legal Authority:** 46 U.S.C. 391a as amended by the Port and Tanker Safety Act of 1978 (92 Stat. 1486), R.S. 4417a. **Effects on Small Entities:** No **Analysis:** Regulatory Impact Analysis, Environmental Impact Statement. **Additional Information:** The Port and Tanker Safety Act was enacted on October 17, 1978. Final Regulations implementing *major provisions of* this legislation for tank vessels were published on June 30, 1980. A notice of intent to develop regulations under this Docket was published in the Federal Register on March 18, 1982. (47 FR 11724). Comment period on notice of intent closed May 3, 1982. **Agency Contact:** LCDR Spackman, (202) 426-4431	Notice of intent.... NPRM	3/18/82 *10/83*	47 FR 11724
*Shipping Fairway System off the Coast of California (Docket No. CGD 83-032).	**Abstract:** Would implement the results of the Port Access Route Study mandated by the Ports and Waterways Safety Act. As a result of the study, the Coast Guard has preliminarily determined that potential conflicts between oil drilling and shipping require creation of a fairway system off the coast of California from the vicinity of San Francisco to Los Angeles/Long Beach and changes to the San Francisco and Santa Barbara channel traffic separation schemes. No structures would be permitted in the fairway. **CFR Citation:** 33 CFR pt. 166 **Legal Authority:** 33 USC 1223 **Effects on Small Entities:** No	NPRM	12/83	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG **Current and Projected Rulemakings**

Priority Rulemakings: Major—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
	Analysis: Regulatory Impact Analysis **Additional Information:** None **Agency Contact:** Mr. C. Young (202) 245-0108			

Priority Rulemakings: Non-Major

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
†Review: Qualifications of the Person in Charge of Oil Transfer Operations, Tankerman Requirements (Docket No. CGD 79-116 and 79-116a).	**Abstract:** Would redefine and establish qualifying criteria for certifying individuals engaged in the carriage and transfer of the various categories of dangerous cargoes in bulk. This is considered significant because *of passage of the Port and Tanker Safety Act of 1978 and the fact that the International Convention on the Standards for Training, Certification and Watchkeeping for Seafarers of 1978 will enter into force on April 28, 1984.* This rulemaking is necessary because most pollution incidents are the result of personnel error; consequently, the minimum qualifications persons involved in handling polluting substances should be specified. **CFR Citation:** 33 CFR pt. 155; 46 CFR pts. 12, 13, 30, 31, 35, 70, 90, 98, 105, 151, 153, and 157. **Legal Authority:** 46 U.S.C. 391a, (86 Stat. 427, as amended); 49 U.S.C. 1655(b)(1), Sec. 6(b)(1), 80 Stat. 937; 49 CFR 1.46(n)(4). **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation, Environmental Impact Statement, Inflationary Impact Statement/Regulatory Flexibility Analysis. **Additional Information:** Environmental Analysis and Inflationary Impact Statement completed February, 1977. NPRM published April 25, 1977 (42 FR 21190). Public hearing June, 1977. Extensive comments were received on this NPRM and it was withdrawn on April 30, 1979. NPRM published December 1980 (45 FR 83268 and 45 FR 83290). Public hearings held in January and February 1981. **Agency Contact:** LT. Pendgraft, (202) 426-2241	NPRM Public Hearings FR	12/80 1-2/81 12/83	45 FR 83268 45 FR 83290
Review: Licensing of Pilots; *Manning of Vessels—Pilots* (Docket No. CGD 77-084).	**Abstract:** *This proposal would: (1) set the minimum age requirement at 21 years, (2) require pilots to have an annual physical examination, (3) change the experience requirement for a tonnage endorsement of "any gross tons," (4) require pilots to maintain knowledge of the routes on their licenses, (5) maintain the authority of the Coast Guard to establish limitations on licenses, and (6) amend the regulations pertaining to pilots on self-propelled vessels and on tank barges.* **CFR Citation:** 46 CFR pt. 10; *46 CFR pt. 157* **Legal Authority:** 46 U.S.C. 214, 224, 230, 233, 237; 49 U.S.C. 1655(b)(1). **Effects on Small Entities:** *No* **Analysis:** Regulatory Evaluation **Additional Information:** A Regulatory Analysis and Work Plan were completed in October 1978. NPRM published November 28, 1980 (45 FR 79258). Public hearings were held in January and February 1981. *A SNPRM was published January 27, 1983 (48 FR 3912). Notice of Public Hearings; Reopening and Extension of Comment Period was published May 9, 1983 (48 FR 20770). Public hearings were held in June 1983. Written and oral comments are being reviewed.* **Agency Contact:** Mr. J. Hartke, (202) 426-2985	NPRM Public Hearings SNPRM *SNPRM* *FR*	11/28/82 1-2/81and *6/83* *1/27/83* 5/9/83 *6/84*	45 FR 79258 48 FR 3912 *48 FR 20770*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
Vessel Traffic Service (VTS), Berwick Bay, La. (Docket 73-186).	**Abstract:** Would codify certain operating procedures now being done under local order. **CFR Citation:** 33 CFR pt. 161 **Legal Authority:** 33 USC 1231 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. E. LaRue, (202) 426-5116	NPRM FR	8/16/82 *10/83*	47 FR 35523
VTS Houston-Galveston, Texas (Docket No. CGD 74-029).	**Abstract:** Would make mandatory a now-voluntary vessel traffic service. **CFR Citation:** 33 CFR pt. 161 **Legal Authority:** 33 U.S.C. 1223 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. E. LaRue, (202) 426-5116	NPRM *Further action to be determined.*	9/18/80	45 FR 62158
Review: Fixed Fire Extinguishing Systems on Uninspected Vessels (Docket No. CGD 74-284).	**Abstract:** Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations. **CFR Citation:** 46 CFR 162.029 **Legal Authority:** 46 U.S.C. 526, 46 U.S.C. 1454, 49 U.S.C. 1655(b). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. K. Wahle, (202) 426-1444	NPRM *FR*	4/19/82 *11/83*	47 FR 16648
To implement the outstanding provisions of the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (MARPOL 73/78). (Docket No. CGD 75-124a).	**Abstract:** Would amend 33 CFR 151 and 155 for the purpose of implementing the pollution prevention requirements of MARPOL 73/78, and revise superseded sections of the CFR. Provisions to be implemented include requirements for oil water separating equipment on ships and drilling rigs, International Oil Pollution Prevention Certificates, and a revised Oil Record Book. This project was downgraded to nonsignificant in October 1982. **CFR Citation:** 33 CFR pts. *151, 155* **Legal Authority:** Section 311(i)(1) (C) and (D) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(i)(1) (C) and (D). The Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et seq.*) October 21, 1980. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Josiah/Jones, (202) 426-9573	NPRM *FR*	*7/5/83* *10/83*	*48 FR 30673*
Review: Stability Standards for Hopper Dredges (Docket No. CGD 76-060).	**Abstract:** Would improve capability of a dredge to withstand flooding caused by damage to hull or interior piping. **CFR Citation:** 46 CFR pt. 93 **Legal Authority:** 46 USC 88, 46 USC 362, 46 USC 387 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Alternative procedure under consideration. **Agency Contact:** LCDR *McGowan* (202) 426-2187	NPRM Further action to be determined.	12/10/79	44 FR 70791
Cargo Monitors on Tank Vessels (Docket No. CGD 76-068b).	**Abstract:** Proposed requirements for installation and use of cargo monitors. **CFR Citation:** 33 CFR pt. 157 **Legal Authority:** 33 USC 1903, 46 USC 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Correction of *SNPRM* published on 12/30/82; 47 FR 58306. **Agency Contact:** LT Lantz, (202) 426-4431	NPRM SNPRM FR	6/27/77 12/20/82 10/83	42 FR 32684 47 FR 56786

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
Review: Construction and Equipment: Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (Docket No. 77-069).	**Abstract:** Would amend regulations for existing self-propelled vessels that carry bulk liquefied gases by including the substantive requirements for the "Code for Existing Ships Carrying Liquefied Gases in Bulk" adopted by the International Maritime Organization (IMO). These amended regulations would increase safety levels of existing ships carrying gas. **CFR Citation:** 46 CFR pts. 31, 34, 38, 40, 54, 98, 154 **Legal Authority:** R.S. 4417(a) as amended by section 5, P.L. 95-474 (46 U.S.C. 391a): See 6(d)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)). This rulemaking also implements the Port and Tanker Safety Act of 1978. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *None* **Agency Contact:** Dr. A. Rowak, (202) 426-1217	ANPRM NPRM	6/30/77 *10/83*	42 FR 33353
Requirement for First Purchaser List Kept by Boat Dealers (Docket No. CGD 77-115).	**Abstract:** Would require boat dealers to assist in creating a list of retail purchasers so manufacturers could send notice to alert of safety defects. **CFR Citation:** 33 CFR pt. 179 **Legal Authority:** 46 U.S.C. 1464 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. Ellison, (202) 426-1065	NPRM *Further action to be determined.*	12/29/80	45 FR 85475
Review: Miscellaneous Changes to 46 CFR 56 (Docket No. CGD 77-140).	**Abstract:** Would update Title 46, Subchapter F - Marine Engineering. **CFR Citation:** 46 CFR pt. 56 **Legal Authority:** 48 U.S.C. 375, 416, 633, 391, 391(a), 392, 404-409, 411, 412, 481, 489, 366, 395, 363, 367, 526p, 1295f, 390b; 49 U.S.C. 1655(b); E.O. 11239, 11382; 49 C.F.R. 146(b). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT(jg) Jackson, (202) 426-2160	NPRM	10/83	
Lifesaving Systems for Great Lakes Vessels (Docket No. CGD 77-202).	**Abstract:** Would amend regulations for lifeboats and other equipment to improve chances of personnel survival following abandonment of vessel. **CFR Citation:** 46 CFR Subchapters D, H, I, T, and Q **Legal Authority:** 46 U.S.C. 375, 391a, 416, 481 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. R. Markle, (202) 426-1445	NPRM	11/83	
Reception Facilities (Docket No. CGD 78-035).	**Abstract:** Would require ports and terminals to ensure waste reception facilities are provided to receive vessel oil and chemical wastes. **CFR Citation:** 33 CFR pt. 154 **Legal Authority:** 33 U.S.C. 1905 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT Davidson, (202) 426-9579	ANPRM NPRM	3/24/83 10/83	48 FR 12395
Liquefied Natural Gas Waterfront Facility (Docket No. CGD 78-038).	**Abstract:** Would establish LNG Waterfront Facility Safety Regulations in accordance with Memorandum of Understanding between USCG and Materials Transportation Bureau, RSPA. **CFR Citation:** 33 CFR pt. 126 **Legal Authority:** 50 U.S.C. 191, 33 U.S.C. 1224 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT Davidson, (202) 426-9579	ANPRM SANPRM NPRM	8/3/78 3/8/79 *1/84*	43 FR 34362 44 FR 12693

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

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Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Inland Waters Navigation Regulations - Waters Connecting Lake Huron and Lake Erie (Docket No. CGD 78-151).	**Abstract:** Would modernize existing regulations **CFR Citation:** 33 CFR pt. 162 **Legal Authority:** 33 U.S.C. 1221-32 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. LaRue, (202) 426-4958	NPRM *FR*	*6/3/83* *1/84*	*48 FR 25231*
Review: Private Aids to Navigation and State Aids to Navigation (Docket No. CGD 78-157).	**Abstract:** Would codify and clarify the aids to navigation regulations concerning State and private aids to navigation. **CFR Citation:** 33 CFR pt. 66 **Legal Authority:** 14 U.S.C. 2, 83, 85; 5 U.S.C. 610 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT(jg) Bittner, (202) 426-1974	Further action to be determined.		
Review: Aids to Navigation - General Interference with, Damages to and Charges for Aids to Navigation (Docket No. CGD 78-159).	**Abstract:** Would codify, revise and clarify the existing regulations. **CFR Citation:** 33 CFR pts. 60, 62, 66, 70, 74, and 76 **Legal Authority:** 14 U.S.C. 81, 87, 92 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT(jg) Bittner, (202) 426-1973	Further action to be determined.		
Approval of Inflatable Personal Flotation Devices (PFDs) (Docket No. CGD 78-174).	**Abstract:** Would establish performance standards for inflatable PFDs and procedures for granting product approval to these devices. **CFR Citation:** 46 CFR pt. 160 **Legal Authority:** 46 U.S.C. 481, 526e, 1454, 1455; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)(n)(1). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. S. Wehr, (202) 426-1444	ANPRM NPRM	3/15/79 *11/83*	44 FR 15933
Offshore Oil Lightering (Docket No. CGD 78-180).	**Abstract:** Would establish requirements for vessel to vessel transfers of oil or hazardous materials if the cargo is bound for a U.S. port. **CFR Citation:** 33 CFR pt. 156 **Legal Authority:** 33 U.S.C. 1221 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT Evans, (202) 426-9578	NPRM SNPRM *FR*	5/31/79 *9/9/83* *6/84*	44 FR 31486 *48 FR 40741*
Review: Stability Subchapter (Docket No. CGD 79-023).	**Abstract:** Would bring together all the existing stability regulations and identifiable past practices into a single subchapter including a part pertaining to the carriage of passengers and separate parts pertaining to cargoes, vessel use, and special types. **CFR Citation:** 46 CFR pts. 170-174 **Legal Authority:** 46 U.S.C. 66, 78a, 369, 375, 390b, 391a, 404, 416, 1295(f); 43 U.S.C. 1333,; 50 U.S.C. 198; 49 U.S.C. 1655. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Feeney, (202) *426-2187*	NPRM FR	8/12/82 *11/83*	*47 FR 35090*
Pilot Boarding Equipment (Docket No. CGD 79-032).	**Abstract:** Would amend regulations for the equipment and operating standards utilized in embarking and disembarking pilots on vessels. Will combine existing standards with those in the Safety of Life at Sea Convention of 1974 *and add a new section dealing with pilot ladder replacement steps.* **CFR Citation:** 46 CFR pts. 28, 31, 71, 97, 108 and 189 **Legal Authority:** 46 U.S.C. 375, 391a, 416 and 481 **Effects on Small entities:** No **Analysis:** Regulatory evaluation **Additional Information:** None **Agency Contact:** LT John Astley, (202) 426–2183	NPRM	*10/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Crane Operator Qualifications and Standards for Offshore Crane Design Inspection, Testing and Operation (Docket No. CGD 79-059).	**Abstract:** Would develop required qualifications for crane operators employed on the Outer Continental Shelf and standards for crane design, inspection, and testing. **CFR Citation:** 33 CFR *pts. 140, 143, 149* and 46 CFR *pts. 107, 108, 109.* **Legal Authority:** 43 U.S.C. 1333, 1348, 1356; 33 U.S.C. 1509; 46 U.S.C. 375, 395, 400, 407, 408, 411, 412, 416, 481; 49 U.S.C. 1655. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Goodwin, (202) 472-5160	ANPRM NPRM	1/10/80 *10/83*	45 FR 2052
Work Place Safety and Health Requirements for Facilities on the Outer Continental Shelf (Docket No. CGD 79-077).	**Abstract:** This regulation would develop occupational safety and health standards for personnel working on OCS facilities. **CFR Citation:** 33 CFR pt 142 **Legal Authority:** 43 U.S.C. 1333, 1347 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation **Additional Information:** Notice of meeting published on 3/5/81; 46 FR 15402. Correction of notice published on 3/19/81; 46 FR 17702. **Agency Contact:** *Mr. Whitney,* (202) 472-5160	NPRM	*10/83*	
Vessel Personnel Licensing and Certification Standards of Foreign Countries (Docket No. CGD 79-081(a)).	**Abstract:** Establishes procedures for verification of training, qualification and watchkeeping standards of personnel serving on foreign tank vessels. **CFR Citation:** 46 CFR pt. 30 **Legal Authority:** 46 U.S.C. 391a, 49 USC 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** CDR D. Struck, (202) 426-2240	Interim final rule *Further action to be determined.*	4/7/80	45 FR 23425
Joint U.S.–Canada Vessel Traffic Management regulations for the Pacific region (Docket No. CGD 79-131).	**Abstract:** Would implement the provisions of an Agreement for a Cooperative Vessel Traffic Management System for the Pacific Region. **CFR Citation:** 33 CFR pt. 161 **Legal Authority:** 33 USC 1221 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *LCDR T. Thompson,* (202) 426-1940	NPRM *Further action to be determined.*	*8/18/83*	*48 FR 37433*
Deepwater Port Liability Fund Requirements. (Docket No. CGD 79-158).	**Abstract:** Would implement provisions of the Deepwater Port Act of 1974 to establish and administer liability limits and compensation relative to accidental oil spills at deep water port sites. **CFR Citation:** 33 CFR pts. 137 and 150 **Legal Authority:** 33 U.S.C. 1509. 33 U.S.C. 1517 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. F. Martin, (202) 472-5052	NPRM Interim FR FR	10/2/80 6/24/82 *10/83*	45 FR 67708 47 FR 27478
Modification to Line Throwing Device Requirements (Docket No. CGD 79-160).	**Abstract:** Would modify the regulation requiring a line throwing device only in cargo vessels over 500 gross tons and passenger vessels on international voyages. **CFR Citation:** 46 CFR pts. 33, 75, 78, 94, 97, 108, 160, 167, 192, 196. **Legal Authority:** 46 U.S.C. 481 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT Gold, (202) 426-2183	NPRM *To be withdrawn*	12/11/80	45 FR 81618
Launching Devices for Liferafts (Docket No. CGD 79-168).	**Abstract:** Proposed specification for approval of devices used for launching inflatable liferafts. **CFR Citation:** 46 CFR pts. 160 and 163 **Legal Authority:** 46 U.S.C. 375, 390, 416, 481, 1655 **Effects on Small Entities:** No	NPRM	*10/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Analysis: Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT(jg) Girton, (202) 426-1445			
Emergency Position Indicating Radiobeacons (EPIRB) (Docket No. CGD 80-024).	**Abstract:** Would require use of EPIRB's on vessels operating on the Great Lakes. **CFR Citation:** 46 CFR pts.; 33, 35, 75, 78, 94, 97, 160, 161, 167, 180, 185, 192. **Legal Authority:** 46 U.S.C. 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. Markle, (202) 426-1444	NPRM FR	10/4/82 *1/84*	47 FR 43736
Valve Inspection for Thermal Fluid Heaters (Docket No. CGD 80-064).	**Abstract:** Would clarify the inspection standards for valves on thermal heaters. **CFR Citation:** 46 CFR pt. 61 **Legal Authority:** 46 U.S.C. 375, 391a, 416, 526a, 1333; 49 U.S.C. 1655(b), E.O. 11239; 14 U.S.C. 633. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *CDR* Strasser, (202) 426-2183	NPRM FR	10/18/82 *10/83*	47 FR 46336
Inflatable Liferaft Stability (Docket No. CGD 80-113).	**Abstract:** Would provide specific rules for function, size, and placement of stability appendages. **CFR Citation:** 46 CFR pt. 160 **Legal Authority:** 46 U.S.C. 375 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. M. Daniels, (202) 426-1445	ANPRM NPRM	6/29/81 *1/84*	46 FR 33341
Maneuvering Performance Regulations (Docket No. CGD 80-136).	**Abstract:** Would establish performance standards for new tank vessels; and possibly all vessels in response to mandates in *the* Port and Tanker Safety Act. **CFR Citation:** 46 CFR Ch. 1 **Legal Authority:** 46 U.S.C. 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. E. Holler, (202) 426-2197	ANPRM NPRM	9/14/81 10/83	46 FR 45631
Colregs Demarcation Lines - Savannah River, GA. Amelia Island, FLA (Docket CGD 80-142).	**Abstract:** Would move the Colregs lines along the coast of Georgia to coincide with the Georgia Dept. of Natural Resources, fishing lines. **CFR Citation:** 33 CFR pt. 80 **Legal Authority:** 33 U.S.C. 151 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *Mr. W. Sobeck (202) 245–0108*	NPRM FR	7/27/81 *10/83*	46 FR 38378
Material Standards for Fixed Structures (Docket No. CGD 80-160).	**Abstract:** Description: Would revise and update 33 CFR, Subchapter N, including lifesaving and firefighting equipment. **CFR Citation:** 33 CFR Subch. N **Legal Authority:** 43 U.S.C. 1331 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *LT Penn*, (202) 426-5160	NPRM	*10/83*	
Servicing Inflatable Liferafts (Docket No. CGD 81-010).	**Abstract:** Would allow liferaft servicing in U.S. and foreign ports without Coast Guard Marine inspectors. **CFR Citation:** 46 CFR pt. 160 **Legal Authority:** 46 U.S.C. 367, 375, 3906, 391a, 416, 489, 1333; 50 U.S.C. 198. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None	NPRM	*11/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Agency Contact: LT (jg) Delikat, (202) 426-1445			
Personal Flotation Devices (Docket No. CGD 81-023).	**Abstract:** Revokes an obsolete provision & makes several editorial changes. **CFR Citation:** 33 CFR pt. 175 and 181 **Legal Authority:** 46 U.S.C. 1454, 1488; 49 CFR 1.46(n)(1) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. R. Franseen, (202) 426-0108	NPRM *Further action to be determined.*	4/12/82	47 FR 15606
Automated Main and Auxiliary Machinery (Docket No. CGD 81-030).	**Abstract:** Would implement the provisions for periodically unattended machinery spaces in the "Recommendation Concerning Regulations for Machinery and Electrical Installations on Cargo and Passenger Vessels" adopted by *the IMO* and the guidance on system design in *the* Coast Guard Navigation and Inspection Circular on Automated Main and Auxiliary Machinery. **CFR Citation:** 46 CFR pt. 62 **Legal Authority:** 46 U.S.C. 375, 391, 391(a), 392 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *LT Randall*, (202) *426-2206*	NPRM	*12/83*	
General Bridge Permit Regulations (Docket No. CGD 81-057).	**Abstract:** Would establish rules for issuing general bridge permits. **CFR Citation:** 33 CFR pt. 115 **Legal Authority:** 33 U.S.C. 401 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. J. Schwartz, (202) 755-7620	NPRM FR	9/23/82 *10/83*	47 FR 41968
Safety Rules for Self-propelled Vessels Carrying Hazardous Liquids and Bulk Liquefied Gases (Docket No. CGD 81-052).	**Abstract:** Would revise application and examination procedures for new foreign vessels carrying chemicals and liquefied gases in bulk. Modifies requirement for these vessels to obtain a Letter of Compliance (LOC). **CFR Citation:** 46 CFR pts. 1, 153, 154 **Legal Authority:** 46 USC 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. E. Pfersich, 426-1217	NPRM FR	5/10/82 10/83	47 FR 20084
Relocation of Boundary Lines (Docket No. CGD 81-058).	**Abstract:** Would relocate boundary lines in Part 46 CFR Part 7 in Accordance with PL-*96–324*. **CFR Citation:** 46 CFR pt. 7 **Legal Authority:** 33 U.S.C. 151 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR B. Turio, (202) 426-1464	NPRM *SNPRM* *FR*	6/7/82 *9/15/83* *6/84*	47 FR 24604 *48 FR 41454*
Licensing of Officers and Motorboat Operators and Registration of Staff Officers (Docket No. CGD 81-059).	**Abstract:** Would amend the licensing regulations to simplify administration and improve readability to *the* public. Also to provide a license structure for all mariners with which to advance in an orderly career pattern. Will also delete many unnecessary and outdated licenses. **CFR Citation:** 46 CFR pt. 10 **Legal Authority:** 46 U.S.C. 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230, 231, 233, 244. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Naccara, 426-2240	ANPRM NPRM *FR*	10/29/81 *8/8/83* *5/84*	46 FR 53624 *48 FR 35920*
Update of 46 CFR part 153 (Docket No. CGD 81-078).	**Abstract:** Would revise and update 46 CFR part 153 through the ninth set of amendments to the *IMO* Chemical Code. **CFR Citation:** 46 CFR pt. 153	NPRM *FR*	*5/2/83* *12/83*	*48 FR 19755*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG **Current and Projected Rulemakings**

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 46 U.S.C. 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. R. Query, 426-1217			
Acceptance of ASME Boilers with ASME S,E,A, and H stamps (Docket No CGD 81-079).	**Abstract:** Would delete requirement that Coast Guard review plans and inspect power and heating boilers when stamped with ASME S,E,A, or H symbol stamps. **CFR Citation:** 46 CFR pts. 52 and 53 **Legal Authority:** 46 U.S.C. 375, 416, 391, 391(a), 392 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. H. *Hime,* 426-2160	NPRM *FR*	*8/18/83* *1/84*	*48 FR 37441*
General Revision of 46 CFR 151, Barges Carrying Certain Bulk Dangerous Cargoes. (Docket No. CGD 81-082).	**Abstract:** Would revise the rules for barges carrying bulk cargoes by clarifying the language, eliminating unnecessary requirements and upgrading some existing requirements. **CFR Citation:** 46 CFR pt. 151 **Legal Authority:** 46 U.S.C.391a **Effects on Small Entities:** *No* **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** R. M. Query, 426-1217	NPRM	12/83	
Change References in Various Subchapters from Solas 74 and Update Lifesaving and Fire Fighting Requirements (Docket No. CGD 81-090).	**Abstract:** Would incorporate changes required by Solas *74/78* **CFR Citation:** 48 CFR Ch. 1 **Legal Authority:** E.O. 12234 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Healey, (202) 426-1464	NPRM	*6/84*	
Miscellaneous Amendments to Electrical and Fuel System Regulations for Recreational Boats. (Docket No. CGD 81-092).	**Abstract:** Would revoke unnecessary electrical and fuel system regulations. **CFR Citation:** 33 CFR pt. 1830 **Legal Authority:** 46 U.S.C. 1454 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Extension of comment period to 1/21/83, published on 12/30/82; 47 FR 58306. **Agency Contact:** Mr. A. Colihan, (202) 426-4027	NPRM FR	9/23/82 *10/83*	47 FR 41993
Tank Vessels Carrying Noxious Liquid Substances in Bulk; Pollution Prevention and Control, Equipment and Operational Requirements (Docket No. CGD 81-101).	**Abstract:** Would limit and restrict the discharge of noxious liquid substances made by chemical tankers. **CFR Citation:** 33 CFR pt. 157 **Legal Authority:** P.L. 96-478 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** F. Wybenga, 426-1217	ANPRM *NPRM*	1/13/82 *6/85*	46 FR 1519
Fairways on the Southern Coast of Alaska (Docket No. CGD 81-103).	**Abstract:** Would establish fairways on the southern coast of Alaska implementing the result of a Port Access Route Study. **CFR Citation:** 33 CFR pt. 166 **Legal Authority:** 33 U.S.C. 1223 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. C. Young, (202) 245-0108	NPRM	*3/84*	
Fees for Numbering of Undocumented Vessels (Docket No. CGD 82-001).	**Abstract:** Would raise fees for the numbering of undocumented vessels in areas where *the* Coast Guard is the issuing authority. **CFR Citation:** 33 CFR pt. 173 **Legal Authority:** 46 U.S.C. 1472 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. R. Franseen, (202) 426-0108	Further action to be determined.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG **Current and Projected Rulemakings**

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Suspension and Revocation Proceedings (Docket No. CGD 82-002).	**Abstract:** Revise and Amend 46 CFR Part 5 to (1) incorporate changes due to recent legislative actions (2) improve clarity and conciseness *and* (3) make substantive procedural changes. **CFR Citation:** 46 CFR pt. 5 **Legal Authority:** 46 U.S.C. 239 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** CDR *Stansell,* (202) 426-*2215*	NPRM *FR*	*9/30/83* *4/84*	*48 FR 44851*
OSV Subchapter (Docket No. CGD 82-004).	**Abstract:** Create new 46 CFR subchapter governing Offshore Supply Vessels. **CFR Citation:** 46 CFR pts. 125–136 **Legal Authority:** Pub. L. 96-378 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR *Gilmour,* (202) 426-*2160*	ANPRM NPRM	2/14/83 8/84	48 FR 6636
Subchapter "D" & "O" Barges - Internal Inspections (Docket No. CGD 82-005).	**Abstract:** Change Subchapter "O" Regulation on Internal Inspection to coincide with *drydock interval.* **CFR Citation:** 46 CFR pt. 151 **Legal Authority:** 46 USC 170 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** CDR Strasser, (202) 426-2183	NPRM	*10/83*	
Casualty Reporting Requirements — for Recreational Boats (Docket No. CGD 82-015).	**Abstract:** Amend casualty and accident reporting requirements for operators of recreational boats involved in boating accidents. **CFR Citation:** 33 CFR pt. 173 and 174 **Legal Authority:** 46 U.S.C. 1486 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. R. Franseen, (202) 426-0108	*Further action to be determined.*		
General Bridge Operation Regulations (Docket No. 82-025).	**Abstract:** Would consolidate bridge operation regulations into one part. **CFR Citation:** 33 CFR pt. 117 **Legal Authority:** 49 U.S.C. 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. Teuton, (202) 426-1380	NPRM SNPRM *FR*	7/12/82 *5/31/83* *11/83*	47 FR 30176 *48 FR 24094*
Rewrite of 33 CFR Part 157 (Docket No. CGD 82-030).	**Abstract:** Amend pollution regulations to clarify, correct minor errors, and incorporate policy decisions and international interpretations. **CFR Citation:** 33 CFR pt. 157 **Legal Authority:** 46 U.S.C. 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *Further action pending completion of Project CGD 82-028.* **Agency Contact:** Mr. J. Angelo, (202) 426-4431	*Further action to be determined. See Additional Information.*		
Hand Held Flashlights. Independent Inspection Agencies (Docket No. CGD 82-042).	**Abstract:** Would remove two-cell flashlight requirements from flashlight approval specification, change "independent laboratory" to "independent inspection agency", throughout Subchapter *Q* and revise other regulations accordingly. **CFR Citation:** 46 CFR pt. 161 **Legal Authority:** 46 U.S.C. pts. 391a, 481 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Miante, (202) 426-2206	NPRM	*11/83*	

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Aids to Navigation on Outer Continental Shelf (Docket No. 82-054).	**Abstract:** Would allow manufacturer certification of lights for marking artificial islands and fixed structures. **CFR Citation:** 33 CFR pt. 67 **Legal Authority:** 14 U.S.C. 2, 83, 85, 92, 633 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT Hayden, (202) 426-1973	NPRM	*11/83*	
Natural Ventilation Regulations for Small Boats (Docket No. 82-056).	**Abstract:** Would replace existing regulations with voluntary industry standard. **CFR Citation:** 33 CFR pt. 183 **Legal Authority:** 46 U.S.C. 1454 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. L. Gray, (202) 426-4027	Further action to be determined.		
Update Bulk Liquefied Gas Tanker Requirements (Docket No. 82-058).	**Abstract:** Would update and revise standards for self-propelled vessels carrying bulk liquefied gases. **CFR Citation:** 46 CFR pts. 154 **Legal Authority:** 46 U.S.C. 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *Mr. R.M. Query,* (202) 426-1217	NPRM	*6/84*	
*Casualty Reporting Requirements (Docket No. 82-069a).	**Abstract:** Would eliminate the cost of salvage, cleaning, gas freeing, and drydocking from damage costs in Title 33. **CFR Citation:** 33 CFR pts. 146 and 150 **Legal authority:** 33 USC 1333, 33 USC 1348, 33 USC 1509(a) **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:**None **Agency Contact:** LCDR Mosebach, (202) 426–1455	NPRM	*10/83*	
Visual Distress Signal Equipment Requirements (Docket No. CGD 82-073).	**Abstract:** Amend to clarify definition of "Coastal waters' **CFR Citation:** 33 CFR pt. 175 **Legal Authority:** 46 U.S.C. 1454 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. R. Franseen, (202) 426-0108	NPRM FR	9/23/82 *11/83*	46 FR 41992
Exposure Suits; Requirements for Mobile Offshore Drilling Units and Coastwise Vessels (Docket No. CGD 82-075a and 82-075b).	**Abstract:** Would require mobile offshore drilling units and other oceangoing and coastwise vessels to carry exposure suits for persons on board. Vessels and units operating in waters where water temperature is not a severe threat to life would be exempted. **CFR Citation:** 46 CFR pts. 25, 33, 35, 94, 107, 108, 109, 160, 192, 196; 33 CFR pt. 144. **Legal Authority:** 46 U.S.C. 391a, 481, 526; 49 U.S.C. 1655(b)(1) **Effects on Small Entities:** No **Additional Information:** None **Agency Contact:** Mr. R. Markle, (202) 426-1444	NPRM FR	2/3/83 10/83	48 FR 4833
Numbering System Requirements" (Docket No. CGD 82-076).	**Abstract:** Would give states greater flexibility in the managing of their numbering systems. **CFR Citation:** 33 CFR pt. 174 **Legal Authority:** 46 U.S.C. 1454 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. R. Franseen, (202) 426-0108	*Further action to be determined.*		
Visual Distress Signals—Strobe Lights (Docket No. CGD 82-084).	**Abstract:** Would add strobe lights *as* an optional carriage item for inland rule waters.. **CFR Citation:** 33 CFR pt. 175 **Legal Authority:** 46 U.S.C. 1454 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation	*Further action to be determined.*		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Additional Information: None **Agency Contact:** Mr. R. Franseen, (202) 426-0108			
Documentation of Vessels; U.S.-Built Determinations (Docket No. CGD 82-085).	**Abstract:** Solicits comments on how best to determine when a vessel built using some foreign components should be considered built in the United States for documentation purposes. **CFR Citation:** 46 CFR Pt. 67 **Legal Authority:** 49 U.S.C. 1655 **Effects on Small Entities:** Not determined **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Ms. Carnilla, (202) 426-1492	ANPRM *NPRM* FR	10/14/82 *5/15/83* *1/84*	47 FR 45888 *48 FR 20249*
Nautical Schools: Implementing the Maritime Educational Training Act of 1980" (Docket No. CGD 82-092).	**Abstract:** Would update authority cites for Nautical Schools Inspection Regulations (46 CFR Subchapter "R") and update certain parts to conform with current inspection policies. Nautical School vessels operated by the United States (formerly called "Public Nautical School Ships") between 15 and 300 gross tons would be subject to inspection for the first time. **CFR Citation:** 46 CFR pts. 166, 167, and 168 **Legal Authority:** P.L. 96-453 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Fust, (202) 426-1464	NPRM	*5/84*	
Unmanned Barges Carrying Certain Dangerous Bulk Cargoes (Docket No. CGD 82-096).	**Abstract:** The proposed rule would correct and add electrical hazard class and group rating to the list of cargoes regulated under 46 CFR 151. **CFR Citation:** 46 CFR pt. 151.05 **Legal Authority:** 46 U.S.C. 391a, 49 U.S.C. 1655, 49 CFR 1.46(t). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. J. Jakabcin, (202) 426-6262	NPRM *FR*	*4/14/83* *10/83*	*48 FR 16063*
Adoption of Port Hueneme, CA, Fairway form Corps of Engineers (Docket No. CGD 82-101).	**Abstract:** Would transfer existing fairway at Port Hueneme from COE rules (33 CFR 209.138) to the Coast Guard. **CFR Citation:** 33 CFR pt. 166 **Legal Authority:** 33 U.S.C. 1223 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. C. Young, (202) 245-0108	FR	*11/83*	
Documentation of Vessels; Controlling Interest (Docket No. CGD 82-105).	**Abstract:** Solicits comments on the term "controlling interests" for the purpose of documenting vessels owned by partnerships. **CFR Citation:** 46 CFR pt. 67 **Legal Authority:** 49 U.S.C. 1655 **Effects on Small Entities:** Not determined **Analysis:** Not required **Additional Information:** None **Agency Contact:** Ms. Carnilla, (202) 426-1492	ANPRM *NPRM*	11/12/82 *11/83*	47 FR 51170
*Shipboard Navigational Equipment (Docket No. CGD 83-004).	**Abstract:** Would implement the requirements of the first set of amendments to the International Convention for the Safety of Life at Sea (SOLAS). The amendments concern requirements for speed logs, rate of turn indicators, RPM indicators, and pitch and mode indicators on vessels fitted with variable pitch propellers. **CFR Citation:** 33 CFR pt. 164 **Legal Authority:** 46 U.S.C. 391(a) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. T. Falvey (202) 426-4958	NPRM	*11*/83	

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
*Sailing School Vessel Regulations (Docket No. CGD 83-005).	**Abstract:** Would generate a new set of inspection regulations for sailing school vessels as mandated by the Sailing School Vessel Act of 1962. **CFR Citation:** 46 CFR pt. 169 **Legal Authority:** P.L. 97-322 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Lt. Astley, (202) 426-2190	NPRM	*11*/83	
*Revocation of Military Explosives Regulations (Docket No. CGD 83-006).	**Abstract:** Would revoke 46 CFR concurrently with the Research and Special Programs Administration's Materials Transportation Bureau (MTB) rulemaking and revise other sections in Title 46 accordingly. **CFR Citation:** 46 CFR pt. 146 **Legal Authority:** 46 U.S.C. 170 **Effects on Small Entities:** None **Analysis:** Regulatory Evaluation **Additional Information:** To be published concurrently with Materials Transportation Board rulemaking. **Agency Contact:** Mr. F. Thompson (202) 426-1577	NPRM	10/83	
*Miscellaneous Amendments to Recreational Boating Standards (Docket No. CGD 83-012).	**Abstract:** Would revoke unnecessary regulations **CFR Citation:** 33 CFR pt. 183 **Legal Authority:** 46 U.S.C. 1454 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. A. Colihan (202) 426-1063	NPRM	12/83	
†*Carriage and Use of Liquefied or Nonliquefied Flammable Gas as Cooking Fuels on Vessels Carrying Passengers for Hire (Docket No. CGD 83-013).	**Abstract:** Proposed requirements for the use of liquefied flammable gas as cooking fuel. **CFR Citation:** 46 CFR pts. 25, 58, 147 **Legal Authority:** 46 U.S.C. 170 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analaysis **Additional Information:** None **Agency Contact:** LCDR Spackman (202) 426-4431	NPRM	*11*/83	
*Reassessment of Coast Guard Fire Protection Regulations to Incorporate SOLAS 1974 (Docket No. CGD 83-026).	**Abstract:** Would bring Coast Guard regulations into agreement with the International requirements of SOLAS 1974. **CFR Citation:** 46 CFR Subchapters D, H, and I **Legal Authority:** 46 U.S.C. 369, 375, 390b, 390e, 391, 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. D. Kerlin (202) 426-2197	NPRM	5/84	
*Extend Applicability of Certain Western Rivers Provisions of the Inland Navigation Rules to other Waters. (Docket No. CGD 83-028).	**Abstract:** Would designate certain waters upon which rules 9(a)(ii), 15(b), and 24(i) of the Inland Navigation Rules will apply. **CFR Citation:** 33 CFR pt. 94 **Legal Authority:** 33 U.S.C. 2071 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR J. Kirkpatrick (202) 245-0106	NPRM	*10*/83	
*Independent Laboratory Inspection of Lifesaving Equipment (Docket No. CGD 83-030).	**Abstract:** Would establish independent laboratory inspection of lifeboats, liferafts, and launching equipment to replace Coast Guard inpsection. **CFR Citation:** 46 CFR pt. 160 **Legal Authority:** 46 U.S.C. 481 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. R. Markle (202) 426-1444	NPRM	11/83	
*Editorial Changes to Claims Regulations (Docket No. CGD 83-031).	**Abstract:** Would remove a confusing reference in 33 CFR 25.405(g). **CFR Citation:** 33 CFR 25.405(g)	NPRM	*11/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 28 U.S.C. 2680 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** CDR. W. Norris (202) 426-2245			
*Material Standards for Fixed Structures (Docket No. CGD 83-035).	**Abstract:** Would implement the Best Available and Safest Technology (BAST) requirement of the Outer Continental Shelf Lands Act Amendments, 1976. **CFR Citation:** 46 CFR Subchapter N **Legal Authority:** 43 U.S.C. 1331 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Lt Penn (202) 472-5160	ANPRM	11/83	
*Reassessment of Coast Guard Marine Engineering regulations—Incorporation of SOLAS 74 Amendments (Docket No. CGD 83-043).	**Abstract:** Would effect a general reassessment of Subchapter F and incorporation of international requirements becoming effective 1 Sept. 1984. **CFR Citation:** 46 CFR Subchapter F **Legal Authority:** 46 U.S.C. 375, 391, 391a, 392, 416 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Miante, (202) 426-2160	NPRM	4/84	
Requirement for Federal Pilots on Foreign Trade Vessels Where a Pilot is not Required by State Law; State of Maine. (Docket No. CGD 83-044).	**Abstract:** Would require Federally-licensed pilots on certain self-propelled vessels engaged in foreign trade, when operating in several specified areas in the navigable waters of the United States *within* the State of Maine, where a pilot is not otherwise required by State law. **CFR Citation:** 33 CFR pt. 161 **Legal Authority:** 33 U.S.C. 1226 **Effects on Small Entities:** No **Analysis:** Regulatory Evalation **Additional Information:** None **Agency Contact:** Mr. E. LaRue (202) 426-5116	*Further action to be determined.*		
*Compatibility of Cargoes (Docket No. CGD 83-047).	**Abstract:** Would consolidate requirements for compatible storage of bulk liquid hazardous materials on tank vessels; would update table from April 14, 1983. **CFR Citation:** 46 CFR pt. 150 **Legal Authority:** 46 U.S.C. 391a, 49 U.S.C. 1656, 48 CFR 1.46(t). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. J. Jakabcin (202) 426-6262	NPRM	*11*/83	

Other Rulemakings: Routine and Frequent

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Title	Summary	Timetable		
		Action	Date	Cite
	TOTAL ACTIONS EXPECTED			
Safety/Security Zone Regulations.	*15* **Agency Contact:** *CAPT Moran,* (202) 426-5116		*10/83 - 4/84*	
Anchorage Are.. Regulations	16 **Agency Contact:** *Mr. L. Manoliades,* (202) 426-5116		*10/83 - 4/84*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Current and Projected Rulemakings

Other Rulemakings: Routine and Frequent—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Drawbridge Regulations	50 **Agency Contact:** Mr. F. Teuton, (202) 426-1380		*10/83 - 4/84*	

Reviews of Existing Regulations

Priority Reviews

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Marine Sanitation Devices on Vessels.	**Abstract:** These regulations govern the design and construction of marine sanitation devices in accordance with the regulations and performance standards promulgated by the Environmental Protection Agency (EPA) under section 312 of the Federal Water Pollution Control Act. They also contain the procedures by which Coast Guard enforces its own and EPA standards pertaining to these devices. The purpose of the regulations is to eliminate the discharge of untreated sewage from vessels into the waters of the United States. This is one of the Coast Guard's most controversial regulations. The Coast Guard estimatas the annual cost of the rule to be $100,000,000. The Coast Guard estimates the cost of retrofitting boats with these devices to be $100,000,000. The regulation is appropriate for review because of its cost and because of its unpopularity with boat owners. Any revision of the regulation, however, will require coordination with the EPA. **CFR Citation:** 33 CFR pt. 159 **Legal Authority:** 33 U.S.C. 1322 **Effects on Small Entities:** No **Agency Contact:** *LCDR Mastenbrook, (202) 755-7917*	Notice of Program Review. Completion of Review.	12/24/81 *10/83*	46 FR 62479
Vessel Reporting Requirements.	**Abstract:** These regulations were developed and promulgated pursuant to the Port and Tanker Safety Act. They require vessel owners to report their locations, arrivals and departures when carrying certain hazardous cargoes. The barge industry and certain boat owners in the past have opposed these regulations. These regulations are being reviewed because of their controversy and impact on the barge and towing industry. **CFR Citation:** 33 CFR pt. 161 **Legal Authority:** 46 U.S.C. 391a **Effects on Small Entities:** No **Agency Contact:** *LT Evans, (202) 755-1354*	Completion of Review.	*10/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Reviews of Existing Regulations

Other Reviews

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
†Regulatory Flexibility Act Reviews.	**Abstract:** In accordance with the Regulatory Flexibility Act (RFA) review plan published in the Federal Register of June 29, 1981 (46 FR 33404) the Coast Guard has deferred selecting any specific regulations for RFA review at this time. Instead, the Coast Guard is dividing its regulatory material into manageable units and determining which will require review under the RFA. Once the extent of the required RFA review is known, the Coast Guard will publish a specific review schedule. **CFR Citation:** 33 CFR *pts. 1-199, 46 CFR 1-End* **Legal Authority:** None **Effects on Small Entities:** Yes **Agency Contact:** Mr. Bruce Novak, (202) 426-1477	Review Plan Review in Process.	6/29/81	46 FR 33404
*Equipment for Lifeboats, Life Rafts, Lifefloats, and Buoyant Apparatus for Passenger Vessels.	**Abstract:** Regulations require certain specific items of emergency equipment for use in lifeboats, life rafts and so on. This part is being reviewed as part of the Coast Guard's ongoing program of reviewing all existing regulations periodically. **CFR Citation:** 46 CFR 75.20 **Legal Authority:** 46 USC 481 **Effects on Small Entities:** No **Agency Contact:** Mr. R. Markle, (202) 426-1444	Completion of Review.	10/84	
†Oceanographic Research Vessels, Handling, Use and Control of Explosives and Other Dangerous Articles: Magazines.	**Abstract:** Regulations contain specifications for construction, location and maintenance of explosives magazines. This review is being conducted because these regulations will have an impact on small businesses and as such should be reviewed under the authority of the Regulatory Flexibility Act. **CFR Citation:** 46 CFR 194.10 **Legal Authority:** 46 USC 391a **Effects on Small Entities:** Yes **Agency Contact:** LCDR W. Morani, (202) 426-2190	Completion of Review.	10/84	
*Annual Inspections, Passenger Vessels.	**Abstract:** Regulations contain specific annual inspection requirements and methods of carrying out those inspections. This regulation is being reviewed to see if there may be some way to reduce inspection costs while maintaining or improving levels of safety. **CFR Citation:** 46 CFR 71.25 **Legal Authority:** 46 USC 390b **Effects on Small Entities:** No **Agency Contact:** LCDR D. Parsons, (202) 426-2190	Completion of Review.	10/84	
*Logbook Entries, Cargo Vessels.	**Abstract:** The regulations list requirements for keeping logbooks on Cargo Vessels. This review is part of the Coast Guard's ongoing program to periodically review all regulations for costs and effectiveness. **CFR Citation:** 46 CFR 97.35 **Legal Authority:** 46 USC 201 **Effects on Small Entities:** No **Agency Contact:** LCDR W. Morani, (202) 426-2190	Completion of Review.	10/84	
*General Lifesaving Requirements, Tank Vessels.	**Abstract:** Contains general requirements for construction, maintenance and inspection of life rafts, lifeboats and personal flotation devices. This review is part of the Coast Guard's ongoing program to periodically review all regulations for costs and effectiveness. **CFR Citation:** 46 CFR 33.01 **Legal Authority:** 46 USC 391a, 46 USC 481 **Effects on Small Entities:** No **Agency Contact:** CDR D. Strassen, (202) 426-2190	Completion of Review.	10/84	
†*Special Operating Requirements, Uninspected Vessels.	**Abstract:** Contains requirements for action to be taken in emergencies. This review is being conducted in accordance with requirements in the Regulatory Flexibility Act because it impacts on small entities. **CFR Citation:** 46 CFR 26.03 **Legal Authority:** 46 USC 523p **Effects on Small Entities:** Yes **Agency Contact:** LCDR W. Morani, (202) 426-2190	Completion of Review.	10/84	

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Completed Actions

Other Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
Revision of Navigation Safety Regulations (Docket No. CGD 77-196).	**Abstract:** Would eliminate 46 CFR 164.15 and 164.16 **CFR Citation:** 33 CFR pt. 164 **Legal Authority:** 46 U.S.C. 375, 391a, 404, 411, 416 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. T. Falvey, (202) 426-5116	NPRM *FR*	*4/14/83* *7/28/83*	*48 FR 16078* *48 FR 34259*
Review: St. Mary's River, Vessel Traffic Service (Docket No. CGD 78-079).	**Abstract:** Would revise and restate existing anchorage and navigation regulations for St. Mary's River, re-promulgating them under the authority of the Ports and Waterways Safety Act. **CFR Citation:** 33 CFR pt. 161 **Legal Authority:** 33 U.S.C. 1231 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Extension of comment period to 5/15/81; published on 2/19/81; 46 FR 12987. **Agency Contact:** Mr. E. LaRue, (202) 426-5116	NPRM *FR (78-079a)* *FR (78-079b)*	1/15/81 *4/14/83* *7/5/83*	46 FR 946 *48 FR 16059* *48 FR 30616*
Review: Amendment to Hull Identification Requirements (Docket No. CGD 79-013).	**Abstract:** Would further delineate responsibility for marking boats with a hull identification number. Would require a second number inside the boat to aid in identification of stolen boats. **CFR Citation:** 33 CFR pt. 181 **Legal Authority:** 46 U.S.C. 1454, 1458, 1464, 1488 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR Perkins, (202) 426-1077	NPRM *FR*	12/29/80 *9/9/83*	45 FR 85476 *48 FR 40716*
Port and Tanker Safety Act Delegations Under Section 9. Ports and Waterways Safety Act (Docket No. CGD 79-026).	**Abstract:** Would delegate to Captains of the port authority and responsibility to prohibit vessel operations and cargo transfers which may be unsafe. **CFR Citation:** 33 CFR pt. 160 **Legal Authority:** 33 U.S.C. 1221 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *CAPT Moran* (202) 426-4958	NPRM SNPRM FR	12/3/79 6/11/81 *8/4/83*	44 FR 69306 46 FR 30835 *48 FR 35402*
Foreign Tank Vessel Manning Levels (Docket No. CGD 79-081(b)).	**Abstract:** Would establish minimum manning levels for foreign tank vessels while operating on U.S. navigable waters. **CFR Citation:** 46 CFR 30 **Legal Authority:** 46 U.S.C. 391a, 49 U.S.C. 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** CDR D. Struck, (202) 426-2240	NPRM *Withdrawn*	11/17/80 *3/31/83*	45 FR 75712 *48 FR 13448*
U.S. Coast Guard Reserve (Docket No. CGD 79-105).	**Abstract:** Would update the administrative regulations pertaining to the Coast Guard Reserve. **CFR Citation:** 33 CFR pts. 8, 53 **Legal Authority:** 14 U.S.C. 633 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. Cotter, (202) 426-2348	FR	*8/11/83*	*48 FR 36449*
Review: Load Line Equivalent Regulations (Docket No. CGD 79-153).	**Abstract:** Would rearrange existing regulations in 46 CFR pt. 42, Load Line, to comply with International Maritime Consultative Organization Resolution A.320(IX). **CFR Citation:** 46 CFR pt. 42 **Legal Authority:** 46 U.S.C. 88, 88; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. F. Perrini, (202) 426-2188	NPRM FR	2/4/82 *8/25/83*	47 FR 5266 *48 FR 38646*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Completed Actions

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Tank Vessels, Corrections and Clarifications to Title 33 CFR *and 46 CFR* (Docket No. CGD 80-009).	**Abstract:** Would eliminate conflicting requiremets in Titles 46 and 33 CFR dealing with cargo transfer piping. Declaration of Inspection Forms, smoking areas, tank barge security, flanged connections, container references, and transfer hoses. **CFR Citation:** 46 CFR 31, 32, 33 **Legal Authority:** 46 U.S.C. 391a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT Astley, (202) 426-2183	NPRM FR	11/8/82 *8/11/83*	47 FR 50525 *48 FR 36457*
Proposed Changes to Puget Sound VTS Rules (Docket No. CGD 80-119).	**Abstract:** Would solicit public comment on determining appropriate means to reduce conflict between various areas of Puget sound and adjacent waterways. **CFR Citation:** 33 CFR pt. 161 **Legal Authority:** 33 U.S.C. 1221 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. A. Whittum, (202) 426-1940	ANPRM *Withdrawn*	4/14/81 *5/5/83*	46 FR 22207 *48 FR 20248*
Ocean Thermal Energy Conversion (OTEC) Facility and Plantship Requirement (Docket No. CGD 80-161).	**Abstract:** Would establish minimal rules mandated under the OTEC Act for marine environmental protection and safety of life and property at sea. **CFR Citation:** 46 CFR pt. 106 **Legal Authority:** 42 U.S.C. 9118, 9119(c), 9127, 9153(a)(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT Curelli, (202) 926-2188	NPRM FR	10/5/81 *4/11/83*	46 FR 49078 *48 FR 15469*
Charge for Coast Guard's aid to navigation work (Docket No. CGD 81-051).	**Abstract:** Would delete the buoy and vessel costs currently listed in 33 CFR 74 and direct the owner to contact the Coast Guard for a list of reimbursable service charges. **CFR Citation:** 33 CFR pt. 74 **Legal Authority:** 14 U.S.C. 81, 85, 86, 92, 93, 141, 633, 642, 647. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LTJG Gan, (202) 426-1973	NPRM FR	10/28/82 *4/11/83*	47 FR 47864 *48 FR 15467*
Regulated Navigation Area Ice Season, COTP Baltimore Zone (Docket No. CGD 81-067).	**Abstract:** Would establish a Regulated Navigation Area in the Baltimore MD COTP Zone during the ice season. **CFR Citation:** 33 CFR pt. 128 **Legal Authority:** 33 U.S.C. 1231 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Ens. Strobridge, (202-4958)	NPRM FR	12/16/82 *5/19/83*	47 FR 56370 *48 FR 22543*
Fairways, Fairway Anchorages and Traffic Separation Scheme in Galveston Approach (Docket No. CGD 81-080).	**Abstract:** Would establish fairways, fairway anchorages and a Traffic Separation Scheme in the Gulf of Mexico implementing the result of a Port Access Route Study. **CFR Citation:** 33 CFR pt. 167 **Legal Authority:** 33 U.S.C. 1223 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. C. Young, (202) 245-0108	NPRM FR	6/17/82 *8/11/83*	47 FR 26167 *48 FR 36453*
Shipping Safety Fairways, Amendments and Additions (Docket No. 81-080a).	**Abstract:** Would amend existing fairways and add new fairway anchorages in the Gulf of Mexico implementing the results of a Port Access Route Study. **CFR Citation:** 33 CFR pt. 166 **Legal Authority:** 33 U.S.C. 1223 **Effects on Small Entities:** No	NPRM FR	8/9/82 *6/30/83*	47 FR 34432 *48 FR 30108*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Completed Actions

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Analysis: Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. C. Young, (202) 245-0108			
Casualty Reporting Requirements (Docket No. CGD 82-023).	**Abstract:** Amends 46 CFR Parts 4, 26, 35, 78, 97, 109, 167, 185, 196, 197 to reflect new reporting requirements for marine casualties. Implements new reporting form which replaces two separate forms. Will be published as an interim final rule. **CFR Citation:** 46 CFR pts. 4, 26, 35, 78, 97, 109, 167, 185, 196, 197. **Legal Authority:** 33 U.S.C. 361, 46 U.S.C. 239 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LCDR T.E. Hart, (202) 426-6251	Interim FR *FR*	8/16/82 *9/23/83*	47 FR 158 *48 FR 43328*
Casualty Reporting Requirements (Docket No. CGD 82-023a).	Amends 33 CFR 146 to reflect new reporting requirements fo marine casualties. Implements new reporting form which replaces two separate forms. **CFR Citation:** 33 CFR pt. 146 **Legal Authority:** 33 U.S.C. 361, 46 U.S.C. 239, 46 U.S.C. 375 **Effects on Small Entities:** No. **Analysis:** Evaluation **Additional Information:** None **Agency Contact:** LCDR T.E. Hart (202) 426-6251	Interim FR *FR*	8/16/82 *9/22/83*	47 FR 158 *48 FR 43173*
Navigation Safety Regulations (Docket No. 82-055).	**Abstract:** Would generally revise the regulations for nautical charts and publications. **CFR Citation:** 33 CFR 164.23 **Legal Authority:** 33 U.S.C. 1231, 1221 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. T. Falvey, (202) 426-4958	NPRM *FR*	*7/7/83* *9/29/83*	*48 FR 31259* *48 FR 44534*
Casualty Reporting Requirements (Docket No. 82-069).	**Abstract:** Would eliminate the cost of salvage, cleaning, gas freeing, and drydocking from damage costs. **CFR Citation:** 46 CFR Pts. 4, 26, 35, 78, 97, 109, 167, 185 and 196. **Legal Authority:** 48 U.S.C. 239, 375; 33 U.S.C. 361 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** LT C. Mosebach, (202) 426-1455	NPRM FR	8/18/82 *4/7/83*	47 FR 35533 *48 FR 15125*
Compatability of Cargoes (Docket No. CGD 82-100a).	**Abstract:** Would consolidate requirements for compatible storage of bulk liquid hazardous materials on tank vessels; would update table since October 23, 1980. **CFR Citation:** 46 CFR pt. 150 **Legal Authority:** 46 U.S.C. 391a, 49 U.S.C. 1655, 48 CFR 1.46(t). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mr. J. Jakabcin, (202) 426-6262	NPRM FR	11/15/82 *4/14/83*	47 FR 51427 *48 FR 16059*
Change in Interpretation of Section 2 of the Shipping Act of 1916 as amended for Coastwise Trading Purposes (Docket No. CGD 82-103).	**Abstract:** Sought comments concerning the easing of current citizenship requirements for owners of vessels engaging in coastwise trade. **CFR Citation:** 46 CFR pts. 121, 355 **Legal Authority:** Not applicable. **Effects on Small Entities:** Not applicable **Analysis:** Regulatory Evaluation **Additional Information:** Extension of comment period to 1/24/83, published on 12/30/82, 47 FR 58314. **Agency Contact:** CDR Diston, (202) 426-1527	ANPRM *Withdrawn*	11/4/82 *5/23/83*	47 FR 49990 *48 FR 22973*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Reviews of Existing Regulations

Priority Reviews

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Title	Summary	Timetable		
		Action	Date	Cite
†Requirements for Uninspected (commercial) Motor Boats.	**Abstract:** Regulations provide for Rules of the Road equipment (COLREG 72), lifesaving, equipment, fire extinguishing equipment backfire flame control, ventilation of internal spaces, liquified petroleum gas prohibition, (passenger carrying). *A rulemaking project was completed (CGD 82-036) and published in 48 FR 653. The rulemaking eliminated a duplication in the regulations by deleting sections in 46 CFR pt. 25.* **CFR Citation:** 46 CFR pt. 25 **Legal Authority:** 46 U.S.C. 526p **Effects on Small Entities:** Yes **Agency Contact:** CDR Strasser, (202) 426-2183	*Review Completed.*		
†Inspection of Cargo Gear	**Abstract:** Requirements apply to all tank vessels and tank barges providing for specific tests and inspections at particular intervals of cargo gear and board. *Since any change to these regulations would have little effect on either the Coast Guard or the marine industry, any proposed change would have low priority. Accordingly, no regulatory proposal will be made.* **CFR Citation:** 46 CFR *31.37* **Legal Authority:** 46 U.S.C. 391a **Effects on Small Entities:** No **Agency Contact:** CDR strasser, (202) 426-2183	*Review Completed*		
†Reinspection	**Abstract:** Requirements apply to certificated small passenger vessels—provide for reinspections between three year inspections for certification. *Results show that revised inspection intervals for small passenger vessels should be instituted. However, no regulation will be proposed until a review of the entire subchapter is complete.* **CFR Citation:** 46 CFR subpt. 176.10 **Legal Authority:** 46 U.S.C. 390 **Effects on Small Entities:** Yes **Agency Contact:** LT Astley, (202) 426-2183	*Review Completed.*		
†Drydocking or Hauling Out	**Abstract:** Requirements apply to certificated small passenger vessels—provide for periodic drydock or haul-out inspections of each vessel. *The review has been completed and the results show that monetary savings would result from a change to the regulations to require drydockings at the same time as inspections for certification. Regulation project will follow.* **CFR Citation:** 46 CFR 176.15 **Legal Authority:** 46 U.S.C. 390 **Effects on Small Entities:** Yes **Agency Contact:** LT Astley, (202) 426-2183	*Review Completed.*		
†Commercial Diving Operations.	**Abstract:** Requirements apply to all commercial underwater diving from inspected vessels and also when performed on the U.S. outer continental shelf—provide for design, construction use of equipment, inspection, operation, safety and health regulations. *Results could not show any areas which needed updating or revising at this time. No regulation change will be made.* **CFR Citation:** 46 CFR Pt. 167 Subpt. B **Legal Authority:** 43 U.S.C. 1331 **Effects on Small Entities:** No **Agency Contact:** LCDR Healey, (202) 426-1464	*Review Completed.*		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

U.S. Coast Guard

USCG

Completed Actions

Other Rulemakings

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Equipment for Lifeboats, Life rafts, Lifefloats, and Buoyant Apparatus.	**Abstract:** Regulations require certain specified items of emergency equipment for use in lifeboats, life rafts, etc. *Some revisions to the regulations are necessary to comply with the second set of amendments to SOLAS 1974, which will become effective July 1, 1986. Regulation project will follow.* **CFR Citation:** 46 CFR 94.20 **Legal Authority:** 46 U.S.C. 481 **Effects on Small Entities:** No **Agency Contact:** Mr. R. Markle, (202) 426-1444	*Review Completed.*		

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
†Parts Manufacturer Approvals (Docket No. 17147).	**Abstract:** Would (1) simplify the procedure for approving a PMA applicant's design on the basis of identicality to an already approved design; (2) reduce PMA application and reporting requirements; and (3) add a marking requirement which will facilitate field installation of replacement parts manufactured under a PMA and help avoid use of incorrect parts. The proposed revision is considered to be significant because it is controversial. Differences of opinion exist with respect to the methods available for showing identicalness of parts. Also the Parts Manufacturer Approval application and reporting requirements may be unnecessarily burdensome. **CFR Citation:** 14 CFR pt. 21 **Legal Authority:** Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423). **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis. **Additional Information:** This project was initiated December 23, 1975. NPRM No. 77-19 was published in the Federal Reigster (42 FR 43985). Comment period later reopened until January 4, 1978 (NPRM No. 77-19A, 42 FR 61048) and again reopened until May 15, 1978 (NPRM No. 77-19B, 43 FR 15432). Portions of NPRM 77-19 dealing with other subjects were handled separately. Supplemental Notice of Proposed Rulemaking (SNPRM) was published January 15, 1981 (46 FR 3775). Initial comment period closed April 15, 1981; reply comment period closed May 15, 1981. NPRM 77-19D reopening the comment period until August 24, 1981, and the reply comment period until September 21, 1981, was published July 23, 1981 (46 FR 38062). In view of the Congressional, Federal Agency, and public comments on this rulemaking, a Regulatory Flexibility Analysis will be prepared, whether or not required by the Regulatory Flexibility Act. **Agency Contact:** Phillip J. Akers, (202) 426-8323	NPRM SNPRM FR	12/23/75 1/15/81 *1/84*	42 FR 43985 46 FR 3775

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Airborne Low-Level Wind Shear Equipment Requirements (Docket No. 19110).	**Abstract:** Would revise existing regulation to require all large passenger-carrying aircraft be equipped with a device that will display wind shear information to the pilots. This action is considered a significant project because it will generate substantial public interest and will be controversial. As a result of several accidents involving wind shear, it is necessary to identify equipment that will enable pilots to identify low level wind shear conditions. **CFR Citation:** 14 CFR pt. 121 **Legal Authority:** Secs. 313(a), 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** In 1975, the FAA began a two year effort to develop a wind shear program. As part of the program, FAA began work to develop a wind shear warning and pilot aiding device which has achieved encouraging results. Following the initial announcement of this proposal it was determined that a regulatory analysis would not be required; however, an evaluation will be made and docketed. ANPRM No. 79-11 was published on May 3, 1979 (44 FR 25807) and comment period closed August 3, 1979. (14 CFR Parts 91, 121 & 135). **Agency Contact:** David L. Catey, (202) 426-8096	ANPRM Further action to be determined.	5/3/79	44 FR 25807
Flight Crewmembers: Limitations on Use of Services (Docket No. 23174).	**Abstract:** The FAA has established a project to determine the need to revise that provision of Part 121 which prohibits certificate holders from using the services of any person as a pilot flight crewmember if that person has reached his or her 60th birthday and to extend the rule to cover all flight crewmembers in air carrier operations. The "Age 60" rule is significant because, since its adoption, it has been objected to by pilots flying in Part 121 operations. Any action that the FAA proposes can be expected to generate significant concern over the economic and career consequences to flight crewmembers and to air carriers. This project is needed in light of a recent government study on the "Age 60" rule and air carrier experience involving down-bidding of age 60 pilots to flight engineer positions. **CFR Citation:** 14 CFR pt. 121 **Legal Authority:** Section 313(a), 601, 602, and 604, Federal Aviation Act of 1958 (49 U.S.C. Sections 1354(a), 1421, 1422, 1423): Section 6(c) Department of Transportation Act (49 U.S.C. Section 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Public Law 96-171 (7/18/79) directed the National Institutes of Health (NIH) to conduct a study to determine if the "age 60 rule" is warranted. The report, issued August 1982, recommends retaining the rule, extending it to cover Part 135 operations, and implementing a study to collect data to possibly relax the current rule. The ANPRM 82-10 was published July 8, 1982. (47 FR 29782). The comment period closed November 5, 1982. **Agency Contact:** Lawrence P. Bedore, (202) 426-8096	ANPRM Further action to be determined.	7/8/82	47 FR 29782

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Airport Noise Compatibility Planning.	**Abstract:** Would revise and replace with a final rule the interim rule (FAR Part 150) on this subject, (1) prescribing requirements for airport operators choosing to submit an airport noise exposure map or an airport noise compatibility program, (2) establishing a single system of measuring aircraft noise and a single system for determining the exposure of individuals to noise in the vicinity of airports, and (3) identifying land uses that are normally compatible (or noncompatible) with various levels of noise around airports. The proposed regulation is significant because it is of substantial interest to the public, potentially affecting State and local governments and the aviation community. The Aviation Safety and Noise Abatement Act of 1979 requires the Secretary of Transportation (and through delegation, the Administrator of the FAA) to establish items (1), (2), and (3). **CFR Citation:** 14 CFR pt. 150 **Legal Authority:** Secs. 301(a), 307, 313(1), 601, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. 1341(a), 1348, 1354(a), 1421 and 1431); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); Secs. 101, 102, 103(a), and 104(a) and (b), Aviation Safety and Noise Abatement Act of 1979 as amended (49 U.S.C. 2101, 2102, 2103(a), 2104(a) and (b)); and 49 CFR 1.47(m); Airport and Airway Improvement Act of 1982 (49 U.S.C. 2201 *et seq.*). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** The Aviation Noise Abatement Policy, issued November 18, 1976, established a pilot noise abatement planning program, the Airport Noise Control and Land Use Compatibility (ANCLUC) Program. The Aviation Safety and Noise Abatement Act of 1979 established the basis and legal requirement for this and the interim rule FAR Part 150. FAR Part 150, the interim rule, was adopted January 19, 1981, and became effective February 28, 1981. Comments were received on the interim rule through December 1, 1981. **Agency Contact:** Richard Tedrick, (202) 755-9027	NPRM	*1/84*	
High Density Airport Traffic Rule. *(Docket No. 22471).*	**Abstract:** Would rescind the operations reservations rule as it applies to the John F. Kennedy, LaGuardia, and Chicago O'Hare Airports. Under the current rule, an operator must secure a reservation for any instrument flight rule departure or arrival operation at those airports during designated hours. The proposal is considered significant because of the public interest it is likely to generate. **CFR Citation:** 14 CFR pt. 93 **Legal Authority:** Secs. 103, 307, 313(a) of the FA Act of 1958 (49 U.S.C. 1303, 1348, 1354(a), and 1421(a)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** The rule was originally promulgated to reduce air traffic congestion and delay. With the advent of improved programs, procedures, and air traffic flow management, the rule is felt to be unnecessary. **Agency Contact:** Hal Becker, (202) 426-*8783*	NPRM *Further action to be determined.*	*3/31/83*	*48 FR 13434*
†Floor Proximity Emergency Escape Path Marking.	**Abstract:** This action proposes new performance standards for floor proximity emergency lighting which would be capable of providing visual guidance for emergency evacuation when all sources of cabin illumination more than 4 feet above the aisle floor are totally obscured by smoke. **CFR Citation:** 14 CFR pts. 21 and 25 **Legal Authority:** F.A. Act Sections 313, 601, 603, 604 (49 U.S.C. 1354, 1421, 1423, 1424). **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** None **Agency Contact:** Henri P. Branting, (202) 426-8382	NPRM	*10/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
†Smoke Detectors and Fire Extinguishers in Lavatories.	**Abstract:** This action proposes a new requirement for smoke detectors in lavatories and automatic fire extinguishers in lavatory trash receptacles in air carrier airplanes. **CFR Citation:** 14 CFR pts. 25 and 121 **Legal Authority:** F.A. Act Sections 313, 601, 603, 604 (49 U.S.C. 1354, 1421, 1423, 1424). **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** None **Agency Contact:** Henri P. Branting, (202) 426-8382	NPRM	*10/83*	
†Flammability Requirements for Aircraft Seat Cushions.	**Abstract:** This proposed action would establish in a Special Federal Aviation Regulation new and more stringent flammability requirements for seat cushions and would require that the cushions in airplanes operating under Part 121 comply with these new requirements after a specified date. **CFR Citation:** 14 CFR pts. 25, 29, and 121 **Legal Authority:** F.A. Act Sections 313, 601, 603, 604 (49 U.S.C. 1354, 1421, 1423, 1424). **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** None **Agency Contact:** Henri P. Branting, (202) 426-8382	NPRM	*10/83*	
Use of Alcohol or Drugs (Docket No. 21956).	**Abstract:** Proposed rule which will subject *Certified* Flight Crewmembers suspected of being under the influence of alcohol to blood-alcohol tests and establish a specific blood-alcohol content level at which a pilot is considered to be intoxicated. *This rulemaking is significant because it may involve important departmental policy.* **CFR Citation:** 14 CFR pts. 61 and 91 **Legal Authority:** F.A. Act Secs. 307, 313(a), 314, 402, 601-603, 902, 72, 1110, 1202, 49 U.S.C. 1348(a)(c), 1354(a), 1355, 1421(a), 1422, 1655(c). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *Roger Baker, (202) 426-8194*	NPRM FR	7/27/81 *12/83*	46 FR 36480
• Review: Airport Layout Plan Approvals.	**Abstract:** This proposed rule will concentrate on Airport Layout Plan (ALP) approvals as required by Federal Aviation Regulation Part 152 in an effort to reduce the regulatory and paperwork burden on state and local governments. The ALP approval review was selected by the Presidential Task Force on Regulatory Relief. **CFR Citation:** 14 CFR pt.152 **Legal Authority:** 49 U.S.C. 1701 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Paul Galis, (202) 426-3050	NPRM *Further action to be determined.*	8/15/83	*48 FR 36828*
*Metropolitan Washington Airports Policy (Docket No. 21955).	**Abstract:** This rulemaking proposes to change the annual passenger ceiling at Washington National Airport from 16 million to 14.8 million or to a figure between 14.8 million and 16 million depending upon the highest annual passenger level forecasted within the next 2 years. It also proposes to allow commuter carriers utilizing smaller, quieter aircraft to conduct a limited number of "STOL-runway" operations at National Airport in addition to the operations permitted by the current limitations. This amendment is proposed to guide the future operation and development of Washington National and Dulles International Airports and to improve the quality of the environment in the areas around National. This rulemaking is considered to be significant because of possible public interest.. **CFR Citation:** 14 CFR pt. 93	NPRM FR	4/28/83 10/83	48 FR 19174

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 49 U.S.C. 1303, 1348(a), (b) and (c), and 1354(a) (Secs. 103, 307(a), (b) and (c), 313(a), of the Federal Aviation Act of 1958, as amended); 54 Stat. 688 as amended by 61 Stat. 94, secs. 2 and 5 of the Act for the Administration of Washington National Airport; 64 Stat. 770, sec. 4 of the Second Washington Airport Act; 49 U.S.C. 106(g), (sec. 6 of the Department of Transportation Act). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Edward P. Faberman, (202) 426-3773			

Other Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
Review: Aircraft Engine Regulations Notice (Docket No. 16919).	**Abstract:** Proposed amendment to resolve a number of regulatory issues raised by engine manufacturers and to update those standards. **CFR Citation:** 14 CFR pts. 23, 25, 27, 29, and 33) **Legal Authority:** F.A. Act, Secs. 313, 601, 603, 608; (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** George F. Muleahy, FAA NE Region, 12 Executive Park, Burlington, MA 01803, (617) 273-7330.	NPRM FR	11/20/80 *12/83*	45 FR 76872
Review: Part 91 Notice (Docket No. 16431).	**Abstract:** The agency conducted a Regulatory Review Conference of 14 CFR Part 91, Subpart B, in September 1977, in order to update that part. This action will cover all proposals covered by the review except for lost communications. **CFR Citation:** 14 CFR pt. 91 **Legal Authority:** F.A. Act, Secs. 307, 313(a), 402, 601-603, 902, 1110, 1202; (49 U.S.C. 1348(a)(c), 1354(a), 1421(a), 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Hal Becker, (202) 426-*8783*	Further action to be determined.		
Review: Part 91 Review Lost Communications (Docket No. 16431).	**Abstract:** Proposed amendment to simplify lost communications procedures. **CFR Citation:** 14 CFR pt. 91 **Legal Authority:** 49 U.S.C. 1348(a)(c), 1354(a), 1421(a), 1655(c) (FAAct 307, 313(a), 402, 601-603, 902, 1110, 1202). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Hal Becker, (202) 426-*8783*	NPRM	*12/83*	
Review: Objects Affecting Navigable Airspace (Docket No. 16920).	**Abstract:** Would revise and reorganize 14 CFR Part 77 in a more logical sequence and present regulatory requirements relating to proposed construction or alteration and their impact on navigable airspace. It is also intended to clarify and strengthen agency actions in determining whether a particular object would be a hazard to air navigation. **CFR Citation:** 14 CFR pt. 77 **Legal Authority:** F.A. Act, Secs. 104, 307, 313, 1001, 1101 (49 U.S.C. 1304, 1348, 1354, 1431, 1501). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation	Notice of Review. Review Conference. NPRM	6/19/78 12/4-8/80 *1/84*	43 FR 26322

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Review: Update of Part 139.....	**Additional Information:** None **Agency Contact:** Keith Potts, (202) 426-3731 **Abstract:** Revision of 14 CFR Part 139 to update and clarify the part including fire-fighting and rescue requirements. **CFR Citation:** 14 CFR pt. 139 **Legal Authority:** F.A. Act, Secs. 313, 609, 610 (49 U.S.C. 1354, 1429, 1430, 1432). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** This project was initiated on June 25, 1975, in response to a GAO evaluation of the FAA's Airport Certification Program and the result it has on improving the safety of airports. The project has been delayed for a number of reasons that impacted completion and publication of a NPRM. Some of these reasons are: FAA cost benefit analysis of CFR services, recent changes to *the* F.A. Act and proposed sunset of CAB. On November 22, 1982, FAA conducted a listening session with aviation industry representatives. *A public meeting was held on July 14, 1983, to discuss areas of concern such as airport crash, fire and rescue equipment requirements, snow removal and extended safety areas .* **Agency Contact:** Jose Roman, (202) 426-3087	*NPRM*	*4/84*	
Pilot Oxygen Mask Requirements (Docket No. 23745).	**Abstract:** Proposed rule to permit certain widebody turbojet airplanes to operate up to flight level of 45,000 feet above sea level without requirements for the pilot to use supplemental oxygen. **CFR Citation:** 14 CFR pts. 91, 121, and 135 **Legal Authority:** F.A. Act, Secs. 307, 313, 313(a), 402, 501, 601, 610, 902, 1110, 1202, 1102; 49 U.S.C. 1348(a)(c), 1354(a), 1421-1430, 1502, 1655(c). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Roger E. Riviere, (202) 426-8096	NPRM FR	8/12/82 *2/84*	47 FR 35146
Review: Metropolitan Washington Airports Regulations.	**Abstract:** Proposed revision to reflect changed operational conditions and policies and to simplify, clarify and consolidate the regulations pertaining to the National Capital Airports. **CFR Citation:** 14 CFR pt. 159 **Legal Authority:** Secs. 2 and 5 of the Act for the Administration of Washington National Airport, 54 Stat. 688 as amended by 61 Stat. 94; The Second Washington Airport Act, 64 Stat 770 as amended by 72 Stat. 731. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Edward S. Faggen, Wash. Nat'l Airpt., Hang 9, Wash, DC 20001, (703) 557-8123.	Further action to be determined.		
Review: Revision of Part 91 (Docket No. 18334).	**Abstract:** This review deals with the air traffic and general operating rules in Part 91 - the most fundamental aviation regulations. This action would reorganize and rearrange the rules without substantive change, to make them easier to use and understand. (Phase I). A later action will review and revise them to eliminate unnecessary burdens in keeping with E.O. 12291. (Phase II). AOPA withdrew its petition on November 20, 1980, so the FAA could proceed with this two-step review. ANPRM 79-2 published the original AOPA petition for comment on January 22, 1979 (44 FR 4571). NPRM 79-2A proposing reorganization of Part 91 was published on September 10, 1981 (46 FR 45256). NPRM 79-2B extended the comment period to April 9, 1982 (December 10, 1981; 46 FR 60461). Comments received on NPRM 79-2A will form a basis for proceeding with Phase II. **CFR Citation:** 14 CFR pt. 91	ANPRM NPRM *FR*	1/22/79 9/10/81 *11/83*	44 FR 4571 46 FR 45256

VOL 48 ISS 201 OCT 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: F.A. Act, Secs. 307, 313(a), 402, 601-603, 902, 1110, 1202 (49 U.S.C. 1348, 1354, 1354(a) 1355, 1401, 1402, 1421-1430, 1502, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** James R. Kelln, (202) 426-8150			
Recording of Aircraft Titles and Security Documents - Notice of Lien (Docket No. 14236).	**Abstract:** Proposed amendment to prescribe specific procedures for filing Notice of Lien with the Aircraft Registry. This proposal would also require release of the Notice filed upon satisfaction of the lien. **CFR Citation:** 14 CFR pt. 49 **Legal Authority:** F.A. Act, Secs. 313, 501, 503, 505, 1102 (49 U.S.C. 1354, 1401, 1403, 1405, 1502). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Elizabeth Flinta, PO Box 25724, Okla City, OK 73125, (405) 686-2284.	NPRM Further action to be determined.	1/13/75	40 FR 2445
Cessna Finance Petition (Docket No. 17311).	**Abstract:** Petition for rulemaking to amend Part 47 to provide all persons who hold a security interest in aircraft the same protection now afforded the seller of an aircraft under a conditional sales contract. **CFR Citation:** 14 CFR pt. 47 **Legal Authority:** F.A. Act, Secs. 307, 313, 501, 503, 505, 506, 1102; 49 U.S.C. 1348, 1354, 1401, 1403, 1405, 1406, 1502. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Elizabeth Flinta PO Box 25724 Okla City, OK 73125, (405) 686-2284.	ANPRM NPRM FR	10/20/77 5/22/80 *12/83*	42 FR 55891 45 FR 34826
Revision of Applicability of Part 139.	**Abstract:** *Proposed amendment to require the certification of airports serving any scheduled or unscheduled passenger operation of an air carrier with aircraft having a seating capacity of more than 30 passengers. This supplemental notice revises the original proposal and implements a statutory change enacted by Congress.* **CFR Citation:** 14 CFR pt. 139 **Legal Authority:** F.A. Act, Secs. 313, 609, 610 (49 U.S.C. 1354, 1429, 1430, 1432). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** After further analysis and review in light of comments received to Notice 80-10, the FAA concluded that its authority to issue the proposed rule was unclear and that rulemaking should not proceed until the statutory basis for the proposed rule was clarified. For this reason, the FAA suspended action on the notice and on January 22, 1981, published in the Federal Register (46 FR 6975) a copy of its letter to Congress requesting clarification of its authority to regulate airports under Section 621 of the F.A. Act. In response to that request, on September 3, 1982, the Airport and Airway Improvement Act of 1982 (P.L. 97-248) was enacted and in part amended Sections 610 and 612 of the F.A. Act. To implement the authority of P.L. 97-248, this Notice revises the amendments proposed in Notice 80-10. **Agency Contact:** Jose Roman, Jr., (202) 426-3087	NPRM SNPRM *FR*	6/12/80 *6/6/83* *11/83*	45 FR 39857 *48 FR 25211*
Inoperative Instruments or Equipment, (Docket No. 22320).	**Abstract:** *Proposed rule* to revise Part 91 to include provisions that will allow the operation of powered aircraft with certain installed instruments and equipment inoperative. The proposal would consolidate minimum equipment list requirements presently contained in various parts of the Federal Aviation Regulations into one regulation. **CFR Citation:** 14 CFR pts. 43, 91, 121, 125, and 135	NPRM FR	10/26/81 *1/84*	46 FR 52278

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: F.A. Act, Secs. 307, 313, 313(a), 314(a), 402, 501, 601-610, 902, 1102, 1110, 1202 (49 U.S.C. 1348(a)(c), 1354, 1354(a), 1355, 1355(a), 1421(a)-1430, 1502, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Dale C. Ruoff, (202) 426-8194			
Parachute Jumping, Notice and Authorization Requirements.	**Abstract:** Proposed amendments would require notice of parachute jumps in terms of above mean sea level and would require ATC authorization for jumps in/into a terminal control area. **CFR Citation:** 14 CFR pt. 105 **Legal Authority:** F.A. Act, Secs. 307, 313(a), 601 (49 U.S.C. 1348, 1354(a), 1421). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Hal Becker, (202) 426-*8783*	NPRM	*12/83*	
Terminal Control Areas (TCA's): Phoenix.	**Abstract:** Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. **CFR Citation:** 14 CFR pt. 71 **Legal Authority:** F.A. Act, Secs. 307(a), 313(a), 1110 (49 U.S.C. 1348(a), 1354(a), 1510, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *Hal Becker,* (202) 426-8783	NPRM SNPRM Further action to be determined.	4/80 6/81	45 FR 2345 46 FR 3126
Terminal Control Area (TCA) New York (Modification).	**Abstract:** Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. **CFR Citation:** 14 CFR pt. 71 **Legal Authority:** F.A. Act, Secs. 307(a), 313(a), 1110 (49 U.S.C. 1348(a), 1354(a), 1510, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *Hal Becker,* (202) 426-8783	NPRM Further action to be determined.	1/8/81	46 FR 2088
Terminal Control Area (TCA) Las Vegas (Modification).	**Abstract:** Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment. **CFR Citation:** 14 CFR pt. 71 **Legal Authority:** F.A.Act, Secs. 307(a), 313(a), 1110 (49 U.S.C. 1348(a), 1354(a), 1510, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** S. Wugalter, (202) 426-8783	Further action to be determined.		
Flight Operations Control Systems (Docket No. 18591).	**Abstract:** Based upon a Transamerican Airlines (TIAS) and World Airways (WRLS) joint petition for rulemaking, the FAA is considering amending Part 121 to allow among other things all operations to be conducted under a flight operations control system. Advance Notice 80-16 (45 FR 67103) issued Oct. 2, 1980, published the entire petition and requested comments to assist the FAA in determining what if any regulatory proposals should be developed. **CFR Citation:** 14 CFR pt. 121 **Legal Authority:** F.A.Act, Secs. 313(a), 501, 601-610, 1102 (49 U.S.C. 1354(a), 1421-1430, 1502, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None	ANPRM Further action to be determined.	10/2/80	45 FR 67103

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Review: Rotorcraft Review Notice No. 2-Systems.	**Agency Contact:** William J. Sullivan, (202) 755-8716 **Abstract:** This notice is the second of a series of notices that propose to add new airworthiness, operation, and maintenance standards for rotorcraft. This particular notice proposes changes to Parts 27, 29, and 91 and deals only with the flight controls and associated systems on rotorcraft. **CFR Citation:** 14 CFR pts. 27, 29, and 91 **Legal Authority:** F.A.Act, Secs. 307, 313, 313(a), 402, 601-603, 902, 1110, 1202 (49 U.S.C. 1348(a)(c), 1354, 1354(a), 1421, 1421(a), 1423, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Jim Honaker, PO Box 1689, Ft Worth, TX 76101, (817) 624-4911 Ext. 504.	NPRM FR	8/26/82 *10/83*	47 FR 37806
Review: Rotorcraft Review Notice No. 3 - Powerplants.	**Abstract:** This notice is the third of a series of notices to be issued as part of the FAA's comprehensive Rotorcraft Regulatory Review Program. This notice contains proposals which would amend and update the engine and related equipment certification requirements in Parts 27 and 29 of the Federal Aviation Regulations. **CFR Citation:** 14 CFR pts. 27 and 29 **Legal Authority:** F.A.Act, Secs. 313, 601, 603; 49 U.S.C. 1354, 1421, 1423. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Wilbur Wells, PO Box 1689, Ft Worth, TX 76101, (817) 624-4911, Ext. 504.	*Further action to be determined.*		
Review: Rotorcraft Review Notice No. 4 - Airframe.	**Abstract:** This is the fourth of a series of notices to be issued as part of the FAA's comprehensive Rotorcraft Regulatory Review Program. This notice contains proposals which would amend and update the airframe and related equipment requirements in Parts 27 and 29 of the Federal Aviation Regulations. **CFR Citation:** 14 CFR pts. 27 and 29 **Legal Authority:** F.A.Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** James Major, PO Box 1689, Ft Worth, TX 76101, (817) 624-4911, Ext. 504.	*Further action to be determined.*		
Review: Rotorcraft Review Notice No. 5- Operations and Maintenance.	**Abstract:** This is the fifth of a series of notices to be issued as part of the FAA's comprehensive Rotorcraft Regulatory Review Program. This notice contains proposals which would amend and update the operations and maintenance requirements pertaining to rotorcraft and covered in Parts 43, 45, 61, 91, 121, 127, 133, and 135 of the Federal Aviation Regulations. Part 1 would also be amended to add a definition of a Class D rotorcraft-load combination. **CFR Citation:** 14 CFR pts. 43, 45, 61, 91, 121, 127, 133, and 135. **Legal Authority:** F.A. Act, Secs. 307, 313, 313(a), 314, 314(a), 501, 502, 601-610, 902, 1102, 1110, 1202 (49 U.S.C. 1341, 1348(a)(c), 1354(a) 1355, 1421(a), 1430, 1502, 1401, 1402, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Win C. Karish, (202) 426-8194	NPRM	*10/83*	
Fuel Venting and Exhaust Emission Requirements for Turbine Engine-Powered Airplanes.	**Abstract:** Would revise the aircraft/aircraft engine emissions standards and revise them to ensure compliance with revisions being made to the EPA standards. **CFR Citation:** 14 CFR pt. 21; SFAR 27	NPRM FR	10/23/83 11/83	47 FR 43638

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: F.A. Act, Secs. 313(a), 601(a) & 603 (49 U.S.C. 1354(a), 1421(a) & 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** N. Krull (202) 755-8933			
Temporary Flight Restrictions (Docket No. 22951).	**Abstract:** This proposal features provisions that would allow the Administrator to restrict all flight operations within a designated area under specified situations. **CFR Citation:** 14 CFR pt. 91 **Legal Authority:** F.A. Act, Secs. 307 & 313(a) (49 U.S.C. 1348, 1354(a)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Hal Becker, (202) 426-*8783*	NPRM FR	4/29/82 *1/84*	47 FR 18560
Aircraft Owners and Pilot Association - Duration of Airman Medical Certificates (Docket No. 19176).	**Abstract:** Petition to extend the validity period of third-class medical certificates from 24 months to 36 months. **CFR Citation:** 14 CFR pt. 61 **Legal Authority:** F.A. Act, Secs. 313(a), 314, 601, 602; 49 U.S.C. 1354(d), 1355, 1421, 1422, 1655(2). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** William H. Hark, M.D., (202) 426-3802	NPRM *FR*	12/2/82 *1/84*	47 FR 54414
Foreign Air Carriers and Operations of Certain Large U.S.-Registered Airplanes.	**Abstract:** This project would amend the regulations to govern the operation by foreign air carriers and other operators of U.S.-registered civil airplanes which have a seating capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more. **CFR Citation:** 14 CFR pts. 91, 121, 125, 129, and 135 **Legal Authority:** F.A. Act, Secs. 313, 313(a), 601-610, 1102 (49 U.S.C. 1354, 1354(a), 1421-1430, 1502, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Robert J. Baker, (202) 426-8098	NPRM	*10/83*	
Airworthiness Certification Facility.	**Abstract:** This notice would consolidate delegation of authority, DOA, DAS, and SFAR 36 into Part 183 in an "Approved Design Organization" concept and expand the concept to include the full range of organizations from manufacturing of transport-category aircraft to repair facilities. In addition, it would propose transfer of the respective regulatory requirements from Part 21 and SFAR 36 into Part 183. **CFR Citation:** 14 CFR SFAR 36, pts. 21 and 183 **Legal Authority:** F.A. Act, Secs. 301(c), 305, 307(b), 311, 313(a), 314, 601, 603, 607-609, 1102 (49 U.S.C. 1341(c), 1346, 1348(b), 1354(a), 1355). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Heinz Heliebrand, (202) 426-8374	NPRM	*10/83*	
White-Diamond Corporation-Use of Nasal Oxygen Cannulas (Docket No. 21571).	**Abstract:** Petition to add a paragraph (a)(5) to §23.1447 stating that a nasal oxygen cannula may be used for pilots at or below 20,000 feet and for passengers at or below 22,000 feet instead of an oxygen mask covering the nose and mouth. **CFR Citation:** 14 CFR pt. 23 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Analysis:** Regulatory Evaluation **Additional Information:** None **Effects on Small Entities:** No **Agency Contact:** Earse L. Tenkesly, 601 E. 12th St, Kansas City, MO 64106, (816) 374-6930.	NPRM Further action to be determined.	12/16/82	47 FR 56456

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Airworthiness Certification of Aircraft Located Outside the United States.	**Abstract:** This action would amend the regulations to preclude issuance of airworthiness certificates for aircraft located outside the United States unless the Administrator finds no undue burden on the FAA. **CFR Citation:** 14 CFR pt. 21 **Legal Authority:** F.A. Act. Secs. 311, 313(a), 314, 601, 603, 607-609, 1102 (49 U.S.C. 1352, 1354, 1355, 1421, 1423, 1427-1429, 1502, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Alphonse G. Santarelli, (202) 426-8361	NPRM	*12/83*	
Revise Part 25 to Include Special Conditions.	**Abstract:** This action would review certain special conditions issued for Part 25 airplanes and incorporate in Part 25 those that have not been previously incorporated. **CFR Citation:** 14 CFR pt. 25 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** The special conditions included in this project are automatic take-off thrust control systems (ATTCS) and operation at 51,000 ft. **Agency Contact:** James M. Walker, NorthWest Mountain Region, 17900 Pacific Hwy South, C-68966, Seattle, WA 98168 (206) 431-2116.	NPRM	*12/83*	
Part 25 Certification Review	**Abstract:** This action would amend Part 25 to: (1) Ensure that airworthiness standards are stated as objectively as possible; (2) Relieve the regulatory burden where possible; and (3) Ensure the airworthiness standards are practicable for the smaller transport airplanes common to commuter operations. **CFR Citation:** 14 CFR pt. 25 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Gary Killion, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, (206) 431-2112.	NPRM	*10/83*	
"Fly After Failure" Requirement.	**Abstract:** This ANPRM would request information necessary to conduct safety benefit, cost, environmental, and energy impact analyses for a proposed Part 25 requirement for continued safe flight and landing after failure of any single structural element. **CFR Citation:** 14 CFR pt. 25 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *Comment period extended until 10/12/83.* **Agency Contact:** Iven Connally, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, (206) 431-2120.	ANPRM *Notice of comment period extension.* *Further action to be determined.*	*7/11/83* *8/22/83*	*48 FR 31842* *48 FR 38004*
Implementation of SAFER Propulsion System Recommendations.	**Abstract:** This action would amend §25.975 to require fuel tank vent protection during ground fires and §25.1189 to require design practices which maximize the probability of engine fuel supply shut-off in a potential fire situation. **CFR Citation:** 14 CFR pt. 25 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No	NPRM	*11/84*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Analysis: Regulatory Evaluation **Additional Information:** None **Agency Contact:** James M. Walker, NorthWest Mountain Region, 17900 Pacific Hwy South, C-68966, Seattle, WA 98168, (206) 764-7051.			
FY-1982 Miscellaneous Amendments.	**Abstract:** This action would amend various sections of the regulations. The proposed amendments are clarifying, editorial, or corrective in nature. **CFR Citation:** 14 CFR pts. 21, 65, 107, 121, 135, and 145 **Legal Authority:** F.A. Act, Secs. 311, 313-316, 501, 601-610, 1102 (49 U.S.C. 1352, 1354, 1354(a), 1355(a)-1357, 1421-1430, 1502, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Susan Yagoda, (202) 426-8128	NPRM *Further action to be determined.*	*10/3/83*	*48 FR 45214*
Primary Category Aircraft	**Abstract:** This action is to determine what role the Federal Government should take in protecting the safety of individuals who have decided freely to participate in airborne recreational and personal activities by regulating the airworthiness of the equipment to be used. **CFR Citation:** 14 CFR pts. 21, 31, 43, 91 **Legal Authority:** F.A. Act, Secs. 313, 601, 602, 603, 609, 610 (49 U.S.C. 1352, 1354, 1355, 1421, 1423, 1427, 1428, 1429, 1502, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *James F. Zahringer, (202) 426-8323*	ANPRM	*10/83*	
Proposed Minimum Aeronautical Experience Requirements - Instrument Rating *(Docket No. 23672).*	**Abstract:** This action would amend § 61.65(a)(1) to delete the words "or commercial" and would amend § 61.65(e)(1) to decrease the required hours of pilot flight time. **CFR Citation:** 14 CFR pt. 61 **Legal Authority:** F.A. Act, Secs. 313(a), 314, 601, 607, (49 U.S.C. 1354(a), 1355, 1421, 1427). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Lauren D. Basham, (202) 462-8196	NPRM *Further action to be determined.*	*6/20/83*	*48 FR 28104*
Reaffixing TSO Article Labels	**Abstract:** This amendment proposes provisions to reaffix labels on TSO articles processed in accordance with § 45.13. **CFR Citation:** 14 CFR pt. 45.13 **Legal Authority:** F.A. Act, Secs. 307, 313, 501, 502, 601, 603, (49 U.S.C. 1348, 1354, 1401, 1402, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Joseph H. Gwiazdowski, (202) 426-8361	NPRM	*10/83*	
National Association of Flight Instructors - Student Recreational, Recreational, Students Other Than Recreational, and Private Pilot Certificates.	**Abstract:** This petition proposes to establish a new concept in the certification of pilots to permit the issuance of a student recreational, a recreational, a student other than recreational, and a private pilot certificate. **CFR Citation:** 14 CFR pt. 61 **Legal Authority:** F.A. Act, Secs. 313(a), 314, 601, 602 (49 U.S.C. 1354(a), 1355, 1421, 1422, 1655(2)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *James F. Byers, (202) 426-8196*	NPRM	*10/83*	
Amend Part 23 to Include Requirements for Crash-Resistant Fuel Systems.	**Abstract:** This action would amend Part 23 to include requirements for crash-resistant fuel tanks, lines and fittings. **CFR Citation:** 14 CFR pt. 23 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423).	Further action to be determined.		

VOL 48 ISS 201 OCT 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Effects on Small Entities: No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Earsa L. Tankesley, 601 E. 12th St., Kansas City. MO 64106, (816) 374-6930.			
Amend Part 23 to Include Empennage Fatigue Requirements.	**Abstract:** This action would provide for fatigue integrity of small airplane empennage structure where present Part 23 fatigue requirements apply only to the wing. **CFR Citation:** 14 CFR pt. 23 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** The FAA is evaluating additional data obtained from NASA. **Agency Contact:** Earsa L. Tankesley, 601 E. 12th St., Kansas City, MO 64106, (816) 374-6930.	Further action to be determined.		
†Regulation of Motor Vehicles Carrying Passengers for Hire *at* Washington National Airport.	**Abstract:** Amendment to require taxicab drivers and other drivers of ground vehicles carrying passengers for hire to and from Washington National Airport to obtain a permit from the FAA Metropolitan Washington Airports. Regulation would prescribe procedures for issuance and revocation of *permits.* **CFR Citation:** 14 CFR pt. 159 **Legal Authority:** F.A. Act Secs. 2 and 5 of the Act for the Administration of Washington National Airport, 54 Stat. 688 as amended by 61 Stat. 94. **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Edward S. Faggen, Wash Nat'l Airport, Hangar 9, Wash., DC 20001, (703) 557-8123.	*ANPRM* *NPRM*	*5/2/83* *10/83*	*48 FR 19838*
†Noise Standards: Aircraft Type and Airworthiness Certification.	**Abstract:** Part 36 prescribes noise type certification standards for turbojet powered airplanes and propeller driven small airplanes regardless of category. This review will examine the need to reorganize and realign the noise standards to make them more understandable and easier to use. This review would reorganize existing material into several new subparts, and utilize an improved numbering system to provide for the easier inclusion of future changes. Other improvements would be made by deleting redundancies, obsolete compliance dates, and making other minor changes. Additionally, Part 36 will be reviewed in accordance with Executive Order 12291 to reduce regulatory burdens on the public, including the preparation of both a Regulatory Evaluation and a Regulatory Flexibility Analysis. **CFR Citation:** 14 CFR pt. 36 **Legal Authority:** F.A. Act, Secs. 313(a), 601, 603, 611 (49 U.S.C. 1354, 1421, 1423, 1431, 1655(c)). **Analysis:** Regulatory Evaluation, Regulatory Flexibility Analysis, Environmental Assessment. **Additional Information:** Will also consider Petition for Rulemaking from the Aerospace Industries of America (Docket No. 23340; Petition Notice No. PR-82-13). Comment Period closed January 20, 1983. **Agency Contact:** Richard Tedrick, (202) *755-9027*	NPRM	10/83	
Airport Improvement Program	**Abstract:** This action would prescribe requirements and procedures for applicants desiring to receive financial assistance under the Airport and Airway Improvement Act of 1982. The program provides grants for planning and developing public-use airports and the implementation of noise compatibility programs. Generally, to receive funds, the applicant must be a public agency; although, in some instances, private airport owners may receive funds. Contents of the regulation will be governed by the requirements of the Act and OMB Circular A-102. **CFR Citation:** 14 CFR pt. 156 proposed	NPRM	*10/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: Airport and Airway Improvement Act of 1982 (P.L. 97-248). **Effects on Small Entities:** This aspect is currently under study **Analysis:** Regulatory Evaluation **Additional Information:** In September 1982, legislation authorizing the Airport Improvement Program was enacted. This same legislation repealed the Airport and Airway Development Act of 1970 which authorized the Airport Development Aid Program (CFR Pt. 152). **Agency Contact:** Bob David, (202) 426-3857			
FAR 23 Airworthiness Review	**Abstract:** This action would update Part 23 to be compatible with current technology, reduce the regulatory burden on the public and where possible, state the requirements more objectively. **CFR Citation:** 14 CFR Part 23 **Legal Authority:** Federal Aviation Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Other regulatory projects affecting Part 23, and not needing analysis more in-depth than would occur as part of this review; are being included in this review to assure efficient use of the affected FAA rulemaking resources. Current projects in this category include the project to revise Part 23 to include Special Conditions and the project to amend Part 23 to include Marking Requirements for External Openable Exits. **Agency Contact:** Earsa L. Tankesley, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-6930.	Announcement of the review. *Notice of reopening of comment period.* *NPRM*	1/31/83 *6/9/83* *3/85*	48 FR 4290 *48 FR 26623*
Rotorcraft Structural Fatigue and Damage Tolerance.	**Abstract:** This advance notice proposes to add damage tolerance requirements to the fatigue evaluation requirements of Section 29.571 of Federal Aviation Regulation Part 29. **CFR Citation:** 14 CFR Part 29 **Legal Authority:** F.A. Act Secs. 307, 313, 313(a), 314, 314(a), 402, 501, 502, 601-610, 902, 1110, 1202, 1102 (49 U.S.C. 1348, 1348(a)(c), 1351, 1354(a), 1355, 1355(a), 1401, 1402, 1421-1430, 1502, 1655(c)). **Effects on Small Entities:** No. **Analysis:** Regulatory Evaluation **Additional Information:** Public meeting *held on* February 8, 1983. **Agency Contact:** Robert T. Weaver, P.O. Box 1689, Ft. Worth, TX 76101, (817) 624-4911, ext. 505.	ANPRM NPRM	1/6/83 *7/84*	48 CFR 772
Revise Part 23 to include Commuter Category Airplanes.	**Abstract:** This action would amend Part 23 to include airworthiness standards for multi-engine airplanes having a maximum passenger seating configuration, excluding any pilot seat, of 19 seats, and with a maximum takeoff weight *of* up to 19,000 pounds. **CFR Citation:** 14 CFR pt. 23 **Legal Authority:** Federal Aviation Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Earsa L. Tankesley, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-6930.	*NPRM*	*11/83*	
Revision of SFAR 38 and Revocation of Part 127.	**Abstract:** This proposed action would revoke Part 127 and amend Part 121 by deleting all references to Part 127 and by recodifying those portions of Part 127 referred to in Part 121 into Part 121. **CFR Citation:** 14 CFR pts. 121 and 127 **Legal Authority:** Secs. 313(a), 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424, and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).	NPRM	*10/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Effects on Small Entities: No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Daniel Keenan, (202) 426-8096			
Accelerated Ground Training - Flight Engineers' Skill Requirements (Docket No. 22781).	**Abstract:** This proposed action would amend the regulations to allow the flight engineers' normal procedure practical test to be conducted in an approved flight simulator in lieu of conducting it, in flight, in an airplane. **CFR Citation:** 14 CFR pts. 63, 91, and 125 **Legal Authority:** Federal Aviation Act, Secs. 307, 313(a), 402, 601-603, 902, 1110, 1202 (49 U.S.C. 1348(a)(c), 1354(a), 1421(a), 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Steve Stieneker, (202) 426-8096	NPRM	*12/83*	
Owen Aviation/Liberal Aircraft - Operation of Single-Engine Aircraft in IFR *(Docket No. 20164).*	**Abstract:** This proposed action would amend the regulations to: (1) allow operation of single-engine aircraft in IFR conditions; (2) permit IFR operations en route with a VFR buffer zone underneath the cloud ceiling and an IFR approach at destination; (3) change IFR minimums at U.S. military airports to be compatible with U.S. civil airport requirements; provide drift down standards during en route operations in IFR conditions in multi-engine aircraft; and provide consistency in regulations regarding references to instrument approach requirements. **CFR Citation:** 14 CFR pt. 135 **Legal Authority:** Federal Aviation Act, Secs. 307, 313(a), 402, 601-603, 902, 1110, 1202 (49 U.S.C. 1348(a)(c), 1354(a), 1421(a), 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Roger E. Riviere, (202) 426-8096	NPRM	*11/83*	
Airplane Simulator Use in Airman Certification.	**Abstract:** This proposed action would amend the regulations to objectively match maneuver and procedure requirements with a catalog of simulation devices. The amendment should extend the maximum credit to simulation devices that objective requirements will permit. **CFR Citation:** 14 CFR pts. 61 and 121 **Legal Authority:** Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424), and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *David C. Gilliom, (202) 426-3460*	NPRM	11/83	
*Cargo Compartment Classification.	**Abstract:** To develop criteria for cargo compartment liners required for all categories of cargo compartments except Class A and to investigate compartment volume, ventilation and detection and fire prevention capabilities of certain approved self-extinguishing materials used for cargo compartment liners. **CFR Citation:** 14 CFR pt. 25 **Legal Authority:** F.A. Act Sec. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Richard Nelson, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168 (206) 431-2121.	NPRM	11/83	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
*Carpools on Dulles Access Highway (Docket No. 23655).	**Abstract:** Proposal to reduce the requirement for commuter carpools on the Dulles Airport Access Highway from four or more persons per vehicle to two or more persons. **CFR Citation:** 14 CFR 159.35 **Legal Authority:** Secs. 3 and 4 of the Second Washington Airport Act 64 Stat 770; Section 313 of Federal Aviation Act, (49 U.S.C. 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97-449, Jan. 12, 1983)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** The Dulles Access Highway is restricted to airport users only with an exception for carpools during commuter hours. The proposal is intended to provide commuter access to the highway until a parallel roadway under construction by the State of Virginia is open in late 1984. All non-airport use of the Dulles Highway would end in January 1985. A supplemental notice was issued on July 15, 1983, clarifying the original proposal and extending the comment period until September 1, 1983. **Agency Contact:** Edward S. Faggen, Washinton National Airport, Washington, D.C. 20001 (703) 557-8123.	NPRM Comment period reopened until 9/1/83. FR	6/6/83 8/18/83 *10/83*	48 FR 25215 48 FR 37430
†*FAR 23.49(b) Stall Speeds for Single Engine and Multiengine Airplanes of 6,000 lbs. or less.	**Abstract:** This action would relieve the current 61-knot stall speed requirements of Part 23 by either deleting the requirement or specifying an alternative requirement. **CFR Citation:** 14 CFR Part 23 **Legal Authority:** 49 U.S.C. 106(g) Revised, Pub. L. 97-449, January 12, 1983. **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** A new generation of turbo-powered, single-engine airplanes is being developed whose operating efficiency and performance will be greatly reduced if they are required to meet the current stall speed requirements. The object of this rulemaking activity is to permit design and certification of higher performance, single-engine airplanes that may achieve higher cruise speeds with better specific fuel consumption by increasing wing loading. **Agency Contact:** Earsa Tankesley, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-6930.	NPRM	*11*/83	
*ATA - Advanced Simulation Requirements (Docket No. 22818).	**Abstract:** This petition proposes to amend certain provisions relative to the advanced airplane simulator requirements of Appendix H of Part 121. The proposed amendment would allow expanded training and checking to be accomplished in advanced simulators that have not been fully upgraded to the latest state-of-the-art technological capabilities. It would extend indefinitely the Phase IIA training alternative which presently has a 3½-year time limitation. **CFR Citation:** 14 CFR pt. 121 **Legal Authority:** 49 U.S.C. 1354, 1421, 1422; F.A. Act sections 313, 601, 602. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** At this time, the agency proposes to address certain portions of that petition; i.e., a notice that will make certain features of Phase IIA permanent. **Agency Contact:** Steve Stieneker, (202) 426-8096	NPRM	12/83	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
*Expansion of CVR/FDR Equipment Requirements on U.S. Aircraft.	**Abstract:** This action proposes to change the regulations to expand the minimum flight data recorder (FDR) requirements for existing and newly manufactured pre-1969 type certificated aircraft operating under Part 121. The proposed action also would amend Part 135 to require cockpit voice recorders (CVR) on multi-engine-powered, fixed-wing aircraft manufactured after a certain date if the aircraft requires two pilots and is certificated to carry six or more passengers.. **CFR Citation:** 14 CFR pts. 121 and 135 **Legal Authority:** F.A. Act Section 313, 601, 604, (49 U.S.C. 1354, 1421, 1424). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Lorence Bessette, (202) 426–8177	NPRM	2/84	
*Use of X-Ray Systems	**Abstract:** This proposed action would amend the regulations to delete reference to 1 milliroentgen and to change wording of the sign at each X-ray screening station. It also proposes that the new American Society for Testing and Materials Standards F792–82 be adopted in place of the requirement that the X-ray system have the capability of distinguishing insulated 24-gauge copper wire. **CFR Citation:** 14 CFR pts. 108 and 129 **Legal Authority:** F.A. Act Section 313, 601, 604, 605 (U.S.C. 1354, 1421, 1424, 1425). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Theofulus P. Tsacoumis, (202) 426–8490	NPRM	11/83	
*Mechanical Reliability Reports.	**Abstract:** This action would allow certificate holders to mail or deliver mechanical reliability reports to the responsible FAA office within 72 hours after the 24-hour reporting period. **CFR Citation:** 14 CFR pt. 121 **Legal Authority:** F.A. Act Section 313, 601, 604 (49 U.S.C. 1354, 1421, 1424). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Fred W. Crenshaw, (202) 426–8098	FR	12/83	
*Spot Amendment to Parts 43 and 91.	**Abstract:** This action would delay an October 15, 1982, compliance date to afford operators additional time to accomplish tests and inspections required by § 91.171, correct inappropriate references, and delete a requirement for integrated system tests of ATC transponders by operators. **CFR Citation:** 14 CFR pts. 43 and 91 **Legal Authority:** F.A. Act Section 313, 601 (49 U.S.C. 1354, 1421). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Charles J. Sarich, (202) 426–8177	FR	10/83	
*Renewal of Inspection Authorization.	**Abstract:** This action would reconsider Amendment 65-22 which was issued to clarify rules and to adopt additional rules, applicable to applicants for, and holders of, an inspection authorization. If necessary, the action would also revise the regulations to improve enforcement procedures pertaining to mechanics' certificates and inspection authorizations. **CFR Citation:** 14 CFR pt. 65 **Legal Authority:** F.A. Act Section 313, 601, 602 (49 U.S.C. 1354, 1421, 1422). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Charles W. Mayernik, (202) 426–8203	FR	1/84	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
*Rotorcraft Simulator Use In Airman Certification.	**Abstract:** This action proposes to publish an Appendix B to Part 61 which would list the practical test requirements for airline transport pilot certificates and associated type ratings in rotorcraft and objectively match these requirements with a catalog of simulation devices. **CFR Citation:** 14 CFR pt. 61 **Legal Authority:** F.A. Act Section 313, 601, 602 (49 U.S.C. 1354, 1421, 1422). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** David C. Gilliom, (202) 426–3460	Further action to be determined.		
*Model B Airspace; National Airspace Review Task Group 1-2 Recommendation (Docket No. 23708).	**Abstract:** Would (1) designate airspace within which each person operating an aircraft must maintain two-way radio communications with ATC; (2) require arriving and overflying aircraft to establish two-way radio communication prior to entering the designated airspace; (3) allow aircraft departing satellite airports to establish two-way radio communications as soon as possible; (4) require ultralight and parachute jumping operations to be conducted under an ATC authorization. **CFR Citation:** 14 CFR pts. 71, 91, 103, 105 **Legal Authority:** F.A. Act Sections 307 and 313(a); (49 U.S.C. 1348, 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.45; and 14 CFR 11.65. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Harold W. Becker, (202) 426–8783	NPRM Further action to be determined.	7/28/83	48 FR 34286
*National Airspace Review (NAR) Terminal Airspace Task Group Recommendations.	**Abstract:** Would (1) change terminal control area designation criteria; (2) change operating requirements in terminal control areas; (3) change name of airport traffic area to control tower area; (4) standardize two-way radio communications requirements at all airports with operating control towers; (5) adopt a new definition for airport traffic area; (6) redefine control zone ceiling and lateral dimension limitations; (7) replace control zone extensions with transition areas; and (8) replace statute miles with nautical mile designations. **CFR Citation:** 14 CFR pt. 91 **Legal Authority:** F.A. Act, Sections 307 and 313(a) (49 U.S.C. 1348, 1354(a)). **Effects on Small Entities:** None **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Harold W. Becker (202) 426–8783	ANPRM	11/83	
*Mode S Transponder	**Abstract:** Proposes use of Mode S transponder within terminal control areas end generally above 12,500 feet MSL. Also proposes that ATCRBS transponder may be used in those airspace areas. **CFR Citation:** 14 CFR pts. 43, 91, 121, 127, 135 **Legal Authority:** Sections 307, 312, 313, 601 of the FA Act of 1958, (49 U.S.C. 1348, 1353, 1354, 1421); 49 U.S.C. Section 106(g) (Revised Pub. L. 97–449, January 12, 1983). **Effects on Small Entities:** Under evaluation **Analysis:** Regulatory Evaluation **Additional Information:** Mode S is considered to be the key airborne link to the new automated National Airspace System. It will also figure as a key component in data-linking information between air and ground. **Agency Contact:** Harold W. Becker, (202) 426–8783	ANPRM	10/83	
*General Aviation Safety Panel's Recommendations.	**Abstract:** Would standardize weather minimums in all airspace at night. **CFR Citation:** 14 CFR pt. 91 **Legal Authority:** F.A. Act, Sections 307 and 313(a) (49 U.S.C. 1348, 1354(a)). **Effects on Small Entities:** No	NPRM	11/83	

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	Analysis: Regulatory Evaluation **Additional Information:** None **Agency Contact:** Harold W. Becker, (202) 426–8783			
*Fatigue Limit Test (propellers).	**Abstract:** Would revise Part 35 Fatigue Limit Test (Propellers) to add requirement for composite propellers to include environmental effects, bird impact and lightning protection. **CFR Citation:** 14 CFR pt. 35 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** N. Buckman, ANE–110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, (617) 273–7330.	NPRM	10/83	
*Electronic Fuel Controls	**Abstract:** Would revise FAR 33.67 to incorporate requirements for electronic fuel controls for gas turbines. **CFR Citation:** 14 CFR pt. 33 **Legal Authority:** F.A. Act, Secs, 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** A. Jackson, ANE–110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, (617) 273-7330.	NPRM	12/83	
*Turbo Prop Engine Propeller Brake Proposals.	**Abstract:** Would revise Part 33 by adding a new section entitled "Engine Propeller Brake Systems Tests." This new section would require tests of the propeller brake with respect to ground locking, dynamic braking, and engine starts and stops. **CFR Citation:** 14 CFR pt. 33 **Legal Authority:** F.A. Act, Secs. 313, 601, 603 (49 U.S.C. 1354, 1421, 1423). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Donald F. Perrault, ANE–110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, (617) 273–7330.	NPRM	*11*/83	
*Flight Time, Duty Time and Rest Requirements (Docket No. 23634).	**Abstract:** This rulemaking is directed at improving the flight time, duty time and rest requirements applicable to flight crewmembers employed by air carriers, air taxis and commuter operators. **CFR Citation:** 14 CFR pts. 121 and 135 **Legal Authority:** 49 U.S.C. 1354, 1421, and 1424; Section 313, 601 and 604 of the Aviation Act of 1958, as amended. **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** The Regulatory Negotiation Advisory Committee was established on June 27, 1983 to develop recommended rulemaking proposals for this rulemaking (48 FR 21339 and 29771; May 12 and June 28, 1983). The Committee met through the summer to discuss such proposals. **Agency Contact:** Edward P. Faberman, (202) *426–3773*	NPRM	*12*/83	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Current and Projected Rulemakings

Other Rulemakings: Routine and Frequent

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	TOTAL ACTIONS EXPECTED			
Part 95 Instrument Flight Rules.	2500 **Agency Contact:** Don Tuna, (202) 426-8277		*10/84-10/85*	
Airworthiness Directives	300 **Agency Contact:** Jack McGrath, (202) 426-8192		*10/84-10/85*	
Standard Instrument Approach Procedures.	2800 **Agency Contact:** Don Tuna, (202) 426-8277		*10/84-10/85*	
Airspace Actions	525 **Agency Contact:** *Hal Becker, (202) 426-8783*		*10/84-10/85*	

Review of Existing Regulations

Priority Reviews

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
*Airmen Medical Standards *(Docket No. 23190).*	**Abstract:** These regulations specify the medical standards which must be met before a medical certificate is issued to an airman. For example, a medical certificate is required before a person can obtain a pilot license. During a recent rulemaking involving these regulations, a considerable number of commenters expressed the belief that the current standards should and could be revised to state, in generally applicable objective terms, all those circumstances in which the FAA will issue medical certificates. In the past, some certificates have been issued on a case-by-case basis, with appropriate limitations, under exemption and waiver provisions where strict compliance with the existing standards was not essential in the interest of safety. A comprehensive review of these regulations is necessary to determine if the commenters' arguments are correct. If they are and the requested regulatory changes are possible, it could greatly reduce burdens, both on the FAA and airmen, associated with the processing of medical certificates. **CFR Citation:** 14 CFR pt. 67 **Legal Authority:** F.A.Act, Secs. 313(a), 314, 601, 607 (49 U.S.C. 1354(a), 1355, 1421, 1427). **Effects on Small Entities:** No **Agency Contact:** William H. Hark, M.D., (202) 426-3802	Completion of Review.	9/85	

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Review of Existing Regulations

Other Reviews

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Rotorcraft Certification and Operating Rules.	**Abstract:** This will include a review of new flight control and associated system airworthiness for rotorcraft. Previous notices covered the applicability of rotorcraft certification, instrument flight rules (IFR) certification, and the certification of anti-icing and deicing equipment. This review is based on a number of proposals discussed at the Rotorcraft Regulatory Review held December 10-14, 1979, in New Orleans, La.; and the Rotorcraft Regulatory Review Meeting held August 18-20, 1980, in Washington, DC. **CFR Citation:** 14 CFR pts. 27, 29, 91, and 127 **Legal Authority:** F.A. Act, Secs. 307, 313, 313(a), 402, 601-605, 902, 72, 1110, 1202 (49 U.S.C. 1348(a)(c), 1354, 1354(a), 1421, 1421(a), 1423-1425, 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Robert T. Weaver, P.O. Box 1689, Ft. Worth, TX 76101, (817) 624-4911; ext. 505.	Completion of review.	*3/84*	
†*Part 21 - Certification Procedures for Products and Parts.	**Abstract:** This part prescribes procedural requirements for the issuance of type certificates and changes to those certificates; the issuance of airworthiness certificates; and the issuance of export airworthiness approvals. In addition it prescribes rules governing the holders of these certificates and procedural requirements for the approval of certain materials, parts, processes, and appliances. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act. **CFR Citation:** 14 CFR pt. 21 **Legal Authority:** 49 U.S.C. 1354(a), 1421, 1423, 1424; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); Federal Aviation Act of 1958, Sections 313(a), 601, 603, and 604. **Effects on Small Entities:** To be determined **Additional Information:** None **Agency Contact:** William J. Sullivan (202) 426-7815	Complete Review.	Spring 1984	
†*Part 43 - Maintenance, Preventive Maintenance, Rebuilding and Alteration.	**Abstract:** This part prescribes rules governing the maintenance, preventive maintenance, rebuilding, and alteration of any aircraft having a U.S. airworthiness certificate; foreign-registered civil aircraft used in common carriage or carriage of mail, and airframes, aircraft engines, propellers, appliances; and component parts of such aircraft. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act. **CFR Citation:** 14 CFR pt. 43 **Legal Authority:** 4 U.S.C. 1354, 1421, 1422, 1423, and 1424; 72 Stat. 752, 775, 776, 778; Federal Aviation Act of 1958, Sections 313(a), 314, 601, 602, 604, and 605.. **Effects on Small Entities:** To be determined **Additional Information:** None **Agency Contact:** William J. Sullivan (202) 426-7815	Complete Review.	Spring 1984	
†*Part 45 - Identification and Registration Marking.	**Abstract:** This part prescribes the requirements for identification of aircraft, aircraft engines, and propellers that are manufactured under the terms of a type or production certificate; identification of certain replacement and modified parts produced for installation on type certificated products; and nationality and registration marking of U.S. registered aircraft. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act. **CFR Citation:** 14 CFR pt. 45 **Legal Authority:** 49 U.S.C. 1348, 1354, 1401, 1402, 1421, and 1423; 72 Stat. 749, 752, 771, 772, 775, 776; Federal Aviation Act of 1958, Sections 307, 313, 501, 502, 601, and 603. **Effects on Small Entities:** To be determined **Additional Information:** None **Agency Contact:** William J. Sullivan (202) 426-7815	Complete Review.	Spring 1984	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Review of Existing Regulations

Other Reviews—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
†*Part 61 - Certification: Pilots and Flight Instructors.	**Abstract:** This part prescribes the requirements for issuing pilot and flight instructor certificates and ratings, the conditions under which these ratings are necessary, and the privileges and limitations of those certificates and ratings. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act. **CFR Citation:** 14 CFR pt. 61 **Legal Authority:** 49 U.S.C. 1354(a), 1355, 1421, and 1422; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); Federal Aviation Act of 1958, Sections 313(a), 314, 601, and 602. **Effects on Small Entities:** To be determined **Additional Information:** None **Agency Contact:** William J. Sullivan (202) 426-7815	Complete Review.	Spring 1984	
†*Part 67 - Medical Standards and Certification.	**Abstract:** This part prescribes the medical standards and procedures that apply to the issuance of medical certificates to airmen. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act. **CFR Citation:** 14 CFR pt. 67 **Legal Authority:** 49 U.S.C. 1354(a), 1355, 1421, and 1427; 72 Stat. 752; Federal Aviation Act of 1958, Sections 313(a), 314, 601, and 607. **Effects on Small Entities:** To be determined **Additional Information:** None **Agency Contact:** William J. Sullivan (202) 426-7815	Complete Review.	Spring 1984	
†*Part 141 - Pilot Schools	**Abstract:** This part prescribes the requirements for issuing pilot school certificates, provisional pilot school certificates, and associated ratings and the general operating rules for the holders of those certificates and ratings; the personnel and aircraft requirements for a pilot school or a provisional pilot school certificate; and the facilities an applicant must have available to hold a pilot school or provisional pilot school certificate. Also prescribed are the curriculum and course outline requirements for the issuance of a pilot school or provisional pilot school certificate or rating; the requirements for the issuance of an examining authority to the holder of a pilot school certificate and the privileges and limitations of that authority; and the operating rules that are applicable to a pilot school or provisional pilot school certificated under this part. The review will also analyze the impact on small entities in accordance with the Regulatory Flexiblity Act. **CFR Citation:** 14 CFR pt. 141 **Legal Authority:** 49 U.S.C. 1354(a), 1355, 1421, 1422, and 1427, and 49 U.S.C. 106(g), (Revised, Pub. L. 99-449, January 12, 1983); Federal Aviation Act of 1958, Sections 313(a), 314, 601, 602, and 607. **Effects on Small Entities:** To be determined **Additional Information:** None **Agency Contact:** William J. Sullivan (202) 426-7815	Complete Review.	Spring 1984	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Completed Actions

Priority Rulemakings: Non-Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review

Title	Summary	Timetable		
		Action	Date	Cite
Part 120 Air Transportation Regulation (Docket No. 22480).	**Abstract:** To evolve a single air transportation regulation from Part 121 (Air Carrier, Supplemental Air Carrier, and Commercial Operators of Large Aircraft) and 135 (Air Taxi Operators and Commercial Operators) which would embody aviation safety policy procedures rather than using several different regulations for this purpose. This would eliminate inconsistencies within each rule which lends credence to the public complaint that the regulations too often are unduly complex, confusing, and difficult to understand. It would allow individual operators to conduct operations in the most efficient manner possible to meet established safety objectives and would reduce costs while retaining the highest level of safety. **CFR Citation:** 14 CFR pts. 121 and 135 **Legal Authority:** F.A. Act, Secs. 313(a), 314(a), 601-610 (49 U.S.C. 1354a, 1355, 1421-1430). **Effects on Small Entities:** No **Additional Information:** None **Agency Contact:** Daniel C. Beaudette (202) 426-8166	NPRM *Withdrawn*	9/20/82 *6/16/83*	47 FR 41486 *48 FR 28118*

Other Rulemakings

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Designated Airworthiness Representatives (Docket No. 23140).	**Abstract:** This *amendment establishes* a designated airworthiness representative (DAR) to represent functions in the airworthiness disciplines of manufacturing, maintenance, and engineering. **CFR Citation:** 14 CFR pt. 183 **Legal Authority:** F.A. Act, Secs. 301(c), 305, 307(b), 313(a), 314 (49 U.S.C. 1341(c), 1346, 1348(b), 1354(a), 1355). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Sandy DeLucia, (202) 426-8361	NPRM FR	6/24/82 *4/15/83*	47 FR 27472 *48 FR 16176*
Airworthiness Regulatory Reform: Parachutes.	**Abstract:** This notice proposes to remove from the regulations those sections or references to sections pertaining to the airworthiness requirements of parachuting. It does not propose to remove those sections which deal with jumping within controlled airspace, over congested areas, or over open-air assemblies. The regulations governing parachuting were issued at a time when the unreliability of aircraft caused passengers to be dependent on parachutes. The reliability of today's aircraft makes dependence on parachutes unnecessary and, consequently, the regulations which govern them should be deleted. **CFR Citation:** 14 CFR pts. 65, 91, 105, 149, and 183 **Legal Authority:** F.A. Act, Secs. 301(c), 305, 307, 307(b), 313(a), 314, 402, 601-603, 607, 902, 1110, 1202; 49 U.S.C. 1341(c), 1346, 1348, 1348(a)(b)(c), 1354(a), 1355, 1421, 1421(a), 1427, 1655(c). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *Angelo Mastrullo, (202) 426-8203*	*Project cancelled.*		
Nontransponder Operations	**Abstract:** This *rule provides* authority *to* ATC to permit nontransponder operations in transponder-required airspace with as little as 1 hour notice. Both ATC and the pilot/operator can thus react to near term weather and traffic conditions.	FR	*2/10/83*	*48 FR 6102*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Aviation Administration

FAA

Completed Actions

Other Rulemakings—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Southwest Airlines - Landing Weather Minimums: IFR: All Certificate Holders (Docket No. 22895).	**CFR Citation:** 14 CFR pt. 91 **Legal Authority:** F.A. Act, Secs. 307, 313(a), 402, 601, 602, 603, 702, 1110, and 1202 (49 U.S.C. 1348, 1354(a), 1372, 1421, 1442, 1443, 1472, 1510 & 1522). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Hal Becker, (202) 426-3656 **Abstract:** This action was proposed to review the requirement for a newly rated pilot to be subject to higher weather minimums for his/her first 100 hours in type aircraft to determine if it is appropriate. **CFR Citation:** 14 CFR pt. 121 **Legal Authority:** Secs. 313(a), 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424 and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Steve Stieneker, (202) 426-8096	*Project cancelled.*		
Piper Aircraft Corporation - Use of 360° Attitude Indicators in Small Airplanes (Docket No. 22824).	**Abstract:** This action was proposed to amend the regulations to allow the use of 360° attitude indicators in lieu of gyroscopic rate-of-turn indicators in small airplanes as a back-up system as is permitted in large airplanes. **CFR Citation:** 14 CFR pts. 91 and 135 **Legal Authority:** Federal Aviation Act, Secs. 307, 313(a), 402, 601-603, 902, 1110, 1202 (49 U.S.C. 1348(a)(c), 1354(a), 1421(a), 1655(c)). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Daniel Keenan, (202) 426-8096	*Project cancelled.*		
*Air Traffic Control System; Interim Operations Plan (Docket No. 22050).	**Abstract:** This notice proposes alternative methods for the final disposition of slots formerly used by Braniff Airways and temporarily allocated to other airlines under Special Federal Aviation Regulation No. 44-4. This proposal, in part, responds to a letter dated May 19, 1983, from Braniff making a formal request for slots and to a petition for rulemaking by Continental Airlines. **CFR Citation:** 14 CFR pt. 91 **Legal Authority:** (Section 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. Sections 1348 (a) and (c), 1354(a), and 1421(a)); Section 6(c), Department of Transportation Act (49 U.S.C. Section 1655(c).). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** J. E. Murdock III, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591 (202) 426-3773.	NPRM FR	6/20/83 8/29/83	48 FR 28106 48 FR 39054

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

FAA — Federal Aviation Administration

Reviews of Existing Regulations

Priority Reviews

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review

Title	Summary	Timetable		
		Action	Date	Cite
Airport Layout Plan Approvals..	**Abstract:** This review will concentrate on Airport Layout Plan (ALP) approvals as required by Federal Aviation Regulation Part 152 in an effort to reduce the regulatory and paperwork burden on state and local govemments. The ALP approval review was selected by the Presidential Task Force on Regulatory Relief. *A decision was made to initiate a rulemaking project; see the "Priority Rulemakings: Non-major" portion of the FAA Agenda.* **CFR Citation:** 14 CFR pt. 152 **Legal Authority:** 49 U.S.C. 1701 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Paul Galis, (202) 426-3050	*Review Completed.*		

FHWA — Federal Highway Administration

Current and Projected Rulemakings

Priority Rulemakings: Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	FEDERAL MOTOR CARRIER SAFETY REGULATIONS			
Minimum Cab Space Dimensions (Docket No. MC-79).	**Abstract:** This regulation would specify minimum sizes for the cab portion of the regulated commercial vehicles manufactured after a certain date. The rulemaking is significant because it has the potential of being costly if extensive changes to cab configuration become necessary. It is necessary because changes in truck technology and maximum limitation on size by States have led to the development of reduced cab space in favor of increased cargo space to remain within State length limitations. The impact on safe operations and driver workplace may be negatively effected. **CFR Citation:** 49 CFR pt. 393 **Legal Authority:** 49 U.S.C. 304 and 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Impact Analysis **Additional Information:** An ANPRM was issued on February 14, 1978 (43 FR 6273). Comment period closed on July 14, 1978. A review of present cab sizes was conducted and a report issued on February 27, 1980. No further action anticipated until additional research is completed; earliest possible action will not occur within the next 6 months. **Agency Contact:** Neill Thomas, (202) 426-9767	ANPRM Further action to be determined.	2/14/78	43 FR 6273
*†Splash/Spray Suppressant Devices on Truck Tractors, Semitrailers and Trailers.	**Abstract:** Section 414 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424) states that Congress declares the visibility on wet roadways in the Interstate System should be improved by reducing splash and spray from truck tractors, semitrailers and trailers. Congress instructed the Secretary to establish, by regulation, minimum standards with respect to the performance and installation of splash and spray suppression devices on truck tractors, semitrailers and trailers. Further, Congress mandated that all vehicles in use 5 years from date of enactment, be equipped with such devices. The revisions to 49 CFR pt. 393 will implement this mandate. This rulemaking is considered significant because of its economic impact on the motor carrier industry. **CFR Citation:** 49 CFR pt. 393	NPRM FR	*10/83* 12/83	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

FHWA — Federal Highway Administration

Current and Projected Rulemakings

Priority Rulemakings: Major—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 49 U.S.C. 2314, 3102; Section 414 of STAA of 1982. **Effects on Small Entities:** Yes **Analysis:** Regulatory Impact Analysis/Regulatory Flexibility Analysis. **Additional Information:** None **Agency Contact:** Neill Thomas (202) 426-9767			
	ENGINEERING AND TRAFFIC OPERATIONS			
*†Truck Size and Weight	**Abstract:** This action proposes the final network of highways on which commercial vehicles with the dimensions authorized by the Surface Transportation Assistance Act of 1982 (STAA) may operate. Criteria for exceptions, additions, and withdrawals from the designated systems are included. The proposed rule addresses width, length and weight of vehicles, grandfather clauses, reasonable access and specialized equipment. This rulemaking is considered significant based primarily on the substantial savings in transport costs expected to result from implementation of the proposal and on controversy regarding route designations in certain locations. **CFR Citation:** 23 CFR pt. 658 **Legal Authority:** 23 U.S.C. 315; Sections 133, 411, 412, 413, and 416 of the STAA of 1982. **Effects on Small Entities:** Yes **Analysis:** Regulatory Impact Analysis/Regulatory Flexibility Analysis. **Additional Information:** A 45-day public comment period is established. **Agency Contact:** Dave Oliver, (202) 426-0825; Sheldon Strickland, (202) 426-0153; Hal Brown, (202) 426–1993.	NPRM FR	*9/14/83* *11/83*	48 FR *41276*

Priority Rulemakings: Non-Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	ENGINEERING AND TRAFFIC OPERATIONS			
†Review: Buy America Requirements (Docket No. 83-2).	**Abstract:** The existing regulation was issued on an emergency basis to immediately implement Section 165 of the Surface Transportation Assistance Act (STAA) of 1982. This regulation could be significant because it involves a matter which may become controversial or arouse significant public interest. **CFR Citation:** 23 CFR 635.410 **Legal Authority:** Section 165 of the STAA of 1982; P.L. 97-424.... **Effects on Small Entities:** To be determined **Analysis:** Regulatory Flexibility Analysis/Regulatory Evaluation	*Interim Emergency Final Rule.* *Amendments to Interim Emergency Final Rule.* *FR*	1/17/83 *5/26/83* *10/83*	48 FR 1946 *48 FR 23631*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Additional Information: Section 165 of the STAA of 1982 amended the previous Buy America Statute of 1978. The new regulation issued on January 17, 1983, implemented the STAA of 1982 as it related to cement and steel products. The emergency final rule expires on September 30, 1983. The public was advised of the interim nature of the rule and a forthcoming rule which would be based in part on comments received on the emergency final rule. The FHWA considers this regulation significant because of the potential controversial nature of the regulation. The FHWA also considers the regulation to be non-major because of the potential economic impact (less than $100 million annually) and the fact that the Federal-aid highway program uses less than one half of one percent of the total U.S. consumption of steel. *On May 26, 1983, the FHWA issued amendments to the interim emergency final rule published on January 17, 1983 (48 FR 1946). The amendments eliminated the waiver provision which exempted projects costing less than $450,000, clarified what was intended by allowing more stringent State Buy America requirements, and clarified the use of alternate bidding procedures. The comment period on the emergency final rule was also extended from July 1 to August 1, 1983. The expiration date of the existing interim Buy America regulations was extended from September 30, 1983 until the date a Final Rule becomes effective (September 30, 1983, 48 FR 44776).*			
	Agency Contact: P. E. Cummingham, (202) 426-0392			
Review: Design Standards for Highways (Docket No. 80-2).	**Abstract:** This regulation would amend the existing geometric design standards for highways for the new construction and major reconstruction of Federal-aid highways by replacing several publications incorporated by reference in 23 CFR Part 625 with a single new publication. Public comments were requested on the geometric design criteria as presented in a draft of the new publication, "A Policy on Geometric Design of Highways and Streets" prepared by the American Association of State Highway and Transportation Officials (AASHTO). Comments received as a result of NPRM published February 14, 1980 (45 FR 10236) have been evaluated and recommended changes submitted to AASHTO for consideration. Notice regarding status of proposed rule published November 17, 1980 (45 FR 75690); it indicated further rulemaking action is not anticipated before Summer 1983. Based on the current AASHTO development schedule, submission of a final document to FHWA is not anticipated until *mid-1984. This rulemaking is considered significant because it concerns a matter for which there is substantial public interest.*	NPRM FR	2/14/80 1984	45 FR 10236
	CFR Citation: 23 CFR pt. 625, FHPM 6-2-1-1			
	Legal Authority: 23 U.S.C. 109, 315, and 402			
	Effects on Small Entities: No			
	Analysis: Regulatory Evaluation (Minimal Impact)			
	Additional Information: None			
	Agency Contact: Wilson B. Harkins (202) 426-0313			
	RIGHT-OF-WAY AND ENVIRONMENT			
Review: Outdoor Advertising Control and Acquisition.	**Abstract:** This regulation would provide a definition of "effective control" of outdoor advertising as required by 23 U.S.C. 131. It would also set further requirements for signs exempt from control under the statute and establish the basic framework for State development of police power regulations and procedures. The regulation would also outline the requirements for Federal participation in the acquisition of compensable nonconforming outdoor advertising devices. This proposal is significant because it may involve substantial public interest, is controversial and involves important departmental policy. This regulation is necessary for the maintenance of national uniformity in the outdoor advertising control program. Since 23 U.S.C. 131 is regulatory in nature, it is necessary to establish and maintain minimum Federal program requirements.	Further action to be determined.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	CFR Citation: 23 CFR pt. 750, subpt. C. (FHPM 7-6-2) **Legal Authority:** 23 U.S.C. 131, 148, and 315; 49 CFR 1.48 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation. **Additional Information:** The proposal involves the consolidation of two existing regulations, 23 CFR pt. 750, subpts. D and G, and one interim regulation 23 CFR pt. 750, subpt E. The regulations have been in effect since September 16, 1975 and July 29, 1974, respectively. The interim regulations have been in effect since October 18, 1976. The proposed consolidation will be issued as an NPRM. An ANPRM, published April 30, 1979, (44 FR 25387) and a Notice, published, May 17, 1979, (44 FR 28946) announced public hearings as part of an overall review of the Highway Beautification Program. These currently proposed regulations may be modified as a result of this review. A Notice published June 15, 1979 (44 FR 34516) announced a hearing site change and a change in hearing procedures. On June 25, 1979 (44 FR 37100), a Notice announced amendments to the Highway Beautification Act by the Surface Transportation Assistance Act of 1978. A Notice published on July 12, 1979 (44 FR 40781) announced the establishment of a National Advisory Committee on Outdoor Advertising and Motorist Information. On July 23, 1979 (44 FR 43236), a Notice announced the availability of a report on Directional and Informational Sign Standards and Systems. This report is to be considered as part of the reassessment of the Highway Beautification Program. The National Advisory Committee has completed its report. Further action will be determined after the recommendations of the report are fully considered. **Agency Contact:** Myron Laible, (202) 245-0021			
Review: Environmental Impact and Related Procedures.	**Abstract:** This regulation covers the preparation of environmental impact statements and related documents and compliance with other Federal environmental requirements under FHWA and UMTA grant programs. The changes are intended to streamline the project development process and provide increased decisionmaking authority to agency field offices. The amendments are significant because they involve important departmental policy. They are needed to reduce burdens associated with the environmental review process. **CFR Citation:** 23 CFR pt. 771, 49 CFR pt. 622 **Legal Authority:** 42 U.S.C. 4321 et seq., 23 U.S.C. 101 et seq., 49 U.S.C. 1601 et seq., 49 U.S.C. 1653(f). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Notice and request for comments on priority review of environmental process published on April 13, 1981 (46 FR 21620). *The NPRM published on 8/1/83 (48 FR 34894) provided a 60-day comment period.* **Agency Contact:** FHWA: R. E. Gatz, (202) 426-0106 UMTA: A. Marner, (202) 426-2360	NPRM *FR*	*8/1/83* *6/84*	*48 FR 34894*
	FEDERAL MOTOR CARRIER SAFETY REGULATIONS			
Employee Safety and Health Standards (Docket No. MC-64).	**Abstract:** This regulation would provide safety and health standards to govern employees engaged in the operation, maintenance, and loading and unloading of motor vehicles, designed to eliminate uncertainty with regard to the jurisdictional authority of the Occupational Safety and Health Administration (OSHA). This proposal is significant because it may have a significant impact on OSHA. These standards are needed because they are designed to eliminate uncertainty with regard to the jurisdictional authority of the OSHA and to improve safety and health standards for employees of motor carriers. **CFR Citation:** 49 CFR pt. 399 **Legal Authority:** 49 U.S.C. 304 and 1653 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation	NPRM Further action to be determined.	3/2/78	43 FR 8566

VOL 48 ISS 201 OCT 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Additional Information: An NPRM was issued March 2, 1978 (43 FR 8566) and the closing date for the comment period was May 31, 1978. A notice on June 9, 1978 (43 FR 25145) extended the comment period to June 30, 1978. As a result of the analysis of the comments, another NPRM is being considered. No further action is anticipated within the next 12 months. **Agency Contact:** Neill Thomas, (202) 426-9767			
Minimum Levels of Financial Responsibility for Motor Carriers of Property.	**Abstract:** Section 406(a) of the Surface Transportation Assistance Act of 1982 amended Section 30 of the Motor Carrier Act of 1980 by allowing the Secretary to extend the "phase-in-period" for the reduced minimum levels of financial responsibility from 2 years to 3½ years. This rulemaking action would propose to extend the effective date for reduced liability limits from July 1, 1983 to January 1, 1985, as specifically provided for by Section 406(a). This rulemaking is significant because the rulemaking action which initially set the reduced levels was considered significant. *On June 28, 1983, the FHWA issued an emergency interim final rule extending the effective date for reduced liability limits from July 1, 1983, to July 1, 1984. This action was taken in an effort to maintain stability in both the insurance and motor carrier industries while further consideration is given to this matter.* **CFR Citation:** 49 CFR pt. 387 **Legal Authority:** Section 406(a) of STAA of 1982 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *None* **Agency Contact:** Neill Thomas, (202) 426-9767	NPRM *Interim Final Rule.* FR	*4/11/83* *6/28/83* *6/84*	*48 FR 15499* *48 FR 29648*

Other Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
	CIVIL RIGHTS			
Review: Civil Rights Requirements.	**Abstract:** These regulations contain the policies, procedures and guides for implementing equal employment opportunity requirements under the Federal and Federal-aid highway programs. The changes are intended to eliminate unnecessary requirements, streamline procedures and reduce recordkeeping and reporting requirements. **CFR Citation:** 23 CFR pt. 230; FHPM 6-4-1-2, 2-2-2, and 2-2-3 **Legal Authority:** 23 U.S.C. 140 and 315; EO 11246 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (Minimal Impact) **Additional Information:** Notice and request for comments on priority review published on 4/13/81 (46 FR 21620). **Agency Contact:** Edward W. Morris, Jr., (202) 426-0471	NPRM	*Fall 1983*	
	PAYMENT PROCEDURES			
Review: Bond Issue Projects	**Abstract:** This revision to procedures for the use of Federal funds in aiding in the retirement of the principal of bonds pursuant to 23 U.S.C. 122 will reflect statutory changes mandated by section 113 of the STAA of 1982. **CFR Citation:** 23 CFR pt. 140, Subpart F **Legal Authority:** 23 U.S.C. 122, 315; Section 113 of the STAA of 1982. **Effects on Small Entities:** No	FR	*10/83*	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Analysis: Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Harvey Wood, (202) 426-0562			
Audit Costs	**Abstract:** Section 159 of the STAA of 1982 expanded the definition of the term "construction" in section 101(a), title 23, United States Code, to include costs incurred by the States in performing Federal-aid project related audits which directly benefit the Federal-aid highway program. 23 CFR Part 140 will be revised to reflect the statutory amendment. **CFR Citation:** 23 CFR pt. 140 **Legal Authority:** Section 159 of the STAA of 1982 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Harvey Wood, (202) 426-0562	FR	*10/83*	
Transfer of Federal-Aid Highway Funds.	**Abstract:** This regulation revision will reflect the required statutory changes included in section 116 of the STAA of 1982 regarding the transfer of Interstate construction funds. **CFR Citation:** 23 CFR pt. 160, subpts. A, B, and C **Legal Authority:** Section 116 of the STAA of 1982 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Carla Child, (202) 426-0674	FR	*12/83*	
	PLANNING			
Review: Highway Planning Program Administration (Docket No. 78-24).	**Abstract:** This revision to an existing regulation would reflect policy changes in management of the highway planning and research program, e.g., allowing separate projects for components of the program (urbanized area planning, statewide planning, research and development), and applying matching rates to time periods rather than a fiscal year fund, etc. NPRM was published January 11, 1979 (44 FR 2400). As a result of comments received to the Docket, as well as internal coordination, FHWA is considering combining this regulation with 23 CFR Part 450, Subpart B, Metropolitan Planning Funds, since both deal with program administration. *A revised NPRM combining parts 420 and 450 and incorporating requirements mandated by the Surface Transportation Assistance Act of 1982 is being prepared.* **CFR Citation:** 23 CFR pt. 420, subpt. A and pt. 450, Subpart B, FHPM 4-1-2-1. **Legal Authority:** 23 U.S.C. 104, 307, 315; STAA of 1982 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** R.B. Puckett, (202) 426-0175	NPRM *NPRM* *FR*	1/11/79 *10/83* *1/84*	44 FR 2400
Review: Payback Regulation Amendments.	**Abstract:** Federal Highway Administration regulations in 23 CFR Part 480 prescribe the circumstances under which states must repay the Federal Government for the Federal contribution to the purchase of property for Interstate highway projects that are later withdrawn. Congress, in Pub. L. 96-106, amended 23 U.S.C. 103(e) to change the circumstances under which repayment must be made. This revision to an existing regulation would incorporate the legislative changes in 23 CFR Part 480. **CFR Citation:** 23 CFR pt. 480 **Legal Authority:** 23 U.S.C. 103(e)(5)(6); Sec 2(c) of P.L. 96-106 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** C.L. Shufflebarger, (202) 426-0404	NPRM NPRM	11/20/80 *10/83*	45 FR 76705
Review: Coordination of Federal and Federally Assisted Programs and Projects.	**Abstract:** This revision would implement Executive Order 12372 and related OMB implementing *procedures* regarding intergovernmental review of Federal programs. **CFR Citation:** 23 CFR pt. 420 C	*Further action to be determined.*		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: E.O. *12372* **Effects on Small Entities:** No Engineering and Traffic Operations. **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Sam Rea, (202) 426-2961			
Transfers of Allocated Urban Funds.	**Abstract:** These regulations will implement increased flexibility authorized by Section 124 of the Highway Improvement Act of 1982 by providing procedures for approval of requests for transfer of Federal-aid Urban System funds (out of allocation to an urbanized area) to other urban areas in the State. **CFR Citation:** 23 CFR pt. 160 **Legal Authority:** 23 U.S.C. 150; sec. 124, Pub. L. 97-424 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Gary Maring, (202) 426-0215, K. C. Kippley, (202) 426-0673.	FR	*10/83*	
Fringe and Corridor Parking plus Public Transportation.	**Abstract:** This rulemaking has been combined with "Use of High Occupancy Lanes", and has been titled "Mass Transit and Special Use Highway Projects".			
*Mass Transit and Special Use Highway Projects.	**Abstract:** The existing regulation would be revised to incorporate statutory changes mandated by the Surface Transportation Assistance Act of 1982 (STAA) and to make other revisions to update references to other regulations or statutes and to reflect administrative changes. The revisions would provide the basic criteria for determining whether mass transit and special use highway projects are eligible for Federal-aid funding under 23 U.S.C. 137, 142, and 149. This rulemaking consolidates previous projected rulemakings under the headings Fringe and Corridor Parking and High Occupancy Lanes. **CFR Citation:** 23 CFR pt. 810 **Legal Authority:** 23 U.S.C. 137, 142, 149, 315, Secs. 118, 120, 123, and 163 of STAA. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** John Ohm, (202) 426-0210	NPRM FR	10/83 Spring 1984	
	ENGINEERING AND TRAFFIC OPERATIONS			
Selection of Pavement Type	**Abstract:** This regulation would set forth policy for the selection of pavement type on Federal-aid projects. **CFR Citation:** 23 CFR pt. 626; FHPM 6-2-4-4 **Legal Authority:** 23 U.S.C. 109 (a), (b) and (c) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** Notice of policy statement published 10/8/81 (46 FR 49842). Clarification of policy statement published 11/9/81 (46 FR 55253). No further action to be taken. **Agency Contact:** Leon M. Noel, (202) 426-0327	ANPRM *To be withdrawn*	8/21/80	45 FR 55763
Review: Design Standards for Highways (Docket No. 80–2).	**Abstract:** This entry has been moved to the Priority Rulemakings: Non-Major section of the FHWA Agenda.			
Review: Traffic Control Devices on Federal-Aid and Other Streets and Highways.	**Abstract:** This revision to an existing regulation prescribed the policies and procedures of FHWA relative to obtaining basic uniformity in the visible features and functioning of traffic control devices on all highways open to public travel in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways. **CFR Citation:** 23 CFR pt. 655: FHPM 6-8-3-1 **Legal Authority:** 23 U.S.C. 109(b)(d), 402(a) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** Final Rule issued on 1/8/81 (46 FR 2038) was withdrawn on 3/30/81 (46 FR 19292) pending further review under E.O. 12291.	*NPRM* *FR*	*9/27/79* *10/83*	*44 FR 55598*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Agency Contact: *P. Russell,* (202) 426-0411			
Review: Contract Procedures (Docket No. 78-16).	**Abstract:** This revision to an existing regulation would simplify Federal-aid contract procedures. **CFR Citation:** 23 CFR pt. *633* **Legal Authority:** 23 U.S.C. 112, 113, 114, 117, 128 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** A. J. Friesen, (202) 426-*0355*	NPRM Further action to be determined.	8/18/78	43 FR 36685
Review: General Materials Requirements.	**Abstract:** This regulation would simplify procedures relating to general material requirements for Federal-aid construction work. **CFR Citation:** 23 CFR pt. 635D FHPM 6-4-1-16 **Legal Authority:** 23 U.S.C. 112, 113, 114, 117, 128 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Gary Klinedinst, (202) 426-*0438*	NPRM Further action to be determined.	1/29/81	46 FR 9642
Review: Accommodation of Utilities.	**Abstract:** This revision to an existing regulation would update and simplify policies and procedures for accommodating utility facilities on the rights-of-way of Federal and Federal-aid highway projects. An NPRM was published April 17, 1980 (45 FR 26280). Review of comments received indicates that a new NPRM should be published. **CFR Citation:** 23 CFR pt. 645; FHPM 6-6-3-2 **Legal Authority:** 23 U.S.C. 123, 315 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** J. A. Carney, (202) 426-0450	NPRM New NPRM	4/17/80 *Fall 1983*	45 FR 26280
Review: Utility Relocation, Adjustments and Reimbursement.	**Abstract:** This revision to an existing regulation would update and simplify the policies and procedures for the adjustment and relocation of utility facilities on Federal-aid highway projects and projects under the direct supervision of the Federal Highway Administration. **CFR Citation:** 23 CFR pt. 645: FHPM 1-4-4 **Legal Authority:** 23 U.S.C. 123, 315 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** J. A. Carney, (202) 426–0450	ANPRM NPRM FR	3/8/79 11/20/80 *6/84*	44 FR 12209 45 FR 76924
Review: Traffic Surveillance and Control (Docket No. 82-9).	**Abstract:** This regulation prescribes procedures and requirements for the expenditure of Federal-aid highway funds for traffic surveillance and control measures. The proposed revisions would significantly reduce the existing regulation in length and detail with certain unnecessary requirements deleted. **CFR Citation:** 23 CFR pt. 655; FHPM 6-8-3-4 **Legal Authority:** 23 U.S.C. 101(a), 315 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Robert Harp, (202) 426-0411	NPRM FR	6/14/82 *1984*	47 FR 25541
Discretionary Bridge Criteria	**Abstract:** This regulation revision will reflect the required statutory requirements included in section 161 of the STAA of 1982 regarding a rating factor to be used in selecting bridges to be funded under the Discretionary Bridge program (23 U.S.C. 144). **CFR Citation:** 23 CFR *pt.* 650, Subpart G **Legal Authority:** Section 161 of the STAA of 1982 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** John Ahlskog, (202) 472-*7697*	NPRM *FR*	*5/23/83* *10/83*	*48 FR 22938*

VOL 48 ISS 201 OCT 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Construction In Advance of Apportionment.	**Abstract:** Section 113 of the STAA of 1982 amended 23 U.S.C. 115 which prescribes procedures for advance construction of Federal-aid projects. 23 CFR Part 630, Subpart G will be revised to reflect the statutory amendment. **CFR Citation:** 23 CFR, *pt.* 630, Subpart G **Legal Authority:** Section 113 of the STAA of 1982; 23 U.S.C. § 115. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Harvey Wood, (202) 426-0562	FR	*10/83*	
†Review: Concrete Bridge Decks.	**Abstract:** This proposed revision would allow States the flexibility to select a protective system and reconstruction method to protect a bridge deck from chemical corrosion. **CFR Citation:** 23 CFR *pt.* 650F **Legal Authority:** 23 U.S.C. 109(a), 144, 315 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** None **Agency Contact:** Douglas Bernard, (202) 426-0438	NPRM FR	2/14/83 *10/83*	48 FR 6552
Use of High Occupancy Lanes.—	**Abstract:** This rulemaking has been combined with "Fringe and Corridor Parking plus Public Transportation", and has been titled "Mass Transit and Special Use Highway Projects".			
*Acceleration of Projects	**Abstract:** This revision would expedite the processing of Federal-aid highways projects by promoting wider use of the findings and recommendations of the demonstration project carried out under section 141 of the 1976 Federal-Aid Highway Act. This action is also being taken pursuant to section 129 of the Surface Transportation Assistance Act of 1982. **CFR Citation:** 23 CFR pt. 630 **Legal Authority:** 23 U.S.C. 140, 315; section 129 of the STAA of 1982. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** An interim policy statement was published on 6/6/83 (48 FR 25181) to implement acceleration methods for selected projects within existing regulations. The proposed regulations will apply to additional Federal-aid projects. **Agency Contact:** S. M. Silence, (202) 426-0334	ANPRM NPRM	8/26/83 Spring 1984	48 FR 38854
*Pavement Design Policy	**Abstract:** The existing regulation on pavement design would be modified to eliminate unnecessary requirements and duplicative provisions. **CFR Citation:** 23 CFR pt. 626 **Legal Authority:** 23 U.S.C. 109 (a), (b) and (c), 315 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Leon Noel, (202) 426-0327	NPRM FR	10/83 Spring 1984	
*Funding Water Supply and Sewage Treatment Facilities.	**Abstract:** The revised regulation would reflect changes in funding of water supply and sewage treatment facilities at safety rest areas as required by Pub. L. 97-134, 95 Stat. 1699. Language concerning drinking water standards and effluent limitations would be updated. **CFR Citation:** 23 CFR pt. 650, subpt. E **Legal Authority:** Pub. L. 97-134, 95 Stat. 1699 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Stanley Davis, (202) 472-7690	NPRM	*10/83*	
*Skid Accident Reduction Program.	**Abstract:** The FHWA will be issuing an ANPRM to solicit comments on the adequacy of the current policy on skid accident reduction. Comments will be requested on specific issues raised concerning the current policy. **CFR Citation:** 23 CFR pts. 626 and 1204	ANPRM NPRM FR	10/83 6/84 10/84	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 23 U.S.C. 109 (a), (b) and (c), 315, 401, 402; 49 U.S.C. 1655. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Leon Noel, (202) 426-0327			
*Pedestrian and Bicycle Facilities.	**Abstract:** Revisions are being proposed to incorporate statutory changes mandated by section 126 of the Surface Transportation Assistance Act of 1982 (STAA of 1982) and to make other revisions in order to promote clarity and delete unnecessary language. Major changes include: projects are to be 100% federally funded; the elimination of the requirement that bicycle projects be on or in conjunction with highway rights-of-way; and the authorization of funding for nonconstruction projects related to safe bicycle use. **CFR Citation:** 23 CFR pt. 652 **Legal Authority:** 23 U.S.C. 217, 315, 109, and 402(b)(1)(F); Section 126 of STAA of 1982. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** A 60-day comment period was established. **Agency Contact:** Jack Wasley, (202) 426-0306	NPRM FR	8/11/83 1/84	48 FR 36470
*Review: Physical Construction Authorization.	**Abstract:** This revision would authorize physical construction at the same time that it authorizes advertising for bids, even though all right-of-way has not been acquired nor all persons relocated. The proposed change is intended to avoid contract administration problems and increased costs which can result under the current regulation when bids are awarded but authorization to proceed with physical construction is delayed. **CFR Citation:** 23 CFR pt. 635 **Legal Authority:** 23 U.S.C. 112, 114, 315; 42 U.S.C. 3334, 4231–4233, 4601, *et seq.* **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Paul E. Cunningham, (202) 426-0392	NPRM FR	7/11/83 11/83	48 FR 31667
*National Bridge Inspection Standards.	**Abstract:** This revision would permit States to increase the maximum time interval between the inspections for certain types or groups of bridges, as opposed to retaining the mandatory 2-year interval as required under the regulation currently in effect. The revision would provide State highway agencies greater flexibility with which to utilize available inspection resources in a cost-effective manner. **CFR Citation:** 23 CFR pt. 650 **Legal Authority:** 23 U.S.C. 116(d), 144, 315, and 49 CFR 1.48(b). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** John J. Ahlskog, (202) 472-7697	NPRM FR	1/20/83 1/84	48 FR 2550
	RIGHT-OF-WAY AND ENVIRONMENT			
Review: Relocation Assistance.	**Abstract:** This revision would reduce Federal requirements related to the relocation assistance program. Priority review completed. *Further* action to be determined pending issuance of government-wide relocation and *acquisition* regulations. See "Review of Existing Regulations" portion of this Agenda. **CFR Citation:** 23 CFR pt. 740 **Legal Authority:** 42 U.S.C. 4601 et seq; 23 U.S.C. 315 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** *Robert J. Moore,* (202) 426-0116	Further action to be determined.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Review: The Acquisition Function.	**Abstract:** This revision would reduce regulatory burdens and associated costs to State highway agencies in the area of acquisition of real property for rights-of-way on Federal-aid highway projects. Further action to be determined pending issuance of government-wide relocation and acquisition regulations. **CFR Citation:** 23 CFR pt. 712 **Legal Authority:** 42 U.S.C. 2000d-1, 4633, 4651-4655; 23 U.S.C. 315, 323. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Douglas A. Wubbels, (202) 426-0142	Further action to be determined.		
	HIGHWAY SAFETY			
Highway Safety Improvement Program.	**Abstract:** Section 125 of the Highway Improvement Act of 1982 extended the eligibility of Hazard Elimination Program funds from Federal-aid highways other than the Interstate System to any public road other than the Interstate System. Regulations must be revised to reflect this change. **CFR Citation:** 23 CFR pt. 924 **Legal Authority:** 23 U.S.C. 152; Section 125 of the Highway Improvement Act of 1982. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Howard Hanna, (202) 426-2131	FR	*11/83*	
	FEDERAL MOTOR CARRIER SAFETY REGULATIONS			
Toxic Gases in Truck Cabs (Docket No. MC-80).	**Abstract:** This regulation would set maximum toxic gas levels in truck cabs. No further action is anticipated within the next 6 months. **CFR Citation:** 49 CFR pt. 392 **Legal Authority:** 49 U.S.C. 304 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Neill Thomas, (202) 426-9767	ANPRM NPRM Further action to be determined.	1/78 6/18/79	43 FR 120 44 FR 34992
Ambient Temperature in Heavy Duty Truck Cabs (Docket No. MC-81).	**Abstract:** This regulation would set maximum permissible ambient temperatures in truck cabs. No further action is anticipated within the next 6 months. **CFR Citation:** 49 CFR pt. 399 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Neill Thomas, (202) 426-9767	ANPRM Further action to be determined.	2/6/79	43 FR 5397
Review: Compliance with Motor Carrier Noise Standards.	**Abstract:** The FHWA is considering amending the noise emission standards to add a new minimum distance of 31 feet from which to measure highway noise. FHWA is also considering eliminating the correction factor which allowed a variance for noise tests taken at hard sites, e.g., asphalt, compared to those taken at soft sites, e.g. grassy areas. **CFR Citation:** 49 CFR *pt. 325* **Legal Authority:** 49 USC 304 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Neill Thomas, (202) 426-9767	NPRM Further action to be determined.	4/3/80	45 FR 22120
Rear Vision Mirrors (Docket MC-82-1).	**Abstract:** This amendment would serve to clarify the rule change published May 1, 1979, and was developed in response to a rulemaking petition. **CFR Citation:** 49 CFR pt. 393 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact)	NPRM *FR*	10/9/80 *10/83*	45 FR 87101

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	Additional Information: None **Agency Contact:** Neill Thomas, (202) 426-9767			
Review: Inspection, Repair, and Maintenance.	**Abstract:** The FHWA is proposing to amend Part 396 of the Federal Motor Carrier Safety Regulations (FMCSR) to exempt lightweight vehicles from the paperwork requirements of this part, to eliminate the special inspection required for vehicles leased less than 30 days, and to eliminate the requirement for drivers to sign a vehicle inspection report which, when reviewed, shows no defects. The primary effect of these proposed rule changes would be to reduce the paperwork burden imposed upon the motor carrier industry. **CFR Citation:** 49 CFR pt. 396 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Neill Thomas, (202) 426-9767	NPRM FR	6/17/82 *10/83*	47 FR 26172
Review: Disqualifying Offenses, Drugs.	**Abstract:** The FHWA is considering amending the Disqualification of Drivers regulation (49 CFR 391.15) by reviewing and enlarging that group of substances and drugs whose use by drivers operating commercial motor vehicles is forbidden and is considered a disqualifying offense. **CFR Citation:** 49 CFR pt. 391 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Neil Thomas, (202) 426-9767	NPRM *FR*	11/24/80 *11/83*	45 FR 77466 *48 FR*
Review: The Use of 4-Way Flashers on Slow Moving Vehicles.	**Abstract:** This action will consider changing existing regulations to allow the use of 4-way flashers to warn of potential hazards, and was developed in response to a rulemaking petition. No action is anticipated on this change within the next 6 months. **CFR Citation:** 49 CFR 392.15 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Neill Thomas, (202) 426-9767	NPRM *FR*	12/11/80 *10/83*	45 FR 81621
Written Examination	**Abstract:** The FHWA is considering a revision of the written examination requirement for commercial vehicle drivers. The options being considered are (1) rescission of the requirement, (2) leaving the requirement as it is and updating the questions, or *(3)* changing the requirement to a pass/fail situation. **CFR Citation:** 49 CFR 391.35 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Neill Thomas, (202) 426-9767	NPRM Further action to be determined.	3/4/82	47 FR 4256
Retail Fertilizer Distribution Exemption.	**Abstract:** The FHWA proposes to exempt drivers and vehicles transporting fertilizer, dry and liquid, in specific fertilizer distribution and application equipment from the Federal Motor Carrier Safety Regulations with few exceptions. **CFR Citation:** 49 CFR pt. 390 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Jos. J. Fulnecky, (202) 426-0033	ANPRM Further action to be determined.	2/82	47 FR 5273

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Review: Notification, Reporting and Recording of Accidents.	**Abstract:** The proposed revision deals primarily with revising the truck and bus accident report forms. Being considered are (1) the consolidation of both forms into one, (2) reducing the number of copies to be filed and (3) raising the reporting threshold from the present $2,000 to a higher figure. **CFR Citation:** 49 CFR pt. 394 **Legal Authority:** 49 U.S.C. 304, 320, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** James K. O'Steen, (202) 426-1700	NPRM	*10/83*	
Railroad Grade Crossings	**Abstract:** The FHWA is considering a revision that would make this Federal regulation more consistent with the Uniform Vehicle Code with respect to stopping requirements. **CFR Citation:** 49 CFR 392.10 **Legal Authority:** 49 U.S.C. 304 **Effects on Small Entities** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **G. Agency Contact:** Joseph J. Fulnecky, (202) 426-0033	ANPRM NPRM	11/18/82 *Fall 1984*	47 FR 51904
Minimum Levels of Financial Responsibility for Motor Carriers of Passengers.	**Abstract:** In accordance with Section 18 of the Bus Regulatory Reform Act of 1982, rulemaking action is being initiated to implement the law. This regulation would establish certain requirements for levels of insurance or other evidence of financial responsibility which must be maintained by motor carriers of passengers. **CFR Citation:** 49 CFR pt. 387 **Legal Authority:** Section 18 of Bus Regulatory Reform Act of 1982. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Final rule must be in place by November 19, 1983. **Agency Contact:** Neill L. Thomas, (202) 426-*9767*	NPRM FR	*5/31/83* 10/83	*48 FR 24147*
Review: Driver Qualification Files.	**Abstract:** The FHWA is considering a revision to the Federal Motor Carrier Safety Regulations that would exempt motor carriers and drivers from the driver qualification rules regarding certain paperwork and administrative requirements for drivers of lightweight vehicles having a gross vehicle weight rating of between 10,000 and 15,000 pounds. **CFR Citation:** 49 CFR pt. 391 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** An ANPRM was issued on August 30, 1982 (47 FR 39698). Comment period closed on October 25, 1982. No further action anticipated until additional research is completed; earliest possible action scheduled within the next 6 months. **Agency Contact:** Neill L. Thomas, (202) 426-9767	*NPRM* *FR*	*4/4/83* *10/83*	*48 FR 14413*
Review: Disqualification of Drivers (Traffic Records).	**Abstract:** This proposal would require the disqualification of Interstate truck and bus drivers based on the driver's traffic or accident record. **CFR Citation:** 49 CFR pt. 391, Subpart B **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Neill L. Thomas, (202) 426-9767	ANPRM NPRM	9/27/82 *1984*	47 FR *42383*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
*Motor Carrier Safety Assistance Program.	**Abstract:** The interim final rule announced that the FHWA intends to make grants to qualified States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and hazardous materials transportation by highway and compatible States' rules, regulations, standards, and orders. The interim final rule pescribes procedures for administration of the grant program until a final rule is promulgated.. **CFR Citation:** 49 CFR pt. 350 **Legal Authority:** Sections 401–404 of STAA of 1982; 49 U.S.C. 2301–2304. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** A 90-day public comment period was established. **Agency Contact:** W. R. Fiste, (202) 426-0701	Interim Final Rule. FR	8/31/83 Summer 1984	48 FR 39455

Other Rulemakings: Routine and Frequent

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	TOTAL ACTIONS EXPECTED—ENGINEERING AND TRAFFIC OPERATIONS			
Manual on Uniform Traffic Control Devices. 23 USC 109(b), (d), 402(a).	*3* **Agency Contact:** J. C. Partlow, (202) 426-0411		*12/83*	
	RIGHT-OF-WAY AND ENVIRONMENT			
Relocation Assistance-Moving Payments-Moving Expense Schedules. (42 U.S.C. 4601 et seq; 23 U.S.C. 315, 23 CFR 740).	2 **Agency Contact:** Gerald Starkweather (202) 426-0117		*1/84*	

Reviews of Existing Regulations

Other Reviews

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	ENGINEERING AND TRAFFIC OPERATIONS			
Advance Construction of Federal-Aid Projects.	**Abstract:** This regulation has been selected for review because of FHWA policy on minimization of red tape. **CFR Citation:** 23 CFR pt. 630 **Legal Authority:** 23 USC 115 **Effects on Small Entities:** No **Agency Contact:** K. C. Kippley, (202) 426-0673	Completion of review.	1983	

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Reviews of Existing Regulations

Other Reviews—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Motorist Aid Systems	**Abstract:** This regulation has been selected for review because of FHWA policy on minimization of red tape. **CFR Citation:** 23 CFR pt. 655 **Legal Authority:** 23 USC 104, 105, 307, 315 **Effects on Small Entities:** No **Agency Contact:** Robert Harp, (202) 426-0411	Completion of review.	*6/84*	
Project Agreements	**Abstract:** This regulation has been selected for review because of FHWA policy on minimization of red tape. **CFR Citation:** 23 CFR pt. 630, subpart C **Legal Authority:** 23 USC 110 **Effects on Small Entities:** No **Agency Contact:** W. Besselieure, (202) 426-0450	Completion of review.	*6/84*	
Emergency Relief	**Abstract:** This regulation has been selected for review because of FHWA's policy on minimization of red tape. **CFR Citation:** 23 CFR pt. 668 **Legal Authority:** 23 USC 101, 1201(f), 125, 315; 42 USC 5155 **Effects on Small Entities:** No **Agency Contact:** J. A. Carney, (202) 426-0450	Completion of Review.	*12/83*	
Federal-Aid Program Approval and Authorization.	**Abstract:** This regulation has been selected for review because of FHWA's policy on minimization of red tape. **CFR Citation:** 23 CFR pt. 630A **Legal Authority:** 23 USC 105, 106, 118, 134, 315 **Effects on Small Entities:** No **Agency Contact:** J. A. Carney, (202) 426-0450	Completion of Review.	*12/83*	
	FEDERAL MOTOR CARRIER SAFETY REGULATIONS			
Rear End Underride Protection.	**Abstract:** This regulation has been selected for review to improve rear end protection on heavy motor vehicles in conjunction with action taken by the National Highway Traffic Safety Administration on January 18, 1981. **CFR Citation:** 49 CFR pt. 393 **Legal Authority:** 49 USC 304, 1655 **Effects on Small Entities:** No **Agency Contact:** Neill Thomas, (202) 426-9767	Completion of review.	*10/83*	

Completed Actions

Priority Rulemaking: Non-Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	PLANNING			
Review: Urban Transportation Planning.	**Abstract:** These regulations govern urban transportation planning under FHWA and UMTA grant programs. The chantes are intended to (1) increase flexibility at the State and local level, (2) reduce red tape and simplify the planning process especially for areas under 200,000 population, and (3) shift certain responsibilities from the Federal to the State and local level while maintaining an appropriate Federal oversight role. The rulemaking is significant because it involves important departmental policy. It is needed to reduce burdens associated with the urban transportation planning process. **CFR Citation:** 23 CFR pt. 450; 49 CFR pt. 613 **Legal Authority:** 23 U.S.C. 134 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation	NPRM FR	8/26/82 *6/30/83*	47 FR 36658 *48 FR 30332*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Completed Actions

Priority Rulemaking: Non-Major—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	Additional Information: Notice and request for comments on comprehensive review of urban transportation planning process published on December 17, 1981 (46 FR 61531). An NPRM was published on August 26, 1982 (47 FR 37758) and the closing date for comments was October 25, 1982. **Agency Contact:** FHWA: Sam Rea, (202) 426-2961; UMTA: Bob Kirkland, (202) 426-*2360*.			

Other Rulemakings

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Carpool and Vanpool Projects	**Abstract:** The existing regulation will require technical modifications to reflect the broader eligibility for Interstate and Interstate 4R funds established in STAA of 1982. *After a further review, it has been determined that the technical modifications reflecting provisions of the STAA of 1982 are not necessary. For this reason, no further regulatory action is required.* **CFR Citation:** 23 CFR pt. 656 **Legal Authority:** Sections 118 and 120 of STAA of 1982, Pub. L. 97-424.. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** John Ohm, (202) 426-0210	*Action Terminated.*		
	ENGINEERING AND TRAFFIC OPERATIONS			
Design and Construction Requirements for Highway Pedestrian Overpasses and Underpasses.	**Abstract:** This regulation would develop standards for the design and construction of pedestrian overpasses and underpasses for accessibility and usability by physically handicapped persons (per March 7, 1979, Agreements with Architectural and Transportation Barriers Compliance Board). This regulation would follow the completion of the research in progress entitled "Design Guidelines to make Crossing Structures Accessible to the Physically Handicapped". *It has been determined that regulatory action is not required at this time.* **CFR Citation** **Legal Authority:** 29 U.S.C. 794 (Sec. 504 of the Rehabilitation Act of 1973, as amended); 23 U.S.C. 142 (Sec. 165(b) of the Federal-Aid Highway Act of 1973, as amended). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Larry King, (202) 426-0306 or Lee Burstyn, (202) 426-0761..	*Action Terminated.*		
Review: Highway Construction Work to be Performed by Methods Other Than Contract Awarded by Competitive Bidding.	**Abstract:** This regulation was originally selected for review because of FHWA policy on minimization of red tape. The revisions to 23 U.S.C. 112 by section 112 of the STAA of 1982 will be incorporated into the revised regulations. These revisions change the exception to the general requirements of competitive bidding (23 U.S.C. 112) from a finding by the Secretary that some other method is in the public interest to a demonstration by the State highway department to the satisfaction of the Secretary that some other method is more cost-effective. It also changes the competitive bidding requirements for Federal-aid secondary projects advanced under Certification Acceptance. These changes will be incorporated in the revision to 23 CFR pt. 635. **CFR Citation:** 23 CFR pt. 635	*FR*	*5/23/83*	*48 FR 22911*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Completed Actions

Other Rulemakings—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 23 U.S.C. 112; Section 112 of the STAA of 1982. **Effects on Small Entities:** *No* **Analysis:** Regulatory Evaluation *(minimal impact)* **Additional Information:** *None* **Agency Contact:** P. E. Cunningham, (202) 426-0392			
Convict Labor	**Abstract:** The STAA of 1982 amended Section 114(b) of Title 23, U.S.C., which prohibits the use of convict labor on highway construction projects, to also prohibit the use of materials produced by convict labor. The revision will reflect the statutory language. **CFR Citation:** 23 CFR 635.124(a) **Legal Authority:** Section 148 of the STAA of 1982 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** P. E. Cunningham, (202) 426-0392	FR	*4/18/83*	*48 FR 16482*
Prevailing Rate of Wage	**Abstract:** The STAA of 1982 amended Section 113(a) of Title 23, U.S.C., relating to the application of the Davis-Bacon Act. The provision currently applies to "initial construction work performed on highway projects on the Federal-aid systems." This amendment deletes the word "initial." The revision will reflect the statutory language. **CFR Citation:** 23 CFR 635.124(d) **Legal Authority:** Section 149 of the STAA of 1982 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** P. E. Cunningham, (202) 426-0392	FR	*4/18/83*	*48 FR 16482*
*Landscape and Roadside Development: Vending Machines.	**Abstract:** This revision implements section 111 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). Section 111 permits States to allow vending machines in Interstate rest areas. The costs for installation, operation, and maintenance of the vending machines are ineligible for Federal-aid funding. **CFR Citation:** 23 CFR pt. 752 **Legal Authority:** 23 U.S.C. 131; 42 U.S.C. 432, *et seq.*; section 111 of STAA of 1982. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Wilson B. Harkins, (202) 426-0313	FR	8/26/83	48 FR 38609
*Pavement Marking Demonstration Program and Highway Safety Improvement Program.	**Abstract:** Amendments are being made to require that pavement marking projects and highway safety improvement projects be performed by contracts awarded by competitive bidding unless the State highway agency demonstrates that some other method is shown to be more cost effective pursuant to § 112 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). Section 125 of the STAA of 1982 is also implemented. **CFR Citation:** 23 CFR Parts 920 and 924 **Legal Authority:** 23 U.S.C. 112, 152(a), and 315; Sections 112 and 125 of STAA of 1982. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** James L. Rummel, (202) 426-0346	FR	9/27/83	48 FR 44064
	FEDERAL MOTOR CARRIER SAFETY REGULATIONS			

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Highway Administration

FHWA

Completed Actions

Other Rulemakings—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Radioactive Materials Routing	**Abstract:** This regulation exempts radioactive materials from the routing provisions contained in the Federal Motor Carrier Safety Regulations at 49 CFR 397.9. This action is necessary in order to prevent duplication of rules with RSPA's regulation on the same subject. Final Rule published January 8, 1981 (46 FR 2126); originally scheduled to go into effect on February 2, 1982. The RSPA rule has undergone priority review within the Department. See RSPA entry. **CFR Citation:** 49 CFR 397.9 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** *Since the final rule published on January 8, 1981 (46 FR 2126) has become effective, no further regulatory action is required.* **Agency Contact:** Joseph J. Fulnecky, (202) 426-0033	*Action Terminated.*		
Review: Qualification of Drivers.	**Abstract:** The FHWA is considering revising the regulation which provides that no waiver for handicapped drivers will be granted to drivers of buses or trucks transporting hazardous materials. **CFR Citation:** 49 CFR 391.49 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** Request for comments published on 6-12/80 (45 FR 39672). **Agency Contact:** Neill Thomas, (202) 426-9767	NPRM FR	11/8/82 *8/24/83*	47 FR 50528 *48 FR 38483*
	RIGHT-OF-WAY AND ENVIRONMENT			
*Appraisal Function; Reimbursement.	**Abstract:** This revision increases the minimum allowable payment for the acquisition of a parcel from $100 to $500 to reflect inflation and increased property values. **CFR Citation:** 23 CFR pt. 720 **Legal Authority:** 23 U.S.C. 315; 42 U.S.C. 4633 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal impact) **Additional Information:** None **Agency Contact:** Richard Moeller, (202) 426-0142	FR	7/11/83	48 FR 31637

Priority Reviews

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda. •Presidential Task Force priority review.]

Title	Summary	Timetable		
		Action	Date	Cite
	ENGINEERING AND TRAFFIC OPERATIONS			
• Buy America (23 CFR 635.410)	**Abstract:** This regulation implements the requirements of the Surface Transportation Assistance Act of 1978 that requires that preference be given to items produced in the United States in FHWA funded projects. The regulation has been the subject of considerable criticism and controversy. The controversy centers on the extent that the domestic steel industry deserves the protection afforded it under the statute, whether sufficient domestic supplies exist and the increased costs resulting from using more expensive domestic products. Review mooted by enactment of PL 97-424, Section 165. See "Priority Rulemakings: Non-Major" portion of agenda. **CFR Citation:** 23 CFR pt. 635 **Legal Authority:** Surface Transportation Assistance Act of 1978 **Effects on Small Entities:** No **Agency Contact:** *Alan Friesen, (202) 426-0355*	*Review* Terminated.		

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

FHWA

Federal Highway Administration

Completed Actions

Other Reviews

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda. •Presidential Task Force priority review.]

Title	Summary	Timetable		
		Action	Date	Cite
	GENERAL MANAGEMENT AND ADMINISTRATION			
Statement of Policy as to Administrative Action to be Taken in Instances of Irregularities.	**Abstract:** The debarment policies of the FHWA are being reviewed to determine if revisions to their coverage and the specific administrative procedures employed are appropriate. *Department of Transportation—wide debarment regulations will be issued by the Office of the Secretary of Transportation. Part 16 of 23 CFR will be rescinded simultaneously with issuance of OST regulations.* **CFR Citation:** 23 CFR pt. 16 **Legal Authority:** 23 U.S.C. 315 **Effects on Small Entities:** No **Agency Contact:** Hugh T. O'Reilly, (202) 426-0780	*Review Completed.*		
	ENGINEERING AND TRAFFIC OPERATIONS			
Required Contract Provisions - Federal-Aid Contracts.	**Abstract:** This regulation has been selected for review because of FHWA policy on minimization of red tape. *As a result of a final rule issued by the Department of Labor on April 29, 1983 (48 FR 19532), an extensive revision of the required contract provisions will be issued. See "Other Rulemakings" portion of agenda.* **CFR Citation:** 23 CFR pt. 633 **Legal Authority:** 23 U.S.C. 315 **Effects on Small Entities:** No **Agency Contact:** Alan Friesen, (202) 426-*0355*	*Review Completed.*		
Authorization to Proceed to Physical Construction.	**Abstract:** This regulation has been selected for review because of FHWA policy on minimization of red tape. *Rulemaking has been initiated. See "Other Rulemakings" portion of the agenda.* **CFR Citation:** 23 CFR pt. 635 **Legal Authority:** 23 U.S.C. 112, 114 **Effects on Small Entities:** No **Agency Contact:** Alan Friesen, (202) 426-*0355*	*Review Completed.*		
Contract Procedures - Claims and Claim Awards.	**Abstract:** This regulation has been selected for review because of the need to clarify existing requirements and promote consistency in participation determinations. *A decision has been made to initiate rulemaking. See "Other Rulemakings" portion of the agenda.* **CFR Citation:** 23 CFR 635.120 **Legal Authority:** 23 U.S.C. 112 **Effects on Small Entities:** No **Agency Contact:** *Alan Friesen, (202) 426-0355 or* Jim Dann, (202) 426–0786.	*Review Completed.*		
	FEDERAL MOTOR CARRIER SAFETY REGULATIONS			
The General Part of the Federal Motor Carrier Safety Regulations (FMCSR).	**Abstract:** This regulation has been selected for review because of FHWA policy on minimization of red tape, to improve and simplify the regulations. *Further action to be determined.* **CFR Citation:** 49 CFR pt. 390 **Legal Authority:** 49 U.S.C. 304, 1655 **Effects on Small Entities:** No **Agency Contact:** Neill Thomas, (202) 426-9767	*Review Completed.*		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

NHTSA

National Highway Traffic Safety Administration

Current and Projected Rulemakings

Priority Rulemakings: Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda. •Presidential Task Force priority review.]

Title	Summary	Timetable		
		Action	Date	Cite
	INFORMATION NOTICE The National Highway Traffic Safety Administration (NHTSA) has ordered the items that appear in the Agenda as follows. Proposals and regulations in this Agenda are subdivided into three subject areas. Within each of the subject areas, the entries are listed, where possible, in order of CFR section being amended or established. Entries for which a CFR section has not been identified are listed at the end of each subject area in the order in which they have been added to the Agenda. The first subject area is "Federal Motor Vehicle Safety Standards." The largest number of entries are in this area. These entries are listed by order of the safety standard being amended or established, since those numbers correspond to CFR section numbers. The second subject area is "Fuel Economy Standards and Exemptions." The third subject area is "Regulations Other Than Safety Standards and Fuel Economy Standards/Exemptions".			
	FEDERAL MOTOR VEHICLE SAFETY STANDARDS			
†Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems) (Docket No. 79-03).	**Abstract:** Would establish a new brake standard for all trucks, buses and trailers with a Gross Vehicle Weight Rating (GVWR) over 10,000 pounds. This standard would replace Standard No. 121, Air Brake Systems, and that portion of Standard No. 105, Hydraulic Brake Systems, that applies to vehicles with a GVWR over 10,000 pounds. It would also establish new requirements for heavy trailers having other than air-actuated brakes. In developing the standard, the agency will consider compatibility with international regulations. Research programs in support of this new standard and possible future upgradings of the standard will investigate such long-term advanced braking system concepts as automatic brake adjustors, load-sensing proportioning valves, air driers, and retarders for heavy trucks, buses and trailers. This rule is considered significant because of the level of public and Congressional interest. It is necessary to prevent and reduce the severity of accidents involving heavy vehicles by providing increased accident avoidance capability. **CFR Citation:** 49 CFR 571.121, 49 CFR 571.105 **Legal Authority:** 15 U.S.C. 1392, 1407, National Traffic and Motor Vehicle Safety Act of 1966, as amended. **Effects on Small Entities:** Yes **Analysis:** Regulatory Impact Analysis/Regulatory Flexibility Analysis. **Additional Information:** Two ANPRM's have been issued related to this rulemaking. The first was published February 15, 1979 (44 FR 9783; Notice 1). The second was published February 28, 1980 (45 FR 13155); Notice 3. **Agency Contact:** R. Hitchcock (202) 426-0842	ANPRM ANPRM Research underway.	2/15/79 2/28/80	44 FR 9783 45 FR 13155
Rear Lighting and Signalling (Docket No. 81-02).	**Abstract:** Would establish requirement for a *single center,* high-mounted *stoplamp on passenger cars, in addition to the stoplamps presently required. The purpose of the requirement would be to reduce rear end collisions by providing a more effective indication to drivers that the car ahead is slowing or stopping. This rule has been reclassified as major because it would have an annual effect on the economy of $100 million or more.* **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** *Regulatory Impact Analysis* **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	1/8/81 *Fall 1983*	46 FR 2132

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

Priority Rulemakings: Major—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda. •Presidential Task Force priority review.]

Title	Summary	Timetable		
		Action	Date	Cite
*Occupant Crash Protection (Docket No. 74-14).	**Abstract:** In 1981, NHTSA rescinded the automatic restraint requirements of Standard No. 208. This action was reversed by a June 1982 opinion by the U.S. Court of Appeals (D.C. Cir.) and by a June 1983 opinion by the Supreme Court. The Supreme Court remanded the case to the Court of Appeals with directions to remand the matter to the Department for further consideration consistent with the Supreme Court opinion. (The Court of Appeals remanded the matter to the Department effective September 23, 1983.) On September 1, 1983, the Department published a notice suspending until September 1, 1984, the automatic restraint requirements of the standard, to permit the agency time for the further review contemplated by the Supreme Court decision. That notice requested public comment on the suspension. **CFR Citation:** 49 CFR 571.208 **Legal Authority:** National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407). **Effects on Small Entities:** No **Analysis:** Regulatory Impact Analysis **Additional Information:** No **Agency Contact:** Kennerly Digges, (202) 426-1812	*Suspension of rule and request for comments.* NPRM	*9/1/83* October 1983	*48 FR 39908*
	FUEL ECONOMY STANDARDS			
Post-MY-1985 Light Truck Fuel Economy Standards.	**Abstract:** In accordance with the mandatory requirements of section 502(b) of the Motor Vehicle Information and Cost Savings Act, would establish light truck average fuel economy standards for model years 1986 and 1987. **CFR Citation:** 49 CFR pt. 533 **Legal Authority:** 15 U.S. 2002 **Effects on Small Entities:** No **Analysis:** Regulatory Impact Analysis **Additional Information:** None **Agency Contact:** William Boehly, (202) 426-1740	NPRM	1983	
	REGULATIONS OTHER THAN SAFETY STANDARDS AND FUEL ECONOMY STANDARDS/EXEMPTIONS			
†Crashworthiness Ratings (Docket No. 79-17).	**Abstract:** Ratings: Would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. **CFR Citation:** 49 CFR Ch.5 **Legal Authority:** National Traffic and Motor Vehicle Safety Act of 1966, as amended, and Motor Vehicle Information and Cost Savings Act, as amended, (15 U.S.C. 1401, Section 112(d); 15 U.S.C. 1941, Section 201(d)). **Effects on Small Entities:** Yes **Analysis:** Regulatory Impact Analysis/Regulatory Flexibility Analysis. **Additional Information:** NPRM published January 22, 1981 (46 FR 7025; Notice 1). Comment due date extended to October 22, 1981 by notice published April 2, 1981 (46 FR 19947; Notice 2). **Agency Contact:** William Boehly, (202) 426-1740	NPRM Further action to be determined.	1/22/81	46 FR 7025

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major

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Title	Summary	Timetable		
		Action	Date	Cite
	FEDERAL MOTOR VEHICLE SAFETY STANDARDS			
*Child Seating Systems	**Abstract:** In cooperation with the FAA, would amend Standard No. 213 to make child restraint systems appropriate for use in aircraft. This rulemaking is significant because it may involve important departmental policy. **CFR Citation:** 49 CFR 571.213 **Legal Authority:** 14 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	8/15/83 Fall 1983	48 FR 36849

Other Rulemakings

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Controls & Displays (Docket No. 1-18).	**Abstract:** Would amend the standard to include several symbols adopted by the International Standards Organization (ISO). **CFR Citation:** 49 CFR 571.101 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 23 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	11/4/82 Fall 1983	47 FR 49993
Controls and Displays (Docket No. 1-18).	**Abstract:** Would amend the light intensity requirements of Standard No. 101-80 to permit informational readout displays to be used for telltales. **CFR Citation:** 49 CFR 571.101-80 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 21 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *SNPRM*	2/1/82 *Fourth quarter* 1983	47 FR 4541
*Windshield Defoggers (Docket No. 83-10).	**Abstract:** In response to a petition for rulemaking, would require windshield defogging systems in passenger cars, multipurpose passenger vehicles, trucks and buses built for sale in parts of the United States other than the continental portion. (Defogging systems are already required for vehicles built for sale in the continental United States). **CFR Citation:** 49 CFR 571.103 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	7/14/83 *Fourth quarter* 1983	48 FR 32200
†Hydraulic Brake Systems	**Abstract:** Would change the parking brake gradient requirement for school buses with a GVWR of 10,000 pounds or less from 30 percent to 20 percent, while maintaining the recently adopted more stringent effort limits. This change would make the parking brake requirements for school buses with a GVWR of 10,000 pounds or less the same as for other buses, trucks and multipurpose passenger vehicles within that weight class. **CFR Citation:** 49 CFR 571.105 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** *None*	*Further action to be determined.*		

VOL 48 ISS 201 OCT 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
	Agency Contact: R. Hitchcock, (202) 426-0842			
*Hydraulic and Air Brake Systems (Docket Nos. 70-27 and 83-07).	**Abstract:** In response to a petition for rulemaking, would amend the brake burnish procedures specified for vehicles over 10,000 pounds by Standards No. 105 and No. 121. **CFR Citation:** 49 CFR 571.105 and 571.121 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** NPRM, Docket No. 70-27, Notice 26; Docket No. 83-07, Notice 1. **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	6/27/83 *Fourth quarter* 1983	48 FR 29560
*Hydraulic Brake Systems (Docket No. 70-27).	**Abstract:** In response to a petition for rulemaking, would permit smaller brake fluid reservoirs in vehicles with a GVWR greater than 10,000 pounds that are equipped with self-adjusting brakes and brake fluid level indicators. **CFR Citation:** 49 CFR 571.105 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	7/28/83 *Fourth quarter* 1983	48 FR 34306
Brake Hoses (Docket No. 82-02).	**Abstract:** Would consider amending portions of the standard that relate to adhesion properties of hose layers on air and vacuum brake hoses. This action results from a petition for rulemaking. **CFR Citation:** 49 CFR 571.106 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** *To be determined* **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	Notice granting petition for rulemaking. NPRM	2/18/82 *Fall* 1983	47 FR 7293
Brake Hoses (Docket No. 82-09).	**Abstract:** Would permit labelling of metric-size brake hoses in metric units rather than inches. This action results from a petition for rulemaking. **CFR Citation:** 49 CFR 571.106 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	4/12/82 *Fall* 1983	47 FR 15612
Rear Lighting and Signalling (Docket No. 81-02).	**Abstract:** *This entry has been moved to the Priority Rulemakings: Major Section of the NHTSA Agenda.*			
†Commercial Vehicle Conspicuity (Docket No. 80-9).	**Abstract:** Would improve the conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commerical vehicles (excluding headlights). **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation; Regulatory Flexibility Analysis **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	ANPRM Further action to be determined. *Research underway.*	5/27/80	45 FR 35405
Brake Systems (Docket No. 79-18).	**Abstract:** Would propose a new brake standard compatible with the harmonized brake standard now being developed by the United Nations Economic Commission for Europe (ECE). Initial efforts are directed toward requirements for passenger cars. **CFR Citation:** 49 CFR Part 571 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM	1983	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Lamps, Reflective Devices, and Associated Equipment.	**Abstract:** In response to a petition, would delete the requirement for use of a "Test Bulb" with stringent filament location specifications in testing lamp assemblies. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	*Further action to be determined.*		
Lamps, Reflective Devices, and Associated Equipment (Docket No. 81-19).	**Abstract:** In response to a petition for rulemaking, would amend the standard to reduce from 12 to 8 square inches the minimum effective projected luminous lens area of rear stop and turn signal lamps for large vehicles 80 inches or more in overall width. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *Further action to be determined.*	10/22/81	46 FR 51793
Lamps, Reflective Devices, and Associated Equipment (Docket No. 82-04).	**Abstract:** In response to a petition for rulemaking, would provide an alternative location for front identification lamps on vehicles whose overall width exceeds 80 inches, allowing them to be mounted on the top of the vehicle. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	2/22/82 *Fourth quarter* 1983	47 FR 7911
Lamps, Reflective Devices, and Associated Equipment (Docket No. 82-03).	**Abstract:** In response to a petition for rulemaking, would consider whether the cab of a vehicle is an acceptable alternative location for the mounting of clearance lamps. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	Further action to be determined.		
Lamps, Reflective Devices, and Associated Equipment (Docket No. 82-16).	**Abstract:** Would amend FMVSS 108 to allow installation of a modulating headlamp on motorcycles. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	9/23/82 *Fall 1983*	47 FR 42009
Lamps, Reflective Devices, and Associated Equipment.	**Abstract:** Would propose amending FMVSS 108 passenger car requirements to harmonize with some United Nations Economic Commission for Europe (ECE) requirements such as those concerning rear yellow turn signal photometrics, license plate lamp requirements, headlamp height and the test grid for stop, tail, turn and parking lamps. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	*8/1/83* *1984*	*48 FR 34784*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Rear View Mirrors (Docket No. 71-3a).	**Abstract:** This proposal would amend FMVSS 111 by establishing requirement for passenger cars to: a) reduce the blind areas by upgrading mirror visibility using improved compliance testing procedures, b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter resistant and breakaway or foldaway tests, c) set specifications for day-night reflectance requirements to reduce headlight glare, d) set specifications for convex mirror quality and use, and e) minimize obstruction of the forward view by establishing mirror location specifications. FR to permit use of passenger side convex mirrors published. *FR responding to petitions and clarifying 1982 FR published.* Remaining issues to be considered further by agency. **CFR Citation:** 49 CFR 571.111 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** To be determined for remaining issues **Additional Information:** NPRM, Notice 4; FR, Notice 6; *FR, Notice 7.* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR *FR* Further action to be determined. Research underway.	11/6/78 *9/2/82* *8/26/83*	43 FR 51657 47 FR 38698 *48 FR 38842*
Rear View Mirror Systems (Docket No. 71-3a).	**Abstract:** Would amend FMVSS No. 111 to improve mirror systems for trucks, buses and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less. **CFR Citation:** 49 CFR 571.111 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** NPRM, Notice 4 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM Further action to be determined.	11/6/78	43 FR 51657
Rear View Mirror Systems (Docket No. 71-3a).	**Abstract:** Would amend FMVSS No. 111 to improve mirror systems for trucks, buses and multipurpose passenger vehicles with a GVWR over 10,000 pounds. **CFR Citation:** 49 CFR 571.111 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** To be determined **Additional Information:** NPRM, Notice 4 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM Further action to be determined.	11/6/78	43 FR 51657
Tire Selection and Rims, Non-Passenger Cars. (Docket No. 80-16).	**Abstract:** These technical amendments would clarify existing requirements or resolve minor specific technical problems. **CFR Citation:** 49 CFR 571.120 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	10/30/80 *Fourth quarter* 1983	45 FR 71834
Air Brake Systems (Docket No. 79-03).	**Abstract:** Would delete the requirement in Standard No. 121 for a separate reservoir capable of releasing parking brakes. **CFR Citation:** 49 CFR 571.121 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** *To be determined* **Additional Information:** NPRM, Notice 5 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM Further action to be determined.	7/23/81	46 FR 37952
Motorcycle Controls *(Docket No. 83-13).*	**Abstract:** Would permit the manual fuel cutoff control on a motorcycle to *rotate about a longitudinal axis* as an alternative to the current requirement for operation *about a transverse axis.* **CFR Citation:** 49 CFR 571.123 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** *Regulatory Evaluation (minimal)* **Additional Information:** *NPRM, Notice 1* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	*9/6/83* *1984*	*48 FR 40286*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Motorcycle controls and displays *(Docket No. 83-14).*	**Abstract:** Would be amended to permit the use of words or symbols. **CFR Citation:** 49 CFR 571.123 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** *NPRM, Notice 1* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	*9/6/83* *1984*	*48 FR 40282*
†Steering Control Rearward Displacement.	**Abstract:** Would extend the applicability of the Standard from vehicles with an unloaded weight of 4,000 pounds to vehicles with an unloaded weight of 5,500 pounds. **CFR Citation:** 49 CFR 571.204 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	Further action to be determined.		
Glazing Materials (Docket No. 81-04).	**Abstract:** Would update FMVSS 205 by referring to latest edition of companion commercial standard (ANS Z-26), thereby permitting use of modern materials, and would also amend the standard to permit a new type of bullet resistant glazing. **CFR Citation:** 49 CFR 571.205 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** *Regulatory Evaluation (minimal)* **Additional Information:** NPRM, Notice 2 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	7/29/82 *Fall* 1983	47 FR 32749
†Glazing Materials (Docket No. 81-04).	**Abstract:** Would amend FMVSS No. 205 to permit the use of glass-plastic glazing materials. **CFR Citation:** 49 CFR 571.205 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** NPRM, Notice 2 **Agency Contact:** R. Hitchcock, (202) 426-0842	ANPRM NPRM *FR*	1/26/82 *3/10/83* *Fall 1983*	46 FR 8067 48 FR 10097
Seat Belt Assemblies (Docket No. 74-14).	**Abstract:** To improve seat belt comfort, convenience, reliability and effectiveness by prescribing parameters for performance of seat belt assemblies. Subject to review under Executive Order 12291. Final Rule in partial response to petitions for reconsideration deferring effective date from September 1, 1982, to September 1, 1983, published February 18, 1982 (47 FR 7254). *FR deferring* effective date to September 1, 1985, published *June 2, 1983 (48 FR 24717).* NHTSA plans to respond to the substantive portions of petitions for reconsideration at a later date. **CFR Citation:** 49 CFR 571.208 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** NPRM, Notice 17; FR, Notice 19; FR deferring effective date, Notice 24; NPRM for additional deferral of effective date, Notice 29. *FR for additional deferral, Notice 30.* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR FR deferring effective date to 9/1/83. *NPRM to defer effective date to 9/1/85.* *FR* *Further action to be determined.*	12/31/79 1/8/81 2/18/82 *11/15/82* *6/2/83*	44 FR 77210 46 FR 2064 47 FR 7254 17 FR 51432 *48 FR 24717*
Seat Belt Assemblies (Docket No. 80-06).	**Abstract:** Would amend FMVSS 209 to modify resistance to light test procedures. This action is in response to a petition for rulemaking. Subsequent to 1980 NPRM, new test procedures were developed, necessitating a new NPRM. **CFR Citation:** 49 CFR 571.209 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM NPRM	6/1/80 1983	45 FR 29102

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

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Title	Summary	Timetable		
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Child Restraint Tether Anchorages. (Docket No. 80-18).	**Abstract:** Would require lap belt and tether anchorages for use with child restraint systems. Alternatives being considered are whether to require anchorages and how many anchorages per car should be provided. **CFR Citation:** 49 CFR 571.210 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	12/11/80 *Fall 1983*	45 FR 81625
*Seat Belt Assembly Anchorages.	**Abstract:** Would propose amending Standard No. 210 to harmonize the strength of the anchorage test with the United Nations Economic Commission for Europe (ECE) Regulation No. 14 and to upgrade other requirements and clarify language. **CFR Citation:** 49 CFR 571.210 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM	1983	
Child Seating Systems *(Docket No. 74-09).*	**Abstract:** Would amend FMVSS 213 to change its buckle release pressure requirements. **CFR Citation:** 49 CFR 571.213 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *NPRM, Notice 12* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	*5/5/83* *Fall 1983*	*48 FR 20259*
Motorcycle Helmets	**Abstract:** The proposal would add new headform sizes to FMVSS 218. **CFR Citation:** 49 CFR 571.218 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** To be determined **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	Further action to be determined.		
School Bus Body Joint Strength (Docket No. 73-34).	**Abstract:** Would amend FMVSS 221 to modify the exempt status of maintenance access panels. **CFR Citation:** 49 CFR 572.221 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** NPRM, Notice 5 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *Further action to be determined.*	11/27/81	46 FR 57939
†Truck Rear Underride Protection (Docket No. 1-11).	**Abstract:** Would require protective devices to reduce vehicle penetration under the rear-ends of heavy trucks and trailers (without resulting in overly severe forces being transmitted to restrained and unrestrained occupants in vehicles that crash into the devices). **CFR Citation:** 49 CFR pt. 571 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** NPRM, Notice 8 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM Further action to be determined.	1/8/81	46 FR 2136
†Flammability of School Bus Interior Materials.	**Abstract:** Would utilize guidelines prescribed by UMTA to define flammability characteristics of School Bus Interior Materials. **CFR Citation:** 49 CFR Pt. 391 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** To be determined **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	Further action to be determined.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

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Title	Summary	Timetable		
		Action	Date	Cite
†Pedestrian Protection (Docket No. 78-19).	**Abstract:** Would reduce adult pedestrian leg injuries and child injuries through modification of the bumper area. **CFR Citation:** 49 CFR pt. 571 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM Further action to be determined. *Research underway.*	1/22/81	46 FR 7015
Seating Reference Point/Motor Vehicle Driver's Eye Range (Docket No. 82-05).	**Abstract:** Would update the definition of Seating Reference Point to incorporate latest industry practices and amend Standards 103, 104, 107 and 111 to reference SAE Recommended Practice J941e, Motor Vehicle Driver's Eye Range, instead of an earlier version of that recommended practice. **CFR Citation:** 49 CFR pt. 571 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	ANPRM *NPRM*	3/8/82 *1983*	47 FR 9865
	REGULATIONS OTHER THAN SAFETY STANDARDS AND FUEL ECONOMY STANDARDS/EXEMPTIONS			
*Highway Safety Standards	**Abstract:** This joint NHTSA/FHWA rulemaking would amend seven of the 18 Highway Safety Standards to eliminate apparent Federal paperwork requirements. **CFR Citation:** 23 CFR Pt. 1204 **Legal Authority:** 23 U.S.C. 402 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** None **Agency Contact:** George Reegle, (202) 426-0837	NPRM	Fall 1983	
Anthropomorphic Test Dummies.	**Abstract:** Would provide performance criteria for the adult surrogate dummies which would be required in dynamic testing of vehicles if Standard 214, Side Door Strength, is upgraded. **CFR Citation:** 49 CFR Part 572 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** *To be determined* **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	Further action to be determined.		
Tire Identification and Recordkeeping (Docket No. 74-12).	**Abstract:** Would amend tire registration requirements applicable to dealers whose business is not owned or controlled by a tire manufacturer to specify that those dealers must furnish a registration form to each tire purchaser at the time of sale after the dealer has filled in the tire identification number(s) of the tire(s) sold. The purchaser could then complete the registration form, affix postage, and mail the form back to the tire manufacturer. No change would be made in the tire registration requirements applicable to dealers whose business is owned or controlled by a tire manufacturer. **CFR Citation:** 49 CFR Part 574 **Legal Authority:** 15 U.S.C. 1392, 1401, 1407, 1418, 1421 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** None **Agency Contact:** R. Hitchcock, (202) 426-0842	Interim FR and request for comments. *FR*	*5/19/83* *Fall* 1983	*48 FR 22572*
Consumer Information–Stopping Distance *(Docket No. 83-09).*	**Abstract:** Would modify requirements for stopping distance consumer information. **CFR Citation:** 49 CFR 575.101 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** *NPRM, Notice 1* **Agency Contact:** William Boehly, (202) 426-1740	NPRM *FR*	*6/30/83* *1983*	*48 FR 30166*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Uniform Tire Quality Grading (Docket No. 25).	**Abstract:** Would amend the Uniform Tire Quality Grading Standards to prescribe a standardized process for translating treadwear and traction test results into tire grades. Also would expand the numerical increments used to denote treadwear grades. **CFR Citation:** 49 CFR Part 575 **Legal Authority:** 15 U.S.C. 1423 **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** NPRM, Notice 43 **Agency Contact:** William Boehly, (202) 426-1740	NPRM Further action to be determined.	2/2/81	46 FR 10429
Uniform Tire Quality Grading	**Abstract:** Would include rolling resistance for tires as a substitute for top temperature resistance grade in the Uniform Tire Quality Grading Standards. **CFR Citation:** 49 CFR Part 575 **Legal Authority:** 15 USC 1423 **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** None **Agency Contact:** William Boehly, (202) 426-1740	Further action to be determined.		
Uniform Tire Quality Grading (Docket No. 25).	**Abstract:** Provides methods for determining rim size and tire loading for UTQG test procedures. This action was necessary because UTQG test procedures previously relied upon a portion of Table 1, Appendix A of Safety Standard No. 109, which was deleted in a previous agency rulemaking. **CFR Citation:** 49 CFR 575.104 **Legal Authority:** 15 U.S.C. 1423 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** Interim FR, Notice 46 **Agency Contact:** William Boehly, (202) 426-1740	Interim FR and request for comments. *FR*	6/15/82 *Fall 1983*	47 FR 25930
Uniform Tire Quality Grading (Docket No. 25).	**Abstract:** Makes a technical correction to the UTQG test procedures concerning factors to be used in determining the load under which tires are to be tested for traction. Also provides that, for a two-year period, tires whose test loads would change significantly as a result of the use of the treadwear, temperature resistance and traction load factors shall continue to be tested at the loads used in UTQG testing prior to June 14, 1982. **CFR Citation:** 49 CFR 575.104 **Legal Authority:** 15 U.S.C. 1423 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Interim FR, Notice 48 **Agency Contact:** William Boehly, (202) 426-1740	Interim FR and request for comments. FR	8/12/82 *Fall 1983*	47 FR 34990
Uniform Tire Quality Grading (Dockets No. 25 and 80-14).	**Abstract:** Invites comments on using information either in privately published tire tables or in manufacturer submissions to the agency for determining loads for testing under both Federal Motor Vehicle Safety Standard No. 109 and the Uniform Tire Quality Grading Standards. **CFR Citation:** 49 CFR 575.104 **Legal Authority:** 15 U.S.C. 1423 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 49 (Docket 25) and Notice 4 (Docket 80-14). **Agency Contact:** William Boehly, (202) 426-1740	NPRM *FR*	8/19/82 *Fall 1983*	47 FR 36260
Consumer Information - Wet Stopping Distance.	**Abstract:** Would develop a new rule for consumer information if tests indicate that there are significant differences in wet stopping distances among different models of cars on asphalt or concrete road surfaces. **CFR Citation:** 49 CFR 575.105 **Legal Authority:** 15 USC 1392, 1407 **Effects on Small Entities:** No **Analysis:** To be determined	Further action to be determined.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
†Vehicle Classification - Compact Vans/Station Wagons.	**Additional Information:** None **Agency Contact:** William Boehly, (202) 426-1740 **Abstract:** Would invite comment on possible amendments to the safety and fuel economy regulations, with respect to the manner in which compact vans/station wagons and certain other vehicles are classified. **CFR Citation:** 49 CFR Pts. 571 and 523 **Legal Authority:** 15 U.S.C. 1392, 1407; 15 U.S.C. 2001 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** None **Agency Contact:** S. Wood, (202) 426-2992	Further action to be determined.		
Consumer Information Regulations (Docket No. 82-20).	**Abstract:** Would require manufacturers to place a prescribed sticker on the windshield or dashboard of new utility vehicles to alert drivers concerning their special handling. Would require similar information in the owner's manual. **CFR Citation:** 49 CFR pt. 575 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1 **Agency Contact:** William Boehly, (202) 426-1740	NPRM *FR*	12/30/82 *Fall 1983*	47 FR 58323
*Splash and Spray Suppression Devices.	**Abstract:** In accordance with the mandate of section 414 of the Surface Transportation Assistance Act of 1982, would establish minimum standards with respect to the performance of splash and spray suppression devices on truck tractors, semi-trailers and trailers. Would also establish minimum standards with respect to the installation of splash and spray suppression devices on new vehicles. **CFR Citation:** 49 CFR Part 583 **Legal Authority:** 49 U.S.C. 2314 **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** NHTSA's rulemaking would only affect new vehicles and equipment. However, section 414 of the Surface Transportation Assistance Act also mandates that the Department of Transportation establish minimum standards with respect to the installation of splash and spray devices for vehicles already in service. The Federal Highway Administration will conduct the rulemaking to satisfy that mandate. The Federal Highway Administration has classified its rulemaking as major. The costs of that rulemaking are expected to be much greater than NHTSA's rulemaking since (1) the population of vehicles in service is many times the annual production of new trucks, (2) a truck manufacturer will pay less per unit for each splash and spray suppression device when ordered in large quantities, and (3) the labor time to install the devices is far less for a new truck manufacturer, since it can be done at the assembly plant. **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM	Fall 1983	
*National Driver Register	**Abstract:** The National Driver Register Act of 1982 directs the agency to establish a new National Driver Register (NDR) that will assist states in electronically exchanging information about problem drivers. This rulemaking will establish the procedures for making an orderly transition from the current NDR system to the electronic system mandated by the Act. **CFR Citation:** To be determined **Legal Authority:** 23 U.S.C. 401 note **Effects on Small Entities:** No **Analysis:** To be determined **Additional Information:** None **Agency Contact:** Clay Hatch, (202) 426-4932	ANPRM	Fall 1983	
*Evidential Breath Testing Devices.	**Abstract:** Would convert NHTSA's standard on evidential breath testing devices to guidelines. **CFR Citation:** None	NPRM	Fall 1983	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 23 U.S.C. 402, 403 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** In the past, states using Federal funds to purchase evidential breath testing devices were required to purchase devices meeting NHTSA specifications, which were set forth in a standard. Since this requirement no longer applies to states, the reason for maintaining a standard no longer exists. The agency therefore plans to maintain the information in the form of guidelines. **Agency Contact:** R. Engle, (202) 426-1495			
*Calibrating Devices for Evidential Breath Testing Devices.	**Abstract:** Would convert NHTSA's standard on calibrating devices for evidential breath testing devices to guidelines. **CFR Citation:** None **Legal Authority:** 23 U.S.C. 402, 403 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** In the past, states using Federal funds to purchase calibrating devices for evidential breath testing devices were required to purchase devices meeting NHTSA specifications, which were set forth in a standard. Since this requirement no longer applies to states, the reason for maintaining a standard no longer exists. The agency therefore plans to maintain the information in the form of guidelines. **Agency Contact:** R. Engle, (202) 426-1495	NPRM	Fall 1983	

Reviews of Existing Regulations

Priority Reviews

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Title	Summary	Timetable		
		Action	Date	Cite
Head Restraints	**Abstract:** This regulation, which was promulgated in 1969, is designed to reduce the frequency and severity of neck injuries in passenger car accidents. It is estimated that the rule requires a recurring investment of $130 million (an additional cost of $19 per vehicle). **CFR Citation:** 49 CFR 571.202 **Legal Authority:** 15 USC 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Evaluation report published. Comments *docketed.* Subsequent action to be determined.	2/18/82	47 FR 7291
Side Door Strength	**Abstract:** This regulation provides minimum standards for side door crash resistance for passenger cars under static test conditions. NHTSA estimates that the standard saves 2,800 lives and averts 7,000 injuries a year. A recurring cost of $300 million (an additional cost of $38 per vehicle) is associated with the requirement. An initial review of this regulation, originally promulgated in 1974, was completed in 1979. **CFR Citation:** 49 CFR 571.214 **Legal Authority:** 15 USC 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Evaluation report published. Comments *docketed.* Subsequent action to be determined.	12/6/82	47 FR 54839

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Reviews of Existing Regulations

Priority Reviews—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Lamps, Reflective Devices, and Associated Equipment.	**Abstract:** This standard, which is applicable to both motor vehicles and equipment, specifies requirements for original and replacement lamps, reflective devices, and associated equipment necessary for signaling and for the safe operation of motor vehicles during darkness and other conditions of reduced visibility. The standard is being reviewed because of its relatively high costs and to refine previous agency estimates of its effectiveness. At the present time, the review is limited to the standards requirements for side marker lamps. An evaluation report will be prepared and made available for public comment before completion of the review. At that time, the agency will consider whether changes should be made in the standard's requirements. A review has determined that this rule has minimal effects on small entities, and therefore a Regulatory Flexibility Analysis (RFA) is not required. The rule will still be reviewed as a priority review item. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	*Evaluation report published. Comments requested. Subsequent action to be determined.*	*8/1/83*	*48 FR 34783*
Fuel System Integrity	**Abstract:** This standard, which is applicable to passenger cars, school buses, and light trucks, specifies requirements for the integrity of motor vehicle fuel systems. The purpose of the standard is to reduce deaths and injuries occurring from fires that result from fuel spillage during and after motor vehicle crashes. The standard is being reviewed to refine previous agency estimates of its effectiveness. An evaluation report will be prepared and made available for public comment before completion of the review. At that time, the agency will consider whether changes should be made in the standard's requirements. A review has determined that this rule has minimal effects on small entities, and therefore a Regulatory Flexibility Analysis (RFA) is not required. The rule will still be reviewed as a priority review item. **CFR Citation:** 49 CFR 571.301 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Evaluation report published. Comments *docketed.* Subsequent action to be determined.	1/10/83	48 FR 1089
Hydraulic Brake Systems	**Abstract:** This standard, which currently applies to passenger cars and school buses, specifies requirements for hydraulic service brake and associated parking brake systems. (The standard will become applicable, in modified form, to hydraulic braked trucks, all types of buses, and multipurpose passenger vehicles, in 1983. A priority review of this extension of the standard has already been completed). The purpose of the standard is to ensure safe braking performance under normal and emergency conditions. The standard is being reviewed because of its relatively high costs, and the controversial nature of some of its requirements, as well as to refine previous agency estimates of its effectiveness. An evaluation repod will be prepared and made available for public comment before completion of the review. At that time, the agency will consider whether changes should be made in the standard's requirements. It should also be noted that the agency is actively involved with the Economic Commission for Europe (ECE) in international harmonization efforts in this area. A review has determined that this rule has minimal effects on small entities, and therefore a Regulatory Flexibility Analysis (RFA) is not required. The rule will still be reviewed as a priority review item. **CFR Citation:** 49 CFR 571.105 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Evaluation report published. Comments *docketed.* Subsequent action to be determined.	3/10/83	48 FR 10096

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Reviews of Existing Regulations

Other Reviews

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Title	Summary	Timetable		
		Action	Date	Cite
School Bus Seating System	**Abstract:** This regulation was selected for review because of public interest. **CFR Citation:** 49 CFR 571.222 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Completion of Review.	1984	
Seating Systems	**Abstract:** This regulation was selected for review because of costs. **CFR Citation:** 49 CFR 571.207 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Completion of Review.	1984	
Child Seating Systems	**Abstract:** This regulation was selected for review because of public interest. **CFR Citation:** 49 CFR 571.213 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Completion of Review.	1984	
Occupant Protection	**Abstract:** This regulation was selected for review because of cost, safety benefits and public interest. **CFR Citation:** 49 CFR 571.208 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Completion of Review.	To be determined	
Impact Protection for the Driver from the Steering Control System and Steering Control Rearward Displacement.	**Abstract:** This regulation was selected for review because of safety benefits. **CFR Citation:** 49 CFR 571.203, 49 CFR 571.204 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Evaluation Report, published. Subsequent action to be determined.	1/26/81	46 FR 8066
Windshield Glazing Materials	**Abstract:** This regulation was selected for review because of costs, and safety benefits. **CFR Citation:** 49 CFR 571.20 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Completion of Review.	1983	
Windshield Mounting	**Abstract:** This regulation was selected for review because of costs, and safety benefits. **CFR Citation:** 49 CFR 571.212 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Agency Contact:** Frank Ephraim, (202) 426-1574	Completion of Review.	1983	
†*School Bus Body Joint Strength.	**Abstract:** Establishes requirements for the strength of the body panel joints in school bus bodies. The purpose of the standard is to reduce deaths and injuries resulting from the structural collapse of school bus bodies during crashes. The review is associated with the Regulatory Flexibility Act requirement. **CFR Citation:** 49 CFR 571.221 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** To be determined **Additional Information:** None **Agency Contact:** Ellen Kranidas (202) 426-1600	Completion of Review.	1984	
†*School Bus Rollover Protection.	**Abstract:** Establishes performance requirements for school bus rollover protection. The purpose of the standard is to reduce the number of deaths and the severity of injuries that result from the failure of the school bus body structure to withstand forces encountered in rollover crashes. The review is associated with the Regulatory Flexibility Act requirement. **CFR Citation:** 49 CFR 571.220 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** To be determined **Additional Information:** None	Completion of Review.	1984	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Completed Actions

Other Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
*Hydraulic Brake Systems (Docket No. 70.27).	**Abstract:** Allows manufacturers of vehicles over 10,000 pounds GVWR, for which an abbreviated test sequence is specified, the option of conducting the full sequence of tests prior to the parital systems effectiveness test. The additional tests give the brakes more conditioning. **CFR Citation:** 49 CFR 571.105 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** NPRM, Notice 27; FR, Notice 28 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	7/14/83 9/2/83	48 FR 32202 48 FR 39939
Lamps, Reflective Devices, and Associated Equipment (Docket No. 81-11).	**Abstract:** In response to a petition for rulemaking, *amends* FMVSS No. 108 to modify headlamp configurations and add tests for semisealed headlamps. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *NPRM, Notice 1; FR, Notice 2 Response to petitions for reconsideration, Notice 4. Several changes were made in response to the petitions for reconsideration.* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR *Response to petitions for reconsideration.*	1/17/83 *6/2/83* *9/30/83*	48 FR 1992 *48 FR 24690*
Lamps, Reflective Devices, and Associated Equipment (Docket No. 82-17).	**Abstract:** In response to a petition for rulemaking, *allows* motor vehicles to be equipped with a new two-lamp rectangular sealed beam headlamp system smaller than that currently permitted. **CFR Citation:** 49 CFR 571.108 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1; *FR, Notice 2* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	11/14/82 *5/16/83*	47 FR 45889 *48 FR 21955*
Rear View Mirror (Docket No. 81-21).	**Abstract:** In response to a petition for rulemaking, permits the optional use of crossview mirrors of variable, short radius of curvature on school buses.. **CFR Citation:** 49 CFR 571.111 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** NPRM, Notice 1; FR, Notice 2 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	12/10/81 *9/6/83*	46 FR 60481 *48 FR 40260*
Federal Vehicle Identification Number (Docket No. 1-22).	**Abstract:** *Changes the* Federal Vehicle Identification Number requirement from a Federal Motor Vehicle Safety Standard to an administrative regulation. **CFR Citation:** 49 CFR 571.115 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 11; *FR, Notice 12* **Agency Contact:** R. Hitchcok, (202) 426-0842	NPRM FR	9/23/82 *5/19/83*	47 FR 42004 *48 FR 22567*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Completed Actions

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Power-Operated Window Systems (Docket No. 82-07.	**Abstract:** In response to a petition for rulemaking, *permits* operation of power windows after the ignition has been turned off but only until a door has been opened. **CFR Citation:** 49 CFR 571.118 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1; *FR, Notice 2* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	4/1/82 *5/5/83*	47 FR 13845 *48 FR 20237*
* Motorcycle Controls and Displays (Docket No. 80-05).	**Abstract:** Amends Standard No. 123 to allow use of "r/min" as an alternative to "R.p.m." to indicate revolutions per minute on the tachometer. **CFR Citation:** 49 CFR 571.123 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** NPRM, Notice 1; FR, Notice 2 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM FR	4/10/80 9/20/83	45 FR 24515 48 FR 42819
Seat Belt Assemblies (Docket No. 82-15).	**Abstract:** *Amends* Standard 209 by updating reference to a number of recommended practices and test procedures, incorporating by reference the latest versions of these documents, instead of earlier versions. **CFR Citation:** 49 CFR 571.209 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1; *FR, Notice 2* **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM *FR*	7/22/82 *6/30/83*	47 FR 31712 *48 FR 30138*
Tire Identification and Recordkeeping. (Docket No. 80-20).	**Abstract:** Would require ID on outward-facing sidewall of motor vehicle tires. **CFR Citation:** 49 CFR pt. 574 **Legal Authority:** 15 U.S.C. 1392, 1401, 1407, 1418, 1421 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation *(minimal)* **Additional Information:** NPRM, Notice 1 **Agency Contact:** R. Hitchcock, (202) 426-0842	NPRM Action terminated.	12/15/80 *5/2/83*	45 FR 82293 *48 FR 19761*
* Bumper Standard (Docket No. 73-19).	**Abstract:** This interpretive amendment clarifies the wording of a May 20, 1982, amendment concerning which equipment is removed from a vehicle before testing. **CFR Citation:** 49 CFR 581 **Legal Authority:** 15 U.S.C. 1392, 1407, 1912 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation (minimal) **Additional Information:** FR, Notice 32 **Agency Contact:** N. Gordy, (202) 426-1740	FR	9/23/83	48 FR 43331

NHTSA

Completed Actions

Other Reviews

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Title	Summary	Timetable		
		Action	Date	Cite
†*New Pneumatic Tires	**Abstract:** Specifies tire dimensions and laboratory test requirements for bead unseating resistance, strength, endurance, and high speed performance; defines tire load ratings; and specifies labeling requirements for passenger car tires. A review has determined that this rule has minimal effects on small entities, and, therefore, a Regulatory Flexibility Analaysis (RFA) is not required.	Review completed. RFA not required.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

National Highway Traffic Safety Administration

NHTSA

Completed Actions

Other Reviews—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	CFR Citation: 49 CFR 571.109 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Additional Information:** None **Agency Contact:** Ellen Kranidas, (202) 426-1600			
†*New Pneumatic Tires for Other Than Passenger Cars.	**Abstract:** Establishes performance and marking requirements for tires for use on multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles. A review has determined that this rule has minimal effects on small entities and, therefore, a Regulatory Flexibility Analysis (RFA) is not required. **CFR Citation:** 49 CFR 571.119 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Additional Information:** None **Agency Contact:** Ellen Kranidas, (202) 426-1600	Review completed. RFA not required.		
†*Vehicle Identification Number.	**Abstract:** Specifies requirements for vehicle identification numbers to reduce the incidence of accidents resulting from unauthorized use. A review has determined that this rule has minimal effects on small entities, and therefore, a Regulatory Flexibility Analysis (RFA) is not required. **CFR Citation:** 49 CFR 571.115 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Additional Information:** None **Agency Contact:** Ellen Kranidas, (202) 426-1600	Review completed. RFA not required.		
†*Motorcycle Controls and Displays.	**Abstract:** Specifies requirement for the location, operation, identification, and illumination of motorcycle controls and displays, and requirements for motorcycle stands and footrests. A review has determined that this rule has minimal effects on small entities, and, therefore, a Regulatory Flexibility Analysis (RFA) is not required. **CFR Citation:** 49 CFR 571.123 **Legal Authority:** 15 U.S.C. 1392, 1407 **Effects on Small Entities:** No **Additional Information:** None **Agency Contact:** Ellen Kranidas, (202) 426-1600	Review completed. RFA not required.		

Federal Railroad Administration

FRA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
*Alcohol and Drugs (Docket No. RSOR-6).	**Abstract:** The ANPRM invites comments on the problem of alcohol and drug use by employees engaged in rail operations and the options for regulatory or other action. Alcohol and drugs may impair the performance of operating employees such as train and engine crews, and such impairment has been implicated in a number of serious railroad accidents. This rulemaking is significant because of substantial public interest. **CFR Citation:** 49 CFR pt. 218 **Legal Authority:** 45 U.S.C. 431 **Effects on Small Entities:** No **Analysis:** Regulatory evaluation	ANPRM NPRM	7/5/83 11/83	49 FR 30723

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Railroad Administration

FRA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
	Additional Information: FRA held public hearings to gather information. Hearings were held in Atlanta, Georgia (July 25, 1983), Kansas City, Missouri (July 26, 1983), Sacramento, California (July 28, 1983), and Washington, D.C. (September 1, 1983). **Agency Contact:** Walter Rockey, (202) 426-0895			

Other Rulemakings

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Railroad Noise Emission Compliance Regulations (Docket No. RNE-1).	**Abstract:** The proposed rule would amend FRA railroad noise emission compliance regulations to reflect EPA Standards for fixed railroad facilities that were published on January 4, 1980, and becomes effective on January 1, 1984. **CFR Citation:** 49 CFR pt. 210 **Legal Authority:** 42 USC 4916 **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** None **Agency Contact:** Steve Urman, *(202)* 426-9178	NPRM *FR*	*8/11/83* *11/83*	*48 FR 36487*
Safety Standards for Cabooses (Docket No. RSC-76-6).	**Abstract:** The proposed rule would seek to establish comprehensive safety standards for cabooses. **CFR Citation:** 49 CFR pt. 237 **Legal Authority:** 45 USC 431, 438 **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** None **Agency Contact:** *Philip Olekszyk, (202) 426-0897*	Further action to be determined.		
Review: Signal and Train Control Regulations.	**Abstract:** Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements of Parts 235 and 236. **CFR Citation:** 49 CFR pts. 235, 236 **Legal Authority:** 49 USC 1226, 1655 **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** None **Agency Contact:** S. H. Stotts, (202) 426-0912	NPRM FR	3/21/83 *10/83*	48 FR 11882
Amendments to Regulations Implementing Section 905 of the 4R Act.	**Abstract:** This action would amend 49 CFR Part 265 to make changes necessitated by the promulgation of the Department of Transportation's comprehensive Minority Business Enterprise regulation (49 CFR Part 23). Part 265 will be revised to omit those provisions now covered in Part 23. **CFR Citation:** 49 CFR pt. 265 **Legal Authority:** Pub. L. 94-210 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mark H. Tessler, (202) 426-7737	NPRM	*1/84*	
Railroad Passenger Equipment Safety Standards (Docket No. RSSI-82-1).	**Abstract:** Development of initial passenger equipment safety standards mandated by Section 202 of the Federal Railroad Safety Act of 1970, as amended by P.L. 97-468. **CFR Citation:** 49 CFR pt. 214 **Legal Authority:** 45 USC 431, 438 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation	Notice of Hearings. NPRM	4/22/82 *12/83*	47 FR 17302

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Railroad Administration

FRA

Current and Projected Rulemakings

Other Rulemakings—Continued

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
†Special Safety Inquiry	**Additional Information:** Public hearings were held 5/24, 26, 28 and 6/1, 3/82. **Agency Contact:** Philip Olekszyk, (202) 426-0895 **Abstract:** FRA has initiated a Railroad Safety Inquiry to obtain information from the public to assist in evaluating and improving its safety regulatory program as it applies to "small railroads". The inquiry will also assist in meeting the goals of the Regulatory Flexibility Act by obtaining data that will assist in defining the economic impact of existing rules on small railroads. **CFR Citation:** Not Applicable **Legal Authority:** Pub. L. 96-354 **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation	Notice of Hearings. Further action to be determined.	8/3/81	46 FR 39461
Rules of Practice	**Additional Information:** Public hearings were held during 9, 10, 11/81. **Agency Contact:** Philip Olekszyk, (202) 426-0895 **Abstract:** This proposed rule would amend 49 CFR Part 211 to respond to the provisions of the Regulatory Flexibility Act of 1980 by defining the criteria used by FRA in determining whether any regulatory proposal or final rule will have a significant economic impact on a substantial number of small entities. **CFR Citation:** 49 CFR pt. 211 **Legal Authority:** Pub. L. 96-354 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Lawrence I. Wagner, (202) 426-8836	NPRM	*10/83*	
Commuter Track Standards (Docket No. RST–4).	**Abstract:** This action would amend Track Safety Standards to apply appropriate safety principles to track used for commuter or other short-haul rail passenger service in a metropolitan or suburban area, as mandated by the Federal Railroad Safety Authorization Act of 1982. **CFR Citation:** 49 CFR Part 213 **Legal Authority:** Sec. 702(c), Pub. L. 97-468 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Philip Olekszyk, (202) 426-0897	NPRM *FR*	*9/2/83* *1/84*	*48 FR 39965*
Removal of Roof Running Boards (Docket No. SA-3).	**Abstract:** The proposed rule would delete the requirement for removal of roof running boards from certain box and other house cars as requested by the Association of American Railroads. **CFR Citation:** 49 CFR 231.1 note **Legal Authority:** 45 U.S.C. 12 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *None* **Agency Contact:** Philip Olekszyk, (202) 426-0897	NPRM	*10/83*	
*Hump Yards (Docket No. RSOR-7).	**Abstract:** The proposed rule would amend 49 CFR Part 218 to require railroads to establish procedures under which train and yard crews performing certain functions on hump yard tracks would be protected from injury or death as a result of unanticipated movement of the equipment on which they are working. **CFR Citation:** 45 CFR pt. 218 **Legal Authority:** 49 U.S.C. 431, 438 **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** None **Agency Contact:** Lawrence Wagner, (202) 426-8836	NPRM *FR*	*10/4/83* *12/83*	*48 FR 45272*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Railroad Administration

FRA

Reviews of Existing Regulations

Other Reviews

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
†Regulatory Flexibility Act Reviews.	**Abstract:** In accordance with the Regulatory Flexibility Act (RFA) review plan published in the Federal Register on June 30, 1981 (46 FR 33693), FRA has not selected any specific regulations for RFA review at this time. Instead, FRA has established a plan to develop regulatory definitions of the criteria used in the RFA for the selection of regulations to be reviewed. A notice was published in the Federal Register on August 3, 1981 (46 FR 39461) initiating a safety inquiry to evaluate the effectiveness of the safety regulatory program as it applies to small railroads. **CFR Citation:** None **Legal Authority:** Pub. L. 96-354 **Effects on Small Entities:** Yes **Additional Information:** None **Agency Contact:** Lawrence I. Wagner, (202) 426-8836	*Review Plan* *Notice of Safety Inquiry Review.*	*6/30/81* *8/3/81*	*46 FR 33693* *46 FR 39461*

Completed Actions

Other Rulemakings

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Review: Safety Appliance Standards.	**Abstract:** Outgrowth of regulatory review in general safety inquiry. **CFR Citation:** 49 CFR pt. 231 **Legal Authority:** 45 U.S.C. 2, 4, 6, 8, 10, 11-16 **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** *New legislation eliminated the need for this rulemaking.* **Agency Contact:** Ralph R. Smith, (202) 426-9187	*Project terminated.*		
Alerting Lights on Locomotives (Docket No. RSGC-2).	**Abstract:** The proposed rule would require locomotives to display a lighted warning device at public rail-highway crossings at grade. **CFR Citation:** 49 CFR pt. 229 **Legal Authority:** 45 U.S.C. 22, 23, 28, 34; 49 U.S.C. 1655 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** A public hearing was held on 11/16/82. **Agency Contact:** Steve Urman, (202) 426-9178	ANPRM NPRM Withdrawal of NPRM. NPRM *Termination of Rulemaking.*	3/7/83 6/18/79 4/15/82 10/12/82 *5/5/83*	43 FR 9328 44 FR 34982 47 FR 16189 47 FR 44791 *48 FR 20257*
Removal of Roof Running Boards (Docket No. SA-3).	**Abstract:** This action amended § 231.1 of the Safety Appliance Standards by extending to December 31, 1983, the compliance date for removal of roof running boards from certain box and other house cars. **CFR Citation:** 49 CFR 231.1 note **Legal Authority:** 45 U.S.C. 12 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Philip Olekszyk, (202) 426-0897	FR	*5/31/83*	*48 FR 24083*
*Safety Glazing Standards (Docket No. RSGM-1).	**Abstract:** This action amended §§ 223.11, 223.13, and 223.15 of the Safety Glazing Standards by extending to December 31, 1983, the compliance date for retrofitting existing locomotives, passenger cars, and cabooses with improved glazing material. **CFR Citation:** 49 CFR pt. 223 **Legal Authority:** 45 U.S.C. 438, 431 **Effects on Small Entities:** No	FR	5/31/83	49 FR 24082

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Federal Railroad Administration

FRA

Completed Actions

Other Rulemakings—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
* Track Safety Standards (Docket No. RST 3 Notice No. 5).	**Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Philip Olekszyk, (202) 426-0897 **Abstract:** The final rule makes several conforming and technical amendments made necessary by the revision of the Track Safety Standards published on September 7, 1982 (47 FR 39396). **CFR Citation:** 49 CFR pts. 213 **Legal Authority:** 45 U.S.C. 431, 438 **Effects on Small Entities:** No **Analysis:** None. **Additional Information:** None. **Agency Contact:** William R. Paxton, (202) 426-0912.	FR	8/8/83	48 FR 35882

Urban Mass Transportation Administration

UMTA

Current and Projected Rulemakings

Priority Rulemakings: Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
†"Buy America" Requirements of Surface Transportation Assistance Act of 1978.	**Abstract:** This rulemaking proposes amendments to the existing Buy America Requirements. The amendments would permit subcomponents manufactured in the United States that receive Customs Bureau tariff exemptions to retain their domestic identity for purposes of determination of origin under the Buy America Requirements. A definition of "final assembly" is also proposed. This rulemaking is significant because there is substantial public interest concerning these regulations because of their impact on urban mass transportation projects. These regulations are needed to implement section 401 of the Surface Transportation Assistance Act of 1978. **CFR Citation:** 49 CFR pt. 660 **Legal Authority:** 49 U.S.C. 1602 note; P.L. 95-599, Section 401 **Effects on Small Entities:** Yes **Analysis:** Regulatory Impact Analysis/Regulatory Flexibility Analysis. **Additional Information:** The NPRM was published on January 19, 1981 (46 F.R. 6815). Comments on alternative approaches were invited until April 20, 1981. UMTA extended the comment period until May 20, 1981 (46 FR 23501). UMTA has reviewed this NPRM and determined not to proceed with this rulemaking. While this regulation is still effective and does apply to all UMTA funds obligated before Jan. 6, 1983, the Surface Transportation Assistance Act of 1983 (Pub. L. 97-424) imposes new and different Buy America requirements on UMTA recipients. Thus, UMTA has stopped all rulemaking activities on this regulation and *issued* a new Buy America regulation for the new requirements in the 1982 STAA *on September 15, 1983.* See next entry in this Agenda. UMTA will formally withdraw this NPRM in the future. **Agency Contact:** Edward J. Gill, (202) 426-4011	NPRM To be withdrawn.	1/18/81	46 FR 6815
†"Buy America" Requirements of the Surface Transportation Assistance Act of 1982.	**Abstract:** This rulemaking implements Section 165 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424). **CFR Citation:** 49 CFR pt. 661 **Legal Authority:** Section 165 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424). **Effects on Small Entities:** Yes	Emergency Final Rule. *Further action to be determined.*	*9/15/83*	*49 FR 41562*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Urban Mass Transportation Administration

UMTA

Current and Projected Rulemakings

Priority Rulemakings: Major—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	Analysis: Regulatory Impact Analysis/Regulatory Flexibility Analysis. **Additional Information:** UMTA *issued* this regulation as an emergency regulation in *September* 1983. UMTA is taking this action since the requirements in Section 165 of the 1982 STAA apply to all UMTA funds obligated after January 6, 1983. UMTA will determine what, if any, further regulatory activities to take based on a review of the comments. **Agency Contact:** Edward J. Gill, Jr., (202) 426-4063			

Priority Rulemakings: Non-Major

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Regulation Implementing the Nondiscrimination Section of the Urban Mass Transportation Act.	**Abstract:** The proposed regulations would unify the civil rights regulations that recipients of funds under the Urban Mass Transportation Act must meet. This rulemaking is significant because substantial public interest is anticipated. Regulations are needed to implement a new statutory provision which consolidates UMTA's authority to assure effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation. **CFR Citation:** 49 CFR pt. 626 **Legal Authority:** Section 19 of the UMT Act (49 U.S.C. 1615) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Section 19 was added to the UMT Act in November 1978 by the Surface Transportation Assistance Act of 1978. UMTA plans to issue an NPRM in *1984.* **Agency Contact:** Harry Takai, (202) 426-6371	NPRM	*4/84*	
Environmental Impact and Related Procedures.	**Abstract:** This regulation covers the preparation of environmental impact statements and related documents and compliance with other Federal environmental requirements under UMTA and FHWA grant programs. The changes are intended to streamline the project development process and provide increased decisionmaking authority to agency field offices. This rulemaking is significant because it involves important departmental policy. It is needed to reduce burdens associated with the environmental review process. **CFR Citation:** 23 CFR pt. 771, 49 CFR pt. 622 **Legal Authority:** 42 U.S.C. 4321 et seq., 23 U.S.C. 101 et seq., 49 U.S.C. 1601 et seq.; and 49 U.S.C. 1653(f). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Notice and request for comments on priority review of environmental process published on April 13, 1981 (46 FR 21620). An NPRM *was* published on *August 1, 1983.* **Agency Contact:** UMTA: Abbe Marner, (202) 426-2360; FHWA: Robert Gatz, (202) 426-0106.	NPRM *FR*	*8/1/83* *3/84*	*48 FR 34894*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Urban Mass Transportation Administration

UMTA

Current and Projected Rulemakings

Other Rulemakings

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
†Charter Bus Regulations	**Abstract:** These regulations provide information regarding the restrictions imposed by section 3(f) of the UMT Act (49 U.S.C. 1602(f)) on charter bus operations by UMTA recipients. *UMTA will publish an NPRM in October 1983.* **CFR Citation:** 49 CFR pt. 604 **Legal Authority:** 49 U.S.C. 1602(f) and 1608(c); and 49 CFR 1.51. **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** UMTA originally published these regulations on April 1, 1978 (41 FR 14123). UMTA published an ANPRM on January 19, 1981, that proposed extensive changes to the regulations. (46 FR 5394). The comment period closed on March 5, 1981. UMTA reviewed the comments received and recognized that there were many fundamental issues that needed further exploration. Consequently, UMTA decided to issue a new ANPRM rather than to continue to develop the previously issued ANPRM into an NPRM. The new ANPRM was published on Oct. 12, 1982, and *the* public comment period closed on Nov. 26, 1982. Based on comments to the ANPRM, UMTA *will publish an NPRM in October, 1983.* **Agency Contact:** Douglas G. Gold, (202) 426-*1936*	ANPRM NPRM	10/12/82 *10/83*	47 FR 44795
Innovative Techniques and Methods.	**Abstract:** These regulations would prescribe policies and procedures for administering the grant programs for projects using innovative techniques and methods in the management and operation of public transportation services under Section 4(i) of the UMT Act as amended. **CFR Citation:** 49 CFR pt. 644 **Legal Authority:** 49 U.S.C. 1603(i) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *UMTA will prepare two Circulars (one internal and one external) dealing with Innovative Techniques and methods 4(i).* UMTA will withdraw the NPRM and simultaneously publish program application instructions in the Federal Register. Until then, however, the NPRM should be used as guidance. **Agency Contact:** *Ray Lopez, (202) 426-8483*	NPRM *To be withdrawn*	12/1/80	45 FR 79669
Miscellaneous Amendments - Organization, Functions, and Procedures.	**Abstract:** These amendments will reflect modifications in the organization and distribution of functions as well as changes in the delegations of authority within the Urban Mass Transportation Administration. **CFR Citation:** 49 CFR pt. 601 **Legal Authority:** 49 USC 1657 and 1659 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Mary Pat Stephenson, (202) 426-4022	FR	*10/83*	
Technology Introduction	**Abstract:** These regulations would implement Section 3(a)(1)(C) of the UMT Act of 1964, as amended, by prescribing policies and procedures for administering the grant program for projects that would introduce new technology into public transportation. **CFR Citation:** 49 CFR pt. 641 **Legal Authority:** 49 U.S.C. 1602(a)(1)(c) **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation **Additional Information:** *UMTA will prepare two Circulars (one internal and one external) dealing with Technology Introduction 3(a)(1)(c).* UMTA has decided to withdraw this rulemaking activity and to issue it as non-regulatory policy guidance that will be published in the Notice section of the Federal Register. Until then, the January 19, 1981, NPRM should be used as guidance. **Agency Contact:** *Ray Lopez, (202) 426-8483*	NPRM *To be withdrawn*	1/19/81	46 FR 5832

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Urban Mass Transportation Administration

UMTA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
†School Bus Operations	**Abstract:** This regulation provides information regarding the restrictions imposed by section 3(g) of the UMT Act (49 U.S.C. 1602(g)) on the school bus operations by UMTA recipients. UMTA plans to issue an NPRM based on the Oct. 12, 1982 ANPRM in *November 1983*. **CFR Citation:** 49 CFR pt. 605 **Legal Authority:** 49 USC 1602(g), 1608(c)(6); 23 USC 103(e)(4), and 142(a), (c). **Effects on Small Entities:** Yes **Analysis:** Regulatory Evaluation/Regulatory Flexibility Analysis **Additional Information:** UMTA originally issued this regulation on April 1, 1976 (41 FR 14128). UMTA reviewed this regulation and issued an ANPRM that proposed three alternatives to the current regulation: (1) retain the existing regulation; (2) modify the definition of "tripper services," and (3) define "exclusive" school bus service. The public comment period closed on Nov. 26, 1982. **Agency Contact:** *Katharine Cowen,* (202) 426-4011	ANPRM NPRM	10/12/82 *11/83*	47 FR 44795

Completed Actions

Priority Rulemaking: Non-Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Urban Transportation Planning.	**Abstract:** These regulations govern urban transportation planning under FHWA and UMTA grant programs. The changes are intended to (1) increase flexibility at the State and local level, (2) reduce red tape and simplify the planning process, especially for areas under 200,000 population, and (3) shift certain responsibilities from the Federal to the State and local level while maintaining an appropriate Federal oversight role. This rulemaking is significant because it involves important departmental policy. It is needed to reduce burdens associated with the urban transportation planning process. **CFR Citation:** 23 CFR pt. 450; 49 CFR pt. 613 **Legal Authority:** 23 U.S.C. 104(f)(3), 134, and 315; Sections 3, 4(a) and 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602, 1603(a) and 1604); and 49 CFR 1.48(b) and 1.51(f). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Notice and request for comments on comprehensive review of urban transportation planning process published on December 17, 1981 (46 FR 61531). An NPRM was published on August 26, 1982 (47 FR 37758), and the closing date for comments was October 25, 1982. **Agency Contact:** UMTA: Bob Kirkland, (202) 426-4991 FHWA: Sam Rea, (202) 426-2961.	NPRM FR	8/26/82 *6/30/83*	47 FR 37758 *48 FR 3033*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Urban Mass Transportation Administration

UMTA

Completed Actions

Other Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
Exemption Procedures	**Abstract:** This regulation would establish procedures to allow persons subject to existing UMTA regulations to petition for exemptions from those regulations. *Action terminated on this rulemaking.* **CFR Citation:** 49 CFR pt. 602 **Legal Authority:** Section 12(a) of the UMT Act of 1964, as amended, 49 U.S.C. 1608(a). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Jocelyn Karp, (202) 426-4011	*Action terminated.*		
*Review - Uniform System of Accounts and Records and Reporting System.	**Abstract:** The review of the Section 15 regulation was completed in March 1983 and a minor revision was published in May, 1983. Further review of Section 15 reporting requirements to reduce the reporting burden and improve the effectiveness and increase the timeliness of information gathering and dissemination will be part of the task of the Section 15 Reporting System Advisory Committee. **CFR Citation:** 49 CFR pt. 630 **Legal Authority:** 49 U.S.C. 1611 **Effects on Small Entities:** No **Agency Contact:** Ronald Fisher, (202) 426-9157	Revision	5/23/83	48 FR 22926

Reviews of Existing Regulations

Other Reviews

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Uniform System of Accounts and Records and Reporting System.	**Abstract:** The review of the Section 15 regulation was completed *in* March 1983, *and a minor revision was published in May, 1983.* Further review of Section 15 reporting requirements to reduce the reporting burden and improve the effectiveness and increase the timeliness of information gathering and dissemination will be part of the task of the Section 15 Reporting System Advisory Committee. **CFR Citation:** 49 CFR Pt. 630 **Legal Authority:** 49 U.S.C. 1611 **Effects on Small Entities:** No **Agency Contact:** *Ronald Fisher (202) 426-9157*	*Review Completed.*		

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Saint Lawrence Seaway Development Corporation

SLSDC

Current and Projected Rulemakings

Other Rulemakings

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Operational Regulations	**Abstract:** Periodic update of 33 CFR Part 401 operational regulations developed, for the most part, jointly with the Seaway Authority of Canada. No alternatives can be considered. Cost will be borne primarily by foreign vessels, since these regulations relate to commercial users of the Seaway. The economic benefits to be derived from a safe and efficiently operated Saint Lawrence Seaway are considerable. *The Final Rule involves non-substantive changes to clarify a number of seaway regulations. The NPRM is a proposed revision to § 401.97 which will allow flexibility in imposing operational surcharges as provided for by the Saint Lawrence Seaway tariff of tolls.* **CFR Citation:** 33 CFR pt. 401 **Legal Authority:** 33 USC 981-990; 68 Stat. 93-96; Pub. L. 95-474, Secs. 4, 5 , 6, 7, 8, 12, 13 of Sec. 2. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Frederick A. Bush, (315) 764-3245	*FR* *NPRM*	*5/9/83* *7/5/83*	*48 FR 20690* *48 FR 30685*
Tariff of Tolls Amendment	**Abstract:** Revision of 33 CFR Part 402 in accordance with statutory procedures in 33 USC 988. *The revisions would change the charges to be assessed for the full or partial transit of the Saint Lawrence Seaway.* **CFR Citation:** 33 CFR pt. 402 **Legal Authority:** 33 USC 988; 68 Stat. 93-96 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Robert D. Kraft, (202) 426-3574	FR *NPRM*	4/1/82 *10/83*	47 FR 13803

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Tank Car Safety Improvements: Specifications and Retrofit (Docket No. HM-175).	**Abstract:** This project would extend the puncture and thermal protection systems now required for DOT 112 and 114 tank cars to existing *large* DOT 105 tank cars and to other newly constructed tank cars. (New construction of DOT 105 tank cars is addressed in Docket No. HM-174, Safety Improvement Program for DOT 105 Tank Cars). The rulemaking is significant because there is substantial public interest in tank car safety and in retrofit issues. It is needed to determine the extent to which current thermal and puncture standards should be applied to the existing DOT 105 tank car fleet, and to other similarly used tank cars. **CFR Citation:** 49 CFR Part 173 **Legal Authority:** 49 U.S.C. 1803, 1804, 1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** ANPRM published July 21, 1980 (45 FR 48668); public comment period closed October 16, 1980. *NPRM published on April 14, 1983 (48 FR 16188) with comment period ending June 7, 1983. Extension of comment period to July 13, 1983, published on June 6, 1983 (48 FR 25236).* **Agency Contact:** P. Olekszyk, (202) 426-0897	ANPRM NPRM *Further action to be determined.*	7/21/80 *4/14/83*	45 FR 48668 *48 FR 16188*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

[Key to Symbols. *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Review: Performance-Oriented Packaging Standards (Docket No. HM-181).	**Abstract:** To develop performance-oriented packaging standards for small packagings based on the Recommendation of the United Nations Committee of Experts on the Transport of Dangerous Goods. *Also includes former non-significant rulemakings entitled "Consolidation of Specifications and Establishment of Performance Standards for Specification Bags" (Docket No. HM-153), "Specifications for and Use of Specification 17 Steel Drums" (Docket No. HM-182), and "Organic Peroxide Requirements" (Project 186-72.)* The rulemaking is significant because a large number of specifications for packagings in the Hazardous Materials Regulations would be affected by this project. To a large extent the complexity and mass of the present Hazardous Materials Regulations are due to the detailed specification-type packaging standards contained in these regulations. To replace these with standards based on the U.N. system would both simplify the present regulations and facilitate international trade. **CFR Citation:** 49 CFR Parts 172, 173, 178 **Legal Authority:** 49 U.S.C. 1803, 1804, 1808. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** ANPRM published April 15, 1982 (47 FR 16268). Corrections document and notice of meeting published June 17, 1982 (47 FR 26172). Extension of the comment period to January 13, 1983 published September 1982 (47 FR 40818). Further action to be determined from evaluation of comments received on ANPRM. **Agency Contact:** T. Charlton, (202) 426-2075	ANPRM Further action to be determined.	4/15/82	47 FR 16268
Hazardous Waste Manifest: Shipping Papers (Docket No. HM-148D).	**Abstract:** *This entry has been reclassified as non-significant because its controversiality has been resolved through discussions between representatives of State governments and industry; it has been moved to the "Other Rulemakings" section of the RSPA Agenda.*			

Other Rulemakings

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
Definition of a Flammable Solid (Docket No. HM-178).	**Abstract:** Consideration of new standards for classifying a material as a flammable solid. Previously part of Docket HM-118 which was terminated May 22, 1980 (45 FR 34560) to permit publication of ANPRM. **CFR Citation:** 49 CFR Part 173 **Legal Authority:** 49 USC 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** C. Ke, (202) 426-2311	ANPRM Further action be determined.	5/7/81†	46 FR 25492
Radiation Exposure for Transportation Workers (Project 263-78).	**Abstract:** Consideration of methods which will reduce radiation exposure levels to transportation workers (New Sections). **CFR Citation:** 49 CFR Part 173 **Legal Authority:** 49 USC 1803, 1823 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** R. Rawl, (202) 426-2311	ANPRM	10/83	

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Review: *Revision* of Operating Procedures For Motor Vehicles (Project 261-78).	**Abstract:** Proposed simplification and recodification of the existing operating procedures for transportation of hazardous materials by motor vehicles as prescribed in Part 177. Development of driver training requirements (formerly Project 270-78). **CFR Citation:** 49 CFR Part 177 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** J. Fulnecky, (202) 426-1700	*NPRM*	*11/83*	
Use of Interested Inspectors for Cylinder Inspections (Docket No. HM-74A).	**Abstract:** Proposal would result in ending of "Interested" inspectors to perform inspections and testing of domestically manufactured low pressure gas cylinders. **CFR Citation:** 49 CFR Part 178 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** H. Mitchell, (202) 426-2075	NPRM *Further action to be determined.*	3/17/76	44 FR 11179
Standards for Polyethylene Containers (Docket No. HM-185).	**Abstract:** Proposal to authorize use of 55-gallon capacity plastic drums with certain hazardous materials and revise standards for polyethylene containers, used as packagings for hazardous materials. **FR Citation:** 49 CFR Parts 173 and 178 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Extension of comment period to January 24, 1983, published on October 28, 1982 (47 FR 47396). This rulemaking was previously entitled "Specification for 55-gallon Plastic Drum (Project 278-78)". **Agency Contact:** M. Gigliotti, (202) 755-4906	NPRM *FR*	8/26/82 *10/83*	47 FR 37592
Consolidation and Revision of Requirements for the Carriage of Explosives by Vessel (Project 279-78).	**Abstract:** Proposed consolidation and revision of requirements for the carriage of military and commercial explosives by vessel and adoption of United Nations scheme for classification and compatibility of explosives for the water mode. **CFR Citation:** 49 CFR Part 176 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** F. Thompson, (202) 426-1577	Further action to be determined.		
Oxidizing Materials Definition, Criteria and Proposed Regulations (Docket No. HM-179).	**Abstract:** Development of new standards for classifying a material as an oxidizing material. **CFR Citation:** 49 CFR Part 173 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No. **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** C. Schultz, (202) 426-2311	ANPRM NPRM	6/15/81 12/83	46 FR 31294
Consolidation of Specifications and Establishment of Performance Standards for Specification Bags (Docket No. HM-153).	**Abstract:** *This rulemaking has been incorporated in Docket No. HM-181, "Performance-Oriented Packaging Standards".*			
Shipment of Matches (Docket No. HM-186).	**Abstract:** Revision and simplification of requirements concerning matches. **CFR Citation:** 49 CFR Parts 172, 173 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** H. Mitchell, (202) 426-2075	NPRM *Further action to be determined.*	*6/9/83*	*48 FR 26650*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Requirements for Reporting Gas Incidents (Docket No. OPS-49).	**Abstract:** The proposed reporting forms provide additional and more appropriate information about gas safety problems and require reports from certain systems not now covered. **CFR Citation:** 49 CFR Part 191 **Legal Authority:** 49 U.S.C. 1671 et seq **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** R. Langley, (202) 426-2392	NPRM SNPRM Amended NPRM. *FR*	6/5/78 3/5/79 *3/31/83* *11/83*	43 FR 24478 44 FR 12070 *48 FR 13450*
Heat Treatment of Hard Spots in Steel Pipe. (Docket No. PS-58).	**Abstract:** Allowable temperature for heat treating hard spots in steel pipe would be increased. **CFR Citation:** 49 CFR *Parts 192, 195* **Legal Authority:** 49 USC 1672, *2002* **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** W. Gloe, (202) 426-2082	NPRM *Further action to be determined.*	9/13/79	44 FR 53185
Transportation of Natural and Other Gas by Pipeline (Docket No. PS-57).	**Abstract:** Requirements for procedures and instrumentation for use in monitoring gas for odorants would be proposed. Further action pending additional study of safety problem. **CFR Citation:** 49 CFR Part 192 **Legal Authority:** 49 USC 1672 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *P. Cory, (202) 426-2082*	NPRM To be withdrawn.	2/22/79	44 FR 10604
Interior Piping (Docket No. PS-67).	**Abstract:** The adequacy of existing standards with regard to safety problems concerning interior piping would be examined and new standards may be proposed. **CFR Citation:** 49 CFR Part 192 **Legal Authority:** 49 USC 1672 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** R. Langley, (202) 426-2392	ANPRM NPRM	4/3/80 *2/84*	45 FR 22118
Location, Size, and Operating Pressure of Pipelines (Docket No. PS-61).	**Abstract:** Operators would be required to maintain maps and records to identify the location, size, and operating pressure of all pipelines. **CFR Citation:** 49 CFR Part 192 **Legal Authority:** 49 U.S.C. 1672 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Present regulations include maps and records requirements for corrosion control (§ 192.491); damage prevention program (§ 192.614); transmission line recordkeeping (§ 192.707); plus those documents implied and necessary for continuing surveillance, leakage surveys, distribution and transmission line patrol, changes in classification and emergency plans. Study showed benefits do not exceed costs for additional requirements. **Agency Contact:** R. Langley, (202) 426-2392	ANPRM To be withdrawn.	11/29/79	44 FR 68493
Miscellaneous Hazardous Materials Communications Regulations (Project 289-79).	**Abstract:** Development of miscellaneous proposals dealing with the communications regulations such as edorization of gas and availability of shipping papers to emergency response personnel. **CFR Citation:** 49 CFR Part 172 **Legal Authority:** 49 USC 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** L. Metcalfe, (202) 426-0656	NPRM	*10/83*	
Radiation Level Specifications (Docket No. HM-166P).	**Abstract:** Proposed rewrite of 49 CFR 173.393(i) and (l) for clarity and enforceability. **CFR Citation:** 49 CFR 173.393(i) and (l)	NPRM *FR*	10/7/82 *10/83*	47 FR 44356

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	Legal Authority: 49 U.S.C. 1803-1806, 1808 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** W. Carriker, (202) 426-2311			
Private Carriers Licensed to use Radioactive Materials *(Project 298-82).*	**Abstract:** Proposed exceptions for private carriers who also are licensed to use radioactive materials in the course of their businesses. **CFR Citation:** 49 CFR Parts 173 and 177 **Legal Authority:** 49 USC 1803-1806, 1808 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** W. Carriker, (202) 426-2311	*Further action to be determined.*		
Specification Packages of Type B and Fissile Radioactive Materials *(Project 300-83).*	**Abstract:** Advance notice to address feasibility of continued use and needed modifications of certain radioactive materials package designs. **CFR Citation:** 49 CFR Part 173 **Legal Authority:** 49 USC 1803-1806, 1808 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** R. Rawl, (202) 426-2311	ANPRM	*10/83*	
Quality Assurance for Radioactive Materials Shippers *(Project 291-80).*	**Abstract:** Advance notice to solicit comments on the desirability of establishing quality assurance program requirements for all shippers of radioactive materials. **CFR Citation:** 49 CFR Part 173 **Legal Authority:** 49 USC 1803-1806, 1808 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** R. Rawl, (202) 426-2311	ANPRM	*12/83*	
Placarding of Empty Tank Cars (Docket No. HM-180).	**Abstract:** An advance notice requesting comments on the International Association of Fire Chiefs' petition for removal of the requirement for displaying the EMPTY placard on tank cars. **CFR Citation:** 49 CFR 172.510 **Legal Authority:** 49 USC 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** L. E. Metcalfe, (202) 426-2075	ANPRM Further action to be determined.	7/23/81	46 FR 37953
DOT Specification 51 Portable Tanks (Project 302-83).	**Abstract:** Consideration of revisions of DOT Specification 51 Portable Tanks, including waiver of requirements for post-weld heat treatment for certain steels and use of bottom outlets. **CFR Citation:** 49 CFR Part 178 **Legal Authority:** 49 USC 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** C. Hochman, (202) 755-4906	ANPRM	*9/83*	
Steel Pipe	**Abstract:** Development of performance standards for qualifying steel pipe for use in gas pipelines. **CFR Citation:** 49 CFR Part 192 **Legal Authority:** 49 U.S.C. 1672 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Action deferred pending development of industry standard. **Agency Contact:** P. Cory, (202) 426-2082	Further action to be determined.		
Specifications for and Use of Specification 17E Steel Drums (Docket No. HM-182).	**Abstract:** *This rulemaking has been incorporated in Docket No. HM-181, "Performance-Oreinted Packaging Standards".*			

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Design, Maintenance and Testing of MC-306 Cargo Tanks (Docket No. HM-183).	**Abstract:** Consideration of and request for comments on reducing risk of unintentional release of liquid hazardous materials from MC-306 cargo tanks. Further action to be determined from evaluation of comments received. **CFR Citation:** 49 CFR Parts 173 and 177 **Legal Authority:** 49 U.S.C. 1803, 1804, 1805 **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** J. J. Fulnecky, (202) 426-0033	ANPRM Further action to be determined.	6/28/82	47 FR 27876
Reclassification of Cordeau Detonant Fuse *(Project 297-82).*	**Abstract:** Proposal would change the hazard classification of certain types and quantities of cordeau detonant fuse from Class C explosive to Class A explosive. **CFR Citation:** 49 CFR Parts 172, 173 and 177 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** T. Allan, (202) 426-2075	NPRM	*9/83*	
Small Arms Ammunition *(Docket No. HM-187).*	**Abstract:** A proposal to authorize certain types and quantities of small arms ammunition to be classed and transported as ORM-D materials. **CFR Citation:** 49 CFR Parts 172 and 173 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** T. Charlton, (202) 426-2075	NPRM *Further action to be determined.*	*5/31/83*	*48 FR 24146*
Modifications of Specifications for Cargo Tanks for Liquids, including Provisions for Vacuum Trucks for Hazardous Waste *(Project 301-83).*	**Abstract:** Proposal to modify cargo tank specifications to provide for vacuum trucks for hazardous waste, establish standards for corrosion in cargo tanks and make certain other changes to the specifications. **CFR Citation:** 49 CFR Parts 173, 177 and 178 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** Consideration of the effects of corrosion in cargo tanks was originally proposed in this section of the Agenda under the project title "Cargo Tank Corrosion (Project 285-79)". **Agency Contact:** A. Mallen, (202) 755-4906	*NPRM*	*12/83*	
Isolated Corrosion Pitting	**Abstract:** Language would be amended to clearly state that a reduction in operating pressure is an acceptable remedy for isolated corrosion pitting. **CFR Citation:** 49 CFR Part 195 **Legal Authority:** 49 U.S.C. 2002 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** F. Robinson, (202) 426-2392	NPRM	*9/83*	
Records for Hydrostatic Testing, Operation and Maintenance.	**Abstract:** Records of hydrostatic testing would be permitted to be kept in supporting documents as well as the pressure recording chart. The retention period for records of operations would be reduced from three years to one year. Inspection and maintenance records for components other than pipe would be kept for one year rather than three years. **CFR Citation:** 49 CFR Part 195 **Legal Authority:** 49 U.S.C. 2002 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** F. Robinson, (202) 426-2392	NPRM	*3/84*	
Nondestructive Testing of Girth Welds	**Abstract:** The requirement to nondestructively test 100% of the girth welds would be reduced to 90% at certain locations.	NPRM	*6/84*	

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Intrastate Liquid Pipelines	**CFR Citation:** 49 CFR Part 195 **Legal Authority:** 49 U.S.C. 2002 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** F. Robinson, (202) 426-2392 **Abstract:** The applicability of Part 195 would be extended to include intrastate pipelines transporting petroleum, petroleum products or anhydrous ammonia. **CFR Citation:** 49 CFR Part 195 **Legal Authority:** 49 U.S.C. 2002 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** F. Robinson, (202) 426-2392	NPRM	10/83	
Repair and Removal of Weld Defects (Docket No. PS-74).	**Abstract:** Weld repair and removal requirements would be made consistent with present technology. **CFR Citation:** 49 CFR Parts 192 and 195 **Legal Authority:** 49 U.S.C. 1672, 2002 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** W. Gloe, (202) 426-2082	NPRM FR	1/21/83 *10/83*	48 FR 2964
Confirmation or Revision of Maximum Operating Pressure for Certain Changes in Class Location.	**Abstract:** Proposal would change the requirement for confirmation or revision of the maximum allowable operating pressure for certain pre-tested gas pipelines when changed conditions adjacent to the pipeline meet the class location definition of 49 CFR 192.5(d)(2). **CFR Citation:** 49 CFR Part 192 **Legal Authority:** 49 U.S.C. 1672 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** R. Langley, (202) 426-2392	NPRM	*12/83*	
Monitoring External Corrosion Control.	**Abstract:** The requirement to annually check the performance of cathodic protection on pipeline under paving would be made more appropriate. **CFR Citation:** 49 CFR Part 192 **Legal Authority:** 49 U.S.C. 1672 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** P. Cory, (202) 426-2082	ANPRM *NPRM*	3/10/83 *12/83*	48 FR 10092
Hazardous Waste Manifest: Shipping Papers (Docket No. HM-145D).	**Abstract:** Would establish a uniform hazardous waste manifest for use by both interstate and intrastate carriers of hazardous waste. It is needed to simplify the manifesting of hazardous waste so interstate and intrastate commerce is not adversely affected by a number of differing requirements imposed by State and local governments. **CFR Citation:** 49 CFR Parts 171 and 172 **Legal Authority:** 49 U.S.C. 1803, 1804 and 1808 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Regulation of the transportation of hazardous waste was established by Docket No. HM-145A (45 FR 74840, Nov. 10, 1980) NPRM on uniform hazardous waste manifest published Mar. 4, 1982 (47 FR 9348). Comment period extended to July 20, 1982 by joint rulemaking with EPA June 30, 1982 (47 FR 28428). **Agency Contact:** L. E. Metcalfe, (202) 426-2075	NPRM FR	3/4/82 *9/83*	47 FR 9346
*Specification 8W and 8WA Welded Steel Cylinders (Project 244-75/Docket No. HM-23).	**Abstract:** Would eliminate existing Specifications 8 and 8AL and provide a consolidated specification for the manufacture of acetylene cylinders. **CFR Citation:** 49 CFR Parts 171, 173 and 178 **Legal Authority:** 49 U.S.C. 1803, 1804, 1808	NPRM	9/83	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
*Revision of the IM Tank Table (Docket No. HM-167A).	**Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** M. Morris, (202) 426-2075 **Abstract:** Would revise the IM Tank Table to incorporate interim approvals issued since April of 1981 and other changes. **CFR Citation:** 49 CFR Part 173 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** C. Ke, (202) 426-2311	NPRM	9/83	
*Cylinder Retester Identification Number (Docket No. HM-172A).	**Abstract:** Proposal to incorporate procedures applicable to cylinder retesters. **CFR Citation:** 49 CFR Part 173 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** D. Henry, (202) 426-5982	NPRM	9/83	

Other Rulemakings: Routine and Frequent

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Title	Summary	Timetable		
		Action	Date	Cite
Conversion of Individual Exemptions to Regulations of General Applicability (Docket No. HM-139).	**Abstract:** NPRM approximately every four months; with FR targeted approximately two months thereafter.. **CFR Citation:** 49 CFR Parts 171 through 178 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** D. Raines, (202) 472-2726		1/83-12/83	
Minor Regulatory Adjustments to Regulations of General Applicability (Docket No. HM-166).	**Abstract:** NPRM approximately every four months, with FR targeted approximately two months thereafter. **CFR Citation:** 49 CFR Parts 171 through 178 **Legal Authority:** 49 USC 1803-1806 **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** D. Raines, (202) 472-2726		1/83-12/83	
Matter Incorporated by Reference (hazardous materials). (Docket No. HM-22).	**Abstract:** NPRM approximately every six months, with FR targeted two months thereafter. **CFR Citation:** 49 CFR Part 171 **Legal Authority:** 49 USC 1803-1806 **Effects on Small Entities:** To be determined **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** E. Mazzullo, (202) 426-2075		1/83-12/83	
Implementation of the ICAO Technical Instructions (Docket No. HM-184).	**Abstract:** These amendments permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the provisions of the International Civil Aviation Organization's (ICAO) Technical Instructions for the safe Transport of Dangerous Goods by Air, in order to facilitate continued shipment of hazardous materials in international commerce by air. *They will be updated annually.*	NPRM FR Effective *NPRM*	7/82 12/6/82 1/1/83 8/4/83	47 FR 33295 47 FR 54817 *48 FR 35471*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Current and Projected Rulemakings

Other Rulemakings: Routine and Frequent—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
	CFR Citation: 49 CFR Parts 171 through 175 **Legal Authority:** 49 U.S.C. 1803-1806, 1808 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Edward A. Altemos, (202) 426-0656			

Reviews of Existing Regulations

Priority Reviews

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Title	Summary	Timetable		
		Action	Date	Cite
Data Collection and Reporting: Hazardous Materials Incident Reports.	**Abstract:** The current regulations require reports of hazardous material incidents. The objective of this review is to determine if the current data requirements can be modified to reduce the burden on industry *but still result* in the collection of the information needed for the hazardous materials safety program. Although safety programs, such as the one covered by these regulations, require data in order to function properly, it is possible that the data collection can be made less burdensome. **CFR Citation:** 49 CFR Part 171 **Legal Authority:** 49 USC 1803, 1804, 1809 **Effects on Small Entities:** No **Additional Information:** Methodological inadequacies revealed by the initial results of the review necessitated extension of the completion date. *Re-examination is now underway.* **Agency Contact:** R. Abis, (202) 426-2075	Completion of Review.	*10/83*	

Completed Actions

Other Rulemakings

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Title	Summary	Timetable		
		Action	Date	Cite
Leak Survey (Docket No. PS-62).	**Abstract:** Present leak survey requirements would be amended in accordance with practices necessary for safety. Further action pending additional study of safety problems. **CFR Citation:** 49 CFR Part 192 **Legal Authority:** 49 USC 1672 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *L. M. Furrow,* (202) 426-2392	NPRM *Withdrawn*	12/13/79 *13/14/83*	44 FR 72201 *48 FR 10721*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Completed Actions

Other Rulemakings—Continued

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Title	Summary	Timetable		
		Action	Date	Cite
Regulation of Paint (Docket No. HM-166*L*).	**Abstract:** Regulations applicable to small quantity paint containers may impose a greater burden on paint shippers than is necessary to promote safety. In 1980, reporting requirements for incidents involving carriers of paint were reduced. The next step is to address the more basic question of the best regulatory framework for transportation of this flammable liquid. Savings to the paint industry could exceed $1 million annually. **CFR Citation:** 49 CFR 173.128 **Legal Authority:** 49 USC 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** A. I. Roberts, (202) 426-0656	NPRM FR	2/1/82 *4/21/83*	47 FR 4538 *48 FR 17094*
Exceptions for Small Quantities of Hazardous Materials *and limited quantities of radioactive materials* (Docket Nos. HM-166Q and HM-166F).	**Abstract:** Proposed reduction of the requirements on the shipment and carriage of certain small quantities of hazardous materials contained in high technology instruments, diagnostic kits and medical devices. **CFR Citation:** 49 CFR Parts 172, 173 and 175 **Legal Authority:** 49 U.S.C. 1803, 1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** M. Morris, (202) 426-2075	NPRM *FR*	11/15/82 *6/30/83*	47 FR 51430 *48 FR 30102*
Cryogenic Liquids (Docket No. HM-115).	**Abstract:** Proposed standards and procedures for the transportation of cryogenic liquids. **CFR Citation:** 49 CFR 172.101, 173.316 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *J. Pena,* (202) 755-4906	NPRM Public Hearings *FR*	3/8/79 4/17/79 *6/16/83*	44 FR 12826 *48 FR 27674*
Line Markers on Navigable Waterways for Pipelines (Docket No. PS-69).	**Abstract:** the required number, size, and location of line markers along navigable waterways, including definition of "navigable waters" *was* made more appropriate. **CFR Citation:** 49 CFR Parts 192, 195 **Legal Authority:** 49 U.S.C. 1672, 2002 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** L. Furrow, (202) 426-2392	ANPRM NPRM FR	6/22/81 1/24/83 *6/6/83*	46 FR 32287 48 FR 2987 *48 FR 25206*
Qualifying Components for Use in Gas Pipeline. (Docket No. PS-64).	**Abstract:** General criteria would be proposed for qualifying the use of pipeline components other than pipe. **CFR Citation:** 49 CFR Parts 192 and 195 **Legal Authority:** 49 USC 1672, 2002 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** F. Robinson, (202) 426-2392	NPRM FR	3/3/80 *7/5/83*	45 FR 13783 *48 FR 30637*
Matter Incorported by Reference (Hazardous Materials) (Docket No. HM-22A).	**Abstract:** Documents incorporated by reference would be updated, deleted where obsolete, and consolidated in § 171.7 on a one-time basis, to be followed by periodic review under Docket No. HM-22. **CFR Citation:** 49 CFR Part 171 **Legal Authority:** 49 USC 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *These will now be handled under the HM-166 series of dockets.* **Agency Contact:** E. Mazzullo, (202) 426-2075	*Action terminated.*		
Enforcement Procedures and Related Miscellaneous Proposals (Docket No. HM-138A).	**Abstract:** This rule change would make selective changes to 49 CFR Parts 107, 171 and 173 concerning primarily the procedural requirements of the MTB's exemption, approval, preemption and enforcement programs.	NPRM FR *Correction*	9/24/81 1/20/83 *4/21/83*	46 FR 47901 48 FR 2646 *48 FR 17093*

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Research and Special Programs Administration

RSPA

Completed Actions

Other Rulemakings—Continued

[Key to Symbols: *New Item †Analysis or review being considered under Regulatory Flexibility Act. *Italics:* New or changed information since last Agenda.] •Presidential Task Force priority review.

Title	Summary	Timetable		
		Action	Date	Cite
	CFR Citation: 49 CFR Parts 107, 171, 173 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** George W. Tenley, Jr., (202) 755-4973			

Other Reviews

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Toxic Materials; Definitions, Criteria, and Proposed Regulations.	**Abstract:** This regulation was selected for review because of the need for quantitative criteria *Consideration is being given to applying UN criteria at a later date.* **CFR Citation:** 49 CFR 173.326, 173.343 **Legal Authority:** 49 U.S.C. 1803-1806 **Effects on Small Entities:** To be determined **Agency Contact:** G. Cushmac, (202) 426-2311	*Review terminated.*		

Maritime Administration

MARAD

Current and Projected Rulemakings

Priority Rulemakings: Major

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
*Vessel Obligation Guarantees; Vessel Requirements, United States Construction.	**Abstract:** MARAD is considering amending 46 CFR 298.11 to relax the requirement that where practicable only articles, materials, and supplies of U.S. origin be used in vessels receiving obligation guarantees. **CFR Citation:** 46 CFR 298.11 **Legal Authority:** 46 U.S.C. 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Impact Analysis **Additional Information:** None **Agency Contact:** Norman Hammer, (202) 426-5733; John M. Hotaling, (202) 426-5727.	NPRM	10/83	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Maritime Administration

MARAD

Current and Projected Rulemakings

Priority Rulemakings: Non-Major

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Construction Differential Subsidy (CDS) Repayments; Total Repayment Policy.	**Abstract:** *This entry has been moved to the OST "Priority Rulemakings: Major" portion of the Agenda.*			
Construction-Differential Subsidy (CDS)-Requirements for Aid.	**Abstract:** By provision of the Merchant Marine Act, 1936, the Maritime Administration administers the CDS program, providing subsidy for the construction, reconstruction or reconditioning of vessels in U.S. shipyards. This rulemaking is significant because it involves important Department policy on a matter of substantial interest and controversy. It is needed to establish comprehensive formal regulations governing administration of *the* CDS program. **CFR Citation:** 46 CFR Pt. 251 **Legal Authority:** 46 U.S.C. 1114(b), 1151-1157 **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** *In view of lack of present funding for the CDS program, the rulemaking is terminated.* **Agency Contact:** James Saari, (202) 426-*6321*	See additional information.		
Cargo Preference-U.S. Flag Vessels-Determination of Fair and Reasonable Rates.	**Abstract:** Regulation would *require provision of rate and cost data to MARAD so it can determine fair and reasonable rates for carriage of preference cargo at the request of concerned Federal agencies.* This rulemaking is significant because it concerns a matter on which there is substantial public interest. It is needed to clarify the meaning of a statutory term. **CFR Citation:** 46 CFR new Pt. 382 **Legal Authority:** 46 U.S.C. 1241(b), 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** Cargo preference regulation was last revised in 1977 (46 CFR Pt. 381). **Agency Contact:** Frederick R. Larson, (202) 382–6036	NPRM	*11/83*	
Merchant Marine Training	**Abstract:** The Maritime Administration is responsible for operating the U.S. Merchant Marine Academy and for providing financial assistance to State Maritime academies. *These rulemakings are significant because they concern matters of substantial public interest. They are* needed because the Maritime Education and Training Act of 1980 (P.L. 96-453) requires changes in regulations to reflect new requirements as conditions for financial aid for merchant marine training, as well as disposition of excess or surplus government property. **CFR Citation:** 46 CFR Pt. 310 **Legal Authority:** 46 U.S.C. 1114(b), 1295 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *None* **Agency Contact:** Edwin Hackett, (202) 426-5759	*FR* *Subparts A and C (Further reduction in class size at U.S.M.M.A. and administration of state maritime academies).* *NPRM* *Subpart B (U.S. Maritime Service).*	*10/83* *1984*	
Award and Administration of Operating-Differential Subsidy (ODS) for Dry Bulk Cargo Vessels.	**Abstract:** Regulation states conditions for award of ODS for dry bulk cargo vessels engaged in worldwide trade. This rulemaking is significant because it reflects a change in policy on a matter of substantial public interest. It is needed because it would recognize unique economic aspects of dry bulk carriers and is intended to afford sufficient flexibility to allow them to compete in worldwide trade. **CFR Citation:** Consolidation with other ODS Regulations. 46 CFR Ch. II. **Legal Authority:** 46 U.S.C. 1114(b), 1171-1176 **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** Separate rulemaking action *was* suspended pending completion of review of all ODS Regulations for purposes of consolidation and simplification. *Review has now been terminated.*	NPRM *Further action to be determined.*	9/6/79	44 FR 52002

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Maritime Administration

MARAD

Current and Projected Rulemakings

Priority Rulemakings: Non-Major—Continued

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Federal Income Tax Aspects of the Capital Construction Fund.	**Agency Contact:** Frederick R. Larson, (202) 382-6036 **Abstract:** *This entry has been reclassified as non-significant and moved to the "Other Rulemakings" section of the MARAD portion of the Agenda.*			
Review: Operating-Differential Subsidy (ODS) Rates for Liner Vessels.	**Abstract:** New regulation would establish subsidy rates for liner vessels under ODS agreements. This rulemaking is significant because it involves a program with substantial public interest. It is needed to formalize, in a regulation, policy of *the* Maritime Subsidy Board concerning subsidy rates now published in manual form. **CFR Citation:** New Subpart in 46 CFR Pt. 280 **Legal Authority:** 46 U.S.C. 1171-1176, 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory evaluation **Additional Information:** New regulation under development. Separate rulemaking action suspended pending completion of review of all ODS Regulations for purposes of consolidation and simplification. **Agency Contact:** Frederick R. Larson, (202) 382-6036	*See Additional Information.*		
*Obligation Guarantees	**Abstract:** The amendments proposed in this rulemaking are intended to streamline procedures for processing applications for obligation guarantees under Title XI of the Merchant Marine Act, 1936, as amended, and to make those procedures more efficient and responsive; clarify the criteria that will be applied in evaluating Title XI applications; provide more detailed financial requirements; and establish specific criteria and procedures for reviewing and evaluating requests by Title XI obligors for advances to pay for debt service, insurance payments and other vessel-related expenses. The proposed rule is significant because it may involve important Departmental policy. **CFR Citation:** 46 CFR Pt. 298 **Legal Authority:** 46 U.S.C. 1271-1279, 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Edmond J. Fitzgerald, (202) 382-0389	NPRM *FR*	8/18/83 *1/84*	48 FR 37453
*Establishment of Mandatory Position Reporting System for Vessels.	**Abstract:** The Maritime Administrator and the Commandant of the Coast Guard have agreed to merge MARAD's U.S. Merchant Vessel Locator Filing System (USMER) with Coast Guard's Automated Mutual-Assistance Vessel Rescue System (AMVER). Under the new reporting system, USMER reports will be suspended and AMVER reports will be mandatory for all vessels that were previously subject to USMER reporting requirements. This rulemaking is significant because it may involve important Departmental policy. **CFR Citation:** 46 CFR New Pt. 307 **Legal Authority:** 46 U.S.C. 1122a, 1283 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Walter Lockland, (202) 426-5743	FR	10/83	

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Maritime Administration

MARAD

Current and Projected Rulemakings

Other Rulemakings

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Requirements and Procedures for the Administration of Condition Surveys and Maintenance and Repair Subsidy.	**Abstract:** Regulation clarifies and liberalizes MARAD policy and procedure for administering that part of the Operating-Differential Subsidy (ODS) program relating to requirement for conducting condition surveys of vessels under ODS agreements which provide maintenance and repair (M&R) subsidy. **CFR Citation:** 46 CFR Pt. 272 **Legal Authority:** 46 USC 1114(b), 1171(a) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Separate rulemaking action suspended pending completion of review of all ODS regulations for purposes of consolidation and simplification. **Agency Contact:** John J. Davis, (202) 426-5743	*See Additional Information.*		
Documentation, Transfer or Charter of Vessels.	**Abstract:** Amendments would be made to regulations governing MARAD approval of the transfer of U.S.-owned or documented vessels to non-citizens, as well as approval of vessel charters to non-citizens, pursuant to authority in the Shipping Act, 1916. **CFR Citation:** 46 CFR Pt. 221 **Legal Authority:** 46 U.S.C. 808, 835, 838, 839, 841a **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** FR *8/8/83* clarifying amendments; *FR 10/83—approval of bareboat charters of pleasure vessels to non-citizens.* **Agency Contact:** Jessie Fernanders, (202) 426-5821	FR *FR*	*8/8/83* *10/83*	*48 FR 35881*
National Shipping Authority	**Abstract:** Ten regulations relating to shipping operations that govern the activities of the NSA, within MARAD during times of war and national emergency. These regulations are exempt from the notice provisions of 5 U.S.C. 553 because they involve a military function. **CFR Citation:** 46 CFR Pts. 316, 320, 321, 326, 329, 332, 335-339; new pt. 340. **Legal Authority:** 50 USC App. 2061, et seq.; EO 10480, 11490 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Two or more rulemakings possible. Published NPRM is "Shipping Service Containers and Port Facilities and Services—Priorities and Allocations". **Agency Contact:** Robert Bryan, (202) 426-5752	NPRM *FR* *New Part 340 (Shipping Services, Containers and Port Facilities and Services—Priorities and Allocations).* *FR* *Separate rulemakings possible for the nine regulations.*	8/30/82 *10/83* *1984*	47 FR 38137
Review: Capital Construction Fund.	**Abstract:** Amendments to regulations would clarify existing provisions and remove restrictions on fundholders, to be made as needed in one or more rulemaking actions. Amendments would also establish a nonrefundable application fee and an annual "activity fee," assessed on each fundholder on a sliding scale. **CFR Citation:** 46 CFR Pt. 390 **Legal Authority:** 46 USC 1177; 1114 (b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *James L. Westcott, (202) 382-0401*	FR	*11/83*	
Implementation Procedures for the National Defense Program.	**Abstract:** Amendment to CDS regulations would implement Pub. Law 96-387. It would authorize, when funds become available, paying ship operators for the cost of purchasing and installing communication equipment on existing U.S. flag vessels that are suitable for government use in time of war or national emergency. **CFR Citation:** 46 CFR Pt. 251 **Legal Authority:** 46 USC 1151-1156, 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None	NPRM *Further action to be determined.*	9/10/81	46 FR 45164

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Maritime Administration

MARAD

Current and Projected Rulemakings

Other Rulemakings—Continued

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Requirements for Establishing United States Citizenship.	**Agency Contact:** James C. McCoy, Jr., (202) 426-5727 **Abstract:** Proof of U.S. citizenship is required under MARAD financial assistance and vessel transfer programs. These amendments would amend citizenship regulations to simplify proof of corporate citizenship and to ensure corporate control by U.S. citizens under existing corporate organizational structures. **CFR Citation:** 46 CFR Pt. 355 **Legal Authority:** 46 USC 802, 803, 808, 835, 838, 839, 841, 1151, 1171, 1276. **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Doris Lansberry, (202) 426-5711	NPRM *Further action to be detertmined.*	10/12/79	44 FR 58928
Statistical Data for Use In Operating Differential Subsidy (ODS) Application Hearings.	**Abstract:** *The amendment proposes procedures that would assist in preparation of standard foreasts of liner cargo (if a NPRM covering ODS application hearing procedures is issued) in which forecast procedures would be included..* **CFR Citation:** 46 CFR Pt. 207 **Legal Authority:** 46 USC 1175 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** William B. Ebersold, (202) 382-0374	*NPRM*	*11/83*	
Suspension of ODS Agreements for All or Portion of the Vessels Included Therein.	**Abstract:** These regulations are necessary to implement §1603 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), which adds a new §614 to the Merchant Marine Act, 1936. **CFR Citation:** New 46 CFR Pt. 295 **Legal Authority:** 46 USC 1184, 1114(b), P.L. 97-35 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Gregory Sparkman, (202) 382-0402; Raymond Barberesi, (202) 382-0382.	NPRM *FR*	*8/18/83* *1/84*	*48 FR 37449*
Treatment of Subsidy During Voyage Deviations.	**Abstract:** This regulation clarifies existing MARAD policy of generally not paying ODS to an operator for any period of operation attributable solely to a deviation from the contractually authorized subsidized service. **CFR Citation:** (46 CFR 281.6) **Legal Authority:** 46 USC 1173(a) 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** William B. Ebersold, (202) 382-0374	*NPRM*	*11/83*	
Participation by Vessels Built with CDS in the Carriage of Oil from Alaska in the Domestic Trade.	**Abstract:** Amendments would codify in regulation form policies that were decisions issued as administrative orders. **CFR Citation:** 46 CFR Pt. 250 **Legal Authority:** 46 U.S.C. 1156, 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *Further action to be determined pending disposition of CDS repayment rulemaking.* **Agency Contact:** William B. Ebersold, (202) 382-0374	*See Additional Information.*		
Rules of Practice and Procedures; for Hearing in Operating-Differential Subsidy (ODS) Application; Applications for Subsidies and Other Direct Financial Aid.	**Abstract:** Amendments to existing agency rules of practice and procedure and regulations governing applications for financial assistance, as well as new Part 208 that would establish a standard discovery order and standard techniques for forecasting the adequacy/inadequacy of U.S. flag liner service in hearings required under the Merchant Marine Act, 1936. **CFR Citation:** 46 CFR Pts. 201, 208, 251 **Legal Authority:** 46 USC 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None	NPRM FR	6/25/79 *11/83*	44 FR 37003

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Maritime Administration

MARAD

Current and Projected Rulemakings

Other Rulemakings—Continued

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Review: Procedures—Records Retention Schedule for Subsidized Operators.	**Agency Contact:** Robert J. Patton, Jr., (202) 426-5711 **Abstract:** The purpose of this *rulemaking is to prescribe revised* procedures to be followed by subsidized operators for the retention and disposal of books, records and accounts required under ODS agreements. **CFR Citation:** 46 CFR Pt. 380, Subpart C **Legal Authority:** 46 U.S.C. *1114(b)* **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** *L. H. Fong, (202) 426-5861*	*FR*	*10/83*	
Dividend Policy for Operators Receiving Operating-Differential Subsidy.	**Abstract:** Amendments clarify the requirement for adjusting "floor net worth" calculation to determine whether an operator may pay a dividend. **CFR Citation:** 46 CRR Pt. 283 **Legal Authority:** 46 U.S.C. 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** David Lippold, (202) 382-0403	NPRM	*12/83*	
*Federal Tort Claims	**Abstract:** This rule establishes a system for processing federal tort claims involving the Maritime Administration and provides information to the public on filing such claims. **CFR Citation:** 46 CFR new Pt. 204 **Legal Authority:** 28 U.S.C. 2672, 28 CFR 14.11, 49 CFR 1.45(a)(2) and (3). **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Michael J. McMorrow, (202) 426-5715	FR	10/83	
*Vessel Obligation Guarantees; Waivers for Foreign-Built Main Diesel Engines..	**Abstract:** The proposed amendment would adopt a policy to allow all applications for waiver of the "Buy American" requirement with respect to foreign-built high and medium speed diesel engines that are not built in the United States and which afford a specified energy savings. **CFR Citation:** 46 CFR 298.11 **Legal Authority:** 46 U.S.C. 1271-1279, 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** John Walter, (202) 426-5727	ANPRM NPRM	4/21/83 11/83	48 FR 17120
*Making Excess or Surplus Federal Property available to the United States Merchant Marine Academy (USMMA), State Maritime Academies and Approved Nonprofit Maritime Training Institutions.	**Abstract:** MARAD proposes to implement a provision in the Maritime Education and Training Act of 1980 to make excess or surplus vessels, shipboard equipment and other marine equipment available to the USMMA, State Maritime Academies and other nonprofit training institutions approved jointly by MARAD and the Coast Guard. **CFR Citation:** 46 CFR Pt. 310 **Legal Authority:** 46 U.S.C. 1295g **Effect on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** Reference to this rulemaking has been moved from inclusion in the entry "Merchant Marine Training", in the Priority Rulemakings: Non-Major" section of MARAD's portion of the Agenda. **Agency Contact:** Arthur Friedberg (202) 426-5755	NPRM	10/83	
Federal Income Tax Aspects of the Capital Construction Fund.	**Abstract:** Joint rulemaking with Treasury Department would finalize technical regulations governing the utilization of Capital Construction Fund (CCF) - comprised of deposits of the deferred income from shipping operations, related income, and CCF investment income. **CFR Citation:** 46 CFR Pt. 391 **Legal Authority:** 46 U.S.C. 1177, 1114(b) **Effects on Small Entities:** No	NPRM FR awaiting action by Treasury Department.	6/15/72	37 FR 11887

VOL 48 ISS 201 OCT 17 1983 UMI

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Maritime Administration

MARAD

Current and Projected Rulemakings

Other Rulemakings—Continued

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
	Analysis: Regulatory Evaluation. **Additional Information:** NPRM published jointly with Treasury Department on June 15, 1972 (37 FR 11887. **Agency Contact:** *James L. Westcott, (202) 382-0401*			

Reviews of Existing Regulations

Priority Reviews

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Limitations on the Award and Payment of Operating Differential Subsidy (ODS) for Liner Operators.	**Abstract:** The principal purpose of this part is to set standards for the payment of ODS to operators of liner vessels, and it includes a reduction formula applicable where less than 50 percent of gross freight revenues are earned from the carriage of "competitive cargo". This review is intended to restructure and clarify this part *or* consolidate it with other ODS regulations in Chapter II of 46 CFR, *or take such other action, if any, as the review may indicate is appropriate.* No anticipated further action until review completed of all ODS regulations. **CFR Citation:** 46 CFR Pt. 280 **Legal Authority:** 46 U.S.C. 1173 **Effects on Small Entities:** No **Agency Contact:** E. A. Uttridge, (202) 382-*0404*	Completion of Review.	Fall 1983	

Completed Actions

Priority Rulemakings: Non-Major

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Merchant Marine Training	**Abstract:** The Maritime Administration is responsible for operating the U.S. Merchant Marine Academy and for providing financial assistance to State Maritime academies. *These rulemakings are significant because they concern matters of substantial public interest. They are* needed because the Maritime Education and Training Act of 1980 (P.L. 96-453) requires changes in regulations to reflect new requirements as conditions for financial aid for merchant marine training. **CFR Citation:** 46 CFR Pt. 310 **Legal Authority:** 46 U.S.C. 1114(b), 1295 **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *None* **Agency Contact:** Edwin Hackett, (202) 426-5759	*FR Subparts A, C, and D (Reduction in class size at U.S.M.M.A., administration of state maritime academies, and revocation of Subpart D—receipt of donations for chapel and library at U.S.M.M.A.).*	*5/31/83*	*48 FR 24080*

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Maritime Administration

MARAD

Completed Actions

Priority Rulemakings: Non-Major—Continued

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
		FR Subpart C (Pay increase for midshipment at U.S.M.M.A.).	*4/18/83*	*48 FR 16488*
Uniform System of Financial Reporting.	**Abstract:** Revision of bookkeeping and reporting requirements, now applicable only to operators receiving Operating-Differential Subsidy, to reduce burden and expand their application to contractors receiving financial assistance under all Maritime Administration programs. This rulemaking is significant because it initiates a change in policy. It is needed to reduce and simplify bookkeeping and reporting requirements and expand application to participants in all of *the* agency's financial assistance programs. **CFR Citation:** 46 CFR Pt. 282; to be revoked and replaced by new 46 CFR Pt. 232. **Legal Authority:** 46 U.S.C. 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation. **Additional Information:** Regulation was issued in 1974 **Agency Contact:** James J. Zok, (202) 426-5852	NPRM FR	6/19/82 *6/30/83*	47 FR 36228 *48 FR 30120*

Other Rulemakings

[Key to symbols: *New item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Construction-Differential Subsidy (CDS) Standard Contracts.	**Abstract:** This regulation would incorporate standardized language for contracts used in administration of CDS program. **CFR Citation:** 46 CFR Pt. 251 **Legal Authority:** 46 U.S.C. 1151-1156, 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** *None* **Agency Contact:** Melvin Eck, (202) 426-5866	*Rulemaking suspended.*		
Policy for changes under CDS Program.	**Abstract:** Amendments would state policy of paying subsidy for only "essential" changes, as defined, reflecting very limited CDS funding. **CFR Citation:** 46 CFR 251.1 Appendix **Legal Authority:** 46 U.S.C. 1151-1156, 1114(b) **Effects on Small Entities:** No **Analysis:** Regulatory Evaluation **Additional Information:** None **Agency Contact:** Robert J. Patton, Jr., (202) 426-5746	Rulemaking suspended.		
Review: Merchant Ship Sales Act of 1946—Rules and Rgulations, Forms and Citizenship Requirements.	**Abstract:** This regulation principally concerns the sale, charter or transfer of vessels built during World War II which are owned by the Government. **CFR Citation:** Chapter II, Subchapter F **Legal Authority:** 15 U.S.C. 1735 **Effects on Small Entities:** No **Analysis:** *Regulatory* Evaluation **Additional Information:** Revocation of part **Agency Contact:** Jessie Fernanders, (202) 426-5821	*FR*	*4/18/83*	*48 FR 16488*

VOL
48
ISS
2
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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA

Maritime Administration

MARAD

Reviews of Existing Regulations

Priority Reviews

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Procedures - Records Retention Schedule for Subsidized Operators.	**Abstract:** The purpose of this subpart is to prescribe the procedures to be followed by subsidized operators for the retention and disposal of books, records and accounts required under ODS agreement. The review will be for the purpose of determining whether existing record retention requiremens impose a reasonable burden on subsidized operators relative to the benefits conferred and the legitimate needs of Marad in administering the ODS programs. **CFR Citation:** 46 CFR pt. 380, Subpart C **Legal Authority:** 46 U.S.C. 1114 **Effects on Small Entities:** No **Agency Contact:** *L. H. Fong, (202) 426-5861*	*Review Completed.*		
Review: Merchant Ship Sales Act of 1946—Rules and Regulations, Forms and Citizenship Requirements.	**Abstract:** This regulation principally concerns the sale, charter or transfer of vessels built during World War II which are owned by the Government. The review is for the purpose of determining whether the entire part or most of its provisions are obsolete and should be revoked. **CFR Citation:** Chapter II, Subchapter F **Legal Authority:** 15 U.S.C. 1735 **Effects on Small Entities:** No **Analysis:** Economic Evaluation **Additional Information:** Revocation of part **Agency Contact:** Jessie Fernanders, (202) 426-5821	*Review Completed.*		

Other Reviews

[Key to symbols: *New Item. †Analysis or review being considered under Regulatory Flexibility Act. • Presidential Task Force Priority Review. *Italics:* New or changed information since last Agenda]

Title	Summary	Timetable		
		Action	Date	Cite
Application for Subsidies and Other Direct Financial Aid.	**Abstract:** This Part prescribes the MARAD application forms for Construction and Operating Differential Subsidies (CDS and ODS), as well as the form for the MARAD approvals that subsidized operators must obtain in order to engage in otherwise prohibited activities. The part also contains certain substantive provisions. The development of comprehensive CDS regulations, including uniform contract provisions, has been curtailed pending an Administration review of CDS. **CFR Citation:** 46 CFR Pt. 251 **Legal Authority:** *46 U.S.C. 1114(b)* **Effects on Small Entities:** No **Agency Contact:** Robert Patton, Jr., (202) *426-5711*	*Review Terminated.*		

APPENDIX A - INSTRUCTIONS FOR OBTAINING COPIES OF REGULATORY DOCUMENTS

United States Coast Guard (USCG)

Persons who desire to obtain a copy of any regulatory document to be issued by the USCG that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person) United States Coast Guard, 2100 Second Street, SW., Washington, D.C. 20593.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling 202-426-8058 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591.

Federal Highway Administration (FHWA)

The FHWA maintains a consumer mailing list for individuals and agencies wishing to routinely receive Federal-aid highway related rulemaking actions. Persons may selectively choose to receive rulemaking materials in a number of separately identified program categories from the Code of Federal Regulations, Title 23. Those wishing to take advantage of the FHWA consumer mailing list may obtain additional information by writing to: Consumer Affairs Representative, Office of Public Affairs, Room 4206, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

Persons who desire to obtain a copy of any regulatory document to be issued by the FHWA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

Federal Railroad Administration (FRA)

Persons who desire to obtain a copy of any regulatory document to be issued by the FRA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590.

National Highway Traffic Safety Administration (NHTSA)

Persons who desire to obtain a copy of any other regulatory document to be issued by the NHTSA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590.

Urban Mass Transportation Administration (UMTA)

Persons who desire to obtain a copy of any regulatory document to be issued by UMTA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Urban Mass Transit Administration, 400 7th Street, SW., Washington, D.C. 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

Persons who desire to obtain a copy of any regulatory document to be issued by SLSDC that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the appropriate address specified below. For contact persons with (202), telephone area code: (name of contact person), Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, SW., Washington, D.C. 20591. For contact persons with (315) telephone area code: (name of contact person), Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662.

Research and Special Programs Administration (RSPA)

Persons wishing to be placed on mailing lists for regulatory documents to be issued by RSPA should contact: Mr. Roosevelt McKinley, Jr. Information Services Division, DMT-11, 400 7th Street, SW., Washington, D.C. 20590.

Maritime Administration (MARAD)

Any one desiring a copy of a MARAD regulatory document referred to in the Agenda may request a copy of that document by contacting Mrs. Georgia Stamas., Secretary, Maritime Administration, 400 Seventh Street, S.W. (Room 7300), Washington, D.C. 20590 (202) 426-5746.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Regulations Agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590, (202) 426-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

APPENDIX B - GENERAL RULEMAKING CONTACT PERSONS

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - Capt. Chris Holland, Marine Safety Council, USCG Headquarters Building, Room 4402, 2100 Second Street, S.W., Washington, D.C. 20593. Telephone: 202/426-1477.

FAA - John H. Cassady, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave., S.W., Room 915A, Washington, D.C. 20591. Telephone: 202/426-3073.

FHWA - Michael J. Laska, Office of the Chief Counsel, 400 7th Street, S.W., Room 4223, Washington, D.C. 20590. Telephone: 202/426-0781.

FRA - Mike Haley, Office of Chief Counsel, 400 7th Street, S.W., Room 5101, Washington, D.C. 20590. Telephone: 202/472-9042.

NHTSA - Roger Fairchild, Office of Chief Counsel, 400 7th Street, S.W., Room 5219, Washington, D.C. 20590. Telephone: 202/426-2992.

UMTA - Katherine Cowen, Office of Chief Counsel, 400 7th Street, S.W., Room 9228, Washington, D.C. 20590. Telephone: 202/426-4011.

SLSDC - Bob Kraft, Office of Plans and Policy Development, 800 Independence Ave., S.W., Room 809W, Washington, D.C. 20591. Telephone: 202/426-2884.

RSPA - Elaine Economides, Office of Chief Counsel, 400 7th Street, S.W. Room 8420, Washington, D.C. 20590. Telephone: 202/755-4972.

MARAD - Mrs. Georgia Stamas, Secretary, Maritime Administration, 400 7th Street, S.W., Room 7300B, Washington, D.C. 20590, Telephone: 202/426-5746.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street, S.W., Room 10105, Washington, D.C. 20590. Telephone: 202/426-4723.

VOL
48
ISS
2
0
1
OC
17
1983
UMI

APPENDIX C - PUBLIC RULEMAKING DOCKETS

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 2nd Street, S.W., Room 4402, Washington, D.C. 20593. Working Hours: 7:30-4:00 [Monday-Friday].

FAA - Rules Docket, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave., S.W., Room 915G, Washington, D.C. 20591. Working Hours: 8:30-5;00.

FHWA - Docket Room, 400 7th Street, S.W., Room 4205, (Federal Motor Carrier Safety Regulations in Room 3404) Washington, D.C. 20590. Working Hours: 7:45-4:15.

FRA - Docket Clerk, 400 7th Street, S.W., Room 5101, Washington, D.C. 20590. Working Hours: 8:30-5:00.

NHTSA - Docket Room, 400 7th Street, S.W., Room 5109, Washington, D.C. 20590. Working Hours: 8:00-4:00.

UMTA - Docket Clerk, 400 7th Street, S.W., Room 9223, Washington, D.C. 20590. Working Hours: 8:30-5:00.

SLSDC - 800 Independence Ave., S.W., Room 814, Washington, D.C. 20591. Working Hours: 8:30-5:00.

RSPA - Docket Branch, 400 7th Street, S.W., Room 8426, Washington, D.C. 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street, S.W., Room 7300, Washington, D.C. 20590. Working Hours: 9:00-5:30.

OST - Docket Clerk, 400 7th Street, S.W., Room 10105, Washington, D.C. 20590. Working Hours: 9:00-5:30.

[FR Doc. 83-28075 Filed 10-14-83; 8:45 am]
BILLING CODE 4910-62-M

federal register

Monday
October 17, 1983

Part XV

Department of the Treasury

Office of the Secretary
Bureau of Government Financial Operations
Bureau of Alcohol, Tobacco and Firearms
Comptroller of the Currency
Customs Service
Internal Revenue Service

Semiannual Agenda

VOL
48
ISS
2
0
1
OC
17
1983
UMI

DEPARTMENT OF THE TREASURY (TREAS)
Office of the Secretary (OS)

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Office of the Secretary, Treasury.

ACTION: Semiannual Agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda Format developed by the Regulatory Information Service Center.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific Office of the Secretary regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action. For general information concerning the agenda of the Department of the Treasury contact Richard S. Carro, Special Assistant for Regulatory Affairs, Office of the General Counsel, Room 1422, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220, (202) 566-8464.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Office of the Secretary includes the Office of the General Counsel and the Office of Revenue Sharing.

DATED: August 31, 1983.
By direction of the Secretary.

David E. Pickford,
Executive Secretary.

Office of the Secretary—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	*Disclosure of Records	1505-AA01
2	Privacy Act of 1974, New System of Records	1505-AA02

*Indicates priority regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	RIN
3	*Disclosure of Records; Fees for Specific Services	1505-AA01

*Indicates priority regulation.

DEPARTMENT OF THE TREASURY (TREAS)
Office of the Secretary (OS)
Current and Projected Rulemakings

1. ●DISCLOSURE OF RECORDS

Priority: Agency Determination

Legal Authority: 5 USC 552; 5 USC 552a; 31 USC 321

CFR Citation: 31 CFR 1.1

Abstract: This regulation amends the Department of Treasury's regulations implementing the Freeedom of Information and Privacy Acts. The proposed amendments are intended to facilitiate and simplify public requests for information, and to assure accurate and consistent application of policies and procedures throughout the Department. The regulation revises fees charged by the Department for duplication, search and other services to reflect increased costs to the Department.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	02/00/84	

Small Entity: No

Agency Contact: Phyllis De Piazza, Departmental Disclosure Officer, Department of the Treasury, Office of the Secretary, **202 566-2789**

RIN: 1505-AA01

2. PRIVACY ACT OF 1974, NEW SYSTEM OF RECORDS

Legal Authority: 12 USC 1; 12 USC 9; 12 USC 481; 5 USC 301

CFR Citation: 31 CFR 1

Abstract: This proposed rule exempts the system of records entitled "Treasury/CC 500-Chief Counsel's

TREAS—OS
Current and Projected Rulemakings

Management Information System (CCMIS)" from the Privacy Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	11/18/82	47 FR 51890
NPRM Comment Period Begin	11/18/82	47 FR 51890
NPRM Comment Period End	12/20/82	
Final Action	10/00/83	

Small Entity: No

Agency Contact: Francis S. Rath, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, D.C. 20219, **202 447-1880**

RIN: 1505-AA02

DEPARTMENT OF THE TREASURY (TREAS)
Office of the Secretary (OS)
Completed Actions

COMPLETED REVIEWS

3. DISCLOSURE OF RECORDS; FEES FOR SPECIFIC SERVICES

Priority: Agency Determination

Legal Authority: 5 USC 552; 31 USC 321

CFR Citation: 31 CFR 1

Abstract: This regulation amends the Department's regulations implementing the Freedom of Information Act. The regulation revises fees charged by the Department for duplication, search and other services to reflect increased costs to the Department.

Timetable:

Action	Date	FR Cite
NPRM	12/03/82	47 FR 54475
NPRM Comment Period Begin	12/03/82	47 FR 54475
NPRM Comment Period End	01/02/83	
End Review	06/30/83	

Small Entity: No

Agency Contact: Phyllis De Piazza, Departmental Disclosure Officer, Department of the Treasury, Office of the Secretary, Room 5423, Washington, DC 20220, **202 566-2789**

RIN: 1505-AA01

[FR Doc. 83-28036 Filed 10-14-83; 8:45 am]

BILLING CODE 4810-25-T

Office of the General Counsel—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Practice before the Internal Revenue Service; Tax Shelter Offerings	1590-AA01

DEPARTMENT OF THE TREASURY (TREAS)
Office of the General Counsel (OGC)
Current and Projected Rulemakings

1. PRACTICE BEFORE THE INTERNAL REVENUE SERVICE; TAX SHELTER OFFERINGS

Legal Authority: 5 USC 301; 31 USC 1026 (prior codification); 31 USC 330 (1982)

CFR Citation: 31 CFR 10

Abstract: This notice contains modified proposed regulations governing practice before the Internal Revenue Service to set standards for providing opinions used in the promotion of tax shelter offerings. The regulations impose duties upon IRS practitioners who furnish opinions for use in connection with tax shelter offerings. The regulations extend the time for public comment on, and address comments received with respect to a previously published proposed rule (45 FR 58594, Sept. 4, 1980).

Timetable:

Action	Date	FR Cite
NPRM	09/04/80	45 FR 58594
NPRM Comment Period Begin	09/04/80	45 FR 58594
NPRM Comment Period End	11/03/80	
NPRM	12/15/82	47 FR 56144
NPRM Comment Period Begins	12/15/82	47 FR 56144
NPRM Comment Period Ends	02/14/83	
Final Action	03/00/84	

Small Entity: Not Applicable

Agency Contact: Mr. Leslie S. Shapiro Director of Practice, Department of the Treasury, Internal Revenue Service, Washington, D.C. 20220, **202 634-5135**

RIN: 1590-AA01

BILLING CODE 4810-25-T

TREAS—ORS

Office of Revenue Sharing—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Regulations to Implement Legislation Renewing the General Revenue Sharing Program	1507-AA00
2	Issuance of Handicapped Discrimination Regulations in Final Form	1507-AA01
3	Age Discrimination Regulations	1507-AA02
4	Reservation of entitlement funds, adjustment of allocations	1507-AA03

DEPARTMENT OF THE TREASURY (TREAS)
Office of Revenue Sharing (ORS)
Current and Projected Rulemakings

1. REGULATIONS TO IMPLEMENT LEGISLATION RENEWING THE GENERAL REVENUE SHARING PROGRAM

Legal Authority: Anticipated authorizing legislation

CFR Citation: 31 CFR 51

Abstract: The funding authorization for the General Revenue Sharing Progam expires on September 30, 1983. If renewal legislation is enacted prior to the end of the fiscal year, the Office of Revenue Sharing will begin to develop regulations to implement that legislation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Jacqueline L. Jackson, Attorney-Advisor (see Agency Contact heading for address and phone)

Government Levels Affected: Local

Agency Contact: Richard S. Isen, Chief Counsel, Department of the Treasury, Office of Revenue Sharing, Office of Chief Counsel, Washington, DC 20226, 202 634-5182

RIN: 1507-AA00

2. ISSUANCE OF HANDICAPPED DISCRIMINATION REGULATIONS IN FINAL FORM

Legal Authority: 31 USC 6701 to 6724 The Revenue Sharing Act; 29 USC 794 Rehabilitation Act of 1973

CFR Citation: 31 CFR 51

Abstract: After completion of a review of the HEW Guidelines, the Department of Justice decided not to make revisions. The decision as to whether the Revenue Sharing regulations will be issued in final form will be affected by the decision in the case Paralyzed Veterans of America v. Smith Ca No. CV 79-1979 WPG.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Jacqueline L. Jackson, Attorney-Advisor (see Agency Contact heading for address and phone)

Government Levels Affected: Local

Agency Contact: Richard S. Isen, Chief Counsel, Department of the Treasury, Office of Revenue Sharing, Office of Chief Counsel, Washington, DC 20226, 202 634-5182

RIN: 1507-AA01

3. AGE DISCRIMINATION REGULATIONS

Legal Authority: 31 USC 6701 to 6724 The Revenue Sharing Act; 42 USC 6701 et seq Age Discrimination Act of 1975

CFR Citation: 31 CFR 51

Abstract: The Office of Revenue Sharing is required, pursuant to the Age Discrimination Act of 1975, to issue regulations implementing that Act. A proposed rule containing these regulations was issued on December 31, 1979 (44 FR 77456), as part of the overall revision of the revenue sharing regulations. Final regulations were drafted and submitted in 1979 for approval to HHS. The regulations will be issued shortly after HHS provides final approval.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Jacqueline L. Jackson, Attorney-Advisor (see Agency Contact heading for address and phone)

Government Levels Affected: Local

Agency Contact: Richard S. Isen, Chief Counsel, Department of the Treasury, Office of Revenue Sharing, Office of Chief Counsel, Washington, DC 20226, 202 634-5182

RIN: 1507-AA02

4. ●RESERVATION OF ENTITLEMENT FUNDS, ADJUSTMENT OF ALLOCATIONS

Legal Authority: 31 USC 6701 to 6724 The Revenue Sharing Act

CFR Citation: 31 CFR 51

Abstract: This reservation project is the revision of certain provisions of 31 CFR Part 51 that implement procedures for reservation of entitlement funds and adjustment of allocations. It has been recommended that ORS revise its reserve policy to minimize the amounts withheld and ensure excess amounts are distributed. The change will require the establishment of a new allocation process.

TREAS—BGFO
Current and Projected Rulemakings

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL

AGENCY CONTACT: Jacqueline L. Jackson, Attorney-Advisor (see Agency Contact heading for address and phone)

Government Levels Affected: Local

Agency Contact: Richard S. Isen, Chief Counsel for Revenue Sharing, Department of the Treasury, Office of Revenue Sharing, 2401 E Street NW, 15th Floor, Washington, DC 20226, 202 634-5182

RIN: 1507-AA03

BILLING CODE 4810-25-T

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Government Financial Operations (BGFO)

Bureau of Government Financial Operations

31 CFR Ch. II

Semiannual Agenda

AGENCY: Bureau of Government Financial Operations, Treasury.

ACTION: Semiannual Agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require the publication of a semiannual agenda of regulations under development or review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The proposed regulations are not considered to be major regulations within the meaning of E.O. 12291 and will not have a significant impact on small entities within the meaning of the Regulatory Flexibility Act.

DATED: August 15, 1983.

W. E. Douglas,

Commissioner.

Bureau of Government Financial Operations—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Revision of Treasury Department Circular (TDC) No. 1075, Regulations Governing Withdrawal of Cash from the Treasury for Advances Under Federal Grant and Other Programs	1510-AA00
2	Federal Recurring Payments Through Financial Organizations By Means Other Than Checks	1510-AA01
3	Regulations Governing Cash Management Practices Within the Federal Government	1510-AA02
4	Regulations Governing the Utilization of the U.S. Treasury Financial Communications System	1510-AA03
5	*Extension of Treasury Reclamation Authority	1510-AA04

*Indicates priority regulation.

Bureau of Government Financial Operations—Existing Regulations Under Review

Sequence Number	Title	RIN
6	Regulations Governing Surety Companies Doing Business With the United States	1510-AA05

VOL
48
ISS
201
OC
17
1983
UMI

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Government Financial Operations (BGFO)

Current and Projected Rulemakings

1. REVISION OF TREASURY DEPARTMENT CIRCULAR (TDC) NO. 1075, REGULATIONS GOVERNING WITHDRAWAL OF CASH FROM THE TREASURY FOR ADVANCES UNDER FEDERAL GRANT AND OTHER PROGRAMS

Legal Authority: 5 USC 301; 31 USC 6503; 42 USC 4213

CFR Citation: 31 CFR 205

Abstract: Revision of TDC No. 1075 will formally establish the Letter of Credit-Treasury Financial Communications System (LOC-TFCS). The two established letter of credit systems, the Letter of Credit-Federal Reserve Bank System and the Letter of Credit-Treasury Regional Disbursing Office System, do not provide the combination of Federal agency preaudit of payment requests and guaranteed payment time. The LOC-TFCS provides both of these features, thus enabling improved Federal control of advances made through letter of credit. In addition, other financing issues, such as developing more definitive guidelines for the immediate cash requirements of recipient organizations receiving advances of Federal funds, will be addressed at this time.

Timetable:

Action	Date	FR Cite
Decision pending	00/00/00	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Paul J. Gist, Assistant Director, Department of the Treasury, Bureau of Government Financial Operations, Cash Mgmt Planning & Developmt Staff, 704-F Premier Bldg, 1725 I Street, NW, Washington, DC 20226, 202 634-5772

RIN: 1510-AA00

2. FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN CHECKS

Legal Authority: 5 USC 301; 12 USC 391; PL 97-365 Debt Collection Act of 1982

CFR Citation: 31 CFR 210

Abstract: Because of the current work on the EFT Interagency Task Force, it is anticipated that in FY 1983 the above regulations governing the issuance of payments by EFT will be reviewed and possibly revised. Federal agencies involved in the Direct Deposit/EFT program report that some financial organizations have delayed the return of recurring benefits placed in the account of a deceased account holder after they have become aware of the death of a recipient. These same agencies have reported instances where the existing regulations have inhibited their ability to collect other funds after the death or legal incapacity of the recipient. Regulations may be amended to increase the Government's recovery rate and improve the responsiveness of financial organizations. Also being considered are changes to streamline procedures for changing account and routing numbers to pinpoint liability for forged enrollment forms and to capture any benefits available under the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Dan Gordon, Project Analyst, Department of the Treasury, Bureau of Government Financial Operations, Banking & Cash Mgmt Regs & Compliance Staff, Cash Mgmt, 1100 Premier Bldg, 1725 I St, NW, Washington, DC 20226, 202 634-2082

RIN: 1510-AA01

3. REGULATIONS GOVERNING CASH MANAGEMENT PRACTICES WITHIN THE FEDERAL GOVERNMENT

Priority: Undetermined

Legal Authority: 5 USC 301; 31 USC 3302; 31 USC 3342; 31 USC 321; 31 USC 331

CFR Citation: Not yet determined

Abstract: Methods for improving the information being provided to the Treasury's Cash Forecasting Team are being evaluated. One feasible alternative entails modifying agency reporting to provide needed cash flow projections. This regulatory project is currently in the research stage.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: CFR CONT: This regulation is not published in the CFR. However, should the anticipated modifications be adopted, it may be elevated to CFR status. These regulations are found in Treasury Department Circular No. 1084.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Federal

Agency Contact: Kenneth E. Carfine, Project Manager, Department of the Treasury, Bureau of Government Financial Operations, Cash Management Program Staff, 711 Premier Bldg, 1725 I Street, NW, Washington, DC 20226, 202 634-5784

RIN: 1510-AA02

4. REGULATIONS GOVERNING THE UTILIZATION OF THE U.S. TREASURY FINANCIAL COMMUNICATIONS SYSTEM

Priority: Undetermined

Legal Authority: 5 USC 301; 31 USC 3302; 31 USC 3342; 31 USC 321; 31 USC 331

CFR Citation: Not yet determined

Abstract: To further enhance the deposit and collection operations of the Government, increased use of the most efficient delivery system, the Treasury Financial Communications System (TFCS), must be accomplished. Some of the increase can be gained via voluntary actions by Federal agencies; however, mandatory use of TFCS for very large dollar deposits is considered a must to increase the efficiency of a significant number of large dollar deposits. This regulation is currently in the research stage.

Timetable:

Action	Date	FR Cite

TREAS—BGFO

Current and Projected Rulemakings

Next Action Undetermined

Small Entity: Undetermined

Additional Information: CFR CONT: This regulation is not published in the CFR. However, should the anticipated modifications be adopted, it may be elevated to CFR status. This regulation may be found in Treasury Department Circular No. 1083.

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Kenneth E. Carfine, Project Manager, Department of the Treasury, Bureau of Government Financial Operations, Cash Management Program Staff, 711 Premier Bldg, 1725 I Street, NW, Washington, DC 20226, 202 634-5784

RIN: 1510-AA03

5. EXTENSION OF TREASURY RECLAMATION AUTHORITY

Priority: Agency Determination

Legal Authority: 5 USC 301; 31 USC 3331; 31 USC 3343; 31 USC 3711

CFR Citation: 31 CFR 240

Abstract: The Treasury Department has the right to refunds from banks and other indorsers receiving payment on Treasury checks bearing forged or unauthorized indorsements. The United States has a common law right to offset amounts owed to it against amounts in its possession belonging to its debtors. Further, Treasury is authorized under the Federal Claims Collection Act of 1966, as amended, to issue regulations that authorize recovery of delinquent reclamations and accrued interest thereon by offsetting those amounts against amounts in the possession of the United States that are owed to banks. Treasury plans to offset the amount due, plus accrued interest, against other Federal agency payables due to financial institutions for reclamations at least 120 days old. This rule is intended to improve Treasury debt collection efforts.

Timetable:

Action	Date	FR Cite
NPRM	11/04/81	46 FR 54763
Interim Final Rule	02/23/83	
Temporary rule	03/17/83	48 FR 11261
NPRM	05/31/83	48 FR 24093
NPRM Comment Period Begin	05/31/83	48 FR 24093
NPRM Comment Period End	07/31/83	
End Review	09/30/83	
Final Action	11/00/83	
Final Action Effective	12/00/83	

Small Entity: No

Agency Contact: Michael D. Serlin, Assistant Commissioner, Department of the Treasury, Bureau of Government Financial Operations, Room 416, Annex Building, Pennsylvania, Avenue and Madison Place, NW, Washington, DC 20226, 202 566-5594

RIN: 1510-AA04

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Government Financial Operations (BGFO)

Existing Regulations Under Review

6. REGULATIONS GOVERNING SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Legal Authority: 31 USC 9305

CFR Citation: 31 CFR 223.1; 31 CFR 223.2; 31 CFR 223.3; 31 CFR 223.8; 31 CFR 223.10; 31 CFR 223.11; 31 CFR 223.12; 31 CFR 223.14; 31 CFR 223.16; 31 CFR 223.17; 31 CFR 223.21; 31 CFR 223.22

Abstract: The amended regulations will revise United States Code references; revise titles of designated officials; reduce quarterly reporting requirements of insurance companies from an estimated 4,000 hours annually to approximately 2,000 hours; eliminate the admitted reinsurer requirement thereby eliminating the reporting requirements and fees of 150 companies and saving approximately 900 staff review hours. Other benefits will include the reduction in application and renewal fees currently $1,050 and $700 respectively (by 30 to 50 percent); reduction in staff hours required for annual reviews (cut from 3700 hours to 1850 hours); reduction in staff hours required for application reviews (cut from 1800 to 900) and quarterly reviews (cut from 200 to 100 hours). Purpose of the revisions is to substantially reduce the human and material resources needs of this operation.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/83	
End Review	12/31/83	

Small Entity: Not Applicable

Agency Contact: Terry L. Boyer, Senior Advisor, Department of the Treasury, Bureau of Government Financial Operations, Operations Staff-Surety, 826 Premier Bldg., 1725 I Street, NW, Washington, DC 20226, 202 634-5763

RIN: 1510-AA05

[FR Doc. 83-28037 Filed 10-14-83; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 482]

Unified Agenda of Federal Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: General Notice; Unified Agenda of Federal Regulations of regulatory projects under development, consideration, and review.

SUMMARY: Pursuant to section 5 of Executive Order 12291, entitled "Federal Regulations," ATF is publishing an agenda of proposed regulations that are expected to be issued and of proposed regulations that have been issued and an agenda of existing regulations that are being reviewed under the terms of the Executive Order, within the next six months. The latter agenda also lists regulatory projects identified for review pursuant to the ATF Regulatory Reform Program. Pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 610), ATF is also indicating whether a regulatory project is likely to have a significant economic impact upon a substantial number of small entities.

This general notice is designed to give the public adequate notice of the regulatory activities being contemplated by ATF.

The agenda is based on information available at the present time. The next Unified Agenda of Federal Regulations will be published in the **Federal Register** of April 1984.

FOR FURTHER INFORMATION CONTACT: For information about any particular regulatory project, contact the person listed in the subheading "Agency Contact," for the regulatory project.

For general information about this general notice, contact Lori Weins, of the FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20226; 202-566-7626 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Following is a table of abbreviations used throughout the agenda.

TABLE OF ABBREVIATIONS

ABBREVIATION	MEANING
ANPRM	Advance notice of proposed rulemaking
ATF	Bureau of Alcohol, Tobacco and Firearms
CFR	Code of Federal Regulations

TABLE OF ABBREVIATIONS—Continued

ABBREVIATION	MEANING
DSP	Distilled Spirits plants
E.O.	Executive Order
FR	Federal Register
FAA Act	Federal Alcohol Administration Act
New	New regulation is proposed
NPRM	Notice of proposed rulemaking
OFR	Office of Federal Register
OMB	Office of Management and Budget
Pub. L.	Public Law
Res.	Rescission of an existing regulation
Rev.	Revision or amendment of an existing regulation
T.D.	Treasury Decision
T.D. with N.	(Temporary) Treasury decision with notice
T.D. w/o N.	Treasury decision without notice
Treasury	Department of the Treasury

Issuance

By direction of the Secretary of the Treasury, this general notice reads as set forth below.

SIGNED: August 15, 1983.

Stephen E. Higgins,
Director.

Bureau of Alcohol, Tobacco and Firearms—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	*Implementation of the "Wine Impact Bill"	1512-AA06
2	*American Viticultural Areas	1512-AA07
3	*Implementation of the Distilled Spirits Tax Revision Act of 1979 and Revision of Vinegar Regulations	1512-AA08
4	*Reporting Taxes Due to the Governments of Puerto Rico and the Virgin Islands	1512-AA09
5	*Standard of Identity for Vodka	1512-AA10
6	*Materials and Processes for the Production and Treatment of Wine	1512-AA12
7	*Advertising of Wine, Distilled Spirits, and Malt Beverages	1512-AA16
8	*Recodification of 27 CFR Part 4	1512-AA17
9	*Nonbeverage Drawback	1512-AA20
10	*Recodification of Wine Regulations (Subpart XX)	1512-AA23
11	*Recodification of Beer Regulations	1512-AA24
12	*Recodification of Wine Regulations (Subparts A to E)	1512-AA30
13	*Late Harvest Designation for Wine	1512-AA31
14	Change In Standard of Identity For Straight Whiskies of the same Type	1512-AA32
15	*Estate Bottled	1512-AA34
16	Effect of Reduced Customs Staffing at Customs Bonded Warehouses	1512-AA35
17	Reduced Proof Distilled Spirits Products	1512-AA36
18	*Geographic Brand Names	1512-AA37
19	*Appellation of Origin, Name and Address, and Net Contents	1512-AA38
20	*375 ml and 500 ml containers for Distilled Spirits	1512-AA39

TREAS—BATF

Bureau of Alcohol, Tobacco and Firearms—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
21	*Manufacturer's Identification on Tobacco Products Packages	1512-AA28
22	27 CFR Part 285, Manufacture of Cigarette Papers and Tubes	1512-AA33

*Indicates priority regulation.

Bureau of Alcohol, Tobacco and Firearms—Existing Regulations Under Review

Sequence Number	Title	RIN
23	*Recodification of 27 CFR Parts 211 and 213 as 27 CFR Parts 20 and 22	1512-AA21

*Indicates priority regulation.

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	RIN
24	*100 and 375 ml Containers for Distilled Spirits	1512-AA00
25	*Labeling of Multi-vintage Wine	1512-AA01
26	*Wawszkiewicz v. Department of the Treasury et al., 670 F. 2d 296 (D.C. CIR 1979)	1512-AA05
27	*Restoration of Water Lost in Heat Evaporation of Standard Wine Under a Vacuum	1512-AA11
28	*Formulas for Denatured Alcohol and Rum	1512-AA22
29	*Three Year Firearms License	1512-AA29

*Indicates priority regulation.

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Current and Projected Rulemakings

ALCOHOL

1. IMPLEMENTATION OF THE "WINE IMPACT BILL"

Priority: Agency Determination

Legal Authority: 26 USC 5010

CFR Citation: 27 CFR 19.11; 27 CFR 19.37 to 19.40; 27 CFR 19.42; 27 CFR 19.346; 27 CFR 19.372; 27 CFR 19.402; 27 CFR 19.505; 27 CFR 19.566; 27 CFR 19.681; 27 CFR 19.748; 27 CFR 19.763; 27 CFR 19.764; 27 CFR 19.778 to 19.780; 27 CFR 170.681 to 170.691; 27 CFR 197.105; ...

Abstract: Restores the tax system which existed for distilled spirits products containing wine or alcoholic flavoring materials prior to the enactment of the Distilled Spirits Tax Revision Act of 1979; also permits spirits bottled for industrial purposes to be transferred in bond between distilled spirits plants.

Timetable:

Action	Date	FR Cite
(Temp) Treas Decision with Notice	09/00/83	

Small Entity: No

Agency Contact: Richard C. Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA06

2. AMERICAN VITICULTURAL AREAS

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Supplemental Timetable:

Alexander Valley, CA (contact Jim Whitley)
NPRM 08/19/82 (47 FR 35521)
NPRM Comment Period End 10/18/82
Hearing Held 01/24/83
Final Action 12/00/83

Altus, AR (contact Steve Simon)
NPRM 06/00/83

Anderson Valley, CA (contact Ed Reisman)
NPRM 04/04/83 (48 FR 14394)
NPRM Comment Period End 05/04/83
Final Action 08/18/83 (48 FR 37369)

Arkansas Mountain, AR (contact Steve Simon)
NPRM 12/00/83

Arroyo Seco, CA (contact Charles Bacon)
NPRM 11/03/82 (47 FR 49860)
NPRM Comment Period End 12/20/82
Final Action 04/15/83 (48 FR 16245)

Bonny Doon (contact Michael Breen)
NPRM 12/31/83
NPRM Comment Period Begin 01/31/84
NPRM Comment Period End 03/31/84

Carmel Valley, CA (contact John Linthicum)
NPRM 08/26/82 (47 FR 37588)

NPRM Comment Period End 09/24/82
Final Action 12/14/82 (47 FR 55915)

Catoctin, MD (contact Jim Ficaretta)
NPRM 02/09/83 (48 FR 5958)
NPRM Comment Period End 03/11/83
Final Action 12/00/83

Central Coast, CA (contact John Linthicum)
NPRM 03/00/84

Central Delaware Valley, PA and NJ (contact Steve Simon)
NPRM 12/04/81 (46 FR 59276)
NPRM Comment Period End 03/04/82
Final Action 06/00/83

Chalk Hill, CA (contact Michael Breen)
NPRM 05/12/82 (47 FR 20321)
NPRM Comment Period End 07/12/82
Final Action 09/30/83

Clarksburg, CA (contact Jim Ficaretta)
NPRM 09/16/83 (48 FR 41602)

Clear Lake, CA (contact Ed Reisman)
NPRM 10/00/83
NPRM Comment Period End 11/00/83
Final Action 12/00/83

Cole Ranch, CA (contact Steve Simon)
NPRM 12/04/81 (46 FR 59273)
NPRM Comment Period End 03/04/82
Final Action 04/15/83 (48 FR 16247)

Columbia Valley, WA and OR (contact Charles Bacon)
NPRM 08/24/83 (48 FR 38497)
NPRM Comment Period End 10/11/83
Final Action 03/00/84

Dry Creek Valley, CA (contact Ed Reisman)
NPRM 01/12/83 (48 FR 1315)
NPRM Comment Period End 02/11/83
Final Action 06/04/83 (48 FR 35395)

El Dorado, CA (contact James Hunt)
NPRM 12/14/82 (47 FR 55954)
NPRM Comment Period End 01/28/83
Final Action 09/30/83 (47 FR 55954)

Fiddletown, CA (contact James Hunt)
NPRM 06/00/83

Grand River Valley, OH (contact John Linthicum)
NPRM 04/04/83 (48 FR 14396)
Final Action 11/00/83

Hermann, MO (contact Jim Ficaretta)
NPRM 12/14/82 (47 FR 55957)
NPRM Comment Period End 01/28/83
Final Action 08/18/83 (48 FR 37371)

Howell Mountain, CA (contact Jim Ficaretta)
NPRM 12/30/83

Kanawha River Valley, WVA (contact John Linthicum)
NPRM 03/00/84

King City, CA (contact Charles Bacon)
NPRM 12/00/83

Knight's Valley, CA (contact Michael Breen)
NPRM 02/09/83 (48 FR 5961)
NPRM Comment Period End 03/11/83
Final Action 12/31/83

Lake Erie, NY, PA, and OH (contact Robert White)
NPRM Comment Period End 05/19/83 (48 FR 14390)
Final Action 10/00/83

Lake Michigan Shore, MI (contact Robert White)
NPRM 12/14/82 (47 FR 55959)
NPRM Comment Period End 01/28/83
Final Action 09/00/83

Linganore, MD (contact Ed Reisman)
NPRM 11/03/82 (47 FR 49863)
NPRM Comment Period End 12/03/82
Final Action 06/18/83 (48 FR 37372)

Lodi, CA (contact Michael Breen)
NPRM 12/31/83

Loramie Creek, OH (contact Lori Weins)
NPRM 09/01/82 (47 FR 38553)
NPRM Comment Period End 10/01/82
Final Action 11/26/82 (47 FR 53355)

Los Carneros, CA (contact Steve Simon)
Amended NPRM 06/04/82 (47 FR 24344)
End Amended NPRM Comment Period 08/03/82
Final Action 12/00/83

Madera, CA (contact Charles Bacon)
NPRM 01/26/82 (46 FR 3564)
NPRM Comment Period End 03/12/82
Portuguese govt rqsts Pub Hearing 04/28/82
Hearing Held 01/18/83
Final Action 12/00/83

Martha's Vineyard, MA (contact Charles Bacon)
NPRM 08/04/83 (48 FR 35462)
NPRM Comment Period End 09/19/83
Final Action 02/00/84

Maryland Cumberland Valley, MD (contact Michael Breen)
NPRM 12/30/83

Mendocino, CA (contact Ed Reisman)
NPRM 10/00/83
NPRM Comment Period End 11/00/83
Final Action 12/00/83

Merritt Island, CA (contact Lori Weins)
NPRM 11/03/82 (47 FR 49866)
NPRM Comment Period End 12/20/82
Final Action 05/17/83 (48 FR 22145)

Mesilla Valley, New Mexico (contact Ed Reisman)
NPRM 11/00/83
NPRM Comment Period End 12/00/83
Final Action 01/00/84

Mississippi Delta, MS (contact Steve Simon)
NPRM 12/00/83

Monterey, CA (contact Michael Breen)
NPRM 09/30/83

Monticello, VA (contact James Hunt)
NPRM 12/04/81 (46 FR 59274)
NPRM Comment Period End 03/04/82
Amended NPRM 11/19/82 (47 FR 52200)
End Amended NPRM Comment Period 01/03/83
Final Action 11/30/83

North Coast, CA (contact Charles Bacon)
Amended NPRM 01/11/82 (47 FR 1151)
End Amended NPRM Comment Period 02/25/82
Final Action 09/21/83 (48 FR 42973)

North Fork of the Roanoke, VA (contact James Hunt)
NPRM 07/27/82 (47 FR 32448)
NPRM Comment Period End 08/26/82
Final Action 03/00/83

Northern Sonoma, CA (contact John Linthicum)
NPRM 06/27/83 (48 FR 29539)
NPRM Comment Period End 08/11/83
Final Action 03/00/84

Ohio River Valley, IN, OH, WVA, KY (contact John Linthicum)
NPRM 12/14/82 (47 FR 55961)
Final Action 09/07/83 (48 FR 40377)

Ozark Mountains, AR (contact Steve Simon)
NPRM 12/00/83

Pacheco Pass, CA (contact Steve Simon)
NPRM 06/02/83 (48 FR 24737)
NPRM Comment Period End 07/18/83

Paso Robles, CA (contact Roger Bowling)
NPRM 01/17/83 (48 FR 1985)
NPRM Comment Period End 02/16/83
Final Action 10/00/83

Potter Valley, CA (contact James Hunt)
NPRM 02/09/83 (48 FR 5955)
NPRM Comment Period End 03/11/83
Final Action 09/00/83

Rocky Knob, VA (contact James Hunt)
NPRM 11/19/81 (46 FR 56828)
NPRM Comment Period End 02/17/82
Final Action 06/12/83 (47 FR 1291)

Russian River Valley, CA (contact James Hunt)
NPRM 02/04/83 (48 FR 5280)
NPRM Comment Period End 03/21/83
Final Action 09/00/83

San Benito, CA (contact Jim Ficaretta)
NPRM 01/00/84

San Lucas, CA (contact Charles Bacon)
NPRM 12/00/83

Santa Ynez Valley, CA (contact Charles Bacon)
NPRM 01/24/82 (47 FR 53048)
NPRM Comment Period End 01/10/83
Final Action 04/15/83 (48 FR 16250)

Shenandoah Valley, CA (contact James Hunt)
Hearing Held 12/07/81
Hearing Held 12/08/81

Shenandoah Valley, VA (contact James Hunt)
Notice of Hearings Published 10/30/81 (46 FR 53691)
Hearing Held 01/12/82
Hearing Held 01/13/82
Final Action 12/28/82 (47 FR 57694)

Shenandoah Valley, VA and WVA (contact James Hunt)
NPRM 08/20/82 (47 FR 36445)
NPRM Comment Period End 10/04/82
Final Action 12/28/82 (47 FR 57696)

Sobre Vista Vineyards, CA (contact John Linthicum)
NPRM 03/00/84

Solano County Green Valley, CA (contact Robert White)
NPRM 01/11/81 (47 FR 1149)
NPRM Comment Period End 03/12/82
Final Action 12/29/82 (47 FR 57921)

Sonoma County Green Valley, CA (contact Robert White)
NPRM 11/15/82 (47 FR 51425)
NPRM Comment Period End 12/15/82
Final Action 09/30/83

Sonoma Mountain, CA (contact John Linthicum)
NPRM 03/00/84

Southeastern New England, RI, MA, CT (contact Charles Bacon)
NPRM 09/04/83 (48 FR 35462)
NPRM Comment Period End 09/19/83
Final Action 02/00/84

Suisun Valley, CA (contact Robert White)
NPRM 01/11/82 (47 FR 1153)
NPRM Comment Period End 03/12/82
Final Action 11/24/83 (47 FR 52996)

Temecula, Murrieta and Rancho Calif., CA (contact John Linthicum)
NPRM 07/27/82 (47 FR 32450)
Hearing Held 01/20/83
NPRM Comment Period End 02/20/83
Final Action 02/00/84

Umpqua Valley, OR (contact Robert White)
NPRM 09/00/83

Walla Walla Valley, WA (contact Jim Ficaretta)
NPRM 06/27/83 (48 FR 29541)
NPRM Comment Period End 08/10/83

Willamette Valley, OR (contact Jim Ficaretta)
NPRM 06/29/83 (48 FR 29882)
NPRM Comment Period End 08/15/83

Willow Creek, CA (contact Roger Bowling)
NPRM 01/12/83 (48 FR 1318)
NPRM Comment Period End 02/11/83
Final Action 08/18/83 (48 FR 37374)

Yakima Valley, WA (contact Charles Bacon)
NPRM 11/24/82 (47 FR 53051)
NPRM Comment Period End 01/10/83
Final Action 04/04/83 (48 FR 14374)

York Mountain, CA (contact James Hunt)
NPRM 02/24/83 (48 FR 5956)
NPRM Comment Period End 03/11/83
Final Action 09/00/83

Small Entity: No

Agency Contact: See supplemental timetable, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, **202 566-7626**

RIN: 1512-AA07

3. IMPLEMENTATION OF THE DISTILLED SPIRITS TAX REVISION ACT OF 1979 AND REVISION OF VINEGAR REGULATIONS

Priority: Agency Determination

Legal Authority: 26 USC 5001 to 5691

CFR Citation: 27 CFR 5; 27 CFR 13; 27 CFR 19; 27 CFR 170; 27 CFR 173; 27 CFR 194; 27 CFR 195; 27 CFR 196; 27 CFR 197; 27 CFR 200; 27 CFR 211; 27 CFR 212; 27 CFR 213; 27 CFR 231; 27 CFR 240; ...

Abstract: Eliminates the wine gallon method of imposing the distilled spirits tax and the rectification tax; converts DSP from the former distilled spirits tax system to an all-in-bond tax system; incorporates other amendments from prior projects.

Timetable:

Action	Date	FR Cite
NPRM	07/18/79	
Temporary Regulations	12/11/79	
Final Action	10/00/83	

Small Entity: No

Agency Contact: Richard Langford, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, **202 566-7531**

RIN: 1512-AA08

4. REPORTING TAXES DUE TO THE GOVERNMENTS OF PUERTO RICO AND THE VIRGIN ISLANDS

Priority: Agency Determination

Legal Authority: 26 USC 5555; 26 USC 5207

CFR Citation: 27 CFR 19.377

Abstract: Changes the reporting requirements for most Puerto Rican and Virgin Islands spirits bottled at domestic distilled spirits plants. The reporting requirement will remain as a line item on the proprietor's monthly reports. However, the time for recording tax determination of insular spirits will change from the time these spirits enter the processing account to the time of tax determination.

Timetable:

Action	Date	FR Cite
NPRM	04/13/81	46 FR 21624
Final Action	09/00/83	

Small Entity: No

Agency Contact: Susan M. McCarron, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, **202 566-7626**

RIN: 1512-AA09

5. STANDARD OF IDENTITY FOR VODKA

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22

Abstract: Considers clarifying the standard of identity for vodka by revoking Revenue Ruling 56-98 which permits the use of small quantities of sugar or citric acid in vodka; or would propose a new class and type of vodka which contains trace amounts of sugar or citric acid.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/82	47 FR 1148
ANPRM Comment Period End	07/11/82	
NPRM	12/00/83	
Final Action	06/00/84	

Small Entity: No

Agency Contact: Charles Bacon, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, **202 566-7626**

RIN: 1512-AA10

6. MATERIALS AND PROCESSES FOR THE PRODUCTION AND TREATMENT OF WINE

Priority: Agency Determination

Legal Authority: 27 USC 5382

CFR Citation: 27 CFR 240

Abstract: Updates, clarifies, and simplifies the regulations relating to the production and treatment of wine.

Timetable:

Action	Date	FR Cite
NPRM	06/18/82	47 FR 26399
NPRM Comment Period Begin	06/18/82	47 FR 41402
NPRM Comment Period End	12/20/82	
Final Action	09/30/83	

Small Entity: No

Agency Contact: Mike Breen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, **202 566-7531**

RIN: 1512-AA12

7. ADVERTISING OF WINE, DISTILLED SPIRITS, AND MALT BEVERAGES

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Abstract: To modernize the advertising regulations under section 5(f) of the Federal Alcohol Administration Act. Hearings held September 9-10 and December 10-11, 1981.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/78	
ANPRM Comment Period End	03/23/79	
NPRM	12/19/80	
NPRM Comment Period End	03/19/81	
Notice of Hearings	07/20/81	
Multiple Hearings beginning	09/09/81	

Action	Date	FR Cite
Notice reopening Comment Period	03/19/82	
Comment Period ended	04/19/82	
Final Action	12/00/83	

Small Entity: No

Additional Information: ANPRM, Notice No. 313.

Agency Contact: Roger Bowling, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA16

8. RECODIFICATION OF 27 CFR PART 4

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Abstract: To revise the wine labeling and advertising regulations; where applicable, to incorporate production regulations; and due to statutory amendments requested, may result in a legislative submission.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Agency Contact: Roger Bowling, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA17

9. NONBEVERAGE DRAWBACK

Priority: Agency Determination

Legal Authority: 26 USC 5131 et seq

CFR Citation: 27 CFR 197

Abstract: To update, clarify, simplify, and recodify the regulations relating to drawback of tax on distilled spirits used in the manufacture of non-beverage products.

Timetable:

Action	Date	FR Cite
NPRM	12/01/83	

Small Entity: Yes

Additional Information: SMALL BUSINESSES CONT: This regulation affects approximately 500 entities.

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA20

10. RECODIFICATION OF WINE REGULATIONS (SUBPART XX)

Priority: Agency Determination

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 170.681 to 170.691; 27 CFR 231; 27 CFR 240; 27 CFR 24

Abstract: To update, simplify, and clarify regulations relating to wine; and to incorporate ATF Rulings.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA23

11. RECODIFICATION OF BEER REGULATIONS

Priority: Agency Determination

Legal Authority: 26 USC 5051 et seq; 26 USC 5401 et seq

CFR Citation: 27 CFR 245

Abstract: To simplify and clarify regulations relating to the production and taxpayment of beer; to simplify and reduce paperwork and recordkeeping requirements imposed on industry; and to reflect technological advances in the beer industry since the regulations were last revised.

Timetable:

Action	Date	FR Cite
NPRM	02/03/83	48 FR 4803
NPRM Comment Period End	05/04/83	
Final Action	06/00/84	

Small Entity: No

Agency Contact: Charles Bacon, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA24

12. RECODIFICATION OF WINE REGULATIONS (SUBPARTS A TO E)

Priority: Agency Determination

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 240.1 to 240.145

Abstract: To update, simplify and clarify regulations relating to wine; and to incorporate ATF Rulings.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Jim Whitley, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA30

13. LATE HARVEST DESIGNATION FOR WINE

Priority: Agency Determination

Legal Authority: 27 USC 205E; 27 USC 205F

CFR Citation: 27 CFR 4.29

Abstract: Late harvest designations, based on the Brix (percent by weight) level of the grapes at harvest would indicate to consumers that the grapes used to produce the wine were left on the vine for express purpose of increasing the sugar content. The designations would indicate additional techniques and processes were used in the production of the wine.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Roger Bowling, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA31

14. ●CHANGE IN STANDARD OF IDENTITY FOR STRAIGHT WHISKIES OF THE SAME TYPE

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22(b)(1)(iii); 27 CFR 19.346(b)

Abstract: Current regulations do not provide for distilled spirits plant proprietors to mingle and still designate as straight whiskies of the same type produced at different distilleries or produced by different distillers. This project will allow such whiskies to be labeled as straight as long as the whiskies are produced within the same state. Their only alternative is to leave the regulations as they are and to not allow such whiskies to be mingled and designated as straight. We do not anticipate any extra costs to result from this change in regulations. This change will result in greater flexibility for distilled spirits plant proprietors.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: No

Agency Contact: Robert White, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA32

15. ●ESTATE BOTTLED

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.26

Abstract: To redefine estate bottled requirements and provide for additional terms to provide requirements for imported wine.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/84	

Small Entity: No

Agency Contact: Roger Bowling, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA34

16. ●EFFECT OF REDUCED CUSTOMS STAFFING AT CUSTOMS BONDED WAREHOUSES

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 252; 27 CFR 251

Abstract: The Customs Bureau has withdrawn Customs Officers from Customs Bonded Warehouses, consequently, there are no Customs Officers present to certify ATF forms or to make gauges of distilled spirits. Because of possible jeopardy to the Federal Revenue, ATF has issued instructions to proprietors of customs bonded warehouses requesting them to certify ATF forms and make gauges of distilled spirits in the absence of customs officers. This change in regulations will formalize this procedure. The alternative to allowing customs bonded warehouse proprietors to sign forms and gauge spirits is to not require anyone to perform these functions. This would result in an unacceptable risk to the Federal Revenue. We do not anticipate any extra costs to result from this change in regulations. This change will ensure that there is no jeopardy to the Federal Revenue.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/84	

Small Entity: No

Agency Contact: Robert White, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA35

17. ●REDUCED PROOF DISTILLED SPIRITS PRODUCTS

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22

Abstract: ATF is publishing an ANPRM to gather information from consumers and industry on whether our regulations should be amended to provide for reduced proof distilled spirits products similar to "light beer", "light wine" and similar "light" products which have become increasingly popular with consumers in recent years. Since 1968, the words "light whisky" have referred to whisky produced by two processes which are different from other American whiskies and the term "light" does not refer to lower alcohol content. However, ATF is considering abolishing "light whisky" as a standard of identity, so that the word "light" can refer only to reduced alcohol content. Unlike wine and beer, distilled spirits products are usually sold at more than one bottling proof (e.g. whisky is frequently sold at 80 degrees, 86 degrees, and 100 degrees proof) with the difference in proof being the only distinction between products which are otherwise identical. Therefore, ATF must carefully consider labeling to insure there exists a clear cut difference in the minds of consumers between products at minimum bottling proof or above minimum bottling proof, and those which are reduced in proof.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/83	48 FR 35460
ANPRM Comment Period Begin	08/04/83	48 FR 35460
ANPRM Comment Period End	11/02/83	

Small Entity: No

Additional Information: Based on the comments received, ATF will decide whether to publish a NPRM or withdraw the ANPRM.

Government Levels Affected: Federal

Agency Contact: Charles N. Bacon, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA36

18. ●GEOGRAPHIC BRAND NAMES

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.39(i)

Abstract: To propose alternatives to the present regulation which requires that the word "brand" appear in the same size type as the brand name itself.

Timetable:

Action	Date	FR Cite
General Notice	12/00/83	
NPRM	02/00/84	

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

TREAS—BATF — **Current and Projected Rulemakings**

Agency Contact: Roger Bowling, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA37

19. ●APPELLATION OF ORIGIN, NAME AND ADDRESS; AND NET CONTENTS

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.25a; 27 CFR 4.35; 27 CFR 4.37

Abstract: To propose to relax the appellation of origin type size requirement to substantially as conspicuous in lieu of same size as the class and type designation; to propose to allow the name and address and net content statement to appear on any label in lieu of only the brand label; and to propose multi-viticultural area appellations of origin.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Roger Bowling, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA38

20. ●375 ML AND 500 ML CONTAINERS FOR DISTILLED SPIRITS

Priority: Agency Determination

Legal Authority: 26 USC 5301; 27 USC 205

CFR Citation: 27 CFR 5.47a

Abstract: To determine if both sizes should be standards of fill or whether the 375 ml size should replace the 500 ml size.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/83	

Small Entity: No

Agency Contact: Roger Bowling, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA39

TOBACCO PRODUCTS

21. MANUFACTURER'S IDENTIFICATION ON TOBACCO PRODUCTS PACKAGES

Priority: Agency Determination

Legal Authority: 26 USC 5723

CFR Citation: 27 CFR 270.11; 27 CFR 270.212; 27 CFR 275.163; 27 CFR 275.170; 27 CFR 275.172; 27 CFR 275.174; 27 CFR 290.11; 27 CFR 290.181; 27 CFR 290.185; 27 CFR 290.241 to 290.267; 27 CFR 295.42

Abstract: To liberalize requirements relating to manufacturer identification on tobacco products packages and to make other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA28

22. ●27 CFR PART 285, MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Priority: Undetermined

Legal Authority: 26 USC 7805 (68A STAT 917)

CFR Citation: 27 CFR 285

Abstract: Administrative and recordkeeping burdens under 27 CFR Part 285 and their reduction or elimination.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/84	
ANPRM Comment Period Begin	09/02/84	
ANPRM Comment Period End	10/02/84	
Final Action	01/25/85	

Small Entity: Undetermined

Agency Contact: C. A. Mullen, Tax Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA33

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF) — **Existing Regulations Under Review**

ALCOHOL

23. RECODIFICATION OF 27 CFR PARTS 211 AND 213 AS 27 CFR PARTS 20 AND 22

Priority: Agency Determination

Legal Authority: 26 USC 5271 to 5275

CFR Citation: 27 CFR 211; 27 CFR 213; 27 CFR 19; 27 CFR 20; 27 CFR 21; 27 CFR 22; 27 CFR 30; 27 CFR 173; 27 CFR 200; 27 CFR 250; 27 CFR 251; 27 CFR 252

Abstract: To liberalize the qualification, bonding, operational, recordkeeping, and reporting requirements imposed on users and dealers of specially denatured spirits and users of tax-free alcohol.

Timetable:

Action	Date	FR Cite
NPRM	10/23/81	
NPRM Comment Period End	01/21/82	
Begin Review	09/00/83	

Small Entity: No

Additional Information: 17 comments received during the comment period are being studied for incorporation in the temporary rule. A temporary rule will be issued with a nine-month comment period.

Government Levels Affected: Local, State, Federal

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA21

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF) — **Completed Actions**

COMPLETED RULEMAKINGS

24. 100 AND 375 ML CONTAINERS FOR DISTILLED SPIRITS

Priority: Agency Determination

Legal Authority: 26 USC 5301; 27 USC 205

CFR Citation: 27 CFR 5.47a

Abstract: To provide for the bottling of distilled spirits in the proposed size; if adopted, will raise the total of authorized standards of fill to eight.

Timetable:

Action	Date	FR Cite
NPRM	08/16/82	47 FR 35521
NPRM Comment Period End	11/15/82	
Final Action	09/00/83	

Small Entity: No

Agency Contact: Roger Bowling, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA00

25. LABELING OF MULTI-VINTAGE WINE

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.28; 27 CFR 4.39; 27 CFR 4.64

Abstract: To provide for the labeling and advertising of the vintage dates and the percentages of each vintage which have been used to make a blended wine.

Timetable:

Action	Date	FR Cite
ANPRM	11/13/80	45 FR 74942
NPRM	08/05/81	46 FR 39849
Final Action	11/00/83	

Small Entity: No

Additional Information: ANPRM, Notice No. 357.

Agency Contact: Roger Bowling, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA01

26. WAWSZKIEWICZ V. DEPARTMENT OF THE TREASURY ET AL., 670 F. 2D 296 (D.C. CIR 1979)

Priority: Agency Determination

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Abstract: Defers mandatory compliance dates of name and address requirements and appellation-of-origin type size. Due to the Court of Appeals decision, the regulations have been remanded to ATF for review and reconsideration. This has become two new rulemaking actions, RINs 1512-AA37 and 1512-AA38.

Timetable:

Action	Date	FR Cite
Final Action	01/21/83	
Final Action Effective	02/20/83	48 FR 2762

Small Entity: No

Agency Contact: Roger Bowling, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA05

27. RESTORATION OF WATER LOST IN HEAT EVAPORATION OF STANDARD WINE UNDER A VACUUM

Priority: Agency Determination

Legal Authority: 26 USC 5382

CFR Citation: 27 CFR 4; 27 CFR 240

Abstract: Clarifies regulations relating to the addition of water to wine and to reflect technological advances in the wine industry since the regulations were last revised.

Timetable:

Action	Date	FR Cite
NPRM	07/27/82	47 FR 32447
NPRM Comment Period End	09/27/82	
Merged with RIN 1512-AA12	09/01/83	

Small Entity: No

Additional Information: This project has been merged into the rulemaking project on materials and processes for the production and treatment of wine.

Agency Contact: Mike Breen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA11

28. FORMULAS FOR DENATURED ALCOHOL AND RUM

Priority: Agency Determination

Legal Authority: 26 USC 5241

CFR Citation: 27 CFR 212

Abstract: To update, clarify, simplify, and recodify the regulations relating to formulas for denatured alcohol and rum.

Timetable:

Action	Date	FR Cite
NPRM	01/29/81	
NPRM Comment Period End	03/30/81	
Final Action - T.D. ATF - 133	06/02/83	48 FR 24673

Small Entity: No

Additional Information: NPRM, Notice No. 364.

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA22

29. THREE YEAR FIREARMS LICENSE

Priority: Agency Determination

Legal Authority: 18 USC 926

CFR Citation: 27 CFR 178.42; 27 CFR 178.44; 27 CFR 178.45; 27 CFR 178.47; 27 CFR 178.49

Abstract: The Bureau of Alcohol, Tobacco and Firearms is considering a three year firearms license for

VOL 48 ISS 201 OCT 17 1983 UMI

manufacturers, importers, dealers, and collectors. Currently, regulations provide for an annual firearms license. This proposed regulation change would reduce paperwork and other administrative costs to the firearms industry and the Government in excess of $1 million annually when fully implemented.

Timetable:

Action	Date	FR Cite
NPRM	11/30/82	47 FR 53929
NPRM Comment Period Begin	11/30/82	47 FR 53929
NPRM Comment Period End	01/31/83	
Final Action	05/31/83	48 FR 24065
Final Action Effective	08/01/83	

Small Entity: No

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA29

[FR Doc. 83-28038 Filed 10-14-83; 8:45 am]

BILLING CODE 4810-31-T

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Comptroller of the Currency

12 CFR Ch. I

Semiannual Agenda of Regulatory Actions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Semiannual Agenda of Regulations.

SUMMARY: As required by the Regulatory Flexibility Act and Executive Order 12291, the Office of the Comptroller of the Currency (Office) has prepared this semiannual agenda of its rules and regulations currently under review and scheduled for review. Also included is a list of regulatory actions taken since the publication of the Office's previous semiannual agenda on April 25, 1983 (48 FR 18355). It is expected that this semiannual agenda will enable the public to be more aware of, and allow it to more effectively participate in, the Office's regulatory activity.

ADDRESS: The mailing address for all contacts: Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda contact Nancy Lowther, Financial Analyst, Legislative and Regulatory Analysis Division, (202) 447-1177.

For additional information about a particular item on this semiannual agenda contact the individual identified as the contact person.

SUPPLEMENTARY INFORMATION: This agenda is organized as follows: SECTION A concerns current and projected rulemakings; SECTION B concerns reviews of existing regulations; SECTION C concerns recently completed regulatory actions. "PRIORITY" regulations, which are those regulations designated for priority development or review by the Comptroller or designated for review by the Presidential Task Force on Regulatory Relief, are identified as such. The Office has determined that none of the rulemakings discussed in this semiannual agenda requires a regulatory flexibility analysis; all entries either have been determined not to have a "significant impact on a substantial number of small entities," are interpretive rulings, or were the subject of a notice of proposed rulemaking prior to December 31, 1980. Such items are not subject to the provisions of the Act. Additionally, none of the rules is a "major" rule as defined by Executive Order 12291. Executive Order 12291 defines a "major" rule as one likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

DATED: August 22, 1983.

Doyle L. Arnold,

Acting Comptroller of the Currency.

Comptroller of the Currency—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	*Rules, Policies, and Procedures for Corporate Activities	1557-AA00
2	Definition of Capital	1557-AA01
3	Indemnification of Bank Directors and Personnel	1557-AA02
4	Data Processing Services	1557-AA03
5	Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA04
6	Securities Exchange Act Disclosure Rules	1557-AA06
7	Required Notification To Nominate Bank Directors	1557-AA07
8	Adjustable-Rate Mortgages (ARM's)	1557-AA08
9	Accrual Accounting	1557-AA10
10	Reporting of Bank-Related Crimes and Mysterious Disappearances of Funds	1557-AA12
11	Management Interlocks	1557-AA13

Comptroller of the Currency—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
12	Fair Housing Home Loan Data System	1557-AA14
13	Interest-bearing Deposits Between Affiliated Banks	1557-AA15
14	Bankers' Banks	1557-AA17
15	Extensions of Credit to Executive Officers, Directors and Principal Shareholders of National Banks and to Their Related Interests	1557-AA18
16	Real Estate Lending By National Banks	1557-AA19
17	Annual Reports of National Bank Ownership and Insider Indebtedness to National Bank and Its Correspondent Banks	1557-AA22
18	Bank Service Corporations	1557-AA23
19	Real Estate Loans Made by National Banks; Validation and Enforcement of Due-on-Sale Clauses	1557-AA29

*Indicates priority regulation.

Comptroller of the Currency—Completed Actions

Sequence Number	Title	RIN
20	Real Estate Loans Made by National Banks; Validation and Enforcement of Due-on-Sale Clauses	1557-AA09
21	National Bank Lending Limits	1557-AA16
22	Disposition of Unclaimed Property Recovered from Closed National Banks	1557-AA20
23	Assessment of Fees; National Banks, District of Columbia Banks	1557-AA21
24	Interpretive Rulings	1557-AA30

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Current and Projected Rulemakings

1. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

Priority: Agency Determination

Legal Authority: 12 USC 1 et seq

CFR Citation: 12 CFR 5; 12 CFR 7.7376

Abstract: The Office is engaged in a comprehensive review of its rules, policies, and procedures governing corporate activities. Final rules have been issued to streamline publication requirements, title changes and relocation of head offices. On March 1, 1983 (48 FR 8428) a final rule was issued which eliminated Office approval of proposed titles and change of corporate title. On June 10, 1983 (48 FR 26758) the office issued a final rule whereby a bank may submit a notice to change the location of its head office. On July 7, 1983 (48 FR 31187) the Office issued a final rule which reduced publication requirements from two notices to one and eliminated the requirement that an affidavit evidencing publication be submitted to this Office. Other regulations currently under review are operating subsidiaries, fiduciary powers, conversion of state banks to national banks, new national bank charters, and employee stock option plans. On January 14, 1983 (48 FR 1732) the Office proposed to simplify its approval process for banks seeking to establish or acquire operating subsidiaries, by replacing the requirement that a bank file a formal application with a notification procedure. (Cont)

Timetable:

Action	Date	FR Cite
NPRM	01/14/83	48 FR 01732
NPRM Comment Period Begin	01/14/83	48 FR 01732
NPRM	01/28/83	48 FR 3996
NPRM Comment Period End	02/14/83	
NPRM Comment Period Ends	02/28/83	48 FR 3996
Final Action	03/01/83	48 FR 8428
Final Action Effective	03/31/83	48 FR 8428
Final Action	06/10/83	48 FR 26758
Final Action Effective	06/10/83	48 FR 26758
Final Action	07/07/83	48 FR 31187
Final Action Effective	08/08/83	48 FR 31187
Final Action	11/00/83	48 FR 31187
Final Action Effective	12/00/83	48 FR 31187

Small Entity: No

Additional Information: ABSTRACT CONT: The final rule is anticipated to be published in November 1983. The proposed revisions on fiduciary powers, conversions, new bank charters, and employee stock option plans will benefit national banks and the Office by removing burdensome and costly regulatory requirements, while maintaining the Office's ability to render an informed decision on the proposed activity.

Agency Contact: Joseph W. Malott, Corporate Policy Analyst, Department of the Treasury, Comptroller of the Currency, Bank Organization & Structure Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1184

RIN: 1557-AA00

2. DEFINITION OF CAPITAL

Legal Authority: 12 USC 84

CFR Citation: 12 CFR 7.1100

Abstract: The amount of capital held by a bank affects the maximum it may lend to a single entity or group of related entities, the amount of investment securities of a single issuer it may hold, other investment limits, and branching capabilities. The Office is reviewing its interpretive ruling defining the components of capital to make it more accurately reflect current banking conventions. A notice of proposed rulemaking was issued on July 24,1980 (45 FR 49276), on which almost 800 comment letters were received. After lengthy analysis, the Office issued a revised notice of proposed rulemaking on August 10, 1981 (46 FR 40520), that would redefine capital to include 100 percent of the reserve for loan losses. Mandatory convertible instruments would be included for the first time, and an amortization schedule would be applied to determine what portion of limited life preferred stock and subordinated notes and debentures are to be included. In addition, a policy statement setting out an analytical framework by which the Office would evaluate a bank's capital for purposes of capital adequacy was included. Comments received have been reviewed and drafting of a final rule is underway.

Timetable:

Action	Date	FR Cite
Previous NPRM	07/24/80	45 FR 49276
NPRM	08/10/81	46 FR 40520
Final Action	10/00/83	

Small Entity: No

Agency Contact: Robert B. Norris, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Regional Bank Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1780**

RIN: 1557-AA01

3. INDEMNIFICATION OF BANK DIRECTORS AND PERSONNEL

Legal Authority: 12 USC 24; 12 USC 93a

CFR Citation: 12 CFR 7.5217

Abstract: The proposed regulation authorizes national banks to have indemnification articles in their articles of association providing for indemnification of directors and officers either in situations where local law or the Model Business Corporation Act would allow it. These choices would replace the current ruling permitting an indemnification article allowing for indemnification where the director or officer did not commit a willful act leading to liability. The interpretive ruling also would address special situations where administrative action results in assessment of personal liability. The proposal attempts to balance the needs of banks in being able to easily recruit competent personnel and the desire to ensure conscientious performance of duties by directors or officers. Other choices would include the current ruling - i.e., no change or no ruling, thus leaving it up to bank counsel to determine what is appropriate and legally permissible.

Timetable:

Action	Date	FR Cite
ANPRM	02/06/80	45 FR 8025
NPRM	06/03/83	48 FR 24913
NPRM Comment Period Begin	06/03/83	48 FR 24913
NPRM Comment Period End	08/02/83	
Final Action	12/00/83	
Final Action Effective	12/00/83	

Small Entity: No

Agency Contact: Andrew Levinson, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1954**

RIN: 1557-AA02

4. DATA PROCESSING SERVICES

Legal Authority: 12 USC 24(7)

CFR Citation: 12 CFR 7.3500

Abstract: This interpretive ruling concerns national bank data processing activity. Revision is currently under consideration in light of recent major technological advances.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/80	45 FR 40613
NPRM	10/19/82	47 FR 46526
NPRM Comment Period Begin	10/19/82	47 FR 46526
NPRM Comment Period End	12/20/82	
Final Action	11/00/83	
Final Action Effective	12/00/83	

Small Entity: No

Agency Contact: Alan Priest, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1880**

RIN: 1557-AA03

5. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: Sec 1, 77 Stat 668; 12 USC 92a; 12 USC 481

CFR Citation: 12 CFR 9

Abstract: Comments in response to a prior rulemaking included recommendations that additional amendments should be made to 12 CFR Part 9. The Office believes that the issues raised by the commenters can best be addressed through a comprehensive review of its regulations concerning national bank fiduciary powers and collective investment funds. The Office requested comments from the public as to the desirability and feasibility of a comprehensive review of its trust regulations pertaining to collective investment funds, including specific matters which should be addressed. Prior rulemaking - Final rule Docket No. 80-16 (46 FR 71571) published October 29, 1980.

Timetable:

Action	Date	FR Cite
ANPRM	06/25/82	47 FR 27833
ANPRM Comment Period Begin	06/25/82	47 FR 27833
ANPRM Comment Period End	09/23/82	
NPRM	11/00/83	
NPRM Comment Period Begin	11/00/83	
NPRM Comment Period End	01/00/84	
Final Action	04/00/84	

Small Entity: No

Agency Contact: Robert C. Satrom, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1954**

RIN: 1557-AA04

6. SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78

CFR Citation: 12 CFR 11

Abstract: On January 29, 1981, the Office published a notice of proposed rulemaking (46 FR 9618) suggesting a series of amendments to its securities disclosure regulations. The proposed amendments govern such matters as the form and content of financial statements of national banks, prescribed formats for financial statements and schedules, and requirements prohibiting the falsification of accounting records and misrepresentations by officers and directors of national banks. The Office is also reviewing the Exchange Act proxy disclosure rules. The Office seeks to minimize the regulatory burden of the Securities Exchange Act disclosure requirements and to make these rules more understandable. The Office is particularly interested in meeting these goals in order to facilitate the development of conforming regulations concerning Securities Exchange Act disclosure requirements. The Office, together with the other banking agencies, is coordinating with the SEC in these efforts.

Timetable:

Action	Date	FR Cite
Previous NPRM	01/29/81	46 FR 9618
NPRM	10/00/83	
NPRM Comment Period Begin	10/00/83	
NPRM Comment Period End	12/00/83	
Final Action	02/00/84	
Final Action Effective	02/00/84	

Small Entity: No

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1954**

RIN: 1557-AA06

7. REQUIRED NOTIFICATION TO NOMINATE BANK DIRECTORS

Legal Authority: 12 USC 1 et seq

CFR Citation: 12 CFR 17

Abstract: This regulation states that national banks may adopt bylaws or articles of association that require any shareholder proposing to nominate a director, other than a management nominee, to file certain information in advance with the Office and the bank. A proposal to rescind this regulation was published in the Federal Register on April 14, 1980 (45 FR 25078). Because of the comments received on that proposal, the Office is now considering retaining the regulation in revised form. Alternative approaches are being considered together with revisions of other rules affecting the corporate governance of national banks with a view toward developing uniform federal standards.

Timetable:

Action	Date	FR Cite
NPRM	04/14/80	45 FR 25078
NPRM Comment Period Begin	04/14/80	45 FR 25078
NPRM Comment Period End	06/13/80	
NPRM	01/00/84	
NPRM Comment Period Begin	01/00/84	
NPRM Comment Period End	03/00/84	

Small Entity: No

Agency Contact: Jerome Edelstein, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1880**

RIN: 1557-AA07

8. ADJUSTABLE-RATE MORTGAGES (ARM'S)

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 371

CFR Citation: 12 CFR 29

Abstract: Final rule revising the ARM regulation to give national banks increased flexibility was published on March 7, 1983 at 48 FR 9506. Technical amendments were published on June 24, 1983 at 48 FR 28970. The final rule eliminated 1) limits on the frequency of payment and interest rate adjustments and 2) limits on the magnitude of interest rate changes. The negative amortization cap and the requirement that payments be reset every 5 years to a fully amortizing level were removed. The reporting requirement for payment-capped mortgages was also eliminated. Most other disclosure requirements were either retained or modified. The technical amendments clarified the permissibility of prepayment fees and the disclosure of index values. In addition, it extended the transition period until October 6, 1983. Another technical amendment will soon be published to eliminate amortization and maturity requirements from this regulation so that it will conform with other regulatory changes to be published which will eliminate these requirements from real estate loans generally. Also the Office will soon issue a Notice of Proposed Rulemaking to modify disclosure (Cont)

Timetable:

Action	Date	FR Cite
Final Action	03/07/83	48 FR 9560
Final Action Effective	03/07/83	48 FR 9560
Final Action	06/24/83	48 FR 28970
Final Action Effective	06/24/83	48 FR 28970
NPRM	10/00/83	
NPRM Comment Period Begin	10/00/83	
Final Action	10/00/83	48 FR 9560
NPRM Comment Period End —	11/00/83	

Small Entity: No

Additional Information: ABSTRACT CONT: requirements for ARM's with open-end credit features.

ADDITIONAL AGENCY CONTACT: David Nebhut, Financial Economist, Economic and Policy Analysis Division, 202 447-1924, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Francis S. Rath, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, **202 447-1880**

RIN: 1557-AA08

9. ACCRUAL ACCOUNTING

Legal Authority: 12 USC 1 et seq; 12 USC 93a

CFR Citation: 12 CFR 31, (Proposed)

Abstract: The Office is developing a new regulation to require the adoption of accrual accounting by all national banks, as recommended by the Federal Financial Institutions Examination Council. The proposed regulation would make uniform the method by which all national banks maintain their financial records. Currently, all banks with assets in excess of $25 million and many banks with assets of less than $25 million routinely maintain internal accounts on the accrual basis. The proposed regulation is intended to assist bank management, in those banks that now use the cash basis, in making more informed operating and policy decisions, and to assure that the financial data national banks provide to federal regulators and make available to bank shareholders, customers, and

VOL
48
ISS
2
0
1
OC
17
1983
UMI

the general public are timely, consistent, and fairly presented. The Office is very concerned about the cost of conversion to accrual accounting and the annual cost of maintaining the system. Cost factors will be carefully considered in the development of a final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/21/82	47 FR 17069
Final Action	12/00/83	

Small Entity: No

Agency Contact: David C. Motter, Special Assistant to Sr. Dep. Comptroller, Department of the Treasury, Comptroller of the Currency, Bank Supervision, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1587

RIN: 1557-AA10

10. REPORTING OF BANK-RELATED CRIMES AND MYSTERIOUS DISAPPEARANCES OF FUNDS

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 1818; 12 USC 1881 et seq

CFR Citation: 12 CFR 7.5225

Abstract: This ruling governs the reporting of crimes involving bank personnel or bank funds. The Office is considering changing the ruling into a regulation and making revisions to decrease the reporting requirements of banks. Topics under review include the number of offices with which reports must be filed, the $1,000 threshold for reporting mysterious disappearances of funds, and the range of crimes intended to be covered by the reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
NPRM Comment Period Begin	10/00/83	
NPRM Comment Period End	12/00/83	
Final Action	02/00/84	
Final Action Effective	02/00/84	

Small Entity: No

Agency Contact: Peggy Shriner, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Commercial Examinations Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1165

RIN: 1557-AA12

11. ●MANAGEMENT INTERLOCKS

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 26.2(h)(i)(1); 12 CFR 26.3; 12 CFR 26.4(b)(1)(3)(5)(c); 12 CFR 26.6

Abstract: The final amendments to this regulation will clarify, simplify, and relax current restrictions on management interlocks. The changes are intended to limit the extent to which the prohibitions apply to depository holding companies and certain management officials, and to reduce the need for institutions to seek exceptions under the regulations. The final amendments will be jointly issued with substantially similar amendments by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.

Timetable:

Action	Date	FR Cite
NPRM	10/26/82	47 FR 47406
NPRM Comment Period Begin	10/26/82	47 FR 47406
NPRM Comment Period End	11/26/82	
Final Action	11/00/83	
Final Action Effective	11/00/83	

Small Entity: No

Agency Contact: Rosemarie Oda, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA13

12. FAIR HOUSING HOME LOAN DATA SYSTEM

Legal Authority: 15 USC 1 et seq; 15 USC 481; 15 USC 1818; 15 USC 1691 et seq; 42 USC 3601 et seq

CFR Citation: 12 CFR 27

Abstract: This regulation requires national banks to record and retain information on age, race, sex, and marital status of loan applicants for the purchasing, refinancing, or construction of permanent residential real property. Its purpose is to gather data necessary to detect possible credit discrimination. Congress mandated that a study be conducted by the Federal Financial Institutions Examination Council to evaluate the functioning of the systems and procedures being used by each of the five constituent agencies (Federal Reserve Board, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, and the Office), in their efforts to enforce the fair housing lending statutes. That study has been completed and submitted to Congress. The Federal Financial Institutions Examination Council submitted to the Honorable George H. W. Bush, President of the United States Senate, the Council's conclusions to the Section 340 Fair Housing Lending Study (340e) on March 23, 1983. The Council concluded: "In summary, the Council does not believe that the development of a uniform data collection system is (Cont)

Timetable:

Action	Date	FR Cite
NPRM	07/00/84	
NPRM Comment Period Begin	07/00/84	
NPRM Comment Period End	09/00/84	

Small Entity: No

Additional Information: ABSTRACT CONT: appropriate at this time because there is little or nothing to be gained. Costs to the agencies and financial institutions probably would rise and enforcement effectiveness probably would decline at least in the short run." The Office is reviewing this regulation to determine whether it is achieving its intended result in view of the reporting and recordkeeping burdens it imposes. Research is being conducted to determine if there are alternate means of collecting data for analysis or revising the present data collection forms to eliminate data items determined not essential for the analysis process and thereby reducing the burden on banks subject to the regulation.

Agency Contact: Patrick J. Marr, Senior Fair Lending Specialist, Department of the Treasury, Comptroller of the Currency, Consumer Examinations Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1600

RIN: 1557-AA14

13. INTEREST-BEARING DEPOSITS BETWEEN AFFILIATED BANKS

Legal Authority: 12 USC 371c

CFR Citation: 12 CFR 7.7370

Abstract: The Garn-St. Germain Depository Institutions Act of 1982, Pub. L. 97-320, Sec. 410, amends 12 USC 371c to permit a national bank to make an interest-bearing deposit in an affiliated bank in the ordinary course of correspondent business. The Office is considering revision of 12 CFR 7.7370 to reflect that change.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	
Final Action Effective	10/00/83	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Susan K. Fetner, National Bank Examiner, Commercial Examinations Division, 202 447-1164, 490 L'Enfant Plaza East, SW, Washington, DC 20219

Agency Contact: Larry Mallinger, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA15

14. BANKERS' BANKS

Legal Authority: 12 USC 24(7); 12 USC 27

CFR Citation: 12 CFR 34, (New)

Abstract: The Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, empowered this Office to charter bankers' banks, i.e., limited purpose national associations which will be owned exclusively by--and provide services solely to--depository institutions. On January 26, 1983, this office published an advance notice of proposed rulemaking Docket No. 83-3 (48 FR 3624) in order to solicit comments on what is virtually a new area of law.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/83	48 FR 03624
ANPRM Comment Period Begin	01/26/83	48 FR 03624
ANPRM Comment Period End	02/25/83	
NPRM	11/00/83	
NPRM Comment Period Begin	11/00/83	
NPRM Comment Period End	01/00/84	
Final Action	03/00/84	
Final Action Effective	03/00/84	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Duff Jordan, Attorney, Legal Advisory Services Division, 202 447-1880, 490 L'Enfant Plaza East, SW, Washington, DC 20219

Agency Contact: Mark Leemon, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA17

15. EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS AND PRINCIPAL SHAREHOLDERS OF NATIONAL BANKS AND TO THEIR RELATED INTERESTS

Legal Authority: 12 USC 375a; 12 USC 375b(2)

CFR Citation: 12 CFR 31

Abstract: Sections 421 and 422 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, amended the statutes governing loans to executive officers, directors and principal shareholders of national banks as follows: (1) The $60,000 limit on loans to executive officers for the purchase of a home and the $20,000 limit on loans to executive officers to finance the education of their children have been eliminated. (2) The $10,000 limit on "other loans" to executive officers has been replaced with a provision that such loans are subject only to limits which may be prescribed by the Office. (3) The requirement that loans to executive officers, directors, principal shareholders and their related interests exceeding $25,000 must be approved in advance by a majority of the bank's board of directors has been replaced with a provision that the Office prescribe the threshold amount. On November 1, 1982, the Office issued an interim final rule, Docket No. 82-22 (47 FR 49347) maintaining the $10,000 limit on "other loans" and the $25,000 approval theshold. On May 23, 1983, the Office proposed higher threshold limits for both categories, Docket No. 83-19 (48 FR 22929).

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/01/82	47 FR 49347
NPRM	05/23/83	48 FR 22929
NPRM Comment Period Begin	05/23/83	48 FR 22929
NPRM Comment Period End	06/22/83	
Final Action	09/00/83	
Final Action Effective	10/00/83	

Small Entity: No

Agency Contact: Raija Bettauer, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA18

16. REAL ESTATE LENDING BY NATIONAL BANKS

Legal Authority: 12 USC 371; 12 USC 1 et seq; 12 USC 93a

CFR Citation: 12 CFR 7.2000 et seq; 12 CFR 34, (New Section)

Abstract: A final rule is being completed which will remove interpretive rulings regarding real estate lending by national banks. The action will implement changes contained in the Garn-St. Germain Depository Institutions Act of 1982, P.L. 97-320. The rule will eliminate certain real estate lending limitations and restrictions and is intended to enhance the ability of national banks to develop real estate lending products. The final rule will be issued under a new section, 12 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	03/10/83	48 FR 10068
NPRM Comment Period Begin	03/10/83	48 FR 10068
NPRM Comment Period End	04/11/83	
Final Action	10/00/83	
Final Action Effective	10/00/83	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACTS: Francis S. Rath or Jerome Edelstein, Attorneys, Legal Advisory Services Division, 202 447-1880, 490 L'Enfant Plaza East, SW, Washington, DC 20219

VOL
48
ISS
2
0
1
OC
17
1983
UMI

Agency Contact: Robert A. Sihler, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, National Bank Surveillance System Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1446

RIN: 1557-AA19

17. ANNUAL REPORTS OF NATIONAL BANK OWNERSHIP AND INSIDER INDEBTEDNESS TO NATIONAL BANK AND ITS CORRESPONDENT BANKS

Legal Authority: 12 USC 1817(k); 12 USC 1972(2)(g)(ii)

CFR Citation: 12 CFR 23

Abstract: Prior to the Garn-St Germain Depository Institutions Act of 1982 (Act), Pub. L. 97-320, each national bank was required to file a report with the Office regarding the ownership of the bank and indebtedness of the bank's executive officers and principal shareholders to the bank and its correspondent banks. Principal shareholders and executive officers must also file with the bank a report of indebtedness to correspondent banks of their national bank. The Act authorizes the regulatory agencies to develop alternative reporting and disclosure requirements which will result in the replacement of the current forms. The agencies are now considering alternative requirements. When replacement guidelines are developed, they will be submitted to the banking industry for public comment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
NPRM Comment Period Begin	09/00/83	
NPRM Comment Period End	10/00/83	
Final Action	11/00/83	
Final Action Effective	12/00/83	

Small Entity: No

Agency Contact: Raija Bettauer, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA22

18. BANK SERVICE CORPORATIONS

Legal Authority: 12 USC 1861 et seq

CFR Citation: 12 CFR 5, (New Subsection)

Abstract: The Bank Service Corporation Act was significantly amended by Section 709 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320. Under the amended Act, a national bank may now invest up to 10% of paid-in and unimpaired capital and surplus in a bank service corporation. Prior approval of the appropriate federal regulator is necessary for a national bank to invest in a bank service corporation under certain conditions. The Office will publish notice of proposed rulemaking to solicit comments on proposed policies and procedures for obtaining the required approval.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
NPRM Comment Period Begin	12/00/83	
NPRM Comment Period End	02/00/84	
Final Action	03/00/84	
Final Action Effective	04/00/84	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Joseph Daly, Attorney, Legal Advisory Services Division, 202 447-1880, 490 L'Enfant Plaza East, SW, Washington, DC 20219

Agency Contact: Randall J. Miller, Manager, Policy, Department of the Treasury, Comptroller of the Currency, Bank Organization and Structure Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1184

RIN: 1557-AA23

19. ●REAL ESTATE LOANS MADE BY NATIONAL BANKS; VALIDATION AND ENFORCEMENT OF DUE-ON-SALE CLAUSES

Legal Authority: 12 USC 1 et seq; PL 97-320, Sec 341(c) (12 USC 1701j-3(c)); PL 97-320, Sec 403 (12 USC 371 (a)); PL 96-221, Sec 706 (12 USC 93a))

CFR Citation: 12 CFR 30

Abstract: The proposed regulation would conform the Congressional validation and revalidation of due-on-sale clauses in real estate loansoriginated or purchased by national banks. Alternatives considered include changing the length of time prior to which due-on-sale clauses are enforceable, providing for immediate enforceability, postponing enforceability until 1985, and requiring a rate other than a blended rate. The proposed regulation would expand the lending alternatives realistically available to national banks and would provide national banks some of the value they may have expected to receive from their contractual agreements with borrowers. The proposal is only applicable to loans made or assumed when state law prohibited the enforcement of due-on-sale clauses and before October 15, 1983. For states with such restrictions, the proposal defines this so called "window period". This regulation supersedes a proposal published on September 23, 1981 (46 FR 46964) which was withdrawn on May 31, 1983 (48 FR 24089).

Timetable:

Action	Date	FR Cite
NPRM	07/07/83	48 FR 31232
NPRM Comment Period Begin	07/07/83	48 FR 31232
NPRM Comment Period End	08/07/83	
Final Action	10/00/83	
Final Action Effective	11/00/83	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: David Nebhut, Financial Economist, Economic and Policy Analysis Division, 202 447-1924 or Jerome Edelstein, Attorney, Legal Advisory Services Division, 202 447-1880, 490 L'Enfant Plaza East, SW, Washington, DC 20219

Agency Contact: Francis S. Rath, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA29

COMPLETED RULEMAKINGS

20. REAL ESTATE LOANS MADE BY NATIONAL BANKS; VALIDATION AND ENFORCEMENT OF DUE-ON-SALE CLAUSES

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 371(a); 12 USC 371(g); 12 USC 1701j-3(c)

CFR Citation: 12 CFR 30

Abstract: On September 23, 1981, the Office issued a notice of proposed rulemaking, Docket No. 81-18 (46 FR 46964), which would validate the inclusion of due-on-sale clauses in real estate loans made by national banks, and make such clauses fully enforceable. This proposal was withdrawn on May 31, 1983 at 48 FR 24089 because of (1) the time period that had passed since the proposal was published and the passage of the Garn-St Germain Depository Institutions Act of 1982 (P. L. 97-320), (as well as numerous other proposals at the state and federal levels), (2) questions raised within the Office as to the completeness and currency of the administrative record, and (3) to give states additional time to act.

Timetable:

Action	Date	FR Cite
NPRM	09/23/81	46 FR 46964
NPRM Comment Period Begin	09/23/81	46 FR 46964
NPRM Comment Period End	11/23/81	
Withdrawn	05/31/83	48 FR 24089

Small Entity: No

Additional Information: For Further Information Contact: David Nebhut, Financial Economist, Economic and Policy Analysis Division 202 447-1924, or Francis S. Rath, Attorney, Legal Advisory Services Division, 202 447-1880, 490 L'Enfant Plaza East, SW, Washington, DC 20219

Agency Contact: Jonathan Fiechter, Director, Department of the Treasury, Comptroller of the Currency, Economic and Policy Analysis Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1914

RIN: 1557-AA09

21. NATIONAL BANK LENDING LIMITS

Legal Authority: 12 USC 84(b)(1); 12 USC 84(d)(1) to 84(d)(2); 12 USC 93a

CFR Citation: 12 CFR 3; 12 CFR 6; 12 CFR 7; 12 CFR 32

Abstract: This Office has amended the regulations and interpretive rulings regarding national bank lending limits to reflect amendments made by Congress in Section 401(a) of the Garn-St. Germain Depository Institutions Act of 1982, P.L. 97-320. The amendments generally: (1) clarify the manner in which the lending limits and exceptions thereto apply: (2) set forth rules under which loans made to one person are to be combined with loans made to other persons for purposes of the lending limits: and (3) define and further refine terms used in the amended statute.

Timetable:

Action	Date	FR Cite
NPRM	12/21/82	47 FR 56862
NPRM Comment Period Begin	12/21/82	48 FR 9659
NPRM Comment Period End	03/22/83	
Final Action	04/12/83	48 FR 15844
Final Action	04/12/83	48 FR 15844
Final Action Effective	04/14/83	48 FR 15844
Final Action	06/14/83	48 FR 27224
Final Action Effective	06/14/83	48 FR 15844
Final Action Effective	06/14/83	48 FR 27224

Small Entity: No

Agency Contact: Rosemarie Oda, Senior Attorney, Department of the Treasury, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA16

22. DISPOSITION OF UNCLAIMED PROPERTY RECOVERED FROM CLOSED NATIONAL BANKS

Legal Authority: PL 97-320, Sec 408; 12 USC 216

CFR Citation: 12 CFR 33

Abstract: Pursuant to the provisions of Section 408 of the Garn-St. Germain Depository Institutions Act of 1982, P.L. 97-320, this regulation establishes procedures to facilitate the disposition of unclaimed property recovered from national banks and banks in the District of Columbia that were closed before and during the 1930's by receivers who were appointed by this Office.

Timetable:

Action	Date	FR Cite
Final Action	06/29/83	48 FR 30007
Final Action Effective	07/29/83	48 FR 30007

Small Entity: No

Agency Contact: Francis S. Rath, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA20

23. ASSESSMENT OF FEES; NATIONAL BANKS, DISTRICT OF COLUMBIA BANKS

Legal Authority: 12 USC 481; 12 USC 482

CFR Citation: 12 CFR 8

Abstract: Pursuant to 12 USC 481 and 482, the OFfice is authorized to conduct examinations of national banks, district banks, and certain other entities, and to make assessments to recover the costs of these examinations. In a significant proportion of instances, payments of semiannual assessments and trust examination fees had not been received by OCC at the time required by regulation. This regulation enables OCC to charge interest when these payments are delinquent. The effects of this regulation are to compensate OCC for revenues lost during the time these payments are delinquent, and to eliminate the cost advantage of banks in making delinquent payments. Banks may completely avoid the effects of this action by making payments as required by regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/20/82	47 FR 56652
NPRM Comment Period Begin	12/20/82	47 FR 56652
NPRM Comment Period End	01/19/83	
Final Action	07/01/83	48 FR 30598
Final Action Effective	07/31/83	48 FR 30598

VOL 48 ISS 201 OCT 17 1983 UMI

TREAS—OCC — **Completed Actions**

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Dennis Arczynski, Project Manager, Financial Operations, 202 447-1878, 490 L'Enfant Plaza East, SW, Washington, DC 20219

Agency Contact: Duff Jordan, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA21

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

24. ●INTERPRETIVE RULINGS

Legal Authority: 12 USC 1 et seq; 12 USC 29 or RS 324 et seq

CFR Citation: 12 CFR 7.3020

Abstract: The Comptroller's interpretive ruling regarding a national bank's compliance with the five-year holding period for "salvage" real estate was amended January 18, 1983, Docket No. 83-2 (48 FR 2118) to correct a statutory citation and again on March 29, 1983, Docket No. 83-14 (48 FR 13014) to provide clarity.

Timetable:

Action	Date	FR Cite
Final Action	01/18/83	48 FR 2118
Final Action	03/29/83	48 FR 13014
Final Action Effective	03/29/83	48 FR 13014

Small Entity: Not Applicable

Agency Contact: Nancy E. Chase, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA30

[FR Doc. 83-28039 Filed 10-14-83; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Customs Service

19 CFR Ch. I

Semiannual Agenda

AGENCY: U.S. Customs Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Pub. L. 96-354, the "Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulation," Customs has prepared and is publishing for public information a list of regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information regarding the substance of any particular regulatory project described in the agenda, please communicate with the person identified as the "Agency Contact." All agency contact persons are located at U.S. Customs Service Headquarters, the address of which is noted below. Comments or inquiries of a general nature about the agenda itself should be directed to Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

Public Law 96-354, the "Regulatory Flexibility Act" (RFA) and Executive Order (E.O.) 12291 of February 17, 1981, "Federal Regulation," require semiannual publication, in April and October of each year, of an agenda of regulations which are "likely to have a significant economic impact on a substantial number of small entities" and "major" regulations, respectively. The RFA and E.O. 12291 also require agencies to include in their agendas currently effective rules which are, or in the case of the RFA after July 1, 1981, will be under agency review. Customs combined agenda includes a brief abstract of each regulatory project ("project") being considered, an indication of whether the project will have an RFA impact, the section(s) of the Code of Federal Regulations affected, the legal authority for the action being taken, the name, title, and telephone number of an agency contact and, where applicable, an approximate timetable of completing action on any project for which Customs has published a notice of proposed rulemaking. In addition, subsequent agendas will show the status of projects referred to in the previously published agenda.

The following is the sixth semiannual agenda to be published by Customs under the RFA and E.O. 12291. It has been determined that none of the projects listed as being under development meets the standards required of a "major" regulation provided in E.O. 12291.

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). When appropriate, specific statutory authority is indicated as the legal authority for the project.

In accordance with Department of the Treasury policy, no action, other than preliminary studies, may be taken on most projects for which a notice of proposed rulemaking has not been published without Secretarial approval of a "work plan" or waiver of the plan. For such a project which is in an early stage of preparation, no work plan is available to the public. However, projects which either have had work plans approved or are the subject of documents published in an advance notice of proposed rulemaking (ANPRM), a notice of proposed rulemaking (NPRM) or a final rule-Treasury Decision (T.D.), are identified by work plan number or **Federal Register** citation. Approved work plans are available to the public under the provisions of the Freedom of Information Act, as amended (5 U.S.C. 552), and Part 103, Customs Regulations (19 CFR Part 103). Requests should be addressed to the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

DATED: August 19, 1983.
By direction of the Secretary of the Treasury.
John P. Simpson,
Director, Office of Regulations and Rulings.

TREAS—CUSTOMS

United States Customs Service—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Air Commerce	1515-AA00
2	Drawback	1515-AA03
3	Customhouse brokers	1515-AA04
4	Customs Bonds	1515-AA05
5	Copyright	1515-AA07
6	Entry of Merchandise; Special Permits for Immediate	1515-AA08
7	Entry of Merchandise; Bonds	1515-AA09
8	Foreign-Trade Zones	1515-AA10
9	Trade Fairs	1515-AA11
10	Personal Declaration and Exemption	1515-AA12
11	Relief from Seizures	1515-AA15
12	Accounting; Interest on Delinquent Accounts	1515-AA18
13	Customhouse Brokers; uncertified checks	1515-AA19
14	Country of Origin Marking	1515-AA20
15	Penalties and Penalty Procedures	1515-AA21
16	Customs Warehouses; Duty-Free Stores	1515-AA22

United States Customs Service—Completed Actions

Sequence Number	Title	RIN
17	Entry of American Goods Exported and Returned	1515-AA02
18	Contiguous Countries; Railroad Equipment	1515-AA06
19	Private Aircraft Reporting	1515-AA13
20	Commercial Aircraft Fees	1515-AA14
21	Penalty Guidelines (19 USC 1497)	1515-AA17

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Current and Projected Rulemakings

1. AIR COMMERCE

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624

CFR Citation: 19 CFR 6; 19 CFR 10

Abstract: Establish new rules for (1) duty-free trade in civil aircraft, and (2) dutiability of foreign repairs to, and foreign purchases of parts and materials for, U.S.-registered civil aircraft. Implement Title VI, Civil Aircraft Agreement, of Pub. L. 96-39, "Trade Agreements Act of 1979." Cost/benefit analysis contained in Trade Agreements Act of 1979 Statements of Administrative Action, House Document No. 96-153, Part II, pp. 507-510. Work plan 79-30 approved.

Timetable:

Action	Date	FR Cite
NPRM	01/08/80	45 FR 1633
NPRM Comment Period Begin	01/08/80	
NPRM Comment Period End	03/10/80	
Final Action	10/00/83	
T.D. in Customs review	00/00/00	

Small Entity: Not Applicable

Agency Contact: John Mathis, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5706

RIN: 1515-AA00

2. DRAWBACK

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624

CFR Citation: 19 CFR 22

Abstract: Revision of drawback regulations to modernize procedures relating to claims for drawback made by exporters. Project undertaken under mandate for review of currently effective rules set forth in E.O. 12291. Later enactment of section 201 of Pub. L. 96-609 required substantive amendments.

Timetable:

Action	Date	FR Cite
NPRM	08/26/82	47 FR 37563
NPRM Comment Period Begin	08/26/82	
Extension of Comment Period	11/26/82	47 FR 53402
NPRM Comment Period End	01/21/83	
Final Action	12/00/83	
T.D. in Customs review	00/00/00	

Small Entity: Undetermined

Additional Information: SMALL BUSINESSES CONT: Determination as to RFA impact will be made after close of comment period and analysis of comments received. Any required RFA

analysis will be published with T.D., if it is decided to proceed with project.

Agency Contact: George Steuart, Chief, Department of the Treasury, United States Customs Service, Drawback and Bonds Branch, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5856

RIN: 1515-AA03

3. CUSTOMHOUSE BROKERS

Legal Authority: 19 USC 1641

CFR Citation: 19 CFR 111

Abstract: Amend Customs Regulations to clarify responsibilities of customhouse brokers and to ensure uniform compliance with applicable regulations. Customs has under consideration as part of project issue of extent to which brokers should be regulated. Work plan 79-5 approved.

Timetable:

Action	Date	FR Cite
NPRM	04/07/83	48 FR 15154
NPRM Comment Period Begin	04/07/83	
Comment Period Extended	05/12/83	48 FR 21343
NPRM Comment Period End	07/05/83	
Final Action	12/00/83	
Comments being analyzed	00/00/00	

Small Entity: Undetermined

Additional Information: SMALL BUSINESSES CONT: Determination of RFA impact to be made concurrent with publication of NPRM.

Agency Contact: Scott Shreve, Chief, Department of the Treasury, United States Customs Service, Entry Examination Liquidation Branch, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-8121

RIN: 1515-AA04

4. CUSTOMS BONDS

Legal Authority: 19 USC 1623

CFR Citation: 19 CFR 113

Abstract: Consolidation of Customs bonds and related forms to simplify bond structure and language preparatory to automated program. Project would simplify transactions between Customs and importing public by clarifying bond language and reducing number of bonds. Work plan 81-2 approved

Timetable:

Action	Date	FR Cite
ANPRM	05/26/81	46 FR 28172
ANPRM Comment Period Begin	05/26/81	
ANPRM Comment Period End	07/25/81	
NPRM	03/15/83	48 FR 11032
NPRM Comment Period Begin	03/15/83	
NPRM Comment Period End	06/13/83	
Final Action	01/00/84	
Comments being analyzed	00/00/00	

Small Entity: Undetermined

Additional Information: SMALL BUSINESSES CONT: Determination on RFA impact to be made after receipt of comments received in response to expected NPRM.

Agency Contact: Joseph Goody, Operations Officer, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5994

RIN: 1515-AA05

5. COPYRIGHT

Legal Authority: 17 USC 1603

CFR Citation: 19 CFR 133

Abstract: Amendments to Customs Regulations relating to recordation of copyrights with Customs, to implement provisions of Pub. L. 94-533, "Copyright Act of 1976." The project would reduce administrative costs to Customs and copyright applicants. Work plan 82-17 approved.

Timetable:

Action	Date	FR Cite
NPRM	07/07/83	48 FR 31245
NPRM Comment Period Begin	07/07/83	
NPRM Comment Period End	10/05/83	
Final Action	03/00/84	
Comments being analyzed	00/00/00	

Small Entity: No

Agency Contact: Samuel Orandle, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA07

6. ENTRY OF MERCHANDISE; SPECIAL PERMITS FOR IMMEDIATE

Legal Authority: 19 USC 1484

CFR Citation: 19 CFR 141; 19 CFR 142

Abstract: Revise Consumption Entry (Customs Form 7501) to accommodate new entry procedures set forth in Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978." The project would improve the procedures used by Customs for the entry of imported merchandise and the collection of statistics, and reduce the paperwork burden on the importing community by eliminating forms and assuring that only necessary information will be collected. Work plan 80-18 approved.

Timetable:

Action	Date	FR Cite
NPRM	10/04/82	47 FR 43717
NPRM Comment Period Begin	10/04/82	
NPRM Comment Period End	12/03/82	
Final Action	03/00/84	
Comments being analyzed	00/00/00	
Second NPRM in Customs Review	00/00/00	

Small Entity: No

Agency Contact: William Wagner, Operations Officer, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5307

RIN: 1515-AA08

7. ENTRY OF MERCHANDISE; BONDS

Legal Authority: 19 USC 1623

CFR Citation: 19 CFR 142

Abstract: Acceptance of formal entries with unsecured bonds for certain importations. The project would decrease costs to an importer of merchandise valued less than $1,000. Work plan 81-15 approved.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/83	
ANPRM in Treasury Review	00/00/00	

Small Entity: No

Agency Contact: Herbert Geller, Operations Officer, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5307

RIN: 1515-AA09

8. FOREIGN-TRADE ZONES

Legal Authority: 19 USC 1557(a)

CFR Citation: 19 CFR 146.25

Abstract: Remove zone-restricted status from merchandise admitted to a foreign-trade zone from Customs bonded warehouse, to permit use of that merchandise in zone manufacturing operations. The project would remove a restriction on commerce and allow greater utilization of zones by increasing manufacturing therein. Work plan 81-27.

Timetable:

Action	Date	FR Cite
NPRM	05/13/82	47 FR 20627
NPRM Comment Period Begin	05/13/82	
NPRM Comment Period End	07/12/82	
Final Action	10/00/83	
T.D. in Customs Review	00/00/00	

Small Entity: No

Agency Contact: Russell Berger, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5856

RIN: 1515-AA10

9. TRADE FAIRS

Legal Authority: 19 USC 81h

CFR Citation: 19 CFR 147.45

Abstract: Removal of trade fair merchandise from foreign-trade zones for consumption only with permission of Foreign-Trade Zones Board. The project is necessary to comply with provisions of Pub. L. 91-692, and avoid possible misinterpretation of existing regulation. NPRM under development. Work plan 82-1 approved.

Timetable:

Action	Date	FR Cite
NPRM	06/17/83	48 FR 27776
NPRM Comment Period Begin	06/17/83	
NPRM Comment Period End	08/16/83	
Final Action	12/00/83	
Comments being analyzed	00/00/00	

Small Entity: No

Agency Contact: William Rosoff, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5856

RIN: 1515-AA11

10. PERSONAL DECLARATION AND EXEMPTION

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624

CFR Citation: 19 CFR 148.73

Abstract: Amend Customs Regulations to require that all persons entering the U.S. on military carriers execute a written baggage declaration, thus eliminating inconsistency with DOD regulations. The project would discourage the introduction into U.S. of contraband and encourage payment of duty on imported merchandise. Work plan 81-16 approved.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54092
NPRM Comment Period Begin	12/01/82	
NPRM Comment Period End	01/31/83	
Final Action	11/00/83	
T.D. in Customs Review	00/00/00	

Small Entity: No

Agency Contact: Dan Holland, Operations Officer, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5607

RIN: 1515-AA12

11. RELIEF FROM SEIZURES

Legal Authority: 19 USC 1618

CFR Citation: 19 CFR 171.13

Abstract: Expand the regulations to cover certain situations where petitioner not in possession of seized property at time of seizure; require additional evidence in petitions for relief of such seizures; and give examples of types of evidence that will be considered. Amendments are needed to make regulation complete, and to avoid obfuscation by petitioner of any knowledge of or involvement in violation of law.

Timetable:

Action	Date	FR Cite
NPRM	08/17/83	48 FR 37227
NPRM Comment Period Begin	08/17/83	
NPRM Comment Period End	10/17/83	
Final Action	12/00/83	
Comments being analyzed	00/00/00	

Small Entity: No

Agency Contact: Harriett Blank, Attorney, Department of the Treasury, United States Customs Service, Miscellaneous Penalties Branch, Room, 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202 566-5746

RIN: 1515-AA15

12. ●ACCOUNTING; INTEREST ON DELINQUENT ACCOUNTS

Legal Authority: 19 USC 197; 19 USC 198; 19 USC 1484; 19 USC 1500; 19 USC 1505; 19 USC 1623; 31 USC 483a

CFR Citation: 19 CFR 24.3a, (New); 19 CFR 113.4, (New)

Abstract: Establish interest charges for the last payment of supplemental duty bills (bills for additional duties ascertained upon liquidation), reimbursable services, and miscellaneous bills issued by Customs to organizations outside the Government. Provide incentive for prompt payment or reimbursement of interest costs resulting from Government borrowing. Work Plan 80-2 approved.

Timetable:

Action	Date	FR Cite
NPRM	03/10/83	48 FR 10077
NPRM Comment Period Begin	03/10/83	
NPRM Comment Period End	05/09/83	
Final Action	02/00/84	
Comments being analyzed	00/00/00	

Small Entity: No

Agency Contact: Robert B. Hamilton, Accountant, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-2596

RIN: 1515-AA18

VOL
48
ISS
201
OCT
17
1983
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13. ●CUSTOMHOUSE BROKERS; UNCERTIFIED CHECKS

Legal Authority: 19 USC 197; 19 USC 198; 19 USC 1641; 19 USC 1648

CFR Citation: 19 CFR 24.1

Abstract: Provide that an uncertified check drawn by an interested party shall be accepted by Customs as payment of duty provided certain conditions are met. An interested party may be a broker who, although not licensed in district where entry filed, has given Customs appropriate power of attorney. Proposal would relieve brokers of unnecessary burden of submitting certified checks. Work Plan 82-19 approved.

Timetable:

Action	Date	FR Cite
NPRM	05/16/83	48 FR 21965
NPRM Comment Period Begin	05/16/83	
NPRM Comment Period End	07/15/83	
Final Action	01/00/84	
Comments being analyzed	00/00/00	

Small Entity: No

Agency Contact: Darrell L. Kast, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, **202 566-5765**

RIN: 1515–AA19

14. ●COUNTRY OF ORIGIN MARKING

Legal Authority: 19 USC 1202; 19 USC 1304

CFR Citation: 19 CFR 134.13(c), (New)

Abstract: Establish certification requirements to prohibit concealment of country of origin information on articles imported in bulk and repacked in U.S. after release from Customs custody. Importer required to (1) make clear country of origin information if he repacks merchandise, and (2) notify any subsequent purchaser or repacker, in writing, of country of origin marking requirements. Change would ensure that ultimate consumer/purchaser cognisant of country of origin of article.

Timetable:

Action	Date	FR Cite
NPRM	07/26/83	48 FR 33908
NPRM Comment Period Begin	07/26/83	
Treasury Decision 83-155 - Related Final Rule effective October 24, 1983	07/26/83	48 FR 33860
NPRM Comment Period End	09/26/83	
Final Action	02/00/84	
Comments being analyzed	00/00/00	

Small Entity: No

Agency Contact: Anthony L. Piazza, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, **202 566-8468**

RIN: 1515–AA20

15. ●PENALTIES AND PENALTY PROCEDURES

Legal Authority: 19 USC 1623; 19 USC 1641; 46 USC 7; 46 USC 320

CFR Citation: 19 CFR 134.52; 19 CFR 148.19; 19 CFR 162; 19 CFR 171; 19 CFR 172.33

Abstract: Add revised penalty guidelines relating to 19 USC 1592 as an appendix to 19 CFR Part 171; clarify requirements and criteria applicable to prior disclosure of violations of 19 USC 1592; place limitation on number of supplemental petitions requesting relief from fines, penalties, forfeitures, and liquidated damages claims; make other technical amendments. Changes are necessary due to legislative and procedural adjustments to fines, penalties, and forfeitures program. Work Plan 81-21 approved.

Timetable:

Action	Date	FR Cite
NPRM	11/03/82	47 FR 49853
NPRM Comment Period Begin	11/03/82	
NPRM Comment Period End	01/03/83	
Extension of Comment Period to Feburary 18, 1983	01/03/83	48 FR 40
Final Action	12/00/83	
T.D. in Customs Review	00/00/00	

Small Entity: No

Agency Contact: Edward Rosse, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, **202 566-8317**

RIN: 1515–AA21

16. ●CUSTOMS WAREHOUSES; DUTY-FREE STORES

Legal Authority: 19 USC 1556; 19 USC 1565; 19 USC 1623

CFR Citation: 19 CFR 19; 19 CFR 144

Abstract: Consideration of various actions in regard to administration of duty-free stores. Actions range from abolition of stores to their designation as class of bonded warehouse and/or increased regulation. Actions necessary due to need for increased efficiency of store administration by Customs and to address enforcement problems related to stores. Public comment requested on actions under consideration, as well as store operations in general. Work Plan 83-1 approved.

Timetable:

Action	Date	FR Cite
ANPRM	07/21/83	48 FR 33318
ANPRM Comment Period Begin	07/21/83	
ANPRM Comment Period End	09/19/83	

Small Entity: No

Agency Contact: John R. Holl, Operation Officer, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, **202 566-5354**

RIN: 1515–AA22

COMPLETED RULEMAKINGS

17. ENTRY OF AMERICAN GOODS EXPORTED AND RETURNED

Legal Authority: 19 USC 1481; 19 USC 1484; 19 USC 1498

CFR Citation: 19 CFR 10; 19 CFR 143

Abstract: Establish informal entry procedures for certain American goods returned, not advanced in value or improved in condition while abroad. Implement provisions of section 202 of Pub. L. 96-609 that require amendment. Would benefit importers who would be able to use informal entry procedures which are less costly, complex, and time consuming than formal entry procedures. T.D. under development pending paperwork reduction impact study. Work plan 81-14 approved.

Timetable:

Action	Date	FR Cite
NPRM	03/18/82	47 FR 11706
NPRM Comment Period Begin	03/18/82	
NPRM Comment Period End	05/17/82	
Paperwork reduction impact study	03/00/83	
Final Action T.D. 83-82	04/05/83	48 FR 14595
Final Action Effective	05/05/83	

Small Entity: No

Agency Contact: Herbert Geller, Operations Officer, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, **202 566-5307**

RIN: 1515–AA02

18. CONTIGUOUS COUNTRIES; RAILROAD EQUIPMENT

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624

CFR Citation: 19 CFR 123.12; 19 CFR 123.14

Abstract: Admission of empty foreign railroad equipment without entry and payment of duty in certain instances. Clarify permitted use of foreign railroad equipment in U.S. The project would benefit importers by removing a hindrance to strictly international traffic, while retaining the prohibition against diversions of foreign locomotives and railroad equipment to unpermitted point-to-point local traffic. Work plan 81-7 approved.

Timetable:

Action	Date	FR Cite
NPRM	08/27/82	47 FR 37924
NPRM Comment Period Begin	08/27/82	
NPRM Comment Period End	10/26/82	
Final Action T.D. 83-118	05/25/83	48 FR 23384
Final Action Effective	06/24/83	

Small Entity: No

Agency Contact: John Mathis, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, **202 566-5706**

RIN: 1515–AA06

19. PRIVATE AIRCRAFT REPORTING

Legal Authority: 49 USC 1509

CFR Citation: 19 CFR 6.14

Abstract: Extend to Pacific, Gulf of Mexico, and Atlantic Coasts, the area of entry from which private aircraft arriving in the U.S. must report arrival to Customs. Those aircraft must land at nearest designated airport to point of crossing U.S. border or coastline. Amendment is necessary because of need for action to increase effectiveness of drug smuggling enforcement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/24/82	47 FR 12620
Comment on Interim Rule	05/24/82	
Final Action T.D. 83-192	09/15/83	48 FR 41361
Final Action Effective	10/17/83	

Small Entity: No

Agency Contact: Harry Carnes, Director, Department of the Treasury, United States Customs Service, Office of Passenger Enforcement and, Facilitation, Room 2426, 1301 Const., Ave., NW., Washington, D.C. 20229, **202 566-5607**

RIN: 1515–AA13

20. COMMERCIAL AIRCRAFT FEES

Legal Authority: 19 USC 58a; 31 USC 483a; 49 USC 1509(c); 49 USC 1741(e)

CFR Citation: 19 CFR 6.26

Abstract: Provides a means, through schedule for commercial aircraft processing fees, to recover Customs costs of providing certain services to commercial aircraft. Fee schedule will be revised periodically to reflect any increased costs. Work plan requirement waived.

Timetable:

Action	Date	FR Cite
NPRM	05/27/82	47 FR 23182
NPRM Comment Period Begin	05/27/82	
NPRM Comment Period End	07/26/82	
Withdrawn	07/21/83	48 FR 33317

Next Action Undetermined

Small Entity: Yes

Agency Contact: Kevin P. Cummings, Operations Officer, Department of the Treasury, United States Customs Service, Office of Inspection and Control, Room 2426, 1301 Constitution Avenue NW., Washington, D.C. 20229, **202 566-5607**

RIN: 1515–AA14

21. PENALTY GUIDELINES (19 USC 1497)

Legal Authority: 19 USC 1498; 19 USC 1618

CFR Citation: 19 CFR 148; 19 CFR 171

Abstract: Revised guidelines to be used by Customs Service and Treasury Department for disposition of liabilities incurred under section 497, Tariff Act of 1930, as amended (19 USC 1497), for failure to declare articles to Customs upon entry into U.S. Guidelines will become an appendix to Customs Regulations. Guidelines were developed

VOL 48 ISS 201 OCT 17 1983 UMI

TREAS—CUSTOMS — **Completed Actions**

to provide Customs with more flexibility in handling violations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/82	47 FR 7408
Comment on Interim Rule	05/20/82	
Final Action T.D. 83-145	06/30/83	48 FR 30098
Final Action Effective	08/01/83	

Small Entity: Not Applicable

Agency Contact: Kathryn C. Peterson, Attorney, Department of the Treasury, United States Customs Service, Miscellaneous Penalties Branch, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202 566-5746

RIN: 1515-AA17

[FR Doc. 83-28040 Filed 10-14-83; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations

Semiannual Agenda of Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: This semiannual agenda lists the regulations determined as of July 31, 1983, that the Internal Revenue Service will be developing from July 31, 1983, through October 1, 1984. The purpose of this semiannual agenda is to give the public adequate notice of regulatory activities of the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Robert A. Bley, Executive Assistant to the Director, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR. (202-566-3331), not a toll-free call.

SUPPLEMENTARY INFORMATION:

General

Section 5 of Executive Order 12291 and section 602 of the Regulatory Flexibility Act and the Treasury Directive implementing that Act all require that a semiannual agenda of regulations under development and review be published in the **Federal Register**. The next semiannual agenda of the Internal Revenue Service will be published in the **Federal Register** in April of 1984.

Description

This Semiannual Agenda of Regulations lists all projects within the Internal Revenue Service (I.R.S.) as of July 31, 1983, for the development of regulations to appear in the Code of Federal Regulations. This agenda lists existing regulations under development by the Legislation and Regulations Division and the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, I.R.S. The following information is provided for each regulation project: the title; priority status; whether the regulation is currently under review; its effect, if any, on small businesses; the part of the Code of Federal Regulations affected; the legal authority for issuing the regulations; a brief description of the problem to be addressed in the regulation; and a timetable of action taken and to be taken. Under additional information there is provided the control number of the project within the Chief Counsel's Office, the name and telephone numbers of the drafting and reviewing attorneys and the last formal action taken.

By direction of the Secretary of the Treasury.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Internal Revenue Service—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Income Tax--Rules relating to title 11 cases for individuals	1545-AC41
2	Income Tax--To revise the definition of "on behalf of"	1545-AA48
3	Employment Tax--Penalties for false information with respect to withholding	1545-AD40
4	Income Tax--Credit for increasing research activities	1545-AA07
5	Income Tax--Employee Stock Ownership Plan Credit	1545-AD56
6	Income Tax--Increase in child care credit	1545-AA02
7	Income Tax--Joint ownership of energy items & renewable energy source expenditures for purposes of the residential energy credit to conform to Secs 201(a) & 202 of the ETC	1545-AA03
8	Credit for clinical testing expenses for certain drugs for rare diseases or conditions	1545-AF64
9	Income Tax--Investment credit for cooperatives	1545-AA09

TREAS—IRS

Internal Revenue Service—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
10	Income Tax--Investment credit in the case of certain ships	1545-AA17
11	Income Tax--The investment credit for qualified progress expenditures	1545-AA13
12	Income Tax--Investment credit for commuter highway vehicles	1545-AA08
13	Income Tax--At risk limitations on investment credit	1545-AA15
14	Income Tax--Changes made by Secs 222(a) and 223(b) of the Crude Oil Windfall Profit Tax Act of 1980	1545-AA14
15	Amendment of Income Tax Regulations under sections 47, 48 and 196 relating to basis adjustment to reflect investment tax credit	1545-AF06
16	Income Tax--Tax treatment of mass assets for investment credit purposes	1545-AA10
17	Income Tax--Amendment of recapture rules	1545-AA18
18	Income Tax--Increase in Investment Tax Credit for Qualified Rehabilitation Expenditures	1545-AA12
19	Income Tax--Investment credit for rehabilitated structures	1545-AA21
20	Income Tax--Special rules added by sec 223(c) of Crude Oil Windfall Profit Tax Act 1980, relating to reduction of credit where property is financed by subsidized ETC	1545-AA26
21	Income Tax--Definition of energy property, to reflect addition by sec 222(h) of the Crude Oil Windfall Profit Tax Act of 1980 of qualified intercity buses as ETC	1545-AA24
22	Income Tax--Definition of films that are "topical or otherwise essentially transitory in nature"	1545-AA22
23	Income Tax--Investment credit in case of property used by tax exempt organizations & governmental units	1545-AA23
24	Income Tax--Relating to WIN credit	1545-AA29
25	Income Tax--Amount of jobs credit	1545-AA30
26	Income Tax--Adjustments to new jobs credit	1545-AA31
27	Income Tax--Alternative minimum tax	1545-AA32
28	Income Tax--Alternative minimum tax	1545-AE80
29	Income Tax--Minimum tax	1545-AA33
30	Income Tax--Minimum tax	1545-AA34
31	Income Tax--Nonqualified salary reduction agreements	1545-AA35
32	Income Tax--Treatment of income of certain innocent spouses in community property States	1545-AA37
33	Income Tax--Unisex annuity tables	1545-AA38
34	Income Tax--Clarification of the Income Tax Regulations with respect to the taxation of distribution from qualified plans providing life insurance protection	1545-AD60
35	Income Tax--Certain distributions, contributions, ETC	1545-AD61
36	Loans Treated as Distributions	1545-AE41
37	Income Tax--Early withdrawals from deferred annuities	1545-AF08
38	Income Tax--Group term life insurance--Evidence of insurability	1545-AA39
39	Income Tax--Changes to the uniform premium table under section 79 of the Internal Revenue Code of 1954	1545-AE83
40	Nondiscrimination requirements for employer-provided group-term life insurance	1545-AE89
41	Income Tax--To make certain amendatory changes to rules relating to property transferred in connection with performance of services	1545-AA41
42	Income Tax--Fexible premium contracts	1545-AF28
43	Income Tax--Industrial Development Bonds for vehicles used for mass commuting	1545-AA43
44	Income Tax--To amend the regulations under sections 1.103-13 and 1.103-14 with respect to the calculations of of "overissuance" and "cumulative cash flow deficit"	1545-AA44
45	Income Tax--To amend the regulations relating to the treatment of replacement funds	1545-AA46
46	Income Tax--To provide for the tax consequences of refunding industrial development bonds to the issuer, bondholder & industrial user	1545-AA47
47	Income Tax--Exemption for industrial development bonds for water facilities	1545-AA49
48	Income Tax--To clarify the "substantially all" test	1545-AA50
49	Income Tax--To clarify the "public use" and "functionally related" requirements	1545-AA51
50	Income Tax--To provide "timing" requirements for exempt small issues	1545-AA52
51	Income Tax--To clarify the definition of the term "issue"	1545-AA54
52	Income Tax--To define the term "principal user of a facility"	1545-AA56
53	Income Tax--Increase in limit on small issues of industrial development bonds	1545-AA57
54	Income Tax--To clarify the definition of property which is a pollution control facility	1545-AA58
55	Income Tax--Manner of electing $10 million limitation on exempt small issues	1545-AA59
56	Income Tax--To define the term "facility"	1545-AA60
57	Income Tax--Income tax regulations under section 103 (c) to make certain corrective and clarifying changes to the arbitrage regulations	1545-AA61
58	Income Tax--Mortgage subsidy bonds	1545-AA63
59	Income Tax--To clarify the definition of property that is a solid waste disposal facility & to conform to statutory exemption for industrial development bonds for qualifi ETC	1545-AA64
60	To provide regulations requiring certain debt obligations to be issued in registered form	1545-AE18
61	To provide regulations under section 103(b)(10) relating to local district heating and cooling facilities	1545-AE22
62	To provide regulations under section 103(k) and (l)-- relating to public approval and information reporting requirements for private activity bonds	1545-AE24
63	To provide regulations under section 103 (b) (14)-- relating to limitation on maturity of industrial development bonds	1545-AE69
64	Definition of "Materially higher" for acquired purpose obligations guaranteed by Federal Depository Insurance	1545-AE73

VOL 48 ISS 201 OCT 17 1983 UMI

TREAS—IRS

Internal Revenue Service—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
65	To provide temporary regulations under section 103A relating to mortgage subsidy bonds for cooperative housing corporations	1545-AF35
66	To provide regulations under section 103A relating to mortgage subsidy bonds for cooperative housing corporations	1545-AF36
67	Interest exempt other than under the Internal Revenue Code	1545-AF49
68	To provide regulations under section 103 (b) (6) (0) relating to restrictions on financing certain facilities with exempt small issue	1545-AF53
69	Income Tax--Changes in exclusion for sick pay & certain military, etcetera, disability pensions; certain disability income	1545-AA66
70	Income Tax--Discharge of indebtedness	1545-AA67
71	Income Tax--Partial exclusion of dividends and interest received by individuals	1545-AA69
72	Income Tax--Relating to Federal grant not includable in gross income in certain cases	1545-AA70
73	Income Tax--Contributions in aid of construction for certain utilities	1545-AA71
74	Income Tax--Prepaid legal expenses	1545-AD62
75	Income Tax--Exclusion from gross income of value of qualified transportation provided by employer	1545-AA72
76	Income Tax--Tax Treatment of Cafeteria Plans	1545-AD63
77	Income Tax-Exclusion from income of certain cost-sharing payments under government programs	1545-AA73
78	Income Tax--Partial exclusion of interest	1545-AA75
79	Income Tax--Dependent Care Assistance Programs	1545-AD65
80	Income Tax--Part 1 Personal injury liability assignments	1545-AF39
81	Income Tax--Part I Exclusion from gross income for certain foster care payments	1545-AF52
82	Income Tax--Empl. Tax--Deductibility of certain transportation expenses	1545-AA76
83	Income Tax--To add provisions relating to State legislators travel expenses	1545-AA78
84	Income Tax--To provide better definitions in the area of political advertising & grassroots lobbying	1545-AA79
85	Income Tax--Limitation on interest deduction	1545-AA80
86	Sanctions on Issurers and Holders of Registration-Required Obligations Not in Registered Form	1545-AF63
87	Income Tax--Deductions for addition to a reserve for certain guaranteed debt obligations	1545-AA81
88	Amendment of Income Tax Regulations under section 166 to clarify the tax treatment of debts arising out of the receivables of a taxpayer	1545-AF70
89	Income Tax--Temporary Regulations--Transitional rules for public utility property	1545-AA16
90	Income Tax--Amortization of low-income housing	1545-AA84
91	Income Tax--Ratemaking treatment of public utility property	1545-AA85
92	Income Tax--Accelerated cost recovery system	1545-AA87
93	Income Tax--Normalization requirement for public utility property	1545-AA88
94	Income Tax--Relating to terminal rental adjustment clauses in certain motor vehicle leases	1545-AF32
95	Finance leases-Definition and special rules	1545-AF54
96	Income Tax--Amortization of certain pollution control facilities	1545-AA89
97	Income Tax--Charitable contributions of scientific property used for research	1545-AA90
98	Income Tax--Estate & Gift Taxes--Transfers of partial interests in property for conservation purposes--To extend certain temporary tax provisions	1545-AA91
99	Income Tax--Charitable contributions deduction for nonitemizers	1545-AA92
100	Income Tax--Net operating losses attributable to product liability losses	1545-AA93
101	Income Tax--Net operating losses for certain Real Estate Investment Trusts	1545-AA94
102	Income Tax--Election to expense certain depreciable assets	1545-AA95
103	Income Tax--Election to postpone application of section 183 (d) presumption	1545-AA96
104	Income Tax--Amortization of real property construction period interest & taxes	1545-AA97
105	Income Tax--To add provisions relating to tertiary injectants to conform to Sec 251, Crude Oil Windfall Profit Tax Act 1980	1545-AA99
106	Income Tax--Amortization of certain reforestation expenditures	1545-AB01
107	Income Tax--To add provisions relating to start-up expenditures	1545-AB02
108	*Income Tax--Estate Tax--Gift Tax--Procedure and Administration--Retirement savings	1545-AD66
109	Income Tax--Gift Tax--Employment Taxes--Retirement Income Plan Excise Taxes--Procedure and Administration--Spousal Individual Retirement Accounts Simplified Employee ETC	1545-AD59
110	Income Tax--Prepublication expenditures of publishers	1545-AA36
111	Income Tax--Employee Benefit Costs and Indirect Construction Costs Allocable to Self Constructed assets	1545-AA77
112	Income Tax--To clarify treatment of taxes measured by compensation paid employees	1545-AB03
113	Personal Service Corporations	1545-AF02
114	Income Tax--Personal Service Corporations	1545-AF11
115	Income Tax--To add provisions relating to foreign Conventions (as amended by section 4 of Public Law 96-608)	1545-AB04
116	Income Tax--Disallowance of certain entertainment expenses--To conform to section 361, Revenue Act of 1978	1545-AB05
117	Income Tax--Deductibility of gifts by employers	1545-AB06
118	Amendment of Income Tax Regulations to provide the Commissioner with authority to establish an optional method of computing meal expenses while traveling	1545-AF34
119	Income Tax--Taxation of nonexempt membership organizations	1545-AB07
120	Income Tax--Amortization of production cost of motion pictures, books, records, and other similar property	1545-AB08
121	Income Tax--Deductions for expenses attributable to business use of homes, rental of vacation homes	1545-AB09
122	Income tax--Special Rules Relating to Corporate Preference items	1545-AE78

TREAS—IRS

Internal Revenue Service—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
123	Waiver of Family Attribution by Entities	1545-AF13
124	Income Tax--Distribution in redemption of stock to pay death taxes	1545-AB13
125	Income Tax--Extension of Anti-Bailout Provisions to Corporation Formed or Availed of to Avoid these Provisions	1545-AF27
126	Income Tax--Temporary Regulations--Dividend reinvestment in stock of public utilities	1545-AB16
127	Income Tax--To clarify meaning of term "reasonable redemption premium"	1545-AB15
128	Income Tax--Dividend reinvestment in stock of public utilities	1545-AB14
129	Income Tax--Miscellaneous Corporate amendments	1545-AB12
130	Income Tax--Simultaneous liquidation of a parent and subsidiary	1545-AB18
131	Income Tax-Elections under section 338, as added by section 224 of the Tax Equity and Fiscal Responsibility Act of 1982 as amended by the Technical Corrections Act of 1982	1545-AF38
132	Anti-Avoidance Rules Under Sections 338 and 346 of the Internal Revenue Code of 1954	1545-AE32
133	Deemed Sale Price When Certain Stock Purchases Are Treated as Asset Acquisitions	1545-AF29
134	Income Tax--Elections and Miscellaneous Matters under section 224 of the Tax Equity and Fiscal Responsibility Act of 1982, amended by the Technical Corrections Act of 1982	1545-AF22
135	Income Tax--Regulations under section 338 (a)	1545-AE60
136	Income Tax--Corporate Distributions of Appreciated Property and Partial Liquidations	1545-AF18
137	Income Tax--Transfer by a cash basis taxpayer of unrealized accounts receivable, etc., to a corporation controlled by a transferee	1545-AB19
138	Income Tax--Distribution of stock and securities of a controlled corporation	1545-AB20
139	Income Tax--Basis in stock of a corporation acquiring property in exchange for stock of corporation in control of acquiring corporation	1545-AB21
140	Income Tax--Temporary Regulations--To deal with assistance payments made in connection with a reorganization under Sec 368(a)(3)(D)(ii) of the Code	1545-AB23
141	Income Tax--To deal with assistance payments made in connection with a reorganization under Sec 368(a)(3)(D)(ii) of the Code	1545-AB22
142	Income Tax--Exception for transfers of property from the U.S. designated by the Secretary	1545-AB25
143	Income Tax--Relating to ruling requests with respect to transfers by United States persons to foreign corporations	1545-AB24
144	Income Tax--Treatment of exchanges described in section 367 (b)	1545-AB26
145	Income Tax--Acquisition of a corporation by merger of a corporation controlled by the acquiring corporation	1545-AB30
146	Income Tax--Exchange funds	1545-AB31
147	Income Tax--Corporate reorganization amendments	1545-AB29
148	Income Tax--Temporary Regulations--Reorganizations involving financially troubled thrift institutions	1545-AB28
149	Income Tax--Characterization in international transactions of interests in corporations as stock or indebtedness	1545-AB34
150	Income Tax--Refund of Mistaken Contributions	1545-AD68
151	Income Tax--Comparability of plans for vesting	1545-AD69
152	Income Tax--Required distributions from qualified plans and individual retirement accounts and partial rollovers of individual retirement accounts	1545-AE95
153	*Income Tax--Amendment of Qualified Joint and Survivor Annuity Regulations	1545-AD70
154	Various pension parity, etc. provisions under the Tax Equity and Fiscal Responsibility Act of 1982 and the Economic Recovery Tax Act of 1981	1545-AE84
155	Income Tax--To conform the "High 25 employee rule" to section 4022 of the Employee Retirement Income Security Act of 1974, "guaranteed benefits"	1545-AD71
156	Income Tax--Certain cash or deferred arrangements	1545-AD72
157	Nondiscriminatory coordination of defined contribution plans with Old Age, Survivors, and Disability Insurance	1545-AE93
158	Income Tax--Treatment of certain lump sum distributions	1545-AD73
159	Income Tax--Tax-free rollovers of lump sum distributions and plan termination payments. Lump sum distributions made with respect to a decedent	1545-AD74
160	Retirement Arrangements of Churches	1545-AE25
161	Income Tax--Taxability of beneficiary under annuity purchase by sec. 501(c) organization or public school	1545-AD75
162	Income Tax--Deduction limitations and funding rules for valuing certain agreements	1545-AD76
163	Income Tax--Employee stock ownership plan loan payments	1545-AD77
164	Income Tax--Deductibility of payments of deferred compensation to independent contractors	1545-AD78
165	Income Tax--Deduction of Employer Liability Payments, Notice of Reorganization and Funding Requirements	1545-AD80
166	Income Tax--Deduction for certain foreign deferred compensation plans	1545-AD81
167	Income Tax--Requirements for Tax Credit Employee Stock Ownership Plans, Employee Plan Credit, and Defined Contribution Plan Voting Rights	1545-AD82
168	Income Tax--Coordination of vesting and nondiscrimination requirements for qualified plans	1545-AD83
169	Rules clarifying the Income Tax Regulations, Part 1, with respect to Service Computation under pension, etc. plans	1545-AE39
170	Income Tax--Excise Tax Regulations--Funding for qualified plans	1545-AD84
171	Income Tax--Pension Excise Taxes--Miscellaneous Funding Provisions	1545-AD85
172	Income Tax--Term, etc. funding for ancillary benefits	1545-AD86
173	Income Tax--Definitions & special rules	1545-AB35
174	Income Tax--Definitions and special rules; Service for predecessor	1545-AD87
175	Income Tax--Church Plans	1545-AD88
176	Income Tax--Definition of multiemployer plan	1545-AD89
177	Income Tax--Employees of an Affiliated Service Group	1545-AD90

TREAS—IRS

Internal Revenue Service—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
178	Income Tax Regulations--Affiliated Service Groups and Employee Leasing	1545-AE91
179	Limitations on Benefits and Contributions Under Qualified Plans	1545-AE75
180	Questions and answers on top-heavy plans	1545-AF18
181	Income Tax--Top-heavy plans	1545-AE87
182	Income Tax--Reorganization Status	1545-AD91
183	Income Tax--Minimum Contribution Requirement, In General	1545-AD92
184	Income Tax--Overburden Credit Against Minimum Contribution Requirement	1545-AD94
185	Income Tax--Adjustments in Accrued Benefits; Insolvent Plans; Related Vesting Provisions	1545-AD95
186	Income Tax--Creation & treatment of incentive stock options	1545-AB36
187	Income Tax--Requests for change of method of accounting from an erroneous method of accounting	1545-AB37
188	Income Tax--Clarification of relationship between sections 446(e) and 481	1545-AB38
189	Income Tax--Method of accounting for corporations engaged in farming	1545-AB39
190	Income Tax--To clarify treatment of certain costs incurred with respect to long term contracts	1545-AB40
191	Income Tax--General rules relating to installment sales	1545-AB42
192	Income Tax Regulations--Part I. Installment Sales by nontaxable entities	1545-AF73
193	Income Tax--Installment obligations received from a liquidating corporation	1545-AB43
194	Income Tax--Installment obligations received in transactions in which gain or loss is generally not recognized	1545-AB44
195	Income Tax--Installment sales between related parties	1545-AB45
196	Income Tax--Installment method reporting by dealers in personal property	1545-AB47
197	Income Tax -- Gain or loss on the disposition of an installment obligation	1545-AB41
198	Income Tax--Installment Sales Revision Act of 1980, Regulations relating to wrap-around mortgages	1545-AB46
199	Income Tax Regulations--Part 1. Installment Sale by Dealers in Personal Property	1545-AF71
200	Income Tax--Exclusion from gross income with respect to magazines, paperbacks, and record returns after close of taxable year	1545-AB48
201	Income Tax--Treatment of prepaid interest	1545-AB49
202	Income Tax--Accrual of vacation pay	1545-AB50
203	Income Tax--Limitation on deductions in case of farming syndicates	1545-AB51
204	Income Tax--Determination of amounts at risk with respect to certain activities	1545-AB52
205	Income Tax--Qualified discount coupons returned after close of taxable year	1545-AB53
206	Income Tax--Inventories at cost or market, whichever is lower	1545-AB54
207	Income Tax--Three-year averaging for increases in inventory value when electing LIFO method of accounting; Use of one inventory pool by small businesses electing LIFO method	1545-AB55
208	Inventory computed by use of consumer or producer price indexes	1545-AF65
209	Income Tax--Qualified liquidations of LIFO inventories	1545-AB56
210	Income Tax--Allocation of income & deductions among taxpayers to revise percentage applied in determining rental charge for use of tangible property	1545-AB57
211	Income Tax--Maximum rate of imputed interest for sale of land between related persons	1545-AB58
212	Income Tax - Semiannual compounding of the test rate under section 483	1545-AF59
213	Income Tax--Estate Tax--Gift Tax--Exemption of certain amateur athletic organizations from tax	1545-AD97
214	Income Tax--Rules clarifying the regulations with respect to the computation of "gross income" of an electric cooperative	1545-AD99
215	Income Tax--Amendment of regulations to reflect the grant of tax exempt status to certain Hospital Service Organizations	1545-AE01
216	Income Tax--Tax treatment of certain social clubs & prohibition of discrimination by certain social clubs	1545-AD98
217	Income Tax--Social clubs unrelated business income	1545-AB59
218	Income Tax--Activities of trade shows and state fairs	1545-AE04
219	Income Tax--Hospital services not to constitute an unrelated trade or business	1545-AE05
220	Income Tax--Unrelated trade or business income	1545-AE00
221	Income Tax--Rates of tax for principal campaign committees	1545-AB60
222	Income Tax--Relationship between section 527 and the Federal Election Campaign Act	1545-AE06
223	Income Tax--Various sections of the Code affecting personal holding companies	1545-AB63
224	Income Tax--Accumulated earnings tax	1545-AB64
225	Income Tax--Tax treatment of common trust funds	1545-AB65
226	Income Tax--Limitation on additions to bank loss reserves	1545-AB66
227	Treatment of Foreclosed Property by Certain Creditors	1545-AF00
228	Income Tax--Restoration of depletion deductions on bonus and advanced royalties in certain cases	1545-AB69
229	Income Tax--Supplementary rules on limitations on percentage depletion for oil & gas	1545-AB73
230	Income Tax--To conform to Sec 3 of the Act of 12/28/80	1545-AB74
231	Income Tax--Disallowance of certain items as deductions for estate and income tax purposes	1545-AB75
232	Income tax--Treatment of credit for tax withheld on interest, dividends and patronage dividends received by an estate or trust	1545-AF04
233	Income Tax--Special rule for property transferred at less than fair market value	1545-AB76
234	Income Tax--Procedure & Administration--Accumulation Trusts	1545-AB78
235	Income Tax--Procedure & Administration--Foreign trusts having U.S. beneficiaries	1545-AB79
236	Income Tax--Determination of partner's distributive share	1545-AB80
237	Income Tax--Items allocated to portion of year partner held interest	1545-AB81

TREAS—IRS

Internal Revenue Service—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
238	Income Tax--To conform the income tax regulations relating to guaranteed payments to partners to sec. 213(b)(3) of TRA 1976 and to the Miller & Carey decisions	1545-AB82
239	Income Tax--Amendment of Sec 1.731-1(c) to clarify the tax treatment of a distribution of property by a partnership to a partner who had recently contributed other property	1545-AB84
240	Income Tax--Certain compliance problems where elections out of Subchapter K are made	1545-AB85
241	Treatment of graded premium policies under the approximate revaluation method of recomputing reserves	1545-AF03
242	Income Tax--To clarify the treatment of certain amounts refunded in reinsurance transactions	1545-AB86
243	Income Tax--Real estate investment trusts & regulated investment companies	1545-AB87
244	Income Tax--Source of income of underwriting income	1545-AB89
245	Source of interest and dividends	1545-AF15
246	Amendment of the Income Tax Regulations under Sec. 1.861-8 to provide for the allocation and apportionment of partnership expenses	1545-AF57
247	*Income Tax--Computation of taxable income from sources within and without the United States	1545-AB88
248	Income Tax--Income from certain leased aircraft, vessels, and spacecraft treated as income from sources within the United States	1545-AB90
249	Income Tax--To prevent a foreign bank with branch office in United States from avoiding United States taxation by booking a loan in a foreign office	1545-AB92
250	Income Tax--Original issue discount	1545-AB93
251	Income Tax--Rules for determining whether loans or net leases are commercial activities	1545-AB94
252	Income Tax--Temporary Regulations--Non-recognition, corporate distributions, and reorganization rules regarding taxation of foreign investment in U.S. real property	1545-AB96
253	Income Tax--Partnership, trust, and estate rules regarding taxation of foreign investment in U.S. real property interests	1545-AB98
254	Income Tax--Taxation of foreign investment in U.S. real property and information returns concerning foreign ownership of U.S. real property	1545-AB99
255	Notice of proposed rulemaking--nonrecognition corporate distributions and reorganizations under the Foreign Investment In Real Property Tax Act	1545-AF17
256	Income Tax--Temporary Regulations--Partnership, trust and estate rules regarding taxation of foreign investment in U.S. real property interests	1545-AB97
257	Income Tax--Certain payments for oil or gas not to be considered as taxes	1545-AC00
258	Income Tax--To provide rules setting forth requirements for creditable foreign taxes	1545-AC01
259	Income Tax--To clarify rules for determining earnings & profits of a foreign corporation & amount of creditable foreign taxes	1545-AC02
260	Income Tax--Recapture of Overall Foreign Losses	1545-AC05
261	Income Tax--Limitation on, and treatment of, capital gains for purposes of foreign tax credit	1545-AC03
262	Income Tax--Procedure & Administration--Taxpayer's obligation to file a notice of redetermination of foreign tax and civil penalties for failure to file	1545-AC06
263	Income Tax--Temporary Regulations--Taxpayer's obligation to file a notice of redetermination of foreign tax and civil penalties for failure to file	1545-AC09
264	Income Tax--Limitation dealing with foreign tax credit for taxes paid in connection with foreign oil & gas income	1545-AC07
265	Amendment of regulations under section 907 of the Internal Revenue Code of 1954 to conform them to section 211 of the Tax Equity and Fiscal Responsibility Act of 1982	1545-AE34
266	Income Tax--Limitation on Foreign Tax Credit for Foreign Oil and Gas Taxes	1545-AF60
267	Income Tax--Income of U.S. citizens & residents working abroad, exclusions and deduction from gross income	1545-AC08
268	Possession tax credit and income tax liability incurred to the Virgin Islands: computation of taxable income	1545-AE35
269	Possession tax credit and income tax liability incurred to the Virgin Islands: Business presence	1545-AE36
270	Amendment of regulations under sections 934 and 936 to conform to changes made by section 213 of the Tax Equity and Fiscal Responsibility Act of 1982	1545-AF21
271	Income Tax--Definition of qualified possession source investment income for purposes of Puerto Rico & possession tax credit	1545-AC10
272	Current taxation of foreign oil related income of controlled foreign corporations	1545-AE38
273	Amendment of regulations under section 955 dealing with related group election with respect to qualified investments in foreign base shipping company operations	1545-AF74
274	Income Tax--Amendments affecting DISC pertaining to military sales & incremental export gross receipts	1545-AC17
275	Income Tax--Basis of certain appreciated property transferred to decedent, ETC	1545-AC18
276	Income Tax--Basis limitation & recapture of depreciation on player contracts	1545-AC19
277	Income Tax--Transfers of securities under certain agreements	1545-AC20
278	Income Tax--Tax straddles	1545-AC21
279	Income Tax--Temporary Regulations--Tax straddles	1545-AC22
280	Regulations under section 1232A relating to original issue discount taken into account on basis of constant interest rate	1545-AE27
281	Regulations under section 1232B relating to the tax treatment of stripped bonds	1545-AE21
282	Income Tax--Time for determining relatedness under section 1239--Relating to transfer of depreciable property between related persons	1545-AC29
283	Income Tax--Gain from sale or exchange of stock in foreign corporations	1545-AC31
284	Income Tax--Transfer of franchises; trademarks & trade names	1545-AC33
285	Income Tax--To clarify treatment of basis in transfers of franchises, trademarks, & trade names	1545-AC34

TREAS—IRS

Internal Revenue Service—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
286	Income Tax--Gain from disposition of interest in oil or gas property	1545-AC35
287	Income Tax--Temporary Regulations--Tax straddle identification rules	1545-AC24
288	Regulations relating to foreign currency contracts under section 1256 of the Internal Revenue Code	1545-AF50
289	Income Tax--Treatment of obligations which purport to represent debt as a second class of stock	1545-AC37
290	Income Tax--Definition of S Corporation	1545-AE86
291	Amendment of Income Tax Regulations under Code sections 1362 and 1363 relating to the election, revocation, and termination of an S corporation	1545-AE26
292	Income Tax--Pass-Thru of S corporation items to shareholders	1545-AE85
293	Income Tax--Rules relating to adjustment to basis of stock of shareholders of S corporation and to determination of basis of property distribution by corporation	1545-AE88
294	Income Tax--Certain rules relating to shareholders of subchapter S corporations	1545-AC38
295	Income Tax--Application of subchapter C rules to S corporations	1545-AE90
296	Income Tax--Treatment of S corporation as a partnership for certain purposes of the Internal Revenue Code of 1954	1545-AE28
297	Amendment of Income Tax Regulations under sections 1374 and 1375 relating to the imposition of tax on capital gains and passive investment income	1545-AE92
298	Income Tax--Definitions and Special Rules pertaining to S corporation	1545-AE94
299	Income Tax--Certain elections under the Subchapter S Revision Act of 1982	1545-AF30
300	Income Tax--Qualified pension, etc. plans of small business corporations	1545-AE07
301	Income Tax--To clarify Section 1.1382-6 with regard to inventory pools	1545-AB32
302	Income Tax--Relating to tax treatment of per unit retain allocations	1545-AC40
303	Income Tax--Distributions qualifying as patronage dividends	1545-AC39
304	Income Tax--Personal services income of nonresident alien individuals	1545-AC43
305	Income Tax--To provide for a certification method of withholding on dividends paid to nonresident aliens	1545-AC42
306	26 CFR Part I--Amendment of the Income Tax Regulations under section 1502 of the Code to reflect section 224 of Tax Equity and Fiscal Responsibility Act of 1982	1545-AF41
307	Income Tax--Permission to Discontinue Filing Life-Nonlife Consolidated Returns	1545-AF55
308	Amendment of consolidated returns regulations relating to life-life consolidations	1545-AF67
309	Income Tax-Revision of regulations under section 1502 re. personal holding companies	1545-AC45
310	Income Tax--Consolidated return regulations--Revision of regulations re. accumulated earnings tax	1545-AC50
311	Income Tax--Consolidated return/Accumulated earnings tax-earnings and profits when a member is a personal holding company	1545-AC51
312	Income Tax--Credit & deductions etc., for consolidated returns	1545-AC48
313	Income Tax--Filing of separate returns for period not included in a consolidated return	1545-AC57
314	Income Tax--To reflect amendments of consolidated return regulations to reflect Merchant Marine Act of 1970 concerning Merchant Marine & Fisheries Capital ETC	1545-AC52
315	Income Tax--To provide consolidated return rules relating to affiliated groups that include only life insurance companies	1545-AC49
316	Income Tax--Consolidated return regulations--Investment adjustments	1545-AC53
317	Income Tax--Accelerated depreciation in investment adjustments	1545-AC47
318	Income Tax--Miscellaneous & technical amendments to consolidated return regulations	1545-AC46
319	Income Tax--At risk limitations of section 465	1545-AC55
320	Income Tax--Includibility in an affiliated group of subsidiaries formed to comply with foreign laws	1545-AC58
321	Income Tax--To reflect the U.S. Supreme Court in U.S. v. Vogel Fertilizer Co., holding that each member of Stockgroup must own stock in each brother-sister corp	1545-AC59
322	Estate & Gift Taxes--Unified rate schedule for estate & taxes & unified credit in lieu of exemptions	1545-AC60
323	Income Tax--Estate Tax--Tax on certain generation-skipping transfers--Miscellaneous provisions relating to generation-skipping transfers	1545-AC75
324	Estate & Gift Taxes--Revision of interest rate assumptions for actuarial purposes	1545-AC61
325	Estate Tax--Valuation of certain farm, etc. real property	1545-AC62
326	Estate & Gift Taxes--Inclusion of stock in estate where decedent retained voting rights	1545-AC63
327	Income Tax--Regulations to change election procedures of income tax treatment	1545-AE08
328	Estate Tax--Property held jointly by husband & wife	1545-AC64
329	Estate & Gift Taxes--Extension of time in which to amend governing instruments in order to qualify as a charitable trust	1545-AC65
330	Estate Tax--Treatment of certain contributions of works of art, ETC	1545-AC66
331	Estate and Gift Taxes--Increase in limitations on marital deductions	1545-AC67
332	Gift Tax--Transitional rule for the increased annual gift tax exclusion and the unlimited exclusion for certain transfers	1545-AC69
333	Gift Tax--Certain transfers treated as qualified disclaimers	1545-AC70
334	Estate & Gift Taxes--Disclaimers	1545-AC71
335	Tax on certain generation-skipping transfers--Imposition & amount of, and liability for, tax	1545-AC72
336	Estate and Gift Tax--Tax on certain generation-skipping transfers--Definitions and special rules	1545-AC73
337	Estate & Gift Tax--Generation-skipping transfers tax return requirement, ETC	1545-AC74
338	Empl. Tax--Social security tax on employers of individuals who receive income from tips	1545-AC76
339	Employment Tax--To require withholding of social security and railroad retirement tax from certain payments of sick pay	1545-AC77

TREAS—IRS

Internal Revenue Service—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
340	To provide regulations relating to extension of withholding to certain payments where identifying number is not furnished or inaccurate	1545-AE20
341	Amendment of sections 31.3302 (a)-3 and 31.3302 (b)-2 to delete the requirement for State certification of the Federal Unemployment Tax Act credit claimed by employees	1545-AF51
342	Employment Taxes--Withholding Allowances	1545-AC81
343	Empl. Tax--To require recipient of certain gambling winnings to furnish information regarding aggregation of payments from identical wagers	1545-AC82
344	Employment Tax--Withholding from Pensions, Annuities, and Other Deferred Income	1545-AE98
345	Treatment of real estate agents and direct sellers as nonemployees for employment tax purposes--reporting requirements with respect to direct sellers	1545-AE62
346	Excise Tax--Applicable to articles sold on and after 1964	1545-AC85
347	Excise Tax--Retailers excise taxes on motor vehicles	1545-AF61
348	Excise Tax--Manufacturers excise taxes on motor vehicles	1545-AC86
349	Excise Tax--Gas guzzler tax	1545-AC87
350	Manufacturers & Retailers Excise Tax--Excise tax refund in cases of certain uses of tread rubber & adjustments pursuant to warranty	1545-AC88
351	Manufacturers & Retailers Excise Tax--Relating to recapped or retreaded tires	1545-AC89
352	Excise Tax--Applicable to gasoline & lubricating oil sold on or after 07/01/65	1545-AC90
353	Manufacturers and Retailers Excise Taxes--Tax on Fuels, Tires and Gasoline	1545-AF58
354	Tax on Highway Use of Heavy Duty Trucks	1545-AF62
355	Excise Tax--Environmental taxes--Imposition of taxes on petroleum and certain chemicals	1545-AC91
356	Excise Tax--Environmental taxes--Imposition of tax on hazardous wastes	1545-AC92
357	Imposition of taxes on hazardous waste	1545-AF69
358	Excise Tax--Tax on issuer of registration-required obligation not in registered form	1545-AF31
359	Excise Tax--To clarify the interim rule for determining base prices for tier 2 & tier 3 oil	1545-AC98
360	Income Tax--Lobbying by public charities	1545-AE02
361	Foundation Excise Tax--Private foundation set-asides	1545-AE12
362	Foundation Excise Tax--Taxes on excess business holdings of private foundations--Effect of reorganizations and corporate distributions	1545-AE13
363	Foundation Excise Tax--Procedure and Administration--Revision of second tier excise tax provisions, etc. under Chapters 42 and 43	1545-AE09
364	*Excise Tax--To provide rules relating to base prices of tier 2 & tier 3 oil removed after 09/30/80	1545-AC97
365	Excise Tax--Definition of newly discovered oil	1545-AC96
366	Excise Tax--With respect to the definition of taxable crude oil	1545-AD00
367	Excise Tax--Issues arising where multiple parties share in production, including unitizations, partnerships, trusts and estates	1545-AC94
368	Excise Tax--Independent producer oil allocations within a related group under the Crude Oil Windfall Profit Tax Act 1980	1545-AD03
369	Excise Tax--Incremental tertiary oil	1545-AD04
370	Excise Tax--Exemptions for qualified governmental interests, qualified charitable interests (including residential child care agencies), Indian oil, Alaskan ETC	1545-AD05
371	Excise Tax--Exempt front-end oil under the Crude Oil Windfall Profit Tax Act 1980	1545-AD06
372	Excise Tax--Oil from a stripper well property	1545-AD01
373	Excise Tax--Definition of oil removed from the premises	1545-AC95
374	Excise Tax--Definition of property under the Crude Oil Windfall Profit Tax Act 1980	1545-AD08
375	Excise Tax--Amendment of Sec 51.4996-1(b) with respect to the treatment of net profits interests for windfall profits tax purposes	1545-AD09
376	Income Tax--Conditions under which books and records of controlled foreign corporations and organizations will be required to be maintained in the United States	1545-AD11
377	Returns required on magnetic media	1545-AF12
378	Form of Individual Tax Return	1545-AF24
379	To provide regulations relating to new exception to estimated tax penalty where individual has no tax liability for preceding taxable year	1545-AE71
380	Conform Regulations under sections 6015, 6154 and 6155 to section 201 (j) of the Technical Corrections Act of 1982	1545-AF66
381	Income Tax-Amendments to requirements for return of partnership income	1545-AE40
382	Income tax--Amendments to requirements for return of partnership income	1545-AE42
383	Income Tax--Procedure & Administration--Return and reporting requirements	1545-AE14
384	Income Tax-to amend regulations under Internal Revenue Code sections 6035 and 6679 relating to returns of foreign personal holding companies	1545-AE29
385	Income Tax--Information returns required of certain foreign-owned corporations; foreign corporation reporting requirements and penalties	1545-AE43
386	Income Tax--To conform the regulations to amendments made by section 7 of Public Law 98-167 (Discontinuance of option reports)	1545-AD15
387	Return of Information as to Payments of $600 or more	1545-AF37
388	Amendment of Treasury Regulation Section 1.6043-1, Eliminating Paragraph (b) (2)	1545-AF19
389	Income Tax--Regulations relating to returns as to interests in foreign partnerships	1545-AE44

VOL 48 ISS 201 OCT 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

TREAS—IRS

Internal Revenue Service—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
390	Income Tax--Regulations relating to returns as to interests in foreign partnerships	1545-AE47
391	Reporting of State and local income tax refunds	1545-AE76
392	Reporting of State and local income tax refunds	1545-AE97
393	Employment tax--Reporting by certain large food or beverage establishments with respect to tips	1545-AE65
394	Gift Tax--Time for filing and payment of gift taxes	1545-AD17
395	Procedure and Administration--To authorize additional disclosures of returns and return information	1545-AD19
396	Procedure and Administration--Disclosure of returns and return information to designees of taxpayers	1545-AD20
397	Procedure & Administration--Public inspection of certain foreign exempt organization returns	1545-AE16
398	Requirement that certain persons retain copies of income tax returns upon the liquidation of a corporation	1545-AF14
399	Estate Tax--Procedure and Administration--Deferral and installment payment of estate tax	1545-AD23
400	Miscellaneous rules relating to consolidated administrative and judicial procedures to determine the tax treatment of partnership items	1545-AE49
401	Miscellaneous rules relating to consolidated administrative and judicial proceedings to determine the tax treatment of partnership items	1545-AE51
402	Designation of tax matters partner for purposes of determining the tax treatment of partnership items	1545-AE53
403	Definition of "partnership item"	1545-AF09
404	Determination of the tax treatment of Subchapter S items at the Corporate level	1545-AE96
405	Estate Tax--Procedure & Administration--Special lien for estate tax deferred under Secs 6166 & 6166A	1545-AD25
406	Procedure and Administration--Release of liens	1545-AE82
407	Temporary regulations--Certain requirements for the release of a notice of Federal tax lien	1545-AF20
408	Income Tax--Tentative refund of tax under claim of right adjustment	1545-AD30
409	Excise Tax--Sporting goods and firearms & administration provisions of special application to Manufacturers & Retailers Excise Tax	1545-AD12
410	Procedure and Administration--To conform changes made by Public Law 95-628, section 8 (a) relating to period of limitations for credit or refund for net operating loss	1545-AD32
411	Modification of interest payments for certain periods	1545-AF10
412	Semiannual Adjustment of Interest Rate; Daily Compounding	1545-AE31
413	Income Tax--Penalties for failure to make returns or furnish statements (as amended by sec. 1123 of Subtitle C of Title II--Omnibus Reconciliation Act of 1980)	1545-AD35
414	Income Tax--Payment of estimated tax by corporations	1545-AD22
415	To provide regulations relating to accelerated payment of estimated taxes by corporations	1545-AE37
416	Procedure & Administration--Penalties for overstatement of deposits, and Income Tax--Time for filing information returns with respect to certain foreign corporations	1545-AD38
417	Procedure & Administration--Addition to tax in the case of valuation overstatements, & increase in the negligence penalty	1545-AD39
418	Income Tax--Addition to tax for a substantial understatement of liability	1545-AF05
419	Penalty for promoting abusive tax shelters	1545-AE99
420	Penalty for Aiding and Abetting in the understatement of Tax Liability	1545-AF01
421	Income Tax--Presumption of jeopardy in the case of illegal activity cash	1545-AE30
422	Recovery of court costs and certain fees in a civil tax proceeding	1545-AF25
423	Procedure and Administration--Amendment of regulations relating to the timely mailing of returns, taxes and deposits	1545-AD42
424	Procedure & Administration--Administrative summons	1545-AD43
425	Administrative Summonses	1545-AF33
426	Indian tribal governments treated as States for certain purposes	1545-AF56
427	Temporary Excise Tax Regulations Under the Highway Revenue Act of 1982--Part 145 Floorstocks Tax on Tires	1545-AF72
428	Income Tax--Maritime Capital Construction Fund	1545-AD46
429	Income Tax--Amortization deduction for motor carrier operating authority	1545-AD48
430	Statement of Procedural Rules--Amendments to 1981-2	1545-AD49
431	Statement of Procedural Rules--1979-2 Periodic Amendments	1545-AD50
432	Statement of Procedural Rules--Amendments to Statement of Procedural Rules--1981-1	1545-AD55
433	Amendments to the Statement of Procedural Rules 1982-2	1545-AF40
434	Statement of Procedural Rules--Special Amendment	1545-AF68

*Indicates priority regulation.

Internal Revenue Service—Existing Regulations Under Review

Sequence Number	Title	RIN
435	Income Tax--Excise tax on transfers of property to foreign persons to avoid the Federal income tax	1545-AC44

TREAS—IRS

Internal Revenue Service—Completed Actions

Sequence Number	Title	RIN
436	Income Tax--Temporary Regulations--Credit for increasing research activities	1545-AA06
437	Income Tax--Definition of energy property; Criteria to be used by the Secretary in adding items to the list of specially defined energy property	1545-AA28
438	Income Tax--Single purpose agricultural structure	1545-AA20
439	Income Tax--Reporting requirements for nonqualified stock options	1545-AA40
440	Income Tax--Obligations of certain volunteer fire departments	1545-AA45
441	To provide temporary regulations under section 103 (k) and (l) relating to public approval and information reporting requirements for certain bonds	1545-AF28
442	Income Tax--To clarify the proper recovery exclusion for State income tax refunds	1545-AA68
443	Income Tax--Educational Assistance Programs	1545-AD64
444	Income Tax--Exclusion of interest on certain savings certificates	1545-AA74
445	Temporary Income Tax Regulations to Allow Basis Adjustment for Certain Transitional Safe Harbor Lease Property	1545-AF23
446	Income Tax--Temporary Regulations--Amortization of certain reforestation expenditures	1545-AB00
447	Income Tax--Travel expenses of Members of Congress as amended by Sec 116 of the Black Lung Benefits Revenue Act	1545-AB10
448	Income Tax--Treatment of certain corporate interests as stock or indebtedness	1545-AB33
449	Income Tax--To apply accumulated earnings tax to corporations accumulating earnings and profits to avoid tax on certain foreign corporate shareholders	1545-AB61
450	Income Tax--Reserves for losses on loans of mutual savings banks, ETC	1545-AB68
451	Income Tax--Percentage depletion deduction--To clarify rules relating to determination of gross income from the property in the case of oil & gas wells	1545-AB70
452	Income Tax--Percentage depletion rates	1545-AB72
453	Income Tax--Clarification of treatment of partnership syndication fees, ETC	1545-AB83
454	Income Tax--Conforming regulations to certain amendments to subpart F	1545-AC12
455	Income Tax--Current taxation of shipping profits of controlled foreign corporations except to extent such profits are reinvested in shipping operations	1545-AC11
456	Income Tax--Recapture of depreciation on real property	1545-AC32
457	Income Tax--To modify the percentage bad debt deduction for thrift institutions that file consolidated returns	1545-AC54
458	Income Tax--Consolidated returns under section 1502 to be filed by life-nonlife groups	1545-AC56
459	Employment Taxes--To modify requirements with respect to sick pay	1545-AC80
460	Employment Tax and Collection of Income Tax at Source--Withholding of income tax from payments of interest, dividends, and patronage dividends	1545-AE66
461	Foundation Excise Tax--Definition of "distributable amount" and "qualifying distribution"	1545-AE11
462	Excise Tax--Changes in the application of Department of Energy regulations for purposes of the Windfall Profit Tax Act 1980	1545-AD10
463	Temporary Regulations--Income Tax--Information Returns of Brokers	1545-AE23
464	Returns required on magnetic media	1545-AE33
465	Income Tax--Information Returns of Brokers	1545-AD16
466	To provide regulations relating to information reporting requirements of interest and original issue discount	1545-AE19
467	Income Tax--Extension of time for filing returns	1545-AD18
468	Miscellaneous rules relating to consolidated administrative and judicial procedures to determine the tax treatment of partnership items	1545-AE55
469	Definition of "partnership item"	1545-AF07
470	Procedure & Administration--To provide for service of notice of levy by mail	1545-AD28
471	Procedure & Administration--To provide regulations relating to offset of past-due support against overpayments	1545-AD29
472	Income tax--Periods of limitation for assessing a deficiency and filing a claim for credit or refund attributable to a partnership item	1545-AD31
473	Income Tax--Change in rate of interest on underpayments & underpayments of tax to reflect 100% of prime rate adjusted annually	1545-AD34
474	Income Tax--To amend regulations under Internal Revenue Code sections 6651 and 6702 relating to penalties for extended failure to file and for frivolous returns	1545-AE57
475	Income Tax--Payment of Estimated Taxes by "Large Corporations"	1545-AD37
476	Procedure & Administration--Classification of entities organized under Uniform Limited Partnership Act as revised in 1976	1545-AD44
477	Procedure & Administration--To modify the application of the classification rules to limited liability companies	1545-AD45
478	Statement of Procedural Rules--To provide for consolidated appeals hearings with respect to certain adjustments to windfall profit tax liability	1545-AD51
479	Statement of Procedural Rules--Periodic Revisions for 1980 parts 1 & 2	1545-AD54
480	Income Tax: Temporary regulations under the Foreign Investment in Real Property Tax Act amending due dates of certain requirements	1545-AF48
481	Determination of the Taxable Year from which Dividends are considered paid for the purpose of the Credit for Corporate Stockholders in Foreign Corporations	1545-AF46
482	Withholding from commercial annuities and other related matters	1545-AF47
483	Temporary regulations in connection with excise tax	1545-AF42
484	Income Tax--Temporary Regulations--Information returns required of foreign-owned corporations with respect to transactions with related corporations	1545-AF44

Internal Revenue Service—Completed Actions—Continued

Sequence Number	Title	RIN
485	Extension of payment due date for certain fuel taxes	1545-AF43
486	Temporary excise tax regulations under the Highway Revenue Act of 1982 Part 145 Floor Stocks tax on gasoline held for sale April 1, 1983	1545-AF45

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Current and Projected Rulemakings

1. INCOME TAX–RULES RELATING TO TITLE 11 CASES FOR INDIVIDUALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1398 Internal Revenue Code of 1954; 26 USC 1399 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to individuals (not partnerships or corporations) filing bankruptcy cases under title 11. The regulations would contain rules for both the bankrupt individual and the estate created when the individual files for bankruptcy.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-48-81.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Paul A. Francis (202) 566-3920.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Cunningham, Levinson.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Paul A. Francis, Technical Assistant to the Director, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC41

2. INCOME TAX–TO REVISE THE DEFINITION OF "ON BEHALF OF"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide detailed rules to determine whether an entity is constituted in such a manner that it may issue governmental obligations on behalf of a governmental unit, even though the entity itself is not such a unit. Generally, such an entity would be required to be created by or for a governmental unit and controlled by the unit.

Timetable:

Action	Date	FR Cite
NPRM	02/02/76	41 FR 04829
NPRM Comment Period Begin	02/02/76	41 FR 04829
NPRM Comment Period End	03/18/76	
Hearing	04/26/78	
Final Action	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-8-73.

Drafting attorney: John P. MacMaster (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Woodward.

Draft pending in Legislation and Regulations Division.

Agency Contact: John MacMaster, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA48

3. EMPLOYMENT TAX–PENALTIES FOR FALSE INFORMATION WITH RESPECT TO WITHHOLDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6682 Internal Revenue Code of 1954; 26 USC 7205 Internal Revenue Code of 1954

CFR Citation: 26 CFR 31

Abstract: The regulations will relate to the civil penalty for false information with respect to withholding of income tax at source or interest, dividends, patronage dividends, and wages. The regulations will provide that the penalty will be imposed if an individual makes a false statement which results in reduced withholding and for which there was no reasonable basis.

Timetable:

Action	Date	FR Cite
NPRM	09/01/82	47 FR 38552
NPRM Comment Period Begin	09/01/82	47 FR 38552
NPRM Comment Period End	10/31/82	
Final Action	11/00/83	
Final Action Effective	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-194-81.

Drafting attorney: Mitchell H. Rapaport (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

Notice of proposed rulemaking published September 1, 1982 in Legislation and Regulations Division for preparation of new notice of proposed rulemaking.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3459

RIN: 1545-AD40

4. INCOME TAX–CREDIT FOR INCREASING RESEARCH ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 44F Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide the extent to which taxpayers will be entitled to an income tax credit for increases in certain research activity.

Timetable:

Action	Date	FR Cite
NPRM	01/21/83	
NPRM Comment Period Begin	01/21/83	
NPRM Comment Period End	03/19/83	
Hearing held	04/19/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-236-81.

Drafting attorney: John Harman (202) 566-3238.

Reviewing attorney: Paul A. Francis (202) 566-3930).

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Notice published in Federal Register 1/21/83.

Agency Contact: John R. Harman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3238

RIN: 1545-AA07

5. INCOME TAX–EMPLOYEE STOCK OWNERSHIP PLAN CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 44G Internal Revenue Code of 1954; 26 USC 404(j) Internal Revenue Code of 1954; 26 USC 409A Internal Revenue Code of 1954; 26 USC 46(a)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide guidance for electing the employee stock ownership credit based on contributions to a tax credit employee stock ownership plan. The maximum credit is determined as a percentage of aggregate compensation of employees under the plan which cannot exceed 0.5 for 1983 and 1984, and .75 for 1985 through 1987.

Timetable:

Action	Date	FR Cite
NPRM	07/00/84	

Small Entity: Not Applicable

Additional Information: EE-151-81.

Drafting attorney: John C. Khil (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: John C. Khil, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD56

6. INCOME TAX–INCREASE IN CHILD CARE CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 44A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation conforms the income tax regulations to the statutory increase in the credit allowed for expenses for household and dependent care services necessary for gainful employment, conforms the income tax regulations to the statutory increase in the amount of income deemed to be earned by the taxpayer's spouse, and defines dependent care centers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-214-81.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

In Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AA02

7. INCOME TAX–JOINT OWNERSHIP OF ENERGY ITEMS & RENEWABLE ENERGY SOURCE EXPENDITURES FOR PURPOSES OF THE RESIDENTIAL ENERGY CREDIT TO CONFORM TO SECS 201(A) & 202 OF THE ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 44C Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide the public with guidance to comply with changes made to section 44C by the Energy Tax Act of 1978 and the Windfall Profit Tax Act of 1980 relating to defining passive and active solar system, subsidized energy financing and other terms pertaining to the residential energy credit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-73-80.

Drafting attorney: Annie R. Alexander (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Annie R. Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AA03

8. ●CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS

Legal Authority: 26 USC 7805; 26 USC 44H(d)(5); 26 USC 280C(c)(3)

CFR Citation: 26 CFR 44H; 26 CFR 280C(c)

Abstract: Proposal would amend the Income Tax Regulations in order to conform the regulations to sections 44H and 280C(c) of the Internal Revenue

Code of 1954, relating to the new credit for clinical testing expenses for certain drugs for rare diseases or conditions. The proposal would provide the public with the guidance needed to comply with the law and would affect taxpayers seeking to obtain the new credit.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-55-83.

Drafting Attorney: Nerman Dobynes Hubbard (220) 566-3297.

Reviewing Attorney: John Bromell (202) 566-3326.

Office of Tax Legislative Counsel Reviewing Attorney: Susan Jewitt.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF64

9. INCOME TAX—INVESTMENT CREDIT FOR COOPERATIVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954; PL 95-600, Sec 316

CFR Citation: 26 CFR 1

Abstract: The regulation would provide guidance with respect to the investment tax credit for cooperatives and their patrons.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-4-78.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewer: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision 10/13/81.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA09

10. INCOME TAX—INVESTMENT CREDIT IN THE CASE OF CERTAIN SHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for determining investment credit for ships purchased using a capital construction fund.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-248-76.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Yecies.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AA17

11. INCOME TAX—THE INVESTMENT CREDIT FOR QUALIFIED PROGRESS EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954; 26 USC 48 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations add a new section to provide rules for claiming the investment credit for qualified progress expenditures.

Timetable:

Action	Date	FR Cite
NPRM	01/30/79	44 FR 05910
NPRM Comment Period Begin	01/30/79	44 FR 05910
NPRM Comment Period End	04/01/79	
Hearing	06/27/79	
Final Action	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-73-75.

Drafting attorney: Michel A. Daze (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Yecies.

Draft of T.D. returned to Office of Chief Counsel (Legislation and Regulations Division) for revision 01/19/82.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AA13

12. INCOME TAX—INVESTMENT CREDIT FOR COMMUTER HIGHWAY VEHICLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would interpret the rules contained in sections 46 and 47 of the Internal Revenue Code of 1954 dealing with the investment tax credit for certain commuter highway vehicles, thereby providing needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	

Small Entity: Not Applicable

Additional Information: LR-169-79.

Drafting attorney: Michel A. Daze (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3487.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Draft of notice of proposed rulemaking forwarded for signature on 07/26/83.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AA08

13. INCOME TAX—AT RISK LIMITATIONS ON INVESTMENT CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46(c)(8) Internal Revenue Code of 1954; 26 USC 46(c)(9) Internal Revenue Code of 1954; 26 USC 47(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will explain and illustrate the application of the investment tax credit at risk rules under which (with certain exceptions) a taxpayer's basis in section 38 property for purposes of calculating the amount of investment tax credit (for certain taxpayers engaged in certain activities) cannot exceed the amount the taxpayer is at risk in the property.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-240-81.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: McCarty.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA15

14. INCOME TAX—CHANGES MADE BY SECS 222(A) AND 223(B) OF THE CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46(a) Internal Revenue Code of 1954; 26 USC 48(l)

CFR Citation: 26 CFR 1

Abstract: The proposed regulations will reflect the repeal of the refundable feature of the solar and wind energy credits and the extension of the energy credit through 1990 for certain long-term energy projects.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-150-80.

Drafting Attorney: Michel A. Daze (202) 566-3458.

Reviewing Attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

In Office of Chief Counsel (Legislative and Regulations Division) for preparation of notice.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AA14

15. AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTIONS 47, 48 AND 196 RELATING TO BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954; 26 USC 48 Internal Revenue Code of 1954; 26 USC 196 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations would provide rules concerning a basis adjustment in the case of the investment tax credit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-183-82.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Notice of proposed rulemaking in Office of Chief Counsel (Legislation and Regulations Division) for preparation.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF06

16. INCOME TAX—TAX TREATMENT OF MASS ASSETS FOR INVESTMENT CREDIT PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 38 Internal Revenue Code of 1954; 26 USC 46 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would clarify the investment tax credit recapture treatment of mass assets thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret this area.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-92-73.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Yecies.

Notice to Treasury for formal approval 11/15/79.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA10

17. INCOME TAX—AMENDMENT OF RECAPTURE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The investment tax credit recapture regulations will be updated to explain the recapture treatment for recovery property.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

VOL 48 ISS 201 OCT 17 1983 UMI

Additional Information: LR-315-81.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA18

18. INCOME TAX—INCREASE IN INVESTMENT TAX CREDIT FOR QUALIFIED REHABILITATION EXPENDITURES

Legal Authority: 26 USC 48 Internal Revenue Code; 26 USC 7805 Internal Revenue Code

CFR Citation: 26 CFR 1

Abstract: The regulations provide rules and definitions relating to terms such as qualified rehabilitated expenditures, qualified rehabilitated building, substantial rehabilitation and certified historic structure.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: Not Applicable

Additional Information: LR-238-81.

Drafting Attorney: John Schmalz (202) 566-3297.

Reviewing Attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) Reviewing Attorneys: Jewett, Levinson.

Notice pending at Treasury for review and comments.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA12

19. INCOME TAX—INVESTMENT CREDIT FOR REHABILITATED STRUCTURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 48 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules and definitions relating to terms such as qualified rehabilitated building, qualified rehabilitated expenditure, and major portion.

Timetable:

Action	Date	FR Cite
Hearing	03/31/81	
NPRM	09/30/83	

Small Entity: Not Applicable

Additional Information: LR-191-78

Drafting Attorney: John Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Jewett, Levinson.

Revised draft of T.D. to Office of Tax Legislative Counsel (Treasury) & Office of Chief Counsel (Corporation Tax Division)

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA21

20. INCOME TAX—SPECIAL RULES ADDED BY SEC 223(C) OF CRUDE OIL WINDFALL PROFIT TAX ACT 1980, RELATING TO REDUCTION OF CREDIT WHERE PROPERTY IS FINANCED BY SUBSIDIZED ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 48(l) Internal Revenue Code of 1954; PL 96-223, Sec 223(c)

CFR Citation: 26 CFR 1

Abstract: The regulations will provide that subsidized energy financing and proceeds of exempt industrial development bonds used to finance a facility reduce the qualified investment in the energy property contained in that facility for purposes of determining the amount of the energy tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/82	47 FR 03559
NPRM Comment Period Begin	01/26/82	47 FR 03559
NPRM Comment Period End	03/20/82	
Hearing	06/03/82	
Final Action	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-176-80.

Drafting Attorney: Charles W. Culmer (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

8/1/83 Circulating in Internal Revenue Service.

Agency Contact: Charles W. Culmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA26

21. INCOME TAX—DEFINITION OF ENERGY PROPERTY, TO REFLECT ADDITION BY SEC 222(H) OF THE CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980 OF QUALIFIED INTERCITY BUSES AS ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 48(l) Internal Revenue Code of 1954; 26 USC 46(a)

CFR Citation: 26 CFR 1

Abstract: The proposed regulations establish rules for claiming the energy investment credit for qualified intercity buses.

Timetable:

Action	Date	FR Cite
NPRM	09/03/82	47 FR 38918
NPRM Comment Period Begin	09/03/82	47 FR 38918
NPRM Comment Period End	11/02/82	
Final Action	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-79-80.

Drafting attorney: Michel A. Daze (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Notice published in the Federal Register 09/03/82.

In Office of Chief Counsel (Legislation and Regulations Division) for draft of Treasury Decision.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AA24

22. INCOME TAX—DEFINITION OF FILMS THAT ARE "TOPICAL OR OTHERWISE ESSENTIALLY TRANSITORY IN NATURE"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 48(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations more specifically define what movie and television films and videotapes qualify for the investment credit.

Timetable:

Action	Date	FR Cite
NPRM	06/03/82	47 FR 24142
NPRM Comment Period Begin	06/03/82	47 FR 24142
NPRM Comment Period End	08/02/82	
Final Action	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-143-80.

Drafting Atorney: David Haglund (202) 566-3297.

Reviewing Attorney: John Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, Levinson.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: David R. Haglund, Attorney, Department of the Treasury. Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3297

RIN: 1545-AA22

23. INCOME TAX—INVESTMENT CREDIT IN CASE OF PROPERTY USED BY TAX EXEMPT ORGANIZATIONS & GOVERNMENTAL UNITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 38(b) Internal Revenue Code of 1954; 26 USC 48(j) Internal Revenue Code of 1954; 26 USC 48(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would change the definition of use of property by a tax exempt organization or a governmental unit, for purpose of applying rules relating to the investment tax credit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-223-78.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AA23

24. INCOME TAX—RELATING TO WIN CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 50A Internal Revenue Code of 1954; 26 USC 50B Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules and definitions relating to a credit for expenses of a Work Incentive Program.

Timetable:

Action	Date	FR Cite
NPRM	04/30/80	45 FR 28758
NPRM Comment Period Begin	04/30/80	45 FR 28758
NPRM Comment Period End	06/30/80	
Notice to be withdrawn	03/31/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information:

LR-200-78

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Levinson.

Withdrawal notice in Legislation and Regulations Division being prepared.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA29

25. INCOME TAX—AMOUNT OF JOBS CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 51 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules and definitions relating to the targeted jobs credit.

Timetable:

Action	Date	FR Cite
NPRM	12/28/79	44 FR 76817
NPRM Comment Period Begin	12/28/79	47 FR 76817
NPRM Comment Period End	02/28/80	
Hearing	04/24/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information:

LR-199-78.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Reinhold, Levinson.

Preliminary draft of Treasury Decision at Treasury for review and comment.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA30

26. INCOME TAX—ADJUSTMENTS TO NEW JOBS CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 51 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules and definitions relating to the targeted job as amended by the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: Not Applicable

Additional Information: LR-218-81.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Reinhold, Levinson.

Preliminary draft of Notice of proposed rulemaking at Treasury for review and comment.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA31

27. INCOME TAX--ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 55 Internal Revenue Code of 1954; 26 USC 3(b) Internal Revenue Code of 1954; 26 USC 5(a) Internal Revenue Code of 1954; 26 USC 57(a) Internal Revenue Code of 1954; 26 USC 57(b) Internal Revenue Code of 1954; 26 USC 58(g)(2) Internal Revenue Code of 1954; 26 USC 441(b) Internal Revenue Code of 1954; 26 USC 443(d) Internal Revenue Code of 1954; 26 USC 453(c) Internal Revenue Code of 1954; 26 USC 511(d) Internal Revenue Code of 1954; 26 USC 666(b) Internal Revenue Code of 1954; 26 USC 666(c) Internal Revenue Code of 1954; 26 USC 871(b) Internal Revenue Code of 1954; 26 USC 877(b) Internal Revenue Code of 1954; ...

CFR Citation: 26 CFR 1

Abstract: These regulations will provide rules for the computation of the alternative minimum tax and of the credits that may be used to reduce that tax.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-210-78.

Drafting attorney: Cynthia L. Clark (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Draft of notice to Office of Tax Legislative Counsel (Treasury) & Individual Tax Division 04/29/81.

Comments from Individual Tax Division 11/06/81.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AA32

28. INCOME TAX--ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 55 Internal Revenue Code of 1954; 26 USC 57 Internal Revenue Code of 1954; 26 USC 58 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The Regulations will provide rules for the computation of the alternative minimum tax and the computation of the credits that may be used to reduce that tax, as well as rules for determining the amount of tax preference for excluded dividends and interest, mining exploration and development costs, and circulation, research and experimental expenditures. The Regulations will also provide rules relating to the optional 10 year write off of certain tax preferences.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-235-82.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Larry Smith (202) 566-3287.

In Legislation and Regulations for preparation of notice.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AE80

29. INCOME TAX--MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 56 Internal Revenue Code of 1954; 26 USC 57 Internal Revenue Code of 1954; 26 USC 58 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will explain how to compute items of tax preference for purposes of the minimum tax.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-151-76.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

Revised draft of notice to Office of Tax Legislative Counsel (Treasury) & Associate Chief Counsel (Technical) 06/08/82.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA33

30. INCOME TAX--MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 57 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations will explain the application and determination of the tax preference item for intangible drilling costs which was added by the Tax Reform Act of 1976. The regulations will provide rules for determining a taxpayer's net income from oil and gas properties, rules for determining if a well is nonproductive and rules for determining the proper preference tax if a well proves to be nonproductive after the close of a taxable year for which a tax return has already been filed.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-209-78.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

In Office of Chief Counsel (Legislative and Regulations Division) for preparation of notice.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA34

31. INCOME TAX--NONQUALIFIED SALARY REDUCTION AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 61 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would provide guidance regarding the tax treatment of nonqualified deferred compensation arrangements established by tax exempt charitable organizations such as non-profit hospitals for their employees.

Timetable:

Action	Date	FR Cite
NPRM	02/03/78	43 FR 4638
NPRM Comment Period Begin	02/03/78	43 FR 4638
Final Action Effective	03/06/78	
NPRM Comment Period End	04/04/78	
Hearing	05/14/78	
News release issued for comment	06/11/79	
Hearing	11/27/79	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-194-77.

Drafting attorney: John A. Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Draft of T.D. to Office of Chief Counsel (Individual Tax Division) & Office of Tax Legislative Counsel (Treasury) 03/11/82.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA35

32. INCOME TAX--TREATMENT OF INCOME OF CERTAIN INNOCENT SPOUSES IN COMMUNITY PROPERTY STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 66 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for determining acceptable amounts of community earned income transferred between spouses living apart in community property states, which will not preclude the disregard of community property laws for federal tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-41-81.

Drafting Attorney: Ewan Purkis (202) 566-3238.

Reviewing Attorney: John Parcell (202) 566-3336.

In Office of Chief Counsel (Legislative and Regulations Division) for preparation of notice.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3238

RIN: 1545-AA37

33. INCOME TAX--UNISEX ANNUITY TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide unisex tables to be used in reporting payments received on annuity contracts. The unisex tables would replace the tables currently prescribed in the regulations. The current tables are different for men and women.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-19-80.

Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA38

34. INCOME TAX--CLARIFICATION OF THE INCOME TAX REGULATIONS WITH RESPECT TO THE TAXATION OF DISTRIBUTION FROM QUALIFIED PLANS PROVIDING LIFE INSURANCE PROTECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would simplify income tax treatment of amounts distributed from qualified employee plans that provide life insurance.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-44-80.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Preliminary draft of notice to Office of Tax Legislative Counsel, 09/08/82.

Agency Contact: Charles M. Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD60

VOL
48
ISS
201
OC
17
1983
UMI

35. INCOME TAX—CERTAIN DISTRIBUTIONS, CONTRIBUTIONS, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72(o) Internal Revenue Code of 1954; 26 USC 72(m) Internal Revenue Code of 1954; 26 USC 405(d)(3) Internal Revenue Code of 1954; 26 USC 401(d)(5) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Regulation will provide taxpayers with guidance regarding income tax treatment of distributions of qualified voluntary employee contributions from qualified employee plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-149-81.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: Charles M. Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD61

36. LOANS TREATED AS DISTRIBUTIONS

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Abstract: The regulation will provide guidance on the application of new rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The new loan rules are provided in new section 72(p) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: EE-106-82.

Drafting attorney: Calder L. Robertson, Jr., (202) 566-3422.

Reviewing attorney: Michael A. Thrasher, (202) 566-3961.

Office of Tax Legislative Counsel reviewing attorney: Andrew E. Furer.

In Office of Tax Legislative Counsel for review of proposed draft of Notice of Proposed Rulemaking.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE41

37. INCOME TAX—EARLY WITHDRAWALS FROM DEFERRED ANNUITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal will provide rules for reporting amounts withdrawn from deferred annuities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-279-82.

Drafting Attorney: Phoebe A. Mix (202) 566-3288.

Reviewing Attorney: John H. Parcell (202) 566-3336.

Office of Legislative Counsel Reviewing Attorney: Andrew Pike.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AF08

38. INCOME TAX—GROUP TERM LIFE INSURANCE—EVIDENCE OF INSURABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 79 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Regulations will provide guidance in determining whether term life-insurance is group-term life insurance within the meaning of section 79 of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	10/07/82	47 FR 44343
NPRM Comment Period Begin	10/07/82	47 FR 44343
NPRM Comment Period End	12/06/82	
Hearing	01/19/83	47 FR 53745
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-42-78.

Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Pike, Levinson.

Draft of Treasury decision being prepared in Legislation and Regulations Division.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA39

39. INCOME TAX—CHANGES TO THE UNIFORM PREMIUM TABLE UNDER SECTION 79 OF THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 79 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would amend the uniform premium table used to compute the cost of group-term life insurance provided for an employee for determining the amount to be included by the employee in gross income.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-258-82.

Drafting Attorney: Phoebe A. Mix (202) 566-3288.

Reviewing Attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Andrew Pike.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AE83

40. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER-PROVIDED GROUP-TERM LIFE INSURANCE

Legal Authority: 26 USC 7805; 26 USC 79(d)

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance relating to the nondiscrimination requirements for group-term life insurance purchased for employees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: EE-110-82.

Drafting attorney: Eric Alan Raps (202) 566-3544.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel reviewing attorneys: Conaway, Furer; 6/27/83.

Comments from Individual Tax Division on draft of notice.

Agency Contact: Eric Alan Raps, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AE89

41. INCOME TAX—TO MAKE CERTAIN AMENDATORY CHANGES TO RULES RELATING TO PROPERTY TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 83 Internal Revenue Code of 1954; Section 252 Economic Recovery Tax Act of 1981

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to taxpayers who transfer and receive property in connection with the performance of services. The amendments relate to the definition of property, the effect of section 16 (b) of the Securities Exchange Act of 1934 on transferred stock, when an employer may receive a deduction for compensation paid, and the consequences to a shareholder who transfers stock to an employee of the subject corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-16-80.

Drafting attorney: Philip R. Bosco (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Hevener 1/7/83.

Notice to Treasury for formal approval.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA41

42. INCOME TAX—FEXIBLE PREMIUM CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 101(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal will provide rules for determining what portion (if any) of a flexible premium life insurance contract is life insurance for purposes of section 101 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	

Small Entity: Not Applicable

Additional Information: LR-308-82.

Drafting Attorney: Phoebe A. Mix (202) 566-3288.

Reviewing Attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel Reviewing Attorney: Andy Pike.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3288

RIN: 1545-AF28

43. INCOME TAX—INDUSTRIAL DEVELOPMENT BONDS FOR VEHICLES USED FOR MASS COMMUTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954; Economic Recovery Tax Act of 1981, section 811

CFR Citation: 26 CFR 1

Abstract: The regulations would define a qualified mass commuting vehicle for purposes of issuance of tax-exempt bonds. A qualified mass commuting vehicle is a bus, subway car or similar equipment that is leased to a mass transit system wholly owned by one or more governmental units and that is used by the mass transit system in providing mass commuting services.

Timetable:

Action	Date	FR Cite
NPRM	12/31/81	46 FR 63326
NPRM Comment Period Begin	12/31/81	46 FR 63326
NPRM Comment Period End	03/03/82	
Final Action	09/30/83	

Small Entity: Not Applicable

Additional Information: LR-192-81.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: Susan K. Thompson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA43

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44. INCOME TAX—TO AMEND THE REGULATIONS UNDER SECTIONS 1.103-13 AND 1.103-14 WITH RESPECT TO THE CALCULATIONS OF OF "OVERISSUANCE" AND "CUMULATIVE CASH FLOW DEFICIT"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would clarify rules relating to the proper method for determining whether the amount of tax-exempt obligations exceeds the amount necessary for the governmental purpose for which the proceeds of the obligations are to be used.

Timetable:

Action	Date	FR Cite
NPRM	03/29/83	48 FR 13051
NPRM Comment Period Begin	03/29/83	48 FR 13051
NPRM Comment Period End	05/31/83	
Hearing held	06/08/83	
Final Action	09/00/83	

Small Entity: No

Additional Information: LR-82-82.

Drafting attorney: Harold Flanagan (202) 566-3294.

Reviewing attorney: John P. MacMaster (202) 566-3294.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Notice to Treasury for formal approval 08/17/82.

Agency Contact: Harold Flanagan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA44

45. INCOME TAX—TO AMEND THE REGULATIONS RELATING TO THE TREATMENT OF REPLACEMENT FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to issuers, purchasers and users of tax-exempt obligations relating to whether amounts are replaced by the proceeds of such obligations. As such, such amounts will be treated as proceeds of such obligation and would be required to be invested at less than a materially higher yield. If such amounts are not invested at less than a materially higher yield than the yield on the obligations then the obligations would be arbitrage bonds.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-99-82.

Drafting attorney: Pamela F. Olson (202) 566-3829.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel reviewing attorney: Pike.

12/13/82 Preliminary draft to Office of Tax Legislative Counsel for review.

Agency Contact: Pamela F. Olson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3829

RIN: 1545-AA46

46. INCOME TAX—TO PROVIDE FOR THE TAX CONSEQUENCES OF REFUNDING INDUSTRIAL DEVELOPMENT BONDS TO THE ISSUER, BOND-HOLDER & INDUSTRIAL USER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide that advance refunding issues defined as those refunding issues issued more than 180 days before the redemption of the issue to be refunded may be exempt issues if issued to refund qualified public facilities. A definition of qualified public facilities is provided. Special rules for multipurpose issues are also provided.

Timetable:

Action	Date	FR Cite
Previous Notice	12/06/77	42 FR 61613
Hearing	03/15/78	
Previous Notice	02/06/79	44 FR 7177
NPRM	03/00/84	

Small Entity: Not Applicable

Additional Information: LR-70-77.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Woodward.

Revised notice forwarded to Treasury 09/08/82; pending Treasury review.

Agency Contact: Susan K. Thompson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA47

47. INCOME TAX—EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b)(4) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would provide guidance to determine the rules under which facilities for furnishing water to members of the general public can be financed with tax-exempt industrial development bonds under section 103 (b) (4) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	01/31/84	
Final Action	05/30/84	

Small Entity: Not Applicable

Additional Information: LR-190-78.

Drafting attorney: John A. Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Reinhold.

Notice pending Treasury review. Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA49

48. INCOME TAX—TO CLARIFY THE "SUBSTANTIALLY ALL" TEST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide guidance in determining the amount of proceeds of an issue of industrial development bonds. Generally such bonds are exempt only if substantially all of the issue proceeds are used for a purpose designated in 26 USC 103 (b).

Timetable:

Action	Date	FR Cite
Final Action Effective	04/30/68	
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-182-79.

Drafting attorney: John P. MacMaster (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Mundstock.

Draft of notice returned to Legislation and Regulations Division for revision.

Agency Contact: John MacMaster, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA50

49. INCOME TAX—TO CLARIFY THE "PUBLIC USE" AND "FUNCTIONALLY RELATED" REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The amendments to the regulations would provide additional rules to determine under what circumstances property is treated as functionally related and subordinate to an exempt facility, such as a dock or wharf, and, therefore financeable with tax-exempt industrial development bonds. Furthermore, the regulations would examine the public use requirement which generally restricts tax-exempt financing to exempt facilities used by the general public.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information:

LR-51-79

Drafting attorney: Mitchell H. Rapaport (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Reinhold.

Notice pending Treasury review.

Agency Contact: Mitchell Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA51

50. INCOME TAX—TO PROVIDE "TIMING" REQUIREMENTS FOR EXEMPT SMALL ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The rules will provide "timing" requirements for exempt small issues of industrial development bonds. They will address the nature of the governmental action necessary to approve such an issue and the relationship in time between that action and various expenditures to be funded by the issue.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-245-79.

Drafting attorney: Diane Kroupa (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Woodward.

Notice pending Treasury review.

Agency Contact: Diane Kroupa, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA52

51. INCOME TAX—TO CLARIFY THE DEFINITION OF THE TERM "ISSUE"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to issuers, purchasers, and users of industrial development bonds relating to whether multiple lots of obligations will be treated as part of the same issue under section 103 (b).

Timetable:

Action	Date	FR Cite
NPRM	10/08/81	46 FR 50014
NPRM Comment Period Begin	10/08/81	46 FR 50014
Hearing	11/12/81	
NPRM Comment Period End	01/06/82	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-264-81.

Drafting attorney: Pamela F. Olson (202) 566-3829.

Reviewing attorney: John P. MacMaster (202) 566-3294.

A revised notice of proposed rulemaking is currently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: Pamela F. Olson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3829

RIN: 1545-AA54

52. INCOME TAX—TO DEFINE THE TERM "PRINCIPAL USER OF A FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would define the meaning of the term "principal user of a facility" for purposes of applying the limitation set by the Internal Revenue Code upon the permissible size of a small issue of tax-exempt

industrial development bonds, as diminished by certain other capital expenditures. This regulation would help identify other facilities the capital expenditures from which must be taken into account in determining whether that issue exceeds the small issue limitation.

Timetable:

Action	Date	FR Cite
NPRM	11/30/83	

Small Entity: Not Applicable

Additional Information: LR-59-74.

Drafting attorney: John A. Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Furer.

Revised draft submitted for Treasury review, 4/1/83.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA56

53. INCOME TAX—INCREASE IN LIMIT ON SMALL ISSUES OF INDUSTRIAL DEVELOPMENT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b)(6)(D) Internal Revenue Code of 1954; 26 USC 103 (b)(6)(I) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide guidance regarding the effect of an urban development action grant with respect to a specific facility, upon the capital expenditures limitation with respect to a small issue of tax-exempt industrial bonds issued to finance such facility. The regulation may also provide guidance regarding the required size of such grant in relation to the cost of the facility to be financed by the bond issue, and the nexus between the grant and the financed facility.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/79	
NPRM	11/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-117-79.

Drafting attorney: John A. Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Furer.

Notice pending Treasury review.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA57

54. INCOME TAX—TO CLARIFY THE DEFINITION OF PROPERTY WHICH IS A POLLUTION CONTROL FACILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will define the term "air or water pollution control facilities". The regulations will further determine the portion of the cost of such facilities that may be financed with tax-exempt industrial development bonds, whenever the facilities also serve certain other purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/20/75	40 FR 36371
NPRM Comment Period Begin	08/20/75	40 FR 36371
Hearing	11/21/75	
NPRM Comment Period End	11/28/75	
Final Action	12/00/83	
Final Action Effective	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-9-75.

Drafting attorney: John P. MacMaster (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Munstock.

Draft of Treasury decision pending in Chief Counsel.

Agency Contact: John MacMaster, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA58

55. INCOME TAX—MANNER OF ELECTING $10 MILLION LIMITATION ON EXEMPT SMALL-ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would establish revised procedures whereby the issuer of a small issue of tax-exempt industrial development bonds can elect to have a $10 million limitation rather than a $1 million limitation apply in determining the maximum allowable size of such issue. This regulation would centralize the filing of documents relating to this election to make its requirements more administerable.

Timetable:

Action	Date	FR Cite
NPRM	06/22/82	47 FR 26854
NPRM Comment Period Begin	06/22/82	47 FR 26854
NPRM Comment Period End	08/23/82	
Final Action	11/30/83	
Final Action Effective	01/01/84	

Small Entity: Not Applicable

Additional Information: LR-50-80.

Drafting attorney: John A. Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Woodward.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA59

56. INCOME TAX—TO DEFINE THE TERM "FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would clarify meaning of term "FACILITY" for purposes of exempt small issues of industrial development bonds. This will affect whether something could qualify for the small issue exemption from the definition of industrial development bonds.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-227-80.

Drafting attorney: Barry L. Wold (202) 566-3288.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Barry L. Wold, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3288

RIN: 1545-AA60

57. INCOME TAX—INCOME TAX REGULATIONS UNDER SECTION 103 (C) TO MAKE CERTAIN CORRECTIVE AND CLARIFYING CHANGES TO THE ARBITRAGE REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide miscellaneous changes to the arbitrage regulations. The changes would provide guidance to issuers, purchasers and users of tax-exempt obligations. The regulations woud relate to the calculations of yield for purposes of determining whether obligations are tax-exempt. If the yield on obligations acquired with the proceeds of a governmental obligation are materially higher than the yield on the governmental obligation then the interest paid on the governmental obligation is not tax-exempt.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-101-79.

Drafting attorney: Harold Flanagan (202) 566-3294.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel reviewing attorney: Pike.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Harold Flanagan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3294

RIN: 1545-AA61

58. INCOME TAX—MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules which interpret the provisions of section 103a, relating to Mortgage Subsidy Bonds. Mortgage Subsidy Bonds are any obligations a significant portion of the proceeds of which are used to provide financing for owner-occupied residences.

Timetable:

Action	Date	FR Cite
Previous Notice of Proposed Rulemaking	07/01/81	46 FR 34348
Hearing	11/05/81	
NPRM	11/10/81	46 FR 55513
NPRM Comment Period Begin	11/10/81	46 FR 55513
NPRM Comment Period End	01/09/82	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-20-81.

Drafting attorney: Harold Flanagan (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: McCarty.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: Harold Flanagan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3294

RIN: 1545-AA63

59. INCOME TAX—TO CLARIFY THE DEFINITION OF PROPERTY THAT IS A SOLID WASTE DISPOSAL FACILITY & TO CONFORM TO STATUTORY EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR QUALIFI ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954; 26 USC 103(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide rules to determine whether property is a sewage or solid waste disposal facility or a facility for the local furnishing of electric energy or gas. Qualifying property may be financed with tax exempt industrial development bonds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-100-75.

Drafting attorney: John P. MacMaster (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Mundstock.

Draft of notice pending in Legislation and Regulations Division.

Agency Contact: John MacMaster, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3294

RIN: 1545-AA64

60. TO PROVIDE REGULATIONS REQUIRING CERTAIN DEBT OBLIGATIONS TO BE ISSUED IN REGISTERED FORM

Legal Authority: 26 USC 103 Internal Revenue Code of 1954; 26 USC 163 Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The rules will provide that certain debt obligations issued after December 31, 1982, must be in registered form. The rules will provide examples of certain obligations that are not subject to the registration requirements. The sanctions for not issuing an obligation in registered form are the denial of an interest deduction

and the denial that the interest is tax exempt.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51414
NPRM Comment Period Begin	11/15/82	47 FR 51414
Final Action Effective	12/31/82	
NPRM Comment Period End	01/14/83	
Hearing held	01/25/83	47 FR 51413
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-255-82.

Drafting Attorney: Diane Kroupa (202) 566-3459.

Reviewing Attorney: John Coulter, Jr., (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Richard Reinhold.

Hearing scheduled for 1/25/83.

Agency Contact: Diane Kroupa, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE18

61. TO PROVIDE REGULATIONS UNDER SECTION 103(B)(10) RELATING TO LOCAL DISTRICT HEATING AND COOLING FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code; 26 USC 103 Internal Revenue Code

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to issuers, purchasers and users of industrial development bonds substantially all of the proceeds of which are to be used to provide local district heating and cooling. As such, the regulations will provide guidance with respect to which parts of heating and cooling facilities may be financed with the proceeds of such bonds.

Timetable:

Action	Date	FR Cite
Final Action Effective	09/03/82	
NPRM	10/01/83	

Small Entity: Not Applicable

Additional Information: LR-219-82.

Drafting attorney: Harold Flanagan (202) 566-3294.

Reviewing attorney: John MacMaster (202) 566-3294.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Harold Flanagan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AE22

62. TO PROVIDE REGULATIONS UNDER SECTION 103(K) AND (L)--RELATING TO PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS FOR PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposal will clarify the information reporting requirements with respect to private activity bonds. Industrial development bonds must be publicly approved--failure to fulfill this requirement results in loss of tax exemption for the interest on these bonds. Issuers of student loan bonds, charitable use bonds and industrial development bonds are required to supply certain information to the Internal Revenue Service. Failure to comply with this requirement will result in the loss of tax exemption for the bond's interest.

Timetable:

Action	Date	FR Cite
NPRM	05/11/83	48 FR 21166
NPRM Comment Period Begin	05/11/83	48 FR 21166
NPRM Comment Period End	07/11/83	
Final Action	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-221-82.

Drafting Attorney: George T. Magnatta (202) 566-3459.

Reviewing attorney: John P. MacMaster (202)566-3294.

Office of Tax Legislative Counsel Reviewing Attorney: Andrew Furer.

Draft of regulation sent to Tax Legislative Counsel for comments.

Comments from Tax Legislative Counsel, 01/14/83.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE24

63. TO PROVIDE REGULATIONS UNDER SECTION 103 (B) (14)--RELATING TO LIMITATION ON MATURITY OF INDUSTRIAL DEVELOPMENT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Rules will provide guidance with respect to computation of average weighted economic life and average weighted maturity. Rules limit the average length of the maturity of all industrial development bonds.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/83	
NPRM	04/15/83	
Final Action	03/15/84	

Small Entity: Not Applicable

Additional Information: LR-220-82.

Drafting Attorney: George T. Magnatta (202) 566-3459.

Reviewing Attorney: John P. MacMaster (202) 566-3294.

Office of Tax Legislative Counsel Reviewing Attorney: Andrew Furer.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE69

64. DEFINITION OF "MATERIALLY HIGHER" FOR ACQUIRED PURPOSE OBLIGATIONS GUARANTEED BY FEDERAL DEPOSITORY INSURANCE

Legal Authority: 26 USC 7805 Internal Revenue Code; 26 USC 103 Internal Revenue Code

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to issuers, purchasers and users of tax-exempt obligations the proceeds of which are used to acquire acquired purpose obligations which are guaranteed by Federal Depository Insurance. Thus, the regulations would determine whether the yield produced by certificates of deposit are materially higher than the yield on the tax-exempt obligations. If the yield on acquired purpose obligations is materially higher than the yield on such obligations then the interest paid thereon is not tax-exempt.

Timetable:

Action	Date	FR Cite
NPRM	07/01/83	
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-231-82.

Drafting attorney: Harold Flanagan (202) 566-3294.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel Reviewing Attorney: Andrew Pike (202) 566-8277.

In Office of Tax Legislative Counsel for review of notice.

Agency Contact: Harold Flanagan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, DC 20224, 202 566-3294

RIN: 1545-AE73

65. TO PROVIDE TEMPORARY REGULATIONS UNDER SECTION 103A RELATING TO MORTGAGE SUBSIDY BONDS FOR COOPERATIVE HOUSING CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code; 26 USC 103 Internal Revenue Code; 26 USC 103A Internal Revenue Code

CFR Citation: 26 CFR 5f

Abstract: The temporary regulations will interpret the rules contained in section 103A, relating to mortgage subsidy bonds, as those rules relate to cooperative housing corporations. A mortgage subsidy bond is an obligation a significant portion of the proceeds of which are used to provide financing for single-family, owner-occupied residences. The proposed regulations also would provide rules for the treatment of certain leasing cooperatives under section 103(b)(4)(A), relating to industrial development bonds for residential rental projects.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-15-83.

Drafting attorney: Mitchell H. Rapaport (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Phil McCarty (202) 566-2175.

In Legislation and Regulations Division for preparation.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AF35

66. TO PROVIDE REGULATIONS UNDER SECTION 103A RELATING TO MORTGAGE SUBSIDY BONDS FOR COOPERATIVE HOUSING CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code; 26 USC 103A Internal Revenue Code

CFR Citation: 26 CFR 1

Abstract: The regulations will interpret the rules under section 103A, relating to mortgage subsidy bonds, as those rules relate to cooperatives. A mortgage subsidy bond is an obligation a significant portion of the proceeds of which are used to provide financing for single-family, owner-occupied residences. The proposed regulations also would provide rules for the treatment of certain leasing cooperatives under section 103 (b) (4) (A), relating to industrial development bonds for residential rental projects.

Timetable:

Action	Date	FR Cite
NPRM	07/01/83	
Final Action	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-16-83.

Drafting attorney: Mitchell H. Rapaport (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Phil McCarty (202) 566-2175.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AF36

67. ●INTEREST EXEMPT OTHER THAN UNDER THE INTERNAL REVENUE CODE

Legal Authority: 26 USC 7805 Interest Revenue Code of 1954; 26 USC 103 (m) Interest Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposal would describe the application of new Code section 103 (m) to interest earned on obligations which are exempt from taxation under Federal laws outside the Internal Revenue Code. Section 103 (m) broadens the types of obligations described in section 103 (a) to include obligations on which the interest is tax-exempt under provisions of Federal law outside of the Code. Section 103 (m) provides that interest on obligations described in section 103 (m) is considered to be interest described in section 103 (a) for all purposes of the Code.

Timetable:

Action	Date	FR Cite
NPRM	01/02/84	

Small Entity: No

Additional Information: LR-34-83.

Drafting Attorney: Mitchell H. Rapaport (202) 566-3459.

Reviewing Attorney: John M. Coulter (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney:

In Legislation and Regulations Division for preparation of Notice of proposed rulemaking.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AF49

VOL 48 ISS 201 OCT 17 1983 UMI

68. ●TO PROVIDE REGULATIONS UNDER SECTION 103 (B) (6) (0) RELATING TO RESTRICTIONS ON FINANCING CERTAIN FACILITIES WITH EXEMPT SMALL ISSUE

Legal Authority: 26 USC 103 Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposed regulations would define the types of projects which may not be financed with the proceeds of tax-exempt obligations. The amendments will conform the regulations to changes made in section 103 (b) (6) by section 214 (e), Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	01/01/84	
NPRM Comment Period Begin	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-84-83.

Drafting Attorney: Harold T. Flanagan (202) 566-3294.

Reviewing Attorney: John M. Coulter (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Andy Furer (202) 566-2927.

In Legislation and Regulations Division for preparation of Notice of proposed rulemaking.

Agency Contact: Harold T. Flanagan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, **202 566-3694**

RIN: 1545–AF53

69. INCOME TAX—CHANGES IN EXCLUSION FOR SICK PAY & CERTAIN MILITARY, ETCETERA, DISABILITY PENSIONS; CERTAIN DISABILITY INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 104(a) Internal Revenue Code of 1954; 26 USC 104(b) Internal Revenue Code of 1954; 26 USC 105(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would relate to annuities, unemployment compensation, compensation for injuries or sickness, amount received under accident or health plans, and contributions by employees to accident and health plans. Exclusions from income would be clarified.

Timetable:

Action	Date	FR Cite
NPRM	07/09/80	45 FR 46082
NPRM Comment Period Begin	07/09/80	45 FR 46082
NPRM Comment Period End	09/08/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-159-76.

Drafting attorney: Gregory Roth (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Treasury decision pending Treasury review.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, **202 566-3238**

RIN: 1545–AA66

70. INCOME TAX—DISCHARGE OF INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 108 Internal Revenue Code of 1954; 26 USC 1017 Internal Revenue Code of 1954; PL 96-589, Sec 2 Bankruptcy Tax Act 1980

CFR Citation: 26 CFR 1

Abstract: This proposal would provide rules relating to certain income from the discharge of indebtedness, including rules relating to the election to reduce the basis of assets in lieu of recognizing income.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-91-81.

Drafting Attorney: Duane Pellervo (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislation Counsel reviewing attorneys: McCarty, Levinson.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Charles M. Whedbee, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3474**

RIN: 1545–AA67

71. INCOME TAX—PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 116 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules relating to the partial exclusion of dividends and interest for 1981.

Timetable:

Action	Date	FR Cite
NPRM	02/09/81	47 FR 5902
NPRM Comment Period Begin	02/09/81	47 FR 5902
NPRM Comment Period End	04/12/81	
Hearing	06/22/82	47 FR 20802
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-83-80.

Drafting Attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorneys: not assigned.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3288**

RIN: 1545–AA69

72. INCOME TAX—RELATING TO FEDERAL GRANT NOT INCLUDABLE IN GROSS INCOME IN CERTAIN CASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 117(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will revise existing regulations to allow an exclusion for a grant received under a Federal program which would have been excluded from gross income as a scholarship or fellowship grant if it were not for the fact that the employee was required to perform future services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-72-81.

Drafting attorney: Ada S. Rousso.

Reviewing attorney: Larry E. Smith (202) 566-3287.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, **202 566-4336**

RIN: 1545–AA70

73. INCOME TAX—CONTRIBUTIONS IN AID OF CONSTRUCTION FOR CERTAIN UTILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 118(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Notice would define and interpret when a utility has received a contribution in aid of construction. Changes to the applicable law were made by section 2120 of the Tax Reform Act of 1976 and section 364 of the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite
Previous NPRM	09/27/78	
NPRM	11/00/84	

Small Entity: Not Applicable

Additional Information: LR-136-76.

Drafting attorney: Mary Frances Pearson (202) 566-3289.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Revised notice returned to Department of Treasury for further review 3/29/83.

Agency Contact: Mary Frances Pearson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3489**

RIN: 1545–AA71

74. INCOME TAX—PREPAID LEGAL EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 120 Internal Revenue Code of 1954; 26 USC 501(c)(20) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the establishment and operation of a qualified group legal services plan. Employer contributions to, and benefits provided under, a qualified plan are excluded from an employee's gross income.

Timetable:

Action	Date	FR Cite
NPRM	04/29/80	45 FR 28360
NPRM Comment Period Begin	04/29/80	45 FR 28360
NPRM Comment Period End	06/30/80	
Hearing 09/04/80	07/25/80	45 FR 49596
Final Action	04/00/84	

Small Entity: Not Applicable

Additional Information: EE-5-78.

Drafting attorney: Charles K. Kerby, III (202) 566-3422.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

Preliminary draft of Treasury Decision to Office of Tax Legislative Counsel, 12/13/82.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, **202 566-3422**

RIN: 1545–AD62

75. INCOME TAX—EXCLUSION FROM GROSS INCOME OF VALUE OF QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 124 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance for determining if transportation provided by an employer for employees in a commuter highway vehicle to and from home and work discriminates in favor of officers, shareholders and highly compensated employees. If the transportation plan does not so discriminate, then it is a qualified transportation plan and the value of the transportation is excluded from the gross income of the employees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-193-78.

Drafting Attorney: Ewan Purkiss (202) 566-3288.

Reviewing Attorney: John Parcell (202) 566-3336.

Office of Tax Legislative Counsel Reviewing Attorney: Mark Yecies.

Notice in the Legislation and Regulations Division for revisions.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington DC 20224, **202 566-3288**

RIN: 1545–AA72

76. INCOME TAX—TAX TREATMENT OF CAFETERIA PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 125 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations establish rules for the tax treatment of cafeteria plans meeting certain nondiscrimination standards. A cafeteria plan permits participating employees to select the particular fringe benefits desired from a package of employer-provided benefits, some of which are taxable and some of which are nontaxable.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-16-79.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway, Hevener.

Revised preliminary draft of notice to Office of Tax

Legislative Counsel (Treasury) & Actuarial Division, 6/17/83.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD63

77. INCOME TAX-EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 126 Internal Revenue Code of 1954; 26 USC 1255 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will provide rules on the exclusion from income of certain cost sharing payments and on the amount recaptured when the property improved with government payments is sold within a certain specified period of time.

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period Begin	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	
Hearing	12/01/81	46 FR 50808
Final Action	02/01/84	

Small Entity: Not Applicable

Additional Information: LR-222-78.

Drafting attorney: Paul H. Weisman (202) 566-3238.

Reviewing attorney: Phoebe A. Mix (202) 566-3238.

Office of Tax Legislative Counsel reviewing attorneys: Reinhold, Levinson.

Agency Contact: Paul H. Weisman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA73

78. INCOME TAX—PARTIAL EXCLUSION OF INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 128 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations will provide rules under section 128 for the partial exclusion (a maximum of $450 for single returns and $900 for joint returns) of interest that will be effective for tax years beginning in 1985.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-234-81.

Drafting attorney: Cynthia L. Clark (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorneys: Woodward, Levinson.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Ada Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AA75

79. INCOME TAX—DEPENDENT CARE ASSISTANCE PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 129 Internal Revenue Code of 1954; 26 USC 3121(a)(18) Internal Revenue Code of 1954; 26 USC 3306(b)(13) Internal Revenue Code of 1954; 26 USC 3401(a)(18) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31

Abstract: Internal Revenue Code section 129 excludes from an employee's gross income amounts paid or expenses incurred by an employer for dependent care assistance provided to an employee pursuant to a qualified program. Payments or benefits excluded under this section are not wages and consequently are not subject to tax under the Federal Insurance Contributions Act and the Federal Unemployment Act and are not subject to withholding. The regulation sets forth plan requirements and related rules.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-147-81.

Drafting attorney: Monice L. Rosenbaum (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener.

Notice returned from Office of Tax Legislative Counsel (Treasury) for revision 05/17/83.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD65

80. ●INCOME TAX—PART 1 PERSONAL INJURY LIABILITY ASSIGNMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 130 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation project will provide rules on the exclusion from gross income for amounts received for agreeing to the assignment of a liability to make periodic payments as damages on account of personal injury or sickness.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-82-83.

Docket Attorney: Cynthia Clark 566-3288.

Reviewing Attorney: John Parcell 566-3336.

Tax Legislative Counsel Attorney:

Agency Contact: Cynthia Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF39

81. ●INCOME TAX—PART I EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation project will explain what foster child care payments may be excluded from the gross income of a foster parent.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-83-83.

Docket Attorney: Cynthia Clark 566-3288.

Reviewing Attorney: John Parcell 566-3336.

Tax Legislative Counsel Attorney:

Agency Contact: Cynthia Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, NW, Washington, DC 20224, 202 566-3288

RIN: 1545-AF52

82. INCOME TAX—EMPL. TAX—DEDUCTIBILITY OF CERTAIN TRANSPORTATION EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 162 Internal Revenue Code of 1954; 26 USC 62 Internal Revenue Code of 1954; 26 USC 262 Internal Revenue Code of 1954; 26 USC 3121 Internal Revenue Code of 1954; 26 USC 3306 Internal Revenue Code of 1954; 26 USC 3401 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31

Abstract: The regulations would provide guidelines for determining when a taxpayer may deduct some transportation expenses incurred in traveling between his home and some places of work.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-173-77.

Drafting attorney: Beverly Baughman (202) 566-3297.

Reviewing attorney: Scott.

Office of Tax Legislative Counsel reviewing attorneys: Furer, Levinson.

Draft of notice to Tax Legislative Counsel (Treasury) 4/30/82.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA78

83. INCOME TAX—TO ADD PROVISIONS RELATING TO STATE LEGISLATORS TRAVEL EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 162 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to state legislators who elect to deduct a set per diem in lieu of having to substantiate their actual travel expenses arising from their trade or business as a state legislator.

Timetable:

Action	Date	FR Cite
NPRM	08/09/83	48 FR 36137
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-5-82.

Drafting attorney: Linda Kroening (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Woodward.

11/8/82 Revised draft of notice to Tax Legislative Counsel.

Agency Contact: Linda M. Kroening, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA76

84. INCOME TAX—TO PROVIDE BETTER DEFINITIONS IN THE AREA OF POLITICAL ADVERTISING & GRASSROOTS LOBBYING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 162 Internal Revenue Code of 1954; 26 USC 4945 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide better definitions in the area of political advertising and grassroots lobbying.

Timetable:

Action	Date	FR Cite
NPRM	11/25/80	45 FR 78167
NPRM Comment Period Begin	11/25/80	
NPRM Comment Period End	01/26/81	
NPRM	10/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-190-77.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorneys: Keyser, Levinson.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA79

85. INCOME TAX—LIMITATION ON INTEREST DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 163(d) Internal Revenue Code of 1954; 26 USC 703(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would relate to investment interest and other items of income and expense of an electing small business corporation would be treated as items of the shareholders of the corporation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1639.

Drafting attorney: Gregory A. Roth (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorneys: Pike, Levinson.

11/28/77 Notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3238

RIN: 1545-AA80

VOL 48 ISS 201 OCT 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

86. ●SANCTIONS ON ISSURERS AND HOLDERS OF REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 165 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposal would provide rules for determining whether an issuer may claim an interest deduction for interest paid on an obligation in bearer form, which is otherwise a registration-required obligation, because the issuer satisfies the conditions set forth in section 163 (f) (2) (B). In addition, the proposed regulations would provide rules which define the circumstances under which a United States person may hold a registration-required obligation in bearer form.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Additional Information: LR-151-83.

Drafting Attorney: Carol Doran (202) 566-3289.

Reviewing Attorney: Charles Saverude (202) 566-3323

Agency Contact: Carol T. Doran, Attorney, Office of Chief Counsel, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF63

87. INCOME TAX—DEDUCTIONS FOR ADDITION TO A RESERVE FOR CERTAIN GUARANTEED DEBT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 166(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal will provide rules for establishing a suspense account for certained guaranteed debt obligations.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46815
NPRM Comment Period Begin	07/11/80	45 FR 46815
NPRM Comment Period End	09/09/80	
Final Action	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-1173.

Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Final draft to Tax Legislative Counsel for comment 05/28/82.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AA81

88. ●AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTION 166 TO CLARIFY THE TAX TREATMENT OF DEBTS ARISING OUT OF THE RECEIVABLES OF A TAXPAYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 166 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Amendment of Income Tax Regulations under section 166 to provide that a debt arising out of receivables of a taxpayer will be considered to be an enforceable to the extent that it has been included in the taxpayer's income.

Timetable:

Action	Date	FR Cite
Final Action	01/00/84	

Small Entity: No

Additional Information: LR-91-83.

Drafting Attorney: David R. Haglund (202) 566-3459.

Reviewing Attorney: Walter Woo (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: Mary Hutton.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AF70

89. INCOME TAX—TEMPORARY REGULATIONS—TRANSITIONAL RULES FOR PUBLIC UTILITY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46(f) Internal Revenue Code of 1954; 26 USC 167(l) Internal Revenue Code 1954; Economic Recovery Tax Act of 1981, Section 209

CFR Citation: 26 CFR 5c

Abstract: Section 168 (e) (3) requires a public utility to use a normalization method of accounting for the tax benefits of ACRS in determining utility rates. If a public utility does not normalize the tax benefits of ACRS in setting rates, the utility must use straight-line depreciation for tax purposes. The rules will provide guidance to taxpayers required to comply with section 168 (e) (3), including the treatment of salvage proceeds, gains and losses on dispositions, and computing deferred taxes when federal income tax rates change.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-342-81.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury decision.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA16

90. INCOME TAX—AMORTIZATION OF LOW-INCOME HOUSING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 167(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the maximum amount of rehabilitation expenditures which are properly amortizable over 60 months. The regulations would interpret the provisions of section 264 of the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/81	
NPRM	07/15/82	47 FR 30796
NPRM Comment Period Begin	07/15/82	47 FR 30796

Action	Date	FR Cite
NPRM Comment Period End	09/13/82	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-195-81.

Drafting attorney: Harold Flanagan (202) 566-3294.

Reviewing attorney: John P. MacMaster (202) 566-3294.

Office of Tax Legislative Counsel reviewing attorney: Jewett.

Treasury decision to Commissioner for signature 01/03/83.

Agency Contact: Harold Flanagan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3294

RIN: 1545-AA84

91. INCOME TAX—RATEMAKING TREATMENT OF PUBLIC UTILITY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 167(l) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance on accounting for deferred taxes after a change in federal income tax rates.

Timetable:

Action	Date	FR Cite
NPRM	12/15/83	

Small Entity: Not Applicable

Additional Information: LR-172-79.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorneys: Pike.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA85

92. INCOME TAX—ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954; 26 USC 179 Internal Revenue Code of 1954; 26 USC 1245 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954; 26 USC 167 Internal Revenue Code of 1954; 26 USC 1250 Internal Revenue Code of 1954; 26 USC 57(a)(12) Internal Revenue Code of 1954; 26 USC 312(k) Internal Revenue Code of 1954; 26 USC 172(b) Internal Revenue Code of 1954; 26 USC 812(b) Internal Revenue Code of 1954; 26 USC 46(b) Internal Revenue Code of 1954; 26 USC 53(c) Internal Revenue Code of 1954; 26 USC 381(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: To provide regulations under section 168 and accompanying provisions clarifying the operation of the new accelerated cost recovery scheme. This new cost recovery system generally applies to property placed in service after December 31, 1980. Generally, section 168 applies to "recovery property" which is defined as tangible property of a character subject to the allowance for depreciation which is used in a trade or business, or held for the production of income.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/81	
NPRM	10/01/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-185-81.

Drafting attorneys: George Magnatta (202) 566-3459, Harold Flanagan (202) 566-3259, John Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Junior.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Yecies.

Draft of notice to Tax Legislative Counsel (Treasury) & Office of Chief Counsel (Corporation Tax Division), 6/14/82.

Comments from Office of Chief Counsel (Corporation Tax Division), 7/27/82.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA87

93. INCOME TAX—NORMALIZATION REQUIREMENT FOR PUBLIC UTILITY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168(e)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The temporary regulations would provide guidance to public utilities relating to the transitional rules for the public utility normalization requirements of ACRS under section 168 (e) (3). Prior to ACRS some public utilities did not have to normalize in order to use accelerated depreciation. Under the transitional rule these utilities are given until January 1, 1983 to meet the normalization requirements of section 168 (e) (3).

Timetable:

Action	Date	FR Cite
NPRM	12/15/83	

Small Entity: Not Applicable

Additional Information: LR-244-81.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA88

94. INCOME TAX—RELATING TO TERMINAL RENTAL ADJUSTMENT CLAUSES IN CERTAIN MOTOR VEHICLE LEASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168(f)(8) Internal Revenue Code of 1954; Tax Equity and Fiscal Responsibility Act of 1982, Section 210

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules for determining whether certain motor vehicle agreements which contain terminal rental adjustment clauses are conditional sales agreements or lease agreements.

VOL 48 ISS 201 OCT 17 1983 UMI

Timetable:

Action	Date	FR Cite
NPRM	11/23/82	47 FR 52729
NPRM Comment Period Begin	11/23/82	
NPRM Comment Period End	01/24/83	
Hearing held	02/10/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-187-82.

Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel reviewing attorney: Phil McCarty.

In comment period.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, **202 566-3288**

RIN: 1545-AF32

95. ●FINANCE LEASES-DEFINITION AND SPECIAL RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulations project would provide rules regarding what transaction would qualify as a finance lease, a new tax law concept enacted by the Tax Equity and Fiscal Responsibility Act of 1982. This project would also provide guidelines for determining whether a transaction characterized as a lease is really a lease for Federal tax purposes as opposed to a conditional sale or a financing arrangement.

Timetable:

Action	Date	FR Cite
NPRM	09/06/83	
NPRM Comment Period Begin	09/06/83	
NPRM Comment Period End	11/07/83	
Final Action	12/12/83	

Small Entity: No

Additional Information: LR-90-83.

Drafting Attorney: John A. Tolleris (202) 566-3294.

Reviewing Attorney: John M. Coulter Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Bob Woodward.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, **202 566-3294**

RIN: 1545-AF54

96. INCOME TAX—AMORTIZATION OF CERTAIN POLLUTION CONTROL FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 169 Internal Revenue Code of 1954; Tax Reform Act of 1976 sec 2112

CFR Citation: 26 CFR 1

Abstract: The regulations would provide a definition of "Pollution Control Facility" for purposes of amortization. An eligible taxpayer would be permitted to amortize the basis of the pollution control facility over a period of five years.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-193-76.

Drafting attorney: Barry L. Wold (202) 566-3288.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Levinson.

In Office of Chief Counsel (Interpretative Division) for preparation of notice.

Agency Contact: Barry L. Wold, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3288**

RIN: 1545-AA89

97. INCOME TAX—CHARITABLE CONTRIBUTIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 170 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to corporations making a qualified research contribution of scientific equipment or apparatus to an institution of higher education.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information:

LR-219-81.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: Walter Woo (202) 566-3297.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3297**

RIN: 1545-AA90

98. INCOME TAX—ESTATE & GIFT TAXES—TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES—TO EXTEND CERTAIN TEMPORARY TAX PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 170(f)(3) Internal Revenue Code of 1954; 26 USC 170(h) Internal Revenue Code of 1954; 26 USC 2055(e)(2) Internal Revenue Code of 1954; 26 USC 2522(c)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25

Abstract: These regulations will provide to what extent a taxpayer can obtain a charitable deduction for a charitable contribution of a partial interest in real property.

Timetable:

Action	Date	FR Cite
NPRM	05/23/83	48 FR 22940
NPRM Comment Period Begin	05/23/83	48 FR 22940
NPRM Comment Period End	07/22/83	
Final Action	04/00/84	

Small Entity: Not Applicable

Additional Information: LR-200-76.

Drafting attorney: John R. Harman (202) 566-3238.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hutton, Levinson.

Notice to Office of Commissioner for formal approval, 04/14/82.

Agency Contact: John R. Harman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, **202 566-3238**

RIN: 1545-AA91

99. INCOME TAX—CHARITABLE CONTRIBUTIONS DEDUCTION FOR NONITEMIZERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 170(i) Internal Revenue Code of 1954; 26 USC 63(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide revised substantiation requirements for charitable contribution deductions. Due to the anticipated wide use of the charitable contribution deduction for nonitemizers, Congress intended that the Internal Revenue Service prescribe rules and procedures, in addition to the currently applicable requirements to assure substantiation and verification of charitable contributions.

Timetable:

Action	Date	FR Cite
NPRM	04/25/83	48 FR 17616
NPRM Comment Period Begin	04/25/83	48 FR 17616
NPRM Comment Period End	06/24/83	
Final Action	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-255-81.

Drafting attorney: Annie R. Alexander (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Keyser, Levinson.

1/18/83 Notice to Office of Commissioner for formal approval.

Agency Contact: Annie R. Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3297**

RIN: 1545-AA92

100. INCOME TAX—NET OPERATING LOSSES ATTRIBUTABLE TO PRODUCT LIABILITY LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 172 Internal Revenue Code of 1954; 26 USC 537(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide the necessary guidance with respect to product liability losses and accumulations for the payment of reasonably anticipated product liability losses. Product liability losses may be carried back ten years instead of three years.

Timetable:

Action	Date	FR Cite
Final Action Effective	09/30/79	
NPRM	03/25/83	48 FR 12557
NPRM Comment Period Begin	03/25/83	48 FR 12557
NPRM Comment Period End	05/24/83	
Final Action	02/15/84	

Small Entity: Not Applicable

Additional Information: LR-218-78.

Drafting attorney: George Magnatta (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Furer.

Notice to Commissioner for formal approval, 11/10/82.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3459**

RIN: 1545-AA93

101. INCOME TAX—NET OPERATING LOSSES FOR CERTAIN REAL ESTATE INVESTMENT TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 172(b)(1)(E) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: To provide guidance to Real Estate Investment Trusts with net operating loss carryovers. A net operating loss for a year in which the taxpayer was a REIT shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss, and shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of such loss. In the case of any net operating loss for a taxable year which is not a REIT year, such loss shall not be carried back to any taxable year which is a REIT year.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-26-81.

Drafting attorney: Mitchell H. Rapaport (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3459**

RIN: 1545-AA94

102. INCOME TAX—ELECTION TO EXPENSE CERTAIN DEPRECIABLE ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 179 Internal Revenue Code of 1954; 26 USC 263 Internal Revenue Code of 1954; 26 USC 1033 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will provide rules relating to the election to expense certain depreciable business assets. The regulations determine the type of property to which section 179 applies. In addition, the regulations set forth the maximum amount of section 179 expense allowed and the procedures that must be followed in claiming the expense.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	
Final Action	00/00/00	

VOL 48 ISS 201 OCT 17 1983 UMI

Small Entity: Not Applicable

Additional Information: LR-233-81.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Yecies.

In Legislation and Regulation Division for preparation of notice.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AA95

103. INCOME TAX—ELECTION TO POSTPONE APPLICATION OF SECTION 183 (D) PRESUMPTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 183(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would relate to the election to postpone determining whether the presumption that an activity is engaged in for profit applies. The regulations would clarify timing of the election to postpone the determination.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-61-74.

Drafting attorney: Gregory Roth (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Baneman, Levinson.

Final draft of notice to Office of Tax Legislative Counsel (Treasury) & Individual Tax Division, 03/06/82.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3238

RIN: 1545-AA96

104. INCOME TAX—AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST & TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 189 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide that only a portion of the real property construction period interest and taxes are deductible for the taxable year they are paid or accrued. The remaining amounts are amortized over varying periods of time depending on the category of real property to which such amounts are attributable and the taxable year the interest and taxes are paid or accrued.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-145-76.

Drafting attorney: Howard A. Balikov (202) 566-3288.

Reviewing Attorney: Phoebe A. Mix (202)566-3288.

Office of Tax Legislative Counsel (Treasury) Reviewing Attorney: Kuller/McKee.

In Legislation and Regulations Division for revision of the notice of proposed rulemaking to take into account recent statutory amendments.

Agency Contact: Howard A. Balikov, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AA97

105. INCOME TAX—TO ADD PROVISIONS RELATING TO TERTIARY INJECTANTS TO CONFORM TO SEC 251, CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 193 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to taxpayers using tertiary recovery methods for the enhanced recovery of oil.

Timetable:

Action	Date	FR Cite
NPRM	01/14/83	48 FR 1761
NPRM Comment Period Begin	01/14/83	48 FR 1761
NPRM Comment Period End	03/15/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information:

LR-77-80.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

1-14-83 Notice of proposed rulemaking published.

Hearing held 5-17-83.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA99

106. INCOME TAX—AMORTIZATION OF CERTAIN REFORESTATION EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 194 Internal Revenue Code of 1954; 26 USC 48 Internal Revenue Code of 1954; 26 USC 62 Internal Revenue Code of 1954; 26 USC 1245 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations will provide rules relating to an election that permits taxpayers to amortize up to $10,000 of qualified reforestation expenditures over a seven-year period.

Timetable:

Action	Date	FR Cite
NPRM	03/15/83	48 FR 10860
NPRM Comment Period Begin	03/15/83	48 FR 10860
NPRM Comment Period End	05/15/83	
Final Action	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-189-80.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Oppenheimer.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AB01

107. INCOME TAX—TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 195 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-36-81.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB02

108. INCOME TAX—ESTATE TAX—GIFT TAX—PROCEDURE AND ADMINISTRATION—RETIREMENT SAVINGS

Priority: Task Force

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 219 Internal Revenue Code of 1954; 26 USC 408 Internal Revenue Code of 1954; 26 USC 409 Internal Revenue Code of 1954; 26 USC 415 Internal Revenue Code of 1954; 26 USC 2039 Internal Revenue Code of 1954; 26 USC 2517 Internal Revenue Code of 1954; 26 USC 6652 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25; 26 CFR 301

Abstract: These regulations set forth rules for individual retirement plans, simplified employee pensions, and qualified voluntary employee contributions after amendment of the Internal Revenue Code of 1954 by the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Additional Information: EE-148-81.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

4/4/83 Notice of proposed rulemaking forwarded to Treasury for formal approval.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD66

109. INCOME TAX—GIFT TAX—EMPLOYMENT TAXES—RETIREMENT INCOME PLAN EXCISE TAXES—PROCEDURE AND ADMINISTRATION—SPOUSAL INDIVIDUAL RETIREMENT ACCOUNTS SIMPLIFIED EMPLOYEE ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 62 Internal Revenue Code of 1954; 26 USC 219 Internal Revenue Code of 1954; 26 USC 220 Internal Revenue Code of 1954; 26 USC 404(h) Internal Revenue Code of 1954; 26 USC 408 Internal Revenue Code of 1954; 26 USC 409 Internal Revenue Code of 1954; 26 USC 2503 Internal Revenue Code of 1954; 26 USC 3121 Internal Revenue Code of 1954; 26 USC 3306 Internal Revenue Code of 1954; 26 USC 4973 Internal Revenue Code of 1954; 26 USC 4974 Internal Revenue Code of 1954; 26 USC 6693 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 31; 26 CFR 54; 26 CFR 301

Abstract: The regulations set forth rules for sponsors of and participants in individual retirement plans, spousal individual retirement plans, and simplified employee pensions.

Timetable:

Action	Date	FR Cite
NPRM	07/14/81	46 FR 36198
NPRM Comment Period Begin	07/14/81	46 FR 36198
NPRM Comment Period End	09/14/81	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-7-78.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

10/25/82 - Preliminary Draft of Treasury Decision to Office of Assistant Commissioner (Employee Plans and Exempt Organizations).

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD59

110. INCOME TAX—PREPUBLICATION EXPENDITURES OF PUBLISHERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 263 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to taxpayers relating to the capitalization of pre-publication expenses of publishers and authors.

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	

Small Entity: Not Applicable

Additional Information: LR-253-78.

Drafting Attorney: Philip R. Bosco (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Presently under revision in the Office of Chief Counsel (Legislation and Regulations Division).

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AA36

111. INCOME TAX–EMPLOYEE BENEFIT COSTS AND INDIRECT CONSTRUCTION COSTS ALLOCABLE TO SELF CONSTRUCTED ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 162 Internal Revenue Code of 1954; 26 USC 263 Internal Revenue Code of 1954; 26 USC 404 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for the proper allocation of employee benefit costs and indirect construction costs to the basis of self-constructed assets.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-79-79.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA77

112. INCOME TAX–TO CLARIFY TREATMENT OF TAXES MEASURED BY COMPENSATION PAID EMPLOYEES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 266 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for electing to capitalize certain taxes and carrying charges that are otherwise expressly deductible under subtitle A of the Code. However, where payroll taxes are attributable to salaries paid or incurred for repairing real or personal property, such costs may be capitalized if the section 266 election is made.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-22-82.

Drafting attorney: Howard A. Balikov (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Howard Balikov, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB03

113. PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805; 26 USC 269A

CFR Citation: 26 CFR 1

Abstract: This regulation will provide rules for the allocation of income and other tax benefits between a personal service corporation and its employee-owners if the corporation were formed or availed of with the principal purpose of evading or avoiding Federal income taxes.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-163-82.

Drafting attorney:.

Reviewing attorney:.

Tax Legislative Counsel reviewing attorney:.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF02

114. INCOME TAX–PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 269A Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: Proposal will provide rules for determining when the Internal Revenue Service may reallocate income or tax benefits between a personal service corporation and its employee-owners.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 13438
NPRM Comment Period Begin	03/31/83	48 FR 13438
NPRM Comment Period End	05/31/83	
Hearing held	07/19/83	
Interim Final Rule	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-188-82.

Drafting Attorneys: Phoebe A. Mix and Philip R. Bosco (202) 566-3288.

Reviewing Attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel reviewing Attorney: Andy Furer.

In Legislation and Regulations Division for preparation of temporary regulations.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF11

115. INCOME TAX–TO ADD PROVISIONS RELATING TO FOREIGN CONVENTIONS (AS AMENDED BY SECTION 4 OF PUBLIC LAW 96-608)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 274(h) Internal Revenue Code of 1954; PL 96-608, Sec 4

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules to assist taxpayers in determining whether it is as reasonable to hold a convention, seminar, or similar meeting outside North America as within it, and thus whether expenses relating to attendance at the convention are deductible.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-114-81.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Draft of notice to Treasury for review 11/08/82.

Agency Contact: Susan K. Thompson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AB04

116. INCOME TAX–DISALLOWANCE OF CERTAIN ENTERTAINMENT EXPENSES–TO CONFORM TO SECTION 361, REVENUE ACT OF 1978

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 274(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would conform section 274 (a) (l) (B) to changes made by section 361 of the Revenue Act of 1978. The regulations disallow expenditures paid or incurred with respect to a facility used in connection with entertainment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-203-78.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: Scott.

Office of Tax Legislative Counsel reviewing attorneys: Reinhold, Levinson.

Draft of notice in Legislation and Regulations Division for revision, 01/19/81.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB05

117. INCOME TAX–DEDUCTIBILITY OF GIFTS BY EMPLOYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 274(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would reflect the modification by the Economic Recovery Tax Act of 1981 of the third exception to the term "gift" (i.e., the exception within certain dollar limitations for awards of tangible personal property). The regulations would define the term "qualified plan award." The regulations would clarify the existing regulations under section 274 (b) of the Internal Revenue Code of 1954 by excluding from the term "tangible personal property" any award of cash, or of a gift certificate, or of a right to choose among 5 or more different items.

Timetable:

Action	Date	FR Cite
NPRM	12/16/82	47 FR 56367
NPRM Comment Period Begin	12/16/82	47 FR 56367
NPRM Comment Period End	02/14/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-252-81.

Drafting attorney: Robert Ginsburgh (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Notice published, 11/05/82

Hearing held, 06/02/83

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB06

118. AMENDMENT OF INCOME TAX REGULATIONS TO PROVIDE THE COMMISSIONER WITH AUTHORITY TO ESTABLISH AN OPTIONAL METHOD OF COMPUTING MEAL EXPENSES WHILE TRAVELING

Legal Authority: 26 USC 7805; 26 USC 274(d)

CFR Citation: 26 CFR 1

Abstract: Section 274 (d) requires a taxpayer to substantiate certain entertainment and travel expenses. The last sentence of section 274 (d) gives the Secretary authority to waive, by regulations, some or all of the substantiation requirements of section 274(d). The proposal would amend the regulations under section 274 to provide the Commissioner with authority to establish an optional method of computing meal expenses while traveling.

Timetable:

Action	Date	FR Cite
NPRM	02/28/83	48 FR 8292
NPRM Comment Period Begin	02/28/83	48 FR 8292
NPRM Comment Period End	04/25/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-257-82.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: John Bromell (202) 566-3328.

Office of Tax Legislative Counsel reviewing attorney: George Mundstock.

Signature package in the Commissioner's Office for formal approval.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF34

119. INCOME TAX–TAXATION OF NONEXEMPT MEMBERSHIP ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 277 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would relate to the taxation of nonexempt membership organizations. The regulations would clarify the deductibility to the organization for furnishing services, facilities, et cetera, to its members.

Timetable:

Action	Date	FR Cite
NPRM	05/06/72	
Hearing	08/08/72	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1721.

VOL 48 ISS 201 OCT 17 1983 UMI

Drafting Attorney: Gregory A. Roth (202) 566-3238.

Reviewing Attorney: Phoebe A. Mix (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorneys: Hevener, Levinson.

Draft of revised notice returned to Office of Chief Counsel (Legislation and Regulations Division), 11/08/79.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, **202 566-3238**

RIN: 1545-AB07

120. INCOME TAX—AMORTIZATION OF PRODUCTION COST OF MOTION PICTURES, BOOKS, RECORDS, AND OTHER SIMILAR PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 280 Internal Revenue Code of 1954; Section 210 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to taxpayers relating to the amortization of certain production costs that are otherwise not capitalized. The regulations relate to production costs for motion pictures, books, records, and similar property.

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	

Small Entity: Not Applicable

Additional Information: LR-220-76.

Drafting Attorney: Philip R. Bosco (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Presently under revision in the Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3288**

RIN: 1545-AB08

121. INCOME TAX—DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 280A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for determining the deductibility of expenses incurred in connection with the business use, or rental to others, of a dwelling unit. The regulations provide rules for determining when the taxpayer uses a dwelling unit for personal use or when use by another person of the unit is treated as personal use of the unit by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	07/21/83	48 FR 33326
NPRM Comment Period Begin	07/21/83	
NPRM Comment Period End	09/21/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-261-76.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorneys: Keyser, McKee.

Notice published 07/21/83.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, **202 566-3297**

RIN: 1545-AB09

122. INCOME TAX—SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 291 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These Regulations will provide rules relating to the determination of the 15 percent reduction for certain corporate preference items.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-234-82.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Larry Smith (202) 566-3287.

In Legislation and Regulations for preparation of notice.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, DC 20224, **202 566-3287**

RIN: 1545-AE78

123. WAIVER OF FAMILY ATTRIBUTION BY ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 302(c)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would interpret the definitions and special rule for waiver of family attribution by entities contained in section 302 (c) (2) of the Internal Revenue Code of 1954, which relates to the tax treatment of certain redemptions of corporate stock.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-189-82.

Drafting Attorney: Michel A. Daze' (202) 566-3458.

Reviewing Attorney: Charles M. Whedee (202) 566-3487.

Office of Tax Legislative Counsel reviewing attorney: Mark Yecies (202) 566-8278.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Michel A. Daze', Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3458**

RIN: 1545-AF13

124. INCOME TAX—DISTRIBUTION IN REDEMPTION OF STOCK TO PAY DEATH TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 303 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide rules for treating distributions in redemption of stock to pay death taxes to be treated as a distribution in full payment in exchange for the stock. The regulations provide rules with respect to stock that is redeemed from a shareholder whose interest in the estate is reduced by any payment of the death taxes or funeral and administrative expenses of the estate.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-124-76.

Drafting attorney: Neil W. Zyskind (202) 566-4336.

Reviewing attorney: Robert H. Waltuch.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, **202 566-4336**

RIN: 1545-AB13

125. INCOME TAX—EXTENSION OF ANTI-BAILOUT PROVISIONS TO CORPORATION FORMED OR AVAILED OF TO AVOID THESE PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 304 Internal Revenue Code of 1954; 26 USC 306 Internal Revenue Code of 1954; 26 USC 351 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide rules relating to the extension of the section 304 anti-bailout provisions to corporations formed or availed of to avoid these provisions by using section 351 to accomplish a tax-free incorporation. Thus the regulations provide rules for transactions involving the sections 304/351 overlap.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-190-82.

Drafting Attorney: Carolyn Swift (202) 566-3458.

Reviewing Attorney: Mark Blumkin (202) 566-3463.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3458**

RIN: 1545-AF27

126. INCOME TAX—TEMPORARY REGULATIONS—DIVIDEND REINVESTMENT IN STOCK OF PUBLIC UTILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 305 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5c

Abstract: Regulations would define and interpret when a qualified public utility may set up a qualified dividend reinvestment plan so that its shareholders may elect to receive qualified common stock and exclude a certain portion from income. Changes to the applicable law were made by section 321 of the Economic Tax Recovery Act of 1981.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/83	48 FR 30102
Final Action	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-277-81.

Drafting attorney: Mary Frances Pearson (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Keyser.

Temporary regulations sent to Treasury for signature 5/9/83.

Agency Contact: Michel A. Daze', Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3458**

RIN: 1545-AB16

127. INCOME TAX—TO CLARIFY MEANING OF TERM "REASONABLE REDEMPTION PREMIUM"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 305 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules to determine when the difference between redemption price and issue price of preferred stock will be treated as a stock distribution.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-91-74.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, Levinson.

Notice pending Department of Treasury review.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, **202 566-3458**

RIN: 1545-AB15

128. INCOME TAX—DIVIDEND REINVESTMENT IN STOCK OF PUBLIC UTILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 305 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Notice would define and interpret when a qualified public utility may set up a qualified dividend reinvestment plan so that its shareholders may elect to receive qualified common stock and exclude a certain portion from income. Changes to the applicable law were made by the Economic Tax Recovery Act of 1981.

VOL
48
ISS
201
OCT
17
1983
UMI

Timetable:

Action	Date	FR Cite
NPRM	06/30/83	48 FR 30146
NPRM Comment Period Begin	06/30/83	48 FR 30146
NPRM Comment Period End	08/29/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-241-81.

Drafting attorney: Mary Frances Pearson (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Keyser, Levinson.

Notice sent to Department of the Treasury for signature 5/9/83.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 202 566-3458

RIN: 1545-AB14

129. INCOME TAX—MISCELLANEOUS CORPORATE AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 302 Internal Revenue Code of 1954; 26 USC 337 Internal Revenue Code of 1954; 26 USC 1371 Internal Revenue Code of 1954; 26 USC 351 Internal Revenue Code of 1954; 26 USC 312 Internal Revenue Code of 1954; 26 USC 542(c) Internal Revenue Code of 1954; PL 96-589, Sec 5

CFR Citation: 26 CFR 1

Abstract: The regulation would amend the Income Tax Regulations to conform them to miscellaneous corporate amendments made by the Bankruptcy Tax Act of 1980.

Timetable:

Action	Date	FR Cite
NPRM	11/30/83	

Small Entity: Not Applicable

Additional Information: LR-71-81.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB12

130. INCOME TAX—SIMULTANEOUS LIQUIDATION OF A PARENT AND SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 337 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the nonrecognition treatment following the sale of assets of a subsidiary corporation provided that the subsidiary and certain other corporations in its affiliated group liquidate within a 12-month period.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-130-76.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, Rollyson.

Signature package of proposed rulemaking at Treasury for approval.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB18

131. INCOME TAX-ELECTIONS UNDER SECTION 338, AS ADDED BY SECTION 224 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS AMENDED BY THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1

Abstract: This regulation will provide rules for making elections under section 338, which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	08/31/83	
Final Action	01/31/84	

Small Entity: Not Applicable

Additional Information: LR-26-83.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Mark Blumkin (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Yecies.

At Treasury for comment 7-27-83.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF38

132. ANTI-AVOIDANCE RULES UNDER SECTIONS 338 AND 346 OF THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338(i) Internal Revenue Code of 1954; 26 USC 346(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would interpret the deemed election and consistency requirements of section 338 and the anti-avoidance rules under sections 338 and 346 of the Internal Revenue Code of 1954, which apply with respect to certain acquisitions of control of one corporation by another corporation.

Timetable:

Action	Date	FR Cite
NPRM	09/15/83	

Small Entity: Not Applicable

Additional Information: LR-192-82.

Drafting Attorney: Yerachmiel E. Weinstein (202) 566-3458.

Reviewing Attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Mark Yecies.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AE32

133. DEEMED SALE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-191-82.

Drafting Attorney: Bennett C. Steinhauer (202) 566-4336.

Reviewing Attorney: Charles Whedbee (202) 566-3487.

Office of Tax Legislative Counsel Reviewing Attorney: Mark Yecies.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Bennett C. Steinhauer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AF29

134. INCOME TAX—ELECTIONS AND MISCELLANEOUS MATTERS UNDER SECTION 224 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982, AMENDED BY THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954; PL 97-448, Sec 306; PL 97-248, Sec 224

CFR Citation: 26 CFR 5f

Abstract: This regulation would provide rules for making elections under section 338 (which permits certain stock purchases to be treated as asset acquisitions) as added by the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Technical Corrections Act of 1982. Miscellaneous rules under section 224 of the Tax Equity and Fiscal Responsibility Act of 1982 are also provided.

Timetable:

Action	Date	FR Cite
Final Action	08/31/83	

Small Entity: Not Applicable

Additional Information: LR-18-83.

Drafting Attorney: Duane H. Pellervo (202) 566-3458.

Reviewing Attorney: Mark Blumkin (202) 566-3463.

Office of Tax Legislative Counsel Reviewing Attorney: Yecies.

At Treasury for comment 4-27-83.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF22

135. INCOME TAX—REGULATIONS UNDER SECTION 338 (A)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1

Abstract: This regulation would establish general rules relating to the effect of an election under section 338 (g), which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	02/29/84	
Final Action	07/31/84	

Small Entity: Not Applicable

Additional Information: LR-212-82.

Drafting Attorney: Duane H. Pellervo (202) 566-3458.

Reviewing Attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel Reviewing Attorney: Yecies.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AE60

136. INCOME TAX—CORPORATE DISTRIBUTIONS OF APPRECIATED PROPERTY AND PARTIAL LIQUIDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 346(b) Internal Revenue Code of 1954; 26 USC 302(b) Internal Revenue Code of 1954; 26 USC 302(e) Internal Revenue Code of 1954; 26 USC 311(d) Internal Revenue Code Of 1954; 26 USC 311(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would interpret and prevent the circumvention of the repeal of the special tax treatment for partial corporate liquidations as effected by section 222 of the Tax Equity and Fiscal Responsibility Act of 1982. Proposal would also interpret the definitions and special rules relating to appreciated property used to redeem stock contained in section 311 of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-218-82.

Drafting Attorney: Charles W. Culmer (202) 566-3458.

Reviewing Attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Mark Yecies (202) 566-8278.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Charles W. Culmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF16

VOL 48 ISS 201 OC 17 1983 UMI

137. INCOME TAX—TRANSFER BY A CASH BASIS TAXPAYER OF UNREALIZED ACCOUNTS RECEIVABLE, ETC., TO A CORPORATION CONTROLLED BY A TRANSFEREE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 351 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the transfer of accounts payable and accounts receivable and other assets of an ongoing business that uses a cash basis method of accounting to a corporation using an accrual method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-754.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, Levinson.

Revised draft of notice to Office of Tax Legislative Counsel (Treasury) & Office of Chief Counsel (Corporation Tax Division), 03/31/81.

Comments from Office of Chief Counsel (Corporation Tax Division), 04/00/81.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB19

138. INCOME TAX—DISTRIBUTION OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 355 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposal relates to the income tax treatment of the distribution of stock and securities of a controlled corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/21/77	42 FR 3866
NPRM Comment Period Begin	01/21/77	42 FR 3866
NPRM Comment Period End	03/22/77	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-936.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, McKee.

Notice published, 01/13/77.

Notice republished, 01/21/77.

T.D. pending Department of the Treasury review.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB20

139. INCOME TAX—BASIS IN STOCK OF A CORPORATION ACQUIRING PROPERTY IN EXCHANGE FOR STOCK OF CORPORATION IN CONTROL OF ACQUIRING CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 358 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to basis of stock of a corporation acquiring property in exchange for stock of a corporation in control of the acquiring corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/02/81	46 FR 112
NPRM Comment Period Begin	01/02/81	46 FR 112
NPRM Comment Period End	03/03/81	
Final Action	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-1993.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, McKee.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB21

140. INCOME TAX—TEMPORARY REGULATIONS—TO DEAL WITH ASSISTANCE PAYMENTS MADE IN CONNECTION WITH A REORGANIZATION UNDER SEC 368(A)(3)(D)(II) OF THE CODE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 362(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 5c

Abstract: Proposal would provide temporary regulations with respect to certain financial assistance payments to financially troubled thrift institutions which require a reduction in the basis of the assets of the recipient institutions thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret that basis reduction requirement.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-97-82.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of T.D.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AB23

141. INCOME TAX—TO DEAL WITH ASSISTANCE PAYMENTS MADE IN CONNECTION WITH A REORGANIZATION UNDER SEC 368(A)(3)(D)(II) OF THE CODE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 362(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide notice of proposed rulemaking with respect to certain financial assistance payments to financially troubled thrift institutions which require a reduction in the basis of the assets of the recipient institution, thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret that basis reduction requirement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-98-82.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AB22

142. INCOME TAX—EXCEPTION FOR TRANSFERS OF PROPERTY FROM THE U.S. DESIGNATED BY THE SECRETARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 367(a)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would except certain property from the section 367 ruling requirement for transfers of property from the United States.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	

Small Entity: Not Applicable

Additional Information: LR-231-76.

Drafting attorney: Mary E. Dean (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Granwell.

Discussion draft to Associate Chief Counsel (Technical) 05/02/83.

Comments from Office of Chief Counsel (Corporate Tax Division), 05/13/83.

Agency Contact: Mary E. Dean, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB25

143. INCOME TAX—RELATING TO RULING REQUESTS WITH RESPECT TO TRANSFERS BY UNITED STATES PERSONS TO FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 367(a)(1) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance with respect to when a ruling is required for a foreign corporation to be treated as a corporation for purposes of determining the amount of gain to be recognized on a transfer by a United States person to a foreign corporation, and would provide rules for filing a request for a ruling.

Timetable:

Action	Date	FR Cite
Notice published under LR-230-76	12/30/77	
Notice published	10/05/79	
Temp Regs pub—T.D. 7646	10/05/79	
Hearing	02/27/80	
NPRM	12/27/82	47 FR 57503
NPRM Comment Period Begin	12/27/82	47 FR 57503
NPRM Comment Period End	02/25/83	
Final Action	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-24-81.

Drafting attorney: Martha E. Kadue (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Granwell.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury decision.

Agency Contact: Martha E. Kadue, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB24

144. INCOME TAX—TREATMENT OF EXCHANGES DESCRIBED IN SECTION 367 (B)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 367(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide the conditions necessary to prevent the avoidance of Federal income taxes on transfers described in section 367 (b).

Timetable:

Action	Date	FR Cite
NPRM	12/30/77	42 FR 65152
NPRM Comment Period Begin	12/30/77	42 FR 65152
NPRM Comment Period End	03/01/78	
Notice amended	10/02/79	44 FR 57390
Notice amended	12/27/82	47 FR 57502
Final Action	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-2-78

Drafting attorney: Yerachmiel E. Weinstein (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Granwell.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury decision.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB26

VOL 48 ISS 201 OCT 17 1983 UMI

145. INCOME TAX—ACQUISITION OF A CORPORATION BY MERGER OF A CORPORATION CONTROLLED BY THE ACQUIRING CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368(a)(2)(E) Internal Revenue Code of 1954; 26 USC 368(b)(2) Internal Revenue Code of 1954; PL 91-693

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the statutory merger of a controlled corporation into an acquiring corporation using the voting stock of the corporation controlling the merged corporation (reverse triangular merger).

Timetable:

Action	Date	FR Cite
NPRM	01/02/81	46 FR 114
NPRM Comment Period Begin	01/02/81	46 FR 114
NPRM Comment Period End	03/03/81	
Final Action	04/00/84	

Small Entity: Not Applicable

Additional Information: LR-1994.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, McKee.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB30

146. INCOME TAX—EXCHANGE FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368(a)(2)(F) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to reorganizations of undiversified investment companies.

Timetable:

Action	Date	FR Cite
NPRM	01/07/81	46 FR 1744
NPRM Comment Period Begin	01/07/81	46 FR 1744
NPRM Comment Period End	03/06/81	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-135-76.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB31

147. INCOME TAX—CORPORATE REORGANIZATION AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368 Internal Revenue Code of 1954; 26 USC 354 Internal Revenue Code of 1954; 26 USC 358 Internal Revenue Code of 1954; 26 USC 361 Internal Revenue Code of 1954; 26 USC 362 Internal Revenue Code of 1954; 26 USC 381 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Provision would provide regulations with respect to amendments to the provisions of the Internal Revenue Code of 1954 dealing with bankruptcy and other insolvency reorganizations, thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret those amendments.

Timetable:

Action	Date	FR Cite
NPRM	01/15/84	

Small Entity: Not Applicable

Additional Information: LR-63-81.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, Levinson.

Partial revised draft of notice of proposed rulemaking returned with comments to Legislation and Regulations Division. 12/29/82.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB29

148. INCOME TAX—TEMPORARY REGULATIONS—REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368 Internal Revenue Code of 1954; 26 USC 382 Internal Revenue Code of 1954; 26 USC 381 Internal Revenue Code of 1954; 26 USC 597 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5c

Abstract: Provision would provide temporary regulations dealing with reorganizations of financially troubled thrift institutions and with the tax consequences of financial assistance payments made to such an institution by a supervisory governmental agency, thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret these issues.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-230-81.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, Brown.

Draft of Treasury Decision returned with comments to Legislation and Regulations Division. 12/29/82.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AB28

149. INCOME TAX—CHARACTERIZATION IN INTERNATIONAL TRANSACTIONS OF INTERESTS IN CORPORATIONS AS STOCK OR INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 385 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide rules for determining when interests in corporations issued in international transactions will be treated as stock or indebtedness for tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-92-82.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of International Tax Counsel (Treasury) reviewing attorney: Shay.

Draft of notice to Office of International Tax Counsel (Treasury), Office of Chief Counsel (Corporation Tax Division), etc., 05/11/82.

Comments from Office of Chief Counsel (Corporation Tax Division), 06/04/82.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB34

150. INCOME TAX—REFUND OF MISTAKEN CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 401(a)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations describe those circumstances under which an employer contribution or withdrawal liability payment to a multiemployer pension plan may be refunded due to a mistake of law or fact.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	48 FR 10374
NPRM Comment Period Begin	03/11/83	48 FR 10374
NPRM Comment Period End	05/10/83	
Final Action	02/00/84	

Small Entity: Not Applicable

Additional Information: EE-133-80.

Drafting attorney: Janet S. Painter (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

3/11/83 Notice of Proposed Rulemaking published.

Agency Contact: Janet S. Painter, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD68

151. INCOME TAX—COMPARABILITY OF PLANS FOR VESTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 401(a)(5) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance relating to the comparability of contributions and benefits provided under two or more pension, profit-sharing, or stock bonus plans of an employer that are considered as a single plan for purposes of satisfying the nondiscrimination requirements of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-8-78.

Drafting attorney: Eric Alan Raps (202) 566-3544.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Revised preliminary draft of notice to Actuarial Division, 02/07/80.

Agency Contact: Eric Alan Raps, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD69

152. INCOME TAX—REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS AND PARTIAL ROLLOVERS OF INDIVIDUAL RETIREMENT ACCOUNTS

Legal Authority: 26 USC 401(a)(9) Internal Revenue Code of 1954; 26 USC 408(a)(7) Internal Revenue Code of 1954; 26 USC 408(b)(4) Internal Revenue Code of 1954; 26 USC 408(d)(3)(C) Internal Revenue Code of 1954; 26 USC 408(l) Internal Revenue Code of 1954; 26 USC 408(k) Internal Revenue Code of 1954; 26 USC 409(b)(3)(C) Internal Revenue Code of 1954; 26 USC 219(d)(4) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project will revise the Income Tax Regulations to incorporate the changes made in the law by the Tax Equity and Fiscal Responsibility Act of 1981 concerning required distributions from qualified plans and individual retirement accounts and partial rollovers of individual retirement accounts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Not Applicable

Additional Information: EE-113-82.

Drafting Attorney: Marjorie Hoffman (202) 566-3430.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway, McCarty.

Pending with Regulation Review Staff at Internal Revenue Service

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE95

153. INCOME TAX—AMENDMENT OF QUALIFIED JOINT AND SURVIVOR ANNUITY REGULATIONS

Priority: Task Force

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 401(a)(11) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These new regulations conform the present regulations to BBS Associates, Inc. v. Commissioner of Internal Revenue, 74 T.C. 1118 (1980), affirmed 661 F. 2d 913 (1981).

Timetable:

Action	Date	FR Cite
NPRM	10/27/82	47 FR 47600
NPRM Comment Period Begin	10/27/82	47 FR 47600
NPRM Comment Period End	12/27/82	

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: Not Applicable

Additional Information: EE-52-78.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Preliminary draft of Treasury Decision circulated to Office of Assistant Commissioner (Employee Plans and Exempt Organizations) 5/4/83.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD70

154. VARIOUS PENSION PARITY, ETC. PROVISIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AND THE ECONOMIC RECOVERY TAX ACT OF 1981

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954; 26 USC 101 Internal Revenue Code of 1954; 26 USC 401 Internal Revenue Code of 1954; 26 USC 404 Internal Revenue Code of 1954; 26 USC 408 Internal Revenue Code of 1954; 26 USC 457 Internal Revenue Code of 1954; 26 USC 1379 Internal Revenue Code of 1954; 26 USC 2039 Internal Revenue Code of 1954; 26 USC 4972 Internal Revenue Code of 1954; PL 95-600, Sec 131 Revenue Act of 1978; PL 97-248, Sec 237; PL 97-248, Sec 238; PL 97-248, Sec 245; PL 97-248, Sec 252; ...

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 54

Abstract: Regulations will interpret changes in sections 72, 101, 401, 404, 408, 457, 1379, 2039, and 4972 of the Internal Revenue Code relating to the elimination of distinctions between corporate pension plans and plans covering self-employed individuals.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Not Applicable

Additional Information: EE-108-82.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: Charles M. Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE84

155. INCOME TAX—TO CONFORM THE "HIGH 25 EMPLOYEE RULE" TO SECTION 4022 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, "GUARANTEED BENEFITS"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 411(d)(2) Internal Revenue Code of 1954; 26 USC 401(a)(4) Internal Revenue Code of 1954; 26 USC 411(d)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project will provide final regulations relating to the limitation on the amount of employer contributions which may be used for the benefit of each of the 25 highest paid employees in the event of the early termination of certain tax qualified retirement plans providing defined benefits for employees.

Timetable:

Action	Date	FR Cite
NPRM	01/26/82	47 FR 3562
NPRM Comment Period Begin	01/26/82	47 FR 3562
NPRM Comment Period End	03/29/82	
Final Action	09/00/83	

Small Entity: Not Applicable

Additional Information: EE-11-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Final Draft of the Treasury Decision to Treasury for signature, 6/21/83.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD71

156. INCOME TAX—CERTAIN CASH OR DEFERRED ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Act of 1954; 26 USC 401(k) Internal Revenue Act of 1954; 26 USC 402(a)(8) Internal Revenue Act of 1954; PL 95-600, Sec 135 Revenue Act of 1978

CFR Citation: 26 CFR 1

Abstract: Regulation will provide definitions and interpretations governing qualified cash or deferred arrangements described in section 401(k) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	11/10/81	46 FR 55544
NPRM Comment Period Begin	11/10/81	47 FR 00988
NPRM Comment Period End	02/15/82	
Notice of Hearing	02/24/82	47 FR 08028
Hearing	04/20/82	
Final Action	12/31/83	

Small Entity: Not Applicable

Additional Information: EE-169-78.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Conaway.

Draft Treasury decision under review in Office of Tax Legislation Counsel.

Agency Contact: Charles M. Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W, Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD72

157. NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OLD AGE, SURVIVORS, AND DISABILITY INSURANCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 401(l) Internal Revenue Code of 1954; PL 97-248, Sec 249

CFR Citation: 26 CFR 1

Abstract: Regulations will define and interpret rules governing the integration of qualified defined contribution pension, profit sharing, and stock bonus plans with benefits paid under Social Security.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-112-82.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: Charles M. Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE93

158. INCOME TAX—TREATMENT OF CERTAIN LUMP SUM DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 402(a)(2) Internal Revenue Code of 1954; 26 USC 402(e) Internal Revenue Code of 1954; 26 USC 403(a)(2)(A)(iii) Internal Revenue Code of 1954; 26 USC 411(d)(1) Internal Revenue Code of 1954; PL 93-406, Sec 2005 Employee Retirement Income Security Act; PL 94-455, Sec 1512 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Abstract: Regulations will provide definitions and other guidance relating to income tax treatment of certain distributions from qualified employee plans.

Timetable:

Action	Date	FR Cite
NPRM	04/30/75	40 FR 18798
NPRM Comment Period Begin	04/30/75	40 FR 18798
Corrected Notice of Proposed Rule	05/23/75	40 FR 22548
NPRM Comment Period End	06/16/75	
Notice of Hearing	07/03/75	40 FR 28102
Hearing	08/12/75	
Additional Notice of Proposed Rule	05/31/79	44 FR 31228
Comment Period until	07/30/79	44 FR 31228
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-14-78.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Treasury decision to Assistant Secretary (Tax Policy) for signature, 09/18/82.

Agency Contact: Charles M. Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD73

159. INCOME TAX—TAX-FREE ROLLOVERS OF LUMP SUM DISTRIBUTIONS AND PLAN TERMINATION PAYMENTS. LUMP SUM DISTRIBUTIONS MADE WITH RESPECT TO A DECEDENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 402(a)(5) Internal Revenue Code of 1954; 26 USC 402(a)(6) Internal Revenue Code of 1954; 26 USC 402(a)(7) Internal Revenue Code of 1954; 26 USC 401(a)(20) Internal Revenue Code of 1954; 26 USC 403(a)(4) Internal Revenue Code of 1954; 26 USC 403(a)(5) Internal Revenue Code of 1954; 26 USC 403(b)(1) Internal Revenue Code of 1954; 26 USC 403(b)(8) Internal Revenue Code of 1954; 26 USC 404(a)(2) Internal Revenue Code of 1954; 26 USC 691(c)(5) Internal Revenue Code of 1954; PL 94-267; PL 95-438, Sec 4; PL 95-600, Sec 156 Revenue Act of 1978; PL 96-222, Sec 101(a)(8)(A); ...

CFR Citation: 26 CFR 1

Abstract: This regulation provides rules governing the tax-free rollover of lump sum distributions and plan termination payments under a qualified employee plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-15-78.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Revised preliminary draft of notice to Office of Tax Legislative Counsel (Treasury) & Office of Assistant Commissioner (Employee Plans and Exempt Organizations), 04/01/82.

Agency Contact: Charles M. Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD74

160. RETIREMENT ARRANGEMENTS OF CHURCHES

Legal Authority: 26 USC 7805; 26 USC 403; 26 USC 415

CFR Citation: 26 CFR 1

Abstract: The regulations will provide guidance on the application of amendments to sections 403 and 415 of the Internal Revenue Code of 1954. The amendments revise the present law rules relating to tax-sheltered annuity programs maintained by churches for their employees. The new rules generally increase the ability of churches to provide retirement income for their employees and clarify the status of such programs.

Timetable:

Action	Date	FR Cite
NPRM	08/00/84	

Small Entity: Not Applicable

Additional Information: EE-114-82.

Drafting attorney: Calder L. Robertson, Jr., (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

In Employee Plans and Exempt Organizations Division for preparation of Notice.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE25

VOL 48 ISS 201 OC 17 1983 UMI

161. INCOME TAX—TAXABILITY OF BENEFICIARY UNDER ANNUITY PURCHASE BY SEC. 501(C) ORGANIZATION OR PUBLIC SCHOOL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 403(b)(7) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide guidance on employer contributions of funds, on behalf of employees, to regulated investment company stock (mutual funds). Employer contributions and the earnings on those contributions are exempt from income tax.

Timetable:

Action	Date	FR Cite
NPRM	02/10/78	43 FR 5852
NPRM Comment Period Begin	02/10/78	43 FR 5852
NPRM Comment Period End	04/04/78	
Partial Revised Notice	12/30/80	45 FR 85786
Hearing	06/04/81	46 FR 17229
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-17-78.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Preliminary draft of T.D. to Office of Tax Legislative Counsel (Treasury) & Office of Assistant Commissioner (Employee Plans and Exempt Organizations), 3/5/83.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD75

162. INCOME TAX—DEDUCTION LIMITATIONS AND FUNDING RULES FOR VALUING CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(a)(1) Internal Revenue Code of 1954; 26 USC 404(a)(6) Internal Revenue Code of 1954; 26 USC 404(a)(7) Internal Revenue Code of 1954; 26 USC 404(a)(3)(A) Internal Revenue Code of 1954; 26 USC 404(g) Internal Revenue Code of 1954; 26 USC 412(c)(2)(A) Internal Revenue Code of 1954; 26 USC 413(b)(7) Internal Revenue Code of 1954; 26 USC 413(c)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide rules for taking into account the fair market value of certain insurance products in the valuation of assets for pension plans. In addition, the regulations amend the regulations to reflect changes made by the Employee Retirement Income Security Act of 1974 to sections 404 and 413 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-141-79.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD76

163. INCOME TAX—EMPLOYEE STOCK OWNERSHIP PLAN LOAN PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(a)(10) Internal Revenue Code of 1954; 26 USC 415(c)(8) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance relating to the deduction limitations when employer contributions to an employee stock ownership plan are used to repay the principal and interest of an exempt loan that was made to the employee stock ownership plan.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: EE-152-81.

Drafting attorney: Eric Alan Raps (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Revised preliminary draft of notice to Office of Assistant Commissioner (Employee Plans and Exempt Organizations), 06/30/83.

Agency Contact: Eric Alan Raps, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD77

164. INCOME TAX—DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION TO INDEPENDENT CONTRACTORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(d) Internal Revenue Code of 1954; 26 USC 404(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide rules for taking a deduction under section 404(d) of the Internal Revenue Code for deferred compensation paid to independent contractors. A deduction is permitted only when there is a corresponding income inclusion by the plan participant. In addition, the regulations provide guidance with regard to the amendment of section 404(b) of the Internal Revenue Code by section 133 of the Revenue Act of 1978, which clarified that a method of compensation or contributions having the effect of a plan deferring the receipt of compensation does not have to be similar to a stock bonus, pension, profit-sharing, or annuity plan to be subject to 404(a) of the Internal Revenue Code. The regulations describe methods of compensation or contributions subject to the section 404(a) rules.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-44-79.

Drafting attorney: John C. Khil (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

3rd preliminary draft of notice to Office of Tax Legislative Counsel (Treasury) & Office of Assistant Commissioner (Employee Plans and Exempt Organizations), 10/19/81.

Agency Contact: John C. Khil, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C 20224, 202 566-6212

RIN: 1545-AD78

165. INCOME TAX—DEDUCTION OF EMPLOYER LIABILITY PAYMENTS, NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(g) Internal Revenue Code of 1954; 26 USC 418A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project will provide guidance to employers on when they may deduct employer liability payments paid under section 4062, 4063, or 4064, or part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-130-80.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, McCarty.

Comments received from Office of Tax Legislative Counsel (Treasury), 07/26/83.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD80

166. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-14-81.

Drafting attorney: Eric Alan Raps (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

Revised Preliminary draft of notice to Office of Assistant Commissioner (Employee Plans and Exempt Organizations), 2/24/83.

Agency Contact: Eric Alan Raps, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD81

167. INCOME TAX—REQUIREMENTS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS, EMPLOYEE PLAN CREDIT, AND DEFINED CONTRIBUTION PLAN VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 409A Internal Revenue Code of 1954; 26 USC 48 Internal Revenue Code of 1954; 26 USC 401 Internal Revenue Code of 1954; 26 USC 6699 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide rules for electing the employee plan credit under section 48(n) of the Internal Revenue Code, establishing a tax credit employee stock ownership plan under section 409A of the Internal Revenue Code, and providing voting rights to participants of certain defined contribution plans under section 401(a)(22) of the Internal Revenue Code. Further, the regulations provide guidance for determining the applicability of and calculating the assessable penalties relating to tax credit employee stock ownership plans under section 6699 of the Internal Revenue Code. The regulations reorganize and modify the current regulations which are based on section 301(d), (e), and (f) of the Tax Reduction Act of 1975, and provide a single set of rules that would apply to tax credit employee stock ownership plans established under the provisions of the Tax Reduction Act of 1975 and the 1978 Revenue Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/84	

Small Entity: Not Applicable

Additional Information: EE-49-80.

Drafting attorney: John C. Khil (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Revised Preliminary draft of notice to Employee Plans Division, 07/20/83.

Agency Contact: John C. Khil, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD82

168. INCOME TAX—COORDINATION OF VESTING AND NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 411(d)(1) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project was developed to prescribe rules for determining if the vesting schedule of a qualified plan discriminates in favor of employees who are officers, shareholders, or highly compensated.

Timetable:

Action	Date	FR Cite
NPRM	04/09/80	45 FR 24201
Partial Revised Notice	06/12/80	45 FR 39869
Hearing	07/10/80	45 FR 29308
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-164-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway, McCarty.

Preliminary draft of Treasury Decision to Office of Tax Legislative Counsel (Treasury) and Office of Assistant Commissioner (Employee Plans and Exempt Organizations), 08/12/80.

Comments from Office of Tax Legislative Counsel (Treasury) and Office of Assistant Commissioner (Employee Plans and Exempt Organizations), 10/07/80.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD83

169. RULES CLARIFYING THE INCOME TAX REGULATIONS, PART 1, WITH RESPECT TO SERVICE COMPUTATION UNDER PENSION, ETC. PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 410 Internal Revenue Code of 1954; 26 USC 411 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project was undertaken in order to clarify permissible methods of crediting service by qualified plans for purposes of vesting and participation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-65-82.

Drafting Attorney: Marjorie Hoffman (202) 566-3430.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway, McCarty.

Pending with regulation review staff at Internal Revenue Service.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE39

170. INCOME TAX—EXCISE TAX REGULATIONS—FUNDING FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 412 Internal Revenue Code of 1954; 26 USC 413(b) Internal Revenue Code of 1954; PL 93-406, Sec 1013

CFR Citation: 26 CFR 1; 26 CFR 54

Abstract: The regulations would provide guidance relating to the minimum funding requirements for employee pension benefit plans, and to excise taxes for failure to meet the minimum funding standards.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54093
NPRM Comment Period Begin	12/01/82	47 FR 54093
NPRM Comment Period End	01/31/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-99-78.

Drafting attorney: Eric Alan Raps (202) 566-3544.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

12/01/82 Notice published.

Agency Contact: Eric Alan Raps, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD84

171. INCOME TAX—PENSION EXCISE TAXES—MISCELLANEOUS FUNDING PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 412(b) Internal Revenue Code of 1954; 26 USC 412(j) Internal Revenue Code of 1954; 26 USC 412(k) Internal Revenue Code of 1954; 26 USC 4971(d) Internal Revenue Code of 1954; 26 USC 414(f) Internal Revenue Code of 1954; 26 USC 412(a) Internal Revenue Code of 1954; 26 USC 413(b)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 54

Abstract: The regulations would provide guidance relating to the minimum funding requirements for multiemployer pension plans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: Not Applicable

Additional Information: EE-129-80.

Drafting attorney: Eric Alan Raps (202) 566-3544.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

5/1/83 Comments from Assistant Commissioner (Employee Plans and Exempt Organizations) on draft of notice.

Agency Contact: Eric Alan Raps, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD85

172. INCOME TAX—TERM, ETC. FUNDING FOR ANCILLARY BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 412(c)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance relating to the cost range within which an ancillary cost must fall in order to utilize 1-year term funding.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-151-80.

Drafting attorney: Eric Alan Raps (202) 566-3544.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: Eric Alan Raps, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD86

173. INCOME TAX—DEFINITIONS & SPECIAL RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(b) Internal Revenue Code of 1954; 26 USC 414(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations relate to the definition of controlled groups of corporations and businesses under common control for purposes of certain provisions of the Employee Retirement Income Security Act of 1974 and pension related provisions of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	11/05/75	40 FR 51467
NPRM Comment Period Begin	11/05/75	40 FR 51467
NPRM Comment Period End	01/04/76	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-209-74.

Drafting attorney: Michel A. Daze (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Oppenheimer, Levinson.

Draft of Treasury Decision to Office of Chief Counsel (Corporation Tax Division and Employee Plans Division), and to Office of Tax Legislative Counsel, 09/23/80.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB35

174. INCOME TAX—DEFINITIONS AND SPECIAL RULES; SERVICE FOR PREDECESSOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Regulation will provide guidance to employers maintaining plans on when service with a predecessor employer must or may be treated as service under their plan.

Timetable:

Action	Date	FR Cite
NPRM	05/00/84	

Small Entity: Not Applicable

Additional Information: EE-22-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway, McCarty.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of the notice of proposed rulemaking.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD87

175. INCOME TAX—CHURCH PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(e) Internal Revenue Code of 1954; PL 96-364, Sec 407

CFR Citation: 26 CFR 1

Abstract: This regulation project relates to the determination of whether a retirement plan is a church plan. Changes to the applicable tax law were made by the Multiemployer Pension Plan Amendments Act of 1980. The regulations would provide persons responsible for the administration of retirement plans with the guidance needed to determine whether their plan is entitled to the special benefits afforded church plans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: Not Applicable

Additional Information: EE-123-80.

Drafting attorney: Janet S. Painter (202) 566-3544.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: Janet Painter, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD88

176. INCOME TAX—DEFINITION OF MULTIEMPLOYER PLAN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance relating to the definition of a "multiemployer plan" which was changed by Public Law 96-364.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-131-80.

Drafting Attorney: Eric Alan Raps (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Preliminary draft of notice to Actuarial Division, 02/18/82.

Comments from Actuarial Division, 03/23/82.

Agency Contact: Eric Alan Raps, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD89

177. INCOME TAX—EMPLOYEES OF AN AFFILIATED SERVICE GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(m) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules with regard to the aggregation of employees of certain organizations for purposes of certain pension requirements.

VOL
48
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Timetable:

Action	Date	FR Cite
NPRM	02/28/83	48 FR 8293
NPRM Comment Period Begin	02/28/83	
NPRM Comment Period End	04/29/83	
Final Action	04/00/84	

Small Entity: Not Applicable

Additional Information: EE-3-81.

Drafting attorney: Patricia K. Keesler (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway, McCarty.

Notice published 2/28/83.

In Office of Chief Counsel (Employee Plans and Exempt organizations Division) for preparation of Treasury decision.

Agency Contact: Patricia K. Keesler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD90

178. INCOME TAX REGULATIONS—AFFILIATED SERVICE GROUPS AND EMPLOYEE LEASING

Legal Authority: 26 USC 7805; 26 USC 414(n)

CFR Citation: 26 CFR 1

Abstract: The regulations will provide rules regarding aggregation of leased employees of certain affiliated service groups.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-111-82.

Drafting attorney: Patricia K. Keesler (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel reviewing attorney: Conaway.

In Employee Plans and Exempt Organizations Division for preparation of Notice.

Agency Contact: Patricia K. Keesler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE91

179. LIMITATIONS ON BENEFITS AND CONTRIBUTIONS UNDER QUALIFIED PLANS

Legal Authority: 26 USC 7805; 26 USC 415; 26 USC 404(a)(3)(B); 26 USC 404(l)

CFR Citation: 26 CFR 1

Abstract: The regulations deal with the amendments to Internal Revenue Code section 415, which lower the limitations on benefits and contributions under qualified plans and the amendments to Internal Revenue Code section 404 which deal with the corresponding deduction for employer payments made to a qualified plan. The regulation also provides special rules for contributions made on behalf of disabled participants and special rules for church plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-107-82.

Drafting attorney: Monice Rosenbaum (202) 566-3422.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) Reviewing Attorney: Conaway.

Notice to Regulations Review Staff, 07/01/83.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE75

180. QUESTIONS AND ANSWERS ON TOP-HEAVY PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 416 Internal Revenue Code of 1954; 26 USC 401 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations will provide guidance to sponsors of and participants in pension, profit-sharing, and stock bonus plans. The regulations set forth rules for determining whether such plans are top-heavy and what provisions must be included in the plan if the plan is top-heavy. The regulations also set forth the time by which plans must be amended to conform to the top-heavy rules.

Timetable:

Action	Date	FR Cite
NPRM	03/15/83	48 FR 10868
NPRM Comment Period Begin	03/15/83	
NPRM Comment Period End	05/16/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-140-82.

Drafting Attorney: William D. Gibbs (202) 566-3430.

Reviewing Attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel reviewing attorney: Harry Conaway.

8/5/83 Public Hearing

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AF16

181. INCOME TAX—TOP-HEAVY PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 416 Internal Revenue Code of 1954; 26 USC 401 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations will provide guidance to sponsors of and participants in pension, profit-sharing, and stock bonus plans. The regulations set forth rules for determining whether such plans are top-heavy and what provisions must be included in the plan if the plan is top-heavy.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-109-82.

Drafting Attorney: William D. Gibbs (202) 566-3430.

Reviewing Attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel reviewing attorney: Harry Conaway.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice of proposed rulemaking.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE87

182. INCOME TAX—REORGANIZATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 418 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for the determination of whether a multiemployer pension plan is in reorganization as described in section 418 of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: Not Applicable

Additional Information: EE-124-80.

Draft attorney: Paul G. Accettura (202) 566-3544.

Reviewing attorney: Richard Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

06/28/83 Final draft of Notice of Proposed Rulemaking sent to Employee Plans Division of the Internal Revenue Service for comment.

Agency Contact: Paul Accettura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD91

183. INCOME TAX—MINIMUM CONTRIBUTION REQUIREMENT, IN GENERAL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 418B Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation project will focus on a special rule to compute the minimum contribution that employers must make to a multiemployer plan when the plan is in reorganization in order for the special funding requirements for multiemployer plans in reorganization to be met.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-125-80.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of the notice of proposed rulemaking.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD92

184. INCOME TAX—OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 418C Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide that a multiemployer plan that is in reorganization and is overburdened with retirees is eligible for a special overburden credit which will reduce the otherwise required minimum contribution requirement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-127-80.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

Comments from Actuarial Division on preliminary draft of Notice, 1/13/83.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD94

185. INCOME TAX—ADJUSTMENTS IN ACCRUED BENEFITS; INSOLVENT PLANS; RELATED VESTING PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 418D Internal Revenue Code of 1954; 26 USC 418E Internal Revenue Code of 1954; 26 USC 411(a)(3) Internal Revenue Code of 1954; 26 USC 411(a)(4) Internal Revenue Code of 1954; 26 USC 411(d)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide rules under 26 USC 418D and 418E concerning adjustment of accrued benefits by a multiemployer plan in reorganization and suspension of benefit payments by an insolvent multiemployer plan. Conforming changes will be made to regulations under section 411 concerning permitted forfeitures and concerning the computation of the period of service in determining an employee's nonforfeitable percentage.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-128-80.

Drafting attorney: George B. Baker (202) 566-3422.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: George Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD95

186. INCOME TAX—CREATION & TREATMENT OF INCENTIVE STOCK OPTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 422A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

VOL 48 ISS 201 OCT 17 1983 UMI

Abstract: The regulations would provide guidance for taxpayers who either grant or receive incentive stock options. The grant of an incentive stock option to an employee by, generally, the employer, will not be a taxable event. At the time such an option is exercised by the employee, no amount of the spread will be included in the employee's gross income. When the stock acquired subject in the option is sold, the entire gain will be treated as capital gain and not ordinary income.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-279-81.

Drafting attorney: Philip R. Bosco (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3288

RIN: 1545–AB36

187. INCOME TAX–REQUESTS FOR CHANGE OF METHOD OF ACCOUNTING FROM AN ERRONEOUS METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 446(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would clarify the procedures for changing from an erroneous method of accounting to a proper method of accounting. Generally, taxpayers must obtain the Commissioner's consent to change their method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-188-79.

Drafting attorney: Alice Bennett (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision, 03/31/82.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3288

RIN: 1545–AB37

188. INCOME TAX–CLARIFICATION OF RELATIONSHIP BETWEEN SECTIONS 446(E) AND 481

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 446(e) Internal Revenue Code of 1954; 26 USC 481 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would clarify that in order to secure the Commissioner's permission to adopt a new accounting method the taxpayer must take any adjustment required by section 481 into income over the period prescribed by the Commissioner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-47-80.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Notice pending Department of the Treasury review.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545–AB38

189. INCOME TAX–METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 447 Internal Revenue Code of 1954

CFR Citation: 28 CFR 1

Abstract: The regulations would provide rules and definitions needed to determine which corporations and partnerships with a corporate partner are subject to the requirement that income from farming be reported on the accrual method of accounting with the capitalization of preproductive expenses.

Timetable:

Action	Date	FR Cite
NPRM	10/31/83	

Small Entity: Not Applicable

Additional Information: LR-143-76.

Drafting Attorney: Ewan Purkiss (202) 566-3238.

Reviewing Attorney: Cynthia Clark (202) 566-3238.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Mary Hutton.

Notice pending Treasury review.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3238

RIN: 1545–AB39

190. INCOME TAX–TO CLARIFY TREATMENT OF CERTAIN COSTS INCURRED WITH RESPECT TO LONG TERM CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 451 Internal Revenue Code of 1954; Tax Equity and Fiscal Responsibility Act of 1982, Section 229

CFR Citation: 26 CFR 1

Abstract: The regulations would clarify when contracts are completed and when contracts are to be severed or aggregated. The regulations would also provide rules for determining the costs properly allocable to extended period long-term contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/14/83	48 FR 10702
NPRM Comment Period Begin	03/14/83	48 FR 10702
NPRM Comment Period End	05/13/83	
Hearing held	06/29/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-274-81.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Final Draft of Notice to Office of Chief Counsel 12/15/82.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N. W., Washington, D.C. 20224, 202 566-3288

RIN: 1545–AB40

191. INCOME TAX–GENERAL RULES RELATING TO INSTALLMENT SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Treasury decision will provide general rules and rules for reporting contingent installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	02/04/81	46 FR 10749
NPRM Comment Period Begin	02/04/81	46 FR 10749
NPRM Comment Period End	04/06/81	
Hearing	10/01/81	46 FR 40774
Final Action	12/00/83	

Small Entity: Yes

Additional Information: LR-173-80.

Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

Draft of Treasury decision to Office of Tax Legislative Counsel (Treasury) for comment 11/23/82.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545–AB42

192. ●INCOME TAX REGULATIONS–PART I. INSTALLMENT SALES BY NONTAXABLE ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project will provide rules relating to installment sales by nontaxable entities and the election provision by foreign personal holding companies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-143-83.

Drafting Attorney: Phoebe Mix (202) 566-3238.

Reviewing Attorney: John Parcell (202) 566-3288.

Agency Contact: Phoebe Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545–AF73

193. INCOME TAX–INSTALLMENT OBLIGATIONS RECEIVED FROM A LIQUIDATING CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-184-80.

Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

Draft of notice to Tax Legislative Counsel (Treasury) 11/23/82.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3288

RIN: 1545–AB43

194. INCOME TAX–INSTALLMENT OBLIGATIONS RECEIVED IN TRANSACTIONS IN WHICH GAIN OR LOSS IS GENERALLY NOT RECOGNIZED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules for reporting installment obligations that are received as boot in certain exchanges in which gain is not generally recognized.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-186-80.

Drafting Attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

Draft of notice to Tax Legislative Counsel (Treasury), 11/23/82.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3288

RIN: 1545–AB44

195. INCOME TAX–INSTALLMENT SALES BETWEEN RELATED PARTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules for reporting installment sales between related parties.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Not Applicable

Additional Information: LR-2-81.

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Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

Draft of notice to Office of Tax Legislative Counsel (Treasury) 07/19/82.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB45

196. INCOME TAX—INSTALLMENT METHOD REPORTING BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules for installment method reporting by dealers in personal property.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-146-81.

Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

Draft of notice to Tax Legislative Counsel for comment 07/19/82.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB47

197. INCOME TAX -- GAIN OR LOSS ON THE DISPOSITION OF AN INSTALLMENT OBLIGATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453B Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules for reporting gain or loss upon the disposition of an installment obligation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-103-81.

Drafting attorney: Gregory A. Roth (202) 566-3238.

Reviewing attorney: Phoebe A. Mix (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Gregory A. Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB41

198. INCOME TAX—INSTALLMENT SALES REVISION ACT OF 1980, REGULATIONS RELATING TO WRAP-AROUND MORTGAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide regulations for reporting sales of property under a wrap-around mortgage arrangement.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Not Applicable

Additional Information: LR-147-82.

Drafting attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

In Office of Tax Legislative Counsel (Treasury) for comment 7/19/82.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB46

199. ◎INCOME TAX REGULATIONS—PART 1. INSTALLMENT SALE BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project will provide rules relating to sales by dealers of personal property on the installment plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-141-83.

Drafting Attorney: Phoebe Mix (202) 566-3238.

Reviewing Attorney: John Parcell (202) 566-3288.

Agency Contact: Phoebe Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3238

RIN: 1545-AF71

200. INCOME TAX—EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORD RETURNS AFTER CLOSE OF TAXABLE YEAR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 458 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will provide rules on the exclusion from gross income of income attributable to the sale of magazines, paperbacks, or records that are returned.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-195-78.

Drafting attorney: Paul H. Weisman (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hutton, Levinson.

Notice to Department of the Treasury for formal approval, 10/06/81.

Agency Contact: Paul H. Weisman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB48

201. INCOME TAX—TREATMENT OF PREPAID INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 461 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to cash basis taxpayers regarding the deductibility of interest allocable to periods beyond the close of the taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-190-76.

Drafting attorney: Alice Bennett (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Notice pending Department of the Treasury review.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB49

202. INCOME TAX—ACCRUAL OF VACATION PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 463 Internal Revenue Code of 1954; 26 USC 81 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will provide rules which require a taxpayer to include in its gross income for the taxable year the amount of the increase, if any, in the suspense account created under section 463. The regulation will also provide rules under section 463 which allow a taxpayer who computes income on the accrual method of accounting to elect to deduct its accrued contingent liabilities for vacation pay in the year the vacation pay is earned by the employee as long as such pay is payable in the tax year or twelve month period following the close of the tax year.

Timetable:

Action	Date	FR Cite
NPRM	01/01/84	

Small Entity: Not Applicable

Additional Information: LR-6-75.

Drafting attorney: Paul H. Weisman (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

In Legislation and Regulations for preparation of notice of proposed rulemaking.

Agency Contact: Paul H. Weisman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB50

203. INCOME TAX—LIMITATION ON DEDUCTIONS IN CASE OF FARMING SYNDICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 464 Internal Revenue Code of 1954; 26 USC 278(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide that enterprises which qualify as farming syndicates must deduct expenses for feed, seed fertilizer, etcetera, only when used or consumed and to capitalize certain cost of poultry. Furthermore, farming syndicates are to capitalize certain expenses of groves, orchards and vineyard to the extent such expenses are incurred before the grove, orchard or vineyard becomes productive.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-144-76.

Drafting attorney: Howard A. Balikov (202) 566-3288.

Reviewing attorney: Cynthia C. Clark (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Final draft of notice to Office of Tax Legislative Counsel (Treasury), 02/05/82.

Agency Contact: Howard Balikov, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB51

204. INCOME TAX—DETERMINATION OF AMOUNTS AT RISK WITH RESPECT TO CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 465 Internal Revenue Code of 1954; Section 204 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to taxpayers for purposes of determining the amount the taxpayer is at risk in certain activities. This guidance is necessary because a taxpayer's deductions are limited to the amount the taxpayer is at risk in the activity. This at risk limit applies to most activities except the holding of real property and certain equipment leasing by closely-held corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/05/79	44 FR 32235
NPRM Comment Period Begin	06/05/79	44 FR 32235
NPRM Comment Period End	08/06/79	
Hearing	09/27/79	44 FR 49701
Final Action	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-168-76.

Drafting attorney: Alice Bennett (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

Revised draft of Treasury decision distributed within the Office of Chief Counsel for comment, 09/22/82.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB52

VOL 48 ISS 201 OCT 17 1983 UMI

205. INCOME TAX—QUALIFIED DISCOUNT COUPONS RETURNED AFTER CLOSE OF TAXABLE YEAR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 466 Internal Revenue Code of 1954; Section 373(c), Revenue Act of 1978

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to taxpayers relating to the election to deduct redemption costs of qualified discount coupons returned after the close of the taxable year.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-217-78.

Drafting attorney: Alice Bennett (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Final draft of notice in the Office of Chief Counsel (Legislation and Regulations Division) pending Treasury approval.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, **202 566-3288**

RIN: 1545-AB53

206. INCOME TAX—INVENTORIES AT COST OR MARKET, WHICHEVER IS LOWER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 471 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would revise and clarify the computation of ending inventory at cost or market whichever is lower.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-2158.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3288**

RIN: 1545-AB54

207. INCOME TAX—THREE-YEAR AVERAGING FOR INCREASES IN INVENTORY VALUE WHEN ELECTING LIFO METHOD OF ACCOUNTING; USE OF ONE INVENTORY POOL BY SMALL BUSINESSES ELECTING LIFO METHOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 472(d) Internal Revenue Code of 1954; 26 USC 474 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide for three-year averaging for increases in inventory value when electing the LIFO method of accounting. The regulations would also provide for the use of one inventory pool by small businesses electing the LIFO method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	48 FR 6134

Small Entity: Not Applicable

Additional Information: LR-254-81.

Drafting attorney: Gregory Roth (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Notice to Office of Commissioner for formal approval, 07/22/82.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington DC 20224, **202 566-3238**

RIN: 1545-AB55

208. ◎INVENTORY COMPUTED BY USE OF CONSUMER OR PRODUCER PRICE INDEXES

Legal Authority: 26 USC 472 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regualtions would provide examples and further clarification of the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/30/84	

Small Entity: No

Additional Information: LR-57-83.

Drafting Attorney: Howard A. Balikov (202) 566-3288.

Reviewing Attorney: Philip R. Bosco (202) 566-3238.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Howard A. Balikov, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3288**

RIN: 1545-AF65

209. INCOME TAX—QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 473 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide interpretative and procedural rules relating to qualified liquidations of last-in-first-out inventory.

Timetable:

Action	Date	FR Cite
NPRM	11/30/83	

Small Entity: Not Applicable

Additional Information: LR-82-80.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Notice pending Department of Treasury review.

Agency Contact: Joseph M. Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3288**

RIN: 1545-AB56

210. INCOME TAX—ALLOCATION OF INCOME & DEDUCTIONS AMONG TAXPAYERS TO REVISE PERCENTAGE APPLIED IN DETERMINING RENTAL CHARGE FOR USE OF TANGIBLE PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 482 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would amend the current Income Tax Regulations under Internal Revenue Code section 482, relating to allocations made by the Internal Revenue Service between persons that are owned or controlled by the same interests. The amendments would adjust the deemed arm's length rental charge for the use of tangible property to reflect current market rates.

Timetable:

Action	Date	FR Cite
NPRM	12/01/83	

Small Entity: Not Applicable

Additional Information: LR-307-76.

Drafting Attorney: Robert E. Culbertson Jr. (202) 566-3289.

Reviewing attorney: Herman B. Bouma (202) 566-3289.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Reinhold, Levinson.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

Revised draft of notice to Office of International Tax Counsel (Treasury), 09/08/82.

Agency Contact: Robert E. Culbertson Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3289**

RIN: 1545-AB57

211. INCOME TAX—MAXIMUM RATE OF IMPUTED INTEREST FOR SALE OF LAND BETWEEN RELATED PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 483(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance for determining if sales of land between related persons qualify for a lower imputed rate of interest. More specifically, the regulations would provide for a definition of land and for rules to compute the maximum dollar limitation on which the lower imputed rate of interest is to apply.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-246-81.

Drafting Attorney: Ewan Purkiss (202) 566-3238.

Reviewing Attorney: Phoebe Mix (202) 566-3238.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, **202 566-3238**

RIN: 1545-AB58

212. ◎INCOME TAX - SEMIANNUAL COMPOUNDING OF THE TEST RATE UNDER SECTION 483

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 483 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide for the semiannual compounding of the test rate of interest used to determine if a deferred payments contract contains unstated interest. Thus, in the case of a contract for the sale of property that provides for no interest or an unreasonably low rate of interest that does not satisfy the test rate of interest compounded semiannually, interest will be imputed under the contract.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: No

Additional Information: LR-12-83.

Drafting attorney: Ewan Purkiss (202) 566-3238.

Reviewing attorney: John Parcell (202) 566-3336.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3238**

RIN: 1545-AF59

213. INCOME TAX—ESTATE TAX—GIFT TAX—EXEMPTION OF CERTAIN AMATEUR ATHLETIC ORGANIZATIONS FROM TAX

Legal Authority: 26 USC 7805 Internal Revenue Act of 1954; 26 USC 501(c)(3) Internal Revenue Act of 1954; 26 USC 170(c)(2)(B) Internal Revenue Act of 1954; 26 USC 2055(a) Internal Revenue Act of 1954; 26 USC 2522(a) Internal Revenue Act of 1954; PL 97-248, Sec 286

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25

Abstract: This regulation project relates to the exemption of certain amateur athletic organizations from tax and the deductibility of contributions to organizations that qualify for the exemption. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Tax Equity and Fiscal Responsibility Act of 1982. The regulations affect organizations that foster national or international sports competition and provide them with guidance needed to determine whether they qualify for the exemption.

Timetable:

Action	Date	FR Cite
NPRM	05/10/79	44 FR 27446
NPRM Comment Period Begin	05/10/79	44 FR 27446
NPRM Comment Period End	07/09/79	
Hearing	10/09/79	45 FR 49275
Final Action	01/00/84	

Small Entity: Not Applicable

Additional Information: EE-53-79.

Drafting Attorney: Janet Painter (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, McKee.

Notice published under LR-172-76, 05/10/79.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of Treasury Decision.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Janet Painter, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD97

214. INCOME TAX--RULES CLARIFYING THE REGULATIONS WITH RESPECT TO THE COMPUTATION OF "GROSS INCOME" OF AN ELECTRIC COOPERATIVE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(c)(12) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide that electric cooperatives would take into account costs of goods sold when determining income under the 85 percent member-income test. In addition, the regulations would solicit comments from the public regarding how to compute costs of goods sold.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	

Small Entity: Not Applicable

Additional Information: EE-17-81.

Drafting attorney: Patricia K. Keesler (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Jewett, McCarty.

Preliminary draft of Notice sent to Treasury for review on 01/07/83.

Agency Contact: Patricia K. Keesler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD99

215. INCOME TAX--AMENDMENT OF REGULATIONS TO REFLECT THE GRANT OF TAX EXEMPT STATUS TO CERTAIN HOSPITAL SERVICE ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide the rules for tax exemption for cooperative hospital service organizations. These organizations provide specified services to exempt hospitals on a centralized basis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-44-78.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Comments from Office of Tax Legislative Counsel (Treasury) on preliminary draft 1/14/83.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AE01

216. INCOME TAX--TAX TREATMENT OF CERTAIN SOCIAL CLUBS & PROHIBITION OF DISCRIMINATION BY CERTAIN SOCIAL CLUBS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(c)(7) Internal Revenue Code of 1954; 26 USC 501(i) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations describe the requirements that a club must meet to qualify for tax exemption, explain the social character required of an exempt club, and prescribe the circumstances in which nonmember support is taken into account in determining whether substantially all of the club's activities are for its exempt purposes. Exemption is denied to clubs which by written policy discriminate on the basis of race, color, or religion.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-43-78.

Drafting attorney: Janet Painter (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Notice returned from Office of Commissioner to Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for rescheduling, 06/03/82.

Agency Contact: Janet Painter, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD98

217. INCOME TAX--SOCIAL CLUBS UNRELATED BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 512(a)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal will provide rules for determining the unrelated business taxable income of certain organizations exempt from taxation under sections 501 (c) (7) and (c) (9) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	05/13/71	36 FR 8808
NPRM Comment Period Begin	05/13/71	36 FR 8808
NPRM Comment Period End	06/14/71	
Hearing	08/31/71	36 FR 13034
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1744.

Drafting Attorney: Phoebe A. Mix (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Draft of Treasury decision in Legislation and Regulations Division pending guidance from Tax Legislative Counsel's office.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AB59

218. INCOME TAX--ACTIVITIES OF TRADE SHOWS AND STATE FAIRS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 513(d) Internal Revenue Code of 1954; PL 94-455, Sec 1305; 26 USC 401(b) Internal Revenue Code of 1954; 26 USC 503(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation project relates to the treatment of income from qualified trade shows sponsored by certain exempt organizations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations provide necessary guidance to the public for compliance with that Act and would affect certain exempt organizations that sponsor trade shows. The regulation also conforms the regulations to changes in the tax law concerning the time for filing an exempt organization's income tax return. In addition, this document makes clerical changes in the regulations to reflect a recent amendment to the Statement of Procedural Rules.

Timetable:

Action	Date	FR Cite
NPRM	12/09/80	45 FR 81066
NPRM Comment Period Begin	12/09/80	45 FR 81066
NPRM Comment Period End	02/09/81	
Hearing	04/22/81	46 FR 15892
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-155-78.

Drafting attorney: Janet S. Painter (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Treasury Decision to Treasury for formal approval, 6/11/82.

Agency Contact: Janet Painter, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AE04

219. INCOME TAX--HOSPITAL SERVICES NOT TO CONSTITUTE AN UNRELATED TRADE OR BUSINESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 513(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide rules relating to the circumstances under which services provided by a tax-exempt hospital to other such hospitals will not be treated as an unrelated trade or business.

Timetable:

Action	Date	FR Cite
NPRM	12/13/82	47 FR 55696
NPRM Comment Period Begin	12/13/82	47 FR 55696
NPRM Comment Period End	02/08/83	
Final Action	09/00/84	

Small Entity: Not Applicable

Additional Information: EE-46-78.

Drafting attorney: Charles K. Kerby, III (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Notice of Proposed Rulemaking published 12/13/82.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE05

220. INCOME TAX--UNRELATED TRADE OR BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 514(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will address the issue of what constitutes real property acquired by a qualified trust. The guidance provided on this issue will determine the scope of the exception under 26 USC 514(c)(9) for such acquisitions from the term acquisition indebtedness. Under 26 USC 514, the existence of such indebtedness on income producing property gives rise to unrelated debt-financed taxable income.

Timetable:

Action	Date	FR Cite
NPRM	06/00/84	

Small Entity: Not Applicable

Additional Information: EE-27-81.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE00

221. INCOME TAX--RATES OF TAX FOR PRINCIPAL CAMPAIGN COMMITTEES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 527 Internal Revenue Code of 1954; PL 97-34, Sec 126

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the manner of designation of a principal campaign committee by a member of Congress. A candidate for Congress may make such a designation in order to permit a campaign committee to compute its income tax by multiplying its political organization taxable income by the appropriate rates of tax specified in section 11 (b) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/20/83	48 FR 16911
NPRM Comment Period Begin	04/20/83	48 FR 16911
NPRM Comment Period End	06/20/83	
Final Action	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-243-81.

Drafting attorney: Susan Thompson Baker (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Reinhold, Levinson.

Notice to Office of Chief Counsel (Legislation and Regulations Division) for formal approval, 01/18/82.

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AB60

222. INCOME TAX--RELATIONSHIP BETWEEN SECTION 527 AND THE FEDERAL ELECTION CAMPAIGN ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 527 Internal Revenue Code of 1954; PL 97-34, Sec 128

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance on the interaction of section 527 of the Internal Revenue Code of 1954 with the Federal Election Campaign Act.

Timetable:

Action	Date	FR Cite
NPRM	04/20/83	48 FR 16911
NPRM Comment Period Begin	04/20/83	48 FR 16911
NPRM Comment Period End	06/20/83	
Final Action	10/00/83	

Small Entity: Not Applicable

Additional Information: EE-6-81.

Drafting attorney: Paul G. Accettura (202) 566-3544.

Reviewing attorney: James L. Brokaw (202) 566-4173.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of notice.

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE06

223. INCOME TAX--VARIOUS SECTIONS OF THE CODE AFFECTING PERSONAL HOLDING COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 541 Internal Revenue Code of 1954; 26 USC 551 Internal Revenue Code of 1954; 26 USC 225 Revenue Act of 1964; 26 USC 542 Internal Revenue Code of 1954; 26 USC 543 Internal Revenue Code of 1954; 26 USC 544 Internal Revenue Code of 1954; 26 USC 545 Internal Revenue Code of 1954; 26 USC 552 Internal Revenue Code of 1954; 26 USC 553 Internal Revenue Code of 1954; 26 USC 554 Internal Revenue Code of 1954; 26 USC 555 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would conform the personal holding company regulations to various legislative changes, including the Revenue Act of 1964, the Foreign Investors Tax Act of 1966, the Act of November 13, 1966, the Tax Reform Act of 1969 and the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite
Previous NPRM	09/05/68	33 FR 12653
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-680.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Levinson.

Notice withdrawing proposed regulations pending Treasury review.

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W, Washington, D.C. 20224, 202 566-3459

RIN: 1545-AB63

224. INCOME TAX--ACCUMULATED EARNINGS TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 565 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations project would consider whether to restrict the use of the consent dividend provisions to entities entitled to claim a dividends paid deduction under section 561.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-29-80.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Keyser and Silver.

(Office of International Tax Counsel) Action on final draft of notice suspended until further notice.

Agency Contact: Susan K. Thompson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AB64

225. INCOME TAX--TAX TREATMENT OF COMMON TRUST FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 584(a)(1) Internal Revenue Code of 1954; 26 USC 584(c)(1)(A) Internal Revenue Code of 1954; 26 USC 584(c)(1)(B) Internal Revenue Code of 1954; 26 USC 584(c)(2) Internal Revenue Code of 1954; 26 USC 584(e) Internal Revenue Code of 1954; 26 USC 6032 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations relate to common trust funds under section 584 of the Internal Revenue Code. With respect to treatment of amounts in the hands of participants, each participant is treated as if it made the investment made by the common trust fund. The regulations also will provide that when banks become members of the same affiliated group they are to be treated as one bank under section 584, and one bank may contribute to the common trust fund of another affiliated bank.

Timetable:

Action	Date	FR Cite
NPRM	09/22/80	45 FR 62848
NPRM Comment Period Begin	09/22/80	45 FR 62848
NPRM Comment Period End	11/21/80	
Hearing	02/19/81	
Final Action	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-133-76.

Drafting attorney: Mitchell H. Rapaport (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) Reviewing Attorneys: Jewett, Levinson.

Draft of T.D. to Office of Tax Legislative Counsel (Treasury), 04/30/82.

Draft of T.D. to Office of Chief Counsel (Corporation Tax Division). Office of Chief Counsel (Interpretative Division), 05/04/82.

Comments from Office of Chief Counsel (Tax Litigation Division), 05/28/82.

Comments from Office of Tax Legislative Counsel (Treasury), 07/22/82.

Final draft sent to Chief Counsel for approval.

Final draft sent to Treasury for approval.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AB65

226. INCOME TAX--LIMITATION ON ADDITIONS TO BANK LOSS RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 585 Internal Revenue Code of 1954; PL 97-34, Sec 273

CFR Citation: 26 CFR 1

Abstract: The regulations would impose a requirement of a minimum addition to bad debt reserves of mutual savings banks in order to conform the treatment of these institutions to financial institutions described in section 585.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-152-79.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Notice to Regulations Review Staff 5/11/83.

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AB66

227. TREATMENT OF FORECLOSED PROPERTY BY CERTAIN CREDITORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 595 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposed regulation would amend the existing regulations relating to the treatment of amounts realized and expended with respect to property securing loans which have been foreclosed on by certain banks.

Timetable:

Action	Date	FR Cite
NPRM	07/00/83	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-83-82.

Drafting attorney: Mitchell H. Rapaport (202) 566-3829.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Tax Legislative Counsel Review Attorney:Andrew E. Furer (202) 566-2927.

Preliminary draft of notice of proposed rulemaking sent to Treasury- 5/19/83.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AF00

228. INCOME TAX--RESTORATION OF DEPLETION DEDUCTIONS ON BONUS AND ADVANCED ROYALTIES IN CERTAIN CASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 612 Internal Revenue Code of 1954; 26 USC 613 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the restoration of depletion deductions on bonuses and advanced royalties and the deferment of the exclusion of advanced royalties from gross income from the property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1148.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

Notice pending Treasury review.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB69

229. INCOME TAX--SUPPLEMENTARY RULES ON LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL & GAS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 613(A) Internal Revenue Code of 1954; 26 USC 703(a) Internal Revenue Code of 1954; 26 USC 705(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

Timetable:

Action	Date	FR Cite
NPRM	05/13/77	
Hearing	08/31/78	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-105-75.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

Treasury Decision pending at Treasury for review.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB73

230. INCOME TAX--TO CONFORM TO SEC 3 OF THE ACT OF 12/28/80

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 613A(c)(10) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide guidance to taxpayers using the section 613A(c)(10) exception to the transfer rules under section 613A(c)(9). In general section 613A(c)(9) disallows percentage depletion to the transferee of proven oil or gas property. Section 613A(c)(10) relates to the transfer of

VOL 48 ISS 201 OCT 17 1983 UMI

qualified property by an individual to a qualified transferee corporation solely in exchange for stock.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-35-81.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB74

231. INCOME TAX—DISALLOWANCE OF CERTAIN ITEMS AS DEDUCTIONS FOR ESTATE AND INCOME TAX PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 642(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide that section 2053 and 2054 deductions are not allowed in computing the taxable income of the estate or any other person or as an offset against sales of property unless a waiver is filed stating that on the estate tax return these deductions were not claimed.

Timetable:

Action	Date	FR Cite
NPRM	02/08/83	48 FR 5762
NPRM Comment Period Begin	02/08/83	48 FR 5762
NPRM Comment Period End	04/11/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-183-76.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AB75

232. INCOME TAX—TREATMENT OF CREDIT FOR TAX WITHHELD ON INTEREST, DIVIDENDS AND PATRONAGE DIVIDENDS RECEIVED BY AN ESTATE OR TRUST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 643(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: This Regulation will explain how to allocate the credit for tax withheld on interest and dividends earned by an estate or trust between the estate or trust and its beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	04/14/83	48 FR 16071
NPRM Comment Period Begin	04/14/83	48 FR 16071
NPRM Comment Period End	06/13/83	
Final Action	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-170-82.

Drafting attorney: Cynthia L. Clark (202) 566-4336.

Legislative Counsel Reviewing attorney: Reinhold.

Hearing held 6-21-83.

Agency Contact: Cynthia L. Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF04

233. INCOME TAX—SPECIAL RULE FOR PROPERTY TRANSFERRED AT LESS THAN FAIR MARKET VALUE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 644 Internal Revenue Code of 1954; 26 USC 641 (c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will explain how to compute the tax imposed by section 644 on the includible gain recognized on the sale or exchange within two years after transfer to a trust of certain property.

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	

Small Entity: Not Applicable

Additional Information: LR-188-76.

Drafting attorney: Cynthia L. Clark (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

Draft of notice to Office of Chief Counsel (Interpretative Division), Office of Chief Counsel (Individual Tax Division), Associate Chief Counsel (Technical), 06/28/82.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AB76

234. INCOME TAX—PROCEDURE & ADMINISTRATION—ACCUMULATION TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 667 Internal Revenue Code of 1954; 26 USC 666(e) Internal Revenue Code of 1954; 26 USC 668 Internal Revenue Code of 1954; 26 USC 665(b) Internal Revenue Code of 1954; 26 USC 665(e) to 665(g) Internal Revenue Code of 1954; 26 USC 669 Internal Revenue Code of 1954; 26 USC 1302(a)(2)(B) Internal Revenue Code of 1954; 26 USC 1302(b)(2)(B) Internal Revenue Code of 1954; 26 USC 6401(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 301

Abstract: These regulations will clarify the amount of tax imposed on a beneficiary for distributions from a trust of income accumulated by the trust in prior tax years.

Timetable:

Action	Date	FR Cite
Final Action	06/00/83	
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-184-76.

Drafting attorney: John Harman (202) 566-3238.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

9/24/82 Draft of notice in Legislation and Regulations Division for revision.

Agency Contact: John R. Harman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3238

RIN: 1545-AB78

235. INCOME TAX—PROCEDURE & ADMINISTRATION—FOREIGN TRUSTS HAVING U.S. BENEFICIARIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 679 Internal Revenue Code of 1954; 26 USC 678(b) Internal Revenue Code of 1954; 26 USC 643(a) Internal Revenue Code of 1954; 26 USC 643(c)(6)(C) Internal Revenue Code of 1954; 26 USC 643(c)(6)(D) Internal Revenue Code of 1954; 26 USC 643(d) Internal Revenue Code of 1954; 26 USC 6048 Internal Revenue Code of 1954; 26 USC 6677 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 301

Abstract: These regulations will provide to what extent a grantor of a foreign trust with United States beneficiaries will be treated as an owner of that trust, and thus taxed currently on the trust's income.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	04/00/84	

Small Entity: Not Applicable

Additional Information: LR-187-76.

Drafting attorney: John R. Harman (202) 566-3238.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

Draft of notice to International Tax Counsel (Treasury), 06/08/82.

Agency Contact: John R. Harman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3238

RIN: 1545-AB79

236. INCOME TAX—DETERMINATION OF PARTNER'S DISTRIBUTIVE SHARE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 704(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide rules and examples relating to the substantial economic effect test and the determination of a partner's interest in the partnership.

Timetable:

Action	Date	FR Cite
NPRM	03/09/83	48 FR 9871
NPRM Comment Period Begin	03/09/83	48 FR 9871
NPRM Comment Period End	04/27/83	
Final Action	08/31/83	

Small Entity: Not Applicable

Additional Information: LR-262-76.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Kuller, McKee.

Notice of proposed rulemaking published.

Draft Treasury decision circulating for formal approval.

Hearing held 5-4-83.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB80

237. INCOME TAX—ITEMS ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 706(c)(2)(B) Internal Revenue Code of 1954; 26 USC 704 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide the methods to be used for allocating partnership items to partners whenever a partner's interest varies during the partnership taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-285-76.

Drafting attorney: Robert Ginsburgh (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Kuller, McKee.

Revised draft of notice to Office of Tax Legislative Counsel, 08/09/82.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB81

238. INCOME TAX—TO CONFORM THE INCOME TAX REGULATIONS RELATING TO GUARANTEED PAYMENTS TO PARTNERS TO SEC. 213(B)(3) OF TRA 1976 AND TO THE MILLER & CAREY DECISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 707(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations relate to transactions between a partnership and one of its partners. The regulations are designed to clarify the income tax effects of guaranteed payments, i.e., payments made by a partnership to a partner for services or the use of capital, to the extent the amount of such payments is determined without regard to the income of the partnership.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-2127.

Drafting attorney: Douglas W. Charnas (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Levinson.

Draft of notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Douglas W. Charnas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB82

239. INCOME TAX--AMENDMENT OF SEC 1.731-1(C) TO CLARIFY THE TAX TREATMENT OF A DISTRIBUTION OF PROPERTY BY A PARTNERSHIP TO A PARTNER WHO HAD RECENTLY CONTRIBUTED OTHER PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 731 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide that if property is contributed to a partnership and within a short period other property is distributed to the contributing partner, the distribution may fall outside of the nonrecognition provision of section 731. The regulations would provide that the substance of the transaction, rather than its form, determines whether the distribution is tax- free. The regulations would provide examples illustrating contribution/distribution transactions that will be treated as a taxable sale or exchange.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-39-82.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB84

240. INCOME TAX--CERTAIN COMPLIANCE PROBLEMS WHERE ELECTIONS OUT OF SUBCHAPTER K ARE MADE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 761 Internal Revenue Code of 1954; 26 USC 6031 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules concerning an election not to follow Subchapter K of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-36-80.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Levinson.

Draft of notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision, 06/17/81.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB85

241. TREATMENT OF GRADED PREMIUM POLICIES UNDER THE APPROXIMATE REVALUATION METHOD OF RECOMPUTING RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 818(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the treatment by life insurance companies of graded premium policies for purposes of recomputing life insurance reserves under the approximate revaluation method.

Timetable:

Action	Date	FR Cite
NPRM	09/15/83	

Small Entity: Not Applicable

Additional Information: LR-276-82.

Drafting Attorney: Alice Bennett (202) 566-3288.

Reviewing Attorney: Donald Duffy (202) 566-4336.

Office of Tax Legislative Counsel Reviewing Attorney: Pike.

In the Legislation and Regulations Division for preparation of a draft.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AF03

242. INCOME TAX--TO CLARIFY THE TREATMENT OF CERTAIN AMOUNTS REFUNDED IN REINSURANCE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 809 Internal Revenue Code of 1954; 26 USC 820 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The rules will clarify the treatment of certain amounts refunded in reinsurance transaction, and provide rules with respect to the allocation of certain items in modified coinsurance contracts for purposes of an election under section 820. These regulations would affect life insurance companies that enter into coinsurance and modified coinsurance transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/19/82	47 FR 11882
NPRM Comment Period Begin	03/19/82	47 FR 11882
NPRM Comment Period End	05/18/82	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-276-81.

Drafting Attorney: Alice Bennett (202)566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AB88

243. INCOME TAX--REAL ESTATE INVESTMENT TRUSTS & REGULATED INVESTMENT COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 860 Internal Revenue Code of 1954; PL 95-600, Sec 362; PL 94-455, Sec 1601

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to deficiency dividends of regulated investment companies and real estate investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	03/31/80	45 FR 20925
NPRM Comment Period Begin	03/31/80	45 FR 20925
NPRM Comment Period End	05/27/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-183-78.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Baneman, Levinson.

T.D. to Treasury for formal approval, 05/26/82.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB87

244. INCOME TAX--SOURCE OF INCOME OF UNDERWRITING INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 861(a)(7) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will provide rules for determining whether the source of underwriting income is income from sources within the United States to be included in gross income and for clarifying the meaning of United States risks upon which such income determination is made.

Timetable:

Action	Date	FR Cite
NPRM	06/00/84	

Small Entity: Not Applicable

Additional Information: LR-71-77.

Drafting Attorney: Paul H. Weisman (202) 566-3238.

Reviewing Attorney: John H. Parcell (202) 566-3288.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Lainoff.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Paul H. Weisman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB89

245. SOURCE OF INTEREST AND DIVIDENDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 861 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would treat interest and dividends paid by a domestic corporation having substantial gross income from certain possessions of the United States as income from sources within the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/29/82	47 FR 57972
NPRM Comment Period Begin	12/29/82	47 FR 57972
NPRM Comment Period End	02/28/83	
Hearing	05/24/83	48 FR 11465
Final Action	08/00/83	

Small Entity: Not Applicable

Additional Information: LR-296-82.

Drafting attorney: Martha E. Kadue (202) 566-3238.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorney: Steve Shay.

Notice of Proposed rulemaking published. Hearing held.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Martha E. Kadue, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF15

246. ◎AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SEC. 1.861-8 TO PROVIDE FOR THE ALLOCATION AND APPORTIONMENT OF PARTNERSHIP EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue of Code 1954; 26 USC 861 Internal Revenue of Code 1954; 26 USC 882 Internal Revenue of Code 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will indicate whether partnership expenses are to be allocated and apportioned under Sec. 1.861-8 of the partnership level or at the partner level.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-101-83.

Drafting Attorney: Herman B. Bouma (202) 566-3287.

Reviewing Attorney: Charles C. Saverude (202) 566-3323.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Herman Bouma, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3287

RIN: 1545-AF57

247. INCOME TAX--COMPUTATION OF TAXABLE INCOME FROM SOURCES WITHIN AND WITHOUT THE UNITED STATES

Priority: Major

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 861 Internal Revenue Code of 1954; 26 USC 882 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The amendment would allow taxpayers to apply the regulations in 1.861-8 and 1.882-5 to open taxable years beginning before 01/01/77.

Timetable:

Action	Date	FR Cite
NPRM	08/30/82	47 FR 38149
NPRM Comment Period Begin	08/30/82	47 FR 38149
NPRM Comment Period End	10/29/82	
Final Action	00/00/00	

Small Entity: Not Applicable

VOL 48 ISS 201 OCT 17 1983 UMI

Additional Information: LR-215-78.

Drafting attorney: Herman B. Bouma (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Lainoff.

Notice published 08/30/82.

In Office of Tax Analysis for preparation of final regulatory impact analysis.

Analysis: Preliminary RIA 08/30/82 (47 FR 38150)

Agency Contact: Herman B. Bouma, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB88

248. INCOME TAX—INCOME FROM CERTAIN LEASED AIRCRAFT, VESSELS, AND SPACECRAFT TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 861(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide guidance on the source of income from crafts leased to United States persons.

Timetable:

Action	Date	FR Cite
NPRM	05/05/83	48 FR 20244
Final Action	08/00/83	

Small Entity: Not Applicable

Additional Information: LR-57-81.

Drafting attorney: Mary Frances Pearson (202) 566-3289.

Reviewing attorney: Herman B. Bouma (202) 566-3289.

Notice was published in the Federal Register May 5, 1983 (48 FR 20244).

Agency Contact: Mary Frances Pearson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB90

249. INCOME TAX—TO PREVENT A FOREIGN BANK WITH BRANCH OFFICE IN UNITED STATES FROM AVOIDING UNITED STATES TAXATION BY BOOKING A LOAN IN A FOREIGN OFFICE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 864 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide guidance for determining whether interest income from sources within the United States is effectively connected with the conduct of a banking, financing, or similar business in the United States by a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	11/04/82	47 FR 49981
NPRM Comment Period Begin	11/04/82	47 FR 49981
NPRM Comment Period End	01/03/83	
Final Action	08/00/83	

Small Entity: Not Applicable

Additional Information: LR-34-80.

Drafting attorney: Martha E. Kadue (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

Circulating for signature. 7-23-83.

Agency Contact: Martha E. Kadue, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB92

250. INCOME TAX—ORIGINAL ISSUE DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 871 Internal Revenue Code of 1954; 26 USC 881 Internal Revenue Code of 1954; 26 USC 1441 Internal Revenue Code of 1954; 26 USC 1442 Internal Revenue Code of 1954; 26 USC 3401 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31

Abstract: The regulations would provide rules with respect to the taxation of original issue discount on bonds and obligations held by nonresident alien individuals and foreign corporations. The regulations would also provide guidance to withholding agents for withholding tax on original issue discount on such bonds and obligations. The regulations would provide that wages paid to a nonresident alien individual in a taxable year after the taxable year in which the wages were earned are subject to withholding under section 1441 and not under section 3401.

Timetable:

Action	Date	FR Cite
NPRM	07/12/76	41 FR 28517
NPRM Comment Period Begin	07/12/76	41 FR 28517
NPRM Comment Period End	09/09/76	
Hearing	11/18/76	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-2043.

Drafting attorney: Unassigned Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Lainoff.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Charles C. Saverude, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3323

RIN: 1545-AB93

251. INCOME TAX—RULES FOR DETERMINING WHETHER LOANS OR NET LEASES ARE COMMERCIAL ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 892 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would establish the activities with respect to loans or the ownership of real property that will be considered investment activities of foreign sovereigns. Income from such investments by foreign sovereigns would be exempt from U.S. tax.

Timetable:

Action	Date	FR Cite
NPRM	07/22/80	
NPRM Comment Period Begin	07/22/80	
NPRM Comment Period End	09/22/80	
Final Action	12/01/83	

Small Entity: Not Applicable

Additional Information: LR-110-80.

Drafting Attorney: Robert E. Culbertson Jr. (202) 566-3289.

Reviewing attorney: Martha E. Kadue (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff. 4/27/83

Draft to Office of International Tax Counsel (Treasury).

Agency Contact: Robert E. Culbertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB94

252. INCOME TAX—TEMPORARY REGULATIONS—NON-RECOGNITION, CORPORATE DISTRIBUTIONS, AND REORGANIZATION RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 897 Internal Revenue Code of 1954

CFR Citation: 26 CFR 6a

Abstract: The regulations would provide rules for determining the tax consequences to shareholders and corporations of certain distributions including: dividend distributions, redemptions, distributions in reorganizations, and liquidating distributions. They would also provide rules for determining the extent to which nonrecognition will apply to corporations, their shareholders, and other taxpayers and rules for certain transfers of property in reorganization under the Foreign Investment in Real Property Tax Act.

Timetable:

Action	Date	FR Cite
Final Action	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-130-81.

Drafting attorney: Robert E. Culbertson, Jr., (202) 566-3289

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Schreyer.

12/15/82 Draft of Temporary Regulations to International Tax Counsel for review.

Agency Contact: Robert E. Culbertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3289

RIN: 1545-AB96

253. INCOME TAX—PARTNERSHIP, TRUST, AND ESTATE RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 897(e)(2) Internal Revenue Code of 1954; 26 USC 897(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would provide rules for foreign partners to compute gain or loss on the sale or disposition of United States real property interests upon the sale of a partnership interest or a distribution in liquidation or a partnership interest.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-37-82.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Schreyer.

In Office of International Tax Counsel for comment, May 27, 1983.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB98

254. INCOME TAX—TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY AND INFORMATION RETURNS CONCERNING FOREIGN OWNERSHIP OF U.S. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 897 Internal Revenue Code of 1954; 26 USC 6039C Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These proposed regulations concern the information returns which must be filed with respect to foreign investment in United States real property interests by certain corporations, partnerships, trusts, estates and nonresident alien individuals. They also concern procedures for establishing that a corporation is not a United States real property holding corporation, and for foreign corporations to elect to be treated as domestic corporations. The proposed regulations also contain provisions defining relevant terms.

Timetable:

Action	Date	FR Cite
NPRM	09/21/82	47 FR 41581
NPRM Comment Period Begin	09/21/82	
NPRM Comment Period End	11/22/82	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-154-82.

Drafting Attorney: Robert Culbertson (202) 566-3289.

Reviewing attorney: Martha E. Kadue (202) 566-3289

09/21/82 Notice published.

Hearing held February 3, 1983.

Agency Contact: Robert E. Culbertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB99

255. NOTICE OF PROPOSED RULEMAKING—NONRECOGNITION CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Legal Authority: 26 USC 897 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules concerning the effect of certain distributions, including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property

VOL 48 ISS 201 OCT 17 1983 UMI

interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-297-82.

Drafting attorney: Robert E. Culbertson Jr., (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorney: Wold/Schreyer.

2/15/82 preliminary draft to Treasury for review.

Agency Contact: Robert E. Culbertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF17

256. INCOME TAX--TEMPORARY REGULATIONS--PARTNERSHIP, TRUST AND ESTATE RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 897(e)(2) Internal Revenue Code of 1954; 26 USC 897(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 6a

Abstract: This regulation would provide rules for foreign partners to compute gain or loss on the sale or disposition of United States real property interests upon the sale of a partnership interest or a distribution in liquidation of a partnership interest.

Timetable:

Action	Date	FR Cite
Final Action	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-36-82.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Schreyer.

In Office of International Tax Counsel for comment, May 27, 1983.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB97

257. INCOME TAX--CERTAIN PAYMENTS FOR OIL OR GAS NOT TO BE CONSIDERED AS TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 901(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Section 901 (f) denies, under certain conditions, a foreign tax credit for any payment made to a foreign country in connection with the purchase or sale of oil and gas extracted in that country. The section does not apply if either the taxpayer has an economic interest in the oil and gas or the taxpayer purchased and sold the oil or gas at fair market value. The regulations will define the terms "economic interest in oil or gas" and "fair market value of oil or gas." The regulations will provide rules for determining the amount of foreign taxes paid or accrued in connection with the purchase or sale of oil or gas.

Timetable:

Action	Date	FR Cite
NPRM	11/17/80	45 FR 75692
NPRM Comment Period Begin	11/17/80	45 FR 75692
NPRM Comment Period End	01/16/81	
Hearing	05/29/81	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-65-75 Drafting attorney: Carol T. Doran (202) 566-3289 Reviewing attorney: Charles C. Saverude (202) 566-3323 Office of International Tax Counsel (Treasury) reviewing attorneys: Schreyer, Granwell In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury decision.

Agency Contact: Carol T. Doran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3289

RIN: 1545-AC00

258. INCOME TAX--TO PROVIDE RULES SETTING FORTH REQUIREMENTS FOR CREDITABLE FOREIGN TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 901 Internal Revenue Code of 1954; 26 USC 903 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would set forth the requirements that must be met in order for a foreign levy to qualify as an income tax and thus be creditable.

Timetable:

Action	Date	FR Cite
ANPRM	08/28/78	43 FR 38429
ANPRM Comment Period Begin	08/28/78	43 FR 38429
ANPRM Comment Period End	10/27/78	
Previous NPRM	06/20/79	44 FR 36071
Hearing	10/11/79	
Temporary Regulation, NPRM	11/17/80	45 FR 75647
Hearing	05/28/81	
NPRM	04/05/83	48 FR 14641
NPRM Comment Period Begin	04/05/83	48 FR 14641
NPRM Comment Period End	06/06/83	
Hearing	06/23/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-100-78

Drafting attorney: Herman Bouma (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Lainoff, Schreyer.

Notice published 04/05/83.

Hearing held 06/23/83.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury decision.

Agency Contact: Herman B. Bouma, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC01

259. INCOME TAX--TO CLARIFY RULES FOR DETERMINING EARNINGS & PROFITS OF A FOREIGN CORPORATION & AMOUNT OF CREDITABLE FOREIGN TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 902 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide one consistent method for determining the earnings and profits of a foreign corporation for all purposes. "The regulation will also" provide new rules concerning the determination of an entity's functional currency and the recognition of currency gain or loss on transactions that are denominated in a foreign currency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-196-75 Drafting attorney: unassigned Reviewing attorney: Charles C. Saverude (202) 566-3323 Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Lainoff Draft of notice to Office of International Tax Counsel (Treasury), 07/09/82.

Agency Contact: Charles C. Saverude, Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Room 4109, Washington, D.C. 20224, 202 566-3323

RIN: 1545-AC02

260. INCOME TAX--RECAPTURE OF OVERALL FOREIGN LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 904(f) Internal Revenue Code of 1954; PL 97-248, Sec 211 Tax Equity & Fiscal Responsi Act of 1982

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for determining the amount of and recapturing overall foreign losses. An overall foreign loss under any one of the separate limitations on the foreign tax credit may offset the taxpayer's United States tax on United States source income in the year of the loss. The recapture rules provide that a portion of the taxpayer's foreign taxable income under the same limitation in subsequent years is to be recharacterized as United States source income, thereby reducing the taxpayer's foreign tax credit and preventing a double tax benefit from the loss.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-3-77.

Drafting Attorney: David J. Dean (202) 566-3289.

Reviewing attorney: Diane L. Renfroe (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

In Office of Chief Counsel (Legislation and Regulation Division) for preparation of notice. 12/12/82.

Agency Contact: David J. Dean, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC05

261. INCOME TAX--LIMITATION ON, AND TREATMENT OF, CAPITAL GAINS FOR PURPOSES OF FOREIGN TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 904(b)(2) Internal Revenue Code of 1954; 26 USC 904(b)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation provides rules for treating capital gains and losses for purposes of computing the foreign tax credit limitation fraction.

Timetable:

Action	Date	FR Cite
NPRM	01/06/83	48 FR 668
NPRM Comment Period Begin	01/06/83	48 FR 668
NPRM Comment Period End	03/07/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-228-78.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Lainoff, Schreyer.

Treasury decision in Commissioner's Office for Signature, July 24, 1983.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC03

262. INCOME TAX--PROCEDURE & ADMINISTRATION--TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 905(c) Internal Revenue Code of 1954; 26 USC 6689 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 301

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-34-81.

Drafting attorney: Carol Doran (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Schreyer.

Draft of the notice to International Tax Counsel of October 19, 1982.

Agency Contact: Carol T. Doran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Room 4109, Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC06

VOL 48 ISS 201 OCT 17 1983 UMI

263. INCOME TAX—TEMPORARY REGULATIONS—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 905(c) Internal Revenue Code of 1954; 26 USC 6689 Internal Revenue Code of 1954

CFR Citation: 26 CFR 4

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-118-82.

Drafting attorney: Carol Doran (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Schreyer.

Draft of the treasury decision to International Tax Counsel, on October 19, 1982.

Agency Contact: Carol T. Doran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Room 4109, Washington, D.C. 20224, **202 566-3289**

RIN: 1545-AC09

264. INCOME TAX—LIMITATION DEALING WITH FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL & GAS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 907 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide rules associated with limitations on the foreign tax credit for taxes paid on foreign oil and gas income.

Timetable:

Action	Date	FR Cite
NPRM	11/17/80	45 FR 75695
NPRM Comment Period Begin	11/17/80	45 FR 75695
NPRM Comment Period End	02/17/81	
Hearing	05/29/81	
Final Action	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-70-75.

Drafting attorney: Donald K. Duffy (202) 566-4336.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of International Tax Counsel (Treasury) reviewing attorneys: Schreyer, Granwell.

In office of Chief Counsel (Legislation and Regulations Division) for preparation of T.D.

Agency Contact: Donald K. Duffy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, **202 566-4338**

RIN: 1545-AC07

265. AMENDMENT OF REGULATIONS UNDER SECTION 907 OF THE INTERNAL REVENUE CODE OF 1954 TO CONFORM THEM TO SECTION 211 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 907 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would amend the regulations under section 907 of the Internal Revenue Code of 1954, relating to the foreign tax credit for taxes on oil and gas income, to conform them to section 211 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	01/31/84	

Small Entity: Not Applicable

Additional Information: LR-193-82.

Drafting Attorney: Mary Frances Pearson (202) 566-3289.

Reviewing Attorney: Herman B. Bouma (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorneys: Lainoff, Granwell.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Mary Frances Pearson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3287**

RIN: 1545-AE34

266. ●INCOME TAX—LIMITATION ON FOREIGN TAX CREDIT FOR FOREIGN OIL AND GAS TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 907 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Notice would define and interpret certain rules that would apply in defining a taxpayer's extraction and oil-related income. Changes to the Applicable law were made by section 601 (a) of the Tax Reduction Act of 1975 (89 Stat. 54).

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-149-83.

Drafting Attorney: Mary Frances Pearson (202) 566-3289.

Reviewing Attorney: Herman B. Bouma (202) 566-3289.

Office of International Tax Counsel (Treasury) Reviewing Attorneys: Lainoff, Granwell.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Mary Frances Pearson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3289**

RIN: 1545-AF60

267. INCOME TAX—INCOME OF U.S. CITIZENS & RESIDENTS WORKING ABROAD, EXCLUSIONS AND DEDUCTION FROM GROSS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 911 Internal Revenue Code of 1954; 26 USC 119 Internal Revenue Code of 1954; 26 USC 913 Internal Revenue Code of 1954; 26 USC 3401(a)(8) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Section 911 provides two exclusions and one deduction that may be claimed by certain United States citizens and residents living and working abroad. The exclusions are for foreign earned income up to a ceiling (which starts at $75,000 a year in 1982 and increases by $5,000 a year until it reaches $95,000 in 1986) and for the housing cost amount of a qualified individual to the extent it is attributable to employer provided amounts. The deduction is for the portion of the housing cost amount that is not attributable to employer provided amounts. The total of the exclusions and deduction may not exceed foreign earned income for the taxable year. These regulations will provide rules relating to the section 911 exclusions and deduction.

Timetable:

Action	Date	FR Cite
NPRM	07/20/83	48 FR 33007
NPRM Comment Period Begin	07/20/83	48 FR 33007
NPRM Comment Period End	09/19/83	

Small Entity: Not Applicable

Additional Information: LR-208-81.

Drafting attorney: Carol Doran (202) 566-3289.

Reviewing attorney: Charles Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

Notice published 7-20-83 (48 FR 33007).

Agency Contact: Carol T. Doran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Room 4109, Washington, D.C. 20224, **202 566-3289**

RIN: 1545-AC08

268. POSSESSION TAX CREDIT AND INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS: COMPUTATION OF TAXABLE INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 936 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance for the computation of taxable income under a method elected for purposes of electing out of the treatment of intangible property income under section 936.

Timetable:

Action	Date	FR Cite
NPRM	01/01/84	

Small Entity: Not Applicable

Additional Information: LR-196-82.

Drafting Attorney: Mary E. Dean (202) 566-3289.

Reviewing Attorney: Charles S. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorneys: Lainoff, Granwell.

In Legislation and Regulations Division for preparation of Notice.

Agency Contact: Mary E. Dean, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, **202 566-3289**

RIN: 1545-AE35

269. POSSESSION TAX CREDIT AND INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS: BUSINESS PRESENCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 936 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations will provide tests for determining whether an electing corporation meets the significant business presence test. The regulations will define the terms "product" "type of service," "direct material costs," and "direct labor costs." The regulations will also provide an appropriate transitional period for commencement in a possession of operations with respect to products or types of service after August 19, 1982.

Timetable:

Action	Date	FR Cite
NPRM	01/01/84	

Small Entity: Not Applicable

Additional Information: LR-195-82.

Drafting Attorney: Carol T. Doran (202) 566-3289.

Reviewing Attorney: Charles C. Saverude (202) 566-3323.

International Tax Counsel reviewing attorneys: Lainoff, Granwell.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Carol T. Doran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, **202 566-3289**

RIN: 1545-AE36

270. AMENDMENT OF REGULATIONS UNDER SECTIONS 934 AND 936 TO CONFORM TO CHANGES MADE BY SECTION 213 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 936 Internal Revenue Code of 1954; 26 USC 934 Internal Revenue Code of 1954; 26 USC 367 Internal Revenue Code of 1954; 26 USC 248 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would amend sections 936 and 934 of the Internal Revenue Code of 1954 to conform to changes made by section 213 of the Tax Equity and Responsibility Act of 1982. These changes relate to the Puerto Rico and possession tax credit and the income tax liability incurred to the Virgin Island general rules.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/82	47 FR 53746
ANPRM Comment Period Begin	11/29/82	47 FR 53746
ANPRM Comment Period End	12/29/82	
NPRM	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-194-82.

Drafting Attorney: Jacob Feldman (202) 566-3289.

Reviewing Attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorney: Steven Lainoff.

Advanced notice of proposed rulemaking issued November 29, 1982, 47 FR 53746.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF21

271. INCOME TAX--DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO & POSSESSION TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 936(d)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-106-77.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Lainoff, Schreyer. Project is in Treasury for comments on draft of Notice July 1, 1983.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C.20224, 202 566-3289

RIN: 1545-AC10

272. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 954 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would define and interpret when foreign oil related income will be subject to current taxation under section 954 of the Internal Revenue Code of 1954. Changes to the applicable law were made by section 212 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	06/23/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-197-82.

Drafting Attorney: Mary Frances Pearson (202) 566-3238.

Reviewing Attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel Reviewing attorney: Steve Lainoff.

In Legislation and Regulations Division for preparation of a Notice of Proposed Rulemaking.

Agency Contact: Mary Frances Pearson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AE38

273. ●AMENDMENT OF REGULATIONS UNDER SECTION 955 DEALING WITH RELATED GROUP ELECTION WITH RESPECT TO QUALIFIED INVESTMENTS IN FOREIGN BASE SHIPPING COMPANY OPERATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 955 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would amend section 955 of the Internal Revenue Code of 1954 to provide that an election to treat qualified investments in foreign base shipping assets on a related group basis will apply to all future years once the election is made and may not be revoked without the consent of the Commissioner.

Timetable:

Action	Date	FR Cite
NPRM	05/19/83	48 FR 22584
NPRM Comment Period Begin	05/19/83	48 FR 22584
NPRM Comment Period End	07/18/83	
Final Action	10/00/83	

Small Entity: No

Additional Information: LR-58-83.

Drafting Attorney: Jacob Feldman (202) 566-3289.

Reviewing Attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorney: Lainoff.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF74

274. INCOME TAX--AMENDMENTS AFFECTING DISC PERTAINING TO MILITARY SALES & INCREMENTAL EXPORT GROSS RECEIPTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 995 Internal Revenue code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would provide rules with respect to computing the incremental distribution and distributions with respect to military sales for purpose of the domestic international sales provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-246-76.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Lainoff.

Draft of Notice in Office of International Tax Counsel for comments, July 25, 1983.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC17

275. INCOME TAX--BASIS OF CERTAIN APPRECIATED PROPERTY TRANSFERRED TO DECEDENT, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1014(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will explain the denial of a stepped-up basis for appreciated property acquired by decedent through gift within one year of death if such property passes, directly or indirectly, from donee-decedent to original donor or the donor's spouse.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-235-81.

Drafting attorney: Ada S. Rousso (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3287.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC18

276. INCOME TAX--BASIS LIMITATION & RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1056 Internal Revenue Code of 1954; 26 USC 1245 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for determining the basis of player contracts acquired by a purchaser upon the sale or exchange of a sports franchise. Generally, the purchaser's basis with respect to player contracts is to be determined by reference to the seller's adjusted basis and the gain the seller recognizes from the transfer of the player contracts. Exceptions are provided in the cases of certain corporate one-year liquidations, certain like-kind exchanges and for certain transfers relating to decedents. Furthermore, a presumation is provided that in the sale or exchange of a sports franchise, not more than 50-percent of the consideration will be allocable to player contracts unless the taxpayer can satisfy the Secretary it is proper to allocate an amount in excess of 50-percent.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-222-76.

Drafting attorney: Howard Balikov (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Mundstock/Levinson.

Draft of notice is in Office of Chief Counsel (Legislation and Regulations Division) for revision, 01/03/83.

Agency Contact: Howard Balikov, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AC19

277. INCOME TAX--TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1058 Internal Revenue code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide that so long as the provisions of section 1058 and these regulations are met, the lender will neither recognize gain or loss on the transfer of securities nor upon the return of identical securities.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	01/26/83	48 FR 33912
NPRM	07/26/83	48 FR 33912
NPRM Comment Period End	09/26/83	

Small Entity: Not Applicable

Additional Information: LR-182-78.

Drafting attorney: Howard A. Balikov (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Kuller, Levinson.

Final draft of notice to Commissioner for formal approval 09/07/82.

Agency Contact: Howard Balikov, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AC20

278. INCOME TAX--TAX STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1092 Internal Revenue Code of 1954; 26 USC 6653 Internal Revenue Code of 1954; 26 USC 263(g) Internal Revenue Code of 1954; 26 USC 1256 Internal Revenue Code of 1954; 26 USC 1212 Internal Revenue Code of 1954; 26 USC 1236 Internal Revenue Code of 1954; 26 USC 1234A Internal Revenue Code of 1954; 26 USC 1232 Internal Revenue Code of 1954; 26 USC 1221 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations will provide the rules under Title 5 of the Economic Recovery Tax Act of 1981 for tax straddles. These regulations will affect the tax treatment of regulated futures contracts, forward contracts, and positions in commodities.

Timetable:

Action	Date	FR Cite
NPRM	03/01/84	

Small Entity: Not Applicable

Additional Information: LR-187-81.

Drafting attorney: Barry L. Wold (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Barry L. Wold, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AC21

279. INCOME TAX--TEMPORARY REGULATIONS--TAX STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1092 Internal Revenue Code of 1954; 26 USC 1256 Internal Revenue Code of 1954; 26 USC 6653 Internal Revenue Code of 1954; 26 USC 263(g) Internal Revenue Code of 1954; 26 USC 1212 Internal Revenue Code of 1954; 26 USC 1221 Internal Revenue code of 1954; 26 USC 1236 Internal Revenue Code of 1954; 26 USC 1234A Internal Revenue Code of 1954; 26 USC 1232 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5c

Abstract: These regulations will provide the rules under Title 5 of the Economic Recovery Tax Act of 1981 for tax straddles. These regulations will affect the tax treatment of regulated futures contracts, forward contracts, and positions in commodities.

Timetable:

Action	Date	FR Cite
Final Action	03/01/84	

Small Entity: Not Applicable

Additional Information: LR-186-81.

Drafting attorney: Barry L. Wold (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury decision.

Agency Contact: Barry L. Wold, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AC22

280. REGULATIONS UNDER SECTION 1232A RELATING TO ORIGINAL ISSUE DISCOUNT TAKEN INTO ACCOUNT ON BASIS OF CONSTANT INTEREST RATE

Legal Authority: 26 USC 1232A Internal Revenue Code; 26 USC 163 Internal Revenue Code

CFR Citation: 26 CFR 1

Abstract: Regulations would provide guidance as to computation of amount to be included in income by holders and amount to be deducted by issuers of certain bonds issued after July 1, 1982. With respect to these bonds, original issue discount is computed on the basis of a constant rate. Provision is made for the computation of original issue discount in special circumstances where the interest rate is variable, where put and call options are present, and in other circumstances.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-222-82.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: John P. MacMaster (202) 566-3294.

Office of Tax Legislative Counsel Reviewing Attorney: Richard Reinhold.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Susan K. Thompson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AE27

281. REGULATIONS UNDER SECTION 1232B RELATING TO THE TAX TREATMENT OF STRIPPED BONDS

Legal Authority: 26 USC 1232B Internal Revenue Code

CFR Citation: 26 CFR 1

Abstract: Regulations would provide guidance as to treatment of proceeds of sale of stripped coupons and stripped bonds issued after July 14, 1982. If a stripped bond or stripped coupon is disposed of after July 1, 1982, the purchaser must include in income an amount computed under section 1232A(a). The stripper must allocate his basis in the bond components (stripped bond and stripped coupons) on the basis of their fair market value.

Timetable:

Action	Date	FR Cite
NPRM	06/01/83	
Final Action	09/01/83	

Small Entity: Not Applicable

Additional Information: LR-223-82.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: John P. MacMaster (202) 566-3294.

Office of Tax Legislative Counsel Reviewing Attorney: Richard Reinhold.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Susan K. Thompson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, DC 20224, 202 566-3294

RIN: 1545-AE21

282. INCOME TAX—TIME FOR DETERMINING RELATEDNESS UNDER SECTION 1239—RELATING TO TRANSFER OF DEPRECIABLE PROPERTY BETWEEN RELATED PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1239 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The rule will provide that 80 percent relatedness determination under section 1239 is determined immediately before or after the sale or exchange of depreciable assets. A determination of relatedness under section 1239 converts what would otherwise be capital gain into ordinary gain.

Timetable:

Action	Date	FR Cite
NPRM	01/05/83	48 FR 00667
NPRM Comment Period Begin	01/05/83	48 FR 00667
NPRM Comment Period End	03/07/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-104-81.

Drafting attorney: George Magnatta (202) 566-3459.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Notice of Proposed Rulemaking Published 01/05/83.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AC29

283. INCOME TAX—GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1248 Internal Revenue Code of 1954; 26 USC 751 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-232-76.

Drafting attorney: Martha E. Kadue (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: Lainoff.

In Legislation and Regulations Division for revision of notice of proposed rulemaking.

Agency Contact: Martha E. Kadue, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC31

284. INCOME TAX—TRANSFER OF FRANCHISES; TRADEMARKS & TRADE NAMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1253 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would clarify the income tax treatment of transfers of franchises, trademarks, or trade names. It would provide guidance to determine to what extent the proceeds of such transfer are treated as gains from the sale of a capital asset rather than ordinary income.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/70	
Previous NPRM	07/15/71	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1644.

Drafting attorney: John A. Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Levinson.

Revised notice returned to Office of Chief Counsel (Legislation and Regulations Division) for further review.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3294

RIN: 1545-AC33

285. INCOME TAX—TO CLARIFY TREATMENT OF BASIS IN TRANSFERS OF FRANCHISES, TRADEMARKS, & TRADE NAMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1253 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would clarify the tax treatment of the basis of a franchise, trademark, or trade name transferred under section 1253 of the Internal Revenue Code of 1954. It would provide guidance regarding how to allocate the basis among the portions of the sale proceeds which are treated as arising from the sale of a capital asset and other portions which are ordinary income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-183-81.

Drafting attorney: John A. Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3294

RIN: 1545-AC34

286. INCOME TAX—GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1254 Internal Revenue Code of 1954; 26 USC 751 Internal Revenue Code of 1954; Tax Reform Act of 1978, Section 705; Tax Reform Act of 1976, Section 1901; Energy Tax Act of 1978, Section 402

CFR Citation: 26 CFR 1

Abstract: The regulations will determine the tax treatment of gain from the disposition of certain oil, gas, or geothermal property to determine how much of the gain from the disposition is subject to recapture under section 1254 and accorded ordinary income treatment. The regulations also will define intangible drilling and development costs, disposition, and oil, gas and geothermal property for purposes of section 1254.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/31/75	
NPRM	06/11/80	45 FR 39512
NPRM Comment Period Begin	06/11/80	45 FR 39512
NPRM Comment Period End	08/11/80	
Hearing	09/09/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-276-76.

Drafting attorney: Diane Kroupa (202) 566-3459.

Reviewing attorney: Pete Scott (202) 566-6655.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

07/20/82 Treasury Decision to Treasury for briefing and comment.

Agency Contact: Diane Kroupa, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AC35

287. INCOME TAX—TEMPORARY REGULATIONS—TAX STRADDLE IDENTIFICATION RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1092(a) Internal Revenue Code of 1954; 26 USC 1092(c) Internal Revenue Code of 1954; 26 USC 1256 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5c

Abstract: These regulations will provide the identification rules for identified straddles, mixed straddles, and hedging transactions. Proper identification is required by the statute if the taxpayer wants to utilize the special rules for identified straddles, mixed straddles, and hedging transactions.

Timetable:

Action	Date	FR Cite
Final Action	09/01/83	

Small Entity: Not Applicable

Additional Information: LR-281-81.

VOL
48
ISS
201
OC
17
1983
UMI

Drafting attorney: Barry L. Wold (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Reinhold.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of final draft of T.D.

Agency Contact: Barry L. Wold, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AC24

288. ●REGULATIONS RELATING TO FOREIGN CURRENCY CONTRACTS UNDER SECTION 1256 OF THE INTERNAL REVENUE CODE

Legal Authority: 26 USC 7805; 26 USC 1256

CFR Citation: 26 CFR 1

Abstract: These regulations will describe what contracts are foreign currency contracts and are therefore included in the definition of regulated futures contracts in 26 USC 1256. It is necessary to know the proper description of these contracts to determine their proper tax treatment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	

Small Entity: No

Additional Information: LR-52-83.

Drafting Attorney: Barry Wold (202) 566-3294.

Reviewing Attorney: John Fischer (202) 566-3394.

TLC Attorney: George Mundstock (202) 566-2175.

Agency Contact: Barry L. Wold, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, DC 20224, 202 566-3294

RIN: 1545-AF50

289. INCOME TAX—TREATMENT OF OBLIGATIONS WHICH PURPORT TO REPRESENT DEBT AS A SECOND CLASS OF STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1361 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to shareholders and debt instrument holders who must comply with the law relating to subchapter S corporations. The regulations will provide rules relating to whether or not a subchapter S corporation has more than one class of stock.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-4-73.

Drafting attorney: Annie R. Alexander (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Kuller, McKee.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Annie Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC37

290. INCOME TAX—DEFINITION OF S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1361 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would address the following matters: (1) the number of permitted shareholders of a small business corporation (2) the types of trusts that are permitted to be shareholders of a small business corporation, (3) whether shares are permitted to be owned as a split interest and (4) the rules relating to corporations that are ineligible to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-262-82.

Drafting Attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing Attorney: Walter H. Woo (202) 566-3297.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE86

291. AMENDMENT OF INCOME TAX REGULATIONS UNDER CODE SECTIONS 1362 AND 1363 RELATING TO THE ELECTION, REVOCATION, AND TERMINATION OF AN S CORPORATION

Legal Authority: 26 USC 7805; 26 USC 1362; 26 USC 1363

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidelines for electing, revoking and terminating S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-260-82.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney:

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE26

292. INCOME TAX—PASS-THRU OF S CORPORATION ITEMS TO SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1366 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the tax treatment of income and loss items passed through to the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-261-82.

Drafting Attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing Attorney: Walter H. Woo (202) 566-3297.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE85

293. INCOME TAX—RULES RELATING TO ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS OF S CORPORATION AND TO DETERMINATION OF BASIS OF PROPERTY DISTRIBUTION BY CORPORATION

Priority: Undetermined

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1367 Internal Revenue Code of 1954; 26 USC 1368 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations would provide rules for adjusting the basis of stock of a shareholder in an S corporation and rules for determining the basis of property distributed by an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-264-82.

Drafting Attorney: Douglas W. Charnas (202) 566-3297.

Reviewing Attorney: Walter H. Woo (202) 566-3297.

In Legislation and Regulations Division for preparation of a notice of proposed rulemaking.

Agency Contact: Douglas W. Charnas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3297

RIN: 1545-AE88

294. INCOME TAX—CERTAIN RULES RELATING TO SHAREHOLDERS OF SUBCHAPTER S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue code of 1954; 26 USC 1371 Internal Revenue Code of 1954; 26 USC 1372 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would address the following issues: (1) The number of permitted shareholders of a small business corporation, (2) The rules regarding stock held by a husband and wife, (3) The types of trusts that are permitted to be shareholders of a small business corporation, (4) Whether shares are permitted to be owned as a split interest, (5) The rules relating to the time period for making an election of status as a small business corporation and the manner for making such election, and (6) Rules relating to how a new shareholder may terminate a subchapter S election.

Timetable:

Action	Date	FR Cite
NPRM	04/17/80	45 FR 26092
NPRM Comment Period Begin	04/17/80	45 FR 26092
NPRM Comment Period End	06/13/80	
Hearing	10/08/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-277-76.

Drafting attorney: Robert Ginsburgh (202) 566-3297.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Kuller, McKee.

Draft of Treasury Decision to Office of Tax Legislative Counsel, 10/28/82.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC38

295. INCOME TAX—APPLICATION OF SUBCHAPTER C RULES TO S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposal would amend the regulations under section 1371 to changes made by the subchapter S Revision Act of 1982 relating to the application of subchapter C rules to S corporations and other technical amendments under sections 2, 5, and 6 of the Act. The regulation would provide the public with guidance to comply with the Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-265-82.

Drafting Attorney: Annie R. Alexander (202) 566-3297.

Reviewing Attorney: John B. Bromell (202) 566-3326.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Annie R. Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE90

296. INCOME TAX—TREATMENT OF S CORPORATION AS A PARTNERSHIP FOR CERTAIN PURPOSES OF THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805; 26 USC 1372; 26 USC 1373; 26 USC 613A; 26 USC 4996; 26 USC 48

CFR Citation: 26 CFR 1

Abstract: The regulation will provide guidance to taxpayers relating to the treatment of S corporation as partnership for purposes of certain provisions of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-266-83.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel Reviewing Attorney: Mark Kuller.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE28

297. AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTIONS 1374 AND 1375 RELATING TO THE IMPOSITION OF TAX ON CAPITAL GAINS AND PASSIVE INVESTMENT INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations will provide rules relating to a tax on capital gains and excess passive income in the case of certain subchapter S corporations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-267-82.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Kuller.

Notice of proposed rulemaking in Office of Chief Counsel Legislation and Regulations Division for preparation.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C., 202 566-3297

RIN: 1545-AE92

298. INCOME TAX—DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1377 Internal Revenue Code of 1954; 26 USC 1378 Internal Revenue Code of 1954; 26 USC 1379 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would define and interpret the definitions and special rules contained in section 1377 through 1379 of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-268-82.

Drafting Attorney: Nerman Dobynes Hubbard (202) 566-3297.

Reviewing Attorney: Walter H. Woo (202) 566-3297.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE94

299. INCOME TAX—CERTAIN ELECTIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1361 Internal Revenue Code of 1954; 26 USC 1362 Internal Revenue Code of 1954; 26 USC 1377 Internal Revenue Code of 1954; 26 USC 1378 Internal Revenue Code of 1954; 26 USC 1379 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations relate to the time and manner of making certain elections, consents, and refusals under the Subchapter S Revision Act of 1982 and to the taxable year which a corporation may select in order to make the election to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/26/83	48 FR 03637
NPRM Comment Period Begin	01/26/83	48 FR 03637
NPRM Comment Period End	03/28/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1-83.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: Walter Woo (202) 566-3297.

Office of Tax Legislative Counsel Reviewing Attorneys: Kuller, McKee.

Notice published, 01/26/83.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington D.C. 20224, 202 566-3297

RIN: 1545-AF30

300. INCOME TAX—QUALIFIED PENSION, ETC. PLANS OF SMALL BUSINESS CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1379 Internal Revenue Code of 1954; PL 91-172, Sec 531; PL 93-406; PL 97-248, Sec 238(c)

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25

Abstract: The regulation will provide guidance to qualified defined contribution pension, profit-sharing, and stock bonus plans of electing small business corporations, and their shareholder-employees to enable them to comply with changes made by PL 91-172, Sec 531, and PL 93-406.

Timetable:

Action	Date	FR Cite
NPRM		37 FR 9295
NPRM Comment Period Begin	05/06/72	37 FR 9295
NPRM Comment Period End	06/07/72	
Final Action	08/00/84	

Small Entity: Not Applicable

Additional Information: EE-35-78.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway, Rollyson.

Conference held, 07/24/72.

2nd revised preliminary draft of T.D. to Office of Tax Legislative Counsel (Treasury) & Office of Assistant Commissioner (Employee Plans and Exempt Organizations), 08/13/80.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE07

301. INCOME TAX—TO CLARIFY SECTION 1.1382-6 WITH REGARD TO INVENTORY POOLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1382 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations would provide guidance to cooperatives with regard to inventory pools that remain open at the end of the taxable year.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	

Small Entity: Not Applicable

Additional Information: LR-63-82.

Drafting attorney: Patricia K. Keesler (202) 566-3430.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Andy Pike.

Draft of notice to Office of Tax Legislative Counsel (Treasury) 07/09/82.

Agency Contact: Patricia K. Keesler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AB32

302. INCOME TAX—RELATING TO TAX TREATMENT OF PER UNIT RETAIN ALLOCATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1385 Internal Revenue Code of 1954; 26 USC 1388 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project would provide proposed rules relating to the tax treatment of a cooperatives income that is not distributed to the members of the cooperative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/84	

Small Entity: Not Applicable

Additional Information: LR-1175.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Notice pending Treasury review.

Agency Contact: Paul Weisman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3238

RIN: 1545-AC40

303. INCOME TAX—DISTRIBUTIONS QUALIFYING AS PATRONAGE DIVIDENDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1382 Internal Revenue Code of 1954; 26 USC 1388 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for netting the income and losses of allocation units within the cooperative. In addition the regulations clarify the meaning of preexisting legal obligation.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	

Small Entity: Not Applicable

Additional Information: LR-268-79.

Drafting attorney: Patricia K. Keesler (202) 566-3430.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Notice pending Treasury review.

Agency Contact: Patricia K. Keesler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AC39

304. INCOME TAX—PERSONAL SERVICES INCOME OF NONRESIDENT ALIEN INDIVIDUALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1441 Internal Revenue Code of 1954; 26 USC 1461 Internal Revenue Code of 1954; 26 USC 1462 Internal Revenue Code of 1954; 26 USC 3401 Internal Revenue Code of 1954; 26 USC 7605 Internal Revenue Code of 1954; 26 USC 7701 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 301

Abstract: The regulations would provide for exemptions from witholding of tax from independent personal service income of nonresident alien individuals, clarify the obligations of withholding agents, and update the rules with respect to Forms 1042 and 1042S.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-165-78.

Drafting attorney: Martha E. Kadue (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

To Treasury for comment 7/26/83.

Agency Contact: Martha E. Kadue, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC43

305. INCOME TAX—TO PROVIDE FOR A CERTIFICATION METHOD OF WITHHOLDING ON DIVIDENDS PAID TO NONRESIDENT ALIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1441 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will relate to withholding on items of income subject to a reduced rate of or exemption from United States tax under an income tax treaty to which the United States is a party. These regulations would amend the existing regulations to provide more stringent requirements for obtaining reduced rates of or exemptions from United States tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-40-79.

Drafting attorney: Carol Doran (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: Granwell.

Draft of notice to Office of International Tax Counsel (Treasury), 04/30/82.

VOL
48
ISS
2
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1
OC
17
1983
UMI

Agency Contact: Carol T. Doran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC42

306. ●26 CFR PART I--AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 1502 OF THE CODE TO REFLECT SECTION 224 OF TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would make amendments to the Consolidated Return Regulations to conform them to section 338 of the Code, as added by section 224 of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by section 306 of the Technical Corrections Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	12/01/83	
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-80-83.

Drafting Attorney: Duane H. Pellervo (202) 566-3458.

Reviewing Attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Mark Yecies.

In Legislation and Regulations Division for preparation of Notice of proposed rulemaking.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, DC 20224, 202 566-3458

RIN: 1545-AF41

307. ●INCOME TAX--PERMISSION TO DISCONTINUE FILING LIFE-NONLIFE CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 26 USC 1504 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These final regulations will amend 26 CFR 1.1502-47 (e) (4) to clarify the time and manner for exercising the election to discontinue.

Timetable:

Action	Date	FR Cite
Final Action	09/00/83	

Small Entity: No

Additional Information: LR-99-83.

Drafting Attorney: Keith E. Stanley (202) 566-3458.

Reviewing Attorney: Marcus Blumkin (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Andrew Pike.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3458

RIN: 1545-AF55

308. ●AMENDMENT OF CONSOLIDATED RETURNS REGULATIONS RELATING TO LIFE-LIFE CONSOLIDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would deal with issues relating to life-life consolidations which were reserved by Treasury Decision 7877 for further study.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-66-83.

Drafting Attorney: Yerachmiel E. Weinstein (202) 566-3458.

Reviewing Attorney: Mark Blumkin (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Andy Pike.

In Legislation and Regulations Divison for preparation of notice of proposed rulemaking.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF67

309. INCOME TAX-REVISION OF REGULATIONS UNDER SECTION 1502 RE. PERSONAL HOLDING COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide rules for applying the personal holding company tax to corporations filing consolidated returns.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-1086.

Drafting attorney: Carolyn Swift (202) 566-3487.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

Notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision, 07/05/79.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC45

310. INCOME TAX--CONSOLIDATED RETURN REGULATIONS--REVISION OF REGULATIONS RE. ACCUMULATED EARNINGS TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposal would provide rules for applying the accumulated earnings tax to a group of corporations filing a consolidated income tax return.

Timetable:

Action	Date	FR Cite
Previous NPRM	07/09/68	33 FR 9630
Hearing	09/12/68	
Previous NPRM withdrawn	08/25/71	36 FR 1661
NPRM	05/14/79	44 FR 28001
NPRM Comment Period Begin	07/13/79	44 FR 28001
Hearing	10/03/79	
Final Action	08/00/83	

Small Entity: No

Additional Information: LR-1386.

Drafting attorney: Charles M. Whedbee (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

Pending in Chief Counsel (Legislation and Regulations Division).

Agency Contact: Charles M. Whedbee, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC50

311. INCOME TAX--CONSOLIDATED RETURN/ACCUMULATED EARNINGS TAX-EARNINGS AND PROFITS WHEN A MEMBER IS A PERSONAL HOLDING COMPANY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposal would provide rules relating to the application of the accumulated earnings tax to a group of corporations filing a consolidated income tax return when one or more members of the group is a personal holding company.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	

Small Entity: No

Additional Information: LR-256-79.

Drafting attorney: Charles M. Whedbee (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

Pending in Chief Counsel (Legislation and Regulations Division).

Agency Contact: Charles M. Whedbee, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC51

312. INCOME TAX--CREDIT & DEDUCTIONS ETC., FOR CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Provision would amend the consolidated returns regulations to clarify, among other things, the rules relating to net operating loss carrybacks of a member of an affiliated group filing consolidated returns to a year in which the member was not in existence, thereby giving the public needed guidance on what the rule is in that situation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-97-79.

Drafting attorney: Benedetta Kissel (202) 566-3238.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Final draft of notice of proposed rulemaking sent to Office of Tax Legislative Counsel, 8/9/82.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C., 202 566-3458

RIN: 1545-AC48

313. INCOME TAX--FILING OF SEPARATE RETURNS FOR PERIOD NOT INCLUDED IN A CONSOLIDATED RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would clarify the consolidated return regulations relating to annual accounting periods and to separate return years.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-216-79.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

Returned from Treasury 09-30-82

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC57

314. INCOME TAX--TO REFLECT AMENDMENTS OF CONSOLIDATED RETURN REGULATIONS TO REFLECT MERCHANT MARINE ACT OF 1970 CONCERNING MERCHANT MARINE & FISHERIES CAPITAL ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 11 USC 1177 Merchant Marine Act of 1936

CFR Citation: 26 CFR 3

Abstract: The proposal would provide rules for the income tax treatment, by corporations filing consolidated returns, with respect to capital construction funds for certain vessels.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Additional Information: LR-29-78.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Notice pending Treasury review.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC52

315. INCOME TAX--TO PROVIDE CONSOLIDATED RETURN RULES RELATING TO AFFILIATED GROUPS THAT INCLUDE ONLY LIFE INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation provides rules for determining consolidated life insurance company taxable income for affiliated groups that include only life insurance companies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-94-74.

Drafting attorney: Donald K. Duffy (202) 566-4336.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Draft of notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision, 01/15/82.

Agency Contact: Donald K. Duffy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC49

316. INCOME TAX—CONSOLIDATED RETURN REGULATIONS—INVESTMENT ADJUSTMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Provision would amend the consolidated returns investment adjustment rules regarding, among other things, the proper treatment of various items which affect earnings and profits and taxable income differently, thereby giving the public needed guidance on what that proper treatment is.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: LR-113-77.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Analysis: Draft RFA 00/00/00

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AC53

317. INCOME TAX—ACCELERATED DEPRECIATION IN INVESTMENT ADJUSTMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Provision would amend the consolidated returns investment adjustment rules to reflect the proper treatment of accelerated depreciation thereby giving the public needed guidance on what that proper treatment is.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-222-81.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

Draft of notice to Office of Chief Counsel (Corporation Tax Division) & Office of Tax Legislative Counsel (Treasury), 03/23/82.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC47

318. INCOME TAX—MISCELLANEOUS & TECHNICAL AMENDMENTS TO CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Provision would amend the consolidated returns regulations in a number of areas including minimum tax, foreign tax credit, and deferred intercompany transactions rules, among other areas, thereby giving the public needed guidance on what the rules governing the consolidated returns treatment of those areas are.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-140-73.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision, 03/21/78.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC46

319. INCOME TAX—AT RISK LIMITATIONS OF SECTION 465

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 26 USC 465 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Provision would amend the consolidated returns regulations to provide rules applying the at-risk limitations of section 465 of the Internal Revenue Code of 1954 to affiliated groups filing consolidated returns, thereby giving the public needed guidance as to how these rules apply to such groups.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-75-79.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McCarty, Levinson.

Revised draft of notice to Office of Tax Legislative Counsel (Treasury), 12/27/79.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC55

320. INCOME TAX—INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1504 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to an election to treat a foreign subsidiary of a United States corporation as a domestic corporation if the subsidiary is formed in a contiguous country to comply with foreign law.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-189-77.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Shay, Lainoff.

Notice pending Treasury review.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AC58

321. INCOME TAX—TO REFLECT THE U.S. SUPREME COURT IN U.S. V. VOGEL FERTILIZER CO., HOLDING THAT EACH MEMBER OF STOCKGROUP MUST OWN STOCK IN EACH BROTHER-SISTER CORP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1563(a)(2) Internal Revenue Code of 1954; 26 USC 50B Internal Revenue Code of 1954; 26 USC 52 Internal Revenue Code of 1954; 26 USC 414(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations relating to the definition of a brother-sister controlled group of corporations are to be amended to conform to the Supreme Court decision in U.S. v. Vogel Fertilizer Company, which held that a person's stock ownership is not taken into account for purposes of the 80% ownership test unless that person owns stock in each brother-sister corporation.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-35-82.

Drafting attorney: Michel A. Daze (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Revised draft of notice circulated on 11/24/82.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AC59

322. ESTATE & GIFT TAXES—UNIFIED RATE SCHEDULE FOR ESTATE & TAXES & UNIFIED CREDIT IN LIEU OF EXEMPTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2001 Internal Revenue Code of 1954; 26 USC 2010 Internal Revenue Code of 1954; 26 USC 2011 Internal Revenue Code of 1954; 26 USC 2012(a) Internal Revenue Code of 1954; 26 USC 2012(e) Internal Revenue Code of 1954; 26 USC 2013(b) Internal Revenue Code of 1954; 26 USC 2013(e)(1) Internal Revenue Code of 1954; 26 USC 2014(b)(2) Internal Revenue Code of 1954; 26 USC 2035 Internal Revenue Code of 1954; 26 USC 2038(a) Internal Revenue Code of 1954; 26 USC 2044 Internal Revenue Code of 1954; 26 USC 2052 Internal Revenue Code of 1954; 26 USC 2104 Internal Revenue Code of 1954; 26 USC 2106 Internal Revenue Code of 1954;

CFR Citation: 26 CFR 20; 26 CFR 25

Abstract: The unified rate schedule for estate and gift taxes and unified credit in lieu of exemptions will be implemented by the regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-212-76.

Drafting attorney: Fredric E. Grundeman (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

Draft of notice returned to Office of Chief Counsel (Legislation Regulations Division) for revision, 10/07/81.

Agency Contact: Fredric E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC60

323. INCOME TAX—ESTATE TAX—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS—MISCELLANEOUS PROVISIONS RELATING TO GENERATION-SKIPPING TRANSFERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2622 Internal Revenue Code of 1954; 26 USC 2013(g) Internal Revenue Code of 1954; 26 USC 691(c) Internal Revenue Code of 1954; 26 USC 303(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 26

Abstract: Miscellaneous changes to the estate, gift and income tax law necessitated by the generation-skipping transfer tax provision under sections 2013, 691 and 303 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-202-76.

Drafting attorney: Robert H. Waltuch (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

VOL 48 ISS 201 OCT 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Robert H. Waltuch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC75

324. ESTATE & GIFT TAXES—REVISION OF INTEREST RATE ASSUMPTIONS FOR ACTUARIAL PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2031 Internal Revenue Code of 1954; 26 USC 2512 Internal Revenue Code of 1954; 26 USC 170(f)(4) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 11; 26 CFR 20; 26 CFR 25

Abstract: The regulations will provide for the use of a new interest rate and new actuarial tables in valuing annuities, life estates, terms for years, remainders, and reversions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-85-80.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Garlock, Woodward.

In Treasury for review.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC61

325. ESTATE TAX—VALUATION OF CERTAIN FARM, ETC. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2032A Internal Revenue Code of 1954; 26 USC 2013(f) Internal Revenue Code of 1954; 26 USC 1016(c) Internal Revenue Code of 1954; 26 USC 1040 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 1

Abstract: Special use valuation of certain farm and closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the various requirements which an estate must satisfy and will provide rules governing the imposition and payment of the "additional estate tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/83	
Interim Final Rule	03/00/84	

Small Entity: Not Applicable

Additional Information: LR-209-81.

Drafting attorney: Fredric E. Grundeman (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Office of the Tax Legislative Counsel (Treasury) reviewing attorneys: Garlock, Levinson.

Agency Contact: Fredric E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC62

326. ESTATE & GIFT TAXES—INCLUSION OF STOCK IN ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2036(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 20

Abstract: These regulations will provide the extent to which the retention of voting rights by a transferor of stock will require that the value of that stock be included in the transferor's gross estate.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-181-76.

Drafting attorney: John R. Harman (202) 566-3238.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

6/13/80 draft of notice to Treasury for review.

Agency Contact: John R. Harman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3238

RIN: 1545-AC63

327. INCOME TAX—REGULATIONS TO CHANGE ELECTION PROCEDURES OF INCOME TAX TREATMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2039 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide that the section 2039(c) election must actually be made by a beneficiary with regard to a distribution before the estate may exclude the value of that distribution.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: EE-86-82.

Drafting attorney: Patricia K. Keesler (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel reviewing attorney: Garlock.

Final draft signed by Commissioner.

Agency Contact: Patricia K. Keesler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE08

328. ESTATE TAX—PROPERTY HELD JOINTLY BY HUSBAND & WIFE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2040(b) Internal Revenue Code of 1954; 26 USC 2040(c) Internal Revenue Code of 1954; 26 USC 2515 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 25

Abstract: The regulations will provide rules for the Federal estate tax treatment of property held by husband and wife as a qualified joint interest. The regulations also provide rules under which the estate of certain decedents may elect to reduce the estate tax value of a farm or other trade or business to the extent of the material participation by the surviving spouse.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-180-76.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3289, 202 566-4336

RIN: 1545-AC64

329. ESTATE & GIFT TAXES—EXTENSION OF TIME IN WHICH TO AMEND GOVERNING INSTRUMENTS IN ORDER TO QUALIFY AS A CHARITABLE TRUST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2055(e) Internal Revenue Code of 1954; 26 USC 2522 Internal Revenue Code of 1954; 26 USC 170 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 25

Abstract: The regulation will provide rules governing an estate's right to amend governing instruments in order to qualify as a charitable lead interest, charitable remainder annuity trust, charitable remainder unitrust trust or pooled income fund.

Timetable:

Action	Date	FR Cite
NPRM	12/19/75	40 FR 58860
NPRM Comment Period Begin	12/19/75	40 FR 58860
NPRM Comment Period End	01/23/76	
Hearing	03/30/76	
Final Action	03/00/84	

Small Entity: Not Applicable

Additional Information: LR-250-74.

Drafting attorney: Fredric E. Grundeman (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Baneman, Levinson.

Treasury Decision pending Treasury review.

Agency Contact: Fredric E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC65

330. ESTATE TAX—TREATMENT OF CERTAIN CONTRIBUTIONS OF WORKS OF ART, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2522 Internal Revenue Code of 1954; 26 USC 2055 Internal Revenue Code of 1954

CFR Citation: 26 CFR 25

Abstract: These regulations will explain the treatment of works of art and their copyrights as separate properties for the purpose of computing the charitable deduction allowable in determining the value of the taxable estate and the value of transfers made by a donor.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-210-81.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC66

331. ESTATE AND GIFT TAXES—INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2012 Internal Revenue Code of 1954; 26 USC 2014 Internal Revenue Code of 1954; 26 USC 2055 Internal Revenue Code of 1954; 26 USC 2056 Internal Revenue Code of 1954; 26 USC 2207A Internal Revenue Code of 1954; 26 USC 2519 Internal Revenue Code of 1954; 26 USC 2523 Internal Revenue Code of 1954; 26 USC 6019 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 25

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property between spouses. They will provide how an executor may elect to treat certain property as qualified terminable interest property, in which case the imposition of transfer taxes will be delayed until the latter of (1) the surviving spouse's disposition of an interest in the property or (2) the surviving spouse's death.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
Final Action	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-211-76.

Drafting attorney: John R. Harman (202) 566-3238.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

10/1/82 draft of notice returned to the Legislation and Regulations Division for revision.

Agency Contact: John R. Harman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3238

RIN: 1545-AC67

332. GIFT TAX—TRANSITIONAL RULE FOR THE INCREASED ANNUAL GIFT TAX EXCLUSION AND THE UNLIMITED EXCLUSION FOR CERTAIN TRANSFERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2503 Internal Revenue Code of 1954

CFR Citation: 26 CFR 25

Abstract: This regulation will provide a transitional rule that the increased annual gift tax exclusion does not apply to powers of appointment granted under certain trusts created before September 12, 1981. In addition, unlimited exclusions will be permitted for direct payments by donor for certain qualifying medical expenses not reimbursed by insurance and for

VOL
48
ISS
2
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educational expenses paid on behalf of an individual directly to a qualifying educational institution.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-211-81.

Drafting attorney: Ada S. Rousso (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AC69

333. GIFT TAX—CERTAIN TRANSFERS TREATED AS QUALIFIED DISCLAIMERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2518(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 25

Abstract: The regulations will provide that certain transfers will be qualified disclaimers for purposes of section 2518 (a).

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-212-81.

Drafting attorney: Ada Rousso (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

In the Legislation and Regulations Division for preparation of notice.

Agency Contact: Ada Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AC70

334. ESTATE & GIFT TAXES—DISCLAIMERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2518 Internal Revenue Code of 1954; 26 USC 2045 Internal Revenue Code of 1954; 26 USC 2041(a)(2) Internal Revenue Code of 1954; 26 USC 2055(a) Internal Revenue Code of 1954; 26 USC 2056 Internal Revenue Code of 1954; 26 USC 2504 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 25

Abstract: This project will give guidance on the requirement under section 2518 on how to make a qualified disclaimer of a gift or inheritance. If it is qualified, it will not be treated as a gift.

Timetable:

Action	Date	FR Cite
Hearing	11/18/80	
NPRM	07/22/82	45 FR 48922
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-213-78.

Drafting attorney: Robert H. Waltuch (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Garlock.

Preliminary draft of Treasury decision forwarded to Treasury for review, 06/08/82.

Agency Contact: Robert H. Waltuch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC71

335. TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS—IMPOSITION & AMOUNT OF, AND LIABILITY FOR, TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2601 to 2603 Internal Revenue Code of 1954

CFR Citation: 26 CFR 26

Abstract: This regulation will provide guidance to the public how to compute the tax due when a generation-skipping transfer has occurred.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-178-76.

Drafting attorney: Robert H. Waltuch (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Robert H. Waltuch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC72

336. ESTATE AND GIFT TAX—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS—DEFINITIONS AND SPECIAL RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2611 to 2614 Internal Revenue Code of 1954

CFR Citation: 26 CFR 26

Abstract: The regulations will provide guidance to the public on the meaning of all the terms used under the generation-skipping transfer tax provisions. These terms include the following: generation-skipping trust, generation-skipping transfer, younger generation beneficiary, etc.

Timetable:

Action	Date	FR Cite
Hearing	05/20/81	
NPRM	01/02/82	46 FR 00120
NPRM Comment Period Begin	01/02/82	46 FR 15893
NPRM Comment Period End	03/03/82	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-205-76.

Drafting attorney: Robert H. Waltuch (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

In Legislation and Regulations Division for preparation of final regulations.

Agency Contact: Robert H. Waltuch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC73

337. ESTATE & GIFT TAX—GENERATION-SKIPPING TRANSFERS TAX RETURN REQUIREMENT, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2621 Internal Revenue Code of 1954

CFR Citation: 26 CFR 26

Abstract: This project will establish the forms to be used in reporting a generation-skipping transfer and also will establish the date on which the return must be filed and the tax paid.

Timetable:

Action	Date	FR Cite
NPRM	08/05/80	45 FR 51771
Hearing	11/05/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-234-79.

Drafting attorney: Robert H. Waltuch (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Woodward, Levinson.

In Legislation and Regulations Division for preparation of final regulations.

Agency Contact: Robert H. Waltuch, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC74

338. EMPL. TAX—SOCIAL SECURITY TAX ON EMPLOYERS OF INDIVIDUALS WHO RECEIVE INCOME FROM TIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3121(t) Internal Revenue Code of 1954

CFR Citation: 26 CFR 31

Abstract: The regulations would provide guidance for determining the amount of wages on which an employer of a tipped employee must pay social security tax if the employer pays the employee less than the minimum wage.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-35-78.

Drafting attorney: Beverly Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Notice pending Department of the Treasury review.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3297

RIN: 1545-AC76

339. EMPLOYMENT TAX—TO REQUIRE WITHHOLDING OF SOCIAL SECURITY AND RAILROAD RETIREMENT TAX FROM CERTAIN PAYMENTS OF SICK PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3121 Internal Revenue Code of 1954; 26 USC 3231 Internal Revenue Code of 1954; PL 97-123, Sec 3

CFR Citation: 26 CFR 31

Abstract: The regulations will provide guidance to third parties paying sick pay which is subject to social security or railroad retirement tax, employees receiving the sick pay, and employers of the employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/82	
NPRM	07/06/82	47 FR 29266
NPRM Comment Period Begin	07/06/82	
NPRM Comment Period End	09/06/82	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-23-82.

Drafting attorney: Pamela Olson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

01/04/83 Final regulations sent to Office of Tax Legislative Counsel for review.

Agency Contact: Pamela F. Olson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3459

RIN: 1545-AC77

340. TO PROVIDE REGULATIONS RELATING TO EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER IS NOT FURNISHED OR INACCURATE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3202 Internal Revenue Code of 1954

CFR Citation: 26 CFR 31

Abstract: The regulations will provide that a tax equal to 15 percent of a payment is withheld and deducted if no taxpayer identification number is furnished or the taxpayer identification furnished is incorrect.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/84	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-224-82.

Drafting Attorney: Diane Kroupa (202) 566-3590.

Reviewing Attorney: John Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Richard Reinhold.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Diane Kroupa, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE20

341. ●AMENDMENT OF SECTIONS 31.3302 (A)-3 AND 31.3302 (B)-2 TO DELETE THE REQUIREMENT FOR STATE CERTIFICATION OF THE FEDERAL UNEMPLOYMENT TAX ACT CREDIT CLAIMED BY EMPLOYEES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3302 Internal Revenue Code of 1954

CFR Citation: 26 CFR 31

Abstract: Section 3302 (a) and (b) allows a credit against the Federal

Unemployment Tax Act tax imposed by section 3301. Sections 31.3302 (a)-3 and 31.3302 (b)-2 require State certification of employer contributions to State unemployment funds before the credits in 3302 (a) and (b) will apply. It has been proposed that the State certification requirment be eliminated. This regulations project would amend section 31.3302 (a)-3 and 31.3302 (b)-2 to eliminate the certification requirement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-53-83.

Drafting Attorney: Gail H. Morse (202) 566-3297.

Reviewing Attorney: John B. Bromell (202) 566-3297.

In Legislation and Regulations Division for preparation of Notice of proposed rulemaking.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3297

RIN: 1545-AF51

342. EMPLOYMENT TAXES—WITHHOLDING ALLOWANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3402 Internal Revenue Code of 1954; Economic Recovery Tax Act of 1981, Section 101

CFR Citation: 26 CFR 31

Abstract: The regulations would provide guidance relating to income tax withholding allowances. The regulations specify the items that individuals can take into account in determining the number of withholding allowances to which they are entitled.

Timetable:

Action	Date	FR Cite
NPRM	10/27/81	46 FR 52391
NPRM Comment Period Begin	10/27/81	46 FR 52391
NPRM Comment Period End	12/26/81	
Final Action Effective	01/01/82	
Final Action	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-197-81.

Drafting attorney: Barry L. Wold (202) 566-3288.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Lerman.

Draft of Treasury Decision to Office of Tax Legislative Counsel (Treasury) and Office of Chief Counsel (Individual Tax Division) 03/16/82.

Comments from Office of Chief Counsel (Individual Tax Division), 03/19/82.

Agency Contact: Barry L. Wold, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AC81

343. EMPL. TAX—TO REQUIRE RECIPIENT OF CERTAIN GAMBLING WINNINGS TO FURNISH INFORMATION REGARDING AGGREGATION OF PAYMENTS FROM IDENTICAL WAGERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3402(q) Internal Revenue Code of 1954; 26 USC 6011 Internal Revenue Code of 1954

CFR Citation: 26 CFR 31; 26 CFR 1

Abstract: The regulations will require that certain payments of gambling winnings from identical wagers be aggregated for the purpose of determining whether the winnings are subject to withholding. The regulations will further provide an optional means for payors to ellcit information concerning identical wagers.

Timetable:

Action	Date	FR Cite
NPRM	09/23/81	46 FR 46967
NPRM Comment Period Begin	09/23/81	46 FR 46967
NPRM Comment Period End	11/23/81	
Hearing	01/20/82	
Final Action Effective	03/00/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-188-80.

Drafting attorney: John P. MacMaster (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Keyser.

Final Draft of Treasury decision forwarded to Commissioner, 01/03/83.

Agency Contact: John MacMaster, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AC82

344. EMPLOYMENT TAX—WITHHOLDING FROM PENSIONS, ANNUITIES, AND OTHER DEFERRED INCOME

Legal Authority: 26 USC 7805; 26 USC 3405; 26 USC 6047(e)

CFR Citation: 26 CFR 35

Abstract: Proposed regulations would clarify and amend the temporary regulations relating to withholding from pensions, annuities, and other deferred income.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: Not Applicable

Additional Information: EE-115-82.

Drafting attorney: Patricia K. Keesler (202) 566-3903.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel reviewing attorney: Conaway.

In Employee Plans and Exempt Organizations Division for preparation of Notice.

Agency Contact: Patricia K. Keesler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE98

345. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3508 Internal Revenue Code of 1954; 26 USC 3509 Internal Revenue Code of 1954; 26 USC 6041A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations would provide rules for the treatment of real estate agents and direct sellers as independent contractors for employment tax purposes. The proposed rules would also provide guidance for the reporting requirements of sales to direct sellers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-214-82.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: John Bromell (202) 566-3297.

Office of Legislative Counsel reviewing attorney: Chris Vaughn.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE62

346. EXCISE TAX—APPLICABLE TO ARTICLES SOLD ON AND AFTER 1964

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4041 Internal Revenue Code of 1954; 26 USC 4042 Internal Revenue Code of 1954; 26 USC 4054 Internal Revenue Code of 1954; 26 USC 4058 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: The regulations would revise and update the existing regulations regarding manufacturers and retailers excise taxes on special fuels to reflect statutory changes made to section 4041 since 1964. The regulations would provide guidance to the public to comply with the laws.

Timetable:

Action	Date	FR Cite
NPRM	10/22/80	45 FR 69933
NPRM Comment Period Begin	10/22/80	45 FR 69933
NPRM Comment Period End	12/22/80	
Hearing	04/08/81	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-2118.

Drafting attorney: Annie R. Alexander (202) 566-3287.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

T.D. pending Department of the Treasury review.

Agency Contact: Annie R. Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC85

347. ●EXCISE TAX—RETAILERS EXCISE TAXES ON MOTOR VEHICLES

Legal Authority: 26 USC 4051 Internal Revenue Code of 1954; 26 USC 4052 Internal Revenue Code of 1954; 26 USC 4053 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: The regulations will provide guidance as to what kinds of vehicles are taxable and how the tax is computed.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-30-83.

Drafting Attorney: Neil Zyskind (202) 566-3287.

Reviewing Attorney: Larry Smith (202) 566-3287.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3287

RIN: 1545-AF61

348. EXCISE TAX—MANUFACTURERS EXCISE TAXES ON MOTOR VEHICLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4061 Internal Revenue Code of 1954; 26 USC 4063 Internal Revenue Code of 1954; 26 USC 4062 Internal Revenue Code of 1954

CFR Citation: 20 CFR 48; 20 CFR 142; 20 CFR 146

Abstract: The regulations will update and revise the existing regulations concerning Manufacturers and Retailers excise taxes on motor vehicles. The regulations substantially complete the task of updating the regulations under sections 4061 through 4063 of the Internal Revenue Code of 1954 to reflect statutory changes made to these sections since 1964.

Timetable:

Action	Date	FR Cite
NPRM	12/30/82	47 FR 58297
NPRM Comment Period Begin	12/30/82	47 FR 58297
NPRM Comment Period End	02/28/83	
Final Action	08/00/83	

Small Entity: Not Applicable

Additional Information: LR-2119.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

In Legislation and Regulations Division for preperation of Treasury decision.

Agency Contact: Neil W. Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AC86

349. EXCISE TAX—GAS GUZZLER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4064 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: The regulations would define the terms sale, manufacturer, automobile, model year, model type, fuel economy and fuel. The regulations would outline the procedures to be followed by a small manufacturer seeking an alternate rate schedule.

Timetable:

Action	Date	FR Cite
NPRM	02/08/80	45 FR 08669
NPRM Comment Period Begin	02/08/80	45 FR 08669
NPRM Comment Period End	04/08/80	
Hearing	06/19/80	
Final Action	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-205-78.

Drafting attorney: Robert Ginsburgh (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

T.D. pending Department of the Treasury review.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC87

350. MANUFACTURERS & RETAILERS EXCISE TAX—EXCISE TAX REFUND IN CASES OF CERTAIN USES OF TREAD RUBBER & ADJUSTMENTS PURSUANT TO WARRANTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4071(a)(1) Internal Revenue Code of 1954; 26 USC 4071(a)(2) Internal Revenue Code of 1954; 26 USC 4071(d)(1) Internal Revenue Code of 1954; 26 USC 4071(f) Internal Revenue Code of 1954; 26 USC 6416(b)(1) Internal Revenue Code of 1954; 26 USC 6416(b)(2)(G) Internal Revenue Code of 1954; 26 USC 6416(b)(3) Internal Revenue Code of 1954; 26 USC 6511(i) Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: The regulations will provide new regulations concerning excise tax refunds and credits in the case of certain uses of tread rubber and adjustments pursuant to warranty.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-28-81.

Drafting attorney: Ada S. Rousso (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Pike, Levinson.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AC88

351. MANUFACTURERS & RETAILERS EXCISE TAX—RELATING TO RECAPPED OR RETREADED TIRES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4071 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: This project was opened to possibly amend the regulations so as to eliminate the distinction between shoulder to shoulder retread tires and bead to bead retread tires.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-180-81.

Drafting attorney: Jane Wilson (202) 566-4069.

Reviewing attorney: Neal E. Sheldon (202) 566-3936.

In Office of Chief Counsel (Interpretative Division) for preparation of notice.

Agency Contact: Jane Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4069

RIN: 1545-AC89

352. EXCISE TAX—APPLICABLE TO GASOLINE & LUBRICATING OIL SOLD ON OR AFTER 07/01/65

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4081 to 4084 Internal Revenue Code of 1954; 26 USC 4091 to 4092 Internal Revenue Code of 1954; 26 USC 4101 Internal Revenue Code of 1954; 26 USC 4102 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: The regulations will update and revise the existing regulations regarding manufacturers excise taxes on petroleum products. The main change in the regulations concerns pipeline common carriers.

Timetable:

Action	Date	FR Cite
NPRM	01/05/83	48 FR 00437
NPRM Comment Period Begin	01/05/83	48 FR 00437
NPRM Comment Period End	03/07/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-2117.

Drafting attorney: Ada S. Rousso (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

01/05/83 Notice published.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AC90

353. ●MANUFACTURERS AND RETAILERS EXCISE TAXES—TAX ON FUELS, TIRES AND GASOLINE

Legal Authority: 26 USC 4041 Internal Revenue Code of 1954; 26 USC 4071 Internal Revenue Code of 1954; 26 USC 4081 Internal Revenue Code of 1954; 26 USC 6420 Internal Revenue Code of 1954; 26 USC 6427 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: The regulations will provide guidance concerning the increase in tax on certain fuels and gasoline. In addition, the regulations will provide guidance concerning the tax on tires.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-119-83.

Drafting Attorney: Neil Zyskind (202) 566-4336.

Reviewing Attorney: Robert Coplan (202) 566-3287.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AF58

354. ●TAX ON HIGHWAY USE OF HEAVY DUTY TRUCKS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4481 Internal Revenue Code of 1954; 26 USC 4482 Internal Revenue Code of 1954; 26 USC 4483 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: These regulations will impose a graduated use tax on heavy vehicles which use public highways. Heavy vehicles which use public highways for less than 5,000 miles will be exempt. This tax will be effective July 1, 1984. There will be a one year delay for truck fleets of 5 or less.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-31-83.

Drafting Attorney: Ada S. Rousso (202) 566-4336.

Reviewing Attorney: Larry E. Smith (202) 566-3287.

In L&R for preparation of notice.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AF62

355. EXCISE TAX—ENVIRONMENTAL TAXES—IMPOSITION OF TAXES ON PETROLEUM AND CERTAIN CHEMICALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4611 Internal Revenue Code of 1954; 26 USC 4612 Internal Revenue Code of 1954; 26 USC 4661 Internal Revenue Code of 1954; 26 USC 4662 Internal Revenue Code of 1954

CFR Citation: 26 CFR 52

Abstract: The regulations will provide rules for the computation of the environmental excise taxes on petroleum and certain chemicals. The regulations will also define such terms as entry and taxable chemicals and will explain how to get an exemption from tax for certain chemicals used to make fertilizer.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-16-81.

Drafting attorney: Cynthia L. Clark (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, Levinson.

Revised draft of notice to Office of Tax Legislative Counsel (Treasury), 06/06/82.

Agency Contact: Cynthia L. Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3288

RIN: 1545-AC91

356. EXCISE TAX—ENVIRONMENTAL TAXES—IMPOSITION OF TAX ON HAZARDOUS WASTES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4681 Internal Revenue Code of 1954; 26 USC 4682 Internal Revenue Code of 1954

CFR Citation: 26 CFR 52

Abstract: The regulations will explain the imposition of the hazardous waste tax on the receipt of hazardous waste at a qualified hazardous waste disposal facility.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-341-81.

Drafting attorney: Ada S. Rousso (202) 566-4336.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Draft circulating for review within IRS.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AC92

357. ●IMPOSITION OF TAXES ON HAZARDOUS WASTE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 52

Abstract: This regulation will explain what form to use to report the tax on hazardous wastes, when to file the return, and when to make deposits of the tax.

Timetable:

Action	Date	FR Cite
NPRM	06/24/83	48 FR 29007
NPRM Comment Period Begin	06/24/83	
NPRM Comment Period End	08/23/83	
Final Action	11/00/83	

Small Entity: No

Additional Information: LR-33-83.

Drafting Attorney: Cynthia Clark (202) 566-3286.

Reviewing Attorney: Larry Smith (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorney: Hutton.

08/24/83 Notice published in the Federal Register.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3286

RIN: 1545-AF60

358. EXCISE TAX—TAX ON ISSUER OF REGISTRATION-REQUIRED OBLIGATION NOT IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4701 Internal Revenue Code of 1954

CFR Citation: 26 CFR 46

Abstract: This regulation will provide that registration-required obligations issued in non-registered form will have an excise tax imposed on the issuer.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-9-83.

Drafting attorney: Ada S. Rousso (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AF31

359. EXCISE TAX—TO CLARIFY THE INTERIM RULE FOR DETERMINING BASE PRICES FOR TIER 2 & TIER 3 OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4989 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51; 26 CFR 150

Abstract: The regulations provide guidance for the computation of base prices for tier 2 and 3 oil for purposes of the tax imposed on crude oil. The

VOL 48 ISS 201 OCT 17 1983 UMI

regulations provide that the base prices are determined with reference to the highest posted price for uncontrolled oil of the same grade, quality and field as of December 31, 1979. These regulations are to be effective for only taxable years ending before September 30, 1980.

Timetable:

Action	Date	FR Cite
NPRM	09/24/80	45 FR 63297
NPRM Comment Period Begin	09/24/80	45 FR 63263
NPRM Comment Period End	11/24/80	
Withdrawn	03/01/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-142-80.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

Notice will be withdrawn.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C., 202 566-3297

RIN: 1545-AC98

360. INCOME TAX—LOBBYING BY PUBLIC CHARITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(h) Internal Revenue Code of 1954; 26 USC 504 Internal Revenue Code of 1954; 26 USC 4911 Internal Revenue Code of 1954; 26 USC 170(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 53; 26 CFR 56

Abstract: The regulations will provide rules primarily applicable to tax exempt organizations described in section 501(c)(3) that elect to have the provisions of section 501(h) and 4911 apply to their lobbying expenditures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-154-78.

Drafting attorney: George B. Baker (202) 566-3422.

Reviewing attorney: Charles K. Kerby, III (202) 566-3422.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hevener, Levinson.

Revised preliminary draft of notice to Office of Tax Legislative Counsel (Treasury), 03/05/82 and to Regulations Review Staff, 06/01/83.

Agency Contact: George Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE02

361. FOUNDATION EXCISE TAX—PRIVATE FOUNDATION SET-ASIDES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4942(g)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 53

Abstract: The regulations provide rules relating to the circumstances under which a private foundation set-aside will be treated as a qualifying distribution.

Timetable:

Action	Date	FR Cite
NPRM	08/26/80	45 FR 56840
NPRM Comment Period Begin	08/26/80	45 FR 56840
NPRM Comment Period End	10/27/80	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-156-78.

Drafting attorney: George Baker (202) 566-3422.

Reviewing attorney: James Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Jewett, Levinson.

Treasury Decision to Treasury for formal approval, 5/31/83.

Agency Contact: George Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE12

362. FOUNDATION EXCISE TAX—TAXES ON EXCESS BUSINESS HOLDINGS OF PRIVATE FOUNDATIONS—EFFECT OF REORGANIZATIONS AND CORPORATE DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4943 Internal Revenue Code of 1954

CFR Citation: 26 CFR 53

Abstract: Regulations will provide definitions relating to "purchases" and corporate reorganizations.

Timetable:

Action	Date	FR Cite
NPRM	05/22/79	44 FR 29680
NPRM Comment Period Begin	05/22/79	44 FR 29680
NPRM Comment Period End	07/23/79	
Notice of Hearing	07/24/79	44 FR 43292
Partial Revised Notice	08/16/79	44 FR 47958
Hearing	09/06/79	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-162-78.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Jewett.

Preliminary draft of TD to Office of Tax Legislative Counsel (Treasury), 07/08/82.

Agency Contact: Charles M. Watkins, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE13

363. FOUNDATION EXCISE TAX—PROCEDURE AND ADMINISTRATION—REVISION OF SECOND TIER EXCISE TAX PROVISIONS, ETC. UNDER CHAPTERS 42 AND 43

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4941 Internal Revenue Code of 1954; 26 USC 4942 Internal Revenue Code of 1954; 26 USC 4943 Internal Revenue Code of 1954; 26 USC 4944 Internal Revenue Code of 1954; 26 USC 4945 Internal Revenue Code of 1954; 26 USC 4951 Internal Revenue Code of 1954; 26 USC 4952 Internal Revenue Code of 1954; 26 USC 4971 Internal Revenue Code of 1954; 26 USC 4975 Internal Revenue Code of 1954; 26 USC 4961 Internal Revenue Code of 1954; 26 USC 4962 Internal Revenue Code of 1954

CFR Citation: 26 CFR 53; 26 CFR 301; 26 CFR 1; 26 CFR 54; 26 CFR 141

Abstract: This regulation provides rules related to second tier excise taxes as defined in section 4962. The regulations provide guidance to private foundations, black lung benefit trusts, pension trusts, and disqualified persons with respect to them, who may become liable for second tier excise taxes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-16-81.

Drafting attorney: George Baker (202) 566-3422.

Reviewing attorney: James Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Jewett, Levinson.

Draft of Notice of Proposed Rulemaking to Office of Tax Legislative Counsel (Treasury) 05/27/83.

Agency Contact: George Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE09

364. EXCISE TAX—TO PROVIDE RULES RELATING TO BASE PRICES OF TIER 2 & TIER 3 OIL REMOVED AFTER 09/30/80

Priority: Major

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4989 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51; 26 CFR 150

Abstract: The regulations provide rules for computing base price with reapect to tier 2 and 3 oil for purposes of the windfall profits tax. The regulations provide that, under the permanent rules (effective after September 1980), the base price is determined with reference to the weighted average removal price.

Timetable:

Action	Date	FR Cite
NPRM	09/30/80	45 FR 64603
NPRM Comment Period Begin	09/30/80	45 FR 64603
Revised Notice published	11/14/80	
NPRM Comment Period End	12/01/80	
Hearing	03/03/81	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-152-80.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

Draft of T.D. to Office of Tax Legislative Counsel (Treasury), 03/31/82.

Analysis: Draft RFA 09/30/80 (45 FR 64604)

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC97

365. EXCISE TAX—DEFINITION OF NEWLY DISCOVERED OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4997 Internal Revenue Code of 1954; 26 USC 4991 Internal Revenue Code of 1954; 26 USC 4996 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: The regulations would provide guidance on the requirements for the qualification of crude oil as newly discovered oil, as well as a definition of production in "commercial quantities" that affects the net income limitation on windfall profit and the exemption for Alaskan oil.

Timetable:

Action	Date	FR Cite
NPRM	11/05/82	47 FR 50306
NPRM Comment Period Begin	11/05/82	47 FR 50306
NPRM Comment Period End	01/04/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-224-81.

Drafting attorney: Robert Ginsburgh (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

Hearing held, 04/12/82.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC96

366. EXCISE TAX—WITH RESPECT TO THE DEFINITION OF TAXABLE CRUDE OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4991 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: These regulations would provide rules relating to the definitions of crude oil, condensate, and tar sand for purposes of the windfall profit tax. These definitions are important because only crude oil is subject to the windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-226-81.

Drafting attorney: Douglas W. Charnas (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Douglas W. Charnas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD00

367. EXCISE TAX—ISSUES ARISING WHERE MULTIPLE PARTIES SHARE IN PRODUCTION, INCLUDING UNITIZATIONS, PARTNERSHIPS, TRUSTS AND ESTATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4986 to 4996 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: These regulations would provide rules relating to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for purposes of the windfall profit tax. The regulations would provide rules for determining the

amount of imputed oil and rules for allocating the imputed oil among the producers of the unitized property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-225-81.

Drafting attorney: Douglas W. Charnas (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

In Office of Chief Counsel (Legislative and Regulations Division) for preparation of notice.

Agency Contact: Douglas W. Charnas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC94

368. EXCISE TAX—INDEPENDENT PRODUCER OIL ALLOCATIONS WITHIN A RELATED GROUP UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4992(e) Internal Revenue Code of 1954; 26 USC 4997 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: The regulations would define the members of a related group. Such members must share the 1000 barrel independent producer allocation which is entitled to a lower rate of windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-66-80.

Drafting attorney: Beverly Baughman (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson,

In the Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD03

369. EXCISE TAX—INCREMENTAL TERTIARY OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4993 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: The regulations would clarify the rules relating to incremental tertiary oil. The regulations provide procedural rules for requesting approval from the Service of tertiary recovery methods which are not already approved under Department of Energy regulations. The regulations also define "project beginning date" and "tertiary injectant".

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-67-80.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326. Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Notice returned to Office of Chief Counsel (Legislation and Regulations Division) by Office of Tax Legislative Counsel (Treasury) for revision, 09/09/82.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD04

370. EXCISE TAX—EXEMPTIONS FOR QUALIFIED GOVERNMENTAL INTERESTS, QUALIFIED CHARITABLE INTERESTS (INCLUDING RESIDENTIAL CHILD CARE AGENCIES), INDIAN OIL, ALASKAN ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4994 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: The proposed regulations will provide rules and definitions relating to various exemptions from the windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-69-80.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Preliminary draft sent to Treasury for review and comment.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD05

371. EXCISE TAX—EXEMPT FRONT-END OIL UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4994(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: The proposed regulations would provide rules relating to the treatment of front-end tertiary oil under the crude oil windfall profit tax. The proposed regulations explain the exemption from the windfall profit tax for domestic crude oil that is removed from the premises before October 1, 1981, and that is treated as front-end oil and used to finance a front-end tertiary project on one or more properties each of which is a qualified property.

Timetable:

Action	Date	FR Cite
NPRM	12/05/80	45 FR 80551
NPRM Comment Period Begin	12/05/80	45 FR 80551
NPRM Comment Period End	02/04/81	
Hearing	02/24/81	45 FR 80554
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-68-80.

Drafting attorney: Douglas W. Charnas (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax

Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

T.D. pending Treasury review.

Agency Contact: Douglas W. Charnas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD06

372. EXCISE TAX—OIL FROM A STRIPPER WELL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4991 Internal Revenue Code of 1954; 26 USC 4992 Internal Revenue Code of 1954; 26 USC 4994 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: The proposed regulations provide rules and definitions relating to oil from a stripper well property for purposes of tier 2 oil and exempt stripper well oil.

Timetable:

Action	Date	FR Cite
NPRM	01/20/83	48 FR 2552
NPRM Comment Period Begin	01/20/83	48 FR 2552
NPRM Comment Period End	03/20/83	
Final Action	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-217-81.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Notice of proposed rulemaking published on 01/20/83.

Draft Treasury decision in Legislation and Regulations Division for preparation.

Hearing held 4-27-83

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW, Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD01

373. EXCISE TAX—DEFINITION OF OIL REMOVED FROM THE PREMISES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4996 Internal Revenue Code of 1954; 26 USC 4997 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: This regulation would provide for exceptions to the general rule that crude oil is removed from the premises when it is physically transported off the premises. The exceptions are for certain uses of the crude oil on the premises, transportation to contiguous tracts and to storage tanks.

Timetable:

Action	Date	FR Cite
NPRM	01/14/83	48 FR 1762
NPRM Comment Period Begin	01/14/83	48 FR 1762
NPRM Comment Period End	03/15/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-227-81.

Drafting attorney: Beverly Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

01/14/83 Notice of Proposed Rulemaking published.

Hearing held 06-28-83.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3297

RIN: 1545-AC95

374. EXCISE TAX—DEFINITION OF PROPERTY UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4996 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: These proposed regulations would provide rules relating to the definition of "property" for purposes of the crude oil windfall profit tax. These regulations are important because the rate of tax depends, in part, on the characteristics of the property from which the crude oil is produced.

Timetable:

Action	Date	FR Cite
NPRM	11/10/82	47 FR 50924
NPRM Comment Period Begin	11/10/82	47 FR 50924
NPRM Comment Period End	01/09/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-34-82.

Drafting attorney: Douglas W. Charnas (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

11/10/82 Notice of proposed rulemaking published.

Hearing held, 03/01/83.

Agency Contact: Douglas W. Charnas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD08

375. EXCISE TAX—AMENDMENT OF SEC 51.4996-1(B) WITH RESPECT TO THE TREATMENT OF NET PROFITS INTERESTS FOR WINDFALL PROFITS TAX PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4996 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: These proposed regulations would provide rules for determining the portion of crude oil removed from the premises attributable to the holder of a net profits interest.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-38-82.

Drafting attorney: Douglas W. Charnas (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

VOL 48 ISS 201 OC 17 1983 UMI

Agency Contact: Douglas W. Charnas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD09

376. INCOME TAX–CONDITIONS UNDER WHICH BOOKS AND RECORDS OF CONTROLLED FOREIGN CORPORATIONS AND ORGANIZATIONS WILL BE REQUIRED TO BE MAINTAINED IN THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6001 Internal Revenue Code of 1954; 26 USC 964 Internal Revenue Code of 1954; 26 USC 482 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would authorize a district director to designate, under certain circumstances, the location where records must be kept and to require that a translation or interpreter be provided with records in a foreign language. The regulations would also require certain records of a controlled foreign organization, trade or business to be kept and clarify when the records of a controlled foreign corporation must be provided.

Timetable:

Action	Date	FR Cite
NPRM	01/23/81	46 FR 07401
NPRM Comment Period Begin	01/23/81	46 FR 07401
NPRM Comment Period End	03/24/81	
Hearing	10/06/81	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-133-78.

Drafting attorney: Herman Bouma (202) 566-3287.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Lainoff.

Agency Contact: Herman B. Bouma, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AD11

377. RETURNS REQUIRED ON MAGNETIC MEDIA

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6011 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would require certain returns to be filed on magnetic media. Prior to enactment of section 319 of the Tax Equity and Fiscal Responsibility Act of 1982, there was no statutory or regulatory requirement that any particular return be filed on magnetic media or in other machine-readable form. The regulations would provide standards for determining which returns would be required to be filed on magnetic medias.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-289-82.

Drafting Attorney: Gregory A. Roth.

Reviewing Attorney: John H. Parcell.

Office of Tax Legislative Counsel Review Attorney: Mundstock, Levinson.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF12

378. FORM OF INDIVIDUAL TAX RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6012 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide rules for an individual taxpayer for determining the appropriate return to file, for utilizing a substitute form and for attaining assistance from the Internal Revenue Service for computing the tax liability from the partially completed return.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-300-82.

Drafting Attorney: Howard Balikov (202) 566-3288.

Reviewing Attorney: John Parcell (202) 566-3288.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of the notice.

Agency Contact: Howard A. Balikov, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3288

RIN: 1545-AF24

379. TO PROVIDE REGULATIONS RELATING TO NEW EXCEPTION TO ESTIMATED TAX PENALTY WHERE INDIVIDUAL HAS NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR

Legal Authority: 26 USC 7805; 26 USC 6015; 26 USC 6654

CFR Citation: 26 CFR 1

Abstract: The regulation will clarify the new exception to the individual estimated tax in the case of an individual who had no tax liability for the preceding taxable year. Rules also eliminate the requirement that individuals file a declaration of estimated tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-226-82.

Drafting Attorney: George T. Magnatta (202) 566-3459.

Reviewing Attorney: John M. Coulter, Jr. (202) 566-4473.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE71

380. ●CONFORM REGULATIONS UNDER SECTIONS 6015, 6154 AND 6155 TO SECTION 201 (J) OF THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6015 Internal Revenue Code of 1954; 26 USC 6154 Internal Revenue Code of 1954; 26 USC 6155 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This project would amend the regulations under sections 6015, 6154 and 6155 to reflect section 201 (j) of the Technical Corrections Act of 1982 which adds to the definition of estimated tax an allowance for overpayment of the windfall profit tax in section 4986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-54-83.

Drafting Attorney: Gail H. Morse (202) 566-3297.

Reviewing Attorney: John B. Bromell (202) 566-3297.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF66

381. INCOME TAX-AMENDMENTS TO REQUIREMENTS FOR RETURN OF PARTNERSHIP INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6031 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidelines for determining when and what information a partnership must provide to its partners. The regulations also provide guidelines for determining what foreign partnerships must file information returns.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-198-82.

Drafting Attorney: Beverly A. Baughman (202) 566-3297.

Reviewing Attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorney: Meryl Silver.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE40

382. INCOME TAX–AMENDMENTS TO REQUIREMENTS FOR RETURN OF PARTNERSHIP INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6031 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: The regulations would provide guidelines for determining when and what information a partnership must provide to its partners. The regulations also provide guidelines for determining what foreign partnerships must file information returns.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-199-82.

Drafting Attorney: Beverly A. Baughman (202) 566-3297.

Reviewing Attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorney: Meryl Silver.

In Legislation and Regulations Division for preparation of Temporary Regulations.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE42

383. INCOME TAX–PROCEDURE & ADMINISTRATION–RETURN AND REPORTING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6033 Internal Revenue Code of 1954; 26 USC 6034 Internal Revenue Code of 1954; 26 USC 6104 Internal Revenue Code of 1954; 26 USC 6652 Internal Revenue Code of 1954; 26 USC 6685 Internal Revenue Code of 1954; 26 USC 7207 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 53; 26 CFR 301

Abstract: The regulations simplify the private foundation return and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-35-81.

Drafting attorney: James J. McGovern (202) 566-3422

Reviewing attorney: James L. Brokaw (202) 566-4173

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway

Revised preliminary Draft to regulations review staff, 07/27/83.

Agency Contact: Monica Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE14

384. INCOME TAX-TO AMEND REGULATIONS UNDER INTERNAL REVENUE CODE SECTIONS 6035 AND 6679 RELATING TO RETURNS OF FOREIGN PERSONAL HOLDING COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6035 Internal Revenue Code of 1954; 26 USC 6679 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would amend the regulations under Internal Revenue Code sections 6035 and 6679 to conform to changes made by section 340 of the Tax Equity and Fiscal Responsibility Act of 1982. Those changes simplified the information reporting requirements imposed upon officers, directors and some shareholders of foreign personal holding companies, and added a new thousand-dollar penalty for failure to comply.

Timetable:

Action	Date	FR Cite
NPRM	02/01/84	

Small Entity: Not Applicable

Additional Information: LR-200-82.

Drafting attorney: Robert E. Culbertson Jr. (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

VOL 48 ISS 201 OCT 17 1983 UMI

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Lainoff.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Robert E. Culbertson Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AE29

385. INCOME TAX—INFORMATION RETURNS REQUIRED OF CERTAIN FOREIGN-OWNED CORPORATIONS; FOREIGN CORPORATION REPORTING REQUIREMENTS AND PENALTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6038 Internal Revenue Code of 1954; 26 USC 6038A Internal Revenue Code of 1954; PL 97-248, Sec 338; PL 97-248, Sec 339

CFR Citation: 26 CFR 1

Abstract: The regulations would provide that certain foreign-owned corporations which transact business with other related corporations must furnish information about those transactions and the transacting corporations. The purpose of the reporting requirement is to verify that income is being reported accurately. The regulations would also amend existing penalty provisions for failure to supply information relating to certain foreign corporations, to conform those provisions to new statutory penalties imposed under the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	

Small Entity: Not Applicable

Additional Information: LR-201-82.

Drafting Attorney: David J. Dean (202) 566-3289.

Reviewing Attorney: Martha E. Kadue (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

In Legislation and Regulations Division for revision of notice.

Agency Contact: David J. Dean, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AE43

386. INCOME TAX—TO CONFORM THE REGULATIONS TO AMENDMENTS MADE BY SECTION 7 OF PUBLIC LAW 98-167 (DISCONTINUANCE OF OPTION REPORTS)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6039 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide guidance relating to certain reporting requirements concerning the transfer of stock pursuant to the exercise of statutory stock options.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-49-80.

Drafting Attorney: Philip R. Bosco (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

Presently under reconsideration in Office of Chief Counsel (Legislation and Regulations Division) for possible closing and merger with LR-279-81.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AD15

387. RETURN OF INFORMATION AS TO PAYMENTS OF $600 OR MORE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6041 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation relates to the written statements that trustees and executors furnish to the Internal Revenue Service. The amendment to the regulation would provide that such information returns need not be furnished to the beneficiaries of the trusts or estates.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-17-83.

Drafting attorney: Mitchell H. Rapaport (202) 566-3288.

Reviewing attorney: John Coulter, Jr. (202) 566-4473.

Tax Legislative Counsel reviewing attorney: Richard Reinhold (202) 566-2928.

4-27-83 Notice to Treasury for comment.

Revised notice sent to Treasury.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AF37

388. AMENDMENT OF TREASURY REGULATION SECTION 1.6043-1, ELIMINATING PARAGRAPH (B) (2)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6043(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would eliminate Treasury Regulation Section 1.6043-1 (b) (2), which requires certain information to be submitted to the Internal Revenue Service in connection with a corporate dissolution or liquidation.

Timetable:

Action	Date	FR Cite
Final Action	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-299-82.

Drafting Attorney: Charles W. Culmer (202) 566-3458.

Reviewing Attorney: Charles M. Whedbee (202) 566-3487.

Office of Tax Legislative Counsel reviewing attorney: Mark Yecies (202) 566-8278.

Awaiting briefing to the Commissioner 07/13/83.

Agency Contact: Charles W. Culmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF19

389. INCOME TAX—REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6046A Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report these activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-202-82.

Drafting Attorney: Beverly A. Baughman (202) 566-3297.

Reviewing Attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorney: Meryl Silver.

In Legislation and Regulations Division for preparation of Temporary Regulation.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE44

390. INCOME TAX—REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6046A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-203-82.

Drafting Attorney: Beverly A. Baughman (202) 566-3297.

Reviewing Attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorney: Meryl Silver.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE47

391. REPORTING OF STATE AND LOCAL INCOME TAX REFUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050E Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to persons who make payments of refunds of State or local income taxes, or who allow credits or offsets with respect to such taxes, for purposes of reporting these amounts to the Service. The regulations would also prescribe rules for providing statements to the taxpayers receiving the refund or for whom the credit or offset is allowed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-233-82.

Drafting Attorney: Alice Bennett (202) 566-3288.

Reviewing Attorney: John Parcell (202)566-3336.

Office of Tax Legislative Counsel Reviewing Attorney: Reinhold.

Returned to the Legislation and Regulations Division for revision 1/3/83.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3288

RIN: 1545-AE78

392. REPORTING OF STATE AND LOCAL INCOME TAX REFUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050E Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: The regulations would provide interim guidance to persons who make payments of refunds of State or local income taxes, or who allow credits or offsets with respect to such taxes, for purposes of reporting these amounts to the Service. The regulations would also prescribe rules for providing statements to the taxpayers receiving the refund or for whom the credit or offset is allowed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-272-82.

Drafting Attorney: Alice Bennett (202) 566-3288.

Reviewing Attorney: John Parcell (202) 566-3336.

Office of Tax Legislative Counsel Reviewing Attorney: Reinhold.

Returned to the Legislation and Regulations Division for revision 1/3/83.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AE97

393. EMPLOYMENT TAX—REPORTING BY CERTAIN LARGE FOOD OR BEVERAGE ESTABLISHMENTS WITH RESPECT TO TIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6053 Internal Revenue Code of 1954

CFR Citation: 26 CFR 31

VOL
48
ISS
201
OCT
17
1983
UMI

Abstract: The regulations would provide guidance to large food or beverage establishments required to report certain information with respect to tips.

Timetable:

Action	Date	FR Cite
NPRM	12/08/82	47 FR 55248
NPRM Comment Period Begin	12/08/82	47 FR 55248
NPRM Comment Period End	02/07/83	
Public hearing	02/08/83	47 FR 55248
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-271-82.

Drafting Attorney: Linda M. Kroening (202) 566-3288.

Reviewing Attorney: John Bromell (202) 566-3326.

Office of Tax Legislative Counsel reviewing attorney: Susan Jewett.

Published notice in Federal Register, 12/8/82.

Agency Contact: Linda M. Kroening, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C 20224, 202 566-3288

RIN: 1545–AE65

394. GIFT TAX—TIME FOR FILING AND PAYMENT OF GIFT TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6075 Internal Revenue Code of 1954; 26 USC 2501 to 2502 Internal Revenue Code of 1954; 26 USC 2512 Internal Revenue Code of 1954; 26 USC 2513 Internal Revenue Code of 1954; 26 USC 2522 Internal Revenue Code of 1954; 26 USC 1015 Internal Revenue Code of 1954; 26 USC 6019 Internal Revenue Code of 1954; 26 USC 6212(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 301

Abstract: The regulations will provide for the filing of gift tax returns and the payment of gift taxes on an annual basis. In addition, the regulations provide rules regarding the time for filing a gift tax return for a calendar year which includes the date of death of the donor.

Timetable:

Action	Date	FR Cite
NPRM	02/11/83	48 FR 6363
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-213-81.

Drafting attorney: Barry Landau (202) 566-3347.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Garlock, Woodward.

Notice awaiting Commissioner approval.

Agency Contact: Barry Landau. Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3347

RIN: 1545–AD17

395. PROCEDURE AND ADMINISTRATION—TO AUTHORIZE ADDITIONAL DISCLOSURES OF RETURNS AND RETURN INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6103(l)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations relate to disclosure of returns and return information to officers and employees of the Department of Labor and Pension Benefit Guaranty Corporation for purposes of administering Titles I and IV of the Employee Retirement Income Security Act of 1974. The regulations would provide guidance to the Service in disclosing tax information to the Department of Labor and the Pension Benefit Guaranty Corporation. The regulations permit the Service, in certain cases, to voluntarily disclose to the Department of Labor and the Pension Benefit Guaranty Corporation additional tax information.

Timetable:

Action	Date	FR Cite
NPRM	08/03/82	47 FR 33519
NPRM Comment Period Begin	08/03/82	47 FR 33519
NPRM Comment Period End	10/01/82	
Final Action	08/00/83	
Final Action Effective	08/00/83	

Small Entity: Not Applicable

Additional Information: LR-3-81.

Drafting attorney: Mitchell H. Rapaport (202) 566-3459.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: George Mundstock.

Preliminary draft of Treasury decision sent to Treasury.

Final draft sent to Commissioner for signature.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545–AD19

396. PROCEDURE AND ADMINISTRATION—DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEES OF TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6103(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations would provide rules for determining whether tax returns and return information may be disclosed to individuals and agencies designated by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-48-82.

Drafting attorney: David E. Dickinson (202) 566-3373-3374.

Notice returned to Office of Chief Counsel (Legislation and Regulations Division), 04/16/82.

Agency Contact: Harold Flanagen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545–AD20

397. PROCEDURE & ADMINISTRATION—PUBLIC INSPECTION OF CERTAIN FOREIGN EXEMPT ORGANIZATION RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6104(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations set forth limitations on the information that will be disclosed to the public by the Internal Revenue Service with respect

to the returns filed by certain exempt organizations.

Timetable:

Action	Date	FR Cite
NPRM	03/04/83	48 FR 9306
NPRM Comment Period Begin	03/04/83	48 FR 9306
NPRM Comment Period End	05/03/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: EE-111-80.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Jewett.

3/4/83 Notice of proposed rulemaking published.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545–AE16

398. REQUIREMENT THAT CERTAIN PERSONS RETAIN COPIES OF INCOME TAX RETURNS UPON THE LIQUIDATION OF A CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6107 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide that certain persons retain copies of income tax returns, for a period of three years upon the liquidation of a corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: LR-290-82.

Drafting Attorney: Mary Frances Pearson (202) 566-3238.

Reviewing Attorney: Charles C. Saverude (202) 566-3323.

Office of Tax Legislative Counsel reviewing attorney:.

Preliminary draft pending with different functions within the Internal Revenue Service.

Agency Contact: Mary Frances Pearson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545–AF14

399. ESTATE TAX—PROCEDURE AND ADMINISTRATION—DEFERRAL AND INSTALLMENT PAYMENT OF ESTATE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6166 Internal Revenue Code of 1954; 26 USC 6161 Internal Revenue Code of 1954; 26 USC 6151 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 301

Abstract: The regulations will provide guidance to executors wishing to extend the time for payment of estate tax where the estate contains an interest in a closely held business. The regulations will provide rules in determining what qualifies as an interest in a closely held business. In addition, the regulations will explain when the installment privileges allowed by section 6166 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-210-76.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislation Counsel (Treasury) reviewing attorneys: Garlock, Woodward.

In Treasury for review.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545–AD23

400. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEDURES TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6222 Internal Revenue Code of 1954; 26 USC 6223 Internal Revenue Code of 1954; 26 USC 6224 Internal Revenue Code of 1954; 26 USC 6227 Internal Revenue Code of 1954; 26 USC 6230 Internal Revenue Code of 1954; 26 USC 6231 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: The temporary regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items at the partnership rather than the partner level. The regulations would provide guidance for various elections under these new procedures and for filing requests for an administrative adjustment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-204-82.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing Attorney: Paul A. Francis (202) 566-3930.

In Legislation and Regulations Division for preparation of Treasury Decision.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545–AE49

401. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEEDINGS TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6222 Internal Revenue Code of 1954; 26 USC 6223 Internal Revenue Code of 1954; 26 USC 6224 Internal Revenue Code of 1954; 26 USC 6227 Internal Revenue Code of 1954; 26 USC 6230 Internal Revenue Code of 1954; 26 USC 6231 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items. The regulations would provide guidance for various elections under these new procedures and for filing requests for an administrative adjustment.

VOL 48 ISS 201 OCT 17 1983 UMI

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-205-82.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE51

402. DESIGNATION OF TAX MATTERS PARTNER FOR PURPOSES OF DETERMINING THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6231(a)(7) Internal Revenue Code of 1954; 26 USC 6230(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: Temporary regulations would set forth procedural rules for designating and revoking the designation of the "tax matters partner" for purposes of the new partnership-level audit procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-206-82.

Drafting Attorney: Donald W. Stevenson (202) 566-3297.

Reviewing Attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorney: Andrew Pike.

In Legislation and Regulations Division for preparation of Treasury Decision.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE53

403. DEFINITION OF "PARTNERSHIP ITEM"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6231(a)(3) Internal Revenue Code of 1954; 26 USC 6230(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposed regulations would define the term "partnership item" for purposes of new rules for determining the tax treatment of partnership items at the partnership level. The notice of proposed rulemaking cross-references the temporary regulations on the same subject.

Timetable:

Action	Date	FR Cite
NPRM	01/14/83	48 FR 01759
NPRM Comment Period Begin	01/14/83	48 FR 01759
NPRM Comment Period End	03/15/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-186-82.

Drafting Attorney: Donald W. Stevenson (202) 566-3297.

Reviewing Attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorney: Andrew Pike.

Notice published 01/14/83.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3297

RIN: 1545-AF09

404. DETERMINATION OF THE TAX TREATMENT OF SUBCHAPTER S ITEMS AT THE CORPORATE LEVEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6241 Internal Revenue Code of 1954; 26 USC 6242 Internal Revenue Code of 1954; 26 USC 6243 Internal Revenue Code of 1954; 26 USC 6244 Internal Revenue Code of 1954; 26 USC 6245 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposed regulations would provide new rules for determining the tax treatment of any subchapter S item at the corporate level. Regulations would provide rules similar to rules for determining the tax treatment of partnership items. The regulations would define the term "subchapter S item."

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-269-82.

Drafting Attorney: Donald W. Stevenson (202) 566-3297.

Reviewing Attorney: Walter H. Woo (202) 566-3297.

Office of Legislative Counsel reviewing attorney: Mark Kuller.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3297

RIN: 1545-AE96

405. ESTATE TAX—PROCEDURE & ADMINISTRATION—SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECS 6166 & 6166A

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6324A Internal Revenue Code of 1954; 26 USC 2204 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 301

Abstract: The regulations will permit the executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or personal liability if an election under section 6166 was made.

Timetable:

Action	Date	FR Cite
NPRM	05/11/83	48 FR 21167
NPRM Comment Period Begin	05/11/83	48 FR 21167
NPRM Comment Period End	07/11/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-209-76.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3289.

Office of Tax Legislative Counsel (Treasury) reviewing

Legislative Counsel (Treasury) reviewing attorney: Garlock, Woodward.

In Legislation and Regulations Division for preparation of Treasury Decision.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AD25

406. PROCEDURE AND ADMINISTRATION—RELEASE OF LIENS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6325 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations will provide guidance in obtaining the issuance of a certificate of release of a notice of Federal tax lien with respect to internal revenue taxes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-253-82.

Drafting Attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Robert Waltuch (202) 566-3287.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AE82

407. TEMPORARY REGULATIONS—CERTAIN REQUIREMENTS FOR THE RELEASE OF A NOTICE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6325(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 401

Abstract: The regulations will provide rules governing the issuance of a release of a notice of Federal tax lien filed with respect to internal revenue taxes. The regulations provide definitions for some of the terms contained in section 6325 (a).

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/21/83	48 FR 17068
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-208-82.

Drafting attorney: Neil Zyskind (202) 566-4336.

Reviewing attorney: Robert Waltuch (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) Reviewing attorneys Keyser, Levinson.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AF20

408. INCOME TAX—TENTATIVE REFUND OF TAX UNDER CLAIM OF RIGHT ADJUSTMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6411 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposal provides rules with respect to a tentative refund of income tax when a taxpayer has a claim of right adjustment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-45-79.

Drafting attorney: Biruta Kelly (202) 566-2456.

Reviewing attorney: Bruce Segal (202) 566-3224.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hutton, Levinson.

In Office of Chief Counsel (Interpretative Division) for preparation of notice.

Agency Contact: Biruta Kelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3456

RIN: 1545-AD30

409. EXCISE TAX—SPORTING GOODS AND FIREARMS & ADMINISTRATION PROVISIONS OF SPECIAL APPLICATION TO MANUFACTURERS & RETAILERS EXCISE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6001 to 6427 Internal Revenue Code of 1954; 26 USC 4161 Internal Revenue Code of 1954; 26 USC 4181 Internal Revenue Code of 1954; 26 USC 4182 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Abstract: This regulation will contain amendments which would revise and update the regulations concerning manufacturers excise taxes on sporting goods and firearms and other administrative provisions especially applicable to manufacturers and retailers excise taxes.

Timetable:

Action	Date	FR Cite
NPRM	01/05/83	48 FR 00442
NPRM Comment Period Begin	01/05/83	
NPRM Comment Period End	05/05/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-2115.

Drafting attorney: Ada S. Rousso (202) 566-4336.

Reviewing attorney: Robert H. Waltuch (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing Attorneys: Hutton, Levinson.

Notice published 01/05/83

Agency Contact: Ada Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AD12

410. PROCEDURE AND ADMINISTRATION—TO CONFORM CHANGES MADE BY PUBLIC LAW 95-628, SECTION 8 (A) RELATING TO PERIOD OF LIMITATIONS FOR CREDIT OR REFUND FOR NET OPERATING LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6511 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulation would relate to the period of limitation for a credit or refund with respect to net operating losses or capital loss carrybacks, investment credit carryback, work incentive program carryback, and new employee credit carryback.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-94-80.

Drafting attorney: Gregory Roth (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, Levinson.

Treasury decision pending Treasury review.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3238

RIN: 1545-AD32

411. MODIFICATION OF INTEREST PAYMENTS FOR CERTAIN PERIODS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6611 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation would provide rules for determining the period during which interest accrues on an underpayment or an overpayment of tax as provided in sections 6601 and 6611 of the Internal Revenue Code of 1954. The period would be determined, in part, by the dates the return and the claim for refund are filed and by whether they were filed in a way that they can be processed.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-280-82.

Drafting Attorney: Howard A. Balikov (202) 566-3288.

Reviewing Attorney: Cynthia L. Clark (202) 566-3288.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of the notice.

Agency Contact: Howard A. Balikov, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AF10

412. SEMIANNUAL ADJUSTMENT OF INTEREST RATE; DAILY COMPOUNDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6621 Internal Revenue Code of 1954; 26 USC 6622 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations would provide that the interest rate on underpayments would be changed twice a year to reflect the prime rate for the prior six month period. The interest rate would be compounded daily.

Timetable:

Action	Date	FR Cite
NPRM	08/23/83	48 FR 38229
Final Action Effective	02/00/84	

Small Entity: Not Applicable

Additional Information: LR-283-82.

Drafting Attorney: Joseph Rosenthal (202) 566-3288.

Reviewing Attorney: John Parcell (202) 566-3336.

Office of Tax Legislative Counsel Reviewing Attorney: George Mundstock.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3288

RIN: 1545-AE31

413. INCOME TAX--PENALTIES FOR FAILURE TO MAKE RETURNS OR FURNISH STATEMENTS (AS AMENDED BY SEC. 1123 OF SUBTITLE C OF TITLE II--OMNIBUS RECONCILIATION ACT OF 1980)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6652 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide for the imposition of penalties on persons failing to make a return or to furnish a statement under section 6039C relating to returns with respect to United States real property interests.

Timetable:

Action	Date	FR Cite
NPRM	01/06/83	48 FR 675
NPRM Comment Period Begin	01/06/83	48 FR 675
NPRM Comment Period End	03/07/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-153-81.

Drafting attorney: Mary E. Dean (202) 566-3289.

Reviewing attorney: Diane L. Renfroe (202) 566-3289.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Lainoff, Schreyer.

01/06/83 Notice of Proposed Rulemaking published.

Agency Contact: Mary E. Dean, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AD35

414. INCOME TAX--PAYMENT OF ESTIMATED TAX BY CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6154 Internal Revenue Code of 1954; 26 USC 6655 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 301

Abstract: The regulations will clarify rules relating to payment of estimated tax by corporations. To avoid penalty for underpayment of estimated tax, corporations who reasonably expect their estimated tax for the taxable year to exceed $40 must make installment payments of estimated tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-140-78.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AD22

415. TO PROVIDE REGULATIONS RELATING TO ACCELERATED PAYMENT OF ESTIMATED TAXES BY CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6655 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Rules will provide for acceleration of estimated payments by corporations, new seasonal income exception, and clarify the annualization rules. The amount of estimated tax payments required for all corporations is increased from 80 to 90 percent of current year's tax liability.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/83	
Final Action	01/30/84	

Small Entity: Not Applicable

Additional Information: LR-228-82.

Drafting Attorney: George T. Magnatta (202) 566-3459.

Reviewing Attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel Reviewing Attorney: Unassigned.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE37

416. PROCEDURE & ADMINISTRATION--PENALTIES FOR OVERSTATEMENT OF DEPOSITS, AND INCOME TAX--TIME FOR FILING INFORMATION RETURNS WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6656(b) Internal Revenue Code of 1954; 26 USC 6046 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301; 26 CFR 1

Abstract: The regulations would provide rules for determining whether the penalty for overstatement of deposits applies, and for determining the date by which information returns required by section 6046 must be filed.

Timetable:

Action	Date	FR Cite
NPRM	05/26/82	47 FR 22970
NPRM Comment Period Begin	05/26/82	47 FR 22970
NPRM Comment Period End	07/20/82	
Final Action	08/00/83	

Small Entity: Not Applicable

Additional Information: LR-311-81.

Drafting attorney: Martha E. Kadue (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

At Treasury for formal approval 3/8/83.

Agency Contact: Martha E. Kadue, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AD38

417. PROCEDURE & ADMINISTRATION--ADDITION TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS, & INCREASE IN THE NEGLIGENCE PENALTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6659 Internal Revenue Code of 1954; 26 USC 6653 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301; 26 CFR 1

Abstract: The regulations would provide rules and definitions with respect to the addition to tax in the case of valuation overstatements, including rules for computing the portion of an underpayment that is attributable to a valuation overstatement. The regulations would also provide rules with respect to the increase in the negligence and fraud penalties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: LR-272-81.

Drafting attorney: Alice Bennett (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Reinhold, Levinson.

Notice returned to Office of Chief Counsel (Legislation and Regulations Division) for revision, 11/15/82.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AD39

418. INCOME TAX--ADDITION TO TAX FOR A SUBSTANTIAL UNDERSTATEMENT OF LIABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6661 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for the computation of the addition to tax, the avoidance of the addition to tax, and for the waiver of such amounts. In connection with avoiding the addition to tax, the regulations would provide guidance on the meanings of substantial authority, adequate disclosure, the more likely than not standard, and the term "tax shelter".

Timetable:

Action	Date	FR Cite
NPRM	03/15/83	48 FR 10662
NPRM Comment Period Begin	03/15/83	48 FR 10662
NPRM Comment Period End	05/16/83	
Public Hearing	07/12/83	48 FR 24736
Final Action	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-277-82.

Drafting Attorney: Ewan Purkiss (202)566-3288.

Reviewing Attorney: John Parcell (202)566-3336.

Office of Tax Legislative Counsel Reviewing Attorney: Richard Reinhold.

In Legislation and Regulations Division for preparation of notice.

VOL
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Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AF05

419. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6700 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations would provide rules and definitions relating to the penalty for promoting abusive tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Not Applicable

Additional Information: LR-273-82.

Drafting Attorney: Alice Bennett (202) 566-3288.

Reviewing Attorney: John Parcell (202) 566-3336.

In the Legislation and Regulations Division for preparation of a draft of a notice of proposed rulemaking.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AE99

420. PENALTY FOR AIDING AND ABETTING IN THE UNDERSTATEMENT OF TAX LIABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6701 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: Proposal will provide rules with respect to the penalty imposed on a person who aids and abets in the understatement of a third party's tax liability. The proposal also provides the standards which will subject one to the penalty.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	

Small Entity: Not Applicable

Additional Information: LR-274-82.

Drafting Attorney: Paul H. Weisman (202) 566-3238.

Reviewing Attorney: Alice M. Bennett (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Rick Reinhold.

In Legislation and Regulations Division for preparation of the notice of proposed rulemaking.

Agency Contact: Paul H. Weisman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF01

421. INCOME TAX—PRESUMPTION OF JEOPARDY IN THE CASE OF ILLEGAL ACTIVITY CASH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6867 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance for applying the presumptions that an amount of cash in excess of ten thousand dollars without an acknowledged owner (1) represents gross income to a single individual, (2) is taxable at a rate of fifty percent, and (3) that collection of the tax is in jeopardy for the purposes of sections 6851 and 6861.

Timetable:

Action	Date	FR Cite
NPRM	01/31/84	

Small Entity: Not Applicable

Additional Information: LR-309-82.

Drafting Attorney: Ewan Purkiss (202) 566-3288.

Reviewing Attorney: John Parcell (202) 566-3336.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Cynthia Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AE30

422. RECOVERY OF COURT COSTS AND CERTAIN FEES IN A CIVIL TAX PROCEEDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7430 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The proposed will set forth the circumstances in which a party normally will be considered to have exhausted the administrative remedies available within the Internal Revenue Service for purposes of the recovery of court costs and certain fees in a civil tax proceeding brought in a court of the United States or the Tax Court.

Timetable:

Action	Date	FR Cite
NPRM	03/25/83	
NPRM Comment Period Begin	03/25/83	
NPRM Comment Period End	05/24/83	
Final Action	09/20/83	

Small Entity: Not Applicable

Additional Information: LR-11-83.

Drafting Attorney: Paul H. Weisman (202) 566-3238.

Reviewing Attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Rick Reinhold.

In Legislation and Regulations Division for preparation of a notice.

Agency Contact: Paul H. Weisman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF25

423. PROCEDURE AND ADMINISTRATION—AMENDMENT OF REGULATIONS RELATING TO THE TIMELY MAILING OF RETURNS, TAXES AND DEPOSITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations would amend existing regulations, relating to the timely mailing of documents, to provide for the timely mailing of returns, taxes and deposits.

Timetable:

Action	Date	FR Cite
NPRM	12/11/79	44 FR 71430
NPRM Comment Period Begin	12/11/79	44 FR 71430
NPRM Comment Period End	02/11/80	
Final Action	09/30/83	

Small Entity: Not Applicable

Additional Information: LR-1406.

Drafting attorney: Ewan Purkiss (202)566-3238.

Reviewing attorney: John Parcell (202)566-3336.

Office of Tax Legislative Counsel (Treasury) Reviewing Attorney: Mark Kuller.

In the Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3238

RIN: 1545-AD42

424. PROCEDURE & ADMINISTRATION—ADMINISTRATIVE SUMMONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7609 Internal Revenue Code of 1954; 26 USC 7610 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations will provide guidance to third-party recordkeepers as to their rights and obligations when served an administrative summons by the Internal Revenue Service. Such a summons is used to obtain taxpayer records in the hands of a third party, such as a bank. The regulations will outline various notice requirements, procedures for staying compliance with the summons, and the reimbursement of costs related to compliance with the summons.

Timetable:

Action	Date	FR Cite
NPRM	08/21/80	45 FR 55764
NPRM Comment Period Begin	08/21/80	45 FR 55764
NPRM Comment Period End	10/20/80	
Final Action	03/01/84	

Small Entity: Not Applicable

Additional Information: LR-164-76.

Drafting Attorney: Philip R. Bosco (202) 566-3288.

Reviewing Attorney: Phoebe A. Mix (202) 566-3288.

Office of Tax Legislative Counsel Reviewing Attorney: Hutton.

Presently under reconsideration in the Office of Chief Counsel (Legislation and Regulations Division), 9/3/82.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3288

RIN: 1545-AD43

425. ADMINISTRATIVE SUMMONSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7609 Internal Revenue Code of 1954; 26 USC 7610 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: An administrative summons is used by the Internal Revenue Service to obtain taxpayer records in the hands of a third party recordkeeper, such as a bank. Sections 331, 332, and 333 of the Tax Equity and Fiscal Responsibility Act of 1982 amended sections 7609 and 7610 of the Internal Revenue Code of 1954 relating to administrative summonses. The amendments alter the circumstances under which an administrative summons may be issued and also alter the rights and obligations of the subject taxpayer and third-party recordkeeper. This regulation project will provide guidance relating to these new administrative summons procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/01/83	

Small Entity: Not Applicable

Additional Information: LR-10-83.

Drafting attorney: Philip R. Bosco (202) 566-3288.

Reviewing attorney: Phoebe A. Mix (202) 566-3288.

Office of Tax Legislative Counsel Reviewing Attorney: Hutton.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3288

RIN: 1545-AF33

426. ●INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7871 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations would provide guidance to Indian tribal governments seeking to be treated as States for certain purposes under section 7871 of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
Final Action	07/00/83	
Final Action Effective	00/00/00	

Small Entity: No

Additional Information: LR-100-83.

Drafting Attorney: Linda M. Kroening (202) 566-3288.

Reviewing Attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Linda M. Kroening, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3288

RIN: 1545-AF56

427. ●TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1982—PART 145 FLOORSTOCKS TAX ON TIRES

Legal Autbority: 26 USC 7805; PL 97-424, Sec 521

CFR Citation: 26 CFR 145

Abstract: This project will provide rules relating to the floorstocks tax on tires. It will explain who must pay the tax, when the tax must be paid, what forms to use, and how inventories are to be taken.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: No

Additiona! Information: LR-148-83.

Drafting Attorney: Neil Zyskind (202) 566-4336.

Reviewing Attorney: Robert Coplan (202) 566-3287.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AF72

VOL 48 ISS 201 OCT 17 1983 UMI

428. INCOME TAX—MARITIME CAPITAL CONSTRUCTION FUND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 46 USC 1177 Merchant Marine Act of 1936

CFR Citation: 26 CFR 3

Abstract: The proposal would provide rules for the income tax treatment with respect to capital construction funds for certain vessels.

Timetable:

Action	Date	FR Cite
NPRM	01/29/76	41 FR 04280
NPRM Comment Period Begin	01/29/76	41 FR 04280
NPRM Comment Period End	03/29/76	
Hearing	07/07/76	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-149-75.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury Decision.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AD46

429. INCOME TAX—AMORTIZATION DEDUCTION FOR MOTOR CARRIER OPERATING AUTHORITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; PL 97-34, Sec 266; PL 97-424, Sec 517; PL 97-448, Sec 102(h)

CFR Citation: 26 CFR 1

Abstract: These regulations will provide rules relating to a deduction that is to be taken ratably over a 60 month period for adjusted bases of the motor carrier operating authority.

Timetable:

Action	Date	FR Cite
NPRM	06/06/83	48 FR 25224
NPRM Comment Period Begin	06/06/83	48 FR 25224
NPRM Comment Period End	08/05/83	
Final Action	12/00/83	

Small Entity: Not Applicable

Additional Information: LR-203-81.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Woodward.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AD48

430. STATEMENT OF PROCEDURAL RULES—AMENDMENTS TO 1981-2

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Abstract: The regulation would update the Statement of Procedural Rules, 26 CFR 601 to reflect changes in Internal Revenue Service Procedures.

Timetable:

Action	Date	FR Cite
Final Action	08/31/83	

Small Entity: Not Applicable

Additional Information: LR-91-82.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Circulation for final approval by affected IRS functions 7-5-82.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AD49

431. STATEMENT OF PROCEDURAL RULES—1979-2 PERIODIC AMENDMENTS

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Abstract: Provision would amend the Statement of Procedural Rules to, among other things, provide updated procedures regarding ruling request and requests for technical advice, thereby giving the public needed guidance on what those procedures are.

Timetable:

Action	Date	FR Cite
Final Action	01/00/84	

Small Entity: Not Applicable

Additional Information: LR-248-79.

Drafting attorney: Yerachmiel Weinstein (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Revised draft to Office of Assistant Commissioner (Employee Plans and Exempt Organizations), Office of Assistant Commissioner (Examination), Office of Chief Counsel (Corporation Tax Division), Office of Chief Counsel (Interpretative Division), 06/30/82.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AD50

432. STATEMENT OF PROCEDURAL RULES—AMENDMENTS TO STATEMENT OF PROCEDURAL RULES—1981-1

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Abstract: Semi-annual update of the Statement of Procedural Rules.

Timetable:

Action	Date	FR Cite
Final Action	04/00/84	

Small Entity: Not Applicable

Additional Information: LR-154-81.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W, Washington D.C. 20224, 202 566-3458

RIN: 1545-AD55

433. ●AMENDMENTS TO THE STATEMENT OF PROCEDURAL RULES 1982-2

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Abstract: Amendments to the statement of procedural rules will update or make corrections in these regulations and will also reflect changes in the procedures of the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-79-83.

Drafting Attorney: Michel A. Daze (202) 566-3458.

Reviewing Attorney: Charles M. Whedbee (202) 566-3458.

In Legislation and Regulations Division for preparation of document.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, DC 20224, 202 566-3458

RIN: 1545-AF40

434. ●STATEMENT OF PROCEDURAL RULES—SPECIAL AMENDMENT

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Abstract: These regulations will conform the Statement of Procedural Rules with Department of Treasury regulations increasing the fees to be charged for search and duplication services in implementing the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
Final Action	08/00/83	

Small Entity: No

Additional Information: LR-108-83.

Drafting Attorney: Keith E. Stanley (202) 566-3458.

Reviewing Attorney: Charles Whedbee (202) 566-3458.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, DC 20224, 202 566-3458

RIN: 1545-AF68

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Existing Regulations Under Review

435. INCOME TAX—EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID THE FEDERAL INCOME TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1491 Internal Revenue Code of 1954; 26 USC 1492 Internal Revenue Code of 1954; 26 USC 1494 Internal Revenue Code of 1954; 26 USC 1057 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would describe transfers by United States persons that are subject to the excise tax imposed by section 1491, would provide rules with respect to electing to treat the transfer as a taxable exchange, and would provide rules for establishing that tax avoidance was not a principal purpose of the transfer.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-236-76.

Drafting attorney: Martha E. Kadue (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Lainoff.

In Legislation and Regulations Division for preparation of notice of proposed rulemaking.

Agency Contact: Martha E. Kadue, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC44

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

COMPLETED RULEMAKINGS

436. INCOME TAX—TEMPORARY REGULATIONS—CREDIT FOR INCREASING RESEARCH ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 44F Internal Revenue Code of 1954

CFR Citation: 26 CFR 5c

Abstract: The regulations will provide the extent to which taxpayers will be entitled to an income tax credit for increases in certain research activity.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/00/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-6-82.

Drafting attorney: John R. Harman (202) 566-3238.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

10/13/82 draft of Treasury Decision to Treasury.

Agency Contact: John R. Harman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3238

RIN: 1545-AA06

VOL 48 ISS 201 OCT 17 1983 UMI

TREAS—IRS

Completed Actions

437. INCOME TAX—DEFINITION OF ENERGY PROPERTY; CRITERIA TO BE USED BY THE SECRETARY IN ADDING ITEMS TO THE LIST OF SPECIALLY DEFINED ENERGY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 48(l)(5) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The proposed regulations would set forth criteria to be used by the Secretary of Treasury in making additions to the list of specially defined energy property for purposes of claiming the investment tax credit for energy property.

Timetable:

Action	Date	FR Cite
NPRM	01/07/81	46 FR 01753
NPRM Comment Period Begin	01/07/81	46 FR 01753
NPRM Comment Period End	03/06/81	
Hearing	04/30/81	
Withdrawn	04/26/83	48 FR 19182

Small Entity: Not Applicable

Additional Information: LR-78-80.

Drafting attorney: Michel A. Daze (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Draft to Treasury for formal approval on 01/26/83.

Returned to the Office of Chief Counsel (Legislation and Regulations Division) for preparation of withdrawal notice 12/22/82.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AA28

438. INCOME TAX—SINGLE PURPOSE AGRICULTURAL STRUCTURE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 48(a)(1)(D) Internal Revenue Code of 1954; PL 95-600, Sec 314; 26 USC 48(p) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the investment tax credit for single purpose agricultural or horticultural structures.

Timetable:

Action	Date	FR Cite
NPRM	01/23/81	46 FR 7397
NPRM Comment Period Begin	01/23/81	46 FR 7397
NPRM Comment Period End	03/24/81	
Hearing	06/25/81	
Final Action 7900	07/18/83	48 FR 32766
Final Action Effective	07/18/83	48 FR 32766

Small Entity: Not Applicable

Additional Information: LR-88-79.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Keyser.

Published in the Federal Register 7-19-83.

Agency Contact: Duane H. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA20

439. INCOME TAX—REPORTING REQUIREMENTS FOR NONQUALIFIED STOCK OPTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 83 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance relating to certain reporting requirements concerning the transfer of nonstatutory stock options, where such options do not have a readily ascertainable fair market value. The purpose of such reporting requirements would be to document the stated value of such options for purposes of including their value in an employee's gross income at the time such options are granted.

Timetable:

Action	Date	FR Cite
NPRM	09/20/77	
Hearing	03/20/78	
Withdrawn	06/27/83	48 FR 29538
Closed without regulations	06/30/83	

Small Entity: Not Applicable

Additional Information: LR-95-77.

Drafting attorney: Philip R. Bosco (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

Signature package of withdrawal notice currently circulating within the Internal Revenue Service.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA40

440. INCOME TAX—OBLIGATIONS OF CERTAIN VOLUNTEER FIRE DEPARTMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(i) Internal Revenue Code of 1954; PL 97-34, Sec 812

CFR Citation: 26 CFR 1

Abstract: The regulations would provide a definition of a qualified volunteer fire department for purposes of issuance of tax-exempt obligations and would define the purposes for which such obligations may be used.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/31/80	48 FR 32981
NPRM	06/21/82	47 FR 26666
NPRM Comment Period Begin	06/21/82	47 FR 26666
NPRM Comment Period End	09/21/82	
Final Action	07/20/83	48 FR 32981

Small Entity: Not Applicable

Additional Information: LR-193-81.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Pike, Levinson.

Final draft of Treasury decision forwarded to Treasury in signature 4/26/83.

Published in Federal Register 07/20/83.

TREAS—IRS

Completed Actions

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA45

441. TO PROVIDE TEMPORARY REGULATIONS UNDER SECTION 103 (K) AND (L) RELATING TO PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS FOR CERTAIN BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: Rule will clarify the public approval and information reporting requirements with respect to private activity bonds. Industrial Development Bonds must be publicly approved - failure to fulfill this requirement will result in loss of tax exemption for the interest on these bonds. Issuers of student loan bonds, charitable use bonds and industrial development bonds are required to supply certain information to the Internal Revenue Service. Failure to comply with this requirement will result in the loss of tax exemption for the bond is interest.

Timetable:

Action	Date	FR Cite
NPRM	02/15/83	
Final Action T.D. 7892	05/11/83	48 FR 21115
Final Action Effective	05/11/83	

Small Entity: Not Applicable

Additional Information: LR-303-82.

Drafting Attorney: George T. Magnatta (202)566-3459.

Reviewing Attorney: John P. MacMaster (202)566-3294.

Office of Tax Legislative Counsel Reviewing Attorney: Andrew Furer.

Draft of temporary regulation sent to Tax Legislative Counsel for comments.

Comments from Tax Legislative Counsel, 01-14-83.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AF28

442. INCOME TAX—TO CLARIFY THE PROPER RECOVERY EXCLUSION FOR STATE INCOME TAX REFUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 111 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations will provide rules for the proper computation of the portion of a state tax refund which a taxpayer may exclude from income in the year the refund is received.

Timetable:

Action	Date	FR Cite
Closed without regulations	08/28/83	

Small Entity: Not Applicable

Additional Information: LR-136-81.

Drafting attorney: Robert B. Coplan (202) 566-3287.

This project was closed 8/28/83.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA68

443. INCOME TAX—EDUCATIONAL ASSISTANCE PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 127 Internal Revenue Code of 1954; 26 USC 3121(a)(18) Internal Revenue Code of 1954; 26 USC 3401(a)(18) Internal Revenue Code of 1954; 26 USC 3306(b)(13) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules relating to the establishment and operation of a qualified educational assistance program. Amounts paid or expenses incurred by an employer for educational assistance furnished under a qualified program are excluded from an employee's gross income.

Timetable:

Action	Date	FR Cite
NPRM	11/23/81	46 FR 57325
NPRM Comment Period Begin	11/23/81	46 FR 57325
NPRM Comment Period End	01/22/82	
Hearing 03/24/82	02/17/82	47 FR 6894
Final Action	07/06/83	48 FR 31015

Small Entity: Not Applicable

Additional Information: EE-178-78.

Drafting attorney: Charles K. Kerby, III (202) 566-3422.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

Treasury Decision published, 07/06/83.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD64

444. INCOME TAX—EXCLUSION OF INTEREST ON CERTAIN SAVINGS CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 126 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: These regulations will provide rules relating to the exclusion from gross income of the interest on certain savings certificates. They will explain how to determine the life time exclusion and how to determine whether the requirement relating to the seventy percent of average investment yield of one year Treasury bills has been met.

Timetable:

Action	Date	FR Cite
NPRM	10/20/81	46 FR 51588
NPRM Comment Period Begin	10/20/81	46 FR 51588
Hearing	11/23/81	
NPRM Comment Period End	12/21/81	
Withdrawn	07/26/83	48 FR 33911

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: LR-232-81.

Drafting attorney: Cynthia L. Clark (202) 566-4336.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorneys: Woodward, Levinson.

Presently under consideration in Office of Chief Counsel (Legislation and Regulations Division).

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Ada Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AA74

445. TEMPORARY INCOME TAX REGULATIONS TO ALLOW BASIS ADJUSTMENT FOR CERTAIN TRANSITIONAL SAFE HARBOR LEASE PROPERTY

Legal Authority: 26 USC 168(f)(8); 26 USC 7805

CFR Citation: 26 CFR 5f

Abstract: The regulations would clarify that certain safe harbor leases executed on or before December 1, 1982 may be amended to retroactively adjust the basis of transitional safe harbor lease property which had been sold and leased back.

Timetable:

Action	Date	FR Cite
Final Action Effective	07/02/82	48 FR 11941
Final Action	03/22/83	48 FR 11941

Small Entity: Not Applicable

Additional Information: LR-307-82.

Drafting attorney: John A. Tolleris (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Phil McCarty.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AF23

446. INCOME TAX—TEMPORARY REGULATIONS—AMORTIZATION OF CERTAIN REFORESTATION EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 194 Internal Revenue Code of 1954; PL 96-451 Title III, RBS & FI Act of 1980

CFR Citation: 26 CFR 15b

Abstract: These regulations provide rules for an election under which taxpayers may amortize up to $10,000 of qualified reforestation expenditures over a seven-year period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/83	48 FR 10860

Small Entity: Not Applicable

Additional Information: LR-224-80.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Levinson.

Treasury decision published 03/15/83.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AB00

447. INCOME TAX—TRAVEL EXPENSES OF MEMBERS OF CONGRESS AS AMENDED BY SEC 116 OF THE BLACK LUNG BENEFITS REVENUE ACT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 280A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide the manner by which members of Congress can deduct prescribed amounts as travel expenses arising from their trade or business as members of Congress without substantiation.

Timetable:

Action	Date	FR Cite
NPRM	01/21/82	47 FR 03006
NPRM Comment Period Begin	01/21/82	47 FR 03006
NPRM Comment Period End	03/22/82	
Hearing	05/11/82	
Withdrawn	06/06/83	48 FR 25228
Closed without regulations	06/30/83	

Small Entity: Not Applicable

Additional Information: LR-4-82.

Drafting attorney: Linda M. Kroening (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel Reviewing Attorney: McCarty.

Agency Contact: Linda M. Kroening, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB10

448. INCOME TAX—TREATMENT OF CERTAIN CORPORATE INTERESTS AS STOCK OR INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 385 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for determining whether interests in a corporation are treated as stock or indebtedness for tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	01/05/82	47 FR 164
NPRM Comment Period Begin	01/05/82	47 FR 164
NPRM Comment Period End	03/07/82	
Hearing	03/10/82	
Withdrawn	07/01/83	48 FR 31054
NPRM withdrawn	07/06/83	48 FR 31054
Final Action	00/00/00	

Small Entity: Yes

Additional Information: LR-75-81.

Drafting attorney: Carolyn Swift (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Furer.

Draft regulatory flexibility analysis prepared.

Agency Contact: Carolyn Swift, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB33

449. INCOME TAX—TO APPLY ACCUMULATED EARNINGS TAX TO CORPORATIONS ACCUMULATING EARNINGS AND PROFITS TO AVOID TAX ON CERTAIN FOREIGN CORPORATE SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 532 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will provide final Income Tax Regulations relating to the application of the accumulated earnings tax to corporations accumulating earnings and profits to avoid the income tax on distributions by the corporation to certain foreign corporate shareholders and relating to the definition of accumulated taxable income. The changes are necessary because the prior regulations applied the accumulated earnings tax to corporations accumulating earnings and profits to avoid the income tax on distributions to individual, not corporate, shareholders and because, in the case of a foreign corporation, the definition of accumulated taxable income was unclear.

Timetable:

Action	Date	FR Cite
NPRM	12/22/80	45 FR 84088
NPRM Comment Period Begin	12/22/80	45 FR 84088
NPRM Comment Period End	02/20/81	
Hearing	05/06/82	
Withdrawn	06/06/83	48 FR 25228
Closed without regulations.	06/16/83	
Final Action	12/31/83	

Small Entity: Not Applicable

Additional Information: LR-125-78.

Drafting attorney: Carol Doran (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Lainoff.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury decision.

Agency Contact: Carol T. Doran, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Room 4109, Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB61

450. INCOME TAX—RESERVES FOR LOSSES ON LOANS OF MUTUAL SAVINGS BANKS, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 593(b)(3) Internal Revenue Code of 1954; 26 USC 593(b)(4) Internal Revenue Code of 1954; 26 USC 593(b)(5) Internal Revenue Code of 1954; PL 91-172, Sec 432 (a); PL 97-34, Sec 243

CFR Citation: 26 CFR 1

Abstract: The regulations would provide for a minimum addition to reserves for losses on loans of mutual savings banks and would conform the regulations to a change made by the Economic Recovery Tax Act of 1981, relating to recapture of distributions from excess bad debt reserves.

Timetable:

Action	Date	FR Cite
Project closed without regulations	12/09/82	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-152-73.

Drafting attorney: Susan Thompson Baker (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Notice pending Treasury review.

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AB68

451. INCOME TAX—PERCENTAGE DEPLETION DEDUCTION—TO CLARIFY RULES RELATING TO DETERMINATION OF GROSS INCOME FROM THE PROPERTY IN THE CASE OF OIL & GAS WELLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 613 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules applicable to the determination of gross income from the property in the case of oil and gas wells and add a returns-on-investment method applicable in determining gross income from the property in the case of oil and gas wells.

Timetable:

Action	Date	FR Cite
Project closed	3/10/83	

Small Entity: Not Applicable

Additional Information: LR-2073.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

Project closed 3-10-83.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB70

452. INCOME TAX—PERCENTAGE DEPLETION RATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would define such terms as oil well, oil, shale, and geothermal deposit which are pertinent to a determination of the applicable depletion rate.

Timetable:

Action	Date	FR Cite
Project closed	03/10/83	

Small Entity: Not Applicable

Additional Information: LR-2072.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

Project closed 3-10-83.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB72

453. INCOME TAX—CLARIFICATION OF TREATMENT OF PARTNERSHIP SYNDICATION FEES, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 709 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide guidance to taxpayers on the amortization of partnership organizational expenditures.

TREAS—IRS

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	01/11/80	45 FR 2349
NPRM Comment Period Begin	01/11/80	45 FR 2349
NPRM Comment Period End	03/11/80	
Hearing	05/21/80	
Final Action Treasury Decision 7891	05/04/83	48 FR 20047

Small Entity: Not Applicable

Additional Information: LR-266-78.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Kuller.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB83

454. INCOME TAX—CONFORMING REGULATIONS TO CERTAIN AMENDMENTS TO SUBPART F

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 951(a) Internal Revenue Code of 1954; 26 USC 954(b)(1) Internal Revenue Code of 1954; 26 USC 954(f) Internal Revenue Code of 1954; 26 USC 955 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would provide conforming changes with respect to the regulations under Subpart F to conform to changes made by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	02/09/78	
Final Action Treasury Decision	05/19/83	48 FR 22505
Final Action Effective	05/19/83	

Small Entity: Not Applicable

Additional Information: LR-67-75.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: Schreyer.

Treasury decision published May 19, 1983, 48 FR 22505.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C.20224, 202 566-3289

RIN: 1545-AC12

455. INCOME TAX—CURRENT TAXATION OF SHIPPING PROFITS OF CONTROLLED FOREIGN CORPORATIONS EXCEPT TO EXTENT SUCH PROFITS ARE REINVESTED IN SHIPPING OPERATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 951 Internal Revenue Code of 1954; 26 USC 954 Internal Revenue Code of 1954; 26 USC 955 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation would provide rules with respect to the current taxation of shipping profits of controlled foreign corporations except to the extent the shipping profits are reinvested in shipping operations.

Timetable:

Action	Date	FR Cite
NPRM	08/09/76	
Temporary Regs T.D. 7503 published	08/22/77	
Final Action Treasury Decision	05/19/83	48 FR 22512
Final Action Effective	05/19/83	

Small Entity: Not Applicable

Additional Information: LR-68-75.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: Schreyer.

Treasury decision published May 19, 1983, 48 FR 22512.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C., 202 566-3289

RIN: 1545-AC11

456. INCOME TAX—RECAPTURE OF DEPRECIATION ON REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1250 Internal Revenue Code of 1954; PL 94-455, Sec 202; PL 94-455, Sec 1901 (b); PL 94-455, Sec 1951 (e); PL 94-455, Sec 2121 (b); PL 94-455, Sec 2124 (a); Tax Reform Act of 1976, Section 202

CFR Citation: 26 CFR 1

Abstract: The regulations would conform the Income Tax Regulations to changes made by the Tax Reform Act of 1976 relating to recapture of depreciation on real property.

Timetable:

Action	Date	FR Cite
Project closed without regulations	12/08/82	
End Review	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-131-76.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Yecies.

Project closed without regulations, 12/08/82.

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3459

RIN: 1545-AC32

457. INCOME TAX—TO MODIFY THE PERCENTAGE BAD DEBT DEDUCTION FOR THRIFT INSTITUTIONS THAT FILE CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 26 USC 593 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Provision would amend the consolidated returns regulations to clarify the rules for computing the bad-debt deduction under section 593 of the Internal Revenue Code of 1954 for thrift institution members of an affiliated group filing consolidated returns, thereby giving the public needed guidance on how that computation is to be made.

TREAS—IRS

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	01/30/80	
Notice Published	01/30/81	
Hearing	09/09/81	
Final Action Effective	3/14/83	48 FR 11256
Final Action T.D. 7876	3/17/83	48 FR 11256

Small Entity: No

Additional Information: LR-108-80.

Drafting attorney: Benedetta Kissel (202) 566-3238.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Briefing session held 01/18/82.

Agency Contact: Yerachmiel E. Weinstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC54

458. INCOME TAX—CONSOLIDATED RETURNS UNDER SECTION 1502 TO BE FILED BY LIFE-NONLIFE GROUPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1504(c)(2) Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 26 USC 1503(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide rules for determining an affiliated group's consolidated taxable income where the group includes both corporations that are life insurance companies and corporations that are not life companies.

Timetable:

Action	Date	FR Cite
NPRM	06/08/82	47 FR 24737
NPRM Comment Period Begin	06/08/82	47 FR 24737
NPRM Comment Period End	09/15/82	
Final Action Effective	03/14/83	
Final Action T.D. 7877	03/16/83	48 FR 11496

Small Entity: No

Additional Information: LR-18-82.

Drafting attorney: Donald K. Duffy (202) 566-4338.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Pike.

Agency Contact: Donald K. Duffy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-4336

RIN: 1545-AC56

459. EMPLOYMENT TAXES—TO MODIFY REQUIREMENTS WITH RESPECT TO SICK PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3401 Internal Revenue Code of 1954; Tax Reform Act of 1976, section 505

CFR Citation: 26 CFR 1; 26 CFR 31

Abstract: The regulations would modify requirements relating withholding income tax on sick pay. The regulations specify the conditions under which an employer, or an agent of an employer, must withhold income taxes from payments of sick pay.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/77	
NPRM	02/12/82	47 FR 06440
NPRM Comment Period Begin	02/12/82	47 FR 06440
NPRM Comment Period End	04/13/82	
NPRM	02/12/83	47 FR 06440
Final Action	04/25/83	48 FR 17586

Small Entity: Not Applicable

Additional Information: LR-74-77.

Drafting attorney: Barry L. Wold (202) 566-3288.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hevener.

Draft of Treasury Decision to Office of Chief Counsel (Individual Tax Division), Office of Chief Counsel (Employee Plans and Exempt Organizations Division), Office of Chief Counsel (Interpretative Division), 05/17/82.

Comments from Office of Chief Counsel (Interpretative Division), 05/25/82.

Draft of Treasury Decision to Office of Tax Legislative Counsel (Treasury), 07/09/82.

Treasury Decision to Commissioner for formal approval, 9-16-82.

Agency Contact: Barry L. Wold, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AC60

460. EMPLOYMENT TAX AND COLLECTION OF INCOME TAX AT SOURCE—WITHHOLDING OF INCOME TAX FROM PAYMENTS OF INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3451 Internal Revenue Code of 1954; 26 USC 6302 Internal Revenue Code of 1954; PL 97-248, Sec 308

CFR Citation: 26 CFR 31

Abstract: The regulations will provide the guidance necessary to enable payors and recipients of payments of interest, dividends, and patronage dividends to comply with the law with respect to withholding 10 percent of such payments and remitting to the federal government.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51421
NPRM Comment Period Begin	11/15/82	47 FR 51421
NPRM Comment Period End	01/14/83	
Hearing held	02/01/83	
Final Action T.D. 7880	03/28/83	48 FR 12940
Final Action Effective	06/06/83	

Small Entity: Not Applicable

Additional Information: LR-216-82.

Drafting attorney: Pamela F. Olson (202) 566-3590.

Reviewing attorney: John Coulter.

Office of Tax Legislative Counsel Reviewing Attorney: Richard Reinhold.

Public hearing held on February 1, 1983.

Final regulations published in the Federal Register for March 28, 1983.

Agency Contact: Pamela F. Olson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AB96

VOL 48 ISS 201 OCT 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

461. FOUNDATION EXCISE TAX—DEFINITION OF "DISTRIBUTABLE AMOUNT" AND "QUALIFYING DISTRIBUTION"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4942(d)(1) Internal Revenue Code of 1954; 26 USC 4942(j)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 53

Abstract: Under the amendment to Internal Revenue Code section 4942(d)(1) a foundation's distributable amount is equal to its minimum investment return. Under the amendment to Internal Revenue Code Section 4942(j)(3), an operating foundation, among other requirements, is required to make qualifying distributions equal to substantially all of the lesser of the foundation's adjusted net income or its minimum investment return. The regulation defines distributable amount and operating foundation in accordance with these amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/13/82	47 FR 20629
NPRM Comment Period Begin	05/13/82	47 FR 20629
NPRM Comment Period End	07/12/82	
Final Action	03/22/83	48 FR 11942

Small Entity: Not Applicable

Additional Information: EE-153-81.

Drafting attorney: Monice L. Rosenbaum (202) 566-3422.

Reviewing attorney: Charles K. Kerby, III (202) 566-3422.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Jewett, Levinson.

No change Treasury Decision published, 3/22/83.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE11

462. EXCISE TAX—CHANGES IN THE APPLICATION OF DEPARTMENT OF ENERGY REGULATIONS FOR PURPOSES OF THE WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4997(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Abstract: The regulations would provide for changes in the application of Department of Energy regulations for purposes of the Windfall Profit Tax Act of 1980.

Timetable:

Action	Date	FR Cite
Project closed	07/15/83	

Small Entity: Not Applicable

Additional Information: LR-72-80.

Drafting attorney: Douglas W. Charnas (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Project closed 07/15/83.

Agency Contact: Douglas W. Charnas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD10

463. TEMPORARY REGULATIONS—INCOME TAX—INFORMATION RETURNS OF BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6045 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: The regulations would relate to information returns of brokers and barter exchanges. The regulations would require brokers to file information returns with respect to certain transactions for customers. Barter exchanges would be required to file information returns with respect to exchanges of property or services through the barter exchange. These regulations will be issued as proposed regulations and not temporary regulations. Therefore, this project will be closed without regulations.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/29/83	

Small Entity: Not Applicable

Additional Information: LR-179-82.

Drafting Attorney: Gregory A. Roth.

Reviewing Attorney: John H. Parcell.

Office of Tax Legislative Counsel Reviewing Attorneys: Mundstock, Levinson.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W, Washington, D.C. 20224, 202 566-3238

RIN: 1545-AE23

464. RETURNS REQUIRED ON MAGNETIC MEDIA

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6011 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would require certain returns to be filed on magnetic media. This project will be merged into project LR-259-82 and this project will be closed without regulations.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/29/83	

Small Entity: Not Applicable

Additional Information: LR-302-82.

Drafting Attorney: Gregory A. Roth.

Reviewing Attorney: John H. Parcell.

Office of Tax Legislative Counsel Reviewing Attorneys: Mundstock, Levinson.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AE33

465. INCOME TAX—INFORMATION RETURNS OF BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6045 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would relate to information returns of brokers and barter exchanges. The regulations would require brokers to file information returns with respect to certain transactions for customers. Barter exchanges would be required to file information returns with respect to exchanges of property or services through the barter exchange.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51415
NPRM Comment Period Begin	11/15/82	47 FR 51415

Action	Date	FR Cite
NPRM Comment Period End	01/15/83	
Final Action T.D. 7873	03/11/83	48 FR 10302
Final Action Effective	03/11/83	

Small Entity: Not Applicable

Additional Information: LR-148-80.

Drafting attorney: Gregory Roth (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Mundstock, Levinson.

Agency Contact: Gregory Roth, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3238

RIN: 1545-AD16

466. TO PROVIDE REGULATIONS RELATING TO INFORMATION REPORTING REQUIREMENTS OF INTEREST AND ORIGINAL ISSUE DISCOUNT

Legal Authority: 26 USC 6049 Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide that interest and original issue discount are subject to information reporting requirements. The regulations define interest that is subject to reporting as well as provide exceptions to the reporting requirement. The regulations will provide the method and information to be reported. The regulations also will provide the time that the returns must be sent to the Service and the time the statements must be furnished to the recipient.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51412
NPRM Comment Period Begin	11/15/82	47 FR 51412
Final Action Effective	12/31/82	
NPRM Comment Period End	01/14/83	
Hearing held	01/25/83	47 FR 51414
Final Action T.D. 7881	3/28/83	48 FR 12966

Small Entity: Not Applicable

Additional Information: LR-227-82.

Drafting Attorney: Diane Kroupa (202) 566-3459.

Reviewing Attorney: John Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Richard Reinhold.

Hearing scheduled 01/25/83.

Agency Contact: Diane Kroupa, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE19

467. INCOME TAX—EXTENSION OF TIME FOR FILING RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6081 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: A taxpayer that must file an individual tax return may currently receive an automatic two-month extension to file such a return. This regulation project will amend the regulations so as to permit a four-month automatic extension to file such a return.

Timetable:

Action	Date	FR Cite
Final Action T.D. 7885	04/18/83	48 FR 16483

Small Entity: Not Applicable

Additional Information: LR-232-79.

Drafting attorney: Philip R. Bosco (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing Attorney: Kuller.

Signature package of Treasury decision at Treasury, 9/16/82.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AD18

468. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEDURES TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6231(a)(1) Internal Revenue Code of 1954; 26 USC 6231(a)(7) Internal Revenue Code of 1954; 26 USC 6231(c) Internal Revenue Code of 1954; 26 USC 6230(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations will provide procedural rules for the designation of the tax matters partner for purposes of the new partnership-level audit procedures. The regulations will also define "small partnership" and set out the determinations of the Service with respect to areas presenting special enforcement considerations.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/12/83	

Small Entity: Not Applicable

Additional Information: LR-207-82.

Drafting Attorney: Donald W. Stevenson (202) 566-3297.

Reviewing Attorney: Paul A. Francis (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: Andrew Pike.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE55

469. DEFINITION OF "PARTNERSHIP ITEM"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6231(a)(3) Internal Revenue Code of 1954; 26 USC 6230(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: Temporary regulations would define the term "partnership item" for purposes of new rules for determining tax treatment of partnership items at the partnership level.

Timetable:

Action	Date	FR Cite
Closed without regulations	03/10/83	

Small Entity: Not Applicable

Additional Information: LR-185-82.

Drafting Attorney: Donald W. Stevenson (202) 566-3297.

VOL
48
ISS
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Reviewing Attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorney: Andrew Pike.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF07

470. PROCEDURE & ADMINISTRATION--TO PROVIDE FOR SERVICE OF NOTICE OF LEVY BY MAIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6331 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations will provide rules relating to the procedures to be followed by the Internal Revenue Service in serving a notice of levy by mail. The regulations would provide guidance to members of the public upon whom notices of levy are served.

Timetable:

Action	Date	FR Cite
NPRM	02/26/82	47 FR 08378
NPRM Comment Period Begin	02/26/82	47 FR 08378
NPRM Comment Period End	04/26/82	
Final Action T.D. 7874	03/10/83	48 FR 10060
Final Action Effective	03/10/83	

Small Entity: Not Applicable

Additional Information: LR-160-81.

Drafting attorney: Annie R. Alexander (202) 566-3287.

Reviewing attorney: Larry E. Smith (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hutton, Levinson.

Draft of Treasury Decision sent to Tax Legislative Counsel on 11/02/82.

Agency Contact: Annie R. Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AD28

471. PROCEDURE & ADMINISTRATION--TO PROVIDE REGULATIONS RELATING TO OFFSET OF PAST-DUE SUPPORT AGAINST OVERPAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6402(c) Internal Revenue Code of 1954; PL 97-35, Sec 2331 (b)

CFR Citation: 26 CFR 301

Abstract: The regulations would provide rules governing the receipt and processing of data received from the Department of Health and Human Services for offset against federal tax refunds.

Timetable:

Action	Date	FR Cite
NPRM	02/08/82	47 FR 05728
NPRM Comment Period Begin	02/08/82	47 FR 05728
NPRM Comment Period End	05/08/82	
Final Action	05/20/83	48 FR 22708
Final Action Effective	06/20/83	48 FR 22708

Small Entity: Not Applicable

Additional Information: LR-189-81.

Drafting attorney: Susan K. Thompson (202) 566-3294.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Hutton.

Treasury decision signed by Commissioner 4/22/83.

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AD29

472. INCOME TAX--PERIODS OF LIMITATION FOR ASSESSING A DEFICIENCY AND FILING A CLAIM FOR CREDIT OR REFUND ATTRIBUTABLE TO A PARTNERSHIP ITEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6501(o) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations provide special periods of limitation for assessing a deficiency or filing a claim for refund of any partnership item arising out of a federally registered partnership. The regulations define "partnership item" and "federally registered partnerships."

Timetable:

Action	Date	FR Cite
NPRM	01/14/83	48 FR 01759
NPRM Comment Period Begin	01/14/83	48 FR 01759
NPRM Comment Period End	03/15/83	
Final Action Treasury decision 7884	04/15/83	48 FR 16241
Final Action Effective	04/15/83	48 FR 16241

Small Entity: Not Applicable

Additional Information: LR-204-78.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Pike, Levinson.

Treasury decision published 04/15/83.

Hearing held 3-23-83.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD31

473. INCOME TAX--CHANGE IN RATE OF INTEREST ON UNDERPAYMENTS & UNDERPAYMENTS OF TAX TO REFLECT 100% OF PRIME RATE ADJUSTED ANNUALLY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6621 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulations would provide that the rate of interest on underpayments shall be adjusted annually to the prime rate for the previous September.

Timetable:

Action	Date	FR Cite
Project closed without regs	01/24/83	

Small Entity: Not Applicable

Additional Information: LR-245-81.

Drafting attorney: Joseph Rosenthal (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McCarty.

Treasury decision to Treasury for formal approval, 07/01/82.

Agency Contact: Joseph Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224, 202 566-3288

RIN: 1545-AD34

474. INCOME TAX--TO AMEND REGULATIONS UNDER INTERNAL REVENUE CODE SECTIONS 6651 AND 6702 RELATING TO PENALTIES FOR EXTENDED FAILURE TO FILE AND FOR FRIVOLOUS RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6651 Internal Revenue Code of 1954; 26 USC 6702 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: Proposal would amend the regulations under Internal Revenue Code section 6651, relating to minimum penalty for extended failure to file a return, to conform them to changes made by section 318 of the Tax Equity and Fiscal Responsibility Act of 1982. It would also add regulations under Code section 6702, relating to the penalty for filing frivolous returns, added by section 326 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
Closed without Regulations	04/29/83	
NPRM	12/01/83	

Small Entity: Not Applicable

Additional Information: LR-209-82.

Drafting Attorney: Robert E. Culbertson Jr. (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of Tax Legislative Counsel reviewing attorney: Richard Reinhold.

Closed without regulations on April 29, 1983.

Agency Contact: Robert E. Culbertson Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, DC 20224, 202 566-3289

RIN: 1545-AE57

475. INCOME TAX--PAYMENT OF ESTIMATED TAXES BY "LARGE CORPORATIONS"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6655(i) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: This regulation will provide guidance to "large corporations" with respect to their estimated taxes. For taxable years beginning after 1983, "large corporations" can only rely on the annualizations exceptions to underpayment of estimated taxes.

Timetable:

Action	Date	FR Cite
Closed without regulations	06/16/83	
NPRM	10/01/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-9-81.

Drafting attorney: George Magnatta (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hutton, Levinson.

Comments from Office of Chief Counsel - Individual Tax Division, 06/18/82.

Agency Contact: George T. Magnatta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AD37

476. PROCEDURE & ADMINISTRATION--CLASSIFICATION OF ENTITIES ORGANIZED UNDER UNIFORM LIMITED PARTNERSHIP ACT AS REVISED IN 1976

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7701 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations would provide guidance to taxpayers relating to tax classification of entities formed under the Uniform Limited Partnership Act as revised in 1976.

Timetable:

Action	Date	FR Cite
NPRM	10/27/80	45 FR 70909
NPRM Comment Period Begin	10/27/80	45 FR 70909
Previous NPRM	10/27/80	
NPRM Comment Period End	12/26/80	
Final Action Treasury decision 7889	04/26/83	48 FR 18804

Small Entity: Not Applicable

Additional Information: LR-232-78.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Kuller, Levinson.

Office of International Tax Counsel (Treasury) reviewing Attorneys; Wold, Lainoff.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD44

477. PROCEDURE & ADMINISTRATION--TO MODIFY THE APPLICATION OF THE CLASSIFICATION RULES TO LIMITED LIABILITY COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7701 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Abstract: The regulations relate to the classification, for federal tax purposes, of an unincorporated business organization, such as a limited liability company, no member of which is personally liable under local law for the debts of the organization.

Timetable:

Action	Date	FR Cite
NPRM	11/17/80	45 FR 75709
NPRM Comment Period Begin	11/17/80	45 FR 75709
NPRM Comment Period End	01/16/81	
Withdrawn	4/4/83	48 FR 14389

Small Entity: Not Applicable

Additional Information: LR-57-80.

Drafting attorney: David Haglund (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

VOL 48 ISS 201 OCT 17 1983 UMI

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Kuller, McKee.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Lainoff.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD45

478. STATEMENT OF PROCEDURAL RULES—TO PROVIDE FOR CONSOLIDATED APPEALS HEARINGS WITH RESPECT TO CERTAIN ADJUSTMENTS TO WINDFALL PROFIT TAX LIABILITY

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Abstract: The proposed amendments to the Statement of Procedural Rules would allow the Service to conduct a single consolidated Appeals conference to resolve tax issues related to oil items. The proposed amendments provide new procedures for conducting Appeals conferences and define the term "oil item."

Timetable:

Action	Date	FR Cite
NPRM	12/03/82	47 FR 54459
NPRM Comment Period Begin	12/03/82	47 FR 54459
NPRM Comment Period End	01/03/83	
Hearing	01/18/83	47 FR 54461
Final Action	06/02/83	48 FR 24668
Final Action Effective	06/02/83	48 FR 24668

Small Entity: Not Applicable

Additional Information: LR-25-81.

Drafting attorney: Donald W. Stevenson (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Schuldinger, Levinson.

Notice published 12-03-82.

Final amendment of Statement of Procedural Rules published 06-02-83.

Hearing held 01-18-83.

Agency Contact: Donald W. Stevenson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD51

479. STATEMENT OF PROCEDURAL RULES—PERIODIC REVISIONS FOR 1980 PARTS 1 & 2

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Abstract: Miscellaneous Amendments to the Statement of Procedural Rules

Timetable:

Action	Date	FR Cite
Final Action	04/12/83	48 FR 15623
Final Action Effective	04/12/83	48 FR 15623

Small Entity: Not Applicable

Additional Information: LR-20-81.

Drafting attorney: Michel A. Daze (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Final Draft to Office of Chief Counsel (Disclosure Litigation Division), Office of Assistant Commissioner (Criminal Investigation, Foreign Operations, etc., 12/29/82 for approval.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AD54

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

480. ●INCOME TAX: TEMPORARY REGULATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT AMENDING DUE DATES OF CERTAIN REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 897 Internal Revenue Code of 1954; 26 USC 6039C Internal Revenue Code of 1954

CFR Citation: 26 CFR 6a

Abstract: These temporary regulations will extend the dates by which taxpayers must file information returns under Internal Revenue Code section 6039C, and by which taxpayers may apply for a Security agreement in lieu of such reporting. They will also extend the dates by which foreign corporations must elect domestic treatment under Internal Revenue Code section 897 (i) or (k).

Timetable:

Action	Date	FR Cite
Final Action T.D. 7890	04/28/83	48 FR 19165

Small Entity: No

Additional Information: LR-95-83.

Drafting Attorney: Robert E. Culbertson, Jr. (202) 566-3289.

Reviewing Attorney: Martha E. Kadue (202) 566-3289.

Office of International Tax Counsel (Treasury) Reviewing attorneys: Wold, Granwell.

Temporary Regulations published 4/28/83, 48 Federal Register 19165.

Agency Contact: Robert E. Culbertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF48

481. ●DETERMINATION OF THE TAXABLE YEAR FROM WHICH DIVIDENDS ARE CONSIDERED PAID FOR THE PURPOSE OF THE CREDIT FOR CORPORATE STOCKHOLDERS IN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 902 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: Proposal would provide rules for determining the taxable year or years from which dividends are considered paid for the purpose of computing the foreign tax credit for taxes deemed paid by a corporate stockholder in a foreign corporation under section 902 of the Internal Revenue Code of 1954. Such rules would give guidance to the public on how the Internal Revenue Service intends to interpret that section of the Code.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/16/83	

Small Entity: No

Additional Information: LR-35-83.

Drafting Attorney: David J. Dean (202) 566-3289.

Reviewing Attorney: Jacob Feldman (202) 566-3289.

Agency Contact: David J. Dean, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF46

482. ●WITHHOLDING FROM COMMERCIAL ANNUITIES AND OTHER RELATED MATTERS

Legal Authority: 26 USC 3405 Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Abstract: The regulation will require that certain surrenders of commercial annuities are subject to the withholding provisions of section 3405. In addition, the regulations will alleviate the notice requirement with regard to individual retirement accounts.

Timetable:

Action	Date	FR Cite
Final Action	08/03/83	48 FR 35090

Small Entity: Not Applicable

Additional Information: EE-9-83.

Drafting attorney: Patricia K. Keesler (202) 566-3430.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel reviewing attorneys: Conaway, Pike.

Treasury decision published 08/03/83.

Agency Contact: Patricia K. Keesler, Associate Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AF47

483. ●TEMPORARY REGULATIONS IN CONNECTION WITH EXCISE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4051 Internal Revenue Code of 1954; 26 USC 4052 Internal Revenue Code of 1954

CFR Citation: 26 CFR 145

Abstract: The regulations will provide guidance as to what kinds of vehicles are taxable and how the tax is computed. The regulations will also provide guidance to manufacturers and dealers as to how to obtain a refund for truck parts held in inventory on January 6, 1983, as to which the tax has been repealed.

Timetable:

Action	Date	FR Cite
Temporary regulations published	04/04/83	48 FR 14361

Small Entity: No

Additional Information: LR-27-83.

Drafting Attorney: Neil Zyskind (202) 566-4336.

Reviewing Attorney: Larry Smith (202) 566-3287.

Office Tax Legislative Counsel Attorney: Phil McCarty.

Agency Contact: Neil Zyskind, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AF42

484. ●INCOME TAX—TEMPORARY REGULATIONS—INFORMATION RETURNS REQUIRED OF FOREIGN-OWNED CORPORATIONS WITH RESPECT TO TRANSACTIONS WITH RELATED CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6038A Internal Revenue Code of 1954

CFR Citation: 26 CFR 5f

Abstract: The regulations would provide that certain foreign-owned corporations which transact business with other related corporations must furnish information about those transactions and the transacting corporations. The purpose of the reporting requirement is to verify that income is being reported accurately. Temporary regulations would provide reporting corporations with immediate guidance regarding the required information. This would enable them to establish appropriate recordkeeping procedures for current taxable years and compile the required information for short taxable years.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/16/83	

Small Entity: No

Additional Information: LR-96-83.

Drafting Attorney: David J. Dean (202) 566-3289.

Reviewing Attorney: Martha E. Kadue (202) 566-3289.

Agency Contact: David J. Dean, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3289

RIN: 1545-AF44

485. ●EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6302 Internal Revenue Code of 1954

CFR Citation: 26 CFR 145

Abstract: These regulations will provide an additional 5 days for the payment of fuel taxes by certain qualified people if they pay by wire transfer.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/01/83	
Final Action T.D. 7887	04/22/83	48 FR 17349

Small Entity: Not Applicable

Additional Information: LR-28-83.

Drafting Attorney: Ada S. Rousso (202) 566-4336.

Reviewing Attorney: Bob Waltuch (202) 566-3287.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AF43

486. ●TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1982 PART 145 FLOOR STOCKS TAX ON GASOLINE HELD FOR SALE APRIL 1, 1983

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; PL 97-424, Sec 521

CFR Citation: 26 CFR 145

Abstract: This regulation will explain how to compute the number of gallons of gasoline held for sale on April 1, 1983, what forms to use to report the tax, when to file the forms, and when to pay the tax.

TREAS—IRS — **Completed Actions**

Timetable:

Action	Date	FR Cite
Temporary regulations published	04/04/83	48 FR 14372

Small Entity: No

Additional Information: LR-29-83.

Drafting Attorney: Cynthia Clark (202) 566-3288.

Reviewing Attorney: Larry Smith (202) 566-3287.

Office of Tax Legislative Counsel: Phil McCarty.

Agency Contact: Cynthia Clark, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave.,N.W., Washington, DC 20224, 202 566-3288

RIN: 1545-AF45

[FR Doc. 83-28041 Filed 10-14-83; 8:45 am]

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VOL 48 ISS 201 OC 17 1983 UMI

federal register

Monday
October 17, 1983

Part XVI

ACTION

Semiannual Agenda of Regulations

VOL
48
ISS
201
OC
17
1983
UMI

ACTION

ACTION

45 CFR Ch. XII

Executive Order 12291, Federal Regulation Semiannual Agenda of Regulations

AGENCY: ACTION.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations that ACTION will have under development, revision and review during the six month period from October 1, 1983, through March 31, 1984. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process. Additionally, this agenda amends the agenda published on April 25, 1983 (48 FR 18456), to include regulations entitled "Intergovernmental Review of ACTION Programs."

FOR FURTHER INFORMATION CONTACT: Ronald C. Owens, Associate General Counsel, ACTION, Room M-607, 806 Connecticut Avenue, N.W., Washington, D.C. 20525, (202) 634-9333.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (Pub. L. 96-354) require that executive agencies publish in the Federal Register, in October and April of each year, a semiannual agenda of regulations under development or review.

None of the regulations listed has been determined to be major and requiring a Regulatory Impact Analysis under E.O. 12291. None of the regulations listed has been determined to impose compliance costs or reporting burdens on the public and they have been found not to have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required to be performed under 5 U.S.C. 602.

At this time, ACTION does not have a major regulation published and none is anticipated in the coming six month period.

DATED: August 26, 1983.

Thomas W. Pauken,

Director, ACTION.

ACTION (ACTION) — Completed Actions

COMPLETED RULEMAKINGS

FOSTER GRANDPARENT PROGRAM (FGP) REGULATIONS

CFR Citation: 45 CFR 1208

Completed:

Reason	Date	FR Cite
Final Action	06/10/83	48 FR 26808
Final Action Effective	07/25/83	48 FR 26808

Small Entity: No

Agency Contact: C. Wade Freeman 202 254-7310

RIN: 3001-AA00

SENIOR COMPANION PROGRAM (SCP) REGULATIONS

CFR Citation: 45 CFR 1207

Completed:

Reason	Date	FR Cite
Final Action	06/10/83	48 FR 26802
Final Action Effective	07/25/83	48 FR 26802

Small Entity: No

Agency Contact: C. Wade Freeman 202 254-7310

RIN: 3001-AA01

RETIRED SENIOR VOLUNTEER PROGRAM (RSVP) REGULATIONS

CFR Citation: 45 CFR 1209

Completed:

Reason	Date	FR Cite
Final Action	06/10/83	48 FR 26815
Final Action Effective	07/25/83	48 FR 26815

Small Entity: No

Agency Contact: C. Wade Freeman 202 254-7310

RIN: 3001-AA02

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

●INTERGOVERNMENTAL REVIEW OF ACTION PROGRAMS

Priority: Task Force

Legal Authority: EO 12372

CFR Citation: 45 CFR 1233

Abstract: These regulations implement Executive Order 12372, "Intergovernmental Review of Federal Programs." The regulations apply to federal financial assistance programs of ACTION. Executive Order 12372 and these regulations are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A-95. They also implement section 401 of the Intergovernmental Cooperation Act.

Timetable:

Action	Date	FR Cite
NPRM	01/24/83	48 FR 03200
NPRM Comment Period Begin	01/24/83	48 FR 03200
NPRM Comment Period End	03/10/83	
Reopened public comment period	04/21/83	48 FR 17101
End of public comment period	05/19/83	48 FR 17101
Final Action	06/24/83	48 FR 29278
Final Action Effective	09/30/83	48 FR 29278

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Ronald C. Owens, Associate General Counsel, ACTION, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9333

RIN: 3001-AA05

[FR Doc. 83-28042 Filed 10-14-83; 8:45 am]
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federal register

Monday
October 17, 1983

Part XVII

Advisory Council on Historic Preservation

Regulatory Agenda

VOL
48
ISS
201
OC
17
1983
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ACHP

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Regulatory Agenda

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Regulatory Agenda.

SUMMARY: The regulatory Agenda is a semiannual summary of each proposed and each final regulation that the Advisory Council on Historic Preservation expects to publish in the **Federal Register** during the next twelve months.

ADDRESS: Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW, The Old Post Office Building, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Executive Director, Advisory Council on Historic Preservation, 202-786-0503.

Robert R. Garvey, Jr.,

Executive Director.

DATED: September 15, 1983.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Current and Projected Rulemakings

PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Legal Authority: 18 USC 470 et seq

CFR Citation: 36 CFR 800

Abstract: In order to streamline and increase the effectiveness of the Council's regulations at 36 CFR Part 800, the Council is in the process of preparing revisions to its regulations. The reason for the revisions is to implement new regulatory authorities set forth in PL 96-515, and to improve the efficiency of the historic preservation review process. The alternative to revision of the regulations is to leave them as they are, which would not achieve the goals the Council seeks. The revisions are expected to reduce the cost of complying with the regulations.

Timetable:

Action	Date	FR Cite
Revisions to Regulations	00/00/00	

Small Entity: No

Agency Contact: John M. Fowler, General Counsel, Advisory Council on Historic Preservation, 1522 K Street, NW, Washington, DC 20005, 202 254-3967

RIN: 3010-AA00

[FR Doc. 83-28043 Filed 10-14-83; 8:45 am]
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federal register

Monday
October 17, 1983

Part XVIII

Architectural and Transportation Barriers Compliance Board

Unified Agenda

VOL
48
ISS
201
OC
17
1983
UMI

ATBCB

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

Unified Agenda

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Submission of Unified Agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of regulatory activities which may be conducted by the agency during the next twelve months. This regulatory agenda may be revised and/or refined by the agency during the coming months as a result of action taken by the Board.

ADDRESS: U.S. Architectural and Transportation Barriers Compliance Board, 330 C Street, S.W., Room 1010, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact Ms. Sally Free, Office of Technical Services (202) 472-2700 (voice or TDD) or (202) 245-1591 (messages--voice or TDD).

DATED: September 29, 1983.

Wm. Bradford Reynolds,

Chairperson, Architectural and Transportation Barriers Compliance Board and Assistant Attorney General for Civil Rights, Department of Justice.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Existing Regulations Under Review

MINIMUM GUIDELINES AND REQUIREMENTS FOR ACCESSIBLE DESIGN

Priority: Agency Determination

Legal Authority: 29 USC 792(b)(7) Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1190

Abstract: Specific provisions of the ATBCB Minimum Guidelines and Requirements for Accessible Design have been reserved until such time as sufficient research, information, and/or field experience is obtained. In addition to these reserved provisions, the Board has indicated that additional information would be useful on other provisions contained in the regulation and on other access issues. As materials and experience become available in these areas, the Board plans to take the appropriate action to complete or revise these requirements. Information on alternatives being considered for addressing a particular provision, and the potential costs and benefits of the action being proposed will be provided during the rulemaking process. The last revision to the Minimum Guidelines and Requirements for Accessible Design was published 08/04/82 (47 FR 33862).

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Additional Information: Phone number of agency contact is voice or TDD.

Agency Contact: Ms. Sally Free, Program Specialist, Architectural and Transportation Barriers Compliance Board, 330 C Street, S.W., Room 1010, Washington, D.C. 20202, 202 472-2700

RIN: 3014-AA00

[FR Doc. 83-28044 Filed 10-14-83; 8:45 am]
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federal register

Monday
October 17, 1983

Part XIX

Council on Environmental Quality

Semiannual Agenda

VOL
48
ISS
201
OC
17
1983
UMI

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COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1502

Improving Government Regulations Semiannual Agenda

AGENCY: Council on Environmental Quality.

ACTION: Semiannual Agenda of Regulations.

SUMMARY: This semiannual agenda contains a report on the status of the only regulation for which the Council has responsibility: the National Environmental Policy Act (NEPA) regulations.

DATE: This information is current as of October, 1983.

FOR FURTHER INFORMATION CONTACT: Questions should be addressed to: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006 (202) 395-5754.

SUPPLEMENTARY INFORMATION: The Council's final regulations implementing the procedural requirements of the National Environmental Policy Act became effective November 30, 1979. The Council has conducted an ongoing review to be aware of how the regulations are working and whether they are in fact meeting the purposes for which they were promulgated. As a result of this review the Council published one Guidance Memorandum, 48 FR 34263 (July 28, 1983), dealing with the regulations on: Scoping, 40 CFR 1501.7; Categorical Exclusions, 40 CFR 1508.4; Adoption Procedure, 40 CFR 1506.3; Contracting Provisions, 40 CFR 1506.5(c); Selection of Alternatives in Licensing and Permitting Situations, 40 CFR 1502.14; Tiering, 40 CFR 1502.20.

The lengthy and comprehensive process resulted in the identification of an additional aspect of the Council's regulations on which guidance appeared desirable. The regulation is found at 40 CFR 1502.22 and deals with the requirement of worst case analysis. In this regulation, the Council on Environmental Quality has prescribed how federal agencies must deal with the obligatory discussion of significant adverse effects in an environmental impact statement when the information about these impacts is incomplete or unavailable. It appeared, from the wide variety of conflicting interpretations, that the Council's existing guidance found at question 20 of the Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 FR 18026, may not have been sufficiently detailed to provide meaningful guidance on this important subject. Thus, the Council published a Notice of Proposed Informational Guidance and Request for Comments (48 FR 36486, August 11, 1983). The Notice has a sixty-day comment period which will expire October 11, 1983.

Nancy Maloley.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY (CEQ) — **Existing Regulations Under Review**

●NATIONAL ENVIRONMENTAL POLICY ACT REGULATION ON INCOMPLETE OR UNAVAILABLE INFORMATION

Priority: Agency Determination

Legal Authority: EO 11991; 42 USC 4321 to 4347

CFR Citation: 40 CFR 1502.22

Abstract: This is a proposed informational guidance and request for comments on a regulation which became effective July 30, 1979. It addresses the problem of conflicting interpretations of 40 C.F.R. 1502.22 "Incomplete or unavailable information."

Timetable:

Action	Date	FR Cite
Notice of Proposed Informational Guidance & Request for Comments	08/11/83	48 FR 36486
Comment Period ends	10/11/83	

Small Entity: Undetermined

Additional Information: A lengthy and comprehensive process resulted in the identification of an aspect of the Council's regulations on which guidance appears desirable, specifically, the provisions of 40 C.F.R. 1502.22 dealing with the requirements of worst case analysis. In this regulation, the Council on Environmental Quality has prescribed how federal agencies must deal with the obligatory discussion of significant adverse effects in an environmental impact statement when the information about these impacts is incomplete or unavailable. It appears, from the wide variety of conflicting interpretations, that the Council's existing guidance found at question 20 of the Forty Most Asked Questions concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18026, may not have been sufficiently detailed to provide meaningful guidance on this important subject. Thus, the Council published the Proposed Information Guidance.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Dinah Bear, General Counsel, Council on Environmental Quality and Office of Environmental Quality, 722 Jackson Place, NW, Washington, DC 20006, 202 395-5754

RIN: 0331-AA00

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federal register

Monday
October 17, 1983

Part XX

Environmental Protection Agency

Regulatory Agenda

VOL
48
ISS
2
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1
OC
17
1983
UMI

EPA

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

FRL #2429-4

Regulatory Agenda

AGENCY: Environmental Protection Agency.

ACTION: Regulatory Agenda.

SUMMARY: The Agency publishes a semiannual Regulatory Agenda which summarizes the status of regulations under development, revision, and review. The purpose is to keep interested parties informed of the progress of these regulations.

FOR FURTHER INFORMATION CONTACT: For information on a regulation in the Agenda, please contact the person whose name is listed below the regulation.

If you have suggestions for improving this publication, or need general information about the Agenda, please call or write to Daniel Fiorino, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C., 20460, (202) 382-5480.

If you want to be on the mailing list for the Regulatory Agenda, please call or write to Penelope Parker, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C., 20460, (202) 382-5475.

SUPPLEMENTARY INFORMATION:

Organization of the Agenda

The Agenda entries are organized by statutory area – generally by the titles of the major legislation authorizing EPA's pollution control programs. In a few cases, the Agenda combines regulations with differing statutory authorities that have closely-related subject matter. For example, the Fuel Economy Data regulation under the Energy Policy and Conservation Act appears together with mobile source regulations under the Clean Air Act.

The statutory areas appear in the following order:

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetics Act (FFDCA)
The Toxic Substances Control Act (TSCA)
The Clean Water Act (CWA) and the Marine Protection, Research, and Sanctuaries Act (MPRSA)
The Atomic Energy Act (AEA) and the Uranium Mill Tailings Radiation Control Act (UMTRCA)
The Safe Drinking Water Act (SDWA)
The Noise Control Act (NCA)
The Resource Conservation and Recovery Act (RCRA)
The Clean Air Act (CAA) and the Energy Policy and Conservation Act (EPCA)
The Comprehensive Environmental Response, Compensation, and Liability Act--"Superfund" (CERCLA)
General--Other Acts (including general grant and procurement regulations and regulations that cut across several programs)

Within each statutory area the Agenda divides the actions into three categories: (1) Current and projected regulations; (2) regulations under review; and (3) regulations EPA is deleting from the Agenda because they have been completed or cancelled. Below is detailed information on each of these categories.

Current and Projected Regulations

The current and projected regulations appear as: (a) "New Regulations," i.e., actions that will create new CFR parts, subparts, or subsections; or (b) "Revised Regulations," i.e., actions that revise or amend already existing CFR parts, subparts, or subsections. The word "revision" will appear in parentheses after the title of each revised regulation.

The regulations are ordered numerically by section number of the authorizing legislation. For example, all air regulations under Section 109 of the Clean Air Act will appear before those under Section 111.

The current and projected listings include most of the regulations under development that are:

- Subject to Executive Order 12291;
- Have been identified by the Presidential Task Force on Regulatory Relief; or
- Have been designated by the Agency for priority development or revision.

However, the listings exclude: (a) Specialized categories of actions (such as EPA approvals of state plans and other actions that do not apply nationally); and (b) routine actions (such as pesticide tolerances and minor amendments to existing regulations).

Current and projected rules are generally listed in the Agenda once they are within a year of scheduled publication as a notice of proposed rulemaking (NPRM) or final rule. Occasionally, the Agenda also includes regulations with scheduled publication dates that are more than a year away. In some cases, regulations do not appear in the Agenda until they reach the NPRM stage.

For each current and projected regulation the Agenda includes:

- The title,
- The priority classification (if applicable),
- The legal authority,
- The CFR reference,
- A short description,
- An analysis section (if a Regulatory Impact Analysis (RIA) and/or a Regulatory Flexibility Analysis (RFA) is being prepared),
- A timetable of existing and scheduled actions,
- A small entity category,
- An Agency contact, and
- An additional information section.

The additional information section includes the FTS phone number for the Agency contact. It also includes the Start Action Request (SAR) number, which is assigned to the regulation for internal tracking purposes.

Today's Agenda contains 235 Current and Projected Rulemakings and 26 Existing Regulations Under Review. Of these, 147 are revisions to existing regulations, 19 are classified as "Major" under Executive Order 12291, and 26 are being revised at the request of the Presidential Task Force on Regulatory Relief.

Regulations Under Review

The Agenda identifies existing EPA regulations (1) that are now under review, or (2) whose review will begin before the next Agenda is published. The purpose of such reviews is to determine whether the regulation should be revised, rescinded, or left unchanged. If EPA decides to revise or rescind the regulation, the action will then appear as an entry in the appropriate current and projected area of the Agenda, and this will state the timetable for completing the revision or rescission.

For each regulation under review, the Agenda gives the title, a short description, legal authority, CFR reference, any analysis EPA is preparing, the contact person, and the schedule for completing the review. It also indicates the "review authority," which in many cases will be different from the regulation's statutory authority.

Regulations are reviewed under the mandates below. Some of EPA's reviews satisfy more than one of these mandates.

1. *Executive Order 12291* establishes the general policy that EPA should review all of its existing regulations to ensure that the costs of these regulations are justified by their benefits. This policy covers any regulations that EPA is reviewing at the request of the Presidential Task Force on Regulatory Relief.

2. *The Regulatory Flexibility Act* (5 USC 610) requires that EPA review at least once every ten years existing regulations that have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governments. EPA issued its plan for conducting these reviews on July 16, 1981 at 46 FR 36930 and has used those comments in identifying candidates for review.

3. *The Paperwork Reduction Act* requires that Federal agencies reduce unnecessary paperwork burdens on the public. EPA reviews information collection activities for duplication, practical utility, and burden on the public.

Many of EPA's authorizing *environmental statutes* also set review dates for specific regulations.

Completed or Cancelled Actions

These are actions that appeared in the last Agenda, but are being deleted because they are completed or are no longer under consideration. EPA will delete these from future Agendas. The information given on these regulations is less detailed than for those still under consideration. Generally, it includes (1) the date and Federal Register citation, if any, of the last action on the regulation, and (2) an explanation of why the Agency is deleting the regulation from the Agenda. If EPA has completed work on the regulation, the effective date of the regulation appears after the designation "completed."

John M. Campbell, Jr.,

Acting Associate Administrator for Policy and Resource Management.

EPA

Federal Insecticide, Fungicide, and Rodenticide Act—Current and Projected Rulemakings

Sequence Number	Title	RIN
1	User Charges for Pesticide Registrations	2070-AA64
2	Restricted Use Classification for Certain Active Ingredients Used in Fumigants	2070-AA00
3	Restricted Use Classification for Certain Active Ingredients Used in Granular Insecticides	2070-AA01
4	Good Laboratory Practice Standards - Toxicology Testing	2070-AA02
5	Recordkeeping and Reporting Requirements for Certain Dealers of Restricted Use Pesticides (Revision)	2070-AA03
6	*Data Requirements for Registration (Revision)	2070-AA07
7	*Certain Procedural Requirements for Pesticide Registration (Revision)	2070-AA55
8	*Comprehensive Revision of Pesticide Registration, Labeling, and Classification Procedures (Revision)	2070-AA56
9	*Special Review Criteria and Procedures (Revision)	2070-AA57
10	Rules of Practice Governing Hearings (Revision)	2020-AA04
11	Registration of Pesticide Producing Establishment (Revision)	2070-AA04
12	Rule Governing Issuance of Emergency Exemptions from FIFRA (Revision)	2070-AA41
13	Guidelines on Disposal and Storage of Pesticides	2070-AA61
14	Worker Protection Standards for Agricultural Pesticides (Revision)	2070-AA49
15	Partial Exemption from FIFRA Requirements for Certain Products Containing Boron Compounds	2070-AA53
16	Tolerance Fees for Pesticide Chemicals (Revision)	2070-AA46

*Indicates priority regulation.

Federal Insecticide, Fungicide, and Rodenticide Act—Completed Actions

Sequence Number	Title	RIN
17	Conditional Registration	2070-AA09
18	*Exemption for Certain Products Containing Pheromone Attractants	2070-AA05
19	*Crop Group Tolerances (Revision)	2070-AA12
20	Policy Statement on Polynuclear Aromatic Compounds	2070-AA43
21	Experimental Use Permits	2070-AA45
22	Rules of Practice Governing Hearings	2020-AA04
23	Exemption for Federal and State Agencies to Use Pesticides Under Emergency Considerations	2070-AA41
24	Worker Protection Standards for Agricultural Pesticides	2070-AA49

*Indicates priority regulation.

EPA

Toxic Substances Control Act—Current and Projected Rulemakings

Sequence Number	Title	RIN
25	Good Laboratory Practice Standards	2070-AA13
26	General Exemption Policy for Test Rules	2070-AA15
27	Decision on Test Rules for Chlorinated Benzenes and Decision Not to Test Acrylamide (Health)	2070-AA16
28	Decision on Test Rules for Nitrobenzene, Dichloromethane and 1,1,1-Trichloroethane	2070-AA17
29	Decision on Test Rule for Phenylenediamines	2070-AA18
30	Decision on Test Rule for Fluoroalkenes	2070-AA19
31	Test Rule for Diethylenetriamine	2070-AA20
32	Decision on Test Rules for Eleventh ITC Priority List	2070-AA23
33	1983 Decision on Test Rules for ITC Priority Chemicals, Lists 1-6	2070-AA25
34	Regulatory Investigation and Advance Notice of Proposed Rulemaking - 4,4'- Methylenedianaline (MDA)	2070-AA60
35	Decision on Test Rules for Twelfth ITC Priority List	2070-AA63
36	Decision on Test Rule for Chloromethane	2070-AA65
37	Decision on Test Rule for Formamide	2070-AA66
38	Decision on Test Rule for Biphenyl	2070-AA67
39	Decision on Test Rules for Ethyltoluene and Trimethylbenzene	2070-AA68
40	Regulatory Investigation for 2-Ethonethanol, 2-Methoxyethanol and their Acetates	2070-AA71
41	*PMN Exemption for Site Limited Intermediates and Low Volume Chemicals (Revision)	2070-AA36
42	*PMN Exemption for Polymers (Revision)	2070-AA37
43	Follow-up Rules on Existing Chemicals	2070-AA58
44	Follow-up Rules on New Chemicals	2070-AA59
45	*Rules Restricting the Commercial and Industrial Use of Asbestos Fibers	2070-AA29
46	Incidental Uses of PCBs	2070-AA40
47	Regulatory Investigation of Methylene bis-(2-chloroaniline) (MBOCA)	2070-AA52
48	Polychlorinated Biphenyls (PCBs): Exemptions From the Ban on Manufacturing, Processing and Distribution	2070-AA62
49	PCBs Use in Microscopy and Research and Development (Revision)	2070-AA69
50	PCB Transformers in Buildings	2070-AA70
51	Standards for Excluding Small Manufacturers from TSCA 8(a)	2070-AA31
52	New Chemicals for Export Reporting Rule	2070-AA47

*Indicates priority regulation.

Toxic Substances Control Act—Completed Actions

Sequence Number	Title	RIN
53	General Reimbursement Policy for TSCA Test Rules	2070-AA14
54	Decision on Test Rules for Tenth ITC Priority List	2070-AA22
55	1982 Decision on Test Rules for ITC Priority Chemicals, Lists 1-6	2070-AA24
56	*Premanufacture Notification Requirements and Review	2070-AA27
57	Labeling Rule for Treated Wood	2070-AA28
58	Investigation of Chlorofluorocarbons	2070-AA30
59	Records and Reports of Allegations of Significant Adverse Reactions to Health or the Environment	2070-AA33
60	Chemical Information Rules; Preliminary Assessment Information	2070-AA34
61	Health and Safety Data Reporting (Revision)	2070-AA35

*Indicates priority regulation.

Clean Water Act—Current and Projected Rulemakings

Sequence Number	Title	RIN
62	Water Quality Management Regulations (Revision)	2040-AA37
63	Simplifying Construction Grants Regulations (Revision)	2040-AA38
64	NPDES New Source Application Form (Revision)	2040-AA00
65	Requirements for Application for 301(c) Variances	2040-AA01
66	Waivers from BAT for Nonconventional Pollutants under 301(g) (Revision)	2040-AA02
67	Compliance Extension for Innovative Technology for Industrial Discharge (Revision)	2040-AA03
68	*Effluent Guidelines for Organic Chemicals and Plastics and Synthetics	2040-AA05
69	Effluent Guidelines for Nonferrous Metal Manufacturing (Phase I)(Revision)	2040-AA07
70	Effluent Guidelines for Offshore Oil and Gas Industry (Revision)	2040-AA12

EPA

Clean Water Act—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
71	Effluent Guidelines for Pharmaceuticals (Revision)	2040-AA13
72	Effluent Guidelines for Paint Formulation	2040-AA15
73	Effluent Guidelines for Ink Formulation	2040-AA16
74	Effluent Guidelines for Gum and Wood (Revision)	2040-AA17
75	Effluent Guidelines for Pesticides	2040-AA18
76	Effluent Guidelines for Battery Manufacturing	2040-AA19
77	Effluent Guidelines for Metal Moulding and Casting (Foundries)	2040-AA20
78	Effluent Guidelines for Aluminum Forming	2040-AA23
79	Effluent Guidelines for Electric and Electronic Components (Phase II)	2040-AA26
80	Effluent Guidelines for Nonferrous Metals (Phase II)	2040-AA27
81	Effluent Guidelines for Inorganic Chemicals (Phase II)	2040-AA28
82	Effluent Guidelines for Plastics Molding and Forming	2040-AA29
83	Effluent Guidelines for Adhesives and Sealants	2040-AA30
84	Effluent Guidelines for Coil Coating (Can Making) (Revision)	2040-AA31
85	Effluent Guidelines for Nonferrous Metals Forming	2040-AA32
86	Effluent Guidelines for Rubber Processing (Revision)	2040-AA42
87	Effluent Guidelines for Pulp, Paper, and Paperboard (PCB's) (Revision)	2040-AA63
88	Effluent Guidelines for Ore Mining and Dressing (Revision)	2040-AA65
89	Water Quality Standards Regulations (Revision)	2040-AA43
90	Secondary Treatment Regulations (Revision)	2040-AA44
91	*Best Conventional Technology (BCT) Cost Test and BCT Effluent Guidelines (Revision)	2040-AA45
92	Use of Carbonaceous Biochemical Oxygen Demand (CBOD) for Secondary Treatment Regulation (Revision)	2040-AA62
93	*General Pretreatment Regulations: Reforms (Revision)	2040-AA46
94	*General Pretreatment Regulations: Removal Credits (Revision)	2040-AA47
95	Removal of Oil and Hazardous Substance Discharges (Revision)	2040-AA33
96	Hazardous Substances Pollution Prevention for Facilities Subject to Permitting Requirements of Section 402	2040-AA34
97	Discharge of Oil (Revision)	2040-AA48
98	Oil Pollution Prevention Regulation (Revision)	2040-AA49
99	Consolidated Permits: NPDES Issues (Revision)	2040-AA35
100	*NPDES Regulations: Regulatory Reform (Revision)	2040-AA50
101	*404 Regulations (Revision)	2040-AA51
102	Sewage Sludge Disposal Guidelines	2040-AA36
103	Ocean Dumping Criteria (Revision)	2040-AA52

*Indicates priority regulation.

Clean Water Act—Completed Actions

Sequence Number	Title	RIN
104	Amendment to Construction Grants Regulation--Chlorination	2040-AA60
105	Construction Grants Program Delegation to States	2040-AA39
106	Effluent Guidelines for Metal Finishing	2040-AA04
107	Effluent Guidelines for Copper Forming	2040-AA24
108	Effluent Guidelines for Electrical and Electronic Products (Phase I)	2040-AA25
109	Revision to BAT for Inorganic Chemicals	2040-AA41
110	Consolidated Permits: "Common Issues"	2040-AA64

Atomic Energy Act—Current and Projected Rulemakings

Sequence Number	Title	RIN
111	Guidance for Occupational Radiation Exposure (Revision)	2060-AA00
112	Transuranic Elements	2060-AA01
113	Radiofrequency Radiation Guidance	2060-AA02
114	*Environmental Protection Standards for High-level Radioactive Waste	2060-AA03
115	Environmental Protection Standards for Low-Level Radioactive Waste	2060-AA04
116	Environmental Standards for Active Uranium Mill Processing	2060-AA06

VOL 48 ISS 201 OC 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

EPA

Atomic Energy Act—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN

*Indicates priority regulation.

Atomic Energy Act—Existing Regulations Under Review

Sequence Number	Title	RIN
147	Review of Uranium Mill Tailings Standards	2060-AB16

Safe Drinking Water Act—Current and Projected Rulemakings

Sequence Number	Title	RIN
118	Maximum Contaminant Levels for Volatile Organic Chemicals Found in Drinking Water (Revision)	2040-AA53
119	Primary Drinking Water Regulations (Revision)	2040-AA55
120	Primary Drinking Water Regulations: Fluoride (Revision)	2040-AA56
121	Underground Injection Control Program: Federally Administered Programs (Revision)	2040-AA61

Noise Control Act—Current and Projected Rulemakings

Sequence Number	Title	RIN
122	Withdrawal of Products from the Agency's Reports Identifying Major Noise Sources and Withdrawal of Proposed Rules	2060-AB24
123	Motor Carriers Engaged in Interstate Commerce: Noise Emission Standards (Revision)	2060-AB20

Noise Control Act—Completed Actions

Sequence Number	Title	RIN
124	Rescission of Noise Emission Standards for Truck-Mounted Solid Waste Compactors	2060-AA07

Resource Conservation and Recovery Act—Current and Projected Rulemakings

Sequence Number	Title	RIN
125	*Standards for the Management of Specific Hazardous Wastes: Waste Oil	2050-AA00
126	Identification and Listing of Hazardous Waste: Delisting Procedures (Revision)	2050-AA02
127	Identification and Listing of Hazardous Waste: Definition of Solid Waste (Revision)	2050-AA03
128	Identification and Listing of Hazardous Waste: Mixtures Rule (Revision)	2050-AA04
129	Identification and Listing of Hazardous Waste: Exemption for Waste Samples (Revision)	2050-AA05
130	Identification and Listing of Hazardous Waste: Hexavalent Chromium Modification (Revision)	2050-AA06
131	Identification and Listing of Hazardous Waste: Laboratory Wastes (Revision)	2050-AA07
132	Identification and Listing of Hazardous Waste: Product Storage Requirements (Revision)	2050-AA08
133	Identification and Listing of Hazardous Waste: Revise and Expand Solvent Listings (Revision)	2050-AA09
134	Identification and Listing of Hazardous Waste: Chlorinated Dioxins and Chlorinated Dibenzofurans (Revision)	2050-AA10
135	Identification and Listing of Hazardous Waste: Residuals from Production of C1-C6 Chlorinated Aliphatic Compounds (Revision)	2050-AA11
136	Identification and Listing of Hazardous Waste: Warfarin and Zinc Phosphide (Revision)	2050-AA12

EPA

Resource Conservation and Recovery Act—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
137	Identification and Listing of Hazardous Waste: Restriction of Land Disposal of Certain Hazardous Waste (Revision)	2050-AA30
138	Persons Managing Recycled Hazardous Wastes (Revision)	2050-AA56
139	RCRA Small Quantity Generator Rule (Revision)	2050-AA59
140	Identification and Listing of Hazardous Wastes: Definition of Household Waste (Revision)	2050-AA60
141	Identification and Listing of Hazardous Wastes: Hydrazine/Dimethylhydrazine Manufacturing Wastes (Revision)	2050-AA61
142	Identification and Listing of Hazardous Wastes: Organobromine Manufacturing Wastes (Revision)	2050-AA62
143	Identification and Listing of Hazardous Wastes: Toluene Diisocyanate Manufacturing Wastes (Revision)	2050-AA63
144	Identification and Listing of Hazardous Waste: Dimethoate, Methomyl, and Famphur (Revision)	2050-AA64
145	Identification and Listing of Hazardous Waste: Carbamate Manufacturing Wastes (Revision)	2050-AA65
146	Identification and Listing of Hazardous Wastes: Spent Pickle Liquor Generated from Steel Finishing Operations (Revision)	2050-AA66
147	Standards for Hazardous Waste Generators: "Satellite" Accumulation of Hazardous Waste (Revision)	2050-AA13
148	*Standards for Hazardous Waste Generators: Uniform Hazardous Waste Manifest (Revision)	2050-AA15
149	*Standards for Hazardous Waste Generators: Alternate Manifest (Revision)	2050-AA16
150	Standards for Hazardous Waste Generators: Shipments of Hazardous Waste from Permitted Facilities (Revision)	2050-AA18
151	Standards for Hazardous Waste Generators: Transporting Hazardous Waste by Rail (Revision)	2050-AA19
152	Standards for Hazardous Waste Transporters: In-Transit Storage Requirements (Revision)	2050-AA20
153	*Standards for Owners/Operators of Waste Facilities: Land Disposal (Revision)	2050-AA21
154	Standards for the Management of Specific Hazardous Wastes: Wastewater Treatment/Elementary Neutralization (Revision)	2050-AA22
155	Standards for Management of Specific Hazardous Waste: Experimental Facilities (Revision)	2050-AA23
156	States with Final Authorization (Revision)	2050-AA27
157	Standards for Owners/Operators of Waste Facilities: Boilers (Revision)	2050-AA29
158	Standards for Owners/Operators of Waste Facilities: Monofills (Revision)	2050-AA31
159	Standards for Owners/Operators of Waste Facilities: Storage of Ignitable and Reactive Waste; Buffer Zone Requirements (Revision)	2050-AA32
160	Interim Status: Liquids in Landfills (Revision)	2050-AA34
161	Interim Status: Expansion and Modification of Facilities (Revision)	2050-AA35
162	*Consolidated Permits: Class Permits (Revision)	2050-AA36
163	Enforcement of State Permits (Revision)	2050-AA40
164	Consolidated Permits: Owner/Operator Signature (Revision)	2050-AA41
165	Consolidated Permits: Retention of Groundwater Monitoring Data (Revision)	2050-AA42
166	*Standards for Owners/Operators of Waste Facilities: Storage	2050-AA51
167	*Standards for Storage of Hazardous Waste in Underground Tanks (Revision)	2050-AA57
168	*Existing Portion Concept in Land Disposal Regulations (Revision)	2050-AA58
169	*Standards for Owners/Operators of Waste Facilities: Corrective Action Financial Responsibility	2050-AA69
170	Standard for Owners and Operators of Waste Facilities: Closure/Post-Closure Care and Cost Estimates and Financial Responsibility (Revision)	2050-AA70
171	Consolidated Permits: Minor Modifications to Existing RCRA Permits (Revision)	2050-AA37
172	Consolidated Permits: Duration of Permits for Hazardous Waste Facilities (Revision)	2050-AA38
173	Consolidated Permits: Construction Ban (Revision)	2050-AA39
174	Consolidated Permits: Hearings on Interim Status (Revision)	2050-AA43
175	Consolidated Permits: Transfer of Permits (Revision)	2050-AA44
176	Guideline for Federal Procurement of Recycled Paper (Revision)	2050-AA68

*Indicates priority regulation.

Resource Conservation and Recovery Act—Existing Regulations Under Review

Sequence Number	Title	RIN
177	*Groundwater Monitoring	2040-AA59
178	*Standard Landfills for Owners/Operators of Waste Facilities	2050-AA50
179	*Standards for Owners/Operators of Waste Facilities: Surface Impoundments	2050-AA52
180	*Standards for Owners/Operators of Waste Facilities: Incinerators	2050-AA53
181	*Standards for Owners/Operators of Waste Facilities: Location	2050-AA55

*Indicates priority regulation.

VOL 48 ISS 201 OCT 17 1983 UMI

EPA

Resource Conservation and Recovery Act—Completed Actions

Sequence Number	Title	RIN
182	Standards for Owners/Operators of Waste Facilities: Financial Responsibility	2050-AA26
183	Standards for Owners/Operators of Waste Facilities: Surface Impoundments Used For Neutralization of Corrosive Waste	2050-AA28
184	*Interim Status: Open Burning	2050-AA33
185	*Standards for Owners/Operators of Waste Facilities: Land Treatment	2050-AA49
186	*Standards for Owners/Operators of Waste Facilities: Storage	2050-AA51
187	*Standards for Owners/Operators of Waste Facilities: Financial Responsibility	2050-AA54

*Indicates priority regulation.

Clean Air Act—Current and Projected Rulemakings

Sequence Number	Title	RIN
188	Compliance with the Statutory Provisions of Part D of the Clean Air Act (Revision)	2060-AB12
189	*NAAQS for Sulfur Oxides (Revision)	2060-AA61
190	*NAAQS for Particulate Matter (TSP) (Revision)	2060-AA62
191	*NAAQS for Carbon Monoxide (Revision)	2060-AA63
192	*NAAQS for Nitrogen Dioxide (Revision)	2060-AA64
193	Restructure CFR Parts 51, 52 (Revision)	2010-AA07
194	New Source Review (Revision)	2060-AA68
195	Quality Assurance Procedures, Appendix F, Procedure 1	2060-AA09
196	NSPS: Stationary Internal Combustion Engines	2060-AA11
197	NSPS: Organic Solvent Cleaners	2060-AA12
198	NSPS: Metallic Minerals	2060-AA13
199	NSPS: Perchloroethylene Dry Cleaning	2060-AA14
200	NSPS: Industrial Surface Coating: Pressure Sensitive Tapes and Labels	2060-AA16
201	NSPS: Synthetic Organic Chemical Manufacturing-Fugitive Emissions	2060-AA19
202	*NSPS: Industrial Boilers (Revision)	2060-AA22
203	NSPS: Volatile Organic Liquids Storage	2060-AA23
204	NSPS: Rubber Products Industry-Tire Manufacturing	2060-AA24
205	NSPS: Non-Fossil Fuel Fired Boilers (Revision)	2060-AA25
206	NSPS: Industrial Surface Coating: Vinyl Coating and Printing	2060-AA27
207	NSPS: Refinery Fugitive Emissions	2060-AA28
208	NSPS: Synthetic Fibers	2060-AA29
209	NSPS: Synthetic Organic Chemical Industry: Air Oxidation Process	2060-AA30
210	NSPS: Petroleum Solvent Dry Cleaning	2060-AA32
211	NSPS: Solvent Degreasing	2060-AA33
212	NSPS: On-Shore Production	2060-AA34
213	NSPS: Distillation Operations	2060-AA35
214	NSPS: Petroleum Refinery, FCC Regenerators (Revision)	2060-AA36
215	NSPS: Polymer and Resin Manufacture	2060-AA37
216	NSPS: Basic Oxygen Furnace (Revision)	2060-AA72
217	NSPS: Glass Manufacturing (Revision)	2060-AA73
218	NSPS: Lime Manufacturing Plants (Revision)	2060-AA74
219	NSPS: Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarbonization Vessels (Revision)	2060-AA75
220	NSPS: Kraft Pulp Mills (Revision)	2060-AA97
221	NSPS: Secondary Brass and Bronze Production (Revision)	2060-AB04
222	NSPS: Non-Metallic Minerals	2060-AB11
223	NSPS: Wool Fiberglass Insulation	2060-AB21
224	NSPS for Automobile and Light-Duty Truck Coating Operations (Revision)	2060-AB22
225	Decision on Listing Cadmium	2060-AA38
226	NESHAPS: Listing of Coke Oven Emissions as Hazardous Air Pollutant	2060-AA39
227	NESHAPS: Listing of Acrylonitrile	2060-AA40
228	NESHAPS: Arsenic from Smelters and Other Sources	2060-AA41
229	NESHAPS: Benzene in Coke Ovens/By Products Plants	2060-AA42
230	NESHAPS: Maleic Anhydride Manufacture	2060-AA43
231	NESHAPS: Ethylbenzene/Styrene Manufacture	2060-AA44
232	NESHAPS: Benzene Fugitive Emissions	2060-AA45
233	NESHAPS: Benzene Storage	2060-AA46
234	*NESHAPS: Airborne Radionuclides	2060-AA47
235	NESHAPS: Coke Oven Emissions from By-Product Coke Oven Charging, Door Leaks, and Topside Leaks on Wet-Coal Charged Batteries	2060-AA48

EPA

Clean Air Act—Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
236	Amendments to NESHAPS General Provisions (Revision)	2060-AA79
237	NESHAPS: Asbestos (Revision)	2060-AA80
238	NESHAPS: Vinyl Chloride (Revision)	2060-AB06
239	Second Round Nonferrous Smelter Order Regulations	2060-AA81
240	Dispersion Techniques Implemented Before Enactment of the Clean Air Act Amendments of 1970	2060-AA49
241	"Guideline on Air Quality Models" (Revision)	2060-AB13
242	*Heavy-Duty Diesel Particulate Standards	2060-AA51
243	*NOx Regulations for Light-Duty Trucks and Heavy-Duty Engines	2060-AA52
244	*Delay of the 1985 Model Year Light-Duty Diesel Particulate Standard (Revision)	2060-AA83
245	*Gaseous Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines and Light-Duty Trucks (Revision)	2060-AA85
246	Importation of Motor Vehicles and Motor Vehicle Engines	2060-AA54
247	Tampering Enforcement Regulations	2060-AA55
248	Nonconformance Penalties for 1984 Model Year Heavy-Duty Engines (HDEs)	2060-AA56
249	Nonconformance Penalties for Light-Duty Trucks	2060-AA58
250	*Long Term Motor Vehicle Emissions Control Program (Revision)	2060-AA88
251	*Amendments to Selective Enforcement Auditing Procedures for Light-Duty Vehicles (Revision)	2060-AA89
252	Amendment to the Emission Control Warranty Short Tests (Revision)	2060-AA90
253	*Fuels and Fuel Additives	2060-AA59
254	Fuel Economy Test Procedures; Proposed Procedures for Adjustment to Test Results to Account for Test Procedure Changes	2060-AB19
255	Fuel Economy Labeling and Data Base Revisions (Revision)	2060-AA94
256	Amendment and Clarification of the Test Procedures and Evaluation Criteria for Fuel Economy Retrofit Devices (Revision)	2060-AB18
257	Amendment to Transfer the Agency's Fuel Economy Retrofit Device Test Cost Liability to the Device Manufacturer (Revision)	2060-AB23

*Indicates priority regulation.

Clean Air Act—Existing Regulations Under Review

Sequence Number	Title	RIN
258	*NAAQS: Lead	2060-AA95
259	*NAAQS: Ozone	2060-AA96
260	*Equivalency in New Source Review	2060-AB10
261	NSPS for Primary Copper Smelters (Revision)	2060-AA77
262	NSPS: Claus Sulfur Recovery Plants	2060-AA98
263	NSPS: Grain Elevators	2060-AA99
264	NSPS: Nitric Acid Manufacture	2060-AB01
265	NSPS: Sulfuric Acid Manufacture	2060-AB02
266	NSPS: Sewage Treatment Plants	2060-AB05
267	NESHAPS: Beryllium	2060-AB07
268	NESHAPS: Mercury	2060-AB08
269	Visibility Protection for Federal Class I Areas	2060-AB09

*Indicates priority regulation.

Clean Air Act—Completed Actions

Sequence Number	Title	RIN
270	Attainment Designations by County for the Purpose of Establishing Baseline Air Quality Data	2060-AA60
271	Continuous Monitoring (Revision)	2060-AA69
272	NSPS: Industrial Surface Coating: Cans	2060-AA20
273	NSPS: Bulk Gasoline Terminals	2060-AA21
274	NSPS: Gypsum	2060-AA26
275	*NSPS for Automotive Paint Shops (Revision)	2060-AA76
276	Redesignation of High-Altitude Counties (Revision)	2060-AA82
277	*Averaging of Particulate Emissions for 1985 and Later Model Year Light-Duty Diesels	2060-AA84
278	*Non-Methane Hydrocarbon Standards	2060-AA86

VOL 48 ISS 201 OCT 17 1983 UMI

EPA

Clean Air Act—Completed Actions—Continued

Sequence Number	Title	RIN
279	High-Altitude Emission Standards for 1984 and Later Model Year Light-Duty Vehicles	2060-AA57
280	NSPS: Asphalt Concrete Plants	2060-AB03
281	NSPS: Secondary Brass and Bronze Production (Revision)	2060-AB04

*Indicates priority regulation.

Superfund—Current and Projected Rulemakings

Sequence Number	Title	RIN
282	Superfund Grant Regulation	2050-AA71
283	Designation of Hazardous Substances	2050-AA45
284	Notification of Release of Hazardous Substances and Determination of Reportable Quantities	2050-AA46
285	Notification of Continuous Release of Hazardous Substances	2050-AA47
286	Claims Procedures	2050-AA48

Superfund—Completed Actions

Sequence Number	Title	RIN
287	*National Oil and Hazardous Materials Contingency Plan (Revision)	2050-AA67

*Indicates priority regulation.

General—Current and Projected Rulemakings

Sequence Number	Title	RIN
288	Training Grants and Manpower Forecasting (Revision)	2010-AA09
289	Regulations for the Federal Claims Collection Act	2020-AA01
290	Public Information and Confidentiality Regulations (Revision)	2020-AA03
291	Nondiscrimination on the Basis of Handicap for Programs Conducted by EPA	2020-AA05
292	Regulations for Real Property Acquisition and Relocation Assistance (Revision)	2030-AA01
293	Simplifying Implementation of the National Environmental Policy Act (NEPA) (Revision)	2090-AA03
294	Amending NEPA Procedures Relating to Wastewater Construction Grants (Revision)	2090-AA04
295	Nondiscrimination in Federally Assisted Programs	2090-AA07
296	Emissions Trading Policy (Revision)	2010-AA08
297	List of Violating Facilities (Revision)	2060-AB17
298	*Section 404 State Program Regulations (Revision)	2030-AA00

*Indicates priority regulation.

General—Completed Actions

Sequence Number	Title	RIN
299	Intergovernmental Review of Federal Programs	2010-AA04
300	Implementing the Equal Access to Justice Act	2020-AA02
301	General Regulations for Assistance Programs (Revision)	2030-AA04
302	Historic Preservation Regulations	2090-AA00

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Federal Insecticide, Fungicide, and Rodenticide Act

Current and Projected Rulemakings

1. ●USER CHARGES FOR PESTICIDE REGISTRATIONS

Legal Authority: 31 USC 483a / Independent Offices Appropriation Act of 1952

CFR Citation: Not applicable

Abstract: Under the authority of the Independent Offices Appropriations Act (IOAA) of 1952, the Agency is proposing to establish user fees for processing pesticide registration actions which constitute special services to registrants. The proposed registration fee system would place part of the burden of payment for the Agency's services on those who benefit from the service rather than on the Agency.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Additional Information: SAR No. 2013.

FTS: 8-557-7600.

Agency Contact: Joseph F. Powers, Environmental Protection Agency, TS-757C, Washington, DC 20460, 703 557-7600

RIN: 2070-AA64

2. RESTRICTED USE CLASSIFICATION FOR CERTAIN ACTIVE INGREDIENTS USED IN FUMIGANTS

Legal Authority: 7 USC 136 / FIFRA 3

CFR Citation: 40 CFR 162.31

Abstract: FIFRA requires that pesticides be classified for either restricted or general use. This rule would classify certain active ingredients in grain fumigants for restricted use based on an evaluation of the incremental risks and benefits of unrestricted use. Classification for restricted use permits the continued use of certain pesticides which, if used without restrictions may have unreasonable adverse effects on the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: No

Additional Information: SAR No. 1828.

FTS:8-557-7400.

Agency Contact: Walter Waldrop, Environmental Protection Agency, (TS-767-C), Washington, DC 20460, 703 557-7400

RIN: 2070-AA00

3. RESTRICTED USE CLASSIFICATION FOR CERTAIN ACTIVE INGREDIENTS USED IN GRANULAR INSECTICIDES

Legal Authority: 7 USC 136 / FIFRA 3

CFR Citation: 40 CFR 162.31

Abstract: FIFRA requires that pesticides be classified for either restricted or general use. This rule would classify certain active ingredients in granular insecticides for restricted use based on an evaluation of the incremental risks and benefits of unrestricted use. The continued use of certain pesticides which, if used without restriction, may have unreasonable adverse effects on the environment.

Timetable:

Action	Date	FR Cite
NPRM	08/01/79	44 FR 45218
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 1829.

FTS:8-557-7400.

Agency Contact: Walter Waldrop, Environmental Protection Agency, (TS-767-C), Washington, DC 20460, 703 557-7400

RIN: 2070-AA01

4. GOOD LABORATORY PRACTICE STANDARDS - TOXICOLOGY TESTING

Legal Authority: 7 USC 136 / FIFRA 3

CFR Citation: 40 CFR 160

Abstract: This regulation sets forth the standards for Good Laboratory Practices (GLP) which apply to all health effects testing conducted under FIFRA. This rule states requirements for the retention and handling of laboratory records and includes quality assurance procedures, records and similar information related to Good Laboratory Practice.

Timetable:

Action	Date	FR Cite
NPRM	04/18/80	45 FR 26373
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1703.

Docket No. OPP-30023B.

FTS:8-557-3713.

Agency Contact: Bruce Jaeger, Environmental Protection Agency, (TS-769C), Washington, DC 20460, 703 557-3713

RIN: 2070-AA02

5. RECORDKEEPING AND REPORTING REQUIREMENTS FOR CERTAIN DEALERS OF RESTRICTED USE PESTICIDES (REVISION)

Legal Authority: 7 USC 136a / FIFRA 3; 7 USC 136b / FIFRA 3; 7 USC 136w / FIFRA 3

CFR Citation: 40 CFR 171

Abstract: EPA will amend its existing regulations (40 CFR Part 171) by imposing certain recordkeeping and reporting requirements upon pesticide dealers and firms employing commerial applicators in States or Indian Reservations where the Administrator conducts the applicator certification and training program. This rule will require persons who make restricted use pesticides available to users to provide a one-time written report to the Agency, certifying that they are maintaining records of the sale or distribution of restricted use pesticides. The rule will also prescribe conditions under which pesticide dealers can make restricted use pesticides available to uncertified persons for use by a certified applicator.

Timetable:

Action	Date	FR Cite
NPRM	07/28/82	47 FR 32551
Final Action	10/00/83	

Small Entity: No

Additional Information: FTS:8-382-7849.

SAR No. 1746.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: David Hanneman, Environmental Protection Agency, (EN-342), Washington, DC 20460, 202 382-7849

RIN: 2070–AA03

6. DATA REQUIREMENTS FOR REGISTRATION (REVISION)

Priority: Task Force

Legal Authority: 7 USC 136 (a) / FIFRA 3

CFR Citation: 40 CFR 158

Abstract: This regulation will specify the kinds of data that will normally be required to support the registration of a pesticide based on its product type and use pattern. It will state whether the requirements apply to manufacturing-use products or to end-use products. These requirements will provide two principal benefits: 1) generation of data needed to evaluate pesticides' effects, and 2) more efficient and faster pesticide development and registration. EPA is revising this regulation at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
NPRM	11/24/82	47 FR 53192
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1837.

FTS:8-557-7351.

Agency Contact: Frederick S. Betz, Environmental Protection Agency, (TS-769), Washington DC 20460, 703 557-7351

RIN: 2070–AA07

7. CERTAIN PROCEDURAL REQUIREMENTS FOR PESTICIDE REGISTRATION (REVISION)

Priority: Task Force

Legal Authority: 7 USC 136(d) / FIFRA 3

CFR Citation: 40 CFR 162

Abstract: These regulations will revise EPA procedures and requirements pertaining to Agency approval of labeling and distribution arrangements, submission of pesticide efficacy data, and child-resistant packaging. EPA is revising this rule at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
ANPRM	12/29/79	44 FR 76311
NPRM	09/15/82	47 FR 40659
Final Action	11/00/83	

Small Entity: No

Additional Information: FTS: 8-557-0592.

SAR No. 1965.

Agency Contact: Jean Frane, Environmental Protection Agency, (TS-767C), Washington, DC 20460, 703 557-0592

RIN: 2070–AA55

8. COMPREHENSIVE REVISION OF PESTICIDE REGISTRATION, LABELING, AND CLASSIFICATION PROCEDURES (REVISION)

Priority: Task Force

Legal Authority: 7 USC 136(d) / FIFRA 3

CFR Citation: 40 CFR 162

Abstract: These regulations will revise procedures and requirements for the registration and reregistration of pesticide products, the labeling of such products, and the classification of pesticide products as restricted use products.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/79	44 FR 76311
NPRM	01/00/84	

Small Entity: No

Additional Information: SAR No. 1964.

FTS: 8-557-0592.

Agency Contact: Jean Frane, Environmental Protection Agency, (TS-767C), Washington, DC 20460, 703 557-0592

RIN: 2070–AA56

9. SPECIAL REVIEW CRITERIA AND PROCEDURES (REVISION)

Priority: Task Force

Legal Authority: 15 USC 136 / FIFRA 3

CFR Citation: 40 CFR 162.11

Abstract: The Agency is revising its criteria for initiating special reviews of pesticides (previously known as the Rebuttable Presumption Against Registration (RPAR) Process). These revisions will make the special review process consistent with statutory changes and program experience. The Agency is also revising the procedures for special review of chemicals to make the process more efficient, to provide for early peer review, and to promote public discussion. The criteria are being revised at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Undetermined

Additional Information: SAR No. 1932.

FTS: 8-557-7400.

Agency Contact: Joan Dizikes, Environmental Protection Agency, (TS-767), Washington, D.C. 20460, 703 557-7400

RIN: 2070–AA57

10. ●RULES OF PRACTICE GOVERNING HEARINGS (REVISION)

Legal Authority: 7 USC 136 / FIFRA 6, 25

CFR Citation: 40 CFR 164

Abstract: EPA will revise the rules governing the formal hearing procedures by which the Agency may refuse to register a pesticide or may remove a pesticide from the market.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: FTS:8-382-7505.

SAR No. 2031

Agency Contact: Edward C. Gray, Environmental Protection Agency, (LE-132 P), Washington, D.C. 20460, 202 382-7505

RIN: 2020–AA04

11. REGISTRATION OF PESTICIDE PRODUCING ESTABLISHMENT (REVISION)

Legal Authority: 7 USC 136 / FIFRA 7

CFR Citation: 40 CFR 167

Abstract: This regulation amends the existing regulations on registering establishments that produce pesticides. The regulation implements the Congressional mandate to register establishments that produce active ingredients used in pesticides.

Timetable:

Action	Date	FR Cite
NPRM	07/09/80	45 FR 46100
Final Action	00/00/00	

Small Entity: No

Additional Information: FTS:8-382-7846.

SAR No. 1747.

Agency Contact: John MacDonald, Environmental Protection Agency, (EN-342), Washington, DC 20460, 202 382-7846

RIN: 2070–AA04

12. ●RULE GOVERNING ISSUANCE OF EMERGENCY EXEMPTIONS FROM FIFRA (REVISION)

Legal Authority: 7 USC 136 / FIFRA 18

CFR Citation: 40 CFR 166

Abstract: The Agency intends to revise certain provisions of this rule. These revisions will reflect the results of the Agency's investigation of the consistency of decisions to grant emergency exemptions under FIFRA. These revisions will examine the force of the rule to ensure enforceability of limitations embodied in emergency exemptions, and will also eliminate duplicative reporting requirements in the regulation.

Timetable:

Action	Date	FR Cite
NPRM	08/00/84	

Small Entity: No

Additional Information: FTS:8-557-0592.

SAR No. 2017.

Agency Contact: David Alexander, Environmental Protection Agency, (TS-767), Washington, DC 20460, 703 557-0592

RIN: 2070–AA41

13. ●GUIDELINES ON DISPOSAL AND STORAGE OF PESTICIDES

Legal Authority: 7 USC 136q / FIFRA 19

CFR Citation: 40 CFR 165

Abstract: EPA's Office of Pesticide Programs is updating the Guidelines on Disposal and Storage of Pesticides to make them consistent with current regulations and technology. The Office of Pesticide Programs is also adding interpretive guidance on compliance with RCRA regulations on hazardous waste as they may apply to the disposal and storage of pesticides. These guidelines serve as guidance only and compliance is completely voluntary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/84	

Small Entity: No

Additional Information: SAR No. 2006.

FTS: 8-557-7347.

Agency Contact: Raymond R. Krueger, Environmental Protection Agency, TS-769C, Washington, DC 20460, 703 557-7347

RIN: 2070–AA61

14. ●WORKER PROTECTION STANDARDS FOR AGRICULTURAL PESTICIDES (REVISION)

Legal Authority: 7 USC 136 / FIFRA 25

CFR Citation: 40 CFR 170

Abstract: The worker protection standards for agricultural pesticides will be revised to reflect new and developing registration and reregistration of pesticide activities. The current standards need to be revised in order to update the provisions, clarify definitions and responsibilities, and improve implementation, compliance, and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	01/00/86	

Small Entity: No

Additional Information: FTS: 8-557-7634.

SAR No. 1640.

Agency Contact: Linda Billings, Environmental Protection Agency, Environmental Protection Agency, Pesticides and Toxic Substances (TS-766C), Washington, DC 20460, 703 557-7634

RIN: 2070–AA49

15. PARTIAL EXEMPTION FROM FIFRA REQUIREMENTS FOR CERTAIN PRODUCTS CONTAINING BORON COMPOUNDS

Legal Authority: 7 USC 136w / FIFRA 25

CFR Citation: 40 CFR 162

Abstract: This rule proposes exemption of adequately labelled pesticide products in toxicity categories III and IV which contain boron compounds as their sole active ingredient from all of the requirements of FIFRA. This rule does not exempt the misbranding and other provisions of Section 12 which are not applicable solely to registered pesticides. The reporting requirements under Section 7 of FIFRA, which are now applicable to producers of products for which exemption is proposed, will also be retained.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: No

Additional Information: SAR No. 1979.

FTS: 8-557-0592.

Agency Contact: David Alexander, Attorney Advisor, Environmental Protection Agency, (TS-767), Washington, DC 20460, 703 557-0592

RIN: 2070–AA53

16. TOLERANCE FEES FOR PESTICIDE CHEMICALS (REVISION)

Legal Authority: 21 USC 346(a) / FFDCA

CFR Citation: 40 CFR 180.33

Abstract: Section 408(o) of the Federal Food, Drug, and Cosmetic Act authorizes EPA to collect fees from registrants seeking approval of tolerance petitions. The tolerance fee structure originally was designed to cover the Agency's processing costs for reviewing tolerance petitions and for establishing tolerance levels for pesticides used on food products. The Agency has not modified its tolerance fee structure since 1972. This proposed regulation will establish a new tolerance fee structure based upon the Agency's increased costs for processing tolerance petitions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	07/00/84	

Small Entity: No

Additional Information: SAR No. 1963.

FTS: 8-557-7666.

Agency Contact: Ken Wetzel, Environmental Protection Agency, (TS-757c), Washington, DC 20460, 703 557-7666

RIN: 2070–AA46

VOL 48 ISS 201 OCT 17 1983 UMI

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Federal Insecticide, Fungicide, and Rodenticide Act

Completed Actions

COMPLETED RULEMAKINGS

17. CONDITIONAL REGISTRATION

CFR Citation: 40 CFR 162

Completed:

Reason	Date	FR Cite
Final Action (Conditional Registration)	07/26/83	48 FR 34000

Small Entity: No

Agency Contact: Jean Frane 703 557-0592

RIN: 2070-AA09

18. EXEMPTION FOR CERTAIN PRODUCTS CONTAINING PHEROMONE ATTRACTANTS

Priority: Task Force

CFR Citation: 40 CFR 162

Completed:

Reason	Date	FR Cite
Final Action	08/24/83	48 FR 38572

Small Entity: No

Agency Contact: David Alexander 703 557-0592

RIN: 2070-AA05

19. CROP GROUP TOLERANCES (REVISION)

Priority: Task Force

CFR Citation: 40 CFR 180.34(f)

Completed:

Reason	Date	FR Cite
Final Action	06/29/83	48 FR 29655

Small Entity: No

Agency Contact: Charles L. Trichilo 703 557-7324

RIN: 2070-AA12

COMPLETED REVIEWS

20. POLICY STATEMENT ON POLYNUCLEAR AROMATIC COMPOUNDS

CFR Citation: 40 CFR 180

Completed:

Reason	Date	FR Cite
End Review	07/00/83	

Small Entity: No

Agency Contact: Gary Burin 703 557-1390

RIN: 2070-AA43

21. EXPERIMENTAL USE PERMITS

CFR Citation: 40 CFR 172

Completed:

Reason	Date	FR Cite
End Review	05/00/83	

Small Entity: Yes

Agency Contact: Robert Forrest 703 557-0592

RIN: 2070-AA45

22. RULES OF PRACTICE GOVERNING HEARINGS

CFR Citation: 40 CFR 164

Completed:

Reason	Date	FR Cite
End Review	08/00/83	

Small Entity: No

Agency Contact: Edward C. Gray 202 382-7505

RIN: 2020-AA04

23. EXEMPTION FOR FEDERAL AND STATE AGENCIES TO USE PESTICIDES UNDER EMERGENCY CONSIDERATIONS

CFR Citation: 40 CFR 166

Completed:

Reason	Date	FR Cite
End Review	04/00/83	

Small Entity: No

Agency Contact: Donald Stubbs 703 557-7700

RIN: 2070-AA41

24. WORKER PROTECTION STANDARDS FOR AGRICULTURAL PESTICIDES

CFR Citation: 40 CFR 170

Completed:

Reason	Date	FR Cite
End Review	04/00/83	

Small Entity: No

Agency Contact: Linda Billings 703 557-7634

RIN: 2070-AA49

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Toxic Substances Control Act

Current and Projected Rulemakings

25. GOOD LABORATORY PRACTICE STANDARDS

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 163

Abstract: This regulation sets forth the standards for Good Laboratory Practices (GLP) which apply to all health effects, ecological effects, physical, chemical and persistence testing conducted under TSCA. The rule states requirements for the retention and handling of laboratory records and includes quality assurance procedures, records and similar information related to Good Laboratory Practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/79	44 FR 27362
NPRM	11/21/80	44 FR 77357
Final Action	12/00/83	

Small Entity: Undetermined

Additional Information: SAR No. 1886.

FTS:8-382-4241.

EPA—TSCA

Current and Projected Rulemakings

Agency Contact: Dr. Irwin Baumel, Environmental Protection Agency, (TS-796), Washington, DC 20460, 202 382-4241

RIN: 2070-AA13

26. GENERAL EXEMPTION POLICY FOR TEST RULES

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 790; 40 CFR 773

Abstract: This is a final notice of the policies and procedures EPA will use to grant exemptions from testing under Section 4(c) of TSCA. Section 4(c) requires EPA to exempt applicants from testing if the chemical they manufacture or process is equivalent to one which is already being tested or if testing by applicants for exemptions would duplicate data already submitted to EPA.

Timetable:

Action	Date	FR Cite
NPRM	07/18/80	45 FR 48512
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1669.

Docket No. OPTS-47001.

FTS: 8-382-3442.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3442

RIN: 2070-AA15

27. DECISION ON TEST RULES FOR CHLORINATED BENZENES AND DECISION NOT TO TEST ACRYLAMIDE (HEALTH)

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799; 40 CFR 771

Abstract: This is the first in a series of test rules proposed under TSCA, Section 4. It would require chemical manufacturers and processors to test chlorinated benzenes for specific health effects. EPA will propose acceptance of a negotiated testing program instead of a final rule for specific health effects testing of chlorinated benzenes. EPA also has given notice of its decision not to require health effects testing on acrylamide.

Timetable:

Action	Date	FR Cite
NPRM	07/18/80	45 FR 48524
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1131.

Docket No. OPTS 47002.

FTS:8-382-3442.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3442

RIN: 2070-AA16

28. DECISION ON TEST RULES FOR NITROBENZENE, DICHLOROMETHANE AND 1,1,1-TRICHLOROETHANE

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799; 40 CFR 771

Abstract: This is one of a series of test rules proposed under TSCA, Section 4. It would require manufacturers and processors of these chemicals to test for specified health and environmental effects.

Timetable:

Action	Date	FR Cite
NPRM	06/05/81	46 FR 30301
Final Action	12/00/83	
Final Action	02/00/84	
Final Action	04/00/84	

Small Entity: No

Additional Information: SAR No. 1668.

Docket No. OPTS-47004.

FTS:8-382-3442.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3442

RIN: 2070-AA17

29. DECISION ON TEST RULE FOR PHENYLENEDIAMINES

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Abstract: This is one of a series of decisions on rules issued under TSCA, Section 4. EPA will either require testing of a specific chemical or provide adequate reasons for not requiring testing.

Timetable:

Action	Date	FR Cite
ANPRM	01/08/82	47 FR 973
NPRM	12/00/83	

Small Entity: No

Additional Information: SAR No. 1789.

Docket No. OPTS-42008.

FTS:8-382-3442.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3442

RIN: 2070-AA18

30. DECISION ON TEST RULE FOR FLUOROALKENES

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Abstract: This is one of a series of decisions on rules issued under TSCA, Section 4. EPA will either require testing of a specific chemical or provide adequate reasons for not requiring testing.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/81	46 FR 53704
NPRM	12/00/83	

Small Entity: No

Additional Information: SAR No. 1748.

FTS:8-382-3442.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3442

RIN: 2070-AA19

31. TEST RULE FOR DIETHYLENETRIAMINE

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Abstract: This is one of a series of decisions on rules proposed under TSCA, Section 4. It would require testing the chemical diethylenetriamine (DETA) for subchronic toxicity, mutagencity and biodegradation.

Timetable:

Action	Date	FR Cite
NPRM	04/29/82	47 FR 18386
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1832.

Docket No. OPP-42012.

FTS:8-382-3442.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3442

RIN: 2070–AA20

32. DECISION ON TEST RULES FOR ELEVENTH ITC PRIORITY LIST

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Abstract: This action initiates rulemaking on the eleventh ITC list of chemicals. EPA will either require testing of specific chemicals, negotiate testing with industry, or provide adequate reasons for not requiring testing. The chemicals on this list include alkyl tins, bis(2-ethylhexyl) terephthalate, 1,3-dioxolane, 4(1,1,3,3-tetramethyl butyl) phenal, tris(2-ethylhexyl) trimellitate.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Additional Information: SAR No. 1898.

FTS:8-382-3442.

Agency Contact: Steven D. Newburg-Rinn, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3442

RIN: 2070–AA23

33. 1983 DECISION ON TEST RULES FOR ITC PRIORITY CHEMICALS, LISTS 1-6

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Abstract: A series of decisions will be issued in 1983 under Section 4 of TSCA concerning disposition of certain ITC chemicals. EPA will either require testing, negotiate testing agreements, or provide adequate reasons for not requiring testing of these specific chemicals. Decisions on thirteen chemicals will be issued by December 31, 1983 in compliance with a court-ordered schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Additional Information: SAR No. 1891.

FTS:8-382-3442.

Agency Contact: Steven D. Newburg-Rinn, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3442

RIN: 2070–AA25

34. ●REGULATORY INVESTIGATION AND ADVANCE NOTICE OF PROPOSED RULEMAKING - 4,4'-METHYLENEDIANALINE (MDA)

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 764

Abstract: The purpose of this action is to initiate a regulatory investigation into the possibility of regulating the use of 4,4'Methylenedianaline. A recent study has shown MDA to be strongly oncogenic, and there is evidence of potential respiratory and dermal exposure. The Occupational Safety and Health Administration is working jointly with EPA because evidence indicates that exposure to MDA occurs primarily within the workplace. In the course of the investigation, we will determine whether TSCA, OSHA, or a combination of both, provides the most appropriate authority to control unacceptable exposures.

Timetable:

Action	Date	FR Cite
ANPRM	09/20/83	48 FR 42898
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 2015.

FTS: 8-382-3945.

Agency Contact: Suzanne Rudzinski, Environmental Protection Agency, TS-794, Washington, DC 20460, 202 382-3945

RIN: 2070–AA60

35. ●DECISION ON TEST RULES FOR TWELFTH ITC PRIORITY LIST

Legal Authority: 15 USC 2602 / TSCA 4

CFR Citation: 40 CFR 799

Abstract: This action initiates rulemaking on the twelfth ITC list of chemicals. EPA will either require testing of specific chemicals, negotiate testing with industry, or provide adequate reasons for not requiring testing. The chemicals on this list include calcium naphthenate, cobalt napthenate, lead naphtenate, methylolurea, and 2-phenoxyethanol.

Timetable:

Action	Date	FR Cite
NPRM	05/00/84	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2034.

FTS: 8-382-3420.

Agency Contact: Steven Newberg-Rinn, Environmental Protection Agency, TS-778, Washington, DC 20460, 202 382-3420

RIN: 2070–AA63

36. ●DECISION ON TEST RULE FOR CHLOROMETHANE

Legal Authority: 15 USC 2603 / TSCA Section 4

CFR Citation: 40 CFR 799; 40 CFR 771

Abstract: This is one of a series of decisions on rules under TSCA, Section 4. This rule would require manufacturers and processors of chloromethane to test it for health effects. EPA will either require testing of a specific chemical or provide adequate reasons for not requiring testing.

Timetable:

Action	Date	FR Cite
NPRM	07/18/80	45 FR 48524
Final Action	03/00/84	

Small Entity: Not Applicable

Additional Information: SAR No. 2038.

FTS: 8-382-3442.

Split away from previous entry "Decision on Test Rule for Chlorinated Benzenes and Decision Not to Test Acrylamide (Health)," RIN 2070-AA16.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, TS-778, Washington, DC 20460, 202 383-3442

RIN: 2070–AA65

37. ●DECISION ON TEST RULE FOR FORMAMIDE

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: Not applicable

Abstract: The tenth ITC list of chemicals designates formamide for health effects testing considerations. The Agency has proposed to accept a negotiated testing program instead of initiating rulemaking for specific health effects testing of formamide. A notice proposing this decision was published

in the Federal Register for public comment.

Timetable:

Action	Date	FR Cite
Notice	05/23/83	48 FR 23098
Final Action	00/00/00	

Small Entity: No

Additional Information: FTS:8-382-3442.

SAR No. 2053.

Old RIN 2070-AA22 split into three new entries, of which this is one.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, TS-778, Washington, DC 20460, 202 382-3442

RIN: 2070–AA66

38. ●DECISION ON TEST RULE FOR BIPHENYL

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Abstract: This action initiates rulemaking on the tenth ITC list of chemicals. EPA is proposing that manufacturers and processors of biphenyl test this chemical for acute toxicity to aquatic macrophytes and oysters, chronic toxicity and bioconcentrations in oysters, chronic toxicity to aquatic vertebrates and invertebrates, and aerobic and anaerobic sediment biodegradation. Testing would be performed according to subsequent rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/23/83	48 FR 23080
Final Action	00/00/00	

Small Entity: No

Additional Information: FTS:8-382-3442.

SAR No. 2054.

Old RIN 2070-AA22 split into three new entries, of which this is one.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, TS-778, Washington, DC 20460, 202 382-3442

RIN: 2070–AA67

39. ●DECISION ON TEST RULES FOR ETHYLTOLUENE AND TRIMETHYLBENZENE

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Abstract: This action initiates rulemaking on the tenth ITC list of chemicals. EPA has proposed that chemical manufacturers and processors test ethyltoluene and trimethylbenzene for specific health effects and for specific environmental effects.

Timetable:

Action	Date	FR Cite
NPRM	05/23/83	48 FR 23088
Final Action	00/00/00	

Small Entity: No

Additional Information: FTS:8-382-3442.

SAR No. 2055.

Old RIN 2070-AA22 split into three new entries, of which this is one.

Agency Contact: Steven Newburg-Rinn, Environmental Protection Agency, TS-778, Washington, DC 20460, 202 382-3442

RIN: 2070–AA68

40. ●REGULATORY INVESTIGATION FOR 2-ETHONETHANOL, 2-METHOXYETHANOL AND THEIR ACETATES

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 764

Abstract: The purpose of this action is to initiate a regulatory investigation into the possibility of regulation the uses of 2-methoxyethanol (2-ME), 2-ethoxyethanol (2-EE), and their acetates. Recent data suggest that inhalation of these chemicals cause teratogenic effects and testicular damage at concentations as low as 10 and 50 ppm and perhaps lower. The Occupational Safety and Health Administration is working jointly with EPA because evidence indicates that exposure to these chemicals occurs primarily in the workplace. In the course of the investigation, we will determine whether TSCA, OSHA, or a combination of both provides the most appropriate authority to control unacceptable exposures.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/83	
NPRM	06/00/84	
Final Action	00/00/00	

Small Entity: No

Additional Information: FTS:8-382-3945.

SAR No. 2032.

Agency Contact: Suzanne Rudzinski, Environmental Protection Agency, TS-794, Washington, DC 20460, 202 382-3945

RIN: 2070–AA71

41. PMN EXEMPTION FOR SITE LIMITED INTERMEDIATES AND LOW VOLUME CHEMICALS (REVISION)

Priority: Task Force

Legal Authority: 15 USC 2604 / TSCA 5

CFR Citation: 40 CFR 723

Abstract: Section 5(a) of TSCA requires manufacturers of new chemical substances to submit a premanufacture notice (PMN) to EPA before manufacture or import begins. Section 5(h)(4) authorizes the Administrator to exempt any person from the provisions of section 5 if the Agency determines that the substance will not present an unreasonable risk. This rule would exempt manufacturers of certain chemicals produced at 10,000 kg or less and certain site-limited intermediates from PMN requirements. This revision is being made at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
Notice	11/03/81	46 FR 54688
NPRM	08/04/82	47 FR 33896
Final Action	11/00/83	

Small Entity: No

Additional Information: SAR No. 1820.

Docket No. OPTS-50032.

FTS:8-382-3849.

Agency Contact: Joseph A. DeSantis, Environmental Protection Agency, (TS-794), Washington, DC 20460, 202 382-3849

RIN: 2070–AA36

42. PMN EXEMPTION FOR POLYMERS (REVISION)

Priority: Task Force

Legal Authority: 15 USC 2604 / TSCA 5

CFR Citation: 40 CFR 723

Abstract: Section 5(a) of TSCA requires manufacturers of new chemical substances to submit a premanufacture notice (PMN) to EPA before manufacture or import begins. Section 5(h)(4) of TSCA authorizes the Administrator to exempt any person from the provisions of section 5 if the

VOL 48 ISS 201 OCT 17 1983 UMI

Agency determines that the chemical substance will not present an unreasonable risk. This rule would exempt certain polymers from PMN requirements. This revision is being made at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
Notice	11/03/81	46 FR 54688
NPRM	08/04/82	47 FR 83924
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1881.

Docket No. OPTS-50033.

FTS:8-382-3849.

Agency Contact: Joseph A. DeSantis, Environmental Protection Agency, (TS-794), Washington, DC 20460, 202 382-3849

RIN: 2070-AA37

43. FOLLOW-UP RULES ON EXISTING CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Abstract: EPA has instituted a program to follow the commercial development of existing chemicals of concern. EPA will issue rules on existing chemicals of concern as they are identified to require follow-up reporting under TSCA, Section 5 or 8, by the manufacturers and processors of the chemicals. Individual rules will be proposed at different times throughout the period of October 1983 to October 1984.

Timetable:

Action	Date	FR Cite
NPRM	10/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1923.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AA58

44. FOLLOW-UP RULES ON NEW CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Abstract: EPA has instituted a program to follow the commercial development of selected new chemicals that have completed premanufacturers notice review. EPA will issue rules on new chemicals of concern as they are identified to require follow-up reporting under TSCA Section 5 or 8, by the manufacturers and processors of the chemicals. Individual rules will be proposed at different times throughout the period of October 1983 to October 1984.

Timetable:

Action	Date	FR Cite
NPRM	10/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1976.

FTS: 8-382-3849.

Agency Contact: Joseph A. DeSantis, Environmental Protection Agency, (TS-794), Washington, D.C. 20460, 202 382-3849

RIN: 2070-AA59

45. RULES RESTRICTING THE COMMERCIAL AND INDUSTRIAL USE OF ASBESTOS FIBERS

Priority: Major

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 763

Abstract: The Agency is evaluating the need for further information or control regulation of the commercial and industrial use of asbestos. A variety of alternatives are being considered, including: (1) requiring the labeling of asbestos and asbestos-containing products, and (2) prohibiting or otherwise restricting certain uses of asbestos that present unreasonable risks. EPA will coordinate its asbestos activities with those of the Federal Asbestos Task Force.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/79	44 FR 60056
NPRM	04/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1627.

FTS:8-382-3938.

Agency Contact: Edward Klein, Environmental Protection Agency, (TS-794), Washington, DC 20460, 202 382-3938

RIN: 2070-AA29

46. INCIDENTAL USES OF PCBS

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 761

Abstract: In response to a decision by the D.C. Circuit, EPA will be evaluating initiatives for addressing the incidental uses of PCBs. This rule covers waste stream products, and air and water releases with measurable quantities of PCBs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Undetermined

Additional Information: SAR No. 1913.

FTS:8-382-3933.

Agency Contact: David Dull, Environmental Protection Agency, (TS-794), Washington, DC 20460, 202 382-3938

RIN: 2070-AA40

47. REGULATORY INVESTIGATION OF METHYLENE BIS-(2-CHLOROANILINE) (MBOCA)

Legal Authority: 15 USC 2605 / TSCA 8

CFR Citation: 40 CFR 764

Abstract: Methylene bis-(2-chloroaniline) (MBOCA) will be the subject of an Agency investigation to determine whether regulation under TSCA is warranted to control its use. MBOCA is an animal carcinogen and the investigation will assess the risk to humans from exposure in the manufacture of polyurethanes.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/83	48 FR 22954
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1937.

FTS: 8-382-3945.

Agency Contact: Suzanne Rudzinski, Environmental Protection Agency, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070-AA52

48. ●POLYCHLORINATED BIPHENYLS (PCBS): EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING AND DISTRIBUTION

Legal Authority: 5 USC 556 / TSCA section 6(e)(3)(B); 5 USC 557 / TSCA section 6(e)(3)(B)

CFR Citation: 40 CFR 761

Abstract: EPA will propose a rule to respond to 170 pending petitions for exemption from the ban on the manufacture, processing, and distribution in commerce of polychlorinated biphenyls (PCBs). Section 6(e)(3)(B) of the Toxic Substances Control Act allows the Administrator to grant exemptions from these prohibitions for not more than one year.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Not Applicable

Additional Information: SAR No. 2052.

FTS: 8-382-3866.

Agency Contact: Marty Halper, Environmental Protection Agency, TS-798, Washington, DC 20460, 202 382-3866

RIN: 2070-AA62

49. ●PCBS USE IN MICROSCOPY AND RESEARCH AND DEVELOPMENT (REVISION)

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 761

Abstract: EPA is proposing to amend the May 31, 1979 PCB rule by: (1) authorizing indefinitely the use of PCBs as a mounting medium in art and historic conservation, and (2) authorizing indefinitely the use of small quantities of PCBs for use in research and development. EPA has determined that these uses of PCBs do not pose unreasonable risks to public health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Denise Keehner, Environmental Protection Agency, TS-794, Washington, DC 20460, 202 382-3970

RIN: 2070-AA69

50. ●PCB TRANSFORMERS IN BUILDINGS

Legal Authority: 15 USC 2605 / TSCA 6(e)

CFR Citation: 40 CFR 761.31

Abstract: Polychorinated biphenyl (PCB) equipment is owned and operated by utilities and building owners throughout the U.S. Over the past two years, electrical transformers containing PCBs have been involved in several office fires. If the fire occurs in an occupied building, and ventilation ducts spread volatized toxic chemicals, such an incident could create a major public health problem. Although the intent of regulation would be to reduce the risk of furture fires in PCB transformers that are located in buildings, the regulation would indirectly regulate the environmental dispersing of toxic chemicals that are created in transformer fires.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/84	
NPRM	00/00/00	

Small Entity: No

Additional Information: FTS:8-382-3970.

SAR No. 2056.

Agency Contact: Denise Keehner, Environmental Protection Agency, TS-798, Washington, DC 20460, 202 382-3970

RIN: 2070-AA70

51. STANDARDS FOR EXCLUDING SMALL MANUFACTURERS FROM TSCA 8(A)

Legal Authority: 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 712

Abstract: Under Section 8(a) of TSCA, EPA can minimize burdens on small businesses by exempting small manufacturers and processors from reporting requirements, unless the chemical manufactured or processed is subject to certain Agency actions. This rule will establish a generic standard to determine which manufacturers may qualify as "small" for the purpose of these exemptions.

Timetable:

Action	Date	FR Cite
ANPRM	09/06/80	45 FR 66180
NPRM	06/23/82	47 FR 27206
Final Action	11/00/83	

Small Entity: Yes

Additional Information: SAR No. 1529.

Docket No. OPTS-8011.

FTS:8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AA31

52. NEW CHEMICALS FOR EXPORT REPORTING RULE

Legal Authority: 15 USC 1607 / TSCA 8

CFR Citation: 40 CFR 712

Abstract: The Agency is proposing to develop a rule under the general reporting provisions of Section 8 of TSCA that would require manufacturers of new chemicals produced solely for export to notify EPA before manufacture or processing begins. This rule will prevent the undesirable consequences that a new unregulated chemical could have on health or the environment in the United States. This regulation will complement the premanufacture review program for new chemicals that EPA conducts under Section 5 of TSCA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Additional Information: SAR No. 1936.

FTS: 8-382-3839.

Agency Contact: Joseph DeSantis, Environmental Protection Agency, (TS-788), Washington, DC 20460, 202 382-3839

RIN: 2070-AA47

VOL 48 ISS 201 OCT 17 1983 UMI

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Toxic Substances Control Act

Completed Actions

COMPLETED RULEMAKINGS

53. GENERAL REIMBURSEMENT POLICY FOR TSCA TEST RULES

CFR Citation: 40 CFR 790 F

Completed:

Reason	Date	FR Cite
Final Action	07/11/83	48 FR 31786

Small Entity: No

Agency Contact: Ellen Selonick 202 382-3700

RIN: 2070-AA14

54. DECISION ON TEST RULES FOR TENTH ITC PRIORITY LIST

CFR Citation: 40 CFR 799

Completed:

Reason	Date	FR Cite
Withdrawn - split into 3 separate actions 2070-AA66, AA-67, AA-68	08/30/83	

Small Entity: No

Agency Contact: Steven D. Newburg-Rinn 703 557-5781

RIN: 2070-AA22

55. 1982 DECISION ON TEST RULES FOR ITC PRIORITY CHEMICALS, LISTS 1-6

CFR Citation: 40 CFR 799

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/83	

Small Entity: No

Agency Contact: Steven D. Newburg-Rinn 703 557-5781

RIN: 2070-AA24

56. PREMANUFACTURE NOTIFICATION REQUIREMENTS AND REVIEW

Priority: Major

CFR Citation: 40 CFR 720

Completed:

Reason	Date	FR Cite
Final Action	05/13/83	48 FR 21722
Final Action Effective	07/12/83	

Small Entity: Yes

Agency Contact: Joe DeSantis 202 382-3849

RIN: 2070-AA27

57. LABELING RULE FOR TREATED WOOD

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - will issue negotiated resolution	08/30/83	

Small Entity: Undetermined

Agency Contact: Paul Lapsley 703 557-7420

RIN: 2070-AA28

58. INVESTIGATION OF CHLOROFLUOROCARBONS

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/83	

Small Entity: Undetermined

Agency Contact: Ed Klein 202 382-3939

RIN: 2070-AA30

59. RECORDS AND REPORTS OF ALLEGATIONS OF SIGNIFICANT ADVERSE REACTIONS TO HEALTH OR THE ENVIRONMENT

CFR Citation: 40 CFR 717

Completed:

Reason	Date	FR Cite
Final Action	08/22/83	48 FR 38178

Small Entity: Yes

Agency Contact: Frank Kover 202 382-3436

RIN: 2070-AA33

60. CHEMICAL INFORMATION RULES; PRELIMINARY ASSESSMENT INFORMATION

CFR Citation: 40 CFR 712

Completed:

Reason	Date	FR Cite
Final Action	05/19/83	48 FR 22694

Small Entity: No

Agency Contact: Frank Kover 202 382-3436

RIN: 2070-AA34

61. HEALTH AND SAFETY DATA REPORTING (REVISION)

CFR Citation: 40 CFR 716

Completed:

Reason	Date	FR Cite
Final Action	06/01/83	48 FR 24366

Small Entity: No

Agency Contact: Frank Kover 202 382-3436

RIN: 2070-AA35

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Water Act

Current and Projected Rulemakings

62. WATER QUALITY MANAGEMENT REGULATIONS (REVISION)

Legal Authority: 33 USC 1256 / CWA 106; 33 USC 1288 / CWA 208; 33 USC 1313 / CWA 303

CFR Citation: 40 CFR 35 G

Abstract: The Clean Water Act authorizes EPA to provide grants and other assistance to States and other governmental jurisdictions to develop water quality management programs. EPA is revising the existing regulations to simplify the requirements and to remove any aspects of the regulations that are unduly detailed or inflexible.

Timetable:

Action	Date	FR Cite
NPRM	10/19/82	47 FR 46668
Final Action	03/00/84	

EPA—CWA

Current and Projected Rulemakings

Small Entity: No

Additional Information: SAR No. 1802.

FTS:8-382-7080.

Agency Contact: Carl Myers, Environmental Protection Agency, (WH-554), Washington, DC 20460, 202 382-7080

RIN: 2040-AA37

63. SIMPLIFYING CONSTRUCTION GRANTS REGULATIONS (REVISION)

Legal Authority: 33 USC 1361 / CWA 201

CFR Citation: 40 CFR 35

Abstract: An interim final regulation simplifying the requirements of the existing construction grants regulations and providing more flexibility in meeting revised requirements was published May 12, 1982. Rather than mandating how grantees must meet the goals of the regulations, this revision allows grantees to choose the most cost-effective ways to achieve these goals.

Timetable:

Action	Date	FR Cite
Previous NPRM	11/06/81	46 FR 55220
NPRM	05/12/82	47 FR 20470
Interim Final Rule	05/12/82	47 FR 20450
Final Action	11/00/83	

Small Entity: No

Additional Information: SAR No. 1722.

Docket No. G-81-5.

FTS:8-382-7278

Agency Contact: Roger Rihm, Environmental Protection Agency, (WH-546), Washington, DC 20460, 202 382-7278

RIN: 2040-AA38

64. NPDES NEW SOURCE APPLICATION FORM (REVISION)

Legal Authority: 33 USC 1311 / CWA 301

CFR Citation: 40 CFR 122

Abstract: The purpose of this action is to develop an NPDES application form for new manufacturing, commercial, mining, and silvicultural operations. Besides obtaining information necessary for setting effluent discharge limitations, it will also help permit writers to determine whether the facility is a new source.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	10/00/84	

Small Entity: No

Additional Information: SAR No. 1725.

FTS:8-426-2970.

Agency Contact: Gail Goldberg, Environmental Protection Agency, (EN-336), Washington, DC 20460, 202 426-2970

RIN: 2040-AA00

65. REQUIREMENTS FOR APPLICATION FOR 301(C) VARIANCES

Legal Authority: 33 USC 1311 / CWA 311

CFR Citation: 40 CFR 125

Abstract: Section 301(c) of the Clean Water Act provides for variances on economic grounds of the strict requirements of BAT controls for non-toxic, non-conventional pollutants. This regulation will establish application ground rules and national criteria for granting variances from BAT requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1404.

FTS:8-382-2769.

Agency Contact: Phil Paparodis, Environmental Protection Agency, (PM-220), Washington, DC 20460, 202 382-2766

RIN: 2040-AA01

66. WAIVERS FROM BAT FOR NONCONVENTIONAL POLLUTANTS UNDER 301(G) (REVISION)

Legal Authority: 33 USC 1311 / CWA 301

CFR Citation: 40 CFR 125 F

Abstract: Section 301(g) allows NPDES permit applicants to request a waiver from BAT effluent limitations for nonconventional pollutants when the applicant can show that a less stringent permit limit will not interfere with the attainment or maintenance of water quality and will not endanger human health or the environment. This regulation will establish guidelines for evaluating waiver applications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	10/00/84	

Small Entity: No

Additional Information: SAR No. 1634.

FTS:8-426-7010.

Agency Contact: Robert Cantilli, Environmental Protection Agency, (EN-336), Washington, DC 20460, 202 426-7010

RIN: 2040-AA02

67. COMPLIANCE EXTENSION FOR INNOVATIVE TECHNOLOGY FOR INDUSTRIAL DISCHARGE (REVISION)

Legal Authority: 33 USC 1311 / CWA 301

CFR Citation: 40 CFR 125

Abstract: Section 301(k) allows industrial dischargers to request an extension of the compliance date for BAT until July 1, 1987 if they will install an innovative technology. This technology must produce either: (1) effluent reduction greater than BAT, or (2) same effluent reduction at significantly lower cost. It must also have the potential for industry-wide application.

Timetable:

Action	Date	FR Cite
ANPRM	09/19/80	45 FR 62509
NPRM	09/21/81	46 FR 46597
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1608.

FTS:8-426-7010.

Agency Contact: Marilyn Goode, Environmental Protection Agency, (EN-336), Washington, DC 20460, 202 426-7010

RIN: 2040-AA03

68. EFFLUENT GUIDELINES FOR ORGANIC CHEMICALS AND PLASTICS AND SYNTHETICS

Priority: Major

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1461 / CWA 501

CFR Citation: 40 CFR 414; 40 CFR 416

Abstract: The Agency is proposing BPT, BAT, NSPS, and pretreatment standards for the organic chemicals industry (SIC 2865, 2869). Pollutants include aromatic

VOL 48 ISS 201 OCT 17 1983 UMI

chlorinated hydrocarbons, phenolic compounds, and metals. EPA also proposed BCT, BAT, BPT, NSPS, and pretreatment standards for the plastics and synthetics industry (SIC 2821, 2823, 2824). Pollutants of concern include phenols, acrolein, ethylbenzene, vinyl chloride, and metals. The Agency is reassessing the schedule relating to promulgation of final regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/21/83	48 FR 11828
Final Action	03/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1415.

FTS:8-382-7173.

Agency Contact: E.H. Forsht, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7173

RIN: 2040-AA05

69. EFFLUENT GUIDELINES FOR NONFERROUS METAL MANUFACTURING (PHASE I)(REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 421

Abstract: The Agency is proposing BPT, BCT, BAT, NSPS, and PSES for 13 subcategories in the nonferrous metals manufacturing industry. These 13 subcategories include the production of aluminum, copper, lead, silver and zinc and represent a significant fraction of the total wastewater discharged by this industry. The pollutants of concern include cadmium, copper, lead and zinc.

Timetable:

Action	Date	FR Cite
NPRM	02/17/83	48 FR 7032
Final Action	01/00/84	

Small Entity: Yes

Additional Information: SAR No. 1410.

FTS: 8-382-7126

Agency Contact: James Berlow, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040-AA07

70. EFFLUENT GUIDELINES FOR OFFSHORE OIL AND GAS INDUSTRY (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 435

Abstract: In 1975 the Agency proposed regulations for the offshore oil and gas industry. EPA published a final rule for BPT in 1979 but deferred action on the NSPS and BAT standards. Under a settlement agreement with NRDC, the Agency withdrew the 1975 NSPS proposal and is reproposing NSPS standards. The Agency will also propose BAT and BCT regulations and amend BPT.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	09/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1649.

FTS:8-382-7161

Agency Contact: Dennis Ruddy, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7165

RIN: 2040-AA12

71. EFFLUENT GUIDELINES FOR PHARMACEUTICALS (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 439

Abstract: EPA is developing effluent limitations for BPT, BCT, BAT, NSPS, PSES, and PSNS standards for this industry. Pollutants discharged by a pharmaceuticals industry include BOD, COD, TSS, Cyanide, and toxic organics.

Timetable:

Action	Date	FR Cite
NPRM	11/26/82	47 FR 53584
Final Action BPT, BAT, NSPS, PSES, PSNS	09/00/83	
Final Action (BCT)	04/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1427.

FTS:8-382-7182.

Agency Contact: Frank Hund, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7182

RIN: 2040-AA13

72. EFFLUENT GUIDELINES FOR PAINT FORMULATION

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 446

Abstract: Under the authority of paragraph 8 of the Settlement Agreement the Agency is withdrawing the proposed BAT, NSPS, and pretreatment standards for the caustic and/or water wash subcategory and the pretreatment standards for the solvent wash subcategory.

Timetable:

Action	Date	FR Cite
NPRM	01/03/80	45 FR 912
Notice	01/00/84	

Small Entity: No

Additional Information: SAR No. 1411.

FTS:8-428-2554.

Agency Contact: Robert Dellinger, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 426-2554

RIN: 2040-AA15

73. EFFLUENT GUIDELINES FOR INK FORMULATION

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 447

Abstract: Under the authority of paragraph 8 of the Settlement Agreement the Agency is withdrawing the proposed BAT, NSPS, and pretreatment standards for the caustic and/or water wash subcategory and the pretreatment standards for solvent wash subcategory.

Timetable:

Action	Date	FR Cite
NPRM	01/03/80	45 FR 928
Notice	01/00/84	

Small Entity: No

Additional Information: SAR No. 1411A.

FTS:8-428-2497.

Agency Contact: Gregory Aveni, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7137

RIN: 2040-AA16

74. EFFLUENT GUIDELINES FOR GUM AND WOOD (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 454

Abstract: Under the authority of paragraph 8 of the Settlement Agreement the Agency is withdrawing the proposed BAT limitations for sulfate turpentine, wood rosin, tall oil, and rosin derivatives. EPA will also withdraw proposed pretreatment standards.

Timetable:

Action	Date	FR Cite
NPRM	11/29/80	44 FR 68710
Notice	01/00/84	

Small Entity: No

Additional Information: SAR No. 1425.

FTS:8-382-7137

Agency Contact: Richard Williams, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7137

RIN: 2040-AA17

75. EFFLUENT GUIDELINES FOR PESTICIDES

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 455

Abstract: EPA is developing BAT, BPT, BCT, NSPS, and pretreatment controls for manufacturers of pesticides and related products. Pollutants of concern are active ingredient pesticides, organic solvents, and metals.

Timetable:

Action	Date	FR Cite
NPRM	11/30/82	47 FR 53994
Final Action	12/00/83	

Small Entity: Undetermined

Additional Information: SAR No. 1426.

FTS:8-382-7180

Agency Contact: George Jett, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7180

RIN: 2040-AA18

76. EFFLUENT GUIDELINES FOR BATTERY MANUFACTURING

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 461

Abstract: The Agency is promulgating BAT and other standards for seven subcategories of the battery manufacturing industry. Toxic pollutants of concern are mercury, lead, cadmium, nickel, and zinc.

Timetable:

Action	Date	FR Cite
NPRM	11/10/82	47 FR 51052
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 1434.

FTS:8-382-7126

Agency Contact: Mary Belefski, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040-AA19

77. EFFLUENT GUIDELINES FOR METAL MOULDING AND CASTING (FOUNDRIES)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 464

Abstract: The Agency is promulgating BPT, BAT, and other standards for the aluminum casting, copper casting, iron and steel casting, magnesium casting, lead casting, and zinc casting subcategories. The industry discharges approximately 1,200 lb/day of toxic pollutants. Pollutants of concern include zinc, copper, lead, and phenolic compounds.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51512
Final Action	06/00/84	

Small Entity: Yes

Additional Information: SAR No. 1432.

FTS:8-382-7126

Analysis: RFA

Agency Contact: Edward L. Dulaney, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040-AA20

78. EFFLUENT GUIDELINES FOR ALUMINUM FORMING

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 467

Abstract: EPA is promulgating BPT, BAT, and other standards for the aluminum forming industry. Pollutants of concern include chromium, zinc, and cyanide.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52626
Final Action	09/00/83	

Small Entity: No

Additional Information: SAR No. 1438.

FTS:8-382-7126.

Agency Contact: Janet Goodwin, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040-AA23

79. EFFLUENT GUIDELINES FOR ELECTRIC AND ELECTRONIC COMPONENTS (PHASE II)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 469

Abstract: The Agency is developing regulations for BPT, BCT, BAT, NSPS, PSES, and PSNS for the electronic tube and phosphorescent coating subcategories in the electric and electronics industry. These regulations are in addition to those proposed on August 24, 1982. Principal pollutants include toxic heavy metals.

Timetable:

Action	Date	FR Cite
NPRM	03/09/83	48 FR 10012
Final Action	11/00/83	

Small Entity: No

Additional Information: SAR No. 1907.

FTS:8-382-7158.

VOL 48 ISS 201 OCT 17 1983 UMI

Analysis: RFA

Agency Contact: John Newbrough, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7158

RIN: 2040–AA26

80. EFFLUENT GUIDELINES FOR NONFERROUS METALS (PHASE II)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 413

Abstract: The Agency is developing BPT, BAT, BCT, NSPS, PSES, and PSNS for the production and refining of metals from ore for several metals not covered by the Phase I nonferrous regulation. Such metals as beryllium, zinconium, hafnium, platinum, and titanium will be regulated. Principal pollutants considered are primarily toxic metals.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	
Final Action	11/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1911.

FTS:8-382-7126.

Agency Contact: James Berlow, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040–AA27

81. EFFLUENT GUIDELINES FOR INORGANIC CHEMICALS (PHASE II)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 415

Abstract: BPT, BCT, BAT, PSES, NSPS, and PSNS limitations will be proposed for 10 product-process subcategories of the inorganic chemicals industry. The largest of the ten subcategories is sodium chlorate. This and other subcategories are in addition to those for which final regulations were issued on June 29, 1982.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
Final Action	06/00/84	

Small Entity: No

Additional Information: SAR No. 1906.

FTS:8-382-7156.

Agency Contact: Tom Fielding, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7156

RIN: 2040–AA28

82. EFFLUENT GUIDELINES FOR PLASTICS MOLDING AND FORMING

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 463

Abstract: The Agency is developing BPT, BAT, BCT, NSPS, PSES, and PSNS for the plastics molding and forming industry. These limitations will consider the molding and forming of plastics from all plastic materials. This regulation is distinct from the primary manufacture of plastic materials and compounds to be covered by regulations in the plastics molding and forming category. The pollutants of concern include cadmium, chromium, lead, nickel, zinc, phenols and several other organics.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	
Final Action	09/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1909.

FTS:8-382-7126.

Agency Contact: Robert Southworth, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040–AA29

83. EFFLUENT GUIDELINES FOR ADHESIVES AND SEALANTS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 463

Abstract: The Agency excluded the adhesives and sealants category from toxic pollutant regulation under the authority of paragraph 8 of the NRDC settlement agreement.

Timetable:

Action	Date	FR Cite
Notice	02/00/84	

Small Entity: No

Additional Information: SAR No. 1910.

FTS:8-382-7173.

Agency Contact: Elwood Forsht, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7173

RIN: 2040–AA30

84. EFFLUENT GUIDELINES FOR COIL COATING (CAN MAKING) (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 465

Abstract: The Agency is promulgating BPT, BAT, BCT, NSPS, PSES, and PSNS for the 2 piece can making industry. These limitations will consider the manufacture of 2 piece cans (such as those used for beverage containers) and will be promulgated as subcategories under the coil coating regulation. Pollutants of concern include chromium, oil and grease, and toxic organics.

Timetable:

Action	Date	FR Cite
NPRM	02/10/83	48 FR 6268
Final Action	10/00/83	

Small Entity: No

Additional Information: SAR No. 1912.

FTS:8-382-7126.

Agency Contact: Mary Belefski, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040–AA31

85. EFFLUENT GUIDELINES FOR NONFERROUS METALS FORMING

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 471

Abstract: The Agency is developing BPT, BAT, BCT, NSPS, PSES, and PSNS for the forming (rolling, drawing, etc.) of nonferrous metals other than copper and aluminum. These limitations will apply to wastewater generated by these operations. Pollutants of concern include cadmium, chromium, lead, nickel, zinc, and toxic organics.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	
Final Action	10/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1908.

FTS:8-382-7128.

Agency Contact: Janet Goodwin, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7128

RIN: 2040–AA32

86. EFFLUENT GUIDELINES FOR RUBBER PROCESSING (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 415

Abstract: EPA has proposed to withdraw BAT and substitute limits for COD and metals equivalent to BPT for nine subcategories. Lead limits for three subcategories were studied and revisions to these limits are being made. Rubber reclaimers covered by subparts H and I have been re-examined for BCT, BAT, and NSPS regulations. National regulations will not be issued for the two rubber reclaimed subcategories.

Timetable:

Action	Date	FR Cite
NPRM	12/18/79	44 FR 75016
Final Action	03/00/84	

Small Entity: No

Additional Information: SAR No. 1420.

FTS:8-382-7172.

Agency Contact: J. S. Vitalis, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7172

RIN: 2040–AA42

87. EFFLUENT GUIDELINES FOR PULP, PAPER, AND PAPERBOARD (PCB'S) (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 430

Abstract: The Agency has proposed BAT and NSPS regulations that would limit the discharge of polychlorinated biphenyls (PCBs) into waters of the United States from mills in the pulp, paper, and paperboard industry where fine and tissue papers are made from deinked wastepaper. On January 6, 1981, EPA proposed BPT, BAT, NSPS, PSNS, and PSES limitations for the pulp, paper, and paperboard industry, including the deink subcategory (46 FR 1430). EPA did not propose PCB effluent limitations at that time because of insufficient information on the levels of treatability. Based on further analysis of all current available technical and economic data, the Agency has determined that limitations for the control of PCBs are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	11/18/82	47 FR 52066
Final Action	01/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1969.

FTS:8-382-7137.

Agency Contact: Robert Dellinger, Environmental Protection Agency, (WH-552), Washington, DC 20460, 202 382-7137

RIN: 2040–AA63

88. EFFLUENT GUIDELINES FOR ORE MINING AND DRESSING (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 144.103; 40 CFR 144.104

Abstract: The Agency is developing BAT and NSPS for mines and mills that benefit gold ores by ground separation methods. These methods include mining of placer deposits, dredge mining, and hydraulic mining operations. These limitations will apply to wastewater generated by these operations and are an addition to those subcategories for which final regulations were issued on December 3, 1982.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	
Final Action	11/00/84	

Small Entity: Yes

Additional Information: FTS: 8-382-7164.

SAR NO. 1413.

Analysis: RFA

Agency Contact: B. Matthew Jarett, Environmental Protection Agency, WH-552, Washington, DC 20460, 202 382-7164

RIN: 2040–AA65

89. WATER QUALITY STANDARDS REGULATIONS (REVISION)

Legal Authority: 33 USC 1313 / CWA 303

CFR Citation: 40 CFR 35.1550

Abstract: EPA is revising its water quality standards regulations to improve the management of the program. The revision will ensure that the process for setting water quality standards takes into account appropriate data and analysis, scientific peer review and participation of the affected public. The revision will allow EPA and the States to more effectively meet the requirements of the Clean Water Act.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/78	43 FR 29588
NPRM	10/29/82	47 FR 49234
Final Action	10/00/83	

Small Entity: No

Additional Information: SAR No. 1441.

FTS:8-245-3042.

Agency Contact: David Sabock, Environmental Protection Agency, (WH-585), Washington, DC 20460, 202 245-3042

RIN: 2040–AA43

90. SECONDARY TREATMENT REGULATIONS (REVISION)

Legal Authority: 33 USC 1314 / CWA 304

CFR Citation: 40 CFR 133

Abstract: The Agency is considering defining a level of effluent quality attainable by publicly owned treatment works (POTWs) through the application of treatment equivalent to secondary treatment. These possible revisions which in large part implement the 1981 amendments of the Clean Water Act, will include specific numeric levels and criteria for adjusting POTW effluent limitations to levels attainable by certain kinds of equivalent treatment technologies. The Agency is also

VOL 48 ISS 201 OCT 17 1983 UMI

reexamining the 85 percent removal requirement for secondary treatment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	09/00/84	

Small Entity: No

Additional Information: SAR No. 1657.

Docket No. G-81-3.

FTS:8-382-7276.

Agency Contact: Charles Mooar, Environmental Protection Agency, (WH-595), Washington, DC 20460, 202 382-7276

RIN: 2040–AA44

91. BEST CONVENTIONAL TECHNOLOGY (BCT) COST TEST AND BCT EFFLUENT GUIDELINES (REVISION)

Priority: Task Force

Legal Authority: 33 USC 1314 / CWA 304

CFR Citation: 40 CFR 405; 40 CFR 406; 40 CFR 407; 40 CFR 408; 40 CFR 409; 40 CFR 411; 40 CFR 412; 40 CFR 415; 40 CFR 422; 40 CFR 424; 40 CFR 425; 40 CFR 426; 40 CFR 429; 40 CFR 430; 40 CFR 431

Abstract: EPA is revising the cost reasonableness test for BCT effluent limitations for primary and secondary industries, primarily food processors and light manufacturers. EPA issued a notice withdrawing the existing BCT limitations on February 17, 1982 (47 FR 6835). EPA proposed new BCT limitations for the affected industries, including seafood processing and meat packing, pulp and paper, timber, metal finishing, inorganic chemicals, ore mining, and leather tanning. EPA is making these revisions in response to a court decision. This revision also fulfills the request for review of the program by the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
NPRM	10/29/82	47 FR 49176
Final Action	04/00/84	

Small Entity: No

Additional Information: SAR No. 1752.

FTS:8-382-5386.

Agency Contact: Renee Rico, Environmental Protection Agency, (WH-586), Washington, DC 20460, 202 382-5386

RIN: 2040–AA45

92. USE OF CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND (CBOD) FOR SECONDARY TREATMENT REGULATION (REVISION)

Legal Authority: 33 USC 1314 / CWA 304

CFR Citation: 40 CFR 133

Abstract: The Agency is considering further amendment to the secondary treatment regulation which would redefine secondary treatment to allow optional use of the carbonaceous biochemical oxygen demand (5-day) pollutant parameter (CBOD5) as a substitute for the current biochemical oxygen demand (5-day) parameter (BOD5). The effluent concentration for CBOD5 would be set at 25 milligrams per liter. Testing procedures for CBOD5 would be conducted in accordance with procedures established in 40 CFR Part 136.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	09/00/84	

Small Entity: No

Additional Information: SAR No. 1962.

FTS:8-382-7276.

Agency Contact: Charles Mooar, Environmental Protection Agency, (WH-595), Washington, DC 20460, 202 382-7276

RIN: 2040–AA62

93. GENERAL PRETREATMENT REGULATIONS: REFORMS (REVISION)

Priority: Task Force

Legal Authority: 33 USC 1317 / CWA 307

CFR Citation: 40 CFR 403

Abstract: The Agency is preparing revisions to the Pretreatment Regulations which will also include revisions to decrease paperwork requirements. These revisions fulfill the request for review of the program by the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	07/00/84	

Small Entity: No

Additional Information: SAR No. 1900.

FTS:8-426-4793.

Agency Contact: Craig Jakubowics, Environmental Protection Agency, (EN-336), Washington, DC 20460, 202 426-4793

RIN: 2040–AA46

94. GENERAL PRETREATMENT REGULATIONS: REMOVAL CREDITS (REVISION)

Priority: Task Force

Legal Authority: 33 USC 1317 / CWA 307

CFR Citation: 40 CFR 403.7

Abstract: Based on the Agency review of the Pretreatment Program, at the request of the President's Task Force on Regulatory Relief, EPA is proposing revisions in the removal credits section. This proposal clarifies the provision, gives added flexibility to cities and reduces the burden of using this mechanism.

Timetable:

Action	Date	FR Cite
NPRM	09/28/82	47 FR 42698
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 1866.

FTS:8-426-4793.

Agency Contact: Craig Jakubowics, Environmental Protection Agency, (EN-336), Washington, DC 20460, 202 426-4793

RIN: 2040–AA47

95. REMOVAL OF OIL AND HAZARDOUS SUBSTANCE DISCHARGES (REVISION)

Legal Authority: 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 111

Abstract: This regulation sets forth the methods and procedures for the removal of oil and hazardous substances from inland waters of the United States, excluding the Great Lakes. Key elements of the regulation are voluntary removal guidelines for the proper removal and disposal of oil and hazardous substance discharges and mandatory provisions governing the use

of chemical agents applied to discharges.

Timetable:

Action	Date	FR Cite
NPRM	12/23/80	45 FR 84942
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 1544.

FTS:8-382-3000.

Agency Contact: Jack Kooyoomjian, Environmental Protection Agency, (WH-548), Washington, DC 20460, 800 424-9346

RIN: 2040–AA33

96. HAZARDOUS SUBSTANCES POLLUTION PREVENTION FOR FACILITIES SUBJECT TO PERMITTING REQUIREMENTS OF SECTION 402

Legal Authority: 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 151

Abstract: This regulation's purpose is to prevent spills of hazardous substances into navigable waters. It sets forth requirements for the Spills Prevention Control and Countermeasure Plans for facilities which (a) are not related to transportation, (b) which store, manufacture or otherwise handle hazardous substances at their facilities, and (c) are subject to NPDES permits. The Agency will likely exempt any small facilities which store less than ten times the reportable quantities of spilled, hazardous substances.

Timetable:

Action	Date	FR Cite
NPRM	09/01/78	43 FR 39276
RPRM	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1451.

FTS:8-382-3000.

Agency Contact: L. M. Flaherty, Environmental Protection Agency, (WH-548), Washington, DC 20460, 202 382-7927

RIN: 2040–AA34

97. DISCHARGE OF OIL (REVISION)

Legal Authority: 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 110

Abstract: This revision will extend applicability to deep water ports and extend reporting requirements for oil to 200 miles offshore. It will also provide for exemptions from reporting requirements for permitted discharges and for special use applications of oil.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1579.

FTS:8-382-3000.

Analysis: RIA, RFA

Agency Contact: Jack Kooyoomjian, Environmental Protection Agency, (WH-548), Washington, DC 20460, 800 424-9346

RIN: 2040–AA48

98. OIL POLLUTION PREVENTION REGULATION (REVISION)

Legal Authority: 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 112

Abstract: This revision to 40 CFR 112 will include exemptions from reporting requirements and will extend EPA's oil pollution authority from three miles to two hundred miles offshore. This revision does not affect the existing exemption for facilities that store 1,320 gallons or less.

Timetable:

Action	Date	FR Cite
NPRM	05/20/80	45 FR 33814
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1584.

FTS:8-382-3000.

Agency Contact: L. M. Flaherty, Environmental Protection Agency, (WH-548), Washington, DC 20460, 800 424-9346

RIN: 2040–AA49

99. CONSOLIDATED PERMITS: NPDES ISSUES (REVISION)

Legal Authority: 42 USC 6924 / CWA 402

CFR Citation: 40 CFR 122 to 124

Abstract: This action would implement the NPDES issues in the settlement agreement signed on June 7, 1982 in NRDC v. EPA. The NPDES issues involve requirements for water discharge permits under the NPDES program.

Timetable:

Action	Date	FR Cite
NPRM	11/18/82	47 FR 52072
Final Action	03/00/84	

Small Entity: No

Additional Information: SAR No. 1901.

FTS:8-426-4793.

Agency Contact: George Young, Environmental Protection Agency, (EN-336), Washington, DC 20460, 202 426-4793

RIN: 2040–AA35

100. NPDES REGULATIONS: REGULATORY REFORM (REVISION)

Priority: Task Force

Legal Authority: 33 USC 1251 / CWA 402

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 125

Abstract: These revisions are being proposed to streamline permit program requirements and ease burdens upon the public by eliminating regulations not mandated by law or essential to good program implementation; by expediting procedures where appropriate; by reducing unnecessary reporting requirements; and by promoting assumption of NPDES authority by States. These revisions are being made at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
NPRM	06/00/84	

Small Entity: No

Additional Information: SAR No. 1868.

FTS:8-426-4793.

Agency Contact: George Young, Environmental Protection Agency, (EN-336), Washington, DC 20460, 202 426-4793

RIN: 2040–AA50

101. 404 REGULATIONS (REVISION)

Priority: Task Force

Legal Authority: 33 USC 1344 / CWA 404

CFR Citation: 40 CFR 230

Abstract: These regulations revise section 404(b)(1) environmental guidelines to implement reforms recommended by the President's Task Force on Regulatory Relief. These revisions will also update testing and

evaluation procedures. An ANPRM was published to request information to identify appropriate areas for reform.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/82	47 FR 36798
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1585.

FTS:8-472-3400.

Agency Contact: Suzanne Schwartz, Environmental Protection Agency, (WH-585), Washington, DC 20460, 202 472-3400

RIN: 2040-AA51

102. SEWAGE SLUDGE DISPOSAL GUIDELINES

Legal Authority: 33 USC 1345 / CWA 405

CFR Citation: 40 CFR 500; 40 CFR 501; 40 CFR 502; 40 CFR 503

Abstract: These regulations will provide guidelines for the disposal and use of wastewater treatment plant sludge.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1914.

FTS:8-382-7816

Agency Contact: Tom O'Farrell, Environmental Protection Agency, (WH-586), Washington, DC 20460, 202 382-5367

RIN: 2040-AA36

103. OCEAN DUMPING CRITERIA (REVISION)

Legal Authority: 33 USC 1401 et seq / MPRSA

CFR Citation: 40 CFR 220 to 229

Abstract: A proposed regulation will be issued to address changes in the regulations required by court action, i.e., NYC vs. EPA. An ANPRM will be developed to solicit public comments on other changes to the current Ocean Dumping regulation including dredged material, low level radioactive waste and incineration at sea requirements. Complete reorganization and a rewrite of the current regulations will follow based on comments received.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1604.

FTS:8-755-0356.

Agency Contact: T. A. Wastler, Environmental Protection Agency, (WH-585), Washington, DC 20460, 202 755-0356

RIN: 2040-AA52

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Water Act — Completed Actions

COMPLETED RULEMAKINGS

104. AMENDMENT TO CONSTRUCTION GRANTS REGULATION—CHLORINATION

CFR Citation: 40 CFR 35

Completed:

Reason	Date	FR Cite
Withdrawn	08/16/83	

Small Entity: No

Agency Contact: John Maxted 202 382-7268

RIN: 2040-AA60

105. CONSTRUCTION GRANTS PROGRAM DELEGATION TO STATES

CFR Citation: 40 CFR 35 F

Completed:

Reason	Date	FR Cite
Final Action	08/19/83	48 FR 37814
Final Action Effective	08/19/83	

Small Entity: No

Agency Contact: Carl Reeverts 202 382-5839

RIN: 2040-AA39

106. EFFLUENT GUIDELINES FOR METAL FINISHING

CFR Citation: 40 CFR 433

Completed:

Reason	Date	FR Cite
Final Action	07/15/83	48 FR 32462
Final Action Effective	08/29/83	

Small Entity: No

Agency Contact: Richard Kinch 202 382-7159

RIN: 2040-AA04

107. EFFLUENT GUIDELINES FOR COPPER FORMING

CFR Citation: 40 CFR 468

Completed:

Reason	Date	FR Cite
Final Action	08/15/83	48 FR 36942
Final Action Effective	07/01/84	

Small Entity: No

Agency Contact: David J. Pepson 202 382-7126

RIN: 2040-AA24

108. EFFLUENT GUIDELINES FOR ELECTRICAL AND ELECTRONIC PRODUCTS (PHASE I)

CFR Citation: 40 CFR 469

Completed:

Reason	Date	FR Cite
Final Action	04/08/83	48 FR 15382

Small Entity: No

Agency Contact: David Pepson 202 382-7157

RIN: 2040-AA25

109. REVISION TO BAT FOR INORGANIC CHEMICALS

CFR Citation: 40 CFR 415

Completed:

Reason	Date	FR Cite
Withdrawn	08/16/83	

Small Entity: No

Agency Contact: Thomas Fielding 202 382-7156

RIN: 2040-AA41

110. CONSOLIDATED PERMITS: "COMMON ISSUES"

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Completed:

Reason	Date	FR Cite
Final Action	09/01/83	48 FR 39611
Final Action Effective	09/01/83	

Small Entity: No

Agency Contact: Cathy O'Connell 202 426-2970

RIN: 2040-AA64

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Atomic Energy Act Current and Projected Rulemakings

111. GUIDANCE FOR OCCUPATIONAL RADIATION EXPOSURE (REVISION)

Legal Authority: AEA 274(h); 42 USC 2021(h) Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Abstract: This guidance would update existing (1960) radiation occupational exposure limits for all workers except radiation exposure to uranium miners. It would lower allowable exposure per year and incorporate selected current recommendations of national and international radiation protection advisory bodies.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/79	44 FR 53785
NPRM	01/23/81	46 FR 7836
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 1161.

Docket No. A-79-46.

FTS:8-557-8927.

Agency Contact: Allan Richardson, Environmental Protection Agency, (ANR 460), Washington, DC 20460, 703 557-8927

RIN: 2060-AA00

112. TRANSURANIC ELEMENTS

Legal Authority: AEA 274(h); 42 USC 2021(h) Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Abstract: This guidance to Federal Agencies will establish dose rate limits for people exposed to transuranic elements in the general environment. The guidance considers both human inhalation and ingestion of transuranium elements and establishes a recommended dose rate limit to lungs and bones for members of the general population. This dose rate limit can be associated with an estimated maximum risk of one additional death per million persons continuously exposed at this rate per year. Guidance is undergoing interagency review.

Timetable:

Action	Date	FR Cite
NPRM	11/30/77	42 FR 60956
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1162.

FTS:8-557-0740.

Agency Contact: Gordon Burley, Environmental Protection Agency, (ANR-460), Washington, DC 20460, 703 557-8710

RIN: 2060-AA01

113. RADIOFREQUENCY RADIATION GUIDANCE

Legal Authority: AEA 274(h); 42 USC 2021(h) Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Abstract: This guidance will serve to limit exposure of the general public to radiofrequency radiation, which poses a potential health risk.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/82	47 FR 57338
NPRM	12/00/83	

Small Entity: Undetermined

Additional Information: SAR No. 1525.

FTS:8-557-7390.

Analysis: Background information documents

Agency Contact: Norbert Hankin, Environmental Protection Agency, (ANR-461), Washington, DC 20460, 703 557-7390

RIN: 2060-AA02

114. ENVIRONMENTAL PROTECTION STANDARDS FOR HIGH-LEVEL RADIOACTIVE WASTE

Priority: Major

Legal Authority: 42 USC 2021 / AEA 274

CFR Citation: 40 CFR 191

Abstract: EPA is developing environmental standards which state the public health and environmental requirements to be met for disposal of high-level radioactive waste. These consist of general design and site selection principles as well as numeric performance requirements for high-level waste repositories. DOE and NRC will use EPA's regulation to set their standards to govern the licensing, design and operation of permanent high-level radioactive waste disposal facilities.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/76	41 FR 53363
NPRM	12/29/82	47 FR 58196
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1163.

FTS:8-557-8610.

Agency Contact: Dan Egan, Environmental Protection Agency, (ANR-460), Washington, DC 20460, 703 557-8610

RIN: 2060-AA03

115. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Legal Authority: AEA 274(h); 42 USC 2021(h) Reorganization Plan No. 3 of 1970

CFR Citation: 40 CFR 193

Abstract: The National Radioactive Waste Management Program requires the development of a standard for disposal of low-level radioactive wastes. These include all radioactive wastes except high-level radioactive wastes, high-activity transuranic-contaminated wastes, uranium mill tailings, and wastes regulated under the Resource Conservation and Recovery Act of 1976.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/83	48 FR 39563
NPRM	04/00/84	
Final Action	03/00/85	

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

EPA—AEA — Current and Projected Rulemakings

Additional Information: SAR No. 1727.

FTS:8-557-8610.

Agency Contact: G. Lewis Meyer, Environmental Protection Agency, (ANR-460), Washington, DC 20460, 703 557-8610

RIN: 2060-AA04

116. ENVIRONMENTAL STANDARDS FOR ACTIVE URANIUM MILL PROCESSING

Legal Authority: 42 USC 2022(b) / AEA 275

CFR Citation: 40 CFR 192

Abstract: The Administrator is required to issue generally applicable standards for protecting the public health and safety, and the environment, from radiological and nonradiological hazards associated with processing, keeping, transferring and disposing of uranium byproduct material at sites which either (a) process the uranium ore primarily for its source material content or (b) dispose of the uranium byproduct material. Failure to promulgate these standards by October 1, 1983, causes EPA to lose this authority.

Timetable:

Action	Date	FR Cite
NPRM	04/29/83	48 FR 19584
Final Action	10/00/83	

Small Entity: No

Additional Information: SAR No. 1166A.

FTS:8-557-8224.

Agency Contact: John Russell, Environmental Protection Agency, (ANR-460), Washington, DC 20460, 703 557-8224

RIN: 2060-AA06

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Atomic Energy Act — Existing Regulations Under Review

117. REVIEW OF URANIUM MILL TAILINGS STANDARDS

Legal Authority: 42 USC 2022 / UMTRCA 206, AEA 275; UMTRCA 206; AEA 275

CFR Citation: 40 CFR 192

Abstract: This Agency is reevaluating its position on the general applicability of disposal standards for uranium mill tailing sites. This action solicits public comment on whether less restrictive standards might be appropriate for sites in sparsely populated areas. This action also solicits comments on whether a radon "fenceline" standard, which could be satisfied largely by institutional methods, would be an appropriate form of standard for such sites.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/83	
End Review	10/00/83	

Small Entity: No

Additional Information: SAR No. 2005.

FTS: 8-557-8927.

Agency Contact: Stan Lichtman, Environmental Protection Agency, ANR-460, Washington, D.C. 20460, 703 557-8927

RIN: 2060-AB16

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Safe Drinking Water Act — Current and Projected Rulemakings

118. MAXIMUM CONTAMINANT LEVELS FOR VOLATILE ORGANIC CHEMICALS FOUND IN DRINKING WATER (REVISION)

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141

Abstract: EPA will propose Recommended Maximum Contaminant Levels (RMCLs) and Primary Drinking Water Regulations to certain volatile synthetic organic compounds (VOCs). These VOCs have been most commonly found in drinking water drawn from groundwater sources. These chemicals include such compounds as trichloroethylene, tetrachloroethylene, and vinyl chloride. Aeration and granular activated carbon (GAC) systems are treatment technologies that can reduce these contaminants to a low level. Preliminary estimates show that average residential monthly bills for affected systems could rise from $1 - $14 depending on the size of the drinking water system and the type of technology selected. The Agency will promulgate RMCLs (i.e. nonenforceable health goals) before it promulgates the Maximum Contaminant Levels (MCLs) (i.e., enforceable standard).

Timetable:

Action	Date	FR Cite
Previous ANPRM	07/14/76	41 FR 23991
ANPRM	03/04/82	47 FR 9350
NPRM MCLS	12/00/83	
NPRM RMCLS	02/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1567.

FTS: 8-472-5030.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, (WH-550), Washington, DC 20460, 202 382-7575

RIN: 2040-AA53

119. PRIMARY DRINKING WATER REGULATIONS (REVISION)

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141

Abstract: The monitoring requirements and MCLs in the National Interim Primary Drinking Water Regulations will be comprehensively reviewed for inorganic and organic compounds, microbiological contaminants and turbidity and radionuclides. EPA will conduct an assessment of exposure, analytical methods, potential health effects, and the performance and costs of treatment technologies. The Agency will promulgate Recommended Maximum Contaminant Levels (RMCLs) before it promulgates the Maximum Contaminant Levels (MCLs).

EPA—SDWA — Current and Projected Rulemakings

Timetable:

Action	Date	FR Cite
ANPRM	10/00/83	
NPRM RMCLs	09/00/84	

Small Entity: Yes

Additional Information: SAR No. 1755.

FTS:8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, (WH-550), Washington, DC 20460, 202 382-7575

RIN: 2040-AA55

120. PRIMARY DRINKING WATER REGULATIONS: FLUORIDE (REVISION)

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141

Abstract: The Agency will assess the maximum contaminant level (MCL) for fluoride in the National Interim Primary Drinking Water Regulations to determine if it reflects potential health effects and the performance and cost of available treatment technologies. Based on statutory requirements and recent technical information, the Agency is considering numerous options.

Timetable:

Action	Date	FR Cite
NPRM (RMCLS)	04/00/84	
NPRM (MCLS)	01/00/85	

Small Entity: Yes

Additional Information: SAR No. 1756.

FTS:8-382-7575.

Analysis: Draft RFA; IIA

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, (WH-550), Washington, DC 20460, 202 382-7575

RIN: 2040-AA56

121. UNDERGROUND INJECTION CONTROL PROGRAM: FEDERALLY ADMINISTERED PROGRAMS (REVISION)

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 144.1; 40 CFR 144.3; 40 CFR 144.21; 40 CFR 144.22; 40 CFR 144.23; 40 CFR 144.25; 40 CFR 144.26; 40 CFR 144.27; 40 CFR 144.28; 40 CFR 147

Abstract: EPA is required to prescribe a UIC program in States that do not have an approved program. The amendments to 40 CFR 144 and the new 40 CFR 147 provide UIC programs for the 22 States in which EPA will administer the program.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 40098
Final Action	03/00/84	

Small Entity: No

Additional Information: SAR No. 1972.

FTS:8-382-5530.

Agency Contact: Thomas E. Belk, Environmental Protection Agency, (WH-550), Washington, DC 20460, 202 382-5530

RIN: 2040-AA61

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Noise Control Act — Current and Projected Rulemakings

122. ●WITHDRAWAL OF PRODUCTS FROM THE AGENCY'S REPORTS IDENTIFYING MAJOR NOISE SOURCES AND WITHDRAWAL OF PROPOSED RULES

Legal Authority: 42 USC 4904 (b)(1) / NCA 5(b)(1); 42 USC 4905 / NCA 6(a)(1)

CFR Citation: 40 CFR 51

Abstract: This action withdraws certain products from the Agency's report identifying major noise sources issued under authority of Section 5(b)(1) of the Noise Control Act of 1972. These products are: Truck Transport Refrigeration Units, Power Lawn Mowers, Pavement Breakers, Rock Drills, Wheel and Crawler Tractors and Buses. This action also withdraws proposed noise regulations for Wheel and Crawler Tractors, and Buses, issued under the authority of Section 6(a)(1) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54108
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2046.

FTS: 8-382-7748.

No CFR parts pertain. This action withdraws proposals which were not codified.

Agency Contact: Robert C. Rose, Environmental Protection Agency, Washington, DC 20460, 202 382-7748

RIN: 2060-AB24

123. ●MOTOR CARRIERS ENGAGED IN INTERSTATE COMMERCE: NOISE EMISSION STANDARDS (REVISION)

Legal Authority: 42 USC 4917 / NCA 18

CFR Citation: 40 CFR 202

Abstract: This action proposes to amend the noise emission regulations for motor carriers engaged in interstate commerce. The amendment aligns the noise emission standards of this regulation with those of the regulation for newly manufactured medium and heavy trucks. The proposed revised standards apply only to trucks manufactured on or after January 1, 1978 (post-1977), that have a Gross Vehicle Weight Rating (GVWR) or a Gross Combination Weight Rating (GCWR) greater than 10,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2045.

FTS: 8-382-7748.

Agency Contact: Robert C. Rose, Environmental Protection Agency, Washington, DC 20460, 202 382-7748

RIN: 2060-AB20

VOL 48 ISS 201 OCT 17 1983 UMI

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Noise Control Act — Completed Actions

COMPLETED RULEMAKINGS

124. RESCISSION OF NOISE EMISSION STANDARDS FOR TRUCK-MOUNTED SOLID WASTE COMPACTORS

CFR Citation: 40 CFR 205 F

Completed:

Reason	Date	FR Cite
Final Action	07/15/83	48 FR 32502

Small Entity: No

Agency Contact: Louise Giersch 202 382-2935

RIN: 2060-AA07

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Resource Conservation and Recovery Act — Current and Projected Rulemakings

125. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES: WASTE OIL

Priority: Major

Legal Authority: 42 USC 6921 / RCRA 3001; 42 USC 6932 / RCRA 3002

CFR Citation: 40 CFR 266

Abstract: Pursuant to the requirements of the Used Oil Recycling Act (incorporated into RCRA by amendment in 1980), the Agency is evaluating what types of regulatory controls should apply to the re-use and re-cycling of used oil. EPA will propose regulations based on these evaluations. In addition the Agency is considering proposal of near term interim controls including notification requirements for facilities that blend, distribute, and burn used oil fuel sold to non-industrial boiler owners.

Timetable:

Action	Date	FR Cite
NPRM	12/18/78	43 FR 58946
RPRM	06/00/84	
Interim Final Rule	06/00/85	

Small Entity: Yes

Additional Information: SAR No. 1713.

Docket No. 3012.

FTS:8-382-4788.

Analysis: RIA, RFA

Agency Contact: Michael Petruska, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4788

RIN: 2050-AA00

126. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: DELISTING PROCEDURES (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 260

Abstract: This action makes some minor changes to streamline the existing procedures for delisting wastes that were listed solely because they exhibit a hazardous waste characteristic (i.e., ignitability, corrosivity, reactivity, and EP toxicity). The regulation also streamlines the procedure for changing the status of wastes listed because they are acutely hazardous.

Timetable:

Action	Date	FR Cite
NPRM	05/19/80	46 FR 33066
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1838.

Docket No. 3001.

FTS:8-382-4770.

Agency Contact: Matthew Straus, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050-AA02

127. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: DEFINITION OF SOLID WASTE (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.2; 40 CFR 261.6

Abstract: This action would modify the definition of solid waste and the applicability of RCRA standards to recycled solid wastes. It would regulate those recycling activities which have posed an environmental threat. It will reduce the regulatory burden for recycling. Some materials presently defined as wastes may be excluded from hazardous waste control; others, some presently excluded, may be subject to some level of regulatory control.

Timetable:

Action	Date	FR Cite
NPRM	04/04/83	48 FR 14472
Final Action	09/00/84	

Small Entity: No

Additional Information: SAR No. 1191.

Docket No.

3001. FTS:8-382-4770.

Agency Contact: Matthew Straus, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050-AA03

128. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: MIXTURES RULE (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.3

Abstract: The "mixture rule" establishes the presumption that certain mixtures of hazardous and solid wastes are hazardous. EPA has issued an interim final rule which excludes from this presumption of hazardousness certain dilute mixtures from facilities regulated under sections 402 or 307(b) of the Clean Water Act. In addition, mixtures of solid and hazardous wastes listed in subpart D solely because they exhibit a characteristic of hazardous waste (e.g., ignitability, corrosivity, reactivity) are no longer considered hazardous if they do not meet the hazardous waste characteristics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/17/81	46 FR 56582
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1760.

Docket No. 3001.

EPA—RCRA — Current and Projected Rulemakings

FTS:8-382-4770.

Agency Contact: Judith Bellin, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050-AA04

129. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: EXEMPTION FOR WASTE SAMPLES (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.4

Abstract: EPA issued an interim final rule that conditionally exempts from regulation waste and other samples collected for the purpose of monitoring or testing. Facilities that test materials to determine if they are "hazardous" are not required to obtain a RCRA permit in certain circumstances, provided that they meet certain minimum requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/25/81	46 FR 47426
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1765.

Docket No. 3001/Samples Exemption.

FTS:8-382-4770.

Agency Contact: Matthew Straus, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050-AA05

130. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: HEXAVALENT CHROMIUM MODIFICATION (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.24

Abstract: This action modifies the hazardous waste characteristics of extraction procedure (EP) toxicity. It amends the existing regulation (which regulates on the basis of total chromium) to a standard based on hexavalent chromium (CR (6)). This is the valence state of chromium which is of environmental concern. The regulation also includes a test method for determining CR(6). This amendment will reduce the regulatory burden for many wastes.

Timetable:

Action	Date	FR Cite
NPRM	10/30/80	45 FR 72029
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1761.

Docket No. 3001.

FTS:8-382-4770.

Agency Contact: David Friedman, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050-AA06

131. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: LABORATORY WASTES (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001; 42 USC 6922 / RCRA 3002; 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 261; 40 CFR 264

Abstract: EPA is considering modifying certain portions of the hazardous waste regulations (i.e., recordkeeping and reporting requirements) to ease administrative compliance burdens on laboratories. Laboratories generate small quantities of a large variety of wastes and seem to have some unique hazardous waste management problems.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1841.

Docket No. 3001.

FTS:8-382-4770.

Agency Contact: Matthew Straus, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050-AA07

132. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: PRODUCT STORAGE REQUIREMENTS (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.4(c)

Abstract: The interim final regulation provides that, in general, hazardous waste which is generated in a product or raw material storage tank is not subject to regulation until: (1) it leaves the unit where it was generated, or (2) a 90 day period is completed. EPA is considering lengthening the exemption period under specific conditions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/80	45 FR 72024
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1764.

Docket No. 3001.

FTS:8-382-4770.

Agency Contact: Matthew Straus, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050-AA08

133. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: REVISE AND EXPAND SOLVENT LISTINGS (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.31; 40 CFR 261.32

Abstract: These listings will expand the present F001-F005 hazardous waste listings. EPA will also resolve the issue of which solvent mixtures should be regulated.

Timetable:

Action	Date	FR Cite
NPRM	11/00/84	
Final Action	11/00/85	

Small Entity: Undetermined

Additional Information: SAR No. 1858.

Docket No. 3001.

FTS:8-382-4770.

Agency Contact: Jacqueline Sales, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050-AA09

134. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: CHLORINATED DIOXINS AND CHLORINATED DIBENZOFURANS (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.31; 40 CFR 261.32

VOL 48 ISS 201 OCT 17 1983 UMI

Abstract: Existing regulations include a list of hazardous wastes. This action modifies this list to add particular wastes containing certain chlorinated dibenzo-p-dioxins and dibenzofurans, chlorophenyls, phenoxy acids, amines, and esters derived from these chlorophenols. These contaminants are among the most toxic known, and consequently these wastes are of particular environmental concern.

Timetable:

Action	Date	FR Cite
NPRM	04/04/83	48 FR 14514
Final Action	06/00/84	

Small Entity: No

Additional Information: SAR No. 1863

Docket No. 3001.

FTS: 8-382-4770.

Agency Contact: Judith Bellin, Environmental Protection Agency, (WH-565B), Washington, DC 20460, 202 382-4770

RIN: 2050–AA10

135. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: RESIDUALS FROM PRODUCTION OF C1-C6 CHLORINATED ALIPHATIC COMPOUNDS (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.32

Abstract: This action will add to the list of hazardous wastes the organic residuals from the production of chlorinated aliphatic hydrocarbons having chain lengths of one to five.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/83	
Final Action	08/00/84	

Small Entity: No

Additional Information: SAR No. 1854.

Docket No. 3001.

FTS:8-382-4761.

Agency Contact: Francine Jacoff, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050–AA11

136. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: WARFARIN AND ZINC PHOSPHIDE (REVISION)

Legal Authority: 42 USC 6905 / RCRA; 42 USC 6912 / RCRA; 42 USC 6921 / RCRA; 42 USC 6922 / RCRA 3001, 3002

CFR Citation: 40 CFR 261.33

Abstract: EPA is modifying the list of hazardous wastes in section 261.33 to change the hazardous class under which chemical products containing warfarin at concentrations of 0.30 or less and zinc phosphide in concentrations of 10% or less are listed. This is based on scientific data showing that warfarin and zinc phosphide in these concentrations are not acute hazardous wastes. Those chemical products containing warfarin and zinc phosphide at higher concentrations will remain on 261.33(e). The Agency is also considering establishing concentration limits for all substances listed in 261.33.

Timetable:

Action	Date	FR Cite
NPRM	02/23/83	48 FR 7714
Final Action	03/00/84	

Small Entity: No

Additional Information: SAR No. 1880.

Docket No. 3001.

FTS:8-382-4798.

Agency Contact: Wanda Le Bleu-Biswas, Environmental Protection Agency, (WH-565B), Washington, DC 20460, 202 382-4798

RIN: 2050–AA12

137. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: RESTRICTION OF LAND DISPOSAL OF CERTAIN HAZARDOUS WASTE (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 264

Abstract: This action would prohibit the land disposal of certain types of hazardous wastes. EPA is considering establishing criteria for identifying wastes. These criteria will then be used to promulgate a list of wastes which should be prohibited from land disposal based on their extreme persistence, mobility, or toxicity and on the availability of environmentally sound alternate treatment technologies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1878.

Docket No. 3001.

FTS:8-382-4770.

Agency Contact: Matthew Straus, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4770

RIN: 2050–AA30

138. PERSONS MANAGING RECYCLED HAZARDOUS WASTES (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.6(b)

Abstract: 40 CFR 261.6 defines standards for hazardous wastes which are used, re-used, recycled, or reclaimed. Certain hazardous wastes (those listed or those that are sludges) are subject to transportation and storage controls prior to such use, re-use, recycling, or reclamation. This action corrects some accidental omissions since substantive standards in Part 264 were not added to this section as they were developed. These corrections clarify the rules to read as they were intended to apply, and as they, in general, have been interpreted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/20/83	48 FR 2530
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1968.

FTS:8-382-4770.

Agency Contact: Matthew Straus, Environmental Protection Agency, (WH-565B), Washington, DC 20460, 202 382-4770

RIN: 2050–AA56

139. RCRA SMALL QUANTITY GENERATOR RULE (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.5

Abstract: Currently under Part 261 small generators of less than 1000 kilograms per month are exempt (although for certain more hazardous waste there are lower cut-off points). The Agency has begun a two-year study of alternatives which may result in an amendment to the current rule and proposal of a new set of standards applicable to small quantity generators.

Timetable:

Action	Date	FR Cite
NPRM	07/00/85	
Final Action	07/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1935.

FTS:8-382-4770.

Agency Contact: Jacqueline Sales, Environmental Protection Agency, (WH-565B), Washington, DC 20460, 202 382-4770

RIN: 2050–AA59

140. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: DEFINITION OF HOUSEHOLD WASTE (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.4(b)(1)

Abstract: 40 CFR 261.4 excludes household waste from regulatory control under RCRA. This action expands the present household waste exclusion to cover wastes from bunkhouses, ranger stations, crew quarters, campgrounds, and picnic grounds. EPA is taking this action in response to rulemaking petitions submitted by the U.S. Department of Agriculture and Interior.

Timetable:

Action	Date	FR Cite
NPRM	02/05/83	48 FR 06880
Final Action	02/00/84	

Small Entity: No

Additional Information: SAR No. 1763.

FTS:8-382-4804.

Agency Contact: Filomena Chau, Environmental Protection Agency, (WH-565B), Washington, DC 20460, 202 382-4804

RIN: 2050–AA60

141. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: HYDRAZINE/DIMETHYLHYDRAZINE MANUFACTURING WASTES (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.32

Abstract: This action will expand the list of hazardous wastes by adding wastes from the manufacture of hydrazine and dimethylhydrazine.

Timetable:

Action	Date	FR Cite
NPRM	05/00/84	
Final Action	05/00/85	

Small Entity: No

Additional Information: SAR No. 1954.

FTS:8-382-4761.

Agency Contact: Francine Jacoff, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050–AA61

142. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: ORGANOBROMINE MANUFACTURING WASTES (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.32

Abstract: This action will expand the list of hazardous wastes by listing wastes from the manufacture of organobromine compounds.

Timetable:

Action	Date	FR Cite
NPRM	08/00/84	
Final Action	08/00/85	

Small Entity: No

Additional Information: SAR No. 1862.

FTS:8-382-4761.

Agency Contact: Francine Jacoff, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050–AA62

143. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: TOLUENE DIISOCYANATE MANUFACTURING WASTES (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.32

Abstract: This action will expand the list of hazardous wastes by listing additional wastes from the manufacture of toluene diisocyanate.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	
Final Action	02/00/85	

Small Entity: No

Additional Information: SAR No. 1955.

FTS:8-382-4761.

Agency Contact: Francine Jacoff, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050–AA63

144. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: DIMETHOATE, METHOMYL, AND FAMPHUR (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261

Abstract: The Agency is proposing to amend its regulations under RCRA to change the hazard class under which certain discarded commercial chemical products are listed, specifically the categorization of waste dimethoate, methomyl, and famphur.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1944.

FTS:8-382-4798.

Agency Contact: Wanda LeBleu-Biswas, Environmental Protection Agency, (WH-565B), Washington, DC 20460, 202 382-4798

RIN: 2050–AA64

145. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: CARBAMATE MANUFACTURING WASTES (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261.32

Abstract: This action will expand the list of harzardous waste by listing wastes from the manufacture of carbamates.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	
Final Action	09/00/85	

VOL 48 ISS 201 OCT 17 1983 UMI

Small Entity: No

Additional Information: SAR No. 1861.

FTS:8-382-4761.

Agency Contact: Francine Jacoff, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050-AA65

146. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: SPENT PICKLE LIQUOR GENERATED FROM STEEL FINISHING OPERATIONS (REVISION)

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261

Abstract: The Agency is amending the regulations for hazardous waste management under RCRA by exempting lime neutralized waste pickle liquor sludge generated from steel finishing operations (except for those sludges generated from stainless steel operations) from the presumption of hazardousness presently contained in the regulations. The effect of this amendment is to reduce the regulatory requirements to those who generate and manage these wastes and now comply with the requirements of the hazardous waste management regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	08/00/84	

Small Entity: No

Additional Information: SAR No. 1859.

FTS:8-382-4770.

Agency Contact: Jacqueline Sales, Environmental Protection Agency, (WH-565B), Washington, DC 20460, 202 382-4770

RIN: 2050-AA66

147. STANDARDS FOR HAZARDOUS WASTE GENERATORS: "SATELLITE" ACCUMULATION OF HAZARDOUS WASTE (REVISION)

Legal Authority: 42 USC 6922 / RCRA 3002

CFR Citation: 40 CFR 262.34

Abstract: Current regulations allow generators of hazardous waste to accumulate waste on-site for 90 days without a permit, provided the accumulation is in accordance with certain standards. This action will add an initial period for "satellite" accumulation, defined as waste accumulated in small quantities at or near a point of generation before the standards for 90 day accumulation apply. The 90 day period would begin only after the initial period is completed. This change will be more appropriate and less burdensome for short term satellite storage activities than are the existing requirements. This action would also waive the contingency plan requirement for satellite storage.

Timetable:

Action	Date	FR Cite
NPRM	01/03/83	48 FR 118
Final Action	04/00/84	

Small Entity: No

Additional Information: SAR No. 1767.

Docket No. 3002.

FTS:8-382-4755.

Agency Contact: Chaz Miller, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-4535

RIN: 2050-AA13

148. STANDARDS FOR HAZARDOUS WASTE GENERATORS: UNIFORM HAZARDOUS WASTE MANIFEST (REVISION)

Priority: Task Force

Legal Authority: 42 USC 6922 / RCRA 3002

CFR Citation: 40 CFR 262

Abstract: In conjunction with the Department of Transportation, EPA has proposed a uniform national manifest to eliminate problems caused by differing state manifest requirements. This action would require all generators and transporters of hazardous waste to use the Federal form. These revisions are being made as part of an overall revision of the RCRA program at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
NPRM	03/04/82	47 FR 9338
Final Action	11/00/83	

Small Entity: No

Additional Information: SAR No. 1768.

Docket No. 3002.

FTS:8-382-4753.

Agency Contact: Rolf Hill, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-4753

RIN: 2050-AA15

149. STANDARDS FOR HAZARDOUS WASTE GENERATORS: ALTERNATE MANIFEST (REVISION)

Priority: Task Force

Legal Authority: 42 USC 6922 / RCRA 3002

CFR Citation: 40 CFR 262

Abstract: This action would allow generators to reuse a manifest form if they repeatedly ship identical wastes to facilities which they own or operate. This will reduce the paperwork burdens for generators. This action responds to issues raised concerning the manifest as part of settlement negotiations in Shell Oil Company, et al, v EPA, No. 80-1532 (D.C. Circuit).

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	
Final Action	04/00/85	

Small Entity: No

Additional Information: SAR No. 1842.

Docket No. 3002.

FTS:8-382-4753.

Agency Contact: Rolf Hill, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-4753

RIN: 2050-AA16

150. STANDARDS FOR HAZARDOUS WASTE GENERATORS: SHIPMENTS OF HAZARDOUS WASTE FROM PERMITTED FACILITIES (REVISION)

Legal Authority: 42 USC 6922 / RCRA 3002

CFR Citation: 40 CFR 262

Abstract: EPA issued an interim final rule to clarify the responsibilities of owners and operators of permitted facilities with respect to generator standards (40 CFR 262) when they initiate a shipment of hazardous waste from their facilities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/80	45 FR 86968
Final Action	05/00/84	

Small Entity: No

Additional Information: SAR No. 1770.

Docket No. 3002.

FTS:8-382-4753.

Agency Contact: Rolf Hill, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-4753

RIN: 2050-AA18

151. STANDARDS FOR HAZARDOUS WASTE GENERATORS: TRANSPORTING HAZARDOUS WASTE BY RAIL (REVISION)

Legal Authority: 42 USC 6922 / RCRA 3002; 42 USC 6923 / RCRA 3003

CFR Citation: 40 CFR 262; 40 CFR 263

Abstract: This action would eliminate initial rail and delivering rail signatory requirements for the manifest and allow rail transporters to use rail documents in certain situations in lieu of the manifest. This action responds to comments on the interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/80	45 FR 86970
Final Action	04/00/84	

Small Entity: No

Additional Information: SAR No. 1789.

Docket No. 3002.

FTS:8-382-4505.

Agency Contact: Rolf Hill, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-4753

RIN: 2050-AA19

152. STANDARDS FOR HAZARDOUS WASTE TRANSPORTERS: IN-TRANSIT STORAGE REQUIREMENTS (REVISION)

Legal Authority: 42 USC 6923 / RCRA 3003

CFR Citation: 40 CFR 263

Abstract: EPA has issued an interim final rule to allow a transfer facility to hold a shipment of hazardous waste with a manifest for up to ten days without obtaining a RCRA permit or complying with storage facility standards. This rule is intended to allow transporters to store waste temporarily at a transfer facility for such purposes as consolidation of shipments for further transport.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/80	45 FR 86966
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1771.

Docket No. 3003.

FTS:8-382-4753.

Agency Contact: Rolf Hill, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-4753

RIN: 2050-AA20

153. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: LAND DISPOSAL (REVISION)

Priority: Major

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 122; 40 CFR 260; 40 CFR 264; 40 CFR 265

Abstract: The Agency established requirements for use in permitting existing land disposal facilities (surface impoundments, waste piles, land treatment landfills) and the corresponding procedures for permit applications. The Agency is preparing a Regulatory Impact Analysis and will publish the results of it in the Federal Register. A Regulatory Flexibility Analysis was published on 1/21/83.

Timetable:

Action	Date	FR Cite
Previous NPRM	12/18/78	43 FR 58946
Previous NPRM	10/08/80	45 FR 66816
RPRM	02/05/81	46 FR 11126
RPRM	05/26/81	46 FR 28314
Previous Interim Final Rule	06/26/82	47 FR 32274
NPRM	07/26/82	47 FR 32385
Interim Final Rule	07/26/82	47 FR 32274
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1194.

Docket No. 3004.

FTS:8-382-4654

Analysis: RIA

Agency Contact: Dale Ruhter, Environmental Protection Agency, (WH-564), Washington, DC 20460, 202 382-4654

RIN: 2050-AA21

154. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES: WASTEWATER TREATMENT/ELEMENTARY NEUTRALIZATION (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 266 B

Abstract: In November 1980, EPA suspended the applicability of the RCRA regulations to wastewater treatment and elementary neutralization tanks (facilities that treat corrosive wastes). At the same time, EPA proposed to substantially relax the substantive requirements and the permitting procedures for these facilities. The proposal establishes a tailored set of management standards and a permit-by-rule scheme for these facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/17/80	45 FR 76076
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1772.

Docket No. 3004.

FTS:8-382-4781.

Agency Contact: William Kline, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4781

RIN: 2050-AA22

155. STANDARDS FOR MANAGEMENT OF SPECIFIC HAZARDOUS WASTE: EXPERIMENTAL FACILITIES (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 261 to 264; 40 CFR 266

Abstract: This action would amend existing requirements for facilities engaging in hazardous waste research activities. EPA's objective is to encourage research and development of hazardous waste management technology while assuring environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	
Final Action	02/00/85	

Small Entity: Undetermined

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Additional Information: SAR No. 1817.

Docket No. 3004.

FTS:8-382-4788.

Agency Contact: Angela Wilkes, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050-AA23

156. STATES WITH FINAL AUTHORIZATION (REVISION)

Legal Authority: 42 USC 6905 / RCRA; 42 USC 6912 / RCRA; 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264

Abstract: EPA plans to add permitting standards for several processes which are not currently covered by the standards for owners and operators of hazardous waste management facilities. Under EPA's May 19, 1980 regulations, until a State with final authorization makes revisions based on new Federal standards, neither EPA nor the State can issue RCRA permits to new or existing facilities covered by the new standards. To remedy this problem, EPA amended its hazardous waste management regulations to enable certain facilities in authorized States to obtain Federally-issued RCRA permits while the States revise their RCRA permit requirements. The Agency also clarified the applicability of new permit standards in States with Phase II interim authorization.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/82	47 FR 32382
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1874.

Docket No. 3004.

FTS:8-382-2210.

Agency Contact: Truett DeGeare, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-2210

RIN: 2050-AA27

157. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: BOILERS (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264

Abstract: Burning of hazardous waste in boilers for the purpose of heat recovery is currently exempt from regulation under RCRA. However, the Agency is currently studying the environmental effects of burning by conducting tests of stack emissions and doing other research. The Agency expects to complete this research during 1983 and propose appropriate boiler regulations in 1984. In addition, the Agency is considering proposal of more near term administrative controls on this practice, including notification by facilities that blend, distribute, or burn hazardous waste as a fuel and a specification for hazardous waste burned in non-industrial boilers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	12/00/84	

Small Entity: No

Additional Information: SAR No. 1877.

FTS:8-382-4761.

Agency Contact: Steve Lingle, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050-AA29

158. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: MONOFILLS (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264

Abstract: Monofills are storage, treatment, or disposal facilities which manage one or more of a small group of EP toxic hazardous wastes and no other hazardous waste. Under specific management conditions, these facilities may pose less risk of groundwater contamination than do other types of similar facilities. EPA intends to propose a special set of standards for these facilities because of this reduced risk.

Timetable:

Action	Date	FR Cite
NPRM	02/00/85	
Final Action	10/00/85	

Small Entity: No

Additional Information: SAR No. 1879.

FTS:8-382-4677.

Agency Contact: Kent Anderson, Environmental Protection Agency, (WH-564), Washington, DC 20460, 202 382-4677

RIN: 2050-AA31

159. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: STORAGE OF IGNITABLE AND REACTIVE WASTE; BUFFER ZONE REQUIREMENTS (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265

Abstract: The amendment would modify the requirements for storage of ignitable and reactive waste in containers and tanks at hazardous waste management facilities. It would incorporate the buffer zone requirements contained in portions of three National Fire Protection Association Codes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action Effective	10/00/84	

Small Entity: No

Additional Information: SAR No. 1775.

Docket No. 3004.

FTS:8-382-4761.

Agency Contact: Angela Wilkes, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050-AA32

160. INTERIM STATUS: LIQUIDS IN LANDFILLS (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 265

Abstract: This rule controls the landfill disposal of containers holding free liquids. The Agency intends to leave the interim final rule of March 22, 1982 in effect until a thorough analysis of this issue can be done through the Regulatory Impact Analysis (RIA) process. An RIA is scheduled to be completed in the summer of 1983. Development and promulgation of a final rule will follow.

Timetable:

Action	Date	FR Cite
NPRM	02/25/82	47 FR 8307
Previous Interim Final Rule	02/25/82	47 FR 8304
Interim Final Rule	03/22/82	47 FR 12316
Final Action	02/00/84	

Small Entity: No

Additional Information: SAR No. 1843.

Docket No. 3004.

FTS:8-382-4682.

Agency Contact: Paul Cassidy, Environmental Protection Agency, (WH-564), Washington, DC 20460, 202 382-4682

RIN: 2050-AA34

161. INTERIM STATUS: EXPANSION AND MODIFICATION OF FACILITIES (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 122; 40 CFR 265; 40 CFR 267

Abstract: Under the settlement agreement in NRDC v EPA, EPA is proposing to allow existing hazardous waste management facilities greater flexibility to expand and modify their operation during interim status. Among other things, these amendments would: (1) allow the addition of tanks and containers to treat or store waste; (2) allow increases in design capacity.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1807.

Docket No. 3005.

FTS:8-382-2222.

Agency Contact: Deborah Wolpe, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-2222

RIN: 2050-AA35

162. CONSOLIDATED PERMITS: CLASS PERMITS (REVISION)

Priority: Task Force

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 122; 40 CFR 124; 40 CFR 264; 40 CFR 266

Abstract: EPA proposes to establish procedures for issuing class permits to certain types of hazardous waste management facilities that, as a group, present similar regulatory issues that can be adequately addressed by uniform conditions within a generic RCRA permit. EPA's objectives in proposing these procedures are to simplify the informational requirements for permit applications and expedite the process for individual members of the classes to receive permits. These and several other revisions listed below implement revisions to the Consolidated Permit Program at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	
Final Action	02/00/85	

Small Entity: No

Additional Information: SAR No. 1844.

Docket No. 3005.

FTS:8-382-4761.

Agency Contact: Penny Hansen, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050-AA36

163. ENFORCEMENT OF STATE PERMITS (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005; 42 USC 6926 / RCRA 3006

CFR Citation: 40 CFR 123

Abstract: Under the settlement agreement in NRDC v EPA, EPA is proposing amendments to state program requirements. In particular, the proposal would require that the EPA Regional Administrator explain the basis for any contention that a State failed to include a necessary provision in its permit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1809.

Docket No. 3005.

FTS:8-382-2222.

Agency Contact: Deborah Wolpe, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-2222

RIN: 2050-AA40

164. CONSOLIDATED PERMITS: OWNER/OPERATOR SIGNATURE (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 122

Abstract: Existing EPA regulations require that both the owner and operator of a hazardous waste facility sign the facility's permit application. Under the settlement agreement in NRDC v EPA, EPA has proposed allowing permit applications to be filed in certain circumstances solely under the signature of the facility operator.

Timetable:

Action	Date	FR Cite
NPRM	07/23/82	47 FR 32038
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 1813.

Docket No. 3005.

FTS:8-382-2222.

Agency Contact: Deborah Wolpe, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-2222

RIN: 2050-AA41

165. CONSOLIDATED PERMITS: RETENTION OF GROUNDWATER MONITORING DATA (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 270

Abstract: Under the settlement agreement in NRDC v EPA, EPA will proposing to reduce the period of time during which a facility must retain groundwater monitoring data.

Timetable:

Action	Date	FR Cite
NPRM	05/10/83	48 FR 21101
Final Action	02/00/84	

Small Entity: No

Additional Information: SAR No. 1810.

Docket No. 3005.

FTS:8-382-2222.

Agency Contact: Deborah Wolpe, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-2222

RIN: 2050-AA42

166. ●STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: STORAGE

Priority: Task Force

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264

Abstract: At the request of the President's Task Force on Regulatory Relief, EPA has reviewed all regulatory requirements for storage of hazardous waste in containers and tanks. EPA is preparing proposed amendments to the existing standards (Part 264, subparts I and J) as a result of this review.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: FTS:8-382-4781.

SAR No. 1774.

Analysis: RIA, RFA

Agency Contact: William Kline, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4781

RIN: 2050-AA51

167. STANDARDS FOR STORAGE OF HAZARDOUS WASTE IN UNDERGROUND TANKS (REVISION)

Priority: Major

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264

Abstract: The storage of hazardous waste in underground tanks raises considerable concern regarding potential endangerment of groundwater and in the case of ignitables -- the possible migration of the waste into the basement of a home or other location, where an explosion hazard may be presented. The purpose of this action is to develop a comprehensive regulatory strategy for the proper management of underground tanks storing hazardous waste.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Interim Final Rule	08/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1958.

FTS:8-382-4683.

Agency Contact: Chris Rhyne, Environmental Protection Agency, (WH-565E), Washington, DC 20460, 202 382-4683

RIN: 2050-AA58

168. EXISTING PORTION CONCEPT IN LAND DISPOSAL REGULATIONS (REVISION)

Priority: Major

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264

Abstract: Three related areas regarding coverage of the Part 264 land disposal regulations have been challenged in early public comments. These relate to requirements for liners at existing facilities. Amendments to be developed under this task are to "tighten-up" on the number of situations where operation of facilities after January 26, 1983, can continue without liners. Three issues will be addressed: (1) "lateral creep," (2) effective date of liner requirements, and (3) retrofit of liners.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	
Final Action	02/00/85	

Small Entity: Undetermined

Additional Information: SAR No. 1957.

FTS:8-382-4781.

Agency Contact: William Kline, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4781

RIN: 2050-AA57

169. ●STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: CORRECTIVE ACTION FINANCIAL RESPONSIBILITY

Priority: Major

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264 H

Abstract: This rule would require owners and operators of hazardous waste disposal facilities to demonstrate financial responsibility for corrective action should the groundwater protection standard be violated as a result of such disposal. Failures to undertake corrective action by owners or operators will result in increasing degradation of groundwater resources and increased clean-up costs to the public.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/83	48 FR 21598
NPRM	04/00/84	

Small Entity: Yes

Additional Information: SAR No. 1948.

FTS: 8-382-4604.

Analysis: RFA,RIA

Agency Contact: Peter Guerrero, Environmental Protection Agency, WH-562, Washington, DC 20460, 202 382-4604

RIN: 2050-AA69

170. ●STANDARD FOR OWNERS AND OPERATORS OF WASTE FACILITIES: CLOSURE/POST-CLOSURE CARE AND COST ESTIMATES AND FINANCIAL RESPONSIBILITY (REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265 G; 40 CFR 265 H

Abstract: These revisions would clarify ambiguities in the post-closure care (Subpart G) and cost estimates (Subpart H) regulations. They would supplement the regulations to address areas identified by industry and the Regions which are not covered, and provide regulatory relief to industry by simplifying some of the provisions. They would expand the financial responsibility (Subpart H) regulations by adding allowable mechanisms and may extend non-sudden liability requirements to underground tanks and waste piles.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	

Small Entity: No

Additional Information: SAR No. 2007.

FTS: 8-382-4502.

Agency Contact: Carole J. Ansheles, Environmental Protection Agency, WH-562, Washington, DC 20460, 202 382-4502

RIN: 2050-AA70

171. CONSOLIDATED PERMITS: MINOR MODIFICATIONS TO EXISTING RCRA PERMITS (REVISION)

Legal Authority: 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 122.17

Abstract: Existing regulations allow EPA to make specified minor modifications to existing RCRA permits without going through the draft permit and public participation procedures required to make more substantial changes to permits. Under the settlement agreement in NRDC v EPA, EPA is proposing an amendment which would expand the kinds of permit modifications that qualify as minor modifications and thus are exempt from most procedural requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	12/00/84	

Small Entity: No

Additional Information: SAR No. 1805.

Docket No. 3005.

FTS:8-382-4500.

Agency Contact: Jeffrey Detlefson, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-4500

RIN: 2050-AA37

172. CONSOLIDATED PERMITS: DURATION OF PERMITS FOR HAZARDOUS WASTE FACILITIES (REVISION)

Legal Authority: 42 USC 6925 / RCRA 3005; 42 USC 6926 / RCRA 3006

CFR Citation: 40 CFR 122.9; 40 CFR 123; 40 CFR 264

Abstract: Existing EPA regulations provide that EPA-issued permits for hazardous waste treatment, storage and disposal facilities are effective for a fixed term not to exceed ten years. Under the settlement agreement in NRDC v EPA, EPA is proposing to revise the regulation by making permits effective for the designed operating life of the facility. Permit terms for land disposal facilities would include the post-closure care period as well. EPA would also increase opportunities for the Agency to modify permits during their term. EPA will also propose to amend State program requirements to allow authorized States to adopt similar standards to vary the duration of permits.

Timetable:

Action	Date	FR Cite
NPRM	02/08/83	48 FR 5872
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1806.

Docket No. 3005.

FTS:8-382-4535.

Agency Contact: Chaz Miller, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-4535

RIN: 2050-AA38

173. CONSOLIDATED PERMITS: CONSTRUCTION BAN (REVISION)

Legal Authority: 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Abstract: Existing EPA regulations require that an owner or operator of a hazardous waste management facility receive a RCRA permit before beginning construction of the facility. Under the settlement agreement in NRDC v EPA, EPA will propose an amendment that will allow certain facilities to commence construction but not operation, before a RCRA permit is issued.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1814.

Docket No. 3005.

FTS:8-382-2222.

Agency Contact: Deborah Wolpe, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-2222

RIN: 2050-AA39

174. CONSOLIDATED PERMITS: HEARINGS ON INTERIM STATUS (REVISION)

Legal Authority: 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 122; 40 CFR 124

Abstract: Under the settlement agreement in NRDC v EPA, EPA is proposing to notify owners and operators of existing hazardous waste facilities of any deficiencies in their Part A applications and to give them 30 days to respond. The Agency is also proposing to amend the regulations to require that if the Administrator denies a request for a panel hearing on a initial permit for an existing hazardous waste management facility, he must give his reason for denial.

Timetable:

Action	Date	FR Cite
NPRM	05/10/83	48 FR 21098
Final Action	05/00/84	

Small Entity: No

Additional Information: SAR No. 1812.

Docket No. 3005.

FTS:8-382-2222.

Agency Contact: Deborah Wolpe, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-2222

RIN: 2050-AA43

175. CONSOLIDATED PERMITS: TRANSFER OF PERMITS (REVISION)

Legal Authority: 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 270

Abstract: Under the settlement agreement in NRDC v EPA, EPA is proposing to amend its regulations to allow some hazardous waste permits to be automatically transferred from the original permitted owner to the new owner of a hazardous waste treatment, storage or disposal facility if certain prerequisites are not.

Timetable:

Action	Date	FR Cite
NPRM	05/10/83	48 FR 21103
Final Action	05/00/84	

Small Entity: No

Additional Information: SAR No. 1811.

Docket No. 3005.

FTS:8-382-2222.

VOL
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ISS
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1983
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EPA—RCRA — **Current and Projected Rulemakings**

Agency Contact: Deborah Wolpe, Environmental Protection Agency, (WH-563), Washington, DC 20460, 202 382-2222

RIN: 2050-AA44

176. ●GUIDELINE FOR FEDERAL PROCUREMENT OF RECYCLED PAPER (REVISION)

Legal Authority: 42 USC 6962 / RCRA 6002

CFR Citation: 40 CFR 249

Abstract: This action is a required and necessary precedent to the implementation of affirmative recycled paper procurement programs. It would encourage the recovery of post consumer wastepaper and reduce the volume of solid waste.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR 2011.

FTS: 8-382-5993.

Agency Contact: Jacqueline Harker, Environmental Protection Agency, WH-563, Washington, DC 20460, 202 382-5993

RIN: 2050-AA68

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Resource Conservation and Recovery Act — **Existing Regulations Under Review**

177. GROUNDWATER MONITORING

Priority: Task Force

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 265

Abstract: At the request of the President's Task Force on Regulatory Relief, EPA is reviewing the interim status groundwater monitoring requirements for hazardous waste facilities that manage wastes in surface impoundments, in landfills or through land treatment. One purpose of this review is to determine whether the groundwater monitoring procedures succeed in identifying which facilities are adversely affecting groundwater. Another purpose is to review how useful the data is for EPA and other agencies. EPA will determine whether the resource burdens imposed on these facilities are justified by the expected benefits of the monitoring program.

Timetable:

Action	Date	FR Cite
End Review	07/00/84	

Small Entity: No

Additional Information: REVIEW AUTHORITY: Paperwork Reduction Act, EO 12291.

ADDITIONAL AGENCY CONTACT: Harvey Karch, (PM-223), Washington, DC 20460, (202) 382-2738.

FTS: 8-382-2738.

SAR No. 1810.

Agency Contact: Bernard Stoll, Environmental Protection Agency, (WH-562), Washington, DC 20460, 202 382-4632

RIN: 2040-AA59

178. STANDARD LANDFILLS FOR OWNERS/OPERATORS OF WASTE FACILITIES

Priority: Task Force

Legal Authority: 42 USC 6924 / RCRA

CFR Citation: 40 CFR 264

Abstract: At the request of the President's Task Force on Regulatory Relief, EPA is reviewing all land requirements for hazardous waste storage, treatment and disposal facilities. EPA will complete a RIA of alternatives, environmental benefits, costs and impacts before promulgating final land disposal regulations.

Timetable:

Action	Date	FR Cite
End Review	12/00/84	

Small Entity: Yes

Additional Information: REVIEW AUTHORITY: EO 12291, Regulatory Flexibility Act.

FTS: 8-382-2791.

Agency Contact: Margaret Podolok, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-2791

RIN: 2050-AA50

179. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: SURFACE IMPOUNDMENTS

Priority: Task Force

Legal Authority: 42 USC 6924 / RCRA

CFR Citation: 40 CFR 264

Abstract: At the request of the President's Task Force on Regulatory Relief, EPA is reviewing all storage and disposal surface impoundments requirements for hazardous waste storage, treatment and disposal facilities. EPA will complete its RIA on alternatives, environmental benefits, costs, and impacts before promulgating final storage and disposal surface impoundment regulations.

Timetable:

Action	Date	FR Cite
End Review	12/00/84	

Small Entity: Yes

Additional Information: REVIEW AUTHORITY: EO 12291, Regulatory Flexibility Act.

FTS: 8-382-2791.

Agency Contact: Margaret Podolok, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-2791

RIN: 2050-AA52

180. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: INCINERATORS

Priority: Task Force

Legal Authority: 42 USC 6924 / RCRA

CFR Citation: 40 CFR 264

EPA—RCRA — **Existing Regulations Under Review**

Abstract: At the request of the President's Task Force on Regulatory Relief, EPA is reviewing all incineration requirements for hazardous waste storage, treatment and disposal facilities. EPA will complete a RIA on alternatives, environmental benefits, costs and impacts before promulgating final regulations.

Timetable:

Action	Date	FR Cite
End Review	03/00/84	

Small Entity: Yes

Additional Information: REVIEW AUTHORITY: EO 12291, Regulatory Flexibility Act.

FTS:8-382-4761.

Analysis: Final RIA 07/00/83

Agency Contact: Edward Martin, Environmental Protection Agency, (WH-565), Washington, DC 20460, 202 382-4761

RIN: 2050-AA53

181. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: LOCATION

Priority: Task Force

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 122; 40 CFR 264 to 265

Abstract: At the request of the President's Task Force on Regulatory Relief, EPA is reviewing all location standards for hazardous waste storage, treatment, and disposal facilities found in 100-year flood plains or seismically-active areas. EPA will complete its RIA on alternatives, environmental benefits costs and impacts before promulgating final regulations for general facility location.

Timetable:

Action	Date	FR Cite
End Review	01/00/84	

Small Entity: Yes

Additional Information: REVIEW AUTHORITY: EO 12291, Regulatory Flexibility Act.

FTS:8-382-4782.

Analysis: RIA; Final RIA 07/00/83

Agency Contact: Alex Wolfe, Environmental Protection Agency, (WH-562), Washington, DC 20460, 202 382-4782

RIN: 2050-AA55

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Resource Conservation and Recovery Act — **Completed Actions**

COMPLETED RULEMAKINGS

182. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: FINANCIAL RESPONSIBILITY

CFR Citation: 40 CFR 264 H; 40 CFR 265

Completed:

Reason	Date	FR Cite
Withdrawn	08/04/83	

Small Entity: Yes

Agency Contact: Emily Sano 202 382-4503

RIN: 2050-AA26

183. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: SURFACE IMPOUNDMENTS USED FOR NEUTRALIZATION OF CORROSIVE WASTE

CFR Citation: 40 CFR 264

Completed:

Reason	Date	FR Cite
Withdrawn	08/04/83	

Small Entity: Undetermined

Agency Contact: Chris Rhyne 202 382-4683

RIN: 2050-AA28

184. INTERIM STATUS: OPEN BURNING

CFR Citation: 40 CFR 264; 40 CFR 265.382

Completed:

Reason	Date	FR Cite
Withdrawn	08/04/83	

Small Entity: No

Agency Contact: Marc Turgeon 202 382-4791

RIN: 2050-AA33

185. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: LAND TREATMENT

Priority: Task Force

CFR Citation: 40 CFR 264

Completed:

Reason	Date	FR Cite
Withdrawn	08/04/83	

Small Entity: Yes

Agency Contact: Cliff Rothenstein 202 382-4646

RIN: 2050-AA49

COMPLETED REVIEWS

186. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: STORAGE

Priority: Task Force

CFR Citation: 40 CFR 264

Completed:

Reason	Date	FR Cite
End Review	07/00/83	

Small Entity: Yes

Agency Contact: William Kline 202 382-4781

RIN: 2050-AA51

187. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: FINANCIAL RESPONSIBILITY

Priority: Task Force

CFR Citation: 40 CFR 264

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/83	

Small Entity: Yes

Agency Contact: Carole Ansheles 202 382-4502

RIN: 2050-AA54

BILLING CODE 6560-50-T

VOL 48 ISS 201 OCT 17 1983 UMI

188. COMPLIANCE WITH THE STATUTORY PROVISIONS OF PART D OF THE CLEAN AIR ACT (REVISION)

Legal Authority: 42 USC 7407 / CAA 105; 42 USC 7410 / CAA; 42 USC 7405 / CAA; 42 USC 7501-8 / CAA; 42 USC 7601 / CAA; 42 USC 7616 / CAA

CFR Citation: 40 CFR 52

Abstract: The Clean Air Act (CAA) requires that states institute plans to attain the primary ambient air quality standards by December 31, 1982. In certain cases, extensions were granted for ozone and carbon monoxide standards. States receiving such an extension were required to submit revised 1982 plans demonstrating attainment by December 31, 1987. The Agency has proposed to impose the statutory consequences (construction moratorium and possible funding sanctions) for: (1) areas not able to demonstrate attainment of the primary standards by December 31, 1982; (2) areas whose post-1982 attainment plans are inadequate; and (3) areas which have failed to meet other statutory provisions of Part D of the Act.

Timetable:

Action	Date	FR Cite
NPRM	02/03/83	48 FR 4972
Final Action	10/00/83	

Small Entity: Undetermined

Additional Information: SAR No. 1974.

FTS: 8-629-5540

Agency Contact: Dave Stonefield, Environmental Protection Agency, MD-15, Research Triangle Park, North Carolina 27711, 919 541-5540

RIN: 2060-AB12

189. NAAQS FOR SULFUR OXIDES (REVISION)

Priority: Major

Legal Authority: 42 USC 7408 / CAA 108

CFR Citation: 40 CFR 50.4

Abstract: EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for sulfur dioxide. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	07/00/84	
Final Action	06/00/85	

Small Entity: Undetermined

Additional Information: SAR No. 1002.

Docket No. OAQPS-79-7.

FTS:8-629-5655.

Agency Contact: Bruce Jordan, Environmental Protection Agency, (MD-12), Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AA61

190. NAAQS FOR PARTICULATE MATTER (TSP) (REVISION)

Priority: Major

Legal Authority: 42 USC 7408 / CAA 108

CFR Citation: 40 CFR 50.6

Abstract: Particulate matter is one of the major pollutants in the ambient air. EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for particulate matter. The Agency will revise the criteria document and the standards themselves when appropriate to protect public health and welfare.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1003.

Docket No. A-79-29.

FTS:8-629-5655.

Agency Contact: Bruce Jordan, Environmental Protection Agency, (MD-12), Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AA62

191. NAAQS FOR CARBON MONOXIDE (REVISION)

Priority: Major

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 108

CFR Citation: 40 CFR 50.8

Abstract: Carbon monoxide is a major source of air pollution which endangers people with heart and central nervous system diseases, pregnant women and other people (5-12% of U.S. population in all). EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for CO. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/78	43 FR 56250
NPRM	08/18/80	45 FR 55066
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1001.

Docket No. OAQPS-79-7.

FTS:8-629-5655.

Agency Contact: Bruce Jordan, Environmental Protection Agency, (MD-12), Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AA63

192. NAAQS FOR NITROGEN DIOXIDE (REVISION)

Priority: Major

Legal Authority: 42 USC 7408 / CAA 108

CFR Citation: 40 CFR 50.11

Abstract: EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for nitrogen dioxide. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	08/00/84	

Small Entity: No

Additional Information: SAR No. 1004.

Docket No. OAQPS 78-9.

FTS: 8-629-5655.

Agency Contact: Bruce Jordan, Environmental Protection Agency, (MD-12), Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AA64

193. RESTRUCTURE CFR PARTS 51, 52 (REVISION)

Legal Authority: 42 USC 7410 / CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Abstract: This rule will update Part 51 in phases. Phase I will delete obsolete provisions, reduce reporting requirements, and revise portions to improve their clarity. Existing references to Part 51 within Part 52 will be revised. Later Phases will restructure the PSD regulations and incorporate other changes enacted by Congress.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	06/00/84	

Small Entity: No

Additional Information:

SAR No. 1503.

Docket No. A-81-25.

FTS: 8-629-5697.

Agency Contact: Joe Sableski, Environmental Protection Agency, (MD-15), Research Triangle Park, NC 27711, 919 541-5697

RIN: 2010-AA07

194. NEW SOURCE REVIEW (REVISION)

Legal Authority: 42 USC 6910 / CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Abstract: This action would revise EPA's new source requirements for new major stationary sources in PSD and Nonattainment areas. EPA is taking this action to implement a settlement agreement with Chemical Manufacturer's Association and other parties who challenged the regulation amendments promulgated on August 7, 1980.

Timetable:

Action	Date	FR Cite
NPRM	08/25/83	48 FR 38742
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 1845.

FTS:8-629-5591.

Agency Contact: Kirt Cox, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5591

RIN: 2060-AA68

195. QUALITY ASSURANCE PROCEDURES, APPENDIX F, PROCEDURE 1

Legal Authority: 42 USC 7411 / CAA 111; 42 USC 7414 / CAA; 42 USC 7601 / CAA

CFR Citation: 40 CFR 60, Appendix F

Abstract: This rule would add quality assurance requirements on gas continuous emission monitoring systems (CEMs) used for compliance. The purpose is to improve data quality and strengthen the basis for decisions made with regard to quality assurance.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1741.

Docket No. A-80-29.

FTS:8-629-2415.

Agency Contact: Darryl von Lehmden, Environmental Protection Agency, (MD-77), Research Triangle Park, NC 27711, 919 541-2415

RIN: 2060-AA09

196. NSPS: STATIONARY INTERNAL COMBUSTION ENGINES

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 FF

Abstract: These regulations will require the application of best available demonstrated technology to control nitrogen oxide emissions from stationary diesel and dual-fuel internal combustion engines. EPA will issue separate standards for gas and gasoline-fueled stationary I.C. engines later. The Agency is considering exempting engines with a displacement of less than 560 cubic inches per cylinder.

Timetable:

Action	Date	FR Cite
NPRM	07/23/79	44 FR 43152
Final Action	12/00/83	

Small Entity: Yes

Additional Information: SAR No. 1008.

Docket No. OAQPS-79-5.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA11

197. NSPS: ORGANIC SOLVENT CLEANERS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 JJ

Abstract: This rule will control evaporative emissions from metal cleaning and degreasing operations. A related rule (SAR 1695) will also require States to act under Section III(d) to control some specific solvent emissions from existing sources.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39766
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1010.

Docket No. OAQPS 78-12.

FTS:8-629-5624.

Agency Contact: Fred L. Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA12

198. NSPS: METALLIC MINERALS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60.380

Abstract: This standard would limit stack and fugitive particulate emissions at new, modified, or reconstructed plants in the processing of minerals prior to metal reduction. These areas are: aluminum, copper, gold, iron, lead, molybdenum, silver, titanium, tungsten, uranium, zinc, and zirconium. The affected facilities are individual points and equipment in the processing plant. Facilities located underground are not affected.

Timetable:

Action	Date	FR Cite
NPRM	08/24/82	47 FR 36859
Final Action	11/00/83	

Small Entity: No

Additional Information: SAR No. 1700.

Docket No. A-81-03.

FTS:8-629-5624.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Gene Smith, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA13

199. NSPS: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 OO

Abstract: This regulation will control hydrocarbon emissions, including perchloroethylene, from professional and coin-operated dry cleaning establishments. It will also reduce the ambient ozone problem. The rule will limit process wastes and leaks and will require the use of a carbon adsorber, or refrigeration equipment, to control emissions from exhausts and vents. EPA is considering an exemption for coin-operated facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/25/80	45 FR 78174
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1119.

Docket No. A-79-30.

FTS:8-629-5624.

Agency Contact: Fred L. Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA14

200. NSPS: INDUSTRIAL SURFACE COATING: PRESSURE SENSITIVE TAPES AND LABELS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 RR

Abstract: This regulation will establish emission standards for volatile organic compound emissions from pressure sensitive tapes and labels coating operations. It will apply to new, modified or reconstructed coating lines.

Timetable:

Action	Date	FR Cite
NPRM	12/30/80	45 FR 86278
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1114.

Docket No. A-79-38.

FTS:8-629-5624.

Agency Contact: Fred L. Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA16

201. NSPS: SYNTHETIC ORGANIC CHEMICAL MANUFACTURING-FUGITIVE EMISSIONS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 VV

Abstract: This rule will control fugitive emissions from the manufacture of volatile organic chemicals from new process units within the synthetic organic chemical manufacture industry. It requires a leak detection and repair program and the use of certain equipment to reduce emissions.

Timetable:

Action	Date	FR Cite
NPRM	01/05/81	46 FR 1136
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1112.

Docket No. A-79-32.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA19

202. NSPS: INDUSTRIAL BOILERS (REVISION)

Priority: Major

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 ZZ

Abstract: Industrial boilers are a major stationary source of sulfur dioxide, particulates, and nitrogen oxide emissions. EPA is developing performance standards for industrial boilers to achieve continuous emission reduction. The Agency will base emission limits upon the best available system of control, taking costs, environmental impacts and energy requirements into account.

Timetable:

Action	Date	FR Cite
ANPRM	06/28/79	44 FR 37632
NPRM	12/00/83	
Final Action	11/00/84	

Small Entity: No

Additional Information: SAR No. 1586.

Docket No. A-79-02.

FTS:8-629-5624.

Agency Contact: Fred L. Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA22

203. NSPS: VOLATILE ORGANIC LIQUIDS STORAGE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 AAA

Abstract: This standard will control volatile organic compound emissions from the storage of organic liquids. It will affect new, modified or reconstructed VOL storage vessels (including petroleum liquid storage vessels) with capacities of 20,000 gallons or more.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	11/00/84	

Small Entity: No

Additional Information: SAR No. 1612.

Docket No. A-80-51.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA23

204. NSPS: RUBBER PRODUCTS INDUSTRY-TIRE MANUFACTURING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 BBB

Abstract: This standard will control VOC (volatile organic compound) emissions from solvent application during undertread/sidewall cementing, tread end cementing, bead cementing and green tire coating in rubber tire manufacturing plants. It will require use of less solvent or installation of a 75% efficient emission reduction system.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	01/20/83	48 FR 2676
Final Action	04/00/84	

Small Entity: No

Additional Information: SAR No. 1615.

Docket No. A-80-9.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA24

205. NSPS: NON-FOSSIL FUEL FIRED BOILERS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 CCC

Abstract: This rule will control particulate emissions from combustion of wood, municipal solid waste, refuse derived fuels, and bagasse. It will also control particulate emissions of the above when combined with fossil fuels. The rule will set an individual control level for each non-fossil fuel addressed. EPA is considering the highest volume fuels first, but will consider others later.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	11/00/84	

Small Entity: Yes

Additional Information: SAR No. 1614. Docket No. A-79-22.

FTS:8-629-5624.

Agency Contact: Fred L. Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA25

206. NSPS: INDUSTRIAL SURFACE COATING: VINYL COATING AND PRINTING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60.580

Abstract: This regulation will control volatile organic compound emissions from the manufacture of polyvinylchloride and polyurethane films. A supplement to NPRM to expand coverage of the NSPS to include polyurethane coated films will be proposed. The supplement will provide for a 30-day public comment period.

Timetable:

Action	Date	FR Cite
NPRM	01/18/83	48 FR 2276
Final Action	03/00/84	

Small Entity: No

Additional Information: SAR No. 1672.

Docket No. A-80-8.

FTS:8-629-5624.

Agency Contact: Gene Smith, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA27

207. NSPS: REFINERY FUGITIVE EMISSIONS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 GGG

Abstract: This regulation will control fugitive emissions of volatile organic compounds from new, reconstructed, or modified processing units in petroleum refineries. It will allow no detectable emissions from pressure relief devices during normal operations; require a leak detection and repair program for valves and pumps; and the use of certain equipment for compressors, sampling connections, and open-ended lines to reduce emissions.

Timetable:

Action	Date	FR Cite
NPRM	01/04/83	48 FR 279
Final Action	03/00/84	

Small Entity: No

Additional Information: SAR No. 1696.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA28

208. NSPS: SYNTHETIC FIBERS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 HHH

Abstract: This action will control VOC emissions from synthetic fiber manufacturing plants that use "solvent spinning" processes by monitoring the amount of solvent used and the amount recovered. A size cutoff for facilities producing less than 500 megagrams of fiber per year will exempt facilities with an insignificant level of emissions.

Timetable:

Action	Date	FR Cite
NPRM	11/23/82	47 FR 52932
Final Action	02/00/84	

Small Entity: No

Additional Information: SAR No. 1692.

FTS:8-629-5624.

Agency Contact: Gene Smith, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA29

209. NSPS: SYNTHETIC ORGANIC CHEMICAL INDUSTRY: AIR OXIDATION PROCESS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 III

Abstract: This regulation will control emissions of volatile organic compounds from the manufacture of synthetic organic chemicals via air oxidation processes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	11/00/84	

Small Entity: Yes

Additional Information: SAR No. 1618.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA30

210. NSPS: PETROLEUM SOLVENT DRY CLEANING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: This regulation will control emissions of volatile organic compounds from dry cleaning equipment in which petroleum solvent is used. EPA is considering exempting facilities that clean less than an as yet undetermined amount of material a year.

Timetable:

Action	Date	FR Cite
NPRM	12/14/82	47 FR 56116
Final Action	02/00/84	

Small Entity: Yes

Additional Information: SAR No. 1690.

FTS:8-629-5624.

Agency Contact: Fred L. Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA32

VOL 48 ISS 201 OCT 17 1983 UMI

211. NSPS: SOLVENT DEGREASING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: This action will require States to control organic solvent cleaners to reduce emissions of specific organic solvents designated under a separate NSPS action (SAR 1010).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1695.

FTS:8-629-5624.

Agency Contact: Fred L. Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5624**

RIN: 2060-AA33

212. NSPS: ON-SHORE PRODUCTION

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: This regulation will control volatile organic compounds and sulfur dioxide from new, modified and reconstructed facilities at natural gas/gasoline processing plants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	11/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1697.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5578**

RIN: 2060-AA34

213. NSPS: DISTILLATION OPERATIONS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: This regulation will control emissions of volatile organic compounds from modified and reconstructed facilities at petroleum refineries and synthetic organic chemical plants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	11/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1733.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5578**

RIN: 2060-AA35

214. NSPS: PETROLEUM REFINERY, FCC REGENERATORS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: This standard will require control of sulfur dioxide from fluidized catalytic cracking units.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	10/00/84	

Small Entity: No

Additional Information: SAR No. 1736.

FTS:8-629-5624.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5624**

RIN: 2060-AA36

215. NSPS: POLYMER AND RESIN MANUFACTURE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: This rule will control volatile organic compound (VOC) emissions in exhaust streams from polymerization processes in the manufacture of organic polymers and resins.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	01/00/85	

Small Entity: Undetermined

Additional Information: SAR No. 1691.

Docket No. A-82-19.

FTS:8-629-5578.

Affected Sectors: Multiple

Agency Contact: Fred L. Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5578**

RIN: 2060-AA37

216. NSPS: BASIC OXYGEN FURNACE (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 N

Abstract: This action revises the existing NSPS which controls particulate emissions during air blowing in basic oxygen process furnaces in steel mills. The revision will extend coverage to charging and tapping cycles. This revision will ensure better control of particulate emissions from secondary sources and will remove some ambiguities in the existing standards for primary sources.

Timetable:

Action	Date	FR Cite
NPRM	01/20/83	48 FR 2658
Final Action	03/00/84	

Small Entity: No

Additional Information: SAR No. 1671.

Docket No. A-79-06.

FTS:8-629-5624.

Agency Contact: Gene Smith, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5624**

RIN: 2060-AA72

217. NSPS: GLASS MANUFACTURING (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 CC

Abstract: EPA is revising the NSPS for glass manufacturing following a petition by manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	06/00/84	

Small Entity: No

Additional Information: SAR No. 1007.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5578**

RIN: 2060-AA73

218. NSPS: LIME MANUFACTURING PLANTS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 HH

Abstract: This action would revise the numerical emission limits in the existing regulation. The new limits would apply to all affected facilities constructed, reconstructed, or modified after the date of publication of the proposed revision.

Timetable:

Action	Date	FR Cite
NPRM	09/02/82	47 FR 38832
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 1836.

Docket No. A-80-53.

FTS:8-629-5578.

Agency Contact: Bob Ajax, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5578**

RIN: 2060-AA74

219. NSPS: STEEL PLANTS: ELECTRIC ARC FURNACES AND ARGON-OXYGEN DECARBONIZATION VESSELS (REVISION)

Legal Authority: CAA 111; CAA 114; CAA 301(a)

CFR Citation: 40 CFR 60 AA

Abstract: This proposed change would revise existing standards for electric arc furnaces (EAF) in the steel industry. It would also add argon-oxygen decarbonization (AOD) vessels to the source category. The revised standard would limit particulate emissions, including opacity limits, from new, modified, or reconstructed EAF's and AOD vessels, and their associated dust-handling equipment.

Timetable:

Action	Date	FR Cite
NPRM	08/17/83	48 FR 37338
Final Action	10/00/84	

Small Entity: No

Additional Information: SAR No. 1904.

Docket No. A-79-33.

FTS:8-629-5624.

Agency Contact: Fred Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5624**

RIN: 2060-AA75

220. NSPS: KRAFT PULP MILLS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 BB

Abstract: Review of the standard is completed and initial efforts are underway to develop information for revision of the standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	11/00/84	

Small Entity: No

Additional Information: SAR No. 1959.

FTS: 8-629-5624.

Agency Contact: Fred Porter, Environmental Protection Agency, MD-13, Research Triangle Park, N.C. 27711, **919 541-5624**

RIN: 2060-AA97

221. ●NSPS: SECONDARY BRASS AND BRONZE PRODUCTION (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart M

Abstract: EPA has reviewed this standard and determined that minor revisions are warranted. The review assessed performance and costs of plants and control systems as well as economic and technological development in the industry. EPA will issue a notice in the Federal Register announcing the results of its review and proposing revisions to the standard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	

Small Entity: No

Additional Information: FTS:8-629-5595. SAR No. 2050.

Agency Contact: James Crowder, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5595**

RIN: 2060-AB04

222. NSPS: NON-METALLIC MINERALS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: The regulation will control particulate emissions from crushing, grinding and handling facilities used in 18 non-metallic mineral industries. Separate standards had earlier been considered for some of these industries such as gypsum manufacture (SAR No. 1673).

Timetable:

Action	Date	FR Cite
NPRM	08/31/83	48 FR 39566
Final Action	09/00/84	

Small Entity: Yes

Additional Information: SAR No. 1880.

FTS: 8-629-5624.

Agency Contact: Gene Smith, Environmental Protection Agency, MD-13, Research Triangle Park, N.C. 27711, **919 541-5624**

RIN: 2060-AB11

223. ●NSPS: WOOL FIBERGLASS INSULATION

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: This regulation will control particulate emissions from wool fiberglass insulation manufacturing facilities that use the rotary spin forming process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Additional Information: SAR No. 1915.

FTS: 8-629-5624.

Agency Contact: Gene Smith, Environmental Protection Agency, ESES (MD-13), Research Triangle Park, NC 27711, **919 541-5624**

RIN: 2060-AB21

224. ●NSPS FOR AUTOMOBILE AND LIGHT-DUTY TRUCK COATING OPERATIONS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Abstract: EPA is revising the NSPS for automobile and light-duty truck coating operations which was promulgated in December 1980 to reflect additional

VOL 48 ISS 201 OCT 17 1983 UMI

operational data of the best demonstrated prime coat system. This revision of the standard does not reflect a change in the basis of the prime coat standard, but a better understanding of the performance of the prime coat system upon which the standard was originally based.

Timetable:

Action	Date	FR Cite
NPRM	07/29/82	47 FR 32743
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 2044.

FTS: 8-629-5624.

Agency Contact: Fred Porter, Environmental Protection Agency, MD-13, Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AB22

225. DECISION ON LISTING CADMIUM

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Abstract: EPA is currently reviewing relevant available information on emissions of cadmium into the ambient air that may be either by itself or in combination with cadmium intake from food and drinking water reasonably anticipated to endanger public health. EPA will issue a decision on the necessary regulatory action for public comment before it becomes final.

Timetable:

Action	Date	FR Cite
Decision on Listing	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1869.

FTS:8-629-5645.

Agency Contact: David Patrick, Environmental Protection Agency, (MD-12), Research Triangle Park, NC 27711, 919 541-5645

RIN: 2060-AA38

226. NESHAPS: LISTING OF COKE OVEN EMISSIONS AS HAZARDOUS AIR POLLUTANT

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Abstract: EPA is conducting a health risk assessment of coke oven emissions. If we determine that these emissons are hazardous, we will list them as hazardous air pollutants under Section 112 and will propose emission standards.

Timetable:

Action	Date	FR Cite
Decision on Listing	02/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1594.

FTS:8-629-5504.

Agency Contact: Kent Berry, Environmental Protection Agency, (MD-12), Research Triangle Park, NC 27711, 919 541-5504

RIN: 2060-AA39

227. NESHAPS: LISTING OF ACRYLONITRILE

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Abstract: EPA is conducting a health risk assessment of acrylonitrile emissions. If the Agency determines that these emissions are hazardous, it will list them under Section 112 and will propose emission standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	12/00/84	
Decision on Listing	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1677.

FTS: 8-629-5645

Agency Contact: Dayid Patrick, Environmental Protection Agency, (MD-12), Research Triangle Park, NC 27711, 919 541-5645

RIN: 2060-AA40

228. NESHAPS: ARSENIC FROM SMELTERS AND OTHER SOURCES

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 N; 40 CFR 61 O; 40 CFR 61 P

Abstract: EPA proposed standards for inorganic arsenic emissions from existing and new primary copper smelters and glass manufacturing plants. In addition, EPA proposed not to develop standards for inorganic arsenic emissions from primary lead smelters, secondary lead smelters, primary zinc smelters, zinc oxide production plants, cotton gins, and arsenic chemical manufacturing plants.

Timetable:

Action	Date	FR Cite
NPRM	07/20/83	48 FR 33112
Final Action	01/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1684.

FTS:8-629-5624.

Agency Contact: Gene W. Smith, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA41

229. NESHAPS: BENZENE IN COKE OVENS/BY PRODUCTS PLANTS

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Abstract: This regulation will control benzene emissions generated by the processing of gaseous and liquid streams at coke by-product plants. The emission sources to be controlled include process equipment, storage vessels, and fugitive emissions. The standards will consist of equipment specifications, work practices, design specifications, and emission limits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	12/00/84	

Small Entity: No

Additional Information: SAR No. 1685.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA42

230. NESHAPS: MALEIC ANHYDRIDE MANUFACTURE

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 H

Abstract: This regulation will control the emission of benzene from process vents in the manufacture of maleic anhydride.

Timetable:

Action	Date	FR Cite
NPRM	04/18/80	42 FR 26660
Final Action	10/00/83	

Small Entity: No

Additional Information: SAR No. 1127.

Docket No. OAQPS 79-3.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA43

231. NESHAPS: ETHYLBENZENE/STYRENE MANUFACTURE

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 I

Abstract: This regulation will control the emission of benzene from process vents in the manufacture of ethylbenzene and styrene at new and existing plants through the use of boilers or process heaters. Process vents account for almost 90 percent of total uncontrolled plant emissions. Excess emissions during startup/shutdown or malfunction must be controlled by smokeless flares.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83448
Final Action	11/00/83	

Small Entity: No

Additional Information: SAR No. 1128.

Docket No. A-79-49.

FTS:8-629-5576.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA44

232. NESHAPS: BENZENE FUGITIVE EMISSIONS

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 J

Abstract: This regulation would limit benzene emissions from fugitive emission sources in new and existing petroleum refineries and organic chemical manufacturing plants. The standards would allow no detectable emissions due to leaks from safety/relief valves and product accumulator vessels. The standards would also require a leak detection and repair program for pipeline valves and pumps, and would require certain equipment for compressors, sampling connections, and open-ended valves.

Timetable:

Action	Date	FR Cite
NPRM	01/05/81	46 FR 1165
Final Action	11/00/83	

Small Entity: Yes

Additional Information: SAR No. 1126.

Docket No. A-79-27.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA45

233. NESHAPS: BENZENE STORAGE

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 K

Abstract: This regulation will limit benzene emissions resulting from the storage of pure benzene. EPA will require new and existing storage tanks to meet certain structural standards (a combination of roofs and seals) and require industry to inspect the equipment periodically to ensure that it functions properly.

Timetable:

Action	Date	FR Cite
NPRM	12/19/80	45 FR 83952
Final Action	11/00/83	

Small Entity: Yes

Additional Information: SAR No. 1593.

Docket No. A-80-14.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA46

234. NESHAPS: AIRBORNE RADIONUCLIDES

Priority: Major

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Abstract: Radionuclides are a hazardous air pollutant. In the April 6 Federal Register the Agency proposed standards for sources in four categories: 1) Department of Energy facilities; 2) Nuclear Regulatory Commission-licensed facilities and non-DOE facilities; 3) underground uranium mines; and 4) elemental phosporous plants. The Agency has identified several other source categories but has chosen not to regulate them at this time.

Timetable:

Action	Date	FR Cite
NPRM	04/06/83	48 FR 15076
Final Action	12/00/83	

Small Entity: Undetermined

Additional Information: SAR No. 1595.

Docket No. A-79-11.

FTS:8-557-8977.

Agency Contact: Terrence McLaughlin, Environmental Protection Agency, (ANR-460), Washington, DC 20460, 703 557-0704

RIN: 2060-AA47

235. NESHAPS: COKE OVEN EMISSIONS FROM BY-PRODUCT COKE OVEN CHARGING, DOOR LEAKS, AND TOPSIDE LEAKS ON WET-COAL CHARGED BATTERIES

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 G

Abstract: This regulation will control emissions of organic pollutants designated as hazardous under section 112. It will require improved maintenance and operation to limit visible emissions from wet-coal-charged coke oven batteries. The standards apply to charging, and leaks from doors, lids or offtakes for all existing or new sources.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1686.

Docket No. A-79-15.

FTS:8-629-5624.

Agency Contact: Gene Smith, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA48

236. AMENDMENTS TO NESHAPS GENERAL PROVISIONS (REVISION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 A

VOL 48 ISS 201 OCT 17 1983 UMI

Abstract: This action proposes to amend the emission testing, monitoring, and recordkeeping provisions of the National Emission Standards for Hazardous Air Pollutants. The proposed amendments will eliminate repetition in the subparts and add procedures and criteria to determine if: (1) proposed source changes constitute modification or reconstruction; and (2) equipment and/or procedures meet the relevant standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	12/00/84	

Small Entity: No

Additional Information: SAR No. 1681.

Docket No. A-130.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5578**

RIN: 2060-AA79

237. NESHAPS: ASBESTOS (REVISION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61M

Abstract: This rulemaking will reinstate the asbestos design, equipment, work practice, and operational standards which EPA promulgated on April 6, 1973 at 38 FR 8826 and subsequently amended. Section 112(e)(1) of the 1977 amendments to the Clean Air Act grants EPA the authority to develop design or equipment standards. This regulation will apply to asbestos emissions from asbestos mills, surfacing of roadways with asbestos tailings, manufacturing operations, fabricating operations, demolition and renovation operations, spraying operations, the use of molded insulating materials, waste disposal operations, and waste disposal sites.

Timetable:

Action	Date	FR Cite
NPRM	07/13/83	48 FR 32126
Final Action	08/00/84	

Small Entity: No

Additional Information: SAR No. 1714.

FTS:8-629-5624.

Agency Contact: Gene Smith, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5624**

RIN: 2060-AA80

238. NESHAPS: VINYL CHLORIDE (REVISION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Abstract: The Agency is analyzing possible changes in emission limits for oxychlorination vents from ethylene dichloride manufacture processes. Plants using vinyl chloride as a raw material are being evaluated for possible inclusion under the standards. The Agency also is considering administrative or clarifying changes to other parts of the standards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	
Final Action	05/00/85	

Small Entity: No

Additional Information: SAR No. 1971.

FTS: 8-629-5671

Agency Contact: Robert Rosensteel, Environmental Protection Agency, (MD-13), Research Triangle Park, N.C., 27711, **919 541-5671**

RIN: 2060-AB06

239. SECOND ROUND NONFERROUS SMELTER ORDER REGULATIONS

Legal Authority: 42 USC 7419 / CAA 119

CFR Citation: 40 CFR 57

Abstract: These rules establish the minimum required contents of primary nonferrous smelter orders (NSOs) and the criteria and procedures EPA will use in issuing NSOs and in evaluating NSOs issued by the states. NSOs allow eligible smelters until January 1, 1988 to come into compliance with their State Implementation Plans for sulfur dioxide. These rules could affect approximately six copper, lead, zinc and other primary nonferrous smelters in the United States.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	06/00/84	

Small Entity: No

Additional Information: SAR No. 1799.

FTS:8-382-2887.

Agency Contact: Roy Rathbun, Environmental Protection Agency, (EN-341), Washington, DC 20460, **202 382-2887**

RIN: 2060-AA81

240. DISPERSION TECHNIQUES IMPLEMENTED BEFORE ENACTMENT OF THE CLEAN AIR ACT AMENDMENTS OF 1970

Legal Authority: 42 USC 7410 / CAA 123; 42 USC 7601(a); 42 USC 7423

CFR Citation: 40 CFR 51

Abstract: These regulations set the requirements for an implemented intermittent control system (ICS). If an operator can show that dispersion techniques implemented before December 31, 1970 meet the ICS requirements then the system can be used to reduce emissions in a State Implementation Plan to meet Federal ambient standards. These regulations are optional for States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	12/00/84	

Small Entity: No

Additional Information: SAR No. 1893.

Docket No. A-79-12.

FTS:8-629-5540.

Agency Contact: Bruce Polkowsky, Environmental Protection Agency, (MD-15), Research Triangle Park, NC 27711, **919 541-5540**

RIN: 2060-AA49

241. "GUIDELINE ON AIR QUALITY MODELS" (REVISION)

Legal Authority: CAA Sec 165(e)

CFR Citation: 40 CFR 51.24(1); 40 CFR 52.21(m)

Abstract: This action proposes to revise the "Guideline on Air Quality Models" (issued in April 1978) to reflect changes to the state-of-the-science of modeling and changes to current practice and policies. Revisions to the Guideline were developed in 1980 and public hearings were held. Based on public comments, EPA has conducted studies to resolve some issues. Additional evaluation studies of models, suggested by commenters and performed in accordance with the recommendations of the American Meteorological Society, are underway. Early results of both are now available and should become part of EPA's guidance. The revised guideline should greatly reduce inconsistencies in the development and revision of emission limitations and in the determination of PSD increment consumption. New modeling procedures allow potentially greater accuracy in modeling results and the attainment of clean air goals at less cost.

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	
Final Action	05/00/85	

Small Entity: No

Additional Information: SAR No. 1941.

FTS: 8-629-5561.

Agency Contact: Joseph Tickvart, Environmental Protection Agency, MD-14, Research Triangle Park, N.C. 27711, **919 541-5561**

RIN: 2060-AB13

242. HEAVY-DUTY DIESEL PARTICULATE STANDARDS

Priority: Major

Legal Authority: 42 USC 7521(a)(3) / CAA 202

CFR Citation: 40 CFR 86

Abstract: Diesel engines emit 40-100 times the particulate matter emitted by catalyst-equipped vehicles operated on unleaded gasoline. EPA has proposed an emission limit of .25 grams per brake horsepower-hour and intends to repropose a standard for particulate matter concurrent with the proposed heavy-duty NOX standard.

Timetable:

Action	Date	FR Cite
Previous NPRM	01/07/81	46 FR 1910
NPRM	01/00/84	
Final Action	12/00/84	

Small Entity: No

Additional Information: SAR No. 1310.

Docket No. OMSAPC-78-3 A-80-18.

FTS:8-374-8339.

Agency Contact: Richard Rykowski, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, **313 668-4339**

RIN: 2060-AA51

243. NOX REGULATIONS FOR LIGHT-DUTY TRUCKS AND HEAVY-DUTY ENGINES

Priority: Major

Legal Authority: 42 USC 7521 / CAA 202; 42 USC 7525 / CAA 202; 42 USC 7526 / CAA 202; 42 USC 7541 / CAA 202

CFR Citation: 40 CFR 86

Abstract: EPA has identified several Air Quality Control Regions which currently are exceeding acceptable Nitrogen Dioxide levels. Heavy-duty vehicles and light-duty trucks produce 15 percent of total NOx emissions. The Clean Air Act requires EPA to establish emission standards for heavy-duty vehicles which represent a 75% reduction in nitrogen oxides. EPA has developed a new test procedure for measuring exhaust emissions which will be used to measure baseline emissions. At the request of the President's Task Force on Regulatory Relief, EPA will consider relaxing the statutory limit for 3 years to a level which can be achieved by diesel engines, and allowing emissions averaging to give flexibility to manufacturers.

Timetable:

Action	Date	FR Cite
Previous ANPRM	11/28/80	45 FR 79382
ANPRM	01/19/81	46 FR 5836
NPRM	01/00/84	
Final Action	12/00/84	

Small Entity: No

Additional Information: SAR No. 1315.

Docket No. A-80-31.

FTS:8-374-4340.

Agency Contact: Peter Hutchins, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, **313 668-4340**

RIN: 2060-AA52

244. DELAY OF THE 1985 MODEL YEAR LIGHT-DUTY DIESEL PARTICULATE STANDARD (REVISION)

Priority: Task Force

Legal Authority: 42 USC 7521(a) / CAA 202

CFR Citation: 40 CFR 86

Abstract: At the request of the President's Task Force on Regulatory Relief, EPA has reviewed the feasibility of the 1985 diesel particulate standard and determined that the technology required to meet the standard will not be available in time for the 1985 model year. EPA is proposing a two year delay which should be adequate time to make available the necessary technology.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54250
Final Action	10/00/83	

Small Entity: No

Additional Information: SAR No. 1894.

Docket No. 81-32

FTS:8-374-8339.

Agency Contact: Richard Rykowski, Environmental Protection Agency, (ANR-455), 2565 Plymouth Road, Ann Arbor, MI 48105, **313 668-4339**

RIN: 2060-AA83

245. GASEOUS EMISSION REGULATIONS FOR 1984 AND LATER MODEL YEAR HEAVY-DUTY ENGINES AND LIGHT-DUTY TRUCKS (REVISION)

Priority: Task Force

Legal Authority: 42 USC 7521(a) / CAA 202

CFR Citation: 40 CFR 86 A; 40 CFR 86 K; 40 CFR 86 N

Abstract: At the request of the President's Task Force on Regulatory Relief, EPA is reviewing the hydrocarbon and carbon monoxide emission standards for heavy-duty engines which were promulgated in January 1980 at 45FR4136. The Clean Air Act permits EPA to revise emission standards if it finds that compliance with the standards cannot be achieved without unreasonable cost burden. This rulemaking will reevaluate certain aspects of the 1984 final rule with the aim of reducing short term compliance costs without significant losses in environmental benefits. The major objective will be to determine if hydrocarbon and carbon monoxide standards may be set at a level which will not require the use of catalytic converters. A recent Final Rule (48 FR 1406, 1/12/83) delays these standards for one year, until 1985, while the final level of the standard is determined. Useful life options were proposed on 1/12/83 and will be included in the Final Rule.

Timetable:

Action	Date	FR Cite
NPRM	01/12/82	47 FR 1472
Final Action	11/00/83	

Small Entity: No

Additional Information: SAR No. 1719.

Docket No. A-81-11.

FTS:8-374-8408.

Agency Contact: Glenn Passavant, Environmental Protection Agency, Ann Arbor, MI 48105, 313 668-4408

RIN: 2060-AA85

246. IMPORTATION OF MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

Legal Authority: 42 USC 7522 / CAA 203

CFR Citation: 40 CFR 85

Abstract: These revised regulations allow only certified vehicles and engines to be imported, except that an individual may import an uncertified version for one time only. The purpose is to improve the effectiveness and administration of EPA's present regulation. EPA solicits additional comments on other ways these regulations may be revised.

Timetable:

Action	Date	FR Cite
NPRM	07/21/80	45 FR 48812
Final Action	06/00/84	

Small Entity: Yes

Additional Information: SAR No. 1317.

Docket No. EN-79-9.

FTS:8-382-2504.

Agency Contact: Alexander C. Hall, Environmental Protection Agency, (EN-340F), Washington, DC 20460, 202 382-2504

RIN: 2060-AA54

247. TAMPERING ENFORCEMENT REGULATIONS

Legal Authority: 42 USC 7522(a)(3) / CAA 203; 42 USC 7601 / CAA

CFR Citation: 40 CFR 85

Abstract: These regulations will clarify EPA's enforcement policy against tampering with the emission control systems of motor vehicles. They will identify what kinds of "modifications" or "repairs" are tampering and will clarify the liability of manufacturers, suppliers, and repairers for tampering.

Timetable:

Action	Date	FR Cite
ANPRM	01/27/81	46 FR 8982
NPRM	11/00/83	
Final Action	04/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1601.

Docket No. EN-80-2.

FTS:8-234-6356.

Agency Contact: Chuck Aschwanden, Environmental Protection Agency, (EN-397), Washington, DC 20460, 303 234-6356

RIN: 2060-AA55

248. NONCONFORMANCE PENALTIES FOR 1984 MODEL YEAR HEAVY-DUTY ENGINES (HDES)

Legal Authority: 42 USC 7525(g) / CAA 206; 42 USC 7601(a) / CAA

CFR Citation: 40 CFR 86

Abstract: This regulation will allow manufacturers of 1985 HDEs to sell their engines even though they fail to meet 1985 regulatory requirements for specific pollutants, provided that emissions do not exceed a specified maximum level and that the manufacturer pays a nonconformance penalty for each HDE sold. The penalty will remove any competitive advantage of noncompliance and still provide manufacturers with an incentive to meet the standard.

Timetable:

Action	Date	FR Cite
Previous NPRM	02/13/79	44 FR 9485
NPRM	12/00/83	
Final Action	08/00/84	

Small Entity: No

Additional Information: SAR No. 1571.

FTS:8-382-2503.

Agency Contact: Robert Montgomery, Environmental Protection Agency, (EN-340), Washington, DC 20460, 202 382-2507

RIN: 2060-AA56

249. NONCONFORMANCE PENALTIES FOR LIGHT-DUTY TRUCKS

Legal Authority: 42 USC 7527(g) / CAA 206; 42 USC 301(a) / CAA 206

CFR Citation: 40 CFR 86

Abstract: This regulation will allow manufacturers of 1985 light duty trucks over 6,000 pounds gross vehicle weight to sell their vehicles even though they fail to meet 1985 regulatory requirements for specific pollutants, provided that emissions do not exceed a specified maximum level and that the manufacturer pays a nonconformance penalty for each truck sold. The penalty will remove any competitive advantage of noncompliance.

Timetable:

Action	Date	FR Cite
Previous NPRM	07/12/79	44 FR 40791
NPRM	12/00/83	
Final Action	08/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1632.

FTS: 8-382-2507.

Agency Contact: Robert Montgomery, Environmental Protection Agency, (EN-340), Washington, DC 20460, 202 382-2507

RIN: 2060-AA58

250. LONG TERM MOTOR VEHICLE EMISSIONS CONTROL PROGRAM (REVISION)

Priority: Task Force

Legal Authority: 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Abstract: This rulemaking will consider long term alternatives to the certification selective enforcement auditing and recall programs. These alternatives would focus on in-use vehicle performance, give manufacturers greater flexibility and incentives for meeting emission standards in the most economical ways, reduce overall compliance costs, and ensure that air quality is fully and appropriately protected. This action is being taken at the request of the President's Task Force on Regulatory Relief.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/83	

Small Entity: No

Additional Information: SAR No. 1715B.

Docket No. A-81-17.

FTS:8-374-8277.

Agency Contact: Robert Larson, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4277

RIN: 2060-AA88

251. AMENDMENTS TO SELECTIVE ENFORCEMENT AUDITING PROCEDURES FOR LIGHT-DUTY VEHICLES (REVISION)

Priority: Task Force

Legal Authority: 42 USC 7525(b) / CAA 206; 42 USC 7542(b) / CAA 206; 42 USC 7601(a) / CAA 206

CFR Citation: 40 CFR 86 G; 40 CFR 86 K

Abstract: EPA is revising the Selective Enforcement Auditing procedures for LDVs to make the program more efficient (with cost savings to EPA and the affected industries), clarify various provisions, and revise the sampling procedure.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Interim Final Rule	05/00/84	

Small Entity: No

Additional Information: SAR No. 1570.

FTS:8-382-2503.

Agency Contact: Robert Montgomery, Environmental Protection Agency, (EN-340), Washington, DC 20460, 202 382-2507

RIN: 2060-AA89

252. AMENDMENT TO THE EMISSION CONTROL WARRANTY SHORT TESTS (REVISION)

Legal Authority: 42 USC 7541(b) / CAA 207

CFR Citation: 40 CFR 85

Abstract: This action would approve an alternative short test procedure for warranting emissions performance. It also proposes to approve the 2500 rpm/Idle Test, which is a variation of an existing short test.

Timetable:

Action	Date	FR Cite
NPRM	03/21/83	48 FR 11870
Final Action	11/00/83	

Small Entity: No

Additional Information: SAR No. 1731.

Docket No A-81-40.

FTS:8-374-8419.

Agency Contact: George Kittredge, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202 382-4981

RIN: 2060-AA90

253. FUELS AND FUEL ADDITIVES

Priority: Major

Legal Authority: 42 USC 7545 / CAA 211

CFR Citation: 40 CFR 79

Abstract: These protocols will help determine effects of fuel and fuel additives on public health and emission control devices. They will ensure that motor vehicle fuels and additives will not harm the public health. They will also ensure that they do not damage emission control devices in motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	01/00/85	

Small Entity: Undetermined

Additional Information: SAR No. 1328.

FTS:8-374-8339.

Agency Contact: Richard A. Rykowski, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4339

RIN: 2060-AA59

254. ●FUEL ECONOMY TEST PROCEDURES; PROPOSED PROCEDURES FOR ADJUSTMENT TO TEST RESULTS TO ACCOUNT FOR TEST PROCEDURE CHANGES

Legal Authority: 15 USC 2001 et seq / Energy Policy and Conservation Act 301

CFR Citation: 40 CFR 600

Abstract: In January, 1982, the United States Court of Appeals for the Sixth Circuit issued an order requiring EPA to inititate rulemaking to establish adjustment factors for the 1980-85 Corporate Average Fuel Economy (CAFE) test results. This proposal is in response to the Court Order and will result in adjustments to EPA calculations of CAFE.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	04/00/84	

Small Entity: No

Additional Information: FTS: 8-382-7647.

SAR No. 2033.

Agency Contact: Maureen Smith, Environmental Protection Agency, (ANR-455), Washington, DC 20460, 202 382-7647

RIN: 2060-AB19

255. FUEL ECONOMY LABELING AND DATA BASE REVISIONS (REVISION)

Legal Authority: 15 USC 2003 / EPCA 503

CFR Citation: 40 CFR 600

Abstract: This action amends Part 600 to require labels to: (1) distinguish among designs that affect fuel economy; (2) change during the model year if design changes reduce fuel economy by one mile per gallon or more; (3) reflect fuel economy performance for highway driving; and (4) reflect fuel economy values as adjusted for the average differences between laboratory and in-use performance measures. EPA is also amending Part 600 to allow better use of test data in accounting for untested vehicle designs and improve the representative data used to calculate fuel economy values.

Timetable:

Action	Date	FR Cite
ANPRM	09/29/80	45 FR 64540
NPRM	06/09/83	48 FR 26698
Final Action	09/00/84	

Small Entity: No

Additional Information: SAR No. 1629.

Docket No. A-80-32.

FTS: 8-374-8310.

Agency Contact: Clifford Tyree, Environmental Protection Agency, 2625 Plymouth Road, Ann Arbor, MI 48105, 313 668-4310

RIN: 2060-AA94

256. ●AMENDMENT AND CLARIFICATION OF THE TEST PROCEDURES AND EVALUATION CRITERIA FOR FUEL ECONOMY RETROFIT DEVICES (REVISION)

Legal Authority: 15 USC 2011 Motor Vehicle Information and Cost Savings Act 511

CFR Citation: 40 CFR 610

Abstract: This rulemaking will amend the retrofit device evaluation regulations by revising the definition of "retrofit device" to specifically include fuel additives. It will also revise the definition of "manufacturer" and will also formally guarantee certain rights to the device manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	12/28/82	44 FR 57742
Final Action	00/00/00	

Small Entity: No

Additional Information: FTS: 374-8299.

SAR No. 1333.

Agency Contact: Merrill W. Korth, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, **313 668-4299**

RIN: 2060-AB18

257. ●AMENDMENT TO TRANSFER THE AGENCY'S FUEL ECONOMY RETROFIT DEVICE TEST COST LIABILITY TO THE DEVICE MANUFACTURER (REVISION)

Legal Authority: 15 USC 2011 / Motor Vehicle Information & Cost Savings Act 511

CFR Citation: 40 CFR 610

Abstract: This rulemaking proposes to formally transfer the cost of EPA testing to the device manufacturer in those instances in which the evaluation was initiated by the manufacturer. This action will make the regulations consistent with the Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	03/00/84	

Small Entity: No

Additional Information: FTS: 374-8299.

SAR No. 2039.

Agency Contact: Merrill W. Korth, Environmental Protection Agency, 2565 Plymouth Road, ANR-455, Ann Arbor, MI 48105, **313 668-4299**

RIN: 2060-AB23

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Air Act — Existing Regulations Under Review

258. NAAQS: LEAD

Priority: Major

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50

Abstract: EPA is reassessing the health and welfare information that has become available since the last revision of the standard.

Timetable:

Action	Date	FR Cite
Begin Review	03/00/82	
End Review	03/00/85	

Small Entity: No

Additional Information: SAR No. 1919.

Agency Contact: Bruce Jordan, Environmental Protection Agency, (MD-12), Research Triangle Park, NC 27711, **919 541-5655**

RIN: 2060-AA95

259. NAAQS: OZONE

Priority: Major

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50

Abstract: EPA is reassessing the health and welfare information that has become available since the last revision of the standard.

Timetable:

Action	Date	FR Cite
Begin Review	09/00/81	
End Review	01/00/86	

Small Entity: No

Additional Information: REVIEW AUTHORITY: CAA 109.

FTS: 8-629-5655.

SAR No. 1920.

Agency Contact: Bruce Jordan, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5655**

RIN: 2060-AA96

260. EQUIVALENCY IN NEW SOURCE REVIEW

Priority: Task Force

Legal Authority: 42 USC 7410 / CAA 110

CFR Citation: 40 CFR 51.18

Abstract: At the request of the President's Task Force on Regulatory Relief, the Agency is reviewing its New Source Review (NSR) Program to determine whether and how it can give states greater flexibility in meeting Clean Air Act requirements.

Timetable:

Action	Date	FR Cite
Begin Review	11/00/82	
End Review	12/00/83	

Small Entity: No

Additional Information: REVIEW AUTHORITY: EO 12291.

FTS: 8-629-5591.

SAR No. 1845.

Agency Contact: Michael Trutna, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5591**

RIN: 2060-AB10

261. NSPS FOR PRIMARY COPPER SMELTERS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60 P

Abstract: Revisions will be considered for: (a) the applicability of the standards to modified and reconstructed facilities at existing smelters, and (b) the existing exemption from the standards for reverberatory smelting furnaces when the total smelter charge contains a high level of volatile impurities. Emission limits for fugitive sources of particulate matter will also be considered.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1735.

FTS: 8-629-5578.

Agency Contact: Fred Porter, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5578**

RIN: 2060-AA77

262. NSPS: CLAUS SULFUR RECOVERY PLANTS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart J

Abstract: EPA is reviewing this standard to determine whether revisions are warranted. The review will assess performance and costs of control systems and economic and technological developments in the industry. The existing rule exempts plants that produce 20 long tons or less

of sulfur a day. EPA will issue a notice in the Federal Register announcing the results of its review.

Timetable:

Action	Date	FR Cite
Begin Review	02/00/82	
End Review	10/00/83	

Small Entity: No

Additional Information: REVIEW AUTHORITY: CAA 111, EO 12291, Paperwork Reduction Act.

FTS: 8-629-5525.

SAR No. 1987.

Agency Contact: Ken Durkee, Environmental Protection Agency, (MD-13), Research Triangle Park, NC, **919 541-5525**

RIN: 2060-AA98

263. NSPS: GRAIN ELEVATORS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart DD

Abstract: EPA is reviewing this standard to determine whether revisions are warranted. The review will assess performance and costs of control systems as well as economic and technological developments in the industry. The existing regulation exempts grain terminals that have a storage capacity of 2.5 million tons or less and grain storage facilities that store 1.0 million tons or less. EPA will issue a notice in the Federal Register announcing the results of its review.

Timetable:

Action	Date	FR Cite
Begin Review	03/00/82	
End Review	09/00/83	

Small Entity: Yes

Additional Information: REVIEW AUTHORITY: CAA 111, EO 12291, Paperwork Reduction Act, Regulatory Flexibility Act.

FTS: 8-629-5595.

SAR No. 2021.

Agency Contact: James Crowder, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5595**

RIN: 2060-AA99

264. NSPS: NITRIC ACID MANUFACTURE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart G

Abstract: EPA is reviewing this standard to determine whether revisions are warranted. The review will assess performance and costs of nitric acid and control systems as well as economic and technological development in the industry. EPA will issue a notice in the Federal Register announcing the results of its review.

Timetable:

Action	Date	FR Cite
Begin Review	11/00/82	
End Review	12/00/83	

Small Entity: No

Additional Information: REVIEW AUTHORITY: CAA 111.

FTS: 8-629-5595.

Agency Contact: Kenneth Durkee, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5595**

RIN: 2060-AB01

265. NSPS: SULFURIC ACID MANUFACTURE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart H

Abstract: EPA is reviewing this standard to determine whether revisions are warranted. The review will assess performance and costs of sulfuric acid plant control systems as well as the experience of the industry and control agencies in implementing the standards. EPA will issue a notice in the Federal Register announcing the results of its review.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/83	
End Review	09/00/84	

Small Entity: No

Additional Information: REVIEW AUTHORITY: CAA 111.

FTS: 8-629-5601.

SAR No. 2026.

Agency Contact: James Crowder, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5601**

RIN: 2060-AB02

266. NSPS: SEWAGE TREATMENT PLANTS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart O

Abstract: EPA is reviewing this standard to determine whether revisions are warranted. The review will assess performance and costs of sewage treatment plant control systems as well as the experience of the industry and control agencies in implementing the standard. EPA will issue a notice in the Federal Register announcing the results of its review.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/83	
End Review	09/00/84	

Small Entity: No

Additional Information: REVIEW AUTHORITY: CAA 111.

FTS: 8-629-5601.

SAR No. 2028.

Agency Contact: James Crowder, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5601**

RIN: 2060-AB05

267. NESHAPS: BERYLLIUM

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Abstract: EPA is reviewing the health and technological basis and administrative aspects of the national emission standard for beryllium. EPA will issue a notice in the Federal Register announcing the results of the review.

Timetable:

Action	Date	FR Cite
Begin Review	12/00/81	
End Review	00/00/00	

Small Entity: No

Additional Information: REVIEW AUTHORITY: EO 12291.

FTS: 8-629-5595.

SAR No. 2029.

Agency Contact: James Crowder, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, **919 541-5595**

RIN: 2060-AB07

268. NESHAPS: MERCURY

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

VOL 48 ISS 201 OCT 17 1983 UMI

EPA—CAA — Existing Regulations Under Review

Abstract: EPA is reviewing the technological basis and administrative aspects of the national emission standard for mercury. EPA will issue a notice in the Federal Register announcing the results of the review.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/82	
End Review	12/00/83	

Small Entity: No

Additional Information: REVIEW AUTHORITY: EO 12291.

FTS: 8-629-5601.

SAR No. 2051.

Agency Contact: James Crowder, Environmental Protection Agency, (MD-13), Research Triangle Park, NC 27711, 919 541-5601

RIN: 2060-AB08

269. VISIBILITY PROTECTION FOR FEDERAL CLASS I AREAS

Legal Authority: 42 USC 7479 / CAA 169

CFR Citation: 40 CFR 51

Abstract: In response to petitions EPA is reviewing the visibility protection regulations promulgated on December 2, 1980 (45 FR 80084). EPA is reconsidering the concept of "integral vistas," the role of the Federal Land Managers, and new source review requirements. The Agency may decide to initiate changes as a result of this review.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/81	
End Review	12/00/83	

Small Entity: No

Additional Information: REVIEW AUTHORITY: EO 12291.

FTS: 8-629-5540.

SAR No. 1307.

Agency Contact: Bruce Polkowsky, Environmental Protection Agency, (MD-15), Research Triangle Park, NC 27711, 919 541-5540

RIN: 2060-AB09

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Air Act — Completed Actions

COMPLETED RULEMAKINGS

270. ATTAINMENT DESIGNATIONS BY COUNTY FOR THE PURPOSE OF ESTABLISHING BASELINE AIR QUALITY DATA

CFR Citation: 40 CFR 81

Completed:

Reason	Date	FR Cite
Withdrawn	09/15/83	

Small Entity: No

Agency Contact: Bill Beal 919 541-5665

RIN: 2060-AA60

271. CONTINUOUS MONITORING (REVISION)

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	03/30/83	48 FR 13322

Small Entity: Yes

Agency Contact: Roger Shigehara 919 541-2237

RIN: 2060-AA69

272. NSPS: INDUSTRIAL SURFACE COATING: CANS

CFR Citation: 40 CFR 60 WW

Completed:

Reason	Date	FR Cite
Final Action	08/25/83	48 FR 38728
Final Action Effective	08/25/83	

Small Entity: No

Agency Contact: Fred L. Porter 919 541-5624

RIN: 2060-AA20

273. NSPS: BULK GASOLINE TERMINALS

CFR Citation: 40 CFR 60 XX

Completed:

Reason	Date	FR Cite
Final Action	08/18/83	48 FR 37578
Final Action Effective	08/18/83	

Small Entity: Yes

Agency Contact: Gilbert Wood 919 541-5578

RIN: 2060-AA21

274. NSPS: GYPSUM

CFR Citation: 40 CFR 60 DDD

Completed:

Reason	Date	FR Cite
Withdrawn	08/15/83	

Small Entity: No

Agency Contact: Gene Smith 919 541-5624

RIN: 2060-AA26

275. NSPS FOR AUTOMOTIVE PAINT SHOPS (REVISION)

Priority: Task Force

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	02/04/83	48 FR 5452

Small Entity: No

Agency Contact: Fred L. Porter 919 541-5624

RIN: 2060-AA76

276. REDESIGNATION OF HIGH-ALTITUDE COUNTIES (REVISION)

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	09/14/83	48 FR 41296
Final Action Effective	10/14/83	

Small Entity: No

Agency Contact: Richard Rykowski 313 668-4339

RIN: 2060-AA82

277. AVERAGING OF PARTICULATE EMISSIONS FOR 1985 AND LATER MODEL YEAR LIGHT-DUTY DIESELS

Priority: Task Force

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	07/21/83	48 FR 33456

Small Entity: No

EPA—CAA — Completed Actions

Agency Contact: Peter Hutchins 313 668-4340

RIN: 2060-AA84

278. NON-METHANE HYDROCARBON STANDARDS

Priority: Task Force

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Withdrawn	08/15/83	

Small Entity: No

Agency Contact: Peter Hutchins 313 668-4340

RIN: 2060-AA86

279. HIGH-ALTITUDE EMISSION STANDARDS FOR 1984 AND LATER MODEL YEAR LIGHT-DUTY VEHICLES

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	09/14/83	48 FR 41303
Final Action Effective	10/14/83	

Small Entity: No

Agency Contact: Richard Rykowski 202 668-4339

RIN: 2060-AA57

COMPLETED REVIEWS

280. NSPS: ASPHALT CONCRETE PLANTS

CFR Citation: 40 CFR 60, Subpart I

Completed:

Reason	Date	FR Cite
End Review	06/00/83	

Small Entity: No

Agency Contact: Kenneth Durkee 919 541-5595

RIN: 2060-AB03

281. NSPS: SECONDARY BRASS AND BRONZE PRODUCTION (REVISION)

CFR Citation: 40 CFR 60, Subpart M

Completed:

Reason	Date	FR Cite
End Review	08/00/83	

Small Entity: No

Agency Contact: James Crowder 919 541-5595

RIN: 2060-AB04

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Superfund — Current and Projected Rulemakings

282. SUPERFUND GRANT REGULATION

Legal Authority: 42 USC 9601 / CERCLA 101

CFR Citation: 40 CFR 37

Abstract: The Agency intends to develop Federal grant regulations for cooperative agreements (CAs) and State Superfund contracts (SSCs) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980. This regulation will assist our regional offices and State officials in developing cooperative agreements and implementing existing EPA policies and procedures pertaining to CAs and SSCs. It will also clarify basic program policies pertaining to State lead projects and identify other relevant Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	01/00/84	

Small Entity: No

Additional Information: SAR No. 2020.

FTS: 8-382-2206.

Agency Contact: Douglas Cohen, Environmental Protection Agency, (WH-548D), Washington, DC 20460, 202 475-8115

RIN: 2050-AA71

283. DESIGNATION OF HAZARDOUS SUBSTANCES

Legal Authority: 42 USC 9602 / CERCLA 102

CFR Citation: 40 CFR 302

Abstract: Section 102 of the Act requires EPA to designate hazardous substances which may present substantial danger to the public health or welfare or the environment if released into the environment. EPA is developing this regulation to supplement the lists of hazardous substances already developed under CWA 307, 311, RCRA 3001, CAA 112, and TSCA 7.

Timetable:

Action	Date	FR Cite
ANPRM	05/25/83	48 FR 23602
NPRM	05/00/85	
Final Action	01/00/86	

Small Entity: No

Additional Information: SAR No. 1642A.

FTS:8-382-3000.

Agency Contact: Jack Kooyoomjian, Environmental Protection Agency, (WH-548), Washington, DC 20460, 800 424-9346

RIN: 2050-AA45

284. NOTIFICATION OF RELEASE OF HAZARDOUS SUBSTANCES AND DETERMINATION OF REPORTABLE QUANTITIES

Legal Authority: 42 USC 9602 / CERCLA 102

CFR Citation: 40 CFR 303

Abstract: EPA is developing reportable quantities for hazardous substances under Section 102 of CERCLA that will trigger the requirements in Section 103 of CERCLA. The reportable quantity listed with each designated hazardous substance under CERCLA Section 102 will be the reportable quantity for that substance under CWA Section 117.3.

Timetable:

Action	Date	FR Cite
NPRM	06/00/84	
Final Action	05/00/85	

Small Entity: No

Additional Information: SAR No. 1642B.

FTS:8-382-3000.

EPA—CERCLA — Current and Projected Rulemakings

Agency Contact: Jack Kooyoomjian, Environmental Protection Agency, (WH-548), Washington, DC 20460, 800 424-9346

RIN: 2050-AA46

285. NOTIFICATION OF CONTINUOUS RELEASE OF HAZARDOUS SUBSTANCES

Legal Authority: 42 USC 9602 / CERCLA 102; 42 USC 9603 / CERCLA 103

CFR Citation: 40 CFR 304

Abstract: Section 103(a) requires that persons notify the National Response Center of releases of hazardous substances. Section 103(f) provides an exemption to these reporting requirements. EPA is developing regulations that will clarify Agency policy regarding notification of continuous releases of designated hazardous substances.

Timetable:

Action	Date	FR Cite
NPRM	05/00/85	
Final Action	01/00/86	

Small Entity: No

Additional Information: SAR No. 1642C.

FTS:8-382-3000.

Agency Contact: Jack Kooyoomjian, Environmental Protection Agency, (WH-548), Washington, DC 20460, 800 424-9346

RIN: 2050-AA47

286. CLAIMS PROCEDURES

Legal Authority: 42 USC 9611 / CERCLA 111

CFR Citation: 40 CFR 306

Abstract: This action prescribes the procedures and circumstances under which claims may be presented to the fund to recover costs of cleanup. Allowable claims are necessary response costs incurred by a party other than the government in carrying out the National Contingency Plan and for injury to or destruction or loss of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	02/00/84	

Small Entity: No

Additional Information: SAR No. 1642D.

FTS:8-382-2184.

Agency Contact: William Ross, Environmental Protection Agency, (WH-548D), Washington, DC 20460, 202 382-2184

RIN: 2050-AA48

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Superfund — Completed Actions

COMPLETED RULEMAKINGS

287. NATIONAL OIL AND HAZARDOUS MATERIALS CONTINGENCY PLAN (REVISION)

Priority: Major

CFR Citation: 40 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	09/08/83	48 FR 40658

Small Entity: No

Agency Contact: Stephen M. Caldwell 800 424-9346

RIN: 2050-AA67

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—General — Current and Projected Rulemakings

288. ●TRAINING GRANTS AND MANPOWER FORECASTING (REVISION)

Legal Authority: 42 USC 1857b; 33 USC 1254; 33 USC 1259; 33 USC 1260; 33 USC 1261; 42 USC 241; 42 USC 246; 42 USC 6977; 42 USC 6981; 7 USC 136u

CFR Citation: 40 CFR 45

Abstract: EPA is revising the regulation governing training programs assisted by grants and cooperative agreements to incorporate legally necessary changes and to clarify and update the requirements.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/84	
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No.2048

FTS:8-382-5294

Agency Contact: Corinne S. Allison, Environmental Protection Agency, PM-216, Washington, DC 20460, 202 382-5292

RIN: 2010-AA09

289. REGULATIONS FOR THE FEDERAL CLAIMS COLLECTION ACT

Legal Authority: 31 USC 3711

CFR Citation: 40 CFR 13

Abstract: These regulations will set standards for EPA's debt collection actions under the Federal Claims Collection Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: No

Additional Information: SAR No. 1825.

FTS:8-382-5313.

Agency Contact: Ray Spears, Environmental Protection Agency, (A-134), Washington, DC 20460, 202 382-5313

RIN: 2020-AA01

290. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS (REVISION)

Legal Authority: 5 USC 552; 7 USC 136; 42 USC 9604

CFR Citation: 40 CFR 2

EPA—GENERAL — Current and Projected Rulemakings

Abstract: This action would make changes in EPA's procedures for handling requests under the Freedom of Information Act. It also adds a new section on procedures for treating confidential information under CERCLA. EPA will also modify its existing procedures for handling confidential information under RCRA. Changes under FIFRA will be covered in a separate rulemaking which will be proposed in September, 1983.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	02/00/84	

Small Entity: No

Additional Information: SAR No. 1791.

FTS:8-382-5460.

Agency Contact: Charles Breece, Environmental Protection Agency, (A-134), Washington, DC 20460, 202 382-5460

RIN: 2020-AA03

291. ●NONDISCRIMINATION ON THE BASIS OF HANDICAP FOR PROGRAMS CONDUCTED BY EPA

Legal Authority: 42 USC 794 / Rehabilitation Act 504

CFR Citation: 40 CFR 12

Abstract: The proposed regulation will provide for EPA's compliance with Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of handicap in the Agency's programs and activities. It will make the Agency's offices accessible to handicapped persons, and effect the necessary changes in the Agency's employment practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	05/00/84	

Small Entity: No

Additional Information: FTS: 8-382-4575.

SAR No. 2049.

Agency Contact: Robert Knox, Environmental Protection Agency, Administrator and Others, A-105, Washington, DC 20460, 202 382-4575

RIN: 2020-AA05

292. REGULATIONS FOR REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE (REVISION)

Legal Authority: 42 USC 4601

CFR Citation: 40 CFR 4

Abstract: EPA is rewriting 40 CFR Part 4 regulations to: (1) incorporate legally necessary changes; (2) make them clearer; (3) clarify areas needing improvement; e.g., definitions, payment computation methods; and (4) reduce regulatory burdens per Executive Order 12291.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/80	45 FR 60929
NPRM	05/20/82	47 FR 22010
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1641.

Docket No. G-80-2.

FTS:8-382-5298.

Agency Contact: Marshall Schy, Environmental Protection Agency, (PM-216), Washington, DC 20460, 202 382-5298

RIN: 2030-AA01

293. SIMPLIFYING IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) (REVISION)

Legal Authority: 42 USC 4321 / NEPA

CFR Citation: 40 CFR 6

Abstract: This action will exclude certain recipients of EPA construction grants from EPA's NEPA implementation requirements when the funded activities have no significant environmental effects. It will also revise CEQ procedures in approving segmentation requests under 40 CFR 6.503.

Timetable:

Action	Date	FR Cite
Previous Interim Final Rule	03/08/82	47 FR 9827
Interim Final Rule	01/07/83	48 FR 1012
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1729.

FTS:8-382-5910.

Agency Contact: John Gerba, Environmental Protection Agency, (A-104), Washington, DC 20460, 202 382-5910

RIN: 2090-AA03

294. AMENDING NEPA PROCEDURES RELATING TO WASTEWATER CONSTRUCTION GRANTS (REVISION)

Legal Authority: 42 USC 4321 / NEPA

CFR Citation: 40 CFR 6 E

Abstract: This action will update NEPA implementation procedures relating to wastewater treatment construction grants. It will make them consistent with the amendments for simplifying the construction grants regulations (see SAR No. 1722) and the 1981 Municipal Wastewater Treatment Construction Grant Amendments (P.L. No. 97-117).

Timetable:

Action	Date	FR Cite
NPRM	01/07/83	48 FR 1012
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1835.

FTS:8-382-5910.

Agency Contact: John Gerba, Environmental Protection Agency, (A-104), Washington, DC 20460, 202 382-5910

RIN: 2090-AA04

295. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2000 / Civil Rights Act; Federal Water Pollution Control Act (FWPCA) Sec 13; Rehabilitation Act Sec 504; Age Discrimination Act

CFR Citation: 40 CFR 7

Abstract: This rule will consolidate and implement certain statutes which prohibit discrimination on the grounds of race, color, national origin, sex, handicap, and age. The consolidation streamlines and clarifies the requirements imposed on recipients of EPA assistance programs and preserves the distinctions where they are required by the statutes. It further eliminates repetition and redundancy and reduces the volume of the regulation to one-third.

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2306
Final Action	11/00/83	

VOL 48 ISS 201 OCT 17 1983 UMI

Small Entity: No

Additional Information: SAR No. 1501.

FTS:8-382-4575.

Agency Contact: Robert J. Knox, Environmental Protection Agency, Administrator and Others, Enivronmental Protection Agency, 401 M Street, S.W. (A-105), Washington, D.C. 20460, 202 382-4575

RIN: 2090-AA07

296. EMISSIONS TRADING POLICY (REVISION)

Legal Authority: 42 USC 7503 / CAA 110

CFR Citation: Not applicable

Abstract: EPA is developing emissions trading policy guidance governing the use of the bubble, emission offsets netting, and emission reduction banking. This policy guidance and accompanying Technical Issues Document will provide states with a framework for incorporating emissions trading activities into their state implementation plans. Through the use of emissions trading industry can substitute more controls where costs are low for less control where costs are high. This policy statement contains simplified administrative procedures and significantly expands opportunities for state and industry to use emissions trading. It takes the place of the previously announced banking regulation and incorporates EPA's recently proposed changes to its Bubble Policy.

Timetable:

Action	Date	FR Cite
Proposed Policy	04/07/82	47 FR 15076
Reproposed Policy	08/31/83	48 FR 39580
Final Action	12/00/83	

Small Entity: No

Additional Information: SAR No. 1605.

Docket No. G-81-2.

FTS:8-382-2765.

Agency Contact: Ivan Tether, Environmental Protection Agency, (PM-223), Washington, DC 20460, 202 382-2727

RIN: 2010-AA08

297. ●LIST OF VIOLATING FACILITIES (REVISION)

Legal Authority: 42 USC 7606 / CAA 306; 33 USC 1368 / FWPCA 508

CFR Citation: 40 CFR 15

Abstract: The Agency will revise 40 CFR Part 15 which authorizes EPA to place facilities on the List of Violating Facilities because of recurring or continuing noncompliance with the Federal clean air or clean water standards. These revisions are required to enhance readability; ensure adequate procedural due process; and reflect organizational changes at the Agency.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	06/00/84	

Small Entity: No

Additional Information: FTS: 8-382-2931.

SAR No. 2014.

Agency Contact: Michael Randall, Environmental Protection Agency, LE-130A, Washington, DC 20460, 202 382-2931

RIN: 2060-AB17

298. SECTION 404 STATE PROGRAM REGULATIONS (REVISION)

Priority: Task Force

Legal Authority: 33 USC 1344 / CWA 404

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 233

Abstract: Under Section 404(g) of the Clean Water Act, EPA is responsible for approving and overseeing assumption of the 404 "dredge and fill" program by States. Pursuant to the directives of the Presidential Task Force on Regulatory Relief, EPA is revising its State program regulations (formerly part of the Consolidated Permit Regulations, to provide increased incentives and simplified procedures for state assumption of the Section 404 program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	06/00/84	

Small Entity: No

Additional Information: SAR No. 1973.

FTS: 8-382-5046.

Agency Contact: John Meagher, Environmental Protection Agency, Administrator and Others, A-104, 401 M Street, SW, Washington, DC 20460, 202 382-5046

RIN: 2030-AA00

ENVIRONMENTAL PROTECTION AGENCY (EPA)—General — Completed Actions

COMPLETED RULEMAKINGS

299. INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

CFR Citation: 40 CFR 29

Completed:

Reason	Date	FR Cite
Final Action	06/24/83	48 FR 29288
Final Action Effective	09/30/83	

Small Entity: No

Agency Contact: John A. Gwynn 202 382-5268

RIN: 2010-AA04

300. IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT

CFR Citation: 40 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	09/02/83	48 FR 39934
Final Action Effective	10/03/83	

Small Entity: No

Agency Contact: James Clark 202 382-7633

RIN: 2020-AA02

301. GENERAL REGULATIONS FOR ASSISTANCE PROGRAMS (REVISION)

CFR Citation: 40 CFR 30

Completed:

Reason	Date	FR Cite
Final Action	09/30/83	48 FR 45056

Small Entity: Not Applicable

Agency Contact: Richard Johnson 202 382-5296

RIN: 2030-AA04

302. HISTORIC PRESERVATION REGULATIONS

CFR Citation: 40 CFR 6 K

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/83	

Small Entity: No

Agency Contact: Judith Troast 202 382-5905

RIN: 2090-AA00

[FR Doc. 83-28046 Filed 10-14-83; 8:45 am]
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VOL
48
ISS
201
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federal register

Monday
October 17, 1983

Part XXI

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

VOL
48
ISS
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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: This semiannual regulatory agenda is published in accordance with the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981) and the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*). The agenda lists those guidelines which have been designated for review by the Presidential Task Force on Regulatory Relief under Section 3(i) of the Executive Order; proposed guidelines and regulations, or their amendments and revisions, that have been noticed in the **Federal Register** for public comment; the need and legal basis for the actions being considered; the name and telephone number of a knowledgeable official, and the status of items previously reported; and a list of proposed guidelines and regulations, or their amendments and revisions, currently being developed or under consideration for development. An assessment of EEOC's regulations under review and development shows that only one of the proposed regulations, the Uniform Guidelines on Employee Selection Procedures, is likely to fall within the Executive Order's definition of a major rule. In addition, two proposed regulatory actions, the Interpretative Bulletin on Employee Benefit Plans and the Recordkeeping Regulations, are likely to be subject to the Regulatory Flexibility Act requirements. These two items are published here to particularly allow interested small entities a meaningful and early opportunity to comment and participate in all stages of Commission regulatory development.

DATE: This information is current as of October 1983.

FOR FURTHER INFORMATION CONTACT: Nestor Cruz, Associate Legal Counsel or Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506; telephone (202) 634-6592.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and the Regulatory Flexibility Act require that a regulatory agenda of regulations under development and review be published in the **Federal Register** in April and October of each year. Signed at Washington, D.C. this 21st day of September, 1983.

For the Commission:

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Recordkeeping Regulations	3046-AA03
2	Non-Discrimination on the Basis of Handicap in Federally Assisted Programs	3046-AA04
3	Collection of Applicant Data for Affirmative Action Purposes	3046-AA05
4	Equal Employment Opportunity in the Federal Government; Remedial Relief under Section 717	3046-AA06
5	The Equal Pay Act Interpretations	3046-AA07
6	Title VI Regulations	3046-AA09
7	Coordination of Federal Equal Employment Opportunity Programs	3046-AA10
8	Equal Employment Opportunity in the Federal Government	3046-AA11
9	Equal Employment Opportunity in the Federal Government	3046-AA12
10	Equal Employment Opportunity in the Federal Government	3046-AA13
11	Equal Employment Opportunity in the Federal Government	3046-AA14
12	Equal Employment Opportunity in the Federal Government	3046-AA15
13	Equal Employment Opportunity in the Federal Government	3046-AA16
14	Equal Employment Opportunity in the Federal Government	3046-AA17
15	Interpretative Bulletin on Employee Benefit Plans	3046-AA18
16	Substantive Regulations on Health Insurance Benefits for Employees Age 65 to 69	3046-AA19
17	Enforcement of Nondiscrimination on the basis of handicap in Equal Employment Opportunity Commission Programs	3046-AA20

Existing Regulations Under Review

Sequence Number	Title	RIN
18	*Uniform Guidelines on Employee Selection Procedures	3046-AA00

*Indicates priority regulation.

EEOC

Completed Actions

Sequence Number	Title	RIN
19	Guidelines on Discrimination Because of Sexual Harassment	3046-AA01
20	Procedures: Age Discrimination in Employment Act	3046-AA08

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Current and Projected Rulemakings

1. RECORDKEEPING REGULATIONS

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1602

Abstract: The Commission proposes to revise its recordkeeping regulations to require certain employers and labor unions to maintain lists of applicants for employment and to retain employment records for two years or until termination of a Commission or court processing. The Commission is considering further revisions to the proposed amendments pending completion of a study on the feasibility of a uniform government-wide equal opportunity recordkeeping regulation.

Timetable:

Action	Date	FR Cite
NPRM	07/25/78	43 FR 32280
NPRM Comment Period End	09/21/78	
Public Hearing	09/21/78	
Record closed	10/01/78	
Final Action	07/00/84	

Small Entity: Yes

Agency Contact: Anthony DeMarco, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6592

RIN: 3046-AA03

2. NON-DISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 1615

Abstract: Proposed regulations setting forth procedures and policies to assure non-discrimination on the basis of handicap in employment and operations of programs receiving assistance from the Equal Employment Opportunity Commission. Approved by Commission and now in formal interagency coordination pursuant to Executive Order 12067. Department of Justice has not issued a definitive rule on Commission responsibility for these regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/29/79	44 FR 68482
NPRM Comment Period End	01/28/80	
Formal Interagency Coordination	00/00/00	

Small Entity: No

Agency Contact: S. Jennifer Johnson, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6691

RIN: 3046-AA04

3. COLLECTION OF APPLICANT DATA FOR AFFIRMATIVE ACTION PURPOSES

Legal Authority: 29 USC 791 Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 1613.706

Abstract: This amendment permits federal agencies to collect handicap information from applicants for employment in order to implement and evaluate special recruitment programs undertaken for affirmative action purposes. Implementation of the final regulation is dependent on the development of an interagency report form which is in the process of being developed by OPM with the approval of OMB.

Timetable:

Action	Date	FR Cite
Interim Guidelines		46 FR 11285
Interim Guidelines effective	02/06/81	
Written Comment Period expired	04/07/81	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Nicholas M. Inzeo, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6691

RIN: 3046-AA06

4. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; REMEDIAL RELIEF UNDER SECTION 717

Legal Authority: 42 USC 2000e-16 Section 717 of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1613

Abstract: Proposed amendments provide that an agency or the Commission may award a complainant reasonable attorney's fees and costs and backpay when an allegation of discrimination prohibited by Section 717 is resolved in favor of the complainant. Final regulations have been approved by the Commission and are in interagency coordination pursuant to Executive Order 12067.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/09/80	45 FR 24130
Interim Regulations effective	04/11/80	
In Interagency Coordination	00/00/00	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Nicholas M. Inzeo, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6691

RIN: 3046-AA05

5. THE EQUAL PAY ACT INTERPRETATIONS

Legal Authority: 29 USC 206(d) et seq Equal Pay Act of 1963; 29 USC 201 et seq Fair Labor Standards Act of 1938, as amended; 29 USC 255 Portal-to-Portal Act of 1947

CFR Citation: 29 CFR 1620.1 to 1620.18

Abstract: The Commission proposes interpretations with respect to the enforcement of the Equal Pay Act. These interpretations would replace those issued by the Department of Labor which appear at 29 CFR Part 800.

Timetable:

Action	Date	FR Cite
Previous NPRM	09/01/81	46 FR 43848
Comment Period for Prev. NPRM ended	11/02/81	
Final Action	09/00/84	

Small Entity: No

Agency Contact: Anthony J. DeMarco, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6592

RIN: 3046-AA07

6. TITLE VI REGULATIONS

Legal Authority: 42 USC 2000d et seq Title VI of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1616

Abstract: These regulations will establish procedures for organizations receiving Federal funds from EEOC and for persons who believe they have been discriminated against by organizations receiving Federal funds from EEOC. Department of Justice has not issued a definitive ruling on Commission responsibility for these regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Gary L. Janus, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6690

RIN: 3046-AA09

7. COORDINATION OF FEDERAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Legal Authority: EO 12067 Sec 1-303; EO 12067 Sec 1-304

CFR Citation: 29 CFR 1690

Abstract: These amendments to 29 CFR 1690 will implement an agreement reached by EEOC and the Department of Justice with the Office of Management and Budget which clarified the sequence to be followed when agencies are required to seek prepublication clearance of equal employment opportunity rules from EEOC under E.O. 12067, DOJ under E.O. 12250, and from OMB under E.O. 12291 and the Paperwork Reduction Act. In addition to clearance by the EEOC under E.O. 12067, equal employment opportunity rules issued under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, or any other provision of Federal statutory law which prohibits discrimination under any program or activity receiving Federal financial assistance, require clearance from DOJ under E.O. 12250. Technical amendments have been coordinated with affected Federal agencies and are awaiting OMB approval.

Timetable:

Action	Date	FR Cite
Technical Amendments	00/00/00	

Small Entity: No

Agency Contact: Stuart Frisch, Assistant Legal Counsel, Equal Employment Opportunity Commission, Coordination and Guidance, Office of Legal Counsel, 202 634-7581

RIN: 3046-AA10

8. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Abstract: Comprehensive revision of regulations for processing individual and class EEO complaints in the Federal sector. Under development.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Equal Employment Opportunity Commission, Public Sector Programs, Office of Program Operations, 202 634-6753

RIN: 3046-AA11

9. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Abstract: Comprehensive revision of regulations on affirmative action in the Federal sector. Under development.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Equal Employment Opportunity Commission, Public Sector Programs, Office of Program Operations, 202 634-6753

RIN: 3046-AA12

10. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Abstract: Development of interim procedural regulations for the Federal sector requiring that all allegations of reprisal discrimination be processed as regular complaints. Staff draft transmitted to Federal agencies for comments, Sept. 1982.

Timetable:

Action	Date	FR Cite
Draft transmitted to agencies	09/00/82	
Interim Final Rule	05/02/83	48 FR 19705
Final Action	12/00/83	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Equal Employment Opportunity Commission, Public Sector Programs, Office of Program Operations, 202 634-6753

RIN: 3046-AA13

11. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Abstract: Development of interim procedural regulations for processing complaints of discrimination about personnel actions which are appealable to the Merit Systems Protection Board (mixed case complaints). Staff draft transmitted to Federal agencies for comments, Sept. 1982.

Timetable:

Action	Date	FR Cite
Draft transmitted to agencies	09/00/82	
Interim Final Rule	05/02/83	48 FR 19705
Final Action	12/00/83	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Equal Employment Opportunity Commission, Public Sector Programs, Office of Program Operations, 202 634-6753

RIN: 3046-AA14

12. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Abstract: Development of interim procedural regulations for administratively appealing decisions on grievances where an allegation of discrimination has been raised. Staff draft transmitted to Federal agencies for comments, Sept. 1982.

Timetable:

Action	Date	FR Cite
Draft transmitted to agencies	09/00/82	
Interim Final Rule	05/02/83	48 FR 19705
Final Action	12/00/83	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Equal Employment Opportunity Commission, Public Sector Programs, Office of Program Operations, 202 634-6753

RIN: 3046-AA15

13. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Legal Authority: 29 USC 206(d) et seq Equal Pay Act of 1963; 29 USC 204(f) Fair Labor Standards Act of 1938, as amended; 29 USC 206(d) Fair Labor Standards Act of 1938, as amended

CFR Citation: 29 CFR 1613

Abstract: Development of procedural regulations for processing Federal sector complaints filed under the Equal Pay Act. Under development.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	01/00/84	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Equal Employment Opportunity Commission, Public Sector Programs, Office of Program Operations, 202 634-6753

RIN: 3046-AA16

14. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 2000e-16 Sec 717 of Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act; 6 USC 7121 Civil Service Reform Act of 1978

CFR Citation: 29 CFR 1613

Abstract: The proposed notice of rule making is intended to address the processing of federal sector EEO appeals on the questions of finality, requests to reopen, compliance with, enforcement of, and clarity of Commission decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: No

Agency Contact: Robbie Dix, Director, Appeals Division, Equal Employment Opportunity Commission, Office of Review and Appeals, 703 756-6000

RIN: 3046-AA17

15. INTERPRETATIVE BULLETIN ON EMPLOYEE BENEFIT PLANS

Legal Authority: 29 USC 628 The Age Discrimination in Employment Act of 1967

CFR Citation: 29 CFR 1625.10

Abstract: Comprehensive review of regulations dealing with costs and benefits under employee benefit plans.

Timetable:

Action	Date	FR Cite
Publication of request for comments	09/00/83	

Small Entity: Yes

Agency Contact: John J. Pagano, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6592

RIN: 3046-AA18

16. ⊕SUBSTANTIVE REGULATIONS ON HEALTH INSURANCE BENEFITS FOR EMPLOYEES AGE 65 TO 69

Legal Authority: 29 USC 621 et seq Age Discrimination in Employment Act of 1967

CFR Citation: 29 CFR 1625

Abstract: Implement Section 4(g) of the Age Discrimination in Employment Act of 1967, as amended, enacted by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/83	48 FR 26434
Begin Review	06/06/83	48 FR 26434
End Review	10/31/83	
Final Action	12/01/83	
Final Action Effective	12/01/83	

Small Entity: No

Agency Contact: John J. Pagano, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6592

RIN: 3046-AA19

VOL 48 ISS 201 OCT 17 1983 UMI

EEOC — **Current and Projected Rulemakings**

17. ◉ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PROGRAMS

Legal Authority: 29 USC 794 Section 504, Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 1615

Abstract: Commission consideration of draft regulation setting forth procedures and policies to assure nondiscrimination for handicapped individuals in Commission employment and programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: S. Jennifer Johnson, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6592

RIN: 3046-AA20

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — **Existing Regulations Under Review**

18. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Priority: Task Force

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964; 29 USC 621 et seq Age Discrim in Employment Act of 1967

CFR Citation: 29 CFR 1607

Abstract: UGESP Recordkeeping Provisions. On March 15, 1983, the Commission voted to review those portions of the recordkeeping provisions of the Guidelines which relate to the maintenance of data necessary to determine adverse impact. Pursuant to that vote, the Commission published in the Federal Register a notice seeking public comment in general and on several specific questions about UGESP recordkeeping. 48 Fed. Reg. 34766 (Aug. 1, 1983). Comments were to be received by August 31, 1983. Thereafter the Commission intended to review the comments and determine further appropriate action.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Next Action Undetermined

Small Entity: No

Agency Contact: Anthony DeMarco, Equal Employment Opportunity Commission, Legal Services, Office of Legal Counsel, 202 634-6592

RIN: 3046-AA00

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — **Completed Actions**

COMPLETED RULEMAKINGS

19. GUIDELINES ON DISCRIMINATION BECAUSE OF SEXUAL HARASSMENT

CFR Citation: 29 CFR 1604

Completed:

Reason	Date	FR Cite
Decision not to review	03/08/83	

Small Entity: No

Agency Contact: Merle Morrow 202 634-7623

RIN: 3046-AA01

20. PROCEDURES: AGE DISCRIMINATION IN EMPLOYMENT ACT

CFR Citation: 29 CFR 1626

Completed:

Reason	Date	FR Cite
Final Action	01/03/83	48 FR 138

Small Entity: No

Agency Contact: John J. Pagano 202 634-6592

RIN: 3046-AA08

[FR Doc. 83-28047 Filed 10-14-83; 8:45 am]
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VOL 48 ISS 201 OCT 17 1983 UMI

federal register

Monday
October 17, 1983

Part XXII

Federal Emergency Management Agency

Semiannual Agenda

VOL
48
ISS
201
OC
17
1983
UMI

FEMA

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual Agenda.

SUMMARY: Pursuant to section 5 of Executive Order 12291 ("Federal Regulations") the Federal Emergency Management Agency is publishing its semiannual agenda for FEMA. The agenda lists regulations that will be under development or review during the period October 1, 1983 to October 1, 1984.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 835, 500 C Street, SW, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: For general information contact William L. Harding, Assistant General Counsel, Legislation and Regulations, Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472 (202) 287-0377. For additional information about a specific regulation contact the person listed as the contact point in the agenda.

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulations," (46 FR 13193) directs each Executive agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is called for at least semiannually in order to give the public adequate notice of agency rulemaking activities; also publication of a regulatory flexibility agenda concerning rules likely to have a significant impact on a substantial number of small entities must be published in accordance with 5 U.S.C. 602 and 605.

In fulfillment of requirements imposed by the Executive Order and 5 U.S.C. 601, *et seq.*, this agenda describes current and projected regulations, and regulations which will be under review during the period October 1, 1983 to October 1, 1984. This agenda also contains information on regulations on which action was completed since the last FEMA semiannual agenda published April 25, 1983 at 48 FR 18526.

Public comment on the agenda, including that by State and local governments, is invited and should be submitted to the Rules Docket Clerk.

The agenda is not limited to major or significant rules and contains as much information as possible concerning all FEMA regulations to be published in the next 12 months except for routine flood elevation determinations, listing of eligible communities under the National Flood Insurance Program, listing of suspended communities and similar designations.

DATED: August 25, 1983.

George Jett,

General Counsel.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Nondiscrimination in Federally-Assisted Programs	3067-AA00
2	Financial Assistance, Grants and Cooperative Agreements	3067-AA01
3	National Flood Insurance Program Flood Plain Management Criteria for Flood-Prone Areas (44 CFR 60)	3067-AA03
4	Flood Insurance Policy and Other Changes in Policy Coverage	3067-AA06
5	National Flood Insurance Program, Waiting Period Rule Change and Other Changes in Terms and Conditions of Policy	3067-AA07
6	Disaster Assistance - Declaration Processing	3067-AA08
7	Disaster Assistance - Individual Assistance - Crisis Counseling	3067-AA11
8	Part 205 - Federal Disaster Assistance (PL 93-288, Subpart M - Hazard Mitigation)	3067-AA13
9	Civil Defense, State and Local Emergency Management Assistance (EMA)	3067-AA14
10	Review and Approval of State and Local Radiological Emergency Plans and Preparedness	3067-AA15
11	Claims Under the Military Personnel and Civilian Employees' Claims Act of 1964	3067-AA20
12	Appeals of Cost Comparison Decisions Under OMB Circular A-76	3067-AA21
13	Rules and Regulations Governing Special Facility Buildings and Grounds	3067-AA22
14	National Flood Insurance Program	3067-AA23
15	Disaster Assistance, Public Assistance Subpart E	3067-AA24
16	Individual and Family Grant Program	3067-AA25
17	Debarred, Suspended, and Ineligible Bidders	3067-AA26
18	Collection of Claims by the Government Under the Debt Collection Act of 1982	3067-AA29
19	Floodplain Management and Protection of Wetlands	3067-AA30
20	Information Security Program	3067-AA31
21	Public Safety Awards to Public Officers	3067-AA39
22	Purchase of Insurance and Adjustment of Claims	3067-AA40
23	Insurance Coverage and Rates National Flood Insurance Program Emergency Phase	3067-AA41
24	Enforcement of Nondiscrimination on Basis of the Handicap in FEMA programs	3067-AA42
25	FEMA Procurement Regulations	3067-AA50
26	Federal Radiological Emergency Response Plan	3067-AA51
27	Consolidated Grants to Insular Areas	3067-AA52
28	Cost Eligibility Regulations - Proposed Amendments	3067-AA53
29	Reimbursement for Costs of Firefighting on Federal Property	3067-AA54

FEMA

Existing Regulations Under Review

Sequence Number	Title	RIN
30	*Executive Order 11988, Floodplain Management -- Regulatory Review	3067-AA18
31	Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas	3067-AA32
32	Policy Guidance and Delegation of Authorities for Use of Priorities and Allocations to Maximize Domestic Energy Supplies	3067-AA33
33	Use of Priorities and Allocation Authority for Federal Supply Classification (FSC) Common Use Items (DMO-12)	3067-AA34
34	General Policies for Strategic and Critical Materials Stockpiling (DMO-11)	3067-AA35
35	Policy on Use of Government-owned Industrial Plant Equipment by Private Industry (DMO-10A)	3067-AA36
36	Policy Guidance for a National Emergency Blood Program	3067-AA37
37	Emergency Health and Medical Occupations	3067-AA38
38	National Security Policy Governing Scientific and Engineering Manpower (DMO-5)	3067-AA43
39	Guidance on Priority Use of Resources in Immediate Post Attack Period (DMO-4)	3067-AA44
40	Defense Production Priorities and Allocations Authority	3067-AA45
41	Maintenance of the Mobilization Base	3067-AA46
42	Dispersion and Protective Construction: Policy, Criteria Responsibilities (DMO-1)	3067-AA47
43	Contributions for Civil Defense Equipment	3067-AA48
44	Advisory Committees	3067-AA49

*Indicates priority regulation.

Completed Actions

Sequence Number	Title	RIN
45	Flood Insurance: Reduction of Publications	3067-AA02
46	National Flood Insurance Program, Scheduled Policy	3067-AA04
47	National Flood Insurance Program, New Rating System	3067-AA05
48	Disaster Assistance - Individual Assistance & (Subpart D) Temporary Housing	3067-AA09
49	Disaster Assistance - Individual Assistance (Subpart D) Cora Brown	3067-AA10
50	State and Local Consultation: Executive Order 12372 Implementation	3067-AA17
51	Solicitation of Social Security Numbers	3067-AA19
52	Extraordinary Contractual Relief	3067-AA27
53	National Flood Insurance Program Appeals Submission	3067-AA28
54	Implementation of Coastal Barriers Resources Act	3067-AA55
55	Federal Crime Insurance Program - Coverage Rates and Prescribed Policy Form	3067-AA56

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Current and Projected Rulemakings

1. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 42 USC 2000d-1; 29 USC 794; 20 USC 1682; 42 USC 6103; 42 USC 5151; Reorganization Plan No. 3 of 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 7

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975 and section 311 of the Disaster Relief Act of 1974. A draft regulation is undergoing interagency review. The Notice of proposed rulemaking will be issued as soon as interagency clearances are obtained.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	
NPRM Comment Period Begin	02/00/84	
NPRM Comment Period End	04/00/84	

Small Entity: No

Agency Contact: John J. Brosnahan, Director, Office of Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0700

RIN: 3067-AA00

2. FINANCIAL ASSISTANCE, GRANTS AND COOPERATIVE AGREEMENTS

Legal Authority: Reorganization Plan No. 3 of 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 13

Abstract: These proposed rules apply to grants and cooperative agreements entered into by FEMA. It defines terms, and sets forth certain general policies applicable to discretionary grants, including standard clauses. Payments procedures and closeouts are covered.

Timetable:

Action	Date	FR Cite
NPRM	09/15/83	
NPRM Comment Period Begin	09/15/83	

VOL
48
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201
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Action	Date	FR Cite
NPRM Comment Period End	11/15/83	
Final Action	02/00/84	

Small Entity: No

Agency Contact: Arthur E. Curry, Director, Policy Division, Federal Emergency Management Agency, Office of Comptroller, 500 C Street, SW, Washington, DC20472, 202 287-0630

RIN: 3067-AA01

3. NATIONAL FLOOD INSURANCE PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS (44 CFR 60)

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 59; 44 CFR 60

Abstract: The Federal Emergency Management Agency (FEMA) proposes to revise the minimum flood plain management standards for community participation in the National Flood Insurance Program (NFIP). To be eligible for the sale of flood insurance, communities are required to adopt local flood plain management measures which meet these minimum standards. FEMA requests comments from interested persons on how to improve the efficiency of the NFIP while maintaining the effectiveness of these minimum standards in reducing flood losses. Comments are sought especially on the treatment of mobile homes, clarification of terms used in the NFIP regulations, how alluvial fan flooding should be addressed, and on ways in which to increase State involvement in flood plain management efforts.

Timetable:

Action	Date	FR Cite
ANPRM	12/13/82	47 FR 55752
ANPRM Comment Period Begin	12/13/82	
ANPRM Comment Period End	03/14/83	
NPRM	01/00/84	

Small Entity: No

Agency Contact: Melinda Hulsey, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0269

RIN: 3067-AA03

4. FLOOD INSURANCE POLICY AND OTHER CHANGES IN POLICY COVERAGE

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61

Abstract: This exclusion relates to new construction and substantial improvements in coastal barriers. After October 1, 1983, new construction and substantial improvements in Department of Interior designated undeveloped coastal barriers will not be insurable. Other items of exclusion include finished basements below lowest elevated floor, also deductible and other items.

Timetable:

Action	Date	FR Cite
NPRM	04/08/83	48 FR 15278
NPRM Comment Period Begin	04/08/83	
NPRM Comment Period End	06/07/83	
Interim Final Rule	08/30/83	
Final Action	10/01/83	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW, Washington, DC 20472, 202 287-0740

RIN: 3067-AA06

5. NATIONAL FLOOD INSURANCE PROGRAM, WAITING PERIOD RULE CHANGE AND OTHER CHANGES IN TERMS AND CONDITIONS OF POLICY

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61

Abstract: This regulation would amend the waiting period rule so as to lengthen the waiting period for increased coverage in mid-policy term from one day to five days. Policy changed to provide fraud will be grounds for denial of coverage, adding a policyholder questionnaire to assist in rating policies, etc.

Timetable:

Action	Date	FR Cite
NPRM	04/08/83	48 FR 15278
NPRM Comment Period Begin	04/08/83	
NPRM Comment Period End	06/07/83	
Interim Final Rule	08/30/83	
Final Action	10/01/83	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW, Washington, DC 20472, 202 287-0740

RIN: 3067-AA07

6. DISASTER ASSISTANCE - DECLARATION PROCESSING

Legal Authority: 42 USC 5121 et seq Disaster Relief Act of 1974

CFR Citation: 44 CFR 205

Abstract: This regulation pertains to Governors' requests for declaration of major disasters or emergencies, processing of their requests, declaration by the President, activities of Federal Coordinating Officers, designation of areas eligible for assistance, and types of assistance to be provided. Comments from the Proposed Rule are being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	04/26/82	47 FR 17956
NPRM Comment Period Begin	06/26/82	
Interim Final Rule	12/13/82	47 FR 55756
Final Action	09/00/83	
Final Action Effective	10/00/83	

Small Entity: No

Agency Contact: Sewall H.E. Johnson, Office of Disaster Assistance Programs, Federal Emergency Management Agency, Direct of St and Loc Programs and Support, 500 C Street, SW, Washington, DC 20472, 202 287-0501

RIN: 3067-AA08

7. DISASTER ASSISTANCE - INDIVIDUAL ASSISTANCE - CRISIS COUNSELING

Legal Authority: 42 USC 5183 Disaster Relief Act of 1974, as amended

CFR Citation: 44 CFR 205.59

Abstract: This proposed rule will implement the Crisis Counseling Assistance and Training provisions of the Disaster Relief Act. It will include eligibility criteria, application and appeal procedures, and requirements for State planning. The Crisis Counseling Assistance and Training program provides mental health services to those who may have disaster-related needs.

Timetable:

Action	Date	FR Cite
Final Action	10/01/83	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW, Washington, DC 20472, 202 287-0740

RIN: 3067-AA07

6. DISASTER ASSISTANCE - DECLARATION PROCESSING

Legal Authority: 42 USC 5121 et seq Disaster Relief Act of 1974

CFR Citation: 44 CFR 205

Abstract: This regulation pertains to Governors' requests for declaration of major disasters or emergencies, processing of their requests, declaration by the President, activities of Federal Coordinating Officers, designation of areas eligible for assistance, and types of assistance to be provided. Comments from the Proposed Rule are being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	04/26/82	47 FR 17956
NPRM Comment Period Begin	06/26/82	
Interim Final Rule	12/13/82	47 FR 55756
Final Action	09/00/83	
Final Action Effective	10/00/83	

Small Entity: No

Agency Contact: Sewall H.E. Johnson, Office of Disaster Assistance Programs, Federal Emergency Management Agency, Direct of St and Loc Programs and Support, 500 C Street, SW, Washington, DC 20472, 202 287-0501

RIN: 3067-AA08

7. DISASTER ASSISTANCE - INDIVIDUAL ASSISTANCE - CRISIS COUNSELING

Legal Authority: 42 USC 5183 Disaster Relief Act of 1974, as amended

CFR Citation: 44 CFR 205.59

Abstract: This proposed rule will implement the Crisis Counseling Assistance and Training provisions of the Disaster Relief Act. It will include eligibility criteria, application and appeal procedures, and requirements for State planning. The Crisis Counseling Assistance and Training

program provides mental health services to those who may have disaster-related needs.

Timetable:

Action	Date	FR Cite
NPRM	11/15/83	
NPRM Comment Period Begin	11/15/83	
NPRM Comment Period End	01/14/84	
Final Action	04/15/84	
Final Action Effective	05/15/84	

Small Entity: No

Agency Contact: Agnes Mravcak, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0555

RIN: 3067-AA11

8. PART 205 - FEDERAL DISASTER ASSISTANCE (PL 93-288, SUBPART M - HAZARD MITIGATION)

Legal Authority: 42 USC 5121 et seq Disaster Relief Act of 1974

CFR Citation: 44 CFR 205.400

Abstract: The proposed rule revision clarifies the hazard mitigation provisions of the Disaster Relief Act of 1974 by specifying general plan requirements and guidelines as well as other procedural requirements. The Hazard Mitigation Requirement is intended to serve as an aid to State and local governments in developing an overall mitigation program to minimize the costs of natural disasters.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	

Small Entity: No

Agency Contact: Laurence W. Zensinger, Acting Chief, Hazard Mitigation Branch, Federal Emergency Management Agency, Disaster Assistance Programs, Room 713, 500 C Street, SW, Washington, DC 20472, 202 287-0520

RIN: 3067-AA13

9. CIVIL DEFENSE, STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE (EMA)

Legal Authority: 50 USC App 2286 Federal Civil Defense Act of 1950

CFR Citation: 44 CFR 302

Abstract: The proposed rule will elicit comments on the entire 44 CFR 302 and specifically on a revised allocation formula promulgated by an amendment to the Federal Civil Defense Act requiring that in allocating EMA funds, due regard be given to areas prone to natural disaster.

Timetable:

Action	Date	FR Cite
ANPRM	04/08/82	47 FR 14500
ANPRM Comment Period End	05/05/82	
NPRM	06/13/83	48 FR 27105
NPRM Comment Period Begin	06/13/83	
NPRM Comment Period End	08/12/83	
Final Action	09/15/83	
Final Action Effective	10/15/83	

Small Entity: No

Agency Contact: Donald J. Carbone, Chief, Management Development Branch, Federal Emergency Management Agency, Office of Emergency Management Programs, Direct of St and Loc Prog and Support, 500 C St., SW, Washington, DC 20472, 202 287-3850

RIN: 3067-AA14

10. REVIEW AND APPROVAL OF STATE AND LOCAL RADIOLOGICAL EMERGENCY PLANS AND PREPAREDNESS

Legal Authority: 50 USC App 2251 et seq; 42 USC 5121 et seq; EO 12148

CFR Citation: 44 CFR 350

Abstract: Rule establishes procedures by which FEMA reviews and approves State and local plans and preparedness for coping with the offsite effects of radiological emergencies which may occur at nuclear power facilities. Plans voluntarily submitted for review. The FEMA findings can be used by NRC in its licensing proceedings. Rule sets out criteria telling how and when a State submits plans and describes FEMA process for reviewing and approving plans.

Timetable:

Action	Date	FR Cite
Previous NPRM	06/24/80	45 FR 42341
NPRM	08/19/82	47 FR 36388
NPRM Comment Period End	10/18/82	
Final Action	09/10/83	
Final Action Effective	10/10/83	

Small Entity: No

Agency Contact: Marshall E. Sanders, Chief, Program Development Branch, Federal Emergency Management Agency, Technical Hazards Division, Drctrt of State & Local Programs and Support, 500 C St., SW, Washington, DC 20472, 202 287-0179

RIN: 3067-AA15

11. CLAIMS UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964

Legal Authority: 31 USC 3721

CFR Citation: 44 CFR 11.60 to 11.69

Abstract: The Military Personnel and Civilian Employees' Claims Act of 1964 31 USC 241, authorizes the head of an agency, with certain exceptions, to pay the claim made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss to, personal property incident to his or her service. This rule would implement the statute.

Timetable:

Action	Date	FR Cite
NPRM	10/17/83	
NPRM Comment Period Begin	10/17/83	
NPRM Comment Period End	12/17/83	

Small Entity: No

Agency Contact: George W. Watson, Associate General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0376

RIN: 3067-AA20

12. APPEALS OF COST COMPARISON DECISIONS UNDER OMB CIRCULAR A-76

Legal Authority: 31 USC 1 et seq; 41 USC 401 et seq

CFR Citation: 44 CFR 14

Abstract: OMB Circular A-76 establishes Federal policy regarding the operation of commercial activities. In compliance with OMB Circular A-76 the Federal Emergency Management Agency is establishing an informal administrative procedure to resolve appeals from directly affected parties questioning the determination between contract and in-house performance. The appeal procedure will apply only to decisions resulting from cost

VOL 48 ISS 201 OCT 17 1983 UMI

comparisons performed in compliance with OMB Circular A-76.

Timetable:

Action	Date	FR Cite
NPRM	10/17/83	
NPRM Comment Period Begin	10/17/83	
NPRM Comment Period End	12/17/83	

Small Entity: No

Agency Contact: George W. Watson, Associate General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0376

RIN: 3067-AA21

13. RULES AND REGULATIONS GOVERNING SPECIAL FACILITY BUILDINGS AND GROUNDS

Legal Authority: EO 12127; EO 12148; EO 11490; EO 10421; 40 USC 318 to 318d

CFR Citation: 44 CFR 15

Abstract: Pursuant to a delegation of authority from the Administrator of General Services, these rules and regulations apply to all the property known as the "Special Facility" which is owned, operated or under the charge and control of the Federal Emergency Management Agency and to all persons entering, while on, or leaving the property.

Timetable:

Action	Date	FR Cite
NPRM	10/17/83	
NPRM Comment Period Begin	10/17/83	
NPRM Comment Period End	12/17/83	

Small Entity: No

Agency Contact: Bernard T. Gallagher, Assistant Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 703 366-1600

RIN: 3067-AA22

14. NATIONAL FLOOD INSURANCE PROGRAM

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 59; 44 CFR 61; 44 CFR 62

Abstract: This regulation will accommodate planned FEMA insurance industry cooperative agreements for the write-your-own policies. This will enable program to be carried out under highest insurance standards in use in private sector. NFIP will broaden marketing base Regulation establishes procedure by which NFIP coverage is provided to policyholders by private insurance companies through their policies.

Timetable:

Action	Date	FR Cite
NPRM	07/29/83	48 FR 34482
NPRM Comment Period Begin	07/29/83	
NPRM Comment Period End	09/27/83	
Final Action	10/27/83	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0740

RIN: 3067-AA23

15. DISASTER ASSISTANCE, PUBLIC ASSISTANCE SUBPART E

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205

Abstract: This rule will implement FEMA responsibilities under the Coastal Barrier Act which was recently adopted.

Timetable:

Action	Date	FR Cite
NPRM	12/01/83	
NPRM Comment Period Begin	12/01/83	
NPRM Comment Period End	02/01/84	

Small Entity: No

Agency Contact: Charles Stuart, General Engineer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0580

RIN: 3067-AA24

16. INDIVIDUAL AND FAMILY GRANT PROGRAM

Legal Authority: 42 USC 5178; 42 USC 5201

CFR Citation: 44 CFR 205.54

Abstract: The Individual and Family Grant program relations are being revised to provide privacy protection to individuals who apply for assistance. Currently, unless the State administering the program has a privacy act, nothing prevents a State from making names of grant applicants and the amounts of assistance received available to the public. This rule adds a condition protecting confidentiality. This is a proposed amendment to the Individual and Family Grant program regulations, 44 CFR 205.54, which are already published as a final rule at 47 FR 10553.

Timetable:

Action	Date	FR Cite
NPRM	05/20/83	48 FR 22756
NPRM Comment Period Begin	05/20/83	
NPRM Comment Period End	07/19/83	
Final Action	09/15/83	
Final Action Effective	10/00/83	

Small Entity: No

Agency Contact: Agnes C. Mravcak, Disaster Program Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0550

RIN: 3067-AA25

17. DEBARRED, SUSPENDED, AND INELIGIBLE BIDDERS

Legal Authority: 41 USC 405

CFR Citation: 41 CFR 44-1.6

Abstract: The regulation governing debarred, suspended and ineligible bidders is changed to comport with FPR Temporary Regulation 65. The regulations prescribe the Federal Emergency Management Agency's policy and procedures for (1) distribution, use, and maintenance of the General Services Administration's (GSA) consolidated Government-wide list of debarred, suspended and ineligible contractors; and (2) debarment and suspension of Government contractors. The intended effect of this stated policy and procedures is to ensure that Government contracts are awarded for responsible contractors.

Timetable:

Action	Date	FR Cite
NPRM	10/17/83	
NPRM Comment Period Begin	10/17/83	
NPRM Comment Period End	12/17/83	

Small Entity: No

Agency Contact: George W. Watson, Associate General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0376

RIN: 3067-AA26

18. COLLECTION OF CLAIMS BY THE GOVERNMENT UNDER THE DEBT COLLECTION ACT OF 1982

Legal Authority: PL 97-365; 31 USC 3711 et seq; 31 USC 951 to 955

CFR Citation: 44 CFR 11.30 to 11.59

Abstract: The proposed rule amends the existing FEMA collection of claims by the Government to reflect changes made by the Debt Collection Act of 1982 (PL 97-365). Changes are made to provisions relating to reporting information to consumer reporting agencies, Federal employee and retiree salary set-offs, administrative offset procedures, charging of interest, penalties, and charges for overdue debts, contracts for the collection of debts. Procedures are set forth for administrative review of amounts owed and scheduling of payments.

Timetable:

Action	Date	FR Cite
NPRM	06/17/83	48 FR 27791
NPRM Comment Period Begin	06/17/83	
NPRM Comment Period End	08/16/83	
Interim Final Rule	09/10/83	
Final Action	10/10/83	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Local, State, Federal

Agency Contact: George W. Watson, Associate General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0376

RIN: 3067-AA29

19. FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

Legal Authority: 42 USC 5201; EO 11988; EO 11990

CFR Citation: 44 CFR 9.5; 44 CFR 9.8; 44 CFR 9.11; 44 CFR 9.13

Abstract: This regulation reduces the number of actions subject to the full 8-step process required by the regulation, while nevertheless obtaining a maximum amount of mitigation for the resources used. The rule adds use of existing resources for temporary housing to list of exemptions (except for Step 1).

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	07/01/83	
NPRM Comment Period End	09/01/83	
NPRM	10/01/83	

Small Entity: No

Agency Contact: John L. Scheibel, Assistant General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0387

RIN: 3067-AA30

20. INFORMATION SECURITY PROGRAM

Legal Authority: EO 12356

CFR Citation: 44 CFR 8

Abstract: Regulation implements provisions of EO 12356 and sets forth guides and guidelines for classifying, declassifying and downgrading national security information under the agency information security program.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	
NPRM Comment Period Begin	09/30/83	
NPRM Comment Period End	11/29/83	

Small Entity: No

Agency Contact: Arlan L. Kinney, Director, Office of Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0700

RIN: 3067-AA31

21. ●PUBLIC SAFETY AWARDS TO PUBLIC OFFICERS

Legal Authority: 15 USC 2214

CFR Citation: 44 CFR 150

Abstract: This regulation revises the procedure for public safety awards to firefighters, law enforcement officers and civil defense officers. It describes the nomination criteria and the selection process for such awards which are made by the President, Attorney General, or Director, FEMA.

Timetable:

Action	Date	FR Cite
NPRM	09/15/83	
NPRM Comment Period Begin	09/15/83	
NPRM Comment Period End	11/15/83	

Small Entity: No

Agency Contact: Thomas Ainora, Attorney Advisor, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0379

RIN: 3067-AA39

22. ●PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Legal Authority: 12 USC 1749 bbb-17

CFR Citation: 44 CFR 61.1

Abstract: Rules amend list of eligible States under Federal Crime Insurance Program to remove 4 States from those where Federal Crime Insurance is available.

Timetable:

Action	Date	FR Cite
NPRM	07/21/83	48 FR 31892
NPRM Comment Period Begin	07/21/83	
NPRM Comment Period End	09/21/83	
Final Action	09/22/83	
Final Action Effective	10/01/83	

Small Entity: No

Agency Contact: Robert J. DeHenzel, Director, Urban Property Insurance Operation, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0600

RIN: 3067-AA40

23. ●INSURANCE COVERAGE AND RATES NATIONAL FLOOD INSURANCE PROGRAM EMERGENCY PHASE

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61.9

Abstract: This regulation increases chargeable rates for insurance under the National Flood Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	07/15/83	48 FR 32368
NPRM Comment Period Begin	07/15/83	
NPRM Comment Period End	09/15/83	

VOL 48 ISS 201 OCT 17 1983 UMI

Action	Date	FR Cite
Final Action	09/25/83	
Final Action Effective	10/01/83	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0740

RIN: 3067-AA41

24. ●ENFORCEMENT OF NONDISCRIMINATION ON BASIS OF THE HANDICAP IN FEMA PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 44 CFR 16

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of section 504 of the Rehabilitation Act of 1973, as amended in 1978 to include activities conducted directly by Federal agencies. A draft regulation is now in preparation which will include interagency review, including that with the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	
NPRM Comment Period Begin	01/00/84	
NPRM Comment Period End	05/00/84	

Small Entity: No

Agency Contact: John J. Brosnahan, Director, Office of Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0700

RIN: 3067-AA42

25. ●FEMA PROCUREMENT REGULATIONS

Legal Authority: 40 USC 486(o)

CFR Citation: 41 CFR 44-1

Abstract: General Services Administration and others will shortly publish the Federal Aquisition Regulation (FAR) which will replace existing procurement regulations. It will be effective April 1, 1984. FAR will call for agency implementing regulations. This FEMA regulation will revise the current FEMA procurement regulations to conform them to FAR and will also implement FAR.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	
NPRM Comment Period Begin	01/00/84	
NPRM Comment Period End	03/00/84	
Final Action	04/01/84	

Small Entity: No

Agency Contact: Steve Goodman, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3826

RIN: 3067-AA50

26. ●FEDERAL RADIOLOGICAL EMERGENCY RESPONSE PLAN

Legal Authority: EO 12241

CFR Citation: 44 CFR 352

Abstract: On December 7,1979, the President directed FEMA to assume lead responsibility for all Federal offsite nuclear emergency planning and response. In EO 12241, he also delegated to FEMA the responsibility for the development and promulgation of a National Contingency Plan for Radiological Emergencies to be prepared in response to the provisions of sec. 304 of the Nuclear Regulatory Commission Appropriation Authorization (PL 96-295, June 30, 1980.) The Federal Radiological Emergency Response Plan (FRERP) will supersede the National Contingency Plan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/83	
Final Action	06/00/84	

Small Entity: No

Agency Contact: Vernon Adler, Test and Exercise Officer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0766

RIN: 3067-AA51

27. ●CONSOLIDATED GRANTS TO INSULAR AREAS

Legal Authority: 50 USC App 2251 et seq

CFR Citation: 44 CFR 304

Abstract: This regulation concerns consolidation of various types into one grant to an insular area (Virgin Islands, Guam, Samoa, Northern Marianas). The changes may expand the numbers of grants which may be consolidated.

Timetable:

Action	Date	FR Cite
NPRM	11/01/83	
NPRM Comment Period Begin	11/01/83	
NPRM Comment Period End	01/01/84	

Small Entity: No

Agency Contact: John Dickey, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3830

RIN: 3067-AA52

28. ●COST ELIGIBILITY REGULATIONS - PROPOSED AMENDMENTS

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205.76

Abstract: This proposed rule makes changes in the FEMA disaster assistance regulations implementing the Disaster Relief Act of 1974 (PL 93-288). Changes are made in the eligibility of costs of public assistance to State and local governments. This is being done in recognition of the commitment to the disaster effort now being made by applicants in the form of cost sharing of eligible costs.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: No

Agency Contact: Charles B. Stuart, General Engineer, Public Assist. Division, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0580

RIN: 3067-AA53

29. ●REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

Legal Authority: 15 USC 2210; 15 USC 2218(b)(5)

CFR Citation: 44 CFR 151

Abstract: This rule updates an existing regulation which describes procedure for a local fire service to make a claim under section 11 of the Federal Fire Prevention and Control Act for expenses and losses incurred in fighting fires on Federal property. This update is needed because of an organizational change.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	
NPRM Comment Period Begin	09/01/83	
NPRM Comment Period End	11/01/83	

Small Entity: No

Agency Contact: Arthur Curry, Director, Policy Division, Comptroller, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0630

RIN: 3067-AA54

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Existing Regulations Under Review

30. EXECUTIVE ORDER 11988, FLOODPLAIN MANAGEMENT – REGULATORY REVIEW

Priority: Task Force

Legal Authority: 42 USC 4001 et seq; 42 USC 4321 et seq National Environmental Policy Act 1969; EO 11988; EO 12148

CFR Citation: 44 CFR 9; 44 CFR 59 to 70

Abstract: Review of Federal agency compliance with Executive Order 11988. Determination of impact on level of unwise Federal support in designated floodplain areas. Review appropriateness of 100 year flood standard.

Timetable:

Action	Date	FR Cite
Final Report	05/00/83	
End Review	09/00/83	

Small Entity: No

Agency Contact: Richard Krimm, Assistant Associate Director, Federal Emergency Management Agency, Office of State and Local Programs, 500 C Street, SW, Washington, DC 20472, 202 287-0176

RIN: 3067-AA18

31. ●PRESERVATION OF THE MOBILIZATION BASE THROUGH THE PLACEMENT OF PROCUREMENT AND FACILITIES IN LABOR SURPLUS AREAS

Legal Authority: EO 10480; EO 12148

CFR Citation: 44 CFR 331

Abstract: This part sets policy and makes assignments with respect to award of contracts, etc. in labor surplus areas for purposes of preserving the mobilization base.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	02/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA32

32. ●POLICY GUIDANCE AND DELEGATION OF AUTHORITIES FOR USE OF PRIORITIES AND ALLOCATIONS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

Legal Authority: 50 USC 2061 et seq; PL 94-163, Sec 104

CFR Citation: 44 CFR 330

Abstract: This regulation establishes policy guidance on determinination and use of priorities and allocations for materials and equipment to maximize domestic energy supplies pursuant to section 101(c) of the Defense Production Act.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	02/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA33

33. ●USE OF PRIORITIES AND ALLOCATION AUTHORITY FOR FEDERAL SUPPLY CLASSIFICATION (FSC) COMMON USE ITEMS (DMO-12)

Legal Authority: 50 USC App 2061 et seq; EO 10480

CFR Citation: 44 CFR 329

Abstract: This part provides policy guidance concerning the use of priorities and allocations authority in Title I of Defense Production Act for the procurement of common use items in the Federal Supply Classification.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	04/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA34

34. ●GENERAL POLICIES FOR STRATEGIC AND CRITICAL MATERIALS STOCKPILING (DMO-11)

Legal Authority: 50 USC 98 et seq

CFR Citation: 44 CFR 328

Abstract: This part sets forth policies for the administration of strategic and critical materials stockpiling under the Strategic and Critical Materials Stock Piling Act.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	02/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA35

35. ●POLICY ON USE OF GOVERNMENT-OWNED INDUSTRIAL PLANT EQUIPMENT BY PRIVATE INDUSTRY (DMO-10A)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 327

Abstract: This part establishes policy on use by private industry of Government-owned industrial plant equipment to maintain a reserve of such equipment for emergency preparedness.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	02/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA36

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36. ●POLICY GUIDANCE FOR A NATIONAL EMERGENCY BLOOD PROGRAM

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 326

Abstract: This regulation presceibes objectives, policies and responsibilities of the National Emergency Blood Program.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	02/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA37

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37. ●EMERGENCY HEALTH AND MEDICAL OCCUPATIONS

Legal Authority: 50 USC App 2061; EO 11490

CFR Citation: 44 CFR 325

Abstract: This regulation lists emergency health and medical occupations in support of functions under Executive Order Assigning Emergency Preparedness Functions.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	04/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA43

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38. ●NATIONAL SECURITY POLICY GOVERNING SCIENTIFIC AND ENGINEERING MANPOWER (DMO-5)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 324

Abstract: This part provides policy on the training and utilization of the scientific and engineering workforce as it affects national security.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	04/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA45

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39. ●GUIDANCE ON PRIORITY USE OF RESOURCES IN IMMEDIATE POST ATTACK PERIOD (DMO-4)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 323

Abstract: This regulation states policy on use of resources in a post attack period and provides general guidance for Federal, State and local governments on activities to be accorded priority in use of resources, and list items essential to national survival.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	04/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA44

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40. ●DEFENSE PRODUCTION PRIORITIES AND ALLOCATIONS AUTHORITY

Legal Authority: 50 USC App 2061 et seq; EO 10480

CFR Citation: 44 CFR 322

Abstract: This regulation establishes policy guidance and delegates authority with respect to priorities and allocation functions in the Defense Production Act.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	02/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA45

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41. ●MAINTENANCE OF THE MOBILIZATION BASE

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 321

Abstract: This regulation deals with policies concerning the mobilization base for Department of Defense, Department of Energy, and Maritime Administration and includes procedures relating to selection and maintenance of the base.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	02/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA46

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42. ●DISPERSION AND PROTECTIVE CONSTRUCTION: POLICY, CRITERIA RESPONSIBILITIES (DMO-1)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 320

Abstract: This regulation establishes policy and criteria to encourage dispersal of facilities important to the national security and that these be located so as to reduce the risk of damage in event of attack.

Timetable:

Action	Date	FR Cite
Begin Review	08/15/83	
End Review	07/15/84	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3916

RIN: 3067-AA47

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43. ●CONTRIBUTIONS FOR CIVIL DEFENSE EQUIPMENT

Legal Authority: 50 USC App 2281(i)

CFR Citation: 44 CFR 301

Abstract: This regulation prescribes procedures and sets terms and conditions under which FEMA provides financial assistance to States and local governments for civil defense equipment, including emergency operations centers.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/83	
End Review	01/01/84	

Small Entity: No

Agency Contact: Joseph Mealy, Chief, Emergency Management System Support, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3886

RIN: 3067-AA48

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44. ●ADVISORY COMMITTEES

Legal Authority: 5 USC App 1

CFR Citation: 42 CFR 12

Abstract: This regulation implements for FEMA the Federal Advisory Committee Act and GSA regulations. The latter have recently been revised and the review will determine what modifications if any are needed in the FEMA regulation.

Timetable:

Action	Date	FR Cite
Begin Review	09/15/83	
End Review	11/15/83	

Small Entity: No

Agency Contact: Wesley Moore, Management Planning Officer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-3875

RIN: 3067-AA49

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

COMPLETED RULEMAKINGS

45. FLOOD INSURANCE: REDUCTION OF PUBLICATIONS

CFR Citation: 44 CFR 59; 44 CFR 64; 44 CFR 65; 44 CFR 67; 44 CFR 70

Completed:

Reason	Date	FR Cite
Final Action	06/21/83	48 FR 28277
Final Action Effective	06/21/83	

Small Entity: No

Agency Contact: Richard Sanderson 202 287-0270

RIN: 3067-AA02

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46. NATIONAL FLOOD INSURANCE PROGRAM, SCHEDULED POLICY

CFR Citation: 44 CFR 61

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/83	

Small Entity: No

Agency Contact: Donald L. Collins 202 287-0740

RIN: 3067-AA04

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47. NATIONAL FLOOD INSURANCE PROGRAM, NEW RATING SYSTEM

CFR Citation: 44 CFR 61

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/83	

Small Entity: No

Agency Contact: Donald L. Collins 202 287-0740

RIN: 3067-AA05

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48. DISASTER ASSISTANCE - INDIVIDUAL ASSISTANCE & (SUBPART D) TEMPORARY HOUSING

CFR Citation: 44 CFR 205.52

Completed:

Reason	Date	FR Cite
Final Action	07/18/83	48 FR 32734
Final Action Effective	09/16/83	

Small Entity: No

Agency Contact: Agnes Mravcak 202 287-0550

RIN: 3067-AA09

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49. DISASTER ASSISTANCE - INDIVIDUAL ASSISTANCE (SUBPART D) CORA BROWN

CFR Citation: 44 CFR 205.60

Completed:

Reason	Date	FR Cite
Final Action	06/24/83	48 FR 28990
Final Action Effective	06/24/83	

Small Entity: No

Agency Contact: Agnes Mravcak 202 287-0550

RIN: 3067-AA10

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50. STATE AND LOCAL CONSULTATION: EXECUTIVE ORDER 12372 IMPLEMENTATION

CFR Citation: 44 CFR 4

Completed:

Reason	Date	FR Cite
Final Action	06/24/83	48 FR 29308
Final Action Effective	09/30/83	

Small Entity: No

Agency Contact: William L. Harding 202 287-0377

RIN: 3067-AA17

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51. SOLICITATION OF SOCIAL SECURITY NUMBERS

CFR Citation: 44 CFR 6.3(c)

FEMA — **Completed Actions**

Completed:

Reason	Date	FR Cite
Final Action	03/23/83	48 FR 12091
Final Action Effective	04/22/83	

Small Entity: No

Agency Contact: Thomas Ainora 202 287-0379

RIN: 3067-AA19

52. EXTRAORDINARY CONTRACTUAL RELIEF

CFR Citation: 41 CFR 44-17.100 to 44-17.505

Completed:

Reason	Date	FR Cite
Final Action	08/22/83	
Final Action Effective	09/21/83	

Small Entity: No

Agency Contact: George W. Watson 202 287-0376

RIN: 3067-AA27

53. NATIONAL FLOOD INSURANCE PROGRAM APPEALS SUBMISSION

CFR Citation: 44 CFR 59; 44 CFR 67

Completed:

Reason	Date	FR Cite
Final Action	07/11/83	48 FR 31642
Final Action Effective	07/11/83	

Small Entity: No

Agency Contact: Brian Mrazik 202 287-0230

RIN: 3067-AA28

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

54. ●IMPLEMENTATION OF COASTAL BARRIERS RESOURCES ACT

Legal Authority: PL 97-348 Coastal Barrier Resources Act

CFR Citation: 44 CFR 71

Abstract: This rule implements section 11 of the Coastal Barrier Resources Act which prohibits new flood insurance coverage on or after October 1, 1983 for new construction or substantial improvement of structures on coastal barriers located within the Coastal Barrier Resourses system.

Timetable:

Action	Date	FR Cite
Final Action	08/07/83	48 FR 37036
Final Action Effective	10/01/83	

Small Entity: No

Agency Contact: John Scheibel, Assistant General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0387

RIN: 3067-AA55

55. ●FEDERAL CRIME INSURANCE PROGRAM - COVERAGE RATES AND PRESCRIBED POLICY FORM

Legal Authority: 12 USC 1749 bbb et seq

CFR Citation: 44 CFR 83

Abstract: This regulation redefines and simplifies terms in the Federal Crime Insurance residential policy and the commercial policy also. It is designed to provide greater clarity and reflect program experience.

Timetable:

Action	Date	FR Cite
Final Action	04/29/83	48 FR 19371
Final Action Effective	05/31/83	

Small Entity: No

Agency Contact: Robert J. DeHenzel, Director, Urban Property Insurance Operation, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 287-0600

RIN: 3067-AA56

[FR Doc. 83-28048 Filed 10-14-83; 8:45 am]
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VOL 48 ISS 201 OC 17 1983 UMI

federal register

Monday
October 17, 1983

Part XXIII

Federal Mediation and Conciliation Service

Unified Agenda of Federal Regulations

VOL
48
ISS
201
OC
17
1983
UMI

FMCS

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Semiannual agenda required by the Regulatory Flexibility Act of 1980.

SUMMARY: The Federal Mediation and Conciliation Service is considering the rewriting of one regulation subject to the Regulatory Flexibility Act during the six month period from October 1983 to April 1984. That regulation is Arbitration Policy and Practice.

FOR FURTHER INFORMATION CONTACT: Daniel P. Dozier, Associate General Counsel, 2100 K Street, N.W., Washington, D.C. 20427, (202) 653-5305.

September 29, 1983.
Kay McMurray,
Director.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Existing Regulations Under Review

REVIEW OF EXISTING ARBITRATION REGULATION

Legal Authority: 29 USC 172; 5 USC 552; 29 USC 173

CFR Citation: 29 CFR 1404

Abstract: The Federal Mediation and Conciliation Service is considering whether to rewrite its existing Arbitration Services regulation at 29 CFR Part 1404. The Service will decide whether to rewrite these rules by September 1983. If the Service does rewrite the regulation, a Notice of Proposed Rulemaking would be published and public comments solicited.

Timetable:

Action	Date	FR Cite
Decision to rewrite rules or not	09/00/83	

Small Entity: No

Agency Contact: Daniel P. Dozier, Associate General Counsel, Federal Mediation and Conciliation Service, 2100 K Street NW, Washington, DC 20427, 202 653-5305

RIN: 3076-AA01

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Completed Actions

COMPLETED REVIEWS

FEES FOR ARBITRATION SERVICES

CFR Citation: 29 CFR 1404

Abstract: The Federal Mediation and Conciliation Service is proposing to amend 29 CFR 1404 by (1) Deleting the first sentence of Sec. 1404.16(a) which states "No administrative or filing fee is changed by the Service," and (2) adding a new Subpart D - Fees for Arbitration Services. The purpose of the deletion and the new Subpart is to establish a system of fees which will equal the cost of the services provided by this agency's Division of Arbitration Services. The appropriation provisions for FMCS currently before the Congress provide that no part of the appropriation shall be available for arbitration services except to the extent that fees are collected from the users of such services, and that the Director of FMCS shall prescribe fees to recover the total expense of the service furnished. If these provisions are enacted, compliance by FMCS will be initiated by the issuance of final fee regulations within one month of enactment. The impact on small business would be analyzed after congressional authorization.

Timetable:

Action	Date	FR Cite
Withdrawn	09/01/83	
End Review	00/00/00	

Small Entity: Yes

Agency Contact: Daniel Dozier, Associate General Counsel, Federal Mediation and Conciliation Service, 202 653-5305

RIN: 3076-AA00

[FR Doc. 83-28049 Filed 10-14-83; 8:45 am]
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federal register

Monday
October 17, 1983

Part XXIV

General Services Administration

Unified Agenda of Federal Regulations

GSA

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, and 105

Unified Agenda of Federal Regulations

AGENCY: Office of Oversight, GSA.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those actions that were completed since April 1983. This agenda was developed under the guidelines in OMB Bulletin No. 83-15, dated June 28, 1983. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: John F. Gilmore, Acting Chief, Directives and Reports Management Branch (202-535-7658).

SUPPLEMENTARY INFORMATION: GSA has two priority regulations designated by the Presidential Task Force on Regulatory Relief. These regulations are listed under the category of current and projected rulemakings. None of the regulations listed are considered major under Executive Order 12291, Federal Regulation, or have effects on small businesses or other entities.

DATED: August 26, 1983.

Ray Kline,

Acting Administrator of General Services.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Federal Acquisition Regulation	3090-AA96
2	Revision of U.S. Government Bill of Lading Standard Forms	3090-AA04
3	Department of Defense Reservist/Retiree Military Emergency Travel Warrant	3090-AA05
4	Interest Assessment on Overcharges (Receivables)	3090-AA74
5	Unused Ticket Refund Procedures	3090-AA91
6	Revision of U.S. Government Transportation Request, Standard Form 1169	3090-AB11
7	Administrative Offset and Interest Assessment on Delinquent Refunds for Totally Unused Tickets	3090-AB12
8	Cancel Standard Form 1131, U.S. Government Transit Bill of Lading	3090-AB13
9	Change In Forms Sequence; SF 1103 Set, U.S. Government Bill of Lading	3090-AB15
10	Accountability for Tickets or Coupons	3090-AB16
11	Conveyance for Historic Monument Purposes	3090-AA35
12	National Defense Stockpile Disposal Regulations	3090-AA40
13	Delegation of Mineral Rights Disposal Authority	3090-AA46
14	Public Benefit Disposals	3090-AA75
15	Addition of Concurrent 30-Day Federal Agency and Public Use Screening Requirement	3090-AA77
16	Transfer of Excess Real Property	3090-AA78
17	Responsibility for Funding Care, Handling, Protection, Maintenance and Repair Costs of Excess and Surplus Real Property	3090-AA81
18	Negotiated Sales to Public Agencies	3090-AB09
19	Donation of Personal Property	3090-AA23
20	Donation of Abandoned and Forfeited Personal Property	3090-AA24
21	Expiration of FPMR Temporary Regulation H-22	3090-AA25
22	Recovery of Precious Metals	3090-AA26
23	Appearance Reconditioning of Civil Agency Vehicles, Prior to Sale	3090-AA27
24	Abandonment or Destruction of Surplus Property	3090-AA28
25	Acquisition and Use of Excess Personal Property	3090-AA30
26	Suspension of Direct Transfer Authority for Office Furniture and Equipment	3090-AA33
27	Transporation and Traffic Management	3090-AA73
28	FPMR Temporary Regulation G - Reconditioning of Motor Vehicles	3090-AA99
29	Transportation and Motor Vehicles	3090-AB00
30	FPMR Temporary Regulation E- Use of Gasohol in Federal Motor Vehicles	3090-AB01
31	Use of Carrier Contractors for Express Small Package Transportation Federal Property Management Regulation (41 CFR 101-40) Temporary Regulation A-	3090-AB17
32	Promotional materials, trading stamps or bonus goods	3090-AB18
33	Supplement 8 to Federal Travel Regulations (FTR)	3090-AB19
34	Supplement 9 to the Federal Travel Regulations (FTR)	3090-AB20
35	Procurement and Contracting for Telecommunications--Project 79.50A	3090-AA14
36	Consolidate ADP and Telecommunications Regulations into a Single Regulation	3090-AA15
37	Exemption of ADP Procurement Authority based on the Defense Authorization Act of 1982 - Project 82.23T	3090-AA16
38	ADP Resources Utilization and Reutilization of ADP Equipment - Project 82.05/82.06A	3090-AA19
39	Integration of word processing provisions into information resources management and revision of the ADP/MIS into the Automatic Data Processing Equipment/Data System (ADPE/DS)	3090-AA22
40	Implementation for Agency Use of Federal Information Processing Standards and Federal Standards for Telecommunications - Projects 83.10/83.26A	3090-AA88
41	Implementation for agency use of Federal Information Processing Standards and Federal Standards for Telecommunications - Project 83.38A	3090-AB07
42	Revision of management provisions regarding the changing telecommunications marketplace, including the detariffing of customer premises telecommunications equipment (CPE)-Proj.83.32T	3090-AB08
43	Waiver of FCC Computer Inquiry II decision under disaster or emergency situations - Project 83.33t	3090-AB21

GSA

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
44	Management Guidance and Policy to Agencies Regarding Copy Management - Project 82.39A	3090-AB22
45	Abolishment of the Communications Management Information System (C/MIS) - Project 83.35T	3090-AB23
46	Declassification and Public Access to National Security Information	3090-AA61
47	Federal Advisory Committee Management	3090-AA62
48	Public Access to National Security Information	3090-AA82
49	Public Use of the National Archives Building	3090-AA83
50	Fees	3090-AA85
51	Research Room Rules	3090-AA86
52	Restrictions on the Use of Records	3090-AA98
53	Care and Handling of Magnetic Storage Media	3090-AB04
54	Disposition of records and micrographics	3090-AB05
55	Annual Summary of Records Holdings	3090-AB06
56	Nondiscrimination in Federal Financial Assistance Programs	3090-AA00
57	GSA Freedom of Information Act Regulation	3090-AB10
58	*Uniform Federal Accessibility Standard	3090-AA65
59	*Assignment and Utilization of Space	3090-AA67
60	Federal Employee Parking	3090-AA68
61	Work Space Management Plans (FPMR Temporary Regualtion D-70, Supp. 1)	3090-AB24

*Indicates priority regulation.

Existing Regulations Under Review

Sequence Number	Title	RIN
62	Utilization of Personal Property	3090-AA45
63	Management of Buildings and Grounds	3090-AA69
64	Vending Facility Program for Blind Persons	3090-AA70
65	Supply Sources and Related Programs	3090-AA89
66	The Department of the Interior Use of Standard Form 118 and Appropriate Schedules to Notify GSA of Reversions of Title	3090-AA47
67	Negotiated Sales for Public Use	3090-AA79
68	Utilization and Disposal of Real Property-Delegations	3090-AA80
69	Utilization, Donation, Sale, Abandonment or Destruction of Hazardous Materials	3090-AA42
70	New Part 101-24--Personal Property Management	3090-AA48
71	Waiver from Use of GSA Supply Sources	3090-AA95
72	Transportation and Motor Vehicles	3090-AB02
73	Contracts with the Small Business Administration (SBA) for ADP Requirements - Project 82.17A	3090-AA13
74	Forms Management Responsibilities - Project 82.38P	3090-AA17
75	Benchmarking In the Selection of Automatic Data Processing, Project 82-33A	3090-AA90
76	Disposition of Federal Records	3090-AA63
77	Adequate and Proper Documentation	3090-AB03

Completed Actions

Sequence Number	Title	RIN
78	Use of Cash to Procure Passenger Transportation Services Costing More Than $100	3090-AA06
79	Facsimile Signature on SF 1113	3090-AA07
80	Adjustments for Unfurnished Services, Unused Ticket Refund Procedures, and Commercial Forms and Procedures	3090-AA08
81	Supporting Documentation for Supplemental Billings (Claims) and Payment of Transportation Claims	3090-AA92
82	Disposal Authority Delegated to Holding Agencies	3090-AA37
83	Identification of Unneeded Federal Real Property	3090-AA38
84	Intergovernmental Review of GSA Programs	3090-AA41
85	Deletion of Covenant Against Contingency Fees	3090-AA76
86	Guidelines for Selling Small Lots of Surplus Personal Property	3090-AA29
87	The Utilization, Donation, and Disposal of Foreign Gifts and Decorations	3090-AA31
88	Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property	3090-AA32
89	Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority	3090-AA43

VOL 48 ISS 201 OC 17 1983 UMI

VOL 48 ISS 201 OCT 17 1983 UMI

GSA

Completed Actions—Continued

Sequence Number	Title	RIN
90	Procurement and Requisitioning of Supplies and Services	3090-AA52
91	Subpart 101-27.5--Return of GSA Stock Items	3090-AA58
92	Supplements to Federal Travel Regulations (FTR)	3090-AA72
93	Contracting for Automatic Data Processing (ADP) and Related Equipment	3090-AA09
94	Stationery Standards	3090-AA18
95	Update the Content and Procedures for the Government-wide ADP Management Information System (ADP/MIS) - Project 82.36A	3090-AA20
96	Implementation for Agency Use of Federal Information Processing Standards and Federal Standards for Telecommunications - Project 83.10A	3090-AA87
97	Methylene Blue Testing	3090-AA60
98	Public Use of Presidential Library Facilities	3090-AA84
99	Accommodations for the Physically Handicapped	3090-AA66
100	Delegation of Mineral Rights Disposal Authority	3090-AA46
101	Federal Property Management Regulations; Changes in Legal Citations and Correspondence Symbols	3090-AB14
102	Supplement 7 to Federal Travel Regulations (FTR)	3090-AA97

GENERAL SERVICES ADMINISTRATION (GSA)

Current and Projected Rulemakings

ACQUISITION POLICY

1. FEDERAL ACQUISITION REGULATION

Legal Authority: 10 USC 133; 40 USC 481(a); 40 USC 486(c); 42 USC 2473(c); EO 12352

CFR Citation: 32 CFR 1 to 39; 41 CFR 1; 41 CFR 18; 48 CFR 1 to 53

Abstract: The Federal Acquisition Regulation will provide a single uniform Government-wide regulation to replace the Federal Procurement Regulations, the Defense Acquisition Regulation, and NASA procurement regulations. The consolidated regulation will streamline and improve coverage and will decrease the total number of pages of the superseded regulations by approximately 48 percent.

Timetable:

Action	Date	FR Cite
Final Action	09/30/83	
Final Action Effective	04/01/84	

Small Entity: Undetermined

Additional Information: Notice of the availability of portions of the Federal Acquisition Regulation for review have been issued on an ongoing basis as sections were completed. Comments from the public and other agencies have been duly incorporated into the final product.

Government Levels Affected: Federal

Agency Contact: John R. Van Pelt, Executive Assistant, General Services Administration, Office of Acquisition Policy (V), Washington, DC 20405, 202 566-1178

RIN: 3090-AA96

OFFICE OF THE COMPTROLLER

2. REVISION OF U.S. GOVERNMENT BILL OF LADING STANDARD FORMS

Legal Authority: 40 USC 486(c); 31 USC 3726

CFR Citation: 41 CFR 101-41

Abstract: This amendment prescribes the use of revised SF 1103, U.S. Government Bill of Lading (GBL); SF 1109, U.S. GBL Continuation Sheet, and SF 1131, U.S. Government Transit Bill of Lading. These revisions will make these transportation documents more efficient and more responsive to data information systems. To accomplish the provisions of this directive, there will be an outlay of resources by GSA to print the forms but this expenditure will be offset by income derived from purchases of these forms by other Federal agencies. The amendment will have no impact on the public.

Timetable:

Action	Date	FR Cite
NPRM	08/24/81	46 FR 42686
NPRM Comment Period Begin	08/24/81	46 FR 42686
NPRM Comment Period End	10/08/81	
Final Action	03/31/84	

Small Entity: No

Agency Contact: Louis Rosengarten, General Services Administration, Regulations and Procedures Section (BWCPR), Washington, DC 20405, 202 786-3012

RIN: 3090-AA04

3. DEPARTMENT OF DEFENSE RESERVIST/RETIREE MILITARY EMERGENCY TRAVEL WARRANT

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This regulation provides for the procurement of passenger transportation services and billing and payment for such services in connection with the DOD Reservist/Retiree Military Emergency Travel Warrant system. During periods of national emergency, the DOD will use travel warrants as an exception to U.S. Government Transportation Requests (GTR) to obtain transportation for selected military reservists and retirees who are ordered to active duty with the armed forces of the United States. The travel warrant will be included in a DOD Mobilization Order which will be sent to the member's home by Western Union Mailgram. Use of this system will simplify and expedite the procurement of transportation for the military member. No additional resources are required for GSA to accomplish the provisions of this directive. The rule changes do not impose any additional burdens on the Government or the public since the travel warrant will be used instead of the GTR.

Timetable:

Action	Date	FR Cite
Final Action	03/31/84	

Small Entity: No

Agency Contact: Douglas MacEwen, General Services Administration, Regulations and Procedures Section (BWCPR), Washington, DC 20405, 202 786-3018

RIN: 3090-AA05

GSA

Current and Projected Rulemakings

4. INTEREST ASSESSMENT ON OVERCHARGES (RECEIVABLES)

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This proposed rule will enable GSA to assess interest on overcharges issued to transportation carriers for freight and passenger services furnished for the account of the U.S. It will enhance debt collection procedures and compensate the Government for loss of funds resulting from carrier overbillings.

Timetable:

Action	Date	FR Cite
NPRM	05/12/83	48 FR 21351
NPRM Comment Period Begin	05/12/83	48 FR 21351
NPRM Comment Period End	07/11/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, General Services Administration, Regulations, Procedures, and Claims Branch, (BWCP), Washington, DC 20405, 202 786-3014

RIN: 3090-AA74

5. UNUSED TICKET REFUND PROCEDURES

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This regulation revises procedures for collecting carrier refunds of unused tickets. It provides for carriers to refund to the Government the value of expired unused tickets for which no SF 1170's have been received. Carriers will be reimbursed if, after an initial ticket refund to GSA, a ticket is subsequently used for transportation or a second refund is made using an SF 1170. These revised procedures will permit the recovery of outstanding monies that might otherwise remain unrefunded to the Government or unpaid to carriers for extended periods of time.

Timetable:

Action	Date	FR Cite
NPRM	02/02/82	47 FR 4707
NPRM Comment Period Begin	02/02/82	47 FR 4707
Extension of Comment Period	03/16/82	47 FR 11296
NPRM Comment Period End	04/02/82	
Final Action	12/00/83	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, General Services Administration, Regulations, Procedures, and Claims Branch, (BWCP), Washington, DC 20405, 202 786-3014

RIN: 3090-AA91

6. ●REVISION OF U.S. GOVERNMENT TRANSPORTATION REQUEST, STANDARD FORM 1169

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This rule revises the U.S. Government Transportation Request, SF 1169, to incorporate a reference to 41 CFR 101-41 as part of the contract of carriage. This change will avoid potential legal problems in connection with the use of the GTR.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Douglas A. MacEwen, Chief, General Services Administration, Regulations and Procedures Section (BWCPR), Washington, DC 20405, 202 786-3014

RIN: 3090-AB11

7. ●ADMINISTRATIVE OFFSET AND INTEREST ASSESSMENT ON DELINQUENT REFUNDS FOR TOTALLY UNUSED TICKETS

Legal Authority: 31 USC 3701 to 3711; 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This rule will enable Government agenices to collect by administrative offset when carriers fail to make refunds for totally unused passenger tickets in accordance with 41 CFR 101-41.210. It will also permit agencies to assess interest and penalties on delinquent refunds due the Government for totally unused tickets. It will further improve the efficiency of Government-wide efforts to collect debts owed the U.S. as prescribed by applicable Federal regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/24/83	48 FR 23283
NPRM Comment Period Begin	05/24/83	48 FR 23283
Extension of Comment Period (end 08/11/83)	07/12/83	48 FR 31890
NPRM Comment Period End	07/25/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, General Services Administration, Regulations, Procedures, and Claims, Branch (BWCP), Washington, DC 20405, 202 786-3014

RIN: 3090-AB12

8. ●CANCEL STANDARD FORM 1131, U.S. GOVERNMENT TRANSIT BILL OF LADING

Legal Authority: 31 USC 952; 31 USC 3726; 31 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This rule proposes to amend the Federal Property Management Regulations by cancelling the U.S. Government Transit Bill of Lading, Standard Form 1131. As a result of low usage, NARS has recommended the form be cancelled. The cancellation will not affect shipments accorded transit privileges because the transit information will be shown on the regular Government Bill of Lading, SF 1103. Removal of this form from the Standard forms inventory is a cost effective action.

VOL 48 ISS 201 OCT 17 1983 UMI

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: No

Agency Contact: Louis Rosengarten, General Services Administration, Regulations and Procedures Section (BWCPR), Washington, DC 20405, 202 786-3014

RIN: 3090-AB13

9. ●CHANGE IN FORMS SEQUENCE; SF 1103 SET, U.S. GOVERNMENT BILL OF LADING

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This rule proposes to change the sequence of the Standard Form 1103, set U.S. Government Bill of Lading, by positioning one copy of SF 1103-A, Memorandum Copy, as the third form in the set and the remaining SF 1103-A's to be positioned following the SF 1103-B. The purpose of this change is to provide a clearer copy for those agencies that transfer this document to microfilm and to provide a more legible copy for fiscal or administrative use.

Timetable:

Action	Date	FR Cite
NPRM	04/22/83	48 FR 17360
NPRM Comment Period Begin	04/22/83	48 FR 17360
NPRM Comment Period End	05/23/83	
Final Action	03/31/84	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, General Services Administration, Regulations, Procedures, and Claims Branch (BWCP), Washington, DC 20405, 202 786-3014

RIN: 3090-AB15

10. ●ACCOUNTABILITY FOR TICKETS OR COUPONS

Legal Authority: 31 USC 952; 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This rule requires Federal agencies to maintain accounting and administrative control, including individual accountability, of tickets and other transportation documents received in exchange for Government Transportation Requests. It will provide for improved accountability procedures and the establishment of potential liability shoudl travelers and accountable persons be negligent in the handling of accountable documents.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, General Services Administration, Regulations, Procedures, and Claims Branch (BWCP), Washington, DC 20405, 202 786-3014

RIN: 3090-AB16

FEDERAL PROPERTY RESOURCES SERVICE

11. CONVEYANCE FOR HISTORIC MONUMENT PURPOSES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.308-3(a)(3); 41 CFR 101-47.308-2(e)

Abstract: These regulations are being amended to prevent the possibility of windfall profits to the grantee, sublessor, or developer when surplus real property is conveyed for historic monument purposes with revenue producing activities.

Timetable:

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division (DRP), Washington, DC 20405, 202 535-7067

RIN: 3090-AA35

12. NATIONAL DEFENSE STOCKPILE DISPOSAL REGULATIONS

Legal Authority: 50 USC Sec 98 et seq Strat. & Crit. Materials Stock Piling Act; EO 12155

CFR Citation: 41 CFR 101-14.4

Abstract: These regulations indicate the procedures for disposing of strategic and critical materials that are excess to National Defense Stockpile needs and have been authorized for disposal by Congress, pursuant to the Stock Piling Act of 1979 50 USC 98 et seq.

Timetable:

Action	Date	FR Cite
Final Action	06/00/84	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1983

Government Levels Affected: Federal

Agency Contact: Kent N. Knowles, Assistant Commissioner, General Services Administration, Office of Stockpile Transactions (DS), Washington, DC 20405, 202 535-7132

RIN: 3090-AA40

13. ●DELEGATION OF MINERAL RIGHTS DISPOSAL AUTHORITY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.603

Abstract: The regulations are being amended in order to delegate authority to the Department of the Interior (DOI) to dispose of (a) mineral rights associated with Federal real property and (b) mineral rights reserved by the Government on formerly owned Federal real property. By utilizing DOI's expertise and experience in this area, the Government eliminates expensive and time-consuming instances of duplication of effort and financial resources.

Timetable:

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: James Kearns, Deputy Director, General Services Administration, Technical Services & Surveys Division (DRT), Washington, DC 20405, 202 535-7074

RIN: 3090-AA46

14. PUBLIC BENEFIT DISPOSALS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.308-4; 41 CFR 101-47.308-7

Abstract: Current regulations describing the procedures for the disposal of surplus real property for educational or public health purposes contain references to the former Department of Health, Education, and Welfare (HEW). The elimination of HEW and the concurrent reorganization which created the Department of Education and the Department of Health and Human Services necessitates a revision of the regulations. Also, the revision serves to clarify procedures applicable to the disposal of surplus real property for public benefit purposes.

Timetable:

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division, Washington, DC 20405, 202 535-7067

RIN: 3090-AA75

15. ADDITION OF CONCURRENT 30-DAY FEDERAL AGENCY AND PUBLIC USE SCREENING REQUIREMENT

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.203-5(b)

Abstract: In the past, screening of surplus Federal properties with the Federal agencies that sponsor public benefit uses occurred at the same time as screening with local public bodies for such uses and subsequent to the screening of property at the excess stage for direct use by Federal agencies. Addition of section 101-47.203-5(b) will provide for concurrent screening of properties for direct use by Federal agencies and for public benefit uses sponsored by Federal agencies. This change will expedite the disposal process by eliminating screening in cases where no potential for public benefit use is indicated by sponsoring Federal agencies.

Timetable:

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division, Washington, DC 20405, 202 535-7067

RIN: 3090-AA77

16. TRANSFER OF EXCESS REAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.203-7

Abstract: This amendment deletes the requirement for obtaining OMB approval in transfers of excess real property among Federal agencies when the transferee agency is providing 100% reimbursement of the fair market value for the requested property.

Timetable:

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division, Washington, DC 20405, 202 535-7067

RIN: 3090-AA78

17. RESPONSIBILITY FOR FUNDING CARE, HANDLING, PROTECTION, MAINTENANCE AND REPAIR COSTS OF EXCESS AND SURPLUS REAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.402-2(b)

Abstract: The regulation will reflect current General Services Administration policy requiring a written agreement between the disposal agency and the agency holding excess real property in cases where the disposal agency will be required to fund care, handling, protection, maintenance and repair costs. The written agreement provides a basis for budget requests.

Timetable:

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division (DRP), Washington, DC 20405, 202 535-7067

RIN: 3090-AA81

18. ●NEGOTIATED SALES TO PUBLIC AGENCIES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.304-9

Abstract: In order to eliminate the possibility of windfall profits and establish uniformity of the terms and conditions in all such negotiated sales of real property, GSA proposes to include a requirement for an excess profits clause in all negotiated sales to public bodies. The excess profits clause will run with the land for a period of three years.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
NPRM Comment Period Begin	11/00/83	
NPRM Comment Period End	12/00/83	

Next Action Undetermined

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division (DRP), Washington, DC 20405, 202 535-7067

RIN: 3090-AB09

19. DONATION OF PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44.000; 41 CFR 101-44.001; 41 CFR 101-44.105; 41 CFR 101-44.106; 41 CFR 101-44.108; 41 CFR 101-44.112; 41 CFR 101-44.118; 41 CFR 101-44.120; 41 CFR 101-44.200; 41 CFR 101-44.204; 41 CFR 101-44.205; 41 CFR 101-44.207; 41 CFR 101-44.208; 41 CFR 101-44.4701; 41 CFR 101-44.4901-123; ...

Abstract: This rule updates GSA's policies and procedures concerning the Federal surplus personal property donation program. It would: (1) prescribe new and revised definitions; (2) implement Title IX of the Education Amendments of 1972; (3) change procedures for donating aircraft, drugs, biologicals, and reagents; (4) clarify cannibalization procedures; (5) add additional terms to the State agency distribution documents; (6) clarify that conditional title, not unrestricted title, passes to a donee at the time it takes possession of the property; (7) prohibit reimbursement to State agencies for certain sales expenses; (8) change reporting requirements; (9) establish an informal appeals procedure; and (10) revise eligibility criteria for educational activities. This amendment is necessary to comply with the provisions of Title IX of the Education Amendments of 1972, section 502(a) of Public Law 94-241, and the Congressional Reports Elimination Act of 1980 (Public Law 96-470). Its intent is to increase the efficiency and effectiveness of the donation program. There should be no significant costs to the public as a result of this regulatory action. It has been determined that potential benefits to (cont)

VOL
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Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: society from this rule will outweigh the potential costs.

Agency Contact: George W. Kinney, Director, General Services Administration, Donation Division (FMD), Washington, DC 20406, 703 557-1234

RIN: 3090-AA23

20. DONATION OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Legal Authority: 26 USC 5688(a)

CFR Citation: 41 CFR 101-48.2

Abstract: This rule would emphasize that all forfeited distilled spirits, wine, or malt beverages donated to eleemosynary institutions are to be used only by their inpatients for medicinal purposes. Allegations of misuse of these donated spirits have created a need for this regulation. There should be no significant costs to the public as a result of this rule. It has been determined that potential benefits to society from this rule will outweigh potential costs.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Next Action Undetermined

Small Entity: No

Agency Contact: George W. Kinney, Director, General Services Administration, Donation Division (FMD), Washington, DC 20406, 703 557-1234

RIN: 3090-AA24

21. EXPIRATION OF FPMR TEMPORARY REGULATION H-22

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101

Abstract: FPMR Temporary Regulation H-22 expired December 15, 1980, with the termination of House Joint Resolution 610 and the passage of the Department of Defense Appropriations Act of 1981 (Public Law 96-527). H-22 will be deleted from the appendix following Subchapter H in 41 CFR Chapter 101. This rule involves no significant costs to the public.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: George W. Kinney, Director, General Services Administration, Donation Division (FMD), Washington, DC 20406, 703 557-1234

RIN: 3090-AA25

22. RECOVERY OF PRECIOUS METALS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42.3, (Revision); 41 CFR 101-45

Abstract: This revision clarifies agency responsibilities in the Government-wide precious metals recovery program; provides further guidelines on the recovery of silver by agencies regardless of the amount of precious metals bearing material generated; and expands the options for civil agencies participation in the Department of Defense Precious Metals Recovery Program. This revision also clarifies reporting requirements and information to be provided to the General Services Administration (GSA) on Standard Form 291, Report of Activities Generating Precious Metals. These changes result from the recommendations made by the General Accounting Office and the GSA Inspector General.

Timetable:

Action	Date	FR Cite
Final Action	02/28/84	

Small Entity: No

Agency Contact: John Hansley, Property Marketing Specialist, General Services Administration, Office of Federal Supply and Services, Sales Division (FMS), Washington, DC 20406, 703 557-0614

RIN: 3090-AA26

23. APPEARANCE RECONDITIONING OF CIVIL AGENCY VEHICLES, PRIOR TO SALE

Legal Authority: 40 USC 481 (201(c))

CFR Citation: 41 CFR 101-46.4

Abstract: GSA obtains increased proceeds from the sale of selected vehicles from the Interagency Motor Pool by reconditioning their appearance prior to sale. This proposed amendment will require civil agencies to appearance-recondition selected vehicles prior to reporting them to GSA for sales action. Increased proceeds should accrue from the sale of those vehicles receiving this cosmetic reconditioning.

Timetable:

Action	Date	FR Cite
Final Action	11/30/83	

Small Entity: No

Agency Contact: Milton L. Herman, Chief of Sales Management, General Services Administration, Office of Federal Supply and Services, Sales Division (FMS), Washington, DC 20406, 703 557-0614

RIN: 3090-AA27

24. ABANDONMENT OR DESTRUCTION OF SURPLUS PROPERTY

Legal Authority: 40 USC 483(h)

CFR Citation: 41 CFR 101-45.5, (Revision)

Abstract: This revision clarifies procedures for agencies' use in the abandonment and destruction of property.

Timetable:

Action	Date	FR Cite
Final Action	01/31/84	

Small Entity: No

Agency Contact: John Hansley, Property Marketing Specialist, General Services Administration, Office of Federal Supply and Services, Sales Division (FMS), Washington, DC 20406, 703 557-0614

RIN: 3090-AA28

25. ACQUISITION AND USE OF EXCESS PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43

Abstract: A number of miscellaneous changes will be made to clarify procedures for the acquisition and use of excess personal property by federal agencies and other authorized recipients.

Timetable:

Action	Date	FR Cite
Final Action	12/01/83	

Small Entity: No

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Utilization Division (FMU), Washington, DC 20406, 703 557-0607

RIN: 3090-AA30

26. SUSPENSION OF DIRECT TRANSFER AUTHORITY FOR OFFICE FURNITURE AND EQUIPMENT

Legal Authority: 40 USC 483(a)

CFR Citation: 41 CFR 101-43.315

Abstract: This final rule will rescind the authority of agencies to transfer excess office furniture and office machines without prior approval by GSA. Informal comments by affected agencies were solicited and responded to.

Timetable:

Action	Date	FR Cite
Final Action	12/01/83	

Small Entity: No

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Utilization Division (FMU), Washington, DC 20406, 703 557-0607

RIN: 3090-AA33

27. TRANSPORATION AND TRAFFIC MANAGEMENT

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-40

Abstract: The revision to 41 CFR 101-40 will update policy and procedures that apply to the management of transportation matters affecting the Federal civilian executive agencies.

Timetable:

Action	Date	FR Cite
NPRM	04/01/83	
NPRM Comment Period Begin	04/01/83	
NPRM Comment Period End	05/01/83	
Final Action	10/31/83	

Small Entity: No

Agency Contact: John B. Millington, Chief, General Services Administration, Transportation Regulations Branch (FTAR), Office of Federal Supply and Services, Washington, DC 20406, 703 557-1256

RIN: 3090-AA73

28. ●FPMR TEMPORARY REGULATION G - RECONDITIONING OF MOTOR VEHICLES

Legal Authority: 40 USC 491; 40 USC 486(c)

CFR Citation: 41 CFR 101-38

Abstract: This regulation prescribes agency requirements and guidelines with respect to the reconditioning of passenger carrying motor vehicles and light trucks prior to sale.

Timetable:

Action	Date	FR Cite
Review Completed	09/00/83	
Final Action	11/30/83	

Small Entity: No

Agency Contact: Lowell A. Stockdale, Chief, General Services Administration, Motor Vehicle Regulations Branch, Office of Federal Supply and Services, Washington, DC 20406, 703 557-1288

RIN: 3090-AA99

29. ●TRANSPORTATION AND MOTOR VEHICLES

Legal Authority: 40 USC 491; 40 USC 486(c)

CFR Citation: 41 CFR 101-38

Abstract: The revision to 41 CFR 101-38 updates policy and procedures that apply to the management of the Federal Motor Vehicle Fleet affecting the Federal executive agencies and incorporates certain paragraphs from 101-25, 101-26, and 101-39 that apply to the Federal fleet.

Timetable:

Action	Date	FR Cite
Review Completed	09/00/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: Lowell A. Stockdale, Chief, General Services Administration, Motor Vehicle Regulations Branch, Office of Federal Supply and Services, Washington, DC 20406, 703 557-1288

RIN: 3090-AB00

30. ●FPMR TEMPORARY REGULATION E- USE OF GASOHOL IN FEDERAL MOTOR VEHICLES

Legal Authority: 40 USC 491; 40 USC 486(c)

CFR Citation: 41 CFR 101-38

Abstract: This regulation establishes policy and procedures governing the purchase and use of gasohol by executive agenices which own or lease motor vehicles and also provides information to assist agencies in converting their vehicle fleet from the use of unleaded gasoline to gasohol.

Timetable:

Action	Date	FR Cite
Review Completed	09/01/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Lowell A. Stockdale, Chief, General Services Administration, Motor Vehicle Regulations Branch, Office of Federal Supply and Services, Washington, DC 20406, 703 557-1288

RIN: 3090-AB01

31. ●USE OF CARRIER CONTRACTORS FOR EXPRESS SMALL PACKAGE TRANSPORTATION FEDERAL PROPERTY MANAGEMENT REGULATION (41 CFR 101-40) TEMPORARY REGULATION A-

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-40

Abstract: This regulation prescribes policies and procedures for contracted overnight express small package transportation for Federal executive agencies from five major cities to 24 destinations at reduced rates over existing commerical tariff rates.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Additional Information: This regulation expires 09/30/84.

Agency Contact: John B. Millington, Chief, General Services Administration, Transportation Regulations Branch (FTAR), Office of Federal Supply and Services, Washington, DC 20406, 703 557-1256

RIN: 3090-AB17

32. ●PROMOTIONAL MATERIALS, TRADING STAMPS OR BONUS GOODS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-25

Abstract: This regulation incorporates and codifies existing policies regarding the disposition of promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, etc.)

received by Federal employees in connection with official travel and based on the purchase of a ticket or other service (e.g., car rental).

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: John B. Millington, Chief, General Services Administration, Transportation Regulations Branch (FTAR), Office of Federal Supply and Services, Washington, DC 20406, 703 557-1256

RIN: 3090-AB18

33. ●SUPPLEMENT 8 TO FEDERAL TRAVEL REGULATIONS (FTR)

Legal Authority: 40 USC 486(c); 5 USC 5707; EO 12609

CFR Citation: 41 CFR 101-7

Abstract: Supplement 8 to the FTR will designate new high rate geographical areas (HRGA's) and increase rates and/or redefine boundries of certain existing HRGA's.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Audrey Rish, Chief, General Services Administration, Travel Regulations Branch (FTAV), Office of Federal Supply and Services, Washington, DC 20406, 703 557-1253

RIN: 3090-AB19

34. ●SUPPLEMENT 9 TO THE FEDERAL TRAVEL REGULATIONS (FTR)

Legal Authority: 40 USC 486(c); 5 USC 5707; EO 12609

CFR Citation: 41 CFR 101-7

Abstract: Supplement 9 to the FTR will incorporate the provisions of OMB Bulletin No. 82-11, dated April 19, 1982, entitled "Strengthening Travel Authorization Policies and Procedures to Eliminate Wasteful Spending on Travel" and add procedures for control of unusued passenger transportation tickets and services, denied boarding compensation and disposition of bonus goods received by travelers on official travel.

Timetable:

Action	Date	FR Cite
Final Action	11/00/83	

Small Entity: No

Agency Contact: Audrey Rish, Chief, General Services Administration, Travel Regulations Branch (FTAV), Office of Federal Supply and Services, Washington, DC 20406, 703 557-1253

RIN: 3090-AB20

OFFICE OF INFORMATION RESOURCES MANAGEMENT

35. PROCUREMENT AND CONTRACTING FOR TELECOMMUNICATIONS--PROJECT 79.50A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 1-4.13

Abstract: This FPR amendment adds telecommunications procurement and contracting policies and procedures to the FPR. The directive will replace FPR Temporary Regulation 51 and Federal Property Management Regulation (FPMR) Subpart 101-37.4.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Changes in the Telecommunications marketplace due to FCC Computer II and AT&T divestiture activity have delayed this project. The government contracting policy of competition where available and to the maximum extent practicable is contained in FPR Temporary Regulation 51. Therefore, no date is shown in the timetable.

Agency Contact: John F. Stewart, Supervisory Communications Specialist, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AA14

36. CONSOLIDATE ADP AND TELECOMMUNICATIONS REGULATIONS INTO A SINGLE REGULATION

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1; 48 CFR 39; 41 CFR 1-4.11; 41 CFR 1-4.12; 41 CFR 101-35; 41 CFR 101-36; 41 CFR 101-37

Abstract: This project will merge FPR and FPMR (41 CFR 1 and 101) provisions relating to ADP and telecommunications into a single Federal Information Resources Management Regulation. A proposal to establish this new proposed single regulation is being formulated. A draft of the regulation was prepared and distributed as Part 39 of the Federal Acquisition Regulation (48 CFR 39). The proposal anticipates the establishment of the regulation as a new chapter in 41 CFR.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: An exposure draft of the single regulation was distributed to agency contact points who regularly participate in GSA OIRM regulatory development projects. The draft is primarily a reformatting of existing regulations.

Agency Contact: Roger W. Walker, Chief, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AA15

37. EXEMPTION OF ADP PROCUREMENT AUTHORITY BASED ON THE DEFENSE AUTHORIZATION ACT OF 1982 - PROJECT 82.23T

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 1-4.11; 41 CFR 1-4.12

Abstract: This directive will address Department of Defense exemptions to GSA Government-wide ADP regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Roger W. Walker, Chief, General Services Administration,

Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AA16

38. ADP RESOURCES UTILIZATION AND REUTILIZATION OF ADP EQUIPMENT - PROJECT 82.05/82.06A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 1-4; 41 CFR 101-35; 41 CFR 101-36

Abstract: This project will update and revise ADP reutilization management procedures. The intent is to reduce obsolescent ADP equipment in the Government inventory and reduce paperwork through interagency sharing and reutilization. Exchange/sale procedure for contracting activities will be added. Amendments to both the FPR and FPMR will be published.

Timetable:

Action	Date	FR Cite
Proposal distrb for agency comment	03/22/82	
Final Action	10/00/83	

Small Entity: No

Agency Contact: Phillip R. Patton, Procurement Analyst, General Services Administration, Policy Branch, (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AA19

39. INTEGRATION OF WORD PROCESSING PROVISIONS INTO INFORMATION RESOURCES MANAGEMENT AND REVISION OF THE ADP/MIS INTO THE AUTOMATIC DATA PROCESSING EQUIPMENT/DATA SYSTEM (ADPE/DS)

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11.9; 41 CFR 101-35.2; 41 CFR 1-4.11; 41 CFR 101-36.5

Abstract: Projects 82.36T/83.25T - This reoriented project involves both FPR and FPMR temporary regulations. The FPR issuance will update the ADPE definition, clarify ADPE schedule use, revise blanket procurement authority thresholds, and simplify acquisition of end user computing equipment. The FPMR issuance will establish the ADPE/DS to replace the ADP/MIS and modify 41 CFR 101-35.2 to replace 41 CFR 101-11.9 in regard to word processing provisions in requirements analysis, record management responsibilities, and analysis and evaluation of acquisition alternatives.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Additional Information: In addition to the planned FPR and FPMR temporary regulations, a dual issuance FPMR bulletin (B-129 and F-153) was issued June 13, 1983 describing GSA activities relating to the management of small computers.

Agency Contact: David R. Mullins/Phillip R. Patton, Procurement Analysts, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AA22

40. IMPLEMENTATION FOR AGENCY USE OF FEDERAL INFORMATION PROCESSING STANDARDS AND FEDERAL STANDARDS FOR TELECOMMUNICATIONS - PROJECTS 83.10/83.26A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-36.13

Abstract: As Federal Information Processing Standards (FIPS) and Federal Standards (FED-STD) for telecommunications are adopted, GSA reviews and implements new and revised standards for use by agencies in the management, acquisition and use of information resources. From time to time amendments to the FPMR are issued to accomplish this action. This project implements FED-STD 1062, Facsimile apparatus, FED-STD 1063, Procedures for document facsimile transmission, and FIPS PUB 86, Information Exchange. The second project implements FED-STD 1027, Data encryption and FIPS PUB 95, Federal codes.

Timetable:

Action	Date	FR Cite
Second Project Proposal for comment	03/01/83	
Proposal for agency comment	04/01/83	
Final Action	10/00/83	

Small Entity: No

Agency Contact: Phillip R. Patton, Procurement Analyst, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AA86

41. ●IMPLEMENTATION FOR AGENCY USE OF FEDERAL INFORMATION PROCESSING STANDARDS AND FEDERAL STANDARDS FOR TELECOMMUNICATIONS - PROJECT 83.38A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-36.13

Abstract: This procject implements the following Federal Standards for agency use: Joint FIPS PUB 100/FED-STD 1041 Interface between data terminal equipment (DTE) and data circuit-terminating equipment (DCE) for operation with packet-switched data communication networks; FIPS PUB 97 Operational specifications for fixed block rotating mass storage subsystems; and FIPS PUB 98 Message format for computer based message systems.

Timetable:

Action	Date	FR Cite
Proposal for agency review	10/00/83	

Small Entity: No

Agency Contact: Phillip R. Patton, Procurement Analyst, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AB07

42. ●REVISION OF MANAGEMENT PROVISIONS REGARDING THE CHANGING TELECOMMUNICATIONS MARKETPLACE, INCLUDING THE DETARIFFING OF CUSTOMER PREMISES TELECOMMUNICATIONS EQUIPMENT (CPE)-PROJ.83.32T

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-37

Abstract: This project revises FPR and FPMR provisions relating to Federal telecommunications management and acquisition based upon regulatory bodies, the Department of Justice, and the Judicial Branch in regard to the Federal Communications Commission Computer II inquiry and the divestitute of AT&T.

VOL 48 ISS 201 OCT 17 1983 UMI

VOL
48
ISS
201
OC
17
1983
UMI

Timetable:

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: Roger W. Walker, Supervisory Procurement Analyst, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AB08

43. ●WAIVER OF FCC COMPUTER INQUIRY II DECISION UNDER DISASTER OR EMERGENCY SITUATIONS - PROJECT 83.33T

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 1-4.13 (Temp Regulation 51, Supp. 2); 41 CFR 101-37

Abstract: The FPR/FPMR issuance implements the Federal Communications Commission Memorandum, Opinion and Order of April 12, 1983 to enable American Telephone and Telegraph Company components to provide customer premises equipment to Government agencies when necessary to meet certain critical communications requirements.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Roger W. Walker, Chief, Policy Branch, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AB21

44. ●MANAGEMENT GUIDANCE AND POLICY TO AGENCIES REGARDING COPY MANAGEMENT - PROJECT 82.39A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11.302

Abstract: This project provides a new section in Subpart 101-11.3--Organization Maintenance and Use of Current Records. It sets forth copy management responsibilities of GSA and the other Federal agencies.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Sandra S. Lambert, Program Analyst, General Services Administration, Policy Branch (KMPP), Office of Information Resources Mgmt., Washington, DC 20405, 202 566-0194

RIN: 3090-AB22

45. ●ABOLISHMENT OF THE COMMUNICATIONS MANAGEMENT INFORMATION SYSTEM (C/MIS) - PROJECT 83.35T

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-37.2

Abstract: This project abolishes the C/MIS and its agency reporting requirement as a central management data telecommunications inventory system.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: John F. Stewart, Supervisory Communications Spec., General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AB23

NATIONAL ARCHIVES AND RECORDS SERVICE

46. DECLASSIFICATION AND PUBLIC ACCESS TO NATIONAL SECURITY INFORMATION

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11.3a

Abstract: This rule will revise the procedures for the declassification of and public access to national security information in the legal custody or under the declassification jurisdiction of the National Archives and Records Service (NARS). This revision is required by the signing of Executive Order 12356 of April 2, 1982 (National Security Information) and the issuance of the Information Security Oversight Directive Number 1 of June 22, 1982. This rule will affect the process for the mandatory declassification review of classified records by NARS.

Timetable:

Action	Date	FR Cite
NPRM	03/01/83	48 FR 8498
NPRM Comment Period Begin	03/01/83	
NPRM Comment Period End	03/31/83	
Final Action	10/00/83	
Final Action Effective	10/00/83	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and Improvement Division, (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA61

47. FEDERAL ADVISORY COMMITTEE MANAGEMENT

Legal Authority: 40 USC 486(c); 5 USC App I

CFR Citation: 41 CFR 101-6.10; 41 CFR 101-11.12

Abstract: This regulation provides administrative and interpretive guidelines and management controls for Federal agencies concerning the implementation of the Federal Advisory Committee Act (FACA), as amended. It fulfills GSA's responsibilities under FACA and Executive Order 12024 and replaces OMB Circular A-63.

Timetable:

Action	Date	FR Cite
ANPRM	11/22/79	44 FR 66852
Previous NPRM	08/21/80	45 FR 55769
Interim Final Rule	04/28/83	48 FR 19324

Next Action Undetermined

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and Improvement Division, (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA62

48. PUBLIC ACCESS TO NATIONAL SECURITY INFORMATION

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105-61.104

Abstract: This rule will revise procedures for public access to national security information in the legal custody of NARS. This revision is required by the signing of Executive Order 12365 of April 2, 1982 (National Security Information) and the issuance of the Information Security Oversight Directive Number 1 of June 22, 1982. This rule will affect the process for the mandatory declassification review of classified records by NARS.

Timetable:

Action	Date	FR Cite
NPRM	02/10/83	48 FR 6139
NPRM Comment Period Begin	02/10/83	
NPRM Comment Period End	03/14/83	
Final Action	10/00/83	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and ImprovementDivision, (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA82

49. PUBLIC USE OF THE NATIONAL ARCHIVES BUILDING

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105-61.304

Abstract: Existing regulations on public use of the National Archives Building do not cover all areas of the building to which the public has access. This rule will revise procedures under which outside organizations may request the use of National Archives Building public areas for lectures, meetings and other activities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	04/00/84	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and ImprovementDivision, (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA83

50. FEES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105-61.52

Abstract: This rule will revise the fees charged for reproduction services established by the National Archives and Records Service.

of the Information Security Oversight Directive Number 1 of June 22, 1982. This rule will affect the process for the mandatory declassification review of classified records by NARS.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and ImprovementDivision, (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA85

51. RESEARCH ROOM RULES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105-61.001; 41 CFR 105-61.101; 41 CFR 105-61.102

Abstract: These proposed changes impact on the use of microfilm reading rooms only, and clarify the legal status of records in Federal records centers that have not been transferred to the National Archives of the United States. Researchers using microfilm records, but not textual records, in microfilm reading rooms that are physically separate from textual research rooms would no longer be required to obtain research identification cards. Microfilm reading room attendants will assist researchers to identify rolls containing desired information, but the researcher will be responsible for locating the designated roll. The use of microfilm readers may be restricted to ensure equitable availability of equipment.

Timetable:

Action	Date	FR Cite
NPRM	07/19/83	48 FR 32838
NPRM Comment Period Begin	07/19/83	
NPRM Comment Period End	08/18/83	
Final Action	03/00/84	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and ImprovementDivision, (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA86

52. ●RESTRICTIONS ON THE USE OF RECORDS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105-61.53

Abstract: This rule will update existing restrictions on the use of archival records in the National Archives of the United States.

Timetable:

Action	Date	FR Cite
Final Action	10/31/83	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and Improvement Div. (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA98

53. ●CARE AND HANDLING OF MAGNETIC STORAGE MEDIA

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-36.12

Abstract: The National Archives and Records Service is providing procedures to agencies on the care and handling of flexible disk cartridges used in a variety of microcomputers and word processors. Agencies need regulatory guidance so that improper care of the disks will not destroy information necessary for the administration of the agency, for oversight of activities by authorized bodies, for the protection of the rights of the Government and of persons directly affected by agencies, and for continued preservation by the Federal government because of its sufficient historical or other value. The amendment will add a new section that provides mandatory guidelines for care of flexible disks containing information not eligible for destruction under a records control schedule approved by the Archivist of the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Linda N. Brown, Acting Assistant Archivist, General Services Administration, Office of Federal Records Centers (NC), Washington, DC 20408, 202 724-1614

RIN: 3090-AB04

54. ●DISPOSITION OF RECORDS AND MICROGRAPHICS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11.404-1; 41 CFR 101-11.406-7; 41 CFR 101-11.410-8; 41 CFR 101-11.502; 41 CFR 101-11.506-1

VOL
48
ISS
2
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OC
17
1983
UMI

Abstract: This regulation will modify procedures for disposing of contingent records in records centers, modify records scheduling paperwork procedures, and revise requirements for scheduling records that have been microfilmed. This change in regulations will strengthen Federal records scheduling and disposition procedures and will clarify requirements for scheduling microfilm and original records, and as a result will also clarify NARS' workload.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	
Final Action	03/00/84	

Small Entity: No

Agency Contact: Linda N. Brown, Acting Assistant Archivist, General Services Administration, Office of Federal Records Centers (NC), Washington, DC 20408, 202 724-1614

RIN: 3090-AB05

55. ●ANNUAL SUMMARY OF RECORDS HOLDINGS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11.102-7

Abstract: This regulation will delete the requirement for Federal agencies to certify on Standard Form 136, Annual Summary of Records Holdings, the status of their records control schedules, and to clarify that the report should include the volume of records in physical custody of private contractors or firms.

Timetable:

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: Linda N. Brown, Acting Assistant Archivist, General Services Administration, Office of Federal Records Centers (NC), Washington, DC 20408, 202 724-1614

RIN: 3090-AB06

56. NONDISCRIMINATION IN FEDERAL FINANCIAL ASSISTANCE PROGRAMS

Legal Authority: Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972, as amended; Sec 606 of the Fed Property & Admin Service Act of 1949; Age Discrimination Act of 1975, as amended

CFR Citation: 41 CFR 101-8

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, handicap, sex, or age be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer. This approach permits us to retain the substance of the prohibitions against discrimination, while reducing the cost of implementing and enforcing separate regulations for each of the four distinct laws for preventing discrimination.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
NPRM Comment Period Begin	10/00/83	
NPRM Comment Period End	11/00/83	
Final Action	02/00/84	

Small Entity: No

Agency Contact: Thomas E. Henderson, EEO Specialist, General Services Administration, Office of Civil Rights, Washington, DC 20405, 202 566-1368

RIN: 3090-AA00

POLICY AND MANAGEMENT SYSTEMS

57. ●GSA FREEDOM OF INFORMATION ACT REGULATION

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105-60.3; 41 CFR 105-60.303; 41 CFR 105-60.305-6; 41 CFR 105-60.305-8; 41 CFR 105-60.402-1; 41 CFR 105-60.403; 41 CFR 105-60.404; 41 CFR 105-60.601-1

Abstract: The regulations are being revised to reflect the transfer of responsibility within GSA for administering the Freedom of Information Act. Also included is the current fee schedule and the Administrator has been added to the list of persons authorized to accept subpoenas.

Timetable:

Action	Date	FR Cite
NPRM	07/12/83	48 FR 31890
NPRM Comment Period Begin	07/12/83	
NPRM Comment Period End	08/11/83	
Final Action	10/30/83	

Small Entity: No

Agency Contact: William Hiebert, Chief, General Services Administration, Records and Forms Management Branch, Washington, DC 20405, 202 535-7644

RIN: 3090-AB10

PUBLIC BUILDINGS SERVICE

58. UNIFORM FEDERAL ACCESSIBILITY STANDARD

Priority: Task Force

Legal Authority: 42 USC 4151 et seq

CFR Citation: 41 CFR 101-19

Abstract: This proposed rule will consolidate four differing handicapped accessibility standards prescribed by GSA, HUD, DOD, and USPS into a single, government-wide standard. In addition, this proposed rule will conform accessibility standards to the recently issued "Minimum Guidelines and Requirements for Accessible Design" published by the Architectural and Transportation Barriers Compliance Board (29 USC 792).

Timetable:

Action	Date	FR Cite
NPRM	02/15/83	
NPRM Comment Period Begin	02/15/83	
NPRM Comment Period End	04/01/83	
Comment Period extended indefinitely for ATBCB input	00/00/00	
Final Action	00/00/00	

Small Entity: No

Additional Information: This regulation has been designated for review by the Presidential Task Force on Regulatory Relief.

Four agencies currently responding to ATBCB resolution requesting that agencies resolve apparent differences between UFAS and ATBCB Minimum Guidelines and Requirements. Objective to receive ATBCB support prior to proceeding with proposed final rule. Because of ATBCB meeting calendar, this action could delay proposed rule until January/February 1984, with final action in late spring.

Compliance costs controlled by ATBCB Minimum Guidelines and Requirements.

Agency Contact: John R. Weber, Architect, General Services Administration, Design Programs Branch (PCDP), Washington, DC 20405, 202 566-1673

RIN: 3090-AA65

59. ASSIGNMENT AND UTILIZATION OF SPACE

Priority: Agency Determination

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-17

Abstract: This regulation provides revised procedures concerning the assignment and utilization of space in Federal facilities under the custody and control of GSA. It supersedes provisions in 41 CFR 101-17. The intent of the rule is to simplify and streamline GSA's space management regulations.

Timetable:

Action	Date	FR Cite
Temporary Regulation D-68	03/08/83	48 FR 9822
Extend D-68 expiration date	12/00/83	
Final Action	01/00/85	

Small Entity: No

Agency Contact: John Quigley, Acting Director, General Services Administration, Space Management Division (PRM), Washington, DC 20405, 202 566-1875

RIN: 3090-AA67

60. FEDERAL EMPLOYEE PARKING

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-20

Abstract: This regulation will revise procedures for the assignment of parking spaces at federally controlled facilities.

Timetable:

Action	Date	FR Cite
Temporary Regulation D-69	04/15/83	48 FR 16272
Extend D-69 expiration date	12/00/83	
Final Action	01/00/85	

Small Entity: No

Agency Contact: John Quigley, Acting Director, General Services Administration, Space Management Division (PRM), Washington, DC 20405, 202 566-1875

RIN: 3090-AA68

61. ●WORK SPACE MANAGEMENT PLANS (FPMR TEMPORARY REGUALTION D-70, SUPP. 1)

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101

Abstract: This regulation supplements and amplifies FPMR Temporary Regulation D-70 and work space management plans to be submitted by executive agencies, and provides procedures for the efficient management of work space and related furnishings on a Government-wide basis. It is issued pursuant to Executive Order 12411. This supplement requires executive agencies to make optimum use of work space and related furnishings, to acquire only the minimum work space and related furnishings needed for known and verified mission requirements, and to excess unneeded property to the maximum extent feasible. In addition, this supplement promulgates additions and changes to data elements of the world-wide inventory, establishes quarterly reporting of changes to the world-wide inventory (Part 101-3), and provides new procedures for identifying and reporting excess automated data processing and telecommunications equipment.

Timetable:

Action	Date	FR Cite
FPMR Temporary Regulation D-70	07/01/83	48 FR 30592
Final Action	10/00/83	

Small Entity: No

Agency Contact: Arthur O. Barton, Assistant Deputy Commissioner, General Services Administration, Office of Real Estate (PZD), Washington, DC 20405, 202 535-8120

RIN: 3090-AB24

GENERAL SERVICES ADMINISTRATION (GSA) — Existing Regulations Under Review

ACQUISITION POLICY

62. UTILIZATION OF PERSONAL PROPERTY

Legal Authority: 40 USC 483(a)

CFR Citation: 41 CFR 101-43

Abstract: Defines nonappropriated fund property as nonreportable and introduces other miscellaneous changes.

Timetable:

Action	Date	FR Cite
End Review	12/01/83	

Small Entity: No

Agency Contact: Emily Karam, Director of Regulatory Review, General Services Administration, Office of Acquisition Policy (V), Washington, DC 20405, 202 566-1176

RIN: 3090-AA45

63. MANAGEMENT OF BUILDINGS AND GROUNDS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-20

Abstract: GSA proposes to amend its regulations regarding the standard level of protective services provided to building occupants to provide a more definitive description of these services in keeping with current program emphases.

Timetable:

Action	Date	FR Cite
End Review	10/00/83	

Small Entity: No

Agency Contact: Emily Karam, Director of Regulatory Review, General Services Administration, Office of Acquisition Policy (V), Washington, DC 20405, 202 566-1176

RIN: 3090-AA69

64. VENDING FACILITY PROGRAM FOR BLIND PERSONS

Legal Authority: PL 93-516

CFR Citation: 41 CFR 101-20.2

Abstract: Update the subpart to reflect the priorities and newly authorized provisions granted licensed blind vendors in GSA-controlled buildings by the Randolph-Sheppard Act Amendments of 1974 (Pub. L. 93-516). Some specific provisions to be revised are the threshold criteria, site selection, notification procedure, sale of State lottery tickets, change of title from Department of Health, Education, and Welfare to read "Department of Education," inclusion of agency policy regarding renovation of existing facilities, emphasis on assignment of vending machines to State licensing agencies (SLA), permits, operation of cafeterias by blind vendors, and reports. The continued implementation of the Randolph-Sheppard Act in GSA-controlled buildings will not be of any significant increase in cost to the agency. The benefits, however, are significant. While the provision of essential services to Government employees are expanded and improved, the primary goal of the act, to provide remunerative employment for blind persons, is enhanced.

Timetable:

Action	Date	FR Cite
End Review	10/00/83	

Small Entity: No

Agency Contact: Emily Karam, Director of Regulatory Review, General Services Administration, Office of Acquisition Policy (V), Washington, DC 20405, 202 566-1176

RIN: 3090-AA70

65. SUPPLY SOURCES AND RELATED PROGRAMS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-26

Abstract: Part 101-26 prescribes policies and procedures that govern the procurement of personal property and nonpersonal services by Federal agencies from or through GSA supply sources. A number of executive agencies have indicated that the current policies and procedures in this part need to be revised to clarify the content, eliminate duplication, and remove obstacles to satisfying requirements for these types of items. Representatives from the major executive agencies are currently developing a revised draft of this part that will be designed to more adequately meet their needs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/83	
End Review	11/30/83	

Small Entity: No

Agency Contact: Emily Karam, Director of Regulatory Review, General Services Administration, Office of Acquisition Policy (V), Washington, DC 20405, 202 566-1176

RIN: 3090-AA89

FEDERAL PROPERTY RESOURCES SERVICE

66. THE DEPARTMENT OF THE INTERIOR USE OF STANDARD FORM 118 AND APPROPRIATE SCHEDULES TO NOTIFY GSA OF REVERSIONS OF TITLE

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.308-3; 41 CFR 101-47.308-7

Abstract: The Federal Property Management Regulations currently provides only for Department of the Interior letter notification of pending reversions of title. Use of Standard Form 118 as the notification medium will result in a significant savings in GSA resources required to screen and dispose of the reverted property.

Timetable:

Action	Date	FR Cite
End Review	12/00/83	

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division (DRP), Washington, DC 20405, 202 535-7067

RIN: 3090-AA47

67. NEGOTIATED SALES FOR PUBLIC USE

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.302-1; 41 CFR 101-47.303-2

Abstract: In order to dispose of surplus Federal real property in the most efficient and economical manner, GSA is reviewing a possible regulation change which would permit the disposal agency to exercise discretion as to whether or not to afford public bodies an opportunity to acquire surplus real property by negotiated sale before offering such property to the general public.

Timetable:

Action	Date	FR Cite
Begin Review	02/00/83	
End Review	12/00/83	

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division (DRP), Washington, DC 20405, 202 535-7067

RIN: 3090-AA79

68. UTILIZATION AND DISPOSAL OF REAL PROPERTY-DELEGATIONS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.601; 41 CFR 101-47.602; 41 CFR 101-47.603

Abstract: This regulation is being amended in order to increase the thresholds under which the Administrator delegates authority for utilization and disposal of real property from less than $1,000 to $50,000 or less. In view of todays inflated property values, the $1,000 disposal limitation does not delegate any meaningful authority as a practical matter. The $50,000 limit represents low value properties which the agencies could dispose of if they felt it was in the best economic interest of the Government.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/83	
End Review	12/00/83	

Small Entity: No

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division (DRP), Washington, DC 20405, 202 535-7067

RIN: 3090-AA80

69. UTILIZATION, DONATION, SALE, ABANDONMENT OR DESTRUCTION OF HAZARDOUS MATERIALS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46; 41 CFR 101-48; 41 CFR 101-49

Abstract: Revisions and additions to existing rules are proposed to establish a separate regulatory section concerning the utilization, donation, sale, abandonment or destruction of hazardous materials.

Timetable:

Action	Date	FR Cite
End Review	06/01/84	

Small Entity: No

Additional Information: Proposals are to be circulated among Federal agencies on an information basis before rulemaking consideration.

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Utilization Division (FMU), Washington, DC 20406, 703 557-0807

RIN: 3090-AA42

70. NEW PART 101-24--PERSONAL PROPERTY MANAGEMENT

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-24, (New)

Abstract: Significant savings can be achieved by reducing Federal expenditures for items of personal property. An effective means of reducing expenditures for personal property is through effective property management. This regulation is the initial step in establishing a Government-wide personal property management program. The regulation will provide general policy on the management of personal property and when fully implemented will enable agencies to reduce support costs through effective property management.

Timetable:

Action	Date	FR Cite
End Review	10/02/85	

Small Entity: No

Agency Contact: Robert A. Renner, Director, General Services Administration, Regulations Management Division (FFY), Washington, DC 20406, 703 557-7990

RIN: 3090-AA48

71. WAIVER FROM USE OF GSA SUPPLY SOURCES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-26.100-2; 41 CFR 101-26.102-1(a); 41 CFR 101-26.301(b); 41 CFR 101-26.401-3; 41 CFR 101-26.501(b); 41 CFR 101-26.505-3

Abstract: The Office of Federal Supply and Services (FSS) has submitted legislation to Congress to effect "Full Cost Pricing" and its companion "Industrial Funding." This legislation will permit FSS, for the first time, to charge customers for the purchase price of commodities and all direct and indirect costs associated with providing the goods or services. The legislation also makes FSS the mandatory source of supplies and services for items under its control. This proposed FPMR Temporary Regulation will establish parameters for agencies that consider it necessary to obtain a product from a non-GSA supply source. A request for waiver shall be based on either of two criteria: (1) Unforeseen urgency does not permit the application of the normal GSA supply source processing time or (2) a fully suitable product is available from a non-contract source at a lower total cost to the Government. This temporary regulation is intended to stimulate competition within the Federal community and force FSS to maintain price competitiveness, thereby achieving overall greater savings to the Government.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/83	
Final Action	10/00/84	
Final Action Effective	10/00/84	
End Review	00/00/00	

Small Entity: No

Agency Contact: Richard Jeanneret, Director, General Services Administration, Office of Federal Supply and Services, Office of Management, Washington, DC 20406, 703 557-8644

RIN: 3090-AA95

72. ●TRANSPORTATION AND MOTOR VEHICLES

Legal Authority: 40 USC 491; 40 USC 486(c)

CFR Citation: 41 CFR 101-39

Abstract: The revision to 41 CFR 101-39 updates policy and procedures that apply to the operation and management of the GSA Interagency Motor Pool System.

Timetable:

Action	Date	FR Cite
End Review	01/00/84	
Final Action	03/30/84	

Small Entity: No

Agency Contact: Lowell A. Stockdale, Chief, General Services Administration, Motor Vehicle Regulations Branch, Office of Federal Supply and Services, Washington, DC 20406, 703 557-1288

RIN: 3090-AB02

OFFICE OF INFORMATION RESOURCES MANAGEMENT

73. CONTRACTS WITH THE SMALL BUSINESS ADMINISTRATION (SBA) FOR ADP REQUIREMENTS - PROJECT 82.17A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 1-4.11

Abstract: This proposed FPR amendment changes sections 1-4.1103-5 and 1-4.1206-8 regarding contracts with the SBA for ADP requirements in accordance with Section 8(a) of the Small Business Act (15 USC 637(a)). This change responds to GAO report AFMD 82-9, October 16, 1981.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Additional Information: SMALL BUSINESSES CONT: OMB has directed that the need for this regulation be re-examined. If such a need can be demonstrated, then the question of who should issue it can be addressed.

Agency Contact: William R. Loy, Procurement Analyst, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AA13

74. FORMS MANAGEMENT RESPONSIBILITIES - PROJECT 82.36P

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11

Abstract: This proposed FPMR amendment requires agency actions that will contribute to an effective forms management program. Effective forms management programs can substantially reduce costs, minimize

VOL 48 ISS 201 OCT 17 1983 UMI

public burden, improve procedures, and streamline necessary agency systems.

Timetable:

Action	Date	FR Cite
Revised Proposal for review	10/00/83	

Small Entity: No

Additional Information: PROGRAM CONTACT: John Simcox (KLSF), (202) 535-7474. Issues raised by agency responses regarding non-paper forms have been considered. The proposal has been redrafted and will be recirculated to involved parties.

Agency Contact: David R. Mullins, Procurement Analyst, General Services Administration, Policy Branch (KMPP), Office of Information Resources Management, Washington, DC 20405, 202 566-0194

RIN: 3090-AA17

75. BENCHMARKING IN THE SELECTION OF AUTOMATIC DATA PROCESSING, PROJECT 82-33A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 1-4.11

Abstract: Benchmarks are costly and difficult to use in the ADP acquisition selection process. A project is underway to develop guidance and criteria for the use of benchmarks. The objective is to raise the threshold for benchmark use and to develop provisions for use in evaluation both below and above the new threshold.

Timetable:

Action	Date	FR Cite
End Review	01/01/84	
Proposal for agency comment	04/01/84	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and Improvement Division, (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA63

77. ●ADEQUATE AND PROPER DOCUMENTATION

Legal Authority: 44 USC 3101; 44 USC 2901 to 2909; 40 USC 486(c)

CFR Citation: 41 CFR 101-11.202

Abstract: The head of each Federal agency is required to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. The introduction of modern technology into Federal records systems presents problems in meeting this requirement because of the erasable storage media and complex storage formats. The Administrator of General Services is required to provide guidance and standards to agencies and has delegated the responsibility to the Archivist of the United States. Thus the National Archives and Records Service is reviewing the regulations regarding proper and adequate documentation to determine if they are sufficient to insure proper retention and retrievability of the information until its authorized disposition under an approved records control schedule. If this review determines agencies need different or new guidance, consideration is being given to providing such information through the FPMR Bulletin Structure.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/83	
End Review	09/30/84	

Small Entity: No

Agency Contact: Linda N. Brown, Acting Assistant Archivist, General Services Administration, Office of Federal Records Centers (NC), Washington, DC 20408, 202 724-1614

RIN: 3090-AB03

NATIONAL ARCHIVES AND RECORDS SERVICE

76. DISPOSITION OF FEDERAL RECORDS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11.4

Abstract: The National Archives and Records Service is undertaking a review of its records appraisal and disposition policies and procedures. As part of this review, existing regulations on records disposition (41 CFR 101-11.4) will be evaluated for possible changes. Further rulemaking actions, such as NPRM, are dependent on the result of the review.

Timetable:

Action	Date	FR Cite
End Review	10/00/83	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, General Services Administration, Program Analysis and Improvement Division, (NAA), Washington, DC 20408, 202 523-3214

RIN: 3090-AA90

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

COMPLETED RULEMAKINGS

78. USE OF CASH TO PROCURE PASSENGER TRANSPORTATION SERVICES COSTING MORE THAN $100

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action Temp Reg G-47 Correction 05/17/83, 48 FR 22149	04/20/83	48 FR 21327
Final Action Effective	05/12/83	

Small Entity: No

Agency Contact: Betty Brown 202 786-3011

RIN: 3090-AA06

79. FACSIMILE SIGNATURE ON SF 1113

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	03/11/83	48 FR 1031

Small Entity: No

Agency Contact: Louis Rosengarten 202 786-3012

RIN: 3090-AA07

80. ADJUSTMENTS FOR UNFURNISHED SERVICES, UNUSED TICKET REFUND PROCEDURES, AND COMMERCIAL FORMS AND PROCEDURES

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	06/14/83	48 FR 27235

Small Entity: No

Agency Contact: Douglas MacEwen 202 786-3018

RIN: 3090-AA08

81. SUPPORTING DOCUMENTATION FOR SUPPLEMENTAL BILLINGS (CLAIMS) AND PAYMENT OF TRANSPORTATION CLAIMS

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	08/05/83	48 FR 35649

Small Entity: No

Agency Contact: Douglas MacEwen 202 786-3018

RIN: 3090-AA92

82. DISPOSAL AUTHORITY DELEGATED TO HOLDING AGENCIES

CFR Citation: 41 CFR 101-47.302-2

Completed:

Reason	Date	FR Cite
Final Action	03/25/83	48 FR 12526

Small Entity: No

Agency Contact: James H. Pitts 202 535-7067

RIN: 3090-AA37

83. IDENTIFICATION OF UNNEEDED FEDERAL REAL PROPERTY

CFR Citation: 41 CFR 101-47.8

Completed:

Reason	Date	FR Cite
Final Action	06/06/83	48 FR 25199

Small Entity: No

Agency Contact: B. Michael O'Hara 202 535-7074

RIN: 3090-AA38

84. INTERGOVERNMENTAL REVIEW OF GSA PROGRAMS

CFR Citation: 41 CFR 101

Completed:

Reason	Date	FR Cite
Final Action	06/24/83	48 FR 29322
Final Action Effective	09/30/83	48 FR 29322

Small Entity: No

Agency Contact: Robert L. MacKinnon 202 535-7215

RIN: 3090-AA41

85. DELETION OF COVENANT AGAINST CONTINGENCY FEES

CFR Citation: 41 CFR 101-47.315

Completed:

Reason	Date	FR Cite
Final Action	06/03/83	48 FR 24879

Small Entity: No

Agency Contact: James H. Pitts 202 535-7067

RIN: 3090-AA76

86. GUIDELINES FOR SELLING SMALL LOTS OF SURPLUS PERSONAL PROPERTY

CFR Citation: 41 CFR 101-45.304-3

Completed:

Reason	Date	FR Cite
Final Action	06/14/83	48 FR 27236

Small Entity: No

Agency Contact: Dona Gamble 703 557-0814

RIN: 3090-AA29

87. THE UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

CFR Citation: 41 CFR 101-49

Completed:

Reason	Date	FR Cite
Final Action	03/23/83	48 FR 12069

Small Entity: No

Agency Contact: Mr. Stanley M. Duda 703 557-0807

RIN: 3090-AA31

88. UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

CFR Citation: 41 CFR 101-48

Completed:

Reason	Date	FR Cite
Temporary Regulation	05/04/83	48 FR 20056

Small Entity: No

Agency Contact: Mr. Stanley M. Duda 703 557-0807

RIN: 3090-AA32

89. UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

CFR Citation: 41 CFR 101-46

Completed:

Reason	Date	FR Cite
Withdrawn No rulemaking will occur.	06/10/83	

Small Entity: No

Agency Contact: Mr. Stanley M. Duda 703 557-0807

RIN: 3090-AA43

90. PROCUREMENT AND REQUISITIONING OF SUPPLIES AND SERVICES

CFR Citation: 41 CFR 101-29

Completed:

Reason	Date	FR Cite
Final Action	06/06/83	48 FR 25196

Small Entity: No

Agency Contact: Walter Eckbreth 703 557-0536

RIN: 3090-AA52

91. SUBPART 101-27.5--RETURN OF GSA STOCK ITEMS

CFR Citation: 41 CFR 101-27.5

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/83	

Small Entity: No

Agency Contact: Edward Kirk 703 557-7487

RIN: 3090-AA58

92. SUPPLEMENTS TO FEDERAL TRAVEL REGULATIONS (FTR)

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action Sup.5; Sup.4 - 10/01/82; Sup. 6 - 05/09/83, 48 FR 27216.	05/20/83	48 FR 27212

Small Entity: No

Agency Contact: Audrey Rish 703 557-1253

RIN: 3090-AA72

93. CONTRACTING FOR AUTOMATIC DATA PROCESSING (ADP) AND RELATED EQUIPMENT

Completed:

Reason	Date	FR Cite
Combined with RINs 3090-AA19,-AA22	07/01/83	

RIN: 3090-AA09

94. STATIONERY STANDARDS

CFR Citation: 41 CFR 101-11

Completed:

Reason	Date	FR Cite
Final Action	07/06/83	48 FR 31033
Final Action Effective	09/06/83	48 FR 31033

Small Entity: No

Agency Contact: Sandra Lambert 202 566-0194

RIN: 3090-AA18

95. UPDATE THE CONTENT AND PROCEDURES FOR THE GOVERNMENT-WIDE ADP MANAGEMENT INFORMATION SYSTEM (ADP/MIS) - PROJECT 82.36A

Completed:

Reason	Date	FR Cite
Combined with RIN 3090-AA22	07/01/83	

RIN: 3090-AA20

96. IMPLEMENTATION FOR AGENCY USE OF FEDERAL INFORMATION PROCESSING STANDARDS AND FEDERAL STANDARDS FOR TELECOMMUNICATIONS - PROJECT 83.10A

Completed:

Reason	Date	FR Cite
Combined with RIN 3090-AA88	07/01/83	

RIN: 3090-AA87

97. METHYLENE BLUE TESTING

CFR Citation: 41 CFR 101-11.506-3

Completed:

Reason	Date	FR Cite
Final Action	05/19/83	48 FR 22555
Final Action Effective	05/19/83	

Small Entity: No

Agency Contact: Carlton L. Brown 202 523-3159

RIN: 3090-AA60

98. PUBLIC USE OF PRESIDENTIAL LIBRARY FACILITIES

CFR Citation: 41 CFR 105-61.305

Completed:

Reason	Date	FR Cite
Final Action	09/19/83	48 FR 41770

Small Entity: No

Agency Contact: Adrienne C. Thomas 202 523-3214

RIN: 3090-AA84

99. ACCOMMODATIONS FOR THE PHYSICALLY HANDICAPPED

CFR Citation: 41 CFR 101-19

Completed:

Reason	Date	FR Cite
Final Action	04/12/83	48 FR 15628

Small Entity: No

Agency Contact: Kathleen Fields 202 566-0038

RIN: 3090-AA66

COMPLETED REVIEWS

100. DELEGATION OF MINERAL RIGHTS DISPOSAL AUTHORITY

CFR Citation: 41 CFR 101-47.603

Completed:

Reason	Date	FR Cite
End Review	07/00/83	

Small Entity: No

Agency Contact: James Kearns 202 535-7081

RIN: 3090-AA46

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

101. ●FEDERAL PROPERTY MANAGEMENT REGULATIONS; CHANGES IN LEGAL CITATIONS AND CORRESPONDENCE SYMBOLS

Legal Authority: 31 USC 952; 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Abstract: This rule amends citations of law and correspondence symbols and mail address appearing in the FPMR relating to the Office of Transportation Audits. This is necessary because of the codification of Title 31 U.S.C., into postive law, and the recent reorganization and relocation of the Office of Transportation Audits. It will provide users of the FPMR with current information to enable correspondence and other information to reach this office expeditiously.

Timetable:

Action	Date	FR Cite
Final Action	06/17/83	48 FR 27724

Small Entity: No

Agency Contact: John W. Sandfort, Chief, General Services Administration, Regulations, Procedures, and Claims Branch (BWCP), Washington, DC 20405, 202 786-3014

RIN: 3090-AB14

102. ●SUPPLEMENT 7 TO FEDERAL TRAVEL REGULATIONS (FTR)

Legal Authority: 40 USC 486(c); 5 USC 5707; EO 12609

CFR Citation: 41 CFR 101-7

Abstract: Supplement 7 to the FTR implements changes to the overseas tour renewal agreement travel entitlements for employees serving a tour of duty in Alaska or Hawaii. This change results from Public Law 97-253 (Omnibus Budget Reconciliation Act of 1982) approved September 8, 1983, and Public Law 97-346, approved October 15, 1982.

Timetable:

Action	Date	FR Cite
Final Action Effective	09/08/82	

Action	Date	FR Cite
Final Action	08/05/83	48 FR 35720

Small Entity: No

Agency Contact: Audrey Rish, Chief, General Services Administration, Travel Regulations Branch (FTAV), Office of Federal Supply and Services, Washington, DC 20406, 703 557-1253

RIN: 3090-AA97

[FR Doc. 83-28050 Filed 10-14-83; 8:45 am]

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VOL
48
ISS
201
OC
17
1983
UMI

federal register

Monday
October 17, 1983

Part XXV

International Development Cooperation Agency

Agency for International Development

Agency Regulatory Agenda; Semiannual Summary

VOL 48 ISS 201 OCT 17 1983 UMI

IDCA

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; Agency Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: Agency Regulations Agenda.

SUMMARY: The Agency for International Development (A.I.D.) is publishing this Agenda as required by Section 5(a) of Executive Order 12291, Federal Regulation (46 FR 13193, February 19, 1981) and by the Regulatory Flexibility Act (Pub. L. 96-354, September 30, 1980). This Agenda reports the status of those regulations currently under review and gives A.I.D.'s plan for the issuance of proposed regulations during the next twelve months. It is expected that the information provided in this Agenda will enable the public to be more aware of, and more effectively participate in A.I.D.'s rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the Agenda or the Review list, in general, Contact: Mr. Richard F. Calhoun, Office of Information Resources Management, Agency for International Development, Washington, D.C. 20523, Telephone (202) 632-3378.

Specific

For further information about any particular item on the Agenda, contact the individual listed as the contact for that item.

Regulatory Flexibility Act (RFA)

The Agency does not have any rulemaking activity that falls within the requirements of RFA and does not anticipate any during the next reporting period.

R. T. Rollis, Jr.,

Assistant to the Administrator for Management.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY (IDCA)

Existing Regulations Under Review

NON-DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, -- EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Legal Authority: 22 USC 2402

CFR Citation: 22 CFR 209

Abstract: The regulation will address the problem of discrimination on the basis of race, color, or national origin in any program or activity receiving assistance from the Agency for International Development. The regulation provides that no person in the United States on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance from AID. The regulation provides procedures for 1) assuring that such discrimination does not occur and 2) effecting compliance. The Agency is not considering any alternatives for addressing the problem. There will be some minor costs in administering the regulation; there are potential benefits to individuals who might otherwise be discriminated against.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Nancy Frame, United States International Development Cooperation Agency, Office of the General Counsel, Washington, DC 20523, 202 632-8218

RIN: 0412-AA01

PUBLIC INFORMATION

Legal Authority: PL 89-487; 5 USC 552

CFR Citation: 22 CFR 212

Abstract: The regulation is being reviewed within the Agency to determine whether a modification is necessary. Further action will be determined by congressional determination on the future requirements of the Act.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Mr. Rhea Johnson, United States International Development Cooperation Agency, Office of Public Affairs, Washington, DC 20523, 202 632-9614

RIN: 0412-AA02

REGULATION FOR IMPLEMENTATION OF PRIVACY ACT OF 1974

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 22 CFR 215

Abstract: The regulation is in the clearance process within the Agency and will be published for public comment.

Timetable:

Action	Date	FR Cite
Published for public comment	00/00/00	

Next Action Undetermined

Small Entity: No

Agency Contact: Mr. Rhea Johnson, United States International Development Cooperation Agency, Office of Public Affairs Washington, DC 20523, 202 632-9614

RIN: 0412-AA03

[FR Doc. 83-28051 Filed 10-14-83; 8:45 am]
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federal register

Monday
October 17, 1983

Part XXVI

National Aeronautics and Space Administration

Regulatory Agenda

VOL
48
ISS
201
OC
17
1983
UMI

NASA

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration.

ACTION: Regulatory agenda.

SUMMARY: This regulatory agenda describes the proposed regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESS: Director, Logistics Management and Information Programs Division, (Code NIM-12) Office of Management, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 202/755-3550.

SUPPLEMENTARY INFORMATION: OMB Bulletin No. 83-15, "Unified Agenda of Federal Regulations," Executive Order 12291, "Federal Regulation," and NASA Management Instruction 1410.10E, "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents," require that a regulatory agenda of proposed regulations under development and review be published in the **Federal Register** each October and April.

James M. Beggs,

Administrator.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Space Transportation System (STS) Insurance Indemnification Requirements	2700-AA00
2	Space Transportation System; Reimbursement for Spacelab Services	2700-AA01
3	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance	2700-AA02
4	Equal Access to Justice Act	2700-AA04
5	Patent Waiver Regulations	2700-AA10
6	Space Transportation System; Duty-Free Entry of Space Materials	2700-AA11
7	Payload Specialists for NASA or NASA-Related Payloads	2700-AA12
8	Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and Foreign Users Who Have Made Substantial Investment in the STS Program	2700-AA13
9	Reimbursement for Shuttle Services Provided to Non-U.S. Government Users	2700-AA14
10	Space Transportation System; Mementos Aboard Space Shuttle Flights	2700-AA18
11	Space Transportation System; Nonscientific Space Transportation System Payloads	2700-AA19
12	Inspection of Persons and Personal Effects on NASA property	2700-AA20

Completed Actions

Sequence Number	Title	RIN
13	Tracking and Data Relay Satellite System (TDRSS) Use and Reimbursement Policy for non-U.S. Government Users	2700-AA03
14	Intergovernmental Review of NASA Programs and Activities	2700-AA09
15	Fee Schedule	2700-AA16

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Current and Projected Rulemakings

1. SPACE TRANSPORTATION SYSTEM (STS) INSURANCE INDEMNIFICATION REQUIREMENTS

Legal Authority: PL 96-48

CFR Citation: 14 CFR 1214, Subpart 13

Abstract: Describes the policy on when users of the Space Transportation System must obtain financial protection against third-party claims and the conditions under which NASA will provide insurance or indemnification of users. Comments on the NPRM were received from several individuals.

Timetable:

Action	Date	FR Cite
NPRM	11/10/80	45 FR 219
Final Action	10/00/83	

Small Entity: No

Agency Contact: Robert J. Wojtal, National Aeronautics and Space Administration, Office of General Counsel, Code GK, Washington, DC 20546, 202 755-3169

RIN: 2700-AA00

2. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SPACELAB SERVICES

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, Subpart 8

NASA — Current and Projected Rulemakings

Abstract: Describes the policy for Spacelab services provided by NASA to users during the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
Final Action	11/00/83	

Small Entity: No

Agency Contact: Robert Haltermann, National Aeronautics and Space Administration, Office of Space Flight, Code M, Washington, DC 20546, 202 755-2342

RIN: 2700-AA01

3. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975 as amended

CFR Citation: 14 CFR 1252, Subpart 1

Abstract: Sets forth NASA's policies to implement the procedures under the Age Discrimination Act of 1975.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Additional Information: LEGAL AUTHORITY: 45 CFR 90 also applies.

Agency Contact: Richard N. Wolf, National Aeronautics and Space Administration, Office of General Counsel, Code GK, Washington, DC 20546, 202 755-3160

RIN: 2700-AA02

4. EQUAL ACCESS TO JUSTICE ACT

Legal Authority: 5 USC 504

CFR Citation: 14 CFR 1262

Abstract: Implements the Act in Agency proceedings which are adversary adjudications, in accordance with model regulations of the Administrative Conference of the United States. Interim rule published with request for comment. To remain as interim rule pending further legislative/judicial developments.

Timetable:

Action	Date	FR Cite
Interim Rule effective	10/01/81	
Interim Final Rule	01/27/82	47 FR 3758
Request for comment on Interim Rule	01/27/82	47 FR 3758
Final Action	00/00/00	

Next Action Undetermined

Small Entity: No

Agency Contact: Sara Najjar, National Aeronautics and Space Administration, Office of General Counsel, Code GS, Washington, DC 20546, 202 755-3920

RIN: 2700-AA04

5. PATENT WAIVER REGULATIONS

Legal Authority: 42 USC 2457 et seq

CFR Citation: 14 CFR 1245, Subpart 1

Abstract: To adopt Presidential Memorandum on Government Patent Policy of 02/18/83.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/83	48 FR 22132
NPRM	02/00/84	
Final Action	00/00/00	

Next Action Undetermined

Small Entity: No

Agency Contact: Robert F. Kempf, Asst. Gen. Counsel for Patent Matters, National Aeronautics and Space Administration, Code GP, NASA Headquarters, Washington, DC 20546, 202 755-3932

RIN: 2700-AA10

6. SPACE TRANSPORTATION SYSTEM; DUTY-FREE ENTRY OF SPACE MATERIALS

Legal Authority: PL 97-446

CFR Citation: 14 CFR 1214

Abstract: Describes the policy for the duty-free entry of materials imported to be launched into space by NASA or spare parts, or necessary and uniquely associated support equipment.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Robert J. Wojtal, Office of General Counsel, Code GK, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 755-3169

RIN: 2700-AA11

7. PAYLOAD SPECIALISTS FOR NASA OR NASA-RELATED PAYLOADS

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, Subpart 3

Abstract: Revises NASA's policy on Payload Specialists aboard STS flights to provide an opportunity to major payload reimbursable customers to select and utilize their own payload specialists.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Robert Haltermann, Office of Space Flight, Code M, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 755-2342

RIN: 2700-AA12

8. REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO CIVIL U.S. GOVERNMENT USERS AND FOREIGN USERS WHO HAVE MADE SUBSTANTIAL INVESTMENT IN THE STS PROGRAM

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, Subpart 2

Abstract: Sets forth the general provisions regarding flight of reimbursable payloads aboard the NASA Space Shuttle. Incorporates pricing principles for the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Robert Haltermann, Office of Space Flight, Code M, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 755-2342

RIN: 2700-AA13

9. REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO NON-U.S. GOVERNMENT USERS

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, Subpart 1

Abstract: Sets forth the general provisions regarding flight of reimbursable payloads aboard the NASA Space Shuttle. Incorporates

VOL
48
ISS
2
0
1
OC
17
1983
UMI

NASA — **Current and Projected Rulemakings**

pricing principles for the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Robert Haltermann, Office of Space Flight, Code M, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 755-2342

RIN: 2700-AA14

10. ●SPACE TRANSPORTATION SYSTEM; MEMENTOS ABOARD SPACE SHUTTLE FLIGHTS

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214

Abstract: Revised regulations clarify policy on carrying mementos aboard Space Shuttle flights and use of both official flight kits and personal preference kits.

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Nathaniel B. Cohen, Mgmt Sup Div Off of External Relat, Code LB, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 755-8383

RIN: 2700-AA18

11. ●SPACE TRANSPORTATION SYSTEM; NONSCIENTIFIC SPACE TRANSPORTATION SYSTEM PAYLOADS

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214

Abstract: Sets forth the policy on the services provided by NASA for the launch of nonscientific payloads aboard the Space Shuttle.

Timetable:

Action	Date	FR Cite
Final Action	11/00/83	

Small Entity: No

Agency Contact: Russell Ritchie, Office of External Relations, Code L, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 755-8433

RIN: 2700-AA19

12. ●INSPECTION OF PERSONS AND PERSONAL EFFECTS ON NASA PROPERTY

Legal Authority: 42 USC 2455(a)

CFR Citation: 14 CFR 1204

Abstract: Regulation is being revised to reflect the current organization within NASA.

Timetable:

Action	Date	FR Cite
Final Action	08/00/83	

Small Entity: No

Agency Contact: Erwin V. Minter, NASA Security Office, Code NIS, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 755-3400

RIN: 2700-AA20

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

COMPLETED RULEMAKINGS

13. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS) USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

CFR Citation: 14 CFR 1215

Completed:

Reason	Date	FR Cite
Final Action	03/09/83	48 FR 9845

Small Entity: No

Agency Contact: Robert O. Aller 202 755-2341

RIN: 2700-AA03

14. INTERGOVERNMENTAL REVIEW OF NASA PROGRAMS AND ACTIVITIES

CFR Citation: 14 CFR 1204, Subpart 15

Completed:

Reason	Date	FR Cite
Final Action	06/24/83	48 FR 29334

Small Entity: No

Agency Contact: James M. Bayne 202 755-3647

RIN: 2700-AA09

15. FEE SCHEDULE

CFR Citation: 14 CFR 1212.503

Completed:

Reason	Date	FR Cite
Final Action	03/23/83	48 FR 12084

Small Entity: No

Agency Contact: George E. Reese 202 755-3924.

RIN: 2700-AA16

[FR Doc. 83-28052 Filed 10-14-83; 8:45 am]
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register
federal

Monday
October 17, 1983

Part XXVII

National Capital Planning Commission

Semiannual Regulatory Agenda

VOL
48
ISS
201
OC
17
1983
UMI

NCPC

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Ch. IV

Semiannual Regulatory Agenda

AGENCY: National Capital Planning Commission.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act, the Commission is publishing its regulatory agenda.

FOR FURTHER INFORMATION CONTACT: Daniel H. Shear, General Counsel, National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C. 20576, (202) 724-0170.

Daniel H. Shear,

Secretary.

NATIONAL CAPITAL PLANNING COMMISSION (NCPC) — Current and Projected Rulemakings

●ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN THE NATIONAL CAPITAL PLANNING COMMISSION PROGRAMS

Priority: Agency Determination

Legal Authority: 20 USC 794 Sect. 504 of the Rehabilitation Act of 1973, as amend

Abstract: These regulations are designed to implement section 504 of the Rehabilitation Act of 1973, as amended, which requires each Executive agency to promulgate such regulations. The regulations are patterned on prototype regulations provided by the Department of Justice, under Executive Order 12280 (45 F.R. 72995, 3 CFR, 1980 Comp., p. 298)

Timetable:

Action	Date	FR Cite
ANPRM	10/00/83	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Kathleen K. McKay, Assistant General Counsel, National Capital Planning Commission, 1325 G Street, NW, Washington, DC 20576, 202 724-0170

RIN: 3125-AA02

NATIONAL CAPITAL PLANNING COMMISSION (NCPC) — Completed Actions

COMPLETED RULEMAKINGS

REVISED PUBLIC PARTICIPATION PROCEDURES

Priority: Agency Determination

Completed:

Reason	Date	FR Cite
Final Action	08/21/83	48 FR 3371

Small Entity: No

Agency Contact: Samuel K. Frazier 202 724-0178

RIN: 3125-AA00

REGULATIONS FOR THE INTERGOVERNMENTAL REVIEW OF FEDERAL PLANS IN THE NATIONAL CAPITAL REGION

Priority: Agency Determination

Completed:

Reason	Date	FR Cite
Published as Proposed Procedures	06/10/83	48 FR 28924

Small Entity: No

Agency Contact: Donald F. Bozarth 202 724-0168

RIN: 3125-AA01

[FR Doc. 83-28053 Filed 10-14-83; 8:45 am]

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federal register

Monday
October 17, 1983

Part XXVIII

National Foundation on the Arts and the Humanities

National Endowment for the Humanities

Semiannual Agenda of Regulations

VOL
48
ISS
201
OC
17
1983
UMI

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Humanities.

ACTION: Publication of the Semiannual Agenda of Regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, and Executive Order 12291, "Federal Regulations," dated February 17, 1981 the National Endowment for the Humanities is required to publish in April and October of each year an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, (202) 786-0322.

William J. Bennett,

Chairman.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Current and Projected Rulemakings

NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM NEH

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975

CFR Citation: 45 CFR 1172

Abstract: This regulation will prohibit discrimination on the basis of age in programs or activities receiving financial assistance from the National Endowment for the Humanities.

Timetable:

Action	Date	FR Cite
NPRM	10/04/79	44 FR 57130
Final Action	00/00/00	

Small Entity: No

Agency Contact: Ms. Carol M. Gordon, Director, National Endowment for the Humanities, Office of Equal Opportunity, 806 15th Street, NW, Washington, DC 20506, 202 724-0331

RIN: 3136-AA00

NONDISCRIMINATION ON THE BASIS OF SEX

Legal Authority: 20 USC 1681 et seq Title IX of the Education Amendments of 1972

CFR Citation: 45 CFR 1171

Abstract: This regulation will prohibit discrimination on the basis of sex under any education program or activity receiving financial assistance from the National Endowment for the Humanities. The final regulation is being drafted and will need approval by the Department of Justice and the Office of Management and Budget before it can be published.

Timetable:

Action	Date	FR Cite
NPRM	06/20/80	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Ms. Carol M. Gordon, Director, National Endowment for the Humanities, Office of Equal Opportunity, 806 15th Street, NW, Washington, DC 20506, 202 724-0331

RIN: 3136-AA01

STATEMENT FOR THE GUIDANCE OF THE PUBLIC - ORGANIZATION, PROCEDURES AND AVAILABILITY OF INFORMATION

Legal Authority: 5 USC 552(a)(4)(A) Freedom of Information Act

CFR Citation: 45 CFR 1100

Abstract: The revised regulation will clarify the fees charged for document search and duplication. Information on the organization will be updated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Mr. Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, Office of the General Counsel, 806 15th Street, NW, Washington, DC 20506, 202 724-0367

RIN: 3136-AA03

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Existing Regulations Under Review

NONDISCRIMINATION ON THE BASIS OF RACE, COLOR OR NATIONAL ORIGIN WITHIN NEH FUNDED PROGRAMS

Legal Authority: 42 USC 2000d et seq Title VI of the Civil Rights Act of 1964; EO 12250

CFR Citation: 45 CFR 1175; 45 CFR 1110

Abstract: The regulation will be applicable only to National Endowment for the Humanities grantees. Modifications will be made in procedures and definitions. The draft notice of proposed rulemaking is currently under review within the Endowment. It will be published after completion of that review and review by the Department of Justice, and the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Additional Information: LEGAL AUTHORITY: 28 CFR 42 subpart F and Section 50.3 also apply.

Agency Contact: Ms. Carol M. Gordon, Director, Office of Equal Opportunity, National Endowment for the Humanities, 806 15th Street, NW, Washington, DC 20506, 202 724-0331

RIN: 3136-AA02

[FR Doc. 83-28054 Filed 10-14-83; 8:45 am]
BILLING CODE 7536-01-T

federal register

Monday
October 17, 1983

Part XXIX

National Science Foundation

Semiannual Regulations Agenda

VOL
48
ISS
201
OC
17
1983
UMI

NSF

NATIONAL SCIENCE FOUNDATION

41 CFR Ch. 25

45 CFR Ch. VI

Federal Regulation; Semiannual Regulations Agenda

AGENCY: National Science Foundation.

ACTION: Publication of Semiannual Regulations Agenda.

SUMMARY: The National Science Foundation (NSF) publishes its semiannual agenda of regulations under development or review as required by Executive Order 12291, Federal Regulation (48 FR 13193, February 17, 1981). This agenda has been prepared in accordance with OMB Bulletin No. 83-15, Unified Agenda of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in the agenda, contact the individual identified as the contact person in the agenda. Comments or inquiries of a general nature about the agenda should be directed to Lucylynn Petitt, Office of the General Counsel, National Science Foundation, Washington, DC 20550, (202) 357-7439.

Charles H. Herz,

General Counsel.

September 9, 1983.

NATIONAL SCIENCE FOUNDATION (NSF) — Current and Projected Rulemakings

AGE DISCRIMINATION REGULATIONS

Priority: Agency Determination

Legal Authority: 42 USC 6101 et seq The Age Discrimination Act of 1975; Section 11 of the NSF Act

CFR Citation: 45 CFR 605, (Proposed)

Abstract: These regulations, which will prohibit discrimination on the basis of age in all Foundation-assisted programs, have been developed in coordination with the Department of Health and Human Services (HHS). HHS regulations were published on December 28, 1982, but NSF regulations have been delayed pending clearance by HHS.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Perry W. Hooks, National Science Foundation, Office of Equal Opportunity, Washington, DC 20550, 202 357-9819

RIN: 3145-AA00

CIVIL RIGHTS - TITLE VI REGULATIONS

Legal Authority: Section 11 of the NSF Act; Title VI of the Civil Rights Act of 1964

CFR Citation: 45 CFR 611

Abstract: These regulations prohibit discrimination on the basis of race, color, or national origin in all NSF-assisted programs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Perry W. Hooks, National Science Foundation, Office of Equal Opportunity, Washington, DC 20550, 202 357-9819

RIN: 3145-AA01

NATIONAL SCIENCE FOUNDATION (NSF) — Completed Actions

COMPLETED RULEMAKINGS REGULATIONS GOVERNING CONSULTATION WITH STATE AND LOCAL GOVERNMENTS

Priority: Agency Determination

CFR Citation: 45 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	06/24/83	48 FR 29358

Small Entity: No

Agency Contact: Ruth L. Greenstein 202 357-9438

RIN: 3145-AA02

PATENTS

Priority: Agency Determination

CFR Citation: 45 CFR 650

Completed:

Reason	Date	FR Cite
Final Action	05/02/83	48 FR 19860
Final Action Effective	05/02/83	48 FR 19860

Small Entity: No

Agency Contact: John Chester 202 357-9435

RIN: 3145-AA03

[FR Doc. 83-28055 Filed 10-14-83; 8:45 am]
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federal register

Monday
October 17, 1983

Part XXX

Office of Management and Budget

Federal Regulations; OMB Directives Included in the Semiannual Agenda of Upcoming Activities

VOL 48 ISS 201 OCT 17 1983 UMI

OMB

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III

Federal Regulations; OMB Directives Included in the Semiannual Agenda of Upcoming Activities

AGENCY: Office of Management and Budget.

ACTION: Publication of Semiannual Agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities on OMB Circulars and Office of Federal Procurement Policy Letters (OFPP Policy Letters). This action is in accordance with OMB's internal procedures for implementing Executive Order No. 12291. OMB directives are issued under authority derived from several sources including: Subtitles I, II, and V of Title 31, United States Code, Executive Order No. 11541, and other specific authority as cited. The agenda includes actions on issuances which are not regulations, but which are of public interest.

OMB Circulars and OFPP Policy Letters are directives that communicate significant government-wide policy of a continuing nature. For purposes of this agenda, we have included Circulars and Policy Letters which are designed to implement, interpret, or prescribe law or policy, or describe the procedure or practice requirements of an agency. Excluded are directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management or personnel of Federal agencies.

OMB, in coordination with agency Assistant Secretaries for Management, is currently conducting a review of all OMB Circulars presently in effect, as part of the Reform 88 initiative. That review is being conducted in addition to the specific actions listed in this agenda. As additional actions result from that review, they will be included in future agendas.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Candice C. Bryant at the above address.

Candice C. Bryant,

Deputy Associate Director for Administration.

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Current and Projected Rulemakings

POLICY GOVERNING CHARGES FOR RENTAL QUARTERS AND RELATED FACILITIES (CIRCULAR NO. A-45)

Legal Authority: 5 USC 5811; See preamble

CFR Citation: Not applicable

Abstract: Nearly twenty years have elapsed since this Circular was issued. It requires updating and, to the extent possible, simplification. Some of the issues to be addressed are (1) calculation of unusual transportation costs, and (2) the definition of an established community. Among the principal benefits to be sought are more equitable rental rates for government quarters and simplified guidelines for determining such rates.

Timetable:

Action	Date	FR Cite
Draft Circular for Comment	08/08/83	48 FR 36032
Final Action	11/30/83	

Small Entity: No

Agency Contact: David F. Baker, Assoc. Admin. for Management Controls (Actg), Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, **202 395-7207**

RIN: 0348-AA09

●WRITING AND ADMINISTERING PERFORMANCE WORK STATEMENTS PART II OF SUPPLEMENT TO CIRCULAR NO. A-76

Legal Authority: PL 93-400; See preamble

CFR Citation: Not Applicable

Abstract: This document describes a systematic means for developing Performance Work Statements and Quality Assurance Surveillance plans for Government management of commercial activities. It describes how to write performance standards for service activities and how to measure performance at a reasonable cost. It also includes procedures for contracting personnel who review and administer service contracts.

Timetable:

Action	Date	FR Cite
Draft for public comment	11/00/83	
Final	02/00/84	

Small Entity: Yes

Agency Contact: David L. Muzio, Dep. Assoc. Adm. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, **202 395-6810**

RIN: 0348-AA34

PATENTS - SMALL BUSINESS FIRMS AND NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-124)

Legal Authority: PL 96-517; See preamble

CFR Citation: Not applicable

Abstract: This Circular implements P.L. 96-517 which establishes uniform patent policy for universities, nonprofits, and small business with respect to inventions made under Government funding arrangements. The President's February 18, 1983 statement on Government Patent Policy extended, to the extent permitted by law, the policy in P.L. 96-517 to large business. An amendment to Circular No. A-124 will be proposed to implement the President's statement.

Timetable:

Action	Date	FR Cite
Proposed Amendment for Comment	06/08/83	48 FR 26556
Final Revision	12/00/83	

Small Entity: Yes

Agency Contact: William Maraist, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, **202 395-3300**

RIN: 0348-AA14

OMB — Current and Projected Rulemakings

●PROMPT PAYMENT (CIRCULAR NO. A-125)

Legal Authority: PL 97-188 Prompt Payment Act; See preamble

CFR Citation: Not Applicable

Abstract: The purpose of the proposed revision is to clarify the applicability of the Circular to progress payments, advance payments, and other forms of contract financing.

Timetable:

Action	Date	FR Cite
Proposed revision published	09/08/83	48 FR 40582
Proposed Issuance	12/00/83	

Small Entity: Yes

Agency Contact: John J. Lordan, Deputy Assoc. Dir. for Finance & Accounting, Office of Management and Budget, Washington, D.C. 20503, **202 395-6823**

RIN: 0348-AA36

FEDERAL PROCUREMENT POLICY ON SUBCONTRACTING UNDER FEDERAL CONTRACTS (PROPOSED MODIFICATION TO OFPP POLICY LETTER)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not applicable

Abstract: The proposed modification to Policy Letter 80-2, April 29, 1980, would authorize departments and agencies, under appropriate circumstances to relieve a prime contractor of the responsibility under the existing policy letter of reviewing and approving a subcontractor's plan. Subcontracting plans are required under Section 211 of Public Law 95-507.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter Published	07/28/83	48 FR 34376
Final Letter Scheduled to be issued	12/15/83	

Small Entity: Yes

Agency Contact: Owen Birnbaum, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, **202 395-3254**

RIN: 0348-AA17

PROCUREMENT PROCEDURES, ADVANCE PROCUREMENT PLANNING AND REVIEW OF END-OF-YEAR PURCHASES (OFPP POLICY LETTER 81-1)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not applicable

Abstract: The Policy Letter requires agencies to establish management controls to reduce wasteful end-of-year purchases. It was issued in August 1981. All agencies have established such controls and end-of-year spending has been reduced. It is duplicative of the general requirement of OMB Circular A-123, "Internal Controls."

Timetable:

Action	Date	FR Cite
End Review	08/15/83	
Recission Notice to be issued	11/15/83	

Small Entity: No

Agency Contact: Joseph Zimmer, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, **202 395-6803**

RIN: 0348-AA18

●FEDERALLY FUNDED RESEARCH & DEVELOPMENT CENTERS (FFRDCS)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not Applicable

Abstract: Sets forth guidelines for establishing, using, reviewing, and ending the sponsorship of FFRDCs. Requires a thorough assessment of existing alternative sources before establishing an FFRDC or expanding the scope of an existing FFRDC's sponsoring agreement. A sponsoring agreement will clearly delineate the purpose of the FFRDC and describe the scope of effort to be performed by the FFRDC. It will also describe the role the FFRDC has in accomplishing the scope of this sponsoring agreement.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter Published	08/12/83	48 FR 36711
Final Letter Scheduled to be Issued	11/30/83	

Small Entity: Yes

Agency Contact: Judy Hendrickson, Dep. Associate Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, **202 395-6810**

RIN: 0348-AA37

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Existing Regulations Under Review

●OFFICE OF MANAGEMENT AND BUDGET'S DIRECTIVES SYSTEM TO EXECUTIVE DEPARTMENTS AND AGENCIES (CIRCULAR NO. A-1)

Legal Authority: See Preamble

CFR Citation: Not Applicable

Abstract: OMB Circular A-1, last revised in August 1952, describes the OMB directives system used to convey policy, provide guidance, and communicate instruction to executive departments and agencies.

Timetable:

Action	Date	FR Cite
Circular to be issued	12/00/83	

Small Entity: No

Agency Contact: Candice C. Bryant, Associate Director for Administration, Office of Management and Budget, Washington, D.C. 20503, **202 395-7250**

RIN: 0348-AA33

POLICIES ON CONSTRUCTION OF FAMILY HOUSING (CIRCULAR NO. A-18)

Legal Authority: See preamble

CFR Citation: Not applicable

Abstract: OMB Circular A-18, last revised in August 1967, sets forth policies for budgeting, planning, and undertaking the construction of federally-owned housing (exclusive of military barracks) for Federal personnel and for employees of Government contractors. Housing standards, concepts of living space requirements, the housing market and economic

VOL
48
ISS
201
OC
17
1983
UMI

factors bearing on it have changed significantly since the Circular was last issued and updating and revision are required.

Timetable:

Action	Date	FR Cite
End Review	12/00/83	

Small Entity: No

Agency Contact: Charles W. Clark, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3254

RIN: 0348-AA08

●FEDERAL GOVERNMENT USER CHARGES POLICY (CIRCULAR NO. A-25)

Legal Authority: Budget and Accounting Act of 1921; PL 39-344; See preamble

CFR Citation: Not applicable

Abstract: General policies for Federal agencies on administering user charges and formulating legislative proposals regarding user charges are set forth in OMB Circular No. A-25. This Circular is under review. It is expected that modifications will be considered reflecting current policies, enacted legislation, and court decisions.

Timetable:

Action	Date	FR Cite
End Review	03/01/84	

Small Entity: Yes

Agency Contact: Charles Goldsmith, Financial Economist, Office of Management and Budget, Budget Review Division, Washington, D.C. 20503, 202 395-4574

RIN: 0348-AA41

MANAGEMENT AND OPERATING CONTRACTS (CIRCULAR NO. A-49)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not applicable

Abstract: This Circular was published in 1967, and is currently being examined to determine whether it is still necessary. Draft FAR regulations have been issued which may eliminate the need for the Circular.

Timetable:

Action	Date	FR Cite
End Review	04/01/84	

Small Entity: Yes

Agency Contact: David L. Muzio, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA10

●FEDERAL CREDIT POLICIES (CIRCULAR NO. A-70)

Legal Authority: Budget and Accounting Act of 1921; PL 93-344; See preamble

CFR Citation: Not applicable

Abstract: OMB Circular No. A-70 provides guidance to Federal agencies in the development and execution of Federal credit activities. This Circular is under review in light of current economic conditions and established credit policies. The review will include consideration of more uniform accounting definitions and improved management practices.

Timetable:

Action	Date	FR Cite
End Review	03/01/84	

Small Entity: Yes

Agency Contact: Rodney Bent, Financial Economist, Office of Management and Budget, Budget Review Division, Washington, D.C. 20503, 202 395-3672

RIN: 0348-AA40

UNIFORM REQUIREMENTS FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-102)

Legal Authority: 31 USC 65 et seq.; 42 USC 4212 et seq.; 41 USC 401 et seq.; See preamble

CFR Citation: Not applicable

Abstract: The purpose of the review is to develop changes to administrative policies which will further reduce the regulatory burden on state and local governments.

Timetable:

Action	Date	FR Cite
Preliminary review	09/30/83	
Advance proposal published	12/31/83	

Small Entity: No

Agency Contact: James Kelley, Deputy Associate Director, Management Reform, Office of Management and Budget, Washington, D.C. 20503, 202 395-3774

RIN: 0348-AA11

MAJOR SYSTEM ACQUISITIONS (CIRCULAR NO. A-109)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not applicable

Abstract: Seven years have elapsed since this Circular was issued. A review, in light of experience gained, is warranted with a goal of revision and simplification while maintaining the current general policy thrust of A-109.

Timetable:

Action	Date	FR Cite
End Review	12/00/83	

Small Entity: Yes

Agency Contact: Judith D. Hendrickson, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA12

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS AND OTHER NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-110)

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; See preamble

CFR Citation: Not applicable

Abstract: The review will develop proposed changes to the Circular needed to call for "Single audit" of Colleges and Universities by auditors they choose as an alternative to detailed Federal Auditing.

Timetable:

Action	Date	FR Cite
End Review	03/31/84	

Small Entity: No

Agency Contact: James Kelley, Deputy Associate Director, Management Reform, Office of Management and Budget, Washington, D.C. 20503, 202 395-3774

RIN: 0348-AA05

MANAGEMENT OF FEDERAL AUDIOVISUAL ACTIVITIES (CIRCULAR NO. A-114)

Legal Authority: See preamble

CFR Citation: Not applicable

Abstract: Circular A-114 was issued in April 1978. The Circular prescribes policies and procedures for improving the management of Federal audiovisual activities. Since the issuance of the Circular, several recommendations have been received (including two Comptroller General's decisions) regarding the need to revise the Circular, particularly Attachment E thereto, "Contracts for Motion Picture Productions." It is OMB's intent to review the Circular in response to the various recommendations and agencies' operating experiences.

Timetable:

Action	Date	FR Cite
End Review	03/00/84	

Small Entity: Yes

Agency Contact: Charles W. Clark, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3254

RIN: 0348-AA13

GUIDELINES FOR THE USE OF CONSULTING SERVICES (CIRCULAR NO. A-120)

Legal Authority: 41 USC 401; See preamble

CFR Citation: Not applicable

Abstract: The Circular was issued in April 1980 to address the need for controls for consultant contracting. Subsequently, in October 1981, Circular No. A-123 was issued which addressed the use of internal controls in program and admininstrative activities. Therefore, the need for a separate Circular addressing only controls for consulting contracts is under further review.

Timetable:

Action	Date	FR Cite
End Review	01/00/84	

Small Entity: Yes

Agency Contact: Joseph F. Zimmer, Deputy Associate Administrator for Policy, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6803

RIN: 0348-AA03

COST PRINCIPLES FOR NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-122)

Legal Authority: See preamble

CFR Citation: Not applicable

Abstract: The purpose of this proposed revision is to establish a government-wide set of cost principles regarding lobbying and related activites that will provide clear guidelines for grantees where none now exist, and protect grantees against audit harassment and excessive paperwork requirements. It is designed to ensure that federally-appropriated funds are not used by contractors or grantees for such activities and to assure compliance with a myriad of statutory provisions mandating that no federal funds be used for lobbying purposes. The intent is not to discourage or in any way penalize organizations for lobbying efforts with their own funds, but to ensure that the federal government does not subsidize such activities.

Parallel revisions are being proposed for defense and civilian contractors by the Department of Defense and the General Services Administration. A 45-day public comment period will follow the publication of the proposed revision.

Timetable:

Action	Date	FR Cite
Revised Proposal to be issued	10/00/83	

Small Entity: Yes

Agency Contact: John J. Lordan, Dep. Assoc. Dir. for Financial Management, Office of Management and Budget, Washington, D.C. 20503, 202 395-6823

RIN: 0348-AA06

●FEDERAL INFORMATION RESOURCES MANAGEMENT POLICIES

Legal Authority: PL 96-511; PL 89-306; PL 93-579; EO 11893; EO 12046; See preamble

CFR Citation: Not Applicable

Abstract: In accordance with statutory requirements, the Office of Management and Budget has issued a number of policies regarding the management of Federal information resources such as computers and personal records. The enactment of the Paperwork Reduction Act, P.L. 96-511, requires that these policies be brought up-to-date, integrated and made uniform. The Assistant Secretaries for Management group made a similar recommendation. The objective of this initiative is to develop a government-wide policy structure that will provide positive incentives for the efficient and effective management of Federal information resources.

Timetable:

Action	Date	FR Cite
Notice published soliciting comments	09/12/83	48 FR 40964
Proposed policy to be published for comment	02/00/84	

Small Entity: No

Agency Contact: Timothy Sprehe, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, 202 395-4814

RIN: 0348-AA31

BOARD OF CONTRACT APPEALS - POSITION ALLOCATION PURSUANT TO PUBLIC LAW 95-563 (OFPP POLICY LETTER 79-2, SUPPLEMENT NO. 1)

Legal Authority: 41 USC 601; See preamble

CFR Citation: Not applicable

Abstract: The Contract Disputes Act provides for establishment of Boards of Contract Appeals (BCAs) in the various executive agencies; initial allocation of positions was made by the Administrator, OFPP, based on workload studies of existing BCAs. The Act provides for update of workload studies every three years; update of the Policy Letter is necessary, based on the update of workload studies.

Timetable:

Action	Date	FR Cite
End Review	12/00/83	
Draft Policy Letter for Comment	12/00/83	

Small Entity: No

Agency Contact: Patricia A. Szervo, Assoc. Admin. for Procurement Law and Legis., Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3501

RIN: 0348-AA16

FEDERAL ACQUISITION REGULATION SYSTEM: OTHER PROCUREMENT RULES AND REGULATIONS (OFPP POLICY LETTER 80-5)

Legal Authority: PL 93-400; See preamble

CFR Citation: 48 CFR Chapter 1 (when codified)

Abstract: This Policy Letter established the Federal Acquisition Regulation System including some details regarding its implementation and the organization for its maintenance. During the five years of the FAR development, some of these details have changed. The Policy Letter will be amended to reflect these changes.

Timetable:

Action	Date	FR Cite
End Review	09/30/83	
Proposed Policy Letter Changes Published	10/26/83	
Final Letter Scheduled to be issued	12/30/83	

Small Entity: Yes

Agency Contact: William Maraist, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA19

●POLICIES FOR ESTABLISHING THE PROFIT OR FEE PRENEGOTIATION OBJECTIVE (OFPP POLICY LETTER 80-7)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not Applicable

Abstract: OFPP Policy Letter 80-7, dated December 15, 1980, established a facilities capital cost-of-money cost principle for contracts with commercial organizations and uniform policies for establishing the profit or fee portion of the Government prenegotiation objective. Agencies were required to develop a structured approach for determining the profit or fee portion of the Government prenegotiation objective in acquisitions requiring cost analysis. The structured approach adopted by the agency had to permit tailoring of profit or fee on an individual contract to fit the particular circumstances of that contract. Sunset review was established as January 1, 1984. Need for continuation of the policy letter is under review.

Timetable:

Action	Date	FR Cite
End Review	11/00/83	

Small Entity: Yes

Agency Contact: Judy Hendrickson, Dep. Assoc. Administrator for Pol. Devel., Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA35

NONCOMPETITIVE PROCUREMENT (PROPOSED OFPP LETTER)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not applicable

Abstract: Over 50% of Federal procurement dollars today are awarded without obtaining competition. The purpose of the policy letter, pursuant to the Administration's proposal for a Uniform Federal Procurement System, is to establish restrictions on noncompetitive procurement.

Timetable:

Action	Date	FR Cite
Draft Policy Letter for comment	05/15/83	48 FR 37323
Final Letter Scheduled to be issued	11/21/83	

Small Entity: Yes

Agency Contact: LeRoy J. Haugh, Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6166

RIN: 0348-AA15

●FEDERAL PROCUREMENT POLICY ON PART 19 OF THE FEDERAL ACQUISITION REGULATION (PROPOSED OFPP POLICY LETTER)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not Applicable

Abstract: The proposed policy letter would modify Part 19 (Small Business) of the Federal Acquisition Regulation and amplify the regulatory guidance on small business set forth in the part.

Timetable:

Action	Date	FR Cite
The need for a policy letter is being reviewed	12/15/83	

Small Entity: Yes

Agency Contact: Owen Birnbaum, Dep. Assoc. Adm. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3254

RIN: 0348-AA38

●POLICY PERTAINING TO THE ACQUISITION OF COMMERCIAL PRODUCTS

Legal Authority: PL 93-400; See preamble

CFR Citation: Not Applicable

Abstract: The proposed policy letter will promulgate policies necessary to ensure that agencies purchase commercial products whenever such products adequately satisfy the Government's essential needs.

Timetable:

Action	Date	FR Cite
Publish Draft Policy Letter for comment	03/01/84	

Small Entity: Yes

Agency Contact: Charles W. Clark, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3254

RIN: 0348-AA39

COMPLETED RULEMAKINGS

CONTROLLING PAPERWORK BURDENS ON THE PUBLIC (CIRCULAR NO. A-40)

CFR Citation: 5 CFR 1320

Completed:

Reason	Date	FR Cite
Final Action	03/31/83	48 FR 13666

Small Entity: Yes

Agency Contact: Arnold M. Strasser 202 395-6880

RIN: 0348-AA01

PERFORMANCE OF COMMERCIAL ACTIVITIES (CIRCULAR NO. A-76)

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	08/04/83	48 FR 37110

Small Entity: Yes

Agency Contact: Curt Holland 202 395-6810

RIN: 0348-AA02

INTERNAL CONTROL SYSTEMS (CIRCULAR NO. A-123)

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Revised Circular issued	08/16/83	

Small Entity: No

Agency Contact: John Lordan 202 395-6823

RIN: 0348-AA07

RETAINAGE POLICY FOR FEDERAL CONSTRUCTION CONTRACTS (OFPP POLICY LETTER 83-1)

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	05/20/83	48 FR 22831

Small Entity: Yes

Agency Contact: Charles W. Clark 202 395-3254

RIN: 0348-AA29

PUBLICIZING THE DEVELOPMENT OF PROCUREMENT POLICIES AND REGULATIONS (OFPP POLICY LETTER 83-2)

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	05/25/83	48 FR 24492

Small Entity: Yes

Agency Contact: LeRoy J. Haugh 202 395-6166

RIN: 0348-AA30

COMPLETED REVIEWS

AUDIT OF FEDERAL PROGRAMS (CIRCULAR NO. A-73)

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Revised Circular issued	06/20/83	

Small Entity: No

Agency Contact: John P. Sheehan 202 395-3993

RIN: 0348-AA04

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

●POLICY FOR PROCUREMENT OF ARCHITECT-ENGINEER SERVICES (OFPP POLICY LETTER 83-3)

CFR Citation: Not applicable

Timetable:

Action	Date	FR Cite
Final Action	06/17/83	48 FR 27861

Small Entity: Yes

Agency Contact: Charles W. Clark, Office of Management and Budget, 202 395-3254

RIN: 0348-AA32

[FR Doc. 83-28056 Filed 10-14-83; 8:45 am]

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VOL 48 ISS 201 OCT 17 1983 UMI

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Part XXXI

Office of Personnel Management

Regulatory Agenda

VOL 48 ISS 201 OCT 17 1983 UMI

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for review or development from November 1, 1983 through October 31, 1984. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12291, Federal Regulation, and the Regulatory Flexibility Act (5 U.S.C. Chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: Terry W. Culler, Assistant Director, Office of Planning and Evaluation, (202) 254–3134.

Office of Personnel Management.

Donald J. Devine,

Director.

Part I—List of Current and Projected Regulations Scheduled for Development

November 1, 1983 Through October 31, 1984

"P" indicates a regulation designated for priority development or review by the Director, OPM.
*New Item.

CFR citation	Title of affected part	Legal authority	Abstract	Time table	Agency contact, title of person, mailing address and telephone number	Affects small entities?
1. 5 CFR Part 230	Organization of the Government for Personnel Management	5 U.S.C. 1104, 1302,3301,3302; E.O. 10577	Transfers regulations to Part 250 and deletes Part 230, to maintain parallel structure with 5 U.S.C., as amended by the Civil Service Reform Act of 1978.	Proposed regulations published 5/20/83 (48 FR 22728). Target date for final: 11/83	Walter Townsend, Personnel Management Specialist, Policy Coordination Division, Office of Planning and Evaluation, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 254–5134.	No
2. 5 CFR Part 250	Personnel Management in Agencies	5 U.S.C. 1104, 1302, 3301, 3302; E.O. 10577	Combines material formerly in Part 230 with existing regulations to present all regulations on agencies' authorities for personnel management in a single part of the Code of Federal Regulations. Changes improve the technical integrity of the CFR by eliminating redundancies and streamlining OPM's regulations. No change in the coverage or substance of affected regulations.	Proposed regulations published 5/20/83 (48 FR 22728). Target date for final: 11/83	Walter Townsend, Personnel Management Specialist, Policy Coordination Division, Office of Planning and Evaluation, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 254–5134	No
3. 5 CFR Parts 293, 294, 300, 511, 532, 536, 736	Personnel Records and Files; Availability of Official Information; Employment (General); Classification Under the General Schedule; Prevailing Rate Systems; Grade and Pay Retention; Investigations.	Pub. L. 89–554 (Freedom of Information Act of 1966).	Agencies are required to publish regulations describing how to obtain information from them. Recent case law, internal agency reorganizations, and the passage of the Civil Service Reform Act require a number of changes in the OPM regulations to bring them up-to-date. In addition, the regulations on obtaining access to specific types of records are being moved to those portions of the regulations dealing with those records.	Proposed regulations published 10/19/82 (47 FR 46513). Target date for final regulations: 11/83.	William C. Duffy, Chief, Information Systems Plans and Policies Branch, Room 6410, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632–7714	No
4. 5 CFR Part 294	Availability of Official Information	Pub. L. 89–554 (Freedom of Information Act of 1966).	Agencies are required to publish fee schedules of charges for information under the Freedom of Information Act. We plan to review our fee schedule and update it to more accurately reflect the current costs of providing the information.	Target date for proposed regulations: 11/83. For final regulations: 3/84.	William C. Duffy, Chief, Information Systems Plans and Policies Branch, Room 6410, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632–7714	No
5. 5 CFR Part 294, Subpart H (294.801)*	Classified Information	5 U.S.C. 552 and E.O. 12356	Final regulation would remove regulations from Part 294 which more properly belong in Part 175, regarding security classification of OPM documents.	Target date for final: 3/84	Llewellyn M. Fisher, Attorney, Office of the General Counsel, U.S. Office of Personnel Management, 1900 E. St. NW., Room 5H30, Washington, D.C. 20415, (202) 632–5506.	No
6. 5 CFR Part 297	Protection of Privacy and Personnel Records	5 U.S.C. 552a	The Privacy Act (5 U.S.C. 552a) requires agencies to issue regulations to implement the Act. OPM's regulations also require that agencies follow OPM's rule for those records maintained by them that are under OPM's control. These regulations have remained unchanged since 1979 and, as OPM intends to issue FPM guidance on matters currently inappropriate for issuance in the regulations, need revision both to reflect any changes resulting from case law or in OPM policy and to remove material that is more appropriate for FPM issuance.	Target date for proposed regulations: 6/84.	William H. Lynch, Information Specialist, U.S. Office of Personnel Management, Compliance and Investigations Group, Office of Workforce Information, U.S. Office of Personnel Management, 1900 E. St. NW., Washington, D.C. 20415, (202) 632–5433.	No

CFR citation	Title of affected part	Legal authority	Abstract	Time table	Agency contact, title of person, mailing address and telephone number	Affects small entities?
7. 5 CFR Parts 360, 335, 430, 431, 451, 531, 532, 540	Performance Management.	5 U.S.C. 4302, 4305, 4312–5315.	Final regulations would require that agencies develop and implement a performance management system (PMS) which integrates basic management functions with performance, pay, and incentives systems for purpose of improving individual and organizational effectiveness in the accomplishment of agency mission and goals. The final rule would also require that agency decisions which relate to merit pay, performance awards, within-grade and step increases, and quality increases, in addition to any other statutory or regulatory requirements, be based on performance appraisal ratings.	Proposed rules published 7/14/83 (48 FR 32288).	James Weddel, Personnel Management Specialist, Office of Performance Management, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632–7630.	No.
8. 5 CFR Part 301	Overseas Employment.	5 U.S.C. 3301, 3302.	Deletes prohibition on agency use of overseas limited appointments in certain circumstances.	Target date for proposed regulations: 9/83.	Ed McHugh, Personnel Staffing Specialist, Office of Policy Analysis and Development, Staffing Group, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632–6817.	No.
9. 5 CFR Part 315, Subpart I.	Probationary Period for Managers and Supervisors.	5 U.S.C. 3321.	Clarify the return rights of employees who are downgraded to supervisory positions and fail to satisfactorily complete the probationary period.	Proposed regulations; 11/82. Target date for final 12/83.	Ellen Russell, Personnel Staffing Specialist, U.S. Office of Personnel Management, Office of Policy Analysis and Development, Staffing Group, 1900 E Street NW., Washington, D.C. 20415, (202) 632–6817.	No.
10. 5 CFR Parts 315 and 316.	Career and Career-conditional Employment; Temporary and Term Employment.	E.O. 12362	permit non-competitive appointment of certain former overseas employees to competitive civil service positions in the United States.	Interim regulations published 7/2/82 (47 FR 28905). Target for final 6/83.	Ed McHugh, Personnel Staff. Specialist, Office of Policy Analysis and Development Staffing Group, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632–6817.	No.
11. 5 CFR Part 317	Appointment, Reassignment, Transfer, and Reinstatement in the Senior Executive Service.	5 U.S.C. 3392, 3393, 3394, and 3397.	Proposed regulations to govern appointment actions in the SES, including establishment of qualification standards, agency recruitment and selection procedures for career appointments, operations of OPM Qualifications Review Boards, and completion of the one-year probationary period for career appointees. Regulations are intended to set forth basic staffing requirements to assure compliance with merit system provisions.	Target date for proposed regulations: 9/83. Target date for final regulations: 3/84.	Dennis Leber, Personnel Management Specialist, U.S. Office Personnel Management, Office of Executive Personnel, Workforce Effectiveness and Development Group, 1900 E St. NW., Room 6R48, Washington, D.C. 20415, (202) 632–5446.	No.
12. 5 CFR Part 317	Appointment, Reassignment, Transfer, and Reinstatement in the Senior Executive Service.	5 U.S.C. 3392 and 3397	Addition of a new subpart to implement 5 U.S.C. 3592(c) regarding the right of SES career appointees to retain certain SES provisions while serving under a Presidential appointment made by and with the advice and consent of the Senate. Regulations are needed to ensure uniformity in the implementation of the law.	Proposed regulations published 7/2/83 (48 FR 31862). Target date for final: 11/83.	Loretta Tarando, Personnel Management Specialist, U.S. Office of Personnel Management, Office of Executive Personnel, Workforce Effectiveness and Development Group, 1900 E St. NW., Room 6R48, Washington, D.C. 20415, (202) 632–4695.	No.
13. 5 CFR Part 317, Subpart G.	Appointment, Reassignment, Transfer, and Reinstatement in the Senior Executive Service (SES Career Appointment by Reinstatement).	5 U.S.C. 3593 and 3595.	Final regulations on reinstatement to an SES career appointment following its voluntary separation from SES, or the separation from a Presidential appointment of a former SES career appointee. These reinstatements are authorized by law. The regulations set the procedures for implementing the law.	Interim regulations published 12/5/80 (45 FR 80488). Target date for final: 9/83.	Diana McClelland, Personnel Management Specialist, Executive Personnel Programs, Office of Executive Personnel, Workforce Effectiveness and Development Group, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632–7676.	No.
14. 5 CFR Part 335*	Promotion and Internal Placement.	5 U.S.C. 3301 and 3302.	Proposed regulations and FPM instructions to revise the Federal Merit Promotion program to strengthen management rights, and clarify important concepts.	Target date for proposed regulations: 9/83.	Raleigh M. Neville, Personnel Staffing Specialist, OPM, Office of Policy Analysis and Development, Staffing Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632–6817.	No.
15. 5 CFR Part 339	Qualification Requirements (Medical).	5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp. p. 218.	Final regulations governing medical examinations of Federal employees, medical documentation, and agency-filed disability retirement applications. The regulations would correct problems which have resulted from misuse of mandatory medical examinations, as well as dealing with problems arising from lack of regulation on medical documentation.	Proposed regulation published 7/1/83 (48 FR 30396). Target date for final: 10/83.	Cynthia Field, Employee Relations Specialist, Appellate Policies Division, Office of Planning and Evaluation, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 254–5517.	No.
16. 5 CFR Part 339*, Subpart B.	Qualifications Requirements (Medical).	5 U.S.C. 3301, 3304, 3312.	Proposed regulations and FPM instructions to clarify procedures for establishing physical requirements for jobs and for documenting and processing disabilities.	Target date for proposed regulations: 11/83.	Nancy Kingsbury, Acting Chief, Medical Policy and Programs Division, Staffing Group, OPM, 1900 E St. NW., Washington, D.C. 20415, (202) 632–6013.	No.
17. 5 CFR Part 340	Other than Fulltime Career Employment.	5 U.S.C. 3301, 3302.	Addition of new subpart on seasonal, on-call and intermittent employment.	Proposed regulations published 6/8/82 (47 FR 24726). Target date for final: 10/83.	Ellen Russell, Personnel Staffing Specialist, U.S. Office of Personnel Management, Office of Policy Analysis and Development, Staffing Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632–6817.	No.

VOL 48 ISS 201 OCT 17 1983 UMI

CFR citation	Title of affected part	Legal authority	Abstract	Time table	Agency contact, title of person, mailing address and telephone number	Affects small entities?
18. 5 CFR Part 351	Reduction In Force: Identification of Employees for Transfer of Function.	5 U.S.C. 1302, 3503	Changes to clarify existing OPM policy pertaining to a transfer of function.	Target date for proposed regulations: 1/84.	Leota Shelkey, Personnel Staffing Specialist, U.S. Office of Personnel Management, Office of Policy Analysis and Development, Staffing Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632-6817.	No
P 19. 5 CFR Part 351.	Reduction in Force	5 U.S.C. 3502	Proposed revisions to reduction in force regulations will improve the operation of the RIF system and give greater recognition to performance as a RIF retention factor.	Proposed regulations published 7/14/83 (48 FR 32304).	Morton I. Horvitz, Chief, Office of Policy Analysis and Development, Staffing Group, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632-6817.	No
20. 5 CFR Part 352	Reemployment Rights for SES Personnel.	5 U.S.C. 3131, 3301	This regulation would extend reemployment rights under this part to SES personnel. The regulation is needed to correct an oversight which has resulted in the exclusion of SESers from coverage as originally intended.	Target date for proposed regulations: 9/83.	John Schultz, Personnel Staffing Specialist, U.S. Office of Personnel Management, Office of Policy Analysis and Development, Staffing Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632-6817.	No
21. 5 CFR Part 352	Reemployment Rights After Service with Panama Canal Commission.	Pub. L. 96-70, Section 1203(c).	Addition of new subpart on reemployment rights for Federal employees who accept assignment with Panama Canal Commission. The regulations are to implement section 1203 of Pub. L. 96-70 and will cover conditions under which employees are assigned to the Commission and returned to their former agency.	Proposed regulations: 1/8/82 (47 FR 956). Target date for final: 9/83	Leota Shelkey, Personnel Staffing Specialist, U.S. Office of Personnel Management, Office of Policy Analysis and Development, Staffing Group, 1900 E. St. NW., Washington, D.C 20415, (202) 632-6817.	No
22. 5 CFR Part 352	Reemployment Rights	2 U.S.C.67a, E.O. 11788.	Add new subpart covering reemployment following service with the U.S. Senate Committee on Appropriations under provision of 2 U.S.C. 67a, delete Subpart F covering reemployment after service in the Economic Stabilization Program because applicable law was repealed.	Proposed regulations: 11/12/82 (47 FR 219). Target date for final: 1/84.	William Bohling, Chief, Noncompetitive Staffing Branch, U.S. Office of Personnel Management, Staffing Group, 1900 E St. NW., Room 6A12, Washington, D.C. 20415, (202) 632-6000	No
23. 5 CFR Part 359	Removal, Reinstatement and Guaranteed Placement in the Senior Executive Service.	5 U.S.C.1302, 3596	Final regulations on (1) the removal of SES career appointees during probation or for less than fully successful executive performance, (2) the removal of other than career appointees, (3) placement rights in other personnel systems of certain SES career appointees. These actions are authorized by law. The regulations establish procedures for implementing the law.	Interim regulations published 7/31/79 (44 FR 44815). Target date for final: 9/83	Neal Harwood, Personnel Management Specialist, Office of Executive Personnel, Workforce Effectiveness and Development Group, U.S. Office of Personnel Management, 1900 E St. NW., Room 6R48, Washington, D.C 20415, (202) 632-4625.	No
24. 5 CFR Part 359	Removal, Reinstatement and Guaranteed Placement in the Senior Executive Service	5 U.S.C.3595 and 3596	Proposed regulations to add a new subpart of implement Pub. L. 97-35, August 13, 1981, as amended by Pub. L. 97-346, October 15, 1982, which added provisions to title 5 to govern SES reduction-in-force actions affecting career executives. Regulations are needed to cover certain areas not in the law, such as notification to employees and retention of records, and to implement the provisions in the law dealing with OPM's responsibility to help place career executives identified for reduction in force.	Target date for proposed regulations: 11/83.	Hugh Strehle, Chief, Office of Executive Personnel Programs, Workforce Effectiveness and Development Group, U.S. Office of Personnel Management, 1900 E St. NW., Room 6R48, Washington, D.C. 20415, (202) 632-4625	No
25. 5 CFR Part 432	Reduction in Grade and Removal Based on Unacceptable Performance.	5 U.S.C.4305	Final regulation clarifying agency's obligations when employee raises issue of health. The regulation would define agency and employee obligations to avoid costly reversals of actions based on unacceptable performance.	Proposed regulation published 7/1/83 (48 FR 30398) Target date for final: 10/83	Cynthia Field, Employee Relations Specialist Appellate Policies Division, Office of Planning and Evaluation, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 254-5517.	No
26. 5 CFR Part 511. 511.605, 511.611, 511.701, 511.702, and 511.703	Classification, Under the General Schedule	5 U.S.C 115	OPM published final rules on classification appeals under the General Schedule on 1/30/81. At that time it was decided that for employees in retained grade there would be no need for retroactive adjustments since their title, series and grade would not be affected during the retained grade periods. However several agencies have raised questions concerning the consequence of a classification action when the employee is eligible for retained grade and suffers a subsequent RIF. Under current regulations the correct title, series, and grade would be used for RIF purposes rather than the retained title, series, and grade. To deny employees this situation the possibility of retroactive adjustment, if warranted, would place them at a disadvantage compared to other employees	Target dates for proposed regulations: 10/83. Target date for final: 1/84	Gust Pappas, Chief, Classification Appeals Office, U.S. Office of Personnel Management, Compliance and Investigations Group, Office of Agency Compliance and Evaluation, Room 6H30, 1900 E St. NW., Washington, D.C. 20415, (202) 632-7744	No

CFR citation	Title of affected part	Legal authority	Abstract	Time table	Agency contact, title of person, mailing address and telephone number	Affects small entities?
27. 5 CFR Part 531, Subpart B.	Pay Under the General Schedule.	5 U.S.C. 5305(g), 5334(a), 5338, and E.O. 11721.	Proposed regulations to revise rules for determining an employee's rate of basic pay upon reemployment, transfer, reassignment, promotion, change in type of appointment, and the annual General Schedule pay adjustment. Proposed regulations also may include certain corresponding revisions in 5 CFR Parts 210, 351, 532, 536, and 752.	Target date for proposed regulations: 1/84.	Mary Sugar, Pay and Benefits Specialist, U.S. Office of Personnel Management, Office of Pay and Benefits Policy, Compensation, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634.	No
28. 5 CFR Part 550	Pay Administration (General).	Pub. L. 97-365	Proposed regulations to implement changes in debt collection procedures enacted in Pub. L. 97-365.	Target date for proposed regulations: 9/83.	Patricia Rochester, Pay and Benefits Specialist, Office of Pay and Benefits Policy, Compensation Group, U.S. Office, of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634.	No.
29. 5 CFR Part 550 Subpart G.	Severance Pay	5 U.S.C. 5595	Proposed revision of regulations as they apply to separated employees who decline offers of pay or grade retention, who accept positions with contractors, and who receive compensation for on-the-job injuries.	Proposed regulations: 12/83.	Jan Karicher, Pay and Benefits Specialist, U.S. Office of Personnel Management, Office of Pay and Benefits Policy, Compensation, 1900 E St. NW., Room 4351, Washington, D.C. 20415, (202) 632-9677.	No.
30. 5 CFR Part 550 Subpart J.	Pay Administration Adjustment of Work Schedules for Religious Observances.	5 U.S.C. 5550a	The regulations would provide for agency control of work schedule adjustments for religious observances and would cover conditions that constitute a basis for denying an employee's request due to interference with the agency's mission.	Final regulations: 12/83.	Dwight W. Brown, Pay and Benefits Specialist, U.S. Office of Personnel Management, Office of Pay and Benefits Policy, Compensation, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634.	No.
31. 5 CFR Part 550*	Pay Administration (General).	5 U.S.C. 5542(b)(1)	Regulate that employee must actually return to duty location or other designated point to be entitled to 2-hour guaranteed minimum call-back overtime pay.	Target date for proposed regulations: 11/83.	Dwight Brown, Pay and Benefits Specialist, Office of Pay and Benefits Policy, Compensation Group, U.S Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634.	No.
32. 5 CFR Part 551*	Pay Administration Under the FLSA: Exemptions.	29 U.S.C. 204(f), 213(a)(1).	Proposed revised regulations to simplify the exemption determination process. These revisions would reduce the costs to agencies of administering the FLSA.	Proposed rules published 7/14/83 (48 FR 32280). Target date for final regulations: 10/83.	Mario Caviglia, Personnel Management Specialist, U.S. Office of Personnel Management, Compliance and Investigations Group, Office of Agency and Compliance and Evaluation, 1900 E St., NW., Washington, D.C. 20415, (202) 632-5691.	No.
33. 5 CFR Part 551, Subpart F.	Pay Administration Under the FLSA: Compliance.	29 U.S.C. 204 F., 5 U.S.C. 1103a5.	Proposed new regulation to implement the FLSA Compliance Program and simplify the FLSA claims handling process.	Target date for proposed regulations: 10/83.	Mario Caviglia, Personnel Specialist, U.S. Office of Personnel Management, Compliance and Investigations Group, Office of Agency and Compliance and Evaluation, 1900 E St., NW., Washington, D.C. 20415, (202) 632-5691.	No.
34. 5 CFR Part 610, Subpart D.	Hours of Duty, Alternative Work Schedules.	5 U.S.C. 6120-6133; Pub. L. 97-221.	Addition of new Subpart D to implement the Federal Employees Flexible and Compressed Work Schedules Act of 1982. Conforming changes in Parts 620 and 630.	Proposed regulations published 9/17/82. Target date for final 9/83.	Raymond J. Kirk, Program Analysis Officer, U.S. Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW., Washington, D.C. 20415, (202) 632-4614.	No.
35. 5 CFR Part 630	Absence and Leave	5 U.S.C. 6301 et seq.	Revision of sick, annual, home, shore, and court leave regulations for clarification and elimination of discrepancies in application. Changes are expected to affect cost savings by clarifying entitlement to use leave.	Proposed regulations: 11/83.	Betty Roth and Margaret Goodell, Pay and Benefits Specialists, U.S. Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW., Washington, D.C. 20415, (202) 632-9677.	No.
36. 5 CFR Part 630, Subpart B.	Absence and Leave	5 U.S.C. 6311	Revisions of circumstances in which repayment for advance leave is automatically forgiven.	Target date for final regulations: 11/83.	June Goodell, Pay and Benefits, Specialist, Office of Pay and Benefits Policy, Compensation Group, U.S. Office of Personnel Management, 1900 E St., NW., Washington, D.C. 20415, (202) 632-4634.	No.
37. 5 CFR Part 715	Actions in the Interest of the Employee.	5 U.S.C. 1302, 3301, 3302, 7301; E.O. 10577, E.O. 11222.	Proposed regulation covering voluntary personnel action and other actions initiated by the employee. This regulation would update obsolete material in present regulation and incorporate into regulation all requirements now found in FPM Chapter material.	Target date for proposed regulations: 10/83.	Tia Dirks, Chief, Appellate Policies Division, U.S. Office of Personnel Management, Office of Planning and Evaluation, 1900 E St., NW., Washington, D.C. 20415, (202) 254-5200.	No.
38. 5 CFR Part 731	Suitability for Federal Employment.	5 U.S.C. 3301, 3302, 7301; E.O. 10577, E.O. 11222; 5 CFR Rule V.	Proposed new part to address recommendations for evaluating suitability for Federal employment.	Target date for proposed regulations: 12/83.	Richard Ferris, Program Analyst, U.S. Office of Personnel Management, Compliance and Investigations, Office of Personnel Investigations, 1900 E St., NW., Room 913H, Washington, D.C., (202) 632-6180.	No.
39. 5 CFR Part 732	Personnel Security and Related Programs.	5 U.S.C. 3301, 3302, 7301, 7312; 50 U.S.C. 403; E.O. 10450; E.O. 10577; 5 CFR Rule V.	Proposed new part to address improvements in the Federal civilian personnel security program.	Target date for proposed regulations: 12/83.	Robert Hubbard, Program Analyst, U.S. Office of Personnel Management, Compliance and Investigations Group, Office of Personnel Investigations, 1900 E St., NW., Room 902H, Washington, D.C. 20415, (202) 254-6844.	No.
40. 5 CFR Part 733	Political activity of Federal Employees.	5 U.S.C. 1308, 3301, 3302, 7301, 7324, 7325; 42 U.S.C. 2729; E.O. 10577; 3 CFR 1954-1958, Comp. p. 218.	Final regulation expanding the definition of "employee" (§ 773.101).	Proposed regulations published 12/82. Target date for final: 9/83.	JoAnn Chabot, Attorney, U.S. Office of Personnel Management, Office of General Counsel, 1900 E St. NW., Room 5H22, Washington, D.C. 20415, (202) 632-5421.	No.

VOL 48 ISS 201 OCT 17 1983 UMI

CFR citation	Title of affected part	Legal authority	Abstract	Time table	Agency contact, title of person, mailing address and telephone number	Affects small entities?
P 41. 5 CFR Part 734*	Executive Personnel Financial Disclosure Requirements	5 U.S.C. 207(a); Pub. L. 95-521	Proposed new regulation to supersede portions of 5 CFR Part 735 dealing with confidential financial disclosure for grades below GS-16.	Target date unknown	Norman Smith and Jane Ley, Staff Attorney, U.S. Office of Personnel Management, Office of Government Ethics, 1900 E. St. NW., Room 436H, Washington, D.C. 20415, (202) 632-7642	No
42. 5 CFR Part 736	Investigations	5 U.S.C. 552a, 3301, 7301; E.O. 10450; E.O. 10577; 5 CFR Rule V	Proposed new part to address recommended changes for improvements in the civilian personnel investigations program.	Target date for proposed regulations: 12/83.	Robert Herrmann, Program Analyst, U.S. Office of Personnel Management, Compliance and Investigations, Office of Personnel Investigations, 1900 E St. NW., Room 900H, Washington, D.C. 20415, (202) 632-6152.	No
43. 5 CFR Part 737	Post Employment Conflict of Interest; Designation of Certain Positions and Agencies.	18 U.S.C. 207(b)(1)(c), Pub. L. 95-521	Final regulation to meet the requirement to designate annually senior employees who are subject to the conflict-of-interest provisions of the Ethics in Government Act.	Target date for final: 3/84	Gary Davis and Bob Flynn, Staff Attorney and Program Analyst, U.S. Office of Personnel Management, Office of Government Ethics, 1900 E St. NW., Washington, D.C. 20415. (202) 632-7642.	No
44. 5 CFR Part 752	Adverse Actions	5 U.S.C. 7504, 7514; 5 U.S.C. 1302	Final regulation clarifying agency's obligation when employee raises issue of health. The regulation would define agency and employee obligations in order to avoid costly reversals of adverse actions.	Proposed regulations published 7/1/63 (48 FR 30398). Target date for final: 10/83.	Cynthia Field, Employee Relations Specialist, Appellate Policies Division, Office of Planning and Evaluation, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 254-5517.	No
45. 5 CFR Part 752, Subpart D.	Adverse Actions	5 U.S.C. 7513, 7514, 1302.	Proposed regulations to permit agencies, under certain circumstances, to change or take away the duties of an employee during the notice period of an adverse action, while keeping him or her in a pay status.	Proposed regulations published 4/29/63 (48 FR 19379). Target date for final: 10/63.	Cynthia Field, Employee Relations Specialist, U.S. Office of Personnel Management, Appellate Policies Division, Office of Planning and Evaluation, 1900 E St. NW., Washington, D.C. 20415, (202) 254-5517.	No
46. 5 CFR Part 752, Subpart F.	Adverse Actions (Regulatory Requirements for Taking Adverse Actions Under the Senior Excutive Service)	5 U.S.C. 7543	Final regulations on (1) suspensions for more than 14 days and (2) removal from the civil service of SES career appointees. These actions were authorized by Pub. L. 95-454 (Oct. 13, 1978), which was amended by Pub. L. 97-35 (Aug. 13, 1981). The regulations establish procedures for implementing the law..	Interim regulations published 7/31/79 (44 FR 44818). Target date for final: 9/83.	Neal Harwood, Personnel Management Specialist, U.S. Office of Personnel Management, Office of Executive Personnel, Workforce Effectiveness and Development Group, 1900 E St. NW., Room 6R48, Washington, D.C. 20415, (202) 632-4625	No
47. 5 CFR Part 831	Retirement; Government Claims for Recovery of Indebtedness	5 U.S.C. 8347, 4 CFR sec. 101.1 et seq.	Final regulations prescribing procedures for submission of agency claims for recovery of an indebtedness against benefits due from the Civil Service Retirement System. Regulations are required as part of resolution of *Rhinehart v. Seneca*, et al.	Target date for final regulations: 9/83.	Patricia Rochester, Pay and Benefits Specialist, U.S. Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634.	No
48. 5 CFR Part 831, Subparts E and L.	Retirement	5 U.S.C. 8347	Final regulations in Subpart E to conform to changes in Part 339. Final regulations in Subpart L to restrict agencies' authority to file disability applications on behalf of employees and reduce number of unwarranted applications.	Proposed regulations published 7/1/83 (48 FR 30398). Target date for final regulations: 12/83.	Mary Sugar, Pay and Benefits Specialist, U.S. Office of Personnel Management, Office of Pay and Benefits Policy Compensation Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634. Cynthia Field, U.S. Office of Personnel Managment, Appellate Policies Division, Office of Planning and Evaluation, 1900 E St. NW., Washington, D.C. 20415, (202) 254-5517	No
49. 5 CFR Part 831, Subpart M and P*.	Retirement	5 U.S.C. 8347	Proposed revisions dealing with recovery of overpayments to eliminate right to hearing before OPM. The right to a hearing before the MSPB would continue.	Target date for proposed regulations 11/83.	Theodore Newland, Paralegal Specialist, Office of Pay and Benefits Policy, Compensation Group, U.S. Office of Personnel Managment, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634.	No
50. 5 CFR Parts 870, 871, 872, 873	Life Insurance and Optional Insurance	5 U.S.C. 8716	Final regulations to implement Federal Employees Group Life Insurance Act of 1980. Program currently operating under interim regulations.	Target date for final regulations 10/83.	Mary Sugar, Pay and Benefits Specialist, U.S. Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634.	No
51. 5 CFR Part 890, Miscellaneous changes.	Health Benefits	5 U.S.C. 8901 et seq.	Update revision of existing regulations—needed to conform to law, other changes.	Proposed rules published 7/1/83 (48 FR 30406). Target date for final regulations: 11/83.	Barbara Myers, Pay and Benefits Specialist, Office of Pay and Benefits Policy, U.S. Office of Personnel Management, 1900 E St. NW., Washington, D.C. 20415, (202) 632-9677.	No
52. 5 CFR Part 930, Subpart A.	Programs for Specific Positions and Examinations (Miscellaneous) Subpart A—Motor Vehicle Operators	40 U.S.C. 471; 5 U.S.C. 1104.	Final regulations to permit Federal agencies to develop and use alternative procedures in the review and authorization of civilian employees to operate Government owned or leased motor vehicles. These changes would allow increased flexibility and ease the administrative burden and cost for Federal agencies without jeopardizing the safety of this program.	Target date for proposed regulations: 10/83.	Van K. Yee, Personnel Staffing Specialist, U.S. Office of Personnel Management, Staffing Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632-6030.	No

CFR citation	Title of affected part	Legal authority	Abstract	Time table	Agency contact, title of person, mailing address and telephone number	Affects small entities?
53. 5 CFR Part 1001	Regulations Governing Employees in the Office of Personnel Management: Employee Responsibilities and Conduct.	E.O. 11222, 30 FR 6469 3 CFR 1964-65, Comp. p. 306; 5 CFR 735.1001 et seq.	Clarification of the scope of 5 CFR 1001.735-205 on "Misuse of information" and elimination of 5 CFR 1001.735-208 on "Disagreements between Government Officials" in response to an MSPB order questioning whether these provisions inhibit legitimate "whistle blowing". Addition of a new section to highlight procurement restrictions; i.e., contracting with Government employees. Editorial changes to reflect Office of Personnel Management reorganization.	Target date for final: 10/83.	Llewellyn M. Fischer, Attorney, U.S. Office of Personnel Management., Office of General Counsel, Rm. 5H30, 1900 E St. NW., Washington, D.C. 20415 (202) 632-5506.	No
54. 41 CFR Ch. 16, Subpart, 16-3.8.	Price Negotiation Policies and Techniques.	40 U.S.C. 486 (c); 5 U.S.C. 8913.	Final regulation to modify and refine existing regulations governing service charges for FEHB health benefit contracts. Regulations follow the new FPR requirements that Federal agencies making noncompetitive awards of $100,000 totaling $50 million annually shall prescribe a structured approach for determining the profit or fee objective in those acquisitions which require cost analysis.	Target date for proposed regulations: 3/84.	Mary Ann Mercer, Pay and Benefits Specialist, U.S. Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St. NW., Washington, D.C. 20415, (202) 632-4634.	No

Part II—List of Existing Regulations Scheduled for Review

November 1, 1983 Through October 31, 1984

CFR citation	Title of affected part	Legal authority	Abstract	Timetable	Agency contact, title of person, mailing address and telephone number	Affects small entities?
1. 5 CFR Part 7 (Section 7.2) and 410.	Personnel Reports; Training.	5 U.S.C. 4113, 4114, 4115, 4118; 5 U.S.C. 2951.	Consider modification of training information system, to simplify agency reporting requirements (as has been suggested by agencies) and OPM processing to reduce costs, and to produce information on training which is more timely and more accurate, by replacing the present reliance on Central Personnel Data File based data relating to individual instances of training request forms, with summary reports furnished by agencies.	Target date for proposed regulations: 4/84	Ruth Salinger, Employee Development Specialist, U.S. Office of Personnel Management, Office of Training/WED/TRMD, Box 7230, Washington, D.C. 20044, (202) 653-6173.	No.

Part III—Completed Actions

CFR citation	Title	Contact	Publication date	Reason for completion
1. 5 CFR Part 213	Excepted Service: National Guard Technicians.	William Bohling, (202) 632-6000	Mar. 22, 1983, 48 FR 11923	Final regulations published.
2. 5 CFR Part 213	Excepted Service: Young Adult Conservation Corps.	William Bohling, (202) 632-6000	June 5, 1983, 48 FR 24857	Final regulations published.
3. 5 CFR Part 274	Corrective Actions	Terry Evans, (202) 632-5691		Withdrawn pending further study.
4. 5 CFR Part 297	Protection of Privacy and Personnel Records.	Bruce Hughes, (202) 632-4634		Withdrawn. Amendments to be made instead to OPM's routine use.
5. 5 CFR Part 315	Career and Career-Conditional Employment	William Bohling, (202) 632-6000	Apr. 1, 1983, 48 FR 13951	Final regulations published.
6. 5 CFR Parts 315 and 318.	Noncompetitive Appointment Eligibility: Panama Canal Commission	William Bohling, (202) 632-6000	June 28, 1983, 48 FR 29667	Final regulations published.
7. 5 CFR Part 330	Placement Assistance for Former National Guard Technicians.	William Bohling, (202) 632-6000		Final regulations approved
8. 5 CFR Part 334	Intergovernmental Personnel Act Agreement Authority.	Ardrey Harris, (202) 632-7647		Final regulations approved
9. 5 CFR Part 359	Furloughs in the SES	Neal Harwood, (202) 632-4625	Mar. 22, 1983, 48 FR 11924	Final regulations published.
10. 5 CFR Part 410	Training: Agreement to Continue in Service	Constance Guitian, (202) 653-6171	June 28, 1983, 48 FR 29668	Final regulations published.
11. 5 CFR Part 412	Executive and Management Development: Recruitment Exemption.	Loretta R. Flanders, (202) 254-9800		Withdrawn. Regulatory action no longer contemplated.
12. 5 CFR Part 532	Prevailing Rate Systems	David Weisberg, (202) 632-5454	Mar. 30, 1983, 48 FR 13384	Final regulations published.
13. 5 CFR Part 534	Setting Individual Basic Pay Under the SES	Michael Duggins, (202) 632-4695		Withdrawn. Guidance to be issued instead
14. 5 CFR Parts 550 and 551.	Pay Administration: Fractional Hours of Overtime.	Dwight Brown, (202) 632-4634	Apr. 15, 1983, 48 FR 36803	Final regulations published.
15. 5 CFR Part 581	Processing Garnishment Orders for Child Support and/or Alimony.	Murray Meeker, (202) 632-7600	June 7, 1983, 48 FR 26279	Final regulations published.
16. 5 CFR Part 752	Adverse Actions: Recision of Exception to 30-Day Advance Notice.	Cynthia Field, (202) 254-5517	Apr. 29, 1983, 48 FR 19349	Final regulations published.
17. 5 CFR Part 831	Amended Omnibus Reconciliation Act Regulations.	Mary Sugar, (202) 632-4634		Final regulations approved
18. 5 CFR Part 831	Retirement: Benefits for Survivors of Former CIA Employees.	Doris Reeves, (202) 632-4634		Withdrawn. Substantive regulations no longer believed necessary.
19. 5 CFR Part 890	FEHB: Benefits for Medically Underserved Areas.	Barbara Myers, (202) 632-9677	Apr. 5, 1983, 48 FR 14563	Final regulations published.
20. 5 CFR Part 890	FEHB: Carriers' Benefit and Rate Proposals	Mary Ann Mercer, (202) 632-4634	Apr. 15, 1983, 48 FR 16231	Final regulations published.
21. 5 CFR Part 950	Solicitation of Federal Personnel for Contributions to Charitable Organizations.	Joseph A. Morris, (202) 632-4632	Aug. 1, 1983, 48 FR 34910	Final regulations published.

CFR citation	Title	Contact	Publication date	Reason for completion
22. 45 CFR Part 801	Voting Rights Program: Burke County, Georgia.	Michael D. Clogston, (202) 632-5691	July 26, 1983, 48 FR 33872	Final regulations published.
23. 45 CFR Part 801	Voting Rights Program: Ruleville, Mississippi.	Michael D. Clogston, (202) 632-5691	July 26, 1983, 48 FR 33872	Final regulations published.

[FR Doc. 83-28409 Filed 10-14-83; 8:45 am]
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VOL 48 ISS 201 OC 17 1983 UMI

federal register

Monday
October 17, 1983

Part XXXII

Panama Canal Commission

Unified Agenda of Federal Regulations

PANAMA

PANAMA CANAL COMMISSION

35 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Panama Canal Commission.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project.

For general information, contact Michael Rhode, Jr., Secretary, Panama Canal Commission, Suite 312, Penn Building, 425 13th Street, N.W., Washington, D.C. 20004, (202) 724-0104; or Dwight A. McKabney, Esquire, General Counsel, Panama Canal Commission, APO Miami 34011.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the agency's regulatory review and development process. This agenda was prepared under the guidelines established by OMB Bulletin No. 83-15.

DATED: August 25, 1983.

Michael Rhode, Jr.,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Current and Projected Rulemakings

RULES FOR THE PREVENTION OF COLLISIONS

Legal Authority: 22 USC 3811 Panama Canal Act of 1979; EO 12215

CFR Citation: 35 CFR 111

Abstract: The planned revision of the Panama Canal Rules for the Prevention of Collisions, Part 111 of 35 CFR, will be designed to update the existing rules which have not undergone a comprehensive, substantive revision for many years. In an effort to standardize the rules for the prevention of collisions and in keeping with the international character of the Panama Canal, the revision will follow generally the format, language and substance of the International Regulations for Preventing Collisions at Sea (72 COLREGS), incorporating where appropriate throughout the text rules of particular applicability to the Panama Canal.

Timetable:

Action	Date	FR Cite
NPRM	08/08/83	48 FR 35905
NPRM Comment Period Begin	08/08/83	
NPRM Comment Period End	09/19/83	
Final Action	09/00/83	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Dwight A. McKabney, General Counsel, Panama Canal Commission, APO Miami Florida 34011. Telephone in Balboa Heights, Republic of Panama, 52-7511.

Agency Contact: Michael Rhode, Jr., Secretary, Panama Canal Commission, Suite 312, Penn Building, 425 13th Street, NW, Washington, DC 20004, 202 724-0104

RIN: 3207-AA00

CLASSIFIED INFORMATION

Legal Authority: EO 12356

CFR Citation: 35 CFR 60

Abstract: Revision of the regulation will bring agency into compliance with E.O. 12356 which mandated changes concerning the maintenance, classification, downgrading, declassification, and disposition of official information requiring protection against unauthorized disclosure in the interest of the national security.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	
Interim Final Rule	00/00/00	

Small Entity: No

Additional Information: AGENCY CONTACT TELEPHONE NUMBER: 52-7757, in Balboa Heights, Republic of Panama.

Agency Contact: K. E. Goldsberry, Chief, Administrative Services Division, Panama Canal Commission, APO Miami, 34011, 202 724-0104

RIN: 3207-AA01

FEES FOR FREEDOM OF INFORMATION ACT REQUESTS

Legal Authority: 5 USC 552(a)(4)(A) Freedom of Information Act as amended

CFR Citation: 35 CFR 9.11

Abstract: Revision of the regulation will update the fees charged for direct search and duplication incurred by the agency in providing records to requesters under the FOIA.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	
Final Action Effective	00/00/00	

Small Entity: No

Additional Information: AGENCY CONTACT TELEPHONE NUMBER: 52-7757, in Balboa Heights, Republic of Panama.

Agency Contact: K. E. Goldsberry, Chief, Administrative Services Division, Panama Canal Commission, APO Miami, 34011, 202 724-0104

RIN: 3207-AA02

●DANGEROUS CARGO; VESSEL PILOT LICENSING

Legal Authority: 22 USC 3811 Panama Canal Act of 1979

CFR Citation: 35 CFR 113, (Revision); 35 CFR 101, (Revision); 35 CFR 103, (Revision); 35 CFR 119, (Revision)

Abstract: The International Maritime Organization Conventions concerning hazardous cargoes, tank ships, gas carriers, training and other maritime matters have been adopted by Panama, the United States and most maritime nations using the Panama Canal. New hazardous cargoes are being added to the trade. The existing regulations should be revised. Revisions would substitute the provisions of certain international conventions. Using international standards would improve safety through ease of compliance and enforcement. The 35 CFR 119 revision would affect the intermediate license requirements for Canal pilots.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: The thrust of the revision is toward dangerous cargoes, 35 CFR 113. The Arrival Requirements, 35 CFR 101, and General Provisions, 35 CFR 103, are related and require revision for compatibility. The 35 CFR 119 revision would relate to the size of vessels covered by a limited license for Panama Canal pilotage.

Agency Contact: Michael Rhode, Jr., Secretary, Panama Canal Commission, Panama Canal Commission, Suite 312, Penn Building, 425 13th Street, NW, Washington, DC 20004, 202 724-0104

RIN: 3207-AA07

PANAMA — Current and Projected Rulemakings

PANAMA CANAL COMMISSION (PANAMA) — Existing Regulations Under Review

RULES FOR MEASUREMENT OF VESSELS

Legal Authority: 22 USC 3791 Panama Canal Act of 1979

CFR Citation: 35 CFR 135

Abstract: In July 1982 forty-eight nations, representing more than eighty percent of world shipping, began implementing a new, uniform method for tonnage determination in accordance with the International Convention on Tonnage Measurement of Ships, 1969. The present Panama Canal measurement system is based upon the old national tonnage measurement systems. To continue the present Panama Canal System may require that new ships be measured twice, once under the new system and again under the now out-dated national system. No timetable for rulemaking has been established. This proposal is still under study by the Panama Canal Commission. The Commission is in the process of obtaining comments from Canal users which will be evaluated to assist in determining whether the present system should be changed.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Michael Rhode, Jr., Secretary, Panama Canal Commission, Suite 312, Penn Building, 425 13th Street NW, Washington, DC 20004, 202 724-0104

RIN: 3207-AA03

[FR Doc. 83-28057 Filed 10-14-83; 8:45 am]

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VOL
48
ISS
201
OC
17
1983
UMI

federal register

Monday
October 17, 1983

Part XXXIII

Pennsylvania Avenue Development Corporation

Unified Agenda of Federal Regulations

VOL
48
ISS
201
OC
17
1983
UMI

PADC

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Ch. IX

Unified Agenda of Federal Regulations

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: This document lists regulations that are currently under development or that PADC expects to have under development during the next six months. It was prepared in response to OMB Bulletin 83-15.

FOR FURTHER INFORMATION CONTACT: Ms. Madeleine B. Schaller, Attorney, Office of the General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Washington, D.C. 20004; (202) 566-1078.

DATED: August 17, 1983.

Thomas J. Regan, Jr.,

Executive Director.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Current and Projected Rulemakings

POLICY AND PROCEDURES TO FACILITATE SUCCESSFUL RELOCATION OF BUSINESS AND RESIDENTS WITHIN PENNSYLVANIA AVENUE DEVELOPMENT AREA

Priority: Agency Determination

Legal Authority: 40 USC 875 Pennsylvania Avenue Dev Corporation Act of 1972

CFR Citation: 36 CFR 908

Abstract: Supplements existing relocation regulations by providing additional relocation assistance as required by the PADC plan. No definite timetable.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Mr. Jerry Smedley, Director of Real Estate, Pennsylvania Avenue Development Corporation, 425 13th Street, NW, Washington, DC 20004, 202 523-3726

RIN: 3208-AA00

[FR Doc. 83-28058 Filed 10-14-83, 8:45 am]
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federal register

Monday
October 17, 1983

Part XXXIV

Pension Benefit Guaranty Corporation

Agenda of Regulations Under Development

VOL
48
ISS
2
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1
OC
17
1983
UMI

PBGC

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or that PBGC expects to have under development during the next twelve months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESS: Legal Department (210), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Melanie Franco Nussdorf, Special Counsel, Legal Department, 202-254-6478. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on Federal Regulation, Executive Order 12291, 46 FR 13193 (the "Executive Order"), each agency is required to publish in April and October an agenda of regulations currently or soon to be under development. The Executive Order requires that the agenda also include those currently effective regulations that are being reviewed by the agency pursuant to the Executive Order. The Regulatory Flexibility Act, 5 U.S.C. 601, Pub. L. 96-354, 94 Stat. 1164, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines (OMB Bulletin No. 83-15) prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next twelve months and provide certain specified information on each regulation. All the items on this agenda are current or projected rulemakings. Two items, the rule on reportable events and the rule for determining plan sufficiency are amendments to existing regulations that PBGC determined advisable after review pursuant to the Executive Order.

The guidelines also require that "priority regulations" be designated. Priority regulations are those designated as such by the agency head or those that are "major rules" under the Executive Order. PBGC has determined that all the regulations listed in this agenda are necessary to the effective implementation of the insurance program and, therefore, each is considered a "priority regulation."

Finally, the guidelines require a description of the potential costs and benefits of each regulation. The regulations listed on the agenda fall into three general categories. Some lessen statutory requirements, thereby lowering costs to the public and minimizing burden on plans and plan sponsors. Others simply implement statutory requirements and, although costs may be imposed because of these statutory requirements, the public is benefited by clear and unambiguous rules which lessen the probability of disputes, litigation and public confusion. Others of the regulations in the agenda reallocate costs necessarily imposed by the statute so that, although certain contributing employers may experience greater costs, others will experience an equivalent reduction in costs resulting in a net effect of zero. Where applicable, additional costs and benefits are stated separately in the item relating to the particular regulation.

Unless otherwise indicated, all citations in the agenda are to sections of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980 ("the Multiemployer Act"), Pub. L. No. 96-364, 94 Stat. 1208 ("ERISA").

Issued at Washington, D.C., this 1st day of September, 1983.

Charles C. Tharp,

Acting Executive Director, Pension Benefit Guaranty Corporation.

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Current and Projected Rulemakings

ARBITRATION OF DISPUTES IN MULTIEMPLOYER PLANS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1321(a)(2) ERISA

CFR Citation: 29 CFR 2641

Abstract: Section 4221 of ERISA provides that any dispute between an employer and the sponsor of a multiemployer plan regarding the determination of the employer's withdrawal liability to the plan shall be resolved through arbitration. Section 4221(a)(2) of ERISA provides that an arbitration proceeding under this section shall be conducted in accordance with fair and equitable procedures prescribed by the PBGC. The regulation will set forth those procedures. This regulation is needed to provide the rules of procedure under which an arbitration proceeding will be conducted. PBGC expects that the rule will minimize costs on plan sponsors and contributing employers because it provides a clear set of rules designed to clarify the Act's provisions and the responsibilities of the respective parties.

Timetable:

Action	Date	FR Cite
NPRM	07/07/83	48 FR 31251
NPRM Comment Period Begin	07/07/83	
NPRM Comment Period End	09/06/83	
Final Action	03/00/84	

Small Entity: No

Agency Contact: Mrs. Renae Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Legal Department (210), 2020 K Street, NW, Washington, DC 20006, 202 254-6476

RIN: 1212-AA05

NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

Priority: Agency Determination

PBGC — Current and Projected Rulemakings

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1399(c) ERISA

CFR Citation: 29 CFR 2644

Abstract: Section 4219(c)(6) of ERISA provides that the interest rate charged by a multiemployer plan in the event of delinquency or default in the payment of withdrawal liability shall be based on prevailing market rates for comparable obligations, in accordance with PBGC regulations. This regulation will implement that section by establishing the interest rate to be used. In addition, PBGC is considering giving plans authority to establish their own rates, consistent with section 4219(c)(6).

Timetable:

Action	Date	FR Cite
NPRM	02/14/83	48 FR 6559
NPRM Comment Period Begin	02/14/83	
NPRM Comment Period End	04/15/83	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Mr. James M. Graham, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA06

POWERS AND DUTIES OF PLAN SPONSORS OF PLANS TERMINATED BY MASS WITHDRAWAL; NOTICES OF BENEFIT REDUCTIONS AND SUSPENSIONS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(2) ERISA; 29 USC 1441(c) ERISA; 29 USC 1441(d) ERISA

CFR Citation: 29 CFR 2675

Abstract: Section 4281 of ERISA contains rules relating to the administration and payment of benefits under multiemployer plans that have terminated by mass withdrawal. Under certain circumstances, the plan sponsor is required to amend the plan to eliminate benefits not eligible for PBGC's guarantee under Section 4022A. In addition, if the terminated plan becomes insolvent, the sponsor is required to suspend payment of any benefits that are in excess of those guaranteed under Section 4022A. The PBGC is authorized to modify the statutory duties of the plan sponsor, including the duty to provide participants and beneficiaries with notice of benefit reductions, and is required to prescribe rules that ensure that plan participants and beneficiaries receive adequate notice of the benefit suspensions. This regulation will prescribe the requirements for these two notices, and will also modify the statutory rules concerning when a plan sponsor must make determinations of plan solvency. This regulation will benefit multiemployer plans by reducing the number of notices that would otherwise be required under ERISA, thus reducing plan costs. In addition, the regulation will (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/13/83	48 FR 27092
NPRM Comment Period Begin	06/13/83	
NPRM Comment Period End	08/12/83	
Final Action	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: benefit plan participants and beneficiaries by requiring that they receive timely and informative notices of benefit reductions and suspensions. These benefits cannot be quantified. While providing the notices required by the regulation will obviously entail a cost to plans, the aggregate cost will be low: PBGC estimates that fewer than 10 plans per year will terminate by mass withdrawal, and only a very few of those will ever be required to reduce or suspend benefits.

Agency Contact: Mr. J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA07

VARIANCES FOR SALES OF ASSETS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1384(c) ERISA

CFR Citation: 29 CFR 2643

Abstract: Section 4204 of ERISA provides that the sale of assets by an employer who contributes to a multiemployer plan, which would normally constitute a withdrawal from the plan, will not be considered a withdrawal if certain requirements are met. This regulation will provide exemptions or variances from the purchaser's bond/escrow requirement and the sales-contract requirement of section 4204 (a)(1)(B) and (C) of ERISA under certain conditions. This regulation will assist employers who engage in sales of assets to structure those transactions so as to avoid any immediate liability for the seller's withdrawal from a multiemployer plan. Further, by waiving the requirement that the purchaser post a bond or establish an escrow account, the regulation frees up funds that the purchaser may use for other purposes. In 22 cases decided so far in which the PBGC has granted individual exemptions from this requirement, the total amount of the bonds/escrows waived is approximately $11.4 million.

Timetable:

Action	Date	FR Cite
NPRM	02/14/83	48 FR 6555
NPRM Comment Period Begin	02/14/83	
NPRM Comment Period End	04/15/83	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Mr. James M. Graham, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA08

NOTICE OF INSOLVENCY

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1426(e) ERISA

CFR Citation: 29 CFR 2674

Abstract: Section 4245(e) of ERISA requires the plan sponsor of a multiemployer, upon determining that the plan may become insolvent, to give notice of that fact to the PBGC, contributing employers, affected employee organizations and plan participants. In addition, the plan sponsor must inform those parties of the plan's resource benefit level for the insolvency year. Section 4245(e)(4) of ERISA requires that the notices be given in accordance with regulations prescribed by the PBGC. This regulation will establish the procedures for issuing and the contents of the insolvency notices. The early notice of potential plan insolvency to the collective bargaining parties will enable the parties, if they so choose, to negotiate additional contributions in order to avoid insolvency and the consequent benefit suspensions. This is of benefit to plan participants and beneficiaries,

VOL
48
ISS
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although it is not possible to quantify that benefit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Mr. J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA09

MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1411 ERISA

CFR Citation: 29 CFR 2672

Abstract: Section 4231(b)(1) of ERISA requires the plan sponsor of a multiemployer plan to notify PBGC, in accordance with regulations prescribed by PBGC, of a merger or transfer of assets or liabilities to another multiemployer plan. In addition, section 4231(b) contains three other conditions that all mergers or transfers between multiemployer plans must satisfy. This regulation will establish the requirements for the notice to PBGC, as well as provide guidance to plan sponsors in complying with the other three conditions. The primary benefit of this regulation is that it will protect the multiemployer insurance system and the premium payers by helping to insure that plans do not engage in transactions that would have the effect of weakening any of the plans involved in the transaction. By requiring the notice to include data that will enable PBGC to monitor compliance with section 4231(b), the regulation does impose new costs on the public. PBGC expects these costs to be approximately $12,000 per year, assuming 40 mergers and transfers of assets or liabilities per year.

Timetable:

Action	Date	FR Cite
NPRM	12/22/81	46 FR 62087
NPRM Comment Period End	02/22/82	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Mr. James M. Graham, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA10

SUPPLEMENTAL GUARANTEE PROGRAM

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1322a(g)(2) ERISA

CFR Citation: 29 CFR 2690 to 2699

Abstract: Section 4022A(g)(2) of ERISA requires PBGC to issue regulations establishing a supplemental program to guarantee benefits under multiemployer plans that would otherwise be guaranteed but for the limitations in section 4022A(c) of ERISA. Participation by plans in this supplemental program is optional. These regulations will address premiums, eligibility requirements, applications for coverage, the amount of coverage provided, and financial assistance from PBGC under the supplemental program. Since ERISA requires that the supplemental guarantee program be entirely self-supporting, it follows that the costs to the public (the premiums) will have to at least equal the insurance benefits provided plus the PBGC's cost of administering this program. Because participation in this program is voluntary and because PBGC received very few comments in response to the notice of proposed rulemaking, PBGC does not have any reliable data on the number of plans that will participate and the amount of insurance coverage they will purchase. Accordingly, PBGC is unable to quantify the costs and benefits.

Timetable:

Action	Date	FR Cite
NPRM	02/01/83	48 FR 4632
NPRM Comment Period Begin	02/01/83	
NPRM Comment Period End	04/04/83	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Mr. J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA12

RULES DEFINING THE "BUILDING AND CONSTRUCTION INDUSTRY"

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1383(b) ERISA

CFR Citation: 29 CFR 2646

Abstract: Section 4203(b) of ERISA contains special withdrawal rules applicable to the building and construction industry. ERISA does not, however, contain a definition of the term "building and construction industry"; nor does it define two other terms critical to the special rules, "primarily" and "substantially." This regulation would provide those definitions. Because there are conflicting views among the public as to the need for this regulation, and because of the difficulty in developing appropriate definitions of these terms, PBGC issued an advance notice of proposed rulemaking on this matter. PBGC is still studying the question of whether to proceed with a regulation.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/82	47 FR 42588
ANPRM Comment Period Begin	09/28/82	
ANPRM Comment Period End	11/29/82	
NPRM	00/00/00	

Small Entity: No

Agency Contact: Mr. James M. Graham, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA13

REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1387(a) ERISA

CFR Citation: 29 CFR 2647

Abstract: Section 4207(a) of ERISA requires the PBGC to establish rules for reducing or waiving the liability of an employer who has completely withdrawn from a multiemployer plan and subsequently resumes covered operations or renews the obligation to contribute under the plan. This regulation will prescribe the circumstances under which an employer's liability will be reduced or waived and the rules for computing the employer's liability for a complete or partial withdrawal after it has reentered the plan. This regulation will benefit multiemployer plans by encouraging some employers who have withdrawn from these plans to renew their participation in the plans. By the same token these employers will benefit by having some or all of their withdrawal liability waived. While the plans will incur the cost of foregoing collection of some of the withdrawal liability owed them, the assumption underlying this statutory provision is that these costs will be offset by the contributions employers will make to the plans after their reentry. PBGC is unable to quantify these benefits and costs, because it cannot predict the number of employers who will avail themselves of this rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Mr. J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., 202 254-4862

RIN: 1212-AA14

TRANSFERS OF LIABILITIES TO SINGLE-EMPLOYER PLANS: WAIVER OF MULTIEMPLOYER PLAN'S CONTINGENT LIABILITY

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1412(c) ERISA

CFR Citation: 29 CFR 2679

Abstract: Under section 4232(c), a multiemployer plan that transfers liabilities to a single-employer plan is contingently liable to PBGC, up to the amounts specified in section 4232(c), if the single-employer plan terminates within five years after the transfer. PBGC is authorized, however, to waive the contingent liability if it determines that its interests and the interests of plan participants and beneficiaries are adequately protected. This regulation will provide procedures for applying to PBGC for a waiver and standards under which waivers will be granted. This regulation will benefit those multiemployer plans that will qualify for a waiver of their contingent liability. To date, PBGC has received nine requests for waivers, involving potential maximum liabilities of approximately $2,885,000. PBGC is unable to predict how many more plans may apply for waivers once this regulation is issued. Insofar as the intended purpose of this regulation is achieved, there will be no costs associated with it, because the contingent liability will be waived only in those situations where it is extremely unlikely that the liability would ever become an actual claim of PBGC against (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: the multiemployer plan.

Agency Contact: Mr. James M. Graham, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA15

REDETERMINATION OF WITHDRAWAL LIABILITY UPON MASS WITHDRAWAL

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(13) ERISA; 29 USC 1389(c) ERISA; 29 USC 1389(d) ERISA; 29 USC 1399(c)(1)(D) ERISA

CFR Citation: 29 CFR 2648

Abstract: The rules for determining an employer's withdrawal liability do not necessarily allocate a plan's total unfunded vested benefits because of the rules reducing or eliminating withdrawal liability, such as the de minimis rule. Therefore, if all or substantially all the employers in a plan withdraw, there may be large unallocated amounts that would constitute a potential claim on the insurance system. In order to avoid this result, section 4219(c)(1)(D) requires the determination or redetermination of withdrawal liability, in order to fully allocate a plan's unfunded vested benefits, upon either the termination of the plan through the withdrawal of every employer, or the withdrawal of substantially all the employers pursuant to an agreement or arrangement to withdraw. This regulation will set forth rules implementing this requirement. This regulation primarily benefits the multiemployer insurance program and the plans that are required to pay premiums under it, by insuring that in the event of a mass withdrawal (or the withdrawal of substantially all the employers pursuant to an agreement to withdraw), the liability for all unfunded vested benefits is allocated to the (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: withdrawing employers. In addition, in the case of the withdrawal of substantially all employers, the rule will benefit the employers remaining in the plan by preventing them from being left with more than their fair share of the plan's unfunded vested benefits.

Agency Contact: Mr. J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA16

VALUATION OF PLAN ASSETS AND PLAN BENEFITS FOLLOWING MASS WITHDRAWAL

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1441(b) ERISA

CFR Citation: 29 CFR 2676

Abstract: A plan that has terminated by mass withdrawal is required under section 4281(b) of ERISA to perform an annual valuation of the plan's nonforfeitable benefits and assets (including outstanding claims for withdrawal liability). This valuation is to be done in accordance with PBGC regulations. In addition, when a plan experiences a mass withdrawal, section 4219(c)(1)(D) requires the plan sponsor to allocate fully the plan's unfunded vested benefits to all withdrawing employers. In order to do this allocation, the plan sponsor must first value the plan's benefits and assets. This regulation will prescribe the rules for these valuations. The regulation on valuing outstanding claims for withdrawal liability listed on PBGC's prior agenda (RIN 1212-AA17) has been merged into this regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA18

RULES UNDER SECTIONS 4041A AND 4281 FOR PLANS TERMINATED BY MASS WITHDRAWAL

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1341a ERISA; 29 USC 1441(d) ERISA

CFR Citation: 29 CFR 2675

Abstract: Section 4041A of ERISA provides rules with respect to the termination of multiemployer plans and the payment of benefits under those plans. Under section 4041A(f)(2), PBGC is authorized to prescribe rules for the administration of those plans that are appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the insurance system. Under section 4281(b), the plan sponsor of a plan that has terminated by mass withdrawal is required annually to determine the value of the plan's nonforfeitable benefits and assets. If the value of the benefits exceeds the value of the assets, the sponsor must amend the plan to eliminate benefits not eligible for PBGC's guarantee under section 4022A(b), to the extent necessary to insure that the plan assets are sufficient to pay all nonforfeitable benefits. This determination of sufficiency is to be made in accordance with rules prescribed by PBGC. This regulation would establish the rules for administering plans that have terminated by mass withdrawal, including the rules for determining sufficiency in the circumstances described above. The primary purpose (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: and benefit of this regulation will be to establish rules that encourage the efficient administration of these plans. By thus helping to preserve plan assets, these rules will, in the first instance, benefit plan participants and beneficiaries and secondarily, the multiemployer insurance system and premium payers. PBGC lacks adequate data to be able to quantify these benefits.

Agency Contact: Mr. J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning and Program Devel. Dept., Policy and Planning, 202 254-4862

RIN: 1212-AA19

●TRANSFERS FROM MULTIEMPLOYER PLANS TO SINGLE-EMPLOYER PLANS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3); 29 USC 1412; 29 USC 1414

CFR Citation: 29 CFR 2679

Abstract: Sections 4232 and 4234 of ERISA prescribe rules governing the transfer of liabilities and assets from a multiemployer plan to a single-employer plan and prohibit certain transfers unless approved by PBGC. The regulation will establish procedures for requesting and criteria for PBGC approval of transfers which require approval and guidelines for satisfying the statutory requirements pertaining to other transfers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: James M. Graham, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning & Program Devel. Dept., (140), 2020 K St., NW, Washington, DC, 202 254-4862

RIN: 1212-AA20

●ALLOCATING UNFUNDED VESTED BENEFITS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(c)

CFR Citation: 29 CFR 2642

Abstract: On January 19, 1981, PBGC issued an interim regulation dealing with alternative methods for allocating unfunded vested benefits in multiemployer pension plans. PBGC now plans to re-promulgate that regulation in order to correct ambiguities that have arisen under it, to conform the procedures contained in it to other PBGC regulations, and to reduce the information reporting requirements in the regulation. The regulation will impose no new costs on the public and may reduce costs for plans adopting certain alternative allocation rules by reducing the reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning & Program Devel. Dept., (140), 2020 K St. NW, Washington, DC, 202 254-4862

RIN: 1212-AA21

●REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Priority: Agency Determination

Legal Authority: 29 USC 1302(b) (3); 29 USC 1388(e) (3)

CFR Citation: 29 CFR 2649

Abstract: Section 4208(e)(3) of ERISA requires PBGC to issue a procedural regulation under which a multiemployer plan may adopt rules for the reduction or elimination of partial withdrawal liability. This regulation will allow plans to ease the statutory partial withdrawal liability rules where, for example, the rules are harmful to the plan because they discourage an employer from increasing its participation under the plan, or where the statutory rules create administrative burdens which outweigh the protections afforded by the rules.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning & Program Devel. Dept., (140), 2020 K St., NW, Washington, DC, 202 254-4862

RIN: 1212-AA22

●LIMITATIONS ON WITHDRAWAL LIABILITY FOR SALES AND EMPLOYER LIQUIDATIONS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b) (3); 29 USC 1405

CFR Citation: 29 CFR 2650

Abstract: Section 4225 of ERISA limits the amount of unfunded vested benefits under a multiemployer plan that can be allocated to an employer in the event that the employer (1) sells all or substantially all of its assets, or (2) is insolvent and undergoing liquidation or dissolution. The regulation will provide guidance on the application of the limits, including their application in the case of withdrawals from more than one plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning & Program Devel. Dept., (140), 2020 K St., NW, Wash., DC, 202 254-4862

RIN: 1212-AA23

●APPROVAL OF PLAN AMENDMENTS UNDER SECTION 4220

Priority: Agency Determination

Legal Authority: 29 USC 1302(b) (3); 29 USC 1400

CFR Citation: Not yet determined

Abstract: Under section 4220, certain amendments that multiemployer plans are authorized by ERISA to adopt and which are adopted after April 29, 1983, are effective only if PBGC approves the amendment or fails to disapprove the amendment within 90 days after being notified of it. This regulation will prescribe the procedures for requesting PBGC approval of these plan amendments.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Planning & Program Devel. Dept., (140), 2020 K St., NW, Wash., DC, 202 254-4862

RIN: 1212-AA24

RULES FOR VALUING GROUP INSURANCE CONTRACTS (AMENDMENT TO THE VALUATION OF PLAN ASSETS REGULATION)

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1341 ERISA; 29 USC 1344 ERISA; 29 USC 1362(b)(1) ERISA

CFR Citation: 29 CFR 2620

Abstract: This amendment to the existing PBGC regulation on valuing plan assets, 29 CFR Part 2620, will set forth rules for valuing group insurance contracts as plan assets. This regulation applies to single-employer plans. This rule is necessary to provide uniform standards for plan administrators and employers to use in valuing insurance contracts. The rule will enable plans which are funded through insurance contracts to have clear guidance on how this asset should be treated in the plan termination context, and alleviate time-consuming costly delays due to uncertainty on how this commonly used plan funding vehicle should be valued.

Timetable:

Action	Date	FR Cite
NPRM	05/07/76	44 FR 18992
Final Action	02/28/84	

Small Entity: Not Applicable

Agency Contact: Ms. Joan Segal, Deputy Assistant General Counsel, Pension Benefit Guaranty Corporation, Legal Department (210), Office of the General Counsel, 2020 K Street, N.W. Washington, DC 20006, 202 254-4895

RIN: 1212-AA01

BENEFIT REDUCTION IN TERMINATED SINGLE-EMPLOYER PENSION PLANS IN RECOUPMENT OF BENEFIT OVERPAYMENTS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1322 ERISA; 29 USC 1341 ERISA; 29 USC 1342 ERISA; 29 USC 1344 ERISA; 29 USC 1361 ERISA

CFR Citation: 29 CFR 2623

Abstract: The PBGC is developing a proposed regulation to set forth rules designed: (a) to reduce benefit overpayments made to plan participants after the date of plan termination by requiring plan administrators to reduce benefit payments to the estimated level of Title IV benefits payable; (b) to define the circumstances under which the PBGC will recover overpayments from plan participants; and (c) to describe the method(s) by which the PBGC will recover overpayments. The proposed regulation applies only to single-employer plans. This regulation is needed to establish rules and procedures for the prompt reduction of benefits after the date of plan termination in order to minimize overpayments to participants and to establish a formal procedure for PBGC recovery of overpayments to participants. This regulation will provide guidance to plan administrators and participants and minimize costs to the insurance system. No new costs will be added to plan sponsors because PBGC presently requests plan administrators to cut back benefits after termination to estimated guaranteed benefits. The effect of the rule in this respect will be simply to provide clear (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/30/83	

Small Entity: No

Additional Information: ABSTRACT CONT: guidance as to the method and form of the cutback. The rule will greatly minimize losses to the insurance system because it will be far more likely that the overpayments in benefits will be small and will be capable of complete recoupment during the participant's lifetime.

Agency Contact: Mrs. Renae Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Legal Department (210), Office of the General Counsel, 2020 K Street, NW, Washington, DC 20006, 202 254-6476

RIN: 1212-AA02

REPORTING AND NOTIFICATION REQUIREMENTS FOR REPORTABLE EVENTS

Priority: Agency Determination

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1343 ERISA; 29 USC 1365 ERISA

CFR Citation: 29 CFR 2615

Abstract: Section 4043 of ERISA sets forth several types of events with respect to which plan administrators must notify the PBGC and authorizes the PBGC to waive the thirty-day notification requirements for any of those events. The Multiemployer Act amended section 4065 of ERISA to authorize PBGC to waive the requirement that a list of reportable events be included in the Annual Report filed with the PBGC. In addition, the Multiemployer Act established separate reporting and notification requirements for multiemployer plans. Accordingly, the PBGC is amending its reportable events regulation, 29 CFR Part 2615, which modifies certain of the

VOL
48
ISS
201
OC
17
1983
UMI

statutory requirements, to further delete unnecessary reporting requirements for both single-employer and multiemployer plans. The regulation will reduce the reporting and notification requirements to which plan administrators are subject.

Timetable:

Action	Date	FR Cite
NPRM	08/17/83	48 FR 37230
NPRM Comment Period Begin	08/17/83	
NPRM Comment Period End	10/17/83	

Small Entity: No

Agency Contact: Ms. Melanie Nussdorf, Special Counsel, Pension Benefit Guaranty Corporation, Legal Department (210), Office of the General Counsel, 2020 K Street, NW, Washington, DC 20006, 202 254-6476

RIN: 1212-AA04

●DETERMINATION OF PLAN SUFFICIENCY AND TERMINATION OF SUFFICIENT PLANS

Priority: Agency Determination

Legal Authority: 29 USC 1302; 29 USC 1341; 29 USC 1344

CFR Citation: 29 CFR 2617

Abstract: On January 28, 1981, PBGC issued a final rule on Determination of Plan Sufficiency and Termination of Sufficient Plans, requiring administrators of plans that are not "clearly insufficient" to follow a specified procedure for demonstrating whether the plan is sufficient. Pursuant to this procedure, the plan administrator must, inter alia, value the plan's assets and liabiliteis as of a proposed distribution date and submit the valuation data to the PBGC. In light of its experience in processing plans under this regulation, the PBGC has concluded that for some plans the data submission requirement is unnecessary. Accordingly, PBGC now plans to amend that regulation to set forth, as an alternative method for demonstrating sufficiency, the submission of an enrolled actuary's statement certifying that the value of plan assets determined in accordance with the regulation does or does not, whichever is applicable, equal or exceed the value of plan benefits determined in accordance with the regulation. This amendment sets forth a simplified optional procedure for demonstrating sufficiency and may reduce costs for (cont)

Timetable:

Action	Date	FR Cite
Final Action	02/00/84	

Small Entity: No

Additional Information: ABSTRACT CONT: terminating plans.

Agency Contact: Joan Segal, Deputy Assistant General Counsel, Pension Benefit Guaranty Corporation, Legal Department (210), Office of the General Counsel, 2020 K Street, NW, Washington, DC 20006, 202 254-4895

RIN: 1212-AA25

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

COMPLETED RULEMAKINGS

VALUATION OF OUTSTANDING CLAIMS FOR WITHDRAWAL LIABILITY

Timetable:

Action	Date	FR Cite
Merged with RIN 1212-AA18	08/26/83	

RIN: 1212-AA17

[FR Doc. 83-28059 Filed 10-14-83; 8:45 am]

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federal register

Monday
October 17, 1983

Part XXXV

Railroad Retirement Board

Semiannual Agenda of Regulations Under Development or Review

VOL 48 ISS 201 OCT 17 1983 UMI

RRB

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Agenda of regulations under development or review.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next twelve months and regulations that are scheduled to be reviewed in that period.

ADDRESS: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4944 (FTS 387-4944).

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda as regulations under development.

DATED: August 24, 1983.
By Authority of the Board.
For the Board.

Beatrice Ezerski,
Secretary.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Adjustment of Annuities When Revenues Are Not Sufficient to Pay Full Tier I and Tier II Benefit Components	3220-AA00
2	Part 220 Disability Determinations	3220-AA01
3	Primary Insurance Amount Determinations	3220-AA02
4	Computing the Employee and Spouse Annuity	3220-AA03
5	Definition and Creditability of Service	3220-AA04
6	Military Service	3220-AA05
7	Definition and Creditability of Compensation	3220-AA06
8	Reports and Information to be Filed by Employers	3220-AA07
9	Statutory Lien Where Sickness Benefits Paid	3220-AA08
10	Regulations Under the Regional Rail Reorganization Act of 1973	3220-AA09
11	Disclosure of Business Information	3220-AA10
12	Regulations Under The Rock Island Railroad Transition And Employee Assistance Act	3220-AA12
13	Annuity Beginning And Ending Dates	3220-AA13
14	Evidence Required For Payment	3220-AA14
15	Eligibility For An Annuity	3220-AA15
16	Application For Annuity Or Lump Sum	3220-AA16
17	Computing Supplemental Annuities	3220-AA17
18	Lump-Sum Payments	3220-AA18

Existing Regulations Under Review

Sequence Number	Title	RIN
19	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals from Such Determinations	3220-AA11

RAILROAD RETIREMENT BOARD (RRB)

Current and Projected Rulemakings

1. ADJUSTMENT OF ANNUITIES WHEN REVENUES ARE NOT SUFFICIENT TO PAY FULL TIER I AND TIER II BENEFIT COMPONENTS

Legal Authority: 45 USC 231f(b)(5); 45 USC 231u

CFR Citation: 20 CFR 299

Abstract: The Omnibus Budget Reconciliation Act of 1981 added a new section 22 to the Railroad Retirement Act of 1974. This new section imposes certain responsibilities on the Board if the Board in any fiscal year borrows 50 percent or more of the moneys that it is authorized to borrow by section 15(b)(2) of the Railroad Retirement Act. If 50 percent or more is borrowed in a fiscal year, the Board must submit a report to Congress and the President which among other things must identify the first year, if any, in which the amount of moneys available will not be sufficient to pay full benefits. Within 180 days after submission of a report to the President and Congress identifying a year in which benefits will exceed available funds, the Board must publish regulations in the Federal Register providing for the reduction of annuities in such fiscal year. The proposed regulation would implement Section 22 of the Railroad Retirement Act.

RRB

Current and Projected Rulemakings

Timetable:

Action	Date	FR Cite
Regulation development began.	12/00/82	
NPRM	07/08/83	48 FR 31410
NPRM Comment Period Begin	07/08/83	
NPRM Comment Period End	09/06/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: FTS 387-4944

Agency Contact: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4944

RIN: 3220-AA00

2. PART 220 DISABILITY DETERMINATIONS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 220

Abstract: The Board's regulations with respect to disability determinations have not been updated for several years and they are, in certain respects, obsolete. When revised, this regulation should ease the administration of disability benefits and result in greater consistency in disability determinations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Agency Contact: Marilyn Berg, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA01

3. PRIMARY INSURANCE AMOUNT DETERMINATIONS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 225

Abstract: The computation of benefits under the Railroad Retirement Act of 1974 is quite complex and is not easily understood by beneficiaries. This proposed regulation would explain primary insurance amount determinations in a manner that will enable claimants and beneficiaries to more easily understand this phase of benefit computations.

Timetable:

Action	Date	FR Cite
NPRM	09/07/83	48 FR 40390

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Agency Contact: Marilyn Berg, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA02

4. COMPUTING THE EMPLOYEE AND SPOUSE ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 226

Abstract: The Board's regulations on the computation of employee and spouse annuities must be updated to conform to the Railroad Retirement Act of 1974 and to amendments to the Act made by the Omnibus Budget Reconciliation Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Agency Contact: Marilyn Berg, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA03

5. DEFINITION AND CREDITABILITY OF SERVICE

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 210

Abstract: The Board's regulations on creditability of service have not been revised recently and a review of the regulations revealed that revisions are necessary to conform to amendments to the Act and to clarify the regulations in several respects.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: FTS 387-4875

Agency Contact: George Traynere, Director, Bureau of Compensation and Certif., Railroad Retirement Board, Methods and Procedures,, Data Processing and Accounts, 844 Rush Street, Chicago, IL 60611, 312 751-4876

RIN: 3220-AA04

6. MILITARY SERVICE

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 212

Abstract: The Board's regulations on military service have not been revised recently and it was determined based on a review of the current regulations that revisions would be advisable to clarify and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: FTS 387-4875

Agency Contact: George Traynere, Director, Bureau of Compensation and Certif., Railroad Retirement Board, Methods and Procedures, Data Processing and Accounts, 844 Rush Street, Chicago, IL 60611, 312 751-4876

RIN: 3220-AA05

7. DEFINITION AND CREDITABILITY OF COMPENSATION

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 211

Abstract: The Board's regulations on creditability of compensation have not been revised recently and it was determined based on a review of the current regulations that revisions would be advisable to clarify and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: FTS 387-4875

Agency Contact: George Traynere, Director, Bureau of Compensation and Certif., Railroad Retirement Board, Methods and Procedures, Data Processing and Accounts, 844 Rush Street, Chicago, IL 60611, 312 751-4876

RIN: 3220-AA06

VOL
48
ISS
201
OC
17
1983
UMI

8. REPORTS AND INFORMATION TO BE FILED BY EMPLOYERS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 209

Abstract: The Board's regulations on reports and information to be filed by employers have not been revised recently and it was determined based on a review of the current regulations that revisions would be advisable to clarify and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: FTS 387-4875

Agency Contact: George Traynere, Director, Bureau of Compensation and Certif., Railroad Retirement Board, Methods and Procedures, Data Processing and Accounts, 844 Rush Street, Chicago, IL 60611, 312 751-4876

RIN: 3220-AA07

9. STATUTORY LIEN WHERE SICKNESS BENEFITS PAID

Legal Authority: 45 USC 362(l); 45 USC 362(o)

CFR Citation: 20 CFR 341

Abstract: Section 12(o) of the Railroad Unemployment Insurance Act provides that sickness benefits shall be payable to an individual for days of sickness regardless of the liability of any person for the infirmity for which the benefits are paid. However, that section also provides that the Board is to be reimbursed for the sickness benefits actually paid from any sum or damages paid or payable to the individual by reason of the infirmity. The proposed regulation will explain when a lien is established under section 12(o) of the Railroad Unemployment Insurance Act, how the amount of the lien is determined, what procedures must be followed by the Board in establishing the lien, and how the lien may be satisfied. In addition, the proposed regulation will establish procedures to be followed by the Board in terminating sickness benefits where it has been reported to the Board that the beneficiary has recovered through settlement or judgment any sum or damages for the same injury or sickness for which sickness benefits under the Railroad Unemployment Insurance Act have been paid. Comments on the NPRM were received from the public and consideration has been given to those comments.

Timetable:

Action	Date	FR Cite
NPRM	11/10/80	45 FR 74510
NPRM	12/00/83	

Small Entity: Not Applicable

Additional Information: FTS 387-4810

Agency Contact: Walter Witkovich, Chief of Adjudication, Railroad Retirement Board, Bur of Unemployment and Sickness Insurance, 844 Rush Street, Chicago, IL 60611, 312 751-4810

RIN: 3220-AA08

10. REGULATIONS UNDER THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Legal Authority: 45 USC 362(l); 45 USC 797; PL 97-102

CFR Citation: 20 CFR 390

Abstract: Pursuant to the Northeast Rail Service Act of 1981, appropriations statutes authorized by that Act, and the benefit schedules prescribed by the Secretary of Labor, the Board has certain duties, responsibilities, and powers to administer programs under Title VII of the Regional Rail Reorganization Act of 1973. Regulations are necessary to establish procedures to be followed in making claims under these programs and to establish procedures for resolving disputes and appeals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/83	

Small Entity: Not Applicable

Additional Information: FTS 387-4810

Agency Contact: Walter Witkovich, Chief of Adjudication, Railroad Retirement Board, Bur of Unemployment and Sickness Insurance, 844 Rush Street, Chicago, IL 60611, 312 751-4810

RIN: 3220-AA09

11. DISCLOSURE OF BUSINESS INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 20 CFR 200.3

Abstract: The Department of Justice recently directed Federal agencies to establish procedures, preferably as regulations, to cover requests under the Freedom of Information Act for business information provided by private business concerns. A regulation is under development to comply with this directive.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Additional Information: FTS 387-4567

Agency Contact: Arthur A. Arfa, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4567

RIN: 3220-AA10

12. REGULATIONS UNDER THE ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE ACT

Legal Authority: PL 97-424, Sec 231

CFR Citation: 20 CFR 396

Abstract: The Bankrupt Railroad Service Preservation and Employee Protection Act of 1982 amended the Rock Island Railroad Transition and Employee Assistance Act to provide for the adoption of a benefit program for protection of employees of the Rock Island Railroad who are adversely affected by a reduction in service by the Railroad. The Railroad Retirement Board is authorized to administer this benefit program and is authorized to prescribe regulations for administration of the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/83	

Small Entity: Not Applicable

Agency Contact: James Verplaetse, Chief, Program Evaluation & Field Operations, Railroad Retirement Board, Bureau of Unemployment & Sickness Insurance, 844 Rush St., Chicago, Illinois 60611, 312 751-4830

RIN: 3220-AA12

13. ANNUITY BEGINNING AND ENDING DATES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 218

Abstract: Part 218 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Agency Contact: Marilyn Berg, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush St., Chicago, Illinois 60611, 312 751-4818

RIN: 3220-AA13

14. EVIDENCE REQUIRED FOR PAYMENT

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 219

Abstract: Part 219 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Reconciliation Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Agency Contact: Marilyn Berg, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush St., Chicago, Illinois 60611, 312 751-4818

RIN: 3220-AA14

15. ELIGIBILITY FOR AN ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 216

Abstract: Part 216 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Agency Contact: Marilyn Berg, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush St., Chicago, Illinois 60611, 312 751-4818

RIN: 3220-AA15

16. APPLICATION FOR ANNUITY OR LUMP SUM

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 217

Abstract: Part 217 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Not Applicable

Agency Contact: Marilyn Berg, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush St., Chicago, Illinois 60611, 312 751-4818

RIN: 3220-AA16

17. COMPUTING SUPPLEMENTAL ANNUITIES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 227

Abstract: Part 227 is being developed to describe how supplemental annuities as provided by the Railroad Retirement Act of 1974 are computed.

Timetable:

Action	Date	FR Cite
NPRM	09/07/83	48 FR 40390
Next Action Undetermined		

Small Entity: Not Applicable

Agency Contact: Marilyn Berg, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush St., Chicago, Illinois 60611, 312 751-4818

RIN: 3220-AA17

18. LUMP-SUM PAYMENTS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 234

Abstract: Part 234 is being revised to incorporate changes required by amendments to the Railroad Retirement Act and to simplify and clarify the language of that Part.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Not Applicable

Agency Contact: Eloise Sandle, Program Analyst, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush St., Chicago, Illinois 60611, 312 751-4818

RIN: 3220-AA18

RAILROAD RETIREMENT BOARD (RRB) — Existing Regulations Under Review

19. INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS

Legal Authority: 45 USC 355(b); 45 USC 362(l)

CFR Citation: 20 CFR 320

Abstract: The Board's regulation on initial determinations and appeals under the Railroad Unemployment Insurance Act have not been revised recently and accordingly, a review of this regulation is necessary to determine whether it should be revised.

Timetable:

Action	Date	FR Cite
End Review	09/00/83	
NPRM	09/00/84	

Small Entity: Not Applicable

Additional Information: FTS 387-4810

Agency Contact: Walter Witkovich, Chief of Adjudication, Railroad Retirement Board, Bur of Unemployment and Sickness Insurance, 844 Rush Street, Chicago, IL 60611, 312 751-4810

RIN: 3220-AA11

[FR Doc. 83-28060 Filed 10-14-83; 8:45 am]
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VOL
48
ISS
201
OC
17
1983
UMI

federal register

Monday
October 17, 1983

Part XXXVI

Selective Service System

Regulatory Agenda

VOL
48
ISS
201
OC
17
1983
UMI

SSS

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Regulatory Agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435. Telephone (202) 724-1167.

SUPPLEMENTARY INFORMATION: This agenda is published in accord with the requirements of E.O. 12291. Selective Service Regulations appear in 32 CFR Chapter XVI.

DATED: August 19, 1983.

Thomas K. Turnage,

Director of Selective Service.

The agenda follows:

SELECTIVE SERVICE SYSTEM (SSS) — Current and Projected Rulemakings

SELECTIVE SERVICE REGULATIONS; DEFERMENT OR EXEMPTION FROM MILITARY SERVICE

Legal Authority: 50 USC App. 451 et seq Military Selective Service Act; EO 11623

CFR Citation: 32 CFR Chapter XVI

Abstract: Various sections in 32 CFR Chapter XVI will be revised to increase clarity or expression and make them consistent with 32 CFR Part 1656 which was added at 48 FR 16675 (April 19, 1983). 32 CFR Parts 1662 and 1665 were published as final rules at 47 FR 7223 (February 18, 1982). The remainder of 32 CFR Chapter XVI (except 32 CFR Part 1660 which appears in 32 CFR Part 1660 (July 1, 1981)) was published as final rules at 47 FR 4640 (February 1, 1982).

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
NPRM Comment Period Begin	10/00/83	

Small Entity: No

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1023 31st Street, NW, Washington, DC 20435, 202 724-1167

RIN: 3240-AA01

SELECTIVE SERVICE SYSTEM (SSS) — Completed Actions

COMPLETED RULEMAKINGS

SELECTIVE SERVICE REGULATIONS; ALTERNATIVE SERVICE

CFR Citation: 32 CFR 1660; 32 CFR 1656

Completed:

Reason	Date	FR Cite
Final Action	04/19/83	48 FR 16675
Final Action Effective	04/19/83	

Small Entity: No

Agency Contact: Henry N. Williams 202 724-1167

RIN: 3240-AA00

[FR Doc. 83-28061 Filed 10-14-83; 8:45 am]

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federal register

Monday
October 17, 1983

Part XXXVII

Small Business Administration

Semiannual Agenda

VOL 48 ISS 201 OCT 17 1983 UMI

SBA

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the Semiannual Agenda of Regulations Under Review or Development by the Small Business Administration.

SUMMARY: This is SBA's ninth semiannual agenda of regulations. Although not a regulatory Agency, SBA has attempted to draft agendas that met both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12291 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, Pub. L. 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual Agency official listed for the particular item.

For information concerning SBA overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Associate General Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, 202/653-6662.

SUPPLEMENTARY INFORMATION: The SBA agenda will contain many regulations which are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on SBA's previous agendas have been general, and all were positive. None were directed at specific contents, nor were any changes suggested or recommended.

The agenda format is now slightly modified. Part I, Current and Projected Rulemakings, includes rulemaking currently underway and scheduled to be completed shortly. Part II, Reviews of Existing Regulations, includes existing regulations being reviewed within the Agency to determine whether to propose modifications through rulemaking. Part III, Completed Actions, includes regulations completed or withdrawn, and reviews completed since the preceding agenda.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

DATED: August 28, 1983.

James C. Sanders,

Administrator.

SMALL BUSINESS ADMINISTRATION (SBA) — Current and Projected Rulemakings

SIZE STANDARDS REVISION

Priority: Major

Legal Authority: 15 USC 632

CFR Citation: 13 CFR 121

Abstract: Revision of SBA's standards for determining what is a small business for purposes of SBA assistance.

Timetable:

Action	Date	FR Cite
Previous ANPRM	03/10/80	45 FR 15442
ANPRM	05/03/82	47 FR 18992
NPRM Comment Period Begin	05/05/83	48 FR 20560
NPRM	05/06/83	48 FR 20560
NPRM Comment Period End	07/05/83	
Final Action	12/00/83	

Small Entity: Yes

Agency Contact: Andrew A. Canellas, Director, Small Business Administration, Office of Industry Analysis, 1441 L St., NW, Washington, DC 20416, **202 635-6373**

RIN: 3245-AA00

SMALL BUSINESS INVESTMENT COMPANIES

Priority: Agency Determination, Major

Legal Authority: 15 USC 687(c)

CFR Citation: 13 CFR 107

Abstract: Revision of regulations governing the Small Business Investment Company program.

Timetable:

Action	Date	FR Cite
NPRM	08/16/82	47 FR 35498
Final Action	09/00/83	

Small Entity: Yes

Agency Contact: Robert G. Lineberry, Deputy Associate, Small Business Administration, Administrator for Investment, 1441 L St., NW, Washington, DC 20416, **202 653-6843**

RIN: 3245-AA01

ELIGIBILITY REQUIREMENTS FOR CERTIFICATE OF COMPETENCY APPLICANTS

Legal Authority: 15 USC 637(b)(7)

CFR Citation: 13 CFR 125.5

Abstract: Revision of the conditions under which SBA will provide a certificate of competency relative to a small concern's ability to perform a government contract.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/82	47 FR 34972
Final Action	10/00/83	

Small Entity: No

Agency Contact: Robert J. Moffitt, Director, Small Business Administration, Office of Industrial Assistance, 1441 L St. NW, Washington, DC 20416, **202 653-7035**

RIN: 3245-AA03

BUSINESS LOAN POLICY

Legal Authority: 15 USC 636(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 122

Abstract: Business Loan Policy, Miscellaneous revisions based on changes in authorizing legislation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Edwin T. Holloway, Assoc. Admin. for Finance and Investment, Small Business Administration, 1441 L St., NW, Washington, DC 20416, **202 653-6632**

RIN: 3245-AA07

DISASTER LOANS

Legal Authority: 15 USC 636(b); 15 USC 634(b)(6)

CFR Citation: 13 CFR 123

SBA — Current and Projected Rulemakings

Abstract: Disaster loans, Miscellaneous revisions based on changes in authorizing legislation.

Timetable:

Action	Date	FR Cite
NPRM	05/27/83	48 FR 23836
NPRM Comment Period Begin	05/27/83	48 FR 23836
NPRM Comment Period End	06/27/83	
Final Action Effective	10/00/83	

Small Entity: No

Agency Contact: Edwin T. Holloway, Assoc. Admin. for Finance and Investment, Small Business Administration, 1441 L St., NW, Washington, DC 20416, **202 653-6632**

RIN: 3245-AA08

ELIGIBLE LOAN PARTICIPANTS

Legal Authority: 15 USC 636(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 120.4

Abstract: Revision of criteria concerning eligible loan participants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Agency Contact: Edwin T. Holloway, Assoc. Admin. for Finance and Investment, Small Business Administration, 1441 L St., NW, Washington, DC 20416, **202 653-6632**

RIN: 3245-AA09

MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT

Priority: Agency Determination, Major

Legal Authority: 15 USC 637(a)

CFR Citation: 13 CFR 124

Abstract: These regulations would completely revise eligibility and program management for the SBA's Minority Enterprise Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	
NPRM Comment Period Begin	10/00/83	
NPRM Comment Period End	12/00/83	

Small Entity: Yes

Agency Contact: Robert Wright, Associate Administrator, Small Business Administration, 1441 L St., NW, Room 317, Washington, DC 20416, **202 653-6407**

RIN: 3245-AA12

●PROCEDURES OF THE OFFICE OF HEARINGS AND APPEALS FOR DETERMINING APPEALS OF SIZE STATUS AND PRODUCT OR SERVICE CLASSIFICATIONS

Legal Authority: 15 USC 632; 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Abstract: Procedural rules governing practice in size appeals cases before SBA's Office of Hearings and Appeals.

Timetable:

Action	Date	FR Cite
NPRM	08/02/83	48 FR 34966
NPRM Comment Period Begin	08/02/83	
NPRM Comment Period End	09/01/83	
Final Action	11/00/83	

Small Entity: Yes

Agency Contact: Roger Jones, Assistant Administrator, Small Business Administration, Office of Hearings & Appeals, 1441 L St., NW, Washington, DC 20416, **202 653-6805**

RIN: 3245-AA15

●VARIABLE RATE LOAN REGULATION

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 120.3

Abstract: Regulation governs terms and conditions of interest rates for SBA loans.

Timetable:

Action	Date	FR Cite
NPRM	08/16/83	48 FR 37044
NPRM Comment Period Begin	08/16/83	48 FR 37044
NPRM Comment Period End	10/17/83	

Small Entity: Yes

Agency Contact: James Hammersley, Financial Analyst, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, **202 653-6268**

RIN: 3245-AA16

●BUSINESS LOANS VETERANS LOAN PROGRAM

Legal Authority: 15 USC 636(a)

CFR Citation: 13 CFR 122

Abstract: Standards and guidelines for a loan assistance program.

Timetable:

Action	Date	FR Cite
NPRM	08/15/83	48 FR 36825
NPRM Comment Period Begin	08/15/83	48 FR 36825
NPRM Comment Period End	09/14/83	
Final Action	11/00/83	

Small Entity: Yes

Agency Contact: Everett Shell, Director, Office of Business Loans, Small Business Administration, 1441 L Street, NW, Room 800, Washington, DC 20416, **202 653-6470**

RIN: 3245-AA17

SMALL BUSINESS ADMINISTRATION (SBA) — Existing Regulations Under Review

CERTIFIED DEVELOPMENT COMPANY PROGRAM

Legal Authority: 15 USC 687

CFR Citation: 13 CFR 108

Abstract: Revision of criteria for eligibility to be a certified lender.

Timetable:

Action	Date	FR Cite
NPRM	05/24/82	47 FR 22374
Review and development is ongoing	00/00/00	

Small Entity: No

Agency Contact: William Hogbin, Financial Analyst, Small Business Administration, Office of Lender Relations and Certification, 1441 L St., NW, Washington, DC 20416, **202 653-9181**

VOL
48
ISS
201
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17
1983
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SBA — Existing Regulations Under Review

RIN: 3245-AA05

STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: 15 USC 501; 15 USC 502; 15 USC 503; 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Abstract: State and local development companies, Miscellaneous revisions.

Timetable:

Action	Date	FR Cite
End Review	11/00/83	
NPRM	11/00/83	

Small Entity: No

Agency Contact: Edwin T. Holloway, Assoc. Admin. for Finance and Investment, Small Business Administration, 1441 L St., NW, Washington, DC 20416, 202 653-6632

RIN: 3245-AA10

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

COMPLETED RULEMAKINGS

DEFINITION OF SMALL BUSINESS FOR PREFERENTIAL TREATMENT IN TIMBER SALES

Legal Authority: 15 USC 632

CFR Citation: 13 CFR 121.2 -9(c)

Abstract: Revision of regulations governing eligibility for preferential treatment for purchase of government timber set-asides.

Timetable:

Action	Date	FR Cite
NPRM	08/23/82	47 FR 36651
Second NPRM	03/07/83	48 FR 9350
Final Action	06/10/83	48 FR 26760

Small Entity: No

Agency Contact: Joseph E. Kernan, Chief, Small Business Administration, Natural Resources Sales Assistance Branch, 1441 L St., NW, Washington, DC 20416, 202 653-6078

RIN: 3245-AA02

INTERGOVERNMENTAL REVIEW OF SBA PROGRAMS AND ACTIVITIES

Legal Authority: EO 12372

CFR Citation: 13 CFR 135

Abstract: These regulations implement EO 12372 to provide for coordination between SBA and State governments in implementation of certain SBA programs which affect the states.

Timetable:

Action	Date	FR Cite
NPRM	01/24/83	48 FR 3282
NPRM Comment Period Begin	01/24/83	
NPRM Comment Period End	03/11/83	
Final Action	06/24/83	

Small Entity: Yes

Agency Contact: Martin D. Teckler, Associate General Counsel, Small Business Administration, 1441 L St., NW, Room 700, Washington, DC 20416, 202 653-6797

RIN: 3245-AA11

BUSINESS LOAN POLICY

Legal Authority: 15 USC 634

CFR Citation: 13 CFR 120.5

Abstract: This regulation prohibits the use of SBA's lending program for provision of real estate forward commitments.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51403
Final Action	05/11/83	48 FR 21110

Small Entity: Yes

Agency Contact: Charles Hertzberg, Deputy Associate Administrator, Small Business Administration, 1441 L St., NW, Room 800, Washington, DC 20416, 202 653-6574

RIN: 3245-AA13

[FR Doc. 83-28062 Filed 10-14-83; 8:45 am]
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federal register

Monday
October 17, 1983

Part XXXVIII

Veterans Administration

Agenda of Federal Regulations

VOL 48 ISS 201 OCT 17 1983 UMI

VA

VETERANS ADMINISTRATION

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Veterans Administration.

ACTION: Publication of Agenda of Regulations.

SUMMARY: This agenda announces the regulations that the Veterans Administration will have under review, development or revision during the 12 month period from October 1983 to October 1984. The purpose in publishing this Agency's regulatory development activities is to allow all interested persons the opportunity to participate in the rulemaking process.

ADDRESSES: Interested persons are invited to comment on the regulations listed in the agenda by contacting the individual agency contact listed for each regulation, or by writing to: Information and Regulations Staff (004A1), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Celia Fasone (202) 389-2308.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (Pub. L. 96-354) require that executive agencies publish in the **Federal Register**, in April and October of each year, an agenda of regulations under development and review.

The Veterans Administration has no regulations considered major under the terms of E.O. 12291; however all of this agency's proposed rules and current rules under review, except those considered to be internal agency management or routine regulations, have been listed in accordance with section 5.(a) of the executive order. This agenda incorporates those categories of information required pursuant to 5 U.S.C. 602(a) and 610(c) (Regulatory Flexibility Act).

The Veterans Administration has found that all rules listed in this agenda, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in 5 U.S.C. 601 - 612.

This agenda has been prepared in accordance with OMB Bulletin 83-15.

DATED: August 25, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance	2900-AA21
2	Enforcement of Nondiscrimination on the Basis of Handicap in VA Programs	2900-AA87
3	Licensing of Government-Owned Inventions	2900-AA35
4	Delegation of Authority	2900-AA36
5	Procedure Where Violation of Penal Statutes is Involved	2900-AA37
6	Recognition of Organizations, Representatives, Agents and Attorneys	2900-AA38
7	Eligibility for Hospital, Domiciliary, or Nursing Home Care of Persons Discharged or Released from Active Military, Naval or Air Service	2900-AA12
8	VA Primary Medical Care Backup for DoD as Contingency System During War or National Emergency	2900-AA16
9	Consumer-Patient Radiation Health and Safety	2900-AA17
10	Medical Records Disclosure	2900-AA22
11	Informed Consent	2900-AA25
12	Domiciliary Income Limitation	2900-AA26
13	Nondiscrimination in the admission of alcohol and drug abusers to Veterans Administretion health care facilities	2900-AA76
14	Limitation on payment for emergency hospital care and medical services not previously authorized	2900-AA85
15	Treatment of CHAMPVA (Civilian Health and Medical Program of the Veterans Administration) beneficiaries in non-Federal health care facilities at VA expense	2900-AA86
16	Participating in a Rehabilitation Program under Chapter 31	2900-AA94
17	Considerations applicable in determining eligibility for domiciliary care	2900-AB07
18	Duty Period Defined	2900-AB08
19	Outreach Program, Fee Contract Program	2900-AA00
20	Veterans Education; Educational Assistance Test Program	2900-AA01
21	Definitions	2900-AA43
22	Vocational Rehabilitation Amendments	2900-AA47
23	Vocational Rehabilitation Amendments	2900-AA48
24	Vocational Rehabilitation Amendments	2900-AA49
25	Vocational Rehabilitation Amendments	2900-AA50
26	Veterans Education; Implementation of the Budget Reconciliation Act of 1981	2900-AA53
27	Veterans Education; SAA Contracts	2900-AA57
28	Veterans Education; Certifications of Enrollment	2900-AA58
29	Veterans Education; Monthly Certifications of Attendance	2900-AA59
30	Suspension of Program Participants Based on Criminal Conviction	2900-AA64
31	Veterans Education; Educational Assistance Adjustments	2900-AA72
32	Veterans Education; VEAP Adjustments	2900-AA73
33	Veterans Education; Special Restorative Training and Specialized Vocational Training	2900-AA74
34	Refinancing of a Manufactured Home in Order to Acquire a Lot	2900-AA75
35	Manufactured Housing Loans; Computation of Guaranty Claims	2900-AA78
36	Regulatory Amendments Required by PL 97-306	2900-AA81

VA

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
37	Veterans Education: Submission of Mitigating Circumstances	2900-AA82
38	Dependents' Educational Assistance; Eligible Child's Period of Eligibility	2900-AA88
39	Disqualification of Lenders	2900-AA89
40	Veterans Education; Education Loans	2900-AA90
41	Veterans Education; Change of Program	2900-AA91
42	Special allowance payable under section 156 of Public Law 97-377	2900-AA92
43	Veterans Education; Program of Education	2900-AA93
44	Social Security Numbers in Veterans Benefits Matters	2900-AA95
45	Occupancy Requirements	2900-AA96
46	Computation of Guaranties or Insurance Credits	2900-AA97
47	Supplementary Administrative Action	2900-AA98
48	Certain Manufactured Housing Loans	2900-AA99
49	Charging of Interest on Loan Guaranty Indebtedness	2900-AB00
50	Veterans Education; Accreditation of Medical Residencies	2900-AB01
51	Veterans Education; Central Office Education and Training Review Panel	2900-AB02
52	Veterans Education; Additional Period of Eligibility	2900-AB03
53	Veterans' Group Life Insurance	2900-AB04
54	National Service Life Insurance - Dividends	2900-AB05
55	Payment of proceeds	2900-AB06
56	Veterans Education; Foreign Medical Schools	2900-AB09

Completed Actions

Sequence Number	Title	RIN
57	Waiver - Other Than Loan Guaranty	2900-AA83
58	Authorization of Outpatient Dental Treatment	2900-AA10
59	Authorization of Outpatient Dental Treatment	2900-AA11
60	Authorization of Outpatient Dental Treatment	2900-AA15
61	Considerations Applicable in Determining Eligibility for Hospital, Nursing Home, or Domiciliary Care	2900-AA27
62	Health Professional Scholarship Program	2900-AA84
63	Intergovernmental Review of Federal Programs	2900-AA19
64	Applications	2900-AA03
65	Deductions from Pay	2900-AA04
66	Business Loans	2900-AA06
67	Housing Loan Fees	2900-AA07
68	Veterans Education; 24-month Service Requirement	2900-AA54
69	Veterans Education; Education Assistance	2900-AA55
70	Veterans Education; Change in the Number of Dependents	2900-AA61
71	Veterans Education; Matriculation	2900-AA62
72	Refinancing Loan Discount Points and Automatic Closing of Refinancing Loans	2900-AA63
73	Regulatory Amendments Required by PL 97-253	2900-AA79
74	Monetary Allowance in lieu of a Government-Furnished Headstone or Marker	2900-AA80

VETERANS ADMINISTRATION (VA) — Current and Projected Rulemakings

EQUAL OPPORTUNITY STAFF

1. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6101 et seq

CFR Citation: 38 CFR 18

Abstract: To establish standards for determining what age discrimination is and procedures for enforcing the Age Discrimination Act of 1975, according to the government-wide age discrimination regulations at 45 CFR Part 90. There are no alternatives to issuing these regulations. Beneficiaries, potential beneficiaries and the general public will benefit from assisted programs which are provided free from prohibited discrimination based on age.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: Ana M. del Toro, Equal Opportunity Specialist, Veterans Administration, Equal Opportunity Staff, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2150**

RIN: 2900-AA21

2. ●ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN VA PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 38 CFR 15

Abstract: Provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, as it applies to programs or activities conducted by the VA. Section 504 prohibits discrimination on the basis of handicap. There is no other alternative to the issuance of this regulation since it implements a legislative mandate. Qualified handicapped individuals will be assured of equal participation in programs or activities conducted by the VA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Agency Contact: Ana M. del Toro, Equal Opportunity Specialist, Veterans Administration, Equal Opportunity Staff, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2150**

RIN: 2900-AA87

OFFICE OF THE GENERAL COUNSEL

3. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Legal Authority: 35 USC 208; EO 10096

CFR Citation: 38 CFR 1.666

Abstract: Provides procedures for administrative appeals by persons aggrieved by decisions concerning the licensing of inventions in VA control and custody. These procedures are required by 41 CFR 101-4.105. No significant costs are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	04/08/83	48 FR 15272
NPRM Comment Period Begin	04/08/83	
NPRM Comment Period End	05/09/83	
Final Action	09/00/83	

Small Entity: No

Agency Contact: Chauncey Durden, Staff Attorney, Veterans Administration, Office of the General Counsel, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2638**

RIN: 2900-AA35

4. DELEGATION OF AUTHORITY

Legal Authority: 38 USC 212(a)

CFR Citation: 38 CFR 2.6

Abstract: This change implements the provisions of PL 97-226 which raised to $25,000 the maximum payable to resolve claims filed under the Military and Civilian Employees Claims Act of 1964. The change also promulgates a shift of responsibility for reviewing claims activities within the Office of General Counsel. At no additional cost to the Government, the change will clarify the currently existing arrangements for processing and reviewing claims as well as amending the current regulations to reflect the new statutory maximum. No alternatives are being considered. The change benefits VA employees by identifying the office responsible and stating the maximum they may receive from a claim.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: Audley Hendricks, Assistant General Counsel, Veterans Administration, Office of the General Counsel, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-5030**

RIN: 2900-AA36

5. PROCEDURE WHERE VIOLATION OF PENAL STATUTES IS INVOLVED

Legal Authority: 38 USC 210(c)(1)

CFR Citation: 38 CFR 14.560

Abstract: This change promulgates a modification in the internal handling of VA matters involving violations of penal laws before such matters are referred to the Department of Justice. The change incorporates the VA Inspector General's office into the referral process. At no extra cost to the Government, the change makes public the procedures the VA has established. No alternative is being considered. The change will benefit the Agency by bringing published guidance into conformity with internally circulated guidance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Audley Hendricks, Assistant General Counsel, Veterans Administration, Office of the General Counsel, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-5030**

RIN: 2900-AA37

6. RECOGNITION OF ORGANIZATIONS, REPRESENTATIVES, AGENTS AND ATTORNEYS

Legal Authority: 38 USC 210(c)(1); 38 USC 3402; 38 USC 3404

CFR Citation: 38 CFR 14.664; 38 CFR 14.627 to 14.637

Abstract: Includes definitions; requirements for recognition of organizations by the VA; requirements for recognition of representatives, agents and attorneys; powers of attorney; use of paralegals, law clerks and law students; requirements for space and office facilities.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: Ed Lukey, Deputy Assistant General Counsel, Veterans Administration, Office of the General Counsel, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2440**

RIN: 2900-AA38

DEPARTMENT OF MEDICINE AND SURGERY

7. ELIGIBILITY FOR HOSPITAL, DOMICILIARY, OR NURSING HOME CARE OF PERSONS DISCHARGED OR RELEASED FROM ACTIVE MILITARY, NAVAL OR AIR SERVICE

Legal Authority: PL 97-37

CFR Citation: 38 CFR 17.47(d); 38 CFR 17.47(e)

Abstract: Excludes nonservice-connected ex-POW's from the requirement to sign the oath of inability to pay for medical care.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: No

Agency Contact: Jerome Hanes, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2337**

RIN: 2900-AA12

8. VA PRIMARY MEDICAL CARE BACKUP FOR DOD AS CONTINGENCY SYSTEM DURING WAR OR NATIONAL EMERGENCY

Legal Authority: PL 97-174

CFR Citation: 38 CFR 17.190

Abstract: Assigns priority care to active duty personnel of the U.S. Armed Forces in time of war or national emergency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/83	

Small Entity: No

Agency Contact: Anthony Ilardi, Emergency Preparedness Officer, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2322**

RIN: 2900-AA16

9. CONSUMER-PATIENT RADIATION HEALTH AND SAFETY

Legal Authority: PL 97-35

CFR Citation: Not yet determined

Abstract: Makes Federal Radiation Guidelines and Standards promulgated by HHS applicable to the provision of VA radiological procedures.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: James Smith, M.D., Director, Nuclear Medicine Service, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-3195**

RIN: 2900-AA17

10. MEDICAL RECORDS DISCLOSURE

Legal Authority: PL 93-282

CFR Citation: 38 CFR 1.514

Abstract: Permits medical records disclosure to treating physicians with verified oral consent from the veteran.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: Harold Ramsey, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2589**

RIN: 2900-AA22

11. INFORMED CONSENT

Legal Authority: PL 94-581

CFR Citation: 38 CFR 17.34

Abstract: Mandates that all patient care be carried out with full and informed consent and clarifies the definition of a patient's representatives.

Timetable:

Action	Date	FR Cite
NPRM	07/14/83	48 FR 32198
NPRM Comment Period Begin	07/14/83	
NPRM Comment Period End	08/15/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Monica Wilkins, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2179**

RIN: 2900-AA25

12. DOMICILIARY INCOME LIMITATION

Legal Authority: PL 96-330

CFR Citation: 38 CFR 17.48(b)(1)

Abstract: To change the current income level of $415 per month by increasing the income limitation to an appropriate level taking into consideration the present Consumer Price Index.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: James L. Fozard, M.D., Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-3692**

RIN: 2900-AA26

13. NONDISCRIMINATION IN THE ADMISSION OF ALCOHOL AND DRUG ABUSERS TO VETERANS ADMINISTRATION HEALTH CARE FACILITIES

Legal Authority: 38 USC 4133

CFR Citation: 38 CFR 17.48

Abstract: Provides that veterans who are alcohol or drug abusers who are suffering from medical disabilities shall not be discriminated against in admission or treatment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: Not Applicable

Agency Contact: Jerome J. Hanes, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, **202 389-2337**

RIN: 2900-AA76

14. LIMITATION ON PAYMENT FOR EMERGENCY HOSPITAL CARE AND MEDICAL SERVICES NOT PREVIOUSLY AUTHORIZED

Legal Authority: 38 USC 628

CFR Citation: 38 CFR 17.80a

Abstract: Existing authority provides the criteria for approval of claims by certain veterans for payment and reimbursement of the expenses of hospital care and medical services not previously authorized. One of the prerequisites is that the veterans must have received the care and services in a medical emergency of such nature that delay would have been hazardous to life or health. However, there is no termination point defined for the emergency. The new regulation accomplishes this. This action will correct an inequity which grants a greater benefit to veterans who file claims for payment or reimbursement

VOL 48 ISS 201 OCT 17 1983 UMI

for the expenses of non-VA hospital care or medical services not previously authorized than for veterans who request and receive prior authorization for such care. In the latter cases, the termination point for VA payment of costs of the emergency hospital care is already clearly defined.

Timetable:

Action	Date	FR Cite
NPRM	06/09/83	48 FR 26627
NPRM Comment Period Begin	06/09/83	
NPRM Comment Period End	07/11/83	
Final Action	09/00/83	

Small Entity: No

Agency Contact: Gene M. Lambert, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AA85

15. ●TREATMENT OF CHAMPVA (CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE VETERANS ADMINISTRATION) BENEFICIARIES IN NON-FEDERAL HEALTH CARE FACILITIES AT VA EXPENSE

Legal Authority: 38 USC 613

CFR Citation: 38 CFR 17.54

Abstract: To provide regulatory authority for treating CHAMPVA beneficiaries in non-Federal health care facilities at VA expense, as authorized by 38 U.S.C. 613.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: Gene M. Lambert, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AA86

16. ●PARTICIPATING IN A REHABILITATION PROGRAM UNDER CHAPTER 31

Legal Authority: 38 USC 1500 to 1521

CFR Citation: 38 CFR 17.48(g)

Abstract: The scope and circumstances under which medical care and services may be provided to veterans participating in a Rehabilitation Program under Chapter 31 have been expanded to include that necessary to accomplish the purposes of the initial evaluation as well as to facilitate the achievement of rehabilitation goals.

Timetable:

Action	Date	FR Cite
NPRM	08/22/83	48 FR 38007
NPRM Comment Period Begin	08/22/83	
NPRM Comment Period End	09/21/83	
Final Action	01/00/84	

Small Entity: No

Agency Contact: Gene M. Lambert, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AA94

17. ●CONSIDERATIONS APPLICABLE IN DETERMINING ELIGIBILITY FOR DOMICILIARY CARE

Legal Authority: 38 USC 610(b); 38 USC 601(7)

CFR Citation: 38 CFR 17.48(c)(1)

Abstract: The existing regulation now defines the domiciliary program as the provision of a home with medical services as needed to veterans who have a chronic disability and who are unable to earn a living. The proposed change would clarify the mission of the domiciliary program as an integral part of the provision of health care services by the VA by refocusing the definition from the provision of housing to the provision of continuing medical and rehabilitative services at a less intensive level than that provided in a hospital or nursing home, but at a higher level than that available in a residential setting.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Karen O. Walters, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2337

RIN: 2900-AB07

18. ●DUTY PERIOD DEFINED

Legal Authority: 38 USC 101(22)

CFR Citation: 38 CFR 17.31(c)

Abstract: The existing regulation is inconsistent with 38 U.S.C. 101(22) in that it does not include duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under Chapter 103 or Title 10, which was added by Section 113 of P.L. 97-306.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Agency Contact: Jerome J. Hanes, Medical Administration Specialist, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue., NW, Washington, DC 20420, 202 389-2337

RIN: 2900-AB08

DEPARTMENT OF VETERANS BENEFITS

19. OUTREACH PROGRAM, FEE CONTRACT PROGRAM

Legal Authority: PL 96-22; PL 97-72

CFR Citation: Not yet determined

Abstract: Provides for fee contract provision of readjustment counseling for veterans of the Vietnam Era.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: Edward J. Lord, Asst. Director, Administration & Development, Veterans Administration, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3303

RIN: 2900-AA00

20. VETERANS EDUCATION; EDUCATIONAL ASSISTANCE TEST PROGRAM

Legal Authority: PL 96-342

CFR Citation: 38 CFR 21.5700 through 21.5900

Abstract: VA and DoD have negotiated an agreement which requires VA to administer payments for the Educational Assistance Test Program. These regulations will implement this program. There are no alternatives. There must be regulations to permit proper administration of the program. The costs of the program arise from the law, not the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Agency Contact: June Schaeffer, Asst Dir for Policy & Program Administration, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA01

21. DEFINITIONS

Legal Authority: 38 USC 210(c)(1)

CFR Citation: 38 CFR 3.1(z)

Abstract: Definition of the term "nursing home" added to provide precise standard for benefit determination.

Timetable:

Action	Date	FR Cite
NPRM	12/21/82	47 FR 56881
NPRM Comment Period Begin	12/21/82	
NPRM Comment Period End	01/20/83	
Final Action	10/01/83	

Small Entity: No

Agency Contact: Robert M. White, Legal Consultant, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3005

RIN: 2900-AA43

22. VOCATIONAL REHABILITATION AMENDMENTS

Legal Authority: 38 USC 1500 et seq

CFR Citation: 38 CFR 21.50 to 21.98

Abstract: Comprehensive evaluation of the veteran's situation as the basis for determining eligibility and entitlement to rehabilitation services. Conditions which must be met in each case before the veteran is eligible for and entitled to rehabilitation services. Content of the individual written rehabilitation plan. Limitations on duration of rehabilitation services. Establishes a multi-disciplinary group to assist seriously disabled veterans. Cost benefits are not estimated on a quantitative basis.

Timetable:

Action	Date	FR Cite
NPRM	09/15/82	47 FR 40650
NPRM Comment Period Begin	09/15/82	
NPRM Comment Period End	10/15/82	
Final Action	01/28/84	

Small Entity: No

Agency Contact: Dr. Stephen L. Lemons, Director, Vocational Rehab. Counseling Svc., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3935

RIN: 2900-AA47

23. VOCATIONAL REHABILITATION AMENDMENTS

Legal Authority: 38 USC 1500 et seq

CFR Citation: 38 CFR 21.100 to 21.102; 38 CFR 21.118 to 21.134; 38 CFR 21.140 to 21.158; 38 CFR 21.160 to 21.162; 38 CFR 21.210 to 21.232; 38 CFR 21.240 to 21.249; 38 CFR 21.250 to 21.259; 38 CFR 21.380 to 21.406

Abstract: Types of services which may be provided and conditions under which services may be authorized including educational and vocational training services, special vocational rehabilitation services, employment services, medical services, independent living services and supplies. Authorizes establishment of qualification for personnel engaged in providing services under this program and research and staff development activities. Establishes the Veterans Advisory Committee on Rehabilitation. Cost benefits have not been estimated on a quantitative basis.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: Dr. Stephen L. Lemons, Director, Vocational Rehab. Counseling Svc., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3935

RIN: 2900-AA48

24. VOCATIONAL REHABILITATION AMENDMENTS

Legal Authority: 38 USC 1500 et seq

CFR Citation: 38 CFR 21.180 to 21.198; 38 CFR 21.280 to 21.288; 38 CFR 21.290 to 21.299; 38 CFR 21.360 to 21.364; 38 CFR 21.370 to 21.378; 38 CFR 21.410 to 21.416

Abstract: Establish a system of cast statuses to monitor progress and evaluate outcomes. Establish criteria for approving courses of study of facilities used under chapter 31. Establish criteria for determining satisfactory conduct and cooperation. Establish criteria for entrance or reentrance into a rehabilitation program. Cost benefits are not estimated on a quantitative basis.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: No

Agency Contact: Dr. Stephen L. Lemons, Director, Vocational Rehab. Counseling Svc., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3935

RIN: 2900-AA49

25. VOCATIONAL REHABILITATION AMENDMENTS

Legal Authority: 31 USC 1500 et seq

CFR Citation: 38 CFR 21.260 to 21.276; 38 CFR 21.310 to 21.314; 38 CFR 21.320 to 21.334; 38 CFR 21.340 to 21.350

Abstract: Assessment of the rate of pursuit of a rehabilitation program as a basis for payment of monthly allowances and the amount of entitlement used. Conditions under which a monthly allowance may be paid to the veteran and payment may be made to facilities for tuition and other charges. Conditions under which leaves of absence may be authorized. Cost benefits are not estimated on a quantitative basis.

Timetable:

Action	Date	FR Cite
NPRM	05/10/83	48 FR 20939
NPRM Comment Period Begin	05/10/83	
NPRM Comment Period End	07/06/83	
Final Action Effective	01/00/84	

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Dr. Stephen L. Lemons, Director, Vocational Rehab. Counseling Svc., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3935

RIN: 2900-AA50

26. VETERANS EDUCATION; IMPLEMENTATION OF THE BUDGET RECONCILIATION ACT OF 1981

Legal Authority: PL 97-35

CFR Citation: 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4232; 38 CFR 21.4503; 38 CFR 21.4252

Abstract: Implements those portions of the Budget Reconciliation Act of 1981 which affect training under chapter 34, title 38, U.S.C. There are no alternatives. These changes are required by law. Any costs arise from the law, not the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Agency Contact: June Schaeffer, Ass't Dir for Policy & Prog Administration, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA53

27. VETERANS EDUCATION; SAA CONTRACTS

Legal Authority: PL 96-466

CFR Citation: 38 CFR 21.4154

Abstract: Reduces the amount of information required of State Approving Agencies in their reports to the VA, and changes the frequency of the reports from monthly to quarterly. The number of alternatives that could be considered is limited only by the requirement of the law that reports be submitted at least annually. There will be no increase in costs resulting from this regulation. The change is designed to reduce information collected by the VA.

Timetable:

Action	Date	FR Cite
NPRM	04/18/83	48 FR 16506
NPRM Comment Period Begin	04/18/83	
NPRM Comment Period End	05/18/83	
Final Action	01/00/84	

Small Entity: No

Agency Contact: June Schaeffer, Ass't Dir for Policy & Prog Administration, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA57

28. VETERANS EDUCATION; CERTIFICATIONS OF ENROLLMENT

Legal Authority: PL 96-466

CFR Citation: 38 CFR 21.4137; 38 CFR 21.4203; 38 CFR 21.4204

Abstract: Limits certifications of enrollment to one term, quarter or semester at a time. This will prevent approximately $50 million per year in overpayments which the VA is making because of late reports of reductions or terminations in training.

Timetable:

Action	Date	FR Cite
NPRM	06/30/83	48 FR 30151
NPRM Comment Period Begin	06/30/83	
NPRM Comment Period End	08/01/83	
Final Action	02/00/84	

Small Entity: No

Agency Contact: June Schaeffer, Ass't Dir for Policy & Prog Administration, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA58

29. VETERANS EDUCATION; MONTHLY CERTIFICATIONS OF ATTENDANCE

Legal Authority: PL 96-466

CFR Citation: 38 CFR 21.4203; 38 CFR 21.4204; 38 CFR 21.4205

Abstract: Requires monthly certifications of attendance in courses not leading to a standard college degree. This will prevent $1.5 million in overpayments which are now being created each year that will not be collected, and $6.8 million in overpayments which are collected later. Against the savings of $8,300,000 there will be increased costs to the Federal Government of $254,700 and increased costs to the public of $750,000.

Timetable:

Action	Date	FR Cite
NPRM	06/28/83	48 FR 29714
NPRM Comment Period Begin	06/28/83	
NPRM Comment Period End	07/28/83	
Final Action	03/00/84	

Small Entity: No

Agency Contact: June Schaeffer, Ass't Dir for Policy & Prog Administration, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA59

30. SUSPENSION OF PROGRAM PARTICIPANTS BASED ON CRIMINAL CONVICTION

Legal Authority: 38 USC 1804(b); 38 USC 1804(d); 38 USC 1819(g)

CFR Citation: 38 CFR 36.4216; 38 CFR 36.4235; 38 CFR 36.4331; 38 CFR 36.4361

Abstract: Provides for suspension of program participants with no right to an administrative hearing if the person is convicted of a housing program crime. There will be no direct costs to program participants as a result of this proposal. Alternatives will be considered based on public comment. If adopted, these regulatory provisions will assist in assuring program integrity.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA64

31. VETERANS EDUCATION; EDUCATIONAL ASSISTANCE ADJUSTMENTS

Legal Authority: PL 97-306

CFR Citation: 38 CFR 21.4131; 38 CFR 21.4133; 38 CFR 21.4134; 38 CFR 21.4135; 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4140; 38 CFR 21.4202; 38 CFR 21.4207

Abstract: Implements some of the provisions of the Veterans' Compensation, Education and Employment Admendments of 1982 which affect people receiving educational assistance under chapters 34, 35 and 36 title 38 U.S. Code. There are no alternatives to the changes because they are required by law. Any costs that may arise will derive from the underlying law, not the regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass't Dir. for Policy and Program Admin, Veterans Administration, Department of Veterans Benefits, 810 Vermont Ave. NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA72

32. VETERANS EDUCATION; VEAP ADJUSTMENTS

Legal Authority: PL 97-306

CFR Citation: 38 CFR 21.5052; 38 CFR 21.5071; 38 CFR 21.5072; 38 CFR 21.5138; 38 CFR 21.5139; 38 CFR 21.5294

Abstract: Implements those provisions of the Veterans' Compensation Education and Employment Amendments of 1982 which affect people receiving benefits under chapter 32, title 38, U.S. Code. There are no alternatives. These changes are required by law. Any costs that may arise will arise from the underlying law, not the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/25/83	48 FR 23444
NPRM Comment Period Begin	05/25/83	
NPRM Comment Period End	06/24/83	
Final Action	01/00/84	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin, Veterans Administration, Department of Veterans Benefits, 810 Vermont Ave. NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA73

33. VETERANS EDUCATION; SPECIAL RESTORATIVE TRAINING AND SPECIALIZED VOCATIONAL TRAINING

Legal Authority: 38 USC 1736; 38 USC 1740; 38 USC 1741; 38 USC 1743

CFR Citation: 38 CFR 21.3300; 38 CFR 21.3301; 38 CFR 21.3303; 38 CFR 21.3304; 38 CFR 21.3306; 38 CFR 21.3307; 38 CFR 21.3331; 38 CFR 21.4105; 38 CFR 21.4232; 38 CFR 21.4276

Abstract: Replaces Vocational Rehabilitation Boards with Vocational Rehabilitational Panels. The Panel's role is to provide consultation and technical assistance in evaluating and developing rehabilitation plans for seriously handicapped dependents. The regulations will streamline the decisions being made regarding eligible children in special restorative training and regarding eligible dependents in specialized vocational training. The alternative would be to leave the regulations unchanged. This would result in separate boards making decisions concerning veterans and dependents. The costs and benefits of this change have not been estimated yet.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin, Veterans Administration, Department of Veterans Benefits, 810 Vermont Ave. NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA74

34. REFINANCING OF A MANUFACTURED HOME IN ORDER TO ACQUIRE A LOT

Legal Authority: PL 97-306

CFR Citation: 38 CFR 36.4204; 38 CFR 36.4205; 38 CFR 36.4232; 38 CFR 36.4252; 38 CFR 36.4253

Abstract: Authorizes lenders to refinance an existing loan on a manufactured housing unit and purchase a lot on which to site the unit. These Final Regulations implement a new statutory authority. No costs are expected to result from this action. These regulations will assist veterans owning and occupying a manufactured home to acquire a lot on which to site the home.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA75

35. MANUFACTURED HOUSING LOANS; COMPUTATION OF GUARANTY CLAIMS

Legal Authority: 38 USC 210(c); 38 USC 1819(g)

CFR Citation: 38 CFR 36.4283; 38 CFR 36.4284; 38 CFR 36.4253

Abstract: Authorizes a change in the amount of interest a holder may include in a claim under the guaranty on a defaulted manufactured home loan. It is proposed to amend the maximum interest rate payable on a defaulted loan for post-cutoff date interest to allow a floating maximum rate in lieu of a fixed rate. Lenders should be benefited by this action at no direct cost to them. Alternatives will be considered based on public comment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: Raymond L. Brodie, Assistant Director for Loan Management, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3668

RIN: 2900-AA78

36. REGULATORY AMENDMENTS REQUIRED BY PL 97-306

Legal Authority: PL 97-306

CFR Citation: 38 CFR 3.6; 38 CFR 3.22; 38 CFR 3.350; 38 CFR 3.1600; 38 CFR 3.1601; 38 CFR 3.1603; 38 CFR 3.1605

Abstract: These amendments affect ROTC cadet eligibility for compensation, DIC eligibility for certain nonservice-connected deaths, special monthly compensation for certain blinded veterans, and burial allowance eligibility for certain indigent veterans and those who die in nursing homes.

Timetable:

Action	Date	FR Cite
NPRM	05/13/83	48 FR 21595
NPRM Comment Period Begin	05/13/83	

VOL
48
ISS
201
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1983
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Action	Date	FR Cite
NPRM Comment Period End	06/13/83	
Final Action	01/00/84	

Small Entity: No

Agency Contact: Robert M. White, Legal Consultant, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3005

RIN: 2900-AA81

37. VETERANS EDUCATION: SUBMISSION OF MITIGATING CIRCUMSTANCES

Legal Authority: 38 USC 1780

CFR Citation: 38 CFR 21.4136; 38 CFR 21.4137

Abstract: Lengthens the time period veterans receiving educational assistance allowance have to report any mitigating circumstances that may be connected with withdrawals from courses or receipt of a grade which is not used in computing the veteran's graduation requirements. This change will shorten the time eligible persons have to report mitigating circumstances. The net effect will be to treat the two groups equally. The alternative is to continue unequal treatment. Estimates of the costs and benefits are not yet available.

Timetable:

Action	Date	FR Cite
NPRM	04/11/83	48 FR 15491
NPRM Comment Period Begin	04/11/83	
NPRM Comment Period End	05/09/83	
Final Action	01/00/84	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin, Veterans Administration, Department of Veterans Benefits, 810 Vermont Ave. NW, Washington, D.C. 20420, 202 389-2092

RIN: 2900-AA82

38. ●DEPENDENTS' EDUCATIONAL ASSISTANCE; ELIGIBLE CHILD'S PERIOD OF ELIGIBILITY

Legal Authority: 38 USC 1701

CFR Citation: 38 CFR 21.3041

Abstract: States more clearly the beginning date for an eligible child's period of eligibility for dependents' educational assistance, and addresses for the first time cases where someone between his or her 18th and 26th birthday is adopted or becomes the stepchild of a veteran.

Timetable:

Action	Date	FR Cite
NPRM	06/28/83	48 FR 29716
NPRM Comment Period Begin	06/28/83	
NPRM Comment Period End	07/28/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Ave. NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA88

39. ●DISQUALIFICATION OF LENDERS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1819(g)

CFR Citation: 38 CFR 36.4216; 38 CFR 36.4331

Abstract: Present regulations authorize the suspension of lenders and their principals and officers for practices detrimental to the best interests of veterans or the Government. In some cases, however, individual employees of lenders are found to have committed fraud or engaged in other improprieties. The amendment would authorize suspension of these employees from further participation in the Loan Guaranty Program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA89

40. ●VETERANS EDUCATION; EDUCATION LOANS

Legal Authority: 38 USC 1798(a)

CFR Citation: 38 CFR 21.5292; 38 CFR 21.5294; 38 CFR 21.5500

Abstract: A provision of the Omnibus Budget Reconcliliation Act of 1981 affects those people receiving educational assistance under the Post-Vietnam Era Veterans' Educational Assistance Program. The Act provides that these people are no longer eligible for education loans from the Veterans Administration. These regulatory changes implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	08/02/83	48 FR 34975
NPRM Comment Period Begin	08/02/83	
NPRM Comment Period End	09/01/83	
Final Action	03/00/84	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin., Veterans Administration, Departments of Veterans Benefits, 810 Vermont Ave. NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA90

41. ●VETERANS EDUCATION; CHANGE OF PROGRAM

Legal Authority: 38 USC 1641

CFR Citation: 38 CFR 21.5232

Abstract: This is a technical change designed to correct erroneous cross-references.'

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Ave. NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA91

42. ●SPECIAL ALLOWANCE PAYABLE UNDER SECTION 156 OF PUBLIC LAW 97-377

Legal Authority: PL 97-377, Sec 156

CFR Citation: 38 CFR 3.812

Abstract: This regulation implements section 156 of Public Law 97-377 which created a new federal benefit for survivors of certain persons who died on active duty or as a result of a service-connected disability. This benefit is intended as a replacement for social security benefits which were reduced or terminated under the Omnibus Budget Reconcilation Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue NW, Washington, DC 20420, 202 389-3005

RIN: 2900-AA92

43. ●VETERANS EDUCATION; PROGRAM OF EDUCATION

Legal Authority: 38 USC 1641

CFR Citation: 38 CFR 21.5230

Abstract: This is a technical change designed to correct erroneous cross-references.

Timetable:

Action	Date	FR Cite
NPRM	08/03/83	48 FR 35146
NPRM Comment Period Begin	08/03/83	
NPRM Comment Period End	09/01/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA93

44. ●SOCIAL SECURITY NUMBERS IN VETERANS BENEFITS MATTERS

Legal Authority: 38 USC 210(c); PL 97-365, Sec 4

CFR Citation: 38 CFR 1.575

Abstract: Authorizes the collection of a veteran's social security number and subsequent disclosure to the Internal Revenue Service as a condition of receiving a VA Guaranteed Home Loan or other extension of credit. This amendment is required by section 4 of Public Law 97-365, the Debt Collection Act of 1982, in order that Federal credit assistance decisions can be made with full knowledge of whether or not the applicant is a delinquent taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA95

45. ●OCCUPANCY REQUIREMENTS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1)

CFR Citation: 38 CFR 36.4306

Abstract: Present regulations require that, for a home improvement loan or refinancing loan for the purpose of making improvements, the veteran must certify that he or she presently occupies the home. In the case of substantial rehabilitation, the home may not be available for occupancy until the repairs or improvements are completed. The amendment would authorize the veteran in these cases to certify that he or she intends to occupy the property upon completion of the rehabilitation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA96

46. ●COMPUTATION OF GUARANTIES OR INSURANCE CREDITS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1)

CFR Citation: 38 CFR 36.4302(h)(3)

Abstract: The present regulation permits only an "immediate" veteran-transferee to substitute entitlement on a VA Loan Assumption. Pending legislation would make restoration of entitlement available in cases where the substituting veteran is not the immediate successor in the chain of title. The regulations would implement this statutory change.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA97

47. ●SUPPLEMENTARY ADMINISTRATIVE ACTION

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1819(g)

CFR Citation: 38 CFR 36.4220; 38 CFR 36.4335

Abstract: Present regulations provide that joint loans must be made on the prior approval rather than the automatic basis. When a joint loan is erroneously made on the automatic basis, a request for waiver of this requirement must presently be submitted to VA Central Office for consideration of waiver. The regulatory change would permit field stations to waive the prior approval requirement in appropriate cases.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA98

48. ●CERTAIN MANUFACTURED HOUSING LOANS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1819(g)

CFR Citation: 38 CFR 36.4300, Series

Abstract: Present regulations permit only loans for conventionally built homes to be under the authority of 38 U.S.C. 1810, loans for manufactured homes are currently guaranteed under separate regulations and under authority of 38 U.S.C. 1819. Guaranty under section 1810 provides more

favorable terms for the loan, including a lower interest rate and a longer loan period. Pending legislation would permit certain manufactured homes, those treated as real estate under state law, to be guaranteed under section 1810. The regulation would implement the new legislation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA99

49. ●CHARGING OF INTEREST ON LOAN GUARANTY INDEBTEDNESS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1819(g); PL 97-365, Sec 11

CFR Citation: 38 CFR 36.4285(d); 38 CFR 36.4323(e)

Abstract: Authorizes the charging of interest on Loan Guaranty Indebtedness at a rate to be prescribed from time to time by the Secretary of the Treasury. This amendment is mandated by section 11 of Public Law 97-365, the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: No

Agency Contact: Raymond Brodie, Assistant Director for Loan Management, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3668

RIN: 2900-AB00

50. ●VETERANS EDUCATION; ACCREDITATION OF MEDICAL RESIDENCIES

Legal Authority: 38 USC 1788(b)

CFR Citation: 38 CFR 21.4265

Abstract: Takes into account the fact that the Accreditation Council for Graduate Medical Education of the American Medical Association is the appropriate accrediting body for medical residencies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB01

51. ●VETERANS EDUCATION; CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Legal Authority: 38 USC 1790

CFR Citation: 38 CFR 21.4208

Abstract: The Central Office Education and Training Review Panel reviews decisions made by the Committees on Educational Allowances located in the various Veterans Administration field stations. The Veterans Administration has determined that the current panel is not a propely constituted Federal Advisory Committee as provided by the Federal Advisory Committee Act. This proposal will overcome this shortcoming by reconstituting the panel so that it no longer will be an advisory committee within the meaning of the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB02

52. ●VETERANS EDUCATION; ADDITIONAL PERIOD OF ELIGIBILITY

Legal Authority: 38 USC 1662(a)

CFR Citation: 38 CFR 21.1044

Abstract: Changes the criteria the Veterans Administration will consider in determining whether a veteran is entitled to an additional period of eligibility to educational assistance allowance. It has been the agency's administrative experience that the present criteria are insufficient to determine the stability of a veteran's employment situation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB03

53. ●VETERANS' GROUP LIFE INSURANCE

Legal Authority: 38 USC 777(a)

CFR Citation: 38 CFR 9.36

Abstract: Under existing law, no person may carry a combined amount of Servicemen's Group Life Insurance and Veterans' Group Life Insurance in excess of $35,000 at any one time. Despite this provision, a significant number of insureds are paying premiums for both SGLI and VGLI in excess of the coverage allowed. The regulation will state that the Office of Servicemen's Group Life Insurance will be responsible only for the return of premiums paid in excess of the maximum allowable amount of coverage. There is no cost to the Government.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Robert W. Carey, Assistant Director for Insurance, Veterans Administration, VA Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5360

RIN: 2900-AB04

54. ●NATIONAL SERVICE LIFE INSURANCE - DIVIDENDS

Legal Authority: 38 USC 707(c)

CFR Citation: 38 CFR 8.26

Abstract: Effective July 1, 1972, a new dividend option was authorized for National Service Life Insurance, under which a NSLI policyholder may request that dividends on his or her participating policy be used to purchase additional paid-up insurance. The regulation change will update the existing regulation to reflect that paid-up addition dividend option is available.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Robert W. Carey, Assistant Director for Insurance, Veterans Administration, VA Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5360

RIN: 2900-AB05

55. ●PAYMENT OF PROCEEDS

Legal Authority: 38 USC 770(c)

CFR Citation: 38 CFR 9.18(d)

Abstract: Under prior law, when a Servicemen's Group Life Insurance or Veterans' Group Life Insurance claim was not filed within four years of the insured's death, the proceeds would escheat to the SGLI revolving fund. The law was amended to ensure that no claims are denied because of a failure to file within the four year period. There is no cost to the Government and beneficiaries will benefit by not being deprived of the proceeds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Robert W. Carey, Assistant Director for Insurance, Veterans Administration, VA Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5360

RIN: 2900-AB06

56. ●VETERANS EDUCATION; FOREIGN MEDICAL SCHOOLS

Legal Authority: 38 USC 1676

CFR Citation: 38 CFR 21.4260

Abstract: Provides additional criteria a foreign medical school must meet before a veteran's enrollment in the school's courses may be approved. The Veterans Administration is considering whether to require a foreign medical school to meet all or some of the criteria it must meet in order to participate in the Guaranteed Student Loan Program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB09

VETERANS ADMINISTRATION (VA) — Completed Actions

COMPLETED RULEMAKINGS

57. WAIVER - OTHER THAN LOAN GUARANTY

CFR Citation: 38 CFR 1.963

Completed:

Reason	Date	FR Cite
Final Action	06/15/83	48 FR 27400
Final Action Effective	04/01/83	

Small Entity: No

Agency Contact: Peter T. Mulhern 202 389-3405

RIN: 2900-AA83

58. AUTHORIZATION OF OUTPATIENT DENTAL TREATMENT

CFR Citation: 38 CFR 17.123(b)

Completed:

Reason	Date	FR Cite
Final Action	04/19/83	48 FR 16680
Final Action Effective	04/05/83	

Small Entity: No

Agency Contact: Jerome J. Hanes 202 389-2337

RIN: 2900-AA10

59. AUTHORIZATION OF OUTPATIENT DENTAL TREATMENT

CFR Citation: 38 CFR 17.123

Completed:

Reason	Date	FR Cite
Final Action	04/19/83	48 FR 16680
Final Action Effective	04/05/83	

Small Entity: No

Agency Contact: Jerome Hanes 202 389-2337

RIN: 2900-AA11

60. AUTHORIZATION OF OUTPATIENT DENTAL TREATMENT

CFR Citation: 38 CFR 17.123

Completed:

Reason	Date	FR Cite
Final Action	04/19/83	48 FR 16680
Final Action Effective	04/05/83	

Small Entity: No

Agency Contact: Jerome Hanes 202 389-2337

RIN: 2900-AA15

61. CONSIDERATIONS APPLICABLE IN DETERMINING ELIGIBILITY FOR HOSPITAL, NURSING HOME, OR DOMICILIARY CARE

CFR Citation: 38 CFR 17.48(c)(2)

Completed:

Reason	Date	FR Cite
Withdrawn Amendment withdrawn. More study required.	08/26/83	

Small Entity: No

Agency Contact: Jerome Hanes 202 389-2337

RIN: 2900-AA27

62. HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

CFR Citation: 38 CFR 17.600

Completed:

Reason	Date	FR Cite
Final Action	08/18/83	48 FR 37398
Final Action Effective	08/03/83	

Small Entity: No

Agency Contact: Dorothy E. Reese 202 389-5071

RIN: 2900-AA84

VOL 48 ISS 201 OCT 17 1983 UMI

VA

Completed Actions

63. INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

CFR Citation: 38 CFR 40

Completed:

Reason	Date	FR Cite
Final Action	06/24/83	48 FR 29404
Final Action Effective	09/30/83	

Small Entity: No

Agency Contact: Edwin Arnold 202 389-2608

RIN: 2900-AA19

64. APPLICATIONS

CFR Citation: 38 CFR 9.3

Completed:

Reason	Date	FR Cite
Final Action	02/25/83	48 FR 8069
Final Action Effective	12/01/81	

Small Entity: No

Agency Contact: Robert W. Carey 215 951-5360

RIN: 2900-AA03

65. DEDUCTIONS FROM PAY

CFR Citation: 38 CFR 9.10

Completed:

Reason	Date	FR Cite
Final Action	02/25/83	48 FR 8069
Final Action Effective	12/01/81	

Small Entity: No

Agency Contact: Robert W. Carey 215 951-5360

RIN: 2900-AA04

66. BUSINESS LOANS

CFR Citation: 38 CFR 36.4700

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/83	

Small Entity: No

Agency Contact: George D. Moerman 202 389-3042

RIN: 2900-AA06

67. HOUSING LOAN FEES

CFR Citation: 38 CFR 36.4232; 38 CFR 36.4254; 38 CFR 36.4312; 38 CFR 36.4504

Completed:

Reason	Date	FR Cite
Final Action	10/20/82	47 FR 46699
Final Action Effective	10/01/82	

Small Entity: No

Agency Contact: George D. Moerman 202 389-3042

RIN: 2900-AA07

68. VETERANS EDUCATION; 24-MONTH SERVICE REQUIREMENT

CFR Citation: 38 CFR 21.1021

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/83	

Small Entity: No

Agency Contact: June Schaeffer 202 389-2092

RIN: 2900-AA54

69. VETERANS EDUCATION; EDUCATION ASSISTANCE

CFR Citation: 38 CFR 21.1020 to 21.4507

Completed:

Reason	Date	FR Cite
Final Action	08/22/83	48 FR 37968
Final Action Effective	10/01/80	

Small Entity: Yes

Agency Contact: June Schaeffer 202 389-2092

RIN: 2900-AA55

70. VETERANS EDUCATION; CHANGE IN THE NUMBER OF DEPENDENTS

CFR Citation: 38 CFR 21.4135

Completed:

Reason	Date	FR Cite
Final Action	08/08/83	48 FR 35879
Final Action Effective	10/01/82	

Small Entity: No

Agency Contact: June Schaeffer 202 389-2092

RIN: 2900-AA61

71. VETERANS EDUCATION; MATRICULATION

CFR Citation: 38 CFR 21.4252

Completed:

Reason	Date	FR Cite
Final Action	04/04/83	48 FR 14378
Final Action Effective	03/18/83	

Small Entity: No

Agency Contact: June Schaeffer 202 389-2092

RIN: 2900-AA62

72. REFINANCING LOAN DISCOUNT POINTS AND AUTOMATIC CLOSING OF REFINANCING LOANS

CFR Citation: 38 CFR 36.4306; 38 CFR 36.4306a; 38 CFR 36.4312

Completed:

Reason	Date	FR Cite
Final Action	06/15/83	48 FR 27401
Final Action Effective	05/31/83	

Small Entity: No

Agency Contact: George D. Moerman 202 389-3042

RIN: 2900-AA63

73. REGULATORY AMENDMENTS REQUIRED BY PL 97-253

CFR Citation: 38 CFR 3.20; 38 CFR 3.29; 38 CFR 3.30; 38 CFR 3.31, (New); 38 CFR 3.273; 38 CFR 3.500; 38 CFR 3.501; 38 CFR 3.502; 38 CFR 3.660

Completed:

Reason	Date	FR Cite
Final Action	07/29/83	48 FR 34471
Final Action Effective	10/01/82	

Small Entity: No

Agency Contact: Robert M. White 202 389-3005

RIN: 2900-AA79

74. MONETARY ALLOWANCE IN LIEU OF A GOVERNMENT-FURNISHED HEADSTONE OR MARKER

CFR Citation: 38 CFR 3.1612

Completed:

Reason	Date	FR Cite
Final Action	04/07/83	48 FR 15124
Final Action Effective	10/01/82	

Small Entity: No

Agency Contact: Robert M. White 202 389-3005

RIN: 2900-AA80

[FR Doc. 83-28063 Filed 10-14-83; 8:45 am]
BILLING CODE 8320-01-T

Monday
October 17, 1983

Part XXXIX

Civil Aeronautics Board

Unified Agenda of Federal Regulations

VOL
48
ISS
201
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CAB

CIVIL AERONAUTICS BOARD

14 CFR Ch. II

Unified Agenda of Federal Regulations

AGENCY: Civil Aeronautics Board.

ACTION: Publication of Unified Agenda of Federal Regulations.

SUMMARY: As part of its implementation of the Regulatory Flexibility Act, Pub. L. 96-354, and in accordance with the policy announced in OMB Bulletin 83-15, the CAB publishes its part of the semiannual Unified Agenda of Federal Regulations.

DATES: Adopted: August 29, 1983.

ADDRESSES: Copies of the rulemaking documents listed in this agenda can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428; (202) 673-5432. Each document should be identified by the designation appearing in parentheses after the **Federal Register** citation.

FOR FURTHER INFORMATION CONTACT: About a specific rulemaking action listed in this agenda--the contact person listed below. About this agenda--Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5442.

SUPPLEMENTARY INFORMATION: The Board is publishing this descriptive list of its rulemakings in the Unified Agenda of Federal Regulations in accordance with the Regulatory Flexibility Act, Pub. L. 96-354, and the policy announced in Bulletin 83-15, issued by the Office of Management and Budget (OMB) on June 28, 1983. The next agenda will be published in April 1984, as provided in the Regulatory Flexibility Act. The Board's previous agenda appears at 48 FR 18638, April 25, 1983.

The agenda is divided into two categories, Current and Projected Rulemakings, and Completed Actions, in compliance with the Regulatory Information Service model of OMB. The Board is keeping its internal designation codes in the title so that items can be easily traced back to previous agendas. Two editorial changes are made in this agenda to correct inadvertent duplications of the Board's internal designation numbers. The designation for "References to Domestic Tariffs in Agreements" is changed from B9. to B17., and from B10. to B16. for "Joint Tariff Filing by Air Freight Forwarders."

For each rulemaking action listed in this agenda, the following information is set out: title, regulatory information number (RIN), CFR citation, abstract, additional information, timetable, legal authority, and the name, office abbreviation, and telephone number of a knowledgeable Board official to contact for further information. For each proceeding in which a notice of proposed rulemaking has been issued, an estimated final action date is listed. The address for all contact persons is Civil Aeronautics Board, Washington, D.C. 20428.

The only rules that the Regulatory Flexibility Act requires an agency to include in its agenda are those that are "likely to have a significant economic impact on a substantial number of small entities." This agenda is more inclusive, listing all significant Board rulemaking activity.

None of the rulemakings included in this agenda appear at this time to be "major" within the meaning of E.O. 12291. The Board thus does not plan to perform any formal Regulatory Impact Analyses. Each rulemaking, however, undergoes an analysis of benefits, costs, and alternatives, in a degree of detail and formality that is commensurate with the importance of the rule. The Board also retains the discretion to prepare a formal Regulatory Impact Analysis on any rulemaking.

Statements in the action schedule column that a notice or advance notice of proposed rulemaking is in preparation indicate that the staff is preparing a draft for Board action. They do not imply that the proposal will necessarily be issued, that the Board has endorsed the substance of the proposal, or that the petition (if any) prompting the rulemaking activity will necessarily be granted. The dates noted for final action are estimates only, and so do not bind the Board or indicate that a final rule will necessarily be adopted.

Although this agenda is intended to list all significant Board regulations that are under development or review, it is not a complete guide to all significant rulemaking activity for the six months until publication of the next agenda. First, new rulemaking actions may arise and be completed between now and then. Second, we may have inadvertently omitted one or more items. Any such omission shall not preclude the Board from taking action on the item, and is not a ground for judicial review of the rule.

Abbreviations Used in This Agenda

"Act" means the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1301 *et seq.*, including amendments made by the Airline Deregulation Act and the International Air Transportation Competition Act, Pub. L. 96-192, 94 Stat. 35.

"Deregulation Act" means the Airline Deregulation Act of 1978, Pub. L. 95-504, 92 Stat. 1705.

"CFR" means Code of Federal Regulations.

"FR" means Federal Register.

"ANPRM" means advance notice of proposed rulemaking.

"NPRM" means notice of proposed rulemaking.

"SNPRM" means supplementary notice of proposed rulemaking.

Office abbreviations:

BCAA--Bureau of Carrier Accounts and Audits

BDA--Bureau of Domestic Aviation

BIA--Bureau of International Aviation

OC--Office of Comptroller

OCCCA--Office of Congressional, Community and Consumer Affairs

OEA--Office of Economic Analysis

OGC--Office of the General Counsel

ER-, EDR-, SPR-, SPDR-, and similar designations appearing in parentheses are the Board's internal designations for final rules and proposed rules. Using these designations, interested persons can obtain copies of documents from the Distribution Section at the address listed above. The Distribution Section will also establish and maintain a list of persons wishing to receive copies of future agendas.

Accordingly, the Civil Aeronautics Board publishes the attached Unified Agenda of Significant Regulations.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

CAB

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	A1. Essential air service subsidy guidelines	3024-AA00
2	A2. Essential air service subsidy procedures	3024-AA01
3	A3. Obligation of carriers to provide adequate service at eligible points	3024-AA02
4	A6. Termination notices for certificated carriers	3024-AA05
5	B2. Elimination of mandatory joint fares	3024-AA07
6	B4. Extension of fare flexibility to Micronesia	3024-AA08
7	B7. Standard foreign fare level methodology	3024-AA10
8	B10. Hawaiian joint fares	3024-AA12
9	B13. Intra-Alaska cargo tariff elimination	3024-AA15
10	B14. Time and mileage guides	3024-AA16
11	B15. Elimination of credit term tariffs	3024-AA17
12	B16. Joint tariff filing by foreign air freight forwarders	3024-AA73
13	C7. Direct carrier responsibility for returning stranded charter passengers	3024-AA18
14	C10. Liberalization of charter rules	3024-AA19
15	D1. Nondiscrimination on the basis of handicap	3024-AA21
16	D2. Consumer protections for members of scheduled-service tour groups	3024-AA22
17	D5. Zones for mail rates	3024-AA24
18	D8. Age discrimination	3024-AA25
19	D9. Policy statement on preemption	3024-AA26
20	D20. Simplified notice requirements for 401 certificate proceedings under Subpart Q	3024-AA29
21	D21. Subpart Q refinements	3024-AA30
22	D26. Insurance for on-demand air taxi operators and Canadian air taxis	3024-AA31
23	D31. Group contractor exemptions	3024-AA34
24	D32. Expansion of antitrust exemptions	3024-AA35
25	D34. Exemption for domestic cargo carriers from unjust discrimination prohibition	3024-AA37
26	D35. International certificate duration	3024-AA38
27	D36. Pre-certification ticket sales	3024-AA39
28	D37. Direct flights	3024-AA83
29	D38. Charter price advertising	3024-AA87
30	D39. Computer reservations systems	3024-AA89
31	D40. Implementation of statute requiring interest on subsidy claims	3024-AA90
32	D41. Implementation of Federal Claims Collection Act	3024-AA91
33	D42. Diversion of flights within a metropolitan area	3024-AA92
34	221-3. Justification for fares or rates outside the zones of flexibility	3024-AA93
35	221-4. Public inspection of tariffs	3024-AA94
36	223-1. Modification or withdrawal of exemption to foreign air carriers to carry travel agents or other travel promoters free or at reduced rates	3024-AA42
37	223-2. Free and reduced-rate transportation	3024-AA43
38	234-1. On-time arrival standards	3024-AA44
39	241-3. Alignment of Uniform System of Accounts and Reports with generally accepted accounting principles	3024-AA46
40	241-4. Revise definition of revenue and nonrevenue passengers	3024-AA47
41	241-5. Reduce reporting requirements of the Uniform System of Accounts and Reports	3024-AA48
42	241-6. Change the applicability of Form 41	3024-AA49
43	241-7. Reduce service segment data reports	3024-AA50
44	241-8. Simplify Passenger Origin-Destination Survey data reporting	3024-AA51
45	241-9. Streamline Passenger Origin-Destination Survey reporting	3024-AA77
46	245-1. Exemptions from reporting stock ownership	3024-AA52
47	246-1. Revision of stock ownership reports by affiliates of air carriers	3024-AA53
48	249-1. Require specific categories of records and retention periods for essential air service carriers	3024-AA88
49	250-6. Denied boarding compensation: government requisition of confirmed reserved space	3024-AA85
50	250-7. Denied boarding compensation: Reconsideration of the 1-hour exemption	3024-AA86
51	252-1. Smoking aboard aircraft; notice to passengers	3024-AA82
52	252-2. Smoking aboard aircraft	3024-AA95
53	253-3. Notice of terms of contract for domestic travel sold outside the United States	3024-AA96
54	254-1. Domestic baggage liability	3024-AA79
55	293-1. Alaskan subcontract agreements	3024-AA59
56	298-3. Revising the definition of commuter air carrier	3024-AA61
57	298-8. Amend applicability of Part 298 and revise reporting on CAB Form 298-C	3024-AA62
58	302-1. Requests for confidential treatment of materials filed with the Board	3024-AA63
59	323-1. Service terminations in foreign markets	3024-AA65
60	370-1. Employee responsibilities and conduct	3024-AA66
61	372-1. Overseas military personnel charter tariffs	3024-AA71
62	375-1. Navigation of foreign civil aircraft	3024-AA67
63	377-1. Effect of expiration of a bilateral on foreign air carrier authority	3024-AA72
64	379-1. Nondiscrimination in Federally-assisted programs of the Board	3024-AA68
65	399-3. Unfair and deceptive practices by ticket agents	3024-AA76

VOL 48 ISS 201 OCT 17 1983 UMI

CAB

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
66	399-4. Removal of policy statement on standard conditions in foreign air carrier permits	3024-AA97

Completed Actions

Sequence Number	Title	RIN
67	[A5.] Policy on overflights at essential air service points	3024-AA04
68	[B9.] Changes to domestic tariff rules after January 1, 1983	3024-AA11
69	[B12.] Payments to indirect cargo carriers and foreign air freight forwarders	3024-AA14
70	[B-17.] References to domestic tariffs in agreements	3024-AA78
71	[D3.] Air carrier fitness (continuing fitness)	3024-AA23
72	[D16.] Update of agreement-filing rules	3024-AA27
73	[D18.] Suspension of abandoned foreign air carrier permits	3024-AA28
74	[211-1]. Application procedures and service requirements for permits and certificates	3024-AA40
75	[248-1.] Elimination of special reconciliation report	3024-AA54
76	[250-5.] Tariff-filing requirements for carriers' oversales practices	3024-AA81
77	[291-1.] Elimination of reports by all-cargo domestic carriers	3024-AA58
78	[291-2.] Domestic cargo transportation; long-term contracts for DOD charters	3024-AA80
79	[297-1.] Elimination of reports by foreign air freight forwarders	3024-AA60
80	[320-1.] Return of unwanted Japan charter authorizations	3024-AA84
81	[241-10.] Reduction of reporting requirements for all-cargo carriers	3024-AA98
82	[252-3.] Republication of portions of the smoking rule	3024-AA99
83	[263-1.] Participation of air carrier associations in Board proceedings	3024-AB00

CIVIL AERONAUTICS BOARD (CAB) — Current and Projected Rulemakings

SMALL COMMUNITY AIR SERVICE PROGRAM

1. A1. ESSENTIAL AIR SERVICE SUBSIDY GUIDELINES

Legal Authority: 49 USC 1389

CFR Citation: 14 CFR 271, (Proposed)

Abstract: The Board provides subsidy to airlines to ensure that small communities receive essential air service at a level determined in accordance with 14 CFR Part 398. This rule would implement section 419(d) of the Act, which directs the Board to establish guidelines for computing the fair and reasonable amount of compensation necessary to guarantee that level of service.

Timetable:

Action	Date	FR Cite
NPRM (EDR-415, Docket 39041)	12/18/80	45 FR 83254
NPRM Comment Period End	02/17/81	
Final Action	05/00/84	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: David Schaffer, OGC, (202) 673-5442.

Agency Contact: John R. Hokanson, BDA, Civil Aeronautics Board, 202 673-5368

RIN: 3024-AA00

2. A2. ESSENTIAL AIR SERVICE SUBSIDY PROCEDURES

Legal Authority: 49 USC 1389

CFR Citation: 14 CFR 327, (Proposed)

Abstract: The Board pays a subsidy to airlines for providing essential air service to small communities. This rule would establish when the rate conference with the airline is held, what happens at the end of the airline's rate term and other procedural matters involved in setting subsidy rates.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: Yes

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA01

3. A3. OBLIGATION OF CARRIERS TO PROVIDE ADEQUATE SERVICE AT ELIGIBLE POINTS

Legal Authority: 49 USC 1374; 49 USC 1389

CFR Citation: 14 CFR 398

Abstract: The Board has set essential air service levels under section 419 of the Act for eligible points (small communities). Some of these points are being served by air carriers that are not providing the required level of service. This rule would establish a new policy under which the Board would rely on the "adequate service" provision of section 404(a) of the Act as authority to order these carriers to provide adequate (i.e., essential) service at points they now serve.

CAB — Current and Projected Rulemakings

Timetable:

Action	Date	FR Cite
NPRM (PSDR-68, Docket 38807)	10/10/80	45 FR 67357
NPRM Comment Period End	12/09/80	
Final Action	06/00/84	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA02

4. A6. TERMINATION NOTICES FOR CERTIFICATED CARRIERS

Legal Authority: 49 USC 1371; 49 USC 1389

CFR Citation: 14 CFR 323

Abstract: By PR-244, the Board changed its notice requirements for certificated carriers that wanted to terminate service to eligible points. The Board eliminated some notices but continued to require notice before a certificated carrier terminated or reduced service so as to leave an eligible point (1) without essential service, (2) without any other certificated carrier, (3) with only one certificated carrier, or (4) with a 33 percent reduction in available capacity. A recent decision by the U.S. Court of Appeals for the District of Columbia has cast doubt on the Board's authority to require some of these notices, particularly the fourth one. This rulemaking proceeding examines whether and how the fourth notice should be modified or eliminated.

Timetable:

Action	Date	FR Cite
NPRM (PDR-78, Docket 40757)	06/23/82	47 FR 27081
NPRM Comment Period End	08/23/82	
Final Action	09/00/83	

Small Entity: Yes

Additional Information: ADDITIONAL AGENCY CONTACT: William C. Boyd, BDA, (202) 673-5405

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA05

FARES, RATES AND TARIFFS

5. B2. ELIMINATION OF MANDATORY JOINT FARES

Legal Authority: 49 USC 1374; 49 USC 1484; 49 USC 1601

CFR Citation: 14 CFR 399

Abstract: The mandatory joint fare requirements established in the Domestic Passenger Fare Investigation ended on January 1, 1983, with the end of the Board's jurisdiction over domestic passenger fares. The Board issued a proposal on its own initiative and in response to a petition filed by American Airlines to change the joint fare requirements in 1 of 3 ways. The Board considered eliminating the system in some or all markets, or making interlining mandatory upon request. The rulemaking will be terminated because the Board no longer has authority to regulate this area.

Timetable:

Action	Date	FR Cite
NPRM (PSDR-70, Docket 38385)	06/03/81	46 FR 29719
NPRM Comment Period End	07/31/81	
Reply Comment Period End	09/03/81	
Final Action	11/00/83	
Termination of Rulemaking in preparation	00/00/00	

Small Entity: Yes

Additional Information: ADDITIONAL AGENCY CONTACT: Julien Schrenk, BIA. (202) 673-5298

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA07

6. B4. EXTENSION OF FARE FLEXIBILITY TO MICRONESIA

Legal Authority: 49 USC 1302; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 399

Abstract: In response to a petition filed by Air Micronesia and Continental Air Lines, the Board proposed to extend upward flexibility of 30 percent above the standard industry fare level (SIFL), and unlimited downward flexibility for passenger fares in and to Micronesia and American Samoa. The rulemaking will be terminated because the Board no longer has authority to regulate this area.

Timetable:

Action	Date	FR Cite
NPRM (PSDR-71, Docket 38975)	06/03/81	46 FR 29727
NPRM Comment Period End	07/30/81	
Final Action	11/00/83	

Small Entity: Yes

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA08

7. B7. STANDARD FOREIGN FARE LEVEL METHODOLOGY

Legal Authority: 49 USC 1302; 49 USC 1372; 49 USC 1373; 49 USC 1376; 49 USC 1377; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 399

Abstract: This notice solicited comments on the Board's current methodology employed in adjusting the standard foreign fare level (SFFL) for airlines' cost changes, and, additionally, which SFFL adjustments should be utilized for transborder operations.

Timetable:

Action	Date	FR Cite
ANPRM (PSDR-72, Docket 39635)	06/01/81	46 FR 29285
ANPRM Comment Period End	07/10/81	
Reply Comment Period End	07/30/81	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Julien Schrenk, BIA, Civil Aeronautics Board, 202 673-5298

RIN: 3024-AA10

8. B10. HAWAIIAN JOINT FARES

CFR Citation: 14 CFR 399

Abstract: The Board proposed to require certain airlines to provide interline service in Hawaii until the end of 1982, to aid in the transition to domestic fare deregulation. This rulemaking is being terminated because the Board no longer has authority to regulate fares in domestic air transportation.

Timetable:

Action	Date	FR Cite
Supplemental NPRM (PSDR-75A, Docket 38585)	05/03/82	47 FR 19613
NPRM Comment Period End	06/24/82	
Final Action	12/00/83	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Lawrence Myers, OGC. (202) 673-5205

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA12

9. B13. INTRA-ALASKA CARGO TARIFF ELIMINATION

Legal Authority: 49 USC 1373; 49 USC 1386

CFR Citation: 14 CFR 221

Abstract: This rule would exempt carriers from the tariff filing requirement for cargo service in intra-Alaska markets. Under the Airline Deregulation Act, as of January 1, 1983, carriers will no longer be required to file passenger tariffs for those markets. The rule would implement the statutory mandate and establish parity between passenger and cargo service.

Timetable:

Action	Date	FR Cite
NPRM (EDR-462, Docket 41510)	06/10/83	48 FR 26830
NPRM Comment Period End	09/09/83	
Final Action	01/00/84	

Small Entity: Yes

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA15

10. B14. TIME AND MILEAGE GUIDES

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Abstract: The Board currently prohibits fares or rates based upon units of time. This rule would remove these restrictions.

Timetable:

Action	Date	FR Cite
NPRM (EDR-448, Docket 41038)	10/27/82	47 FR 47599
NPRM Comment Period End	12/13/82	
Final Action	11/00/83	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA16

11. B15. ELIMINATION OF CREDIT TERM TARIFFS

Legal Authority: 49 USC 1324; 49 USC 1373

CFR Citation: 14 CFR 221

Abstract: The Board requires carriers to file tariffs and set forth credit terms for the purchase of air transportation. The Board is considering eliminating this tariff requirement because regulation of credit practices may be outside its area of regulatory expertise.

Timetable:

Action	Date	FR Cite
NPRM (EDR-454, Docket 41219)	01/28/83	48 FR 3998
NPRM Comment Period End	02/28/83	
Reply Comment Period End	03/15/83	
Final Action	10/00/83	

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA17

12. B16. JOINT TARIFF FILING BY FOREIGN AIR FREIGHT FORWARDERS

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1378; 49 USC 1379; 49 USC 1386

CFR Citation: 14 CFR 296; 14 CFR 221

Abstract: This rule would permit indirect cargo air carriers to participate in joint tariffs filed by direct air carriers and direct foreign air carriers for the foreign air transportation of cargo. This exemption would require that advance notice be given to the shipper that the shipment will be interlined, and that the shipment is not otherwise consolidated for rating purposes.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Joseph A. Brooks, OGC (202) 673-5442

Agency Contact: Lawrence Myers, OGC, Civil Aeronautics Board, **202 673-5205**

RIN: 3024-AA73

CHARTERS

13. C7. DIRECT CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Abstract: This rule would make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services by eliminating the force majeure clause from charter contracts. More recently, however, the Board has issued a comprehensive proposal (item C10 in this agenda) to revise and simplify air charter rules. The Board's final action in this proceeding will be consistent with that in item C10.

Timetable:

Action	Date	FR Cite
NPRM (EDR-405, Docket 37169)	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
Final Action	03/00/84	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA18

14. C10. LIBERALIZATION OF CHARTER RULES

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208; 14 CFR 212; 14 CFR 298; 14 CFR 380

Abstract: The Board is proposing new charter rules for direct and indirect air carriers. The proposed rules retain the financial protections of existing rules for direct air carriers while eliminating rules restricting the types of groups (such as 'affinity' or 'single-entity') to whom charters may be sold. The proposal would also retain a security instrument and depository system for indirect air carriers, along with contract rules for public protection. The proposal also highlights depository bank and travel agent responsibilities in handling passenger funds. The proposal replaces one made earlier (EDR-439/SPDR-86, Docket 40336).

Timetable:

Action	Date	FR Cite
NPRM (EDR-439/SPDR-86, Docket 40336)	02/19/82	47 FR 7443
NPRM Comment Period End	04/20/82	
Reply Comment Period End	05/10/82	
NPRM (EDR-456/SPDR-88, Docket 49336)	04/12/83	48 FR 15639
NPRM Comment Period End	06/13/83	
Reply Comment Period End	06/28/83	
Final Action	03/00/84	

Small Entity: Yes

Additional Information: ADDITIONAL AGENCY CONTACT: David Schaffer, OGC (202) 673-5442

Agency Contact: Patricia T. Szrom, BDA, Civil Aeronautics Board, **202 673-5088**

RIN: 3024-AA19

MISCELLANEOUS

15. D1. NONDISCRIMINATION ON THE BASIS OF HANDICAP

Legal Authority: 29 USC 794

CFR Citation: 14 CFR 382

Abstract: The final rule prohibits unlawful discrimination against handicapped air travelers and implements section 504 of the Rehabilitation Act of 1973. The Board is now considering whether to include provisions regulating carrier employment practices.

Timetable:

Action	Date	FR Cite
NPRM (SPDR-70, Docket 34030)	06/06/79	44 FR 32401
NPRM Comment Period End	09/04/79	
Previous Final Rule (SPR-189)	06/16/82	47 FR 25936
Previous Final Rule (SPR-191)	11/18/82	47 FR 51857
Supplemental NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA21

16. D2. CONSUMER PROTECTIONS FOR MEMBERS OF SCHEDULED-SERVICE TOUR GROUPS

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1374; 49 USC 1381; 49 USC 1386

Abstract: The Board is considering whether consumer protection rules are needed for scheduled-service tours.

Timetable:

Action	Date	FR Cite
ANPRM (SPDR-71, Docket 34997)	07/25/79	44 FR 43481
ANPRM Comment Period End	10/23/79	
Reply Comment Period End	11/22/79	
Termination of Rulemaking in preparation	00/00/00	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA22

17. D5. ZONES FOR MAIL RATES

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1376

CFR Citation: 14 CFR 233, (Proposed)

Abstract: This rule would end the Board's current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. Each zone would be defined by maximum and minimum rates prescribed by the Board, and airlines would be free to contract with the Postal Service for the carriage of mail at any price within the zone.

Timetable:

Action	Date	FR Cite
NPRM (EDR-387/PDR-68, Docket 36497)	09/07/79	44 FR 52246
Supplemental NPRM (EDR-387C/PDR-68C, Docket 36497)	12/18/80	45 FR 83510
SNPRM Comment Period End	02/17/81	
NPRM Comment Period End	07/17/81	
Final Action	12/00/83	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Lawrence Myers, OGC (202) 673-5205

Agency Contact: Barry Molar, OGC, Civil Aeronautics Board, **202 673-5205**

RIN: 3024-AA24

18. D8. AGE DISCRIMINATION

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376, (Proposed)

Abstract: This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975. A final rule was adopted by the Board on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act.

Timetable:

Action	Date	FR Cite
NPRM (SPDR-74, Docket 36639)	09/26/79	44 FR 55383
Final Rule forwarded to HHS	04/10/80	
Final Action	00/00/00	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA25

19. D9. POLICY STATEMENT ON PREEMPTION

Legal Authority: 49 USC 1305

CFR Citation: 14 CFR 399

Abstract: This rule will set out final Board policies for regulation of the rates, routes and services of airlines that have interstate authority. The Board has concluded that under section 105 of the Act it, not the States, is responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.

Timetable:

Action	Date	FR Cite
Interim Rule (PS-83, Docket 34684)	02/15/79	44 FR 9948
Requests for comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9953
Comment Period End	04/16/79	

VOL 48 ISS 201 OCT 17 1983 UMI

Action	Date	FR Cite
Final Action	12/00/83	

Small Entity: No

Agency Contact: Patricia Snyder, OGC, Civil Aeronautics Board, 202 673-5205

RIN: 3024-AA26

20. D20. SIMPLIFIED NOTICE REQUIREMENTS FOR 401 CERTIFICATE PROCEEDINGS UNDER SUBPART Q

Legal Authority: 49 USC 1301; 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1373; 49 USC 1376; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 302; 14 CFR 211

Abstract: This rule would provide that applicants for certificates of public convenience and necessity, or for modifications of such certificates, may serve a simplified notice of the application on specified persons, instead of the present requirement that applicants serve complete copies of their applications.

Timetable:

Action	Date	FR Cite
NPRM (PDR-75, Docket 39638)	06/03/81	46 FR 29718
NPRM Comment Period End	08/03/81	
NPRM (Docket 41666)	08/26/83	
Final Action	06/00/84	

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA29

21. D21. SUBPART Q REFINEMENTS

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1481

CFR Citation: 14 CFR 302

Abstract: This rule would correct omissions and inconsistencies in the existing procedures for granting certificates and foreign air carrier permits.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA30

22. D26. INSURANCE FOR ON-DEMAND AIR TAXI OPERATORS AND CANADIAN AIR TAXIS

Legal Authority: PL 95-504; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 205; 14 CFR 298

Abstract: This rule would set the minimum per-person aircraft accident liability insurance limits for U.S. and Canadian on-demand air taxi operators at $150,000, instead of at $300,000 as it is for other air carriers. The NPRM further includes alternative proposals to set the per-person limit at $75,000 or $100,000 or to eliminate all minimum amounts, requiring a public notice instead. Other rules for insurance coverage for these carriers would be as in 14 CFR Part 205, including the prohibition on safety-related exclusions.

Timetable:

Action	Date	FR Cite
NPRM(EDR-395, Docket 37531)	02/04/80	45 FR 7566
NPRM(EDR-395B, Docket 37531)	10/27/81	46 FR 52585
NPRM Comment Period End	12/28/81	
Reply Comment Period End	01/18/82	
NPRM(EDR—395C, Docket 37531)	03/10/83	48 FR 10073
Comment Period End	05/17/83	
Final Action	10/00/83	

Small Entity: Yes

Agency Contact: Joseph Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA31

23. D31. GROUP CONTRACTOR EXEMPTIONS

Legal Authority: 49 USC 1371; 49 USC 1386

Abstract: This rule would codify the Board's treatment of group contractors. A group contractor, like a charter operator, is an indirect air carrier that purchases air transportation from a direct air carrier and sells it to passengers as a principal rather than as an agent. Unlike charter operators, however, a group contractor is backed up financially by the direct carrier so that a passenger may look to the direct carrier for transportation or refund if the group contractor defaults. Group contractors are currently governed by Board Order 81-7-109, July 31, 1981, as modified by Order 82-3-132, March 24, 1982. They are sometimes referred to as "contract bulk fare operators."

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA34

24. D32. EXPANSION OF ANTITRUST EXEMPTIONS

Legal Authority: 49 USC 1379

CFR Citation: 14 CFR 251; 14 CFR 287

Abstract: Section 409 of the Act requires prior Board approval of certain interlocking and control relationships among air carriers, other common carriers, persons substantially engaged in the business of aeronautics, and others. The Board's rules already contain some exemptions from these requirements. On its own initiative and in response to a petition from Delta Air Lines, the Board is considering whether and how to broaden the exemptions.

Timetable:

Action	Date	FR Cite
NPRM (EDR-455, Docket 40543)	02/09/83	48 FR 5950
NPRM Comment Period End	03/28/83	
Reply Comment Period End	04/12/83	
Final Action	09/00/83	

Small Entity: Yes

Agency Contact: Gwyneth Jones, OGC, Civil Aeronautics Board, 202 673-6011

RIN: 3024-AA35

25. D34. EXEMPTION FOR DOMESTIC CARGO CARRIERS FROM UNJUST DISCRIMINATION PROHIBITION

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1373; 49 USC 1378; 49 USC 1386

CFR Citation: 14 CFR 291

Abstract: This rule would exempt domestic cargo carriers from section 404(b) of the Act. That section prohibits carriers from engaging in unjust discrimination in their service. Under the Airline Deregulation Act, as of January 1, 1983, domestic passenger carriers have been exempt from this requirement by statute. The rule would complement this statutory mandate for cargo service.

Timetable:

Action	Date	FR Cite
NPRM (EDR-459, Docket 41498)	06/03/83	48 FR 24922
NPRM Comment Period End	08/02/83	
Reply Comment End	08/17/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Joseph Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA37

26. D35. INTERNATIONAL CERTIFICATE DURATION

Legal Authority: 49 USC 1371

CFR Citation: 14 CFR 399

Abstract: This rule would set Board policy to award temporary experimental certificates for foreign air transportation for U.S. air carriers. The Board is considering options such as term certificates of 5 years with or without a presumption of renewal, or indefinite certificates with a mechanism to "bump" the incumbent.

Timetable:

Action	Date	FR Cite
ANPRM (PSDR-78, Docket 40823)	07/27/82	47 FR 32442
ANPRM Comment Period End	09/27/82	
Reply Comment Period End	10/12/82	
NPRM in preparation	00/00/00	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Joseph A. Brooks, OGC, (202) 673-5442

Agency Contact: Donald H. Horn, OGC, Civil Aeronautics Board, 202 673-5205

RIN: 3024-AA38

27. D36. PRE-CERTIFICATION TICKET SALES

Legal Authority: 49 USC 1371

CFR Citation: 14 CFR 201

Abstract: Some applicants for air carrier certificates have begun selling tickets for flights before they have received authority to operate. The Board is considering several options to deal with this. These include: total prohibition, partial prohibition, escrow requirements, and a notice requirement.

Timetable:

Action	Date	FR Cite
NPRM (EDR-447, Docket 40964)	09/22/82	47 FR 41759
NPRM Comment Period End	11/22/82	
Final Action	07/00/84	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA39

28. D37. DIRECT FLIGHTS

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Abstract: Donald L. Pevsner petitioned the Board to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Act.

Supplemental Timetable:
(Petition filed in Docket 41217)

Petition under consideration	00/00/00	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA83

29. D38. CHARTER PRICE ADVERTISING

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 380

Abstract: Donald Pevsner petitioned the Board to ban the practice of stating taxes and service separately from the total charter price.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 41184		
Petition under consideration	00/00/00	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA87

30. D39. COMPUTER RESERVATIONS SYSTEMS

Legal Authority: 49 USC 1381

Abstract: The Board received three petitions for rulemaking on the subject of computerized reservation systems from: 1) the Association of Retail Travel Agents, 2) Continental Airlines, and 3) Eleven carriers. This rulemaking would consider those and other proposals to deal with alleged competitive abuses in the carrier- owned computer display of schedules, fares, and availability of reservations for airline flights. These computer displays are used by travel agents, airlines, and others to search for and make reservations for passengers. The rulemaking will also consider the terms and cost for competing airlines to gain access to carrier-owned computer systems and the use of confidential reports generated on sales from individual travel agent subscribers to the system.

Timetable:

Action	Date	FR Cite
Petitions filed in Dockets 41369, 41621 and 41628		
ANPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Susan B. Jollie, OGC, Civil Aeronautics Board, 202 673-6011

RIN: 3024-AA89

31. ●D40. IMPLEMENTATION OF STATUTE REQUIRING INTEREST ON SUBSIDY CLAIMS

Legal Authority: 49 USC 1324; PL 97-369

CFR Citation: 14 CFR 326, (Proposed)

Abstract: Under section 322 of the FY 1983 Transportation Appropriations Act, interest may be paid on certain subsidy claims by air carriers under sections 419 and 406 of the Act. This rule would set procedures for Board payment of that interest and for waiver of the interest by the carriers.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

VOL 48 ISS 201 OCT 17 1983 UMI

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA90

32. ●D41. IMPLEMENTATION OF FEDERAL CLAIMS COLLECTION ACT

Legal Authority: 49 USC 1324; 31 USC 3701 to 3719

CFR Citation: 14 CFR 316, (Proposed)

Abstract: The Board is required to collect aggressively claims owed the United States arising from activities conducted under the Board's jurisdiction. This rule will set procedures for Board action to collect such claims, such as subsidy overpayment.

Timetable:

Action	Date	FR Cite
Final rule in preparation	00/00/00	

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA91

33. ●D42. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504; ...

CFR Citation: 14 CFR 253; 14 CFR 399

Abstract: The Board is considering amending its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board is considering declaring it to be an unfair and deceptive practice to divert passengers without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601

Agency Contact: Dayton Lehman, OCCCA, Civil Aeronautics Board, 202 673-5191

RIN: 3024-AA92

34. ●221-3. JUSTIFICATION FOR FARES OR RATES OUTSIDE THE ZONES OF FLEXIBILITY

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481

CFR Citation: 14 CFR 221

Abstract: The Board is proposing to amend its tariff rules to require that U.S. and foreign air carriers justify fares or rates that are outside the zones of flexibility permitted by the Standard Foreign Fare Level or the Standard Foreign Rate Level. This amendment would also conform tariff-filing procedures to the changes made by the International Air Transportation Competition Act of 1979, which established zones of flexibility for foreign passenger fares, and a recent Board policy statement permitting zones of flexibility for cargo rates in foreign air transportation. The rule, if adopted, will allow the Board to more efficiently analyze fares and rates submitted outside the zones.

Timetable:

Action	Date	FR Cite
NPRM (EDR-460, Docket 41496)	06/03/83	48 FR 24916
Extension of Comment Period	07/27/83	48 FR 34060
NPRM Comment Period End	09/02/83	
Reply Comment Period End	09/16/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA93

35. ●221-4. PUBLIC INSPECTION OF TARIFFS

Legal Authority: 49 USC 1301; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Abstract: The Air Transport Association petitioned the Board to eliminate the requirement that airlines post a sign at all ticket sales locations alerting passengers to the fact that they have the right to inspect the carrier's tariffs upon request and without giving any special reason.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 41357		
Petition under consideration	00/00/00	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA94

36. 223-1. MODIFICATION OR WITHDRAWAL OF EXEMPTION TO FOREIGN AIR CARRIERS TO CARRY TRAVEL AGENTS OR OTHER TRAVEL PROMOTERS FREE OR AT REDUCED RATES

Legal Authority: 49 USC 1324; 49 USC 1373; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 223

Abstract: This rule would allow the Board to modify or terminate exemptions granted to foreign air carriers to carry travel agents or other travel promoters free or at reduced rates at any time without hearing, as the public interest may require.

Timetable:

Action	Date	FR Cite
NPRM (EDR-428, Docket 39794)	07/15/81	46 FR 36714
NPRM Comment Period End	08/07/81	
Supplemental NPRM (EDR-428A)	08/13/81	46 FR 40896
SNPRM Comment Period End	08/21/81	
Final Action	09/00/84	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: David Schaffer, OGC (202) 673-5442

Agency Contact: Jeffrey Gaynes, BIA, Civil Aeronautics Board, 202 673-5154

RIN: 3024-AA42

37. 223-2. FREE AND REDUCED-RATE TRANSPORTATION

Legal Authority: 49 USC 1373; 49 USC 1386

CFR Citation: 14 CFR 223

Abstract: This rule would update the provisions governing free and reduced-rate air transportation, which for domestic transportation have become obsolete due to the sunset of the Board's tariff authority on January 1, 1983.

Timetable:

Action	Date	FR Cite
NPRM (EDR-452, Docket 41193)	01/19/83	48 FR 2385
NPRM Comment Period End	03/18/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA43

38. 234-1. ON-TIME ARRIVAL STANDARDS

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1375; 49 USC 1381

CFR Citation: 14 CFR 234

Abstract: The Board proposed to amend its rules to include a policy statement that unrealistic scheduling will be considered an unfair or deceptive practice or an unfair method of competition under Section 411 of the Act. The requirement that certificated air carriers report their scheduled arrival performance, which has been waived temporarily, would also be eliminated because it is unnecessary.

Timetable:

Action	Date	FR Cite
NPRM (EDR-301, Docket 27891)	06/21/76	41 FR 24903
NPRM Comment Period End	09/13/76	
NPRM (EDR-301B/PSDR-79)	06/29/83	48 FR 29879
NPRM Comment Period End	08/29/83	
Reply Comment Period End	09/13/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA44

39. 241-3. ALIGNMENT OF UNIFORM SYSTEM OF ACCOUNTS AND REPORTS WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377

CFR Citation: 14 CFR 241

Abstract: As part of the continuing effort to align the Board's accounting rules with generally accepted accounting principles, certain sections of the Uniform System of Accounts and Reports need to be deleted or amended. These changes would provide relief from the present requirements for most carriers.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Richard G. Minick, BCAA, Civil Aeronautics Board, 202 673-5112

RIN: 3024-AA46

40. 241-4. REVISE DEFINITION OF REVENUE AND NONREVENUE PASSENGERS

Legal Authority: 49 USC 1324; 49 USC 1373

CFR Citation: 14 CFR 241

Abstract: The present definition of revenue and nonrevenue passengers for reporting purposes is stated in terms of the exemptions for free and reduced-rate transportation in sections 403(b) of the Act. These definitions have become outmoded in the process of fare deregulation. The Board is considering several options for revising these definitions.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA47

41. 241-5. REDUCE REPORTING REQUIREMENTS OF THE UNIFORM SYSTEM OF ACCOUNTS AND REPORTS

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Abstract: This rule would eliminate from the Uniform System of Accounts and Reports (USAR) 15 financial and statistical schedules, 4 yearly summarization schedules and 9 accounting policy standards. In addition, it would simplify the reporting on some of the remaining schedules.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Jack Calloway, OC, Civil Aeronautics Board, 202 673-6042

RIN: 3024-AA48

42. 241-6. CHANGE THE APPLICABILITY OF FORM 41

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Abstract: This rule would require only those certificated carriers operating large aircraft (more than 60 seats or more than 18,000 pounds of payload) to file the Form 41 report. Carriers operating other than large aircraft would report under Part 298.

Timetable:

Action	Date	FR Cite
NPRM (EDR-465, Docket 41607)	08/12/83	48 FR 36601
NPRM Comment Period End	10/10/83	
Reply Comment Period End	10/31/83	
Final Action	01/00/84	

Small Entity: Yes

Agency Contact: Jack Calloway, OC, Civil Aeronautics Board, 202 673-6042

RIN: 3024-AA49

43. 241-7. REDUCE SERVICE SEGMENT DATA REPORTS

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Abstract: This rule would standardize service segment data reporting.

VOL 48 ISS 201 OCT 17 1983 UMI

Presently, larger carriers file very detailed service segment data in ADP format while smaller carriers file a condensed version on a hardcopy report. This rule would standardize domestic service segment data at the condensed level.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Jack Calloway, OC, Civil Aeronautics Board, **202 673-6042**

RIN: 3024-AA50

44. 241-8. SIMPLIFY PASSENGER ORIGIN-DESTINATION SURVEY DATA REPORTING

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Abstract: The Board is considering eliminating the reporting of the dollar amount of fares for domestic markets greater than 500 miles apart and all international markets. It is seeking comments on methods that would achieve the goal and still be cost efective to the carriers. The Board also proposes to reduce the number of fare-basis codes reported from 15 to 6, and extend the applicability of the survey for one year.

Timetable:

Action	Date	FR Cite
NPRM (EDR-464, Docket 41608)	08/12/83	48 FR 36598
NPRM Comment Period End	10/10/83	
Reply Comment Period End	10/25/83	
Final Action	01/00/84	

Small Entity: No

Agency Contact: Jack Calloway, OC, Civil Aeronautics Board, **202 673-6042**

RIN: 3024-AA51

45. 241-9. STREAMLINE PASSENGER ORIGIN-DESTINATION SURVEY REPORTING

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1382

CFR Citation: 14 CFR 241

Abstract: This rule would standardize reporting instructions for old (pre-deregulation) and new carriers, limit interline reporting to large carriers (over $75 million in operating revenues), and seek suggestions on ways to further reduce and simplify the survey systems' reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Jack Calloway, OC, Civil Aeronautics Board, **202 673-6042**

RIN: 3024-AA77

46. 245-1. EXEMPTIONS FROM REPORTING STOCK OWNERSHIP

Legal Authority: 49 USC 1377; 49 USC 1386

CFR Citation: 14 CFR 245

Abstract: The Board is considering whether to change its rules to exempt owners of more than five percent of any class of capital stock or capital of an airline from the filing of reports required by section 407(c) of the Act. The filing of these reports has been waived under delegated authority pending the outcome of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA52

47. 246-1. REVISION OF STOCK OWNERSHIP REPORTS BY AFFILIATES OF AIR CARRIERS

Legal Authority: 49 USC 1377; 49 USC 1386

CFR Citation: 14 CFR 246

Abstract: The Board is considering changing a reporting requirement that affiliates of an airline disclose information on their major stockholders in order to improve the ability to monitor foreign citizen ownership of U.S. air carriers.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA53

48. 249-1. REQUIRE SPECIFIC CATEGORIES OF RECORDS AND RETENTION PERIODS FOR ESSENTIAL AIR SERVICE CARRIERS

Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 249

Abstract: This rule would require non-certificated EAS carriers to retain the same records as prescribed for certificated air carriers; extend from 1 to 3 years the retention period for auditor's and flight coupons lifted by subsidized essential air service carriers for the EAS points served; modify or eliminate several of the records prescribed for retention by certificated carriers; and clarify one of the records prescribed for retention by public charter operators and overseas military personnel charter operators. In addition, the proposal would transfer the record retention requirements contained in Part 374a to Part 249.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Jack Calloway, OC, Civil Aeronautics Board, **202 673-6042**

RIN: 3024-AA88

49. 250-6. DENIED BOARDING COMPENSATION: GOVERNMENT REQUISITION OF CONFIRMED RESERVED SPACE

Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 250

Abstract: The Air Transport Association (ATA) petitioned the Board to modify its newly adopted oversales rule (14 CFR Part 250). In its recent comprehensive review of Part 250, the Board changed the rule to provide that carriers must compensate passengers that are denied boarding involuntarily because of government requisition of their confirmed, reserved space. ATA argued that this provision should be revoked because it is inconsistent with the policy of the rule and because the Board does not have authority to order other government agencies to reimburse carriers.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 41210		
Petition under consideration	00/00/00	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA85

50. 250-7. DENIED BOARDING COMPENSATION: RECONSIDERATION OF THE 1-HOUR EXEMPTION

Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 250

Abstract: The Aviation Consumer Action Project (ACAP) petitioned the Board to modify its oversales rule (14 CFR Part 250) prior to its effective date of January 23, 1983. In its recent comprehensive review of oversales, the Board modified Part 250 so that carriers need not pay denied boarding compensation to passengers that can be accommodated on alternative flights that are scheduled to arrive within 1-hour of the scheduled arrival time of the original flight. ACAP argued that this change will increase overbooking, undermine volunteer solicitation, and result in no compensation for passengers that are injured.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 39932		
Petition under consideration	00/00/00	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA86

51. 252-1. SMOKING ABOARD AIRCRAFT; NOTICE TO PASSENGERS

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 252; 14 CFR 253

Abstract: This rule would inform passengers of their right to a seat in the non-smoking section of an aircraft by one of two proposed alternatives. The first would require airlines to include a prescribed notice on or with their tickets. The second would include smoking in the list of subjects incorporated by reference in the contract of carriage, which would inform passengers that additional information may be obtained from the place of ticketing.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin		47 FR 52190
NPRM (EDR-449, Docket 41009)	11/19/82	47 FR 52190
NPRM Comment Period End	12/20/82	
Final Action	03/00/84	

Small Entity: Yes

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA82

52. ●252-2. SMOKING ABOARD AIRCRAFT

Legal Authority: 49 USC 1374

CFR Citation: 14 CFR 252

Abstract: The Board is considering various measures to strengthen its smoking rule. These include a ban on smoking on small aircraft, a ban on cigar and pipe smoking, and special provisions to protect passengers who are especially sensitive to tobacco smoke.

Timetable:

Action	Date	FR Cite
NPRM (EDR-461, Docket 41431)	06/03/83	48 FR 24918
NPRM Comment Period Deadline suspended (EDR-461A)	08/10/83	48 FR 36273
Supplemental NPRM in preparation	00/00/00	

Small Entity: Yes

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA95

53. ●253-3. NOTICE OF TERMS OF CONTRACT FOR DOMESTIC TRAVEL SOLD OUTSIDE THE UNITED STATES

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1381

CFR Citation: 14 CFR 253

Abstract: The Board has set rules by which air carriers may incorporate their conditions of carriage for domestic travel. The rules include notice being given to passengers. This proposal would exempt sales of tickets at foreign locations from the notice requirements. It also proposes to state as part of the rules that air taxi operators will not be held to be incorporating terms merely because they are ticketed on stock with a standard incorporation statement.

Timetable:

Action	Date	FR Cite
NPRM (EDR-468, Docket 41542)	06/28/83	48 FR 29707
NPRM Comment Period End	08/29/83	
Reply Comment Period End	09/19/83	
Final Action	12/00/84	

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA96

54. 254-1. DOMESTIC BAGGAGE LIABILITY

Legal Authority: 49 USC 1324; 49 USC 1373; 49 USC 1374; 49 USC 1381

CFR Citation: 14 CFR 253; 14 CFR 254

Abstract: The Board is proposing to amend its recently-issued domestic baggage liability rule (Part 254). It proposes to modify the requirement that each airline provide specific notice on all tickets of its liability limitations, to allow the option of stating the minimum liability allowed by the Board rule. The Board also proposes to add baggage liability to the subjects required to be listed on the tickets under the rule allowing incorporation of contract terms by references (Part 253). In addition, the CAB is requesting comment on alternative levels ($1000 and $1250) of minimum airline baggage liability. Pending the completion of this rulemaking, the effective date of the new rules has been stayed and the previous rules remain in effect. This action was in response to a petition by certain Members of the Air Transport Association to repeal the domestic liability rule prior to its effective date.

Timetable:

Action	Date	FR Cite
NPRM (EDR-458, Docket 41443)	05/18/83	48 FR 22323

VOL 48 ISS 201 OCT 17 1983 UMI

Action	Date	FR Cite
NPRM Comment Period End	06/17/83	
Final Action	10/00/83	

Small Entity: Yes

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA79

55. 293-1. ALASKAN SUBCONTRACT AGREEMENTS

Legal Authority: 49 USC 1386; 49 USC 1389

CFR Citation: 14 CFR 293

Abstract: Part 293 applies to subcontract agreements involving the operation of scheduled air services by air taxi operators over Alaskan bush routes of a certificated air carrier. The Board is considering whether to revoke this rule and replace it with different filing requirements.

Timetable:

Action	Date	FR Cite
NPRM (EDR-431/PDR-76, Docket 39990)	09/21/81	46 FR 46592
NPRM Comment Period End	11/20/81	
Final Action	08/00/84	

Small Entity: Yes

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA59

56. 298-3. REVISING THE DEFINITION OF COMMUTER AIR CARRIER

Legal Authority: 49 USC 1324; 49 USC 1386

CFR Citation: 14 CFR 298

Abstract: This rule would clarify the status and obligations of air taxis that enter into subcontracts with commuters to operate some of that commuter's scheduled routes.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: Yes

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA61

57. 298-8. AMEND APPLICABILITY OF PART 298 AND REVISE REPORTING ON CAB FORM 298-C

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Abstract: This rule would extend the applicability of Form 298-C reporting to certificated air carriers operating small aircraft (60 or fewer seats or 18,000 pounds or less payload), eliminate mail and cargo data from the reporting requirements for all but intra-Alaskan carriers, require all carriers to file four financial data elements, and require small certificated carriers to file direct operating expenses by aircraft type.

Timetable:

Action	Date	FR Cite
NPRM (EDR-465, Docket 41607)	08/12/83	48 FR 36001
NPRM Comment Period End	10/10/83	
Reply Comment Period End	10/31/83	
Final Action	01/00/84	

Small Entity: Yes

Agency Contact: Jack Calloway, OC, Civil Aeronautics Board, 202 673-6042

RIN: 3024-AA62

58. 302-1. REQUESTS FOR CONFIDENTIAL TREATMENT OF MATERIALS FILED WITH THE BOARD

Legal Authority: 49 USC 1324; 49 USC 1482

CFR Citation: 14 CFR 302

Abstract: This rule would revise the procedures governing requests for confidential treatment of material filed with the Board, to clarify the relation between those procedures and the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA63

59. 323-1. SERVICE TERMINATIONS IN FOREIGN MARKETS

Legal Authority: 49 USC 1324; 49 USC 1377

CFR Citation: 14 CFR 323

Abstract: The Board eliminated all advance notice requirements for terminations of service in foreign air transportation (PR-244). This has created problems in some limited designation markets where the incumbent carrier has terminated service without informing the Board. The Board is proposing to require carriers to report to the Board if they are terminating foreign air service so that the Board would have time to find a replacement, if necessary.

Timetable:

Action	Date	FR Cite
NPRM (PDR-80, Docket 40903)	08/20/82	47 FR 36433
NPRM Comment Period End	10/19/82	
Final Action	01/00/84	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA65

60. 370-1. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: PL 95-521

CFR Citation: 14 CFR 370; 14 CFR 300

Abstract: The Board is preparing revisions of its ethics rules to reflect experience since the last revision and to conform to the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: Kenneth G. Caplan, OGC, Civil Aeronautics Board, 202 673-5790

RIN: 3024-AA66

61. 372-1. OVERSEAS MILITARY PERSONNEL CHARTER TARIFFS

Legal Authority: 49 USC 1373; 49 USC 1386

CFR Citation: 14 CFR 372

Abstract: The reference to tariffs in the rule governing Overseas Military Personnel Charters (OMPC) has become obsolete, at least with respect to domestic air transportation. The Board is considering whether to eliminate the tariff requirement for all OMPC's and replace it with consumer protection requirements similar to those in its Public Charter rule in Part 380.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA71

62. 375-1. NAVIGATION OF FOREIGN CIVIL AIRCRAFT

Legal Authority: 49 USC 1324; 49 USC 1372; 49 USC 1508

CFR Citation: 14 CFR 375

Abstract: The Board is reviewing its regulations governing the navigation of foreign civil aircraft within the United States. The review will focus on simplifying and clarifying the procedures to be followed in obtaining operating authority.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Joanne Petrie, OGC, (202) 673-5442.

Agency Contact: George Wellington, BIA, Civil Aeronautics Board, 202 673-5878

RIN: 3024-AA67

63. 377-1. EFFECT OF EXPIRATION OF A BILATERAL ON FOREIGN AIR CARRIER AUTHORITY

Legal Authority: 49 USC 1159b; 49 USC 1324; 49 USC 1372; 49 USC 1386; 49 USC 1481; 49 USC 1502; 5 USC 558; 5 USC 559

CFR Citation: 14 CFR 377

Abstract: In the past, the Board has held that a foreign air carrier's permit or exemption authority continues after the underlying bilateral Service Agreement expired, by virtue of section 558(c) of the Administrative Procedure Act. This rule would reverse that policy in order to ensure equal competitive opportunities for U.S. carriers.

Timetable:

Action	Date	FR Cite
NPRM (SPDR-89 and SPDR-89A, Docket 41497)	06/03/83	48 FR 24923
NPRM Comment Period End	08/02/83	
Final Action	06/00/84	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA72

64. 379-1. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE BOARD

Legal Authority: 42 USC 2000d-1

CFR Citation: 14 CFR 379

Abstract: The Board is reviewing its rules that implement Title VI of the Civil Rights Act of 1964, in response to suggestions from the Department of Justice. An NPRM was approved by the Board on June 15, 1982 and was forwarded to the Justice Department for review in accordance with Executive Order 12250.

Timetable:

Action	Date	FR Cite
NPRM approved by Board	06/15/82	
Justice Department Reviewing NPRM	00/00/00	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA68

65. 399-3. UNFAIR AND DECEPTIVE PRACTICES BY TICKET AGENTS

Legal Authority: 49 USC 1378; 49 USC 1381

CFR Citation: 14 CFR 399

Abstract: Board enforcement policies currently make reference to tariffs. The Board is considering whether to limit these provisions to foreign air transportation or to eliminate them entirely.

Timetable:

Action	Date	FR Cite
NPRM in preparation	00/00/00	

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA76

66. ●399-4. REMOVAL OF POLICY STATEMENT ON STANDARD CONDITIONS ON FOREIGN AIR CARRIER PERMITS

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399

Abstract: The Board has standard conditions that it places on permits given to foreign air carriers. Some, but not all of those conditions are listed in the Board's statements of general policy. This rule would eliminate the statement of policy. It would not change the standard conditions.

Timetable:

Action	Date	FR Cite
NPRM (PSDR-80, Docket 41597)	08/03/83	48 FR 35119
NPRM Comment Period End	10/03/83	
Reply Comment Period End	10/24/83	
Final Action	02/00/84	

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA97

VOL 48 ISS 201 OCT 17 1983 UMI

CIVIL AERONAUTICS BOARD (CAB) — Completed Actions

COMPLETED RULEMAKINGS

67. [A5.] POLICY ON OVERFLIGHTS AT ESSENTIAL AIR SERVICE POINTS

Legal Authority: 49 USC 1324; 49 USC 1389

CFR Citation: 14 CFR 398

Abstract: This rule prohibits an air carrier from refusing to land at an eligible point for which the Board has issued an essential air service determination unless the overflight is necessary due to circumstances beyond the airline's control or other flights provide essential air service.

Timetable:

Action	Date	FR Cite
Final Action (PS-110)	08/09/83	48 FR 36094

Small Entity: Yes

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA04

68. [B9.] CHANGES TO DOMESTIC TARIFF RULES AFTER JANUARY 1, 1983

Legal Authority: PL 95-504; 49 USC 1601

CFR Citation: 14 CFR 221

Abstract: Airlines were not permitted to file tariffs concerning interstate and overseas air transportation that was provided on or after January 1, 1983. The Board examined its rules to determine what conforming changes needed to be made. These changes were made as part of a number of rulemakings.

Timetable:

Action	Date	FR Cite
Rulemaking terminated		

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA11

69. [B12.] PAYMENTS TO INDIRECT CARGO CARRIERS AND FOREIGN AIR FREIGHT FORWARDERS

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1378; 49 USC 1379; 49 USC 1386

CFR Citation: 14 CFR 296; 14 CFR 297

Abstract: The Board amended its rules governing U.S. indirect cargo air carriers and foreign air freight forwarders to permit direct air carriers to pay them fees. The Board made this change in response to a request by Trans World Airlines, and to remove competitive inequities and reduce regulatory oversight of cargo pricing policies and practices.

Timetable:

Action	Date	FR Cite
Final Action (ER-1335, 1336)	05/18/83	48 FR 22323

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA14

70. [B-17.] REFERENCES TO DOMESTIC TARIFFS IN AGREEMENTS

Legal Authority: 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1378; 49 USC 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 399

Abstract: This rule would have modified or disapproved agreements filed under section 412 of the Act if they referred to tariffs for domestic passenger transportation to be performed on or after January 1, 1983.

Timetable:

Action	Date	FR Cite
Rulemaking no longer under consideration		

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA78

71. [D3.] AIR CARRIER FITNESS (CONTINUING FITNESS)

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1389

CFR Citation: 14 CFR 204

Abstract: The Board considered developing a system to monitor the continuing fitness of air carriers pursuant to section 401(r) of the Act. It decided, however, that this area could be monitored by other less regulatory methods and that the initial system design was impractical.

Timetable:

Action	Date	FR Cite
Rulemaking no longer under consideration		

Small Entity: No

Agency Contact: Gerard N. Boller, BDA, Civil Aeronautics Board, 202 673-5352

RIN: 3024-AA23

72. [D16.] UPDATE OF AGREEMENT-FILING RULES

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1382; 49 USC 1386; 49 USC 1481

CFR Citation: 14 CFR 261; 14 CFR 263; 14 CFR 289; 14 CFR 302

Abstract: This rule simplified provisions for filing intercarrier agreements. Intercarrier agreements, with the exception of mutual aid agreements, are now filed with the Board at the carriers' option. An exception from the statutory provision is thus no longer needed.

Timetable:

Action	Date	FR Cite
Final Action (ER-1353-1355)	08/03/83	48 FR 35081

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA27

73. [D18.] SUSPENSION OF ABANDONED FOREIGN AIR CARRIER PERMITS

Legal Authority: 49 USC 1372

CFR Citation: 14 CFR 213

Abstract: This rule would have provided for the automatic suspension of operating authority of a foreign air carrier permit holder if the carrier ceased all operations for an extended period of time. The Board terminated this rulemaking because the issue was disposed of in a related show-cause proceeding (Order 83-6-49).

CAB — Completed Actions

Timetable:

Action	Date	FR Cite
Rulemaking terminated		

Small Entity: No

Agency Contact: Allan F. Brown, BIA, Civil Aeronautics Board, 202 673-5134

RIN: 3024-AA28

74. [211-1]. APPLICATION PROCEDURES AND SERVICE REQUIREMENTS FOR PERMITS AND CERTIFICATES

Legal Authority: 49 USC 1301; 49 USC 1323; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1376; 49 USC 1382; 49 USC 1471; 49 USC 1481; 49 USC 1482; 49 USC 1485

CFR Citation: 14 CFR 211; 14 CFR 302

Abstract: The Board is proposing to revise its requirements and procedures for applications for foreign air carrier permits. The revision would reduce the information submitted in the application and the number of persons on whom the application must be served. Service requirements would also be reduced for U.S. air carrier certificate applications. The proposed changes would simplify the processing of these applications for both the Board and carrier applicants.

Timetable:

Action	Date	FR Cite
Rulemaking merged with item D20 in this Agenda		

Small Entity: Yes

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA40

75. [248-1.] ELIMINATION OF SPECIAL RECONCILIATION REPORT

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 248

Abstract: This rule eliminated the special report reconciling a carrier's audited balance sheet and income statement with similar statements in the Form 41 Report. The report has been removed in order to relieve the industry from unnecessary reporting requirements

Timetable:

Action	Date	FR Cite
Final Action (ER-1351)	07/19/83	48 FR 32756

Small Entity: No

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA54

76. [250-5.] TARIFF-FILING REQUIREMENTS FOR CARRIERS' OVERSALES PRACTICES

Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 250

Abstract: The Board revised its oversales rule to reflect the end of its domestic tariff authority and to simplify the rule's tariff-filing requirements for foreign air transportation.

Timetable:

Action	Date	FR Cite
Final Action (ER-1337, Docket 41220)	06/28/83	48 FR 29678

Small Entity: No

Agency Contact: Joanne Petrie, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA81

77. [291-1.] ELIMINATION OF REPORTS BY ALL-CARGO DOMESTIC CARRIERS

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1378; 49 USC 1386; 49 USC 1388

CFR Citation: 14 CFR 291

Abstract: The Board reduced the reporting requirements of all-cargo carriers by approximately 85 percent. This rule eliminated the Schedule 291-A, B and C reports (Balance Sheets, Statements of Operations and Summary of Traffic and Capacity Statistics, respectively) by all-cargo carriers that were required by 14 CFR Part 291 because they were no longer needed by the Board in its regulatory functions. Instead, carriers will only file one form containing six operating and expense totals, and seven traffic and capacity items.

Timetable:

Action	Date	FR Cite
Final Action (ER-1350)	07/19/83	48 FR 32756

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: David Schaffer, OGC (202) 673-5442.

Agency Contact: Jack Calloway, OGC, Civil Aeronautics Board, 202 673-5042

RIN: 3024-AA58

78. [291-2.] DOMESTIC CARGO TRANSPORTATION; LONG-TERM CONTRACTS FOR DOD CHARTERS

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1378; 49 USC 1386; 49 USC 1388

CFR Citation: 14 CFR 291

Abstract: This rule exempts all-cargo air carriers certificated under section 418 of the Federal Aviation Act and the Department of Defense from the provisions of section 401(o) of the Act. That section currently prevents the section 418 carriers from entering into long-term contracts for domestic cargo transportation, such as LOGAIR, a DOD charter program.

Timetable:

Action	Date	FR Cite
Final Action (ER-1358)	08/24/83	48 FR 38458

Small Entity: Yes

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, 202 673-5442

RIN: 3024-AA80

79. [297-1.] ELIMINATION OF REPORTS BY FOREIGN AIR FREIGHT FORWARDERS

Legal Authority: 49 USC 1324; 49 USC 1386

CFR Citation: 14 CFR 297

Abstract: This rule eliminated the Form 296-R report filed by foreign air freight forwarders and foreign cooperative shippers associations. A similar report was eliminated for domestic air freight forwarders after the deregulation of domestic cargo. This rule equalizes the treatment of all air freight forwarders and cooperative shippers associations.

Timetable:

Action	Date	FR Cite
Final Action (ER-1352)	07/19/83	48 FR 32759

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA60

80. [320-1.] RETURN OF UNWANTED JAPAN CHARTER AUTHORIZATIONS

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1502

CFR Citation: 14 CFR 320

Abstract: Flying Tiger petitioned the Board to amend its rules concerning Japan charter authorizations provided for in the Memorandum of Understanding signed with the Government of Japan on September 7, 1982. Part 320 established procedures for allocating among eligible U.S. carriers 300 charter authorizations, as well as providing penalties for transfer or non-use. The Board amended Part 320 to provide a limited time "window" within which carriers holding more authorizations than could realistically be used were able to turn them back to the Board without penalty.

Timetable:

Action	Date	FR Cite
Final Action (PR-260)	07/01/83	48 FR 30352

Small Entity: No

Agency Contact: George Wellington, BIA, Civil Aeronautics Board, **202 673-5878**

RIN: 3024-AA84

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

81. ●[241-10.] REDUCTION OF REPORTING REQUIREMENTS FOR ALL-CARGO CARRIERS

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1386; 49 USC 1387; 49 USC 1471; 49 USC 1472; 49 USC 1482

CFR Citation: 14 CFR 241

Abstract: This rule reduced reporting requirements pertaining to the all-cargo operations of carriers that also provide passenger and international air service. This will reduce the burden on these carriers in furtherance of the cargo deregulation act and Paperwork Reduction Act.

Timetable:

Action	Date	FR Cite
Final Action (ER-1349)	07/19/83	48 FR 32753

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: David Schaffer, OGC (202) 673-5442

Agency Contact: Jack Calloway, OC, Civil Aeronautics Board, **202 673-6042**

RIN: 3024-AA98

82. ●[252-3.] REPUBLICATION OF PORTIONS OF THE SMOKING RULE

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1386

CFR Citation: 14 CFR 252

Abstract: The Board republished the requirement that airlines ensure that if a no-smoking section is placed between two smoking sections, the nonsmokers are not unreasonably burdened. This action was required by the United States Court of Appeals for the District of Columbia.

Timetable:

Action	Date	FR Cite
Final Action (ER-1356)	08/09/83	48 FR 36093

Small Entity: Yes

Agency Contact: David Schaffer, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AA99

83. ●[263-1.] PARTICIPATION OF AIR CARRIER ASSOCIATIONS IN BOARD PROCEEDINGS

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1382; 49 USC 1481

CFR Citation: 14 CFR 263

Abstract: The Board amended its rules for participation by air carrier associations in CAB proceedings to reflect statutory change that made the agreement filing with the Board voluntary. The Board no longer has to approve association by-laws and articles of incorporation.

Timetable:

Action	Date	FR Cite
Final Action (ER-1354)	08/03/83	48 FR 35081

Small Entity: No

Agency Contact: Joseph A. Brooks, OGC, Civil Aeronautics Board, **202 673-5442**

RIN: 3024-AB00

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Part XL

Commodity Futures Trading Commission

Regulatory Flexibility Agenda

VOL
48
ISS
201
OC
17
1983
UMI

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of Regulatory Flexibility Agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Nancy E. Yanofsky, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–9880.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* ("RFA"), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of October and April of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain—

(1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). Accordingly, the Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year.[1] The agenda lists all significant rules which may be considered by the Commission within the next year, irrespective of their potential impact on small entities.[2]

Several of the rulemakings listed in this agenda result from, or have been significantly affected by, the amendments to the Commodity Exchange Act, 7 U.S.C. 1, *et seq.* (1982), contained in the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294, which became effective on January 11, 1983. The provisions of the Futures Trading Act of 1982 have been codified and all citations herein are to the Commodity Exchange Act, as amended, 7 U.S.C. 1, *et seq.* (1982). In light of the significant impact of the Futures Trading Act of 1982 on the Commission's rulemaking initiatives, however, frequent reference is made herein to that Act.

The Commission's October 1983 Regulatory Flexibility Agenda [3] is as follows:

I. CURRENT AND ANTICIPATED RULEMAKING ACTIONS

1. Title: Regulations Relating to All Categories of Applicants for Commission Registration and Commission Registrants: Statutory Disqualification

Agency Contact: Kevin M. Foley, Chief Counsel, or Bruce A. Beatus, Esquire, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effects on Small Business: Undetermined.

CFR Citation: 17 CFR Part 3.

Legal Authority: Sections 8a(1)–(5) and 8d of the Commodity Exchange Act, 7 U.S.C. 12a(1)–(5) and 12d (1982).

Abstract: Section 8a(2) of the Commodity Exchange Act, as recently amended by the Futures Trading Act of 1982, establishes a system of statutory disqualifications for registration and permits the Commission, upon notice but without a prior hearing, to refuse to register, to register conditionally, to suspend or to place restrictions upon the registration of any applicant or registrant, if a person is subject to a statutory disqualification listed in section 8a(2). Under section 8a(2), the Commission also may revoke the registration of a registrant after such a hearing as may be appropriate. In addition, the Commission may refuse to register, register conditionally, suspend, revoke, or place restrictions upon the registration of any person after opportunity for a hearing, based upon certain conditions, acts or omissions enumerated in new sections 8a (3) and (4) of the Act.[4] The Commission intends to develop rules to implement the foregoing provisions by late 1983.

Timetable: Action expected by late 1983.

2. Title: Authorization To Perform Portions of the Commission's Registration Functions

Agency Contact: Theodore W. Urban, Deputy Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effects on Small Business: Undetermined.

CFR Citation: Undetermined.

Legal Authority: Section 8a(10) and 17*o* of the Commodity Exchange Act, 7 U.S.C. 12a(10) and 21*o* (1982).

Abstract: The Futures Trading Act of 1982 permits the Commission to authorize any person to perform any portion of the Commission's registration function. In addition, that Act specifically permits the Commission to require a registered futures association to perform any portion of the Commission's registration function. The Commission by order has authorized the National Futures Association ("NFA") to process applications by, and grant registration to, introducing brokers and the associated persons of introducing brokers. Over the next year the Commission will consider authorizing NFA to register other classes of persons on behalf of the Commission.

Timetable: The Commission has issued two orders granting NFA the authority to process applications by and register introducing brokers and their associated persons. 48 FR 15940 (April 13, 1983) and 48 FR 35158 (August 3, 1983). Other action is expected during 1984.[5]

3. Title: Regulations Permitting the Grant, Offer and Sale of Options on Physical Commodities (Dealer Options)

Agency Contact: Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 (202) 254–8955.

Effects on Small Business: None.

CFR Citation: 17 CFR Parts 1,3, and 32.

Legal Authority: Sections 4c(b), 4c(d) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. sections 6c(b), 6c(d) and 12a(5) (1982).

Abstract: Congress has directed the Commission to issue regulations permitting grantors and futures commission merchants to grant, offer and sell so-called "dealer options" on certain physical commodities subject to certain conditions specified by statute and such other uniform and reasonable requirements as the Commission may prescribe. At present, the only persons who may lawfully grant dealer options are United States domiciles who, on May 1, 1978, were in the business of granting options on a physical commodity and in the business of buying, selling, producing or otherwise using that commodity.

The Commission has reproposed rules, principally concerning registration of dealer option grantors, requirements for the segregation of customer funds, disclosure to customers and prospective customers, and minimum financial requirements. The Commission expects to decide whether to adopt these rules in 1984.

Timetable: NPRM, 43 FR 59396 (Dec. 20, 1978); NPRM, 46 FR 23469 (Apr. 27, 1981); Final action is expected in mid-1984.

Title: Contract Market Rules, Submission of Rules to the Commission, Exemption of Temporary Emergency Rules, Emergencies

Agency Contact: Thomas Sweat, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W. Washington, D.C. 20581 (202) 254–8955.

Effects on Small Business: None.

CFR Citation: 17 CFR 1.41.

Legal Authority: Sections 5a(12) and 8a(5) of the Commodity Exchange Act, sections 7 U.S.C. 7a(12) and 12a(5) (1982).

Abstract: The Commission has adopted emergency interim regulations to govern the submission of contract market rules pursuant to Section 5a(12) of the Commodity Exchange Act, as recently amended by the Futures Trading Act of 1982. In this regard, the amended section 5a(12) revised certain procedures for Commission review of contract market rules. The Commission expects to adopt regulations in final form in late 1983 after it has gained experience in administering the amended sections 5a(12) under the interim rules. Public comment has been solicited and will be considered in the adoption of final rules.

In the context of this rulemaking proceeding, the Commission also intends to review, and determine whether to take final action on, its prior proposal to amend the definition of the term "rule" in Commission regulation § 1.41(a)(1), 17 CFR 1.41(a)(1). That proposal, on which public comment has already been solicited, would amend the definition of the term "rule" to state explicitly that it includes action by a contract market, its governing board, or any of its committees or officials which is adopted or taken pursuant to enabling authority set forth in any existing rule of the contract market.

Timetable: Prior Proposal: NPRM, 45 FR 84082 (Dec. 22, 1980); Comment period, December 22, 1980—February 2, 1981. Emergency Interim Rules: 48 FR 4256 (Jan. 28, 1983); Comment period, January 28, 1983—March 29, 1983. Final action is expected in late 1983.

5. Title: Minimum Financial and Related Reporting Requirements for Futures Commission Merchants

Agency Contact: Paul Bjarnason, Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 (202) 254–8955.

Effects on Small Business: Not Applicable.

CFR Citation: 17 CFR 1.17.

Legal Authority: Sections 4d, 4f, and 8a of the Commodity Exchange Act, 7 U.S.C. sections 6d, 6f, and 12a (1982).

Abstract: The Commission has proposed amendments to certain of its minimum financial and related reporting requirements for futures commission merchants ("FCMs"), as well as the basic financial reporting form for FCMs, From 1–FR. One proposed amendment would alter the minimum dollar amount of adjusted net capital which must be maintained by FCMs. The Commission has also proposed a further amendment to the minimum financial regulations regarding the treatment of undermargined accounts. In addition, the Commission has proposed one specific capital charge relating to concentration of positions, and has invited further comment to assist it in the development of further appropriate minimum financial regulations concerning concentration of positions.

Timetable: NPRM, 45 FR 42633 (June 25, 1980), and 45 FR 79498 (Dec. 1, 1980); Final action is expected in mid-1984.

6. Title: Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program to Include Options on Domestic Agricultural Commodities

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–6990.

Effects on Small Business: Undetermined.

CFR Citation: 17 CFR Part 33.

Legal Authority: Section 4c(c) of the Commodity Exchange Act, 7 U.S.C. Section 6c(c) (1982).

Abstract: Recent amendments to the Commodity Exchange Act have removed a long standing ban on the trading of options on certain domestic agricultural commodities. Specifically, section 206 of the Futures Trading Act of 1982 authorizes the Commission to establish a pilot program, not to exceed three years in length, for the trading on domestic exchanges of options on the domestic agricultural commodities

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[1] The Commission's agenda represents its best estimate at this time of significant rules which will be considered sometime over the next twelve months. In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda."

[2] In addition to publishing the regulatory flexibility agenda required by section 602 of the RFA, the Commission also makes available to the public, on a monthly basis, a calendar listing rules that the Commission intends to consider that month.

[3] The Commission has published its definitions of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (Apr. 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of an item in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[4] The Commission is publishing its October 1983 Regulatory Flexibility Agenda as part of the October 1983 Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations is coordinated by the Office of Management and Budget pursuant to Executive Order 12291. While participation by executive agencies in that Agenda is mandatory, independent agencies, such as the Commission, participate in the Unified Agenda on a voluntary basis.

[4] Furthermore, section 8a(1) of the Commodity Exchange Act, as recently amended, explicitly permits the Commission to grant temporary licenses to any applicant for registration pursuant to such rules, regulations, or orders as the Commission may adopt.

[5] In this connection, the Commission notes that, in the Futures Trading Act of 1982, Congress directed registered futures associations, subject to Commission oversight, to establish training standards and proficiency examinations for persons involved in the solicitation of commodity futures transactions, the supervisors of such persons, and all persons for which it has registration responsibilities, as well as a program to audit and enforce compliance with such standards. Accordingly, the Commission has deferred temporarily its rulemaking proceeding regarding proficiency examinations for applicants for registration as associated persons (*see* 46 FR 20679 (Apr. 1, 1981)) pending the expected assumption by a registered futures association of regulatory responsibility in this area.

VOL
48
ISS
201
OC
17
1983
UMI

specifically enumerated in section 2(a) of the Commodity Exchange Act. Options involving the domestic agricultural commodities, however, will continue to remain unlawful until such time as the Commission establishes such a pilot program and other conditions set forth in the new legislation are met. Although any such pilot program would be commparable to, or included in, the option pilot program already established by the Commission for the trading of options on futures contracts and options on physicals, the Commission has issued an advance notice of proposed rulemaking requesting comments on a number of issues prior to proposing specific rules to govern the trading of agricultural options.

Timetable: ANPRM, 48 FR 6128 (Feb. 10, 1983); Comment period February 10, 1983–April 11, 1983; NPRM is expected in fall 1983.

7. Title: Risk Disclosure by Futures Commission Merchants to Customers

Agency Contact: Kevin M. Foley, Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effects on Small Business: None.

CFR Citation: 17 CFR 1.55(d).

Legal Authority: Sections 2a(1), 4b, 4d, 4f and 8a of the Commodity Exchange Act, as amended, 7 U.S.C. Sections 2, 6b, 6d, 6f and 12a (1982).

Abstract: The Commission has proposed an amendment to rule 1.55 that would make explicit the existing fiduciary obligations of a futures commission merchant ("FCM") to its customers. As such, it would confirm that the prescribed risk disclosures, set forth in the regulation, are not the exclusive disclosures required from an FCM to its existing and prospective futures costomers and that the FCM is still obliged to disclose all material information to its customers even if the information is not specifically required by the rule.

Timetable: NPRM, 47 FR 52723 (Nov. 23, 1982); Comment period November 23, 1982–January 24, 1983; Final action expected during early 1984.

8. Title: Service Fees

Agency Contact: Donald L. Tendick, Acting Executive Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–7556.

Effects on Small Business: None.

CFR Citation: 17 CFR Parts 5, 12, 145, 148, 147 and others undetermined.

Legal Authority: Sections 2(a)(11), 8a, 17(d), and 28 of the Commodity Exchange Act, 7 U.S.C. 4a(j), 12a, 21(d), and 16a (1982), and the Independent Offices Appropriations Act, as amended by Pub. L. No. 97–258, 96 Stat. 1051 (Sept. 13, 1982) (*see* 31 U.S.C.A. 9701).

Abstract: Section 28 of the Commodity Exchange Act, as recently amended by Congress, confirms the Commission's authority to establish a schedule of fees for services rendered and activities performed by the Commission in conjunction with its administration and enforcement of the Act. In amending section 28, Congress specifically intended the Commission to establish a schedule of fees for: (1) Audits of firms which are not members of contract markets or a registered futures association; (2) rule enforcement reviews and financial reviews of contract markets and registered futures associations; (3) initial and renewal registrations; (4) contract market designations; (5) reparations fees; (6) Commission publications; (7) Freedom of Information Act requests; and (8) transcripts of Commission meetings.

The Commission has initiated several rulemakings to implement Congress' intent regarding service fees. Two of those rulemakings, concerning fees for registration and fees for applications for contract market designation, were recently completed. 48 FR 38214 (Aug. 23, 1983); 48 FR 34732 (Aug. 1, 1983). Proposals regarding filing fees for reparation complaints and fees for request for Commission records, reports and transcripts are pending. The Commission intends to take final action on these pending proposals, and issue proposals regarding other service fees, in late 1983.

Timetable: NPRM, 48 FR 25218 (June 6, 1983) (fees for filing reparation complaints); NPRM, 48 FR 34971 (Aug. 2, 1983) (fees for requests for Commission records, reports and transcripts); Final action on the foregoing proposed service fees, and NPRM regarding other fees, expected in late 1983.

9. Title: Regulation of Leverage Transactions

Agency Contact: David R. Merrill, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–9880.

Effects on Small Business: None.

CFR Citation: 17 CFR Part 31.

Legal Authority: Section 8a and 19 of the Commodity Exchange Act, 7 U.S.C. 12a and 23 (1982).

Abstract: The Commission has proposed rules to govern certain leverage transactions. These proposed rules concern registration, requirements for the segregation of funds, issuance of disclosure statements, and recordkeeping and reporting requirements.

A moratorium on the entry of new firms into the gold and silver leverage business which were not in that business on June 1, 1978, has been in effect since January 4, 1979. That moratorium, as well as a similar existing moratorium relating to leverage transactions in commodities other than gold and silver, are being considered in the context of the Commission's leverage rulemaking.

Timetable: NPRM, 48 FR 28668 (June 23, 1983); Comment period, June 23, 1983–August 22, 1983; Final action expected in late 1983.

10. Title: Revision of Rules Relating to Reparation Proceedings

Agency Contact: Edward S. Geldermann, Attorney, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–9880.

Effects on Small Business: Not applicable.

CFR Citation: 17 CFR Part 12.

Legal Authority: Sections 8a(5) and 14(b) of the Commodity Exchange Act, 7 U.S.C. 12a(5) and 18(b) (1982).

Abstract: Section 14(b) of the Commodity Exchange Act, as recently amended by the Futures Trading Act of 1982, authorizes the Commission to "promulgate such rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of [section 14 of the Act]." The effective date of this amendment to section 14(b) was May 11, 1983.

Pursuant to section 14(b), as amended, the Commission has proposed revisions to its rules relating to reparation proceedings to produce greater efficiency in the review and processing stages of the proceeding, and to expedite the final disposition of reparation claims. Among the proposed revisions are: (1) In addition to the existing summary and oral hearing procedures, instituting a voluntary decisional procedure, analogous to commercial arbitration, that would result in an expeditious, final, and unappealable decision; (2) changing from $5,000 to $10,000 the monetary ceiling on claims that could be heard pursuant to the Commission's summary procedure; (3) in cases where an oral hearing may be afforded, creating the position of "Proceedings Officer," an employee of the Commission who would assist in preparing a case record for a hearing by an Administrative Law Judge; and, (4) dismissing, rather than staying, a reparation proceeding as to respondents who are in receivership or bankruptcy proceedings or as to which an arbitration or civil court proceeding based on the same set of facts was pending at the time the reparation complaint was filed. The Commission also invited public comment on any suggested changes that would simplify the Reparation Rules and improve or expedite the reparations procedure.

Timetable: ANPRM, 48 FR 6720 (Feb. 15, 1983); NPRM, 48 FR 25218 (June 6, 1983); Final action expected in late 1983.

11. Title: Large Trader Reporting to Exchanges

Agency Contact: Lamont L. Reese, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–3310.

Effects on Small Business: Not applicable.

CFR Citation: 17 CFR Parts 15, 16, 17, 18 and 21.

Legal Authority: Sections 4g, 4i, 5(d) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 6g, 6i, 7(d) and 12a(5) (1982).

Abstract: The Commission has proposed a rule which would require exchanges to collect, process and forward to the Commission, in machine readable form, information which the Commission currently collects from futures commission merchants and foreign brokers on series' 01 reports and form 102. The rule is intended to enhance effective market surveillance programs by the exchanges and to alleviate, to some extent, the duplicative reporting burden currently imposed on some exchange member firms.

Timetable: NPRM, 45 FR 57141 (Aug. 27, 1980); Final action expected in 1984.

12. Title: Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–6990.

Effects on Small Business: No significant impact on small entities anticipated.[6]

[6] The Commission has previously determined that designated contract markets, registered futures commission merchants and commodity pool operators, and large traders are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq. See* 47 FR 18618 (Apr. 30, 1982). *See also* note 2 *supra*. In light of the Commission's definitions of small entity, it is not anticipated that rules which primarily will impact those entities will have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

CFR Citation: 17 CFR Part 5, Appendix A.

Legal Authority: Sections 2(a), 5, 5a, and 8 of the Commodity Exchange Act, 7 U.S.C. 2, 7, 7a and 8 (1982).

Abstract: Section 218 of the Futures Trading Act of 1982 amends section 8 of the Commodity Exchange Act by providing a time limitation during which the Commission must approve or deny an application for designation as a contract market. The statute includes a provision staying this time period where an application is materially incomplete. In addition, section 101 of the Futures Trading Act of 1982 provides a specialized procedure and requirements for the designation of futures contracts based on stock indices or options thereon. The Commission will consider whether, in light of these new provisions, amendments to Guideline No. 1, which provides criteria by which the Commission determines whether a board of trade has complied with the economic and public interest requirements for contract market designation, are appropriate.

Timetable: NPRM, if any, undetermined.

13. Title: Speculative Position Limits

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–6990.

Effects on Small Business: No significant impact on small entities anticipated.[7]

CFR Citation: 17 CFR Parts 1 and 150.

Legal Authority: Section 4a of the Commodity Exchange Act, 7 U.S.C. 6a (1982).

Abstract: Section 4a of the Commodity Exchange Act was recently amended by section 205 of the Futures Trading Act of 1982 to provide that it is a violation of the Commodity Exchange Act for any person to violate any bylaw, rule, regulation, or resolution of any contract market which fixes speculative position limits. Rules relating to Commission set speculative position limits will be considered in light of these amendments to the Act.[8]

Timetable: NPRM, if any, expected in 1984.

[7] *See* note 6, *supra*.

[8] In addition, the Futures Trading Act of 1982 amended section 4a of the Act, 7 U.S.C. 6a (1982), to give the Commission additional authority with respect to speculative position limits.

14. Title: Special Calls for Futures and Options Information

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–6990.

Effects on Small Business: None.

CFR Citation: 17 CFR Part 21.

Legal Authority: Sections 4c, 4f, 4g, 4i, 5(b) and 8a(5) of the Act, 7 U.S.C. 6c, 6f, 6g, 6i, 7(b) and 12a(5) (1982).

Abstract: The Commission has proposed to amend Rule 21.02, 17 CFR 21.02, to require that for futures and/or option accounts futures commission merchants, members of contract markets, foreign brokers, and, for options, contract markets provide to the Commission upon special call the phone numbers of persons for whom they carry accounts. The Commission is also proposing to amend Rule 21.02 by adding a new paragraph which would permit the Commission to issue abbreviated special calls. These abbreviated calls would require that the response be in machine readable form. The Commission believes that this proposed amendment will benefit both the Commission and the reporting entities. The Commission will benefit by receiving the required information in compatible machine readable form, and in a format which enables the Commission readily to process the information. Reporting entities will benefit from the decreased amount of information which is required to be reported under the new rule. The proposed amendment includes an exemptive provision for those reporting entities which are technologically unable to meet the requirement that the information be supplied in machine readable form.

Timetable: NPRM, 48 FR 32188 (July 14, 1983); Final action expected in fall 1983.

15. Title: Regulation of Domestic Exchange-Traded Commodity Option Transactions: Refinement of Existing Regulations

Agency Contact: Theodore W. Urban, Deputy Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–9880.

Effects on Small Business: No significant impact on small entities anticipated.[9]

[9] *See* note 6, *supra*.

VOL
48
ISS
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OC
17
1983
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CFR Citation: 17 CFR Part 33.

Legal Authority: Section 4c(c) of the Commodity Exchange Act, 7 U.S.C. 6c(c) (1982).

Abstract: On November 3, 1981, the Commission adopted a three year pilot program to permit the trading of commodity options on designated domestic contract markets. 46 FR 54500. Options trading began on the first contract market during the first quarter of fiscal year 1983. With the pilot program now in operation for one year, the Commission is considering whether to permit each designated contract market to trade either an option on a futures contract and an option on a physical, two options on futures contracts, or two options on physicals. As the pilot program continues, the Commission may also consider further refinements to the regulations which govern the program, including the possibility of allowing floor traders to margin a portion of their option premiums.

Timetables: ANPRM, 48 FR 10857 (March 15, 1983); NPRM, 48 FR 32835 (July 19, 1983); Final action on the aforementioned proposal expected by late 1983. Further Commission actions to refine the options pilot program may occur through the year.

16. Title: Changes Requiring New Registration

Agency Contact: Kevin M. Foley, Chief Counsel, and Bruce A. Beatus, Esquire, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effect on Small Business: Undetermined.

CFR Citation: 17 CFR 3.32.

Legal Authority: Sections 2, 4c, 4d, 4e, 4f, 4k, 4m, 4n, 4p and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p and 12a (1982).

Abstract: Commission Rule 3.32 requires certain registrants to file a new registration with the Commission in the event certain changes occur with respect to the registrant. For example, a new registration is required in the event of a change in the form of organization of the registrant or in the ownership of the business of a registrant in the case of a sole proprietorship. Existing Rule 3.32 may not be as effective as it should be in furthering the purposes of the Act, particularly in ensuring the fitness of persons which succeed to the business of a registrant. In light of the adoption of the recent amendments to section 8a(2)–(4) of the Act, establishing specific statutory disqualifications for registrants and their principals, the Commission is reviewing the provisions of the rule to determine whether any amendments to the rule should be proposed. In addition, the Commission is considering whether any alternatives to reregistration may be more effective in furthering the purposes of the Act.

Timetable: NPRM is expected in late 1983.

17. Title: Exclusion of Certain Entities From Definition of Commodity Pool Operator

Agency Contact: Barbara Stern, Special Counsel for Commodity Pool Operators and Commodity Trading Advisors, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effect on Small Business: No significant impact on small entities anticipated.[10]

CFR Citation: 17 CFR Part 4.

Legal Authority: Sections 2(a)(1) and 8a of the Commodity Exchange Act, 7 U.S.C. 2(a)(1) and 12a (1982).

Abstract: In connection with the Commission's recent reauthorization, the Senate Committee on Agriculture, Nutrition and Forestry recommended that the Commission should generally exempt certain otherwise regulated entities, that met certain criteria, from the commodity pool operator ("CPO") definition contained in section 2(a)(1) of the Act, unless these entities have other attributes or features that would warrant their regulation as a CPO. These entities include an entity regulated under the Investment Company Act of 1940, an insurance company, a bank or trust company acting in its fiduciary capacity and subject to regulation by any state or the United States, and a defined benefit plan that is subject to the Employee Retirement Income Security Act of 1974 and is insured by the Pension Benefit Guaranty Corporation. *See* S. Rep. No. 97–384, 97th Cong., 2d Sess. 80 (1982). Accordingly, the Commission is in the process of drafting such a rule.

Timetable: NPRM expected in late 1983.

18. Title: Conforming Amendments to the Commission's Regulations Required by the Futures Trading Act of 1982

Agency Contact: Nancy E. Yanofsky, Attorney, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–9880.

Effects on Small Business: Undetermined.

CFR Citation: 17 CFR Ch. 1.

Legal Authority: The Commodity Exchange Act, 7 U.S.C. 1, *et seq.* (1982), and the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294 (1983).

Abstract: As discussed above, Congress enacted the Futures Trading Act of 1982 on January 11, 1983 ("1982 Amendments"). The 1982 Amendments contain numerous provisions which will require the Commission to promulgate conforming amendments to its regulations. Over the course of the next year, the Commission intends to review and take appropriate action with respect to all of tis existing rules to ensure that they are consistent with the 1982 Amendments.[11]

Timetable: Action expected in 1983 and 1984.[12]

II. COMPLETED ACTIONS

1. Title: Registration of Introducing Brokers and Associated Persons of Introducing Brokers, Commodity Trading Advisors and Commodity Pool Operators, and Related Regulations.

Agency Contact: Kenneth M. Rosenzweig, Associate Director, or Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effect on Small Business: Rules as adopted are intended to minimize any impact on small entities.

[10] *See* note 8, *supra.*

[11] In addition to the items discussed above, the Commission has issued an advance notice of proposed rulemaking and requested public comment on the adequacy of existing contract market rules and practices designed to prevent actual or apparent conflicts of interest from improperly influencing market or other actions taken by various governing bodies of designated contract markets. 47 FR 31703 (July 22, 1982). The Commission is reviewing the public comments received to determine whether further Commission action is necessary or appropriate.

[12] Other than the Commission rules currently under review in conjunction with the Commission's pending and anticipated rulemakings as discussed above, the Commission does not intend to conduct any reviews of its existing regulations during the next year. In this regard, pursuant to the plan established by the Commission pursuant to Section 610 of the Regulatory Flexibility Act, 5 U.S.C. 610, for a ten year periodic review of its rules, the Commission will commence review of its rules in November, 1985. 46 FR 29852 (June 4, 1981).

We note that the Commission is devoting significant resources to several studies mandated by Congress in the Futures Trading Act of 1982. *See* The Futures Trading Act of 1982, Pub. L. No. 97–444, 205(4) (trading activities of large hedgers in cattle, hog and pork belly markets), 236(a) (effects on economy of trading in futures contracts and options), 236(b) (effects of trading in futures markets by persons possessing material nonpublic information), and 237 (regulatory experience of National Futures Association), 96 Stat. 2300, 2324–25, 2325 and 2325–26 (1983). Some of these studies could result in suggestions for the issuance or revision of Commission rules.

Action: Final rules, 48 FR 35248 (August 3, 1983).

2. Title: Regulations Pertaining To Arbitration.

Agency Contact: Robert H. Rosenfeld, Esquire, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effect on Small Business: None.

Action: Final rules, 48 FR 22136 (May 17, 1983). In addition, the Commission has proposed to amend regulation 180.3 to extend the requirements of that rule to introducing brokers, commodity pool operators and commodity trading advisors and make clear that the rules apply to the associated persons of such registrants. 48 FR 22167 (May 17, 1983).

3. Title: Monthly and Confirmation Statements

Agency Contact: Paul Thompson, Esquire, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effect on Small Business: None.

Action: Final rules, 48 FR 28631 (June 23, 1983).

4. Title: Registered Futures Associations; Mandatory Membership for Futures Commission Merchants.

Agency Contact: Karen Matteson, Esquire, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–8955.

Effect on Small Business: None.

Action: Final rules, 48 FR 26304 (June 7, 1983).

5. Title: Service Fees

Agency Contact: Donald L. Tendick, Acting Executive Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–7556.

Effect on Small Business: None.

Action: Final rules, 48 FR 38214 (Aug. 23, 1983) (fees for applications for contract market designation), 48 FR 34732 (Aug. 1, 1983) (fees for registration).

III. PUBLIC COMMENT

The Commission invites public comment on its agenda.

Issued in Washington, D.C., on August 26, 1983, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 83–28331 Filed 10–14–83; 8:45 am]

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VOL
48
ISS
201
OC
17
1983
UMI

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October 17, 1983

Part XLI

Consumer Product Safety Commission

Semiannual Regulatory Flexibility and Unified Agendas

VOL 48 ISS 201 OCT 17 1983 UMI

CPSC

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish twice each year a regulatory flexibility agenda listing for a 12-month period rules expected to be proposed or promulgated which may have a significant economic impact on a substantial number of small entities. In this document the Commission publishes its sixth semiannual regulatory flexibility agenda.

Additionally, although not required to do so, the Commission has elected to comply voluntarily with those provisions of Executive Order 12291 which require executive agencies to publish an agenda of regulatory actions under development or review during the succeeding 12 months by the agency, and which further provide that such an agenda may be incorporated with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATE: The Commission welcomes comments from small entities, including small businesses, small organizations, and small governmental units, upon each subject area of the agenda. Written comments concerning the agenda should be received in the Office of the Secretary by December 16, 1983.

ADDRESS: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Iris R. Liskey, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6554. All inquiries from the press and broadcast media should be directed to Lou Brott, Office of Public Affairs, Consumer Product Safety Commission, Washington, D.C. 20207 (202) 634-7780. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act (5 U.S.C. 602) requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of any rule expected to be proposed or promulgated which may have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the objectives and legal basis for each agenda item and a schedule for acting on each item as well as the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

In addition, President Reagan's Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations under development or review and further states that such an agenda may be incorporated with an agenda published under the RFA. While the Commission, as an independent regulatory agency, is not required to follow Executive Order 12291, the Commission is complying voluntarily with those provisions concerning publication of a regulatory agenda.

The sixth semiannual regulatory flexibility agenda, published below, lists for a 12-month period anticipated regulatory activities under development or review. These include all such activities, not only those which may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, D.C. 20207.

DATED: September 20, 1983.

Sadye E. Dunn,

Secretary

Consumer Product Safety Commission.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	*Consumer product safety standard for "chain saws and their component and replacement parts"	3041-AA00
2	*Upholstered furniture cigarette flammability standard	3041-AA01
3	Petition CP 82-6. Petition to initiate a mandatory standard to limit the formaldehyde that could be released from pressed wood products made with urea-formaldehyde resins	3041-AA03
4	Amendments to clothing textile standard apparel revision	3041-AA04
5	Flammability classification regulations	3041-AA05
6	Clothing textiles and vinyl plastic film flammability standards amendment	3041-AA06
7	Proposed replacement enforcement policy statements on applicability of the children's sleepwear standards	3041-AA10
6	Asbestos in selected consumer products	3041-AA11
9	Applications SH 82-1 through 39 and SH 83-1 through 5 requesting an exemption of state/local regulations from preemption by 16 CFR Part 1212	3041-AA12
10	*Hazardous substances labeling requirements	3041-AA15

CPSC

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
11	Mattress flammability standard	3041-AA16
12	Hazardous dyes in consumer products	3041-AA17
13	Petition AP 83-1. Petition to require labeling of constrained-spring twist-on connectors with aluminum wire	3041-AA21
14	Requirements for the special packaging of household substances; advance notice of proposed rulemaking and notice of opportunity for oral presentations	3041-AA22
15	Petition AP 83-2. Petition to require a labeling rule for crimp type electrical connectors	3041-AA26
16	Petition CP 83-1. Petition to establish standards for recuperative gas furnaces to address corrosion of the furnace and its venting system	3041-AA27
17	Petition FP 83-1. Petition to require that all welt cord manufactured for use in upholstered furniture must be heat conducting	3041-AA28
18	Child-resistant packaging requirement for over-the-counter drug products containing diphenhydramine	3041-AA29
19	Petition HP 83-1. Petition for an exemption from poison prevention packaging requirements for Premarin and Aygestin	3041-AA30
20	Petition HP 83-2. Petition to halt the sale of and ban the use of potassium dichromate products in residential humidifiers	3041-AA31
21	Petition HP 82-1. Petition to declare volatile nitrites banned hazardous substances	3041-AA32

*Indicates priority regulation.

Existing Regulations Under Review

Sequence Number	Title	RIN
22	Rule review	3041-AA19
23	Rule review	3041-AA20
24	Safety standard requiring oxygen depletion safety shutoff systems (ODS) for unvented gas-fired space heaters; proposed revocation	3041-AA23
25	Rule review	3041-AA24
26	Rule review	3041-AA25
27	Self-pressurized consumer products containing chlorofluorocarbons -- submission of performance and technical data to the Commission	3041-AA33
28	Exemption for unlabeled containers	3041-AA34
29	Exemption from classification as a banned toy or other banned article for use by children -- caps (paper or plastic)	3041-AA35

Completed Actions

Sequence Number	Title	RIN
30	*Coal and woodburning stoves labeling requirements -- wood heating equipment	3041-AA02
31	Alternate apparel test method - enforcement and administrative rule	3041-AA07
32	Requirements to address strangulation risk presented by toy chests	3041-AA08
33	Petition AP 80-2. Petition to require labeling of electrical wiring devices	3041-AA14
34	Physician drugs samples policy statement	3041-AA18

*Indicates priority regulation.

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Current and Projected Rulemakings

1. CONSUMER PRODUCT SAFETY STANDARD FOR "CHAIN SAWS AND THEIR COMPONENT AND REPLACEMENT PARTS"

Priority: Major

Legal Authority: 15 USC 2058 (a) CPSA

CFR Citation: 16 CFR Chapter II

Abstract: Efforts in 1979 and 1980 to develop a voluntary chain saw standard were deemed unsuccessful. Subsequently, the Commission decided that a mandatory standard was needed to reduce kickback injuries and that it should be developed by the staff. On May 11, 1981, the Commission published a notice of proceeding to develop a safety standard. Under amended statutory authority, the Commission issued an advance notice of proposed rulemaking in May, 1982, with a 60-day comment period. Commission staff has continued working with industry to develop a

VOL 48 ISS 201 OCT 17 1983 UMI

voluntary standard which addresses chain saw kickback injuries. The staff has also performed a preliminary evaluation of a draft industry standard which addresses chain saw kickback injuries. During early FY 1984, the Commission plans to decide whether or not a mandatory standard will be necessary.

Timetable:

Action	Date	FR Cite
ANPRM	05/05/82	47 FR 19369
ANPRM Comment Period Begin	05/05/82	47 FR 19369
ANPRM Comment Period End	07/06/82	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Carl W. Blechschmidt, Program Manager, Powered Equipment Hazards, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, **301 492-6554**

RIN: 3041-AA00

2. UPHOLSTERED FURNITURE CIGARETTE FLAMMABILITY STANDARD

Priority: Major

Legal Authority: 15 USC 1193; 15 USC 1194

CFR Citation: 16 CFR 1633

Abstract: In October, 1981, the Commission voted to defer mandatory regulatory action on upholstered furniture in order to work with manufacturers participating in the Voluntary Action Program of the Upholstered Furniture Action Council. This program may eliminate the need for a mandatory standard. Promising new materials and techniques for improving the cigarette ignition resistance of upholstered furniture are expected to be incorporated in commercial furniture after July, 1983. An evaluation of the cigarette ignition resistance of the new technology furniture will be carried out by the Commission staff and a report presented to the Commission during FY '84. At the same time, additional technological improvements will be sought.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Affected Sectors: 25 FURNITURE AND FIXTURES

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, **301 492-6554**

RIN: 3041-AA01

3. PETITION CP 82-6. PETITION TO INITIATE A MANDATORY STANDARD TO LIMIT THE FORMALDEHYDE THAT COULD BE RELEASED FROM PRESSED WOOD PRODUCTS MADE WITH UREA-FORMALDEHYDE RESINS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act; 15 USC 2058 Consumer Product Safety Act

CFR Citation: Not yet determined

Abstract: In correspondence received August 19, 1982, the Consumer Federation of America (CFA) petitioned the Commission to institute a mandatory product safety standard to limit the amount of formaldehyde that could be released from pressed wood products made with urea-formaldehyde resin. Work on this petition has been included within the Commission's ongoing priority project on pressed wood products. On January 12, 1983, the staff briefed the Commission regarding the status of this project. A staff briefing package on the status of this project and on all currently available information pertaining to the CFA petition will be forwarded to the Commission late in FY '83.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: John Liskey, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, **301 492-6554**

RIN: 3041-AA03

4. AMENDMENTS TO CLOTHING TEXTILE STANDARD APPAREL REVISION

Legal Authority: 15 USC 1194 FFA

CFR Citation: 16 CFR 1610.37; 16 CFR 1610.38

Abstract: On August 12, 1982, a notice was published soliciting comments on proposed amendments to regulations implementing the Standard for the Flammability of Clothing Textiles (16 CFR 1610). The notice proposes that persons or firms subject to the standard, a) be permitted to devise and implement reasonable and representative tests to support guaranties, b) be exempt from further testing requirements to support guaranties for fabrics made entirely from acrylic, modacrylic, nylon, olefin and polyester fibers, and c) the record retention period of tests supporting guaranties be reduced from three years to one year. These amendments would reduce industry's testing and recordkeeping costs while maintaining the level of protection the standard affords consumers.

Timetable:

Action	Date	FR Cite
Commission Decision on Final Amendment		
NPRM	08/12/82	47 FR 3006
NPRM Comment Period Begin	08/12/82	47 FR 3006
NPRM Comment Period End	10/12/82	

Small Entity: No

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, **301 492-6554**

RIN: 3041-AA04

5. FLAMMABILITY CLASSIFICATION REGULATIONS

Legal Authority: 15 USC 1261(l) FHSA; 15 USC 1269 (a) FHSA

CFR Citation: 16 CFR 1500.3(b)(10); 16 CFR 1500.3(c)(6); 16 CFR 1500.43

Abstract: The Federal Hazardous Substances Act, as amended, authorizes the Commission to issue regulations to define the terms "extremely flammable," "flammable," and "combustible" for purposes of labeling household substances which may present a flammability hazard. The Commission is developing proposed regulations to change from an open-cup to a close-cup apparatus, and to specify an appropriate procedure for classifying flammability characteristics of household substances. If issued on a final basis, the proposed regulations would make the apparatus and procedures used by the Commission compatible with flammability tests used by other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	05/25/82	

Next Action Undetermined

Small Entity: No

Affected Sectors: 22 TEXTILE MILL PRODUCTS; 23 APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS; 26 PAPER AND ALLIED PRODUCTS

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, **301 492-6554**

RIN: 3041-AA06

6. CLOTHING TEXTILES AND VINYL PLASTIC FILM FLAMMABILITY STANDARDS AMENDMENT

Legal Authority: 15 USC 1193 FFA; 15 USC 1194 FFA

CFR Citation: 16 CFR 1610; 16 CFR 1611

Abstract: Clarifying amendments were proposed in 1981 to resolve questions which have arisen about interpretation of the standards and their applicability to various products, including multilayer fabrics with an outer layer of film or coated fabric, such as those used for disposable diapers. On Feb. 24, 1982, the Commission published a final amendment to the regulation to exempt plastic film used as the outer layer of a disposable diaper from any requirement for separate testing if a full thickness of the assembled article passes the test in the applicable standard. A notice to extend the period for receipt of written comments on all remaining issues was published at the same time.

Timetable:

Action	Date	FR Cite
NPRM	02/24/82	47 FR 01836
NPRM Comment Period Begin	02/24/82	47 FR 01836

7. PROPOSED REPLACEMENT ENFORCEMENT POLICY STATEMENTS ON APPLICABILITY OF THE CHILDREN'S SLEEPWEAR STANDARDS

Legal Authority: 15 USC 1194 FFA

CFR Citation: 16 CFR 1615.64; 16 CFR 1616.65

Abstract: Dec. 11, 1981 a decision of U.S. Court of Appeals for the Fourth Circuit in National Knitwear Manufacturers Association v. CPSC, 666 F. 2d 81, set aside the Commission's statements of policy on the applicability of the children's sleepwear standards for procedural reasons. Since the enforcement policy statement serves a useful purpose both for industry and the agency, the Commission has published a proposal for a replacement enforcement policy statement. The Commission will consider comments received in response to the proposal and decide whether to issue the policy statements on a final basis.

Timetable:

Action	Date	FR Cite
NPRM	02/24/83	
NPRM Comment Period Begin	02/25/83	
NPRM Comment Period End	04/22/83	

Next Action Undetermined

Small Entity: No

Agency Contact: Elizabeth J. Gomilla, Compliance Officer, Consumer Product Safety Commission, Compliance & Administrative Litigation, Washington, DC 20207, **301 492-6400**

RIN: 3041-AA10

8. ASBESTOS IN SELECTED CONSUMER PRODUCTS

Legal Authority: 15 USC 1261 et seq FHSA; 15 USC 2058 CPSA; 15 USC 2060(b) CPSA

CFR Citation: Not yet determined

Abstract: Hazard information shows that asbestos presents a risk of cancer and respiratory disease. On October 17, 1979 the Commission issued an Advanced Notice of Proposed Rulemaking on asbestos in consumer products. On March 4, 1982 the Commission decided to convene a Chronic Hazards Advisory Panel (CHAP) on Asbestos in Consumer Products. The CHAP began meeting in January 1983 and delivered its report in July 1983. Based on the findings of the Panel, the Commission will decide in first quarter FY 1984 what additional regulatory activity, including an ANPRM, may be appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/79	44 FR 60057
Invite CHAP members suggestions	04/22/82	47 FR 17323

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Sandra Eberle, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, **301 492-6957**

RIN: 3041-AA11

9. APPLICATIONS SH 82-1 THROUGH 39 AND SH 83-1 THROUGH 5 REQUESTING AN EXEMPTION OF STATE/LOCAL REGULATIONS FROM PREEMPTION BY 16 CFR PART 1212

Legal Authority: 15 USC 2075(c) CPSA

CFR Citation: 16 CFR 1212

Abstract: Forty-four applications have been received from state and local government officials since February 22, 1982. These applications all request exemption from preemption by the CPSC standard for unvented gas space heaters (16 CFR Part 1212). If the Commission grants one or more of these petitions, it will initiate a rulemaking proceeding. On March 30, 1983, the staff briefed the Commission on various options which could be considered in reaching a final decision on these applications. On May 26, 1983, the Commission directed the staff to

VOL 48 ISS 201 OC 17 1983 UMI

draft a notice to initiate a rulemaking proceeding to revoke 16 CFR Part 1212 and to defer action on the applications for exemption from preemption from various state and local governments until the Commission takes final action in the revocation proceeding. The Commission is scheduled to meet on September 22, 1983 to decide on publication of the draft Notice as a final document proposing revocation of 16 CFR Part 1212.

Timetable:

Action	Date	FR Cite
Approval of Federal Register Notice	09/22/83	

Small Entity: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: John Liskey, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, **301 492-6554**

RIN: 3041-AA12

10. HAZARDOUS SUBSTANCES LABELING REQUIREMENTS

Priority: Major

Legal Authority: 15 USC 1269(a) FHSA

CFR Citation: 16 CFR 1500.121

Abstract: This rule, if issued on a final basis, would revise the Commission's regulations for the prominence, placement, and conspicuousness of cautionary statements required by the Federal Hazardous Substances Act to be placed on labels of hazardous substances intended or packaged in a form suitable for household use.

Timetable:

Action	Date	FR Cite
NPRM	12/13/76	43 FR 58195
NPRM Comment Period Begin	12/13/78	43 FR 58195
NPRM Comment Period End	02/02/79	
Final Action	04/00/84	

Small Entity: Yes

Agency Contact: Charles M. Jacobson, Compliance Officer, Consumer Product Safety Commission, Compliance & Administrative Litigation, Washington, DC 20207, **301 492-6400**

RIN: 3041-AA15

11. MATTRESS FLAMMABILITY STANDARD

Legal Authority: 15 USC 1193 FFA; 15 USC 1194 FFA

CFR Citation: 16 CFR 1632

Abstract: An ANPRM has been published soliciting comments on possible amendments to the mattress flammability standard to modify and reduce the testing requirements and to clarify other provisions. These amendments are intended to reduce industry's testing and recordkeeping costs while maintaining the level of protection the standard affords consumers. As a result of comments received, additional data is being gathered relating to compliance with the standard.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/82	47 FR 25159
ANPRM Comment Period Begin	06/10/82	47 FR 25159
ANPRM Comment Period End	08/09/82	
Commission Decision on Proposed Amendments	12/00/83	

Small Entity: Yes

Affected Sectors: 25 FURNITURE AND FIXTURES

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, **301 492-6554**

RIN: 3041-AA16

12. HAZARDOUS DYES IN CONSUMER PRODUCTS

Legal Authority: 15 USC 2051 et seq CPSA; 15 USC 1261 et seq FHSA

CFR Citation: Not yet determined

Abstract: Hazard information shows that benzidine congener dyes may present a carcinogenic hazard. The review and testing of potentially hazardous dyes and consumer exposure to these dyes began in FY 1983, and will continue in 1984. More than 20 dyes were studied in FY '83; an additional 10 to 15 will be analyzed in FY '84. Remedial action will be recommended when appropriate.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: William Menza, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, **301 492-6957**

RIN: 3041-AA17

13. PETITION AP 83-1. PETITION TO REQUIRE LABELING OF CONSTRAINED-SPRING TWIST-ON CONNECTORS WITH ALUMINUM WIRE

Legal Authority: 15 USC 2076(e) CPSA

CFR Citation: Not yet determined

Abstract: In correspondence dated December 1, 1982, Dr. Jesse Aronstein petitioned the Commission to issue a regulation that would require the labeling of electrical wiring connectors of the constrained-spring twist-on type as to hazardous performance when connected to aluminum wiring. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the rule requested by the petition.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Carl W. Blechschmidt, Program Manager, Electrical Hazards, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, **301 492-6554**

RIN: 3041-AA21

14. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; ADVANCE NOTICE OF PROPOSED RULEMAKING AND NOTICE OF OPPORTUNITY FOR ORAL PRESENTATIONS

Legal Authority: PL 91-601; 15 USC 1472 PPPA

CFR Citation: 16 CFR 1700.20; 16 CFR 1700.29

Abstract: On January 19, 1983 the Commission published an Advanced Notice of Proposed Rulemaking soliciting comments on ways to amend the existing child resistant packaging requirements to improve the effectiveness and efficiency of these requirements

Timetable:

Action	Date	FR Cite
ANPRM	01/19/83	48 FR 2389
ANPRM Comment Period Begin	01/19/83	48 FR 2389
ANPRM Comment Period End	03/21/83	
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, **301 492-6957**

RIN: 3041-AA22

15. ●PETITION AP 83-2. PETITION TO REQUIRE A LABELING RULE FOR CRIMP TYPE ELECTRICAL CONNECTORS

Legal Authority: 15 USC 2076(e) CPSA; 5 USC 553(e) APA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence dated May 1, 1983, Dr. Jesse Aronstein petitioned the Commission to issue a regulation that would require the labeling of electrical wiring connectors of the hand-tool crimp type delineating the applications for which the manufacturer considers the connectors to be suitable and would provide a warning regarding possible hazardous consequences if used in non-rated applications. If the Commission grants the petition, it will initiate a rulemaking proceeding to issue the rule requested by the petition.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Carl W. Blechschmidt, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, **301 492-6554**

RIN: 3041-AA26

16. ●PETITION CP 83-1. PETITION TO ESTABLISH STANDARDS FOR RECUPERATIVE GAS FURNACES TO ADDRESS CORROSION OF THE FURNACE AND ITS VENTING SYSTEM

Legal Authority: 5 USC 553(e) APA; 15 USC 2056 CPSA; 15 USC 2058 CPSA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence dated April 7, 1983, the City of Cincinnati (Ohio), Department of Buildings and Inspections petitioned the Commission to establish safety standards to address the risk of injury associated with combustion products, possibly including carbon monoxide entering the living space of homes where recuperative gas furnaces are installed. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the standard requested by the petition.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: John Liskey, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, **301 492-6554**

RIN: 3041-AA27

17. ●PETITION FP 83-1. PETITION TO REQUIRE THAT ALL WELT CORD MANUFACTURED FOR USE IN UPHOLSTERED FURNITURE MUST BE HEAT CONDUCTING

Legal Authority: 5 USC 553(e) APA; 15 USC 1193 FFA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence dated June 15, 1983, the Citizens Committee for Fire Protection petitioned the Commission to issue a flammability standard to require that all welt cord manufactured for use in upholstered furniture must be heat conducting. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the rule requested by the petition.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: James Hoebel, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, **301 492-6554**

RIN: 3041-AA28

18. ●CHILD-RESISTANT PACKAGING REQUIREMENT FOR OVER-THE-COUNTER DRUG PRODUCTS CONTAINING DIPHENHYDRAMINE

Legal Authority: 15 USC 1471 PPPA

CFR Citation: 16 CFR 1700.14(a)

Abstract: An evaluation of medical and injury data concerning antihistamines indicates that diphenhydramine, an antihistamine which is sold over-the-counter, may cause serious illness or injury if accidentally ingested by young children. A regulation to require child-resistant packaging for over-the-counter drug products containing diphenhydramine will reduce the risk of accidental childhood ingestion of toxic amounts of this substance.

Timetable:

Action	Date	FR Cite
NPRM	07/11/83	48 FR 31664
NPRM Comment Period Begin	07/11/83	48 FR 31664
NPRM Comment Period End	09/09/83	
Commission Decision on Final Regulation	11/00/83	

Small Entity: No

Agency Contact: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, **301 492-6957**

RIN: 3041-AA29

19. ●PETITION HP 83-1. PETITION FOR AN EXEMPTION FROM POISON PREVENTION PACKAGING REQUIREMENTS FOR PREMARIN AND AYGESTIN

Legal Authority: 15 USC 1474 PPPA

CFR Citation: 16 CFR 1702

Abstract: In correspondence dated May 20, 1983, Ayerst Laboratories petitioned the Commission for an exemption from poison prevention packaging

VOL 48 ISS 201 OCT 17 1983 UMI

requirements for Premarin (conjugated estrogen tablets) and Aygestin (Norethindrone Acetate tablets). If the Commission grants the petition, it will begin a proceeding to issue an amendment to exempt Premarin and Aygestin from PPPA requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, 301 492-6957

RIN: 3041-AA30

20. ●PETITION HP 83-2. PETITION TO HALT THE SALE OF AND BAN THE USE OF POTASSIUM DICHROMATE PRODUCTS IN RESIDENTIAL HUMIDIFIERS

Legal Authority: 15 USC 1261 FHSA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence received April 26, 1983, from Public Citizen Health Group, the Commission was petitioned to initiate rulemaking to ban the use and sale of potassium dichromate products for use in residential humidifiers. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the standard requested by the petition.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, 301 492-6957

RIN: 3041-AA31

21. ●PETITION HP 82-1. PETITION TO DECLARE VOLATILE NITRITES BANNED HAZARDOUS SUBSTANCES

Legal Authority: 15 USC 1261 FHSA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence received September 13, 1982, Dr. Ronald Wood, Univ. of Rochester Medical School, petitioned the Commission to declare room odorizers containing volatile nitrites (i.e., butyl nitrite and iso-butyl nitrite) banned hazardous substances under the Federal Hazardous Substances Act. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the rule requested by the petition.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Moira A. McNamara, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, 301 492-6957

RIN: 3041-AA32

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Existing Regulations Under Review

22. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 5 USC 2051 et seq CPSA

CFR Citation: 16 CFR 1009; 16 CFR 1019; 16 CFR 1115; 16 CFR 1201; 16 CFR 1202; 16 CFR 1205; 16 CFR 1207; 16 CFR 1209; 16 CFR 1212; 16 CFR 1301; 16 CFR 1302; 16 CFR 1303; 16 CFR 1304; 16 CFR 1305; 16 CFR 1401; ...

Abstract: The Commission has published a Federal Register notice listing seventeen (17) rules and standards (issued under the Consumer Product Safety Act), soliciting comments on these rules which it will review pursuant to the requirements of the Regulatory Flexibility Act. Subsequently, the Commission will publish notice and solicit comments on rules and standards under the other Acts administered by the Commission. The Commission will review these rules to determine if they should be revoked, amended or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	10/30/82	
Public Comment Period Ends	12/20/82	
End Review	00/00/00	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA19

23. RULE REVIEW

Legal Authority: 5 USC 610 RFA; 15 USC 1193 FFA; 15 USC 1194 FFA; 15 USC 2079 CPSA

CFR Citation: 16 CFR 1602; 16 CFR 1604; 16 CFR 1605; 16 CFR 1607; 16 CFR 1608; 16 CFR 1610; 16 CFR 1611; 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Abstract: The Commission plans to publish a Federal Register Notice listing twelve (12) rules and standards issued under the Flammable Fabrics Act, and soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without changes.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA20

24. ●SAFETY STANDARD REQUIRING OXYGEN DEPLETION SAFETY SHUTOFF SYSTEMS (ODS) FOR UNVENTED GAS-FIRED SPACE HEATERS; PROPOSED REVOCATION

Legal Authority: 15 USC 2058(h)

CFR Citation: 16 CFR 1212

Abstract: On May 26, 1983 the Commission directed the staff to initiate a rulemaking proceeding to revoke the safety standard for unvented gas-fired space heaters (16 CFR Part 1212). The Commision is proposing this revocation because it has preliminarily determined that the standard is not reasonably necessary to eliminate or reduce an unreasonable risk of injury by carbon monoxide poisoning associated with unvented gas-fired space heaters. A decision on 44 applications from local and state governments requesting exemption from preemption by the CPSC standard for unvented gas-fired space heaters has been deferred until the Commission takes final action in the revocation proceeding. A Commission meeting is scheduled for September 22, 1983 to decide on publication of a Federal Register Notice proposing revocation of 16 CFR Part 1212.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: No

Agency Contact: John F. Liskey, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA23

25. ●RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1471 PPPA

CFR Citation: 16 CFR 1700; 16 CFR 1701; 16 CFR 1702; 16 CFR 1704

Abstract: The Commission plans to publish a Federal Register Notice listing four (4) rules and standards issued under the Poison Prevention Packaging Act, and soliciting comments on those rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without changes.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	12/30/83	
Public Comment Period Ends	03/02/84	

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA24

26. ●RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1261 FHSA

CFR Citation: 16 CFR 1500; 16 CFR 1501; 16 CFR 1505; 16 CFR 1507; 16 CFR 1508; 16 CFR 1509; 16 CFR 1510; 16 CFR 1511; 16 CFR 1512

Abstract: The Commission plans to publish a Federal Register Notice listing nine (9) rules and standards issued under the Federal Hazardous Substances Act, and soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without changes.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	12/30/83	
Public Comment Period Ends	03/02/84	

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA25

27. ●SELF-PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBONS -- SUBMISSION OF PERFORMANCE AND TECHNICAL DATA TO THE COMMISSION

Legal Authority: 15 USC 2076(e)

CFR Citation: 16 CFR 1401.4

Abstract: The existing regulation requires that performance and technical data be submitted to the Commission by manufacturers of self-pressurized consumer products containing chlorofluorocarbons. The Commission will be considering revocation of this requirement because the products affected are mostly banned by the Environmental Protection Agency. The alternative is to keep the requirement in effect. Any action will be based on as-yet-undetermined analyses of the various costs and benefits associated with the alternatives.

Timetable:

Action	Date	FR Cite
End Review	12/30/83	
NPRM	12/30/83	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Harleigh Ewell, Attorney-Advisor, Consumer Product Safety Commission, OGC, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA33

28. ●EXEMPTION FOR UNLABELED CONTAINERS

Legal Authority: 5 USC 553; 15 USC 1262

CFR Citation: 16 CFR 1500.84

Abstract: The Commission will be considering revocation of an exemption provision that covers the shipment of unlabeled containers from a packaging to a labeling firm. The exemption may be unnecessary because the Commission staff is not aware of any such shipments. In addition, such a shipment would not violate the provisions of the applicable statute, the Federal Hazardous Substances Act.

The alternative being considered is to leave the exemption in effect, but no costs or benefits are expected to be associated either with the revocation or with leaving the exemption in effect.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	12/30/83	
NPRM Comment Period End	1/30/84	

Next Action Undetermined

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

VOL
48
ISS
201
OC
17
1983
UMI

CPSC — Existing Regulations Under Review

Agency Contact: Charles Jacobson, Compliance Officer, Consumer Product Safety Commission, CARM, Washington, D.C. 20207, 301 492-6400

RIN: 3041-AA34

29. ●EXEMPTION FROM CLASSIFICATION AS A BANNED TOY OR OTHER BANNED ARTICLE FOR USE BY CHILDREN -- CAPS (PAPER OR PLASTIC)

Legal Authority: 15 USC 1261(f)1(D); 15 USC 1262(e)(1); 15 USC 2079(a); 15 USC 1261(q)(1)(a); 15 USC 1261(s)

CFR Citation: 16 CFR 1500.18(a)(5); 16 CFR 1500.86(a)(6)

Abstract: For more than ten years a regulation has existed under the Federal Hazardous Substances Act that was an "interim" regulation. Caps producing sound levels in the range of 138-158 decibels have been banned, but are exempt from the ban if they are properly labeled and if firms producing them report to the Commission on programs to reduce the sound levels.

The Commission will be considering whether to revoke the exemption and thus ban the caps or to expand the exemption to allow their marketing without any restrictions. Any action will be based on as-yet-undetermined analyses of the various costs and benefits associated with these two approaches or any other approaches that the Commission might pursue.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/83	

Next Action Undetermined

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Wade Anderson, Compliance Officer, Consumer Product Safety Commission, CARM, Washington, D.C. 20207, 301 492-6400

RIN: 3041-AA35

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Completed Actions

COMPLETED RULEMAKINGS

30. COAL AND WOODBURNING STOVES LABELING REQUIREMENTS -- WOOD HEATING EQUIPMENT

Priority: Agency Determination

CFR Citation: 16 CFR 1406

Completed:

Reason	Date	FR Cite
Final Action - the Commission issued the Rule with minor revisions	05/16/83	48 FR 21898
Final Action Effective	10/17/83	48 FR 21898

Small Entity: Not Applicable

Agency Contact: James F. Hoebel 301 492-6554

RIN: 3041-AA02

31. ALTERNATE APPAREL TEST METHOD - ENFORCEMENT AND ADMINISTRATIVE RULE

CFR Citation: 16 CFR 1610; 16 CFR 1615; 16 CFR 1616

Completed:

Reason	Date	FR Cite
Final Action	05/12/83	48 FR 21310
Final Action Effective	06/13/83	48 FR 21310

Small Entity: No

Agency Contact: James F. Hoebel 301 492-6554

RIN: 3041-AA07

32. REQUIREMENTS TO ADDRESS STRANGULATION RISK PRESENTED BY TOY CHESTS

CFR Citation: 16 CFR 1500; 16 CFR 1513

Completed:

Reason	Date	FR Cite
Terminate	08/17/83	

Small Entity: Yes

Agency Contact: John Liskey 301 492-6554

RIN: 3041-AA08

33. PETITION AP 80-2. PETITION TO REQUIRE LABELING OF ELECTRICAL WIRING DEVICES

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Commission voted 03/09/83 to deny Petition		

Small Entity: Not Applicable

Agency Contact: Douglas L. Noble 301 492-6554

RIN: 3041-AA14

34. PHYSICIAN DRUGS SAMPLES POLICY STATEMENT

CFR Citation: 16 CFR 1701.2

Completed:

Reason	Date	FR Cite
Withdrawn - Commission voted to withdraw Proposed Policy Statement.	06/02/83	

Small Entity: Undetermined

Agency Contact: Virginia White 301 492-6957

RIN: 3041-AA18

[FR Doc. 83-28085 Filed 10-14-83; 8:45 am]
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October 17, 1983

Part XLII

Farm Credit Administration

Unified Agenda of Federal Regulations

VOL
48
ISS
201
OC
17
1983
UMI

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulations

AGENCY: Farm Credit Administration.

ACTION: Department Unified Agenda of Regulations and Review List.

SUMMARY: The Farm Credit Administration, as an independent regulatory agency in voluntary compliance with Executive Order 12291, sets forth the following agenda of regulations which it will have under development and review during the period of September 1983 through October 1984.

FOR FURTHER INFORMATION CONTACT:

Dorothy J. Acosta, Associate General Counsel, Office of General Counsel, Farm Credit Administration, 490 L' Enfant Plaza, S.W., Washington, D.C. 20578, (202–755–2137)

or

Mary K. Mathews, Assistant Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L' Enfant Plaza, S.W., Washington, D.C. 20578, (202–755–4394)

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Farm Credit Administration ("FCA") regulations which apply to Farm Credit System banks and associations do not and will not have a substantial impact on small entities. None of the entities regulated by the FCA fall within the definition of small entities in the Regulatory Flexibility Act. While many associations through which banks lend are smaller in size than their banks, they are not independently operated, as they are closely supervised by the banks, which must approve most of their operating policies. The associations rely exclusively on their supervising banks for their source of funds. Furthermore, the associations do not compete with each other since, as with their supervising banks, each serves only a particular geographic area.

While FCA is an independent Agency exempt from coverage by Executive Order 12291, we believe that participating in this joint publication will further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

Donald E. Wilkinson,

Governor.

Unified Agenda of Federal Regulations

FARM CREDIT ADMINISTRATION

CFR Citation: 12 CFR 600.1.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 1141(b).

Abstract: Technical amendment—change of address for Farm Credit Administration.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

SENIOR DEPUTY GOVERNOR, DEPUTY GOVERNORS AND GENERAL COUNSEL

CFR Citation: 12 CFR 600.4.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2211, 2252(16).

Abstract: Technical amendment—correct various titles and reference incorporation of Fiscal Agency.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

OTHER ADMINISTRATIVE UNITS

CFR Citation: 12 CFR 600.5.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2252(16).

Abstract: Technical amendment—to reflect current organizational divisions and sections.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

FARM CREDIT DISTRICTS AND INSTITUTIONS

CFR Citation: 12 CFR 600.10.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2252(16).

Abstract: Technical amendment—to correct address of various district banks.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

PART 601—EMPLOYEE RESPONSIBILITIES AND CONDUCT

CFR Citation: 12 CFR 601.101, 601.126, 601.127, 601.140, 601.176.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2252(16).

Abstract: Technical amendments—to correct division and agency name changes.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

PART 602—RELEASING INFORMATION

CFR Citations: 12 CFR 602.200–602.245; 614.4015; 617.7080; 618.8300–618.8350.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2246, 2252(16).

Abstract: Clarify existing policies and procedures with respect to the release of information and/or documents obtained in or resulting from the conduct of official business by employees of the Farm Credit Administration and the Farm Credit System.

TIMETABLE

Action	Estimated date	FR cite
To be determined		

PART 602—RELEASING INFORMATION

CFR Citation: 12 CFR 602.260, 602.261.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2252(16).

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2252(16).

Abstract: Technical amendments to correct division and agency name changes.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

PART 603—PRIVACY ACT REGULATIONS

CFR Citation: 12 CFR 603.300, 603.310, 603.340.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2252(16).

Abstract: Technical amendments—to indicate agency, division and address changes.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

PART 604—FEDERAL FARM CREDIT BOARD

CFR Citation: 2 CFR 604.325, 604.340.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2252(16).

Abstract: Technical amendments—to indicate agency, division and address changes.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

LIMITATION ON SPECIAL ASSIGNMENTS

CFR Citation: 12 CFR 611.1031.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2211.

Abstract: Technical amendment—to indicate incorporation of Fiscal Agency.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

LIQUIDATION OF ASSOCIATIONS

CFR Citation: 12 CFR 611.1130.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2183(b).

Abstract: The Farm Credit Administration will, on a priority basis, expand its existing regulation dealing with involuntary liquidation. Present regulations provide general authority for the Governor to declare an association insolvent and place it in the hands of a receiver or conservator under such terms as the Governor may prescribe on a case-by-case basis. The new regulations will address such topics as: who may act as receiver; the powers and duties of a receiver; the standards for the exercise of the Farm Credit Administration's discretion; procedural questions; jurisdictional questions and priority of claimants against the associations.

TIMETABLE

Action	Estimated date	FR cite
NPRM	9/15/83	
Final action	12/83	

COOPERATIVE ELIGIBILITY

CFR Citation: 12 CFR 613.3110.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2129.

Abstract: Amend eligibility standards for cooperatives, and reference services of cooperatives.

TIMETABLE

Action	Estimated date	FR cite
To be determined		

PART 614—LOAN POLICIES AND OPERATIONS

CFR Citation: 12 CFR 614.4510, 614.4710, 614.4900.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2211.

Abstract: Technical amendments—to indicate Fiscal Agency incorporation.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

LOANS OUTSIDE OF BANK'S TERRITORY—BANKS FOR COOPERATIVES

CFR Citation: 12 CFR 614.4080.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2128.

Abstract: Amend international trade financing regulations to eliminate statutory conflict and address the issue of which bank will finance particular international transactions.

TIMETABLE

Action	Estimated date	FR cite
To be determined		

FEDERAL LAND BANKS

CFR Citation: 12 CFR 614.4090.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2012(12).

Abstract: Authorize Federal land banks to participate in loans with Federal intermediate credit banks, banks for cooperatives, production credit associations, and other lenders which are not Farm Credit System institutions. In addition, language will be included to accommodate long-term loans to fishermen.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20427
Final action	11/83	

FEDERAL INTERMEDIATE CREDIT BANKS

CFR Citation: 12 CFR 614.4100.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2074(b).

Abstract: Authorize Federal intermediate credit banks to participate in loans with Federal land banks and banks for cooperatives.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20426
Final action	11/83	

PRODUCTION CREDIT ASSOCIATIONS

CFR Citation: 12 CFR 614.4110.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2093(13).

Abstract: Authorize production credit associations to participate in loans with Federal land banks end banks for cooperatives.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20428
Final action	11/83	

BANKS FOR COOPERATIVES

CFR Citation: 12 CFR 614.4120.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2122(11).

Abstract: Authorize banks for cooperatives to participate in loans with Federal land banks, Federal intermediate credit banks, and production credit associations.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20428
Final Action	11/83	

FEDERAL LAND BANKS

CFR Citation: 12 CFR 614.4180.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2012(12).
Abstract: Accommodate other proposed changes in regulations authorizing Federal land banks to participate in loans with Federal intermediate credit banks, production credit associations, banks for cooperatives, and other lenders.

TIMETABLE

Action	Estimated date	F.R. cite
NPRM	5/6/83	48 FR 20426.
Final Action	11/83	

FEDERAL INTERMEDIATE CREDIT BANKS

CFR Citation: 12 CFR 614.4190.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2074(b).
Abstract: Accommodate other proposed changes in regulations authorizing Federal intermediate credit banks to participate in loans with Farm Credit System institutions other than production credit associations and Federal intermediate credit banks.

TIMETABLE

Action	Estimated date	F.R. cite
NPRM	5/6/83	48 FR 20426.
Final Action	11/83	

FEDERAL LAND BANKS

CFR Citation: 12 CFR 614.4230.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2012(12).
Abstract: Accommodate other proposed changes in the regulations authorizing Federal land banks to participate in loans with Federal intermediate credit banks, production credit associations, banks for cooperatives, and other lenders.

TIMETABLE

Action	Estimated date	F.R. cite
NPRM	5/6/83	48 FR 20426.
Final Action	11/83	

FEDERAL INTERMEDIATE CREDIT BANKS

CFR Citation: 12 CFR 614.4240.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2074(b).
Abstract: Accommodate other proposed changes in the regulations authorizing Federal intermediate credit banks to participate in loans with Federal land banks or banks for cooperatives.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20429.
Final Action	11/83	

INTEREST RATE PROGRAMS

CFR Citation: 12 CFR 614.4321.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. **Sections 2015, 2075, 2096(b), 2205.**
Abstract: Allow Farm Credit System banks or production credit associations to establish differential interest rates based on costs reasonably associated with particular segments of their loan portfolios.

TIMETABLE

Action	Estimated date	FR cite
To be determined		

GENERAL

CFR Citation: 12 CFR 614.4330.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. **Sections 2012(12), 2074(b), 2093(13), 2122(11), 2206.**
Abstract: Update present regulation to reflect changes in the 1980 Amendments of the Farm Credit Act relative to loan participations.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20429.
Final action	11/83	

FEDERAL LAND BANKS

CFR Citation: 12 CFR 614.4331.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2012(12).
Abstract: Authorize Federal land banks to participate in loans with Federal intermediate credit banks, production credit associations, banks for cooperatives, and lenders that are not Farm Credit System institutions.

TIMETABLE

Action	Estimated date	FR Cite
NPRM	5/6/83	48 FR 20429.
Final action	11/83	

FEDERAL INTERMEDIATE CREDIT BANKS

CFR Citation: 12 CFR 614.4332.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2074(b).
Abstract: Authorize Federal intermediate credit banks to participate with Federal land banks and banks for cooperatives in loans.

TIMETABLE

Action	Estimated date	FR Cite
NPRM	5/6/83	48 FR 20430.
Final action	11/83	

PRODUCTION CREDIT ASSOCIATIONS

CFR Citation: 12 CFR 614.4333.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2093(13).
Abstract: Clarify that production credit associations are authorized to participate, when authorized by the district Federal intermediate credit banks, with Federal land banks and banks for cooperatives in loans. In addition, §§ 614.4333(a) and (b) of the present regulation will be deleted.

TIMETABLE

Action	Estimated date	FR Cite
NPRM	5/6/83	48 FR 20430.
Final action		

BANK FOR COOPERATIVES

CFR Citation: 12 CFR 614.4334.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2122(11).
Abstract: Authorize banks for cooperatives to enter into loan participation arrangements with Federal land banks, Federal intermediate credit banks, and production credit associations.

TIMETABLE

Action	Estimated date	FR Cite
NPRM	5/6/83	48 FR 20430.
Final action	11/83	

GENERAL

CFR Citation: 12 CFR 614.4350.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2206.
Abstract: Clarify that the amount of any loan participation purchased by a Farm Credit System institution shall be used in calculating the lending limits to any one borrower of the same institution. In addition, the phrase "or provide financial assistance" will be added as a component for calculating the lending limit to one borrower.

TIMETABLE

Action	Estimated date	FR Cite
NPRM	5/6/83	48 FR 20430.
Final action	11/83	

FEDERAL LAND BANKS

CFR Citation: 12 CFR 614.4351.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2206.
Abstract: Clarify that the lending limit is the total amount of funds that a Federal land bank can provide any one borrower in the form of loans, advances, commitments, financial assistance, or through the purchase of loan participation(s).

TIMETABLE

Action	Estimated date	FR Cite
NPRM	5/6/83	48 FR 20431.
Final action	11/83	

FEDERAL INTERMEDIATE CREDIT BANKS

CFR Citation: 12 CFR 614.4352.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2074(b).
Abstract: Accommodate other proposed regulation changes authorizing Federal intermediate credit banks to enter into loan participations with Federal land banks or banks for cooperatives.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20431.
Final action	11/83	

PRODUCTION CREDIT ASSOCIATIONS

CFR Citation: 12 CFR 614.4353.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2206.
Abstract: Clarify that the lending limit is the total of funds that a production credit association can provide any one borrower in the form of loans, advances, commitments, financial assistance, or through the purchase of a loan participation(s).

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20431.
Final action	11/83	

BANKS FOR COOPERATIVES

CFR Citation: 12 CFR 614.4354.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2206.
Abstract: Limit the amount of funding that any one borrower of the banks for cooperatives can obtain from the Farm Credit System to the lending limits set forth in the current § 614.4354(b).

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20431.
Final action	11/83	

GENERAL

CFR Citation: 12 CFR 614.4510.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2206.
Abstract: Accommodate other proposed changes in the regulations authorizing the loan participation provisions contained in the 1980 Amendments of the Farm Credit Act.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20431.
Final action	11/83	

POLICY

CFR Citation: 12 CFR 614.5050.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2012(12).
Abstract: Accommodate other proposed changes in the regulations authorizing Federal land banks to participate in loans with other Farm Credit System and non-System lenders.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20431.
Final action	11/83	

SPECIAL COLLATERAL REQUIREMENT—FEDERAL LAND BANKS

CFR Citation: 12 CFR 614.5060.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2012(12)
Abstract: Accommodate other proposed changes in the regulations authorizing Federal land banks to participate in loans with other Farm Credit System lenders.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20431
Final action	11/83	

METHODS OF FINANCING

CFR Citation: 12 CFR 614.4600.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2075.
Abstract: Loan participation to be qualified as to eligibility requirements.

TIMETABLE

Action	Estimated date	FR cite
To be determined		

OBLIGATIONS ELIGIBLE FOR DISCOUNT OR PURCHASE

CFR Citation: 12 CFR 614.4610.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2075.
Abstract: Loan participations to be qualified as to eligibility requirements.

TIMETABLE

Action	Estimated date	FR cite
To be determined		

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

CFR Citation: 12 CFR 615.5010, 615.5103, 615.5105.
Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2211.

VOL
48
ISS
201
OC
17
1983
UMI

Abstract: Technical amendments—to indicate Fiscal Agency incorporation.

TIMETABLE

Action	Estimated date	FR cite
NPRM	4/84	

DISTRICT BOARD POLICIES

CFR Citation: 12 CFR 618.8010.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2019, 2076, 2097, 2122.

Abstract: Define district board policies covering the provisions of financially related services and technical assistance programs.

TIMETABLE

Action	Estimated date	FR cite
NPRM	10/83	
Final action	1/84	

DEFINITIONS

CFR Citation: 12 CFR 619.9135.

Legal Authority: Pub. L. 92–181, as amended by Pub. L. 96–592; 12 U.S.C. 2252(16)

DEFINE FARM CREDIT SYSTEM INSTITUTIONS

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20431.
Final action	11/83	

DEFINITIONS

CFR Citation: 12 CFR 619.9195.

Legal Authority: Pub. L. 92–181; 12 U.S.C. 2252(16).

Abstract: Define loan participation.

TIMETABLE

Action	Estimated date	FR cite
NPRM	5/6/83	48 FR 20431.
Final action	11/83	

[FR Doc. 83–28330 Filed 10–14–83; 8:45 am]
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Part XLIII

Federal Communications Commission

Unified Agenda of Federal Regulations

VOL
48
ISS
201
OC
17
1983
UMI

FCC

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Federal Communications Commission.

ACTION: Publication of the Unified Agenda.

SUMMARY: The Commission publishes the Unified Agenda of Federal Regulations to provide the public with adequate notice of all major and other significant proceedings under development or review. The agenda also provides the CFR Citations and Legal Authorities which govern these proceedings. This is in accordance with Executive Order 12291 and OMB Bulletin No. 83-15. In addition, the agenda, in compliance with the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) includes notations on the applicability of the Regulatory Flexibility Act to each item. The Unified Agenda will be published in the **Federal Register** in April and October of each year.

DATE: This information is as of October 1983.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Claudette Pride, Office of the Managing Director, (202) 632-7513.

SUPPLEMENTARY INFORMATION: Unified Agenda of all major and other significant proceedings.

The Commission encourages public participation in the FCC rule making process. To help keep the public informed of significant rule making proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB will publish the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

A Docket Number is assigned to a proceeding if the Commission has issued either a Notice of Proposed Rule Making or a Notice of Inquiry in regard to the matter under consideration. Since January 1, 1978, the Commission has used docket numbers which consist of the last two digits of the calendar year in which the docket was established plus a sequential number which begins at 1 with the first docket initiated during a calendar year (e.g. Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "Docket 79-164." When a docket number consists of only five digits (e.g. Docket 29622), this indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rule Making (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rule making, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rule Making (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rule making, but before the Commission has taken action on the petition.

William J. Tricarico,
Secretary
Federal Communications Commission.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Amendment of the Uniform System of Accounts, Part 31, to Provide for Changing the Accounting Treatment for Certain Telephone Plant	3060-AA84
2	Revision of the Uniform System of Accounts and Financial Reporting Requirements for Telephone Companies, Parts 31, 33, 42 and 43	3060-AB15
3	Modifications to the Uniform System of Accounts for Class A and Class B Telephone Companies Required by Detariffing of Customer Provided Cable/Wiring Installed as Part ETC	3060-AB16
4	Alaska Bush Satellite Service	3060-AB01
5	Part 68 Omnibus Rulemaking	3060-AB04
6	Procedures for Implementing the Detariffing of CPE and Enhanced Services	3060-AB05
7	Computer II Implementation Actions	3060-AB06
8	Overseas Communications Services	3060-AA93
9	Comsat Structure	3060-AA94
10	Earth Station Ownership Policy	3060-AA95
11	Direct Access to INTELSAT Space Segment	3060-AA96
12	Revision of Rules Part 22	3060-AB00
13	AT&T Earnings on Interstate and Foreign Services in 1978	3060-AA97
14	Jurisdictional Separations: Federal-State Joint Board to Amend Part 67 of FCC Rules	3060-AA99
15	AT&T Private Line Rate Structure Proceeding	3060-AA91
16	Competitive Carrier Rulemaking	3060-AA92
17	Gen. Docket 80-113	3060-AB23
18	Applications to be Filed by AT&T for Authority to Transfer Facilities Necessitated by U.S. v. AT&T	3060-AB24
19	*Requirements for Licensed Operators in Various Radio Services	3060-AA00
20	Age and Experience Requirements for Radiotelegraph First Class Operator License (RM-2687/RM-3785)	3060-AA01
21	Authorize Teletext Use by TV Stations	3060-AA27

FCC

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
22	Amend Subscription Television Rules	3060-AA32
23	Low Power TV	3060-AA33
24	Amend Microwave Boosters Rule	3060-AA36
25	Use of ITFS Band	3060-AA37
26	Amend Dual City Identification Rules	3060-AA38
27	Amend Cable Aeronautical Rules	3060-AA42
28	Elimination of Restrictions on Network-Cable TV Cross-Ownership	3060-AA45
29	Repeal of Network Syndication and Financial Interest Rules	3060-AB26
30	Deregulation of Commercial TV Programming	3060-AB27
31	Extended AM Hours of Operation for Daytimers	3060-AB29
32	Children's TV Inquiry	3060-AB46
33	Permit Use of TV Subcarriers for TV Stereo	3060-AB48
34	Protection Standards for AM Stations in Alaska	3060-AB49
35	Further Notice of Proposed Rulemaking - Radio Deregulation	3060-AB50
36	VHF Drop-ins	3060-AB51
37	Increase Availability of Commercial FM Assignments	3060-AB52
38	Region 2 AM Agreement	3060-AB53
39	Amend Multiple Ownership Rules - Attribution	3060-AB55
40	Repeal of Personal Attack and Political Editorial Rules	3060-AB56
41	Fairness Doctrine and Political Cablecasting Requirements for CATV Systems	3060-AB57
42	Instruction Television Fixed Service	3060-AB58
43	Assignment of Canadian and Mexican Clear Channels to U.S. AM Radio Applicants	3060-AB59
44	Comparative Preferences Within Metropolitan Areas	3060-AB61
45	Amend Remote Control Rules for AM, FM & TV Stations	3060-AB63
46	Amend Antenna Input Power Rule	3060-AB64
47	AM SCA Expanded Uses	3060-AB65
48	Deletion of Regional Concentration of Control Rules	3060-AB66
49	Nighttime Power Limitations and Antenna Systems for Class IV AM	3060-AB67
50	Noncommercial STV Operation	3060-AB69
51	Amend TV Aural Power-Visual Power Rule	3060-AB71
52	Delete 25 mV/m Coverage Rule for AM Stations	3060-AB72
53	AM Antenna Monitoring Systems	3060-AB73
54	*Policy Regarding Character Qualifications in Broadcast Licensing	3060-AB09
55	Amending Environmental Rules in Response to New Rules Issued by the Council on Environmental Quality (C.E.Q.)	3060-AB30
56	Special Emergency Radio Service	3060-AA10
57	Amateur No_xCode	3060-AA21
58	Volunteer Examiners in Amateur Radio Service	3060-AA23
59	DSC in Marine Services and Direct Dial in VHF Services	3060-AA24
60	Compulsory Ship Inspection Cycle	3060-AA25
61	New Personal Radio Service at 900 MHz	3060-AA55
62	10-Year Amateur Radio License Term	3060-AB32
63	10 year GMRS Radio License Term	3060-AB33
64	800 MHz Reconsideration	3060-AB36
65	900 MHz Paging Reconsideration	3060-AB37
66	Unicoms at Controlled Airports	3060-AB38
67	Interconnection Below 800 MHz	3060-AB74
68	20 Miles = 40 dBu Field Strength Contour	3060-AB75
69	Northern California Trunking	3060-AB76
70	Private Microwave Carrier Systems	3060-AB77
71	Frequency Coordination in the PLMRS	3060-AB78
72	Meteor Burst Communication Service	3060-AA48
73	Air-ground radiotelephone service (Airfone, Inc.)	3060-AA49
74	Air-ground radiotelephone service (ARINC)	3060-AA50
75	NPRM - Amendment of Part 5 of the Commission's Rules to Diminish Restrictions on the Licensing and Use of Stations in the Experimental Radio Service (Other than Broadcast)	3060-AA51
76	18 GHz Reallocation	3060-AA52
77	Implementation of Final Acts, WARC-79	3060-AA53
78	Reaccommodation of 12 GHz Terrestrials	3060-AA54
79	L.A. Sheriff's Petition	3060-AA57
80	U.S.C.G. Request to Use 161.7 and 161.75 MHz	3060-AA59
81	Utilization Policy for Fixed Service at 17-40 GHz	3060-AA60
82	Petition for Allocation of Cordless Phones (EIA)	3060-AA61
83	Petition for Allocation of Cordless Phones (MURA Corporation)	3060-AA62
84	Allocation for Aural Broadcast STL's	3060-AA71
85	Flight Entertainment System	3060-AA74
86	Waiver, Cordless Phones	3060-AA76

VOL 48 ISS 201 OCT 17 1983 UMI

FCC

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
87	Report on Verification Categories	3060-AA77
88	HF Broadcasting WARC (1984)	3060-AA78
89	Space Services WARC (1985)	3060-AA79
90	Inband Technical Standards	3060-AA82
91	Sanyo Petition	3060-AB39
92	6 MHz Allocation for Government/Non-Government Fixed Service	3060-AB41
93	Offshore Radio Telephone Co. RM3910, RM3924	3060-AB42
94	Creation of an Additional Personal Radio Service	3060-AB43

*Indicates priority regulation.

Existing Regulations Under Review

Sequence Number	Title	RIN
95	Review of Part 41	3060-AB18
96	Review of Part 42	3060-AB19
97	Review of Parts 51 and 52	3060-AB20
98	AT&T 1981 General Rate Increase	3060-AA90
99	*In the Matter of Formulation of Policies Relating to the Broadcast Renewal Applicant, Stemming from the Comparative Hearing Process	3060-AB10
100	*Repeal of Modification of the Personal Attack and Political Editorial Rules, Sec 73.1920 & Sec 73.1930 of the Commission's Rules	3060-AB44
101	*In the Matter of Amendment of the Federal Communications Commission's Ethics in Government Rules	3060-AB45
102	GEOSTAR Corp. Petition for Radiodetermination Satellite	3060-AB79

*Indicates priority regulation.

Completed Actions

Sequence Number	Title	RIN
103	Rulemaking to Implement the Communications Amendments Act of 1982 with Respect to Common Carrier and Satellite Licensing Procedures	3060-AB21
104	Gen. Docket 80-112	3060-AB22
105	Amendment of Annual Report Form M Schedules for Telephone Companies	3060-AA89
106	Amendment of Parts 34 and 35 with Conforming Amendments of Annual Forms O and R	3060-AB17
107	Licensing of Space Stations in Domestic Fixed Satellite Svc	3060-AB02
108	Satellite Transponder Sales	3060-AB03
109	MTS-WATS Market Structure Inquiry	3060-AA98
110	Educational FM SCA Usage	3060-AA34
111	Delete Modulation Monitors Rules	3060-AA40
112	Elimination of Cable Financial Reports	3060-AA44
113	Amend FM SCA Rules	3060-AB25
114	*In the Matter of Formulation of Federal Communications Commission's Employee Financial Interest Rules	3060-AB14
115	*In the Matter of Formulation of Federal Communications Commission's Lottery Rules for the Selection of Licensees from Among Certain Competing Applications	3060-AB31
116	Temporary Licensing of Community Repeaters in the Special Industrial Radio Service	3060-AA02
117	Multiple Licensing in the Private Land Mobile Radio Services Below 800 MHz	3060-AA03
118	Shared Arrangements with Third-Party Involvement in the Private Microwave Services	3060-AA04
119	Transmission of Entertainment Programs Using Business Radio Service Frequencies	3060-AA05
120	Telephone Interconnection in the Private Land Mobile Radio Services	3060-AA07
121	Recodification of GMRS Rules	3060-AA12
122	Frequency Coordination in the Business Radio Service	3060-AA16
123	Amateur Power Measurement Changes	3060-AA19
124	Admendment of Rules to Provide HF Spectrum for Use by Eligibles in the Special Industrial, Petroleum, Telephone Maintenance and Power Radio Services	3060-AA20
125	Delicense CB and R/C Radio Service	3060-AA22
126	1974 WARC Radiotelephony	3060-AB34
127	Public Coast (VHF) Station Exclusivity	3060-AB35

FCC

Completed Actions—Continued

Sequence Number	Title	RIN
128	Petition for Reconsideration of 38.8-40 GHz Allocation	3060-AA58
129	Test Procedures for Computing Devices	3060-AA64
130	Extension of Receiver Certification	3060-AA73
131	1983 BSS WARC	3060-AA80
132	Zenith Petition	3060-AB40
133	*In the Matter of Revision of the Federal Communications Commission's Ex Parte Rules	3060-AB06
134	FM Quadraphonic Broadcasting Standards	3060-AB47
135	Eliminate Suburban Community Policy	3060-AB54
136	Increase of Power and Antenna Height in Puerto Rico and Virgin Islands - FM	3060-AB60
137	Lottery Procedures	3060-AB62
138	Shared Auxiliary Facility Usage and Revised TV Auxiliary Licensing Policies	3060-AB68
139	Elimination of Rules to Keep Operating and Maintenance Logs	3060-AB70

*Indicates priority regulation.

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Current and Projected Rulemakings

COMMON CARRIER BUREAU - ACCOUNTING AND AUDITS DIVISION

1. AMENDMENT OF THE UNIFORM SYSTEM OF ACCOUNTS, PART 31, TO PROVIDE FOR CHANGING THE ACCOUNTING TREATMENT FOR CERTAIN TELEPHONE PLANT

Legal Authority: 47 USC 154; 47 USC 220

CFR Citation: 47 CFR 31

Abstract: An NPRM was issued proposing to amend the depreciation procedures for the "Station connections-other" subclass of account 232 and transferring the plant to outside plant accounts, and classifying all network channel terminating equipment and subscriber pair gain equipment to account 221, "Central office equipment." Comments and reply comments were received and a final Report and Order is being prepared. The NPRM was issued October 1, 1982 (FCC 82-424).

Timetable:

Action	Date	FR Cite
NPRM	10/01/82	
Comments received	11/08/82	
Reply Comments	11/23/82	
Report and Order to Commission	03/00/83	
R&O	09/00/83	

Small Entity: No

Additional Information: CC Docket - 82-679.

Agency Contact: Gerald P. Vaughan, Chief, Accounting & Audits Division, Federal Communications Commission, 202 634-1861

RIN: 3060-AA84

2. REVISION OF THE UNIFORM SYSTEM OF ACCOUNTS AND FINANCIAL REPORTING REQUIREMENTS FOR TELEPHONE COMPANIES, PARTS 31, 33, 42 AND 43

Legal Authority: 47 USC 154; 47 USC 219; 47 USC 220

CFR Citation: 47 CFR 31; 47 CFR 33; 47 CFR 42

Abstract: The Commission is proposing to revise its Uniform System of Accounts on a financial accounting basis to provide more detailed and relevant data for separations and costing purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/81	
NPRM	03/00/85	
Final Action	06/00/85	

Small Entity: No

Additional Information: CC Docket - 78-196.

Agency Contact: Gerald P. Vaughan, Chief, Accounting & Audits Division, Federal Communications Commission, 202 634-1861

RIN: 3060-AB15

3. MODIFICATIONS TO THE UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND CLASS B TELEPHONE COMPANIES REQUIRED BY DETARIFFING OF CUSTOMER PROVIDED CABLE/WIRING INSTALLED AS PART ETC

Legal Authority: 47 USC 154; 47 USC 220

CFR Citation: 47 CFR 31

Abstract: A Notice of Proposed Rulemaking (NPRM) was issued proposing to clarify the accounting for (1) coin-operated, (2) station apparatus and exchanges used by telephone companies, (3) intrasystem wiring for PBXs or key systems, and (4) sale or lease of PBXs or key systems on a detariffed basis. Comments and reply comments were received and a final Report and Order is being prepared. The NPRM was issued October 1, 1982 (FCC 82-426).

Timetable:

Action	Date	FR Cite
NPRM	10/01/82	
NPRM Comment Period Begin	11/08/82	
NPRM Comment Period End	11/23/82	
R&O	09/00/83	

Small Entity: No

Additional Information: CC Docket - 82-681.

VOL
48
ISS
201
OCT
17
1983
UMI

Agency Contact: Gerald P. Vaughan, Chief, Accounting & Audits Division, Federal Communications Commission, **202 634-1861**

RIN: 3060-AB16

COMMON CARRIER BUREAU - DOMESTIC FACILITIES DIVISION

4. ALASKA BUSH SATELLITE SERVICE

CFR Citation: 47 CFR 25.391

Abstract: Inquiry into ownership questions related to Alaska Bush Earth Stations.

Timetable:

Action	Date	FR Cite
Tentative decision (FCC 82-516)	12/10/82	
Comments due	03/07/83	
Final Action	12/31/83	

Small Entity: Yes

Additional Information: CC Docket - 80-584. LEGAL AUTHORITY: 47 CFR 303(r) also applies.

Agency Contact: Cecily Holiday, Federal Communications Commission, **202 634-1682**

RIN: 3060-AB01

5. PART 68 OMNIBUS RULEMAKING

Legal Authority: 47 USC 201 to 205; 47 USC 151; 47 USC 154; 47 USC 403

CFR Citation: 47 CFR 68

Abstract: Rule amendments to accommodate one and two-line business and residential wiring under Part 68, and decision regarding inclusion of party line service under Part 68. Technical amendments to current Part 68 rules. Revision to qualification standards for multi-line wiring. Section 68.215(c). Decision regarding registration of CSU in DDS.

Timetable:

Action	Date	FR Cite
NPRM	11/00/82	
R&O in 2nd NPRM	12/31/83	
Subsequent Orders	12/00/84	

Small Entity: No

Additional Information: CC Docket - 81-216.

Agency Contact: Jim Talens, Federal Communications Commission, **202 634-1616**

RIN: 3060-AB04

COMMON CARRIER BUREAU - ECONOMICS DIVISION

6. PROCEDURES FOR IMPLEMENTING THE DETARIFFING OF CPE AND ENHANCED SERVICES

Legal Authority: 47 USC 4(i); 47 USC 4(j); 47 USC 201 to 205; 47 USC 403; 47 USC 404; 47 USC 410

CFR Citation: 47 CFR 64.702; 47 CFR 31

Abstract: In its Second Computer Inquiry (CC Docket 20828) the Commission ordered the detariffing of customer premises equipment and enhanced services. This proceeding addresses the procedures to be followed in fully implementing this decision. An NPRM is being prepared to institute the accounting necessary for nondominant carriers once CPE II goes into effect.

Timetable:

Action	Date	FR Cite
NOI (89 FCC 2d 694) (1981)	12/17/81	
NPRM before Commission	10/00/82	
Final Order before Commission	01/00/83	
NPRM	06/21/83	
NPRM Comment Period Begin	08/01/83	
NPRM Comment Period End	08/22/83	
Final Action	10/31/83	

Small Entity: No

Additional Information: CC Docket - 81-893. ADDITIONAL AGENCY CONTACT: On accounting matters, Gerald P. Vaughan, Chief Accounting and Audits Division, 2000 L Street NW, Suite 812, Washington, DC. (202) 634-1861.

Agency Contact: John Cimko, Attorney - Adviser (PU), Federal Communications Commission, **202 632-9342**

RIN: 3060-AB05

COMMON CARRIER BUREAU - ENFORCEMENT DIVISION

7. COMPUTER II IMPLEMENTATION ACTIONS

Legal Authority: 47 USC 4(i); 47 USC 4(j); Communications Act of 1934, as amended

CFR Citation: 47 CFR 64.702

Abstract: Commission considers whether to approve AT&T's identification and treatment of expenses incurred for the preparation of its unregulated offer of customer premises equipment (CPE) and whether to approve AT&T's plans for assuring that its offer of unregulated CPE is properly separated from its regulated offerings. Commission considers whether to approve AT&T's plan for the capitalization of its unregulated offer of embedded CPE. Commission considers whether to approve AT&T's plans for the capitalization of its offer of cellular mobile radio services.

Timetable:

Action	Date	FR Cite
NPRM - Detariffing embedded CPE	12/00/83	
NPRM - Telec. for Disabled Act of 1982	12/00/83	
Final Order - NPRM and NOI structural separation	12/00/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: James Mullins, Computer Inquiry Implementation Staff, Federal Communications Commission, **202 632-4887**

RIN: 3060-AB06

COMMON CARRIER BUREAU - INTERNATIONAL FACILITIES AUTHORIZATION DIVISION

8. OVERSEAS COMMUNICATIONS SERVICES

Legal Authority: 1934 Act, Sec 4(i); 1934 Act, Sec 4(j); 1934 Act, Sec 201; 1934 Act, Sec 202; 1934 Act, Sec 204; 1934 Act, Sec 205; 1934 Act, Sec 214; 1934 Act, Sec 403; APA, Sec 553(b)

Abstract: Item eliminates voice/record dichotomy in the provision of international services.

Timetable:

Action	Date	FR Cite
R&O under review		

Small Entity: No

Additional Information: Docket - 80-632. ADDITIONAL AGENCY CONTACT PHONE: (202) 632-7285.

Agency Contact: Stuart Chiron, Federal Communications Commission, **202 632-3214**

RIN: 3060-AA93

9. COMSAT STRUCTURE

Legal Authority: 1934 Act, Sec 4(i); 1934 Act, Sec 201 to 205; 1934 Act, Sec 214; 1934 Act, Sec 215; 1934 Act, Sec 218; 1934 Act, Sec 220; 1934 Act, Sec 303; 1934 Act, Sec 309; 1934 Act, Sec 403; Satellite Act, Sec 102(c); Satellite Act, Sec 201(c); Satellite Act, Sec 401; APA, Sec 553(b)

Abstract: Comsat required to modify accounting system for reporting R&D and for allocating common costs; to make certain Intelsat and Inmarsat information available to the public; and to provide 90 day notice for any structural separation or any ventures which will require additional financing. Comsat reported to FCC on extent these changes instituted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Yes

Additional Information: Docket - 80-634.

Agency Contact: Joel Pearlman, Federal Communications Commission, **202 632-4047**

RIN: 3060-AA94

COMMON CARRIER BUREAU - INTERNATIONAL FACILITIES PLANNING DIVISION

10. EARTH STATION OWNERSHIP POLICY

Legal Authority: Communications Act of 1934, as amended, Sec 4(i); Communications Act of 1934, as amended, Sec 4(j); Communications Act of 1934, as amended, Sec 403

Abstract: An inquiry into the ownership of INTELSAT earth stations.

Timetable:

Action	Date	FR Cite
NOI adopted	08/05/82	
NOI released	08/17/82	
Extended NOI Comment Period	08/31/83	

Small Entity: No

Additional Information: CC Docket - 82-540.

Agency Contact: J. Pearlman, Federal Communications Commission, **202 632-4047**

RIN: 3060-AA95

11. DIRECT ACCESS TO INTELSAT SPACE SEGMENT

Legal Authority: Communications Act of 1934, as amended, Sec 4(i); Communications Act of 1934, as amended, Sec 4(j); Communications Act of 1934, as amended, Sec 403

Abstract: An inquiry into direct access to INTELSAT's space segment for U.S.I.S.C.'s.

Timetable:

Action	Date	FR Cite
NOI adopted	08/05/82	
NOI released	08/20/82	
Extended NOI Comment Period	08/31/83	
NPRM	10/00/83	

Small Entity: No

Additional Information: CC Docket - 82-548.

Agency Contact: G. Dechabert, Federal Communications Commission, **202 632-4047**

RIN: 3060-AA96

COMMON CARRIER BUREAU - MOBILE SERVICES DIVISION

12. REVISION OF RULES PART 22

Legal Authority: Communications Act of 1934, as amended, Sec 1; Communications Act of 1934, as amended, Sec 4(i); Communications Act of 1934, as amended, Sec 4(j); Communications Act of 1934, as amended, Sec 303(g); Communications Act of 1934, as amended, Sec 303(r)

CFR Citation: 47 CFR 22

Abstract: Comprehensive rewrite of Part 22 which governs licensing of common carrier mobile services.

Timetable:

Action	Date	FR Cite
NPRM	09/08/82	
R&O	10/30/83	

Small Entity: Yes

Additional Information: CC Docket - 80-57.

Agency Contact: Carmen Borkowski, Federal Communications Commission, **202 632-6450**

RIN: 3060-AB00

COMMON CARRIER BUREAU - POLICY AND PROGRAM PLANNING DIVISION

13. AT&T EARNINGS ON INTERSTATE AND FOREIGN SERVICES IN 1978

Legal Authority: Communications Act, as amended, Sec 201 to 205

Abstract: Inquiry to determine if AT&T's rate of return during 1978 exceeded the limits specified by the Commission in Docket 20376.

Timetable:

Action	Date	FR Cite
Unspecified Action	06/00/84	

Small Entity: No

Additional Information: CC Docket - 79-187.

Agency Contact: Claudia Pabo, Federal Communications Commission, **202 632-9342**

RIN: 3060-AA97

14. JURISDICTIONAL SEPARATIONS: FEDERAL-STATE JOINT BOARD TO AMEND PART 67 OF FCC RULES

Legal Authority: Communications Act, as amended, Sec 205(a); Communications Act, as amended, Sec 221(c); Communications Act, as amended, Sec 410(c)

CFR Citation: 47 CFR 67

Abstract: Joint Board established to recommend changes where appropriate, to Separations Manual regarding exchange plant allocations, access and deregulation of customer premises equipment (CPE).

Timetable:

Action	Date	FR Cite
Second Recommendation and R&O	09/00/83	

Small Entity: No

Agency Contact: Claudia Pabo, Federal Communications Commission, **202 632-9342**

RIN: 3060-AA99

COMMON CARRIER BUREAU - TARIFF DIVISION

15. AT&T PRIVATE LINE RATE STRUCTURE PROCEEDING

Legal Authority: 47 USC 151 et seq; 47 USC 201 to 205; 47 USC 214; 47 USC 403; 47 USC 4i; 47 USC 4j

CFR Citation: Not applicable

VOL 48 ISS 201 OCT 17 1983 UMI

Abstract: Inquiry into AT&T private line tariff rate structures and volume discount policies. Staff is reviewing comments and replies.

Timetable:

Action	Date	FR Cite
Inquiry	09/00/84	

Small Entity: No

Additional Information: CC Docket - 79-246.

Agency Contact: Leonard Kennedy, Federal Communications Commission, 202 632-6917

RIN: 3060-AA91

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16. COMPETITIVE CARRIER RULEMAKING

Legal Authority: 47 USC 151 et seq; 47 USC 201 to 205; 47 USC 214; 47 USC 403; 47 USC 4i; 47 USC 4j

CFR Citation: 47 CFR 61; 47 CFR 63

Abstract: The Commission is considering whether to designate additional classes of carriers as non-dominant thereby affording them the benefit of streamlined regulatory treatment.

Timetable:

Action	Date	FR Cite
Further NOI (84 FCC 445) (1981)		
NOI (77 FCC 2d,308) (1979)		
1st R&O (85 FCC 2d,1) (1980)		
2nd R&O (CC 79-252)(FCC 82-350)	08/20/82	
3rd R&O	09/00/83	

Small Entity: Yes

Additional Information: CC Docket - 79-252.

Agency Contact: Anne Coffey, Federal Communications Commission, 202 632-6917

RIN: 3060-AA92

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17. GEN. DOCKET 80-113

Legal Authority: 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 21

Abstract: Technical changes to MDS rules.

Timetable:

Action	Date	FR Cite
NPRM	03/19/80	
Proceeding expanded	04/20/82	
1st R&O	12/31/83	

Small Entity: Yes

Agency Contact: Kevin Kelley, Federal Communications Commission, 202 634-1817

RIN: 3060-AB23

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18. APPLICATIONS TO BE FILED BY AT&T FOR AUTHORITY TO TRANSFER FACILITIES NECESSITATED BY U.S. V. AT&T

Legal Authority: 47 USC 214; 47 USC 310

CFR Citation: Not applicable

Abstract: Commission will rule on applications to transfer facilities to implement the Modified Final Judgment.

Timetable:

Action	Date	FR Cite
Application filed	03/01/83	
Final Action	12/31/83	

Small Entity: No

Additional Information: Civ. No. 74-1698 & 82-0192 (D.D.C.).

Agency Contact: Emily Williams, Federal Communications Commission, 202 634-1869

RIN: 3060-AB24

FIELD OPERATIONS

19. REQUIREMENTS FOR LICENSED OPERATORS IN VARIOUS RADIO SERVICES

Priority: Agency Determination

Legal Authority: 47 USC 303(r) Communications Act of 1934, as amended; 47 USC 154(i) Communications Act of 1934, as amended

CFR Citation: 47 CFR 13; 47 CFR 21; 47 CFR 23; 47 CFR 73; 47 CFR 74; 47 CFR 78; 47 CFR 81; 47 CFR 83; 47 CFR 87; 47 CFR 90; 47 CFR 94; 47 CFR 95

Abstract: Notice of Proposed Rulemaking will propose removing rules which require that certain operating, maintenance and installation duties be performed only by licensed commercial radio operators. Action proposed would be deregulatory and involves no costs. Benefit will be reduction of burden on radio station licensees.

Timetable:

Action	Date	FR Cite
NPRM	04/20/83	48 FR 22591
NPRM Comment Period End	07/20/83	
R&O	11/00/84	

Small Entity: Yes

Additional Information: RM-2643. GEN Docket - 83. ADDITIONAL AGENCY CONTACTS: (Part 21) James R. Keegan, Chief, Domestic Facilities Div., Common Carrier Bureau, Washington, DC 20554, (202) 634-1860; (Part 23) Theodore R. Waddell, Chief, Domestic Facilities, Common Carrier Bureau, Washington, DC 20554, (202) 634-1706; (Parts 73 and 74) William H. Hassinger, Engineering Assistant to Chief, Mass Media Bureau, Washington, DC 20554, (202) 632-6460; (Part 78) Clifford H. Paul, Supvy. Elec. Engineer, Cable TV Branch, Video Services Mass Media Branch, Washington, DC 20554, (202) 254-3420; (Parts 81, 83 and 87) Charles D. Fisher, Chief, Aviation and Marine Branch, Special Services Div., Private Radio Bureau, Washington, DC 20554, (202) 632-7175; (Part 90) John B. Richards, Deputy Chief, Rules Branch, Land Mobile and Microwave Private Radio Bureau, Washington, DC 20554, (202) 634-2443; (Part 95) John B. Johnston, Chief, Personal Radio Branch, Special Services Div., Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

Agency Contact: (Part 13) L. R. Clance, Attorney Advisor, Federal Communications Commission, 202 632-7591

RIN: 3060-AA00

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20. AGE AND EXPERIENCE REQUIREMENTS FOR RADIOTELEGRAPH FIRST CLASS OPERATOR LICENSE (RM-2687/RM-3785)

Legal Authority: 47 USC 303(r) Communications Act of 1934, as amended; 47 USC 154(i) Communications Act of 1934, as amended

CFR Citation: 47 CFR 13.12

Abstract: Requests elimination of age and experience requirements for Radiotelegraph First Class Operator License. Adoption would result in increased costs to agency.

Timetable:

Action	Date	FR Cite
Action by	01/00/84	

Small Entity: No

Additional Information: RM-2687/RM-3785.

Agency Contact: L. R. Clance, Attorney Advisor, Federal Communications Commission, 202 632-7591

RIN: 3060-AA01

MASS MEDIA BUREAU

21. AUTHORIZE TELETEXT USE BY TV STATIONS

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 73; 47 CFR 76

Abstract: Authorize use of teletext by TV stations. Reconsideration requested.

Timetable:

Action	Date	FR Cite
R&O	03/31/83	
MO&O	03/31/84	

Small Entity: Yes

Additional Information: BC Docket - 81-741.

Agency Contact: Alan Stillwell, Federal Communications Commission, 202 632-6302

RIN: 3060-AA27

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22. AMEND SUBSCRIPTION TELEVISION RULES

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Amend rules concerning technical operation of STV stations.

Timetable:

Action	Date	FR Cite
3rd R&O	09/30/83	

Small Entity: Yes

Additional Information: Docket - 21502.

Agency Contact: Freda Thyden, Federal Communications Commission, 202 632-7792

RIN: 3060-AA32

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23. LOW POWER TV

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 00

Abstract: Reconsider the R&O regarding low power TV. Commission adopted MO&O 3/31/83. Re-reconsideration requested.

Timetable:

Action	Date	FR Cite
MO&O	03/31/83	
Further MO&O	09/30/83	

Small Entity: No

Additional Information: BC Docket - 78-253.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AA33

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24. AMEND MICROWAVE BOOSTERS RULE

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 74

Abstract: Amend Part 74 rules to provide for operation of microwave boosters. See RM-2500.

Timetable:

Action	Date	FR Cite
NPRM	01/13/82	
R&O	12/31/83	

Small Entity: Yes

Additional Information: BC Docket - 82-20.

Agency Contact: Jim McNally, Federal Communications Commission, 202 632-9660

RIN: 3060-AA36

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25. USE OF ITFS BAND

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 74

Abstract: Amend rules to permit a variety of video services in the ITFS Band (2500-2690 MHz). Dockets 80-112 and 80-113 to be subsumed in this proceeding.

Timetable:

Action	Date	FR Cite
NPRM	05/26/83	

Small Entity: Yes

Additional Information: BC Docket - 80-112.

See Common Carrier docket.

Agency Contact: Brian Fontes, Federal Communications Commission, 202 632-6302

RIN: 3060-AA37

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26. AMEND DUAL CITY IDENTIFICATION RULES

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 73

Abstract: Amend rules pertaining to dual city identification of AM, FM and TV stations.

Timetable:

Action	Date	FR Cite
NPRM	07/01/82	
R&O	09/30/83	

Small Entity: Yes

Additional Information: BC Docket - 82-374.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AA38

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27. AMEND CABLE AERONAUTICAL RULES

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 76

Abstract: Amend 76.605 relating to rules to protect aeronautical communications and navigation radio services from cable radiation interference.

Timetable:

Action	Date	FR Cite
NPRM	03/12/80	
R&O	06/30/84	

Small Entity: Yes

Additional Information: Docket - 21006.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AA42

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28. ELIMINATION OF RESTRICTIONS ON NETWORK-CABLE TV CROSS-OWNERSHIP

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 76

Abstract: Proposes elimination of restrictions on television network-cable system cross-ownership found in 76.501.

Timetable:

Action	Date	FR Cite
NPRM	07/15/82	
R&O	12/31/83	

Small Entity: Yes

Additional Information: BC Docket - 82-434.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AA45

29. REPEAL OF NETWORK SYNDICATION AND FINANCIAL INTEREST RULES

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Repeal of network syndication and financial interest rules. NPRM adopted 06/23/82. A tentative decision and Request for Further Comments was adopted by the Commission on August 4, 1983.

Timetable:

Action	Date	FR Cite
NPRM	06/23/82	
Tentative Decision	08/04/83	
R&O	09/30/83	

Small Entity: Yes

Additional Information: BC Docket - 82-345.

Agency Contact: William Johnson, Federal Communications Commission, 202 632-6460

RIN: 3060-AB26

30. DEREGULATION OF COMMERCIAL TV PROGRAMMING

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Abstract: Deregulation of commercial television re: programming, commercialization, ascertainment and program log requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/29/83	
R&O	06/30/84	

Small Entity: Yes

Additional Information: MM Docket - 83-670.

See mmb-2.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AB27

31. EXTENDED AM HOURS OF OPERATION FOR DAYTIMERS

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Reexamination of restrictions on hours of operation of daytime-only AM broadcast stations.

Timetable:

Action	Date	FR Cite
NPRM	08/04/82	
R&O	09/30/83	

Small Entity: Yes

Additional Information: BC Docket - 82-538.

Agency Contact: Jonathan David, Federal Communications Commission, 202 632-7792

RIN: 3060-AB29

32. ●CHILDREN'S TV INQUIRY

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Children's TV inquiry.

Timetable:

Action	Date	FR Cite
R&O	12/00/83	

Small Entity: Yes

Additional Information: Docket - 19142.

Agency Contact: Freda Thyden, Federal Communications Commission, 202 632-7792

RIN: 3060-AB46

33. ●PERMIT USE OF TV SUBCARRIERS FOR TV STEREO

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 73.665; 47 CFR 73.667

Abstract: FNPRM to permit TV broadcast licensees to transmit multiplex aural subcarriers for a wide range of broadcast and non-broadcast uses such as, stereo programming, paging services, electronic mail, etc.

Timetable:

Action	Date	FR Cite
FNPRM	07/28/83	
R&O	00/00/00	

Small Entity: Yes

Additional Information: Docket - 21323.

Agency Contact: Jim McNally, Federal Communications Commission, 202 632-9660

RIN: 3060-AB48

34. ●PROTECTION STANDARDS FOR AM STATIONS IN ALASKA

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 73

Abstract: Invites comments on proposal to amend Classes I and II AM rules to provide greater interference protection to certain Alaska AM stations.

Timetable:

Action	Date	FR Cite
NPRM	07/28/83	

Small Entity: Yes

Additional Information: RM-4327.

Agency Contact: Jonathan David, Federal Communications Commission, 202 632-7792

RIN: 3060-AB49

35. ●FURTHER NOTICE OF PROPOSED RULEMAKING - RADIO DEREGULATION

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 73

Abstract: Further Notice re radio deregulation as to whether the Commission should adhere to the original decision eliminating program log keeping and requiring maintenance of an issues/programs list or require licensees to keep a more comprehensive record of issue responsive programming in addition to issues/programs list.

Timetable:

Action	Date	FR Cite
FNPRM	06/29/83	
R&O	03/31/84	

Small Entity: Yes

Additional Information: BC Docket - 79-219.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AB50

36. ●VHF DROP-INS

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: VHF drop-ins.

Timetable:

Action	Date	FR Cite
R&O	03/31/84	

Small Entity: Yes

Additional Information: BC Docket - 80-499.

Agency Contact: Greg DePriest, Federal Communications Commission, 202 632-9660

RIN: 3060-AB51

37. ●INCREASE AVAILABILITY OF COMMERCIAL FM ASSIGNMENTS

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Modification of FM broadcast station rules to increase the availability of commercial FM broadcast assignments. Reconsideration requested.

Timetable:

Action	Date	FR Cite
R&O	05/26/83	
MO&O	12/31/83	

Small Entity: Yes

Additional Information: BC Docket - 80-90.

Agency Contact: Katy Hosford, Federal Communications Commission, 202 632-9660

RIN: 3060-AB52

38. ●REGION 2 AM AGREEMENT

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Implementation of the plan for AM broadcasting in Region 2.

Timetable:

Action	Date	FR Cite
NOI	04/01/82	
R&O	12/31/83	

Small Entity: Yes

Additional Information: BC Docket - 82-187.

Agency Contact: Wilson La Follette, Federal Communications Commission, 202 632-5414

RIN: 3060-AB53

39. ●AMEND MULTIPLE OWNERSHIP RULES - ATTRIBUTION

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Amend multiple ownership rules to: (1) raise to 5% the amount of voting stock that can be held by investment advisers in corporate daily newspapers; (2) allow 10% ownership by investment companies and investment advisers having voting discretion; and (3) include employee pension funds in 5% ownership benchmark.

Timetable:

Action	Date	FR Cite
NPRM	01/27/83	
R&O	12/31/83	

Small Entity: Yes

Additional Information: BC Docket - 83-46.

Agency Contact: Bruce Romano, Federal Communications Commission, 202 632-7792

RIN: 3060-AB55

40. ●REPEAL OF PERSONAL ATTACK AND POLITICAL EDITORIAL RULES

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 64

Abstract: NPRM on issue that personal attack and political editorial rules do not serve the public interest and therefore should be repealed.

Timetable:

Action	Date	FR Cite
NPRM	05/12/83	
R&O	00/00/00	

Small Entity: Yes

Additional Information: GEN Docket - 83-484.

See RM-3739.

Agency Contact: Sue Steiman, Federal Communications Commission, 202 632-6990

RIN: 3060-AB56

41. ●FAIRNESS DOCTRINE AND POLITICAL CABLECASTING REQUIREMENTS FOR CATV SYSTEMS

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 76.205; 47 CFR 76.209

Abstract: NPRM to examine whether alternative methods of compliance by cable operators with fairness and equal time provisions can be implemented and whether any aspects of these doctrines can be eliminated.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	
R&O	00/00/00	

Small Entity: Yes

Additional Information: MM Docket - 83-331.

See mmb-6, RM-3676.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AB57

42. ●INSTRUCTION TELEVISION FIXED SERVICE

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 00

Abstract: NPRM exploring relaxed technical and non-technical requirements to increase ability of ITFS licensees to achieve financial viability and increase effeciency of spectrum usage.

Timetable:

Action	Date	FR Cite
NPRM	05/26/83	
R&O	00/00/00	

Small Entity: Yes

Additional Information: MM Docket - 83-523.

See RM-2603, RM-2609, RM-2954, RM-3057.

Agency Contact: Brian Fontes, Federal Communications Commission, 202 632-6303

RIN: 3060-AB58

43. ●ASSIGNMENT OF CANADIAN AND MEXICAN CLEAR CHANNELS TO U.S. AM RADIO APPLICANTS

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: NPRM to amend rules in order to establish technical and eligibility criteria for new unlimited-time AM stations on Canadian, Mexican and Bahamian Class I-A clear channels.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Yes

Additional Information: Docket - mmb-20.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Wilson LaFollette, Federal Communications Commission, 202 632-5414

RIN: 3060-AB59

44. ●COMPARATIVE PREFERENCES WITHIN METROPOLITAN AREAS

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 00

Abstract: Proposal to eliminate comparative preference obtained in specifying a suburban community as city of license. (Sec. 307(b)).

Timetable:

Action	Date	FR Cite
NPRM	04/15/83	
R&O	00/00/00	

Small Entity: Yes

Additional Information: MM Docket - 83-403.

See mmb-18.

Agency Contact: Mark Lipp, Federal Communications Commission, 202 634-6530

RIN: 3060-AB61

45. ●AMEND REMOTE CONTROL RULES FOR AM, FM & TV STATIONS

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Amend remote control rules for broadcast stations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Yes

Additional Information: RM-3046.

Agency Contact: John Reiser, Federal Communications Commission. 202 632-9660

RIN: 3060-AB63

46. ●AMEND ANTENNA INPUT POWER RULE

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Amend 73.51 re determination of antenna input power for AM stations.

Timetable:

Action	Date	FR Cite
NPRM	06/30/84	

Small Entity: Yes

Additional Information: RM-3799.

Agency Contact: Katie Hosford, Federal Communications Commission, 202 632-9660

RIN: 3060-AB64

47. ●AM SCA EXPANDED USES

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 00

Abstract: Amend AM SCA rules to allow multiplex transmissions for purposes other than AM utility load management.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Yes

Additional Information: RM-4367.

Agency Contact: Scott Roberts, Federal Communications Commission, 202 632-6302

RIN: 3060-AB65

48. ●DELETION OF REGIONAL CONCENTRATION OF CONTROL RULES

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 00

Abstract: Delete rule which prohibits common ownership of three broadcast stations in one or several services where any two services are located within 100 miles of the third.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Yes

Additional Information: RM-4564.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AB66

49. ●NIGHTTIME POWER LIMITATIONS AND ANTENNA SYSTEMS FOR CLASS IV AM

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 73.21; 47 CFR 73.27; 47 CFR 73.182

Abstract: Nighttime power limitations and antenna systems for Class IV AM broadcasting stations.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: Yes

Additional Information: BC Docket - 79-265.

Agency Contact: Fred Schottland, Federal Communications Commission, 202 632-5414

RIN: 3060-AB67

50. ●NONCOMMERCIAL STV OPERATION

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 00

Abstract: Licensing of STV for noncommercial TV stations.

Timetable:

Action	Date	FR Cite
NPRM	07/15/82	
R&O	12/31/83	

Small Entity: Yes

Additional Information: BC Docket - 82-441.

Agency Contact: John Kamp, Federal Communications Commission, 202 632-7792

RIN: 3060-AB69

51. ●AMEND TV AURAL POWER-VISUAL POWER RULE

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 00

Abstract: Amend 73.682 to allow TV stations to operate with 10% aural power relative to visual power. (Previous item, RM-4086, adopted 02/17/83.)

Timetable:

Action	Date	FR Cite
NPRM	02/17/83	
R&O	06/30/84	

Small Entity: Yes

Additional Information: MM Docket - 83-117.

Agency Contact: Bernard Gordon, Federal Communications Commission, 202 632-9660

RIN: 3060-AB71

52. ●DELETE 25 MV/M COVERAGE RULE FOR AM STATIONS

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 00

Abstract: Delete 73.24(j) which requires that the 25 mV/m contour of AM stations encompass the business district of the community to which it is assigned. NPRM adopted (RM-4061) 01/13/83.

Timetable:

Action	Date	FR Cite
NPRM	03/00/83	
R&O	00/00/00	

Small Entity: Yes

Additional Information: MM Docket - 83-15.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AB72

53. ●AM ANTENNA MONITORING SYSTEMS

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 00

Abstract: Use of toroidal current transformers and impedance-matched transmission line relays in directional AM antenna monitoring systems.

Timetable:

Action	Date	FR Cite
NPRM	01/13/83	
R&O	12/31/83	

Small Entity: Yes

Additional Information: MM Docket - 83-16.

See RM-3740; RM-3103.

Agency Contact: Jim McNally, Federal Communications Commission, 202 632-9660

RIN: 3060-AB73

OFFICE OF GENERAL COUNSEL

54. POLICY REGARDING CHARACTER QUALIFICATIONS IN BROADCAST LICENSING

Priority: Agency Determination

Legal Authority: 47 USC 154(i); 47 USC 308(b); 47 USC 309; Communications Act of 1934, as amended, Secs 4(i),308(b),& 309

Abstract: Formulation of a comprehensive policy statement establishing a detailed and systematic treatment of the character qualifications of broadcast applicants will provide guidance to broadcast licensees and the public and enhance the fairness and efficiency of the licensing process. This action should not impose any additional costs on broadcast applicants or the Commission. Conversely, broadcast applicants, the public, and the Commission should benefit from the formulation and adoption of a clear policy position consistent with the Communications Act of 1934, as amended, on the issue of character.

Timetable:

Action	Date	FR Cite
MO&O	12/00/83	

Small Entity: No

Additional Information: GEN Docket - 81-500.

Agency Contact: Sheldon M. Guttmann, Chief, Administrative Law Division, Federal Communications Commission, 202 632-6990

RIN: 3060-AB09

55. AMENDING ENVIRONMENTAL RULES IN RESPONSE TO NEW RULES ISSUED BY THE COUNCIL ON ENVIRONMENTAL QUALITY (C.E.Q.)

Legal Authority: 5 USC 553(b); 47 USC 154(j)

CFR Citation: 47 CFR 1, Subpart I

Abstract: The Commission's existing environmental rules are being revised to comply with guidelines issued by the Council for Environmental Quality (C.E.Q.).

Timetable:

Action	Date	FR Cite
MO&O	09/00/83	

Small Entity: No

Additional Information: GEN Docket - 79-163.

Agency Contact: Sheldon M. Guttmann, Chief, Administrative Law Division, Federal Communications Commission, 202 632-6990

RIN: 3060-AB30

PRIVATE RADIO

56. SPECIAL EMERGENCY RADIO SERVICE

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90

Abstract: Inquiry into the problems, as well as the regulatory and deregulatory requirements for systems operating in the Special Emergency Radio Service in the 450-460 MHz bands.

Timetable:

Action	Date	FR Cite
Reply Comments close	05/19/83	
R&O	12/00/83	

Small Entity: No

Additional Information: PR Docket - 81-416.

Agency Contact: Fred Day, Federal Communications Commission, 202 634-2443

RIN: 3060-AA10

57. AMATEUR NO-CODE

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 97

Abstract: Proposes establishment of a Class of Amateur Operator license not requiring a demonstraiton of proficiency in the International Morse Code.

Timetable:

Action	Date	FR Cite
Reply Comments closed	07/28/83	
R&O	12/00/83	

Small Entity: No

Additional Information: PR Docket - 83-28.

Agency Contact: J. Borkowski, Federal Communications Commission, 202 632-4964

RIN: 3060-AA21

58. VOLUNTEER EXAMINERS IN AMATEUR RADIO SERVICE

Legal Authority: PL 97-259

CFR Citation: 47 CFR 97

Abstract: Implements P.L. 97-259 by proposing to allow use of volunteers to prepare and administer operator examinations in the Amateur Radio Service.

Timetable:

Action	Date	FR Cite
Reply Comments closed	05/19/83	
R&O	09/00/83	

Small Entity: No

Additional Information: PR Docket - 83-27.

Agency Contact: J. Borkowski, Federal Communications Commission, 202 632-4964

RIN: 3060-AA23

59. DSC IN MARINE SERVICES AND DIRECT DIAL IN VHF SERVICES

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 83

Abstract: Provides initial guidelines for use of digital selective calling (DSC) in Marine services and provide direct-dial VHF communications between public coast and ship stations.

Timetable:

Action	Date	FR Cite
Comments close	11/09/83	
Reply Comments close	12/27/83	
R&O	03/00/84	

Small Entity: No

Additional Information: PR Docket - 83-431.

Agency Contact: R. Mickley, Federal Communications Commission, 202 632-7175

RIN: 3060-AA24

60. COMPULSORY SHIP INSPECTION CYCLE

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 83

Abstract: Analyzes entire compulsoty ship inspection program for inspection frequency and issuance of certificates. Among other things, proposes to change cycles of inspection for Title III, Part III (small passenger) vessels.

Timetable:

Action	Date	FR Cite
Reply Comments closed	06/28/83	
R&O	09/00/84	

Small Entity: No

Additional Information: PR Docket - 83-428.

Agency Contact: N. Bagnato, Federal Communications Commission, 202 632-7175

RIN: 3060-AA25

61. NEW PERSONAL RADIO SERVICE AT 900 MHZ

Legal Authority: 47 USC 303(r); 47 USC 154(i)

CFR Citation: 47 CFR 96

Abstract: Proposes establishment of an additional Private Radio Service.

Timetable:

Action	Date	FR Cite
Reply Comments closed	09/06/83	
R&O	03/00/84	

Small Entity: Yes

Additional Information: GEN Docket - 83-26.

Agency Contact: J.B. Johnston, Federal Communications Commission, 202 632-4964

RIN: 3060-AA55

62. 10-YEAR AMATEUR RADIO LICENSE TERM

Legal Authority: PL 97-259

CFR Citation: 47 CFR 97

Abstract: Implement P.L. 97-259 by proposing to extend the license terms in Amateur Radio Service to ten years.

Timetable:

Action	Date	FR Cite
R&O	09/00/83	

Small Entity: No

Additional Information: PR Docket - 83-337.

Agency Contact: J. McGrath, Federal Communications Commission, 202 632-4964

RIN: 3060-AB32

63. 10 YEAR GMRS RADIO LICENSE TERM

Legal Authority: PL 97-259

CFR Citation: 47 CFR 95

Abstract: Implement P.L. 97-259 by proposing to extend the license term in the GMRS Radio Service to ten years.

Timetable:

Action	Date	FR Cite
NPRM	03/00/83	
R&O	09/00/83	

Small Entity: Yes

Additional Information: PR Docket - 83-330.

Agency Contact: J. McGrath, Federal Communications Commission, 202 632-4964

RIN: 3060-AB33

64. 800 MHZ RECONSIDERATION

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90

Abstract: A petition for reconsideration has been filed regarding the Commission's July 1982 Report and Order in this proceeding which released all remaining channels at 800 MHz for use by private land mobile radio systems under a deregulatory framework.

Timetable:

Action	Date	FR Cite
MO&O	09/00/83	

Small Entity: Yes

Additional Information: PR Docket - 79-191.

Agency Contact: Joseph Levin, Federal Communications Commission, 202 634-2443

RIN: 3060-AB36

65. 900 MHZ PAGING RECONSIDERATION

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90

Abstract: Petitions for reconsideration have been filed regarding the Commission's July 1982 Report and Order in this proceeding which released 40 channels in the 900 MHz band for private user and private carrier paging systems.

Timetable:

Action	Date	FR Cite
MO&O	09/00/83	

Small Entity: Yes

Additional Information: GEN Docket - 80-183.

Agency Contact: Jack Richards, Federal Communications Commission, 202 634-2443

RIN: 3060-AB37

66. UNICOMS AT CONTROLLED AIRPORTS

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 87

Abstract: Proposes to eliminate the one unicom per airport limitation at controlled airports and reflect recent statutory changes in aircraft licensing.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: Yes

Additional Information: PR Docket - 83-990.

Agency Contact: R. McNamara, Federal Communications Commission, 202 632-7175

RIN: 3060-AB38

67. ●INTERCONNECTION BELOW 800 MHZ

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90

Abstract: Interconnection of private land mobile radio systems with the public switched telephone network in the Bands below 800 MHz.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Yes

Additional Information: Docket - interconnect.

Agency Contact: Nia Chesham, Federal Communications Commission, 202 634-2443

RIN: 3060-AB74

68. ●20 MILES = 40 DBU FIELD STRENGTH CONTOUR

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90

Abstract: Substitution of 20 miles in place of the 40 dBu field intensity contour used to determine a SMR system's market for the purpose of complying with Sections 90.367(c) and 90.371(b) of the Rules.

Timetable:

Action	Date	FR Cite
Reply Comments closed	02/15/82	
R&O	09/00/83	

Small Entity: No

Additional Information: PR Docket - 81-787.

Agency Contact: H. Zeiler/M. Kennedy, Federal Communications Commission, 202 634-2443

RIN: 3060-AB75

69. ●NORTHERN CALIFORNIA TRUNKING

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90

Abstract: Revision of standards for assignment of 800 MHz channels for co-channel trunked systems in Northern California.

Timetable:

Action	Date	FR Cite
Reply Comments closed	11/22/82	
R&O	09/00/83	

Small Entity: No

Additional Information: PR Docket - 82-593.

Agency Contact: M. Kennedy/H. Zeiler, Federal Communications Commission, 202 634-2443

RIN: 3060-AB76

70. ●PRIVATE MICROWAVE CARRIER SYSTEMS

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 94

Abstract: Proposal to authorize private carrier systems in the private operational-fixed microwave radio service.

Timetable:

Action	Date	FR Cite
Reply Comments closed	08/17/83	
R&O	06/00/84	

Small Entity: Yes

Additional Information: PR Docket - 83-426.

Agency Contact: Fred Day, Federal Communications Commission, 202 634-2443

RIN: 3060-AB77

71. ●FREQUENCY COORDINATION IN THE PLMRS

Legal Authority: 47 USC 154(i); 47 USC 331(b)

CFR Citation: 47 CFR 90

Abstract: Inquiry regarding frequency coordinating committees and the need for new rules to govern frequency coordination and field study procedures in the PLMRS.

Timetable:

Action	Date	FR Cite
Comment Period closes	11/30/83	
NPRM	09/00/84	

Small Entity: No

Additional Information: PR Docket - 83-737.

Agency Contact: E. Thomson/H. Zeiler, Federal Communications Commission, 202 634-2443

RIN: 3060-AB78

OFFICE OF SCIENCE AND TECHNOLOGY

72. METEOR BURST COMMUNICATION SERVICE

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: NPRM proposes use of 4 frequencies in the 40-50 MHz band for Common Carrier use in Alaska.

Timetable:

Action	Date	FR Cite
R&O	09/00/83	

Small Entity: Yes

Additional Information: RM-3685.

Agency Contact: Sam Tropea, Federal Communications Commission, 202 653-8167

RIN: 3060-AA48

73. AIR-GROUND RADIOTELEPHONE SERVICE (AIRFONE, INC.)

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: NPRM proposes 4 MHz in the 900 MHz range for air-to-ground telephone service aboard commerical airlines.

Timetable:

Action	Date	FR Cite
NPRM	12/00/82	
R&O	03/00/84	

Small Entity: Yes

Additional Information: RM-3524.

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Mel Murray, Federal Communications Commission, 202 653-8168

RIN: 3060-AA49

74. AIR-GROUND RADIOTELEPHONE SERVICE (ARINC)

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: NPRM proposes 4 MHz in the 900 MHz range for air-to-ground telephone service aboard commercial airlines.

Timetable:

Action	Date	FR Cite
R&O	03/00/84	

Small Entity: Yes

Additional Information: RM-3885.

Agency Contact: Mel Murray, Federal Communications Commission, 202 653-8168

RIN: 3060-AA50

75. NPRM - AMENDMENT OF PART 5 OF THE COMMISSION'S RULES TO DIMINISH RESTRICTIONS ON THE LICENSING AND USE OF STATIONS IN THE EXPERIMENTAL RADIO SERVICE (OTHER THAN BROADCAST)

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 5

Abstract: Rewrite of Part 5 to delete rules which are no longer useful and eliminate or reduce regulatory restrictions.

Timetable:

Action	Date	FR Cite
R&O	09/00/83	

Small Entity: Yes

Additional Information: GEN Docket - 82-469.

Agency Contact: H. F. Wright, Federal Communications Commission, 202 653-8137

RIN: 3060-AA51

76. 18 GHZ REALLOCATION

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: Second R&O will provide narrow band channels for point-to-point fixed use as well as spectrum for DTS usage.

Timetable:

Action	Date	FR Cite
2nd R&O	09/00/83	

Small Entity: No

Additional Information: GEN Docket - 78-188.

Agency Contact: Mel Murray, Federal Communications Commission, 202 653-8168

RIN: 3060-AA52

77. IMPLEMENTATION OF FINAL ACTS, WARC-79

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: Proceeding will amend Part 2 of the Rules (Definition and Frequency Allocations) to make them consistent with International Radio Regulations developed by the 1979 WARC.

Timetable:

Action	Date	FR Cite
R&O	09/00/83	

Small Entity: Yes

Additional Information: Docket - 80-739.

Agency Contact: Fred Thomas, Federal Communications Commission, 202 653-8171

RIN: 3060-AA53

78. REACCOMMODATION OF 12 GHZ TERRESTRIALS

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: Proceeding will provide frequency allocations/technical standards to accommodate 12 GHz fixed service licensees who may be displaced by broadcasting-satellite systems.

Timetable:

Action	Date	FR Cite
R&O	09/00/83	

Small Entity: Yes

Agency Contact: Donald Campbell, Federal Communications Commission, 202 653-8177

RIN: 3060-AA54

79. L.A. SHERIFF'S PETITION

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: Petition requests reallocation of UHF-TV Channels 14-20 to public safety services.

Timetable:

Action	Date	FR Cite
MO&O	6/30/83	
NPRM or MO&O	06/00/84	

Small Entity: No

Additional Information: RM-3975.

Agency Contact: Don Precure, Federal Communications Commission, 202 653-8170

RIN: 3060-AA57

80. U.S.C.G. REQUEST TO USE 161.7 AND 161.75 MHZ

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: USCG requests use of 161.7 MHz and 161.75 MHz to transmit printed navigational information to vessels, communicate by voice to foreign vessels, and use for search and rescue operations.

Timetable:

Action	Date	FR Cite
R&O	03/00/84	

Small Entity: Yes

Agency Contact: Sam Tropea, Federal Communications Commission, 202 653-8167

RIN: 3060-AA59

81. UTILIZATION POLICY FOR FIXED SERVICE AT 17-40 GHZ

Legal Authority: 47 USC 303

CFR Citation: Not applicable

Abstract: Proceeding will develop a plan for use of five frequency bands between 17 and 40 GHz by the fixed service. Appropriate rulemaking may ensue.

Timetable:

Action	Date	FR Cite
R&O	09/00/83	

Small Entity: No

Additional Information: Docket - 82-334.

Agency Contact: Donald Campbell, Federal Communications Commission, 202 653-8177

RIN: 3060-AA60

82. PETITION FOR ALLOCATION OF CORDLESS PHONES (EIA)

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: EIA requests allocation of 74.6-74.8 MHz and 75.2-75.4 MHz for cordless phones.

Timetable:

Action	Date	FR Cite
R&O being drafted for presentation before Commission	11/00/83	

Small Entity: Yes

Additional Information: RM-4075.

Agency Contact: Julius Knapp, Federal Communications Commission, 202 653-8247

RIN: 3060-AA61

83. PETITION FOR ALLOCATION OF CORDLESS PHONES (MURA CORPORATION)

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: MURA requests allocation of frequencies in the bands 46.6-47.0 MHz and 49.6-50 MHz for cordless phones on a secondary basis.

Timetable:

Action	Date	FR Cite
NPRM	3/31/83	

Small Entity: Yes

Additional Information: RM-4062.

Agency Contact: Mel Murray, Federal Communications Commission, 202 653-8168

RIN: 3060-AA62

84. ALLOCATION FOR AURAL BROADCAST STL'S

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: NPRM proposes sharing of 2130-2150 MHz and 2100-2200 MHz bands on a co-primary basis for aural broadcasts STL's and private operational fixed links.

Timetable:

Action	Date	FR Cite
R&O	03/00/84	

Small Entity: Yes

Additional Information: GEN Docket - 82-335.

Agency Contact: Sam Tropea, Federal Communications Commission, 202 653-8167

RIN: 3060-AA71

85. FLIGHT ENTERTAINMENT SYSTEM

Legal Authority: 47 USC 411

CFR Citation: Not applicable

Abstract: Order dismissing request for authority to operate in flight cordless earphone system.

Timetable:

Action	Date	FR Cite
Order dismissing request	09/00/83	

Small Entity: No

Additional Information: Docket - 79-190.

Agency Contact: Art Wall, Federal Communications Commission, 202 653-8247

RIN: 3060-AA74

86. WAIVER, CORDLESS PHONES

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15.7

Abstract: Setting of interim standards for cordless phone pending procedures for reallocation of spectrum.

Timetable:

Action	Date	FR Cite
Order for Reconsideration	09/30/83	

Small Entity: No

Agency Contact: Art Wall, Federal Communications Commission, 202 653-8247

RIN: 3060-AA76

87. REPORT ON VERIFICATION CATEGORIES

Legal Authority: 47 USC 302

CFR Citation: Not applicable

Abstract: Determination of category of equipment placed in Verification category, instead of certification requirement.

Timetable:

Action	Date	FR Cite
R&O	09/00/83	

Small Entity: Yes

Agency Contact: John Reed, Federal Communications Commission, 202 653-6288

RIN: 3060-AA77

88. HF BROADCASTING WARC (1984)

Legal Authority: 47 USC 411

CFR Citation: Not applicable

Abstract: Develop a world-wide high frequency (short-wave) broadcasting plan.

Timetable:

Action	Date	FR Cite
R&O	03/31/83	

Small Entity: No

Additional Information: Docket - 82-162.

Agency Contact: Steve Selwyn, Federal Communications Commission, 202 653-8102

RIN: 3060-AA78

89. SPACE SERVICES WARC (1985)

Legal Authority: 47 USC 411

CFR Citation: Not applicable

Abstract: This proceeding is in preparation for the ITU World Administrative Radio Conference on the Geostationary-Satellite Orbit and the Planning of the Space Services Utilizing It.

Timetable:

Action	Date	FR Cite
NOI	10/03/83	

Small Entity: No

Additional Information: Docket - 80-741.

Agency Contact: A. Rutkowski, Federal Communications Commission, 202 653-8102

RIN: 3060-AA79

90. INBAND TECHNICAL STANDARDS

Legal Authority: Communications Act of 1934, Sec 4(i)

CFR Citation: Not applicable

Abstract: The NOI will be a broad review of FCC Technical Standards with a view towards eliminating unnecessary regulations.

Timetable:

Action	Date	FR Cite
NOI and Proposed R&O	09/30/83	

Small Entity: Yes

Agency Contact: Mike Marcus, Federal Communications Commission, 202 632-7040

RIN: 3060-AA82

91. SANYO PETITION

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 15.65

Abstract: Petitioner requests waiver of Rules to market 2-channel receiver for cable systems.

Timetable:

Action	Date	FR Cite
Commission will decide about granting waiver	10/00/83	

Small Entity: No

Agency Contact: Robert Unger, Federal Communications Commission, 202 632-7067

RIN: 3060-AB39

92. ●6 MHZ ALLOCATION FOR GOVERNMENT/NON-GOVERNMENT FIXED SERVICE

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: Amendment of Part 2 of the Rules to provide an allocation of 6 MHz in the 900 MHz spectral region on the government and non-government for fixed service usage.

Timetable:

Action	Date	FR Cite
R&O	03/31/84	

Small Entity: Undetermined

Agency Contact: Rodney Small, Federal Communications Commission, 202 653-8169

RIN: 3060-AB41

93. ●OFFSHORE RADIO TELEPHONE CO. RM3910, RM3924

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: Offshore Radio Telephone Co. Is requesting additional UHF-TV broadcasting spectrum for the offshore Radio Telecommunications Service along the Southern Louisiana and Texas Gulf Coast

Timetable:

Action	Date	FR Cite
R&O	03/31/84	

Small Entity: Undetermined

Agency Contact: Melvin Murray, Federal Communications Commission, 202 653-8168

RIN: 3060-AB42

94. ●CREATION OF AN ADDITIONAL PERSONAL RADIO SERVICE

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: Amendment of Part 2 of the Rules to provide an allocation in the 900 MHz spectral region for a personal radio telephone service.

Timetable:

Action	Date	FR Cite
R&O	03/31/84	

Small Entity: Undetermined

Agency Contact: Rodney Small, Federal Communications Commission, 202 653-8169

RIN: 3060-AB43

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Existing Regulations Under Review

COMMON CARRIER BUREAU - ACCOUNTING AND AUDITS DIVISION

95. REVIEW OF PART 41

Legal Authority: 47 USC 220

CFR Citation: 47 CFR 41

Abstract: A review is being made to determine if recordkeeping and reporting requirements can be modified and reduced.

Timetable:

Action	Date	FR Cite
Under Review		
End Review	03/00/83	

Next Action Undetermined

Small Entity: No

Agency Contact: Gerald P. Vaughan, Chief, Accounting & Audits Division, Federal Communications Commission, 202 634-1861

RIN: 3060-AB18

96. REVIEW OF PART 42

Legal Authority: 47 USC 154; 47 USC 220

CFR Citation: 47 CFR 42

Abstract: A review is being made to determine if record retention requirements can be reduced.

Timetable:

Action	Date	FR Cite
End Review	03/00/83	
NPRM	11/00/83	

Small Entity: No

Agency Contact: Gerald P. Vaughan, Chief, Accounting & Audits Division, Federal Communications Commission, 202 634-1861

RIN: 3060-AB19

97. REVIEW OF PARTS 51 AND 52

Legal Authority: 47 USC 154; 47 USC 219; 47 USC 220

CFR Citation: 47 CFR 51

Abstract: A review is being made to determine if the recordkeeping requirements can be reduced or eliminated.

Timetable:

Action	Date	FR Cite
End Review	03/00/83	
R&O	11/00/83	

Small Entity: No

Agency Contact: Gerald P. Vaughan, Chief, Accounting & Audits Division, Federal Communications Commission, 202 634-1861

RIN: 3060-AB20

COMMON CARRIER BUREAU - TARIFF DIVISION

98. AT&T 1981 GENERAL RATE INCREASE

Legal Authority: 47 USC 151 et seq; 47 USC 201 to 205; 47 USC 214; 47 USC 403; 47 USC 4i; 47 USC 4j

CFR Citation: Not applicable

Abstract: AT&T 1981 General Rate Increase. Tariff filing (Trans. 13703-13708) for a general rate increase suspended and set for investigation. Staff is reviewing support data.

Timetable:

Action	Date	FR Cite
R&O	09/00/83	

Small Entity: No

Additional Information: CC Docket - 81-412.

Agency Contact: Stan Wiggins, Federal Communications Commission, 202 632-6917

RIN: 3060-AA90

OFFICE OF GENERAL COUNSEL

99. IN THE MATTER OF FORMULATION OF POLICIES RELATING TO THE BROADCAST RENEWAL APPLICANT, STEMMING FROM THE COMPARATIVE HEARING PROCESS

Priority: Agency Determination

Legal Authority: 47 USC 154(i); 47 USC 308(b); 47 USC 319(a); 47 USC 403

CFR Citation: 47 CFR 1

Abstract: The notice seeks comment on a number of issues, including whether it is feasible to adopt more specific standards for determining when a renewal applicant's programming record is meritorious, so as to outweigh disadvantages an incumbent may face under diversification and other traditional comparative criteria. Amended comparative renewal criteria and standards will have the net effect of saving applicant's and the Commission's time and resources in the renewal process.

Timetable:

Action	Date	FR Cite
MO&O	09/00/83	

Small Entity: No

Additional Information: GEN Docket - 81-499.

Agency Contact: Sheldon M. Guttmann, Chief, Administrative Law Division, Federal Communications Commission, 202 632-6990

RIN: 3060-AB10

100. ●REPEAL OF MODIFICATION OF THE PERSONAL ATTACK AND POLITICAL EDITORIAL RULES, SEC 73.1920 & SEC 73.1930 OF THE COMMISSION'S RULES

Priority: Agency Determination

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 73.1920; 47 CFR 73.1930

Abstract: A proceeding designed to re-examine the personal attack and political editorial rules.

Timetable:

Action	Date	FR Cite
MO&O	12/15/83	

Small Entity: Undetermined

Agency Contact: Sheldon M. Guttmann, Chief, Administrative Law Division, Federal Communications Commission, 202 632-6990

RIN: 3060-AB44

101. ●IN THE MATTER OF AMENDMENT OF THE FEDERAL COMMUNICATIONS COMMISSION'S ETHICS IN GOVERNMENT RULES

Priority: Agency Determination

Legal Authority: 47 USC 207(j)

CFR Citation: 47 CFR 19

Abstract: The Ethics in Government Act of 1978 contains financial reporting regulations which require certain high-level or policy-making employees to disclose their personal financial interests. The Act also contains restrictions on the post-employment activities of certain employees, is required to comply with the Act.

Timetable:

Action	Date	FR Cite
Order	09/00/83	

Small Entity: Undetermined

Agency Contact: Sheldon M. Guttmann, Chief, Administrative Law Division, Federal Communications Commission, 202 632-6990

RIN: 3060-AB45

OFFICE OF SCIENCE AND TECHNOLOGY

102. ●GEOSTAR CORP. PETITION FOR RADIODETERMINATION SATELLITE

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2.106

Abstract: Petition requests reallocation of spectrum in the 1610-1626 MHz, 2450-2500 MHz and 5000-5250 MHz band for a radiodetermination satellite service system.

Timetable:

Action	Date	FR Cite
NPRM	06/00/84	

Small Entity: Undetermined

Agency Contact: Tom Tycz, Federal Communications Commission, 202 653-8159

RIN: 3060-AB79

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Completed Actions

COMPLETED RULEMAKINGS

103. RULEMAKING TO IMPLEMENT THE COMMUNICATIONS AMENDMENTS ACT OF 1982 WITH RESPECT TO COMMON CARRIER AND SATELLITE LICENSING PROCEDURES

CFR Citation: 47 CFR 21; 47 CFR 25

Completed:

Reason	Date	FR Cite
R&O adopted	06/07/83	

Small Entity: Yes

Agency Contact: Ted Waddell 202 634-1706

RIN: 3060-AB21

104. GEN. DOCKET 80-112

CFR Citation: 47 CFR 2; 47 CFR 21; 47 CFR 74

Completed:

Reason	Date	FR Cite
R&O adopted	05/26/83	

Small Entity: Yes

FCC — Completed Actions

Agency Contact: Kevin Kelley 202 634-1817

RIN: 3060-AB22

105. AMENDMENT OF ANNUAL REPORT FORM M SCHEDULES FOR TELEPHONE COMPANIES

CFR Citation: 47 CFR 31

Completed:

Reason	Date	FR Cite
R&O	04/07/83	

Small Entity: No

Agency Contact: Gerald P. Vaughan 202 634-1861

RIN: 3060-AA89

106. AMENDMENT OF PARTS 34 AND 35 WITH CONFORMING AMENDMENTS OF ANNUAL FORMS O AND R

CFR Citation: 47 CFR 34; 47 CFR 35

Completed:

Reason	Date	FR Cite
R&O adopted	09/09/83	

Small Entity: No

Agency Contact: Michael E. Wilson 202 634-1965

RIN: 3060-AB17

107. LICENSING OF SPACE STATIONS IN DOMESTIC FIXED SATELLITE SVC

CFR Citation: 47 CFR 25.201 to 25.209

Completed:

Reason	Date	FR Cite
Final Action R&O (FCC 83-184) released	08/17/83	

Small Entity: Yes

Agency Contact: Ron Lepkowski 202 634-1624

RIN: 3060-AB02

108. SATELLITE TRANSPONDER SALES

Completed:

Reason	Date	FR Cite
CC Docket - 82-45 -- closed		47 FR 40413

Small Entity: Yes

Agency Contact: Robert Mazer 202 634-1627

RIN: 3060-AB03

109. MTS-WATS MARKET STRUCTURE INQUIRY

Completed:

Reason	Date	FR Cite
MO&O adopted	07/27/83	

Small Entity: No

Agency Contact: Carl Lawson 202 632-9342

RIN: 3060-AA98

110. EDUCATIONAL FM SCA USAGE

CFR Citation: 47 CFR 00

Completed:

Reason	Date	FR Cite
R&O	04/07/83	

Small Entity: Yes

Agency Contact: Jonathan David 202 632-7792

RIN: 3060-AA34

111. DELETE MODULATION MONITORS RULES

CFR Citation: 47 CFR 00

Completed:

Reason	Date	FR Cite
R&O	07/14/83	

Small Entity: Yes

Agency Contact: Katy Hosford 202 632-9660

RIN: 3060-AA40

112. ELIMINATION OF CABLE FINANCIAL REPORTS

CFR Citation: 47 CFR 76

Completed:

Reason	Date	FR Cite
R&O	07/28/83	

Small Entity: Yes

Agency Contact: Robert Ratcliffe 202 632-7792

RIN: 3060-AA44

113. AMEND FM SCA RULES

CFR Citation: 47 CFR 73

Completed:

Reason	Date	FR Cite
R&O	04/07/83	

Small Entity: Yes

Agency Contact: James Green 202 632-6302

RIN: 3060-AB25

114. IN THE MATTER OF FORMULATION OF FEDERAL COMMUNICATIONS COMMISSION'S EMPLOYEE FINANCIAL INTEREST RULES

Priority: Agency Determination

CFR Citation: 47 CFR 19, Subpart; 47 CFR 19, Subpart D

Completed:

Reason	Date	FR Cite
MO&O	7/12/83	

Small Entity: No

Agency Contact: Edwin Schafer 202 632-6990

RIN: 3060-AB14

115. IN THE MATTER OF FORMULATION OF FEDERAL COMMUNICATIONS COMMISSION'S LOTTERY RULES FOR THE SELECTION OF LICENSEES FROM AMONG CERTAIN COMPETING APPLICATIONS

Priority: Agency Determination

Completed:

Reason	Date	FR Cite
R&O	3/31/83	

Small Entity: Yes

Agency Contact: Sheldon M. Guttmann 202 632-6990

RIN: 3060-AB31

116. TEMPORARY LICENSING OF COMMUNITY REPEATERS IN THE SPECIAL INDUSTRIAL RADIO SERVICE

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 90

Completed:

Reason	Date	FR Cite
Order	03/31/83	48 FR 17588

Small Entity: Yes

Agency Contact: Stephanie Spernak 202 634-2443

RIN: 3060-AA02

117. MULTIPLE LICENSING IN THE PRIVATE LAND MOBILE RADIO SERVICES BELOW 800 MHZ

CFR Citation: 47 CFR 90

FCC — Completed Actions

Completed:

Reason	Date	FR Cite
MO&O	04/27/83	48 FR 26617

Small Entity: No

Agency Contact: Stephanie Spernak 202 634-2443

RIN: 3060-AA03

118. SHARED ARRANGEMENTS WITH THIRD-PARTY INVOLVEMENT IN THE PRIVATE MICROWAVE SERVICES

CFR Citation: 47 CFR 94

Completed:

Reason	Date	FR Cite
Order Subsumed by PR Docket 83-426.	04/27/83	48 FR 27113

Small Entity: Yes

Agency Contact: Fred Day 202 634-2443

RIN: 3060-AA04

119. TRANSMISSION OF ENTERTAINMENT PROGRAMS USING BUSINESS RADIO SERVICE FREQUENCIES

CFR Citation: 47 CFR 94

Completed:

Reason	Date	FR Cite
MO&O	05/26/83	48 FR 32578

Small Entity: No

Agency Contact: Fred Day 202 634-2443

RIN: 3060-AA05

120. TELEPHONE INTERCONNECTION IN THE PRIVATE LAND MOBILE RADIO SERVICES

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
MO&O	04/27/83	48 FR 29512

Small Entity: No

Agency Contact: John B. Richards 202 634-2443

RIN: 3060-AA07

121. RECODIFICATION OF GMRS RULES

CFR Citation: 47 CFR 97

Completed:

Reason	Date	FR Cite
R&O	07/14/83	48 FR 35234

Small Entity: No

Agency Contact: John Borkowski 202 632-4964

RIN: 3060-AA12

122. FREQUENCY COORDINATION IN THE BUSINESS RADIO SERVICE

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Order terminating proc. Subsumed by PR Docket 83-737	07/14/83	48 FR 34087

Small Entity: No

Agency Contact: Eugene Thomson 202 634-2443

RIN: 3060-AA16

123. AMATEUR POWER MEASUREMENT CHANGES

CFR Citation: 47 CFR 97

Completed:

Reason	Date	FR Cite
R&O	07/18/83	48 FR 34746

Small Entity: No

Agency Contact: John B. Johnston 202 632-4964

RIN: 3060-AA19

124. ADMENDMENT OF RULES TO PROVIDE HF SPECTRUM FOR USE BY ELIGIBLES IN THE SPECIAL INDUSTRIAL, PETROLEUM, TELEPHONE MAINTENANCE AND POWER RADIO SERVICES

CFR Citation: 47 CFR 2; 47 CFR 90

Completed:

Reason	Date	FR Cite
R&O	06/29/83	48 FR 32991

Small Entity: No

Agency Contact: Keith Plourd 202 634-2443

RIN: 3060-AA20

125. DELICENSE CB AND R/C RADIO SERVICE

CFR Citation: 47 CFR 95

Completed:

Reason	Date	FR Cite
R&O	04/27/83	48 FR 24884

Small Entity: No

Agency Contact: John Borkowski 202 632-4964

RIN: 3060-AA22

126. 1974 WARC RADIOTELEPHONY

CFR Citation: 47 CFR 81; 47 CFR 83

Completed:

Reason	Date	FR Cite
R&O	04/27/83	48 FR 23639

Small Entity: No

Agency Contact: Nicholas Bagnato 202 632-7175

RIN: 3060-AB34

127. PUBLIC COAST (VHF) STATION EXCLUSIVITY

CFR Citation: 47 CFR 81

Completed:

Reason	Date	FR Cite
R&O	04/27/83	48 FR 21583

Small Entity: No

Agency Contact: Robert DeYoung 202 632-7175

RIN: 3060-AB35

128. PETITION FOR RECONSIDERATION OF 38.6-40 GHZ ALLOCATION

CFR Citation: 47 CFR 74.661

Completed:

Reason	Date	FR Cite
MO&O	06/02/83	

Small Entity: No

Agency Contact: Harding Chism 202 653-8166

RIN: 3060-AA58

129. TEST PROCEDURES FOR COMPUTING DEVICES

CFR Citation: 47 CFR 15

Completed:

Reason	Date	FR Cite
MO&O	06/30/83	

Small Entity: Yes

Agency Contact: Julius Knapp 202 653-8247

RIN: 3060-AA64

130. EXTENSION OF RECEIVER CERTIFICATION

CFR Citation: 00 CFR Not applicable

Completed:

Reason	Date	FR Cite
Final Action Petition denied	6/30/83	

Small Entity: No

Agency Contact: Art Wall 202 653-8247

RIN: 3060-AA73

131. 1983 BSS WARC

CFR Citation: 00 CFR Not applicable

Completed:

Reason	Date	FR Cite
R&O	03/09/83	

Small Entity: No

Agency Contact: Ed Jacobs 202 653-8102

RIN: 3060-AA80

132. ZENITH PETITION

CFR Citation: 47 CFR 15 H

Completed:

Reason	Date	FR Cite
Closed	05/00/83	

Small Entity: No

Agency Contact: Art Wall 202 653-8247

RIN: 3060-AB40

COMPLETED REVIEWS

133. IN THE MATTER OF REVISION OF THE FEDERAL COMMUNICATIONS COMMISSION'S EX PARTE RULES

Priority: Agency Determination

CFR Citation: 47 CFR 1.1201 to 1.1251

Completed:

Reason	Date	FR Cite
MO&O	04/27/83	

Small Entity: Yes

Agency Contact: Sheldon M. Guttmann 202 632-6990

RIN: 3060-AB08

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

134. ●FM QUADRAPHONIC BROADCASTING STANDARDS

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 73

Abstract: Inquiry re adoption of standards for FM quadraphonic broadcasting. Associate with Docket 82-536.

Timetable:

Action	Date	FR Cite
R&O	04/07/83	

Small Entity: Yes

Additional Information: Docket - 21310.

Agency Contact: Al Jarratt, Federal Communications Commission, 202 632-9660

RIN: 3060-AB47

135. ●ELIMINATE SUBURBAN COMMUNITY POLICY

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Eliminate suburban community policy. Reconsideration requested.

Timetable:

Action	Date	FR Cite
R&O	02/17/83	

Small Entity: Yes

Additional Information: BC Docket - 82-320.

Agency Contact: Mary Catherine Kilday, Federal Communications Commission, 202 632-6968

RIN: 3060-AB54

136. ●INCREASE OF POWER AND ANTENNA HEIGHT IN PUERTO RICO AND VIRGIN ISLANDS - FM

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Increase power and antenna height of Class A FM's in Puerto Rico and Virgin Islands to overcome terrain problems.

Timetable:

Action	Date	FR Cite
R&O	05/12/83	

Small Entity: Yes

Additional Information: BC Docket - 81-421.

Agency Contact: Greg DePriest, Federal Communications Commission, 202 632-9660

RIN: 3060-AB60

137. ●LOTTERY PROCEDURES

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 73

Abstract: Participate in implementation of lottery procedures for certain broadcast applications.

Timetable:

Action	Date	FR Cite
R&O	03/31/83	

Small Entity: Yes

Additional Information: BC Docket - 81-768.

Agency Contact: Alan Stillwell, Federal Communications Commission, 202 632-6302

RIN: 3060-AB62

138. ●SHARED AUXILIARY FACILITY USAGE AND REVISED TV AUXILIARY LICENSING POLICIES

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 00

Abstract: Permit shared use of broadcast auxiliary facilities with other broadcast and non-broadcast entities and to establish new licensing policies for TV auxiliary broadcast stations.

Timetable:

Action	Date	FR Cite
R&O	04/07/83	

Small Entity: Yes

Additional Information: BC Docket - 81-794.

Agency Contact: Robert Ratcliffe, Federal Communications Commission, 202 632-7792

RIN: 3060-AB68

139. ●ELIMINATION OF RULES TO KEEP OPERATING AND MAINTENANCE LOGS

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 73; 47 CFR 74

Abstract: Elimination of rules requiring broadcast and broadcast auxiliary stations to keep operating and maintenance logs.

Timetable:

Action	Date	FR Cite
NPRM	08/04/82	
R&O	07/14/83	

Small Entity: Yes

Additional Information: BC Docket - 82-537.

Agency Contact: Jim McNally, Federal Communications Commission, 202 632-9660

RIN: 3060-AB70

[FR Doc. 83-28086 Filed 10-14-83; 8:45 am]

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Part XLIV

Department of Energy

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

VOL 48 ISS 201 OCT 17 1983 UMI

FERC

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: In response to Office of Management and Budget Bulletin No. 83-15, the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 28 rulemakings listed, 16 are priorities, and one is a completed action.

DATES: See various dates listed for each specific rulemaking.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking. August 26, 1983.

Kenneth F. Plumb,

Secretary.

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Current and Projected Rulemakings

COLLECTION OF COST OF SERVICE INFORMATION FROM ELECTRIC UTILITIES UNDER SECTION 133 OF PURPA

Priority: Agency Determination, Task Force

Legal Authority: PURPA, Sec 133

CFR Citation: 18 CFR 290

Abstract: Section 133 of PURPA requires the Commission to collect certain cost of service data from electric utilities. Regulations implementing Section 133 were issued in 1979. A notice of inquiry requested public comment on use of the data and on ways in which the burden of compliance on the industry could be reduced. The Commission proposed exempting all utilities from further reporting under section 133 of PURPA. The Amendment would relieve all utilities from compliance with Part 290 of the Commission's regulations.

Timetable:

Action	Date	FR Cite
ANPRM	01/29/82	47 FR 5437
NOI	01/29/82	
NPRM	01/19/83	48 FR 3770
NPRM Comment Period Begin	01/19/83	
NPRM Comment Period End	03/28/83	
Final Action	09/30/83	

Small Entity: No

Agency Contact: Michael Postar, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA00

GENERIC DETERMINATION OF RATE OF RETURN ON COMMON EQUITY FOR ELECTRIC UTILITIES

Priority: Agency Determination

Legal Authority: Federal Power Act, Sec 201; Federal Power Act, Sec 205; Federal Power Act, Sec 206

CFR Citation: 18 CFR 37

Abstract: The proposed rule would establish procedures for determining rates of return on common equity for all electric utilities subject to the Commission's jurisdiction and for applying those rates of return in individual rate proceedings.

Timetable:

Action	Date	FR Cite
NPRM	08/26/82	47 FR 38332
Final Action	12/31/83	

Small Entity: No

Agency Contact: Arnold Meltz, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8153

RIN: 1902-AA01

FEES APPLICABLE TO PRODUCER MATTERS UNDER THE NATURAL GAS ACT

Priority: Agency Determination

Legal Authority: Independent Offices Appropriations Act

CFR Citation: 18 CFR 154; 18 CFR 157; 18 CFR 375; 18 CFR 381

Abstract: Rulemaking would establish a fee structure for services performed by the Commission under the NGA for producer certificates for which the Commission is authorized to collect fees.

Timetable:

Action	Date	FR Cite
NPRM	05/06/82	47 FR 20621
Final Action	12/31/83	

Small Entity: No

Agency Contact: Karen Hurwitz, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA02

FEES APPLICABLE TO NATURAL GAS PIPELINE CERTIFICATES

Priority: Agency Determination

Legal Authority: Independent Offices Appropriations Act

CFR Citation: 18 CFR 2; 18 CFR 152; 18 CFR 154; 18 CFR 156; 18 CFR 157; 18 CFR 284; 18 CFR 381

Abstract: Establish fees for services and benefits provided for natural gas pipelines under the Natural Gas Act and related authorities.

Timetable:

Action	Date	FR Cite
NPRM	09/10/82	47 FR 40634
Final Action	12/31/83	

Small Entity: No

Agency Contact: Albert Francese, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA03

FEES RULEMAKINGS - ELECTRIC UTILITIES, COGENERATORS, AND SMALL POWER PRODUCERS

Priority: Agency Determination

Legal Authority: Independent Offices Appropriations Act

CFR Citation: 18 CFR 32; 18 CFR 33; 18 CFR 34; 18 CFR 35; 18 CFR 45; 18 CFR 292; 18 CFR 375; 18 CFR 381

Abstract: Establishes fees for services and benefits provided under the Federal Power Act and the Public Utility Regulatory Policies Act of 1978.

FERC — Current and Projected Rulemakings

Timetable:

Action	Date	FR Cite
NPRM	09/01/82	47 FR 39851
Final Action	12/31/83	

Small Entity: No

Agency Contact: Michael Postar, Federal Energy Regulatory Commission, 825 North Capitol St., NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA04

FEES APPLICABLE TO THE NATURAL GAS POLICY ACT

Priority: Agency Determination

Legal Authority: Independent Offices Appropriations Act

CFR Citation: 18 CFR 1; 18 CFR 274; 18 CFR 284; 18 CFR 375; 18 CFR 381

Abstract: Rulemaking would establish a fee structure for services performed by the Commission under the NGPA for which the Commission is authorized to collect fees. Fees to cover adjustments, well category determinations, Title III initial transaction and extension reports, OGC interpretations of NGPA.

Timetable:

Action	Date	FR Cite
NPRM	06/02/82	47 FR 24726
Final Action	12/31/83	

Small Entity: No

Agency Contact: Fred Wolgel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA05

FEE RULEMAKING - GENERAL ACTIVITIES

Priority: Agency Determination

Legal Authority: Independent Offices Appropriations Act

CFR Citation: 18 CFR 1; 18 CFR 3; 18 CFR 375; 18 CFR 381

Abstract: Rulemaking would establish a fee structure for general services performed by the Commission for which the Commission is authorized to collect fees.

Timetable:

Action	Date	FR Cite
NPRM	06/15/82	47 FR 27375
Final Action	12/31/83	

Small Entity: No

Agency Contact: Michael Stosser, Federal Energy Regulatory Commission, 825 North Capitol St., NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA06

REVISION OF REPORT ON SERVICE INTERRUPTIONS ON PIPELINE SYSTEMS: FILING REQUIREMENT NO. FPC R0016

Legal Authority: NGA Sec 10; DOE Act Sec 402; DOE Delegation Order 0204-1

CFR Citation: 18 CFR 260

Abstract: Report collection information on emergencies affecting the service or facilities of natural gas pipeline companies under FERC jurisdiction. Would eliminate information from the requirement that is not necessary for Commission regulatory purposes and would clarify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/06/82	47 FR 16644
Final Action	12/31/83	

Small Entity: No

Additional Information: SMALL BUSINESS CONT: Of the 128 natural gas companies currently subject to the requirement, 30 are considered "small utilities," as defined by the Regulatory Flexibility Act (5 USC 601(6)). Impacts of the changes to the requirements are insignificant with respect to the time and costs needed to meet the requirements.

Agency Contact: Cathy Ciaglo, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA10

PHASE II - RECORD RETENTION REVISIONS (FORM 555)

Priority: Agency Determination

CFR Citation: 18 CFR 125; 18 CFR 225; 18 CFR 356

Abstract: Burden reduction - record retention regulations. Will eliminate various categories of records required to be retained; will reduce retention periods for other categories of records; will eliminate certain other records from retention requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/22/83	48 FR 12722
Final Action	09/30/83	

Small Entity: No

Agency Contact: Kenneth Malloy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, 202 357-8033

RIN: 1902-AA11

REVISION TO FERC RULES OF PRACTICE, PART 3, DISCOVERY

Legal Authority: 16 USC 791 to 828c Federal Power Act; 15 USC 717 to 717w Natural Gas Act; 15 USC 3301 to 3432 Natural Gas Policy Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009; 18 USC 2601 to 2645 PURPA

CFR Citation: 18 CFR 1.23; 18 CFR 1.26

Abstract: This will establish a uniform set of rules governing discovery in FERC trial-type hearings.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	

Small Entity: No

Agency Contact: Al Francese, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, 202 357-8033

RIN: 1902-AA13

REVISION TO FILING REQUIREMENTS FOR GAS CATEGORY DETERMINATIONS BY JURISDICTIONAL AGENCIES UNDER NGPA

Legal Authority: 15 USC 3301 to 3432 Natural Gas Policy Act

CFR Citation: 18 CFR 274

Abstract: Rulemaking would reduce and simplify filing requirements to establish qualification for NPGA prices. Some information presently required is not necessary. Reduction would reduce burden on jurisdictional agencies, producers, and the commission.

Timetable:

Action	Date	FR Cite
NPRM	11/23/82	47 FR 53907
Final Action	09/30/83	

Small Entity: No

Agency Contact: Nancy Rizzo, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, 202 357-8033

RIN: 1902-AA14

LIMITATION ON INCENTIVE PRICE FOR HIGH COST GAS TO COMMODITY VALUES (FLOATING CAP RULE)

Priority: Agency Determination

Legal Authority: Natural Gas Policy Act, Sec. 107(c)(5); Natural Gas Policy Act, Sec. 107(b)

CFR Citation: 18 CFR 271; 18 CFR 274

Abstract: Would establish a floating cap determined from oil prices for high cost gas under sec. 107(c)(5) of the NGPA.

Timetable:

Action	Date	FR Cite
NPRM	02/22/83	48 FR 7469
Final Action	12/30/83	

Small Entity: No

Agency Contact: Fred Wolgel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, 202 357-8033

RIN: 1902-AA15

ANNUAL CHARGES FOR USE OF GOVERNMENT DAMS

Priority: Agency Determination

Legal Authority: Federal Power Act, Sec. 10(e)

CFR Citation: 18 CFR 11.22

Abstract: Commission regulations now provide that the Commission will assess any annual charges for use of government dams, but do not establish methodology. Rule would establish a uniform methodology.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 15134
Final Action	12/31/83	

Small Entity: No

Agency Contact: Jan Macpherson, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, 202 357-8033

RIN: 1902-AA16

●SUBMISSION OF SETTLEMENT OFFER AND CONTESTED OFFERS OF SETTLEMENT

Priority: Undetermined

Legal Authority: 16 USC 825g; 16 USC 825h; 15 USC 717n; 15 USC 717o; 42 USC 7172(b); Delegation Order No. 0204-1

CFR Citation: 18 CFR 385.602(h)

Abstract: Rulemaking would clarify the Commission's contested settlement procedure.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: No

Agency Contact: Cathy Ciaglo, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA17

●MONTHLY REPORT OF COST AND QUALITY OF FUELS FOR ELECTRIC PLANT (FORM NO. 423)

Priority: Undetermined

Legal Authority: 16 USC 792 to 828c; 42 USC 7172(b); 16 USC 825c; 16 USC 825j; Delegation Order No. 0204-1

CFR Citation: 18 CFR 141.61

Abstract: Rulemaking to revise Form No. 423 to provide additional information respecting availability, cost, and quality of fossil fuels for electric utilities. This rulemaking addresses issues raised in a petition for rulemaking filed by Virginia Corporation Commission and the Florida Public Service Commission.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: No

Additional Information: Virtually all of the electric utilities required to file Form No. 423 are large entities having over $1 million in annual operating revenues. In addition, the utilities already collect the proposed data for other purposes.

Agency Contact: Cathy Ciaglo, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA18

●FILING REQUIREMENTS AND PROCEDURES FOR THE APPROVAL OF RATES OF FEDERAL POWER MARKETING AGENCIES

Priority: Agency Determination

Legal Authority: 16 USC 839 to 839h; 16 USC 832 to 832L; 16 USC 825S; 16 USC 838 to 838K; 42 USC 7101 to 7552; EO 12009

CFR Citation: 18 CFR 300

Abstract: The Commission is establishing procedures and filing requirements for the approval of rates submitted by the Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration and the Western Area Power Administration, including review of four substantive issues related to power marketing agencies generally.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	

Small Entity: No

Agency Contact: Kenneth J Malloy, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA19

●FEES APPLICABLE TO NATURAL GAS PIPELINE RATE MATTERS

Priority: Agency Determination

Legal Authority: 31 USC 483a

CFR Citation: 18 CFR 154.24; 18 CFR 154.38; 18 CFR 154.63; 18 CFR 375.30; 18 CFR 381.401

Abstract: The proposed rule would establish fees for services and benefits provided by the Commission to natural gas pipelines in rate matters under the Natural Gas Act.

Timetable:

Action	Date	FR Cite
NPRM	12/15/82	47 FR 57943
NPRM Comment Period Begin	12/15/82	47 FR 57943
NPRM Comment Period End	02/14/83	
Final Action	12/31/83	

Small Entity: No

Agency Contact: Joseph H Long, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA20

●ELIMINATION OF COMMODITY CHARGES FROM NATURAL GAS PIPELINE MINIMUM BILL PROVISIONS

Priority: Agency Determination

Legal Authority: 16 USC 717 to 717w Natural Gas Act

CFR Citation: 18 CFR 154

Abstract: Minimum bill provisions generally require a purchaser of natural gas from a pipeline to pay a certain amount based on an assumed level of utilization of its contractual volumes whether or not that level is achieved. In the context of the transition to natural gas decontrol and today's market conditions, minimum bill provisions may not currently serve a legitimate purpose and, in fact, may be exacerbating current market disorders. The planned NOPR would prohibit recovery by a pipeline seller of gas costs not actually incurred under minimum bill-commodity provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Undetermined

Agency Contact: Christine Benagh, Legal Advisor to Commissioner Richard, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA21

●HIGH-COST GAS PRODUCED FROM TIGHT FORMATIONS; RECOMPLETION TIGHT FORMATION GAS

Priority: Undetermined

Legal Authority: 15 USC 3301 to 3352

CFR Citation: 18 CFR 271; 18 CFR 274

Abstract: Proposed rule would amend definition of recompletion tight formation so as to allow production from new recompletions to qualify for the incentive price if the gas produced through the new recompletion could not have been produced through any completion location in existence before the date this proposed rule becomes effective.

Timetable:

Action	Date	FR Cite
NPRM	01/24/83	48 FR 4483
NPRM Comment Period Begin	01/24/83	48 FR 4483
NPRM Comment Period End	03/10/83	
Final Action	09/30/83	

Small Entity: No

Agency Contact: Fred A Wolgel, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA23

●REVISIONS TO THE FILING REQUIREMENTS FOR CHANGES IN A TARIFF, EXECUTED SERVICE AGREEMENT, OR PART THEREOF

Legal Authority: 15 USC 717 to 717w; 42 USC 7101 to 7352; EO 12009

CFR Citation: 18 CFR 154

Abstract: The proposed regulations would amend the filing requirements for any change in a tariff or service agreement of a natural gas company. The proposed amendments include deletions and additions. Also, the proposed rule requests comments on the proposed requirement for a lead-lag study in support of claimed cash working capital allowance, or an alternative to a lead-lag study.

Timetable:

Action	Date	FR Cite
NPRM	08/17/83	
Final Action	12/31/83	

Small Entity: No

Agency Contact: Michael A Stosser, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA24

●APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS REQUIRING APPROVAL UNDER SECTION 305(B) OF THE FEDERAL POWER ACT

Legal Authority: 16 USC 792 to 828c

CFR Citation: 18 CFR 45.8 (Revision)

Abstract: The proposed rule would amend the application for authority to hold interlocking positions that require Commission approval under section 305(b) of the Federal Power Act. It would remove or revise several reporting requirements of the application to reduce the applicant's burden.

Timetable:

Action	Date	FR Cite
NPRM	07/11/83	48 FR 32604
NPRM Comment Period Begin	07/18/83	48 FR 32604
NPRM Comment Period End	08/17/83	
Final Action	12/31/83	

Small Entity: No

Agency Contact: Joseph H Long, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA25

●REVISIONS TO PUBLIC UTILITY AND NATURAL GAS COMPANY CLASSIFICATION CRITERIA, UNIFORM SYSTEMS OF ACCOUNTS (FORM NOS. 1, 1-F, 2, AND 2-A, AND RELATED REGULATIONS)

Priority: Agency Determination

Legal Authority: 15 USC 717 to 717w; 16 USC 792 to 828c; 42 USC 7102 to 7352; EO 12009; 5 USC 553

CFR Citation: 18 CFR 101; 18 CFR 104; 18 CFR 141; 18 CFR 154; 18 CFR 159; 18 CFR 201; 18 CFR 204; 18 CFR 260

Abstract: The criteria for classifying public utilities and natural gas companies will be changed to correct for the effects of inflation since 1960. This will reduce reporting burdens from 4 to 10 percent. The Uniform Systems of Accounts will be amended to reflect the change in the Generally Accepted Accounting Principles caused by FASB No. 71, and will be integrated to make them easier to use. Other regulations will be revised to reflect the above amendments.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: No

Agency Contact: Joseph Hartsoe, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA26

●CONFIRMATION AND APPROVAL OF RATES OF THE BONNEVILLE POWER ADMINISTRATION

Priority: Agency Determination

Legal Authority: 16 USC 839 to 839h Northwest Power Act

CFR Citation: 18 CFR 300

Abstract: The Commission is amending its interim rule to establish procedures and filing requirements for the interim and final approval of rates submitted by the Bonneville Power Administration under section 7 of the Northwest Power Act.

VOL
48
ISS
201
OC
17
1983
UMI

FERC — **Current and Projected Rulemakings**

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/81	46 FR 60813
Request for comments on Final Rule	08/09/83	48 FR 37006

Next Action Undetermined

Small Entity: No

Agency Contact: Kenneth J Malloy, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA27

●REGULATIONS RELATING TO INDEPENDENT PRODUCER FILING REQUIREMENTS

Priority: Undetermined

Legal Authority: 15 USC 717 to 717w; 15 USC 3301 to 3432

CFR Citation: 18 CFR 154.94; 18 CFR 157.40

Abstract: The Commission would propose to amend its rules concerning the blanket affidavit procedure for sales of gas subject to the notice of rate change filing requirements of the Natural Gas Act. The blanket affidavit procedure allows producers to receive the monthly escalation in the maximum lawful price under the Natural Gas Policy Act without making monthly rate change filings once the base rate is established.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: No

Agency Contact: Jan Macpherson, Attorney, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA28

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — **Existing Regulations Under Review**

●RULE GOVERNING MAXIMUM LAWFUL PRICES FOR PIPELINE DISTRIBUTION OR AFFILIATE PRODUCTION

Priority: Undetermined

Legal Authority: 15 USC 3301 to 3432

CFR Citation: 18 CFR 270.203

Abstract: The regulation will replace a regulation concerning the maximum lawful price of a pipeline's own production that was vacated by the Supreme Court in P.S.C. of New York v. Mid-Louisiana Gas Co. There are two alternatives under consideration: should the first sale designation be made at the intracorporate transfer level or a downstream transfer point for natural gas sold by the pipeline.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Nancy M Rizzo, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA22

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — **Completed Actions**

COMPLETED RULEMAKINGS CONSTRUCTION WORK IN PROGRESS FOR PUBLIC UTILITIES

Priority: Agency Determination

CFR Citation: 18 CFR 2; 18 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	05/16/83	48 FR 24323

Small Entity: No

Agency Contact: Michael Postar 202 357-8033

RIN: 1902-AA07

SALES AND TRANSPORTATION BY INTERSTATE PIPELINES AND DISTRIBUTORS

CFR Citation: 18 CFR 157; 18 CFR 284

Completed:

Reason	Date	FR Cite
Final Action	08/01/83	48 FR 34875

Small Entity: No

Agency Contact: Barbara Christin 202 357-8033

RIN: 1902-AA08

ALASKAN SHIPPERS TRACKING SYSTEM (ANGTS)

CFR Citation: 18 CFR 154

Completed:

Reason	Date	FR Cite
Final Action	07/25/83	48 FR 34442

Small Entity: No

Agency Contact: Jan Macpherson 202 357-8033

RIN: 1902-AA12

[FR Doc. 83-28067 Filed 10-14-83; 8:45 am]
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federal register

Monday
October 17, 1983

Part XLV

Federal Home Loan Bank Board

Agenda of Federal Regulations

FHLBB

FEDERAL HOME LOAN BANK BOARD

12 CFR Ch. V

[No. 83-468]

Agenda of Federal Regulations

AGENCY: Federal Home Loan Bank Board.

ACTION: Publication of Agenda Items.

SUMMARY: The Federal Home Loan Bank Board is hereby publishing items for the October Regulatory Agenda.

ADDRESS: Information Services Division, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: See persons listed below for specific agenda items.

DATED: August 25, 1983.

By the Federal Home Loan Bank Board
J. J. Finn,
Secretary.

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Current and Projected Rulemakings

MONITORING FAIR LENDING PRACTICES

Legal Authority: 12 USC 2901; 15 USC 1691; 42 USC 3601 to 3619; 42 USC 1981; EO 11063; 14 USC 1437; 12 USC 1725; 12 USC 1726; 12 USC 1730; 12 USC 1464; Reorg. Plan No. 3 of 1947

CFR Citation: 12 CFR 528.6

Abstract: The Board is proposing to amend its Loan Application Register and Data Submission Report currently required to be maintained by all institutions that are members of the Federal Home Loan Bank System, for the purposes of monitoring fair lending practices. The proposed amendments would provide for efficient monitoring pursuant to Title VIII of the Civil Rights Act of 1968, the Equal Credit Opportunity Act, and the Community Reinvestment Act, while reducing paperwork of regulated institutions. The Board is working with the Federal Financial Institutions Examination Council in further studying this area before scheduling consideration of final rulemaking for a Board agenda.

Timetable:

Action	Date	FR Cite
Public Comment Period End date	06/06/82	

Next Action Undetermined

Small Entity: No

Additional Information: SMALL BUSINESSES CONT: The proposal would benefit small associations by reducing paperwork and eliminating certain reporting requirements for those receiving a small number of loan applications.

Agency Contact: Peggy W. Spohn, Deputy Director, Federal Home Loan Bank Board, Office of Examinations and Supervision, 1700 G Street, NW, Washington, DC 20552, 202 377-6947

RIN: 3068-AA01

●INTERSTATE TRANSACTIONS INVOLVING INSURED INSTITUTIONS

Legal Authority: 12 USC 1464; 12 USC 1725; 12 USC 1726; 12 USC 1729; 12 USC 1730a

CFR Citation: 12 CFR 556.5; 12 CFR 563.22-1 (New)

Abstract: The Federal Home Loan Bank Board is proposing to clarify its current policy, applicable to federal thrift institutions, permitting interstate supervisory mergers, acquisitions, consolidations, and transfers of assets, and to allow an institution to redesignate its home office to another state in which it has a grandfathered branch office. The Board is also proposing to permit establishment of an interstate branch on a nonsupervisory basis where state law authorizes the transaction (the "host state" approach), in order to provide federal thrifts with the same branching opportunities as their state-chartered competitors.

The alternatives are: (1) do nothing (retain existing restrictions), (2) adopt changes as proposed, and (3) consider other approaches to interstate competition problems.

Costs/benefits have not been quantified: the competitive advantages and disadvantages of various interstate branching authorizations to existing and potential federal thrift institutions.

Timetable:

Action	Date	FR Cite
NPRM	05/10/83	
NPRM Comment Period Begin	05/10/83	48 FR 20930
NPRM Comment Period End	07/11/83	

Next Action Undetermined

Small Entity: No

Agency Contact: Gayle Radley-Teicher, Attorney, Federal Home Loan Bank Board, Div. of Corporate & Regulatory Structure, OGC, 1700 "G" Street, NW, Washington, DC 20552, 202 377-6961

RIN: 3068-AA03

●SECURITIES OFFERINGS

Legal Authority: 12 USC 1725; 12 USC 1726; 12 USC 1730; 12 USC 1464

CFR Citation: 12 CFR 563.7-4; 12 CFR 563.8; 12 CFR 563.8-1; 12 CFR 563.8-4; 12 CFR 563c.1; 12 CFR 563g, (Proposed new Part)

Abstract: The proposal is intended to establish uniform rules for securities offerings applicable to all institutions whose accounts are insured by, or who are applying for insurance from, the Federal Savings and Loan Insurance Corporation, and to relieve current restrictions on securities activities by such institutions at their offices. The current lack of uniform rules puts institutions in danger of inadvertently violating the disclosure-oriented antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934, and the use of inadequate or misleading disclosures by individual institutions could have a significant adverse impact on the capability of other thrift institutions to raise capital and could result generally in illiquid and disorderly markets for the securities of insured institutions.

The alternatives under consideration are: (1) do nothing (no adoption of rules); (2) adopt unique disclosure rules for thrifts; or (3) adopt SEC-like rules (as proposed-public market recognition and comparability).

Costs/benefits have not been quantified; general (cont)

FHLBB — Current and Projected Rulemakings

Timetable:

Action	Date	FR Cite
NPRM	03/14/83	48 FR 10684
NPRM Comment Period Begin	03/14/83	
NPRM Comment Period End	05/09/83	

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: weighing of the industry cost of producing disclosure documents (and disclosing possibly unfavorable elements) vs. the cost of antifraud litigation, inability to raise capital, and FSLIC liability for institutions materially weakened by such adverse actions.

Agency Contact: John P. Harootunian, Attorney, Div of Securities & Corporate Anal, Federal Home Loan Bank Board, OGC, 1700 G Street, NW, Washington, DC 20552, 202 377-6415

RIN: 3068-AA04

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Completed Actions

COMPLETED RULEMAKINGS

IMPLEMENTATION OF NEW POWERS; LIMITATIONS ON LOANS TO ONE BORROWER

Priority: Agency Determination

CFR Citation: 12 CFR 523; 12 CFR 526; 12 CFR 541; 12 CFR 545; 12 CFR 555; 12 CFR 561; 12 CFR 563

Completed:

Reason	Date	FR Cite
Final Action	05/26/83	48 FR 23032

Small Entity: Yes

Agency Contact: Wendy B. Samuel, Deputy Director 202 377-6465

RIN: 3068-AA02

[FR Doc. 83-28068 Filed 10-14-83; 8:45 am]
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VOL
48
ISS
201
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17
1983
UMI

federal register

Monday
October 17, 1983

Part XLVI

Federal Maritime Commission

Unified Agenda of Federal Regulations

VOL 48 ISS 201 OCT 17 1983 UMI

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FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to section 5 of E.O. 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Commission anticipates having under consideration during the period from October 1, 1983 to September 30, 1984 actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking procedures or the status of any matter listed below, contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 5 of Executive Order 12291 also requires executive agencies to publish a regulatory agenda; the Commission voluntarily complies with this section.

The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission. The following is the Commission's Unified Regulatory Agenda. The agenda does not necessarily include petitions for rulemakings which are under staff review.

In addition, the Commission is publishing a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda (April 1983). This list will be made available to the press and interested groups.

Francis C. Hurney,

Secretary.

FEDERAL MARITIME COMMISSION (FMC) — Current and Projected Rulemakings

CURRENCY ADJUSTMENT FACTOR RULE FOR FOREIGN TARIFFS

Legal Authority: 5 USC 552; 5 USC 553; 46 USC 813(a); 46 USC 814; 46 USC 817(b); 46 USC 841(a)

CFR Citation: 46 CFR 536

Abstract: Currency adjustment factors (CAFs) are a major concern to the shipping public and an effective system which is fair and reasonable to carriers, conferences, and shippers is required. This would establish a simplified and uniform procedure for the publishing and filing of currency adjustment factors in foreign rate tariffs. These provisions would require the filing of CAF schedules for each trade currency by common carriers and conferences to govern the imposition of surcharges and discounts applied on freight rates. If finalized this rule would replace the current procedures and requirements for currency adjustment factors found in 46 CFR 538.4.

Timetable:

Action	Date	FR Cite
NPRM	07/20/82	47 FR 31407
Final Action	10/00/83	

Small Entity: Not Applicable

Additional Information: Docket No. 82-36.

Agency Contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5725

RIN: 3072-AA03

PER CONTAINER RATE RULES FOR FOREIGN TARIFFS

Legal Authority: 5 USC 533; 46 USC 817(b); 46 USC 821; 46 USC 941(a)

CFR Citation: 46 CFR 536

Abstract: This rule will prescribe the form and manner governing the establishment of per container/trailer rates in tariffs for common carriers and conferences in the U.S. foreign commerce to ensure the proper application of such rates. Decision pends further comments to petitions for reconsideration.

Timetable:

Action	Date	FR Cite
NPRM	08/28/81	46 FR 43474
Interim Final Rule	06/14/82	47 FR 25532
Grant of petition for reconsideration	10/14/82	47 FR 45833
Decision pending comments	10/00/84	

Small Entity: Not Applicable

Additional Information: Docket No. 81-50.

Agency Contact: James A. Warner, Chief, Office of Foreign Tariffs, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5827

RIN: 3072-AA04

TIME LIMIT FOR FILING OVERCHARGE CLAIMS

Legal Authority: 46 USC 812; 46 USC 814; 46 USC 816; 46 USC 817(b)

CFR Citation: 46 CFR 531; 46 CFR 536

Abstract: This rule would abolish conference and common carrier tariff rules prohibiting freight rate settlements more than six months after shipment.

Timetable:

Action	Date	FR Cite
NPRM	08/28/81	46 FR 43472
Interim Final Rule	06/10/82	47 FR 34556
Stay of Final Rule	11/10/82	47 FR 50875
Reconsideration of Final Rule	12/00/83	

Small Entity: Not Applicable

Additional Information: Docket No. 81-51.

Agency Contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5725

RIN: 3072-AA07

DUAL RATE CONTRACT SYSTEMS

Legal Authority: 46 USC 813(a); 46 USC 841(a)

CFR Citation: 46 CFR 538

Abstract: This rulemaking will provide a rebuttable presumption that merchants paying freight charges have a legal right to select the common carrier.

Timetable:

Action	Date	FR Cite
NPRM	09/09/81	46 FR 44998
Final Action	10/00/83	

FMC — Current and Projected Rulemakings

Small Entity: No

Additional Information: Docket No. 81-54.

Agency Contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5725

RIN: 3072-AA08

EQUAL ACCESS TO JUSTICE

Priority: Agency Determination

Legal Authority: PL 96-41; 5 USC 504 et seq; 46 USC 841(a)

CFR Citation: 46 CFR 503

Abstract: The Equal Access to Justice Act provides for reimbursement to persons who have been subjected to investigatory processes and who subsequently prevail on the merits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Undetermined

Agency Contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5725

RIN: 3072-AA10

FREEDOM OF INFORMATION ACT

Priority: Agency Determination

Legal Authority: 5 USC 552(b)(4); 46 USC 841(a)

CFR Citation: 46 CFR 503

Abstract: Amendments to current rules governing treatment of FOIA requests will provide for notification to filers of "business confidential" information to permit responses before a decision to release or not to release information requested under the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: Undetermined

Agency Contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5725

RIN: 3072-AA12

SMALL CLAIMS

Legal Authority: 46 USC 821; 46 USC 841(a)

CFR Citation: 46 CFR 502

Abstract: Amendments to current rules governing small claims will provide for a raise in the limit for small claims & revised procedures for petitions for reconsideration & tariff notice of decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/18/82	
NPRM Comment Period Begin	10/18/82	47 FR 46338
NPRM Comment Period End	12/17/82	
Final Action	10/00/83	

Small Entity: Undetermined

Additional Information: Docket No. 82-48.

Agency Contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5725

RIN: 3072-AA14

PRIVACY ACT

Legal Authority: 5 USC 552(a); 46 USC 841(a)

CFR Citation: 46 CFR 503

Abstract: Amendments to current rules implementing the Privacy Act are updated to reflect current organization and procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5725

RIN: 3072-AA15

EXEMPTION OF NONEXCLUSIVE TRANSSHIPMENT AGREEMENTS

Legal Authority: 46 USC 814; 46 USC 833(a); 46 USC 841(a)

CFR Citation: 46 CFR 524

Abstract: The proposed rule would eliminate the need for the filing of nonexclusive transshipment agreements with the Commission. Exemption will benefit the shipping industry and Commission staff.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Director, Federal Maritime Commission, Bureau of Agreements and Trade Monitoring, 1100 L St., N.W., Washington, D.C., 202 523-5787

RIN: 3072-AA18

EXEMPTION OF CERTAIN MARINE TERMINAL AGREEMENTS

Legal Authority: 46 USC 814; 46 USC 833(a); 46 USC 841(a)

CFR Citation: 46 CFR 524

Abstract: This proposed rule would exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, (a) certain agreements relating to the lease, license, assignment or other similar use of marine terminal real property; (b) agreements relating solely to the performance of traditional stevedoring services; (c) certain marine terminal agreements relating to the use of dock, berth, apron or pier space; other terminal facilities at other than tariff rates; and marine terminal services at other than tariff rates. The exemption will benefit the terminal industry.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Director, Federal Maritime Commission, Bureau of Agreements and Trade Monitoring, 1100 L St., N.W., Washington, D.C., 202 523-5787

RIN: 3072-AA19

AMENDMENTS TO G.O. 13, 24, AND 38 TO DEFINE INTERMODAL AUTHORITY

Legal Authority: 46 USC 814; 46 USC 817; 46 USC 841(a)

CFR Citation: 46 CFR 522; 46 CFR 531; 46 CFR 536

Abstract: This proposed rule would define the term "intermodal authority" as it is used in various agreements and tariffs to aid in a determination as to precisely where such authority begins and ends. The proposed rule will help clarify an ambiguous term.

VOL 48 ISS 201 OCT 17 1983 UMI

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Director, Federal Maritime Commission, Bureau of Agreements and Trade Monitoring, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5787

RIN: 3072-AA20

REVIEW OF SELF-POLICING REGULATIONS

Legal Authority: 46 USC 814; 46 USC 833(a); 46 USC 841(a)

CFR Citation: 46 CFR 528

Abstract: The proposed rulemaking would amend existing regulations covered by General Order 7, self-policing requirements for Section 15 Agreements. The amendments are designed to improve self-policing reporting and various procedures utilized under the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Director, Federal Maritime Commission, Bureau of Agreements and Trade Monitoring, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5787

RIN: 3072-AA22

GENERAL ORDER 14 REVISION OF FILING REQUIREMENTS

Legal Authority: 46 USC 814; 46 USC 820; 46 USC 841(a)

CFR Citation: 46 CFR 527

Abstract: This proposed rule would eliminate the requirement that ratemaking groups operating under section 15 approval annually report detailed information on all shippers' requests and complaints received. As an alternative, the Commission may wish to consider a rule that would require the filing of a statistical summary of the detailed information currently being reported.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: No

Agency Contact: Joseph C. Polking, Director, Federal Maritime Commission, Bureau of Agreements and Trade Monitoring, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5787

RIN: 3072-AA23

LICENSING OF INDEPENDENT OCEAN FREIGHT FORWARDERS

Legal Authority: 46 USC 817; 46 USC 820; 46 USC 841(a); 46 USC 841(b)

CFR Citation: 46 CFR 510.13(e); 46 CFR 510.17(c); 46 CFR 510.20(a); 46 CFR 510.31(b); 46 CFR 510.31(e); 46 CFR 510.31(h); 46 CFR 510.32(h); 46 CFR 510.32(k); 46 CFR 510.33(e); 46 CFR 510.34(b); 46 CFR 510.34(e); 46 CFR 510.36(b)

Abstract: The proposed amendments allow for notice of forwarder/shipper affiliations; amend the current invoicing rules; delete approval requirement for sale/transfer of stock; clarify rules on forwarder arrangements with sales agents; modify procedures for accounting to clients for funds due; change the rules on anti-rebate certifications; revise requirements pertaining to cooperative working agreements; change rules on publication of revocation notices in the Federal Register; and modify rules concerning port-wide exemptions.

Timetable:

Action	Date	FR Cite
Begin Review	08/01/83	
NPRM	08/26/83	48 FR 38856
NPRM Comment Period Begin	08/26/83	
NPRM Comment Period End	10/25/83	
End Review	03/00/84	
Final Action	03/00/84	

Small Entity: No

Additional Information:

Docket No. 83-35

This rulemaking has been expanded to include proposed changes to twelve sections of 46 CFR 510, as identified in item No. 8 above. There is no significant potential cost increase involved in the proposed changes. The benefits are a general reduction of regulations of the forwarding industry.

Agency Contact: Jeremiah D. Hospital, Chief, Office of Freight Forwarders, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5843

RIN: 3072-AA27

●GENERAL ORDER 38 REVISION CONCERNING FILING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

Legal Authority: 46 USC 817(a); 46 USC 820; 46 USC 841(a); 46 USC 844

CFR Citation: 46 CFR 531

Abstract: This rule will establish provisions at the Commission for around the clock receipt of permanent tariff filings in the domestic offshore commerce.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: Not Applicable

Agency Contact: Hubert E. Bradford, Chief, Office of Domestic Tariffs, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, 201 523-5856

RIN: 3072-AA28

FEDERAL MARITIME COMMISSION (FMC) — Existing Regulations Under Review

FINANCIAL RESPONSIBILITY OF PASSENGER VESSELS

Priority: Agency Determination

Legal Authority: 46 USC 817(d); 46 USC 817(e)

CFR Citation: 46 CFR 540

Abstract: This regulation, which is concerned with the financial responsibility requirements for owners, operators and charterers of certain passenger vessels, is scheduled for review pursuant to section 610 of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Begin Review	08/05/83	48 FR 35675
End Review	11/30/83	

Small Entity: Undetermined

Additional Information: Docket No. 83-30

Agency Contact: Frank L. Bartak, Chief, Office of Vessel Certification, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5820

RIN: 3072-AA11

FILING OF TARIFFS BY TERMINAL OPERATORS

Legal Authority: 46 USC 816; 46 USC 820; 46 USC 841(a)

CFR Citation: 46 CFR 533

Abstract: The regulations governing the filing of terminal tariffs are scheduled for review pursuant to section 610 of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/83	
End Review	10/00/83	

Small Entity: Not Applicable

Agency Contact: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5796

RIN: 3072-AA17

GENERAL ORDER 13 REVISION TO PROVIDE FOR DEFINITION OF NVOCC

Legal Authority: 46 USC 817(b); 46 USC 841(a)

CFR Citation: 46 CFR 536

Abstract: The tariff filing regulation is being reviewed to determine whether the definition of a non-vessel operating common carrier should be incorporated within 46 CFR 536. The current rule refers to a definition in another rule and that definition requires revision.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/83	
End Review	03/00/84	

Small Entity: No

Agency Contact: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5796

RIN: 3072-AA25

FEDERAL MARITIME COMMISSION (FMC) — Completed Actions

COMPLETED RULEMAKINGS

TEMPORARY TARIFF FILINGS IN U.S. FOREIGN COMMERCE

Priority: Agency Determination

Legal Authority: 46 USC 817(b); 46 USC 841(a)

CFR Citation: 46 CFR 536

Abstract: This rule will discontinue the agency practice of accepting temporary tariff filings and establish provisions for the receipt of permanent filings 24 hours a day. The potential benefits of this change are the elimination of the unreasonable paperwork burden.

Timetable:

Action	Date	FR Cite
NPRM	09/03/80	45 FR 58385
Interim Final Rule	07/07/81	46 FR 35092
Stay of Final Rule	09/03/81	46 FR 44190
Reconsideration of Final Rule	12/28/81	46 FR 62669
Final Action	03/08/83	46 FR 9648
Final Action Effective	05/30/83	

Small Entity: No

Additional Information: Docket No. 80-56.

Affected Sectors: 441 Deep Sea Foreign Transportation; 443 Great Lakes-St. Lawrence Seaway Transportation

Agency Contact: James A. Warner, Chief, Office of Foreign Tariffs, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5827

RIN: 3072-AA00

FILING AND SERVICE FEES

Priority: Agency Determination

Legal Authority: 31 USC 483(a); 46 USC 841(a)

CFR Citation: 46 CFR 502; 46 CFR 503; 46 CFR 531; 46 CFR 536; 46 CFR 540; 46 CFR 543; 46 CFR 544; 46 CFR 524; 46 CFR 542

Abstract: Amended rules will revise or establish filing and service fees which will enable the Commission to recoup costs for services of value to the public.

Timetable:

Action	Date	FR Cite
NPRM	07/06/82	47 FR 29278
Final Action	02/08/83	48 FR 5737
Final Action Effective	03/10/83	

Small Entity: No

Additional Information: Docket Nos. 82-32 and 82-33.

Affected Sectors: Multiple

Agency Contact: Samuel L. Simonovich, Budget Analyst, Federal Maritime Commission, Office of Budget and Financial Management, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5770

RIN: 3072-AA02

EXEMPTION OF BULK CARGO MOVING IN FOREIGN COMMERCE

Legal Authority: 46 USC 817; 46 USC 833(a); 5 USC 553

CFR Citation: 46 CFR 536

Abstract: Consideration is being given to the adoption of a rule to exempt bulk unprocessed commodities including those that are loaded and carried in containers, trailers, rail cars or similar intermodal equipment from the tariff filing requirements of section 18(b) (1) of the Shipping Act, 1916.

Timetable:

Action	Date	FR Cite
NPRM	03/12/82	47 FR 10862
Withdrawn	04/28/83	48 FR 19188

Small Entity: No

Additional Information: Docket No. 82-13. SMALL BUSINESSES CONT: reduction in present requirements.

Affected Sectors: 441 Deep Sea Foreign Transportation; 443 Great Lakes-St. Lawrence Seaway Transportation

Agency Contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5725

RIN: 3072-AA05

FINANCIAL RESPONSIBILITY FOR WATER POLLUTION

Legal Authority: 33 USC 1321(l); 33 USC 1321(p); EO 11735 Sec 3

CFR Citation: 46 CFR 542

Abstract: The Commission's rules implementing the vessel financial responsibility requirements of section 311 of the Clean Water Act (the Act) defines the "United States" as including the Panama Canal Zone. However, the

VOL
48
ISS
201
OC
17
1983
UMI

Panama Canal treaties of 1977 may have removed the applicability of the Act to the Canal. Consideration is therefore being given to a proposed rulemaking to delete references to the Canal Zone in 46 CFR 542. No alternatives to a rulemaking are evident. It is not known whether any costs to the public will result.

Timetable:

Action	Date	FR Cite
NPRM	03/07/83	48 FR 9543
Withdrawn	06/13/83	48 FR 27112

Small Entity: No

Additional Information: Docket No. 83-13

Agency Contact: Robert M. Skall, Deputy Director, Federal Maritime Commission, Bureau of Certification and Licensing, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5840

RIN: 3072-AA13

RATE REDUCTIONS BY CONFERENCE CONTROLLED CARRIERS ON LESS THAN THIRTY DAYS NOTICE

Legal Authority: 46 USC 817(c); 46 USC 841(a)

CFR Citation: 46 CFR 536

Abstract: Consideration is being given to amend tariff filing rules to permit conferences and rate agreements to file, on behalf of member line controlled carriers, lower rates on less than 30 days' notice to meet the independent action rates of member line non-controlled carriers on open rated commodities. No such filings would be permitted on less than 30 days' notice where controlled carrier rates would be below those of any non-controlled member line.

Timetable:

Action	Date	FR Cite
NPRM	03/25/83	48 FR 12576
Final Action	08/03/83	48 FR 35099
Final Action Effective	09/02/83	

Small Entity: No

Additional Information: Docket No. 83-18

Affected Sectors: 441 Deep Sea Foreign Transportation

Agency Contact: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C. 20573, 202 523-5796

RIN: 3072-AA26

COMPLETED REVIEWS

GENERAL ORDER 13 REVISION CONCERNING TARIFF PAGE CHECK SHEETS

Legal Authority: 46 USC 817(b); 46 USC 841(a)

CFR Citation: 46 CFR 536

Abstract: The current regulation requires common carriers to file page revision check sheets with tariffs filed with the Commission. Currently, examiners record all tariff amendments on these check sheets, a time consuming process. This practice is being reviewed to determine if this burden can be reduced or different procedures established.

Timetable:

Action	Date	FR Cite
Begin Review	02/01/83	
End Review	07/20/83	

Small Entity: No

Agency Contact: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L St., N.W., Washington, D.C.20573, 202 523-5796

RIN: 3072-AA24

[FR Doc. 83-28089 Filed 10-14-83; 8:45 am]

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Monday
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Part XLVII

Federal Trade Commission

Semiannual Regulatory Agenda

VOL 48 ISS 201 OCT 17 1983 UMI

FTC

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with the Federal Trade Commission Improvements Act of 1980, Pub. L. 96-252 and the Regulatory Flexibility Act, Pub. L. 96-354. Each projected event reflects the FTC staff's assessment of events that it expects will occur in the listed proceedings during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the projected events included in this agenda.

Several agenda items concern proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether any such proceeding will result in a rule which is likely to have a significant economic impact on such entities depends upon final Commission determinations on the need for or on the substance of a trade regulation rule.

Except for notice of completed actions, the views expressed in these entries are those of the FTC staff, based upon information now available. These views should not be regarded as final staff positions, nor should they be attributed to the Commission itself. The Commission will address the issues presented on the rulemaking record in the final consideration of each proceeding.

Agenda items include the projected timing of any future Commission action. In most instances the dates of future events are listed by month, rather than a specific day. Further details may be obtained from the agency contact responsible for a particular proceeding. Discovery of new information, changes in circumstances, or in the law may alter the projected dates.

By direction of the Commission.

Michael A. Baggage,

Acting Secretary.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Antacid Advertising	3084-AA00
2	*Proposed Trade Regulation Rule Concerning Credit Practices	3084-AA02
3	Eyeglasses II	3084-AA03
4	Health Spas	3084-AA06
5	Hearing Aids	3084-AA07
6	Amendment to Trade Regulation Rule Concerning Preservation of Consumers Claims and Defenses ("Holder-in-Due Course Rule")	3084-AA08
7	Amendment to Labeling and Advertising of Home Insulation Rule	3084-AA09
8	Mobile Home Sales and Service	3084-AA10
9	Proprietary Vocational and Home Study Schools	3084-AA11
10	Protein Supplements	3084-AA12
11	Standards and Certification	3084-AA13
12	Used Motor Vehicles	3084-AA14
13	Amendments to Octane Posting and Certification Rule	3084-AA16

*Indicates priority regulation.

Existing Regulations Under Review

Sequence Number	Title	RIN
14	Pre-Sale Availability of Written Warranty Terms (Existing Regulation; Modifications under Consideration)	3084-AA15
15	Retail Food Store Advertising and Marketing Practices	3084-AA17
16	Cooling-Off Period for Door-to-Door Sales	3084-AA18
17	Mail Order Merchandise	3084-AA19
18	Rules and Regulations Under the Wool Products Labeling Act of 1939	3084-AA20
19	Rules and Regulations Under Fur Products Labeling Act	3084-AA21
20	Rules and Regulations Under the Textile Fiber Products Identification Act	3084-AA22
21	*Review of the Premerger Notification Rules and Report Form	3084-AA23
22	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24
23	Franchising and Business Opportunities	3084-AA25
24	Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances under the Energy Policy and Conservation Act	3084-AA26
25	Labeling and Advertising of Home Insulation Rule	3084-AA27

*Indicates priority regulation.

FTC

Completed Actions

Sequence Number	Title	RIN
26	Amendment to Care Labeling of Textile Wearing Apparel Rule	3084-AA01
27	*Funeral Industry Practices	3084-AA05

*Indicates priority regulation.

FEDERAL TRADE COMMISSION (FTC) — Current and Projected Rulemakings

1. ANTACID ADVERTISING

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 52 Federal Trade Commission Act; 15 USC 55 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 451, (New)

Abstract: The Commission did not propose a rule at the outset of this proceeding. Rather than making a specific proposal, the Commission focused the proceeding on whether, and in what form, warnings required by the Food and Drug Administration ("FDA") in the labeling of non-prescription antacids should also appear in the advertising for such products. The proceeding has explored and considered various alternatives, including no warnings, a general warning (which refers generally to the existence of risk and directs consumers to the label), various specific warnings (which specifically disclose the existence of particular risks), and various combinations of general and specific warnings. The potential benefits from adoption of any rule are threefold: first, the prevalence of contra-indicated use of antacids may be lowered; second, manufacturers may have an incentive to include additional safety information in their advertising, and third, manufacturers may also have an incentive to produce safer antacids. The potential costs from adoption of any rule are the following: first, the effectiveness of antacid advertising may be lowered; second, consumers may mistakenly conclude from (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/31/78	43 FR 38851
Presiding Officer's Report	11/00/79	
Staff Report	08/00/83	

Small Entity: No

Additional Information: ABSTRACT CONT: the warning information that all antacids are unsafe, and third, any required advertising disclosure may impose direct dollar costs. Alternatives to a rulemaking might include cases under Section 5 and consumer education. It is not expected that any rule will have a significant economic impact on a substantial number of small entities. With the exception of small retailers who advertise price and availability in newspapers and magazines, virtually all of the antacid advertisers are large entities. Moreover, the impact on small retailers will essentially be eliminated by a provision exempting print advertising that states only the product's name and price.

Agency Contact: **Wallace S. Snyder,** Associate Director, Federal Trade Commission, Division of Advertising Practices, Bureau of Consumer Protection, Washington, D.C. 20580, 202 724-1511

RIN: 3084-AA00

2. PROPOSED TRADE REGULATION RULE CONCERNING CREDIT PRACTICES

Priority: Major

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 444, (New)

Abstract: In July 1983, the Commission tentatively adopted a proposed rule that would restrict certain remedies used by creditors to collect debts in cases where they may cause serious harm to debtors greater than the resulting economic benefit to creditors. Remedies addressed by the rule include: confessions of judgment; waivers of state property exemption wage assignments; blanket security interests in household goods; late charges; and cosignors. Benefits from the proposed rule may include: reducing excessively large late fees; prevention of invasion of privacy or injury to the employment relationship; and improving consumers' legal defenses. The cost to consumers of the rule may potentially take two forms: increases in the price of consumer credit (i.e., interest rates) and reduction in availability of credit to certain consumers. Alternatives considered by the Commission included a disclosure rule, rule provisions suggested by participants in the proceeding, and no rule. The proposed rule would probably affect large and small creditors similarly. The proposal would affect finance companies more than other creditors because finance companies make greater use of the remedies (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/11/75	40 FR 16347
Final Notice	06/24/77	42 FR 32259
Presiding Officer's Report	08/00/78	
Staff Report	08/00/80	
Tentative Commission approval	07/20/83	
Final Commission consideration	09/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: covered by the rule. The staff is now preparing a Statement of Basis and Purpose and a Regulatory Analysis.

Agency Contact: **Christopher Wade Keller,** Federal Trade Commission, Division of Credit Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 724-1580

RIN: 3084-AA02

VOL 48 ISS 201 OCT 17 1983 UMI

3. EYEGLASSES II

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 456, (Revision)

Abstract: The staff of the FTC's Bureau of Consumer Protection has identified several state and private restrictions on the delivery of eye care goods and services which may decrease consumer access to vision care services, increase the cost of those services, and impede the growth of alternative methods of organizing eye-care practices. The principal question the Commission is exploring is the impact of such restrictions on the price, quality and availability of vision care. The Commission's investigation has sought, through the development of empirical market research, to determine whether higher prices result from these restrictions and, if so, whether offsetting consumer benefits also result. The primary impact of a rule on small businesses could stem from the increased competition in the vision care industry which can be anticipated as a result of deregulatory effect of the rule. Rule provisions removing certain restraints on commercial ophthalmic practice could enhance competition by permitting small entities (i.e., optometrists and opticians) to engage in alternate modes of practice; or to expand, should they desire to do so. The affirmative requirements of a rule could impose additional (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/01/80	45 FR 79823
ANPRM Comment Period Begin	12/01/80	
ANPRM Comment Period End	02/02/81	
Commission consideration of appropriate action	03/00/84	
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: record-keeping, postage, and photocopying costs. The alternatives to an FTC trade regulation rule include: a formal complaint against a professional association or an ophthalmic board alleged to have engaged in illegal acts or practices; a voluntary guide defining unfair acts or practices; legislative recommendations to Congress or to the States; or the release of a public report setting forth the findings of the staff.

Government Levels Affected: Local, State

Agency Contact: Gary Hailey, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3927

RIN: 3084-AA03

4. HEALTH SPAS

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 443, (New)

Abstract: The rule proposed at the outset of this proceeding would require that health spa membership contracts provide consumers with a right to cancel and receive a full refund during a three-day cooling-off period. If a seller's facilities are not yet fully operational, the consumer would have ten days to cancel after notice that the spa facilities are fully operational. After this period, the consumer would have a right to cancel by paying up to a 5 percent cancellation fee plus a pro-rated portion of the contract price. Other provisions of the proposed rule would prescribe the form of the cancellation notices, limit contracts to two years, and prohibit the receipt of more than 5 percent of the contract price from consumers if a spa is not fully operational and available for use at the time the contract is signed. All industry members would incur costs for printing new contracts in order to comply with the proposed rule. Membership cancellations attributable to the requirements of the proposed rule would adversely affect the cash flow of health spas. Consumers would benefit from the proposed rule's unlimited cancellation rights to the extent they are not currently (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/18/75	40 FR 34615
Presiding Officer's Report	04/00/79	
Staff Report	03/00/84	

Small Entity: Yes

Additional Information: ABSTRACT CONT: granted by the industry. Staff is currently preparing a staff report. Alternatives under consideration include (1) a rule that would prohibit certain business practices by industry members and would require full disclosures of all ramifications of a health spa membership purchase; (2) changes in the nature of the refund requirement; (3) changes in other provisions of the rule; (4) case by case enforcement; and (5) consumer and business education. The proposed rule would have a significant economic impact on a substantial number of small entities by varying required contract terms and imposing monetary refund requirements where none presently exist.

Agency Contact: John Crowley, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3376

RIN: 3084-AA06

5. HEARING AIDS

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 52 Federal Trade Commission Act; 15 USC 55 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 440, (New)

Abstract: The proposed regulation currently under consideration would afford hearing aid purchasers a right to cancel the transaction within 30 days of purchase subject only to specified cancellation charges. Staff has explored alternative rule proposals that would require hearing aid dispensers to disclose whether they offer a trial period or would contain specific advertising prohibitions. In addition, staff has explored case by case enforcement and other alternatives to a Commission rule. If a trial period is required, the costs of the rule would be the dispenser's loss on the returned aid and the administrative expense of complying with the rule. This loss would be mitigated, among other things, by a cancellation fee and by the opportunity to re-sell the used aid. The greatest impact would be felt by dealers who do not currently offer customers trial periods with the sale of a hearing aid, particularly dealers with a high percentage of dissatisfied customers. Many dealers now offer trials. For those dealers the rule would be expected to have little impact beyond the administrative cost of complying with the rule, or any mandated changes in cancellation fees or other charges associated (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/00/75	40 FR 26646
Presiding Officer's Report	08/00/77	
Original Staff Report	11/00/78	
Initial Commission Consideration	10/00/79	
Commission consideration of appropriate action	12/00/83	

Small Entity: Yes

Additional Information: ABSTRACT CONT: with trials. The benefit would be to protect consumers from deceptive and unfair sales practices, and from the risk that a hearing aid will not significantly enhance hearing. The purposes of this rule would be to prevent deceptive and unfair sales practices in the sale of hearing aids and to give consumers contractual remedies against the risk that a hearing aid device will provide no significant benefit to the user. Since most hearing aids are sold by small businesses, the rule is expected to affect a large number of small businesses. Should some costs of implementing the rule be passed from dispensers to manufacturers of hearing aids (e.g., return of aids rejected by customer), there would be some impact on small manufacturers of aids as well.

Agency Contact: Marc Winerman, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-1670

RIN: 3084-AA07

6. AMENDMENT TO TRADE REGULATION RULE CONCERNING PRESERVATION OF CONSUMERS CLAIMS AND DEFENSES ("HOLDER-IN-DUE COURSE RULE")

Priority: Undetermined

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 433

Abstract: The objective of the proposed amendment is to ensure that a purchaser's duty to pay is not separated from sellers' duty to perform when consumer sales are financed by third party creditors or purchase money lenders. The original rule requires sellers to ensure that credit contracts used in consumer installment sales and purchase money loans contain a provision that makes any holder of the contract subject to all legal claims and defenses related to the sale transaction which the buyer may have against the seller. The proposed amendment would extend to creditors the obligation to ensure that credit contracts contain the required provision. Benefits from the proposed amendments may include improvement in the retail market due to increased scrutiny by creditors of the sellers with whom they do business and availability to consumers of additional claims and defenses against creditors. Some creditors may have increased costs associated with screening contracts and monitoring the reputations of retailers with whom they deal. Alternatives considered by the Commission include: rejection of the amendment; postponement of decision pending additional information on (cont)

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendment	11/18/75	40 FR 53530
Rule & Statement of Basis & Purpose	11/18/75	40 FR 53506
Final Notice of Proposed Amendment	02/05/76	41 FR 5305
Guidelines on TRR	05/14/76	41 FR 20022
Statement of Enforcement Policy	08/16/76	41 FR 34594
Open End Consumer Credit Contracts	09/16/77	42 FR 46509
Presiding Officer's Report	02/16/78	43 FR 6810
Staff Report	11/24/78	43 FR 54950
Tentative Cmsn Approval and Request for Comment	11/15/79	44 FR 65771
Staff Recommendations to Commission	11/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: compliance with the original rule; adoption of the amendment extending the rule to creditors and also making additional technical amendments. The amendment would shift some compliance costs from small businesses to creditors that control the contract form. Otherwise, because the existing rule already applies to retail sellers, the amendment should have no appreciable effect on other small businesses.

Agency Contact: Denis Maloney, Federal Trade Commission, Division of Credit Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 724-1569

RIN: 3084-AA08

7. AMENDMENT TO LABELING AND ADVERTISING OF HOME INSULATION RULE

Legal Authority: 15 USC 57a

CFR Citation: 16 CFR 460.10; 16 CFR 460.18; 16 CFR 460.19; 16 CFR Appendix B

Abstract: The Commission's home insulation trade regulation rule became effective on September 29, 1980. Among other things, it requires advertisers to disclose specific additional information in advertisements or other promotional materials when they make energy savings claims about an insulation product or refer to the products thickness, R-Value or price. The Commission temporarily stayed the effective date of those disclosure requirements as they applied to television ads pending completion of these amendment proceedings. The Commission has announced its intention to reopen the rulemaking proceeding to consider whether it should amend the rule's disclosure requirements insofar as they apply to television advertising. (ANPR, 46 FR 47236, Sept. 25, 1981.) The TV ad disclosure requirements in the rule benefit consumers by ensuring that they have an opportunity to understand and evaluate claims that may otherwise lead to misguided purchasing decisions. In many cases, the disclosures should benefit smaller manufacturers whose products often compare favorably on an R-Value basis with those manufactured by the dominant members of the industry. The major cost to industry members is the (cont)

Timetable:

Action	Date	FR Cite
Final Rule Published	08/29/79	44 FR 50218
Rule Promulgated	08/31/79	
Temp. stay of certain requirements	08/15/80	45 FR 54702
Rule effective except requirmt stay	09/29/80	
ANPRM	09/25/81	46 FR 47236

VOL 48 ISS 201 OCT 17 1983 UMI

Action	Date	FR Cite
Lift test requirement stay	08/24/82	47 FR 36806
Commission consideration of TV disclosure requirements	11/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: time necessary to make the required disclosures. Possible alternatives to the disclosure requirements include: amended disclosures or disclosure language; shortened disclosures; no disclosures; and different requirements as to the manner in which required disclosures must be made.

Agency Contact: Kent Howerton, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2891

RIN: 3084-AA09

8. MOBILE HOME SALES AND SERVICE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 47(a) Federal Trade Commission Act

CFR Citation: 16 CFR 441, (New)

Abstract: Almost all mobile homes are sold with a manufacturer's warranty but many buyers may not receive adequate and timely service under the warranty. The rule would address possibly inadequate performance of mobile home warranties through a number of possible remedies: setting specific service deadlines, prohibiting exclusion of set-up and transportation from warranty coverage, requiring written service agreements between warrantors and their service agents, and requiring maintenance of service records. Compliance costs estimated by staff will be approximately $145 per home for most firms affected, and could be less, depending on what provisions are actually adopted. An estimated 20% of buyers would benefit by saving about $242 for warranty repairs they would otherwise not get; another 15% of buyers would have service time cut by an estimated 4 months. The incidence of warranted defects could be reduced, increasing the useful life of homes. Buyers could also receive better financing terms due to lowering the incidence of defects that diminish resale value. Consumers might benefit from better information, if warranties accurately reflected what service is included (cont)

Timetable:

Action	Date	FR Cite
Previous NPRM	05/29/75	40 FR 23334
NPRM	05/23/77	42 FR 26398
Presiding Officer's Report	09/11/79	
Staff Report	06/13/80	
Staff Recommendation to Commission	12/00/83	

Small Entity: Yes

Additional Information: ABSTRACT CONT: in the purchase price of the home. The proposed rule will have an impact on 200 mobile home manufacturers and 12,000 mobile home dealers, most of which are small businesses. There are alternatives to rule provisions. Instead of specific time deadlines for warranty repairs, manufacturers and dealers could set their own deadlines as long as they are disclosed in their warranties; instead of requiring manufacturers to disseminate consumer questionnaires, to monitor effectiveness of factory and dealer warranty repairs, manufacturers could select their own monitoring devices; some responsibilities and duties of the manufacturers may not be needed (e.g., pre-occupancy inspection, set-up and transportation damage).

Agency Contact: Eloise Gore or Allen Hile, Staff Attorneys, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-1670

RIN: 3084-AA10

9. PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS

Priority: Undetermined

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 438, (New)

Abstract: In 1979, the Second Circuit Court of Appeals set aside the rule as originally issued by the Commission, citing problems with some of the remedies that the rule provided to purchasers of proprietary vocational training. The Staff has prepared recommendations as to how the Commission should respond to the Court's decision. Alternatives under consideration include a rule that would give schools the option of providing either a strict pro rata refund remedy or a track record disclosure, a rule requiring some refunds but not on a strict pro rata basis, and a rule with no refund requirements at all. Alternatives to rulemaking include case-by-case enforcement, and FTC intervention before other state and federal agencies having jurisdiction over vocational schools to prevent deceptive practices. The rule may benefit consumers by enabling them to avoid expenditures on inappropriate courses and increasing the effectiveness of the vocational school industry in training and placing people in productive jobs. The cooling-off track record disclosures and refund components of the rule variations under consideration would impose real social costs on schools covered (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/15/74	39 FR 29385
Previous Final Rule published	12/18/78	43 FR 60796
Rule set aside & remanded by Court	12/13/79	
New Staff Recommendation published	07/10/81	46 FR 35668
Staff Recommendations to Commission	12/00/83	

Small Entity: Yes

Additional Information: ABSTRACT CONT: including administrative costs associated with processing and collecting and disseminating information. Price increases may result from these costs as well as the possibility of paying out increased refunds. The rule should be most costly to schools that use unfair or deceptive practices to induce students to enroll in their courses. Schools that do not use these practices may not incur significant cost increases. The rule seeks to deter deceptive sales practices by requiring schools to provide material information to prospective students, and to provide students with contractual remedies which they can use to protect themselves when necessary. Most of the 6,000 schools that would be affected by the rule are small businesses.

Agency Contact: Walter Gross, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3860

RIN: 3084-AA11

10. PROTEIN SUPPLEMENTS

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 52 Federal Trade Commission Act

CFR Citation: 16 CFR 454, (New)

Abstract: The proposed rule addresses the advertising and labeling of protein supplements in three ways. First, there are provisions designed to inform consumers of certain health hazards. Thus, for example, a labeling disclosure would be required warning against use for infants. Second, the rule would prohibit certain false or deceptive claims, such as the claim that use of a protein supplement can counteract or delay the signs of aging. Third, the rule would require a general disclosure in the advertising and labeling of these products that most Americans receive all the protein they need from the food they eat. Public comments on the staff and presiding officer's reports have been analyzed by the rulemaking staff and are now being considered by the Bureau of Consumer Protection. Alternatives under consideration include a rule omitting any of the three major kinds of requirements of the proposed rule, as well as a case-by-case approach to enforcement. Adoption of the proposed rule may benefit the public by reducing and deferring the incidence of hazardous, false or misleading representations concerning the composition, use and effects of protein supplements. The costs to the public of adoption (cont)

Timetable:

Action	Date	FR Cite
Previous NPRM	09/05/71	40 FR 41144
NPRM	03/10/76	41 FR 10232
Additions & Modifications to Notice	06/04/76	41 FR 22593
Presiding Officer's Report	06/15/78	
Staff Report	07/24/79	
Staff Recommendation to Commission	12/00/83	

Small Entity: Yes

Additional Information: ABSTRACT CONT: of the Rule would include cost of changing labels and costs attributable to advertising disclosures. Apart from the loss of business obtained through misleading representations, the staff believes the costs to business of adoption of the rule are likely to be small. Objectives: the proposed rule was developed to limit misrepresentations in advertising and labeling, to provide information that some of these products may be inappropriate or hazardous for certain uses (e.g., for infants), and to remedy misrepresentations about the need for dietary protein supplements to the typical consumer diet. Large firms make most sales of protein supplements. However, a sizeable number of small firms also produce such products, and would be subject to the rule.

Agency Contact: Harrison Sheppard, Federal Trade Commission, San Francisco Regional Office, 450 Golden Gate Avenue, San Francisco, CA 94102, 415 556-1270

RIN: 3084-AA12

11. STANDARDS AND CERTIFICATION

Priority: Undetermined

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 46(g) Federal Trade Commission Act

CFR Citation: 15 CFR 457, (New)

Abstract: Standards for products ranging from nuts and bolts to computers are set by trade associations, professional societies, testing laboratories, and other private sector groups. They are relied on by consumers, building code officials, government agencies, and others for regulatory and procurement purposes. These standards can provide significant benefits, such as lowering the cost of communications between buyers and sellers; improving the transfer of technology; encouraging efficiencies in design, production, and inventory; and assuring the safety, fitness, energy efficiency, or other aspects of product performance. However, substantial injury to competition and consumers can occur if standards or certification actions block the use of superior or lower cost technology, inflate product prices, or deceive consumers about the quality or safety of a product. In the proceeding, the Commission is examining whether a rule, guide, or other enforcement action is needed to address these competitive and consumer injuries. The Commission is particularly interested in the impact on injurious practices of other events, such as promulgation of OMB Circular A-119 and recent court (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/07/78	43 FR 57269
Staff Report	04/11/83	48 FR 15484
Presiding Officer's Report	06/06/83	48 FR 25218
Post Record Comments Due	09/06/83	
Rebuttal Comments Due	10/21/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: actions. An alternative to a rule is a case-by-case approach to any standards-related problems. The rule might have a significant economic effect - both positive and negative - on small businesses. Many complaints about injurious standards and certification actions were filed by small businesses. The rule is aimed at alleviating these injuries. On the other hand, most of the standards and certification organizations that would be subject to the rule and subject to any compliance costs are small businesses.

Agency Contact: Eugene R. Curry, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-4555

RIN: 3084-AA13

12. USED MOTOR VEHICLES

Priority: Undetermined

Legal Authority: 15 USC 45; 15 USC 57(a); 15 USC 2309(b)

CFR Citation: 16 CFR 455, (New)

Abstract: The rule would have required dealers to post a window form on used cars sold to consumers which disclosed, in plain language, information concerning warranty coverage offered (if any), the meaning of an "As Is" sale (in which neither express warranties nor implied warranties are offered), and other important information. The form would have also informed consumers that oral promises are difficult to enforce and would have required the dealer to disclose certain specific mechanical condition defects known to him. The rule and accompanying Statement of Basis and Purpose and Regulatory Analysis were published in the Federal Register on August 14, 1981. All of the alternatives that were considered, along with an analysis of

VOL
48
ISS
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1983
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their costs and benefits, are set forth in the Regulatory Analysis and Statement of Basis and Purpose at 46 FR 41375 to 41377. The Commission submitted the rule to Congress for review under the provisions of the FTC Improvements Act of 1980 on September 9, 1981. The rule was considered by Congress and was vetoed on May 26, 1982. The Commission has taken the rule under consideration in accordance with Section 21(c) of the FTC Improvements Act of 1980. (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/06/76	41 FR 1089
Final Rule Published	08/14/81	46 FR 41328
Rule Promulgated	08/18/81	
Senate Resolution of disapproval	05/19/82	
House Resolution of disapproval	05/26/82	
Second Circuit reinstated petitions to review rule	07/26/83	
Commission set effective date for six months following court disposition of reinstated petitions	08/09/83	48 FR 36096
Commission Reexamining Rule	00/00/00	

Small Entity: Yes

Additional Information: ABSTRACT CONT: 15 U.S.C. 57a-1(c) (Supp. IV 1980). Consumers Union has filed a lawsuit challenging the constitutionality of the legislative veto of this rule and is seeking a court order that the Rule become effective. Consumers Union of U.S., Inc. and Public Citizen, Inc. v. FTC et al., No. 82-1512 (D.D.C.). The Supreme Court ruled that the legislative veto of the Used Car Rule was unconstitutional (July 6, 1983). On July 26, 1983, petitions to review the rule were reinstated in the Second Circuit (Miller Motor Car Corp. v. FTC, Nos. 81-4144 et al.) By Federal Register Notice of August 9, 1983 (48 Fed. Reg. 36096), the Commission set an effective date for the rule to be six months following disposition by the court of appeals of the reinstated petitions for review. At the same time, the Commission determined to re-examine the rule.

Agency Contact: Michael Katz, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-1670

RIN: 3084-AA14

13. AMENDMENTS TO OCTANE POSTING AND CERTIFICATION RULE

Legal Authority: 15 USC 2801 et seq Petroleum Marketing Practices Act

CFR Citation: 16 CFR 306

Abstract: Title II of the Petroleum Marketing Practices Act ("PMPA", Pub. L. 95-297, June 19, 1978) required the Commission to promulgate a rule which establishes standard procedures for determining, certifying and posting, by means of a label on the fuel dispenser, the octane rating of automotive gasoline intended for sale to consumers. The Commission's rule was promulgated on March 30, 1979 and became effective on June 1, 1979. The rule is intended to enable consumers to buy a gasoline with an octane rating that is high enough to prevent inefficient and harmful "engine knock," and to avoid buying gasoline with an octane rating that is too high for their needs. Although compliance imposes costs on affected industry members, the rule's requirements parallel those in PMPA; therefore, the rule adds little, if any, additional cost. The rule requires refiners and importers to retain test records and distributors and retailers to retain octane certification records for one year, to facilitate tracing the source of inaccurate octane representations. While the Commission has attempted to minimize the burden on small businesses, the staff now believes (cont)

Timetable:

Action	Date	FR Cite
Previous Rule promulgated	03/30/79	44 FR 19160
Previous Rule effective	06/01/79	
Staff Recommendation to Cmsn	10/00/83	

Small Entity: Yes

Additional Information: ABSTRACT CONT: that the recordkeeping requirements may be unnecessary and that sufficient incentives may exist to retain the records voluntarily. Accordingly, the staff will recommend to the Commission a proposed rule amendment which would delete the rule's recordkeeping requirements. The rule may have a significant economic impact on a substantial number of small entities. The rule's octane posting requirements apply to all 180,000 retail gasoline dealers, and its certification requirements apply to approximately 20,000 wholesalers and distributors.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2891

RIN: 3084-AA16

FEDERAL TRADE COMMISSION (FTC) — Existing Regulations Under Review

14. PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS (EXISTING REGULATION; MODIFICATIONS UNDER CONSIDERATION)

Legal Authority: 15 USC 2302(b)(1)(A) Magnuson-Moss Warranty--FTC Improvements Act; 15 USC 2309(a) Magnuson-Moss Warranty--FTC Improvements Act

CFR Citation: 16 CFR 702

Abstract: The Magnuson-Moss Warranty Act (15 U.S.C. 2302(b)(1)(A)) requires that the Federal Trade Commission promulgate a rule to require that the terms of written warranties for consumer products be made available to consumers prior to purchase. The Rule modifications currently being considered are intended to achieve the Congressional objective more effectively by making the Rule requirements more flexible and thus lessening the costs and burdens of compliance while still ensuring consumers access to warranties prior to purchase. The current Pre-Sale Availability Rule requires that retailers of consumer products costing more than $15 make warranty texts available to consumers prior to purchase by placing the warranty text in one or a combination of four specified locations; (1) on the product, (2) in a binder, (3) on the package, or (4) on a sign. Manufacturers are required to provide materials sufficient for retailers to meet their obligations. The Rule modifications currently under consideration would reduce retailers' obligations. One modification would provide two options for making warranties available: (1) displaying the warranty text(s), and/or (2) displaying a (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	12/31/75	45 FR 60168
Begin Review	11/04/81	
Sup staff analysis to Commission	03/00/84	

Small Entity: Yes

Additional Information: ABSTRACT CONT: sign indicating the availability of warranty text(s) upon customer request. In addition, staff is considering raising the dollar threshold for coverage of the Rule and automatic adjustment of this threshold amount to reflect the inflation rate. Modifications to manufacturers' compliance options are also under consideration, including a requirement that manufacturers affix the warranty text to all warranted consumer products. Changes in the rule could produce benefits by reducing the total costs of compliance with the present rule for retailers and manufacturers or by more efficiently allocating compliance obligations between retailers and manufacturers. Costs may arise from reductions in the benefits of the present rule in making warranty information available to consumers. Two large scale surveys are being conducted to examine consumer experience with warranties and to measure the effect of the current Rule on manufacturers and retailers. These surveys will estimate the effect on small business of both the existing rule and the alternatives under consideration.

ADDITIONAL AGENCY CONTACT TELEPHONE NUMBER: 617 223-6621.

Agency Contact: Eloise Gore, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-1670

RIN: 3084-AA15

15. RETAIL FOOD STORE ADVERTISING AND MARKETING PRACTICES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 424

Abstract: The Commission's Rule on Retail Food Store Advertising and Marketing Practices seeks to ensure that consumers receive the prices and goods offered in grocery stores' advertisements, and to enable the stores to compete fairly on the basis of price. Since the rule applies to all retail food stores, it may have had a significant effect on a substantial number of small grocery stores. The rule states that it is a violation of Section 5 of the Federal Trade Commission Act for grocery stores to advertise products at a particular price unless such products are in stock and conspicuously and readily available for sale at the advertised price during the effective period of the advertisement. The rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. The rule may cause costs to be incurred in maintaining sufficient inventory to meet anticipated demand, and costs associated with the monitoring of price changes, changing marked prices, and training of employees to comply with the rule.

Timetable:

Action	Date	FR Cite
Comment on Reg Flex Act Review	12/00/83	
End Review	00/00/00	

Small Entity: Yes

Agency Contact: Lewis Franke, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2891

RIN: 3084-AA17

16. COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 429

Abstract: The rule states that sellers of consumer goods or services with a purchase price of $25.00 or more who sell away from their place of business must furnish to the buyer certain information regarding the buyer's right to cancel sales within three business days and must give the buyer a full refund of any down payment upon the buyer's cancellation. The rule requires a seller to furnish the buyer with a complete receipt or copy of a contract, along with a notice informing the buyer of the right to cancel the transaction, to furnish the buyer with a completed Notice of Cancellation. The rule is intended to benefit consumers by permitting them to reflect on their purchase and the terms of any contract, to compare the purchase with offerings of other sellers, and to ascertain the accuracy of any representations made. The resulting costs to sellers include the costs associated with cancellation (processing cancelled orders, returning downpayments, retrieving delivered goods, and returning traded-in merchandise) and the additional cost of printing the required cancellation notices. Since the rule affects all door-to-door sellers, it may have a significant economic effect on a (cont)

Timetable:

Action	Date	FR Cite
Begin Review	03/00/83	
End Review	12/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: substantial number of small entities. To assess the possible impact of the rule on such small entities, the Commission is commencing a review of the rule in accordance with Section 610 of the Regulatory Flexibility Act.

Agency Contact: Lewis Franke, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2891

RIN: 3084-AA18

17. MAIL ORDER MERCHANDISE

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 435

Abstract: The Commission's rule concerning mail order merchandise was promulgated on October 22, 1975. The rule requires mail order sellers to possess a reasonable basis for any claims made concerning shipping date or, in the absence of any specifically stated date, to ship the ordered merchandise within thirty (30) days of receipt of an order. In the event of

VOL 48 ISS 201 OCT 17 1983 UMI

delays in shipment, the rule establishes notification procedures whereby buyers have the option either to agree to the delay or to cancel the order and receive a prompt refund. The Commission's rule is designed to address a number of significant consumer problems described on the record of the rulemaking proceeding, including failure to deliver ordered merchandise, unexplained delays in delivery, failure to make prompt (or any) refunds upon cancellation of an order, and inability to obtain responses to inquiries about pending orders. The rule enables consumers to obtain ordered merchandise within a reasonable time period or, if delays occur, to cancel the order and obtain a prompt refund, so that losses due to undelivered merchandise, delays, and inadequate or nonexistent refunds can be avoided. By subjecting sellers (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	10/22/75	40 FR 49492
Initiation of Reg Flex Act Review	09/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: who solicit orders they cannot fill within a reasonable time to the risk of cancellation, the rule may provide competitive benefits, since buyers may shift their business to more efficient merchants. Costs relating to the rule may include the cost of establishing a system for monitoring and recording orders, deliveries, delays, cancellations, consents to delays, and refunds; the costs of complying with the rule's notification requirements regarding delays (printing, postage, etc.); the cost of processing refunds; and additional inventory costs. Pursuant to Sec. 610 of the Regulatory Flexibility Act, the Commission is undertaking a review of this rule to determine whether the rule has had a significant economic impact on a substantial number of small entities and, if so, whether the rule should be amended to minimize any such impact. The rule applies to all members of the mail order industry, including small firms.

Agency Contact: Raymond L. Rhine, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2891

RIN: 3084-AA19

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18. RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

Legal Authority: 15 USC 68b(d) Wool Products Labeling Act of 1939; 15 USC 68d Wool Products Labeling Act of 1939

CFR Citation: 16 CFR 300

Abstract: The Wool Products Labeling Act of 1939 was enacted on October 14, 1940; the Act and the Commission's accompanying regulations became effective on July 15, 1941. The Act requires all wool products to bear a label showing the percentage of wool, recycled wool, and non-wool fibers contained in the product and the name of the manufacturer or other distributor. The Act prohibits the misbranding of wool products and is administered by the Commission, whose regulations establish the manner and format in which the information required by the Act is to be disclosed. The Act and accompanying rules are designed to protect producers, manufacturers, distributors and consumers from the unrevealed presence of substitutes and mixtures of fibers in manufactured wool products. Consumers are able to make more informed decisions and to avoid unwanted or unnecessary items. Since each manufacturer must accurately label its product, competition based on content is enhanced. Since the Commission's rules primarily implement statutory directives, most of the costs imposed on affected industry members are not attributable to the rules. However, in accordance with its Plan for Periodic Review (cont)

Timetable:

Action	Date	FR Cite
Rules Promulgated	07/15/41	
Initiation of Reg Flex Act Review	09/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: of Commission Rules, 46 FR 35118, July 7, 1981, published pursuant to Sec 610 of the Regulatory Flexibility Act, the Commission will initiate a review of these rules during FY 1983 to determine whether the rules have had a significant economic impact on a substantial number of small entities and if so, whether the rules should be amended. An area for possible review is the simplification of the forms or requirements associated with the registered identification number and continuing guaranty filing provisions of the rules.

Agency Contact: Charles G. McGourty, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Los Angeles, CA 90024, 213 824-7575

RIN: 3084-AA20

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19. RULES AND REGULATIONS UNDER FUR PRODUCTS LABELING ACT

Legal Authority: 15 USC 69(e) Fur Products Labeling Act; 15 USC 69(f) Fur Products Labeling Act

CFR Citation: 16 CFR 301

Abstract: The Fur Products Labeling Act was enacted on August 8, 1951; the Act and the Commisssion's accompanying rules became effective on August 9, 1952. The Act and rules contain requirements for the labeling, invoicing, and advertising of fur products. The Act requires fur products to be labeled with the name of the animal which produced the fur; whether the furs are natural, dyed or otherwise artificially colored; and certain other characteristics of the fur product used. To ascertain compliance with the Act, fur products marketers must maintain records for each product sold. The Act prohibits the misbranding, false and deceptive invoicing, and false and deceptive advertising of fur products. It requires that animal names used conform to the Fur Products Name Guide established by the Commission, which is charged with administering the Act. The Act and accompanying rules are designed to protect producers and consumers against misbranding, false advertising, and false invoicing of furs and fur products. Consumers are able to make more informed purchasing decisions and to avoid unwanted or unnecessary items. Since each manufacturer must accurately label its products, competition based on (cont)

Timetable:

Action	Date	FR Cite
Previous Rule Promulgated	02/03/52	
Initiation of Reg Flex Act Review	09/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: content is enhanced. Since the Commission's rules primarily implement statutory directives, most of the costs imposed on affected industry members are not attributable to the rules. However, in accordance with its Plan for Periodic Review of Commission

Rules, 46 FR 35118, July 7, 1981, published pursuant to Sec 610 of the Regulatory Flexibility Act, the Commission will initiate a review of these rules during FY 1983 to determine whether the rules have had a significant economic impact on a substantial number of small entities and, if so, whether the rules should be amended. Areas for possible review include simplification of the forms or requirements used in connection with the registered identification number and continuing guaranty filing provisions, modifications of recordkeeping requirements and adjustment of exemption standards.

Agency Contact: Charles G. McGourty, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Los Angeles, CA 90024, 213 824-7575

RIN: 3084-AA21

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20. RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Legal Authority: 15 USC 70e Textile Fiber Products Identification Act; 15 USC 70j Textile Fiber Products Identification Act

CFR Citation: 16 CFR 303

Abstract: The Textile Fiber Products Identification Act was enacted on September 1, 1958; the Act and the Commission's accompanying regulations became effective on March 3, 1960. The Act requires each household textile product to bear a label containing the percentage of each fiber contained in the product, the name of the manufacturer or distributor, and the country of origin if the product was manufactured principally in a foreign country. The Act prohibits misbranding and false advertising of the fiber content of textile products and requires that the appropriate generic name be used for all fibers. Generic names and definitions for manufactured fibers are established by the Commission, which is charged with administering the Act. The Act and accompanying rules are designed to protect producers and consumers from being deceived by misbranding and false advertising of the fiber content of textile products. Consumers may be able to make more informed decisions and to avoid unwanted or unnecessary items. Since each manufacturer must accurately label its product, competition based on content may be enhanced. Since the Commission's rules implement statutory (cont)

Timetable:

Action	Date	FR Cite
Initiation of Reg Flex Act Review	09/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: directives, most of the costs imposed on affected industry members may not be attributable to the Rules. The rules apply to textile fiber products manufacturers and certain other textile fiber products marketers some of which may be small businesses. Pursuant to Sec. 610 of the Regulatory Flexibility Act, the Commission will initiate a review of these rules during FY 1983 to determine whether the rules have had a significant economic impact on a substantial number of small entities and, if so, whether the rules should be amended. Among the areas which may be reviewed is possible simplification of the forms or requirements associated with the rule's voluntary filing provisions.

Agency Contact: Charles G. McGourty, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Los Angeles, CA 90024, 213 824-7575

RIN: 3084-AA22

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21. REVIEW OF THE PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Task Force

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801; 16 CFR 802; 16 CFR 803; 16 CFR 803, Appendix

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC)and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. Review of these rules and the Form focuses on reducing the paperwork burden imposed on the business community. On July 24, 1981, the Commission proposed several changes in the current premerger rules (46 Fed. Reg. 38710). These proposed changes, with some modification, were adopted in July 1983. Most of these changes are technical in nature and are designed to improve the clarity and effectiveness of the rules. The changes also reduce the burden of the (cont)

Timetable:

Action	Date	FR Cite
NPRM Clarification/Burden Reduction	07/29/81	46 FR 38710
Begin Review	09/30/81	
Notice of Request for Comments	07/02/82	47 FR 29182
Final Action Clarification/Burden Reduction	07/00/83	
Staff Proposal to Commission - Review	04/00/84	
Final Action Effective Clarification/Burden Reduction	08/00/84	

Small Entity: No

Additional Information: SMALL BUSINESSES CONT: The Premerger Notification Rules do not affect nonbusiness entities or small businesses. A firm must have sales or assets of at least $10 million to be subject to any reporting obligation. Moreover, any transaction is exempt under the rules if it is valued at less than $15 million and will not result in the acquiring person's holding 50% of the voting securities of a corporation with sales or assets of $25 million or more.

ABSTRACT CONT: premerger program by expanding several exemptions, by expanding the extent to which parties may incorporate by reference information submitted in a previous filing, and by raising the size-of-transaction exemption for acquisitions involving foreign persons.

Agency Contact: Roberta S. Baruch, Deputy Assistant Director for Evaluation, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Washington, DC 20580, 202 523-3894

RIN: 3084-AA23

VOL 48 ISS 201 OCT 17 1983 UMI

22. ●GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 419.1

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1969. The rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of sale information. During January, 1983, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an advance notice of proposed rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission has proposed to reduce the recordkeeping requirements of the rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requests public comment on other possible areas where amendments to the rule may be appropriate. The rule benefits consumers by allowing contestants to enter games of chance with full knowledge of all material information to enable equal competition for (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	08/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
Submit Staff Analysis to Commission	10/00/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: prizes. The major costs to industry are the possible burdensomeness of the electronic media disclosure and recordkeeping provisions of the rule, both of which are currently being reconsidered. Possible alternatives include different disclosures, reduced disclosures, or no disclosures.

Agency Contact: John M. Mendenhall, Attorney, Federal Trade Commission, Cleveland Regional Office, Suite 500-Mall Building, 118 St. Clair Ave, Cleveland, Ohio 44114, 216 522-4207

RIN: 3084-AA24

23. ●FRANCHISING AND BUSINESS OPPORTUNITIES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 436

Abstract: The franchise trade regulation rule was adopted in response to evidence of deceptive and unfair practices in connection with the sale of the types of businesses covered by the rule. In some instances prospective franchisees lack a ready means of obtaining essential and reliable information about their proposed business investment. This lack of information reduces the ability of prospective franchisees either to make an informed investment decision or otherwise verify the representations of the business' salespersons. The rule attempts to deal with these problems by requiring franchisors and franchise brokers to furnish prospective franchisees with information about the franchisor, the franchise business and the terms of the franchise agreement. Franchisors and franchise brokers must furnish additional information if they have made any claim about actual or potential earnings, either to the prospective franchisee or in the media. All disclosures must be made (i) before any sale is made and (ii) by means of disclosure documents whose form and content are set forth in the rule. The rule requires disclosure of (cont)

Timetable:

Action	Date	FR Cite
Rule promulgated	12/21/78	43 FR 59614
Initiation of Reg Flex Act Review	03/00/84	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: certain information. It does not regulate the substantive terms of the franchisor-franchisee relationship. It does not require registration of the offering or the filing of any documents with the Federal Trade Commission in connection with the sale of franchises. In accordance with Section 610 of the Regulatory Flexibility Act, the Commission will review this rule to examine its impact on small entities and assess whether any modifications are needed.

Agency Contact: John M. Tifford, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2865

RIN: 3084-AA25

24. ●RULES FOR USING ENERGY COST AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING OF CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT

Legal Authority: 42 USC 6294 National Energy Conservation Policy Act; PL 94-163 Energy Policy and Conservation Act, Sec 324, 1975

CFR Citation: 16 CFR 305

Abstract: The Energy Policy and Conservation Act (EPCA) required the Commission to consider labeling rules for the disclosure of energy information, based on standard test procedures prescribed by the Department of Energy, for at least 13 categories of major household appliances. The Commission adopted a labeling rule for seven appliance categories: (1) refrigerators and refrigerator- freezers; (2) freezers; (3) dishwashers; (4) clothes washers; (5) water heaters; (6) room air conditioners; and (7) furnaces. The Commission exempted five other categories of appliances. Following DOE's adoption of final test procedures for central air conditioners (and heat pumps), the Commission initiated a rulemaking to consider including these products. The Commission is also considering including two new types of furnaces in the rule's current coverage of furnaces.

The rule mandates that specific energy costs or efficiency information for covered products be disclosed in catalogs and on a label (fact sheets are required for furnaces). The label must include a highlighted energy cost or efficiency disclosure, a range indicating the highest and lowest energy costs or (cont)

Timetable:

Action	Date	FR Cite
NPRM (Air Conditioners)	08/11/80	45 FR 53340
NPRM (Furnaces)	07/24/81	46 FR 38105
Publication of Staff Reports	08/00/83	
Initiation of Reg Flex Act Review	04/00/84	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: efficiencies for all similar appliance models, and a chart that permits an individual to estimate how much it will cost to run the appliance each year based on local utility rates. The primary purpose of the rule is to permit consumers to compare the energy usage of competing appliances and to weigh that information along with other product features.

Since the Commission's rule implements the statutory directives in EPCA, most of the costs imposed on industry members may not be attributable to the rule. The rule applies mainly to manufacturers of household appliances, but does impose some burdens on distributors and retailers. Some of these entities may be small businesses pursuant to Section 610 of the Regulatory Flexibility Act; therefore, the Commission will initiate a review of the rule during FY 1984 to determine whether the rule has had a significant economic impact on a substantial number of small entities and, if so, whether the rule should be amended.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2891

RIN: 3084-AA26

25. ●LABELING AND ADVERTISING OF HOME INSULATION RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 460

Abstract: The Commission's home insulation trade regulation rule became effective on September 29, 1980. In summary, the major provisions of the rule: (1) prescribe standardized test methods for determining the R-values, or effectiveness, of home insulation materials; (2) mandate prepurchase point-of-sale disclosures of R-values and related information to consumers on labels and fact sheets; (3) require installers and new home sellers to disclose to consumers information about the insulation installed; (4) require disclosure of R-values or related information in advertisements which make specific claims about home insulation products; and (5) require substantiation and qualifying disclosures in advertisements which make energy savings claims about home insulation products. The rule is designed to enable consumers to evaluate and compare the thermal performance characteristics of these materials, and to ensure that promotional claims for home insulation products will be fair and nondeceptive. The disclosure requirements of the rule may benefit smaller manufacturers and other sellers, whose insulation products often compare favorably on an R-value basis with (cont)

Timetable:

Action	Date	FR Cite
Rule promulgated	08/29/79	44 FR 50218
Rule effective	09/29/80	45 FR 54704
Initiation of Reg Flex Act Review	04/00/84	
End Reg Flex Act Review	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: products produced by the dominant manufacturers in the industry. The resulting costs to covered sellers include the costs of conducting tests, preparing test reports, maintaining records, preparing labels and fact sheets, making disclosures in advertisements, and making disclosures in sales contracts or receipts given to consumers. Since the rule applies to all manufacturers, installers and other retail sellers of home insulation products, and to all retail new home and mobile home sellers, it may have a significant economic effect on a substantial number of small entities. To assess the possible impact of the rule on such small entities, the Commission is commencing a review of the rule in accordance with Section 610 of the Regulatory Flexibility Act.

Agency Contact: Kent C. Howerton, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2891

RIN: 3084-AA27

FEDERAL TRADE COMMISSION (FTC) — Completed Actions

COMPLETED RULEMAKINGS

26. AMENDMENT TO CARE LABELING OF TEXTILE WEARING APPAREL RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 423

Abstract: The rule and its amendment seek to inform consumers of proper care procedures to safeguard the utility and appearance of purchased textile products. The information thus made available may permit a more informed choice among competing products. The amendment requires a more complete statement of the care procedures and the establishment of a basis for the accuracy of each care procedure prescribed in a label. The amendment also provides a glossary of standardized care terminology that can be used. The amended rule and accompanying Statement of Basis and Purpose were published in the Federal Register on May 20, 1983. All of the alternatives that were considered, along with an analysis of their costs and benefits, are set forth in the Regulatory Analysis and Statement of Basis and Purpose at 48 FR 22733. The amendment merely clarifies existing obligations and will therefore impose little or no incremental cost on industry members. With clarification of the rule's requirements, manufacturers should be able to minimize inadvertent violations and to avoid unnecessary compliance costs. The amendment will not have a significant economic impact on a substantial number (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/26/76	41 FR 3747
Request for technical comments	01/05/81	46 FR 935
Final Commission Decision	06/24/82	
Final Action	05/20/83	48 FR 22733
Rule submitted to Congress	05/23/83	
Final Action Effective	01/00/84	

Small Entity: No

Additional Information: ABSTRACT CONT: of small businesses. The Commission submitted the rule to

VOL
48
ISS
201
OC
17
1983
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Congress in May 1983. At the appropriate time, the Commission intends to publish a notice of the effective date of the amended rule.

Agency Contact: Earl Johnson, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2981

RIN: 3084-AA01

27. FUNERAL INDUSTRY PRACTICES

Priority: Major

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 441

Abstract: In July, 1982, the Commission approved a trade regulation rule for funeral industry practices which requires itemized price information to be disclosed over the telephone and in the funeral home, and a written statement of charges for services and merchandise. The rule prohibits certain practices, such as requiring caskets for direct cremations or conditioning the sale of goods or services upon the purchase of other goods or services. The Commission considered and rejected several alternatives to the proposed rule including: (1) taking no action; (2) issuing a non-binding industry guide; and (3) issuing a model state law. The rule's provisions impose compliance costs such as preparing price lists and disclosing prices over the telephone. The Commission believes that compliance costs will not exceed the benefits to consumers. With the rule, it may be easier for consumers to shop comparatively, thereby reducing their search costs and increasing competition. Consumers also may be able to select only those items that they wish to purchase, thereby reducing their total costs. The rule will require funeral providers to formulate and distribute itemized price lists (cont)

Timetable:

Action	Date	FR Cite
Final Action	09/24/82	47 FR 42260
Rule promulgated	09/28/82	
Rule submitted to Congress	09/30/82	
Rule resubmitted to Congress	01/25/83	
Congressional Review Period ended	05/15/83	
Final Action Effective	01/01/84	

Small Entity: Yes

Additional Information: ABSTRACT CONT: and to incorporate certain affirmative disclosures into these lists. It will also require funeral providers to retain copies of the price lists and the statements of funeral goods and services for one year. Because most funeral providers are small businesses, the rule will affect a substantial number of small entities. The Commission submitted the rule to Congress in January 1983. Congress completed its 90-day review of the rule on May 15, 1983. The rule was scheduled to go into effect 90 days after the Congressional review period ended, but the Commission decided to make the effective date January 1, 1984, to allow time for completion of several court challenges against the rule.

Agency Contact: Erica L. Summers, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3413

RIN: 3084-AA05

[FR Doc. 83-28070 Filed 10-14-83; 8:45 am]

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Monday
October 17, 1983

Part XLVIII

Interstate Commerce Commission

Semiannual Regulatory Agenda

VOL
48
ISS
2
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OC
17
1983
UMI

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INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 420 (Sub-No. 5)]

Semiannual Regulatory Agenda

AGENCY: Interstate Commerce Commission.

ACTION: Notice of semiannual Regulatory Agenda to be part of a Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to OMB Bulletin No. 83-15, issued under Section 6(b) of E.O. 12291 to implement the provisions of Section 5 of the Executive Order concerning Regulatory Agendas, the Commission is publishing an agenda of (1) current and projected rulemakings, and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: Two lists of proceedings appear below. The first contains information about subject areas in which the Commission is currently conducting rulemaking proceedings or may institute such proceedings in the near future. The second contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda identifies regulations likely to have a significant economic impact on a substantial number of "small entities." Accordingly, this information will satisfy the requirements of section 602 of the Regulatory Flexibility Act, 5 U.S.C. 602.

Finally, this agenda will comprise part of a Unified Agenda of Federal Regulations compiled by the Office of Management and Budget which is to be published in a single issue of the **Federal Register** in October 1983. The purpose of the Unified Agenda is to provide the public with more comprehensive documentation of the federal government's current regulatory plans, and to provide a systematic means of monitoring regulatory activity in each agency.

This notice is issued pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: August 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

INTERSTATE COMMERCE COMMISSION (ICC) — Current and Projected Rulemakings

REVIEW OF PRESERVATION OF RECORDS RULES, DOCKET NO. 38849

Priority: Agency Determination

Legal Authority: 5 USC 553; 49 USC 11144

CFR Citation: 49 CFR 1220

Abstract: The purpose of the preservation of record rules is to assure that carrier's records are secure, readily accessible, and adequately maintained for a prescribed period of time. The regulations instruct carriers to maintain their corporate, treasury, property, personnel, insurance and claims inventory, transportation, tariff, statistical, and miscellaneous records in hard paper copy, microfiche, or machine-readable form for certain periods. The objective of this review is to determine the relevance of each record, the appropriateness of the prescribed retention periods, and the purpose for which each record is needed for the Commission's regulatory mission. This will allow each company's management more autonomy in establishing a recordkeeping program, while reducing costs and burden.

Timetable:

Action	Date	FR Cite
NPRM	12/10/82	
NPRM Comment Period Begin	12/10/82	47 FR 56152
NPRM Comment Period End	01/24/83	
Final Action	10/00/83	
Final Action Effective	10/00/83	

Small Entity: Yes

Agency Contact: Bryan Brown, Jr., Chief, Section of Accounting and Reporting, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7448

RIN: 3120-AA02

REVISION OF ABANDONMENT REGULATIONS, EX PARTE NO. 274 (SUB-NO.5)

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10362; 49 USC 10903 to 10906

CFR Citation: 49 CFR 1152, (formerly 49 CFR 1121)

Abstract: The abandonment regulations will be modified to take account of certain recent regulatory decisions and will update and clarify them.

Timetable:

Action	Date	FR Cite
NPRM	10/01/82	
NPRM Comment Period Begin	10/01/82	
NPRM Comment Period End	10/31/82	
Pending Final Decision	00/00/00	

Small Entity: No

Government Levels Affected: Local, State, Federal

Analysis: Draft RFA 10/01/82; Final RFA 04/01/83

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AA07

RAILROAD CONSOLIDATION PROCEDURES - TRACKAGE RIGHTS EXEMPTION, EX PARTE NO. 282 (SUB-NO. 9)

Priority: Agency Determination

Legal Authority: 49 USC 10505; 49 USC 11343 to 11346; 5 USC 553

CFR Citation: 49 CFR 1180, (formerly 49 CFR 1111)

ICC — Current and Projected Rulemakings

Abstract: We propose to exempt from regulation, as a class, trackage rights transactions under 49 U.S.C. 11343 that are: 1) based on written agreements; and 2) not sought as responsive applications to rail consolidation proceedings.

Timetable:

Action	Date	FR Cite
NPRM	09/15/82	47 FR 40668
NPRM Comment Period Begin	09/15/82	47 FR 40668
NPRM Comment Period End	10/15/82	
Pending Final Decision	00/00/00	

Small Entity: No

Public Compliance Cost: Initial Cost: $200; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1981

Government Levels Affected: Local, State, Federal

Analysis: Draft RFA 09/15/82 (47 FR 40668)

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AA09

EXEMPTION OF RAILROADS FROM SECURITIES REGULATION UNDER 49 USC 11301, EX PARTE NO. 397

Priority: Agency Determination

Legal Authority: 49 USC 11301

CFR Citation: 49 CFR 1115

Abstract: Securities of railroads will be exempt from regulation under this proposal.

Timetable:

Action	Date	FR Cite
NPRM	04/01/83	
NPRM Comment Period Begin	04/01/83	
NPRM Comment Period End	05/01/83	
Pending Final Decision	00/00/00	

Small Entity: Undetermined

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $406,000

Government Levels Affected: State, Federal

Analysis: Draft RFA 10/01/82; Final RIA 01/01/83; Final RFA 01/01/83; Preliminary RIA 10/01/83

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AA10

ZONE OF REASONABLENESS FOR CAR HIRE CHARGES, EX PARTE NO. 334 (SUB-NO. 5)

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10706; 49 USC 10734; 49 USC 11122; 5 USC 553

CFR Citation: 49 CFR 1033; 49 CFR 1036

Abstract: The Commission is considering whether to increase carrier flexibility in establishing car hire charges.

Timetable:

Action	Date	FR Cite
NPRM	10/22/80	
NPRM Comment Period Begin	11/03/80	45 FR 73524
NPRM Comment Period End	12/22/80	
Presently under internal evaluation	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA13

RULES GOVERNING TEMPORARY AUTHORITY AND EMERGENCY TEMPORARY AUTHORITY, EX PARTE NO. MC-67 (SUB-NO. 8)

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1118; 49 CFR 1162; 49 CFR 1163

Abstract: Proposal to simplify all regulations dealing with TA's and ETA's, to implement a requirement of the Motor Carrier Act of 1980 and the Bus Regulatory Reform Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	02/23/81	46 FR 13741
NPRM Comment Period Begin	02/24/81	
NPRM Comment Period End	04/10/81	
Final Action	10/31/83	

Small Entity: No

Agency Contact: Paul Grossman, Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7976

RIN: 3120-AA18

SPECIAL TEMPORARY AUTHORITY PROCEDURES, EX PARTE NO. MC-64 (SUB-NO. 2A)

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1131

Abstract: Proposal to add categories of emergency situations in which special temporary operating authority for motor carriers may be granted.

Timetable:

Action	Date	FR Cite
NPRM	06/05/80	45 FR 37912
NPRM Comment Period Begin	06/05/80	45 FR 46459
NPRM Comment Period End	08/11/80	
Final Action	12/31/83	

Small Entity: Not Applicable

Agency Contact: Jane Ewing, Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7786

RIN: 3120-AA19

ELIMINATION OF NOTIFICATION OF ETA APPLICATION, EX PARTE NO. MC-67 (SUB-NO. 6)

Legal Authority: 49 USC 10321; 49 USC 10928; 5 USC 553

CFR Citation: 49 CFR 1131

Abstract: Proposal to cease notifying other parties before granting emergency temporary authority applications, as the delays involved in the notice procedure vitiated the emergency nature of the grant.

Timetable:

Action	Date	FR Cite
NPRM	02/24/81	46 FR 13741
NPRM Comment Period Begin	02/24/81	
NPRM Comment Period End	03/26/81	
Final Action	10/01/83	

Small Entity: Not Applicable

Agency Contact: Jane Ewing, Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7786

RIN: 3120-AA22

VOL 48 ISS 201 OCT 17 1983 UMI

BRANCH LINE ACCOUNTING SYSTEM-RAILROADS

Legal Authority: 49 USC 10362(b)(7)

CFR Citation: 49 CFR 1201

Abstract: These rules establish a standardized system of accounting which will permit the collection and publication by railroads of information necessary to determine accurately the revenues attributable, avoidable costs, and service units of light density lines scheduled for abandonment under 49 CFR 1121 or 1125. This proceeding is a continuing matter, by statute, based upon the Regional Rail Reorganization Act of 1973, modified by the Railroad Revitalization & Regulatory Reform Act of 1976; therefore, completion dates are inappropriate.

Timetable:

Action	Date	FR Cite
NPRM Restatement of Regulations	01/11/78	43 FR 1732
Continuing proceeding by statute	00/00/00	

Small Entity: Not Applicable

Agency Contact: James R. Wells, Transportation Industry Analyst, Interstate Commerce Commission, Section of Rail Services Planning, Washington, DC 20423, 202 275-0840

RIN: 3120-AA23

PETITION TO EXPAND PASSENGER MOTOR CARRIER SUPERHIGHWAY AND DEVIATION RULES

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1042

Abstract: Proposal to expand the amount by which a motor carrier of passengers may deviate from its certificated route in order to perform authorized service in an efficient and timely way.

Timetable:

Action	Date	FR Cite
NPRM	02/01/79	44 FR 6580
Draft under consideration	00/00/00	

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: S. David Berger, Supervising Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7980

RIN: 3120-AA24

DORMANCY, DIVISION OF OPERATING RIGHTS, AND NEW COMPETITIVE SERVICE IN MOTOR CARRIER ACQUISITION CASES, EX PARTE NO. MC-155

Legal Authority: 49 USC 10926; 49 USC 11343; 49 USC 11344

CFR Citation: 49 CFR 1132; 49 CFR 1134

Abstract: New rules would propose to deal with the handling of sales of motor carrier operating rights involving dormant rights or rights which create additional competition by sale.

Timetable:

Action	Date	FR Cite
On hold pending action on Ex Parte 55 Sub 57	00/00/00	

Small Entity: Undetermined

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $957,300; Base Year for Dollar Estimates: 1983

Government Levels Affected: Federal

Analysis: Draft RFA 01/20/83

Agency Contact: Warren Wood, Senior Attorney, Motor Section, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Room 2330, Washington, DC 20423, 202 275-7977

RIN: 3120-AA27

COSTING METHODOLOGIES FOR THE NORTHEAST CORRIDOR; COMMUTER SERVICE

Legal Authority: PL 97-35, Sec 1163(a) Northeast Rail Service Act of 1981

Abstract: These rules establish an appropriate costing methodology for compensating Amtrak for the use of its trackage in the Northeast Corridor and other areas by commuter rail passenger and freight services. It is based on an avoidable costing methodology concept. Amtrak is treated as the dominant user and the other users of its properties as the minority users; this is for purposes of assigning joint costs. This proceeding is a continuing matter under the Northeast Rail Services Act of 1981; as such, completion dates are not pertinent.

Timetable:

Action	Date	FR Cite
ANPRM	09/04/81	46 FR 44999
NPRM	01/25/82	47 FR 3418
NPRM Comment Period Begin	01/25/82	47 FR 3418
NPRM Comment Period End	03/01/82	
Continuing proceeding by statute	00/00/00	

Small Entity: No

Agency Contact: Stephen M. Grimm, Transportation Industry Analyst, Interstate Commerce Commission, Washington, DC 20423, 202 275-0639

RIN: 3120-AA31

REASONABLY EXPECTED COSTS

Legal Authority: 49 USC 10705a(b)(2) Staggers Rail Act of 1980

CFR Citation: 49 CFR 1129

Abstract: A railroad may impose a surcharge on traffic originating or terminating on certain light density lines. These surcharges may be applied without Commission interference unless the surcharge increases the carrier's share of joint-line revenues above 110 percent of variable cost plus 100 percent of the carrier's reasonably expected costs of continuing to operate the line itself; i.e., its on-branch costs. These rules establish the methodology for determining "reasonably expected costs." It will benefit the public by permitting shippers a mechanism to monitor and determine the appropriateness of a light density line surcharge. This proceeding is "open" pursuant to the Staggers Rail Act of 1980 and therefore, completion dates are not appropriate.

Timetable:

Action	Date	FR Cite
"Open" pursuant to statute	00/00/00	

Small Entity: No

Agency Contact: James Wells, Accountant, Interstate Commerce Commission, Washington, DC 20423, 202 275-0640

RIN: 3120-AA32

STANDARDS FOR DETERMINING RAIL SERVICE CONTINUATION

Legal Authority: 45 USC 715(d)(6) Regional Rail Reorganization Act of 1973; 49 USC 10362(b)(6) RR Revitalization & Reg. Reform Act of 1976

CFR Citation: 49 CFR 1125

Abstract: The standards define the terms "revenue attributable to the rail properties," the "avoidable costs of providing service," a "reasonable return on the value," and a "reasonable management fee." When a railroad receives Commission approval to abandon a portion of rail property because it is a burden on interstate commerce, a financially responsible person may offer an operating subsidy (i.e., a rail service continuation payment) to keep the rail line in operation. The standards establish a formula for calculating the estimated first year subsidy payment; the formula utilizes the terms defined above. This standard benefits the public by facilitating the continuation of essential freight service that would otherwise cease; it further provides a mechanism adequately compensating a carrier for the service provided. This proceeding is a continuing matter by statute based upon the Regional Rail Reorganization Act of 1973; modified by the Railroad Revitalization & Regulatory Reform Act of 1976; therefore, completion dates are inappropriate.

Timetable:

Action	Date	FR Cite
Continuing proceeding by statute	00/00/00	

Small Entity: Not Applicable

Agency Contact: James Wells, Accountant, Interstate Commerce Commission, Section of Rail Services Planning, Washington, DC 20423, 202 275-0640

RIN: 3120-AA33

STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Legal Authority: 45 USC 715 Regional Rail Reorganization Act of 1973; 49 USC 10362(b)(5); PL 94-210 RR Revitalization & Reg. Reform Act of 1976

CFR Citation: 49 CFR 1127

Abstract: These standards establish a methodology by which a subsidy amount may be calculated. This subsidy would be offered by a financially responsible party (usually a state agency or commuter authority) to a railroad to fund the deficits incurred in providing rail passenger commuter service in the Northeast. These standards benefit the public by facilitating the continuation of essential rail passenger service and providing a mechanism for adequately compensating a carrier for the service provided. This proceeding is a continuing matter, by statute, based upon the Regional Rail Reorganization Act of 1973, modified by the Railroad Revitalization & Regulatory Reform Act of 1976; therefore, completion dates are inappropriate.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/81	
Continuing proceeding by statute	00/00/00	

Small Entity: Not Applicable

Agency Contact: Stephen M. Grimm, Transportation Industry Analyst, Interstate Commerce Commission, Section of Rail Services Planning, Washington, DC 20423, 202 275-0639

RIN: 3120-AA34

INTERCHANGE POLICIES AT INTERNATIONAL BOUNDARY LINES, EX PARTE NO. MC-73 (SUB-NO. 1)

Legal Authority: 49 USC 10101; 49 USC 10321; 49 USC 11107; 5 USC 552; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1004; 49 CFR 1057

Abstract: Proposal to permit licensed motor carriers to interchange equipment at international boundary lines with licensed Mexican and Canadian carriers.

Timetable:

Action	Date	FR Cite
NPRM	06/23/81	46 FR 32460
NPRM Comment Period Begin	06/23/81	
NPRM Comment Period End	08/07/81	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Andrew L. Lyon, Principal Attorney, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7604

RIN: 3120-AA36

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (PERFORMANCE STANDARDS)

Legal Authority: 49 USC 11109; 49 USC 11110

CFR Citation: 49 CFR 1056.18

Abstract: This proceeding would adopt performance standards for household goods carriers in the areas of: accuracy of estimates; transporting shipments with reasonable dispatch; and claims handling.

Timetable:

Action	Date	FR Cite
NPRM	03/11/81	46 FR 16225
NPRM Comment Period Begin	03/11/81	46 FR 16225
NPRM Comment Period End	04/10/81	
Final Action	11/30/83	
Final Action Effective	12/30/83	

Small Entity: Undetermined

Agency Contact: W. F. Sibbald, Jr., Assistant Deputy Director, Sec of Operations, Interstate Commerce Commission, OCCA, Washington, DC 20423, 202 275-7148

RIN: 3120-AA38

REVOCATION PROCEDURES FOR FAILURE TO FILE AND MAINTAIN INSURANCE (MOTOR CARRIERS), OR SURETY BONDS (MOTOR CARRIERS, BROKERS AND FREIGHT FORWARDERS), EX PARTE NO. MC-5 (SUB-NO.3)

Legal Authority: 49 USC 10925; 49 USC 10927

CFR Citation: 49 CFR 1043.7(f); 49 CFR 1064.8(g)

Abstract: Motor carriers, brokers and forwarders are required to file evidence of security for public protection in prescribed amounts. This proceeding involves improvement of the procedures by which revocation of certificates, licenses and permits is accomplished for failure to file or maintain the required security.

Timetable:

Action	Date	FR Cite
NPRM	12/13/82	47 FR 55980
NPRM Comment Period Begin	12/13/82	47 FR 55980
NPRM Comment Period End	01/13/83	
Final Action	09/16/83	
Final Action Effective	10/16/83	

Small Entity: No

Agency Contact: Margaret Ginyard, Transportation Industry Analyst, Interstate Commerce Commission, Office of Compliance & Consumer Assistance, Room 6328, Washington, DC 20423, 202 275-6749

RIN: 3120-AA39

REGULATIONS GOVERNING THE ADEQUACY OF INTERCITY MOTOR COMMON CARRIER PASSENGER SERVICE, EX PARTE NO. MC-95 (SUB-NO. 3)

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1063

Abstract: Proposal to develop rules governing adequacy of service, equipment, and facilities on buses.

Timetable:

Action	Date	FR Cite
NPRM	09/06/79	44 FR 53092
NPRM Comment Period Begin	09/06/79	
NPRM Comment Period End	10/06/79	
Interim Final Rule	12/30/83	

Small Entity: Not Applicable

Agency Contact: James Brown, Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7896

RIN: 3120-AA40

HANDLING OF C.O.D. SHIPMENTS, EX PARTE NO. MC-42

Priority: Agency Determination

Legal Authority: 49 USC 10101; 49 USC 10321; 49 USC 10762; 49 USC 11101; 5 USC 553

CFR Citation: 49 CFR 1052

Abstract: The Commission is considering whether to revise its existing regulations to authorize individual carriers to establish their own nondiscriminatory C.O.D. collection and remittance rules and to eliminate the requirement in existing recordkeeping.

Timetable:

Action	Date	FR Cite
NPRM	03/19/81	46 FR 17814
NPRM Comment Period Begin	03/20/81	
NPRM Comment Period End	05/04/81	
Final Action	10/15/83	

Small Entity: No

Agency Contact: Mark Shaffer, Supervising Attorney Advisor, Interstate Commerce Commission, Washington, DC 20423, 202 275-1723

RIN: 3120-AA42

COAL RATE GUIDELINES - NATIONWIDE, EX PARTE NO. 347 (SUB-NO. 1)

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10701a; 49 USC 10704; 5 USC 553; 49 USC 10709(a)

Abstract: The Commission is proposing a maximum rail rate policy applicable to captive coal traffic. Under the proposed "constrained market pricing" approach, rail carriers' pricing of market dominant coal traffic would be subject to four upward constraints. First, a coal shipper could not be charged more than the "stand-alone cost" of serving its traffic. Second, captive shippers would not be required to bear the cost of obvious management inefficiencies. Third, carriers which have adequate revenues, as we have defined them, would not be permitted to increase their rates on captive coal traffic. Finally, carriers would generally not be permitted to increase their rates on captive coal traffic by more than 15 percent in a single year (after allowing for inflation).

Timetable:

Action	Date	FR Cite
NPRM	11/18/80	45 FR 80370
NPRM Comment Period Begin	11/18/80	46 FR 2204
NPRM Comment Period End	04/17/81	
Comment End extended to 05/11/81	04/17/81	46 FR 22497
Interim Final Rule	12/16/81	46 FR 62958
Additional comments requested	02/10/82	47 FR 6109
Decision reopening 12/16 decision	08/05/82	
NPRM	02/08/83	
Public Comment Period Begins	02/22/83	
Public Comment Period Ends	07/28/83	
Final Action	05/00/84	

Small Entity: Undetermined

Agency Contact: Leslie J. Selzer, Assistant to the Director, Interstate Commerce Commission, Bureau of Accounts, Washington, DC 20423, 202 275-7627

RIN: 3120-AA52

STANDARDS FOR RAILROAD REVENUE ADEQUACY, EX PARTE NO. 393

Priority: Major

Legal Authority: 49 USC 10704(a)(2)

Abstract: To assist the Commission in determining whether railroads are revenue adequate as prescribed by the IC Act. A final decision in this proceeding was issued on 03/30/81. The present NPRM is to resolve several issues left outstanding in the earlier decision.

Timetable:

Action	Date	FR Cite
NPRM	11/26/80	
NPRM	02/28/83	
NPRM Comment Period begins	03/01/83	
NPRM Comment Period ends	04/15/83	
Comment Period extended to	09/16/83	48 FR 29964
Final Action	12/31/83	

Small Entity: Undetermined

Agency Contact: Ward L. Ginn, Jr., Chief, Section of Financial Analysis, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7488

RIN: 3120-AA61

ADOPTION OF UNIFORM RAIL COSTING SYSTEM FOR DETERMINING VARIABLE COST FOR JURISDICTIONAL THRESHOLD AND SURCHARGE PURPOSES (URCS), EX PARTE NO. 431

Priority: Major

Legal Authority: 49 USC 10705(a); 49 USC 10709

CFR Citation: Not yet determined

Abstract: Develops new cost methodology applicable to the rail industry as mandated in the 1976 4-R Act and the 1980 Staggers Rail Act.

Timetable:

Action	Date	FR Cite
NPRM	01/31/83	48 FR 4562
NPRM Comment Period Begin	01/31/83	48 FR 25290

Action	Date	FR Cite
NPRM Comment Period End	09/28/83	
Final Action	04/00/84	
Final Action Effective	10/00/84	

Small Entity: Yes

Agency Contact: William T. Bono, Chief, Section of Cost Development, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7354

RIN: 3120-AA63

MODIFY RULES GOVERNING TRAFFIC AMENDMENTS, EX PARTE NO. 435

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10762

CFR Citation: 49 CFR 1300; 49 CFR 1306; 49 CFR 1307; 49 CFR 1309; 49 CFR 1310

Abstract: The Commission proposes to relax present regulations which limit the size and number of amendments and supplements to effective tariffs.

Timetable:

Action	Date	FR Cite
NPRM	09/24/82	47 FR 52483
NPRM Comment Period Begin	09/24/82	47 FR 52483
NPRM Comment Period End	12/23/82	
Final Action	10/00/83	

Small Entity: No

Agency Contact: Martin E. Foley, Director, Bureau of Traffic, Interstate Commerce Commission, 4318 ICC Building, Washington, DC 20423, 202 275-7189

RIN: 3120-AA65

CONSOLIDATION OF TARIFF PUBLISHING RULES, DOCKET NO. 37321

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10762

CFR Citation: 49 CFR 1300; 49 CFR 1303; 49 CFR 1304; 49 CFR 1305; 49 CFR 1306; 49 CFR 1307; 49 CFR 1308; 49 CFR 1309; 49 CFR 1310

Abstract: A complete review and revisions of all the ICC tariff publishing regulations codified at 49 CFR 1300 - 1310 inclusive to simplify language, eliminate duplications, streamline procedures and generally improve the overall quality of the regulations and tariffs filed pursuant to them. Obsolete or unnecessary regulations will be deleted. Upon approval by the Commission, the proposed revisions will be put out for public comment via APA rulemaking procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/07/83	48 FR 31265
NPRM Comment Period Begin	07/07/83	48 FR 31265
NPRM Comment Period End	10/04/83	

Small Entity: Yes

Agency Contact: Martin E. Foley, Director, Bureau of Traffic, Interstate Commerce Commission, 4318 ICC Building, Washington, DC 20423, 202 275-7189

RIN: 3120-AA66

AGRICULTURAL COOPERATIVE EXEMPTION

Legal Authority: 49 USC 10529

CFR Citation: 49 CFR 1047.21 to 1047.23

Abstract: The draft final rules would modify existing regulations to enhance the Commission's enforcement powers over cooperatives. Cooperatives would be required to compile simple reports and maintain certain records in one location. Non-resident cooperatives would have to make such reports and records available in the United States and the Notice Form OCP 102 required to be filed with the Commission would expire one year from the filing date.

Timetable:

Action	Date	FR Cite
NPRM	06/10/81	49 FR 30668
NPRM Comment Period Begin	06/10/81	49 FR 30668
NPRM Comment Period End	07/27/81	
Final Action	12/01/83	
Final Action Effective	12/31/83	

Small Entity: Yes

Agency Contact: Patricia M Schulze, Transportation Industry Analyst, Interstate Commerce Commission, OCCA, Washington, DC 20423, 202 275-7841

RIN: 3120-AA74

MOTOR CARRIERS AND FREIGHT FORWARDERS INSURANCE PROCEDURES AND MINIMUM AMOUNTS OF LIABILITY, EX PARTE NO. MC-5 (SUB-NO. 2)

Legal Authority: 49 USC 10927

CFR Citation: 49 CFR 1043.1; 49 CFR 1043.2; 49 CFR 1043.4 to 1043.8; 49 CFR 1084

Abstract: This rulemaking proposes to permit insurance coverage through multiple policies, known as "aggregation", for all motor carriers and freight forwarders. It would eliminate the financial standard for qualifying insurance and surety companies. The proposal would raise bodily injury and property damage liability limits for freight forwarders to the same limits as motor carriers and change to a combined single limit of $300,000 for motor operating vehicles under 10,000 pounds GVWR.

Timetable:

Action	Date	FR Cite
NPRM	12/14/82	47 FR 55976
NPRM Comment Period Begin	12/14/82	47 FR 55976
NPRM Comment Period End	01/13/83	
Final Action	10/03/83	
Final Action Effective	01/01/84	

Small Entity: Yes

Agency Contact: Alice K. Ramsay; Margaret Richards, Branch Chief; Insurance Examiner, Interstate Commerce Commission, OCCA, Washington, DC 20423, 202 275-0854

RIN: 3120-AA75

SPECIAL INTERMODAL AUTHORITY, EX PARTE NO. 282 (SUB-NO. 7)

Legal Authority: 49 USC 11344(e)

CFR Citation: 49 CFR 1111.11

Abstract: The rules will implement a provision allowing special applications to provide the motor portion of a motor-rail movement as a substitute for impaired rail service.

Timetable:

Action	Date	FR Cite
NPRM	10/18/80	
NPRM Comment Period Begin	10/18/80	
Interim Final Rule	10/18/80	
NPRM Comment Period End	11/18/80	
Final Action	09/18/83	

VOL
48
ISS
201
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1983
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Action	Date	FR Cite
Final Action Effective	10/19/83	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AA82

REVISION TO ACCOUNTING AND REPORTING REQUIREMENTS OF OTHER THAN GENERAL FREIGHT MOTOR CARRIERS

Priority: Agency Determination

Legal Authority: 9 USC 11142

CFR Citation: 49 CFR 1207; 49 CFR 1249

Abstract: This rule would: (1) eliminate the requirement for Class I contract carriers of other than general freight (except household goods) to maintain the uniform system of accounts; (2) reduce the Annual Report Form M filed by Class I common carriers of other than general freight by about 65 percent; and (3) adopt a simple two-page survey form for Class I contract and Class II common and contract carriers of other than general freight (except household goods). These changes would relieve about 1,675 carriers from our accounting rules and reduce the accounting and reporting burden by about 297,350 staff-hours.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
Final Action	12/00/83	
Final Action Effective	01/01/84	

Small Entity: No

Agency Contact: Bryan Brown, Jr., Chief, Section of Accounting and Reporting, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, D.C. 20423, 202 275-7448

RIN: 3120-AA84

REVISION TO ACCOUNTING RULES FOR CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Priority: Agency Determination

Legal Authority: 5 USC 553; 49 USC 11142

CFR Citation: 49 CFR 1207

Abstract: The proposed rule would revise the regulations to: (1) make the uniform system of accounts a single-class system, generally based on the present requirements for Class II carriers; (2) eliminate recognition of gains on trade-ins of operating equipment; (3) eliminate the requirement for household goods carrier principals to obtain financial reports from their carrier agents; and (4) make miscellaneous technical changes to clarify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/18/83	48 FR 2557
NPRM Comment Period Begin	01/20/83	48 FR 2557
NPRM Comment Period End	03/07/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: Bryan Brown, Jr., Chief, Section of Accounting and Reporting, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, D.C. 20423, 202 275-7448

RIN: 3120-AA85

REVISION TO THE UNIFORM SYSTEM OF ACCOUNTS FOR RAILROADS

Priority: Agency Determination

Legal Authority: 49 USC 11166

CFR Citation: 49 CFR 1201

Abstract: The purpose of this regulation is to update the uniform system of accounts for railroads. This includes incorporating various suggestions from users and carriers and recommendations from Commission staff. It also addresses such areas as compliance with GAAP, clarity of presentation, and logic for level of detail in account classifications. Further, the operating expense account explanations have been revised for clarity.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
NPRM Comment Period Begin	09/00/83	
NPRM Comment Period End	10/00/83	
Final Action	12/00/83	
Final Action Effective	01/01/84	

Small Entity: No

Agency Contact: Bryan Brown, Jr., Chief, Section of Accounting and Reporting, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, D.C. 20423, 202 275-7448

RIN: 3120-AA86

BANKRUPT RAILROAD LINES, FORCED SALE PROCEDURES FOR EX PARTE NO. 282 (SUB-NO. 4A)

Priority: Agency Determination

Legal Authority: 45 USC 915(b); 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1180"(c)"

Abstract: The new regulations (49 C.F.R. 1180.40-1180.49) implement section 213 of the Rail Safety and Service Improvement Act of 1982, Pub. L. No. 97-468, amended section 17(b) of the Milwaukee Railroad Restructuring Act, [45 U.S.C. 915(b)], which deals with the sale or transfer of lines of bankrupt railroads. Specifically, the Commission is empowered to prescribe terms, including compensation, for the sale of lines over which no service is being provided by the owner, upon the request of a financially responsible offeror whose offer to purchase has been rejected by the trustee. When more than one offeror participates in a proceeding, the Commission is authorized to select an offeror based on a public interest standard.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/83	48 FR 0281
Pending Final Decision	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA87

EXEMPTION FROM REGULATION - RAIL TRANSPORTATION FROZEN FOOD, EX PARTE NO. 346 (SUB-NO: 15)

Priority: Agency Determination

Legal Authority: 49 USC 10505; 5 USC 553

CFR Citation: 49 CFR 1039

Abstract: Acting on a petition of the Union Pacific Railroad Company, the Commission has requested comments on a proposal to exempt from regulation the rail transportation of frozen foods.

Timetable:

Action	Date	FR Cite
NPRM	02/09/83	48 FR 6210
NPRM Comment Period Begin	02/09/83	
NPRM Comment Period End	03/14/83	
Pending Final Decision	00/00/00	

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA88

●REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED ACTIVITIES

Priority: Agency Determination

Legal Authority: 9 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1002

Abstract: The Interstate Commerce Commission has established a Task Force to study its user fee program with a view toward updating the existing fee schedule and possibly including others in the fee schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	05/01/84	
Final Action Effective	06/01/84	

Small Entity: Undetermined

Agency Contact: Kathleen M. King, Attorney Advisor, Interstate Commerce Commission, 12th & Constitution Ave. NW, Washington, DC 20423, 202 275-0956

RIN: 3120-AA90

REVISION OF RAIL, MOTOR, WATER, AND FREIGHT FORWARDER CREDIT REGULATIONS, EX PARTE NOS. MC-1 AND 73 ET AL

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10701; 49 USC 10702; 49 USC 10741; 49 USC 10743; 49 USC 10744

CFR Citation: 49 CFR 1051; 49 CFR 1320; 49 CFR 1321; 49 CFR 1322; 49 CFR 1323; 49 CFR 1324

Abstract: The Commission is examining the rules governing the extension of credit by regulated carriers.

Timetable:

Action	Date	FR Cite
NPRM	01/18/83	48 FR 2151
NPRM Comment Period Begin	01/18/83	
NPRM Comment Period End	04/18/83	
Pending Final Decision	00/00/00	

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA94

PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS

Legal Authority: 49 USC 10761(a); 49 USC 10741

CFR Citation: 49 CFR 1008

Abstract: This action would consider the modification of rules governing processing of overcharge, duplicate payment, and overcollection claims to lessen burdens on small shippers.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	
NPRM Comment Period Begin	09/30/83	
NPRM Comment Period End	10/30/83	
Final Action Effective	10/00/83	

Small Entity: Yes

Agency Contact: Patricia M. Schulze, Transportation Industry Analyst, Interstate Commerce Commission, Office of Compliance and Consumer Assistance, Washington, D.C. 20423, 202 275-7841

RIN: 3120-AA95

OWNER-OPERATOR FOOD TRANSPORTATION

Legal Authority: 49 USC 10922(b)(4)(E); 49 USC 10923(b)(5)(A)

CFR Citation: 49 CFR 1002.2(d)(8); 49 CFR 1138.4

Abstract: The present regulations contemplate that annual report forms for owner-operator food transportation be mailed to licensees approximately one year after the issuance of authority and on the same date in each successive year. This system is administratively cumbersome. The proposal would provide for an annual mailing of the forms in January of each year and would require that carriers holding this authority complete and file the report on or before March 31 of each year for transportation performed during the preceding calendar year.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	
NPRM Comment Period Begin	09/30/83	
NPRM Comment Period End	10/30/83	

Small Entity: Yes

Agency Contact: Patricia W. Schulze, Transportation Industry Analyst, Interstate Commerce Commission, Office of Compliance and Consumer Assistance, Washington, D.C. 20423, 202 275-7841

RIN: 3120-AA96

CONTROL OF DUPLICATIVE OPERATING RIGHTS, EX PARTE NO. MC-79 (SUB-NO. 2)

Legal Authority: 49 USC 10321; 49 USC 10922

CFR Citation: 49 CFR 1181; 49 CFR 1183

Abstract: To remove the prohibition against approving transactions that would result in motor passenger carriers under common control holding duplicative operating rights.

Timetable:

Action	Date	FR Cite
ANPRM	03/31/83	
Interim Final Rule	10/30/83	
Pending Final Decision	00/00/00	

Small Entity: Undetermined

Agency Contact: Barry Cohen, Attorney-Advisor, Interstate Commerce Commission, Motor Section, Room 2354, Washington, D.C., 202 275-7971

RIN: 3120-AA97

ELECTRONIC TRANSMISSION OF BILLS OF LADING, EX PARTE NO. 434

Priority: Undetermined

Legal Authority: 49 USC 10321; 5 USC 553

VOL 48 ISS 201 OCT 17 1983 UMI

CFR Citation: 49 CFR 1035; 49 CFR 1081

Abstract: The ICC proposes to permit the electronic transmission of Bills of Lading. The purpose of this advance notice is to obtain comments from interested persons on appropriate methodologies and safeguards to protect the interests of shippers and carriers.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA98

EXEMPTION OF CONTRACT CARRIERS FROM TARIFF FILING REQUIREMENTS, EX PARTE NO. MC-165

Legal Authority: 49 USC 10702; 49 USC 10761; 49 USC 10762

CFR Citation: 49 CFR 1306; 49 CFR 1307; 49 CFR 1162

Abstract: To reduce the amount of reporting and recordkeeping in the form of tariff filings required of contract carriers and to increase the ability of small contract carriers to compete effectively by reducing the administrative costs and time delays caused by the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/20/83	
Final Rules issued	05/27/83	
Effectiveness stayed by DC Circuit	07/01/83	
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Secondary Contact: Louis E. Gitomer, Deputy Director, Rail Section, (202) 275-7245.

Agency Contact: Wendy Tillis, Attorney-Advisor, Interstate Commerce Commission, Rail Section, Room 5318, Washington, D.C. 20423, 202 275-6445

RIN: 3120-AB01

●SHORT NOTICE EFFECTIVENESS FOR INDEPENDENTLY FILED MOTOR CARRIER AND FREIGHT FORWARDER RATES, EX PARTE NO. MC-170

Legal Authority: 49 USC 10762; 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1309; 49 CFR 1310

Abstract: To reduce the notice period required for independent rate filings by freight forwarders and motor common carriers of property. Rate reductions and new rates would be permitted to become effective on 1 day's notice, and rate increases would be permitted to become effective on 5 day's notice.

Timetable:

Action	Date	FR Cite
NPRM	07/27/83	
NPRM Comment Period Begin	07/27/83	
NPRM Comment Period End	09/10/83	
Final Action	12/00/83	

Small Entity: Undetermined

Agency Contact: Thomas Vining, Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7196

RIN: 3120-AB02

●EXEMPTION OF OUT OF SERVICE LINES (DISCONTINUANCE OF SERVICE AND TRACKAGE RIGHTS), EX PARTE NO. 274 (SUB-NO. 8A)

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10505; 5 USC 553

CFR Citation: 49 CFR 1152

Abstract: Expansion of the exemption granted in Ex Parte No. 274 (Sub-No. 8) to include discontinuance of service and trackage rights over rail lines which have been out of service for at least 2 years.

Timetable:

Action	Date	FR Cite
NPRM	06/16/83	48 FR 27584
NPRM Comment Period Begin	06/16/83	
NPRM Comment Period End	07/18/83	
Pending Final Decision	00/00/00	

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AB03

●ABANDONMENT OF RAILROAD LINES AND DISCONTINUANCE OF SERVICE - OFFERS OF FINANCIAL ASSISTANCE, EX PARTE NO. 274 (SUB NO. 9)

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10901; 5 USC 553

CFR Citation: 49 CFR 1152.27

Abstract: The Commission is proposing to modify the procedures for offers of financial assistance in railroad abandonments or discontinuance of service proposals to eliminate unnecessary details and to delete superfluous or unnecessary regulations.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	06/13/83	
NPRM	06/14/83	48 FR 27269
NPRM Comment Period End	07/14/83	
Pending Final Decision	00/00/00	

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AB04

●ACCEPTABLE FORMS OF REQUESTS FOR OPERATING AUTHORITY FOR MOTOR CARRIERS AND BROKERS OF PROPERTY, EX PARTE NO. MC-55 (SUB-NO. 43A)

Priority: Major

Legal Authority: 5 USC 553; 49 USC 10101; 49 USC 10922; 49 USC 10923; 49 USC 10924; 49 USC 10321; 49 USC 11102

CFR Citation: 49 CFR 1160

Abstract: To permit applications for any reasonably broad commodity description.

Timetable:

Action	Date	FR Cite
NPRM	08/08/83	
NPRM Comment Period Begin	08/08/83	
NPRM Comment Period End	09/26/83	

Action	Date	FR Cite
Draft Decision in progress	00/00/00	

Small Entity: No

Agency Contact: Suzanne Higgins, Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7161

RIN: 3120-AB05

●REMOVAL OF RESTRICTIONS FROM AUTHORITIES OF MOTOR CARRIERS OF PROPERTY, EX PARTE NO. MC-142 (SUB-NO. 1)

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10922(i)

CFR Citation: 49 CFR 1165

Abstract: To allow applicants to use an alternate commodity description, upon a showing that the use of the Commission's classifications would (1) either require the transportation of commodities unrelated to those previously authorized or would require institution of a new service, and (2) that it is not fit, or willing, or able to provide the service.

Timetable:

Action	Date	FR Cite
NPRM	08/10/83	
NPRM Comment Period Begin	08/10/83	
NPRM Comment Period End	09/26/83	
Draft Decision in progress	00/00/00	

Small Entity: Undetermined

Agency Contact: Robin Williams, Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7697

RIN: 3120-AB06

●EXPANSION OF ZONE OF REASONABLENESS FOR MOTOR COMMON CARRIERS OF PROPERTY AND FREIGHT FORWARDERS, EX PARTE NO. MC-169

Priority: Agency Determination

Legal Authority: 5 USC 553; 49 USC 10708(d)(2); 49 USC 10321

CFR Citation: 49 CFR 1309; 49 CFR 1310

Abstract: To streamline tariff filing requirements governing rates and charges filed pursuant to zone of rate freedom authority.

Timetable:

Action	Date	FR Cite
NPRM	05/06/83	
NPRM Comment Period Begin	05/06/83	
NPRM Comment Period End	06/08/83	
Draft Decision in progress	00/00/00	

Small Entity: Undetermined

Agency Contact: Leonard Arnaiz, Attorney Advisor, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7831

RIN: 3120-AB07

●RAIL GENERAL EXEMPTION AUTHORITY - MISCELLANEOUS PROCESSED AND MANUFACTURED COMMODITIES

Priority: Undetermined

Legal Authority: 49 USC 10505

CFR Citation: 49 CFR 1039

Abstract: 49 USC 10505 requires that the Commission exempt from regulation the movement by rail of traffic for which it finds continued regulation no longer necessary to serve the Nation's transportation policy objectives and to protect shippers from abuse of market power by the railroads. In examining the transportation characteristics and markets of various commodities moving by rail, there appear to be many products for which sufficient competition exists among transportation alternatives so that regulation may no longer be necessary. Exemption of such commodities should provide increased rate and service flexibility for railroads to meet shippers' needs and to compete more effectively for the subject traffic. Anticipated benefits include lower rates and improved service, at a possible "costs" of increased price instability and competition to alternative transport firms.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
NPRM Comment Period Begin	09/00/83	
NPRM Comment Period End	10/00/83	

Small Entity: Undetermined

Agency Contact: Robert Lundy, Economist, Interstate Commerce Commission, Washington, DC 20423, 202 275-6853

RIN: 3120-AB08

●EXEMPTION OF TRANSACTIONS UNDER 49 U.S.C. 11343, EX PARTE NO. 55 (SUB-NO. 57)

Legal Authority: 49 USC 11343(c); 49 USC 10321; 49 USC 10926; 5 USC 553

CFR Citation: 49 CFR 1002; 49 CFR 1181; 49 CFR 1182; 49 CFR 1183; 49 CFR 1186

Abstract: This rulemaking proposes to exempt on a class basis, all motor finance transactions subject to regulation under 49 U.S.C.11343 (a)(1)-(5) which involve property carriers from the requirement of prior review and approval by the Commission. The rulemaking proposes to establish procedural rules for processing transactions subject to the class exemption. Included in the proposal are motor carrier mergers and consolidations, the acquisition of control of a carrier by another carrier or the sale of motor carrier operating authority. The proposal, if adopted, will substantially reduce the administrative burden of filing an application for approval to consumate any of the transactions covered by 49 U.S.C. 11343(a)(1)-(5), and thus carriers will be encouraged to enter into transactions which lower their costs and improve their operating efficiency. No potential costs are anticipated. If adopted, the proposal will also enable small motor carriers of property to use the procedural rules established in the class exemption to obtain approval for transactions subject to 49 U.S.C. 10926, such as the acquisition of motor carrier operating authority by a (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/08/83	48 FR 26485
NPRM Comment Period Begin	06/08/83	48 FR 26485
NPRM Comment Period End	07/08/83	
Pending Final Decision	00/00/00	

Small Entity: Yes

VOL
48
ISS
201
OCT
17
1983
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Additional Information: ABSTRACT CONT: noncarrier. Action on this proposal will affect Ex Parte No. 155 (RIN 3120-AA27).

Agency Contact: Warren C. Wood, Senior Attorney, Interstate Commerce Commission, Room 2330, 12th & Constitution Ave. NW, Washington, DC 20423, 202 275-7977

RIN: 3120-AB09

INTERSTATE COMMERCE COMMISSION (ICC) — Existing Regulations Under Review

CONTRACTS FOR PROTECTIVE SERVICES, EX PARTE NO. 137

Priority: Agency Determination

Legal Authority: 49 USC 10101a(2); 49 USC 10505; 49 USC 11105; 5 USC 553

CFR Citation: 49 CFR 1032

Abstract: The Commission is considering whether to exempt contracts for protective services against heat or cold, provided to or on behalf of rail carriers and express companies, from the requirements of 49 USC 11105.

Timetable:

Action	Date	FR Cite
NPRM	08/18/82	47 FR 26409
NPRM Comment Period Begin	06/18/82	47 FR 31410
Extension of Time For Comments	07/20/82	47 FR 31463
NPRM Comment Period End	08/02/82	
Public Comment Period Ends	08/02/82	47 FR 31410
End Review	00/00/00	
Presently under internal evaluation	00/00/00	

Small Entity: No

Additional Information: Additional Federal Register cite for NPRM: 47 FR 26463.

Agency Contact: Louis E Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA45

RATES FOR A NAMED SHIPPER OR RECEIVER, EX PARTE NO. 158

Priority: Agency Determination

Legal Authority: 49 USC 10762; 49 USC 10741; 5 USC 553

CFR Citation: 49 CFR 1310

Abstract: The Commission is considering whether to eliminate the general prohibition now contained at 49 CFR 1310.7(a)(5) against publishing rates restricted to named shippers, receivers, and locations.

Timetable:

Action	Date	FR Cite
NPRM	06/30/82	47 FR 28430
NPRM Comment Period Begin	06/30/82	
Extension of Time For Comments	08/04/82	47 FR 33722
NPRM Comment Period End	08/23/82	
End Review	00/00/00	
Presently under internal evaluation	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA46

IMPROVEMENT OF TOFC/COFC REGULATION (RAILROAD AFFILIATED MOTOR CARRIERS AND OTHER MOTOR CARRIERS), EX PARTE NO. 230 (SUB-NO. 6)

Priority: Agency Determination

Legal Authority: 49 USC 10321(a); 49 USC 10505; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1039

Abstract: The Commission is considering whether to include truck service provided by railroad affiliated motor carriers and other motor carriers in the exemption from 49, Subchapter IV of the U.S. Code for rail and truck service provided by rail carriers as part of a continuous intermodal movement.

Timetable:

Action	Date	FR Cite
ANPRM	08/22/79	44 FR 49279
ANPRM Comment Period Begin	08/22/79	44 FR 49279
ANPRM Comment Period End	10/22/79	
NPRM	02/27/81	46 FR 14365
NPRM Comment Period Begin	02/27/81	46 FR 14365
NPRM Comment Period End	03/30/81	
End Review	00/00/00	

Action	Date	FR Cite
Presently under internal evaluation	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA47

PROCEDURES FOR REQUESTING RAIL VARIABLE COST AND REVENUES DETERMINATION FOR JOINT RATES SUBJECT TO SURCHARGE OR CANCELLATION, EX PARTE NO. 389

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10705a; 5 USC 553

CFR Citation: 49 CFR 1031A

Abstract: The Commission has proposed procedures for obtaining relevant revenue and variable cost data under 49 USC 10705a.

Timetable:

Action	Date	FR Cite
Previous NPRM	11/03/80	45 FR 72665
NPRM	03/30/81	46 FR 19238
NPRM Comment Period Begin	03/30/81	46 FR 19238
NPRM Comment Period End	04/29/81	
End Review	00/00/00	
Presently under internal evaluation	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA57

RULES GOVERNING PUBLICATION OF EXCEPTIONS RATINGS HIGHER THAN CLASSIFICATION RATINGS, NO. 36135

Priority: Agency Determination

Legal Authority: 49 USC 10701; 49 USC 10762

CFR Citation: 49 CFR 1310.7(r)

Abstract: The Commission is proposing to modify 49 CFR 1310.7(r), which requires motor common carriers to submit justification statements with any tariff that results in rates and charges higher than what would be applicable under classification ratings.

Timetable:

Action	Date	FR Cite
NPRM	11/18/81	46 FR 56629
NPRM Comment Period Begin	11/18/81	47 FR 7294
NPRM Comment Period End	05/06/82	
End Review	00/00/00	
Presently under internal evaluation	00/00/00	

Small Entity: No

Additional Information: Federal Register cite for end of NPRM public comment period - 47 FR 8801.

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA59

NEW PROCEDURES IN MOTOR CARRIER REVENUE PROCEEDINGS, EX PARTE NO. MC-82

Priority: Major

Legal Authority: 49 USC 10701

CFR Citation: 49 CFR 1104

Abstract: To assist the Commission in evaluating general rate increase proposals by motor carriers as prescribed by the IC Act.

Timetable:

Action	Date	FR Cite
Begin Review	07/24/79	
End Review	00/00/00	

Small Entity: Not Applicable

Agency Contact: Ward L. Ginn, Jr., Chief, Section of Financial Analysis, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7488

RIN: 3120-AA60

REVISION OF 49 CFR 1041, EX PARTE NO. 55 (SUB-NO. 51)

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1041

Abstract: Revision to update, correct, and simplify the regulations governing interpretation of certificates and permits of motor carriers.

Timetable:

Action	Date	FR Cite
Begin Review	09/17/81	46 FR 13741
End Review	03/31/84	

Small Entity: Undetermined

Agency Contact: Andrew L. Lyon, Principal Attorney, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7805

RIN: 3120-AA72

CLARIFICATION OF CERTIFICATE OF REGISTRATION RULES, EX PARTE NO. 55 (SUB-NO. 50)

Legal Authority: 49 USC 10321; 49 USC 10931; 5 USC 553

CFR Citation: 49 CFR 1100.245

Abstract: Revision of rules governing the filing of applications for certificates of registration to clarify and simplify the rules without affecting their substance.

Timetable:

Action	Date	FR Cite
Begin Review	09/17/81	
End Review	03/31/84	

Small Entity: Undetermined

Agency Contact: Marie Simpson, Assistant to Principal Attorney, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7106

RIN: 3120-AA73

TRANSFERS OF OPERATING RIGHTS, EX PARTE NO. MC-111 (SUB-NO. 1)

Legal Authority: 49 USC 10101; 49 USC 10926; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1045.11; 49 CFR 1132; 49 CFR 1133; 49 CFR 1141; 49 CFR 1151

Abstract: When motor carriers, water carriers, brokers, and freight forwarders seek to transfer their operating rights, they must follow Commission procedures. Proposed regulations will seek to consolidate the various regulations, streamline them, and simplify the entire procedure.

Timetable:

Action	Date	FR Cite
NPRM	10/01/82	
NPRM Comment Period Begin	10/01/82	
NPRM Comment Period End	10/31/82	
End Review	00/00/00	
Pending Institutional Review	00/00/00	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Warren Wood, Senior Attorney, Motor Section, Interstate Commerce Commission, Room 2330, Washington, DC 20423, 202 275-7977

RIN: 3120-AA81

ELECTRONIC FILING OF TARIFFS, EX PARTE NO. 444

Priority: Agency Determination

Legal Authority: 49 USC 10321; 49 USC 10762

CFR Citation: 49 CFR 1300; 49 CFR 1303; 49 CFR 1304; 49 CFR 1305; 49 CFR 1306; 49 CFR 1307; 49 CFR 1308; 49 CFR 1309; 49 CFR 1310

Abstract: Commission regulations require filing of tariffs in printed form. The Commission is considering establishing rules and procedures to permit carriers to file tariffs electronically. The advance notice of proposed rulemaking seeks comments from interested parties.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/83	
ANPRM Comment Period Begin	03/08/83	48 FR 18861
ANPRM Comment Period End	06/22/83	
Pending Internal review	00/00/00	

Next Action Undetermined

Small Entity: Undetermined

ICC — Existing Regulations Under Review

Agency Contact: W. Paul Geisenkotter, Chief, Section of Tariffs, Interstate Commerce Commission, Bureau of Traffic, Washington, D.C. 20423, 202 275-7739

RIN: 3120-AA99

INTERSTATE COMMERCE COMMISSION (ICC) — Completed Actions

COMPLETED RULEMAKINGS

MOTOR COMMON CARRIERS OF PASSENGERS-EMPLOYEE PROTECTION, EX PARTE NO. 161 (SUB-NO. 1)

Priority: Major

CFR Citation: 49 CFR 1170; 49 CFR 1002

Completed:

Reason	Date	FR Cite
Final Action	07/25/83	
Final Action Effective	08/01/83	

Small Entity: Undetermined

Agency Contact: James L. Brown 202 275-7898

RIN: 3120-AA04

EXEMPTION OF OUT OF SERVICE RAIL LINES, EX PARTE NO. 274 (SUB-NO. 8)

Priority: Agency Determination

CFR Citation: 49 CFR 1152

Completed:

Reason	Date	FR Cite
Final Action	06/16/83	48 FR 27547
Final Action Effective	10/16/83	

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA08

RAILROAD EXEMPTION - EXPORT COAL, EX PARTE NO. 346 (SUB-NO. 7)

Priority: Agency Determination

CFR Citation: 49 CFR 1039

Completed:

Reason	Date	FR Cite
Final Action	06/10/83	48 FR 26822
Final Action Effective	09/30/83	

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA14

ELIMINATION OF CERTIFICATES AS A MEASURE OF HOLDING OUT, EX PARTE NO. MC-77 (SUB-NO. 3)

CFR Citation: 49 CFR 1310

Completed:

Reason	Date	FR Cite
Final Action	03/15/83	
Final Action Effective	03/16/83	

Small Entity: Undetermined

Agency Contact: Suzanne Higgins 202 275-7161

RIN: 3120-AA21

DISCONTINUANCE OR CHANGE OF TRAIN OR FERRY SERVICE, EX PARTE NO. 428

CFR Citation: 49 CFR 1153, (formerly 49 CFR 1122)

Completed:

Reason	Date	FR Cite
Final Action	05/19/83	48 FR 24386
Final Action Effective	06/01/83	48 FR 24386

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA28

PETITION TO EXEMPT STORAGE LEASES OF NORFOLK AND WESTERN 1982, EX PARTE NO. 346 (SUB-NO. 12)

CFR Citation: 49 CFR 1039

Completed:

Reason	Date	FR Cite
Final Action	03/10/83	48 FR 10143

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA30

PAYMENT OF RATES AND CHARGES OF MOTOR CARRIERS, EX PARTE NO. MC-1

Priority: Agency Determination

CFR Citation: 49 CFR 1056; 49 CFR 1320 to 1324

Completed:

Reason	Date	FR Cite
Merged with RIN 3120-AA94		

Small Entity: No

Agency Contact: Howell Sporn 202 275-7691

RIN: 3120-AA41

INVESTIGATION INTO MOTOR CARRIER CLASSIFICATION, EX PARTE NO. MC-98 (SUB-NO. 1)

Priority: Agency Determination

CFR Citation: 49 CFR 1307

Completed:

Reason	Date	FR Cite
Final Action	06/29/83	48 FR 29875
Final Action Effective	10/06/83	

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA44

RAILROAD COST RECOVERY PROCEDURES, EX PARTE NO. 290 (SUB-NO. 2)

Priority: Agency Determination

CFR Citation: 49 CFR 1102

Completed:

Reason	Date	FR Cite
Withdrawn from agenda - Routine Regulation	08/26/83	

Small Entity: No

ICC — Completed Actions

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA49

REVISED PROCEDURES FOR DIVISIONS OF REVENUE CASES, EX PARTE NO. 322 (SUB-NO.1)

Priority: Agency Determination

CFR Citation: 49 CFR 1109

Completed:

Reason	Date	FR Cite
Final Action	03/22/83	48 FR 12105
Final Action Effective	04/22/83	

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA50

EXEMPTION FROM REGULATION BOX CAR TRAFFIC, EX PARTE NO. 346 (SUB-NO. 8)

Priority: Agency Determination

CFR Citation: 49 CFR 1039.14

Completed:

Reason	Date	FR Cite
Final Action	04/29/83	48 FR 20412

Small Entity: Yes

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA51

RAILROAD COST RECOVERY PROCEDURES - PRODUCTIVITY ADJUSTMENT, EX PARTE NO. 290 (SUB-NO. 4)

Priority: Agency Determination

CFR Citation: 49 CFR 1102

Completed:

Reason	Date	FR Cite
Withdrawn from Agenda - Routine Regulation	08/26/83	

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA54

CONTRACT IMPLEMENTATION DATE, EX PARTE NO. 387 (SUB-NO. 200)

Priority: Agency Determination

CFR Citation: 49 CFR 1039; 49 CFR 1300

Completed:

Reason	Date	FR Cite
Final Action	05/27/83	48 FR 23824
Final Action Effective	06/27/83	

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA56

COST RECOVERY PERCENTAGE, EX PARTE NO. 399

Priority: Agency Determination

Completed:

Reason	Date	FR Cite
Withdrawn from Agenda - Routine Regulation	08/26/83	

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA58

FEEDER RAILROAD DEVELOPMENT PROGRAM, EX PARTE NO. 395 (SUB-NO. 1)

Priority: Agency Determination

CFR Citation: 49 CFR 1151

Completed:

Reason	Date	FR Cite
Final Action	03/08/83	48 FR 9649
Final Action Effective	04/07/83	

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA67

ELIMINATION AND MODIFICATION OF CERTAIN SECURITIES REGULATIONS, EX PARTE NO. 429

Priority: Agency Determination

CFR Citation: 49 CFR 1113 to 1115

Completed:

Reason	Date	FR Cite
Final Action	06/07/83	48 FR 26317

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA68

REORGANIZATIONS OF RAIL AND MOTOR CARRIERS, EX PARTE NO. 432

Priority: Major

CFR Citation: 49 CFR 1117; 49 CFR 1118; 49 CFR 1131

Completed:

Reason	Date	FR Cite
Final Action	03/11/83	48 FR 10369

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA69

ANTITRUST AND COMPETITION FACTORS IN MOTOR CARRIER FINANCE CASES, EX PARTE NO. 55 (SUB-NO. 38)

CFR Citation: 49 CFR 1134; 49 CFR 1141

Completed:

Reason	Date	FR Cite
Withdrawn - proceeding discontinued	11/01/82	

Small Entity: Undetermined

Agency Contact: Warren Wood 202 275-7977

RIN: 3120-AA79

LIQUID IRON SULPHATE EXEMPTION, EX PARTE NO. 346 (SUB-NO. 16)

CFR Citation: 49 CFR 1039

Completed:

Reason	Date	FR Cite
Final Action	07/21/83	48 FR 33306
Final Action Effective	07/21/83	

Small Entity: Undetermined

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA89

ACQUISITION PROCEDURES FOR LINES OF RAILROADS IN REORGANIZATION, EX PARTE NO. 282 (SUB-NO. 4)

Priority: Agency Determination

CFR Citation: 49 CFR 1150.1(a); 49 CFR 1180 "(B)"

VOL 48 ISS 201 OCT 17 1983 UMI

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ICC — Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - this proceeding has been inactive since 1980.	08/26/83	

Small Entity: Yes

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA91

LIQUID IRON CHLORIDE EXEMPTION, NATIONWIDE, EX PARTE NO. 346 (SUB-NO. 9A)

CFR Citation: 49 CFR 1039

Completed:

Reason	Date	FR Cite
Final Action	04/07/83	
Final Action Effective	04/15/83	48 FR 16277

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA93

COMPLETED REVIEWS

SOO LINE RAILROAD COMPANY PETITION FOR EXEMPTION FROM THE PROVISIONS OF 49 USC 10726 - LONG AND SHORT HAUL TRANSPORTATION, EX PARTE NO. 346 (SUB-NO. 13)

CFR Citation: 49 CFR 1039

Completed:

Reason	Date	FR Cite
End Review	03/21/83	

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AA78

REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED ACTIVITIES

Priority: Agency Determination

CFR Citation: 49 CFR 1002

Completed:

Reason	Date	FR Cite
End Review	05/05/83	

Small Entity: Undetermined

Agency Contact: Kathleen M. King 202 275-0956

RIN: 3120-AA90

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federal register

Monday
October 17, 1983

Part XLIX

National Credit Union Administration

Semiannual Agenda of Regulations

VOL 48 ISS 201 OCT 17 1983 UMI

NCUA

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual Agenda of Regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act and agency policy, NCUA is publishing a list of current and projected rulemaking, reviews of existing regulations, and completed actions as of August 12, 1983. NCUA is also including this Agenda in the "Unified Agenda of Federal Regulations."

DATE: This information is current as of August 12, 1983.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: On a particular regulation, contact the person named in the listing for that regulation at the above address.

SUPPLEMENTARY INFORMATION: On January 1, 1981, the Regulatory Flexibility Act (5 U.S.C. Sections 601 *et seq.*) became effective. This law requires, among other things, that each agency publish a Regulatory Flexibility Agenda listing regulations that the agency expects to propose that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). NCUA has defined "small entities" to include credit unions with less than $1,000,000 in assets. NCUA believes, at this time, that none of the regulations listed in the Agenda set forth below will have a significant impact on a substantial number of these small credit unions.

On June 1, 1981, NCUA published a statement of policy (IRPS 81-4, 46 FR 29248) setting forth the procedures for the development of new regulations and the review of existing regulations. NCUA believes that the Agenda is a useful tool to enable the credit union community and the public to track regulatory development and to effectively participate in that process.

NCUA is voluntarily participating in the publication of the "Unified Agenda of Federal Regulations." While NCUA is an Independent Agency exempt from coverage by Executive Order 12291, we believe that participating in this joint publication will further the public interest by including NCUA in a single source of information concerning current and projected rulemaking and reviews of existing regulations. The format of this Agenda conforms to the standardized format of the "Unified Agenda."

Approved by the NCUA Board this 25th day of August, 1983.

Rosemary Brady,
Secretary.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Flood Insurance	3133-AA01
2	Investments and Deposits	3133-AA03
3	Surety Bond Coverage for Federal Credit Unions	3133-AA04
4	Supervisory Committee Audit	3133-AA13
5	Corporate Central Federal Credit Unions	3133-AA18
6	Management Interlocks	3133-AA19
7	Management Official Interlocks	3133-AA21
8	Federal Credit Union Loans to Members	3133-AA27

Existing Regulations Under Review

Sequence Number	Title	RIN
9	Employee Responsibility and Conduct	3133-AA05
10	Federal Credit Union Ownership of Fixed Assets	3133-AA06
11	Conversion from Federal to State Credit Union and Conversion from State to Federal Credit Union	3133-AA07
12	Mergers of Credit Unions, Division of Assets, Liabilities of Assets and Capital	3133-AA08
13	Requirements for Insurance	3133-AA09
14	Advertisement of Insured Status	3133-AA10
15	Reserves	3133-AA12
16	Retirement Benefits for Employees of Federal Credit Unions	3133-AA14
17	Tort Claims Against the Government	3133-AA15
18	Treasury Tax and Loan Accounts	3133-AA16
19	Nondiscrimination Requirements	3133-AA17

NCUA

Completed Actions

Sequence Number	Title	RIN
20	Voluntary Liquidation of Federal Credit Unions	3133-AA20
21	Definitions	3133-AA25
22	Organization and Operation of Federal Credit Unions	3133-AA26

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Current and Projected Rulemakings

1. FLOOD INSURANCE

Legal Authority: 12 USC 1757; 12 USC 1789; 42 USC 4102a; 42 USC 4106

CFR Citation: 12 CFR 760

Abstract: The proposed rule provides a plain English revision of regulations governing Federal credit union lending secured by improved realty or mobile home, when either is located in a flood plain. The rule is intended to require only that which is required under Federal statutes concerning flood insurance.

Timetable:

Action	Date	FR Cite
NPRM	10/15/80	45 FR 68393
Final Action	11/30/83	

Small Entity: No

Agency Contact: Todd Okun, Assistant General Counsel, National Credit Union Administration, Department of Legal Services, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA01

2. INVESTMENTS AND DEPOSITS

Legal Authority: 12 USC 1757(7)(c); 12 USC 1757(7)(d); 12 USC 1757(8)

CFR Citation: 12 CFR 703

Abstract: Public comment is specifically requested on whether the NCUA Board should remove or modify any or all of the procedural restrictions presently in place governing the manner in which a Federal credit union may deposit or invest its funds.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/82	47 FR 30497
NPRM to NCUA Board	09/07/83	

Small Entity: No

Agency Contact: Robert M. Fenner, Deputy General Counsel, National Credit Union Administration, 1776 G Street NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA03

3. SURETY BOND COVERAGE FOR FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1761a; 12 USC 1761b; 12 USC 1766

CFR Citation: 12 CFR 701.20

Abstract: The proposed rule is intended to revise, update and simplify the existing requirements for surety bond coverage for Federal credit unions. The proposed regulations implement mandated sections of the Federal Credit Union Act and establish minimum standards for surety bonds and insurance coverage.

Timetable:

Action	Date	FR Cite
NPRM	06/02/81	46 FR 29482
Further Action	11/30/83	

Small Entity: No

Agency Contact: Mike Fischer, National Credit Union Administration, Dept. of Supervision & Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA04

4. SUPERVISORY COMMITTEE AUDIT

Legal Authority: 12 USC 1761d; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.12

Abstract: This regulation sets forth the responsibilities of the Supervisory Committees of Federal credit unions to make, or cause to be made, an annual audit. The review will cover issues related to the use of audits in conjunction with NCUA's examination responsibilities.

Timetable:

Action	Date	FR Cite
ANPRM to NCUA Board	09/07/83	

Small Entity: No

Agency Contact: Mike Fischer, National Credit Union Administration, Department of Supervision and Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA13

5. CORPORATE CENTRAL FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1761; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 704

Abstract: These regulations set forth operational requirements particular to corporate central Federal credit unions, including special reserve requirements, management requirements, and annual audit requirements. The regulation also sets forth authority to permit corporate central credit unions to offer daily balance share accounts. Passage of the Garn-St Germain Depository Institutions Act of 1982 requires updating of this rule. Corporate central issues, such as chartering guidelines, bylaws, and operational programs, have been reviewed independent of this rule.

Timetable:

Action	Date	FR Cite
ANPRM to NCUA Board	09/07/83	

Small Entity: No

NCUA — Current and Projected Rulemakings

Agency Contact: Mike Fischer, National Credit Union Administration, Department of Supervision and Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA18

6. MANAGEMENT INTERLOCKS

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 711

Abstract: Actions implement changes to the Depository Institution Management Interlocks Act (Public Law 95-630), as amended by Public Law 97-110, December 26, 1981. After review, the NCUA Board took final action on two changes. The proposed rule still pending would simplify the procedures for obtaining exceptions to the Depository Institution Management Interlocks Act.

Timetable:

Action	Date	FR Cite
Final Action	10/26/82	47 FR 47372
NPRM	10/26/82	47 FR 47406
Final Action	02/07/83	48 FR 5535
Final Action	09/30/83	

Small Entity: No

Agency Contact: Steven R. Bisker, Senior Attorney, National Credit Union Administration, Department of Legal Services, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA19

7. MANAGEMENT OFFICIAL INTERLOCKS

Legal Authority: 12 USC 3207

CFR Citation: 12 CFR 711

Abstract: The proposed rule would simplify the procedures for obtaining exceptions to the Depository Institutions Management Interlocks Act.

Timetable:

Action	Date	FR Cite
NPRM	10/26/82	47 FR 47406
Final Action	09/30/83	

Small Entity: No

Agency Contact: Steven R. Bisker, Senior Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA21

8. ●FEDERAL CREDIT UNION LOANS TO MEMBERS

Legal Authority: 12 USC 1757; 12 USC 1766(a); 12 USC 1789(a)(11)

CFR Citation: 12 CFR 701.21

Abstract: These regulations concern Federal credit union loans and lines of credit to members. The regulations will be reviewed in order to clarify, simplify, and ease the regulatory burden on Federal credit unions.

Timetable:

Action	Date	FR Cite
NPRM	11/30/83	

Small Entity: No

Agency Contact: Robert M. Fenner, Director, Dept of Legal Services, National Credit Union Administration, 1776 G St., NW, Washington, D.C. 20456, 202 357-1030

RIN: 3133-AA27

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Existing Regulations Under Review

9. EMPLOYEE RESPONSIBILITY AND CONDUCT

Legal Authority: EO 11222

CFR Citation: 12 CFR 735

Abstract: These regulations pertain to the conduct of NCUA employees and are being reviewed in light of the implementation of the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
End Review	12/31/83	

Small Entity: No

Additional Information: Legal Authority: 3 CFR 1964-65 and 5 CFR 735.104 also apply.

Agency Contact: James J. Engel, Assistant General Counsel, National Credit Union Administration, Department of Legal Services, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA05

10. FEDERAL CREDIT UNION OWNERSHIP OF FIXED ASSETS

Legal Authority: 12 USC 1757(4); 12 USC 1766

CFR Citation: 12 CFR 701.36

Abstract: This regulation requires credit unions to do certain financial planning and reporting prior to investing more than 5 percent of its assets in fixed assets.

Timetable:

Action	Date	FR Cite
End Review	11/30/83	
NPRM to NCUA Board	11/30/83	

Small Entity: No

Agency Contact: Mike Fischer, National Credit Union Administration, Department of Supervision and Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA06

11. CONVERSION FROM FEDERAL TO STATE CREDIT UNION AND CONVERSION FROM STATE TO FEDERAL CREDIT UNION

Legal Authority: 12 USC 1766; 12 USC 1771; 12 USC 1775; 12 USC 1789

CFR Citation: 12 CFR 706; 12 CFR 707

Abstract: These regulations set forth procedural requirements for credit unions to convert from either Federal to State charter or from State to Federal charter. The regulation will be reviewed to determine whether mandatory requirements on the subject are necessary or whether procedural requirements may be covered in a manual.

Timetable:

Action	Date	FR Cite
End Review	09/07/83	
NPRM to NCUA Board	09/07/83	

Small Entity: No

NCUA — Existing Regulations Under Review

Agency Contact: Gordon Sickler, National Credit Union Administration, Department of Supervision and Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA07

12. MERGERS OF CREDIT UNIONS, DIVISION OF ASSETS, LIABILITIES OF ASSETS AND CAPITAL

Legal Authority: 12 USC 1766 to 1789

CFR Citation: 12 CFR 708; 12 CFR 709

Abstract: These regulations set forth procedural requirements for a credit union to merge with another credit union. The regulations also prescribe procedures to enable members of a Federal credit union who are in a separately identifiable group to undertake an equitable division of their assets, liabilities and capital and to charter a new Federal credit union. The regulations will be reviewed to determine whether mandatory requirements are necessary or whether the subject may be covered in a manual.

Timetable:

Action	Date	FR Cite
End Review	12/31/83	

Small Entity: No

Agency Contact: Gordon Sickler, National Credit Union Administration, Department of Supervision and Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA08

13. REQUIREMENTS FOR INSURANCE

Legal Authority: 12 USC 1781 to 1790

CFR Citation: 12 CFR 741

Abstract: These regulations set forth criteria for determining the insurability of a credit union which makes application for insurance of its accounts pursuant to Title II of the Federal Credit Union Act. The review of this regulation will determine the need to update, revise and simplify these requirements.

Timetable:

Action	Date	FR Cite
End Review	12/00/83	

Small Entity: No

Agency Contact: Chester Slevinski, National Credit Union Administration, Department of Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1010

RIN: 3133-AA09

14. ADVERTISEMENT OF INSURED STATUS

Legal Authority: 12 USC 1785; 12 USC 1789

CFR Citation: 12 CFR 740

Abstract: These regulations prescribe requirements with regard to the official sign which insured credit unions must display and also pertain to requirements for advertising. The regulations will be reviewed to determine whether mandatory requirements are necessary and to update, simplify and revise, if necessary.

Timetable:

Action	Date	FR Cite
End Review	12/00/83	

Small Entity: No

Agency Contact: Chester Slevinski, National Credit Union Administration, Department of Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1010

RIN: 3133-AA10

15. RESERVES

Legal Authority: 12 USC 1762; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 702.1; 12 CFR 702.2

Abstract: These regulations set forth the requirements for the establishment and maintenance of a regular reserve (as provided by the Federal Credit Union Act) and set forth procedures for applications for approval to decrease reserves.

Timetable:

Action	Date	FR Cite
End Review	12/31/83	
Staff Recommendation to NCUA Board	12/31/83	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert M. Ferner, Deputy General Counsel, Department of Legal Services, (202) 357-1030

Agency Contact: Charles W. Filson, Director, National Credit Union Administration, Office of Programs, 1776 G Street, NW, Washington, DC 20456, 202 357-1132

RIN: 3133-AA12

16. RETIREMENT BENEFITS FOR EMPLOYEES OF FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.19

Abstract: The regulations set forth the authority of the Federal credit union to make provision for reasonable retirement benefits for its employees and officers who are compensated in conformance with the Federal Credit Union Act. The regulation will be reviewed to revise, update and simplify, if necessary.

Timetable:

Action	Date	FR Cite
NPRM to NCUA Board	12/31/83	
End Review	00/00/00	

Small Entity: No

Agency Contact: Layne L. Bumgardner, Director, National Credit Union Administration, Department of Supervision and Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA14

17. TORT CLAIMS AGAINST THE GOVERNMENT

Legal Authority: 12 USC 1766; 28 USC 2671 to 2680

CFR Citation: 12 CFR 750

Abstract: These regulations set forth the requirements for asserting claims against the National Credit Union Administration under the Federal Tort Claims Act. The regulations will be reviewed to update, simplify and revise them, if necessary.

Timetable:

Action	Date	FR Cite
End Review	12/31/83	

Small Entity: No

VOL
48
ISS
201
OC
17
1983
UMI

Agency Contact: James J. Engel, Assistant General Counsel, National Credit Union Administration, Department of Legal Services, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA15

18. TREASURY TAX AND LOAN ACCOUNTS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1767; 12 USC 1767(c)(2); 12 USC 1789

CFR Citation: 12 CFR 701.37-1

Abstract: In conjunction with the regulations of the Department of Treasury this regulation sets forth the requirements for Federal credit unions to be designated as a Treasury tax and loan depository and to establish a remittance account for the receipt of payments of Federal taxes and certain U.S. obligations. The regulation will be reviewed to simplify and revise, where necessary.

Timetable:

Action	Date	FR Cite
End Review	12/00/83	
NPRM to NCUA Board	12/31/83	

Small Entity: No

Agency Contact: Mike Fischer, National Credit Union Administration, Department of Supervision and Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA16

19. NONDISCRIMINATION REQUIREMENTS

Legal Authority: 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1786; 12 USC 1789; 24 USC 3601 to 3610; 24 USC 1981; 15 USC 1601 et seq

CFR Citation: 12 CFR 701.31

Abstract: This regulation sets forth prohibitions against discrimination by Federal credit unions in making real estate related loans and appraisals. The regulation also sets forth guidelines for compliance with the Fair Housing Act and court decisions rendered thereunder. The regulation will be reviewed to simplify and revise as necessary.

Timetable:

Action	Date	FR Cite
End Review	10/30/83	

Small Entity: No

Agency Contact: Mike Fischer, National Credit Union Administration, Department of Supervision and Examination, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA17

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) Completed Actions

COMPLETED RULEMAKINGS

20. VOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1766

CFR Citation: 12 CFR 710

Abstract: The final rule allows a simple majority vote of members voting for approval of a voluntary liquidation. The final rule provides greater flexibility in approving a voluntary liquidation.

Timetable:

Action	Date	FR Cite
NPRM	01/05/83	48 FR 419
Final Action	03/31/83	48 FR 13398
Final Action Effective	05/01/83	

Small Entity: No

Agency Contact: Lyle Mettler, Department of Insurance, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1060

RIN: 3133-AA20

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

21. ●DEFINITIONS

Legal Authority: 12 USC 1752(5); 12 USC 1757(6); 12 USC 1766(a)

CFR Citation: 12 CFR 700.1(h); 12 CFR 700.1(i)

Abstract: The final rule expands the definition of low income members to include student members. The rule enables credit unions predominately serving student members to accept insured share accounts from non-members, including local businesses, philanthropic organizations and others.

Timetable:

Action	Date	FR Cite
NPRM	03/16/83	48 FR 11130
Final Action	05/23/83	48 FR 22900

Small Entity: No

Agency Contact: Harry Blaisdell, Director, Department of Administration, National Credit Union Administration, 1776 G St, NW, Washington, DC 20456, 202 357-1060

RIN: 3133-AA25

22. ●ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1757(5)(A)(vi)(I); 12 USC 1757(5)(A)(ix); 12 USC 1766

CFR Citation: 12 CFR 701.21-A, (Amended)

Abstract: The final rule continues the 21 percent Federal credit union loan interest rate ceiling through November 12, 1984.

Timetable:

Action	Date	FR Cite
Final Action	05/23/83	48 FR 22901

Small Entity: No

Agency Contact: Robert M. Fenner, Director, Department of Legal Services, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA26

[FR Doc. 83-28072 Filed 10-14-83; 8:45 am]
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Regulatory Agenda

VOL
48
ISS
201
OC
17
1983
UMI

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual publication of NRC Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual Regulatory Agenda in accordance with Pub. L. 96-354, "The Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulations." The Agenda is a compilation of all rules on which the NRC has recently completed action or has proposed, or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual Agenda on April 25, 1983 (48 FR 18732).

ADDRESSES: Comments on any rule in the Agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be hand delivered to Room 1131, 1717 H Street, NW, Washington, DC between 8:15 a.m. and 5:15 p.m. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the Agenda.

The Agenda and any comments received on any rule listed in the Agenda are available for public inspection, and copying at a cost of five cents per page, at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555. Single copies of the NRC Quarterly Agenda can be purchased from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555 at a cost of $6.00 each or $16.00 for an annual subscription.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this Agenda, contact John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-7086. Persons outside the Washington, DC metropolitan area may call toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the Agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The NRC is publishing its semiannual Regulatory Agenda. Although publication of the Agenda is only required semiannually in April and October, the NRC has chosen to update and publish its Agenda each quarter. However, the information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual Agenda on April 25, 1983 (48 FR 18732).

Organization of the Agenda

Rules in this Agenda are divided into two main categories, *Action Completed Rules* and *Current and Projected Rulemakings*. Rules in the Action Completed category include all rules which have been finally promulgated or withdrawn since publication of the last semiannual Agenda.

Current and projected rulemakings are those rules currently under development. This category is subdivided into three sections. Section I includes all rules which have been published in the **Federal Register** as proposed rules. Section II includes all rules which have been published in the **Federal Register** as advance notices of proposed rulemaking. Section III includes all unpublished rules on which the NRC expects to take action.

Within each category and section, the rules are ordered from lowest to highest 10 CFR part, and when more than one rule appears under the same part, the rules are arranged within the part according to the date of most recent publication. If a rule contains changes to more than one 10 CFR part, the rule is listed under the lowest affected part.

The information in this Agenda has been updated through September 30, 1983. The date included under the heading "timetable," for next scheduled action is considered tentative and is not binding on the Commission or its staff. This Regulatory Agenda is intended to provide increased notice and opportunity for public participation in the NRC rulemaking process. The NRC may, however, consider or act on any rulemaking even if it is not included in the Regulatory Agenda.

The NRC Agenda lists 115 rulemaking actions. Of these, no rulemaking items are considered to be priority or major as defined in Section 1(b) of Executive Order 12291. In the Action Completed category there are 25 "completed actions." In the Current and Projected rulemaking category: Section I contains 37 proposed rulemakings; Section II contains 12 advance notices of proposed rulemakings; and Section III contains 41 unpublished rulemakings. Six rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Bethesda, Maryland this 26th day of August, 1983.

For the Nuclear Regulatory Commission.

John Philips,

Acting Director, Division of Rules and Records, Office of Administration.

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Procedures Involving the Equal Access to Justice Act: Implementation	3150-AA01
2	Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions	3150-AA02
3	Licensing and Regulatory Policy and Procedures for Environmental Protection; Alternative Site Reviews	3150-AA03
4	Possible Amendments to "Immediate Effectiveness" Rules	3150-AA04
5	Modifications to the NRC Hearing Process (Limited Interrogatories and Factual Basis for Contentions)	3150-AA05

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
6	Commission Review Procedures for Power Reactor Construction Permits; Immediate Effectiveness Rule	3150-AA55
7	Temporary Operating Licenses	3150-AA62
8	Deletion of Exception Filing Requirement for Appeal from Initial Decision; Consolidation of Response Briefs	3150-AB32
9	Nondiscrimination on Basis of Age in Federally Assisted Commission Programs	3150-AA06
10	Lower Radiation Exposure Levels for Fertile Women	3150-AA07
11	Changes in Radiation Dose-Limiting Standards	3150-AA08
12	Authority for the Copying of Records and Retention Periods for Security Records	3150-AA63
13	Reports of Theft or Loss of Licensed Material	3150-AA64
14	Residual Contamination in Smelted Alloys	3150-AA10
15	Patient Dosage Measurement	3150-AA12
16	Implementation of the Convention on the Physical Protection of Nuclear Material	3150-AA92
17	General Design Criteria for Fuel Reprocessing Plants	3150-AA15
18	Anticipated Transients Without Scram (ATWS)	3150-AA19
19	Interim Requirements Related to Hydrogen Control	3150-AA21
20	Technical Specifications for Nuclear Power Reactors	3150-AA22
21	Codes and Standards for Nuclear Power Plants	3150-AA23
22	Fitness for Duty of Personnel with Unescorted Access to Vital or Protected Areas of Nuclear Power Plants	3150-AA27
23	Safeguards Requirements for Nonpower Reactor Facilities Possessing Formula Quantities of Strategic Special Nuclear Material	3150-AA30
24	Codes and Standards for Nuclear Power Plants (Summer 1982)	3150-AA78
25	Requirements for Licensee Action Regarding the Disposition of Spent Fuel Upon Expiration of the Reactors' Operating License	3150-AB20
26	Additional Scram System Requirement for Westinghouse Nuclear Power Plants	3150-AB29
27	Frequency of Emergency Preparedness Exercises for State and Local Governments	3150-AB11
28	Protection of Contractor Employees	3150-AB07
29	Explanation to Table S-3 Uranium Fuel Cycle Environmental Data	3150-AA31
30	Criteria and Procedures for Determining the Adequacy of Available Spent Nuclear Fuel Storage Capacity	3150-AB22
31	Material Control and Accounting Requirements for Low Enriched Uranium Fuel Cycle Facilities	3150-AA93
32	Miscellaneous Amendments Concerning Physical Protection of Nuclear Power Plants (Part of Insider Rule Package)	3150-AA36
33	Searches of Individuals at Power Reactor Facilities (Part of Insider Package)	3150-AB17
34	Removal of Appendices A Through H From 10 CFR Part 140	3150-AB02
35	Revision of License Fee Schedules	3150-AB03
36	Standards for Protection Against Radiation	3150-AA38
37	Performance Testing of Personnel Dosimetry	3150-AA39
38	Decommissioning Criteria for Nuclear Facilities	3150-AA40
39	Upgraded Emergency Preparedness Procedures for Certain Fuel Cycle and Byproduct Materials Licensees	3150-AA41
40	Certification of Industrial Radiographers	3150-AA43
41	Acceptance Criteria for Emergency Core Cooling Systems for Light-Water-Cooled Nuclear Power Plants	3150-AA44
42	Severe Accident Design Criteria	3150-AA45
43	Design and Other Changes in Nuclear Power Plant Facilities After Issuance of Construction Permit	3150-AA46
44	Mandatory Property Insurance for Decontamination of Nuclear Facilities	3150-AA47
45	Modification of the Policy and Regulatory Practice Governing the Siting of Nuclear Power Reactors	3150-AA49
46	Material Control and Accounting Requirements for Facilities Possessing Formula Quantities of Strategic Special Nuclear Material	3150-AA50
47	Seismic and Geologic Siting Criteria for Nuclear Power Plants	3150-AA51
48	Jurisdiction of Adjudicatory Boards	3150-AA53
49	Hybrid Hearing Procedures for Expansions of Onsite Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors	3150-AB19
50	Participation of the NRC Staff in Initial Licensing Proceedings	3150-AB08
51	Separation of Functions and Ex Parte Communications in On-the-Record Adjudications	3150-AA00
52	Backfitting	3150-AA59
53	Regulatory Reform of the Rules of Practice and Rules for Licensing of Production and Utilization Facilities	3150-AB04
54	Performance Testing for Bioassay Labs	3150-AA67
55	Procedures for Picking Up, Receiving, and Opening Packages	3150-AA66
56	Proposed Revisions to the Criteria and Procedures for the Reporting of Defects and Noncompliance	3150-AA68
57	Regulatory Control of Sealed Sources and Devices Containing Sealed Sources	3150-AB34
58	Revision of Consumer Product Approval Criteria and Regulations	3150-AB37
59	Periodic and Systematic Reevaluation of Parts 30 and 32	3150-AA70
60	Radiation Surveys and Internal Inspection System	3150-AB12
61	Medical Licenses for Human Use of Byproduct Material	3150-AA73
62	Radiation Safety Requirements for Well-logging and Other Operations	3150-AB35
63	Source Material Transfer Reports and Tritium Inventory Reports	3150-AB24
64	Occupational ALARA Rule	3150-AA81
65	Codes and Standards for Nuclear Power Plants (Winter 1982)	3150-AA83
66	Fire Protection for Future Plants	3150-AA85
67	Radon Emissions Estimate for Table S-3	3150-AA87
68	Station Blackout	3150-AB38

VOL 48 ISS 201 OCT 17 1983 UMI

NRC

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
69	Applicability of Appendix B to Appendix A	3150-AA79
70	Extension of Criminal Penalties	3150-AA80
71	Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AA86
72	Pressurized Thermal Shock	3150-AB05
73	Personnel Access Authorization Requirements for Nuclear Power Plants (Part of Insider Package)	3150-AA90
74	Emergency Preparedness Reporting Requirements	3150-AA84
75	Licensed Operator Examinations and Training and Qualifications of Nuclear Power Plant Personnel Performing Functions Important to Safety	3150-AA88
76	Extension of Construction Completion Date	3150-AB06
77	General Human Factors Criteria for New Construction	3150-AB13
78	Update of Table S-4, Part 51	3150-AB36
79	Completion of Regionalization of the Operator Licensing Function By Assignment of the Function to Regions IV and V	3150-AB39
80	Degree Requirement for One Member of Each Shift Crew on Site	3150-AB31
81	Material Status Reports	3150-AB26
82	Rule to Amend the Transportation Provisions Pertaining to the Shipment of Low Specific Activity (LSA) Material	3150-AB33
83	Physical Protection Requirements for Independent Spent Fuel Storage Installations (ISFSIs)	3150-AB27
84	Medical Standards for Employment of Security Personnel	3150-AA97
85	Modification of Protection Requirements for Spent Fuel Shipments	3150-AA96
86	Patents	3150-AA98
87	Export/Import of Nuclear Equipment and Material	3150-AB00
88	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01

Completed Actions

Sequence Number	Title	RIN
89	Transuranic Waste Disposal	3150-AA09
90	Regional Licensing Program; Further Implementation	3150-AB14
91	Consumer Products Containing Small Quantities of Radioactive Material: Modified Reporting and Recordkeeping Requirements	3150-AA72
92	Fracture Toughness Requirements for Nuclear Power Reactors	3150-AA16
93	Applicability of Technical Facility License Conditions and Specifications in an Emergency	3150-AA28
94	Standards for Determining Whether License Amendments Involve No Significant Hazards Consideration	3150-AA60
95	Criteria for Notice and Public Comment and Procedures for State Consultation on License Amendments Involving No Significant Hazards Consideration	3150-AA61
96	Laboratory Accreditation Program	3150-AA76
97	Changes in Physical Security Plans; Licensees Possessing or Using Special Nuclear Material of Moderate and Low Strategic Significance	3150-AA95
98	Authority to Issue Notices of Violation to Non-Licensees and Delegation of Authority to Regional Administrators	3150-AA56
99	Hearing on Denial of Reactor Operator License; Withdrawal of Proposed Rule	3150-AB10
100	Irretrievable Well-Logging Sources	3150-AA11
101	Amendments Specifying Licensee Responsibility for Nuclear Materials and Procedures for Termination of Specific Licenses	3150-AA71
102	Group Licensing for Certain Medical Uses	3150-AB09
103	Immediate Notification Requirement for Operating Nuclear Reactors	3150-AA20
104	Licensee Event Report System	3150-AA24
105	License Operator Staffing at Nuclear Power Plants	3150-AA29
106	Storage and Disposal of Nuclear Waste	3150-AA48
107	Disposal of High-Level Radioactive Wastes in Geologic Repositories; Technical Criteria	3150-AA32
108	Transportation of Radioactive Material - Compatibility with International Atomic Energy Agency (IAEA) Regulations	3150-AA34
109	Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions	3150-AA35
110	Management of Discovery	3150-AA54
111	Performance Testing for Health Physics Survey Instruments	3150-AA65
112	Reporting of Significant Design and Construction Deficiencies	3150-AA82
113	Safeguards Requirements for Licensees Authorized to Possess SNM of Moderate or Low Strategic Significance	3150-AA94
114	Access to and Protection of National Security Information and Restricted Data	3150-AB18
115	Partial Regionalization of the Operator Licensing Function To Include Region I	3150-AB30
118	Uranium Mill Tailings; Suspension of Selected Provisions	3150-AB21
117	Revised Access Authorization Fees for Licensee Personnel	3150-AB23
118	Group Licensing for Certain Medical Uses: Albumin Colloid	3150-AB28

NRC

Completed Actions—Continued

Sequence Number	Title	RIN
119	Suspension of Exemption Permitting Use of Glass Enamel and Glass Enamel Frit Containing Small Amounts of Uranium	3150-AB25

NUCLEAR REGULATORY COMMISSION (NRC) — Current and Projected Rulemakings

PROPOSED RULES

1. PROCEDURES INVOLVING THE EQUAL ACCESS TO JUSTICE ACT: IMPLEMENTATION

Legal Authority: 5 USC 504

CFR Citation: 10 CFR 1; 10 CFR 2

Abstract: The proposed rule provides new provisions intended to implement the Equal Access to Justice Act (EAJA). The provisions would provide for the payment of fees and expenses to certain eligible individuals and businesses that prevail in adjudications with the agency when the agency's position is determined not to have been substantially justified. The basis for these proposed regulations is a set of model rules issued by the Administrative Conference of the United States (ACUS) that have been modified to conform to NRC's established rules of practice. The proposed rule would further the EAJA's intent by insuring the development of government-wide "uniform" agency regulations and by providing NRC procedures and requirements for the filing and disposition of EAJA applications. A final draft rule was sent to the Commission in June 1982, but Commission action has been suspended pending a decision by the Comptroller General on the availability of funds to pay awards to intervenor parties.

Timetable:

Action	Date	FR Cite
NPRM	10/28/81	46 FR 53189
NPRM Comment Period Begin	10/28/81	46 FR 53189
NPRM Comment Period End	11/28/81	

Next Action Undetermined

Small Entity: No

Agency Contact: Beverly Segal, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AA01

2. ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

Legal Authority: 42 USC 2021; 42 USC 2201; 42 USC 4332; 42 USC 4334; 42 USC 4335

CFR Citation: 10 CFR 2; 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 61; 10 CFR 70; 10 CFR 72; 10 CFR 110

Abstract: Consistent with NRC's domestic licensing and regulatory authority, the proposed rule would revise the Commission's environmental protection regulations to implement all of the procedural provisions of section 102(2) of the National Environmental Policy Act (NEPA). This would broaden the scope of the environmental regulations, which deal mainly with environmental impact statements, to encompass the entire NEPA process from early planning through decisionmaking. The proposed rule would bring, to the extent possible, NRC's environmental review requirements into conformance with the Environmental Quality Council's procedural regulations, ensure that environmental factors are considered as part of the NRC decisionmaking process, and make environmental information available to the public. A draft final rule has been transported to the Commission with request for approval.

Timetable:

Action	Date	FR Cite
NPRM	03/03/80	45 FR 13739
NPRM Comment Period Begin	03/03/80	45 FR 13739
NPRM Comment Period End	05/02/80	

Next Action Undetermined

Small Entity: No

Agency Contact: Jane R. Mapes, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, 301 492-8695

RIN: 3150-AA02

3. LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION; ALTERNATIVE SITE REVIEWS

Legal Authority: 42 USC 2201; 42 USC 4332; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 50; 10 CFR 51

Abstract: The proposed rule would provide procedures and performance criteria for reviewing alternative sites for nuclear power plants under the National Environmental Policy Act of 1969 (NEPA). The proposal is intended to stabilize alternative site reviews of a license application by codification of the lessons learned in past and recent reviews of nuclear power plant sites into an environmentally sensitive rule. The proposed rule would focus on six major issues associated with alternative site selection: (1) information requirements, (2) timing, (3) region of interest, (4) selection of candidate sites, (5) comparison of the proposed site with alternative sites, and (6) reopening of the alternative site decision. The proposed rule would develop understandable written NRC review and decision-making criteria that provide necessary protection of important environmental qualities while reasonably restricting the consideration of alternatives to permit a rational and timely decision concerning the sufficiency of the alternative site analysis. After considering the comments on the proposed rule, the Commission published a final rule on May 28, 1981 (46 FR 28630). (cont)

VOL 48 ISS 201 OCT 17 1983 UMI

Timetable:

Action	Date	FR Cite
NPRM	04/09/80	45 FR 24168
NPRM Comment Period Begin	04/09/80	45 FR 24168
NPRM Comment Period End	06/09/80	
Final Action	09/00/83	

Small Entity: No

Additional Information: ABSTRACT CONT: That final rule addressed the sixth issue, reopening the alternative site question after a favorable decision at construction permit or early site review stages insofar as it relates to operating license proceedings. The staff is addressing the other issues in the development of this rule.

Agency Contact: Paul Hayes, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4318**

RIN: 3150-AA03

4. POSSIBLE AMENDMENTS TO "IMMEDIATE EFFECTIVENESS" RULES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 50

Abstract: The proposed rule indicates that the Commission is considering five alternative amendments to the "immediate effectiveness" rule for construction permit proceedings. Under the original "immediate effectiveness" rule (36 FR 828, January 19, 1971) construction of a nuclear power plant could begin on the basis of an initial decision by the Atomic Safety and Licensing Board (ASLB) even though that decision was subject to further review by the Commission. The Commission is concerned that the rule often prevented it from reviewing a case until construction was well underway and that this might have (1) allowed commitment of large sums of money to altering sites before a final decision was made on site-related issues and (2) promoted piecemeal review rather than promoting early resolution of all licensing issues to be considered. Present rules provide for limited review of ASLB decisions by the Atomic Safety and Licensing Appeal Board (ASLAB) and the Commission prior to issuance of construction permits. This proposed rule would help to determine whether NRC should return to the former "immediate effectiveness" rule or adopt one of the following alternatives: (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/22/80	45 FR 34279
Regulatory Reform Rule	12/00/83	

Small Entity: No

Additional Information: ABSTRACT CONT: (1) require the ASLAB to make a separate ruling on the question of effectiveness, or (2) require final ASLAB and Commission decisions on the merits of certain construction-related issues prior to authorizing issuances of the construction permit; require final ASLAB and Commission decisions on the merits of all issues prior to authorizing issuances of the construction permit; and, return to the former "immediate effectiveness" rule, but relax the standards for obtaining a stay of the ASLAB decisions. The rule "Regulatory Reform of the Rules of Practice and Rules for Licensing of Production and Utilization Facilities" proposed by the Regulatory Reform Task Force will determine which of the alternatives proposed in this rule will become effective.

Agency Contact: Richard A. Parrish, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, **202 634-3224**

RIN: 3150-AA04

5. MODIFICATIONS TO THE NRC HEARING PROCESS (LIMITED INTERROGATORIES AND FACTUAL BASIS FOR CONTENTIONS)

Legal Authority: 42 USC 2239

CFR Citation: 10 CFR 2

Abstract: The proposed rule would expedite conduct of NRC adjudicatory proceedings by requiring intervenors in formal NRC hearings to set forth the facts on which contentions are based and the sources or documents used to establish those facts and limit the number of interrogatories that a party may file in an NRC proceeding. The proposed rule would expedite the hearing process by, among other things, requiring intervenors to set forth at the outset the facts upon which their contention is based and the supporting documentation to give other parties early notice of intervenor's case so as to afford opportunity for early dismissal of contentions where there is no factual dispute. The content of this rule is being considered as part of the regulatory reform rulemaking package.

Timetable:

Action	Date	FR Cite
NPRM	06/08/81	46 FR 30349
Regulatory Reform Rule	12/00/83	

Small Entity: No

Agency Contact: Trip Rothschild, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, **202 634-1465**

RIN: 3150-AA05

6. COMMISSION REVIEW PROCEDURES FOR POWER REACTOR CONSTRUCTION PERMITS; IMMEDIATE EFFECTIVENESS RULE

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The proposed rule would amend the immediate effectiveness rule with regard to rules of practice for granting a power reactor construction permit to conform to those for granting an operating license. It (1) would retain the requirement that the Commission conduct a limited review of an Atomic Safety and Licensing Board's decision to grant a construction permit pending completion of administrative appeals and (2) would delete the requirement that an Atomic Safety and Licensing Appeal Board conduct a similar review. The proposed rule would not affect the separate Appeal Board and Commission appellate reviews of the merits of Licensing Board decisions. It would reduce somewhat the time required for administrative review of construction permit decisions while retaining direct Commission oversight prior to permit issuance. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/25/82	47 FR 47260
NPRM Comment Period Begin	10/25/82	47 FR 47260
NPRM Comment Period End	11/24/82	
Regulatory Reform Rule	12/00/83	

Small Entity: No

Additional Information: ABSTRACT CONT: The comment period closed November 24, 1982. Nine comments were received. Half of the comments favored the proposed rule while half opposed it. This proposed rule does not preclude further action on five alternatives for amending the "Immediate Effectiveness" rule presented in an earlier notice on May 22, 1980 (45 FR 34279). The rule "Regulatory Reform of the Rules of Practice and Rules for Licensing of Production and Utilization Facilities" proposed by the Regulatory Reform Task Force will determine whether this proposed rule will become effective.

Agency Contact: Richard A. Parrish, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, **202 634-3224**

RIN: 3150-AA55

7. TEMPORARY OPERATING LICENSES

Legal Authority: 42 USC 2201; PL 97-415

CFR Citation: 10 CFR 2; 10 CFR 50

Abstract: The proposed rule would implement pending legislation by permitting the Commission to issue a temporary operating license for a nuclear power plant authorizing fuel loading, low-power operation, and testing. This temporary operating license would be issued in advance of the conduct or completion of an on-the-record evidentiary hearing on contested issues relating to the final operating license. This rule would speed the licensing process by authorizing utilities that have applied for licenses to operate nuclear power plants to load fuel and conduct low-power operation and testing on the basis of previously submitted and approved safety and environmental evaluations. Before enactment of legislation, the Commission lacked the authority to authorize fuel loading and low-power operation and testing on the basis of safety and environmental evaluations; instead, this authorization was possible only after the hearing process was complete.

Timetable:

Action	Date	FR Cite
NPRM	04/06/83	48 FR 14926
NPRM Comment Period Begin	04/06/83	48 FR 14926
NPRM Comment Period End	05/06/83	
Final Action	09/00/83	

Small Entity: No

Agency Contact: Thomas F. Dorian, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, **301 492-8690**

RIN: 3150-AA62

8. †DELETION OF EXCEPTION FILING REQUIREMENT FOR APPEAL FROM INITIAL DECISION; CONSOLIDATION OF RESPONSE BRIEFS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241

CFR Citation: 10 CFR 2

Abstract: The proposed rule would change the procedure for an appeal to the Commission from an initial adjudicatory decision. It would eliminate the filing of exceptions to the decision and would require instead the filing of a notice of appeal. In addition, the proposed rule would require that a party file responses to all appellant briefs in a single responsive brief regardless of the number of appellant briefs filed. Under current practice, parties frequently file a separate pleading in response to each appellant's brief.

Timetable:

Action	Date	FR Cite
NPRM	06/29/83	48 FR 29876
NPRM Comment Period Begin	06/29/83	
NPRM Comment Period End	07/29/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Trip Rothschild, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, **202 634-1465**

RIN: 3150-AB32

9. NONDISCRIMINATION ON BASIS OF AGE IN FEDERALLY ASSISTED COMMISSION PROGRAMS

Legal Authority: 42 USC 6101

CFR Citation: 10 CFR 4

Abstract: The proposed rule would implement the provisions of the Age Discrimination Act of 1975, as amended. The proposed amendment makes it unlawful for any recipient of Federal financial assistance to discriminate on the basis of age in programs or activities receiving Federal financial assistance from the NRC. The Act also contains certain exceptions that permit, under limited circumstances, continued use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age. The Act applies to persons of all ages. The proposed rule is necessary to comply with the Age Discrimination Act of 1975, which directs that all Federal agencies empowered to provide Federal financial assistance issue rules, regulations, and directives consistent with standards and procedures established by the Secretary of Health and Human Services (HHS). NRC's proposed and final regulations have been modeled after those HHS guidelines as published in 45 CFR 90. (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/21/81	46 FR 46582

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: On November 23, 1981, a copy of the draft final regulations was transmitted to the Office of the General Counsel of the Civil Rights Division, HHS, for review to comply with the requirement that final agency regulations not be published until the Secretary of HHS approved them. Next action cannot be scheduled until the regulation is approved by the Secretary of HHS, as required by law.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Hudson B. Ragan, Nuclear Regulatory Commission, Office of Executive Legal Director, Washington, DC 20555, **301 492-8252**

RIN: 3150-AA06

10. LOWER RADIATION EXPOSURE LEVELS FOR FERTILE WOMEN

Legal Authority: 42 USC 2111; 42 USC 2201

CFR Citation: 10 CFR 19; 10 CFR 20

Abstract: The proposed rule would incorporate the intent of the recommendation of the National Council on Radiation Protection and Measurements (NCRP) in Report No. 39 that the radiation exposure to an embryo or fetus be minimized. It would help provide assurance that radiation exposures of fertile women and fetuses will be kept well within the numerical dose limits recommended by the NCRP without undue restriction on activities involving radiation and radioactive material. The proposed rule would

VOL
48
ISS
2
01
OC
17
1983
UMI

amend NRC regulations to require licensees to instruct workers regarding health protection problems associated with exposure to radiation and radioactive materials by providing information about biological risks to embryos and fetuses. The proposed rule would also contain a Commission statement that licensees should make particular efforts to keep the radiation exposure of an embryo or fetus to the very lowest practicable level during the entire gestation period as recommended by the NCRP. The content of this rule will be incorporated into the comprehensive revision of Part 20 to be issued as a proposed rule in November 1983.

Timetable:

Action	Date	FR Cite
Previous NPRM	01/03/75	40 FR 799
NPRM	12/00/83	

Small Entity: No

Agency Contact: Walter Cool, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4579**

RIN: 3150-AA07

11. CHANGES IN RADIATION DOSE-LIMITING STANDARDS

Legal Authority: 42 USC 2111; 42 USC 2201

CFR Citation: 10 CFR 19; 10 CFR 20

Abstract: The proposed rule was published because of the desire of the Commission to reduce the risks of occupational radiation doses in Commission-licensed activities, the Commission's continuing systematic assessment of exposure patterns, and new recommendations of the International Commission on Radiological Protection for controlling radiation dose. In preparing the proposed rule, the Commission has also taken into account recently published interpretations of epidemiological data and associated recommendations for lower dose standards as well as petitions for rulemaking to lower dose standards, PRM-20-6 and PRM-20-6A. The proposed rule would eliminate the accumulated dose averaging formula and the associated Form NRC-4, Exposure History, and impose annual dose-limiting standards while retaining quarterly standards. In addition to the imposition of annual dose-limiting standards, the proposed rule contains provisions that would express, in terms of new annual standards, the standard for dose to minors, the requirement for control of total dose to all workers, including transient and moonlighting workers. (cont)

Timetable:

Action	Date	FR Cite
Previous NPRM	02/20/79	44 FR 10388
NPRM	12/00/83	

Small Entity: No

Additional Information: ABSTRACT CONT: The changes contained in the proposed rule are intended to benefit workers by increasing radiation protection for them and to encourage some NRC licensees to take further action to reduce occupational radiation doses. The content of this rule will be incorporated into the comprehensive revision of Part 20 to be issued as a proposed rule in December 1983.

Agency Contact: Walter S. Cool, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4579**

RIN: 3150-AA08

12. AUTHORITY FOR THE COPYING OF RECORDS AND RETENTION PERIODS FOR SECURITY RECORDS

Legal Authority: 42 USC 2073; 42 USC 2207

CFR Citation: 10 CFR 19; 10 CFR 21; 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 70; 10 CFR 71; 10 CFR 73; 10 CFR 110

Abstract: The proposed rule would define more clearly the authority of an NRC inspector to copy and take away a licensee record that is needed for inspection and enforcement activities. It also would specify the period that a licensee physical security record must be maintained and codify guidelines for record retention periods.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52452
NPRM Comment Period Begin	11/22/82	47 FR 52452
NPRM Comment Period End	01/21/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: Andrea K. Barnold, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7976**

RIN: 3150-AA63

13. REPORTS OF THEFT OR LOSS OF LICENSED MATERIAL

Legal Authority: 42 USC 2073

CFR Citation: 10 CFR 20

Abstract: The proposed rule would remove a discretionary clause that requires each NRC licensee to report a loss or theft of licensed material only when it appears to the licensee that the loss or theft would pose a substantial hazard to persons in an unrestricted area. The proposed rule would provide increased radiological safety to the public by requiring that all losses or thefts of licensed material be reported to the NRC if the loss exceeds the minimum quantity specified in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/09/83	48 FR 70721
NPRM Comment Period Begin	05/09/83	
NPRM Comment Period End	06/23/83	
Final Action	09/30/83	

Small Entity: No

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7825**

RIN: 3150-AA64

14. RESIDUAL CONTAMINATION IN SMELTED ALLOYS

Legal Authority: 42 USC 2021; 42 USC 2073; 42 USC 2077; 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 32; 10 CFR 70; 10 CFR 150

Abstract: The proposed rule would exempt from licensing and regulatory requirements technetium-99 and low-enriched uranium as residual contamination in any smelted alloy. The proposed rule would remove the Commission's present specific licensing requirement that has the effect of inhibiting trade in and recycling of metal scrap contaminated with small amounts of these radioactive materials. This requirement also prevents recycling by the secondary metals industry of smelted alloys containing these two radioactive materials. The NRC issued the proposed rule in response to a Department of Energy request. The rulemaking is currently being held in abeyance while an environmental statement evaluating the proposed recycle is being prepared.

Timetable:

Action	Date	FR Cite
NPRM	10/27/80	45 FR 70874
NPRM Comment Period Begin	10/27/80	45 FR 70874
NPRM Comment Period End	12/11/80	
Environmental Impact Statement	09/30/83	

Next Action Undetermined

Small Entity: No

Analysis: Draft Environmental Statement 10/27/80 (45 FR 20874)

Agency Contact: D. E. Solberg, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7825**

RIN: 3150-AA10

15. PATIENT DOSAGE MEASUREMENT

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Abstract: The proposed rule would require specific category medical licensees to (1) measure the total activity of each radiopharmaceutical dosage, except those containing a pure beta-emitting radionuclide, before it is administered to a patient; (2) measure doses with activity less than ten microcuries to verify that activity did not exceed ten microcuries; and (3) keep a record of each measurement. Currently, each of NRC's approximately 2000 specific medical licensees are individually required by a license condition to measure the activity of radiopharmaceutical dosages before administering them to patients. The proposed rule would simplify licensing by replacing a condition that appears in all specific medical licenses with one regulation and enhance patient radiation safety by minimizing potential misadministrations caused by not measuring the patient dosage. This proposed rule will be incorporated into the proposed 10 CFR Part 35 rule "Medical Licenses for Human Use of Byproduct Material."

Timetable:

Action	Date	FR Cite
NPRM	09/01/81	46 FR 43840
NPRM Comment Period Begin	09/01/81	46 FR 43840
NPRM Comment Period End	11/30/81	
Final Action	12/01/83	

Small Entity: No

Public Compliance Cost: Initial Cost: $690,000; Yearly Recurring Cost: $690,000; Base Year for Dollar Estimates: 1981

Analysis: Preliminary RIA 09/00/81

Agency Contact: Deborah Bozik, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4566**

RIN: 3150-AA12

16. IMPLEMENTATION OF THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 40; 10 CFR 70; 10 CFR 73

Abstract: The NRC is amending its regulations in order to implement the provisions of the Convention on the Physical Protection of Nuclear Material. The proposed amendments would require (1) the physical protection of transient shipments of special nuclear material of moderate and low strategic significance and irradiated reactor fuel, (2) advance notification to NRC concerning the export of Convention-defined nuclear materials, and (3) advance notification and assurance of protection to NRC concerning the importation of Convention-defined nuclear materials from countries that are not parties to the Convention, and (4) advance notification and assurance of protection concerning transient shipments of Convention - defined nuclear material shipped between countries that are not party to the Convention. The adoption of the proposed amendments would result in improved security for Convention-defined nuclear material during international transport.

Timetable:

Action	Date	FR Cite
NPRM	07/14/83	48 FR 32182
NPRM Comment Period Begin	07/14/83	48 FR 32182
NPRM Comment Period End	10/13/83	

Next Action Undetermined

Small Entity: No

Public Compliance Cost: Yearly Recurring Cost: $230,000; Base Year for Dollar Estimates: 1983

Agency Contact: Steve Brown, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4004**

RIN: 3150-AA92

17. GENERAL DESIGN CRITERIA FOR FUEL REPROCESSING PLANTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 50

Abstract: The proposed rule would establish general criteria for designing fuel reprocessing plants in order to provide reasonable assurance that fuel reprocessing plants can be operated without undue risk to the health and safety of the public. The general criteria contains the minimum requirements that an applicant must use in the selection of principal design criteria for a fuel reprocessing plant. The principal criteria would establish design, fabrication, construction, testing, and performance requirements for structures, systems, and components important to the safety of the facility. This proposed rule has been indefinitely deferred until needed for NRC's regulation of a reprocessing facility.

Timetable:

Action	Date	FR Cite
NPRM	07/18/74	39 FR 26293

Next Action Undetermined

Small Entity: No

Agency Contact: Charles W. Nilsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7910**

RIN: 3150-AA15

18. ANTICIPATED TRANSIENTS WITHOUT SCRAM (ATWS)

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed rule presents two of three alternative regulatory programs designed to reduce the risk posed by accidents involving anticipated transients without scram (ATWS) events under consideration by

VOL 48 ISS 201 OCT 17 1983 UMI

the Commission. The third alternative is set out in a petition for rulemaking filed by twenty utilities (Electric Utilities Petition, PRM-50-29, published November 4, 1980; 45 FR 73080, and a supplement to the petition published February 3, 1981; 46 FR 10501). An ATWS event occurs when a nuclear reactor's shut down ("scram") system fails to function following a fault (transient event) in the reactor's normal heat dissipation function. A possible outcome of some ATWS accident sequences is the development of a mismatch between the power generated in the reactor and the controlled dissipation of that power. This power mismatch can threaten the integrity of the barriers that confine the fission products. A core meltdown accident, in some cases accompanied by a failure of containment and a very large release of radioactivity, is a possible outcome of some ATWS accident scenarios. (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/24/81	46 FR 57521
NPRM Comment Period Begin	11/24/81	46 FR 57521
NPRM Comment Period End	04/23/82	
Final Action	10/00/83	

Small Entity: No

Additional Information: ABSTRACT CONT: Thus, the Commission has determined that the consequences of some postulated ATWS accidents are unacceptable and has developed a final rule to address this important issue. Simultaneously, a proposed modification of the final rule applicable to plants with Westinghouse reactors would be published for comment. The Commission believes that the likelihood of severe consequences arising from an ATWS event during the two to four year period required to implement the rule is acceptably small. The implementation schedule contained in the rule balances the need for careful analysis and plant modifications with the desire to carry out the objectives of the rule as soon as possible.

Agency Contact: David Pyatt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7631**

RIN: 3150-AA19

19. INTERIM REQUIREMENTS RELATED TO HYDROGEN CONTROL

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2152; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2234; 42 USC 2236; 42 USC 2239; 42 USC 2273; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The final rule requires improved Hydrogen control systems for boiling water reactors (BWRs) with Mark III type containments and for pressurized water reactors (PWRs), with ice condenser type containers, additionally, those of the above reactors which don't rely on an inerted atmosphere for hydrogen control would be required to show that certain important safety systems must be able to function during and following hydrogen burning.

Timetable:

Action	Date	FR Cite
NPRM	12/23/81	46 FR 62281
NPRM Comment Period Begin	02/25/82	47 FR 08203
NPRM Comment Period End	04/08/82	
Final Action	09/00/83	

Small Entity: No

Agency Contact: Morton R. Fleishman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7981**

RIN: 3150-AA21

20. TECHNICAL SPECIFICATIONS FOR NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The proposed rule would amend current regulations pertaining to technical specifications for nuclear power reactors. Specifically, the proposed rule would (1) establish a standard for deciding which items derived from the safety analysis report must be incorporated into technical specifications, (2) modify the definitions of categories of technical specifications to focus more directly on reactor operations, (3) define a new category of requirements that would be of lesser immediate significance to safety than technical specifications, and (4) establish appropriate conditions that must be met by licensees to make changes to the requirements in the new catagory without prior NRC approval. The changes are needed because of disagreement among parties to proceedings as to what items should be included in technical specifications, and concern that the substantial growth in the volume of technical specifications may be diverting the attention of licensees from matters most important to the safe operation of the plant. The proposed rule would improve the safety of nuclear power plant operation by reducing the volume of technical specifications, place (Cont)

Timetable:

Action	Date	FR Cite
ANPRM	07/08/80	45 FR 45916
ANPRM Comment Period Begin	07/08/80	45 FR 45916
ANPRM Comment Period End	09/08/80	
NPRM	03/30/82	47 FR 13369
NPRM Comment Period Begin	03/30/82	47 FR 13369
NPRM Comment Period End	06/01/82	
Final Action	12/00/83	

Small Entity: No

Additional Information: ABSTRACT CONT: more emphasis on those specifications of high safety significance, and provide more efficient use of NRC and licensee resources. The NRC staff has estimated that each of the affected 21 licensees should utilize the proposed method for changing supplemental specifications approximately twice a year. The total additional yearly burden to resubmit a revoked change for all 21 affected licensees would be approximately 101 manhours.

Agency Contact: Cecil O. Thomas, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-7130**

RIN: 3150-AA22

21. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would reference additional provisions of the ASME Boiler and Pressure Vessel Code, including sections that provide rules for the construction of certain safety systems, and it would clarify existing regulations by removing obsolete provisions. The ASME Code sections proposed for incorporation by reference include the requirements for Class 2 Components, which are found in

Subsections NC and NCA of the Code, and the requirements for Class 3 Components, which are found in Subsections ND and NCA of the Code. Experience has shown that these additional parts of Section III of the ASME Boiler and Pressure Vessel Code are adequate for use on a general basis. The proposed rule would establish enforceable requirements to replace previous guidance criteria and ensure the proper application of referenced ASME Codes to eliminate any possible misunderstandings concerning NRC requirements to be addressed in an application for a license for a nuclear power plant.

Timetable:

Action	Date	FR Cite
NPRM	04/13/82	47 FR 15801
NPRM Comment Period Begin	04/13/82	47 FR 15801
NPRM Comment Period End	06/14/82	
Final Action	04/00/84	

Small Entity: No

Agency Contact: Alfred Taboada, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7903**

RIN: 3150-AA23

22. FITNESS FOR DUTY OF PERSONNEL WITH UNESCORTED ACCESS TO VITAL OR PROTECTED AREAS OF NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2236; 42 USC 2237

CFR Citation: 10 CFR 50

Abstract: The proposed rule would require licensees to establish and implement controls to provide reasonable assurance that all persons with unescorted access to protected areas are fit for duty. The Commission initiated the rule in response to concern by members of the public that nuclear power plant personnel, like airline pilots, should not be permitted to perform activities that could impair the public health and safety while unfit for duty as a result of actions such as the consumption of alcoholic beverages. The result of the proposed rule would be the further protection of the public health and safety by requiring personnel with unescorted access to protected areas to be fit for duty.

Timetable:

Action	Date	FR Cite
NPRM	08/05/82	47 FR 33980
NPRM Comment Period Begin	08/05/82	47 FR 33980
NPRM Comment Period End	10/04/82	
Final Action	09/00/83	

Small Entity: No

Agency Contact: Thomas Ryan, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7942**

RIN: 3150-AA27

23. SAFEGUARDS REQUIREMENTS FOR NONPOWER REACTOR FACILITIES POSSESSING FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2071; 42 USC 2073; 42 USC 2133; 42 USC 2134; 42 USC 2152; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2273; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50; 10 CFR 70; 10 CFR 73

Abstract: The revised proposed rule would establish permanent physical security requirements for nonpower reactor licensees who possess a formula quantity (five formula kilograms or more) of strategic special nuclear material (SSNM), primarily uranium-235 contained in high-enriched uranium (HEU). These regulations would require a nonpower reactor licensee, who possesses a nonexempt formula quantity of SSNM, to provide protection against insiders and to arrange for a response by local law enforcement or other agencies in time to prevent a theft of a formula quantity. The staff is proposing a performance oriented regulatory approach which would give affected licensees flexibility in designing cost-effective measures for implementing the requirements of the final rule by allowing licensees to take advantage of existing facility design features. The proposed amendments would replace the currently effective interim requirements in 10 CFR 73.60. Not more than three facilities are expected to have to implement these requirements at an estimated cost increase of $1,100 to $5,100 for capital improvements and $300 to $7,900 for annual operating costs per facility.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/28/79	44 FR 68199
Previous NPRM	09/18/81	46 FR 46333
NPRM	07/27/83	
NPRM Comment Period Begin	07/27/83	48 FR 34056
Proposed Rule limited to Part 73	07/27/83	48 FR 34056
NPRM Comment Period End	11/28/83	
Final Action	12/00/83	

Small Entity: No

Public Compliance Cost: Initial Cost: $12,000; Yearly Recurring Cost: $21,000; Base Year for Dollar Estimates: 1983

Agency Contact: Carl J. Withee, Nuclear Regulatory Commission, Office of Nuclear Materials Safety, and Safeguards, Washington, DC 20555, **301 427-4040**

RIN: 3150-AA30

24. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (SUMMER 1982)

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would incorporate by reference the Summer 1982 addenda of the ASME Boiler and Pressure Vessel Code. The ASME (American Society of Mechanical Engineers) code sets standards for the construction of nuclear power plant components. The ASME code requirements for nuclear power plants are set forth in Section III for construction permit holders. The proposed rule would include the most recent changes made to the ASME Boiler and Pressure Vessel Code and permit the use of improved methods for construction of nuclear power plants.

Timetable:

Action	Date	FR Cite
NPRM	12/22/82	47 FR 57054
NPRM Comment Period Begin	12/22/82	47 FR 57054
NPRM Comment Period End	02/22/83	
Final Action	10/00/83	

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Nancy Miegel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7892**

RIN: 3150–AA78

25. ●REQUIREMENTS FOR LICENSEE ACTION REGARDING THE DISPOSITION OF SPENT FUEL UPON EXPIRATION OF THE REACTORS' OPERATING LICENSE

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5842; 42 USC 4332; 42 USC 4334; 42 USC 4335

CFR Citation: 10 CFR 50; 10 CFR 51

Abstract: The proposed rule would provide procedures to be followed by nuclear reactor operating licensees to ensure the continued safe management of spent fuel beyond the expiration date of the reactor operating license. The proposed rule also addresses the environmental aspects of extended spent fuel storage past the expiration date of reactor operating licenses or license for storage in an independent spent fuel storage installation. The proposed rule would require licensees to submit plans for NRC review and approval 5 years before their operating licenses expire on specifically how spent fuel at these sites will be managed. This rule incorporates the Advance Notice of Proposed Rulemaking, "Storage and Disposal of Nuclear Wastes".

Timetable:

Action	Date	FR Cite
ANPRM	10/25/79	44 FR 61372
NPRM	05/20/83	48 FR 22370
NPRM Comment Period Begin	05/20/83	48 FR 22370
NPRM Comment Period End	07/05/83	
Final Action	10/00/83	

Small Entity: No

Agency Contact: Dennis Rathbun or Clyde Jupiter, Nuclear Regulatory Commission, Office of Policy Evaluation, Washington, DC 20555, **301 634-3295**

RIN: 3150–AB20

26. †ADDITIONAL SCRAM SYSTEM REQUIREMENT FOR WESTINGHOUSE NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed rule would require an improvement in the design of light-water-cooled nuclear power plants manufactured by Westinghouse. A specific provision contained in the proposed rule requires the installation of a diverse scram system from sensor output to interruption of power to the control rods. This scram system would reduce the likelihood of an accident if the existing reactor protection system fails to shut down the reactor following an anticipated transient.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: No

Analysis: Preliminary RIA 08/00/83

Agency Contact: David W. Pyatt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-5960**

RIN: 3150–AB29

27. FREQUENCY OF EMERGENCY PREPAREDNESS EXERCISES FOR STATE AND LOCAL GOVERNMENTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2239; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed rule would modify the existing procedures for scheduling certain emergency preparedness exercises. As a result of information gathered through past experience, the NRC staff is developing a proposed rule which would provide flexibility in the conduct of emergency preparedness exercises. The proposed rule change would retain the presently required annual full-participation exercise with the proviso that if all elements in the emergency plan are performed in a satisfactory manner during the annual exercise, the Federal Emergency Management Agency (FEMA) may find that another exercise with state and local governmental participation is not warranted for a period of up to two years.

Timetable:

Action	Date	FR Cite
NPRM	07/21/83	48 FR 33307
NPRM Comment Period Begin	07/21/83	48 FR 33307
NPRM Comment Period End	09/19/83	
Next Action Undetermined		

Small Entity: No

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7890**

RIN: 3150–AB11

28. PROTECTION OF CONTRACTOR EMPLOYEES

Legal Authority: 42 USC 2236; 42 USC 2282; 42 USC 5851

CFR Citation: 10 CFR 50

Abstract: The proposed rule would require 10 CFR Part 50 licensees, permittees, and applicants to ensure that procurement documents they issue or modify, specify that contractors and subcontractors post a notice to employees related to employee protection. The required notice would contain information notifying employees that an employer is prohibited from discriminating against an employee engaging in protected activities and that an employee may seek a remedy for prohibited discrimination by filing a complaint with the Department of Labor. The proposed amendment would affect licensees, permittees, applicants, and their contractors and subcontractors who are contractually responsible for construction of basic components or production and utilization facilities.

Timetable:

Action	Date	FR Cite
NPRM	07/06/83	48 FR 31050
NPRM Comment Period Begin	07/06/83	48 FR 31050
NPRM Comment Period End	09/06/83	
Next Action Undetermined		

Small Entity: No

Agency Contact: Anthony J. DiPalo, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7613**

RIN: 3150–AB07

29. EXPLANATION TO TABLE S-3 URANIUM FUEL CYCLE ENVIRONMENTAL DATA

Legal Authority: 42 USC 2011; 42 USC 4321

CFR Citation: 10 CFR 51

Abstract: The proposed rule provides a narrative explanation of the numerical values established in Table S-3, "Table of Uranium Fuel Cycle Environmental Data," that appears in the Commission's environmental protection regulations. The proposed rule describes the basis for the values contained in Table S-3, the significance of the uranium fuel cycle data in the table, and the conditions governing the use of the table. The narrative explanation also addresses important fuel cycle impacts (e.g., environmental dose commitments, health effects, socioeconomic impacts) and the cumulative impacts of the nuclear fuel cycle for the whole nuclear power industry so that it may be possible to consider these impacts generally rather than repeatedly in individual licensing proceedings. A U.S. Court of Appeals (D.C. Circuit) decision on April 27, 1982 invalidated the entire Table S-3 rule. The Supreme Court reversed this decision on June 6, 1983, and the proposed rule to provide a narrative explanation for Table S-3 is now being reviewed by the technical and legal staff to determine what changes are needed because of new developments and the passage of time while the rulemaking was held in abeyance.

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period Begin	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Court invalidates Table Rule	04/27/82	
Petition for Rehearing Denied	06/30/82	
Appeal to Supreme Court filed	09/27/82	
Oral Argument before Supreme Court	04/19/83	
Final Action	12/31/83	

Small Entity: No

Agency Contact: Glenn A. Terry, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4211**

RIN: 3150–AA31

30. ●CRITERIA AND PROCEDURES FOR DETERMINING THE ADEQUACY OF AVAILABLE SPENT NUCLEAR FUEL STORAGE CAPACITY

Legal Authority: 42 USC 2011; 42 USC 2092; 42 USC 2201; 42 USC 4332; 42 USC 5801; 42 USC 5841; 42 USC 5847; 42 USC 10152; 42 USC 10155

CFR Citation: 10 CFR 53

Abstract: The proposed rule would implement procedures and criteria that the NRC would use to determine whether a person owning and operating a civilian nuclear power plant would be able to store the spent nuclear fuel generated at the plant. This determination is necessary before the Secretary of the Department of Energy may enter into a contractual arrangement with the owner of the plant to provide interim Federal storage for limited amounts of spent fuel that the owner is unable to store. The proposed rule is necessary to meet NRC responsibilities under the Nuclear Waste Policy Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	04/29/83	48 FR 19382
NPRM Comment Period Begin	04/29/83	48 FR 19382
NPRM Comment Period End	06/28/83	
Interim Final Rule	10/00/83	

Small Entity: No

Agency Contact: F. S. Cameron, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7997**

RIN: 3150–AB22

31. MATERIAL CONTROL AND ACCOUNTING REQUIREMENTS FOR LOW ENRICHED URANIUM FUEL CYCLE FACILITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 70

Abstract: The proposed rule would establish more cost-effective material control and accounting (MC&A) requirements for low enriched uranium (LEU). Under current regulations almost all substantive requirements apply uniformly to all licensees authorized to possess greater than one effective kilogram of special nuclear material, whether they have high enriched uranium (HEU), plutonium, or LEU. However, both NRC-sponsored and independent studies have concluded that safeguard risks associated with LEU are far less significant than risks associated with HEU. The proposed rule reduces the LEU MC&A requirements to a level commensurate with the material's low safeguards significance, while maintaining safeguards standards which meet those of the IAEA. The reduction in requirements is estimated to save the industry over $3 million per year.

Timetable:

Action	Date	FR Cite
NPRM	12/14/82	47 FR 55951
NPRM Comment Period Begin	12/14/82	47 FR 55951
NPRM Comment Period End	02/14/83	
Final Action	09/00/84	

Small Entity: No

Agency Contact: Carl J. Withee, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555, **301 427-4040**

RIN: 3150–AA93

32. MISCELLANEOUS AMENDMENTS CONCERNING PHYSICAL PROTECTION OF NUCLEAR POWER PLANTS (PART OF INSIDER RULE PACKAGE)

Legal Authority: 42 USC 2101; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: The proposed rule would require in Nuclear Power Plants (1) the designation of vital areas (to allow vital islands), (2) access controls to vital islands, (3) the protection of certain physical security equipment, (4) revised requirements for key and lock controls, and (5) revised searches of hand-carried items at protected area entry points. The requirements will clarify policy in these areas and reduce unnecessary burden on the industry while maintaining plant protection. This rule is a revision of the proposed rule entitled "Access Controls to Nuclear Power Plant Vital Areas." Initial development on the final rule produced significant changes, particularly the criteria for personnel access controls to vital areas, resulting in the need to publish a revised proposed rule. This proposed rule and the other components of the Insider Rule Package are being reviewed by the NRC Safety/Safeguards Review Committee which considered a number of alternative approaches to vital island

VOL 48 ISS 201 OCT 17 1983 UMI

configurations and provided recommendations that are reflected in the proposed rule. Costs for these improvements are estimated at $850K per site.

Timetable:

Action	Date	FR Cite
Previous NPRM	03/12/80	45 FR 15937
NPRM	09/00/83	

Small Entity: No

Agency Contact: Tom R. Allen, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4010**

RIN: 3150-AA36

33. SEARCHES OF INDIVIDUALS AT POWER REACTOR FACILITIES (PART OF INSIDER PACKAGE)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: The proposed rule would revise the search requirements for individuals entering the protected area of nuclear power plants. Under the proposed requirements, all persons would be subject to equipment searches for firearms, explosives and incendiary devices. Physical searches would be required only when search equipment is not working properly or when the licensee suspects that an individual is attempting to carry into the plant prohibited devices or material. Random searches were considered as an alternative, but were deemed to be possibly disruptive. Since licensees already possess the necessary equipment, this rule will affect only licensee procedures at negligible additional cost.

Timetable:

Action	Date	FR Cite
NPRM	12/01/80	45 FR 79492
NPRM Comment Period Begin	12/01/80	45 FR 79492
NPRM Comment Period End	01/15/81	
Final Action	09/00/83	

Small Entity: No

Agency Contact: Tom R. Allen, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4010**

RIN: 3150-AB17

34. REMOVAL OF APPENDICES A THROUGH H FROM 10 CFR PART 140

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 140

Abstract: The proposed rule would amend 10 CFR Part 140 by removing Appendices A through H, and by making the information contained in the appendices available in the form of separate Regulatory Guides. The information in the appendices includes form of nuclear energy liability policies and indemnity agreements. The information also describes how the Commission determines indemnity location.

Timetable:

Action	Date	FR Cite
NPRM	03/04/83	48 FR 09284
NPRM Comment Period Begin	03/04/83	48 FR 09284
NPRM Comment Period End	04/04/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Ira Dinitz, Nuclear Regulatory Commission, Office of State Programs, Washington, DC 20555, **301 492-9684**

RIN: 3150-AB02

35. REVISION OF LICENSE FEE SCHEDULES

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 483

CFR Citation: 10 CFR 170

Abstract: The proposed rule would amend the regulations to permit the NRC to charge fees for the actual cost incurred by the NRC for inspections and for review of applications, permits, licenses, amendments, renewals, and special projects, including topical and other reports. The new fee schedule would affect the licensing and inspection of nuclear power plants, other production or utilization facilities, vendors of nuclear power steam supply systems and materials, facilities engaged in uranium and plutonium fuel fabrication, uranium milling, leaching and refining operations, source material ore-buying and ion exchange activities, burial of radioactive waste, spent fuel cask and packaging approvals, and other users of critical quantities of special nuclear materials. It incorporates the proposed new Category 11.F schedule of fees for materials licenses published in the Federal Register as a proposed rule on March 31, 1980 (45 FR 20899). The comment period has been extended to February 8, 1983 (48 FR 3624).

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52454
NPRM Comment Period Begin	11/22/82	47 FR 52454
NPRM Comment Period End	01/18/83	
NPRM extended Comment Period	02/08/83	48 FR 03624
Final Action	09/30/83	

Small Entity: Yes

Agency Contact: William O. Miller, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, **301 492-7225**

RIN: 3150-AB03

ADVANCE NOTICES OF PROPOSED RULEMAKING

36. STANDARDS FOR PROTECTION AGAINST RADIATION

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Abstract: The advance notice of proposed rulemaking seeks comments on a proposal to completely revise NRC's standards for protection against radiation (Part 20). This regulation applies to all NRC licensees and establishes standards for protection against radiation hazards under licenses issued by the NRC. The proposed revision reflects a comprehensive and systematic review of Part 20 and incorporates current standards for radiation protection into the revised regulation.

Timetable:

Action	Date	FR Cite
ANPRM	03/20/80	45 FR 18023
ANPRM Comment Period Begin	03/20/80	45 FR 18023
ANPRM Comment Period End	06/18/80	
NPRM	12/00/83	

Small Entity: Yes

Agency Contact: Robert E. Baker, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4570**

RIN: 3150-AA38

37. PERFORMANCE TESTING OF PERSONNEL DOSIMETRY

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Abstract: The advance notice of rulemaking sought comment on a proposal to add amendments to 10 CFR Part 20 that would improve the accuracy and consistency of reported occupational radiation dose measurement by requiring proficiency tests of dosimetry processors who perform dosimetry for NRC licensees. The proposed amendments would require NRC licensees to have personnel dosimeters (devices carried or worn by each radiation worker to measure radiation exposure received during work) processed by a dosimetry service that is certified by an NRC approved or specified testing laboratory.

Timetable:

Action	Date	FR Cite
ANPRM	03/28/80	45 FR 20493
ANPRM Comment Period Begin	05/12/80	45 FR 31118
ANPRM Comment Period End	06/27/80	
NPRM	10/00/83	

Small Entity: Yes

Agency Contact: Alan K. Roecklein, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7970**

RIN: 3150-AA39

38. DECOMMISSIONING CRITERIA FOR NUCLEAR FACILITIES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 70; 10 CFR 72

Abstract: The advance notice of proposed rulemaking sought comment on a proposal to develop a more explicit policy for decommissioning nuclear facilities. The proposal would provide more specific guidance on decommissioning criteria for production and utilization facility licensees and byproduct, source, and special nuclear material licenses. This action is intended to protect public health and safety and to provide the applicant or licensee with appropriate regulatory guidance for implementing and accomplishing nuclear facility decommissioning.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/78	43 FR 10370
NPRM	04/00/84	

Small Entity: Yes

Analysis: Draft Environmental Statement 02/10/81 (46 FR 11666)

Agency Contact: Keith G. Steyer, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7910**

RIN: 3150-AA40

39. UPGRADED EMERGENCY PREPAREDNESS PROCEDURES FOR CERTAIN FUEL CYCLE AND BYPRODUCT MATERIALS LICENSEES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70; 10 CFR 72

Abstract: The advance notice of proposed rulemaking sought comments on a proposal that would strengthen emergency preparedness requirements for fuel cycle and byproduct materials licensees with the potential for accidents involving radioactive materials harmful to public health and safety. This is necessary to ensure that emergency preparedness is sufficient to minimize the danger to public health and safety following an accident involving radioactive materials held by certain fuel cycle and byproduct materials licensees. One of the lessons learned from the accident at Three Mile Island was that improvements in emergency preparedness for some NRC licensed activities was necessary.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/81	46 FR 29712
ANPRM Comment Period Begin	06/03/81	46 FR 29712
ANPRM Comment Period End	08/03/81	
NPRM	10/01/83	

Small Entity: Yes

Analysis: Preliminary RIA 06/00/81

Agency Contact: Stephen A. McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7942**

RIN: 3150-AA41

40. CERTIFICATION OF INDUSTRIAL RADIOGRAPHERS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 34

Abstract: The advance notice of proposed rulemaking would require all individuals who use byproduct material in the conduct of industrial radiography to be certified by a third party. Radiography licensees account for over 60 percent of the reported overexposures greater than five rems to the whole body. NRC regulations permit industrial radiographers to perform radiography independently. The NRC grants radiography licensees the authority to train and designate individuals competent to act as radiographers. The advance notice of proposed rulemaking seeks comment on a proposal that would enable NRC to verify the effectiveness of this training, thereby assuring that all radiographers possess adequate training and experience to operate radiographic equipment safely.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/82	47 FR 19152
ANPRM Comment Period Begin	05/04/82	47 FR 19152
ANPRM Comment Period End	09/03/82	
Staff intends to withdraw this Rule	09/00/83	

Small Entity: Undetermined

Agency Contact: Robert Alexander, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7970**

RIN: 3150-AA43

41. ACCEPTANCE CRITERIA FOR EMERGENCY CORE COOLING SYSTEMS FOR LIGHT-WATER-COOLED NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 50

Abstract: The advance notice of proposed rulemaking seeks comment on several questions concerning the acceptance criteria for Emergency Core Cooling Systems (ECCS) in light-water-cooled nuclear power plants. Specifically, some of the questions to be commented on are (1) under what circumstances should corrections to

VOL
48
ISS
201
OC
17
1983
UMI

ECCS models be used during licensing reviews without necessitating complete reanalysis of a given plant or an entire group of plants; (2) what would be the impact of the proposed procedure-oriented and certain specific technical rule changes; and (3) how should safety margins be quantified. The Commission is considering changing certain technical and nontechnical requirements within the existing ECCS rule. The technical changes would include consideration of new research information. The nontechnical changes would be procedure-oriented and would, among other things, allow for corrections to be made to vendor ECCS analysis codes during the construction review and during construction of the plant. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/06/78	43 FR 57157
ANPRM Comment Period Begin	12/06/78	43 FR 57157
ANPRM Comment Period End	02/05/79	
NPRM	04/00/84	

Small Entity: No

Additional Information: ABSTRACT CONT: The changes would provide improvements to the ECCS rule which would eliminate previous difficulties encountered in applying the rule and improve licensing evaluation in the light of present knowledge, while preserving a level of conservatism consistent with that knowledge.

Agency Contact: Morton R. Fleishman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7997**

RIN: 3150-AA44

42. SEVERE ACCIDENT DESIGN CRITERIA

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The advance notice of proposed rulemaking was published to provide the nuclear industry and the public an opportunity to submit advice and recommendations to the Commission on what should be the content of a regulation requiring improvements to cope with degraded core cooling and with accidents not covered adequately by traditional design envelopes. The rulemaking proceeding will address the objectives of such a regulation, the design and operational improvements being considered, the effect on other safety considerations, and the costs of the design improvements compared to expected benefits. It is the Commission's intent to determine what changes, if any, in reactor plant designs and safety analysis are needed to take into account reactor accidents beyond those considered in the current design basis accident approach. Accidents under consideration include a range of loss-of-core-cooling, core damage, and core-melt events, both inside and outside historical design envelopes.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/80	45 FR 65474
ANPRM Comment Period Begin	10/02/80	45 FR 65474
ANPRM Comment Period End	12/31/80	
Policy Statement Comment Per. Beg	04/13/83	48 FR 16014
Policy Statement Comment Per. Ends	07/09/83	48 FR 16014

Next Action Undetermined

Small Entity: No

Agency Contact: Morton R. Fleishman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7961**

RIN: 3150-AA45

43. DESIGN AND OTHER CHANGES IN NUCLEAR POWER PLANT FACILITIES AFTER ISSUANCE OF CONSTRUCTION PERMIT

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The advance notice of proposed rulemaking was published to seek comments on a proposal that would make the procedure for facility licensing more predictable by (1) defining more clearly the limitations on what changes a construction permit holder may make to a facility during construction and (2) controlling the ways a construction permit holder implements NRC criteria. The proposal is intended to improve the present licensing process and to develop specific descriptions of essential facility features to which a construction permit holder is bound.

Timetable:

Action	Date	FR Cite
ANPRM	12/11/80	45 FR 81602
ANPRM Comment Period Begin	12/11/80	45 FR 81602
ANPRM Comment Period End	02/04/81	

Next Action Undetermined

Small Entity: No

Agency Contact: James J. Henry, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7961**

RIN: 3150-AA46

44. MANDATORY PROPERTY INSURANCE FOR DECONTAMINATION OF NUCLEAR FACILITIES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The advance notice of proposed rulemaking requests comments on the Long Report (NUREG-0891) entitled "Nuclear Property Insurance: Status and Outlook," in order to determine the adequacy of the NRC's property insurance requirements. This report, prepared by Dr. John D. Long, Professor of Insurance at Indiana University, was written as an outgrowth of the Three Mile Island-2 accident after it became apparent that nuclear utilities may need more property insurance than has previously been required. The NRC staff asked Dr. Long to write the report, in part, to answer six pertinent questions regarding nuclear property insurance. The Commission received comments on the issues raised by the Long Report and other issues relating to property for nuclear facilities. Since no substantive changes have been made in the rulemaking, the staff has prepared a final rulemaking notice. The final rule is currently pending before the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/82	47 FR 27371
ANPRM Comment Period Begin	06/24/82	47 FR 27371
ANPRM Comment Period End	09/22/82	
Final Rule is currently before the Commission	00/00/00	

Small Entity: No

Agency Contact: Robert S. Wood, Nuclear Regulatory Commission, Office of State Programs, Washington, DC 20555, **301 492-9685**

RIN: 3150-AA47

45. MODIFICATION OF THE POLICY AND REGULATORY PRACTICE GOVERNING THE SITING OF NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 5842

CFR Citation: 10 CFR 50; 10 CFR 51; 10 CFR 100

Abstract: The advance notice of proposed rulemaking was published to seek comment on a proposal that would replace the existing reactor site criteria applicable to the licensing of nuclear power reactors with demographic and other siting criteria. The proposed rule would establish siting requirements that are independent of design differences between nuclear power plants. The proposed rule is intended to reflect the experience gained by the Commission since the original regulations on siting were published on April 12, 1962 (27 FR 3509). The proposed rule would ensure that Commission practices on nuclear power reactor siting afford sufficient protection to the public health and safety. The ANPRM also sought public comment on seven of the nine recommendations contained in NUREG-0625, "Report of the Siting Policy Task Force." Development of this rule has been deferred pending a two-year-evaluation program of NRC safety goals and a comprehensive reassessment of the new radioactive source term.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/80	45 FR 50350
NPRM	03/00/86	

Small Entity: No

Agency Contact: William R. Ott, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4358**

RIN: 3150-AA49

46. MATERIAL CONTROL AND ACCOUNTING REQUIREMENTS FOR FACILITIES POSSESSING FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 70

Abstract: The advance notice of proposed rulemaking (ANPRM) would replace the material control & accounting (MC&A) requirements for fuel cycle facilities, including reprocessing plants possessing formula quantities of strategic special nuclear material (SSNM). It would establish a performance oriented regulation that emphasizes timely detection of SSNM losses and provides for more conclusive resolution of discrepancies. This is to be accomplished at about the same cost as current MC&A requirements by relaxation or elimination of those current requirements which are not cost-effective and by taking advantage of process controls, production controls, and quality controls already used by licensees.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/81	46 FR 45144
ANPRM Comment Period Begin	11/18/81	46 FR 56625
ANPRM Comment Period End	02/09/82	
NPRM	09/30/83	

Small Entity: No

Public Compliance Cost: Initial Cost: $2,300,000; Yearly Recurring Cost: -$800,000

Agency Contact: C. W. Emeigh, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4040**

RIN: 3150-AA50

47. SEISMIC AND GEOLOGIC SITING CRITERIA FOR NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 5842

CFR Citation: 10 CFR 100

Abstract: The advance notice of proposed rulemaking was published to solicit public comment on the need for a reassessment of the Commission's criteria for the siting of nuclear power plants. The Commission determined that this action was necessary as a result of experience gained with application of current criteria and the rapid advancement in the state of the art of earth sciences. The NRC staff was particularly interested in finding out about problems that have arisen in the application of existing siting criteria. The public was invited to state the nature of the problems encountered and describe them in detail. The public was also asked to submit proposed corrective actions. Two petitions for rulemaking filed with the Commission, PRM-50-20 and PRM-100-2 will be addressed as part of this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/78	43 FR 2729
NPRM	12/00/87	

Small Entity: No

Agency Contact: Leon L. Beratan, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4370**

RIN: 3150-AA51

UNPUBLISHED RULES

48. JURISDICTION OF ADJUDICATORY BOARDS

Legal Authority: 42 USC 2201; 42 USC 2241

CFR Citation: 10 CFR 1; 10 CFR 2

Abstract: The final rule would amend the Statement of Organization and Rules of Practice to make explicit the jurisdiction of NRC's adjudicatory boards in certain ancillary licensing matters which may arise in the course of an operating license proceeding for a nuclear power reactor. The amendments clarify the board's authority to decide issues related to a license application for the receipt of cold fuel at a reactor site prior to issuance of an operating license.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: William M. Shields, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, **301 492-8693**

RIN: 3150-AA53

VOL 48 ISS 201 OCT 17 1983 UMI

49. ●HYBRID HEARING PROCEDURES FOR EXPANSIONS OF ONSITE SPENT FUEL STORAGE CAPACITY AT CIVILIAN NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2201; 42 USC 2239

CFR Citation: 10 CFR 2; 10 CFR 72

Abstract: The proposed rule would implement the hybrid hearing process established by Section 134 of the Nuclear Waste Policy Act of 1982. That section establishes a hybrid hearing process for certain contested proceedings on applications for a license or a license amendment to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor. The hybrid hearing process consists of an informal first stage which culminates in a legislative-type oral argument designed to identify issues appropriate for resolution in an adjudicatory hearing. The proposed rule would permit a petitioner to be admitted as a party to the proceeding without the need to specify at least one valid contention. Following discovery and oral argument, the presiding officer would designate for consideration in an adjudicatory hearing only those issues that involve a genuine and substantial dispute of fact.

Timetable:

Action	Date	FR Cite
Rule is pending before Commission for a decision	00/00/00	

Small Entity: No

Agency Contact: Linda S. Gilbert, Nuclear Regulatory Commission, Office of Executive Legal Director, Washington, DC 20555, **301 492-7678**

RIN: 3150-AB19

50. PARTICIPATION OF THE NRC STAFF IN INITIAL LICENSING PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2231

CFR Citation: 10 CFR 2

Abstract: The proposed rule would limit the NRC staff participation as a full party in contested initial licensing proceedings to those controverted factual issues on which it disagrees with the technical basis, rationale, or conclusions of the license applicant. The proposed rule is in response to requests from within and outside NRC for the Commission to re-examine its staff's role in the adjudicatory licensing proceedings. The proposed rule is intended to enhance the public's perception of the Commission's regulatory process as a fair and neutral one that considers opposing viewpoints.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: James R. Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, **202 634-3300**

RIN: 3150-AB08

51. SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS IN ON-THE-RECORD ADJUDICATIONS

Legal Authority: 5 USC 554; 5 USC 557

CFR Citation: 10 CFR 2

Abstract: The proposed rule would amend the Commission's rules of practice regarding the separation of functions and ex-parte communications in on-the-record adjudications. The proposed rule contains two options. Each option would allow the Commission greater flexibility in communicating with its staff by relaxing the restrictions on Commission-staff communications in initial licensing cases. The first option would eliminate restrictions on supervisory personnel while the second function would remove all restrictions in initial licensing matters. The proposed rule is intended to provide the Commission with better access to the expertise of its staff. This proposed rule would supersede a prior proposed rule entitled "Ex Parte Communications and Separation of Adjudicatory and Non-Adjudicatory Functions" published in the Federal Register on March 7, 1979 (44 FR 12428).

Timetable:

Action	Date	FR Cite
Previous Proposed Rule	03/07/79	44 FR 12428
NPRM	10/00/83	

Small Entity: No

Agency Contact: James R. Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, D.C. 20555, **202 634-3300**

RIN: 3150-AA00

52. BACKFITTING

Legal Authority: 42 USC 2021; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2239; 42 USC 4332; 42 USC 4334; 42 USC 4335; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The ANPRM seeks public comment on a number of broad policy questions regarding the establishment of specific procedures for the long term management of the Commission's process for the imposition of new regulatory requirements for power reactors. This process, commonly referred to as "backfitting", includes both plant-specific and generic changes that are proposed for one or more classes of power reactors. The Commission intends, as the outcome of the proceeding, to replace its existing regulation (10 CFR 50.109) with a new rule.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/83	48 FR 44217
ANPRM Comment Period End	10/28/83	

Small Entity: No

Agency Contact: James Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, **202 634-3300**

RIN: 3150-AA59

53. REGULATORY REFORM OF THE RULES OF PRACTICE AND RULES FOR LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 2; 10 CFR 50

Abstract: This proposed rule would amend thirty-three sections of two parts affecting the hearing process associated with the issuance of licenses. In the screening process, the most significant changes would (1) establish a screening Atomic Safety and Licensing Board (ASLB) to act as a clearing house for all requests for hearings, petitions for leave to intervene, and proposed contentions, (2) require a participant in a hearing to show that he or she has an interest to protect in the proceeding, and (3) require evidence of a factual dispute for a contention to be admitted. During the conduct of hearings, the most significant changes would (1) not hear discovery requests requiring the staff to support positions other than its own, (2) permit the ASLB to decide the case on the basis of written material, (3) permit the ASLB to appoint a panel of technical experts if needed, (4) allow presiding officers to raise issues on their own motion (sua sponte) only in unusual cases, (5) allow summary disposition motions to be filed at any stage of the proceeding, (6) allow the Commission to designate a hearing examiner in lieu of a three-member ASLB and (7) require the filing of cross examination plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Additional Information: During the decision-making process, the most significant changes would (1) remove the ASLB as an independent appeal board but place it organizationally directly under the Commission to review, as before, ASLB decisions, and give its recommendations to the Commission, (2) allow any generic issue resolved in an initial licensing proceeding to be codified, allowing a 45-day comment period, (3) allow an intervenor to participate in discussing only those items he or she introduced, and (4) reinstate the immediate effectiveness of an ASLB decision on an operating license, construction permit, or work authorization.

Agency Contact: James R. Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, **202 634-3300**

RIN: 3150-AB04

54. PERFORMANCE TESTING FOR BIOASSAY LABS

Legal Authority: 42 USC 5841

CFR Citation: 10 CFR 20

Abstract: The proposed rule would require licensees, who provide bioassay services for individuals to assess internal radiation exposure, to use accredited laboratories after the NRC establishes an accreditation program. The proposed rule would reduce unacceptable errors in measurements that have been revealed by programs designed to check the accuracy of laboratories that analyze materials for radioactivity. Thus, the accuracy and reliability of determinations of internal radiation exposure or intakes of radioactive material would be improved. An expert committee of the Health Physics Society has written a draft standard. The draft standard has been revised to take into account early comments that the NRC solicited and received from industry. The NRC, in cooperation with the DOE, has established a performance testing study to test the standard, to provide the information necessary to complete the standard, and to design and set up an accreditation program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	

Small Entity: No

Agency Contact: Allen Brodsky, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7970**

RIN: 3150-AA67

55. PROCEDURES FOR PICKING UP, RECEIVING, AND OPENING PACKAGES

Legal Authority: 42 USC 2201; 42 USC 5842

CFR Citation: 10 CFR 20

Abstract: The proposed rule has been prepared in response to a General Accounting Office recommendation that the NRC broaden the requirements of Section 20.205. The rule would extend current requirements for the receipt and external radiation monitoring by licensees of packages containing an excess of Type A quantities of nuclear material to include packages not transported by exclusive use vehicles that contain more than one-third of a Type A quantity of nuclear material. These packages, if damaged, could pose a direct radiation hazard. The rule would remove the existing requirements to report excessive external radiation levels at the package surface to avoid increased occupational radiation exposure to the worker. The rule would also add a general package monitoring under existing NRC regulations in Section 20.205. The effect of the proposed rule would be to provide increased radiological protection for transportation workers and the general public by broadening the requirements for monitoring packages used to transport radioactive material. This proposed rule will be incorporated into the proposed 10 CFR Part 20 revision "Standards for Protection Against Radiation."

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Steven Bernstein, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7825**

RIN: 3150-AA66

56. PROPOSED REVISIONS TO THE CRITERIA AND PROCEDURES FOR THE REPORTING OF DEFECTS AND NONCOMPLIANCE

Legal Authority: 42 USC 2201; 42 USC 2282; 42 USC 5841; 42 USC 5846

CFR Citation: 10 CFR 21; 10 CFR 50

Abstract: This proposed rule would amend Part 21 and Part 50.55(e), both of which require the reporting of safety defects by licensees, (1) to eliminate duplicate reporting and evaluation, (2) to establish consistency with other NRC reporting requirements, (3) to clarify reporting criteria and procedures for implementing 10 CFR Part 21, and (4) to establish time limits within which a defect must be reported and evaluated.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: Francis X. Cameron, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7997**

RIN: 3150-AA68

57. †REGULATORY CONTROL OF SEALED SOURCES AND DEVICES CONTAINING SEALED SOURCES

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2071; 42 USC 2092

CFR Citation: 10 CFR 30; 10 CFR 32; 10 CFR 40; 10 CFR 70

Abstract: The proposed rule would require manufacturers or distributors of sealed sources or devices containing sealed sources to obtain a license from the NRC prior to the initial transfer of the sealed sources or devices to specific licensees. The rule would also require manufacturers or distributors of sealed sources or devices to provide the NRC with information on such products relating to design, manufacture, testing, operation, safety and hazards as a condition for obtaining a license.

VOL 48 ISS 201 OCT 17 1983 UMI

Timetable:

Action	Date	FR Cite
NPRM	10/01/83	

Small Entity: Yes

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7825**

RIN: 3150-AB34

58. †REVISION OF CONSUMER PRODUCT APPROVAL CRITERIA AND REGULATIONS

Legal Authority: 42 USC 2093; 42 USC 2111; 42 USC 2201

CFR Citation: 10 CFR 30; 10 CFR 40

Abstract: The Nuclear Regulatory Commission is currently reevaluating the policy, criteria, and regulations that govern the use of radioactive material in consumer products. This action may result in a proposed rule that would: (1) Review and perhaps codify the NRC policy on consumer product approval criteria; (2) Review and revise regulations in Part 30 providing exemptions for consumer products; (3) Review, revise, and reorganize regulations in Part 40 providing exemptions for consumer products. In a separate action, the NRC suspended provisions of its regulations that provided an exemption for the use of glass enamel and glass enamel frit containing small amounts of uranium in consumer products such as jewelry (July 25, 1983; 48 FR 33697). This suspension is intended to prevent further import or distribution of the jewelry until the exemption can be reevaluated. Further action concerning this suspension would be included in this rulemaking action.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Anthony N. Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7902**

RIN: 3150-AB37

59. PERIODIC AND SYSTEMATIC REEVALUATION OF PARTS 30 AND 32

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2234; 42 USC 5846

CFR Citation: 10 CFR 30; 10 CFR 32

Abstract: The proposed rule would be an editorial revision of the regulations governing the domestic licensing of byproduct material and the exemptions from domestic licensing requirements. The proposed rule would reflect the application of good regulatory drafting practices. The proposed rule would simplify and clarify the format of the present regulations so that persons subject to byproduct material regulations can conveniently use and understand them.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: James J. Henry, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7981**

RIN: 3150-AA70

60. RADIATION SURVEYS AND INTERNAL INSPECTION SYSTEM

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 34

Abstract: The proposed rule would require that the internal inspection description in a radiography license application specify a method for inspecting each radiographer and radiographer's assistant's knowledge of applicable regulations, license conditions, and established procedures at intervals not exceeding three months. This action is intended to ensure that radiographic operations are conducted safely. The proposed rule would also allow a licensee to record a radiation survey of a radiographic exposure device made when storing the device after use instead of recording the results of the radiation survey made after the last exposure. This action, which is taken in response to PRM-34-3, is intended to provide an acceptable alternative procedure for assuring that the sealed source has been properly stored within the device.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking (PRM-34-3)	11/23/82	47 FR 52722
NPRM	10/00/83	

Small Entity: Undetermined

Agency Contact: Norman L. McElroy, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7970**

RIN: 3150-AB12

61. MEDICAL LICENSES FOR HUMAN USE OF BYPRODUCT MATERIAL

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 35

Abstract: The proposed rule would revise the requirements and procedures that apply to the human use of byproduct material by a physician or a medical institution. The proposed rule would simplify the medical licensing process and reduce the administrative burden on the licensee and the NRC by (1) including in the regulations the requirements a medical licensee must meet; (2) clarifying administrative requirements; (3) simplifying the application form; and (4) reducing the paperwork burden for the licensee and the NRC. The proposed rule would maintain the current level of protection to the health and safety of the medical worker and the general public. The proposed rule will reflect recent guidance from the Commission to the staff concerning the revision.

Timetable:

Action	Date	FR Cite
NPRM	12/01/83	

Small Entity: Yes

Analysis: Preliminary RIA 03/00/83

Agency Contact: William J. Walker, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4232**

RIN: 3150-AA73

62. †RADIATION SAFETY REQUIREMENTS FOR WELL-LOGGING AND OTHER OPERATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 39

Abstract: The rulemaking would impose radiation safety requirements on licensees who perform operations such as well-logging, mineral-logging, radioactive markers and subsurface use of radioactive materials in tracer studies. Current NRC regulations do not address these operations except in a general way. This task would adopt the requirements in the Suggested State Regulations for Control of Radiation Part W as new NRC regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/84	

Small Entity: No

Agency Contact: Anthony N. Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7902**

RIN: 3150-AB35

63. ●SOURCE MATERIAL TRANSFER REPORTS AND TRITIUM INVENTORY REPORTS

Legal Authority: 42 USC 5841

CFR Citation: 10 CFR 40; 10 CFR 150

Abstract: The NRC is amending its requirements to lower the reportable quantity of source material transfers from 1,000 kilograms or more to 1 kg or more. It is necessary to lower the reportable quantity to fulfill the obligations of the US/IAEA Agreement, the US/Canadian and US/Austrailian Bilateral Agreements, and reporting of imports and exports as recommended in an IAEA Consultants Group meeting. This change will remove any existing inconsistency between the regulations and the reporting instructions. The NRC is also deleting the requirement that licensees submit reports concerning tritium inventories. The NRC has determined that the holdings of tritium in the U.S. are not sufficient to justify continued reporting of tritium inventories.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: June P. Robertson, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555, **301 427-4004**

RIN: 3150-AB24

64. OCCUPATIONAL ALARA RULE

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would require NRC commercial nuclear power plant operating licensees to develop and use means subject to NRC inspection and enforcement to achieve and control occupational radiation dosages that are as low as reasonably achievable (ALARA). This requirement would become part of the Radiation Protection Programs of licensees required to provide personnel monitoring, perform bioassays, or to measure concentrations of radioactivity in the air. The proposed rule expresses the Commission's belief that radiation doses received by workers in licensed activities can and should be reduced and strengthen efforts to maintain occupational doses of ionizing radiation ALARA. The Commission believes that a reduction in the occupational collective (man-rem) dose received in connection with NRC licensed activities at nuclear power plants can be effected without unreasonable costs to licensees. With this objective, it is feasible to adopt as performance criteria, radiation protection techniques which have been shown by experience to be both effective and practical.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Robert Alexander, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7975**

RIN: 3150-AA81

65. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (WINTER 1982)

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would incorporate by reference the Winter 1982 addenda of the ASME Boiler and Pressure Vessel Code. The ASME (American Society of Mechanical Engineers) code sets standards for the construction of nuclear power plant components and specifies requirements for inservice inspection of those components. The ASME code requirements for nuclear power plants are set forth in Section III for construction permit holders and Section XI for operating plants. The proposed rule would include the most recent changes made to the ASME Boiler and Pressure Vessel Code and permit the use of improved methods for construction and inservice inspection of nuclear power plants.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Nancy Miegel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7892**

RIN: 3150-AA83

66. FIRE PROTECTION FOR FUTURE PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would provide more comprehensive fire protection requirements for future nuclear power plants by consolidating the NRC fire protection guidelines and requirements for nuclear power plants into one enforceable document. The present requirements for fire protection at nuclear power plants are limited in that these requirements apply only to plants licensed prior to January 1, 1979. At the time when these effective regulations were approved, the Commission directed the staff to proceed with development of a comprehensive rule for plants licensed in the future. The Commission has approved a staff recommendation that preparation of the proposed comprehensive fire protection rule for

VOL
48
ISS
201
OC
17
1983
UMI

new nuclear power plants be postponed until June 1984. This postponement will allow the staff to concentrate on processing the many Appendix R exemption requests. The results of relevant research and the exemption request resolution decisions will then be available to assure proper technical bases for the rule. The staff issued its report to the Commission which contained results of research completed to date and the status of exemption request reviews.

Timetable:

Action	Date	FR Cite
Staff issued Report to Commission	08/13/83	
Final Action	01/00/84	

Small Entity: No

Agency Contact: David P. Notley, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7946**

RIN: 3150-AA85

67. RADON EMISSIONS ESTIMATE FOR TABLE S-3

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 50; 10 CFR 51

Abstract: In a Federal Register notice published on April 14, 1979 (43 FR 15613) the Commission deleted the radon-222 value from Table S-3 because it was recognized to be underestimated; the Commission stated that upon issuance of the Generic Environmental Impact Statement (GEIS) on uranium milling and the evaluation of data from several ongoing research programs, it would determine whether to initiate rulemaking to provide a new estimate for radon-222 in Table S-3. Meanwhile, the environmental effects of radon-222 would be subject to litigation in individual nuclear power plant licensing proceedings. The purpose of the proposed rule would be to deal with this question generically for all nuclear power plants, thus saving the time and cost of repetitive consideration of the effects of radon-222 in individual nuclear power plant licensing proceedings. The GEIS on uranium milling and the reports of research on radon releases in uranium milling were published in 1979 and 1980. Based on these documents, the staff developed new estimates of radon emissions from the entire fuel cycle. These new estimates were introduced into the public record at the February 1980 hearing on radon before the (Cont)

Timetable:

Action	Date	FR Cite
D.C. Court Invalidates Table S-3	04/27/82	
NRC Appeal to Supreme Court Filed	09/27/82	
ASLA Board Decision on Radon-222	11/19/82	
NCR Appeal to Supreme Court Argued	04/19/83	
Supreme Court Reverses Decision	06/06/83	
Supreme Court Decision on S-3 Rule	09/00/83	
EPA's Final Standards promulgated	10/01/83	
Next Action	03/04/84	

Small Entity: No

Additional Information: ABSTRACT CONT: Atomic Safety and Licensing Appeal Board in Harrisburg, PA. The Appeal Board decision of May 13, 1981 (ALAB-640) upheld the staff's new estimates of radon releases and the final decision (ALAB-701) affirmed previous decisions that fuel-cycle-related radon emissions would not have significant health effects. In response to a petition for Commission review of the Appeal Board decision given in ALAB-701, the Commission decided to hold in abeyance its decision on ALAB-701 until completion of the current review of uranium mill tailings regulations and of any rulemaking which may be needed to conform its regulations to EPA's proposed new radon emission standards. Pending the outcome of these matters, the rulemaking to add a new estimate for radon-222 to Table S-3 is being held in abeyance. The Supreme Court, on June 6, 1983, reversed the D.C. Circuit Court of Appeals' decision invalidating the Table S-3 rule. This action eliminated a previous hold-up to the proposed radon rulemaking action.

Agency Contact: William E. Thompson, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4211**

RIN: 3150-AA87

68. †STATION BLACKOUT

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would require light water nuclear power plants to be designed to withstand a total loss of alternating current (AC) electrical power to the essential and nonessential switchgear buses (called station blackout) for a specified time duration and maintain reactor core cooling during that period. The proposed requirements were developed in response to information generated by the Commission's study of Unresolved Safety Issue A-44, Station Blackout. The proposed rule is intended to provide further assurance that a loss of both off-site and emergency on-site electric AC power systems will not adversely affect the public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/84	

Small Entity: Not Applicable

Agency Contact: Alan Rubin, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-8303**

RIN: 3150-AB38

69. APPLICABILITY OF APPENDIX B TO APPENDIX A

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2233

CFR Citation: 10 CFR 50

Abstract: The proposed rule would clarify the quality assurance program requirements for those structures, systems, and components of nuclear power plants that are important to safety. The proposed rule would also eliminate any possible confusion over the definition of the terms "important to safety" and "safety-related" and provide a clear statement in the Commission's regulations concerning the applicability of the quality assurance criteria in 10 CFR 50 of Appendix B to the structures, systems, and components covered in Appendix A. In the aftermath of the Three Mile Island-2 accident, a number of studies concluded that the scope of the items to which the quality assurance criteria of Appendix B to 10 CFR 50 apply needs to be broadened to include the full range of safety matters as was originally intended. Typical examples of

structures, systems, and components for which the Appendix B quality assurance program criteria may not have been fully implemented are in-core instrumentation, reactor coolant pump motors, reactor coolant pump power cables, and radioactive waste system pumps, valves, and storage tanks.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: No

Agency Contact: William L. Belke, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, **301 492-4512**

RIN: 3150-AA79

70. EXTENSION OF CRIMINAL PENALTIES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The proposed rule, in accordance with the provisions of the NRC Authorization Act for Fiscal Year 1980, would extend the application of the criminal penalties provision of the Atomic Energy Act (AEA) of 1954, as amended, to any individual director, officer, or employee of a firm constructing or supplying the components of a nuclear power plant who knowingly and willfully violates any NRC regulation, order, or license condition during construction of a nuclear power plant. Section 223(b) of the AEA essentially directs the Commission to establish a limit for potential unplanned off-site releases of radioactive material which would trigger consideration of possible criminal penalties. As directed in Section 223(b)(3), the proposed rule establishes, in its definition of a "basic component," the limits for potential unplanned releases of radioactive material that could trigger application of criminal penalties.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	
Final Action	02/00/84	

Small Entity: No

Agency Contact: Colleen Ostrowski, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7997**

RIN: 3150-AA80

71. PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would revise the criteria for preoperational and periodic pressure testing for leakage of primary and secondary containment boundaries of water-cooled power reactors. The current regulation specifies the criteria that leakage testing must meet and how the testing must be performed. The proposed rule would implicitly recognize national standard (ANSI/ANS 56.8) that specifies approved procedures for conducting the test and thus permit the NRC staff to focus its attention on the performance standard and design criteria aspects of the regulation. The proposed rule would eliminate ambiguities, increase the flexibility of the regulation, and emphasize the testing criteria aspects of the regulation while reducing the mechanistic aspects of the testing procedure. It would also reduce the paperwork burden on NRC and the compliance burden on licensees by reducing the number of exemption requests licensees are required to submit.

Timetable:

Action	Date	FR Cite
NPRM	02/00/84	

Small Entity: No

Agency Contact: Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7860**

RIN: 3150-AA86

72. PRESSURIZED THERMAL SHOCK

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would codify the NRC staff's recommended near-term actions for protection against pressurized thermal shock (PTS) events. Specifically, the provisions of the proposed rule would establish screening criteria for axial and circumferential welds; require licensees with operating plants to submit data concerning their reactor vessels to the NRC staff for review; require certain licensees to implement flux-reduction programs; and require certain licensees with operating pressurized water reactors (PWRs) to submit a PTS safety analysis to the NRC staff for review. The issue of pressurized thermal shock arises because in PWRs, transients and accidents can occur that result in severe overcooling (thermal shock) of the reactor pressure vessel concurrent with or followed by repressurization. In these PTS events, rapid cooling of the reactor vessel internal surface results in thermal stress with a maximum tensile stress at the inside surface of the vessel. The provisions of the proposed rule would apply only to PWRs.

Timetable:

Action	Date	FR Cite
NPRM	08/00/83	
Final Action	12/00/83	

Small Entity: No

Agency Contact: Roy H. Woods, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-4714**

RIN: 3150-AB05

73. PERSONNEL ACCESS AUTHORIZATION REQUIREMENTS FOR NUCLEAR POWER PLANTS (PART OF INSIDER PACKAGE)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50; 10 CFR 73

Abstract: The proposed rule would require nuclear power plant licensees and applicants to establish an access authorization program for individuals requiring unescorted access to the protected and vital areas of nuclear power plants. On March 17, 1977, the NRC published in the Federal Register (42 FR 14880) a proposed rule that would establish an unescorted access authorization program for individuals who have access to or control over special nuclear material (SNM) at both nuclear reactors and fuel cycle facilities. Written comments were invited and received. On December 28, 1977, the NRC published a notice of public hearing (42 FR 64703) on the proposed rulemaking. Subsequently, the

VOL
48
ISS
201
OCT
17
1983
UMI

NRC established a Hearing Board to gather additional testimony. As a result of information gathered at the public hearing and its own examination of the proposed access authorization program, the Hearing Board recommended publication of a final rule, based on the 1977 proposed rulemaking, for fuel cycle facilities and transportation licensees only. (The final rule was published on November 21, 1980; 45 FR 76968.) The Hearing Board further recommended that a new access authorization program be (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/00/84	

Small Entity: No

Additional Information: ABSTRACT CONT: established for and administered by nuclear power plant licensees. The proposed rule will provide for this program and will include personnel screening to determine the suitability of an employee to be permitted unescorted access to either protected or vital areas of nuclear power plants.

Agency Contact: Kristina Z. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7976**

RIN: 3150-AA90

74. EMERGENCY PREPAREDNESS REPORTING REQUIREMENTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2239; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed rule would add a specific provision to the Commission's regulations which would require nuclear power plant licensees to report to the Commission if the level of emergency preparedness is adversely affected. The proposed reporting requirements would focus on the more important aspects of emergency preparedness such as communications capabilities and accident assessment capabilities, while placing less emphasis on items such as recovery operations and updating and distribution of copies of the emergency preparedness plan. The purpose of the proposed rule is to ensure that an adequate level of emergency preparedness is maintained by nuclear power plant licensees. The proposed rule would provide an enforceable basis for requiring that the affected licensees report to the NRC concerning deficiencies in the status of their emergency preparedness capabilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Frank Pagano, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, **301 492-7647**

RIN: 3150-AA84

75. LICENSED OPERATOR EXAMINATIONS AND TRAINING AND QUALIFICATIONS OF NUCLEAR POWER PLANT PERSONNEL PERFORMING FUNCTIONS IMPORTANT TO SAFETY

Legal Authority: 42 USC 2137; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 55; 10 CFR 57

Abstract: The proposed rule would require a systematic approach to training and examination in order to strengthen the criteria for issuing licenses to operators of nuclear power plants. The rulemaking will include requirements for operational training, routine maintenance of operator proficiency, and requalification examinations. The proposed rulemaking seeks to improve operator performance and bring the NRC regulations into compliance with the "Nuclear Waste Policy Act of 1982." Training regulation will extend to all personnel performing in functions important to safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	
Final Action	06/00/84	

Small Entity: No

Agency Contact: Julius Persensky, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-4892**

RIN: 3150-AA88

76. EXTENSION OF CONSTRUCTION COMPLETION DATE

Legal Authority: 42 USC 2235

CFR Citation: 10 CFR 50

Abstract: The proposed rule would clarify the provision of Section 50.55(b) which describes both the procedure for renewal of a construction permit for a nuclear power plant following its expiration (a showing of "good cause") and the circumstances under which the Commission will consider granting a request for an extension of a construction completion date. The proposed rule would also address two essentially identical petitions for rulemaking filed with the Commission by the State of Illinois (PRM-50-25) and the Porter County Chapter of the Izaak Walton League of America, et al. The petitioners requested that Section 50.55(b) be amended or rescinded, and that the Commission promulgate a regulation which would not limit a "good cause" showing to the reasons why construction was not completed before the latest completion date specified in the construction permit.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Linda S. Gilbert, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, **301 492-8689**

RIN: 3150-AB06

77. GENERAL HUMAN FACTORS CRITERIA FOR NEW CONSTRUCTION

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The advance notice of proposed rulemaking would establish three new general human factors criteria. The criteria to be addressed are criteria for operability, surveillance, maintainability, and human engineering criteria. The revised human factors criteria are necessary because post-TMI reviews and operating experience indicate that the human factors discipline is rarely applied when needed at the design and construction stage. After receipt of public comments on the ANPRM and additional review of past operating experience, the staff will develop a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/83	

Small Entity: Not Applicable

Agency Contact: James P. Jenkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7942**

RIN: 3150-AB13

78. †UPDATE OF TABLE S-4, PART 51

Legal Authority: 42 USC 2201; 42 USC 4332

CFR Citation: 10 CFR 51

Abstract: Table S-4 helps provide a means for meeting the NEPA requirements for an environmental assessment at the construction permit stage of a new reactor. The technical basis for this table, WASH-1238, was published in 1972. A revised and updated version of WASH-1238 which includes current transportation data and impacts will be published shortly. In addition, staff calculations are available on the impacts of the higher burnups and increased enrichments currently in use in many reactors. The proposed rule would amend Table S-4 to include the impacts from these two studies and ensure that the table reflects the current environmental impacts.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: No

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7891**

RIN: 3150-AB36

79. †COMPLETION OF REGIONALIZATION OF THE OPERATOR LICENSING FUNCTION BY ASSIGNMENT OF THE FUNCTION TO REGIONS IV AND V

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 55

Abstract: This final rule will amend NRC regulations to reflect the delegation of licensing authority to the Regional Administrators of Regions IV and V. This rulemaking completed implementation of total assignment of this licensing function to the regions. Assignment of this licensing authority to the Regional Administrators of Regions I, II, and III was promulgated in final rules that were published on December 22, 1982 (47 FR 56984) and July 21, 1983 (48 FR 33243).

Timetable:

Action	Date	FR Cite
Final Action	10/00/83	

Small Entity: No

Agency Contact: Don H. Beckham, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 429-4868**

RIN: 3150-AB39

80. †DEGREE REQUIREMENT FOR ONE MEMBER OF EACH SHIFT CREW ON SITE

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5843; 42 USC 10152; 42 USC 10155

CFR Citation: 10 CFR 57

Abstract: This proposed rule would amend a draft Part 57, which is being proposed by another rulemaking to require that a nuclear power plant licensee provide a person who has a bachelor's degree or equivalent on site and on shift at all times. The proposed rule was developed to ensure that a person with adequate engineering and accident assessment expertise be present in each shift crew on site of a nuclear power unit. This requirement would further ensure the protection of the health and safety of the public by improving the plant operating staff's capabilities to quickly detect and diagnose an abnormal condition or unanticipated occurrence and to respond promptly and appropriately to the event.

Timetable:

Action	Date	FR Cite
NPRM	12/00/83	

Small Entity: No

Agency Contact: Clare Goodman, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-4894**

RIN: 3150-AB31

81. ●MATERIAL STATUS REPORTS

Legal Authority: 42 USC 5841

CFR Citation: 10 CFR 70

Abstract: The NRC is amending its regulations in 70.53 to require additional information, pertaining to MUF and LEMUF figures, to be included in the semiannual Material Status Reports. Licensees who will be affected by the proposed regulations are those who are authorized to possess at any one time special nuclear material (SNM) in a quantity exceeding one effective kilogram and who use the SNM for activities other than those involved in the operation of a nuclear reactor. In the past, this information has been sent voluntarily in narrative form to the Regional Offices as an attachment to the Material Status Reports. In conjunction with this rulemaking, the form that is used for the Material Status Reports is being updated to allow for the inclusion of the required additional information.

Timetable:

Action	Date	FR Cite
NPRM	01/00/84	

Small Entity: No

Agency Contact: June P. Robertson, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4004**

RIN: 3150-AB26

82. †RULE TO AMEND THE TRANSPORTATION PROVISIONS PERTAINING TO THE SHIPMENT OF LOW SPECIFIC ACTIVITY (LSA) MATERIAL

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Abstract: The proposed amended rule would define two classes of LSA materials with specified shipping or packaging requirements. The two classes represent a consolidation of five classes of LSA materials and solid contamination objects (SCO) proposed in draft 1984 regulations of the International Atomic Energy Agency (IAEA). In addition, the proposed rule provides special consideration for the inherent safety associated with the shipment of solid, nonflammable objects which are not dispersible in water. A new requirement of the amended rule would impose a dose rate limit on LSA materials. This requirement, which is philosophically consistent with the proposed IAEA regulations, is considered necessary to keep current and future LSA shipments within the envelope of safety originally conceived for such materials. This

VOL 48 ISS 201 OCT 17 1983 UMI

proposed rule would be responsive to PRM-71-1, PRM-71-2 and PRM-71-4.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7825**

RIN: 3150-AB33

83. ●PHYSICAL PROTECTION REQUIREMENTS FOR INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS (ISFSIS)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: The proposed rule will revise the requirements for the physical protection of spent nuclear fuel at independent storage sites. When Sec. 73.50 was originally written, more stringent requirements were included to protect against the perceived consequences of radiological sabotage of special nuclear material (SNM). Since that time, DOE and NRC have sponsored independent studies of explosive forces against spent fuel casks. These studies revealed that extraordinarily large quantities of explosives, which would have to be transported by some type of vehicle, would be required to effect a detonation of sufficient magnitude to pose a significant radiological threat to public health and safety. Because the anticipated consequences of radiological sabotage of SNM are not as severe as originally perceived, several of the requirements associated with searches of personnel and small containers are being considered for deletion. NRC requirements for licensee detection capability of objects and materials that could offer a creditable threat to the spent fuel will be simplified. Finally, the proposed rule will be performance-oriented to allow affected licensees (Cont)

Timetable:

Action	Date	FR Cite
NPRM	03/01/84	

Small Entity: No

Additional Information: ABSTRACT CONT: the flexibility of using the most cost-effective measures available to meet the regulatory requirements.

Agency Contact: Odell F. Smith, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4181**

RIN: 3150-AB27

84. MEDICAL STANDARDS FOR EMPLOYMENT OF SECURITY PERSONNEL

Legal Authority: 42 USC 2201; 42 USC 5842

CFR Citation: 10 CFR 73

Abstract: The proposed rule would amend the medical standards for the employment of security personnel by licensees who operate nuclear power plants, fuel cycle facilities, or possess or ship certain quantities of special nuclear material. Specifically, the rule would revise paragraph I.B.(3) of Appendix B to Part 73 to provide the conditions under which persons with an established medical history or medical diagnosis of a chronic or nervous disorder may be employed as security personnel. Currently, these criteria provide that an individual have no established medical history or diagnosis of epilepsy or diabetes or, where either of these medical conditions exist, the individual provide medical evidence that the condition may be controlled with proper medication. The revised paragraph would clarify the types of diseases which are required to be controlled in order for individuals to be employed as security personnel and would require that an individual who has any chronic disease or nervous disorder must provide evidence that it can be controlled through medication.

Timetable:

Action	Date	FR Cite
Revision of Part 73	09/00/84	

Small Entity: No

Agency Contact: Andrea K. Barnold, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-5976**

RIN: 3150-AA97

85. MODIFICATION OF PROTECTION REQUIREMENTS FOR SPENT FUEL SHIPMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: The proposed rule would moderate the present interim requirements for the protection of shipments of irradiated reactor fuel cooled for 150 days or more. Recent research shows that the quantity of radioactive material that would be released as a result of successful sabotage is much smaller than was supposed at the time that the interim rule was issued. The moderated requirements would provide for (1) shipments to be accompanied by an unarmed escort, who may be a driver or carrier employee and may have other duties, (2) on-board communications, and (3) immobilization capability for trucked shipments. Present interim requirements will continue to be effective for shipments of irradiated reactor fuel cooled less than 150 days. The benefit of the proposed rule would be the elimination of unnecessarily strict requirements which presently apply to spent fuel shipments. It is estimated that the modified requirements will result in a savings to licensees of about $20,000 to $30,000 annually, assuming 135 shipments annually. A peer review group will report its findings in September 1983.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Carl B. Sawyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4186**

RIN: 3150-AA96

86. PATENTS

Legal Authority: 42 USC 3182

CFR Citation: 10 CFR 81

Abstract: The proposed rule would establish the policies, general rules, and procedures regarding the handling of patent matters, for which the NRC presently has no regulations, in a manner that would be substantially like those being used by other government agencies. The proposed rule would revise completely Part 81, which currently is directed only to patent licensees, into a regulation that sets forth NRC patent policies, regulations, and rules for contract clauses, waiver of rights provisions, and other applicable areas.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: Neal E. Abrams, Nuclear Regulatory Commission, Office of Executive Legal Director, Washington, DC 20555, **301 492-8662**

RIN: 3150-AA98

87. EXPORT/IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

Legal Authority: 42 USC 2073; 42 USC 2074; 42 USC 2077; 42 USC 2092; 42 USC 2094; 42 USC 2111; 42 USC 2112; 42 USC 2139; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 110

Abstract: The proposed rule would simplify licensing requirements for the export of nuclear equipment and material that does not have significance from a nuclear proliferation perspective by expanding or establishing general licenses for nuclear reactor components, gram quantities of special nuclear material, and certain kinds of source or byproduct material. The general licenses would ease current licensing restrictions by removing the requirement to obtain a specific export or import license for certain material and equipment. The proposed general licenses include a policy of facilitating nuclear cooperation with countries sharing U.S. non-proliferation goals. The proposed rule would increase international commerce and reduce the regulatory burden on the public and the NRC without increasing the risk to public health and safety or the common defense and security. The proposed rule would reduce NRC's minor case licensing workload by about 75% thus allowing the staff to process license applications for major exports of nuclear equipment and material expeditiously.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Marvin R. Peterson, Nuclear Regulatory Commission, Office of International Programs, Washington, DC 20555, **301 492-4599**

RIN: 3150-AB00

88. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Abstract: The proposed rule would revise the criteria the Commission currently follows in determining an extraordinary nuclear occurrence (ENO), in order to overcome the problems that were encountered following the Three Mile Island (TMI) accident when the present criteria were applied. The proposed criteria would focus on things that can be readily counted or estimated within a relatively short time following an accident (i.e., substantial release of radioactive material or radiation offsite and substantial exposure levels). The revised criteria will provide for speedy satisfaction of legitimate claims in the event of an ENO.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	

Small Entity: No

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4578**

RIN: 3150-AB01

NUCLEAR REGULATORY COMMISSION (NRC) — Completed Actions

COMPLETED RULEMAKINGS

89. TRANSURANIC WASTE DISPOSAL

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 20; 10 CFR 150

Abstract: The proposed rule would prohibit the disposal by burial in soil of transuranic elements above a certain concentration. A companion amendment to Part 150 would reassert exclusive Commission authority in Agreement States over disposal of transuranic contaminated wastes (TRU) exceeding this concentration. This proposed rule has been incorporated into a final rule that establishes a new 10 CFR Part 61. The staff is currently preparing a notice withdrawing this proposed rule and its accompanying amendment to Part 150.

Timetable:

Action	Date	FR Cite
NPRM	09/12/74	39 FR 32921
NPRM Comment Period Begin	09/12/74	39 FR 32921
NPRM Comment Period End	11/11/74	
Withdrawn	05/09/83	48 FR 20723

Small Entity: No

Agency Contact: Paul H. Lohaus, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555, **301 427-4500**

RIN: 3150-AA09

90. REGIONAL LICENSING PROGRAM; FURTHER IMPLEMENTATION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70

Abstract: The final rule provides information concerning the further implementation of NRC's regional licensing program as the program applies to byproduct, source, and special nuclear material licensees. The final rule extends the regional licensing program for materials licensees to Regions II, IV, and V. The final rule also specifies the categories of licensing actions for which authority has been delegated to each Regional Administrator. The final rule is necessary to inform current or prospective licensees of current NRC practices and procedures.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/01/83	48 FR 16030

VOL 48 ISS 201 OCT 17 1983 UMI

Action	Date	FR Cite
Final Action	04/14/83	48 FR 16030

Small Entity: Not Applicable

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Vandy L. Miller, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555, **301 427-4002**

RIN: 3150-AB14

91. CONSUMER PRODUCTS CONTAINING SMALL QUANTITIES OF RADIOACTIVE MATERIAL: MODIFIED REPORTING AND RECORDKEEPING REQUIREMENTS

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 32

Abstract: The final rule revises the requirement that licensees distributing products containing exempt quantities of radioactive material submit annual reports on the type and number of products distributed. The final rule requires affected licensees to submit a report every five years instead of annually. NRC uses these reports to estimate exposure of the general public to widely used consumer radioactive products. A licensee's questions concerning the significance of the reports resulted in a review of the reporting requirement. The final rule is intended to reduce the administrative and paperwork burden for the licensee and the NRC without significantly changing the value of the reports to the regulatory program monitoring the use of radioactive materials in consumer products.

Timetable:

Action	Date	FR Cite
NPRM	11/23/82	47 FR 52719
NPRM Comment Period Begin	11/23/82	47 FR 52719
NPRM Comment Period End	12/23/82	
Final Action	03/24/83	48 FR 12331
Final Action Effective	06/30/83	48 FR 12331

Small Entity: No

Analysis: Preliminary RIA 11/00/82

Agency Contact: Anthony Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-5825**

RIN: 3150-AA72

92. FRACTURE TOUGHNESS REQUIREMENTS FOR NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The final rule updates existing fracture toughness requirements for the reactor coolant pressure boundary of light-water nuclear power reactors. The final rule is needed to (1) clarify the applicability of the fracture toughness requirements to old and new plants, (2) modify certain requirements of Appendices G and H to 10 CFR 50, and (3) simplify these regulations by replacing technical detail with references to appropriate ASME Boiler and Pressure Vessel Code provisions. The NRC staff has modified the final rule to clarify that it is applicable only to normal operation. A revised final rule was approved by the Commission on April 21, 1983.

Timetable:

Action	Date	FR Cite
NPRM	11/14/80	45 FR 75536
NPRM Comment Period Begin	11/14/80	45 FR 75536
NPRM Comment Period End	01/13/81	
Final Action	05/27/83	48 FR 24008
Final Action Effective	07/26/83	48 FR 24008

Small Entity: No

Agency Contact: Neil Randall, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-5904**

RIN: 3150-AA16

93. APPLICABILITY OF TECHNICAL FACILITY LICENSE CONDITIONS AND SPECIFICATIONS IN AN EMERGENCY

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2239; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The final rule adds a specific provision to the Commission's regulations to clarify that licensee technical specifications are not intended to restrict or prohibit the licensee from undertaking any action necessary to protect public health and safety during the course of unanticipated emergency conditions. Technical specifications contain a wide range of operating limitations and specifications concerning actions required to respond to certain systems failures and to other specified operating events. Technical specifications also require the employment of a wide range of operating procedures to be taken in the course of operation to maintain facility safety. The rule clarifies the responsibility of licensees to take actions necessary to protect public health and safety during emergencies even though the action necessary may not be in full accord with certain provisions of the technical specifications. The staff believes that in emergency situations it is very important to assure that licensees have the ability to respond promptly using their best engineering judgment. The impact of this reporting requirement on licensees would be negligible.

Timetable:

Action	Date	FR Cite
NPRM	08/18/82	47 FR 35996
NPRM Comment Period Begin	08/18/82	47 FR 35996
NPRM Comment Period End	10/18/82	
Final Action	04/01/83	48 FR 13966
Final Action Effective	06/01/83	48 FR 13966

Small Entity: No

Agency Contact: Charles M. Trammell, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-7389**

RIN: 3150-AA28

94. STANDARDS FOR DETERMINING WHETHER LICENSE AMENDMENTS INVOLVE NO SIGNIFICANT HAZARDS CONSIDERATION

Legal Authority: 42 USC 2201; PL 97-415

CFR Citation: 10 CFR 50

Abstract: The final rule would implement recently enacted legislation by specifying standards for determining whether amendments to operating licenses involve no significant hazards consideration. The Commission has incorporated provisions into the final rule which are substantially identical to those in the proposed rule published in the Federal Register March 28, 1980 (45 FR 20491). Final rule to follow Congressional action on conference

committee report on NRC FY-82/83 Authorization Bills (S. 1207 and H.R. 4255) October 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/06/83	48 FR 14864
Interim Rule Comment Period Begins	04/06/83	48 FR 14864
Interim Final Rule	04/06/83	48 FR 14864
Interim Rule Comment Period Ends	05/06/83	
Final Action	07/00/83	

Small Entity: No

Agency Contact: Thomas F. Dorian, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, **301 492-8690**

RIN: 3150-AA60

95. CRITERIA FOR NOTICE AND PUBLIC COMMENT AND PROCEDURES FOR STATE CONSULTATION ON LICENSE AMENDMENTS INVOLVING NO SIGNIFICANT HAZARDS CONSIDERATION

Legal Authority: 42 USC 2201; PL 97-415

CFR Citation: 10 CFR 2; 10 CFR 50

Abstract: The final rule implements recently enacted legislation by specifying criteria and procedures for providing or dispensing with prior notice and public comment on determinations about whether amendments to operating licenses for certain facilities involve no significant hazards consideration. In addition, the final rule would specify procedures for consultation on these determinations with the State in which the facility of the Licensee requesting the amendment is located. The final rule would permit the Commission to act expeditiously, if circumstances surrounding a request for amendment require a prompt response and to issue an amendment before holding any required hearing, unless a significant hazards consideration is involved.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/06/83	48 FR 14876
Interim Rule Comment Period Begins	04/06/83	48 FR 14876
Interim Final Rule	04/06/83	48 FR 14876
Interim Rule Comment Period Ends	05/06/83	
Final Action	07/00/83	

Small Entity: No

Agency Contact: Thomas F. Dorian, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, **301 492-8690**

RIN: 3150-AA61

96. LABORATORY ACCREDITATION PROGRAM

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The proposed rule requires that certain equipment qualification testing be performed in laboratories that have been accredited in accordance with procedures administered by the Institute of Electrical and Electronics Engineers (IEEE). The proposed rule would uniformly and equitably improve the reliability and accuracy of qualification testing performed by accredited laboratories and provide greater assurance of protecting the public health and safety.

Timetable:

Action	Date	FR Cite
Withdrawn in accordance with Chilk memo	04/13/83	

Small Entity: No

Agency Contact: Frederick Forscher, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, **301 492-4515**

RIN: 3150-AA76

97. CHANGES IN PHYSICAL SECURITY PLANS; LICENSEES POSSESSING OR USING SPECIAL NUCLEAR MATERIAL OF MODERATE AND LOW STRATEGIC SIGNIFICANCE

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 70

Abstract: The final rule amends the regulations for domestic licensing of special nuclear material to allow licensees possessing or using special nuclear material of moderate and low strategic significance to change their physical security plans without prior approval of the Commission, provided the changes do not decrease the effectiveness of the plan. These licensees were inadvertently omitted from the regulation published on July 24, 1979 (44 FR 43280). The final rule corrects the oversight.

Timetable:

Action	Date	FR Cite
Final Action	05/17/83	48 FR 22131
Final Action Effective	06/16/83	48 FR 22131

Small Entity: No

Agency Contact: Andrea R. Kuffner, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-5976**

RIN: 3150-AA95

98. AUTHORITY TO ISSUE NOTICES OF VIOLATION TO NON-LICENSEES AND DELEGATION OF AUTHORITY TO REGIONAL ADMINISTRATORS

Legal Authority: 42 USC 2077; 42 USC 2021; 42 USC 2201; 42 USC 4332; 42 USC 4334; 42 USC 4335; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 2

Abstract: The proposed rule would specifically authorize the issuance of a notice of violation to any person subject to the jurisdiction of the Commission, including non-licensees. The proposed rule would require non-licensees as well as licensees to comply with the Commission's regulations in sections 2.200 and 2.201. In addition, the amendment would clarify the authority of Regional Administrators or their designees to issue notices of violation under sections 2.200 and 2.201.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51402
NPRM Comment Period Begin	11/15/82	47 FR 51402
NPRM Comment Period End	12/13/82	
Final Action	09/28/83	48 FR 44170

Small Entity: No

Agency Contact: Richard Rosano, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, **301 492-9583**

RIN: 3150-AA56

99. HEARING ON DENIAL OF REACTOR OPERATOR LICENSE; WITHDRAWAL OF PROPOSED RULE

Legal Authority: 42 USC 2137; 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 2; 10 CFR 55

Abstract: The Commission has decided to withdraw the proposed amendments and terminate this rulemaking. If adjudicative hearings in the operator licensing context should become burdensome in the future the Commission will at that time consider whether amendments are needed along the lines of those proposed.

Timetable:

Action	Date	FR Cite
NPRM	11/24/82	47 FR 53028
NPRM Comment Period Begin	11/24/82	47 FR 53028
NPRM Comment Period End	12/27/82	
Final Action	07/11/83	48 FR 31661
Final Action Effective	07/11/83	48 FR 31661

Small Entity: No

Agency Contact: William M. Shields, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, **301 492-8693**

RIN: 3150-AB10

100. IRRETRIEVABLE WELL-LOGGING SOURCES

Legal Authority: 42 USC 2073; 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 70; 10 CFR 150

Abstract: The final rule establishes requirements that a licensee must follow in the event a well-logging source (a measurement /detection device which contains sealed radioactive source material) becomes disconnected from the wireline which suspends the source in the well and for which all reasonable efforts at recovery, as determined by the Commission, have been expended. The final rule codifies the requirements that were previously imposed on individual licensees as a license condition. The final rule gives reasonable assurance that there is no damage to the source through subsequent drilling operations which might result in dispersal of the radioactive material to the biosphere.

Timetable:

Action	Date	FR Cite
NPRM	09/28/78	43 FR 44547
Final Action	08/29/83	48 FR 39037
Final Action Effective	09/28/83	48 FR 39037

Small Entity: Not Applicable

Analysis: Final RIA 06/00/83

Agency Contact: Anthony N. Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7825**

RIN: 3150-AA11

101. AMENDMENTS SPECIFYING LICENSEE RESPONSIBILITY FOR NUCLEAR MATERIALS AND PROCEDURES FOR TERMINATION OF SPECIFIC LICENSES

Legal Authority: 42 USC 2073; 42 USC 2092; 42 USC 2093; 42 USC 2111; 42 USC 2112; 42 USC 2113; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2282; 42 USC 5842

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70

Abstract: The final rule specifies procedures for the termination of specific licenses authorizing possession and use of nuclear materials. The regulation clarifies a licensee's authority and responsibility for nuclear materials and allows for orderly termination of specific licenses. The final rule specifies that a license remains in effect, with respect to possession of residual nuclear materials present as contamination until the Commission notifies the licensee in writing that the license is terminated. The rule is necessary to establish clear procedures for the termination of licenses and to establish a more coherent regulatory framework.

Timetable:

Action	Date	FR Cite
NPRM	10/26/82	47 FR 47400
NPRM Comment Period Begin	10/26/82	47 FR 47400
NPRM Comment Period End	12/27/82	
Final Action	07/15/83	48 FR 32324
Final Action Effective	08/15/83	48 FR 32324

Small Entity: No

Public Compliance Cost: Initial Cost: $17,120; Yearly Recurring Cost: $17,120; Base Year for Dollar Estimates: 1982

Analysis: Preliminary RIA 10/26/82; Final RIA 09/00/83

Agency Contact: Keith G. Steyer, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7910**

RIN: 3150-AA71

102. GROUP LICENSING FOR CERTAIN MEDICAL USES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Abstract: The final rule adds a device containing iodine-125 as a sealed source to the list of groups of authorized radioactive drugs, sources, and devices. This hand-held device is used for real-time bone imaging and foreign body detection. The Commission has performed a safety analysis and will consult with the Advisory Committee on the Medical Uses of Isotopes before adding this device to the Group VI listing in its regulations that contains similar sealed source devices. This action allows NRC Group VI medical licensees to use this device without applying for a license amendment.

Timetable:

Action	Date	FR Cite
NPRM	03/30/83	48 FR 13189
NPRM Comment Period Begin	03/30/83	48 FR 13189
NPRM Comment Period End	04/29/83	
Final Action	06/28/83	48 FR 29677
Final Action Effective	06/28/83	48 FR 29677

Small Entity: Not Applicable

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Deborah A. Bozik, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 427-4566**

RIN: 3150-AB09

103. IMMEDIATE NOTIFICATION REQUIREMENT FOR OPERATING NUCLEAR REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2239; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The final rule requires that every operating license for a nuclear power reactor contain a condition that requires the licensee to notify the Commission as soon as possible, and in all cases within one hour, of any significant event; that is, an event that could pose a threat to public health and safety. The current regulations require licensees to notify NRC of certain "significant events." The final rule clarifies the list of reportable significant events contained in the regulations. The final rule also responds to the intent of Congress, expressed in Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980 (PL 96-295), that the Commission establish specific guidelines for identifying accidents which could result in an unplanned release of radioactivity in excess of allowable limits and require immediate notification of these incidents. On August 19, 1980 (45 FR 55402), NRC published a final rule on emergency planning that required, among other things, procedures for immediate notification of NRC, state, and local emergency response personnel in certain situations.

Timetable:

Action	Date	FR Cite
NPRM	12/21/81	46 FR 61894
NPRM Comment Period Begin	12/21/81	46 FR 61894
NPRM Comment Period End	02/19/82	
Final Action	08/29/83	48 FR 39039
Final Action Effective	01/01/84	48 FR 39039

Small Entity: No

Agency Contact: Eric W. Weiss, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, **301 492-4973**

RIN: 3150-AA20

104. LICENSEE EVENT REPORT SYSTEM

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 20; 10 CFR 50

Abstract: The final Licensee Event Report (LER) rule revises and codifies the existing LER system. The final rule is needed to codify the LER reporting requirements in order to establish a single set of requirements that apply to all operating nuclear power plants. The final rule applies only to licensees of commercial nuclear power plants and will change the requirements that define the events and situations that must be reported and define the information that must be provided in each report.

Timetable:

Action	Date	FR Cite
Previous ANPRM	01/30/80	44 FR 6793
Previous ANPRM	01/15/81	45 FR 3541
ANPRM	10/06/81	46 FR 49134
ANPRM Comment Period Begin	10/06/81	46 FR 49143
ANPRM Comment Period End	11/17/81	
NPRM	05/06/82	47 FR 19543
NPRM Comment Period Begin	05/06/82	47 FR 19534
NPRM Comment Period End	07/06/82	
Final Action	07/26/83	48 FR 33850
Final Action Effective	01/01/84	48 FR 33850

Small Entity: No

Agency Contact: Frederick Hebdon, Nuclear Regulatory Commission, Office for Analysis and Evaluation of, Operational Data, Washington, DC 20555, **301 492-4480**

RIN: 3150-AA24

105. LICENSE OPERATOR STAFFING AT NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The final rule provides minimum shift staffing requirements for licensed operators at nuclear power plants. Shift staffing requirements will be based upon a powerplant's configuration (e.g., powerplant may have two units and one control room, or three units and two control rooms) and the status of each unit (i.e. operating or cold shutdown). The final rule, in accordance with the requirement in Task I.A.1.4 of the TMI Action Plan will upgrade shift staffing requirements at nuclear power plants to ensure that a sufficient number of licensed personnel are on duty at any given time. Although half of the licensees have met the proposed staffing levels, there is a need to grant extension of the implementation date to some licensees based on the time required to train individuals to become senior reactor operators. A Policy Statement on engineering expertise on shift has been drafted and forwarded to the Commission for eventual publication for public comment.

Timetable:

Action	Date	FR Cite
NPRM	08/30/82	47 FR 38135
NPRM Comment Period Begin	08/30/82	47 FR 38135
NPRM Comment Period End	09/27/82	
Final Action	07/11/83	48 FR 31611
Final Action Effective	01/00/84	48 FR 31611

Small Entity: No

Agency Contact: Clare Goodman, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-8901**

RIN: 3150-AA29

106. STORAGE AND DISPOSAL OF NUCLEAR WASTE

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 50; 10 CFR 51

Abstract: The advance notice of proposed rulemaking seeks public participation in a proceeding to be conducted by NRC on the storage and disposal of nuclear wastes. The purpose of the proceeding is (1) to assess generally the degree of assurance that radioactive wastes can be safely disposed of and (2) to determine whether disposal or off-site storage will be available prior to the expiration of a facility license and if not, whether radioactive wastes can be stored on-site past the expiration date of an existing facility license. This advance notice of proposed rulemaking was initiated in response to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in State of Minnesota v. NRC, Nos. 78-1269 and 78-2032 (May 23, 1979), but also is a continuation of previous proceedings conducted by the Commission on this subject (see Federal Register notice published July 5, 1977; 42 FR 34391). This advance notice of proposed rulemaking has been incorporated into a proposed rule, "Requirements for Licensee Action Regarding the Disposition of Spent Fuel Expiration of the Reactors' Operating License" (See RIN-AB20).

Timetable:

Action	Date	FR Cite
ANPRM	10/25/79	44 FR 61372
Combined with Proposed Rule RIN 3150-AB20	05/20/83	48 FR 22370
NPRM	06/00/83	

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

NRC

Completed Actions

Agency Contact: Leo Slaggie, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AA48

107. DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES; TECHNICAL CRITERIA

Legal Authority: 42 USC 2021; 42 USC 2071; 42 USC 2073; 42 USC 2092; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 4332; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 60

Abstract: The final rule specifies the technical criteria for the disposal of high-level radioactive waste (HLW) in geologic repositories. The criteria address siting, design, and performance of a geologic repository, and the design and performance of the package which contains the waste within the geologic repository. Also included are criteria for monitoring and testing programs, performance confirmation, quality assurance, and personnel training and certification. The criteria are necessary for the NRC to fulfill its statutory obligations concerning the licensing and regulating of facilities used for the receipt and storage of high-level radioactive waste and to provide guidance to the Department of Energy and to the public as to the NRC's technical requirements for the disposal of high-level radioactive wastes in a geologic repository. The Commission approved the final rule on May 27, 1983.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/80	45 FR 31393
ANPRM Comment Period Begin	05/13/80	45 FR 31393
ANPRM Comment Period End	07/14/80	
NPRM	07/08/81	46 FR 35280
NPRM Comment Period Begin	07/08/81	46 FR 35280
NPRM Comment Period End	11/05/81	
Environmental Standards	12/29/82	47 FR 58196
Final Action	06/21/83	48 FR 28194
Final Action Effective	07/21/83	48 FR 28194

Small Entity: No

Agency Contact: Patricia A. Comella, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4616

RIN: 3150-AA32

108. TRANSPORTATION OF RADIOACTIVE MATERIAL - COMPATIBILITY WITH INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) REGULATIONS

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Abstract: The final rule revises the NRC's regulations for the transportation of radioactive material to make them more compatible with those of the International Atomic Energy Agency (IAEA) and thus with those of most major nuclear nations of the world. Although several substantive changes were made in order to provide a more uniform degree of safety for various types of shipments, the Commission's basic standards for radioactive material packaging remains unchanged. The Department of Transportation (DOT) is also proposing a corresponding rule change to its Hazardous Materials Transport Regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/17/79	44 FR 48234
NPRM Comment Period Begin	10/22/79	44 FR 60743
NPRM Comment Period End	12/17/79	
Final Action	08/05/83	48 FR 35600
Final Action Effective	09/06/83	48 FR 35600

Small Entity: No

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7825

RIN: 3150-AA34

109. PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

Legal Authority: 42 USC 2073; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 71

Abstract: The proposed rule would require that shipments of plutonium by air be contained in a package specifically certified as air crash-resistant. The rule would permit the air shipment of plutonium in other packages if the plutonium is in a medical device for individual human use or if the plutonium is shipped in quantities or concentrations small enough to prevent significant hazard to the public health and safety, even if the plutonium were released in an air crash. This rule was developed in response to an amendment to the NRC Authorization Act for Fiscal Year 1976, PL 94-79, which was passed on August 9, 1975. This amendment, known as the "Scheuer Amendment," prohibited the air transport of plutonium, except in medical devices, until the NRC certified to the Congress that an air crash-resistant package has been developed. On August 4, 1978, the Commission certified to the Congress that a package certification program has been completed. The NRC has issued this proposed rule which would implement the mandate of Congress. This rule as proposed has been incorporated in the overall revision of Part 71 (See RIN-AA34).

Timetable:

Action	Date	FR Cite
NPRM	11/13/81	46 FR 55992
NPRM Comment Period Begin	11/13/81	46 FR 55992
NPRM Comment Period End	01/12/82	
Combined with RIN AA-34	08/05/83	48 FR 35600

Small Entity: No

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7825

RIN: 3150-AA35

110. MANAGEMENT OF DISCOVERY

Abstract: Entry incorporated into an unpublished rule "Regulatory Reform of the Rules of Practice and Rules for Licensing of Production and Utilization Facilities" Part 2 (Rin 3150-AB04).

Timetable:

Action	Date	FR Cite
Merged with RIN 3150-AB04		

RIN: 3150-AA54

NRC

Completed Actions

111. PERFORMANCE TESTING FOR HEALTH PHYSICS SURVEY INSTRUMENTS

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Abstract: The advance notice of proposed rulemaking would require that NRC licensees use health physics survey instruments that have been certified as meeting certain performance specifications. The proposed rule would permit the NRC to determine whether health physics survey instruments used by almost all NRC licensees meet acceptable performance standards. The proposed rule would improve the radiation safety of workers using health physics instruments by ensuring that the instruments meet acceptable performance standards. The staff has recently decided that rather than issue a proposed rule, it will address this concern through the inclusion of a performance standard to the revision of Part 20.

Timetable:

Action	Date	FR Cite
Withdrawn based on consensus of NRC staff.	08/00/83	

Small Entity: Yes

Agency Contact: Robert Alexander, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7975

RIN: 3150-AA65

112. REPORTING OF SIGNIFICANT DESIGN AND CONSTRUCTION DEFICIENCIES

Abstract: Entry incorporated into an unpublished rule "Reporting of Defects and Noncompliance -- Part 21" (RIN 3150-AA68).

Timetable:

Action	Date	FR Cite
Merged with RIN 3150-AA68		

RIN: 3150-AA82

113. SAFEGUARDS REQUIREMENTS FOR LICENSEES AUTHORIZED TO POSSESS SNM OF MODERATE OR LOW STRATEGIC SIGNIFICANCE

Abstract: Entry incorporated into an unpublished rule "Changes in Physical Security Plans; Licensees Possessing or Issuing Special Nuclear Material of Moderate and Low Strategic Significance" Part 70 (RIN 3150-AA95).

Timetable:

Action	Date	FR Cite
Merged with RIN 3150-AA95		

RIN: 3150-AA94

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

114. ●ACCESS TO AND PROTECTION OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

Legal Authority: 42 USC 2201; 42 USC 2165; 42 USC 5841

CFR Citation: 10 CFR 25; 10 CFR 95

Abstract: The final rule (1) modifies the requirements for requesting access authorizations for individuals who possessed authorizations on the effective date of Part 25, (2) establishes a requirement to maintain records concerning visits to and from affected licensed facilities involving classified information, (3) provides additional guidance to affected licensees for handling classified drafts of documents and working papers as well as guidance for obtaining approvals for the security of telecommunications and ADP systems where classified information is involved, and (4) addresses the requirements for classifying, declassifying and safeguarding National Security Information as set forth in the new EO 12356 and Implementing Directive. These final amendments are necessary to incorporate experience gained under the current regulations, comply with the requirements of the new Executive Order 12356, and prohibit the unauthorized disclosure of National Security Information and Restricted Data.

Timetable:

Action	Date	FR Cite
NPRM	12/30/82	47 FR 58275
NPRM Comment Period Begin	12/30/82	47 FR 58275
NPRM Comment Period End	01/31/83	
Final Action	06/01/83	48 FR 24318
Final Action Effective	07/01/83	

Small Entity: No

Agency Contact: Raymond J. Brady, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 427-4472

RIN: 3150-AB18

115. †PARTIAL REGIONALIZATION OF THE OPERATOR LICENSING FUNCTION TO INCLUDE REGION I

CFR Citation: 10 CFR 55

Abstract: This final rule will amend NRC regulations to reflect the delegation of licensing authority pertaining to the operator licensing function to the Regional Administrator of Region I. Assignment of this licensing authority to the Regional Administrators of Regions II and III was promulgated in a final rule on December 22, 1982 (47 FR 56984).

Timetable:

Action	Date	FR Cite
Final Action	07/21/83	48 FR 33243
Final Action Effective	07/21/83	48 FR 33243

Small Entity: No

Agency Contact: Don H. Beckham, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 792-4868

RIN: 3150-AB30

116. ●URANIUM MILL TAILINGS; SUSPENSION OF SELECTED PROVISIONS

Legal Authority: PL 97-415

CFR Citation: 10 CFR 40

Abstract: The final rule suspends selected portions of its regulations dealing with the disposal of uranium mill tailings. The provisions suspended are those which would be affected by recently published proposed Environmental Protection Agency (EPA) standards for protection of the environment from these wastes. The result of this suspension will be to place in abeyance certain Commission regulations that could have a significant cost impact on its licensees if the regulations were implemented before

VOL 48 ISS 201 OCT 17 1983 UMI

the Commission makes the anticipated rule changes necessary to conform Commission regulations to the EPA standards when the EPA standards are finalized.

Timetable:

Action	Date	FR Cite
NPRM	05/26/83	48 FR 23649
NPRM Comment Period Begin	05/26/83	48 FR 23649
NPRM Comment Period End	06/27/83	
Final Action	08/04/83	48 FR 35350
Final Action Effective	04/01/84	48 FR 35350

Small Entity: Not Applicable

Agency Contact: Kitty Dragonette, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, **301 427-4160**

RIN: 3150-AB21

117. ●REVISED ACCESS AUTHORIZATION FEES FOR LICENSEE PERSONNEL

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 5841; 42 USC 9701

CFR Citation: 10 CFR 25

Abstract: The final rule revises the fees charged to licensee personnel and others for access authorizations requested pursuant to this Part. The revised fees reflect the current access authorization investigation cost charged to the NRC by the Office of Personnel Management plus a part of NRC's overhead associated with the processing of access authorization requests. This action is necessary to allow the NRC to promptly comply with OPM's revised cost adjustments and recover the current costs incurred in processing access authorizations.

Timetable:

Action	Date	FR Cite
Final Action	08/03/83	48 FR 35069
Final Action Effective	08/03/83	48 FR 35069

Small Entity: No

Agency Contact: Richard A. Dopp, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, **301 427-4549**

RIN: 3150-AB23

118. ●GROUP LICENSING FOR CERTAIN MEDICAL USES: ALBUMIN COLLOID

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 35

Abstract: This final rule adds a new reagent kit, used to prepare the radiopharmaceutical technetium-99m labeled albumin colloid to NRC's list of authorized radioactive drugs and reagent kits. This action places the radiopharmaceutical, albumin colloid, in the list contained in Sec. 35.100 in which NRC sets forth groups of medical uses of byproduct material that have similar requirements for user training and experience, facilities and equipment, and radiation safety procedures. This action allows Group III licensees to use the reagent kit used to prepare technetium-99m labeled albumin colloid without obtaining a license amendment authorizing the use. This reduces administrative costs by eliminating the need to obtain an amendment to the license.

Timetable:

Action	Date	FR Cite
Final Action	06/22/83	48 FR 28431
Final Action Effective	06/22/83	48 FR 28431

Small Entity: Not Applicable

Agency Contact: William J. Walker, Jr., Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, D.C. 20555, **202 427-4232**

RIN: 3150-AB28

119. ●SUSPENSION OF EXEMPTION PERMITTING USE OF GLASS ENAMEL AND GLASS ENAMEL FRIT CONTAINING SMALL AMOUNTS OF URANIUM

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 40

Abstract: The Nuclear Regulatory Commission is suspending provisions of its regulations that exempt the use of a glaze containing small amounts of uranium in consumer products, such as jewelry, from the specific licensing requirements applicable to source material. The NRC is taking this action because it has learned that certain cloisanne jewelry is painted with a glaze that contains small amounts of uranium. This action will prohibit the further import or distribution of the jewelry until the NRC can reevaluate the exemption in the context of the principle that any exposures to radiation should be avoided unless there is a resulting benefit. The suspension will be in force until the NRC completes its final action following its reevaluation of the exemption or June 30, 1985, whichever comes first.

Timetable:

Action	Date	FR Cite
Final Action	07/25/83	48 FR 33697
Final Action Effective	07/25/83	48 FR 33697

Small Entity: Not Applicable

Agency Contact: Anthony N. Tse, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7825**

RIN: 3150-AB25

[FR Doc. 83-28073 Filed 10-14-83; 8:45 am]

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federal register

Monday
October 17, 1983

Part LI

Securities and Exchange Commission

Regulatory Flexibility Agenda and Rules Scheduled for Review

VOL
48
ISS
201
OC
17
1983
UMI

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release No. 33-6481, 34-20111, 35-23042, 39-847, IC-13462 and IA-879; File No. S7-989]

Regulatory Flexibility Agenda and Rules Scheduled for Review

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Regulatory Flexibility Agenda and Rules Scheduled for Review.

SUMMARY: The Securities and Exchange Commission is today publishing an agenda of its open and anticipated rulemaking actions, pursuant to Chapter Six of the Administrative Procedure Act and Office of Management and Budget Bulletin 83-15. The agenda is intended to provide advance notice of rulemaking actions which may have a significant economic impact on a substantial number of small entities. The Commission is also publishing a list of rule reviews anticipated to be completed during the next twelve months. The Commission is seeking public comment on particular open or anticipated rulemaking actions identified in Part I of the agenda and on the identified rules scheduled for review.

DATE: Comments are due by December 31, 1983.

ADDRESSES: Persons wishing to submit written views should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchenge Commission, 450 5th Street, N.W., Room 6184, Washington, D.C. 20549. All submissions should refer to File No. S7-989, and will be available for public inspection at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: Joseph A. Meiburger, Jr., Directorate of Economic and Policy Analysis, Securities and Exchange Commission, 450 5th Street, Room 7169, Stop 7-6, Washington, D.C. 20549 (202-272-7110). Additional names of persons to contact are identified with each entry.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act ("RFA") (Pub. L. No. 96-354, 94 Stat. 1164 [September 19, 1980]) requires each federal agency during April and October of each year to publish in the **Federal Register** a regulatory flexibility agenda identifying any rules which the agency expects to propose or adopt which are likely to have a significant economic impact on a substantial number of small entities (the "significant impact criterion"). [1] Part I of this agenda contains 55 entries for all open and anticipated (within the next twelve months) rulemaking actions which may meet this criterion.

Pursuant to a separate requirement of the RFA, [2] the Commission published in June 1981 a plan for the periodic review of all rules issued by the agency which may have a significant economic impact upon a substantial number of small entities. [3] The plan provides for the review of all such rules in effect on January 1, 1981 within ten years of that date and for the review of such rules adopted thereafter within ten years of the publication of their adoption as final rules. The RFA further requires publication each year of a list of those rules which are to be reviewed during the succeeding twelve months. [4] Part II of the agenda contains these 16 entries. Since the scope of the Commission's review of its rules extends beyond the requirements of the RFA, some rules listed in this part of the agenda may not be required to be reviewed, but the Commission is identifying them on the agenda in order to fully inform the public of its intention to review them. Part III of the agenda identifies the 21 rulemaking actions and rule reviews which have been completed since the last RFA release was approved by the Commission on April 25, 1983 (Release No. 33-6457 [48 FR 18762]). The agenda which follows relies on the definitions of the term "small entity" for purposes of the RFA which were adopted by the Commission for the various categories of regulated entities. [5]

Several entries in Part I of this agenda represent recommendations which were developed through a research forum held in Washington, D.C. in November 1982. The purpose of the forum was to gather information regarding the strengths and weaknesses of the of the Commission's disclosure system from a group of its users. These items have been included in this agenda to notify the public of Commission consideration of recommendations made by forum participants. Among the current and anticipated rulemaking actions are entries dealing with possible accounting rules and research studies regarding off-balance sheet obligations, segment reporting and quarterly financial reporting.

As provided by the RFA, the publication of this regulatory flexibility agenda does not preclude the Commission from considering or acting on any matter not included therein, nor is the Commission required to consider or act on any matter which is included therein. [6] Furthermore, the inclusion of a rule in the Commission's regulatory flexibility agenda reflects only the staff's preliminary judgment that the rule, if promulgated, may have a significant economic impact on a substantial number of small entities. This preliminary judgment may be changed upon further development and analysis.

The Commission is incorporating a list of the agenda entries as a part of this release. The documents themselves (standardized data entry forms and computer printout pages) will be available in the Commission's public reference room (File S7-989, as noted above) and the text of these documents will be published in the **Federal Register** as part of the Unified Agenda on or before October 31, 1983, pursuant to the requirements of Section 602(a) of the RFA as noted above.

The Commission invites public comment on its agenda and on the rules scheduled for review in 1983.

By the Commission.

DATED: August 25, 1983.

George A. Fitzsimmons,

Secretary.

[1] 5 U.S.C. 602(a).
[2] 5 U.S.C. 610(a).
[3] See Securities Act Release No. 6362 (June 24, 1981) [46 FR 33287].
[4] 5 U.S.C. 610(c).
[5] See Securities Act Release No. 6380 (January 28, 1982) [47 FR 5215].
[6] 5 U.S.C. 602(d).

SEC

Current and Projected Rulemakings

Sequence Number	Title	RIN
1	Off-Balance Sheet Obligations	3235-AA53
2	Disclosure About Insurance Reserves	3235-AA75
3	Rescission of Obsolete Rules and Technical Revisions and Corrections	3235-AA74
4	Recognition of Gain or Loss on Transfers of Oil and Gas Producing Properties Under Full Cost Method of Accounting	3235-AB07
5	Segment Information	3235-AA54
6	Quarterly Financial Reporting	3235-AA55
7	Small Issuer Periodic Reports	3235-AA91
8	Consents to Service	3235-AA56
9	Recommendations of the Computer Task Force	3235-AA77
10	Regulation S-K Item 402 -- Management Remuneration and Transactions	3235-AA00
11	General Rules under the Securities Act of 1933--The "100 Series"-- Rules 100 through 180 (excluding Rules 137, 138 and 139)	3235-AA52
12	Rule 137, 138, & 139 - Definiton of "Offer for Sale" and "Offer to Sell" in Sections 2(10) and 5(c) in Relation to Certain Publications	3235-AB10
13	Rule 144 Amendments	3235-AA72
14	Rule 145 -- Proposed Form F-4 and other rules and forms relating to disclosure in connection with business combinations involving foreign companies	3235-AB06
15	Rule 148 - Persons Not Deemed to be Underwriters of Securities Issued or Sold in Connection with Bankruptcy Proceedings	3235-AA90
16	Rule 158 (Definition of Terms)	3235-AA89
17	Rule 406 - Non-disclosure of Information Filed with the Commission and With Any Exchange	3235-AB05
18	Proposed Revision of Form S-14 and Other Forms and Rules Relating to Disclosure in Connection with Business Combination Transactions	3235-AA01
19	Form S-18 Revision	3235-AA51
20	Rule 12g3-2 -- Exemptions for foreign private issuers	3235-AA02
21	Rule 12h-3, Proposed Suspension of Periodic Reporting Obligations	3235-AA71
22	Regulation 14A -- Rules Relating to Proxy Contests	3235-AA03
23	Advisory Committee on Tender Offers	3235-AA50
24	Rules 16a-1 to 16a-11 -- Reports of Directors, Officers, and Beneficial Stockholders	3235-AB04
25	Rules 16b-1-16b-11 - Exemptions from Section 16(b) of the Securities Exchange Act of 1934	3235-AB11
26	*Rules 16c-1-16c-3 - Exemption Of Certain Securities From Section 16(c)	3235-AA88
27	Rule 16e-1 - Arbitrage Transactions Under Section 16	3235-AA99
28	Rule 24b-2 -- Non-Disclosure of Information Filed with the Commissien and with any Exchange	3235-AB03
29	249.103--249.104--Forms 3 and 4 - Forms For Reports To Be Filed By Officers, Directors, and Security Holders	3235-AB00
30	Rule 415 - Delayed Or Continuous Offering And Sale of Securities	3235-AB09
31	Regulation 14A -- Solicitation of Proxies	3235-AA23
32	Regulation 14C -- Distribution of Information Pursuant to Section 14(c)	3235-AA24
33	Proposed Rule 11A-1	3235-AA39
34	Proposed Rule 15b7-1 -- Minimum Qualification Standards for Non-Member Broker-Dealers and Associated Persons	3235-AA07
35	Securities Exchange Act Rule 15c2-11 Initiation and Resumption of Quotations Without Specified Information	3235-AA48
36	Rule 17Ad-2(e)	3235-AB01
37	Rule 17Ad-2(e)	3235-AB13
38	Rule 17Ad-5 -- Response to Inquiries	3235-AB12
39	Mutual Fund Governance	3235-AA44
40	Utilizing private entities in investment company examinations and imposing examination fees	3235-AA42
41	Amendment to Rule 180 -- Exemption from Registration of Certain Interests and Participations in Certain H.R. 10 Plans	3235-AA08
42	Rule 482 under the Securities Act of 1933 -- Advertising by an Investment Company as Satisfying Requirements of Section 10	3235-AA70
43	Regulation E Exemption for Securities of Small Business Investment Companies	3235-AA09
44	Simplification of Registration Statements filed by Unit Investment Trusts	3235-AA47
45	Revision of Investment Company Proxy Rules	3235-AA69
46	Amendment of Rule 2a-5 -- Certain Persons Not Deemed Interested Persons	3235-AA11
47	Proposed Rule 3a-4 -- Individualized Investment Management Services	3235-AA12
48	Amendment to Rule 6c-1 -- Exemption for Subsidiaries Organized to Finance the Operations of Domestic or Foreign Companies	3235-AA13
49	Proposed Rules 11a-3 and 11a-4 Under the Investment Company Act	3235-AA14
50	Proposed Amendment to Rule 17g-1 Under the Investment Company Act	3235-AA16
51	Rule 17j-1 under the Investment Company Act of 1940	3235-AA68
52	Proposed Rule 22d-6 Under the Investment Company Act	3235-AA17
53	Rule 202-1 under the Investment Advisers Act of 1940, Exclusion of certain persons who offer investment advice to their employer-sponsored employee benefit plans	3235-AA46
54	Rule 204-2 Under Investment Advisers Act of 1940 ("Adviser's Act") -- Books and Records to be Maintained by Investment Advisers	3235-AA18
55	Proposed Rule 205-3 Under the Investment Advisers Act of 1940	3235-AA65
56	Rules 206(3)-2 under the Investment Advisers Act of 1940	3235-AA41

VOL 48 ISS 201 OCT 17 1983 UMI

SEC

Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
57	17 CFR Part 257--Preservation and Destruction of Records of Registered Public Utility Holding Companies and of Mutual and Subsidiary Service Companies	3235-AA92

*Indicates priority regulation.

Existing Regulations Under Review

Sequence Number	Title	RIN
58	Regulation S-X --Qualifications of Accountants	3235-AA43
59	Regulation S-X -- Separate and Pro Forma Financial Statements	3235-AA64
60	Rule 10b-7 -- Stabilizing to Facilitate a Distribution	3235-AA93
61	Rule 11Aa2-1 -- Designation of National Market System Securities	3235-AA95
62	Rule 11Aa3-1 -- Collection and Dissemination of Transaction Reports	3235-AA83
63	Rule 11Ac1-1 -- Firm Quotation Rule	3235-AA96
64	Rule 11Ac1-2 -- Vendor Display Rule	3235-AA84
65	Rule 12d2-1 -- Suspension of Trading	3235-AA85
66	Rule 12d2-2 -- Removal from Listing and Registration of Matured Redeemed or Retired Securities	3235-AA97
67	Rule 17a-17 -- Requirements for Block Positioner Exempt Credit Form X-17A-17 -- Form Accompanying Rule 17a-17	3235-AA86
68	Rule 17f-1 -- Requirements for Reporting and Inquiring with Respect to Missing, Lost, Counterfeit or Stolen Securities	3235-AA94
69	Rule 19b-3 -- Prohibiting Fixing of Rates of Commission by Exchanges	3235-AA87
70	Rule 19b-4 - - - Filings with respect to proposed rule changes by self-regulatory organizations Form 19b-4	3235-AA98
71	Rule19g2-1 -- Enforcement of compliance by national securities exchanges and registered securities associations with the Securities Exchange Act of 1934 and rules ... thereunder	3235-AB02

Completed Actions

Sequence Number	Title	RIN
72	Regulation S-X -- Oil and Gas Producers: Full Cost Accounting Practices	3235-AA45
73	Regulation S-X -- Financial Statement Requirements for Bank Holding Companies	3235-AA22
74	Guide 3 - Disclosures by Bank Holding Companies about Nonperforming Loans and Certain Foreign Loans	3235-AA76
75	American Depositary Receipts	3235-AA73
76	Facilitating Shareholder Communications	3235-AA04
77	Proposed Amendments to Rule 14a-8 Relating to Security Holder Proposals	3235-AA49
78	Rule 10b-10 -- Confirmation of Transactions	3235-AA05
79	Securities Exchange Act Rule 15c3-2: Use of Customer Free-Credit Balances	3235-AA66
80	Proposed Form N-1A; Proposed Rule 404A; Proposed Rule 8b-11A	3235-AA10
81	Rule 3a12-1--Exemption of certain mortgages and interests in mortgages	3235-AA40
82	Securities Exchange Act Rule 3a12-2--Exemption of certain securities, the income on which is substantially guaranteed by states or political subdivisions thereof	3235-AA57
83	Rule 3a12-4--Exemptions from Sections 15(a) and 15(c)(3) for certain whole mortgages	3235-AA58
84	Securities Exchange Act Rule 8c-1: Hypothecation of Customers' Securities	3235-AA59
85	Rule 15a-2--Exemption of certain securities of co-operative apartment houses from Section 15(a)	3235-AA60
86	Securities Exchange Act Rule 15a-4; Forty-Five Day Exemption from Registration for Certain Members of National Securities Exchanges	3235-AA61
87	Securities Exchange Act Rule 15a-5; Exemption of Certain Non-Bank Lenders	3235-AA62
88	Securities Exchange Act Rule 15c2-1: Hypothecation of Customers' Securities	3235-AA63
89	Securities Exchange Act Rule 15c3-3: Customer Protection Reserves and Custody of Securities	3235-AA67
90	Accounting for Computer Software Costs	3235-AB08
91	Rule 0-1 under the Investment Company Act of 1940 -- Definition of Terms Used in the Rules and Regulations	3235-AA79
92	Rule 13a-1 under the Investment Company Act of 1940 -- Exemption for Change of Status by Temporarily Diversified Company	3235-AA80
93	Rule 32a-1 under the Investment Company Act of 1940 -- Exemption of Certain Companies from Affiliation Provisions of Section 32(a)	3235-AA81
94	Rule 32a-2 under the Investment Company Act of 1940 -- Exemption for Initial Period from Vote of Security Holders on Independent Public Accountants for Certain Registered Separate Accounts	3235-AA82

SECURITIES AND EXCHANGE COMMISSION (SEC)

Current and Projected Rulemakings

ACCOUNTING RULES

1. OFF-BALANCE SHEET OBLIGATIONS

Priority: Undetermined

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78(w); 15 USC 79e; 15 USC 79n; 15 USC 79t

CFR Citation: Not yet determined

Abstract: The staff will study the area of off-balance sheet obligations to determine whether to recommend action by the Commission. Participants at the Commission's November, 1982 Research Forum on the disclosure system suggested that standard footnote disclosure about such obligations is needed in view of the increasing number and complexity of transactions.

Timetable:

Action	Date	FR Cite
Research study complete	12/31/83	

Small Entity: Undetermined

Agency Contact: Lawrence Jones, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AA53

2. DISCLOSURE ABOUT INSURANCE RESERVES

Priority: Undetermined

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78m; 15 USC 78n; 15 USC 78(w); 15 USC 78l

CFR Citation: Not yet determined

Abstract: The Commission may consider whether to propose amendments to rules or forms to assist investors in comparing reserving practices of different property-casualty insurance companies. The adequacy of estimated loss reserves for property-casualty insurance companies is uncertain. The level of uncertainty varies with, among other things, a company's mix of business, its system of internal control and management's ability to forecast future economic, social and other conditions which will influence the amount of future loss payments. Estimated reserve amounts are material factors in the computation of year-to-year earnings of an insurance company and in the assessment of its financial condition. The failure of several insurance companies has been ascribed to inadequate provision for future losses. The project is in a very preliminary state. The Commission will consider various alternative disclosures and the related costs and benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Undetermined

Agency Contact: Jeremiah Harrington, Staff Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington DC 20549, 202 272-2130

RIN: 3235-AA75

3. RESCISSION OF OBSOLETE RULES AND TECHNICAL REVISIONS AND CORRECTIONS

Priority: Undetermined

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w; 15 USC 79e; 15 USC 79n; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-30; 15 USC 80a-37(a)

CFR Citation: 17 CFR 210.1-02(v)(3); 17 CFR 210.3-15(a); 17 CFR 210.4-08(l); 17 CFR 210.4-08(k); 17 CFR 210.4-08(l); 17 CFR 210.4-10(k)(7) and (8); 17 CFR 210.5A-01 to 5A-03; 17 CFR 210.8-01 to 8-03

Abstract: The Commission may consider whether to propose the rescission of various obsolete rules, such as Articles 5A and 8 and related rules of Regulation S-X, and the amendment of other rules to make technical revisions and corrections or update the rules to reflect current financial reporting experience. These rules will be reviewed concurrently with any rulemaking action.

Timetable:

Action	Date	FR Cite
NPRM	10/31/83	

Small Entity: Undetermined

Agency Contact: Dorothy Walker, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AA74

4. ●RECOGNITION OF GAIN OR LOSS ON TRANSFERS OF OIL AND GAS PRODUCING PROPERTIES UNDER FULL COST METHOD OF ACCOUNTING

Priority: Undetermined

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w; 15 USC 79e; 15 USC 79n; 15 USC 79t; 15 USC 77h; 42 USC 6368

CFR Citation: 17 CFR 210.4-10(i)(3)(iii); 17 CFR 210.4-10(i)(6)(iii); 17 CFR 210.4-10(i)(7)(ii)

Abstract: The staff is recommending that the Commission consider proposing for comment rules which would generally prohibit the recognition of gain or loss on transfers of oil and gas producing properties accounted for under the full cost method. This staff recommendation is based on the view that gain or loss recognition is inconsistent with the basic concept of full cost accounting, under which the costs of individual properties lose their identity when accumulated in a cost center. This recommendation represents a change from the Commission's earlier proposal which would have permitted recognition on properties segregated in a lease brokerage account and for which no significant economic interest would be retained. The arguments of commentators to the proposal convinced the staff that permitting income recognition on the basis of a lease brokerage concept would be unworkable. It is undeterminable whether the prohibition against gain or loss recognition could affect a registrant's competitive or capital raising position.

Timetable:

Action	Date	FR Cite
NPRM	09/00/83	
NPRM Comment Period Begin	09/00/83	
NPRM Comment Period End	12/31/83	

Small Entity: Undetermined

VOL
48
ISS
201
OCT
17
1983
UMI

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB07

5. SEGMENT INFORMATION

Priority: Undetermined

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78(w); 15 USC 79e; 15 USC 79n; 15 USC 79t

CFR Citation: 17 CFR 229.101(b)

Abstract: Registrants disclose information about their industry segments in financial statements and in their description of business disclosures. In the view of various participants in the Commission's November, 1982 Research Forum on the disclosure system, a better definition of, and more consistency in the composition of, segments is needed. The Commission's staff will review segment disclosures made by registrants to determine whether any Commission initiatives should be considered to encourage better disclosures.

Timetable:

Action	Date	FR Cite
Research study complete	12/31/83	

Small Entity: Undetermined

Agency Contact: Lawrence Jones, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AA54

6. QUARTERLY FINANCIAL REPORTING

Priority: Undetermined

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 78n

CFR Citation: 17 CFR 249.308a; 17 CFR 210.10-01; 17 CFR 229.302(a)

Abstract: The Commission may consider whether to revise the rules regarding interim financial statements. These rules were most recently revised in 1981 at which time the requirement for condensed financial statements was widely favored and the requirement for the prior year-end balance sheet was adopted. The staff will review these rules, in part because of recommendations made by participants in the Commission's November, 1982 Research Forum on the disclosure system that the rules be revised to require full, rather than condensed, financial statements, comparative quarter rather than the prior, year-end, balance sheet, and quarterly segment data. In addition, the staff will review the requirement for disclosure of selected quarterly financial data in annual reports. These rules will also be reviewed concurrently with this staff project.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/83	

Small Entity: Undetermined

Agency Contact: Robert Herdman, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AA55

DISCLOSURE RULES

7. ●SMALL ISSUER PERIODIC REPORTS

Legal Authority: 15 USC 77s(a)

CFR Citation: Not yet determined

Abstract: The Securities Exchange Act of 1934 (the "Exchange Act") imposes periodic reporting requirements on companies subject to Sections 13(a) and 15(d) of the Exchange Act. Because these reporting requirements may not be entirely appropriate for companies of all sizes, the Commission plans to review the Exchange Act reporting system as it pertains to small businesses, with a view toward relieving certain small businesses from some of the requirements therein. The Commission has not yet determined the alternatives available or the costs of revising these requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	

Small Entity: Undetermined

Agency Contact: Steve Holtzman, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2644

RIN: 3235-AA91

8. CONSENTS TO SERVICE

Priority: Undetermined

CFR Citation: Not yet determined

Abstract: Foreign private issuers that voluntarily enter the U.S. capital markets are generally required to file disclosure documents with the Commission. Comments have been solicited on the general concept of requiring such issuers and certain related persons to consent to service for civil suits, administrative proceedings and investigations relating to such disclosure documents. Alternatives being considered are requiring an agent in the U.S. and minimum lines of credit.

Timetable:

Action	Date	FR Cite
ANPRM	04/30/84	

Small Entity: Yes

Agency Contact: Ronald Adee, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, D.C. 20549, 202 272-3250

RIN: 3235-AA56

9. RECOMMENDATIONS OF THE COMPUTER TASK FORCE

Priority: Undetermined

Legal Authority: 15 USC 77s Securities Act; 15 USC 78w(a) Exchange Act

CFR Citation: 17 CFR 200; 17 CFR 240

Abstract: In connection with its study of the application of computer technology to the Commission's rules and regulations, with a view toward determining how the Commission may best use technological advances to benefit registrants, investors and others who contribute to or make use of information required to be disclosed under the various securities laws and the rules and regulations thereunder, the Commission will consider any rulemaking necessary to implement or accompany technological advances. For example, the Commission may propose rule changes concerning the transition from a paper-based information and disclosure system to a computer-based

electronic system. Such changes may be published in the next year.

Timetable:

Action	Date	FR Cite
NPRM	07/01/84	

Small Entity: Undetermined

Agency Contact: Eric E. Miller, Attorney Adviser, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 2-10), Washington, DC 20549, 202 272-2589

RIN: 3235-AA77

10. REGULATION S-K ITEM 402 -- MANAGEMENT REMUNERATION AND TRANSACTIONS

Priority: Undetermined

Legal Authority: 15 USC 77f Securities Act; 15 USC 77g Securities Act; 15 USC 77h Securities Act; 15 USC 77s(a) Securities Act; 15 USC 78l Exchange Act; 15 USC 78m Exchange Act; 15 USC 78n Exchange Act; 15 USC 78o(d) Exchange Act; 15 USC 78w(a) Exchange Act

CFR Citation: 17 CFR 229.402

Abstract: The Commission intends to adopt revisions to the provisions of Item 402 of Regulation S-K regarding disclosure of management remuneration. Amendments were proposed in January 1983. The primary purpose of the proposed amendments is to enhance the usefulness of remuneration disclosure to security holders and investors. This would be accomplished by, among other things, highlighting cash remuneration in the Remuneration Table, permitting disclosure of remuneration paid pursuant to plans to be disclosed in connection with the descriptions of such plans, and focusing more on remuneration actually paid or vested than on contingent remuneration. The proposed amendments also are intended to reduce burdens on registrants to the extent possible without sacrificing investor protection. This would be achieved through such actions as establishing a de minimis threshold for disclosure of prerequisites, and decreasing the amount of information disclosed about options granted in previous years. In addition, while individual disclosure of the top five most highly compensated executive officers or directors would still be required, disclosure with respect to all officers and (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/17/83	48 FR 3625
NPRM Comment Period Begin	01/17/83	48 FR 3626
NPRM Comment Period End	05/01/83	
Final Action	09/30/83	

Small Entity: Yes

Additional Information: ABSTRACT CONT: directors as a group would be limited to executive officers and directors as a group. The Commission has specifically requested comment in connection with the proposed revision of Item 402, on the extent to which the proposed amendments would reduce burdens on registrants.

Agency Contact: Elliot Pinta, Attorney Advisor, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235-AA00

11. GENERAL RULES UNDER THE SECURITIES ACT OF 1933--THE "100 SERIES"-- RULES 100 THROUGH 180 (EXCLUDING RULES 137, 138 AND 139)

Priority: Undetermined

Legal Authority: 15 USC 77s Securities Act

CFR Citation: 17 CFR 230.100 to 230.180

Abstract: The Commission is conducting a "sunset" review of the thirty-nine rules contained in the "100 series" of general rules under the Securities Act. Generally, these rules define key terms used in the Securities Act. The object of this review is to eliminate any inconsistencies, to delete unnecessary, outmoded or duplicative rules and to update and revise the remaining provisions. This project is in addition to the separate project to review Rules 137, 138 and 139.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Undetermined

Additional Information: CFR cite excludes 17 CFR 230.137, .138 and .139.

Agency Contact: Gerard V. Comizio, Attorney Advisor, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235-AA52

12. ●RULE 137, 138, & 139 - DEFINITON OF "OFFER FOR SALE" AND "OFFER TO SELL" IN SECTIONS 2(10) AND 5(C) IN RELATION TO CERTAIN PUBLICATIONS

Legal Authority: 15 USC 77(f); 15 USC 77(g); 15 USC 77(s)(a)

CFR Citation: 17 CFR 230.137; 17 CFR 230.138; 17 CFR 230.139

Abstract: Rules 137, 138 and 139 provide safe harbor guidance under Section 5 of the Securities Act of 1933 for determining the circumstances in which broker-dealers may publish or disseminate research reports regarding an issuer in registration. Pursuant to its sunset review of the "100" series of rules, the Commission proposes to substantially review Rule 139, having determined that the requirements of Rule 139 need not be as extensive in order to protect investors in a manner consistent with the requirements of Section 5. Although the Commission proposes no revisions of Rules 137 and 138, public comment will be solicited as to possible revisions of all three rules. This rulemaking action was previously part of RIN 3235-AA52, a larger action.

Timetable:

Action	Date	FR Cite
NPRM	10/01/83	

Small Entity: Undetermined

Agency Contact: Gerard V. Comizio, Attorney Advisor, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 2-10), Washington, DC 20549, 202 272-2589

RIN: 3235-AB10

13. RULE 144 AMENDMENTS

Priority: Undetermined

Legal Authority: 15 USC 77s(a)

CFR Citation: 17 CFR 230.144

Abstract: Presently, Rule 144 allows a non-affiliate to resell restricted securities after a holding period of three years if current information with respect to the issuer is available publicly. The proposed amendment

VOL
48
ISS
201
OC
17
1983
UMI

would eliminate the information requirement for resales of restricted securities by non-affiliate after a three-year holding period. The purpose of the proposed amendment is to eliminate an unnecessary restriction on the transfer of restricted securities in order to encourage investment in small business. All small businesses which sell securities pursuant to a private offering exemption would benefit from the proposed amendment. It would not impose any fee, recordkeeping or reporting requirement upon the issuer or selling shareholders.

Timetable:

Action	Date	FR Cite
NPRM	07/08/83	48 FR 32357
NPRM Comment Period Begin	07/08/83	48 FR 32357
NPRM Comment Period End	08/22/83	
Final Action	09/30/83	

Small Entity: Yes

Agency Contact: Betsy Callicott Goodell, Staff Attorney, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2644

RIN: 3235-AA72

14. ●RULE 145 – PROPOSED FORM F-4 AND OTHER RULES AND FORMS RELATING TO DISCLOSURE IN CONNECTION WITH BUSINESS COMBINATIONS INVOLVING FOREIGN COMPANIES

Legal Authority: 15 USC 77f Securities Act; 15 USC 77g Securities Act; 15 USC 77j Securities Act; 15 USC 77s(a) Securities Act; 15 USC 78l Exchange Act; 15 USC 78m Exchange Act; 15 USC 78n Exchange Act; 15 USC 78w(a) Exchange Act

CFR Citation: 17 CFR 230.145; 17 CFR 239.34 (New); 17 CFR 239.30 (New); 17 CFR 240.15d-4 (New)

Abstract: The Commission intends to develop special forms and rules for the disclosure requirements for mergers, acquisitions, and business combinations involving foreign issuers. The Commission intends to simplify and streamline the current requirements and to codify administrative practice. The Commission also intends to encourage the registration of these transactions to allow U.S. shareholders to fully participate. Frequently they are now excluded. In considering alternatives, the Commission will attempt to use the techniques of incorporation by reference and multiple document delivery that are used in the integrated disclosure system. These revisions should reduce by approximately half the burden hours imposed on issuer preparing such forms.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: Undetermined

Agency Contact: Ronald Adee, Special Counsel, Securities and Exchange Commission, Office of International Corporate Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-3250

RIN: 3235-AB06

15. ●RULE 148 - PERSONS NOT DEEMED TO BE UNDERWRITERS OF SECURITIES ISSUED OR SOLD IN CONNECTION WITH BANKRUPTCY PROCEEDINGS

Legal Authority: 15 USC 77s(a)

CFR Citation: 17 CFR 230.148

Abstract: Rule 148 was adopted to provide a means for resale of securities issued by companies that are involved in proceedings under the Federal Bankruptcy Act. In light of amendments to that Act, Rule 148 will be re-examined to determine whether it should be combined into other existing regulations or rescinded entirely. This action should benefit the investing public by clarifying the procedures for resales in such situations without any additional costs and possibly with lowered costs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/84	

Small Entity: Undetermined

Agency Contact: William E. Morley, Deputy Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, (Stop 3-3), Washington, DC 20549, 202 272-2573

RIN: 3235-AA90

16. ●RULE 158 (DEFINITION OF TERMS)

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a)

CFR Citation: 17 CFR 230.158

Abstract: Rule 158 defines the terms "earning statement", "made generally available to its security holders" and "effective date of the registration statement" for purposes of the last paragraph of Section 11(a) of the Securities Act of 1933. The rule defines these terms with reference to certain reports filed under the Securities Exchange Act of 1934 and is intended to provide clarity and certainty with respect to those terms. As such, the rule should benefit some registrants by allowing them to use already filed Exchange Act reports to meet their obligations under the last paragraph of Section 11(a).

Timetable:

Action	Date	FR Cite
NPRM	04/29/83	48 FR 19392
NPRM Comment Period Begin	04/29/83	48 FR 19392
NPRM Comment Period End	06/10/83	
Final Action	09/15/83	

Small Entity: Undetermined

Agency Contact: Steven Molinari, Attorney Advisor, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 2-10), Washington, DC 20549, 202 272-2589

RIN: 3235-AA89

17. ●RULE 406 - NON-DISCLOSURE OF INFORMATION FILED WITH THE COMMISSION AND WITH ANY EXCHANGE

Legal Authority: 15 USC 77g; 15 USC 77s(a)

CFR Citation: 17 CFR 230.406

Abstract: Rule 24b-2 under the Securities Exchange Act of 1934 provides a procedure by which the SEC may accord confidential treatment to certain information filed with the SEC. No rule promulgated under the Securities Act of 1933 provides a similar means by which the SEC may accord confidential treatment to submitters of information under the 1933 Act to omit confidential information from their filing. Rule 406 under the 1933 Act does, however, permit confidential treatment or contracts filed as exhibits to 1933 registration statements. The Commission may amend Rule 406 along the lines of Rule 24b-2 in order to permit confidential treatment of additional materials filed under the 1933 Act. This procedure would provide a benefit to filers under the 1933 Act at little additional costs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/83	

Small Entity: Undetermined

Agency Contact: William E. Morley, Deputy Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 3-3), Washington, DC 20549, 202 272-2573

RIN: 3235-AB05

18. PROPOSED REVISION OF FORM S-14 AND OTHER FORMS AND RULES RELATING TO DISCLOSURE IN CONNECTION WITH BUSINESS COMBINATION TRANSACTIONS

Priority: Undetermined

Legal Authority: 15 USC 77f Securities Act; 15 USC 77g Securities Act; 15 USC 77j Securities Act; 15 USC 77s(a) Securities Act; 15 USC 78l Exchange Act; 15 USC 78m Exchange Act; 15 USC 78n Exchange Act; 15 USC 78w(a) Exchange Act

CFR Citation: 17 CFR 239.23

Abstract: As part of its review of proxy rules, regulations, and schedules, the Commission intends to revise the disclosure requirements under the federal securities laws relating to mergers, acquisitions, and other business combinations, focusing primarily on Form S-14 (17 CFR 239.23). Form S-14 is used for the registration of securities in business combination transactions under Rule 145 (17 CFR 230.145). The Commission has found that in many cases the sheer volume of disclosure in connection with mergers, acquisitions and other business combinations tends to be confusing to security holders and burdensome for registrants to prepare. The Commission intends to revise the existing disclosure requirements of Form S-14 to provide streamlined, comprehensible disclosure to shareholders and to reduce compliance burdens on issuers consistent with the protection of investors. In developing proposals in this area and considering alternative approaches to the problem of reducing burdens while ensuring that sufficient information is available to security holders, the Commission will attempt to apply the techniques used in its integrated disclosure system, such as incorporation (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: by reference and multiple document delivery. The proposed revisions are expected to benefit both issuers and investors and are not expected to result in significant additional burdens. A review of the rules and forms will be included in any rulemaking action.

Agency Contact: Eric E. Miller, Staff Attorney, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235-AA01

19. FORM S-18 REVISION

Priority: Undetermined

Legal Authority: 15 USC 77s(a); 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j

CFR Citation: 17 CFR 239.28

Abstract: Form S-18 is a simplified registration form for first-time public offerings. It provides for reduced and less burdensome narrative and financial statement requirement and to provide a more timely and less expensive registration process for smaller issuers. Proposed amendments would expand the availability of the form to issuers of up to $10 million of securities and revise the disclosure requirements on transactions with management. The amendments, if adopted, are not expected to produce significant additional costs but are expected to provide the benefit of registrations at less cost than on Form S-1.

Timetable:

Action	Date	FR Cite
NPRM	07/08/83	48 FR 32359
NPRM Comment Period Begin	07/08/83	48 FR 32359
NPRM Comment Period End	08/22/83	
Final Action	09/23/83	
Final Action Effective	10/21/83	

Small Entity: Yes

Agency Contact: Suzanne Brannan, Staff Attorney, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2644

RIN: 3235-AA51

20. RULE 12G3-2 – EXEMPTIONS FOR FOREIGN PRIVATE ISSUERS

Priority: Undetermined

Legal Authority: 15 USC 78l Exchange Act

CFR Citation: 17 CFR 240.12g3-2

Abstract: This rule, adopted under Section 12(g)(3) of the Exchange Act, exempts certain foreign private issuers from the Commission's periodic reporting requirements if they furnish the Commission with copies of material made public in the country of domicile. The rule was initially designed to apply to foreign private issuers that had not voluntarily entered the U.S. capital markets. Changes in the structure of the over-the-counter markets, namely the advent of the NASDAQ quotation system, compel reconsideration of the rule because more foreign private issuers are now entering the U.S. capital markets by voluntarily listing their stocks on NASDAQ. One alternative being considered is making the exemptive provisions unavailable to issuers with securities quoted in NASDAQ. If it is retained or revised, the costs involved in compliance with the rule should be minimal because the rule relies solely on reports and documents required by foreign law or regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/28/82	47 FR 50292
NPRM Comment Period Begin	10/28/82	
NPRM Comment Period End	03/11/83	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Ronald Adee, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-3250

RIN: 3235-AA02

21. RULE 12H-3, PROPOSED SUSPENSION OF PERIODIC REPORTING OBLIGATIONS

Priority: Undetermined

VOL 48 ISS 201 OCT 17 1983 UMI

Legal Authority: 15 USC 78l Exchange Act; 15 USC 78m Exchange Act; 15 USC 78o(d) Exchange Act; 15 USC 78w(a) Exchange Act

CFR Citation: 17 CFR 240.12h-3

Abstract: Proposed new Rule 12h-3 would immediately suspend the duty of an issuer to file periodic reports pursuant to Section 15(d) of the Exchange Act with respect to two classes of securities: (1) any class of securities held of record by less than 300 persons and issued by a person whose outstanding equity securities are substantially owned by a single parent; (2) any class of securities held of record by less than 300 persons, and issued by a person having no significant assets, for the sole purpose of forming a holding company. Alternatively, immediate suspension of Section 15(d) reporting is being considered for any class of securities held by less than 300 persons. Either version of the proposed rule would reduce costs to affected issuers by eliminating the need for periodic reports. There would be no cost burden to issuers.

Timetable:

Action	Date	FR Cite
NPRM	09/01/83	

Small Entity: Undetermined

Agency Contact: William E. Toomey, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2573

RIN: 3235-AA71

22. REGULATION 14A -- RULES RELATING TO PROXY CONTESTS

Priority: Undetermined

Legal Authority: 15 USC 78n(a) Exchange Act

CFR Citation: 17 CFR 240.14a-1 to 240.14a-12; 17 CFR 240.14a-101; 17 CFR 240.14a-102

Abstract: As part of its proxy review program, the Commission intends to review the rules governing proxy contests, which are contained in Regulation 14A, promulgated under Section 14(a) of the Exchange Act. Regulation 14A regulates the solicitation of proxies in regard to securities registered under Section 12 of the Exchange Act. In general, Regulation 14A specifies the information required to be disclosed to security holders to enable them to make informed decisions concerning authorization of proxies. This review focuses only on regulations concerning proxy contests. Rules 14a-3 through 14a-10 prescribe certain filing, dissemination and disclosure requirements with respect to all proxy solicitations, including proxy contests. Rule 14a-11 prescribes special requirements relating only to contested elections of directors. The number of proxy contests has risen in recent years and the rules relating to them have not been reexamined in some time. The Commission's goal in this review is to make sure that the rules pertaining to proxy contests still operate effectively in addressing this dynamic area, thus benefiting shareholders and issuers.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	

Small Entity: Undetermined

Agency Contact: Steven L. Molinari, Attorney Advisor, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235-AA03

23. ADVISORY COMMITTEE ON TENDER OFFERS

Priority: Undetermined

Legal Authority: 5 USC App. I Federal Advisory Committee Act

CFR Citation: 17 CFR 240.14d-1 to 240.14d-101; 17 CFR 240.14e-1 to 240.14e-3

Abstract: The Advisory Committee was created to conduct an extensive examination of the tender offer process and other techniques for acquiring control of public companies and to recommend to the Commission any legislative and/or regulatory change the Committee deems necessary as appropriate to the current regulatory scheme. On July 8, 1983, the Committee submitted to the Commission its Report of Recommendations. Among other things, the Committee made recommendations with respect to the economic implications of tender offers and other acquisition techniques, the need for, nature and objectives of such activities and appropriate statutory and regulation modifications. The Commission intends to promulgate proposed regulatory changes related to the recommendations of the Committee.

Timetable:

Action	Date	FR Cite
NPRM	01/01/84	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Linda C. Quinn, Associate Director - Legal, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2579

RIN: 3235-AA50

24. ●RULES 16A-1 TO 16A-11 -- REPORTS OF DIRECTORS, OFFICERS, AND BENEFICIAL STOCKHOLDERS

Legal Authority: 15 USC 78(b); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16a-1 to 240.16a-11

Abstract: Section 16(a) of the Securities Exchange Act of 1934 requires that officers, directors and principal stockholders of corporations whose securities are registered under that Act, must file public reports disclosing their ownership therein. Since 1934, the Commission has adopted a series of eleven rules under this section to implement the reporting requirement. The rules are technical and complex and, over the years, certain of their provisions may have lost significance. The Commission intends to conduct a thorough review of these rules with a view to their present suitability in terms of the statutory purpose, and their clarity from the standpoint of those who must comply with their requirements. The Commission does not anticipate that this review will result in additional costs to persons required to file reports. On the contrary, the Commission believes that such a review may result in savings to persons filing reports, with no lessening of the protection afforded the public by the reporting system.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	

Small Entity: Undetermined

Agency Contact: William E. Toomey, Assistant Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2573

RIN: 3235-AB04

25. ●RULES 16B-1-16B-11 - EXEMPTIONS FROM SECTION 16(B) OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 78(b); 15 USC 77p(b); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16b-1; 17 CFR 240.16b-2; 17 CFR 240.16b-3; 17 CFR 240.16b-4; 17 CFR 240.16b-5; 17 CFR 240.16b-6; 17 CFR 240.16b-7; 17 CFR 240.16b-8; 17 CFR 240.16b-9; 17 CFR 240.16b-10; 17 CFR 240.16b-11

Abstract: Section 16(b) of the Securities Exchange Act of 1934 provides that profits obtained by officers, directors and principal stockholders from transactions completed within six months in the equity securities of their corporation may be recovered by the corporation. Since 1934 the Commission has adopted eleven rules under this section exempting certain transactions from the recovery provisions of the statute. The rules are technical and complicated and the relevance of certain of their provisions has diminished by the passage of time and changing practices. The Commission intends to review these rules to examine their present suitability in terms of the purposes of the statute, and their clarity from the point of view of those who must rely on them. The Commission does not anticipate that this review will increase compliance costs. Rather, the Commission believes that may result in benefits to those who seek to rely on the exemptive provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	

Small Entity: Undetermined

Agency Contact: William E. Toomey, Assistant Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 3-3), Washington, DC 20549, 202 272-2573

RIN: 3235-AB11

26. ●RULES 16C-1-16C-3 - EXEMPTION OF CERTAIN SECURITIES FROM SECTION 16(C)

Priority: Agency Determination

Legal Authority: 15 USC 77(b); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16c-1; 17 CFR 240.16c-2; 17 CFR 240.16c-3

Abstract: Section 16(c) of the Securities Exchange Act of 1934 prohibits officers, directors and principal stockholders from making short sales of the securities of their corporations. The Commission has adopted three exemptive rules under this section. Certain provisions of these rules may no longer be relevant to contemporary market practices. The Commission intends to review these rules and assess their effectiveness in terms of the statutory purpose. It is not anticipated that this review will result in any cost to the persons affected.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	

Small Entity: Undetermined

Agency Contact: William E. Toomey, Assistant Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 3-3), Washington, DC 20549, 202 272-2573

RIN: 3235-AA88

27. ●RULE 16E-1 - ARBITRAGE TRANSACTIONS UNDER SECTION 16

Legal Authority: 15 USC 78(b); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16e-1

Abstract: Section 16(e) of the Securities Exchange Act of 1934 exempts foreign and domestic arbitrage transactions from the provisions of Section 16 of the Act, unless made in contravention of Commission rule. The Commission has adopted only one rule under this section which relates to arbitrage transactions conducted by officers and directors of certain corporations. As part of its review of the rules adopted under Section 16, the Commission intends to reexamine this rule in light of the purpose of Section 16(e). It is not anticipated that this review will result in any costs to persons concerned with compliance.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	

Small Entity: Undetermined

Agency Contact: William E. Toomey, Assistant Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 3-3), Washington, DC 20549, 202 272-2573

RIN: 3235-AA99

28. ●RULE 24B-2 -- NON-DISCLOSURE OF INFORMATION FILED WITH THE COMMISSION AND WITH ANY EXCHANGE

Legal Authority: 15 USC 78l; 15 USC 78n(e)

CFR Citation: 17 CFR 240.24b-2; 17 CFR 240.26

Abstract: Rule 24b-2 under the Securities Exchange Act of 1934 and Rule 26 of the Commission's Rules of Practice and Investigation provide a procedure by which the SEC may accord confidential treatment to certain information filed with the SEC. The application of these rules to tender offers, however, may result in the subject information being kept confidential during the duration of a tender offer even though the Commission staff ultimately determines confidential treatment is not justified. The Commission may amend these rules to provide expedited processing of confidential treatment requests relating to tender offer materials. This procedure would provide a benefit to bidders and subject companies filing tender offer materials pursuant to sections 14(d) and 13(e) under the Exchange Act at little additional cost.

Timetable:

Action	Date	FR Cite
NPRM	11/01/83	

Small Entity: Undetermined

Agency Contact: Joseph G. Connolly, Jr., Chief, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-3097

RIN: 3235-AB03

VOL 48 ISS 201 OCT 17 1983 UMI

29. ●249.103–249.104—FORMS 3 AND 4 - FORMS FOR REPORTS TO BE FILED BY OFFICERS, DIRECTORS, AND SECURITY HOLDERS

Legal Authority: 15 USC 78(b); 15 USC 78w(a)

CFR Citation: 17 CFR 249.103; 17 CFR 249.104

Abstract: Section 16(a) of the Securities Exchange Act of 1934 requires officers, directors and principal stockholders of certain corporations to file public reports disclosing their initial ownership of the equity securities of such corporations, as well as reports of any subsequent changes therein. To implement this provision the Commission adopted Form 3 for the initial report of ownership, and Form 4 for the reporting of subsequent changes. Both forms require revision in order to make them responsive to contemporary needs, and to make them more compatible with current data processing techniques. The Commission plans to review both forms with a view to making the revisions that would accomplish these goals. The Commission does not anticipate that this review will result in any additional compliance costs. Rather, it is believed that simpler reporting forms will yield benefits to those persons required to report.

Timetable:

Action	Date	FR Cite
NPRM	09/00/84	

Small Entity: Undetermined

Agency Contact: William E. Toomey, Assistant Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 3-3), Washington, DC 20549, 202 272-2573

RIN: 3235–AB00

30. ●RULE 415 - DELAYED OR CONTINUOUS OFFERING AND SALE OF SECURITIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a)

CFR Citation: 17 CFR 230.415

Abstract: Rule 415 is a procedural rule that permits the registration of securities to be offered and sold on a delayed or continuous basis. The Rule was adopted on a temporary basis in March of 1982 and, in September of 1982, the Commission extended the effective date until December 31, 1983. The Rule is currently out for comment and the Commission expects to make a final determination on the Rule by November of 1983.

Timetable:

Action	Date	FR Cite
NPRM	06/09/83	48 FR 27768
NPRM Comment Period Begin	06/09/83	
NPRM Comment Period End	09/12/83	
Final Action	11/00/83	

Small Entity: No

Agency Contact: Steven L. Molinari, Staff Attorney, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 2-10), Washington, DC 20549, 202 272-2589

RIN: 3235–AB09

31. REGULATION 14A – SOLICITATION OF PROXIES

Priority: Undetermined

Legal Authority: 15 USC 78n(a) Exchange Act; 15 USC 78w(a) Exchange Act

CFR Citation: 17 CFR 240.14a-1 to 240.14a-12; 17 CFR 240.14a-101; 17 CFR 240.14a-102

Abstract: Regulation 14A specifies the information required to be disclosed to security holders to enable them to make informed decisions concerning authorization of proxies. Regulation 14A consists of twelve rules and Schedules 14A and 14B. These provisions contain requirements regarding disclosures in, and dissemination and filing of, proxy solicitations with respect to a security registered pursuant to Section 12 of the Exchange Act, opposition solicitations with respect to the election of directors and annual reports to security holders accompanying or preceding a proxy solicitation with respect to a security registered pursuant to Section 12 of the Exchange Act. This regulation is being reviewed in conjunction with the Commission's examination of its proxy rules and will encompass any provisions not specifically covered in other related proxy review projects. The review will attempt to identify ineffective or outmoded rules and, as appropriate, rescind or replace such rules with alternatives designed to maximize shareholder protection while minimizing burdens on registrants.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	
Final Action	12/30/83	

Small Entity: Undetermined

Agency Contact: Steven L. Molinari, Attorney Advisor, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235–AA23

32. REGULATION 14C – DISTRIBUTION OF INFORMATION PURSUANT TO SECTION 14(C)

Priority: Undetermined

Legal Authority: 15 USC 78n(a) Exchange Act; 15 USC 78w(a) Exchange Act

CFR Citation: 17 CFR 240.14c-1 to 240.14c-7; 17 CFR 240.14c-101

Abstract: Regulation 14C consists of seven rules and Schedule 14C, which contain requirements as to the dissemination, content and filing of information statements in connection with annual or other meetings of holders of securities registered pursuant to Section 12 of the Exchange Act and annual reports to security holders accompanying or preceding such information statements. The Rules are intended to enable security holders to make informed voting decisions in any matters to be acted upon at annual or other meetings in those situations where proxies are not being solicited. This regulation is being reviewed in conjunction with the Commission's examination of its proxy rules. The review will attempt to identify ineffective or outmoded rules and, as appropriate, rescind or replace such rules with alternatives designed to maximize shareholder protection while minimizing burdens on issuers. The review also will update rules where necessary to accord with changes in state law.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	

Small Entity: Undetermined

Agency Contact: Steven L. Molinari, Attorney Advisor, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235–AA24

SECURITIES MARKETS AND SECURITIES INDUSTRY RULES

33. PROPOSED RULE 11A-1

Priority: Undetermined

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78c Exchange Act; 15 USC 78f Exchange Act; 15 USC 78i Exchange Act; 15 USC 78j Exchange Act; 15 USC 78k Exchange Act; 15 USC 78k-1 Exchange Act; 15 USC 78o Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.11A-1

Abstract: In connection with the partial removal of exchange off-board trading restrictions through Rule 19c-3, the Commission has proposed a revised rule, Rule 11A-1, to address order exposure concerns. Proposed Rule 11A-1 would require exchange and over-the-counter market makers in Rule 19c-3 securities, prior to executing an order as principal, to hold the order out for 30 seconds, thereby allowing other market makers to compete for that order. Alternatively, the proposed rule would permit the market maker to compete for orders by maintaining competitive quotations in the National Association of Securities Dealers' Computer Assisted Execution System or the Cincinnati Stock Exchange's National Securities Trading System, and routing orders to those systems. The proposed rule also contains a number of specific exceptions to order exposure requirements. The Commission will consider public comment on the impact of the proposed rule on small broker-dealers in connection with its final rulemaking.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	12/23/82	
NPRM	12/30/82	47 FR 58287
NPRM Comment Period End	03/01/83	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: The Commission deferred adopting the Rule on an indefinite basis on July 28, 1983.

Agency Contact: William W. Uchimoto, Staff Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, NW, Washington, DC 20549, 202 272-2409

RIN: 3235–AA39

34. PROPOSED RULE 15B7-1 – MINIMUM QUALIFICATION STANDARDS FOR NON-MEMBER BROKER-DEALERS AND ASSOCIATED PERSONS

Priority: Undetermined

Legal Authority: 15 USC 78o(b)(7) Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.15b7-1

Abstract: Associated persons of SECO broker-dealers are currently subject to examination and filing requirements under Rule 15b8-1. Under the proposal, Rule 15b7-1 would replace Rule 15b8-1 and upgrade the qualification standards applicable to SECO broker-dealers to parallel those of the NASD. The Commission considered exempting small broker-dealers from the rule, but instead modified the proposal to lessen the requirements applicable to small entities. The proposed examination fee would be approximately $40 and the filing fee would be $50. There are also costs involved in preparing for the examination and filling out the form. The benefits to the public are difficult to quantify. Qualification examinations help ensure that new entrants to the securities business understand the securities laws and are aware of their obligations to their customers. The benefits of the filing requirement include better surveillance of the activities of SECO broker-dealers.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	05/04/82	
NPRM	05/14/82	47 FR 20783
NPRM Comment Period End	07/01/82	

Next Action Undetermined

Small Entity: Yes

Additional Information: Legislation has been enacted to end the SECO program and require all SECO broker-dealers to join the NASD by December 8, 1983. We anticipate withdrawing proposed rule 15b7-1 in the near future.

Agency Contact: Sarah Ackerson, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, NW, Washington, DC 20549, 202 272-2857

RIN: 3235–AA07

35. SECURITIES EXCHANGE ACT RULE 15C2-11 INITIATION AND RESUMPTION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Priority: Undetermined

Legal Authority: 15 USC 78c Exchange Act; 15 USC 78j Exchange Act; 15 USC 78o Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.15c2-11

Abstract: Rule 15c2-11 regulates the publication and submission of over-the-counter quotations by brokers and dealers. For several reasons, the Rule, as currently drafted and administered, does not ensure that brokers and dealers will be precluded from furnishing arbitrary quotations for certain over-the-counter securities in a variety of situations. Accordingly, the Commission has solicited public comment concerning several amendments to the Rule and is reviewing compliance practices respecting certain of the Rule's provisions. Publication of the proposed amendments will also provide an opportunity for a public review of Rule 15c2-11 to determine whether it achieves its objectives at a reasonable cost. In that connection, the Commission has solicited comment on whether there is any continuing need for the Rule and whether the Commission should rescind it rather than adopt the proposed amendments.

Timetable:

Action	Date	FR Cite
NPRM SEC Release No. 34-19673	04/13/83	48 FR 17111
NPRM	04/14/83	
NPRM Comment Period Begin	04/14/83	
NPRM Comment Period End	06/14/83	
Final Action	00/00/00	

Next Action Undetermined

Small Entity: Undetermined

VOL
48
ISS
201
OC
17
1983
UMI

Agency Contact: Howard A. Bartnick, Assistant Director, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, NW, Washington, DC 20549, 202 272-2874

RIN: 3235-AA48

36. ●RULE 17AD-2(E)

Priority: Undetermined

Legal Authority: 15 USC 78q-1(d) Exchange Act

CFR Citation: 17 CFR 240.17Ad-2(e)

Abstract: The proposed amendment to Rule 17Ad-2(e) would establish a minimum performance standard for the turnaround of certificates by certain transfer agents that qualify as small entities under the Regulatory Flexibility Act and that are exempt from certain Commission rules respecting the turnaround of certificates presented for transfer of record ownership. The proposed rule amendment is designed to reduce delays experienced by securityholders in obtaining transfer of ownership and thereby eliminate costs associated with those delays. The proposed amendment will be evaluated in light of the relative costs and benefits to the public and affected transfer agents.

Timetable:

Action	Date	FR Cite
NPRM	06/10/83	48 FR 28109
NPRM Comment Period Begin	06/10/83	48 FR 28109
NPRM Comment Period End	09/01/83	
Final Action	01/01/84	

Small Entity: Undetermined

Agency Contact: Jonathan Kallman, Branch Chief, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, 202 272-2775

RIN: 3235-AB01

37. ●RULE 17AD-2(E)

Priority: Undetermined

Legal Authority: 15 USC 78q-1(d) Exchange Act

CFR Citation: 17 CFR 240.17Ad-2(e)

Abstract: The proposed amendment to Rule 17Ad-2(e) would establish a minimum performance standard for the turnaround of certificates by certain transfer agents that qualify as small entities under the Regulatory Flexibility Act and that are exempt from certain Commission rules respecting the turnaround of certificates presented for transfer of record ownership. The proposed rule amendment is designed to reduce delays experienced by securityholders in obtaining transfer of ownership and thereby eliminate costs associated with those delays. The proposed amendment will be evaluated in light of the relative costs and benefits to the public and the transfer agent industry.

Timetable:

Action	Date	FR Cite
NPRM	06/10/83	48 FR 28109
NPRM Comment Period Begin	06/10/83	48 FR 28109
NPRM Comment Period End	09/01/83	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Jonathan Kallman, Branch Chief, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, 202 272-2775

RIN: 3235-AB13

38. ●RULE 17AD-5 -- RESPONSE TO INQUIRIES

Priority: Undetermined

Legal Authority: 15 USC 78q-1(d) Exchange Act

CFR Citation: 17 CFR 240.17Ad-5

Abstract: The proposed amendment to Rule 17Ad-5 would require registered transfer agents to respond to securityholder inquiries respecting dividend and interest claims within five business days of receipt. The registered transfer agent would not be required, however, to pay those claims within the time frame set forth in the proposed amendment. This amendment is designed to accelerate the time frame within which dividend claims are researched and settled. The proposed amendment will be evaluated in light of the relative costs and benefits to the public and the transfer agent industry.

Timetable:

Action	Date	FR Cite
NPRM	06/10/83	48 FR 28109
NPRM Comment Period Begin	06/10/83	48 FR 28109
NPRM Comment Period End	09/01/83	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Jonathan Kallman, Branch Chief, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, 202 272-2775

RIN: 3235-AB12

INVESTMENT MANAGEMENT RULES

39. MUTUAL FUND GOVERNANCE

Priority: Undetermined

Legal Authority: 15 USC 80a-16(c); 15 USC 80a-35; 15 USC 80a-6(c)

CFR Citation: Not yet determined

Abstract: On December 10, 1982, the Commission issued an advance concept release (Investment Company Act Release No. 12888, (47 FR 56509)) soliciting public comment on whether the Commission should propose rules or recommend legislation which would provide for an alternative form of mutual fund governance. Specifically, this release requests comment on whether mutual funds should be exempted from shareholder voting and/or director requirements under the Investment Company Act of 1940 (the "Act") and, if so, whether conditions could be fashioned which would adequately insure against loss of investor protection. Although such changes might be effected through rulemaking, the Commission has indicated that, in its preliminary judgment, changes of this magnitude should be effected through legislative rather than administrative action. Since the costs and benefits of providing for an alternative scheme of mutual fund governance cannot be estimated at the present time, the release solicits specific comment on the costs and benefits which would result from such changes. Extension of comment period until April 18, 1983 was announced in Investment Company Act Release No. 13012 (cont)

Timetable:

Action	Date	FR Cite
ANPRM Comment Period Begin		48 FR 6354
ANPRM	12/10/82	47 FR 56509
Ext'n of Comment Period to 4/18/83	02/07/83	48 FR 6354
ANPRM Comment Period End	04/18/83	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: (February 7, 1983) 48 FR 6354.

Agency Contact: Mary Crook, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3010

RIN: 3235-AA44

40. UTILIZING PRIVATE ENTITIES IN INVESTMENT COMPANY EXAMINATIONS AND IMPOSING EXAMINATION FEES

Priority: Undetermined

Legal Authority: 15 USC 80a-30; 15 USC 80a-31; 15 USC 80a-37

CFR Citation: Not yet determined

Abstract: The Commission is considering the concept of utilizing private entities in investment company examinations and imposing inspection fees, in order to supplement the Commission's investment company examination program. In light of the dramatic growth which has occurred in the investment company industry in recent years and the budgetary constraints under which the Commission operates, the Commission is considering what alternatives may be available to ensure that investment company examinations continue to be conducted with sufficient regularity. On February 23, 1983, in an advance concept release, (Investment Company Act Release No. 13044, 48 FR 8485), the Commission requested comment on a number of alternatives: (1) authorization of the creation of one or more self-regulatory organizations to conduct routine periodic examinations of investment companies; (2) use of investment company independent auditors to conduct certain additional procedures as a substitute for similar procedures now performed by Commission examiners during examinations; (3) some combination of these alternatives; and (4) collection of fees from investment companies to cover (cont)

Timetable:

Action	Date	FR Cite
ANPRM	02/23/83	48 FR 8485
ANPRM Comment Period Begin	02/23/83	48 FR 8485
ANPRM Comment Period End	05/24/83	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: part or all of the cost of investment company examinations. It is not possible at this time to estimate the benefits and costs associated with the use of private entities in the examination program. In the advance concept release, the Commission specifically requested that commentators address these issues to the extent they are able to do so. The approximate cost to the Commission of conducting an investment company examination is $4,500.

Agency Contact: Mary S. Champagne, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2079

RIN: 3235-AA42

41. AMENDMENT TO RULE 180 -- EXEMPTION FROM REGISTRATION OF CERTAIN INTERESTS AND PARTICIPATIONS IN CERTAIN H.R. 10 PLANS

Priority: Undetermined

Legal Authority: 15 USC 77c(a)(2); 15 USC 77s(a)

CFR Citation: 17 CFR 230.180

Abstract: Rule 180 provides an exemption from the registration requirements of the Securities Act for interests and participations issued in connection with certain qualified H.R. 10 plans. In order for interests in funding media issued to plans established by financially inexperienced employers to qualify for the rule's exemption, the rule, as adopted, requires those employers to obtain financial advice from an independent expert prior to adopting the H.R. 10 plan. Among other things, the Commission is considering proposing an amendment to Rule 180 that would codify a present "no-action" position regarding the situation where a financially unsophisticated employer has already established a plan for its employees without obtaining advice from an independent expert, and intends either to change the funding medium or add another funding medium to the choices already available to employees. The issuer of the funding medium in such a case would be in compliance with the rule if the issuer has reasonable grounds to believe and, after having made reasonable inquiry, does believe, that an independent financial expert reviewed the funding medium prior to the investment of the (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: plan's assets in that funding medium. The type of amendment being considered would impose no additional compliance cost, and would increase the flexibility of existing plans and the number of investment choices available to participating employees.

Agency Contact: Forrest R. Foss, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2147

RIN: 3235-AA08

42. RULE 482 UNDER THE SECURITIES ACT OF 1933 -- ADVERTISING BY AN INVESTMENT COMPANY AS SATISFYING REQUIREMENTS OF SECTION 10

Priority: Undetermined

Legal Authority: 15 USC 77j; 15 USC 77s(a); 15 USC 80a 37a

CFR Citation: 17 CFR 230.482; 17 CFR 239.15; 17 CFR 274.11

Abstract: As originally adopted, Rule 482 permitted investment companies to distribute prospectuses that omitted information which was generally required in statutory prospectuses ("omitting prospectuses") to potential investors by using various forms of public media, but not direct mail solicitations. Rule 482 also permitted money market funds to advertise their yields as determined in accordance with Item 17 of Form N-1. In Investment Company Act Release No. 13049 (February 28, 1983) the Commission adopted temporary amendments to Rule 482: (i) to permit investment companies to mail omitting prospectuses directly to potential investors; (ii) to modify the method by which money market funds calculate their yield by changing the method by which the base period return is calculated for the purpose of eliminating the bias in favor of those funds that pay dividends monthly; and (iii) to permit money market funds to include a compound yield figure in their prospectuses and advertisements pursuant to Rule 482. Since the amendments relaxed certain restrictions on advertising they are expected to

VOL 48 ISS 201 OCT 17 1983 UMI

benefit investment companies by allowing them to compete more (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/28/83	
NPRM Comment Period Begin	02/28/83	48 FR 10297
NPRM Comment Period End	04/29/83	
Final Action	09/30/83	

Small Entity: Yes

Additional Information: ABSTRACT CONT: effectively with other financial institutions. However, there does not currently exist a basis upon which to quantify the benefit of this action for those registrants affected. In considering these amendments, the Commission considered establishing different advertising requirements for small investment companies, and exempting small investment companies from the restrictions on advertising, but has concluded that to reduce the requirements further would significantly impair investor protection and would be contrary to the disclosure policies of the 1933 and 1940 Acts.

Agency Contact: Larry L. Greene, Esq., Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-7320

RIN: 3235-AA70

43. REGULATION E EXEMPTION FOR SECURITIES OF SMALL BUSINESS INVESTMENT COMPANIES

Priority: Undetermined

Legal Authority: 15 USC 77c(c) Securities Act; 15 USC 77s(a) Securities Act

CFR Citation: 17 CFR 230.601 to 230.610(a)

Abstract: Regulation E exempts from registration, subject to certain terms and conditions, securities issued by any small business investment company which is licensed as such (or has a license application pending) under the Small Business Investment Act of 1958 and registered under the Investment Company Act of 1940 ("Investment Company Act"). The Commission is considering amending Regulation E to further reduce the regulatory burden on small business investment company issuers. Any such amendments would generally have the effect of paralleling amendments made to Regulation A in September 1978 (see Securities Act Release No. 5977, September 11, 1978 (43 FR 41383, September 18, 1978)). Specifically, the Commission is considering: (i) increasing the amount of securities that may be sold within a twelve month period under Regulation E from $500,000 to $1,500,000, and (ii) increasing the amount of securities that can be sold under Regulation E without the use of an offering circular from $50,000 to $100,000. In addition, the Commission is considering allowing Business Development Companies to use Regulation E by amending Regulation E and by adding a new schedule B to (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Yes

Additional Information: ABSTRACT CONT: Regulation E for use by Business Development Companies. No method currently exists to quantify the costs to the small business investment company industry of complying with an amended Regulation E. However, to the extent that any such amendments make Regulation E available to more issuers, the staff is of the opinion that the benefits of complying with amended Regulation E would far outweigh the costs to such issuers of registration under the Securities Act. With respect to the costs imposed on the Commission by virtue of Regulation E amendments, the staff believes that the costs associated with proposed Regulation E amendments would be negligible.

Agency Contact: Gregory K. Todd, Esq., Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-7317

RIN: 3235-AA09

44. SIMPLIFICATION OF REGISTRATION STATEMENTS FILED BY UNIT INVESTMENT TRUSTS

Priority: Undetermined

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Abstract: Forms S-6 and N-8b-2 are the registration statement forms under the Securities Act of 1933 and the Investment Company Act of 1940, respectively, for unit investment trusts. Included within Form S-6 is the trust's prospectus used in offering securities to the public. A substantial amount of the information required by Form N-8b-2 is also required by Form S-6. Consequently, one goal of the Commission with regard to simplification of registration statements for unit investment trusts is the integration of the disclosure requirements of Forms S-6 and N-8b-2. The Commission also believes that current prospectuses for unit investment trusts have become too cumbersome for the average investor to understand and that current disclosure requirements result in the dissemination of much information that is not necessarily material to an investment decision. Simplification of prospectus requirements for unit investment trusts will, therefore, make disclosure easier for investors to understand and reduce the costs and burdens on those registrants affected. Since the action will apply to all unit investment trust registrants it is expected to have a significant economic impact on a (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/30/84	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: substantial number of small entities. However, the contemplated amendments are still in the developmental stage and have not been formally proposed by the Commission. Thus, the extent of the simplification of unit investment trust prospectuses actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are anticipated to be significant.

Agency Contact: Larry Greene, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-7320

RIN: 3235-AA47

45. REVISION OF INVESTMENT COMPANY PROXY RULES

Priority: Undetermined

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20; 15 USC 80a-37

CFR Citation: 17 CFR 240.14a-1 to 240.14a-102; 17 CFR 240.14b-1; 17 CFR 240.14c-1 to 240.14c-101; 17 CFR 270.20a-1; 17 CFR 270.20a-2; 17 CFR 270.20a-3

Abstract: Absent an exception, every solicitation of a proxy, authorization or consent in respect of any security with respect to which a registered investment company is the issuer, is subject to rules adopted pursuant to the Securities Exchange Act of 1934 and the Investment Company Act of 1940 concerning solicitations of proxies. Solicitations to which the rules apply may not commence unless each person solicited is furnished or has previously been furnished with a proxy statement containing specified information prepared in accordance with certain rules and the material has been filed with the Commission. The existing proxy rules were adopted in piecemeal fashion and have been the subject of frequent changes. This has led to certain duplicative and, in certain cases, complex requirements. To the extent that a proxy statement contains repetitive material or is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions. In order to update the proxy regulations and, in doing so, improve the (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: readability of proxy statements and eliminate unnecessary disclosure costs, the Commission has commenced a comprehensive review of the proxy regulations as they relate to investment companies. There does not currently exist a basis upon which to quantify the reduced costs and burdens of such action on those registrants affected. Since the action will apply to all registered investment companies soliciting proxies, unless the solicitation is excepted, the Action is expected to have a significant impact on a substantial number of small entities. However, the contemplated revisions are still in the developmental stage and have not yet been formally proposed by the Commission. Thus, the extent of the revision actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are anticipated to be significant.

Agency Contact: Larry Greene, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-7320

RIN: 3235-AA69

46. AMENDMENT OF RULE 2A-5 -- CERTAIN PERSONS NOT DEEMED INTERESTED PERSONS

Priority: Undetermined

Legal Authority: 15 USC 80a-6(c) Investment Company Act; 15 USC 80a-37(a) Investment Company Act

CFR Citation: 17 CFR 270.2a-5

Abstract: The Commission is considering whether to propose an amendment to Rule 2a-5 under the Investment Company Act. Rule 2a-5 presently affords a narrow exemption from that part of Section 2(a)(19) of the Act which defines as an interested person of another person any broker or dealer registered under the Exchange Act or any affiliated person of such a broker or dealer. The Commission will consider rulemaking that would broaden that exemption while still providing protection to investors. This would benefit regulated investment companies by increasing the pool from which directors may be chosen without contravention of, inter alia, Section 10(a) of the Act which governs the composition of investment companies, boards of directors. The conditions set forth in the proposed rule will be those that the Commission believes necessary to protect investors and implement the policies of the Act. A potential cost of the amendment under consideration would be a requirement that the board of directors of any affected investment company determine that such company would not be adversely affected by compliance with the amended rule's conditions; the time involved in such a (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: determination may be viewed as a cost. It is believed, however, that these costs would be far outweighed by the benefits of the suggested amendment including alleviating the need for investment companies to formally apply for Commission exemptive orders in situations addressed by the rule. As is presently the case, investment companies would still be able to seek exemptive orders, notwithstanding the existence of a generic rule.

Agency Contact: Brian M. Kaplowitz, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3027

RIN: 3235-AA11

47. PROPOSED RULE 3A-4 -- INDIVIDUALIZED INVESTMENT MANAGEMENT SERVICES

Priority: Undetermined

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a); Investment Company Act, Sec 6(c); Investment Company Act, Sec 38(a)

CFR Citation: 17 CFR 270.3a-4

Abstract: In Investment Company Act Release No. 11391 (October 10, 1980) (45 FR 69479) the Commission proposed for public comment Rule 3a-4, which would deem investment management services providing their clients with individualized treatment not to be investment companies for purposes of the Act. The rule provides a "safe harbor" for any investment manager providing its clients with treatment based on the needs and goals of each client. Under such circumstances, regulation of investment management services under the Act appears unnecessary. The proposed rule was intended to clarify the Commission's position on the question of "mini-accounts" by providing a safe harbor for certain investment management services and thereby provide some certainty to the public. The Commission does not expect any final action taken on the proposal to significantly affect the cost of providing investment management services. The public comment letters on the proposal have been reviewed and alternatives for final action are being formulated.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	10/10/80	45 FR 69479
NPRM	10/21/80	45 FR 69479
NPRM Comment Period End	01/31/81	
Final Action	12/31/83	

Small Entity: Undetermined

VOL 48 ISS 201 OCT 17 1983 UMI

Additional Information: NPRM is Release No. IC-11391 (10/10/80)

Agency Contact: Mary Crook, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3010

RIN: 3235-AA12

48. AMENDMENT TO RULE 6C-1 -- EXEMPTION FOR SUBSIDIARIES ORGANIZED TO FINANCE THE OPERATIONS OF DOMESTIC OR FOREIGN COMPANIES

Priority: Undetermined

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a); Investment Company Act, Sec 6(c); Investment Company Act, Sec 38(a)

CFR Citation: 17 CFR 270.6c-1

Abstract: In Investment Company Act Release No. IC-12679 (September 22, 1982) the Commission proposed for public comment a comprehensive revision of Rule 6c-1 under the Act. The recommended amendments would greatly expand Rule 6c-1 to exempt from all provisions of the Act certain finance subsidiaries of United States and foreign private issuers. An exemptive rule is the least burdensome method available to accomplish the proposed amendment's objectives. An unconditional exemption, however, would be inconsistent with the public interest standard set forth in Section 6(c) of the Act and therefore the Commission has proposed certain conditions it believes are necessary and appropriate to fulfill the statutory requirements. The proposed rule would reduce the compliance burden faced by covered finance subsidiaries by obviating the need for them to file exemptive applications. The application procedure, of course, would still be available notwithstanding the rule's existence.

Timetable:

Action	Date	FR Cite
NPRM	09/22/82	47 FR 42578
NPRM Comment Period Begin	09/22/82	47 FR 42578
NPRM Comment Period End	11/05/82	
Final Action	12/31/83	

Small Entity: Undetermined

Additional Information: NPRM is Release No. IC-12879 (09/22/82)

Agency Contact: Jeffrey Puretz, Esq., Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3036

RIN: 3235-AA13

49. PROPOSED RULES 11A-3 AND 11A-4 UNDER THE INVESTMENT COMPANY ACT

Priority: Undetermined

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-11(a); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.11a-3; 17 CFR 270.11a-4

Abstract: The Commission is considering whether to propose a Rule 11a-3 and a Rule 11a-4 which would exempt certain persons from the requirements of Section 11(a) of the Investment Company Act. That section generally prohibits any registered open-end investment company and the principal underwriter of its shares from making an offer to a shareholder to exchange his security for another security on any basis other than the net asset values of the securities to be exchanged without approval of the Commission. Section 11(c) extends the prohibitions of Section 11(a) to offers of the securities of unit investment trusts. The Commission has issued numerous orders permitting open-end management companies and the principal underwriter(s) of their shares to make exchange offers on the basis of the relative net asset value of the securities being exchanged plus a sales load equal to the difference between the sales load which would otherwise be charged on the securities to be acquired and on the securities to be exchanged. The Commission has also issued orders permitting unit investment trusts and their sponsors to make offers of exchange based on the relative net asset (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/31/83	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: value of the respective securities plus a fixed fee to cover expenses. The proposed rules would codify such orders (Rule 11a-3 for management companies; Rule 11a-4 for unit investment trusts) thereby eliminating the cost for small companies of preparing applications seeking the orders. Thus, the proposed rules would have a beneficial economic impact on such companies. The proposed rules would contain several conditions to assure the protection of investors. Any such conditions would be included in the rule in order to adequately protect investors against the abuses addressed by Section 11.

Agency Contact: Forrest R. Foss, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2147

RIN: 3235-AA14

50. PROPOSED AMENDMENT TO RULE 17G-1 UNDER THE INVESTMENT COMPANY ACT

Priority: Undetermined

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-17(g); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17g-1

Abstract: The Commission is considering whether to adopt an amendment to Rule 17g-1 under the Investment Company Act. The amendment was proposed for public comment in Investment Company Act Release No. 11193 (June 2, 1980) (45 FR 38407). Rule 17g-1 requires every registered investment company to provide and maintain a bond against larceny and embezzlement covering officers and employees of the company. In some circumstances, the officers and employees of a company's depositor, trustee, investment adviser or other manager and various affiliates of such persons, because they have access to the company's assets, function as officers and employees of the investment company. The proposed amendment to the rule would clarify the scope of the rule by explicitly requiring the bonding of such persons. The principal cost associated with this rule would be the cost of a bond. That cost would vary according to the persons required to be bonded by the rule. In this regard, before adopting any amendment to the rule, the Commission will carefully consider what persons should be bonded to protect investors adequately, weighing the benefits of the protection against the cost of a bond.

Timetable:

Action	Date	FR Cite
NPRM	06/02/80	45 FR 38407
NPRM Comment Period Begin	06/02/80	45 FR 38407
NPRM Comment Period End	07/18/80	
Final Action	12/31/83	

Small Entity: Undetermined

Agency Contact: Mary Crook, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3010

RIN: 3235-AA16

51. RULE 17J-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Priority: Undetermined

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17j-1

Abstract: Rule 17j-1 requires every access person of a registered investment company, or of an investment adviser of or principal underwriter for the investment company to report to the investment company certain of his securities transactions. The Commission is considering whether to propose an amendment to this rule which would reduce the reporting requirement for investment company directors who are interested persons with respect to the investment company by reason of their affiliation with a registered broker-dealer. Members of the industry have characterized these reporting requirements as unnecessarily burdensome in some instances. Any such rule amendment would have the effect of lessening the reporting requirements currently imposed by the rule. As a result, the staff believes that the costs, which should be insignificant, of complying with any amendment would be significantly less than the benefits it would provide.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	

Small Entity: Undetermined

Agency Contact: Forrest R. Foss, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2147

RIN: 3235-AA68

52. PROPOSED RULE 22D-6 UNDER THE INVESTMENT COMPANY ACT

Priority: Undetermined

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.22d-6

Abstract: The Commission is considering whether to adopt rule 22d-6 under the Investment Company Act, which was proposed for public comment in Release IC-13183 (April 22, 1983), and for which the public comment period was extended to September 30 in Release IC-13412 (July 29, 1983). The proposed rule would exempt investment companies ("funds") and other related entities from Section 22(d) of the Act, which requires that fund shares be sold only at a current public offering price described in the prospectus, and it would permit variations, including negotiation, in the sales loads on investment company shares. If adopted, existing rules 22d-1 through 22d-5 would be rescinded. In recent years, a large number of applications have been filed to permit the types of variations that would be permitted by the proposed rule, and the rule would eliminate the cost of such applications. This would benefit small companies since the cost of an application is probably more burdensome for a small company than a large company. The proposed rule's provision that would permit retail negotiation of sales loads may foster greater competition in the sale of fund shares, and this may impact small companies. (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/22/83	48 FR 19887
NPRM Comment Period Begin	04/22/83	48 FR 19887
NPRM Comment Period End	09/30/83	
Final Action	12/31/83	

Small Entity: Undetermined

Additional Information: However, the nature and degree of such impact are impossible to determine since any negotiation under the proposed rule is optional with a fund, and since the market for investment company shares is influenced by many other factors such as changes in the economy, interest rates, investor attitudes, and investor information. While alternatives other than the proposed rule were considered, the rule as proposed was deemed by the Commission to be appropriate in the public interest and consistent with the protection of investors.

Agency Contact: Jeffrey Puretz, Esq., Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3036

RIN: 3235-AA17

53. RULE 202-1 UNDER THE INVESTMENT ADVISERS ACT OF 1940, EXCLUSION OF CERTAIN PERSONS WHO OFFER INVESTMENT ADVICE TO THEIR EMPLOYER-SPONSORED EMPLOYEE BENEFIT PLANS

Priority: Undetermined

Legal Authority: 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.202-1

Abstract: Rule 202-1 generally excludes from the Advisers Act definition of investment adviser persons whose only advisory activities consist of providing investment advice to an employee benefit plan, as defined in ERISA, sponsored by their employer. The rule was adopted primarily to preclude such persons from voluntarily registering under the Advisers Act and thereby qualifying as "investment managers" under ERISA. The Commission proposed in Investment Advisers Act Release No. 870 (July 15, 1983) (48 FR 33312) that Rule 202-1 be rescinded. The costs and benefits of rescinding the rule cannot be estimated at this time; however, any costs to persons subject to the rule would be minimal in that rescinding the rule would permit but generally not require their registration under the Advisers Act.

Timetable:

Action	Date	FR Cite
NPRM	07/15/83	48 FR 33312
NPRM Comment Period Begin	07/15/83	48 FR 33312
NPRM Comment Period End	08/22/83	
Final Action	09/30/83	

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Forrest R. Foss, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2147

RIN: 3235-AA46

54. RULE 204-2 UNDER INVESTMENT ADVISERS ACT OF 1940 ("ADVISER'S ACT") -- BOOKS AND RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Undetermined

Legal Authority: 15 USC 80b-4 Advisers Act; 15 USC 80b-11 Advisers Act

CFR Citation: 17 CFR 275.204-2

Abstract: The rule requires a registered investment adviser to make and keep true, accurate, and current certain books and records relating to its investment advisory business. Such records enable the Commission's examination personnel to review the investment adviser's activities to determine whether they are fulfilling their responsibilities to their clients and complying with the relevant provisions of the Federal securities laws and the rules thereunder. Inasmuch as most investment advisers, as a matter of sound business practice, are likely to maintain books and records substantially similar to those required by the rule, the incremental costs of compliance are minimal. However, the rule is being reviewed to determine whether there are any unnecessary provisions which can be deleted or unduly complex provisions which can be simplified. These revisions, which are the product of the first comprehensive review the rule has received since it was adopted in 1962, would also reflect changes in the nature of the investment advisory business since adoption of the rule and the experience of the Commission's staff in conducting its inspection program. The revisions are (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/30/84	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: intended to reduce the already minimal incremental costs an investment adviser incurs in complying with the rule. The revisions are intended to result in recordkeeping rules which are easier to comply with and which permit the Commission's staff to conduct inspections of investment advisers more quickly and efficiently. Those recordkeeping requirements remaining in the rule will be those the Commission believes necessary for the protection of investors.

Agency Contact: Mary S. Champagne, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2079

RIN: 3235-AA18

55. PROPOSED RULE 205-3 UNDER THE INVESTMENT ADVISERS ACT OF 1940

Priority: Undetermined

Legal Authority: 15 USC 80b-6a

CFR Citation: 17 CFR 275.205-3

Abstract: Section 205 prohibits, with certain limited exceptions, registered investment advisers from being compensated on the basis of a share of capital gains upon, or capital appreciation of, the funds or any portion of the funds of a client. On June 10, 1983, in Investment Advisers Act Release No. 865, (48 FR 27771), the Commission proposed Rule 205-3 which would allow investment advisers to receive performance-based advisory fees under certain circumstances and which would have the effect of allowing advisers greater flexibility in structuring their compensation arrangement than is now permitted. The staff is of the opinion that the benefits of complying with the proposed rule would far outweigh the costs and believes that any costs associated with compliance would be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	06/10/83	48 FR 27771
NPRM Comment Period Begin	06/10/83	48 FR 27771
NPRM Comment Period End	09/12/83	
Final Action	01/01/84	

Small Entity: Undetermined

Agency Contact: Forrest R. Foss, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2147

RIN: 3235-AA65

56. RULES 206(3)-2 UNDER THE INVESTMENT ADVISERS ACT OF 1940

Priority: Undetermined

Legal Authority: 15 USC 80b-6(4); 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.206(3)-2

Abstract: On May 12, 1983, in Investment Advisers Act Release No. 860, (48 FR 22328), the Commission proposed an amendment to Rule 206(3)-2 under the Investment Advisers Act of 1940. The rule provides a non-exclusive method for compliance with Section 206(3) of the Advisers Act in connection with agency cross transactions for an advisory client by persons who might be considered to be acting in a conflict of interest in violation of their fiduciary duties to the client. The rule requires that the transaction be affected pursuant to a written consent effective for a period not to exceed one year and executed by the advisory client after full written disclosure that the investment adviser and/or an affiliated broker-dealer are acting as agent for and receiving commissions from both parties and, accordingly, have a conflicting division of loyalties and responsibilities. The proposed amendment would eliminate the requirements for annual written consent, thereby reducing the cost of compliance with the rule by investment advisers.

Timetable:

Action	Date	FR Cite
NPRM	05/12/83	48 FR 22328
NPRM Comment Period Begin	05/12/83	48 FR 22328
NPRM Comment Period End	06/28/83	
Final Action	09/07/83	

Small Entity: Undetermined

Agency Contact: Forrest R. Foss, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2147

RIN: 3235-AA41

PUBLIC UTILITY RULE

57. ●17 CFR PART 257-- PRESERVATION AND DESTRUCTION OF RECORDS OF REGISTERED PUBLIC UTILITY HOLDING COMPANIES AND OF MUTUAL AND SUBSIDIARY SERVICE COMPANIES

Priority: Undetermined

Legal Authority: 15 USC 79o; 15 USC 79t

CFR Citation: 17 CFR 256a; 17 CFR 257

Abstract: The regulation will revise and update the record retention requirements pertaining to registered holding companies and their mutual or subsidary service companies.

Timetable:

Action	Date	FR Cite
NPRM	08/26/83	
NPRM Comment Period Begin	09/03/83	
NPRM Comment Period End	10/18/83	

Small Entity: No

Agency Contact: James E. Lurie, Special Counsel, Securities and Exchange Commission, Division of Corporate Regulation, 450 5th Street, NW, Washington, DC 20549, 202 272-7648

RIN: 3235-AA92

SECURITIES AND EXCHANGE COMMISSION (SEC) — Existing Regulations Under Review

ACCOUNTING RULES

58. REGULATION S-X -- QUALIFICATIONS OF ACCOUNTANTS

Priority: Undetermined

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78m; 15 USC 78n; 15 USC 78(w); 15 USC 79e; 15 USC 79n; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-30; 15 USC 80a-37(a); 15 USC 78l; ...

CFR Citation: 17 CFR 210.2-01

Abstract: Rule 2-01 states the basic qualifications of accountants who practice before the Commission and the general meaning of the requirement that such accountants be independent. The rule provides guidance to registrants required to file financial statements that have been audited by independent accountants and assures that the accountants are entitled to practice accounting and are independent. The rule does not impose any costs on registrants.

Timetable:

Action	Date	FR Cite
End Review	10/31/83	

Small Entity: Yes

Agency Contact: Clarence Staubs, Assistant Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, D.C. 20549, 202 272-2130

RIN: 3235-AA43

59. REGULATION S-X -- SEPARATE AND PRO FORMA FINANCIAL STATEMENTS

Priority: Undetermined

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w; 15 USC 79e; 15 USC 79n; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-20; 15 USC 80a-37a; ...

CFR Citation: 17 CFR 210.1-02(v); 17 CFR 210.1-02(aa); 17 CFR 210.3-05; 17 CFR 210.3-09; 17 CFR 210.3-10(a); 17 CFR 210.4-08(e); 17 CFR 210.5-04 (Schedule III); 17 CFR 210.12-04; 17 CFR 210.11-01 and 11-03

Abstract: These rules relate to the requirements for (1) financial statements of businesses acquired; (2) pro forma financial statements; (3) supplementary financial disclosures of subsidiaries, investees accounted for under the equity method, guarantors of debt and parent company; and (4) separate financial statements of affiliated companies and additional footnote disclosures and schedule information in other situations. These financial statements or disclosures are required to provide investors with additional, useful financial information in the specified situations.

Timetable:

Action	Date	FR Cite
End Review	12/31/83	

Small Entity: Undetermined

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AA64

SECURITIES MARKETS AND SECURITIES INDUSTRY RULES

60. ●RULE 10B-7 -- STABILIZING TO FACILITATE A DISTRIBUTION

Priority: Undetermined

Legal Authority: 15 USC 78c(b) Exchange Act; 15 USC 78j(a)(6) Exchange Act; 15 USC 78j(b) Exchange Act; 15 USC 78w(a) Exchange Act

CFR Citation: 17 CFR 240.10b-7

Abstract: Rule 10b-7 regulates broker-dealers who place bids or make purchases for the purpose of pegging, fixing, or stabilizing the price of any security to facilitate an offering. The rule places restrictions on the timing, location, and pricing of such stabilizing bids or purchases, and provides that any such bid or purchase not made in compliance with the rule shall constitute a "manipulative or deceptive device or contrivance" as used in Section 10(b) of the Securities Exchange Act of 1934. The rule also imposes disclosure and reporting requirements in connection with stabilizing activities.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	12/31/84	

Small Entity: Undetermined

Agency Contact: Howard A. Bartnick, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2874

RIN: 3235-AA93

61. ●RULE 11AA2-1 -- DESIGNATION OF NATIONAL MARKET SYSTEM SECURITIES

Priority: Undetermined

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78c Exchange Act; 15 USC 78l Exchange Act; 15 USC 78i Exchange Act; 15 USC 78j Exchange Act; 15 USC 78k Exchange Act; 15 USC 78k-1 Exchange Act; 15 USC 78o Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.11Aa2-1

VOL 48 ISS 201 OCT 17 1983 UMI

Abstract: Prior to the adoption of Rule 11Aa2-1, disclosure of trading information in over-the-counter market ("OTC") stocks was limited. The rule requires certain actively-traded securities to be designated as national market system ("NMS") Securities and subject to compulsory quotation and last sale reporting. Other less actively traded OTC stocks, which meet less stringent criteria provided by the Rule, can be designated at the election of their issuers. Although some broker-dealers assert that the enhanced disclosure resulting from last sale reporting has reduced their trading profits and caused clerical burdens, the Commission believes that the benefits of increased pricing efficiency and enhanced opportunities for investors to receive best execution outweigh these burdens.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: William W. Uchimoto, Attorney, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2409

RIN: 3235-AA95

62. ●RULE 11AA3-1 – COLLECTION AND DISSEMINATION OF TRANSACTION REPORTS

Priority: Undetermined

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78c Exchange Act; 15 USC 78f Exchange Act; 15 USC 78i Exchange Act; 15 USC 78j Exchange Act; 15 USC 78k Exchange Act; 15 USC 78k-1 Exchange Act; 15 USC 78o Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.11Aa3-1

Abstract: The Rule assures the nationwide availability of last sale data in reported securities. Although the Rule creates some clerical burdens attendant with reporting, the benefits of enhanced pricing efficiency and enhanced opportunities for investors to receive best execution outweigh these burdens.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: William W. Uchimoto, Attorney, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2409

RIN: 3235-AA83

63. ●RULE 11AC1-1 – FIRM QUOTATION RULE

Priority: Undetermined

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78c Exchange Act; 15 USC 78f Exchange Act; 15 USC 78i Exchange Act; 15 USC 78j Exchange Act; 15 USC 78k Exchange Act; 15 USC 78k-1 Exchange Act; 15 USC 78o Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.11Ac1-1

Abstract: The Rule requires all national securities exchanges and associations to establish procedures for collecting from their members bids, offers and quotation sizes with respect to reported securities, and for making such bids, offers and sizes available to quotation vendors. It also requires that quotation information made available to vendors be firm subject to certain exceptions. Although the Rule imposes some burdens on the exchanges, in collecting and disseminating quotation information, the quality and reliability of the information disseminated to the public is enhanced.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: William W. Uchimoto, Attorney, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2409

RIN: 3235-AA96

64. ●RULE 11AC1-2 – VENDOR DISPLAY RULE

Priority: Undetermined

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78c Exchange Act; 15 USC 78f Exchange Act; 15 USC 78i Exchange Act; 15 USC 78j Exchange Act; 15 USC 78k Exchange Act; 15 USC 78k-1 Exchange Act; 15 USC 78o Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.11Ac1-2

Abstract: The Rule establishes minimum requirements governing the manner in which transaction, quotation and market information is displayed by vendors of securities information and broker-dealers. Although the Rule imposes certain burdens associated with formatting information, compliance with the Rule ensures that information is displayed in a fair and useful form to the broker-dealers.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: William W. Uchimoto, Attorney, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2409

RIN: 3235-AA84

65. ●RULE 12D2-1 – SUSPENSION OF TRADING

Priority: Undetermined

Legal Authority: 15 USC 781-4 Exchange Act; 15 USC 78w-1 Exchange Act

CFR Citation: 17 CFR 240.12d2-1

Abstract: Rule 12d2-1 provides that an exchange may suspend trading in a listed security in accordance with its rules and requires notice thereof to the Commission. The Commission is at the initial stages of its review of this rule. Consequently, potential alternatives to the rule, as well as their costs and benefits, have yet to be considered.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: Michael Cavalier, Branch Chief, Exchange Regulation, Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549, 202 272-2910

RIN: 3235-AA85

66. ●RULE 12D2-2 – REMOVAL FROM LISTING AND REGISTRATION OF MATURED REDEEMED OR RETIRED SECURITIES

Priority: Undetermined

Legal Authority: 15 USC 781-4 Exchange Act; 15 USC 78w-1 Exchange Act

CFR Citation: 17 CFR 240.12d2-2

Abstract: Rule 12d2-2 provides the conditions under which a matured, redeemed or retired security may be removed from listing and registration from a national securities exchange. In addition, the rule provides procedures for an exchange to strike a security from listing and registration or an issuer of a security to withdraw such security from exchange listing and registration. The Commission is at the initial stages of its review of this rule. Consequently, potential alternatives to the rule as well as their costs and benefits have yet to be considered.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: Michael Cavalier, Branch Chief, Exchange Regulation, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2910

RIN: 3235-AA97

67. ●RULE 17A-17 – REQUIREMENTS FOR BLOCK POSITIONER EXEMPT CREDIT FORM X-17A-17 – FORM ACCOMPANYING RULE 17A-17

Priority: Undetermined

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78c Exchange Act; 15 USC 78f Exchange Act; 15 USC 78i Exchange Act; 15 USC 78j Exchange Act; 15 USC 78k Exchange Act; 15 USC 78k-1 Exchange Act; 15 USC 78o Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.17a-17; 17 CFR 249.X-17A-17

Abstract: The Rule sets forth compliance requirements for those receiving Block Positioner exempt credit pursuant to Regulation U. Because these compliance requirements, which include the filing of Form X-17A-17, are no longer offset by any substantial regulatory benefits as compliance with exempt credit is reviewed through Commission and self-regulatory organizations, the Commission has proposed rescinding the Rule and adopting a definitional rule, Rule 3b-8 to define terms contained in Regulation U.

Timetable:

Action	Date	FR Cite
Begin Review	03/30/83	
End Review	10/30/83	

Small Entity: Undetermined

Agency Contact: William W. Uchimoto, Attorney, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2409

RIN: 3235-AA86

68. ●RULE 17F-1 – REQUIREMENTS FOR REPORTING AND INQUIRING WITH RESPECT TO MISSING, LOST, COUNTERFEIT OR STOLEN SECURITIES

Priority: Undetermined

Legal Authority: 15 USC 78q(f)(1) Exchange Act

CFR Citation: 17 CFR 240.7f-1

Abstract: Rule 17f-1 establishes a central data base of reported securities thefts and losses. Generally, the rule requires reporting institutions to report all lost, counterfeit, missing or stolen securities and to inquire respecting securities coming into possession to ascertain whether the securities have been reported as lost, counterfeit, or stolen unless the securities are received from a customer, a reporting institution or the issuer or as a part of a transaction which has an aggregate market value $10,000 or less. A reporting institution may register either as a direct inquirer and contact the Commission's designee (Securities Information Center) directly and pay for direct access or as an indirect inquirer and arrange for a direct inquirer to make the necessary inquiries on its behalf. An indirect inquirer does not pay the fees for inquiries made. This rule is currently being reviewed to assess the potential costs and benefits to the securities industry and the public.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	12/31/84	

Small Entity: Undetermined

Agency Contact: Jonathan Kallman, Branch Chief, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, 202 272-2775

RIN: 3235-AA94

69. ●RULE 19B-3 – PROHIBITING FIXING OF RATES OF COMMISSION BY EXCHANGES

Priority: Undetermined

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78f Exchange Act; 15 USC 78j Exchange Act; 15 USC 78k Exchange Act; 15 USC 78s Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.19b-3

Abstract: This rule prohibits a national securities exchange from adopting or retaining any rule that directly or indirectly requires its members or persons associated with its members to charge any person a fixed rate of commission for transactions effected on or through the use of the facilities of that exchange. The Commission is at the initial stages of its rule review process.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: William W. Uchimoto, Attorney, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2409

RIN: 3235-AA87

70. ●RULE 19B-4 - - - FILINGS WITH RESPECT TO PROPOSED RULE CHANGES BY SELF-REGULATORY ORGANIZATIONS FORM 19B-4

Priority: Undetermined

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78c Exchange Act; 15 USC 78f Exchange Act; 15 USC 78k-1 Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78o-4 Exchange Act; 15 USC 78q Exchange Act; 15 USC 78q-1 Exchange Act; 15 USC 78s Exchange Act

CFR Citation: 17 CFR 240.19b-4; 17 CFR 249.819

Abstract: The Securities Exchange Act of 1934 provides that a substantial portion of the regulation of the securities industry be conducted by self-regulatory organizations ("SRO") with Commission oversight. Section 19 requires that the Commission publish for public comment SRO rules and make certain findings prior to approval of any such rules. Rule 19b-4 and Form 19b-4 were designed to provide the Commission with the information necessary to enable it to make the required findings. In 1980, after notice and public comment the Rule and Form were amended to clarify and simplify the filing process. The Commission will consider the costs and benefits of the rule and form during its rule review.

VOL 48 ISS 201 OCT 17 1983 UMI

SEC — Existing Regulations Under Review

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: Ardith G. Eymann, Chief Counsel, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2844

RIN: 3235-AA98

71. ●RULE19G2-1 -- ENFORCEMENT OF COMPLIANCE BY NATIONAL SECURITIES EXCHANGES AND REGISTERED SECURITIES ASSOCIATIONS WITH THE SECURITIES EXCHANGE ACT OF 1934 AND RULES ... THEREUNDER

Priority: Undetermined

Legal Authority: 15 USC 78c Exchange Act; 15 USC 78f Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78s Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.19g2-1

Abstract: Section 19(g)(1) of the Securities Exchange Act of 1934 requires national securities exchanges and registered securities associations to enforce compliance of their members with the provisions of the Act and rules and regulations thereunder. Section 19(g)(2) of the Act empowers the Commission to exempt, by rule, any national securities exchange or registered securities association from the requirements of Section 19(g)(1). Rule 19g2-1 exempts national securities exchanges and registered national securities associations from having to (1) enforce compliance with certain sections of the Act, (2) enforce compliance with the Act of associated persons of members who are not "securities persons" or "control persons", or (3) examine, inspect, or require periodic reports of associated persons of members who are not nonclerical "securities persons." The Commission will consider potential costs and benefits during the rule review process.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/83	
End Review	09/01/84	

Small Entity: Undetermined

Agency Contact: Ardith G. Eymann, Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2844

RIN: 3235-AB02

SECURITIES AND EXCHANGE COMMISSION (SEC) — Completed Actions

COMPLETED RULEMAKINGS

72. REGULATION S-X -- OIL AND GAS PRODUCERS: FULL COST ACCOUNTING PRACTICES

CFR Citation: 17 CFR 210.4-10(i)(3)(ii); 17 CFR 210.4-10(i)(6)(i)

Completed:

Reason	Date	FR Cite
Final Action	09/30/83	

Small Entity: Undetermined

Agency Contact: John W. Albert 202 272-2130

RIN: 3235-AA45

73. REGULATION S-X -- FINANCIAL STATEMENT REQUIREMENTS FOR BANK HOLDING COMPANIES

Priority: Undetermined

CFR Citation: 17 CFR 210.9-01 to 210.9-05

Completed:

Reason	Date	FR Cite
Final Action	03/07/83	48 FR 1404
Final Action Effective	12/31/83	

Small Entity: Yes

Agency Contact: Edmund Coulson 202 272-2130

RIN: 3235-AA22

74. GUIDE 3 - DISCLOSURES BY BANK HOLDING COMPANIES ABOUT NONPERFORMING LOANS AND CERTAIN FOREIGN LOANS

Priority: Undetermined

CFR Citation: 17 CFR 229.801(c); 17 CFR 229.802(c)

Completed:

Reason	Date	FR Cite
Final Action	08/11/83	

Small Entity: No

Agency Contact: Edmund Coulson 202 272-2130

RIN: 3235-AA76

75. AMERICAN DEPOSITARY RECEIPTS

Priority: Undetermined

CFR Citation: 17 CFR 230.174; 17 CFR 230.405; 17 CFR 230.457; 17 CFR 230.466; 17 CFR 239.5; 17 CFR 239.19; 17 CFR 239.36; 17 CFR 240.15d-3

Completed:

Reason	Date	FR Cite
Final Action	03/18/83	48 FR 12346
Final Action Effective	03/24/83	48 FR 12346

Small Entity: Yes

Agency Contact: Ronald Adee 202 272-3250

RIN: 3235-AA73

76. FACILITATING SHAREHOLDER COMMUNICATIONS

Priority: Undetermined

CFR Citation: 17 CFR 240.14a-3(b); 17 CFR 240.14a-3(d); 17 CFR 240.14b-1; 17 CFR 240.17a-3

Completed:

Reason	Date	FR Cite
Final Action	07/28/83	
Final Action Effective	11/01/83	

Small Entity: No

Agency Contact: Eric E. Miller 202 272-2589

RIN: 3235-AA04

77. PROPOSED AMENDMENTS TO RULE 14A-8 RELATING TO SECURITY HOLDER PROPOSALS

Priority: Undetermined

CFR Citation: 17 CFR 240.14a-8

Completed:

Reason	Date	FR Cite
Final Action	08/16/83	

Small Entity: No

SEC — Completed Actions

Agency Contact: William E. Morley 202 272-2573

RIN: 3235-AA49

78. RULE 10B-10 -- CONFIRMATION OF TRANSACTIONS

Priority: Undetermined

CFR Citation: 17 CFR 240.10b-10

Completed:

Reason	Date	FR Cite
Final Action	04/18/83	48 FR 17583
Final Action Effective	07/25/83	48 FR 17583

Small Entity: No

Agency Contact: Ardith Eymann 202 272-2844

RIN: 3235-AA05

79. SECURITIES EXCHANGE ACT RULE 15C3-2: USE OF CUSTOMER FREE-CREDIT BALANCES

Priority: Undetermined

CFR Citation: 17 CFR 240.15c3-2

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Michael A. Macchiaroli 202 272-2904

RIN: 3235-AA66

80. PROPOSED FORM N-1A; PROPOSED RULE 404A; PROPOSED RULE 8B-11A

Priority: Undetermined

CFR Citation: 17 CFR 239.15; 17 CFR 274.11

Completed:

Reason	Date	FR Cite
Final Action	08/12/83	48 FR 37928

Small Entity: Yes

Agency Contact: Gregory K. Todd, Esq. 202 272-7317

RIN: 3235-AA10

COMPLETED REVIEWS

81. RULE 3A12-1--EXEMPTION OF CERTAIN MORTGAGES AND INTERESTS IN MORTGAGES

Priority: Undetermined

CFR Citation: 17 CFR 240.3a12-1

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Ardith Eymann 202 272-2844

RIN: 3235-AA40

82. SECURITIES EXCHANGE ACT RULE 3A12-2--EXEMPTION OF CERTAIN SECURITIES, THE INCOME ON WHICH IS SUBSTANTIALLY GUARANTEED BY STATES OR POLITICAL SUBDIVISIONS THEREOF

Priority: Undetermined

CFR Citation: 17 CFR 240.3a12-2

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Ardith Eymann 202 272-2844

RIN: 3235-AA57

83. RULE 3A12-4--EXEMPTIONS FROM SECTIONS 15(A) AND 15(C)(3) FOR CERTAIN WHOLE MORTGAGES

Priority: Undetermined

CFR Citation: 17 CFR 240.3a12-4

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Ardith Eymann 202 272-2844

RIN: 3235-AA58

84. SECURITIES EXCHANGE ACT RULE 8C-1: HYPOTHECATION OF CUSTOMERS' SECURITIES

Priority: Undetermined

CFR Citation: 17 CFR 240.8c-1

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Michael Macchiaroli 202 272-2904

RIN: 3235-AA59

85. RULE 15A-2--EXEMPTION OF CENTAIN SECURITIES OF CO-OPERATIVE APARTMENT HOUSES FROM SECTION 15(A)

Priority: Undetermined

CFR Citation: 17 CFR 240.15a-2

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Ardith Eymann 202 272-2844

RIN: 3235-AA60

86. SECURITIES EXCHANGE ACT RULE 15A-4; FORTY-FIVE DAY EXEMPTION FROM REGISTRATION FOR CERTAIN MEMBERS OF NATIONAL SECURITIES EXCHANGES

Priority: Undetermined

CFR Citation: 17 CFR 240.15a-4

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Ardith Eymann 202 272-2844

RIN: 3235-AA61

87. SECURITIES EXCHANGE ACT RULE 15A-5; EXEMPTION OF CERTAIN NON-BANK LENDERS

Priority: Undetermined

CFR Citation: 17 CFR 240.15a-5

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Ardith Eymann 202 272-2844

RIN: 3235-AA62

88. SECURITIES EXCHANGE ACT RULE 15C2-1: HYPOTHECATION OF CUSTOMERS' SECURITIES

Priority: Undetermined

CFR Citation: 17 CFR 240.15c2-1

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

VOL 48 ISS 201 OCT 17 1983 UMI

Agency Contact: Michael Macchiaroli 202 272-2904

RIN: 3235-AA63

89. SECURITIES EXCHANGE ACT RULE 15C3-3: CUSTOMER PROTECTION RESERVES AND CUSTODY OF SECURITIES

Priority: Undetermined

CFR Citation: 17 CFR 240.15c3-3

Completed:

Reason	Date	FR Cite
End Review	08/15/83	

Small Entity: No

Agency Contact: Michael A. Macchiaroli 202 272-2904

RIN: 3235-AA67

ACTIONS THAT STARTED AND ENDED BETWEEN ISSUES OF THE UNIFIED AGENDA

90. ●ACCOUNTING FOR COMPUTER SOFTWARE COSTS

Priority: Undetermined

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77s(a); 15 USC 7nn(25); 15 USC 7nn(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a)

CFR Citation: 17 CFR 210.3-21; 17 CFR 239.28

Abstract: In April 1983, the Commission proposed rules for public comment which would prohibit the adoption of the practice of capitalizing the costs of internally developed computer software for sale or lease to others. This action was proposed as a result of concern about the increasing number of registrants capitalizing the costs of internal development of computer software, thereby creating a source of incomparability between the financial statements of these companies and those of the majority of registrants in this industry that are expensing such costs as incurred. The prohibition against capitalization would not apply to those companies which had disclosed the practice of capitalization prior to the date of issuance of the proposed rules; those registrants would be required to disclose the effect of not expensing all such costs as incurred. Although the proposed rules should result in no additional recordkeeping or data collection costs, they may have a significant impact on the reported net income of a registrant. It is undetermined whether that impact on reported net income could affect a registrant's competitive or capital raising position.

Timetable:

Action	Date	FR Cite
Final Action	08/04/83	48 FR 36566

Small Entity: No

Agency Contact: Robert K. Herdman, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB08

91. ●RULE 0-1 UNDER THE INVESTMENT COMPANY ACT OF 1940 -- DEFINITION OF TERMS USED IN THE RULES AND REGULATIONS

Priority: Undetermined

CFR Citation: 17 CFR 270.01

Timetable:

Action	Date	FR Cite
End Review	08/10/83	

Small Entity: No

Agency Contact: Carolyn Uberman, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW, Washington, DC 20549, 202 272-2025

RIN: 3235-AA79

92. ●RULE 13A-1 UNDER THE INVESTMENT COMPANY ACT OF 1940 -- EXEMPTION FOR CHANGE OF STATUS BY TEMPORARILY DIVERSIFIED COMPANY

Priority: Undetermined

CFR Citation: 17 CFR 270.13a-1

Timetable:

Action	Date	FR Cite
End Review	08/09/83	

Small Entity: No

Agency Contact: Carolyn Uberman, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW, Washington, DC 20549, 202 272-2025

RIN: 3235-AA80

93. ●RULE 32A-1 UNDER THE INVESTMENT COMPANY ACT OF 1940 -- EXEMPTION OF CERTAIN COMPANIES FROM AFFILIATION PROVISIONS OF SECTION 32(A)

Priority: Undetermined

CFR Citation: 17 CFR 270.32a-1

Timetable:

Action	Date	FR Cite
End Review	08/10/83	

Small Entity: No

Agency Contact: Carolyn Uberman, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW, Washington, DC 20549, 202 272-2025

RIN: 3235-AA81

94. ●RULE 32A-2 UNDER THE INVESTMENT COMPANY ACT OF 1940 -- EXEMPTION FOR INITIAL PERIOD FROM VOTE OF SECURITY HOLDERS ON INDEPENDENT PUBLIC ACCOUNTANTS FOR CERTAIN REGISTERED SEPARATE ACCOUNTS

Priority: Undetermined

CFR Citation: 17 CFR 270.32a-2

Timetable:

Action	Date	FR Cite
End Review	08/09/83	

Small Entity: No

Agency Contact: Carolyn Uberman, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW, Washington, DC 20549, 202 272-2025

RIN: 3235-AA82

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VOL
48
ISS
201
OC
17
1983
UMI



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VOL
48
ISS
2
0
1
OC
17
1983
UMI

VOL
48
ISS
202
OC
18
1983
UMI

10-18-83
Vol. 48 No. 202

federal register

Tuesday
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VOL
48
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202
OC
18
1983
UMI

10-18-83
Vol. 48 No. 202
Pages 48215-48438

federal register

Tuesday
October 18, 1983

Selected Subjects

Administrative Practices and Procedure
Immigration and Naturalization Service
Air Pollution Control
Environmental Protection Agency
Airspace
Federal Aviation Administration
Animal Drugs
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Communications Common Carriers
Federal Communications Commission
Flood Insurance
Federal Emergency Management Agency
Government Employees
Employment Standards Administration
Postal Service
Governmental Property Management
General Services Administration
Marketing Agreements
Agricultural Marketing Service
Meat Inspection
Food Safety and Inspection Service
Motor Vehicle Safety
National Highway Traffic Safety Administration

CONTINUED INSIDE

VOL
48
ISS
202
OC
18
1983
UMI

Selected Subjects

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National Parks
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Coast Guard

Public Lands—Grants
Land Management Bureau

Radio Broadcasting
Federal Communications Commission

Reporting and Recordkeeping Requirements
Securities and Exchange Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Contents

Federal Register
Vol. 48, No. 202
Tuesday, October 18, 1983

The President
EXECUTIVE ORDERS
48215 Export control regulations, continuation (EO 12444)
PROCLAMATIONS
48217 World Food Day (Proc. 5118)

Executive Agencies

ACTION
NOTICES
Senior Executive Service:
48266 Bonus awards schedule
48266 Performance Review Board; membership

Administrative Conference of United States
NOTICES
Meetings:
48266 Adjudication Committee

Agricultural Marketing Service
RULES
48219 Hops of domestic production; waiver

Agriculture Department
See also Agricultural Marketing Service; Food Safety and Inspection Service.
NOTICES
48266 Sugar, imported; de minimis amount for certificates of eligibility exemption

Air Force Department
NOTICES
Meetings:
48276 Scientific Advisory Board

Arts and Humanities, National Foundation
NOTICES
48304 Intergovernmental review of agency programs and activities; National Endowment for Arts; clarification
Meetings:
48303 Arts and Artifacts Indemnity Advisory Panel
48303 Arts National Council

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
48416 Procurement list, 1984; establishment

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
48267 New Mexico

Coast Guard
RULES
Ports and waterways safety:
48230 Barges; towing hawser length requirements

Commerce Department
See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration; National Technical Information Service.
NOTICES
Meetings:
48267 Industrial Competitiveness, President's Commission

Commodity Futures Trading Commission
RULES
48223 Fees for request for Commission records, reports, and meeting transcripts

Consumer Product Safety Commission
NOTICES
Consent agreements:
48274 Cotton Dreams

Delaware River Basin Commission
NOTICES
48277 Hearings

Defense Department
See Air Force Department; Engineers Corps.

Employment and Training Administration
NOTICES
Adjustment assistance:
48301 J. Shoeneman Co. et al.

Employment Standards Administration
PROPOSED RULES
48249 Federal employees', claims for compensation

Energy Department
See Energy Research Office; Federal Energy Regulatory Commission.

Energy Research Office
NOTICES
48277 University Research Instrumentation Program

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
48276 Ouachita River and Tributaries, Ouachita River Levees, La.

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
48368 Pressure sensitive tape and label manufacturing facilities; volatile organic compound (VOC) emissions
48328 Volatile organic compounds (VOC) in synthetic organic chemicals manufacturing industry
NOTICES
Air quality; prevention of significant deterioration (PSD):
48285 Authority delegations; Washingtor

48284 Permit approvals
Pesticide programs:
48436 2,4,5-T and silvex products; enforcement policy on transfer, sale, or importation
48434 2,4,5-T and silvex products; intent to cancel registration, etc.

Federal Aviation Administration
RULES
Airworthiness directives:
48220 Boeing (2 documents)
48222 WKS "PZL-Rzeszow"
PROPOSED RULES
Air traffic operating and flight rules:
48364 Mode S; implementation in National Airspace Systems
48244 VOR Federal airways
NOTICES
Meetings:
48307 National Airspace Review Advisory Committee
Organization and functions:
48306 Baton Rouge, La.; General Aviation District Office
48307 Fort Worth, Tex.; General Aviation District Office
48307 Houston, Tex.; Air Carrier District Office; closure
48307 New Orleans and Lafayette, La.; General Aviation District Office
48307 Shreveport, La.; General Aviation District Office
48307 Tulsa, Okla.; Flight Standards District Office

Federal Communications Commission
RULES
Common carrier services:
48234 MTS and WATS market structures; access charges; waiver
Radio stations; table of assignments:
48234 Colorado
PROPOSED RULES
Radio stations; table of assignments:
48264 Florida; withdrawal
NOTICES
Hearings, etc.:
48286 KGY, Inc., et al.
48285 Loose-leaf publication of FCC rules; availability

Federal Emergency Management Agency
RULES
Flood insurance; special hazard areas:
48233 Florida et al.
PROPOSED RULES
Flood elevation determinations:
48259 California, et al.
48258 North Dakota; withdrawal

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
48223 First sellers; gas sales contracts; rehearing granted in part and denied in part and dissolving stay and refund condition
NOTICES
Hearings, etc.:
48281 Cleveland Electric Illuminating Co.
48282 Commercial Pipeline Co., Inc.
48282 Distrigas of Massachusetts Corp.
48282, 48283 Duke Power Co. (2 documents)
48283 Michigan Wisconsin Pipe Line Co.
48283 Pacific Power & Light Co.
48283 Producer-Suppliers of Transcontinental Gas Pipe Line Corp. et al.
48284 Tennessee Gas Pipeline Co.
48284 Oil pipelines, interstate; tentative valuations
Natural Gas Policy Act:
48406, 48409 Jurisdictional agency determinatioins (2 documents)

Federal Home Loan Bank Board
NOTICES
48310 Meetings; Sunshine Act

Federal Reserve System
RULES
48219 OTC margin stocks; list (Regulations G.T.U. and X); correction
NOTICES
Applications, etc.:
48287 First Oak Brook Bancshares, Inc.
48287 Kansas Bank System, Inc.
Bank holding companies; proposed de novo nonbank activities:
48287 Barclays Bank PLC et al.
Federal Open Market Committee:
48293 Domestic policy directives
Federal Reserve Bank services; fee schedules and pricing principles:
48288 Automated clearinghouse service; float reduction plan and service enhancements; inquiry; extension of time
48288 Private sector adjustment factor; methodology for calculating; inquiry
48310 Meetings; Sunshine Act

Federal Trade Commission
NOTICES
48294 Premerger notification waiting periods; early terminations

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
48229 Azaperone
48229 Farnam Cos.; sponsor name change from Merck & Co.
Food additives:
48228 Adhesive coatings and components; 2,4,7,9-tetramethyl-5-decyn-4,7-diol; correction
NOTICES
Meetings:
48295 Consumer information exchange

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection:
48242 Titanium dioxide in isolated soy protein

General Services Administration
RULES
Procurement (GSA):
48231 Travel promotional material

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Human Development Services Office.

Health Care Financing Administration
NOTICES
Medicaid and medicare:
48295 Physical and respiratory therapy services; schedules of guidelines; correction

Human Development Services Office
NOTICES
Grants; availability, etc.:
48380 Discretionary funds program

Immigration and Naturalization Service
PROPOSED RULES
Organization, functions, and authority delegations:
48242 Service officers, powers and duties; availability of service records

Interior Department
See Land Management Bureau; National Park Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
PROPOSED RULES
Income taxes:
48255 Debt obligations, registration requirements; correction
48255 Household and dependent care services necessary for gainful employment; credit for expenses; correction

International Trade Administration
NOTICES
Antidumping:
48267 Steel values and parts from Japan
Scientific articles; duty free entry:
48268 Case Western Reserve University et al.

International Trade Commission
NOTICES
Import investigations:
48300 Heavy-duty staple gun tackers

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
48301 Chesapeake & Ohio Railway Co.

Justice Department
See Immigration and Naturalization Service; Parole Commission.

Labor Department
See Employment and Training Administration; Employment Standards Administration; Pension and Welfare Benefit Programs Office.

Land Management Bureau
PROPOSED RULES
48400 Alaska; selection and conveyance of lands under entitlements
NOTICES
Committees; establishment, renewals, terminations, etc.:
48296 National Public Lands Advisory Council; call for nominations
Meetings:
48296 Medford District Advisory Council
Resource management plans:
48295 John Day Resource Area, Burns District, Oreg.

Management and Budget Office
NOTICES
48428 Budget rescissions and deferrals; cumulative reports

National Bureau of Standards
NOTICES
Information processing standards, Federal:
48269 FORTRAN (FIPS PUB 69); nested parentheses in expressions; interpretation

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
48235 Lamps, reflective devices, and associated equipment; single center, high-mounted stoplamp installation on passenger cars

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
48241 Pacific Coast groundfish; foreign and domestic fishing; correction
PROPOSED RULES
Fishery conservation and management:
48265 Ocean salmon off coasts of Calif., Oreg., and Wash.; correction (2 documents)
NOTICES
Marine mammal permit applications, etc.:
48271 Payne, Dr. Roger
Marine mammals:
48271 Taking incidental to commercial fishing operations; small take exemption
Meetings:
48269 Interagency Committee; participation guidelines in preparation for International Whaling Commission
48270 North Pacific Fishery Management Council
48271 Salmon and Steelhead Advisory Commission; correction

National Park Service
PROPOSED RULES
Special regulations:
48257 Rocky Mountain National Park, Colo.
NOTICES
Historic Places National Register; pending nominations:
48299 Alabama et al.
Management and development plans:
48297 Grand Canyon National Park, Ariz.; backcountry management
48298 Grand Canyon National Park, Ariz.; Grand Canyon Village
Meetings:
48297 Overmountain Victory National Historic Trail Advisory Council
48297 Santa Monica Mountains National Recreation Area Advisory Commission
Oil and gas plans of operation; availability, etc.:
48297 Cuyahoga Valley National Recreation Area, Ohio

National Technical Information Service
NOTICES
48273 Inventions, Government-owned; availability for licensing

Parole Commission
RULES
Federal prisoners; paroling and releasing, etc.:
48230 Reparole consideration guidelines for rating administrative violations; interim; correction

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
48302 Central States, Southeast and Southwest Areas Health and Welfare Fund

Pension Benefit Guaranty Corporation
NOTICES
Multiemployer pension plans; bond/escrow exemption requests:
48304 Libby, McNeill & Libby, Inc.
48305 U.S. Steel Mining Co., Inc.

Postal Service
RULES
Organization and administration:
48230, 48231 Code of ethical conduct for postal employees (2 documents)

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
48296 Fryingpan-Arkansas Project, Colo.

Securities and Exchange Commission
PROPOSED RULES
Securities:
48245 Periodic reporting obligation suspension

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submissions; various States:
48255 Kentucky

Textile Agreements Implementation Committee
NOTICES
Textile consultations; review of trade:
48274 Hong Kong

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.
NOTICES
Meetings:
48306 Minority Business Resource Center Advisory Committee

Treasury Department
See also Internal Revenue Service.
NOTICES
Notes, Treasury:
48307 Z–1985 series

Separate Parts in This Issue

Part II
48328 Environmental Protection Agency

Part III
48364 Department of Transportation, Federal Aviation Administration

Part IV
48368 Environmental Protection Agency

Part V
48390 Department of Health and Human Services, Office of Human Development Services

Part VI
48400 Department of the Interior, Bureau of Land Management

Part VII
48406 Department of Energy, Federal Energy Regulatory Commission

Part VIII
48416 Committee for the Implementation of Textile Agreements

Part IX
48428 Office of Management and Budget

Part X
48434 Environmental Protection Agency

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12002 (See EO 12444)..... 48215
12214 (See EO 12444)..... 48215
12444..... 48215
Proclamations:
5118..... 48217

7 CFR
991..... 48219

8 CFR
Proposed Rules:
103..... 48242

9 CFR
Proposed Rules:
318..... 48242
381..... 48242

12 CFR
207..... 48219
220..... 48219
221..... 48219
226..... 48219

14 CFR
39 (3 documents)..... 48220, 48222
Proposed Rules:
43..... 48364
71..... 48244
91..... 48364
121..... 48364
127..... 48364
135..... 48364

17 CFR
145..... 48223
146..... 48223
147..... 48223
Proposed Rules:
240..... 48245
249..... 48245

18 CFR
270..... 48223
271..... 48223

20 CFR
Proposed Rules:
10..... 48249

21 CFR
175..... 48228
520..... 48229
522..... 48229

26 CFR
Proposed Rules:
1 (2 documents)..... 48255
5f..... 48255

28 CFR
2..... 48230

30 CFR
Proposed Rules:
917..... 48255

33 CFR
163..... 48230

36 CFR
Proposed Rules:
7..... 48257

39 CFR
447 (2 documents)..... 48230, 48231

40 CFR
60 (2 documents)..... 48328, 48368

41 CFR
101–25..... 48231

43 CFR
Proposed Rules:
2620..... 48400

44 CFR
65..... 48233
Proposed Rules:
65..... 48258
67..... 48259

47 CFR
1..... 48234
69..... 48234
73..... 48234
Proposed Rules:
73..... 48264

49 CFR
571..... 48235

50 CFR
663..... 48241
Proposed Rules:
663 (2 documents)..... 48265

VOL
48
ISS
202
OCT
18
1983
UMI

Federal Register
Vol. 48, No. 202
Tuesday, October 18, 1983

Presidential Documents

Title 3—

The President

Executive Order 12444 of October 14, 1983

Continuation of Export Control Regulations

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) (hereinafter referred to as "the Act"), and 22 U.S.C. 287c,

I, RONALD REAGAN, President of the United States of America, find that the unrestricted access of foreign parties to United States commerical goods, technology, and technical data and the existence of certain boycott practices of foreign nations constitute, in light of the expiration of the Export Administration Act of 1979, an unusual and extraordinary threat to the national security, foreign policy and economy of the United States and hereby declare a national economic emergency to deal with that threat.

Accordingly, in order (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States, including its policy with respect to cooperation by United States persons with certain foreign boycott activities, and to fulfill its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious economic impact of foreign demand, it is hereby ordered as follows:

Section 1. Notwithstanding the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*), the provisions of that Act, the provisions for administration of that Act and delegations of authority set forth in Executive Order No. 12002 of July 7, 1977 and Executive Order No. 12214 of May 2, 1980, shall, to the extent permitted by law, be incorporated in this Order and shall continue in full force and effect.

Section 2. All rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, including those published in Title 15, Chapter III, Subchapter C, of the Code of Federal Regulations, Parts 368 to 399 inclusive, and all orders, regulations, licenses and other forms of administrative action issued, taken or continued in effect pursuant thereto, shall, until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this Order, except that the provisions of sections 203(b)(2) and 206 of the Act (50 U.S.C. 1702(b)(2) and 1705) shall control over any inconsistent provisions in the regulations with respect to, respectively, certain donations to relieve human suffering and civil and criminal penalties for violations subject to this Order. Nothing in this section shall affect the continued applicability of administrative sanctions provided for by the regulations described above.

Section 3. Provisions for the administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this Order also shall constitute authority for the issuance and continuation in full force and effect of rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant thereto, relating to the administration of section 38(e).

VOL
48
ISS
202
OCT
18
1983
UMI

Section 4. This Order shall be effective as of midnight between October 14 and October 15, 1983, and shall remain in effect until terminated. It is my intention to terminate this Order upon the enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act.

Ronald Reagan

THE WHITE HOUSE,
October 14, 1983.

[FR Doc. 83-28471
Filed 10-14-83: 4:37 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5118 of October 14, 1983

World Food Day, 1983

By the President of the United States of America

A Proclamation

An adequate, wholesome food supply is essential to the physical and economic well-being of every individual and every nation. Countries throughout the world are dedicated to eliminating poverty-related hunger to the fullest extent possible. Although this objective is widely acknowledged, the resources and policies needed to achieve that object vary widely from country to country.

This Nation is richly endowed with natural resources. Through the generations, our people have developed the knowledge, the technology, the policies, and the economic system to transform our endowment into agricultural abundance. Not all nations are similarly endowed. Hunger persists throughout the world. The Food and Agriculture Organization of the United Nations estimates that as many as 500 million people suffer from poverty-related malnutrition, especially in lesser developed countries.

The United States has a long tradition of sharing its agricultural abundance with those in need. We are strongly committed to the constitution of the Food and Agriculture Organization, which calls upon member nations to "raise the levels of nutrition and standards of living of the peoples under their respective jurisdiction" and to contribute to "expanding the world economy and ensuring humanity's freedom from hunger." We have sought, and will continue to strive, to improve the economies and food production abilities of those countries where the need is greatest.

To this end, the United States has provided needy nations more than $40 billion of assistance under the Food for Peace Program since 1954. This year alone our food aid activities are assisting 70 countries. We are training an average of more than 2,000 agriculturalists per year from developing countries, and we are providing technical assistance to 50 nations in Asia, Africa, and Latin America to help develop their food research and production capabilities. In addition, we actively encourage American businesses to invest in projects that help build the agricultural economies of developing countries.

The people of the United States, as well as the people of other countries that have joined in the battle against hunger, can justifiably share a sense of accomplishment in the fact that food production per person has increased 21 percent in lesser developed countries since 1954. The concern of the international community with the problem of poverty-related malnutrition is reflected in the response to World Food Day. We particularly salute the Food and Agriculture Organization which, on World Food Day this year, celebrates 30 years of dedication to the elimination of hunger and malnutrition.

In recognition of one of the key recommendations of the 1980 report of the Presidential Commission on World Hunger, that called for efforts to be taken to increase public awareness of the world hunger problem, the Congress of the United States, by Senate Joint Resolution 81, has designated October 16, 1983, as "World Food Day" and has requested the President to issue a proclamation in observance of that day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 16, 1983, as World Food Day and call

VOL
48
ISS
202
OC
18
1983
UMI

upon the people of the United States to observe that day with appropriate activities to explore ways in which our Nation can further contribute to the elimination of hunger in the world.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of October, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-28472
Filed 10-14-83; 4:38 pm]
Billing code 3195-01-M

Editorial Note: For the President's remarks of Oct. 14, 1983, on signing Proclamation 5118, see the *Weekly Compilation of Presidential Documents* (vol. 19, no. 41).

Rules and Regulations

Federal Register
Vol. 48, No. 202
Tuesday, October 18, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 991

Hops of Domestic Production; Waiver of Bona Fide Effort Requirement for the 1983–84 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation waives the requirement which obligates hop producers to make a bona fide effort to produce their annual allotment or have their allotment bases reduced. This rule is necessary because of the current inactive market and burdensome oversupply of hops. The waiver was recommended by the Hop Administrative Committee, which works with the USDA in administering the marketing order.

EFFECTIVE DATE: November 17, 1983.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Notice inviting written comments on this action was published in the **Federal Register** on July 12, 1983 (48 FR 31866). None was received.

This rule waives the bona fide effort requirement for the 1983–84 marketing year. The requirement is contained in § 991.38(a)(5) of Order No. 991 (7 CFR Part 991), as amended, regulating the handling of hops of domestic production. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended unanimously by the Hop Administrative Committee.

Pursuant to § 991.38(a)(5) of the order, the right of each producer to retain all or part of his allotment base depends on his continuing to make a bona fide effort to produce his annual allotment. If a producer fails to make a bona fide effort in any year to produce his annual allotment, his allotment base must be reduced by an amount equivalent to the unproduced proportion. Subparagraph (5) also authorizes the Committee, with the approval of the Secretary, to waive the bona fide effort requirement.

The Committee recommended waiving the bona fide effort requirement for the 1983–84 marketing year because it concluded that its implementation would result in additional and unneeded production. Currently, the hop market is inactive and an oversupply of hops exists, and enforcement of the bona fide effort requirement for the 1983–84 marketing year could further depress the market.

After consideration of all relevant matter presented, including that in the notice, the Committee's recommendation, and other available information, it is found that waiving the bona fide effort requirement for the 1983–84 marketing year, as hereinafter set forth, will tend to effectuate the declared policy of the act. (The following section will not be published in the Code of Federal Regulations).

List of Subjects in 7 CFR Part 991

Marketing agreements and orders, Hops.

PART 991—[AMENDED]

Therefore, § 991.938 is added to read as follows:

§ 991.938 Waiver of bona fide effort requirement for the 1983–84 marketing year.

The bona fide effort requirement provided for in § 991.38(a)(5) shall be waived for the 1983–84 marketing year beginning August 1, 1983.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: October 12, 1983.

Charles R. Brader,
Director, Fruit and Vegetable Division.

[FR Doc. 83-28282 Filed 10-17-83; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

[Reg. G, T, U and X]

12 CFR Parts 207, 220, 221 and 226

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This document corrects a previous **Federal Register** document, FR Doc. 83–27203 (List of OTC Margin Stocks), which was published at page 45533 of the issue for October 6, 1983, to be effective October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452–2781.

SUPPLEMENTARY INFORMATION: Based upon corrected information received from the Company, the stock of Mutual Real Estate Investment Trust, $1.00 par shares of beneficial interest, should remain on the List of OTC Margin Stocks.

Accordingly, in accordance with § 207.6(d) of Regulation G, § 220.17(d) of Regulation T, and § 221.7(d) of Regulation U, the stock of Mutual Real Estate Investment Trust, $1.00 par shares of beneficial interest, is eliminated from the list of deletions from the Board's List and is reinstated on the complete List of OTC Margin Stocks on file at the office of the Federal Register.

By order of the Board of Governors of the Federal Reserve System, October 12, 1983.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 83-28280 Filed 10-17-83; 11:09 am]
BILLING CODE 6210-01-M

VOL 48 ISS 202 OCT 18 1983 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-ASW-42; Amdt. 39-4741]

Airworthiness Directives; Boeing Vertol Model 234 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Vertol Model 234 helicopters by individual telegrams. The AD requires a one-time inspection and removal of any excess potting material from inside the main rotor blades. The AD is prompted by reports of separation of potting material in the root end of main rotor blades and subsequent damage or loss of the main rotor blade tip cap and weights by impact of the potting material. Loss of the tip cap and weights during operation could cause injury to ground personnel or cause the pilot sufficient concern in flight due to the abnormal vibration to land the helicopter under adverse conditions such as ditching.

DATES: Effective October 26, 1983, to all persons except those to whom it was made immediately effective by telegraphic AD T83-16-51 issued August 4, 1983, which contained this amendment.

Compliance required as prescribed in the body of AD after the effective date of this AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Boeing Vertol Company, Boeing Center, P.O. Box 1858, Philadelphia, Pennsylvania 19142. These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Joseph E. Chrastil, ANE-172, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Valley Stream, New York 11581, telephone number (516) 791-6221.

SUPPLEMENTARY INFORMATION: On August 4, 1983, telegraphic AD T83-16-51 was issued and made effective immediately as to all known U.S. owners and operators of Boeing Vertol Model 234 helicopters. The AD required inspection inside the main rotor blade spars for excessive potting material and removal if found. The AD was prompted by reports that main rotor blade potting material had been broken off inside the spar of Army CH-47D helicopters and struck the tip cap at high velocity causing damage and loss of tip cap and weights which set up abnormal vibrations in the helicopter. Two model 234 main rotor blades were found to have debris inside the tip cap area. Loss of the tip cap and weights during operation could cause injury to ground personnel or cause the pilot sufficient concern in flight due to the abnormal vibration to land the helicopter under adverse conditions such as ditching.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued August 4, 1983, to all known U.S. owners and operators of Boeing Vertol Model 234 helicopters. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing Vertol Company: Applies to Boeing Vertol Model 234 series helicopters certificated in all categories.

Compliance is required as indicated (unless already accomplished).

To prevent possible hazards in flight associated with damage or loss of main rotor blade tip cap and weights, accomplish the following:

(a) Prior to further flight on helicopters equipped with main rotor blades with less than 100 hours' time in service, conduct a borescope inspection of the inside root end of the spar for excessive potting material. It will be necessary to remove the tip cap to conduct this inspection. Remove any cracked potting material or any potting material in excess of one cubic inch. Remove any excess potting material in accordance with Boeing Vertol Service Bulletin No. 234621004 dated July 27, 1983, or FAA approved equivalent.

(b) For main rotor blades with 100 hours' time in service but less than 500 hours' time in service, conduct the inspection and removal of material as stated in paragraph (a) within the next 30 hours' time in service.

(c) For main rotor blades with 500 or more hours' time in service conduct the inspection and removal of material as stated in paragraph (a) within the next 75 hours' time in service.

(d) An equivalent method of compliance with this AD may be used when approved by the Manager, New York Aircraft Certification Office, 81 South Franklin Avenue, Valley Steam, New York 11581.

This amendment become effective October 26, 1983, as to all persons except those persons to whom it was made immediately effective by telegraphic AD No. T83-16-51 issued August 4, 1983, which contained the amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 141, and 1423); 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 21, 1983]; 14 CFR 11.89)

Note.— The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12281 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contracting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, on October, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-28306 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-91-AD; Amdt. 39-4745]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain B-747 series airplanes which requires inspection of trailing edge flap tracks for corrosion and cracking. This AD is prompted by reports of heavy corrosion on three airplanes and resultant cracking of two trailing edge flap tracks. The failure of the aft end of the flap track could cause the trailing edge flap to separate from the airplane.

DATES: Effective October 27, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained upon request from the Boeing Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: There have been reports of various levels of corrosion on trailing edge flap tracks numbers 1 through 8. Heavy corrosion was found on three airplanes with resultant cracking of two flap tracks. The corrosion is caused by the accumulation of water in the aft end of the flap track cavity. Extensive cracking could cause failure of the aft end of the flap track. Failure of the flap track could result in separate of the flap under some conditions, and the resultant trajectory of the flap could impact on the horizontal stabilizer, jeopardizing continued safe flight.

Since this condition is likely to exist or develop on other B-747 airplanes of the same type design, and since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects: 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to those Model 747 series airplanes certificated in all categories listed in Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision. To prevent failure of the trailing edge flap tracks, accomplish the following:

A. Inspect the external surface of the trailing edge flap tracks visually for cracks or corrosion penetration within the threshold landings set forth in Table I after the effective date of this AD, and thereafter at the repetitive intervals not to exceed those shown in Table I, below, in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision. These external visual inspections are to continue until the modifications of paragraph D are accomplished.

TABLE I

Effectively airplane line No.	Threshold for initial inspections	Repetitive inspection intervals	
		During the initial 250 landings after effective date of the AD.	During the 251 thru 500 landings after effective date of the AD.
001 to 400 (group I).	50 landings	50 landings	30 landings
401 to 584 (group II).	100 landings	100 landings	100 landings.

B. If any cracks are found in any flap track, replace the cracked track before further flight. This replacement criterion applies to all future inspections required by this AD.

C. If any corrosion pits, which have completely penetrated the track web, are visible on the outside of any track web, perform a repeat visual external inspection for cracks in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision, at intervals not exceeding 30 landings. Replace the track within 200 landings after discovery of the corrosion pits, or before further flight if a crack is found. These replacement criteria apply to all future inspections required by this AD.

D. If there are no visible track web cracks and no corrosion pits through either web, modify by drilling the ⅜-inch diameter drain holes in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision, within 500 landings or six months after the effective date of this AD, whichever occurs first. Flush the track cavity per instructions in the Service Bulletin.

Note.— Airplane Flap Tracks previously modified by a single ⅜-inch diameter drain hole must still be modified in accordance with the requirements of this paragraph.

E. Concurrent with the modification of paragraph D., above, perform an internal borescope inspection in accordance with Boeing Alert Service Bulletin 747- 57A2225, Revision 1, or later FAA approved revision, to determine if corrosion exists. If corrosion or pitting is found, determine its extent by accomplishing the track web X-ray inspection specified in the service bulletin.

1. If heavy internal web corrosion exists, repeat visual external inspection for cracks or corrosion penetration through track webs at intervals not exceeding 50 landings in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision.

2. If moderate internal web corrosion exists, repeat visual external inspection for cracks or corrosion penetration through track webs at intervals not exceeding 100 landings in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision.

3. If light internal corrosion exists, repeat visual external inspection for cracks or corrosion penetration through track webs at intervals not exceeding 250 landings in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision.

F. Repeat the above X-ray inspection in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision, on tracks indicating medium or light internal web corrosion at intervals not exceeding one year or until heavy web corrosion is indicated, whichever occurs first. When the status of the internal corrosion changes then the inspection interval changes as indicated in paragraph E (1), (2), or (3), above.

G. Apply organic corrosion inhibitor (BMS 3-23 or equivalent) to the aft cavity of each flap track after the borescope inspection of paragraph E and at intervals not exceeding 6 months in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision.

H. For purposes of complying with this AD, subject to acceptance by the assigned FAA Principal Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average from takeoff to landing for the airplane type.

I. Upon request of the operator, a FAA Principal Maintenance Inspector, subject to prior approval by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection interval, if the request contains substantiating data to justify the increase for that operator.

J. Special flight permits may be issued in accordance with Section 21.197 and 21.199 of the Federal Aviation Regulations to operate airplane to a base for the accomplishment of the inspections and/or modifications required by the AD.

K. Alternate means of compliance or other actions which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 27, 1983.

(Secs. 313(a), 314(a), and 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

VOL 48 ISS 202 OCT 18 1983 UMI

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on October 7, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28305 Filed 10-17-83; 8:45 am]

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14 CFR Part 39

[Docket No. 83-ANE-23; Amdt. 39-4743]

Airworthiness Directives; WSK "PZL-Rzeszow" PZL-3S Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This Airworthiness Directive (AD) supersedes emergency AD 83-15-06 issued on July 27, 1983, applicable to the WSK "PZL-Rzeszow" PZL-3S engines, which prohibited operation of that engine in combination with the Dowty Rotol Model CR-289/3-110-F/1, 11, 12 propellers. This AD continues the prohibition against the use of these engines in combination with the specified propellers and adds a new requirement that these engines must be inspected for wear or damage before being operated with other model propellers. This AD is needed to prevent worn or damaged engines from being returned to service after removal of a specified propeller..

DATES: Effective October 28, 1983. Compliance schedule—as prescribed in text of AD.

Comments on the rule must be received on or before December 27, 1983.

ADDRESS: Information supporting this AD is in the Rules Docket, FAA, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

George F. Mulcahy, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone: (617) 273-7330.

SUPPLEMENTARY INFORMATION: AD 82-23-04, Amendment 39-4489, effective November 15, 1982, was issued as a result of a series of propeller bolt failures and actual in-flight propeller separations. One incident of propeller separation occurred during an emergency landing. A second incident resulted in an in-flight separation with subsequent destruction of the aircraft. Engine teardown and inspection, in all cases, disclosed excess wear on the rear counterweight pins and counterweight assembly itself. Therefore, AD 82-23-04 was issued to require inspection for wear on all engines within 25 hours of operation from the AD's effective date and every 100 hours thereafter.

Failures, including propeller separation continued to occur irrespective of compliance with AD 82-23-04. Additionally these failures occurred well within the periodic inspection interval of the AD. It was clear that a serious airworthiness condition persisted which could lead to loss of aircraft and potential injury. Therefore, an emergency AD was issued to prohibit operation of the PZL-3S engine in combination with the Dowty Rotol Model CR-289/3-110-F/1, 11, 12, propellers.

After issuing emergency AD 83-15-06 the agency determined that engines previously operated in combination with the specified model propellers might have sustained premature wear or damage. Therefore, the agency is superseding the emergency AD with a new AD which maintains the existing prohibitions and, in addition, requires that engines which had been used in combination with the specified propellers must be inspected prior to further use with other model propellers.

Since a situation exists that may result in the loss of an aircraft, immediate adoption of this regulation is required. It is found that notice and public procedures hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedures, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Send comments to Federal Aviation Administration, Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

List of Subjects in 14 CFR Part 39

Propellers, Engine, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Wytwornia Sprzetu Komunikacyjnego "PZL-Rzeszow": Applies to PZL-3S engine.

Compliance is required as indicated unless already accomplished.

To preclude the possibility of in-flight propeller loss, accomplish the following:

(a) Operation of any of the following engine propeller combinations is prohibited:

(1) WSK "PZL-RZESZOW" PZL-3S engine with Dowty Rotol CR 289/3-110-F/1 propeller.

(2) WSK "PZL-RZESZOW" PZL-3S engine with Dowty Rotol CR 289/3-110-F/11 propeller.

(3) WSK "PZL-RZESZOW" PZL-3S engine with Dowty Rotol CR 289/3-110-F/12 propeller.

(b) Engines which have had service in any of the engine/propeller combinations listed in (a) must be inspected for wear prior to further operation with any other propellers. This inspection must include a visual inspection of the disassembled rear crankshaft, rear counterweight, rear counterweight pins, front crankshaft, crankshaft nut and propeller shaft.

(c) If, during inspections required in (b), any signs of unusual wear or damage are detected, remove the engine from service, inspect for secondary damage, and repair as necessary prior to return to service.

(d) Alternate inspections, modifications or other actions which provide an equivalent level of safety may be used if approved by the Manager, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

(e) This AD supersedes AD 82-23-06 amendment 39-4489 and emergency AD 83-15-06.

This amendment becomes effective October 28, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); (49 U.S.C. 106(g) revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11035; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption FOR FURTHER INFORMATION CONTACT.

Issued in Burlington, Massachusetts, on October 7, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-28304 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 145, 146, and 147

Schedule of Fees for Requests for Commission Records, Reports of the Commission, and Transcripts of Commission Meetings

Correction

In FR Doc. 83-27403, beginning on page 46010 in the issue of Tuesday, October 11, 1983, the amendatory paragraph immediately following the Part 145 heading in the second column of page 46011 should read, "1. In § 145.9b, paragraph (a) is amended by redesignating paragraphs (a) (9) and (10) as paragraphs (a) (10) and (11), respectively."

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 270 and 271

[Docket Nos. RM80-21-000 and RM80-21-001; Order No. 108-A]

Natural Gas Policy Act of 1978; Sellers of Gas; State Severance Taxes

Issued: October 12, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Granting in Part and Denying in Part Rehearing of Order No. 108 and Dissolving Stay and Refund Condition.

SUMMARY: This order on rehearing affords sellers of gas subject to Subparts E and F of the Commission's regulations the same opportunity to collect an allowance for State severance taxes under section 110(a)(1) as the Commission has afforded sellers of interstate gas. This order removes the presumption of Order No. 108, stayed on December 24, 1980, that the maximum lawful prices in NGPA section 105 or 106(b) are presumed to recover all State severance taxes under section 110(a)(1) attributable to the production of natural gas borne by the seller. This order recognizes the lawfulness of continued State severance tax collections under section 110(a)(1) in excess of the otherwise applicable maximum lawful price, if contractually authorized. This order permits the parties to a gas sales contract prospectively to amend the contract to authorize collection of State severance taxes for deliveries commenced on or after the effective date of this order, precludes retroactively effective contract amendments and retroactive collections of State severance taxes for gas delivered prior to the effective date of this order, and ratifies contractually authorized collections of State severance taxes made before the effective date of this order. The order leaves it to the parties to determine whether or not the contract authorizes collection of State severance taxes under section 110(a)(1).

As a consequence of removing the presumption of full recovery of State severance taxes, this order dissolves the stay and refund condition of the stay, thereby permitting sellers of gas to retain amounts collected from January 1, 1981 through the effective date of this order. Collections of state severance taxes made under this order are not subject to any refund condition.

EFFECTIVE DATE: The amendments to Commission regulations and dissolution of the stay and refund condition of the stay shall all be effective November 17, 1983.

FOR FURTHER INFORMATION CONTACT:

Albert J. Francese, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: A. G. Sousa, Acting Chairman; J. David Hughes and Oliver G. Richard III.

I. Introduction

In this order, the Commission considered whether to implement the presumption of full recovery of existing State severance taxes of Order No. 108 or to remove the presumption. In light of the Commission's actions in Order Nos. 94-B and D and in response to petitions, this order rescinds the presumption of full recovery of State severance taxes and dissolves the stay and refund conditions of the stay. By removing the presumption of full recovery of State severance taxes, this order ratifies contractually authorized collections made prior to the effective date of this order and precludes retroactive collections for deliveries made prior to the effective date of this order and retroactively effective contract amendments. This order permits parties to amend their contracts prospectively to collect an allowance for State severance taxes and prospectively permits the continued collection by first sellers subject to Subparts E and F of an amount in excess of the otherwise applicable maximum lawful price for State severance taxes pursuant to NGPA section 110(a)(1) and § 271.1102(a) of the Commission's Subpart K regulations. These actions will be effective 30 days after publication in the Federal Register.

On November 14, 1980 the Commission issued a final rule in Order No. 108 which provided that the maximum lawful prices in sections 105 and 106(b) of the Natural Gas Policy Act (NGPA), implemented in Subparts E (existing intrastate contracts and successor contracts) and F (intrastate rollover contracts) of the Commission's regulations, are presumed to recover all State severance taxes attributable to the production of natural gas borne by the seller if levied on the sale by state law enacted on or before November 9, 1978.[1]

[1] 18 CFR 271.1102(c)(1) (1983). *See*, Final Rule, "Sales of Natural Gas Made Under the NGPA

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VOL
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In so doing, the final rule, in conjunction with Subparts E and F of the Commission's regulations, precluded reimbursement of taxes under section 110(a)(1) to the extent reimbursement would cause the price to exceed the maximum lawful price prescribed in section 105 or 106(b). The final rule also provided that increased State severance taxes which result from an increase in the State severance tax rate by State law enacted after November 9, 1978 may be collected by first sellers of gas sold under section 105 or 106(b) over and above the applicable maximum lawful price to the extent such reimbursement is necessary.[2]

In addition, the definitions of "contract price" and "price under the terms of the contract" in § 271.504 of the Commission's regulations [3] were amended to clarify that the total proceeds of the sale are to be used in establishing ceiling prices under Subparts E and F. Finally, the Commission determined that, in the absence of Commission guidance prior to issuance of Order No. 108, parties to contracts may have interpreted the regulations as authorizing collections of State severance taxes. For this reason the Commission concluded that it would be inequitable to apply the final rule retroactive to December 1, 1978, and, accordingly, did not require refunds of tax collections made prior to January 1, 1981 that would have been precluded by the final rule.

Several petitions for rehearing and requests for stay were filed. In response to these petitions, the Commission stayed the January 1, 1981 effective date of the amendments to §§ 271.504 and 271.1102 pending rehearing. The stay was granted on the conditions that payments of State severance taxes for deliveries of natural gas on or after January 1, 1981, in excess of the applicable maximum lawful prices under Subparts E and F be subject to refund and pass through to the customers.[4] Order No. 108 has, therefore, never become effective, and the stay continues in effect.

(Sections 110, 105 and 106(b)) that are Sales of Intrastate Gas," Order No. 108, issued Nov. 14, 1980, 45 FR 76664 (Nov. 20, 1980), FERC Stats. and Regs. Preambles ¶ 30,205 (1977–81). Notice of Proposed Rulemaking, "Proposed Regulations Under Section 110 of the NGPA," Docket No. RM80–21, issued Jan. 18, 1980, 45 FR 5747 (Jan. 24, 1980), FERC Stats. and Regs. ¶ 32,054 (Proposed Regs. 1977–81).

[2] 18 CFR 271.1102(c)(2) (1983).

[3] 18 CFR 271.504 (a) and (b) (1983).

[4] Order Granting Temporary Conditional Stay and Granting Rehearing for Purposes of Further Consideration, "Regulations Under Sections 100, 105 and 106(b) of the NGPA," issued December 24, 1980, 46 FR 2975 (Jan. 13, 1981).

II. Specifications of Error

The Commission received ten petitions for rehearing of Order No. 108.[5] With the exception of two gas distribution companies,[6] all petitioners argued that Order No. 108 is arbitrary, capricious, and an abuse of discretion for a variety of constitutional, statutory, and practical reasons. While producers object to the denial of what they consider to be a statutory right under NGPA section 110 to collect reimbursement for State severance taxes, pipelines are concerned that the final rule disregards the contractual expectations and intent of the parties in violation of the contract-based origin of section 105 ceiling prices. In the only petition supporting Order No. 108, gas distribution petitioners, on the other hand, seek to make Order No. 108 retroactively effective to December 1, 1978 or April 1, 1980, the proposed effective date in the Notice of Proposed Rulemaking in Docket No. RM 80–21.

The most fundamental issue raised on rehearing is the nature of the Commission's authority under NGPA section 110(a)(1). Citing the language of section 110 and the related explanatory discussion of the NGPA Conference Report,[7] producers and pipelines argue that the Commission misconstrued its authority under NGPA section 110(a)(1). Congress, they believe, gave the Commission no discretion to deny section 110 allowances for State severance taxes for intrastate sellers. Producers state that section 110(a)(1) confers a statutory right or entitlement to full reimbursement for State severance taxes borne by them and attributable to production and that the right to collect such allowances applies to all NGPA pricing sections without exception. Some petitioners add that because all ceiling prices are to be considered exclusive of State severance taxes under section 110(a)(1) there would be no double recovery of taxes if the Commission permitted collection of State severance taxes under section 110.

With the exception of local distribution companies, all petitioners take issue with the Commission's presumption of full reimbursement for all existing State severance taxes in the sections 105 and 106(b) ceiling prices. They assert that the presumption makes factually inaccurate assumptions concerning the operation of the intrastate market, that it is inconsistent with NGPA section 101(b)(9), and that it constitutes contract interpretation. Producers and pipelines argue that the presumption disregards existing contracts with specific provisions for tax reimbursement or redetermination clauses which otherwise permit escalation above the section 102 ceiling price of section 105(b)(1). Some petitioners complained that the presumption was an effort by the Commission to freeze taxes as a permanent cost component of the ceilng price even though the parties never expressly agreed to tax reimbursement. Further, other petitioners believed that the Commission should permit recovery under section 110 of increases in taxes caused by increases in the price of gas as a result of operation of definite or indefinite price escalator clauses or NGPA inflation adjustments.

Producers further argue that the presumption reduces the value of the maximum lawful price with Congress, in enacting the NGPA, did not intend to compensate for State severance taxes. Congress, they argue, established section 110(a)(1) as a vehicle separate and apart from the ceiling price sections of Title I to compensate for State severance taxes as an addition to all first sale maximum lawful prices. They further argue that Order No. 108 is inconsistent with the key policy objective of the NGPA to eliminate disparities between intrastate and interstate markets and that Order No. 108 results in undue discrimination against intrastate producers and pipelines in the production, pricing, and sale of gas in the intrastate market.

Most petitioners believe that in order to equalize pricing and supply opportunities between the interstate and intrastate markets, producers should be entitled to reimbursement for State severance tax payments actually made under section 110(a)(1) if reimbursement is authorized under the terms of the gas sales contract. Petitioners argue that the Commission should permit the parties to amend their contracts prospectively to authorize reimbursement of taxes.

Some producers also argue that Order No. 108 is arbitrary, capricious, and inequitable because it terminates an ongoing practice of tax reimbursement under some intrastate contracts. For this reason, petitioners state that the Commission acted contrary to law and

[5] Petitions for rehearing in Docket No. RM80–21 were filed by: Indicated Producers; Mobile Gas Service Corp. and Clarke-Mobile Counties Gas District, Alabama; Delhi Gas Pipeline Corp.; Terra Resources Inc.; Lone Star Gas Co.; Valero Transmission Co.; Amoco Production Co.; Isaac Arnold, Jr.; Texas Gas Exploration Corp.; Pennzoil Co. and Pennzoil Producing Co.; and Damson Oil Corp., *et al.*

[6] Mobile Gas Service Corp. and Clarke-Mobile Counties Gas District, Alabama.

[7] "All ceiling prices under the Act are exclusive of State severance taxes borne by the seller. * * *" S. Rep. No. 1126, 95th Cong., 2d Sess. 90 (Aug. 18, 1978); I FERC Stats. and Regs. ¶3,101 at 3,098.

the Fifth Amendment of the United States Constitution, which prohibits the taking of private property for public use without just compensation and the deprivation of property without due process of law.[8] In light of these arguments, some petitioners objected to the order's reliance on the section 502(c) adjustment procedure as a meaningless remedy and as another opportunity of the Commission to use its discretion in an arbitrary way.[9]

III. Discussion

A. Background

By its interim NGPA regulations,[10] the Commission attempted to preserve the status quo on November 9, 1978 with respect to the obligations of the parties to intrastate gas sales contracts. The Commission accomplished this objective by prohibiting contract amendments which shifted production-related costs from the seller to the purchaser in a manner that differed from the contract in effect on November 9, 1978.[11] Using this regulatory approach, the Commission sought to minimize further price increases for existing intrastate gas contracts in furtherance of a congressional objective in enacting the NGPA.[12]

On November 10, 1980, the Commission issued Order No. 68–A, denying in part and granting in part, petitions to rehear Order No. 68.[13] In Order No. 68–A, the Commission discussed that the term "price" for purposes of section 105 or 106(b) has meaning only when related to a specific set of obligations allocated to the parties as of November 9, 1978. The Commission concluded that the sections 105 and 106(b) ceiling rates themselves "provide reimbursement for production-related costs borne by the seller according to the terms of the contract."[14]

The presumption of full recovery in Order No. 108 reflects a line of reasoning similar to that followed in Order No. 68. By precluding the collection by section 105 or 106(b) sellers of an allowance for State severance taxes as an addition to the ceiling price, the Commission's action in Order No. 108 reflected the Commission's emphasis on the NGPA objective of minimizing price increases of section 105 or 106(b) gas.

Order No. 108 amended § 271.1102 to provide that first sellers of gas subject to section 105 or 106(b) may not collect section 110(a)(1) allowances for State severance taxes in addition to the otherwise applicable maximum lawful price except in the event of an increase in such taxes by a tax rate change enacted by State law after November 9, 1978. The Commission noted that section 110(a)(1) permits the first seller to collect a State severance tax allowance in addition to the ceiling price only to the extent necessary for the seller to recover such taxes. The Commission believed that the ceiling prices under section 105 or 106(b) are the result of contract negotiation[15] and that a reasonable businessman would recover all business expenses, including State severance taxes, in the "contract price" or "price under the terms of the contract." Because of these considerations, tax recovery was considered a permanent and continuing component of the section 105 or 106(b) ceiling price. The Commission stated that since reimbursement for State severance taxes was included within the maximum lawful price the seller should not be permitted to recover State severance taxes other than tax increases again through an allowance under section 110.[16] The Commission believed that such recovery would not be "necessary."

In Order No. 94–B,[17] the Commission reassessed the policy basis for precluding sellers of gas subject to section 105 or 106(b) from collecting production-related cost allowances. The Commission concluded that if it were to continue to preclude such sellers from changing pre-NGPA agreements respecting obligations to provide production-related costs, the result would be to establish a wide variation in treatment between interstate and intrastate gas flowing at the time of enactment of the NGPA.[18] The Commission eliminated the "no cost-shift rule" in Order No. 94–B because it concluded that its preservation would exaggerate differences between the interstate and intrastate gas market and discriminate against intrastate gas.

The Commission extended to sellers of gas subject to sections 105 or 106(b) basically the same opportunities to collect production-related cost allowances as other sellers as a means to eliminate the dual market that had arisen under the Natural Gas Act and which the Congress sought to eliminate under the NGPA.[19] The Commission was persuaded that even though the objectives of the NGPA conflicted, an appropriate balancing of NGPA objectives required that greater weight should be given prospectively to the Congressional purpose of developing a national market for gas. As a consequence of this change in policy, Order No. 94–B provided that collections by a section 105(b)(1) seller of an adjustment for production-related costs shall not be considered to exceed the section 102 new gas price.[20]

B. Rescission of the Presumption of Full Recovery

In light of Order Nos. 94–B and D, the Commission believes that the final rule of Order No. 108, which would have

[8] As a result of the removal of § 271.1102(c) from the Commission's regulations, there is no need to respond to the merits of this allegation.

[9] The Commission referred to the section 502(c) adjustment procedure as a means to secure relief from the application of § 271.1102(c). Because the Commission in this order is rescinding § 271.1102(c), it is unnecessary to respond to this argument.

[10] Interim Regulations Implementing the Natural Gas Policy Act of 1978, Docket No. RM79–3 (issued December 1, 1978), 43 FR 56,448 (Dec. 1, 1978), FERC Stat. and Reg. Preamble ¶30,026 (1977–1981).

[11] The "no-cost shift" rule was codified at §§ 271.505(a) and 271.604(b), Order No. 94–B rescinded the no-cost shift rule.

[12] *See*, Order No. 94–B, "Order Amending Regulations in Subpart B of Part 270 and Subparts E, F, and K of Part 271, and Affirming Certain Final Regulations issued in Order No. 68," Docket No. RM80–74–003 (issued Jan. 24, 1983), 48 FR 5,190, 5,193, fn. 27, (Feb. 3, 1983), III FERC Stats. and Regs. ¶30,421; and Order No. 94–D, "Order Denying Rehearing and Denying Stay of Order No. 94–B," Docket No. RM80–47–003, et al. (issued May 24, 1983), 48 FR 24,051 (May 31, 1983).

[13] In Order No. 68, the Commission implemented final rules for sections 105 and 106(b) of the NGPA. Order No. 68 clarified the definition of the term "price" to mean all the proceeds of the sale and kept the no-cost shift rule substantively intact. Order No. 68, "Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978," Docket No. RM80–14 (issued Jan. 18, 1980), 45 FR 5,678 (Jan. 24, 1980), FERC Stat. and Reg. Preambles ¶30,125 (1977–1981); Order No. 68–A, "Order Clarifying Order No. 68, Granting in Part and Denying in Part Rehearing of Order No. 68, and Amending Regulations in Subparts E, F, and K of Part 271," (issued Nov. 10 1980), 45 FR 76,676 (Nov. 20, 1978), FERC Stats. and Reg. Preambles ¶30,209 (1977–1981).

[14] Order No. 68–A, *Supra*, ¶30,209 at 31,397.

[15] *See*, Pennzoil Co. v. FERC, 645 F.2d 360, 374–5 (5th Cir. 1981), *cert. denied*, 454 U.S. 1142 (1982).

[16] Order No. 108, n.1, *Supra*, ¶30,205 at 31,381. The presumption of full inclusion appears at 18 CFR 271.1102(c)(1) (1983):

Existing tax recovery under existing intrastate and intrastate rollover contracts. Except as provided in paragraph (c)(2) of this section, the maximum lawful prices for first sales of natural gas subject to Subparts E and F of this part (relating to first sales under existing intrastate contracts and intrastate rollover contracts) are presumed to recover all State severance taxes borne by the seller, and attributable to the production of such natural gas, that were imposed by State law enacted on or before November 9, 1978.

[17] *See*, Order No. 94–B, n. 12, *supra*, 48 FR 5,196.

[18] *Id.* at 5,193.

[19] There were differences concerning the effective date for allowances and nature of the allowances for sales of gas subject to sections 105 and 106(b) as compared to sales of gas subject to other pricing sections.

[20] *See*, 18 CFR 270.205(b)(2). As a result of this revision, a seller of gas subject to section 105(b)(1) who collects a production-related cost adjustment in addition to the section 102 new gas price would not be in violation of the Commission's ceiling price regulations (§ 271.502(a)).

VOL
48
ISS
202
OC
18
1983
UMI

presumed that the price under the terms of the contract or the contract price of gas sold subject to section 105 or 106(b) fully compensates sellers for all State severance taxes, should not be put into effect.[21]

Upon reconsideration of Order No. 108, the Commission is changing its position concerning the presumption of full recovery of State severance taxes for the same policy considerations that caused it to abandon its preclusion of sellers of gas under section 105 and 106(d) from recovering an allowance under section 110(a)(2) for production-related costs.

First, application of the presumption of full recovery is inconsistent with the Commission's changed view that the Commission should give greater emphasis to the NGPA objective of eliminating pricing disparities between the intrastate and interstate markets and fostering a national market for gas. The Commission believes that it should afford sellers of gas under section 105 or 106(b) the same opportunities as other sellers to collect allowances for State severance taxes under section 110(a)(1). Elimination of the presumption of full recovery would assist in minimizing unnecessary distinctions between the intrastate and interstate markets without significantly eroding the NGPA objective of limiting the escalation of prices for gas subject to existing intrastate contracts.

Second, the Commission finds no statutory intent in sections 105, 106(b), or 110 [22] to prevent a seller of gas subject to section 105 or 106(b) from collecting an allowance for State severance taxes which the Commission affords to sellers of gas under other pricing sections. Rescission of the presumption of full recovery is a function of the Commission's discretion under section 110(a)(1) as explained in the legislative history of that section.[23] The addition of an allowance for State severance taxes under section 110(a)(1) by sellers of gas under section 105 or 106(b) is not inconsistent with the statute.

As a consequence of the Commission's decision to permit continued allowances for State severance taxes for sales under sections 105 or 106(b), the Commission agrees with those petitioners who argue that the Commission no longer has any reason to inquire into the composition of ceiling prices under sections 105 or 106(b) to ascertain if taxes are already being recovered by collection of the ceiling price or if the total proceeds of the sale are sufficiently high to compensate for State severance taxes. The Commission, therefore, believes that the cost constituents of the sections 105 or 106(b) maximum lawful price are now irrelevant for purposes of determining eligibility to collect State severance tax allowances under section 110(a)(1).

Because of the way the Commission is applying section 110(a)(1), the Commission believes that it is no longer appropriate to consider the section 105 or 106(b) ceiling rates as providing for the reimbursement for State severance taxes intended to be recovered by a section 110(a)(1) allowance. Therefore; as a result of the Commission's definition of the maximum lawful price in its ceiling price regulations, collection of State severance tax allowances, if in compliance with section 110(a)(1), in addition to the otherwise applicable section 105 or 106(b) maximum lawful price, will not be considered to result in a double recovery of taxes.

Because the presumption of full recovery in Order No. 108 is no longer appropriate, the Commission is rescinding § 271.1102(c) and is making a conforming technical revision to § 271.1102(a) eliminating reference to subparagraph (c).[24] Because collection of an allowance under section 110(a)(1) does not result in a violation of the otherwise applicable maximum lawful price, this order revises the second sentence of § 270.205(b)(2) with respect to section 105(b)(1) sellers. The revision provides that collection of an allowance for State severance taxes, like allowances for production-related costs, shall not be considered to be in excess of the section 102 price for new natural gas for section 105(b)(1) sellers.

C. Contractual Authorization

One petitioner sought clarification that redetermination provisions, definite and indefinite price escalator clauses, and specific tax clauses constitute contractual authority to collect section 110(a)(1) allowances for State severance taxes for sales of gas under sections 105 or 106(b).

The Commission agrees with petitioners who would have the Commission permit sellers of gas subject to section 105 or 106(b) to collect an allowance in excess of the otherwise applicable maximum lawful prices for State severance taxes if collections are contractually authorized. The Commission is aware of the great diversity of contractual provisions in use in the pre-NGPA intrastate market and which remain in force. As a policy matter, however, the Commission is concerned that the establishment of definitions of contractual authority for purposes of section 110(a)(1), as some petitioners have suggested, is inappropriate. Such action could unsettle past tax collections and could interfere with on-going reimbursement practices based on private contractual relationships and contract interpretations.

In order to avoid the disruptive consequences which could follow from definitions of contractual authorization, the Commission leaves issues respecting intrastate contract interpretation to the parties or the courts to resolve. This approach is administratively desirable because it prevents the Commission from becoming an arbiter of private contractual disputes and is consistent with the Commission's treatment of such matters under Order No. 94–D.[25] Therefore, the Commission's rules implementing section 110(a)(1) in the case of sales under section 105 or 106(b) do not prescribe any specific wording requirements for the seller to meet before he may collect an allowance for State severance taxes. All that is required is that the parties agree that the contract authorized the amount of State severance taxes to be collected.[26]

The Commission recognizes, in response to petitions, that as a consequence of rescinding the presumption of full recovery of State severance taxes, parties to the contract should be able to amend their contract if they conclude that an amendment is necessary to authorize collection of State severance taxes under section 110. This order, therefore, revises § 270.205(c) to reflect the Commission's policy that the parties may prospectively amend an intrastate existing, successor, or rollover contract to collect an allowance to recover State severance taxes for deliveries made on or after the effective date of this order.

This order does not permit retroactively effective contract amendments consistent with Opinion No. 135.[27] In concluding that contract amendments should operate prospectively, the Commission believes that public policy considerations generally mitigate against giving retroactive effect to contract amendments.[28] In Order No. 94–B, the Commission incorporated the general policy consideration against retroactively effective contract amendments by precluding the collection of a section 110 production-related cost allowance for a period of time in which the contract did not authorize collection of such an amount. Retroactively effective contract amendments would be unfair to purchasers who would have no expectation that they would be held liable for costs related to past production-related services. Similarly, in order to avoid unfairness and inequity to purchasers who could otherwise be billed for State severance taxes relating to deliveries before the effective date of this order, the Commission is making the revision to § 270.205(c) effective for deliveries on or after the effective date of this order.

D. Definitions of "contract price" and "price under the terms of the contract" (§ 271.504)

Section 271.504 defines "contract price" and "price under the terms of the contract" for purposes of determining the maximum lawful price under section 105. As used in Order Nos. 68, 68–A, and 108, "price" means the total amounts paid by the purchaser to obtain the gas. The "price" under a section 105 contract has meaning in connection with the total proceeds of the sale. The total proceeds of the sale includes payments labeled as "price", "production-related cost allowances," and "State severance tax allowances." Order No. 108 clarified that the definitions of "price" when used in the context of both "contract price" and "price under the terms of the existing contract" expressly mean all monies paid by the purchaser including those that are earmarked as reimbursements for State severance taxes.

Several petitioners expressed confusion whether the above definitions were intended to embody the presumption of full compensation for State severance taxes in the ceiling price. As a result some sellers may not have collected section 110(a)(1) allowances on the assumption that § 271.504 embodied a generic finding that such allowances were not "necessary"—a prerequisite to collection expressed in § 271.1102(a). As stated in Order No. 108, the purpose of the definitions was merely to establish that the "total proceeds" of the sale is the yardstick for establishing the "contract price" or "price under the terms of the existing contract" for purposes of sections 105(b)(1)(A) and 105(b)(2)(A)(i).[29] These definitions are used to determine whether a specific sale is within section 105(b)(1) or 105(b)(2) and what the section 105(b)(1) or (b)(2) ceiling price is once that threshold determination has been made.[30] These definitions never embodied any presumption of tax recovery which was, instead, intended to be codified at § 271.1102(c) for the first time.

In addition, in Order No. 108, the Commission addressed the issue of whether section 110 has already automatically raised each ceiling price by the amount of State severance taxes on the sale rather than operating as an add-on provision. The Commission in Order No. 108 rejected this argument, and we uphold that decision here. Thus, for example, in applying section 105 to a given month's deliveries of gas, the reference to the "section 102" ceiling rate in section 105(b)(1)(B) and 105(b)(2)(A) is meant to refer to the dollar amounts listed in Table I of § 271.101(a).

E. Effect of This Order on Rehearing and Effective Date

The Commission stayed Order No. 108 to avoid disruption of State severance tax collections pending reconsideration of Order No. 108. Before Order No. 108 was issued, first sellers of gas under section 105 or 106(b) may have collected State severance tax allowances under their interpretation of § 271.1102(a). On its face § 271.1102(a) does not preclude the collection of necessary State severance taxes by first sellers of natural gas under any NGPA pricing section. Others may have interpreted the interim rules, particularly §§ 270.205 and 271.504, so as to preclude collection of State severance tax allowances. Because of an absence of Commission guidance until Order No. 108 and because many first sellers relied on the interim NGPA regulations as authorization to collect allowances for State severance taxes under section 110 for deliveries made before January 1, 1981, the Commission in Order No. 108 ratified all such contractually authorized collections and did not require a refund of State severance tax allowances in excess of section 105 or 106(b) ceiling rates that were paid before January 1, 1981.

In issuing the stay, the Commission did not wish to disrupt continued tax collections under interim § 271.1102(a) for deliveries of gas on or after January 1, 1981 provided that such continued collections were made subject to refund. Collections were permitted subject to refund in the event that the Commission implemented the presumption of recovery in Order No. 108 on rehearing. Because the Commission is granting in part rehearing of Order No. 108, the Commission is not issuing § 271.1102(c), which would have had the effect of disallowing section 110(a)(1) allowances for section 105 or 106(b) sellers. The Commission will, therefore, dissolve the stay and rescind the refund and passthrough conditions of the stay order 30 days after publication in the **Federal Register**. As a result of eliminating the refund condition, first sellers will be able to retain amounts collected for State severance taxes from January 1, 1981, through the effective date of this order.

As a result of this order on rehearing, those first sellers of gas under section 105 or 106(b) who have been collecting contractually authorized State severance taxes under § 271.1102(a) for deliveries made on or after January 1, 1981, subject to the refund condition of the stay, may continue to collect such taxes subject to refund until the refund condition is dissolved 30 days after publication of this order.[31] Thirty days after publication in the **Federal Register**, those first sellers of gas subject to section 105 or 106(b) who have not been collecting an allowance for State severance taxes may begin collections, without any refund obligation, under § 271.1102(a) if the contract in effect on the date of the delivery authorizes collection. This order permits parties to amend contracts to authorize collections of State severance taxes prospectively

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[21] Gas distributors argue that Order No. 108 should be retained and should be made retroactively effective December 1, 1978 because that is the date the NGPA became effective. As the Commission no longer accepts the policy basis of Order No. 108 and is therefore rescinding the presumption of full recovery of State severance taxes, the petition that Order No. 108 should be made retroactive must be denied.

[22] *See*, Order No. 94–B, n.12, *supra*, 48 FR at 5,193.

[23] *See*, n. 7, *supra*.

[24] The rescission of Order No. 108 was suggested in the Joint Application for Rehearing of Order No. 108 of Damson Oil Corp., Natural Resources Corp., Pelto Oil Co., and Samson Resources Co., filed December 15, 1980. *See* Application for Rehearing at 14. Section 271.1102(c)(2) would permit recovery of allowances for increased State severance taxes. Paragraph (c)(2) is no longer needed as this order permits continued collection of all necessary taxes under section 110, including those resulting from an increase in tax rate or increase in the price of gas.

[25] *See*, Order No. 94–D, n.12, *supra*, 48 FR at 24,056.

[26] NGPA Section 101(b)(9) establishes the general requirement of contractual authorization for collection of proceeds under Title I.

[27] Opinion No. 135, Opinion and Order Remanding for Limited Purposes, Docket No. GP80–24 (issued Dec. 11, 1981) 17 FERC ¶ 61,231, cited in Order No. 94–B, 48 FR 5,195 (May 31, 1983), Order No. 94–D, 48 FR 24,059 (May 31, 1983).

[28] Opinion No. 135 at 61,453.

[29] Order No. 108, n. 1, *supra*, FERC Stats. and Regs. Preambles ¶ 30,205 at 31,383. (1977–81).

[30] 18 CFR § 271.502 (a) and (b) (1983) defines maximum lawful price for purposes of section 105. *See also* 18 CFR § 271.602(a) for regulations defining the maximum lawful price for instrastate rollover contracts.

[31] This order affirms the action of the Commission in Order No. 108 ratifying contractually authorized collections of allowances for State severance taxes for deliveries made prior to January 1, 1981.

VOL 48 ISS 202 OCT 18 1983 UMI

for deliveries made on or after the effective date of this order.

For the same policy reasons that the Commission is precluding retroactively effective contract amendments, the Commission is also precluding retroactive collections by first sellers who did not collect an allowance for State severance taxes before the effective date of this order, even though their contracts in effect at the time of the delivery may have authorized collections. By precluding retroactive collections, the Commission will avoid the unfairness and inequity of subjecting some purchasers to potentially large reimbursement claims for past deliveries.

IV. Conclusion and Summary

The Petitions for Rehearing are granted to the extent discussed above. Petitions for Rehearing arguing for retention of § 271.1102(c) are denied and that provision is being rescinded. Prospectively, from the effective date of this order, contractually authorized collections for State severance taxes are permitted for sales of gas subject to Subparts E and F.

This order provides, effective 30 days after publication in the Federal Register, that sellers of gas sold subject to sections 105 and 106(b) may continue to collect, without refund obligation, contractually authorized allowances for State severance taxes and increases in such taxes under existing § 271.1102(a) without violating the otherwise applicable maximum lawful price. The order also amends § 270.205(b)(2) to provide a reference to State severance taxes in order to clarify that contracts covering sales under section 105(b)(1)(b) may operate to authorize the collection of section 110 allowances for State severance taxes; and provides that parties may prospectively modify contracts to add an allowance for State severance taxes for deliveries made on or after the effective date of this order [§ 270.205(c)]. Effective 30 days after publication in the Federal Register, this order also dissolves the stay of Order No. 108 and the refund and pass-through conditions of the stay. As a result, first sellers who have been collecting contractually authorized State severance tax allowances subject to refund may retain those monies after the 30 day publication period expires without a refund obligation.

For the foregoing reasons, the Commission orders that:

(1) Except as to the Application for Rehearing of Mobile Gas Service Corp. and Clarke-Mobile Counties Gas District, Alabama, which is denied, the Petitions and Applications for Rehearing of Order No. 108 are hereby granted to the extent consistent with the preceding discussion;

(2) To the extent any application for rehearing has not been specifically granted, it is denied;

(3) Effective 30 days after publication of this order in the Federal Register, the Commission's Order, issued December 24, 1980, Granting Temporary Conditional Stay of the effective date (January 1, 1981) of § 271.504 (a) and (b) and § 271.1102(c) and Granting Rehearing of Order No. 108 for Purposes of Further Consideration is rescinded (including the refund and pass-through conditions of the stay order), and the stay order is dissolved; and,

(4) For the reasons stated herein, the Commission amends 18 CFR 270.205(b)(2), 270.205(c) and 271.1102(a), and rescinds §§ 271.1102(c)(1) and 271.1102(c)(2).

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432)

List of Subjects

18 CFR Part 270

Natural Gas, Wage and price controls.

18 CFR Part 271

Natural Gas, High-cost gas, Tight formations.

In consideration of the foregoing, Parts 270 and 271 of Title 18, Code of Federal Regulations, are amended as set forth below; all amendments are issued as final rules effective November 17, 1983.

By the Commission. Commissioner Hughes voted present.

Kenneth F. Plumb,
Secretary.

PART 270—[AMENDED]

1. Section 270.205 of Part 270 is amended by revising the last sentence of paragraph (b)(2) as follows:

§ 270.205 Contractual authorization to collect NGPA rates.

* * * * *

(b) *Existing intrastate contracts.* * * *

(2) * * * However, if a seller collects an adjustment for production-related costs or State severance taxes in accordance with Subpart K of Part 271, that amount shall not be considered to be in excess of the new natural gas price under section 102 of the NGPA.

* * * * *

2. Section 270.205 of Part 270 is further amended by revising paragraph (c) to read as follows:

* * * * *

(c) *Modification of contracts.* The NGPA does not prohibit the parties to a contract for the first sale of natural gas from amending or modifying such contract to permit the seller to charge and collect any applicable NGPA rate or an adjustment under Subpart K of Part 271 for production-related costs or State severance taxes. If natural gas sold under such contract is subject to section 105(b)(1) of the NGPA and qualifies for no higher maximum lawful price under any other provision of the NGPA, no amendment or modification of such contract may provide authorization for a seller to charge and collect a price which exceeds the price under the terms of the contract as in effect on November 9, 1978, except to the extent the amendment provides authorization to collect an adjustment for production-related costs or State severance taxes in accordance with Subpart K of Part 271.

* * * * *

3. Section 271.1102 is amended by removing paragraph (c) in its entirety and by revising paragraph (a) as follows:

§ 271.1102 State severance taxes.

(a) Except as provided in paragraph (b) of this section, the price for any first sale of natural gas shall not be considered to have exceeded the maximum lawful price applicable to that sale as set forth in this part if such first sale price exceeds the maximum lawful price to the extent necessary to recover State severance taxes borne by the seller.

* * * * *

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

[FR Doc. 83-28329 Filed 10-17-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 82F-0046]

Indirect Food Additives: Adhesive Coatings and Components

Correction

In FR Doc. 83–26337 appearing on page 44203 in the issue of Wednesday, September 28, 1983, make the following corrections.

In the first column, under **FOR FURTHER INFORMATION CONTACT**, the Area Code now reading "020" should read "202"; in the second column, in the paragraph under the Part heading, seventh line, remove the phrase "amended in § 175 is".

BILLING CODE 1505-01-M

21 CFR Part 520

Thiabendazole With Trichlorfon; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA), providing for a sponsor change from Merck & Co. to Farnam Cos. The NADA provides for oral use of thiabendazole with trichlorfon to control and treat infestations of certain parasites in horses.

EFFECTIVE DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: Farnam Cos., Inc., 2230 East Magnolia, P.O. Box 21447, Phoenix, AZ 85036, filed supplemental NADA 91–067 providing for a change of sponsor from Merck & Co. Merck & Co. has confirmed the change of sponsor. The NADA provides for use of thiabendazole with trichlorfon to control and treat infestations of certain parasites in horses. FDA amends the regulations to reflect the change of sponsor.

This action concerns a change of sponsor and does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this change does not require reevaluation of the safety and effectiveness data in the parent application.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1) proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, oral.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.2380e [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.2380e *Thiabendazole with trichlorfon* by removing from paragraph (b) the number "000006" and inserting in its place "017135".

Effective date. October 18, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 7, 1983.

Max L. Crandall,
Associate Director for Surveillance and Compliance.

[FR Doc. 83-28293 Filed 10-17-83; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Azaperone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pitman-Moore, Inc., providing for safe and effective use of azaperone injection as a tranquilizer for swine weighing up to 80 pounds.

EFFECTIVE DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, NJ 08510, filed NADA 115–732 which provides for deep intramuscular use of Stresnil (azaperone) Injection for control of aggressiveness in swine when mixing or regrouping weanling or feeder pigs weighing up to 80 pounds. The NADA is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information (FOI) summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(j)) may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 522

Animal drugs, injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.150 to read as follows:

§ 522.150 Azaperone injection.

(a) *Specifications.* Each milliliter of sterile aqueous solution contains 40 milligrams of azaperone.

(b) *Sponsor.* See No. 011716 in § 510.600(c) of this chapter.

(c) *Conditions of use.*—(1) *Indications for use.* Control of aggressiveness when mixing or regrouping weanling or feeder pigs weighing up to 80 pounds.

(2) *Dosage.* 2.2 milligrams per kilogram (1 milligram per pound).

(3) *Limitations.* Inject by deep intramuscular injection. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. October 18, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 11, 1983.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 83-28292 Filed 10-17-83; 8:45 am]
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VOL
48
ISS
202
OC
18
1983
UMI

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Paroling Policy Guidelines

Correction

In FR Doc. 83-26156 beginning on page 44529, in the issue of Thursday, September 29, 1983, make the following corrections:

1. On page 44530, the first column, under "617 *Failure to Appear* *", in paragraph (a), the fourth line, "(i) 6" should read "(i) ≦ 6".

2. In the same column, under "618 *Contempt of Court*", the third line, the phrase "add 6 months" should read "add ≦ 6 months".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 163

[CGD 83-027]

Towing of Barges; Towing Hawser Length Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule eliminates the towing hawser length requirements for vessels navigating the harbors, rivers, and inland waters of the United States. The equipment, methods, and practices involving the towing of vessels have changed considerably since the regulation was originally promulgated. A simple limitation of towing hawser length is no longer appropriate. This rule will allow masters of towing vessels to use their discretion when determining the length of towing hawsers suitable to the situation.

EFFECTIVE DATE: November 17, 1983.

FOR FURTHER INFORMATION CONTACT: Captain E. E. Moran, Project Manager, Waterways Management Division, Office of Marine Environment and Systems (G-WWM), U.S. Coast Guard Headquarters, 2100 2nd St SW., Washington D.C. 20593, (202) 426-4958.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to consider deleting the Towing Hawser Length Requirement was published on July 7, 1983 (48 FR 31258). Comments were invited for a period of 45 days ending August 22, 1983. The only comment received supported the project.

Drafting Information

The principal persons involved in drafting this rulemaking are Captain E. E. Moran, Project Manager, Office of Marine Environment and Systems, and Lieutenant Mark Hanlon, Project Counsel, Office of Chief Counsel.

Discussion of the Regulation

The Coast Guard is deleting the requirements of 33 CFR 163.10 which limited the length of hawsers between vessels towing on the inland waters of the United States. The hawser length regulations were originally issued by the Marine Inspection Board of the Department of Commerce in 1909, and limited hawser length between towing vessels and their tows to no more than 450 feet (75 fathoms).

The Coast Guard believes that with the scope and complexity of modern towing operations, under some circumstances, compliance with this regulation may result in safety hazards rather than benefits. The deletion of this regulation, in consideration of modern equipment and techniques, will not create substantially greater risks for other marine traffic.

Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined to be nonmajor. In addition, this regulation is considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80).

A further economic evaluation has not been prepared since the impact of this regulation is expected to be minimal. This regulation deleted existing requirements which limit towing hawser length between towboats and their tows to not more than 450 feet (75 fathoms). No additional costs are associated with the removal of these regulations since no new equipment would be required. Some slight benefits may accrue by eliminating the requirement for an operation, hauling in a portion of the hawser, that would not otherwise be performed.

In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact upon a substantial number of small entities.

List of Subjects in 33 CFR Part 163

Harbors, Navigation (water), Waterways.

PART 163—[AMENDED]

Part 163 reads as follows:

1. The authority citation for Part 163 reads as follows:

Authority: 33 U.S.C. 180, 30 Stat. 90; 49 CFR 1.46(c)(2); 28 Stat. 647, 33 U.S.C. 258; 49 CFR 1.46(c)(3); sec. 4233 R.S., 33 U.S.C. 322.

§ 163.10 [Removed]

2. By removing § 163.10.

Dated: September 8, 1983.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 83-28265 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 447

Code of Ethical Conduct for Postal Employees; Conflict of Interest-Employment; Advisory Service; Political Activities; Statutory Provisions

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: By this final rule, the Postal Service makes minor technical amendments to its ethical conduct regulations to bring them into conformity with the Civil Service Reform Act of 1978. References to the former Civil Service Commission are deleted, references to 5 CFR Part 733 are updated, and references to statutes which have been repealed are deleted.

EFFECTIVE DATE: November 17, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Hawley, (202) 245-4584.

SUPPLEMENTARY INFORMATION: The Civil Service Reform Act of 1978 established the Office of Personnel Management and transferred to it certain functions vested by statute in the United States Civil Service Commission. The Act also designated the Merit Systems Protection Board to perform certain adjudicatory and enforcement functions previously performed by the Commission and transferred certain investigatory functions to the Special Counsel. Accordingly, this rule amends 39 CFR Part 447 by replacing all references to the Civil Service Commission with the appropriate references to the Office of Personnel Management or the Office of Special Counsel, Merit Systems Protection Board. Minor conforming changes made necessary on account of renumbered or obsolete sections of 5 CFR Part 733 and other minor technical corrections are also made.

Two statutes appearing in the section which lists the statutes and regulations applicable to postal employees have been repealed. Section 608 of Title 18, United States Code, which related to limitations on political contributions and purchases, was repealed by the Federal Election Campaign Act of 1971, as amended, Pub. L. 94-283, section 201(a), 90 Stat. 496 (1976). Section 1727 of Title 18, United States Code, which provided for a fine of not more than $50 for postage accounting violations, was repealed by the Act of July 5, 1968, Pub. L. 90-384, section 1(a), 82 Stat. 292, so as to permit prosecution under the postal embezzlement statute, 18 U.S.C. 1711. Accordingly, references to the two repealed statutes are deleted, and the remaining statutes are appropriately relettered.

Although 39 U.S.C. 410(a) exempts the Postal Service from the notice and comment requirements of the Administrative Procedure Act regarding proposed rule making (5 U.S.C. 553), the Postal Service ordinarily invites public comment on proposed changes to its regulations. Since, however, this rule makes no substantive change in the regulations, notice and an opportunity for the submission of comments in this case are deemed unnecessary.

Accordingly, 39 CFR Part 447 is amended as follows:

List of Subjects in 39 CFR Part 447

Conflict of interests, Government employees.

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

§ 447.23 [Amended]

§ 447.51 [Amended]

1. In paragraph (j) of § 447.23 and paragraph (a) of § 447.51 remove "the Civil Service Commission" and insert in lieu thereof "the Office of Personnel Management".

§ 447.31 [Amended]

2. In § 447.31 remove from paragraph (a) "the U.S. Civil Service Commission" and insert in lieu thereof "the Office of Personnel Management".

3. Section 447.53 is revised to read as follows:

§ 447.53 Investigation and enforcement.

The Office of the Special Counsel and the Merit Systems Protection Board investigate and adjudicate allegations of political activity in violation of the regulations of the Office of Personnel Management by Postal Service employees. For jurisdiction in such a case, see 5 CFR 733.301 and Parts 1250-1254.

§ 447.62 [Amended]

4. In paragraph (d) and paragraph (e) of § 447.62 remove "PES-25" and insert in lieu thereof "EAS-25".

§ 447.91 [Amended]

5. In § 447.91, amend paragraph (b) by removing "607, and 608" and inserting in lieu thereof "and 607"; remove paragraph (z); redesignate paragraphs (aa) through (jj) as paragraphs (z) through (ii); amend redesignated paragraph (hh) by removing "first-class mail" and inserting in lieu thereof "First-Class Mail".

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-28276 Filed 10-17-83; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 447

Code of Ethical Conduct for Postal Employees; Standards of Conduct; Definitions

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service adopts, without change, its proposal to amend its regulations relating to the acceptance of gifts of nominal value by postal employees. These amendments eliminate the specific dollar limit by which "nominal" value or amount was previously defined.

EFFECTIVE DATE: November 17, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Hawley, (202) 245-4584.

SUPPLEMENTARY INFORMATION: On May 12, 1983, the Postal Service published in the Federal Register, 48 FR 21343, a notice of proposed rulemaking to amend in various respects its Code of Ethical Conduct for Postal Employees. The Postal Service has received no comments with regard to any of the proposed amendments. It has been decided to adopt at this time only those amendments which relate to the restrictions on the acceptance of gifts by employees and which define "nominal value." The current regulations permit an employee to accept unsolicited advertising or promotional items of nominal value and define "nominal value" with respect to gifts as an item having a retail value of not more than $2.00. With respect to food and refreshment, "nominal value" is currently defined as an amount not in excess of what an employee would ordinarily spend if he were paying his own bill. Because the two-dollar figure is today unrealistically low even for items of little economic worth and because it is considered that any fixed dollar figure is likely to be rendered obsolete with the passage of time, it has been decided to eliminate the reference to the $2.00 figure in the provision permitting acceptance of gifts of nominal value and to eliminate entirely the provision which defines "nominal value." Under the amendments hereby adopted, the definition of "nominal value" will be left to the common understanding of that term, taking into account the circumstances of the particular case, reasonable social conventions, and the dictates of sound judgment.

The remaining proposed rules published on May 12, 1983, are still under consideration at this time.

Accordingly, 39 CFR Part 447 is hereby amended as follows:

List of Subjects in 39 CFR Part 447

Conflict of interests, Government employees, Administrative practice and procedure, Postal Service.

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

1. In § 447.24, paragraph (b)(2) is revised to read as follows:

§ 447.24 Conflicts of interest—gifts, entertainment, and favors.

* * * * *

(b) * * *

(2) Accept unsolicited advertising and promotional items, such as a pen, pencil, note pad, or calendar of nominal value;

§ 447.81 [Removed]

2. In § 447.81, paragraph (h) is removed and paragraphs (i) and (j) are redesignated (h) and (i) respectively.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-28275 Filed 10-17-83; 8:45 am]

BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-25

[FPMR Amdt. E-254]

Travel Promotional Material

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Final rule.

SUMMARY: This regulation incorporates and codifies existing policies regarding promotional materials (e.g., bonus

VOL 48 ISS 202 OCT 18 1983 UMI

flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in connection with official travel and based on the purchase of a ticket or other services (e.g. car rental). These promotional materials are properly considered to be due the Government and may not be retained by the employee (see Comp. Gen. Decision B-199656, July 15, 1981). This regulation requires that when an employee receives promotional material, the employee shall accept the material on behalf of the United States and relinquish it to an appropriate agency official. The regulation provides guidelines for the disposition of promotional material and cash compensation.

EFFECTIVE DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT:
Richard Sturdy, Policy Development and Analysis Division, Office of Transportation (703-557-1256).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. Accordingly a regulatory impact analysis is not required. Because the amendments made by this rule incorporate and codify existing policies and do not make substantive changes, the General Services Administration finds that a general notice of proposed rulemaking and public procedure thereon, and a delayed effective date are unnecessary. Because no notice of proposed rulemaking is required, this rule is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 6001 et seq.).

List of Subjects in 41 CFR Part 101-25

Energy conservation, Government property management, Reporting and recordkeeping requirements.

PART 101-25—[AMENDED]

1. The table of contents for Part 101-25 is amended by revising and adding the following entries:

Sec.
101-25.103 Promotional materials, trading stamps, or bonus goods.
101-25.103-1 General.
101-25.103-2 Promotional material received in conjunction with official travel from transportation companies, rental car companies, or other commercial activities.
101-25.103-3 Trading stamps or bonus goods received from contractors.
101-25.103-4 Disposition of promotional materials, trading stamps, or bonus goods.

2. Section 101-25.103 is revised and §§ 101-25.103-1 through 101-25.103-4 are added as follows:

§ 101-25.103 Promotional materials, trading stamps, or bonus goods.

§ 101-25.103-1 General.

Federal agencies in a position to receive promotional materials, trading stamps, or bonus goods shall establish internal procedures for the receipt and disposition of these gratuities in accordance with § 101-25.103. The procedures shall provide for a minimum of administrative and accounting controls.

§ 101-25.103-2 Promotional material received in conjunction with official travel from transportation companies, rental car companies, or other commercial activities.

(a) All promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in conjunction with official travel and based on the purchase of a ticket or other services (e.g. car rental) are properly considered to be due the Government and may not be retained by the employee. The Comptroller General of the United States has stated that employees are obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duties (see Comp. Gen. Decision B-199656, July 15, 1981). When an employee receives promotional material, the employee shall accept the material on behalf of the United States and relinquish it to an appropriate agency official.

(b) Promotional coupons that provide for future free or reduced costs of services (travel) should be integrated into the agency travel plans to maximize the benefits to the Government. The coupons should then be applied to the maximum extent possible; e.g., coast-to-coast or overseas travel, if permitted.

(c) Promotional coupons that carry a cash surrender value shall be redeemed immediately. The cash received from redeemed coupons or other cash compensation (i.e., denied boarding or cancellation of reservation by carriers, etc.) shall be deposited in accordance with Department of Treasury requirements, and credited to miscellaneous receipt account 1699, "Miscellaneous Dividends and Earnings, Not Otherwise Classified."

(d) Promotional materials that cannot be used by the receiving agency shall be disposed of in accordance with § 101-25.103-4.

§ 101-25.103-3 Trading stamps or bonus goods received from contractors.

When contracts contain a price reduction clause, any method (such as trading stamps or bonus goods) by which the price of a commodity or service is effectively reduced shall constitute a price reduction. Temporary or promotional price reductions are to be made available to contracting officers under the same terms and conditions as to other customers. Procuring activities, however, rather than accept trading stamps and bonus goods, shall attempt to deduct the cost of such items from the contract price. If obtaining such a price reduction is not possible, the contracting officer shall document the contract file to that effect and dispose of the items as provided in § 101-25.103.4.

§ 101-25.103-4 Disposition of promotional materials, trading stamps, or bonus goods.

(a) Agencies shall, through the lowest appropriate activity, arrange for transfer of promotional materials, trading stamps, or bonus goods, without reimbursement in accordance with internal agency procedures to a nearby Federal hospital or similar institution operated, managed, or supervised by the Department of Defense (DOD) or the Veterans Administration (VA) when:

(1) The contract does not contain a price reduction clause, or

(2) The contractor refuses to grant a price reduction, and

(3) It is deemed practical and in the best interest of the Government to accept such promotional items as a price reduction, and

(4) The procuring or receiving agency has no practical use for the promotional items.

(b) Before transferring promotional materials, trading stamps, or bonus goods to the above Federal institutions, it must be determined that the proposed recipient is prepared to receive and use such items. If these items cannot be used by the receiving agency or a medical facility, they should be disposed of in accordance with 41 CFR 101-43, 44 and 45.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: August 23, 1983.

Gerald P. Carmen,
Administrator of General Services.

[FR Doc. 83-28311 Filed 10-17-83; 8:45 am]

BILLING CODE 6820-AM-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-6564]

44 CFR Part 65

National Flood Insurance Program; Changes in Special Flood Hazard Areas; Florida et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination. The effective dates appear in the sixth column of the table.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

Send comments to that address also.

FOR FURTHER INFORMATION CONTACT:
Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

§ 65.4 [Amended]

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Florida:					
Broward County	City of Fort Lauderdale	*The Sun Sentinel*, Jan. 14, 1983 and Jan. 21, 1983.	Hon. Robert A. Dressler, Mayor of Fort Lauderdale, P.O. Box 14250, Fort Lauderdale, FL 33382.	Dec. 15, 1982	125105D
Orange County	City of Winter Park	*Orlando Sentinel*, Jan. 28, 1983 and Feb. 4, 1983.	Hon. Hope Strong, Jr., Mayor of Winter Park, City Hall, 401 Park Avenue, South Winter Park, FL 32789.	Feb. 4, 1983	120186C
Mississippi: Lowndes County	City of Columbus	*The Commercial Dispatch*, Oct. 29, 1982 and Nov. 5, 1982.	Hon. James M. Trotter, Mayor of Columbus, City Hall, P.O. Box 1408, Columbus, MS 39701.	Nov. 5, 1982	280108E
New Jersey: Morris County	Township of East Hanover	*Regional Weekly News*, Apr. 14, 1983 and Apr. 21, 1983.	Hon. Vincent Lee, Jr., Mayor of East Hanover, 411 Ridgedale Avenue, East Hanover, NJ 07936.	Apr. 1, 1983	3403418
New York:					
Onondaga County	Village of Manlius	*Eagle Bulletin*, Sept. 14, 1983 and Sept. 21, 1983.	Hon. Angelo A. Albanese, Mayor of Manlius, One Elmbrook Drive, West, Manlius, NY 13104.	Sept. 7, 1983	360977B
Westchester County	City of Rye	*Rye Chronicle*, Aug. 8, 1983 and Aug. 25, 1983.	Hon. Frederick J. Hunziker, Mayor of Rye, City Hall, Boston Post Road, Rye, NY 10580.	Aug. 11, 1983	360931D
Oklahoma: Oklahoma County	City of Edmond	*Edmond Sun*, July 29, 1983 and Aug. 5, 1983.	Hon. Carl F. Reharman, Mayor of Edmond, P.O. Box 1260, Edmond, OK 73034.	July 22, 1983	400252A
Oregon: Morrow County	City of Heppner	*Heppner Gazette Times*, Jan. 27, 1983 and Feb. 3, 1983.	Hon. Clifford Green, Mayor of Heppner, P.O. Box 756, Heppner, OR 97836.	Jan. 17, 1983	410175B
Texas:					
Dallas, Denton, Collin, Rockwall and Kaufman Counties.	City of Dallas	*Morning News*, July 8, 1983 and July 15, 1983.	Hon. Starke Taylor, Mayor of Dallas, City Hall, 1500 Marilla Street, Dallas, TX 75201.	July 1, 1983	480171C
Galveston County	City of League City	*League City News*, July 20, 1983 and July 27, 1983.	Hon. Joe Lamb, Mayor of League City, 300 West Walker, League City, TX 77573.	July 8, 1983	485488C

VOL
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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Program and Support)

Issued: September 28, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-28122 Filed 10-17-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 69

[CC Docket No. 78-72; Phase I]

MTS and WATS Market Structure; Waiver of Commission Rules

AGENCY: Federal Communications Commission.

ACTION: Waiver of Commission rules.

SUMMARY: The Chief of the Common Carrier Bureau, acting under delegated authority, grants in part the petition filed by Satellite Business Systems (SBS) seeking a waiver of the Commission's rule limiting to twenty-five pages the length of petitions for reconsideration of Commission decisions. SBS requested the waiver to permit parties to file petitions for reconsideration of the Commission's amended rules for computing access charges that were up to fifty pages in length. The amended rules were published on September 21, 1983 at 48 FR 42987. The waiver granted will permit parties to file petitions not exceeding thirty-five pages in length. The Chief of the Common Carrier Bureau concluded that this action was necessary because of the complexity and importance of the issues to be raised.

EFFECTIVE DATE: Waiver is effective October 12, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kathleen B. Levitz, Common Carrier Bureau, (202) 632–9342.

List of Subjects in 47 CFR Part 69

Access charges, Communication common carriers, Telephone.

Order

In the matter of MTS and WATS market structure, CC Docket No. 78–72, Phase I.

Adopted: October 7, 1983.
Released: October 12, 1983.

By the Chief, Common Carrier Bureau.

1. On August 22, 1983, this Commission released the *Memorandum Opinion and Order* [1] which modified the *Third Report and Order* [2] issued in this docket in response to petitions for reconsideration. On September 19, 1983, Satellite Business Systems (SBS) filed a motion for waiver of § 1.429(d) of the Commission's rules, 47 CFR 1.429(d). SBS requested that we authorize parties to file petitions for reconsideration of the August 22 *Order* that do not exceed fifty pages in length.

2. In support of its motion, SBS states that it will file a petition for reconsideration of the August 22 *Order* that will discuss complex, important issues. To present this discussion will require more than the twenty-five pages authorized by the Commission's rules.

3. Recognizing the complexity and importance of the issues addressed in the August 22 *Order* that may be the subjects of petitions for further reconsideration, we believe that some relaxation of the rule limiting the length of such petitions is appropriate. In a further reconsideration proceeding, however, the issues to be addressed should be fewer in number than those raised during the reconsideration proceeding. *See* 47 CFR § 1.429(i). For this reason, we conclude that the waiver SBS seeks is overly generous. We shall permit parties to file petitions that do not exceed thirty-five pages in length.

4. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's rules, 47 CFR 0.291, That the motion of Satellite Business Systems is granted in part and that parties may file petitions for reconsideration of the *Memorandum Opinion and Order* in CC Docket No. 78–72, Phase I, released August 22, 1983, that do not exceed thirty-five pages.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 83-28345 Filed 10-17-83; 8:45 am]

BILLING CODE 6712-01-M

[1] FCC 83-356, 48 FR 42987 (Sept. 21, 1983).
[2] FCC 82-579, 48 FR 10319 (Mar. 11, 1983).

47 CFR Part 73

[MM Docket No. 83-412; RM-4377]

FM Broadcast Station in Ouray, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 285A to Ouray, Colorado, in response to a petition filed by Kristi R. Westfall. The assignment could provide Ouray with its first FM allocation.

EFFECTIVE DATE: December 12, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Ouray, Colorado), MM Docket No. 83–412 RM–4377.

Adopted: September 27, 1983.
Released: October 11, 1983.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 20962, published May 10, 1983, issued in response to a petition filed by Kristi R. Westfall ("petitioner"), proposing the assignment of FM Channel 285A to Ouray, Colorado, as that community's first FM allocation. Supporting comments were filed by petitioner reaffirming her intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. We believe the public interest would benefit from a grant of the petitioner's request since it could provide Ouray with its first local FM service.

3. Channel 285A can be assigned to Ouray in conformity with the minimum distance separation requirements of Section 73.207 of the Commission's Rules.

4. In view of the foregoing, and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective December 12, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Ouray, Colorado	285A.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-28346 Filed 10-17-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-02; Notice 2]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 108 to require installation of a single center, high-mounted stoplamp on passenger cars, in addition to the stoplamps presently required. Since the new stoplamp is a single function lighting device providing an unambiguous signal, and as it would be closer to the forward line of sight of following drivers, it will reduce rear end collisions by providing a more effective indication to those drivers that the car ahead is slowing or stopping. The amendment is supported by field test data indicating that the reduction in rear end collisions would be significant. A proposal on this subject was issued on December 31, 1980, and published on January 8, 1981 (46 FR 2132).

DATE: Effective date: September 1, 1985.

FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590 (202–426–2153).

SUPPLEMENTARY INFORMATION: Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment* (49 CFR 571.108) presently requires passenger cars to be equipped with two stoplamps, mounted on the rear, one on each side of the vertical centerline, as far apart as practicable, and at the same height, which is not less than 15 inches, nor more than 72 inches above the road surface. Notwithstanding those stoplamps, the problem of rear end collisions remains very large.

The Rear End Collision Problem

Of the 4,200 rear end collisions in 1980 (Accident Facts, 1981 edition, p. 47), NHTSA estimates that approximately 3,500,000 were rear end collisions in which a passenger car was struck from behind by another motor vehicle. Based on agency studies, it is estimated that 2,344,000 of the struck passenger cars had their stoplamps on at the time of the collision. Data from NHTSA's Fatal Accident Reporting System (FARS) for 1980 showed 1,104 fatalities in accidents involving rear impacted passenger cars and data from NHTSA's National Accident Sampling System (NASS) showed 603,000 injuries in those accidents.

As NHTSA noted in the January 1981 proposal, the rule under discussion is the culmination of many years of NHTSA and industry-funded research on vehicle rear lighting systems. Early research findings advocated the separation of rear lamps and signals to improve recognition and response to the different functions. Research conducted in the private sector had concluded that reaction time, especially at night, was significantly faster when lamps were high-mounted.

Although NHTSA was encouraged by this research, the agency decided that more data were needed since the research was based on limited real-world testing. Thus, in 1977 NHTSA contracted with Essex Corporation to make a study and field test evaluation of rear lighting systems. The results of this study are contained in Report No. DOT-HS-803 467, "Field Test Evaluation of Rear Lighting Systems," 1978.

The purpose of this study was to determine whether equipping cars with one or more of three experimental rear lighting and sinaling systems would result in a significant reduction in rear-end collisions compared to cars equipped with the current conventionally configured (low-mounted) rear lamps under actual traffic conditions. The three experimental systems were:

1. A single center, high-mounted stoplamp. This stoplamp was installed at the approximate eye-level of a following driver. The stoplamp was positioned on the vehicle's trunk just beneath the centerline of the back window. This stop lamp was supplemental to the normal low-mounted stop and turn signal lamps of the vehicle.

2. A dual high-mounted stop and turn signal lamp system. Two high-mounted stoplamps, one on each side of the trunk directly below the back window, were installed at the approximate eye level of a following driver. These stoplamps were supplemental to the normal low-mounted stop and turn signal lamps of the vehicle.

3. A functionally-separated system. The tail lamp was separated from the stop and turn functions of existing low-mounted lamps of the vehicle.

Approximately 2,100 taxicabs in the Washington, D.C. area participated in the study. The taxicabs were divided into four equal groups. Three of the groups were equipped with one of the three experimental concepts while the fourth or control group was equipped with conventionally configured rear lamps. During the 12-month study period, the four groups accumulated a combined total of nearly 60 million miles under a broad range of weather and road conditions. Drivers in the four groups had been matched for age, sex, and prior accident record. At the end of the study, the four groups had experienced a total of 1,470 accidents, of which 217 or fifteen percent involved taxicabs being struck in the rear while in operation.

The most significant finding of the study was that the rate at which taxicabs equipped with a single-center, high-mounted stoplamp were involved in 54 percent fewer relevant rear-end collisions than were experienced by the control group. A relevant rear-end collision is one in which a stoplamp could have affected the outcome. Nonrelevant rear end collisions, e.g., the striking of the rear of a parked car by a moving car, were excluded. This reduction, which was demonstrated to be statistically significant, was achieved whether measured in terms of absolute number or frequency of accidents or in terms of accident rate per million vehicle miles. In addition, of all the cabs struck in the rear, those with the center, high-mounted stoplamp had the lowest mean cost of repair. This indicated that these accidents were less severe than accidents involving vehicles with other stoplamp systems.

VOL
48
ISS
2
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OC
18
1983
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To determine whether the drivers of cabs equipped with experimental lamps drove more carefully than drivers in the control group, a comparison of the groups was made based on non-rear-end accidents. The results of this comparison indicate no statistically significant differences between any of the three experimental groups and the control group. The similarity of experience in those crash modes and the difference in rear-end crashes support the finding in the Essex study that the supplemental single center high-mounted stop signal has the potential to dramatically reduce the occurrence of rear-end collisions.

The Essex report recommended that another field study be conducted, using a broader sampling of drivers, passenger cars, and traffic conditions in order to validate its findings. The Allen Corporation contracted to make this validation study and the results are given in the May 1980 Report "Validation of the Reduction of Rear-End Collisions by a High-Mounted Auxiliary Stoplamp," (DOT–HS–805 360).

Accident and exposure (mileage) data were collected on approximately 5,400 telephone company passenger cars, about 2,500 of which were equipped with the single, high-mounted stoplamp. The remaining cars had only conventionally configured stoplamps and served as the control group. The vehicles were operated by seven companies of the Bell Telephone System from New England to Florida, and also in Illinois and California. Data were collected from January 1, 1979, through December 31, 1979. During that time, the vehicles were driven a total of approximately 55 million miles.

The test group received 53 percent fewer rear-end impacts than did the control group. The difference was statistically significant beyond the 99 percent level of confidence. The result is in agreement with the Essex study which found a 54 percent reduction in rear-end impacts. Therefore, the agency tentatively concluded that the single high-mounted stoplamp would provide significant safety benefits beyond those obtained from the safety lighting required by Standard No. 108, and issued its January 1981 proposal for the installation of such a stoplamp.

As proposed by NHTSA, the high-mounted stoplamp would have been required to have an effective projected luminous lens area not less than 4½ square inches in size. A vibration test was specified, under which the lamp would have been energized during the final ten minutes of the test, and required to be functioning at the end. A turn signal, stop, or tail lamp would not have been permitted to have its edge closer then 10 inches to the edge of the high-mounted lamp. Three slightly different alternative locations for the high-mounted lamp were proposed (discussed in more detail below). A common feature of each was that, if mounted inside the vehicle, the lamp would have been required to be provided with means to prevent glare. The photometric requirements would have been those of SAE Recommended Practice J186a "Supplemental High Mounted Stop and Rear Turn Signal Lamps," September 1977, which specifies a maximum of 60 cp for a red supplemental stoplamp.

Since issuance of the proposal, there has been a further field study which verifies the earlier findings. That study, "A Field Test of Two Single High-Mounted Brake Light Systems," was sponsored by the Insurance Institute for Highway Safety (IIHS), and completed in April 1981. The objective of the study, conducted on a fleet of 900 taxicabs operating in New York City, was to establish the effectiveness of single, high-mounted brake lamp configurations in reducing rear-end collisions between vehicles stopping or slowing down.

The most significant finding of the study was that taxis equipped with a single center high-mounted stoplamp had almost 50% fewer rear-end collisions than those experienced by a control group of cabs having a conventional rear light configuration. Two versions of the high-mounted stoplamp were evaluated by the study. One employed a single bulb (44% reduction) and the other dual bulbs in a single housing (58% reduction). The two bulbs were brighter than the single bulb.

Discussion of Comments

1. Effectiveness on Small Cars

One of the major issues raised was the effectiveness of the center high-mounted stoplamps on subcompact cars. Critics of both the Essex and the Allen studies observe that subcompacts were not included in the Essex study and were included in relatively small numbers in the Allen study. Further, even though 329 or 11.2 percent of the 2,927 control cars used in the Allen study were subcompacts, none of these subcompacts were involved in a "relevant" rear-end collision during the test period. This fact has led to the conjecture by some commenters that subcompacts may actually be involved in relevant rear-end collisions to a significantly lesser extent than large cars and that as large cars are slowly being replaced in the fleet by small cars, there will be fewer vehicles involved in relevant rear-end collisions in the coming years. Thus, the effectiveness of center, high-mounted rear stoplamps on subcompact models was questioned.

In response to this criticism, the agency obtained data on all police-reported accidents involving passenger cars struck in relevant rear-end collisions in North Carolina for each year from 1975 through 1980. These data were obtained by size of car (e.g., large, intermediate, compact, subcompact and foreign).[1] The results of this study were:

a. For each year, except 1976, and for the average of all years combined there were no statistically significant differences in relevant rear-end accident rates between intermediate, compact and subcompact domestic cars. However, during 1976, significantly more subcompacts were struck in the rear as compared to compacts and intermediates.

b. For each year, there was a significantly lower relevant rear-end accident rate for large passenger cars compared to smaller ones.

c. In general (average of all years combined), the relevant rear-end accident rate for foreign cars was significantly higher than those of domestic compacts and subcompacts. However, in 1976 and 1977 the accident rate of the foreign and domestic compacts and subcompacts was essentially equivalent.

d. For each size passenger car and for the average of all passenger cars combined, there was no significant change in the rate of occurrence of relevant rear-end accidents from 1975 through 1978. Significantly lower rates were noted in 1979 and 1980, except for foreign cars.

These results are based on North Carolina accidents only, and for the years indicated. However, the North Carolina accident experience is believed to be comparable to that of the Nation taken as a whole for any year. The proportion of municipal and rural roadway mileage of North Carolina and the United States is virtually identical; the motor vehicle death rate for 100 million vehicle miles is only .14 percent higher in North Carolina, while the number of registered drivers per 1000 persons is only 25 persons higher than the National average. Therefore, these

[1] Foreign cars could not be broken down by size of car. Consequently, the size groups listed are for domestic passenger cars. NHTSA has subsequently learned that in the years 1975–80 about 90% of the foreign cars registered in North Carolina were subcompacts and about 9% were compacts.

The rear-end accident rate for foreign cars was significantly higher than that for compact and subcompact domestic cars.

results are strong evidence to indicate that, in general, the fact that a passenger car is smaller than average does not suggest that the car is more likely or less likely to be a struck vehicle in a relevant rear-end collision.

Further information pertinent to the issue of subcompact cars effectiveness is provided by past research on braking perception reaction time sponsored by General Motors at the University of Michigan Transportation Research Institute (formerly the Highway Safety Research Institute). One of the vehicles used to test for reaction time was a subcompact. A statistically significant reduction in reaction time occurred in urban areas when the center high-mounted stoplamp was added to that subcompact.

Another theory set forth is that the center high-mounted stoplamp on a subcompact car may not be perceived by following drivers as being higher than the conventionally configured stoplamps. Thus, subcompacts may not experience the same reductions in collisions as larger cars will. To determine the precise effectiveness of the center high-mounted stoplamp on subcompacts would require additional testing. However, the agency examined typical mounting heights (H_2) for the center lamp and compared these to the current brake light mounting heights (H_1) for subcompacts and larger vehicles. The difference in height ($H_2 - H_1$) was on average 2.35 inches less for subcompacts than larger vehicles (10.35 to 12.7 inches) and 3.3 inches less for the diagonal (24.0 to 27.3 inches). Thus, the differences between the center high-mounted stoplamp for subcompacts is 82 percent and 88 percent of the difference for larger cars. Based on this anlaysis and the previous discussions, the agency concludes that the center high-mounted stoplamp will be as effective for subcompacts as for the larger tested vehicles. Even if subcompacts only achieved 80 percent of the benefit of larger cars, they would be highly cost-effective.

2. Number of High-Mounted Stoplamps

Many of the automobile manufacturers commented on the issues of whether the final rule should require only one rather than two high-mounted stoplamps, as well as where the lamp or lamps should be located. Manufacturers argued that the agency should not be so design restrictive as to specify installation of only a single high-mounted stoplamp. The automobile industry generally favored the use of two high-mounted stoplamps located closer to the sides of a vehicle, in order to provide more styling flexibility. The agency does not agree with this comment because the data show that the single lamp design is more effective.

The Essex field test results show that the dual high-mounted lamps are not so effective as the single high-mounted lamp. One of the experimental groups in the field test consisted of vehicles with two high-mounted combined stop and turn signal lamps. This group did not experience a statistically significant reduction in rear-end accidents compared to the control groups.

3. Location

The 1981 NPRM asked for comments on three alternative locations as follows:

Alternative 1. Each high-mounted stoplamp would have been required to be mounted not less than 34 inches above the road surface:

(a) If practicable, outside the passenger car with the center of the lamp within 3 inches of the outside bottom edge of the rear window daylight opening, or

(b) If compliance with paragraph (a) of this section were not practicable, inside the passenger car with the center of the lamp not more than 3 inches above the inside bottom edge of the rear window daylight opening and with means provided to minimize reflections inside the vehicle from the light upon the rear window glazing, or

(c) If compliance with neither paragraph (a) or (b) of this section were practicable, outside the passenger car with the center of the lamp within 3 inches of the outside top edge of the rear window daylight opening.

Alternative 2. Each high-mounted stoplamp would have been required to be mounted inside or outside the passenger car with the center of the lamp not less than 34 inches and not more than 50 inches above the road surface, and not more than 3 inches below the bottom or above the top of the rear window daylight opening. If the lamp were mounted inside the vehicle, means would have been required to be provided to minimize reflections inside the vehicle from the light upon the rear window glazing.

Alternative 3. Each high-mounted stoplamp would have been required to be mounted:

(a) If practicable, outside the passenger car with its center not less than 38 inches above the ground surface and within 3 inches of the bottom of the rear window daylight opening, or

(b) If compliance with paragraph (a) of this section were not practicable, inside the passenger car with its center as near as practicable to 38 inches above the road surface, and with means provided to minimize reflections inside the vehicle from the light upon the rear window glazing.

In general, commenters recommended Alternative 2, the least design restrictive alternative. However, all the commenting automobile manufacturers, both domestic and foreign, recommended changes to the alternatives. Some wanted a minimum mounting height of 30 inches while others wanted the minimum to be 34 inches. Some agreed that the minimum separation distances between the high-mounted stoplamp and other rear lighting devices should be the proposed 10 inches, others wanted 15 inches. A few manufacturers asked deletion of the proposed requirement that the lamp be within 3 inches of the back window daylight opening. Some manufacturers wanted the decision whether to install the lamp inside or outside the car left to their discretion, and some wanted the option to place the lamp off-center to avoid interferring with the operation and location of rear windshield wiper systems. At least seven different locations were suggested by commenters to accommodate problems presented by different vehicle configurations. For sedans, the suggested locations were the trunk lid or the panel between the trunk lid and the rear window; for hatchbacks, the roof or the hatch; for station wagons, the roof or the tailgate. The seventh location suggested was forward of the rear window (i.e., inside the vehicle).

Based on these comments, the agency decided that none of the three alternatives would adequately accommodate the design problems involved in attempting to install center high-mounted stop lamps on all sizes and body types of cars. Accordingly, NHTSA has decided to eliminate many of the design constraints imposed by the three proposed location alternatives. The final rule requires only that the lamp be located on the vertical centerline of the vehicle, with no portion of the lens higher than the top of the back window nor lower than 3 inches below the bottom. NHTSA did not agree that hatchbacks and station wagons necessitated mounting the lamp on the roof, as it may be mounted at any point on the vehicle centerline within the parameters indicated. The lamp can either be inside or outside the back window. However, if it is inside, means shall be provided so that no reflections from the light of the lamp upon the rear glazing shall be visible to the driver when viewed indirectly in the rearview mirror or viewed directly. NHTSA has concluded that notwithstanding the increased latitude provided by this rule

VOL 48 ISS 202 OCT 18 1983 UMI

in lamp placement, the new lamp will still afford the visual cues that proved so effective in the field studies.

4. Leadtime

NHTSA has also decided to establish an effective date of September 1, 1985, i.e., the 1986 model year. This will provide a two year leadtime. The agency believes that this leadtime represents an appropriate balance between minimizing the period in which center high-mounted stop lamps will have to be added to existing models instead of designed into new models and beginning implementation of a very cost-effective requirement that will reduce accidents and injuries.

5. Photometrics

Volkswagen, SAAB, JAMA, Stimsonite, and TSEI recommended that the high-mounted stoplamp have higher photometric requirements than were proposed. The NPRM proposed a minimum of 15 cp and a maximum of 60 cp at the H-V point. Volkswagen recommended that there be a minimum of 40 cp and that the maximum be increased from 60 cp to 75 cp. The JAMA recommended that the stoplamp intensity be increased.

The research performed by Essex and Allen used stoplamps that were intended to meet the photometric requirements of SAE J186a, a minimum of 15 cp and a maximum of 60 cp at the H-V test point. The measurement on a typical sample lamp used in these studies was 32 cp at H-V, but with a maximum of 47 cp. Although the results of these studies showed reduced rear-end collisions, the comments to the docket argue for a higher limit. The agency is especially impressed by the results of the IIHS study where a 58% reduction in collisions was achieved using two bulbs. The candela of the two bulb design was 128 candela at H-V with a maximum of 150. NHTSA has concluded that these results are convincing enough to justify adopting a minimum of 40 cp and a maximum of 160 cp at the H-V point, and the final rule so specifies. It is reasonable to believe that this increase will provide better detection during periods of dusk and dawn, improved visibility when the lamp lens becomes dirty, and better visibility of an inside-mounted lamp through the back window (because the window reduces the light transmittance.)

6. Lamp Size and Shape

The NPRM specified 4.5 square inches as the minimum size of the lamp. This size of lamp was used in the research performed by Essex and Allen. In view of the favorable results obtained in those studies and in the absence of comments providing convincing arguments for a different size, 4.5 square inches is retained in the final rule. The amendment leaves the shape to the judgement of individual manufacturers.

7. Acclimatization Factor

A number of comments argued that once all cars are equipped with the high-mounted stoplamp, it will no longer be effective because all drivers will be "acclimatized" to its effect. According to this argument, the additional lamp will show advantages only when lamps exist on small percentages of vehicles in the total vehicle population.

The agency does not consider this argument to have merit. The addition of a single, high-mounted stoplamp on the centerline of the vehicle has several direct benefits which the agency believes will be of lasting effect. One effect is that its presence on a vehicle (vehicle 1) gives the operator of the immediately following vehicle (vehicle 2) an additional "cue" on the centerline of his vision. A second is that the driver (driver of vehicle 3) behind vehicle 2 will be able to see through that vehicle (if that vehicle is a car) and obtain advance warning about the response of vehicle 2 to vehicle 1. A third benefit is that the supplemental stoplamp will have only one possible meaning as opposed to a stoplamp in the same housing as a taillamp: To indicate that a vehicle is slowing to stop or has stopped. In addition, the candela values adopted are substantially higher than those of lamps in the test fleets, increasing the likelihood that their signal will be perceived by following drivers.

The agency will evaluate the experience of cars equipped with the high-mounted stoplamp over a period of time and determine if there is any acclimatization. The acclimatization factor cannot be definitively determined in the absence of a substantial test fleet. The agency believes that it is at least as likely that the effectiveness of the lamp will increase as decrease in proportion to the percentage of vehicles equipped with it.

8. Vibration Tests

It was proposed that a high-mounted stoplamp be required to continue to provide illumination upon completion of the vibration test specified in SAE J575e. Some commenters disagreed with this requirement. The Japanese Automobile Manufacturers Association (JAMA) stated that the vibration resistance of a bulb is usually determined by making an impact test as defined in SAE J603. In the case of ordinary lamps, the breaking of a filament in the vibration test defined in SAE J575 is excluded. JAMA argued therefore that since the conditions for mounting the stoplamp are the same as those of existing lamps such as license plate lamps, the same vibration tests should suffice. The California Highway Patrol noted that the test appeared to be oriented towards the integrity of the bulb rather than the lamp since it does not permit a failed bulb to be replaced.

The vibration section of SAE J575e was designed as a test for vehicle lamp fixtures to assure that they would not be destroyed or become ineffective in service, and that the fixture mounting was stable. It was not intended to assess the durability of bulbs. Almost all bulb failures result from using up (by boiling away) tungsten of the filament during normal operation or by a fracturing of the filament. Before a filament has been burned, it is quite ductile and can withstand substantial physical abuse without breaking. But after it has been submitted to the 4500–4800°F temperature at which it normally operates, significant changes begin to occur. As the filament is burned, the tungsten takes a different crystalline structure and in time becomes fairly brittle. Thus, as the bulb is burned in normal usage, the filament becomes mechanically weaker from the boiling away of tungsten and less tolerant of physical shock and vibration because it has become more brittle as well.

For these reasons, the agency has decided that the lamp, but not the bulb, will be subject to the vibration tests, consistent with treatment of other vehicle lamps covered by Standard No. 108.

9. Tailgating Education

A concerned citizen asked whether an educational program to inform the public of the hazards of "tailgating" would be more effective in reducing rear-end collisions than the installation of the high-mounted stoplamps.

For many years there have been driver education programs in public and private schools. All these courses have emphasized the hazards of driving too closely to the preceding vehicle. Despite the educaton programs, no significant reduction in rear-end collisions appears to have resulted. In contrast, the effectiveness of the installation of center, high-mounted stoplamps in significantly reducing rear-end collisions has been demonstrated in three separate field studies.

10. Rural Accidents

A number of commenters correctly pointed out that the field studies (Essex, Allen and IIHS) involve mainly urban driving. Thus, there are no data on the effectiveness of the high-mounted stoplamp in predominantly rural driving, even though some test fleet vehicles were occasionally operated in rural areas. Accordingly, the agency is assuming for strictly analytical purposes that the stoplamp will not have any effectiveness in rural driving. This assumption does not mean that NHTSA anticipates that there will not be any benefits in rural driving. The agency believes that there will be some currently unquantifiable benefits and is not aware of any evidence negating the possibility of such benefits.

Summary of Decision

NHTSA is therefore requiring that passenger cars manufactured on or after September 1, 1985, be equipped with a center high-mounted stoplamp. The lamp must be red, with a minimum effective projected luminous lens area of 4.5 square inches and must be designed to meet the requirements of SAE Recommended Practice J186a "Supplemental High Mounted Stop and Rear Turn Signal Lamps," September 1977, except that the laboratory requirements are in accordance with SAE J575e, and the photometric requirements are those specified by NHTSA. The current stoplamp requirements and functions are retained. The center high-mounted stoplamp would be actuated by the stoplamp switch. The lens center of the lamp must be mounted on the vertical centerline of the car as seen from the rear. Because of the variety of passenger car types and the need of the manufacturers to incorporate the lamp into their designs in an economical and orderly manner, it is hereby found that an effective date slightly less than two years after the issuance of this rule is necessary to provide adequate leadtime and therefore is in the public interest.

Alternatives

With additional research, more nearly optimum specifications for stoplamp configurations may be developed. These factors may include more effective intensity, size, beamspread, and location. Other types of lamps or added functions such as deceleration signals may be desirable and should be investigated. However, to delay this rulemaking to await new improvements will result in delay of implementing requirements known to appreciably reduce accidents.

The agency also considered exempting subcompacts from the requirement. While the agency does not have a conclusive test of subcompacts with the center lamp, it knows of no reason why a center high-mounted stoplamp would not be equally effective for subcompacts.

Other alternatives now being investigated include radar or automatic braking and radar warning devices. Radar or automatic braking or warning systems have been developed and may be available as optional systems. Other systems are being developed and may also be available as optional systems. However, time will be needed to test and evaluate these systems. At least several years are likely to pass before there is a possibility that any of these systems can be proved sufficiently effective, reliable, and free of problems for the agency to consider initiating any rulemaking to permit and regulate their use. Further, the cost for automatic braking or radar warning would probably be many times the cost of the high-mounted stoplamp.

Potential Benefits, Costs and Other Impacts

NHTSA has considered the impacts of this rule and determined that the rule is major within the meaning of Executive Order 12291 and significant within the meaning of Department of Transportation guidelines. A regulatory impact analysis discussing those impacts has been prepared and placed in the docket. A copy of the analysis may be obtained free of charge from the Docket Section whose address is given near the beginning of this notice.

Benefits

The Essex study found that for taxicabs in the Washington, D.C. area, the center high-mounted single-function stoplamps reduced relevant rear-end collisions by 54 percent. Similarly, the Allen study found that for telephone company passenger cars operating with these stoplamps in many areas of the country, relevant rear-end collisions were reduced by 53 percent. The IIHS study indicated a 44 to 58 percent reduction. Had all passenger cars been equipped with the center high-mounted stoplamp, NHTSA estimates that there would have been 900,000 fewer accidents, and 40,000 fewer injuries in 1980. Available research data do not permit the agency to estimate the effectiveness of the center high-mounted stoplamp in reducing fatalities. However, the agency believes that it is reasonable to expect that the new stoplamp could reduce fatalities through making possible timely evasive action or reduction in impact speed. In view of the potential that this rule offers in reducing traffic accidents and injuries occurring in such accidents, NHTSA has determined that promulgation of the rule is within the authority delegated by law and consistent with Congressional intent, as expressed in the mandate of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 *et seq.*), an act whose purpose is "to reduce traffic accidents and deaths and injuries resulting from traffic accidents." This rule satisfies the statutory criteria of meeting the need for safety, being practicable and being stated in objective terms. NHTSA has further determined that the factual conclusions upon which this rule is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general and the comments of people directly affected by the rule in particular.

A center high-mounted system would also reduce property damage. Data on the cost of repair damage from rear-end collisions on a national scale were not available. However, both the Essex and Allen studies reported on repair costs of relevant rear-end accidents for their test fleets. The mean average repair costs per vehicle in the two studies were, consecutively, $402 for the control group and $271 for the single high-mounted stoplamp group (1982 dollars).

Based on the data summarized above, more fully set forth in the final regulatory impact analysis, NHTSA estimates that approximately $434,000,000 (1982 dollars) would have been saved in 1980 in repairs by the avoidance of approximately 900,000 rear-end collisions and, on average, a lessening of severity in another 900,000 relevant rear end collisions.

Costs

Manufacturers estimated that a high-mounted stoplamp will add an average of $8.00 to $15.00 to the price of each car. NHTSA's estimated consumer costs range from about $4.00 (for integration of the lamp into new vehicle designs) to about $7.00 (for adding the lamp to existing vehicle designs). The figures in this range include the cost of installation. Resolution of the differences between these estimates is not possible since the manufacturers did not provide any detailed explanation or support for their estimates. The bases for the agency's two independent estimates are set forth in the regulatory impact analysis. The initial annual consumer cost of the high-mounted stoplamp is expected to be approximately $70 million, based on an annual production of 10 million passenger cars. By model year 1988,

when virtuallly all coupes, sedans, and station wagons could be redesigned to incorporate the lamp, the total annual consumer cost should fall to $40,000,000 or an average cost of $4.00 per stoplamp per car.

Combining the benefits from reductions in property damage and costs of the high-mounted stoplamp yields a net benefit of $394,000,000 per year. (Even if the highest of the unexplained cost figures from the manufacturers were used, there would still be net benefits of $284,000,000.) These net benefit figures are based on the agency's estimate that the stoplamp would be 50 percent effective in reducing relevant rear end collisions involving passenger cars in urban areas. If the stoplamp were only 5 percent effective in reducing rear end accidents, economic costs would just equal economic benefits (exclusive of reductions in injuries or fatalities) in the long run.

The agency anticipates that maintenance and operating costs of the new lamp will be minimal.

Potential Environmental Impacts

This action will not have a significant effect on the environment. NHTSA estimates that the increased fuel consumption caused by adding approximately one-half pound of weight to each car would be only 0.05 gallon per year. This would be a minor increase in use of fuel. The burning of this additional amount of gasoline would also be a negligible factor in air pollution. There are no other known negative environmental impacts.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

§ 571.108 [Amended]

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108 is amended as follows:

1. Table III is amended to add the following new item of lighting equipment after "stoplamps":

TABLE III—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT: ALL PASSENGER CARS AND MOTORCYCLES, AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF LESS THAN 80 INCHES OVER WIDTH

Item	Passenger cars, multipurpose passenger vehicles, trucks and buses	Trailers	Motorcycles	Applicable SAE standards or recommended practices
High-mounted stoplamp.	1 red, effective September 1, 1985, for passenger cars only.	Not required	Not required	J186a, September 1977, except that Table 1 in that standard is replaced by Figure 10.

2. Table IV is amended to add the following new item of lighting equipment after "stoplamps":

TABLE IV—LOCATION OF REQUIRED EQUIPMENT: ALL PASSENGER CARS AND MOTORCYCLES, AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Location on		Height above road surface measured from center of item on vehicle at curb weight
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses	Motorcycles	
(1)	(2)	(3)	(4)
High-mounted stoplamp	On the rear, on the vertical centerline [See S4.3.1.8], effective September 1, 1985, for passenger cars only.	Not required	[See S4.3.1.8].

* * * * *

3. New paragraph S4.1.1.41 is added to read:

S4.1.1.41 Each high-mounted stoplamp shall:

(a) Have an effective projected luminous area not less than 4½ square inches.

(b) Have a signal visible to the rear through a horizontal angle from 45 degrees to the left to 45 degrees to the right of the longitudinal axis of the vehicle.

(c) Have the minimum photometric values in the amount and location listed in Figure 10. At the axis reference H–V (where H=0° and V=0°), the intensity shall be not less than 40 and not more than 160 candela.

(d) Provide access for convenient replacement of the bulb without the use of special tools.

4. New paragraph S4.3.1.8 is added to read:

S4.3.1.8 Each high-mounted stoplamp shall be mounted with its center on the vertical centerline of the passenger car as the car is viewed from the rear. No portion of the lens shall be higher than the top of the back window or lower than three inches below the bottom of the back window. If the lamp is mounted inside the vehicle, means shall be provided so that no reflections from the light of the lamp upon the rear window glazing shall be visible to the driver when viewed indirectly in the rearview mirror or viewed directly.

5. Paragraph S4.4.1 is amended by removing the period at the end thereof and adding ", and no high-mounted stoplamp shall be combined with any other lamp or reflective device."

6. Paragraph S4.5.4 is amended by adding the following sentence:

S4.5.4 * * * The high-mounted stoplamp on each passenger car shall be activated only upon application of the service brakes.

7. The final clause of the first sentence of paragraph S5.1 is revised to read:

S5.1 * * *, for stoplamps, tail lamps, and turn signal lamps designed to conform to SAE Standards J586c, J585d/J585e, and J588e, respectively, and for high-mounted stoplamps designed to conform to SAE Recommended Practice J186a, except that Table 1 is replaced by Figure 10.

8. A new figure 10 is added as follows:

FIGURE 10—MINIMUM DESIGN PHOTOMETRIC REQUIREMENTS FOR CENTER HIGH-MOUNTED STOP-LAMPS

Test Points		Red (cd)
10U	10L V 10R	13 26 13
5U and 5D	10L 5L V 50R 10R	26 40 40 40 26
	10L 5L	26 40

FIGURE 10—MINIMUM DESIGN PHOTOMETRIC REQUIREMENTS FOR CENTER HIGH-MOUNTED STOP-LAMPS—Continued

Test Points		Red (cd)
H	V 10R	40 26
	Maximum [1] 160	

[1] The lamp shall not exceed the listed maximum over an area larger than that generated by a ¼ degree radius within a solid cone angle from 10L to 10R and from 10U to 5D.

The engineer and lawyer primarily responsible for this rule are Kevin Cavey and Taylor Vinson, respectively.

(Secs. 103, 119, Pub. L. 89–563; 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50)

Issued on October 13, 1983.

Diane K. Steed,

Deputy Administrator.

[FR Doc. 83–28285 Filed 10–13–83; 2:32 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 30907–183]

Pacific Coast Groundfish Fishery

Correction

In FR Doc. 83–25041 beginning on page 41164 in the issue of Wednesday, September 14, 1983, make the following correction:

On page 41165, column three, paragraph one, line nine, "these actions are taken without prior notice in the" should appear after "FR 8286," and before "Federal Register".

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VOL
48
ISS
202
OC
18
1983
UMI

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The Immigration and Naturalization Service seeks to restrict the use of oral argument for administrative appeals to the Commissioner. Oral argument would be limited to cases where the appellant clearly demonstrates, at the time of filing a notice of appeal, that oral argument is essential to the appeal and that a written brief is inadequate to represent the appellant's position. The problems of scheduling oral arguments and the relatively high rate of cancellation or failure of the appellant to appear cause an intolerable waste of time for the appellate officers.

DATE: Comments must be submitted on or before November 17, 1983.

ADDRESS: Please submit written comments in duplicate to: Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Room 2011, Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, Telephone: (202) 633–3048.

For Specific Information: Lawrence J. Weinig, Supervisory Immigration Examiner, Immigration and Naturalization Service, Telephone: (202) 633–2680.

SUPPLEMENTARY INFORMATION:

Presently, INS Regional Commissioners, in carrying out their duties as appellate authorities, entertain oral argument in lieu of or in addition to a written brief. Oral argument is generally granted upon request. As part of the recent consolidation of the appellate function under the Associate Commissioner for Examinations, a review of the entire process of handling appeals was conducted. It became readily apparent that oral arguments rarely introduce useful evidence which affects the decision. Generally, the material presented during oral argument is read from a brief or is merely a restatement of facts contained in the record.

In addition, the problems of scheduling oral arguments and the relatively high rate of cancellation or failure of the appellant to appear cause an intolerable waste of time for the appellate officers.

In order to reduce the number of oral arguments conducted, the Immigration and Naturalization Service proposes to restrict such argument to cases where the appellant, at the time of filing the appeal, provides convincing evidence that a written brief is inadequate to fairly represent his position. Under the proposed rule, when the appellate authority denies oral argument, the appellant would be granted sufficient time to submit a written brief or other appropriate written material.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Natuarlization certifies that the rule, if promulgated, would not have a significant economic impact on a number of small entities. This proposed rule would not be a major rule as defined in section 1(b) of E. O. 12291.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegation (Government Agencies), Appeals, Archives and records, Certification, Fees.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Accordingly, it is proposed to amend Part 103 of Chapter I of Title 8 of the Code of Federal Regulations as follows:

1. Section 103.3 would be amended by revising paragraph (c) to read as follows:

§ 103.3 Denials, appeals, and precedent decisions.

* * * * *

(c) *Oral Argument.* If an appeal is taken request for oral argument, if desired, shall be included in the notice of appeal. Such request must set forth facts which explain why oral argument is necessary and why a written brief is inadequate to fairly represent the appellant's position. The officer to whom the appeal is taken shall have sole authority to approve or reject a request for oral argument. Upon approval of a request for oral argument, the appellate authority shall set the time, date, place and manner by which the argument shall be heard. When a request for oral argument is denied, the appellant shall, upon request, be granted a period of up to 30 calendar days in which to submit additional written material.

* * * * *

(Sec. 103, Immigration and Nationality Act, as amended (8 U.S.C. 1103))

Dated: September 24, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-28147 Filed 10-17-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket No. 83-021P]

Titanium Dioxide in Isolated Soy Protein; Preparation of Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Federal meat and poultry products inspection regulations by removing the requirement that isolated soy protein used as an ingredient in meat or poultry products must contain titanium dioxide. This requirement was promulgated in 1965 for meat products and in 1970 for poultry products as a means of tracing the amount of isolated soy protein used in meat and poultry products. The Food Safety and Inspection Service (FSIS) is proposing this action in response to a petition filed on behalf of Archer Daniels Midland Company, Grain Processing Corporation, and Ralston Purina Company asserting that such a requirement is no longer necessary.

DATE: Comments must be received on or before December 19, 1983.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Oral comments as provided under the Poultry Products Inspection Act should be directed to: Mr. Robert G. Hibbert, (202) 447–6042. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made an initial determination that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601). Firms manufacturing isolated soy protein would no longer be required to add titanium dioxide which would reduce a regulatory burden of the affected industry.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Office and should bear reference to the docket number located in the heading of this document. Any person desiring an opportunity for an oral presentation of views with respect to the effect of this proposal on the poultry regulations should make such request to Mr. Hibbert so that arrangements can be made for such views to be presented. A transcript will be made of all views orally presented. All comments submitted pursuant to this proposal will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

On July 9, 1965, the Consumer and Marketing Service (predecessor agency of FSIS) published a final rule in the **Federal Register** (30 FR 8673) allowing the limited use of isolated soy protein (ISP) in sausage and certain other meat food products. ISP is derived from the major proteinaceous portion of soybeans and is used to bind and extend product. The rule provided, however, that ISP used in these products processed in official establishments must contain 0.1 percent titanium added as titanium dioxide. The purpose of requiring the addition of titanium dioxide to ISP was to enable the agency to analytically detect the amount of ISP used in meat food products by calculating the amount of titanium present. This, in turn, allows the agency to determine usage levels of ISP in the sampled products and to assure that products are not adulterated or misbranded through the misuse of ISP. On April 17, 1970, the agency published a final rule in the **Federal Register** (35 FR 6255) allowing the use of ISP in poultry products as well, under conditions identical to such usage in meat food products.

FSIS has been petitioned on behalf of Archer Daniels Midland Company, Grain Processing Corporation, and Ralston Purina Company, all manufacturers of ISP, to delete the requirement that ISP contain titanium dioxide. The petitioners assert that titanium as a tracer in ISP is unnecessary and pointed out that tracers are not required for certain other protein-containing binders, e.g., whey, which also are not fully detectable and measurable by available laboratory analytical methods. The petitioners further claim that such requirement is a barrier to world trade for U.S. meat products containing ISP because the Commission of European Communities prohibits the use of titanium dioxide in ISP. One petitioner has also claimed that titanium dioxide produces an undesirable lightness in color due to its whitening power when used in certain products such as beef patties.

FSIS acknowledges the current lack of acceptable laboratory analytical methods for distinguishing ISP in meat and poultry products. However, FSIS has established certain procedures which are capable of assuring that meat and poultry products containing ISP and other added substances are properly formulated and labeled. Before ISP, whey, and other substances may be used in a product, the manufacturer must obtain FSIS approval of the product's formula and label to ensure that such substances would be used in proper quantities in accordance with the standards of identity and that appropriate information would be conveyed to the consumer through labeling. Additionally, as products are produced in official establishments, FSIS inspectors monitor the usage of substances to verify that the approved formula is followed.

Experience has shown that there is no reason to distinguish ISP as any more likely to be misused than other substances given the existing inspection procedures. Therefore, it appears that there is no continuing need for the use of titanium dioxide as a tracer in ISP, and, thus, FSIS is proposing to revoke such requirement.

List of Subjects

9 CFR Part 318

Food additives, Meat inspection, Preparation of products.

9 CFR Part 381

Food additives, Poultry products inspection.

The Proposal

PART 318—[AMENDED]

Accordingly, it is proposed to revise the Federal meat and poultry products inspection regulations as follows:

1. The authority citation for Part 318 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 21 U.S.C 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

§ 318.6 [Amended]

2. Section 318.6(b) of the Federal meat inspection regulations (9 CFR 318.6) would be amended by removing the present paragraph (b)(11) and redesignating paragraph (b)(12) as (b)(11).

3. The authority citation for Part 381 reads as follows:

Authority: Sec. 14, Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 750); and subsection 21(b), Federal Water Pollution Control Act, as amended by Public Law 91–224 and by other laws (33 U.S.C. 1254).

VOL
48
ISS
2
0
2
OC
18
1983
UMI

§ 381.147 [Amended]

4. Section 381.147 of the poultry products inspection regulations (9 CFR 381.147) would be amended by removing the present paragraph (e) and redesignating paragraph (f) as paragraph (e).

Done at Washington, D.C. on September 29, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-28279 Filed 10-17-83; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ASO-29]

Proposed Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign VOR Federal Airways V-53 and V-311 located in the vicinity of Columbia, SC. The realignment of these airways would improve traffic flow between Charleston, SC, and Columbia, SC. This action would increase safety and improve traffic flow due to increased flexibility for meaneuvering traffic.

DATES: Comments must be received on or before December 5, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 83-ASO-29, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rulles Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguements as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamp postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASO-29." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-53 in part, between Columbia, SC, and Charleston, SC, and V-311 in part, between Columbia, SC and Charleston, SC. The realignment would allow increased use of tower en route air traffic control procedures, thereby reducing controller workload, expediting traffic and reducing en route and terminal delays. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

VOR Federal Airways, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V-53 [Amended]

By deleting the words "From Charleston, SC, INT Charleston 296° and Columbia, SC, 153° radials; Columbia;" and substituting the words "From Charleston, SC, via Columbia, SC;"

V-311 [Amended]

By deleting the words "Columbia, SC." and substituting the words "Columbia, SC; INT Columbia 153°T(155°M) and Charleston, SC, 296°T(298°M) radials; Charleston."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendmens are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Excutive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on October 11, 1983.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-28307 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-20263; File No. S7-997]

Proposed Suspension of Periodic Reporting Obligation

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing to revise its rules governing suspension from issuers' periodic reporting requirements. These revisions would make the conditions and procedures for effecting such suspension the same for all issuers. All issuers, whatever the source of their reporting obligation, would be permitted, under the proposed rule, to discontinue their filings immediately upon meeting the specified thresholds and other conditions of the rule. In addition, the proposed revisions would standardize the conditions and procedures for effecting such suspension and would consolidate such provisions in one rule. The Commission also is proposing a new, simplified form for reporting such suspension. These changes are intended to eliminate an unnecessary inconsistency in the provisions suspending the obligation of issuers to file periodic reports, and to standardize and to simplify the suspension process.

DATE: Comments must be received on or before December 5, 1983.

ADDRESSES: All communications on the matters discussed in the release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comments should refer to File No. S7-997 and will be available for public inspection and copying in the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: William E. Toomey (202) 272-2573, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing for comment revisions to Rule 12h-3 under the Securities Exchange Act of 1934 that would extend the immediate suspension of the Section 15(d) reporting obligation to any class of securities held of record: (i) By less than 300 persons, or by less than 500 persons where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years; or (ii) in the case of a foreign private issuer, by less than 300 persons resident in the United States or by less than 500 persons resident in the United States where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years: Because the proposed revisions to Rule 12h-3 would include the existing provisions of Rule 12h-4, the Commission is proposing to rescind that rule. Similarly, since the substantive provisions of Rule 15d-6 would be subsumed by the proposed amendments to Rule 12h-3, the Commission is proposing to revise Rule 15d-6 to provide simply for the filing of a notice of suspension where suspension of the reporting requirement is to be done solely on the basis of Section 15(d) of the Exchange Act. In order to provide notice of suspension under revised Rule 12h-3, the Commission is proposing the adoption of new Form 15 which would replace existing Form 12g-4/15dp-6. Finally, the Commission is proposing to amend Rule 12g-4 to reflect the adoption of new Form 15. The Commission believes that these actions will not only ease reporting burdens where appropriate, but also simplify the notice procedure for suspension of the duty to file reports under Section 15(d).

I. Background

Section 13 of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a-78kk (1976 & Supp. V 1981), *as amended by* Act of June 6, 1983, Pub. L. No. 98-38] establishes a periodic reporting obligation for every issuer of a class of securities registered under Section 12 of the Exchange Act. Thus, issuers with securities listed on a national securities exchange under Section 12(b) of the Exchange Act, as well as issuers required by amount of total assets and number of security holders to register certain classes of equity securities under Section 12(g) of the Act, must file prescribed periodic reports with the Commission. The purpose of Section 13 is to provide investors and the public with current information concerning the business activities of issuers with securities registered under Section 12. Section 15(d) of the Exchange Act imposes a similar periodic reporting obligation on any issuer with respect to a class of securities registered under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a-77aa (1976 & Supp. V 1981), *as amended by* Bus Regulatory Reform Act of 1982, Pub. L. No. 97-261, section 19(d), 96 Stat. 1121 (1982)]. The purpose of Section 15(d) is to assure a stream of current information about an issuer for the benefit of purchasers in the registered offering, and for the public, in situations where Section 13 of the Exchange Act would not otherwise apply.

Congress recognized, with respect to Section 15(d), that the benefits of periodic reporting by an issuer might not always be commensurate with the burdens imposed, particularly where smaller companies were involved. Accordingly, Section 15(d) provides that the duty to file reports under that section shall be automatically suspended as to any fiscal year (other than the year in which the Securities Act registration statement becomes effective) if at the beginning of such fiscal year the securities of each class to which registration statement relates are held of record by less than 300 persons. In addition, Rule 15-6 [17 CFR 240.15d-6] under the Exchange Act permits suspension of the reporting obligation if at the beginning of a fiscal year, other than the year within which a registration statement under the Securities Act becomes effective and the two succeeding years, all securities of each class registered are held of record by less than 500 persons and on the last day of each of the issuer's three most recent fiscal years total assets of the issuer did not exceed $3 million. Rule 15d-6 also prescribes the current notice procedure for suspension of reporting under this provision.

Pursuant to its exemptive authority under Section 12(h) of the Exchange Act, the Commission has expanded the situations in which the Section 15(d) reporting requirement can be suspended by adopting Rules 12h-3 and 12h-4 (17 CFR 240.12h-3 and 12h-4).[1] These rules provide for suspension of Section 15(d) reporting for certain securities deregistered pursuant to Section 12(d) of the Exchange Act (Rule 12h-3) and for securities of a foreign issuer owned of record by less than 300 holders resident in the United States (Rule 12h-4). Unlike the provisions of Section 15(d) and Rule 15d-6, a suspension under Rule 12h-3 and 12h-4 does not depend on the number of record holders as of a particular date, but rather can be effected on any date the triggering events occur and the requisite filing requirements and other conditions are met.

II. The proposals

The proposed revisions of Rule 12h-3 would combine the existing provisions of Rules 12h-3 and 12h-4, with some revision, and would extend the

[1] Rule 15d-6 (a)(2) was adopted pursuant to both Sections 12(h) and 15(d) of the Exchange Act.

VOL
48
ISS
2
0
2
OC
18
1983
UMI

immediate suspension of the Section 15(d) reporting obligation to any class of securities held of record: (i) By less than 300 persons, or by less than 500 persons where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years; or (ii) in the case of a foreign private issuer, by less than 300 persons resident in the United States or by less than 500 persons resident in the United States where the total assets of the issuer have not exceed $3,000,000 on the last day of each of the issuer's three most recent fiscal years.

This expansion of the immediate suspension of the reporting obligation under Section 15(d) is designed to parallel the provisions for the suspension of the reporting requirement for issuers whose securities are registered under Section 12(g) of the Exchange Act. The Commission believes that given the identical nature of the issuer periodic reporting obligations under Section 12(g) and Section 15(d), such obligations should be subject to comparable standards for suspension. At the present time, this is not the case. As pointed out previously, Section 15(d) issuers must continue to report through the end of the fiscal year in which the number of record holders falls below the specified number in Rule 15d–6, while Section 12(g) issuers can obtain reporting relief immediately upon meeting the same threshold specified in Rule 12g–4. There appears little reason for this distinction.

There would be one principal difference in the suspension proposed to be provided in revised Rule 12h–3 and that provided in current Rule 12g–4. The suspension provided under proposed Rule 12h–3 would not be available with respect to any fiscal year in which a registration statement under the Securities Act become effective or is required to be updated pursuant to Section 10(a)(3) of the Act.[2] This limitation is in keeping with the philosophy reflected in Section 15(d) of the Exchange Act that generally the investing public should have available complete information about the issuer's activities at least through the end of the year in which it makes a registered offering.[3]

[2] Section 10(a)(3) of the Securities Act requires an issuer to update any registration statement being used by it to sell securities if the information is no longer current.

[3] For example, in the case of a company that has an effective registration in year 1, but whose securities are held by less than 300 record holders at the beginning of year 2, the company could effect a suspension at the beginning of year 2 for all reports due following the date of such suspension, except the Form 10–K relating to year 1.

In addition to extending the immediate suspension of the reporting obligation, the Commission is proposing to simplify and standardize the procedure for suspension. To accomplish this, the Commission is proposing to revise Rule 12h–3 to specify the situations for which a suspension is permitted and to provide uniform procedures for effecting suspension. If Rule 12h–3 is adopted, current Rule 12h–4 would be rescinded and its substance incorporated into revised Rule12h–3. Rule 15d–6 would be revised to require only that a Form 15 be filed by a person relying solely on the provisions of Section 15(d) to suspend its reporting obligation.

1. Securities Eligible for Suspension

The three categories of securities to which the proposed rule would apply are:

(1) Any class of securities held of record by: (i) Less than 300 persons; or (ii) by less than 500 persons, where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years;

(2) Any class of securities of a foreign private issuer, as defined in Rule 3b–4 [17 CFR 240.3b–4], held of record by: (i) Less than 300 persons resident in the United States, computed as specified in Rule 12g3–2(a) [17 CFR 240.12g3–2(a)]; or (ii) less than 500 persons resident in the United States computed as specified in Rule 12g3–2(a), where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years; and

(3) Any class of securities deregistered pursuant to Section 12(d) of the Exchange Act if such class would not thereupon be deemed registered under Section 12(g) of the Exchange Act or the rules thereunder.

2. Conditions of the Rule

Under proposed Rule 12h–3, the suspension of the reporting obligation would be available only if two conditions are met. The first condition would require the issuer to file proposed Form 15 which is a certification that it qualifies for the suspension provided by the Rule. The purpose of this filing would be to provide public notice of the claimed suspension.

Second, as required by existing Rule 12h–3, the issuer must be current in its periodic reports. Under proposed Rule 12h–3, to be eligible for immediate suspension of its reporting obligations, an issuer must have filed all periodic reports required by Section 13(a) of the Exchange Act for the shorter of its three most recent fiscal years and that portion of the current fiscal year preceding the filing of the certification on Form 15 or the period since it become subject to such reporting obligations. For the purpose of determining whether a particular report was required to be filed, the due date specified in the Form for that report would govern, without regard to the effect of Rule 12b–25 [17 CFR 240.12b–25] under the Exchange Act. Thus, for example, an issuer which had obtained an extension of time under Rule 12b–25 to file a required periodic report, and then filed a certification on Form 15 during the extension period, would still have to file the periodic report in question, since the original due date for the report elapsed prior to the filing of the Form 15 certification.

3. Limitations on Availability and Coverage

The Rule would not be available to an issuer with respect to any fiscal year in which a registration statement under the Securities Act became effective or was required to be updated pursuant to Section 10(a)(3) of the Act, except in the case of securities registered under the Securities Act in connection with the formation of a single subsidiary holding company, a structural change often used by banks. The Commission believes that such a reoganization is essentially technical in nature since it does not materially alter the interests of security holders, and therefore does not justify the imposition of the periodic reporting requirement. Accordingly, paragraphs (c) and (d) of the Rule provide, in effect, that no Section 15(d) reporting obligation will ever arise from a registration statement filed for this limited purpose.[4]

The suspension of the reporting obligation will continue through each subsequent fiscal year in which the eligibility criteria are met on the first day of such year. If the eligibility criteria are not met at the commencement of the fiscal year, any report due to be filed on or after such date, including the Form 10–K relating to the preceding year, would have to be filed. The Commission is aware that this may necessitate audited financial statements for periods in which Form 10–Q reports have not been filed. However, this requirement is comparable to the requirement that a

[4] This exception applies only to a reporting obligation which arises solely from a registration statement filed for the purpose of forming a one subsidiary holding company. The provision affords no relief from a reporting obligation arising from the filing of another registration statement by the same issuer, nor does it extend to any reporting obligation which may stem from the inclusion of a separate offering in the initial holding company formation registration statement.

new Form 10 be filed by a former Section 12(g) issuer, that has terminated its reporting pursuant to Rule 12g–4, and then again meets the Section 12(g) criteria and is required to recommence reporting. The Commission believes audited financial statements are no less important when a suspended or terminated reporting obligation is revived than when a reporting obligation is initially incurred. The Commission recognizes that the Section 12(g) issuer has 120 days to file its Form 10 rather than the 90 days applicable to the Form 10–K, and solicits comment as to the appropriate period for the filing of the Form 10–K upon discontinuance of the suspension. Of course, if the number of record holders falls below the specified level after the reporting obligation has been revived, the issuer could immediately obtain another suspension of that obligation under the rule, provided it met all applicable conditions at that time.

Finally, as Rules 12h–3 and 12h–4 currently provide, the proposed revised rule states that if an issuer files a certification on Form 15 which is later withdrawn or denied, it will be required to file, within 60 days after the withdrawal or denial, all periodic reports it should have filed in the interim.

4. Proposed Form 15

Proposed Form 15 would replace existing Form 12g–4/15d–6, a combination form which has been used for a number of years to notify the Commission and the public of termination of registration under Section 12(g) of the Exchange Act, and suspension of reporting pursuant to Rule 15–6. The proposed new form would eliminate duplicative and unnecessary information currently required to be filed and would be simpler to prepare. Essentially, the Form would require the name and address of the issuer, the class of securities involved, the number of record holders thereof, and the rule provision relied on for suspension of the duty to file reports. The relevant rule provisions would be listed on the form and could be designated by check mark. While proposed Form 15 has been designed with a view to simplicity, it must be emphasized that the filing of the form would be a condition to the availability of the new rule, and that suspension of the duty to file reports would be contingent on the filing of the form.[5]

[5] This would not be true of a suspension effected solely on the basis of the provisions of Section 15(d) of the Exchange Act. In that case, failure to file the Form would be a violation of the reporting requirements under the Exchange Act pursuant to Rule 15d–6.

In the event Form 15 is adopted to replace Form 12g–4/15d–6, it also will be necessary to change all references to the old form that now exist in the Commission's rules. Accordingly, the Commission is proposing to amend Rules 12g–4 and Rule 15d–6 for this purpose.

III. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603, regarding the proposed revision of Rule 12h–3 and the associated amendments proposed herein.

The analysis notes that the revisions to Rule 12h–3 and the related amendments are being proposed to standardize for issuers the provisions for obtaining relief from the periodic reporting requirements of the Exchange Act. At the present time, an issuer that files reports pursuant to Section 13 of the Exchange Act can suspend its reporting obligation whenever it has fewer than 300 security holders. An issuer filing similar reports pursuant to Section 15(d) of the Exchange Act, however, can suspend its obligation only when it has fewer than 300 security holders at the beginning of a fiscal year. The analysis notes that this different treatment may impose a hardship on the Section 15(d) issuer by requiring it to continue to file reports in circumstances where there may be little public interest in the company. Under the new proposals, a Section 15(d) issuer will be able to obtain immediate suspension of the periodic reporting obligation at any time that it has fewer than 300 security holders.

The Commission also stated that for purposes of the analysis, the Commission was using the definition for small business adopted in Securities Exchange Act Release No. 18452 (March 8, 1982) [47 FR 5215]. That definition provides that-when used in reference to the Exchange Act, small business means any issuer whose total assets on the last day of its most recent fiscal year were $3 million or less. It is likely that the proposed changes will directly benefit a significant number of issuers who fall within the small business definition, and an even larger number of issuers whose size technically excludes them from the definition but which nonetheless might be considered smaller issuers. The proposals will not increase the Exchange Act reporting burden for any issuer, and no additional recordkeeping or reporting will be required except a notification to the Commission of the suspension of the reporting obligation. Such a notice may require the skills of a professional familiar with the securities laws and some services by management, but does not require any recordkeeping or reporting beyond that already required by the Exchange Act.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting William E. Toomey, Division of Corporation Finance, United States Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C., 20549, at (202) 272–2573.

IV. List of Subjects in 17 CFR Parts 240 and 249

Forms, Reporting and recordkeeping requirements, Securities.

V. Text of Proposals

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising § 240.12h–3, Rule 12h–3, to read as follows:

§ 240.12h–3 Suspension of duty to file reports under section 15(d).

(a) Subject to paragraphs (c) and (d) of this section, the duty under section 15(d) to file reports required by section 13(a) of the Act with respect to a class of securities specified in paragraph (b) of this section shall be suspended for such class of securities immediately upon filing with the Commission a certification on Form 15 [17 CFR 249.323] if the issuer of such class has filed all reports required by section 13(a), without regard to Rule 12b–25 [17 CFR 249.322], for the shorter of its most recent three fiscal years and the portion of the current year preceding the date of filing Form 15, or the period since the issuer became subject to such reporting obligation. If the certification on Form 15 is subsequently withdrawn or denied, the issuer shall, within 60 days, file with the Commission all reports which would have been required if such certification had not been filed.

(b) The classes of securities eligible for the suspension provided in paragraph (a) of this section are:

(1) Any class of securities held of record by: (i) less than 300 persons; or (ii) by less than 500 persons, where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years;

VOL
48
ISS
2
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2
OC
18
1983
UMI

(2) Any class of securities of a foreign private issuer, as defined in Rule 3b–4 [§ 240.3b–4], held of record by: (i) Less than 300 persons resident in the United States or (ii) less than 500 persons resident in the United States where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years. For purposes of this paragraph, the number of persons resident in the United States shall be determined in accordance with the provisions of Rule 12g–3–2(a) [§ 240.12g3–2(a)]; and

(3) Any class of securities deregistered pursuant to section 12(d) of the Act is such class would not thereupon be deemed registered under section 12(g) of the Act or the rules thereunder.

(c) This section shall not be available to an issuer for a fiscal year in which a registration statement becomes effective under the Securities Act of 1983, or is required to be updated pursuant to section 10(a)(3) of the Act, and, in the case of paragraphs (b)(1)(ii) and (b)(2)(ii), the two succeeding fiscal years. *Provided*, however, that this paragraph shall not apply to the duty to file reports which arises solely from a registration statement filed by an issuer with no significant assets, for the reorganization of a non-reporting issuer into a one subsidiary holding company in which equity security holders receive the same proportional interest in the holding company as they held in the non-reporting issuer, except for changes resulting from the exercise of dissenting shareholder rights under state law.

(d) The suspension provided by this rule relates only to the reporting obligation under section 15(d) with respect to a class of securities, does not affect any other duties imposed on that class of securities, and shall continue as long as criteria (i) or (ii) in either paragraph (b)(1) or (b)(2) is met on the first day of any subsequent fiscal year. *Provided*, however, that such criteria need not be met if the duty to file reports arises solely from a registration statement filed by an issuer with no significant assets in a reorganization of a non-reporting company into a one subsidiary holding company in which equity security holders receive the same proportional interest in the holding company as they held in the non-reporting issuer except for changes resulting from the exercise of dissenting shareholder rights under state law.

2. By revising § 240.12g3–2, Rule 12g3–2, to remove paragraph (a)(2) and redesignate paragraph (a)(1) as (a).

3. By revising § 240.12g–4, Rule 12g–4, to read as follows:

§ 240.12g–4 Certification of termination of registration under section 12(g).

(a) Termination of registration of a class of securities shall take effect in 90 days, or such shorter period as the Commission may determine, after the issuer certifies to the Commission on Form 15 that:

(1) Such class of securities is held of record by: (i) Less than 300 persons; or (ii) b less than 500 persons, where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years; or

(2) Such class of securities of a foreign private issuer, as defined in Rule 3b–4 [§ 240.3b–4], is held of record by: (i) Less than 300 persons resident in the United States or (ii) less than 500 persons resident in the United States where the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's most recent three fiscal years. For purposes of this paragraph, the number of persons resident in the United States shall be determined in accordance with the provisions of Rule 12g3–2(a) [§ 240.12g3–2(a)].

(b) The issuer's duty to file any reports required under section 13(a) shall be suspended immediately upon filing a certification on Form 15. *Provided*, however, that if the certification on Form 15 is subsequently withdrawn or denied, the issuer shall, within 60 days after the date of such withdrawal or denial, file with the Commission all reports which would have been required had the certification on Form 15 not been filed. If the suspension resulted from the issuer's merger into, or consolidation with, another issuer or issuers, the certification shall be filed by the successor issuer.

3. By removing in its entirety § 240.12h–4, Rule 12h–4.

4. By revising § 240.15d–6, Rule 15d–6, to read as follows:

§ 240.15d–6 Suspension of duty to file reports.

If the duty of an issuer to file reports pursuant to section 15(d) of the Act as to any fiscal year is suspended as provided in section 15(d) of the Act, such issuer shall, within 30 days after the beginning of the first such fiscal year, file a notice on Form 15 informing the Commission of such suspension. If the suspension resulted from the issuer's merger into, or consolidation with, another issuer or issuers, the notice shall be filed by the successor issuer.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. By redesignating Form 12g–4, described in 17 CFR 249.323, and Form 15d–6, described in 17 CFR 249.333, as Form 15, 17 CFR 249.323 (Form 15 does not appear in the Code of Federal Regulations), and by revising 17 CFR 249.323 to read as follows:

§ 249.323 Form 15, certification of termination of registration of a class of security under section 12(g) or notice of suspension of duty to file reports pursuant to sections 13 and 15(d) of the Act.

(a) This form shall be filed by each issuer to certify that the number of holders of record of a class of security registered under section 12(g) of the Act is reduced to less than 300 persons, or that the number of holders of record of a class of security registered under section 12(g) of the Act is reduced to less than 500 persons and the total assets of the issuer have not exceeded $3,000,000 on the last day of each of the issuer's three most recent fiscal years. Registration terminates 90 days after the filing of the certificate or within such shorter time as the Commission may direct.

(b) This form shall also be filed by each issuer required to file reports pursuant to section 15(d) of the Act, as a notification that the duty to file such reports is suspended in accordance with the provisions of Section 15(d) because all securities of each class of such issuer registered under the Securities Act of 1933 are held of record by less than 300 persons at the beginning of its fiscal year, or otherwise in accordance with the provisions of Rule 12h–3 [17 CFR 240.12h–3].

Securities and Exchange Commission

Washington, D.C. 20549

Form 15

Certification and Notice of Termination of Registration under Section 12(g) of the Securities Exchange Act of 1934 or Suspension of Duty to File Reports Under Sections 13 and 15(d) of the Securities Exchange Act of 1934.

Commission File Number _____

_____
(Exact name of registrant as specified in its charter)

_____
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

_____
(Title of each class of securities covered by this Form)

_____
(Titles of all other classes of securities for which a duty to file reports under section 13(a) or 15(d) remains)

Please place an X in the box(es) to designate the appropriate rule provision(s) relied upon to terminate or suspend the duty to file reports:

- ☐ Rule 12g–4(a)(1)(i)
- ☐ Rule 12g–4(a)(1)(ii)
- ☐ Rule 12g–4(a)(2)(i)
- ☐ Rule 12g–4(a)(2)(ii)
- ☐ Rule 12h–3(b)(1)(i)
- ☐ Rule 12h–3(b)(1)(ii)
- ☐ Rule 12h–3(b)(2)(i)
- ☐ Rule 12h–3(b)[2](ii)

Approximate number of holders of record as of the certification or notice date: _____

(Record Holders) _____

(Date) _____

Pursuant to the requirements of the Securities Exchange Act of 1934 *[Name of registrant as specified in charter]* has caused this certification/notice to be signed on its behalf by the undersigned duly authorized person.

Date: _____

By: _____

Instruction: This form is required by Rules 12g–4, 12h–3 and 15d–6 of the General Rules and Regulations under the Securities Exchange Act of 1934. The registrant shall file with the Commission six copies of Form 15, one of which shall be manually signed. It may be signed by an officer of the registrant, by counsel or by any other duly authorized person. The name and title of the person signing the form shall be typed or printed under the signature.

Statutory Authority

The Commission is proposing the foregoing changes pursuant to Sections 12(h), 13(a), 15(d) and 23(a) of the Securities Exchange Act of 1934.

(Secs. 12(h), 13(a), 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; secs. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 82 Stat. 45; sec. 28(c), 84 Stat. 1435; secs. 6, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b) 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 771, 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28192 Filed 10–17–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF LABOR

Employment Standards Administration

20 CFR Part 10

Claims for Compensation Under the Federal Employees' Compensation Act, as Amended

AGENCY: Employment Standards Administration, Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Department of Labor proposes to amend the regulations governing the administration of the Federal Employees' Compensation Act (FECA) to (1) clarify the procedure injured Federal employees and the employing agencies should follow in seeking and obtaining authorized medical treatment for job-related injuries; (2) specifically define which physicians, hospitals, etc., may be authorized under the FECA to provide and obtain payment from the Government for medical care and services to injured Federal employees; and (3) establish a procedure for excluding physicians, hospitals, etc., from participating in the program and for denying payment to such persons out of the Employees' Compensation Fund.

DATE: Written comments must be submitted on or before December 2, 1983.

ADDRESS: Send comments to Thomas M. Markey, Deputy Associate Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, Room S–3229, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C., 20210; Telephone (202) 523–7552.

FOR FURTHER INFORMATION CONTACT: Thomas M. Markey, Deputy Associate Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, Room S–3229, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. 20210; Telephone (202) 523–7552.

SUPPLEMENTARY INFORMATION: The Federal Employee's Compensation Act requires that Federal employees who sustain job-related injuries be provided with appropriate medical care and treatment. Such treatment must be furnished by or under the supervision and direction of a qualified physician "in accordance with such regulations and instructions as the Secretary considers necessary * * *" (5 U.S.C. 8103). Although the 1974 Amendments (Pub. L. 93–416) gave injured Federal employees the right to initially select a treating physician such selection and continued use of that physician was subject to the control and supervision of the Secretary of Labor.

The Secretary has not heretofore defined or limited the scope of the employee's choice much more narrowly than the definition of physician given in the statute. In the absence of regulations specifying under what circumstances an employee's choice of physician should be honored, the Office of Workers' Compensation Program (OWCP), which administers the FECA, has been hampered in its efforts to ensure that Federal employees receive quality medical care for work related injuries. The Office also has been hampered in its efforts to ensure that benefits paid from the Employees' Compensation Fund (and ultimately from the budget of constituent Federal employing agencies) are paid for legitimate, suitable medical treatment.

In Fiscal Year 1982, the Secretary authorized the payment of $125,300,000 for medical, surgical and related treatment, hospitalization, therapy, psychological and psychiatric care, medical supplies, and other covered services for Federal employees who suffered occupational injury or disease.

When abusive or fraudulent practices by medical providers are discovered, the Office has had to deal with such fraud or abuse on a case-by-case basis, and has lacked specific procedures to exclude the provider who has engaged in such practices from FECA program. In addition to outright fraud, there are certain practices which should be regulated in the interest of Federal employees and effective cost management of the program.

These practices tend to reduce the quality of medical care, and if tolerated open the program to wider abuses. These include: maintaining a double standard of fees for services, so that governmental benefit programs are charged more for the same service than private patients; continuing treatment in excess of what is generally regarded by peer and professional review committees to be sound medical practice; making false or deceptive statements in submitting bills for reimbursement; charging the patient a second time for fees already reimbursed by OWCP; and providing treatment which is substandard in quality.

Finally, because adjudication of entitlement to benefits is based on review of the written record by its administrative and medical staff, the Office wishes to exclude physicians who repeatedly fail to document treatment and its effects in full and accurate medical reports, and who fail to respond to the Office's requests for medical information about treatment rendered, and about the condition of the employee. Without medical information from the treating physician, the Office is unable to carry out its further reponsibilities of determining the employee's entitlement to wage-loss compensation; of managing medical care for the employee; and of providing suitable vocational rehabilitation for employees who suffer permanent disabilities.

VOL 48 ISS 202 OCT 18 1983 UMI

Attention was directed to these problems at hearings held by the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs in 1981 and 1982. Both the subcommittee and the Inspector General of the Department of Labor have urged the Office to establish formal debarment procedures to more strictly control its medical program, reducing unnecessary and inappropriate expenditures and lessen fraud and abuse.

The Office of Workers' Compensation Programs has studied regulations which govern exclusion and suspension of providers published by the Health Care Financing Administration of the Department of Health and Human Services, and by several State Workers' Compensation programs. The regulations proposed below are designed to achieve better program management of medical benefits while giving full protection of due process procedures to physicians and providers of medical services and supplies. The proposed FECA regulations will define and regulate, to the extent appropriate, those persons who will be considered "duly qualified" and therefore authorized to provide medical care and treatment under the FECA Program. Only those services provided by "duly qualified physicians", "duly qualified hospitals", or "duly qualified providers of medical services or supplies" as defined in this proposal will be paid for by the Government out of the Employees' Compensation Fund established by 5 U.S.C. 8147.

In addition, a new Subpart F is proposed which will establish a procedure whereby physicians and other providers of medical services and supplies may be excluded from the program. The grounds for exclusion are set forth in the proposed § 10.450. Section 10.451 as proposed would automatically exclude those persons convicted of specified offenses as well as those who have been excluded or suspended, or who voluntarily resigned from participation in a Federal or State program for which payments are made for similar services or supplies. Since, in these kind of cases, the grounds for exclusion have already been established in a proceeding involving equivalent or greater procedural safeguards, no additional proceedings under this program are required prior to exclusion under these regulations.

The additional grounds for disqualification are directed toward actions directly related to the submission of bills or statements in connection with FECA claims, the quality and quantity of treatment and care given to injured Federal employees, and the charging of employees for services paid for by the Govenment. With respect to these grounds the proposed regulations provide for a notice to be given to the provider of the intent to exclude, an opportunity to submit a response, a decision by an official of the Office of Workers' Compensation Programs located in the area where the alleged improper activity occurred, and ultimately the opportunity for a hearing before an administrative law judge of the U.S. Department of Labor. The final decision will be issued by the Associate Director for Federal Employee's Compensation.

Reinstatement procedures are also established. Under § 10.457 as proposed reinstatement to participation in the FECA program is a matter of administrative discretion except where a criminal conviction is reversed or the exclusion or suspension from another Federal or State program has been reversed or withdrawn. In the latter case, reinstatement is automatic upon the submission of adequate proof thereof but without prejudice to the institution of separate proceedings under § 10.452 based upon the underlying facts.

Drafting Information

This document was prepared under the direction and control of Robert B. Collyer, Deputy Under Secretary for Employment Standards, U.S. Department of Labor , Room S–2321, 200 Constitution Avenue, NW., Washington, D.C. 20210; Telephone (202) 523–6191.

Classification—Executive Order 12291

The Department of Labor does not believe that the regulatory proposal constitutes a "major rule" under Executive Order 12291, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory analysis is required.

Paperwork Reduction Act

The Office of Management and Budget has previously approved the record keeping requirements at 20 CFR 10.410(a); OMB Control No. 1215–0133. The proposed revision to § 10.410(a) contained in this document does not impose any new record keeping requirements.

Regulatory Flexibility Act

The Department believes that the rule will have "no significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Pub. L. No. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)).

Although this rule will be applicable to small entities it should not result in or cause a significant economic impact to any small entity subject to its provisions. This conclusion is reached because the application of the exclusion procedures proposed by these rules will not reduce the amount of money paid to duly qualified medical providers for the medical services rendered to FECA beneficiaries but rather will permit the Department to determine which providers should participate in the program. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed rules contained in 20 CFR Part 10 described in this document, will have "no significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Although this rule will be applicable to small entities it should not result in or cause a significant economic impact to any small entitiy subject to its provisions. This conelusion is reached because the application of the exclusion procedures proposed by these rules will not reduce the amount of money paid to duly qualified medical providers for the medical services rendered to FECA beneficiaries but rather will permit the Department to determine which providers should participate in the program.

List of Subjects in 20 CFR Part 10

Claims, Government employees, Archives and records Health records, Freedom of Information, Privacy, Penalties, Health professions, Workers' compensation, Employment, Administrative practices and procedures, Wages, Health facilities, Dental health, Medical devices, Health care, Lawyers, Legal services, Student, X-rays, Labor, Insurance, Kidney diseases, Lung diseases, and Tort claims.

PART 10—[AMENDED]

Accordingly, it is proposed that 20 CFR Part 10 be amended as set forth below.

Authority: (5 U.S.C. 301); Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; (5 U.S.C. 8145, 8149); Secretary of Labor's Order No. 16–75, 40 FR 55913 Employment Standards' Order No. 78–1, FR 51469.

1. By revising § 10.137 to read as follows:

§ 10.137 Review by the Employee's Compensation Appeals Board.

Final decisions of the Office, except decisions concerning the nature and extent of medical services, the amounts payable for such services, and decisions concerning exclusion and reinstatement of medical providers, are subject to review by the Employees Compensation Appeals Board (ECAB), U.S. Department of Labor, under rules of procedure set forth in Part 501 of this title.

2. By redesignating § 10.401 as § 10.400 and revising it to read as follows:

§ 10.400 Physician and medical services, etc. defined

(a) The term "physician" as used in subparts E and F of this part includes physicians (M.D. and D.O.), surgeons, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors, within the scope of their practice as defined by State Law. The term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist. A physician whose license to practice medicine has been suspended or revoked by a State licensing or regulatory authority is not a physician within the meaning of this section during the period of such suspension or revocation.

(b) The term "duly qualified physician" as used in Subparts E and F of this part includes any physician, as defined by paragraph (a) of this section, who has not been excluded under the provisions of subpart F of this part. Except as otherwise provided by regulation, a duly qualified physician shall be deemed to be designated or approved by the Office.

(c) The term "duly qualified hospital" as used in subparts E and F of this part includes any hospital licensed as such under State law which has not been excluded under the provisions of subpart F of this part. Except as otherwise provided by regulation, a duly qualified hospital shall be deemed to be designated or approved by the Office.

(d) The term "duly qualified provider of medical support services or supplies" as used in Subparts E and F of this part includes any person, other than a physician or a hospital, who provides services, drugs, supplies, and appliances for which the Office makes payment who possesses any applicable licenses required under State law and who has not been excluded under the provisions of subpart F of this part.

(e) The term "medical services" as used in subparts E and F of this part includes services and supplies provided by or under the supervision of physicians (M.D. and D.O), surgeons, podiatrists, dentists, clinical psychologists, optometrists,and chiropractors, within the scope of their practices as defined by State law. Reimbursable chiropractic services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. Also included for payment or reimbursement are physical examinations (and related laboratory tests) and x-rays performed by or required by a chiropractor to diagnose a subluxation of the spinal column. A chiropractor may interpret his or her x-rays to the same extent as any other physician defined in this section.

(f) The term "hospital services" as used in subparts E and F of this part includes services and supplies provided by hospitals within the scope of their practice as defined by State law.

(g) The term "medical support services and supplies" as used in subparts E and F of this part includes services, drugs, supplies, and appliances provided by a person other than a physician or hospital.

(h) The term "job-related injury" as used in Subparts E and F of this part includes injuries sustained while in the performance of duty and diseases proximately caused by the conditions of employment.

3. By redesignating § 10.400 as § 10.401 and revising it to read as follows:

§ 10.401 Medical treatment, hospital services, transportation, etc.

(a) A claimant shall be entitled to receive all medical services, appliances or supplies which are prescribed or recommended by a duly qualified physician and which the Office considers necessary for the treatment of a job-related injury, whether or not the claimant is disabled. Such services, appliances and supplies may be furnished by, or on the order or recommendation of, either United States medical officers or hospitals, or, at the claimant's option as provided in paragraph (b) of this section, any other duly qualified physician or duly qualified hospital. Medical support services and supplies not furnished by a duly qualified physician or a duly qualified hospital shall be furnished by a duly qualified provider of medical support services or supplies. A claimant shall also be entitled to reimbursement of reasonable and necessary expenses incident to obtaining authorized medical services, appliances or supplies.

(b) A claimant has an initial choice of physicians. The employing agency shall give the claimant an opportunity to select a duly qualified physician, after advising the claimant of those physicians excluded under the provisions of this part. An employee who wishes to change physicians must submit a written request to the Office fully explaining the reasons for the request. The Office may approve the request in its discretion if sufficient justification is shown for the request. Any duly qualified physician shall be authorized to provide necessary treatment of a job-related injury in an emergency.

(c) The medical facilities of the U.S. Public Health Service generally are available at any time for the furnishing of medical treatment. The medical facilities of the Army, Navy, Air Force, and Veterans Administration may be used when previous arrangements have been made on a case-by-case basis with the director of the facility.

(d) Federal health service units or other occupational health service facilities established under the provisions of the Act of August 8, 1946, as amended (U.S.C. 7901), are not United States medical hospitals as used in this part, nor are the staff of these facilities United States medical officers as used in this part.

Under criteria established by the Bureau of the Budget (now the Office of Management and Budget) in Circular No. A–72 of June 18, 1965, these health service units or occupational health service facilities shall only provide emergency diagnosis and treatment of injury or illness such as are necessary during working hours and are within the competence of the professional staff of the health service unit or facility. Any medical treatments by these units or facilities other than emergency treatment must be specifically authorized by the Office and given under the supervision of a duly qualified physician.

VOL
48
ISS
2
0
2
OC
18
1983
UMI

(e) Nothing in the Act or in these regulations affects any authority which the employing agency may have to require the employee to undergo a medical examination to determine whether the employee meets the mandatory medical requirements of the position held, or is able to perform the duties of the position held.

(f) In emergency cases or those involving unusual considerations affecting the quality of medical care, the Office may authorize treatment or approve payment of medical expenses in a matter other than that provided in this subpart.

4. By revising § 10.402 to read to follows:

§ 10.402 Official authorization for treatment.

(a) When an employee sustains a job-related injury which may require medical treatment, the employing agency shall promptly authorize such treatment by giving the employee a properly executed CA–16. Form CA–16 shall be used primarily for traumatic injuries. It may also be used to authorize examination and treatment for disease of illness, but only if the employing agency has obtained prior permission from the Office.

(b) To be valid, a Form CA–16 must give the full name and address of the duly qualified physician or duly qualified medical facility authorized to provide service, and must be signed and dated by the authorizing official, and must show his or her title. Except as provided in § 10.404, Form CA–16 may not be issued for past medical care. The period for which treatment is authorized by a correctly issued Form CA–16 is limited to 60 days from the date of issuance, unless terminated earlier by the Office. Further, in view of the provisions of § 10.401(b), the employing agency may not use Form CA–16 to authorize a change of physicians.

(c) In determining the use of medical facilities, consideration must be given to their availability, the employee's condition, and the method and means of transportation. Generally, 25 miles from the place of injury, the employing agency, or the employee's home, is a reasonable distance to travel, but other pertinent factors must also be taken into consideration.

5. By redesignating § 10.403 as § 10.403 and revising to read as follows:

§ 10.403 Medical treatment in doubtful cases.

Cases of a doubtful nature, so far as compensability is concerned, shall be referred by the employing agency to a United States medical officer or hospital, or at the employee's option, to a duly qualified private physician or a duly qualified hospital designated or approved by the Office, or as otherwise provided in this part, using a Form CA–16 for medical services as indicated in 6B of the form. This authorizes the necessary diagnostic studies and emergency treatment pending receipt of advice from the Office. A statement of all pertinent facts relating to the particular case shall also be forwarded immediately to the Office for consideration. If the medical examination or other information received subsequent to the issuance of authorization for treatment discloses that the condition for which treatment was rendered is not due to an injury, the person issuing the authorization shall immediately notify the employee and the physician or hospital that no further treatment shall be rendered at the expense of the Office. In cases of an emergency or cases involving unusual circumstances, the Office may, in the exercise of its discretion, authorize treatment otherwise than as provided for in this part, or it may approve payment for medical expenses incurred otherwise than as authorized in this section. No authority for examination or for medical or other treatment shall be given by the employing agency in any case already disallowed by the Office.

6. By redesignating § 10.403 as § 10.404 and revising it to read as follows:

§ 10.404 Emergency treatment.

In cases of traumatic injury where emergency treatment is necessary, any duly qualified physician may render initial treatment. If oral authorization for such treatment is given by the employing agency, a Form CA–16 shall be issued within 48 hours thereafter. If further treatment is necessary, authorization therefor shall be requested as soon as practicable in accordance with § 10.402 of this part. It is the duty of the employing agency to authorize initial medical treatment for acute injuries, exclusive of disease or illness, and to transfer the employee at the employee's option to the care of a local U.S. medical officer or hospital or to a duly qualified private physician or a duly qualified hospital designated or approved by the Office for any subsequent treatment needed. If unable to comply promptly with this requirement, the employing agency shall communicate with the Office for instructions.

7. By redesignating § 10.404 as § 10.405 and revising it to read as follows:

§ 10.405 Medical treatment if symptoms or disability recur.

If, after having been discharged from medical treatment, an injured employee again has symptoms or disability under circumstances from which it may reasonably be inferred that such symptoms or disability are the result of an injury previously recognized as compensable by the Office, and the place of employment is the same as at the time of injury, Form CA–16 may be issued at the discretion of the employing agency. Form CA–16 shall not be used by the employing agency if more than six months have elapsed since the employee last returned to work. In any case in which there may be doubt that the symptoms or disability are the result of the injury, or in which it has been more than six months since the last return to work, the employing agency shall communicate with the Office and request instructions, stating all the pertinent facts. In all other cases, the employee shall communicate with the Office and request such treatment.

8. By revising § 10.406 to read as follows:

§ 10.406 Authority for dental treatment.

All necessary dental treatment, including repairs to natural teeth, false teeth, and other prosthetic dental devices, needed to repair damage or loss caused by an employment related injury shall be obtained at the employee's option from a U.S. Medical Officer or hospital, or from a duly qualified private dentist, a duly qualified physician, or a duly qualified hospital, upon authorization obtained in advance from the Office.

9. By revising § 10.407(a) to read as follows:

§ 10.407 Medical examinations.

(a) An injured employee shall be required to submit to examination by a U.S. Medical Officer or by a qualified private physician approved by the Office as frequently and at such times and places as in the opinion of the Office may be reasonably necessary. The injured employee may have a duly qualified physician, paid by him or her, present at the time of such examination. For any examination required by the Office, an injured employee shall be paid all expenses incident to such examination which, in the opinion of the Office, are necessary and reasonable, including transportation and actual loss of wages incurred in order to submit to the examination authorized by the Office.

* * * * *

10. By revising § 10.409 to read as follows:

§ 10.409 Furnishing of orthopedic and prosthetic appliances, and dental work.

When a job-related injury results in the need for an orthopedic or prosthetic appliance, such as an artificial limb, eye, or denture, as recommended by the duly qualified attending physician, written application for authority to purchase such appliance may be made to the Office. The application must include a statement from the attending physician regarding the need for the appliance, a brief description thereof, and the approximate cost.

11. By revising § 10.410(a) to read as follows:

§ 10.410 Recording and submission of medical reports.

(a) Medical officers and private physicians and hospitals shall keep adequate records of all cases treated by them under the Act so as to be able to supply the Office with a history of the employee's accident, the exact description, nature, location, and extent of injury, the X-ray findings or other studies, if X-ray examination or other studies have been made, the nature of the treatment rendered, and the degree of impairment arising from the injury.

* * * * *

12. By adding a new Subpart F as follows:

Subpart F—Exclusion of Physicians and Other Providers of Medical Services and Supplies

Sec.
10.450 Exclusion for fraud and abuse: Grounds.
10.451 Automatic exclusion.
10.452 Initiation of exclusion procedures.
10.453 Requests for a hearing.
10.454 Hearings and recommended decision.
10.455 Final decision.
10.456 Effects of exclusion.
10.457 Reinstatement.

Subpart F—Exclusion of Physicians and Other Providers of Medical Services and Supplies

Authority: (5 U.S.C. 301); Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; (5 U.S.C. 8145, 8149); Secretary of Labor's Order No. 16–75, 40 FR 55913; Employment Standards' Order No. 78–1, 43 FR 51469.

§ 10.450 Exclusion for fraud and abuse: Grounds.

A physician, hospital, or provider of medical support services or supplies shall be excluded from payment under the Act if such physician, hospital or provider has:

(a) Been convicted under any criminal statute for fraudulent activities in connection with any Federal or State program for which payments are made to providers for similar medical, surgical or hospital services, appliances or supplies;

(b) Been excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any Federal or State program referred to in paragraph (a) of this section.

(c) Knowingly made or caused to be made, any false statement or misrepresentation of a material fact in connection with a determination of the right to reimbursement under the Act, or in connection with a request for payment;

(d) Submitted, or caused to be submitted, three or more bills or requests for payment within a twelve-month period under this chapter containing charges which the Secretary finds to be substantially in excess of such provider's customary charges, unless the Secretary finds there is good cause for the bills or requests containing such charges;

(e) Knowingly failed to timely reimburse claimants for treatment, services or supplies furnished under this chapter paid by the Government;

(f) Persistently failed, neglected or refused to submit full and accurate medical reports, or to respond to requests by the Office for additional reports or information, as required by the Act and § 10.410 of this part;

(g) Knowingly furnished treatment, services or supplies which are substantially in excess of the claimant's needs, or of a quality which fails to meet professionally recognized standards.

§ 10.451 Automatic exclusion.

If a physician, hospital, or provider of medical support services or supplies has been convicted of any crime enumerated in § 10.450, or has been excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any program referred to in § 10.450, such physician, hospital, or provider of medical support services or supplies shall be automatically excluded from participating in the program and from seeking payment under the Act for services performed after the date of the entry of the judgment of conviction or order of exclusion, suspension or resignation, as the case may be, by the court or agency concerned. Proof of the conviction, exclusion, suspension or resignation may be by a copy thereof authenticated by the seal of the court or agency concerned.

§ 10.452 Initiation of exclusion procedures.

(a) *General provision.* Upon receipt of information indicating that a physician, hospital or provider of medical support services or supplies (hereinafter the provider) has engaged in activities enumerated in § 10.450, the Assistant Regional Administrator, after completion of inquiries he/she deems appropriate, may initiate procedures to exclude the provider from participation in the FECA program. For the purposes of this section, "Assistant Regional Administrator" may include any officer designated to act on his or her behalf.

(b) *Letter of intent.* The exclusion procedure shall be initiated by sending a letter, signed by the Assistant Regional Administrator, stating his or her intention to commence proceedings to exclude the provider. The letter shall be sent by certified mail, return receipt requested and shall contain the following:

(1) A concise statement of the grounds upon which exclusion shall be based;

(2) A summary of the information, with supporting documentation, upon which the Assistant Regional Administrator has relied in reaching an initial decision that exclusion proceedings should be commenced;

(3) An invitation to the provider to:

(i) Resign voluntarily from participation in the FECA program without admitting or denying the allegations presented in the letter; or

(ii) Request that the decision on exclusion be based upon the existing record and any additional documentary information the provider may wish to provide;

(4) A notice of the provider's right, in the event of an adverse ruling by the Assistant Regional Administrator, to request a formal hearing before an administrative law judge;

(5) A notice that should the provider fail to answer (as described below) the letter of intent within 30 calendar days of receipt, the Assistant Regional Administrator may deem the allegations made therein to be true and may order exclusion of the provider without conducting any further proceedings; and

(6) The name and address of the official representative of the Office who shall be responsible for receiving the answer from the respondent.

(c) *Answer to the letter of intent.* The provider's answer shall be in writing and shall include an answer to the Office's invitation to resign voluntarily. If the provider does not offer to resign, he or she shall request that a determination be made upon the

VOL 48 ISS 202 OCT 18 1983 UMI

existing record and any additional information provided.

(d) *Foilure to answer.* Should the provider fail to answer the letter of intent within 30 calendar days of receipt, the Assistant Regional Administrator may deem the allegations made therein to be true and may order exclusion of the provider.

(e) *Inspection of the record.* By arrangement with the official representative, the provider may inspect or request copies of information in the record at any time prior to the Assistant Regional Administrator's decision.

(f) *Decision.* The Assistant Regional Administrator shall issue his or her decision in writing, and shall send a copy of the decision to the provider by certificated mail, return receipt requested. The decision shall advise the provider of his or her right to request, within 30 days of the date of the adverse decision, a formal hearing before an administrative law judge under the procedures set forth below. The filing of a request for a hearing within the time specified shall operate to stay the effectiveness of the decision to exclude.

§ 10.453 Requests for a hearing.

(a) A Request For Hearing shall be sent to the official representative (see § 10.452(b)(6)) and contain:

(1) A concise notice of the issues on which the provider desires to give evidence at the hearing.

(2) Any request for a more definite statement by the Office.

(3) Any request for the presentation of oral argument or evidence.

(4) Any request for a certification of questions concerning professional medical standards, medical ethics or medical regulation for an advisory opinion from a competent recognized professional organization or Federal, State or Local regulatory body.

(b) If a Request For Hearing is timely received by the designated official representative, the official representative shall refer the matter to the Chief Administrative Law Judge of the Department of Labor, who shall assign it for an expeaited hearing. The administrative law judge assigned to the matter shall consider the Request for Hearing, act on all requests therein, and issue a Notice of Hearing and Hearing Schedule for the conduct of the hearing. A copy of the hearing notice shall be served on the provider by certified mail, return receipt requested. The Notice of Hearing and Hearing Schedule shall include:

(1) A ruling on each item raised in the Request For Hearing;

(2) A schedule for the prompt disposition of all preliminary matters including requests for more definite statements and for the certification of questions to advisory bodies;

(3) A scheduled hearing date not less than thirty days after the date the schedule is issued, and not less than fifteen days after the scheduled conclusion of preliminary matters, provided that the specific time and place of the hearing may be set on ten days notice.

(c) The purpose of the designation of issues is to provide for an effective hearing process. The provider is entitled to be heard on any matter placed in issue by his or her response to the Notice of Intent to Exclude, and may designate "all issues" for purposes of hearing. However a specific designation of issues is required if the provider wishes to interpose affirmative defenses, or request the issuance of subpoenas or the certification of questions for an advisory opinion.

(d) The provider may make application for the issuance of subpoenas upon a showing of good cause therefor to the administrative law judge.

(e) A certification of the request for an advisory opinion concerning professional medical standards, medical ethics or medical regulation to a competent recognized or professional organization or Federal, State or local regulatory agency may be made:

(1) As to an issue properly designated by the provider, in the sound discretion of the administrative law judge, provided that the request will not unduly delay the proceedings;

(2) By the Office on its own motion either before or after the institution of proceedings, and the results thereof shall be made available to the provider at the time that proceedings are instituted or, if after the proceedings are instituted, within a reasonable time after receipt; provided, that the opinion, if rendered by the organization or agency, is advisory only and not binding on the administrative law judge.

§ 10.454 Hearings and recommended decision.

(a) Except as hereafter provided, the administrative law judge conducting a hearing pursuant to this subpart, shall not be bound by common law or statutory rules of evidence or procedure, or by section 5 of the Administrative Procedure Act, but may conduct the hearing in a manner best calculated to ascertain the facts and to do substantial justice in a speedy and effective manner. To the extent appropriate proceedings before the administrative law judge shall be governed by 29 CFR Part 18 (promulgated July 15, 1983, at 48 FR 32538).

(b) The administrative law judge shall receive such relevant evidence as may be adduced at the hearing. Evidence shall be presented under oath, orally or in the form of written statements. The administrative law judge shall consider the Notice and Response, including all pertinent documents accompanying them, and may also consider any evidence which refers to the provider or to any claim with respect to which the provider has provided medical services, hospital services, or medical support services and supplies, and such other evidence as the administrative law judge may determine to be necessary or useful in evaluating the matter.

(c) All hearings shall be recorded, and the original of the complete transcript shall become a permanent part of the official record of the proceedings.

(d) Pursuant to 5 U.S.C. 8126, the administrative law judge may:

(1) Issue subpoenas for and compel the attendance of witnesses within a radius of 100 miles;

(2) Administer oaths;

(3) Examine witnesses; and

(4) Require the production of books, papers, documents, and other evidence with respect to the proceedings.

(e) At the conclusion of the hearing a written recommended decision of the administrative law judge shall be issued and, together with the official record, shall be certified to the Associate Director for Federal Employees' Compensation, OWCP, Washington, D.C. 20210. A copy of the decision shall be mailed to the provider by certified mail, return receipt requested. It shall include a statement advising the provider of the right to submit written comments on the decision to the Associate Director within 20 days of receipt of the decision.

§ 10.455 Final decision.

(a) The Associate Director, after receiving the record, the recommended decision of the administrative law judge and any comments submitted by the provider, shall issue a decision either excluding the provider from the program or dismissing the proceedings.

(b) The decision of the Associate Director shall be final with respect to the provider's participation in the program, and shall not be subject to further review by any court or agency.

§ 10.456 Effects of exclusion.

(a) The Office shall give notice of the exclusion of a physician, hospital, or provider of medical support services or supplies to

(1) All OWCP district offices;

(2) All employing Federal agencies;

(3) The Health Care Financing Administration;

(4) The State or Local authority responsible for licensing or certifying the excluded party;

(5) All claimants who are known to have had treatment, services or supplies from the excluded person within the six month period immediately preceding the order of exclusion.

(b) Notwithstanding any exclusion of a physician, hospital, or provider of medical support services or supplies under this subpart, the Office shall not refuse a claimant reimbursement for any otherwise reimbursable medical treatment, service or supply if:

(1) Such treatment, service or supply was rendered in an emergency by an excluded physician; or

(2) Claimant could not reasonably have been expected to have known of such exclusion.

§ 10.457 Reinstatement.

(a) If a physician, hospital, or provider of medical support services or supplies has been automatically excluded pursuant to § 10.451, the person excluded will automatically be reinstated upon notice to the Office that the conviction or exclusion which formed the basis of the automatic exclusion has been reversed or withdrawn. However, an automatic reinstatement shall not preclude the Office from instituting exclusion proceedings based upon the underlying facts of the matter.

(b) A physician, hospital, or provider of medical support services or supplies excluded from participation as a result of an order issued pursuant to this subpart may apply for reinstatement one year after the entry of the order of exclusion, unless the order expressly provides for a shorter period. An application for reinstatement shall be addressed to the Associate Director for Federal Employees' Compensation, and shall contain a concise statement of the basis for the application. The application should be accompanied by supporting documents and affidavits.

(c) A request for reinstatement may be accompanied by a request for oral argument. Oral argument will be allowed only in unusual circumstances where it will materially aid the decisional process.

(d) The Associate Director shall order reinstatement only in instances where such reinstatement is clearly consistent with the ultimate goal of this subpart which is to protect the FECA program against fraud and abuse. To satisfy this requirement the provider must provide reasonable assurances that the basis for the exclusion will not be repeated.

Signed at Washington, D.C., this 13th day of October 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-28273 Filed 10-17-83; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-214-81]

Credit for Expenses for Household and Dependent Care Service Necessary for Gainful Employment

Correction

In FR Doc. 83-24570 beginning on page 40528 in the issue of Thursday, September 8, 1983, make the following corrections:

§ 1.44A-1 [Corrected]

On page 40529, column two, § 144A-1(c)(4), line seven should end with two dashes, "——".

2. On the same page, column two, § 144A-1(c)(5), line seven, remove the colon, and add two dashes "——".

3. On the same page, column three, add § 144A-1(c) (6) and (7) beneath the undesignated paragraph of § 1.44A-1(c)(5)(ii) as follows:

(6) Allocation of expenses. * * *

(7) Illustrations. * * *

§ 1.44A-2 [Corrected]

4. On page 40530, column one, § 1.44A-2(b)(3), line nine, remove the colon and add two dashes "——".

5. On the same page, column one, § 1.44A-2(b)(3)(i)(A), line five, "of" should read "or".

6. On the same page, column two, § 1.44A-2(b)(4) *"Example (1)"* lines three through twelve should be corrected to read as follows:

Employment-related expenses incurred during taxable year ($4,000, but limited to $2,400 by paragraph (a)(1) of this section	$2,400
Application of paragraph (b)(1)(ii) of this section (employment-related expenses, may not exceed wife's earned income of $1,500)	$1,500
Employment-related expenses taken into account	$1,500

7. On the same page, column two, § 1.44A-2(b)(4) *"Example (2)"* lines nine through eighteen should be corrected to read as follows:

Employment-related expenses incurred during taxable year ($4,000, but limited to $2,400 by paragraph (a)(1) of this section	$2,400
Application of paragraph (b)(3) of this section (employment-related expenses, may not exceed wife's earned income of $1,800) ($200×9)	$1,800
Employment-related expenses taken into account	$1,800

BILLING CODE 4830-01-M

26 CFR Parts 1 and 5f

Sanctions on Issuers and Holders of Registration-Required Obligations Not In Registered Form

Correction

In FR Doc. 83-24071 beginning on page 39953 in the issue of Friday, September 2, 1983, make the following corrections:

1. On page 39955, column one, paragraph one, line fifteen, "section 1282(c)" should read "section 1232(c)".

§ 1.163-5 [Corrected]

2. On page 39956, column three, § 1.163-5(c)(2)(vi), line one, "from" should read "form".

§ 1.165-12 [Corrected]

3. On page 39956, column one, § 1.165-12(b)(3)(iii), line nine, insert "number of the obligation disposed of (if known)," between "(CUSIP)," and "gross".

§ 1.1232-5 [Corrected]

4. On the same page, column two, § 1.1232-5(b)(1), line nine, "low" should read "law".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment and Opportunity for Public Hearing on the Modification to the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a certain program amendment submitted by the State of Kentucky as a modification to the Kentucky Permanent Regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of

VOL
48
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1977 (SMCRA). The amendment pertains to changes in Kentucky's regulations for surface coal mining and reclamation operations on steep slopes.

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the Public hearing.

DATES: Written comments must be received on or before 4:00 p.m., November 17, 1983 to be considered.

If requested, a public hearing on the proposed modifications will be held on November 14, 1983 beginning at the location shown below under **ADDRESSES.**

ADDRESSES: Written comments should be mailed or hand delivered to: W. H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

If a public hearing is held its location will be at: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233–7320.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Bureau of Surface Mining, Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601

Written Comments

Written comments should be specific, pertain only to the proposed in this rulemaking, and include explanations in the support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than Lexington, Kentucky, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business *five* working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those schedule. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet the OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in **ADDRESSES** by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Kentucky State Program

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the dispostion of comments and a detailed explanation of the conditions, of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice.

III. Submission of program amendment

By a letter dated September 20, 1983, Kentucky submitted to OSM pursuant to 30 CFR 732.17, certain revisions to its regulations for steep slope mining practices.

The revised regulations were promulgated under Kentucky's emergency regulation procedures and became effective September 19, 1983. Under 30 CFR 732.17, the state must submit to OSM any change to its regulations in proposed form by a program amendment. OSM must announce the amendment to the public and provide for a public comment period before approving or disapproving the program amendment. OSM cannot consider the regulations as effective or as part of Kentucky's approved regulatory program until such time as the amendment has been approved by the Director.

In the amendment, Kentucky proposes to renumber the paragraphs contained in Section 2 of KAR 405 20:060E.

Additionally, Kentucky proposes to add new language pertaining to granting variances in certain cases from the approximate original contour and highwall elimination requirements. The amendment explains further that when a variance is granted, the highwall shall be eliminated to the maximum extent technically practical in accordance with certain criteria defined in the revised regulation.

Kentucky indicates that the modification is being made to conform with the revised Federal regualtions published in the **Federal Register** dated November 12, 1982 (47 FR 51316).

The Secretary seeks a public comment on these proposed modifications to the Kentucky program. If these amendments are approved, they will become part of the Kentucky program.

Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

Dated: October 13, 1983

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–28283 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–05–M

National Park Service

36 CFR Part 7

Rocky Mountain National Park, Colorado; Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This revision will permit the taking of greenback cutthroat trout, a threatened species, on a catch-and-release basis in certain waters where secure populations are present. Studies and consultation with the Greenback Recovery Team and other agencies indicate that this will enhance the visitor experience in the park without significant effect on these fish populations. The amendment to the possession limit will continue to allow a total of 8 fish in possession, but 6 of these will have to be brook trout. The other two can be cutthroat (other than greenback cutthroat no possession of these trout are allowed), rainbow or brown trout 10 inches or more in length. This change will reduce the take of younger immature fish of these species, allowing a more natural age structure with more larger fish, which should improve the quality of angling. The establishment of special management areas where native trout have been restored will allow more flexibility in management actions as the status of populations change. This eventually will result in more opportunities for angling on these populations as they become established and secure. The number of permanently closed waters will be reduced to two.

DATES: Written comments, suggestions or objections will be accepted until November 17, 1983.

ADDRESS: Comments should be directed to: Superintendent, Rocky Mountain National Park, Estes Park, Colorado 80517.

FOR FURTHER INFORMATION CONTACT:

David R. Stevens, Research Biologist, Rocky Mountain National Park, Estes Park, Colorado 80517, Telephone: (303) 587–2371

or

David J. Essex, Chief Park Ranger, Rocky Mountain National Park, Estes Park, Colorado 80517, Telephone: (303) 586–2371

SUPPLEMENTARY INFORMATION:

Background

The National Park Service, working with the U.S. Fish and Wildlife Service, the Colorado Division of Wildlife and the Greenback Trout Recovery Team, has made considerable progress toward restoration of the greenback trout to a non-threatened status. Research indicates that certain waters can now be opened to allow appreciation by the visiting public through catch-and-release fishing and still give adequate protection to the populations. This action has been approved as promoting conservation of the species by the Fish and Wildlife Service through consultation on April 23, 1982, as required by Section 7 of the 1973 Endangered Species Act. The Colorado Division of Wildlife has also endorsed catch-and-release fishing as best complementing their objectives at this time.

Three drainages are recommended for catch-and-release fishing. The Big Thompson River in Forest Canyon has a native population, very secure and protected from over-exploitation by isolation. The Fay Lake drainage, which includes the Caddis Lake population, was rehabilitated and stocked with greenback from the Big Thompson population in 1959. The Hidden Valley Beaver Ponds in which greenback trout were restored in 1973, are also protected by isolation. The other greenback trout populations have been established more recently and are not secure enough to provide this use.

However, with a system of management that will allow the flexibility in opening, closing, catch-and-release or other management strategies, it is believed that these waters can be utilized in the near future to provide considerable recreation angling without significant impact on the population status. The special management areas are proposed, therefore, to meet this need. Careful monitoring of these populations as they develop will allow opening when possible; any changes in status would be documented and changes in the management could be made before permanent damage to the populations were incurred. The alternative to this management status is for them to remain closed to fishing indefinitely.

Research indicates that wild populations on non-native cutthroat trout in lower elevation streams and lakes are being depressed by present levels of angling. These fish in some cases are being harvested too heavily and often prior to attaining maturity and reproducing. With the increased restrictions on the take of these fish, it is believed that a more natural age structure can be obtained which will result in larger fish and a higher quality fishery. These are low density will populations depending on natural reproduction to maintain numbers. The overall effect of these regulations would not reduce the angling opportunities or reduce the take significantly. Brook trout, which dominate 21 of 43 lakes with fish in the park, presently form 87% of the catch as determined by a 1976 survey. Since the brook trout is highly competitive and can reproduce under less than optimal conditions, it has increased in most areas under fishing pressure that cause other species to decline.

This revision relaxes existing regulations concerning fishing for greenback cutthroat trout and permits anglers the experience of catching-and-releasing native cutthroat trout—this opportunity has previously not been possible due to the fact that this species was on the endangered species list. It has since been reclassified as a threatened species. The National Park Service, working with the U.S. Fish and Wildlife Service, the Colorado Division of Wildlife, and the Greenback Trout Recovery Team, has made considerable progress toward restoration of the greenback trout to a non-threatened status. Research indicates that certain waters can now be open to allow appreciation by the visiting public through catch-and-release fishing and

VOL 48 ISS 202 OCT 18 1983 UMI

still give adequate protection to the populations.

Public Participation

In order to get public input and to assess ecological effects, a pilot program was conducted on Hidden Valley Creek in 1982. This program was considered successful, and no adverse comment was received. Fishermen wishing to take advantage of the less restricted fishing opportunities did not suggest that the program be altered or not implemented. No significant opposition to the revision is expected, since its implementation is not expected to interfere with any public or private interests. Therefore, public comment on this proposed revision is expected to be minimal and supportive.

The size limitation and number in possession limitation of cutthroat species other than greenback cutthroat trout (Colorado River cutthroat and Yellowstone cutthroat), rainbow trout, and brown trout does impose an additional restriction on the public. However, through informal contact with the fishing public it is expected that this restriction will be supported by the public since it should improve the quality of angling. Brook trout by far provide the major portion of fishing in the park at present, and this will not change with these limitations. Fishing is not an important activity for the majority of visitors to Rocky Mountain National Park. It is estimated that less than 2 percent of park visitors fish within the park.

This action has been approved as promoting conservation of the species by the Fish and Wildlife Service. The Colorado Division of Wildlife has also endorsed catch-and-release fishing as best complementng their objectives at this time. Liaison has also been maintained with Trout Unlimited and other special interest groups.

Drafting Information

The following persons participated in the writing of these regulations: David R. Stevens, Research Biologist; David J. Essex, Chief Park Ranger, of Rocky Mountain National Park.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document is not a "major rule" under Executive Order 12291 and certifies that this document would not have a "significant economic effect on a substantial number of small entities" under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that no more than a few sporting goods outlets might experience a limited increase in business due to expanded fishing opportunities.

Pursuant to the National Environmental Policy Act, 42 U.S.C. 4332, the Service has prepared an environmental assessment on this proposed regulation which is available at the address noted above.

Authority

Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended; 16 U.S.C. 3.

List of Subjects in 36 CFR Part 7

National parks.

In consideration of the foregoing, it is proposed to revise § 7.7(a) of Title 36, Code of Federal Regulations, to read as follows:

§ 7.7 Rocky Mountain National Park.

(a) *Fishing*—(1) *Possession limit:* Possession limit shall mean the numbers, sizes, or species of fish that may be in the possession of a person regardless if fresh or preserved.

(i) No person may have in his possession more than 8 fish of which at least 6 must be brook trout. The other two fish can be cutthroat (other than greenback cutthroat trout), rainbow or brown trout and must be 10 inches or more in length. In addition, 10 brook trout under 8 inches in length may be possessed. No greenback cutthroat trout of any size may be in possession at any time.

(ii) All fish a person does not elect to keep, or which do not meet the possession requirements, and all greenback cutthroat trout caught shall be carefully and immediately returned to the waters from which they were taken.

(2) *Methods of angling.* Only artificial flies or lures with one (single, double or treble) hook with a common shank may be used for angling in park waters open to fishing, except that children 12 years of age and under may possess and use natural bait in all park waters open to fishing, except waters where only catch-and-release fishing is permitted.

(i) Only artifical flies or lures having one barbless hook may be used for angling in catch-and-release waters.

(ii) The possession or use for fishing purposes of natural bait, including worms, isects, fish eggs, or any parts thereof, is prohibited, except as provided in paragraph (a)(2) of this section for children 12 years of age and under.

(3) *Water closed to fishing.* (i) Outlet waters and pools of the Lake Nanita outlet, from the lakeshore to a point 100 yards downstream.

(ii) Bear Lake.

(4) *Special management Areas.* The following restored native trout waters are designated as special management areas. These waters may be open or closed to catch-and-release fishing by the superintendent based on special management, research, or habitat protection needs, following the conspicuous posting of signs and publication of notices in local newspapers. They are closed to all fishing unless designated otherwise.

(i) West Creek.

(ii) Ouzel Lake and Ouzel Creek.

(iii) Fern Lake and fern Creek Drainage.

(iv) Timber Lake and Timber Creek.

(v) Lawn Lake.

(vi) Roaring River.

(vii) North Fork of the Big Thompson River above Lost Falls.

(5) *Waters open to catch-and-release fishing.* (i) Hidden Valley Creek, from the beaver ponds at Hidden Valley to its confluence with Fall River.

(ii) Big Thompson River in Forest Canyon above its confluence with Spruce Creek.

(iii) Fay lake drainage, including Caddis Lake.

(iv) Special Management Areas, as provided in paragraph (a)(4) of this section, which are opened and posted for catch-and-release fishing by the superintendent, based on special management, research, or habitat protection needs.

* * * * * * *

Dated: August 23, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-28256 Filed 10-17-83; 8:45 am]

BILLING CODE 4310-70-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

National Flood Insurance Program; North Dakota; Withdrawal of Proposed Rule

AGENCY: Federal Emergency Management Agency.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Federal Emergency Management Agency has erroneously published a proposed rule for modified base flood elevation determinations.

This notice will serve to delete that publication of the community listed in the table below. The proposed rule referenced a newspaper publication at which time a 90-day appeal period would be initiated. In fact, no 90-day appeal period was required for this community, as the revised Flood Insurance Rate Map (FIRM) did not change base flood elevations. This deletion, however, in no way affects the status of the revised FIRM. The commninty's revised FIRM is still in effect.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik; Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: The table below lists the community affected by this deletion notice and the date, volume, and page number at which the proposed rule was published in the **Federal Register**.

Community	FEMA Docket No.	Federal Register Publication
North Dakota: City of Hazen, Mercer County	6479	48 FR 681, Jan. 6, 1983.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: September 26, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-28111 Filed 10-17-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6560]

National Flood Insurance Program; Proposed Flood Elevation Determination; California et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

The elevations, together with the flood plain management measures required by section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Watsonville (city), Santa Cruz County	Pajaro River	25 feet upstream from center of Main Street	*36
		Pajaro River—Without consideration of levee.	Intersection of Beach Street and Errington Road	*21
		Struve Slough	Intersection of Struve Slough and center of Harkins Slough Road.	*15
		Watsonville Slough	25 feet downstream from center of Lee Road	*15
		Salsipuedes Creek	Intersection of Salsipuedes Creek and State Highway 129.	*37
		Salsipuedes Creek—Without consideration of levee.	Intersection of Bridge Street and El Rio Street	*40

VOL 48 ISS 202 OCT 18 1983 UMI

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Corralitos Creek	950 feet northeast of intersection of Packard Avenue and Kadderly Lane along Packard Avenue.	*93
Maps are available for inspection at the Department of Planning, 250 Main Street, Watsonville, California 95076.				
Send comments to the Honorable Ann Soldo, 250 Main Street, Watsonville, California 95076.				
Connecticut	East Lyme, town, New London County	Long Island Sound	Entire shoreline of Long Island Sound within community.	*15
			Entire shoreline of Nantic Bay within community	*15
		Niantic River	Rope Ferry Road	*11
			Smith Street extended	*12
			Town Road extended	*13
			At U.S. Route 1	*11
Maps available for inspection at the East Lyme Town Hall, Niantic, Connecticut.				
Send comments to Honorable Richard Lougge, First Selectman of East Lyme, P.O. Box 519, Niantic, Connecticut 06357.				
Connecticut	Madison, town, New Haven County	Long Island Sound	Entire shoreline within community	*16
		Hammonasset River	At U.S. Route 1	*10
			At River Road	*10
			Approximately 1.26 miles upstream of River Road	*15
			Approximately 2.14 miles upstream of River Road	*17
			Upstream of Chestnut Hill Road	*52
			Approximately .85 mile upstream of Chestnut Hill Road	*85
			At confluence of Camp Laurelwood Brook	*120
			Approximately 1.0 mile downstream of State Route 80	*150
			Approximately 0.57 mile downstream of of State Route 80.	*160
			Downstream of State Route 80	*213
		Camp Laurelwood	At confluence with Hammonasset River	*120
			Approximately 0.5 mile upstream of confluence with Hammonasset River.	*131
			Approximately 0.8 mile upstream of confluence with Hammonasset River.	*140
		Bailey Creek	Upstream of Summer Hill Road	*185
			At Nathan Lane	*11
			Upstream of Salem Road	*12
			Upstream of Connecticut Turnpike	*17
		*Neck River	At confluence with East River	*12
			At Overshore East extended	*11
			Upstream of U.S. Route 1	*14
			Upstream of Conrail	*20
			Upstream of Green Hill Road	*28
			Upstream of Warpas road	*31
			Approximately 0.7 mile upstream of Warpas Road	*45
			Downstream of dam located just upstream of Opening Hill Road.	*88
Maps available for inspection at the Town Engineer's Office, Town Hall, Madison, Connecticut.				
Send comments to Honorable Donald Lachance, First Selectman of the Town of Madison, Town Hall, Madison, Connecticut 06443.				
Florida	Collier County (unincorporated areas)	Gulf of Mexico	Center of intersection of Burns Road and State Highway 90.	*5
			At the center of intersection of Poinciana Street and Tortuga Way.	*8
			At the center of intersection of Lombardy Lane and Thomasson Drive.	*10
			At the center of intersection of Plum Court and Landmark Street.	*12
			At the center of intersection of Ebert Lane and Ruppert Road.	*14
			Center of intersection of Marnie Street and Chokoloskee River on Chokoloskee Island.	*17
			Carr Island, in Morgan Bay	*19
			Northern tip of Coon Key in Gullivan Bay	*22
Maps available for inspection at Planning, Building and Zoning Department, 3301 E. Tamiami Trail, Naples, Florida.				
Send comments to the Honorable C. R. Wimer, 3301 E. Tamiami Trail, Naples, Florida 33942.				
Georgia	City of Brunswick, Glynn County	Atlantic Ocean/Brunswick River	At the intersection of Parkwood Drive and Glynn Avenue.	*16
			At the intersection of Newcastle Street and London Street.	*14
		Atlantic Ocean/Academy Creek	At the the intersection of 4th Street and Reynolds Street.	*14
Maps available for inspection at City Hall, 601 Gloucester Street, Brunswick Georgia 31530.				
Send comments to Mayor R. L. Holtzendorf or Mr. Homer L Wilson, City Manager, City Hall, P.O. Box 550, Brunswick, Georgia 31520.				
Georgia	Unincorporated areas of Camden County	Atlantic Ocean	At the confluence of Point Peter Creek with St. Marys River.	*15
			Along the southeastern shoreline of Cumberland Island.	*16
			At the confluence of Brickhill River with Cumberland River.	*16
			At the confluence of Sandler Creek with Crooked River.	*17
			Along the northeastern shoreline of Cumberland Island	*16
			Just downstream of U.S. Route 95 along White Oak Creek.	*20

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Atlantic Ocean/Satilla River	Just downstream of U.S. Route 95	*17
			At the confluence of Dover Creek with Stilla River	*20
Maps available for inspection at Camden County Commissioners Offices, County Branch Office, Woodbine, Georgia 31569.				
Send comments to Mr. Lamar Drury, Chairman, Camden County Commission, or Mr. Jack Scott, Building Inspector Inspector, Camden County Courthouse, P.O. Box 99, Woodbine, Georgia 31569.				
Georgia	Jekyll Island State Park Authority, Glynn County	Atlantic Ocean	At the intersection of River View Drive and Captain Wylly Road.	*13
			At the intersection of Major Horton Road and Beach View Drive.	*14
Maps available for inspection at Convention Center, Beachview Drive, Jekyll Island, Georgia 31521.				
Send comments to Mr. George Chamblis, Director, Jekyll Island Authority or Mr. Al Eller, Director of Services and Development, 375 Riverview Drive, Jekyll Island, Georgia 31512				
Georgia	City of Kingsland, Camden County	Atlantic Ocean/Little Catfish Stream.	100 feet Se of the intersection of Clark Bluff Road and Little Catfish Stream.	*12
		Atlantic Ocean	Just downstream of Clark Bluff Road along Catfish Creek.	**12
Maps available for inspection at City Hall, 115 South Railroad Avenue East, Kingsland, Georgia 31548.				
Send comments to Mayor Fred Sutton, Jr. or Dorothy Peoples, City Clerk-Finance Officer, City Hall, P.O. Box 397, Kingsland, Georgia 31548.				
Georgia	City of Macon-Bibb County	Ocmulgee River	Just upstream of Seaboard Coast Line Railroad	*297
			Just upstream of Southern Railway	*303
			Just downstream of Spring Street	*307
			Approximately 300 feet upstream of Arkwright Road Access.	*325
		Ocmulgee River (after levee overtopping).	Just west of intersection of Walker Road and Macon Levee.	*290
			At intersection of Lower Boundary Street and Southern Railway.	*292
			At intersection of Poplar Street and Walker Road	*298
Maps available for inspection at Mayor George Isreal's Office or Mr. Joe Withering, City Engineer, City Hall, Second and Poplar Streets. Maps are also available at the Bibb County Engineer's Office and The County Chairman's Office, County Courthouse, Macon, Georgia 31201.				
Send comments for the City of Macon to Mayor George Isreal or Mr. Joe Withering, City Engineer, City Hall, P.O. Box 247, Macon, Georgia. Comments for Bibb County may be sent to Mr Emery Greene, Chairman, Bibb County Commission or Mr. Robert Fountain, County Engineer's Office, Bibb County Courthouse, Macon, Georgia 31201.				
Georgia	City of St. Marys, Camden County	Atlantic Ocean	At the confluence of Sweetwater Branch with North River.	*14
			At the confluence of Burrells Creek with St. Marys River.	*14
			At the confluence of North River with St. Marys River	*15
Maps available for inspection at City Hall, 416 Osborne street, St. Marys, Georgia 31558.				
Send comments to Mayor Ward Hernandez or Mr. Wiley King, Building and Zoning Administrator, City Hall, 418 Osborne Street, St. Marys, Georgia 31558.				
Georgia	City of Woodbine, Camden County	Atlantic Ocean /Satilla River	At the intersection of U.S. Route 17 and 8th Street	*14
Maps available for inspection at City Hall, 8th Street, Woodbine, Georgia 31569.				
Send comments to Mayor Donald Mitchell or Mr. George L. Hannaford, City Administretor, City Hall, P.O. Box 26, Woodbine, Georgia 31569.				
Illinois	(C) Warsaw, Hancock County	Mississippi River	About 4.0 miles downstream of confluence of Des Moines River.	*498
			About 0.7 mile upstream of confluence of Des Moines River.	*501
Maps available for inspection at the Office of the City Clerk, City Hall, 306 Main Street, Warsaw, Illinois.				
Send comments to Honorable James Clinton, Mayor, City of Warsaw, City Hall, 306 Main Street, Warsaw, Illinois 62379.				
Nevada	Ely (city, White Pine County	Gleason Creek	At the intersection of First and Aultman Streets	#1
		Murray Creek	At the intersection of North Street and Parker Avenue	#2
			At the intersection of Murry Street and Dickerson Avenue.	#1
			300 feet south on Murry Street from its intersection with Reilly Avenue.	*6,548
Maps available for inspection at the City Clerk's Office, City Hall, Ely, Nevada.				
Send comments to the Honorable Gary Harrison, P.O. Box 299, Ely, Nevada 89301.				
New Jersey	Edgewater, borough,Bergen County	Hudson River	Entire shoreline affecting community	*10
Maps available for inspection at the Office of the Borough Clerk, Borough Hall, 916 River Road, Edgewater, New Jersey.				
Send comments to Honorable Thomas Tansey, Mayor of the Borough of Edgewater, 916 River Road, Edgewater, New Jersey 07020.				
New Jersey	Paramus, borough, Bergen County	Saddle River	Downstream corporate limits	*46
			Upstream Century Road	*52
			Upstream Grove Street	*61
			Downstream Linwood Avenue	*76
		Sprout Brook	Downstream corporate limits	*42
			Upstream Century Road	*46
			State Route 17	*47
			Confluence of Mannings Brook	*53

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mannings Brook	Confluence with Sprout Brook	*53
			Downstream footbridge	*54
		Van Saun Mill Brook	Downstream corporate limits	*16
			Upstream Howland Avenue	*31
			Continental Avenue	*45
		Coles Brook	Downstream corporate limits	*16
			Upstream corporate limits	*25
		Behnke Brook	Confluence with Herring Brook	*32
			Upstream Forest Avenue	*43
			Downstream Midland Avenue	*81
		Herring Brook	Confluence with Van Saun Mill Brook	*32
			Downstream Meadow Lane	*39
			Upstream State Route 4	*53

Maps available for inspection at the Municipal Building, One Jockish Square, Paramus, New Jersey.
Send comments to Honorable Joseph Cipolla, Mayor of Paramus, One Jockish Square, Paramus, New Jersey 07602.

New York	Amity, town, Allegany County	Genesee River	Downstream corporate limits	*1,332
			Confluence of Van Campen Creek	*1,340
			Downstream corporate limits of Village of Belmont	*1,364
			Upstream corporate limits of Village of Belmont	*1,387
			Upstream side Corbin Hill Road	*1,398
			Upstream corporate limits	*1,427
		Phillips Creek	Corporate limits of Village of Belmont	*1,382
			Upstream side Old Whithey Road	*1,529
			Upstream side Irish Settlement Road	*1,621
		Plum Bottom Creek	Corporate limits of Village of Belmont	*1,387
			Upstream side Hood Road	*1,394
			Upstream side Conrail	*1,403
			Upstream side Ingraham Road	*1,430
			8,810 feet upstream Ingraham Road	*1,568
		Van Campen Creek	Confluence with Genesee River	*1,340
			Upstream side State Route 19	*1,348
			Upstream corporate limits	*1,371

Maps available for inspection at the Amity Town Hall, One Shuyler Street, Belmont, New York.
Send comments to Honorable Richard Miess, Supervisor of the Town of Amity, One Shuyler Street, Belmont, New York 14813.

New York	Hyde Park, town, Dutchess County	Crum Elbow Creek	At confluence with Hudson River	*9
			At Access Road located upstream of Dock Street	*75
			Upstream of dam located just upstream of U.S. Route 9.	*134
			Upstream of downstream crossing of East Market Street.	*176
			Upstream of upstream crossing of East Market Street	*207
			Upstream of Mill Road	*228
			Upstream of South Cross Road (most upstream crossing).	*248
			Upstream of North Cross Road	*256
			Upstream of Mills Cross Road	*273
			Corporate limits	*290
		Fall Kill	At corporate limits	*216
			Upstream of Dutchess Hill Road	*217
			Upstream of Roosevelt Road	*224
			Upstream of Roosevelt Road North	*228
			Upstream of Cream Street	*248
		Mantje Kill	Approximately 150 feet downstream of U.S. Route 9	*71
			Upstream of Saint Andrew Road	*149
			Upstream of Newhold Road	*198
			Upstream of State Route 9G	*233
			Approximately 4,100 feet Upstream of Crum Elbow Road.	*253
		Hudson River	Entire shoreline within community	*9

Maps available for inspection at the Town Hall, Albany Post Road, Hyde Park, New York.
Send comments to Honorable William Bartles, Supervisor of the Town of Hyde Park, Town Hall, Hyde Park, New York 12538.

New York	Moreau, town, Saratoga County	Hudson River	Downstream corporate limts	*129
			Delaware and Hudson Railway (upstream side)	*131
			Approximately 0.5 mile downstream of Bakers Falls Dam.	*141
			Upstream Bakers Falls Dam	*211
			Downstream of Feeder Dam	*275
			Upstream of Feeder Dam	*290

Maps available for inspection at the Town Hall, 61 Hudson Street, South Glens Falls, New York.
Send comments to Honorable R. Gardner Congdon, Supervisor of the Town of Moreau, 61 Hudson Street, South Glens Falls, New York 12801.

New York	Niagara, town, Niagara County	Cayuga Creek	Porter Road (upstream side)	*557
			Downstream corporate limits	*571
		West Tributary to Cayuga Creek	Drag Strip (downstream side)	*583
			Porter Road (upstream side)	*582
		Gill Creek	Upstream corporate limits	*599
			Downstream corporate limits	*586

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Walden Creek	At confluence with West Prong Little Pigeon River	*963
			At confluence of Mill Creek	*967

Maps available for inspection at the Town Hall, 7105 Lockport Road, Niagara Falls, New York.
Send comments to Honorable Calvin Richards, Supervisor of the Town of Niagara, 7105 Lockport Road, Niagara Falls, New York 14305.

New York	Portage, town, Livingston County	Genesee River	Downstream Main Street	*1,115
			At Whiskey bridge	*1,120
		Keshequa Creek	Downstream corporate limits	*968
			Upstream Parker Road	*1,029
			Approximately 1,530 feet upstream of Parker Road	*1,043

Maps available for inspection at the residence of the Town Clerk, Oleath Kemp, 1153 East Main Street, Hunt, New York.
Send comments to Honorable Dean Mehlenbacher, Supervisor of the Town of Portage, Hunt, New York 14846.

New Jersey	Upper, township, Cape May County	Atlantic Ocean	Entire shoreline within community	*15
		Great Egg Harbor	From Garden State Parkway to Golders Point along shoreline.	*14

Maps available for inspection at the Upper Township Municipal Building, Tuckahoe, New Jersey.
Send comments to Honorable Leonard Migliaccio, Mayor of the Township of Upper, P.O. Box 205, Tuckahoe, New Jersey 08250.

Ohio	(C) Jackson, Jackson County	Little Salt Creek	Approximately 0.5 mile downstream of the confluence of Jisco Lake Creek.	*648
			Approximately 0.6 mile upstream of State Route 124	*656
		Horse Creek	Approximately 0.3 mile downstream of Chillicothe Street.	*650
			Approximately 0.3 mile upstream of Mill Street	*651
		Price Creek	Confluence with Little Salt Creek	*649
			Approximately 0.4 mile upstream of Coffman Street	*650
		Jisco Lake Creek	Confluence with Little Salt Creek	*649
			At confluence with Parkview Lateral	*650
		South Branch	At the confluence with Little Salt Creek	*654
			Approximately 0.3 mile upstream of Vaughn Street	*669
		Sugar Run	Just downstream from Chessie System	*652
			Approximately 0.5 mile upstream from Chessie System	*654
		Parkview Lateral	At confluence with Jisco Lake Creek	*650
			Approximately 0.1 mile upstream of State Street	*650
		Lateral L	At confluence with Little Salt Creek	*654
			Approximately 200 feet upstream of State Route 93	*657

Maps available for inspection at the Safety Service Director's Office, City Hall, Memorial Building, Broadway Street, Jackson, Ohio.
Send comments to Honorable Burleigh Oller, Mayor, City of Jackson, City Hall, Memorial Building, Broadway Street, Jackson Ohio 45640.

Oregon	Beaverton (city) Washington County	Beaverton Creek	Center of Southwest Canyon Road and Beaverton Creek.	*178
		Shallow Flooding-Sheet Flow	Center of Southwest 5th Street and Western Avenue	#1
		South Fork Beaverton Creek	Center of Southern Pacific Railroad and South Fork Beaverton Creek.	*185
		Johnson Creek	Center of Southwest Glenbrook Road and Johnson Creek.	*176
		Fanno Creek	Center of State Highway 217 and Fanno Creek	*186
		Cedar Mill Creek	Center of Burlington Northern Railroad (Main Line) and Cedar Mill Creek.	*173

Maps are available for inspection at the Engineering Department, 4950 SW Hall Blvd, Beaverton, Oregon.
Send comments to the Honorable Jack Nelson, 4950 SW Hall Blvd, Beaverton, Oregon 97005.

Tennessee	Unincorporated areas of Dickson County	Bartons Creek	Just downstream of Soules Chapel Road	*478
		Yellow Creek	Just downstream of Yellow Creek Road State Highway 46) First crossing from downstream.	*560
			Approximately 200 feet upstream of Yellow Creek Road, in the south of its intersection with Union Road (second crossing).	*590
		Willow Branch	Just upstream of Cowan Road	*716
		Furnace Creek	Just upstream of State Highway 48	*514
		Jones Creek	Approximately 500 feet upstream of Hummingbird Lane.	*661
			Just upstream of Jones Creek Road	*687
		Cumberland River	Approximately 1,000 feet downstream of Cheatham Dam.	*399
			At the confluence of Harpeth River	*401
		Harpeth River	Approximately 800 feet downstream of Timberidge Road.	*418
			Approximately 700 feet downstream of Ashland City Road.	*425

Maps are available for inspection at Dickson County Executive's Office, County Courthouse Annex, Charlotte, Tennessee 37036.
Send comments to the Hr. William D. Field, County Executive or Janet Jackson, Administrative Assistant, Dickson County Courthouse Annex, Charlotte, Tennessee 37036.

Tennessee	City of Pigeon Forge, Sevier County	West Prong Little Pigeon River	Just upstream of U.S. Highway 441	*977
			Just upstream of Mill Dam	*1,017
		Mill Creek	Just upstream of Gulf Road	1,037
			Just upstream of County Road	*971
			Just upstream of Pine Mountain Road	*1,004

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Tributary to Gill Creek	Conrail (upstream side)	*601
			North Whitham Road (upstream side)	*598
Maps are available for inspection at Building Inspector's Office, City Hall, Pigeon Forge, Tennessee 37863.				
Send comments to Mayor English McCarter or Earlene Teester, City Manager, City Hall, Pigeon Forge, Tennessee 37863.				
Tennessee	Unincorporated areas of Sevier County	Middle Creek	Just upstream of Ridge Road	*949
			Just downstream of Centerview Road	*975
			Just downstream of Secondary Road 2605	*995
		Walden Creek	Just downstream of Secondary Road 2422 (Downstream Crossing).	*969
		Mill Creek	Just downstream of Secondary Road 2422	*969
			Just upstream of Pine Mountain Road	*1,004
			Approximately 100 feet upstream of Mill Creek Road	*1,041
		West Prong Little Pigeon River	Just downstream of Park Road	*822
			Just upstream of U.S. Highway 441	*936
			Just upstream of Pine Grove Road	*955
		Little Pigeon River	Just downstream of Boyds Creek Road	*881
			Just upstream of Boyds Creek Road	*886
			Just upstream of Walnut Grove Road	*916
		Gists Creek	Just upstream of U.S. Highway 411 and 441 (Chapman Highway) (Downstream-most Crossing).	*905
			Just downstream of Jess's Circle Road	*925
		West Fork Gists Creek	Approximately 120 feet downstream of Jess's Circle Road.	*923
			Approximately 150 feet upstream of Loafroad	*934
		Dudley Creek	Just upstream of dam	*1,452
			Just downstream of Private Road	*1,542
Maps available for inspection at Sevier County Executive's Office, County Courthouse, Sevierville, Tennessee 31862.				
Send comments to Mr. Larry Waters, Sevier County Executive or Mr. Jeff McCarter, Emergency Management Director, Sevier County Courthouse, Sevierville, Tennessee 37862.				
Tennessee	Unicorporated areas of Sumner County	Station Camp Creek	Approximately 540 fee upstream of Long Hollow Pike	*490
			Just upstream of the confluence of Station Camp Creek and Strother Branch.	*570
		Bledsoe Creek	Approximately 530 feet upstream of State Highway 25	*455
			Just downstream of the Lousiville and Nashville Railroad.	*504
		East Fork Bledsoe Creek	At Sumner-Trousdale County Line	*601
		East Camp Creek	Approximately 80 feet upstream of Wallace Road	*549
			Just downstream of Linsey road	*562
		Drakes Creek	Approximately 170 feet upstream of Sandy Valley Road.	*553
			Approximately 260 feet upstream of Shell Road	*556
		Hogan Branch	Approximately 130 feet upstream of Shackle Island Road.	*547
		Deshea Creek	Just downstream of Louisville and Nashville Railroad	*491
			Just downstream of U.S. Highway 31 East	*506
		Mansker Creek	Approximately 142.5 feet upstream of U.S. Highway 41	*485
		Cumberland River	Just upstream of the City of Hendersonville eastern corporate limits.	*451
			Just downstream of the City of Gallatin western Extra-territonal Jurisdiction Limits.	*452
			Approximately 5000 feet downstream of the Sumner County-Trousdale County Line.	*457
		Lick Creek	Approximately 170 feet upstream of State Highway 25 (downstream crossing).	*484
			Just upstream of State Highway 25 (upstream of State Highway 25 (upstream crossing).	*495
Maps available for inspection at Building Inspector's Office, Sumner County Coruthouse, Gallatin, Tennessee 37066.				
Send comments to Mr. Bethel Brown, County Executive, or Mr. Paul Freeff, Building Inspector, Sumner County Courthouse, Gallatin, Tennessee 37066.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: September 12, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-28121 Filed 10-17-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-157; RM-4317]

FM Broadcast Station in Appalachicola, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action dismisses the proposal to assign Class C FM Channel 290 to Appalachicola, Florida, in response to a petition filed by Richard L. Plessinger. The rulemaking is dismissed because of an absence of continued interest in the proposal.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (20) 634–6530.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Appalachicola, Florida); MM Docket No. 83–157 RM–4317.

Adopted: September 28, 1983.
Released: October 11, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 11469, published March 18, 1983, proposing the assignment of Class C Channel 290 to Appalachicola, Florida, in response to a petition filed by Richard L. Plessinger.

2. The Commission did not receive comments [1] from the petitioner (or other interested parties) and consistent with the policies and procedures set forth in the Appendix to the *Notice* we must dismiss the petition to assign an FM channel to Appalachicola.

3. In view of the foregoing, it is ordered, That the petition of Richard L. Plessinger proposing the assignment of Class C Channel 290 to Appalachicola, Florida, is hereby dismissed.

4. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-28181 Filed 10-17-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; correction.

SUMMARY: This document corrects a public hearing notice for Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California; and Pacific Coast Groundfish Fishery Management Plans that was published on October 4, 1983, 48 FR 45274.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, 503–221–6352.

In FR Doc. 83–26990, appearing on page 45274 in the October 4, 1983, issue, third column, under **SUMMARY,** line 6 from the bottom of the page, the "and" should be deleted before "(2)", a comma should replace the period at the end of the sentence, and the following should be added: "and (3) early consideration of a proposal for managing 1984 groundfish fisheries."

On page 45275, second column, under **SUPPLEMENTARY INFORMATION,** first paragraph, line 6, a comma should be added after "fisheries"; "and" should be deleted. The period at the end of the sentence should be replaced by a comma and the following should be added: "and consider a proposal for managing 1984 Pacific Coast Groundfish Fisheries."

Dated: October 13, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28353 Filed 10-14-83; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 663

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California; Pacific Coast Groundfish Fishery Management Plans; Public Hearings

Correction

In FR Doc. 83–26990 beginning on page 45274 in the issue of Tuesday, October 4, 1983, make the following correction:

On page 45275, first column, under **DATES,** remove lines nine and ten and insert "October 19, 1983—N. Bend, Oregon, and Monterey, California."

BILLING CODE 1505-01-M

[1] Subsequently, on July 11, 1983, petitioner filed a petition for rule-making seeking the assignment of Channel 265A to Appalachicola, Florida (RM–4551).

VOL 48 ISS 202 OCT 18 1983 UMI

Notices

Federal Register
Vol. 48, No. 202
Tuesday, October 18, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Members of Performance Review Board

AGENCY: ACTION.

ACTION: Revision of list of Performance Review Board Positions.

SUMMARY: ACTION publishes the revised list of positions which comprise the Performance Review Board established by ACTION under the Civil Service Reform Act.

FOR FURTHER INFORMATION CONTACT: Veronica D. Trietsch, Director of Personnel, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525 (202) 634–9261.

SUPPLEMENTARY INFORMATION: The Civil Service Reform Act of 1978 (CSRA), which created the Senior Executive Service (SES), requires that each agency establish one or more performance review boards to review and evaluate the initial appraisal of a senior executive's performance by the supervisor and to make recommendations to the appointing authority concerning the performance of the senior executive.

The position listed below will serve as members on the ACTION Performance Review Board.

1. Deputy Director, Chairperson, ACTION.
2. Associate Director for the Office of Domestic Operations, ACTION.
3. Executive Assistant to the Director, ACTION.
4. Assistant Director for the Office of Volunteer Liaison, ACTION.
5. Assistant Director for the Office of Compliance, ACTION.
6. Assistant Director for the Office of Financial Affairs/Comptroller, ACTION.
7. Deputy Executive Director, U.S. Savings Bonds Division, Department of Treasury.
6. Federal Co-Chairman, Appalachian Regional Commission.

Issued in Washington, D.C. on October 7, 1983.

Thomas W. Pauken,
Director, ACTION.

[FR Doc. 83-28291 Filed 10-17-83; 8:45 am]
BILLING CODE 6050-01-M

Schedule for Awarding Senior Executive Service Performance Awards; Bonuses

AGENCY: ACTION.

ACTION: Notice.

SUMMARY: Notice is hereby given of the schedule for awarding Senior Executive Service Bonuses.

FOR FURTHER INFORMATION CONTACT: Veronica D. Trietsch, Director of Personnel ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525 (202) 634–9261

SUPPLEMENTARY INFORMATION: Office of Personnel Management Guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service Bonuses at least 14 days prior to the date on which the awards will be paid.

Schedule for Awarding Senior Executive Service Bonuses

ACTION intends to award Senior Executive Service Bonuses for the performance rating cycle of August 1, 1982 through July 31, 1983 with payouts on or about November 25, 1983.

Issued Washington, D.C. on October 7, 1983.

Thomas W. Pauken,
Director, ACTION.

[FR Doc. 83-28294 Filed 10-17-83; 8:45 am]
BILLING CODE 6050-01-M

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States, to be held at 10:00 a.m., Monday, November 7, 1983, at the Office of the Administrative Conference of the United States, 2120 L Street, NW, Washington, D.C.

The committee will meet to consider (1) a proposed recommendation, Improvements in the Administration of the Government in the Sunshine Act (*see* 48 FR 45266); and (2) a proposed recommendation, Agency Structures for Review of Decisions of Presiding Officers Under the Administrative Procedure Act (*see* 48 FR 45266).

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days prior to the meeting. The committee chairman, if she deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this meeting, contact Richard K. Berg, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. Telephone: (202–254–70 Minutes of the meeting will be available on request.

Dated: October 13, 1983.

Richard K. Berg,
General Counsel.

[FR Doc. 83-28310 Filed 10-17-83; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Modification of De Minimis Amount for Imported Sugar Exempt From Certificates of Eligibility

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice announces a modifrcation of the de minimis amount for sugar which may be imported into the United States exempt from the requirements of certificates of eligibility set forth in an interim rule published on August 11, 1982 in the Federal Register (47 FR 34780).

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Truran, chief, Sugar Group, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447–2916.

SUPPLEMENTARY INFORMATION: The "Regulations Governing Certificates of Eligibility for Imported Sugar" (15 CFR Part 2011) published by the Office of the United States Trade Representaive on August 11, 1982 in the Federal Register (47 FR 34780) provides that sugar from a participating country may enter the United States for consumption only if it is accompanied by a certificate of eligibllity. Section 2011.3(b) of the regulation provides in part as follows: "Individual shipments of sugar into the United States which are less than 20 short tons shall be exempt from the [certificate] requirements of this part. However, the Secretary [of Agriculture] may modify, suspend, or otherwise limit this exemption if he determines that such action is necessary and appropriate. Notice of any such modification, suspension, or limitation shall be published by the Secretary in the **Federal Register**."

Canada became a participant in the certificate of eligibility system on September 26, 1983. As a result of the close proximity of Canada to the United states and normal shipping practices between the two countries for sugar, a de minimis amount of 20 short tons for individual shipments of sugar is inappropriate for Canada. Therefore, I determined that it was necessary and appropriate to modify the de minimis amount for individual shipments of sugar from Canada under 15 CFR 2011.3(b). Accordingly, effective September 26, 1983, the de minimis amount for Canada was modified from 20 short tons to 250 pounds. The de minimis amount for all other participating countries remains unchanged.

Signed at Washington, D.C. on October 13, 1983.

John R. Block,
Secretary of Agriculture.

[FR Doc. 83-28342 Filed 10-17-83; 8:45 am]
BILLING CODE 3410-10-M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 8:30 a.m. and will end at 6:00 p.m. on November 8, 1983, at the Holiday Inn-Las Cruces, 201 East University Blvd., P.O. Box H.I., Las Cruces, New Mexico 88001. The purpose of this meeting is for the New Mexico State Advisory Committee to hold a conference to address political participation of minorities in southern New Mexico.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Roberto A. Mondragon, Route 5, Box 343 A, Sante Fe, New Mexico 87501, (505) 827–4956, or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229–5570.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 12, 1983.

John I. Binkley,
Advisory Committee Monagement Officer.

[FR Doc. 83-28248 Filed 10-17-83; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

President's Commission on Industrial Competitiveness; Meetings

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of Meetings.

SUMMARY: The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

TIMES AND PLACES:

Committee on International Trade (a subcommittee of the Commission), Thursday, October 20, 1983, 9:00 am–5:00 pm, Sheraton O'Hare, Heathrow Room, 6810 North Mannheim, Rosemont, IL.

Committee on Human Resources (a subcommittee of the Commission), Friday, Novermber 4, 1983, 9:00 am–3:30 pm, Westinghouse Corporate Headquarters, Stanwix', Street Pittsburgh, PA.

Committee on Capital Formation (a subcommittee of the Commission), Friday, November 11, 1983, 9:00 am–4:00 pm, The Madison Hotel, The Boardroom (Second Floor), 1177—15th Street, NW, Washington, DC.

Less than 15 days notice is being given for the October 20 meeting of the Committee on International Trade (subcommittee of the Commission), due to the inability of the committee members to meet any other time in the near future.

PUBLIC PARTICIPATION: The meetings will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: James L. Wolbarsht, Executive Advisor, Office of Assistant Secretary for Productivity, Technology and Innovation, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–8080 on substantive issues or Yvonne Barnes, Departmental Committee Management Analyst, 202–377–4217 on issues regarding administration of the Commission.

Dated: October 14, 1983.

Egils Milbergs,
Deputy Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 83-28488 Filed 10-14-83; 5:03 pm]
BILLING CODE 3510-18-M

International Trade Administration

[A-122-013]

Certain Steel Valves and Certain Parts Thereof from Japan; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether certain steel valves and certain parts thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before November 6, 1983, and we will make ours on or before February 29, 1984.

EFFECTIVE DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane, Office of Investigations, International Trade Administration, U.S. Department of

VOL 48 ISS 202 OCT 1983 UMI

Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 377–5414.

SUPPLEMENTARY INFORMATION: On September 22, 1983, we received a petition in proper form from counsel for Condec Flow Control Group of The Lunkenheimer Company; Cooper Valve Company; Crane Company; Mark Controls Corporation; The Wm. Powell Company; Rockwell International Corporation, Flow Control Division; Smith Valve Corporation; Stockham Valves & Fittings, Inc.; Velan Valve Corporation; Henry Vogt Machine Company, and Walworth Company as individual petitioners and collectively as the Valve Manufacturers Association Fair Trade Council.

In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value of the merchandise under investigation from Japan is supported by comparisons of United States prices based on price lists with the foreign market value based on home market list prices for comparable models of the largest Japanese manufacturer exporting to the United States.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition filed by the representatives of the domestic manufacturers of certain steel valves and parts thereof, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether certain steel valves and certain parts thereof from Japan are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by February 29, 1984.

Scope of Investigation

The merchandise covered by this investigation is wedge gate, swing check, and globe valves, and certain parts of the foregoing, of steel currently provided for under item number 680.17 of the Tariff Schedules of the United States, Annotated (TSUSA). Certain parts include valve bodies and partially completed valves consisting of valve bodies imported with one or more of the following parts: bonnet, stem, wedge, handle or seat rings.

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days of the date the petition was received whether there is a reasonable indication that imports of certain steel valves and certain parts thereof from Japan are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise it will proceed according to the statutory procedures.

Dated: October 11, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-28309 Filed 10-17-83; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; Case Western Reserve University

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517). A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–275. Applicant: Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106. Instrument: Electron Microscope, Model JEM 200CX. Manufacturer: JEOL, Japan. Intended use of instrument: See notice on page 39265 in the **Federal Register** of August 30, 1983. Instrument ordered: February 18, 1983.

Docket No.: 83–277. Applicant: Riverside Hospital, 500 J. Clyde Morris Boulevard, Newport News, VA 23601. Instrument: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL, Japan. Intended use of instrument: See notice on page 39266 in the **Federal Register** of August 30, 1983. Instrument ordered: May 9, 1983.

Docket No.: 83–283. Applicant: Scripps Clinic and Research Foundation, 10666 North Torrey Pines Road, La Jolla, CA 92037. Instrument: Electron Microscope, Model H–600–1 and Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: See notice on page 39973 in the **Federal Register** of September 2, 1983. Instrument ordered: July 7, 1983.

Docket No.: 83–288. Applicant: USDA, PIADC, APHIS, National Veterinary Services Labs, 13th St. & Dayton Rd., Ames, IA 50010. Instrument: Electron Microscope, EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 39266 in the **Federal Register** of August 30, 1983. Instrument ordered: June 29, 1983.

Docket No.: 83–289. Applicant: Virginia Polytechnic Institute and State University, Purchasing Department, Blacksburg, VA 24061. Instrument: Electron Microscope, EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 39266 in the **Federal Register** of August 30, 1983. Application received by Commissioner of Customs: August 12, 1983.

Docket No.: 83–301. Applicant: US Army Elct Tech & Dvcs Laboratory, Attn: DELET–ED, Fort Monmouth, NJ 07703. Instrument: Electron Microscope, EM 420T and Accessories. Manufacturer: Philips Gloeilampenfabrieken, The Netherlands. Intended use of instrument: See notice on page 40932 in the **Federal Register** of September 12, 1983. Instrument ordered: May 16, 1983.

Docket No.: 83–302. Applicant: Boston University, Department of Biology, 2 Cummington St., Boston, MA 02215. Instrument: Electron Microscope, EM 410LS and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of instrument: See notice on page 40932 in the **Federal Register** of September 12, 1983. Application received by Commissioner of Customs: August 22, 1983.

Docket No.: 83–304. Applicant: Virginia Commonwealth University, Medical College of Virginia, Box 110, 1101 East Marshall St., Richmond, VA 23298. Instrument: Electron Microscope, EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 40933 in the **Federal Register** of September 12, 1983. Instrument ordered: August 18, 1983.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reason: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-28308 Filed 10-17-83; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 30920–193]

Approved Interpretation for FIPS FORTRAN (FIPS PUB 69)

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. FIPS PUB 69 specifies Federal Information Processing Standard (FIPS) FORTRAN. During the use of the standard, questions may arise as to the meaning of certain language specifications. FIPS PUB 29–1 defines the procedures to be followed in providing solutions to these questions. The procedures allow for the solutions to be applied uniformly throughout the Federal government and by all implements of processors acquired by the Federal government. Accordingly, in the March 8, 1982, issue of the **Federal Register** (47 FR 9876), the National Bureau of Standards published a notice of proposed interpretation of FIPS FORTRAN as it pertains to nested parentheses in an expression. All comments submitted about the proposed interpretation have been duly considered.

The following approved interpretation contains a definition of the problem, identification of the issues, approved interpretation, supporting justification for the approved interpretation, necessary clarifications to FIPS FORTRAN, and the effective date of the interpretation.

The approved interpretation, as of the effective date, becomes an integral part of FIPS FORTRAN, and as such is considered to be included whenever reference is made to FIPS FORTRAN.

Interested parties may submit comments concerning interpretations of FIPS FORTRAN to Director, Institute for Computer Sciences and Technology, Attention: FIPS FORTRAN, National Bureau of Standards, Washington, DC 20234.

Dated: October 11, 1983.

Ernest Ambler,

Director.

FIPS FORTRAN

Interpretation 1—Nested Parentheses in an Expression

Problem: If an arithmetic assignment statement which contains an arbitrary number of sets of nested parentheses surrounding an arithmetic express fails to be accepted by a processor, does such action cause the processor to fail to conform to the standard?

Issue: Given the following arithmetic statement:

X=(((((...((A))...)))))

with 57 sets of parentheses surrounding the A. Does failure to accept such a statement cause the processor to be non-standard conforming?

Interpretation: This interpretation applies to American National Standard FORTRAN X3.9–1978, as it has been adopted as FIPS FORTRAN, FIPS PUB 69. The interpretation is that a FORTRAN processor may impose limitations on the size and complexity of a standard-conforming program that it may accept. Thus, the standard does not specify the number of nested parentheses that a processor must recognize in an expression. Hence, the number is processor-dependent.

Supporting Justification

References: The following references to American National Standard FORTRAN, X3.9–1978, pertain to the issue involved in this interpretation:

(a) Page 1–1, 1.3 Scope, 1.3.2 Exclusions. "This standard does not specify * * * (5) The size or complexity of a program and its data that will exceed the capacity of any specific data processing system or the capability of a particular processor."

(b) Page 1–2, 1.4 Conformance. "Because a standard-conforming program may place demands on the processor that are not within the scope of this standard, * * *, conformance to this standard does not insure that a standard-conforming program will execute consistently on all or any standard-conforming processors."

Discussion: The term "processor", as used in the FORTRAN standard, implies the combined actions of a computer (hardware), its operating system, a compiler, and a loader. The processor may impose limitations on the size and complexity of a program in each of the above areas. Thus, a processor may apply a limit to the size of the stack in a parser of the compiler which can effect the acceptable depth of nesting of parentheses permitted in an expression.

Clarification of FIPS FORTRAN: None necessary.

Effective date of interpretation: This interpretation is effective on (please insert date which is 30 days after publication in the **Federal Register**).

[FR Doc. 83-28290 Filed 10-17-83; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

International Whaling Commission; Meeting

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of meetings.

SUMMARY: NOAA makes use of an Interagency Committee to assist in

VOL
48
ISS
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preparing for meetings of the International Whaling Commission (IWC). This notice sets forth guidelines for participation on the Committee and a tentative schedule of meetings and other important dates.

DATE: October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Dean Swanson, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235. Phone: (202) 634–1792.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Administrator of NOAA who also serves as the United States Commissioner to the IWC. The Administrator has primary responsibility with the Secretary of State for the preparation and negotiation of United States positions on international issues concerning whaling and for all matters involving the IWC. He is assisted by the Department of the Interior, the Marine Mammal Commission, and other interested agencies.

Each year NOAA conducts a series of meetings and other actions to prepare for the annual meeting of the IWC which is held in the summer. The major purpose of the preparatory meetings is to provide for participation in the development of policy by members of the public and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of United States policy concerning whaling, and such participation is and shall continue to be a prerequisite to the establishment of United States negotiating positions for IWC meetings.

Because the meetings discuss United States negotiating positions, the substance of the meetings must be kept confidential. For example, proposed position papers that may be circulated at a meeting for discussion cannot be removed from the the meeting site and must be collected at the close of each meeting.

Any United States citizen with an identifiable interest in United States whale conservation policy may participate, but NOAA reserves the authority to inquire about the interests of any person who appears at a meeting and to determine the appropriateness of that person's participation. Persons who represent foreign interests may not attend. These stringent measures are necessary to protect the confidentiality of United States negotiating positions and are a necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practice.

Readers should note that the 36th Annual Meeting of the IWC is schedule to occur in Buenos Aires, Argentina, in June rather than July which is one month earlier than recent IWC Annual Meetings. The tentative schedule of meetings, including those of the IWC, and deadlines for the preparation of position papers during 1984 is as follows:

Februory 3—Interagency Committee Meeting to initiate preparations for the June IWC meetings. Any subcommittees that may be required to address specific issues will be constituted. Interested persons who are unable to attend are welcome to submit comments and recommendations to the Administrator for consideration at the meeting or anytime thereafter. Such submissions should be sent to: Dr. John V. Byrne, Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20230.

March 2—Nominations for the United States Delegation to the June IWC meetings are due to the Administrator. All persons wishing to be considered pursuant to the Department of Commerce recommendation to the Department of State concerning the compostion of the Delegation should ensure that nominations are received by this date. Prospective Congressional advisors to the Delegation should contact the Department of State directly.

March 30—(approximate date) Anticipated Interagency Committee meeting following receipt of the preliminary agenda for the June IWC meetings which is due to be circulated by the IWC Secretariat on or before March 11. The meeting will review the preliminary agenda and proposed additions to this agenda, all of which will be available at the meeting. The date and location for this meeting will be confirmed as soon as the preliminary agenda is received.

April 6—Foward United States agenda changes to the IWC Secretariat.

April 16—Draft position papers due to the Administrator.

April 16 through June 17—Prenegotiations.

April 20—Due date for circulation of the provisional agenda by the IWC Secretariat. This "second draft" of the agenda reflects any additions submitted by members countries and stands until considered by the Comission at the opening session of its Annual Meeting.

May 11—Revised position papers due to the Administrator.

May 22—Final Interagency Committee Meeting to consider United States position papers and discuss arrangements for the Delegation's work.

May 26–June 7—Annual Meeting of the Scientific Committee, Eastbourne, England.

June 11–16—Technical Committee subcommittee and working group meetings (on aboriginal subsistence need for whaling, infractions, humane killing, nonconsumptive uses of whales, and such other meetings as may be scheduled), and preliminary meetings of the Finance and Administration Committee.

June 17—Meeting of the United States Delegation, site to be determined, Buenos Aires, Argentina.

June 18–23—36th Annual Meeting of the IWC, Buenos Aires, Argentina. Persons who would like to be included in these meetings may contact Dean Swanson at the address or telephone number provided above to obtain meeting times and locations.

Dated: October 12, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Services.

[FR Doc. 83-28251 Filed 10-17-83; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council's Plan Management Team; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established Plan Management Teams for fishery management plans (FMPs), initiated by the Council.

The Plan Management Team for the Bering-Chukchi Sea Herring FMP will meet with the Scientific and Statistical Committee (SSC) herring subgroup at the office of the North Pacific Fishery Management Council, 650 West 4th Avenue, Anchorage, Alaska, November 1, 1983. The purpose of the meeting is to address the following four-step research program proposed by the SSC:

1. Identify knowledge gaps, particularly in offshore stocks;

2. Look at experimental designs to fill these gaps;

3. Consider the utility of the North Pacific Fishing Vessel Owner's Association proposal in light of the above exercise, including costs of obtaining data; and

4. Make recommendations concerning the proposal or a modification thereof, considering necessary phasing of research and the need for a multi-year project.

This public meeting is scheduled for 9 a.m. to 5 p.m., but may be lengthened or shortened as necessary.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510.

Dated: October 13,1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology. National Marine Fisheries Service.

[FR Doc. 83-28296 Filed 10-17-83; 8:45 am]

BILLING CODE 3510-22-M

Salmon and Steelhead Advisory Commission; Public Meeting; Correction

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: This document corrects a public meeting notice of the Salmon and Steelhead Advisory Commission that was published on September 21, 1983, 48 FR 43074. The time of a meeting is to be changed.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

In FR Doc. 83–25727, appearing at page 43074, the time is corrected in the second column, line 2, by changing "10:00 a.m." to read "8:00 a.m."

Dated: October 18, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28315 Filed 10-17-83; 8:45 am]

BILLING CODE 3510-22-M

Taking of Marine Mammals; Issuance of Permit

On August 3, 1983, Notice was published in the **Federal Register** (48 FR 35157) that an application had been filed with the National Marine Fisheries Service by Dr. Roger S. Payne, Weston Road, Lincoln, Massachusetts 01773, for a Permit to take by potential harassment, an unspecified number of humpback whales in various waters for the purpose of scientific research.

Notice is hereby given that on October 5, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit to Dr. Roger S. Payne, for the above taking, subject to certain conditions therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species Permits (39 FR 14357, November 27, 1974).

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: October 12, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-28249 Filed 10-17-83; 8:45 am]

BILLING CODE 3510-22-M

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Small Take Exemption

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed Action.

SUMMARY: The National Marine Fisheries Service is proposing to implement Section 101(a)(4) of the Marine Mammal Protection Act (MMPA), as amended, for cetaceans and pinnipeds except for walrus. This proposed action would provide a procedure for applicants to qualify for an exemption to the MMPA's moratorium on the taking of marine mammals for the incidental, but not intentional taking, of small numbers of non-depleted marine mammals by U.S. commercial fishermen.

DATES: Comments on the proposed action should be submitted on or before November 21, 1983.

ADDRESS: All comments should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. K. R. Hollingshead, Protected Species Division, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235. Telephone: (202) 634–7529.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) (MMPA) established a moratorium on the taking of marine mammals. A two-year exemption from the moratorium was established in the MMPA for commercial fishermen. Regulations governing the take of marine mammals incidental to commercial fishing operations were established at the conclusion of the exemption period to allow incidental taking under a general permit scheme which included individual vessel certificates of inclusion. Since 1974, general permits have been issued annually to domestic fishermen and, since 1977, to foreign fishermen within the U.S. fishery conservation zone (FCZ) when the Magnuson Fishery Conservation and Management Act extended MMPA jurisdiction to include the 200-mile FCZ.

Pub. L. No. 97–58 amended the MMPA in 1981 by adding Section 101(a)(4) [16 U.S.C. 1371(a)(4)]. This amendment directs the Secretary of Commerce during any period of five (5) consecutive years to allow the incidental but not intentional taking of small numbers of non-depleted species or stocks of marine mammals by citizens of the United States while engaged in commercial fishing operations. This exemption to the permitting requirements of Section 104 of the MMPA can be granted only if after notice and opportunity for public comment, the Secretary (1) finds that the *total* of such taking will have a negligible impact on such species or stocks and (2) provides guidelines pertaining to the establishment of a

VOL 48 ISS 202 OCT 18 1983 UMI

cooperative system among the fishermen involved in the operation to monitor and report any such taking. Until these two conditions are satisfied, domestic fishing operations must remain under the general permit system established by Section 104 and regulations established by Section 103 of the MMPA. (See 50 CFR 216.24).

The National Marine Fisheries Service (NMFS) published a Request for Information and Advanced Notice of Proposed Rulemaking on September 15, 1982 (47 FR 40676). This notice invited all interested parties, including representatives of the commercial fishing industry to submit suggestions on (1) individual fisheries by location and gear category that might qualify under this exemption, (2) the species and number of non-depleted marine mammals likely to be taken in the fishery, (3) the manner of taking and means of minimizing the total number of takes and to reduce impacts on individual animals, and (4) guidelines pertaining to establishment of a cooperative reporting system for monitoring the incidental take in the fishery.

Information Received

Comments and suggestions were received from the Oregon Department of Fish and Wildlife, Washington State Department of Game, the North Pacific Fishing Vessel Owner's Association and the Whale Center. All but the Whale Center suggested individual fisheries which might be included under the proposed exemption. The Washington Department of Game suggested a grant be given to sample the fisheries and develop a baseline for marine mammal takes while the State of Oregon proposed a cooperative State/Federal reporting system. The Whale Center recommended caution in making determinations for exemptions based on non-objective sources. All four respondents gave assurances of future cooperation.

All information submitted is available on request from the Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235.

Proposed Action

The NMFS proposes to implement this new amendment and allow those fisheries in specific geographic areas that take a small number of marine mammals incidental to fishing operations to obtain a waiver from the MMPA moratorium in compliance with Section 101(a)(4) of the Act. This five-year waiver can be granted provided the applicant can supply information that the total taking will have a negligible impact on the species or stocks involved and has demonstrated a capability to establish a system for reporting incidental takes of marine mammals that is acceptable to the Assistant Administrator for Fisheries.

Definitions

For these small take guidelines, the following definitions apply:

"Incidential, but not intentional, taking" means an accidental taking. It does not mean that the taking is unexpected, but rather that it includes those takings which are infrequent, unavoidable or accidential.

"Negligible impact" means an impact which an be disregarded or which is so small or unimportant, or of so little consequence as to warrant little or no attention. A finding of negligible impact cannot be made if a species or stock is listed as depleted in 50 CFR 216.15 or as threatened or endangered under the Endangered Species Act of 1973.

"Small numbers" means a portion of a marine mammal species or stock whose removal has a negligible impact on the species or stock.

"U.S. citizens" means individual U.S. citizens or any partnership, corporation, association or similar entity (whether or not it is organized under the laws of any State) if it is controlled by individuals who are U.S. citizens.

Application Instructions

In order for the National Marine Fisheries Service to consider an exemption from the General Permit requirements of 50 CFR 216.24, to take small numbers of marine mammals during commercial fishing operations, a written request must be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235. Requests for an exemption are limited to U.S. citizens and shall be for a specific fishery within a specified geographical region. Individuals may not apply for a small take exemption unless they are duly authorized representatives of a fishery and have the capability and authority to establish a system for reporting all incidental takes and to receive and collate these reports. Requests for an exemption must include the following information:

1. A detailed description of the fishery, including the type of gear used, species of fish sought, seasonality of the fishery, area of operations, number of participating fishermen and/or vessels, and the known interactions of the fishery with marine mammals.

2. The number of species of marine mammals expected to be taken annually and the reason the mammals are taken.

3. A description of the status and distribution of the affected species or stocks likely to be affected by the fishery so that a negligible impact determination can be made.

4. A description of the reporting system to be used by the fishermen to facilitate the reporting of any incidental takes. Such information should include:

a. Copies of the reporting form to be utilized;

b. Name and address of person to whom completed forms will be sent;

c. Person who will be reasonsible for collating them; and

d. Proposed schedule and mechanism by which information on taking will be conveyed to the Assistant Administrator for Fisheries.

5. Any other information which the National Marine Fisheries Service may subsequently request.

Upon receipt of a signed application, the Assistant Administrator shall determine the adequacy and completeness of a request and in that connection may waive any requirement for information, or require either elaboration or further information which may be deemed necessary. If the application is found adequate, the National Marine Fisheries Service will invite public comment on the request through publication in the Federal Register.

After a 30-day comment period, the Assistant Administrator for Fisheries will determine whether the total taking constitutes a negligible impact on the species or stocks of marine mammals based on public comments received and on the bast scientific evidence available. If a determination can be made that the level of taking in the applicant's fishery will be consistent with the finding that the total of such taking will have a negligable impact on the marine mammal species or stocks, the Assistant Administrator for Fisheries will issue a Notice of Exemption through the Federal Register. Exemptions will be valid for a specified period of up to five years. An accompanying Letter of Exemption to the applicant will specify any terms or conditions relating to reducing the take of marine mammals in the fishery and any guidelines relating to the cooperative system for reporting marine mammal takings.

A Notice of Exemption may be withdrawn or suspended for a time certain if after notice and opportunity for comment, the Assistant Administrator determines that either (1) the taking is having more than a negligable impact on the species or stocks of marine mammals concerned or (2) the policies, purposes and goals of the MMPA, including the well-being of the marine mammals involved would be better served under the general permit provisions of the Marine Mammal Protection Act.

Conditions

1. A participant operating in a fishery covered by a Letter of Exemption may take marine mammals as long as the taking is an incidental occurrence in the course of normal commercial fishing operations and the fisherman is registered with the individual or organization responsible for compiling reports of marine mammal mortality.

2. A participant shall take such steps as are necessary to minimize the impact of taking or the actual take of marine mammals without inflicting death or injury to any marine mammal. Such steps may include the judicious use of non-lethal harassment such as sonic devices, "cracker" bombs and other non-lethal repellant devices to prevent net entanglement or similar occurrences that would increase jeopardy to the animal. Participants may not injure or kill the marine mammal causing the depredation unless the animal is actually causing immediate and substantial damage to the gear or is about to cause immediate personal injury.

3. Marine mammals taken in the course of commercial fishing operations must be immediately returned to the environment where captured without further injury. Marine mammals may not be retained by the fisherman except in cooperation with an individual holding a valid scientific research permit authorized by Section 101(a)(1) and 104 of the Marine Mammal Protection Act.

Reporting Requirements

1. All participants in the fishery must maintain records of incidental take of marine mammals in such a form as agreed upon by the holder of the Letter of Exemption and the National Marine Fisheries Service. At a minimum, reports must include:

a. The date and location of the taking classified by entrapment or entanglement and whether it caused serious injury or death;

b. the identity and number by species of marine mammals taken and, of those taken, the number killed or injured (noting which animals and number were killed, injured or released unharmed); and

c. the amount of time actually fished that day, the approximate amount of fish caught on and duration of the vessel-trip, and/or the type and amount of gear used.

2. If there are individuals in the fishery covered by a Letter of Exemption who are not participating in the reporting scheme, then the holder of the Letter of Exemption will be expected to estimate for those non-participants, the total number of hours fished and the amount of tonnage of fish caught so that an estimate of the total taking by the fleet can be made.

3. The holder of a Letter of Exemption willl be expected to compile these individual participant reports and forward a summary and assessment at least once a year to the Assistant Administrator for Fisheries.

4. Failure to comply with the conditions of the Letter of Exemption may result in actions leading to the suspension or withdrawal of the Exemption and a reimposition of the general permit requirements of the Marine Mammal Protection Act.

Dated: October 12, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-28250 Filed 10-17-83; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Patents by Agency

Department of Agriculture
- SN 6-370,009 (4,405,806), Bromine-Containing 2,4-Diaminotriazines
- SN 6-212,655 (4,400,391), Controlled Release of Bioactive Materials Using Alginate Gel Beads
- SN 6-258,469 (4,401,156), Controlled Release of Bioactive Materials Using Alginate Cel Beads
- SN 6-345,455 (4,400,114), Earth Anchor Apparatus and Method
- SN 6-256,506 (4,400,983), Mechanical Buncher for Leafy Vegetables
- SN 6-473,398 (4,405,514), Preparation of Esters of Resin Acids, Resins, Rosins, and Derivatives Thereof

Department of Commerce
- SN 6-300,363 (4,396,293), Frequency Stabilization for Two-Mode Laser

Department of Health and Human Services
- SN 6-239,015 (4,397,310), Anastigmatic High Magnification, Wide-Angle Binocular, Indirect Attachment for Laser Photocoagulator
- SN 6-331,989 (4,405,611), Bisulfite Stabilization of 5-Azacytidine
- SN 6-110,293 (4,404,182), Ethiodized Oil Emulsion for Intravenous Hepatography
- SN 6-222,936 (4,398,101), Four Input Coincidence Detector
- SN 6-262,806 (4,403,985), Jet Controlled Catheter
- SN 6-279,443 (4,405,712), LTR-Vectors
- SN 6-341,572 (4,397,843), Mannose-6-Phosphate-Low Density Protein Reagent Effective Against Hypercholesterolemia
- SN 6-495,725, Monoclonal Antibodies Against Non Small Cell Lung Cancer
- SN 6-339,886 (4,405,720), Silver Stains for Protein in Gels

Department of the Air Force
- SN 6-512,070, Beam Addressed Memory System
- SN 6-307,347 (4,393,198), Copolymers Prom Octafluoronaphthalene
- SN 6-300,761 (4,391,660), Copper Containing Ballistic Additives
- SN 6-387,580 (4,393,101), Diethynylebenzene-Ethynylpyrene Copolymers
- SN 6-512,847, Electroding of Multi-Layered Epitaxial Structures
- SN 6-515,240, Elevated transient Temperature Leak Test for Unstable Microelectronic Packages
- SN 6-195,693 (4,392,775), Flat Workpiece Pickup
- SN 6-232,094 (4,392,624), Implanted Boundary Layer Trip
- SN 6-512,062, Loading Dolly
- SN 6-283,245 (4,395,469), Low Pressure Nickel Hydrogen Battery
- SN 6-201,860 (4,392,709), Method of Manufacturing Holographic Elements for Fiber and Integrated Optic Systems
- SN 6-512,083, Modular Air Shut-Off Valve
- SN 6-506,919, Pocket Size Antenna Match Indicator
- SN 6-300,762 (4,395,684), R.F. Primed Plasma Limiter for Radar Receiver Protector
- SN 6-368,785 (4,393,967), Removabled Secondary Aircraft Fuel Enclosure
- SN 6-512,064, Simultaneous Signal Detection for IFM Receivers by Transient Detection
- SN 6-308,973 (4,394,223), Tin and Gold Plating Process

Department of the Army
- SN 6-510,710, A solid Propellant Sound Generator for Coagulation of Aerosols

SN 6-510,698, Antiarmor Weapon System
SN 6-524,716, Apparatus for Determining SMR Codes
SN 6-507,660, Discrete Step Actuation System
SN 6-511,602, Dual Field-of-View Optical Target Detector
SN 6-510,709, Erectable Large Optic for Outer Space Application
SN 6-517,613, Improved Dielectric Waveguide Ferrite Resonance Isolator
SN 6-512,831, Infrared Beacon
SN 6-526,048, Interference Cancelling Receiver Having High Angular Resolution Transmitted Radiators
SN 6-517,191, Interference Cancelling Transmitter
SN 6-574,423, Light Operated Measuring System Cross-Reference to Related Application
SN 6-522,949, Low Power Radio Synthesizer with Harmonic Identification Feature
SN 6-524,614, Magnetic Fluid Gyro Bearing and Caging Mechanism
SN 6-517,614, Method and Apparatus for Dispersive Signal Processing
SN 6-527,054, Optical Interface to an Electrical Central Office
SN 6-519,460, Patin Analysis Paper
SN 6-527,714, Percussion Initiated Spotting Charge
SN 6-525,374, Push-Pull Pulsed Gas Laser
SN 6-509,577, Quick access Splice for Missile Sections
SN 6-526,735, Small Angular Beamwidth Antenna System
SN 6-528,837, Solid State Relay With Fast Turnoff
SN 6-224,776, Unsymmetrical Polynitrocarbonates and Symmetrical 1,3-Bis(Halo-and Nitroalkyl Carbonyldioxy)-2,2-Dinitropropanes and Methods of Preparation

Department of the Interior
SN 6-168,823 (4,404,523), Readout Circuit for Linear Displacement Transducer
SN 6-348,118 (4,401,632), Recovery of Arsenic from Flue Dust

[FR Doc. 83-28330 Filed 10-17-83; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Category 315

October 13, 1983.

ACTION: On September 30, 1983 the Government of the United States requested consultations with the Government of Hong Kong with respect to Category 315 (cotton printcloth). This request was made on the basis of the agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 315, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983. The Government of the United States also reserves the right to control imports of these categories at the established limits.

Any party wishing to comment or provide data or information regarding the treatment of Category 315 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this Category is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-28274 Filed 10-17-83; 8:45 am]
BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket 84-C0001]

Richard E. Nichols and Cheri Nichols, Individuals Doing Business as Cotton Dreams; Provisional Acceptance of a Consent Order Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a Consent Order Agreement under the Flammable Fabrics Act.

SUMMARY: Under requirements of 16 CFR 1605.13, the Commission must publish in the Federal Register consent agreements which it provisionally accepts under the Flammable Fabrics Act. Published below is a provisionally-accepted Consent Order Agreement with Richard E. Nichols and Cheri Nichols, individuals doing business as Cotton Dreams.

DATES: Any interested person may ask the Commission not to accept this agreement by filing a written request with the Office of the Secretary by November 2, 1983.

ADDRESS: Persons wishing to comment on this Consent Order Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Stephen E. Joyce, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6626.

Dated: October 13, 1983.

Sadye E. Dunn,

Secretary.

SUPPLEMENTARY INFORMATION: In the Matter of Richard E. Nichols and Cheri Nichols, d.b.a. Cotton Dreams; Consent Order Agreement.

Richard E. Nichols and Cheri Nichols, doing business as Cotton Dreams, under the laws of the State of Florida (hereinafter, Respondents) enter into this Consent Order Agreement (hereinafter, Agreement) with the staff (hereinafter, the Staff) of the Consumer Product Safety Commission (hereinafter, the Commission) pursuant to the procedure for consent order agreements contained in Section 1605.13 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Flammable Fabrics Act (FFA), 16 CFR Part 1605.

This Agreement and Order are for the sole purpose of settling the allegations of the staff that Respondent has sold certain noncomplying children's sleepwear, in violation of the Flammable Fabrics Act and the standards, rules, and regulations thereunder as more fully set forth in the complaint accompanying this agreeement.

Respondents and the Staff Agree

1. The Consumer Product Safety Commission has jurisdiction in this matter under the following Acts: The Flammable Fabrics Act (15 U.S.C. 1191 et seq.); the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

2. Cotton Dreams is a name used by Richard E. Nichols and Cheri Nichols; Cotton Dreams is organized and does business under the laws of the State of Florida; is engaged in the sale of articles of children's playwear considered by the Commission to be sleepwear; and has its principal place of business and address located at 9090 U.S. 1, Wabasso, Florida 32970.

3. Richard E. Nichols does business as Cotton Dreams and controls its acts, practices and policies.

4. Cheri Nichols does business as Cotton Dreams and controls its acts, practices and policies.

5. Respondents are now and have been engaged in one or more of the following:

a. The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, and the introduction, delivery for introduction, transportation or causing to be transported, in commerce, or the sale or delivery after sale or shipment in commerce, of a product, fabric, or related material which is subject to the requirements of the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*), the Standard for Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71), and the implementing rules and regulations (16 CFR Part 1615); and

b. The importation into the United States, or the manufacture for sale, the sale, or the offering for sale of a product made of fabric or related material, which has been shipped or received in commerce and which is subject to the requirements of the Flammable Fabrics Act, the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71), and the implementing rules and regulations; and

c. The manufacturing for sale, or the offering for sale, in commerce, or the importation into the United States, and the introduction, delivery for introduction, transportation or causing to be transported, in commerce, or the sale or delivery after sale or shipment in commerce, of a product, fabric, or related material which is subject to the requirements of the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*), the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5-74), and the implementing rules and regulations (16 CFR Part 1616); and

D. The importation into the United States, or the manufacture for sale, the sale, or the offering for sale, of a product made of fabric or related material, which has been shipped or received in commerce, and which is subject to the Flammable Fabrics Act, the Standard for Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5-74), and to the implementing rules and regulations.

6. this Agreement is for settlement purposes only, does not constitute an admission by Respondents they have violated the law, and becomes effective only upon its final acceptance by the Commission and service of the incorporated Order (herinafter, Order) upon Respondents.

7. A 2-piece garment such as that described in paragraph IV(D) of the attached Order with or without a collar, with sleeves, and without attached feet, made of 100% cotton rib-knit fabric is not an item of children's Sleepwear.

8. Respondents waive (a) all requirements for findings of fact and conclusions of law in the disposition of this matter, and (b) administrative and judicial review of the facts and proceedings. This Agreement and the Complaint accompanying the Agreement may be used in interpreting the Order.

9. Violation of the provisions of the Order may subject Respondents to a civil penalty of not more than $10,000 for each such violation.

10. The Commission may disclose the terms of this Consent Order Agreement.

11. The requirements of this Order are in addition to, and not to the exclusion of, other remedies such as criminal penalties which may be pursued under section 7 of the FFA.

12. No agreement, understanding, representation or interpretation not contained in this Agreement or Order may be used to vary or contradict the terms of the Order.

Uppon acceptance of this Agreement, the Commission may issue the following Order:

Order

I

It is hereby ordered that Respondents, their successors and assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from selling or offering for sale, in commerce, or importing for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material which fails to conform to the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71) (16 CFR Part 1615); the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5-74) (16 CFR Part 1616) or the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610). These standards were issued, amended and continue in effect under the provisions of the Flammable Fabrics Act. For purposes of this Order, whether a product of wearing apparel is intended to be worn for sleeping or activities related to sleeping depends on many factors including: (a) The suitability for use by children for sleeping or activities related to sleeping, (b) the manner in which the product is distributed or promoted, and (c) the likelihood that the product will be used for sleeping or activities related to sleeping.

II

It is further ordered that Respondents consider before importing or selling any style garment, subject to this Order: (a) the sleeping or activities related to sleeping, (b) the manner in which the product is distributed or promoted, and (c) the likelihood that the product will be used by children primarily for sleeping or activities related to sleeping.

III

It is further ordered that Respondents maintain records to demonstrate that they have considered each of the three factors enumerated in paragraph II, above, before deciding to import and/or sell any style garment. These records must be maintained for one year beyond such time as they have ceased the importation, sale or distribution of the individual garment.

IV

It is further ordered that from the date this Order becomes effective, Respondents, their authorized agents, assigns, successors, authorized representatives and authorized employees, directly or through any corporation, subsidiary, division or other device, forthwith cease and desist from selling or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling

or delivering after sale or shipment in commerce, the following styles of garments irrespective of color and trim which the Commission staff has alleged do not comply with the Standard for Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71), 16 CFR Part 1615, or the Standard for Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5–74), 16 CFR Part 1616:

(A) Style #127, Long Flannel, Grandpa Shirt. A 100% cotton snap-front, ankle-length flannel shirt, with or without sleeves and with or without a collar. Attachment A is a picture of the style of garment that is the basis for this prohibition.

(B) Item #W128, Infants Striped Daygown. A long gown with a buttoned neck, drawstring bottom, ribbed cuffs and neck made of 100% cotton knit fabric. Attachment B is a picture of the style of garment that is the basis for this prohibition.

(C) Item #152, Flannel Daygown. A midcalf or longer gown, with or without sleeves, made of 100% cotton flannel fabric. Attachment C is a picture of the style of garment that is the basis for this prohibition.

(D) Item #2P79L, 2-piece Striped Playsuit. A two-piece garment with or without a collar, with sleeves, and attached feet, made of 100% cotton rib-knit fabric. Attachment D is a picture of the style of garment that is the basis for this prohibition. This garment without attached feet is not sleepwear.

V

It is further ordered that, Respondents permit the Commission staff to conduct inspections to determine compliance with this Order and to select samples of sleepwear or related articles of clothing in inventory at Respondents' place of business.

VI

It is further ordered that, for a period of ten (10) years from the date this Order becomes final within the meaning of the Federal Trade Commission Act, Respondents notify the Commission at least thirty (30) days prior to the event, of any proposed change in their business, such as incorporation, dissolution, assignment, or sale resulting in the emergence of another business; the creation or dissolution of subsidiaries; or any other change in the way Respondents do business which may affect compliance obligations arising out of this Order;

Any agreement, understanding, representation, or interpretation that is not contained in this Agreement and the incorporated Order may not be used to vary or contradict the terms of the Order subsequently issued by the Commission.

Signed this 28th day of July, 1983.

RICHARD E. NICHOLS,
d/b/a Cotton Dreams.

CHERI NICHOLS,
d/b/a Cotton Dreams.

Stephen E. Joyce,
Counsel for the Commission Staff.

By direction of the Commission, this Consent Order Agreement is provisionally accepted pursuant to 16 CFR 1605.13, and shall be placed on the public record, and the Commission shall announce provisional acceptance of the Consent Order Agreement in the Commission's Public Calendar and in the **Federal Register**.

So ordered by the Commission, this 13th day of October, 1983.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 83–28352 Filed 10–17–83; 8:45 am]
BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group will meet at Wright-Patterson AFB, OH, Bldg. 14, Area B, Room 222, November 9 and 10, 1983. The purpose of the meeting will be to receive classified briefings and hold classified discussions on selected programs and projects relating to the missions of the Aeronautical Systems Division. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. on the 9th and convene at 8:30 and adjourn at 1:00 p.m. on the 10th.

The meeting concerns matters listed in Section 552(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat, Mr. Jim Coleman, at (513) 255–4002 or autovon 785–4002.

Dated: October 10, 1983.

Winnibel F. Holmes,
Air Force Federal Register, Liaison Officer.

[FR Doc. 83–28264 Filed 10–17–83; 8:45 am]
BILLING CODE 3910–01–M

Department of the Army

Draft Environmental Impact Statement; Supplement No. 1, Ouachita River and Tributaries, Ouachita River Levees, Louisiana

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement, Supplement No. 1 (DEIS/Supp. No. 1).

SUMMARY: a. *Description of Action:* The proposed action involves raising existing Quachita River levees in Louisiana to project design flow line (167-year event) grade. The tentatively selected plan consists of: (a) Raising 40.7 miles of existing east bank levee from 1.5 feet to 5 feet to the 1956 project design flow line (167-year event) grade; (b) rehabilitation of 68 deteriorated drainage structures associated with the levee system; (c) 9 levee setbacks or bank stabilization to protect levee sections from erosion; (d) gravelling portions of the levee for flood-fight access; and (e) raising 11.7 miles of loop levees to the 1956 project design flow line grade on the Ouachita River west bank at West Monroe, Bawcomville, and Columbia, Louisiana.

b. *Alternatives:* Additional alternatives formulated and evaluated are: (a) No action; (b) raising levees to the Standard Project Design grade (500+-year event); and (c) four floodway options.

c. *Description of Scoping Process:*

(1) *Public involvement.* Coordination with the general public and interested agencies has been maintained throughout the feasibility study.

(2) *Issues analyzed in the EIS supplement.* Impacts of the proposed action on the social/economic well-being, the aquatic ecosystems, the terrestrial ecosystems, prime farmlands, endangered species, cultural resources, and wetlands.

(3) *Environmental review and consultation requirements.* Environmental review will be conducted in accordance with requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR, Parts 1500–1508), and all other applicable laws and statutes, and Corps of Engineers regulations and guidance.

(4) *Scoping Meeting Scheduled:* No public scoping meeting is planned. However, comments from interested members of the public and private sectors are invited.

(5) *Date the EIS supplement will be available to the public.* April 1984.

ADDRESS: Questions concerning the draft EIS supplement can be directed to: Ms Maryetta Smith, U.S. Army Corps of Engineers, Vicksburg District, Environmental Analysis Branch, P.O. Box 60, Vicksburg, Mississippi 39180. Telephone: FTS—542–5433, Commercial—(601) 634–5433.

Dated: October 7, 1983.

Dennis J. York,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83–28259 Filed 10–17–83; 8:45 am]
BILLING CODE 3710–GX–M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, October 26, 1983, beginning at 1:30 p.m. in the Reidy Room of Shawnee Inn, Shawnee-on-Delaware, Pennsylvania. The hearing will be a part of the Commission's regular business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. in Club Room Number Two of Shawnee Inn.

The subjects of the hearing will be as follows:

Water Resources Program. A proposed annual Water Resources Program has been prepared in accordance with Section 13.2 of the Delaware River Basin Compact. The Program summarizes basin water resource needs and programs over the six year period from 1983 through 1988 including water supply, pollution control; flood protection and other functional aspects of water management with which the Commission is concerned. Copies of the draft Water Resources Program are available from the Commission upon request. Written testimony postmarked or received by the Secretary by November 9, 1983 will be inluded in the hearing record.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact

1. *West Chestnut Reolty Corporotion (D–78–87 Revised).* A revised spray irrigation—sewage treatment project to serve Hershey's Mill Village in East Goshen Township, Chester County, Pennsylvania. The applicant proposes to reduce buffers, expand the spray field area and increase the volume of effluent sprayed from .0638 million gallons per day (mgd) to a maximum of 0.424 mgd during summer (annual average of 0.256 mgd). Treatment will consist of aeration and disinfection prior to land application of the effluent. The project site is located in the Ridley Creek Watershed, a tributary to the Delaware River.

2. *Myerstown Water Authority (D–81–67 CP).* An application for a ground water withdrawal project to augment existing supplies for the applicant's distribution system in Lebanon County, Pennsylvania. The applicant experienced water shortages during drought conditions of 1980–1982 and proposes to operate two new wells (Nos. 6 and 8) to insure adequate water supplies during future dry periods. Well No. 6, located in Jackson Township, will supply up to 0.40 mgd of water and Well No. 8, located in the Borough of Myerstown, is expected to supply up to 0.72 mgd of water. Total withdrawls from all wells in the applicant's system are expected to average 0.80 mgd by 2005.

3. *Crown Zellerbach Corporation (D–83–19).* A ground water withdrawal project to obtain approval for the use of additional non-contact cooling water at the applicant's Advanced Films Division plant near the city of New Castle in New Castle County, Delaware. The use of ground wafer has increased above previous DRBC limits to an average of 0.47 mgd as a result of plant expansion, recurring cooling equipment failures and an antiquated chilling system. The DNREC has conditioned its approval of this increased withdrawal on a conservation compliance schedule requiring water use reductions to 0.200 mgd by September, 1985. The cooling water supplied by Well Nos. 7 and 3 (standby) will continue to dischage to the Delaware River.

4. *James River Corporation (D–83–20).* Modification of an industrial waste treatment facility at the applicant's Riegel Division Paper Manufacturing Plant in Holland Township, Hunterdon County, New Jersey. The facility will be designed for removal of BOD_5, suspended solids, coliforms, and color from a waste water flow of approximately 2.1 mgd. Treated effluent will continue to discharge to a tail race which joins the Musconetcong River 1.2 miles downstream from the discharge point in Holland Township.

Documents relating to these projects may be examined at the Commission's offices and preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,
Secretary.

October 11, 1983.

[FR Doc. 83–28261 Filed 10–17–83; 8:45 am]
BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Office of Energy Research

University Research Instrumentation Program

AGENCY: Department of Energy.

ACTION: Change to proposed program solicitation.

SUMMARY: On June 7, 1983, the Department of Energy, Office of Energy Research, requested public comments on a proposed program solicitation for the University Research Instrumentation (URI) Progam. DOE is establishing this program in response to the overall national concern about the shortage of state-of-the-art instrumentation available to universities and colleges. An amount of $4,000,000 has been made available for this program in Fiscal Year 1984. The proposed URI program solicitation has been revised and reflects the comments received from university research adminstrators, industrial representatives, and DOE staff. Today, DOE is publishing the revised program solicitation to give interested persons a preview of the official solicitation which the Department's Oak Ridge Operations Office is planning to release early in Fiscal Year 1984. Notice of the availability of the official solicitation will appear in the **Federal Register** and the *Commerce Business Daily*.

FOR FURTHER INFORMATION CONTACT: Dr. Israel Warshaw, Division of University and Industry Programs, Office of Field Operations Management, Office of Energy Research, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone Number: (202) 252–6641.

SUPPLEMENTARY INFORMATION:

Background

The Department of Energy (DOE) plans to initiate a program intended to help reduce the shortage of state-of-the-art instrumentation required for energy-related research in universities and colleges. This program, the University Research Instrumentation program, is part of an interagency effort to help decrease the overall shortage, estimated to exceed one billion dollars, of research

VOL 48 ISS 202 OCT 18 1983 UMI

equipment in universities. The Conference Report (H.R. Rep. No. 272, 98th Cong., 1st Sess. (1983)) for the act making appropriations for energy and water development for fiscal year 1984 identified $4,000,000 for university research instrumentation. Using this funding, DOE's Office of Energy Research will support approximately 8 to 15 grant awards in Fiscal Year 1984.

To help develop the URI program, the DOE requested public comments on a proposed program solicitation for the program in the Federal Register on June 7, 1983 (48 FR 26328–26331). The proposed program solicitation described the purpose and the scope of the program, eligibility requirements, evaluation and selection criteria, contents of review procedures for grant applications, and plans for continuing operation/administration of the program.

Twenty-seven written comments were received from university faculty and research administrators, industrial representatives, and DOE staff on the proposed URI program solicitation. All of the written comments were considered in arriving at the revisions adopted herein. The following discussion is a summary of the major substantive changes that have been made to the URI program solicitation resulting from those comments.

Changes to the Proposed Program Solicitation

The following changes have been made in the program's guidelines:

Change: Title of program has been changed from Energy Research Instrumentation (ERI) program to University Research Instrumentation (URI) program to coincide with the identification of the program in the Department of Energy's budget submission.

Section I. A. Program Description

Change: The appropriation recommended for this program by Congress in Fiscal Year 1984 hs been set at $4,000,000. This will enable the Department to make from 8 to 15 awards.

Section I. B. Eligibility and Limitations

Change: It is the intent of the program that eligible university groups have at least one on-going DOE award in the selected research area. The total minimum level of support required from DOE in the selected application area during the past two years is now reduced from $300,000 to $150,000. The revised amount is the average total for a DOE university research award for a two-year period. DOE believes that restricting eligibility to institutions which have performed research at this level will ensure that institutions which are best able to incorporate advanced instrumentation into their research programs will receive the grants.

Section II. Designated Research Areas

Change: All areas of energy research will be eligible, but in FY 1984 the funds will be used principally to provide the instrumentation required for research in four major areas (listed in alphabetical order). In order to indicate the potential breadth of the research in each area, a number of examples of related topics are given. Within each area no specific projects have preference relative to other possible related projects

Bioconversions Related to Energy

Metabolic aspects of fermentations and other pathways; molecular structure of key molecules and higher ordered biological entities in cells involved with energy transduction; chemistry of major substrates for bioconversion (e.g., lignocellulose); genetic manipulations involved with altering biological traits; biomass energy feed-stocks; etc.

Combustion

Heat transfer; fluidized bed combustion; kinetics and dynamics; combustion mechanics; hydrogen and other "exotic" fuels; solid and gaseous combustion by-products; pyrolysis; modelling of combustion processes, etc.

Nucleor Waste Isolation Research

Geologic factors; high temperature and high pressure chemistry; migration and diffusion of radioactive materials in geologic media and the oceans; immobilization of transuranium radiation damage; properties of ceramics containing high-level wastes; etc.

Turbulent and Multiphose Flow

Interface mechanics; solid suspensions in moving gases and liquids; effects of polymers on heat transfer; effects of changes of phase in moving matter; properties of fluids; etc.

Section III. B. Application Format

Change: The page limitation of 30 pages per application has been amended to exclude the pages for faculty resumes.

Section III. B. 3. c. Institution's plons for sharing the costs, ensuring the operation and maintenance of the equipment, and replacing the equipment at a future date

Change: The requirement that universities explain the need for equipment if similar instrumentation is located at other institutions within 100 miles has been deleted. Such an explanation is required if similar equipment is located at the institution.

Change: The requirement that an institution describe its plans for replacing the equipment when it becomes obsolete has been deleted.

Section V. B. 3. c. Cost Sharing

Change: At statement that "it is the Department's intent not to negotiate additional cost-sharing over that indicated in the application" has been added.

Section V. B. 3. d. Cost Sharing

Change: The requirement that an institution describe its plans for replacing the equipment when it becomes obsolete has been deleted.

Section VI. B. Number of Proposals Per Institution

Change: The maximum number of proposals which an institution may submit has been increased from three to four.

Section VII. Other information

Change: A statement that "it is contrary to DOE's intent for grantees to use research instrumentation or facilities provided by this program to provide services for a fee in direct competition with private companies that provide equivalent services" has been included in a new subsection, D. which concerns the use and operation of this equipment.

Section VII. A. Reports

Change: The number of years that annual reports need to be submitted be been reduced from five to two.

Clearance Under the Paperwork Reduction Act of 1980

Sections III, IV, and VII of the program solicitation have been determined to contain collection of information requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Office of Management and Budget (OMB) has issued a clearance to the Department (OMB No. 1901–0261) which covers these information collections through December 31, 1983.

(Catalog of Federal Domestic Assistance No. 81.077, University Research Instrumentation Program)

Issued in Washington, D.C. on October 7, 1983.

Alvin W. Trivelpiece,

Director, Office of Energy Research.

University Research Instrumentation Program

Table of Contents

I. Program Description
II. Principal Research Areas
III. Application Preparation and Format
IV. Estimate Cost and Budget
V. Method of Selection and Evaluation Criteria
VI. Submission of Applications
VII. Other Information

I. Program description

A. Background

The Department of Energy (DOE) announces a new program initiative intended to help strengthen the ability of universities and colleges to conduct long-range, energy-related research by assisting them in acquiring some of the specialized research instrumentation which is required. In the conference report for the act making appropriations for energy and water development for fiscal year 1984 (H.R. Rep. No. 272, 98th Cong., 1st Sess. (1983)), Congress identified $4,000,000 for university research instrumentation for fiscal year 1984. This amount will enable the Department to make from 8 to 15 awards. it is expected that most of the awards will be above $100,000. While all areas of energy research are eligible, in fiscal year 1984 the University Research Instrumentation (URI) program's funds will be used principally to meet the needs of established research groups with demonstrated capability in one of four energy areas (see Section II). The selected research area must be supported at least in part by DOE. Furthermore, the Department will consider only requests for the larger instruments, items costing about $100,000 or more, which are required to advance research in the designated area. Such instruments normally are required part-time by a number of faculty members and, therefore, it is difficult to justify purchasing the equipment in connection with an individual research project. DOE will consider funding instruments, such as scanning electron microscopes, nuclear magnetic resonance spectrometers, ion microprobes, laser diagnostic systems, etc.

This special program is complementary to and does not replace the Department's efforts to provide funds for equipment required on an individual research project supported through the cognizant research programs. Requests for such instrumentation should continue to be included in research proposals which are submitted to DOE's basic and technology research programs.

The Department expects that the equipment provided through this program should be avialable for a reasonable life span. Thus, DOE will be interested not only in how the institution will utilize the funds which the Department provides, but also the institution's plans for meeting related costs such as might be incurred in installing, operating, and maintaining the equipment during its effective life span.

An ancillary objective of this program is to ensure that graduate students are trained in the use of state-of-the-art equipment. Therefore, the number of graduate students associated with energy research projects which will utilize this equipment is of interest to DOE.

B. Eligibility and Limitations

Participation in the University Research Instrumentation program is limited to U.S. universities and colleges *which, during the past two calendar years, have conducted a minimum of $150,000 of DOE-sponsored research on-campus in the area for which the equipment is requested* (see Section II for the energy areas of principal interest in FY 1984).

DOE is establishing this limitation to ensure that the instrumentation acquired with these grants will significantly expand the research capability of institutions which have already demonstrated the capability to perform long range energy research. The Office of Energy Research believes that restricting eligibility to institutions which have performed $150,000 of DOE supported research over a two-year period will limit eligibility in this grant program to those institutions which, because of their existing commitment to energy research, are best able to incorporate advanced instrumentation into their research program.

Small research instruments (less than about $100,000 each) will not be eligible for consideration in this program. As noted above, funds for such instruments should continue to be included in proposals to the Department's cognizant research programs.

General purpose computing equipment is not eligible under this program. However, laboratory computers and associated peripherals dedicated for use in connection with the instrument(s) requested or for use with existing research instruments in the selected area(s) will be considered.

C. Clearance Under the Paperwork Reduction Act the collection of information requirements in Section III, IV, and VII of this solicitation have been approved by the Office of Management and Budget under No. 1901–0261.

II. Principal Research Areas

During FY 1984, DOE's URI program will be concerned primarily with capital equipment needed for on-campus research in four energy areas. These areas are listed below in alphabetical order. In order to indicate the potential breadth of the research in each area, a number of examples of related research topics are given. Within each area no specific projects have preference relative to other possible related projects.

1. *Bioconversions related to energy*—Metabolic aspects of fermentations and other pathways; molecular structure of key molecules and higher ordered biological entities in cells involved with energy transduction; chemistry of major substrates for bioconversion (e.g., lignocellulose); genetic manipulations involved with altering biological traits; biomass energy feedstock; etc.

2. *Combustion*—Heat transfer; fluidized bed combustion; kinetics and dynamics; combustion mechanics; hydrogen and other "exotic" fuels; solid and gaseous combustion by-products; pyrolysis; modeling of combustion processes; etc.

3. *Nucleor waste isolation research*—Geologic factors; high temperature and high pressure chemistry; migration and diffusion of radioactive materials in geologic media and the oceans; immobilization of trans-uranium elements; radiation damage; properties of ceramics containing high-level wastes; etc.

4. *Turbulent and multiphase flow*—Interface mechanics; solid suspensions in moving gases and liquids; effects of polymers on heat transfer; effects of changes of phase in moving matter; properties of fluids; etc.

While the equipment requested will be equally suitable and may be used for research on other energy-related topics, the need for the instrument(s) must be justified in terms of its value and ability to enhance the institution's capabilities in the principal energy-related research area described in the institution's application.

III. Application Preparation and Format

A. Objective

The principal objective of an application to DOE under this program is to demonstrate the potential impact of

VOL 48 ISS 202 OCT 18 1983 UMI

the requested equipment, indicating how it will:

1. Enhance the technical excellence of the institution's on-campus research programs in the area(s) for which support is requested; and

2. Increase the institution's ability to conduct more advanced research in this area(s).

Furthermore, the application should demonstrate that the institution's current and/or recent applicable research projects:

1. Are of the highest scientific merit;

2. Are contributing to the Nation's need for knowledge and data on these topics; and

3. Are contributing to the training of advanced students.

B. Application Format (OMB No. 1901–0261)

Each application submitted to the URI program must be signed by the president of the institution or his/her designated officer and the principal investigator. *The application should not exceed 30 pages in length, excluding resumes, but including attachments, photographs, tables, illustrations, lists, etc.* The pages of the application should be numbered consecutively. To facilitate orderly review, the application should include the information and be written in order indicated below:

1. *Cover Sheet:* Photocopy and complete the form in Appendix A as page 1 of each copy of the application.

2. *Summary:* This should be a concise description of the application, not more than one double-spaced typewritten page. It should include a brief description of the equipment which will be purchased or fabricated, some comments on the applicable research programs, the impact of the equipment on the institution's research programs in the selected area, and indicate the institution's plans for sharing the costs in addition to the amount requested from DOE.

3. *Narrative.*

a. *Technical merit and accomplishments of the institution's research programs in the applicable energy areas, the institution's capability and commitment to energy research in the selected area and the potential for expanding/improving the program(s) with the acquisition of the requested equipment.* This section should discuss the applicable on-campus research programs requiring the equipment and should be aimed at persuading reviewers that the institution "historically" has had strong research programs in the principal area, and that the number and quality of such programs are likely to increase in the future.

Briefly describe the overall objectives of these programs. Discuss some specific projects, including the title, name of the sponsor, and the amount of funds involved.

How does this research program relate to the institution's view of its principal responsibilities in energy research? Give examples of the institution's efforts to foster and strengthen research in the principal area and its commitment to do so in the future.

Briefly describe the equipment requested and indicate the estimated cost. It is not necessary to describe the operation of the equipment unless it is likely to be unknown to researchers in the applicable field(s). Discuss the need for equipment and its expected impact on the institution's ability to develop and carry out more effective energy research programs in the designated areas.

On a separate page, list the institution's applicable research projects in the selected area during the last three years (including title, sponsor, total funds awarded, the period involved, and the approximate number of graduate students associated with each project). Also list some of the major accomplishments of the institution's applicable research projects during the last five years.

b. *The qualifications of the faculty associated with the principal research areas and the degree of faculty experience with similar equipment.* Briefly discuss the overall experience and capabilities of the faculty to conduct research in the applicable areas.

Very briefly discuss the extent to which the faculty whose research projects are related to the energy area discussed in this application have used this or similar equipment on or off campus in recent years.

In addition, provide vitae (a maximum of one page per person) for the principal faculty members associated with the research area described in the application.

c. *Institution's plans for sharing the costs from non-Federal sources and ensuring the operation and maintenance of the equipment.* The level of cost sharing will be a factor in the evaluation of the applications. It is the Department's intent not to "negotiate" additional cost sharing over that indicated in the application.

No specific fraction of cost sharing is required, but institutions are encouraged to seek funds from all available non-Federal sources. Although none of the program funds may be used to modify buildings or facilities, such non-Federal monies, as well as other current and future non-Federal funds which the institution indicates it will provide for maintenance and operation of the equipment will be considered as "cost sharing."

Estimate the usable life span of the equipment and discuss the institution's plans for ensuring its continued availability during the first five years. If similar equipment is located at the institution or has been purchased and is still to be delivered, why is the requested equipment required?

d. *Institution's experience in utilizing and sharing other major research equipment and its plans for making the requested equipment available to faculty in other institutions.* List a few of the major research instruments which are available on campus, particularly those which might be used by faculty and students involved on the applicable energy research projects. What was the approximate original cost of each? How has the institution ensured their continued operation and maintenance? Are they available to and to what extent have they been used by researchers from other educational institutions?

Describe the institution's plans for making the requested equipment available to researchers of other universities.

IV. Estimated Cost and Budget

A. Budget Information

A proposed budget should be submitted, detailing the estimated purchase cost of the equipment, as well as installation, operation, and maintenance costs *for a period of five years.* The anticipated sources of funds for each category should be indicated. Use the budget form provided in Appendix B and append any necessary explanations (e.g. the amount of monies contributed by non-Federal sources toward the purchase of the equipment).

B. Budget Page Comments

If the institution provides non-Federal funds for related costs, such as shipping, installation, or operation and maintenance costs for the first five years, it may claim credit for them as "cost sharing."

C. Availability of Funds

The appropriation recommended for this program by Congress has been set at $4,000,000 and will be available in FY 1984.

D. Cost Principles

The cost principles contained in OMB Circular A–21, "Cost Principles Applicable to Grants, Contracts and Other Agreements with Institutions of Higher Education," will apply to this program.

V. Method of Selection and Evaluation Criteria

A. Introduction

Applications will be screened first for their relevance to DOE research interests. Those found to be relevant will then be evaluated using the criteria listed in Section V.B. Technical evaluations will be obtained from government and non-government scientists and engineers familiar with the fields of research. Institutions are requested to specifically authorize external review, for evaluation purposes only, on the cover page of the application. If the application does not specifically authorize external review, and evaluation outside the Government is desired, *DOE may be unable to give the application full consideration.*

Final decisions will be made by DOE based upon the criteria indicated below, and a secondary consideration of other factors, such as possible duplication of similar equipment, research program balance, and related factors which may be important to achieving overall program purposes.

In the evaluation and handling of an application, every effort will be made to protect its confidentiality. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to the solicitation. All principal investigators will be notified in writing of the acceptance or rejection of their applications. After the comprehensive evaluation has been completed, unsuccessful applications will be retained by DOE for a period of one year at the request of the institution. Principal investigators may request in writing copies of the evaluations of their application.

B. Evaluation Criteria

The criteria to be used in the review and evaluation of URI applications are as follows in declining order of importance. The value of the first criterion will be approximately equal to the total value of the remaining criteria. The subcriteria under each criterion are approximately equal in importance.

1. *Merit/Accomplishments.*

a. Technical merit and accomplishments of the institution's research programs in the selected energy area and any other factors which will demonstrate the institution's capability and commitment to energy research in this area; and

b. The potential for expanding/improving the program with the acquisition of the requested equipment.

2. *Faculty Qualifications/Experience.*

a. The qualifications of the faculty associated with the applicable research areas; and

b. The degree of faculty experience with similar equipment.

3. *Cost Sharing.*

a. Institution's plans for sharing the costs with non-Federal funds;

b. The reasonableness of proposed costs compared to anticipated benefits; and

c. The institution's financial plans for ensuring the operation and maintenance of the equipment.

4. *Research Equipment.*

a. Institution's experience in utilizing and sharing other major research equipment; and

b. Its plans for making the requested equipment available to faculty in other institutions.

VI. Submission of Applications

A. Address and Number of Copies

One signed original and nine copies of the application are to be submitted to: (Office to be designated).

B. Number of Proposals Per Institution

Each institution may submit a maximum of four applications. For this competition, the individual campuses of state systems are considered as separate institutions.

C. Closing Date for Receipt of Proposals

To be eligible, applications must be received by the Department of Energy by 5:00 p.m., *Month x, 1983* or postmarked by midnight, *Month x, 1983.*

D. Late Application Provisions

(The program announcement will include the standard DOE statement regarding the late submission of applications.)

VII. Other Information

A. Reports (Approved by OMB under control number 1901–0261)

A report which briefly describes the status and use of the equipment, new research projects which have been undertaken as a result of the equipment being available, financial data on operation and maintenance expenses provided by the institution, etc., will be required annually for two years following installation of the equipment. Five copies are to be submitted to: (To be designated).

B. Awards

As noted above, the Department anticipates making approximately 8 to 15 grants, each being over $100,000. It is unlikely that an institution will receive more than one award.

The awards will be announced on or before (April 15, 1984). Awards will be subject to the provisions of 10 CFR Part 600.

C. Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this Program is 81.077.

D. Use and Operation of Research Instrumentation Provided Through the URI Program

It is contrary to DOE's intent for grantees to use research instrumentation or facilities provided by this program to provide services for a fee in direct competition with private companies that provide equivalent services. In general, DOE subscribes to the guidelines issued in the National Science Program Notice Number 91, March 11, 1983, and grantees are referred to that document for further guidance on the use of this equipment by off-campus researchers.

E. Information

For further information about this announcement or to obtain copies of the application, contact: (Contracting officer to be designated when announcement is released).

[FR Doc. 83–28337 Filed 10–17–83; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER83–763–000]

Cleveland Electric Illuminating Co.; Filing

October 12, 1983.

The filing Company submits the following:

Take notice that on September 23, 1983, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 65 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio

VOL 48 ISS 202 OCT 18 1983 UMI

(City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of September 1 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Enegy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28321 Filed 10-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-132-002 and TA84-1-44-000]

Commercial Pipeline Company, Inc.; Filing

October 12, 1983.

Take notice that on October 3, 1983, Commercial Pipeline Company, Inc. (Commercial) tendered for filing Second Amended Forty-third Revised Sheet No. 3A, superseding Forty-third Revised Sheet No. 3A, pursuant to an agreement reached between the Commission Staff and Commercial in connection with Commercial's rate filings (on September 1, 1983, and September 23, 1983) in the referenced proceedings. This tariff sheet, to be effective October 23, 1983, reflects a reduction from the base rates originally proposed of $.0324 per Mcf.

The reduction in Commercial's base rates results from an agreement between the Commission Staff and Commercial that the rate of return on equity and cash working capital allowance reflected in Commercial's original filings be adjusted. Accordingly, Commercial requests that the enclosed tariff sheet be permitted to go into effect October 23, 1983, without suspension. This is the same effective date proposed in Commercial's original filings.

Commercial requests that the Commission's Regulations be waived to the extent required to permit the tariff sheet tendered herewith to become effective as proposed.

A copy of the filing is being mailed to each of Commercial's jurisdictional customers and to the Kansas Corporation Commission and Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28319 Filed 10-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-138-000]

Distrigas of Massachusetts Corp.; Proposed Changes in FERC Gas Tariff

October 12, 1983.

Take notice that on September 30, 1983, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes are based on the twelve month period ending June 30, 1983, as adjusted, and would increase jurisdictional terminalling service revenues by $3,618,146 per year. DOMAC also proposes to change in rate form from its straight commodity tiered rates to two part rates reflecting the Seaboard method of cost classification.

DOMAC states that the proposed increased rate is necessary to permit it to recover its cost of service for the test period of twelve months ended June 30, 1983, as adjusted. The cost of service reflects increases in the unit cost of terminalling services.

Copies of the filing were served upon the DOMAC's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28320 Filed 10-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-1-000]

Duke Power Co.; Filing

October 12, 1983.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on October 3, 1983 a supplement to the Company's Electric Power Contract with Rutherford Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 139.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following decreases in designated demand: Delivery Point No. 7 from 12,500 KW to 10,000 KW and Delivery Point No. 9 from 34,000 KW to 2,800 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power requests an effective date of August 18, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to Rutherford Electric Membership Corporation and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28325 Filed 10-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-769-000]

Duke Power Co.; Notice of Cancellation

October 12, 1983.

The filing Company submits the following:

Take notice that on September 27, 1983, Duke Power Company (Duke) tendered for filing a notice of cancellation of Duke's Electric Power Contract for Resale Service and Resale Schedule 11, between the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc.

Duke requests an effective date of October 31, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28326 Filed 10-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-4-000]

Michigan Wisconsin Pipe Line Co.; Notice of Tariff Filing

October 12, 1983.

Take notice that on October 3, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing to the Federal Energy Regulatory Commission (Commission) Original Sheet Nos. 19d, 19e and 19f which comprise Rate Schedule AIC-1 to Original Volume No. 1 of Michigan Wisconsin's F.E.R.C. Gas Tariff. Rate Schedule AIC-1 has been filed in compliance with § 157.209(f) of the Commission's Regulations.

Rate Schedule AIC-1 sets forth the terms pursuant to which Michigan Wisconsin will provide end user transportation pursuant to Section 157.209 of the Commission's Regulations, under transportation agreements with end users which provide for rates which include an "Added Incentive Charge" as authorized by § 157.209(f) of the Commission's Regulations.

Michigan Wisconsin has requested that Rate Schedule AIC-1 be accepted for filing and become effective on August 5, 1983, pursuant to Commission Order Nos. 234-B and 319, pertaining to Docket Nos. RM81-19 and RM81-29, respectively, which became effective on August 5, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any party wishing to become a party to the proceeding must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28324 Filed 10-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-767-000]

Pacific Power & Light Co.; Filing

October 12, 1983.

The filing Company submits the following:

Take notice that on September 26, 1983, Pacific Power & Light Company (PP&L) tendered for filing Supplement and Amendment No. 2, dated December 15, 1982 (1982 Agreement), to the Transmission Agreement dated February 25, 1976 between PP&L and Tri-State Generation and Transmission Association, Inc. (Tri-State).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28322 Filed 10-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-279-002, CP83-340-003 and CP83-428-001]

Producer-Suppliers of Transcontinental Gas Pipe Line Corp. et al.; Petitions To Amend

October 13, 1983.

Take notice that on October 11, 1983, Transcontinental Gas Pipe Line Corporation (Transco), P. O. Box 1396, Houston, Texas 77251, filed in Docket No. CP-279-002, Transco Gas Supply Company (Gasco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83-340-003, and Gasco and Transco filed in Docket No. CP83-428-001 petitions to amend the orders issued May 13, 1983, June 27, 1983, and September 12, 1983, respectively, in Docket Nos. CP83-279-000, CP83-340-000, and CP83-428-000, respectively, pursuant to Section 7 of the Natural Gas Act so as to extend the term of the authorizations until March 31, 1984, all as more fully set forth in the petitions to amend which are on file with the Commission and open to public inspection.

Petitioners state that the May 13, 1983, and the June 27, 1983, orders authorized the partial abandonment by Transco's and Gasco's producer-suppliers of sales to Transco or Gasco respectively, through October 31, 1983, of those volumes which the producer sells directly to Transco's customers under its Industrial Sales Preogram (ISP). It is further stated that the September 12, 1983, order authorized the partial abandonment by Petitioner's producer-suppliers of sales to Petitioners which are subject to Sections 102(d) and 107 of the Natural Gas Policy Act of 1978, through October 31, 1983 of those

VOL
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volumes which the producer sells directly to Transco's customers under its Contract Carriage Program (CCP). It is also stated that the orders authorized limited-term sales by the producers directly to Transco's customers through October 31, 1983. In addition, Petitioners assert that the Commission has waived the producer filing requirements applicable to abandonment of service (18 CFR 157.30) and commencement of new sales for resale in interstate commerce (18 CFR 157.24, 157.25).

Petitioners request the extension of the authorizations issued in Docket Nos. CP83–279–000, CP83–340–000, and CP83–428–000 until March 31, 1984. It is indicated that these requests are in conjunction with an Amendment to Settlement Agreement as to Rates of Transco in Docket No. RP83–11–000, which among other things extended the term of the ISP and the CCP until March 31, 1984. It is claimed that the requested authorization is necessary to effectuate the terms of the settlement and to permit Transco's customers to continue to purchase the volumes of gas without interruption.

Any person desiring to be heard or to make any protest with reference to said petitions to amend should on or before October 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28327 Filed 10–17–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–3–000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Tariff Filing

October 12, 1983.

Take notice that on October 4, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing the following tariff sheets to Original Volume No. 1 of its FERC Gas Tariff to be effective on October 4, 1983: Second Revised Sheet Nos. 87 and 88; First Revised Sheet Nos. 89 and 90; A Sheet Reserving Original Sheet Nos. 91 through 186 for Future Use.

Tennessee states that the sole purpose of Second Revised Tariff Sheet Nos. 87 and 88 is to revise its Rate Schedule IT such that is it now applicable to all non-end user transportation services pursuant to the existing regulations and § 157.209(b)(3) of the Commission's Regulations.

Tennessee further states that the purpose of First Revised Tariff Sheet Nos. 89 and 90 is to implement its Rate Schedule ITEU, applicable to all transportation service for end users pursuant to Sections 157.209(a), (b)(1), and (b)(2) of the Commission's pre-existing regulations.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28323 Filed 10–17–83; 8:45 am]

BILLING CODE 6717–01–M

Oil Pipeline Tentative Valuation; Chase Transportation Co., Inc.,

October 13, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1978 Annual Report

Valuation Docket No. PV—1452–000. Chase Transportation Company, Inc., P.O. Box 2256, Wichita, Kansas 67217

On or before November 21, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 83–28328 Filed 10–17–83; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL 2452–6]

Issuance of PSD Permit to Kaiser Aluminum and Chemical Corporation

Notice is hereby given that on September 30, 1983, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Kaiser Aluminum and Chemical Corporation at Tacoma, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulation, subject to certain conditions specified in the permit.

Copies of the permit are available for public inspection upon request at the following location: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Room 11D, M/S 532, Seattle Washington 98101.

Dated: September 30, 1983.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 83–28286 Filed 10–17–83; 8:45 am]

BILLING CODE 6550–50–M

Approval and Promulgation of State Implementation Plans; Delegation to the State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing approval of a request dated September 6, 1983 submitted from the State of Washington Department of Ecology for delegation of the Prevention of Significant Deterioration Program.

DATE: Effective date October 1, 1983.

ADDRESSES: The related material in support of this delegation may be examined during normal business hours at the following locations:

Central Docket Section (10A–83–16), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224 Sixth Avenue, SE., Rowe Six, Building #4, Lacey, Washington 98504

FOR FURTHER INFORMATION CONTACT: David Bray, Air Programs Branch M/S 532, Environmental Protection Agency, Region 10, 1200 Sixth avenue, Seattle, Washington 98101, Telephone: (206) 442–1980, FTS: 399–1980.

SUPPLEMENTARY INFORMATION: At the State-sponsored public hearing held on August 25, 1983, the State of Washington Department of Ecology (WDOE) adopted by reference certain provisions of 40 CFR 52.21 (Prevention of Significant Deterioration (PSD) program). In a letter dated September 6, 1983, WDOE requested EPA to delegate the PSD program to the State pursuant to 40 CFR 51.21(u). After EPA review of the request, a letter dated September 30, 1983 was sent to WDOE approving this delegation which encompass all sources except those on Indian lands or under the jurisdiction of the Energy Facility Site Evaluation Council. That letter is as follows:

Donald M. Moos,
Director, State of Woshington, Department of Ecology, PV–11
Olympia, Washington 98504

Dear Mr. Moos: We greatly appreciate the opportunity to have worked with your staff regarding the State implementation of the Prevention of Significant Deterioration (PSD) requirements and the other changes to your SIP mentioned in your September 6, 1983 letter. We are currently proceeding with approval of the WDOE program changes as a SIP revision. In the interim period before SIP approval, I hereby delegate authority to WDOE for administration of the Federal PSD program. All State permits issued under your PSD provisions are thereby recognized as Federally enforceable and no EPA-issued permit is needed. Furthermore, the delegation of authority to enforce the provisions of the PSD permits which were issued by EPA is granted. It should be noted that the delegation does not cover the issuance of PSD permits on Indian lands or the licensing of major energy facilities through EFSEC. Be assured that my office stands ready to assist you and your department in whatever manner possible.

A Notice announcing this delegation will be published in the **Federal Register** in the near future. The Notice will state that effective October 1, 1983, all permit applications pursuant to the PSD requirements from sources located in the State which were previously sent to EPA will now be sent to WDOE.

Since the delegation is effective October 1, 1983, there is no requirement that WDOE notify EPA of its acceptance. Unless EPA receives from WDOE written notice of objections within 10 days of the date of receipt of this letter, WDOE will be deemed to have accepted all the terms of the delegation.

An advance copy of this register is enclosed for your information.

Sincerely,

Ernesta B. Barnes,
Regional Administrator.

Enclosure
cc: C. Kleeberg, WOO

This Notice is published to notify the public that a delegation has taken place. (Section 110, Clean Air Act, 42 U.S.C. 7410(a) and 7502)

Dated: October 12, 1983.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 83–28289 Filed 10–17–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Availability of FCC Rules Volumes

October 4, 1983.

The loose-leaf volumes of FCC Rules listed on the attachment are now available from the Government Printing Office (GPO). The listing provides the price and stock number of, and the rule parts included in, each volume. Inconjunction with the listing, an order form is provided for your use.

This is set of rules volumes, revised as of September 30, 1982, is the first to be produced using an automated system. The Commission anticipates issuing a complete set of rules each year or whenever the need arises. Because of this tentative production schedule, transmittal sheets will no longer be prepared unless ablolutely necessary. Therefore, each volume will be available as a separate publication but not on a subscription basis.

Rules in these volumes are indentical to the corresponding portions of Title 47 of the Code of Federal Regulations. It is not necessary to purchase both. In addition, it is possible that an update set of rules will be printed early in 1984, depending on the success of further refinements to the automated process.

The remaining parts of the rules will be available from the GPO in pamphlet form on or about October 13, 1983.

Questions and comments may be directed to Callie Holder at 1919 M St., NW, Room 224, Washington, D.C. 20554, or by phone at (202) 632–4178.

William J. Tricarico,

Secretary, Federal Communications Commission.

Federal Communications Commission.

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982

GPO 896-016

[FR Doc.83-27750 Filed 10-17-83; 10:54 am]
BILLING CODE 6712-01-M

[MM Docket Nos. 83-1034 and 1035; File Nos. BP-811030BG and BP 810526AA]

KGY, Inc. and ABT, Inc.; Hearing Designation Order

In re applications of KGY, Inc., KGY(AM), Tumwater, Washington, Has: 1240 kHz, 250W, 1 kW-LS, U, Req: 1030 kHz, 500W, 10 kW-LS, U (MM Docket No. 83-1034, File No. BP-811030BG) and ABT, Inc., KMAS(AM), Shelton, Washington, Has: 1280 kHz, 5kW, DA-D, Req: 1030 kHz, 1 kW, 5 kW-LS, U (MM Docket No. 83-1035, File No. BP-810526AA) For construction permit.

Adopted: September 26, 1983.
Released: October 7, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by KGY, Inc. (KGY), and ABT, Inc. (ABT).

2. *KGY.* National Public Radio (NPR) filed an informal objection to a grant of the KGY application, stating that KGY's primary coverage area would remain in the metropolitan Olympia area although KGY has proposed to change its community of license to Tumwater, Washington. NPR alleged that the Tumwater location was selected solely for the purpose of meeting the gateway criteria of Section 73.37(e)(2)(ii) of the Commission's Rules, thereby circumventing the real intent of the Commission in its clear channel decision. The Mass Media Bureau, pursuant to delegated authority, denied the informal objection by letter, citing the Commission's abolition of the suburban community policy in its *Report and Order*, 53 RR 2d 681 (1983). Although the Commission noted that this policy, which attempted to ascertain an applicant's intent with respect to the community to be served, no longer served the public interest, we noted the necessity of an applicant's compliance with the rules requiring the provision of the requisite signal to the community of license. *Report and Order, supra*, at 697. Consequently, we are unable to determine from an examination of the contour map submitted by KGY whether the nighttime 25 mV/m contour would cover the business district of Tumwater, and whether the 19.2 mV/m night interference-free contour encompasses the entire residential area of Tumwater. An appropriate issue will be specified.

3. In addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will also be specified.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. (a) To determine whether the nighttime 25 mV/m contour submitted by KGY covers the business district of Tumwater, and whether the nighttime 19.2 mV/m nighttime interference-free contour encompasses the entire residential area of Tumwater; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

2. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That, within 30 days of the release of this Order, KGY shall submit a new contour map of its nighttime 25 mV/m business district coverage and 19.2 mV/m nighttime interference-free coverage of the residential area of Tumwater; the map shall contain a specific delineation of the main business district of Tumwater and the boundaries of the community sufficient to determine whether the proposed coverage would be sufficient.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-28318 Filed 10-17-83; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; First Oak Brook Bancshares, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Oak Brook Bancshares, Inc.*, Oak Brook, Illinois; to acquire 95.2 percent or more of the voting shares or assets of Warrenville Bank and Trust Co., Warrenville, Illinois. Comments on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28267 Filed 10-17-83; 8:45 am]
BILLING CODE 6210-01-M

Formation of a Bank Holding Company; Kansas Bank System, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kansas Bank System, Inc.*, Topeka, Kansas; to become a bank holding company by acquiring 97 percent of the voting shares of Kansas State Bank of Manhattan, Manhattan, Kansas. Comments on this application must be received not later than November 10, 1983.

Board of Governors of the Federal Reserve System, October 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28286 Filed 10-17-83; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Barclays Bank PLC et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approved of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing

VOL
48
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should identify clearly the specific application to which they relate, and should be submitted in writting and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and *Barclays Bank International Limited*, London, England (consumer finance and insurance activities; South Carolina): To engage through their subsidiary, BarclaysAmerican/Financial, Inc. ("BAF"), in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance, such insurance activities being permissible pursuant to sections 601 (A) and (D) of the Garn-St Germain Depository Instititions Act of 1982. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by the insurance underwriting subsidiaries of Barclays-American-Corporation. These activities would be conducted from a relocated office of BAF in Charleston, South Carolina, serving Charleston and surrounding areas in South Carolina. comments on this application must be received not later than November 8, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Boncorporation*, Sheboygan, Wisconsin (management consulting and data processing activities; Indiana, Michigan, Illinois, Iowa, Minnesota, North Dakota, South Dakota): To engage through its subsidiary, Citizens Management Services Corporation in providing management consulting advice to nonaffiliated banks and nonbank depository institutions; and providing data processing and data transmission services, data bases or facilities for the internal operations of the holding company or its subsidiaries, and for others. These activities previously have been authorized to be conducted in Wisconsin and the upper peninsula of Michigan from an office to be located in Milwaukee, Wisconsin. Applicant proposes to expand the geographic area in which the activities would be conducted by adding the states of Indiana, Michigan, Illinois, Iowa, Minnesota, North Dakota and South Dakota. Comments on this application must be received not later than November 2, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Coronado Bancshores, Inc.*, El Paso, Texas (financing activities; Texas, New Mexico): To engage directly in consumer and commercial lending activities, including the extension of direct loans to commercial businesses; direct loans to individuals; the purchase of retail and commercial installment notes or contracts receivable and any other extension of credit which would be made by a commercial lender, and including servicing such loans for others. These activities would be performed from an office in El Paso, Texas, serving El Paso, Hudspeth and Culberson Counties in Texas, and Dona Ana County in New Mexico. Comments on this application must be received not later than November 4, 1983.

Board of Governors of the Federal Reserve System, October 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28289 Filed 10-17-83; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0482]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed fee schedule: Extension of comment period.

SUMMARY: The Board of Governors of the Federal Reserve System has extended the period for receipt of public comments on its proposed fee schedule and service enhancements for automated clearinghouse ("ACH") services. The comment period is extended through December 2, 1983.

DATE: Comments must be received by December 2, 1983.

ADDRESS: Comments, which should refer to Docket No. R-0482, may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452-2231 or Florence M. Young, Progam Manager (202/452-3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On September 23, 1983 (48 FR 44650, September 29, 1983), the Board of Governors proposed a revised fee schedule, float reduction plan and service enhancements for the ACH service. The proposed fee schedule represented a restructuring of ACH fees. In addition, several new enhancements to the ACH service were proposed. Proposed methods for reducing and pricing ACH float were also included in the request for comment.

Comment was requested on the proposal by November 7, 1983. Requests have been received for additional time in which to submit comments. In view of the issues involved in the proposal and in order to provide interested parties with additional time in which to present their views, the comment period has been extended through December 2, 1983.

By order of the Board of Governors, acting through its Secretary under delegated authority, October 12, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-28271 Filed 10-17-83; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0485]

Private Sector Adjustment Factor

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: The Board of Governors is requesting public comment on the methodology for calculating the Private Sector Adjustment Factor ("PSAF") for 1984.

DATE: Comments must be received by November 30, 1983.

ADDRESS: Comments, which should refer to Docket No. R-0485, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Earl Hamilton, Assistant Director (202/452-3874), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Robert G. Ballen (202/452-3265), Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Pub. L. 96-221) provides that over the long run, fees for the Federal Reserve's priced services are to be based upon costs, including the "taxes that would have been paid and the return on capital that would have been furnished by a private business firm." Accordingly, the PSAF should be thought of as a financial or accounting yardstick that facilitates the imputation of capital costs and taxes to the Federal Reserve. Over time, however, the pricing process more generally should seek to ensure that economic resources are allocated and payments services are provided in the most efficient ways possible.

The Board has examined the issues relating to the current methodology that has been used in calculating the PSAF and requests comment on the following:

a. *Choice of Model.* Since Federal Reserve Banks are unique organizations, it is not possible to find totally comparable private sector firms to use as a model for imputing the cost of capital and taxes. In view of the unique nature of the Federal Reserve, the PSAF could be calculated by abandoning reference to the actual experience of any private sector firm, and judgments could be made regarding the Federal Reserve's cost of capital and taxes had it been a private firm. However, in view of the fact that there would be no basis upon which to determine the appropriateness of any judgments made among the infinite number of costs of capital and tax possibilities, the Board proposes that those entities most closely comparable to the Federal Reserve with regard to its priced services continue to be used as a model for purposes of calculating the PSAF.

In reaching this decision four alternative types of entities were analyzed: Public utilities, government-sponsored organizations such as the Federal National Mortgage Association, nonbank data processing companies, and bank holding companies. Bank holding companies are currently used as the model for the PSAF.

The Board rejected public utilities as a model because services provided by these entities generally do not resemble those of the Federal Reserve. Moreover, their capital costs and structure are such as to result in a PSAF that probably would be lower than that derived from a bank holding company model.

Government-sponsored entities also were determined not to be appropriate as a model because their services generally are not comparable to those of the Federal Reserve. The services provided by government-sponsored entities predominantly relate to extensions of credit, rather than to payments-related services of the Federal Reserve. In addition, the cost of capital of government-sponsored entities, in part because of their government sponsorship, would result in a lower cost of capital for the PSAF calculation than using the bank holding company model.

While use of nonbank data processing companies as a model was considered and previously rejected, a more comprehensive review of the data processing company model was undertaken in view of the suggestion that such companies provide the appropriate model for the PSAF. The Board continues to believe that the data processing companies do not provide the appropriate model given the dissimilarity between their services and those of the Federal Reserve. Although both the Federal Reserve and data processing companies use computers, a detailed analysis of the services of six data processing companies that others have suggested be used as a model for the PSAF indicated that their service offerings are significantly different from the priced services activities of the Reserve Banks and that they are not the appropriate model.

First, the prospects of these data processors are tied to developments in activities far removed from those of the Federal Reserve. Second, the different services provided by the Federal Reserve and these data processors necessitated different inputs into the production process. For example, the data processors specified do not collect checks like the Federal Reserve and other depository institutions. Third, to the limited extent to which the activities of the data processors are at all comparable to those of the Federal Reserve, the data processors generally only perform a portion only one step in the payments process—the recording and transfer of payments information. The Federal Reserve, in contrast, performs many, and in some cases all, of the steps that take place as payments are made. Finally, none of these six data processing companies that others have suggested be used as a model included the Federal Reserve as a competitor in its discussion of competitors in its 1982 Form 10-K filings with the Securities and Exchange Commission. Further, only one of the six has commented on a single occasion on the Federal Reserve's pricing proposals, and that comment was limited to a narrow point.

It has been suggested that since large bank holding companies engage in a number of activities other than correspondent banking, their capital costs do not provide an appropriate model for the Federal Reserve. Clearly, large banking organizations engage in a wide range of activities—many of which are related to the activities of correspondent divisions. The fact that the correspondent banking division does not raise capital on its own and interacts with the totality of the banking organization generally reinforces the logic of using the bank holding company model.

Thus, taking into account the services offered, and the obvious fact that large banking organizations are the competitors of the Federal Reserve, the Board proposes that large bank holding companies continue to be the appropriate model upon which to construct the PSAF.

The Board is also considering the risk that might be associated with the correspondent operations of the banking organization on a stand-alone basis and, in turn, what that might imply for the discount or premium of the market price of its stock relative to book value. Unfortunately, there is virtually no reasonable basis for determining whether, in fact, correspondent services would be perceived as more or less risky by the market than other banking operations—in part because the correspondent services are tied together with the entire bank. Moreover, even if that determination could be made, there is no way to anticipate how the market would respond.

The Board also considered the issue of the selection of the specific bank holding companies to be included within the PSAF model. Currently, the model is comprised of the 12 largest bank holding companies in the United States. These institutions were chosen primarily because of their size and their importance in the correspondent banking business. It has been suggested that this sample is inappropriate because it is, in general, too small and because the market value of the stock of these companies may be materially below book value, which in turn lowers

VOL 48 ISS 202 OCT 18 1983 UMI

the cost of equity capital in the PSAF calculation.

The Board believes that the suggestion to expand the size of the sample has merit. Such an expansion would reduce the potential that overall results will be biased by individual institutions, and provide greater geographic representation. Accordingly, the Board proposes to expand the sample to include the 25 largest bank holding companies.

With regard to the suggestion that in the market value of the stock of the bank holding companies in the sample is too low relative to book value, the Board noted that the stock of very few large bank holding companies currently is selling at or above book value. However, using the proposed sample of 25 large bank holding companies does raise the market-to-book ratio of the sample. For example, as of mid-1983, the market-to-book ratio for the 25 companies was about 83 percent versus about 75 percent for the smaller sample of 12 holding companies. On balance, there is no basis for judging why these firms' stock sells below book, or for knowing whether their correspondent divisions on a stand-alone basis (to the extent they could be segregated from the rest of the company) could command a stock market valuation at or near book. Similarly, there is no basis for judging how the market would value the Federal Reserve's payments services business. The Board believes that the market-book relationship in the proposed sample of the 25 largest holding companies would provide a reasonable basis for estimating the cost of equity in the PSAF calculation. Accordingly, for purposes of the PSAF model, the Board proposes to use the cost of equity of the 25 largest bank holding companies, which are the major alternative suppliers of the priced services offered by the Fed.

b. *Long-Term Assets.* The Federal Reserve faces the same judgments as other firms in apportioning the cost of shared assets (primarily) long-term assets such as property, buildings and equipment) among different operations.

The Federal Reserve currently apportions long-term assets on the basis of the ratio of operating expenses for priced services to total operating expenses. This expense ratio is approximately 40 percent. While this expense ratio provides a reasonable proxy for the assets employed in priced services and is administratively simple to implement, direct determination of the uses of assets based upon the Federal Reserve's Planning and Control System ("PACS") would more precisely identify the assets used in the provision of priced services. Accordingly, the Board proposes that the expense ratio method for asset determination be replaced by the direct determination method.

The proposed direct determination method would use the PACS accounting system, which provides data that can directly link single-purpose assets to either priced or non-priced services. In addition, PACS provides the same information for assets, such as buildings and centralized computers, that are used jointly in the provision of priced and non-priced services. For example, depreciation is a component of total occupancy costs, which are redistributed to all PACS activities. Since this depreciation is linked directly to assets carried on the Federal Reserve's balance sheet, the assets can be linked to the production of priced and non-priced services. The Board believes this procedure would result in a more precise determination of the asset base than the current method.

As indicated in Tables 1 and 2, the total value of assets attributable to priced services declines under the direct determination method. Although the value of furniture and equipment increases under the proposed methodology, the increase is more than offset by a decline in the value of buildings allocated to priced services. This occurs because the percentage of building space directly and indirectly used by priced services is, in fact, smaller than that which was estimated using the 40 percent expense ratio for priced services. In part, this is because staff of the System's data collection activities in support of monetary and economic policy and supervision and regulation functions, as well as bank examination and other non-priced and central bank functions occupy space arranged in the traditional office setting. On the other hand, check processing and other priced services functions predominantly occupy production-type facilities and make intensive use of space and other resources. In particular, check operations use less floor space per person and use equipment and space 24 hours a day as compared with a normal eight hour day in most non-priced areas. Further, fiscal agency and cash operations, which are non-priced services, occupy a significant amount of space.

c. *The Tax Rate Used in the PSAF Calculation.* The tax rate currently used for the PSAF calculation is based on the ratio of current taxes to total taxable income of the holding companies included in the sample. Deferred taxes are excluded from this ratio. In addition, an adjustment is made to add the tax effect of tax-free interest income from state and municipal securities. Deferred taxes are not factored into the ratio because they do not represent taxes paid during the current year and are likely not to be paid until far into the future. The adjustment for tax-free income is made because it is believed that holding such securities is related to the investment strategy of the organization.

The Board proposes that the current method of calculating the tax ratio with an adjustment to eliminate extraordinary gains and losses, by used to calculate the 1984 PSAF. This method is incorporated into the calculations shown in Table 2. With no changes in methodology, the 1984 tax rate for the original sample of 12 bank holding companies would be 35.1 percent—down from 38.1 percent in 1983. For the proposed larger sample, the 1984 tax rate would be 35.8 percent.

The Board is also requesting public comment on an alternative tax rate calculation method. The alternative tax rate would be based upon the financial statement provision for income taxes which takes into account deferred taxes. It has been suggested that from an accounting perspective, the inclusion of deferred taxes would provide a more useful representation of the overall tax liability of a firm. Under this method, the effective tax rate for 1984 would be approximately 40 percent and the pre-tax rate on equity would be approximately 23 percent, thus adding about $2 million to be recovered from the PSAF.

d. *Date for the Asset Base Estimate.* The current methodology uses the average asset base for the previous year, although estimated expenses are based on the year in which the PSAF is to be applied (e.g., the 1983 calculation used assets as of September 29, 1982). The Board proposes that the asset base for the year in which the PSAF would apply be adjusted to reflect the value of assets expected to be acquired and disposed of in that year. Since the assets of the Reserve Banks are expected to be higher in 1984 than in 1983, this change would increase PSAF recoveries by approximately $1.6 million.

e. *Sales Taxes.* The current methodology does not include an imputation for the sales taxes that would have been paid by the Reserve Banks if they were like other private firms. The Board proposes that the estimated sales taxes that would have been paid were it not for the Reserve Banks' statutory exemption be recovered as part of the PSAF for 1984. This amount is tentatively estimated at approximately $4.9 million.

f. *Board of Governors Assets and Expenses.* Currently, Board staff expenses are not subject to recovery and Board assets are not included in the PSAF asset base. The Board proposes that the expenses incurred by Board staff working directly on the development of prices be subject to recovery. Similarly, the Board proposes that the assets employed in this specific activity be included in the PSAF asset base. It is estimated that in 1984, about $1.9 million in operating expenses at the Board of Governors would be included in expenses subject to recovery and that the asset base would be raised by about $0.5 million to take account of fixed assets of the Board of Governors used for this purpose.

g. *Shipping Expenses.* Shipping expenses currently are excluded from the PSAF calculation because the assets employed in the production of shipping services are not Federal Reserve assets, but rather are owned by the various carriers with whom the Reserve Banks deal. It has been suggested that this treatment is inappropriate, but the criticisms of this treatment has been in the context of PSAF methodology in which the PSAF asset base is determined on an expense ratio method. When priced service assets are determined directly as the Board is proposing instead of on an expense ratio basis, the removal of shipping expenses from the calculation has no effect on total recoveries. Including shipping expenses in the PSAF denominator would result in a lower PSAF being applied to a higher expense base with the product of the two remaining unchanged. As a result, the Board has determined that the original basis for excluding shipping expenses from the calculation remains correct, and proposes no change in this area.

h. *Leased Assets.* Currently, leases for space and equipment by the Federal Reserve Banks are not capitalized and the value of such leases are not included in the asset base used to calculate the PSAF.

Specific criteria have been established by the Financial Accounting Standards Board (FASB) in its Rule 13 for determining which leases should be capitalized. The Federal Reserve currently does not make a case-by-case determination as to which of its leases meet FASB Rule 13. However, in view of the rule, it has been suggested that the Federal Reserve capitalize its leases for purposes of determining the PSAF. Accordingly, the Board proposes that all leases that become effective on or after January 1, 1984, that meet FASB Rule 13 be capitalized. In addition, the Board proposes that current leases be examined to determine if any adjustments are needed. However, as indicated below, even if some such leases would be capitalized, it is very unlikely that this would have an effect on the dollars to be recovered via the PSAF.

Lease payments currently made by the Reserve Banks include the implicit financing costs that are incurred by the lessors for acquiring the assets. If the value of leases were capitalized and included in the PSAF, the financing costs would be double-counted—once in expenses to be recovered and once in the cost of capital associated with the asset base. Thus, to avoid such double-counting, these leases should not be in the asset base even if they meet FASB Rule 13. As a result, capitalizing leases would have no effect on the PSAF. The pattern of expenses, however, might be affected, to a limited extent, over the term of the leases because the proportion of interest to principal included in the amount amortized is higher in the early years and lower in the later years of the lease.

i. *Book Value of Physical Assets.* Currently, for purposes of calculating the PSAF, the Federal Reserve uses book value—as opposed to some estimate of market value—for Federal Reserve physical assets such as buildings and equipment. The Board proposes to continue to use the book value of fixed assets in the calculation of the PSAF. The use of book values is universal in private business. Furthermore, it is the actual historical cost of acquiring assets that must be financed—not their value at some later date. The practice of using book value for buildings, equipment, and property is consistent with banking industry practices and consistent with generally accepted accounting principles. Determining a normal rate of return on the basis of historical cost is the prevailing practice throughout the private sector. In particular, the assets of the large bank holding companies used as the source of the cost of capital are reported at book value.

A decision to value assets at market would essentially require using a market value accounting system since it would be necessary to take into account the income created by increases in asset values. Such an accounting system does not now exist. If such an accounting system were developed, the capital associated with increases in asset values would be generated automatically. In this event it would not be necessary to raise new funds to support the higher asset values.

Judging the relationship between market and book values is not easy. However, in considering the Federal Reserve's equipment (which is approximately $75 million or almost 30 percent of total long-term assets), it seems reasonable to conclude that market value is not likely to exceed book value and, in fact, book values might exceed market values. This would follow from the fact that such equipment is predominantly processing equipment where declining prices for new equipment and technological changes may reduce the market value of existing equipment at a faster rate than is provided for in the relevant depreciation schedules.

With regard to building assets, there is little question that, in the aggregate, the market value of Federal Reserve buildings is greater than adjusted book value. However, when considering the value of the space used by the Reserve Banks for priced service activities, it is important to recognize that the portions of the buildings used for priced services are not considered premium space. Therefore, the test of whether the book value of space devoted to Federal Reserve priced services is significantly at odds with market value cannot be judged by looking at the book value/market value relationship for the building as a whole, but rather should be judged by looking at the market value of the specific space used for priced services versus its adjusted book value. Even this more limited comparison is not easy to make. However, in looking at the prevailing rents charged by some of the Reserve Banks to outside tenants in relationship to the PACS charges for space devoted to priced services, it appears that such PACS charges are, on average, in line with this proxy for the market value of such space.

On this basis, it would appear that market values of space in Federal Reserve buildings devoted to priced service activities are approximately in line with the adjusted book values of such space. However, even if they were out of line, it is not clear—even from the perspective of overall economic efficiency as opposed to accounting norms—that market values should be used in calculating the cost of capital for Federal Reserve priced services. That is, if the Federal Reserve used market values and its competitors did not (assuming the market value of the competitors' assets also exceeded book value), all other things being equal, this could produce a less efficient allocation of societal resources.

It is because neither economics nor accounting can provide perfect guidance

on these issues that the approach taken with regard to the acquisition of new assets takes on special importance. That is, decisions to acquire or not to acquire a particular asset must be undertaken within the context of rigorous capital budgeting procedures. The Federal Reserve has had such procedures in place for a number of years. However, in view of their increased importance in the proceed service environment and to ensure that such procedures are consistent with the PSAF calculation, it has been determined to undertake a review of all such procedures to ensure that the methods used are appropriate and are consistently applied in all cases.

j. *Short-Term Assets.* For 1982 and 1983, the largest component (about $60 million) of short term assets was net adjustment float, which was included in the PSAF calculation as a proxy for liquid assets that the Reserve Banks would use for priced services. Since the value of all Federal Reserve check float—including net adjustment float—will be recovered through service fees in 1984, the Board proposes to remove the financing costs of net adjustment float from the asset base that is used to calculate the PSAF. It should be clearly emphasized that the effect of this change is essentially a shift from one class of recovery to another, which has only a small effect on the total dollars to be recovered.

As in past years, Federal Reserve short-term assets will include receivables, supplies, and deferred charges. In 1984 these items aggregate to about $27 million as opposed to about $20 million in 1983.

Under the proposed methodology, clearing balances that depository institutions maintain at the Reserve Banks to pay for services would be considered a short term asset. During the past year, the amount of clearing balances has grown considerably. Total clearing balances averaged $978 million between July 20 and August 10, 1983. The growth in clearing balances can be attributed to two factors. First, more depository institutions are finding clearing balances a convenient way of compensating for services and interterritory check float. Second, the number of small depository institutions using Federal Reserve services has increased and many of them prefer to compensate for services with clearing balances.

Because of the significant growth in clearing balances, the financing aspects of clearing balances and the methodology used to calculate earnings credits on clearing balances were reevaluated. In general, the income earned by the assets attributable to clearing balances should be at least equal the earnings credits provided on these balances. Using the average three-month U.S. Treasury bill rate over the first half of 1983 and assuming clearing balances in 1984 average $1 billion, the total income earned for 1984 would be $82.5 million.

Under current policy the Reserve Banks apply earnings credits only to the required clearing balance level, not the actual level. The earnings credits are calculated at the Federal funds rate. For 1984, it is estimated that about $800 million of the approximately $1 billion in clearing balances would be required balances. Excess balances arise in part because of sharp short run swings and seasonal peaks in the use of Federal Reserve services. Using the average Federal funds rate for the first half of 1983 and assuming $800 million in required clearing balances in 1984, the cost of such balances to the Federal Reserve would be $69.3 million. Thus, the System income on clearing balances is anticipated to exceed expenses by $13.2 million ($82.5 million −$69.3 million).

The Board also studied the methodology used by correspondent banks to calculate the rate of return they provide on correspondent balances, which are analytically similar to clearing balances. If a correspondent balance is maintained at a correspondent bank, the correspondent would be required to maintain reserves on the balances held. In most cases, the correspondent would be at a marginal reserve requirement rate of 12 percent. Generally, the correspondent bank takes this factor into consideration when it calculates the rate paid on the balance. Because correspondent banks generally adjust the earnings rate by the marginal reserve requirement, maintaining clearing balances at a Reserve Bank may be more attractive to a respondent bank. However, when maintaining a balance at a correspondent bank, the respondent bank is permitted to deduct the balance from its reservable liabilities. Therefore, the difference between the rate the Reserve Banks apply is not the 12 percent marginal reserve requirement rate but rather the difference between this 12 percent rate and the respondent banks' marginal reserve requirement rate, which is a "due from" deduction for the respondent. It has been estimated that the earnings rate applied by Reserve Banks should be reduced by about 7 percent on average for it to be comparable to the value generally received by respondent banks on clearing balances. Had this adjustment been made, the earnings credit rate would have been reduced approximately 7 percent on average. This reduction would result in revenues being $5 million less than the $13.2 million net interest revenue from clearing balances (see Table 4). Accordingly, the Board proposes that the rate the Reserve Banks apply to clearing balances be adjusted to reflect the net value of the balances to the respondent, which takes into account the correspondent's marginal reserve requirement and the respondent's due from deduction.

The amount of excess clearing balances are expected to be reduced in 1984 because of new procedures being adopted by the Reserve Banks. Reserve Banks are in the process of developing a new service that will allow depository institutions to transfer their excess balances more readily to other institutions, which could then invest them in the Federal funds market. If the excess balances are reduced to the point that the System income on such balances will be less than expenses, the rate paid on such balances may be adjusted. One adjustment under consideration in that event would be to calculate the earnings credit at the U.S. Treasury bill rate rather than at the Federal funds rate. In any event, clearing balances and their corresponding assets could be managed such that the total income to the Federal Reserve at least equals the cost of such balances to the Federal Reserve.

Net Effect of Proposed Chonges. The net effect of the above proposed changes on the estimated dollars which must be recovered via the PSAF is modest. As indicated in Table 2, if the 1984 calculations were made using the present methodology, the percentage of these costs to capital would be 15.9 percent, the dollars to be recovered via the PSAF would be $59.4 million and the ratio of the dollars to be recovered to estimated expenses would be 15.34 percent. Using the proposed methodology, these magnitudes are 18.86 percent, $56.2 million, and 14.51 percent, respectively.

By order of the Board of Governors, October 12, 1983.

William W. Wiles,

Secretary of the Board.

TABLE 1.—PRO FORMA BALANCE SHEET PRICED SERVICES 1984

[In millions]

	Current method	Proposed method
Current Assets:	**Assets**	
Receivables	$23.6	$23.6
Adjustments, net	45.5	
Supplies	3.9	1.9
Deferred charges	2.0	1.8
	75.0	27.1
Government securities		1,000.0
Long-term assets:		
Bank premises	220.5	[1] 183.2
Equipment and furniture	78.2	67.7
	298.7	270.9
Total assets	373.7	1,298.0
	Liabilities and Equities	
Liabilities:		
Clearing balances		$1,000.0
Short-term debt	$75.0	27.1
Long-term debt	101.9	79.1
Total liabilities	176.9	1,106.2
Equity	196.8	191.8
Total liabilities and equities	373.7	1,298.0

[1] Includes an allocation of space for the Board building.

TABLE 2.—PRIVATE SECTOR ADJUSTMENT FACTOR

	1983 estimated	1984 Current	1984 Proposed
I. Assets to be financed (million):			
Current	$80.3	$75.0	$27.1
Long-term	288.5	298.7	270.9
II. Cost of capital:			
Short-term debt rate (percent)	13.06	9.63	9.48
Long-term debt rate (percent)	10.63	10.33	10.01
Pre-tax equity rate (percent)	20.53	21.17	21.25
Weighted average cost of capital (percent)	16.35	15.90	17.20
III. Tax rate (percent)	38.1	35.1	35.8
IV. Captial structure:			
Short-term debt (percent)	21.8	20.0	9.1
Long-term debt (percent)	25.8	27.3	26.5
Equity (percent)	52.4	52.7	64.4
PSAF:			
Recovery (millions)	$60.3	$59.4	$56.2
As percent of capital	16.35	15.90	18.86
As percent of expenses	18.01	15.34	14.51

TABLE 3.—PSAF AND OTHER RECOVERIES, CALENDAR YEAR 1984

[Millions]

	1984 Current	1984 Proposed
I. PSAF recoveries:		
Total PSAF recoveries	$59.4	
Changes due to:		
Explicit pricing of adjustments, net	−4.4	
Direct determination of assets	−6.8	
Changes in the sample	+1.4	
Use of prospective assets	+1.6	
Sales taxes	+4.9	
Allocation of board assets	+.1	
Net changes		−3.2

TABLE 3.—PSAF AND OTHER RECOVERIES, CALENDAR YEAR 1984—Continued

[Millions]

	1984 Current	1984 Proposed
Total PSAF recoveries		$56.2
II. Other recoveries:		
Estimated expenses	$387.3	$387.3
Board of Governors expenses		1.9
Transportation expenses	78.8	78.8
Total other revenues	466.1	468.0
III. Float recovery:		
Value of "residual float"	39.3	39.3
Value of adjustments, net		4.0
Total float recoveries	39.3	43.3
Grand total of recoveries	564.8	567.5

TABLE 4.—CLEARING BALANCE REVENUE AND EXPENSE

[Millions]

	1984	
Total clearing balance income	$82.5	
Total clearing balance credits used	−69.3	
Net revenue from clearing balances	13.2	
Adjustments for reserve requirements	−5.0	
Net clearing balance income		$8.2

[FR Doc. 83-28270 Filed 10-17-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of August 23, 1983 [1]

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on August 23, 1983.

The following domestic policy directive was issued to the Federal Reserve Bank of New York:

The information reviewed at this meeting suggests continued rapid growth in real GNP in the current quarter. Industrial production increased sharply in July following large gains in the second quarter. Nonfarm payroll employment also rose substantially further in July and the civilian unemployment rate declined ½ percentage point to 9.5 percent. After rising sharply in the spring, retail sales have leveled off recently. Housing starts edged down over the past two months but permits continued to rise. Recent data on new orders and shipments on average continued to indicate strength in the demand for business equipment.

[1] The Record of Policy actions of the Committee for the meeting of August 23, 1983, is filed a part of the orginal document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

In July, information on producer and consumer prices and the index of average hourly earnings was consistent with earlier indications of a considerable moderation in the rate of inflation.

Growth in the broader monetary aggregates slowed substantially in July, bringing M2 to a level near the midpoint of the Committee's range for 1983 and M3 to a level somewhat below the upper limit of its range. Growth in M1 decelerated considerably from its May–June pace, but its level remained above the Committee's monitoring range for the year. Interest rates rose appreciably through much of the intermeeting period but recently market rates have retraced most of their rise.

In part reflecting the course of U.S. interest rates, the weighted average value of the dollar against major foreign currencies rose substantially further in July and early August, but the rise was followed by a subsequent decline that reversed most of the earlier increase. The U.S. foreign trade deficit was smaller in June than in May, but the deficit in the second quarter was much larger than in the first as imports rose while exports were essentially unchanged.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in July the Committee reconsidered the growth ranges for monetary and credit aggregates established earlier for 1983 in furtherance of these objectives and set tentative ranges for 1984. The Committee recognized that the relationships between such ranges and ultimate economic goals have become less predictable; that the impact of new deposit accounts on growth of the monetary aggregates cannot be determined with a high degree of confidence; and that the availability of interest on large portions of transaction accounts may be reflected in some changes in the historical trends in velocity.

Against this background, the Committee at its July meeting reaffirmed the following growth ranges for the broader aggregates: For the period from February–March of 1983 to the fourth quarter of 1983, 7 to 10 percent at an annual rate for M2; and for the period from the fourth quarter of 1982 to the fourth quarter of 1983, 6½ to 9½ percent for M3. The Committee also agreed on tentative growth ranges for the period

VOL
48
ISS
202
OC
18
1983
UMI

from the fourth quarter of 1983 to the fourth quarter of 1984 of 6½ to 9½ percent for M2 and 6 to 9 percent for M3. The Committee considered that growth in M1 in a range of 5 to 9 percent from the second quarter of 1983 to the fourth quarter of 1983, and in a range of 4 to 8 percent from the fourth quarter of 1983 to the fourth quarter of 1984 would be consistent with the ranges for the broader aggregates. The associated range for total domestic nonfinancial debt was reaffirmed at 8½ to 11½ percent for 1983 and tentatively set at 8 to 11 percent for 1984.

In implementing monetary policy, the Committee agreed that substantial weight would continue to be placed on the behavior of the broader monetary aggregates. The behavior of M1 and total domestic nonfinancial debt will be monitored, with the degree of weight placed on M1 over time dependent on evidence that velocity characteristics are resuming more predictable patterns. The Committee understood that policy implementation would involve continuing appraisal of the relationships between the various measures of money and credit and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

The Committee seeks in the short run to maintain the existing degree of reserve restraint. The action is expected to be associated with growth of M2 and M3 at annual rates of around 8 percent from June to September, consistent with the targets established for these aggregates for the year. Depending on evidence about the strength of economic recovery and other factors bearing on the business and inflation outlook, lesser restraint would be acceptable in the context of a significant shortfall in growth of the aggregates from current expectations, while somewhat greater restraint would be acceptable should the aggregates expand more rapidly. The Committee anticipates that a deceleration in M1 growth to an annual rate of around 7 percent from June to September will be consistent with its third-quarter objectives for the broader aggregates, and that expansion in total domestic nonfinancial debt would remain within the range established for the year. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, October 11, 1983.

Stephen H. Axilrod,

Secretory.

[FR Doc. 83-28270 Filed 10-17-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Mesa Petroleum Co. et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction and Waiting Period Terminated Effective

(1) Transaction Number 83-0746—Mesa Petroleum Company's proposed acquisition of voting securities of KNE Energy, Inc., October 6, 1983

(2) Transaction Number 83-0761—Roxboro Investments (1976) Ltd.'s proposed acquisition of the Permian Corporation (Occidental Petroleum Corporation, UPE), October 6, 1983

(3) Transaction Number 83-0776—The Superior Oil Company's proposed acquisition of assets of Southland Royalty Company, October 6, 1983

(4) Transaction Number 83-0781—Tandy Corporation's proposed acquisition of voting securities of O'Sullivan Industries, Incorporated (Conroy, Inc., Hugh Halff, Jr., UPE), October 6, 1983

(5) Transaction Number 83-0785—Gerber Products Company's proposed acquisition of assets of Skyland International Corporation, October 6, 1983

(6) 83-0725—GFI/Knoll International Holding Company's proposed acquisition of assets of Scott Paper Company, September 30, 1983

(7) 83-0759—Mutihospital Mutual Insurance, Limiteds's proposed acquisition of voting securities of American Continental Insurance, Company (American Financial Corporation, UPE), September 30, 1983

(8) 83-0767—Alco Standard Corporation's proposed acquisition of voting securities of Southwest Distributing Company, October 5, 1983

(9) 83-0774—Riedel International Inc.'s (Arthur A. Riedel, UPE) of assets of Lone Star Industries, Incorporated, October 5, 1983

(10) 83-0744—St. Regis Corporation's proposed acquisition of voting securities of the Dependable Insurance Group, Inc. of America (C. Herman Terry, UPE), October 5, 1983

(11) Transaction Number 83-0757—Irving Trust, Trustee of United States Sugar Corporation, Corporation Employee Stock Ownership Plan of voting of United States Sugar Corporation, September 29, 1983

(12) Transaction Number 83-0722—Berkshire Hathaway, Inc.'s proposed acquisition of voting securities of Nebraska Furniture Mart Inc., September 29, 1983

(13) Transaction Number 83-0749—The UpJohn Companies of voting securities of O's Gold Seed Company (Central Soya Company, Inc.), September 28, 1983

(14) Transaction Number 83-07769—Sacks Textile Associates, Inc.'s proposed acquisition of voting securities of Wellman, Inc. (John G. Wellman, UPE), September 28, 1983

(15) 83-0738—The Williams Companies' proposed acquisition of voting securities of Northwest Energy Companies, September 26, 1983

(16) 83-0740—The Williams Companies proposed acquisition of voting of Phillips Petroleum Chemical Company (Philip Pacific Chemical Company, UPE), September 26, 1983

(17 Transaction Number 83-0799—Gerber Products Company's proposed acquisition of voting securities of Weather Tamer and Affiliates, October 7, 1983

(18) 83-0714—Eastman Kodak Company's proposed acquisition of assets of the Detatape Division of Bell & Howell Company, September 27, 1983

(19) 83-0762—Xerox Corporation's proposed acquisitioni of assets of Circle Leasing Corporation (Merchants National Corporation, UPE), September 29, 1983

(20) 83-0765—James H. Jones' proposed acquisition of voting securities of Kahan & Lessin Company (Fleming Companies, Inc., UPE), September 29, 1983

(21) 83-0768—Peabody International Corporation's proposed acquisition of voting securities of Dale Electronics Inc. (The Lionel) Corporation, UPE), September 29, 1983

(22) 83-0763—KKR Associates' proposed acquisition of voting securities of HMW Industries, Inc., September 29, 1983

(23) 83-0764—KKR Associates' proposed acquisition of voting securities of HMW Industries, Inc., September 29, 1983

(24) 83-0623—American Medical International's proposed acquisition of assets of Doctor's Medical Center, Incorporated, September 23, 1983

(25) 83-0754—Enstar Corporation's proposed acquisition of voting securities of Indonesian Superior Oil Company (The Superior Oil Company, UPE), September 23, 1983

(26) 83-0758—The Prudential Insurance Company of America's proposed acquisition of voting securities of Eastern Propane, Incorporated (UGI Corporation, UPE), September 23, 1983

(27) Transaction Number 83-0804—Saugatuck Capital Company Limited Partnership's proposed acquisition of assets of C-E Morgan, Inc. (Combustion Engineering, Inc., UPE)—October 6, 1983

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretory.

[FR Doc. 83-28335 Filed 10-17-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: SEATTLE DISTRICT OFFICE, chaired by Kenneth A. Hansen, District Director. The topic to be discussed is Direct-to-Consumer Advertising of Prescription Drugs.

DATE: Tuesday, October 25, 1983, 1:30 p.m. to 3:30 p.m.

ADDRESS: Federal Bldg., Rm. 589, U.S. Courthouse, 550 Fort St., Boise, ID 83724.

FOR FURTHER INFORMATION CONTACT: Ellen M. Miller, Consumer Affairs Officer, Food and Druig Administration, 5009 Federal Office Bldg., Seattle, WA 98174, 206-442-1311.

KANSAS CITY DISTRICT OFFICE, chaired by James A. Adamson, District Director. The topic to be discussed is Direct-to-Consumer Advertising of Prescription Drugs.

DATE: Wednesday, October 26, 1983, 9 a.m. to 12 p.m.

ADDRESS: Senior Services, Inc., 335 West Lewis St., Wichita, KS. 67202.

FOR FURHTER INFORMATION CONTRACT: Lorena A. Meyers, Consumer Affairs Officer, Food and Drug Administration, 1009 Cherry St., Kansas City, MO 64106, 816-374-3817.

or

Patricia MacDonald, Director of Health Education, Wichita-Sedgwick County Department of Community Health, 1900 East Ninth St., Wichita, KS 67214, 316-268-8401.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-28334 Filed 10-13-83; 4:02 pm]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicare and Medicaid Programs; Schedules of Guidelines for Physical Therapy and Respiratory Therapy Services

Correction

In FR Doc. 83-26740, beginning on page 44922, in the issue of Friday, September 30, 1983, make the following corrections:

1. On page 44928, in the first paragraph under the table, in the third line "increase of 12." should read "increase by 12."

2. On page 44929, In the third column, in the Certified Respiratory table, in the entry for Wyoming, "16.39" should read "16.29".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Oregon; John Day Resource Management Plan, Summary of Proposed Land Use Alternatives and Scoping Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of John Day document and notice of public meeting for participation and scoping of John Day document.

SUMMARY: Pursuant to Section 43 CFR 1610.3 and 1610.4-5 of the regulations for resource management planning, the Department of the Interior, Bureau of Land Management, Burns District Office has developed proposed alternatives to facilitate scoping of the John Day Resource Management Plan (RMP) and Environmental Impact Statement (EIS). Two public meetings have been scheduled to invite comments in person on the plan.

SUPPLEMENTARY INFORMATION:

The plan will result in land use allocations and resource management directions for approximately 182,000 acres of public land in the Three Rivers Resource Area. The John Day planning area is located in Grant and the northern portion of Harney Counties. Major resource management issues include grazing and timber management, land tenure and anadromous fisheries.

The draft plan and EIS will be available for public review in the spring of 1984 and the final statement is scheduled to be completed in September of 1984. Decisionmaking will take place in the fall of 1984 and include publication of a record of decision and rangeland program summary. The original notice of intent to prepare the John Day RMP/EIS was published in Federal Resister and local news media on Juanuray 28, 1981. A revised notice of intent, published in the **Federal Register** on December 16, 1982 suggested that an amendment to the existing plan might be more appropriate than a total plan revision. Public comments and staff analysis confirmed the need for continuation of the RMP process, and four proposed alternatives have been developed to address the major resource management and allocation issues.

Copies of the John Day RMP Summary of Proposed Land Use Alternatives have been sent to the Districts' current mailing list. Copies are also available for review at:

BLM, Burns District Office, 74 Alvord, St., Burns, OR

BLM, Oregon State Office, 825 N.E. Multnomah St., Portland, OR

Grant County Library, 507 South Canyon Blvd, John Day, OR

Harney County Library, 80 West D St., Burns, OR

The public is invited to submit written comments, by November 25, 1983 on (1) the elements which should be in the preferred alternative plan (or proposed action); (2) ideas on the formulation of other alternatives which should be addressed in the EIS; (3) ideas on issues which should be addressed in the EIS and (4) factors or criteria shich should be used in the development or selection of a preferred alternative plan. Comments or questions may also be

VOL
48
ISS
202
OC
18
1983
UMI

presented in person at one of the scheduled planning and EIS scoping meetings. Meetings have been scheduled in the Grant County Courthouse in John Day on November 15, 1983, at 7:30 p.m. and in Burns at the Harney County Museum Clubroom on November 16, 1983 at 7:30 p.m.

Written public comments will be available for public review in the District Office. Public and interagency comments and suggestions will be reviewed by the Burns District Advisory Board on December 12, 1983 in Burns, Oregon. The final plan will be approved by the BLM, Oregon State Director. Additional information may be obtained or viewed at the Burns District Office during regular business hours (7:45 a.m. to 4:30 p.m.)

DATE: Comments must be received by November 25, 1983.

ADDRESS: Written comments, requests for copies of the summary document or request for further information should be directed to: Larry Morgan, Bureau of Land Management, Burns District, 74 South Alvord Street, Burns, OR 97720, Telephone (503) 573–5241.

Dated: October 7, 1983.

Thomas R. Thompson, Jr.,

Associate District Manager.

[FR Doc. 83–28283 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–84–M

National Public Lands Advisory Council; Call for Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for Nominations for National Public Lands Advisory Council.

SUMMARY: The purpose of this notice is to call for nominations for seven memberships on the Bureau of Land Management's National Public Lands Advisory Council.

The Council consists of 21 members. Under the staggered-term arrangement instituted by the Secretary of the Interior in 1981, the terms of seven members on the Council will expire on December 31, 1983. Current Council members may be reappointed or new members may be appointed. Terms of appointment will be for three years, beginning January 1, 1984, and expiring December 31, 1986.

Nominees for membership should be well qualified through education, training and experience to give informed and objective advice concerning land use and resource planning for the public lands

DATE: Nominations should be received by the Bureau of Land Management by November 18, 1983.

ADDRESS: Persons wishing to nominate individuals to serve on the Council should send biographical data that includes name, address, profession, and other relevant information about the candidate's qualifications to: Director (150), Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The function of the Council is to advise the Secretary of the Interior, through the Director, Bureau of Land Management, on policies and programs of a national scope related to the resources and uses of public lands under the jurisdiction of the Bureau of Land Management.

The Council is expected to meet three times a year. Additional meetings may be called by the Director in connection with special needs for advice. Members will serve without salary, but will be reimbursed for travel and per diem expenses at rates prevailing for Government employees.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Bureau of Land Management (150), Department of the Interior, Washington, D.C 20240. Telephone: (202) 343–2054.

Dated: October 13, 1983.

Robert F. Burford,

Director.

[FR Doc. 83–28350 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–84–M

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Bureau of Land Management, Medford District Advisory Council will be held November 16, 1983.

On November 16 the meeting will begin at 2:30 p.m. in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The agenda for the meeting will include:

(1) A discussion of the Medford District's Draft Environmental Impact Statement on grazing;

(2) An update on the timber sale contract relief implementation policy (grace period continuation) for the district; and

(3) Attending a public meeting on the Grazing Draft Environmental Impact Statement starting at 7:30 p.m. in the Medford District Office's Oregon Room.

The meeting of the advisory council is open to the public. Interested persons may make oral statements to the board between 2:30 p.m. and 4:30 p.m. on November 16, of file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by November 12, 1983. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the district office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date signed: October 7, 1983.

Hugh R. Shera,

District Manager.

[FR Doc. 83–28317 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

[INT–DES 83–69]

Ruedi Reservoir Round 2 Water Sale, Fryingpan-Arkanas Project, Colorado; Public Hearing on Draft Supplement to the Final Environmental Statement

A public hearing will be held in Glenwood Springs, Colorado, by the Bureau of Reclamation to receive comments on the draft supplement (INT–DES 83–69), to the final environmental statement for the Fryingpan-Arkanas Project, Colorado. The draft supplement was filed with the Environmental Protection Agency on October 6, 1983.

The final environmental statement (INT–FES 75–43) was filed in April 1975 in compliance with the National Environmental Policy Act of 1969, as amended.

The draft supplement displays the environmental consequences of a proposed water sale that would provide for future competing water demands that include industrial (primarily oil shale), municipal, recreation, wildlife, and fisheries.

The public hearing will be held at the Ramada Inn in Glenwood Springs, Colorado, on November 17, 1983, starting at 9 a.m. and continuing until all oral comments are heard. Hearing witneses will be allowed 10 minutes to present their oral comments.

Speakers will not be allowed to trade or consolidate the time in order to obtain a longer oral presentation; however, the Hearing Officer may allow a speaker to provide additional oral comments after scheduled witnesses have been heard. Additional comments will be limited to 10 minutes.

Persons wishing to make oral statements will be scheduled in the order that written or telephone requests are received unless a specific time period is requested. If a speaker requests a specific time period, the speaker will be scheduled to speak as close to the requested time as possible. Scheduled speakers not present when called will lose their privilege in the scheduled order, and their names will be recalled after all other scheduled speaker have been heard.

Individuals and organizations wishing to make oral statements should contact the Lower Missouri Regional Office, Bureau of Reclamation, Building 20, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–3779, by letter or telephone. Requests for scheduled presentations will be accepted until 4 p.m. on November 15, 1983. Speaking requests received subsequent to that time will be handled on a first come, first served basis following the scheduled presentations. Written comments from those unable to attend and those wishing to supplement their oral presentations will be accepted for the record until 4 p.m., December 5, 1983. Written comments should be addressed to the Regional Director at the address listed above and should specify that they are to be included in the hearing record.

Dated: October 12, 1983.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 83–28262 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

Overmountain Victory National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Overmountain Victory National Historic Trail Advisory Council will be held at 10:00 a.m. on Thursday, November 3, 1983, in the Soco House, Blue Ridge Parkway, North Carolina.

The purpose of the Overmountain Victory National Historic Trail Advisory Council is to consult and advise with the Secretary of the Interior or his designee on matters of planning, management and trail development of the Overmountain Victory National Historic Trail. The agenda will include: Interpretive Brochure, Commemorative Motor Route Sign Program, the McDowell House, Expanded National Park Service Role and Certification Process.

The members of the Advisory Commission are as follows:

Mr. Robert M. Baker, Chairman
Mr. James A. Cannaday
Mr. Randall Ray Gregory
Mrs. Jean Hawkins
Mr. Dennis Kline
Mr. Tommy G. Reed
Mr. Sydnor M. White
Mr. Fred Burgin, Jr.
Mrs. Harriette Vaden Price
Mr. Walter Carl Cockerham
Mr. Tyron Elliott
Mr. Hugh Atkins
Mr. David L. Thomas
Mr. Roy A. Taylor
Mr. Walter H. Schrader
Mr. Frank Robinson
Mr. W. Blair Keller, Jr.
Mr. Terry Chilcoat
Mr. George Olson
Mr. Andrew Duncan, Jr.
Mr. Jon A. Moffett
Mr. John F. Nichols, Jr.
Mr. Carl Gillis, Jr.
Mr. William H. Hecht
Mr. Richard L. Heffner
Mr. Mark C. Hicks, Jr.
Mr. David B. Morgan III
Mr. John S. Wilkerson

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matter to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Paul Swartz, Chief, Planning and Compliance Division, National Park Service, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia 30303, Telephone 404/221–5465. Minutes of the meeting will be available for public inspection at the above address approximately 4 weeks after the meeting.

Dated: October 6, 1983.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 83–28339 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–70–M

Santa Monica Mountains National Recreation Area; Meeting

Notice is hereby given that two public hearings of the Santa Monica Mountains National Recreation Area will be held. They are scheduled for Tuesday, November 8, 1983 at 7:30 p.m., in the Elkins Auditorium at Pepperdine University, 24255 West Pacific Coast Highway, Malibu, California, and Wednesday, November 9, 1983 at 7:30 p.m. in the City Council Hall Chambers, 401 Hillcrest Drive Thousand Oaks, California.

The topic for discussion will be the Code of Federal Regulations, special regulations for the Santa Monica Mountains National Recreation Area.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

A summary of public comment will be available by December 9, 1983.

Dated: October 7, 1983.

Daniel R. Kuehn,

Superintendent.

[FR Doc. 83–28340 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–70–M

Cuyahoga Valley National Recreation Area, Ohio; Availability of Plans of Operations for Drilling an Oil Well

Pursuant to Title 36, Chapter 1, Part 9, Minerals Management Comprehensive Regulations, notice is hereby given that the National Park Service has received a plan of operations for drilling an oil well at Cuyahoga Valley National Recreation Area from the K.S.T. Oil and Gas Co., Inc., of Stow, Ohio 44224.

A copy of the plan of operations is available for review and comment at the Headquarters of the Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio 44141. Written comments should be mailed to the Superintendent at this address and such comments will be made a part of the official record when received within thirty (30) days of the date of the publication of this notice.

Inquiries should be made to Rodney D. Royce, Compliance Officer, at the above address or at telephone (216) 526–5256, Ext. 42.

Dated: October 5, 1983.

Randall R. Pope,

Regional Director, Midwest Region.

[FR Doc. 83–28253 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–70–M

[N1623]

Grand Canyon National Park, Arizona; Availability of Backcountry Management Plan

The National Park Service, U.S. Department of the Interior, has updated and modified the Backcountry Management Plan for Grand Canyon National Park and proposed to implement this plan in October, 1983. An

environmental assessment was prepared in September, 1982 which publicly presented several alternatives for backcountry management at Grand Canyon National Park. These alternatives were: Continuing to manage the backcountry under the 1974 guidelines allowing unrestricted use in the backcountry, and implementing the proposed action.

Public meetings were held in Flagstaff, Phoenix, Tucson, Arizona; and Kanab, Utah. In addition, 600 environmental assessments were sent out to the public for a 60-day review period. A rough draft Backcountry Management Plan was then prepared. One hundred and twenty copies of this draft were sent out to the public for a 40-day review period. The park received one hundred and twenty four letters commenting on the assessment of the draft plan.

The following table summarizes the changes made to the September 1982 Environmental Assessment as a result of public comments.

Proposed Action

Environmental assessment, September 1982	Final plan
1. Identification of four backcountry zones developed, threshold, primitive undeveloped.	No change.
2. Change from trailhead limits to use-area limits.	Do.
3. Intensified monitoring effort.	Do.
4. Stabilize total animal use at recent levels.	Do.
5. Implement backcountry use limits based upon parties and groups rather than total number of individuals.	Do.
6. Allow at-large camping in some areas and designated sites in others (maintain established campgrounds).	Do.
7. Propose specific limits on use in each use-area.	The limits in undeveloped areas increased from one to two parties of one group per night. The one party limit was criticized as being too restrictive for such large areas. The limits in one threshold area (Upper Tapeats) were increased from one party to two parties to more accurately reflect the physical carrying capacity. Due to the existence of primitive roads, Snap Point and Grant Wash Cliffs Use-areas were redesignated from undeveloped to primitive. The Cross-canyon Corridor Campground party limits were modified to reflect more accurately the number of campsites available (Indian Gardens from 13 to 16 parties, Bright Angel from 29 to 33 and Cottonwood from 10 to 14). The Turquois, at 3 parties and one group, was changed to Ruby (2 parties, 1 group) and Slate (2 parties, 1 group); Apache, at 1 party and zero groups was split into Fossil (2 parties or 1 group) and Olo (2 parties, or 1 group).
8. Computerize reservation system.	No change.
9. Eliminate phone-in reservations.	Do.
10. Six-month reservation period.	The 6-month reservation period was changed to a 15-month reservation period.
11. Limit stock to maintained corridor trails and to threshold and primitive rim use areas.	No change.
12. Limit stock overnite in corridor to one party per campground per nite, not to exceed 10 persons.	The Bright Angel campgrounds is the only campground authorized for overnight private stock use.
13. Annual plan review ..... Other options section	No change.
14. Cross-canyon Corridor Use Plan.	One comment (favorable was received). No further action has been taken or recommended.
15. Commercial Use (six options were granted).	The plan allows for commercial use under a commercial use license or concessions permit only. Use is allowed in all backcountry areas but Cross-canyon Corridor commercial use is restricted from the period March 1 through September 30 to purposes of access to non-corridor backcountry areas only (with the exception of special populations groups).
16. Reservations Procedures (both fees and reservation periods of different lengths were presented here).	No fees will be charged until authorized by Congress. Change to 15 month reservation period, (see No. 10 above).
17. Campfires (three options presented).	Campfires on rims in fire grates at designated sites only, no at-large wood collections.

Implementation of the plan will accomplish the following objectives: (1) Stabilize use at recent historic levels in the backcountry, (2) provide the backcountry hiker with an opportunity for a wide spectum of backcountry recreation opportunities, (3) improve the ability of management to accommodate the large demand for overnight use within the Cross-canyon Corridor campgrounds and (4) promote a more even distribution of backcountry use throughout the year. A backcountry monitoring program will assert changes in backcountry conditions and patterns of visitor use. Future use modifications, mitigation and management actions will be based on the information provided by this program and upon an annual program review.

Specific actions under the plan include: The division of the backcountry into use-areas and zoning of these use-areas as either developed, threshold, primitive, or undeveloped; development of criterion upon which to base management of these four zones; establishment of use limits for each area (based upon number of individual parties and groups per night); implementation of a research and monitoring program; and mitigation of some impacts through a site restoration and rehabilitation program. Also included under the plan are changes to the backcountry reservations system (lengthening of the reservation period and elimination of reservations by telephone).

A limited number of copies of the document are available on request from the Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 56023 (602) 638–2411.

Dated: October 3, 1983.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 83–28254 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–70–M

Grand Canyon National Park, Grand Canyon, Arizona; Revision of the 1977 Grand Canyon Village Development Concept Plan

Abstract: When the Grand Canyon Village Development Concept Plan was completed in 1977, it specified removal of the entire Bright Angel Lodge complex. A reevaluation of the significance of the lodge complex led to its nomination to the National Register of Historic Places in 1982. Based on the new status of the Bright Angel Lodge, the National Park Service now proposes its retention. This will increase the number of lodging units in the Village area from 871 to 904.

Background: Two of the goals as stated in the 1977 Grand Canyon Village Development Concept Plan were to (1) mitigate the haphazard and unsightly development and congestion along the rim in the Historic Village, and (2) recognize, protect and utilize the architectural heritage.

Based on a review of historic structures in the South Rim vicinity, 1975 the National Park Service nominated the Grand Canyon Village Historic District to the National Register of Historic Places. This district form listed the Bright Angel Lodge complex as a nonhistoric element. Due to the nonhistoric status of the lodge complex, it was recommended for removal in accordance with the above-stated objective to remove congestion along the rim in the Historic District. Scheduled for removal in Phase I were about 20 cabins west of the Bright Angel Lodge and in Phase III was the remainder of the lodge complex, including the rim cabins and the lodge building itself.

In October 1982, an Addendum was submitted to the National Register staff which proposed the designation of the Bright Angel Lodge complex as a significant element of the Village Historic District. Based on the change in status for the Bright Angel Lodge complex, the National Park Service has reevaluated retention of the lodge complex in accordance with the objective to protect and utilize the architectural heritage in the Village area.

Proposal

Based on the change in status for the Bright Angel Lodge complex, the National Park Service is now proposing retention of the lodge complex in accord with the plan objective to protect and utilize the architectural history. Retention of the lodge complex will increase the South Rim lodging capacity by about 4 percent from 870 units to 903 units.

Environmental Review

The evironmental impacts of this action were fully analyzed and presented to the public in the environmental impact statement on the proposed development concept plan (FES 76–9, February 9, 1976). Consequently, the action is considered a categorical exclusion under Departmental Manual 516 DM 6, Appendix 7.4A(1): changes or amendments in approved plans, when such changes have no potential for causing significant environmental impact. In addition, a new Memorandum of Agreement between the National Park Service, State Historic Preservation Officer and Advisory Council on Historic Preservation has been initiated which reflects the plan amendment.

For further information on this plan revision, please contact Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023, telephone (602) 638–7888.

Dated: October 5, 1983.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 83–28255 Filed 10–17–83; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 7, 1983. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by November 1, 1983.

Carol D. Shull,

Chief of Registration, National Register

ALABAMA

Russell County

Phenix City, *Brooks-Hughes House (Phenix City MRA)*, 1010 Sandfort Rd.
Phenix City, *Brownville-Summerville Historic District (Phenix City MRA)*, Roughly bounded by 15th and 23rd Sts., and 6th and 11th Aves.
Phenix City, *Floyd-Newsome House (Phenix City MRA)*, 900 22nd St.
Phenix City, *Girard High School (Phenix City MRA)*, Sandfort Rd.
Phenix City, *Girard Historic District (Phenix City MRA)*, Roughly bounded by 8th Pl., 10th St., 5th., and 8th Aves.
Phenix City, *Kid Alley Residential Historic District (Phenix City MRA), 11th Ave. at 9th Pl.*
Phenix City, *Lower Twentieth Street Residential Historic District (Phenix City MRA)*, 20th St. from 2nd to 6th Aves.
Phenix City, *Morgan-Curtis House (Phenix City MRA)*, 1815 Abbott Dr.
Phenix City, *Shapre-Monte House (Phenix City MRA)*, 726 6th Ave.
Phenix City, *Smith Residential Historic District (Phenix City MRA)*, 20th St., 7th Ave., and 6th Court
Phenix City, *Snow Valley Residential Historic District (Phenix City MRA)*, 11th and 12th Sts. at 11th Ave.
Phenix City, *Upper Twentieth Street Residential Historic District (Phenix City MRA)*, 1201–1217 W. 20th St.

CONNECTICUT

New Haven County

Naugatuck, *Salem School*, 124 Meadow St.
New Haven, *Cook, John, House*, 35 Elm St.
Seymour, *Seymour High School and Annex*, 100 Bank St.

FLORIDA

Marion County

McIntosh, *McIntosh Historic District*, Roughly bounded by RR Right-of-way, 10th St., Aves. C and H

KENTUCKY

Daviess County

Owensboro, *St. Joseph Church*, 4th and Clay Sts.

Fayette County

Lexington, *North Limestone Commercial District*, N. Limestone St. between Church and 3rd Sts.

Oldham County

Brownsboro vicinity, *Yewell-Snyder House*, 6206 N. Hitt Lane

Shelby County

Shelbyville vicinity, *Allen Dale Farm*, Off US 60

NEW MEXICO

San Miguel County

San Geronimo, *San Geronimo Historic District*, Off NM 283

NEW YORK

Kings County

New York, *Public School 7*, 131–143 York St.

New York County

New York, *Apollo Theater*, 253 W. 125th St.

PENNSYLVANIA

Allegheny County

Pittsburg, *East Carson Street Historic District*, Roughly E. Carson St. from 9th to 24th Sts.

Chester County

Coatesville vicinity, *Bailey, John, Farm (East Fallowfield Township MRA)*, Springdell Rd.
Coatesville vicinity, *Brandywine Building and Loan Assoc. Rowhouses (East Fallowfield Township MRA)*, Hephzibah Hill Rd.
Coatesville vicinity, *DeHaven, Harry, House (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Dougherty, Edward, House (East Fallowfield Township MRA)*, Mt. Carmel Rd.
Coatesville vicinity, *Dougherty, Philip, House (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Dougherty, Phillip, Tavern (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Drovers Inn (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.

VOL 48 ISS 202 OCT 18 1983 UMI

VOL 48 ISS 202 OCT 18 1983 UMI

Coatesville vicinity, *Ercildoun Historic District (East Fallowfield Township MRA)*, PA 82 and SRs T368, 15236, T371, and 182
Coatesville vicinity, *Gladden, Joseph, House (East Fallowfield Township MRA)*, West Chester Rd.
Coatesville vicinity, *Glen Rose Historic District (East Fallowfield Township MRA)*, SRs 15178 and T371
Coatesville vicinity, *Hanna, John, Farm (East Fallowfield Township MRA)*, Fairview Rd.
Coatesville vicinity, *Mortonville Bridge (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Mortonville Hotel (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Passmore, Mansel, House (East Fallowfield Township MRA)*, Glen Rose Rd.
Coatesville vicinity, *Pawling, Isaac, House (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Pennock, Martha, House (East Fallowfield Township MRA)*, PA 82
Coatesville vicinity, *Powell Farm (East Fallowfield Township MRA)*, Dupont Rd.
Coatesville vicinity, *Powell, John, House (East Fallowfield Township MRA)*, Hephzibah Hill Rd.
Coatesville vicinity, *Pusey, Joshua, House (East Fallowfield Township MRA)*, Saw Mill Rd.
Coatesville vicinity, *Scott, David, House (East Fallowfield Township MRA)*, Mt. Carmel Rd.
Coatesville vicinity, *Scott, Thomas, House (East Fallowfield Township MRA)*, Park Ave.
Coatesville vicinity, *Steen, Robert, House (East Fallowfield Township MRA)*, Fairview Rd.
Coatesville vicinity, *Vaughan, Rev. Joshua, House (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Walton, Asa, House (Strasburg Road TR) (East Fallowfield Township MRA)* Strasburg and Old Wilmington Rds.
Coatesville vicinity, *Wentz, John, House (East Fallowfield Township MRA)*, PA82
Coatesville vicinity, *White Horse Tavern (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Wilson, Robert, House (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
Coatesville vicinity, *Young, Robert, House (Strasburg Road TR) (East Fallowfield Township MRA)*, Strasburg Rd.
West Chester, *Buckwalter Building*, 11–13S. High St.

Huntington County

Shirleysburg, *Leas, Benjamin B., House, US 522*

Lancaster County

Lancaster, *Lancaster Trust Company*, 37–41 N. Market St.
Lancaster, *Reilly Brothers and Raub Building*, 44–46 N. Queen St. and 45 N. Market St.

Northumberland County

Sunbury, *Sunbury Historic District*, Roughly bounded by Arch, Chestnut, Front, and 5th Sts.

Philadelphia County

Philadelphia, *Parkside Historic District*, Bounded by Penn-Central RR track, 38th St., Girard, Parkside, and Belmont Aves.

RHODE ISLAND

Kent County

Lambert Farm Site, Meadows Archeological District, Trafalgar Site

Newport County

Jamestown Archeological District, Pine Hill Archeological Site

Providence County

Harrisville, *Harrisville Historic District*, Roughly bounded by Wood and Sherman Rds., East Ave., Main, Chapel, School, and River Sts.
Pawtucket, *Adams, John F., House (Pawtucket MRA)*, 11 Allen Ave.
Pawtucket, *Bridge Mill Power Plant (Pawtucket MRA)*, 25 Roosevelt Ave.
Pawtucket, *Burnham, E.A., House (Pawtucket MRA)*, 17 Nickerson St.
Pawtucket, *Childs-Brown House (Pawtucket MRA)*, 172 Pine St.
Pawtucket, *Collyer Monument (Pawtucket MRA)*, Mineral Spring Park
Pawtucket, *Conant Thread/Coats & Clark Mill Complex District (Pawtucket MRA)*, Roughly bounded by Lonsdale Ave., Pine, Conant, Carpenter, and Rand Sts.
Pawtucket, *Division Street Bridge (Pawtucket MRA)*, Division St. at Seekonk River
Pawtucket, *Fifth Ward Wardroom (Pawtucket MRA)*, 47 Mulberry St.
Pawtucket, *Fire Station No. 4 (Pawtucket MRA)*, 474 Broadway
Pawtucket, *First Ward Wardroom (Pawtucket MRA)*, 171 Fountain St.
Pawtucket, *Foster-Payne House (Pawtucket MRA)*, 25 Belmont St.
Pawtucket, *Fuller Houses (Pawtucket MRA)*, 339–341 and 343–345 Broadway
Pawtucket, *Gilbane's Service Center Building (Pawtucket MRA)*, 175–191 Pawtucket Ave.
Pawtucket, *Kotzow, Louis, House (Pawtucket MRA)*, 641 East Ave.
Pawtucket, *Main Street Bridge (Pawtucket MRA)*, Main St. and Pawtucket Falls
Pawtucket, *Mitchell-Arnold House (Pawtucket MRA)*, 41 Waldo St.
Pawtucket, *Pawtucket Armory (Pawtucket MRA)*, 172 Exchange St.
Pawtucket, *Pawtucket City Hall (Pawtucket MRA)*, 137 Roosevelt Ave.
Pawtucket, *Pawtucket Elks Lodge Building (Pawtucket MRA)*, 27 Exchange St.
Pawtucket, *Pawtucket Times Building (Pawtucket MRA)*, 23 Exchange St.
Pawtucket, *Pawtucket West High School (Pawtucket MRA)*, 485 East Ave.
Pawtucket, *Payne, Charles, House (Pawtucket MRA)*, 25 Brown St.
Pawtucket, *Potter-Collyer House (Pawtucket MRA)*, 67 Cedar St.
Pawtucket, *Quality Hill Historic District (Pawtucket MRA)*, Roughly bounded by I–95, Cottage, Lyon, Bend, and Potter Sts.
Pawtucket, *Riverside Cemetery (Pawtucket MRA)*, 724 Pleasant St.
Pawtucket, *Scholze-Sayles House (Pawtucket MRA)*, 625 East Ave.
Pawtucket, *South Street Historic District (Pawtucket MRA)*, Roughly South Street between Meadow and Fruit Sts.
Pawtucket, *St. John the Baptist Church (Pawtucket MRA)*, 68 Slater St.
Pawtucket, *St. Mary's Church of the Immaculate Conception Complex (Pawtucket MRA)*, 103 Pine St.
Pawtucket, *St. Paul's Church (Pawtucket MRA)*, 50 Park Pl.

Washington County

Bull, Jireh, Blockhouse Historic Site,
Hamilton, *Hamilton Mill Village Historic District*, Boston Neck and Martha Rds., Salisbury and Web Aves.

TENNESSEE

Davidson County

Nashville, *St. Ann's Episcopal Church*, 419 Woodland St.

TEXAS

Bexar County

San Antonio, *St. Anthony Hotel*, 300 E. Travis St.

Dallas County

Dallas, *Winnetka Heights Historic District*, Roughly bounded by Davis and 12th Sts., and Rosemont and Willomet Aves.

Victoria County'

Victoria, *Phillips, Judge Alexander H., House*, 705 N. Craig St.

WYOMING

Natrona County

Casper, *Midwest Oil Company Hotel*, 136 E. 6th St.

The 15-day commenting period for the following property is being waived in order to assist the building's preservation through rehabilitation on a new site.

NORTH CAROLINA

Wayne County

Goldsboro, *Weil, Solomon, House*, 205 W. Chestnut St. (Proposed Move)

[FR Doc. 83–28257 Filed 10–14–83; 8:45 am]
BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–137]

Certain Heavy-Duty Staple Gun Tackers; Initial Determination Termination Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Complainant, Arrow Fastener Co., Inc. (Arrow) and respondents Test-Rite Products Corp., Test-Rite International (Taiwan) Ltd., Test-Rite Automotive Ltd., Menard, Inc., Dart Drug Corp., ACO, Inc., Wal-Mart Stores, Inc., Waverly Screw and Hardware, Inc., Pep Boys-Manny, Moe and Jack of California, TSC Industries, Inc., Venture Stores, Inc., The Handyman of California, Inc., Quality Master Co., Ltd., and Upmaster.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the intitial determination. The initial determination in this matter was served upon the parties on October 13, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, Telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne. Office of the Secretary, U.S. International Trade Commission, Telephone 202–523–0176.

By order of the Commission.

Issued: October 13, 1983.

Kenneth R. Mason,
Secretary.

[FR Doc. 83–28336 Filed 10–17–83; 8:45 am]
BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–18 (Sub-49)]

The Chesapeake and Ohio Railway Company—Abandonment in Vinton County, OH; Exemption

The Chesapeake and Ohio Railway Company (applicant) has filed a notice of exemption for an abandonment under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is a portion of applicant's Pomeroy Subdivision located in Vinton County, OH, between Station 1043+80, at or near Creola, and Station 1501+21, at or near Dundas, a distance of 8.66 miles.

Applicant has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Ohio has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, and employees affected by the abandonment shall be protected pursuant to *Oregon short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). The exemption will be effective on November 17, 1983 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 28, 1983 and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by November 7, 1983 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Rene J. Gunning, General Attorney, Chessie System Railroads, Suite 2204, 100 North Charles Street, Baltimore, MD 21201, (301) 237–3813.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided:

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–28455 Filed 10–17–83; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 3, 1983–October 7, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,
(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and
(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,392; J. Shoeneman Co., Winchester, VA
TA–W–14,469; Pro Corp., Florence, MA
TA–W–14,573; Union Electric Steel Corp., Burgettstown, PA
TA–W–14,444; Tygort Industries, Inc., Versailles Boro & McKeesport, PA

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TA–W–14,574; Distillers Co., Limited, Linden, NJ

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,540; The American Ship Building Co., Amship Div., Lorain, OH Shipyard

TA–W–14,602; Eastern Knitting Mills, Blenheim, NJ

TA–W–14,526; Brown Shoe Co., Potosi, MO

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,765; Tony's Branch Coal Co., Bloomingrose, WV

Aggregate U.S. imports of metallurgical coal are negligible.

TA–W–14,776; Island Creek Coal Co., VP #2 Mine, Buchanan County, VA

Aggregate U.S. imports of metallurgical coal are negligible.

TA–W–14,779; Island Creek Coal Co., VP #5 Mine, Buchanan County, VA

Aggregate U.S. imports of metallurgical coal are negligible.

TA–W–14,780; Island Creek Coal Co., VP #6 Mine, Buchanan County, VA

Aggregate U.S. imports of metallurgical coal are negligible.

TA–W–14,775; Island Creek Coal Co., VP #1 Mine, Buchanan County, VA

Aggregate U.S. imports of metallurgical coal & coke did not increase as required for certification.

TA–W–14,777; Island Creek Coal Co., VP #3 Mine, Buchanan County, VA

Aggregate U.S. imports of metallurgical coal & coke did not increase as required for certification.

TA–W–14,778; Island Creek Coal Co., VP #4 Mine, Buchanan County, VA

Aggregate U.S. imports of metallurgical coal & coke did not increase as required for certification.

TA–W–14,800; Shenango, Inc., Neville Island Foundry, Neville Island, PA

Aggregate U.S. imports of ingot molds are neghigible.

TA–W–14,801; Shenango, Inc., Coke & Iron Div., Neville Island, PA

Aggregate U.S. imports of ingot molds are negligible.

TA–W–14,802; Shenango, Inc., Sharpsville Foundry, Sharpsville, PA

Aggregate U.S. imports of ingot molds are negligible.

TA–W–14,761; Fox Creek Mining Co., Danville, WV

Aggregate U.S. imports of metallurgical coal did not increase as required for certification.

TA–W–14,531; Maryland Shipbuilding & Drydock Co., Baltimore, MD

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–14,528; Ingersoll-Rand Co., Proto Hand Tool Div., Jamestown, NY

A certification was issued covering all workers separated on or after March 1, 1982.

TA–W–14,612; Wright & McGill Co., Denver, CO

A certification was issued covering all workers separated on or after April 20, 1982 and before August 15, 1983.

TA–W–14,613; Wright & McGill Co., Aurora, CO

A certification was issued covering all workers separated on or after April 20, 1982 and before August 15, 1983.

TA–W–14,605; Del Truck Equipment, Inc., Buffalo, NY

A certification was issued covering all workers separated on or after April 19, 1982 and before June 18, 1982.

TA–W–14,614; Canon Coal Co., Clarksville, PA

A certification was issued covering all workers separated on or after April 20, 1982 and before July 1, 1982.

TA–W–14,713; Johnson Controls, Inc., Systems & Service Div., Dallas Facility, Carrollton, TX

A certification was issued covering all workers separated on or after October 1, 1982 and before March 1, 1983.

TA–W–14,752; Hibbing Taconite Co., Hibbing MN

A certification was issued covering all workers separated on or after June 6, 1982.

TA–W–14,511; Aluminum Co. of America, Mobile, AL

A certification was issued covering all workers separated on or after March 16, 1982.

TA–W–14,207; Wellco Enterprises, Inc., Hazelwood, NC

A certification was issued covering all workers excluding those producing boots separated on or after December 31, 1981.

TA–W–14,213; MO–KA Shoe Corp., Aguadilla, PR

A certification was issued covering all workers excluding those producing boots separated on or after December 31, 1981.

TA–W–14,466; The Bradford Plant, Corning Glass Works, Bradford, PA

A certification was issued covering all workers of the Bradford plant, Corning Glass Works, Bradford, Pennsylvania engaged in employment related to the production of resistors who became totally or partially separated from employment on or after February 15, 1982; and all workers engaged in employment related to the production of networks who became totally or partially separated from employment on or after September 1, 1982 and before January 31, 1983.

I hereby certify that the aforementioned determinations were issued during the period October 3, 1983–October 7, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 11, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–28344 Filed 10–17–83; 8:45 am]

BILLING CODE 4510–30–M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 83–170; Exemption Application No. L–3877]

Exemption From the Prohibitions for Certain Transactions Involving Central States, Southeast and Southwest Areas Health and Welfare Fund (the Fund) Located in Chicago, Illinois

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase by the Fund of certain assets from Amalgamated Insurance Agency Services, Inc. (Amalgamated) and certain related companies, all of which are parties in interest with respect to the Fund. The assets to be acquired, which it is represented are necessary for the Fund to process claims for benefits, are to be specifically determined and valued pursuant to the terms of an Agreed Order dated February 1, 1983, entered in *Donovan* v. *Robbins, et al.*, No. 78 C 4075, and *Donovan* v. *Dorfman, et al.*, No. 82 C 7951, both filed in the United States District Court for the Northern District of Illinois (Eastern Division).

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 19, 1983, notice was published in the Federal Register (48 FR 37748) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) for the transaction mentioned above, which was described in an application filed on behalf of the Fund and its board of trustees. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that a copy of the notice has been furnished to interested persons in compliance with the provisions of the notice of proposed exemption. No public comments were received by the Department.

Limited Scope of Exemption: The Department is granting an exemption solely for the transfer of assets described above and more fully explained in the notice of proposed exemption. No exemptive relief is being provided for any other transaction, arrangement, agreement or element thereof.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the intereat of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or trainsitional rule is not dispositive or whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Fund and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Fund.

Accordingly, the restrictions of section 406(a) of the Act shall not apply to the purchase by the Fund of assets it needs to process claims in-house from Amalgamated and certain related companies pursuant to the terms of the Agreed Order dated February 1, 1983, described in the notice of proposed exemption.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of October, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83–28347 Filed 10–17–83; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Council on the Arts will be held on Thursday, November 3, 1983, from 2:00–5:30 p.m.; on Friday, November 4, from 9:00 a.m.–5:30 p.m.; and on Saturday, November 5, from 9:00 a.m.–5:30 p.m. in room M–04 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on Thursday, November 3, from 2:00–5:30 p.m.; Friday, November 4, from 9:00 a.m.–5:30 p.m. and on Saturday, November 5, from 9:00 a.m.–noon. Topics for discussion will include Program Review and Guidelines for the Dance, Inter-Arts, Visual Arts, Design Arts, Music Presenters/Festival, Theater Ongoing Ensembles and Locals Pilot Programs. Other topics for discussion will be Arts in Education and the Endowment Five-Year Plan.

The remaining session of this meeting on Saturday, November 5, from 1:30–5:30 p.m. is for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: October 12, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–28247 Filed 10–17–83; 8:45 am]

BILLING CODE 7537–01–M

Federal Council on the Arts and the Humanities, Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at the Old Post Office Building, 1100 Pennsylvania Aveue, NW., Washington, D.C. from 9:30 a.m. to 5:00 p.m. on November 30, 1983 in Room 715.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after.

Because the proposed meeting will consider commercial and financial data and because it is important to keep

values of objects, methods of transportation and security measures confidential, pursuant to authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552 (b) (c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, National Endowment for the Humanities, Washington, D.C. 20506.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 28351 Filed 10-17-83; 8:45 am]

BILLING CODE 7536-01-M

Listing of Programs and Activities; Clarification

Clarification of Programs and Activities Subject to Title 45, Code of Federal Regulations Part 1152 entitled, "Intergovernmental Review of National Endowment for the Arts Programs and Activities."

Notice is hereby given that the listing of programs and activities covered by E. O. 12372 and published by Notice in the **Federal Register** on June 24, 1983 (48 FR 29354) is clarified as follows:

To Artists In Education add "(Artist Residency Grants)."

Further information with reference to the above program clarification can be obtained from Susan Liberman, Assistant General Counsel, National Endowment for the Arts, Washington, D.C. 20506 or call (202) 682–5418.

Dated: October 11, 1983.

Jeffrey Mandell,

General Counsel Nationol Endowment for the Arts.

[FR Doc. 83-28331 Filed 10-17-83; 8:45 am]

BILLING CODE 7537-01-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; Libby, McNeill & Libby, Inc. (Stayton Canning Co.)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has, on the basis of a request from Libby, McNeill & Libby granted an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on July 6, 1983 (48 FR 31127). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Attorney, Corporate Planning and Program Development Department, Pension benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR Part 2643), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effective or equitably carry out the purpose of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On July 6, 1983 (48 FR 31127), the PBGC published a notice of the pendency of a request from Libby, McNeill & Libby ("Libby") for an exemption from the requirement of ERISA section 4204(a)(1)(B), in connection with a sale of certain assets by Libby to Stayton Canning Company ("Stayton") that was effective on November 5, 1982.

In connection with this sale, Stayton has assumed the responsibilities of Libby under a collective bargaining agreement with the Western Conference of Teamsters, Local 670.

The following chart lists the two multiemployer plans for which an exemption is requested, the estimated amount of Libby's withdrawal liability and the estimated amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) with respect to each such plan:

Plan	Estimate of seller's liability	Amount of bond/escrow
Western Conference of Teamsters Pension Trust Fund ("Western Conference Plan")	$149,160	$56,327
Oregon Processors Seasonal Employees Pension Trust Fund ("Oregon Processors Plan")	18,477	6,952
Total	187,637	63,279

The amount of the bond to each plan represents the average annual contribution that Libby made to the affected plan for the three plan years preceding the plan year in with the sale occurred.

In accordance with PBGC's regulation (29 CFR § 2643.2(d)(7)), a copy of Stayton's audited financial statements for the three fiscal years preceding the sale was submitted as part of the applicaton. However, Stayton has asserted that the financial information is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)) and the PBGC regulation (29 CFR 2603.18). Stayton has indicated its intention that ERISA section 4204 should apply to the sale.

Libby asserted that this request should be granted on a *de minimis* basis. Based on information provided by the plans, the average annual contributions made by all employers to the Western Conference Plan and Oregon Processors Plan for the three plan years preceding the plan year in which the sale occured were $460 million and $546,000, respectively. Thus, the amount of the bond/escrow is with respect to each plan a very small fraction of the total amount of employer contributions (.012% for the Western Conference Plan, and 1.3% for the Oregon Processors Plan). When the notice of pendency for this request was published, PBGC indicated that it was considering granting the request for an exemption on a *de minimis* basis. No comments were received in response to the notice.

PBGC believes that when, as in this request, the amount of the bond/escrow is very small in comparison to the total annual contributions to a plan, an exemption from the bond/escrow requirement would not significantly increase the risk of financial loss to the plan. *Heinemann's Inc., et al.* 48 FR 29638, June 27, 1983.

Therefore, based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that this request is *de minimis* in nature and thus an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purpose of Title IV of ERISA and would not significantly increase the risk of financial loss to the fund. Accordingly, PBGC hereby grants the request by Libby for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C. on this 12th day of October, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 28280 Filed 10-17-83; 8:45 am]

BILLING CODE 7708-01-M

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; U.S. Steel Mining Co., Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from U.S. Steel Mining Co., Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before December 2, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale. Under ERISA section 4204(b)(2), the amount of the bond or escrow is doubled if the plan is in reorganization in the plan year in which the sale of assets occurs.

ERISA section 4204(c) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under PBGC's regulation on procedures for variances for sales of assets (29 CFR 2643.3(a)), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not signficantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from U.S. Steel Mining Co., Inc. ("Steel Mining") to waive the bond/escrow requirement of ERISA section 4204(a)(1)(B). Steel Mining is a wholly-owned subsidiary of the United States Steel Corporation ("U.S. Steel"). In the request, Steel Mining represents among other things, that:

1. Effective June 12, 1982, Steel Mining purchased and leased certain assets of the Carbon Fuel Company ("Carbon Fuel"), a subsidiary of Carbon Industries, Inc., which in turn is a subsidiary of International Telephone and Telegraph Corporation.

2. In connection with this sale, Steel Mining has assumed the responsibilities of Carbon Fuel under a collective bargaining agreement known as the National Bituminous Coal Wage Agreement of 1981, with the United Mine Workers of America.

3. The following chart lists the two multiemployer plans for which an exemption is requested, the estimated amount of Carbon Fuel's and Steel Mining's withdrawal liability (excluding the liability attributable to the purchased operations from Carbon Fuel), and the estimated amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) with respect to each such plan:

Plan	Estimate of seller's liability	Estimate of purchaser's liability	Amount bond/ escrow
1950 UMW Pension Plan ("1950 Plan")	$7,162,562	$79,628,000	[1] $3,416,384
1974 UMW Pension Plan ("1974 Plan")	11,764,823	83,005,000	[2] 2,026,216
Total	18,927,385	162,633,000	5,442,600

[1] The amount is based upon the average annual contribution that Carbon Fuel made to the 1950 Plan for the three plan years preceding the plan year in which the sale occurred.

[2] The amount represents the annual contribution required to be made by Carbon Fuel to the 1974 Plan for plan year 1981.

PBGC notes that, since the 1950 Plan was in reorganization for the Plan year beginning July 1, 1981 (the plan year in which the sale occurred), the amount of the bond/escrow noted in the above table has been doubled to comply with ERISA section 4204(b)(2).

4. In the purchase agreement, Carbon Fuel agreed that, if the purchaser withdraws within the five year period commencing with the first plan year beginning after the date of the sale and fails to pay withdrawal liability, it would be secondarily liable for any withdrawal liability Carbon Fuel would have had to the plan but for the operation of ERISA section 4204.

5. According to its audited consolidated financial statements, U.S. Steel and its subsidiaries had total net assets for its fiscal year ended December 31, 1981 of approximately $6.3 billion. U.S. Steel reported net income after taxes of approximately $1.1 billion and $505 million respectively for its fiscal years 1981 and 1980, and a net loss after taxes of $293 million for fiscal year 1979.

6. Steel Mining has sent a copy of this request to the plans and the collective bargaining representative of Carbon Fuel's former employees by certified mail, return receipt requested.

ERISA section 4211(d)(2) provides that section 4204 shall not apply with respect to the withdrawal of an employer from a plan to which section 404(c) of the Internal Revenue Code applies, or to a continuation of such a plan, unless the plan is amended to provide that that section shall apply. This provision includes the 1950 Plan and the 1974 Plan. Both plans have adopted amendments, which include the text of section 4204 (a) and (b), although slightly modified, but not section 4204(c) (relating to PBGC's authority to grant an exemption from the bond/escrow requirement of section 4204(a)(1)(B)) or section 4204(d) (relating to the definition of "unrelated party"). However, PBGC finds that subsections 4204 (c) and (d) apply as a matter of law, and thus it is unnecessary for the plans to include those subsections in the plan amendment in order to give effect to those provisions. Therefore, PBGC will consider this request pursuant to its authority under section 4204(c).

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, by December 2, 1983. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 12th day of October, 1983.

Edwin M. Jones,

Executive Director, Pensian Benefit Guaranty Corporation.

[FR Doc. 83-28281 Filed 10-17-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held November 21, 1983, at 5:30 p.m. in the Cathedral Hill Room B at the Cathedral Hill Hotel, 1101 Van Ness Street, San Francisco, California 94109. The agenda for the meeting is as follows:

—Surface Transportation Assistance Act of 1982 (MBE) Goals

—Year-end report on MBRC programs

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street SW., Washington, D.C. 20590, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on October 12, 1983.

Melvin Humphrey,

Director, Office of Small and Disodvantaged Business Utilization.

[FR Doc. 83-28284 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

General Aviation District Office at Baton Rouge, Louisiana; Opening

Notice is hereby given that on or about November 1, 1983, the General Aviation District Office at Baton Rouge, Louisiana, will be opened. This office will now provide all services to the public formerly provided by the General Aviation District Offices at Shreveport and New Orleans, Louisiana, and the New Orleans satellite office at Lafayette, Louisiana. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752 49 U.S.C. 1354)

Issued in Fort Worth, Texas, on August 3, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-28298 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

Issued in Fort Worth, Texas, on August 3, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-28297 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

General Aviation District Office at Fort Worth, Texas; Closing

Notice is hereby given that on or about October 15, 1983, the General Aviation District Office at Fort Worth, Texas, will be closed. All services to the public formerly provided by this office will be provided by the General Aviation District Offices at Dallas, Lubbock, and San Antonio, Texas. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Fort Worth, Texas, on August 3, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-28298 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

General Aviation District Office at New Orleans, Louisiana, and its Satellite Office at Lafayette, Louisiana; Closing

Notice is hereby given that on or about November 1, 1983, the General Aviation District Office at New Orleans, Louisiana, and the New Orleans satellite office at Lafayette, Louisiana, will be closed. All services to the public formerly provided by these offices will be provided by the General Aviation District Office to be opened at Baton Rouge, Louisiana. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752 49 U.S.C. 1354.)

Issued in Fort Worth, Texas, on August 3, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-28300 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

General Aviation District Office at Shreveport, Louisiana; Closing

Notice is hereby given that on or about November 1, 1983, the General Aviation District Office at Shreveport, Louisiana, will be closed. All services to the public formerly provided by this office will be provided by the General Aviation District Office to be opened at Baton Rouge, Louisiana, and the General Aviation District Office at Dallas, Texas. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752 49 U.S.C. 1354)

Issued in Fort Worth, Texas, on August 3, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-28299 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

Flight Standards District Office at Tulsa, Oklahoma; Closing

Notice is hereby given that on or about September 15, 1983, the Flight Standards District Office at Tulsa, Oklahoma, was closed. All services to the public formerly provided by this office will be provided by the General Aviation District Office at Oklahoma City, Oklahoma, and the Air Carrier District Office at Dallas/Fort Worth Airport, Texas. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752 49 U.S.C. 1354.)

Issued in Fort Worth, Texas, on August 3, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-28301 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 3-1 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A study of requirements and composition of flight plans for commonality and possible combination in a simple, uniform format.

DATE: Beginning November 14, 1983, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed one week.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7 A/B, 800 Independence Avenue. S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, (202) 426-3560.

Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, S.W. Washington, D.C. 20591, by November 7, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issue in Washington, D.C. on October 12, 1983.

John Watterson,

Acting Manager, Special Projects Staff Air Traffic Service.

[FR Doc. 83-28302 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

Air Carrier District Office at Houston, Tex; Closing

Notice is hereby given that on or about October 1, 1983, the Air Carrier District Office at Houston, Texas, was closed. All services to the public formerly provided by this office will be provided by the Air Carrier District Office at Dallas/Fort Worth Airport, Texas. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752, 49 U.S.C. 1354)

Issued in Fort Worth, Texas, on August 3, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-28303 Filed 10-17-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular; Public Debt Series No. 31-83]

Treasury Notes of October 31, 1985; Series Z-1985

October 13, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,000,000,000 of United States securities, designated Treasury Notes of October 31, 1985, Series Z-1985 (CUSIP No. 912827 QB 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price

equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated October 31, 1983, and will bear interest from that date, payable on a semiannual basis on April 30, 1984, and each subsequent 6 months on October 31 and April 30 until the principal becomes payable. They will mature October 31, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 1:30 p.m., Eastern Daylight Saving time, Wednesday, October 19, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 18, 1983, and received no later than Monday, October 31, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, October 31, 1983.

Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, October 27, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to be the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-28437 Filed 10-14-83; 12:47 pm]
BILLING CODE 4810-40-M

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 202
Tuesday, October 18, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Home Loan Bank Board	1
Federal Reserve System	2

1

FEDERAL HOME LOAN BANK BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 48, Page No. None at this time. Date Published—None at this time.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee, (202–377–6970).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Friday, October 21, 1983, has been changed to Monday, October 24, 1983, at 10 a.m.

No. 60, October 14, 1983.

[S–1470–83 Filed 10–14–83; 11:21 am]

BILLING CODE 6720–01–M

2

FEDERAL RESERVE SYSTEM, (Board of Governors.)

TIME AND DATE: 10 a.m., Monday, October 24, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: October 14, 1983.

James McAfee,

Associate Secretary.

[S–1471–83 Filed 10–17–83; 3:01 pm]

BILLING CODE 6210–01–M

federal register

Tuesday
October 18, 1983

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Synthetic Organic Chemical Manufacturing Industry; Equipment Leaks of VOC, Reference Methods 18 and 22; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2297-2]

Standards of Performance for New Stationary Sources; Synthetic Organic Chemical Manufacturing Industry; Equipment Leaks of VOC, Reference Methods 18 and 22

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates standards of performance for equipment leaks of Volatile Organic Compounds (VOC) in the Synthetic Organic Chemical Manufacturing Industry (SOCMI). The standards were proposed in the **Federal Register** on January 5, 1981 (46 FR 1136). These standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that emissions from the synthetic organic chemical manufacturing industry cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all newly constructed, modified, and reconstructed SOCMI process units to use the best demonstrated system of continuous emission reduction for equipment leaks of VOC, considering costs, nonair quality health and environmental impact and energy requirements.

DATES: Effective date: October 18, 1983.

These standards of performance become effective upon promulgation but apply to affected facilities for which construction or modification commenced after January 5, 1981.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these standards of performance is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The Director of the Federal Register approves the incorporation by reference of certain publications in 40 CFR effective on October 18, 1983.

ADDRESSES: *Background Information Documents.* The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Equipment Leaks of VOC in Synthetic Organic Chemicals Manufacturing Industry—Background Information for Promulgated Standards of Performance" (EPA-450/3-80-033b). The BID contains (1) a summary of all the public comments made on the proposed standards and EPA's responses to the comments, (2) a summary of the changes made to the standards since proposal, and (3) the final Environmental Impact Statement which summarizes the impacts of the promulgated standards. The BID for the proposed standards may be obtained from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. Please refer to "VOC Fugitive Emissions in Synthetic Organic Chemicals Manufacturing Industry—Background Information for Proposed Standards," EPA-450/3-80-033b (NTIS PB81-152167). The additional information document (AID) describing emissions, emission reductions, and costs related to equipment leaks of VOC may also be obtained from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. Please refer to "Fugitive Emission Sources of Organic Compounds—Additional Information on Emissions, Emission Reductions, and Costs," EPA-450/3-82-010 (NTIS PB82-217128).

Docket. A docket, number A-79-32, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Dimmick, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Summary of Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

. . . application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

As prescribed by Section 111 of the Clean Air Act, promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

Standards of performance for equipment leaks of volatile organic compounds (VOC) in the synthetic organic chemical manufacturing industry (SOCMI) were proposed on January 5, 1981 (46 FR 1136).[1] The promulgated standards apply to specific equipment with the potential to leak VOC within process units operated to produce one or more of the organic chemicals listed in the standards. The equipment covered by the standards and grouped in a process unit are designated as the "affected facility" for determining applicability of the standards. A process unit is a group of equipment that can be used independently, if sufficient raw material and product storage capacity could be supplied, to produce one or more chemicals. Process units used to produce the chemicals covered by the standards may involve chemical synthesis, bilological synthesis, other processing, or physical operations, such as separation. A plant may be composed of one or more process units.

Valves, pumps, compressors, pressure relief devices, sampling systems, and open-ended lines in VOC services (that is, containing 10 percent or more VOC by weight) are the equipment covered by the standards. The standards require (1) a leak detection and repair program for valves in gas/vapor and light liquid service and pumps in light liquid service; (2) equipment for compressors, sampling systems, and open-ended lines; (3) no detectable emissions (500 ppm as determined by Reference Method 21) for pressure relief devices in gas/vapor service during normal operation. In response to comments on the proposed standards, EPA is exempting from the standards facilities producing less than 1,000 megagrams (Mg) of SOCMI chemicals per year, facilities processing only heavy liquids or solids, and facilities producing beverage alcohol. In addition, the final standards provide a procedure for determining the equivalency of alternative control measures similar to the proposed procedure.

[1] The proposed standards referred to fugitive emission sources of VOC as the air pollution emission points covered by the standards. The terminology fugitive emission sources can be confusing. The standards apply to equipment with the potential to leak VOC and, therefore, the promulgated standards refer to equipment leaks of VOC as the air pollution emission points covered by the standards. The Priority List (40 CFR 60.16) specifies fugitive emission sources within the SOCMI source category. Equipment leaks of VOC are included in fugitive emision sources for the purpose of the Priority List.

Standards for Valves. The standards for valves have not substantially changed since proposal. They are based on a leak detection and repair program that requires (1) monthly monitoring for valves in gas/vapor and light liquid service, (2) an intitial attempt at repairing these valves within 5 days after detection of a leak, (3) repair of leaking valves within 15 days after detection of the leak unless repair would require a process unit shutdown, and (4) repair of valves during the next process unit shutdown after repair is delayed until a process unit shutdown. Valves found not to leak for 2 successive months can be monitored quarterly until leaks are deteted. Monitoring of equipment to detect leaks is conducted in accordance with Reference Method 21 and a leak is defined as a measured organic concentration equal to or greater than 10,000 parts per million by volume (ppmv).

Two alternative standards have been provided for valves in gas/vapor and light liquid service in the final standards. These alternatives are (1) a limit of 2 percent of valves which may be leaking at any one time and (2) a skip-period leak detection and repair program for process units achieving less than 2 percent of their valves leaking. These alternative standards, although slightly different than the alternative standards included in the proposed standards, establish standards for owners and operators who design and operate low-peak process units. For low-leak process units, the costs of the monthly leak detection and repair program is unreasonably high in comparison to the emission reductions.

Standards for Pumps. The final standards include a leak detection and repair program that requires (1) monthly monitoring of pumps in light liquid service, (2) weekly visual inspections of the seals on pumps in light liquid service, (3) an attempt at repairing a pump within 5 days after detection of a leak, and (4) repair of a leaking pump within 15 days after detection of a seal failure or leak unless repair would require a process unit shutdown. Pumps that have repair delayed until a process unit shutdown must be repaired during the next process unit shutdown. If a pump cannot be repaired without the use of dual seals and barrier fluid systems or vented seal areas, a delay of repair is allowed to install the equipment. In this case, an owner or operator must install the equipment as soon as practicable but may take no longer than 6 months.

The proposed standards required the use of equipment. The use of equipment reduces more emissions than the monthly leak detection and repair program. Even though the standards have changed, pumps in light liquid service alternately could use the equipment specified in the proposed standards and, thereby, not be required to implement the monthly leak detection and repair program.

Standards for Compressors. The standards have not changed since proposal and require compressors to be equipped with seals having a barrier fluid system that prevents leakage of the process fluid to the atmosphere. The system must: (1) Use a barrier fluid that is something other than a light liquid or gaseous VOC; (2) either operate at a pressure greater than the compressor seal area pressure, or be equipped with a barrier fluid degassing reservoir connected by a closed vent system to a control device; and (3) be equipped with a sensor so that seal failures may be detected. When seal failure is detected, repair is required within 15 days unless repair would require a process unit shutdown. An initial attempt at repair is required within 5 days. If a compressor is equipped with a closed vent system to transport leakage from the seal to a control device, it is exempt from the above requirements.

Certain reciprocating compressors covered by virtue of modification and reconstruction may be exempt from the requirements for compressors. Some existing compressors are not designed to use the equipment required by the standards. For these compressors either new compressor or a new distance-piece would be required before compliance with the standards could be achieved. The cost impact of installing the required control equipment on these existing compressors is unreasonable. These compressors will be exempt from the standards until they are replaced by new compressors or the distance pieces are replaced.

Standards for Sampling Connections. The standards require that VOC purged from sampling connections be recycled to the process by a closed sampling loop or that these VOC be collected in a closed collection system for recycle or disposal without VOC emission to atmosphere. In-situ sampling systems are exempt from these requirements. These standards have not changed since proposal.

Standards for Open-ended Lines. The standards require that: (1) Open-ended lines be sealed with a second valve, cap, blind flange or plug except when the open-ended line is in use; and (2) if a second valve is used, the valve on the process side be closed first to avoid trapping VOC between the valves. These standards have not changed since proposal.

Standards for Pressure Relief Devices. The standards require that: (1) Pressure relief devices have "no detectable emissions" of VOC except in cases of overpressure relief; and (2) after each overpressure relief, pressure relief devices be returned to a state of no detectable emissions within 5 days. These standards have not changed since proposal. As noted in the preamble to the proposed standards, pressure relief devices are one of the few fugitive emission sources for which a performance standard can be established. There are a variety of alternative ways of complying with this standard. "No detectable emissions" of VOC, in this case, means 500 ppm or less above the background level as measured by Reference Method 21.

Standards for Control Devices. The standards include requirements for control devices used in conjunction with control of equipment leaks. The standards require: (1) That vapor recovery systems be designed and operated for at least 95 percent control; (2) that enclosed combustion devices be designed and operated to provide a minimum residence time of 0.75 seconds at a minimum temperature of 816°C or to achieve 95 percent reduction; and (3) that flares (a) be operated with no assist or with air or steam assist, (b) be designed and operated with no visible emissions except for periods of time not to exceed 5 minutes in any 2-hour period, (c) be operated with a flame present, and (d) meet other operational requirements including maximum exit gas velocities and minimum heat content values. Flares have been added to the approaches for achieving the standards since proposal. Otherwise, the standards for control devices have not changed since proposal.

Miscellaneous Provisians. Flanges, pressure relief devices in liquid service, equipment operating at subatmospheric pressures, and all equipment components in "heavy liquid" VOC service are excluded from the routine monitoring requirements of the proposed standards. Heavy liquids are defined as VOC liquids with vapor pressures less

VOL 48 ISS 202 OCT 18 1983 UMI

than 0.3 kilopascals at 20°C. Even though the standards do not require monitoring these equipment for leaks, the standards require VOC leaks which are visually or otherwise detected from these equipment to be repaired within 15 days if a leak is confirmed using Reference Method 21. This provision improves current industry housekeeping practices for these pieces of equipment.

Under Section 111(h)(3), any person may request the Administrator to permit the use of an alternative means of emission limitation instead of a design, equipment, work practice or operational standard. The Administrator will permit the use of such alternative means if the Administrator determines, after notice and opportunity for a public hearing, that it will achieve emission reductions at least equivalent to those required by the design, equipment, work practice or operational standards. The permission will take the form of an amendment to the appropriate standards.

Compliance with the leak detection and repair program and equipment requirements will be assessed through semiannual reports, review of records, and by inspection. The semiannual reports provide a summary of the data recorded on leak detection and repair of valves, pumps, and of other equipment types. In response to public comments, requirements for routine reporting were reduced from quarterly to semiannual reporting. Notifications are still required as described in the General Provisions for new source standards (40 CFR 60.7).

The semiannual reports may be waived for affected facilities in States where the regulatory program has been delegated, if EPA, in the course of delegating such authority, approves reporting requirements or an alternative means of source surveillance adopted by the State. In these cases, such sources would be required to comply with the requirements adopted by the State.

Records of leak detection, repair attempts, and maintenance for equipment leaks of VOC are required by the standards. These records, along with semiannual reporting and plant inspections, will be used to enforce the standards. The records remain essentially the same as those in the proposed standards. Some changes have occurred because the requirements for the equipment covered by the standards have changed. In addition, EPA has made it clear that an owner or operator may keep the records for several affected facilities at one location in a plant rather than at each process unit.

Miscellaneous Actions. The General Provisions of Part 60 are being revised to provide technical amendments to the provisions in 40 CFR 60.7, 60.11, and 60.17. Also, Reference Method 18 is being added to Appendix A of Part 60 and Reference Method 22 is being revised. These methods will be used to determine compliance with the requirements for flares.

Summary of Impacts

Emission Reductions. The standards of performance will reduce equipment leaks of VOC from newly constructed, modified, and reconstructed process units in SOCMI by approximately 56 percent in comparison to those emissions that would result in the absence of the standards. The standards will cover about 830 newly constructed, modified, and reconstructed sources in 1985. The standards will reduce the emissions associated with current industry practices from approximately 83,000 to 37,000 Mg in 1985 (that is, 91,000 to 41,000 tons) for newly constructed, reconstructed, and modified process units.

Cost and Economic Impacts. The cost and economic impacts of the standards are reasonable. The standards will require an industry-wide capital investment over the 5-year period from 1981 to 1986 of approximately $44 million for those facilities which are newly constructed, reconstructed, or modified. The industry-wide net annualized cost will be about $14.6 million in 1985. This net annualized cost includes a credit resulting from "recovered" emissions. The costs will be distributed among 830 facilities affected during the 5-year period. Industry-wide price increases are not expected to result from these standards.

Other Impacts. The standards of performance will not increase the energy usage of SOCMI process units. In general, the controls required by the standards do not require energy. Futhermore, the effect of the standards will be to increase efficiency of raw material usage so that a net positive energy impact will result. Implementation of the standards will have no impact on solid waste within SOCMI. In contrast, the standards could also cause a small positive impact on water quality by containment of potential liquid leaks. The recordkeeping and reporting requirements will require an average of 65 industry person years annually for the years of 1983 and 1984.

The environmental, energy, and economic impacts are discussed in greater detail in the background information document for the promulgated standards. [See the **ADDRESSES** section of this preamble.]

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** (45 FR 18474, March 21, 1980) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the standards for equipment leaks of VOC in SOCMI recommended for proposal. This meeting was held on April 18, 1980. The meeting was open to the public, and each attendee was given an opportunity to comment on the standards recommended for proposal. The standards were proposed in the **Federal Register** on January 5, 1981 (46 FR 1136). The preamble to the proposed standards discussed the availability of the background information document for the proposed standards which described in detail the regulatory alternatives considered and the impacts of those alternatives.

Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held on March 3, 1981, at Research Triangle Park, North Carolina. The hearing was open to the public and each attendee was given an opportunity to comment on the proposed standards. The public comment period was from January 5, 1981 to July 31, 1981. The comment period was extended to July 31, 1981, to allow interested parties to comment on several studies performed by EPA's Office of Research and Development which became available at proposal or after proposal. Fifty-six comment letters were received and 9 interested parties testified at the public hearing concerning issues relative to the proposed standards of performance for equipment leaks of VOC from SOCMI units.

EPA published an Additional Information Document (AID) in April of 1982. The AID contains a technical discussion of methodologies and estimates of emissions, emission reductions, and costs associated with control of equipment leaks of VOC. A notice of the availability of the AID and a request for comments on the AID was published in the **Federal Register** on May 7, 1982 (47 FR 19724). Fourteen letters were received containing comments on the AID.

Comments on the proposed standards and on the AID have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed standards.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from industry, State and local air pollution control agencies, trade associations, and environmental groups. A detailed discussion of these comments and responses can be found in the BID for the promulgated standards. [See the **ADDRESSES** section of this preamble.] The comments and responses in the BID serve as the basis for the revisions which have been made to the standards between proposal and promulgation. Major changes made in the standards since proposal are indicated in the "Summary of Standards" section of the preamble. The major comments and responses are summarized in the next sections of this preamble. The comments and responses in this preamble have been combined into the following areas: Need for Standards, Selection of the Final Standards, Control Technology—Use of Flares, and Test Methods and Monitoring.

Need for Standards

Comment 1: Commenters questioned whether standards of performance are needed for SOCMI because SOCMI equipment leaks emit small quantities of VOC.

Response 1: SOCMI is a significant source of VOC emissions and equipment leaks of VOC are one of the primary contributors to the total VOC emissions from SOCMI. EPA estimates that 540,000 megagrams per year (Mg/yr) of VOC are emitted from all sources in SOCMI (docket item IV–B–24). This estimate of emissions is based on detailed studies of individual process source types including air oxidation processes, distillation operations, storage operations, carrier gas processes, equipment leaks, and secondary sources. Five hundred forty thousand Mg/yr is a significant quantity of VOC to be emitted as air pollution.

The significance of SOCMI VOC emissions is reflected in the Priority List, 40 CFR 60.16. Of the 59 major source categories on this list for which standards of performance were to be promulgated by 1982, the SOCMI source category ranked first. The Priority List consists of categories of air pollution sources that, in EPA's judgment, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In developing the Priority List, major source categories were ranked according to three criteria specified in Section 111(f) of the Act: (1) The quantity of emissions from each source category, (2) the extent to which each pollutant endangers public health or welfare, and (3) the mobility and competitive nature of each stationary source category. Commenters have not presented any new information which would change the decision to list SOCMI on the Priority List.

Based on comments and information received during this rulemaking, EPA has revised the estimates of emissions of VOC from equipment leaks within SOCMI since the standards were proposed. The current estimate of 540,000 Mg/yr includes the revised emission estimates. Even with the revised emission estimates, the Administrator still considers SOCMI a source category that causes or contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. It should be noted that because VOC emissions come from many, diverse source categories, each source category contributes a relatively small percentage to the large overall total emissions. Even though SOCMI may represent a small percentage of total VOC emissions, the magnitude of emissions from SOCMI is significant.

Since SOCMI is on the Priority List as a significant contributor to air pollution under section 111(f), standards of performance are required to be promulgated for those new sources within this source category for which the EPA can identify the best demonstrated technology (considering costs). EPA has identified several alternative systems of control capable of achieving additional emission reduction at reasonable cost at SOCMI sources. It is, therefore, reasonable for EPA to establish standards for these sources.

In addition, standards of performance have other benefits in addition to achieving emissions reductions. Standards of performance establish a degree of national uniformity to air pollution standards, and therefore, preclude situations in which some States may attract new industries as a result of having relaxed standards relative to other States. Further, standards of performance provide documentation that reduces uncertainty in evaluations of available control technology. This documentation includes identification and comprehensive analyses of alternative emission control technologies, development of associated costs, evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. This documentation also provides an economic analysis that reveals the affordability of controls in a study of the economic impact of controls on an industry.

Comment 2: Commenters stated that there is no need for the standards because emissions of VOC in SOCMI are adequately controlled by other regulations, specifically:

(a) National ambient air quality standards (NAAQS) and the State implementation plans (SIP) to implement these standards;

(b) National emission standards for hazardous air pollutants (NESHAP); and

(c) Occupational safety and health standards under the Occupational Safety and Health Act (OSHA).

Response 2: Standards of performance required by Section 111 play a unique role under the Clean Air Act. The main purpose of standards of performance is to require new sources, wherever located, to reduce emissions to the level achievable by the *best* technological system of continuous emission reduction considering the cost of achieving such emission reduction, any nonair quality health and environmental impact, and energy requirements [(Section 111(a)(1))]. Congress recognized that establishing such standards would minimize increases in air pollution from new sources, thereby improving air quality as the Nation's industrial base is replaced over the long term. The role of standards of performance in achieving the goals set forth in the Clean Air Act is distinct from that of other regulations.

(a) *NAAQS and SIP:* Reasonably available control technology (RACT) requirements apply to existing sources and are based on SIP's developed for the purpose of attaining the NAAQS. Standards of performance supplement the role played by RACT and the two types of control do not conflict. In the few areas where RACT-level control is already in place, the environmental impact of standards of performance will be smaller than calculated. EPA has determined, however, that existing RACT-level facilities that become subject to the standards of performance (e.g., through modification) will be achieving additional emission reductions at reasonable costs. In most areas of the Nation, RACT-level controls are not in place and the standards fulfill their role of preventing new air pollution from developing as the Nation's industrial base is replaced.

(b) *NESHAP:* NESHAP, as mandated under Section 112 of the Clean Air Act, are distinctly separate from NAAQS or new source standards of performance. NESHAP are developed to control

pollutants that are hazardous because they are carcinogens or the cause of other serious diseases. Some of the individual SOCMI chemicals have been identified as hazardous air pollutants and some SOCMI units may be affected by NESHAP regulations. However, SOCMI VOC emissions as a class have not been identified as hazardous pollutants, and therefore, are not subject to NESHAP.

(c) *OSHA:* Many of the chemicals covered by the standards are also listed in Table Z–1, Toxic and Hazardous Substances, in the general provisions for OSHA (29 CFR 1910.1000), and some of these chemicals are also covered by more specific health standards under OSHA. As a consequence, the SOCMI standards and the OSHA standards may affect the same equipment in VOC service. However, this possibility does not negate the need for the standards.

The SOCMI standards of performance serve to limit mass emission rates directly; OSHA standards for toxic chemicals generally do not. Under OSHA, control of emission sources may include substitution with less hazardous materials, process modification, worker rotation, process or worker isolation, ventilation controls, or modification of work practices. These controls reduce occupational exposures, but they do not necessarily reduce the mass rate of VOC emissions to the atmosphere. Furthermore, OSHA regulations would require control to different concentration levels, depending on the toxicity of a specific chemical, while the standards of performance require emission control for all VOC. Relying on indirect controls that may or may not reduce emissions that would degrade air quality would be an unreasonable approach to reducing emissions of VOC.

Comment 3: Commenters claimed that the standards are not needed to protect the public health and welfare. These commenters noted that the ambient air quality standard for ozone which is set to protect the public has recently been raised. The commenters continued by adding that, because most of the country is in compliance with the ozone standard, the public health and welfare is already protected and, therefore, the standards of performance are not needed.

Response 3: Standards of performance are not directly designed to achieve the ambient air quality goals. Their overriding purpose is rather to minimize emissions at all new and modified sources, wherever they are located, to prevent new pollution problems from developing, and to enhance air quality as the Nation's industrial base is replaced. Thus, the standards may not bear directly on current attainment or nonattainment of NAAQS for ozone. Nonetheless, they do make room for future industrial growth while preventing future air quality problems—complementing the prevention of significant deterioration (PSD) and non-attainment rules as a means of achieving and maintaining the NAAQS. Clearly, residents in both attainment and non-attainment areas will ultimately benefit from such standards.

Basis for the Final Standards

Comment: Several commenters questioned EPA's selection of the proposed standards. The commenters felt that other regulatory options would have been more cost-effective and, therefore, should have been chosen. Referring to the regulatory alternatives presented in EPA–450/3–80–033a, some commenters recommended selection of regulatory alternatives II or III instead of regulatory alternative IV. Some commenters also suggested that EPA select the final standards after considering the cost effectiveness of each control technique for each piece of equipment covered by the standards. Other commenters recommended selection of regulatory alternative IV.

Response: Section 111 of the Clean Air Act, as amended, requires that standards of performance be based on the best system of continuous emission reduction that has been adequately demonstrated, considering costs, nonair quality health and environmental impacts and energy requirements. The control techniques for equipment leaks of VOC have been adequately demonstrated. The nonair quality health and environmental impacts associated with implementaion of the standards are positive.

Since proposal, EPA has decided to accept the suggestions of the commenters and focus further on cost effectiveness as the basis for the selection of final standards. In using cost effectiveness of individual control techniques as the basis for selection, the regulatory alternative framework presented in the BID for the proposed standards is no longer pertinent and is not presented. The control strategies represented by the regulatory alternatives were, however, considered in the selection of the final standards. In choosing among the control techniques for each type of equipment covered by the standards, EPA first considered their relative cost effectiveness. Then, for the control techniques which were selected as the most effective with reasonable costs, EPA considered the economic impact on the industry of these control techniques.

Cost-Effectiveness Considerations. EPA analyzed the annualized cost of controlling VOC emissions and the resultant VOC reduction for each alternative control technique. The control costs per megagram of VOC reduced for medium-sized process units are presented in Table 1 for each equipment type covered by the standards. These costs do not represent the actual amounts of money spent at any particular plant site. The cost of VOC emission reduction systems will vary according to the chemical product being produced, production equipment, plant layout, geographic location, and company preferences and policies. However, these costs and emission reductions are considered typical of control techniques for leaking equipment within SOCMI units and can be used in selecting the level of control to be required by the standards.

Pressure Relief Devices. The annualized costs and VOC emission reductions achieved for monthly and quarterly leak detection and repair programs and for the use of control equipment (rupture disks) were determined for pressure relief devices in gas service. As Table 1 shows, both the quarterly and monthly leak detection and repair programs are less expensive than installation of rupture disks.

TABLE 1.—CONTROL COSTS PER MEGAGRAM OF VOC REDUCED [a]

Equipment type and control technique [b]	Emission reduction (Mg/yr)	Average $/Mg [c]	Incremental $/Mg [d]
Pressure relief devices:			
Quarterly leak detection and repair	4.4	(*)	
Monthly leak detection and repair	5.1	(*)	500
Rupture disks [f]	10.0	510	1,200
Compressors: *Controlled degassing vents* [f]	4.0	(*)	(*)
Open-ended lines: *Caps on open-ended lines* [f]	6.2	400	400
Sampling Systems: *Closed purge sampling* [f]	3.4	590	590
Valves:			
Semi-annual leak detection and repair	17.1	(*)	
Quarterly repair leak detection and repair	26.9	(*)	(*)
Monthly leak detection and repair [f]	33.6	62	480
Pumps:			
Quarterly leak detection and repair	4.1	1,200	
Monthly leak detection and repair [f]	7.6	610	(*)
Dual mechanical seal systems vented to a flare	12.6	2,300	5,600

[a] Costs and emission reductions based on equipment counts in Model Unit B. See Section 3.2 of the BID for the promulgated standards.
[b] Further discussion of control techniques can be found in Section 4 of the BID for the promulgated standards.
[c] Average dollars per megagram (cost effectiveness) = (net annualized cost per component) ÷ (annual VOC emission reduction per component).
[d] Incremental dollars per megagram = (net annualized cost of the control technique) − net annualized cost of the next less restrictive control technique ÷ (annual emission reduction of control technique − annual emission reduction of the next less restrictive control technique).
[e] Values are savings with the total savings indicated in the text.
[f] Control technique selected as the basis for the standard.

Leak detection and repair programs result in average credits of $240/Mg and $150/Mg of VOC for quarterly and monthly programs, respectively. A monthly leak detection and repair program achieves an additional 0.7 Mg/yr emission reduction for medium-sized process units at an incremental cost of $500/Mg compared to a quarterly leak detection and repair program. Rupture disks achieve an additional 4.9 Mg/yr emission reduction at an incremental cost of $1,200/Mg compared to a monthly leak detection and repair program. However, EPA is establishing a performance standard (as indicated by no detectable emission limit) allowing a variety of alternative ways to complying with the standard. Because EPA used conservative assumptions in making this incremental cost calculation, the $1,200/Mg incremental cost of achieving this 4.9 Mg/yr of emission reduction is more than what many process units would experience. Thus, a no detectable emission limit was selected as the basis for the pressure relief device standard.

Compressors. Only one control technique can be considered for compressor seals: the installation of control equipment such as barrier fluid systems. If a compressor is found leaking, the repair procedure would be the installation of control equipment. Because compressors are not generally spared, repair would be delayed until the next turnaround, thereby reducing the effectiveness of a leak detection and repair program to essentially zero. The installation of control equipment results in a savings ($100/Mg of VOC), indicating that the the value of product retained by controlling the barrier fluid system exceeds the cost of the control equipment. This cost is reasonable and, therefore, control equipment was selected as the basis for the standard for compressors.

Open-ended Lines and Sampling Systems. EPA considered caps or closures as the control technique for open-ended lines. Caps and closures are in wide-spread use in SOCMI and are expected to be used even more frequently in new SOCMI units. The cost and emission reduction presented in Table 1 are the cost and emission reduction which would be realized for an open-ended line that is not controlled. The $400/Mg cost for controlling emissions of VOC from open-ended lines is reasonable.

EPA considered closed purge sampling as the control technique for sampling systems. Closed purge systems are becoming increasingly common in the chemical industry. The $590/Mg cost for controlling emissions of VOC from sampling systems is reasonable.

Valve. Several leak detection and repair programs were considered for valves. The programs differed in the monitoring frequency which would be implemented. As Table 1 shows, the quarterly monitoring program results in savings ($41/Mg of VOC on the average). This occurs because the value of the recovered VOC is greater than the cost to implement the quarterly monitoring program. However, the largest emission reduction is associated with the monthly program at an average cost of $62/Mg. Furthermore, the incremental cost per Mg VOC emissions reduced for the monthly program is $510/Mg with an incremental emission reduction of 6.7 Mg/yr for a medium-sized process unit. EPA considers these costs to be reasonable. Therefore, EPA selected a monthly leak detection and repair program as the basis for the standard for valves.

Pumps. The control costs incurred for each megagram of VOC emissions reduced were determined for two leak detection and repair programs and for the use of dual mechanical seals with controlled degassing vents. Both leak detection and repair programs incur lower costs than the costs which would be incurred with equipment installation. The lowest average and incremental costs per Mg are associated with a monthly leak detection and repair program. The monthly program achieves a higher degree of control than the quarterly program, but it achieves a lower degree of control than installation of contol equipment. However, even though control equipment provides for the greatest amount of VOC reduction, the $5,600/Mg incremental costs to obtain the additional 5 Mg/yr are judged to be unreasonably high. Because the costs for equipment are unreasonably high, monthly leak detection and repair was selected as the basis for the standard for pumps.

Economic Impact Considerations. An economic analysis was performed which evaluated the economic impacts of the selected standards. The results of that analysis are presented in detail in the BID for the promulgated standards. As summarized in the Summary of the Impacts of the Standards section of this preamble, the industry-wide net annualized cost will be about $14.6 million in 1985. This cost is not expected to result in industry-wide price increases. These impacts are reasonable.

Control Technology—Use of Flares

Comment: Several commenters expressed the desire to use flares as alternatives to enclosed incinerators or vapor recovery systems. The comments focused on: (1) Data base support of low flare efficiency, (2) high efficiencies reported for flares on refinery gases, (3) alternative flare designs for low flow applications, (4) safety considerations in choosing control systems, and (5) equivalency to other combustion devices.

Response: The control technology for controlling equipment leaks of VOC from SOCMI is discussed in the background information documents (BID's) for the proposed standards and for the promulgated standards. [See **ADDRESSES** section of this preamble.] In the BID for the proposed standards, EPA discussed the control technology that can be used in complying with the standards. As discussed in the BID for the promulgated standards, EPA reviewed the comments received on the control technology for controlling equipment leaks and found nothing which would alter the original judgments concerning these control techniques except with regard to the control efficiency associated with flares used in SOCMI.

The use of flares was reconsidered by EPA. Flares are used widely in SOCMI for handling emergency releases from process units and for combusting streams from continuous vents. Since the flare efficiency estimate at proposal was made, further actual flare measurement results have become available, most notably from the Chemical Manufacturers Association

VOL
48
ISS
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OC
18
1983
UMI

(CMA)–EPA study. In the CMA–EPA study, flares were investigated over a wide range of exit velocity, composition, and flare gas heat content conditions. After review of available flare-efficiency data, EPA has concluded that smokeless flares designed for and operated under certain conditions are acceptable alternatives to enclosed combustion devices (incinerators, boilers, process heaters) or vapor recovery systems, such as carbon adsorbers and condensation units. For example, steam-assisted flares must have flare gas heat contents greater than 11.2 megajoules per standard cubic meter and exit velocities less than 18 meters per second. Flares achieving these conditions are acceptable because they achieve more than 95 percent emission reduction. The presence of a flame can be ensured by monitoring the flare's pilot light with an appropriate heat sensor, such as a thermocouple. To ensure smokeless operation, visible emissions from a flare would be limited to less than 5 minutes in any 2-hour period as determined by Reference Method 22.

Import on Small Manufacturers

Comment: Commenters requested an exemption for small manufacturers. These commenters were mostly concerned with the impact on process units with few equipment and process units with low production volumes.

Respone: Data from test work on equipment leaks of VOC, however, do not show any definite relationship between emissions and production volume. Equipment leaks of VOC and the cost of their control are proportional to the number of equipment components in a plant rather than the plant size or production volume. However, there are some process units (e.g., research and development facilities) which have production rates so small that their VOC emissions from equipment leaks are likely to be very small and, as a consequence, the cost to control these emissions would be unreasonably high. EPA has excluded from the standards process units producing less than 1,000 Mg/yr. The lower production rate cutoff was developed on the basis of cost and emission reduction considerations and is explained in Section 5.7 of the BID for the promul gated standards.

Test Method and Monitoring

Comment: Commenters requested that hexane be the required calibration gas for the application of Reference Method 21 to SOCMI leak detection and repair programs. Reference Method 21 specifies the monitor and the methodology to be used to detect leaks for required leak detection and repair programs. The proposed standards required that methane be used as the calibration gas. Two reasons were given for their desire to use hexane. First, commenters believed (on the basis of response factors) that the use of methane would result in the detection of more leaks. Second, there is at least one type of portable VOC detector which responds to hexane but does not respond to methane.

Response: EPA considered the differences between leak frequencies found using hexane and leak frequencies found using methane. The differences are not significant. The variability seen in repeat sampling of the same piece of equipment was 23 percent. The variability is in the same range as the 30 percent difference seen in response between the TLV-hexane system and the OVA-methane systems at the 10,000 ppmv definition of a leak. Because the variability in repeat sampling is similar to the differences in response at 10,000 ppmv, the data can be used interchangeably within 30 percent at the action level. Because an error of 30 percent at the action level is a small error considering all the errors associated with leak detection, there is no need to change the required calibration gas on the basis offered by the commenters. However, since some types of analyzers may be useful in certain SOCMI process units, and these types do not respond to methane, hexane has been added to the regulation as an alternate calibration material.

The use of hexane as an alternate calibration material is not limited to a single type of detector. The owner or operator may choose to use either calibrant with any allowable instrument. However, in any performance test conducted by EPA or a State agency, the VOC detector is likely to be calibrated with methane, even if the calibrant selected by the owner or operator is different, because methane calibrants are easier to obtain and deteriorate less than hexane calibrants.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking.The docket is a dynamic file, since material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to identify and locate documents so that they can participate effectively in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant commets, the contents of the docket will serve as the record in case of judicial review, except for interagency review materials [Section 307(d)(7)(A)].

Miscellaneous

In accordance with Section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to insure that cost was carefully considered in determining the best demonstrated technology. The economic impact assessment is included in the background information documents for the proposed standards and the promulgated standards.

Information collection requirements associated with this regulation (those included in 40 CFR Part 60, Subpart A and Subpart VV) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2060–0012.

"Major Rule" Determination. Under Executive Order 12291, the Administrator is required to judge whether a regulation is a "major rule" and, therefore, subject to certain requirements of the Order. The Administrator has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." Fifth-year annualized costs of the standards would be as much as $3.3 million for the 830 newly constructed, modified, and reconstructed production facilities projected that could be affected by the standards during the first 5 years. Significant price increases are not expected to result from implementation of these standards because the annualized cost is a small fraction (about 0.25 percent) of the yearly revenue expected for the new, modified, and reconstructed units affected during the 5-year period. The Administrator has concluded that this rule is not "major" under any of the criteria established in the Executive Order.

As discussed in the "Basis For The Final Standards" section of this preamble, costs per megagram of VOC emission reduction were used in selecting the standards promulgated by this rulemaking. This regulation was submitted to the OMB for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection in Docket No. A–79–32, Central Docket Section, at the address given in the **ADDRESSES** section of this preamble.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to current Small Business Administration guidelines, a small business in the organic chemical manufacturing industry is one that has 1,000 employees or fewer. Current estimates indicate between 10 and 30 percent of the existing industry employ fewer than 1,000 people. Even if facilities owned by small businesses do become subject to the standards, none will be adversely affected. This conclusion is based on the finding that the annualized cost of the standards would be less than 0.25 percent of the yearly revenue expected for units affected by the standards. This finding reflects the economic impact for facilities owned by small businesses and is not considered significant. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by Reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals.

Dated: September 30, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. By adding paragraph (f) to § 60.7 of Subpart A—General Provisions as follows:

§ 60.7 Notification and recordkeeping.

* * * * * *

(f) Individual subparts of this part may include specific provisions which clarify or make inapplicable the provisions set forth in this section.

(Sec. 111, 114, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411) 7601(a)))

2. By adding paragraph (f) to § 60.11 of Subpart A—General Provisions as follows:

§ 60.11 Compliance with standards and maintenance requirements.

* * * * * *

(f) Special provisions set forth under an applicable subpart of this part shall supersede any conflicting provisions of this section.

(Sec. 111, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7601(a)))

3. By adding paragraphs (a)(34), (a)(35), (a)(36), (a)(37), (a)(38), and (a)(39) to § 60.17 of Subpart A—General Provisions as follows:

§ 60.17 Incorporations by reference.

* * * * * *

(a) * * *

(34) ASTM, E169–63 (Reapproved 1977), General Techniques of Ultraviolet Quantitative Analysis, IBR approved for § 60.485(d).

(35) ASTM E168–67 (Reapproved 1977), General Techniques of Infrared Quantitative Analysis, IBR approved for § 60.485(d).

(36) ASTM E260–73, General Gas Chromatography Procedures, IBR approved for § 60.485(d).

(37) ASTM D2879–70, Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for § 60.485(e).

(38) ASTM D2382–76, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), IBR approved for § 60.485(g).

(39) ASTM D2504–67 (Reapproved 1977), Noncondensable Gases in C_3 and Lighter Hydrocarbon Products by Gas Chromatography, IBR approved for § 60.485(g).

(Sec. 111, 114, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411) 7601(a)))

4. By adding a new Subpart VV as follows:

Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry

Sec.

60.480 Applicability and designation of affected facility.
60.481 Definitions.
60.482–1 Standards: General.
60.482–2 Standards: Pumps in light liquid service.
60.482–3 Standards: Compressors.
60.482–4 Standards: Pressure relief devices in gas/vapor service.
60.482–5 Standards: Sampling connection systems.
60.482–6 Standards: Open-ended valves or lines.
60.482–7 Standards: Valves in gas/vapor and in light liquid service.
60.482–8 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors.
60.482–9 Standards: Delay of repair.
60.482–10 Standards: Closed vent systems and control devices.
60.483–1 Alternative standards for valves—allowable percentage of valves leaking.
60.483–2 Alternative standards for valves—skip period leak detection and repair.
60.484 Equivalence of means of emission limitation.
60.485 Test methods and procedures.
60.486 Recordkeeping requirements.
60.487 Reporting requirements.
60.488 [Reserved]
60.489 List of chemicals produced by affected facilities.

Authority: Sec. 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry

§ 60.480 Applicability and designation of affected facility.

(a)(1) The provisions of this subpart apply to affected facilities in the synthetic organic chemicals manufacturing industry.

(2) The group of all equipment (defined in § 60.481) within a process unit is an affected facility.

(b) Any affected facility under paragraph (a) of this section that commences construction or modification after January 5, 1981, shall be subject to the requirements of this subpart.

(c) Addition or replacement of equipment for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.

VOL
48
ISS
2
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18
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(d)(1) If an owner or operator applies for one of one of the exemptions in this paragraph, then the owner or operator shall maintain records as required in § 60.486(h).

(2) Any affected facility that has the design capacity to produce less than 1,000 Mg/yr is exempt from § 60.482.

(3) If an affected facility produces heavy liquid chemicals only from heavy liquid feed or raw materials, then it is exempt from § 60.482.

(4) Any affected facility that produces beverage alcohol is exempt from § 60.482.

(5) Any affected facility that has no equipment in VOC service is exempt from § 60.482.

§ 60.481 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in Subpart A of Part 60, and the following terms shall have the specific meanings given them.

"Closed vent system" means a system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device.

"Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipe lines or a pipe line and a piece of process equipment.

"Control device" means an enclosed combustion device, vapor recovery system, or flare.

"Distance piece" means an open or enclosed casing through which the piston rod travels, separating the compressor cylinder from the crankcase.

"Equipment" means each pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, valve, and flange or other connector in VOC service and any devices or systems required by this subpart.

"First attempt at repair" means to take rapid action for the purpose of stopping or reducing leakage of organic material to atmosphere using best practices.

"In gas/vapor service" means that the piece of equipment contains process fluid that is in the gaseous state at operating conditions.

"In heavy liquid service" means that the piece of equipment is not in gas/vapor service or in light liquid service.

"In light liquid service" means that the piece of equipment contains a liquid that meets the conditions specified in § 60.485(e).

"Liquids dripping" means any visible leakage from the seal including spraying, misting, clouding, and ice formation.

"Open-ended valve or line" means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

"Pressure release" means the emission of materials resulting from system pressure being greater than set pressure of the pressure relief device.

"Process improvement" means routine changes made for safety and occupational health requirements, for energy savings, for better utility, for ease of maintenance and operation, for correction of design deficiencies, for bottleneck removal, for changing product requirements, or for environmental control.

"Process unit" means components assembled to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489 of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

"Process unit shutdown" means a work practice or operational procedure that stops production from a process unit or part of a process unit. An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours is not a process unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping production are not process unit shutdowns.

"Quarter" means a 3-month period; the first quarter concludes on the last day of the last full month during the 180 days following initial startup.

"Repaired" means that equipment is adjusted, or otherwise altered, in order to eliminate a leak as indicated by one of the following: an instrument reading or 10,000 ppm or greater, indication of liquids dripping, or indication by a sensor that a seal or barrier fluid system has failed.

"Sensor means a device that measures a physical quantity or the change in a physical quantity such as temperature, pressure, flow rate, pH, or liquid level.

"In-situ sampling systems" means nonextractive samplers or in-line samplers.

"Synthetic organic chemicals manufacturing industry" means the industry that produces, as intermediates or final products, one or more of the chemicals listed in § 60.489.

"In vacuum service" means that equipment is operating at an internal pressure which is at least 5 kilopascals (kPa) below ambient pressure.

"Volatile organic compounds" or VOC means, for the purposes of this subpart, any reactive organic compounds as defined in § 60.2 Definitions.

"In VOC Service" means that the piece of equipment contains or contacts a process fluid that is at least 10 percent VOC by weight. (The provisions of § 60.485(d) specify how to determine that a piece of equipment is not in VOC service.)

§ 60.482-1 Standards: General.

(a) Each owner or operator subject to the provisions of this subpart shall demonstrate compliance with the requirements of § 60.482-1 to § 60.482-10 for all equipment within 180 days of initial startup.

(b) Compliance with § 60.482-1 to § 60.482-10 will be determined by review of records and reports, review of performance test results, and inspection using the methods and procedures specified in § 60.485.

(c)(1) An owner or operator may request a determination of equivalence of a means of emission limitation to the requirements of § 60.482-2, -3, -5, -6, -7, -8, and -10 as provided in § 60.484.

(2) If the Administrator makes a determination that a means of emission limitation is at least equivalent to the requirements of § 60.482-2, -3, -5, -6, -7, -8, or -10, an owner or operator shall comply with the requirements of that determination.

(d) Equipment that is in vacuum service is excluded from the requirements of § 60.482-2 to § 60.482-10 if it is identified as required in § 60.486(e)(4).

§ 60.482-2 StandardsD Pumps in light liquid service.

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in §60.485(b), except as provided in § 60.482-1(c) and paragraphs (d), (e), and (f) of this section.

(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.

(b)(1) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(2) If there are indications of liquids dripping from the pump seal, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482-9.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (a), provided the following requirements are met:

(1) Each dual mechanical seal system is:

(i) Operated with the barrier fluid at a pressure that is at all times greater than the pump stuffing box pressure; or

(ii) Equipment with a barrier fluid degassing reservoir that is connected by a closed vent system to a control device that complies with the requirements of § 60.482-10; or

(iii) Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.

(2) The barrier fluid system is in heavy liquid service or is not in VOC service.

(3) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(4) Each pump is checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.

(5)(i) Each sensor as described in paragraph (d)(3) is checked daily or is equipped with an audible alarm, and

(ii) The owner or operator determines, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(6)(i) If there are indications of liquids dripping from the pump seal or the sensor indicates failure of the seal system, the barrier fluid system, or both based on the criterion determined in paragraph (d)(5)(ii), a leak is detected.

(ii) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482-9.

(iii) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(e) Any pump that is designated, as described in § 60.486(e) (1) and (2), for no detectable emission, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a), (c), and (d) if the pump:

(1) Has no externally actuated shaft penetrating the pump housing,

(2) Is demonstrated to be operating with no detectable emissions as indicated by an instrument reading of less than 500 ppm above background as measured by the methods specified in § 60.485(c), and

(3) Is tested for compliance with paragraph (e)(2) initially upon designation, annually, and at other times requested by the Administrator.

(f) If any pump is equipped with a closed vent system capable of capturing and transporting any leakage from the seal or seals to a control device that complies with the requirements of § 60.482-10, it is exempt from the paragraphs (a)-(e).

§ 60.482-3 Compressors.

(a) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of VOC to the atmosphere, except as provided in § 60.482-1(c) and paragraph (h) and (i) of this section.

(b) Each compressor seal system as required in paragraph (a) shall be:

(1) Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure; or

(2) Equipped with a barrier fluid system that is connected by a closed vent system to a control device that complies with the requirements of § 60.482-10; or

(3) Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.

(c) The barrier fluid system shall be in heavy liquid service or shall not be in VOC service.

(d) Each barrier fluid system as described in paragraph (a) shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.

(e)(1) Each sensor as required in paragraph (d) shall be checked daily or shall be equipped with an audible alarm.

(2) The owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(f) If the sensor indicates failure of the seal system, the barrier system, or both based on the criterion determined under paragraph (e)(2), a leak is detected.

(g)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482-9.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(h) A compressor is exempt from the requirements of paragraphs (a) and (b), if it is equipped with a closed vent system capable of capturing and transporting any leakage from the seal to a control device that complies with the requirements of § 60.482-10, except as provided in § 60.482-3(i).

(i) Any compressor that is designated, as described in § 60.486(e) (1) and (2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a)-(h) if the compressor:

(1) Is demonstrated to be operating with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the methods specified in § 60.485(c); and

(2) Is tested for compliance with paragraph (i)(1) initially upon designation, annually, and at other times requested by the Administrator.

(j) Any existing reciprocating compressor in a process unit which becomes an affected facility under provisions of § 60.14 or 60.15 is exempt from § 60.482 (a), (b), (c), (d), (e), and (h), provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of § 60.4823 (a), (b), (c), (d), (e), and (h).

§ 60.482-4 Standards: Pressure relief devices in gas/vapor service.

(a) Except during pressure releases, each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as determined by the methods specified in § 60.485(c).

(b)(1) After each pressure release, the pressure relief device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than 5 calendar days after the pressure release, except as provided in § 60.482-9.

(2) No later than 5 calendar days after the pressure release, the pressure relief device shall be monitored to confirm the conditions of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, by the methods specified in § 60.485(c).

(c) Any pressure relief device that is equipped with a closed vent system capable of capturing and transporting leakage through the pressure relief device to a control device as described in § 60.482-10 is exempted from the requirements of paragraphs (a) and (b).

VOL 48 ISS 202 OCT 18 1983 UMI

§ 60.482–5 Standards: Sampling connection systems.

(a) Each sampling connection system shall be equipped with a closed purge system or closed vent system, except as provided in § 60.482–1(c).

(b) Each closed purge system or closed vent system as required in paragraph (a) shall:

(1) Return the purged process fluid directly to the process line with zero VOC emissions to the atmosphere; or

(2) Collect and recycle the purged process fluid with zero VOC emissions to the atmosphere; or

(3) Be designed and operated to capture and transport all the purged process fluid to a control device that complies with the requirements of § 60.482–10.

(c) In-situ sampling systems are exempt from paragraphs (a) and (b).

§ 60.482–6 Standards: Open-ended valves or lines.

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in § 60.482–1(c).

(2) The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line.

(b) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

§ 60.482–7 Standards: Valves in gas/vapor service in light liquid service.

(a) Each valve shall be monitored monthly to detect leaks by the methods specified in § 60.485(b) and shall comply with paragraphs (b)–(e), except as provided in paragraphs (f), (g), and (h), § 60.483–1, 2, and § 60.482–1(c).

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected.

(2) If a leak is detected, the valve shall be monitored monthly until a lead is not detected for 2 successive months.

(d)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.482–9.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(e) First attempts at repair include, but are not limited to, the following best practices where practicable:

(1) Tightening of bonnet bolts;

(2) Replacement of bonnet bolts;

(3) Tightening of packing gland nuts;

(4) Injection of lubricant into lubricated packing.

(f) Any valve that is designated, as described in § 60.486(e)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraph (a) if the valve:

(1) Has no external actuating mechanism in contact with the process fluid,

(2) Is operated with emissions less than 500 ppm above background as determined by the method specified in § 60.485(c), and

(3) Is tested for compliance with paragraph (f)(2) initially upon designation, annually, and at other times requested by the Administrator.

(g) Any valve that is designated, as described in § 60.486(f)(1), as an unsafe-to-monitor valve is exempt from the requirements of paragraph (a) if:

(1) The owner or operator of the valve demonstrates that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (a), and

(2) The owner or operator of the valve adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times.

(h) Any valve that is designated, as described in § 60.486(f)(2), as a difficult-to-monitor valve is exempt from the requirements of paragraph (a) if:

(1) The owner or operator of the valve demonstrates that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.

(2) The process unit within which the valve is located becomes an affected facility through § 60.14 or § 60.15, and

(3) The owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.

§ 60.482–8 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors.

(a) Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors shall be monitored within 5 days by the method specified in § 60.485(b) if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method.

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9.

(2) The first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(d) First attempts at repair include, but are not limited to, the best practices described under § 60.482–7(e).

§ 60.482–9 Standards: Delay of repair.

(a) Delay of repair of equipment for which leaks have been detected will be allowed if the repair is technically infeasible without a process unit shutdown. Repair of this equipment shall occur before the end of the next process unit shutdown.

(b) Delay of repair of equipment will be allowed for equipment which is isolated from the process and which does not remain in VOC service.

(c) Delay of repair for valves will be allowed if:

(1) The owner or operator demonstrates that emissions of purged material resulting from immediate repair are greater than the fugitive emissions likely to result from delay of repair, and

(2) When repair procedures are effected, the purged material is collected and destroyed or recovered in a control device complying with § 60.482–10.

(d) Delay of repair for pumps will be allowed if:

(1) Repair requires the use of a dual mechanical seal system that includes a barrier fluid system, and

(2) Repair is completed as soon as practicable, but not later than 6 months after the leak was detected.

(e) Delay of repair beyond a process unit shutdown will be allowed for a valve, if valve assembly replacement is necessary during the process unit shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted. Delay of repair beyond the next process unit shutdown will not be allowed unless the next process unit shutdown occurs sooner than 6 months after the first process unit shutdown.

§ 60.482–10 Standards: Closed vent systems and control devices.

(a) Owners or operators of closed vent systems and control devices used to comply with provisions of this subpart shall comply with the provisions of this section.

(b) Vapor recovery systems (for example, condensers and adsorbers) shall be designed and operated to recover the VOC emissions vented to them with an efficiency of 95 percent or greater.

(c) Enclosed combustion devices shall be designed and operated to reduce the VOC emissions vented to them with an efficiency of 95 percent or greater, or to provide a minimum residence time of 0.75 seconds at a minimum temperature of 816°C.

(d)(1) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in § 60.485(g), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(2) Flares shall be operated with a flame present at all times, as determined by the methods specified in § 60.485(g).

(3) Flares shall be used only with the net heating value of the gas being combusted being 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted being 7.45 MJ/scm or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in § 60.485(g).

(4) Steam-assisted and nonassisted flares shall be designed for and operated with an exit velocity, as determined by the methods specified in § 60.485(g)(4), less than 18 m/sec (60 ft/sec).

(5) Flares used to comply with this subpart shall be steam-assisted, air-assisted, or nonassisted.

(6) Air-assisted flares shall be designed and operated with an exit velocity less than the velocity, V_{max}, as determined by the methods specified in § 60.485(g)(5).

(e) Owners or operators of control devices used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs.

(f)(1) Closed vent systems shall be designed and operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background and visual inspections, as determined by the methods specified in § 60.485(c).

(2) Closed vent systems shall be monitored to determine compliance with this section initially in accordance with § 60.8, annually and at other times requested by the Administrator.

(g) Closed vent systems and control devices used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

§ 60.483–1 Alternative standards for valves—allowable percentage of valves leaking.

(a) An owner or operator may elect to comply with an allowable percentage of valves leaking of equal to or less than 2.0 percent.

(b) The following requirements shall be met if an owner or operator wishes to comply with an allowable percentage of valves leaking:

(1) An owner or operator must notify the Administrator that the owner or operator has elected to comply with the allowable percentage of valves leaking before implementing this alternative standard, as specified in § 60.487(b).

(2) A performance test as specified in paragraph (c) of this section shall be conducted initially upon designation, annually, and at other times requested by the Administrator.

(3) If a valve leak is detected, it shall be repaired in accordance with § 60.482–7(d) and (e).

(c) Performance tests shall be conducted in the following manner:

(1) All valves in gas/vapor and light liquid service within the affected facility shall be monitored within 1 week by the methods specified in § 60.485(b).

(2) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(3) The leak percentage shall be determined by dividing the number of valves for which leaks are detected by the number of valves in gas/vapor and light liquid service within the affected facility.

(d) Owners and operators who elect to comply with this alternative standard shall not have an affected facility with a leak percentage greater than 2.0 percent.

§ 60.483–2 Alternative standards for valves—skip period leak detection and repair.

(a)(1) An owner or operator may elect to comply with one of the alternative work practices specified in paragraphs (b) (2) and (3) of this section.

(2) An owner or operator must notify the Administrator before implementing one of the alternative work practices, as specified in § 60.487(b).

(b)(1) An owner or operator shall comply initially with the requirements for valves in gas/vapor service and valves in light liquid service, as described in § 60.482–7.

(2) After 2 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 1 of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(3) After 5 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 3 of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(4) If the percent of valves leaking is greater than 2.0, the owner or operator shall comply with the requirements as described in § 60.482–7 but can again elect to use this section.

(5) The percent of valves leaking shall be determined by dividing the sum of valves found leaking during current monitoring and valves for which repair has been delayed by the total number of valves subject to the requirements of § 60.483–2.

(6) An owner or operator must keep a record of the percent of valves found leaking during each leak detection period.

§ 60.484 Equivalence of means of emission limitation.

(a) Each owner or operator subject to the provisions of this subpart may apply to the Administrator for determination of equivalance for any means of emission limitation that achieves a reduction in emissions of VOC at least equivalent to the reduction in emissions of VOC achieved by the controls required in this subpart.

(b) Determination of equivalence to the equipment, design, and operational requirements of this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for an equivalence determination shall be responsible for collecting and verifying test data to demonstrate equivalence of means of emission limitation.

(2) The Administrator will compare test data for the means of emission limitation to test data for the equipment, design, and operational requirements.

(3) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the equipment, design, and operational requirements.

(c) Determination of equivalence to the required work practices in this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for a determination of equivalence shall be responsible for collecting and verifying test data to demonstrate

equivalence of an equivalent means of emission limitation.

(2) For each affected facility for which a determination of equivalence is requested, the emission reduction achieved by the required work practice shall be demonstrated.

(3) For each affected facility, for which a determination of equivalence is requested, the emission reduction achieved by the equivalent means of emission limitation shall be demonstrated.

(4) Each owner or operator applying for a determination of equivalence shall commit in writing to work practice(s) that provide for emission reductions equal to or greater than the emission reductions achieved by the required work practice.

(5) The Administrator will compare the demonstrated emission reduction for the equivalent means of emission limitation to the demonstrated emission reduction for the required work practices and will consider the commitment in paragraph (c)(4).

(6) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the required work practice.

(d) An owner or operator may offer a unique approach to demonstrate the equivalence of any equivalent means of emission limitation.

(e)(1) After a request for determination of equivalence is received, the Administrator will publish a notice in the **Federal Register** and provide the opportunity for public hearing if the Administrator judges that the request may be approved.

(2) After notice and opportunity for public hearing, the Administrator will determine the equivalence of a means of emission limitation and will publish the determination in the **Federal Register.**

(3) Any equivalent means of emission limitations approved under this section shall constitute a required work practice, equipment, design, or operational standard within the meaning of Section 111(h)(1) of the Clean Air Act.

(f)(1) Manufacturers of equipment used to control equipment leaks of VOC may apply to the Administrator for determination of equivalence for any equivalent means of emission limitation that achieves a reduction in emissions of VOC achieved by the equipment, design, and operational requirements of this subpart.

(2) The Administrator will make an equivalence determination according to the provisions of paragraphs (b), (c), (d), and (e).

§ 60.485 Test methods and procedures.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the test method and procedure requirements provided in this section.

(b) Monitoring, as required in §§ 60.482, 60.483, and 60.484, shall comply with the following requirements:

(1) Monitoring shall comply with Reference Method 21.

(2) The detection instrument shall meet the performance criteria of Reference Method 21.

(3) The instrument shall be calibrated before use on each day of its use by the methods specified in Method 21.

(4) Calibration gases shall be:

(i) Zero air (less than 10 ppm of hydrocarbon in air); and

(ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.

(5) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(c) When equipment is tested for compliance with no detectable emissions as required in § 60.482–2(e), –3(i), –4, –7(f), and –10(e), the test shall comply with the following requirements:

(1) The requirements of paragraphs (b)(1)–(4) shall apply.

(2) The background level shall be determined, as set forth in Reference Method 21.

(3) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(4) The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.

(d)(1) Each piece of equipment within a process unit is presumed to be in VOC service unless an owner or operator demonstrates that the piece of equipment is not in VOC service. For a piece of equipment to be considered not in VOC service, it must be determined that the percent VOC content can be reasonably expected never to exceed 10 percent by weight. For purposes of determining the percent VOC content in the process fluid that is contained in or contacts equipment, procedures that conform to the general methods described in ASTM E–260, E–168, E–169 (incorporated by reference as specified in § 60.17) shall be used.

(2) If an owner or operator decides to exclude non-reactive organic compounds from the total quantity of organic compounds in determining the percent VOC content of the process fluid, the exclusion will be allowed if:

(i) Those substances excluded are those considered as having negligible photochemical reactivity by the Administrator; and

(ii) The owner or operator demonstrates that the percent organic content, excluding non-reactive organic compounds, can be reasonably expected never to exceed 10 percent by weight.

(3)(i) An owner or operator may use engineering judgment rather than the procedures in paragraphs (d) (1) and (2) of this section to demonstrate that the percent VOC content does not exceed 10 percent by weight, provided that the engineering judgment demonstrates that the VOC content clearly does not exceed 10 percent by weight. When an owner or operator and the Administrator do not agree on whether a piece of equipment is not in VOC service, however, the procedures in paragraphs (d) (1) and (2) shall be used to resolve the disagreement.

(ii) If an owner or operator determines that a piece of equipment is in VOC service, the determination can be revised only after following the procedures in paragraphs (d) (1) and (2).

(e) Equipment is in light liquid service if the following conditions apply:

(1) The vapor pressure of one or more of the components is greater than 0.3 kPa at 20° C. Vapor pressures may be obtained from standard reference texts or may be determined by ASTM D–2879 (incorporated by reference as specified in § 60.17).

(2) The total concentration of the pure components having a vapor pressure greater than 0.3 kPa at 20° C is equal to or greater than 20 percent by weight; and

(3) The fluid is a liquid at operating conditions.

(f) Samples used in conjunction with paragraphs (d), (e), and (g) shall be representative of the process fluid that is contained in or contacts the equipment or the gas being combusted in the flare.

(g)(1) Reference Method 22 shall be used to determine the compliance of flares with the visible emission provisions of this subpart.

(2) The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.

(3) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K\left(\sum_{i=1}^{n} C_i H_i\right)$$

Where:

H_T = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°.

$$K = \text{Constant}, 1.740 \times 10^{7}\left(\frac{1}{\text{ppm}}\right)\left(\frac{\text{g mole}}{\text{scm}}\right)\left(\frac{\text{MJ}}{\text{kcal}}\right)$$

where

$$\text{standard temperature for } \frac{\text{g mole}}{\text{scm}} \text{ is } 20°\text{C}$$

C_i = Concentration of sample component i in ppm, as measured by Reference Method 18 and ASTM D2504–67 (reapproved 1977) (incorporated by reference as specified in § 60.17).

H_i = Net heat of combustion of sample component i, kcal/g mole. The heats of combustion may be determined using ASTM D2382–76 (incorporated by reference as specified in § 60.17) if published values are not available or cannot be calculated.

(4) The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by Reference Method 2, 2A, 2C, or 2D as appropriate; by the unobstructed (free) cross sectional area of the flare tip.

(5) The maximum permitted velocity, V_{max}, for air-assisted flares shall be determined by the following equation:

$$V_{max} = 8.706 + 0.7084(H_T)$$

V_{max} = Maximum permitted velocity, m/sec.
8.706 = Constant.
0.7084 = Constant.
H_T = The net heating value as determined in paragraph (g)(4).

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.486 Recordkeeping requirements.

(a)(1) Each owner or operator subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section.

(2) An owner or operator of more than one affected facility subject to the provisions of this subpart may comply with the recordkeeping requirements for these facilities in one recordkeeping system if the system identifies each record by each facility.

(b) When each leak is detected as specified in § 60.482–2, -3, -7, -8, and § 60.483–2, the following requirements apply:

(1) A weatherproof and readily visible identification, marked with the equipment identification number, shall be attached to the leaking equipment.

(2) The identification on a valve may be removed after it has been monitored for 2 successive months as specified in § 60.482–7(c) and no leak has been detected during those 2 months.

(3) The identification on equipment except on a valve, may be removed after it has been repaired.

(c) When each leak is detected as specified in § 60.482–2, -3, -7, -8, and § 60.483–2, the following information shall be recorded in a log and shall be kept for 2 years in a readily accessible location:

(1) The instrument and operator identification numbers and the equipment identification number.

(2) The date the leak was detected and the dates of each attempt to repair the leak.

(3) Repair methods applied in each attempt to repair the leak.

(4) "Above 10,000" if the maximum instrument reading measured by the methods specified in § 60.485(a) after each repair attempt is equal to or greater than 10,000 ppm.

(5) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(6) The signature of the owner or operator (or designate) whose decision it was that repair could not be effected without a process shutdown.

(7) The expected date of successful repair of the leak if a leak is not repaired within 15 days.

(8) Dates of process unit shutdown that occur while the equipment is unrepaired.

(9) The date of successful repair of the leak.

(d) The following information pertaining to the design requirements for closed vent systems and control devices described in § 60.482–10 shall be recorded and kept in a readily accessible location:

(1) Detailed schematics, design specifications, and piping and instrumentation diagrams.

(2) The dates and descriptions of any changes in the design specifications.

(3) A description of the parameter or parameters monitored, as required in § 60.482–10(e), to ensure that control devices are operated and maintained in conformance with their design and an explanation of why that parameter (or parameters) was selected for the monitoring.

(4) Periods when the closed vent systems and control devices required in § 60.482–2, -3, -4, and -5 are not operated as designed, including periods when a flare pilot light does not have a flame.

(5) Dates of startups and shutdowns of the closed vent systems and control devices required in § 60.482–2, -3, -4, and -5.

(e) The following information pertaining to all equipment subject to the requirements in § 60.482–1 to -10 shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for equipment subject to the requirements of this subpart.

(2)(i) A list of identification numbers for equipment that are designated for no detectable emissions under the provisions of § 60.482–2(e), -3(i) and -7(f).

(ii) The designation of equipment as subject to the requirements of § 60.482–2(e), -3(i), or -7(f) shall be signed by the owner or operator.

(3) A list of equipment identification numbers for pressure relief devices required to comply with § 60.482–4.

(4)(i) The dates of each compliance test as required in § 60.482–2(e), -3(i), -4, and -7(f).

(ii) The background level measured during each compliance test.

(iii) The maximum instrument reading measured at the equipment during each compliance test.

(5) A list of identification numbers for equipment in vacum service.

(f) The following information pertaining to all valves subject to the requirements of § 60.482–7 (g) and (h) shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for valves that are designated as unsafe-to-monitor, an explanation for each valve stating why the valve is unsafe-to-monitor, and the plan for monitoring each valve.

(2) A list of identification numbers for valves that are designated as difficult-to-monitor, an explanation for each valve stating why the valve is difficult-to-monitor, and the schedule for monitoring each value.

(g) The following information shall be recorded for valves complying with § 60.483–2:

(1) A schedule of monitoring

(2) The percent of valves found leaking during each monitoring period.

(h) The following information shall be recorded in a log that is kept in a readily accessible location:

(1) Design criterion required in § 60.482–2(d)(5) and § 60.482–3(e)(2) and explanation of the design criterion; and

(2) Any changes to this criterion and the reasons for the changes.

(i) The following information shall be recorded in a log that is kept in a readily accessible location for use in determining exemptions as provided in § 60.480(d):

(1) An analysis demonstrating the design capacity of the affected facility,

(2) A statement listing the feed or raw materials and products from the affected facilities and an analysis demonstrating whether these chemicals are heavy liquids or beverage alcohol, and

(3) An analysis demonstrating that equipment is not in VOC service.

(j) Information and data used to demonstrate that a piece of equipment is not in VOC service shall be recorded in a log that is kept in a readily accessible location.

(k) The provisions of §§ 60.7 (b) and (d) do not apply to affected facilities subject to this subpart.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

(Approved by the Office of Management and Budget under the control number 2060–0012)

§ 60.487 Reporting Requirements.

(a) Each owner or operator subject to the provisions of this subpart shall submit semiannual reports to the Administrator beginning six months after the initial start up date.

(b) The initial semiannual report to the Administrator shall include the following information:

(1) Process unit identification.

(2) Number of valves subject to the requirements of § 60.482–7, excluding those valves designated for no detectable emissions under the provisions of § 60.482–7(f).

(3) Number of pumps subject to the requirements of § 60.482–2, excluding those pumps designated for no detectable emissions under the provisions of § 60.482–2(e) and those pumps complying with § 60.482–2(f).

(4) Number of compressors subject to the requirements of § 60.482–3, excluding those compressors designated for no detectable emissions under the provisions of § 60.482–3(i) and those compressors complying with § 60.482–3(h).

(c) All semiannual reports to the Administrator shall include the following information, summarized from the information in § 60.486:

(1) Process unit identification.

(2) For each month during the semiannual reporting period,

(i) Number of valves for which leaks were detected as described in § 60.482(7)(b) or § 60.483–2,

(ii) Number of valves for which leaks were not reported as required in § 60.482–7(d)(1),

(iii) Number of pumps for which leaks were detected as described in §§ 60.482–2(b) and (d)(6)(i),

(iv) Number of pumps for which leaks erer not repaired as required in §§ 60.482–2(c)(1) and (d)(6)(ii),

(v) Number of compressors for which leaks were detected as desctibed in § 60.482–3(f),

(vi) Number of compressors for which leaks were not reported as required in § 60.482–3(g)(1), and

(vii) The facts that explain each delay of repair and, where appropriate, why a process unit shutdown was technically infeasible.

(3) Dates of process unit shutdowns which occurred within the semiannual reporting period.

(4) Revisions to items reported according to paragraph (b) if changes have occurred since the initial report or subsequent revisions to the initial report.

(d) An owner or opertor electing to comply with the provisions of §§ 60.483–1 and –2 shall notify the Administrator of the alternative standard selected 90 days before implementing either of the provisions.

(e) An owner or operator shall report the results of all performance tests in accordance with § 60.8 of the General Provisions. The provisions of § 60.8(d) do not apply to affected facilities subject to the provisions of this subpart except that an owner or operator must notify the Administrator of the schedule for the initial performance tests at least 30 days before the initial performance tests.

(f) The requirements of paragraphs (a) through (c) of this subsection remain in force until and unless EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with the requirements of paragraphs (a) through (c) of this subsection, provided that they comply with the requirements established by the State.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

Approved by the Office of Management and Budget under the control number 2060–0012)

§ 60.488 [Reserved]

§ 60.489 List of chemicals produced by affected facilities.

(a) The following chemicals are produced, as intermediates or final products, by process units covered under this subpart. The applicability date for process units producing one or more of these chemicals is January 5, 1981.

CAS No. *	Chemical
105–57–7	Acetal.
75–07–0	Acetaldehyde.
107–89–1	Acetaldol.
60–35–5	Acetamide.
103–84–4	Acetanilide.
64–19–7	Acetic acid.
108–24–7	Acetic anhydride.
67–64–1	Acetone.
75–86–5	Acetone cyanohydrin.
75–05–8	Acetonitrile.
98–86–2	Acetophenone.
75–36–5	Acetyl chloride.
74–86–2	Acetylene.
107–02–8	Acrolein.
79–06–1	Acrylamide.
79–10–7	Acrylic acid.
107–13–1	Acrylonitrile.
124–04–9	Adipic acid.
111–69–3	Adiponitrile.
(*)	Alkyl naphthalenes.
107–18–6	Allyl alcohol.
107–05–1	Allyl chloride.
1321–11–5	Aminobenzoic acid.
111–41–1	Aminoethylethanolamine.
123–30–8	p-Aminophenol.
628–63–7, 123–92–2.	Amyl acetates.
71–41–0 *	Amyl alcohols.
110–58–7	Amyl amine.
543–59–9	Amyl chloride.
110–66–7 *	Amyl mercaptans.
1322–06–1	Amyl phenol.
62–53–3	Aniline.
142–04–1	Aniline hydrochloride.
29191–52–4	Anisidine.
100–66–3	Anisole.
118–92–3	Anthranilic acid.
84–65–1	Anthraquinone.
100–52–7	Benzaldehyde.
55–21–0	Benzamide.
71–43–2	Benzene.
98–48–6	Benzenedisulfonic acid.
98–11–3	Benzenesulfonic acid.
134–81–6	Benzil.
76–93–7	Benzilic acid.
65–85–0	Benzoic acid.
119–53–9	Benzoin.
100–47–0	Benzonitrile.
119–61–9	Benzophenone.
98–07–7	Benzotrichloride.
98–88–4	Benzoyl chloride.
100–51–6	Benzyl alcohol.
100–46–9	Benzylamine.
120–51–4	Benzyl benzoate.
100–44–7	Benzyl chloride.
98–87–3	Benzyl dichloride.
92–52–4	Biphenyl.
80–05–7	Bisphenol A.
10–86–1	Bromobenzene.
27497–51–4	Bromonaphthalene.
106–99–0	Butadiene.
106–98–9	1-butene.
123–86–4	n-butyl acetate.
141–32–2	n-butyl acrylate.
71–36–3	n-butyl alcohol.
78–92–2	s-butyl alcohol.
75–65–0	t-butyl alcohol.
109–73–9	n-butylamine.
13952–84–6	s-butylamine.
75–64–9	t-butylamine.
98–73–7	p-tert-butyl benzoic acid.
107–88–0	1,3-butylene glycol.
123–72–8	n-butyraldehyde.
107–92–6	Butyric acid.
106–31–0	Butyric anhydride.
109–74–0	Butyronitrile.
105–60–2	Caprolactam.
75–1–50	Carbon disulfide.

CAS No. *	Chemical
558–13–4	Carbon tetrabromide.
56–23–5	Carbon tetrachloride.
9004–35–7	Cellulose acetate.
79–11–8	Chloroacetic acid.
108–42–9	m-chloroaniline.
95–51–2	o-chloroaniline.
106–47–8	p-chloroaniline.
35913–09–8	Chlorobenzaldehyde.
108–90–7	Chlorobenzene.
118–91–2, 535–80–8, 74–11–3 *.	Chlorobenzoic acid.
2136–81–4, 2136–89–2, 5216–25–1 *.	Chlorobenzotrichloride.
1321–03–5	Chlorbenzoyl chloride.
25497–29–4	Chlorodifluoromethane.
75–45–6	Chlorodifluoroethane.
67–66–3	Chloroform.
25586–43–0	Chloronaphalene.
88–73–3	o-chloronitrobenzene.
100–00–5	p-chloronitrobenzene.
25167–80–0	Chlorophenols.
126–99–8	Chloroprene.
7790–94–5	Chlorosulfonic acid.
108–41–8	m-chlorotoluene.
95–49–8	o-chlorotoluene.
106–43–4	p-chlorotoluene.
75–72–9	Chlorotrifluoromethane.
108–39–4	m-cresol.
95–48–7	o-cresol.
106–44–5	p-cresol.
1319–77–3	Mixed cresols.
1319–77–3	Cresylic acid.
4170–30–0	Crotonaldehyde.
3724–65–0	Crotonic acid.
98–82–8	Cumene.
80–15–9	Cumene hydroperoxide.
372–09–8	Cyanoacetic acid.
506–77–4	Cyanogen chloride.
108–80–5	Cyanuric acid.
108–77–0	Cyanuric chloride.
110–82–7	Cyclohexane.
108–93–0	Cyclohexanol.
108–94–1	Cyclohexanone.
110–83–8	Cyclohexene.
108–91–8	Cyclohexylamine.
111–78–4	Cyclooctadiene.
112–30–1	Decanol.
123–42–2	Diacetone alcohol.
27576–04–1	Diaminobenzoic acid.
95–76–1, 95–82–9, 554–00–7, 608–27–5, 608–31–1, 626–43–7, 27134–27–6, 57311–62–9 *.	Dichloroaniline.
541–73–1	m-dichlorobenzene.
95–50–1	o-dichlorobenzene.
106–46–7	p-dichlorobenzene.
75–71–8	Dichlorodifluoromethane.
111–44–4	Dichloroethyl ether.
107–06–2	1,2-dichloroethane (EDC).
96–23–1	Dichlorohydrin.
26952–23–8	Dichloropropene.
101–83–7	Dicyclohexylamine.
109–89–7	Diethylamine.
111–46–6	Diethylene glycol.
112–36–7	Diethylene glycol diethyl ether.
111–96–6	Diethylene glycol dimethyl ether.
112–34–5	Diethylene glycol monobutyl ether.
124–17–7	Diethylene glycol monobutyl ether acetate.
111–90–0	Diethylene glycol monoethyl ether.
112–15–2	Diethylene glycol monoethyl ether acetate.
111–77–3	Diethylene glycol monomethyl ether.
64–67–5	Diethyl sulfate.
75–37–6	Difluoroethane.
25167–70–8	Diisobutylene.
26761–40–0	Diisodecyl phthalate.
27554–26–3	Diisooctyl phthalate.
674–82–8	Diketene.
124–40–3	Dimethylamine.
121–69–7	N,N-dimethylaniline.
115–10–6	N,N-dimethyl ether.
68–12–2	N,N-dimethylformamide.
57–14–7	Dimethylhydrazine.
77–78–1	Dimethyl sulfate.
75–18–3	Dimethyl sulfide.
67–68–5	Dimethyl sulfoxide.
120–61–6	Dimethyl terephthalate.
99–34–3	3,5-dinitrobenzoic acid.
51–28–5	Dinitrophenol.
25321–14–6	Dinitrotoluene.
123–91–1	Dioxane.
646–06–0	Dioxilane.
122–39–4	Diphenylamine.
101–84–8	Diphenyl oxide.
102–08–9	Diphenyl thiourea.
25265–71–8	Dipropylene glycol.
25378–22–7	Dodecene.
28675–17–4	Dodecylaniline.
27193–86–8	Dodecylphenol.
106–89–8	Epichlorohydrin.
64–17–5	Ethanol.
141–43–5 *	Ethanolamines.
141–78–6	Ethyl acetate.
141–97–9	Ethyl acetoacetate.
140–88–5	Ethyl acrylate.
75–04–7	Ethylamine.
100–41–4	Ethylbenzene.
74–96–4	Ethyl bromide.
9004–57–3	Ethylcellulose.
75–00–3	Ethyl chloride.
105–39–5	Ethyl chloroacetate.
105–56–6	Ethylcyanoacetate.
74–85–1	Ethylene.
96–49–1	Ethylene carbonate.
107–07–3	Ethylene chlorohydrin.
107–15–3	Ethylenediamine.
106–93–4	Ethylene dibromide.
107–21–1	Ethylene glycol.
111–55–7	Ethylene glycol diacetate.
110–71–4	Ethylene glycol dimethyl ether.
111–76–2	Ethylene glycol monobutyl ether.
112–07–2	Ethylene glycol monobutyl ether acetate.
110–80–5	Ethylene glycol monoethy ether.
111–15–9	Ethylene glycol monethyl ether acetate.
109–86–4	Ethylene glycol monomethyl ether.
110–49–6	Ethylene glycol monomethyl ether acetate.
122–99–6	Ethylene glycol monophenyl ether.
2807–30–9	Ethylene glycol monopropyl ether.
75–21–8	Ethylene oxide.
60–29–7	Ethyl ether
104–76–7	2-ethylhexanol.
122–51–0	Ethyl orthoformate.
95–92–1	Ethyl oxalate.
41892–71–1	Ethyl sodium oxalacetate.
50–00–0	Formaldehyde.
75–12–7	Formamide.
64–18–6	Formic acid.
110–17–8	Fumaric acid.
98–01–1	Furfural.
56–81–5	Glycerol.
26545–73–7	Glycerol dichlorohydrin.
25791–96–2	Glycerol triether.
56–40–6	Glycine.
107–22–2	Glyoxal.
118–74–1	Hexachlorobenzene.
67–72–1	Hexachloroethane.
36653–82–4	Hexadecyl alcohol.
124–09–4	Hexamethylenediamine.
629–11–6	Hexamethylene glycol.
100–97–0	Hexamethylenetetramine.
74–90–8	Hydrogen cyanide.
123–31–9	Hydroquinone.
99–96–7	p-hydroxybenzoic acid.
26760–64–5	Isoamylene.
78–83–1	Isobutanol.
110–19–0	Isobutyl acetate.
115–11–7	Isobutylene.
78–84–2	Isobutyraldehyde.
79–31–2	Isobutyric acid.
25339–17–7	Isodecanol.
26952–21–8	Isooctyl alcohol.
78–78–4	Isopentane.
78–59–1	Isophorone.
121–91–5	Isophthalic acid.
78–79–5	Isoprene.
67–63–0	Isopropanol.
108–21–4	Isopropyl acetate.
75–31–0	Isopropylamine.
75–29–6	Isopropyl chloride.
25168–06–3	Isopropylphenol.
463–51–4	Ketene.
(*)	Linear alkyl sulfonate.
123–01–3	Linear alkylbenzene (linear dodecylbenzene).
110–16–7	Maleic acid.
108–31–6	Maleic anhydride.
6915–15–7	Malic acid.
141–79–7	Mesityl oxide.
121–47–1	Metanilic acid.
79–41–4	Methacrylic acid.
563–47–3	Methallyl chloride.
67–56–1	Methanol.
79–20–9	Methyl acetate.
105–45–3	Methyl acetoacetate.
74–89–5	Methylamine.
100–61–6	n-methylaniline.
74–83–9	Methyl bromide.
37365–71–2	Methyl butynol.
74–87–3	Methyl chloride.
108–87–2	Methylcyclohexane.
1331–22–2	Methylcyclohexanone.
75–09–2	Methylene chloride.
101–77–9	Methylene dianiline.
101–68–8	Methylene diphenyl diisocyanate.
78–93–3	Methyl ethyl ketone.
107–31–3	Methyl formate.
108–11–2	Methyl isobutyl carbinol.
108–10–1	Methyl isobutyl ketone.
80–62–6	Methyl methacrylate.
77–75–8	Methylpentynol.
98–83–9	a-methylstyrene.
110–91–8	Morpholine.
85–47–2	a-naphthalene sulfonic acid.
120–18–3	b-naphthalene sulfonic acid
90–15–3	a-naphthol.
135–19–3	b-naphthol.
75–98–9	Neopentanoic acid.
88–74–4	o-nitroaniline.
100–01–6	p-nitroaniline.
91–23–6	o-nitroanisole.
100–17–4	p-nitroanisole.
98–95–3	Nitrobenzene.
27178–83–2 *	Nitrobenzoic acid (o,m, and p).
79–24–3	Nitroethane.
75–52–5	Nitromethane.
88–75–5	2-Nitrophenol.
25322–01–4	Nitropropane.
1321–12–6	Nitrotoluene.
27215–95–8	Nonene.
25154–52–3	Nonylphenol.
27193–28–8	Octylphenol.
123–63–7	Paraldehyde.
115–77–5	Pentaerythritol.
109–66–0	n-pentane.
109–67–1	1-pentene
127–18–4	Perchloroethylene.
594–42–3	Perchloromethyl mercaptan.
94–70–2	o-phenetidine.
156–43–4	p-phenetidine.
108–95–2	Phenol.
98–67–9, 585–38–6, 609–46–1, 1333–39–7 *.	Phenolsulfonic acids.
91–40–7	Phenyl anthranilic acid.
(*)	Phenylenediamine.
75–44–5	Phosgene.
85–44–9	Phthalic anhydride.
85–41–6	Phthalimide.
108–99–6	b-picoline.
110–85–0	Piperazine.
9003–29–6, 25036–29–7*.	Polybutenes.
25322–68–3	Polyethylene glycol.
25322–69–4	Polypropylene glycol.
123–38–6	Propional dehyde.
79–09–4	Propionic acid.
71–23–8	n-propyl alcohol.
107–10–8	Propylamine.
540–54–5	Propyl chloride.
115–07–1	Propylene.
127–00–4	Propylene chlorohydrin.
78–87–5	Propylene dichloride.
57–55–6	Propylene glycol.
75–56–9	Propylene oxide.
110–86–1	Pyridine.
106–51–4	Quinone.
108–46–3	Resorcinol.
27138–57–4	Resorcylic acid.
69–72–7	Salicylic acid.
127–09–3	Sodium acetate.
532–32–1	Sodium benzoate.
9004–32–4	Sodium carboxymethyl cellulose.
3926–62–3	Sodium chloroacetate.
141–53–7	Sodium formate.
139–02–6	Sodium phenate.
110–44–1	Sorbic acid.
100–42–5	Styrene.
110–15–6	Succinic acid.
110–61–2	Succinonitrile.
121–57–3	Sulfanilic acid.
126–33–0	Sulfolane.
1401–55–4	Tannic acid.
100–21–0	Terephthalic acid.
79–34–5 *	Tetrachloroethanes.
117–08–8	Tetrachlorophthalic anhydride.

CAS No. [a]	Chemical
78-00-2	Tetraethyl lead.
119-64-2	Tetrahydronaphthalene.
85-43-8	Tetrahydrophthalic anhydride.
75-74-1	Tetramethyl lead.
110-60-1	Tetramethylenediamine.
110-18-9	Tetramethylethylenediamine.
108-88-3	Toluene.
95-80-7	Toluene-2,4-diamine.
584-84-9	Toluene-2,4-diisocyanate.
26471-62-5	Toluene diisocyanates (mixture).
1333-07-9	Toluenesulfonamide.
104-15-4 [c]	Toluenesulfonic acids.
98-59-9	Toluenesulfonyl chloride.
26915-12-8	Toluidines.
87-61-6, 108-70-3, 120-82-1 [c]	Trichlorobenzenes.
71-55-6	1,1,1-trichloroethane.
79-00-5	1,1,2-trichloroethane.
79-01-6	Trichloroethylene.
75-69-4	Trichlorofluoromethane.
96-18-4	1,2,3-trichloropropane.
76-13-1	1,1,2-trichloro-1,2,2-trifluoroethane.
121-44-8	Triethylamine.
112-27-6	Triethylene glycol.
112-49-2	Triethylene glycol dimethyl ether.
7756-94-7	Triisobutylene.
75-50-3	Trimethylamine.
57-13-6	Urea.
108-05-4	Vinyl acetate.
75-01-4	Vinyl chloride.
75-35-4	Vinylidene chloride.
25013-15-4	Vinyl toluene.
1330-20-7	Xylenes (mixed).
95-47-6	o-xylene.
106-42-3	p-xylene.
1300-71-6	Xylenol.
1300-73-8	Xylidine.

[a] CAS numbers refer to the Chemical Abstracts Registry numbers assigned to specific chemicals, isomers, or mixtures of chemicals. Some isomers or mixtures that are covered by the standards do not have CAS numbers assigned to them. The standards apply to all of the chemicals listed, whether CAS numbers have been assigned or not.

[b] No CAS number(s) have been assigned to this chemical, its isomers, or mixtures containing these chemicals.

[c] CAS numbers for some of the isomers are listed; the standards apply to all of the isomers and mixtures, even if CAS numbers have not been assigned.

5. In Appendix A of Part 60, Method 18 is added as follows:

Method 18—Measurement of Gaseous Organic Compound Emissions by Gas Chromatography

Introduction

[This method should not be attempted by persons unfamiliar with the performance characteristics of gas chromatography, nor by those persons who are unfamiliar with source sampling. Particular care should be exercised in the area of safety concerning choice of equipment and operation in potentially explosive atmospheres.]

1. *Applicability and Principle*

1.1 Applicability. This method applies to the analysis of approximately 90 percent of the total gaseous organics emitted from an industrial source. It does not include techniques to identify and measure trace amounts of organic compounds, such as those found in building air and fugitive emission sources.

This method will not determine compounds that (1) are polymeric (high molecular weight), (2) can polymerize before analysis, or (3) have very low vapor pressures at stack or instrument conditions.

1.2 Principle. This method is based on separating the major components of a gas mixture with a gas chromatograph (GC) and measuring the separated components with a suitable detector.

The retention times of each separated component are compared with those of known compounds under identical conditions. Therefore, the analyst confirms the identity and approximate concentrations of the organic emission components beforehand. With this information, the analyst then prepares or purchases commercially available standard mixtures to calibrate the GC under conditions identical to those of the samples. The analyst also determines the need for sample dilution to avoid detector saturation, gas stream filtration to eliminate particulate matter, and prevention of moisture condensation.

2. *Range and Sensitivity*

2.1 Range. The range of this method is from about 1 part per million (ppm) to the upper limit governed by GC detector saturation or column overloading. The upper limit can be extended by diluting the stack gases with an inert gas or by using smaller gas sampling loops.

2.2 Sensitivity. The sensitivity limit for a compound is defined as the minimum detectable concentration of that compound, or the concentration that produces a signal-to-noise ratio of three to one. The minimum detectable concentration is determined during the presurvey calibration for each compound.

3. *Precision and Accuracy*

Gas chromatographic techniques typically provide a precision of 5 to 10 percent relative standard deviation (RSD), but an experienced GC operator with a reliable instrument can readily achieve 5 percent RSD. For this method, the following combined GC/operator values are required.

(a) Precision. Duplicate analyses are within 5 percent of their mean value.

(b) Accuracy. Analysis results of prepared audit samples are within 10 percent of preparation values.

4. *Interferences*

Resolution interferences that may occur can be eliminated by appropriate GC column and detector choice or by shifting the retention times through changes in the column flow rate and the use of temperature programming.

The analytical system is demonstrated to be essentially free from contaminants by periodically analyzing blanks that consist of hydrocarbon-free air or nitrogen.

Sample cross-contamination that occurs when high-level and low-level samples or standards are analyzed alternately, is best dealt with by thorough purging of the GC sample loop between samples.

To assure consistent detector response, calibration gases are contained in dry air. To eliminate errors in concentration calculations due to the volume of water vapor in the samples, moisture concentrations are determined for each sample, and a correction factor is applied to any sample with greater than 2 percent water vapor.

5. *Presurvey and Presurvey Sampling*

A presurvey shall be performed on each source to be tested. The purpose of the presurvey is to obtain all information necessary to design the emission test. The most important presurvey data are the average stack temperature and temperature range, approximate particulate concentration, static pressure, water vapor content, and identity and expected concentration of each organic compound to be analyzed. Some of this information can be obtained from literature surveys, direct knowledge, or plant personnel. However, presurvey samples of the gas shall be obtained for analysis to confirm the identity and approximate concentrations of the specific compounds prior to the final testing.

5.2 Apparatus.

5.1.1 Teflon Tubing. (Mention of trade names or specific products does not constitute endorsement by the U.S. Environmental Protection Agency.) Diameter and length determined by connection requirements of cylinder regulators and the GC. Additional tubing is necessary to connect the GC sample loop to the sample.

5.1.2 Gas Chromatograph. GC with suitable detector, columns, temperature-controlled sample loop and valve assembly, and temperature programable oven, if necessary. The GC shall achieve sensitivity requirements for the compounds under study.

5.1.3 Pump. Capable of pumping 100 ml/min. For flushing sample loop.

5.1.4 Flow Meter. To accurately monitor sample loop flow rate of 100 ml/min.

5.1.5 Regulators. Used on gas cylinders for GC and for cylinder standards.

5.1.6 Recorder. Recorder with linear strip chart is minimum acceptable. Integrator (optional) is recommended.

5.1.7 Syringes. 1.0- and 10-microliter size, calibrated, maximum accuracy (gas tight) for preparing standards and for injecting head space vapor from liquid standards in retention time studies.

5.1.8 Tubing Fittings. To plumb GC and gas cylinders.

5.1.9 Septums. For syringe injections.

5.1.10 Glass Jars. If necessary, clean-colored glass jars with Teflon-lined lids for condensate sample collection. Size depends on volume of condensate.

5.1.11 Soap Film Flow Meter. To determine flow rates.

5.1.12 Tedlar Bags. 10- and 50-liter capacity, for preparation of standards.

5.1.13 Dry Gas Meter with Temperature and Pressure Gauges. Accurate to ±2 percent, for perparation of gas standards.

5.1.14 Midget Impinger/Hot Plate Assembly. For preparation of gas standards.

5.1.15 Sample Flasks. For presurvey samples, must have gas-tight seals.

5.1.16 Adsorption Tubes. If necessary, blank tubes filled with necessary adsorbent (charcoal, Tenax, XAD–2, etc.) for presurvey samples.

5.1.17 Personnel Sampling Pump. Calibrated, for collecting adsorbent tube presurvey samples.

5.1.16 Dilution System. Calibrated, the dilution system is to be constructed following the specifications of an acceptable method.

5.2 Reagents.

5.2.1 Deionized Distilled Water.

5.2.2 Methylene Dichloride.

5.2.3 Calibration Gases. A series of standards prepared for every compound of interest.

5.2.4 Calibration Solutions. Samples of all the compounds of interest in a liquid form, for retention time studies.

5.2.5 Extraction Solvents. For extraction of adsorbent tube samples in preparation for analysis.

5.2.6 Fuel. As recommended by the manufacturer for operation of the GC.

5.2.7 Carrier Gas. Hydrocarbon free, as recommended by the manufacturer for operation of the detector and compatability with the column.

5.2.8 Zero Gas. Hydrocarbon free air or nitrogen, to be used for dilutions, blank preparation, and standard preparation.

5.3 Sampling.

5.3.1 Collection of Samples with Glass Sampling Flasks. Presurvey samples can be collected in precleaned 250-ml double-ended glass sampling flasks. Teflon stopcocks, without grease, are preferred. Flasks should be cleaned as follows: Remove the stopcocks from both ends of the flasks, and wipe the parts to remove any grease. Clean the stopcocks, barrels, and receivers with methylene dichloride. Clean all glass ports with a soap solution, then rinse with tap and deionized distilled water. Place the flask in a cool glass annealing furnace and apply heat up to 500° C. Maintain at this temperature for 1 hour. After this time period, shut off and open the furnace to allow the flask to cool. Grease the stopcocks with stopcock grease and return them to the flask receivers. Purge the assembly with high-purity nitrogen for 2 to 5 minutes. Close off the stopcocks after purging to maintain a slight positive nitrogen pressure. Secure the stopcocks with tape.

Presurvey samples can be obtained either by drawing the gases into the previously evacuated flask or by drawing the gases into and purging the flask with a rubber suction bulb.

5.3.1.1 Evacuated Flask Procedure. Use a high-vacuum pump to evacuate the flask to the capacity of the pump; then close off the stopcock leading to the pump. Attach a 6-mm outside diameter (OD) glass tee to the flask inlet with a short piece of Teflon tubing. Select a 6-mm OD borosilicate sampling probe, enlarged at one end to a 12-mm OD and of sufficient length to reach the centroid of the duct to be sampled. Insert a glass wool plug in the enlarged end of the probe to remove particulate matter. Attach the other end of the probe to the tee with a short piece of Teflon tubing. Connect a rubber suction bulb to the third leg of the tee. Place the filter end of the probe at the centroid of the duct, and purge the probe with the rubber suction bulb. After the probe is completely purged and filled with duct gases, open the stopcock to the grab flask until the pressure in the flask reaches duct pressure. Close off the stopcock, and remove the probe from the duct. Remove the tee from the flask and tape the stopcocks to prevent leaks during shipment. Measure and record the duct temperature and pressure.

5.3.1.2 Purged Flask Procedure. Attach one end of the sampling flask to a rubber suction bulb. Attach the other end to a 6-mm OD glass probe as described in Section 5.3.1.1. Place the filter end of the probe at the centroid of the duct, and apply suction with the bulb to completely purge the probe and flask. After the flask has been purged, close off the stopcock near the suction bulb, and then close the stopcock near the probe. Remove the probe from the duct, and disconnect both the probe and suction bulb. Tape the stopcocks to prevent leakage during shipment. Measure and record the duct temperature and pressure.

5.3.2 Flexible Bag Procedure. Tedlar or aluminized Mylar bags can also be used to obtain the presurvey sample. Use new bags, and leak check them before field use. In addition, check the bag before use for contamination by filling it with nitrogen or air, and analyzing the gas by GC at high sensitivity. Experience indicates that it is desirable to allow the inert gas to remain in the bag about 24 hours or longer to check for desorption of organics from the bag. Follow the leak check and sample collection procedures given in Section 7.1.

5.3.3 Determination of Moisture Content. For combustion or water-controlled processes, obtain the moisture content from plant personnel or by measurement during the presurvey. If the source is below 50° C, measure the wet bulb and dry bulb temperatures, and calculate the moisture content using a psychrometric chart. At higher temperatures, use Method 4 to determine the moisture content.

5.4 Determination of Static Pressure. Obtain the static pressure from the plant personnel or measurement. If a type S pitot tube and an inclined manometer are used, take care to align the pitot tube 90° from the direction of the flow. Disconnect one of the tubes to the manometer, and read the static pressure; note whether the reading is positive or negative.

5.5 Collection of Presurvey Samples with Adsorption Tube. Follo Section 7.4 for presurvey sampling.

6. *Analysis Development*

Presurvey samples shall be used to develop and confirm the best sampling and analysis scheme.

6.1 Selection of GC Parameters.

6.1.1 Column Choice. Based on the initial contact with plant personnel concerning the plant process and the anticipated emissions, choose a column that provides good resolution and rapid analysis time. The choice of an appropriate column can be aided by a literature search, contact with manufacturers of GC columns, and discussion with personnel at the emission source.

Most column manufacturers keep excellent records of their products. Their technical service departments may be able to recommend appropriate columns and detector type for separating the anticipated compounds, and they may be able to provide information on interferences, optimum operating conditions, and column limitations.

Plants with analytical laboratories may be able to provide information on their analytical procedures, including extractions, detector type, column types, compounds emitted, and approximate concentrations.

6.1.2 Preliminary GC Adjustment. Using the standards and column obtained in Section 6.1.1, perform initial tests to dertermine appropriate GC conditions that provide good resolution and minimum analysis time for the compounds of interest.

6.1.3 Preparation of Presurvey Samples. If the samples were collected on an adsorbent, extract the sample as recommended by the manufacturer for removal of the compounds with a solvent suitable to the type of GC analysis. Prepare other samples in an appropriate manner.

6.1.4 Presurvey Sample Analysis. Before analysis, heat the presurvey sample to the duct temperature to vaporize any condensed material. Analyze the samples by the GC procedure, and compare the retention times against those of the calibration samples that contain the components expected to be in the stream. If any compounds cannot be identified with certainty by this procedure, identify them by other means such as GC/mass spectroscopy (GC/MS) or GC/infrared techniques. A GC/MS system is recommended.

Use the GC conditions determined by the procedures of Section 6.1.2 for the first injection. Vary the GC parameters during subsequent injections to determine the optimum settings. Once the optimum settings have been determined, perform repeat injections of the sample to determine the retention time of each compound. To inject a sample, draw sample through the loop at a constant rate (100 ml/min for 30 seconds). Be careful not to pressurize the gas in the loop. Turn off the pump and allow the gas in the sample loop to come to ambient pressure. Activate the sample valve, and record injection time, loop temperature, column temperature, carrier flow rate, chart speed, and attenuator setting. Calculate the retention time of each peak using the distance from injection to the peak maximum divided by the chart speed. Retention times should be repeatable within 0.5 seconds.

If the concentrations are too high for appropriate detector response, a smaller sample loop or dilutions may be used for gas samples, and, for liquid samples, dilution with solvent is appropriate. Use the standard curves (Section 6.3) to obtain an estimate of the concentrations.

Identify all peaks by comparing the known retention times of compounds expected to be in the retention times of peaks in the sample. Identify any remaining unidentified peaks which have areas larger than 5 percent of the total using a GC/MS, or estimation of possible compounds by their retention times compared to known compounds, with confirmation by further GC analysis.

6.2 Calibration Standards. If the presurvey samples are collected in an adsorbent tube (charcoal, XAD–2, Tenax, etc.), prepare the standards in the same solvent used for the extraction procedure for the adsorbent. Prepare several standards for each compound throughout the range of the sample.

6.2.1 Cylinder Calibration Gases. If available, use NBS reference gases or commercial gas mixtures certified through direct analysis for the calibration curves.

6.2.1.1 Optional Cylinder Approach. As an alternative procedure, maintain high and low calibration standards. Use the high concentration (50 to 100 ppm) standard to prepare a three-point calibration curve with an appropriate dilution technique. Use this

same approach also to verify the dilution techniques for high-concentration source gases.

To prepare the diluted calibration samples, use calibrated rotameters to meter both the high concentration calibration gas and the diluent gas. Adjust the flow rates through the rotameters with micrometer valves to obtain the desired dilutions. A positive displacement pump or other metering techniques may be used in place of the rotameter to provide a fixed flow of high concentration gas.

To calibrate the rotameters, connect each rotameter between the diluent gas supply and a suitably sized bubble meter, spirometer, or wet test meter. While it is desirable to calibrate the calibration gas flowmeter with calibration gas, generally the available amount of this gas will preclude it. The error introduced by using the diluent gas is insignificant for gas mixtures of up to 1,000 to 2,000 ppm of each organic component. Record the temperature and atmospheric pressures as follows:

$$Q_2 = Q_1\left(\frac{P_2 T_1}{P_1 T_2}\right)^{1/2} \quad \text{Eq. 18-1}$$

Where:
Q_2 = Flow rate at new absolute temperature (T_2) and new absolute pressure (P_2).
Q_1 = Flow rate at calibration absolute temperature (T_1) and absolute pressure (P_1).

Connect the rotameters to the calibration and diluent gas supplies using 6-mm Teflon tubing. Connect the outlet side of the rotameters through a connector to a leak-free Tedlar bag as shown in Figure 18.5. (See Section 7.1 for leak check procedures.) Adjust the gas flows to provide the desired dilution, and fill the bag with sufficient gas for calibration. Be careful not to fill to the point where it applies additional pressure on the gas. Record the flow rates of both rotameters, the ambient temperature, and atmospheric pressure. Calculate the concentration of diluted gas as follows:

$$C_a = \frac{10^6 \bar{X}_a\, q_a)}{q_a + q_d} \quad \text{Eq. 18-2}$$

Where:
C_a = Concentration of component "a" in ppm.
$\bar{X}_a$ = Mole fraction of component "a" in the calibration gas to be diluted.
q_a = Flow rate of the calibration gas contains mg component "a" at measured temperature and pressure.
q_d = Diluent gas flow at measured temperature and pressure.

Use single-stage dilutions to prepare calibration mixtures up to about 1:20 dilution factor. For greater dilutions, use a double dilution system. Assemble the apparatus, as shown in Figure 18-6, using calibrated flowmeters of suitable range. Adjust the control valves so that about 90 percent of the diluted gas from the first stage is exhausted, and 10 percent goes to the second stage flowmeter. Fill the Tedlar bag with the dilute gas from the second stage. Record the temperature, ambient pressure, and water manometer pressure readings. Correct the flow reading in the first stage as indicated by the water manometer reading. Calculate the concentration of the component in the final gas mixture as follows:

$$C_a = 10^6\, \bar{X}_a \left(\frac{q_a 1}{q_a 1 + q_d 1}\right)\left(\frac{q_a 2}{q_a 2 + q_d 2}\right) \quad \text{Eq. 18-3}$$

Where:
C_a = Concentration of component "a" in ppm.
$\bar{X}_a$ = Mole fraction of component "a" in original gas.
$q_a 1$ = Flow rate of component "a" in stage 1.
$q_a 2$ = Flow rate of component "a" in stage 2.
$q_d 1$ = Flow rate of diluent gas in stage 1.
$q_d 2$ = Flow rate of diluent gas in stage 2.

Further details of the calibration methods for rotameters and the dilution system can be found in Citation 21 in Section 6.

6.2.2 Preparation of Standards from Volatile Materials. Record all data shown on Figure 18-3.

6.2.2.1 Bag Technique. Evacuate a 10-liter Tedlar bag that has passed a leak check (see Section 7.1), and meter in 5.0 liters of nitrogen through a 0.5 liter per revolution dry test meter. While the bag is filling, use a 0.5-ml syringe to inject a known quantity of the material of interest through the wall of the bag or through a septum—caped tee at the bag inlet. Withdraw the syringe needle, and immediately cover the resulting hole with a piece of masking tape. In a like manner, prepare dilutions having other concentrations. Prepare a minimum of three concentrations. Place each bag on a smooth surface, and alternately depress opposite sides of the bag 50 times to mix the gases. Record the average meter temperature, gas volume, liquid volume, barometric pressure, and meter pressure.

Set the electrometer attenuator to the X1 Position. Flush the sampling loop with zero helium or nitrogen, and activate the sample valve. Record the injection time, sample loop temperature, column temperature, carrier gas flow rate, chart speed, and attenuator setting. Record peaks and detector responses that occur in the absence of any sample. Maintain conditions. Flush the sample loop for 30 seconds at the rate of 100 ml/min with one of the calibration mixtures, and open the sample valve. Record the injection time. Select the peak that corresponds to the compound of interest. Measure the distance on the chart from the injection time to the time at which the peak maximum occurs. Divide this quantity by the chart speed, and record the resulting value as the retention time.

6.2.2.2 Preparation of Standards from less Volatile Liquid Materials. Use the equipment shown in Figure 18-8. Calibrate the dry gas meter with a wet test meter or a spirometer. Use a water manometer for the pressure gauge and glass, Teflon, brass, or stainless steel for all connections. Connect a valve to the inlet of the 50-liter Tedlar bag.

To prepare the standards, assemble the equipment as shown in Figure 18-8, and leak check the system. Completely evacuate the bag. Fill the bag with hydrocarbon-free air, and evacuate the bag again. Close the inlet valve.

Turn on the hot plate, and allow the water to reach boiling. Connect the bag to the impinger outlet. Record the initial meter reading, open the bag inlet valve, and open the cylinder. Adjust the rate so that the bag will be completely filled in approximately 15 minutes. Record meter pressure, temperature, and local barometric pressure.

Fill the syringe to the desired liquid volume with the material to be evaluated. Place the syringe needle into the impinger inlet using the septum provided, and inject the liquid into the flowing air stream. Use a needle of sufficient length to permit injection of the liquid below the air inlet branch of the tee. Remove the syringe.

Complete filling of the bag; note and record the meter pressure and temperature at regular intervals, preferably 1 minute.

When the bag is filled, stop the pump, and close the bag inlet valve. Record the final meter reading.

Disconnect the bag from the impinger outlet, and set it aside for at least 1 hour to equilibrate. Analyze the sample within the proven life period of its preparation.

6.2.2.3 Concentration Calculations. Average the meter temperature (T_m) and pressure (P_m) readings over the bag filling process.

Measure the solvent liquid density at room temperature by accurately weighing a known volume of the material on an analytical balance to the nearest 1.0 milligram. Take care during the weighing to minimize evaporation of the material. A ground-glass stoppered 25-ml volumetric flask or a glass-stoppered specific gravity bottle is suitable for weighing. Calculate the result in terms of g/ml. As an alternative, literature values of the density of the liquid at 20°C may be used.

Calculate the concentration of material in the sample in mg/liter at standard conditions as follows:

$$C_{std\ sol} = \frac{760(L_v)(p)(273 + T_m)}{273(M_f - M_i)(P_{bar} + P_m)} \quad \text{Eq. 18-4}$$

Where:
$C_{std\ sol}$ = Standard solvent concentration, mg/std liter.
L_v = Liquid volume injected, ml.
p = Liquid density at room temperature, g/ml.
T_m = Meter temperature, °C.
M_f, M_i = Final and initial meter reading, liters.
P_{bar} = Local barometric pressure (absolute), mm Hg.
P_m = Meter pressure (gauge), mm Hg.

6.3 Preparation of Calibration Curves. Obtain gas standards as described in Section 6.2 such that three concentrations per attentuator range are available. Establish proper GC conditioning, then flush the sampling loop for 30 seconds at a rate of 100 ml/min. Allow the sample loop pressure to equilibrate with atmospheric pressure, and activate the injection valve. Record the standard concentration, attentuator setting, injection time, chart speed, retention time, peak area, sample loop, temperature, column temperature, and carrier gas flow rate. Repeat the standard injection until two consecutive injections give area counts within 5 percent of their average. The average multiplied by the attenuator setting is then the calibration area value for that concentration.

Repeat this procedure for each standard. Plot concentrations along the abscissa and the calibration area values along the ordinate. Perform a regression analysis, and draw the least squares line.

6.4 Optional Use of Prepared Cylinders for Dilution Calibration Checks, and Response Factor Determinations. A set of three standards of the major component in the emissions is required. This set of standards can be taken into the field and thereby replace the need to prepare standards as described in Section 6.2.2.

The high concentration standard can be run through the dilution system to assess the accuracy of the system. First, prepare a calibration curve using the three standards following the procedure described in Section 6.3. Then, prepare a dilute sample using the high concentration standard so that the dilute sample will fall within the lower limits of the calibration curve.

Next, analyze the dilute sample, and calculate the measured concentration from the calibration curve as described in Section 6.3. The dilute concentration calculated from the analysis shall be within 10 percent of the concentration expected from the dilution system; otherwise determine the source of error in the dilution system, and correct it.

The calibration curve from the cylinder standards for a single organic can also be related to the GC response curves of all the compounds in the source by response factors developed in the laboratory. In the field, the single calibration curve from the cylinder standards and the calculated response factors measured in the laboratory can then be used to replace the need to prepare and analyze calibration standards for each organic compound (see Section 6.5 on daily quality control procedure).

Recheck the relative peak area of one of the calibration standards daily to guard against degradation. If the relative peak areas on successive days differ by more than 5 percent, remake all of the standards before proceeding to the final sample analyses.

6.5 Evaluation of Calibration and Analysis Procedure. Immediately after the preparation of the calibration curve and prior to the final sample analyses, perform the analysis audit described in Part 61, Appendix C, Procedure 2: "Procedure for Field Auditing GC Analysis" (47 FR 39179, September 7, 1982). The information required to document the analysis of the audit samples has been included on the example data sheets shown in Figures 18-3 and 18-7. The audit analyses shall agree with the audit concentrations within 10 percent. When available, the tester may obtain audit cylinders by contacting: Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Quality Assurance Division (MD-77), Research Triangle Park, North Carolina 27711. Audit cylinders obtained from a commercial gas manufacturer may be used provided: (a) the gas manufacturer certifies the audit cylinder as described in Section 5.2.3.1 of Method 23 and (b) the gas manufacturer obtains an independent analysis of the audit cylinders to verify this analysis. Independent analysis is defined as an analysis performed by an individual other than the individual who performs the gas manufacturer's analysis, while using calibration standards and analysis equipment different from those used for the gas manufacturer's analysis. Verification is complete and acceptable when the independent analysis concentration is within 5 percent of the gas manufacturer's concentration.

7. Final Sampling and Analysis Procedure

Considering safety (flame hazards) and the source conditions, select an appropriate sampling and analysis procedure (Section 7.1, 7.2, 7.3, or 7.4). In situations where a hydrogen flame is a hazard and no intrinsically safe GC is suitable, use the flexible bag collection technique or an adsorption technique. If the source temperature is below 100°C, and the organic concentrations are suitable for the detector to be used, use the direct interface method. If the source gases require dilution, use a dilution interface and either the bag sample or adsorption tubes. The choice between these two techniques will depend on the physical layout of the site, the source temperature, and the storage stability of the compounds if collected in the bag. Sample polar compounds by direct interfacing or dilution interfacing to prevent sample loss by adsorption on the bag.

7.1 Integrated Bag Sampling and Analysis

7.1.1 Evacuated Container Sampling Procedure. In this procedure, the bags are filled by evacuating the rigid air-tight container holding the bags. Therefore, check both the bags and the container for leaks before and after use as follows: Connect a water manometer using a tee connector between the bag or rigid container and a pressure source. Pressurize the bag or container to 5 to 10 cm H_2O (2 to 4 in. H_2O), and allow it to stand overnight. A deflated bag indicates a leak.

7.1.1.1 Apparatus.

7.1.1.1.1 Probe. Stainless steel, Pyrex glass, or Teflon tubing probe, according to the duct temperature, with 6.4-mm OD Teflon tubing of sufficient length to connect to the sample bag. Use stainless steel or Teflon unions to connect probe and sample line.

7.1.1.1.2 Quick Connects. Male (2) and female (2) of stainless steel construction.

7.1.1.1.3 Needle Valve. To control gas flow.

7.1.1.1.4 Pump. Leakless Teflon-coated diaphragm-type pump or equivalent. To deliver at least 1 liter/min.

7.1.1.1.5 Charcoal Adsorption Tube. Tube filled with activated charcoal, with glass wool plugs at each end, to adsorb organic vapors.

7.1.1.1.6 Flowmeter. 0 to 500-ml flow range; with manufacturer's calibration curve.

7.1.1.2 Sampling Procedure. To obtain a sample, assemble the sample train as shown in Figure 18-9. Leak check both the bag and the container. Connect the vacuum line from the needle valve to the Teflon sample line from the probe. Place the end of the probe at the centroid of the stack, and start the pump with the needle valve adjusted to yield a flow of 0.5 liter/minute. After allowing sufficient time to purge the line several times, connect the vacuum line to the bag, and evacuate until the rotameter indicates no flow. Then position the sample and vacuum lines for sampling, and begin the actual sampling, keeping the rate proportional to the stack velocity. As a precaution, direct the gas exiting the rotameter away from sampling personnel. At the end of the sample period, shut off the pump, disconnect the sample line from the bag, and disconnect the vacuum line from the bag container. Record the source temperature, barometric pressure, ambient temperature, sampling flow rate, and initial and final sampling time on the data sheet shown in Figure 18-10. Protect the Tedlar bag and its container from sunlight. When possible, perform the analysis within 2 hours of sample collection.

7.1.2 Direct Pump Sampling Procedure. Flow 7.1.1, except place the pump and needle valve between the probe and the bag. Use a pump and needle valve constructed of stainless steel or some other material not affected by the stack gas. Leak check the system, and then purge with stack gas before the connecting to the previously evacuated bag.

7.1.3 Explosion Risk Area Bag Sampling Procedure. Follow 7.1.1 except replace the pump with another evacuated can (see Figure 18-9a). Use this method whenever there is a possibility of an explosion due to pumps, heated probes, or other flame producing equipment.

7.1.4 Other Modified Bag Sampling Procedures. In the event that condensation is observed in the bag while collecting the sample and a direct interface system cannot be used, heat the bag during collection, and maintain it at a suitably elevated temperature during all subsequent operations. (Note: Take care to leak check the system prior to the dilutions so as not to create a potentially explosive atmosphere.) As an alternative, collect the sample gas, and simultaneously dilute it in the Tedlar bag.

In the first procedure, heat the box containing the sample bag to the source temperature, provided the components of the bag and the surrounding box can withstand this temperature. Then transport the bag as rapidly as possible to the analytical area while maintaining the heating, or cover the box with an insulating blanket. In the analytical area, keep the box heated to source temperature until analysis. Be sure that the method of heating the box and the control for the heating circuit are compatible with the safety restrictions required in each area.

To use the second procedure, prefill the Tedlar bag with a known quantity of inert gas. Meter the inert gas into the bag according to the procedure for the preparation of gas concentration standards of volatile liquid materials (Section 6.2.2.2), but eliminate the midget impinger section. Take the partly filled bag to the source, and meter the source gas into the bag through heated sampling lines and a heated flowmeter, or

Teflon positive displacement pump. Verify the dilution factors periodically through dilution and analysis of gases of known concentration.

7.1.5 Analysis of Bag Samples. Connect the needle valve, pump, charcoal tube, and flowmeter to draw gas samples through the gas sampling valve. Flush the sample loop with gas from one of the three Tedlar bags containing a calibration mixture, and analyze the sample. Obtain at least two chromatograms for the sample. The results are acceptable when the peak areas from two consecutive injections agree to within 5 percent of their average. If they do not agree, run additional samples until consistent area data are obtained. If this agreement is not obtained, correct the instrument technique problems before proceeding. If the results are acceptable, analyze the other two calibration gas mixtures in the same manner. Prepare the calibration curve by using the least squares method.

Analyze the two field audit samples as described in Section 6.5 by connecting each Tedlar bag containing an audit gas mixture to the sampling valve. Calculate the results; record and report the data to the audit supervisor. If the results are acceptable, proceed with the analysis of the source samples.

Analyze the source gas samples by connecting each bag to the sampling valve with a piece of Teflon tubing identified with that bag. Follow the restrictions on replicate samples specified for the calibration gases. Record the data. Analyze the other two bag samples of source gas in the same manner. After all three bag samples have been analyzed, repeat the analysis of the calibration gas mixtures. Use the average of the two calibration curves to determine the respective sample concentrations. If the two calibration curves differ by more than 5 percent from their mean value, then report the final results by both calibration curves.

7.1.6 Determination of Bag Water Vapor Content. Measure the ambient temperature and barometric pressure near the bag. From a water saturation vapor pressure table, determine and record the water vapor content of the bag as a decimal figure. (Assume the relative humidity to be 100 percent unless a lesser value is known.)

Use the field analytical data sheet as shown in Figure 18–11. The sheet has been designed to tabulate information from the bag collection, direct interface, and dilution interface systems; as a result, not all of the requested information will apply to any single method. Note the data that do not apply with the notation "N.A." Summarize the analysis.

7.2 Direct Interface Sampling and Analysis Procedure. The direct interface procedure can be used provided that the moisture content of the gas does not interfere with the analysis procedure, the physical requirements of the equipment can be met at the site, and the source gas concentration is low enough that detector saturation is not a problem. Adhere to all safety requirements with this method.

7.2.1 Apparatus.

7.2.1.1 Probe. Constructed of stainless steel, Pyrex glass, or Teflon tubing as required by duct temperature, 6.4-mm OD, enlarged at duct end to contain glass wool plug. If necessary, heat the probe with heating tape or a special heating unit capable of maintaining duct temperature.

7.2.1.2 Sample Lines. 6.4-mm OD Teflon lines, heat-traced to prevent condensation of material.

7.2.1.3 Quick Connects. To connect sample line to gas sampling valve on GC instrument and to pump unit used to withdraw source gas. Use a quick connect or equivalent on the cylinder or bag containing calibration gas to allow connection of the calibration gas to the gas sampling valve.

7.2.1.4 Thermocouple Readout Device. Potentiometer or digital thermometer, to measure source temperature and probe temperature.

7.2.1.5 Heated Gas Sampling Valve. Of two-position, six-port design, to allow sample loop to be purged with source gas or to direct source gas into the GC instrument.

7.2.1.8 Needle Valve. To control gas sampling rate from the source.

7.2.1.7 Pump. Leakless Teflon-coated diaphragm-type pump or equivalent, capable of at least 1 liter/minute sampling rate.

7.2.1.8 Flowmeter. Of suitable range to measure sampling rate.

7.2.1.9 Charcoal Adsorber. To adsorb organic vapor collected from the source to prevent exposure of personnel to source gas.

7.2.1.10 Gas Cylinders. Carrier gas (helium or nitrogen), and oxygen and hydrogen for a flame ionization detector (FID) if one is used.

7.2.1.11 Gas Chromatograph. Capable of being moved into the field, with detector, heated gas sampling valve, column required to complete separation of desired components, and option for temperature programming.

7.2.1.12 Recorder/Integrator. To record results.

7.2.2 Procedure. To obtain a sample, assemble the sampling system as shown in Figure 18–12. Make sure all connections are tight. Turn on the probe and sample line heaters. As the temperature of the probe and heated line approaches the source temperature as indicated on the thermocouple readout device, control the heating to maintain a temperature of 0 to 3°C above the source temperature. While the probe and heated line are being heated, disconnect the sample line from the gas sampling valve, and attach the line from the calibration gas mixture. Flush the sample loop with calibration gas and analyze a portion of that gas. Record the results. After the calibration gas sample has been flushed into the GC instrument, turn the gas sampling valve to flush position, then reconnect the probe sample line to the valve. Move the probe to the sampling position, and draw source gas into the probe, heated line, and sample loop. After thorough flushing, analyze the sample using the same conditions as for the calibration gas mixture. Repeat the analysis on an additional sample. Measure the peak areas for the two samples, and if they do not agree to within 5 percent of their mean value, analyze additional samples until two consecutive analyses meet this criteria. Record the data. After consistent results are obtained, remove the probe from the source and analyze a second calibration gas mixture. Record this calibration data and the other required data on the data sheet shown in Figure 18–11, deleting the dilution gas information.

(Note.—Take care to draw all samples, calibration mixtures, and audits through the sample loop at the same pressure.)

In addition, analyze the field audit samples by connecting the audit sample cylinders to the gas sampling valve. Use the same instrument conditions as were used for the source samples. Record the data, and report the results of these analyses to the audit supervisor.

7.3 Dilution Interface Sampling and Analysis Procedure. Source samples that contain a high concentration of organic materials may require dilution prior to analysis to prevent saturating the GC detector. The apparatus required for this direct interface procedure is basically the same as that described in the Section 7.2, except a dilution system is added between the heated sample line and the gas sampling valve. The apparatus is arranged so that either a 10:1 or 100:1 dilution of the source gas can be directed to the chromatograph. A pump of larger capacity is also required, and this pump must be heated and placed in the system between the sample line and the dilution apparatus.

7.3.1 Apparatus. The equipment required in addition to that specified for the direct interface system is as follows:

7.3.1.1 Sample Pump. Leakless Teflon-coated diaphragm-type that can withstand being heated to 120°C and deliver 1.5 liters/minute.

7.3.1.2 Dilution Pumps. Two Model A–150 Komhyr Teflon positive displacement type delivering 150 cc/minute, or equivalent. As an option, calibrated flowmeters can be used in conjunction with Teflon-coated diaphragm pumps.

7.3.1.3 Valves. Two Teflon three-way valves, suitable for connecting to 6.4-mm OD Teflon tubing.

7.3.1.4 Flowmeters. Two, for measurement of diluent gas, expected delivery flow rate to be 1,350 cc/min.

7.3.1.5 Diluent Gas with Cylinders and Regulators. Gas can be nitrogen or clean dry air, depending on the nature of the source gases.

7.3.1.6 Heated Box. Suitable for being heated to 120°C, to contain the three pumps, three-way valves, and associated connections. The box should be equipped with quick connect fittings to facilitate connection of: (1) The heated sample line from the probe, (2) the gas sampling valve, (3) the calibration gas mixtures, and (4) diluent gas lines. A schematic diagram of the components and connections is shown in Figure 18–13.

(Note.—Care must be taken to leak check the system prior to the dilutions so as not to create a potentially explosive atmosphere.)

The heated box shown in Figure 18–13 is designed to receive a heated line from the probe. An optional design is to build a probe unit that attaches directly to the heated box. In this way, the heated box contains the controls for the probe heaters, or, if the box is placed against the duct being sampled, it may be possible to eliminate the probe heaters. In either case, a heated Teflon line is used to connect the heated box to the gas sampling valve on the chromatograph.

7.3.2 Procedure. Assemble the apparatus by connecting the heated box, shown in Figure 18–13, between the heated sample line from the probe and the gas sampling valve on the chromatograph. Vent the source gas from the gas sampling valve directly to the charcoal filter, eliminating the pump and rotameter. Heat the sample probe, sample line, and heated box. Insert the probe and source thermocouple at the centroid of the duct. Measure the source temperature, and adjust all heating units to a temperature 0 to 3°C above this temperature. If this temperature is above the safe operating temperature of the Teflon components, adjust the heating to maintain a temperature high enough to prevent condensation of water and organic compounds. Verify the operation of the dilution system by analyzing a high concentration gas of known composition through either the 10:1 or 100:1 dilution stages, as appropriate. (If necessary, vary the flow of the diluent gas to obtain other dilution ratios.) Determine the concentration of the diluted calibration gas using the dilution factor and the calibration curves prepared in the laboratory. Record the pertinent data on the data sheet shown in Figure 18–11. If the data on the diluted calibration gas are not within 10 percent of the expected values, determine whether the chromatograph or the dilution system is in error, and correct it. Verify the GC operation using a low concentration standard by diverting the gas into the sample loop, bypassing the dilution system. If these analyses are not within acceptable limits, correct the dilution system to provide the desired dilution factors. Make this correction by diluting a high-concentration standard gas mixture to adjust the dilution ratio as required.

Once the dilution system and GC operations are satisfactory, proceed with the analysis of source gas, maintaining the same dilution settings as used for the standards. Repeat the analyses until two consecutive values do not vary by more than 5 percent from their mean value are obtained.

Repeat the analysis of the calibration gas mixtures to verify equipment operation. Analyze the two field audit samples using either the dilution system, or directly connect to the gas sampling valve as required. Record all data and report the results to the audit supervisor.

7.4 Adsorption Tube Procedure (Alternative Procedure). It is suggested that the tester refer to the National Institute of Occupational Safety and Health (NIOSH) method for the particular organics to be sampled. The principal interferent will be water vapor. If water vapor is present at concentrations above 3 percent, silica gel should be used in front of the charcoal. Where more than one compound is present in the emissions, then develop relative adsorptive capacity information.

7.4.1 Additional Apparatus. In addition to the equipment listed in the NIOSH method for the particular organic(s) to be sampled, the following items (or equivalent) are suggested.

7.4.1.1 Probe (Optional). Borosilicate glass or stainless steel, approximately 6-mm ID, with a heating system if water condensation is a problem, and a filter (either in-stack or out-stack heated to stack temperature) to remove particulate matter. In most instances, a plug of glass wool is a satisfactory filter.

7.4.1.2 Flexible Tubing. To connect probe to adsorption tubes. Use a material that exhibits minimal sample adsorption.

7.4.1.3 Leakless Sample Pump. Flow controlled, constant rate pump, with a set of limiting (sonic) orifices to provide pumping rates from approximately 10 to 100 cc/min.

7.4.1.4 Bubble-Tube Flowmeter. Volume accuracy within ± 1 percent, to calibrate pump.

7.4.1.5 Stopwatch. To time sampling and pump rate calibration.

7.4.1.6 Adsorption Tubes. Similar to ones specified by NIOSH, except the amounts of adsorbent per primary/backup sections are 800/200 mg for charcoal tubes and 1040/260 mg for silica gel tubes. As an alternative, the tubes may contain a porous polymer adsorbent such as Tenax GC or XAD–2.

7.4.1.7 Barometer. Accurate to 5 mm Hg, to measure atmospheric pressure during sampling and pump calibration.

7.4.1.8 Rotameter. 0 to 100 cc/min, to detect changes in flow rate during sampling.

7.4.2 Sampling and Analysis. It is suggested that the tester follow the sampling and analysis portion of the respective NIOSH method section entitled "Procedure." Calibrate the pump and limiting orifice flow rate through adsorption tubes with the bubble tube flowmeter before sampling. The sample system can be operated as a "recirculating loop" for this operation. Record the ambient temperature and barometric pressure. Then, during sampling, use the rotameter to verify that the pump and orifice sampling rate remains constant.

Use a sample probe, if required. Minimize the length of flexible tubing between the probe and adsorption tubes. Several adsorption tubes can be connected in series, if the extra adsorptive capacity is needed. Provide the gas sample to the sample system at a pressure sufficient for the limiting orifice to function as a sonic orifice. Record the total time and sample flow rate (or the number of pump strokes), the barometric pressure, and ambient temperature. Obtain a total sample volume commensurate with the expected concentration(s) of the volatile organic(s) present, and recommended sample loading factors (weight sample per weight adsorption media). Laboratory tests prior to actual sampling may be necessary to predetermine this volume. When more than one organic is present in the emissions, then develop relative adsorptive capacity information. If water vapor is present in the sample at concentrations above 2 to 3 percent, the adsorptive capacity may be severely reduced. Operate the gas chromatograph according to the manufacture's instructions. After establishing optimum conditions, verify and document these conditions during all operations. Analyze the audit samples (see Section 7.4.4.3), then the emission samples. Repeat the analysis of each sample until the relative deviation of two consecutive injections does not exceed 5 percent.

7.4.3 Standards and Calibration. The standards can be prepared according to the respective NIOSH method. Use a minimum of three different standards; select the concentrations to bracket the expected average sample concentration. Perform the calibration before and after each day's sample analyses. Prepare the calibration curve by using the least squares method.

7.4.4 Quality Assurance.

7.4.4.1 Determination of Desorption Efficiency. During the testing program, determine the desorption efficiency in the expected sample concentration range for each batch of adsorption media to be used. Use an internal standard. A minimum desorption efficiency of 50 percent shall be obtained. Repeat the desorption determination until the relative deviation of two consecutive determinations does not exceed 5 percent. Use the average desorption efficiency of these two consecutive determinations for the correction specified in Section 7.4.4.5. If the desorption efficiency of the compound(s) of interest is questionable under actual sampling conditions, use of the Method of Standard Additions may be helpful to determine this value.

7.4.4.2 Determination of Sample Collection Efficiency. For the source samples, analyze the primary and backup portions of the adsorption tubes separately. If the backup portion exceeds 10 percent of the total amount (primary and backup), repeat the sampling with a larger sampling portion.

7.4.4.3 Analysis Audit. Immediately before the sample analyses, analyze the two audits in accordance with Section 7.4.2. The analysis audit shall agree with the audit concentration with 10 percent.

7.4.4.4 Pump Leak Checks and Volume Flow Rate Checks. Perform both of these checks immediately after sampling with all sampling train components in place. Perform all leak checks according to the manufacturer's instructions, and record the results. Use the bubble-tube flowmeter to measure the pump volume flow rate with the orifice used in the test sampling, and the result. If it has changed by more than 5 but less than 20 percent, calculate an average flow rate for the test. If the flow rate has changed by more than 20 percent, recalibrate the pump and repeat the sampling.

7.4.4.5 Calculations. All calculations can be performed according to the respective NIOSH method. Correct all sample volumes to standard conditions. If a sample dilution system has been used, multiply the results by the appropriate dilution ratio. Correct all results by dividing by the desorption efficiency (decimal value). Report results as ppm by volume, dry basis.

7.5 Reporting of Results. At the completion of the field analysis portion of the study, ensure that the data sheets shown in Figure 18–11 have been completed. Summarize this data on the data sheets shown in Figure 18–15.

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VOL 48 ISS 202 OCT 18 1983 UMI

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III. Sampling site
A. Description
Site description _____
Duct shape and size _____
Material _____
Wall thickness _____ inches
Upstream distance _____ inches _____ diameter
Downstream distance _____ inches _____ diameter
Size of port _____
Size of access area _____
Hazards _____ Ambient temp. _____ °F
B. Properties of gas stream
Temperature _____ °C _____ °F, Data source _____
Velocity _____, Data source _____
Static pressure _____ inches H_2O, Data source _____
Moisture content _____ %, Data source _____
Particulate content _____, Data source _____
Gaseous components

N_2	____ %	Hydrocarbons	____ ppm
O_2	____ %		
CO	____ %		
CO_2	____ %		
SO_2	____ %		
Hydrocarbon components			
			____ ppm
			____ ppm
			____ ppm
			____ ppm
			____ ppm
			____ ppm
			____ ppm

Figure 18-1 (continued). Preliminary survey data sheet.

122

I. Name of company _____ Date _____
Address _____
_____
Contacts _____ Phone _____
Process to be sampled _____
_____
_____
Duct or vent to be sampled _____
_____
II. Process description _____
_____
_____
_____
_____
Raw material _____
_____
_____
Products _____
_____
_____
Operating cycle
Check: Batch _____ Continuous _____ Cyclic _____
Timing of batch or cycle _____
Best time to test _____

Figure 18-1. Preliminary survey data sheet.

121

UMI 1983 OCT 18 2002 ISS VOL 48

C. Sampling considerations
Location to set up GC _____
Special hazards to be considered _____
Power available at duct _____
Power available for GC _____
Plant safety requirements _____
Vehicle traffic rules _____
Plant entry requirements _____
Security agreements _____
Potential problems _____

D. Site diagrams. (Attach additional sheets if required).

Figure 18-1 (continued). Preliminary survey data sheet.

Components to be analyzed	Expected concentration

Suggested chromatographic column _____
Column flow rate ___ ml/min Head pressure___ mm Hg
Column temperature:
Isothermal _____ °C
Programmed from ____ °C to ____ °C at ____ °C/min
Injection port/sample loop temperature _____ °C
Detector temperature _____ °C
Detector flow rates: Hydrogen ____ ml/min.
head pressure___ mm Hg
Air/Oxygen ____ ml/min,
head pressure___ mm Hg
Chart speed _____ inches/minute
Compound data:

Compound	Retention time	Attenuation

Figure 18-2. Chromatographic conditions data sheet.

Calibration Curve Data - Volatile and Liquid Samples Collected in a Tedlar Bag

	Blank	Mixture 1	Mixture 2	Mixture 3
Size of Tedlar bag (liters)				
Dilution gas (name)				
Vol. of dilution gas (liters)				
Component (name)				
Volume of component (ml)				
Average meter temp. (°C)				
Average meter pressure (mm)				
Atmospheric pressure (mm)				
Density of liquid component (g/ml)				
Sample loop volume (ml)				
Sample loop temp. (°C)				
Carrier gas flow rate (ml/min)				
Column temperature initial (°C)				
program rate (°C/min)				
final (°C)				
Injection time (24 hr. basis)				
Distance to peak (cm)				
Chart speed (cm/min)				
Retention time (min)				
Calculated concentration (ppm)				
Attenuator setting				
Peak height (mm)				
Peak area (mm^2)				
Area x attenuation				

Plot peak area x attenuation against concentration to obtain calibration curve.

Figure 18-3. Calibration curve data sheet - injection of volatile sample into Tedlar bag.

Rotameter number _____
Gas used _____
Method: Bubble meter_____ Spirometer _____ Wet test meter_____
Rotameter construction _____
Float type _____
Laboratory temperature (T obs.) _____ °C _____ °F
Laboratory pressure (P obs.) ____ in Hg _____ mm Hg

1. Flowmeter reading	Time (min)	Gas volume[a]	Flow rate (lab conditions)[b]

[a] Vol. of gas may be measured in milliliters, liters or cubic feet.
[b] Convert to standard conditions (20° C and 760 mm Hg).

$$Q_{STD} = Q_{obs} \frac{760 \times T_{obs.}}{P_{obs.} \times 20}^{1/2}$$

Flowmeter reading	Flow rate (STD conditions)

Plot meter reading against flow rate (std) and draw smooth curve.

Figure 18-4. Rotameter calibration data sheet.

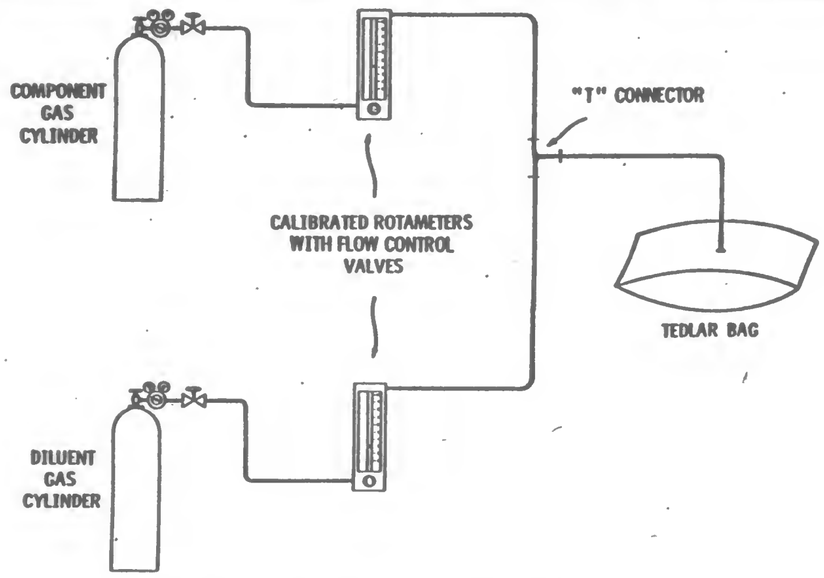


Figure 18-5. Single-stage calibration gas dilution system.

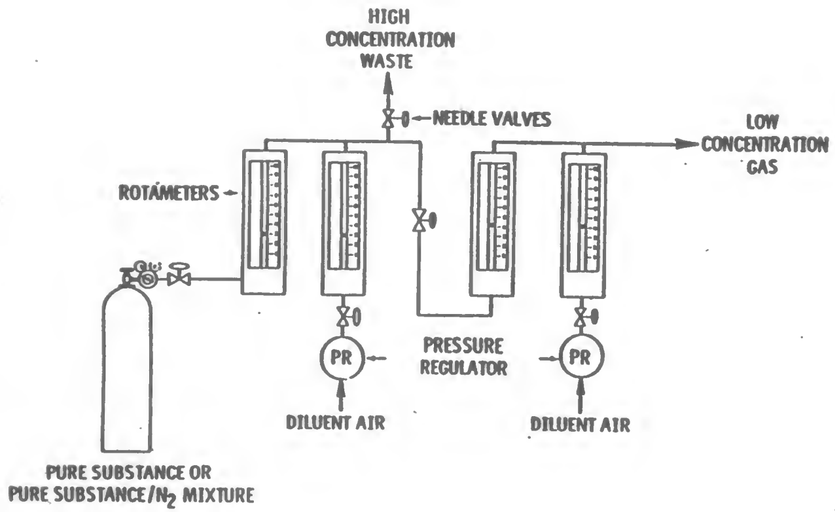


Figure 18-6. Two-stage dilution apparatus.

3. Low concentration standard
   - Known concentration (ppm)
   - Retention time (min)
   - Injection time (24-hour basis)
   - Attenuation factor
   - Peak height (mm)
   - Peak area (mm^2)
   - Peak area x attenuation (mm^2)
   - Calculated concentration (ppm)
   - Deviation (%)

4. Audit samples

	Sample 1	Sample 2
Retention time (min)		
Injection time 24-hour basis)		
Attenuation factor		
Peak height (mm)		
Peak area (mm^2)		
Peak area x attenuation factor		
Measured concentration		
Data reported on (date)		
Data reported by (initial)		
Certified concentration (ppm)		
Deviation (%)		

Note: If a pump is used instead of a rotameter for component gas flow, substitute pump delivery rate for rotameter readings.

Figure 18-7 (continued). Calibration curve data sheet - dilution method.

1. High concentration gas mixture
   - Component _____ Concentration _____ ppm
   - Diluent gas _____
2. Dilution and analysis gas — Date _____

	Mixture 1	Mixture 2	Mixture 3
Stage 1			
Component gas-rotameter reading			
Diluent gas-rotameter reading			
Ambient temp. (°C)			
Manometer reading, inches H_2O			
Flow rate component gas (ml/min)			
Flow rate diluent gas (ml/min)			
Stage 2			
Component gas-rotameter reading			
Diluent gas-rotameter reading			
Flow rate component gas (ml/min)			
Flow rate diluent gas (ml/min)			
Calculated concentration (ppm)			
Analysis			
Sample loop volume (ml)			
Sample loop temp. (°C)			
Carrier gas flow rate (ml/min)			
Column temperature			
initial (°C)			
program rate (°C/min)			
final (°C)			
Injection time (24-hr. basis)			
Distance to peak (inches)			
Chart speed (inch/min)			
Retention time (min)			
Attenuator factor			
Peak height (mm)			
Peak area (mm^2)			
Area x attenuation factor (mm^2)			

Plot peak area x attenuator factor against concentration to obtain calibration curve.

Figure 18-7. Calibration curve data sheet - dilution method.

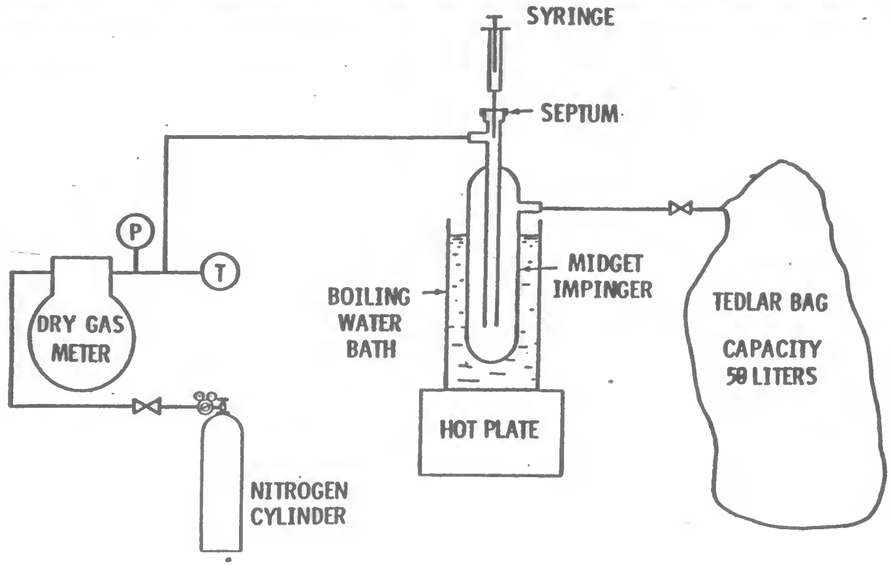


Figure 18-8. Apparatus for preparation of liquid materials.

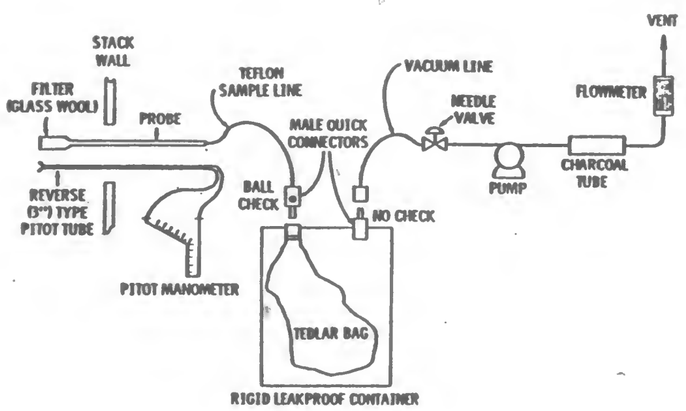


Figure 18-9. Integrated bag sampling train.

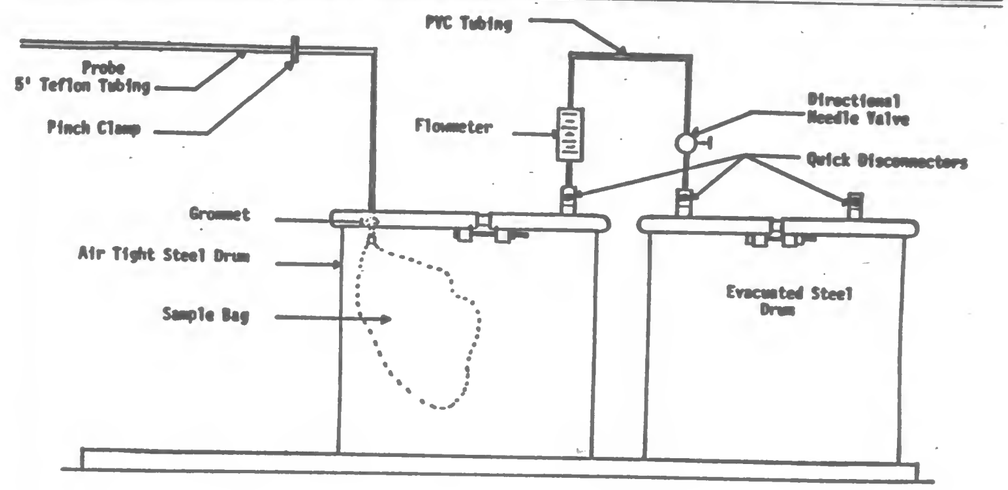


Figure 18-9a. Explosion risk gas sampling method.

Plant_____ Date_____

Site_____

	Sample 1	Sample 2	Sample 3
Source temperature (°C)			
Barometric pressure (mm Hg)			
Ambient temperature (°C)			
Sample flow rate (appr.)			
Bag number			
Start time			
Finish time			

Figure 18-10. Field sample data sheet - Tedlar bag collection method.

Plant _____ Date _____

Location _____

1. General information

Source temperature (°C)	
Probe temperature (°C)	
Ambient temperature (°C)	
Atmospheric pressure (mm)	
Source pressure (°Hg)	
Absolute source pressure (mm)	
Sampling rate (liter/min)	
Sample loop volume (ml)	
Sample loop temperature (°C)	
Columnar temperature:	
Initial (°C)/time (min)	
Program rate (°C/min)	
Final (°C)/ time (min)	
Carrier gas flow rate (ml/min)	
Detector temperature (°C)	
Injection time (24-hour basis)	
Chart speed (mm/min)	
Dilution gas flow rate (ml/min)	
Dilution Gas used (symbol)	
Dilution ratio	

Figure 18-11. Field analysis data sheets.

2. Field Analysis Data - Calibration Gas

Run No. _____ Time _____

Components	Area	Attenuation	A x A Factor	Conc. (ppm)

Run No. _____ Time _____

Components	Area	Attenuation	A x A Factor	Conc. (ppm)

Run No. _____ Time _____

Components	Area	Attenuation	A x A Factor	Conc. (ppm)

Figure 18-11 (continued). Field analysis data sheets.

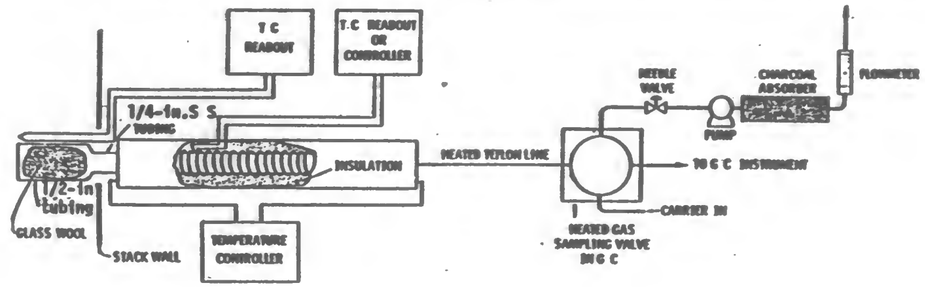


Figure 18-12. Direct interface sampling system.

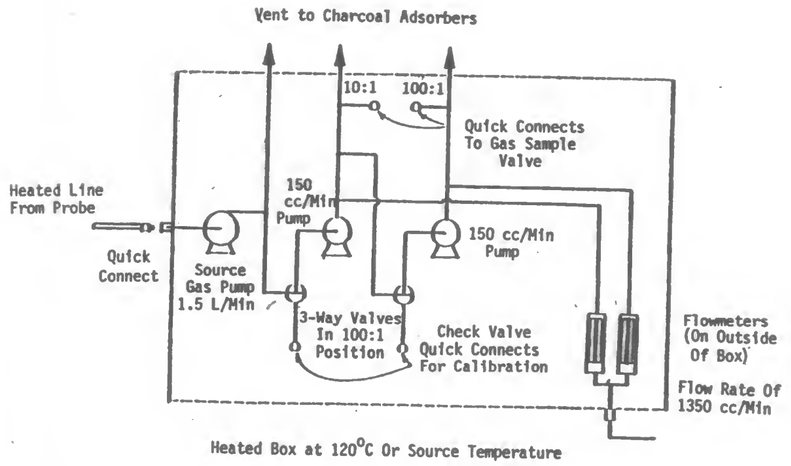


Figure 18-13. Schematic diagram of the heated box required for dilution of sample gas.

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Gaseous Organic Sampling and Analysis Check List

(Respond with initials or number as appropriate)

		Date
1. Presurvey data:		
A. Grab sample collected	☐	
B. Grab sample analyzed for composition	☐	
Method GC	☐	☐
GC/MS	☐	☐
Other	☐	☐
C. GC–FID analysis performed	☐	
2. Laboratory calibration data:		
A. Calibration curves prepared	☐	
Number of components	☐	☐
Number of concentrations/component (3 required)	☐	☐
B. Audit samples (optional):		
Analysis completed	☐	
Verified for concentration	☐	
OK obtained for field work	☐	
3. Sampling procedures:		
A. Method:		
Bag sample	☐	☐
Direct interface	☐	☐
Dilution interface	☐	☐
B. Number of samples collected	☐	
4. Field analysis:		
A. Total hydrocarbon analysis performed	☐	
B. Calibration curve prepared	☐	
Number of components	☐	☐
Number of concentrations per component (3 required)	☐	☐

Figure 18–14. Sampling and analysis check.

Gaseous Organic Sampling and Analysis Data

Plant— _____

Date— _____

Location _____

	Source sample 1	Source sample 2	Source sample 3
1. General information:			
Source temperature (°C)			
Probe temperature (°C)			
Ambient temperature (°C)			
Atmospheric pressure (mm Hg)			
Source pressure (mm Hg)			
Sampling rate (ml/min)			
Sample loop volume (ml)			
Sample loop temperature (°C)			
Sample collection time (24-hr basis)			
Column temperature:			
Initial (°C)			
Program rate (°C/min)			
Final (°C)			
Carrier gas flow rate (ml/min)			
Detector temperature (°C)			
Chart speed (cm/min)			
Dilution gas flow rate (ml/min)			
Diluent gas used (symbol)			
Dilution ratio			

Performed by (signature): _____

Date: _____

Figure 18–14. Sampling and analysis sheet.

6. In Appendix A of Part 60, the title of Method 22 is revised to read as follows:

Method 22—Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares.

7. In Appendix A of Part 60, Section 1 of Method 22, *Introduction,* is amended by adding the following sentence to the end of the first paragraph:

* * * * *

This method is used also to determine visible smoke emissions from flares used for combustion of waste process materials.

8. In Appendix A of Part 60, Section 1 of Method 22, *Introduction,* is amended by removing the phrase "Reference Test" from the third sentence of the second paragraph.

9. In Appendix A of Part 60, Paragraph 2.1 of Section 2 of Method 22 is amended by adding a second paragraph as follows:

* * * * *

2.1 * * *

This method also is applicable for the determination of the frequency of visible smoke emissions from flares.

* * * * *

10. In Appendix A of Part 60, Paragraph 2.2 of Section 2 of Method 22 is revised as follows:

* * * * * *

2.2 *Principle.* Fugitive emissions produced during material processing, handling, and transfer operations or smoke emissions from flares are visually determined by an observer without the aid of instruments.

* * * * *

11. In Appendix A of Part 60, Method 22 Section 3, *Definitions,* Paragraphs 3.4 and 3.5 are revised to read as follows:

* * * * * *

3.4 *Smoke Emissions.* Pollutant generated by combustion in a flare and occurring immediately downstream of the flame. Smoke occurring within the flame, but not downstream of the flame, is not considered a smoke emission.

3.5 *Observation Period.* Accumulated time period during which observations are conducted, not to be less than the period specified in the applicable regulation.

* * * * *

12. In Appendix A of Part 60, Method 22 is amended by adding Figures 22–1 and 22–2 at the end of the method.

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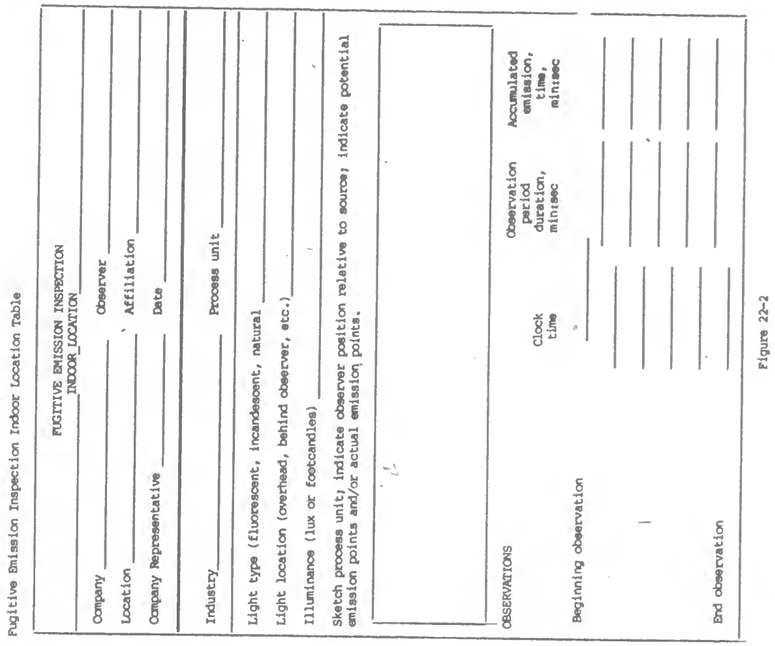


Figure 22–2

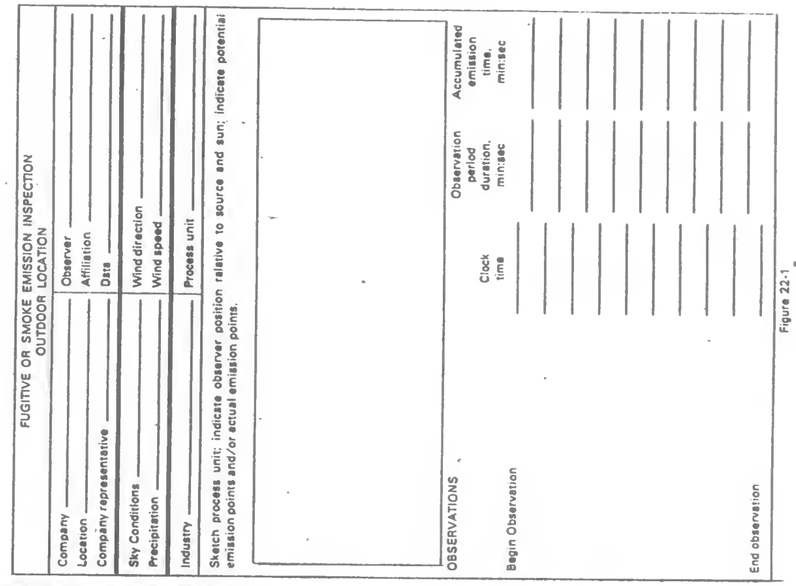


Figure 22–1

[FR Doc. 83–27945 Filed 10–17–83; 8:45 am]
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48
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202
OC
18
1983
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Part III

Department of Transportation

Federal Aviation Administration

Implementation of Mode S in the National Airspace System; Advance Notice of Proposed Rulemaking

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48
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1983
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 43, 91, 121, 127, and 135

[Docket No. 23799; Notice No. 83-16]

Implementation of Mode S in the National Airspace System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This announces proposed use of Mode S transponders in the National Airspace System (NAS). The Mode S transponder is considered to be a key piece of avionic equipment needed to participate in and receive service benefits of the automated NAS. This document proposes furture installation and use of Mode S transponders and altitude reporting equipment in aircraft operating within certain airspace areas. Comments on this proposal are solicited, particularly regarding the potential economic impact of the proposal.

DATES: Comments must be received on or before January 17 1984.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23799, 800 Independence Ave., SW., Washington, D.C. 20591; or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Ave., SW., Washington, D.C. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Air Traffic Rules Branch, Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposal by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned decisions on the proposals. Comments are specifically invited on the overall economic, environmental, and energy aspects of the proposals. Communications should identify the notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this advance notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No.23799." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered by the Administrator before taking any future action on the proposal. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this proposal will be filed in the docket.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention, Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular No. 11-2, "Notice of Proposed Rulemaking Distribution System," which describes the application procedures.

Background

On January 28, 1982, the FAA announced a comprehensive plan for modernizing and improving air traffic control and airway facilities from the present to the year 2001. The plan for the National Airspace System (NAS) addresses problems of how best to accommodate spiraling demands for aviation services, limit costs, establish the technological basis for the NAS, and provide and improve facilities.

Concurrent with the National Airspace System Plan (NASP) announcement, a plan was developed for use of the Mode S transponder in the NAS. The Mode S transponder is considered to be an important airborne link to NAS. The proposed role of Mode S is briefly described in this notice.

The NAS Plan represents the capital and associated actions necessary to modernize the NAS to meet the public need through the turn of the century. The plan seeks efficient realization of three major goals: (1) System safety, (2) efficient use of airspace, and (3) efficient use of FAA resources. Automation is fundamental to all objectives through which these goals may be realized.

The NASP is designed to yield significant improvements in service to the airspace user as well as cost savings to the taxpayer, the airspace user, and the air traffic control (ATC) system. Supported by increased automation, it is engineered to produce measureable results in an expanded scope, quality, and efficiency of ATC services. User cost saving efficiencies are expected through reductions in delays and fuel consumption due to improved traffic handing capabilities and the increased ability of the ATC system to accommodate direct, pilot-preferred routings.

Principal features of the plan are replacement of current generation automation equipment and extended use of automation in terminal and en route ATC, flight services, and subsystems that support and provide radar surveillance and communications. Automated functions are expected to contribute to reduction of delays, enhanced safety efforts, and a significant reduction in the number of ATC and equipment maintenance personnel required to operate the ATC system. Closely associated with increased automation are the programs and improvements designed to achieve state-of-the-art ATC separation and advisory services. They include advanced beacon-based surveillance to provide for accurate, relatively interference-free aircraft identify, altitude and position information, and programs whose end products will help ATC to integrate, separate, meter, and otherwise provide air traffic services. They also include terminal and en route programs to organize and manage the sytsem-wide flow of air traffic.

A highly automated NAS will require certain changes in the airborne systems to enable users to participate in, and benefit from, the system. Key avionics considered necessary for full participation include the Mode S transponder with its associated automatic pressure altitude reporting equipment. The Mode S system is an evolutionary advancement of the Air Traffic Control Radar Beacon System (ATCRBS). Its functions will aid in providing the enhanced surveillance and communication capabilities necessary for effective operation of the automated ATC system. The objective of this new system is to improve surveillance reliability and accuracy while also supporting ground-air-ground data link.

The Improved surveillance and communication systems are designed with capacities to meet future ATC and NAS Systems needs. Moreover, Mode S is expected to provide a variety of valuable support functions to ATC and the NAS. Briefly, Mode S is expected to help accommodate future user demand with increased efficiency, support automated functions of the NAS, provide dynamic advisory and flight safety information to the pilot, and enhance ATC services while helping to increase controller productivity.

The capability for an evolutionary transition from ATCRBS to Mode S has been achieved by providing a high degree of compatibility between Mode S and ATCRBS. Mode S uses the same interrogation and reply frequencies as ATCRBS. In addition, the Mode S ground station performs the ATCRBS funcitons as well as the Mode S functions. This degree of compatibility permits a smooth transition in which Mode S ground stations provide surveillance of ATCRBS-equipped aircraft and Mode S transponders reply to ATCRBS ground stations. Mode S can therefore be introduced into the present ATCRBS environment without inpacting present services.

A principal feature of the Mode S system is that each aircraft is assigned a unique address code. Using this unique code, interrogations can be directed to a particular aircraft and replies can be identified without ambiguity. Channel interference is minimized because a sensor can limit its interrogation to targets of interest. In addition, by proper timing of interrogations, replies from closely-spaced aircraft can be received without mutual interference. It is the discrete addressing and digital encoding of Mode S transmissions which also permit their use as a digital data link. The interrogation and reply formats of the Mode S system have been designed to contain sufficient coding space to permit the transmission of data. The Mode S transponder will function as a modem in the support of data link functions. The Mode S transponder and addditional data link equipment (including appropriate input/output devices) will be necessary for full use of data link services.

It is believed that Mode S will provide a major system enhancement. Under this proposal, Mode S will be relied upon to furnish to air traffic control accurate, reliable and positive information on aircraft identity, position, and altitude. By providing the basic information essential to the efficient operation of the total system, it may be considered as the airborne link to NAS. With the data link capability provided by Mode S and complementing equipment, the Mode S system can provide a computer to cockpit message medium for nonverbal transmissions of ATC clearances, traffic advisories, weather information, and other services. Permanent copies of messages can be provided by system equipment when appropriate.

The Mode S transponder and associated automatic pressure altitude reporting equipment are also integral components of the airborne, ground-independent, Traffic Alert and Collision Avoidance System (TCAS). Mandatory carriage of TCAS is not planned, however, it is expected there will be widespread voluntary use of the system.

The Mode S data link capability to deliver the most currently available weather information may well be considered as the most promising flight safety and efficiency benefit to the pilot/operator. The potential value of weather data products that become readily accessible via Mode S is apparent. Very often, a contributing factor to aircraft accidents has been shown to be the inadequacy or real-time unavailability of current weather information. Some of the weather products currently considered as candidates for data link transmission on a request/reply basis are surface observations, digital weather maps, terminal forecasts, alert weather watches, winds aloft forecasts, convective significant meteorological reports (SIGMETS), and pilot reports (PIREPS). The Mode S transponder with appropriate message capability, associated data link equipment, and a display will be required to receive the described weather information products. Some weather information via data link is expected to be available beginning in 1988 with enhanced services available in later years.

As it is seen in the total NAS, the Mode S/Data Link system is part of a major ground-to-air subsystem. This subsystem comprises the navigation, surveillance, and communication facilities and equipment systems. In the NAS Plan, each separate system is planned to be upgraded. To further cost savings and efficiency, facilities will be consolidated. To effect consolidation, facilities will be "networked" to reduce their number, but coverage will be assured. Surveillance will be provided by the upgraded enroute and terminal radar and radar beacon systems. As a major component of the surveillance system, Mode S coverage is planned to be provided above 12,500 feet MSL in enroute airspace, within TCA's, and down to the surface at qualifying airports. It is further planned that coverage will be eventually extended down to 6,000 feet MSL or the minimum enroute altitude, whichever is higher.

The first Mode S/Data Link ground site is expected to be operational and providing surveillance services and data link services by 1988. By 1991, 137 systems are expected to provide surveillance coverage at selected high density terminals, support and enroute sites. Additional systems will extend surveillance/data link operation down to 6,000 feet MSL by 2000. To derive improved benefits from many aspects, i.e., from coverage, from services available in NAS, or from ATC services in designated airspace, aircraft will have to be equipped with the Mode S transponder.

In summary, the automated, consolidated NAS is designed to accommodate growth of aviation in a cost-efficient manner. Airspace users are expected to benefit from the participatory role of Mode S in NAS and the overall cost effectiveness of the total system.

The Proposal

The FAA is providing advance notice of its proposal for use of Mode S in the NAS. The proposal is recognized as one that would have long-range and far-reaching effects. The FAA, therefore, solicits comments from all interested parties, on all of its aspects. These comments will be given full consideration prior to any future agency action on this proposal.

To help effect use of Mode S in NAS, an action required of the FAA would be issuance of a technical standard order (TSO) for airborne Mode S transponder equipment. The draft TSO for the Mode S transponder equipment is expected to be issued this year. It is planned that, with issuance of the TSO for Mode S, TSO authorization to manufacture ATCRBS transponders will be terminated effective in 1986.

Consistent with FAA practice, the new TSO for Mode S will be published for comment. The termination of the approval to manufacture under the existing ATCRBS TSO's, through issuance of the Mode S TSO, will be in accordance with provisions of § 21.621 of the FAR.

Another action to effect use of Mode S in NAS would be amendment of certain FAR's, i.e., Parts 43, 91, 121, 127, and 135.

The proposed FAR amendments, foreseen in 1992, would include:

1. An amendment to Part 43 to set forth appropriate tests and testing procedures to ensure the continuing

VOL
48
ISS
202
OC
18
1983
UMI

correct functioning of Mode S transponders.

2. Amendments to sections of Part 91 so that:

a. Newly installed transponders in U.S. registered civil aircraft would meet requirements of the new TSO for airborne Mode S transponder equipment.

b. Either a Mode S or ATCRBS transponder, as well as automatic pressure altitude reporting equipment would be necessary to operate in TCA's. This would be applicable to all aircraft operaing in TCA's.

c. Either an operable Mode S or ATCRBS transponder as well as automatic pressure reporting equipment would be necessary above 12,500 feet MSL within the 48 contiguous States and the District of Columbia excluding airspace at and below 2,500 feet AGL. This would be applicable to all aircraft operating above 12,500 feet MSL. The FAA proposes that the current exception for gliders above 12,500 feet MSL but below the floor of positive control area, be retained. The agency also proposes retention of other current provisions, i.e., for helicopters, and for ATC authorized deviations.

d. With respect to use of altitude reporting equipment, the only change from current provisions is that it be necessary for operations in Group II TCA's.

Note that currently, no Group III TCA's exist. The FAA expects that all references to them will be deleted by the time Mode S is implemented.

3. To be consistent with Part 91, amendments are also proposed to § 121.345(c), §127.123(b), and § 135.143(c).

Data Needed for Economic Evaluation

A complete evaluation of the economic implications of these proposed amendments has not been completed. It will involve a number of cost factors, including equipment costs for Mode S transponders, as well as altitude encoders. Numerous other elements, such as detailed equipment forecasts, will be required. These data are needed before the FAA can complete the economic evaluations for the proposal which are required by The Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) and Executive Order 12291. The FAA is gathering all relevant data and particularly requires manufacturer and repair station information concerning equipment and repair information.

Under this proposal, certain costs will result because users desiring to operate in specified airspace may need to install a Mode S transponder and an altitude encoder The FAA has a considerable amount of data on Mode S transponder equipment costs. The FAA believes that life-cycle cost in 1980 dollars for such a system will be $1,577 for new aircraft and $1,646 for retrofitted aircraft. This is equivalent to $1,735 for new aircraft and $1,811 for retrofitted aircraft in 1981 dollars. This cost assumes a design incorporating a tube-type transmitter; if a solid-state transmitter is incorporated in the design, the cost could be up to $400 higher.

This basic cost estimate is from an FAA Report, Report # FAA–RD–81–61, *Cost Analysis of the Descrete Address Beacon System for the Low-Performance General Aviation Aircraft Community*, September 1981. (Mode S evolved from the Discrete Address Beacon System.) It assumes development of a Mode S transponder with large-scale intergrated circuitry and expanded data handling capability.

The basic 1980 cost for the transponder was estimated to be $1,413, with a dealer discount to $1,142 (19 percent discount), installation costs of $195 for new aircraft and $264 for retrofitted aircraft, and an annual recurring cost of $16. The life-cycle cost assumes a 15-year life. The first year of ownership is estimated to cost $1,353 to $1,422 for new and retrofitted aircraft, respectively. Any comments on these cost estimates should indicate alternative estimates of equipment costs and the rationale used in developing them. The FAA realizes that the costs in the study cited may be understated due to the fact that they do not include an amount for development and start-up costs. Any responses which question cost estimates should identify specific alternative costs to the extent possible.

In addition to estimates of equipment costs, the FAA particularly needs any studies or data relevant to answering the following questions:

1. What is the expected useful life of current ATCRBS transponders?

2. What is the age distribution of transponders by type in the present fleet?

3. What has been the production history of transponders by type in the last 15 years?

4. What is the average annual maintenance expense for current transponder equipment by type of differing ages—1–5 years, 6–10 years, 11–15 years, 16+ years? What might the maintenance expense be for Mode S?

5. What types of major repairs can be anticipated for an ATCRBS transponder, and what is the probability of incurring such a repair?

The FAA's evaluation of this proposal will consider benefits in a number of areas, both those which are directly related to the Mode S transponder and some which are indirect. The PAA solicits comments from any party on benefits. One example of an indirect benefit is in the area of data-link services which the Mode S transponder can provide using the address-specific data link capability for handling of messages. In addition, the Mode S transponder is an integral part of TCAS and allows a cross link for full implementation of TCAS. Comments from any party on these other potential benefits, quantified to the extent possible will be helpful.

The FAA also solicits comments on the cost assumptions, particularly as related to the cost to the individual general aviation user affected by the proposed regulation. Comments should be specific.

List of Subjects

14 CFR Part 43

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 91

Aviation safety, Safety, Aircraft, Air traffic control, Pilots, Airspace, Air transportation, Airports.

14 CFR Part 121

Aviation safety, Safety, Air traffic control, Air transportation, Aircraft, Airplanes, Airports, Airspace, Transportation.

14 CFR Part 127

Aircraft, Airworthiness, Air traffic control, Helicopters, Airspace.

14 CFR Part 135

Aviation safety, Safety, Air transportation, Airworthiness, Aircraft, Transportation, Helicopters, Air traffic control, Airspace, Airplanes.

(Secs. 307, 312, 313, and 601 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1353, 1354, and 1421); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983))

The FAA has determined that this proposal is considered non-significant under DOT Regulatory Policies and Procedures (44 FR 11034; Feburary 26, 1979). A full regulatory evaluation will be prepared with the assistance of comments received as a result of this advance notice, if necessary, in conjunction with any notice of proposed rulemaking that may be issued on this subject.

Issued in Washington, D.C., on September 28, 1983.

J. Lynn Helms,

Administrator.

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Standards of Performance for New Sources; Pressure Sensitive Tape and Label Surface Coating Industry

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2224-6]

Standards of Performance for New Sources; Pressure Sensitive Tape and Label Surface Coating Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for the pressure sensitive tape and label surface coating industry were proposed in the **Federal Register** on December 30, 1980 (45 FR 86278). This action promulgates a standard of performance to limit emissions of volatile organic compound (VOC) from new, modified, and reconstructed pressure sensitive tape and label coating lines. This standard implements Section 111 of the Clean Air Act and is based on the Administrator's determination that industrial paper coating facilities contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. Pressure sensitive tape and label manufacturing is one of the largest contributors to air pollution in the industrial paper coating category. The intended effect of the standard is to require all new, modified, and reconstructed pressure sensitive tape and label surface coating lines to use the best demonstrated system of continuous emissions reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: October 18, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: Background Information Document. The background information document (BID) for the promulgated standard may be obtained from the U.S. EPA Library (MD–35). Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Pressure Sensitive Tape and Label Surface Coating Industry—Background Information for Promulgated Standards" (EPA 450/3–80–003b). The BID contains: (1) A summary of all of the public comments made on the proposed standards and the Administrator's response to the comments; and (2) a summary of the changes made to the regulation since proposal. The final environmental impact statement which summarizes the impacts of the standard is included in "Pressure Sensitive Tape and Label Surface Coating Industry—Background Information for Promulgated Standards" (EPA 450/3–80–003b). The environmental impacts have not changed since proposal.

Docket. Docket number A–79–38, containing information considered by EPA in the development of the promulgated standard, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A–130), West Tower Lobby, Gallery 1, 401 M Street, SW, Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Section Chief, Standards Development Branch, Emissions Standard and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5578.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2060–0004.

The Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

* * * application of the best technological system of continuous emissions reduction which (taking into consideration the cost of achieving such emissions reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or BDT.

The promulgated standard applies to each new, modified, and reconstructed pressure sensitive tape and label coating line for which construction is commenced after December 30, 1980. A coating line consists of any number or combination of adhesive, release, or precoat coating applicators, flashoff areas, and drying ovens which coat a continuous web, located between a web unwind station and a web rewind station, to produce pressure sensitive tapes and labels. Each coating line constitutes the affected facility for the purposes of this standard.

Under the standard, emissions from an affected facility would be limited to 0.20 kilograms of volatile organic compounds (VOC) per kilogram of coating solids applied to the substrate material, as measured by EPA Reference Methods 24 and 25 [promulgated in the **Federal Register** on October 3, 1980 (45 FR 65956)]. As an alternative, the owner or operator of the affected facility may demonstrate either a 90 percent overall VOC emissions reduction or an overall emissions reduction which is equivalent to the 0.20 kilograms per kilogram of coating solids applied level, whichever is less stringent. This overall emissions reduction is based on the amount of solvent applied with the coating solids.

In establishing the standard, EPA accounted for emissions from startups and shutdowns, which are normal occurrences and hence representative conditions for this source category. As a result, all data obtained during the performance test is to be used in calculating removal efficiency, except for data obtained during malfunction of a control device. In this instance only, data may be discarded provided the source demonstrates that a malfunction occurred and also demonstrates that any discarded data is clearly attributable to the malfunction. Compliance will then be determined on all remaining data.

Compliance with the standard can be determined over a calendar month averaging period by Reference Method 24 or by manufacturer's data. For coating lines which are controlled by incineration systems, Reference Method 25 or an approved alternative method will be used for performance testing.

Coating lines which input to the coating process 45 Mg (50 tons) of VOC or less per 12 month period are not subject to the emission limits of the proposed standard, but are subject to the recordkeeping requirements of the standard. If the 12 month limit stated above is exceeded, the affected facility becomes subject to the emission limits and all other requirements of the standard.

Compliance with the standard may be achieved through either the addition of control equipment to the facility, such as carbon absorption or thermal incineration, or through the use of low-solvent coatings in the production process. Certain coatings currently in use in the pressure sensitive tape and label surface coating industry, including hot melt and waterborne adhesive coatings, as well as 100 percent solid and waterborne release coatings would comply with the standard without the addition of control equipment because they contain less than 0.20 kilograms of solvent per kilogram of coating solids applied.

The standard requires the owners or operators of pressure sensitive tape and label coating facilities to submit semiannual reports of instances in which the temperature fluctuations of an incinerator control device and the VOC emissions from an affected facility exceed the allowable levels established in the standard. This requirement may be waived in States where the program has been delegated, if EPA, in the course of delegation, approves reporting requirements or an alternative means of source surveillance adopted by the State. Such sources are required to comply with the requirements adopted by the State.

Information collection requirements contained in this regulation (Section 60.447) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2060–0004.

Summary of Environmental, Energy and Economic Impacts

In determining the environmental impacts which will result from the new source performance standard for the pressure sensitive tape and label surface coating industry, EPA established as a baseline for analytical purposes the level of emissions reduction identified in the control techniques guideline (CTG) document for this industry entitled "Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coil, Paper, Fabrics, Automobiles, and Light-Duty Trucks" [EPA 420/2–77–008(CTG)]. Although States are not required to adopt the emission limits and control techniques recommended in this document, they are the limits and techniques most likely to be instituted in the State implementation plans (SIP's).

Compared to this baseline, the national emissions of VOC from the pressure sensitive tape and label surface coating industry would be further reduced by 16 percent in 1985. Annual emissions of VOC from affected facilities would be reduced by 9,500 megagrams (10,600 tons) in 1985.

Other environmental impacts of the application of the standard to the pressure sensitive tape and label surface coating industry would be reasonable in light of the gains in emissions reduction being achieved through the standard. National wastewater discharges from the industry would increase by 13 percent over the discharges occurring under baseline controls resulting in an annual increase in discharges of about 2.5 million liters (661,000 gallons) in 1985. The generation of solid waste from an affected facility would be increased slightly in relation to the present generation of large quantities of flawed product and discarded packing materials and spools which are disposed of as solid waste. The only addition to this material from an affected facility is spent activated carbon from carbon adsorption units. Under this standard, the maximum increase in solid waste generated by affected facilities on a nationwide basis is expected to be 55 megagrams (60 tons) per year in 1985.

The national energy impact of the standard is dependent upon which of three control scenarios are followed by the industry in complying with this standard. The use of low-solvent coatings for VOC emissions control would result in no energy impact from this standard, since this method would involve no additional control technology or loss of solvent. However, since EPA is unable to predict the extent to which this technology will be employed by the industry, this analysis focused on the two other technological controls capable of meeting the standard—carbon adsorption and incineration. Based on an analysis of the industry during the development of the standard, the majority of plants using VOC emission control devices used carbon adsorption instead of incineration. It has been estimated that 80 percent of the control systems to be installed by 1985 will be carbon adsorption. The energy impacts associated with this standard will be more closely approximated by the figures given for carbon adsorption controls.

The substantial use of carbon adsorption controls would result in a net energy savings because usable solvent would be recovered from the process. These net savings would be the equivalent of 27,100 barrels (4.3 million liters) of crude oil per year in 1985 if all affected facilities used carbon adsorption. The use of incineration controls by some facilities (approximately 20 percent) will reduce the potential energy savings achievable below the 27,100 barrel figure since this technique recovers no solvent. However, the efficient use of heat recovery by incinerator users will enable an overall net energy savings to be maintained.

The situation of all or the majority of affected facilities using incineration to control VOC emissions is not expected. If incineration did become the predominant control technique a potential energy demand of 31,000 barrels (9.9 million liters) of crude oil could result. However, for practicality and energy efficiency incinerator users would perform some degree of heat energy recovery such that the energy demand would realistically be much less than 31,000 barrel figure. The use of primary and secondary heat recovery by a large number of facilities could even result in a net energy savings. Under both the probable and worst case situations the energy impacts of the standard are reasonable.

EPA has analyzed the effect of the standard on a wide range of model facilities of varying sizes and production capacities. Both the capital and annualized costs of compliance were found to be reasonable except for coating lines which input to the coating process 45 Mg (50 tons) or less per 12 month period. The 45 Mg (50 tons) per 12 month period or less lines have been exempted from compliance with the emission limits of the standard.

Incremental compliance costs are those incurred by a plant above what is normally required of the facility under a typical SIP regulation. For example, a typical affected facility with a 1.5 meter (60 inch) wide coating line would be projected to incur approximately $300,000 in incremental capital expenditures for control equipment. Incremental annualized costs in 1985 for emissions control would be $43,000 for carbon adsorption, while incineration would result in a cost savings of about $8,000. These costs were calculated assuming a 50 percent credit value for usable solvent or heat recovery.

The incremental cumulative capital cost of compliance to the tape and label industry in 1985 would be $12.5 million. The annualized cost of compliance to the industry in 1985, including capital costs (interest and depreciation), would be $1.7 million over the baseline costs. This annualized cost was also determined assuming a 50 percent credit value for solvent/heat recovery.

Further economic impact of the standard on the pressure sensitive tape and label surface coating industry is expected to be minimal. A product price increase of 0.9 percent would be expected in order to allow the industry to recover the cost of compliance with the standard and the installation of control equipment. The effects of this standard on growth in the industry, and industry structure and profitability would not cause significant inflationary impacts or market withdrawals.

The environmental, energy, and economic impacts are discussed in greater detail in the background information document for the promulgated standards, "Pressure Sensitive Tape and Label Surface

VOL
48
ISS
2
02
OC
18
1983
UMI

Coating Industry—Background Information for Promulgated Standards" (EPA 450/3–80–003b).

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical SIP. They establish a degree of national uniformity, which precludes situations in which some States may attract new industries as a result of having relaxed air pollution standards relative to other States. Further, standards of performance provide documentation which reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies, development of associated costs, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternative technologies. The costs are provided for an economic analysis that reveals the affordability of controls in an unbiased study of the economic impact of controls on an industry.

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** on November 14, 1979 (44 FR 65670) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the new source performance standard for the pressure sensitive tape and label surface coating industry recommended for proposal. This meeting was held on December 13, 1979. The meeting was open to the public and each attendee was given the opportunity to comment on the standards recommended for proposal. The standards were proposed and published in the **Federal Register** on December 30, 1980 (45 FR 86278). The preamble to the proposed standards discussed the availability of the background information document (BID) "Pressure Sensitive Tape and Label Surface Coating Industry—Background Information for Proposed Standards" (EPA–450/3–80–003a), which described in detail the regulatory alternative considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held on January 30, 1981 at Research Triangle Park, North Carolina. The hearing was open to the public and each attendee was given an opportunity to comment on the proposed standards. The public comment period was from December 30, 1980 to March 2, 1981.

Fourteen comment letters were received and two interested parties testified at the public hearing concerning issues relative to the proposed standards of performance for the pressure sensitive tape and label surface coating industry. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed standard.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from industry, two members of Congress, one State pollution control agency, and one trade association. A detailed discussion of these comments and responses can be found in the background information document (BID) which is referred to in the ADDRESS section of this preamble. The summary of comments and responses in the BID serve as the basis for the revisions which have been made to the standards between proposal and promulgation. The major comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments. The comments have been divided into the following areas: General, Emission Control Technology, Modification and Reconstruction, Economic Impact, Affected Facility Definition, Reporting and Recordkeeping, Small Source Exemption, Level of the Proposed Standard, and NSPS and State Implementation Plan (SIP) Coordination.

General

One commenter pointed out that the discussion of solventless technologies in the BID did not reflect the latest improvements in such technologies which, although not in common use in the United States, are being used in Europe. The technological variations discussed by this commenter were considered in the development of the BID and this standard, but were determined not to add significantly to the standard. Upon further consideration, the technological configuration discussed by this commenter might offer advantages to the industry in reducing VOC emissions, and the promulgation and operation of the standard will not adversely affect the use of such technology.

Another commenter discussed the application of the standard to radiation-cured coatings, asking that they either be exempted from the standard or that analytical methods be revised to accommodate the characteristics of this process. It was determined that radiation-cure coating processes do not involve coatings containing VOCs, and therefore the processes would fall below the standard of 0.20 kilograms of VOC per kilogram of coating solids without requiring further controls.

Another commenter objected to the inclusion of water in water-based coatings as a part of the emissions to be measured in determining whether the facility is subject to the standard. This is an apparent misunderstanding of the provisions of the standard. The standard does not include water in the calculation of VOC emissions.

Another commenter objected to certain commenter objected to certain conclusions stated in the background information document concerning the level of inlet VOC concentration required to operate an incinerator for the control of VOC emissions without the necessity of adding supplementary fuel to the incinerator. This objection was based on the results of tests performed on the commenter's own incinerator in 1972 which varied from the results reported in EPA's analysis. The level reported in the BID is based on a model incinerator designed to represent the typical incinerator used for VOC control in the PSTL industry and is intended to indicate the trends in incinerator performance as various loadings of solvent are added to the incinerator. Therefore, variance between the results reported for this representative model incinerator study and for other tests on individual incinerators is to be expected (see Section 2.1.4 of the BID for further discussion).

Several commenters in this section stated that no standard is necessary since there is already adequate economic incentive for the users of coatings containing VOC to recover the maximum amount of solvent possible for reuse. Although the Administrator viewed these economic incentives as important to the overall operation and success of the standard, an examination of the industry indicates that economic incentives alone are not sufficient to ensure that the pressure sensitive tape and label surface coating industry will use the best demonstrated technology for the control of VOC emissions. Indeed, during the examination of these facilities leading to the development of this standard, it was noted that in spite of these incentives, some facilities did not recover any solvent from their coating operations.

Emission Control Technology

One commenter stated that the use of hooding to capture fugitive VOC emissions from coating heads has not been demonstrated except on a theoretical basis. During the development of this standard, EPA examined a facility which employed hooding to capture fugitive emissions. Based on tests performed at this facility and observation of other facilities employing hooding for the capture of fugitive emissions, the Administrator has determined that hooding is an effective device for capturing these emissions and that compliance with the standard can be achieved employing this technology and add-on control devices.

Modification and Reconstruction

Several comments were received concerning the application of the modification and reconstruction provisions of the General Provisions of 40 CFR Part 60 to this standard for the pressure sensitive tape and label surface coating industry. One stated that these provisions were vague and subject to misinterpretation. Experience with these provisions and examination of their applicability to this industry indicates that problems with interpreting when a facility has been modified or reconstructed and thereby made subject to the standard should be minimal. The modification provisions establish a fairly straightforward rule that when an alteration to a facility results in an increase in emissions the facility is then subject to the standard, unless the alteration falls within certain specifically listed exemptions. The reconstruction provision involves a plant specific review by the Agency to determine whether a major expenditure at a facility should include the provisions of the control technology required for compliance with the standard. Although the operation of this provision involves the application of judgment to the circumstances of the alteration, it also provides for the inclusion of a greater variety of factors, such as the economic impact of the standard, in determining whether the facility will be subject to the standard.

Two comments were received concerning the applicability of the modification and reconstruction provisions to specific alterations to a facility. The first comment questioned whether normal repairs to a facility constitutes a modification. The applicable sections of the modification provisions state that normal repairs to a facility do not constitute modifications which would render a facility subject to the standard. The second comment concerned the application of the standard to a facility which converts to solventless or low-solvent coatings. This case would not constitute a modification of the facility, since there would be no increase in emissions from the facility. Whether such a conversion would constitute a reconstruction would involve a calculation of whether the cost of the conversion was greater than 50 percent of the cost of an entirely new plant, and then involve an additional review of the circumstances of the conversion by the Administrator before the applicability of the standard to the facility could be determined.

A final commenter stated generally that the standard should not be made applicable to a facility which undergoes updating and modification because this will result in outdated and less efficient plants being left in operation for a longer period of time. While it is true that the effect of the standard will enter into decisions concerning the updating of plants, the savings in energy and efficiency resulting from improvements to the facility are expected to be overriding considerations in this decision. Therefore, the application of the standard to pressure sensitive tape and label surface coating facilities which undergo extensive alteration is consistent with the scheme of the Clean Air Act.

Economic Impact

One commenter on the economic analysis performed in the development of the standard objected that the cost figures reported in the BID (Volume I) were not consistent with current values. The values listed in the BID, and the basis of the analysis performed there, were based on 1979 figures. Although these figures may change in time, they remain consistent in relation to each other and do not change the validity of the conclusions reached in the analysis concerning the reasonableness of the standard. If converted into current cost figures and reanalyzed, the relations of cost to the achievements of the standard would remain the same. Therefore, it is the relationship between the figures, and not their absolute accuracy for all points in time, that is crucial to the analysis of the economic impact of the standard.

Another commenter stated that the added costs of pollution control required by the standard would be passed on to consumers, resulting in an inflationary impact on the economy. EPA's analysis, however, shows that even with full pass-through of the costs to the consumer the maximum product price increase would be 0.9 percent. This mimimal cost increase is considered by the Administrator to be reasonable and noninflationary.

In several comments, objections were made to the standard on the basis of the minimal reduction in emissions which would be achieved under the standard as compared to existing State regulations as compared to the greatly increased cost of compliance with the standard. These reductions and costs were analyzed by the EPA in the BID. It was determined that by 1985 emissions from pressure sensitive tape and label surface coating facilities would be reduced by 16 percent per year as compared to the controls required by existing regulations. The increase in product price necessitated by this 16 percent reduction in emissions would be less than 1 percent. Therefore, the additional emissions reduction seems well justified in terms of the costs required for achieving them.

The effect of the standard on the conversion of the industry to solventless and low-solvent technologies was also the subject of one comment. This commenter was concerned that the costs of complying with the standard would cause owners of facilities to forego conversion. However, low-solvent and solventless technologies are treated essentially equally under the standard and under existing regulations, since they typically are able to comply with the standard without the necessity of further add-on controls. In addition, it is believed that economic factors outside of the operation of this standard, such as the cost and availability of solvents, will provide additional incentive for the conversions of coating lines to low-solvent and solventless costing technologies.

Four commenters stated that the economic analysis performed by EPA was insufficient, particularly with relation to small facilities. Chapter 8 of the BID contains this ecomonic analysis, which is directed specifically to small facilities as well as large and medium facilities. Model coating lines of all three sizes and various technological characteristics were analyzed and the impact of the standard on each determined in the development of the standard. This analysis is necessarily representative rather than exhaustive of each facility in the industry, but does accurately reflect the standard and its impact on the industry.

A final commenter in this segment stated that the standard should only be applied on a case-by-case basis after analyzing the costs and benefits of the additional control to each individual

plant. Section 111 of the Clean Air Act does not provide for case-by-case application of a standard but instead requires that the standard be applied to the entire source category or to distinguishable subgroups within that category. In addition, it is not expected that the impact of this standard on any individual plant will vary from the models used in the development of the standard to the extent that the impact of the standard would be unreasonable.

Affected Facility Definition

The Administrator has determined that the definition of affected facility proposed for inclusion in the standard should be changed in response to comments made on this issue by several commenters and upon further consideration by the Agency.

As explained in the preamble to the proposed standard, EPA adopts that definition of affected facility which produces the greatest emission reduction without imposing unreasonable costs or other impacts. The original definition proposed for this industry provided that each separate coating head and drying oven combination along a coating line would constitute an affected facility for the purpose of this standard. Thus, there would be more than one affected facility associated with each coating line, each of which would be required to comply with the standard. Several commenters urged the Agency to amend this definition to make the affected facility, for the purposes of this standard, the entire coating line, including all individual coating heads and drying ovens. Under this definition, the combination of sources along a coating line would be required to comply with the standard, rather than each individual source.

In urging this change, the commenters made several points. First, they argued that the coating line is the basic production unit for the industry and marks the most logical unit for control in terms of the configuration of the production processes and plants. In support, they pointed out that the various State implementation plans (SIP's) under which they operate consider the coating line to be the basic unit for control, not each coating head and oven combination. Secondly, they argued that this broader definition would allow the operators of facilities to control their emissions in the most cost effective manner. By grouping these emission sources together under one overall requirement, the owner or operator of the facility may control these sources where the greatest reduction may be achieved at the lowest cost and minimize expenditures for emissions control where the benefits in reductions would be small. Finally, they pointed out that the broader definition covering the entire coating line would promote the development and use of low-solvent and solventless technologies as emissions control techniques, resulting in an overall betterment in air quality beyond that achievable by the standard and technological requirements alone. In support of this position, new data were submitted by the industry showing that the relative costs of low-solvent compared to solvent-based adhesive coating technology have changed since EPA's BID was prepared. These data show that low-solvent technology is more limited in application than the EPA and industry had previously anticipated and that the cost is higher than the current cost of comparable solvent-based systems.

After reviewing these comments and the two definitions, the Administrator determined that in light of the similar degree of overall emissions reduction achievable under either definition, the greater flexibility in allocating control costs available under the broadened definition, and the physical compatibility of the broadened definition with the characteristics of the pressure sensitive tape and label surface costing production line, the affected facility definition should be amended to provide for the inclusion of the entire coating line. The Administrator believes that the broad definition will encourage the use of low-solvent and solventless adhesive coatings, and achieve an equal or greater emission reduction than the narrow definition. When the standard is reviewed in four years as required under Section 111(b) of the Act, the low-solvent and solventless adhesive technology will be closely evaluated.

Reporting and Recordkeeping

Several commenters objected to the reporting and recordkeeping requirements of the standard, stating that these requirements are costly and burdensome. They further contended that these requirements would hinder the development and adoption of innovative coating technologies by the industry by requiring facilities to keep records and make reports even though the characteristics of their coatings bring them within the limits set by the standard without technological controls.

The Administrator has reviewed the recordkeeping and reporting requirements of the proposed standard, and determined that those requirements calling for reports to be submitted to the Agency should be modified in the promulgated standard. Reporting requirements in the promulgated standard have been reduced to only requiring semiannual reports of instances when the temperature fluctuations of an incinerator control device and the VOC emissions from an affected facility exceed the allowable levels established in the standard. In the proposed standard such reports were required on a calendar month basis. The other reporting requirement in the proposed standard for the submittal of initial (and any subsequent) performance test results to the Administrator remains unchanged in the promulgated standard.

The compiling and keeping of records of the performance of the control equipment installed in compliance with this standard is necessary, both to the Agency in determining compliance and to the company operating the facility to determine whether the control equipment is functioning adequately. The recordkeeping requirements therefore have not been changed since proposal. In order to determine compliance with the standard, the Agency may inspect the records kept by a facility at any time.

Small Solvent Use Exemption

One commenter urged the Agency to include an exemption for small sources in the standard, raising the minimum levels of emissions for inclusion under the regulation from 15 megagrams per year to an unspecified higher level. The reasons stated by this commenter in support of the change were that small sources comprise a minor part of the total VOC emissions for the entire industry, that the cost of emissions control for small sources is unreasonable for the benefits in emissions reduction achieved, and that a small source exemption would encourage the development of low-solvent and solventless coatings. In analyzing this issue, the Administrator has determined that a broadened small source exemption is not warranted on the bases of contributing a minor part to total industry emissions or the failure of the standard to encourage the development of low-solvent or solventless coatings. Section 111 requires new source performance standards to reflect the best demonstrated technology. It does not provide a basis for exempting subcategories of sources (for which control technology is technically and economically available) from any standard merely because their emissions are less than the emissions of other subcategories. Further, it has been determined by the Administrator that this standard will not impede the conversion to and development of solventless and low-solvent technologies.

However, the Agency has reanalyzed the cost effectiveness (i.e., the cost of VOC emissions control relative to the emission reduction which is achieved by such controls) over the range of line sizes found in this industry. For each type of line, annualized control costs were calculated and compared to the emission reductions which would occur if potential, uncontrolled emissions are reduced to the level of the standard. This analysis showed that the cost effectiveness of controls is primarily a function of the quantity of solvent used, and that the parameters are inversely related. That is, as solvent use (and therefore potential emissions) increases, the cost effectiveness decreases. It should be noted that this cost curve does not necessarily represent the actual amounts of money that will be spent to install and operate VOC controls for any particular coating line. Rather, the costs are estimates which are representative of facilities likely to be built. The costs for a VOC control system will vary according to coating line size, system airflow rate, solvent loading level, the lower explosive limit levels maintained in the oven, the degree of solvent or heat recovery practiced, and other factors. However, the cost curve provides a useful guide for judging the reasonableness of requiring VOC controls at different potential VOC emission levels.

In the past, the maximum estimated cost per megagram of pollutant material removed (VOC, particulate matter, SO_2) has ranged from somewhat less than $1,000 to $2,000. This package has a maximum estimated cost per megagram of $2,000. In prior source categories for which NSPS have been developed, VOC maximum estimated control costs have generally not exceeded $1,000 per megagram. In this case, because of the "worst case" character of the cost calculations, EPA believes the proposed standards are reasonable.

The maximum estimated cost in this package will not be viewed as a precedent for future actions. Instead, in the future, we will continue to evaluate each package on an individual basis.

The cost curve for the application of VOC controls to coating lines shows that the potential cost per Mg of VOC controlled is greater than $2,000 for input solvent levels of about 45 Mg (50 tons) per year or less. Therefore, in the promulgated standard, coating lines which input to the coating process 45 Mg (50 tons) per 12 month period or less of VOC will not be subject to the standard's emission limits. These lines will, however, be subject to all applicable recordkeeping and reporting requirements given in the standard.

The Agency realizes that this exemption could inadvertently create an incentive for the construction of smaller lines in order to avoid the need for VOC emissions control. The Agency does not believe, however, that this incentive is sufficient to markedly alter the construction pattern of new PSTL lines such that national VOC emissions would be greatly increased. However, this standard will be reviewed four years from now, and the effect of the small solvent use exemption on the size of new facilities will specifically be examined.

Level of Proposed Standard

One commenter stated that the 90 percent reduction level in the standard seemed to be arbitrary. On the contrary, the 90 percent reduction level was developed through extensive study and analysis of the pressure sensitive tape and label surface coating industry, the available emissions control equipment, and the environmental, energy and economic impacts of various control levels. It was determined that the best demonstrated control technology could continually achieve a 90 percent reduction in emissions over a long term period of operation. The analyses of the technological systems of emissions control are contained in Chapter 4 of the BID—Volume I, and the energy, environmental, and economic impacts of these technologies are discussed in Chapters 7 and 8 of the BID— Volume I.

Another commenter stated that a turndown ratio of 10 to 1 could not be achieved in drying oven exhausts, as stated in the BID. (Turndown ratio refers to the degree by which oven exhaust air can be reduced from the level for which the oven is designed in response to reduced solvent loadings.) In its examination of this issue, the Agency has determined that the technical points made by this commenter are generally valid (particularly for his own plant, on which his comments were based), but that new facilities are still capable of achieving compliance with the standard on a consistent basis even with a lower turndown ratio, such as the four to one ratio cited by the commenter. This determination is based on the experience of other facilities examined by the Agency during the course of the development of this standard which were able to meet the reduction level required by the standard even at the lower turndown ratios. This analysis is presented in detail in Volume I of the BID.

A third commenter on the issue of the level of the standard stated that the mass emission limit should be 0.25 kilograms of VOC per kilogram of coating solids, rather than 0.20 kilograms, in order to allow a wider range of low-solvent coatings to be used without requiring the use of additional control technology in order to comply with the standard. The EPA examined a number of solventless and low-solvent coatings during the preparation of this standard. It was determined that a 0.20 kilogram emission limit could be attained using the best technological system of emissions reduction (consistent with energy, environmental, and economic considerations). No comments were received which presented argument or data contradicting this determination. Although there will be some new coatings which cannot be used without further controls in compliance with the standard, these coatings may still be useful in combination with other coatings in achieving the emissions reduction required. If used with other low-solvent coatings on a line, coatings capable of achieving 0.25 kilograms of VOC per kilogram of coating solid could help keep the monthly compliance average below 0.20 kilograms. If used with conventional solvent based coatings, these coatings would reduce the level of control necessary to achieve compliance with the standard.

NSPS and SIP Coordination

Two commenters suggested that the implementation of the standard be postponed for a 5 to 10 year period in order to assess the impact on air quality of the newest limits recommended for State implementation plans (SIP's) of 2.9 pounds of VOC per gallon of applied coating. During the development of the standard, this SIP requirement was examined and its impact on national VOC emissions projected. Further, this SIP requirement formed the baseline against which each of the regulatory alternatives has been evaluated. Therefore, no further delay in the promulgation of this standard is required in order to determine the impact of the SIP provisions since these impacts have been projected and formed a major consideration in the development of the standard.

The last two commenters in this section pointed out that the units of measurement in the standard (kg VOC/kg coating solids) are different from these used in many of the SIP's (pounds/gallon of coating minus water), and that

VOL 48 ISS 202 OCT 18 1983 UMI

this difference would be confusing to owners and operator of facilities which must attempt to comply with both the new source standard and a SIP. The unit of measurement used in this standard was developed through consultation with industry representatives who pointed out that companies have experienced difficulties in interpreting and implementing the mass per volume measurement used in the SIP's. The mass measurement used in this standard was found to be simpler to understand and to calculate from typical coating formulation data. Further, there should be no confusion over compliance with different standards which may apply to a facility since compliance with the more stringent in each case also satisfies the requirements of the less stringent. In this case, compliance with the 0.20 kilograms VOC per kilogram of coating solid new source standard would also constitute compliance with a 2.9 pounds VOC per gallon requirement of a SIP.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Miscellaneous

The effective date of this regulation is October 18, 1983. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal (December 30, 1980).

As prescribed in Section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government, and the public affected by that industry's emissions. The resultant regulation represents a balance in which government resources are applied in a well-publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performace promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to insure that cost was carefully considered in determining BDT. The economic impact assessment is included in the background information document for the proposed standards.

In addition to conducting an economic impact analysis, EPA examined the emission reduction and annualized costs, expressed in dollars per Mg (ton) of pollutant removed per year, for three alternative levels of control. The three levels of control are an overall emissions reduction of 81 percent, as specified in many existing SIP's; an overall emissions reduction of 85 percent; and an overall emissions reduction of 90 percent, as required by the NSPS. This examination showed that for a typical medium-sized pressure sensitive tape and label surface coating line an 85 percent level of control reduces emissions by 41 Mg (45 tons) per year relative to the 81 percent level (SIP level) and increases annualized costs by $145/Mg ($130/ton). It also showed that the incremental emission reduction achieved by increasing the control level from 85 to 90 percent is (38 tons) at an incremental annualized cost of $115/Mg ($105/ton). These annualized costs per ton of pollutant removed are comparable to costs and associated emissions in other industries that control VOC emissions. In addition, as described in the section "Small Solvent Use Exemption," the Agency also analyzed the overall cost effectiveness of adding controls to uncontrolled lines and on the basis of this established a low solvent use cut-off.

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires EPA to submit to the Office of Management and Budget (OMB) certain public reporting/recordkeeping requirements. The reporting/recordkeeping requirements associated with this standard have been approved by OMB.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. The industry-wide annualized costs in the fifth year after the standards would go into effect would be $1.7 million, much less than the $100 million established as the first criterion for a major regulation in the Order. The estimated price increase of less than 2 percent associated with the standards would not be considered a "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis of the standards' effects on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of the U.S. firms to compete with foreign firms (the third criterion in the Order).

Information collection requirements contained in this regulation (§§ 60.443, 60.444, 60.445, and 60.447) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2060-0004.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals.

Dated: October 11, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended by adding a new Subpart RR as follows:

Subpart RR—Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations

Sec.

60.440 Applicability and designation of affected facility.
60.441 Definitions and symbols.
60.442 Standard for volatile organic compounds.
60.443 Compliance provisions.
60.444 Performance test procedures.
60.445 Monitoring of operations and recordkeeping.
60.446 Test methods and procedures.
60.447 Reporting requirements.

Authority: Sec. 111, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart RR—Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations

§ 60.440 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each coating line used in the manufacture of pressure sensitive tape and label materials.

(b) Any affected facility which inputs to the coating process 45 Mg of VOC or less per 12 month period is not subject to the emission limits of § 60.442(a), however, the affected facility is subject to the requirements of all other applicable sections of this subpart. If the amount of VOC input exceeds 45 Mg per 12 month period, the coating line will become subject to § 60.442(a) and all other sections of this subpart.

(c) This subpart applies to any affected facility which begins construction, modification, or reconstruction after December 30, 1980.

§ 60.441 Definitions and symbols.

(a) Except as otherwise required by the context, terms used in this subpart are defined in the Act, in Subpart A of this part, or in this section as follows:

"Coating applicator" means an apparatus used to apply a surface coating to a continuous web.

"Coating line" means any number or combination of adhesive, release, or precoat coating applicators, flashoff areas, and ovens which coat a continuous web, located between a web unwind station and a web rewind station, to produce pressure sensitive tape and label materials.

"Coating solids applied" means the solids content of the coated adhesive, release, or precoat as measured by Reference Method 24.

"Flashoff area" means the portion of a coating line after the coating applicator and usually before the oven entrance.

"Fugitive volatile organic compounds" means any volatile organic compounds which are emitted from the coating applicator and flashoff areas and are not emitted in the oven.

"Hood or enclosure" means any device used to capture fugitive volatile organic compounds.

"Oven" means a chamber which uses heat or irradiation to bake, cure, polymerize, or dry a surface coating.

"Precoat" means a coating operation in which a coating other than an adhesive or release is applied to a surface during the production of a pressure sensitive tape or label product.

"Solvent applied in the coating" means all organic solvent contained in the adhesive, release, and precoat formulations that is metered into the coating applicator from the formulation area.

"Total enclosure" means a structure or building around the coating applicator and flashoff area or the entire coating line for the purpose of confining and totally capturing fugitive VOC emissions.

"VOC" means volatile organic compound.

(b) All symbols used in this subpart not defined below are given meaning in the Act or in Subpart A of this part.

"a" means the gas stream vents exiting the emission control device.

"b" means the gas stream vents entering the emission control device.

"C_{aj}" means the concentration of VOC (carbon equivalent) in each gas stream (j) exiting the emission control device, in parts per million by volume.

"C_{bi}" means the concentration of VOC (carbon equivalent) in each gas stream (i) entering the emission control device, in parts per million by volume.

"C_{fk}" means the concentration of VOC (carbon equivalent) in each gas stream (k) emitted directly to the atmosphere, in parts per million by volume.

"G" means the calculated weighted average mass (kg) of VOC per mass (kg) of coating solids applied each calender month.

"M_{ci}" means the total mass (kg) of each coating (i) applied during the calendar month as determined from facility records.

"M_r" means the total mass (kg) of solvent recovered for a calendar month.

"Q_{aj}" means the volumetric flow rate of each effluent gas stream (j) exiting the emission control device, in dry standard cubic meters per hour.

"Q_{bi}" means the volumetric flow rate of each effluent gas stream (i) entering the emission control device, in dry standard cubic meters per hour.

"Q_{fk}" means the volumetric flow rate of each effluent gas stream (k) emitted to the atmosphere, in dry standard cubic meters per hour.

"R" means the overall VOC emission reduction achieved for a calendar month (in percent).

"R_q" means the required overall VOC emission reduction (in percent).

"W_{oi}" means the weight fraction of organics applied of each coating (i) applied during a calendar month as determined from Reference Method 24 or coating manufacturer's formulation data.

"W_{si}" means the weight fraction of solids applied of each coating (i) applied during a calendar month as determined from Reference Method 24 or coating manufacturer's formulation data.

§ 60.442 Standard for volatile organic compounds.

(a) On and after the date on which the performance test required by § 60.8 has been completed each owner or operator subject to this subpart shall:

(1) Cause the discharge into the atmosphere from an affected facility not more than 0.20 kg VOC/kg of coating solids applied as calculated on a weighted average basis for one calendar month; or

(2) Demonstrate for each affected facility;

(i) a 90 percent overall VOC emission reduction as calculated over a calendar month; or

(ii) the percent overall VOC emission reduction specified in § 60.443(b) as calculated over a calendar month.

§ 60.443 Compliance provisions.

(a) To determine compliance with § 60.442 the owner or operator of the affected facility shall calculate a weighted average of the mass of solvent used per mass of coating solids applied for a one calendar month period according to the following procedures:

(1) Determine the weight fraction of organics and the weight fraction of solids of each coating applied by using Reference Method 24 or by the coating manufacturer's formulation data.

VOL
48
ISS
202
OC
18
1983
UMI

(2) Compute the weighted average by the following equation:

$$G = \frac{\sum_{i=1}^{n} W_{oi} M_{ci}}{\sum_{i=1}^{n} W_{oi} M_{ci}}$$

(3) For each affected facility where the value of G is less than or equal to 0.20 kg VOC per kg of coating solids applied, the affected facility is in compliance with § 60.442(a)(1).

(b) To determine compliance with § 60.442(a)(2), the owner or operator shall calculate the required overall VOC emission reduction according to the following equation:

$$R_q = \frac{G - 0.20}{G} \times 100$$

If R_q less than or equal to 90 percent, then the required overall VOC emission reduction is R_q. If R_q is greater than 90 percent, then the required overall VOC emission reduction is 90 percent.

(c) Where compliance with the emission limits specified in § 60.442(a)(2) is achieved through the use of a solvent recovery system, the owner or operator shall determine the overall VOC emission reduction for a one calendar month period by the following equation:

$$R = \frac{M_r}{\sum_{i=1}^{n} W_{oi} M_{ci}} \times 100$$

If the R value is equal to or greater than the R_q value specified in paragraph (b) of this section, then compliance with § 60.442(a)(2) is demonstrated.

(d) Where compliance with the emission limit specified in §60.442(a)(2) is achieved through the use of a solvent destruction device, the owner or operator shall determine calendar monthly compliance by comparing the monthly required overall VOC emission reduction specified in paragraph (b)1 of this section to the overall VOC emission reduction demonstrated in the most recent performance test which complied with § 60.442(a)(2). If the monthly required overall VOC emission reduction is less than or equal to the overall VOC reduction of the most recent performance test, the affected facility is in compliance with § 60.442(a)(2).

(e) Where compliance with § 60.442(a)(2) is achieved through the use of a solvent destruction device, the owner or operator shall continuously record the destruction device combustion temperature during coating operations for thermal incineration destruction devices or the gas temperature upstream and downstream of the incinerator catalyst bed during coating operations for catalytic incineration destruction devices. For thermal incineration destruction devices the owner or operator shall record all 3-hour periods (during actual coating operations) during which the average temperature of the device is more than 28°C (50°F) below the average temperature of the device during the most recent performance test complying with § 60.442(a)(2). For catalytic incineration destruction devices, the owner or operator shall record all 3-hour periods (during actual coating operations) during which the average temperature of the device immediately before the catalyst bed is more than 38°C (50°F) below the average temperature of the device during the most recent performance test complying with § 60.442(a)(2), and all 3-hour periods (during actual coating operations) during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference of the device during the most recent performance test complying with § 60.442(a)(2).

(f) After the initial performance test required for all affected facilities under § 60.8, compliance with the VOC emission limitation and percentage reduction requirements under § 60.442 is based on the average emission reduction for one calendar month. A separate compliance test is completed at the end of each calendar month after the initial performance test, and a new calendar month's average VOC emission reduction is calculated to show compliance with the standard.

(g) If a common emission control device is used to recover or destroy solvent from more than one affected facility, the performance of that control device is assumed to be equal for each of the affected facilities. Compliance with § 60.442(a)(2) is determined by the methods specified in paragraphs (c) and (d) of this section and is performed simultaneously on all affected facilities.

(h) If a common emission control device is used to recover solvent from an existing facility (or facilities) as well as from an affected facility (or facilities), the overall VOC emission reduction for the affected facility (or facilities), for the purpose of compliance, shall be determined by the following procedures:

(1) The owner or operator of the existing facility (or facilities) shall determine the mass of solvent recovered for a calendar month period from the existing facility (or facilities) prior to the connection of the affected facility (or facilities) to the emission control device.

(2) The affected facility (or facilities) shall then be connected to the emission control device.

(3) The owner or operator shall determine the total mass of solvent recovered from both the existing and affected facilities over a calendar month period. The mass of solvent determined in paragraph (h)(1) of this section from the existing facility shall be subtracted from the total mass of recovered solvent to obtain the mass of solvent recovered from the affected facility (or facilities). The overall VOC emission reduction of the affected facility (or facilities) can then be determined as specified in paragraph (c) of this section.

(i) If a common emission control devices is used to destruct solvent from an existing facility (or facilities) as well as from an affected facility (or facilities), the overall VOC emission reduction for the affected facility (or facilities), for the purpose of compliance, shall be determined by the following procedures:

(1) The owner or operator shall operate the emission control device with both the existing and affected facilities connected.

(2) The concentration of VOC (in parts per million by volume) after the common emission control device shall be determined as specified in § 60.444(c). This concentration is used in the calculation of compliance for both the existing and affected facilities.

(3) The volumetric flow out of the common control device attributable to the affected facility (or facilities) shall be calculated by first determining the ratio of the volumetric flow entering the common control device attributable to the affected facility (facilities) to the total volumetric flow entering the common control device from both existing and affected facilities. The multiplication of this ratio by the total volumetric flow out of the common control device yields the flow attributable to the affected facility (facilities). Compliance is determined by the use of the equation specified in § 60.444(c).

(j) Startups and shutdowns are normal operation for this source category. Emissions from these operations are to be included when determining if the standard specified at § 60.442(a)(2) is being attained.

(Approved by the Office of Management and Budget under control number 2060-004)

§ 60.444 Performance test procedures.

(a) The performance test for affected facilities complying with § 60.442 without the use of add-on controls shall be identical to the procedures specified in § 60.443(a).

(b) The performance test for affected facilities controlled by a solvent recovery device shall be conducted as follows:

(1) The performance test shall be a one calendar month test and not the average of three runs as specified in § 60.8(f).

(2) The weighted average mass of VOC per mass of coating solids applied for a one calendar month period shall be determined as specified in § 60.443(a)(1) and § 60.443(a)(2).

(3) Calculate the required percent overall VOC emission reduction as specified in § 60.443(b).

(4) Inventory VOC usage and VOC recovery for a one calendar month period.

(5) Determine the percent overall VOC emission reduction as specified in § 60.443(c).

(c) The performance test for affected facilities controlled by a solvent destruction device shall be conducted as follows:

(1) The performance of the solvent destruction device shall be determined by averaging the results of three test runs as specified in § 60.8(f).

(2) Determine for each affected facility prior to each test run the weighted average mass of VOC per mass of coating solids applied being used at the facility. The weighted average shall be determined as specified in § 60.443(a). In this application the quantities of W_{oi}, W_{ai}, and M_{ci} shall be determined for the time period of each test run and not a calendar month as specified in § 60.441.

(3) Calculate the required percent overall VOC emission reduction as specified in § 60.443(b).

(4) Determine the percent overall VOC emission reduction of the solvent destruction device by the following equation and procedures:

$$R = \frac{\sum_{i=1}^{n} Q_{ai} C_{ai} - \sum_{j=1}^{m} Q_{aj} C_{aj}}{\sum_{i=1}^{n} Q_{ai} C_{ai} + \sum_{k=1}^{p} Q_{ak} C_{ak}} \times 100$$

(i) The owner or operator of the affected facility shall construct the overall VOC emission reduction system so that all volumetric flow rates and total VOC emissions can be accurately determined by the applicable test methods and procedures specified in § 60.446(b).

(ii) The owner or operator of an affected facility shall construct a temporary total enclosure around the coating line applicator and flashoff area during the performance test for the purpose of capturing fugitive VOC emissions. If a permanent total enclosure exists in the affected facility prior to the performance test and the Administrator is satisfied that the enclosure is totally capturing fugitive VOC emissions, then no additional total enclosure will be required for the performance test.

(iii) For each affected facility where the value of R is greater than or equal to the value of R_q calculated in § 60.443(b), compliance with § 60.442(a)(2) is demonstrated.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

(Approved by the Office of Management and Budget under control number 2060-0004)

§ 60.445 Monitoring of operations and recordkeeping.

(a) The owner or operator of an affected facility subject to this subpart shall maintain a calendar month record of all coatings used and the results of the reference test method specified in § 60.446(a) or the manufacturer's formulation data used for determining the VOC content of those coatings.

(b) The owner or operator of an affected facility controlled by a solvent recovery device shall maintain a calendar month record of the amount of solvent applied in the coating at each affected facility.

(c) The owner or operator of an affected facility controlled by a solvent recovery device shall install, calibrate, maintain, and operate a monitoring device for indicating the cumulative amount of solvent recovered by the device over a calendar month period. The monitoring device shall be accurate within ±2.0 percent. The owner or operator shall maintain a calendar month record of the amount of solvent recovered by the device.

(d) The owner or operator of an affected facility operating at the conditions specified in § 60.440(b) shall maintain a 12 month record of the amount of solvent applied in the coating at the facility.

(e) The owner or operator of an affected facility controlled by a thermal incineration solvent destruction device shall install, calibrate, maintain, and operate a monitoring device which continuously indicates and records the temperature of the solvent destruction device's exhaust gases. The monitoring device shall have an accuracy of the greater of ±0.75 percent of the temperature being measured expressed in degrees Celsius or ±2.5° C.

(f) The owner or operator of an affected facility controlled by a catalytic incineration solvent destruction device shall install, calibrate, maintain, and operate a monitoring device which continuously indicates and records the gas temperature both upstream and downstream of the catalyst bed.

(g) The owner or operator of an affected facility controlled by a solvent destruction device which uses a hood or enclosure to capture fugitive VOC emissions shall install, calibrate, maintain, and operate a monitoring device which continously indicates that the hood or enclosure is operating. No continuous monitor shall be required if the owner or operator can demonstrate that the hood or enclosure system is interlocked with the affected facility's oven recirculation air system.

(h) Records of the measurements required in §§ 60.443 and 60.445 must be retained for at least two years following the date of the measurements.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

(Approved by the Office of Management and Budget under control number 2060-0004)

§ 60.446 Test methods and procedures.

(a) The VOC content per unit of coating solids applied and compliance with § 60.422(a)(1) shall be determined by either Reference Method 24 and the equations specified in § 60.443 or by manufacturers' formulation data. In the event of any inconsistency between a Method 24 test and manufacturers' formulation data, the Method 24 test will govern. The Administrator may require an owner or operator to perform Method 24 tests during such months as he deems appropriate. For Reference Method 24, the coating sample must be a one liter sample taken into a one liter container at a point where the sample will be representative of the coating applied to the web substrate.

(b) Reference Method 25 shall be used to determine the VOC concentration, in parts per million by volume, of each effluent gas stream entering and exiting the solvent destruction device or its equivalent, and each effluent gas stream emitted directly to the atmosphere. Reference Methods 1, 2, 3, and 4 shall be used to determine the sampling location, volumetric flowrate, molecular weight, and moisture of all sampled gas streams. For Reference Method 25, the sampling time for each of three runs must be at least 1 hour. The minimum sampling volume must be 0.003 dscm except that shorter sampling times or smaller volumes, when necessitated by process

variables or other factors, may be approved by the Administrator.

(c) If the owner or operator can demonstrate to the Administrator's satisfaction that testing of representative stacks yields results comparable to those that would be obtained by testing all stacks, the Administrator will approve testing of representative stacks on a case-by-case basis.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

§ 60.447 Reporting requirements.

(a) For all affected facilities subject to compliance with § 60.442, the performance test data and results from the performance test shall be submitted to the Administrator as specified in § 60.8(a) of the General Provisions (40 CFR Part 60 Subpart A).

(b) The owner or operator of each affected facility shall submit semiannual reports to the Administrator of exceedances of the following.

(1) The VOC emission limits specified in § 60.442; and

(2) The incinerator temperature drops as defined under § 60.443(e). The reports required under paragraph (b) shall be postmarked within 30 days following the end of the second and fourth calendar quarters.

(c) The requirements of this subsection remain in force until and unless EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

(Approved by the Office of Management and Budget under control number 2060-0004)

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Part V

Department of Health and Human Services

Office of Human Development Services

FY 1984 Coordinated Discretionary Funds Program

VOL 48 ISS 202 OCT 18 1983 UMI

VOL
48
ISS
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18
1983
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. HDS-84-1]

FY 1984 Coordinated Discretionary Funds Program

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Announcement of availability of funds and request for preapplications under the Office of Human Development Services' Coordinated Discretionary Funds Program.

SUMMARY: The Office of Human Development Services (HDS) announces that competing preapplications will be accepted for new research, demonstration, evaluation and training grants and cooperative agreements authorized by legislation for its discretionary program and those of its constituent programs—the Administration for Children, Youth and Families (ACYF), the Administration on Developmental Disabilities (ADD), the Administration on Aging (AoA), the Administration for Native Americans (ANA), the Office of Program Development (OPD), the Office of Policy Coordination and Review (OPCR), and the President's Committee on Mental Retardation (PCMR). This program announcement consists of four parts. Part I covers background information, discusses the purpose of the HDS Discretionary Program, lists funding authorities, and briefly describes the FY 1984 process. Part II describes the 10 priority areas in which grants will be awarded. The priority areas are grouped into three major themes, and examples are given for each area. Part III describes the application process, who is eligible to apply, what funds are expected to be available, and the selection criteria. Part IV gives detailed guidance on how to prepare and submit a preapplication. It also includes copies of needed forms.

FOR FURTHER INFORMATION CONTACT: HDS/Division of Research and Demonstration 200 Independence Avenue, SW., Room 732E, Washington, D.C. 20201, telephone: (202) 245–6235.

DATE: The closing date for receipt of preapplications is December 6, 1983.

Part I: General Considerations

A. Scope of This Program Announcement

This announcement solicits preapplications for research, demonstration, evaluation, and training priorities to be funded in the third and fourth quarters of FY 1984 and the first and second quarters of FY 1985 by HDS programs for the elderly, Native Americans, the developmentally disabled, and children, youth and families in support of HDS' goals. It also solicits preapplications from State Social Service Agencies for grants to undertake measuable improvements in their programs to place special needs childrern in adoptive homes. This is the only HDS announcement to be issued for these priority areas. HDS may publish additional program specific announcements in FY 1984 that incorporate individual program priorities. A subsequent announcement may be published amending priorities in Priority Area 2.3 (Child Abuse and Neglect) if changes are required as a result of additional comments received during the comment period stated in the Federal Register on August 29, 1983 (Vol. 48, No. 108, pp. 39160–39163).

B. Background

In fiscal year 1984 HDS is continuing the coordinated discretionary approach begun in fiscal year 1982. This approach results in the joint announcement of several separate discretionary funding programs which had previously been announced and competed independently of each other. By conducting a coordinated discretionary process, HDS promotes cooperative and focused activity which addresses important issues common to all programs. By requesting preapplications HDS also encourages wider participation in its discretionary funds program. HDS receives 3,000 to 6,000 preapplications annually to its Coordinated Discretionary Funds Program, of which some 150 to 200 receive grants.

C. Discretionary Program Purpose

The purpose of the HDS Coordinated Discretionary Funds Program is to support: (1) Research activities that develop insightful, new ways of addressing human service problems; (2) the transfer and implementation of previously developed techniques and knowledge; (3) evaluations that assess the efficacy of existing programs; and (4) projects that improve the delivery and management of social services. *Above all, HDS discretionary funds are intended to expond the boundaries and utilization of human service knoweldge by drawing on new ideas from a variety of fields.* These new ideas and prespectives should stimulate professionals and the public to respond more effectively and humanely to State, Tribal and local human service needs.

In fiscal year 1984, the HDS Discretionary Funds Program will focus on increasing social and economic self-sufficiency through socioeconomic development strategies, the strengthening of families, and on improving the efficacy of social services. The program is based on the principle that the well-being of the public is best promoted by individuals, families and the communities in which they live. Social service needs are best defined and addressed through institutions at the level closest to the problem—State, tribal and local government, public agencies, businesses, private voluntary organizations, and families. The role of the Federal government in addressing social problems is:

- To adopt and implement national policies or programs aimed at promoting economic growth and prosperity, thereby strengthening the capacity of individuals to achieve or maintain self-sufficiency and the capacity of the family to care for all its members;
- To address those social service needs that require inter-State or national attention for effective resolution;
- To provide national leadership in: (a) The development of effective methods of addressing social service needs; and (b) the development of state, Tribal and local capacity to appropriately address social needs;
- To foster the efficient and effective use of available resources through improved social service management; and
- To target Federal budgetary support for services to that portion of the population in the greatest need of assistance.

In all cases proposed projects *must:* Stress concrete outcomes; impact the social, economic and physical well being of HDS populations over a reasonably short period of time; be replicable; undertake activities that go beyond the current state of the art; where applicable, promote the transfer and utilization of existing knowledge and techniques; and include dissemination plans which provide for the effective transfer of findings to appropriate audiences on a national scale.

The HDS Discretionary Funds Program is not intended to fund service progroms or to serve as a source of supplementary funds for local activities which need operating subsidies. Applicants are also reminded that grantees are prohibited from using Federal grant funds to engage in any activity designed to influence legislation or appropriations pending before Congress.

D. Statutory Authorities

The individual statutory authorities under which grants and cooperative agreements will be awarded by the HDS Coordinated Discretionary Funds Program are as follows:

- Head Start: Head Start Act of 1981.
- Child Welfare Services: Section 426 of the Social Security Act, as amended.
- Runaway Youth Program: Runaway and Homeless Youth Act, as amended.
- Child Abuse: Child Abuse Prevention and Treatment Act, as amended.
- Adoption Opportunities: Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as amended.
- Native Americans: Native American Programs Act of 1974, as amended
- Developmental Disabilities Special Projects: Section 145 of the Developmental Disabilities Assistance and Bill of Rights Act, as amended.
- Social Services Research and Demonstrations: Section 1110 of the Social Security Act, as amended.
- Training, Research and Discretionary Projects and Programs: Title IV of the Older Americans Act, as amended.

E. FY 1984 Process

As in previous years, the FY 1984 Discretionary Funds Program provides for a two-stage application process. Stage one addresses preapplications, while stage two deals with final applications. As part of stage one, Federal staff will initially screen preapplications administratively to determine their completeness and conformance with the requirements of this announcement.

Only preapplications that adhere to all screening requirements will be given further consideration. Nonconforming preapplications will not be afforded the opportunity to correct deficiencies or to resubmit. The screening requirements that will be used are discussed below in Part III, Section F. After the screening has been completed, conforming preapplications will be reviewed jointly by Federal staff and non-Federal experts against the criteria established for review of preapplications. HDS anticipates that approximately 500 preapplicants will be invited to submit final applications (stage two) in the early spring of 1984 to be given further consideration for funding. The final applications will be reviewed against the more stringent evaluation criteria listed in Part III, Section F. HDS anticipates that, subject to the availability of funds, approximately 150 to 200 grants and cooperative agreements will be made in the third and fourth quarters of FY 1984 and the first and second quarters of FY 1985.

Part II: Program Priorities

In setting the priorities contained in this announcement, HDS made provision for State, local and community participation. National organizations, States, local agencies and experts in the field proposed research, demonstration, and evaluation issues which should be addressed by the HDS Coordinated Discretionary Funds Program. As a result of those recommendations, a review of recent discretionary program activities and consideration of HDS goals, HDS has established the following priority areas for funding in FY 1984 and the first two quarters of FY 1985:

I. Socioeconomic Development Strategies
- 1.1 Employment and Income Generation
- 1.2 Community and Family-Based Care
- 1.3 Family Services through the Workplace
- 1.4 The Developmentally Disabled Adult

II. Strategies for Strengthening Families
- 2.1 Promoting Family Cohesion
- 2.2 Head Start
- 2.3 Child Abuse and Neglect Prevention
- 2.4 Runaway and Homeless Youth Intervention
- 2.5 Child Welfare
- 2.6 Adoption Opportunities
- 2.7 The Elderly and the Family

III. Strategies for Improving the Efficacy of Social Services
- 3.1 Program Management Improvements
- 3.2 Gerontology Training

A description of HDS's specific interests under each of these priority areas is contained below. Submitted preapplications should propose one or more of the followng activities:

- The transfer of existing technology of proven effectiveness from one area of human services to another or from other areas such as health services, mental health, management sciences, etc., to human services. This includes the effective dissemination of techniques and knowledge developed by previous human services demonstration and research projects funded by HDS or other sources.
- Development of quantitative data, where gaps exist, to better target resources on the needy.
- Development and testing of new service delivery modes with a high probability of increasing the efficacy of services at the policy level and the point of delivery.
- Investigations into the costs and benefits of existing service modes with a view toward modifying or terminating modes that have high costs and low benefits.
- Improvements in the programmatic and fiscal management of human services.
- Investigations into the causes of problems that lead to the need for human services. Such investigations should shed light on possible prevention and early intervention techniques.

I. Socioeconomic Development Strategies

A basic mission of human service agencies is to enhance the ability of families to care for their own members without the need for public assistance. For those whose needs make supplementary assistance necessary, human service agencies should seek to provide transitional support without replacing the role of the family. To accomplish this, human service agencies need to develop greater understanding of and sensitivity to the families they serve. They also need to garner the involvement and support of other organizations and individual professionals, both public and private. The HDS Coordinated Discretionary program, addressing many different specific subjects, is aimed at the task of strengthening families in their ability to support and care for their own members.

HDS will fund innovative projects that encourage self-sufficiency and prevent or reduce dependency on publicly supported social services in the following priority areas: (1) Employment and income generation; (2) Community and family-based care; (3) Family services through the workplace; and (4) the developmentally disabled adult.

Priority Area 1.1—Employment and Income Generation

In FY 1984 HDS will support projects that enable homeless youth, teen-age mothers, single or Head Start parents, older persons or individuals with developmental disabilities to enter or remain in the job market and become economically more self-sufficient, thus preventing or reducing dependency on public sources of support. Proposed projects should center on State, tribal or local implementation of successful employment approaches developed and tested recently. Emphasis should be placed on employer involvement (both private and public sector), creative use of existing knowledge, and linkages between existing organizations. Preapplications should focus sharply on the expected outcome of the proposed projects by addressing, at a minimum, the number of jobs to be filled or created, targeted job placements, and the employer's role in the project.

VOL
48
ISS
2
0
2
OC
18
1983
UMI

Over the past two years HDS has funded a large number of employment demonstration projects. Because of that, projects will be funded in FY 1984 only in a few specific categories in this priority area.

One of these categories is the retention of older workers through modified retirement policies, reduction of barriers to the productive functioning of older workers and the employment of retirees. Older workers are a valuable source of experienced, dependable, and motivated help. Retirees can meet seasonal or sporadic needs that the unemployed may not be trained to fill. This will become vital as the population of potential workers shifts toward older people, and is desirable because companies' needs for part-timers and temporaries have grown. HDS will support projects that demonstrate how private and public organizations can meet their needs for skilled part-time and temporary labor through the hiring of their own retirees or other elderly persons. HDS will also fund projects that demonstrate new approaches to educating management and union officials concerning the work skills and potential of the older worker and assisting them to adopt programs that would retain older workers beyond the normal retirement age.

The second category is the demonstration of youth employment, leadership development and peer counseling techniques used in innovative approaches to preventing or reducing the negative consequences of youth problems such as teenage pregnancy, runaway behavior, homelessness, and juvenile delinquency. The occurrence of any of these problems in the life of a youth all too often initiates or perpetuates a life-long cycle of poverty and dependency. The problem is often aggravated by the lack of a coherent response by the State, Tribal or local system of agencies dealing with youths, as well as by lack of constructive alternatives of existing responses like welfare dependency for adolescent mothers and incarceration for juvenile offenders. HDS will fund projects that bring to bear the resources of the multiple agencies dealing with youths within a state or locality, with primary emphasis on joint state agency efforts. Such projects should make new and imaginative use of youth employment, leadership development and peer counseling techniques in assisting teen-age mothers (and fathers), homeless or runaway youth, juvenile offenders, and other youths at risk, to take control of their economic life. Proposed projects should center on innovative alternatives to existing responses and promote the concerted action of agencies such as schools, juvenile courts, health providers, welfare agencies, and other youth agencies.

The third category includes employment techniques such as shared work, home-based work and youth entrepeneurships which have been used in both businesses and public agencies on an experimental basis. While these projects have proven successful, a continuing problem is the lack of dissemination and utilization of these by other businesses and nonprofit agencies. HDS will fund projects designed to effectively disseminate the results of successful employment generation techniques. Proposed projects should cover several States or Indian reservations and reach a large segment of businesses and public organizations which can benefit from implementation of the techniques being disseminated. Applicants should have a demonstrated marketing capacity and must identify the project(s) whose results they propose to disseminate.

In the fourth category HDS is also interested in determining what work opportunities exist that are appropriate for the developmentally disabled, Native Americans, hard to employ youths and elderly persons in high tech and other industries with projected scarcity of skilled labor. Consideration should be given to work opportunities in such areas as setting up, operating and maintaining automatic assembly machines, as this is an area of expanding employment opportunities. Demonstration projects may be funded that demonstrate innovative training and adaptations needed to realize this potential. Proposed projects must include on-site training and the participation of industry, lead to permanent employment, or create small businesses owned or operated by the target populations.

Priority Area 1.2—Community And Family-Based Care

More than 10 million Americans experience substantial difficulty in self care, mobility, capacity for independent living, and economic self-sufficiency. Approximately 5 million of these individuals are elderly, and 4 million are developmentally disabled adults and children. There are an additional 4 million elderly persons who because they live alone or in defective housing are at risk of losing their ability to reside in the community. In addition, the assistance afforded parents by the public school system in keeping developmentally disabled children at home disappears as those children reach adulthood.

It is estimated that 80% of care given to the disabled comes from informal sources such as the family, relatives, or friends. Informal sources, however, can be tenuous. The service needs of the disabled living at home may sometimes exceed the capacity of family or friends to meet them. For example, a breakdown in the well-being of a caregiver can precipitate institutionalization for an impaired individual as often as a deterioration of his or her own health.

Other factors jeopardize the traditional sources of informal support. Increases in two-career families have resulted in fewer people free or with sufficient time to provide daily care. With prolongation of the average life span, those over the age of 85 are often dependent on children who are themselves 60 years of age or older. Within the next 50 years the number of persons 85 or older will triple, and there will be proportionately fewer young people to care for the health-impaired. There will also be, however, more healthy older people who might help provide care to their peers.

Voluntary organizations have a unique capacity to enhance these support arrangements and have already done so in a number of communities. Churches, labor unions, fraternal organizations and others have the opportunity to identify and care for vulnerable individuals in their communities. The traditional commitment of these organizations to the welfare of their members provides a strong basis for their collaboration in organizing and delivering volunteer care to others. The Office of Human Development Services seeks to advance this concept by funding model projects for providing volunteer care to enable developmentally disabled and elderly individuals to live in the community, preferably at home.

Projects will also be funded to undertake innovative approaches to effective health promotion and maintenance, in particular through the use of family and neighborhood support networks. Efforts should focus specifically on disease and accident prevention, Alzheimer's disease, substance abuse, nutrition and physical fitness. Special emphasis should be placed on linking State, tribal and local agencies on aging and developmental disabilities, area agencies on aging, health providers, pharmaceutical companies, and businesses.

Another route to preventing institutionalization is the provision of adequate housing for the elderly and the developmentally disabled. Projects will be funded which undertake to develop a comprehensive program of alternative living arrangements and to implement the initial stages of community or area-wide efforts to improve housing for developmentally disabled or older people. Proposals must include an assessment of relevant housing needs in the target area and an identification of potential resources for responding to those needs, including linkages with governmental authorities, community service agencies, businesses, labor unions, civic associations and other organizations which will be involved in the proposed effort. Mechanisms must also be identified for leveraging multiple funding source for responding to the housing and service needs of special populations including the frail elderly and the homeless.

Proposals must provide for the development of a comprehensive plan that includes multiple approaches for improving the living arrangements of developmentally disabled or older persons. This plan may include, but should not be limited to, such living arrangements as: congregate and shared housing; "granny flats" or ECHO housing; manufactured housing (including mobile and modular homes); home equity conversions; accessory apartments; "safe houses"; house swapping; housing repair and renovation to upgrade the quality of existing shelter (including innovative approaches to involving young people and volunteers in rehabilitation and maintenance programs); and other innovative approaches. Funds provided under this announcement may not be used for construction or renovation.

Priority Area 1.3—Family Services Through The Workplace

Today, more than ever, there is a strong relationship between the workplace and the family. As increasingly significant numbers of mothers and single parents enter the workforce, and as society becomes increasingly mobile, the workplace becomes more and more the focus of the communtiy. As such, the families of today are profoundly affected by the workplace environment and may increasingly come to rely on it for the support traditionally provided by the neighborhood community. At the same time, the workplace is impacted by the concerns of employers for their employees' families. Support for families strengthens families, and strong families increase the productivity of employees. HDS will fund projects intended to test and demonstrate ways in which the workplace can strengthen family cohesion, enhance the ability of the family to be self-supporting, and increase the capacity of the family to care for all its members regardless of age or disability. Proposed projects may be aimed at assisting employees or the community where the workplace is located.

HDS will fund demonstrations of social services programs in the workplace that are specifically to be sponsored by nontraditional groups. Examples include businesses, trade organizations, unions, foundatins, and consortia of businesses, nonprofit organizations and government agencies. In addition, the emphasis would be on small- scale projests with large matching funds from the sponsoring organization.

The objectives of projects focused on employees would be to increase employee family cohesion, keep employees on the job, and imporve employees' well-being and productivity. Projects in several areas will be considered for funding. The first of these is the development of a family-like environment in the workplace. Borrowing from Japanese style management, these projects would focus on managers' concern for the total welfare of the employee and include a wide range of nonwork activities. Of particular interest are projects designed to imporve the productivity and physical well-being of older workers by promoting health screeming and physical fitness programs through the workplace. The second area is that of family services provided in or through the workplace. Included here are information and referral, self-help groups, peer counseling and special programs on family well-being. The third area is that of optional programs developed in or through the workplace to keep families together. These projects would analyze the following: greater flexibility in office hours and work schedules, shared work, home-based work, extended leave for caregivers, and flexible benefit plans. They may also explore employer sponsored day care, employer incentives and support for adoption and foster care, and assistance in keeping frail or disabled mambers in the family.

The objectives of projects focusing on the community would be to increase business participation or to sponsor humam services to the community. An example would be a corporation making counseling services (e.g., alcoholism, drug abuse, child care) available not only to its employees, but to the community at large. Recognizing that much has already been done by businesses and corporations in community involvement, this area also solicits ideas to market and disseminate proven and successful approaches. Of special interest would be proposals from sponsors of successful community involvement and employee support projects who would transfer their ideas to other businesses or non-traditional providers that have limited experience in community projects.

Projects proposed should identify the specific outcomes anticipated. Results should be expressed in quantifiable terms, such as percent increase in productivity, number of handicapped hired or dollar amounts generated for community projects, etc.

Priority Area 1.4—The Developmentally Disabled Adult

There have been major changes in attitudes toward the provision of care and services to developmentally disabled persons during the past twenty-five years. It is now widely accepted that children with developmental disabilities can, if given appropriate services, develop personal, social and even vocational skills although the attainment of these skills may be at a slower rate than for other childern. As adults, if given the necessary support, most developmentally disabled persons can achieve a greater degree of independence and become contributing members of our society. It is also widely accepted that the great majority of persons with developmental disabilities are more likely to achieve their maximum potential residing in small facilities which provide them with the opportunity to participate more fully in the normal life of the community rather than in institutions. However, it is also recongnized that this will occur only if these individuals are provided with services that are sufficient in amount, appropriate in type, available when needed, and coordinated so that they supplement and reinforce each other.

The Office of Human Development Services is interested in the transition period between childhood and adulthood for developmentally disabled persons. Although the nation has made great strides in the recent past in providing support to children with developmental disabilities (especially through school systems under Pub. L. 94–142) this progress has not been matched for adults. "Aging-out" is the term used to describe what happens as developmentally disabled children reach adulthood, become ineligible for services through the school system, and seek services under a variety of local, State and Federal programs.

VOL
48
ISS
2
0
2
OC
18
1983
UMI

It has been shown that if a developmentally disabled person is without needed services for too long, a permanent reduction in self-sufficiency may result. If this happens, the benefits of services provided to that person as a child and a young adult may be lost.

Data suggest that some 95,000 students who are receiving special education services will leave school each year. A significant percentage of these students are developmentally disabled and may become part of the "aging out" problem. Only two States currently provide special education services to students over the age of twenty-one.

HDS will fund projects which contribute to current knowledge about the best methods to alleviate the problems associated with transition period following graduation from a special education program. For example, HDS is interested in strengthening links between families, services providers and State and local agencies to assure appropriate placement of developmentally disabled persons and continuity of needed services. We are also interested in how the recruitment and training of personnel who provide services in community based systems can be improved so that "aging out" and other developmentally disabled adults can avoid inappropriate institutionalization. To qualify for funding, proposed projects should not merely describe the problem, but deal with the issues associated with the successful integration of these individuals into society.

HDS is also interested in the special problems of older developmentally disabled people. As developmentally disabled people live longer, their families or other caretakers may no longer be able to meet the special needs caused by aging. Many older people with developmental disabilities have been inappropriately placed in nursing homes, even though this is one of the most costly and least desirable placements.

Aging developmentally disabled persons have basic needs for social, educational and recreational opportunities in common with other elderly people. HDS is interested in approaches to preventing the institutionalization of older people with developmental disabilities through the provision of services in the community.

A third area of interest to HDS is the services provided to families who care for their adult developmentally disabled family members. Although most developmentally disabled people reside with their families—placing tremendous pressure on those families—support services are more likely to be made available to developmentally disabled persons who reside in group homes or intermediate care facilities. Other difficulties may arise when the family members who care for an adult with developmental disabilities become too infirm themselves to continue those responsibilities.

HDS will support projects that address these issues. We are interested in obtaining data about the living arrangements and services required not only by adults who are mentally retarded, but also by those who have other developmental disabilities. We will also consider projects which involve the evaluation or improvement of:

(1) The criteria and procedures for determining placements in various residential settings;

(2) The quality and appropriateness of services available under diverse living arrangements;

(3) Methods to coordinate services that help developmentally disabled people remain in the community—for example, forging links between programs for the developmentally disabled with existing aging services, such as senior centers or nutrition programs; and

(4) Mechanisms to support natural and foster families who care for the develpmentally disabled, with particular attention to support throughout the life cycle, even after caretakers die or become to infirm to continue the responsibility.

II. Strategies for Strengthening Families

The family is an essential factor for most human service activities. Although government programs provide social services, the family has primary responsibility for the care of all its members. Therefore, the preservation of strong family bonds and support should be one of the primary objectives of any human service program.

HDS will innovative projects that promote the strengthening of families. HDS will consider projects in the following priority areas: (1) Promoting Family Cohesion; (2) Head Start; (3) Child Abuse and Neglect Prevention; (4) Runaway and Homeless Youth Intervention; (5) Child Welfare; (6) Adoption Opportunities; and (7) The Elderly and the Family.

Priority Area 2.1—Promoting Family Cohesion

There is a need to research family situations or conditions affecting participation in the workplace and interactions with institutions such as hospitals, schools, and the courts. Conversely, there is a need to identify the policies and practices of the workplace and these institutions, which have positive and negative effects on family life. Such a study would serve as the basis for codification of employer and professional practices with a view toward strengthening rather than undermining family cohesion.

A key element in a strategy to strengthen the economic and social self-sufficiency of families may be increasing the availability of accessible, affordable, child card *that benefits the child.* The availability of *quality* child care is related to reduced welfare dependency and higher family income and may have the potential for learning and developmental gains for children. To improve the quality, accessibility and affordability of existing child care services requires the cooperative efforts of local public, proprietary and non-profit child care providers, employers interested in child care as an employee benefit, early childhood educators and professionals and, most importantly, parents. HDS will fund projects that engage varied groups of these concerned organizations and individuals at the local level in specific efforts leading to measurable improvements in areas such as: family day care networks; employer-supported child care arrangements; infant and toddler care; and delivery systems that maximize private sources of support. An issue of particular interest, given the likelihood of increased demand, is measuring the impact of infant day care on the child, since there is a lack of information on positive or negative effects on the child.

Additionally, school age children constitute a sizeable child care population which will increase over the next decade, yet available day care services focus on children aged 3–5. The lack of appropriate and acceptable community based alternatives is reflected in the large number of households which appear to have no supervision for their children during non-school hours.

OHDS will support projects to develop *flexible response systems* for the care of school age children (with priority to those between the ages of 5 and 11) and that accelerate the diffusion of those innovations in a way that promotes their innovative programming and financing at the local and State level. Proposals should include provisions for parental choice of child care options and use of public school facilities where appropriate and cost-effective. Projects are expected to incorporate evaluation procedures to generate information which will facilitate replication efforts administered at the local level. HDS will give priority to applications proposing modest budgets with significant matching support.

The final issue of interest under this priority area is parental incarceration. The fact of incarceration can cause serious disruption in families. Children often are placed in the child welfare system and have little continuing parental or family contact. There is a need to develop approaches to maintain the family relationship during the period that parents are incarcerated, to use that period, insofar as it is possible, to strengthen their parental skills and commitments and to provide appropriate support to their children. Such approaches can appropriately become the responsibility of voluntary child welfare agencies, Head Start programs or social service agencies whose purpose is to support the health and welfare of children.

HDS will also fund projects that seek to disseminate publications, curricula, project findings and bibliographies with a high probability or record of success in furthering family cohesion and self-sufficiency. Similarly HDS will fund projects that replicate and further develop successful techniques promoting family cohesion and self-sufficiency.

Priority Area 2.2—Head Start

An expanded challenge for Head Start in serving low-income children and their families, including Indian and migrant families, is to work closely with other human service agencies as facilitator, catalyst and mobilizer of resources within the communities which it now serves. The objective of such collaboration is to use the Head Start experience to enrich and strengthen low-income families with young children who have not had the benefits of Head Start enrollment, while at the same time improving Head Start program components. HDS intends to support demonstrations of specific approaches to this expanded role, based on the Head Start program's already proven successes in delivering educational, health, parent involvement and social services. To this end, HDS invites preapplications from Head Start grantees, including Indian and migrant program grantees, and other State and local, public and private organizations (e.g. day care programs, health providers, public schools, mental health centers, family service agencies and consultants) which propose to work collaboratively with Head Start grantees to address any of the following areas:

Health Services. There is a need to use Head Start's experience in mobilizing community medical, mental health, dental and nutritional resources in fostering the health of all children. Such efforts should also result in measurable improvements in health services for children who are enrolled in Head Start.

Parent Involvement. Head Start emphasizes the role of parents as the principal educators of their own children and recognizes the importance of adult education opportunities for low-income parents of young children. There is both a need to improve Head Start approaches to parent education and to foster the use of existing approaches by the wider community to enhance parental skills and thus strengthen families.

Social Services. Head Start's commitment to ensuring necessary social services for families of enrolled children indicates a recognition that the well-being of young children reflects the well-being of their families. The linkages, coordination and family support provided by Head Start programs can be used as guidance to develop community processes to ensure provision of social services to Head Start families after enrollment of their children ends and to other families in need of such assistance.

Education. Early childhood education is the foundation of the Head Start program. Variations and improvements devised over the years have included special attention to parental roles as educators of their own children (through the Parent-Child Center and other pilot programs) and mainstreaming of handicapped children in Head Start classrooms. These and other Head Start education improvements can and should be used in other preschool and child care settings. Particular attention is needed to improve the transition of handicapped Head Start children to public school and to integrate health, social service and parent education activities into the classroom's education curricula. HDS is particularly interested in forgoing closer linkages between handicapped children's agencies, child care, and Head Start programs for their mutual benefit.

Research is also needed to provide empirical knowledge on the differences—if any—in outcomes and cost between home-based and center-based Head Start. HDS will support studies to identify the characteristics of children and families most likely to benefit from home-based services (in terms of developmental functioning, age, ethnicity, language and family structure, socioeconomic status, and geographic location). Studies will also be supported that identify which program characteristics (for example, number and length of home visits per month, opportunities for group experiences with other preschoolers, types of parental involvement, numbers of families served by a home visitor, and home visitor training) have a positive impact on child and family gains. Finally, HDS will support studies which compare home-base with other means of delivering Head Start services in terms of development outcomes and costs.

HDS also seeks to assist in innovative delivery of Head Start services to otherwise unserved populations. One such innovation which can be developed and tested is the Use of family homes for delivery of Head Start. Similar to family day care home networks, this kind of Head Start program would involve a network of family homes serving Head Start groups of up to six children. Projects must meet Head Start performance standards with emphasis on parental involvement. Such an approach may be especially useful in serving rural populations where center-based programs require extensive use of transportation.

Priority Area 2.3—Child Abuse and Neglect: Prevention, Protection and Treatment

Child abuse and neglect continues to be a serious problem. It is projected that over 1.5 million children will be subjects of reports of abuse and neglect in 1983. Awareness of child maltreatment has vastly increased the number of reports and has turned the attention of human service planners to the necessity for improved prevention, protection and treatment. HDS will support a wide range of research, demonstration and service improvements. Emphasis will be placed on assisting public and private agencies, including Indian Tribes, to incorporate service improvements for preventing and treating child abuse and neglect and for assuring protections for children who have been endangered either in their own homes or in out-of-home placements. A specific program thrust will seek to bring about better coordination between public school systems and child protective services. This emphasis on program improvement and integration extends to military installations so as to strengthen military families. In order to assist States and communities to imporve their capabilities to effectively deal with child abuse and neglect, HDS will support projects which address specific issues in

VOL
48
ISS
2
0
2
OC
18
1983
UMI

the areas of prevention, protection and treatment.

Such an issue is the use of remedial preventive projects aimed at maltreated adolescents. Most preventive programs have focused on parent education, perinatal support and information and referral for families in stress. To date, there have been little attention given to adolescence as a life stage and maltreated adolescents as a population appropriate for preventive programs. Yet, if maltreated children are particularly at risk of becoming maltreated parents, then preventive interventions aimed at them may break the cycle of abuse and neglect. One attempt at such a preventive program is the Parent Anonymous teen-age program recently organized in a number of States.

Another key prevention issue is building capacity and resources in minority communities to prevent child abuse and neglect. Minority families are over-represented in child abuse and neglect statistics. There is a need to support preventive, family-supportive networks in minority communities with the purpose of helping families with child-rearing problems to avoid the risk of child maltreatment.

Approaches have been piloted in some minority communities, using parent aides, peer support and parent education as means of providing culturally sensitive support to families. HDS will support further development and implementation of such approaches in Black, Native American and Hispanic populations.

School systems, in coordination with child protective agencies, can serve a unique function in the prevention of child abuse and neglect because of the access they have to large numbers of children. Their visibility in every community of the Nation gives them a special capacity to coordinate with other community resources to see that vulnerable children are recognized and receive necessary services. Examples of school system prevention programs could include, but are not limited to: training for school personnel in recognizing at-risk children and providing appropriate preventive assistance to them; development of after-school programs for children at risk of neglect; use of volunteers to assist school counselors and/or school social service workers to provide outreach to families with problems affecting the welfare of their children; coordination with local Parents Anonymous programs to provide parent education and children-serving-children groups; and improved reporting to, and obtaining adequate feedback from, child protective service agencies.

Also possible are programs of perinatal prevention for adolescent parents through public school systems. While a number of urban hospital-based perinatal programs have been tested, little is known about how to use the school system as a vehicle for the prevention of infant maltreatment by adolescent mothers. What is known is that the school system appears to be the medium through which these young mothers can be reached. What is needed is experience-based information on cost-effective urban and rural approaches to prevention using the school system as a means of access to adolescent mothers.

In the area of protection against child maltreatment there are several issues of interest to HDS. One of these is the development of procedures for ensuring protection for handicapped infants. State medical, social service and judicial systems have had to deal with instances of medical, nutritional and social neglect of impaired infants. The development, for national dissemination, of model procedures to ensure appropriate child protective action has been identified as an important need. HDS will support development and implementation of such procedures.

Approximately 61 percent of all substantiated cases of child maltreatment are cases of Child Neglect. This category of reports often initiates costly prolonged stays in the child welfare system. HDS intends to support testing of innovative program designs and development of staff training and decision-making guidelines for dealing with child neglect cases with resulting reduction in the length of service and necessity for foster care placement.

Another protection issue is the number of children referred to child protective services due to lack of supervision. This subcategory of neglect, the largest single category of substantiated maltreatment, accounted for 21 percent of all substantiated cases in 1980. The field has not examined the reasons why children are left unattended by their caretakers, nor has it addressed the issue of whether child protective agencies should have the dominant role in addressing the problem. A number of day care needs assessments have been conducted, but these have only tangentially addressed the issue. An investigation of the characteristics and attitudes of parents reported for leaving children unsupervised and the child service agency's response to such reports is needed in order to devise ways of reducing and handling this form of endangerment.

Emotional maltreatment (mental injury or psychological abuse) is a form of abuse which remains most difficult to define, identify, investigate, adjudicate and treat. Protection and treatment require intense involvement and a high level of therapeutic skill, although little guidance has been developed for providers to cope with this form of protective service. The following are needed: development of exact operational definitions to improve identification, investigation and adjudication; clinical diagnostic information to assist nonprofessionals facing mental health decisions; and guidelines for protective service professionals to decide issues of in-home vs. foster care placement.

Significant problems exist in judicial and social service management of cases of child sexual abuse and exploitation. They include confusion of roles, practices which compound trauma to the child, lack of legal representation for the child in criminal cases, confusion of procedures when companion cases are before two courts and little attention to protection for the child victims. HDS will support efforts to improve court procedures for dealing with child sexual abuse and sexual exploitation cases.

The litigation of child abuse and neglect cases often results in adversarial proceedings that make parental cooperation difficult. This, in turn, increases the possibility of out-of-home placement of the child. The judicial community agrees that there is an overuse of litigation, and seeks to halt this trend and to define alternate measures for conflict resolution. Alternatives to litigation in child maltreatment cases might include; Screening and referral to community agencies for needed services; mediation; or lay hearing panels. Such approaches need further development and testing before they can be supported for widespread replication.

A study of nonprofessional sources of child abuse and neglect reports is also needed. While most States do not require persons in nonprofessional roles to report suspected cases of child abuse and neglect, in fact 45 to 50% of reports are made by such sources. No other category of source approaches that large a percentage of total allegations. At the same time, these nonprofessional reporters have a much lower substantiation rate than do the professional ones. Consequently, an inordinate amount of child protective service time and resources is spent in processing cases which are not substantiated. A study is needed to discover the reasons for the relatively low substantiation rates of these sources so as to direct public education and child protective service training to the reporting of valid cases and their appropriate substantiation.

In the area of treatment, HDS is interested in the role of elderly and retired persons in the treatment of child abuse and neglect. Current demographic trends show an increasing population of older people. This group represents a potential source of support and nurturing for children who have been maltreated, and for the prevention of out-of-home placements. The Foster Grandparent program represents one model. It is important to determine how cadres of available and willing elderly can be most effectively and appropriately used in a variety of roles: As tutors, friendly visitors, parent surrogates for maltreating parents, homemakers, and social service aides. HDS will support several projects defining innovative uses of the older population in meeting the needs of maltreated children and their families.

Evidence has shown that there are practices and procedures with demonstrated effectiveness that require appropriate implementation through the child protective service system nationwide. One particular cost-effective practice is the use of parent aides working with child protective service agencies, sponsored either by public social services or private human service agencies, to provide in-home preplacement preventive services to families where abuse and neglect patterns have been identified. Other such practices include perinatal prevention services, peer support groups, home visitor programs for at-risk newborns and multidisciplinary case consultation for difficult cases. HDS intends to support as many as 100 one-time seed projects to implement these service improvements, with local resources being used to continue them after an initial year of start-up support.

Priority Area 2.4—Runaway and Homeless Youth

Adolescents normally face considerable changes in their life, including preparation for leaving home, completion of education, entering the workforce and assuming new roles as adults and parents. The chances of failure in these developmental tasks are considerable. While much goes right, serious difficulties are often encountered by adolescents and their families which lead to runaway behavior and family instability. Data on runaway and homeless youths indicate two distinct patterns of problems. Younger runaways evidence problems focused primarily on child-parent conflict, while older youth (aged 16 to 18) present a range of more severe problems, such as substance abuse, juvenile delinquency, lack of health care, unemployment, prostitution, and lack of independent living skills.

HDS estimates that approximately 5.6 million young people need help to address these problems, which in many instances are interrelated and require comprehensive solutions. To address those problems, HDS will fund projects intended to reunite families of runaway youths; develop the ability of homeless older youths to live independently; improve outreach that links runaway and homeless youths with effective programs and promotes family reunification; and combat and prevent prostitution.

The key to reuniting families and maintaining family cohesion is the need to develop and maintain family communications through aftercare (support services for runaway youth and their families) in order to prevent recurrent runaway behavior. There is a need to test and demonstrate models of effective aftercare services. Unresolved questions include: how to develop and maintain necessary linkages with related social services; how to provide services from multiple sources without requiring that the family go to a variety of agencies; how to develop and ensure funding support for the effective delivery of aftercare services; and how to use peer group counseling and other family support approaches.

HDS will also fund projects intended to implement existing models of independent living that center on strong business participation and are appropriate for youth who are "homeless" or "throwaways," rather than "runaways." These youth, often older, are highly vulnerable, difficult to serve and have specific needs which must be addressed in concert with independent living needs. There is also a need to demonstrate effective techniques for the management of leisure time for youth who are living independently. Such approaches might involve intergenerational programs, community service projects, remedial education, relationships with "host families," peer group recreational activities, involvement with the arts or working with handicapped and disadvantaged populations.

In the area of outreach there is a need to improve and expand the use of youth workers for early intervention. HDS estimates that over 700,000 youth run away each year. Many of these youth do not reach shelters or do not find assistance needed for protection. They are at risk of homicide, suicide, rape, sexual exploitation and other forms of violence. There is a need for the dissemination and implementation of program models which recruit, train and place in the field detached youth workers to provide outreach and early intervention to runaway youth. Such programs should focus on bringing runaway youth into effective protection, independent living, or family reunification programs as appropriate. They should also make use of existing outreach resources such as voluntary organizations, peer group networks, information and referral agencies, and the media.

There is an urgent need to develop early prevention and intervention approaches to deal with juvenile prostitution. Such strategies might include assignment of youth social workers to police patrols and the use of rehabilitated youth in street outreach, community education, and peer counseling. Studies of juvenile prostitution indicate the importance of on-the-street kinds of assistance. What kind of assistance and how it should be organized are areas that need to be further explored.

A final area of interest is the development of youth leadership opportunities. Serious economic and social gaps divide the professional and business leadership of the nation from many gifted and talented, but socially disadvantaged, youth. Many youth, especially minority youth, have very little access to the kinds of role modeling and apprenticeship training that is an expected part of the experience of young people who do not suffer the same social disadvantages. There is a need to develop approaches to link such youths with professional and business leaders in their communities who will take upon themselves the responsibility of serving as mentor and counselor in defining their educational, career and leadership options.

Priority Area 2.5—Child Welfare

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) placed primary emphasis on reduction of unnecessary use of foster care, reunification of children in foster care with their own families (in those cases where it is possible) and provision for adoption of children who cannot be returned to their own families. A continuing need exists to provide permanency for children who are

VOL 48 ISS 202 OCT 18 1983 UMI

separated from their families, to increase the adoption of special needs children (particularly minority and handicapped children), and to reduce the length of time children are in temporary out-of-home placements. HDS will support projects designed to strengthen services in the areas of preplacement prevention, permanency planning and family reunification.

There are four issues of interest in the area of prevention of unnecessay foster care placement. The first is the development of information to aid state and tribal administrators in purchasing and managing preplacement prevention services. Administrators must make many decisions on how to contract for, monitor and evaluate services used to assist families at risk of having their children placed in foster care. Comparative information is urgently needed on the appropriate use of higher-cost professional and various lower-cost services, including day treatment, aftercare and paraprofessional or volunteer assistance.

A second issue is the availability of preplacement prevention services appropriate for minority families. Child welfare studies indicate that minority children are disproportionately represented in the child welfare population, e.g. more in care, fewer adopted, and fewer returned to parents. A 1980 study found that Black and American Indian children were placed at a rate three times higher than white children and that one-fourth of the Hispanic and one-third of the Black children had been in care longer than five years. Despite these findings, agencies have consistently failed to implement programs which use the strengths of minority families and communities in providing services. States need assistance in provising effective preplacement prevention services and in planning for appropriate content for those services. Applications should not exceed $100,000 and should be from agencies having responsibility for geographic areas with concentrations of Black, Hispanic or American Indian populations. Applicants should be public agencies or voluntary agencies which propose close collaboration with appropriate public agencies and which provide assurances that the new approaches will be continued after the demonstration period.

A similar issue is the availability of preplacement preventive services adapted to other special populations. Staff in child welfare agencies face particular problems when assessing the preventive needs of children who are mentally retarded, emotionally disturbed and/or physically handicapped. In addition, recent statistics indicate that children in stepparent families are another population at increased risk of placement. Specific family counseling approaches are needed to address this greatly increased population. There is a need to develop and document approaches to planning for and providing preplacement preventive services to selected special populations. Applicants should either be public agencies or voluntary agencies which propose close collaboration with public agencies responsible for child welfare services.

A final prevention issue is education for parenthood for families in the child welfare system. Curricula for use in community-based and school-based parent education programs have been developed and demonstrated for general populations of adolescents and young adults. There have been numerous parenting curricula developed by public and private entities. There is a need to use such curricula with families who are at risk of losing the responsibility for the rearing of their children. Through such curricula, they can be helped to learn the roles and responsibilities of parenthood and thus reduce the potential for family disruption. Projects to demonstrate the use of such curricula with the at-risk family population may be supported to address this need.

The second set of issues in this priority area relates to improving foster care. One of these issues is the improvement of licensing practices. States continue to express a need for help in dsigning effective LICENSING PROGRAMS for child-placing agencies, child care institutions and foster family homes. There is a need to implement the technology of child welfare licensing at State levels. There is a comparable need in Indian child welfare systems. Excellent approaches have been developed over the past several years which treat child welfare licensing comprehensively and emphasize permanency planning. HDS will award small grants ($20,000) to State agencies and tribal organizations to make it possible for them to improve their licensing programs.

There is a need to mobilize the resources of foster parent networks to help provide steady recruitment for specialized foster homes for children with special needs in order to keep the supply constantly available. Many child placement agencies have only short-term campaigns to meet emergency needs. Foster parents themselves can have a lead role in ongoing recruitment campaigns for foster parents. Projects to address this need should develop and test approaches, with supporting materials and resources, and should be sponsored by foster parent organizations in conjunction with agencies at State or local levels and should not exceed $20,000.

There is also a need for enhancing the role of the parent in child welfare service. Efforts to prevent unnecessary placement in foster care, to reunify children with their families and to monitor permanency decisions may involve complicated procedures that undermine parents' roles. There is a need to demonstrate new and effective techniques for assuring parental involvement in critical decisions about basic child welfare services. Such techniques need to be designed not only for use by managers and workers in the child welfare system but also by parents themselves so that they can appropriately participate in the decisions affecting the lives of their children and themselves.

Of particular interest to HDS is the reunification of children in foster care with their families. Adolescents, mentaly retarded and physically handicapped children and minority children, require particular knowledge, sensitivities and skills on the part of child welfare workers to accomplish the goal of reunification. This need is demonstrated by the overuse of institutional care for these children, the runaway behavior of older children, and the extended periods of their stays in out-of-home placement. There is a need for widespread implementation of successful models of reunification for these children with their families, and procedures for States to pay for those services rather than relying only on traditional foster care. Coordination of child welfare agencies and courts in the use of foster care is also needed. The impact of the Adoption Assistance and Child Welfare Act of 1980 has not been uniform between the States' and Tribal judicial and social service systems. There is a manifest need for improved coordination, clarity of roles and functions and facilitation of the requirements for periodic case reviews and dispositional hearings for children in foster care. The courts play a vital role as well in assuring that permanent plans are made and carried out for children receiving services from child welfare agencies. There is a need for development and implementation of clear models for court-child welfare coordination which can be replicated to meet this continuing need.

A number of research issues in child welfare services also need to be addressed. First, there is a need to analyze the types and degrees of change in the provision of adoption and foster care services for Indian children during the initial five years of the Indian Child Welfare Act (Pub.L. 95–608) and the impact of joint planning and child welfare reform resulting from the eligibility of Indian tribes for direct grants under Title IV–B beginning in FY 1983.

Second, an examination is needed of long-term foster care. Fully 40% of children in foster care remain in placement for two or more years. Only a small proportion of these children are reunited with their families, after intensive work to rehabilitate family structuring and functioning. Unless these children are adopted or reach the age of emancipation they will continue to be in extended foster care. There is a need to understand further the characteristics of these children and their families and the reasons for the length of their stay in foster care in order to address better their permanency needs and to promote the positive contribution to society.

Finally, there is a need to identify the factors which lead to adoption disruption and reentry into foster care (recidivism) in order that State, Tribal and local agencies can adjust their policies, practices and procedures to decrease the likelihood of such disruptions and recidivism.

Priority Area 2.6—Adoption Opportunities

During the past four years, the Adoption Opportunities Program has developed extensive resources, training materials and program models to address critical barriers to the adoption of special needs children. An important issue at this point is the use by States and communities of these resources and information to increase measurably their capacity to place special needs children.

HDS is interested in proposals from State public social services agencies for projects which will help States (1) to increase the number of special needs children placed and (2) to institutionalize improvements in the State adoption programs which will result in sustained increased levels of adoption. In carrying out this effort, applicants should work closely with State Developmental Disabilities Councils, voluntary agencies, parent groups, minority organizations and other interested agencies and organizations.

Proposals must address the following requirements:

1. The applicant must propose a specific increase in the number of children to be adopted as a result of the effort, above those adopted in the most recent complete year for which statistics are available. A two year project period will be permitted, with the understanding that the bulk of the funds will be spent in the first 12-15 months, but the State will have up to 24 months to report results.

2. The applicant must document how it will institutionalize any improvement in the system which results from the grant, either at the State level or in a group of counties or a metropolitan area which emcompasses a significant number of waiting children.

3. The applicant must submit a project which is developmental in nature, and which is a one-time effort to enhance its ongoing program. Project funds should be used to help the applicant address critical barriers in the State, and to pull together new skills, technology, resources and systems, and incorporate them into its ongoing program so as to develop a permanent capability to increase the number of children adopted. To the maximum extent possible, the project should be staffed and managed with existing staff.

4. The applicant must certify that it can receive the grant and begin it promptly, without unnecessary delays because of internal requirements for receiving funds.

5. In addition to the discretionary matching requirement of 25%, the applicant should identify some additional IV-B funds, beyond those spent in the previous year, to add to the State contribution to the effort. Federal funds should be viewed as seed money to help the State undertake a needed improvement, rather than as funds to run a complete project.

Based on the number of children in care, the following States may apply for grants ranging from $75,000–$125,000: New York, California, Ohio, Pennsylvania, Illinois, Michigan, Indiana, New Jersey, Florida, Massachusetts, North Carolina, Virginia Minnesota, Missouri, Maryland, Texas, Wisconsin, Georgia, Alabama, and Oregon. The remaining States may apply for grants ranging from $25,000–$65,000.

Priority Area 2.7—The Elderly and The Family

Applications are invited that propose innovative approaches to promoting the elderly as viable members of the family and the community. Consideration will be given to applications that emphasize intergenerational linkages between the young and elderly within the family and the community. Proposals must provide for the development and implementation of methods by which communities can strengthen the family by taking advantage of the mutual benefits that the elderly and their families can provide each other.

Proposals should establish or support institutional linkages among organizations which impact the family such as: the court and law enforcement system; educational institutions; community service agencies; businesses; labor unions; civic associations and others. Proposals may address, but are not limited to, activities which: encourage foster care agencies to consider placement of children in the households of older families; involve older persons in the provisions of services to the fmaily; involve older persons in educational activities for younger family members; involve older persons in before-and-after school care programs for unsupervised children; support intergenerational physical fitness programs; utilize arts and humanities programs to involve older persons in the transmission of knowledge, heritage, life experiences, skills, and strengths to younger generations; involve older persons in working with younger family members to alleviate or prevent a variety of youth problems, e.g., runaway youth, drug abuse, alcoholism, emotional stress, teenage pregnancy, juvenile delinquency, and youth crime; involve older persons in working with handicapped and sick children; or provide opportunties for older persons to serve as supports for single parents and two-working-parents families.

Applications are also solicited for projects which identify, adapt, and transfer approaches and techniques which have proved to be highly successful in strengthening the family as a caregiver and in linking the family with the formal community care system to meet the needs of impaired older persons.

III. Strategies for Improving the Efficiency and Effectiveness of Social Services

More effective and efficient administration of programs has long been a major thrust of HDS discretionary activities. Extensive research and development activity has already been undertaken on evaluation techniques, financial management systems, management information systems, fees for services systems, and other management techniques. HDS proposes, as a third theme of its Fiscal Year 1984 Discretionary Funds Program, to foster an increase in the use of the techniques and the approaches that resulted from those previous efforts.

VOL 48 ISS 202 OCT 18 1983 UMI

This should result in an enhanced capacity to administer and to develop service programs responsive to local needs and priorities. HDS seeks to promote innovation and flexibility in training, State and grantee cooperation, Tribal relationships, the dissemination and utilization of grantee R&D products, program management and evaluation.

Priority Area 3.1—Program Management Improvements

A desirable goal for society is to reduce to a minimum the social and economic problems which contribute to the need for publicly supported social services. It is accepted, however, that some level of service may continue to be needed. To provide those services most efficiently requires effective program management at all levels, from the policymeker to the caseworker. In Fiscal Year 1984, HDS will continue to promote effective program management by placing emphasis on dissemination, use of advanced information systems, evaluation and specific program improvements.

A major emphasis of HDS' R&D efforts in Fiscal Year 1984 will be the effective dissemination of practices and techniques that have been developed through previous HDS funded projects and/or have proven their value under actual service conditions in a particular locality or State. Dissemination efforts will be promoted by making funds available to State, Tribal, local and private organizations that have developed an effective new technique, and that are willing to serve as trainers or disseminators of the technique. Proposed projects should cover several States and have the capacity to reach a large segment of organizations which can benefit from implementation of the techniques being disseminated.

Applicants should have a demonstrated marketing capacity and must identify in their preapplication the existing or previous project(s) whose results they propose to disseminate. As part of this effort, HDS will also make available small grants (of no more than $20,000) to organizations that wish to replicate and implement techniques recently developed by others.

Specific areas in which successful demonstration efforts have been done, and in which dissemination is needed, are:

- Insuring participation of older persons in programs that require participants to pay cash or in-kind for some or all the services;
- Adoption of special needs children;
- Effective techniques for more efficient management of human services;
- Independent living for runaway youth, older foster care youth, the elderly and the developmentally disabled;
- Efficient licensing and monitoring of day care quality;
- Head Start models of service to unique population groups;
- Service outcomes and efficacy indicators;
- Models of successful profit-making businesses owned/operated by the developmentally disabled;
- On-site work projects in the private sector, leading to employment of HDS populations;
- Family reunification
- Models of successful outreach to developmentally disabled minorities and underserved groups;
- Models of successful pre-incarceration programs to prevent unnecessary and inappropriate detention of the developmentally disabled juvenile offender;
- Successful models of volunteer services.

A second emphasis in this area is the effective use of management and service information systems. Social service managers need on-line access to information designed to allow services to be monitored and problems to be addressed. Caseworkers need to be able to process and track clients using interactive terminals and access to a variety of databases. Policymakers must be able to plan and target needs on the basis of accurate, timely, and appropriate aggregate data.

Resources must be mobilized to diffuse information management systems throughout human services agencies. In order to promote this , HDS will fund innovative projects that;

- Stimulate private sector involvement in systems and software development for human services;
- Transfer computer technology from businesses and large human services providers to smaller providers, as well as from providers with existing cost-effective systems;
- Increase the professional skills of managers in systems use and development;
- Identify and develop applications packages for use with microcomputers and across State and local programs;
- Advance the state-of-the-art in automated high level management systems through development of database systems integrated across health, human services and income maintenance programs;
- Promote development and use of voluntary national databases and standards so that they will become self-sustaining as quickly as possible;
- Develop and demonstrate low cost systems technology including both hardware and software that will permit integrated analysis of diverse human services data bases. The techonology developed should be available for transfer to a variety of locations requiring minimum time for implementation and operations.

In addition, HDS will fund projects which promote the ability of existing aging and children, youth and family resource centers, as well as university affiliated facilities for the developmentally disabled, to promote the effective use of information systems technology by human services agencies. This includes the capacity to promote human services system users groups and software exchanges.

HDS is also interested in assisting nonprofit service and community organizations as well as State and local human service agencies to conduct and use program evaluations to more efficiently and effectively manage their human srevice programs.

Over the past ten years, significant amounts of funds have been invested in developing planning and management information systems at the State, local and service provider level. However, in most instances, there has not been a concomitant investment in the final stage of the management process, that is, the area of program evaluation.

In order to elevate the role of program evaluation in the management process, HDS will fund nonprofit organizations, States, consortia of States or local governments that address any of the following areas:

- Synthesize existing or current evaluation studies conducted by both public and private organizations that focus on specific policy issues that have a direct bearing on HDS program operations at the State, local or grantee level;
- Demonstrate innovative methods that will enable State and local governments and grantees to elevate the evaluation function in their respective organizations. Demonstrations of this nature may include the development of step-by-step instructions in workbook type formats that will show managers how to assimilate the evaluation function in their organization and how the results of evaluations can be used to impove the use of existing resources or improve program preformance;
- Demonstrate the use of evaluation systems as an integral part of existing planning and management information systems. Efforts in this area would capitalize on existing information sources within the agency complemented by secondary or exogenous sources of information. The objective here is to build ongoing agency evaluation systems capability from an information systems and analytic standpoint;
- Performing evaluations on statewide programs in comparison with available national data from existing voluntary databases for the programs related to aged, child welfare, and child abuse and neglect. Evaluations should include innovative approaches for analyzing aggregate data, such as, linear programming approaches to optimizing the performance of the child welfare system in terms of foster care placement, length of stay and recidivism rates.

Emphasis should be given to those projects that propose short term evaluation projects that will have a direct benefit to human service managers affecting multiple HDS programs.

HDS will also seek to improve specific programs by funding projects that:

- Share information among States or useful techniques in block grant management and programming;
- Study and analyze permanency planning issues related to developmentally disabled adults, particularly within a community setting;
- Identify strategies and resources that are critical to advocates in ensuring the rights and appropriate placement of incarcerated developmentally disabled offenders;
- Demonstrate technical assistance exchanges among developmental disabilities protection and advocacy systems focusing on expanding and enhancing minority outreach activities in States with significant minority populations. Proposed activities should include a description of how individuals and organizations from the targeted minority communities will be involved;
- Demonstrate involvement of businesses, philanthropic organizations and State bar associations in supporting State developmental disabilities protection and advocacy systems to develop additional funding resources, collaborative agreements, etc;
- Increase the productivity of nutrition programs for older people. Proposed activities may include: nontraditional approaches to serving meals in congregate settings including meal plans other the the 5-day a week noontime meal; improved cooperative food purchasing programs for older persons living in their own homes; and creative contract management techniques which more effectively deliver nutrition services to the home-bound older person.

HDS is particularly interested in projects that review and explore financial arrangements designed to cover social service costs, e.g., inclusion in HMO benefit packages, analysis of effective voucher systems, financial planning for young adults who are now too old for child oriented services (aging out), co-payment, etc. Such projects can be aimed at synthesizing the results and policy implications of recent or existing experiments. They can also be intended to test or demonstrate how such arrangements would work.

Priority Area 3.2—Gerontology Training

Proposals under this priority area are invited only for projects that strictly impact on one or more of the following program priorities:

Career Preparation.—Proposals are solicited which would undertake innovative approaches designed to improve the quality and availability of:

(a) Gerontological education for persons preparing for careers in the field of aging. Proposals should stress the development of multiple public and private sources of support for viable, quality training programs in institutions of higher education. Academic institutions serving rural areas and community colleges are encouraged to apply. Special consideration will be given to applications that show high potential for the placement of graduates in jobs in the aging network or in aging-related public and private sector employment.

(b) Gerontological training by institutions of higher education for persons preparing for careers in certain occupations which have a significant impact on the lives of older people. Grants will be made to colleges and universities for the inclusion of gerontological content in the training of students in the following professional and paraprofessional areas: health and mental health care; consumer product engineering; library sciences; hospital administration and discharge planning; nursing home administration; personnel guidance; and public administration, including city management, housing and urban planning.

Proposed projects should limit stipends to no more than 20% of total project cost.

Continuing Education and Training. Proposals are solicited which would undertake innovative continuing education programs and knowledge transfer efforts designed to influence attitudes and develop competencies in aging necessary for professionals currently engaged in the provision of services which impact in a significant way on the lives of older persons. Proposals will be considered that encourage the development and nationwide dissemination of continuing education curricula, instructional materials and programs by national organizations and associations of those professions whose members have a significant impact on the quality of life of older people. Of primary interest is the inclusion of gerontological emphasis on continuing education programs for individuals engaged in the professions listed in the preceeding paragraph. Special attention should be given to the innovative transfer of information to these individuals in their own professional environment.

Minority Training and Development. Proposals are solicited which would increase the number of individuals who are members of minority groups working in aging-related jobs through innovative efforts that: (a) Upgrade the quality of gerontology programs at Historically Black Colleges and Universities as well as other institutions of higher learning with significant percentages of minority students; (b) Increase the placement of minority graduates of gerontology career preparation programs in public and private sector aging-related jobs; and (c) Promote the development and placement of minorities as program managers in aging network and aging-related private sector jobs.

Education opportunities for Older Persons. Proposals are solicited which would increase the opportunity for older persons who are economically and socially needy to live more productive and independent lives through adult education and other training opportunities that:

a. provide second career and job retraining activities;

b. provide for improving the quality and increasing the availability of pre-retirement education programs;

c. provide training to older people for volunteer and other public service opportunities;

d. provide innovative approaches to educating older person in life-coping skills including nutrution education, personal safety and money management; and

e. provide creative mechanisms for increasing the participation of older persons in adult education programs.

Proposals may be in the form of requests for funding for education and training, or knowledge transfer and utilization projects, or a combination thereof. Special consideration will be given to those proposals which:

(a) Undertake to establish strong linkages with Older Americans Act programs and agencies and ensure the

VOL 48 ISS 202 OCT 18 1983 UMI

relevance of career preparation and continuing education training programs to the actual needs of the local service systems through consultation concerning curriculum design and planning with State and Area Agencies on Aging; and

(b) Where applicable, propose the effective and innovative transfer and utilization of existing knowledge and best practice in the field of aging.

Part III. Preapplication Process

A. Eligible Applicants

In general, any State, public or nonprofit organization or agency may submit a preapplication under this announcement. This includes, but is not limited to: State Administering Agencies or Developmental Disabilities Basic State Grant Programs, Protection and Advocacy Offices, State and Area Agencies on Aging, Indian Tribes, Alaskan Native and other Native American organizations, and Social Services Block Grant State Agencies. Some of the specific priority areas or topics included in this announcement may have more restrictive eligibiliity requirements (for example, only State and area agencies on aging may be eligible to apply). Where this is the case, the eligible entities are specified in the priority area or topic description. Preapplications jointly developed by State, local and community-based social services agencies, foundations or universities are encouraged in order to promote comprehensive social services programs. "For-profit" organizations are eligible applicants for projects funded under authority of the Head Start Act, Native Americans Program Act and, in limited cases, the Older Americans Act. They may also participate as contractors under a grant to eligible applicants on all projects.

B. Available Funds

The Office of Human Development Services expects to award approximately $29,500,000 in the third and fourth quarters of FY 1984 (dependent on the availability of funds and appropriation by Congress) for new grants and cooperative agreements. Subject to Congressional action on the FY 1985 budget, HDS may also award a limited number of grants under this announcement in the first and second quarters of FY 1985. Appropriate HDS discretionary funding authorities will be used to fund projects, and more than one authority may be used to fund some projects.

The funding estimated to be available from each authority is summarized below. Applicants should take into account the proportion of funds available under each authority in designing their projects.

FUNDING SUMMARY

Program	Estimated Availability of FY 1984 Funds
Administration on Aging	$5,500,000
ACYF/Child Abuse and Neglect	7,000,000
ACYF/Adoption Opportunities	1,500,000
ACYF/Child Welfare	5,000,000
ACYF/Runaway Youth	3,800,000
ACYF/Head Start	2,500,000
Administration on Developmental Disabilities	1,500,000
Administration for Native Americans	700,000
HDS/Social Services Research	2,000,000
Total	29,500,000

HDS expects to make approximately 200 new awards pursuant to this announcement. These awards are expected to range from $50,000 to a maximum of $150,000 per year, with the average award expected to be $100,000. Actual awards may vary widely and eligible applicants requiring smaller awards are encouraged to apply.

Projects will be supported for periods up to seventeen months. However, projects of less than 12 months may also apply. *As stated earlier, applicants should be aware that HDS receives 3,000 to 6,000 preapplications annually to its Coordinated Discretionary Funds Program. Of these, 150 to 200 applicants receive grant awards.*

C. Granteee Share of the Project

At least 25% of the total cost of proposed projects must come from a source other than the Federal government (one dollar match for every three requested from HDS) except: (1) in the case of projects funded under the Native Americans Act Authority, where the grantee match must be 20% of the total cost of the proposed project; and (2) applicants who already have an institutional cost sharing agreement with HHS. The non-Federal share of project costs may be in the form of grantee-incurred costs or third party in-kind contributions. HDS strongly encourages preapplications where the grantee share is more than 25% of the project costs or the applicant proposes to match—partially or fully—HDS grants with cash contributions from other non-Federal funding sources.

D. Preapplication Process

Organizations wishing to compete for grants under this announcement must submit a preapplication by December 6, 1983. Preapplications received in response to this announcement will be reviewed by HDS staff and non-Federal experts. It is expected that successful preapplications will be invited to submit final applications in early spring to compete for funding scheduled for the third and fourth quarters of FY 1984 and the first and second quarters of FY 1985.

1. *Availability of Forms:* Preapplications for grants under the HDS Coordinated Discretionary Funds Program must be submitted on standard forms provided for that purpose. For your convenience, copies of those forms as well as detailed guidance materials for use in preparing the preapplication are included in Part IV of this announcement.

Additional copies of this announcement may be obtained by writing to: HDS/Division of Research and Demonstration, 200 Independence Avenue, S.W., Room 732E, Washington, D.C. 20201. Telephone: (202) 245–6235.

2. *Preapplication Submission:* One signed original and a minimum of two copies of the preapplication must be submitted to: HDS/Division of Grants and Contracts Management, 330 Independence Avenue, S.W., Room 1740, Washington, D.C. 20201. Attention HDS–84.

Submittal of five additional copies would expedite processing. There is no penalty for not submitting these additional copies.

3. *Notification Under Executive Order 12372:* This program is covered under Executive Order 12372 "Intergovernmental Review of Federal Programs" and 45 CFR Part 100 "Intergovernmental Review of Department of Health and Human Services Programs and Activities." State processes or directly affected State, areawide, regional and local officials and entities have sixty (60) days starting from the application deadline to comment on applications for financial assistance under this program. Applicants should contact their State Single Point of Contact or State Process as soon as possible to alert them of the prospective application and receive instructions regarding the process. (The Department will notify the State of any application received which has no indication that the State process had an opportunity to review it.)

A list of the State Single Points of Contact is included at the end of this announcement.

4. *Preapplication Consideration:* Complete preapplications that conform to the requirements of this Program Announcement will be reviewed competitively and evaluated by Federal officials and qualified persons outside of the Federal government. The results of the review will assist the Assistant Secretary and Program Commissioners in considering competing preapplications. This consideration may also take into account comments from Federal Regional and Headquarters program staff offices. In addition, comments may be requested from appropriate specialists and constituents inside and outside of the Federal government.

The Assistant Secretary for Human Development Services, Program Commissioners and other members of the HDS Executive Staff will determine the action to be taken on each preapplication, and will make the decision whether to request a final application. (The Older Americans Act places certain responsibilities upon, and authority in, the Commissioner on Aging which affects the role of the Administration on Aging in implementing this program announcement. All such requirements will be met through actions which conform to the mandates of the Act.)

The official award document is the Notice of Financial Assistance Awarded, which sets forth in writing to the recipient the amount of funds awarded, the purpose of the award, other terms and conditions of the award, the effective date of the award, the budget period for which support is given, the total project period for which support is contemplated, and the total recipient participation.

HDS reserves the option of discussing preapplications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal Government or the applicant.

5. *Funding Limitations on Indirect Costs:* Preapplicants should be aware that for training projects there is a limitation of 8 percent on indirect costs.

E. Special Considerations for Funding

Within the limits of available Federal funds, Human Development Services Executive Staff make financial assistance awards consistent with the purposes of the statutory authorities governing the HDS Discretionary Funds Program and this announcement.

Preference will be given to projects that propose the innovative use of volunteers. To the extent possible, final decisions will reflect the equitable distribution of assistance among the States, geographical areas of the nation, and rural and urban areas.

F. Criteria for Screening and Review

All preapplications that meet the deadline will be screened to determine completeness and conformity to the requirements of this announcement. Complete, conforming preapplications will then be reviewed and evaluated competitively.

1. *Screening Requirements:* In order for a preapplication to be in conformance, it must meet *all* of the following requirements:

(a) *Number of copies:* An original signed preapplication and two copies must be submitted.

(b) *Length:* The narrative portion of the preapplication *must not exceed ten double-spaced pages* (or five single-spaced pages) typerwritten on one side of the paper only. The capability statement must not exceed two double-spaced or one single-spaced typewritten pages.

(c) *Standard Form 424:* The preapplication must include an SF 424, completed according to instructions.

(d) *Multiple Submittals:* A project can only be proposed once under this announcement. Multiple submittals of the same—or essentially the same—project as preapplications under different priority areas will be deemed nonconforming.

(e) *Eligibility:* The applicant must be an eligible entity as defined in the announcement.

(f) *HDS' Priorities:* The concept or project embodied in the preapplication must specifically address a priority stated in the announcement.

(g) *HDS Populations:* The preapplication must clearly target one or more HDS populations: the elderly; children, youth and families; Native Americans; the poor; and the developmentally disabled and/or the mentally retarded.

(h) *Non-Federal Contribution:* A non-Federal contribution of at least 25% of the total project costs must be proposed, except in the case of projects funded under the Native Americans Act Authority, or in the case of organizations that have an existing cost sharing agreement with HHS.

(i) *Cost:* Proposed projects requesting over $200,000 will be deemed nonconforming.

Preapplications must meet *all* of the above requirements to be considered. Noncomforming preapplicants will not be allowed to correct deficiencies or resubmit amended preapplications.

2. *Review Criteria:* Preapplications which are determined to be in conformance with the announcement will be reviewed by panels which may be composed of Federal staff, State/local staff, university and other non-government experts. Stage one will use the following criteria:

(a) Innovativeness: (40 points) The preapplication clearly proposes a *Significant improvement upon, or important departure from, existing practices and previous related work* in the field of human services (not only in the local area of the proposed project). The proposed project constitutes new activity and not merely a continuation or expansion of existing activity. The project proposed in the preapplication has the potential for achieving far/reaching impact through improvements that will be useful in a variety of settings beyond the project site.

(b) Outcomes: (30 points) The proposed project will result in a measurable, concrete reduction of a significant problem (a project should result, for example, in the actual employment of a specific number of youths, not just in counseling those youth on how to seek employment).

(c) Project Design: (10 points) The problem to be addressed is clearly stated. The preapplication has a concise but clear statement of goals, measurable objectives and project design or methodology. Problems, issues and methods are clearly related.

(d) Potential for Success: (10 points) The goals of the proposed project are realistic in terms of the methodology, staff and funds allocated to the activity. The applicant organization is capable of carrying out the project as proposed.

(e) Cost/Benefit: (10 points) The cost of the proposes project is commensurate with the specific outcomes of the project; the cost per unit of outcome (e.g., youth employed) is low. The extent to which other organizations are contributing funds for the project is clearly indicated.

After the preapplications are rated by the review panels using these criteria, the HDS Executive Staff will select those which will be invited to submit final applications.

3. *Evaluation Criteria:* In stage two (the final application stage) those preapplicants selected by the Executive Staff will be asked to submit final applications. Theses applications will be either administratively reviewed by HDS staff (in the case of a limited number of apreapplications of exceptional quality) or competitively reviewed by qualified groups of experts who are primarily from outside the Federal government. Acceptable applications must be complete and meet the following criteria:

(a) Criterion I: Technical Approach (25 Points).

• The applicant proposes a well-defined and carefully worked out technical approach (including problem or issue definition) that is, if well executed, capable of achieving the objectives of the project. The approach may include: research methodology, demonstration plan, design of training

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programs or other appropriate techniques.

• Where appropriate, the applicant describes evaluation components. Evaluation, data collection and analysis procedures are geared to assess (using quantitative measures as much as possible) the degree to which intended objectives are achieved. The applicant clearly distinguishes the evaluation from activities designed primarily to give project staff feedback on their progress toward meeting project objectives.

(b) Criterion II: Beneficial Impact (25 Points).

• The knowledge, methods, or technology to be developed can be expected to impact beneficially on human service programs and target populations beyond the site at which the project is conducted. This includes generalizability of results for research, domonstrations, and evaluation projects.

(c) Criterion III: project Implementation Plan (20 Points).

• The application specifies a sound plan for task accomplishment and staff loading by task.

• The application contains a suitable plan for insuring the use of project results by appropriate users. The plan describes the kinds of reports and media to be used in transmitting final results to users and explains why this is expected to be an effective dissemination package that will reach and influence users.

(d) Criterion IV: Staffing and management (15 Points).

• The proposed staff are well-qualified to carry out the project.

• The division of responsibilities is appropriate to carry out project tasks, including sufficient time of senior staff to assure adequate management of the project.

• The applicant organization has adequate facilities, resources, and experience to conduct the project as proposed.

(e) Criterion V: Budget Appropriateness and Reasonableness (15 points).

• The proposed budget is commensurate with the level of effort needed to accomplish the project objectives. The cost of the project is reasonable in relation to the value of the anticipated results.

• The contribution of any collaborative agencies or organizations is assured in writing and included with the application when it is submitted. The participation of an agency other than the applicant, if critical to the proposed project, is evidenced by a letter indicating agreement to participate.

The author(s) for both the preapplication and the application should be clearly identified together with their current relationship to the applicant organization and any future project role they may have if the application is funded.

G. Closing Date for Receipt of Preapplications

The closing date for submittal of preapplications under priorities identified in this program announcement is December 6, 1983. Preapplications must be mailed or hand delivered to: HDS/Division of Grants and Contracts Management, 330 Independence Avenue, SW., Room 1740, Washington, D.C. 20201, Attention HDS–84.

Hand delivered preapplications are accepted during the normal working hours of 9:00 a.m. to 5:30 p.m., Monday through Friday. A preapplication will be considered to be submitted on time if:

1. The preapplication was sent by registered, certified or Express Mail no later than the closing date, as evidenced by a U.S. Postal Service or commercial delivery dated postmark, unless it arrives too late to be considered by independent reviewers. Applicants are advised to check with their post office to determine the availability of *dated* postmarks. (Private metered postmarks shall not be acceptable as proof of timely mailing), or;

2. The preapplication is received on or before the closing date by the Department of Health and Human Services in Washington, D.C. In establishing the date of receipt, consideration will be given to documentary evidence of receipt maintained by HHS.

Part IV: Instructions for Completing Preapplications

A. Preapplication Package

In order to expedite the processing of preapplications, we request that you follow the following instructions explicitly. Each preapplication package should include:

1. An original and a minimum of two additional copies of the preapplication (See Section B below). While an original and two copies are required, five additional copies would be useful to facilitate processing. No applicant will be penalized for submitting only the three required copies. Each copy should be stapled (back and front) in the upper left corner. The original copy of the preapplication must have original signatures.

In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials such as agency promotion brochures, slides, tapes, film clips, etc. It is not feasible to use such items in the review process, and they will be discarded if included.

2. Three extra copies of Form 424 and three copies of the cover sheet/abstract stapled together apart from the copies of the preapplication.

3. Do not include a self-addressed, stamped acknowledgement card. All applicants will be automatically notified of receipt and of the identification number assigned to their preapplication. This number and the priority area must be referred to in *ALL* subsequent communication with HDS concerning the preapplication. If acknowledgement is not received within six weeks after the deadline date, please notify HDS by telephone (202) 245–6235.

Special note: After an identification number is assigned and the preapplicant has been notified of the number, preapplications are filed serially by identification number to aid in quick retrieval. It will not be possible for HDS staff to provide a timely response to inquiries about a specific preapplication unless this number and the priority area are given.

B. Content of Preapplication

Each copy of the preapplication *must* contain in the order listed, each of the following items:

1. Standard Form 424, page 1, completed according to the instructions listed below.

2. Cover sheet and abstract completed according to the instructions listed below.

3. Completed criteria index form.

4. Project narrative, *no more than ten pages long*, double-spaced and typewritten on one side only (or five pages single-spaced), completed according to instruction listed below.

5. Organizational capability statement or materials, *no more than two double-spaced typewritten pages long*. (See instructions below.)

C. Preparing the Preapplication

Preapplication forms (Standard Form 424, page 1, and Criteria Index Form) are reprinted below for your convenience. We suggest that you reproduce them and type your application on the copies.

Prepare your preapplication in accordance with the following instructions:

1. Instructions for Standard Form 424, page 1:

Complete item numbers 1–8, 13, 14, 17, 22 and 23 only.

Specific instructions are as follows:

Item 1. Mark "preapplication" box.

Item 2.a. Applicant's own control number, if desired.

Item 2.b. Date preapplication is submitted.

Item 3.a. Number if assigned by State clearinghouse or, if delegated by State, by areawide clearinghouse.

Item 3.b. Date applicant notified of clearinghouse identifier.

Items 4.a.–4.h. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of persons who can provide further information about this request.

Item 5. Employer identification number of applicant as assigned by Internal Revenue Service.

Item 6.a. Indicate "not available."

Item 6.b. Type: State "HDS FY 1984 Coordinaed Discretionary Funds Program" *and the number of the priority area under which the preapplication is being submitted.* If more than one priority area is listed, HDS will disregard all but the first one listed.

Item 7. The title should briefly and clearly describe the focus of the proposed project and be selected with public understanding of the value of the project in mind. Do not use acronyms, abbreviations or jargon. Avoid unnecessary phrases such as "A Study of * * *," "Research to * * *," "A Project * * *," etc. *Do not use more than 100 characters,* including punctuation and spaces betwen words. (Characters in excess of 100 will be lost during electronic data entry.)

Item 8. Self-explanatory, "City" includes town, township, or other municipality.

Item 13. Amount requested or to be contributed by each contributor. Include value of in-kind contributions.

Item 14.a. Enter the number of the congressional district where the applicant's principal office is loacted.

Item 14.b. Enter the number of the congressional district(s) where the project will be located.

Item 17. Estimated number of months to complete project after Federal funds are available.

Item 22. Self-explanatory. (b) Leave blank.

Item 23. Self-explanatory.

2. Instructions for the cover page and abstract: On plain white bond, type (single-spaced):

• Title of preapplication (exactly as entered in item 7 on Form 424).

• Name and address of applicant organization.

• Priority area under which the preapplication is submitted.

• Target population(s).

• Total project period and total amount requested.

• Proposed match (At least one dollar for every three requested from HDS) if you are in Indian Tribe or have an existing cost sharing agreement with HHS, *state so clearly here.*

• Project abstract summarizing, in 200 nontechnical words or less, the proposed project. The abstract should be so clearly written that the following questions could be answered by a member of the general public who reads it: What is the specific purpose of the project? How is the project to be conducted? What will be its concrete outcomes? What difference might the results make? To whom?

• The name of the author(s), their current relationship to the applicant and proposed project role.

3. Instructions for Criteria Index Form (see E. Below): Complete by typing on a separate sheet of paper every item in the criteria index form indicating the page and paragraph number where screening requirements and specific review criteria are addressed.

4. Instructions for project narrative:

Describe the project you propose in response to this announcement. Your narrative (10 pages typed double-spaced, or five pages typed single-spaced maximum, on 8½" x 11" plain white bond with 1" margins on both sides) should provide information on how the preapplication meets the review criteria. We strongly suggest that you follow these format and page limitations:

a. *Statement of Need for the Proposed Project* (2 pages maximum.) This portion of the preapplication should state the objectives of the project, including clear specification of the concrete outcome(s) expected of the project and the HDS populations targeted. In addition, this portion should document the need for and importance of the issues to be addressed beyond the local area of the project. It should also describe how the proposed project builds upon previous work and how it advances the state of knowledge from a national perspective.

b. *Results and Benefits Expected* (1 page maximum.) This portion of the program narrative should briefly summarize the anticipated results and delineate the benefits which are expected. Emphasis should be placed on outcomes as opposed to process measures. Projects should result, for example, in the employment of a specific number of people rather than just the training of people to increase employability.

c. *Approach.* Project Design (5 pages maximum.) This portion of the program narrative should describe specific plans for conducting the project. It should include relevant information about: (a) hypotheses to be tested (if appropriate); (b) data to be collected (including specification of data sources); (c) plan for data analysis; (d) what the project will do; and (e) who will do it.

d. *Utilization and Dissemination* (1 page maximum.) This portion of the narrative should address the project's responsibility to serve as a source of information to other agencies and/or researchers. This section should describe ways in which the project will share its experiences and findings with the field of human services in general and, specifically, with agencies or organizations capable of developing improved service delivery and management.

e. *Level of Effort.* (1 page maximum.) This part of the narrative should describe what staff, money, facilities and time would be required to complete the project as envisioned. Describe the resources needed to carry out the project. State the total Federal funds required to complete the project as proposed.

5. Organizational Capability Statement:

A brief (maximum 2 pages double-spaced or one page single-spaced) background description of how the applicant agency (or the particular division of a larger agency which will have responsibility for this project) is organized and the types and quantity of services it provides or research capabilities it possesses. Include descriptions of any current or previous relevant experience. Describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. The qualifications of key staff should be described in a few paragraphs rather than in formal vitae. Indicate clearly whether written commitments have been obtained from organizations that will be directly involved in the proposed project.

D. Check List of Preapplication Requirements

The following check list is provided for your convenience:

☐ SF 424, page 1, has been completed according to instructions (see sample SF 424).

☐ SF 424 has been signed and dated by an authorized official and original has been included in package to mail.

☐ Each preapplication has been stapled (no folders or binders) with a copy of the SF 424, page 1, as the first page of each copy.

Included in your preapplication package:

- ☐ One original preapplication plus seven copies. Each of the copies should include the following:
- ☐ SF 424, page 1;
- ☐ A cover page and abstract;
- ☐ A criteria index form;
- ☐ A narrative (10 pages, double spaced maximum);
- ☐ Organizational capability statement (2 pages, maximum)

Remember, preapplications must be postmarked or hand delivered (by 5:30 p.m.) no later than December 6, 1983 to: HDS/Division of Grants and Contracts Management, 330 Independence Avenue, S.W., Room 1740, Washington, D.C. 20201. Attention HDS–84.

E. Criteria Index Form

Complete every item in this criteria index form by typing on a separate sheet of paper every item listed and indicating the page and paragraph number where screening requirements and review criteria are addressed in the preapplication.

The criteria are described under Part III. F.

Criteria	Location in Preapplication
Screening Requirements:	
e. Eligibility	
f. HDS' Priorities	
g. HDS Populations	
h. Non-Federal Contribution	
i. Cost	
Review Criteria:	
a. Innovativeness	
b. Outcomes	
c. Project Design	
d. Potential for Success	
e. Cost/Benefit	

F. Points to Remember

- Designate your preapplication for one priority area and one priority area only.
- Although multiple preapplications (of different concepts) from the same applicant are not prohibited, they are not encouraged.
- You are required to send an original and two copies of a preapplication.

We would like to request that you send five additional copies to facilitate our review. However, there is no penalty for sending only three copies.

- In computing the required match for all projects except those funded under the Native Americans Act Authority, please note that 25% of the total project cost is equivalent to ⅓ of the amount requested from HDS. Thus for every 3 Federal dollars you request, you must match with an additional dollar. Miscomputation of the match is a common mistake that leads to disqualification. In order to compute the required minimum match, divide the amount you are requesting from HDS by 3.
- Preapplications containing narratives in excess of ten typewritten double-spaced pages or capability statements of more than two double-spaced pages will not be given further consideration.
- The distribution of topics related to specific HDS programs (e.g., AoA) is not necessarily commensurate with the distribution of discretionary funds among those programs.
- An abstract of 200 words or less is an essential element of the preapplication.
- Follow the recommended format as closely as possible in preparing the preapplication's narrative.
- The qualifications of key staff should be described in a few paragraphs rather than in formal vitae.
- Although letters of agreement (where appropriate) are required in final applications, it will suffice in the preapplication to state clearly in a paragraph that the necessary agreements have been obtained from those agencies whose participation is essential to the conduct of the proposed project.
- Applicants are strongly encouraged to have someone other than the writer apply the screening requirements and review criteria to the preapplication prior to its submittal. In this way, applicants will gain a sense of their preapplication's quality and potential competitiveness.
- Indirect costs of training grants may not exceed 8%.
- If selected to submit a full application, applicants should ensure that the Federal funds requested do not exceed what was requested in the preapplication. Disregard for this rule will result in an unfavorable review and may result in rejection of the application.

Dated: October 11, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Lucy Biggs,

Acting Commissioner, Administration for Children Youth and Families.

Jean K. Elder, Ph. D.,

Commissioner, Administration on Developmental Disabilities.

Lennie-Marie Tolliver, Ph. D.,

Commissioner, Administration on Aging.

Casimer Wichlacz,

Acting Commissioner, Administration for Native Americans.

BILLING CODE 4130-01-M

OMB Approval No. 29-R0218

FEDERAL ASSISTANCE

1. TYPE OF ACTION (Mark appropriate box) ☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION
2. APPLICANT'S APPLICATION — a. NUMBER; b. DATE Year month day 19
3. STATE APPLICATION IDENTIFIER — a. NUMBER; b. DATE ASSIGNED Year month day 19
Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name :
b. Organization Unit :
c. Street/P.O. Box :
d. City : e. County :
f. State : g. ZIP Code:
h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog) — a. NUMBER; b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A–State H–Community Action Agency
B–Interstate I–Higher Educational Institution
C–Substate District J–Indian Tribe
D–County K–Other (Specify):
E–City
F–School District
G–Special Purpose District
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A–Basic Grant B–Insurance
B–Supplemental Grant E–Other
C–Loan
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITTING

12. TYPE OF APPLICATION
A–New C–Revision E–Augmentation
B–Renewal D–Continuation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

14. CONGRESSIONAL DISTRICTS OF: a. APPLICANT; b. PROJECT

15. PROJECT START DATE Year month day 19

16. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

17. PROJECT DURATION Months

18. TYPE OF CHANGE (For 16a or 16b)
A–Increase Dollars F–Other (Specify):
B–Decrease Dollars
C–Increase Duration
D–Decrease Duration
E–Cancellation
Enter appropriate letter(s) ☐☐☐

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶ a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached:

	No response	Response attached
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED Year month day 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. ORGANIZATIONAL UNIT

26. ADMINISTRATIVE OFFICE

27. ADDRESS

28. APPLICATION RECEIVED Year month day 19

29. FEDERAL APPLICATION IDENTIFICATION

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
☐ a. AWARDED
☐ b. REJECTED
☐ c. RETURNED FOR AMENDMENT
☐ d. DEFERRED
☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE Year month day 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION — a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been or is being made.

b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

STANDARD FORM 424 PAGE 1 (10-79)
Prescribed by GSA, Federal Management Circular 74-7

Executive Order 12372—State Single Points of Contact

*Change since 11/82.

*Mr. William Wallace, Director, Dept. of Econ and Community Affairs, State Capitol, Montgomery, Alabama 36130—205/832–6400.

*Mr. Jay Hogan, Associate Director, Office of Management and Budget, Division of Governmental Coordination, Pouch AW, Juneau, Alaska 99811—907/465–3562.

*Sid Willbanks, Suite 412, 1515 Building, 1515 W. 7th St., Little Rock, Arkansas 72201—501/371–2345.

Mr. Larry Landry, Executive Director, Office of Economic Planning and Development, 4th Floor, Capitol Towers, Room 505, Phoenix, Arizona 85007—602/255–5371.

Mr. Kenneth Torp, Executive Director, Office of Planning and Budgeting, 102 State Capitol, Denver, Colorado 80203—303/866–2156.

*Mr. Huston Carlyle, Office of Planning and Research, 1400—10th Street #156, Sacramento, CA 95814—916/445–4831.

*Mr. Horace Brown, Acting Under Secretary, Office of Policy and Mgmt. Comprehensive Planning Division, 80 Washington Street, Hartford, Connecticut 06106—203/566–2555.

Ms. Marna C. Whittington, State Budget Director, Townsend Building, P.O. Box 1401, Dover, Delaware—302/736–4204.

Mr. Steve St. Amand, Office of Planning and Budgeting, Executive Office of the Governor, The Capitol, Tallahassee, Florida 32301—904/488–8114.

Mr. Irving Mitchell, Executive Assistant, State Capitol, Room 201, Atlanta, Georgia 30334—404/656–6870.

Mr. Frank Skrivanek, Deputy Director, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawaii 96804—808/548–4619.

Mr. Steven H. Woodall, CPA, Senior Controller, Division of Financial Management, State House, Boise, Idaho 83720—208/334–2881.

Mr. Richard McClure, Assistant to the Governor, 207 State Capitol, Springfield, Illinois 62706—217/782–9357.

Ms. Judith Palmer, Director, State Budget Agency, Room 212, State House, Indianapolis, Indiana 46204—317/232–5612.

Dr. Edward Stanek, Director, Office of Planning and Programming, 523 E. 12th, Des Moines, Iowa 50319—515/281–6483.

*Mr. Lynn Muchmore, Director, Office of the Budget, Department of Administration, 263 E. Street Capitol, Topeka, Kansas 66001—913/296–2436.

Mr. Bob Leonard, Manager, Kentucky State Clearinghouse, Department for Local Government, Second Floor, Capital Plaza Tower, Frankfort, Kentucky 40601—502/564–2382.

Mr. Wallace L. Walker, Executive Director, State Planning Office, Capitol Annex, P.O. Box 44426, Baton Rouge, Louisiana 70804—504/342–7410.

Mr. Richard Barringer, Director, State Planning Office, State House, August, Maine 14333—207/289–3261.

Ms. Constance Lieder, Secretary, Department of State Planning, 301 W. Preston Street, Baltimore, Maryland 21201—301/383–2450.

*Mr. Al Raine, Director, Governor's Office of Economic Development, State House, Room 109, Boston, Massachusetts 02202—617/727–1130.

*Mr. Phil Jourdan, Director, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909—517/373–1004.

Mr. Tom Harren, Department of Energy, Planning and Development, 101 Capitol Square, 550 Cedar Street, St. Paul, Minnesota 55101—612/296–3698.

Ms. Libby Smith, Governor's Office of Policy and Planning, 1304 Walter Sillers Building, Jackson, Missisippi 39202—601/354–7018.

Mr. Perry McGunniss, Director, Division of Budget and Planning, Office of Administration, State of Missouri, Jefferson, City, Missouri 65101—314/715–3925.

Ms. Cheryl S. Hutchinson, Administrative Assistant, Office of the Lieutenant Governor, Capitol Station, Helena, Montana 59620—406/449–3111.

Mr. Gary Krumland, Deputy Director, Policy Research Office, P.O. Box 94601, State Capitol, Lincoln, Nebraska 68509—402/471–2414.

Mr. Andrew Grose, Executive Assistant, Office of the Governor, State Capitol, Carson City, Nevada 89710—702/855–5670.

*Mr. David Neville, Office of State Planning, 2½ Beacon St., Concord, New Hampshire 03301—603/271–2155.

Mr. Kenneth Butko, Acting Director, Division of Planning, Department of Community Affairs, 240 W. State Street, 6th Floor, Trenton, New Jersey 08625—609/292–2953.

Ms. Denise Fort, Secretary for Administration, State Capitol #421, Santa Fe, New Mexico 87503—505/827–2073.

*Mr. Michael Finnerty, Director, Division of the Budget, State Capitol, Albany, New York 12224—518/474–3300.

Ms. Chrys Baggett, Director, State of Clearinghouse, N.C. Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611—919/733–7061.

Ms. Nancy Rockwell, Director, Federal Aid Coordinator's Office, Office of Management and Budget, 17th Floor, State Capitol, Bismarck, North Dakota 58505—701/224–2094.

Mr. Leonard Roberts, Deputy Director, Office of Management and Budget, Room 3931-L, State Office Tower, 30 E. Broad St., 39th Floor, Columbus, Ohio 43215—614/466–4383.

Ms. Cindy Rambo, Director, Department of Economic and Community Affairs, 4545 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105—405/528–8200.

Mr. Robert Montgomery, Administrator, Intergovernmental Relations Division, 155 Cottage Street NE, Salem, Oregon 97310—503/378–2887.

Mr. Robert Benko, Governor's Office of Policy and Planning, Room 506, Finance Building, Harrisburg, Pennsylvania 17120—717/787–2066.

Mr. Alvin N. Johnson, Federal Coordinator, Governor's Office, Room 128, State House, Providence, Rhode Island 02903—401/277–2080.

Mr. Elmer Whitten, Office of Grants Services, Edgar A. Brown Building, 1205 Pendleton Street, Colombia, South Carolina 29211—803/758–2417.

Mr. Jeff Stroup, Commissioner, Bureau of International Relations, State Capitol Building, Pierre, South Dakots 57501—605/773–3661.

Mr. James R. Griggs, Director, State Planning Office, 1800 James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37219—615/751–1676.

*Mr. Ed Grisham, Director, Budget and Planning Office, State Capitol, Austin, Texas 78711—512/475–8491.

Ms. Marthe Dyner, Director of State Planning, Room 116, State Capitol Building, Salt Lake City, Utah 84114—801/533–5245.

Ms. Carol Drake, Senoir Policy Analyst, State Planning Office, Montpelier, Vermont 05602—802/828–3226.

Mr. Robert H. Kirby, Department of Planning and Budget, Ninth Street Office Building, Room 424, Post Office Box 1422, Richmond, Virginia 23211—804/786–2463.

Ms. Karen Rahm, Director, Planning and Community Affairs, Agency, 9th & Colombia Building, Olympia, Washington 98504—206/753–2200.

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Economic and Community Development, Building 6, Room B–553, State Capitol Complex, Charleston, West Virginia 25305—304/348–4010.

Mr. Craig Adams, Coordinator of Federal-State Relations, Division of Budget and Planning, Madison, Wisconsin 53702—608/266–2125.

Mr. Dick Hartman, State Planning Coordinator, Capitol Building, Cheyenne, Wyoming 82002—307/777–7574.

Mr. Peter Leon Guerrero, Special Assistant for Federal Programs, Office of the Lt. Governor, Guam State Clearinghouse, P.O. Box 2950, Agana, Guam 96910—671/472–8930.

*Ms. Sheila Borges, Director, Office of Federal Affairs, Office of the Governor, La Forteleza, San Juan, Puerto Rico 00901—809/724–7900.

Mr. Manuel Sablan, Director, Planning and Budget; Office of the Governor, Saipan, Mariana Island 96950—7172.

[FR Doc. 83–28225 Filed 10–17–83; 8:45 am]

BILLING CODE 4130–01–M

federal register

Tuesday
October 18, 1983

Part VI

Department of the Interior

Bureau of Land Management

State Grants; Amendments to Alaska State Grant Regulations

VOL
48
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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2620

State Grants; Amendments to Alaska State Grant Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would incorporate in the existing regulations changes in the selection and conveyance of lands under entitlements to the State of Alaska made by the provisions of the Alaska National Interest Lands Conservation Act.

DATE: Comments should be submitted by December 19, 1983.

Comments received or postmarked after the above cited date may not be considered in the decisionmaking process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Beaumont McClure (202) 343–6511
or
Robert C. Bruce (202) 343–8735.

SUPPLEMENTARY INFORMATION: The Alaska National Interest Lands Conservation Act (94) Stat. 2371) amended the Alaska Statehood Act to change the procedures for the selection and conveyance of public and national forest lands to which the State of Alaska is entitled for the development and expansion of communities and of public lands to which it is entitled for general purposes. The Alaska Lands Act further provides for full and final settlement of any and all claims for school lands by granting an additional lands entitlement to the State of Alaska and also provides for an extension of the State of Alaska's selection period to 1994.

The proposed rulemaking would revise subpart 2627 to incorporate the current requirements on selection and conveyance of the land entitlements of the State of Alaska as provided by the Alaska National Interest Lands Conservation Act. The proposed rulemaking would also increase the filing fee for each 5,760 acres, or fraction thereof, selected from the current $10 to $25 to more adequately over the cost of processing the applications.

It is hereby determined that this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The State of Alaska has a total land entitlement of approximately 104.5 million acres under various grants. Total acreage selected by the State of Alaska currently exceeds that amount. The increase in the filing fee is needed to offset some of the costs of processing the applications and is not sufficient to qualify the proposed rulemaking as a major rulemaking.

The only entity affected by the proposed rulemaking is the State of Alaska which must file applications under the procedures set out in the regulations in order to receive its entitlement lands. Therefore, there are no small entities involved in this proposed rulemaking.

The information collection requirements contained in 43 CFR Part 2627 do not require approval of the Office of Management and Budget under 44 U.S.C. 3507 because there will be fewer than 10 respondents annually.

The principal author of this proposed rulemaking is Beaumont McClure, Alaska Programs Staff, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

List of Subjects in 43 CFR Part 2620

Alaska, Intergovernmental relations, Public lands—grants, Public lands—mineral resources.

Under the authority of the Alaska Statehood Act of 1958, as amended (48 U.S.C. prec. § 21) and as further amended by the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2371), it is proposed to revise Subpart 2627 of Part 2620, Group 2600, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 2620—STATE GRANTS

Subpart 2627—Alaska

Sec.
2627.0–3 Authority.
2627.0–5 Definitions.
2627.1 Grant for community purposes.
2627.2 Grant for general purposes.
2627.3 Grant for school lands settlement.
2627.4 All Alaska grants.

Authority: Alaska Statehood Act of 1958 as amended, 48 U.S.C. prec. section 21; Alaska National Interest Lands Conservation Act of 1980, 94 Stat. 2371.

Subpart 2627—Alaska

§ 2627.0–3 Authority.

These regulations are issued under the authority of the Act of July 7, 1958, commonly known as the Alaska Statehood Act, as amended (48 U.S.C. prec. section 21), as further amended by the Alaska National Interest Lands Conservation Act of December 2, 1980 (94 Stat. 2371).

§ 2627.0–5 Definitions

As used in this subpart, the term:

(a) "Statehood Act" means the Act of July 7, 1958, commonly known as the Alaska Statehood Act, as amended (48 U.S.C. prec. section 21).

(b) "Alaska Lands Act" means the Alaska National Interest Lands Conservation Act of December 2, 1980 (94 State 2371).

(c) "Authorized officer' means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(d) "State" means the State of Alaska.

§ 2627.1 Grant for community purposes.

(a) Section 6(a) of the Statehood Act granted the State the right to select, within 35 years after January 3, 1959, not to exceed 400,000 acres of national forest lands in Alaska which are vacant and unappropriated, and not to exceed 400,000 acres of other public lands in Alaska which are vacant, unappropriated and unreserved at the time of their selection. The Statehood Act provided that the selected lands shall be adjacent to established communities or suitable for prospective community centers and recreational areas.

(b) (1) Except as provided in § 2627.4(c)(2)(iii)(B) of this title, the provisions of § 2627.4 of this title apply to the grant and selection of lands for community purposes.

(2) A selection application for community purposes shall specifically cite section 6(a) of the Act of July 7, 1958, as amended (72 Stat. 339, 340).

(3) Each tract selected shall contain at least 160 acres, with no boundary being less than ½ mile in length. Any deviation from the ½ mile boundary requirement shall be permitted only with the specific approval of the authorized officer or the authorized officer of the Department of Agriculture, as appropriate. Selections containing more than 640 acres shall, to the extent practicable, be described in units of whole selections.

(c) Selection applications describing lands within national forests shall be accompanied by an approval from an authorized officer of the Department of Agriculture.

§ 2627.2 Grant for general purpose.

(a) Section 6(b) of the Statehood Act granted the State the right to select, within 35 years from January 3, 1959, not to exceed 102,550,000 acres from the public lands in Alaska which are vacant, unappropriated and unreserved at the time of their selection.

(b) (1) The provisions of § 2627.4 of this title apply to the grant and selection of lands for general purposes.

(2) A selection application for general purposes shall specifically cite section 6(b) of the Act of July 7, 1958, as amended (72 Stat. 339, 340).

(3) Each tract selected shall contain at least 5,760 acres, unless isolated from other lands available for selection.

(4) (i) The minimum tract selection size requirements in selections made after January 1, 1979, may be waived if the authorized officer determines that a reduced selection size would be in the national interest and would result in a better landownership pattern.

(ii) A waiver of the minimum tract selection size requirement shall be granted when the State, with agreement of an Alaska Native corporation, selects submerged lands under the provisions of section 901(e) of the Alaska Lands Act.

(5) Selections shall be made in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or otherwise surveyed.

§ 2627.3 Grant for school lands settlement.

(a) Section 906(b) of the Alaska Lands Act granted the State the right to select, prior to January 4, 1994, not to exceed 75,000 acres of vacant, unappropriated and unreserved public lands in full and final settlement of any and all claims by the State to any right, title or interest in lands to which it was entitled under the Act of March 4, 1915 (38 Stat. 1214), which failed to vest as of January 3, 1959.

(b) (1) The provisions of § 2627.4 of this title apply to the grant and selection of lands for school purposes.

(2) A selection application for general purposes shall specifically cite section 906(b) of the Alaska National Interest Lands Conservation Act of December 2, 1980 (94 Stat. 2371, 2437–2438).

(3) Each tract selected shall contain at least 5,760 acres, unless isolated from other lands available for selection.

(4) (i) The minimum tract selection size requirements may be waived if the authorized officer determines that a reduced selection size would be in the national interest and would result in a better landownership pattern.

(ii) A waiver of the minimum tract selection size requirement shall be granted when the State, with agreement of an Alaska Native corporation, selects submerged lands under the provisions of section 901(e) of the Alaska Lands Act.

(5) Selection shall be made in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or otherwise surveyed, or unless the Secretary of the Interior waives the whole section requirement.

§ 2627.4 All Alaska grants.

(a) (1) Applications for selection under the statutory authorities listed in § 2627.0–3 of this title shall be made by the proper selecting agent of the State and filed, in duplicate, in the proper Bureau of Land Management office identified in § 1821.2–1 of this title. No special form is required, but the selection application shall be typewritten and shall contain the following:

(i) Category of grant;

(ii) A reference to the authority for the specific grant under which the selection is filed;

(iii) A certificate of the selecting agent showing:

(A) The agent's official title and authority to make selections on behalf of the State;

(B) That the selection is made under and pursuant to the laws of the State;

(C) The acreage being selected and the cumulative acreage of all prior selections pending or conveyed under that grant;

(D) For selections filed after December 2, 1980, whether the selected acreage under that particular grant exceeds by more than 25 percent that portion of the State's entitlement which has not been tentatively approved or patented;

(E) All information relative to medicinal or hot springs or other waters upon the selected lands; and

(F) All information relative to deposits of oil shale or lands containing such deposits upon the selected lands.

(iv) (A) If the selected lands have been surveyed, the legal description of the lands in accordance with the official plats of survey;

(B) If the selected lands have not been surveyed, the legal description of the lands in accordance with the approved protraction diagrams of the rectangular system of survey; or

(C) If the selected lands are neither surveyed nor described by approved protraction diagrams, a metes and bounds description of the lands, together with a map sufficient to permit ready identification of the location, boundaries and area of the selected lands.

(2) A selection application or any amendment thereto, including an application filed pursuant to section 906(e) of the Alaska Lands Act, filed subsequent to the effective date of this paragraph shall be accompanied by a non-refundable filing fee of $25 for each 5,760 acres or fraction thereof.

(3) All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved. A tract shall not be considered compact if it excludes other public lands or national forest lands available for selection within its exterior boundaries.

(4) Except for lands within any conservation system unit or the National Petroleum Reserve—Alaska, the State may file a selection application on lands which are not available for selection on the date of filing. Such a selection application, if otherwise valid, shall become an effective selection without further action by the State on the date the lands included in the application become available, regardless of whether the State's land selection rights have expired. Selection applications previously filed by the State may be amended so as to become subject to this provision. However, this provision shall not be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another for the use and benefit of the United States.

(5) The State may select lands exceeding by not more than 25 percent in total area the amount of State entitlement which has not been tentatively approved or patented under each grant. Should the State file a selection under any grant which causes the total acreage in pending selections for that grant to exceed the maximum overselection permitted, it shall relinquish sufficient acreage to eliminate the impermissible overselection acreage or submit with its selection application a statement which lists by serial number and land description, in blocks no larger than a township in size, those selection applications or portions thereof that are lowest in priority. Thereafter, as long as overselections are maintained, the State

VOL
48
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shall furnish, by the last working day of the month, its list of lowest priority selection blocks for use during the succeeding month. Upon either the filing of a selection causing overselection under any grant to exceed the acreage permitted, where such selection is unaccompanied by appropriate relinquishment, or upon receipt by the State of subsequent tentative approvals or patents which reduce its remaining entitlement, the State shall, within 5 working days, relinquish sufficient acreage to maintain no more than the percentage of overselection permitted. If the State fails to relinquish, the authorized officer shall eliminate the impermissible overselection by rejecting selection blocks of the lowest priority, as identified by the State. If no priority has been identified by the State, the authorized officer shall reject the latest filed application(s) to maintain the permissible overselection level.

(b) (1) Upon the revocation of any withdrawal in Alaska, the public land order affecting such revocation shall provide for a period of not less than 90 days before the date on which the revocation otherwise becomes effective during which period the State shall have a preferred right of selection, except as against prior existing valid rights, equitable claims subject to allowance and confirmation and other preferred rights of application conferred by law.

(2) When the proper selecting agent of the State files, in writing, a waiver of the preference provisions of a proposed revocation of a withdrawal, the revocation shall not provide for preference right of selection.

(c) (1) Under the statutory authorities listed in § 2627.0–3 of this title, the State may select any vacant, unappropriated lands in national forests in Alaska in fulfillment of its forest community grant entitlement and any vacant, unappropriated and unreserved public lands in Alaska in fulfillment of its entitlements under the remaining statutory provisions, whether or not the lands are surveyed and whether or not the lands contain mineral deposits.

(2) For the purposes of State selection, the definition of lands available for selection includes:

(i) For selection applications filed on or after September 14, 1960, the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or of any specific mineral or minerals;

(ii) Lands beneath tidelands filled by the United States prior to statehood and reserved to the United States on the date of statehood, and lands beneath navigable waters reserved to the United States on the date of statehood, upon revocation of existing withdrawals;

(iii) (A) Submerged lands beneath nonnavigable waters;

(B) For selections for general purposes under § 2627.2 of this title and as school lands under § 2627.3 of this title, submerged lands which are the subject of agreement under section 901(e)(1) of the Alaska Lands Act, or reconveyed to the United States under section 901(e)(2) of the Alaska Lands Act;

(iv) Lands available for selection under section 906(j) of the Alaska Lands Act.

(3) Except for lands subject to a contract, lease, license or permit under the Alaska Coal Leasing Act of 1914, as amended (48 U.S.C. 432 et seq.), or the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the requirement of paragraph (c)(1) of this section that the lands be vacant, unappropriated or unreserved does not prohibit selection of lands under application for or subject to a contract, lease, license, permit, right-of-way or easement.

(d) (1) Selection applications filed by the State shall be subject to certain rights of Alaska Natives under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971, as amended (43 U.S.C. 1601 et seq.).

(2) Any contract, lease, license or permit issued under the Alaska Coal Leasing Act of 1914, as amended (48 U.S.C. 432 et seq.), or under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), shall have the effect of withdrawing the lands subject thereto from selection by the State unless the State filed an application to select such lands before January 3, 1969.

(3) Where the preference provisions of section 6(g) of the Statehood Act do not apply, a selection application describing lands covered by a prior filed entry or application under which equitable title and patent may be earned shall be rejected to the extent of the conflict when and if such prior filed entry or application is allowed.

(e) A selection application by the State under this subpart, when filed in the proper office of the Bureau of Land Management identified in § 1821.2–1 of this title, shall segregate the lands selected from all subsequent entries or applications under which equitable title and patent may be earned, including locations under the mining laws. Segregation shall automatically terminate unless the State publishes the first notice required by paragraph (f) of this section within 60 days of receipt of the authorized officer's direction to publish. Filing of a State selection shall not segregate the lands from subsequent applications for less than fee interest. Top filings under § 2627.4(a)(4) of this title shall not segregate the lands until the lands become available for selection.

(f) (1) When directed by the authorized officer, the State shall, in accordance with subpart 1824 of this title, publish once a week, for 5 consecutive weeks, at its own expense, in a designated newspaper and in a designated form, a notice affording all persons asserting adverse claims to the lands selected by the State an opportunity to file in the appropriate Bureau of Land Management office their objections to conveyance of the selected lands to the State. The State shall file an affidavit of the publisher, accompanied by a copy of the published notice showing that publication was accomplished for the required time.

(2) Anyone protesting the conveyance of the lands to the State shall file an objection to the proposed conveyance with the Bureau of Land Management office identified in the notice, serve the State with a copy of the objection and furnish evidence of such service to the Bureau of Land Management.

(g) The Secretary of the Interior has management authority over lands selected by the State prior to tentative approval. However, no contract shall be made or a lease, license, permit, right-of-way or easement granted on such lands without the prior concurrence of the State.

(h) Ninety percent of any proceeds derived from contracts, leases, licenses, permits, rights-of-way or easements on lands selected by the State on or after December 2, 1980, or from trespasses originating after the date of selection by the State shall be deposited in an escrow account and shall be held until the lands have been tentatively approved to the State. Proceeds from lands selected by and tentatively approved to the State shall be paid to the State as required by law. Proceeds from lands selected by the State but not tentatively approved, due to rejection or relinquishment, shall be paid as would have otherwise been required by law.

(i) (1) Following the selection of lands by the State, and where there is no legal bar to passage of title to the lands to the State, the authorized officer shall issue a decision tentatively approving the selection for patent. The tentative approval confirms that all right, title and interest of the United States in the lands described therein has vested in the State, except for the reservations, conditions and limitations affecting the selection, as set forth therein, which are reserved to the United States in the tentative approval or to which the tentative approval is subject.

(2) All conveyances to the State shall be subject to valid existing rights and to certain Alaska Native rights under the Alaska Native Claims Settlement Act of December 18, 1971, as amended (43 U.S.C. 1601 et seq.)

(3) (i) Where the State has validly selected all the lands in a mineral lease, permit, license or contract, the tentative approval shall convey to the State all mineral deposits in the selected lands.

(ii) Where the State has selected only a portion of the lands subject to a mineral lease, permit, license or contract, the mineral or minerals subject to that lease, permit, license or contract shall be reserved to the United States, along with whatever other rights may be necessary to ensure the lessee's, permittee's, licensee's or contractee's rights, benefits and privileges under the lease, permit, license or contract. Title to those mineral deposits in the lands conveyed shall automatically vest in the State upon termination of the lease, permit, license or contract.

(4) (i) Prior to issuance of tentative approval of a selection(s) or a portion thereof, pending conflicting applications for contracts, leases, licenses, permits, rights-of-way or easements, including applications and offers for mineral leases other than preference right lease applications, shall be adjudicated and granted or rejected according to merit and applicable law. Rejection of a noncompetitive offer to lease filed under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), issued by the Assistant Secretary of the Interior for Land and Water Resources shall constitute the final administrative action of the Department of the Interior.

(ii) (A) Where, prior to conveyance to the State, a right-of-way or easement has been reserved to or appropriated by the United States, or a contract, lease, license, permit, right-of-way or easement has been issued or granted for selected lands, the conveyance shall contain provisions making it subject to the right of the United States, or its contractee, lessee, licensee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits previously given, reserved or appropriated.

(B) When tentative approval is given, the State shall succeed and become entitled to any and all interests of the United States in any such contract, lease, license, permit, right-of-way or easement, except those reserve to the United States in the tentative approval document.

(iii) (A) Where the lands tentatively approved to the State do not include all of the lands described in any issue or granted contract, lease, license, permit, right-of-way or easement, the administration of such contract, lease, license, permit, right-of-way or easement shall remain in the United States unless the agency responsible for administration waives such administration.

(B) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(j) The authorized officer shall issue a patent for each selection tentatively approved under the authorities listed in § 2627.0–3 of this title only after the exterior boundaries of the selected area(s) have been officially surveyed; or, if the State elects to receive patent to any selected lands on the basis of protraction surveys, such patent shall be issued on that basis within 6 months after notice of such election provided that there are no adverse claims of record.

(k) Selection applications for lands which are in the area north and west of the line described in section 10 of the Statehood Act shall have the approval of the President, or his/her designated representative, before the lands shall be conveyed to the State, except for those specified in the list entitled, "Prior State of Alaska Selections to be Conveyed by Congress," dated July 24, 1978, and the list entitled, "State Selection Lands May 15, 1978," dated July 24, 1978.

(l) The State may, by written notification, relinquish all right, title and interest to any selection prior to receipt of tentative approval, except that the lands shown on the list entitled, "State Selection Lands May 15, 1978," dated July 24, 1978, and specifically conveyed under section 906(g) of the Alaska Lands Act, may not be relinquished.

September 20, 1983.

Harold W. Furman II,

Acting Assistant Secretary of the Interior.

[FR Doc. 83–28316 Filed 10–17–83; 8:45 am]

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VOL
48
ISS
202
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1983
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federal register

Tuesday
October 18, 1983

Part VII

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 983]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 12, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED OCTOBER 12, 1983
VOLUME 983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-ENHANCED ENERGY RESOURCES		RECEIVED: 09/13/83 JA: AL							
8356555	6-30-8320PD	0112500000		107-GS		JIM WALTER RESOURCES #4 MINE		180.0	SOUTHERN NATURAL
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-FINDERS OIL & GAS CO		RECEIVED: 09/15/83 JA: MI							
8356554		2105535529		102-4		SHUMSKY STATE BLAIR #1-13	BLAIR 13 26N-11W	73.0	CONSUMERS POWER C
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CELSIUS ENERGY CO		RECEIVED: 09/23/83 JA: MT							
8356569	1-83-1	2510122263		103		BANKSOM-STATE #2-26	OLD SHELBY GAS FIELD	177.0	MICHAEL L LETSON
-CROFT PETROLEUM CO		RECEIVED: 09/23/83 JA: MT							
8356552	1-83-4	2510121797		108		JOE TOMAYER #1	WILLOW RIDGE	4.8	MONTANA POWER CO
-MIDLANDS GAS CORPORATION		RECEIVED: 09/23/83 JA: MT							
8356553	1-83-2EH	2507121483		108		1160 HELLIE 1	WILDCAT	22.0	KN ENERGY INC
8356550	1-83-3	2507121853		102-2		1160 HELLIES 2	BOWDOIN	77.0	KN ENERGY INC
-MONTANA PACIFIC OIL & GAS CO		RECEIVED: 09/23/83 JA: MT							
8356551	6-83-92	2510105306		102-4		ADAMS #2 - T34N - R1W	KEVIN SUNBURST	300.0	OIL INTERNATIONAL
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BEREA OIL AND GAS CORPORATION		RECEIVED: 09/26/83 JA: NY							
8356657	4887	3101317963		102-2		CARRINGTON CREEK INC UNIT #5	WILDCAT	12.0	COLUMBIA GAS TRAN
8356658	4885	3101317716		1w2-2		W JOSEPHSON #2	GERRY	12.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC		RECEIVED: 09/26/83 JA: NY							
8356656	2809	3101316567		102-2		ALEXANDER #1	WILDCAT	0.0	COLUMBIA GAS TRAN
8356659	4786	3101317628		102-2	107-TF	BALL UNIT #1	WILDCAT	0.0	COLUMBIA GAS TRAN
8356646	4794	3101317681		102-2	107-TF	COVEY #1	BUSTI	0.0	COLUMBIA GAS TRAN
8356616	4819	3101316859		102-2	107-TF	E CARLSON #1	BUSTI	0.0	NATIONAL FUEL GAS
8356650	4863	3101317627		102-2	107-TF	FREDERES UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8356615	4812	3101317626		102-2	107-TF	G A CLARK UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8356647	4797	3101316347		102-2	107-TF	LAKE ERIE BEAGLE CLUB #2	BUSTI	0.0	COLUMBIA GAS TRAN
8356649	4865	3101317969		102-2	107-TF	MORRISON #2	WILDCAT	0.0	NATIONAL FUEL GAS
8356645	4792	3101317987		102-2	107-TF	R RUTH UNIT #1	BUSTI	0.0	COLUMBIA GAS TRAN
8356653	4837	3101317168		102-2	107-TF	SPONTANEO UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8356612	4888	3101317970		102-2	107-TF	SWEENEY SR UNIT #2	BUSTI	0.0	COLUMBIA GAS TRAN
8356648	4867	3101317940		102-2	107-TF	TAYLOR #1	WILDCAT	0.0	NATIONAL FUEL GAS
8356651	4861	3101317629		102-2	107-TF	YOUNGBERG UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 09/26/83 JA: NY							
8356632	4944	3109911708		108		GERALD C RIEGEL N-1459	FAYETTE	21.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC		RECEIVED: 09/26/83 JA: NY							
8356654	4835	3101317947		102-2	107-TF	A CARLSON UNIT-#1 KV-46	CARROLL	30.0	COLUMBIA GAS TRAN
8356652	4855	3100917949		102-2	107-TF	E KUREK UNIT #2 KX-21	CONEWANGO	30.0	COLUMBIA GAS TRAN
8356644	4637	3101317876		102-2	107-TF	M RESLINK UNIT #1 KA-166	FRENCH CREEK	30.0	COLUMBIA GAS TRAN
-KEYSTONE ENERGY OIL & GAS PRODUCTIO		RECEIVED: 09/26/83 JA: NY							

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356634	5431	3100918077		103	107-TF	GARDINER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356634	5427	3100916932		103	107-TF	JOCHUM #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356635	5429	3100918224		103	107-TF	KOPENSKI #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356637	5425	3100916926		103	107-TF	M JOHNSON #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356640	5439	3100918075		103	107-TF	M SALISBURY #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356642	5441	3100918076		103	107-TF	M SALISBURY #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356638	5437	3100918093		103	107-TF	P HEBNER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356639	5433	3100918114		103	107-TF	R JOHNSON #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-S & M RESOURCES INC		RECEIVED: 09/26/83 JA: NY							
8356617	4668	3101317898		102-2	107-TF	JEAN K WIGGERS #1		0.0	COLUMBIA GAS TRAN
-TEMPLETON ENERGY INC		RECEIVED: 09/26/83 JA: NY							
8356623	5421	3101311309		108		A JOPEK - #1282	LAKESHORE	5.6	NATIONAL FUEL GAS
8356624	5428	3101311469		108		CHRISTY FARMS #1 - #1222	LAKESHORE	4.9	NATIONAL FUEL GAS
8356620	5424	3101310660		108		CLIFFSTAR-STANTON - #1152	LAKESHORE	4.1	NATIONAL FUEL GAS
8356622	5422	3101310388		108		DRAGGETT - #1170	LAKESHORE	1.1	NATIONAL FUEL GAS
8356625	5419	3101311686		108		E & M HEALD #1 #1273	LAKESHORE	9.6	NATIONAL FUEL GAS
8356631	5415	3102914336		108		GERHARDT - #1459	LAKESHORE	0.4	NATIONAL FUEL GAS
8356629	5414	3102914335		108		KURKE #1 - #1440	LAKESHORE	0.8	NATIONAL FUEL GAS
8356628	5413	3102914336		108		KURKE #2 - #1441	LAKESHORE	0.8	NATIONAL FUEL GAS
8356626	5412	3102913099		108		LIPPERT - #1401	LAKESHORE	0.6	NATIONAL FUEL GAS
8356621	5423	3101310655		108		RUTKOWSKI - #1118	LAKESHORE	7.7	NATIONAL FUEL GAS
8356630	5417	3102912290		108		W & V NUDD - #1383	LAKESHORE	3.5	NATIONAL FUEL GAS
8356627	5418	3101312677		108		WILKOSZ - #1460	LAKESHORE	7.9	NATIONAL FUEL GAS
-TRAMAN PETROLEUM INC		RECEIVED: 09/26/83 JA: NY							
8356619	5445	3101318241		107-TF		ABBEY #1 #31-013-18241	ELLINGTON	36.0	COLUMBIA GAS TRAN
8356618	5443	3101318216		107-TF		ABBEY #2 #31-013-18216	ELLINGTON	36.0	COLUMBIA GAS TRAN
8356614	4809	3101317822		102-2	107-TF	NOBLES #2 31-013-17822	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8356655	4807	3101312510		102-2	107-TF	SMALLBACK NY 38 31-013-12510	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8356613	4805	3101317880		102-2	107-TF	SMALLBACK NY #2 31-013-17880	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8356641	5450	3101318319		107-TF		STEWARD #1 #31-013-13819	ELLINGTON	36.0	COLUMBIA GAS TRAN
8356643	5447	3101318357		107-TF		WEHRENBERG #5 #31-013-18357	ELLINGTON	36.0	COLUMBIA GAS TRAN
-VILLAFRANK JOSEPH		RECEIVED: 09/26/83 JA: NY							
8356633	5453	3101314780		108		FARVER 2 METER #869-CQ-MS-94X	LAKE SHORE	10.7	NATIONAL FUEL GAS
OKLAHOMA CORPORATION COMMISSION									
-BEASLEY OIL CO		RECEIVED: 09/23/83 JA: OK							
8356673	19392	3504722814		102-4		MARVIN #1	NORTH ENID	200.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP		RECEIVED: 09/23/83 JA: OK							
8356663	23791	3513920675		108		MURDOCK A #16	MOUSER	10.5	PANHANDLE EASTERN
-DAVIS OIL COMPANY		RECEIVED: 09/23/83 JA: OK							
8356662	23624	3508720861		103		RAY BROOKS #2	WALNUT CREEK	0.0	LONE STAR GAS CO
-DEMINEX US OIL COMPANY		RECEIVED: 09/23/83 JA: OK							
8356682	19801	3510300000		102-4		BOOTEN #5	MIDDLE ORLANDO UNIT	100.0	
-F HOWARD WALSH JR		RECEIVED: 09/23/83 JA: OK							
8356675	21398	3505121348		102-3		HIBBERT #1		37.0	TRANSOK PIPE LINE
8356676	21397	3505121309		102-3		WALTERS #1		55.0	TRANSOK PIPE LINE
-FUNK EXPLORATION INC		RECEIVED: 09/23/83 JA: OK							
8356679	21222	3500722225		102-4		DOUBLE CHECK #1		0.0	NATURAL GAS PIPEL
-HAWKINS OIL & GAS INC		RECEIVED: 09/23/83 JA: OK							
8356674	19345	3500722308		102-4		WEST #1-17	ALLEN & PARKER	73.0	NORTHERN NATURAL
-JONES BOYD E		RECEIVED: 09/23/83 JA: OK							
8356678	21376	3503724223		102-2		IRELAN #1 35-037-24223		14.6	PHILLIPS PETROLEU
8356677	21377	3503723981		102-2		JACKSON #1 35-037-23981		165.8	PHILLIPS PETROLEU
-LEAR PETROLEUM CORPORATION		RECEIVED: 09/23/83 JA: OK							
8356683	19765	3500720154		108		BARBY #1	LAVERNE	0.8	RAEL GAS CO
-MARION CORPORATION		RECEIVED: 09/23/83 JA: OK							
8356680	20029	3514721811		102-2		BLEVINS #M-1	NORTH LEG	18.0	NORTHWEST CENTRAL
-PETROLEUM RESOURCES CO		RECEIVED: 09/23/83 JA: OK							
8356669	19757	3500320956		102-4		STEIN #2-20	SOUTHWEST CHEROKEE	275.0	AMINOIL USA INC
-PSEC INC		RECEIVED: 09/23/83 JA: OK							
8356670	19556	3508121500		107-TF		BRYAN-BOLIN #1-25		0.0	EL PASO NATURAL G
8356665	14963	3508121201		107-TF		CONNELLY #1-22		0.0	EL PASO NATURAL G
8356671	19554	3508121521		107-TF		EXXON #1-36		0.0	EL PASO NATURAL G
8356666	14962	3508121055		107-TF		JAMES #1		0.0	EL PASO NATURAL G
8356667	14961	3508100000		107-PE		LOWERY #1-35		0.0	EL PASO NATURAL G
8356668	14960	3508121192		107-TF		PAYNE UNIT #1-27		8.8	EL PASO NATURAL G
8356672	19553	3508121540		107-TF		SITTON #1-23		0.0	EL PASO NATURAL G
8356685	14965	3508121237		107-TF		WHITTAKER #1-22		0.0	EL PASO NATURAL G
-RM OPERATING CO		RECEIVED: 09/23/83 JA: OK							
8356664	23796	3503520545		108		WILLIAMS #15-2	NORTH CRAIG FIELD	60.0	TRANS-GAS CO
-RICHARD W THOMPSON INC		RECEIVED: 09/23/83 JA: OK							
8356681	19805	3508322115		102-4		O BRYAN #1	LAKE GUTHRIE SOUTH	60.0	BUCKEYE NATURAL G
-TARGA OIL & GAS INC		RECEIVED: 09/23/83 JA: OK							
8356660	23490	3508121969		103		HOPKINS 1-31	DAVENPORT	90.0	NATURAL GAS ENTER
-TEXACO INC		RECEIVED: 09/23/83 JA: OK							
8356684	16569	3508520562		103		EDNA SADLER UNIT #2	ENVILLE SW	28.1	CIMARRON TRANSMIS
-TRINEHA INC		RECEIVED: 09/23/83 JA: OK							
8356661	23573	3502720748		103		BOWERMAN 1-4	LINEATLAND	127.8	MOBIL OIL CORP
WEST VIRGINIA DEPARTMENT OF MINES									
-APPCO OIL & GAS CORP		RECEIVED: 09/23/83 JA: WV							
8356570		4708505866		103		SEMMELMAN #1	GRANT	0.0	CONSOLIDATED GAS
8356557		4708505866		107-DV		SEMMELMAN #1	GRANT	0.0	CONSOLIDATED GAS
-ATLAS ENERGY INC		RECEIVED: 09/23/83 JA: WV							
8356577		4704700474		108		NORFOLK & WESTERN RAILROAD #1	SANDY RIVER DISTRICT	0.0	CABOT CORP
8356578		4704700511		108		W T VANCE #1	SANDY RIVER DISTRICT	17.1	CABOT CORP
-BLAUSER WELL SERVICE INC		RECEIVED: 09/23/83 JA: WV							
8356580		4702123412		108		ANNE L LORENTZ & ELSIE ADAMS #1	CENTER	2.0	CARNEGIE NATURAL
8356581		4702122971		108		BETTY FELDMAN #1	TROY	2.0	EQUITABLE GAS CO
8356579		4708523771		108		HENRY L BARKER #1	MURPHY	0.8	COLUMBIA GAS TRAN
8356587		4708523788		108		HENRY L BARKER #2	MURPHY	0.8	COLUMBIA GAS TRAN
8356584		4702122781		108		HUNTER BENNETT #1	CENTER	7.0	EQUITABLE GAS CO
8356583		4709721174		108		PARKERSBURG MILL CO #1	BIRCH	0.4	EQUITABLE GAS CO
8356586		4700721177		108		PARKERSBURG MILL CO #2	BIRCH	0.4	EQUITABLE GAS CO
8356582		4701722632		108		W BRENT MAXWELL #1-B	SOUTHWEST DISTRICT	0.4	EQUITABLE GAS CO
8356585		4701702633		108		W BRENT MAXWELL #2-B	SOUTHWEST DISTRICT	1.0	EQUITABLE GAS CO
-ENERGY UNLIMITED INC		RECEIVED: 09/23/83 JA: WV							
8356568		4708505546		107-DV		GOLDIN D-8	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8356575		4708505547		107-DV		GOLDIN F-8	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
-HENRY O GOSSETT JR		RECEIVED: 09/23/83 JA: WV							
8356560		4702101252		108		BONNETT #1	GLENVILLE DISTRICT	6.0	EQUITABLE GAS CO
8356561		4702101299		108		BONNETT #2	GLENVILLE DISTRICT	3.3	EQUITABLE GAS CO

VOL 48 ISS 202 OC 18 1983 UMI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356564		4702101480		108		BUSH #1	GLENVILLE DISTRICT	3.3	EQUITABLE GAS CO
8356567		4701700838		108		CARR #1	GRANT DISTRICT	6.6	EQUITABLE GAS CO
8356562		4702101422		108		CARSON #1	TROY DISTRICT	3.2	EQUITABLE GAS CO
8356563		4702101463		108		CARSON #2	TROY DISTRICT	2.5	EQUITABLE GAS CO
8356559		4702101371		108		FITZPATRICK #1	GLENVILLE DISTRICT	5.3	EQUITABLE GAS CO
8356565		4702101477		108		FITZPATRICK #3	GLENVILLE DISTRICT	5.9	EQUITABLE GAS CO
8356566		4701700739		108		SMITH #1	GRANT DISTRICT	3.7	EQUITABLE GAS CO
-J & J ENTERPRISES INC				RECEIVED:	09/23/83	JA: WV			
8356576		4703502556		103		J-400	SARDIS	0.0	CONSOLIDATED GAS
-PENNZOIL COMPANY				RECEIVED:	09/23/83	JA: WV			
8356571		4701501598		108		J B CASTO #120	GRANNYS CREEK	3.1	CONSOLIDATED GAS
8356588		4701501450		108		J B CASTO #3793	GRANNYS CREEK	3.1	CONSOLIDATED GAS
8356589		4701501451		108		J B CASTO #3796	GRANNYS CREEK	3.1	CONSOLIDATED GAS
8356590		4701501361		108		J B CASTO #3815	GRANNYS CREEK	3.1	CONSOLIDATED GAS
8356591		4701501472		108		O D STOCKLEY #27	GRANNYS CREEK	1.3	CONSOLIDATED GAS
8356597		4701501473		108		O D STOCKLEY #28	GRANNYS CREEK	1.3	CONSOLIDATED GAS
8356595		4701501622		108		O D STOCKLEY #3	GRANNYS CREEK	0.3	CONSOLIDATED GAS
8356593		4701501475		108		O D STOCKLEY #31	GRANNYS CREEK	1.3	CONSOLIDATED GAS
8356592		4701501490		108		O D STOCKLEY #52	GRANNYS CREEK	1.3	CONSOLIDATED GAS
8356596		4701501842		108		O D STOCKLEY #6	GRANNYS CREEK	0.3	CONSOLIDATED GAS
8356598		4701501238		108		O D STOCKLEY #91	GRANNYS CREEK	1.1	CONSOLIDATED GAS
8356594		4701500332		108		R R LOCKHART #1341	GRANNYS CREEK	2.1	CONSOLIDATED GAS
8356573		4701501381		108		R R LOCKHART #1747	GRANNYS CREEK	2.1	CONSOLIDATED GAS
8356574		4701501382		108		R R LOCKHART #1752	GRANNYS CREEK	2.1	CONSOLIDATED GAS
8356572		4701501388		108		R R LOCKHART #1754	GRANNYS CREEK	2.1	CONSOLIDATED GAS
-PRENCO				RECEIVED:	09/23/83	JA: WV			
8356556		4708505794		103		HODGE P-6	FLANAGAN	7.3	CONSOLIDATED GAS
8356569		4708505795		103		HODGE P-7	FLANAGAN	10.0	CONSOLIDATED GAS
-THE BENATTY CORPORATION				RECEIVED:	09/23/83	JA: WV			
8356558		4710700945		108		WESTBROOK #1	UNION DISTRICT	0.0	CONSOLIDATED GAS
-WHITMAN OIL & GAS CORP				RECEIVED:	09/23/83	JA: WV			
8356608		4708505141		107-DV		FELSENTHAL #1	RUTHERFORD FIELD	25.0	
8356600		4708505317		107-DV		L C ELDER #1	RUTHERFORD FIELD	25.0	
8356609		4708505152		107-DV		L C ELDER #2	RUTHERFORD FIELD	25.0	
8356606		4708505151		107-DV		M E ELDER #1	RUTHERFORD FIELD	25.0	
8356603		4708505185		107-DV		STEPHENS #1	RUTHERFORD FIELD	25.0	
8356601		4708505352		107-DV		STEPHENS #2	RUTHERFORD FIELD	25.0	
8356602		4708505353		107-DV		STEPHENS #3	RUTHERFORD FIELD	25.0	
8356605		4708505142		107-DV		W W TURNER #3	RUTHERFORD FIELD	25.0	
8356607		4710701185		107-DV		WHITMAN #1	RUTHERFORD	25.0	
8356611		4708505468		107-DV		WILSON #10	RUTHLRFORD FIELD	25.0	
8356599		4708505277		107-DV		WILSON #2	RUTHERFORD FIELD	25.0	
8356604		4708505218		107-DV		WILSON #3	RUTHERFORD FIELD	25.0	
8356610		4708505385		107-DV		WILSON #8	RUTHERFORD FIELD	25.0	

[FR Doc. 83-28313 Filed 10-17-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 984]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 12, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED OCTOBER 12, 1983

VOLUME 984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-CHEVRON U S A INC				RECEIVED:	09/26/83	JA: CA			
8356917	83-5-0005	04035120245		1C2-2		SALYER 665X	TULARE LAKE	256.0	HUSKY OIL & GAS C
-NAHAMA & WEAGANT ENERGY CO				RECEIVED:	09/26/83	JA: CA			
8356937	83-4-0270	0402964894		102-4		CANADAY 2	ROSEDALE	30.0	GETTY OIL CO
8356938	83-4-0271	0402964952		102-4		CANADAY 3	ROSEDALE	24.0	GETTY OIL CO
8356936	83-4-0269	0402966340		102-4		COTTON GIN 1	ROSEDALE	7.0	GETTY OIL CO
8356935	83-4-0273	0402965858		102-4		ROSEDALE 1	ROSEDALE	30.0	GETTY OIL CO
-PETRO-LEWIS CORPORATION				RECEIVED:	09/26/83	JA: CA			
8356924	83-4-0248	0402968776		103		ELLIS 65K-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356925	83-4-0249	0402968774		103		ELLIS 75J-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356926	83-4-0250	0402968392		103		ELLIS 86K-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356927	83-4-0251	0402968393		103		ELLIS 86L-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356928	83-4-0252	0402968775		103		ELLIS 86M-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356931	83-4-0239	0402968778		103		KING 67I-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356930	83-4-0248	0402968780		103		KING 67J-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356929	83-4-0241	0402968779		103		KING 67K-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356918	83-4-0242	0402968628		103		KING 68D-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356934	83-4-0236	0402968631		103		KING 71E-30	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356933	83-4-0237	0402968630		103		KING 71F-30	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356932	83-4-0238	0402968783		103		KING 71G-30	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356919	83-4-0243	0402968394		103		KING 77K-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356920	83-4-0244	0402968632		103		KING 78L-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356921	83-4-0245	0402968629		103		KING 78M-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356922	83-4-0246	0402968782		103		KING 78N-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
8356923	83-4-0247	0402968396		103		KING 87L-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
LOUISIANA OFFICE OF CONSERVATION									
-ARKLA EXPLORATION COMPANY				RECEIVED:	09/26/83	JA: LA			
8356916	83-0929	1711125969		103		FROST LUMBER COMPANY #28	MONROE	55.0	ARKANSAS LOUISIAN
-EADS EXPLORATION INC				RECEIVED:	09/26/83	JA: LA			
8356913	83-1227	1701725455		103		THIGPEN-HEROLD #1	GREENWOOD-WASKOM	200.0	ARKLA EXPLORATION
-GOLDKING PRODUCTION COMPANY				RECEIVED:	09/26/83	JA: LA			
8356912	83-1348	1701120532		103		SHERROD M JONES #1	EAST LONGVILLE	807.0	TRUNKLINE GAS CO
8356914	83-1226	1710121330		107-DP		WALKER DEV CO #1 PLAN RA SUN	BALDWIN	1346.0	UNITED GAS PIPELI
-PETRUS OPERATING CO INC				RECEIVED:	09/26/83	JA: LA			
8356915	83-1225	1708121233		107-DP		D MONCEAUX #1	PERRY POINT	0.0	MONTEREY PIPELINE
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CROFT PETROLEUM CO				RECEIVED:	09/26/83	JA: MT			
8356911	1-83-5	2510121850		108		KEM TOMAYER #1	WILLOW RIDGE GAS	18.8	MONTANA POWER CO
-LUFF EXPLORATION CO				RECEIVED:	09/26/83	JA: MT			
8356909	1-83-8 A	2508321570		103		IVERSON 2-2	SOUTH OTIS CREEK	36.0	TRUE OIL CO
8356908	1-83-8	2508321618		102-2		LAWSON RANCH M-20	LAWSON RANCH	182.0	TRUE OIL CO
-MIDLANDS GAS CORPORATION				RECEIVED:	09/26/83	JA: MT			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356907	1-83-9	2507121860		102-2		STATE 2 3670	BOWDOIN	77.0	KN ENERGY INC
-MONTANA PACIFIC OIL & GAS CO				RECEIVED:	09/26/83	JA: MT			
8356910	6-83-93	2510122280		102-4		STATE 16-5-A	KEVIN-SUNBURST	250.0	OIL INTERNATIONAL

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-BEREA OIL AND GAS CORPORATION				RECEIVED:	09/26/83	JA: NY			
8356942	4869	3101310816		102-2	107-TF	E PERSONS UNIT #4	WILDCAT	14.0	COLUMBIA GAS TRAN
8356944	4798	3101316706		102-2		GROSS UNIT #3	GERRY	18.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC				RECEIVED:	09/26/83	JA: NY			
8356945	4341	3101317023		102-2	107-TF	E NELSON UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8356943	2946	3101316023		102-2	107-TF	FORSBERG UNT #3	BUSTI	0.0	NATIONAL FUEL GAS
8356946	4713	3101317663		102-2	107-TF	R JOHNSON #1	BUSTI	0.0	COLUMBIA GAS TRAN
-GYPSUM ENERGY MANAGEMENT CO				RECEIVED:	09/26/83	JA: NY			
8356963	5388	3103717413		103	107-TF	BRZEZNIAK #1	HURON CREEK	0.4	U S GYPSUM CO
8356958	5386	3103717411		103	107-TF	GRANBO #1	HURON CREEK	0.4	U S GYPSUM CO
8356957	5384	3103717418		103	107-TF	KLOSSNER #1	HURON CREEK	0.4	U S GYPSUM CO
8356962	5390	3103717414		103	107-TF	MEYER #1	HURON CREEK	0.4	U S GYPSUM CO
8356961	5392	3103717412		103	107-TF	SPIOTTA #2	HURON CREEK	0.4	U S GYPSUM CO
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	09/26/83	JA: NY			
8356947	5404	3100917683		103	107-TF	B & B BOBSEINE #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356959	5406	3100916930		103	107-TF	E BRIDGES #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8356948	5402	3100918115		103	107-TF	STUDLEY #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-SUBSEA OIL & GAS INC				RECEIVED:	09/26/83	JA: NY			
8356960	5380	3102918390		103	107-TF	RADNER #1	ALDEN LANCASTER	12.0	NATIONAL FUEL GAS
-TEMPLETON ENERGY INC				RECEIVED:	09/26/83	JA: NY			
8356939	5352	3101311774		108		CIVILETTE - #1264	LAKESHORE	5.6	NATIONAL FUEL GAS
8356951	5345	3102914581		108		FOSS #3 - #1421	LAKESHORE	4.5	NATIONAL FUEL GAS
8356950	5344	3102914582		108		FOSS #4 - #1422	LAKESHORE	3.8	NATIONAL FUEL GAS
8356940	5351	3101311922		108		FREY - #1265	LAKESHORE	6.5	NATIONAL FUEL GAS
8356954	5348	3101311681		108		GRANT - #1262	LAKESHORE	12.7	NATIONAL FUEL GAS
8356956	5350	3101311808		108		GULLO - #1283	LAKESHORE	12.9	NATIONAL FUEL GAS
8356955	5349	3101311677		108		HENDERSON - #1257	LAKESHORE	8.2	NATIONAL FUEL GAS
8356952	5346	3101312629		108		MICHALSKE/EVERTS - #1255	LAKESHORE	4.9	NATIONAL FUEL GAS
8356953	5347	3101312214		108		SIEBERT - #1360	LAKESHORE	14.6	NATIONAL FUEL GAS
8356941	5353	3101311642		108		SMITH - #1251	LAKESHORE	6.3	NATIONAL FUEL GAS
8356949	5356	3101311471		108		WOODBURY - #1224	LAKESHORE	12.4	NATIONAL FUEL GAS

OKLAHOMA CORPORATION COMMISSION

-A C RICHARDS				RECEIVED:	09/23/83	JA: OK			
8356730	12180	3504900000		108-ER		R S SHIRLEY #1	GOLDEN TREND	30.0	WARREN PETROLEUM
-ADCO OIL & GAS				RECEIVED:	09/23/83	JA: OK			
8356756	22125	3505520187		103		ANDY #1	SOUTH BLOOMINGTON	11.0	DAMSON OIL CORP
-ADOBE OIL & GAS CORPORATION				RECEIVED:	09/23/83	JA: OK			
8356781	21819	3503520542		102-3		OAKMAN #32-1A	VIOLA	146.0	AMINOIL USA INC
-ALPHA ENERGY CORP				RECEIVED:	09/23/83	JA: OK			
8356883	23654	3507323597		103		VIETH #1-26		0.0	CONOCO INC
-AMERICAN ENERGY CORP				RECEIVED:	09/23/83	JA: OK			
8356769	20839	3506320400		108		FARRELL #1	HILL TOP	0.0	HILL TOP INVESTME
-AMES OIL AND GAS CORP				RECEIVED:	09/23/83	JA: OK			
8356811	22212	3511721705		102-2		LYONS #14-3	PAWNEE "A"	23.4	COLORADO GAS COMP
-AN-SON CORPORATION				RECEIVED:	09/23/83	JA: OK		730.0	LONE STAR GAS CO
8356874	23446	3508720860		103		CROCKETT #1-9	EAST HAMMON	131.4	
8356825	22230	3503920771		102-2		FLYNT #1-4			
-ANADARKO LAND & EXPLORATION CO				RECEIVED:	09/23/83	JA: OK	S E THOMAS	306.0	TRANSOK PIPELINE
8356855	23639	3503920887		103		FRYMIRE #1-8	S E THOMAS	127.0	TRANSOK PIPELINE
8356847	23653	3501121804		103		SHANTZ #1-19			
-ANR PRODUCTION CO				RECEIVED:	09/23/83	JA: OK	S W MUTUAL	17.0	MICHIGAN WISCONSI
8356815	23744	3515321040		108		BORDEN #1-16	WEST DOMBEY	5.0	MICHIGAN WISCONSI
8356862	23470	3513920955		108		HAMILTON #1	WEST DOMBEY	10.0	MICHIGAN WISCONSI
8356861	23469	3513920883		108		MENDENHALL #1	WEST DOMBEY	7.0	MICHIGAN WISCONSI
8356879	23467	3513920989		108		VAN NYNING #1	WEST DOMBEY	4.0	MICHIGAN WISCONSI
8356880	23468	3513921296		108		WEHMEIER #1-13			
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/23/83	JA: OK	SOONER TREND	36.5	UNION TEXAS PETRO
8356749	23735	3504723292		103		DICK-TGEDTMAN #6			
-ARKOMA GAS CO				RECEIVED:	09/23/83	JA: OK	WEST SCIPIO	3.7	ARKANSAS LOUISIAN
8356744	23281	3512100000		108		W J HILSEWECK #1-29-A			
-ATKINSON J V				RECEIVED:	09/23/83	JA: OK		16.0	REH INDUSTRIES IN
8356816	23752	3510500000		108		AUSTIN BILLUPS #2		8.0	REH INDUSTRIES IN
8356750	23755	3510525351		108		RAY ROBINSON #1			
-AVANTI ENERGY CORP				RECEIVED:	09/23/83	JA: OK	HAMMON NW	730.0	
8356695	21989	3512920824		102-2		BLOUNT #1-2			
-B-MAC PETROLEUM CO				RECEIVED:	09/23/83	JA: OK	HENRYETTA	25.7	PHILLIPS PETROLEU
8356902	21933	3511233800		103		BERRYHILL #2			
-BLAIK OIL COMPANY				RECEIVED:	09/23/83	JA: OK	SOONER TREND	16.0	AMINOIL USA INC
8356863	23473	3500320054		108		PERRY #1			
-BLUE QUAIL ENERGY INC				RECEIVED:	09/23/83	JA: OK	W MUSTANG	720.0	PHILLIPS PETROLEU
8356764	23743	3501722475		103		BESSIE #1			
-BOGERT OIL CO				RECEIVED:	09/23/83	JA: OK	SOONER TREND	0.3	ARKANSAS-LOUISIAN
8.56771	16629	3504722357		108-ER		AMY #1-4	SOONER TREND	127.0	CONOCO INC
8356817	23778	3508322243		103		NELLIE 1-29	SOONER TREND	300.0	PHILLIPS PETROLEU
8356805	23931	3507323765		103		YOUNG #1-B			
-BRACKEN EXPLORATION CO				RECEIVED:	09/23/83	JA: OK		60.0	PHILLIPS PETROLEU
8356829	22252	3504321615		102-2		DENSAL WILLIS 1-6		102.0	PHILLIPS PETROLEU
8356787	23259	3501121578		103		HEIRS OF BEHIND #1-20			
-BRYANT PETROLEUM CORP				RECEIVED:	09/23/83	JA: OK		2.5	PHILLIPS PETROLEU
8356746	23293	3511121616		108		BRUNER #1		0.0	PHILLIPS PETROLEU
8356745	23292	3511100000		108		STEWART #2			
-BUNKER EXPLORATION CO				RECEIVED:	09/23/83	JA: OK	EOLA	115.0	SOHIO PETROLEUM C
8356804	22150	3504921878		102-4		G I FERGUSON #1-3			
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	09/23/83	JA: OK	SOONER TREND	0.0	
8356900	20923	3507300000		103		BOLLENBACH "A" #1	ENID (MISSISSIPPI)	0.0	CHAMPLIN PETROLEU
8356901	21439	3504700000		103		REFINERY #2			
-CLARK RESOURCES INC				RECEIVED:	09/23/83	JA: OK	SOONER TREND	81.0	CONOCO INC
8356885	23665	3507323737		103		HOPKINS 11-1	SOONER TREND	180.0	WARREN PETROLEUM
8356812	22204	3507323696		102-4		KERR 18-1			
-CONTINENTAL RESOURCES CORP				RECEIVED:	09/23/83	JA: OK		0.0	PHILLIPS PETROLEU
8356869	23612	3509322499		103		LEROY WILLIAMS #1			
-CORYELL PETROLEUM CO				RECEIVED:	09/23/83	JA: OK	N RUSSELLVILLE	495.0	ARKANSAS LOUISIAN
8356697	22041	3512120985		102-2		WAGNON #1			
-CROUCH PETROLEUM COMPANY				RECEIVED:	09/23/83	JA: OK	S E CHECOTAH	24.0	COLUMBIA GAS TRAN
8356732	19217	3509120502		103		BRENER #1			
-DAWN ENERGY CO				RECEIVED:	09/23/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356717	23624	3504521100		103		ART #1-31	MOCANE-LAVERNE	55.0	
-DECK EXPLORATION INC				RECEIVED:	09/23/83	JA: OK			
8356782	21906	3510525811		102-4		LUCUS #2			
8356783	21907	3510525812		102-4		LUCUS #3	CALIF CRK	137.0	
8356784	21908	3510525814		102-4		LUCUS #4	CALIF CRK	40.0	
8356785	21909	3510525814		102-4		LUCUS #5	CALIF CRK	7.0	
-DEMINEX US OIL COMPANY				RECEIVED:	09/23/83	JA: OK	CALIF CRK	57.0	
8356841	21992	3514921710		172-4		GREEN #3			
-EAGLE MINERALS INC.				RECEIVED:	09/23/83	JA: OK		60.0	WARREN PETROLEUM
8356747	23726	3510/21332		103		JETER #1			
-EL PASO NATURAL GAS COMPANY				RECEIVED:	09/23/83	JA: OK		0.0	SWAB CORP
8356790		3500935598		108-PB		DREN D #1			
8356779	22141	3514920140		108-PB		PARKS - MELVIN #1	ERICK SOUTH (BROWN-DO	29.4	EL PASO NATURAL G
8356807	23970	3500906796		108		PUCKETT A #1	ELK CITY - GRANITE WA	145.0	EL PASO NATURAL G
-ENFIELD CORP				RECEIVED:	09/23/83	JA: OK	ERICK SOUTH - BROWN O	54.0	EL PASO NATURAL G
8356903	21941	3510500000		102-2		CARL HAYES #1			
-ENSERCH EXPLORATION INC				RECEIVED:	09/23/83	JA: OK	WILDCAT	75.0	R E H INDUSTRIES
8356802	22974	3504321649		103		BONNIE MASLER #1-17			
-ESSEX EXPLORATION INC				RECEIVED:	09/23/83	JA: OK	N E PUTNAM	0.0	
8356873	23588	3504521129		103		HAINES #1			
8356848	23589	3515123600		103		HAMPSTEN #1	NW FARGO	756.2	
-EXXON CORPORATION				RECEIVED:	09/23/83	JA: OK	W ALVA	0.0	DELHI GAS PIPELIN
8356906	25412	3512920930		107-DP		EVAN K FUCHS GAS UNIT #1			
-FACKRELL & ASSOCIATES				RECEIVED:	09/23/83	JA: OK	GRIMES	1045.0	
8356881	22845	3500722476		103		GUST SPANGLER #2			
-FALCON PETROLEUM COMPANY				RECEIVED:	09/23/83	JA: OK	SIX MILE	438.0	NORTHERN NATURAL
8356776	23773	3500721774		108		KIRTON #1			
-GADSCO INC				RECEIVED:	09/23/83	JA: OK	WILDCAT (NW DOMBEY)	4.0	PANHANDLE EASTERN
8356835	25308	3503920920		107-DP		KRUGER #1-6			
-GETTY OIL COMPANY				RECEIVED:	09/23/83	JA: OK		365.0	TRANSWESTERN PIPE
8356743	23266	3513700000		108		ED KILLINGSWORTH #1			
8356742	23264	3513700000		108		ED KILLINGSWORTH #5	SHO-VEL-TUM	5.0	OKLAHOMA NATURAL
8356688	23390	3512121029		103		WHITE "P" #2	SHO-VEL-TUM	4.0	OKLAHOMA NATURAL
-GOODSPEED J W & FORREST GRUBB				RECEIVED:	09/23/83	JA: OK	KINTA	256.0	MUSTANG FUEL CORP
8356801	22617	3504721177		108		REDDING #1			
8356800	22616	3504720647		108		WEINKAUF #1	SHELL LAKE	4.8	AMINOIL USA INC
-GRACE PETROLEUM CORPORATION				RECEIVED:	09/23/83	JA: OK	SHELL LAKE	9.1	AMINOIL USA INC
8356845	23495	3509335964		108		BRUCE #1			
-GRIFFIN OIL & GAS INC				RECEIVED:	09/23/83	JA: OK	N E AMES	0.0	ARKANSAS LOUISIAN
8356799	22338	3511124147		103		ROOSEVELT 3-2			
-HARPER OIL COMPANY				RECEIVED:	09/23/83	JA: OK		0.0	
8356715	17697	3503920605		102-2		WILSON #16-1			
8356720	23467	3500321041		103		WRIGHT #2	N E MOOREWOOD	0.0	ARKANSAS LOUISIAN
-HAWKINS OIL & GAS INC				RECEIVED:	09/23/83	JA: OK	S E LAMBERT	63.0	PIONEER GAS PRODU
8356757	22183	3515321375		102-4		VASSAR #1-3			
-HOLD OIL CORP				RECEIVED:	09/23/83	JA: OK	SOUTH WOODWARD	1095.0	OKLAHOMA GAS & EL
8356789	23395	3506321667		103		BILL BGYCE #1-11			
8356838	21955	3512120948		102-2		MDWDESHELL #1	SHADY GROVE	85.0	HILL TOP INVESTME
-HOLEXCO INC				RECEIVED:	09/23/83	JA: OK	BROOKEN	300.0	ARKANSAS LOUISIAN
8356724	22844	3507121651		103		BERTHA #1			
8356708	22841	3507121952		103		CRAWFORD #1	GARRETT	1.0	CITIES SERVICE CO
8356709	22840	3507121456		103		KEATING #1	GARRETT	1.0	CITIES SERVICE CO
8356716	22843	3507121458		103		SHELTON #1	GARRETT	1.0	CITIES SERVICE CO
8356718	22842	3507121953		103		SPROW #1	GARRETT	1.0	CITIES SERVICE CO
-HONEYMON DRILLING CO LTD				RECEIVED:	09/23/83	JA: OK	GARRETT	1.0	CITIES SERVICE CO
8356775	6640	3501721148		103		ANDERSON #1			
8356896	06639	3501721079		103		HOSTER #1	YUKON NE	190.0	PHILLIPS PETROLEU
-HPC INC				RECEIVED:	09/23/83	JA: OK	YUKON	0.0	
8356725	22567	3501721687		103		SHRCKA #2			
-INEXCO OIL COMPANY				RECEIVED:	09/23/83	JA: OK	NORTH FORK	0.0	PHILLIPS PETROLEU
8356710	22087	3503920769		102-2		BASLER #1-8			
8356698	22084	3503920839		102-2		DAUGHERTY #1-9	N W BUTLER	550.0	PANHANDLE EASTERN
8356700	22086	3503920815		102-2		GUARTNEY #1-23	WEST BUTLER	547.5	
8356905	25406	3503920911		107-DP		QUIRING #1-34	N W HAMMON	913.0	TRANSWESTERN PIPE
-IRAE RONGEY				RECEIVED:	09/23/83	JA: OK	S E WEATHERFORD	1460.0	
8356705	21378	3503726119		102-2		BROWN #1 35-037-26119	GLENNPOOL	18.0	PHILLIPS PETROLEU
8356706	21379	3503723984		102-2		SMITH #1 35-037-23984	GLENNPOOL	40.0	PHILLIPS PETROLEU
-J R THOMPSON				RECEIVED:	09/23/83	JA: OK			
8356890	23690	3511122429		108		DEHHAM 1A		16.0	PHILLIPS PETROLEU
8356721	23399	3511100000		108		MILNER 2A		19.0	PHILLIPS PETROLEU
8356889	23689	3511121684		108		SIMS 1A		5.0	PHILLIPS PETROLEU
8356888	23688	3511122121		108		SIMS 2A		8.0	PHILLIPS PETROLEU
8356891	23691	3511122958		108		SOUDER #2	NE SW NE SECTION 2 14	14.0	PHILLIPS PETROLEU
-JACK OIL CO				RECEIVED:	09/23/83	JA: OK			
8356893	23894	3513700000		108		FISHER #1	W MARLOW	4.0	NATURAL GAS OPERA
-JAMES C MEADE				RECEIVED:	09/23/83	JA: OK			
8356823	20045	3515120846		108		EBERLY & MEADE STONER #1-11	WEST DACOMA	9.0	MICHIGAN WISCONSI
-JEFFREY OIL CO				RECEIVED:	09/23/83	JA: OK			
8356761	23701	3511100000		103		GLORIA #1	BALDHILL	36.5	PHILLIPS PETROLEU
-JONES & PELLOW OIL CO				RECEIVED:	09/23/83	JA: OK			
8356748	23732	3501922600		103		CARTER #14-1		0.0	MOBIL OIL CORP
-KEITH F WALKER				RECEIVED:	09/23/83	JA: OK			
8356875	23456	3501900000		103		GILL #1-18	WEST HEWITT	7.3	AMINOIL USA INC
-L E JONES PRODUCTION COMPANY				RECEIVED:	09/23/83	JA: OK			
8356813	24002	3501922690		103		FLETCHER #1		33.0	MOBIL OIL CORP
-L G WILLIAMS OIL COMPANY INC				RECEIVED:	09/23/83	JA: OK			
8356850	23613	3504321560		103		HOLSAPPLE #1-22	W OAKWOOD	1.0	
-L R FRENCH JR				RECEIVED:	09/23/83	JA: OK			
8356713	23704	3509322624		103		CHEYENNE #1	CHEYENNE VALLEY	321.0	DELHI GAS PIPELIN
8356712	23703	3509322629		103		MAGNESS #1	CHEYENNE VALLEY	288.0	DELHI GAS PIPELIN
8356714	23705	3509322630		103		VALLEY 1-29	CHEYENNE VALLEY	292.0	DELHI GAS PIPELIN
-LANCER ENERGY CORP				RECEIVED:	09/23/83	JA: OK			
8356854	23623	3508300000		103		WILLIS #1	SOONER TREND	0.0	EASON OIL CO
-LEEDE OIL & GAS INC				RECEIVED:	09/23/83	JA: OK			
8356808	25399	3500720567		172-DP		BAKER #1	MAYFIELD	1398.0	EL PASO NATURAL G
-LONG ROYALTY CO				RECEIVED:	09/23/83	JA: OK			
8356882	22861	3501100000		103		CHEYENNE ARAPAHO TRIBAL LANDS #1-6	NORTHWEST CANTON	300.0	PHILLIPS PETROLEU
-M & H OIL PROPERTIES INC				RECEIVED:	09/23/83	JA: OK			
8356828	22241	3511124053		103		DARLENE #1	BALD HILL	0.0	PHILLIPS PETROLEU
-MACKELLAR INC				RECEIVED:	09/23/83	JA: OK			
8356872	23586	3507323580		103		PARSONS #2	SOONER TREND	0.0	CONOCO INC
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	09/23/83	JA: OK			
8356760	22827	3515121247		103		SHIRE #2	S E ALINE	11.0	
-MAY PETROLEUM INC				RECEIVED:	09/23/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356786	21911	3510321725		102-4		RAGAN #1		109.5	
8356871	23585	3501722385		103		WARREN #1		54.8	
-MICHIGAN WISCONSIN PIPE LINE CO				RECEIVED:	09/23/83	JA: OK			
8356810	19504	3504321510		103		DROKE #1-10	SQUAW CREEK	0.5	
				RECEIVED:	09/23/83	JA: OK			
-MONSANTO COMPANY				108-ER		THOMPSON #1	VICI SW	33.0	TRANSWESTERN PIPE
8356751	21561	3504320419		RECEIVED:	09/23/83	JA: OK			
-MORGAN & SIEINERT INC				103		EVELYN #1	SOONER TREND	0.0	EXXON CO USA
8356892	23693	3504723363		RECEIVED:	09/23/83	JA: OK			
-MULTISTATE PROPERTIES NV				108		ALVA HOWARD 1-33	MOCANE-LAVERNE	15.0	NORTHERN NATURAL
8356733	20953	3500721469		RECEIVED:	09/23/83	JA: OK			
-MURCHISON EXPLORATION CO				103		TURVILL #1-3	WEST CALVIN	36.0	
8356727	23699	3506321752		RECEIVED:	09/23/83	JA: OK			
-MUSTANG PRODUCTION CO.				102-4		YOUNG & COOPER #1-26	RED OAK	350.0	ARKANSAS LOUISIAN
8356864	21888	3507720234		RECEIVED:	09/23/83	JA: OK			
-NATOMAS NORTH AMERICA INC				102-2		MCCOY #1-32		730.0	EL PASO NATURAL G
8356824	22226	3500920499		RECEIVED:	09/23/83	JA: OK			
-NORTH CENTRAL DRILLING CO INC				103		WARD/WALKER #1 881-76824-1	EAST DAVENPORT	60.0	NATURAL GAS ENTER
8356814	24016	3508121982		RECEIVED:	09/23/83	JA: OK			
-NORTHWEST EXPLORATION COMPANY				102-2		GOSS #1		400.0	PRODUCERS GAS CO
8356809	17808	3503920588		RECEIVED:	09/23/83	JA: OK			
-NOVA ENERGY CORPORATION				102-2		REIMAN #1-22		0.0	PRODUCERS GAS CO
8356753	22064	3503920835		RECEIVED:	09/23/83	JA: OK			
-O I L ENERGY INC				102-2		JENSEN #2-28	N E UNION CITY	1.0	PHILLIPS PETROLEU
8356689	21796	3501722216		RECEIVED:	09/23/83	JA: OK			
-O N SELLERS				103		ALMA ROSS #2		21.9	PHILLIPS PETROLEU
8356686	23488	3511122714		RECEIVED:	09/23/83	JA: OK			
-OFS-TULSA CORP				103		BARBARI #1-8	SOONER TREND	37.0	CITIES SERVICE CO
8356853	23620	3504723117		103		JORDAN #3-36	SOONER TREND	190.0	EASON OIL CO
8356851	23617	3504723176		103		WHITE #3-36	SOONER TREND	82.0	EASON OIL CO
8356852	23619	3504723177		RECEIVED:	09/23/83	JA: OK			
-OMEAL DRILLING				102-2		HARNED A-1	SOUTH GUTHRIE	12.0	BUCKEYE NATURAL G
8356837	21950	3508300000		RECEIVED:	09/23/83	JA: OK			
-PATE OIL CO				108		ROOT-MCCONNELL #1-23	NORTH SALOM PROSPECT	21.0	NORTHERN NATURAL
8356806	23969	3504500000		RECEIVED:	09/23/83	JA: OK			
-PAUL WALKER				102-2	103	UNICE #3	HULEN	36.0	ARKANSAS-LOUISIAN
8356758	22197	3503320675		RECEIVED:	09/23/83	JA: OK			
-PETRO-LEWIS CORPORATION				108		BLACKBURN 16-1	SOONER TREND	0.0	UNION TEXAS PETRO
8356736	20800	3509300000		108		FOUTS 9-1	SOONER TREND	0.0	PHILLIPS PETROLEU
8356737	20802	3509300000		108		IRTLE EDWARDS 11-1	SOONER TREND	0.0	PHILLIPS PETROLEU
8356738	20801	3509300000		108-FB		LEWIS #18-1	MISSISSIPPI & OSWEGO	0.0	PARTNERSHIP PROPE
8356772	16170	3508030000		103		MCCRACKEN #12-2	AMES	10.3	PARTNERSHIP PROPE
8356833	23934	3509300000		RECEIVED:	09/23/83	JA: OK			
-PHILLIPS PETROLEUM COMPANY				108		ADLAI A #1	GUYMON S - MORROW	0.0	PANHANDLE EASTERN
8356897	18046	3513900000		103		ALIG TRUST A #1	WEST OKARCHE	0.0	
8356832	23780	3501722496		108		LOESCH A #2	COMO SE UPPER MORROW	0.0	EL PASO NATURAL G
8356788	23377	3500700000		103		RICE E #1	N CUSTER CITY	0.0	
8356780	21642	3503920816		RECEIVED:	09/23/83	JA: OK			
-PLAINS PRODUCTION INC				103		DEWITT LITTLECHIEF #1	YALE	25.0	PHILLIPS PETROLEU
8356704	21895	3511921462		RECEIVED:	09/23/83	JA: OK			
-PLAINS RESOURCES INC				102-4	103	ROBBERSON #13-15		0.0	PHILLIPS PETROLEU
8356904	21968	3501722399		RECEIVED:	09/23/83	JA: OK			
-PSEC INC				107-TF		BOREN #1-34		0.0	EL PASO NATURAL G
8356792	21564	3508121751		102-4		CLINKINGBEARD #1-2		0.0	EL PASO NATURAL G
8356895	25323	3508122081		102-4		FREUNDT #1-36		0.0	
8356752	21563	3508322109		107-TF		HARPER-STINE #1-28		0.0	EL PASO NATURAL G
8356798	22277	3508121789		107-TF		MATTHEWS #1A-4		0.0	EL PASO NATURAL G
8356796	22275	3508121398		107-TF		RACKLEY #1-35		0.0	EL PASO NATURAL G
8356793	21565	3508121752		107-TF		STANBERRY #1-31		0.0	EL PASO NATURAL G
8356794	21566	3508121786		107-TF		STEIN #2-3		0.0	EL PASO NATURAL G
8356894	25322	3508122034		102-4		VAN GUNDY #1-36		0.0	EL PASO NATURAL G
8356795	21567	3508121780		107-TF		WHITNAH #1-34		0.0	EL PASO NATURAL G
8356797	22276	3508121815		107-TF		RICKS #1	MOUNDS	10.0	PRODUCTION SYSTEM
-QUAD OPERATING COMPANY				RECEIVED:	09/23/83	JA: OK			
8356770	19461	3511100000		108		REDD #5		0.0	PHILLIPS PETROLEU
-QUASIUS DAVID				RECEIVED:	09/23/83	JA: OK			
8356831	23776	3511100088		103		BENNETT/SWANSON #1 037-76957	MANNFORD	12.0	ARCO OIL & GAS CO
-R & M PETROLEUM INC				RECEIVED:	09/23/83	JA: OK			
8356859	23645	3503724438		102-4		N J CAMPBELL #1	PINGWOOD	499.0	UNION TEXAS PETRO
-RACHALK PRODUCTION INC				RECEIVED:	09/23/83	JA: OK			
8356826	22233	3500321023		103		PLOTNER - MICHAEL ALAN #2	NORTH PIEDMONT	18.0	PHILLIPS PETROLEU
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	09/23/83	JA: OK			
8356884	23660	3501722467		108		SEBA #1	SE CALVIN	7.2	HILLTOP INVESTMEN
-RAM PETROLEUM CORP				108		SEBA GOURLEY (GOURLEY)	SE CALVIN	21.3	HILL TOP INVESTME
8356768	20842	3506320974		108		SEBA GOURLEY (KUHLMAN)	SE CALVIN	16.6	HILL TOP INVESTME
8356766	20841	3506321203		RECEIVED:	09/23/83	JA: OK			
8356767	20845	3506321202		103		BROWNS CREEK #3	BROWNS CREEK	0.0	COLORADO GAS COMP
-RBM OIL CO INC				RECEIVED:	09/23/83	JA: OK			
8356762	23721	3503724369		108		BOZELL #1	N W OKEENE	275.0	PIONEER GAS PRODU
-RED EAGLE OIL CO				RECEIVED:	09/23/83	JA: OK			
8356867	23536	3509326650		103		HONEYSUCKLE #1		11.0	PHILLIPS PETROLEU
-REMMER OIL CO				RECEIVED:	09/23/83	JA: OK			
8356856	23641	3515300000		108		WILLIAMS #15-1	NORTH CRAIG FIELD	6.0	TRANS-GAS CO
-RH OPERATING CO				108		WILLIAMS #15-4	NORTH CRAIG	6.0	TRANS-GAS CO
8356739	23795	3503520512		RECEIVED:	09/23/83	JA: OK			
8356728	23797	3503520546		102-4	103	MARQUIS RAYNOR 14A	WILDCAT	5.0	
-RICKS EXPLORATION CO				102-2		STATE #16-A	W HINTON	20.0	ARCO OIL & GAS CO
8356898	19190	3503920594		RECEIVED:	09/23/83	JA: OK			
8356699	22069	3511922061		103		T S HOLLOWAY #2-20	MAYSVILLE	36.5	WARREN PETREUM CO
-ROLLYSON CORP				RECEIVED:	09/23/83	JA: OK			
8356886	23678	3504922101		103		HARVEY #1	LENAPAH	18.0	NORTHWEST PIPELIN
-RUBY OPERATING CO				RECEIVED:	09/23/83	JA: OK			
8356763	23741	3510526179		103		KUSCH #5-2		15.0	PHILLIPS PETROLEU
-SABINE CORP				RECEIVED:	09/23/83	JA: OK			
8356858	23644	3509322685		108		ISSAAC SMOKER D #1		0.0	OKLAHOMA GAS & EL
-SABINE PRODUCTION COMPANY				108		WILLIAMS #1		0.0	NORTHERN NATURAL
8356866	23527	3504320606		RECEIVED:	09/23/83	JA: OK			
8356865	23526	3500700000		102-4	103	ELZA #1	EAST PUTNAM	73.0	HYDROCARBON SERVI
-SAMSON RESOURCES COMPANY				102-4	103	SUE #1	EAST PUTNAM	109.5	HYDROCARBON SERVI
8356702	18572	3504321524		102-4	103	VERGIE #1	EAST PUTNAM	13.7	HYDROCARBON SERVI
8356701	18289	3504321459		RECEIVED:	09/23/83	JA: OK			
8356703	19373	3504321532		103		INEZ BONNEY #1	CLEARVIEW FIELD	24.1	PHILLIPS PETROLEU
-SAND ROCK PETROLEUM INC				RECEIVED:	09/23/83	JA: OK			
8356876	23459	3510721456							
-SANTA FE-ANDOVER OIL CO									

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8356754	22117	3505121242		102-4	103	RATTERMAN #20-1		180.0	DELHI GAS PIPELIN
-SEAGULL OPERATING CO INC				RECEIVED:	09/23/83	JA: OK			
8356870	23584	3510721487		103		FIXICO #1	NORTH CASTLE	91.0	GOLDEN ARROW GAS
-SENECA OIL CO				RECEIVED:	09/23/83	JA: OK			
8356707	21771	3501722210		102-4		NODGES #1-29		62.1	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	09/23/83	JA: OK			
8356773	10917	3515120961		108-FB		DEVINE #1-13	S W FREEDOM	14.7	PANHANDLE EASTERN
-SOUTHWESTERN ENERGY PRODUCTION CO				RECEIVED:	09/23/83	JA: OK			
8356844	23492	3503920735		103		OGLE #1	ARAPAHO	0.0	NATURAL GAS PIPEL
-STANTON ENERGY INC				RECEIVED:	09/23/83	JA: OK			
8356719	23491	3514322453		103		CAMPBELL #1	KEYSTONE	100.0	COLORADO GAS COMP
8356696	22018	3514322333		102-4	103	LUVENA #1	KEYSTONE	25.0	COLORADO GAS COMP
-STEVE JERNIGAN INC				RECEIVED:	09/23/83	JA: OK			
8356836	08473	3509321948		103		EDWARDS #6	CHEYENNE VALLEY	0.0	PHILLIPS PETROLEU
8356694	21976	3501722348		102-2		ROYSE BROTHERS #4		0.0	PHILLIPS PETROLEU
8356693	21975	3501722376		102-2		ROYSE BROTHERS #5		0.0	PHILLIPS PETROLEU
8356692	21974	3501722377		102-2		ROYSE BROTHERS #6		0.0	PHILLIPS PETROLEU
8356691	21973	3501721196		102-2		SPEAR #1		0.0	PHILLIPS PETROLEU
-STEVE JERNIGAN OIL & GAS				RECEIVED:	09/23/83	JA: OK			
8356774	08956	3507322825		103		MURPHY A #1		0.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/23/83	JA: OK			
8356731	17015	3507100000		108		GUYER (E BLACKWELL #3-1) #1	N W GARRETT	2.8	CITIES SERVICE CO
-SUNRISE EXPLORATION INC				RECEIVED:	09/23/83	JA: OK			
8356887	23602	2512140600		102-4	103	MEADOWS #1	BAILEY TURNPIKE	458.0	
8356827	22239	3520209290		102-2	103	WILLIAMS #1	S W LEEDY	550.0	
-TARGA OIL & GAS INC				RECEIVED:	09/23/83	JA: OK			
8356741	23175	3508121860		103		WILLMON 1-23	DAVENPORT	12.6	MERIDIAN ENERGY I
-TEMPLETON ENERGY INC				RECEIVED:	09/23/83	JA: OK			
8356887	23596	3503920621		103		EYSTER #1	CUSTER CITY	182.0	
-TENNECO OIL COMPANY				RECEIVED:	09/23/83	JA: OK			
8356777	25510	3504300000		108		CLYDE COGSWELL #1	SEILING NE	5.8	PANHANDLE EASTERN
8356723	23160	3501900000		108		JIM CARTER "A" #1	CADDO	3.0	UNION OIL CO OF C
8356840	21981	3512920911		102-2		RATCLIFF 1-7	S E STRONG CITY	185.0	DELHI GAS PIPELIN
-TEXACO INC				RECEIVED:	09/23/83	JA: OK			
8356729	2806	3509500000		108-ER		A L DANEY #2	AYLESHORTH	15.2	PIONEER GAS PRODU
8356722	23598	3508323006		103		S W TITLE & TRUST "B" #1	OKARCHE N E	0.0	CONOCO INC
-TEXAS AMERICAN OIL CORP				RECEIVED:	09/23/83	JA: OK			
8356838	23748	3504722579		103		D HARTICK #1-29	SOONER TREND	36.5	PHILLIPS PETROLEU
-THE WIL-MC OIL CORP				RECEIVED:	09/23/83	JA: OK			
8356821	23815	3511922032		103		BLAIR "C" #1	S W STILLWATER	9.0	SUN GAS TRANSMISS
8356820	23813	3511922150		103		BLAIR "C" #2	S W STILLWATER	9.0	SUN GAS TRANSMISS
8356822	23816	3511921818		103		BOSTIAN "C" #1	S E RAMSEY	10.0	SUN GAS TRANSMISS
8356726	23497	3505321036		103		EDIGER TRUST #1	EAST WAKITA	9.0	SUN EXPLORATION &
8356819	23812	3510321782		103		FREEMAN #1	POLO	86.0	TRANSOK PIPE LINE
8356711	23490	3508322000		103		KNIGHTLINGER #1	LANGSTON SOUTH	26.0	SUN EXPLORATION &
-TIDEMARK EXPLORATION CO				RECEIVED:	09/23/83	JA: OK			
8356843	22088	3504521103		102-4	103	PEER #1-24	SOUTH GAGE	246.4	PHILLIPS PETROLEU
-TOM F MARSH				RECEIVED:	09/23/83	JA: OK			
8356759	22464	3502500000		108-ER		MINNS A-2	KEYES FIELD	14.0	COLORADO INTERSTA
-TOWNER PETROLEUM CO				RECEIVED:	09/23/83	JA: OK			
8356791	21453	3501521049		102-4	103	FRANK EDGE #11-1		0.0	PIONEER GAS PRODU
8356899	20389	3501521207		102-4	103	J W DUNCAN #12-1		0.0	PIONEER GAS PRODU
8356839	21957	3501722337		102-2		LEIGHTON #5-1		0.0	
8356765	21525	3501521157		102-3		OPITZ #1-1		0.0	ARKANSAS LOUISIAN
-TRINEHA INC				RECEIVED:	09/23/83	JA: OK			
8356846	23576	3501722407		103		HARGIS 1-34	S W MUSTANG	12.0	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	09/23/83	JA: OK			
8356698	21812	3503920851		102-2		KAUK A-1	SW ALEDO	1478.0	DELHI GAS PIPELIN
8356778	23685	3515121341		103		WHIPPLE #2	NE WAYNOKA	0.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	09/23/83	JA: OK			
8356735	20726	3504700000		108		KNECHT J W #1	HODGE E	42.8	PANHANDLE EASTERN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	09/23/83	JA: OK			
8356857	23642	3505121296		103		SCHAUB #1	WEST CHICKASHA	130.0	UNITED GAS PIPE L
-VALIDUS, INC.				RECEIVED:	09/23/83	JA: OK			
8356734	22503	3505321032		103		BROWN "15" #2	LAMONT	31.0	FARMLAND INDUSTRI
-VULCAN ENERGY CORP				RECEIVED:	09/23/83	JA: OK			
8356740	22856	3507323527		103		SCHOELEN #2	SOONER TREND	113.2	PHILLIPS PETROLEU
-VULCAN OIL & GAS CORP				RECEIVED:	09/23/83	JA: OK			
8356878	23466	3511720946		103		JASON #1	E MARAMEC	37.0	COLORADO GAS COMP
8356868	23568	3511721001		103		MICHAEL #1	ERYAN	24.0	COLORADO GAS COMP
8356869	23569	3511721048		103		MICHAEL #3	BRYAN	23.0	COLORADO GAS COMP
8356877	23666	3511720967		103		TODD #1	E MARAMEC	18.0	COLORADO GAS COMP
-WESTWIND PRODUCTION CO INC				RECEIVED:	09/23/83	JA: OK			
8356860	23647	3512300000		103		SURGHEER #3	EAST FRANCIS	0.0	CONTINENTAL GAS S
-WESTWOOD ENERGY INC				RECEIVED:	09/23/83	JA: OK			
8356842	22003	3511921182		102-4		STANDEFER #1 (119-63169)	MARKHAM NORTH	18.9	PHILLIPS PETROLEU
-WHITE HACKLE RESOURCES INC				RECEIVED:	09/23/83	JA: OK			
8356803	23005	3510121736		103		WEEKS #1	BALD HILL	42.0	
-WILLIAM M DAVIS				RECEIVED:	09/23/83	JA: OK			
8356818	23807	3505321103		103		INA RAGAINS #1	WAKITA TREND	188.0	NORTHWEST CENTRAL
-WOODS PETROLEUM CORPORATION				RECEIVED:	09/23/83	JA: OK			
8356755	22124	3512920897		102-2		BUD SWITZER #9-2	SW LEEDEY	683.0	DELHI GAS PIPELIN
-101 ENERGY CORP				RECEIVED:	09/23/83	JA: OK			
8356834	20967	3504722764		103		KENNEDY 22-1	SOONER TREND	0.0	WELLHEAD ENTERPRI

[FR Doc. 83-28314 Filed 10-17-83; 8:45 am]

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VOL
48
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202
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federal register

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October 18, 1983

Part VIII

Committee for Purchase From the Blind and Other Severely Handicapped

Procuremet List 1984; Establishment

VOL
48
ISS
202
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18
1983
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COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Establishment

The Committee for Purchase from the Blind and Other Severely Handicapped was established by Pub. L. 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48c) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the **Federal Register** a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency

which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by Sections 102 and 105 of Title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to Section 2 of the Act that Procurement List 1984 is established as set forth below. Procurement List 1984 supersedes Procurement List 1983, November 18, 1982 (47 FR 52101) and subsequent changes thereto through October 14, 1983.

Any proposed additions or deletions to Procurement List 1983 pending on this date shall be considered as pending and applicable to Procurement List 1984.

By the Committee.

C. W. Fletcher,

Executive Director.

Assignment Codes

Central Nonprofit Agency and Code

National Industries for the Blind—IB
National Industries for the Severely Handicapped—SH

Commodities

Class 1005

Sling, Adjustable, Small Arms (IB), 1005-00-167-4336.
Sling, Padded, Adjustable (IB), 1005-00-312-7177.
Swab, Small Arms Cleaning (IB), 1005-00-912-4248, 1005-00-288-3565.

Class 1095

Scabbard, Bayonet-Knife (IB), 1095-00-508-0339.

Class 1220

Case, Carrying (IB), 1220-00-765-5870, 1220-00-937-8286.

Class 1430

Circuit Card Assembly (SH), 1430-00-409-7997, 1430-00-421-4036.

Class 1660

Harness Assembly (SH), 1660-00-066-2078.

Class 1670

Message Dropper (SH), 1670-00-797-4495.

Class 1680

Wire Bundle Assemblies (SH), 1680-00-881-4215, 1680-00-884-0409, 1680-00-894-3991, 1680-01-125-9648, 1680-00-919-3706, 1680-00-883-4487, 1680-00-222-3876, 1680-00-826-7752, 1680-00-974-5275, 1680-00-974-5276, 1680-00-998-8594.

Class 1730

Chock Assembly, Wheel Unpainted (IB), 1730-00-294-3694, 1730-00-063-4095, 1730-00-294-3696, 1730-00-294-3695, 1730-00-945-8450, 1730-00-163-8317 (4 x 6 x 24"), 1730-00-NIB-001A 2" x 4" x 8" (std), 1730-00-NIB-001B 6" x 8" x 18" (std), 1730-00-NIB-001C 6" x 8" x 76" (std), 1730-00-NIB-001D 8" x 12" (U-shaped), 1730-00-NIB-001E 10" x 20" (U-shaped).
Chock Assembly, Wheel Painted (IB), 1730-00-294-3694, 1730-00-063-4095, 1730-00-294-3696, 1730-00-294-3695, 1730-00-945-8450, 1730-00-163-8317 (4 x 6 x 24"), 1730-00-NIB-001A 2" x 4" x 8" (std), 1730-00-NIB-001B 6" x 8" x 18" (std), 1730-00-NIB-001C 6" x 8" x 76" (std), 1730-00-NIB-001D 8" x 12" (U-shaped), 1730-00-NIB-001E 10" x 20" (U-shaped).
Chock Assembly, Wheel, Codit Reflecting (IB), 1730-00-294-3694, 1730-00-063-4095, 1730-00-294-3696, 1730-00-294-3695, 1730-00-945-8450, 1730-00-163-8317 (4 x 6 x 24"), 1730-00-NIB-001A 2" x 4" x 8" (std), 1730-00-NIB-001B 6" x 8" x 18" (std), 1730-00-NIB-001C 6" x 8" x 76" (std), 1730-00-NIB-001D 8" x 12" (U-shaped), 1730-00-NIB-001E 10" x 20" (U-shaped).
Chock Assembly, Wheel Reflective Tape (IB), 1730-00-294-3694, 1730-00-063-4095, 1730-00-294-3696, 1730-00-294-3695, 1730-00-945-8450, 1730-00-163-8317 (4 x 6 x 24"), 1730-00-NIB-001A 2" x 4" x 8" (std), 1730-00-NIB-001B 6" x 8" x 18" (std), 1730-00-NIB-001C 6" x 8" x 76" (std), 1730-00-NIB-001D 8" x 12" (U-shaped), 1730-00-NIB-001E 10" x 20" (U-shaped).

Class 2090

Weight, Canvas Bag (IB), 2090-00-845-9150.

Class 2540

Belt, Automobile, Safety (IB), 2540-00-894-1273, 2540-00-894-1275, 2540-00-894-1274, 2540-00-894-1276.
Cushion Assembly, Back Rest (SH), 2540-00-737-3306.
Cushion Assembly, Seat Back (SH), 2540-01-065-6288.
Cushion Seat, Vehicular (SH), 2540-00-808-3811.
Kit, Deep Water Fording (SH), 2540-00-473-0111.
Mirror and Bracket Assembly (SH), 2540-00-575-8392.

Class 3510

Net, Laundry (IB), 3510-00-273-9738, 3510-00-273-9439.

Class 3920

Truck, Hand (IB), 3920-00-847-1305.

Class 3990

Pallet, Material Handling (SH), 3990-00-222-1051, 3990-00-555-0458, Sharpe Army Depot, Lathtop, CA only, 3990-00-599-5326, Mechanicsburg, PA depot only, 3990-00-935-7826, Pine Bluff Arsenal only.
Pallet, Warehouse (SH), 3990-00-NSH-0011 40 x 44". Army and Air Force Exchange Service, Oakland Army Base, CA only.
Pallet, Wood (SH), 3990-00-366-6806, 3990-00-77-1721, New Cumberland Army depot only, 3990-00-NSH-0001 (48 x 40 x 36"), Social Security Administration, Baltimore, MD only, 3990-00-NSH-0005 (24 x 20"), New Cumberland Army depot only.

Class 4130

Filter, Air Conditioning (IB), 4130-00-870-8796 Rgns 4 and 5, 4130-00-274-7800 Rgns 2,3,4,5,6,7,8,9,10, 4130-00-541-3220 Rgns 4 and 5, 4130-00-756-1840 Rgns 2,3,4,5,6,7,8,9,10, 4130-00-720-4143 Rgns 4 and 5, 4130-00-249-0966 Rgns 2,3,4,5,6,7,8,9,10, 4130-00-203-3318 Rgns 4 and 5, 4130-00-203-3321 Rgns 2,3,4,5,6,7,8,9,10, 4130-00-542-4482 Rgns 4 and 5, 4130-00-959-4734 Rgns 4 and 5, 4130-00-756-0978 Rgns 4 and 5, 4130-00-951-1208 Rgns 4 and 5.

Class 4240

Bag, Waterproofing (IB), 4240-00-377-9401.
Harness, Head (SH), 4240-00-690-8765, 4240-00-961-1064.

Class 4820

Valve, Ball (SH), 4820-00-052-4651, 4820-00-052-4653.

Class 4910

Creeper, Mechanic's (SH), 4910-00-251-6981, 4910-00-106-7834, 4910-00-NSH-0001.

Class 5120

Screwdriver, Cross-Tip (SH), 5120-00-820-2995, 5120-00-080-2004, 5120-00-224-7370, 5120-00-529-3101, 5120-00-227-7293, 5120-00-234-8913, 5120-00-542-3438, 5120-00-224-7375, 5120-00-596-0866, 5120-00-237-8174, 5120-00-580-2361.
Screwdriver Set, Cross-Tip (SH), 5120-00-357-7175, 5120-00-580-0334.
Screwdriver, Flat-Tip (SH), 5120-00-278-1269, 5120-00-289-9662, 5120-00-287-2504, 5120-00-287-2505, 5120-00-278-1267, 5120-00-541-3004, 5120-00-288-7803, 5120-00-236-2127, 5120-00-278-1270, 5120-00-227-7356, 5120-00-280-4837, 5120-00-227-7334, 5120-00-278-1268, 5120-00-293-0314, 5120-00-337-2465, 5120-00-540-0563, 5120-00-180-0708, 5120-00-222-8866, 5120-00-596-8502, 5120-00-278-1273, 5120-00-062-0613, 5120-00-293-3311, 5120-00-222-8652, 5120-00-596-9364, 5120-00-293-0315, 5120-00-293-3309, 5120-00-227-7377, 5120-00-180-3490, 5120-00-236-2140, 5120-00-062-8454, 5120-00-720-4969.

Class 5140

Bag, Tool (IB), 5140-00-772-4142.
Bag, Tool (SH), 5140-00-473-6256.
Tool Box, Portable (SH), 5140-00-289-8911, 5140-00-289-8910.

Class 5350

Mat, Abrasive (IB), 5350-00-967-5089, 5350-00-967-5093, 5350-00-967-5092.

Class 5440

Stepladder (IB), 5440-00-514-4483, 5440-00-514-4485, 5440-00-514-4487, 5440-00-171-9836, 5440-00-227-1592, 5440-00-227-1593, 5440-00-227-1594, 5440-00-227-1595, 5440-00-227-1596, 5440-00-531-2589.

Class 5510

Lath, Wood (SH), 5510-00-NSH-0002 (⅝ x 1½ x 36"), 5510-00-NSH-0003, (⅜ x 1½ x 48"), BLM and U.S. Forest Service in Washington and Oregon only.
Stake, Wood (SH), 5510-00-NSH-0001, BLM and 5 Oregon locations only, U.S. Forest Service in Washington and Oregon only.
Stakes, Wood, Location (SH), 5510-00-171-7701, 5510-00-171-7700, 5510-00-171-7734.
Stakes, Wood, Hub (SH), 5510-00-171-7733, 5510-00-171-7732.
Wedge Wood (SH), 5510-00-640-9237.

Class 5660

Fasteners, Fence Post (SH), 5660-00-148-7251.

Class 5826

Circuit Card Assembly (SH), 5826-00-237-9949.

Class 5940

Adapter, Battery Terminal (SH), 5940-00-549-6583, 5940-00-549-6581.

Class 6150

Cable Assembly, Power (SH), 6150-00-935-8799, 6150-00-507-8852.

Class 6230

Flashlight (SH), 6230-00-163-1856.
Lantern, Electric, Head (SH), 6230-00-643-3562.
Light, Desk (SH), 6230-00-299-771, 6230-00-662-3423.
Light, Marker Distress (SH), 6230-00-892-5192.
Light, Marker, Distress (with pouch) (SH), 6230-00-067-5209.
Light, Marker, Distress (without pouch) (SH), 6230-00-938-1778.

Class 6505

Ammonia Inhalant Solution, Aromatic (SH), 6505-00-106-0675.
Iodine Ampoules, NF (SH), 6505-00-664-1408.
Thimerosal Tincture, NF (SH), 6505-00-664-6911.

Class 6510

Bandage, Muslin, Compressed, Camouflaged (SH), 6510-00-201-1755.

Class 6515

Case, Ear Plug (SH), 6515-00-299-8287 (80% of Government Requirement).
Kit, Suture Removal (IB), 6515-00-890-6911.
Tourniquet, Non-Pneumatic (IB), 6515-00-383-0565.

Class 6520

Toothbrush, Aspiration (SH), 6520-01-085-3438.

Class 6530

Bag, Urine Collection (SH), 6530-00-057-0953, 6530-00-761-0932, 6530-00-761-0936.
Cover, Litter (IB), 6530-00-784-1035, 6530-00-784-1250.
Drape, Surgical (IB), 6530-00-299-9606, 6530-00-299-9607, 6530-00-299-9605, 6530-00-299-9604.
Kit, Shaving Surgical Preparation (IB), 6530-00-676-7372.
Litter, Folding (IB), 6530-00-783-7905.
Pad, Cooling, Chemical (SH), 6530-00-133-5299.
Pad, Examining Table (IB), 6530-00-960-6616.
Pad, Hospital Stretcher (IB), 6530-00-289-0004.
Pad, Litter (IB), 6530-00-137-3016.
Strap, Webbing Patient Securing (IB), 6530-00-784-4205.
Surgical Pack, Disposable (IB), 6530-00-103-6659.
Urinal, Incontinent (IB), 6530-01-004-8969, 6530-00-290-8292, 6530-01-081-5304, 6530-01-081-5303.
Urinary Drainage Set (SH), 6530-01-056-3659.
Wrapper, Sterilization (IB), 6530-00-299-9603, 6530-00-197-9223, 6530-00-197-9228, 6530-00-197-9283, 6530-00-926-4902, 6530-00-926-4903, 6530-00-926-4904, 6530-00-926-4905.

Class 6532

Cap, Operating, Surgical (IB), 6532-00-299-9614, 6532-00-299-9613, 6532-00-299-9612.
Cap, Operating, Surgical (SH), 6532-00-250-5042, 6532-00-083-6545, 6532-00-250-5041, 6532-00-122-0468.
Clothing, Operating Room (SH), 6532-00-261-9005, 6532-00-290-1887, 6532-00-172-3509, 6532-00-172-3507, 6532-00-172-3506, 6532-00-158-9890, 6532-00-009-7174.
Dress, Operating, Surgical (SH), 6532-00-149-0464, 6532-00-149-0465, 6532-00-149-0466, 6532-00-149-0467, 6532-00-149-0472, 6532-00-149-0473.
Gown, Hospital (SH), 6532-00-104-9895.
Gown, Hospital, Patient's Bedshirt (SH), 6532-01-005-8411, 6532-01-005-8412.
Gown, Hospital Personnel (SH), 6532-01-045-5380, 6532-01-045-5381.
Gown, Operating, Surgical (SH), 6532-00-009-2034, 6532-00-009-2035.
Gown, Patient Examining (SH), 6532-00-421-7828.
Pajamas, Ladies (SH), 6532-00-NSH-0001, 6532-00-NSH-0002, 6532-00-NSH-0003, 6532-00-NSH-0004.
Pillowcase, Disposable (IB), 6532-01-125-3269.
Robe, Dressing, Nomex (SH), 6532-00-003-3057, 6532-00-008-3482.
Robe, Ladies (SH), 6532-00-NSH-0005.
Shirt, Operating, Surgical (SH), 6532-00-149-0322, 6532-00-149-0323, 6532-00-149-0324, 6532-00-149-0325.
Smock, Man's Dental Operating (SH), 6532-00-159-4881, 6532-00-926-9964, 6532-00-926-9975, 6532-00-926-9976.
Suit, Convalescent (SH), 6532-01-076-8664, 6532-01-076-8663, 6532-01-076-7369, 6532-01-076-9788.
Trousers, Operating, Surgical (SH), 6532-00-149-0327, 6532-00-149-0328, 6532-00-149-0329, 6532-00-149-0330.

Class 6540

Case, Spectacles (IB), 6540-01-131-7919, 6540-01-131-7916.

Class 6545

Surgical Dressing Set (IB), 6545-00-105-5826.

Class 6625

Test Set, Lead (SH), 6625-00-553-1442.

Class 6630

Micro Bleeder (IB), 6630-01-NIB-0002.
Tube, Bleeding (IB), 6630-01-NIB-0001.

Class 6645

Clock, Wall (IB), 6645-00-514-3523, 6645-00-530-3342 Rgns 4, 5, 6, 7, 6645-01-046-8848, 6645-01-046-8849.

Class 6695

Sampling Kit, Spectrometric Oil Analysis (IB), 6695-01-045-9820.

Class 6840

Disinfectant, Detergent (IB), 6840-00-687-7904, 6840-00-584-3129, 6840-00-551-8345.

Class 7105

Frame, Picture (SH), 7105-00-053-0170, 7105-00-061-5834, 7105-00-052-8697, 7105-00-052-8695, 7105-00-465-6199, 7105-00-149-1277, 7105-00-297-3398, 7105-00-903-1842, 7105-00-903-1843, 7105-00-149-1282, 7105-00-149-1261, 7105-00-641-4385, 7105-00-966-7356, 7105-00-297-3397, 7105-00-052-8696, 7105-00-149-1276.

Class 7110

Blackboard (SH), 7110-00-132-6851.
Bookcase, Wood, Executive (SH), 7110-00-973-5127.
Credenza (SH), 7110-00-762-5513.
Table, Wood (SH), 7110-00-958-0780, 7110-00-923-7875, 7110-00-903-3061, 7110-00-902-3052.
Tables, Steel (SH), 7110-00-113-0448, 7110-00-113-0454, 7110-00-149-2044, 7110-00-

VOL 48 ISS 202 OCT 18 1983 UMI

-149-2045, 7110-00-149-2046, 7110-00-149-2047.

Class 7195

Bulletin Board (IB), 7195-00-989-2370, 7195-00-844-9036, 7195-00-989-2371, 7195-00-844-9037, 7195-00-989-2372, 7195-00-844-9038, 7195-00-990-0615, 7195-00-843-7936.
Costumer, Wood (SH), 7195-00-132-6642.

Class 7210

Bedspread (IB), 7210-00-728-0186, 7210-00-728-0187, 7210-00-728-0188, 7210-00-728-0189, 7210-00-728-0190, 7210-00-728-0191, 7210-00-728-0173, 7210-00-728-0175, 7210-00-728-0176, 7210-00-728-0177, 7210-00-728-0178, 7210-00-728-0179, 7210-00-408-2800.
Bedspring (IB), 7210-00-582-7540, 7210-00-582-0984, 7210-00-110-8104, 7210-00-582-7541, 7210-00-110-8105.
Blanket, Bed/Bath (Flame-Resistant) (IB), 7210-01-141-2458.
Cover, Bed (IB), 7210-01-116-7860, 7210-01-120-0679, 7210-01-116-7858, 7210-01-116-7859, 7210-01-118-4085, 7210-01-116-7855, 7210-01-116-7856, 7210-01-116-7857, 7210-01-116-7854, 7210-01-116-7853, 7210-01-120-8015, 7210-01-124-7626, 7210-01-120-8013, 7210-01-120-8014, 7210-01-120-8011, 7210-01-120-8010, 7210-01-122-5015, 7210-01-120-8012, 7210-01-125-9250, 7210-01-120-8009, 7210-01-123-5148, 7210-01-120-8017, 7210-01-120-8021, 7210-01-120-8022, 7210-01-120-8018, 7210-01-124-6303, 7210-01-120-8019, 7210-01-120-8020, 7210-01-123-5149, 7210-01-120-8016.
Cover, Mattress (IB), 7210-00-291-8419, 7210-00-205-3083, 7210-00-205-3082, 7210-00-067-7969, 7210-00-998-7745, 7210-00-883-8492, 7210-00-140-4231, 7210-00-140-4234, 7210-00-543-6001, 7210-00-171-1091, 7210-00-935-6619, 7210-00-230-1041, 7210-00-241-9718.
Insect Bar, Nylon (SH), 7210-00-286-9736.
Mattress, Cotton-Felt (IB), 7210-00-139-6517, 7210-00-139-6555, 7210-00-139-6538.
Mattress, Foam (IB), 7210-00-290-8300, 7210-00-275-5873, 7210-00-275-5874, 7210-00-290-8298, 7210-00-290-8297, 7210-00-052-7327, 7210-00-889-3733, 7210-00-290-8299, 7210-00-682-6503, 7210-00-682-6504.
Mattress, Innerspring (IB), 7210-00-205-3585, 7210-00-139-6424, 7210-00-716-0708, 7210-00-139-6411, 7210-00-205-3534, 7210-00-139-6434, 7210-00-139-6428, 7210-00-110-8102, 7210-00-110-8103, 7210-38-75-100, 38 x 75",7210-53-75-100, 53 x 75".
Mattress, Innerspring, Plastic-Coated (IB), 7210-00-995-1093, 7210-00-682-7146, 7210-00-529-3709, 7210-00-NIB-0001, 36 x 75", Veterans Administration requirements only.
Pad, Mattress (IB), 7210-00-227-1526, 7210-00-753-3042.
Pillow, Bed (IB), 7210-00-619-8282, 7210-00-205-3205 (Regional 1 thru 7 only), 7210-00-753-6228, 7210-01-035-3342, 7210-00-894-1144, 7210-01-015-5190 (96,000 each annually), 7210-00-119-5358.
Pillow, Passenger, Headrest (IB), 7210-00-682-6601.
Pillowcase (IB), 7210-00-054-7910, 7210-00-259-9005, 7210-00-259-9006, 7210-00-119-7356, 7210-00-231-2373, 7210-00-259-9004, 7210-00-259-8897, 7210-00-061-1380.
Pillowcase (SH), 7210-00-119-7357, 7210-01-030-5311.
Pillowcase, Disposable (IB), 7210-00-883-8494, 7210-00-852-3417.
Protector, Hospital Bed, Mattress (IB), 7210-00-781-1471, 7210-00-761-1470.
Protector, Hospital Bed, Pillow (IB), 7210-00-958-9118.
Sheet, Bed (IB), 7210-00-299-9611.
Tablecloth (SH), 7210-01-492-8361.
Towel, Bath, Disposable (IB), 7210-00-029-0370.
Washcloth (IB), 7210-01-013-2824.

Class 7220

Mat, Floor (IB), 7220-00-205-3099, 7220-00-224-6487, 7220-00-238-8852, 7220-00-224-6486, 7220-00-238-8854, 7220-00-165-7020, 7220-01-023-9487, 7220-01-023-9489, 7220-01-024-5997, 7220-01-023-9496, 7220-01-023-9490, 7220-01-023-9491, 7220-01-023-9493, 7220-01-023-9494, 7220-01-023-9495.
Mat, Floor (SH), 7220-00-205-3192, 7220-00-205-3182, 7220-00-457-6057, 7220-00-457-6063, 7220-00-151-6519, 7220-00-151-6518, 7220-00-151-6517, 7220-00-477-3063, 7220-00-194-1609, 7220-00-457-6046, 7220-00-457-6054.

Class 7230

Curtain, Shower (IB), 7230-00-205-1762, 7230-00-247-1280.

Class 7290

Cover, Ironing Board (IB), 7290-00-130-3271.

Class 7330

Pad, Bakery (IB), 7330-00-379-4439 (Rgn W,3,5,6,8).
Tongs, Food Serving (SH), 7330-00-616-0997, 7330-00-616-0998, 7330-00-616-1000.

Class 7340

Flatware, Plastic, Heavy Duty (IB), 7340-00-022-1315, 7340-00-022-1316, 7340-00-022-1317, 7340-00-401-8041.
Flatware, Plastic, Picnic (IB), 7340-00-170-8374, 7340-00-205-3187, 7340-00-205-3342.
Spoon, Picnic, Plastic (IB), 7340-00-]19-1300.

Class 7350

Cup, Plastic (SH), 7350-00-721-9003, 7350-00-082-5741, 7350-00-928-1661, 7350-00-145-6126, 7350-00-761-7467, 7350-00-914-5089, 7350-00-914-5088.

Class 7360

Dining Packet (Dietetic) (IB), 7360-00-177-4958, 7360-00-177-4959, 7360-00-177-4960, 7360-00-177-4961, 7360-00-177-4962, 7360-00-177-4963, 7360-00-935-6416, 7360-00-935-6417, 7360-00-935-6420, 7360-00-935-6421.
Dining Packet (IB), 7360-00-935-6407, 7360-00-935-6408, 7360-00-935-6409, 7360-00-935-6410, 7360-00-935-6741, 7360-00-935-6412, 7360-00-935-6413.
Dining Packet, Inflight (IB), 7360-00-660-0526.
Flatware Set, Plastic (IB), 7360-00-834-4800.

Class 7510

Binder, Awards Certificate (IB), 7510-00-115-3250, 7510-00-482-2994, 7510-01-056-1927.
Binder, Looseleaf (IB), 7510-00-281-4309, 7510-00-281-4314, 7510-00-582-4201, 7510-00-281-4310, 7510-00-281-4311, 7510-00-281-4313, 7510-00-281-4315, 7510-00-286-7792, 7510-00-286-7794, 7510-00-582-5488, 7510-00-286-7791, 7510-00-582-3807, 7510-00-782-2863, 7510-00-409-8646, 7510-00-409-8647, 7510-00-984-5787, 7510-00-965-2443.
Binder, Looseleaf, Presentation (IB), 7510-00-582-5398, 7510-00-582-5399, 7510-00-582-5400.
Binder, Note Pad (IB), 7510-00-286-6954, 7510-00-145-0296, 7510-00-728-8060, 7510-00-053-5591.
Board, Wall Calendar (IB), 7510-00-789-2455.
Calendar Pad, (SH), 7510-01-117-7710 (1984), 7510-01-117-7711 (1985).
Clip, Paper (SH), 7510-00-161-4292.
Envelope, Cryatal Clear Vinyl (IB), 7510-00-NIB-0003, 7510-00-NIB-0004, 7510-00-NIB-0005, 7510-00-NIB-0006.
Envelope, Transparent (IB), 7510-00-782-6274, 7510-00-782-6275, 7510-00-782-6278.
Eraser, Mechanical Pencil (IB), 7510-00-307-7885.
File Back (IB), 7510-00-NIB-0002.
File Backer, Paper (IB), 7510-00-285-2567.
File Front (IB), 7510-00-NIB-0001.
Pad, Typewriter (IB), 7510-00-257-2576, 7510-00-530-6412, 7510-00-849-1137.
Paperweight, Shotfilled (IB), 7510-00-286-6985.
Pencil (IB), 7510-00-286-5757, 7510-00-281-5234, 7510-00-281-5235.
Pencil, Fine-Line Writing (IB), 7510-00-286-5755, 7510-00-286-5750, 7510-00-286-5751.
Pencil, Woodcased, with Imprinting (IB), 7510-050-8LP-6521.
Pocket Planning Set (SH), 7510-01-119-6369 (1984), 7510-01-119-6370 (1985).
Portfolio (IB), 7510-00-558-1572, 7510-00-558-1573, 7510-00-995-4856, 7510-00-995-4852, 7510-00-584-2489, 7510-00-584-2490, 7510-00-584-2491, 7510-00-584-2492.
Refill, Ballpoint Pen (IB), 7510-00-543-6792, 7510-00-543-6793, 7510-00-754-2687, 7510-00-543-6795, 7510-00-754-2688, 7510-00-754-2689.
Refill, List Finder, Automatic (SH), 7510-00-285-2800.
Refill, Pocket Planning Set (SH), 7510-01-113-2079.
Sheath, Pen and Pencil (IB), 7510-00-052-2664.

Class 7520

Arch Board File (IB), 7520-00-240-5498, 7520-00-191-1075, 7520-00-255-7081.
Ballpoint Pen (IB), 7520-00-935-7136, 7520-00-935-7135, 7520-00-543-7149.
Ballpoint Pen, Stick-type (IB), 7520-01-058-9976, 7520-01-058-9977, 7520-01-058-9976, 7520-01-059-4125, 7520-01-060-5820, 7520-01-058-9975, 7520-01-060-8513, 7520-01-060-5821.
Ballpoint Pen, with Imprinting (IB), 7520-050-8LP-6520.
Book Ends (IB), 7520-00-264-5479, 7520-00-139-6158.
Box, Filing (SH), 7520-00-285-3147, 7520-00-285-3143, 7520-00-285-3144, 7520-00-285-3145, 7520-00-285-3146, 7520-00-285-3148.
Case, Maintenance and Operational Manuals (IB), 7520-00-559-9618.
Clipboard, File (IB), 7520-00-281-5918, 7520-00-254-4610, 7520-00-240-5503.
Easel, Display & Training (IB), 7520-00-579-7013.

File, Horizontal Desk (SH), 7520-00-139-4889, 7520-00-728-5761.
Holder, Desk Memorandum (IB), 7520-00-139-3802, 7520-00-290-8445.
Marker, Tube Type (IB), 7520-00-973-1059, 7520-00-973-1060, 7520-00-079-0285, 7520-00-973-1061, 7520-00-079-0286, 7520-00-079-0287, 7520-00-973-1062, 7520-00-079-0288, 7520-00-558-1501, 7520-00-804-1265, 7520-00-904-1268, 7520-00-935-0979, 7520-00-904-1267, 7520-00-835-0961, 7520-00-935-0982, 7520-00-904-1266, 7520-00-935-0980, 7520-00-051-5031, 7520-00-051-5035, 7520-00-116-2888, 7520-00-051-5036, 7520-00-116-2886, 7520-00-116-2889, 7520-00-051-5033, 7520-00-116-2887, 7520-00-904-4476.
Pen Set, Desk (IB), 7520-00-106-9840.
Pencil, Mechanical (IB), 7520-00-223-6672, 7520-00-223-6673, 7520-00-286-9913, 7520-00-223-6675, 7520-00-223-6676, 7520-00-285-5826, 7520-00-285-5822, 7520-00-285-5823, 7520-00-161-5664, 7520-00-164-8950, 7520-00-268-9915, 7520-00-285-5818, 7520-00-268-9916, 7520-00-724-5606, 7520-00-590-1878, 7520-00-132-4996.
Perforator, Paper, Desk (SH), 7520-00-139-4101, 7520-00-263-3425.
Stand, Calendar Pad (IB), 7520-00-162-6153, 7520-00-162-6156, Rgns 4, 5, 6, 7, 8, 9, 10, 7520-00-139-4341.
Tray, Desk (SH), 7520-00-232-6828, 7520-00-286-5801, 7520-00-285-5043.
Trimmer, Paper (IB), 7520-00-224-7620, Rgns 1, 2, 3, W, 4, 5, 6, 7, 7520-00-224-7621, 7520-00-163-2566, 7520-00-634-4675, 7520-00-282-2137.

Class 7530

Card, Guide, File (IB), 7530-00-989-0184, 7530-00-989-2425, 7530-00-988-6541, 7530-00-988-6542, 7530-00-988-6543, 7530-00-988-6549, 7530-00-988-6550, 7530-00-988-6551, 7530-00-988-6544, 7530-00-988-6545, 7530-00-988-6546, 7530-00-988-6547, 7530-00-988-6548, 7530-00-988-6515, 7530-00-988-6516, 7530-00-988-6520, 7530-00-988-6521, 7530-00-988-6517, 7530-00-988-6518, 7530-00-988-6522.
Card, Index (IB), 7530-00-238-4316, 7530-00-244-7453, 7530-00-244-7456, 7530-00-244-7451, 7530-00-244-7459, 7530-00-238-4319, 7530-00-949-2787, 7530-00-238-4331, 7530-00-243-9436, 7530-00-247-0310, 7530-00-281-1315, 7530-00-247-0318, 7530-00-264-3723, 7530-00-247-0311, 7530-00-244-7447, 7530-00-247-0315, 7530-00-243-9437.
Card-Set, Guide, File (IB), 7530-00-989-0698, 7530-00-939-0697, 7530-00-989-0683, 7530-00-062-2635, 7530-00-989-0684, 7530-00-989-0686, 7530-00-989-0692, 7530-00-989-0694, 7530-00-989-0693, 7530-00-989-0695.
Envelope, Wallet (IB), 7530-00-281-5978, 7530-00-281-4844, 7530-00-281-4846.
Folder, File, Military Personnel Records Jacket (IB), 7530—DA Form 201.
Folder, File (IB), 7530-00-889-3555, 7530-00-559-4512, 7530-00-281-5907, 7530-00-281-5908, 7530-00-926-8978, 7530-00-273-9645, 7530-00-926-8980, 7530-00-926-8981, 7530-00-286-6924, 7530-00-926-8982, 7530-00-926-8983, 7530-00-926-8984, 7530-00-043-1194, 7530-00-739-7723.
Folder-Set, File (IB), 7530-00-286-6923, 7530-00-286-7080, 7530-00-286-7244, 7530-00-288-7253, 7530-00-286-7286, 7530-00-286-7287, 7530-00-286-8570, 7530-00-286-8571, 7530-00-286-6925.
Jacket, Filing, Wallet (IB), 7530-00-285-2915.
Notebook, Stenographer's (IB), 7530-00-223-7939.
Pad, Writing Paper (IB), 7530-00-285-3090, Rgn 1, 5 & 6, 7530-00-239-8479, All Regions, 7530-01-131-1989, All Regions, 7530-01-124-5860, Rgn W,1,3,4,5,6,7,8, 7530-01-131-0091, Rgn W,1,3,4,5,6,7,8, 7530-01-124-7632, Rgn W,1,2,3,5,7.
Pad, Writing Paper (Easel) (IB), 7530-00-619-8880.
Paper Set, Manifold and Carbon (IB), 7530-00-880-9154, Rgn W,6,7, 7530-00-401-6910, Rgn W,4,6,7,9, 7530-01-072-2536, Rgn W,4,6,7,9, 7530-01-072-2537, Rgn W,4,6,7,9, 7530-01-072-2538, Rgn W,4,6,7,9, 7530-01-072-2539, Rgn W,4,6,7,9, 7530-00-205-0511, Rgn W,6,7.
Paper, Carbon, Typewriter (IB), 7530-00-244-4035, Rgn 1,2,3,6,7,8.
Paper, Looseleaf, Blank (IB), 7530-00-286-5777, 7530-00-286-5778, 7530-00-286-5782, 7530-00-286-5780, 7530-00-286-5781, 7530-00-286-5779.
Paper, Looseleaf, Ruled (IB), 7530-00-286-6366, 7530-00-286-4332, 7530-00-286-4331, 7530-00-286-4333, 7530-00-286-4334, 7530-00-286-4335, 7530-00-198-6285, 7530-00-286-4336, 7530-00-286-4337, 7530-00-286-4338, 7530-00-286-4339.
Paper, Teletypewriter, Roll (IB), 7530-00-019-6674, 7530-00-019-6931, 7530-00-019-7267, 7530-00-019-7463, 7530-00-223-7966, 7530-00-056-2900, 7530-00-721-9691, 7530-00-223-7969, 7530-00-262-6178, 7530-00-142-9037, 7530-00-943-7076.
Paper, Writing (IB), 7530-00-285-5836, 7530-00-047-3738.
Refill, Appointment Book (SH), 7530-01-125-5927 (1984), 7530-01-125-0985 (1985).
Tape, Paper, Computing Machine (IB), 7530-00-286-9052, 7530-00-222-3455, 7530-00-286-9053, 7530-00-286-9054, 7530-00-238-3852, 7530-00-222-3456, 7530-00-286-9055.

Class 7690

Decalcomania, ¾" Black (SH), 7690-00-329-0536 FOR OFFICIAL USE ONLY.
Decalcomania, 1" Black (SH), 7690-00-857-9572 MAX SPEED, 7690-00-857-9573 NO RIDERS, 7690-00-857-9574 NO SMOKING, 7690-00-857-9575 U.S. ARMY.
Decalcomania, 1" White Lusterless (SH), 7690-00-857-9660, MAX SPEED, 7690-00-857-9662, NO SMOKING, 7690-00-857-9663, U.S. ARMY.
Decalcomania, 1½" Black (SH), 7690-00-857-9698, MAX SPEED, 7690-00-857-9699, NO RIDERS, 7690-00-857-9700, NO SMOKING.
Decalcomania, 1½" White Lusterless (SH), 7690-00-857-9611, MAX SPEED, 7690-00-857-9612, NO RIDERS, 7690-00-857-9613, NO SMOKING, 7690-00-857-9614, U.S. ARMY.
Decalcomania, 2" Black (SH), 7690-00-858-3403, NO SMOKING, 7690-00-858-3405, U.S. ARMY.
Decalcomania, 2" White Lusterless (SH), 7690-00-858-3366, NO SMOKING, 7690-00-858-3368, U.S. ARMY.
Decalcomania, 3" Black (SH), 7690-00-311-7272, NO SMOKING, 7690-00-311-7276, U.S. ARMY.
Decalcomania, 3" White Lusterless (SH), 7690-00-310-6672, NO SMOKING, 7690-00-310-8206, U.S. ARMY.
Decalcomania, 4" Black (SH), 7690-00-328-9507, MAX SPEED, 7690-00-328-9517, U.S. ARMY.
Decalcomania, 4" White Lusterless (SH), 7690-00-329-0204, MAX SPEED, 7690-00-329-0205, NO SMOKING, 7690-00-329-0206, U.S. ARMY.
Decalcomania, Numbers and Letters (SH), 7690—1½", 7690—2", 7690-00-311-7128—3", 7690—4".
Folder, Chapel Program (SH), 7690-00-NSH-0001, Wright-Patterson Air Force Base, OH only.
Illustrative Sheet (SH), 7690-00-NSH-0002, Wright-Patterson Air Force Base, OH only.

Class 7910

Pad, Floor Polishing Machine (IB), 7910-00-685-6686, 7910-00-685-6687, 7910-00-685-3908, 7910-00-685-6671, 7910-00-685-3909, 7910-00-685-6672, 7910-00-685-3910, 7910-00-685-6656, 7910-00-685-6657, 7910-00-685-3912, 7910-00-685-6659, 7910-00-685-3915, 7910-00-685-6660, 7910-00-685-3914, 7910-00-685-4239, 7910-00-685-4240, 7910-00-685-4242, 7910-00-685-4243, 7910-00-685-4241, 7910-00-685-4244, 7910-00-685-4245, 7910-00-820-7991, 7910-00-820-7989, 7910-00-820-7990, 7910-00-820-9926, 7910-00-820-9925, 7910-00-820-9924, 7910-00-820-9696, 7910-00-820-7997, 7910-00-820-7996, 7910-00-820-9903, 7910-00-820-9904, 7910-00-820-9905, 7910-00-820-9900, 7910-00-820-9901, 7910-00-820-9909, 7910-00-820-9922, 7910-00-820-9918, 7910-00-820-9917, 7910-00-820-9916, 7910-00-820-9915, 7910-00-820-9914, 7910-00-820-9913, 7910-00-820-9912, 7910-00-820-9911, 7910-00-820-9910.

Class 7920

Broom, Push (IB), 7920-00-287-2967.
Broom, Upright (IB), 7920-00-292-4371, 7920-00-292-4375, 7920-00-292-4372, 7920-00-291-8305.
Broom, Whisk (IB), 7920-00-240-6350.
Brush, Chassis and Running Gear (IB), 7920-00-255-7536.
Brush, Cleaning, Aircraft (IB), 7920-00-051-4384.
Brush, Dusting (IB), 7920-00-178-8315.
Brush, Floor Sweeping (IB), 7920-00-243-3407, 7920-00-292-2363, 7920-00-292-2367, 7920-00-284-4638, 7920-00-292-2362, 7920-00-292-2365.
Brush, Sanitary (IB), 7920-00-772-5800, 7920-00-234-9317.
Brush, Scrub (IB), 7920-00-240-7174, 7920-00-951-8795, 7920-00-282-2470, Tampico Fibers, 7920-00-282-2470, Styrene Fibers, 7920-00-297-1511, 7920-00-619-8162, 7920-00-061-0038.
Brush, Shoe and Stove (IB), 7920-00-852-8170.
Brush, Wire, Scratch (IB), 7920-00-291-5815, 7920-00-282-9246, 7920-00-246-8501, 7920-00-223-7649.
Brush, Wire, Stainless Steel (IB), 7920-00-956-1157.
Brush-Set, Shoe and Stove (IB), 7920-00-205-0200.
Cloth, Polishing (IB), 7920-00-205-1656, 7920-00-205-3170, 7920-00-664-0103.

Cloth, Wiping ("Jean Cotton") (SH), 7920–LL–L01–0013, 7920–LL–L01–0014, Portsmouth Naval Shipyard, Portsmouth, NH only.
Cloth, Wiping (SH), 7920–LL–L03–6103, Pearl Harbor Naval Shipyard, Pearl Harbor, HI only.
Handle, Mop (IB), 7920–00–205–1168, 7920–00–267–1218, 7920–00–205–1167, 7920–00–550–9902, 7920–00–550–9911, 7920–00–550–9912, 7920–00–998–2485, 7920–00–998–2486, 7920–00–851–0140, 7920–00–851–0142, 7920–00–246–0930, 7920–00–205–1170.
Handle, Paint Roller (IB), 7920–00–682–6512.
Handle, Wood (IB), 7920–00–177–5106, 7920–00–141–5452, 7920–00–263–0328.
Kit, Aircraft Cleaning (IB), 7920–00–490–6046.
Mop, Dusting, Cotton (IB), 7920–00–205–0481, 7920–00–205–0483, 7920–00–205–0484, 7920–00–245–8289.
Mop, Wet (IB), 7920–00–224–8726.
Mop, Wet, Cellulose, Complete (IB), 7920–00–432–7117, 7920–00–728–1167.
Mop, Wet, Cellulose, Sponge Refill (IB), 7920–00–471–2876.
Mophead, Dusting, Cotton (IB), 7920–00–634–0201, 7920–00–267–4921, 7920–00–998–2482, 7920–00–998–2483, 7920–00–998–2484, 7920–00–851–0141, 7920–00–205–0485, 7920–00–205–0487, 7920–00–205–0488.
Mophead, Wet (IB), 7920–00–205–0425, 7920–00–205–0426, 7920–00–141–5549, 7920–00–171–1148, 7920–00–141–5550, 7920–00–141–5547, 7920–00–141–5548, 7920–00–141–5544, 7920–00–926–5492, 7920–00–926–5493, 7920–00–926–5494, 7920–00–926–5495, 7920–00–926–5496, 7920–00–926–5497, 7920–00–926–5498, 7920–00–926–5499, 7920–00–926–5501, 7920–00–926–5502.
Pad, Scouring (IB), 7920–00–753–5242, 7920–00–151–6120.
Scraper and Squeegee (IB), 7920–00–045–2556.
Sponge, Cellulose (IB), 7920–00–161–6219, 7920–00–633–9928, 7920–00–240–2559, 7920–00–884–1116, 7920–00–884–1115, 7920–00–633–9905, 7920–00–240–2555, 7920–00–633–9906.
Sponge, Plastic (IB), 7920–00–633–9908, 7920–00–633–9911, 7920–00–633–9915, 7920–00–685–4152.
Squeegee (SH), 7920–00–224–8339.
Towel, Machinery Wiping (IB), 7920–00–260–1279.
Towel, Paper (IB), 7920–00–823–9772 Rgn 4, 6, 7, 7920–00–823–9773.

Class 7930

Cloth, Filter (SH), 7930–00–NSH–0001, Naval Supply Center, WA only.
Detergent, General Purpose (IB), 7930–00–926–5280, 7930–00–357–7386, 7930–00–068–1669, 7930–01–055–6122, 7930–00–177–5243, 7930–00–985–6945, 7930–00–985–6946, 7930–00–530–8067, 7930–00–527–1207, 7930–00–527–1237.
Dishwashing Compound, Hand (IB), 7930–00–880–4454, 7930–01–055–6136, 7930–00–899–9534.
Glass Cleaner (IB), 7930–00–664–6910.
Rinse Additive, Dishwashing (IB), 7930–00–619–9573, 7930–00–619–9575.

Class 8105

Bag, Assembly, Crew Relief (IB), 8105–00–922–9469.
Bag, Cloth (IB), 8105–00–282–8183.
Bag, Cotton (IB), 8105–00–183–6981, 8105–00–281–3924, 8105–00–183–6982, 8105–00–179–0089, 8105–00–271–1511, 8105–00–183–6985, 8105–00–174–0636, 8105–00–183–6989, 8105–00–290–3360.
Bag, Evidence (IB), 8105–00–NIB–0001, 8105–00–NIB–0002, 8105–00–NIB–0003, 8105–00–NIB–0004, 8105–00–NIB–0005.
Bag, Lunch (SH), 8105–00–664–3715.
Bag, Motion Sickness (IB), 8105–00–835–7212.
Bag, Plastic (SH), 8105–00–NSH–0001, 8105–00–NSH–0002, 8105–00–NSH–0003, 8105–00–NSH–0004, Naval Weapons Support Center, Crane, IN only.
Coin Bags (SH), 8105–00–NSH–0005 50% of Gov't requirement, 8105–00–NSH–0006 50% of Gov't requirement, 8105–00–NSH–0008 50% of Gov't requirement, 8105–00–NSH–0009 50% of Gov't requirement, 8105–00–NSH–0010 50% of Gov't requirement, 8105–00–NSH–0011 50% of Gov't requirement, 8105–00–NSH–0012 50% of Gov't requirement.

Class 8110

Tube, Mailing and Filing (SH), 8110–00–412–4410.

Class 8115

Box, Set-Up, Mailing Dental (IB), 8115–00–511–5750.
Box, Shipping (IB), 8115–00–787–2142, 8115–00–787–2147, 8115–00–101–7647, 8115–00–101–7638, 8115–00–787–2146, 8115–00–787–2148, 8115–01–019–4085, 8115–01–019–4084, 8115–01–057–1244, 8115–01–057–1243, 8115–01–057–1245.
Box, Wood (SH), 8115–00–935–5887, 8115–00–935–6518, 8115–00–935–6525, 8115–00–935–6526, 8115–00–935–6527, 8115–00–935–6528, 8115–00–935–6530, 8115–00–935–6532, 8115–00–935–6531.
Box, Wood, Nailed (SH), 8115–00–NOO–0019, Pine Bluff Arsenal, AR only.

Class 8135

Block, Currency Packing (IB), BEP Stock# L–1391.
Chipboard (IB), 8135–00–290–0336, 8135–00–782–3948, 8135–00–782–3951.

Class 8315

Sewing Kit (SH), 8315–01–096–4480, 8315–01–090–5823.

Class 8340

Line, Tent (SH), 8340–00–263–0255.
Pin, Tent, Aluminum (SH), 8340–00–261–9749.
Pin, Tent, Wood (SH), 8340–00–261–9750, 8340–00–281–9751.
Pole Section, Tent (SH), 8340–00–223–7849.
Shelter Half, Tent, Incomplete (SH), 8340–00–577–4168.

Class 8345

Case, Flag, Interment (IB), 8345–00–782–3010.
Flag, Signal (IB), 8345–00–935–0588, 8345–00–935–0589, 8345–00–935–0590, 8345–00–935–0591, 8345–00–935–0592, 8345–00–935–0594, 8345–00–935–0595, 8345–00–935–0597, 8345–00–935–0598, 8345–00–935–0599, 8345–00–935–0602, 8345–00–935–0604, 8345–00–935–0607, 8345–00–935–0608, 8345–00–935–0633, 8345–00–935–1840, 8345–00–935–0634, 8345–00–935–0638, 8345–00–935–0639, 8345–00–935–0640, 8345–00–926–9977, 8345–00–926–9216, 8345–00–926–9976, 8345–00–926–6804, 8345–00–926–6806, 8345–00–926–9979, 8345–00–926–6807, 8345–00–926–6809, 8345–00–926–9980, 8345–00–926–9219, 8345–00–935–0582, 8345–00–926–9984, 8345–00–926–6003, 8345–00–926–9985, 8345–00–935–0619, 8345–00–935–1839, 8345–00–935–0620, 8345–00–935–0623, 8345–00–935–0409, 8345–00–935–0624, 8345–00–935–0445, 8345–00–926–6803, 8345–00–935–0446, 8345–00–926–6805, 8345–00–935–0447, 8345–00–926–9987, 8345–00–935–0448, 8345–00–926–6810, 8345–00–926–9988, 8345–00–935–0450, 8345–00–935–0451, 8345–00–935–0453, 8345–00–926–6002, 8345–00–926–6814, 8345–00–935–0436, 8345–00–935–0437, 8345–00–935–0438, 8345–00–935–0408, 8345–00–935–0441, 8345–00–935–0442, 8345–00–935–0464, 8345–00–935–0465, 8345–00–935–0466, 8345–00–935–0467, 8345–00–935–0468, 8345–00–935–0470, 8345–00–935–0471, 8345–00–935–0473, 8345–00–935–0474, 8345–00–935–0475, 8345–00–935–0478, 8345–00–935–0480, 8345–00–935–0483, 8345–00–935–0484, 8345–00–935–0626, 8345–00–935–1838, 8345–00–935–0627, 8345–00–935–0407, 8345–00–935–0630, 8345–00–935–0631.
Flag, Signal, Vehicle, Danger Red (IB), 8345–00–260–2724.
Pennant, Signal, and Special Flags (IB), 8345–00–935–0420, 8345–00–935–0517, 8345–00–935–4755, 8345–00–825–1847, 8345–00–935–3201, 8345–00–935–4756, 8345–00–935–0522, 8345–00–914–6086, 8345–00–935–4753, 8345–00–935–4754, 8345–00–935–0404, 8345–00–935–0514, 8345–00–825–1868, 8345–00–935–0406, 8345–00–935–0509, 8345–00–926–5988, 8345–00–935–0512, 8345–00–921–4497, 8345–00–935–3199, 8345–00–825–1839, 8345–00–935–0526, 8345–00–914–6078, 8345–00–914–6080, 8345–00–914–6083, 8345–00–935–0524, 8345–00–926–5987, 8345–00–926–5989, 8345–00–935–0539, 8345–00–926–5991, 8345–00–825–1840, 8345–00–935–0521, 8345–00–914–6087, 8345–00–926–6026, 8345–00–935–0403, 8345–00–935–0536, 8345–00–926–9210, 8345–00–926–9213, 8345–00–926–6028, 8345–00–935–0508, 8345–00–935–0519, 8345–00–935–0415, 8345–00–914–6085, 8345–00–926–9215, 8345–00–935–0411, 8345–00–926–9212, 8345–00–914–7411, 8345–00–914–6079, 8345–00–914–6082, 8345–00–935–0523, 8345–00–935–0417, 8345–00–926–5990, 8345–00–935–0421, 8345–00–926–9207, 8345–00–935–0542, 8345–00–935–0520, 8345–00–935–0492, 8345–00–935–0493, 8345–00–926–9214, 8345–00–935–0513, 8345–00–935–0490, 8345–00–935–0495, 8345–00–926–9208, 8345–00–935–0518, 8345–00–935–0511, 8345–00–914–6084, 8345–00–935–0405, 8345–00–935–0410, 8345–00–935–0525, 8345–00–914–6075, 8345–00–914–6077, 8345–00–914–6081, 8345–00–935–0419, 8345–00–935–0416, 8345–00–935–0537, 8345–00–935–0538, 8345–00–935–0540, 8345–00–935–0541, 8345–00–926–9211, 8345–00–935–0499, 8345–00–935–0500, 8345–00–935–0501, 8345–00–825–1818, 8345–00–935–0497, 8345–00–935–0504, 8345–00–935–1841, 8345–00–935–0418, 8345–00–825–1819, 8345–00–926–1551, 8345–00–935–0503, 8345–00–935–0534, 8345–00–935–1843, 8345–00–926–1548, 8345–00–926–1549, 8345–00–926–1552.

Class 8405

Cover, Service Cap (IB), 8405–01–046–8544, 8405–01–046–8545.
Strap, Chin (SH), 8405–00–152–3952.

Class 8415

Apron, Construction Worker's (IB), 8415–00–205–3895, 8415–00–257–4290.
Apron, Food Handling (IB), 8415–00–255–8577, 8415–00–634–0205, 8415–00–051–1173, 8415–01–045–0587.
Apron, Food Handling (SH), 8415–00–899–3028.
Apron, Impermeable (SH), 8415–00–062–6108.
Apron, Laboratory (SH), 8415–00–634–5023.
Band, Helmet, Camouflage (IB), 8415–01–110–9981.
Cap, Food Handler's (IB), 8415–00–234–7677, 8415–00–234–7678, 8415–00–234–7679.
Cover, Helmet (IB), 8415–00–105–0605.
Cover, Helmet, Camouflage Pattern (IB), 8415–00–092–7514, 8415–01–092–7515.
Hood, Anti-Flash (SH), 8415–00–275–3159.
Hood, Spray Painter's Protective (SH), 8415–00–NSH–0001, Pearl Harbor Naval Shipyard, HI only.
Mask, Extreme Cold Weather (SH), 8415–00–243–9844, 8415–01–006–3468.
Pad, Helmet, Flight Deck Crewman's (IB), 8415–00–178–6830, 8415–00–178–6831.
Socks, Extreme Cold Weather (SH), 8415–00–177–7992, 8415–00–177–7993, 8415–00–177–7994, 8415–01–057–3503.
Traffic Safety Clothing (See Class 8465 also) (IB), 8415–00–177–4978, 8415–00–177–4974.

Class 8430

Footwear Cover (IB), 8430–00–890–2079, 8430–00–580–1205, 8430–00–580–1206, 8430–00–591–1359.
Slide Fastener Unit, Laced Boot (IB), 8430–00–465–1888, 8430–00–465–1889, 8430–00–465–1890.

Class 8440

Belt, Coat (IB), 8440–00–964–3978, 8440–00–261–4966, 8440–00–261–4965.
Belt, Trousers (IB), 8440–00–270–0535, 8440–00–412–2309, 8440–00–573–1666, 8440–00–270–0536, 8440–00–412–2312, 8440–00–573–1765, 8440–00–270–0537, 8440–00–412–2314, 8440–00–573–3727, 8440–00–290–0567, 8440–01–052–9738, 8440–00–290–0568, 8440–01–052–9739, 8440–00–269–5321, 8440–01–052–9740, 8440–00–634–5632, 8440–00–753–6363, 8440–00–577–4177, 8440–00–753–6364, 8440–00–577–4176, 8440–00–753–6365, 8440–00–270–0541, 8440–00–412–2326, 8440–00–270–0542, 8440–00–412–2341, 8440–00–270–0543, 8440–00–412–2342, 8440–01–009–9290, 8440–01–009–9292, 8440–01–009–9293.
Neckerchief (IB), 8440–01–076–0779.
Neckerchief, Camouflage, Desert (IB), 8440–01–103–5981, 8440–01–148–4549.
Necktie (IB), 8440–00–216–6130, 8440–00–318–2519, 8440–00–555–7194.
Scarf, Man's Wool (SH), 8440–01–005–2558, 8440–00–160–6843, 8440–00–823–7520.
Suspenders, Trousers (IB), 8440–00–221–0652.

Class 8445

Belt, Trousers, Cotton (IB), 8445–01–068–8339, 8445–01–068–8340.
Scarf, Neckwear (IB), 8445–00–549–5363.

Class 8455

Holder, Identification (IB), 8455–00–896–9730.
Scarf, Branch of Service (IB), 8455–00–916–8398, 8455–00–405–2294, 8455–00–985–7336, 8455–01–076–0745.

Class 8460

Kit Bag, Flyer's (IB), 8460–00–606–8366.

Class 8465

Bag, Barrack (IB), 8465–00–530–3602.
Bag, Laundry (SH), 8465–00–618–6576.
Bag, Laundry, Self-Closing, Ropeless (SH), 8465–00–956–0816.
Bag, Sleeping, Firefighter's (IB), 8465–00–051–0796.
Bag, Soiled Clothes (SH), 8465–00–122–3869.
Bag, Soiled Clothes, Submarine (IB), 8465–00–762–7671.
Belt, Individual, Equipment, Nylon, LC–2 (IB), 8465–00–001–6467, 8465–00–001–6466, 8465–01–120–0674, 8465–01–120–0675.
Belt, M.P. (IB), 8465–00–527–6843.
Binding, Snowshoe, Universal (IB), 8465–00–965–2175.
Carrier, Intrenching Tool (IB), 8465–00–001–8474.
Case, Field, First Aid (IB), 8465–00–935–6614.
Case, Maintenance Equipment, Small Arms (IB), 8465–00–781–9564.
Case, Map and Note, Field (SH), 8465–00–634–1903.
Clipboard, Pilot's (SH), 8465–01–012–9174.
Clothes Stop (IB), 8465–00–377–5701.
Cover, Field Pack, Camouflage (IB), 8465–01–103–0659.
Cover, Field Pack, Camouflage, White (SH), 8465–00–001–8478.
Cover, Water Canteen (IB), 8465–00–118–4956.
Fieldpack, Canvas (SH), 8465–00–205–3493.
Hood, Sleeping Bag (IB), 8465–00–518–2769.
Lanyard, Pistol (SH), 8465–00–262–5237, 8465–00–965–1765.
Necklace, Personnel, Identification (SH), 8465–00–261–6629.
Pocket, Ammunition Magazine (IB), 8465–00–782–2230, 8465–00–261–4963.
Protector, Trousers, Pistol Holster (IB), 8465–00–882–5741.
Strap, Waist, with Pad, LC–2 (IB), 8465–01–075–8164.
Strap, Webbing, Cargo, Tie-Down (IB), 8465–00–001–8477.
Strap, Webbing, Waist, LC–1 (IB), 8465–00–269–0481.
Suspenders, Individual Equipment Belt (IB), 8465–00–001–6471.
Traffic Safety Clothing (See Class 8415 also) (IB), 8465–00–177–4977, 8465–00–177–4976, 8465–00–177–4975.
Whistle, Ball, Plastic (IB), 8465–00–254–8803.

Class 8470

Headband, Ground Troop, Helmet Liner (IB), 8470–00–153–6671, Mechanicsburg, PA and Richmond, VA only.
Headband, Ground Troops'/Parachutists' Helmet (IB), 8470–01–092–8493, 8470–01–092–8492.
Neckband, G.T., Helmet Liner (IB), 8470–00–753–6166.
Pad, Parachutists' Helmet (IB), 8470–01–092–8494.
Strap, Chin, Ground Troops'/Parachutists' Helmet (IB), 8470–01–092–7534.
Strap, Chin, Parachutist Steel Helmet (IB), 8470–00–092–2737.
Strap, Retention, Parachutists' Helmet (IB), 8470–01–092–7524.
Strap, Soldier's Steel Helmet M–1 (IB), 8470–00–030–8003.
Suspension Assembly, Liner, Helmet (IB), 8470–00–880–8814.
Suspension Assembly, Ground Troops'/Parachutists' (IB), 8470–01–092–7516, 8470–01–092–7517, 8470–01–092–7518, 8470–01–092–7519.

Class 8520

Soap, Toilet (IB), 8520–00–228–0598, 8520–01–058–7463, 8520–00–141–2519.

Class 8970

Food Packet, Survival, Aircraft, Life Raft, Indiv. (SH), 8970–01–028–9408.

Class 9905

Plate, Marking, Blank (SH), 9905–00–473–6336.
Sign-Kit, Vehicle (SH), 9905–00–565–6287.
Tag, Key (SH), 9905–00–245–7828.
Tag, Marker (SH), 9905–00–537–8954, 9905–00–537–8955, 9905–00–537–8956, 9905–00–537–8957.
Tree Shade (SH), 9905–00–NSH–0001, 8" x 12", 9905–00–NSH–0153, 6" x 16", (Fiberboard), BLM and U.S. Forest Service, Washington and Oregon only.

Class 9920

Ash Receiver, Tobacco (IB), 9920–00–682–6757.
Cleaner, Tobacco Pipe (SH), 9920–00–292–9946.

U.S. Postal Service Items

Decalcomania, P.S., 1" Lusterless White (SH)
P.S. Item No. 669–L, TP
P.S. Item No. 666–L, TP–40
P.S. Item No. 672–L, TP–45
P.S. Item No. 667–L, TP–50
P.S. Item No. 675–L, TP–65
P.S. Item No. 668–L, TP–70
P.S. Item No. 622–L, LIFT HERE
Decalcomania, P.S., 1" Gloss White (SH)
P.S. Item No. 635, NO RIDERS
Decalcomania, P.S., 1½" Gloss White (SH)
P.S. Item No. 600, U.S. ARMY
P.S. Item No. 633, MAX SPEED
P.S. Item No. 636, NO RIDERS
Decalcomania, P.S., 2" Gloss White (SH)
P.S. Item No. 607, U.S. ARMY
Divider, Separation (SH)
P.S. Item No. 01037–A
P.S. Item No. 01037–B
Lead Seal with Cord Attachment (SH)
P.S. Item No. 0815
Marker, I.D., Plastic (SH)
P.S. Item No. 01036
P.S. Item No. 01036–A
P.S. Item No. 01036–B
P.S. Item No. 01036–C
P.S. Item No. 01036–D
P.S. Item No. 01036–E
P.S. Item No. 01036–F
Pallet, Material Handling (SH)
3990–00–NSH–0006 (62" x 48")
Rqmts of the U.S. Postal Service, Western Area Supply Center
Pocket, Leather (SH)
P.S. Item No. D–1200–G
Safety Guard, SH
P.S. Item No. 01075–B
Seal, Metal Band (SH)
P.S. Item No. 0816–A
P.S. Item No. 0816–B
Seat Assembly, Complete (SH)
P.S. Item No. 054–A
Seat Cover (SH)
P.S. Item No. 054–B

Strap, Mail Tray (IB)
P.S. Item No. 01067
Strap, Tie, Mail Carrier's, with Buckle (IB)
P.S. Item No. D–1216–D
P.S. Item No. D–1216–E
P.S. Item No. D–1216–F

Military Resale Commodities

Procedures for ordering military resale commodities are contained in Section 51–5.6, Code of Federal Regulations, Title 41.

Stock No. and Item Name

050 Roller ball pen, red (Optional packaging) (IB)
051 Roller ball pen, blue (Optional packaging) (IB)
052 Roller ball pen, black (Optional packaging) (IB)
053 Retractable pen, black (Optional packaging) (IB)
054 Retractable pen, blue (Optional packaging) (IB)
055 Ultra fine tip pen, red (Optional packaging) (IB)
056 Ultra fine tip pen, blue (Optional packaging) (IB)
057 Ultra fine tip pen, black (Optional packaging) (IB)
060 Roller ball pen, red (IB)
061 Roller ball pen, blue (IB)
062 Roller ball pen, black (IB)
063 Retractable pen, black (IB)
064 Retractable pen, blue (IB)
065 Ultra fine tip marker, red (IB)
066 Ultra fine tip marker, blue (IB)
067 Ultra fine tip marker, black (IB)
068 Pencil, mechanical, 0.5 mm lead (IB)
500 Room air freshner (IB)
501 Deodorizer, toilet bowl (IB)
510 Cleaner, all purpose (IB)
520 Fabric softener sheets, reusable, 8¾ x 4" (IB)
541 Scrubber, bathroom, with handle (IB)
542 Scrubber, kitchen, with handle (IB)
543 Scrubber, grill & garage, with handle (IB)
544 Scrubber, nylon net over polyurethane pad (IB)
554 Scrubber, nylon, rectangular (IB)
555 Scrubber, kitchen, 4⅝ x 3⅛ x 1 3/16" (IB)
556 Scrubber, bathroom, 4⅝ x 3 3/16 x 1 3/16" (IB)
557 Scrubber, general household, 6⅜ x 3 3/16 x 1" (IB)
563 Scrubber, plastic, for teflon (IB)
564 Scrubber, stainless steel (IB)
568 Board, ironing, table top (IB)
570 Clothespins, plastic (IB)
574 Clothesline, plastic, rayon reinforced, 100-ft. (IB)
575 Sponge, cellulose, 5½ x 3⅝ x 1⅛" (IB)
576 Sponge, cellublose, 7⅜ x 4 x 1¾" (IB)
577 Sponge, cellulose, 5½ x 3⅝ x 1" (IB)
578 Sponge, cellulose, 5–1/2 x 3–5/8 x 5/8" (IB)
593 Sponge, bath, circular (IB)
594 Swatter, fly, plastic (IB)
596 Cutlery set, plastic, heavy duty (8 ea. knives, forks, spoons) (IB)
597 Knives, plastic, heavy duty (IB)
598 Forks, plastic, heavy duty (IB)
599 Spoons, plastic, heavy duty (IB)
600 Trowel, transplanter (IB)
601 Trowel, regular (IB)
602 Cultivator (IB)
603 Weeder (IB)
604 Grass shears (IB)
605 Pruning shears (IB)
720 Paint roller cover, economy, 7" (IB)
721 Paint roller cover, economy, 9" (IB)
722 Paint roller cover, all purpose, 7" (IB)
723 Paint roller cover, all purpose, 9" (IB)
724 Paint roller cover, for textured surfaces, 7" (IB)
725 Paint roller cover, for textured surfaces, 9" (IB)
726 Paint roller cover, high pile, 7" (IB)
727 Paint roller cover, high pile, 9" (IB)
728 Paint roller cover, for gloss or semi-gloss, 7" (IB)
729 Paint roller cover, for gloss or semi-gloss, 9" (IB)
730 Paint roller cover, for rough surfaces, 9" (IB)
731 Paint roller cover, for rough surfaces, 7" (IB)
732 Paint roller cover, mohair fiber, 7" (IB)
733 Paint roller cover, mohair fiber, 9" (IB)
735 Trimmer, paint roller, with frame, 3" (IB)
736 Refill, trimmer, paint roller, 3" (IB)
741 Paint roller, frame assembly, 7" (IB)
742 Paint roller, frame assembly, 9" (IB)
901 Broom, mixed fiber (IB)
902 Broom, push, indoor/outdoor, 54" handle (IB)
903 Broom, parlor, corn, medium weight (IB)
904 Broom, corn, plastic cap (IB)
905 Broom, plastic filament, flagged ends (IB)
907 Broom, plastic filament, angle cut (IB)
908 Broom, plastic filament, angle tilt (IB)
909 Broom, whisk, corn (IB)
910 Broom, whisk, plastic (IB)
912 Brush, lint, plastic filament (IB)
914 Brush, barbecue, with scraper (IB)
915 Brush, counter, plastic (IB)
916 Brush, bowl, sanitary, nylon filament (IB)
916 Brush, scrub, household (IB)
919 Brush, scrub, plastic block, vinly filament (IB)
920 Handle, mop, spring lever, for wet mopheads (IB)
922 Applicator, wax, foam block (IB)
923 Mop, automatic, block sponge (IB)
924 Mop, block sponge, with scrub strip brush (IB)
925 Mop, dusting, nylon (IB)
926 Mop, stick, orlon/rayon yarn, wet (IB)
927 Mop, stick, rayon yarn, wet (IB)
928 Mop, stick, cotton yarn, wet (IB)
933 Refill, mop, automatic, block sponge, for 923 (IB)
934 Refill, mop, block sponge, for 924 (IB)
936 Mophead, orlon/rayon yarn, wet (IB)
937 Mophead, cotton yarn, wet (IB)
941 Cloth, dish, knitted cotton (IB)
945 Towel, kitchen, cotton (IB)
946 Potholder, quilted, cotton (IB)
949 Mitt, oven, quilted, cotton (IB)
950 Mop, dish and bottle, wood handle (IB)
951 Mop, glass and dish, plastic handle (IB)
955 Brush, vegetable/utility, plastic filament (IB)
956 Brush, bottle, nylon filament (IB)
957 Brush, dish and pan, nylon filament (IB)
959 Brush, pastry and basting (IB)
962 Cover, ironing board, silicone and pad, poly foam (IB)
964 Cover, ironing board, silicone, double coated (IB)
965 Cover, ironing board, color coated (IB)
970 Bag, washing Machine, nylon with zipper (IB)
980 Cloth, all purpose, cotton (IB)
983 Coth, dusting (IB)
986 Cloth, wash, face (IB)
995 Dustpan, plastic (IB)

Services

These services are identified by industrial group number as provided in the Standard Industrial Classification Manual prepared by the Technical Committee on Industrial Classification, Statistical Policy Division, Office of Management and Budget.

SIC 0782

Grounds Maintenance

Department of Air Force:
Edwards Air Force Base, California, for Chapel Bldg. 2700; Hospital Bldgs. 2430, 3920, 5500, 5510; Veterinary Bldg. 5550; Recreational Fields Bldgs. 2201, 5201, 5208, 5213; Bldgs. 1200, 1220, 1400, 1440, 2650, 2656, 2800, 3940; P–1 Area; Four New Athletic Fields: Softball, Little League, Soccer (Practice), Little League (Practice) (SH)
Bergstrom Air Force Base, Texas, for the following AFRES units: Buildings: 1601, 4204, 4515, 4526, 4527, 4531, 4534, 4535, 4545, 4567, 4558, 4562, 4582, 4589, Apron "D"; Hospital Bldg. 2700; Veterinary Bldg. 914; Portable Buildings: 2, 9, 12, 13, 18, 19, 20, 59, 61 (SH)
Department of Army:
Fort Ord, California, for Silas B. Hays Army Hospital; Officer's Open Mess; Headquarters Area & Welcome Center; Golf Course (Mowing); Football Field; Multipurpose Field; Durham Field; Soper Field; Bowling Alley, Building #3015; Babe Ruth Field (SH)
U.S. Army Reserve Facility-Portland (South), Sears Hall, 2731 SW Multnomah Boulevard, Portland, Oregon (SH)
U.S. Army Reserve Facility-Portland (West), Sharff Hall, 8801 N. Chautauqua Boulevard, Portland, Oregon (SH)
Fort Lawton, Washington, for Cemetery Grounds (includes opening and closing of graves) (SH)
U.S. Army Reserve Facility, Mann Hall, N. 4415 Market Street, Spokane, Washington (SH)
U.S. Army Reserve Facility, N. 3800 Sullivan Road, Trentwood, Washington (SH)
Vancouver, Army Barracks, Vancouver, Washington (SH)
Department of Commerce: National Oceanic and Atmospheric Administration, Seattle, Washington, for National Marine Fisheries Service, 2725 Montlake Boulevard East (SH)
Department of Energy: Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Interior: National Park Service, Washington, D.C., for LBJ Memorial Grove; Constitution Gardens (SH)
Department of Navy:
Naval Weapons Center, China Lake, California (SH)

Mare Island Naval Shipyard, California, for Combat Systems Technical School Command (SH)
Naval Air Station, Miramar, California, for Parcel Areas: A, B, C, E, I, J, K, L, M, N (SH)
Naval Postgraduate School, Monterey, California (SH)
Naval Ordnance Station, Indian Head, Maryland, for Nonindustrial Area (SH)
Naval Weapons Station, Yorktown, Virginia, for Kirkpatrick Park; Administraiton Bldg. No. 31 and Gate No. 1; Missile Park; Dispensary Area; Skiff Creek Area; Officer's Club Bldg. 58; Bldg. 380A, Bldg. 380B, Credit Union; Industrial Areas; Area 10 (Parkway Gate 16 and surrounding area); Area 11 (Chapel and Child Care area); Area 12 (NOSTRA) (SH)
Naval Air Station, Whidbey Island, Washington (SH)
Department of Transportation:
Federal Aviation Administration, Ronkonkoma, New York, for Air Route Traffic Control Center (SH)
Federal Aviation Administration, Westbury, New York, for New York TRACON Facility (SH)
Federal Aviation Administration, Leesburg, Virginia, for Air Route Traffic Control Center (SH)
Department of Treasury: U.S. Secret Service, Beltsville, Maryland, for Special Training Building and Complex (SH)
General Services Administration:
Federal Sevice Center, 4747 Eastern Avenue, Bell, California (SH)
Federal Building and U.S. Post Office, 11000 Wilshire Boulevard, Los Angeles, California (SH)
Social Security Administration Complex, 6401 Security Boulevard, Baltimore, Maryland (SH)
U.S. Custom House, 6 World Trade Center, New York, New York (SH)
Federal Building, 1002 N.E. Holladay, Portland, Oregon (SH)
Federal Building, 1220 S.W. Third, Portland, Oregon (SH)
Pioneer Courthouse, 520 S.W. Morrison, Portland, Oregon (SH)
U.S. Courthouse, 620 S.W. Main, Portland, Oregon (SH)
Federal Building, 500 West 12th, Vancouver, Washington (SH)

SIC 0851

Seedling Harvesting

Department of Agriculture: Forest Service, McKinleyville, California, for Humboldt Nursery (SH)

SIC 5812

Catering Service

Department of Army: New Cumberland, Pennsylvania, for New Cumberland Army Depot, Military Entrance Processing Station, Building 521 (SH)

SIC 5947

Operation of Visitors Center Gift Shop

Department of Treasury: Bureau of Engraving and Printing, 14th & C Streets, S.W., Washington, D.C. (SH)

Food Service

Department of Air Force: Sheppard Air Force Base, Texas (SH)

SIC 7218

Laundry

Department of Army: U.S. Army Medical Materiel Agency, Fort Detrick, Maryland (SH)
Department of Navy: Naval Training Center, Great Lakes, Illinois (SH)

SIC 7331

Mailing

Department of Agriculture: Washington, D.C. (Metropolitan area) (SH)
Department of Commerce:
National Oceanic and Atmospheric Administration, Rockville, Maryland, for National Marine Fisheries Service, Fisheries Development Division, F21; Procurement & Grants Management Division, 6010 Executive Boulevard; Public Affairs Administration, Public Affairs; Printing & Distribution Branch, 11400 Rockville Pike; Distribution Section, 12227 Wilkins Avenue (SH)
National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia (SH)
Department of Defense: Defense Supply Service, National Committee for Employer Support for Guard and Reserve, 1117 N. 19th Street, Arlington, Virginia (SH)
Department of Education: Office for Civil Rights, Office of Program Review & Assistance, 330 C Street, SW., Washington, D.C. (SH)
Department of Energy: Distribution, 12th & Pennsylvania Avenue, NW., Washington, D.C. (SH)
Department of Health and Human Services:
Office of the Secretary, Washington, D.C. (SH)
National Institutes of Health, Bethesda, Maryland (SH)
Alcohol, Drug Abuse, and Mental Health Administration, Rockville, Maryland (SH)
Food and Drug Administration, Rockville, Maryland (SH)
Health Resources Administration, Rockville, Maryland (SH)
Health Services Administration, Rockville, Maryland (SH)
Office of Assistant Secretary for Health, Rockville, Maryland (SH)
Department of Housing and Urban Development: Washington, D.C. (SH)
Department of Interior:
18th & C Streets, NW., Washington, D.C. (SH)
U.S. Geological Survey, Reston, Virginia, for Publications Division, Branch of Technical Editing, Eastern Region; TOPO Division, 12201 Sunrise Valley Drive (SH)
Department of Labor:
200 Constitution Avenue, NW., Washington, D.C. (SH)
Manpower Administration, Washington, D.C. (SH)
President's Committee on Employment of the Handicapped, Washington, D.C. (SH)
Department of Transportation:
National Highway Traffic Administration, 400 7th Street, SW., Washington, D.C. (SH)
Office of the Secretary, Distribution Unit, 400 7th Street, SW., Washington, D.C. (SH)
Department of Treasury:
Bureau of Engraving and Printing, 14th & C Streets, SW., Washington, D.C. (SH)
Bureau of Public Debt, 14th & C Streets, SW., Washington, D.C. (SH)
Architectural and Transportation Barriers Compliance Board: 330 C Street, SW., Washington, D.C. (SH)
Environmental Protection Agency: Specialized Procurement Unit, 401 M Street, SW., Washington, D.C. (SH)
Federal Election Commission: 1325 K Street, NW., Washington, D.C. (SH)
Federal Trade Commission: Pennsylvania Avenue & 6th Street, NW., Washington, D.C. (SH)
General Services Administration: National Archives & Records Services, 7th & Pennsylvania Avenue, NW., Washington, D.C. (SH)
Library of Congress: Washington, D.C. (SH)
Merit Systems Protection Board: Office of Special Counsel, 1120 Vermont Avenue, NW., Washington, D.C. (SH)
National Credit Union Administration: Printing Service, 1375 K Street, NW., Washington, D.C. (SH)
National Science Foundation: 1800 G Street, NW., Washington, D.C. (SH)
Office of Personnel Management: 1900 E Street, NW., Washington, D.C. (SH)
Smithsonian Institute: Supply Division, Washington, D.C. (SH)
U.S. Commission on Civil Rights: 1211 Vermont Avenue, NW. Washington, D.C. (SH)
U.S. Consumer Product Safety Commission: Washington, D.C. (SH)
U.S. Information Agency: 400 C Street, SW., Washington, D.C. (SH)
U.S. Metric Board: 1815 N. Lynn Street, Arlington, Virginia (SH)

Tax Form Order Fulfillment

Department of Treasury: Internal Revenue Service, Buffalo, New York (SH)

SIC 7332

Photocopying

Department of Agriculture: National Agricultural Library Building, Beltsville, Maryland (SH)

SIC 7349

Cardboard and Paper Scrap Recovery

Department of Army: New Cumberland Army Depot, Pennsylvania (SH)

Janitorial Custodial

Department of Agriculture:
Forest Service, Sequoia National Forest, Porterville, California, for Supervisor's office, Smith Building (New Wing), 900 W. Grand Avenue; Warehouse Complex, 480 N. Henrahan Avenue (SH)
Forest Service, Coeur d'Alene, Idaho, for Coeur d'Alene Nursery, 3600 Nursery Road (SH)
Department of Air Force:

VOL 48 ISS 202 OCT 18 1983 UMI

VOL 48 ISS 202 OCT 18 1983 UMI

Bergstrom Air Force Base, Texas, for Buildings 713, 734, 2004, 2108 and 2600 (Chapel) (SH)
Ellsworth Air Force Base, South Dakota (SH)
Fairchild Air Force Base, Washington, for Resistance Training (Bldg. 1212); Survival Classroom (Bldg. 1228); Survival Wing Headquarters (Bldg. 1324); Survival Clinic and SQ. HQ (Bldg. 1334); Field Training Laboratory (Bldg. 1342); Exhibits Lab and Library (Bldg. 1207); Alert Building 2060, Area A and Area B; Alert Trailers; Family Visitation Center (Bldg. 2092); Military Family Housing Office (Bldg. 2451B); Audit Agency Office (Bldg. 2245); 47 Air Division Headquarters (Bldg. 2285); Civilian Personnel Office and NAF (Bldg. 2245); Red Cross Office (Bldg. 2245); Base Library (Bldg. 716); Base Chapel (Bldg. 4200); Base Education Center (Bldg. 2365); Base Social Actions Office (Bldg. 3509); Base OSI (Bldg. 5025); Base Education Trailers; SACMET Office (Bldg. 2001B); Civilian Post Office (Bldg. 644); Air Recovery & Rescue Squadron (Bldg. 2036); Water Survival Classrooms (Bldg. 2249C); Academics (Bldg. 1224); Administration Office (Bldg. 1302); Gym (Bldg. 1306); Lab Rooms (Bldgs. 1336 and 1344); Post Office/Common Areas (Bldg. 1348); SATAF Offices (Bldg. 2248D); Child Care Center (Bldg. 2301); Corps of Engineers Office (Bldg. 2451A) (SH)
Department of Army:
U.S. Army Reserve Center, Memorial Parkway, Huntsville, Alabama (SH)
Fort McNair, Washington, D.C. for National Defense University, Health Fitness (SH)
Pentagon Officers Athletic Center, The Pentagon, Washington, D.C. (SH)
U.S. Army Reserve Center, John Williams Street, Attleboro, Massachusetts (SH)
U.S. Army Reserve Center, Belmont & Manley Streets, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, 915 W. Chestnut Street, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, Buildings 85 and 90, Hingham, Massachusetts (SH)
U.S. Army Reserve Center, 675 American Legion Highway, Roslindale, Massachusetts (SH)
U.S. Army Reserve Center, 130 Eldridge Street, Taunton, Massachusetts (SH)
U.S. Army Reserve Center, Fort Snelling, Minnesota (SH)
U.S. Readiness Group, Fort Snelling, Minnesota (SH)
U.S. Army Reserve Center, Fort Drum, New York (SH)
U.S. Army Reserve Center, 111 Finney Boulevard, Malone, New York (SH)
U.S. Army Reserve Center, Burrstone Road, Utica, New York (SH)
Lewisville Lake Park, Lewisville, Texas (SH)
U.S. Army Reserve Center, Butler Farm Road, Hampton, Virginia (SH)
U.S. Army Reserve Center, Marcella Road, Hampton, Virginia (SH)
U.S. Army Reserve Center, Williamsburg, Virginia (SH)
Hiram M. Chittenden Locks, Seattle, Washington (SH)
Vancouver Army Barracks, Vancouver, Washington (SH)
Yakima Firing Center, Yakima, Washington (SH)
Department of Defense: DCASR Building B–95, Marietta, Georgia, for Lockheed Complex, 805 Walker Street; AF Plant 6, 612 Tinker Street (SH)
Department of Energy:
Computer Science Center: Technical Support Building; Technical Support Addition, 550 Second Street, Idaho Falls, Idaho (SH)
Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Interior:
Bureau of Land Management, Roseburg, Oregon, for District Building (SH)
Bureau of Land Management, Salem, Oregon, for Salem District Office, 1717 Fabry Road, S.E. (SH)
Department of Navy:
Naval Air Station Miramar, California (SH)
Naval and Marine Corps Reserve Center, Jackson, Mississippi (SH)
Naval and Marine Corps Reserve Center, Newport News, Virginia (SH)
Naval Air Station, Whidbey Island, Washington, for Buildings 12, 18, 20, 22, 34, 100, 103, 108, 110, 113, 116, 119, 124, 128, 180, 220, 243, 365, 369, 371, 374, 375, 378, 377, 380, 381, 385, 286, 960, 961, 975, 994, 2546, 2547, 2551 (SH)
Department of Transportation:
Federal Aviation Administration, Westbury, Long Island, New York, for TRACON Facility (SH)
Federal Aviation Administration Facilities, Spokane, Washington, for Air Traffic Control Tower Building and adjacent TRACON Building including connecting enclosed walkway, FAA NAVAIDS Communication Building 1300, Spokane International Airport; Felts Field for Air Traffic Control Tower, Flight Service Station, General Aviation District Office (SH)
Department of Treasury: Bureau of Engraving and Printing Annex Building, 14th & C Streets, S.W., Washington, D.C. (SH)
General Services Administration:
Federal Building, 3rd Avenue and 1st Street, Cullman, Alabama (SH)
Federal Building and U.S. Courthouse, 15 Lee Street, Montgomery, Alabama (SH)
Federal Building and Courthouse, 1340 West 6th Street, Los Angeles, California (SH)
Food and Drug Administration Building, 1521–33 West Pico Boulevard, Los Angeles, California (SH)
Federal Building, 801 I Street, Sacramento, California (SH)
Denver Federal Center, Building 85, Denver, Colorado (SH)
Federal Building, 275 Peachtree Street, N.E., Atlanta, Georgia (SH)
U.S. Court of Appeals, Forsyth & Walton Streets, Atlanta, Georgia (SH)
Federal Building, Moultrie, Georgia (SH)
Federal Building, U.S. Post Office, and U.S. Courthouse, Thomasville, Georgia (SH)
Federal Building, U.S. Post Office, 304 N. 6th, Boise, Idaho (SH)
Federal Building and U.S. Courthouse, 205 4th Street, Coeur d'Alene, Idaho (SH)
Federal Parking Facility, 450 South Federal Street, Chicago, Illinois (SH)
Interagency Motor Pool, 701 South Clinton Street, Chicago, Illinois (SH)
U.S. Customhouse, 610 South Canal Street, Chicago, Illinois (SH)
OSHA Training Center, 1555 Times Drive, Des Plaines, Illinois (SH)
Federal Building and U.S. Courthouse, 101 First Street, S.E., Cedar Rapids, Iowa (SH)
Leased Space, 603–11 East 2nd Street, Des Moines, Iowa (SH)
U.S. Courthouse, 123 East Walnut Street, Des Moines, Iowa (SH)
Federal Building, 400 South Clinton, Iowa City, Iowa (SH)
Federal Building (U.S. Post Office and Courthouse), 330 Shawnee, Leavenworth, Kansas (SH)
Federal Building, U.S. Post Office, U.S. Courthouse, Frederica and 5th Streets, Owensboro, Kentucky (SH)
U.S. Federal Building & Post Office, 212 Harlow, Bangor, Maine (SH)
Roth Building, Social Security Administration Complex, 5536 Caswell Road, Baltimore, Maryland (SH)
Social Security Administration, Computer Center Building, 6201 Security Boulevard, Baltimore, Maryland (SH)
John W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts (SH)
U.S. Custom House, 6 McKinley Square, Boston, Massachusetts (SH)
GSA Depot Building 58, Hingham Industrial Park, 349 Lincoln Street, Hingham, Massachusetts (SH)
Springfield Federal Building, Main and Bridge Streets, Springfield, Massachusetts (SH)
Federal Records Center, 380 Trapelo Road, Waltham, Massachusetts (SH)
Waltham Federal Center, 424 Trapelo Road, Waltham, Massachusetts (SH)
Gerald R. Ford Museum, 303 Pearl Street, N.W., Grand Rapids, Michigan (SH)
Federal Building, U.S. Post Office, and U.S. Courthouse, Main and Poplar Streets, Greenville, Mississippi (SH)
Federal Building, U.S. Post Office, 200 East Washington Street, Greenwood, Mississippi (SH)
William M. Colmer Federal Building—Courthouse, 701 Main Street, Hattiesburg, Mississippi (SH)
Federal Building, 100 West Capitol Street, Jackson, Mississippi (SH)
Federal Building & U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebraska (SH)
Social Security Administration District Office Building, 22 Morris Street, Hackensack, New Jersey (SH)
Social Security Administration District Office Building, 868 Nye Avenue, Irvington, New Jersey (SH)
Social Security Administration District Office Building, 396 Bloomfield Avenue, Montclair, New Jersey (SH)
Federal Building, 3rd & Hill Avenue, Gallup, New Mexico (SH)

Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York (SH)
Federal Building, 111 West Huron, Buffalo, New York (SH)
U.S. Customs, 160–19 Rockaway Boulevard, Jamaica, New York (SH)
Internal Revenue Service, 120 Church Street, New York, New York (SH)
U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York (SH)
U.S. Courthouse, 40 Foley Square, New York, New York (SH)
Federal Building, 45 Bay Street, Staten Island, New York (SH)
U.S. Courthouse and Federal Building, Broad and Catherine Streets, Utica, New York (SH)
Federal Building, 125 South Main Street, Muskogee, Oklahoma (SH)
Federal Building, U.S. Courthouse, 211 East 7th Avenue, Eugene, Oregon (SH)
Federal Building, 511 NW., Broadway, Portland, Oregon (SH)
Federal Building, Bonneville Power Administration, 1002 NE., Holladay Street, Portland, Oregon (SH)
Federal Warehouse, 2760 NW. Yeon Avenue, Portland, Oregon (SH)
Lloyd Group Buildings, Portland, Oregon, at following locations: 630 NE. Holladay Street; 830 NE. Holladay Street; 729 NE. Oregon Street; 811 NE. Oregon Street; 827 NE. Oregon Street (SH)
Pioneer Courthouse, 520 SW. Morrison, Portland, Oregon (SH)
Federal Office Building, Cass & Stephens Streets, Roseburg, Oregon (SH)
Federal Building, 6th & State Streets, Erie, Pennsylvania (SH)
Federal Building/U.S. Court House, 515 9th Street, Rapid City, South Dakota (SH)
Federal Building-U.S. Courthouse, 400 South Phillips Street, Sioux Falls, South Dakota
Armed Forces Examining Station and Bureau of Mines Building, 1100 Filmore Street, Amarillo, Texas (SH)
J. Marvin Jones Federal Building and U.S. Courthouse, 295 E. 5th Street, Amarillo, Texas (SH)
Border Stations, Bridge of the Americas, Paso Del Norte, Good Neighbor Bridge and Cotton Classing Building, El Paso, Texas (SH)
Forest Service Building, 507 25th Street, Ogden, Utah (SH)
Administration Building, Salt Lake City, Utah (SH)
The Charles Building, Salt Lake City, Utah (SH)
Executive Terminal Building, Salt Lake City, Utah (SH)
GSA Motor Pool Building, Salt Lake City, Utah (SH)
The Maurice Building, Salt Lake City, Utah (SH)
U.S. Post Office, Salt Lake City, Utah (SH)
U.S. Customs House, 101 E. Main Street, Norfolk, Virginia (SH)
U.S. Post Office and Courthouse, 600 Granby Mall, Norfolk, Virginia (SH)
Federal Building, 400 N. 8th Street, Richmond, Virginia (SH)
GSA Center, Buildings 811 and 812, Auburn, Washington (SH)
Federal Building, 3002 Colby Avenue, Everett, Washington (SH)
Federal Center, 25th & Dover Streets, Moses Lake, Washington (SH)
Federal Building, U.S. Post Office, 403 West Lewis Street, Pasco, Washington (SH)
Federal Archives and Records Center, 6125 Sandpoint Way, Seattle, Washington (SH)
Federal Building, Immigration and Naturalization Services, 815 Airport Way, Seattle, Washington (SH)
Federal Building, U.S. Post Office, W. 904 Riverside, Spokane, Washington (SH)
Federal Building, 500 W. 12th Street, Vancouver, Washington (SH)
Federal Center, Buildings 603, 604, 609, 610, 611, 612, 613, 613A, 616, 617, 618, 619, 620, 621, Walla Walla, Washington (SH)
Smithsonian Institution:
National Zoological Park, Washington, D.C.
Smithsonian Institution Service Center, 1111 North Capitol Street, NE., Washington, D.C. (SH)
Paul E. Garber Complex, 3904 Old Silver Hill Road, Suitland, Maryland (SH)
U.S. Marine Corps:
Quantico, Virginia, for Marine Corps Development and Education Command, Buildings 2034, 2079, 3035, 3088, 3400 (SH)
U.S. Postal Service: Mailbag Facility, 7600 West Roosevelt Road, Forest Park, Illinois (SH)
Veterans Administration: Veterans Administration Medical Center, Building #32, Dublin, Georgia (SH)

Janitorial/Elevator Operator

Department of Treasury: Bureau of Engraving and Printing, Washington, D.C., for Public Debt Building (SH)
General Services Administration:
Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)
Federal Building, 35 Ryerson Street, Brooklyn, New York (SH)
Federal Building, 201 Varick Street, New York, New York (SH)
Veterans Administration Building, 252 Seventh Avenue, New York, New York (SH)

SIC 7389

Food Service Attendant

Department of Army:
Consolidated Enlisted Dining Facility, Building 81, Fort McPherson, Georgia (SH)
Seneca Army Depot, Romulus, New York (SH)

Commissary Shelf Stocking

Department of Navy:
Naval Air Station, Alameda, California (SH)
Naval Station, Long Beach, California (SH)
Naval Air Station, Moffett Field, California (SH)
Naval Air Station, Point Mugu, California (SH)
Naval Station, Treasure Island, San Francisco, California (SH)
Mare Island Naval Shipyard, Vallejo, California (SH)
Naval Air Station, Barbers Point, Oahu, Hawaii (SH)
Naval Base, Pearl Harbor, Hawaii (SH)
Naval Training Center, Great Lakes, Illinois (SH)
Naval Air Station, Brunswick, Maine (SH)
Naval Air Station, Patuxent River, Maryland (SH)
Naval Construction Battalion Center, Gulfport, Mississippi (SH)
Naval Air Station, Fallon, Nevada (SH)
Naval Administrative Unit, Scotia, New York (SH)
Naval Station, Roosevelt Roads, Puerto Rico (SH)
Naval Education Training Center, Newport, Rhode Island (SH)
Naval Station and Naval Weapons Station, Charleston, South Carolina (SH)
Naval Station, Norfolk, Virginia (SH)
Naval Air Station, Oceana, Virginia Beach, Virginia (SH)
Naval Submarine Base, Bangor, Washington (SH)
Naval Air Station, Whidbey Island, Oak Harbor, Washington (SH)
Naval Support Activity, Sand Point, Seattle, Washington (SH)

Commissary Shelf Stocking and Custodial Service

Department of Air Force:
Gunter Air Force Station, Alabama (SH)
Maxwell Air Force Base, Alabama (SH)
Little Rock Air Force Base, Arkansas (SH)
Homestead Air Force Base, Florida (SH)
Robins Air Force Base, Georgia (SH)
Mountain Home Air Force Base, Idaho (SH)
McConnell Air Force Base, Kansas (SH)
Hanscom Air Force Base, Massachusetts (SH)
Nellis Air Force Base, Nevada (SH)
Lackland Air Force Base, Texas (SH)
Sheppard Air Force Base, Texas (SH)

SIC 7374

Keypunch and Verification

General Services Administration: GSA Region 2, Automated Telecommunication Service, Data Services Division (SH)

SIC 7399

Assembly

Department of Defense:
Belt, Trousers (IB)
Food Packet, Long Range Patrol (8970–00–926–8222) (SH)
Food Packet, Survival, Abandon Ship (8970–00–299–1395) (IB)
Food Packet, Survival, General-Purpose, Individual (8970–00–082–5665) (IB)
General Services Administration: Living Kit, Basic and Supplemental (SH)

Bursting and Packaging of Commemorative Stamps

U.S. Postal Service: Washington, D.C. (SH)

Currency Packaging

Department of Treasury: Bureau of Engraving and Printing, Washington, D.C. (SH)

Microfilming Contract Files

Department of Navy: OICC Trident, Bremerton, Washington (SH)

VOL
48
ISS
202
OC
18
1983
UMI

Microfilm Reproduction

Department of Navy: Naval Submarine Base Bangor, Silverdale, Washington (SH)

Packaging

General Services Administration: Canteen, Water, Disposable (8465-01-062-5854), GSA Region 8, Denver, Colorado (SH)

Parts Sorting

Department of Air Force: Hill Air Force Base, Utah (SH)

Repair of Air Cargo Pallet Top and Side Nets

Department of Air Force:
Wright-Patterson Air Force Base, Ohio (SH)
McChord Air Force Base, Washington (SH)

Sewing

Department of Army: Redstone Arsenal, Alabama (Provide specified end items produced through use of customized, heavy-duty sewing service) (SH)

Shrink Wrapping Gift Packages

U.S. Postal Service: Washington, D.C. (SH)

SIC 7542

Carwash

Department of Interior: Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon (SH)

SIC 7641

Furniture Rehobilitation

General Services Administration:
Altus Air Force Base, Oklahoma (SH)
Lawton, Oklahoma including Fort Sill (SH)
Oklahoma City, Oklahoma, plus 25-mile radius, including FAA and Tinker Air Force Base (SH)
San Antonio, Texas, plus 40-mile radius (SH)
Wichita Falls, Texas, including Sheppard Air Force Base (SH)
Spokane, Washington, plus 30-mile radius (SH)

Metal Furniture Rehabilitation

Department of Navy: Naval Ordnance Station, Louslville, Kentucky (IB)

SIC 7699

Drill Shorpening

Department of Navy: Naval Supply Center, San Diego, California (SH)

Mottress and Box Spring Rehobilitation (IB)

General Services Administration: Orders for renovated mattresses may be arranged through GSA regional offices. IB will provide requirements for mattress and box spring renovation for GSA Regions W, 2, 3, 4, 5, 6, 7, and 8 only.

Pollet Repair

Department of Navy:
Naval Supply Center, Norfolk, Virginia (SH)
Naval Supply Center, Cheatham Annex, Williamsburg, Virginia (SH)
Naval Supply Center, Puget Sound, Bremerton, Washington (SH)

Repair and Maintenance of Electric Typewriters Only

General Services Administration:
Health and Human Services, 300 S. Wacker Drive, Chicago, Illinois (SH)
Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois (SH)
Social Security Administration, 600 W. Madison, Chicago, Illinois (SH)
Syracuse, New York (including Onondaga County) (SH)

Repair and Maintenance of Manuol Typewritrs Only

General Services Administration: Federal Court House Building, Syracuse, New York (SH)

Repair of Rubberized Items

Department of Army:
Mattress Pneumatic (Noninsulated 8465-00-254-8887), Fort Bliss, Texas (SH)
Mattress Pneumatic (Insulated 8465-000-518-2781), Fort Bliss, Texas (SH)
Ponchos (8405-00-935-3257, Fort Bliss, Texas (SH)
Bag Clothing, Waterproof (8465-00-261-6909), Fort Bliss, Texas (SH)

Sponge Rubber Mattresses Rehabilitation

General Services Administration:
Requirements for GSA Region 3 (IB)

SIC 9199

Administrative Services

Department of Commerce: Herbert Hoover Building, 14th & Constitution Avenue, N.W., Washington, D.C. (SH)
Environmental Protection Agency:
Marfair Building, Washington, D.C. (SH)
Waterside Mall Complex, Washington, D.C. (SH)
345 Courtland Street, N.E., Atlanta, Georgia (SH)
General Services Branch, 230 South Dearborn Street, Chicago, Illinois (SH)
Beltsville Research Laboratory, Beltsville, Maryland (SH)
6100 Executive Boulevard, Rockville, Maryland (SH)
26 Federal Plaza, New York, New York (SH)
6th and Walnut Street, Philadelphia, Pennsylvania (SH)
Crystal Mall Complex, Arlington, Virginia (SH)

Publications Distribution

Department of Navy: Naval Construction Battalion Center, Gulfport, Mississippi (SH)

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Part IX

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

VOL
48
ISS
202
OC
18
1983
UMI

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

October 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of October 1, 1983 of 20 deferrals contained in the first special message of FY 1984. This message was actually transmitted to the Congress on October 3, 1983.

Rescissions (Table A)

No rescission proposals are currently pending before the Congress.

Deferrals (Table B and Attachment A)

As of October 1, 1983, $1,909.5 million in 1983 budget authority was being deferred from obligation and another $15.2 million in 1983 outlays was being deferred from expenditure. Attachment A shows the history and status of each deferral reported during FY 1984.

Information from special messages

The special message containing information on the deferrals covered by the cumulative report is printed in the **Federal Register** listed below:

Vol. 48, FR p. 45730, Thursday, October 6, 1983.

David A. Stockman,

Director, Office of Management and Budget.

BILLING CODE 3110-01-M

Page 2

TABLE A

STATUS OF 1984 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President.....	-0-
Accepted by the Congress.....	-0-
Rejected by the Congress.....	-0-
Pending before the Congress.....	$ -0-

****

TABLE B

STATUS OF 1984 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	$1,924.7
Routine Executive releases through October 1, 1983	-0-
Overturned by the Congress.....	-0-
Currently before the Congress.....	$1,924.7 a/

a/ This amount includes $15.2 million in outlays for a Department of the Treasury deferral (D84-16).

Attachments

UMI 1983 18 OC 20 2 ISS VOL 48

Attachment A – Status of Deferrals – Fiscal Year 1984

As of October 1, 1983 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 10-1-83
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian regional development programs	D84-1	10000		10-3-83					10000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	D84-2	6211		10-3-83					6211
Expenses, brush disposal	D84-3	42674		10-3-83					42674
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D84-4	33600		10-3-83					33600
DEPARTMENT OF DEFENSE – MILITARY									
Military construction, all services	D84-5	414597		10-3-83					414597
Family housing, Air Force	D84-6	53000		10-3-83					53000
DEPARTMENT OF DEFENSE – CIVIL									
Wildlife, conservation, military reservations									
Wildlife conservation	D84-7	777		10-3-83					777
DEPARTMENT OF ENERGY									
Energy programs									
Uranium supply and enrichment activities	D84-8	130000		10-3-83					130000
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of the Assistant Secretary of Health									
Scientific activities overseas (special foreign currency program)	D84-9	6463		10-3-83					6463
Social Security Administration									
Limitation on administrative expenses (construction)	D84-10	10571		10-3-83					10571

As of October 1, 1983 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 10-1-83
DEPARTMENT OF THE INTERIOR									
Minerals Management Service									
Payments for proceeds, sale of water, Mineral Leasing Act of 1920	D84-11	48		10-3-83					48
DEPARTMENT OF STATE									
United States emergency refugee and migration assistance fund	D84-12	37928		10-3-83					37928
United States bilateral science and technology agreements	D84-13	2000		10-3-83					2000
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (airport and airway trust fund	D84-14	1083268		10-3-83					1083268
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
State and local government fiscal assistance trust fund	D84-15	56068		10-3-83					56068
State and local government fiscal assistance trust fund	D84-16	15209		10-3-83					15209
OTHER INDEPENDENT AGENCIES									
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D84-17	13148		10-3-83					13148
Railroad Retirement Board									
Milwaukee Railroad restructuring administration	D84-18	85		10-3-83					85
Tennessee Valley Authority									
Tennessee Valley Authority fund	D84-19	7000		10-3-83					7000
United States Railway Association									
Administrative expenses	D84-20	2050		10-3-83					2050
TOTAL, DEFERRALS		1,924,697[a]							1,924,697 [a]

[a] All of the above amounts represent budget authority except one general revenue sharing deferral of outlays only.

VOL
48
ISS
202
OC
18
1983
UMI

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Part X

Environmental Protection Agency

2,4,5-T and Silex Products; Intent To Cancel Registrations, Revocation of Notices of Intent To Hold a Hearing, and Statement of Enforcement Policy

VOL
48
ISS
2
0
2
OC
18
1983
UMI

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66103 PH-FRL 2454-3]

2,4,5-T and Silvex Products; Intent To Cancel Registrations of Pesticide Products Containing 2,4,5-T and Silvex; Revocation of Notices of Intent To Hold a Hearing To Determine Whether Certain Uses of 2,4,5-T or Silvex Should Be Cancelled

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Cancel Registrations; Revocation of Notices of Intent to Hold a Hearing.

SUMMARY: Pursuant to section 6(b)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136d(b)(1), the Environmental Protection Agency is issuing a notice of intent to cancel the registrations of all products which contain as an active ingredient 2,4,5-trichlorophenoxy-acetic acid (2,4,5-T) or 2-(2,4,5-trichlorophenoxy) propionic acid (silvex) or any salt, ester, amine, or other derivative of 2,4,5-T or silvex (2,4,5-T and silvex products) and which are labeled for manufacturing use, or labeled for end use on any site not already the subject of the notices of intent to cancel issued on March 15, 1979. EPA is also revoking the notices (previously issued pursuant to FIFRA section 6(b)(2)) of intent to hold a hearing to determine whether the products labeled for the above end uses of 2,4,5-T and silvex should be cancelled.

FOR FURTHER INFORMATION CONTACT: Patricia A. Roberts, Pesticides and Toxic Substances Division (LE-132P), Office of General Counsel, Environmental Protection Agency, Room W-513, 401 M St. SW., Washington, D.C. 20460 (202-382-7505). Susan Sherman, Policy and Special Projects Staff (TS-766C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Office location and telephone number: Room 1117B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7102).

SUPPLEMENTARY INFORMATION:

I. Background

In 1979, EPA initiated a number of actions intended to subject all of the registered uses of 2,4,5-T and silvex herbicides to formal scrutiny. Products containing these active ingredients also contain, as an unavoidable impurity, 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD). On March 1, 1979, the Administrator ordered the emergency suspension under FIFRA section 6(c) of the forestry, rights-of-way, and pasture uses of 2,4,5-T, as published in the Federal Register of March 15, 1979 (44 FR 15874); and of the forestry, rights-of-way, pasture, home and garden, commercial/ornamental turf, and aquatic weed control/ditchbank uses of silvex, as published in the Federal Register of March 15, 1979 (44 FR 15897). As required by statute, notices under FIFRA section 6(b)(1) of intent to cancel the same uses of each of these chemicals were issued at the same time, as published in the Federal Register of March 15, 1979 (44 FR 15893 and 44 FR 15917). Emergency suspension hearings before the Agency were commenced in May 1979 and were halted when the registrants withdrew from the proceedings. Thus, the suspension of all registrations subject to the emergency suspension order was affirmed by operation of law.

On December 9, 1979, EPA issued notices of intent to hold a hearing under FIFRA section 6(b)(2) to determine whether to cancel products registered for the remaining end uses of 2,4,5-T and silvex, including the rice, range, sugarcane, orchard, and miscellaneous non-crop uses, as published in the Federal Register of December 13, 1979 (44 FR 72316 and 44 FR 72328). Publication of these notices was preceded by referral of the notices to the United States Department of Agriculture (USDA) and the Scientific Advisory Panel (SAP), as published in the Federal Register of July 17, 1979 (44 FR 41531 and 44 FR 41536). Thereafter, the proceedings under FIFRA section 6(b)(2) were consolidated with the proceedings under FIFRA section 6(b)(1). The taking of testimony in the consolidated cancellation hearing commenced in March 1980. During the hearing more than 100 witnesses appeared, over 1,500 exhibits were entered in the record, and more than 23,000 pages of transcript were taken. The hearing continued until February 1981, when the proceeding was stayed by Chief Administrative Law Judge Finch pending the outcome of settlement discussions. Administrators William D. Ruckelshaus excused himself from any participation in the 2,4,5-T/silvex proceeding on March 23, 1983. On October 4, 1983, Administrator Ruckelshaus designated the Deputy Administrator as the official who will exercise the decisionmaking authority reserved to the Administrator, and the Office of Pesticides and Toxic Substances, the Office of General Counsel, and the Office of Enforcement Counsel as the offices which will perform all prosecutorial and investigative functions in the proceeding.

II. Initiation of Regulatory Actions

Under FIFRA section 6(b)(1), EPA hereby gives notice of its intent to cancel the registrations of all 2,4,5-T and silvex products registered for any use or uses which are not already subject to a section 6(b)(1) notice of intent to cancel. The 2,4,5-T and silvex products subject to cancellations under this notice include those whose labeling permits use on rice, range, sugarcane, orchards, or miscellaneous non-crop sites. At the same time, EPA is revoking the previously issued section 6(b)(2) notices concerning these end uses. EPA is also hereby giving notice of its intention to cancel all 2,4,5-T and silvex products which are labeled for manufacturing use.

A. Issuance of Section 6(b)(1) Notice; Revocation of Section 6(b)(2) Notices

FIFRA section 6(b) provides two mechanisms for instituting proceedings to cancel pesticides. If it appears to the Administrator or his delegate that a pesticide generally causes unreasonable adverse effects on the environment, he or his delegate may issue a notice of intent either to cancel the registration of that pesticide or alternatively to hold a hearing to determine whether or not the registration should be cancelled. The judgment of whether to issue a section 6(b)(1) or section 6(b)(2) notice is within the sole discretion of the Administrator or his delegate.

In a section 6(b)(1) proceeding, a registration is cancelled by operation of law if, following issuance of the notice of intent to cancel the registration, no person adversely affected by the notice files a timely request for a hearing, or if a hearing is timely requested but thereafter all such persons withdraw their requests for a hearing. By contrast, failure to request or participate in a section 6(b)(2) hearing does not automatically result in cancellation of affected registrations. The two proceedings are similar in that the Administrator, following a hearing initiated under either section 6(b)(1) or section 6(b)(2), may issue a decision to cancel the registration.

In announcing its intention to initiate a hearing under section 6(b)(2) to consider the cancellation of the non-suspended uses of 2,4,5-T and silvex, EPA concluded that products registered for those uses appeared to cause unreasonable adverse effects on the environment. (44 FR 41531 and 41537). In issuing a section 6(b)(1) notice at this time as a replacement for the section 6(b)(2) notices, EPA reaffirms its prior judgment that the non-suspended uses of 2,4,5-T and silvex appear to cause unreasonable adverse effects on the environment. The reasons for withdrawing the section 6(b)(2) notices and replacing them with a section 6(b)(1) notice are discussed below.

The Dow Chemical Company, a major registrant and until now the most vigorous proponent of continued registration of 2,4,5-T and silvex products in the consolidated cancellation hearing, has recently withdrawn from the cancellation hearing and has otherwise requested that the registrations of its 2,4,5-T and silvex products be cancelled in their entirety. Dow's actions suggest that the incentives to pursue this litigation may not be as great as they were two and one-half years ago. It is reasonable to surmise that other litigants share Dow's perspective and may no longer be interested in pursuing the hearing. In light of these developments, it now seems appropriate to take steps intended to determine whether any party is interested in continuing the hearing in Dow's absence and, if not, to bring the time-consuming and costly adjudicatory proceeding to an end in a manner which removes 2,4,5-T and silvex from the market. Issuance of a section 6(b)(1) notice as a replacement for the section 6(b)(2) notices is a mechanism for achieving this outcome.

Each product registered for any of the uses covered by this new notice will be immediately cancelled by operation of law if no hearing is timely requested in response to this new notice unless the registrant requests amendment of its registration to delete all uses to which this notice applies. By contrast, in a section 6(b)(2) proceeding, such as the section 6(b)(2) proceeding which is a part of the current 2,4,5-T/silvex proceeding, cancellation of the products registered for uses covered by the section 6(b)(2) notices would not occur by operation of law even if all of the participants withdrew from the hearing.

In addition to issuing this new section 6(b)(1) notice concerning the non-suspended uses of 2,4,5-T and silvex products, I am hopeful that the remaining parties to the previously commenced cancellation proceeding will seriously consider following Dow's initiative in withdrawing from the hearing. I am taking these steps to facilitate the termination of the current adjudicatory proceeding on 2,4,5-T and silvex in a manner which best serves the public interest.

EPA has previously provided the U.S. Department of Agriculture with an opportunity to review the cancellations proposed in the section 6(b)(2) notices in terms of impact on the agricultural economy and has provided the Scientific Advisory Panel with an opportunity to review the cancellations proposed in the section 6(b)(2) notices in terms of impact on health and the environment. Hence, external review of the replacement section 6(b)(1) notice is not required, since the requisite opportunity to review the implications of cancellation of the same uses has previously been provided. Moreover, the congressional authorization of the Scientific Advisory Panel established by FIFRA section 25(d) expired on September 30, 1981, and has not been renewed.

B. Manufacturing Use Products

The various proceedings consolidated in the 2,4,5-T/silvex cancellation proceeding have been directed exclusively at 2,4,5-T and silvex products registered for various end-uses. None of the previous regulatory actions directly affect the registrations of manufacturing use or "technical" 2,4,5-T and silvex products, notwithstanding the fact that the only lawful ultimate use of such products is the formulation of end-use products. Since the Agency is endeavoring to cancel all end-use registrations of 2,4,5-T and silvex products, it is reasonable to include manufacturing-use products within the ambit of the new section 6(b)(1) notice. Hence this new notice includes manufacturing-use as well as end-use registrations.

C. Existing Stocks

Pursuant to FIFRA section 6(a)(1), the Agency will permit the continued distribution and sale of existing stocks of 2,4,5-T and silvex products which are labeled for end uses subject to this notice, and whose registrations are cancelled pursuant to this notice, for no more than one year from the effective date of such cancellation. However, this provision will apply only to those existing stocks of 2,4,5-T and silvex products which were packaged and labeled for such end uses and released for shipment prior to the date of receipt of this notice by the registrant or publication of this notice in the Federal Register, whichever occurs first. The Agency will not permit the continued distribution, sale, or use of any cancelled 2,4,5-T or silvex product labeled for any end-use subject to the 1979 emergency suspension orders or for manufacturing use.

IV. Procedural Matters

This notice announces EPA's intent to cancel registrations of 2,4,5-T and silvex products labeled for use on rice, range, sugarcane, orchards, and all miscellaneous non-crop areas. This notice also announces EPA's intent to cancel 2,4,5-T and silvex manufacturing-use products. Under section 6(b) of FIFRA, registrants and other adversely affected parties may request a hearing on this new cancellation notice. This unit of the notice explains how such persons may request a hearing, and the consequences of requesting or failing to request a hearing in accordance with the procedures specified in this notice.

A. Procedure for Requesting a Hearing

A registrant whose 2,4,5-T or silvex product is subject to this notice may request a hearing within 30 days of receipt of this notice, or within 30 days from publication of this notice in the Federal Register, whichever occurs later. Any other person adversely affected by the cancellation actions described above may request a hearing within 30 days of publication of this notice in the Federal Register.

Any person who requests a hearing must file the request in writing in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that: (1) All requests must identify the specific registration(s) and the specific use(s) for which a hearing is requested, (2) all requests must be accompanied by objections that are specific for each use of the identified pesticide products for which a hearing is requested, and (3) all requests must be received by the Hearing Clerk within the applicable 30 day period. Failure to comply with any of these requirements will automatically result in denial of the request for a hearing.

Requests for hearings must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

B. Consequences of Filing or Failing to File a Hearing Request

1. *Consequences of filing a timely and effective hearing request.* If a hearing on any cancellation action initiated by this notice is requested in a timely and valid manner, the hearing will be governed by the Agency's Rules of Practice Governing Hearings under FIFRA section 6 (40 CFR Part 164). The hearing will be limited to the registrations and uses as to which a hearing is requested. EPA anticipates that any such hearing would be consolidatd with the existing 2,4,5-T/silvex cancellation proceeding (if that proceeding is not termintated).

If a registrant whose 2,4,5-T or silvex product is labeled for more than one of the uses subject to this notice or other

adversely affected person elects to request a hearing concerning some but not all affected uses of the products, the registrant also must submit to the Registration Division of the Office of Pesticide Programs an application to amend the registration of such product to delete all other affected uses within the same 30-day period within which a hearing may be requested. Failure to submit such an application for amended registration will result in cancellation of the entire registration of the product by operation of law.

If a registrant or other adversely affected person requests a hearing pursuant to this notice for any 2,4,5–T or silvex product for which no hearing has previously been requested and the labeling submitted for that product has not been previously amended to delete all uses which were subject to the emergency suspension and section 6(b)(1) cancellation notices for 2,4,5–T and silvex issued in 1979, the registrant also must submit to the Registration Division of the Office of Pesticide Programs an application to amend such labeling to delete such previously cancelled uses within the same 30-day period within which a hearing may be requested. Failure to submit such an application for amended registration will result in cancellation of the entire registration of the pesticide.

2. *Consequences of foilure to file in a timely and effective manner.* If no hearing has been requested within the applicable 30-day period for any 2,4,5–T or silvex product which is labeled for one or more uses subject to this notice and the registrant has not submitted to EPA an application to amend the registration of such product to delete all uses subject to this notice, the entire registration of the product will be cancelled. However, if a registrant does not request a hearing for a 2,4,5–T or silvex product which is labeled for one or more uses subject to this notice, but did previously request a hearing concerning cancellation of one or more uses of that product which were subject to the emergency suspension notices and notice of intent to cancel 2,4,5–T and silvex issued in 1979, the registrant has the right to continue to participate in a hearing with respect to the latter uses. At the conclusion of the 2,4,5–T/silvex cancellation proceeding, reinstatement of such uses will be granted to the extent permitted by the final adjudicatory order. Any registrant or former registrant who requests reinstatement of a registration for such uses pursuant to such a final adjudicatory order will not be required to comply with section 3(c)(1)(D) of FIFRA in order for such reinstatement to be granted.

Dated: October 14, 1983.

Edwin L. Johnson,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83–28469 Filed 10–17–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–60009; PH–FRL 2454–4]

2,4,5–T and Silvex Products; Enforcement Policy on Transfer, Distribution, Sale or Importation of Unregistered Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Statement of Enforcement Policy.

SUMMARY: The Environmental Protection Agency (EPA) announces that it will regard as unlawful, and subject to criminal or civil penalty, any transfer between establishments or other distribution, sale, or importation of any unregistered pesticide product containing 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) or 2-(2,4,5-trichlorophenoxy) propionic acid (silvex) or any salt, ester, amine or other derivative of 2,4,5-T or silvex (2,4,5-T and silvex products) except to the extent specifically authorized by section 3(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a(b)(1), or by 40 CFR 162.3(dd) and 162.5, notwithstanding any prior EPA policy statements or other issuance to the contrary.

DATE: This policy statement will become effective on November 17, 1983.

FOR FURTHER INFORMATION CONTACT:

John R. MacDonald, Compliance Monitoring Staff (EN–342), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. M–2624, 401 M St., SW., Washington, DC 20460, (202–382–7846).

Edward C. Gray, Pesticides and Toxic Substances Division (LE–132P), Office of General Counsel, Environmental Protection Agency, Rm. W–519, 401 M St., SW., Washington, DC 20460, (202–382–7510).

SUPPLEMENTARY INFORMATION: FIFRA sections 3(a) and 12(a)(1)(A) prohibit the distribution, sale, shipment, or other movement in commerce of pesticides which are not registered under FIFRA, except as permitted by other provisions of FIFRA. FIFRA section 3(b)(1) allows transfers of an unregistered pesticide if "the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide product at the second establishment."

Any transfer of the unregistered pesticide between two registered establishments owned by the same person is lawful under FIFRA section 3(b)(1), so long as the purpose of the transfer is to allow formulation or packaging of a pesticide product at the transferee establishment.

If the transfer of the unregistered pesticide is between two establishments owned by different persons, 40 CFR 162.3(dd) provides that the transferor establishment and the transferee establishment will be regarded by EPA as being "operated by the same producer" only if the transferee establishment is "operated under contract with the registrant of the pesticide either to package the pesticide product or to use the pesticide as a constituent part of another pesticide product, provided that the final pesticide product is registered by the transferor establishment." Thus, for a transfer of an unregistered pesticide between establishments to be lawful under the regulations, the owner of the transferor establishment must be either (1) the owner of the transferee establishment or (2) the registrant of the registered pesticide product which will be produced at the transferee establishment using the transferred unregistered pesticide. (The regulations also allow transfers in connection with experimental use permits, emergency exemptions, disposal, exports, and other cases, 40 CFR 162.5(b) (3) through (7); this notice does not affect such transfers.)

In addition to the types of transfers described above which are allowed by FIFRA and the implementing regulations, EPA has also in the past declared that, as an exercise of its prosecutorial discretion, no enforcement action would be taken against another category of transfers of unregistered pesticide. Under FIFRA Compliance Program Policy No. 3.6, issued by the Pesticides and Toxic Substances Enforcement Division and dated May 10, 1982, EPA generally allows the transfer of an unregistered pesticide if (1) the owner of the transferee establishment is the registrant under FIFRA of a registered end-use product, and (2) the transferor establishment and the transferee establishment are parties to a contract, and (3) the contract requires the transferor to produce the unregistered pesticide solely for use in the production of the transferee's registered end-use product.

Elsewhere in this issue of the **Federal Register**, EPA is announcing its intent to cancel all registrations of 2,4,5-T and silvex products. In view of this action, EPA has determined that the public interest will best be served by prohibiting the sale, distribution, importation, or other transfer of unregistered 2,4,5-T and silvex products, except as specifically allowed by FIFRA section 3(b) or 40 CFR Part 162. Accordingly, after the effective date of this notice, EPA will regard as unlawful, and subject to criminal and civil penalty, any transfer of any unregistered 2,4,5-T or silvex products except those transfers authorized by FIFRA section 3(b) or 40 CFR Part 162, notwithstanding any prior EPA statement to the contrary (including but not limited to FIFRA Compliance Program Policy No. 3.6).

Dated: October 14, 1983.

Edwin L. Johnson,

Acting Assistant Administrator for Pesticides and Toxic Substances.

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VOL
48
ISS
202
OC
18
1983
UMI

Reader Aids

Federal Register
Vol. 48, No. 202
Tuesday, October 18, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7
46005–46258.....11
46259–46486.....12
46487–46730.....13
46731–46962.....14
46963–48214.....17
48215–48438.....18

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266, 46795
Ch. IV.....47978
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559
12002 (See EO 12444).....48215
12214 (See EO 12444).....48215
12444.....48215

Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259
5116.....46963
5117.....46965
5118.....48217

5 CFR

Ch. XIV.....45373
213.....46261
752.....45525
1255.....45373

Proposed Rules:
Ch. I.....47990
Ch. III.....47982

7 CFR

2.....46261
51.....46487
247.....46731
301.....46262
319.....46732
752.....45526
906.....45374
908.....45526, 46488
910.....45374, 45755, 46961
919.....45374
929.....45374
981.....45374
991.....45374, 48219
1435.....45374
1901.....45532
1951.....46967
1955.....46967
1962.....46967
1965.....46967

Proposed Rules:
Subtitle A.....47236
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
Ch. V.....47236
Ch. VI.....47236
Ch. VII.....47236
Ch. IX.....47236
Ch. X.....47236
Ch. XI.....47236
Ch. XII.....47236
Ch. XIV.....47236
Ch. XV.....47236
Ch. XVI.....47236
Ch. XVII.....47236
Ch. XVIII.....47236
Ch. XXI.....47236
Ch. XXIV.....47236
Ch. XXV.....47236
Ch. XXVI.....47236
Ch. XXVII.....47236
Ch. XXVII.....47236
Ch. XXIX.....47236
226.....45779
402.....46062
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
1065.....45117
1131.....46343
1139.....46797

8 CFR

103.....45093
214.....45093
238.....45093
248.....45093

Proposed Rules:
Ch. 1.....47530
103.....48242

9 CFR

Proposed Rules:
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
92.....46355
317.....45118
318.....48242
319.....45118
325.....46996
350.....45755
362.....45755
381.....45118, 46996, 48224

10 CFR

2.....46489
50.....46489
55.....45223
71.....45381
761.....45746
710.....46499

Proposed Rules:
Ch. I.....48156

VOL 48 ISS 202 OCT 18 1983 UMI

Ch. II..... 47324
Ch. III..... 47324
Ch. X..... 47324
50..... 45787

12 CFR

7..... 46502
29..... 45532
204..... 46005, 46262
207..... 45533, 46219
217..... 45756, 46262
220..... 45533, 46219
221..... 45533, 48219
224..... 45533
226..... 46219
561..... 45382
563..... 45382
760..... 46006

Proposed Rules:

Ch. I..... 47716
Ch. II..... 46996
Ch. V..... 48110
Ch. VI..... 48074
Ch. VII..... 48150
29..... 47001

13 CFR

101..... 45224
123..... 45225
133..... 46008

Proposed Rules:

Ch. I..... 48020
Ch. II..... 47254

14 CFR

39..... 45093, 45535, 46006, 46009, 46503, 46969, 48220, 48222
71..... 45094, 45095, 45536, 45537, 46010, 46503
95..... 46504
97..... 45096
205..... 46264
248..... 46265
294..... 46265
320..... 45236
380..... 46265
389..... 45758

Proposed Rules:

Ch. I..... 46358, 47582
Ch. II..... 47003, 48038
Ch. V..... 47972
21..... 45214, 45565
25..... 46218, 46250
29..... 46250
39..... 46070
43..... 48364
61..... 45214
65..... 45214
71..... 45118, 45566, 48244
91..... 48364
107..... 45214
109..... 45214
121..... 45214, 46216, 46250, 48364
127..... 48364
135..... 45214, 48364
145..... 45214

15 CFR

Proposed Rules:

Subtitle A..... 47254
Ch. I..... 47254
Ch. II..... 47254
Ch. III..... 47254
Ch. IV..... 47254
Ch. VIII..... 47254
Ch. IX..... 47254
Ch. XXIII..... 47254

16 CFR

453..... 45537

Proposed Rules:

Ch. I..... 48120
Ch. II..... 48064
1212..... 45405
1500..... 45567
1513..... 45567

17 CFR

145..... 46010, 48223
146..... 46010, 48223
147..... 46010, 48223
229..... 46012
230..... 46012, 46736
231..... 46012, 46969
239..... 45386, 46012
240..... 46012, 46736
241..... 46012
270..... 46012
274..... 46012

Proposed Rules:

Ch. I..... 48056
Ch. II..... 48190
33..... 46797
230..... 46801
240..... 45119, 48245
249..... 48245

18 CFR

2..... 46012
35..... 46012, 46970
157..... 46021
270..... 48223
271..... 45097, 46266–46268, 48223
274..... 45097
282..... 45758
301..... 46970
385..... 45388

Proposed Rules:

Ch. I..... 48104
101..... 46361
104..... 46361
141..... 46361
154..... 46361, 47003
157..... 47003
159..... 46361
201..... 46361
204..... 46361
260..... 46361
271..... 46071
275..... 47003
282..... 45787
410..... 45568

19 CFR

4..... 46510, 46978
7..... 46740
10..... 46510, 46740
22..... 46740
101..... 45538
103..... 45538
113..... 46740
145..... 46740
148..... 46978
158..... 46740
191..... 46740
210..... 45544

Proposed Rules:

Ch. I..... 46805, 47724
4..... 46808, 46810
18..... 46812
101..... 45409
123..... 46812
144..... 46812

20 CFR

404..... 46142

Proposed Rules:

Ch. I..... 47538
Ch. II..... 48012
Ch. III..... 47340
Ch. IV..... 47538
Ch. V..... 47538
Ch. VI..... 47538
Ch. VII..... 47538
10..... 48249
422..... 46072, 47008

21 CFR

81..... 45237, 45760, 46022
109..... 45544
131..... 45545
175..... 48228
178..... 46773, 46774
179..... 46022
193..... 45547
211..... 46979
430..... 46270
436..... 46270
442..... 46270
520..... 46979, 48229
522..... 46023, 48229
540..... 45760
558..... 45102, 46023, 46024, 46514, 46515
700..... 46979
800..... 46979
1308..... 46516

Proposed Rules:

Ch. I..... 47340
182..... 45121
184..... 45121
211..... 47008
351..... 46694
610..... 46815, 47009
620..... 47009
630..... 47009
640..... 47009
650..... 47009
660..... 47009
680..... 47009
700..... 47008
800..... 47008

22 CFR

Proposed Rules:

Ch. I..... 47578
Ch. II..... 47970

23 CFR

655..... 46775

Proposed Rules:

Ch. I..... 47582
Ch. II..... 47582
658..... 46545

24 CFR

26..... 46980
201..... 46980
215..... 46980
221..... 46980
236..... 46980
570..... 45760, 46776, 46980
841..... 46980
882..... 46980
888..... 45547, 46980
890..... 476980

Proposed Rules:

Subtitle A..... 47418
Subtitle B..... 47418
24..... 46072, 46817

25 CFR

71..... 45103

Proposed Rules:

Ch. I..... 47472
140..... 45789

26 CFR

1..... 45761, 46272, 46296
4..... 46272
31..... 46296
35a..... 45362

Proposed Rules:

Ch. I..... 47730
1..... 47010, 48255
5f..... 48255
31..... 47010

27 CFR

4..... 45549
5..... 45549, 46518
7..... 45549
9..... 45238, 45239, 46518–46524
170..... 46526
240..... 46526

Proposed Rules:

Ch. I..... 47708
9..... 46387

28 CFR

2..... 48230

Proposed Rules:

Ch. I..... 47530

29 CFR

1601..... 46298

Proposed Rules:

Subtitle A..... 47538
Ch. II..... 47538
Ch. IV..... 47538
Ch. V..... 47538
Ch. XII..... 47946
Ch. XIV..... 47928
Ch. XVII..... 47538
Ch. XXV..... 47538
Ch. XXVI..... 48004
1908..... 45411
1910..... 45956
1926..... 45872

30 CFR

251..... 46025
913..... 46528
917..... 46299
935..... 46027, 46301, 46530
938..... 45389
946..... 46028

Proposed Rules:

Ch. I..... 47538
Ch. II..... 47472
Ch. VII..... 47472
55..... 45336
56..... 45336
57..... 45336

58..... 45336
917..... 48255
935..... 45420
938..... 46817

31 CFR

51..... 46982

Proposed Rules:

Subtitle A..... 47702
Ch. I..... 47702
Ch. II..... 47702

32 CFR

251..... 45242

Proposed Rules:

Ch. I..... 47302
Ch. V..... 47302
Ch. VI..... 47302
Ch. VII..... 47302
Ch. XVI..... 48018
199..... 45791

33 CFR

100..... 45244, 46531
117..... 45245, 46532
130..... 46178
131..... 46178
132..... 46178
151..... 45704
155..... 45704
157..... 45718, 46985
163..... 48230
165..... 46533, 46534, 46779

Proposed Rules:

Ch. I..... 47582
Ch. II..... 47302
Ch. IV..... 47582
162..... 45798
164..... 46819

34 CFR

668..... 45670
690..... 45670

Proposed Rules:

Subtitle A..... 47308
Ch. I..... 47308
Ch. II..... 47308
Ch. III..... 47308
Ch. IV..... 47308
Ch. V..... 47308
Ch. VI..... 47308
Ch. VII..... 47308
350..... 45568
351..... 45568
352..... 45568
353..... 45568
354..... 45568
355..... 45568
357..... 45568

35 CFR

Proposed Rules:

Ch. I..... 47998

36 CFR

7..... 46779, 46780
60..... 46306

Proposed Rules:

Ch. I..... 47472
Ch. II..... 47236
Ch. III..... 47302
Ch. VIII..... 47858
Ch. IX..... 48002
7..... 48257
216..... 45421
1190..... 47860

37 CFR

Proposed Rules:

Ch. I..... 47254
1..... 45424
2..... 45424

38 CFR

1..... 46985

Proposed Rules:

Ch. I..... 48024
21..... 45123, 45268, 45572, 47011

39 CFR

111..... 45761, 46031
447..... 48230, 48231

Proposed Rules:

111..... 45269
3001..... 46545

40 CFR

52..... 45245, 45246, 46046, 46047, 46309, 46986
60..... 46535, 46536, 48328, 48368
61..... 46535
81..... 46537, 46782
87..... 46481
180..... 46310
192..... 45926
256..... 46787
420..... 46942
433..... 45105
469..... 45249
717..... 45765

Proposed Rules:

Ch. I..... 47864
51..... 45269, 46152
52..... 46081, 46391–46393, 46548, 46823
60..... 45701, 46224, 46472
81..... 46082, 46085, 46393, 46549–46553
141..... 45502
182..... 46397
180..... 45573, 46395, 46396
228..... 45798
261..... 45210
271..... 46824
403..... 46944
420..... 46944
464..... 45573
465..... 45573
1502..... 46554, 47862
1508..... 46554

41 CFR

Ch 1..... 45392, 45557
Ch. 101..... 45105
9–1..... 46987
9–7..... 46987
9–4..... 45766
9–51..... 45766
101–11..... 46310
101–25..... 48231
101–41..... 46788
105–61..... 45392

Proposed Rules:

Ch. 1..... 47948
Ch. 4..... 47236
Ch. 9..... 47324
Ch. 12..... 47582
Ch. 13..... 47254
Ch. 14..... 47472
Ch. 25..... 47980
Ch. 29..... 47538
Ch. 60..... 47538
Ch. 101..... 47948
Ch. 105..... 47948
101–41..... 46554

42 CFR

51c..... 45558
52b..... 45558
55a..... 45558
56..... 45558
57..... 45112
110..... 45250
122..... 45558
405..... 45766

Proposed Rules:

Ch. I..... 47340
Ch. II..... 47340
Ch. III..... 47340
Ch. IV..... 47340

43 CFR

Subtitle A..... 45664

Public Land Orders:

44 (Revoked by PLO 6478)..... 45401
98 (Revoked by PLO 6478)..... 45401
399 (Revoked in part by PLO 6477)..... 45395
698 (Revoked by PLO 6473)..... 45393
780 (Revoked by PLO 6478)..... 45401
3645 (Revoked by PLO 6472)..... 45393
5170 (Revoked in part by PLO 6477)..... 45395
5179 (Revoked in part by PLO 6477)..... 45395
5180 (Revoked in part by PLO 6477)..... 45395
5184 (Revoked in part by PLO 6477)..... 45395
6472..... 45393
6473..... 45393
6474..... 45394
6475..... 45394
6478..... 45395
6477..... 45395
6478..... 45401
6479..... 45559
6480..... 46049
6481..... 46049
6482..... 46050

Proposed Rules:

Subtitle A..... 47472
Ch. I..... 47472
Ch. II..... 47472
2620..... 48400

44 CFR

61..... 46789
62..... 46789
64..... 46988, 46989
65..... 46990, 48233
67..... 46050, 46312, 46992

Proposed Rules:

Ch. I..... 46834
65..... 48258
67..... 45425, 46085, 47014–47020, 48259

45 CFR

13..... 45251

Proposed Rules:

Subtitle A..... 47340
Ch. II..... 47340
Ch. III..... 47340
Ch. VI..... 47980
Ch. XI..... 47978
Ch. XII..... 47856
Ch. XIII..... 47340

46 CFR

160..... 45113
162..... 45727
380..... 45559
542..... 46175
543..... 46175
544..... 46175

Proposed Rules:

Ch. I..... 47582
Ch. III..... 47582
Ch. IV..... 48114
Ch. IV..... 45269
7..... 45574
10..... 46556
24..... 45425
25..... 45425
26..... 45425
30..... 45425
31..... 45425
32..... 45425
35..... 45425
70..... 45425
71..... 45425
75..... 45425
77..... 45425
78..... 45425
90..... 45425
91..... 45425
94..... 45425
96..... 45425
97..... 45425
107..... 45425
108..... 45425
109..... 45425
157..... 46556
163..... 45425
188..... 45425
189..... 45425
192..... 45425
195..... 45425
196..... 45425
298..... 46825
508..... 45800
524..... 45270
531..... 45270
536..... 45270
538..... 45272

47 CFR

0..... 45652
1..... 45652, 48234
2..... 45560
61..... 46791
63..... 46791
69..... 48234
73..... 45401–45403, 46994, 48234
81..... 45114, 45560

VOL 48 ISS 202 OCT 18 1983 UMI

83..... 45114, 45560
87..... 45114
97..... 45652
Proposed Rules:
Ch. I..... 47020, 48080
67..... 46556, 47021
73..... 45428–45438, 47023–47031, 48264
83..... 45439

48 CFR

Ch. I..... 46541
Proposed Rules:
Ch. 9..... 47324

49 CFR

567..... 46994
571..... 46053, 46793, 48235
1033..... 45257
1043..... 45775
1162..... 46542
1307..... 46542, 46794
Proposed Rules:
Ch. X..... 46399
27..... 46399
195..... 46589
218..... 45272
1039..... 45137
1155..... 45440
Proposed Rules:
Subtitle A..... 47582
Ch. I..... 47582
Ch. II..... 47582
Ch. III..... 47582
Ch. IV..... 47582
Ch. V..... 47582
Ch. VI..... 47582
Ch. X..... 48134
571..... 47032

50 CFR

17..... 46053, 46328–46337
23..... 45259, 45775
285..... 48995
611..... 45403, 46542
646..... 45404
654..... 46057
655..... 45403, 45404
656..... 45403
657..... 45403
658..... 46057
661..... 45263
663..... 48241
672..... 46542
681..... 46342
Proposed Rules:
Ch. I..... 47472
Ch. IV..... 47472
Ch. V..... 47254
17..... 45574, 46086, 46590
23..... 45575
611..... 45804, 45806
663..... 45274, 48265

Listing of Public Laws

Last Listing October 17, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

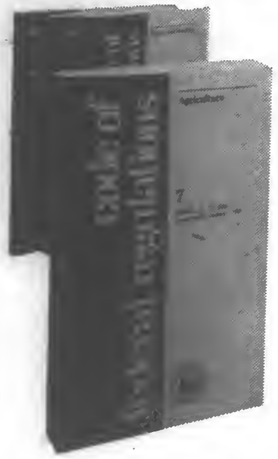
S. 884/Pub. L. 98–123 To provide for the use and distribution of funds awarded the Red Lake Band of Chippewa Indians in docket numbered 15–72 of the United States Court of Claims. (Oct. 13, 1983; 97 Stat. 815) Price: $1.50.

S. 1148/Pub. L. 98–124 To provide for the use and distribution of funds awarded the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana, in docket numbered 10–81L by the United States Court of Claims, and for other purposes. (Oct. 13, 1983; 97 Stat. 817) Price: $1.50.

H.R. 3415/Pub. L. 98–125 District of Columbia Appropriation Act, 1984. (Oct. 13, 1983; 97 Stat. 819) Price: $2.00.

S.J. Res. 102/Pub. L. 98–126 To designate the week of October 16, 1983, through October 22, 1983, as "Lupus Awareness Week. (Oct. 13, 1983; 97 Stat. 830) Price: $1.50.

VOL
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VOL
48
ISS
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VOL
48
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203
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10-19-83
Vol. 48 No. 203
Pages 48439-48642

federal register

Wednesday
October 19, 1983

Selected Subjects

Administrative Practice and Procedure
Federal Maritime Commission
Authority Delegations (Government Agencies)
Agriculture Department
Cotton
Agricultural Marketing Service
Crop Insurance
Federal Crop Insurance Corporation
Fisheries
National Oceanic and Atmospheric Administration
Food Additives
Food and Drug Administration
Government Procurement
General Services Administration
Insurance
Nuclear Regulatory Commission
Marine Safety
Coast Guard
Maritime Carriers
Federal Maritime Commission
Motor Vehicle Pollution
Environmental Protection Agency
Motor Vehicle Safety
National Highway Traffic Safety Administration

CONTINUED INSIDE

VOL
48
ISS
203
OCT
19
1983
UMI

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Selected Subjects

National Banks
Comptroller of the Currency
Over-The-Counter-Drugs
Food and Drug Administration
Pesticides and Pests
Environmental Protection Agency
Public Lands—Rights-of-Way
Land Management Bureau
Savings and Loan Associations
Federal Home Loan Bank Board
Telecommunications
Rural Electrification Administration

Contents

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

The President
EXECUTIVE ORDERS
48441 Containers and vessels used in international transport, certification (EO 12445)
48443 Foreign Service Retirement and Disability System (EO 12446)
PROCLAMATIONS
48439 Wright Brothers Day (Proc. 5119)

Executive Agencies

Agricultural Marketing Service
RULES
Cotton research and promotion:
48451 Acreage diversion, payment in kind; 1983 crops

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Federal Crop Insurance Corporation; Rural Electrification Administration; Soil Conservation Service.
RULES
Authority delegations:
48449 International Affairs and Commodity Programs, Under Secretary, et al.
NOTICES
48485 Agency information collection activities under OMB review

Air Force Department
NOTICES
Meetings:
48494 Scientific Advisory Board

Animal and Plant Health Inspection Service
RULES
Plant quarantine, domestic:
48449 Imported fire ant; regulated areas; interim; correction

Census Bureau
NOTICES
Senior Executive Service:
48486 Performance Review Board; membership

Coast Guard
PROPOSED RULES
48475 Casualty reporting requirements; elimination of costs associated with repairs to damaged vessels

Commerce Department
See Census Bureau; Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.

Commodity Credit Corporation
PROPOSED RULES
Loan and purchase programs:
48471 Peanuts

Comptroller of Currency
RULES
National banks:
48452 Operating subsidiaries; rules, policies, and procedures; corporate activities
48460 Privacy Act; exemptions

Defense Department
See also Air Force Department; Defense Intelligence Agency.
NOTICES
Meetings:
48494 Defense Intelligence Agency Advisory Committee

Defense Intelligence Agency
NOTICES
Meetings:
48494 Defense Intelligence College

Energy Department
See also Federal Energy Regulatory Commission.
NOTICES
Meetings:
48494, 49495 National Petroleum Council (3 documents)

Environmental Protection Agency
RULES
Air pollution control; new motor vehicles and engines:
48598 Emission standards; 1984 model year light-duty vehicles
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc:
48477 Petroleum wax
48476 Polyethylene
NOTICES
Pesticide programs:
48512 Lindane; rebuttable presumptions against registration, etc.
48522 Strychnine; rebuttable presumptions against registration, etc.

Federal Crop Insurance Corporation
RULES
Administrative regulations:
48449 Crop insurance amendments

Federal Deposit Insurance Corporation
NOTICES
48573 Meetings; Sunshine Act

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
48500 Arizona Public Service Co.
48500 Bangor Hydro-Electric Co.
48509 Central Illinois Light Co.
48501 Colorado Interstate Gas Co.
48501 Columbia Gas Transmission Corp.
48502 Connecticut Light & Power Co.

48502 Consolidated Edison Co. of New York, Inc.
48509 Duquesne Light Co.
48503 Gulf Power Co.
48508 Indianapolis Power & Light Co.
48503 Iowa Power & Light Co.
48503 Kansas Gas & Electric Co.
48504 MIGC, Inc.
48504 Montana Power Co.
48504 Monty, Charles E.
48504 Mountain Fuel Supply Co.
48505 National Fuel Gas Supply Corp.
48506 New England Power Pool
48506 New York State Electric & Gas Corp.
48507 Northwest Central Pipeline Corp.
48509 Pacific Gas & Electric Co.
48509 Pacific Offshore Pipeline Co.
48510 Pacific Power & Light Co.
48495 Panhandle Eastern Pipe Line Co.
48496 Pennsylvania Power & Light Co.
48496 Pennzoil Co.
48497 Philadelphia Electric Co. (2 documents)
48497, Public Service Co. of New Mexico (2 documents)
48498
48510 Raton Natural Gas Co.
48507 Richey, H. L.
48498 Southern Natural Gas Co.
48498 Tennessee Gas Pipeline Co.
48499 Texas Gas Transmission Corp.
48510 Transwestern Pipeline Co., et al.
48508 United Gas Pipe Line Co.
48508 Wisconsin Electric Power Co.
48499, Wisconsin Power & Light Co. (2 documents)
48500

Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
48500 Airtricity
48502 Detroit Diesel Allison
48503 Kinzua Cogeneration Ltd. Partnership
48506 National Zinc Co.
48507 Or-Sol Inc.

Federal Highway Administration
RULES
48469 Motor carrier safety assistance program; interim; extension of closing date

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation:
48455 Accounting for uncollected income
NOTICES
Applications, etc.:
48530 Albuquerque Federal Savings & Loan Association
48530 Dallas Federal Savings & Loan Association
48530 Olney Savings Association
48530 United Federal Bank, FSB

Federal Maritime Commission
RULES
Interpretations and policy statements:
48469 Dual rate contract systems; removal of regulations
NOTICES
48530 Agreements filed, etc.
48531 Agreements filed, etc.; termination (2 documents)
Freight forwarder licenses:
48531 Kanical Aero-Marine Services, Inc.

Federal Reserve System
NOTICES
Applications, etc.:
48531 Behrens Bancshares, Inc.
48532 First Arkansas Bankstock Corp.
48532 NBN Corp. et al.
Bank holding companies; proposed de novo nonbank activities:
48532 Citizens Bancorporation et al.

Food and Drug Administration
RULES
GRAS or prior-sanctioned ingredients:
48457 "Current good manufacturing practice" definition detailed conditions of use requirement elimination, etc.
48456 Direct and indirect uses; listing procedure
PROPOSED RULES
Human drugs:
48576 Antitussive drug products (OTC); tentative monograph
NOTICES
Color additives:
48533 FD & C Red No. 4; petition denied

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
48486 California

General Services Administration
RULES
Procurement (GSA):
48462 Publicizing proposed procurements and processing noncompetitive procurements procedures (FPR)

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Public Health Service.

Health Care Financing Administration
RULES
Medicare:
48467 Prospective payments for inpatient hospital services; correction

Immigration and Naturalization Service
RULES
48452 Nonimmigrant classes; temporary alien employees; extensions of stay, etc.; correction

Interior Department
See Land Management Bureau.

International Trade Administration
NOTICES
Antidumping:
48487 Color television receivers from Korea
48490 Color television receivers from Taiwan

International Trade Commission
NOTICES
Import investigations:
48536 Computerized jacquard pattern cutting systems
48536 Flat-rolled carbon steel products from Brazil
48536 Large video matrix display systems and components

48537 Potassium permanganate from China and Spain

Interstate Commerce Commission
NOTICES
48537 Agency information collection activities under OMB review
Rail carriers:
48538 Abandonment of railroad lines; use of opportunity costs
48537 State intrastate rail rate authority certification procedures revised; Ohio
Railroad operation, acquisition, construction, etc.:
48538 Anthracite Railway, Inc.
48538 Grand Trunk Western Railroad Co.; trackage rights exemption

Justice Department
See also Immigration and Naturalization Service.
NOTICES
Pollution control; consent judgments:
48538 International Paper Co.

Land Management Bureau
PROPOSED RULES
Rights-of-way:
48476 Reimbursement of costs procedures
NOTICES
Environmental statements; availability, etc.:
48535 Northwest Colorado coal preference right lease applications, Craig District, Colo.
Meetings:
48535 Butte District Advisory Council
Oil and gas leases:
48535 Wyoming
Resource management plans:
48534 Buffalo Resource Area, Casper District, Wyo.
48534 Platte River Resource Area, Casper District, Wyo.

National Aeronautics and Space Administration
NOTICES
48539 Privacy Act; systems of records

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
48622 Occupant crash protection; automatic restraint requirements
48483 Rearview mirror systems
NOTICES
Committees; establishment, renewals, terminations, etc.
48570 National Driver Register Advisory Committee; establishment and meeting
Motor vehicle safety standards; exemption petitions etc.:
48570 VEB Reifenkombinat Furstenwalde

National Oceanic and Atmospheric Administration
RULES
Financial aid to fisheries:
48619 Fisherman's Protective Act; claims fee provisions
NOTICES
Marine mammal permit applications, etc.:
48493 Acuaticland, S.A.
48492 Japan Deep-Sea Trawlers Association et al.
48492 Marineland, Inc.

National Technical Information Service
NOTICES
Patent licenses, exclusive:
48493 South Dakota School of Mines and Technology Foundation

National Transportation Safety Board
NOTICES
48555 Accident reports, safety recommendations, and reponses, etc.; availability

Nuclear Regulatory Commission
PROPOSED RULES
48474 Financial protection requirements and indemnity agreements
Rulemaking petitions:
48473 Texas et al.
NOTICES
Applications, etc.:
48556 Duke Power Co.
48557 Long Island Lighting Co.
48558 Pacific Gas & Electric Co.
Meetings:
48556 Reactor Safeguards Advisory Committee; cancellation
Reports; availability, etc.:
48558 PWR steam generator and reactor coolant pump supports, low fracture toughness and lamellar tearing potential
48558 Steam generator and reactor coolant pump supports, fracture toughness

Postal Rate Commission
NOTICES
Post office closing; petitions for appeal:
48559 Knob Fork, W. Va.

Public Health Service
NOTICES
Meetings:
48534 Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants Special Studies Advisory Committee; cancellation

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
48483 Reportable quantity of hazardous substance; extension of comment period

Rural Electrification Administration
PROPOSED RULES
48472 Public information; REA Bulletins, central office equipment contracts and specifications
NOTICES
48485 Wolverine Power Supply Cooperative, Inc., Big Rapids, Mich.; pending loan application; meeting

Science and Technology Policy Office
NOTICES
Meetings:
48558 Acid Rain Peer Review Panel

Securities and Exchange Commission
NOTICES
Hearings, etc.:
48562 American Telecommuniations Trust
48563 Carrols Corp.

48564 Central & South West Corp.
48564 Columbia Gas System, Inc., et al.
48565 Consolidated Natural Gas Co.
48565 HOMAC Government Financial Corp.
48566 L.F. Rothschild Exempt Fund, Inc.
48567 National Fuel Gas Co. et al.
48568 Republic Government Income Fund, Inc.
48573 Meetings; Sunshine Act
National market system securities:
48561 National Association of Securities Dealers, Inc.; approval of amendments to plan
Self-regulatory organizations; proposed rule changes:
48559 Midwest Securities Trust Co.
48569 Municipal Securities Rulemaking Board
48560 National Association of Securities Dealers, Inc.
48562, 48569 New York Stock Exchange, Inc. (2 documents)
Self-regulatory organizations; unlisted trading privileges:
48568 Cincinnati Stock Exchange
48568 Philadelphia Stock Exchange, Inc.

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
48486 Southern Pines Reservoir Park RC&D Measure, N.C.

Textile Agreements Implementation Committee
NOTICES
Textile consultation; review of trade:
48494 Hong Kong

Transportation Department
See Coast Guard; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration.

Treasury Department
See also Comptroller of Currency.
NOTICES
48571 Agency information collection activities under OMB review

United States Information Agency
NOTICES
Art objects, importation for exhibitions:
48571 Giovanni Batista Piazetta: A Tercentary Exhibition

Separate Parts in This Issue

Part II
48566 Department of Health and Human Services, Food and Drug Administration

Part III
48588 Environmental Protection Agency

Part IV
48609 Department of Commerce, National Oceanic and Atmospheric Administration

Part V
48612 Department of Transportation, National Highway Traffic Safety Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
11459 (Superseded by EO 12445)..... 48441
12445..... 48441
12446..... 48443
Proclamations:
5119..... 48439

7 CFR
Ch. IV..... 48449
2..... 48449
301..... 48449
1205..... 48451
Proposed Rules:
1446..... 48471
1701..... 48472

8 CFR
214..... 48452

10 CFR
Proposed Rules:
60..... 48473
140..... 48474

12 CFR
5..... 48452
7..... 48452
563..... 48455

21 CFR
184 (2 documents)..... 48456, 48457
186 (2 documents)..... 48456, 48457
Proposed Rules:
341..... 48576

31 CFR
1..... 48460

33 CFR
Proposed Rules:
146..... 48475
150..... 48475

40 CFR
86..... 48598
Proposed Rules:
180 (2 documents)..... 48476, 48477

41 CFR
Ch. 1..... 48462

42 CFR
405..... 48467
409..... 48467
489..... 48467

43 CFR
Proposed Rules:
2880..... 48478

46 CFR
530..... 48469

49 CFR
350..... 48469
Proposed Rules:
171..... 48483
172..... 48483
173..... 48483
571 (2 documents)..... 48483, 48622

50 CFR
258..... 48619

VOL
48
ISS
203
OC
19
1983
UMI

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

Presidential Documents

Title 3—

The President

Proclamation 5119 of October 17, 1983

Wright Brothers Day, 1983

By the President of the United States of America

A Proclamation

1983 marks the eightieth anniversary of the Wright Brothers' historic flight aboard a self-propelled, winged aero-vehicle. That flight, lasting but 12 seconds and spanning only 120 yards, followed 120 years of unsuccessful attempts to accomplish such a feat. Although short when measured against today's trans-meridian flights, its significance was great because it established the foundation for future successes in aviation which continue to enrich the quality of our lives today.

This year we also celebrate the bicentennial of man's first flight. Two hundred years ago, on August 27, 1783, the Montgolfier Brothers of France first launched a manned hot air balloon into the atmosphere. Shortly thereafter, in a balloon constructed by an American lawyer, Peter Carnes, Esq., the first American ventured aloft in a tethered balloon in Baltimore.

This year also marks the twenty-fifth anniversary of the signing of the Federal Aviation Act of 1958. This legislation created the Federal Aviation Administration, which has played a central role in making civil air carriage ten times safer than it was in 1958, thus helping to advance the progress of civil aviation and to fulfill the Wright Brothers' dreams of the future role aviation would have in our world.

To commemorate the historic achievement of the Wright Brothers, the Congress, by joint resolution of December 17, 1963 (77 Stat. 402; 36 U.S.C. 169), designated the seventeenth day of December of each year as Wright Brothers Day and requested the President to issue a proclamation annually inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby call upon the people of this Nation and their local and national governmental officials to observe Wright Brothers Day, December 17, 1983, with appropriate ceremonies and activities, both to recall the accomplishments and to stimulate the development of aviation in this country and throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of Oct., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-28618
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VOL
48
ISS
203
OCT
19
1983
UMI

Presidential Documents

Executive Order 12445 of October 17, 1983

Certification of Containers and Vehicles for Use in International Transport

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including Section 301 of Title 3 of the United States Code, in order to transfer certain functions implementing international conventions concerning customs treatment of containers in international commerce, it is hereby ordered as follows:

Section 1. The Secretary of the Treasury is hereby delegated authority to take all actions, including the issuance of regulations, appropriate to carry out the approval and certification of containers and vehicles for international transport of goods under customs seal pursuant to the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), done at Geneva on January 15, 1959 (TIAS 6633), the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), done at Geneva on November 14, 1975 (TIAS), and the Customs Convention on Containers, done at Geneva on May 18, 1956 (TIAS 6634).

Sec. 2. In discharging this authority, the Secretary shall apply the procedures and technical conditions set forth in the Annexes to the Conventions set forth above, as those Conventions are modified, amended, or otherwise supplemented from time to time.

Sec. 3. The Secretary may prescribe a schedule of fees to defray the costs of the services provided under this Order.

Sec. 4. The Secretary may, to the extent permitted by law, rely upon the services of non-profit firms or associations in carrying out his duties under this Order.

Sec. 5. Regulations issued by the Secretary of Transportation under Executive Order No. 11459 shall continue in force and effect until superseded by regulations promulgated by the Secretary of the Treasury under this Order.

Sec. 6. Executive Order No. 11459 of March 7, 1969, is superseded.

Ronald Reagan

THE WHITE HOUSE,
October 17, 1983.

[FR Doc. 83-28619
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VOL
48
ISS
203
OCT
19
1983
UMI

Presidential Documents

Executive Order 12446 of October 17, 1983

Foreign Service Retirement and Disability System

By the authority vested in me as President of the United States of America by Section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067) (hereafter referred to as "the Act"), and in order to conform further the Foreign Service Retirement and Disability System to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contributions have not been made under section 805(d) of the Act unless—

(1) the participant makes a contribution for such period as provided in such section 805(d); or

(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order.

Sec. 2. *Rounding Down of Annuities.* (a) Section 826(e) of the Act (22 U.S.C. 4066(e)) is deemed to be amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(b) The amendment deemed to be made by section 2(a) of this Order shall be effective with respect to any adjustment or redetermination of any annuity made on or after the date of this Order.

Sec. 3. *Later Commencement Date For Certain Annuities.*

(a) Section 807(a) of the Act (22 U.S.C. 4047(a)) is deemed to be amended to read as follows:

"(a)(1) Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after—

"(A) separation from the Service occurs; or

"(B) pay ceases and the service and age requirements for entitlement to annuity are met.

"(2) The annuity of—

"(A) a participant who is retired and is eligible for benefits under section 609(a) or a participant who is retired under section 813 or is otherwise involuntarily separated from the Service, except by removal for cause on charges of misconduct or delinquency,

"(B) a participant retiring under section 808 due to a disability, and

"(C) a participant who serves 3 days or less in the month of retirement—

shall commence on the day after separation from the Service or the day after pay ceases and the requirements for entitlement to annuity are met.".

(b) The amendment deemed to be made by paragraph 3(a) of this Order shall become effective thirty days after the effective date of this Order.

Sec. 4. *Credit For Military Service.* (a) Section 805 of the Act (22 U.S.C. 4045) is deemed to be amended—

(i) by striking out subsection (e) and substituting the following subsection in lieu thereof:

"(e)(1) Each participant who has performed military or naval service before the date of separation on which the entitlement to any annuity under this chapter is based may pay to the Secretary a special contribution equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 of the United States Code, to the participant for each period of military or naval service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or if the Secretary determines sufficient evidence has not been so provided to adequately determine basic pay for military or naval service, such payment shall be based upon estimates of such basic pay provided to the Department under paragraph (4).

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

"(A) the effective date of this Order, or

"(B) the date on which the participant making the deposit first became a participant in a Federal staff retirement system for civilian employees,—

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (d) of this section.

"(3) Any payment received by the Secretary under this section shall be remitted to the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Secretary as the Secretary may determine to be necessary for the administration of this subsection.

"(f) Contributions shall only be required to obtain credit for periods of military or naval service to the extent provided under section 805(e) and section 816(a), except that credit shall be allowed in the absence of contributions to individuals of Japanese ancestry under section 816 for periods of internment during World War II."; and—

(ii) by redesignating subsection (f) as subsection (g).

(b) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be amended by adding "(1)" after "(a)" and by adding the following new paragraphs at the end thereof:

"(2) The service of an individual who first becomes a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1, 1982, shall include credit for:

"(A) each period of military or naval service performed before January 1, 1957, and

"(B) each period of military or naval service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this chapter is based, only if a deposit (with interest if any is required) is made with respect to that period, as provided in section 805(e).

"(3) The service of an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this chapter is based, subject, in the case of military or naval service performed after December 1956, to section 816(j), as deemed to be added by this Order.

"(4) The service of an individual who first became a participant before the date of this Order shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this chapter is based, subject, in the case of military or naval service performed after December 1976, to section 816(j), as deemed to be added by this Order";

(c) Section 816 of the Act (22 U.S.C. 4056) is deemed to be further amended by adding a new subsection (j) at the end thereof to read as follows:

"(1) Except as otherwise provided by statute or Executive Order, Section 8332(j) of Title 5, United States Code, relating to redetermination of credit for military and naval service, shall be applied to annuities payable under this chapter. The Secretary of State shall redetermine service, and may request and obtain information from the Secretary of Health and Human Services, as the Office of Personnel Management is directed or authorized to do in Section 8332(j).

"(2) Section 8332(j) of Title 5, United States Code, shall not apply with respect to:

(A) the service of any individual who first became a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1982; or

(B) any military or naval service performed prior to 1957 by an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, or any period of military or naval service performed after 1956 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e); or

(C) any military or naval service performed prior to 1977 by any individual who first became a participant before the date of this Order or any period of military or naval service performed after 1976 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e).

(d) Section 822(a) of the Act (22 U.S.C. 4062(a)) is deemed to be amended by striking out the period at the end thereof and inserting in lieu thereof: ", less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 805(e).".

(e) The amendments deemed to be made by Section 4 of this Order shall be effective on the date of this Order.

Sec. 5. *Recomputation at Age 62 of Credit for Military Service of Current Annuitants.* (a) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be further amended so that the provisions of section 8332(j) of Title 5 of the

United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under such Act on or before the date of approval of this Order, or who is entitled to an annuity based on a separation from service occurring on or before such date.

(b) Subject to subsection (c), in any case in which an individual described in subsection (a) is also entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under chapter 8 of the Act (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivors insurance benefit for the determination month by a fraction—

(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

(2) the denominator of which is the total of all wages deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of the Social Security Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1) of such Act) for each such year.

(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under chapter 8 of the Act to the individual for the determination month if section 8332(j) of Title 5 of the United States Code applied to the individual for such month.

(d) For purposes of this section, the term "determination month" means—

(1) the first month the individual described in subsection (a) is entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

(2) the first day of the month following the month in which this Order is issued in the case of any individual so entitled to such benefits for such month.

(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under chapter 8 of the Act for calendar months beginning after the date of this Order.

(f) The Secretary of Health and Human Services shall furnish such information to the Secretary of State as may be necessary to carry out the preceding provisions of this section.

Sec. 6. *General Limitation on Cost-of-Living Adjustment for Annuities.* (a) Section 826 of the Act (22 U.S.C. 4066) is deemed to be amended to add at the end thereof the following new subsection:

"(g)(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay rate payable for class FS–1 under section 403, 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the former participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the Foreign Service Schedule under such section 403 during the period—

"(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired participant, the date the participant's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.".

(b) The amendment made by subsection (a) of this Section shall not cause any annuity to be reduced below the rate that is payable on the date of approval of this Order, but shall apply to any adjustment occurring on or after April 1, 1983 under Section 826 of the Act to any annuity payable from the Foreign Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of this Order.

Ronald Reagan

THE WHITE HOUSE,
October 17, 1983.

[FR Doc. 83-28620
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VOL 48 ISS 203 OCT 19 1983 UMI

VOL
48
ISS
2
0
3
OC
19
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 203
Wednesday, October, 19, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Under Secretary for International Affairs and Commodity Programs to the Administrator, Foreign Agricultural Service by deleting administrative services responsibility for the Office of International Cooperation and Development (OICD) from the Foreign Agriculture Service (FAS).

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Charles H. Cook, Assistant Administrator for Administration, Office of International Cooperation and Development, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 475–5246.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to delete responsibility for the administrative servicing of the Office of International Cooperation and Development from the delegations of authority of the Foreign Agricultural Service.

This rule relates to internal agency management. Therefore, pursuant to statutory provisions codified at 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

4. Section 2.68 is amended by removing and reserving paragraph (a)(31).

§ 2.68 Administrator, Foreign Agricultural Service.

(a) * * *
(31) Reserved
* * * * *

Dated: October 7, 1983.

For Subpart H:

Alan T. Tracy,

Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 83–28341 Filed 10–18–83; 8:45 am]

BILLING CODE 3410–43–M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83–336]

Imported Fire Ant Regulated Areas; Interim Rule

Correction

In FR Doc. 83–24300 beginning on page 40198 in the issue of Tuesday, September 6, 1983, make the following correction:

§ 301.81–2a [Corrected]

On page 40200, column one, § 301.81–2a, **Alabama**, line twenty-one from the bottom, the entry for "Lauderdale County" should read "*Lauderdale County*, T. 3S., R. 12.".

BILLING CODE 1505–01–M

Federal Crop Insurance Corporation

7 CFR Chapter IV

Federal Crop Insurance Regulations; General Amendment

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the crop insurance regulations to provide a new level at which the Manager of the Corporation is authorized to take action to grant relief under the provisions of good faith reliance on misrepresentation regulations. The authority to increase such level was granted by the Board of Directors of the Corporation. The intended effect of this rule is to provide a general amendment to all regulations for insuring crops issued by FCIC simultaneously.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action does not constitute a review under such procedures as to the need, currency, clarity, and effectiveness of the regulations issued by FCIC (7 CFR Part 400, *et seq.*).

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3)

VOL
48
ISS
203
OCT
19
1983
UMI

this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501d, *et seq.*), and other applicable law.

The title and number of Federal Assistance Program to which the regulations affected by the rule apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government were informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

Information collection requirements contained in the regulations to which this general amendment applies (7 CFR Part 400, *et seq.*), have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

On May 24, 1983, the Board of Directors authorized the Manager, FCIC, to take action to grant relief in those cases involving good faith reliance on misrepresentation not exceeding $100,000. The previous level at which the Manager was authorized to take such action without Board approval on such cases was $20,000. This authority is contained in all regulations issued by FCIC for crop insurance purposes.

In order for the authority granted by the Board of Directors to be implemented without delay, it is necessary for FCIC to issue this final rule to be effective immediately to amend that section of each crop insurance regulations to reflect the action by the Board.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest.

List of Subjects

7 CFR Part 402

Crop insurance, Raisins.

7 CFR Part 403

Crop insurance, Peaches.

7 CFR Part 404

Crop insurance, Apples, Western U.S.

7 CFR Part 408

Crop insurance, Apples, Eastern U.S.

7 CFR Part 409

Crop insurance, Citrus, Arizona-California.

7 CFR Part 410

Crop insurance, Citrus, Florida.

7 CFR Part 411

Crop insurance, Grapes.

7 CFR Part 413

Crop insurance, Citrus, Texas.

7 CFR Part 414

Crop insurance, Forage seeding.

7 CFR Part 415

Crop insurance, Forage production.

7 CFR Part 416

Crop insurance, Peas.

7 CFR Part 417

Crop insurance, Sugarcane

7 CFR Part 418

Crop insurance, Wheat.

7 CFR Part 419

Crop insurance, Barley.

7 CFR Part 420

Crop insurance, Grain sorghum.

7 CFR Part 421

Crop insurance, Cotton.

7 CFR Part 422

Crop insurance, Potato.

7 CFR Part 423

Crop insurance, Flax.

7 CFR Part 424

Crop insurance, Rice.

7 CFR Part 425

Crop insurance, Peanuts.

7 CFR Part 426

Crop insurance, Combine crops.

7 CFR Part 427

Crop insurance, Oats.

7 CFR Part 428

Crop insurance, Sunflowers.

7 CFR Part 429

Crop insurance, Rye.

7 CFR Part 430

Crop insurance, Sugar beets.

7 CFR Part 431

Crop insurance, Soybeans.

7 CFR Part 432

Crop insurance, Corn.

7 CFR Part 433

Crop insurance, Dry beans.

7 CFR Part 434

Crop insurance, Tobacco (Dollar amount).

7 CFR Part 435

Crop insurance, Tobacco (Quota).

7 CFR Part 436

Crop insurance, Tobacco (Guaranteed).

7 CFR Part 437

Crop insurance, Sweet corn, Canning and freezing.

7 CFR Part 438

Crop insurance, Tomato, Canning and processing.

7 CFR Part 439

Crop insurance, Almonds.

7 CFR Part 440

Crop insurance, Citrus tree, Texas.

7 CFR Part 441

Crop insurance, Grapes, Table.

7 CFR Part 442

Crop insurance, Prevented planting.

7 CFR Part 443

Crop insurance, Hybrid seed.

7 CFR Part 444

Crop insurance, Tomato, Fresh.

7 CFR Part 445

Crop insurance, Peppers.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the regulations contained in Chapter IV of Title 7 of the Code of Federal Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Parts 402, 403, 404, 408, 409, 410, 411, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, and 445, is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (1506, 1516).

§§ 402.5, 403.5, 404.5, 408.5, 409.5, 410.5, 411.5, 413.5, 414.5, 415.5, 416.5, 417.5, 418.5, 419.5, 420.5, 421.5, 422.5, 423.5, 424.5, 425.5, 426.5, 427.5, 428.5, 429.5, 430.5, 431.5, 432.5, 433.5, 434.5, 435.5, 436.5, 437.5, 438.5, 439.5, 440.5, 441.5, 442.5, 443.5, 444.5, 445.5 [Amended]

2. 7 CFR 402.5, 403.5, 404.5, 408.5, 409.5, 410.5, 411.5, 413.5, 414.5, 415.5, 416.5, 417.5, 418.5, 419.5, 420.5, 421.5, 422.5, 423.5, 424.5, 425.5, 426.5, 427.5, 428.5, 429.5, 430.5, 431.5, 432.5, 433.5, 434.5, 435.5, 436.5, 437.5, 438.5, 439.5, 440.5, 441.5, 442.5, 443.5, 444.5, and 445.5, are amended by removing the number "$20,000" and substituting the number "$100,000," wherever it appears.

Done in Washington, D.C., on September 23, 1983.

Dated: October 12, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-28405 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1205

Cotton Board; Reporting and Information

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) is revising the Cotton Board's reporting and information rules and regulations to reflect that cotton received by producers as payment-in-kind for acreage diversion is considered as original production and subject to any assessments required by the Cotton Research and Promotion Act and Order.

DATES: Effective date: October 19, 1983. Comments must be received on or before November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Naomi Hacker (202) 447–2259.

ADDRESS: Written comments may be sent to Naomi Hacker, Chief, Research and Promotion Staff, Cotton Division, AMS, USDA, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. No new costs or additional requirements are being imposed on the affected industry or others.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) because no substantive changes will be made in the present regulations since the changes reflect the inclusion of PIK cotton in the handler reporting requirements. The costs of compliance will not be increased, recordkeeping requirements will not be increased and the changes in the regulations will not affect the competitive position or market access of small entities in the cotton industry.

It has been determined also that a situation exists which warrants the publication of this action without the opportunity for a prior public comment period because the PIK program is in effect and transactions involving upland cotton have or will occur which necessitate the changes made herein to the reporting and information provisions of the Cotton Board Rules and Regulations.

Accordingly, pursuant to 5 U.S.C. 553 it is found upon good cause that notice and other public procedures are impracticable, unnecessary, and contrary to the public interest, and good cause is found for publishing this interim final rule at this time effective immediately with opportunity for public comments after publication. Further, a 30-day post-comment period is deemed adequate in view of the fact that the interim rule would make minimum reporting changes to applicable provisions of the regulations to conform to the previously implemented PIK program and transactions resulting therefrom.

In compliance with Office of Management and Budget (OMB) regulations, 5 CFR Part 1320 Controlling Paperwork Burdens on the Public, which implement the Paperwork Reduction Act of 1980, Pub. L. 96511, the information collection requirements contained in this proposed revision have been submitted to OMB for review as prescribed in Part 1320 (48 FR 13666) for clearance of collection of information requirements, under section 3504(h) of the Paperwork Reduction Act. Comments concerning the information collection requirements contained in this interim rule may be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer, AMS/USDA, Washington, D.C. 20503, Telephone (202) 395–7340.

Background

The Cotton Research and Promotion Act (7 U.S.C. 2101 *et. seq.*) provides for the collection of assessments on each bale of upland cotton marketed to support cotton research and promotion activities. The Cotton Research and Promotion Order, which implements the Act, was approved in a beltwide referendum of cotton producers. A 20-member Cotton Board appointed by the Secretary of Agriculture administers the program and collects the assessments. First buyers of cotton from producers collect and remit the assessments to the Cotton Board. Producers who do not wish to participate may request a refund of any assessments paid. The collection, remittance and report requirements are set forth in the Cotton Board Rules and Regulations (7 CFR 1205.500 *et. seq.*).

As reflected below, the Department has determined that any upland cotton received as compensation under the payment-in-kind (PIK) program shall be subject to any assessments required in the Act and Order. This will assure that there is no disruption of funding for cotton research and promotion activities.

The Agricultural Stabilization and Conservation Service (ASCS) contract to participate in the 1983 PIK program has the following provision relating to the Cotton Research and Promotion Assessment:

"The producer agrees that for the purposes of the Cotton Research and Promotion Act (7 U.S.C. 2101–2118) and cotton research and promotion order issued thereunder, any upland cotton made available to a producer as payment-in-kind shall be considered as original production of the 1983 crop and subject to any assessments required by the Act and Order."

The ASCS regulations implementing its Special Program of Payment-in-Kind for Acreage Diversion for 1983 crops of wheat, corn, grain sorghum, upland cotton, and rice were published in the **Federal Register** on January 12, 1983 (48 FR 1476) as an interim final rule and on March 4, 1983 (48 FR 9232) as a final rule.

Revisions: In 7 CFR Part 1205, a new paragraph (n) is added to § 1205.500 which sets forth the definitions for terms used in the Cotton Board rules and regulations. Paragraph (n) will define the term "PIK cotton" as it will be used on forms made available or approved by the Cotton Board and on receipts provided by collecting handlers.

Paragraph (b) of § 1205.514 sets forth certain information which the Cotton Board requires from collecting handlers in monthly reports that accompany the

VOL
48
ISS
2
0
3
OC
19
1983
UMI

transmittal of assessments to the Cotton Board. Paragraph (b)(3) is to be amended to provide that for PIK cotton, the name of the county in which the cotton was earned is to substituted for the gin code number of the monthly reports.

Section 1205.515 sets forth certain information each collecting handler must include in a receipt to a producer showing payment of assessments. Paragraph (b) of § 1205.515 is to be amended to provide that the name of the county in which PIK cotton was earned is to be substituted for the gin code number of such receipts. Also, the authority citation for Subpart—Cotton Board Rates and Regulations of Part 1205 is corrected.

List of Subjects in 7 CFR Part 1205

Cotton, Administrative practice and procedure, Research and promotion, Cotton Board, Producer assessments, Producer refunds.

PART 1205—[AMENDED]

Accordingly, Part 1205 of Chapter II, Title 7 of the Code of Federal Regulations is amended as shown.

1. The authority citation for Subpart—Cotton Board Rules and Regulations of Part 1205 is revised to read as follows:

Authority: Sec. 15, 80 Stat. 285; 7 U.S.C. 2114.

2. In § 1205.500, paragraph (n) is added to read as follows:

§ 1205.500 Terms defined.

* * * * *

(n) "PIK cotton" means any upland cotton made available to a producer under the payment-in-kind program (the Agricultural Stabilization and Conservation Service's Special Program of Payment-in-Kind for Acreage Diversion for certain 1983 crops) and shall be considered as original production and subject to any assessments required by the Act and Order.

3. Section 1205.514 would be amended by revising paragraph (b)(3) to read as follows:

§ 1205.514 Remittance to Cotton Board.

* * * * *

(b) * * *

(3) Gin code number or for PIK cotton, county in which PIK cotton was earned.

* * * * *

4. Section 1205.515 would be amended by revising paragraph (b) to read as follows:

§ 1205.515 Receipts for payment of assessments.

* * * * *

(b) Gin code number of gin at which cotton was ginned or county in which PIK cotton was earned.

* * * * *

Dated: October 13, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-28338 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Temporary Alien Employees; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; correction.

SUMMARY: This document corrects an improper citation to a final rule appearing at September 14, 1983 (48 FR 41142) in 8 CFR 214.2(l)(1) without changing the substance of the paragraph relating to intra-company transferees.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: On September 14, 1983 (48 FR 41142), the Service published a final rule amending the application requirements for admission extension, and maintenance of status for temporary alien employees. This document corrects a typographical error that occurred in a citation in the text to § 214.2(l)(1) on page 41146 in the first column.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this correction is merely editorial in nature.

This rule is not a rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Authority delegation, Employment, Organization and functions, Passports and visas.

Accordingly, the following correction is made in FR Doc. 83–24980 on page 41148 in the issue of Sepember 14, 1983:

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Corrected]

1. Paragraph (l)(1) *Petition* of § 214.2 is corrected by changing the citation in the first sentence to read 101(a)(15)(L).

(Sec. 214 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1184))

Dated: October 12, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-28412 Filed 10-18-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 5 and 7

[Docket No. 83–46]

Rules, Policies and Procedures for Corporate Activities; Operating Subsidiaries

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is simplifying its process of banks seeking to establish, acquire, or expand the activities of operating subsidiaries. The rule eliminates the requirement that a bank file a formal application. Instead, a notification procedure is established. A bank may establish, acquire, or expand the activities of an operating subsidiary 30 days after the Office receives the bank's notice unless the Office has instructed the bank otherwise. The revised rule benefits national banks and the Office by removing burdensome and costly regulatory requirements, while maintaining the Office's ability to review the legal permissibility of proposed activities for operating subsidiaries.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, Joseph W. Malott, National Bank Examiner/Policy Analyst, Bank Organization and Structure, (202) 447–1184, or Joseph Daly, Attorney, Legal Advisory Services Division, (202) 447–1880, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Background

The Office's Corporate Activities Review and Evaluation (CARE)

Program, described in 45 FR 68586, dated October 15, 1980, involves a comprehensive review of the Office's rules, policies, procedures and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures and forms which are unnecessary or lead to inefficiences; and to remove barriers to competition. As part of the ongoing program, the Office issued for public comment a proposed rule which amended the current policy for establishing or acquiring operating subsidiaries (12 CFR 5.34). The proposal also eliminated Interpretive Ruling 7.7376 and incorporated its provisions, with some modifications, into the proposed § 5.34. The proposal was published on January 14, 1983 (48 FR 1732).

Summary of Comments

Eighteen comments were received and considered concerning the proposed rule. Seventeen commenters expressed general support for the proposal and one objected. Several issues were raised by those supporting the proposal. These include:

1. One commenter suggested that no notification be required for the conduct of new activities by an existing operating subsidiary; and another commenter suggested that no notification be required for the acquisition of additional offices by an existing operating subsidiary.

The Office's concern with regard to operating subsidiaries is that the activities in which they propose to engage be considered part of the business of banking or incidental thereto. Therefore, the office has always taken the position that its approval of an operating subsidiary extends only to the activities listed in the application. This policy has allowed the Office to review the legality of any new activities in which an existing operating subsidiary proposes to engage. The policy will be continued under the new letter of notification procedure. Any suggestion to the contrary in the proposed rulemaking was unintended. Consequently, the final rule has been amended to clarify this point.

Since the Office is primarily concerned with the legality of the activities engaged in by operating subsidiaries, the acquisition or establishment of additional offices by an existing subsidiary would not require review by this Office if no new activities are involved. However, if the additional office would be a branch within the meaning of 12 U.S.C. 36(f) a branch application would still be required. Furthermore, the acquisition or establishment of a new subsidiary by a bank or a bank's subsidiary would not require review by this Office provided the activities of the new subsidiary are limited to those previously reported by the bank in an application or a letter of intent to establish or acquire a prior operating subsidiary, the establishment or acquisition of the prior subsidiary was considered legally permissible by the office, and the activities in which the new subsidiary will engage continue to be considered permissible by the Office. Section 5.34(d)(1)(iii) is added to the final rule to clarify such a situation.

2. One commenter, noting that the proposed rule required that the parent national bank own 80% of the voting stock of an operating subsidiary, suggested that the rule be changed to permit the 80% ownership to be distributed among subsidiary banks of a bank holding company. If some subsidiary banks are state chartered and some are federally chartered, confusion about applicable laws and about appropriate federal and state supervisory jurisdictions could result from this change. An adequate alternative exists which resolves these problems. A holding company, desiring to distribute among its subsidiary banks the ownership of a corporation engaged in banking-related activities, can do so by forming a bank service corporation. A bank service corporation can engage in many of the same activities as an operating subsidiary. The law governing bank service corporations may be found at 12 U.S.C. 1861 as amended by Section 709 of Pub. L. 97–320, October 15, 1982.

3. One commenter suggested that the rule governing operating subsidiaries provide for public notice and when appropriate, hearings. As noted in the preamble to the proposed rule, national banks could perform the activities of an operating subsidiary within a department of the bank, in which case there would be no prior review by the Office, nor any public notice. If the legal permissibility of an activity proposed to be performed by an operating subsidiary is the subject of controversy, the Office (under 12 CFR 5.2(b)) can require public notice and an opportunity for comment.

4. Two commenters expressed concern over the 30-day period for review of a proposed operating subsidiary's activities.

One suggested that banks be authorized to establish operating subsidiaries immediately after notifying the Office; the other suggested a shorter time period for review of certain predefined clearly permissible activities. It is not the Office's intent to always make banks wait a full 30 days before an operating subsidiary may be acquired, established, or expand its activities. In many cases, the Office anticipates that it will complete its review in considerably less than 30 days. To avoid any confusion with respect to the Office's intent, the provision for requesting a shorter approval period is deleted in the final rule.

Other Issues

The proposed rule provided that the 30-day period would begin on the day the letter of notification is mailed. Transmittal delays or the loss of a letter of notification in the mails may provide the Office with too little time or no time to review a proposal. To assure that notification has been received and that there is no confusion about the date on which the 30-day review period commences, the final rule changes the starting date for the 30-day period to the date the Office receives the letter of notification. In addition, the final rule requires that banks submit their letter of notification by hand or by mail, return receipt requested. In this way, the bank can be certain that its letter was received and on what date. The 30-day review period will commence with the receipt date.

Although the Office is eliminating its application procedure to establish, acquire, or expand the activities of operating subsidiaries, it should be emphasized that such acquisition, establishment, or expansion will be subject to scrutiny since it is subject to the same laws and regulations applicable to the parent bank. For instance, the acquisition or establishment of an operating subsidiary may be subject to the branching restrictions of 12 U.S.C. 36 and 12 CFR 5.30 if it engages in any of the activities enumerated in 12 U.S.C. 36(f), or may be reviewed by other federal agencies responsible for enforcing the antitrust laws.

In merging § 7.7376 into § 5.34, this final rule includes several technical changes to the language in the ruling. Language changes concerning the 80 percent stock ownership requirement are designed solely to simplify the provision and do not reflect changes in substance. A statement in § 7.7376(b) concerning the scope of an operating subsidiary's permissible activities and a list of examples is eliminated because it may be interpreted as limiting the scope of permissible activities to a range

VOL
48
ISS
2
0
3
OC
19
1983
UMI

narrower than that currently permitted. Section 7.7376(c) which deals with the applicability of 12 U.S.C. 317c to operating subsidiaries is eliminated as unnecessary due to recent amendments to the statute. A requirement in § 7.7376(d)(4) that the Office be informed of the disposition of all operating subsidiaries is eliminated.

Conforming Amendment

Section 5.3(c)(2)(iii) currently provides certain officials in the OCC district or regional offices with authority to approve or disapprove applications for the establishment of de novo operating subsidiaries performing activities previously approved by the Office for national banks. Under this final rule, however, the Office no longer processes an application for approval or disapproval. Rather, the Office reviews a proposal with respect to its legal permissibility. In addition, the Office desires to minimize the time required for an adequate review of a proposal.

To help meet these objectives, § 5.3 is amended to delegate to the appropriate officials the responsibility for the decision on letters of notification concerning the establishment, acquisition, or expansion of activities by an operating subsidiary provided the subsidiary's proposed activities do not raise significant, new, or complex issues that require review by the Washington Office.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Secretary of the Treasury certifies that the amendments to 12 CFR 5.34 will not have a significant economic impact on a substantial number of small entities. The amendments will ease the burden of the existing regulations. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Regulatory Impact Analysis

The Office has determined that the amendments do not constitute a major rule within the meaning of Executive Order 12291. The amendments will ease burdens imposed by regulations and will have no adverse effect on the operations of the depository institutions subject to them. As such, the amendments will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions, and will not have an adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 5

Administrative practice and procedure, Employee benefit plans, National banks, Securities.

12 CFR Part 7

Credit, Insurance, Investments, Mortgages, National banks, Securities, Surety bonds.

Authority and Issuance

For the reasons given in the preamble, 12 CFR Parts 5 and 7 are amended as follows:

PART 5—[AMENDED]

1. The authority citation for 12 CFR Part 5 reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. Section 5.3 is amended by revising paragraph (c)(2)(iii) to read as follows:

§ 5.3 Corporate activities processing and delegations.

* * * * *

(c)(2)* * *

(iii) A letter of notification submitted for the establishment or acquisition of, or performance of new activities by, an operating subsidiary provided that the letter does not raise any significant, new, or complex issues that require review by the Washington Office.

3. Section 5.34 is revised to read as follows:

§ 5.34 Operating subsidiaries.

(a) *Authority.* 12 U.S.C. 1 *et seq.*, 24 (7), 93a.

(b) *Rules of general applicability.* Sections 5.4, 5.8, 5.9, 5.10 and 5.11 do not apply to operating subsidiaries.

(c) *General.* A national bank may engage in activities which are a part of or incidental to the business of banking by means of an operating subsidiary corporation. In order to qualify as an operating subsidiary, the parent bank must own at least 80 percent of the voting stock of the corporation.

(d) *Policy.* The Office considers establishment or acquisition of an operating subsidiary or performance of new activities by an operating subsidiary to be primarily a business decision of the bank subject to the following requirements.

(1) *Notification.* (i) A national bank which intends to acquire, establish or perform new activities in an operating subsidiary shall submit a letter to the Deputy Comptroller for the district in which the bank's principal office is located. The letter must detail the proposed activities of the operating subsidiary and state whether any activity of the operating subsidiary will be conducted at some location other than the main office or a previously approved branch of the bank. Letters of notification must be hand delivered or mailed, return receipt requested, to the district office in which the principal office of the bank is located.

(ii) The bank may establish, acquire, or perform new activities in an operating subsidiary after 30 days from the date the Office receives the bank's letter, unless notified to the contrary, or in less than 30 days if notified by the Office. The Office will utilize the 30 day period to review the bank's proposal to determine if the proposed activities exceed those legally permissible for a national bank operating subsidiary. The 30 day period may be extended upon notice to the bank if the bank's letter raises issues that require additional information or time for analysis by the Office. If the 30-day period is extended, the bank may establish, acquire, or perform new activities in the operating subsidiary only upon written notification by the Office.

(iii) A bank may establish or acquire an operating subsidiary without notifying the Office provided: (A) The activities of the new subsidiary are limited to those activities previously reported by the bank in connection with the establishment or acquisition of a prior operating subsidiary; (B) the establishment or acquisition of the prior subsidiary was considered permissible by the Office; and (C) the activities in which the new subsidiary will engage continue to be considered legally permissible by the Office.

(2) *Applicability of banking laws and regulations—(i) Banking laws and regulations applicable.* Unless otherwise provided by statute or regulation, all provisions of Federal banking laws and regulations applicable to the operations of the parent bank shall be equally applicable to the operations of its operating subsidiaries.

(ii) *Consolidation of figures.* Unless otherwise provided by statute or regulation, pertinent book figures of the parent bank and its operating subsidiaries shall be consolidated for the purpose of applying applicable statutory limitations, such as 12 U.S.C. 56, 60, 84, or 371d.

Example. The combined exposures of the parent bank and all of its operating subsidiaries to a single borrower shall not exceed the bank's loan limit (12 U.S.C. 84).

(3) *Examination and supervision.* Each operating subsidiary shall be subject to examination and supervision by the Office of the Comptroller of the Currency in the same manner and to the same extent as the parent bank. If, upon examination, the Comptroller of the Currency ascertains that the subsidiary is created or operated in violation of law or regulation or that the manner of operation is unsafe or unsound, the Office will direct the bank to take appropriate remedial action, which may include disposing of all or part of the subsidiary.

(e) *Fees.* None.

(f) *Forms.* None.

(Approval by the Office of Management and Budget under control number 1557–0148.)

PART 7—[AMENDED]

4. The authority citation for *Part 7—Interpretive Rulings*—reads as follows:

Authority: R.S. 324 *et seq.*, as amended 12 U.S.C. 1*et seq.*, unless otherwise noted.

§ 7.7376 [Removed]

5. Section 7.7376 is removed.

Dated: September 15, 1983.

C. T. Conver,

Comptroller of the Currency.

[FR Doc. 83–28410 Filed 10–18–83; 8:45 am]

BILLING CODE 4810–33–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 83–566]

Accounting For Uncollected Income

Dated: October 13, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its regulations on accounting for uncollected income by institutions using the accrual basis of accounting to prepare financial statements and reports to the Federal Savings and Loan Insurance Corporation. Current regulations require that all earned but uncollected interest on conventional loans be classified as uncollectible if any portion is due but uncollected for more than 90 days. The revision will provide greater flexibility on the part of management to determine when earned but uncollected income on conventional loans should be classified as uncollectible.

EFFECTIVE DATE: October 26, 1983.

FOR FURTHER INFORMATION CONTACT: James Satterfield, (202) 377–6399, Financial Analyst, Office of Examination and Supervision; or Gerard J. Champagne, (202) 377–6177, Attorney, Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Reports required by the Federal Savings and Loan Insurance Corporation ("FSLIC") are prepared on the basis of generally accepted accounting principles, unless specific principles or procedures on particular accounting or reporting matters are otherwise specified by regulation. 12 CFR 563.23–3 (1983).

Section 563c.11 of the Board's Insurance Regulations provides accounting rules for uncollected income for institutions submitting financial statements and reports to the FSLIC. 12 CFR 563c.11 (1983). Specifically, an institution is required to review, at least quarterly, all earned but uncollected income to determine if any portion thereof should be classified as uncollectible.

Generally accepted accounting principles, as articulated by the American Institute of Certified Public Accountants, provide that the recording of interest should be discontinued when payments of principle or interest are past due, the borrower is in default under the terms of the loan agreement, or certain other factors exist. See Statement of Position 75–2, Accounting Practices of Real Estate Investment Trusts (1975). The Board has previously established specific additional standards in this area for determining the collectibility of income. 12 CFR 563c.11(b).

With respect to earned but uncollected interest on conventional loans, an institution is required to classify as uncollectible all loan income which is due but uncollected for a period in excess of 90 days (the "90-day rule"). 12 CFR 563c.11(b). "Conventional loan" is defined in § 563c.11(d) as any investment by an insured institution in any loan, contract, or similar investment which is not an insured loan, a guaranteed loan or a guaranteed obligation, as those terms are defined in 12 CFR 561.20, 561.21, and 561.21a, respectively. Additionally, all earned but uncollected interest on conventional loans must be classified as uncollectible if the institution has commenced legal action to acquire title, secure possession of the underlying security, or enforce performance by the borrower, or if a determination has been made that the loan is uncollectible due to substantial or chronic delinquency or for any other material reason.

The 90-day rule provides management, accountants, and Board examiners with uniform standards to evaluate uncollected interest income on an industry-wide basis. The rule also assists in the analysis of loan portfolio quality and association collection policy. In addition, the 90-day rule prevents overstatement of income through long-term accrual of uncollected interest, which would undermine the integrity of financial statements and reports.

The 90-day rule has, however, been subject to criticism by insured institutions and industry representatives. Critics contend that the rule allows no provision for management determination of collectibility. In particular, it has been argued that the rule provides no flexibility in those instances in which the market value of the real estate collateral far exceeds the existing loan balance plus uncollected interest, a problem which is especially acute in areas of high unemployment. Although management may be inclined to grant forebearance because of the sufficiency of collateral securing the loan and the adverse impact of immediate collection efforts upon customer and community relations, the inflexibility of the 90-day rule may unduly affect the decision-making process.

Accordingly, the Board is amending the 90-day rule to allow greater latitude on the part of institutional management in determining the collectibility of earned but uncollected interest upon consideration of relevant mitigating factors. The amendment will specifically exclude from the 90-day rule conventional loans secured by one-to-four-family residential real estate if sufficient equity in the underlying collateral exists (i.e., if the loan balance plus accrued but uncollected interest does not exceed 90 percent of the appraised value of the security property), active collection efforts are being made, and there is a reasonable expectation of collection of delinquent interest. The amendment is intended to provide institutional managers with the necessary flexibility to review each delinquent loan individually and to allow relief from the necessity of establishing reserves if sufficient mitigating factors exist, while continuing to protect the ability of Board examiners to assess the loan portfolio quality and institution collection policy contained in the quarterly review report.

The Board finds that observance of the notice and comment procedures prescribed by 5 U.S.C. 553(d) and 12 CFR 508.12, 508.13, and delay of the

VOL
48
ISS
2
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3
OC
19
1983
UMI

effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14, are unnecessary because the amendment relieves a restriction and it is in the public interest to allow institutional flexibility in the review of delinquent loans.

List of Subjects in 12 CFR Part 563

Accounting requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board amends Part 563 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563c—ACCOUNTING REQUIREMENTS

Revise paragraph (b) of § 563c.11 as follows:

§ 563c.11 Accounting for uncollectible income.

* * * * *

(b) *Uncollectible interest on loans.* In determining the uncollectibility of income on loans, contracts, and similar investments, an insured institution shall employ generally accepted accounting principles. However, as a minimum, the following shall be classified as uncollectible:

(1) All earned but uncollected interest on a conventional loan if any portion thereof is due but uncollected for a period in excess of 90 days, unless:

(i) The collecteral securing such loan is a home as defined in § 541.14 of this chapter;

(ii) The amount of all loan balances secured by the home, plus accrued but uncollected interest, does not exceed 90 percent of the appraised value of the security property;

(iii) Active collection efforts are being made; and

(iv) There is a reasonable expectation of delinquent-interest collection.

(2) All earned but uncollected interest on a conventional loan on which an institution has commenced legal action to acquire title to or secure possession of the underlying security or to enforce performance by the borrower;

(3) All earned but uncollected interest on a conventional loan which, because of substantial or chronic delinquency or any other material reason, is of doubtful collectibility; and

(4) Earned but uncollected interest on loans other than conventional loans, classified on the same basis as conventional loans after allowance for any interest which may be expected to be received in connection with any existing insurance or guaranty.

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(Secs. 401–404, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-28473 Filed 10-18-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 184 and 186

[Docket No. 79N-0174]

GRAS Substances Affirmed for Both Direct and Indirect Uses; Procedure for Listing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its procedural regulations to make clear that the agency will no longer list in Part 186 the indirect uses of substances that it has affirmed as generally recognized as safe (GRAS) for direct use in Part 184. This action will eliminate needless duplication in FDA's regulations. This amendment also clarifies FDA's requirements concerning the purity of GRAS substances used as indirect food ingredients.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Susan Thompson, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 1982 (47 FR 27817), FDA published a proposal to amend its procedural regulations for affirming substances as GRAS. The agency proposed to amend §§ 184.1(a) and 186.1(a) (21 CFR 184.1(a) and 186.1(a)) to make clear that FDA would no longer list in Part 186 those substances that it has affirmed as GRAS for direct food use in Part 184; to remove from Part 186 those ingredients that are affirmed for indirect use by virtue of the fact that they are listed in Part 184; and to clarify FDA's requirements concerning the purity of GRAS substances used as indirect food ingredients.

The agency received one comment from a trade association in response to the proposal. The comment agreed with FDA's proposed action but recommended a revision in the wording of the third sentence of § 184.1(a). The comment recommended that this sentence be revised to read: "Ingredients affirmed as GRAS in this part are deemed to be GRAS for indirect human food use (e.g., food packaging) as well, and may be so used subject to any limitations * * *." The comment suggested that the revised wording clarifies the intent of the statement.

The agency agrees that the wording of this sentence should be revised. In the preamble to the proposal, the agency made clear that substances affirmed as GRAS for direct food use were also GRAS for indirect food use. The agency is therefore adopting this part of the comment's recommendation. However, the agency concludes that any reference to a specific type of indirect food use, as suggested in the comment, is unnecessary and could be confusing. Therefore, the agency has revised the third sentence in § 184.1(a) to read: "Ingredients affirmed as GRAS in this part are also GRAS as indirect human food ingredients, subject to any limitations * * *." The agency has also incorporated this change in the third sentence in § 186.1(a).

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities will derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency determined that the rule is not a major rule as defined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

21 CFR Part 186

Food ingredients, Generally recognized as safe (GRAS) food ingredients, Indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under 21 CFR 5.11, Parts 184 and 186 are amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. Part 184 is amended in § 184.1 by revising paragraph (a), to read as follows:

§ 184.1 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

(a) The direct human food ingredients listed in this part have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed. The regulations in this part shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS. Ingredients affirmed as GRAS in this part are also GRAS as indirect human food ingredients, subject to any limitations prescribed in Parts 174, 175, 176, 177, 178 or § 179.45 of this chapter of in Part 186 of this chapter. The purity specifications in this part do not apply when the ingredient is used in indirect applications. However, when used in indirect applications, the ingredient must be of a purity suitable for its intended use in accordance with § 170.30(h)(1) of this chapter.

* * * * *

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 186 is amended:

a. In § 186.1 by revising the section heading and paragraph (a), to read as follows:

§ 186.1 Substances added indirectly to human food affirmed as generally recognized as safe (GRAS).

(a) The indirect human food ingredients listed in this part have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed, providing they comply with the purity specifications listed in this part or, in the absence of purity specifications, are of a purity suitable for their intended use in accordance with § 170.30(h)(1) of this chapter. Certain ingredients in this part may also be used in food-contact surfaces in accordance with Parts 174, 175, 176, 177, 178 or § 179.45 of this chapter. Ingredients affirmed as GRAS for direct use in Part 184 of this chapter are also GRAS as indirect human food ingredients in accordance with § 184.1(a) of this chapter.

* * * * *

§ 186.1275 [Amended]

b. In § 186.1275 *Dextrans* by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as (b), (c), and (d), respectively.

§§ 186.1330, 186.1339, 186.1343, 186.1807 [Removed]

c. By removing § 186.1330 *Acacia (gum arabic)*, § 186.1339 *Guar gum (technical grade)*, § 186.1343 *Locust (carob) bean gum*, and § 186.1807 *Sodium thiosulfate*.

§ 186.1839 [Amended]

d. In § 186.1839 *Sorbose* by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as (b), (c), and (d), respectively.

Effective date. This regulation shall be effective November 18, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: September 26, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-28407 Filed 10-18-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 184 and 186

[Docket No. 82N-0120]

Substances Generally Recognized as Safe

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations on substances that the agency has affirmed as generally recognized as safe (GRAS). The agency is amending its regulations to incorporate the general conditions of current good manufacturing practice (CGMP) for substances affirmed as GRAS, to eliminate the requirement that a GRAS affirmation regulation contain explicit details of the conditions of use that are affirmed as GRAS, and to make editorial and clarifying changes.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA published a proposal to amend its procedural regulations on the GRAS review in §§ 184.1 (b), (b)(1), and (c) and 186.1 (b), (b)(1), (c), and (d) (21 CFR 184.1 (b), (b)(1), and (c) and 186.1 (b), (b)(1), (c) and (d)). The agency proposed to incorporate into §§ 184.1(b) and 186.1(b) a list of the basic requirements of CGMP. In addition, FDA proposed to amend §§ 184.1(b)(1) and 186.1(b)(1) to make clear the agency's intent to include in GRAS affirmation regulations a description of only those CGMP conditions of use that the agency determines are necessary to ensure the continued safe use of the ingredient in food or food-contact materials. Finally, the agency proposed to make minor editorial changes in §§ 184.1(c) and 186.1 (c) and (d).

FDA received six comments from food manufacturers or suppliers and five comments from trade associations in response to the proposal. Five of these comments indicated support for the proposal without any changes. However, six comments made specific recommendations for changes in the proposal or recommendations for other changes in GRAS regulations. These comments and the agency's responses are summarized below:

1. Three comments requested that regulations for substances affirmed as GRAS under conditions of CGMP not include a description of any CGMP conditions of use. The comments argued that inclusion of any levels of use, food categories, or technical effects was inconsistent with the Select Committee's and FDA's evaluation "that there is no evidence to suggest a hazard when the ingredient is used in food at levels that

VOL 48 ISS 203 OCT 19 1983 UMI

are now current or might reasonably be expected in the future." The comments also stated that inclusion of any conditions of use in GRAS affirmation regulations may unnecessarily impede food manufacturers from using a GRAS substance under different conditions in the future. The comments further indicated that submission of a GRAS affirmation petition for expanded food uses would place an unnecessary burden on the industry, because this process may require that additional data be submitted and would require that the industry await FDA's review of the petition. One comment concluded that inclusion of conditions of use in GRAS affirmation regulations was akin to converting freely available GRAS substances to food additive status.

FDA has considered, but disagrees with, these comments. The comments do not provide any new information that addresses the concerns, or any basis for changing the tentative conclusions, that the agency discussed in the proposal.

An agency decision to describe one or more of the conditions of use of a substance in a GRAS affirmation regulation is perfectly consistent with the evaluation of the safety of the substance embodied in that regulation. The purpose of a GRAS affirmation regulation is to describe the ingredient and the uses of that ingredient in food that FDA is affirming as GRAS. FDA has found, based on its years of experience with the GRAS review, that such a description need not include CGMP conditions of use (technical effects, food categories, and levels of use) for every substance. The agency has determined that a GRAS affirmation regulation should only include those CGMP conditions of use that are necessary to ensure the continued safe use of the ingredient. FDA considers several factors in deciding which conditions of use are necessary to achieve this purpose, including: (1) The amount (total poundage) and the extent of the use of the ingredient in food; (2) the magnitude of the safety factor that exists for the ingredient; and (3) whether the use of the ingredient in food is self-limiting. Some substances have been so widely and so safely used that the agency can conclude that it is not necessary to include specific CGMP conditions of use in the GRAS affirmation regulations to assure their continued safe use. Other substances, however, have been used much more narrowly. These substances have been used safely for a small number of technical effects, in a few food categories, or at low levels. Although the agency can conclude, based on the data before it, that continued use of these substances under the same or reasonably related conditions of use will be safe, it is unable to determine whether use of these substances will be safe if they are used in a significantly different manner. For these substances, FDA will include one or more conditions of use in the GRAS affirmation regulations to provide a basis on which the food industry can assess whether expanded future uses of the substance will be compatible with the agency's safety evaluation and to discourage any potentially unsafe proliferation in the use of these substances. Thus, the agency finds that the continued inclusion of conditions of use is justified.

FDA also rejects the claim that inclusion of conditions of use in GRAS affirmation regulations will unnecessarily impede or place an unnecessary burden on industry. The agency adopts GRAS affirmation regulations with conditions of use only after interested persons have had an opportunity to review and comment on them. An interested person may file a petition to expand the conditions of use listed in a regulation to reflect new uses of the ingredient at any time. The agency is able to respond promptly to most of these petitions because of the comprehensive files on GRAS substances that the agency has compiled as part of the GRAS review. In addition, the existence of a GRAS affirmation regulation that contains conditions of use does not bar a manufacturer from expanding the use of a GRAS ingredient beyond the conditions described in the regulation if the manufacturer makes its own GRAS determination. For this reason, GRAS regulations are different from food additive regulations, which set forth the only permissible uses of a substance in food.

The agency concludes that the comments do not establish any basis for removing all CGMP conditions of use from all GRAS regulations. Therefore, the agency has not modified its final rule in response to these comments.

2. Two comments from bakery suppliers requested that all GRAS affirmation regulations uniformly indicate that CGMP levels of use are levels that are applicable to foods as prepared for consumption. The comments acknowledged that most GRAS affirmation regulations containing CGMP levels of use refer to such levels on an as served basis but noted that an exception is found in the regulations for benzoic acid (21 CFR 184.1021), calcium iodate (21 CFR 184.1206), methylparaben (21 CFR 184.1490), propylparaben (21 CFR 184.1670), sodium benzoate (21 CFR 184.1733), and bakers yeast extract (21 CFR 184.1983). The comments indicated that these variations in GRAS affirmation regulations are confusing to bakery suppliers that produce bulk or intermediate food products for use by bakeries or other food processors.

FDA has reviewed the GRAS affirmation regulations identified in these comments and finds that there is no need to change the cited regulations. With the exception of the regulations on calcium iodate (21 CFR 184.1206), these regulations identify a maximum usage level in food. The agency concludes that such maximum usage levels are applicable to the food as served.

The regulation for calcium iodate (21 CFR 184.1206) specifies that the use of calcium iodate as a dough strengthener in making bread is not to exceed 0.0075 percent of the weight of the flour. The regulation is writtern this way to be consistent with the applicable food standared (21 CFR 136.110). FDA also notes that this substance is different than the others mentioned in the comment because the agency affirmed this substance as GRAS with specific limitations and not under CGMP.

3. One comment suggested that the agency modify § 184.1(d) to exempt flavor enhancers and flavoring agents and adjuvants from this section. Section 184.1(d) states that "[t]he listing of more than one ingredient to produce the same technological effect does not authorize use of a combination of two or more ingredients to accomplish the same technological effect in any one food at a combined level greater than the highest level permitted for one of the ingredients." The comment suggested that flavor substances should be exempt from this section, regardless of whether one or more of the flavoring materials used has a limitation based upon safety considerations.

The agency advises that modification of § 184.1(d) was not included in the proposal and is beyond the scope of this final rule. Therefore, the agency has not modified its final rule in response to this comment. A petition may be submitted under § 10.30 (21 CFR 10.30) to request the agency to modify § 184.1(d). The petition should state clearly the requested change in § 184.1(d) and should contain convincing evidence to show that use of ingredients in food in a manner that is consistent with the requested change would constitute current good manufacturing practice.

In summary, FDA did not receive any comments that presented information that warrants a change in the regulations that the agency proposed.

FDA is therefore adopting the proposed regulations with minor editorial changes. For clarity, FDA has modified §§ 184.1(b)(1) and 186.1(b)(1) to state that persons who seek to use an ingredient for a use that is not described in a GRAS regulation may seek FDA approval of the use by submitting a GRAS petition.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

21 CFR Part 186

Food ingredients, Generally recognized as safe (GRAS) food ingredients, Indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under 21 CFR 5.11, Parts 184 and 186 are amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. In Part 184, § 184.1 is amended by revising the introductory text of paragraph (b) and revising paragraphs (b)(1) and (c), to read as follows:

§ 184.1 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(b) Any ingredient affirmed as GRAS in this Part shall be used in accordance with current good manufacturing practice. For the purpose of this Part, current good manufacturing practice includes the requirements that a direct human food ingredient be of appropriate food grade; that it be prepared and handled as a food ingredient; and that the quantity of the ingredient added to food does not exceed the amount reasonably required to accomplish the intended physical, nutritional, or other technical effect in food.

(1) If the ingredient is affirmed as GRAS with no limitations on its conditions of use other than current good manufacturing practice, it shall be regarded as GRAS if its conditions of use are consistent with the requirements of paragraph (b), (c), and (d) of this section. When the Food and Drug Administration (FDA) determines that it is appropriate, the agency will describe one or more current good manufacturing practice conditions of use in the regulation that affirms the GRAS status of the ingredient. For example, when the safety of an ingredient has been evaluated on the basis of limited conditions of use, the agency will describe in the regulation that affirms the GRAS status of the ingredient, one or more of these limited conditions of use, which may include the category of food(s), the technical effect(s) or functional use(s) of the ingredient, and the level(s) of use. If the ingredient is used under conditions that are significantly different from those described in the regulation, that use of the ingredient may not be GRAS. In such a case, a manufacturer may not rely on the regulation as authorizing that use but shall independently establish that that use is GRAS or shall use the ingredient in accordance with a food additive regulation. Persons seeking FDA approval of an independent determination that a use of an ingredient is GRAS may submit a GRAS petition in accordance with § 170.35 of this chapter.

* * * * *

(c) The listing of a food ingredient in this Part does not authorize the use of such substance in a manner that may lead to deception of the consumer or to any other violation of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 186, § 186.1 is amended by revising the introductory text of paragraph (b) and revising paragraphs (b)(1), (c), and (d), to read as follows:

§ 186.1 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).

* * * * *

(b) The regulations in this Part do not authorize direct addition of any food ingredient to a food. They authorize only the use of these ingredients as indirect ingredients of food, through migration from their immediate wrapper, container, or other food-contact surface. Any ingredient affirmed as GRAS in this Part shall be used in accordance with current good manufacturing practice. For the purpose of this Part, current good manufacturing practice includes the requirements that an indirect human food ingredient be of a purity suitable for its intended use, and that it be used at a level no higher than reasonably required to achieve its intended technical effect in the food-contact article.

(1) If the ingredient is affirmed as GRAS with no limitations on its conditions of use other than current good manufacturing practice, it shall be regarded as GRAS if its conditions of use are consistent with the requirements of paragraphs (b), (c), and (d) of this section. When the Food and Drug Administration (FDA) determines that it is appropriate, the agency will describe one or more current good manufacturing practice conditions of use in the regulation that affirms the GRAS status of the indirect ingredient. For example, when the safety of an ingredient has been evaluated on the basis of limited conditions of use, the agency will describe in the regulation that affirms the GRAS status of the indirect ingredient, one or more of these limited conditions of use, which may include the category of food-contact surface(s), technical effect(s) or functional use(s) of the indirect ingredient, and the level(s) of use. If the ingredient is used under conditions that are significantly different from those described in the regulation, such use of a substance may not be GRAS. In such a case, a

VOL
48
ISS
203
OC
19
1983
UMI

manufacturer may not rely on the regulation as authorizing that use but shall independently establish that the use is GRAS or shall use the ingredient in accordance with a food additive regulation. Persons seeking FDA approval of an independent determination that a use of an ingredient is GRAS may submit a GRAS petition in accordance with § 170.35 of this chapter.

* * * * *

(c) The listing of a food ingredient in this Part does not authorize the use of such substance for the purpose of adding the ingredient to the food through extraction from the food-contact surface.

(d) The listing of a food ingredient in this Part does not authorize the use of such substance in a manner that may lead to deception to the consumer or to any other violation of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

Effective date. This regulation shall be effective November 18, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: September 26, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-28406 Filed 10-18-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

31 CFR Part 1

Privacy Act of 1974; Exemption of Systems of Records from Certain Requirements.

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Comptroller of the Currency gives notice of an amendment to 31 CFR 1.36. This amendment (1) changes the name of the system, Treasury/CC .013, from "Information File on Individuals and Commercial Entities Known or Suspected of Being Involved in Fraudulent Activities" to "Enforcement and Compliance Information System"; (2) exempts a new system of records from the application of certain parts of the Privacy Act in accordance with 31 CFR 1.23(c) and 1.36; and (3) clarifies the Comptroller of the Currency's existing notice of rules exempting certain systems of records from the requirements of the Privacy Act of 1974. The Comptroller of the Currency portion of § 1.36 is being revised and published in its entirety since these provisions extensively change the language presently used. The Comptroller filed a new system report with the Office of Management and Budget, the Speaker of the House of Representatives and the President of the Senate. A proposed notice exempting the system was published in the **Federal Register** at 47 FR 51890 (1982).

DATES: The final rule is effective November 18, 1983.

ADDRESS: Chief Counsel's Office, Office of the Comptroller of the Currency, Washington, D.C. 20219

FOR FURTHER INFORMATION CONTACT: Francis S. Rath, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: On March 15, 1979, the Comptroller of the Currency published a notice of proposed rulemaking at 44 FR 15734 together with a systems notice at 44 FR 15824. The purpose was to revise an existing exempt system of records and to change the name of that system. The revised systems notice gave a 30-day public comment period and became effective when no comments were received by the end of that period. The proposed rule reflected the system notice by amending the existing rule at 31 CFR 1.36. However, the rule covering the system was not finalized and, therefore, the name was not changed. This document, in part, revises the rule at 31 CFR 1.36 to reflect that system's name change.

On November 18, 1982, the Comptroller of the Currency published a notice of a proposed new Privacy Act system of records at 47 FR 51995. In addition, the Comptroller of the Currency published on the same date at 47 FR 51890 a proposed rule exempting the new system from the requirements of the Privacy Act of 1974 and changing the name of an existing system. The new system of records became effective on December 20, 1982, since no comments were received concerning the system.

One comment was received regarding the proposed rule in response to which paragraph (f) of the proposed rule, relating to exempt information included in another system, is deleted. Therefore, paragraph (g) of the proposed rule has been relettered as paragraph (f).

Due to an oversight, the section addressing the requirements of the Regulatory Flexibility Act and Executive Order 12291 was inadvertently omitted in the proposed rule. Those requirements are addressed below.

Regulatory Flexibility Act

The Secretary of the Treasury has certified that this regulation is exempt from the requirement of preparing a regulatory flexibility analysis because it will not have a significant economic impact on a substantial number of small entities. This regulation would exempt three systems of records from the Privacy Act: (1) Enforcement and Compliance Information; (2) Federal Bureau of Investigation Report Card Index; and (3) Chief Counsel's Management Information System. Because the regulation affects only internal agency administration, those exemptions are not expected to generate any costs for banks of any size or for individuals.

Executive Order 12291

The Comptroller of the Currency has determined that the regulation does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a regulatory impact analysis will not be prepared on the grounds that the revision (1) will not have an annual effect on the economy of $100 million or more; (2) will not result in a major increase in the cost of bank operations or government supervision; and (3) will not have a significant adverse effect on competition with foreign-based entities.

List of Subjects in 31 CFR Part 1

Privacy.

Accordingly, 31 CFR Part 1 is amended as set forth below:

PART 1—[AMENDED]

1. The authority for Part 1 reads as follows:

Authority: 5 U.S.C. 301, 552, as amended.

2. Section 1.36 is amended by revising the Comptroller of the Currency portion to read as follows:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

* * * * *

Comptroller of the Currency

Notice of Rules Exempting Certain Systems of Records From the Requirements of the Privacy Act

(a) *In General.* The Office of the Comptroller of the Currency exempts the following systems of records from certain provisions of the Privacy Act: (1) Enforcement and Compliance Information; (2) Federal Bureau of Investigation Report Card index; (3) Chief Counsel's Management Information System. The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executively-ordered purpose.

(b) *Authority.* The authority to issue exemptions is vested in the Office of the Comptroller of the Currency, as a constituent unit of the Treasury Department, by 31 CFR 1.20 and 1.23(c).

(c) *Exemptions under 5 U.S.C. 552a(j)(2).* (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Components of the Office of the Comptroller of the Currency are involved in the investigation of fraudulent or other illegal activities as well as other sensitive matters, in order to carry out their bank supervisory function. Exemptions will be claimed for such records only where appropriate.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named systems of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for certain records in the systems. Exemptions will be claimed for such records only where appropriate.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)
5 U.S.C. 552a(d)(1), (2), (3), (4)
5 U.S.C. 552a(e)(1), (2), and (3)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2).* (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled or law enforcement purposes.

(2) To the extent that information contained in the above-named systems has as its principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2).* (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are the subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f), and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the content of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. These systems are exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could: interfere with investigative and enforcement proceedings; interfere with co-defendants' rights to a fair trial; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; or disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

(i) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance can be established.

(iii) In any investigation the Comptroller of the Currency may obtain information concerning violations of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Comptroller of the Currency should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(iv) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relates to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of the provision would impair investigations for the following reasons:

(i) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

VOL 48 ISS 203 OCT 19 1983 UMI

(ii) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(iii) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities in order to avoid apprehension.

(iv) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

(6)(i) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(A) The authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

(B) The purposes for which the information is intended to be used,

(C) The routine uses which may be made of the information, and

(D) The effects on the subject, if any, of not providing the requested information.

(ii) The reasons for exempting these systems of records from the foregoing provision are as follows:

(A) the disclosure to the subject of the investigation as stated in paragraph (e)(6)(i)(B) would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(B) If the subject were informed as required by this provision, it could seriously interfere with information-gathering activities by requiring disclosure of sources of information and, therefore, impairing the successful conclusion of the investigation.

(C) Individuals may be contacted during preliminary information-gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed in a logical order which objectively proves or disproves suspected behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing investigation to the subject of the investigation.

(f) *Documents exempted.* Exemption will be claimed for certain records only where appropriate under the above provisions.

* * * * *

Dated: September 21, 1983.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 83-28295 Filed 10-18-83; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Chap. 1

[FPR Temp. Reg. 75]

Procedures for Publicizing Proposed Procurements and Processing Noncompetitive Procurements

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This FPR Temporary Regulation revises Commerce Business Daily publicizing, bidding time, and noncompetitive contract processing and approval requirements. The basis for the regulation is Pub. L. 98-72 which amended section 8(e) of the Small Business Act. The intended effect of the revisions is to bring existing regulations into conformance with the law, thereby improving small business access to Federal procurement information.

DATES:

Date effective	Section
Oct. 19, 1983	§§ 1-1.1003-6(c); 1-3.101 (d), (e), and (f); 1-3.107 (b)(3), (b)(4), (c) and (d); and 1-4.910(c).
Nov. 9, 1983	§§ 1-1.307-4(a); 1-1.1003-2 (a), (b), (c) and (d); 1-1003-6, (a), and (b); 1-1.1003-7 (b)(3), (b)(7) and (b)(12); 1-1.1004; 1-2.202-1 (b) and (c); 1-3.103(a); 1-3.108(e); and 1-4.904(a).

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Frank T. Van Lierde, Office of Acquisition Policy (202-523-4768).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

General Services Administration

Washington, D.C. 20405

October 12, 1983.

Federal Procurement Regulations; Temporary Regulation 75

To: Heads of Federal agencies.

Subject: Procedures for publicizing proposed procurements and processing noncompetitive procurements.

1. *Purpose.* This temporary regulation implements Pub. L. 98-72, August 11, 1983.

2. *Effective dates.*

Date effective	Section
Oct. 19, 1983	§§1-1.1003-6(c); 1-3.101 (d), (e) and (f); 1-3.107 (b)(3), (b)(4), (c) and (d); and 1-4.910(c).
Nov. 9, 1983	§§ 1-1.307-4(a); 1-1.1003-2 (a), (b), (c) and (d); 1-1003-6, (a), and (b); 1-1.1003-7 (b)(3), (b)(7) and (b)(12); 1-1.1004; 1-2.202-1 (b) and (c); 1-3.103(a); 1-3.108(e); and 1-4.904(a).

3. *Expiration date.* This regulation expires on September 30, 1985.

4. *Background.*

a. Pub. L. 98-72 amended section 8(e) of the Small Business Act (15 U.S.C. 637) to improve small business access to procurement information and increase competition by making it harder for agencies to award sole-source contracts. The following major revisions were made to the Small Business Act:

(1) The threshold for publicizing proposed civilian agency procurement actions in the Commerce Business Daily (CBD) was increased from $5,000 to $10,000.

(2) The exemptions to the CBD publicizing requirement were modified in the following areas:

(i) Foreign procurements.

(ii) Utility services.

(iii) Orders under existing contracts.

(iv) Personal or professional services. (This exemption was eliminated.)

(v) Services from educational institutions. (This exemption was eliminated and replaced with one dealing with proposals under the Small Business Innovation Development Act of 1982 and unsolicited proposals.)

(vi) Emergency procurements. (This exemption was modified to tie it into new publicizing and response time requirements.)

Note.—The details of new exemptions may be found in revised § 1-1.1003-2 set forth in paragraph 5.b.

(3) If notice of the procurement for a sole-source contract (see revised § 1-1.1003-2(c) for definition) must be published, an agency may not commence negotiations for award of such a contract until at least 30 days have elapsed from the date of publication of proper notice of intent to contract. However, agencies are specifically authorized to respond to requests for information during the 30-day time period.

(4) A prohibition is imposed against agencies commencing negotiations for sole-source contracts or contracts that result from unsolicited proposals (except under the 8(a) and Small Business Innovation Research programs) above a threshold amount unless the head of the procuring activity or his deputy, on a nondelegable basis, has approved the authority to enter into such contract and the contracting officer has evaluated the responses to the notice of procurement action. The act provides for a three-year phase-in of decreasing dollar thresholds at which these provisions will apply and requires instances of noncompliance to be reported to the Congress (see new §§ 1-3.101 (e) and (f) set forth in paragraph 5.g.).

(5) Publication of a notice in the CBD is required for awards of all unclassified contracts in excess of $25,000, in which the award of subcontracts is likely.

(6) Agencies are prohibited from issuing a solicitation for at least 15 days (30 days for research and development effort) after the date of publication of a proper notice of the proposed procurement in the CBD. Agencies are also prohibited from foreclosing competition for the procurement for an additional 30 days after either the issuance of the solicitation, or in the case of orders under a basic agreement, basic ordering agreement, or similar arrangement, the date of a notice of intent to place the order.

b. Two separate effective dates were included in Pub. L. 98-72. An October 1, 1983, effective date was established for revised section 8(e)(4) of the act which deals with the approval of sole-source contracts and evaluation of responses to notices of intent to contract on a sole-source basis. The remaining provisions of the act were made effective November 9, 1983. Accordingly, it was necessary to establish separate effective dates for the regulatory implementation of the separate parts of the act (see paragraph 2 above).

c. On the basis of initial experience with the implementation of FPR Amendment 230, several changes were made to the noncompetitive procurement justification requirements of the FPR. Specifically, a number of new exceptions were added to the requirement for preparing written noncompetitive procurement justifications to eliminate the need to prepare the justifications where they serve no useful purpose. Other revisions were made to accommodate the new exceptions.

5. *Explanation of changes.*

a. Section 1-1.307-4 is amended to provide in paragraph (a) the basis on which less than 30 days may be allowed between the issuance of solicitations and the opening of bids. As amended, paragraph (a) reads as follows:

§ 1-1.307-4 Brand name products or equal.

(a) Purchase descriptions which refer to one or more brand name products followed by the words "or equal" may be used only in accordance with this § 1-1.307-4 and §§ 1-1.307-5 through 1-1.307-9. The term "brand name product" means a commercial product described by brand name and make or model number or other appropriate nomenclature by which that product is offered for sale to the public by the particular manufacturer, producer, or distributor. All known acceptable brand name products should be listed in the solicitation. When a "brand name or equal" purchase description is used in connection with a primary item, or a major component, prospective contractors must be given the opportunity to offer products other than those specifically referenced by brand name if those other products will meet the needs of the Government in essentially the same manner as those referenced. If modifications to standard products of prospective contractors to meet the purchase description requirements are anticipated, a minimum of 30 calendar days shall be allowed between issuance of the solicitation and opening of bids or receipt of proposals, provided that periods of less than 30 calendar days may be set only in cases where one of the statutory exceptions to publicizing the procurement in the Commerce Business Daily apply (see § 1-1.1003-2) and the contracting officer has reason to believe that bidders can bid effectively in a shorter period.

Note.—§ 1-1.1003-6 requires that bidding time shall be at least 30 days from the date of issuance of the solicitation whenever an agency is required to publish notice of procurement actions in the Commerce Business Daily.

* * * * *

b. Section 1-1.1003-2 is amended to revise paragraphs (a) and (b) and add new paragraphs (c) and (d) to implement the new notice requirements of Pub. L. 98-72. As amended, § 1-1.1003-2 reads as follows:

§ 1-1.1003-2 General requirements.

(a) In accordance with section 8 of the Small Business Act, all proposed competitive and noncompetitive civilian and defense procurement actions of $10,000 and above shall be publicized in the Commerce Business Daily immediately after the necessity for the procurement is established, except that the publication of such notices is not required when:

(1) The contracting officer determines in writing on a case-by-case basis that:

(i) The procurement is of a classified nature where the information necessary to be included or referenced in the solicitation (invitation for bids or request for proposals) is in itself of a classified nature and the public disclosure of this information would violate security requirements. All other classified procurements shall be published in the Department of Commerce Synopsis if sufficient information of an unclassified nature can be provided in the solicitation to enable a prospective contractor to submit a bid or proposal;

(ii) The agency's need for the property, supplies, or services is of such an unusual and compelling urgency that the Government would be seriously injured if the time periods set forth in § 1-1.1003-6 were complied with;

(iii) A foreign government reimburses the agency for the cost of the procurement of the property, supplies, or services for such government and only one source is available, or the terms of an international agreement or treaty between the United States and a foreign government authorize or require that all such procurement shall be from sources specified within such international agreement or treaty;

(iv) The procurement is made from another Government agency, or a mandatory source of supply;

VOL
48
ISS
2
0
3
OC
19
1983
UMI

(v) The procurement is for utility services and only one source is available;

(vi) The procurement is made against an order placed under a requirement or similar contract, including orders for perishable subsistence supplies. (This exemption may be used in cases where an agency places an order against an existing contract except as provided in § 1–4.1109–6(f) in FPR Temporary Regulation 71 with respect to non-mandatory schedule contracts for automatic data processing equipment.);

(vii) The procurement results from acceptance of a proposal pursuant to the Small Business Innovation Development Act of 1982 (Pub. L. 97–219), or an unsolicited proposal that demonstrates a unique or innovative research concept and publication of such unsolicited proposal would improperly disclose the originality of thought or innovativeness of the proposed research (see § 1–4.911); or

(2) The head of the agency determines, with the concurrence of the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable. (These determinations may cover classes of cases.)

(b) Whenever notice in the Commerce Business Daily is required by paragraph (a) of this section, the contracting officer shall provide:

(1) A clear description of the property, supplies, or services to be contracted for in accordance with § 1–1.1003–7. This description shall not be unnecessarily restrictive of competition.

(2) Adequate time for publication in the Commerce Business Daily and response from potential contractors in accordance with § 1–1.1003–6.

(3) The name, address and telephone number of the officer or employee of the agency who may be contacted to obtain a copy of the solicitation or, if the notice is for an intent to contract on a sole-source basis, such specification and information as practicable regarding the service or performance to be awarded (see §§ 1–1.1003–7(b)(3) and 1–3.107(b)(4)).

(c) As used in Parts 1–1 and 1–3, the term "sole-source contract" means a contract for the purchase of property, supplies, or services which is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

(d) The dollar amount specified in § 1–1.1003–2(a) is not a prohibition against publicizing procurements below that amount when it is determined that publication would be advantageous to industry or to the Government.

c. Section 1–1.003–6 is revised to implement the publicizing and response time requirements of Pub. L. 98–72. As amended, § 1–1.1003–6 reads as follows:

§ 1–1.1003–6 Publicizing and response time.

Whenever an agency is required to publish notice of procurement actions under § 1–1.1003–2(a), agencies shall proceed as follows:

(a) A proper notice of the procurement action shall be published in the Commerce Business Daily (CBD) at least 15 days before issuance of a solicitation, except when the solicitation is for procurement of requirements categorized as research or development effort, in which case the CBD notice shall be published at least 30 days before a solicitation is issued.

(b) Agencies shall allow at least 30 days response time from:

(1) the date of issuance of the solicitation,

(2) the date of a proper notice of intention to contract for architect-engineer services (see § 1–1.1003–3(d)), or

(3) in the case of orders under a basic agreement, basic ordering agreement, or similar arrangement, the date of publication of a proper notice to intent of place the order.

(c) Agencies shall allow at least 30 days response time from the date of publication of a proper notice of intent to contract before commencing negotiations for the award of a sole-source contract (see §§ 1–1.1003–2(c) and 1–3.107(b)(4)). Nothing in this paragraph prohibits officers or employees of agencies from responding to requests for information.

d. Section 1–1.1003–7 is amended to revise paragraph (b)(3) regarding the identification of an official and other information, and paragraphs (b)(7) and (b)(12) to change the time limitation for responses to sources-sought notices to 30 days. As amended, the revised paragraphs read as follows:

§ 1–1.1003–7 Preparation and transmittal.

* * * * *

(b) * * *

(3) *Contracting office and address.* The name and address of the contracting office will begin on the second line of the message text and continue straight across the page and on the subsequent line or lines if necessary. No abbreviations are to be used except for the name of the State. The address shall include an attention phrase directed to an official by name, title, and telephone number, who may be contacted for the purpose of obtaining a copy either of the solicitation or, if the notice is for an intent to contract on a sole-source basis, such specification and information as practicable regarding the service or performance to be awarded.

* * * * *

(7) *Research and development item.*. Sources-sought notices described in § 1–1003–3(b) that publicize the Governmment's interest in a given field of research and development and invite the submission of information as to research and development capabilities, shall be headed "Research and Development Sources Sought." This heading shall be followed by a statement similar to the following (modifications may be made to suit agency needs):

"Concerns having research and development capabilities in the field of (Be specific), ———— and whose facilities and personnel include (Describe in substantial detail minimum facilities and personnel required) ———— are invited to submit complete information to the procuring office listed in this notice within —— calendar days from the date of this notice (no less than 30 days should be entered). Information furnished should include the total number of employees and professional qualifications of scientists, engineers, and technical personnel; a description of general and specific facilities; an outline of previous projects; a statement regarding industrial security clearance, if previously granted; and other available descriptive literature. This is not a formal solicitation. However, concerns that respond may request to receive a copy of a particular solicitation when it becomes available. This notice may represent the only official notice of such a solicitation."

* * * * *

(12) *Property or service item.* Notices described in § 1–1.1003–3(c) as sources-sought synopses shall be headed, "Property Sources Sought" or "Service Sources Sought." This shall be followed by a statement similar to the following (modifications may be made to suit agency needs):

"Concerns having the ability to furnish the following property (services) are requested to give written notification (including the telephone number for a point of contact) to the procuring office listed in this notice within —— calendar days (no less than 30 days should be entered) from the date of this synopsis:

(Describe the requirement so as to furnish a complete property (service) description, and a condensation of other essential information, to provide concerns with an intelligible basis for judging whether they have an interest in the procurement. Such information may include a statement regarding the Government's belief that the property or service may be available only from a sole source and the reasons for such belief.)

This is not a formal solicitation. However, concerns that respond should furnish detailed data concerning their capabilities and may request to receive a copy of the solicitation when it becomes available. This notice may represent the only official notice of such a solicitation."

e. Section 1–1.1004 is revised to read as follows:

§ 1–1.1004 Synopses of contract awards.

A notice announcing awards of all unclassified contracts exceeding $25,000 shall be published in the Department of Commerce Synopsis (see § 1–1.1003–1) when the award of subcontracts is likely under such contracts. The publicizing of smaller dollar awards is not prohibited when it would be advantageous to industry or to the Government.

f. Section 1–2.202–1 is amended to revise paragraphs (b) and (c) to implement the new bidding time requirements of Pub. L. 98–72. As amended, paragraphs (b) and (c) read as follows:

§ 1–2.202–1 Bidding time.

* * * * *

(b) *Factors to be considered.* The urgency of the Government's need for the items or services, the complexity of the invitation, the extent of subcontracting anticipated, the use of pre-invitation notices, the geographic distribution of bidders, the normal time for mail transmission of both invitations and bids, and other related factors, must be considered in establishing bidding time. For example, a bidding time of more than the statutory minimum of 30 days may be necessary when bidders are required to prepare special drawings, designs, and samples, or to obtain quotations from several suppliers and subcontractors, as frequently is the case in construction and production contracts. Conversely, a bidding time of 30 days may be adequate when bids would reasonably be expected to be based on stocks-on-hand, or current regular production, or service personnel and facilities regularly available (as in the case of maintenance and repair of structures, and similar work.)

(c) *Minimum bidding time.* Bidding time shall be at least 30 days (see Small Business Act, 15 U.S.C. 637) from the date of issuance of the invitiation for bids whenever an agency is required to publish notice of procurement actions in the Commerce Business Daily (CBD) in accordance with § 1–1.1003–2. This rule need not be observed if the agency's need for the property, supplies, or services is of such unusual and compelling urgency that the Government would be seriously injured if statutory publicizing and response times (see § 1–1.1003–6) were complied with, or if any of the other statutory exceptions to the requirement for publicizing in the CBD apply (see § 1–1.1003–2). Agencies shall develop procedures to ensure that this bidding time requirement is observed and that adequate bidding time is allowed when procurements are exempt from the statutory publicizing requirement (see paragraph (a) of this section).

* * * * *

g. Section 1–3.101 is amended to delete the exceptions to the noncompetitive contract review requirement in paragraph (d) and provide instead a reference to the sections that deal with review of noncompetitive procurements. Paragraph (e) is added to set forth the specific approval requirements for sole-source contracts included in Pub. L. 98–72. As amended paragraphs (d) and (e) read as follows:

§ 1–3.101 General requirements for negotiation.

* * * * *

(d) Negotiated procurement shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be noncompetitive, the procuring activity is responsible not only for ensuring that competitive procurement is not feasible but also for acting whenever possible to avoid the need for subsequent noncompetitive procurements. This action shall include both examination of the reasons for the procurement being noncompetitive and steps to foster competitive conditions for subsequent procurements, particularly as to the availability of complete and accurate data, reasonableness of delivery requirements, and possible breakout of components for competitive procurements. Contracts of more than $10,000 shall not be negotiated on a noncompetitive basis without prior review at a level higher than the contracting officer in accordance with § 1–3.107(d)(6) and § 1–3.108(e) to ensure compliance with this § 1–3.101(d).

(e) The further approval requirements prescribed by this paragraph (see Small Business Act, 15 U.S.C. 637(e)(4)) shall be complied with by agencies before a contract is entered into by an agency after soliciting and negotiating with only one source (i.e., sole-source contract) or a contract that results from an unsolicited proposal. Unless the negotiations for such a contract are conducted under Sections 8 or 9 of the Small Business Act, or unless an agency's need for the property, supplies, or services is of such unusual and compelling urgency that the Government would be seriously injured if the provisions of this paragraph were complied with, the agency may not commence negotiations for such a contract for more than $1,000,000 in fiscal year 1984, for more than $500,000 in fiscal year 1985, and for more than $300,000 in fiscal year 1986 and each year thereafter unless——

(1) The head of the procuring activity or his deputy, on a nondelegable basis, has approved the authority to enter into such contract, and

(2) The contracting officer for such contract has evaluated the responses to the notice of procurement action required in § 1–3.107(b)(4).

Note.—Nothing in this paragraph (e) prohibits an officer or employee of an agency from responding to a request for information.

(f) Agencies are required to report to the Congress annually on each negotiated contract that exceeds the amounts stated in paragraph (e) of this section if the head of the procuring activity or his deputy did not approve the authority to enter into such contract.

h. Section 1–3.103 is amended to revise paragraph (a) to read as follows:

§ 1–3.103 Dissemination of procurement information.

(a) Synopses of proposed procurements and contract awards shall be prepared and publicized in the Commerce Business Daily in accordance with the requirements of §§ 1–1.1003 and 1–1.1004. Particular attention should be given to the statutory publicizing and response times prescribed by § 1–1.1003–6.

* * * * *

i. Section 1–3.107 is amended as follows:

(1) Paragraph (b)(3) is deleted and is designated as reserved. The provision stated therein regarding a single response to a solicitation is unnecessary in view of new coverage added in paragraph (c)(4).

(2) Paragraph (b)(4) is revised to accommodate the new requirements of Pub. L. 98–72 regarding CBD notice requirements.

(3) Paragraph (c) is revised to add a number of new exceptions to the requirement for preparing written noncompetitive procurement justifications. Based upon initial experience with implementing the provisions of FPR Amendment 230, it was determined that individual justifications were required in some cases where they served no useful purpose. Also, the specific guidance regarding preparation of a

VOL 48 ISS 203 OCT 19 1983 UMI

noncompetitive procurement justification was removed from paragraph (c) and placed in a new paragraph (d).

(4) Paragraph (d) is added to set forth guidance concerning the required content of noncompetitive procurement justifications that had previously been included in paragraph (c). Subparagraph (6) of this guidance is revised to include instructions concerning new approval levels for noncompetitive contracts established by Pub. L. 98–72.

(5) As amended, paragraphs (b)(3), (b)(4), (c), and (d) of § 1–3.107 read as follows:

§ 1–3.107 Justification of noncompetitive procurements.

* * * * *

(b) * * *

(3) [Reserved]

(4) If a noncompetitive procurement justification (see paragraph (c) of this section) is approved, and a sources-sought synopsis was published in accordance with paragraph (b)(2) of this section, the procurement action need not be again published in the CBD pursuant to § 1–1.1003–2, *unless* the sources-sought synopsis was not sufficiently specific to permit potential sources to identify an interest in the forthcoming procurement, did not provide for them to request solicitations for the procurement, or did not comply with the notice requirements of § 1–1.1003–2(b). All other proposed noncompetitive procurements, whether or not justified in accordance with this § 1–3.107, shall be announced in the CBD in accordance with § 1–1.1003–2 unless they qualify under one of the prescribed exceptions. This will permit potential sources to identify themselves as required by the Small Business Act. The statutory CBD notice, setting forth the Government's intent to contract on a noncompetitive basis, shall invite interested persons to identify their interest and capability to respond to the requirement, or submit proposals in response to such notice within the timeframe set forth in § 1–1.1003–6(c). Contracting officers shall evaluate all responses received and obtain the level of approval specified in § 1–1.3.101(e) before commencing negotiation of a noncompetitive contract. However, if a noncompetitive procurement justification is approved and (i) the noncompetitive procurement qualifies under one of the statutory exceptions stated in § 1–1.1003–2(a), or (ii) a sources-sought notice meeting the requirements of this paragraph had been published earlier and only one source was identified, negotiations on the noncompetitive procurement may proceed without publication of the CBD notice announcing the Government's intent to contract on a noncompetitive basis.

(c) *Written noncompetitive procurement justification.* A written noncompetitive procurement justification that documents the facts and circumstances substantiating the infeasibility of competition (see paragraph (d) of this section) is required for each noncompetitive procurement over $10,000, except when:

(1) The circumstance permitting noncompetitive procurement pertaining to a statutory authorization or requirement to contract with a specified source discussed in § 1–3.107(a)(1) applies;

(2) The procurement is for utility services and only one source is available;

(3) The head of the procuring activity or his deputy has approved a noncompetitive procurement justification covering a class of cases and, when applicable, has approved the authority to enter into such contracts in accordance with the requirements of § 1–3.101(e)(1). A copy of the class justification and applicable authority approval shall be included in pertinent contract files;

(4) The agency has published a procurement solicitation in the CBD and only one resource was received, *provided* the contract file is fully documented with the results of an examination as to why only one response was received and actions that will be taken to increase competition in future procurements of the same or similar items;

(5) The procurement involves an order under an existing contract. (FPMR § 101–26.4 and FPR § 1–4.1109–6 are applicable to orders under GSA Schedule contracts); or

(6) The procurement involves modifications within the current scope of work and existing terms and conditions.

(d) *Content of noncompetitive procurement justification.* This justification shall:

(1) Identify the problem, mission deficiency, or need that the procurement is intended to satisfy;

(2) Provide the facts supporting citation of one or more of the circumstances set forth in paragraph (a) of this section that permit use of a noncompetitive procurement;

(3) Demonstrate how the agency knows that the contractor is the only one that can meet the Government's minimum requirements. This justification requirement applies whenever the circumstances set forth in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section are cited. Refer to the topics of review responsibility in § 1–3.108(e) to ensure that the justification is adequately documented;

(4) Describe the market search that was conducted if required by § 1–3.107(b), including whether a sources-sought synopsis or advance notice inviting competition was publicized in the Commerce Business Daily;

(5) Describe the reasons why a market search could not be undertaken in connection with an unsolicited proposal (see § 1–4.910(b)); and

(6) Be reviewed and approved at a level higher than the contracting officer in accordance with § 1–3.101(d) and agency procedures. (Also see § 1–3.108(e).) Agencies shall establish the level of approval of noncompetitive procurement justifications in conformance with the statutory requirements in § 1–3.101(e).

j. Section 1–3.108 is amended to revise a reference to § 1–3.107 in paragraph (e). As amended, paragraph (e) reads as follows:

§ 1–3.108 Management controls designed to maximize the use of competitive procurement.

* * * * *

(e) Agencies should ensure that the required reviews of noncompetitive procurement decisions are effectively made (see §§ 1–3.101(d) and 1–3.107(d)(6)). The adequacy of the documentation of noncompetitive procurement justifications is of particular importance and should be emphasized in all procurement reviews. As each justification for noncompetitive procurement is reviewed, the reviewer should ascertain and evaluate:

(1) The reasons why the procurement cannot be competed;

(2) The adequacy of the grounds for excluding all other actual or potential offerors;

(3) Any further action that can be taken to obtain competition in the instant procurement; and

(4) Any action that is needed to avoid the need for a subsequent of a continued noncompetitive procurement.

k. Section 1–4.904 is amended to provide in paragraph (a) the statutory definition of the term "unsolicited proposal." As amended, paragraph (a) reads as follows:

§ 1–4.904 Definitions.

* * * * *

(a) "Unsolicited proposal" means a proposal that is submitted to an agency on the initiative of the submitter for the purpose of obtaining a contract with the United States Government, and which is not in response to a formal or informal request (other than an agency request constituting a publicized general statement of need in areas of science and technology-based research and development that are of interest to the agency). Advertising material, commercial product offerings, contributions, or technical correspondence as defined in paragraphs (b) through (e) of this § 1–4.904, which are submitted to an agency, shall not be considered to constitute unsolicited proposals within the intent of this Subpart 1–4.9.

* * * * *

1. Section 1–4.910 is amended to revise paragraph (c) to read as follows:

§ 1–4.910 Method of procurement.

* * * * *

(c) Unless a competitive procurement is otherwise appropriate, a negotiated noncompetitive procurement emanating from an unsolicited proposal is permissible if (1) the market search, when undertaken in accordance with paragraph (b) of this section, discloses no potential competitors; (2) the unsolicited proposal receives a favorable technical evaluation (see § 1–4.909(d)); (3) a written noncompetitive procurement justification is prepared and reviewed when required by § 1–3.107(c); and, (4) the head of the procuring activity or his deputy, on a nondelegable basis, has approved the authority to enter into a contract when the amount of the procurement exceeds the statutory thresholds set forth in § 1–3.101(e). Based on a comprehensive evaluation of the proposal, the technical office shall provide the facts and circumstances that preclude competition and that support a recommended noncompetitive action, as well as other data required by § 1–3.107(d).

* * * * *

6. *Comments invited.* The short effective date requirements of Pub. L. 98–72 did not permit the solicitation of the views of all interested parties prior to the issuance of this temporary regulation. Agencies and interested parties are invited to comment on this regulation during the 30-day period following publication in the **Federal Register.** Consideration will be given to the comments in the preparation of a permanent amendment of the FPR. Comments should be forwarded to Frank T. Van Lierde, Office of Federal Acquisition and Regulatory Policy (VR), General Services Administration, Washington, D.C. 20405.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–28440 Filed 10–18–83; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 409, and 489

Medicare Program; Prospective Payments for Medicare Inpatient Hospital Services; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS

ACTION: Interim rule; correction.

SUMMARY: This document corrects technical errors that appeared in the interim final regulations, published on September 1, 1983 (48 FR 39752), that implemented the prospective payment system for inpatient hospital services.

FOR FURTHER INFORMATION CONTACT: Mike Fiore, 597–0722.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–23845 beginning on page 39752 in the issue of Thursday, September 1, 1983 make the following corrections:

1. On page 39759, in column 1, the third line in section c.—After the parenthetical phrase "(CMP)", add "(as defined in Section 1876(b) of the Act for which regulations are being developed)".

2. On page 39763, in column 2, the 11th line from the top of the page—The phrase "reporting period to be changed" in corrected to read "close of the new reporting period being requested".

3. On page 39765, in column 3, the fifth and sixth lines from the top of the page—The equation "$2,374.50=$2,306.91 (wage adjusted labor share) 1.0293" should read "$2,374.50 divided by 1.0293=$2,306.91 (wage adjusted labor share)".

4. On page 39767, in column 1, in the sixth and seventh lines from the bottom of the page—The parenthetical phrase "(including both prospective and outlier payments)" should read "(excluding outlier payments)".

5. On page 39769, in column 1, the fifth through eighth lines from the bottom of the page—The sentence is corrected to read "The FTE intern and resident to bed ratio is then divided by .1 and multiplied by 5.795 percent, the indirect education adjustment factor, and the product is added to 1.0".

6. On page 39773, in columns 1 and 2, at the top of the page—The parenthetical expression "(Base year costs)" in the formula is corrected to read "(Base year costs per discharge)".

7. Also on page 39773, in column 1, in the fifth line of the fifth paragraph—The phrase "target rate percentage" should read "updating factor".

8. Also on page 39773, in column 2, in the eighth line of the fifth paragraph—The phrase "cost per case" is corrected to read "cost per discharge".

9. On page 39774, in column 2, the second sentence of the first full paragraph—The sentence should read "To update, the base year costs are multiplied by an updating factor that is equal to the adjustment factor for budget neutrality (.984) multiplied by a number equal to 1 plus the applicable compounded target rate percentage (as used for the rate of increase ceiling under revised § 405.463)".

10. Also on page 39774, in column 3, the second sentence in the second full paragraph—The sentence should read "The annual factor will be published quarterly in the **Federal Register**".

11. Also on page 39774, in column 3, the sixth line in the first paragraph under section vi.—"1.14258" is corrected to read "1.13570". In the example immediately following this paragraph, the phrase "Base year costs" is corrected to read "Base year costs per discharge"; the updating factor of "1.14258" is corrected to read "1.13570", and the amount of "$3,171.54" for the Hospital specific rate is corrected to read "$3,139.13".

12. On page 39776, in column 2, the sixteenth line of the first full paragraph—The word "including" in the parenthetical phrase should read "excluding".

13. Also on page 39776, in column 2, in the middle of the page—The phrase "slightly less than 2 percent" should read "about 2.5 percent". In the following sentence, "5.1 percent" is corrected to read "4.4 percent".

14. Also on page 39776, in column 3, the sixth line from the top of the page—The number ".9 percent" is corrected to read "1 percent".

15. On page 39777, in column 1, in the 12th and 13th lines of the second full paragraph—The phrase "For cost reporting periods beginning" is corrected to read "For discharges".

16. Also on page 39777, in column 2, at the top of the page in Step 2—The Wage-Adjusted Threshold="($12,000×.7915×1.10)+($12,000×.2085)=$12,949.". Step 3 should read "Determination of Outlier Payment: Outlier Payment=($21,134−$12,949)× 60 percent=$4,911.* ".

17. On page 39778, in column 3, the third paragraph—The equation is the

VOL
48
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example is corrected to read "$1,320,000× .1159× 1.1224=$171,714".

18. On page 39780, in column 3, the ninth and tenth lines from the bottom of the page—The phrase "unless they qualify under paragraph i. above" should be deleted.

19. On page 39782, in column 3, the ninth line from the top of the page—The word "before" should be "during". In the next line, delete the word "begins".

20. On page 39784, in column 3, in the fourth paragraph—The cross reference in the first sentence to "section 1886(g)(2)" should read "section 1878(g)(2)".

21. On page 39793, in column 3, at the end of the first full paragraph—The cross reference to § 405.470(b)(6) should be § 405.310(m).

22. On page 39800, in column 2, at the seventh line of the first full paragraph—The phrase "to included would be" should read "to providers would be included".

23. Also on page 39800, in column 3, at the 21st line from the bottom—The phrase "reasonable payment" should read "reasonable charge payment".

24. On page 39802, in column 1, at the end of the second paragraph—The cross reference to § 405.301(m) should be § 405.310(m).

25. On page 39803, in column 3, in the middle of the page—The 5th sentence is corrected to read "We are amending the other sections in more limited ways: Section 405.452 is being amended to ensure that it does not apply to hospitals paid under the prospective payment system, and §§ 405.432 and 405.455 are being amended to provide that the salary equivalency guidelines and the lesser of cost or charges provisions respectively do not apply to the costs of inpatient hospital services".

26. On page 39804, in column 1, at the 5th line of the second paragraph—the second sentence should read "This approval is valid until June 30, 1984, and the control number is 0938–0288."

§ 405.452 [Corrected]

27. On page 39814, in column 1, at the first table labeled "Hospital E" (in § 405.452(e)(1)(ii)—the amount of "$820,000" for the Total charges of Private accommodations is corrected to read "$20,000".

28. In the same table on page 39814, in the last line—The equation "($175,000 semi-private charge + 1000 days)" should read "$175,000 semi-private charge divided by 1000 days)"

29. On page 39815, in column 1, paragraph q.—The amendatory language is corrected to read as follows: "Section 405.455 is amended by revising paragraphs (a) and (d)(1) and (d)(2)(ii), and removing (d)(2)(iii) to read as follows:".

§ 405.471 [Corrected]

30. On page 39819, in column 2, the last line in the second paragraph—In § 405.471(a)(2)(iii), the cross reference to "§ 405.2040(d)" should read § 405.2041(d)".

31. On page 39820, in column 2, in the third line from the bottom of the page—In § 405.471(c)(4)(ii), "age of 13." should read "age of 18.".

§ 405.472 [Corrected]

32. On page 39821, in column 1, the fourth and fifth lines from the bottom of the page—In § 405.472(c), delete "length of stays,", and add "days or" before "services furnished".

33. Also on page 39821, in column 2, in the middle of the page—In § 405.472(d)(2)(ii), "six months" in the second line should read "quarter", and "six-month period" in the fourth line should read "quarter".

34. Also on page 39821, in column 3, the last full paragraph—In § 405.472(e), the second paragraph designated as "(3)" should be designated as paragraph "(4)".

35. On page 39822, in column 1, the first full paragraph—In § 405.472(e), the paragraph designated as "(4)" should be designated as paragraph "(5)".

§ 405.473 [Corrected]

36. On page 39823, in column 2, at the top of the page—In § 405.473(b)(11), the title to paragraph (11) is corrected to read "Adjusting for different area wage levels".

§ 405.474 [Corrected]

37. On page 39824, in column 2, in the 11th line from the top of the page—In § 405.474(a)(1), the word "specific" should read "special".

38. On page 39825, in column 1, at the 3rd line from the bottom of the page—In § 405.474(b)(1)(iv), the paragraph designation should be "(C)".

§ 405.475 [Corrected]

39. On page 39826, in column 3, the sixth line from the bottom of the page—In § 405.475(d)(6), the phrase "paragraph (d)(3)" is corrected to read "paragraph (d)(4)".

40. On page 39830, in column 1, in line 5 of the Authority section for Subpart E—The U.S.C. citation "1395(a)" should read "1395l(a)".

§ 405.550 [Corrected]

41. Also on page 39830, in column 1, § 405.550(d)(1) is corrected to read "For services performed by a physician that may be reimbursed under the reasonable cost rules in §§ 405.480 or 405.481 or would be paid under those rules except for the prospective payment rules in § 405.470, neither provider nor physician may seek charge payment from the carrier, beneficiary, or another insurer".

§ 405.554 [Corrected]

42. On page 39831, in column 1, in the middle of the page—In § 405.554(b), the 12th line, the cross reference to "§ 405.550(e)" is corrected to read "§ 405.550(e)(2)".

§ 405.1042 [Corrected]

43. On page 39832, in column 1, on the last line of the page—In § 405.1042(c)(2)(i), the cross reference should be § 405.475(a)(1).

44. Also on page 39832, in column 3, in line 4 of the Authority section for Subpart P—The U.S.C. citation "1395ii" should read "1395tt".

§ 405.1630 [Corrected]

45. On page 39833, in column 3, in the middle of the page—In § 405.1630(b), the third and fifth lines from the end of that paragraph, the certification date of "September 14" should read "September 12", and the first recertification date of "September 21" should read "September 18".

46. Also on page 39833, in column 3, in line 4 of the Authority section for Subpart R—The U.S.C. Citation "1395" should read "1395l".

47. On page 39839, in column 2, in the middle of the page—The reference to "Table 3" is corrected to read "Table 3a".

48. On page 39840, in column 1—The formula immediately preceding section D. should read "(Average Cost Per Medicare Discharge) × (20.85 percent) divided by (Cost-of-Living Adjustment Factor)".

49. Also on page 39840, in column 3, the second line from the bottom of the first full paragraph—The phrase "of total payments" is corrected to read "of total basic payments (excluding outlier payments)".

50. On page 39842, in column 2, the 13th through the 17th lines from the top of the page—These lines are corrected to read "mathematical error or the hospital successfully appeals their base period allowable costs within the specified time.".

51. Also on page 39842, in column 2, the fourth line in the first paragraph of section 2.—The reference to "Table 3" should read "Table 3a".

52. Also on page 39842, in column 3, the second sentence in section 5.—This sentence is corrected to read "For cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984, the updating factor is equal to the adjustment factor for budget neutrality (.984) multiplied by a number equal to 1 plus the applicable compounded target rate percentage (as used for the rate of increase ceiling under revised § 405.463).".

53. On page 39843, in column 1—The Updating Factor table at the top of the page should be revised as follows:

If base year cost reporting period ends	And first cost reporting period under PPS ends	Updating factor
Sept. 30, 1982	Sept. 30, 1984	1.13570
Oct. 31, 1982	Oct. 31, 1984	1.13285
Nov. 30, 1982	Nov. 30, 1984	1.12961
Dec. 31, 1982	Dec. 31, 1984	[1] 1.12658
Jan. 31, 1983	Jan. 31, 1985	[1] 1.12658
Feb. 28, 1983	Feb. 28, 1985	[1] 1.12658
Mar. 31, 1983	Mar. 31, 1985	[1] 1.12658
Apr. 30 1983	Apr. 30, 1985	[1] 1.12658
May 31, 1983	May 31, 1985	[1] 1.12658
June 30, 1983	June 30, 1985	[1] 1.12658
July 31, 1983	July 31, 1985	[1] 1.12658
Aug. 31, 1983	Aug. 31, 1985	[1] 1.12658

[1] These updating factors are subject to change depending on changes in the target rate percentages used to compute them. We will publish a quarterly notice in the FEDERAL REGISTER setting forth the percentages and factors to be used for cost reporting periods beginning in the subsequent calendar quarter.

54. Also on page 39843, in column 1, the fifth line in section 6.—"1.14258" is corrected to read "1.13570". In the example immediately following the paragraph, the updating factor of "1.14258" is corrected to read "1.13570", and the amount of "$3,171" for the Hospital-specific rate is corrected to read "$3,139.13".

55. Also on page 39843, in column 2, in the middle of the page after Step 5—A "Step 6" should be added to read "Multiplying the final amount from Step 5 by .25".

56. Also on page 39843, in column 3, in the middle of the page—The phrase "slightly less than 2 percent" is corrected to read "about 2.5 percent". In the following sentence, "5.1 percent" is corrected to read "4.4 percent".

57. Also on page 39843, in column 3, in the fourth line from the bottom of the third paragraph—The phrase "of $6,000 or more" should read "exceeding $8,000". In the second line from the bottom of the third paragraph, the phrase ".9 percent" should read "1 percent".

58. Also on page 39843, in column 3, the second sentence in the fourth paragraph—The sentence should read "In summary, alternate placement days will be treated the same as other inpatient days and will qualify for outlier payment.".

59. On page 39844, in column 1, at the first line of Section D.—The citation "Section 1886(d)(5)(8)" should read "Section 1886(d)(5)(B)".

60. Also on page 39844, in column 1, at the 12th line of Section D.—The cross reference "Section III.D.S." should read "Section III.D.5.".

61. Also on page 39844, in column 3, the second line from the top of the page—The phrase "interim final" is corrected to read "interim final rule".

62. On page 39882, on page 7 of Table 5—The Relative Weight for DRG 302, which reads "6.6322", should read "4.2279".

63. On page 39887, in column 2, at the end of the first paragraph—The last sentence is corrected to read "To assist in making the budget neutrality adjustment for fiscal year 1985, HCFA will monitor, and take account of, changes in hospital behavior attributable to the new system."

64. On page 39889, in column 1, in the 14th line from the top—The word "on" should read "of".

(Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1862(a), 1871, 1876, 1881, 1883, 1886, and 1887 of the Social Security Act, as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395y(a), 1395hh, 1395mm, 1395rr, 1395tt, 1395ww, and 1395xx))

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated October 3, 1983.

Carolyne K. Davis

Administrator, Health Care Financing Administration.

Approved October 14, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-28409 Filed 10-18-83; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 530

Interpretations and Statements of Policy; Dual Rate Contract Systems; Removal

AGENCY: Federal Maritime Commission.

ACTION: Removal of interpretative rules.

SUMMARY: These rules were promulgated by the Commission to accommodate and facilitate certain changes required to be made to dual rate contract systems that existed at the time of the enactment of Pub. L. 87–346 which added section 14b to the Shipping Act, 1916. Because these rules have served their purpose and have no further application, they are being removed.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: The Commission promulgated certain interpretative rules found at 46 CFR 530.2, 530.3 and 530.4 to accommodate and facilitate certain changes required to be made to dual rate contract systems that existed at the time of enactment of section 14b, Shipping Act, 1916, to bring them in compliance with the new statute. Because said rules have served their intended purpose and have no further application, they should be removed.

List of Subjects in 46 CFR Part 530

Administrative practice and procedure, Maritime carriers.

§§ 530.2, 530.3 and 530.4 [Removed]

Therefore, it is ordered, that pursuant to 5 U.S.C. 553 and sections 14b and 43, Shipping Act, 1916 (46 U.S.C. 813a and 841a), §§ 530.2, 530.3 and 530.4 of Title 46 of the Code of Federal Regulations are removed.

By the Commission, October 4, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28441 Filed 10-18-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 350

Motor Carrier Safety Assistance Program: Notice of Extension of Closing Date for Submission of FY 1984 Applications

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Change of closing date.

SUMMARY: This notice provides extension of the closing date for submission of FY 1984 applications by States under the Motor Carrier Safety Assistance Program until November 30, 1983. The FHWA believes that insufficient time was allowed for State application preparation. This extension will permit States to develop more comprehensive and thorough implementation plans and application packages for consideration.

FOR FURTHER INFORMATION CONTACT: Mr. W. R. Fiste, Bureau of Motor Carrier Safety, (202) 426–0701 or Mr. Thomas Holian, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET,

VOL
48
ISS
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Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: An interim final rule was published on August 31, 1983 at 48 FR 39455 (23 CFR Part 350) concerning the procedures to be followed by States in the preparation of applications for funding assistance under the Motor Carrier Safety Assistance Program (MCSAP). The preamble of the interim final rule stipulated that for FY 1984, applications under the program were to be submitted to the respective State FHWA Division Office within 60 days of the publication of the interim final rule. As the publication date was August 31, each interested State was to respond not later than October 30, 1983.

This extension of time for the submission of State applications to the respective State FHWA Division Offices is being extended to November 30, 1983.

This extension is being provided in response to requests by the States indicating difficulties in assessing the State's ability to qualify for the program and in preparing a meaningful application package. This has been compounded by a delay in providing FHWA region and division offices detailed application preparation instructions.

The closing date for comments to the interim final rule remains November 29, 1983.

Issued on: October 12, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-28401 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-22-M

Proposed Rules

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1446

Price Support Differentials for the 1984-Crop Peanut Loan and Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Proposed rule related; notice of intent to review and request for comments.

SUMMARY: This notice seeks public comment and suggestions concerning the development of price differentials for 1984-crop peanuts. Differentials adjust basic support levels for peanut-type, quality and other factors. Such adjustments are authorized by section 403 of the Agricultural Act of 1949 (hereinafter referred to as the "1949 Act").

DATES: Comments must be received on or before December 19, 1983, in order to be assured of consideration.

ADDRESS: Written comments should be addressed to Director, Tobacco and Peanuts Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Solomon J. Whitfield, Agricultural Stabilization and Conservation Service, 202-447-5754.

SUPPLEMENTARY INFORMATION: Section 403 of the 1949 Act permits price adjustments for quality and other factors for price-supported commodities so long as, to the extent practicable, the average level of support is equal to the basic support level determined by the Secretary of Agriculture to apply for the particular crop year. A farmers stock ton of peanuts is usually a composite of a large but variable proportion of high quality edible Sound Mature Kernels (SMK) and smaller quantities of lower quality Loose Shelled Kernels (LSK), Other Kernels (OK), and Damaged Kernels (DK).

Under the differentials applicable to the 1983 crop and preceding crop years, the value of any farmers stock ton has been computed based on the composite of the quantity and mix of these kernel values, plus a premium for Extra Large Kernels (ELK) in the case of Virginia-type peanuts, and discounts for such factors as foreign materials (FM), excess moisture (EM), and damaged kernels (DK). In addition to these discounts and adjustments, the differentials in place since 1976 have set SMK values which vary by peanut type. There are four basic peanut types: Virginia, Runner, Spanish and Valencia-type peanuts. After protracted consideration in connection with the 1978 crop, the SMK value for Virginia-type peanuts was set at 2 percent higher than for Runner-type peanuts, At the same time, the SMK value for Spanish-type peanuts was set at one-half percent higher then for Runners. Prior to 1976, it was determined that the dollars per ton for Valencias would be the same as for Virginias. These variances have continued to date. Other than the differing SMK values, the differentials in place for the 1983 crop and preceding years since 1976 have not varied among peanut types or location of production except for: (1) A special ELK premium for Virginia-type peanuts and (2) a higher triggering level for the excess moisture discount as set forth in the regulations governing the peanut price support program at 7 CFR 1446.52(ee) for peanuts grown in traditional peanut growing States in the Virginia-Carolina area and other States outside the traditional peanut-producing States of the Southeastern and Southwestern regions. In calculating expected average support levels for a current crop based on the incidence of quality factors, the Department has followed the practice of using data from the five immediately preceding crop years. However, data from the 1980 crop has not been used in these averages because of the extreme drought conditions present that year.

In the early years of the support program for peanuts, market prices of farmers stock peanuts comprised the basis for the establishment of price support differentials. Later, loan rates virtually established commercial price at the farm level. For that reason, public hearings and other contacts with grower and trade interest became the primary sources of data used in establishing loan schedules. The variances in SMK values were set in 1976 after protracted consideration. In 1977, there was disagreement in the industry concerning SMK prices, but no change was made. For the 1978 through 1982 crops, no objections were raised to the differentials. However, in connection with the promulgation of the differentials for the 1983 crop year, parties interested in Virginia-type peanuts suggested substantial changes in the differentials. Contending that Virginia-type peanuts were at a disadvantage compared with other peanut types, the commenters suggested: (1) That the ELK premium for Virginia-type peanuts be lowered; (2) that the amount in a given ton which could receive the ELK premium be reduced; (3) that the method for determining the expected incidence of ELKs be changed to a two or three year average; and (4) that the excess moisture discount triggering level be made uniform for all peanuts.

For the reasons set forth in the determination published in the Federal Register on August 10, 1983 (48 FR 36297), the suggested changes were not adopted for the 1983 crop year. That determination sets out, in full, the differentials applicable to the 1983 crop year.

Though not adopted for the 1983 crop year, the concerns raised by the commenters in connection with the 1983-crop differentials are not confined to the 1983 crop year, but also to the possible effects of peanut differentials on the long-term market relationship between peanut types. Differentials involve possible effects between peanut types not only because of the potential market effects of changes in relative price among types but also in light of the averaging requirements of Section 403 of the 1949 Act under which an increase or decrease in a particular support level requires an offset to bring the average support level back into balance. Peanut differentials, as indicated, have not changed substantially since 1976. The Department, particularly in light of the objections raised with respect to the promulgation of differentials for the 1983 crop, wishes to obtain broad public comment on the differentials in preparation for the 1984 crop year directly, and indirectly with respect to the operation of the program in subsequent crop years. All comments are welcomed and will be considered. Most desired, however, are comments

VOL
48
ISS
2
0
3
OC
19
1983
UMI

which present full differential packages, which address the cross-type effects of suggested adjustments and which address the following questions:

1. The 1983-crop differentials were established using a 5-year average excluding the 1980 crop. Should the Department increase or decrease the number of years averaged? If so, by how much? Should the Department use the preceding crop year's quality factors and not an average?

2. The Department used a 5-year linear regression of the Agricultural Marketing Service Tonnage Reports data to project production weights by type for the 1983 crop. Is this system adequate in estimating peanut production? If not, how might the Department more accurately estimate production weights of peanuts by type?

3. As far back as Department records are available, the level of allowable moisture for peanuts has been 8 percent for the Virginia-Carolina area, and 7 percent in other areas. Should the Department change this historical moisture level difference? If so, how might the Department fairly and equitably implement such a change?

4. The 1983-crop differentials allowed for a premium for extra large kernels for Virginia-type peanuts. Should the Department offer premiums for extra large kernels in all types? Should the Department eliminate or reduce premiums for extra large kernels? Should the Department limit the percent of a lot which may qualify for the premium?

5. The Department assigned values of 7 cents per pound to loose shelled kernels and $1.40 percent for other kernels for the 1983 crop. Should the value of these kernels be reassigned to other components of the differentials? Should the values be increased or decreased and if so, for which other differential components should offsetting changes be made?

6. The sound mature kernel value for differences in type and location for the 1983 crop put the SMK value for Virginia-type at 2 percent above the SMK value of Runner-type, the Spanish-type SMK value at ½ percent above the Runner value, and the dollars per ton price for the Valencia-type at the the same level as that for Virginia-type peanuts. These relationships have been in effect since the 1976 crop. Should the Department eliminate these relationships and establish uniform SMK values? Should the SMK value for Runner type peanuts be higher than for other types? Should the dollars per ton for Valencia-type peanuts continue to be the same as the dollars per ton for Virginia-type and automatically be altered when changes are made in the dollars per ton price for Virginia-type peanuts?

Consideration of the comments will be aided by a presentation of the reasons for which the commenter believes adjustments are appropriate. Consideration of the comments will also be aided by the inclusion of any available data supporting or relevent to proposed adjustments.

After reviewing the comments, the Department will determine whether to propose specific changes in the method of determining the peanut differentials for the 1984 corp year.

List of Subjects in 7 CFR Part 1446

Loan programs—agriculture, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Signed in Washington, D.C. on October 12, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-28145 Filed 10-18-83; 8:45 am]
BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins REA Form 522, General Specification for Digital, Stored Program Controlled Central Office Equipment

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A—REA Bulletins by issuing a revision of REA Bulletin 384-3, Central Office Equipment Contracts and Specifications. This action is being taken to announce a revisions of REA form 522 to keep it abreast of the fast changing technology of electronic telephone central office equipment. The specification will include new developments considered advantageous to REA borrowers and their subscribers.

DATE: Public comments must be received by REA no later than November 18, 1983.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Arthur H. Marthens, Chief, Central Office Equipment Branch, Telecommunications Engineering and Standard Division, Rural Electrification Administration, Room 2832, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-8671.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins by issuing a revised REA Bulletin 384-3, Central Office Equipment Contracts and Specifications. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees.

A copy of the proposed revised document is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Background

The current REA Form 522, which is a performance specification for electronic processor controlled telephone central office equipment using digital switching techniques, was developed in 1978. Since that time there has been constant improvement in the technology of this type of switching.

There have been improvements in the diagnostic programs, the operation of remote switching terminals, grounding techniques for protection, and the increased interconnection of digital offices requires more accurate internal clocks. There has been the addition of administrative information output, custom calling features, automatic number identification, call ticketing capability, and numerous lesser improvements in software and hardware design. This revision of Form 522 addresses these new advances in technology and will provide the means for making them available to REA borrowers when they purchase this type of equipment. These new advanced technologies will reduce operating costs and add revenue-producing features to the borrowers' systems. This action, which will impact all borrowers and manufacturers of this equipment, will enable REA borrowers to more efficiently and cost effectively provide telephone service to rural America.

In view of the above, the Administrator is proposing to issue revised REA Bulletin 384-3, Central Office Equipment Contracts and Specifications.

As required by 1 CFR 18.20, the following are the indexed terms and list of subjects fo this regulation:

List of Subjects in 7 CFR Part 1701

Loan programs—communications, telecommunications, telephone.

Dated: July 21, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-28494 Filed 10-18-83; 8:45 am]
BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

[Docket No. PRM-60-1]

States of Texas, Wisconsin, Minnesota, Nevada, and Utah; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Receipt of Petitions for Rulemaking from the States of Texas, Wisconsin, Minnesota, Nevada, and Utah.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated September 2, 1983, which was filed with the Commission by the States of Texas, Wisconsin, Minnesota, Nevada, and Utah. The petition was docketed by the Commission on September 6, 1983 and has been assigned Docket No. PRM-60-1. The petitioners request that the Commission amend its regulations in 10 CFR Part 60 to adopt a procedural mechanism to govern current and future concurrence in high level nuclear waste repository siting guidelines which are issued by the Department of Energy pursuant to Section 112(a) of the Nuclear Waste Policy Act of 1982.

DATE: Comment period expires November 2, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301-492-7086 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: The petitioner state that a rulemaking is needed to establish a procedural framework for the Nuclear Regulatory Commission to implement the concurrence requirement of Section 112(a) of the Nuclear Waste Policy Act. Section 112(a) of the Act requires the Department of Energy to issue guidelines that govern the recommendation of repository sites for the permanent storage of high-level radioactive waste. The Act further requires that the guidelines receive the concurrence of NRC.

The petitioners propose that the text of the proposed rule read as follows:

Siting Guidelines Concurrence

(a) As soon as possible following the issuance by the DOE of the proposed final guidelines for the recommendation of sites for nuclear waste repositories pursuant to Section 112(a), Nuclear Waste Policy Act of 1982, the Secretary of Energy shall submit to the Director [of the Nuclear Regulatory Commission's Office of Nuclear Material Safety and Safeguards] a request for concurrence which includes: (1) A request that the Commission concur in the form and substance of the proposed final guidelines; (2) a description of the technical rationale behind the objectives established in the proposed final guidelines; (3) a full description of the entire decision process by which the guidelines were drafted; and (4) a list of any issues related to repository recommendation which the DOE desires the Commission to review in connection with the proposed final guidelines.

(b) The Director shall cause to be published in the **Federal Register** a notice that (1) a DOE request for concurrence has been received, (2) a staff review of the request and the proposed final guidelines has been initiated, and (3) copies of the request and proposed final guidelines are available upon request. Additionally, the Director shall transmit copies of the request and proposed final guidelines to the governor, the state legislature, and the tribal council of any affected Indian tribe for each state with a potentially affected site.

(c) The Director shall prepare a draft guidelines analysis which (1) evaluates the proposed final guidelines with reference to all applicable Commission policies and requirements, (2) recommends which such guidelines should receive concurrence and which should not, and (3) sets forth the rationale for each concurrence of nonconcurrence. The Director shall cause to be published in the **Federal Register** a notice of availability of the draft guidelines analysis along with a request for public comment. Copies of the draft guidelines analysis shall be transmitted to the governor, the state legislature, and the tribal council of any affected Indian tribe for each state with a potentially affected site.

(d) A period of not less than 60 days shall be allowed for comment on the draft guidelines analysis. The Director shall then prepare a final guidelines analysis which shall take into account comments received and any additional information acquired during the comment period. The final guidelines analysis shall complete the evaluation, recommendation, and rationale components of the draft analysis, and shall include a response to the public comments received. Thereupon, the Director shall transmit the final guidelines analysis to the Commission for consideration. Copies of the final guidelines analysis shall be transmitted to the governor, the state legislature, and the tribal council of any affected Indian tribe for each state with a potentially affected site. The Commission in its discretion may conduct a public hearing to receive public comment relative to Commission consideration of the final guidelines analysis.

VOL
48
ISS
2
0
3
OC
19
1983
UMI

(e) On the basis of the Director's final guidelines analysis, the public comment, and any other pertinent information in the administrative record, the Commission shall decide by a vote of its members to concur or to withhold concurrence with the DOE proposed final guidelines. The Commission shall cause to be published in the **Federal Register** the text of its order of concurrence or nonconcurrence.

(f) The procedures described in paragraphs (a) through (e) of this Section pertaining to the Commission's concurrence on DOE proposed final guidelines shall apply equally to any subsequent revisions proposed by DOE regarding such guidelines.

The petitioners state that the adoption of the formalized concurrence mechanism to carry out the statutory requirement is necessary for the following reasons:

1. *The proposed rule promotes NRC's distinctive role under the Nuclear Waste Policy Act:* The Act 42. U.S.C. 10101 et seq., reveals that Congress intended NRC involvement and participation throughout the entire site selection process for a high level nuclear waste repository. The underlying purposes for NRC's involvement in the site selection process are (a) to enhance the licensability of the repository sites recommended by DOE and (b) to fulfill NRC's regulatory responsibility for the protection of the public health and safety and the environment.

2. *The proposed rule is a necessary and desirable means to promote NRC's distinctive role in guidelines development.* The proposed rule will establish a thorough and open process whereby the NRC can bring its expertise and responsibility to bear on the siting guidelines. By calling for notice and comment on the staff's concurrence analysis, the proposed rule provides the interested public the opportunity to offer recommendations which will ensure that the final version of the guidelines reflects NRC policies as well as those of DOE.

3. *NRC concurrence is rulemaking or its equivolent.* The Act of NRC's concurrence or nonconcurrence in the Section 112(a) guidelines amounts to an act of rulemaking. Adoption of the guidelines by DOE is being treated as rulemaking. The guidelines fit the Federal Administrative Procedure Act definition of a rule found at 5 U.S.C. 551 (4). Accordingly, an equivalent rulemaking process should attend NRC concurrence in the guidelines.

Finally, the petitioners states that the proposed concurrence rule injects no newfangled scheme into NRC administrative procedures and bears close resemblance to the existing NRC rule 10 CFR 60.11 pertaining to NRC oversight of DOE site characterization for high level waste repositories. Thus the petitioners merely propose that a familiar procedure in a closely related matter be adopted for use in connection with guidelines concurrence.

In the petition (which consists of a 13-page brief), the petitioner provides additional justification and support for the requested proposed rule not included in the **Federal Register** notice. Members of the public interested in filing comments on PRM–60–1 can obtain a copy of the petition by writing to the address noted above.

Dated at Washington, DC. this 14th day of October 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83–28492 Filed 10–18–83; 8:45 am]

BILLING CODE 7590–01–M

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10 CFR Part 140

Financial Protection Requirements and Indemnity Agreements; Facility Form Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposal rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to add statements to its regulations that would indicate that the text of the Facility Form policy, including any codified amendatory endorsement or change to the policy, is an example of a contract that has been "accepted" as evidence of financial protection but that other variations on the text would be considered by the Commission. This action is intended to remove the misimpression that the Commission requires the exact language presented in the text of the Facility Form policy.

DATE: Submit comments by November 18, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Services Branch.

FOR FURTHER INFORMATION CONTACT: Ira Dinitz, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–9884.

SUPPLEMENTARY INFORMATION: On February 18, 1981, the Commission published a Notice of Proposed Rulemaking in the **Federal Register** (46 FR 12750) seeking public comment on whether to continue publishing in 10 CFR 140.91, Appendix A, the entire Facility Form of nuclear liability insurance policy furnished by certain licensees as evidence of financial protection or, alternatively, to publish only those provisions of the policy relating to NRC responsibilities for protection of the public.

Two comments were received in response to the notice, and both opposed the Commission's proposed modification. The first comment, submitted by Baltimore Gas and Electric Company, stated in part that if the Commission does not want to appear to give its approval to contractual matters between the insured and the insurers that do not affect the protection of the public, specific provisions of the policy could be disclaimed. The second commenter, American Nuclear Insurers (ANI), expressed its difficulty in identifying those parts of an insurance policy that would not affect financial protection. ANI suggested that in order to retain the present system of publishing the Facility Form in the regulations while still addressing the Commission's concerns, an introductory statement be added to the regulations that would make clear that the text of the Facility Form policy or amendatory endorsements are merely examples of contracts which the Commission would consider acceptable as proof of financial protection, but that other variations on the text would be considered by the Commission.

The Commission, after evaluating the two comments, decided instead to remove Appendix, A, the Facility Form policy and the other Appendices, B through H, from 10 CFR Part 140, and publish them in a Regulatory Guide. (Appendices B through H, except for Appendix F, are standard form indemnity contracts executed by the Commission and its licensees. Appendix F is not a form of indemnity agreement but a determination by the Commission of what the boundaries of indemnity locations should encompass when multiple reactors exist as part of a single operating station.) A Notice of Proposal Rulemaking was published in the **Federal Register** on March 4, 1983 (48 FR 9284) that sought public comment on amendments to 10 CFR Part 140 which would delete Appendices A through H. Eighteen comments were received on the notice. Commenters included a public interest group, a nuclear supplier, trade organizations, the nuclear insurance pools, utilities and law firms

representing utilities. All of the commenters argued against removing the Appendices from the regulations. Their major arguments are as follows:

(1) To publish the Appendices as Regulatory Guides would be ill-advised because Guides do not have the force of law and are not an appropriate repository for NRC requirements, generic determinations or generic approvals Nuclear liability insurance and indemnity have been treated as matters subject to the rulemaking provisions of the Administrative Procedure Act. Therefore, removal of the Appendices from the regulations would be contrary to law.[1]

(2) The proposed rule contains only meager information as to why the Commission proposed this change, The Facility Form policy has become a standard form used by insurers and universally accepted by licensees and state insurance commissioners. If this form were removed, the Commission would be required to make a determination on a case-by-case basis that the form of insurance obtained by the licensee did in fact provide necessary financial protection.

(3) Removal of the Appendices creates the potential for protracted litigation on insurance and indemnity issues in individual licensing proceedings. Further relegation of the Facility Form policy to the status of a Regulatory Guide may lead states, all of which have accepted the existing Form as codified in 10 CFR Part 140 as adequate proof of financial protection, to vary financial protection requirements for reactors.

(4) The North Carolina Public Interest Group also set forth the following comment not addressed by the other commenters:

> This rule will effectively de-regulate nuclear insurance coverage and terms. Given the penchant of nuclear power companies to try to save money wherever possible, insurance could be cut back under this rule. Therefore, this rule should not be adopted.

After consideration of these comments, the Commission has decided to continue to publish the Appendices to 10 CFR Part 140 with certain clarifying statements made to Appendix A. This proposed new language would state that the text of the Facility Form policy or amendatory endorsements to the policy are merely examples of contracts that the Commission would consider acceptable as proof of financial protection, but that other variations of the text would be considered as well. This new language would remove the misimpression that the Commission is placing its imprimatur on all of the language in the text of the Facility Form.

[1] This conclusion is not accepted by the Commission because the Atomic Energy Act does not require that the Facility Form policy and indemnity agreement forms be published in the regulations.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150–0039.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed rule affects in part two named nuclear liability insurance underwriting pools. These two pools are the only ones in the U.S. writing nuclear liability policies, and do not fall within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects in 10 CFR Part 140

Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Part 140, Code of Federal Regulations are contemplated.

The authority citation for this document is (Sec. 161 (b) and (i), Pub. L. 83–703, Stat. 948, 949 (42 U.S.C. 2201 (b), (i)); Sec. 170, Pub. L. 85–256; 71 Stat. 576, Pub. L. 94–197, 89 Stat. 1111 (42 U.S.C. 2210); Sec. 201, Pub. L. 93–438, as amended, 88 Stat. 1242, 89 Stat. 413 (42 U.S.C. 5841)).

PART 140—[AMENDED]

1. Section 140.15(a)(1) is revised to read as follows:

§ 140.15 Proof of financial protection.

(a)(1) Licensees who maintain financial protection in whole or in part in the form of liability insurance shall provide proof of financial protection that consists of a copy of the liability policy (or policies) together with a certificate by the insurers issuing the policy stating that the copy is a true copy of the currently effective policy issued to the licensee. The licensee may furnish proof of financial protection in the form of the nuclear energy liability insurance policy set forth in § 140.91 or in any other form acceptable to the Commission.

* * * * * *

2. An introductory paragraph is added to § 140.91 to read as follows:

§ 140.91 Appendix A—Form of nuclear energy liability policy for facilities.

While the text of the policy which follows is exemplary of a contract acceptable to the Commission as evidence of the financial protection required of the licensee by section 170 of the Atomic Energy Act of 1954, as amended, variations on this text also will be considered by the Commission in determining whether the licensee meets the financial protection requirements of the Act. The full text of the policy is published solely for the purpose of completeness. Publication of this text should not be construed as a Commission endorsement of any particular provision pertaining solely to the business relationship between the insurers and the insureds or to any other matter not related to public protection.

* * * * * *

Dated at Washington, D.C. this 13th day of October 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk.

Secretary of the Commission.

[FR Doc. 83–28491 Filed 10–18–83; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 146 and 150

[CGD 82–069a]

Casualty Reporting Requirements

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The costs of salvage, cleaning, gas freeing and drydocking were eliminated from the casualty reporting requirements contained in Title 46, Code of Federal Regulations (CFR) by a Coast Guard final rule (CGD 82–069) published on April 7, 1983 (48 FR 15125), effective May 9, 1983. Due to an oversight, identical revisions to the casualty reporting requirements contained in the Outer Continental Shelf Activities and Deepwater Port sections of 33 CFR were not included in that

VOL
48
ISS
203
OC
19
1983
UMI

rulemaking. The purpose of this proposed rulemaking is to amend these regulations in the same manner. This NPRM will have a negligible effect on the number of reports submitted.

DATE: Comments on the proposed regulations must be received on or before December 5, 1983.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44). (CGD 82-069a), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: LCDR C. V. Mosebach, Casualty Review Branch, (202) 426-1455.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking by submitting written views, data or arguments. Comments should include the name and address of the person making them, identify this notice (CGD 82-069a) and the specific section to which each comment applies, and give reasons for the comments. If an acknowledgement is desired, a stamped, self-addressed postcard or envelope should be enclosed.

The rules may be changed in light of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held if written requests for a hearing are received from interested persons having a genuine issue to raise and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: LCDR C. V. Mosebach, Project Manager, Office of Merchant Marine Safety, and LCDR W. B. Short, Project Attorney, Office of Chief Counsel.

Discussion of Proposed Rule

Since the costs of salvage, cleaning, gas freeing and drydocking can vary widely depending on the nature of the casualty, they tend to distort the basis for using a monetary criteria to establish a reporting threshold. Based on this fact, as set forth in Coast Guard final rule CGD 82-069, the casualty reporting requirements contained in Title 46, Code of Federal Regulations were amended by eliminating these costs. Due to an oversight, identical revisions to the casualty reporting requirements contained in Title 33, Code of Federal Regulations were not included in that rulemaking. This proposed rulemaking will amend the Outer Continental Shelf Activities and Deepwater Port regulations (33 CFR 146.30 and 150.711 respectively) in the same manner and provide for uniform reporting requirements throughout the marine industry. Statistics for 1981 indicate that only six casualties (approximately 0.10% of the casualty population) involved instances where this amendment could have eliminated the need for reporting. Consequently, this proposal will have a negligible effect on the number of reports submitted.

Regulatory Analysis

This proposed revision has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation proposal is considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). This proposed revision will have a negligible effect on the number of reports submitted. Therefore, in accordance with Section 605(b) of the Regulatory Flexibility Sct (94 Stat. 1164), it is certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 146

Continental shelf, Marine safety, and Reporting and recordkeeping requirements.

33 CFR Part 150

Deepwater ports, Oil imports, Environmental protection, Water pollution control and Reporting and recordkeeping requirements.

In consideration of the foregoing, Title 33, Code of Federal Regulations is proposed to be amended as follows:

PART 146—OUTER CONTINENTAL SHELF ACTIVITIES

1. Section 146.30(d) is revised to read as follows:

§ 146.30 Notice of casualty.

* * * * *

(d) Damage costs referred to in paragraphs (b)(3) and (b)(4) include the cost of labor and material to restore the property to the service condition which existed prior to the casualty, but do not include the cost of salvage, cleaning, gas freeing, drydocking or demurrage.

(Approved by the Office of Management and Budget under OMB Control No. 2115-0003)

PART 150—DEEPWATER PORTS

2. Section 150.711(a)(1) is revised to read as follows:

§ 150.711 Casualty or accident.

(a) * * *

(1) Any component of the deepwater port is hit by a vessel and damage to property is in excess of $25,000. Damage cost includes the cost of labor and material to restore the property to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, gas freeing, drydocking or demurrage.

* * * * *

(Approved by the Office of Management and Budget under OMB Control No. 2115-0003)

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208. Pub. L. 95-372, 92 Stat. 656 (43 U.S.C. 1348); 49 CFR 1.46(z). Secs. 10(a), 10(b), Pub. L. 93-627, 88 Stat. 2137-38 (33 U.S.C. 1509(a) and (b)); 49 CFR 1.46(s)

Dated: July 11, 1983.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-28286 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300079; PH-FRL 2454-1]

Polyethylene; Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that polyethylene be exempted from the requirement of a tolerance when used as an inert ingredient in pesticide formulations. This proposed regulation was requested by Petrolite Corp.

DATE: Written comments must be received on or before November 18, 1983.

ADDRESS: By mail, submit comments to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to:

Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Rm. 724A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

By mail:

N. Bhushan Mandava, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number:

Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of Petrolite Corp., the Administrator proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for polyethylene as a coating agent used in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Polyethylene.

Name and address of requestor: Petrolite Corp., Tulsa, OK 74112.

Bases for approval: Polyethylene is the precursor to oxidized polyethylene, which conforms to 21 CFR 172.260 (direct food additive status). Olefinic polymers are widely used in food-packaging materials, and the Agency expects no toxicological and residue problems with this addition to 40 CFR 180.1001(c).

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number [OPP-300078]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 11, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Polyethylene, conforming to 21 CFR 177.1520(c).		Coating agent.
* * *	* * *	* * *

FR Doc. 83-28454 Filed 10-18-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300080; PH-FRL 2454-2]

Synthetic Petroleum Wax; Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that synthetic petroleum wax be exempted from the requirement of a tolerance when used as an inert ingredient preservative in pesticide formulations. This proposed regulation was requested by Petrolite Corp.

DATE: Written comments must be received on or before November 18, 1983.

ADDRESS: Written comments to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to:

Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Rm. 724A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

By mail:

N. Bhushan Mandava, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number:

Registration Support and Emergency Response Branch, Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

VOL 48 ISS 203 OCT 19 1983 UMI

SUPPLEMENTARY INFORMATION: At the request of Petrolite Corp., the Administrator proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for synthetic petroleum wax as a coating agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosal dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Synthetic petroleum wax.

Name and address of requestor: Petrolite Corp., Tulsa, OK 74112.

Bases for approval: Synthetic petroleum wax is basically the same as the petroleum wax now cleared under 40 CFR 180.1001(c), except that it is derived from gaseous sources. Synthetic petroleum wax is cleared under 21 CFR 172.888 and meets the ultraviolet absorbency specifications as set forth under 21 CFR 172.888.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indication both the subject and the petition and document control number, [OPP–300079]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 11, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert-ingredients	Limits	Uses
* * * * *		
Synthetic petroleum wax conforms to 21 CFR 172.888.		Coating agent.
* * * * *		

[FR Doc. 83–28453 Filed 10–18–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2880

Rights-of-Way Under the Mineral Leasing Act; Procedures for Reimbursement of Costs

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend Part 2880 by inserting cost recovery provisions that are currently contained in 43 CFR 2800 and updating them to provide more adequately for the recovery by the United States of reasonable costs of processing and monitoring rights-of-way and temporary use permits granted pursuant to authority provided by section 28 of the Mineral Leasing Act of 1920, as amended and supplemented.

DATE: Comments should be sumitted by November 18, 1983. Comments postmarked or received after that date may not be considered in the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Theodore G. Bingham, (202) 343–5441

or

Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: A proposed rulemaking amending the right-of-way cost recovery regulations in 43 CFR Part 2800 was published in the **Federal Register** on January 17, 1983 (48 FR 2110), with a 60-day comment period. The cost recovery regulations in part 2800 had been made applicable to rights-of-way issued under the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 et seq.), by a reference to them in section 2883.1–1 of Part 2880. This proposed rulemaking would insert the cost recovery provisions of Part 2800 in Part 2880 rather than incorporating them by reference. The proposed rulemaking is basically the same as the existing regulations in Part 2880 as amended by the proposed rulemaking of January 17, 1983, except that additions have been made in response to comments on the January 17, 1983, proposed rulemaking and the language has been conformed to Part 2880.

This proposed rulemaking is in response to a decision by the United States Court of Appeals for the Tenth Circuit in a consolidated appeal of three cost recovery cases (*Nevada Power Company* v. *Watt* (81–1944); *Public Service of Colorado* v. *Watt* (81–2066) and (81–2143); and *Colorado-Ute Electric Association* v. *Watt* (82–1304)) that held that the Department of the Interior must consider the factors listed in section 304(b) of the Federal Land Policy and Management Act (43 U.S.C. 1734(b)) in establishing costs for processing right-of-way applications under title V of the Federal Land Policy and Management Act. The Court further held that the existing regulations establishing the procedure for said processing did not provide for such consideration.

The proposed rulemaking of January 17, 1983, was essentially an updating of the existing regulations in 43 CFR 2803.1–1. That section provides generally for cost reimbursement under the Federal Land Policy and Management Act. However, the provisions of § 2803.1–1 are incorporated by reference at § 2883.1–1 and, therefore, are applicable to cost recovery under section 28 of the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 185). The Mineral Leasing Act provides for cost reimbursement but does not require consideration of the specific factors listed in section 304(b) of the Federal Land Policy and Management Act as shown below:

"Reimbursement of Costs"

"(1) The applicant for a right-of-way or permit shall reimburse the United States for administrative and other costs incurred in processing the application, and the holder of a right-of-way or permit shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance and termination of any pipeline and related facilities on such right-of-way or permit area and shall pay annually in advance the fair market rental value of the right-of-way or permit, as determined by the Secretary."

Accordingly, the Tenth Circuit decision does not apply to regulations promulgated under the Mineral Leasing Act.

The Department of the Interior has decided to defer finalizing the proposed rulemaking of January 17, 1983, as it applies to the Federal Land Policy and Management Act, pending an analysis of the regulations in light of the Tenth Circuit decision. However, since cost reimbursement regulations under the Mineral Leasing Law have not been invalidated, the Department of the Interior will proceed with the promulgation of cost recovery procedures for rights-of-way granted under that Act. This proposed rulemaking carries out that determination. For the convenience of those members of the public who may wish to comment on this proposed rulemaking and because the comment period on this proposed rulemaking is limited to 30 days, there is included a discussion of the comments on the proposed rulemaking of January 17, 1983, which are applicable to cost recovery for rights-of-way issued under the Mineral Leasing Act.

During the comment period, comments were received and considered from 61 sources, 36 from companies, 15 from Federal agencies and 10 from associations. The non-Federal comments were nearly unanimous in objecting to the imposition of cost recovery for grants of rights-of-way or temporary use permits across Federal lands. The issue of cost recovery has been raised each time the Department of the Interior has issued a rulemaking on right-of-way grants and has been opposed by the users of the Federal lands for right-of-way purposes. The position of the Department of the Interior is that section 28 of the Mineral Leasing Act, requires the Secretary of the Interior to collect administrative and other costs incurred in the processing of an application for a right-of-way grant or temporary use permit.

Several comments questioned the statement in the preamble that the increased charges made by the proposed rulemaking will not substantially increase the payments made by right-of-way applicants for processing applications and monitoring grants. The amendments contained in the proposed rulemaking of January 17, 1983, and adopted by this proposed rulemaking will more equitably distribute the cost of processing applications among applicants and will reduce the cost borne by the general taxpayer. The changes made by the proposed rulemaking will increase the funds recovered by the Bureau of Land Management from processing of applications for oil and gas rights-of-way and temporary use permits by approximately $1 million annually and will increase the fees paid by some applicants. While this amount may seem large, it is insignificant when compared to the total cost of the facilities constructed on Federal lands for oil and gas right-of-way purposes.

Several comments suggested that rather than proceeding with the changes made by the proposed rulemaking, the better option would be to provide a reduction in the cost of processing applications and monitoring grants. The actions taken by the Department of the Interior over the past few months to decentralize the granting authority, to develop more efficient appraisal techniques, to reduce mapping requirements and the other information required to be submitted with an application and to provide greater flexibility in the application of casual use are examples of actions taken to reduce processing costs. The actions included in each of the categories by this proposed rulemaking are those needed to comply with the statutory requirements of the several laws in addition to the Mineral Leasing Act of 1920 which control use of Federal lands for right-of-way purposes.

Several comments objected to having to pay processing and monitoring costs and annual rental because it results in a double payment. The comments argued that in private transactions, the annual rental includes the cost of actions needed to complete the transaction. The Mineral Leasing Act requires the payment of fair market value for the use of Federal lands and the annual rental reflects that requirement. In addition, the Act authorizes the Secretary of the Interior to promulgate regulations for collecting costs incurred in processing and monitoring an application/grant for the use of Federal lands. This proposed rulemaking is designed to recover such costs.

Many of the comments suggested that the fee schedule should be included in the cost recovery regulations and published in the Code of Federal Regulations, rather than being made part of the Bureau of Land Management Manual and directives. The final rulemaking has not adopted this suggestion for two reasons. First, the Bureau Manual and directives can be updated more readily. Second, it is not necessary for the fee schedule to be in the Code of Federal Regulations. The fee schedule will be subject to the requirements of the Administrative Procedures Act when it is changed, giving the public notice of any changes and an opportunity to comment on such schedule.

Some of the comments questioned the basis of the fee schedule that was published in the **Federal Register** of January 17, 1983 (48 FR 2113), and requested that the fee schedule and its development be fully explained. In compliance with these requests, the following is offered:

The right-of-way fee schedule was developed by a Bureau of Land Management task force consisting of employees of the Bureau with expertise in the processing and monitoring of right-of-way cases, budgeting and cost accounting. The task force analyzed

VOL 48 ISS 203 OCT 19 1983 UMI

data from a representative sample of actual right-of-way cases and examined several demographic variables which might influence cost, including location and area of right-of-way or temporary use area. The analysis led to the conclusion that case processing requirements (e.g., appraisal, field examination, etc.), rather than right-of-way or temporary use area demographics (e.g., purpose, location of right-of-way or area, etc.) determine costs. As a result of the analysis by the team, six right-of-way cost categories were established, each defined in terms of the processing actions that will be required.

The fee computation for each of the established categories was based on the estimated work effort required to accomplish the processing actions for a typical right-of-way in that category. Each processing action was examined to: (1) identify what is done (e.g., short form appraisal); (2) where it is done (e.g., field or office); (3) who does the action (e.g., position titles and G.S. grade levels); and (4) how long it takes to do the action (e.g., hours). The Bureau of Land Management's cost of each action includes personnel costs, including fringe benefits, vehicle usage cost (if travel is required) and allowable indirect costs. Personnel costs were based on the hourly wage of the salary level of the employee who typically performs the action (step 5 which is the middle point of each pay grade); vehicle usage costs were based on a computed per mile cost for a mid-size General Services Administration vehicle (derived from GSA Transportation and Motor Vehicles rate bulletin); indirect costs were based on the Bureauwide indirect cost rate used for all cost recoverable work, such rate being computed annually to reflect any changes in cost. The total cost of all actions required for a specific category of application or grant becomes the nonrefundable fee for that category.

As was done in connection with other rulemakings involving cost recovery, several of the comments urged that the rulemaking include provision for audit of the Bureau of Land Management's cost recovery accounts by an applicant/holder. This proposed rulemaking does not include such a provision because it is not needed. Applicants/holders whose projects are determined to fall within category VI who dispute payments made under existing cost recovery regulations are furnished information showing how the Bureau has used the payments. An audit process is not needed for categories I through V because any appeal of the authorized officer's determination will question the determination that a certain level of work is required, not how the payment will be expended.

The largest number of comments raised the point that the descriptions or definitions of the categories contained in the proposed rulemaking were insufficient to enable an applicant or the authorized officer to accurately and consistently determine the appropriate category for the application. In response to the comments, the category descriptions and definitions have been carefully reviewed to determine if changes were needed. The review was conducted within two constraints. First, the many different types of Federal lands for which applications are made for oil and gas pipeline rights-of-way require that the descriptions be in general terms. Second, the entire system of cost recovery categories must be based on a progressively increasing work requirement. For example, a category II application will require more work than a category I application. Similar relationships exist for all categories I through V. The category descriptions contained in the proposed rulemaking of January 17, 1983, and this proposed rulemaking are sufficiently specific to allow a determination as to which category is appropriate for an application.

Another group of comments expressed the opinion that the definitions were too narrow and suggested broadening them so that category I would include additional new right-of-way grants on an existing right-of-way grant. The definition of category I contained in the proposed rulemaking of January 17, 1983, and this proposed rulemaking includes an application for a right-of-way on lands included in an existing right-of-way grant. Similarly, category II, when read in conjunction with Departmental manual 516 (categorical exclusions), provides that a previously prepared environmental assessment for a right-of-way be used to qualify an application for this category.

Several comments suggested that the length of the right-of-way or the real size of the area of public lands covered by the application should be made an element of the category descriptions. These suggestions cited the apparent inequity of placing an application for a right-of way of a hundred feet in the same category as an application for several miles. The analysis of data upon which the categories are based showed that in most cases the length or size of the right-of-way have no appreciable effect on the work required to process the application or monitor the grant. These suggestions did not result in any changes in this proposed rulemaking.

Several of the comments observed that the applicant may prepare or have prepared an environmental assessment, an environment impact statement or other studies for submission to the Bureau of Land Management for use in processing an application and that the proposed rulemaking of January 17, 1983, did not specifically allow this activity. Neither the proposed rulemaking of January 17, 1983, nor this proposed rulemaking prohibit the authorized officer from considering the fact that the applicant has prepared or will prepare National Environmental Policy Act compliance and other documents when making the category determination for the application. Applicants who wish to prepare environmental documents should discuss such preparation and the content of the documents during pre-application activities.

Several of the comments pointed out that unless a process other than a full appraisal of the lands covered by the application were used, the fact that an appraisal was necessary would require an application to be placed in category VI. This observation is correct. However, the Bureau of Land Management now uses and is further expanding use of modified appraisal processes for use in determining rental of Federal lands. These modified appraisal procedures do not require preparation of a full appraisal. The use of these appraisal processes will allow most applications to be placed in categories I through V.

One comment wanted to know which category would cover his/her application. This question cannot be answered hypothetically. The only way to determine which category is appropriate for a specific application is to review the application and make a determination based on the activities which will be required. A good time for such review is during pre-application activity.

Several of the comments observed that the determination of the proper category for an application may be time-consuming and could significantly delay action on the application. Each application will be processed expeditiously by the authorized officer. Each Area and District office has personnel who are familiar with the Federal lands and resources of the area or District so that they are able to make a timely and correct determination of the appropriate category, usually from their personal knowledge and from information in their files. The discussion and review during pre-application activity will provide information that the staff can use in making the category determination.

Two comments suggested that any rulemaking should require the authorized officer to make a commitment as to the date a final determination will be made on the application at the same time the decision is made on the category for the application. Because of uncertainties beyond the control of anyone that can arise during the processing of an application, it would be virtually impossible to require such a commitment and this proposed rulemaking does not contain such language. However, an applicant should discuss the timing of the need for a right-of-way grant during pre-application activity. To ascertain whether completion by a certain date can be anticipated.

Many of the comments objected to the requirement in the proposed rulemaking of January 17, 1983, making the payment of the fee a prerequisite to processing the application, especially in those cases where the applicant appeals the category determination. The comments noted that the delays inherent in the administrative appeals process would unreasonably delay the issuance of a right-of-way grant or temporary use permit and would in most instances preclude any appeal. In recognition of this situation, this proposed rulemaking has been amended to clarify the point that once the required payment is made, the application will be processed, the grant or permit issued and a refund will be made if ordered by decision on the appeal.

Several comments suggested that the language in § 2803.1–1(a)(4)(ii) of the proposed rulemaking of January 17, 1983, (§ 2883.1–1(a)(4)(ii) of this proposed rulemaking) should be changed to provide more flexibility to change the category determination, either up or down. The language of the proposed rulemaking provides adequate authority to change the category determination in those instances when it is determined to be in a category other than category VI. In all other instances, if, for example, the decision is that the application falls within category III and it in fact requires the work for category IV, the extra cost will be borne by the Bureau of Land Management. Only in those cases where, after the initial category determination, it is found that the application processing clearly falls within category VI will the category determination be changed. Any other provision for change of a category would require preparation of detailed cost analysis records for every application, a process that would add additional cost to the processing of applications, and would result in greater costs to applicants. The suggestions have not been adopted by this proposed rulemaking.

A few comments observed that the language of § 2803.1–1(a)(5) of the proposed rulemaking of January 17, 1983 (§ 2883.1–1(a)(5) of this proposed rulemaking) was confusing and recommended that it be clarified. This proposed rulemaking adopts clarification language.

Finally, several comments questioned whether the work required to monitor a right-of-way grant or temporary use permit is directly related to the work required to process the application for that grant or permit. In a few instances such a direct relationship will not be present. However, the past experience of the Bureau of Land Management shows that such a relationship does exist for most grants or permits. The exceptions to the general rule are not sufficient to warrant a change in this area, and this proposed rulemaking adopts the language of the proposed rulemaking of January 17, 1983.

The principal author of this proposed rulemaking is Sheldon Weil, Division of Rights-of-way, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by the final rulemaking will not, when the payments for all right-of-way and temporary use applications are considered, substantially increase the payments made by right-of-way applicants for the processing and monitoring of their applications. The changes adopted by this proposed rulemaking will make the reimbursement of costs procedures fairer and will recover for the United States a greater portion of the costs incurred in the processing of right-of-way grant and temporary use permit applications.

The changes made by this proposed rulemaking will be equally applicable to all entities that make an application to the Bureau of Land Management for used of the Federal lands for oil or gas rights-of-way or temporary use permits.

The information collection requirements in this proposed rulemaking have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

List of Subjects in 43 CFR Part 2880

Administrative practice and procedure, Common carriers, Oil and gas industry, Pipelines, Public lands—rights-of-way

PART 2880—[AMENDED]

Under the authority of section 28 of the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 185), it is proposed to amend Part 2880, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

§ 2882.1 [Amended]

1. Section 2882.1(c) is amended by removing the citation "§ 2803.1–1" and replacing it with the citation "§ 2883.1–1".

2. Subpart 2883 is amended by revising § 2883.1–1 to read:

§ 2883.1–1 Cost reimbursement.

(a)(1) An applicant for a right-of-way grant or a temporary use permit shall reimburse the United States for administrative and other costs incurred by the United States in processing the application, including the preparation of reports and statements pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), before the right-of-way grant or temporary use permit shall be issued under the regulations of this title.

(2) The regulations contained in this subpart do not apply to State or local governments or agencies or instrumentalities thereof where the Federal lands are used for governmental purposes and such lands and resources continue to serve the general public, except as to right-of-way grants or temporary use permits issued to State or local governments or agencies or instrumentalities thereof or a municipal utility or cooperative whose principal source of revenue is derived from charges levied on customers for services rendered that are similar to services rendered by a profit making corporation or business enterprise.

(3) The applicant shall submit with each application a nonreturnable application processing payment in the amount required by a schedule of fees for this purpose which shall be established and maintained by the Director and may be adjusted by the Director from time to time to reflect changes in costs. The fee schedule shall be incorporated in the Bureau Manual,

VOL
48
ISS
2
0
3
OC
19
1983
UMI

published periodically in the **Federal Register** and otherwise made generally available to the public. The fees required shall be based on a review of the use of the Federal lands for which the application is made, the resources affected and the complexity and costs to the United States for processing required by an application for a right-of-way grant and shall be established according to the following general categories:

(i) *Category I.* An application for a right-of-way grant or temporary use permit to authorize a use of an existing facility on Federal lands for which compliance with the National Environmental Policy Act is met through a categorical exclusion under Chapter 8, Part 516 of the Departmental Manual; no field examination of the lands affected by the application is required; and determination of rental is made through use of appraisal schedules previously prepared by the Bureau;

(ii) *Category II.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which compliance with the National Environmental Policy Act is met through either a categorical exclusion under Chapter 6, Part 516 of the Departmental Manual or a blanket, areawide or programmatic environmental assessment and finding of no significant impact; one general field examination is required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(iii) *Category III.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which compliance with the National Environmental Policy Act requires either preparation of a general environmental assessment from information and data readily available from existing Bureau documents or for which a previously existing environmental assessment prepared by the Bureau can be readily updated; one field examination of the lands affected; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(iv) *Category IV.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which compliance with the National Environmental Policy Act requires one or more assessments of specific resources, but does not require the gathering of original data in preparation of the environmental assessment; no more than two field examinations of the lands affected by the application are required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(v) *Category V.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which compliance with the National Environmental Policy Act requires one or more assessments of specific resources and the gathering of original data and supplementary documentation in preparation of the environmental assessment; no more than two field examinations of the lands affected by the application are required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(vi) *Category VI.* An application for a right-of-way grant or temporary use permit to authorize a use of Federal lands for which processing activities will be in excess of those listed under paragraph (a)(3)(v) of this section.

(4)(i) The authorized officer shall determine the appropriate category and required application processing fee prior to acceptance of an application. A record of the authorized officer's category determination shall be made and given to the applicant, and the decision is a final decision for purposes of appeal under § 2884.1 of this title. Notwithstanding the pendency of such appeal, an application shall not be accepted for processing without payment of the fee determined by the authorized officer, and where such payment is made, the application may be processed and, if proper, the grant or permit issued. The authorized officer shall make any refund directed by the appeal decision.

(ii) During the processing of an application, the authorized officer may change a category determination to place an application in Category VI at any time that it is determined that the application requires preparation of an environmental impact statement. A record of change in category determination under this paragraph shall be made, and the decision is appealable in the same manner as an original category determination made under paragraph (a)(4)(i) of this section.

(5)(i) An applicant whose application is determined to be in Category VI shall, in addition to the nonrefundable application processing payment, reimburse the full actual administrative and other costs of processing the application. The nonrefundable application processing payment required under the fee schedule shall be credited toward the total cost reimbursement obligation of such applicant. When such an application is filed, the authorized officer shall estimate the costs expected to be incurred in processing the application and require the applicant to make periodic payments of the estimated reimbursable costs prior to such costs being incurred by the United States.

(ii) If the payments required by paragraph (a)(5)(i) of this section exceed the actual costs to the United States, the authorized officer may adjust the billing to reflect the overpayment, or make a refund from applicable funds under the authority of 43 U.S.C. 1734. An applicant may not set off or otherwise deduct any debt due to it or any sum claimed to be owed it by the United States without the prior written approval of the authorized officer.

(iii) Prior to issuance of a right-of-way grant or temporary use permit, an applicant subject to paragraph (a)(5)(i) of this section shall pay such additional amounts as are necessary to reimburse the United States for any costs which exceed the payments required by paragraph (a)(5)(i) of this section.

(iv) An applicant subject to paragraph (a)(5)(i) of this section whose application is denied is responsible for costs incurred by the United States in processing the application, and such amounts as have not been paid in accordance with paragraph (a)(5)(i) of this section are due within 30 days of receipt of notice from the authorized officer of the amount due.

(v) An applicant subject to paragraph (a)(5)(i) of this section who withdraws an application before a decision is reached is responsible for costs incurred by the United States in processing the application up to the date the authorized officer receives written notice of the withdrawal, and for costs subsequently incurred in terminating the application review process. Such amounts as have not been paid in accordance with paragraph (a)(5)(i) of this section are due within 30 days of receipt of notice from the authorized officer of the amount due.

(6) When 2 or more applications for right-of-way grants are filed which the authorized officer determines to be in competition with each other, each applicant shall reimburse the United States as required by paragraph (a)(3) of this section. If reimbursement of actual costs is required under paragraph (a)(5)(i) of this section, each applicant shall be responsible for the costs identifiable with his/her application. Costs that are not readily identifiable with one of the applications, such as costs for portions of an environmental impact statement that relate to all of the applications generally, shall be paid by each of the applicants in equal shares.

(7) When, through partnership, joint venture or other business arrangement, more than one person, partnership, corporation, association or other entity apply together for a right-of-way grant or temporary use permit, each such applicant shall be jointly and severally liable for costs under this section.

(8) When 2 or more noncompeting applications for right-of-way grants are received for what, in the judgment of the authorized officer, is one right-of-way system, all of the applicants shall be jointly and severally liable for costs under this section for the entire system, subject, however, to the provisions of paragraph (a)(7) of this section.

(b)(1) After issuance of a right-of-way grant or temporary use permit for which a fee was assessed under paragraph (a) of this section, the holder thereof shall reimburse the United States for costs incurred by the United States in monitoring the construction, operation, maintenance and termination of authorized facilities on the right-of-way or permit area, and for protection and rehabilitation of the lands involved.

(2) The holder shall submit a monitoring cost payment along with the written acceptance of the terms and conditions of the grant or permit pursuant to § 2882.3(1) of this title. The amount of the required payment shall be determined by the schedule of fees described in paragraph (a)(3) of this section. Acceptance of the terms and conditions of the grant or permit shall not be effective unless the required payment is made.

(3) A holder whose application was determined to be in Category VI for application processing purposes shall reimburse the actual administrative and other costs of monitoring the grant or permit. The monitoring payment required under the fee schedule shall be credited toward the total monitoring cost reimbursement obligation or such holder. When such a grant or permit is issued, the authorized officer shall estimate the costs expected to be incurred in monitoring the grant or permit and require the holder to make periodic payments of the estimated reimburseable costs prior to such costs being incurrred by the United States.

(4) If the payments required by paragraph (b)(3) of this section exceed the actual costs to the United States, the authorized officer may adjust the next billing to reflect the overpayment, or make a refund from applicable funds under the authority of 43 U.S.C. 1734. A holder may not set off or otherwise deduct any debt due to it or any sum claimed to be owed it by the United States without the prior written approval of the authorized officer.

(5) Following termination of a right-of-way grant or temporary use permit, any grantee or permittee that was determined to be in Category VI shall pay such additional amounts as are necessary to reimburse the United States for any costs which exceed the payments required by paragraph (b)(3) of this section.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-28506 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172 and 173

[Docket No. HM-145E; Advance Notice]

Reportable Quantity of Hazardous Substance; Extension of Time for Public Comments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Advance notice of proposed rulemaking; extension of time for public comment.

SUMMARY: MTB published an advance notice in the **Federal Register** on August 8, 1983 (Docket HM-145E; 48 FR 35965), concerning reportable quantities of hazardous substances. Several requests have been received for an extension of the public comment period. This Notice extends the time for public comment from October 12, 1983, to November 16, 1983.

DATE: Comments must be received no later than November 16, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426-2075.

Issued in Washington, D.C. on October 12, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-28457 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Rulemaking Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of rulemaking petition.

SUMMARY: This notice denies a petition filed by Mr. William Mahin to amend Federal Motor Vehicle Safety Standard (FMVSS) 111, *Rearview Mirrors*, to permit the use of a mirror system he designed for original equipment applications on passenger cars and trucks. Since NHTSA lacks sufficient data on the potential safety impacts of the use of this new mirror design and since Mr. Mahin did not provide such data himself, the agency is denying this petition. However, the agency plans to evaluate this mirror further as part of a future mirror research project, and will reconsider amending FMVSS 111 after the completion of that research.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-2153).

SUPPLEMENTARY INFORMATION: On June 4, 1982, Mr. William Mahin petitioned NHTSA to amend FMVSS 111 to permit the use of a mirror system he designed. FMVSS 111 currently requires that exterior mirrors must be planer (flat), except that spherically convex mirrors may be used on the passenger side of passenger cars and of trucks, multipurpose passenger vehicles, and buses other than school buses, with a gross vehicle weight rating of 10,000 pounds or less. The reason for the prohibition against the use of certain nonplanar mirror surfaces is that such surfaces may produce distorted images which could mislead drivers as to the distance to and velocity of objects viewed in the mirror. However, convex mirrors do have the advantage of providing a wider field of view than a plane mirror of similar size. Mr. Mahin's design is planar nearest the driver's eye and curves logarithmically toward the outer edge of the mirror.

Before NHTSA decides to initiate rulemaking to amend FMVSS 111 as requested by Mr. Mahin, the agency believes it should obtain information sufficient to permit it to conclude that the Mahin mirror performs at least as

VOL
48
ISS
203
OC
19
1983
UMI

well as current plane mirrors in providing drivers an adequate field of view with minimal image distortion. NHTSA lacks sufficient data on the performance of Mr. Mahin's mirror and the petitioner did not provide such data himself. Therefore, the agency is denying the Mahin petition.

This is not to say that the Mahin mirror is necessarily less safe than current systems, although a limited agency evaluation of the Mahin mirror raised some concerns as to the mirror's optical distortion. NHTSA plans to evaluate this mirror further (along with certain other mirrors) as part of a future mirror research project. On the completion of that project, the agency will consider again whether to amend FMVSS 111.

(Sec. 124, Pub. L. 89-492, 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on October 13, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-28459 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register

Vol. 48, No. 203

Wednesday, October 19, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 14, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number (s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 108-W Admin. Bldg., Washington, D.C. 20250, (202) 447-4414.

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

REVISED

• Farmers Home Administration
Request for FmHA Services
FmHa 1910-1
On Occasion
Individuals and Farms: 175,000 responses; 87,500 hours not applicable under 3504(h)
Mike Chiavetta (202) 382-1658
Reinstatement

• Farmer Home Administration
Estimate and Certificate of Actuarial Cost
FmHA 1924-13
On Occasion
Businesses: 1,200 responses; 2,400 hours not applicable under 3504(h)
Tom Maxwell (202) 382-1620

Extension

• Forest Service
Technical Data—Electronic Type Land Use
On Occasion
All: 100 responses; 25 hours not applicable under 3504(h)
James Dear (703) 235-2410

New

• Food and Nutrition Service
USDA School Programs Participation Model Update Study
One-Time Study
Individuals or Households, State or Local Governments: 13,903 responses; 11,013 hours not applicable under 3504(h)
Steven Gale (703) 756-3115

Dewayne Hamilton,

Acting Department Clearance Officer.

[FR Doc. 83-28418 Filed 10-18-83; 8:45 am]

BILLING CODE 3410-01-M

Rural Electrification Administration

Wolverine Power Supply Cooperative, Inc., Big Rapids, Michigan

AGENCY: Rural Electrification Administration (REA).

ACTION: Notice of: Public Meeting in Traverse City, Michigan.

SUMMARY: Pursuant to Section 4 of the Settlement Agreement, REA is required to hold a public meeting in Traverse City, Michigan in conjunction with a pending loan application.

FOR FURTHER INFORMATION CONTACT: Mr. Merle J. Beachy, Chief, Distribution and Transmission Engineering Branch, Northeast Area—Electric, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1420.

Dated: October 13, 1983.

Jack Van Mark,

Acting Administrator.

Notice Regarding Traverse City Public Meeting

Pursuant to the Consent Judgment issued on August 8, 1983, by the Honorable Douglas W. Hillman in Rodney A. Bailey, *et al*, Plaintiffs, v. Rural Electrification Administration (REA), U.S. Department of Agriculture, *et al*, Defendents, United States District Court, W.D. Michigan, Southern Division, notice is hereby given of a public meeting conducted by the Rural Electrification Administration in conjunction with a pending loan application by Wolverine Power Supply Cooperative to finance its continuing ownership interest in the Enrico Fermi Unit #2 Power Plant presently under construction by Detroit Edison Company. Included in the pending loan application and incidental to proposed additional financing for the power plant is a request for loan funds to purchase part of a transmission line presently owned by Consumers Power Company.

The purpose of the meeting is to take oral and/or written statements from the parties to this proceeding and the public concerning: (1) The environmental impact of any past or pending or the next loan guarantee application and proposed approval; (2) any unavoidable adverse environmental effects of such action or proposed action; (3) alternatives to such action or proposed action; (4) short-term uses of man's environment versus maintenance and enhancement of long-term productivity with respect to such actions or proposed actions; (5) irreversible and irretrievable commitments of resources involved in such actions or proposed action; (6) the now applicable REA guidelines with respect to the National Environmental Policy Act (42 U.S.C. 4321 *et seq.)* in relation to the next or pending application for a further REA loan

VOL 48 ISS 203 OCT 19 1983 UMI

guarantee to the Wolverine Power Supply Cooperative, Inc.

Place of Meeting: Auditorium, Traverse City Senior High School, 1150 Milliken Drive, Traverse City, MI 49684.
Date of Meeting: November 9, 1983.
Time of Meeting: 7:00 p.m. (e.s.t.).
Chairperson: Merle J. Beachy.

Any person desiring to submit a written statement for inclusion in the meeting record may do so at or prior to the meeting. Written statements may also be submitted to REA not later than December 9, 1983. Unless entered at the meeting, written statements should be mailed to Merle J. Beachy, Chief, Distribution & Transmission Engineering Branch, Northeast Area-Electric, Rural Electrification Administration, Washington, D.C. 20250.

Any written and oral statements introduced into the public record of the meeting which concern past actions of the REA, or past loan or loan guarantees pertaining to the financing of participation by Wolverine Power Supply Coorperative (and its predecessors Northern Michigan Electric Cooperative, Inc. and Wolverine Electric Cooperative, Inc.) in the Enrico Fermi Unit #2 Power Plant shall be accepted for information purposes only and shall not affect the validity of any such loans or related federal action.

Not later than December 9, 1983, written inquiries relevant to the purposes of the November 9, 1983 meeting may be submitted to REA for comment and response. Comments or responses by REA may be provided at the November 9, 1983 meeting or furnished in writing on or before February 8, 1984. Written questions by any person shall be relevant to the scope and purposes of said meeting.

Dated: October 13, 1983.

[FR Doc. 83-28493 Filed 10-18-83; 8:45 am]
BILLING CODE 3410-15-M

Soil Conservation Service

Southern Pines Reservoir Park RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an evironmental impact statement is not being prepared for the Southern Pines Reservior Part RC&D Measure, Moore County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for converting a town reservior into a water-based recreation park. The planned works of improvement include installing a boat launch and dock, maintenance building, family picnic areas and tot lot, swimming beach and bathhouse, multipurpose court, bike and jogging trail and bridges, toilet facilities, entrance control booth, access roads, and parking lots. These improvements will provide a needed public recreational facility in a rapidly growing area. A 3-phase installation is planned.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 3, 1983.

Coy A. Garrett,

Stote Conservationist.

[FR Doc. 83-28359 Filed 10-18-83; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Members of the Bureau of the Census Performance Review Board

The following individuals will serve as members of the Bureau of the Census Performance Review Board;

(1) Barbara Bailar;
(2) O. Bryant Benton, Jr.;
(3) Roger H. Bugenhagen;
(4) William P. Butz;
(5) Jerome A. Mark;
(6) Roland H. Moore; and
(7) Katherine K. Wallman.

Dated: October 14, 1983.

C. L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 83-28438 Filed 10-18-83; 8:45 am]
BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 228]

Resolution and Order Approving the Reorganization of Foreign-Trade Zone 18, San Jose, California, and Establishment of a Subzone; Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of San Jose, California, grantee of Foreign-Trade Zone 18, filed with the Foreign-Trade Zones Board (the Board) on July 8, 1983, requesting authority to reoganize its zone project in San Jose, within the San Francisco-Oakland Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the reloaction of the general-purpose zone facility, approves the special-purpose subzone for Olympus Corporation, and approves a one-year extension of zone status for Metal Processing Industries, Inc.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Authority To Reorganize Foreign-Trade Zone 18, and Establish a Subzone in San Jose, California

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the City of San Jose, California, grantee of Foreign-Trade Zone No. 18, has made application (filed July 8, 1983, Docket 22-83, 48 FR 32617, July 18, 1983), to the Board for authority to reorganize its zone project by relocating the public zone facility, continuing zone status for Olympus Corporation, and establishing zone status as an annex for Metal Processing Industries, Inc. (MPI). All facilities are located in San Jose, California, within the San Francisco/Oakland Customs port of entry.

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied if approval of zone status for MPI were limited to one year;

Now, Therefore, in accordance with the application filed July 8, 1983, the board hereby authorizes the reorganization of Foreign-Trade Zone 18 in San Jose, California, to include relocation of public warehousing facilities, the establishment of a subzone for Olympus Corporation designated on the records of the Board as Foreign-Trade Subzone No. 18A, and a one-year extension of zone status for the MPI site, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations;

Activation of the new zone site and subzones shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade zone subzones in the performance of their official duties.

The grant shall not be construced to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C., this 13th day of October 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternotes.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-28497 Filed 10-18-83; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

Preliminary Determination of Sales at Less Than Fair Value; Color Television Receivers From Korea

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value; color television receivers from Korea.

SUMMARY: The Department of Commerce ("the Department") has preliminarily determined that color television receivers from Korea are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission ("ITC") of our determination, and we have directed the U.S. Customs Service to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margin described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 23, 1983.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman or William L. Matthews, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

As provided for in section 733 of the Tariff Act of 1930 ("the Tariff Act"), we have preliminarily determined that there is a reasonable basis to believe or suspect that color television receivers from Korea are being, or are likely to be, sold in the United States at less than fair value.

We have found that the dumping margins ranged from zero percent to 9.53 percent. The overall weighted-average margin on all sales compared is 5.31 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 23, 1983.

Case History

On May 2, 1983, we received a petition from the Independent Radionic Workers of America, the International Brotherhood of Electrical Workers, the International Union of Electrical, Radio & Machine Workers, and the Industrial Union Department, AFL-CIO, filed on behalf of the U.S. industry producing color television receivers. In accordance with the filing requirements of section 353.36 of the Commerce Regulations, the petition alleged that color television receivers from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 27, 1983 (48 FR 23879-80). The ITC subsequently found, on June 16, 1983, that there is a reasonable indication that imports of color television receivers are materially injuring, or are threatening to materially injure, a U.S. industry.

VOL
48
ISS
2
0
3
OC
19
1983
UMI

The petition alleged that Samsung Electronics Co., Ltd., Gold Star Co., Ltd., and Taihan Electric Wire Co., Ltd. produce color television receivers for export to the United States. In addition to the companies named in the petition, we are also examining sales by Korea Electronics Co., Ltd. ("KEC") and Anam Electronic Industrial Co., Ltd.

On September 20, 1983, the petitioners amended the petition to allege that "critical circumstances," as defined in section 733(e) of the Tariff Act, exist.

Scope of Investigation

The merchandise covered by this investigation is color television receivers, complete or incomplete. This investigation is intended to cover all color televison receivers regardless of tariff classifications. The merchandise is currently classifiable under item numbers 685.1125, 685.1126, 685.1127, 685.1128, 685.1129, 685.1135, 685.1144, 685.1148, 685.1455, 685.1456, 685.1458, 685.1460, and 685.1463 of the Tariff Schedules of the United States Annotated.

The five manufacturers under investigation accounted for virtually all known color television receivers exported from Korea to the United States during the period of the investigation.

The investigation covers the period from July 1, 1982 through March 31, 1983 for United States price transactions and generally April 1, 1982 through March 31, 1983 for foreign market transactions.

United States Price

As provided for in section 722 of the Tariff Act, we have preliminarily used the purchase price as the United States price for sales by Anam, KEC, and certain sales by Samsung and Gold Star because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We have preliminarily used exporter's sales price for other sales by Samsung and Gold Star, and for all sales by Taihan.

We calculated purchase price based on the packed f.o.b. Korean port or plant price to unrelated purchasers in the United States. We made deductions from that price, where appropriate, for foreign inland freight, Korean customs clearing fees, forwarding expenses, wharfage expenses, export license fees, foreign brokerage and handling charges.

We calculated the exporter's sales price by deducting from the gross packed price to unrelated purchasers in the United States amounts for the following items, where appropriate: Korean customs clearing fees, export license fees, wharfage, forwarding, foreign brokerage, foreign inland freight, ocean freight, marine insurance, U.S. Customs duties, U.S. brokerage, U.S. inland freight, commissions to unrelated parties, warranty expenses, credit expenses, advertising expenses, discounts, rebates, and indirect selling expenses. In making deductions from the gross price, we made two additional deductions for Samsung, which the company did not consider relevant to sales of color television receivers. We deducted interest expenses incurred during the period which related to a lack of working capital and those related to an overall deficit. These expenses are included in the category of indirect selling expenses.

When comparing to home market price, we accounted for taxes imposed in Korea but rebated or not collected by reason of the exportation of the merchandise to the United States.

Fair Value

We have preliminarily determined that each of the companies under investigation sold sufficient quantities of such or similar merchandise during the period of investigation in Korea. We therefore have chosen to use those sales to unrelated purchasers in Korea as our basis for foreign market value.

We calculated the home market price by deducting from the gross, packed price the following items, where appropriate: freight and discounts. We made adjustments, where appropriate, for differences in the merchandise, quality and testing expenses, commissions to unrelated parties, packing costs, warranty expenses, royalty expenses, rebates, credit expenses, advertising, sales promotion, and technical services expenses.

In addition, when comparing the exporter's sales price to the home market price, we deducted indirect selling expenses from the home market price but limited the deduction by the amount of the U.S. expenses. We based adjustments for differences in merchandise for all companies on differences in costs of material, labor, and direct factory overhead. We disregarded sales by all companies to Korea military PXs because we determined that they were not made in the normal course of trade as sales to other home market customers.

In making adjustments to the foreign market value, we made several changes to the figures offered by the respondents. We adjusted the amount of Samsung's rebate claim. The claim was composed of several different rebates, presented to us as a single weighted-average percentage over all models. We were able to disaggregate the data and, where rebates were granted on a model-specific, or screen-size basis, we applied them accordingly. Where rebates were granted on a geographic basis or to encourage sales to specific customers of Samsung's customers, we used a weighted-average.

We have preliminarily not allowed certain portions of Samsung's advertising and sales promotion claims. Some of Samsung's claims for multiproduct advertising and sales promotion were allocated on the basis of total sales value of the various products appearing in the advertisement. The result is an amount that is unrelated to the cost of the color television portion of the advertisement of sales promotion. We will reconsider allowing a portion of this claim if Samsung can demonstrate the actual cost incurred on advertising and promoting sales of color television receivers in the multiproduct advertisements.

For Gold Star we have disallowed a claimed adjustment for differences in the levels of trade between the U.S. and Korean markets. Gold Star sells color television receivers to small and medium-size U.S. retailers, U.S. mass merchandisers who sell at retail, to U.S. private label purchasers who resell to retailers in the United States market, and to retailers in the Korean market. It based its claim for a level of trade adjustment on the differences in prices of audio electronic products sold to the retail and distributor levels in its home market. We cannot make a level of trade adjustment because the basis by Gold Star does not accurately quantify the difference specifically for color television receivers.

We have also disallowed Gold Star's claim for the value of its trademark. Gold Star sells under its own brand name and to private label purchasers in the United States but sells only under its own brand name in the Korean market. Gold Star claims that, if it did sell to private label purchasers in its home market, the resales of those sets by the private label resellers could not be made at prices as high as those that Gold Star could command for identical sets under it own name because Gold Star's reputation is high. Gold Star based its claim on the difference in price of merchandise, not under investigation, produced by another manufacturer for sale under its own name and also for the Gold Star label. We however do not make such adjustments based on sales of merchandise not subject to investigation.

We have preliminarily determined that Gold Star's bad debt claim should not be considered a direct selling expense adjustable as a circumstance of sale pursuant to section 773(a)(4)(B). To the extent that we allow bad debts adjustments, we consider bad debts to be indirect selling expenses adjustable as part of the exporter's sales price offset under § 353.15(c) of the Commerce Regulations.

For Taihan we determined that insufficient deductions has been made for selling expenses incurred in the U.S. market and, in particular, credit expenses incurred were not reported. For this preliminary determination, we calculated amounts based on the Taihan American Corporation's profit and loss statement.

We also adjusted Taihan's claim for indirect selling expenses in the home market by deducting the amount of selling expenses incurred in the home market on export sales. Other companies did not report the export expenses incurred in the home market. We will require any such expenses to be reported prior to verification of the responses.

We have preliminarily determined that Taihan's advertising expense in the United States is an indirect selling expense and have used it as part of the limit on the offset to home market price for indirect selling expenses. We denied Anam's claim for a level of trade adjustment because the claim was based on all indirect selling expenses in the home market with no demonstration of how these expenses vary by level of trade.

Anam's and KEC's credit expenses were based on a calculation of an imputed expense. We have allowed only the credit expense actually incurred.

We have reduced the amount of Anam's warranty expense to allow only those expenses directly involved in warranty servicing, such as free parts. We disallowed portions of Anam's claim that would have been incurred regardless of servicing, such as the salaries of servicemen.

The Department will address at the time of verification of the responses the major issue of whether claims made for differences in physical characteristics between the U.S. and Korean models should be allowed when the cost to the manufacturer is based on the price from a related supplier. We have only preliminarily allowed these claims. If we find that the manufacturers cannot substantiate that the prices are made at arms-length, we will disallow the claims at the time of our final determination. We will also require the manufacturers to prove that there are no compensating payments or rebates within the larger corporate entities that would, in effect, adjust the price of materials.

Negative Determination of Critical Circumstances

Counsel for petitioners alleged that imports of color television receivers from Korea present "critical circumstances" within the meaning of section 733(e)(1) of the Tariff Act. Critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) there have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

The petitioners did not allege a history of dumping of Korean television receivers. We therefore considered whether there is a reasonable basis to believe or suspect that the person by whom, or for whose account, the product was imported knew or should have known that the exporter was selling such television receivers at less than fair value. We believe that, where margins calculated on the basis of the questionnaire responses are sufficiently large, it is reasonable for the Department to believe or suspect that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market prices. In this case, we have found that the preliminary margins are not sufficiently large to warrant such a belief of suspicion that importers, even those which are related parties, should have known that this product was being sold at less than fair value. For this reason, we preliminarily determine that critical circumstances do not exist with respect to color television receivers from Korea.

Verification

As provided for in section 776(a) of the Tariff Act, we will verify all data used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 773(d) of the Tariff Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of color television receivers from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The Customs Service shall require a cash deposit or bond equal to the estimated average amount by which the fair value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice.

The weighted-average margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin (percent)
Samsung Electronics Co., Ltd.	3.05
Gold Star Co., Ltd.	9.53
Anam Electric Industrial Co., Ltd.	0
Korea Electronics Co., Ltd.	2.04
Taihan Electric Wire Co., Ltd.	1.77
Other manufacturers/sellers/exporters	5.31

ITC Notification

In accordance with section 773(f) of the Tariff Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or threatening to materially injure, a U.S. industry before the latter of 120 days after the publication of this notice or 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 23, 1983, at the U.S. Department of Commerce, Room 6802, 14th & Constitution Ave., NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain a list of the issues the party wishes to discuss. In addition, each party wishing to make an affirmative presentation of issues must submit prehearing briefs in at least ten copies to the Deputy Assistant Secretary by November 16, 1983. Oral presentations will be limited to issues raised in the briefs. Any written views filed

VOL
48
ISS
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independently of the hearing should be filed in accordance with section 353.46 of the Commerce Regulations within thirty days of the date of publication of this notice, at the above address in at least 10 copies.

Dated: October 11, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-28449 Filed 10-18-83; 8:45 am]
BILLING CODE 3510-DS-M

Preliminary Determination of Sales at Less Than Fair Value; Color Television Receivers From Taiwan

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value; color television receivers from Taiwan.

SUMMARY: The Department of Commerce ("the Department") has preliminarily determined that color television receivers from Taiwan are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission ("ITC") of our determination, and we have directed the U.S. Customs Service to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margin described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 23, 1983.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman or William L. Matthews, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

As provided for in section 733 of the Tariff Act of 1930 ("the Tariff Act"), we have preliminarily determined that there is a reasonable basis to believe or suspect that color television receivers from Taiwan are being, or are likely to be, sold in the United States at less than fair value.

We have found dumping margins ranging from 0.01 percent to 31.12 percent. The overall weighted-average margin on all sales compared is 3.59 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 23, 1983.

Case History

On May 2, 1983, we received a petition from the Independent Radionic Workers of America, the International Brotherhood of Electrical Workers, the International Union of Electrical, Radio & Machine Workers, and the Industrial Union Department, AFL-CIO, filed on behalf of the U.S. industry producing color television receivers. In accordance with the filing requirements of § 353.36 of the Commerce Regulations, the petition alleged that color television receivers from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 27, 1983 (48 FR 23879-80). The ITC subsequently found, on June 16, 1983, that there is a reasonable indication that imports of color television receivers are materially injuring, or are threatening to materially injure, a U.S. industry.

The petition alleged that Sampo Corporation, AOC International, Orion Electric (Taiwan) Co., Ltd., Hitachi Television (Taiwan) Ltd., and Tatung Co. produce color television receivers for export to the United States. In addition to the companies named in the petition, we are also examining sales by Fulet Corporation, Sanyo Electric (Taiwan) Co., Ltd., and RCA Taiwan Ltd.

On September 20, 1983, the petitioners amended the petition to allege that "critical circumstances," as defined in section 733(e) of the Tariff Act, exist.

Scope of Investigation

The merchandise covered by this investigation is color television receivers, complete or incomplete. This investigation is intended to cover all color television receivers regardless of tariff classifications. The merchandise is currently classifiable under item numbers 685.1125, 685.1126, 685.1127, 685.1128, 685.1129, 685.1135, 685.1144, 685.1148, 685.1455, 685.1456, 685.1458, 685.1460, and 685.1463 of the Tariff Schedules of the United States Annotated.

The eight manufacturers under investigation accounted for virtually all known color television receivers exported from Taiwan to the United States during the period of the investigation.

The investigation covers the period from July 1, 1982 through March 31, 1983 for United States price transactions and generally April 1, 1982 through March 31, 1983 for foreign market transactions.

United States Price

As provided for in section 772 of the Tariff Act, we have preliminarily used the purchase price as the United States price for sales by Orion and certain sales by Sampo, Sanyo, and AOC because the merchandise was sold to unrelated purchasers prior to its importation into the United States . We have preliminarily used the exporter's sales price for other sales by Sampo, Sanyo, and AOC, and for all sales by RCA, Fulet, Hitachi, and Tatung.

We calculated purchase price based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made deductions from that price, where appropriate, for the following items: foreign inland freight, brokerage and insurance, stamp tax and export charges, ocean freight, marine insurance, U.S. customs duties, U.S. brokerage, U.S. inland freight, discounts and rebates.

We calculated exporter's sales price by deducting from the gross price to unrelated purchasers amounts for the following items, where appropriate: foreign brokerage, U.S. brokerage, ocean freight, marine insurance, U.S. Customs duties, foreign inland freight, U.S. inland freight, commissions to unrelated parties, credit expenses, advertising expenses, warranty expenses, indirect selling expenses, bad debt, rebates and discounts.

When comparing to home market prices, we accounted for taxes imposed in Taiwan but rebated or not collected by reason of the exportation of the merchandise to the United States.

Fair Value

We have preliminarily determined that Sanyo, Sampo, Tatung, and Fulet sold sufficient quantities of such or similar merchandie during the period of investigation in Taiwan. We have therefore used those sales to the unrelated purchasers in Taiwan as our basis for fair value. In addition, we have preliminarily determined that AOC, Hitachi, Orion, and RCA had no sales of color television receivers in Taiwan during the period. Therefore, we have chosen sales of color television

receivers by Orion to an unrelatd third-country purchaser in Canada as our basis for fair value. For AOC, we have compared certain sales to the United States with sales to unrelated third-country purchasers in Venezuela and for others have compared them with the constructed value of such merchandise. For RCA and Hitachi we have chosen the constructed value as the basis for comparison with the U.S. price. RCA had no home market or third-country sales. Hitachi had sales to a related firm in Japan and insignificant sales to other countries.

We calculated the home market price by deducting from the gross, packed prices the following items, where appropriate: freight, discounts, rebates and insurance. We made adjustments, where appropriate, for differences in the merchandise, commissions to unrelated parties, packing costs, royalty expenses, warranty expenses, credit expenses, direct advertising and sales promotion expenses, and technical services expenses.

In addition, when comparing the exporter's sales price to the home market price, we deducted indirect selling expenses from the home market price but limited to deduction to the amount of the U.S. expenses. We based adjustments for differences in merchandise for all companies on differences in costs of material, labor and direct factory overhead.

We calculated the third country price by deducting from the packed c.i.f. or f.o.b. prices the following items, as appropriate: ocean freight, marine insurance, foreign inland freight, foreign brokerage, bank charges, and stamp tax. We made adjustments, were appropriate, for differences in the merchandise, advertising expenses, warranties, royalties, commissions, and packing costs.

We calculated the constructed value by totalling the costs of: materials, fabrication used in producing such or similar merchandise, general expenses, profit, and the cost of the packing on the U.S. shipments. Where the amount for general expenses was less than ten percent of the cost of materials and fabrication, we used ten percent. Where the amount for profit was less than eight percent of the sum of the costs of materials, fabrication and general expenses, we used eight percent.

In making adjustments to the foreign market value, we made several changes to the figures offered by the respondents. We have preliminarily disallowed an adjustment to price, claimed by AOC, for the increasing efficiency of its production line as the production line produced more units. The adjustment cannot be considered a circumstance of any sale and it does not result in a difference in physical characteristics. We also did not use this data in our consideration of U.S. price.

We haved disallowed a rebate claimed by AOC because it was not related to the sale of color television receivers but covered a reimbursement for overstocked parts.

We have not accepted AOC's claim for an offset to the third country price for the indirect selling expenses incurred on the U.S. exporter's sales price sales. Because we had no sales of most models to Venezuela during the investigation period, AOC's claim for indirect selling expenses in unjustifiably large.

We have preliminarily disallowed Sampo's claim for product engineering costs because the benefit of those costs for home market production will also benefit exported merchandise.

We have disallowed Sampo's claim for goodwill because goodwill is not a selling expense.

We have disallowed portions of Sampo's warrantly expense claim, such as salaries of servicemen, as a circumstance-of-sale adjustment because those portions are not direct servicing expenses.

We adjusted Sanyo's claim for quantity incentives, sales promotion discounts and early payment discounts, but only to the extent that the data was available. We allowed the claimed discounts for the time periods in which they were actually incurred, rather than as a weighted-average over all sales, and disallowed portions that were claimed but not yet rebated.

We did not accept Sanyo's claim for a deduction for deposits and collateral because Sanyo did not report the interest earned on the cash securities or on land and buildings as an offset to the adjustment.

We have preliminarily disallowed Fulet's claim for technical services. The claimed adjustment included expenses such as salary, depreciation of vehicles and accident insurance fees that we do not consider direct selling expenses. Because these expenses were not itemized separately, we could not disaggregate them from the total claim.

We did not accept Fulet's claim for warrantly expenses since it was not based on actual experience. We also did not allow Fulet's advertising claim. Fulet incurred the expense predominantly through a trade show held in Taiwan. Since non-Taiwanese buyers also attended the show, we have determined preliminarily that this is not an appropriate adjustment for home market sales. We further disallowed Fulet's warehousing claim because the company used estimates which it failed to justify in response to our requests. Finally, Fulet claimed a deduction for profit earned on each unit. We disallowed this claim as an inappropriate adjustment.

For Tatung, we disallowed circumstance-of-sale adjustments for design costs, market research and new product testing, and a direct expense adjustment for final costs for the servicemen, but we did include them as indirect selling expenses.

We did not accept Tatung's claim for an adjustment for costs of antenna covers and boosters on some sales since they did not influence the unit price.

The Department will address at the time of verification of the responses the major issue of whether claims made for differences in physical characteristics between the U.S. and Taiwan models should be allowed when the cost to the manufacturer is based on the price from a related supplier. We have only preliminarily allowed these claims. If we find that the manufacturers cannot substantiate that the prices are made at arms-length, we will disallow the claims at the time of our final determination. We will also require the manufacturers to prove that there are no compensating payments or rebates within the larger corporate entities that would, in effect, adjust the price of materials.

Negative Determination of Critical Circumstances

Counsel for petitioners alleged that imports of color television receivers from Taiwan present "critical circumstances" within the meaning of section 733(e)(1) of the Tariff Act. Critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

The petitioners did not allege a history of dumping of Taiwanese television receivers. We therefore considered whether the person by whom, or for whose account, the product was imported knew or should have known that the exporter was selling such television receivers at less than fair value. We believe that, where margins calculated on the basis of questionnaire responses are sufficiently

VOL
48
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large, it is reasonable for the Department to believe or suspect that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market prices. In this case, we have concluded that the preliminary margins are not sufficiently large to warrant such a belief or suspicion that importers, even those which are related parties, should have known that this product was being sold at less than fair value. For this reason, we preliminarily determine that critical circumstances do not exist with respect to color television receivers from Taiwan.

Verification

As provided for in section 776(a) of the Tariff Act, we will verify all data used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 773(d) of the Tariff Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of color television receivers from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The Customs Service shall require a cash deposit or bond equal to the estimated average amount by which the fair value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice.

The weighted-average margins are as follows:

Manufacturer/sellers/exporters	Weighted-average margin (percent)
AOC International	6.38
Fulet Corporation	31.12
Hitachi Television (Taiwan) Ltd	0.26
Orion Electric (Taiwan) Co., Ltd	0.01
RCA Taiwan Ltd	8.61
Sampo Corporation	0.64
Sanyo Electric (Taiwan) Co., Ltd	25.36
Tatung Co	6.61
Other manufacturers/sellers/exporters	3.59

ITC Notification

In accordance with section 733(f) of the Tariff Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports are materially injuring, or threatening to materially injure, a U.S. industry before the later of 120 days after the publication of this notice or 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 21, 1983, at the U.S. Department of Commerce, Room 6802, 14th & Constitution Ave., NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain a list of the issues the party wishes to discuss. In addition, each party wishing to make an affirmative presentation of issues must submit prehearing briefs in at least ten copies to the Deputy Assistant Secretary by November 16, 1983. Oral presentations will be limited to issues raised in the briefs. Any written views filed independently of the hearing should be filed in accordance with § 353.46 of the Commerce Regulations within thirty days of the date of publication of this notice, at the above address in at least 10 copies.

Dated: October 11, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-28450 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Receipt of Applications for General Permit; Japan Deep-Sea Trawlers Association

Notice is hereby given that the following applications have been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1984 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

1. Japan Deep-Sea Trawlers Association, No. 601 Daito Building, 3–6, Kandaogawacho, chiyoda-ku, Tokyo, Japan, has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 120 sea lions and 10 of each of the following: Harbor seals, fur seals and sea otters in the Bering Sea/Gulf of Alaska and up to 5 of each of the following: Walrus in the Bering Sea and harbor seals, pilot whales, harbor porpoise, Atlantic white-sided dolphin, and bottlenose dolphin in the North Atlantic.

2. Hokuten Trawlers Association, c/o National Federation of Medium Trawlers, Toranomon Chuo Building, 1–16, Toranomon, 1-chome, Minatoku, Tokyo, Japan, has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 85 sea lions, up to 5 of each of the following: Harbor seals, fur seals, sea otters, and up to 10 walrus in the Bering Sea and Aleutian Islands.

3. The North Pacific Longline-Gillnet Association, Zenkeiren Building, 2–7–2, Hirakawa-cho, Chiyoda-ku, Tokyo, Japan, has applied for a Category 5: "Other Gear" general permit to take marine mammals by harassment only.

The applications are available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: October 12, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28465 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Marineland, Inc.

Notice is hereby given that an Applicant has applied in due form for a Permit to take and import marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
a. Name: Marineland, Inc. (P67A).
b. Address: Rt. 1, Box 122, St. Augustine, Florida 32086.
2. Type of Permit: Public Display.
3. Name and Number of Animals: Short-finned pilot whales (*Globicephala macrorhynchus*), 2.

4. Type of Take: To take two (2) short-finned pilot whales in the area of the central Bahama Islands and import them for public display.

5. Location of Activity; Mid-Bahama Islands near George-Town, Exuma.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 12, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28467 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Acuaticland, S.A. (176C)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
a. Name: Acuaticland, S.A. (176C).
b. Address: Zoo Delfinario Elche, Sanchez-Ferrer Gestoria, Obispo-Tormo 7, Elche (Alicante), Spain.
2. Type of Permit: Public Display.
3. Name and Number of Animals:
Atlantic bottlenose dolphin (*Tursiops truncatus*), 4.
California sea lion (*Zalophus californianus*), 4.
4. Type of Take: To take Atlantic bottlenose dolphin from the Mississippi Sound area of the Gulf of Mexico, and to transport these, along with captive bred California sea lions, to Elche, Spain for public display.
5. Location of Activity:
6. Period of Activity: 2 years.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the goverment involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of the Ministry of Agriculture, Fish and Food have been found appropriate and sufficient to allow consideration of this permit application.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce if forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administration for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 12, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28466 Filed 10-18-83; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; South Dakota School of Mines and Technology Foundation, Research Center, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to the South Dakota School of Mines and Technology Foundation, Research Center, Inc., having a place of business at Rapid City, South Dakota, an exclusive license with right to sublicense, to manufacture, use and sell products embodied in the

inventions, "Tree Rooting Using Synthetic Auxins," U.S. Patent 4,297,125 and Patent Applications Serial Numbers 367,638 and 376,639. The inventions were jointly made by employees of the South Dakota School of Mines and the U.S. Department of Agriculture.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Dated: October 11, 1983.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, Department of Commerce, National Technical Information Service.

[FR Doc. 83–28358 Filed 10–18–83; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing New Limits on Certain Cotton Textile Products from Hong Kong

October 14, 1983.

On September 15, 1983, a notice was published in the **Federal Register** (48 FR 41481) announcing that the Government of the United States had requested consultations with the Government of Hong Kong concerning carded cotton duck in Category 319 under the terms of the Bilateral Agreement of June 23, 1982, as amended.

The purpose of this notice is to announce that consultations on this category were held on October 3, 1983 and a limit of 31 million square yards was established for 1983 under the terms of the bilateral agreement.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–28451 Filed 10–18–83; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Advisory Committee has been scheduled as follows:

Thursday & Friday, November 17–18, 1983, The Pentagon, Washington, D.C. The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in Section 552(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

October 14, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–28499 Filed 10–18–83; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 11, 1983.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will meet at Griffiss Air Force Base, New York in Buildings 240, 3, and 106 on November 8 and 9, 1983.

The purpose of the meeting will be to review on-going projects in the field of C^3 technology. The meeting will convene at 8:00 a.m. to 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–28403 Filed 10–18–83; 8:45 am]

BILLING CODE 3910–01–M

Defense Intelligence Agency

Board of Visitors, Defense Intelligence College; Committee Meeting

The Defense Intelligence College panel of the Board of Vistors of the National Defense University and the Defense Intelligence College will meet in a closed session on November 7, 8, and 9, 1983, in Building T–28, Anacostia Annex, Washington, D.C.

The mission of the Board of Visitors is to provide advice on matter related to mission, policy, faculty, students, curricula, education methods, research, and administration of the Defense Intelligence College, which fall under the purview of the Defense Intelligence Agency and the Secretary of Defense.

A meeting of the Board has been scheduled for November 7, 8, and 9, 1983, to provide written observations and recommendations on matters relating to the accomplishment of the mission assigned to the Defense Intelligence College by DoD Directive 3305.1.

In accordance with U.S.C. App I, 10(d) (1976), it has been determined that this BOV meeting concerns matters listed in 5 U.S.C. 552(c)(1)(1976), and that accordingly this meeting will be closed to the public.

October 14, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

[FR Doc. 83–28498 Filed 10–18–83; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Thermal Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Thermal Task Group of the Committee on Enhanced Oil Recovery will meet in October 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Thermal Task Group meeting follows:

The Thermal Task Group will hold its ninth meeting on Monday, October 31, 1983, starting at 8:30 a.m., Room 1070, Shell Oil Company, One Shell Plaza, 900 Louisiana Street, Houston, Texas.

The tentative agenda for the Thermal Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Thermal Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Thermal Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on Thursday, October 13, 1983.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc. 83–28461 Filed 10–18–83; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Costs and Economics Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in November 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs and Economics Task Group meeting follows:

The Costs and Economics Task Group will hold its eleventh meeting on Tuesday, November 1, 1983, starting at 9:00 a.m., in the Venice I Room, Guest Quarters—Galleria West Hotel, 5353 Westheimer, Houston, Texas.

The tentative agenda for the Costs and Economics Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Costs and Economics Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Costs and Economics Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on Thursday, October 13, 1983.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc. 83–28462 Filed 10–18–83; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Enhanced Oil Recovery will meet in November 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its twelfth meeting on Wednesday, November 2, 1983, starting at 9:30 a.m., in the Venice I and II Rooms, Guest Quarters-Galleria West Hotel, 5353 Westheimer, Houston, Texas.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group study assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–2918, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on Thursday, October 13, 1983.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc. 83–28463 Filed 10–18–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP83–527–000]

Panhandle Eastern Pipe Line Co.; Notice of Application

Take notice that on September 28, 1983, Panhandle Eastern Pipeline Company (Applicant), P.O. Box 1642,

Houston, Texas 77001, filed in Docket No. CP83-527-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service on behalf of Quinque Oil and Gas Production Company (Quinque), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that Applicant was authorized to receive gas from Quinque in Seward County, Kansas, and redeliver it to Quinque near Hayne, Kansas, for ultimate delivery to the City of Hayne, Kansas. It is explained that the source of the gas was Quinque's own production from the Copper #1 well in Seward County, Kansas. Applicant states that while its certificate application to transport gas for Quinque was pending before the Commission the Cooper #1 well was depleted. Therefore, it is asserted, service never commenced. Applicant proposes the abandonment of such service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28362 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-8-000]

Pennsylvania Power & Light Co.; Filing

October 13, 1983.

Take notice that on October 4, 1983, Pennsylvania Power & Light Company (PP&L) tendered for filing as a rate schedule an executed agreement dated as of September 30, 1983 between PP&L and New England Power Company (NEP).

PP&L states that the rate schedule provides for a maximum energy reservation charge rate of $24.70 per megawatt hour and an energy charge rate based upon the incremental cost of providing the energy.

PP&L requests an effective date of October 4, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on NEP and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28363 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7004-019]

Pennzoil Co.; Notice of Seventh Amendment to Application For Immediate Clarification or Abandonment Authorization

October 13, 1983.

Take notice that on October 3, 1983, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001, filed in Docket No. G-7004-019 an application for immediate clarification of Order dated November 24, 1980 in the above-referenced docket, or abandonment authorization for as much as as is required to allow sales of gas to eleven new applicants for residential service in West Virginia in addition to those applicants specified in Pennzoil's original application filed on October 25, 1982. In filing this Seventh Amendment to its original application, Pennzoil incorporates herein and renews each of the requests for clarification or abandonment authorization set forth in that application. Service to these applicants and existing customers would be provided from gas supplies that would otherwise be sold to Consolidated Gas Supply Corporation (Consolidated), an interstate pipeline.

Pennzoil states that immediate action is necessary to protect the health, welfare and property of the applicants and customers in West Virginia who depend on Pennzoil for their gas supply needs. Pennzoil also states that immediate action also is required because, by order dated October 21, 1982, the Public Service Commission of West Virginia directed Pennzoil "to show cause, if any it can, why it should not be found to be in violation of its duty * * * to provide adequate gas service to all applicants * * * and why it should not be required to provide service to domestic customers in West Virginia when requests are received for same."

Consolidated has indicated that it has no objection to the requested authorization.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before, October 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G-7004-006 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G-7004-019.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on the amendment to the original application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is requried, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28364 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-10-000]

Philadelphia Electric Co.; Filing

October 13, 1983.

Take notice that on October 5, 1983, Philadelphia Electric Company (Philadelphia) tendered for filing proposed changes in its FERC Electric Service Tariff No. 44 applicable for service to the Borough of Lansdale. The proposed changes would increase revenues from jurisdictional sales and service by $986,000, or 13.9%, based on the 12-month period ending December 31, 1984.

Philadelphia requests an effective date of December 4, 1983.

Copies of the filing were served upon the Borough of Lansdale and upon the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28365 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-9-000]

Philadelphia Electric Co.; Filing

October 13, 1983.

Take notice that on October 5, 1983 Philadelphia Electric Company (Philadelphia) tendered for filing proposed changes in its FERC Electric Service Tariff No. 36 and No. 2, applicable for service to Conowingo Power Company. The proposed changes would increase revenues from jurisdictional sales and service by $4,624,000, or 16.3% based on the 12-month period ending December 31, 1984.

Philadelphia requests an effective date of December 4, 1983.

Copies of the filing were served upon the public utility jurisdictional customers (other parties the public utility served, inter alia, State Public Service Commission other government agencies, etc.).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28366 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-1-000]

Public Service Company of New Mexico; Application for an Order

October 13, 1983.

Take notice that on October 5, 1983, Public Service Company of New Mexico (PNM), filed an application seeking an Order or other appropriate determination determining that no approval is necessary and dismissing for lack of jurisdiction, or, in the alternative, for approval pursuant to Section 203 of the Federal Power Act authorizing the sale to the M-S-R Public Power Agency (M-S-R) of an undivided ownership interest in the San Juan Unit 4 Main Power Transformer of the San Juan Generating Station located in San Juan County, New Mexico.

PNM is an electrical utility incorporated in the State of New Mexico, with its principal office in Albuquerque, New Mexico. M-S-R is a joint exercise of powers agency organized under the laws of the State of California, and Modesto Irrigation District. M-S-R's principal office is in Modesto, California.

The interest to be sold and conveyed by PNM is a 28.8% undivided ownership interest in the Main Power Transformer and associated equipment installed as part of the San Juan Generating Station Unit No. 4, located in San Juan County, New Mexico. The purchase price to be paid to PNM for the 28.8% interest in the Main Power Transformer as of December 31, 1983 is $879,762.95.

After the acquisition, the facilities will continue to be used to provide the same service now provided.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 385.212 and 385.207 of 18 CFR. All such petitions or protests must be filed on or before October 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are

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on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28367 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-12-000]

Public Service Company of New Mexico; Filing of Interconnection Agreement

October 13, 1983.

Take notice that Public Service Company of New Mexico (PNM) on October 5, 1983, tendered for filing as an initial rate schedule, an Interconnection Agreement, including Service Schedules A, B, and C thereto, between PNM and the M-S-R Public Power Agency (M-S-R).

The Interconnection Agreement provides for the purchase, sale, marketing, and exchange of power and energy between PNM and M-S-R commencing in 1984. Specifically, the Agreement provides for economy energy transactions, energy brokerage transactions, and power exchange transactions between the two parties.

Copies of the filing were served upon M-S-R and the New Mexico Public Service Commission.

Any person desiring to be heard or protest said Interconnection Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.212 and 385.207 of 18 CFR. All such petitions or protests should be filed on or before October 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28368 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-58-00.4]

Southern Natural Gas Co.; Notice of Motion of Southern Natural Gas Company To Make Effective Revised Tariff Sheets

October 13, 1983.

Take notice that on September 30, 1983, Southern Natural Gas Company (Southern) tendered for filing a motion, pursuant to Section 4(e) of the Natural Gas Act, § 154.67(a) of the Commission's Regulations and Rule 212 of the Commission's Rules of Practice and Procedure, to make the following revised tariff sheets to Southern's FERC Gas Tariff effective on October 1, 1983.

Sixth Revised Volume No. 1

Fifty-Ninth Revised Sheet No. 4A

Original Volume No. 2

Substitute Fourteenth Revised Sheet No. 242
Substitute Fifth Revised Sheet No. 369
Substitute Fifth Revised Sheet No. 397
Substitute Fifth Revised Sheet No. 403
Substitute Fifth Revised Sheet No. 450
Substitute Fifth Revised Sheet No. 458
Substitute Fifth Revised Sheet No. 470
Substitute Fourth Revised Sheet No. 520
Substitute Second Revised Sheet No. 537
Substitute Second Revised Sheet No. 554
Substitute Second Revised Sheet No. 582
Substitute Second Revised Sheet No. 599
Substitute First Revised Sheet No. 618
Substitute First Revised Sheet No. 635
Substitute First Revised Sheet No. 652
Substitute First Revised Sheet No. 669
Substitute First Revised Sheet No. 686
Substitute First Revised Sheet No. 703
Substitute Second Revised Sheet No. 720

First Revised Volume No. 2A

Substitute Sixth Revised Sheet No. 94

Southern states that on March 31, 1983, it filed in Docket No. RP83-001 revised tariff sheets to implement a general rate increase with a proposed effective date of May 1, 1983. By its order issued on April 29, 1983, the Commission accepted the revised tariff sheets for filing and suspended their effectiveness until October 1, 1983, and ordered Southern to file on or before September 30, 1983, revised tariff sheets to reflect (i) the eliminations of all costs associated with facilities that will not be in service as of September 30, 1983 (ii) the actual balance of advance payments in Account 166 as of September 30, 1983, and (iii) a balance for gas take-or-pay payments based on the average of thirteen monthly balance for the period ending September 30, 1983.

On September 30, 1983, Southern filed the revised tariff sheets described above. As explained more fully in Southern's transmittal letter which accompanied those revised tariff sheets, such sheets reflected the conditions specified in the Commission's order of April 29, 1983, and a reduction in Southern's main line depreciation rate from 3.30% to 3.00% pursuant to a Stipulation and Agreement in Docket No. RP82-116-000.

Southern states that Section 4(e) of the Natural Gas Act provides that if a proceeding such as this "has not been concluded and an order made at the expiration of the suspension period, on motion of the natural-gas company making the filing, the proposed change of rate, charge, classification, or service shall to into effect." The instant proceeding has not been concluded and a final order will not have been issued by the Commission on or before October 1, 1983, when the rate increase can be made effective. Accordingly, Southern filed this motion for the purpose of permitting it to collect the increased rates in Docket No. R83-58-001 commencing on that date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28369 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-119-007]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Petition To Amend

October 13, 1983.

Take notice that on September 26, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-119-007 a petition to amend the order accompanying Federal Power Commission Opinion No. 789,[1] issued on March 7, 1977, as amended, to authorize: (a) The service rendered by Tennessee under such certificate for Shell Offshore Inc. (Shell), in lieu of Shell Oil Company, (b) the establishment of a new point of receipt from Shell for the transportation of gas for Shell, (c) the deletion of certain previously authorized points of receipt from Shell, and (d) the elimination of the existing end-use restriction with respect to the transportation of gas from the previously authorized points of receipt, as well as from the new point of receipt, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (1000.1), it was transferred to the Commission.

Tennessee's petition states that Shell has succeeded to Shell Oil Company's interest in certain properties, including the properties from which gas production is transported by Tennessee under the authorization in this docket, and that the authorization issued herein should be amended to reflect such succession. Additionally, it is stated, Shell has requested Tennessee to seek authorization for a new point of receipt under the subject authorization. The gas which would be received by Tennessee at this point would be produced from South Pass Block 42, offshore Louisiana, and would be gas which is reserved by Shell from sale to Tennessee under a gas sale and purchase contract dated June 16, 1976 (Shell's FERC Rate Schedule No. 1). Tennessee further states that Shell has advised that it has sold certain properties from which production was delivered to Tennessee at certain other receipt points and that such receipt points should, therefore, be deleted from the authorization herein.

Finally, Tennessee notes that the certificate issued herein is conditioned to require, *inter alia*, that the gas transported by Tennessee for Shell Oil Company under such certificate is to be used for process and feedstock uses. However, Tennessee maintains that, in Opinion 10-B, the Commission, *inter alia*, revised its previous policy with respect to end-use restrictions imposed upon pipeline certificates for the transportation of producer reservation gas, indicating that such restrictions are no longer in the public interest. Accordingly, Tennessee requests amendment of the certificate issued in this docket to eliminate the aforementioned end-use restriction with respect to the transportation of gas from the previously authorized points of receipt, as well as from the new receipt point for which authorization is requested.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Nov. 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28370 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-499-000]

Texas Gas Transmission Corp.; Application

October 13, 1983.

Take notice that on September 7, 1983, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP83-499-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas requests authority to abandon and remove certain facilities consisting of approximately 800 feet of 4-inch line with a pig trap assembly and a 2-inch purchase meter station located in Block 23, Terrebonne Parish, Louisiana. Such facilities have a salvage value of $2,225, it is submitted. Texas Gas states that pursuant to a contract dated August 19, 1968, it has been purchasing natural gas from Exchange Oil and Gas Corporation (Exchange) from the No. 1 Well, State Lease 4847, Pass Des Illettes Field, in Terrebonne Parish, Louisiana. Exchange has informed Texas Gas that it has plugged and abandoned the No. 1 Well and is in the process of abandoning the platform on which the facilities sought to be abandoned by Texas Gas are located. Texas Gas states that the proposed abandonment would have no adverse effect on the service to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with he Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28371 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-2-000]

Wisconsin Power & Light Co.; Filing

October 13, 1983.

Take notice that on October 3, 1983, Wisconsin Power & Light (WPL) tendered for filing a revised Wholesale Power Agreement dated May 31, 1983, between the Central Wisconsin Electric Cooperative and WPL. WPL states that this supercedes the existing Wholesale Power Agreement between the parties. The purpose of the new agreement is to provide for voltage upgrades at various delivery points between the parties.

WPL requests an effective date of May 31, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on the Central Wisconsin Electric

VOL
48
ISS
2
0
3
OC
19
1983
UMI

Cooperative and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to the protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such petitions or protests should be filed on or before October 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28372 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-3-000]

Wisconsin Power & Light Co.; Filing

October 13, 1983.

Take notice that on October 3, 1983, Wisconsin Power & Light (WPL) tendered for filing the third Wholesale Power Contract Amendment dated July 28, 1983 between the Adams-Marquette Electric Cooperative and WPL. WPL states that this amendment is for the purpose of continuing service to the Cooperative and the Kingston delivery point.

WPL requests an effective date of July 28, 1983, and therfore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on the Adams-Marquette Electric Cooperative and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28372 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-424-000]

Airtricity; Application For Commission Certification of Qualifying Status of a Small Power Production Facility

October 14, 1983

On September 12, 1983, Airtricity, (Applicant) of 151 Kalmus Drive, Suite M-1, Costa Mesa, California 92626, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. On October 4, 1983, supplementary information was filed to complete the application.

The small power production facility will be located in Kern County, California. The facility will be a wind farm, which will consist of 150 to 200 wind turbines. The electric power production capacity of the facility will be 9 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28389 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-17-000]

Arizona Public Service Company; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Arizona Public Service Company (Arizona) tendered for filing as an initial rate schedule an Interruptible Transmission Service Agreement between Arizona and Public Service Company of New Mexico (PNM) dated August 4, 1983.

Arizona requests that the Agreement become effective 60 days from the date of filing.

Copies of this fining have been served upon the Arizona Corporation Commission and Public Service Company of New Mexico.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28360 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-4-000]

Bangor Hydro-Electric Company; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on October 3, 1983, Bangor Hydro-Electric Company (Bangor) tendered for filing a Transmission Contract (Contract) made as of July 1, 1983 between Bangor and Central Maine Power Company (CMP) for the sale of transmission services by Bangor to CMP.

Bangor states that the Agreement provides for transmission of up to 150,000 kilowatts of CMP's power entitlement from the New Brunswick Electric Power Commission ("New Brunswick"). The Contract provides that CMP pay a monthly transmission charge for each kilowatt of capacity received by Bangor for transmission to CMP at its New England Power Pool Low Voltage Pool Transmission Facility rates adjusted to account for the New Brunswick purchase.

Bangor requests an effective date of November 1, 1983, and therefore

requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to CMP.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28374 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-517-000]

Colorado Interstate Gas Company; Application

October 13, 1983.

Take notice that on September 22, 1983, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP83-517-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Cheyenne Light, Fuel and Power Company (Cheyenne Light), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that it has entered into a gas transportation agreement dated November 21, 1978, as amended, with Montana-Dakota Utilities Co. (MDU), Cheyenne Light, Fuel Resources Development Company (Fuelco), and Energetics, Inc. (Energetics). CIG further states that it is involved to the extent of providing a transportation service by receiving for and delivering gas to Cheyenne Light.

CIG contends that certain gas would be produced by Energetics from acreage in Williams and McKenzie Counties, North Dakota, and Fuelco has purchase rights to this gas which is to be processed through the Tioga Plant, operated by Aminoil USA, Inc., located in Williams County, North Dakota. CIG further asserts that Fuelco has assigned to Cheyenne Light, a local distribution company, which is one of CIG's customers and an affiliate of Fuelco, its purchase rights to the residue gas on an annual basis during the months of December through March. MDU would purchase the residue gas during the months of April through November of each Year.

The residue gas, to average no more than 1,500 Mcf per day, to be transported would be delivered to MDU at the tailgate of the Tioga Plant for the account of Cheyenne Light. MDU, in turn, would transport and deliver the thermally equivalent volumes to CIG at existing interconnections between CIG and MDU. The subject gas, less fuel usage and lost or unaccounted-for volumes, would be delivered to Cheyenne Light by CIG at an existing delivery point in Weld County, Colorado.

Cheyenne Light would reimburse CIG for redelivery volumes delivered at a rate to reflect CIG's transmission cost of service, including a reasonable return on investment, but exclusive of the cost of service attributable to its gathering and storage system and exclusive of the cost of gas attributable to gas used in the operation and maintenance of CIG's transmission system. CIG indicates the current transportion rate is 36.08¢ per Mcf as approved in Docket No. RP82-54.

Any person desiring to be heard or to protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28375 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-324-002]

Columbia Gas Transmission Corporation; Petition To Amend

October 13, 1983.

Take notice that on September 21, 1983, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP83-324-002 a petition to amend the order issued of August 19, 1983, in Docket No. CP83-324-000, issuing a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act, which authorized transportation of natural gas for Allied Corporation, Fibers & Plastic Company (Allied), by authorizing the transportation of natural gas from additional points of receipt in Upshur County, West Virginia, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is currently authorized, pursuant to a transportation agreement dated April 21, 1983, to transport up to 15,000 dt equivalent of natural gas per day for the account of Allied from points of receipt from Allegheny Land & Mineral Company, the seller, located in Randolph County, West Virginia, to an existing point of interconnection with Commonwealth Gas Pipeline Corporation (Commonwealth) in Greene County, Virginia, which thereupon delivers the gas to Allied at Allied's plant site in Hopewell, Virginia. Petitioner proposes to transport gas for Allied from additional points of receipt in Upshur County, West Virginia, pursuant to Petitioner's Amendment to Gas Transportation Agreement dated September 9, 1983, inasmuch as the gas will be produced from wells in both Randolph and Upshur Counties, West Virginia.

VOL
48
ISS
2
0
3
OC
19
1983
UMI

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Nov. 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28376 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-768-000]

Connecticut Light and Power Company; Filing October 13, 1983

The filing Company submits the following:

Take notice that on September 28, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated June 13, 1983 between (1) CL&P and Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and (2) Peabody Municipal Light Plant (Peabody).

CL&P states that the Transmission Agreement provides for transmission services to Peabody for the wheeling of Peabody's purchase from the Massachusetts Municipal Wholesale Electric Company (MMWEC) of an entitlement in pumped storage capacity obtained by MMWEC from the Connecticut Municipal Electric Energy Cooperative during the period commencing June 13, 1983 and terminating August 1, 1983.

CL&P further states that the transmission charge rate is a weekly cost-of-service rate equal to one-fifty-second of the annual average cost of transmission service on the electric transmission system of the NU Companies and is determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The weekly transmission charge is determined by the product of: (i) The weekly transmission charge rate ($/kW-week); and (ii) the number of kilowatts that Peabody is entitled to receive during each such week. The weekly transmission charge is reduced by up to 50% to give due recognition for related transmission payments made by Peabody to the New England Power Company.

CL&P requests an effective date of June 13, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on WMECO and Peabody.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28377 Filed 10-18-83; 8:45 am]

BILLING CODE 67117-01-M

[Docket No. ER84-11-000]

Consolidated Edison Company of New York, Inc.; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on October 5, 1983, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing proposed changes in its rate schedule for transmission and distribution service to the Power Authority of the State of New York (PASNY), Con Edison Electric Rate Schedule FERC No. 42. The proposed Supplement No. 11 would increase revenues from jurisdictional service to PASNY by $2,755,600, or 1.79% annually, subject to refund, and would include a 60-day surcharge for the recovery of approximately $0.3 million.

Con Edison states that the proposed increase represents PASNY's proportionate share of rate increases for increased property taxes and labor expense, granted to Con Edison by the New York Public Service Commission (NYPSC).

Con Edison requests an effective date of September 23, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon PASNY and NYPSC.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28378 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-439-000]

Detroit Diesel Allison; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 14, 1983.

On September 23, 1983, Detroit Diesel Allison, (Applicant) of 13400 West Outer Drive, Detroit, Michigan 48239, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at 36880 Encorse Road, Romulus, Michigan. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 11,795 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28382 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-7-000]

Gulf Power Company; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that Gulf Power Company (Gulf Power) on October 5, 1983, tendered for filing a supplemental contract executed between it and the Southwestern Power Administration (SEPA) acting on behalf of the Department of Energy. The supplemental contract is filed with the Federal Energy Regulatory Commission by Gulf Power because one of its provisons would increase the transmission payment to be made by SEPA for transmission of capacity and energy to certain preference customers designated by SEPA.

Gulf Power requests an effective date of October 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28379 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-13-000]

Iowa Power and Light Company; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Iowa Power and Light Company (Iowa Power) tendered for filing a Rate Schedule (Schedule) between Iowa Power and Harlan Municipal Utilities (Harlan), dated April 14, 1983.

Iowa Power states that the Schedule provides for the sale and transmission of participating power and energy from Iowa Power to Harlan between May 1, 1983 and the commercial operation date of Louisa Generating Station No. 1.

Iowa Power requests an effective date of May 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon each affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commssion, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28382 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-412-001]

Kansas Gas and Electric Company; Revised Refund Report

October 14, 1983.

Take notice that on October 7, 1983, Kansas Gas and Electric Company ("KG&E") submitted for filing a Revised Refund Report.

KG&E states that due to an inadvertent error, it excluded refunds due because of a 1¢ per kW reduction in the charge for service provided under Service Schedule E, Transmission Service for Outside Firm and Participation Power Purchases.

KG&E further states that a refund amount of $2164.39 includes interest of $74.39 which was calculated from the date payment was received through October 6, 1983 as ordered by the Commission in Order No. 47.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 25, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28383 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-9-000]

Kinzua Cogeneration Limited Partnership; Application For Commission Certification of Qualifying Status of a Cogeneration Facility

October 14, 1983.

On October 3, 1983, Kinzua Cogeneration Limited Partnership, (Applicant) of 703 Skinner Building, Seattle, Washington 98101, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Kinzua Corporation in Heppner, Oregon. The primary energy source for the facility will be biomass in the form of wood waste. The electric power production capacity of the facility will be 10 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

VOL
48
ISS
2
0
3
OC
19
1983
UMI

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28385 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-47-001; PGA84-1]

MIGC, Inc.; Filing

October 13, 1983.

Take notice that on September 30, 1983, MIGC, Inc. (MIGC) tendered for filing Substitute Twenty-seventh Revised Sheet No. 32 and Alternative Substitute Twenty-seventh Revised Sheet No. 32 .

On September 15, 1983, MIGC submitted its semi-annual PGA filing in Docket No. TA84-1-47-000 including the Twenty-seventh Revised Sheet No. 32, superseding Twenty-sixth Revised Sheet No. 32, Fourth Revised Sheet No. 32-A and Original Sheet No. 32-B, to MIGC's FERC Gas Tariff Original Volume No. 1. In its PGA filing, MIGC submitted alternative schedules reflecting projected sales of 11,009,453 MMBtu (Case 1) and, alternatively, projected sales of 4,909,000 MMBtu (Case 2). As explained in its PGA filing, the submission of alternate cases was necessitated by Colorado Interstate Gas Company (CIG) ceasing all purchases of gas from MIGC.

MIGC states that the tariff sheets submitted with its PGA filing may not have been in proper form because the proposed rates for Case 1 and Case 2 were included on a single revised tariff sheet. Accordingly, MIGC is submitting Substitute Twenty-seventh Revised Sheet No. 32 and Alternative Substitute Twenty-seventh Revised Sheet No. 32 to replace the Twenty-seventh Revised Sheet No. 32 submitted with the PGA filing.

MIGC states that the tariff sheets are being filed more than 30 days in advance of the proposed effective date of November 1, 1983, and that these tariff sheets do not reflect any substantive change from the PGA filing made on September 15, 1983. Nevertheless, MIGC requests that the Commission permit waiver of any regulations necessary for the acceptance of these alternative tariff sheets for filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests must be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28383 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-18-000]

Montana Power Company; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Montana Power Company (Montana) tendered for filing a revised Index of Purchasers, identified as Fifth Revised Sheets Nos. 9 and 10 under FERC Electric Tariff, 2nd Revised Volume No. 1, which has been revised to show the addition of Plains Electric G&T Cooperative, Inc., and summaries of sales made under the Company's FERC Electric Tariff, 2nd Revised Volume No. 1, during January, February, March, April, May and June, 1983, along with cost justifications for the rate charged. Also tendered for filing were summaries of sales under this tariff for the months of August, 1982, and October, 1982, which were inadvertently omitted from an earlier filing.

Montana requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's Notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file an motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28386 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1674-000]

Charles E. Monty; Application

October 14, 1983.

The filing individual submit the following:

Take notice that on October 3, 1983, Charles E. Monty filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President—Central Maine Power Company
Director—Central Maine Power Company
Presdient—Msine Yankee Atomic Power Company
Director—Maine Yankee Atomic Power Company
President—Maine Electric Power Company, Inc.
Director—Maine Electric Power Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28391 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-533-000]

Mountain Fuel Supply Company; Application

October 13, 1983.

Take notice that on September 30, 1983, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP83-533-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of one existing 6-inch tap and related facilities on Applicant's transmission Main Line No. 29 to effect the sale of natural gas by its Distribution Division to Woods Petroleum Corporation (Woods), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that effective July 31, 1980, the Oil and Gas Conservation Commission of the State of Wyoming imposed a shut-in order on the Powell Pressure Maintenance Unit (Powell PM Unit) in Converse County, Wyoming, due to declining reservoir pressures in the producing formations. Pursuant to a June 1, 1983, Pressure Maintenance Sale Agreement between Applicant and Woods, operator of the Powell PM Unit, Applicant has agreed to sell up to 9,000 Mcf of natural gas per day to Woods. Applicant and Woods, operator of the Powell PM Unit, Applicant has agred to sell up to 9,000 Mcf of natural gas per day to Woods. Applicant explains that its sale to Woods will be made under the authority of the Wyoming Public Service Commission at an initial rate of $3.31 per million Btu and that, to the extent possible, the gas will be provided from Applicant's general system supply. Woods is said to have agreed to pay the actual cost incurred by Applicant in acquiring any supplemental volume of gas necessary to support the sale to Woods.

Applicant states that the sale will permit the implementation of a secondary recovery program by Woods which is expected to result in the recovery of 10 million barrels of crude oil which would otherwise be irretrievably lost.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commssion or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28385 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-526-000]

National Fuel Gas Supply Corporation; Application

October 13, 1983.

Take notice that on September 28, 1983, National Fuel Gas Supply Corporation (Applicant), 308 Seneca Street, Oil City, Pennsylvania 16301, filed in Docket No. CP83-526-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Public Service Electric & Gas Company (PSE&G) for its system supply, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to sell up to 50,000 Mcf of natural gas per day to PSE&G from November 1, 1983, through October 31, 1984. Applicant proposes to make such sales on an interruptible basis pursuant to its Rate Schedule I-1 under a service agreement for interruptible service attached to a precedent agreement dated September 26, 1983. Applicant states that the Rate Schedule I-1 rate is its 100% load factor rate and is currently $4.003 per Mcf.

Applicant states that the proposed sale will be made on terms consistent with each criterion in the Commission's *Statement of Policy* on off-system sales, issued April 25, 1983, in Docket No. PL82-3-000, except that the price will be a Applicant's 100% load factor rate instead of the average system load factor rate prescribed in the *Statement of Policy*. Applicant submits that its 100% load factor rate is appropriate because (1) the proposed sale made at the I-1 rate will not be made at a price lower than is available to on-system customers; (2) the proposed sale will reduce Applicant's existing average cost of gas; and (3) the Commission has determined in its Order Granting Rehearing issued September 16, 1983, in Docket No. CP83-217-001 that the I-1 rate was appropriate in a similar circumstance.

Applicant states further that the gas sold will be delivered to PSE&G through the facilities of Transcontinental Gas Pipe Line Corporation (Transco). Transco will receive the gas at Applicant's Wharton interconnection in Potter County, Pennsylvania, and transport the gas on an interruptible basis pursuant to self-implementing authorization under § 284.101, *et seq.*, of the Commission's Regulations for redelivery at Transco's existing delivery points to PSE&G.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authoriuty contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28394 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CF83-446-000]

National Zinc Company; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 14, 1983.

On September 28, 1983, National Zinc Company, (Applicant) of Post Office Box 579, Bartlesville, Oklahoma 74005, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in Bartlesville, Oklahoma. The primary energy source for the facility will be natural gas. The initial stage of construction will consist of a combustion turbine generator and a waste heat recovery boiler to produce process steam. The second stage of construction, which may be delayed beyond the initial stage, will consist of adding a waste heat recovery boiler with a steam turbine. The useful thermal output from the facility will be 30,500 pounds per hours of process steam. The net electric power production capacity of the facility will be 19.7 megawatts in the initial stage of construction and 23 megawatts in the completed initial and second stages of contruction.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not service to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28395 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-766-000]

New England Power Pool; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on September 26, 1983, the New England Power Pool (NEPOOL) tendered for filing an Agreement Amending NEPOOL Agreement (Amendment), dated as of June 15, 1983, which modifies the provisions of the NEPOOL Agreement, dated as of September 1, 1971.

NEPOOL states that the Amendment changes Section 4.2 of the NEPOOL Agreement to make clear that a transfer by a participant of an entitlement interest in a generating unit to an affiliate will not be recognized, for pool purposes, if such transferee has a zero adjusted load or has a system generating capability which bears no reasonable relationship to its adjusted load. The Amendment also provides that substantially similar arrangements shall not be recognized for pool purposes and defines the terms "transferee" and "affiliate".

NEPOOL requests an effective date of December 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28396 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-5-000]

New York State Electric & Gas Corporation; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that New York State Electric & Gas Corporation, (NYSEG) on October 3, 1983, tendered for filing Supplement No. 1 to its Agreement with Consolidated Edision Company of New York, Inc. (Con Edison), designated FPC Schedule No. 34. The proposed changes would increase revenues by $534,071 based on the twelve month period ending April 30, 1981.

Pursuant to the original agreement, NYSEG, whose Mohansic Substation was connected to a 138 kV feeder of Con Edison, would operate, maintain, repair and replace specific substation and distribution facilities required by Con Edison to transfer energy from Con Edison's 138 kV Pleasant Valley-Millford line to 345 kV requiring NYSEG to construct a 345-115 kV substation, reenergize its 138 kV transmission system at 115 kV and establish new 115 kV transmission connections to Mohansic Substation from a new 115 kV switching station at Amawalk. Because of this new construction, NYSEG and Con Edison negotiated a new agreement with associated rate changes.

NYSEG requests an effective date of May 1, 1980, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Consolidated Edison company of New York and on the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28397 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-98-001]

Northwest Central Pipeline Corp.; Filing

October 13, 1983.

Take notice that on October 3, 1983, Northwest Central Pipeline Corporation (Northwest Central) tendered for filing First Revised Sheet No. 2B to its FERC Gas Tariff, Original Volume No. 2, to be made effective as of July 15, 1983.

On June 13, 1983, Northwest Central filed with the Commission in Docket No. RP83-98-000 Original Sheet Nos. 2A and 2B to Original Volume No. 2 of its FERC Gas Tariff to establish a rate for transportation service through Northwest Central's transmission system. By Order issued July 13, 1983, the Commission accepted these sheets for filing and suspended their effectiveness to July 15, 1983, subject to refund. The Commission's Order consolidated this proceeding with the pending proceedings in Docket Nos. RP83-75, RP83-42 and RP82-114 for hearing and decision on the justness and reasonableness of the rates.

On July 20, 1983, Northwest Central filed an Application in Docket No. CP83-431-000 pursuant to Section 7(c) of the Natural Gas Act for a Certificate of Public Convenience and Necessity authorizing the construction and operation of certain facilities and the transportation of natural gas for Farmland Industries, Inc. (Farmland). By letter order issued pursuant to § 375.307 on August 18, 1983, a Temporary Certificate was granted authorizing the installation of facilities and the transportation of natural gas described in the Application. The August 18, 1983 letter order made the proposed transportation rates subject to adjustment to reflect the final determination in Docket No. RP83-98-000. On August 22, 1983, the Temporary Certificate was accepted and service was initiated August 30, 1983. Appropriate notices have previously been filed with the Commission and by letter dated September 9, 1983, Northwest Central filed Rate Schedule X-22 to its FERC Gas Tariff Original Volume No. 2 pursuant to the Temporary Certificate.

Northwest Central tenders the instant filing to reflect the transportation on behalf of Farmland pursuant to the rate schedule in this docket. Northwest Central moves and respectfully requests the Commission to grant any waivers necessary to place the rates reflected on Original Sheet No. 2A and First Revised Sheet No. 2B into effect on July 15, 1983, subject to refund, as provided in the Commission's order issued July 13, 1983, in this docket and the Temporary Certificate issued in Docket No. CP83-431-000 on August 18, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28388 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-451-000]

Or-Sol Inc.—Inyo County, California; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 14, 1983.

On September 30, 1983, Or-Sol Inc., (Applicant) of c/o Ormat Engineering Inc., 1900 Washington Boulevard, Seattle, Washington 98101, filed with the Federal Energy Regulatory Commission (Commission)an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be a solar pond power plant located at the Owens Lake in Inyo County, California. The primary energy source for the facility will be solar insolation, with three to seven percent of the energy input being fuel oil or natural gas. The net electric power production capacity of the facility will be 20 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28397 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI83-447-000]

H.L. Richey; Application for Abandonment of Service

October 13, 1983.

Take notice that the Applicant listed herein has filed an application pursuant to Section 7 of the Natural Gas Act for authorization to abandon service as described herein, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before Nov. 3, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commssion will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on the application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that authorization for the proposed abandonment is required by the public convenience and

VOL 48 ISS 203 OCT 19 1983 UMI

necessity. Where a petition for leave to interevene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
C83-447-000, B, September 28, 1983.	H. L. Richey, P.O. Box 676, 109 University Place, Tyler, Texas 75710.	Union Texas Products Corporation, Coleman County Regular Field, Coleman County, Texas.	(1)	

[1] Present purchaser is unable to accept gas into its pipeline due to exceptionally high Nitrogen content of gas.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-28380 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-14-000]

Indianapolis Power & Light Company; Filing

October 13, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Indianapolis Power & Light Company (IPL) tendered for filing Modification No. 2 as of October 1, 1983 to the Interconnection Agreement with Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier) dated as of December 1, 1981 designated as Rate Schedule FERC No. 18.

IPL states that Modification No. 2 establishes a temporary delivery point known as the Honey Creek Tap Point and produces a rate for transmission use under an additional Service Schedule G. It is the intent that IPL's temporary service to Hoosier at the Honey Creek Tap Point be replaced as soon as practicable but within the 5-year term of Modification No. 2.

IPL requests an effective date of November 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to Hoosier and to the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28381 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-519-000]

United Gas Pipe Line Company; Request Under Blanket Authorization

October 14, 1983.

Take notice that on September 23, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-519-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to abandon in place approximately 1.28 miles of its Cameron 4-inch sales lateral which extends across the Calcasieu River in Cameron Parish, Louisiana, under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that the lateral to be abandoned consists of a dual pipeline crossing of the Calcasieu River and that the valves on either side of the crossing have been closed since November 1982 due to damages caused by heavy shipping traffic on the river. It is further stated that one customer, Zapata-Haynie Corporation, previously served through this lateral is presently being served through an exchange agreement between United and Dow Intrastate. Consequently, it is asserted, this abandonment will have no adverse impact on United's existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28386 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-19-000]

Wisconsin Electric Power Company; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 7, 1983, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing executed Service Agreements for Total Requirements—Conjunctive Billing Service and Transmission Service between the Company and Wisconsin Public Power, Inc. System (WPPI). The service agreements set forth service to WPPI. Conjunctive Billing agreement has an effective date of September 1, 1983, and the Transmission agreement has an effective date of October 1, 1983.

Wisconsin Electric requests waiver of the Commission's sixty-day notice requirement in order to allow the effective dates of September 1 and October 1, 1983.

Copies of the filing have been served on WPPI and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28399 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-606-000]

Central Illinois Light Co., Refund Report

October 5, 1983.

Take notice that on September 20, 1983, Central Illinois Light Company ("CILCO") submitted for filing its Refund Report pursuant to the Commission's Letter Order dated July 20, 1983, in Docket Nos. ER80-592-000, ER80-606-000, ER81-39-000, ER83-205-000, ER82-630-000 and ER83-362-000.

CILCO states that it has made appropriate refunds, with interest, of all revenues collected in excess of the approved settlement rate levels.

Any persons desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 24, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28478 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-628-000]

Duquesne Light Co., Refund Report

October 5, 1983.

Take notice that on September 12, 1983, Duquesne Light Company submitted for filing a Refund Report in compliance with a Commission Order dated May 27, 1983.

Attachment No. 1 of the Refund Report contains revenue calculations showing monthly billing, determinants and revenues under prior and present settlement rates.

Attachment No. 2 contains the calculation of refund amounts of West Penn Power Company for the billing period of March, 1982 through February, 1983, as well as the monthly revenue refunds, the monthly interest computation and a summary of such information for the total refund period.

Duquesne further states that no refunds are due to Ohio Power Company because no resale transactions were conducted with Ohio Power Company under the rate schedules filed with the Commission during the refund period in Docket No. ER80-628-000.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 24, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28479 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-6-000]

Pacific Gas & Electric Co.; Filing

October 6, 1983.

Take notice that on October 3, 1983, Pacific Gas & Electric Company ("PG&E") submitted for filing an initial rate schedule covering those services to be rendered by PG&E under the contract entitled "Interconnection Agreement Between Pacific Gas and Electric Company and the City of Santa Clara" (the "Interconnection Agreement").

PG&E states that the Interconnection Agreement which was executed on September 30, 1983, provides Santa Clara with firm and interruptible transmission service, partial requirements power, emergency power, maintenance power, short-term firm power, Geysers curtailment power and reserves. The term of the Interconnection Agreement is 30 years from its effective date, unless terminated earlier or not less than three years advance written notice of termination by either PG&E or Santa Clara. The parties are filing a joint motion requesting prior Commission approval of termination, in accordance with Article 9.4 of the Interconnection Agreement.

PG&E further states that copies of this filing have been served upon Santa Clara and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests must be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28483 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP74-35-003]

Pacific Offshore Pipeline Co.; Filing

October 5, 1983.

Take notice that on September 15, 1983, Pacific Offshore Pipeline Company (POPCO) tendered for filing its initial rate in its FERC Gas Tariff, Volume No. 1, for service from its Hondo-Las Flores Canyon offshore gas project, as certificated in this docket.

The reason for submittal of the initial rate filing is that gas is expected to commence flowing from the production platform on or after November 15, 1983, and the project facilities will commence operations upon the flow of gas. Under Commission Order dated March 17, 1981, POPCO is required to file its FERC Gas Tariff prior to 60 days of the commencement of gas sales, reflecting an initial rate based upon an up-to-date three-year estimate of the cost-of-service. This tariff is submitted in compliance therewith.

Copies of the filing were served upon the company's sole purchaser under this FERC Gas Tariff, Southern California Gas Company.

Any person desiring to be heard or to protest said filing should should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 24, 1983. Protests

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will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28481 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-24-000]

Pacific Power and Light Co., Application

October 5, 1983.

Take notice that on September 20, 1983, Pacific Power and Light Company ("PP&L") submitted for filing its "Application Seeking Authorization To Sell To The Emerald People's Utility District, Pleasant Hill, Oregon."

PP&L states that the Application is for an order of the Commission approving and authorizing the sale, by PP&L, to the Emerald People's Utility District ("The District") of a portion of PP&L's facilities which are subject to FERC jurisdiction. The facilities consist of certain electric transmission facilities, including transmission substations, poles, lines, transformers and all easements necessary for the operation thereof.

PP&L further states that consideration for electric transmission and distribution facilities to be sold is in the sum of $26,152,000.

An application with respect to this sell by Applicant to The District has been filed with the Public Utility Commissioner of Oregon.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28480 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-40-000]

Raton Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 5, 1983.

Take notice that on September 19, 1983, Raton Natural Gas Pipeline Company (Raton) tendered for filing a request to withdraw the following filings, all made on August 31, 1983:

Third Revised Sheet No. 20a
Fourth Revised Sheet No. 20b
Second Revised Sheet No. 20c

Raton also submits for refiling the following:

Third Revised Sheet No. 20c superseding Second Revised Sheet No. 20c

A copy of this filing has been mailed to Raton's only customer, Midwest Energy Corporation and the Public Service Commission of New Mexico.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28482 Filed 10-18-83; 8:45 am]

BILLING CODE 6717-01-M

Transwestern Pipeline Co. et al.; Order Instituting Section 5 Investigation and Denying Petitions for Consolidation in Part and Stay of Proceedings

Issued: September 30, 1983.

In the matter of Transwestern Pipeline Co., Docket No. RP83-106-000*; El Paso Natural Gas Co., Docket No. RP83-100-000*; Transwestern Pipeline Co., Docket No. RP81-130-000* *et al.*; Pacific Gas Transmission Co., Docket No. RP83-113-000; Pacific Interstate Transmission Co., Docket No. RP83-135-000; and Pacific Offshore Production Co., Docket No. RP83-136-000.

On July 1, 1983, Transwestern Pipeline Company (Transwestern) filed a petition with the Commission for consolidation of the proceedings in *Transwestern Pipeline Company*, Docket No. RP81-130-000, *et al.*, with the filing made by El Paso Natural Gas Company in Docket No. RP83-100-000. The former proceedings pertain to consideration of the justness and reasonableness of Transwestern's minimum bill provisions with Pacific Lighting Gas Supply Company (PLGS), whereas the latter proceeding relates to a change in El Paso's minimum bills to Southern California Gas Company (SoCal) and Pacific Gas and Electric Company (PG&E) filed on June 17, 1983 with the Commission. Transwestern also petitions, in connection with the consolidated proceedings, for the institution of a proceeding under section 5 of the Natural Gas Act, 15 U.S.C. 717d, to inquire into the terms and conditions (including minimum bill provisions) of service rendered by all affiliates of PLGS relating to the California natural gas market.

Transwestern notes that PLGS receives gas from three major interstate suppliers, other than Transwestern: Pacific Interstate Transmission Company (PITCO) purchases gas produced in Canada and delivers it to its affiliate, PLGS, in California; Pacific Offshore Production Company (POPCO) has been certificated to sell to PLGS, also its affiliate, certain gas produced offshore California; and, finally, El Paso sells gas to PLGS.

In addition, Transwestern requests a stay of proceedings pending in *Transwestern*, Docket Nos. RP81-130, *et al.*, to permit consolidation of the aforementioned minimum bill inquiries. Alternatively, as the evidentiary hearing in Docket No. RP81-130, *et al.* commenced on June 28, 1983, Transwestern requests that the record be held open, pending conclusion of the hearings in conjunction with El Paso's minimum bill filing and the section 5 proceedings against PLGS's affiliate suppliers.

Transwestern maintains that the consolidation and investigation it seeks are essential for the just resolution of the currently pending proceedings concerning its minimum bill provisions. Transwestern contends that it could experience irreparable injury if consolidation of the above-mentioned proceedings is not granted. In this regard, Transwestern submits that it should be protected under the *Ashbacker* doctrine [1] in that a "decision in one proceeding outside the context of and without full consideration on the record of the other could unduly prejudice the other party." Transwestern further contends that failure to consolidate would result in unnecessary duplication of effort by all involved in the various proceedings.

On July 18, 1983, El Paso filed an answer to Transwestern's petition not only supporting Transwestern's request for consolidation of proceedings but also requesting institution of a consolidated section 5 investigation to include the minimum bill obligations of PG&E, particularly those with its affiliate, Pacific Gas Transmission Company (PGT), since El Paso's filing in Docket No. RP83-100-000 affects not only El Paso's filing in Docket No. RP83-100-000 affects not only El Paso's minimum bill to PLGS's affiliate, SoCal, but also that to PG&E. El Paso contends that if Transwestern's petitions were granted, the proceeding would involve an incomplete investigation of the minimum bill/minimum take obligations of the principal suppliers of natural gas to the California market. Consequently, El Paso requests that the Commission grant Transwestern's petition and also institute a consolidated investigation under section 5(a) of the Natural Gas Act concerning the propriety of the minimum take obligations which PG&E has with its other principal suppliers. However, on September 8, 1983, El Paso amended its answer to delete the request to consolidate, and to delay resolution of the *Transwestern* proceeding in Docket No. RP81-130, *et al.*

The public notice of the Transwestern filing was issued on July 13, 1983 providing for petitions to intervene or protests to be filed on or before July 21, 1983. Responses to that notice were filed by those parties listed in Appendix A. Public notice of El Paso's answer and petition was issued on July 27, 1983 providing for petitions to intervene or protests to be filed on or before August 11, 1983. Responses to that notice were filed by those parties listed in Appendix B. Pursuant to Rule 214, 18 CFR 384.214, any timely filed motions to intervene are granted unless opposed by pleading within 15 days of the date such motion is filed.

In both cases, Southern California Edison Company's motions were filed out of time requesting that intervention be granted. Attorney General John K. Van de Kamp and Phillips Petroleum Company also filed motions to file interventions out of time in response to the El Paso notice. As there will be no disruption of the proceedings and as there will be no prejudice or additional burdens placed upon the existing parties, intervention is granted.

In addition to petitioning for intervention, certain parties listed in Appendix C protested the filings of Transwestern or El Paso, and those parties listed in Appendix D supported the filing of Transwestern or El Paso.

Consolidation

The Commission recently issued an order in *El Paso*, Docket No. RP83-100 on September 21, 1983, summarily disposing of that proceeding. Accordingly, the petition of Transwestern for consolidation of its case in Docket Nos. RP81-130, *et al.* with that proceeding is moot.

Section 5 Investigation

The protestors submit that a pipeline does not have standing under the Natural Gas Act to initiate a section 5 inquiry. Furthermore, they state that the purpose of the Natural Gas Act is to protect gas consumers, not pipeline companies. Also, the protestors assert that a pipeline should not be able to enhance its competitive position vis-a-vis other pipelines through a section 5 proceeding.

The Commission agrees with the position of the protestors that the Natural Gas Act does not give Transwestern or El Paso the right to file a complaint initiating a section 5 investigation as neither is a "state, municipality, State commission or gas distributing company." [2] Accordingly, the petitions are interpreted as requests for the Commission to institute a section 5 investigation on its own motion, which is solely within the Commission's discretion.[3]

PITCO, POPCO, SoCal and PLGS all contend that the Transwestern petition is untimely, would be duplicative and wasteful since the Commission fully reviewed their supplier arrangements in granting certificates to them. Purchases of Canadian gas by PITCO were certificated by the Commission in *Northwest Alaskan Pipeline Co.*, in Docket No. CP78-123.[4] The Commission granted a certificate to POPCO in *Pacific Offshore Pipeline Company* in Docket No. CP74-35.[5]

PGT and PG&E submit that granting El Paso's request would only hinder and perhaps prevent real and meaningful solutions to the problems of the northern California gas market. They state that there is no relationship whatsoever between either of them and Transwestern. First, they state that PGT supplies gas only to northern and central California from Canadian purchases whereas Transwestern only supplies gas to southern California. They see no need for them to become involved in a dispute between interstate pipeline suppliers to the southern California market. Second, they state that any change in the minimum purchase provision in PGT's tariff would seriously disrupt contractual negotiations with Canadian producers and ongoing bilateral discussions between the United States and Canadian government which can lead to greater flexibility in Canadian supply arrangements. Third, they argue that duplication and possible conflict would occur with recently announced gas import proceedings before the Economic Regulatory Administration (ERA).

The Commission is unpersuaded by the arguments of the protestors. We find there to be a need to inquire into the minimum purchase/minimum take provisions which PITCO, POPCO, and PGT have with their natural gas purchasers. We believe a Section 5 proceeding is necessary to ascertain whether these minimum bill/minimum take provisions are appropriate in light of today's natural gas market. Further, the Commission finds that a formal proceeding is necessary to get accurate information upon which to make such a determination. As to the issue of possible conflict with proceedings at the ERA, the Commission finds that this issue can and should be considered in the development of the evidentiary record in this case and in the Commission's final decision in this proceeding. Accordingly, we shall institute an investigation under Section 5 of the NGA to determine if the above mentioned provisions are unjust, unreasonable, unduly discriminatory or preferential, and if so found, what remedies might be appropriate. But we are convinced that the *Transwestern* proceedings in Docket Nos. RP81-130, *et al.* should not be delayed. The Transwestern proceedings have been going on for approximately two years. The hearing in that proceeding closed on July 29, 1983. Extensive discovery has been conducted, prepared testimony has been filed and received into the record and cross-examination of that testimony has been conducted. The record is those proceedings is nearing completion. Consolidation of those proceedings with the above mentioned inquiry would require that there be a long delay of the

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*Not consolidated.

[1] Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1946).

[2] 15 U.S.C. 717d(a).

[3] General Motors Corp. v. F.P.C., 613 F. 2d 939 (D.C. Cir. 1979).

[4] 10 FERC ¶61,032 (January 11, 1980) and 11 FERC ¶61,279 (June 13, 1980).

[5] 14 FERC ¶61,239A (March 17, 1981); 15 FERC ¶61,235; and 18 FERC ¶61,070 (January 25, 1982).

resolution of the issues in the former as time would have to be granted for discovery and hearing procedures to take place in the latter. The proceedings in Docket No. RP81–130, *et al.*, would virtually come to a halt.

Transwestern argues that failure to consolidate will result in unnecessary duplication in the development of the required records of the proceedings. The Commission believes that the opposite result would occur. To halt the proceedings in Docket Nos. RP81–130, *et al.*, in the last steps of hearing and to hold it is abeyance until the other is heard will create far more duplication and delay.

Finally, the public interest favors the denial of consolidation as well as the request for a stay. Given the advanced stage of the proceedings in Docket No. RP81–130, the failure of Transwestern to demostrate irreparable harm, and the possibility of harm due to a halt of those proceedings, we do not believe that the public interest would be served in consolidating the proceedings in Docket No. RP81–130, *et al.*, with that of a section 5(a) inquiry or staying the former until the record in developed in the latter.

For the above reasons, Transwestern's alternative request that the record of the proceedings in Docket No. RP81–130, *et al.*, be held open for consideration with the section 5(a) case must also be denied.

The Commission orders:

(A) Docket Nos. RP83–113, RP83–135 and RP83–136 are consolidated for purposes of hearing and decision.

(B) Pursuant to the Natural Gas Act, particularly Section 5 thereof, a hearing in Docket Nos. RP83–113, RP83–135 and RP83–136 is established to determine if the minimum purchase/minimum take provisions which PITCO, POPCO, and PGT have with their natural gas purchasers are unjust, unreasonable, unduly discriminatory or preferential.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 375.304), shall convene a prehearing conference to be held within 45 days after the date of this order in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426 to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever or dismiss), as provided for in the Rules of Practice and Procedure.

(D) The request for consolidation of the proceedings in Docket No. RP81–130 with that of Docket No. RP83–100 by Transwestern Pipeline Company is denied.

(E) The request for a stay of the proceedings in Docket No. RP81–130, *et al., by Transwestern Pipeline Company is denied.*

(F) The request that the record in the proceedings of Docket No. RP81–130, *et al.*, be held open pending conclusion of the Section 5 proceeding is denied.

(G) Docket No. RP83–106 is hereby terminated.

By the Commission. Commissioner Sousa concurred in part and dissented in part.

Kenneth F. Plumb,

Secretary.

Appendix A

Southwest Gas Corporation
Pacific Gas Transmission Company
Pacific Gas and Electric Company
Northwest Central Pipeline Corporation
Public Utilities Commission of the State of California
Southern California Gas Company
Pacific Lighting Gas Supply Company
Southern Union Gas Company
Gas Company of New Mexico
El Paso Natural Gas Company
Arizona Public Service Company
San Diego Gas & Electric Company
Southern Union Gas Company
Southern California Edison Company
Gas Service Company
Governor George Deukmejian
Pacific Interstate Transmission Company
Pacific Offshore Pipeline Company

Appendix B

Gas Company of New Mexico
Southern Union Gas Company
Public Utilities Commission of the State of California
Pacific Gas Transmission Company
Samson Resources Company
Southern California Gas Company
Pacific Lighting Gas Supply Company
Arizona Public Service Company
Attorney General John K. Van de Kamp
Independent Petroleum Association of New Mexico
Hassell Energy Company
Ward Petroleum Corporation
Oklahoma Independent Petroleum Association
Railroad Commission of Texas
Phillips Petroleum Company
Raulo Petroleum Corporation
Oklahoma Corporation Commission
Southern California Edison Company
Southwest Gas Corporation
Pacific Interstate Transmission Company
Pacific Offshore Pipeline Company

Appendix C

Southern California Gas Company
Pacific Lighting Gas Supply Company
Gas Service Company
Governor George Deukmejian
Pacific Interstate Transmission Company
Pacific Offshore Pipeline Company
Public Utilities Commission of the State of California
Pacific Gas Transmission Company
Attorney General John K. Van de Kamp
Pacific Offshore Pipeline Company

Appendix D

Southern Union Gas Company
Gas Company of New Mexico
El Paso Natural Gas Company
Arizona Public Service Company
Samson Resources Company
Independent Petroleum Association of New Mexico
Hassell Energy Company
Ward Petroleum Corporation
Oklahoma Independent petroleum Association
Railroad Commission of Texas

[FR Doc. 83–28448 Filed 10–18–83; 8:45 am]
BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30000/10E; PH–FRI 2453–1]

Intent To Cancel Pesticide Products Containing Lindane; Denial of Applications for Registration of Pesticide Products Containing Lindane; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to cancel; notice of denial of applications for registration; notice of determination; notice of availability of position document.

SUMMARY: Lindane-containing products are registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* On February 17, 1977, EPA initiated an RPAR process to consider whether the registrations for lindane products should be cancelled or modified. This notice concludes that RPAR process and announces the Administrator's intent to cancel the registrations of lindane for two uses, to continue the registration of all other uses subject to certain label requirements and use practice prohibitions, and to deny applications for registration of lindane products not in accordance with the terms of this Notice.

DATE: Requests by a registrant or applicant for registration for a hearing must be received on or before November 18, 1983 or within 30 days from receipt by mail of this Notice, whichever occurs later. Requests for a hearing by any other adversely affected party must be received on or before November 18, 1983.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail Jeff Kempter, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Office location and telephone number: Room 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–7451).

Copies of the Decision Document are available upon request.

The administrative record containing public comments and publicly released Agency documents is available for public inspection from 8:00 am to 4:00 pm, Monday through Friday, except legal holidays in: Room 711E, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA sections 3(a) and 12(a)(1). A pesticide registration is a license allowing a pesticide product to be sold and distributed for a specified use or uses in accordance with label instructions and precautions and other terms and conditions of registration. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment." FIFRA section 3(c)(5), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide." FIFRA section 2(bb). Thus, to support an application for initial registration and to maintain an existing registration, the benefits of each of its uses must exceed the risks of that use when the product is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide product satisfies the standard for registration is on the proponents of initial or continued registration.

Under FIFRA section 6, the Administrator of the Environmental Protection Agency (EPA, Agency) may cancel the registration of a pesticide product or modify the terms and conditions of its registration whenever it is determined that the pesticide product causes unreasonable adverse effects on the enviroment. The Agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide products (or uses thereof) which may not satisfy the statutory standard for registration, and to provide an informal procedure through which to gather and evaluate information about the risks and benefits of these products and uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11.

A rebuttable presumption arises if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces an RPAR by issuing a notice of determination in the Federal Register and by issuing a Position Document (PD 1), detailing the Agency's position and concerns. Registrants and other interested persons are invited to review the data upon which the presumption is based and to sumbit data and information to rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment. In addition to submitting evidence to rebut the risk presumption, respondents may submit evidence concerning the economic, social and environmental benefits of the use of the pesticide.

The RPAR process is concluded with a notice of determination in which the Agency states and explains its decision as to whether the presumption of risk has been rebutted. If all presumptions of risk are successfully rebutted, the RPAR is concluded and no regulatory action is commenced. If the Agency determines that any presumption of risk is not rebutted, the notice of determination contains an evaluation of the information available to the Agency concerning the social, economic, and environmental costs and benefits of continued use of the pesticide for each use pattern. In determining whether each use of such a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risk and the impacts of such modifications on the benfits of the use. The Agency's determination is typically developed through a two-step process; the Position Document 2/3 (PD 2/3) contains the Agency's preliminary determinations and solicits comments and further information. The PD 2/3 is submitted to the Secretary of Agriculture (USDA) and to the FIFRA Scientific Advisory Panel (SAP) for the statutorily required reviews of a proposed notice of intent to cancel registration of a pesticide. FIFRA sections 6(b) and 25(d).

The Position Document 4 (PD 4) presents the final determination of the Agency. The final notice of determination may include a notice of intent to cancel the registrations of currently registered pesticide products and to deny applications for the registration of new products. It may also set out conditions which, if fulfilled by the registrant, would be adequate to bring the registration into compliance with the statutory requirements and thus avoid cancellation or denial of registration. The final notice may also require that the registration of the pesticide be reclassified from general to restricted use pursuant to FIFRA section 3(d)(2). In the event of a notice of intent to cancel, deny or reclassify the registration or application for registration of a pesticide product, any person adversely affected by the action may request an administrative hearing to challenge the action pursuant to FIFRA sections 8 (b) and (d).

B. Factual Background

On February 17, 1977, the Environmental Protection Agency issued in the Federal Register (42 FR 9616) a Notice of Rebuttable Presumption Against Registration (RPAR) and Continued Registration of Pesticide Products Containing Lindane. 42 FR 9816. The Agency took this action because risk criteria had been met or exceeded in three areas: (1) Acute toxicity to aquatic organisms [40 CFR 162.11(a)(3)(i)(B)(3)], (2) oncogenic effects in test animals [40 CFR 162.11(a)(3)(ii)(A)] and (3) chronic and/or delayed toxicity causing reproductive or fetotoxic effects in test animals [40 CFR 162.11(a)(3)(ii)(B)]. In addition to these criteria, the RPAR Notice listed four other possible adverse effects of lindane for which insufficient evidence existed to initiate a rebuttable presumption. The Agency requested registrants and other interested parties to submit data on the following effects: (1) Mutagenicity, (2) blood dyscrasias, (3) acute hazards to humans and domestic animals, and (4) population reduction in non-target avian species. Information was solicited also on the issue of the possible isomerization of lindane (gamma—BHC) to the alpha and beta isomers of BHC which have been shown to be oncogenic in rodents published in the Federal Register of July 21, 1978 (43 FR 31432).

As a result of the 1977 RPAR Notice, the Agency received numerous comments from interested parties regarding the risks and benefits which

result from the pesticidal uses of lindane. The Agency reviewed all comments and additional data received in response to the RPAR Notice, and issued a notice which was published in the Federal Register of July 3, 1980, (45 FR 45382) a "Preliminary Notice of Determination" for lindane. The detailed rationale for the Agency's proposed determination was contained in the lindane Position Document 2/3 (PD 2/3). (The human pharmaceutical use of lindane for treatment of lice and scabies is not affected by this RPAR determination since it has been under the jurisdiction of the U.S Food and Drug Administration since 1979. 44 FR 63749.) At that time, the Agency determined that the benefits from the use of lindane were outweighted by the risks of oncogenicity and reproductive and fetotoxic effects. In addition, the Agency was also concerned (although RPAR criteria were not exceeded) about acute central nervous system effects and about childhood sensitivity to the toxic effects of lindane. Existing data did not support presumptions that lindane caused acute hazards to aquatic wildlife, that lindane was mutagenic, that lindane was linked to blood dyscrasia or that lindane was isomerized to more toxic compounds by microbial or eukaryotic organisms of any kind.

As required by FIFRA, the Agency submitted its findings to the Scientific Advisory Panel (SAP), to the U.S. Department of Agriculture (USDA) and to interested parties for review and comment. The SAP held public meetings concerning the lindane proposed determination on July 24, August 13, and August 14, 1980 and heard presentations by the Agency, registrants and other interested members of the public. Both the SAP and USDA submitted comments on the lindane PD 2/3 to EPA. Their comments are presented with the Agency's responses in Unit IV of this Notice. After receiving numerous comments from these respective groups, the Agency reconsidered the extent to which risks were offset by social, economic, or environmental benefits and whether regulatory action might reduce risks without affecting the benefits of lindane's use.

A draft PD 4 dated February 23, 1983 was sent to several governmental, industry and environmental groups as well as members of the former SAP for comments because of the substantial changes being proposed from the regulatory position taken in the PD 2/3. (Congressional authorization of the Scientific Advisory Panel terminated as of September 30, 1981. See FIFRA section 25(d)). Comments received on that draft PD 4 were carefully considered by the Agency in the development of the Agency's final regulatory decision.

C. Content of This Notice

The Agency is initiating the following regulatory actions in this Notice.

(1) Cancel indoor use of lindane smoke fumigation devices.

(2) Cancel use of lindane dog dips for control of all pests except mites.

(3) Classify for restricted use the lindane uses for commercial ornamentals, avocados, pecans, livestock, Christmas trees, forestry, structural treatments, and dog shampoos and dusts, as well as require specified label amendments and protective clothing for applicators for these uses.

(4) Require specific label modifications, as appropriate, for all other lindane uses in order to reduce risks.

(5) Require mutagenicity data to be submitted.

The detailed rationale for the Agency's determinations is set forth in Position Document 4 (PD 4).

Unit II of this Notice provides a summary of the risk and benefits of the pesticidal uses of lindane. Unit III presents the Agency's regulatory decision. Unit IV sets out the comments on the PD 2/3 submitted to the Agency by the Secretary of Agriculture and members of the former Scientific Advisory Panel and the Agency's responses to those comments. Unit V of this Notice sets out the procedures by which a registrant or other person adversely affected by this Notice may request a hearing to challenge the actions proposed in this Notice. Unit V also sets out the procedures which registrants should follow in seeking amendments of their registration to conform to the requirements of this Notice in order to continue their registrations for those uses of lindane retained under this Notice.

II. Summary of Risks and Benefits of the Pesticidal Use of Lindane

The Agency, in reaching the decisions set out in this Notice, has considered information on the health risks, evironmental effects and the economic and social benefits associated with the pesticidal uses of linedane. Information was submitted by the United States Department of Agriculture, and the Scientific Advisory Panel, the Centre International d'Etudes de lindane, the California Department of Food and Agriculture, the Food and Drug Administration, the Natural Resources Defense Council, the National Audubon Society, and numerous other interested parties. The Agency's detailed assessments of risks and benefits and its regulatory conclusions are set forth in the lindane Position Document 4. That document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice and as its analysis of the impacts of the proposed regulatory actions on human and evironmental health as well as on the agricultural and industrial economy. For the reasons summarized below, and described in detail in PD 4, the determinations of the Agency on lindane are as follows.

A. Determinations of Risk

The Agency has made the following conclusions regarding the potential of lindane to cause oncogenicity, fetotoxicity and adverse reproductive effects, acute hazards to man and domestic animals, acute toxicity to wildlife, mutagenicity, and regarding the susceptibility of children to lindane and the association of lindane with blood dyscrasias.

1. *Oncogenicity.* After an exhaustive study of available data, the Agency believes that lindane should be considered to have the potential for inducing carcinogenic effects in humans. There is positive evidence that lindane causes liver tumors in mice based on two lifetime feeding studies. Two subchronic studies provide supportive evidence on oncogenicity consistent with that found in the lifetime studies. In addition, a metabolite of lindane, 2,4,6-trichlorophenol, has been shown to cause carcinogenic effects in rats and mice. There is no evidence that lindane is carcinogenic to rats.

2. *Fetotoxicity and reproductive effects.* The Agency's concern that lindane might cause adverse reproductive effects, as distinguished from fetal effects, has been successfully rebutted. Adverse fetal effects do occur, but only at or above doses that also cause general toxic effects in the mother.

The presumption that lindane might cause reproductive or fetotoxic effects was originally based on three studies. In the preliminary determination (PD 2/3), EPA concluded that, due to a number of serious flaws in certain feeding studies, data were inadequate to assess the reproductive effects of lindane. One study was still considered to provide unrebutted evidence of fetotoxicity. However, a number of technical inadequacies in the study precluded its use to calculate a maternal or fetotoxic no observable effect level (NOEL). That study was used in a qualitative sense by the Agency when it set the maternal NOEL at 5 mg/kg/day.

Subsequent to the presentation of the PD 2/3 to the SAP and after thorough reevaluation of the eight studies submitted in rebuttal to the Agency's PD 1 and PD 2/3 positions, the Agency has concluded that lindane does not cause reproductive effects, but that it does cause adverse fetal effects in test animals. The fetal effects occur only at or above doses that also cause general toxic effects in the mother. From a regulatory standpoint, the Agency has concluded that by protecting mothers from acute toxic effects, it will also simultaneously be protecting fetuses from possible adverse effects.

3. *Acute and subacute hazards to humans and domestic animals.* The Agency based its original concern regarding the acute effects of lindane on numerous studies in humans and animals which show that lindane causes symptoms of acute and subacute toxicity typical of central nervous system (CNS) effects. In PD 2/3, the Agency determined a NOEL of 2.5 mg/kg/day based on two studies. Subsequent to PD 2/3, commenters listed a number of serious deficiencies which they believed precluded the use of one of the studies (Hayes) to establish a NOEL. The Agency has reevaluated the studies and concluded that they can not be used to establish a NOEL. Although the Hayes study is not used to calculate a NOEL, it does support the Agency's original conclusion in PD 2/3 that humans and animals with similar exposure to lindane are likely to exhibit similar signs of toxicity.

The Agency has determined that the no effect level for general toxicity, found in the reproductive studies, is 5 mg/kg/day. Clinical evidence from the pharmaceutical uses of lindane suggests that exposures even higher than 5 mg/kg/day do not usually result in acute neurotoxic symptoms.

4. *Sensitivity of children to lindane.* Some commenters disputed the Agency's concern in PD 2/3 that children are more sensitive to the toxic effects of lindane than adults. Since there were serious differences in the interpretations of data, EPA reconsidered the issue of childhood sensitivity.

Children have a higher ratio of body surface area to body weight than do adults. Equivalent doses (per surface area) of lindane, applied to adults and children, produce a greater mg/kg/body weight dose to children. In addition, children lack mature hepatic conjugating enzymes for detoxification and excretion. Finally, a child's skin has greater permeability than an adult's. Thus, theoretically, toxicity could be enhanced. The pertinent studies all have serious deficiencies which preclude their use to make definitive statements regarding a unique childhood sensitivity to lindane. The Agency also reviewed the clinical reports, many of which involved children. Due to a vast array of diagnostic and observational variations and conditions, these reports did not allow for quantification of risk to children. The available data do, however, support the Agency's concern that children are more susceptible to the toxic effects of pesticides in general.

5. *Blood dyscrasias.* In the preliminary determination (PD 2/3) the Agency indicated that there were insufficient data to establish a cause and effect relationship between exposure to lindane and blood dyscrasias. The Agency also indicated that two epidemiological studies, which were in progress at that time, were intended to provide information regarding that relationship. Since that time the Agency has received a final report from one study in Iowa and the first draft of a second study being conducted in Hawaii. The results of the first study and preliminary data from the second study show that there is no statistically significant association between chronic exposure to lindane and the incidence of blood dyscrasias (including aplastic anemia).

6. *Acute toxicity to wildlife.* The Agency's original presumption of acute toxicity to aquatic wildlife was withdrawn in the preliminary determination. This was due to the fact that there were no lindane products registered for direct aquatic use. Since lindane is highly toxic to aquatic wildlife, the Agency is chiefly concerned about avoiding misuse or application practices that could result in drift or runoff. Therefore, even though the original presumption was withdrawn, the Agency will require label prohibitions against application practices which could result in drift or runoff. Such practices might include improper disposal of excess dip solution or aerial applications.

7. *Possible reductions in populations of non-target avian species.* There are no new data available to the Agency to support a presumption of population reduction of non-target avian species. The Agency maintains its position that there is currently no reason to believe lindane is causing reductions in populations of non-target avian species.

8. *Possible isomerization.* Since other isomers of BHC (alpha and beta) are carcinogenic, the Agency was concerned that lindane might isomerize to a more harmful form. EPA has concluded that the isomerization of lindane has not been established.

9. *General toxicity.* In the Notice of RPAR (PD 1) and the preliminary determination (PD 2/3), the general toxic effects of lindane were determined not to meet the RPAR criteria. Therefore, and Agency did not perform a complete review of lindane's general toxic effects. A three-month, subchronic oral feeding study in rats recently submitted to the Agency indicates a NOEL of 0.3 mg/kg/day with kidney damage at the next highest dose. In order to evaluate this study properly, it will be necessary for the Agency to review thoroughly the chronic and sub-chronic data base, which was not done as part of this RPAR. The Agency has decided not to delay the implementation of the regulatory measures contained in this Notice. However, the Agency will give high priority to the development of a Registration Standard for lindane which will include a complete review of lindane's general toxic effects.

10. *Mutagenicity.* In the Notice of RPAR (PD 1) and the preliminary determinations (PD 2/3), lindane was determined not to meet the RPAR criterion for mutagenicity. However, available mutagenicity studies on lindane were reviewed because of their bearing on the carcinogenicity issue. The review showed limited evidence for lindane's mutagenicity. Because of the lack of certain tests, a conclusive evaluation of lindane's mutagenicity was not possible. Consequently, further tests will be required to provide a more complete data base.

B. Exposure Analysis

The exposure estimates used in the PD 4, in many instances, have been changed from those used in the PD 2/3. These changes were based on three general factors: (1) Better data, including better surrogate data and new exposure information submitted after publication of the preliminary determination; (2) use of commonly accepted use practices rather than worst-case use practices because better data were available to replace theoretical assumptions used in the PD 2/3; and (3) acknowledgment of those uses in which protective clothing is routinely worn. This latter factor helped the Agency determine that protective clothing requirements will not require changes in use practices and assured the Agency that imposing protective clothing requirements for other uses will be effective in reducing risks.

1. *Applicator exposure.* Applicator exposure estimates (excluding dietary)

were calculated for the major uses of lindane: avocados, pecans, commerical ornamentals, forestry, homeowner ornamentals, foliar an stump/slash applications to Christmas trees, structural applications, dip applications (livestock, lumber, pet dips and shampoos), enclosed area sprays (moth sprays, uninhabited buildings and storage bins), dust applications (seed treatments and pet dusts), cucurbits, pineapples, and several household products. The details of these calculations are contained in Appendix III of PD 4.

2. *Dietary exposure.* The Agency's PD 2/3 estimate of dietary exposure was taken from the Food and Drug Administration's market (Total Diet Composites) survey for the years 1972 to 1975. Comments were received which indicate that more recent data should be used. The Agency agrees that the more recent data should be used and, therefore, has estimated dietary exposure from FDA data for the years 1976–1980. In addition, a second estimate has been made using the entire FDA data base of 1964–1980. For the period 1976–1980 the dietary exposure estimate is 0.003 ug/kg bw/day. The extimate for the entire data base (1964–1980) is 0.016 ug/kg/day. Details of the dietary assessment are contained in PD 4 (Table 5).

C. Determinations of Benefits

The Agency's determination of benefits was completed in June, 1978 and was expressed in terms of 1975–1976 dollar values. Although the benefits analysis was not updated in the PD 4 (except for a few cases), the Agency has concluded that the economic estimates are understated. The nominal dollar measure of impacts is larger due to inflation and to the conservative methods of assessment in PD 2/3.

The Agency received 141 comments in response to the PD 2/3. The vast majority addressed the high benefits of using lindane and the lack of alternatives for these uses.

1. *High Benefit Uses*

High benefit uses of lindane are defined by the Agency as those uses for which cancellation would result in significant impacts and for which there are no alternatives. High benefit uses are summarized as follows:

a. *Woody ornamentals, including Christmas trees.* The Agency estimates that cancellation of the use of lindane on woody ornamentals would have a $20.6 million economic impact due to borer damage. Lindane is the only pesticide registered to control all borers in all woody ornamentals. For Christmas trees and increased cost of $0.20–$1.70 per acre would result form the substitution of the alternative, osydimetomethyl, for lindane. There are no alternatives for use against certain beetles.

b. *Forestry.* Small, privately owned, southern forest areas would be the hardest hit economically by a cancellation of lindane for forest use since forest mangaers rely heavily on chemical control and cannot gernerally afford labor-intensive cultural management practices. There are no alternatives for control of various bark beetles.

c. *Seed treatment.* Major regional impacts for spring-planted small grains at the user level from wireworm infestation would result from cancellation. If significant production losses were to occur, there could be major small grain market level impacts. For lentils and dry peas, there are no alteratives to lindane seed treatment. The benefits of lindane seed treatment on small grains, lentils, and dry peas cannot be accurately quantified due to a lack of data. The Agency's position is that the estimated benefit for corn seed treatment is $690,000.

d. *Structures.* Lindane contains efective properties for the control of power post beetles. The alternatives are significantly more expensive and inconvenient.

e. *Avocados.* Lindane is used on up to 90 percent of the Florida avocado crop on an annual basis to control mirids. There are no registered alternatives for control of this pest. The unavailability of lindane was estimated to result in producer losses of $8.7 million due to downgrading and fruit loss. The impacts of cancellation would be moderate in most growing regions, but severe in Florida.

f. *Historic preservation.* There are no alternatives for the control of powder post beetles.

g. *Hardwood logs and lumber.* The Agency calculated the approximate no-alternative impact of the cancellation of lindane to be $247 million in 1980 dollars. Figures are not available on the potential impact of the recent registration of endosulfan as a control for hardwood lumber destroying beetles. Endosulfan will cost approximately $0.15 more per 1000 board feet on average, resulting in an average total U.S. cost impact of approximately $500,000 annually. There is a question of supply availability for endosulfan.

h. *Dog dips.* Lindane use in dog dips for treatment of mites is a high benefit use for which is no alternative. All other uses of lindane dog dips are low benefit uses.

2. *Moderate Benefit Uses*

Moderate benefit uses are those uses for which either alternatives are not available, but the impact of cancellation is minor, or alternatives are less effective or more expensive. Moderate benefit uses of lindane are as follows:

a. *Foral and foliage ornamentals.* There are no alternatives for certain uses, but cancellation would not cause severe impacts.

b. *Livestock dips.* There are several efficacious alternatives to lindane for control of livestock pests, with the exception of mites The economic impact of cancellation was estimated to be $1,803,400 annually, small relative to livestock industry revenues.

c. *Pineapples.* Lindane is used to treat about 9,700 acres or 72 percent of the total planted per year with pineapples in Hawaii. It is used in conjunction with soil fumigants to control symphylids. Total reliance on soil fumigants would result in an annual crop loss of 0.8 percent (5,150 tons) valued at $.515 million. Total economic impacts over the four-year production cycle in Hawaii were estimated at $1.018 million. For Puerto Rico, about 1,300 acres are planted annually and about 2,600 pounds of lindane are used annually. A total annual reduction in returns would amount to approximately $.375 million if lindane is unavailable for pineapple use in Puerto Rico.

3. *Low Benefit Uses*

Low benefit uses are those for which alternatives exist or cancellation of lindane would result in only minor impacts. Low benefit uses of lindane are:

a. *Cucurbits.* The impact of lindane cancellation for cucurbit growers was estimated to be $176,000 annually from increased costs due to adopting available alternative chemicals. No yield loss is expected.

b. *Pecans.* Lindane is used on pecans to control pecan phylloxera. The use of alternative pesticides was expected to result in grower level impacts of up to $1.5 million annually due to a combination of control costs and crop losses.

c. *Household products (including indoor smoke fumigation devices).* Effective, competitively priced alternatives to lindane products are available.

d. *Dog dips.* For treatment of pests other than mites, dog dips are a low benefit use since numerous alternatives are available in the same price range.

III. Initiation of Regulatory Action

A. Cancellation Actions

Based upon the determinations summarized above and discussed in detail in Position Documents 1, 2, 3, and 4, the Agency has determined that the risks resulting from the indoor use of smoke fumigation devices and from use of dog dips to control pests other than mites are greater than the social, economic, and environmental benefits from such uses. Therefore, the Agency is cancelling these uses, effective at the end of the 30 day period described in the statute.

Cancellation of the indoor smoke fumigation devices is based on the facts that the estimated lifetime cancer risk is about 10^{-4} for two applications per year, that the products are available to the general public, that there is no way of effectively limiting the number of applications or providing for suitable aeration after application, that there are numerous alternatives for the same spectrum of pests, and that there will not be a detectable economic impact to the user if these formulations are cancelled.

The Agency will limit the use of dog dips only to control mites and will cancel dog dips to control any other pests. This action is based on a determination that the benefits for uses other than treatment of mites were low because of the availability of alternatives and that risks were high when weighed against the benefits. The cancer risk is $4.2 \times 10^{-10^{-6}}$. Because of the potentially large cohort at risk, the Agency has determined that habitual treatment for pests other than mites would result in unacceptable cancer risks to the general public.

B. Actions Modifying Terms and Conditions of Registration

The Agency also has determined that the risks of all other registered uses of lindane are greater than the social, economic, and evironmental benefits of such uses, unless the terms and conditions of registration are modified. Briefly, these modifications involve (depending on the use) restriction of use to certified applicators, additional label precautions and use of protective clothing and equipment. The following use-by-use summary includes, for those uses which are not being cancelled, the modifications in terms and conditions that are necessary to maintain registrations or that must be met to obtain new registrations. Registrations will be cancelled and applications for registration will be denied unless registrants or applicants modify their labels in accordance with the terms and conditions set forth in this Notice.

1. *Commercial Ornamentals, Avocados, Pecans, Livestock, Forestry, Christmas Trees, Structural Treatment, Dog Shampoos, and Dog Dusts*

The Agency is requiring that all lindane products registered for the following uses be classified for restricted use: commercial ornamentals, avocados, pecans, livestock, forestry, Christmas trees, structural treatments, dog shampoos, and dog dusts. The labels must contain the following language:

Restricted Use Pesticide

For application only by or under the direct supervision of a certified applicator.

For all the above uses of lindane subject to the restricted use classification (except dog shampoos as noted below) the Agency is requiring that the labels be modified to contain the following language:

Applicators must wear the following protective clothing during the application process: a light-weight protective suit or coveralls; water-resistant hat; unlined, waterproof gloves; and unlined, lightweight boots. Mixers and loaders must also wear goggles or a face shield, waterproof gloves and a waterproof apron.

a. *Additional requirements for dog dust use.* In addition to the above requirements, labels for lindane products registered for dog dust use must contain the following label warning:

This product should be applied in a well-ventilated area.

b. *Additional requirements for structural treatment.* In addition to the above requirements, labels for lindane products registered for structural treatment use must contain the following label language:

Applicators working in enclosed areas, such as crawl spaces, must wear a respirator approved by OSHA (29 CFR 1910.134).

c. *Protective clothing requirements for dog shampoos.* Applicators of lindane dog shampoos must wear the following protective clothing during the application process: waterproof, elbow-length gloves; a water-proof apron; and unlined, waterproof boots.

2. *Homeowner Ornamentals*

For the use of lindane for homeowner ornamentals, the Agency is requiring that the labels be modified to contain the following language:

Applicators must wear the following protective clothing during the application process: long-sleeved shirt, long pants, waterproof gloves, full foot covering, and a head covering.

3. *Hardwood Logs and Lumber*

For the use of lindane for treatment of hardwood logs and lumber, the Agency is requiring that the labels be modified to contain the following language:

Applicators must wear the following protective clothing during the application process: lightweight protective suit or coveralls; unlined, waterproof gloves; and unlined, lightweight boots.

4. *Dog Dips*

For the use of lindane for dog dips, the Agency is requiring that the labels be modified to contain the following language:

Use of this product is permitted *only* for treatment of mites. The use of this product for treatment of other pests is prohibited. Applicators must wear the following protective clothing during the treatment process: elbow-length, waterproof gloves; a waterproof apron; and unlined, waterproof boots. Improper dilution of this product could cause serious injury to your pet. Children should not be allowed to handle or apply this product.

5. *Moth Sprays*

For the use of lindane for moth sprays, the Agency is requiring that the labels be modified to contain the following language:

Applicators must wear MSHA/OSHA-approved cartridge respirators when applying this product.

6. *Seed Treatment*

For the use of lindane for seed treatment applications, the Agency is requiring that the labels be modified to contain the following language:

Applicators who apply this product manually or without the use of a closed-system treatment procedure must wear the following protective clothing during the application process: long-sleeved shirt; long pants; gloves; and a disposable, paper dust mask which covers at least one-third of the face.

The labels must also carry the warning: This product should be applied in a well-ventilated area.

The Agency is not imposing a protective clothing requirement for automated or closed-system treatment procedures.

7. *Other Household Uses (Flea Collars, Shelf Paper and Household Sprays*

For the use of lindane in other household products (flea collars, shelf paper and household sprays), the Agency is requiring that the labels be modified to contain the following language:

VOL 48 ISS 203 OCT 19 1983 UMI

VOL 48 ISS 203 OCT 19 1983 UMI

Do not allow children to handle or apply this product.

Children and pets should not be allowed in treated areas until sprayed surfaces are dry.

8. *Label Modifications Applicable to All Lindane Products Subject to This Notice*

In addition to the label modifications specified above, the Agency is requiring that the labels for all lindane products be modified to meet current standards as specified in 40 CFR 162.10. Labels must describe proper handling and disposal, symptoms of poisoning, practical treatment in the event of poisoning, and other warning statements appropriate for the product's toxicity category.

Labels for applicable uses must contain the statement:

Aerial application of lindane is prohibited.

Finally, any lindane products registered for residential use (dog dips, household products) that contain more than 6.5 percent active ingredient must comply with EPA's child-resistant packaging regulations set forth in 40 CFR 162.16. See also **Federal Register** of March 31, 1981 (46 FR 15104).

9. *Applications for Registrations for Direct Application to Aquatic Environments*

All applications for registrations for direct application to aquatic environments will be denied.

10. *Disposal of Dips*

The following shall apply to all dip uses, except those intended for household use:

Used dip solutions must be disposed of in accordance with the Resource Conservation and Recovery Act (RCRA). If the applicator generates more than 1000 kg of used dip solution per month or more than 1000 kg used dip solution in combination with other hazardous waste, the material must be treated as a hazardous waste subject to subpart C of RCRA. Any user who wishes to treat, store or dispose of hazardous waste must obtain a permit to serve as a bazardous waste facility pursuant to RCRA.

C. Testing Requirements

The Agency has determined that there is an outstanding question as to whether lindane is a mutagen and that further mutagenicity testing is required. An informal agreement regarding mutagenicity testing has been reached between the Agency and the Centre International d'Etudes du Lindane (CIEL). The Agency will issue a notice pursuant to FIFRA section 3(c)(2)(B) to all registrants of lindane indicating that additional mutagenicity data are required. The Agency anticipates that the voluntary agreement with CIEL will satisfy the provisions of section 3(c)(2)(B) regarding joint data development. The tests which are being required include: (1) *in vitro* gene mutation testing inmammalian cells, (2) *in vivo* oral and parenteral assay for sister chromatid exchange, and (3) *in vitro* test in mammalian cells under anaerobic conditions. The requirement for these data will be independent of the Agency's RPAR determination as set forth in this Notice to modify the terms of registration.

IV. Comments of Scientific Advisory Panel and Secretary of Agriculture

A. comments of the scientific advisory panel

Pursuant to section 25(d) of FIFRA, notices of intent issued under section 6(b) are to be submitted to an advisory panel "for comment as to the impact [of the proposed action] on health and the environment."

The Agency transmitted the Position Document 2/3 to the Scientific Advisory Panel (SAP) in June, 1980, for review. On October 6, 1980, SAP responded to the Agency. The SAP's comments are reproduced below in their entirety.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of Preliminary Notice of Determinotion Concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Lindone

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing lindane under the provisions of section 6(b)(1) of FIFRA as amended. The review was completed in open meetings held in Arlington, Virginia, during the period July 24, 1980, and August 13–14, 1980. Maximum public participation was encouraged for the review. Public notices of the meetings were published in the **Federal Register** on July 3, 1980, and July 25, 1980. In addition, telephone calls and special mailings were sent to the general public who had previously expressed an interest in activities of the Panel. Written and oral statements were received from the technical staff of the Environmental Protection Agency, and from representatives of the Centre International d'Etudes de Lindane, the National Pest Control Association, the National Association of Wheat Growers, the Paper Products, Inc., North Dakota Crops Council, Oregon Wheat Growers League, Washington Wheat Commission, Rachel Carson Council, Inc., Idaho Wheat Commission, Athena Products Corporation, University of Idaho, and the North Dakota State Wheat Commission.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the Panel unanimously submits the following report:

Lindane, the gamma-isomer of hexachlorocy-clohexane, appears to be the least hazardous of the widely used organochlorine insecticides. Available data suggest than lindane is at worst a weak animal carcinogen, may have a low degree of fetotoxicity, may disrupt repoductive processes, and can produce central nervous system excitability after oral and dermal ingestion. The Panel agrees with EPA that lindane is substantially more toxic to young than adults in both humans and domestic animals and that chronic exposure can sometimes result in disastrous blood dyscrasias. However, for certain uses in insect pest control, e.g., scabies, bark beetles and powder post beetles, and seed treatment for wireworms, lindane has no available substitutes and these and certain very limited applications in agriculture and protection of ornamentals are both essential and well suited to Integrated Pest Management procedures. Furthermore, the total amounts of lindane used for these uses, e.g., <one million pounds annually, represent an minimal hazard to the environment. Therefore, the Panel has the following comments and recommendations:

1. Household used of lindane in treated shelf paper and floor waxes provide an unwarranted risk to the householder and should be cancelled immediately.

2. Pet uses for unrestricted use as flea collars, dog dusts, and dog shampoos should be cancelled immediately. Veterinary medical preparations of lindane for use in mange and scabies and for flea, louse and tick control should be available as collars, powders, sprays, shampoos, and dips under restricted classifications for use by licensed veterinarians only with label cautions and requirement for protective clothes, as proposed by EPA.

3. Ornamental applications for unrestricted use by the homeowner should be cancelled immediately. Ornamental uses restricted to commercial operators should be continued with full warning label cautions about the hazards of cancer, fetotoxicity, an central nervous system effects and a caution that women of child-bearing age and children must avoid exposure. Full protective clothing must be worn.

4. Lindane registrations for powder post beetle control should be continued under restricted classification for use by registered Pest Control Operators with full warning label cautions and full protective clothing proposed by EPA.

5. Livestock applications should be placed under restricted classification for use by certified applicators only with full warning label cautions and mandatory protective clothing as proposed by EPA.

6. Uses on pineapples should be retained with warning label cautions proposed by EPA.

7. Uses on cucurbits should be continued under restricted classification with full warning label and mandatory protective clothing proposed by EPA.

8. Uses on avocadoes should be continued under restrictive classification with full warning label and mandatory protective clothing proposed by EPA.

9. Uses on pecans should be continued under restricted classification with full warning label and mandatory protective clothing proposed by EPA.

10. Uses on Christmas trees should be continued under restricted classification with full warning label and mandatory protective clothing proposed by EPA.

11. Uses in forestry for bark beetle control should be continued under restricted classification for application by certified operators with full warning labels and mandatory protective clothing as proposed by EPA.

12. Applications to hardwood logs and lumber should be continued under restricted classification with full warning labels and mandatory protective clothing as proposed by EPA. Special caution should be given to improving work place practices and disposal of treated sawdust and shavings.

13. Seed treatment uses of lindane should be continued under restricted classification by certified applicators with full warning labels and mandatory protective clothing proposed by EPA. Testimony presented to the Panel suggests that 90% of lindane seed treatments are made with closed mechanical systems that essentially eliminate operator exposure. EPA should sponsor an educational program to make use of such closed mechanical seed treatment systems universal.

14. The suspicion that lindane interferes with reproductive processes (hormones) indicates that a 3-generation reproductive study should be performed on an appropriate laboratory animal.

For the chairman:

Certified as an accurate Report of Findings:

H. Wade Fowler, Jr., Ph.D.,

Executive Secretary, FIFRA Scientific Advisory Panel.

Date: October 6, 1980.

B. Response to Comments of the SAP

The SAP made some general comments regarding the risks and benefits of lindane and included a list of specific recommendations for each use. In response to the general comments, the Agency's final position on the risks and benefits of lindane is basically consistent but differs in details with the SAP's position.

The SAP asserted that lindane is a weak oncogen, that it may have a low degree of fetotoxicity, that it may disrupt reproductive processes, and that it can produce central nervous system excitability. The Agency finds that there is positive evidence that lindane causes liver tumors in mice. Although the biological data base is inconclusive, the Agency has used the linearized multistage model for estimating possible risks to humans. In light of carcinogenic effects of lindane in mice and the carcinogenicity of a lindane metabolite in rats and mice, the Agency believes that lindane should be considered to have the potential for inducing carcinogenic effects in humans. However, as discussed in Unit II, the estimated risk levels have not been found to be unreasonable in most cases as long as certain use precautions and/or restrictions are observed.

Regarding reproductive and fetotoxic effects, the Agency has concluded that the presumption of reproduction effects has been rebutted because effects observed in certain studies could not be linked to treatment with lindane.

A NOEL has been established for fetotoxicity and maternal toxicity. The margins of safety for all uses are large enough not to prompt the Agency to cancel any uses because of fetotoxic effects.

Concerning central nervous system excitability and the possible effects of lindane, the Agency has concluded these effects still do not meet the RPAR criteria.

As discussed in Unit II, based on comments received, the Agency has reevaluated the benefits of lindane and found them to be greater than was thought at the time the PD 2/3 was developed. However, the Agency does not concur with SAP's assertion that "the total amounts of lindane for these user, e.g., more than one million pounds annually, represent a minimal hazard to the environment." the Agency believes that most of the uses of lindane present an unreasonable risk unless their use is made safer through use restrictions and lable modifications.

The SAP presented 14 specific recommendations, 13 of which recommended regulatory actions which should be adopted for specific uses. For many of the uses, the Agency's final position is the same as the SAP's. These uses and actions include: cancellation of household fumigation devices; cancellation of dog dips for pests other than mites; restriction of use on livestock, avodacos, pecans, Christmas trees, and forestry to certified applicators only; and requirement of label warnings for pineapples. On the other uses for which SAP either recommended cancellation or restricted use classification, the Agency has concluded that less stringent measures are adequate to prevent unreasonable adverse effects. Specifically, the Agency believes that shelf paper should not be cancelled; that pet uses should not be cancelled, but that dog shampoos and dusts should be restricted to veterinarians, while dog dips for control only of mites should continue to be available with label warnings and restrictions; that homeowner ornamantal applications, use on cucurbits, applications to hardwood logs and seed treatments need not be classified for restricted use but that protective clothing and other label precautions are required. (All registrations for lindane floor wax have been withdrawn).

SAP's final recommendation was that a three-generation reproductive study should be performed. The Agency points out that such a study is now available, has been reviewed and shows no reproductive effects.

C. Comments of the United States Department of Agriculture

As required by FIFRA section 6(b), the comments of USDA on the Position Document 2/3 are presented below in their entirety.

November 17, 1980.

Hon. Douglas M. Costle,

Administrator, U.S. Environmental Protection Agency, Washington, DC 20460.

Dear Mr. Costle: This is in response to the U.S. Environmental Protection Agency's Notice of Determination concluding the Rebuttable Presumption Against Registration of Pesticide Products Containing lindane.

We interacted with EPA in developing the biological, economic, and exposure information according to the current Memorandum of Understanding between our two agencies. Thus, we are pleased to be able to review and comment on this Notice and the accompanying position document.

The opening sentence on Page III–1 is incorrectly cited. The full title of the June 1978 report is "Preliminary Benefit Analysis of lindane prepared jointly by USDA and EPA." The basic biological and economic information contained in the June 1978 and the October 1979 report is the same. Both of these reports were compiled by the joint USDA/States/EPA lindane assessment team. Because of the opening statement on page III–1, our state cooperators have voiced concern that their joint efforts may not be utilized by EPA.

There are areas of agreement as well as issues of concern to us and to the cooperating States. Our comments on these specific items are contained in the enclosure which is an integral part of this response.

The additional time you granted for our review of this document was very beneficial and is appreciated. We are bopeful EPA will give favorable consideration to these suggestions.

Sincerely,

Bob Bergland,

Secretary, U.S. Department of Agriculture.

Enclosure—Secretary of Agriculture's Response Lindane Notice of Determination, PD 2/3

1. We believe that every effort should be made to maintain pest control strategies without causing unacceptable risks to users and the public. We concur with EPA's selection of regulatory options regarding the continued registered uses of lindane on livestock, pineapples, pet washes, and

VOL
48
ISS
2
0
3
OC
19
1983
UMI

commercial ornamentals with certain lable modifications, including "Restricted Use."

2. We concur in EPA's proposed regulatory options of cancellation where the risks appear to exceed the benefits. These include:

—Household use associated with shelf paper, waxes, sprays and smokes (fumigation devices), and the minor use associated with industrial moth sprays;

—Pet applications including collars, shampoos and dusts;

—Insect sprays—uninhabited buildings; and

—Empty storage bins—fog sprays. All of these uses involve continuous exposure for which there are adequate substitutes.

3. The precautionary statement, "Do not use lindane products on pregnant or young animals," may be desirable for veterinarians treating household pets. However, it may be impractical or impossible, in many cases, to make pregnancy determinations when livestock herds are being treated. We suggest that this statement be modified to be advisory rather than a label prohibition.

4. We share the EPA's concern for applicator exposure but would like clarification of the exposure calculations used since this was not explained in PD 2/3. Also, we recommend consistency in the selection of available protective clothing. The following label modifications on the use of protective clothing might be considered:

—Long sleeved shirts and pants.

—Impervious gloves (rubber or neoprene) and boots.

—Wide brimmed hats or roof type covers over spraying equipment when overhead spraying on agricultural and/or forestry sites.

—Approved respirators when handling dust formulations and when spraying in confined spaces.

—Impervious (rubber or neoprene) aprons in those areas where normal treatment practices could anticipate splashing of the treatment solutions and where aprons do not constitute a hazard around equipment.

5. *Livestock.*—As pointed out in the USDA/State/EPA benefit report, lindane is often used in combination with other pesticides, primarily toxaphene, to control pests on livestock. One of the more popular combinations is lindane (2%) and toxaphene (44%).This combination results in immediate control by lindane coupled with the longer residual activity provided by toxaphene. In developing the final regulatory action for lindane, the regulatory actions taken on toxaphene must also be considered.

We believe that if the lindane registrations for livestock are retained, but the registered uses of toxaphene are cancelled, the livestock industry would be unable to control certain pest problems.

6. *Hardwood Logs and Lumber.*—The decision to phase out this use over a 2 year period in the absence of effective registered alternatives seems inappropriate considering the extent of anticipated hazard. A July 28, 1980 letter from Southern Forest Experiment Station at Gulfport, Mississippi, to the Documents Control Office of the Chemical Information Division of EPA indicated the limited but critical amounts of lindane used in protecting wood from beetle attacks. As the assessment report notes, there are no chemical or nonchemical alternatives available for the registered uses of lindane on hardwood logs and lumber. Chlorpyrifos is not registered for use on felled hardwood logs and lumber and there are no assurances that it will be effective and that such registrations will be obtained. It is questionable as to whether 2 years is sufficient time for registrants to develop and have reviewed by EPA the volume of data needed for a new registration of this type. We therefore suggest that EPA give further consideration to the adoption of Option 2 (continued registration) with the appropriate label modifications to reduce exposure.

7. *Seed Treatment.*—We are concerned about the impact of the proposed cancellation of lindane as a seed treatment. The absence of an effective seed protectant results in insect injury to the seed with the resulting loss of plant stand, plant vigor, yield losses, and increased susceptibility to disease organisms. Some of these losses may necessitate the time and expense of replanting which results in yield losses due to the shortened growing season. EPA indicated that lindane seed treatments are applied as insurance treatments. Because of the pests involved, this is the only procedure that is practical and applies equally to the alternatives. Most crops are planted when soil temperatures are low. Lindane is effective and stable at these lower soil temperatures while the alternatives generally are not. There are no seed treatment alternatives for small grains, dry peas and beans, lentils, sorghum, sunflowers, sugar beets, and vegetables. In actual practice, the small grain producer that uses lindane seldom treats his own seed, but purchases it already treated. Lindane is registered and effective for the control of seed corn beetles, seed corn maggots, and wireworms. The possible alternatives to lindane on corn are diazinon and chlorpyrifos. Diazinon is not registered as a seed treatment for wireworms, and chlorpyrifos is only registered as a seed treatment for control of seed corn maggot. Therefore, without lindane, wireworm problems can be expected to increase to the extent that significant crop losses will occur. The alternatives can only be applied as a planter box treatment to corn.

Lindane, however, can be applied similarly, as a slurry treatment seed dealer or elevator, and in advance of planting by automatic seed treaters that meter the proper amount of material directly to seeds during the planting process.

These latter two options, which are essentially closed systems, should be considered as a means of reducing potential exposure, in lieu of cancellation.

8. *Avocados.*—We support the delayed "final decision" on this use until the Unviersity of Florida has had an opportunity to finalize its data on the avocado/mirid project. We believe that since this is truly a minor use, with no effective alternative controls available to producers, every consideration should be given to regulatory options to retain this registration.

9. *Ornamentals.*—As previously stated, we agree with the continued registration of lindane on ornamentals (including greenhouse and nursery plants) by commercial applicators.

Because continuous exposure is not involved and there are no satisfactory substitutes, we further recommend that registrations for lindane be retained for homeowner use on ornamentals with appropriate label modifications to reduce possible exposure. This use is only on an "as needed" basis and usually requires no more than one application every year or every few years. As pointed out in the PD 2/3, lindane is the only material registered for the control of all major borer species on woody ornamentals.

10. *Cucurbits.*—Lindane is registered for the control of a wide range of insects on cantaloupes, cucumbers, pumpkins, squash, and watermelons. This is not true for any of the alternative insecticides identified in PD 2/3. The USDA/State/EPA benefits report indicates that significant increased treatment costs can be expected from the cancellation of lindane for these uses. Most of the alternative insecticides may be more hazardous to the applicators, beneficial insects, and pollinators, and require more frequent applications. Therefore, we suggest the selection of Option 2 providing for the continued registered use on curcurbits.

11. *Minor Uses.*—There are minor use registrations not specifically addressed in either the USDA/State/EPA benefits report or in PD 2/3 that are important to regional or local areas and Puerto Rico. Of importance in the continental United States are preplant treatments labeled for the control of soil insects attacking celery, cucumbers, kale, lettuce, melons, pumpkins, spinach, and tomatoes. Of particular interest outside the continental U.S. are the control of the West Indian sugar cane root borer weevil and white grubs on sugar cane, symphylans and grubs in pineapples, cutworms and white grubs on vegetables, foliage applications for the control of scales, white flies and other foliage insects of mangos, lace bugs on ornamentals, registrations be retained with appropriate label modifications.

12. *Christmas Trees.*—The principal insects of concern on Christmas trees are the white pine weevil, the pales weevil, and the pine root weevil. The white pine weevil attacks new terminal growth, and this is the only area that requires treatment. Therefore, insecticidal applications can usually be made with compressed air, bandgun, or backpack equipment which deliver coarse droplets. The only registered alternative for this use, oxydemeton-methyl (Metasystox-R), costs up to two times that of lindane. This insecticide is more toxic than lindane, especially from a dermal exposure aspect. The pales weevil and pine root collar weevil are attracted to recently cut pine stumps where they begin their life cycle in the roots of cut stumps. The most appropriate control for these insects is to make insecticidal applications to the cut stumps and adjacent soil. These treatments are normally applied with commercially available boom type sprayers, all of which deliver coarse sprays. In the case of the pales weevil, control must be obtained to prevent reinfestation for the remaining standing trees. Foliar sprays are seldom used for the control of this weevil if cut stumps are treated.

Silvicultural or nonchemical controls including basal pruning, duff removal, stump or slash removal, or two year land fallow have been advocated but are not economically feasible and also increase the possibility of soil erosion. Losses to pines when only nonchemical controls are utilized have been calculated to range from $644 to $1,020 per acre. The lower figure considers only equipment and labor costs, the higher figure also includes yield losses (Scotch pines, Michigan).

In Pennsylvania, lindane is an essential part of their Christmas tree integrated pest management program. Due to the nature of the pests involved and the effectiveness of lindane for their control, we suggest that Option 2 be selected. Regulatory options, such as protective clothing and equipment modifications, should be considered as alternatives to cancellation.

13. *Pecans.*—The presently available chemical alternatives for pecan phylloxera control, identified in PD 2/3, include oil or malathion. These chemicals are not as effective as lindane; and for six of the major pecan producing States, the use of these products as replacements for lindane would increase control costs by $631,000. For Georgia alone, control costs were estimated to increase $286,000. In these same six States, yield losses were estimated at $742,000. We also question the advisability of substituting endosulfan for this use because of its greater relative toxicity. Lindane is applied once per year so exposure is minimal. Further, there are no nonchemical control alternatives. Until other effective environmentally acceptable control measures are assured for those States having this problem pest, the availability of lindane is essential and should be retained.

14. *Forestry.*—Although lindane is not widely used in forestry, there are a number of locations where its use is critical to continued timber production. PD 2/3 is in error when it states that "a variety of chemical alternatives are presently registered" for forestry uses. For the mountain pine beetle, *Dendroctonus pondersoe* Hopkins, a major forest insect pest in many western areas, only three pesticides are registered: lindane, ethylene dibromide (EDB), and cacodylic acid. Both EDB and cacodylic acid are currently under Rebuttable Presumption Against Registration (RPAR) review and it appears likely that the forestry uses of EDB will be cancelled. Problems associated with the critical timing and method of application of cacodylic acid makes use of that chemical almost nonexistent. Further, the use of trap trees is not possible in very many situations, primarily because of the need to treat so many trees within a very limited amount of time. Ips spp. and the spruce beetle, *Dendroctonus-rufipennis* (Kirby), are two other important bark beetles in the West for which lindane and EDB are the only chemicals reasonably useful for direct control. We do not believe chlorpyrifos, dicrotophos, and endosulfan can be considered alternatives to lindane. Forest Service research indicates that chlorpyrifos is ineffective against the mountain pine beetle. Dicrotophos and chlorpyrifos do not control the spectrum of insects that are controlled with lindane and are more expensive. Dicrotophos and endosulfan are acutely toxic and present a real hazard to applicators far greater than lindane. In addition, endosulfan is limited to use on logs. Along the Colorado Front Range and in South Dakota, areas where private landowners treat bark beetle infested trees with lindane. This is not a typical forestry application, but the chemical is used in a forest environment and cannot be considered an ornamental use. Although the Forest Service does not have data on the amount of lindane being applied this way, based on the number of citizen inquiries received, we are sure that a substantial amount of lindane is being used. Lindane is the only chemical available to homeowners for the treatment of bark beetles, because the formulators of the EDB-registered products only sell to State or Federal agencies.

To reduce losses from bark beetles on an area-wide basis, a combination of methods is used. Various tools are necessary for satisfactory production of forest products at economical prices. Where insect infested timber is accessible and economically valuable, salvage logging is used to reduce the insect population and, at the same time, recover some value. Silvicultural practices are utilized to provide long-term protection from bark beetle epidemics. High value trees in recreation areas and around homes are sprayed to prevent attack. Nonchemical and silvicultural controls are useful, but not applicable to all areas and situations. Direct control using lindane or EDB is used on infested trees where the other methods are not practical due to terrain, timber value, or other factors. If lindane is cancelled, one important tool of this integrated approach is lost. However, we agree that one of the major impacts of cancellation will be to the small private landowners in the South. Salvage logging of beetle invested and uninfested green buffer trees is the only effective suppression technique that can be used during severe infestations. The cut-and-leave without chemical treatment alternative is the one most widely used when salvage is not practical. This method is only effective during the hot summer months when the beetles are most active. Heat is needed to drive the beetles out of the infested logs before they have fully developed, thus stopping the spread of the infestation. However, the best time to control the beetles is when they are in the trees during the colder winter months. This is when the cut-and-spray (lindane) treatment must be used.

One of the questions of concern about this product is the possible adverse effect on human health when used inside the home. The Wood Preservative Assessment Team has recommended that PCP not be used in the home, and some labels already carry this statement. Because the hazards of PCP preclude its use inside dwellings, it cannot be considered an alternative to lindane. Lindane is effective for the control of the wood boring insect complexes, dry wood termites, and there are no other safe effective alternative control measures. We suggest the adoption of Option 2 (continued registration). Label modifications are suggested in lieu of cancellation.

D. Response to Comments of the USDA

The Agency's final regulatory position is similar to that recommended by the Secretary of Agriculture. While USDA concurred with the proposal to cancel household uses, pet applications, insect sprays in uninhabited buildings and empty storage bins, the Agency has concluded that only the indoor fumigation devices and dog dips for treatment of pests other than mites must be cancelled. The Agency and USDA are in agreement that most other uses should be retained with label modifications and, in some cases, classification for restricted use by certified applicators. In response to USDA's request for clarification of the exposure calculations, such calculations have been included in the appendix to the PD 4. USDA has suggested that consistency be established for the protective clothing requirements. Accordingly, these requirements have been standardized so that the same types of protective clothing are required for most uses.

V. Procedural Matters

This Notice announces the Administrator's intent to cancel the registration of products containing lindane for the indoor smoke fumigation use, to cancel dog dips for treatment of pests other than mites, and to cancel registrations and deny applications for registrations for lindane products for the remaining uses unless the registrants and applicants modify the terms and conditions of registration to comply with the requirements of this Notice. As provided in FIFRA sections 6(b) and 3(c)(6), the cancellations and denials proposed in this Notice shall become final and effective at the end of 30 days from receipt by the registrant or applicant, or publication of this Notice whichever occurs later, unless within that time either (i) the registrant or applicant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the Notice. The 30 day time period in which to request a hearing is applicable to all the regulatory actions proposed in this Notice. This unit of the Notice explains how registrants may seek to make any necessary corrections to modify the terms and conditions of registration and how registrants and other adversely affected parties may request a hearing on the actions set forth in this Notice.

A. Procedures for Amending the Terms and Conditions of Registration

To make the changes required to avoid cancellation, registrants, within 30

VOL
48
ISS
2
0
3
OC
19
1983
UMI

days of receipt of this Notice, must submit amended label(s) and application(s) for amended registrations(s) making the necessary corrections. Five copies of the amended labeling and an application for amended registration(s) must be submitted to:

George LaRocca, Product Manager 15, Registration Division (TS–767c), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Office location and telephone number: Room 204, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703) 557–2400.

Registrants should not submit label amendments at this time to bring labels into conformance with the general standards of 40 CFR 162.10. The Agency will review amended labels for the necessary corrections to prevent cancellation, and then will notify registrants on a case-by-case basis if further amendments are necessary to comply with 40 CFR 162.10.

B. Procedure for Requesting a Hearing

Registrants and applicants for registration adversely affected by the actions described above may request a hearing on such actions within 30 days of receipt of this Notice, or within 30 days of publication of this Notice in the **Federal Register**, whichever occurs later. Any other person adversely affected by the actions described above, or any interested person with the concurrence of an applicant whose application for registration has been denied, may request a hearing within 30 days of publication of this Notice in the **Federal Register**.

All registrants, applicants, and other adversely affected parties who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that (1) all requests must identify the specific registration(s) by registration number(s) and the specific use(s) for which a hearing is requested, (2) all requests must be accompained by objections that are specific for each use of the identified pesticide product for which a hearing is requested, and (3) all requests must be received by the Hearing Clerk within the applicable 30 day period. Failure to comply with these requirements will result in denial of the request for a hearing.

Request for a hearing must be submitted to:

Hearing Clerk (A–110), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

C. Consequence of Filing or Failing to File o Hearing Request

1. *Consequence of filing o timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice Governing Hearings under FIFRA section 6 (40 CFR Part 164). The hearing will be limited to those uses and registrations (or applications) for which a hearing has been requested. In the event of a hearing, each cancellation and denial action subject to the hearing will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing.

2. *Consequences of failure to file in a timely and effective manner.* If a hearing concerning the cancellation or denial of registration of a specific use of a specific pesticide product containing lindane has not been requested by the end of the applicable 30 day period, registration of that lindane product will be cancelled, or the application for registration denied, unless the registrant or applicant amends the terms and conditions of his registration as described in this Notice.

A registrant may contest the cancellation of his registration for some uses of a product, while modifying the terms and conditions of the registration of the same product to bring it into compliance with the requirements of this Notice. In order to do so, he must (1) make a timely request for a hearing challenging the cancellation of the product for the uses which he wishes to contest, and (2) make a timely application for amendment to modify the terms and conditions of the registration for uses permitted under this Notice which he wishes to retain.

D. Intrastate Products

The Agency is aware of a number of pesticide products containing lindane which are not federally registered and which are being marketed under the authority of 40 CFR 162.17. All persons producing or distributing such products must submit an application for federal registration, including all required supporting data as prescribed by the provisions of section 3 of FIFRA and of 40 CFR Part 162 within 30 days of receipt of this Notice or publication in the **Federal Register** whichever is later. The Agency further notifies all such applicants that only products which conform with the requirements of this Notice will be registered. Any person who wishes to register a product which would not conform with the requirements of this Notice is informed that the Notice is a denial of his application, and if he wishes to contest the denial, he must request a hearing within the applicable 30 day period provided by this Notice.

The 30 day period in which to request a hearing applies to all regulatory actions proposed in this Notice, including all denials of registration, all cancellations, and all registrations which must be amended to implement changes in the terms and conditions of use in order to avoid cancellation.

Dated: September 30, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

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[OPP-30000/7E; PH-FRL 2451-2]

Intent to Cancel Registrations of Pesticide Products Containing Strychnine; Denial of Applications for Registration of Pesticide Products Containing Strychnine; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of determination; notice of availability of position document.

SUMMARY: Strychnine is registered as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act. In December of 1976, EPA initiated an RPAR process to consider whether strychnine pesticide registrations should be cancelled, modified, or continued unchanged. This Notice concludes that RPAR process and announces the Administrator's intent to cancel registrations and deny applications for certain uses of strychnine, to continue the registration of other uses of strychnine only if the label is modified, and to require efficacy data to determine lowest toxic dosage for ground squirrels.

DATE: Requests by a registrant or applicant for a hearing must be received on or before November 18, 1983 or (for registrants) within 30 days from receipt by mail of this Notice whichever occurs later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Bruce Kapner, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Room 711, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703–557–7400).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered in compliance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), sections 3(a) and 12(a)(1). A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment" [FIFRA section 3(c)(5)], that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide, (FIFRA, section 2(bb)). Thus, to support application for initial registration and to maintain a registration, the benefits of a pesticide product must exceed the risks of use when the pesticide is used in accordance with commonly recognized practices and in compliance with the terms and conditions of registrations. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect.

Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or modify the terms and conditions of registration whenever it is determined that the pesticide causes unreasonable adverse effects on the environment. The Agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide an informal procedure through which to gather and evaluate information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11.

A rebuttable presumption arises if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces an RPAR by issuing a notice of determination for publication in the **Federal Register** and by issuing a Position Document (PD 1), detailing the Agency's position and concerns. Registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment or submit evidence concerning the economic, social, and environmental benefits of the use of the pesticide.

The RPAR process is concluded with a "notice of determination." In that notice, the Agency states and explains its decision whether the presumption of risk has been rebutted. If all presumptions of risk are successfully rebutted, the RPAR is concluded and no regulatory action is commenced. If the Agency determines that any presumption of risk is not rebutted, the notice of determination evaluates all information available to the Agency concerning the social, economic, and environmental costs and benefits of continued use of the pesticide for each individual use pattern. In determining whether the use of a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risk, and the impacts of such modifications on the benefits of the use. The notice of determination is typically developed through a two-step process; the Position Document 2/3 (PD 2/3) presents the Agency's preliminary determinations and solicits comments and further information, and the Position Document 4 (PD 4) presents the final notice of determination.

The final notice of determination may include a notice of intent to cancel the registration of currently registered pesticide products and to deny applications for the registration of new products. It may also set out conditions which, if fulfilled by the registrant, would be adequate to bring the registration into compliance with the statutory requirements and thus avoid cancellation or denial of registration. The final notice may also require that the registration of the pesticide be reclassifed from general to restricted use pursuant to FIFRA section 3(c)(7). In the event of cancellation, denial or reclassification of a pesticide product's registration, any person adversely affected by the action may request an administrative hearing to challenge the proposed action pursuant to FIFRA section 6(b)9 and (d).

B. Organization of this Notice

Unit I of this Notice provides background and a general summary of the Agency's actions regarding strychnine. Unit II of this Notice provides a summary of the risk and benefits of the pesticidal uses of strychnine. Unit III presents the Agency's regulatory decision. Unit IV sets out the comments submitted to the Agency by the Secretary of Agriculture and former members of the Scientific Advisory Panel. Unit V of this Notice sets out the procedures by which a registrant or other person adversely affected by this Notice may request a hearing to challenge the actions proposed in this Notice. Unit V also sets out the procedures which registrants should follow in seeking amendments of their registrations to conform to the requirements of this Notice in order to continue their registrations for those uses of strychnine retained under this Notice.

C. Background

The Agency issued a Notice of Rebuttable Presumption Against Registration for strychnine in the **Federal Register** of January 13, 1977 (42 FR 2713). The presumption was against strychnine registrations for all outdoor, above-ground uses based on data indicating that those uses of strychnine meet or exceed two RPAR risk criteria: (1) Acute toxicity to mammals and birds and (2) significant reductions in nontarget species and fatality to members of endangered species. The Agency invited public comment relevant to these risks and benefits of strychnine use. After evaluation of these comments, in PD 2/3 the Agency proposed to cancel certain uses and modify terms and conditions of registration to protect organisms and endangered species as published in the **Federal Register** of November 5, 1980 (45 FR 73602). Pursuant to section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, the Agency submitted its proposed decision for review and comment to the Scientific Advisory Panel (SAP) and the Secretary of Agriculture. In addition, the Agency received further public comment on it proposed decision. The PD 4 presents the Agency's final decision regarding strychnine registrations.

D. Content of this Notice

This Notice announces the Agency's intent to cancel some strychnine registrations and to continue other registrations only if the terms and conditions of registration are modified, to require additional data on strychnine uses pursuant to section 3(c)(2)(B) of FIFRA, to request that registrants with strychnine registrations for intrastate pesticide products to submit applications for Federal registration

VOL 48 ISS 203 OCT 19 1983 UMI

pursuant to 40 CFR 162.17, and to provide notice of the availability of the PD 4 concluding the RPAR for strychnine. The strychnine PD 4 summarizes Agency action concerning strychnine and sets forth the rationale for its final decision. A summary of the Agency's final decision follows; details of the decision are set forth in Unit III of this Notice.

E. Summary of the Final Decision on Strychnine

For each outdoor, above-ground use of strychnine the Agency has decided to take the following regulatory action:

1. *Rangeland, pasture and cropland uses.*

a. Prairie dogs—cancellation.

b. Ground squirrels—require additional data and modification of terms and conditions of registration.

c. Deer mice—cancellation.

d. Meadow mice—cancellation.

e. Chipmunks—cancellation.

f. Marmots/woodchucks—cancellation.

g. Cotton rats—require modification of terms and conditions of registration.

h. Kangaroo rats—require modification of terms and conditions of registration.

i. Jackrabbits—require modification of terms and conditions of registration.

a. Prairie dogs—cancellation.

b. Ground squirrels—require additional data and modification of terms and conditions of registration.

c. Deer mice—cancellation.

d. Meadow mice—cancellation.

e. Chipmunks—cancellation.

f. Mountain beavers—cancellation.

g. Opossums—cancellation.

h. Rabbits—cancellation.

i. Marmot/woodchuck—require modification of terms and conditions of registration.

j. Jackrabbits—cancellation of all uses except around airports.

k. Porcupine—require modification of terms and conditions of registration.

l. Kangaroo rats—cancellation.

m. Cotton rats—cancellation.

3. *Birds and cropland.*

a. Blackbirds—require modification of terms and conditions of registration.

b. Cowbirds—require modification of terms and conditions of registration.

c. Horned larks—require modification of terms and conditions of registration.

d. Crowned sparrows—require modification of terms and conditions of registration.

e. House finch (linnets)—require modification of terms and conditions of registration.

f. Meadowlarks—require modification of terms and conditions of registration.

4. *Birds on nonagricultural sites.*

a. Pigeons—require modification of terms and conditions of registration.

b. Sparrows—require modification of terms and conditions of registration.

II. Summary of Risks and Benefits of the Pesticidal Uses of Strychnine

In reaching its final decision regarding strychnine registrations, the Agency has reviewed and evaluated information on the potential human health risks, adverse environmental effects and the economic, social, and environmental benefits associated with the pesticidal uses of strychnine. The detailed assessment of risks and benefits and the conclusions regarding pesticidal uses of strychnine are contained in the PD 4. This unit summarizes those determinations.

A. Determinations of Risk

All of the outdoor, above-ground pesticidal uses of strychnine were examined by the Agency because of their potential for killing nontarget species, including members of endangered species, either by direct or indirect poisoning. After reviewing and evaluating all the existing data and public comments, the Agency determined that all outdoor, above-ground pesticidal uses of strychnine pose some risk to nontarget species. Although the data base is small, it indicates that species other than the target species may feed on baits treated with strychnine and that scavenging may occur on animal carcasses killed by strychnine poisoning. In some instances, nontarget species mortality may result. Obviously, this occurrence is especially critical should the nontarget animal be a member of an endangered species. The Agency is aware of data which indicate that nontarget poisoning is generally likely when strychnine baits are distributed extensively in the environment. Although the Agency is unable at this time to assess the risks to nontarget species in a quantitative manner, the existence of environmental risk due to outdoor, above-ground uses of strychnine pesticides are qualitatively established.

B. Determinations of Benefits

The Agency faced severe data limitations in its analysis of the potential economic consequences of cancelling the outdoor, above-ground uses of strychnine. Due to a lack of sufficient usage or comparative efficacy data, it was often necessary to predict economic impact solely in qualitative economic evaluations; thus, they represent rough predictions of strychnine bait distribution and economic impact.

In general, the economic impacts of cancelling strychnine registrations for outdoor, above-ground uses would not significantly affect U.S. production or prices of major commodities or services. Impacts on agricultural productivity and production costs would generally impact users in Western States where the bulk of strychnine usage occurs. Regional or local economic impacts to users were indicated where no registered alternatives exist or where registered alternatives are more costly, impractical, or ineffective.

Strychnine uses analyzed in the RPAR process were grouped into five categories: (1) Rodents and lagomorphs in rangeland and pasture, (2) rodents and lagomorphs in croplands, (3) rodents and lagamorphs in nonagricultural sites, (4) birds in croplands and (5) birds in nonagricultural sites.

1. *Rodents and lagomorphs in rangeland and pasture.* Approximately 45.6 percent (227,400 pounds) of the total strychnine above-ground use (498,700 pounds) were used on rodents and lagomorphs in rangeland and pasture.

a. *Prairie dogs.* Approximately 88,000 pounds of strychnine baits were used (approximately 38.7 percent of the total use in this category) to treat an estimated 110,275 acres of range and pasture for prairie dog control.

When strychnine registrations are cancelled for this use, zinc phosphide will be the probable alternative. The efficacy of both zinc phosphide and strychnine depends on many factors and is, therefore, highly variable (between 30–100 percent control reported). Prebaiting is necessary when using zinc phosphide; although strychnine effectiveness is increased by prebaiting, it is not requisite. The Agency concluded in the PD 2/3 that the efficacy of zinc phosphide and strychnine used under normal conditions is similar. Comments submitted to the Agency in response to the PD 2/3 indicated that treatment costs with zinc phosphide could be approximately $0.45 to $3.70 per acre more expensive than treatment costs with strychnine if there is no prebaiting used with strychnine. Assuming that this higher cost would apply to the entire 110,275 acres estimated to have been treated with strychnine (1977–78 year basis), the total treatment cost of zinc phosphide would exceed that of strychnine by $408,000. Furthermore, some commenters maintained that additional treatments were necessary when using zinc phosphide. Assuming that three additional zinc phosphide treatments followed by the use of gas cartridges were necessary on all acreage formerly treated with strychnine, there would be an additional increased treatment cost of $672,000 with zinc phosphide. Therefore, making worst case assumptions for zinc phosphide treatment, there would be slightly more than a $1 million cost increase associated with zinc phosphide prairie dog control ($408,000 + $672,000 = $1,080,700). There is little data to support these assumptions, however, and it is highly unlikely that the entire acreage currently treated with strychnine would receive three annual zinc phosphide treatments preceded by prebaiting and followed up by gas cartridges.

b. *Ground squirrels.* If the Administrator had decided that strychnine registrations were to be cancelled to control ground squirrels, the only currently registered pesticide alternatives in all States would then have been carbon disulfide, gas cartridges, and carbon tetrachloride; 1080 is registered only in three States. The Agency estimated that if strychnine were cancelled and if 1080 were available in three States, the annual increased cost of control of ground squirrels would be approximately $900,000. The Agency concludes that this increased cost would have been absorbed by users or publicly supported rodent control programs. Therefore, cancellation of strychnine registrations for control of ground squirrels would affect users directly but have no appreciable impact on livestock markets or consumer meat prices.

c. *Other rodents and lagomorphs.* No estimates of economic impact of cancellation of strychnine registrations for these uses was made due to a lack of data. The Agency concludes that there would be little or no national economic impact, however, when strychnine registrations are cancelled for some of these uses because these uses combined account for less than 1 percent of the total above-ground, rangeland/pasture use.

2. *Rodents and lagomorphs on croplands.* Approximately 42.1 percent (209,900 pounds) of the total strychnine above-ground use (498,700 pounds) is used on rodents and lagomorphs on croplands.

a. *Prairie dogs.* Approximately 7 percent of the above-ground, cropland strychnine use is for control of prairie dogs. When strychnine registrations are cancelled for this use, the only registered pesticide alternative will be gas cartridges which will increase application cost approximately $14 to $19 per acre. If all the cropland acreage currently treated with strychnine for prairie dog control were to be treated with gas cartridges, the Agency estimates an approximate increased application cost of between $206,300 to $270,900. The Agency expects that this increased cost would have little or no national economic impact.

b. *Ground squirrels.* Approximately 91 percent of the above-ground, cropland strychnine use is for control of ground squirrels. If strychnine registrations had been cancelled for this use, the most likely registered pesticide alternatives would be diphacinone, 1080, zinc phosphide, and carbon disulfide. The Agency estimated that if strychnine registrations for this use had been cancelled, application costs could increase approximately $1.4 million annually. This increased cost would be too small to have a macro-economic impact.

c. *Other rodents and lagomorphs.* No estimates of the economic impact of cancellation of strychnine registrations for these uses were made due to lack of data. The Agency concludes that there will be little or no national economic impact, however, when strychnine registrations are cancelled for some of these uses because uses combined account for approximately only 2 percent of the total above-ground cropland use.

3. *Rodents and lagomorphs on nonagricultural sites.* For the purposes of the Agency's economic analysis, nonagricultural sites were defined as areas not involved in the direct production of crops of livestock. Use of strychnine in this category comprises 11,900 pounds, or approximately 2.4 percent, of the total outdoor, above-ground strychnine use (498,700 pounds), most of which is devoted to ground squirrel treatments on embankments and turf areas and control of porcupines in forested areas. The Agency had few data in this category upon which to assess the ecomonic impact of cancellation of strychnine registrations. The Agency anticipated that there might be an increase in the number of ditch bank, levee and canal washout if strychnine registrations were cancelled. Because of the low volume of strychnine use in this category, the Agency concludes that there will be little or no national economic impact due to cancellation of some of the strychnine registrations for these uses.

4. *Birds in cropland.* There are no strychnine pesticides registered federally to control birds on cropland. California has State strychnine registrations to control a variety of bird species and Nevada and Wyoming have strychnine registrations to control magpies. The Agency's economic analysis was limited to California since there were not sufficient data for the other two States.

Use of strychnine in this category (18,000 pounds) in California accounts for approximately 3.8 percent of the total, outdoor, above-ground strychnine use (498,700 pounds).

No Alternative, toxicant pesticides are registered to control birds on cropland. If strychnine registrations had been cancelled for these uses, repellents, mechanical and electronic devices, trapping, shooting, and habitat manipulation would most likely have been used.

5. *Birds on nonagricultural sites.* For purposes of the Agency's economic analysis, nonagricultural sites were defined as areas not involved in the direct production of crops or livestock.

Use of strychnine in this category (31,500 pounds) accounts for approximately 6.3 percent of the total, above-ground, outdoor strychnine annually used (498,700 pounds).

Strychnine pesticides are registered to control pigeons and house sparrows on structures, vacant lots and roosting places. A variety of alternatives are federally registered, including repellents, frightening agents, and chemosterilants. In addition, a number of mechanical devices are available. The Agency estimates that there would be no economic impact if strychnine registrations to control pigeons and house sparrows had been canceled, but society would lose a quick-acting tool when public health is potentially affected due to pigeon and house sparrow populations.

III. Initiation of Regulatory Action

Based upon the determinations summarized above and those discussed in detail in Position Documents 2, 3, and 4, the Agency has determined to cancel strychnine registrations and deny applications for certain uses and to cancel strychnine registrations and deny applications for other uses, unless the terms and conditions of registration are modified as required. In addition, for some uses, the Agnecy will require additional data pursuant to section 3(c)(2)(B) of FIFRA.

A. Cancellation

The Agency has determined that the risks outweigh the benefits associated with the following outdoor, above-ground strychnine uses: to control prairie dogs on rangeland, pasture, cropland, and nonagricultural sites; to control deer mice, meadow mice, and chipmunks on rangeland, pasture, cropland and nonagricultural sites; to control marmots/woodchucks on

VOL 48 ISS 203 OCT 1983 UMI

rangeland, pasture, and cropland; to control mountain beavers on nonagricultural sites; to control rabbits on nonagricultural sites; to control cotton rats and kangaroo rats on nonagricultural sites; to control opossums on nonagricultural sites; and to control jackrabbits on nonagricultural sites except around airports.

1. *Prairie dogs.* Registrations will be canceled effective as of the end of the statutory prescribed 30-day period and applications for registrations will be denied for strychnine-containing products used to control prairie dogs on rangeland, pasture, cropland, and nonagricultural sites.

The Agency has determined that the risk to nontarget species, especially to the endangered black-footed ferret, outweighs the benefits of strychnine used to control prairie dogs on all sites. Zinc phosphide is an effective alternative to strychnine for use on rangeland and cancellation of strychnine registrations for use on cropland and nonagricultural sites would have an insignificant impact on the national economy.

2. *Other rodents and lagomorphs.* Registrations will be canceled effective as of the end of the statutory prescribed 30-day period and applications will be denied for strychnine-containing products used to control deer mice, meadow mice, and chipmunks on rangeland, pasture, cropland, and nonagricultural sites; to control marmots/woodchucks on rangeland, cropland and pasture; and to control cotton rats, kangaroo rats, mountain beavers, opossums, rabbits, and jackrabbits (except around airports) on nonagricultural sites. These uses are so minor that cancellation of strychnine registrations for them would have little or no impact on the national economy.

B. Conditional Cancellation

Registrations will be canceled and applications for registration will be denied for strychnine-containing products used to control ground squirrels on rangeland, pasture, cropland, and nonagricultural sites; to control cotton rats and kangaroo rats on rangeland, pasture, and cropland; to control marmots/woodchucks and porcupines on nonagricultural sites; to control blackbirds, cowbirds, horned larks, crowned sparrows, linnets, and meadow larks on cropland; and to control pigeons and house sparrows on nonagricultural sites unless registrants or applicants modify the terms and conditions of registration as described below:

1. *Ground squirrels on rangeland, pasture, cropland and nonagricultural sites.* Although the Agency estimated that cancellation of strychnine registrations to control ground squirrels on all sites would have little or no impact on the national economy, the Agency has determined that the risk to nontarget species, including endangered species, would be sufficiently lessened by the following modifications in the terms and conditions of registrations to make cancellation unnecessary. Therefore, the Agency has determined that the following label statements are required to avoid cancellation of registrations and denial of applications:

Do not expose baits in a manner which presents a likely hazard to pets, poultry or livestock.

Do not place bait in piles.

Pick up and burn or bury all visible carcasses of animals in or near treated areas.

Do not use for ground squirrel control in areas occupied by the Utah prairie dog in Garfield, Iron, Kane, Piute, Sevier and Wayne Counties, Utah.

Do not use for ground squirrel control within 200 yards of prairie dog colonies.

Do not use within one mile of a prairie dog colony where the presence of a black-footed ferret is confirmed within a five-year period.

The killing of an endangered species during strychnine baiting operations may result in a fine under the Endangered Species Act. Before baiting, the user is advised to contact the regional U.S. Fish and Wildlife Service (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species. Strychnine baits should not be used in the geographic ranges of the following species except under programs and procedures approved by the USEPA: California Condor, San Joaquin Kit Fox, Aleutian Canada Goose, Morro Bay Kangaroo Rat, Gray Wolf, and Grizzly Bear.

All registrations for products containing strychnine which are not dyed in accordance with the recommendations established by the State of California in the Vertebrate Pest Control Handbook are cancelled. In addition, to avoid cancellation of registrations and denial of applications, all registrants must amend their confidential statement of formula to include that all strychnine baits are dyed in accordance with the recommendations in the Vertebrate Pest Control Handbook.

To protect the endangered species, California Condor, San Joaquin Kit Fox, Aleutian Canada Goose, and the Morro Bay Kangaroo Rat, the Agency will rely on the guidelines and agreements among the responsible California agencies as long as the California Department of Food and Agriculture (CDFA) submits within 30 days of this Notice's publication all such agreements and guidelines to the Agency for review and approval. In addition, any subsequent changes to these agreements and guidelines must be reviewed and approved by the Agency before they can become effective. Failure to satisfy this requirement will result in the cancellation of registrations and denial of applications for this use.

2. *Other rodents and lagomorphs on rangeland, pastures, and cropland.* The Agency has determined that to avoid cancellation of registrations and denial of applications, the following label statements are required for the control of cotton rats, kangaroo rats and jackrabbits:

Do not expose baits in a manner which presents a likely hazard to pets, poultry or livestock.

Do not place bait in piles (for cotton and kangaroo rats).

for jackrabbit control place the baits in piles.

Pick up and burn or bury all visible carcasses of animals found in or near treated areas.

Do not use for cotton rat control in areas occupied by the Mississippi sandhill crane in Jackson County, Mississippi.

Do not use for cotton rat control in areas occupied by the Cape Sable sparrow in Collier, Dade and Monroe Counties, Florida.

Do not use for kangaroo rat or jackrabbit control in areas occupied by the masked bobwhite quail in Pima and Santa Cruz Counties, Arizona.

Do not use for kangaroo rat or jackrabbit control in areas occupied by the Utah prairie dog in Garfield, Iron, Kane, Piute, Sevier, and Wayne Counties, Utah.

Do not use for jackrabbit or cotton rat control in areas occupied by Attwater's greater prairie chicken in the following Texas counties: Aransas, Austin, Brazoria, Colorado, Fort Bend, Galveston, Goliad, Refugio, and Victoria.

The killing of an endangered species during strychnine baiting operations may result in a fine under the Endangered Species Act. Before baiting, the user is advised to contact the Regional U.S. Fish and Wildlife Service (Endangered Species Specialist) or the local Fish and Game Office for specific information on endangered species. Strychnine baits should not be used in the geographic ranges of the following species except under programs and procedures approved by the USEPA: California Condor, San Joaquin Kit Fox, Aleutian Canada Goose, Morro Bay Kangaroo Rat, Gray Wolf, and Grizzly Bear.

All registrations for products containing strychnine which are not dyed in accordance with the recommendations established by the State of California in the Vertebrate Pest Control Handbook are cancelled. In addition, to avoid cancellation of registrations and denial of applications, all registrants must amend their confidential statement of formula to include that all strychnine baits are dyed in accordance with the recommendations in the Vertebrate Pest Control Handbook.

To protect the endangered speices, California Condor, San Joaquin Kit Fox, Aleutian Canada Goose, and the Morro Bay Kangaroo Rat, the Agency will rely on the guidelines and agreements among the responsible California agencies as long as the California Department of Food and Agriculture submits within 30 days of this Notice's publication all such agreements and guidelines to the Agency for review and approval. In addition, any subsequent changes to these agreements and guidelines must be reviewed and approved by the Agency before they can become effective. Failure to satisfy this requirement will result in the cancellation of registrations and denial of applications for this use.

3. *Other rodents and lagomorphs on nonagricultural sites.*

a. The Agency has determined that to avoid cancellation of registrations and denial of applications, the following lable changes are required for marmot/woodchuck control:

Do not expose baits in a manner which presents a likely hazard to pets, poultry, or livestock.

Do not place baits in piles.

Pick up and burn or bury all visible carcasses of animals found in or near treated areas.

The use of strychnine to control marmot/woodchucks is prohibited in all areas except where dens are located in rocky areas where fumigants cannot be used.

b. The Agency has determined that to avoid cancellation of registrations and denial of applications, the following label changes are required for porcupine control:

Treated salt blocks will be nailed at least ten feet above the snowline.

Use is prohibited in areas known to be occupied by the gray wolf or grizzly bear.

c. The use of strychnine to control jackrabbits is prohibited except around airports.

4. *Birds on croplands.* The Agency has determined that to avoid cancellation of registrations and denial of applications, the following label changes are required:

a. To control blackbirds, cowbirds, crowned sparrows, horned larks, house finch (linnets), and meadow larkes in orchards and vineyards:

Bait must be placed in troughs no less than 3 inches deep (v-shaped, with ends blocked to avoid spillage).

Troughs must be removable so that they can be cleaned out after each change of bait.

Troughs must be at least four feet from ground level.

Place troughs within orchards or vineyards where damage exists or is about to occur.

Expose strychnine bait sparingly—one-half inch deep in each trough.

Pick up and dispose of any bait spilled daily.

Pick up and burn or bury all visible bird carcasses at the end of each day.

b. To control horned larks on corps:

Expose bait sparsely in a depression between bedded crops.

Pick up and dispose of any bait spilled outside the depression daily.

Pick up and burn or bury all visible carcasses of birds at the end of each day.

5. *Bird on nonagricultural sites.* The Agency has determined that to avoid cancellation of registrations and denial of applications, the following label changes are required for the control of pigeons and house sparrows:

Pick up and dispose of uneaten pigeon bait after three days of exposure per site.

Inspect each site for nontarget species hazard daily.

Where uneaten bait is not easily retrievable, place in trays or v-shaped troughs.

Pick up and burn or bury all visible dead birds daily.

The use to control pigeons and sparrows will be prohibited in Puerto Rico for the protection of the Yellow-Shouldered Blackbird, and the Puerto Rican Plain Pigeon.

The use to control pigeons will be prohibited in the following areas for the protection of the Peregrine Falcon: Within five miles of aeries or critical habitats.

Do not use when migratory falcons may be pesent. Consult with local fish and game or regional Fish and Wildlife Service.

IV. Comments of Scientific Advisory Panel and Secretary of Agriculture

A. Comments of the Scientific Advisory Panel

Pursuant to section 25(d) of FIFRA, notices of intent issued under section 6(b) are to be submitted to an advisory panel "for comment as to the impact [of the proposed action] on health and the environment."

The Agency transmitted the Position Document 2/3 to the Scientific Advisory Panel (SAP) for review. On January 9, 1981 SAP responded to the Agency. Because FIFRA requires that the SAP's comments be printed in this Notice, they are reproduced in their entirety.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Strychnine

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing strychnine under the provisions of section 6(b)(2) of FIFRA as amended. The review was completed in an open meeting held in Arlington, Virginia, on December 11, 1980.

Maximum public participation was encouraged for the review. Public notice of the meeting was published in the Federal Register on November 21, 1980. In addition telephone calls were received from and mailings sent to the general public who had previously expressed an interest in activities of the Panel. Written and in most cases, oral statements were received from the technical staff of EPA's Office of Pesticide Programs, and from representatives of the U.S. Department of Agriculture, the California Department of Food and Agriculture, the Montana Department of Livestock, Texas A & M University, the New Mexico Department of Agriculture, the Wyoming Department of Agriculture, the Montana ranching community and others.

The excellent briefing by William Dickinson, Dave Eberly and other technical staff members from the Office of Pesticide Programs were of great value to the Panel.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the Panel unanimously submits the following report:

Report of Scientific Advisory Panel's Recommendations

The Panel reviewed each of the Agency's proposed actions under D. *Proposed Action* beginning on page 93 of the Strychnine Position Document No. 2/3. With regard to 1 *Rangeland Rodents—ground squirrel*, the Panel finds the Agency's arguments, presented under a. in support of the proposal for standardized bait concentrations of 0.20 percent active ingredient, to be inadequate, and suggest that EPA reconsider this level based on evidence now available and to be submitted during the comment period.

The Panel concurs with the Agency's recommendations under b. (p. 94), with the exception that the label language concerning pick up and burning or burial of all dead animals should be revised to make it more feasible, i.e., under certain circumstances it simply may not be possible to remove *all* dead animals.

The Panel concurs with the Agency's proposed action under c. (p. 94). However, the Panel recommends that, due to meager evidence of the effectiveness of bait dyeing, more research should be encouraged in this area.

With regard to d. (p. 94), the Panel finds the county-by-county prohibition on use of strychnine for ground squirrel control to be too restrictive, and suggests that the Agency discuss the proper wording of the restriction with the State of California, in the case of the endangered species inhabiting that State, and with Utah in the case of the Utah prairie dog. The Panel believes that solving the regulatory problem in a realistic manner without undue restriction is an important consideration here as well as the protection of endangered species.

The Panel fully concurs with the Agency's proposed label statement at the bottom of page 94.

With regard to 2. *Rangeland Rodents—prairie dogs* (p. 95), the Panel is unable to support a flat cancellation as proposed by the

EPA. Rather, the Panel recommends a postponement of any decision on the use of strychnine on prairie dogs until it becomes clear that alternative methods of control are available. For example, the Panel believes that it is unclear from the present data available whether zinc phosphide, which is the primary alternative means of control under consideration, is efficacious in controlling the prairie dog.

With regard to 3. *Rangeland Rodents—other rodents and lagomorphs*, the Panel approves the standardization of bait concentrations (a. p. 95) pending submission of further data on which concentrations are most desirable.

The Panel's recommendations relating to b. and c. (pg. 95–96) are similar to those relating to ground squirrel control. The additional States involved under d. should be consulted regarding proper wording of the restrictive label language. The Panel concurs with the Agency's proposal to cancel use of Strychnine for rangeland control of deer mice, meadow mice, chipmunks, and woodchucks.

Under. 4. *Cropland Rodents—ground squirrels*, 5. *Cropland Rodents—prairie dogs*, and 6. *Cropland rodents—other rodents and logomorphs*, (p. 97), the Panel concurs with the Agency's proposed actions with the same exceptions and reservations as set forth under 1, 2, and 3 above. The Panel concurs with the Agency's proposed course of action under 7. *Rodents and Lagomorphs on Nonagricultural Sites* (p. 97).

Under 8. *Birds on Cropland*, a. (p. 98) the Panel's statement under 1.a above is applicable. With regard to b. the Panel's reservation under 1.b is applicable. Also the Panel believes 8.b should be rewritten to allow a certain degree of flexibility to cover special circumstances.

Under 9. *Birds on Nonagricultural Sites* a, b, and c (p. 99), the Panel's previous statements concerning bait concentrations and baiting and past baiting procedures are applicable. The Panel concurs with d. (pg. 99–100) with the same reservations as expressed above regarding protection of endangered species.

For the Chairman: Philip H. Gray, Jr., Acting Executive Secretary, FIFRA Scientific Advisory Panel. Date: January 9, 1981

B. Response to Comments of the SAP

The SAP commented concerning the standardized bait concentration proposals for all pests, that the agency should reconsider lowering these concentrations without adequate data to back up these proposals. The Agency agrees with this comment and will not lower the bait concentrations at this time but will require that data be submitted for ground squirrels to determine the lowest efficacious level for each species of concern.

The Agency agrees with the SAP concerning the label language requiring the removal of all dead animals from a treated area. The statement will be revised to indicate the removal of all visible dead animals.

In regard to the SAP comments concerning the county-by-county restrictions for the protection of endangered species in California, the Agency recognizes that these species may very well be adequately protected under the California Department of Food and Agriculture's Joint Policy Statement Regarding Rare or Endangered Species. The Agency agrees that these protective agreements can be effective, and therefore will rely on them as long a the CDFA submits current guidelines for protecting each species and any subsequent changes to the Agency for review and approval. No substantive comments were received concerning the restrictions for the protection of the Utah prairie dog; therefore, those specific county-by-county restrictions will remain.

The SAP stated that the Agency should postpone any decisions on the use of strychnine on prairie dogs until it is clear that alternative methods of control are available. In March of 1983, the Agency requested an opinion from the U.S. Fish and Wildlife Service concerning this use of strychnine. They indicated in a letter that it will be Service policy not to use, recommend for use, sell, or distribute strychnine grain baits for prairie dog control within the historic range of the black-footed ferret, and that their policy is to substitute the use of zinc phosphide for strychnine (where allowed by registration) for prairie dog control. The Agency's decision is therefore consistent with Fish and Wildlife Service policy. In addition, it is the Agency's opinion that available data demonstrate that zinc phosphide is an efficacious as strychnine if prebaiting is used. Because the risk from strychnine to endangered species and nontarget animals is greater than with zinc phosphide, the Agency believes the use must be cancelled.

The Agency agrees with the Panel's reservations expressed concerning cropland rodents, birds on croplands, and birds on nonagricultural sites. These reservations concerning bait concentrations, baiting procedures, geographical restrictions are the same as previously mentioned, and the Agency's position has been changed as outlined above.

C. Comments of the Secretary of Agriculture

Dr. John A. Todhunter (TS–788),
Assistant Administrator-Designate for Pesticide and Toxic Substances, U.S. Environmental Protection Agency Washington, D.C. 20460.

Dear Dr. Todhunter: This is a further response to your "Preliminary Notice of Determination Concluding the Strychnine RPAR."

The U.S. Department of Agriculture (USDA) wrote on January 8, 1981, that it would require an extended length of time to adequately comment on the strychnine Notice of Determination. The EPA determined that the uses of strychnine meet or exceed the risk criteria outlined in 40 CFR 162.11 for hazards to wildlife and endangered species. Those determinations were documented in the Strychnine Position Document No. 2/3 and Preliminary Benefits Analysis.

At the time we originally reviewed the PD 2/3, the Department identified several deficiencies which included: (a) The cost of alternative controls were overestimated; (b) specific attention was not given to the impact of the proposed regulatory actions on agricultural conservation practices; (c) the impact to the regulatory actions on USDA program responsibilities was not taken into account, and (d) risks to wildlife in the environment were overstated. We recognized that EPA was faced with a scarcity of data and, thus, as stated in the PD 2/3, judgment had to be used.

In PD 2/3 EPA determined that the cancellation of certain above ground uses will not have a significant impact on the production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. We disagree with EPA's analysis as well as the proposed action. Our review found that the continued use of the registered above ground use of the rodenticide strychnine does not pose a significant environmental risk to wildlife or endangered species when the rodenticide is used in accordance with the directions for use on the label.

We believe that the proposed action poses significant economic, social, and environmental costs to the agricultural community. The USDA review of EPA's analysis indicates that this analysis failed to gauge the full range of these impacts of its proposed action on the agricultural community. It is our present view that EPA inaccurately estimated the risks and then incorrectly weighed then against the benefits. USDA believes that the level of risk assigned by the EPA to endangered species is overstated because risk was calculated on the basis of probability of poisoning individuals or populations of endangered species by incorrectly asuming that they coincide with the pest species in the target area. Aslo, the equating to "little use" with "little significance" has led to an underestimation of impacts on the user when the actual value of the agricultural product or site protected is not taken into account. EPA's benefit analysis also included an inaccurate evaluation of the alternatives, and an underestimation of the magnitude of the pest problems for which the use of strychnine is considered necessary.

We have assembled additional information. Some of this information is attached to this response and the rest will be provided in the near future. Based upon the information we have been able to assemble, of which a significant portion falls into the category of expert judgment, we conclude that the benefits of the use of strychnine exceed the risks. Specifically, it is the opinion of the Department that the following uses are critical to agriculture for which effective and suitable alternatives are not currently available.

- Rangeland rodents—ground squirrel (without EPA proposed modifications concerning standardized bait and bait bans).
- Rangeland rodents—prairie dog (with label modifications that allow supervised use in areas where the black-footed ferret is a factor).
- Rangeland rodents—other rodents and lagomorphs (without EPA proposed modifications concerning standardized baits and area bans).
- Cropland rodents—ground squirrels (without EPA proposed modifications concerning standardized bait and area restrictions).
- Cropland rodents—prairie dogs (with label modifications that allow use in areas where the black-footed ferret is a factor).
- Cropland rodents—other rodents and lagomorphs.
- Rodents and lagomorphs on nonagricultural sites.
- Birds on croplands.
- Birds on nonagricultural sites.

Until there are effective alternatives, we believe that these uses should be maintained. Agricultural benefits are clearly demonstrable and the risks can be kept below acceptable levels through correct labeling and use.

We appreciate your agreement on January 8 to extend the response time. Attached with these comments, as part of our official response, is a report developed for the Department by Dr. Terrel P. Salmon, University of California, which contains an indepth analysis of efficacy, toxicology and alternatives. We will be providing additional data to support our comments and recommendations made in this response. At that time, we will be happy to sit down with you and your staff to further discuss any points that may still need clarification.

If you have any questions regarding this response, please contact Richard L. Dunkle, Coordinator, Pest Management and Toxic Substances, Phone (202) 447–4751.

Sincerely,
Anson R. Bertrand,
Director, Science and Education.

D. Response to Comments of the USDA

The Agency has fully responded to all of the USDA's comments in the Position Document. In the Benefit Analysis unit of the document the economic impacts of the cancellation or modification to the registrations of certain uses of strychnine were fully analyzed and the findings have been included. The Agency does not agree with the USDA on some of its points, and the specifics are outlined in the document. The Agency weighed the risks against the benefits for each proposed action, using data supplied by various state and Federal agencies (U.S. Fish and Wildlife Service, for example), and arrived at the current position. The information supplied by the USDA was not enough to change the Agency's proposed position in most cases.

V. Procedural Matters

This Notice announces the Administrator's intent to cancel certain uses of strychnine, to modify label requirements for certain other uses, and to deny any applications for registration for pesticide products containing strychnine unless the requirements of this Notice are satisfied. As provided in FIFRA sections 6(b) and 3(c)(6), the cancellations and denials proposed in this Notice shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice.

Unless the necessary steps to make the changes required by this Notice are taken within 30 days, or unless a hearing is properly requested to contest the cancellation or denial of the registrations for strychnine products, the cancellation or denial actions will become final at the end of 30 days. The 30-day time period in which to request a hearing is applicable to all the regulatory actions proposed in this Notice. This unit of the Notice explains how registrants and applicants may seek to make any necessary corrections to modify the terms and conditions of registration and how registrants, applicants, and other adversely affected parties may requests a hearing on the cancellation or denial action set forth in this Notice.

A. Intastate Products

The Agency is aware of a number of pesticide products containing strychnine which are not federally registered and which are being marketed under the authority of 40 CFR 162.17. The Agency hereby notifies all persons producing or distributing such products that they must submit a full application for Federal registration, including all required supporting data as prescribed by the provisions of section 3 of FIFRA and of 40 CFR Part 162, within 30 days of receipt of this Notice or publication in the Federal Register, whichever is later. The Agency further notifies all such applicants that only products which conform with the requirements of this Notice will be registered. Any person who wishes to register a product which would not conform with the requirements of this Notice is informed that this Notice is a denial of his application, and if he wishes to contest the denial, he must request a hearing within the applicable 30-day period provided by this Notice.

The 30-day period in which to request a hearing applies to all regulatory actions in this Notice, including all denials of registration, all cancellations, and all registrations which must be amended to implement changes in the terms and conditions of use in order to avoid cancellation. Notice, may be continued until such stocks are exhausted; provided that the product shall not be used inconsistent with its labeling.

B. Procedures for Amending the Term and Conditions of Registration

To make the changes required to avoid cancellation, registrants, within 30 days of receipt of this Notice, must submit amended label(s) and application(s) for amended registration (s) making the necessary corrections. In addition, any applications for Federal registration pursuant to 40 CFR 162.17 must be submitted within 30 days from the rceipt of this Notice. Five copies of the amended labeling and an application for amended registration(s) or § 162.17 registration applications must be submitted to:

William Miller, Product Manager 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2600).

C. Procedure for Requesting a Hearing

Registrants adversely affected by the actions described above and any application for registration whose applications have been denied by this Notice may request a hearing on such actions within 30 days of receipt of this Notice, or within 30 days of publication of this Notice in the Federal Register, whichever occurs later. Any other person adversely affected by the actions described above or any interested party with the concurrence of an applicant whose application for registration has been denied may request a hearing within 30 days of publication of this Notice in the Federal Register.

All registrants, applicants, and other interested affected parties, who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that (1) all requests must identify the specific registration(s) by registration number(s) and the specific use(s) for which a

VOL 48 ISS 203 OCT 19 1983 UMI

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hearing is requested, (2) all requests must be accompanied by objections that are specific for each use of the identified pesticide product for which a hearing is requested, and (3) all requests must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing.

Request for a hearing must be submitted to:

Hearing Clerk (A–110), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

D. Consequence of Filing or Failing to File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's rules of practice for hearings under FIFRA section 6 (40 CFR Part 164). The hearing will be limited to those used and registrations (or applications) for which a hearing has been requested.

2. *Consequences of failure to file in a timely and effective manner.* If a hearing concering the cancellation or denial of registration of a specific use of a specific pesticide product containing strychnine has not been requested by the end of the applicable 30-day period, registration of that strychnine product will be cancelled, unless the applicant amends the terms and conditions of his registration as required by this Notice. Similarly, if a hearing is not requested to contest the denial of a registration within the applicable 30-day period, the denial will be effective at the close of that period.

Dated: September 30, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83–28155 Filed 10–18–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–289]

Albuquerque Federal Savings and Loan Association Albuquerque, New Mexico; Final Action Approval of Conversion Application

Notice is hereby given that on September 26, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Albuquerque Federal Savings and Loan Association, Albuquerque, New Mexico, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261–9026.

Dated: October 13, 1983.

By the Federal Loan Bank Board.

John A. Ghizzoni,

Assistant Secretary.

[FR Doc. 83–28474 Filed 10–18–83; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–288]

Dallas Federal Savings and Loan Association, Dallas, Texas; Final Action Approval of Conversion Application

Notice is hereby given that on September 28, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Dallas Federal Savings and Loan Association, Dallas, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261–9026.

Dated: October 13, 1983.

By the Federal Loan Bank Board.

John A. Ghizzoni,

Assistant Secretary.

[FR Doc. 83–28477 Filed 10–18–83; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–286]

Olney Savings Association, Olney, Texas; Final Action Approval of Conversion Application

Notice is hereby given that on September 26, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Olney Savings Association, Olney, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, Post Office Box 619026, Dallas/Fort Worth, Texas 75261–9026.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83–28477 Filed 10–18–83; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–287]

United Federal Bank, FSB, Manchester, New Hampshire; Final Action Approval of Conversion Application

Notice is hereby given that on September 29, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegate to the General Counsel or his designee, approved the application of United Federal Bank, FSB, New Hampshire, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, P.O. Box 2196, Boston, Massachusetts 02106.

Dated: Ocotber 13, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83–28476 Filed 10–18–83; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed, etc.

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: T–3508–3.

Title: Palm Beach/West India Lease Amendment.

Parties: Port of Palm Beach (Port)/ West India Shipping Company, Inc. (West India).

Synopsis: Agreement No. T3508–3 modifies the basic agreement between the parties which provides for the lease by Port to West India of storage, warehouse, and wharf space. The purpose of the modification is to reduce the leased premises by 6,500-square feet, with corresponding reduction in rental.

Filing Agent: Mr. Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Agreement No: 10386–4.

Title: Northbound Argentina/U.S. Atlantic Trade.

Parties: A. Bottacchi S. A. De Navegacion C.F.I.I., Cia. De Navegcao Lloyd Brasileiro, Cylanco S.A., Empresa Lineas Maritimas Argentinas S. A., Moore-McCormack Lines, Inc., Reefer Express Lines Pty., Ltd., Van Nievelt, Gourdriaan & Co. B. V. (Holland Pan Am).

Synopsis: Agreement No. 10386–4 would amend the basic agreement to (1) Extend the agreement for an additional three years; (2) provide for a new member of the Agreement; (3) make minor adjustments in certain party's shares; and (4) make other minor modifications to the accounting provisions of the Agreement.

Filing Party: John D. Straton, Jr., Esquire, Director, South American Rates and Conferences, Moore McCormack Lines, Inc., 27 Commerce Drive, Cranford, New Jersey 07016.

Agreement No: 10388–2.

Title: Southbound Argentina/U.S. Atlantic Trade.

Parties: A. Bottacchi S. A. De Navegacion C.F.I.I., Empresa Lineas Maritimas Argentinas S. A., Moore McCormack Lines, Incorporated

Synopsis: Agreement No 10388–2 would amend the basic agreement to (1) Extend the agreement for an additional three years and (2) make minor adjustments in the pool accounting provisions of the Agreement.

Filing Party: John D. Straton, Jr., Esquire, Director, South American Rates & Conferences, Moore McCormack Lines, Inc., 27 Commerce Drive, Cranford, New Jersey 07016.

By Order of the Federal Maritime Commission.

Dated: October 13, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–28442 Filed 10–18–83; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License No. 2311, Kanical Aero-Marine Services, Inc.; Reissuance of License

By Notice served and published in the **Federal Register**, Independent Ocean Freight Forwarder License No. 2311 was revoked, effective July 13, 1983. The license had been returned for voluntary revocation on July 13, 1983. The Notice of Revocation was served on July 15, 1983.

Kanical Aero-Marine Services, Inc., now seeks to have its license reissued. An appropriate surety bond has been received.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in section 9.09(a) of Commission Order No. 1 (Revised), dated September 27, 1983, Independent Ocean Freight Forwarder License No. 2311 shall be reissued to Kanical Aero-Marine Services, Inc., effective October 12, 1983. A copy of this Notice shall be published in the **Federal Register** and served upon Kanical Aero-Marine Services, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83–28443 Filed 10–18–83; 8:45 am]

BILLING CODE 6730–01–M

Matson Terminals, Inc. and Nippon Yusen Kaisha; Termination of Agreement No. T–3737

The parties to the above referenced agreement have advised that the agreement has been terminated by the parties effective September 29, 1983.

By Order of the Federal Maritime Commission.

Dated: October 13, 1983.

Francis C. Hurney,

Secretory.

[FR Doc. 83–28496 Filed 10–18–83; 8:45 am]

BILLING CODE 6730–01–M

Nippon Yusen Kaisha and Matson Agencies, Inc.; Termination of Agreement No. 10348

The parties to the above referenced agreement have advised that the agreement has been terminated by the parties effective September 29, 1983.

By Order of the Federal Maritime Commission.

Dated: October 13, 1983.

Francis C. Hurney,

Secretory.

[FR Doc. 83–28495 Filed 10–18–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Behrens Bancshares, Inc.; Formation of Bank Holding Company

Behrens Bancshares, Inc., New London, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring, directly and indirectly through its subsidiary, Behrens, Inc., 99.2 percent or more of the voting shares of Ralls County State Bank, New London, Missouri, and 98.8 percent or more of the voting shares of Center State Bank, Center, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Behrens Bancshares, Inc., New London, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in general insurance activities in communities that have populations not exceeding 5,000. These activities would be performed from offices of Applicant and Applicant's subsidiaries in New London and Center, Missouri, and the geographic areas to be served are the communities of New London and Center, Missouri. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects. such as undue concentration of resources, decreased or

unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than November 4, 1983.

Board of Governors of the Federal Reserve System, October 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28354 Filed 10-18-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; First Arkansas Bankstock Corporation

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas ("Applicant"); to acquire indirect control of 98.9 percent of the voting shares or assets of Peoples Bank & Trust Company, Russellville, Arkansas ("Bank"), through the merger of Bank's parent company, Pope County Bankshares, Inc., Russellville, Arkansas, into Applicant's wholly-owned subsidiary, FABCO Sub, Inc., Little Rock, Arkansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28357 Filed 10-18-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; NBN Corporation

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W,. Atlanta, Georgia 30303:

1. *NBN Corporation*, Newport, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of National Bank of Newport, Newport, Tennessee. Comments on this application must be received not later than November 10, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Truman Bancshares, Inc., Truman, Minnesota; to become a bank holding company by acquiring 97 percent of the voting shares of Peoples State Bank of Truman, Truman, Minnesota. Comments on this application must be received not later than November 8, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *National American Bancorp*, San Francisco, California; to become a bank holding company by acquiring 100 percent of the voting shares of National American Bank, San Francisco, California. Comments on this application must be received not later than November 8, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *FABCO Sub, Inc.*, Little Rock, Arkansas; to become a bank holding company by acquiring 98.9 percent of the voting shares of Peoples Bank & Trust Company, Russellville, Arkansas ("Bank"), through merger with Bank's parent company, Pope County Bankshares, Inc., Russellville, Arkansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28356 Filed 10-18-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Citizens Bancorporation

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorporation*, Sheboygan, Wisconsin, (lending activities; continental United State): To engage, through its subsidiary, Citizens Mortgage Company, Inc., in making and acquiring loans and other extensions of credit, for its own account or for the account of others. These activities previously have been proposed to be conducted in Wisconsin and the upper peninsula of Michigan, from an office to be located in Milwaukee, Wisconsin. Applicant proposes to expand the geographic service area to include all 48 contiguous continental states (all states except Alaska and Hawaii). Comments on this application must be received not later than November 3, 1983.

2. *Dunn Shores, Inc.*, Eagle Grove, Iowa, (leasing activities; North Central Iowa): To engage in leasing personal property or acting as agent broker or adviser in leasing such property in accordance with the provisions of 12 CFR 225.4(a)(6)(i). These activities will be performed from an office in Eagle Grove, Iowa servicing Greene, Boone, Story, Marshall, Calhoun, Webster, Hamilton, Hardin, Grundy, Pocahontas, Humboldt, Wright, Franklin, Butler, Palo Alto, Emmet, Kossuth, Hancock, Cerro Gordo, Floyd, Winnebago, Worth, and Mitchell counties in Iowa. Comments on this application must be received not later than November 8, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Jacinto City Bancshares, Inc.*, Houston, Texas (financing activities; Texas): To engage through its subsidiary, Mercury Acceptance Corporation, in making or acquiring loans and other extensions of credit such as would be made by a consumer finance company in accordance with the Board's Regulation Y and applicable provisions of the Texas Credit Code. The service area will be Harris County, Texas and the office will be located in Houston, Texas. Comments on this application must be received not later than November 10, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California (financing and servicing activities; United States): To engage, through its indirect susidiary, MerCredit Corporation, in the activities of making loans and other extensions of credit, servicing loans and other extensions of credit for itself and others, and providing services incidental to such loans and extensions of credit such as are made or provided by a finance company. Such activities will include, but not be limited to, providing funds and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products. These activities would be conducted from an existing office of FinanceAmerica Private Brands Inc., another indirect subsidiary of BankAmerica Corporation, in Irving, Texas, serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than November 10, 1983.

2. *Security Pacific Corporation*, Los Angeles, California (financing and credit-related insurance activities; California): To engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company and acting as broker or agent for the sale of credit life, accident and health insurance, and credit property insurance, such insurance activities being permitted pursuant to section 601 (A) and (D) of Title VI of the Garn-St Germain Act. These activities would be conducted from an office of Security Pacific Finance Corp., located in City of Industry, California, serving the State of California. Comments on this application must be received not later than November 10, 1983.

3. *Security Pacific Corporation*, Los Angeles, California (financing and credit-related life, accident and health insurance activities; New York): To engage, through its subsidiaries, Security Pacific Finance Corp. and SPF Credit Services, Inc. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance, such insurance activities being permitted pursuant to section 601 (A) and (D) of Title VI of the Garn-St Germain Act. These activities would be conducted from an office of Security Pacific Finance Corp. and SPF Credit Services, Inc. located in Staten Island, New York, serving the State of New York. Comments on this application must be received not later than November 10, 1983.

Board of Governors of the Federal Reserve System, October 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28355 Filed 10-18-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 76C-0369]

FD&C Red No. 4; Denial of Petition for Permanent Listing; Availability of Commissioner's Decision

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a Final Decision by the Commissioner of Food and Drugs affirming the Initial Decision which denied the petition for permanent listing of FD&C Red No. 4 for use in maraschino cherries and ingested drugs.

ADDRESS: The transcript of the hearing, the evidence submitted, and all other documents cited in this decision may be seen in the Dockets Management Branch (HFA-305), Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

DATE: The Final Decision is effective December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Allen Heim, Office of Science Coordination (HF-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1587.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 12.130(e), FDA is announcing that the Commissioner of Food and Drugs has issued a Final

VOL 48 ISS 203 OCT 19 1983 UMI

Decision following a formal evidentiary public hearing to consider objections to the agency's denial of the petition for permanent listing of FD&C Red No. 4 for use in maraschino cherries and ingested drugs. The Commissioner has determined that the studies submitted do not establish that Red No. 4 will be safe for any ingested use. The Commissioner has therefore affirmed the Initial Decision, which denied the petition, as supplemented and modified by the final decision. (FD&C Red No. 4 has not been used for the uses in question since 1976.)

Dated: October 12, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-28540 Filed 10-17-83; 10:36 am]

BILLING CODE 4160-01-M

Public Health Service

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants; Cancellation of Meeting

Notice is hereby given that the meeting of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants scheduled to be held October 24–25, 1983 at the Brooks Air Force Base School of Aerospace Medicine in San Antonio, Texas has been cancelled. (48 FR 44660; September 29, 1983)

Persons who desire additional information may contact the Executive Secretary, Peggy McKinney, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–4182 or FTS 629–4182.

Dated: October 7, 1983.

John A. Moore,

D.V.M. Chairman.

[FR Doc. 83-28408 Filed 10-18-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Buffalo Resource Area; Wyoming; Call for Coal Resource Information

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for coal resource information.

SUMMARY: As stated in the Notice of Intent published on February 11, 1982 (Federal Register, Vol. 47, No. 29, Page 6383), the Buffalo Resource Area of the Casper District has initiated a resource management plan/environmental impact statement (RMP/EIS) to guide future management actions on the public lands within the Resource Area. This "call for coal resource information" is a new regulation procedure (43 CFR 3420.1–2) and is being issued to assure that federal coal resources and potential development are given adequate consideration.

All parties are invited to identify any *new* coal areas and data they are interested in having considered for possible future third-round regional coal leasing in 1987 or later. This does not include areas already covered by coal planning as defined in the Highlight Coal Supplement to the Eastern Powder River Basin Management Framework Plan (MFP)—1979, the Gillette Review Area Coal Amendment to the Eastern Powder River Basin MFP—1980, the Western Powder River Coal Amendment to the Western Powder River Basin MFP—1981, and the Recluse Review Area Coal Amendment to the Eastern Powder River Basin MFP—1982, and the Unsuitability Criteria Assessment—Thunder Basin National Grassland 1982, USDA—Forest Service.

Consult these amendments and assessment or contact the Buffalo Resource Area at the address below for information or identification of specific coal areas already subjected to coal planning.

ADDRESS: Glenn Bessigner, Area Manager, Buffalo Resource Area, P.O. Box 670, Buffalo, WY 82834, Telephone (307) 684–5586.

The BLM will *not* conduct any coal resource inventories for this RMP/EIS. Parties interested in Federal coal leasing and development in new areas will be expected to provide coal resource data for their areas of interest.

DATE: Submissions of new coal data and areas of interest must be adequate and timely if they are to be considered in the plan. Therefore, new coal areas of interest for possible leasing consideration and associated coal data must be submitted to the address noted above by November 21, 1983. Areas of interest and accompanying data submitted for areas inside the Thunder Basin National Grasslands will be sent to the USDA-Forest Service, Medicine Bow National Forest in Laramie, Wyoming.

Considering present time and budget constraints, areas that cannot be addressed may be considered in future planning. This RMP/EIS is scheduled to be completed by October of 1984.

James W. Monroe,

District Manager.

[FR Doc. 83-28360 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

Platte River Resource Area, Wyoming; Call for Coal Resource Information

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for coal resource information.

SUMMARY: As stated in the Notice of Intent published on February 15, 1982 Federal Register, Vol. 45, No. 33 Pages 10462 and 10463) the Platte River Resource Area of the Casper District has initiated a resource management plan/environmental impact statement (RMP/EIS) to guide future management actions on pulic lands with the Resource Area. This "call for coal resource information" is a new regulation procedure (43 CFR 3420.1–2) and is being issued to assure that federal coal resources and potential development are given adequate consideration.

All parties are invited to identify any *new* coal areas and data they are interested in having considered for possible future third-round regional coal leasing in 1987 or later. This does not include areas already covered by coal planning as defined in the Converse County Review Area Amendment to the Eastern Powder River Basin Management Framework Plan (1983), and the Unsuitability Criteria Assessment-Thunder Basin National Grassland 1982, USDA-Forest Service.

Consult this amendment and assessment or contact the Platte Resource Area at the address below for identification of specific coal areas already subject to coal planning.

ADDRESS: Mr. Jim Melton, Area Manager, Platte River Resource Area, 951 Rancho Road, Casper, WY 82601, Telephone: 307–261–5556.

The BLM will *not* conduct any coal resource inventories for this RMP/EIS. Parties interested in Federal coal leasing and development in new areas will be expected to provide coal resource data for their areas of interest.

DATE: Submissions of new coal data and areas of interest must be adequate and timely if they are to be considered in the plan. Therefore, new coal areas of interest for possible leasing consideration and associated coal data must be submitted to the address noted above by November 21, 1983.

Areas of interest and accompaning data submitted for areas inside the Thunder Basin National Grasslands will be sent to the USDA-Forest Service Medicine Bow National Forest in Laramie, Wyoming. Considering present time and budget constraints, areas that cannot be addressed may be considered in future planning. This RMP/EIS is schedaled to be completed by October of 1984.

James W. Monroe,

District Manager.

[FR Doc. 83-28361 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Intent To Hold Public Scoping Meetings and To Prepare an Environmental Impact Statement for Three (3) Coal Preference Right Lease Applications (PRLA's), Located in the Craig District, Colorado, Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Scoping Meetings and Notice to Prepare An EIS (Northwest Colorado Coal Preference Right Lease Applications Environmental Impact Statement).

SUMMARY: This notice advises the public that the Bureau of Land Management intends to hold meetings to gather information and seek assistance in defining the range of uses and concerns for preparation of an Environmental Impact Statement (EIS) for three coal PRLAs (C–4275, C–0125366, C–0125854) located within Jackson and Rio Blanco Counties, Colorado. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations (43 CFR 1501.7 and 1508.22) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS: An information packet and PRLA location map will be available upon request from the White River Resource Area Office at the address given below and at the public meetings. Meeting dates and places are as follows:

Place	Date	Time	Address
Walden, Colo.	Nov. 15, 1983	7 p.m.	Basement of Soil, Conservation Service Office, corner of 5th and Logan, Walden, Colo.
Meeker, Colo.	Nov. 16, 1983	7 p.m.	BLM, WRRA Office, 2 miles west of Meeker, Colo.

Oral testimony and submission of written comments will be received at the meetings, or written comments may be mailed to Curt Smith, Area Manager, Bureau of Land Management, White River Resource Area, P.O. 928, Meeker, Colorado, 81641. Written comments will be accepted through November 21, 1983.

SUPPLEMENTARY INFORMATION: The EIS is intended to evaluate leasing alternatives as well as identifying mitigating measures and special stipulations that the applicant must take into consideration when preparing the PRLA's final showing. Alternatives that have been tentively identified include the following: (1) No Action, or no development alternative, (2) Applicants Proposed Action (initial showing), and (3) Applicants Proposed Action Incorporating BLM Mitigating Measures and Special Stipulations. The purpose of the meetings is to encourage participation from interested persons in defining significant environmental issues and concerns which may result from the issuance of noncompetitive coal leases on the three (3) areas.

Oral presentations may be made in lieu of or in addition to any written comments submitted. Each witness will be limited to a maximum of ten minutes of oral presentation. The text of any prepared presentation materials may be given to the EIS Team Leader at the meetings.

The agenda for the scoping meetings will be as follows:

1. Introduction:

a. Purpose and Intent of Meeting;

b. Location and Description of the PRLAs;

c. Description of Issues Identified During Pre-analysis;

d. Discussion of Possible Alternatives to be Considered in the EIS; and

e. Public Comment Period will close November 21, 1983.

2. Solicitation of public comment, recommendations, and issues of major concern to be considered and addressed in the EIS.

Potential issues in the area associated with development of these PRLAs, include impacts to wildlife and groundwater hydrology.

Preparation of the EIS will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR 1500), Federal Coal Management Regulations (43 CFR 3430), and other Federal laws and regulations, and Department of the Interior policies and procedures.

Dated: October 4, 1983.

Ralph Smith,

Acting State Director, Colorado, Bureau of Land Management.

[FR Doc. 83-28447 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

Butte District, Montana; District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR Part 1780 that a meeting of the Butte District Advisory Council will be held Tuesday and Wednesday, November 15 and 16, 1983.

The meeting will begin at 1 p.m., November 15 in the conference room of the Butte District Office at 106 North Parkmont, Butte, Montana. The agenda will include (1) Garnet RMP update, (2) Headwaters RMP update, (3) a panel discussion on public land sales procedures, (4) a discussion on sodbusting, (5) an update on the Dillon Land Adjustment Program, and (6) an update on legislation affecting BLM.

The meeting is open to the public. Interested persons may make oral statements to the council or file written statements for the council's consideration. Anyone wishing to make an oral statement should make advance arrangements with the District Manager.

Summary minutes of the meeting will be maintained in the district office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: October 11, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83-28444 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

[W-58936; W-79856]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of Pub. L. 31–245 and Title 43 Code of Federal Regulations, Section 3108.2–1[c], and Pub. L. 97–451, petitions for reinstatement of oil and gas lease W–

VOL 48 ISS 203 OCT 19 1983 UMI

58930 for lands in Campbell County, Wyoming and oil and gas lease W-79856 for lands in Carbon County, Wyoming, were timely filed and were accompained by all the required rentals accruing from their respective date of termination.

The lessees have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and will reimburse the Department for the cost of this Federal Register, notice.

The lessees having met all the requirements for reinstatement of the leases as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C 188), the Bureau of Land Management is proposing to reinstate lease W-58930 effective June 1, 1983, and lease W-79856 effective August 1, 1983, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Harold G. Stinchcomb,

Chief, Branch of Fluid Minerals.

[FR Doc. 83-28446 Filed 10-18-83; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-166]

Import Investigations; Certain Computerized Jacquard Pattern Cutting Systems; Order

Pursuant to my authority as Chief Administrative Law Judge of this Comission, I hereby designate Administative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: October 12, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-28465 Filed 10-18-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-123 (Final)]

Certain Flat-Rolled Carbon Steel Products From Brazil

AGENCY: United States International Trade Commission.

ACTION: Revised notice of institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: October 12, 1983.

SUMMARY: The definition of the products included within the scope of this investigation is hereby expanded to include those flat-rolled carbon steel products provided for in item 607.6610 of the Tariff Schedules of the United States Annotated (TSUSA). The Commission will hold a public hearing in connection with this investigation on January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Judith Zeck (202-523-0339), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Products Covered by the Investigation

On September 28, 1983, the United States International Trade Commission published in the Federal Register (48 FR 44279) notice of the institution of its final antidumping investigation No. 731-TA-123 (Final) relating to certain flat-rolled carbon steel products from Brazil. The original notice stated that the products included within the term certain flat-rolled carbon steel products were provided for in TSUSA items 607.6615, 607.9400, 608.0710, and 608.1100. This notice hereby expands the scope of this investigation to include those flat-rolled carbon steel products provided for in TSUSA item 607.6610; this item number was inadvertently omitted from the Commission's original notice.

Hearing

The original notice of institution of the investigation stated that the date of the Commission's hearing to be held in connection with the investigation would be announced later. On September 23, 1983, the Department of Commerce postponed the scheduled date for making its final determination in its investigation of less-than-fair value sales from Brazil from November 14, 1983, to January 20, 1984 (48 FR 43365). Accordingly, the Commission's public hearing is hereby scheduled to begin at 10 a.m. on January 31, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 26, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10 a.m. on January 23, 1984, in room 117 of the U.S. International Trade Commission Building.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on February 7, 1984.

Staff Report

A public version of the prehearing staff report containing preliminary findings of fact in this investigation will be placed on the public record on January 16, 1984, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigations on or before February 7, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

By order of the Commission.

Issued: October 13, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-28486 Filed 10-18-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-75]

Import Investigation; Certain Large Video Matrix Display Systems and Components Thereof; Order No. 24

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation as remanded by the Commission.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: October 13, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-28487 Filed 10-18-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation Nos. 731-TA-125 and 126 (Final)]

Potassium Permanganate From the People's Republic of China and Spain

AGENCY: United States International Trade Commission.

ACTION: In conformance with the determination of the International Trade Administration of the Department of Commerce to amend its schedule for the conduct of the referenced investigations, the Commission hereby revises its schedule as follows: the prehearing conference will be held on November 21, 1983; the hearing will be held on December 2, 1983; and the Commission's final determinations shall be issued on or before Janauary 5, 1984.

EFFECTIVE DATE: October 7, 1983.

SUPPLEMENTARY INFORMATION: The Commission instituted these final antidumping investigations effective August 9, 1983, and scheduled a hearing to be held in connection therewith for October 28, 1983 (48 FR 39519, Aug. 31, 1983). However, the Department of Commerce extended the investigations in response to requests from producers of the subject merchandise in the People's Republic of China and Spain. The effect of the extensions was to change the scheduled date for Commerce to make its final determinations from October 17, 1983, to November 22, 1983. Accordingly, the Commission is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's hearing, which was to have been held on October 28, 1983, has been rescheduled to begin at 10 a.m. on December 2, 1983, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 18, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:30 a.m. on November 21, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 28, 1983. A public version of the prehearing staff report containing preliminary findings of fact in these investigations will be placed in the public record on November 17, 1983. The deadline for filing posthearing briefs will be announced at the hearing.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202-523-0399), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

By order of the Commission.

Issued: October 11, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-28484 Filed 10-18-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave. NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395-7313.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Revenue, Expenses & Statistics
OMB Form No.: 3120-0022
Agency Form No.: QPA
Frequency: Quarterly-Annually
Respondents: Class I Motor Carriers of Passengers
No. of Respondents: 68
Total Burden Hrs.: 1,632

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Condensed Balance Sheet
OMB Form No.: 3120-0063
Agency Form No.: CBS
Frequency: Quarterly-Annually
Respondents: Class I Railroad
No. of Respondents: 30
Total Burden Hrs.: 720

Type of Clearance: Revision
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Railroad Employees Service & Compensation
OMB Form No.: 3120-0074
Agency Form No.: Annual Wage A&B M-300
Frequency: Annually
Respondents: Class I Railroads
No. of Respondents: 30
Total Burden Hrs.: 1,200

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Affairs
Title of Form: Notice of Intent to Perform Interstate Transportation for Certain Nonmembers under 49 USC 10526 (A)(5)
OMB Form No.: 3120-0005
Agency Form No.: OCP-102
Frequency: on Occasion
Respondents: Agricultural Cooperatives
No. of Respondents: 50
Total Burden Hrs.: 25

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28413 Filed 10-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-25)]

Intrastate Rail Rate Authority; Ohio

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission is extending the provisional certification of the Public Utilities Commission of Ohio under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, pending submission of standards and procedures and its modifications of Ohio statutes as noted in the full decision.

DATES: The Public Utilities Commission of Ohio must submit proper standards and procedures and make necessary statutory amendments by December 19, 1983, or lose provisional certification. Comments by interested parties are due January 16, 1984. Ohio's reply is due March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: October 12, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and

VOL
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Gradison. Chairman Taylor concurred in part and dissented in part with a separate expression. Commissioner Andre concurred in the result.

Agatha L. Mergenovich,
Secretary

[FR Doc. 83-28417 Filed 10-18-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30253]

Rail Carriers; Anthracite Railway, Inc.—Exemption From 49 U.S.C. 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the reissuance of 10,000 shares of common stock at a par value of one cent per share.

DATES: This exemption will be effective on November 21, 1983. Petitions to stay the effectiveness of this decision must be filed by October 31, 1983, and petitions for reconsideration must be filed by November 8, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30253:

(1) Office of Secretary, Case Control Branch, Interstate Commerce Commission Washington, D.C. 20423
(2) Petitioner's representative: John D. Heffner, 1776 K Street NW., Suite 700, Washington, DC 20006

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: October 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Grandison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-28415 Filed 10-18-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 274 (Sub-3B)]

Abandonment of Railroad Lines; Use of Opportunity Costs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of rate of return.

SUMMARY: The Commission finds that in abandonment proceedings decided after this notice becomes effective, the appropriate rate of return to be used in calculating opportunity costs is 22.3 percent. Other rates of return which are supported by clearly explained methodologies and evidence will be considered on a case by case basis.

DATE: This notice will be effective on November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245
Waybe A. Michel, (202 275-7657
or
Karen A. Osterloh, (202) 275-7483

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: October 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre Dissented with a separate expression.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-28416 Filed 10-18-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30292*]

Rail Carriers; Grand Trunk Western Railroad Co.—Discontinuance of Trackage Rights Exemption—In Saginaw County, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the discontinuance by the Grand Trunk Western Railroad Company of trackage rights over approximately 1.3 miles on the Chesapeake and Ohio Railway's Saginaw Improvement Spur in Saginaw County, MI, subject to conditions for protection of employees.

DATES: This exemption is effective October 19, 1983. Petitions to reopen must be filed by November 7, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30292 to:

(1) Office of Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) J. C. Danielson, Grand Trunk Rail System, 131 West LaFayette Blvd., Detroit, MI 48226

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call toll free (800) 424-5403.

Decided: October 12, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-28414 Filed 10-18-83; 8:45 am]
BILLING CODE 7035-01-M

*Renumbered from Docket No. AB-31 (Sub-No. 12).

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 27, 1983, a proposed consent decree in *United States,* v. *International Paper Company,* Civil Action No. CV-83-2321, was lodged with the United States District Court for the Western District of Louisiana. The proposed consent decree provides for compliance with the Clean Water Act by International Paper's De Ridder, Louisiana wood treatment facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *International Paper Co.* D.J. Ref. 90-5-1-1-1952.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Louisiana 3B12 Federal Bldg., Shreveport, Louisiana and at the Region VI Office of the Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please refer to *United States* V. *International Paper Co.,* D.J. Ref. 90-5-1-1-1952.

F. Henry Habicht II,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-28404 Filed 10-18-83; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (83-87)]

Privacy Act of 1974; Systems of Records

In accordance with 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974 (Pub. L. 93-579), the National Aeronautics and Space Administration hereby publishes the systems of records currently maintained by the agency.

October 6, 1983.

John W. Boyd,
Associate Administrator for Management.

BILLING CODE 7510-01-M

TABLE OF CONTENTS

NASA 10ACMQ - Aircraft Crewmembers Qualifications and Performance Records - NASA
NASA 10BRPA - Biographical Records for Public Affairs - NASA
NASA 10EEOR - Equal Opportunity Records - NASA
NASA 10ERMS - Executive Resources Management System - NASA
NASA 10GMVP - Government Motor Vehicle Operators Permit Records - NASA
NASA 10HABC - History Archives Biographical Collection - NASA
NASA 10HERD - Human Experimental and Research Data Records - NASA
NASA 10IGIC - Inspector General Investigations Case Files - NASA
NASA 10PAYS - Payroll Systems - NASA
NASA 10SCCF - Standards of Conduct Counselling Case Files - NASA
NASA 10SECR - Security Records System - NASA
NASA 10HIMS - Health Information Management - NASA
NASA 10SPER - Special Personnel Records - NASA
NASA 10XROI - Exchange Records on Individuals - NASA
NASA 22ORER - LeRC Occupational Radiation Exposure Records - NASA
NASA 51RSCR - GSFC Radiation Safety Committee Records - NASA
NASA 53BHTR - Wallops Flight Facility Base Housing Tenant Records - NASA
NASA 72XOPR - JSC Exchange Activities Records - NASA
NASA 73FHAP - WSTF Federal Housing Administration (FHA) 809 Housing Program - NASA
NASA 76RTES - KSC Radiation Training and Experience Summary - NASA
NASA 76STCS - KSC Shuttle Training Certification System (YC 04)
NASA 76XRAD - KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses - NASA

NASA 10ACMQ

SYSTEM NAME:

Aircraft Crewmembers Qualifications and Performance Records - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Crewmembers of NASA aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains: (1) record of qualification, experience, and currency, e.g., flight hours (day, night, and instrument), types of approaches and landings, crew position, type aircraft, flight check ratings and related examination results, training performed and medical records; (2) flight itineraries and passenger manifests; and (3) biographical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for; evaluation of crewmember performance by supervisory flight operations personnel and staff; by the individuals whose records are maintained; and on occasion by flight operations and safety survey teams. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) In cases of accident investigations, access to this system of records may be granted to federal or local agencies such as Department of Defense, Federal Aviation Administration, National Transportation Safety Board, or foreign governments; (2) To other agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs; or to other agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) With prior approval by the individual - publicity or press releases; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, charts, punched cards, computer printouts.

RETRIEVABILITY:

Records are indexed by name or aircraft number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Transportation and Aircraft Branch, Location 1.

Subsystem Managers: Chief, Ames Aircraft Operations Division, Location 2; Chief, Dryden Aircraft Operations Division, Location 3; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Section, Location 6; Head, Aircraft Operations Branch, Location 7; Chief, Aircraft Operations Branch, Location 8; Chief, Aircraft Operations, Location 9; Chief Contract Management, Location 10; Data Acquisition Manager, Earth Resources Laboratory, Location 11; Head, Aeronautical Programs Branch, Location 4 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

VOL
48
ISS
2
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3
OC
19
1983
UMI

RECORD SOURCE CATEGORIES:

Individuals, training schools or instructors, medical units or doctors.

NASA 10BRPA

SYSTEM NAME:

Biographical Records for Public Affairs - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in agency program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current biographical information about the individual with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or the individual's activity with NASA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is compiled, updated, and maintained at NASA installations for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving participation in a major NASA activity.

The data serves as background information about the individual and is used within NASA to prepare public appearance announcements of key officials, speaking engagements, special appointments, participation in professional societies, etc.; to write news stories about special achievements, awards, participation in major NASA activities, programs, etc.; and to prepare responses to inquiries submitted to the Public Affairs Division from the news media.

Users are the staff members of the public information office within each office of Public Affairs.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: these records are made available to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public in connection with NASA public affairs activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Since the records are a matter of public information, no safeguard requirements are necessary.

RETENTION AND DISPOSAL:

Records are maintained as long as there is potential public interest in them and are disposed of when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Management Services, Public Affairs Division, Location 1.

Subsystem Managers: The Public Affairs Officer at Locations 2, 3, 4, 5, 6, 7, 8, 9, and 11 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

An individual desiring to find out if a Biographical System of Records contains a record pertaining to him/her should call, write, or visit the Public Affairs office at the appropriate NASA location.

RECORD ACCESS PROCEDURES:

An individual may request access to his/her record by calling, writing, or visiting the Public Affairs office at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

CONTESTING RECORD PROCEDURES:

The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his/her biographical record to his/her own satisfaction.

RECORD SOURCE CATEGORIES:

Information in the biography of an individual in the system of records is provided volutarily by the individual generally with the aid of a form questionnaire.

NASA 10EEOR

SYSTEM NAME:

Equal Opportunity Records - NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complaints and (2) applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U. S. C. 2473; 44 U. S. C. 3101; Executive Order 11478, dated August 8, 1969; EEOC Regulations; 29 CFR Part 1613; MSPB Regulations; 5 CFR Parts 1200 - 1202; Equal Opportunity Act 1972, as amended (P.L. 92-261); Section 15 of the Age Discrimination in Employment Act of 1967, as amended (P.L. 93-259).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to process complaints of alleged discrimination, including investigations, hearings, and appeals; to maintain active discrimination complaints files; and to retain inactive discrimination complaints files.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Equal Employment Opportunity Commission and the Merit Systems Protection Board to facilitate their processing of discrimination complaints, including investigations, hearings and reviews on appeals; (2) Responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by any combination of name, birthdate, social security number, ethnic groups, grades, topics, statistics.

SAFEGUARDS:

Records are located in locked metal file cabinets, or in metal file cabinets in secured rooms with access limited to those whose official duties require access and are locked during non duty hours.

RETENTION AND DISPOSAL:

Complaint case files for cases resolved within the agency, by EEOC, or by U.S. Court, are destroyed four years after resolution of the case. Other routine office records are reviewed periodically, and are retained or destroyed as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator for Equal Opportunity Programs, Location 1.

Subsystem managers: Director, Equal Opportunity Office at Location 1; Chief, Equal Opportunity Programs Office at Location 2; Head, Equal Opportunity Programs Office at Location 4; Chief, Equal Opportunity Programs Officer at Location 5; Director, Equal Opportunity Program Office at Location 6; Head, Office of Equal Opportunity Programs at Location 7; Chief, Office of Equal Employment Opportunity at Location 8; Director, Equal Opportunity Office at Location 9; Manager, Equal Employment Opportunity/Affirmative Action Programs at Location 10; Equal Opportunity Officer at Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Employees, applicants, installation EEO officers, complainants, EEO counselors, EEO investigators, EEOC complaints examiners, MSPB officials, complaints coordinators, Assistant Administrator for Equal Opportunity Programs.

NASA 10ERMS

SYSTEM NAME:

Executive Resources Management System - NASA

SYSTEM LOCATION:

Location 1, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Approximately 2,000 individuals with experience and education unique to the NASA mission in the technical and administrative fields who are considered to be candidates for key positions within NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data, education, training, work experience, career interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473, 44 U.S.C. 3101, 5 U.S.C. 4103; 5 U.S.C. 3396..

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the identification of replacement candidates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

The records are indexed by social security number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Development, Location 1.

Subsystem Managers: None.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager only.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other oranizations and individuals, and NASA personnel records.

NASA 10GMVP

SYSTEM NAME:

Government Motor Vehicle Operators Permit Records - NASA

SYSTEM LOCATION:

Locations 1 through 14 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA employees, contractor employees, other federal and state government employees. Location 8 does not maintain records on contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; Federal Personnel Management Manual, Chapter 930; Federal Property Management Regulations Subpart 101-39.601; NASA Management Instruction 6720.1A.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the purpose of identifying and checking record of applicant and issuing permits for operation of Government vehicles. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) National Driver Register, Department of Transportation, where Form 1047 is received for check and (2) Standard routine uses 1 through 4 inclusive, as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in a locked metal file cabinet with access limited to those whose official duties require access. Room is locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are maintained for a period of three years when permit expires or until permit holder leaves the Agency or requests cancellation. Records are destroyed when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Budget and Support Branch, Location 1.

Subsystem Managers: Chief, Security Branch, Location 2; Transportation Officer, Location 3; Chief, Logistics Management Division, Location 4; Chief, Transportation Branch, Location 5; Chief of Transportation, Location 6; Chief, Management Support Division, Location 7; Motor Vehicle Dispatcher, Location 8; Director, Logistics Office, Location 9; Chief Contract Management, Location 10; Chief Installation Operations, Location 11; Chief, Administration Office, Location 12; Chief, Maintenance and Administration Office, Location 13; Chief of Facilities, Location 14. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual NASA employees and individual contractor employees. Location 8 does not maintain records on contractor employees.

NASA 10HABC

SYSTEM NAME:

History Archives Biographical Collection-NASA

SYSTEM LOCATION:

Locations 1 and 5 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data; speeches and articles by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for researching and writing official histories and answering queries from various NASA offices. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: Disclosure to scholars (historians and other disciplines), or any other interested individuals for research and writing dissertations, articles, and books, for government, commercial and non-profit publication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in file folders.

RETRIEVABILITY:

The records are indexed by name.

SAFEGUARDS:

Because these records are archive material and therefore a matter of public information, there are no special safeguard procedures required.

RETENTION AND DISPOSAL:

Most biographical files are retained indefinitely, either in the archives or retired to the appropriate Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, History Office, Code LBH-14, Location 1.

Subsystems Managers: Historian, Code BE-4, Location 5 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Press releases, newspapers, journals, and the individuals themselves.

NASA 10HERD

SYSTEM NAME:

Human Experimental and Research Data Records - NASA

SYSTEM LOCATION:

Locations 2, 3, 5, 6, and 9, as stated in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; Civil Service employees, military, employees of other government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data obtained in the course of an experiment, test, or research medical data from inflight records; other information collected in connection with an experiment, test, or research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by NASA for the purposes of evaluating new analytical techniques, equipment, and re-examining flight data for alternative interpretations, developing applications of experimental techniques or equipment, reviewing and improving operational procedures with respect to experimental protocols (both inflight and ground), life support systems operating procedures, determining human engineering requirements, and carrying out other research.

In addition to the internal use of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; and (2) the standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders; on punch cards, magnetic tapes, or discs; on microfilm, microfiche, still photographs, or motion picture film; and on various medical recordings such as electrocardiographic tapes, stripcharts, and x-rays.

RETRIEVABILITY:

By name, experiment or test; arbitrary experimental subject number; flight designation; or crew member designation on a particular space or aeronautical flight.

SAFEGUARDS:

Access is limited to Government personnel requiring access in the discharge of their duties, and to appropriate support contractor employees on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations set forth in 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Astronaut records are retained indefinitely. Ground test and research data are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed, except that significant medical data will be handled in accordance with CSC regulations and NASA Control Schedule 11.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Occupational Health Office, Location 1.

Subsystem Managers: Research Assistant to the Director, Location 2; Director of Man/Systems Integration Division, Location 3; Assistant Director for Life Sciences, Space and Life Sciences Directorate, Location 5; Director, Biomedical Office, Location 6; Director, Management Services Office, Location 9. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the system or subsystem manager named above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Experimental test subjects, physicians, principal investigators and other researchers, and previous experimental test or research records.

NASA 10IGIC

SYSTEM NAME:

Inspector General Investigations Case Files - NASA

SYSTEM LOCATION:

National Aeronautics and Space Administration, Washington, DC 20546.

Subsystem Locations: Locations 2, 4, 5, 6, 7, 8, 9 and 10 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of NASA, contractors and sub-contractors, and others whose actions have affected NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government, (2) Theft of Government property, (3) Bribery, (4) Lost or stolen lunar samples, (5) Misuse of Government property, (6) Conflict of interest, (7) Waiver of claim for overpayment of pay, (8) Leaks of Source Evaluation Board information, (9) Improper personal conduct, (10) Irregularities in awarding contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 28 U.S.C. 535 (b); 5 U.S.C. App. I; 4 CFR Part 91; Executive Order 11478.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for: (1) Providing management with information which will serve as a possible basis for appropriate administrative action or the establishment of NASA policy; (2) Providing the Administrator of NASA (or the Comptroller General, as appropriate) sufficient information to provide a basis for decision concerning a request for waiver of claim in the case of an erroneous payment of pay.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Responding to the White House regarding matters inquired of; (2) Disclosure to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (3) Providing data to Federal intelligence elements; (4)

VOL
48
ISS
2
0
3
OC
19
1983
UMI

Providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) Providing personal identifying data to Federal, State, local or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (6) Disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action; (7) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored in file folders, index cards and on computer tapes and disks.

RETRIEVABILITY:

Information is retrieved by name of individual.

SAFEGUARDS:

Information is kept in locked metal file cabinets, and in secured vault and secured computer rooms. Access is limited to Inspector General personnel with a need-to-know.

RETENTION AND DISPOSAL:

Special interest case files are reviewed for destruction or further retention 10 years after case is closed and routine interest case files are destroyed 5 years after case is closed. Case is not closed until all judical and administration avenues and considerations have been finally exhausted. (Special interest files are those investigative files which the Assistant Inspector General for Investigations determines should be retained because of especially significant, sensitive, or historical content. All other files are routine interest files.)

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Location 1.

Subsystem Managers: Director, OIG Office at Ames Research Center, Location 2; Director, OIG Office at Goddard Space Flight Center, Location 4; Director, OIG Office at Lyndon B. Johnson Space Center, Location 5; Director, OIG Office of John F. Kennedy Space Center, Location 6; Director, OIG Office at Langley Research Center, Location 7; Director, OIG Office at Lewis Research Center, Location 8; Director, OIG Office at George C. Marshall Space Flight Center, Location 9; and Director, OIG Office at NASA Resident Office - JPL, Location 10.

NOTIFICATION PROCEDURE:

None. System is exempt. See below.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Exempt.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Inspector General Investigations Case Files system of records is exempt from all sections of the Privacy Act of 1974 (5 U.S.C. 552a), EXCEPT the following:

(b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A) through (F) relating to publishing an annual system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10) and (11) relating to agency requirements for maintaining systems; and (i) relating to criminal penalties.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212, for the reason that the Office of Inspector General, NASA, is a component of NASA which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10PAYS

SYSTEM NAME:

Payroll Systems - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former NASA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data contained in this system of records includes payroll, employee leave, insurance, labor and human resource distribution and overtime information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 et seq.; 5 U.S.C. 6301 et seq.; General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 6; Treasury Fiscal Requirements Manual, Part III; Federal Personnel Manual; and NASA Financial Management Manual, Sections 9300 and 9600.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for maintaining the payroll records and related areas.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) To report to the Office of Personnel Management (a) withholdings of premiums for life insurance, health benefits and retirement, and (b) separated employees subject to retirement; (4) To furnish the U. S. Treasury magnetic tape reports on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) To provide the Internal Revenue Service with detail of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) To furnish various financial institutions itemized listings of employee's pay and savings allotments transmitted to the institutions in accordance with employee requests; (7) To provide various Federal, state, and local taxing authorities itemized listing of withholdings for individual income taxes; (8) To respond to requests by State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) To report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) To furnish leave balances and activity to the Office of Personnel Management upon request; (11) To furnish data to labor organizations in accordance with negotiated agreements; (12) To furnish pay data to the Department of State for certain NASA employees located outside the United States; and (13) Standard routine uses 1 through 4 inclusive as set forth in Apprndix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and microfilm.

RETRIEVABILITY:

Records are indexed by name and/or social security number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for audit by the General Accounting Office and are transferred to the National Personnel Records Center, St. Louis, Missouri, anywhere from one to three years. Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook - NHB 1441.1A.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Office of the Comptroller, Location 1.

Subsystem Managers: Chief, Financial Management Division, Locations 2, 4, 5, ,7 and 8; Financial Management Officer, Locations 3; Chief, Financial Management Office, Location 6; Director, Financial Management Office, Location 9; Chief, Resources and Financial Management Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, personnel office, and the individual's supervisor.

NASA 10SCCF

SYSTEM NAME:

Standards of Conduct Counselling Case Files - NASA.

SYSTEM LOCATION:

National Aeronautics and Space Administration, Washington, DC 20546.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, and prospective NASA employees, who have sought advice or have been counselled regarding conflict of interest requirements for government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C 3101; 18 U.S.C. 201, 203, 205, 207-209; 5 U.S.C. 7324-7327; Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the system of records is used within NASA for the purpose of counseling employees regarding conflict of interest problems. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Office of Personnel Management and Merit Systems Protection Board: for investigation of possible violations of standards of conduct which the agencies directly oversee; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are documentary and maintained in loose leaf binders or file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Restricted access to a few authorized persons; stored in combination lock safe.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for General Law, Code GC, NASA Headquarters, Washington, DC 20546.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA installation where employed.

CONTESTING RECORD PROCEDURES:

The NASA regulations and procedures for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Information collected directly from individual and from his official employment record.

NASA 10SECR

SYSTEM NAME:

Security Records System - NASA.

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11, 12, and 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, sources of information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Criminal Matter Records, Traffic Management Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Aeronautics and Space Act, P.L. 85-568; Espionage and Information Control Statutes, 18 U.S.C. 793 through 799; Sabotage Statutes, 18 U.S.C. 2151 through 2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202-208 and 3056; Internal Security Act of 1950, 5 U.S.C. 781 through 798; Atomic Energy Act of 1954, P.L. 703; Executive Order 12356, Classification and Declassification of National Security Information and Material; Executive Order 10865, Safeguarding Classified Information

VOL
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Within Industry; Executive Order 10450, Security Requirements for Government Employees; P.L. 81-733; Executive Order 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies; Federal Property Management Regulation, 41 CFR Subpart 101-11; Federal Personnel Manual, Chapters 732 and 736; 14 CFR Part 1203a; 42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Personnel Security Records: The information contained in this category of records is used within NASA for the purpose of granting security clearances; for determining qualifications, suitability, and loyalty to the United States Government; for determining qualifications for access to classified information, security areas, and NASA installations, and for determining qualifications to travel to Communist controlled areas.

In addition to the internal uses of the information contained in this category of records, the following are routine uses outside of NASA: (1) To determine eligibility to perform classified visits to other Federal agencies and contractor facilities; (2) To provide data to Federal intelligence elements; (3) To provide data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (4) To provide a basis for determining preliminary visa eligibility; (5) To respond to White House inquiries; (6) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (7) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (8) Disclosure to a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Criminal Matter Records: The information contained in this category of records is used within NASA for providing management with information which will serve as a possible basis for administrative action. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Traffic Management Records: The information contained in this category of records is used within NASA to provide designated officials and employees with data concerning vehicle ownership, traffic accidents, violation of traffic laws, suspension of driving privileges, traffic control, vehicle parking, and car pools. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, punch cards, microfilm, and film.

RETRIEVABILITY:

Records are indexed by name, file number, organization, place of origin, badge number, decal number, date of event, space number, payroll number, and social security number.

SAFEGUARDS:

Access to Personnel Security Records is controlled by Government personnel exclusively. However, access to information extracted from personnel security records or information to be inserted into personnel security records is controlled by either government personnel or selected personnel of NASA contractor guard force or contractor personnel. Examples would be information required to prepare an identification badge and/or process a security clearance visitor request. Access to Criminal Matter Records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. After presenting proper identification and requesting a file or record, a person with a need-to-know and, if appropriate, a proper clearance may have access to a file or record only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment.

Traffic Management Records: Access to these records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. Access to these records is permitted after a determination has been made that the requestor has an official interest. These records are stored in locked containers.

RETENTION AND DISPOSAL:

Records, depending upon type, are retained from 6 months to 30 years before being destroyed. When current immediate need no longer exists, records are either transferred to the appropriate Federal Records Center or destroyed in accordance with records disposal instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Security Office, Location 1.

Subsystem Managers: Chief, Security Branch, Locations 2, 4, and 5; Security Officer, Location 3; Chief, Security Office, Location 6; Security Officer, Locations 7, 8, and 11; Chief, Security Division, Location 9; Security Officer at Location 12; Safety and Security Officer at Location 15. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: first, middle, and last name; date of birth; social security number; period and place of employment with NASA, if applicable.

RECORD ACCESS PROCEDURES:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 522a (k) (5) from the access provisions of the Act.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a (k) (2) from the access provisions of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

For Personnel Security Records and Criminal Matters Records see Access, above. For Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

RECORD SOURCE CATEGORIES:

Personnel Security Records: Exempt
Criminal Matter Records: Exempt
Traffic Management Records: Employees, civil investigative agencies, civil law enforcement agencies, Federal and local judicial systems, medical records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (5) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (2) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

Records subject to the provisions of 5 U.S.C. 552 (b) (1) (required by Executive order to be kept secret in the interest of national defense or foreign policy) are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552A (k) (1) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

NASA 10HIMS

SYSTEM NAME:

Health Information Management System - NASA.

SYSTEM LOCATION:

In Medical Clinics/Units and Environmental Health Offices at locations 1 through 15 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA Civil Service employees and applicants; other Agency civil service and military employees working at NASA; visitors to field installations; on-site contractor personnel who receive job related examinations, have mishaps or accidents, or come to clinic for emergency or first aid treatment; space flight personnel and their families.

CATEGORIES OF RECORDS IN THE SYSTEM:

General medical records of first aid, emergency treatment, examinations, exposures, and consultations.

Information resulting from physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; chemical, physical, and radiation exposure records; other environmental health data; alcohol/drug patient information; consultation records; and health hazard and abatement data.

Astronauts and their families - more detailed and complex physical examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; OMB Circular A-72; Pub. L. 92-255; Pub. L. 79-658.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical examinations; review by physicians in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts; exposure data for radiation/toxic exposure limits, compliance and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties; and for determining reliability pursuant to the Space Transportation System--Personnel Reliability Program (14 CFR Part 1214 Subpart 1214.5, NASA Management Instruction 8610.13).

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to OPM, OSHA and other Federal agencies as required in accordance with these special

program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Disclosure to the employer of non-NASA personnel, information affecting the reliability of such office or employee for purposes of the Space Transportation System, Personnel Reliability Program; (7) Disclosure to the public of a summary of flight crew information as it relates to mission impact, and limited to name, diagnosis, treatment, and prognosis; and (8) Standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders, punch cards, electrocardiographic tapes, x-rays, microfiche, and computer discs and tapes. They are handled between NASA installations by telecommunications.

RETRIEVABILITY:

By name, date of birth and social security number.

SAFEGUARDS:

Access limited to concerned medical environmental health personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

In accordance with Office of Personnel Management regulations and NASA Control Schedule II. Records on astronauts are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NASA Occupational Health Office, Location 1

Subsystem Managers: Medical Director or Medical Administrator or Safety and Health Coordinator at Locations 1 through 15 inclusive as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals, physicians and previous medical records of individuals.

NASA 10SPER

SYSTEM NAME:

Special Personnel Records - NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, life and health insurance, retirement, upward mobility, and work injury counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory appraisals under Competitive Placement Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of station; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement follow-ups; (8) Pre-employment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under agency as well as negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning deaths, retirement records, and other information pertaining to separated employees; (13) Special planning, analysis, and administrative information; (14) Performance appraisal records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files; (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records.

Agencywide and installation automated personnel information.

Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations.

All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish governmentwide Privacy Act Notices in the Federal Register.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by officials and employees within NASA for preview, planning, review and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

Records are indexed by any one or a combination of name, birthdate, social security number, or identification number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Programs Division, Location 1

Subsystem Managers: Director, Headquarters Personnel Division, and Personnel Officer, Office of Inspector General, Location 1; Director of Personnel, Locations 2, 3, 4, 5, 6, 7, 8, and 9; Chief, Personnel Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other organizations and individuals.

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals - NASA

SECURITY CLASSIFICATION:

Locations 6, 7, 8, and 9 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees of, and applicants for employment with, NASA Exchanges, Recreational Associations, and Employees' Clubs at NASA installations. Individuals with active loans or charge accounts at one or more of the several organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Exchange Employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, and all other employee records. Credit records on NASA employees with active accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for (1) maintaining exchange employees' payroll, leave, and other records; (2) determining pay adjustment eligibility; (3) determining Federal, State, and City tax withholdings; (4) determining leave eligibility; (5) determining person to notify in emergency; (6) certification of unemployment or injury claims; (7) determining eligibility for employment and promotion; and (8) determining credit standing.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions for insurance data with carriers and collection agents; (3) To provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) To respond to State employment compensation requests for wage and separation data on former employees; (5) To report previous job injuries to worker's compensation organizations; (6) For emergency notice to person designated by employee; (7) To report unemployment record to appropriate State and local authorities; (8) When requested, provide other employers with work record; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Exchange personnel records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

NASA Comptroller, Location 1.

Subsystem Managers: Chairperson, Exchange Council, Locations 6 and 7; Treasurer, NASA Exchange, Location 8;

VOL 48 ISS 203 OCT 19 1983 UMI

Exchange Operations Menager, Location 9; Head, Administrative Management Branch, and Treasurer Wallops Exchange and Morale Association, Location 4. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant subsystem managers listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be directed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and the individual's supervisor.

NASA 22ORER

SYSTEM NAME:

LeRC Occupational Radiation Exposure Records - NASA.

SYSTEM LOCATION:

Locations 8 and 13, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former LeRC employees and contractor personnel who may be exposed to radiation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, Social Security Number, employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, 2201; 10 CFR Part 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to inform individuals of their radiation dosage.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Standard routine uses 1 through 4 inclusive as set forth in Appendix B and (2) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night.

Records are protected in accordance with the requirements and procedures which appear in the NASA rules section of the FEDERAL REGISTER.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Environmental Health, location 8.

Subsystem manager: Manager, Plum Brook Reactor Facility, Location 13. Locations are set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant System Manager or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 51RSCR

SYSTEM NAME:

GSFC Radiation Safety Committee Records - NASA

SYSTEM LOCATION:

Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, Maryland 20771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Radiation users and custodians under GSFC cognizance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; USNRC License and GHB 1860.1, 'Radiation Safety Handbook'; GHB 1860.2 'Radiation Safety Radio-Frequency'; GHB 1860.3 'Radiation Safety Laser'.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this sytem of records is used within NASA for review and approval of custodians and users of ionizing and non-ionizing radiation by the Radiation Safety Committee. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources; (2) Occupational Safety and Health Administration (Federal and State) may inspect records pursuant to fulfilling their responsibilities under the Occupational Safety and Health laws. (3) The Environmental Protection Agency may inspect records pursuant to fulfilling their responsibilities under the Environmental Protection laws and executive order; (4) The Food and Drug Administration may inspect records pursuant to fulfilling their responsibilities respecting use of lasers and x-rays; (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name only.

SAFEGUARDS:

Records are located in locked metal file cabinet in locked room with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are kept for two years. If employee does not wish to be renewed for position at the end of 2-year period, the record is removed and placed in inactive file.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Health, Safety, and Security Office; address same as shown for system location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the system manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Employees

NASA 53BHTR

SYSTEM NAME:

Wallops Flight Facility Base Housing Tenant Record - NASA.

SYSTEM LOCATION:

Wallops Flight Facility, National Aeronautics and Space Administration, Wallops Island, Virginia 23337

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants of Wallops Housing area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Housing Rental Agreements, records of rent receipts and records of dormitory occupants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for control of family housing and dormitory facilities. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) To furnish to a third party a verification of an employee's tenant status upon a written request of tenant; (2) To furnish verification of residency to various Federal, State, and local authorities; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and card files.

RETRIEVABILITY:

Records are indexed by name and/or room number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook, NHB 1441.1A.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Wallops Facilities Engineering Branch, Code 273 address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Tenants and dormitory occupants and Administrative Management records.

NASA 72XOPR

SYSTEM NAME:

JSC Exchange Activities Records - NASA.

SYSTEM LOCATION:

Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, Texas 77058.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and past employees of JSC Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

CATEGORIES OF RECORDS IN THE SYSTEM:

For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange-JSC. These records contain information about an individual relating to birth date; social security number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction-in-force; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains information supplied by individual center employees who have applied for an Exchange Scholarship for their son or daughter and includes, but is not limited to, education, financial transactions or holdings, employment history, medical data and other related information.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; NASA Management Instruction 9050.6; Treasury Fiscal Requirement Manual, Part III, Payroll Deductions and Withholdings; Federal Personnel Manual; JSCM 31712A, Exchange Activities Manual, dated May 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: (1) With respect to past or present employees of the JSC Exchange Operations, information in the system is used to: (a) pay employees and advise employees through Leave and Earnings Statements, (b) provide for promotion opportunities, disciplinary actions, staffing controls, budget requirements, employee fringe benefits, and other related personnel managerial purposes, and (c) submit

VOL 48 ISS 203 OCT 19 1983 UMI

reports in accordance with legal or policy directives and regulations to center management and NASA Headquarters; (2) With respect to successful applicants under the JSC Scholarship Program, the information in the system is used to award scholarships to the sons and daughters of NASA-JSC employees; and (3) With respect to participants in the social or sports activities sponsored by the Exchange, the information maintained in the system is used to facilitate participation in such activities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) Provide information to insurance carriers with regard to worker's compensation, health and accident, and retirement insurance coverages; (3) Provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

For Exchange employees, records are maintained by name and filed as current or past employee. For Scholarship applicants, records are maintained by name. For participants in social or sports activities, records are maintained by name.

SAFEGUARDS:

Records are located in locked metal file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

For employees of JSC Exchange Operations, Personnel Records are retained indefinitely to satisfy payroll, reemployment, unemployment compensation, tax and employee retirement purposes.

For successful applicants under the JSC Exchange Scholarship Program, records are maintained until completion of awarded scholarship and then destroyed. Records pertaining to unsuccessful applicants are returned to them.

For participants in social or sports activities, records are maintained for a stated participation period, and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Exchange Operations, NASA Exchange - JSC, address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

For employees of the JSC Exchange Operations, information is obtained from the individual employee, the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Unemployment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees participating in social or sports activities sponsored by the Exchange, information is obtained from the individual participant.

NASA 73FHAP

SYSTEM NAME:

WSTF Federal Housing Administration (FHA) 809 Housing Program - NASA.

SYSTEM LOCATION:

JSC White Sands Test Facility, National Aeronautics and Space Administration, P. O. Drawer MM, Las Cruces, New Mexico 88001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

WSTF Civil Service and contractor personnel who have applied for FHA 809 housing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, WSTF, and FHA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and index cards.

RETRIEVABILITY:

Records are indexed by certificate number and person's name.

SAFEGUARDS:

Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administration Office, address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

NASA 76RTES

SYSTEM NAME:

KSC Radiation Training and Experience Summary - NASA

SYSTEM LOCATION:

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Custodians and/or users of sources radiation (ionizing and non-ionizing). Applicable to all users or custodians at KSC and NASA or NASA contractor personnel at Cape Canaveral Air Force Station, Florida, or Vandenberg Air Force Base, California.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals name and radiation related training and experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2111, 2201, 2232, 2233, 10 CFR Part 33 for Federal Licensee, and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine the suitability of individuals for specific assignments dealing with radiation and to preclude unnecessary exposure to self and others.

In addition to the internal uses of the information contained in this system of records, routine uses outside of NASA include: (1) Disclosure to Air Force Radiation Protection Officers at Eastern Space and Missile Center, Patrick Air Force Base, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using sources of radiation to facilitate protection of the individual and the public; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Duplicate copies of the records are maintained for Kennedy Space Center by EG & G Florida, Inc., Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or EG & G Florida, Inc., consist of 8 1/2 x 11 inch paper files.

RETRIEVABILITY:

Records are indexed by name, program/project title. Use authorization number and/or license number as applicable.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the applicable NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer; address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the system manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 76STCS

SYSTEM NAME:

KSC Shuttle Training Certification System (YC 04)

SYSTEM LOCATION:

John F. Kenndey Space Center Systems Training and Employee Development Branch, Kenndey Space Center, FL 32899

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC Civil Service, KSC contractor, and DOD personnel who have received systems, skills, or safety training in support of KSC or Space Shuttle Operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473, 44 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine training needs, and the operational readiness of the work force, to provide data for badging and access control to hazardous areas or critical operations, to determine the size of individual protective equipment and to identify personnel with needed skill combinations. In addition to the internal uses the information contained in this systems of records, the following are routine uses outside of NASA: (1) Disclosure is made of information on employees of KSC contractors to those contractor organizations and to EG & G Florida, Inc., to facilitate the performance of the contracts. EG & G Florida, Inc., compiles these training records for KSC; (2) Standard routine uses 1-4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained for KSC by EG & G Florida, Inc., on computer tape with printouts made periodically as required. Complete printouts are filed in the KSC Systems Training and Employee Development Branch, and the EG & G Florida, Inc., training office. Records containing raw data on course attendance and trainee statistics are maintained by EG & G Florida, Inc., for KSC.

RETRIEVABILITY:

Indexed by name, organization, and skill.

SAFEGUARDS:

These listings are automated systems, skills, and safety training records maintained under administrative control of responsible organizations in areas that are locked when not in use. Records are protected in accordance with the requirements and procedures which

VOL
48
ISS
2
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3
OC
19
1983
UMI

appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Outdated records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Systems Training and Employee Development Branch, NASA Kennedy Space Center, FL 32899

NOTIFICATION PROCEDURE:

Individuals may obtain information from the Systems Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from class rosters, operational records, reports of physical examination completions and actions of certification boards.

NASA 76XRAD

SYSTEM NAME:

KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses - NASA.

SYSTEM LOCATION:

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC civil servants and KSC contractor personnel who have received radiation exposure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, and 2201; 10 CFR, Part 20 for Federal Licensee; and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to record exposure and to inform individuals of their approaching or exceeding radiation dose limits.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosure to Air Force Radiation Protection Offices at Eastern Space and Missile Center, Patrick Air Force Base, Florida and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices, to facilitate the protection of individuals; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Duplicate copies of the records are maintained for Kennedy Space Center by EG & G Florida, Inc., Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or EG & G Florida, Inc., consist of 8 1/2 x 11 inch paper files.

RETRIEVABILITY:

Records are indexed by name in personnel dosimetry files.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer; address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

APPENDIX A.

LOCATION NUMBERS AND MAILING ADDRESSES OF NASA INSTALLATIONS AT WHICH RECORDS ARE LOCATED.

Location 1.
National Aeronautics and Space Administration
Washington, DC 20546

Location 2
Ames Research Center
National Aeronautics and Space Administration
Moffett Field, CA 94035

Location 3
Hugh L. Dryden Flight Research Facility
National Aeronautics and Space Administration
P. O. Box 273
Edwards, CA 93523

Location 4
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, MD 20771

Location 5
Lyndon B. Johnson Space Center
National Aeronautics and Space Administration
Houston, TX 77058

Location 6
John F. Kennedy Space Center
National Aeronautics and Space Administration
Kennedy Space Center, FL 32899

Location 7
Langley Research Center
National Aeronautics and Space Administration
Langley Station
Hampton, VA 23665

Location 8
Lewis Research Center
National Aeronautics and Space Administration
21000 Brookpark Road
Cleveland, OH 44135

Location 9
George C. Marshall Space Flight Center
National Aeronautics and Space Administration
Marshall Space Flight Center, AL 35812

Location 10
NASA Resident Office-JPL
National Aeronautics and Space Administration
4800 Oak Grove Drive
Pasadena, CA 91103

Location 11
National Space Technology Laboratories
National Aeronautics and Space Administration
NSTL, MS 39529

Location 12
JSC White Sands Test Facility
National Aeronautics and Space Administration
P.O. Drawer MM
Las Cruces, NM 88001

Location 13
LeRC Plum Brook Station
National Aeronautics and Space Administration
Sandusky, OH 44870

Location 14
Michoud Assembly Facility
National Aeronautics and Space Administration
P.O. Box 29300
New Orleans, LA 70129

APPENDIX B

STANDARD ROUTINE USES - NASA

The following routine uses of information contained in systems of records subject to the Privacy Act of 1974 are standard for many NASA systems. They are cited by reference in the paragraph 'Routine uses of records maintained in the system, including categories of users and the purpose of such uses' of the FEDERAL REGISTER notice on those systems to which they apply.

Standard Routine Use No. 1 - LAW ENFORCEMENT - In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2 - DISCLOSURE WHEN REQUESTING INFORMATION - A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Standard Routine Use No. 3 - DISCLOSURE OF REQUESTED INFORMATION - A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4 - COURT PROCEEDINGS - In the event there is a pending court or formal administrative proceeding, any records which are relevant to the proceeding may be disclosed to the Department of Justice or other agency for purposes of representing the Government, or in the course of presenting evidence, or they may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

[FR Doc. 83-28507 Filed 10-18-83; 8:45 am]

BILLING CODE 7510-01-T

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Recommendations and Responses

Recommendations to:

Aviation—*Federal Aviation Administration: Oct. 12: A–83–67:* Issue and Airworthiness Directive applicable to all airplanes equipped with Donaldson dry paper carburetor air filters, requiring mandatory replacement of such filters at appropriate time or service intervals. *A–83–68:* Conduct and engineering evaluation of all general aviation carburetor air filter designs to determine whether mandatory replacement time or service intervals should be established. *A–83–69:* Emphasize on a recurrent basis in Advisory Circular 43–16, General Aviation Airworthiness Alerts, maintenance, operational, and inspection considerations relating to carburetor air induction system filets.

Marine—*Apex Marine Corporation: Oct. 12: M–83–66:* Require each officer assigned to an Apex Marine Corporation vessel to satisfactorily complete a formal training program which includes instruction in the operation and use of inert gas systems and crude oil washing systems and in the safety procedures to be followed when hot work is performed at sea. *M–83–67:* Amend Apex Marine Corporation's "Vessel Instruction Manual" to require that the master issue a "hot work permit" specifying the work to be conducted and the requirements necessary to maintain safe conditions when hot work is to be conducted at sea. *M–83–68:* Provide each Apex Marine Corporation vessel with at least one copy of the National Fire Protection Association Standard No. 306, "Standard for the Control of Gas Hazards on Vessels."

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses from:

Aviation—*Federal Aviation Administration: Oct. 4: A–81–15 and–16:* Is reconsidering recommendations concerning seats in Cessna aircraft to take into account the data of Cessna pilot seat slippage problems provided by a survey conducted by Consumer Usage Laboratories, Inc. *Oct. 7: A–83–58:* Plans to incorporate into its General Aviation Airworthiness Alert Advisory Circular 43–16 the recommendation that all owners and operators of airplanes with Hartzell ( ) HC–( )( ) (X,V) ( )–( ) model propller assemblies be apprised of the circumstances of an accident involving Trans American Airways Piper Apache, PA–23–160, N4072P, at Chamblee, Georgia, on Jun. 14, 1982, and advising them to inspect all C–3 clamp assemblies, S/N K6336 and earlier, for cracks in the areas of the lubricator fitting threaded hole that is located 9/16 inch from the clamp parting line. *Oct. 7: A–83–50:* Is reviewing the recommendation to require the Piper Aircraft Corporation to revise the Piper PA–23 Aztec Flight Manual to indicate that if the parking brake is pulled and held extended during application of the toe brakes, hydraulic pressure to the wheel brakes can be blocked or restricted. *A–83–51:* Is reviewing the recommendation to review the braking systems of other models of Piper Aircraft Corporation airplanes to determine whether the simultaneous application of the toe brakes and the parking brake handle limits the wheel braking pressure which can be applied and where necessary, require that the Airplane Flight Manuals be revised to include appropriate cautionary information. *Oct. 7: A–83–52:* Issued on Jul. 28, 1983, Airworthiness Directive 83–15–07 requiring the removal of Robinson R–22 main rotor blades, PN A016–1 Revision W, prior to further flight. *A–83–53:* Reviewed and evaluated the main rotor blade substantiation data for the Robinson R–22 main rotor blades Revisions Y and Z. Adequate margins of safety were determined, and the 2,000-hour service life was found to be conservative. *Oct. 7: A–79–12 and 13:* A recently completed reevaluation of the safety door chain problem in general aviation aircraft confirms that for small general aviation aircraft, unwanted inflight door openings occur much more often than post-crash situations where cabin door opening difficulties could adversely impact the safety of crash victims. To best serve safety in both cases, a well disigned door latching system is required. FAA has issued several inspection aids, etc., stressing the importance of propoer door latch maintenance. No clear-cut case exists to support Airworthiness Directive action to decrease or increase the number of safety chains installed in the present air taxi fleet. The evaluation does suggest that consideration be given to improving reliablity, ease of operation, and maintenance of door latching systmes in future designs. This will be considered in the forthcoming Federal Aviation Regulation Part 23 review. *A–79–14 and 15:* Has drafted a proposed Advisory Circular No. 23.807–XX, Emergency Exists Openable From Outside For Small, Airplanes, published in the **Federal Register** for public comment on Aug. 1, 1983. Is also

VOL
48
ISS
2
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OC
19
1983
UMI

considering initiating a regulatory project to appropriately amend 14 CFR 135.169 and 14 CFR 135, Appendix A, regarding exit conspicuity and operability. *Oct. 11: A–83–56:* Is forming a special certification review team to review Mitsubishi MU–2 airplanes relative to the engines, fuel system, autopilot, and flight control systems; flight in known icing conditions; engine inoperative characteristics; and handling characteristics during IMC landing approaches.

Highway—*Missouri Highway and Transportation Commission: Oct. 6: H–79–21:* Provided skid-related accident data and skid test data after resurfacing for Route I–70 in St. Louis county. *H–79–23:* Missouri's wet pavement surface improvement policy has been accepted as adequate by the Federal Highway Administration.

State of New Jersey: Oct. 4: H–83–46 through –48: The recommendations concerning schoolbus inspection and repair, activity group use of mechanically unsafe buses, and placement of fire extinguishers on schoolbuses have been forwarded to appropriate departments.

State of Virginia: Sep. 30: H–83–39 through –41 and H–83–46 through –48: The recommendations concerning schoolbus restraint system, Federal Motor Vehicle Safety Standard applicable to small schoolbuses, driver seatbelt use, schoolbus inspection and repair, activity group use of mechanically unsafe buses, and placement of fire extingusishers on schoolbuses will be brought to the attention of the Superintendent of Public Instruction and the Commissioner of the Division of Motor Vehicles.

District of Columbia: Oct. 5: H–83–39 through –41 and H–83–46 through –48: The recommendations concerning schoolbus restraint systems, Federal Motor Vehicle Safety Standards applicable to small schoolbuses, driver seatbelt use, schoolbus inspection and repair, activity group use of mechnianically unsafe buses, and placement of fire extinguishers on schoolbuses have been forwarded to the Superintendent of Public Schools for appropriate action.

Marine—*Mobile Oil Canada, Ltd.: Sep. 23: M–83–34 and –35:* Has revised its offshore Confingency Plan to give more positive guidance and to clearly fix responsibility to follow the guidelines on Heavy Weather procedures and to give stronger guidance to the individuals involved under the Emergencies and Disasters Action Plan Code 3.

Note.—Single copies of these reponse letters are available on written request to: Public Inquires Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
October 14, 1983.
[FR Doc. 83-28402 Filed 10-18-83; 8:45 am]
BILLING CODE 4910-59-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Class–9 Accidents; Cancellation of Meeting

The ACRS Subcommittee on Class–9 Accidents meeting scheduled for October 28, 1983, Room 1046 at 1717 H Street, NW, Washington, DC has been cancelled indefinitely. Notice of this meeting was published Friday, October 7, 1983 (48 FR 45861).

Dated: October 14, 1983.
John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 83-28505 Filed 10-18-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–270]

Duke Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–47, issued to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Unit No. 2 (the facility), located in Oconee County, South Carolina.

The amendment would authorize proposed changes to the Oconee Nuclear Station (ONS) common Technical Specifications which are required to support the operation of Oconee Unit 2 at full rated power during Cycle 7. The proposed changes to the core protection safety limits, the protective system maximum allowable setpoints, and the rod position limits are in accordance with the licensee's application for amendment dated September 1, 1983, as supplemented by correspondence dated September 14, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Example iii of the types of amendments not likely to involve significant hazards considerations applies in this case as the reload is for a nuclear power reactor. The licensee has provided an evaluation of the amendment requested against the standards of 10 CFR 50.92 to demonstrate the Commission's Example iii fits the case of this amendment request. The reload does not involve fuel assemblies significantly different from those found previously acceptable to the NRC. No significant changes are being made to the acceptance criteria for the Technical Specifications. The analytical method used to demonstrate conformance with Technical Specifications and regulations is not significantly changed, and the NRC has previously found the method acceptable. In this reload, out of a total of 177 fuel assemblies to be inserted into the core, only one assembly is slightly different. This Advanced Cladding Pathfinder (ACP) assembly, contained in the fresh batch assembly, Batch 9, is a reconstitutable design with 12 special advanced cladding rods. The ACP fuel rod design is identical to the standard MK–B design.

Six zirconium lined tubes and six beta quenched tubes will be used for 12 test rods. These tube modifications are expected to provide improved resistance to water-side corrosion and/or pellet-cladding interaction. The ACP assembly is designed to be reconstitutable to allow future removal of selected rods for examination. The assembly reconstitutable features are designed so that reactor safety and performance are not adversely affected. The Commission proposes to determine that the application does not involve a significant hazards consideration since it appears that the standards of 10 CFR 50.92 are met.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 18, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other intereat in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to J. Michael McGarry III, De Bevoise and Liberman, 1200—17th Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)—(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Dated at Bethesda, Maryland, this 12th day of October 1983.

For the Nuclear Regulatory Commission.
John F. Stolz,
Chief, Operating Reactors Branch No. 4, Division of Licensing.
[FR Doc. 83-28500 Filed 10-18-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–322–OL–3 (Emergency Planning Proceeding)]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Order Scheduling Conference of Counsel

October 13, 1983.

A Conference of Counsel in this proceeding is scheduled for Wednesday, November 9, 1983 commencing at 9:30 a.m. at the NRC Hearing Room, 4350 East-West Highway, Fifth Floor, Bethesda, Maryland 20014.

It is ordered that:

1. On or before November 2, 1983, each party shall file a report which includes the following:

a. Stipulations;

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b. complete list of all exhibits and other documentary evidence expected to be offered;

c. complete list of all witnesses expected to testify and the contentions on which they will testify;

d. estimated length of time to present case;

e. status of settlement with recommended areas of further discussion;

f. stipulation or recommendation concerning the order or sequence of contentions at hearing; and

g. recommendtion of additional topics to be discussed at Conference of Counsel.

2. Attorneys in attendance must have full authority to stipulate for their clients or such clients must attend the Conference.

3. Attorneys appearing at the Conference of Counsel will be those who will try the case.

Atomic Safety and Licensing Board.

James A. Laurenson,

Chairman, Administrative Law Judge.

Bethesda, Maryland.

[FR Doc. 83-28501 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 OL 50-323 OL (Reopened Proceeding-Design Quality Assurance)]

Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Order Rescheduling Hearing

Notice is hereby given that, in accordance with the Appeal Board's order of October 7, 1983, hearing on the issues set forth in its August 26 and October 7 orders shall *now* commence at *9:00 a.m. on Monday, October 31, 1983, at the San Luis Bay Inn, Bay View Room, Avila Beach, California, i.e.,* seven days later than previously scheduled.

It is so ordered.

Dated: October 13, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-28502 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

Issuance and Availability; NUREG-0577, Rev. 1 "Potential for Low Fracture Toughness and Lamellar Tearing in PWR Steam Generator and Reactor Coolant Pump Supports"

The U.S. Nuclear Regulatory Commission (NRC) staff has prepared NUREG-0577, Rev. 1 entitled, "Potential for Low Fracture Toughness and Lamellar Tearing in PWR Steam Generator and Reactor Coolant Pump Supports." This NUREG Revision serves as the staff's resolution of the NRC's Task A-12, "Fracture Toughness and Potential for Lamellar Tearing of Steam Generator and Reactor Coolant Pump Supports." This issue was identified as an "Unresolved Safety Issue" in the 1978 Annual Report, pursuant to Section 210 of the Energy Reorganization Act of 1974.

The NUREG report describes the technical issues that arose during a licensing review of North Anna Units 1 and 2; a generic technical study performed by Sandia National Laboratory; the staff's technical findings based on these studies; and a tentative plan for plant-specific reviews to implement the technical problem resolution. The scope of the review is defined and methods and acceptance criteria are given for demonstrating adequate fracture toughness.

Comments were solicited from interested organizations, groups and individuals. The staff has evaluated the comments received, and addressed them, as appropriate, in the final documents.

Copies of the documents will be available after October 28, 1983. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Comments should be forwarded in writing to Mr. Karl Kniel, Division of Safety Technology, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by December 15, 1983.

Dated at Bethesda, Maryland, this 11th day of October, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-28503 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

Issuance and Availability; "For Comment"; Standard Review Plan Section 5.3.4, "Fracture Toughness of Steam Generator and Reactor Coolant Pump Supports" (NUREG-0800)

The U.S. Nuclear Regulatory Commission (NRC) staff has prepared a new proposed Standard Review Plan (SRP) Section 5.3.4, "Fracture Toughness of Steam Generator and Reactor Coolant Pump Supports" (NUREG-0800). The supporting Value/Impact Analysis is included as a part of the proposed new SRP Section.

This SRP Section serves as the staff's implementation of the resolution of NRC's Task A-12, "Fracture Toughness and Potential for Lamellar Tearing of Steam Generator and Reactor Coolant Pump Supports." This issue was identified as an "Unresolved Safety Issue" in the 1978 Annual Report, pursuant to Section 210 of the Energy Reorganization Act of 1974.

Comments are being solicited from interested organizations, groups and individuals. The staff will evaluate the comments received, and address them, as appropriate, in the final SRP Section.

Copies of the "For Comment" SRP Section will be available after October 28, 1983. Copies will be sent directly to utilities, utility industry groups and associations and evironmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Comments should be forwarded in writing to Mr. Karl Kniel, Division of Safety Technology, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by December 15, 1983.

Dated at Bethesda, Maryland, this 11th day of October, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-28504 Filed 10-18-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Acid Rain Peer Review Panel Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 77), notice is hereby given of the following meeting:

Name: Acid Rain Peer Review Panel.

Date, time and location: October 28, 1983, 9:00 a.m.-3:00 p.m., Highland Room, Hotel Thayer, U.S. Military Academy, West Point, New York 10996.

Type of meeting: Open.

Proposed Agenda

(1) Discussion of Draft Report.

(2) Discussion of Public reaction to Interim Report.

(3) Discussion of Research Recommendations.

Public Participation

The entire meeting is open to the public. Due to limited meeting room capacity, individuals wishing to attend should contact Mrs. Shirley Bonsell at (914) 938-3739, prior to 3:00 p.m. on October 27, 1983.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

October 17, 1983.

[FR Doc. 83-28672 Filed 10-18-83; 11:05 am]

BILLING CODE 3170-01-M

POSTAL RATE COMMISSION

[Order No. 527; Docket No. A83-30]

Knob Fork, West Virginia 26579 (Donald R. Rankin, Petitioner), Notice and Order Accepting Appeal and Establishing Procedureal Schedule

Issued: October 12, 1983.

Before Commissioners: Janet D. Steiger, Chairman; John W. Crutcher, Vice-Chairman; Simeon M. Bright; James H. Duffy; and Henry R. Folsom.

Docket No.: A83-30.

Name of Affected Post Office: Knob Fork, West Virginia 26579 (Community Post Office).

Name(s) of Petitioner(s): Donald R. Rankin.

Type of Determination: Discontinuance of community post office.

Date of Filing of Appeal Papers: September 30, 1983.

Categories of Issues Apparently Raised:

Whether opportunity to be heard or other procedural steps, to which petitioner claims entitlement under 39 U.S.C. 404(b), were improperly omitted.

Effect on adequacy of postal services of the discontinuance of the facility [39 U.S.C. 404(b)(2)(C)].

Effect on the community of the discontinuance of the facility, including specifically the effect on employees and patrons of the store in conjuction which it is operated [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

The Secretary shall publish this Notice and Order and Procedure Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

September 30, 1983: Filing of Petition.

October 12, 1983: Notice and Order of filing of Appeal.

October 25, 1983: Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

November 4, 1983: Petitioner's Particpant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].

November 25, 1983: Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].

December 12, 1983: (1) Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR 3001.115(d)].

December 19, 1983: (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument. [*see* 39 CFR 3001.116].

January 18, 1984: Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 83-29445 Filed 10-18-83; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-20270; File No. SR-MSTC-83-16]

Self-Regulatory Organizations; Proposed Rule Change Midwest Securities Trust Co.; System for the Deposit and Withdrawal of Bearer Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 6, 1983, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Exhibit A, located in File No. SR-MSTC-83-16, consists of the procedures which will expand the services provided by the Midwest Securities Trust Company's system for the deposit and withdrawal of bearer securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to introduce the depository satellite function for the MSTC bearer municipal bond system. A depository satellite acts on behalf of MSTC in accepting and processing participant deposits of bearer securities, as well as providing physical certificates to fill participants' withdrawal request. The depository satellites will be located regionally to accommodate participants in their area. Custodians will continue to function on behalf of MSTC in holding bearer certificates for safekeeping, as well as providing interest and maturity processing.

The interaction of the Custodian and Depository Satellite functions will be handled by MSTC's Transit Accounting System. The System has been designed to provide an accurate tracking mechanism for bearer securities and to assure the timely movement of physical securities.

The proposed rule change also sets forth specfic procedures for the delivery and withdrawal of bearer securities which will ensure the physical control of the bearer certificates.

The procedures used to calculate the finance and interest changes debited and credited to participants' accounts are also included as part of the proposed rule change. On payable date, MSTC will atomatically credit each participant with the interest or maturity monies due for each security issue. This credit will be made in Clearing House funds for bonds and in Federal Funds for notes. However, a portion of the interest paid to participants may not have been

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collected by custodians from the paying agent(s). MSTC will, therefore, charge each participant a daily finance fee based on the custodian's uncollected balance for each security issue for each day the funds remain uncollected. This finance fee will be charged to participants on the day all interest or maturity funds were collected by the custodian from the paying agent.

Finally, the proposed rule change sets forth the schedule for report retrieval availability. This schedule has been slightly modified to accommodate the implementation of the Transit Accounting System and numerous other enhancements that have increased the volume of information being processed.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, in that it will facilitate the prompt and accurate clearance and settlement of securities transactions and safeguard securities and funds in MSTC's custody or control or for which it is responsible.

The Commission understands that MSTC will file a related rule change that would authorize MSTC, in the event of nonpayment by the paying agent, to reverse the credit made to each participant's account to the extent of the interest and maturity monies advanced to the participant by the custodian bank.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th St., NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th St., NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 11, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28428 Filed 10–18–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–20273; File No. SR–NASD–83–17]

Self-Regulatory Organizations; Proposed Rule Change; National Association of Securities Dealers, Inc.; Conversion of SECO Broker/Dealers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 14, 1983, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The National Association of Securities Dealers, Inc. is filing herewith as a stated policy, practice or interpretation, a description of the program being undertaken by the Association to convert SECO broker/dealers to NASD membership pursuant to the mandate of Public Law 98–38.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the conversion program is to efficiently manage the transition from SECO to NASD membership mandated under the terms of Pub. L. 98–38 which requires membership in a registered securities association. The statutory basis for the program is also Pub. L. 98–38 as it amends Section 15(b)(8) of the Securities Exchange Act of 1934.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Conversion from SECO to NASD membership is mandated by statute and the program of conversion imposes no burden on competition over and above any resulting from the statutory directive itself.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received in connection with the implementation of the conversion program.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to a request for accelerated effectiveness as provided for under Section 19(b)(2) of the Securities Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450—5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450—5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within (21) days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 12, 1983

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28433 Filed 10–18–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20271; File No. 57–787]

Approval of Amendments to the Plan for the Designation of National Market System Securities; Submitted by the National Association of Securities Dealers, Inc.

October 12, 1983.

I. Background and Description of Amendments

On May 10, 1983, and July 7, 1983, the National Association of Securities Dealers, Inc. ("NASD") filed with the Commission pursuant to Rule 11Aa2–1 under the Securities Exchange Act of 1934 ("Act")[1] proposed amendments to its "National Market System Securities Designation Plan with respect to NASDAQ Securities" ("Designation Plan").[2]

The amendment filed on May 10, 1983 ("May Amendment") reduced the number of securities that could become designated as NMS Securities pursuant to the Tier 2 criteria from 100 securities per month to 50 securities.[3] Viewing the amendment as a reasonable method of minimizing reporting burdens in light of recent high trading volume, while still permitting the NASD to phase-in new NMS designations, on May 20, 1983, the Commission granted the amendment summary effectiveness for a period not exceeding 120 days from publication of notice of the amendment, and solicited comment on whether to approve permanently the amendment.[4]

The amendment filed on July 7, 1983 ("July Amendment") permitted a security, which formerly was eligible for reporting in the consolidated transaction reporting system[5] and which met the Tier 2 designation criteria at the time of its application, to be designated as an NMS Security immediately upon its application. Viewing the July Amendment as a reasonable and desirable adjustment to the Designation Plan that ensured continuity in last sale reporting when securities eligible for NMS designation transferred between exchange and OTC markets, on July 11, 1983, the Commission granted the amendment summary effectiveness for a period not exceeding 120 days from publication on notice of the amendment, and solicited comment on whether to approve the amendment.[6]

II. Approval of Amendments

The Commission received no response to its solicitation of comments. In regard to the May Amendment, the Commission remains cognizant of the concerns expressed by some members of the OTC trading community that the designation of a large number of securities at one time, especially in times of high volume, could affect adversely the OTC market. In this respect, the Commission continues to view the May Amendment as a reasonable method of minimizing reporting burdens in light of the recent high trading volume, while still permitting the NASD to proceed in phasing-in new NMS designations.

In regard to the July Amendment, the Commission continues to view the amendment as a reasonable and desirable adjustment to the Designation Plan, ensuring minimal disruption in last sale reporting as securities eligible for NMS designation transfer between exchange and OTC markets.

In light of the above, the Commission finds that approval of both Amendments are necessary in the public interest, for the protection of investors or the maintenace of fair and orderly markets, and to remove impediments to, and perfect the mechanism of, a national market system or otherwise in furtherance of the purposes of the Act.

III. Conclusion

In accordance with the above, it is ordered, pursuant to Section 11A of the Act, and paragraph (d)(4) of Rule 11Aa2–1 thereunder, that the NASD's amendments to the Designation Plan be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28435 Filed 10–18–83; 8:45 am]

BILLING CODE 8010–01

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[1] 17 CFR 240.11Aa2–1 ("Rule"). Pursuant to the Rule, certain actively-traded over-the-counter ("OTC") securities have been or will be designated as National Market System ("NMS") Securities. Upon designation, an NMS Security is deemed a "reported" security, as that term is defined in Rule 11Ac1–1(a)(6) under the Act, and becomes subject to, among other things, the Commission's last sale reporting rule, Rule 11Aa3–1 under the Act.

The Rule employs a two-tiered approach to determine which OTC securities are designated as NMS Securities. In this repect, Tier 1, which became effective on April 1, 1982, automatically requires that the most actively traded OTC securities be designated as NMS Securities. In addition, Tier 2, which became effective on February 8, 1983, permits issuers of less actively traded OTC securities to become NMS designated if the issuers so elect. For further information concerning the Rule, *see* Securities Exchange Act Release No. 17549 (February 17, 1981), 46 FR 13992, and Securities Exchange Act Release No. 18397 (January 7, 1982), 45 FR 2079.

[2] The Commission approved the NASD's Designation Plan on January 7, 1982, Securities Exchange Act Release No. 18399 (January 7, 1982), 47 FR 2226. Generally, the Designation Plan provides: (1) Procedures for the designation of NMS Securities; (2) procedures for determining substantial compliance with the Tier 2 criteria established in the Rule; (3) procedures and criteria for terminating or suspending the NMS status of securities; and (4) procedures for publishing lists of NMS Securities.

[3] The phase-in feature of the Designation Plan was included in the Plan as a method of minimizing administrative burdens in connection with the potential designation of a large number of securities pursuant to the Tier 2 designation criteria. *See* Securities Exchange Act Release No. 19286 (December 1, 1982), 47 FR 55357.

[4] *See* Securities Exchange Act Release No. 19797 (May 20, 1983), 48 FR 24823.

[5] The consolidated transaction reporting system, administered on behalf of a number of self-regulatory organizations (including the NASD) by the Consolidated Tape Association, disseminates transaction reports and last sale data from various markets on a consolidated basis in certain listed securities. These securities include, generally, stocks and long-term warrants traded on the American and New York Stock Exchanges on April 30, 1976, and stock and long-term warrants traded on an exchange thereafter that substantially meet American or New York Stock Exchange standards for original listing.

[6] *See* Securities Exchange Act Release No. 19953 (July 11, 1983), 48 FR 32902.

[7] 17 CFR 200.30–3(a)(37).

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[Release No. 20277; File No. SR-NYSE-83-33]

Filing and Immediate Effectiveness of Amendment to Proposed Rule Change by New York Stock Exchange, Inc.

October 13, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on October 7, 1983, the New York Stock Exchange, Inc. ("NYSE") files with the Securities and Exchange Commission and amendment to a proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

On August 19, 1983, the NYSE filed with the Commission a proposed rule change (SR-NYSE-83-33) to permit the Exchange to charge its members for regulatory oversight service based on the member's or member organization's gross revenues.[1] The proposed rule change provided that NYSE Rule 129 (relating to charges for regulatory oversight services) would terminate on October 15, 1983, and all charge imposed thereunder would be refunded unless, prior to that date, the Commission approves the first sentence of Rule 129 and the charges to be imposed thereunder pursuant to section 19(b)(2) of the Act. In the instant filing, the NYSE has amended the sunset provision of Rule 129 by extending in from October 15 to Octoer 31, 1983.[2] The NYSE states that regulatory oversight fee is imposed pursuant to the authority of the NYSE Board of Directors under Article X, Section 3 of the Exchange Constitution, which authorized the Board, by rule, to impose service fees. The NYSE states further that the statutory basis for the proposed rule change is Section 9(b)(1), 6(b)(4), and 6(b)(5) of the Act.[3]

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) or Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comment should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington D.C. 20549. Reference should be made to File No. SR-NYSE-83-33.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28424 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[1] Notice of the filing was provided by issuance of a Commision Commission release (Securities Exchange act Release No. 20186, August 23, 1983) and publication in the Federal Register (48 FR 39555, August 31, 1983). The proposed rule change provides for an annual regulatory fee of $0.13 per $1,000 of gross revenues as reported by each member firm in its FOCUS report, and would permit the NYSE to impose minimum annual fees of $2,000 for carrying firms and specialists, $1,000 for introducing firms, and $180 for members and firms not dealing with the public.

[2] The NYSE also filed on August 19, 1983 a proposed rule change (SR-NYSE-83-34) to amend NYSE Rule 129 by deleting its termination and refund provisions, thereby permitting the NYSE, on a permanent basis, to charge its members for regulatory oversight services on the basis of their gross revenues. (Securities Exchange Act Release No. 20107 August 23, 1983; 48 FR 39553, August 31, 1983). October 7, 1983, the NYSE filed and amendment to SR-NYSE-34, parallel to the instant amendment, changing the termination date in Rule 129 from October 15 to October 31, 1983.

[3] *See* 48 FR 39555 (August 31, 1983) for the NYSE's statement of the terms of substance, purpose, and statutory basis of the proposed rule change.

[Release No. 13576; 812-5649]

American Telecommunications Trust; Application

October 13, 1983.

Notice is hereby given that American Telecommunications Trust ("Applicant" or the "Trust"), One Boston Place, Boston, Massachusetts, 02106, registered under the Investment Company Act of 1940 ("Act"), as an open-end, non-diversified management investment company, filed an application on September 16, 1983, requesting an order pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the assessment, under certain circumstances, of a contingent deferred sales charge on certain redemptions of the shares to be issued by Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicant states that it was organized as a business trust under Massachusetts law on June 2, 1983. Shearson/American Express Inc. ("Shearson"), a Delaware corporation, will serve as Dealer-Manager of Applicant's exchange offer, as described below, and as principal underwriter of its shares, and will receive the proceeds of the contingent deferred sales charge.

In connection with the proposed offering Applicant will offer only stockholders of American Telephone and Telegraph Company ("AT&T") the opportunity to make a tax-free exchange of their shares of AT&T Common stock for Trust shares on a share-for-share basis (the "Exchange Offer"). The Trust is comprised of two portfolios: the "Income Portfolio" and the "Growth Portfolio". AT&T stockholders may exchange their shares for shares of either or both portfolios of the Trust. Applicant may offer additional series or classes of shares in the future. Such offering may not involve an exchange offer but, rather, may involve the sale of shares for cash. Therefore, Applicant intends that its application constitute a request that in addition to the two original series, any additional series or classes of shares that may at any time hereafter be offered on substantially the same basis be similarly exempted from the provisions of the sections of the Act enumerated above.

Applicant proposes to offer its shares without an initial sales charge so that investors will have the entire amount of their purchase payments fully invested when made. However, Applicant also proposes to pay Shearson a contingent deferred sales charge from the proceeds of certain redemptions of Applicant's shares.

Applicant represents that if an investor redeems his shares during the first three years following the Exchange Date, a contingent deferred sales charge equal to three percent of the value of the shares received at the Exchange Date or the net asset value of the shares being redeemed, whichever is less, would be imposed. No contingent sales charge will be imposed where the net asset value of the shares redeemed does not exceed (i) the current net asset value of shares purchased through reinvestment of dividends or capital gains distributions, plus (ii) increases in the net asset value of the investor's shares above the total value of the shares received at the Exchange Date. In addition, shareholders of either Portfolio may exchange their shares for shares of the other Portfolio for a nominal charge per exchange but without incurring the contingent deferred sales charge.

Applicant believes that the imposition of the contingent deferred sales charge is fair and is in the best interests of its shareholders. Applicant asserts that the proposed sales load structure permits shareholders to have the advantage of greater investment dollars working for them from the time of their exchange of AT&T shares for shares of the Trust. Moreover, Applicant contends that because the contingent deferred sales charge applies only to redemptions of amounts representing the initial value of the Trust shares received on the Exchange Date, and then only for the first three years after the Exchange Date, it does not apply to increases in the value of an investor's account through appreciation in net asset value per share, or to amounts representing reinvestment of distributions.

Applicant believes that where amounts attributable to the initial value of the Trust shares received on the Exchange Date are redeemed, it is fair to impose on the withdrawing shareholder a lump sum payment to compensate Shearson for its sales efforts and distribution expenses incurred in connection with the Exchange Offer. Applicant asserts that the amount and timing of the contingent deferred sales charge are designed to promote fair treatment of all shareholders while permitting the Trust to offer investors the advantages of having the value of the shares received on the Exchange Date fully invested on their behalf immediately.

Applicant submits that the imposition of the contingent deferred sales charge in the manner described above would not cause Applicant's shares to fall outside the definition of "redeemable securit[ies]" in Section 2(a)(32) of the Act, and Applicant believes, therefore, that it qualifies as an open-end company under Section 5(a)(1) of the Act.

Applicant further believes that imposition of the contingent deferred sales charge in no way restricts a shareholder from receiving his proportionate share of the current net assets of Applicant, but merely defers the deduction of a sales charge and makes it contingent upon an event which may never occur. Nonetheless, Applicant requests an exemption from the operation of Section 2(a)(32) of the Act to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

Applicant asserts that the proposed contingent deferred sales charge is consistent with the intent of the Act's definition of "sales load" in Section 2(a)(35). The contingent deferred sales charge is paid to the distributor to compensate it solely for expenses related to offering Applicant's shares for sale to the public pursuant to the Exchange Offer, and, therefore, Applicant submits that this arrangement is within the Section 2(a)(35) definition of sales load but for the timing of the imposition of the charge. Applicant contends that the deferral of the sales charge, and its contingency upon the occurrence of an event that might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. However, Applicant requests an exemption from the provisions of Section 2(a)(35), to the extent necessary to implement the proposed charge.

Applicant further asserts that the implementation of the proposed contingent deferred sales charge would not violate Section 22(c) of the Act or Rule 22c-1 thereunder. When a redemption of Trust shares is effected the price of the shares will be based on current net asset value. The contingent deferred sales charge will merely be deducted at the time of redemption. However, in order to avoid any possiblility that questions might be raised as to the potential applicability of Section 22(c) and Rule 22c-1, Applicant requests an exemption from the operation of the provisions of Rule 22c-1 to the extent necessary to permit Applicant to implement the proposed contingent deferred sales charge.

Notice is further given that any interested person wishing to request a hearing on the aplication may, not later than November 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant ot delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28425 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6553]

Carrols Corp.; Application To Withdraw From Listing and Registration

October 13, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Carrols Corporation ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on September 16, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before November 3, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the

VOL 48 ISS 203 OCT 19 1983 UMI

protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28421 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23067; 70-6849]

Central and South West Corp.; Supplemental Notice of Proposed Issuance and Sale of Common Stock

October 13, 1983.

Central and South West Corporation ("CSW"), 2400 San Jacinto Tower, Dallas, Texas 75222, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

By order dated August 10, 1983 (HCAR No. 23030), CSW was authorized to issue and sell up to 2 million shares of its common stock ("Additional Shares") pursuant to a Sales Agency Agreement ("Agreement") with Goldman, Sachs & Co. ("Agent"). Jurisdiction was reserved with respect to the proposed issuance and sale of 8 million more shares of common stock. CSW now proposes to issue and sell up to another 2 million shares under the Agreement in one or more transactions through December 31, 1984, following the same procedures as heretofore authorized. The new proceeds from the sale of the stock will be used to retire short-term debt incurred to finance capital contributions to CSW's wholly owned subsidiaries.

The declaration, as now amended and as it may be further amended, is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporated Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28422 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23068; 70-6826]

The Columbia Gas System, Inc. et al.; Proposed Intrasystem Financing

October 13, 1983.

In the Matter of the Columbia Gas System, Inc., Columbia Gas System Service Corporation, Columbia LNG Corporation, Columbia Alaskan Gas Transmission Corporation, 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314; Columbia Gas of Kentucky, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., 200 Civic Center Drive, Columbus, Ohio 43215; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Gas Development of Canada Ltd., 639 5th Avenue, SW., Calgary, Alberta, Canada T2P-OM9; Columbia Gas Development Corporation, 1700 West Loop, South, Houston, Texas 77027; Commonwealth Gas Pipeline Corporation, Commonwealth Gas Services, Inc., Commonwealth Propane, Inc., 200 South Third Street, Richmond, Virginia 23219; Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., Columbia Coal Gasification Corporation, 340 17th Street, Ashland, Kentucky 41101.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary companies named above have filed with this Commission a further post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 6(b), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

By orders in this proceeding dated December 29, 1982, January 26, 1983, March 24, 1983, April 27, 1983, and July 28, 1983 (HCAR Nos. 22807, 22836, 22889, 22922, and 23012), Columbia and some of its wholly owned subsidiary companies were, among other things, authorized to engage in certain intrasystem financing. Jurisdiction was reserved over those transactions as to which the record was not complete.

Authorization was granted for $700,000 of long-term financing for The Inland Gas Company, Inc. ("Inland") which has been accomplished through the issuance and sale by Inland to Columbia of $200,000 of common stock and $500,000 of installment promissory notes. Columbia was also authorized to make up to $2 million of open account advances for Inland's short-term requirements. It is stated that Inland is experiencing a significant revenue deline. Accordingly, it is now proposed that up to $1 million of additional long-term financing in the form of equity capital contributions and up to $1.6 million of additional short-term financing (in the form of open account advances) be provided to Inland by Columbia during the balance of 1983.

Authorization was also granted for $6.7 million of long-term financing for Columbia Gas of West Virginia, Inc. ("Columbia of West Virginia") which has been accomplished through the issuance and sale by Columbia of West Virginia to Columbia of $6.7 million of installment promissory notes to evidence long-term borrowings up to that amount. Columbia was also authorized to make up to $75 million of open account advances for Columbia of West Virginia's short-term requirements. It is stated that Columbia of West Virginia continues to be unable to obtain approval from its state regulatory commission of sufficient rates to cover the cost of serving its customers and that losses for the twenty-four months ended December 31, 1983, are estimated to aggregate about $15.3 million. Accordingly, it is now proposed that up to $15 million of equity capital contributions be made by Columbia to Columbia of West Virginia from time to time until June 30, 1984, to compensate for the deterioration in the subsidiary's capital base. Authorization of an additional $10 million of long-term financing, in the form of up to $5 million of equity capital contributions and up to $5 million of long-term debt (evidenced by installment notes), is also requested to provide financing flexibility to Columbia of West Virginia.

Finally, Columbia and Columbia Gas Development Corporation ("Columbia Development") seek approval to recapitalize Columbia Development from a 79 percent equity-weighted capital structure to one more closely resembling that of the system on a consolidated basis (approximately 50 percent). To that end, Columbia Development proposes to issue and sell to Columbia (and Columbia proposes to acquire from Columbia Development) up to $97.5 million of installment promissory notes (having a final maturity of 15 years and annual principal repayments in each of the years 1985–1999) in exchange for up to 8.5 million shares of Columbia Development's common stock currently held by Columbia at the par value of $15 per share to aggregate up to a total of $97.5 million. The installment notes will bear interest at 9 percent per annum.

The amended application-declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28423 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23086; 70-6306]

Consolidated Natural Gas Co.; Proposed Extension of Period to Issue Common Stock

October 13, 1983.

Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, a registered holding company, has filed with this Commission a further post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a), 7, and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50(a)(5) promulgated thereunder.

By prior orders in this proceeding dated June 4, 1979, and February 12, 1982 (HCAR Nos. 21089 and 22388), Consolidated was authorized to issue and sell 1 million shares of common stock, $8 par value, from time to time through December 31, 1983, to the agent for Consolidated's common stockholders participating in its dividend reinvestment plan ("DRP") and to the trustees of the employee stock ownership plan ("ESOP") of Consolidated and its participating subsidiaries. Following a two-for-one stock split, the remaining common stock authorized to be issued was increased from 780,153 to 1,560,306 shares (HCAR No. 22571 (July 9, 1982)). On October 5, 1983, 733,216 shares remained unissued, representing 625,303 shares designated for the DRP and 107,913 shares for the ESOP.

By post-effective amendment, Consolidated now requests that the period for the common stock issuance be extended to December 31, 1984, for the remaining 625,303 DRP shares and to December 31, 1986, for the remaining 107,913 ESOP shares. Consolidated seeks an exception from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) thereof.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28427 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13574; 812-5617]

HOMAC Government Financial Corp.; Application

October 12, 1983.

Notice is hereby given that HOMAC Government Financial Corporation ("Applicant"), National Housing Center, 15th and M Street, NW., Washington, D.C. 20005, a District of Columbia corporation, filed an application on July 29, 1983, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant represents that it is a newly formed, limited purpsoe financing corporation, wholly-owned by Home Mortgage Access Corporation, which like Applicant is a District of Columbia corporation, and which is wholly-owned by Home Mortgage Access Holding Corporation, a Delaware membership corporation. Applicant further states that it has been organized to facilitate the financing of long-term residential mortgages on single-family residences, and will not engage in any other unrelated or investment activities.

Applicant states that it intends to issue, in series, certain GNMA-Collateralized Bonds ("Bonds"). Applicant further states that each series of Bonds will be issued pursuant to an indenture ("Idenure") between Applicant and an independent trustee ("Trustee"), supplemented by one or more supplemental indentures. Each series of Bonds will be sold to institutional or retail investors through one or more investment banking firms, it is stated. It is contemplated that certain series of Bonds will be registered under the Securities Act of 1933, while others will be sold in private placements, Applicant states. It is also stated that indentures for public offerings will be subject to the provisions of the Trust Indenture Act of 1939.

Applicant further states that the net proceeds of the sale of each series of Bonds will be loaned by Applicant to various finance companies ("Finance Companies"), each of which will itself be a single purpose corporation or partnership, wholly-owned by a home building company. Applicant further states that each Finance Company will redistribute the proceeds to its builder-parent, which in turn will use such

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proceeds to repay indebtedness incurred by it in connection with the origination of mortgage loans on residences constructed by it. It is stated further that each loan by Applicant to a Finance Company will be secured by the grant to Applicant of a security interest in "fully modified pass-through" mortgage-backed certificates ("GNMA Certificates") owned by such Finance Company, which are fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA"). Each GNMA Certificate, Applicant states, will evidence an interest in a pool consisting of the above-mentioned mortgage loans on residences constructed by the Finance Company's parent builder. It is stated also that Applicant will provide security for the Bonds by pledging the GNMA Certificates to the Trustee, and that the GNMA Certificates to the Trustee, and that the GNMA Certificates and other collateral will produce a cash flow sufficient to support the Finance Companies' obligations to Applicant and Applicant's obligations to the Bondholders.

Applicant represents, in addition, that an independent mortgage company will be the servicer of each mortgage loan, and will have the power and obligation to foreclose against the property securing any delinquent mortgage loan, liquidate that property, pursue any mortgage insurance or guarantee claims, collect prepayments of principal, and collect any insurance proceeds. Amounts so collected will be paid to the Trustee as a registered holder of the GNMA Certificates, it is stated.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. In support of this request, Applicant notes that a number of large home builders have issued mortgage-backed bonds through wholly-owned finance companies, and that such finance companies have not been required to register under the Act, in apparent reliance upon the exception from the definition of investment company afforded by Section 3(c)(5) of the Act. Applicant submits that there is no public policy reason to require Applicant to register as an investment company because it is merely facilitating the financing efforts of a number of smaller builders to institute the same financing mechanism and to achieve the same economies of size as the larger builders. Applicant has sought exemptive relief in order to eliminate any uncertainty as to its status under the Act and to its proposed activities as described herein.

An exemption of Applicant from all provisions of the Act is necessary and appropriate in the public interest, it is asserted, because: (1) A company engaged in the business of facilitating the financing of single-family residences, and the assets of which consist principally of GNMA Certificates, is not the type of entity to which the provisions of the Act were intended to apply; (2) Applicant may be unable to proceed with its proposed business if the uncertainties concerning the applicability of the Act are not removed; (3) Applicant's proposed business is intended to serve a recongnized and critical public need for housing and for new sources of mortgage funds for such housing; (4) the granting of the requested exemption will not be inconsistent with the protection of investors, who will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act of 1933 and thereafter by the Indenture and the independent trustee representing their interests under the Indenture.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personnally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28429 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13571; 812-5616]

L. F. Rothschild Exempt Fund, Inc.; Application

October 12, 1983.

Notice is hereby given that L. F. Rothschild Exempt Fund, Inc. ("Applicant"), 55 Water Street, New York, New York 10041, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified investment company, filed an application on July 29, 1983, and an amendment thereto on September 20, 1983, for an order, pursuant to Section 6(c) of the Act, exempting it from the provisions of Section 12 (d)(3) of the Act to permit it to acquire rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

A Maryland corporation, Applicant seeks to offer a convenient means of investing short-term funds where the direct purchase of high quality, tax-exempt securities may be undesirable or impractical. Applicant will invest in a variety of high quality municipal obligations to maximize current income exempt from federal income taxes to the extent consistent with preservation of capital and maintenance of liquidity. Applicant may purchase floating and variable rate demand notes from municipal and non-governmental issuers, municipal obligations on a "when-issued" basis, and repurchase agreements.

Applicant proposes to improve its portfolio liquidity by acquiring "stand-by commitments". Applicant describes a stand-by commitment as a right acquired in conjunction with a purchased of a municipal obligation from a broker, dealer, or a bank that enables it to sell the same principal amount of the security purchased back to the seller, at Applicant's option, at a specified price. Applicants, investment policies permit it to purchase such commitments solely to facilitate portolio liquidity. Applicant asserts that the acquisition or exercisability of such a commitment will not affect the valuation or maturity of the underlying portfolio security which it will value by the amortized cost method. Applicant states that its stand-by commitments will have the following characteristics: (1) They will be in writing and will be physically held by its custodian; (2) they may be exercised by it at any time prior to the maturity of the underlying security; (3) they will be entered into only with dealers, banks, and brokers which, in the investment adviser's opinion, present a minimal risk of default; (4) Applicant's right to exercise the stand-by commitments will be unconditional and unqualified; (5) although the commitments will not be transferable, the underlying securities could be sold

to a third party at any time, even though the stand-by commitment was outstanding; and(6) the exercise price of the stand-by commitment will be (i) Applicant's acquisition cost of the underlying security (excluding any accrued interest which Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the security, plus (ii) all interest accrued on the security since the last interest payment date during the period the security was owned by Applicant.

Because Applicant will value its municipal obligations on an amortized cost basis, it asserts that the amount payable under a stand-by commitment will be substantially the same as the value it will assign to the underlying municipal obligations. In the unlikely event that the market or fair value of its securities was no substantially equivalent to the amortized cost value, Applicant will value its municipal obligations on the basis of available market information and will hold them to maturity. Applicant expects to refrain from exercising stand-by commitments in such a situation to avoid imposing a loss on a broker, dealer, or bank and jeopardizing its business relationship with that entity.

Applicant states that stand-by commitments may be available without the payment of any direct or indirect consideration. If necessary or advisable, however, Applicant will pay for stand-by commitments, either separately in cash or by paying a higher price for the securities acquired subject to the commitment. Applicant states that, as a matter of policy, the total amount it will pay for outstanding commitments will not exceed ½ of 1 percent of the value of its total assets calculated immediately after any commitment is acquired. Because it is difficult to evaluate the likelihood of use or the potential benefit of such a commitment, Applicant intends to assign a "fair value" of zero to such commitmens. When Applicant pays for a stand-by commitment, it will reflect such cost as unrealized depreciation for the period during which it holds the stand-by commitment. For purposes of computing the dollar-weighted average maturity of its portfolio, Applicant will not consider the maturity of a portfolio security shortened or otherwise affected by any stand-by commitment that such security is subject to.

Applicant states that its counsel has advised it that the Internal Revenue Service ("IRS") has issued a private ruling to the effect that a registered investment company will be the owner of municipal obligations acquired subject to a stand-by commitment and that interest on such securities will be tax-exempt. Applicant may, but does not currently intend to, seek a favorable ruling from the IRS with respect to its stand-by commitments.

Applicant believes its requested relief is appropriate in the public interest and consistent with the protection of investors, contending that stand-by commitments will not affect the calculation of its net asset value per share and will not pose new investment risks. Applicant asserts that stand-by commitments will improve its liquidity. Applicant's stand-by commitments will be secured to the extent of the underlying municipal obligations subject to such commitments. Applicant contends that a stand-by commitment, presents, less risk than a bank certificate of deposit and will present, qualitatively, no greater a risk than the risk of loss faced by any investment company holding securities pending settlement after having agreed to sell the securities to a broker, dealer, or bank in the ordinary course of business. Applicant asserts that stand-by commitmens will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of brokers, dealers, or banks in determining its net asset value. Nevertheless, Applicant's investment adviser intends to evaluate periodically the credit of institutions issuing such commitments. Finally, Appplicant will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its share, or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commision, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28430 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23085; 70-6908]

National Fuel Gas Co. and National Fuel Gas Distribution Co; Proposed Issuance and Sale of Debentures by Holding Company and Acquisition of Long-Term Notes Issued by Subsidiary

October 12, 1983.

National Fuel Gas Company ("National"), 30 Rocefeller Plaza, New York, New York 10020 a registered holding company, and one of its subsidiaries, National Fuel Gas Distribution Corporation ("Distribution Corporation"), 10 Lafayette Square, Buffalo, New York 14203, have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

National proposes to issue and sell not later than December 31, 1983, up to $50 million principal amount of its —— percent Debentures, Series due ——. The price and annual interest rate will be determined through competitive bidding. National intends to employ alternative competitive bidding procedures in accordance with the Commission's statement of policy set forth in HCAR No. 22623 (September 2, 1982). National states, however, that should market conditions appear unfavorable, it may request an exception from competitive bidding requirements under Rule 50(a)(5).

Distribution Corporation proposes to issue and sell, and National proposes to acquire, up to $50 million of its long-term unsecured notes. Such notes will be dated as of the date of issue, will bear interest payable semiannually at the effective interest cost of the debentures, and will mature serially on the date of any related sinking fund obligations for the debentures, or on the maturity of the debentures; provided that National will have the option to require Distribution to repay such notes at any time within the twelve months preceding their respective maturity dates. The proceeds from the sale of such notes will be used by Distribution to repay an equal principal amount of its short-term notes held by National.

The application-declaration and any amendments thereto are available for public inspection through the

Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by November 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued. After said date, the Commission-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28434 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13577; 811-3325]

Republic Government Income Fund, Inc.; Application

Notice is hereby given that Republic Government Income Fund. Inc. ("Applicant"), 2630 Westridge, Houston, Texas 77054, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 28, 1983, for an order of the Commission pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company as defined in the Act. All ihnterested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant states that it was organized under Mayland law on October 20, 1981, and that on November 18, 1981 it registered under the Act by filing a Form N-8A Notification of Registration, and on the same date filed a Form N-1 registration statement under the securities Act of 1933 and the Act. It is stated further that Applicant's registration statement related to an indefinite number of shares of Applicant's common stock, and was the subject of three "pre-effective" amendments before being declared effective on August 17, 1982. On August 18, 1982, Applicant states, its initial public offering of shares commenced. It is stated also that applicant is a "money market" fund, and that its investment adviser and distributor is Shap Management Group, Inc.

It is further stated that Applicant's portfolio consisted of a Small Business Administration ("SBA") loan and repurchase agreements. The SBA loan was sold in the over-the-counter market on a net basis at Applicant's cost, without payment of brokerage commissions, it is stated, and the repurchase agreements were renewed in reduced amounts until such time as there were none outstanding.

Applicant further states that at a special meeting held on December 28, 1982, Applicant's Board of Directors approved a Plan of Liquidation and Dissolution ("Plan"), which on the same date was adopted by Applicant's sole stockholder through unanimous written consent. As of December 30, 1982, it is stated, Applicant had 100,000 shares of common stock outstanding, par value $.001 per share, its only authorized class of capital stock. Applicant's net assets as of that date, it is stated, totaled $104,672.20, or $1.04 per share. On December 30, 1982, Applicant implemented the plan by distributing $104,672.20 to its sole stockholder of record, it is stated. Thus, Applicant states, it presently has no assets and no securityholders, and, it is further stated, no liabilities outstanding. Applicant further represents that it is not a party to any litigation or adminstrative proceeding, and that it is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Geoarge A. Fitzsimmons,

Secretary.

[FR Doc. 83-28428 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 12, 1983

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the stock of:

BAT Industries
American Depository Receipts (File No. 7-7146)

This security is registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 2, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28432 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 12, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Western Company of North America
Common Stock, $.30 Par Value (File No. 7-7152)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 2, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28431 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20272; (SR-MSRB-83-12)]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

October 12, 1983.

The Municipal Securities Rulemaking Board ("MSRB") 1150 Connecticut Avenue, NW., Washington, D.C. 20036, submitted on August 18, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend MSRB Rule G-12 and MSRB Rule G-15 to revise the confirmation disclosure requirements regarding transactions involving zero coupon, compound interest and multiplier securities to reflect the special trading characteristics of such securities. Specifically, the MSRB proposes to amend paragraphs (c)(v)(I), (c)(v)(P) and (vi)(1) of Rule G-12 and paragraphs (a)(ix)(A), (a)(ix)(B), (e) and (i) of Rule G-15. The MSRB states that the rule change will become effective 60 days after the Commission approves the proposed rule change, assuming the rule change is approved.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 20153, September 6, 1983) and by publication in the Federal Register (48 FR 40965, September 12, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28436 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20269; File No. SR-NYSE-83-45]

Self-Regulatory Organizations; Proposed Rule Changes; New York Stock Exchange, Inc.; Relating to Changes to Article VIII, Section 4 (Arbitrators), Section 5 (Member Controversies), and Section 6 (Nonmember Controversies) of the Exchange Construction and the Adoption of Rule 633 (Member Controversies)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 30, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed amendments to Article VIII, Sections 4, 5, and 6 and Rule 633 acknowledge the Exchange's role as a national market place by permitting member controversies to be heard and resolved by arbitrators in locations other than New York City. In addition, the amendments increase the number of individuals who are qualified to serve as arbitrators by permitting former members and allied members and officers of member corporations to serve on the Board of Arbitration and by permitting retirees to serve on the securities panels. Finally, the amendments streamline the arbitration process for member controversies by permitting controversies to be resolved by fewer arbitrators.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filling with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) *Purpose of Proposed Rule Changes*

The purposes of the proposed rule changes are to:

- Permit disputes between members, allied members and member organizations to be heard or resolved in locations other than New York City.
- Permit present and former members, allied members and officers of member corporations to serve on the Board of Arbitration.
- Permit retirees to serve on the securities panels.
- Permit member controversies involving less than $10,000 to be heard by one arbitrator and to permit member controversies involving $10,000 or more to be heard by either three or five arbitrators.

(b) *Statutory Basis for the Proposed Rule Changes*

The proposed changes are consistent with Section 6(b)(5) of the Act in that they promote just and equitable principles of trade by insuring that members and member organizations and the public have an impartial forum for the resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes do not impose any burden on competition.

VOL 48 ISS 203 OCT 19 1983 UMI

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

Dated: October 11, 1983.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 83-28420 Filed 10-18-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

National Driver Register Advisory Committee; Establishment and First Public Meeting

Notice is hereby given of the establishment of the National Driver Register (NDR) Advisory Committee. The Committee reports to the Secretary of Transportation and is under the sponsorship of the National Highway Traffic Safety Administration (NHTSA). The objectives of the Committee are to review the maintenance, operation, and responsiveness of the National Driver Register to ensure that timely and appropriate assistance is being provided to States in exchanging information on motor vehicle driving records.

The Committee is composed of 15 members appointed by the Secretary. As required by the law, the members are chosen from the following categories: Category I—three members from among individuals who are specially qualified to serve on the Committee by virtue of their education, training or experience and who are not employees of the Federal Government or of any State; Category II—three members from among groups outside the Government which represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations; and Category III—nine members, geographically representative of the participating States, from among individuals who are chief driver licensing officials of participating States.

The members appointed to serve on the NDR Advisory Committee are: Category I—Mr. Kim Rohrabacher, Corporate Relocation Manager, Computer Sciences Corporation, El Segundo, CA; Mr. Robert Forman, Vice President, Safety and Security, Trailways, Inc., Dallas, TX; Mr. Kenneth Nathanson, President, Citizens for Safe Drivers, Washington, D.C.; Category II—Mr. Carl Ritter, Vice President, Safety Insurance & Claims, The Mason & Dixon Lines, Inc., Kingsport, TN; Mr. R. V. Durham, Director, Safety & Health Department, International Brotherhood of Teamsters, Washington, D. C.; Dr. B. J. Campbell, Director, Highway Safety Research Center, University of North Carolina, Chapel Hill, NC; Category III—Mr. James Petry, Director of Revenue, Wyoming Department of Revenue & Taxation, Cheyenne, WY; Mr Robert Thompson, Assistant Director, Bureau of Motor Vehicle Services, Department of Transportation, Washington, D.C.; Mr. Douglas Savala, Director, Bureau of Field Services, Michigan Department of State, Lansing, MI; Mr. George Meese, Director, Department of Motor Vehicles, Sacramento, CA; Mr. John Zogby, Deputy Secretary, Safety Administration, Department of Transportation, Harrisburg, PA; Mr. Joseph Rockford, Director Driver Services Department, Illinois Secretary of State, Springfield, Illinois; Mr. C.W. Keith, Director, Division of Driver Licenses, Department of Highway Safety and Motor Vehicles, Tallahassee, FL; Ms. Marlene Swanson, Director, Driver and Vehicles Services Division, Department of Public Safety, St. Paul, MN; and Mr. Harold Hammond, Commander, Driver License Division, Alabama Department of Public Safety, Montgomery, AL.

All meetings of the Committee will be open to the public. Notice of time and place and outline agenda of all meetings will be published in the **Federal Register** 15 days prior to the meeting.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of the first meeting of the NDR Advisory Committee to be held on December 13 and 14, 1983 at the DOT Headquarters Building in room 2230 starting at 9:00 a.m. on both days. The agenda will consist of NHTSA staff briefings on the NDR program status.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

Additional information may be obtained from the NHTSA Executive Secretariat, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2870.

Issued in Washington, D.C. on October 14, 1983.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 83-28456 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP83-2; Notice 2]

VEB Reifenkombinat Furstenwalde; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by VEB Reifenkombinat Furstenwalde of East Germany to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for

noncompliances with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, and with 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*. The basis of the petition was that the noncompliance were inconsequential as they relate to motor vehicle safety.

Notice of receipt of the petition was published on April 18, 1983, and an opportunity afforded for comment (48 FR 16487).

Both Federal Safety standards for vehicle tires require certain information be permanently molded into each sidewall of the tire. Petitioner, whose tires bear the trade name "Pneumant", failed to fulfill this requirement in certain respects. Specifically, it failed to mark one sidewall of passenger car tires with the maximum permissible inflation pressure, the maximum load rating, the generic name of the cord material, and the actual number of plies. This information is required by Sections 4.3 (b), (c), (d), and (e), respectively, of Standard No. 109. As for truck tires, it has omitted on one sidewall to state the maximum load rating and corresponding inflation pressure, the actual number of plies and composition of ply cord, and the letter designating load range. This information is required by Sections 6.5 (d), (f), and (j), respectively, of Standard No. 119. From 1977 through 1982 petitioner shipped to the United States approximately 1,200,000 noncomplying passenger car tires, and 120,000 noncomplying truck tires.

In the view of the petitioner the noncompliances are inconsequential because:

"Since it is the usual practice for the vehicle manufacturer to specify the tire size, ply rating, and inflation pressures recommended for the particular vehicle, for the user's information, it is our belief that the technical data concered in this petition would rarely involve the user, in addition, in case of need the information is available on all the tires produced by us, and is fully apparent at the time of fitting. . . ."

Two comments were received on the petition. Ms. Patricia Hill of Howell, Michigan, recommended denial because she believes that the omitted information is necessary for the safe application and use of the tire, and that handling and braking performance is degraded when tires with differing cord materials are employed on a single vehicle. The State of Maryland recounted difficulties experienced in its motor vehicle inspection program when these tires appeared; however, these problems have abated after inspectors were directed to inspect the inward-mounted side of the tires for the missing information.

The agency has no indication that equipping a vehicle with tires of differing cord materials results in any degradation of performance, provided they are the same size and construction, and inflated properly. Tire inflation placards installed on the vehicles pursuant to Motor Vehicle Safety Standards Nos. 110 and 120 (as well as information in the vehicle operator's manual) will contain inflation pressure information which the operator can reference if the information side of the tire is mounted inwards. Conformance of the tires with the performance requirements of the standards is not in question.

In consideration of the foregoing, it is hereby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

The engineer and attorney primarily responsible for this notice are Art Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 13, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-28458 Filed 10-18-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

On October 13, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0094
Form Number: 1041 A
Type of Review: Revision
Title: U.S. Information Return—Trust Accumulation of Charitable Amounts
OMB Number: 1545-0065
Form Number: 4070/4070PR
Type of Review: Revision
Title: Employee's Report of Tips to Employer
OMB Number: 1545-0014
Form Number: 637
Type of Review: Revision
Title: Registration for Tax Free Transactions Under Chapters 31 and 32 of the Internal Revenue Code
OMB Number: 1545-0055
Form Number: 1001
Type of Review: Existing Regulations
Title: Ownership, Exemption or Reduced Rate Certificate
OMB Number: 1545-0175
Form Number: 4628
Type of Review: Existing Regulations
Title: Computation of Minimum Tax—Corporations
OMB Number: 1545-0256
Form Number: 941C/941PR
Type of Review: Revision
Title: Statement to Correct Information

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0221
Form Number: ATF F 5640.1
Type of Review: Extension
Title: Officer in Compromise of Liability Incurred Under Chapters 51, 52, 53, and/or 78 of IRS Code
OMB Number: None
Form Number: None
Type of Review: Existing Regulation
Title: Foreign Shipper's Declaration
OMB Number: 1512-0025
Form Number: ATF F 2 (7560.2)
Type of Review: Revision
Title: Notice of Firearms Manufactured or Imported
OMB Number: 1512-0208
Form Number: ATF F 5110.45
Type of Review: Extension
Title: Package Gauge Report
OMB Number: 1512-0005
Form Number: ATF F 3210.1
Type of Review: Revision
Title: Application for Restoration of Firearms and/or Explosives Privileges
OMB Number: None
Form Number: ATF F 5400.21
Type of Review: New
Title: Application Permit for User-Limited Special Fireworks
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of Government Financial Operations

OMB Number: 1510–0049
Form Number: TFS–1201
Type of Review: Extension
Title: Status of Federal Funds
OMB Number: 1510–0024
Form Number: TFS 1503
Type of Review: Extension
Title: Return Notice on Claim Against the United States for the Proceeds of a Government Check

Comptroller of the Currency

OMB Number: 1557–0125
Form Number: N/A
Type of Review: Revision
Title: Special Report of Trust Department Activities
OMB Number: None
Form Number: N/A
Type of Review: Existing Regulations
Title: Limitations on Payment of Dividends
OMB Number: None
Form Number: N/A
Type of Review: Existing Regulations
Title: Investment in Banks Premises or Stock of a Corporation Holding Premises
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated; October 13, 1983.

Rita A. DeNagy,
Departmental Reports Management Office.

[FR Doc. 83–28411 Filed 10–18–83; 8:45 am]
BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

AGENCY: United States Information Agency.

ACTION: Modification of notice.

SUMMARY: The United States Information Agency is mofidying a notice found at 48 FR 29782 (June 28, 1983) regarding immunity from judicial seizure for the objects in the exhibit "Giovanni Battista Piazeta: A Tercentary Exhibition" by expanding the liat to include four additional works of art.

EFFECTIVE DATE: The modification is effective October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Office of the General Counsel, United States Information Agency, 400 "C" Street, SW, Washington, D.C. 20547.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the additional objects in the exhibit "Giovanni Battista Piazetta: A Tercentary Exhibition" (included in the list[1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, beginning on or about November 20, 1983, to on or about February 26, 1984, is in the national interest.

Public Notice of this determination is ordered to be published in the **Federal Register.**

Dated: October 14, 1983.

Jonathan W. Sloat,
General Cousel and Congressional Liaison.

Exhibition: "Giovanni Battista Piazetta: A Tercentary Exhibition"

Additional Objects

Country—Austria

A Self-Portrait of the Artist, Piazetta, Etching, 1738, 71 x 50, Graphische Sammlung Albertina, Vienna, Austria
The Head of the Virgin, Piazetta, Etching, c.1738, 98 x 72, Graphische Sammlung Albertina, Vienna, Austria
Sheet with Four Engravings (The Drummer Boy), Piazetta, Engraving, 1776 Graphische Sammlung Albertina, Vienna, Austria
Six Engravings of Vignettes, Piazetta, Engraving, 1776, Graphische Sammlung Albertina, Vienna, Austria

[FR Doc. 83–28460 Filed 10–18–83; 8:45 am]
BILLING CODE 8230–01–M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1
Securities and Exchange Commission	2

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:24 p.m. on Friday, October 14, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The First National Bank of Midland, Midland, Texas, which was closed by the Acting Comptroller of the Currency on Friday, October 14, 1983; (2) accept the bid for the transaction submitted by RepublicBank First National Midland, Midland, Texas, a newly-chartered national bank subsidiary of RepublicBank Corporation, Dallas, Texas; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S..C 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 17, 1983

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S–1473–83 Filed 10–17–83; 3:40 pm]
BILLING CODE 6714–01–M

2

SECURITIES AND EXCHANGE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS: [48 FR 44310 9/28/83 and 48 FR 45493 10/5/83].

STATUS: Closed meetings.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, September 23, 1983; Friday, September 30, 1983.

CHANGE IN THE MEETING: Additional meeting/items.

The following items were considered at a closed meeting scheduled on Wednesday, October 5, 1983, at 4:00 p.m.:

Formal order of investigation.
Enforcement matter.

The following additional items were considered at a closed meeting scheduled on Wednesday, October 12, 1983, at 9:30 a.m.:

Formal order of investigation.
Institution of injunctive action.
Consideration of amicus participation.

Commissioners Evans, Thomas, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: JoAnn Zuercher at (202) 272–2014.

October 14, 1983.

[S–1472–83 Filed 10–14–83; 4:17 pm]
BILLING CODE 8010–01–M

VOL
48
ISS
203
OC
19
1983
UMI

federal register

Wednesday
October 19, 1983

Part II

Department of Health and Human Services

Food and Drug Administration

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, for Over-the-Counter Human Use; Tentative Final Monograph for OTC Antitussive Drug Products

VOL
48
ISS
2
0
3
OC
19
1983
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 76N-052T]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for OTC Antitussive Drug Products

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) antitussive drug products (drug products used to relieve cough) are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal deals only with antitussive drug products and is part of the ongoing review of OTC drug products conducted by FDA.

DATE: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by December 19, 1983. New data by October 19, 1984. Comments on the new data by December 19, 1984. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination by February 14, 1984.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, Md 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1976 (41 FR 38312) FA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products, together with the recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in these drug classes. Interested persons were invited to submit comments by December 8, 1976. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1977.

In a notice published in the **Federal Register** of March 21, 1980 (45 FR 18400), the agency advised that it had reopened the administrative record for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record previously had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980 should be available to the agency in developing a proposed regulation in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened have also been put on display in the Dockets Management Branch. In response to the advance notice of proposed rulemaking, 23 manufacturers, 1 consumer, 7 health care professionals, and 1 health care professional society submitted comments on antitussive. Copies of the comments received are on public display in the Dockets Management Branch.

FDA is issuing the tentative final monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products in segments. This document on antitussive drug products is the third segment to be published. The first segment, on anticholinergic drug products and expectorant drug products, was published in the **Federal Register** of July 9, 1982 (47 FR 30002). The second segment, on bronchodilator drug products, was published in the **Federal Register** of October 26, 1982 (47 FR 47520). Subsequent segments, on antihistamines, nasal decongestants, and combination drug products and general comments, will be published in future issues of the **Federal Register**.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on September 9, 1976 (41 FR 38312), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) FDA states for the first time its position on the establishment of a monograph for OTC antitussive drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC antitussive drug products.

This tentative final monograph would amend Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations in Part 341 (as set forth in the tentative final monograph on anticholinergic drug products and expectorant drug products that was published in the **Federal Register** of July 9, 1982 (47 FR 30002)) in Subpart A, by adding in § 341.3, new paragraphs (j) and (k); in Subpart B, by adding § 341.14; and in Subpart C, by adding new § 341.74, and by adding in § 341.90, new paragraphs (o) and (p). This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC antitussive drug products, as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the **Federal Register** of September 29, 1981; 46 FR 47730.) The Court in *Cutler* held that the OTC drug regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OCT drug rulemaking process, before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products (published in the **Federal Register** of September 9, 1976 (41 FR 38312)), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and have their products in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition form OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of August 9, 1972 (37 FR 16029) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments on Antitussive Drug Products

1. One comment questioned whether any "medicine" should be allowed on the market simply for coughs. The comment explained that the public should be taught that a cough can come from postnasal drip, in which case a decongestant or an antihistamine might be indicated, or that a cough can come from asthma, in which case aminophylline might be indicated. The comment concluded that "cough medicines" are mostly "fakes" and the public should not be encouraged "to believe that it is unwise to cough without cough medicine."

The Panel recognized in its report that cough is a protective, physiologic reflex occurring in both healthy and diseased individuals (41 FR 38321 and 38338). Coughing helps clear the respiratory tract of secretions and foreign materials. Coughing may be a symptom associated with a variety of disease states, and whether or not to use an antitussive depends on the particular disease state. For example, in asthma, bronchitis, cystic fibrosis, and other respiratory diseases, there is an overproduction of secretions, and the cough reflex is essential in maintaining an open airway by clearing the respiratory passages of excessive secretions. Therefore, the use of an antitussive in these conditions would be harmful. In order to discourage use of an antitussive in these type of respiratory conditions, the Panel recommended a warning in § 341.74(b)(2) that the product should not be taken for persistent or chronic cough such as occurs with smoking, asthma, emphysema, or where cough is accompanied by excessive secretions except under the advice and supervision of a doctor. However, where cough is associated with a self-limiting respiratory tract infection, or from the inhalation of irritant gases, or dusts, an OTC antitussive would be useful. Coughs due to the common cold and coughs due to inhaled irritants are the only types of coughs for which the Panel specifically designated the use of antitussives. Cough suppressant therapy would be indicated in these cases to help relieve irritation to the respiratory tract, and to help an individual rest or sleep comfortabley. These self-limiting conditions would rarely last more than 1 week. Coughs lasting more than 1 week may be indicative of a serious disease and should be treated by a doctor; therefore, the Panel recommended a warning in § 341.74(b)(3) limiting use of

VOL 48 ISS 203 OCT 19 1983 UMI

an antitussive to 1 week. The agency believes that the warnings proposed by the Panel to discourage the use of antitussives in other than self-limiting conditions and the required indication proposed by the agency are explicit and adequate. Antitussives can be beneficial in alleviating coughs in acute, self-limiting conditions and should be available for OTC use.

2. One comment pointed out what it considered to be an error in the Panel's description of the symptoms of asthma. The comment noted that the Panel's statement that an "irritative cough * * * with a self-limiting respiratory tract infection" is "associated with a dry, hacking nonproductive cough in which no sputum is expectorated" was set in contrast to "the cough of asthma" (41 FR 38321). The comment contended that a cough without wheezing, exactly fitting the above description of irritative cough, is often the first and sometimes the only symptom of asthma in children. The comment contended that the Panel's statement reflects the cough of adult asthma and that it contains a significant error when the symptoms of asthma in children are considered.

The agency has reviewed the Panel's discussion of cough in which the Panel compared "nonproductive" (no sputum produced) and "productive" (sputum produced) types of cough (41 FR 38321). The Panel stated that the cough associated with self-limiting respiratory tract infection or following the inhalation of irritant gases or dusts is usually a dry, hacking, nonproductive cough in which no sputum is expectorated, and this type of cough lends itself to self-medication with OTC antitussive drug products. On the other hand, the loose, productive type of cough frequently associated with asthma and bronchitis should not be treated with an antitussive drug because the suppression of retained bronchial secretions could lead to increasing disability. Moreover, the Panel qualified its statements by saying that inhalation of irritant gases and dusts is "usually associated with a dry, hacking nonproductive cough," whereas a loose, productive cough is "frequently associated with asthma and bronchitis." The agency believes that these statements were intended to be general guidelines to appropriate treatment of cough, not precise statements of symptomology. More importantly, the Panel's statement and resulting label warning provide that any cough that persists for longer than 1 week should be diagnosed by a doctor. This limitation provides a safety factor in the use of antitussive drug products in children in treating cough without wheezing, should such a cough be a symptom of asthma.

3. One comment, citing the Panel's discussion that topical anesthetics and analgesics may be effective as "peripherally acting antitussives" by decreasing the sensitivity of special nerve endings or cough receptors in the mucosa of the respiratory tract (41 FR 38338), recommended that topical anesthetics, such as benzocaine, be placed in Category III as antitussives. The comment cited a study showing that a two-lozenge dose of 15 milligrams (mg) dextromethorphan and 5 mg benzocaine provided an antitussive effect, as measured by citric acid-induced cough, for 8 hours (Ref. 1). Based on the Panel's recommended 10- to 20-mg dose of dextromethorphan every 4 hours, the comment pointed out that the total dose of 15 mg dextromethorphan contained in the two lozenges should have been effective for only 3 to 4 hours, and thus attributed the extended duration of the antitussive effect to the presence of the benzocaine in the lozenge.

The Panel did not evaluate any topical anesthetic ingredients as antitussives. Three topical anesthetics, benzocaine, benzyl alcohol, and hexylresorcinol, were submitted to the Panel, but all three of these ingredients were deferred to other advisory review panels, including the Advisory Review Panel on OTC Oral Cavity Drug Products, which evaluated all three of these ingredients as topical analgesic/anesthetics for use in the oral cavity.

The study cited by the comment did not evaluate the contribution of either dextromethorphan or benzocaine to the antitussive effect shown by the combination of these ingredients, and the comment provided no new data to substantiate its argument. In the absence of any data on which to base a conclusion with regard to the effectiveness of topical anesthetics, such as benzocaine, for antitussive use, a Category III classification is not warranted. Anyone wishing to submit data demonstrating the antitussive effect of topical analgesic/anesthetic ingredients may do so during the period following publication of this proposed rule or may submit data through the new drug application (NDA) procedures.

Reference

(1) OTC Volume 040131.

B. Comment on Switching Prescription Antitussive Active Ingredients to OTC Status

4. One comment requested that chlophedianol hydrochloride be reclassified from prescription to OTC status as an antitussive. The comment claimed that this ingredient generally satisfies the conditions recommended by the Panel for OTC antitussive products and submitted copies of published studies to substantiate its claim (Refs. 1 through 10).
Chlophedianol hydrochloride was not reviewed by the Panel.

The agency has evaluated the data submitted to support the safety and effectiveness of chlophedianol hydrochloride and concludes that these data justify reclassification of this ingredient from prescription status to Category I as an OTC antitussive active ingredient.

In the **Federal Register** of April 29, 1971 (36 FR 8071), FDA indicated that it had evaluated a report received from the National Academy of Science/National Research Council (NAS/NRC), Drug Efficacy Study Group, as well as other available evidence on a prescription cough syrup containing chlophedianol hydrochloride, and concluded that this drug is effective for symptomatic relief of cough. The NAS/NRC report cited studies by Chen, Biller, and Montgomery (Ref. 1), Noel (Ref. 3), and Simon (Ref. 9) in classifying this ingredient as effective for the relief of cough. The cough syrup containing chlophedianol hydrochloride had been previously approved in 1960, based only on safety data, for prescription antitussive use.

In determining the safety of chlophedianol hydrochloride for OTC, use, the agency reviewed the side effects reported in the clinical studies included in the NDA; the annual adverse reaction summary listing for the years 1974 to 1982 (Ref. 11); the summary of side effects in the comment's submission—32 cases reported between August 10, 1959 and December 16, 1974; and the side effects reported in studies by Schweem and Haden (Ref. 2), Noel (Ref. 3), Schechter and Rasansky (Ref. 4); Richter et al. (Ref. 6), and Saunders (Ref. 8). On the basis of the NDA reports and the studies cited above, the agency concludes that chlophedianol hydrochloride is safe for use as an OTC antitussive.

Therefore, the agency is proposing to reclassify chlophedianol hydrochloride from prescription to OTC use as a Category I oral antitussive at the following dosages, based on the currently approved NDA for this product: Adults: oral dosage is 25 mg every 6 to 8 hours, not to exceed 100 mg in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 12.5 mg every 6 to 8 hours, not to exceed 50 mg in 14 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Ref. 12).

Although the agency is proposing in this tentative final monograph to switch cholophedianol hydrochloride to OTC use from its present status as a prescription drug, OTC marketing may not begin at this time. In the **Federal Register** of June 3, 1983 (48 FR 24925), FDA explained the enforcement policy for drugs that were originally on prescription status but which were being proposed for OTC marketing under the OTC drug review. As noted there, 21 CFR 330.13 permits OTC marketing of a drug previously limited to prescription use prior to publication of a final monograph provided that certain conditions are met. To qualify for such treatment, the drug must, at a minimum, have been considered by an OTC drug advisory review panel and either recommended for OTC marketing by the panel or subsequently determined by FDA to be suitable for OTC marketing. Chlophedianol hydrochloride was not considered by a panel and, therefore, does not qualify for early OTC marketing under the terms of the enforcement policy set out in § 330.13. Moreover, FDA believes that the drug is not otherwise appropriate for OTC marketing at this time. FDA believes that public comments submitted in response to the proposed switch in status should be evaluated before OTC marketing is begun. Accordingly, until such comments are reviewed, chlophedianol hydrochloride remains a prescription drug subject to the terms and conditions specified in its approved NDA.

References

(1) Chen, J. Y. P., H. F. Biller, and E. G. Montgomery, Jr., "Pharmacological Studies of a New Antitussive, *Alpha* (Dimethylaminoethyl) *Ortho*-Chlorobenzhydrol Hydrochloride (SL-501, Bayer B-166)," *The Journal of Pharmacology and Experimental Therapeutics*, 128:384–391, 1960.

(2) Schweem, H. H., and H. M. Haden, "Control of Cough with Chlophedianol Hydrochloride a New Nonnarcotic Antitussive Agent," *The Journal of the Florida Medical Association*, 49:302–304, 1962.

(3) Noel, P. R., "The Evaluation of a New Cough Suppressant, 'Detigon', in General Practice," *The British Journal of Diseases of the Chest*, 56:70–77, 1962.

(4) Schechter, F. R., and H. N. Rasansky, "Cough—A New Nonnarcotic Antitussive Agent for its Control," *Medical Times*, 90:155–156, 1962.

(5) Nathan, L. A., "Clinical Evaluation of Chlophedianol a New Nonnarcotic Antitussive," *Applied Therapeutics*, 4:830–831, 1962.

(6) Richter, I. B., et al., "New Nonnarcotic Antitussive Agent," *Western Medicine*, 3:136–139, 1962.

(7) Vogel, G., "A New Nonnarcotic Antitussive," *General Practice*, 25:9–10, 1962.

(8) Saunders, D. C., "Trial of an Anti-Tussive Preparation in Droplet Form," *The Practitioner*, 186:367–369, 1961.

(9) Simon, S. W., "The Effectiveness of Non-narcotic Antitussive Drugs," *Journal of the American Geriatrics Society*, 10:653–657, 1962.

(10) Casey, V. J., "Treatment of 'Common Cold' in School Children without Narcotics or Antibiotics," *Medical Record and Annals*, 56:2–4; 1963.

(11) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listing," pertinent pages for the years 1974–1982, OTC Volume 04TTFM, Docket No. 76N–052T, Dockets Management Branch.

(12) Letter from, W. E. Gilbertson, FDA, to T. C. McPherson, Riker Laboratories, Inc., coded LETO 76, Docket No. 76N–052T, Dockets Management Branch.

C. Comments on Specific Antitussive Active Ingredients

5. One comment requested reclassification of camphor from Category III to Category I as an antitussive for topical use in an ointment to be rubbed on the chest and submitted data from two new studies (Refs. 1 and 2), as well as a reanalysis of data from a study reviewed by the Panel (Ref. 3), to show the effectiveness of this ingredient.

The agency has reviewed the data and concludes that two of the studies are adequate to support the reclassification of camphor to Category I for this use (Refs. 1 and 3). In the first study, the antitussive effectiveness of 4.73 percent camphor in petrolatum was compared with petrolatum alone as a control in 48 patients with chronic cough due to bronchopulmonary disease (Ref. 1). The data indicated that camphor decreased the number of coughs and cough components to a significantly greater degree than the petrolatum control. The agency concludes that this study is acceptable in demonstrating the effectiveness of 4.73 percent camphor as an antitussive in a suitable ointment vehicle to be rubbed on the chest.

The agency's review of the second study (Ref. 3) indicates that the original tabulations reviewed by the Panel appear to have been incorrect and that the revised statistical analyses of the induced cough studies show statistical evidence of the superiority of 5.3 percent camphor over petrolatum alone in reducing cough counts.

A third study was reviewed by the agency and found not to be supportive of camphor as an antitussive ingredient because there were no significant differences among the four treatment groups studied (Ref. 2).

Based on the evaluation of the first two studies, the agency proposes to reclassify camphor in concentrations of 4.7 to 5.3 percent for topical use in an ointment to be rubbed on the chest from Category III to Category I in this tentative final monograph. The directions for camphor are being proposed as follows: Adults and children 2 to under 12 years of age: rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

The agency notes that in the submitted studies the ointment was used on the anterior chest and not on the back. Therefore, the Panel's recommended direction for use that provides for camphor to be "rubbed on the back" is not being reclassified as Category I, but remains in Category III. Because no data were submitted on camphor for use as an antitussive in a steam vaporizer, camphor for this use also remains in Category III.

The warning "For external use only. Do not take by mouth or place in nostrils" is being proposed in the "Warnings" section of this tentative final monograph. The Panel recommended that such warning be included in the required labeling for antitussive drug products containing camphor that are used in the form of an ointment, and the agency concurs.

The agency's detailed comments and evaluation of the data are on file in the Dockets Management Branch (Ref. 4).

References

(1) Finkel, S., and S. Zuckerman, "Antitussive Effectiveness: Chronic Cough Counting," (Study CRD 78–13), draft of unpublished study, Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(2) Dennis, S. R. K., P. Bass, and G. doPico, "VapoRub," (Study CRD 76–41), draft of unpublished study, Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(3) Packman, E. W., "Antitussive Screening: Citric Acid Aerosol Technique," (Study CRD 74–19/A and B), reanalysis of data, Comment No. CR0004, Docket No. 76N–0052, Dockets Management Branch.

(4) Letter form W. W. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET078.

VOL
48
ISS
2
0
3
OC
19
1983
UMI

Docket No. 76N–052T, Dockets Management Branch.

6. One comment submitted a new study to support the reclassification of caramiphen edisylate from Category III to Category I as an antitussive (Refs. 1 and 2). Several comments requested that the Panel's recommended 80-mg maximum daily dosage for caramiphen edisylate be increased to 120 mg. One of the comments stated that no significantly greater incidence of adverse effects occurred with the 120-mg dosage when compared with placebo or 60 mg of caramiphen edisylate. This comment cited material previously submitted to FDA under an Investigational Exemption for a New Drug in support of the 120-mg maximum daily dosage.

The agency has reviewed the submitted study (Study PM–252) and determined that the data do not support the reclassification of caramiphen edisylate from Category III to Category I as an OTC antitussive. Study PM–252 was a multidose, triple-crossover, double-blined study designed to demonstrate the effectiveness of caramiphen edisylate. Thirteen patients with chronic cough served as subjects for the study; two patients were not included in the final analysis. Each patient received a full dosage schedule treatment with 20 mg caramiphen edisylate, 10 mg caramiphen edisylate, and a placebo.

The agency performed a statistical analysis of the raw data submitted using the same statistical methods used in the submission. The p-values found by the agency did not agree with those submitted by the comment. The agency's analysis produced a p-value >0.20 for the 20-mg dose of caramiphen edisylate when compared with the placebo and a p-value >0.10 for the 10-mg dose of caramiphen edisylate when compared with the placebo, indicating that there was not a statistically significant decrease in cough counts in favor of the 20-mg or the 10-mg dose. In addition, the statistical analysis submitted by the comment ignored a comparison of the drug cough counts with the baseline cough counts which would tend to bias the results in favor of the active drug. When the baseline cough counts were used for comparison with the drug cough counts, the agency's analysis of the treatments produced no statistically significant differences among the three treatments ($p>0.15$). Thus, there is no statistical evidence that caramiphen edisylate is superior to placebo in reducing cough counts. In addition, an examination of the cough counts for each patient revealed that no drug effect was noted in 7 of the 11 patients.

The agency concludes that the submitted data do not provide evidence that caramiphen edisylate is superior to placebo in reducing cough counts. The agency is proposing Category III status at this time because caramiphen edisylate has not been shown to be effective at the 10- or 20-mg does levels. The agency will not address the comment's request for an increase in the maximum daily does at this time.

Studies to demonstrate the effectiveness of caramiphen edisylate must be done in the target population, i.e., patients with acute upper respiratory infections, or if studies are done in a patient population other than the target population, such as patients with chronic cough, the mechanism of action must be shown conclusively to act specifically on the cough center of the brain.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Ref. 3).

References

(1) Comment No. C0169, Docket No. 76N–0052, Dockets Management Branch.

(2) Comment No. AMD003, Docket No. 76N–0052, Dockets Management Branch.

(3) Letter form W. E. Gilbertson, FDA, to J. F. Cassin, Smith Kline & French Laboratories, code LET075, Docket No. 76N–052T, Dockets Management Branch.

7. One comment objected to the Panel's finding that there were no well-controlled studies of the effectiveness of carbetapentance citrate as an antitussive. The comment stated that there are two controlled studies cited by the Panel as Refs. 6 and 13 at 41 FR 38346 (Refs. 1 and 2). The comment also referred to two studies in a submission to the Panel that compared cough syrups containing carbetapentance citrate with cough syrups containing dextromethorphan and placebo, using the citric acid aerosol challenge cough-counting technique (Refs. 3 and 4). The comment claimed that these studies confirmed the antitussive activity of 15 mg of carbetapentane citrate.

The agency has reviewed the studies cited in the comment, i.e., a clinical study by Carter and Maley (Ref. 1) and the summary of the Katz study (Ref. 2); and the two studies using the citric acid aerosol challenge cough-counting technique (Refs. 3 and 4). These studies were submitted to the Panel and were part of the basis for its Category III classification of carbetapentane citrate. The comment did not submit any new data relating to these studies.

In the Carter and Maley study, 557 patients were treated with the medication, and the remaining 134 patients were given placebos (Ref. 1). However, there is no indication as to whether patients were randomly assigned to the treatment or control groups, nor is there any indication of any blinding of the investigator or patients. Although a placebo was used, it connot be said that the study was well controlled.

In the Katz study, 22 patients with pulmonary tuberculosis received medication (Ref. 2). Six patients received 25 mg carbetapentane citrate. Nine patients received 30 mg of codeine as a positive control. These same nine patients, as well as seven other patients, received varying doses of carbetapentane citrate. However, there was no evidence of randomization or any blinding in the study. In the agency's view, the study was not well controlled, and tuberculosis patients are not an appropriate OTC target population.

With respect to the two studies using the citric acid aerosol challenge cough-counting technique, the medications administered were combination products containing carbetapentane citrate as one of the active ingredients (Refs. 3 and 4). In the agency's view, it is not possible to prove the effectiveness of carbetapentane citrate as a single ingredient antitussive agent is such a study design. The agency agrees with the Panel's conclusions that there are insufficient data to permit a determination of the effectiveness of carbetapentane citrate for OTC antitussive use. Therefore, the agency concludes that carbetapentane citrate should remain in Category III.

Studies to demonstrate the effectiveness of carbetapentane citrate must be done in the target population, i.e., patients with acute upper respiratory infections, or if studies are done in a patient population other than the target population such as patients with chronic cough, the mechanism of action must be shown conclusively to act specifically on the cough center of the brain.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Refs. 5 and 6).

References

(1) Carter, C. H., and M. C. Maley, "The Clinical Value of Toclase in Suppressing the Cough Reflex," *American Journal of the Medical Sciences*, 233:77–79, 1957.

(2) Letter from S. Katz to K. Dumas, OTC Volume 040298.

(3) Packman, E. W., draft of unpublished study, OTC Volume 040075, Section V. C.aa.

(4) Packman, E. W., draft of unpublished study, OTC Volume 040075, Section V.C.bb.

(5) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded ANS/LETO70, Docket No. 76N–052T, Dockets Management Branch.

(6) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET082, Docket No. 76N–052T, Dockets Management Branch.

8. One comment stated that codeine-containing cough remedies should be available OTC. The comment pointed out that due to the abuse of codeine-containing cough syrups, they connot be obtained without a prescription. The comment also stated that senior citizens, who are living on a fixed income and who are not likely to become addicted to these products with limited use, should be allowed to obtain these drugs without a prescription. Another comment strongly disagreed with the OTC status of codeine because the abuse potential is high. This comment recommended that codeine antitussive preparations be available only by prescription.

The agency notes that Federal regulations currently permit the OTC sale of codeine antitussives with certain restrictions and that the Panel's recommendations are consistent with these regulations. In many cases, State Laws are more stringent and do not permit the OTC sale of these preparations within the state. Because codeine may be abused, present Federal Drug Enforcement Administration (DEA) regulations place restrictions on the OTC sale of codeine, as set forth in 21 CFR 1306.32. This regulation provides for the OTC dispensing of codeine provided that such dispensing is made only be a pharmacist; not more than 120 milliliters (mL) (4 ounces), nor more than 24 dosage units may be dispensed to the same purchaser in any given 48-hour period; the purchaser is at least 18 years of age; the pharmacist requires every purchaser not known to him to furnish suitable identification; the pharmacist maintains a record book containing the name and address of the purchaser, name and quantity of substance purchased, the date of each purchase, and name or initials of the dispensing pharmacist; and other Federal, State, or local laws do not require a prescription for distribution or dispensing of the substance. FDA regulations at § 329.20(a)(3) (21 CFR 329.20(a)(3)) limit the amount of codeine or its salts that may be marketed without prescription at one time to not more than 64.8 mg per 29.5729 mL or per 28.3 grams (g). In addition, under DEA regulations at § 1308.15(b) (21 CFR 1308.15(b)) and FDA regulations at § 329.20(a) products containing narcotic drugs such as codeine must include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the product valuable medicinal qualities other than those possessed by the narcotic drugs alone. Category I status of codeine ingredients for OTC use is restricted to drug products containing codeine in combination with one or more nonnaroctic active ingredients in accordance with §§ 329.20(a), 341.40, and 1308.15(b).

Although some individuals may abuse these products, the Panel felt that under conditions of normal therapeutic use, codeine has low dependency liability (41 FR 38339). Codeine may cause addiction, but it requires a consistently high daily dose to do so (Ref. 1). Therefore, the agency is proposing that codeine be generally recognized as safe and effective for OTC use as an antitussive agent under the restrictions noted above.

Reference

(1) Himmelsbach, C. K., et al., "Studies on Codeine Addiction," *Public Health Reports (supplement)*, 158: 1–67, 1940.

9. One comment requested that a "careful look" be taken at antitussive medications currently marketed OTC, especially dextromethorphan. The comment stated that, as is the case with any medication for children, the potential for accidental overdosing in children must be considered in any final evaluation.

The agency has reviewed the Panel's discussion pertinent to antitussives. Dextromethorphan has a wide margin of safety with respect to its potential to cause poisoning through accidental overdose. The Panel stated that no fatalities have been reported even with doses in excess of 100 times the normal adult dose (41 FR 38340). A review of the annual adverse reaction summary listing for the years 1969 to 1981 indicated 15 cases of reactions in children aged 1 to 10 years (Ref. 1). The adverse reactions reported included such side effects as hallucination, urticaria, nausea, insomnia, and hysteria, but no fatalities. Ataxia, edema of the face, and urticaria were reported in an apparent overdosing case involving a child 2 years of age who received a total of 225 mg dextromethorphan contained in 2.5 ounces of an antitussive drug product. While the potential for accidental overdosing and subsequent effects must be considered for any drug, in the case of dextromethorphan, the potential for toxicity to occur from accidental overdose is extremely low. The Panel concluded, and the agency concurs, that because of its low order of toxicity, dextromethorphan is probably the safest antitussive presently available. The comment did not present any data to alter these conclusions.

Reference

(1) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listing," pertinent pages for the years 1969–1981, OTC Volume 04TTFM, Docket No. 76N–052T, Dockets Management Branch.

10. Several comments questioned the safety of diphenhydramine hydrochloride for OTC use and stated that studies have shown this ingredient can cause an unacceptable level of drowsiness. Some comments also contended that the available data do not adequately demonstrate antitussive effectiveness. A comment requested that the Commissioner reconsider a decision published in the **Federal Register** of November 30, 1976 (41 FR 52536) in which FDA dissented from the Panel's recommended Category I classification of diphenhydramine hydrochloride for OTC antitussive use and announced that any marketed product containing diphenhydramine hydrochloride for OTC antitussive use would be subject to immediate regulatory action.

At the time the Panel's report was published, September 9, 1976 (41 FR 38312), the Commissioner deferred a decision on the Panel's recommendation to place diphenhydramine hydrochloride in Category I as an OTC antitussive ingredient. FDA stated that the agency would wait until it had made a decision concerning a then pending supplemental NDA that had been submitted under 21 U.S.C. 355 seeking FDA approval for marketing of diphenhydramine hyrochloride as an OTC antitussive for the drug product Benylin. Subequently, on November 30, 1976, the agency announced in the **Federal Register** that the Commissioner did not accept the Panel's recommendation that diphenhydramine hydrochloride be classified in Category I for OTC antitussive use (41 FR 52536). In the **Federal Register** the Commissioner concluded that the recommended antitussive dose of diphenhydramine hydrochloride (25 mg) causes an unacceptable level of drowsiness for OTC use, even with a warning statement in the labeling as recommended by the Panel. Furthermore, although agreeing with the Panel that some data indicated that this ingredient has an antitussive effect, the Commissioner found a lack of

VOL
48
ISS
2
0
3
OC
19
1983
UMI

substantial evidence consisting of adequate and well-controlled studies, as required by § 314.111(a)(5)(ii) (21 CFR 314.111(a)(5)(ii)), on which to base a determination of the effectiveness of diphenhydramine hydrochloride as an antitussive. Because diphenhydramine hydrochloride had been limited to prescription use, the agency announced that under 21 CFR 330.13(b)(2) any marketed product containing diphenhydramine hydrochloride for OTC antitussive use was subject to immediate regulatory action.

With respect to the proceeding involving the supplemental NDA for Benylin, on August 31, 1979, FDA published in the **Federal Register** a final decision on the issues that had been presented in a formal evidentiary public hearing (44 FR 51512). In the Benylin decision the Commissioner extensively reviewed the safety and effectiveness data submitted by the manufacturer in support of an NDA for Benylin as an antitussive. This review also included a reevaluation of the findings of the Cough-Cold Panel regarding the general recognition of diphenhydramine hydrochloride's safety and effectiveness as an antitussive agent. In this decision, the Commissioner stated that studies to demonstrate the effectiveness of an antitussive must be done in the target population, i.e., patients with acute upper respiratory infections, and if studies are done in a patient population other than the target population, such as patients with chronic cough, the mechanism of action must be shown conclusively to act specifically on the cough center of the brain. The Commissioner also stated that induced cough studies are not a substitute for adequate and well-controlled studies in the target population and determined that the available data did not show that diphenhydramine hydrochloride was effective as an antitussive by the above criteria.

With regard to the safety of diphenhydramine hydrochloride, the Commissioner stated:

> I believe that, if Benylin were shown to be an effective antitussive drug, it might be possible to devise labeling that would provide adequate warnings of the risk of drowsiness and other ill effects and that, coupled with child resistant packaging, would enable the product to be safely used as an OTC drug. In devising any such labeling [it would be necessary] to consider inclusion of some or all of the information in the approved labeling for prescription Benylin as well as that recommended by the * * * Panel (footnote omitted). The risk to patients from a drug that causes drowsiness is indirect. The drowsiness itself does not cause harm. It is only when the patient tries to undertake a task that requires alertness such as driving a car, that the drug's sedative qualities pose a risk to the patient and to other members of the public. Suitable labeling of an OTC drug may provide sufficient safeguards for a drug that presents serious direct risks (e.g., of cancer or other serious disease), adequate labeling for any use without medical supervision generally cannot be written (44 FR 51524, 51525).

After publication of this notice, new data on the mechanism of action of diphenhydramine hydrochloride as an antitussive were submitted to the agency by the manufacturer of Benylin. These data were provided in response to an October 5, 1979 notice of opportunity for hearing on a proposal to withdraw approval of the NDA for Benylin (41 FR 57497). The new data contained unpublished studies which are considered to be confidential information covered by 21 CFR 20.61 and are not publicly available. Based on the agency's review of these studies and a reevaluation of two studies that had been reviewed by the Panel (Refs. 1 and 2) and included in a "Supplemental Medical Review" (Ref. 3), the agency approved a supplemental NDA for the marketing of Benylin as an OTC antitussive (Ref. 4). In essence, this action constituted the FDA's determination that diphenhydramine hydrochloride had been shown to be safe and effective as an antitussive in this particular product. However, even though FDA approved a supplemental NDA for this product, diphenhydramine hydrochloride as an OTC antitussive continues to be a "new drug" within the meaning of 21 U.S.C. 321(p) because of a lack of general recognition of effectiveness. A determination by FDA that a new drug is safe and effective and the approval of a NDA for the drug are not, of course, synonymous with a determination that a drug is generally recognized as safe and effective. See *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 651 (1973).

The new data accepted by the agency as demonstrating a central mechanism of action for diphenhydramine hydrochloride as an antitussive are not in the public domain. General recognition of the effectiveness of a drug, however, must be based on adequate published or publicly available medical and scientific data. (*United States* v. *41 Cases * * * Noremco*, 420 F. 2d 1128 (C.A. 5, 1970); *United States* v. *An Article of Drug * * * Mykocert*, 345 F. Supp. 571 (D.C. 1972); *United States* v. *An Article of Drug * * * Asper Sleep*, CCH F.D. and Cosm. L. Rep. 40,821 Civil No. 70–C–196 (N.D. Ill. 1971); *United Stated* v. *An Article of Drug * * * Furestrol Vaginal Suppositories* 294 F. Supp. 1307 (N.D. Ga. 1968).) Therefore, even though diphenhydramine hydrochloride has been shown, on the basis of proprietary information, to be safe and effective as required by 21 U.S.C. 355(d), there is not adequate information publicly available at this time to demonstrate that it is generally recognized as effective. Because the agency is unable to conclude at this time that diphenhydramine hydrochloride is generally recognized as effective as an OTC antitussive, FDA is proposing that it be Category III. Category III status at the tentative final stage of this rulemaking or nonmonograph status at the final stage of this rulemaking will not affect the legal OTC marketing of this drug under an approved NDA. Therefore, the present OTC marketing of Benylin under an approved supplemental NDA will not be changed by this rulemaking.

With respect to the issue of safety, the agency continues to agree with the Commissioner's discussion in the Benylin matter quoted above. Therefore, FDA tentatively concludes that diphenhydramine hydrochloride, with appropriate warnings, can be generally recognized as safe.

In a related matter, the agency recently responded to a petition seeking FDA's determination that diphenhydramine hydrochloride as an active ingredient in OTC antitussive drug products is generally recognized as safe and effective (Refs. 5 through 8). The agency advised the petitioner that diphenhydramine hydrochloride as an ingredient in OTC antitussive drug products at this time is not generally recognized as safe and effective and continues to be a "new drug" as defined in 21 U.S.C. 321(p). Therefore, at present diphenhydramine hydrochloride cannot be lawfully marketed as an OTC antitussive in the absence of an approved NDA (Ref. 9).

References

(1) Lilienfield, L.S., Protocol 184–35, draft of unpublished data, OTC Volume 040298.

(2) Summers, W. R., Protocol 184–36, draft of unpublished data, OTC Volume 040298.

(3) Walters, P. G., Supplemental Medical Review of January 22, 1981, NDA 6–514, OTC Volume 04TTFM, Dockets Management Branch.

(4) Letter from M. J. Finkel, FDA, to Warner-Lambert Company, NDA 6–514, OTC Volume 04TTFM, Dockets Management Branch.

(5) Comment No. CP, Docket No. 76N–052T, Dockets Management Branch.

(6) Comment No. C00190, Docket No. 76N–052T, Dockets Management Branch.

(7) Comment No. RC, Docket No. 76N–052T Dockets Management Branch.

(8) Comment No. RC0002, Docket No. 76N–052T, Dockets Management Branch.

(9) Letter from J. P. Hile, FDA, to R. N. Anderson, Vicks Health Care Division of Richardson-Vicks, Inc., coded PDN001, Docket No. 76N–052T, Dockets Management Branch.

11. One comment objected to permitting antitussive preparations containing ethylmorphine hydrochloride to be available for OTC use. The comment argued that ethylmorphine should be restricted to prescription status because the abuse potential would be high if it is permitted in OCT antitussive drug products.

The agency disagrees with the comment and concurs with the Panel's conclusion that ethylmorphine hydrochloride is safe "in the dose range used as an antitussive" (41 FR 38347). The agency recognizes, as did the Panel, that the possibility of abuse of ethylmorphine hydrochloride exists. Ethylmorphine is the ethyl ether of morphine and its pharmacologic properties, including its abuse potential, are similar to codeine, which is the methyl ether of morphine. Because of this, ethylmorphine hydrochloride is currently subject to DEA and FDA regulations. The regulations at 21 CFR 329.20 and at CFR 1308.32 provide for the OTC dispensing of ethylmorphine without a prescription under the same conditions that codeine may be dispensed OTC. (See comment 8 above.) In addition, § 329.20(a)(5) limits the amount of ethylmorphine or its salts that may be marketed without prescription to not more than 16.2 mg per 29.5729 mL or per 28.3 g.

Based on these regulations and the Panel's recommendations, the agency concludes that it is not necessary to restrict ethylmorphine hydrochloride to prescription status as proposed by the comment. However, the Panel questioned the effectiveness of ethylmorphine hydrochloride for use as an OTC antitussive and determined that additional data are needed to demonstrate its effectiveness. The agency agrees with this conclusion and is classifying ethylmorphine hydrochloride in Category III in this document.

12. One comment submitted data from two new studies and requested that eucalyptus oil be reclassified from Category III to Category I for OTC topical antitussive use in the form of a lozenge (Ref. 1).

The agency has reviewed the two studies (CFD 76–49R and CFD 77–59) and concludes that the data do not justify reclassifying eucalyptus oil from Category III to Category I for OCT antitussive use in the form of a lozenge because they do not conclusively demonstrate the effectiveness of eucalyptus oil.

Study CRD 76–49R was a singly-blind, induced-cough, crossover study involving 36 normal subjects challenged with acetic acid aerosol. The study compared the antitussive effect of eucalyptus oil alone, menthol alone, the combination of menthol and eucalyptus oil, and a vehicle control. The agency's analysis of the results showed that eucalyptus oil in a lozenge produced significant reductions in cough counts as compared with placebo at time intervals of 10, 30, and 50 minutes. The agency concludes that study CRD 76–49R is supportive, but it does not establish the antitussive effectiveness of eucalyptus oil in a lozenge dosage form. The Panel determined that induced-cough studies of this kind are not adequate alone to demonstrate the effectiveness of an antitussive ingredient, and the agency concurs.

In the second study, CRD 77–59, the antitussive effectiveness of 0.15 percent eucalyptus oil was compared with a control lozenge in 48 chronic bronchitis patients using cough-recording procedures. The agency's analysis of the results indicated that the antitussive effectiveness of eucalyptus oil was not adequately demonstrated. The study showed a reduction in cough of approximately 2 percent with the eucalyptus oil as compared to the control, but this reduction occurred only in the afternoon and amounted to approximately one less cough per hour. A statistical evaluation showed no significant differences in the reduction of cough counts or cough components at any time.

Based on these data, the agency concludes that the topical antitussive effectiveness of eucalyptus oil has not been established and that this ingredient does not cause a significant reduction in cough. Therefore, the agency is proposing in this tentative final monograph that eucalyptus oil as an antitussive in lozenge form remain in Category III.

The agency's detailed comments and evaluation of the data are on file in the Dockets Management Branch (Refs. 2 and 3).

References

(1) Comment Nos. SUP008, SUP011, and SUP012, Docket No. 76N–0052, Dockets Management Branch.

(2) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET060, Docket No. 76N–052T, Dockets Management Branch.

(3) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET080, Docket No. 76N–052T, Dockets Management Branch.

13. One comment requested reclassification of eucalyptus oil from Category III to Category I as an antitussive for topical use in an ointment to be rubbed on the chest and submitted new data from two studies to show the effectiveness of this ingredient (Ref. 1).

The agency has reviewed the data and concludes that they are insufficient to support the reclassification of eucalyptus oil as a single ingredient from Category III to Category I for this use. Neither study dealt specifically with eucalyptus oil as a single ingredient and instead dealt with an ointment containing the volatile substances menthol, spirits of turpentine, camphor, cedar leaf oil, myristical oil, thymol, and 1.3 percent eucalyptus oil; camphor in petrolatum ointment; and menthol in petrolatum ointment. Consequently, these data do not demonstrate the effectiveness of eucalyptus oil alone as an antitussive.

In addition to reviewing the new data, the agency has reevaluated the data and information that were submitted to the Panel concerning the antitussive effectiveness of eucalyptus oil in an ointment to be rubbed on the chest. The agency's analyses of these data agree with the Panel's evaluation that the effectiveness of eucalyptus oil in ointment form has not been demonstrated. Only two of the studies (CRD 74–19/B and CRD 74–64) submitted to the Panel evaluated the antitussive effective of eucalyptus oil as a single ingredient in the form of an ointment (Refs. 2 and 3).

Study CRD 74–19/B was a single-blind, placebo-controlled, crossover, induced-cough study involving 32 normal subjects. The Panel concluded that study CRD 74–19/B is supportive but not sufficient evidence of the claimed antitussive effectiveness of eucalyptus oil used in the form of an ointment. The Panel determined that induced-cough studies of this kind are not adequate alone to demonstrate the effectiveness of an antitussive ingredient, and the agency concurs.

Study CRD 74–64 was a single-blind, placebo-controlled, crossover study involving 27 patients with chronic bronchitis considered to have been stable for 6 months. The Panel concluded that the results did not demonstrate the antitussive effectiveness of eucalyptus oil in ointment form and the agency concurs with this finding.

The agency concludes that eucalyptus oil should remain in Category III for

VOL
48
ISS
2
0
3
OC
19
1983
UMI

topical antitussive use in the form of an ointment. Because no data were submitted on eucalyptus oil for use as an antitussive in a steam vaporizer, eucalyptus oil for this use also remains in Category III.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Ref. 4).

References

(1) Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(2) Packman, E. W., "Antitussive Screening: Citric Acid Aerosol Technique," (Studies CRD 74–19/A and B), draft of unpublished data, OTC Volume 040298, Dockets Management Branch.

(3) Dennis, S. R. K., et al., "Medical Report on a Study to Evaluate the Effects of Vicks VapoRub as Compared to Those of Oil of Eucalyptus and a Petrolatum Placebo," (Study CRD 76–64), Draft of unpublished data, OTC volume 040298, Dockets Management Branch.

(4) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET077, Docket No. 76N–052T, Dockets Management Branch.

14. A comment representing the views of the staff of the Bureau of Consumer Protection of the Federal Trade Commission (FTC) requested that the active ingredients eucalyptol, menthol, and thymol used as an antitussive or nasal decongestant in a mouthwash dosage form be classified as Category II. The comment pointed out that after more than 4 months of adjudicative hearings, during which voluminous evidentiary records consisting of thousands of pages of expert testimony and exhibits were thoroughly examined for a marketed product with labeling and advertising claims that the product cured or prevented colds or sore throat, or lessened the severity or incidence of colds, cold symptoms, or sore throats by killing germs (Ref. 1), the FTC determined that 0.91 mg of eucalyptol per milliliter (mL) of product (mg/mL), 0.42 mg/mL menthol, and 0.63 mg/mL thymol in a mouthwash solution are insufficient in concentration to provide relief for the symptoms of the common cold, including nasal congestion and cough. Expert medical and scientific witnesses testified that the process of gargling with a mouthwash containing these ingredients does not allow the ingredients to reach the critical areas of the body they need to reach to relieve the symptoms of a cold, nor do the ingredients penetrate the infected cells, where the action of the cold viruses would be taking place.

The comment stated that the FTC's conclusion, after examining the records and hearing expert testimony, was consistent with the Panel's findings that there are no well-controlled studies documenting the effectiveness of eucalyptol, menthol, and thymol when used in a mouthwash dosage form ans an antitussive or nasal decongestant. The comment pointed out that the FTC's opinion and supporting evidence were not available to the Panel during its deliberations. Therefore, the comment requested that the FDA review the FTC's opinion and the supporting evidence and use them as a basis to classify eucalyptol, menthol, and thymol in Category II for use as an antitussive or nasal decongestant in a mouthwash dosage form.

The response in this document addresses only the antitussive use of these ingredients. The nasal decongestant use will be addressed in a future issue of the **Federal Register**. The agency has reviewed the FTC's opinion and supporting evidence (Ref. 1). Medical and scientific experts testified at the FTC hearing that there is an absence of literature showing that the combination of eucalyptol, menthol, and thymol in a mouthwash dosage form is effective in preventing colds and alleviating cold symptoms such as nasal congestion and cough. These experts in the fields of respiratory and infectious diseases, virology, pharmacology, and microbiology further stated, based upon their knowledge in their respective areas, that it is doubtful that these ingredients would be effective in treating symptoms of the common cold.

Although the Panel did not have access to the FTC's opinion and supporting evidence, it did review the St. Barnabas study, which was one of the studies discussed during the FTC hearing (Ref. 2). The St. Barnabas study was undertaken to demonstrate the effect of rinsing and gargling twice daily with an aqueous mixture of 0.91 mg/mL eucalyptol, 0.42 mg/mL menthol, and 0.63 mg/mL thymol on the incidence, duration, and severity of the common cold and its symptoms. It was a 4-year subjective study in over 4,800 schoolchildren. The experts who testified at the FTC hearing agreed that the deficiencies in the design and execution of the study precluded any meaningful interpretation of the results. The FTC concluded that the design and execution of the tests heavily biased the results in favor of the manufacturer, and therefore the tests could not support the advertising claims. The Panel concluded that although the study was not well-controlled and could not be considered proof of effectiveness, the results did reveal milder nasal symptoms and cough symptoms in individuals using the medicated mouthwash as compared with these symptoms in individuals using the placebo. Because this study did not demonstrate the effectiveness of the individual antitussive ingredients, the Panel recommended that data to demonstrate effectiveness of each ingredient alone be required in accordance with its guidelines for testing OTC antitussive drug products (41 FR 38354 to 38355). Because safety was not at issue, and the data suggested the possibility that the combination of eucalyptol, menthol, and thymol was effective as an antitussive in a mouthwash dosage form, the Panel believed that a Category III classification was justified.

At the tentative final monograph stage, FDA usually proposes Category II status for an ingredient because there is a potential safety problem or because there are essentially no data to support the ingredient's effectiveness for its purported use. Although medical and scientific experts testified for the FTC that is is unlikely that euaclyptol, menthol, and thymol in a mouthwash would be effective as an antitussive, they also stated that the studies that were done contained defects which made the results inconclusive. In view of the inconclusive results caused by deficiencies in the studies, the agency does not believe it appropriate at this time to classify the drugs as Category II, without allowing interested parties the opportunity to develop a well-controlled study that might demonstrate the drugs' effectiveness. Therefore, the agency is proposing that eucalyptol, menthol, and thymol in a mouthwash dosage form as an antitussive remain in Category III in this tentative final monograph.

In the final monograph, any ingredient that has not been found to be safe and effective will be classified as "nonmonograph" and may not be legally marketed. To date, there have been no new data submitted to support the effectiveness of eucalyptol, menthol, and thymol in a mouthwash dosage form as an antitussive, and if adequate data are not submitted before establishment of a final monograph, these ingredients for this use will be classified as "nonmonograph."

References

(1) Comment No. C0126, Docket No. 76N–0052, Dockets Management Branch.

(2) "The Effect of Listerine Antiseptic on the Incidence, Severity, and Duration of the Common Cold. A 4-Year Study," draft of unpublished study, OTC Volume 040278, section 3.a. (referred to as the St. Barnabas Study in Comment No. C0126), Dockets Management Branch.

15. Two comments requested that 1 to 15 mg of menthol as an antitussive in a lozenge dosage form be reclassified from Category III to Category I. One comment submitted new data in support of a dosage range of 5 to 10 mg of menthol (Refs. 1 through 8). The second comment contained data in support of a 10-mg menthol lozenge (Ref. 9). Another comment requested Category I status for lozenges containing less than 5 mg of menthol based on data previously reviewed by the Panel (Refs. 10 through 13).

Based on the data above, the agency proposes to classify menthol as a Category I antitussive at a dosage of 5 to 10 mg in a lozenge or compressed tablet dosage form. (See comment 20 below regarding compressed tablets.) The agency concludes that the two studies conducted by Finkel and Zuckerman (Refs. 6 and 7) show menthol to be effective in a lozenge at doses of 5.2 mg and 7.8 mg, respectively. In addition, the data submitted by the second comment show that menthol in a lozenge, at a dose of 10 mg, is an effective topical antitussive (Ref. 9). Based on the results of the studies, the agency concludes that the dosage frequency for lozenges or compressed tablets containing 5 to 10 mg menthol should be every hour instead of the Panel's recommended fequency of every 30 minutes to an hour.

The four studies, submitted in support of a dosage of less than 5 mg of menthol (Refs. 10 through 14), are not acceptable to prove the effectiveness of menthol at this dosage. The major problem in all four studies is that menthol was not studied as a single ingredient. All of the test lozenges contained other ingredients (benzyl alcohol, citric acid, eucalyptus oil, camphor, thymol, tolu balsam) in addition to menthol: thus, any therapeutic effect obtained from the use of the lozenge cannot be attributed to menthol only. The control lozenges did not contain these additional ingredients. Therefore, these studies cannot be considered supportive of the effectiveness of lozenges containing less than 5 mg of menthol. Menthol at less than 5 mg will remain in Category III until adequate data are presented to warrant reclassification to Category I.

In conclusion, the agency proposes to reclassify menthol in a lozenge or compressed tablet at a dose of 5 to 10 mg from Category III to Category I as an antitussive. The directions for menthol are being proposed as follows: Adults and children 2 to under 12 years of age: allow (lozenge or compressed tablet) to dissolve slowly in the mouth. May be repeated every hour as needed or as directed by a doctor. Children under 2 years of age: consult a doctor. Because no data were submitted to support a menthol dose greater than 10 mg, such a dose will remain in Category III.

The agency's detailed comments and evaluations of the data are on file in the Dockets Management Branch (Refs. 15 through 18).

References

(1) Dennis, S. R. K., P. Bass, and G. doPico, "Victors," (Study CRD No. 75–21), draft of unpublished study, Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(2) Dennis, S. R. K., P. Bass, and G. doPico, "Victors," (Study CRD No. 75–26), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(3) Dennis, S. R. K., P. Bass, and G. doPico, "Victors," (Study CRD No. 75–50), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(4) Dennis, S. R. K., P. Bass, and G. doPico, "Victors," (Study CRD No. 76–43), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(5) Packman, E. W., "Victors Cough Drops," (Study CRD No. 76–49R), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(6) Finkel, S., and S. Zuckerman, "Victors," (Study CFD No. 77–58), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(7) Finkel, S., and S. Zuckerman, "Vicks Medicated Cough Drops," (Study CRD No. 78–19), draft of unpublished study, Comment No. SUP009, Docket No. 76N–0052, Dockets Management Branch.

(8) Comment No. SUP012, Docket No. 76N–0052, Dockets Management Branch.

(9) Comment No. CO181 (Volume 1), Docket No. 76N–0052, Dockets Management Branch.

(10) Packman, E. W., "Vicks Cough Drops," (Study CRD No. 72–64), draft of unpublished study, OTC Volume 040257.

(11) Packman, E. W., "Vick Cough Drops," (Study CRD No. 73–7), draft of unpublished study, OTC Volume 040257.

(12) Packman, E. W., "Vick Cough Drops," (Study CRD No. 73–8), draft of unpublished study, OTC Volume 040257.

(13) Packman, E. W., and S. J. London, "Vicks Cough Drops," (Study CRD No. 71–19), draft of unpublished study, OTC Volume 040063.

(14) Comment Nos. LET067 and SUP011, Docket No. 76N–0052, Dockets Management Branch.

(15) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded ANS 81/01/29 to SUP008, Docket No. 76N–052T, Dockets Management Branch.

(16) Letter from W. E. Gilbertson, FDA, to J. D. Clark, Warner-Lambert Company, coded NAS 81/01/29 to SUP009, Docket No. 76N–052T, Dockets Management Branch.

(17) Memorandum of Meeting, coded MM0003, Docket No. 76N–052T, Dockets Management Branch.

(16) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET081, Docket No. 76N–052T, Dockets Management Branch.

16. One comment requested reclassification of menthol from Category III to Category I as an antitussive for topical use in an ointment to be rubbed on the chest and submitted new data from two studies (Refs. 1 and 2), as well as a reanalysis of data from a study reviewed by the Panel (Ref. 3), to show the effectiveness of this ingredient.

The agency has reviewed the data and concludes that two of the studies are adequate to support the reclassification of menthol to Category I for this use (Refs. 1 and 3). In the first study, the antitussive effectiveness of 2.6 percent menthol in petrolatum was compared with petrolatum alone as a control in 48 patients with chronic cough due to bronchopulmonary disease (Ref. 1). The data indicated that menthol decreased the number of coughs and cough components to a significantly greater degree than the petrolatum control. The agency concludes that this study is acceptable in demonstrating the effectiveness of 2.6 percent menthol as an antitussive in a suitable ointment vehicle to be rubbed on the chest.

In the second study, the antitussive effectiveness of 2.8 percent menthol in petrolatum on artificially induced cough was compared with 5.3 percent camphor in petrolatum; 2.82 percent menthol in a mixture with camphor, eucalyptus oil, thymol, turpentine oil, myristica oil, and cedarleaf oil in petrolatum; and a petrolatum control. Menthol in petrolatum was significantly more effective than petrolatum alone in reducing coughs at 0.5, 1, and 3 hours and marginally more effective at 1.5 hours. The agency's analysis of the studies indicates statistical evidence of the superiority of 2.8 percent menthol over petrolatum alone in reducing cough counts (Ref. 3).

A third study was reviewed by the agency and found not to be supportive of menthol as an antitussive ingredient because there were no significant differences among the four treatment groups studied (Ref. 2).

Based on the evaluation of the first two studies, the agency proposes to reclassify menthol in concentrations of 2.6 to 2.8 percent for topical use in an ointment to be rubbed on the chest from Category III to Category I in this tentative final monograph. The directions for menthol are being proposed as follows: Adults and children 2 to under 12 years of age: rub on the throat and chest as a thick layer. The area of application may be covered

with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

The agency notes that in the submitted studies the ointment was used on the anterior chest and not on the back. Therefore, the Panel's recommended direction for use that provides for menthol to be "rubbed on the back" is not being reclassified as Category I, but remains in Category III. Because no data were submitted on menthol for use as an antitussive in a steam vaporizer, menthol for this use also remains in Category III.

The warning "For external use only. Do not take by mouth or place in nostrils" is being proposed in the "Warnings" section of this tentative final monograph. The Panel recommended that such a warning be included in the required labeling for antitussive drug products containing menthol that are used in the form of an ointment, and the agency concurs.

The agency's detailed comments and evaluation of the data are on file in the Dockets Management Branch (Ref. 4).

References

(1) Finkel, S., and S. Zuckerman, "Antitussive Effectiveness: Chronic Cough Counting," (Study CRD 78–14), draft of unpublished study, Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(2) Dennis, S. R. K., P. Bass, and G. doPico, "VapoRub," (Study CRD 76–41), draft of unpublished study, Comment No. SUP008, Docket No. 76N–0052, Dockets Management Branch.

(3) Packman, E. W., "Antitussive Screening: Citric Acid Aerosol Technique," (Studies CRD 74–19/A and B), reanalysis of data, Comment CR0004, Docket No. 76N–0052, Dockets Management Branch.

(4) Letter from W. E. Gilbertson, FDA, to G. F. Hoffnagle, Vick Health Care Division of Richardson-Merrell, Inc., coded LET079, Docket No. 76N–052T, Dockets Management Branch.

17. One comment disagreed with the Panel's conclusion that there are insufficient data to determine the effectiveness of noscapine for OTC use as an antitussive and requested that it be reclassified from Category III to Category I. The comment contended that a lack of current studies persuaded the Panel to place noscapine in Category III and to recommend that two additional studies be conducted to establish its effectiveness. The comment argued that, although the current studies may have been lacking in quantity, the quality of existing studies clearly shows that noscapine is an effective antitussive. The comment added that, because of the very unusual pharmacological properties of noscapine, the Panel should have considered it as an expectorant as well as an antitussive. (A discussion of this ingredient as an expectorant is included in comment 16 in the proposed rule for anticholinergic and expectorant drug products published in the Federal Register of July 9, 1982 (47 FR 30007).) The comment pointed out that noscapine has been shown to have the significant advantage of facilitating expectoration and stimulating the production of bronchial mucus, while suppressing nonproductive cough in certain disease states such as asthma, and cited a study in support of this activity (Ref. 1).

The agency has reviewed the Panel's findings regarding the Category III status of noscapine as an antitussive and notes that the Panel concluded that effectiveness has not been established by objective methods (41 FR 38352). The Panel cited six references (Refs. 2 through 7) and noted that, although the majority of these reported clinical trials indicate that noscapine is equal to codeine in clinical effectiveness, these studies are subjective. The Panel recommended that objective studies employing cough-counting techniques be required to demonstrate the effectiveness of antitussives, and the agency concurs. The agency's evaluation of the six studies cited by the Panel confirmed that none of these studies include objective cough-counting methods.

The agency has reviewed the reference cited by the comment in which noscapine hydrochloride was administered intravenously to 50 surgical patients in a dosage of 3 milligrams per kilogram (mg/kg) body weight (Ref. 1). Doses were administered before the induction of anesthesia or at the end of anesthesia. The cough reflex was not completely removed, and foreign matter in the laryngeal or bronchial areas was coughed up. The researchers concluded that "It appears that this drug should be given an extended trial in any situation where a reduction of the cough reflex is desirable."

The study assessed only the intravenous use of noscapine in surgical patients as an antitussive. The study did not use cough-counting techniques. The agency does not consider this study appropriate to demonstrate the effectiveness of noscapine taken orally as an OTC antitussive. The agency also notes that "AMA Drug Evaluations" states that noscapine has been shown to be effective in some studies, but evidence is insufficient to determine its relative effectiveness conclusively (Ref. 8). "AMA Drug Evaluations" cited a report by Eddy et al. (Ref. 9), which states that clinical reports and judgments of noscapine as an antitussive have been few and trials have generally been poorly controlled. Those that are availabe represent mainly the impressions gained by the investigators.

The agency is unaware of any recent studies which would establish the effectiveness of noscapine as an antitussive; therefore, based on the available evidence, the agency is proposing that noscapine remain in Category III for OTC use as an antitussive.

References

(1) Loder, R. E., "Safe Reduction of the Cough Reflex with Noscipine," *Anaesthesio*, 24:355–358, 1969.

(2) Segal, M. S., M. M. Goldstein, and E. O. Attinger, "The Use of Noscapine (Narcotine) as an Antitussive Agent," *Diseases of the Chest*, 32:305–309, 1957.

(3) Janschulte, B., "Experience with Narcompren, a New Antitussive," (English translation), ("Erfahrungen mit Narcompren, einem neuen Hustenmittel"), *Medizinische Klinik*, 42:1788–1789, 1955.

(4) Peeters, E. G., "Antitussive Properties of Noscapine," (English translation), ("Les Proprietes Antitussives de la Noscapine"), *Le Scalpel*, 114:945–954, 1961.

(5) General Practitioner Research Group, Report No. 21, "General Practitoner Clinical Trials. A Long Acting Antitussive Preparation," *The Practitioner*, 188:249–252, 1962.

(6) Bergmann, M., and H. Stolzer, "Clinical Experience with Narcotine as a Cough Suppressant," (English translation), ("Klinische Erfahrungen mit 'Narkotin' als hustenreizstillendes Mittel"), *Wiener Medizinische Wochenschrift*, 106:232–233, 1956.

(7) Blankart, R., "Clinical Experience with an Antitussive Containing Narcotine," (English translation), ("Klinische Erfahrungen mit einem narcotinhaltigen Hustenmittel"), *Therapeutische Umschau*, 20:403–406, 1963.

(8) "AMA Drug Evaluations," 4th Ed., John Wiley and Sons, Inc., New York, p. 468, 1980.

(9) Eddy, N. B., et al., "Codeine and Its Alternatives for Pain and Cough Relief. 4. Potential Alternates for Cough Relief," *Bulletin of the World Health Organization*, 40:639–719, 1969.

D. Comments on Dosages for Antitussive Active Ingredients

18. One comment cited articles on camphor poisoning in children (Refs. 1 and 2) and recommended that the camphor content of OTC antitussives be limited to less than 0.75 g camphor per 30 g of final product or to less than 2.5 percent (weight/volume). The comment stated that there is no evidence that warning statements deter childhood poisoning and concluded that this lower concentration would reduce the risk of serious accidental poisoning while still permitting an adequate concentration of camphor.

The Panel found camphor safe when applied topically or as an inhalant at certain concentrations, but recommended a Category III classification based on insufficient data to permit final classification of its effectiveness when labeled for use as an antitussive (41 FR 38344). For adults and children 2 to under 12 years of age, the Panel recommended Category III labeling for the use of camphor in the form of a 5-percent ointment preparation, a 7-percent solution for steam inhalation, or a lozenge containing 0.02 to 15 mg camphor. Following publication of the Panel's recommendations on camphor, the Advisory Review Panel on OTC Miscellaneous External Drug Products (Miscellaneous External Panel) also reviewed camphor. The Miscellaneous External Panel, however, concluded that OTC products containing greater than 2.5 percent camphor have a low benefit-to-risk ratio and recommended that camphor be limited in OTC drug products for external use to less than 2.5 percent (45 FR 63874). The Miscellaneous External Panel also recommended that the total quantity of camphor in a package be limited to 360 mg and stated that a child-proof container would deter childhood poisoning.

Because of the conflicting recommendations on camphor-containing drug products, the agency announced in the Federal Register of September 26, 1980 (45 FR 63874) that it is treating the data and information on camphor received from the Miscellaneous External Panel as a petition to reopen the administrative record on cold, cough, allergy, bronchodilator, and antiasthmatic drug products. The agency subsequently granted this petition by allowing those data and information to be included in the administrative record for these drug products. This notice served to inform interested persons of the existence of these recommendations and also invited persons or firms to submit any comments they may have. One manufacturer submitted a comment in response to the data information received from the Miscellaneous External Panel and requested that this Panel's recommendations concerning reduction in the concentration of camphor and limitation of the amount of camphor contained in a package be rejected (Ref. 3). This reopening of the administrative record related only to the ingredient camphor in OTC drug products.

The agency is proposing to classify camphor in concentrations for 4.7 to 5.3 percent in an ointment to be rubbed on the chest in Category I as an antitussive. (See comment 5 above.) The agency has reviewed the Panel's varying recommendations and determined that there is little likelihood of childhood poisonings occurring from camphor being available OTC in a 4.7 to 5.3 percent concentration in an ointment dosage form. Most of the poisonings that have occurred with camphor preparations have occurred with liquid products and not with camphor in an ointment. Therefore, the agency sees no reason to limit the quantity of camphor to 360 mg in such products labeled for antitussive use. Manufacturers are, however, encouraged voluntarily to use child-proof containers to reduce the possibility of young children inadvertently getting into such products.

References

(1) Aronow, R. J., "Camphor Poisoning," *Journal of the American Medical Association*, 235:1280, 1976.

(2) Phelan, W. J., "Camphor Poisoning: Over-the-Counter Dangers," *Pediotrics*, 57:428–431, 1976.

(3) Comment No. C00185, Docket No. 76N–0052, Dockets Mangement Branch.

19. One comment from a pediatrician objected to the use of codeine antitussives in children. The comment stated that there is little, if any, indication for cough suppression in respiratory diseases of children. The comment recommended that the labeling of codeine antitussives should not allow their use in children under 12 years of age. Another pediatrician has expressed concern to FDA about the use of codeine-containing antitussives in young children (Ref. 1).

The agency recognizes that antitussives should not be used indiscriminately in children. The Panel stated that antitussives are beneficial to suppress an irritative cough associated with a self-limiting respiratory tract infection that is usually viral in nature or that follows the inhalation of irritant gases or dusts (41 FR 38321). The Panel believed that OTC antitussive drug products could be rationally used for this type of cough and used safely in children over 2 years of age.

In response to the two pediatricians' concerns about the use of codeine-containing antitussives in young children, the agency requested the American Academy of Pediatrics (AAP) to make recommendations on this issue. The AAP based its recommendations on a poll of the members of its Committee on Accident and Poison Control and a number of directors of pediatric outpatient departments in hospitals and on a review of case histories of adverse reactions to codeine in young children (Ref. 2). AAP stated in its report to FDA that "We believe there is a preponderance of evidence that codeine-containing cough syrups can be hazardous to young children, even in prescribed doses."

Young children 2 to 5 years of age appear to be most vulnerable to serious adverse reactions to codeine. Respiratory arrest, coma, and death have been reported in this age group following codeine doses of 5 to 12 mg/kg body weight (Refs. 3, 4, and 5). Although the Panel provided recommended doses of codeine for children 2 to under 12 years of age, the AAP's belief that "codeine-containing cough syrups can be hazardous to young children, even in prescribed doses" and the data on adverse reactions in children 2 to 5 years of age raise questions concerning the safety of administering codeine to children under 6 years of age on an OTC basis.

Because the agency has received two varying recommendations on this dose, at this time the agency is taking a more conservative approach and is proposing that a codeine dose for children 2 to under 6 years of age be provided in professional labeling only. Labeling of OTC codeine-containing antitussives would not contain a recommended dose for this age group, but would include the following statement: Children 2 to under 6 years of age: consult a doctor. The agency invites specific comment on this proposal.

The AAP has recommended a codeine dose for young children of 1 mg/kg body weight in four divided doses, not to exceed 60 mg/day. The agency notes that there are no documented cases of serious adverse reactions in children at the AAP's recommended dose in the literature, in the National Clearinghouse for Poison Control Center data, or in the FDA adverse reaction reporting system (Ref. 3). The AAP also recommended including a calibrated measuring device in the package of a codeine-containing antitussive drug product that is intended to be used in young children. The agency agrees with the AAP that codeine should be used in children under 6 years of age at no higher dose than 1 mg/kg body weight per day and that because of the seriousness of possible adverse reactions due to inadvertent overdose caused by inaccurate measuring of the dose, the use of a calibrated measuring device to

VOL
48
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administer this dose is necessary. Accordingly, the agency is proposing the following paragraphs under § 341.90(p) of the professional labeling section of the monograph.

(1) Children 2 to under 6 years of age: oral dosage is 1 milligram per kilogram body weight per day administered in four equal divided doses. The average body weight for each age may also be used to determine dosage as follows: for children 2 years of age (average body weight, 12 kilograms), the oral dosage is 3 milligrams every 4 to 6 hours, not to exceed 12 milligrams in 24 hours; for children 3 years of age (average bodyweight, 14 kilograms), the oral dosage is 3.5 milligrams every 4 to 6 hours, not to exceed 14 milligrams in 24 hours; for children 4 years of age (average body weight, 16 kilograms), the oral dosage is 4 milligrams every 4 to 6 hours, not to exceed 16 milligrams in 24 hours; for children 5 years of age (average body weight, 18 kilograms), the oral dosage is 4.5 milligrams every 4 to 6 hours, not to exceed 18 milligrams in 24 hours. If age is used to determine the dose, the directions must include instructions to reduce the dose for low-weight children.

(2) Parents should be instructed to use a calibrated measuring device to give the drug to the child, to use extreme care in measuring the dosage, and not to exceed the recommended daily dosage.

(3) A dispensing device (such as a dropper calibrated for age or weight) for use in children 2 to under 6 years of age must be distributed to all professionals (doctors and pharmacists) to be dispensed along with the product to prevent possible overdose due to improper measuring of the dose.

References

(1) Letter from L. Finburg, Montefiore Hospital and Medical Center, Albert Einstein College of Medicine of Yeshiva University, to M. J. Finkel, FDA, OTC Volume 04TTFM, Docket No. 76N-052T, Dockets Management Branch.

(2) Letter to M. M. Freeman, FDA, from J. D. Lockhart, American Association of Pediatrics, OTC Volume 04TTFM, Docket No. 76N-052T, Dockets Management Branch.

(3) Segal, S., et al., American Academy of Pediatrics, Committee on Drugs, "Use of Codeine- and Dextromethorphan-Containing Cough Syrups in Pediatrics," *Pediotrics*, 62:118–121, 1978.

(4) Von Muhlendahl, K. E., et al., "Codeine Intoxication in Childhood," *Lancet*, 2:303–305, 1978.

(5) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listings," pertinent pages for the years 1969–1981, OTC Volume 04TTFM, Docket No. 76N-052T, Dockets Management Branch.

20. One comment objected to the Panel limiting eucalyptol, menthol, and thymol to lozenge and mouthwash dosage forms when these ingredients are present in products used as "oral (topical)" antitussives. The comment contended that this limitation is arbitrary since viscous syrups and compressed tablets (in contrast to boiled candy base lozenges) are just as effective as mouthwashes and lozenges. The comment recommended that an "oral (topical) dosage" form of eucalyptol, menthol, and thymol include any oral dosage form that is topically effective and that can be formulated to contain the same concentrations of these ingredients which are allowed for lozenges.

The agency agrees that compressed tablets and syrups could also be used as dosage forms for antitussive products containing eucalyptol, menthol, or thymol, in addition to the lozenge and mouthwash dosage forms recommended by the Panel once these ingredients in specific dosage forms have been reclassified in Category I. It should be noted that the Panel concluded that these ingredients are peripherally acting antitussive agents acting on the nerve receptors within the respiratory tract (41 FR 38338). The local anesthetic effect of these ingredients have been the justification for their inclusion in various products for alleviation of cough (41 FR 38350). However, the agency points out that eucalyptol and thymol are Category III ingredients, which, although found safe by the Panel, lack adequate data to demonstrate their effectiveness as antitussives. Data to demonstrate effectiveness are required in order to permit final classification of these ingredients in the monograph for this use. Menthol for topical antitussive use as a lozenge or compressed tablet in a dosage of 5 to 10 mg has been reclassified from Category III to Category I (see comment 15 above); however, additional data are necessary to demonstrate the antitussive effectiveness of menthol in other dosage forms, e.g., a syrup.

21. One comment pointed out that the Panel's recommended dosage ranges for menthol in lozenge form when used as an antitussive (dosage range—1 to 15 mg), as an expectorant (dosage range—1 to 12 mg), and as a nasal decongestant (dosage range—1 to 10 mg) do not have the same maximum dosage. The comment stated that the dosage range for these three uses were based substantially on the same reference information and that the relative safety in lozenge form between these three maximum doses was not commented upon by the Panel. The comment recommended that 15 mg per lozenge be the maximum dosage recognized for these three uses at the Category III stage.

Menthol for use as a topical antitussive in a lozenge or compressed tablet dosage form has been reclassified as Category I in a dosage range of 5 to 10 mg. (See comment 15 above.) However, menthol remains a Category III ingredient for nasal decongestant and expectorant use. Because further testing is necessary to determine the effective dosages and/or final classification for these two indications, the agency finds no need to change the Panel's recommended dosages for these uses at this time.

E. Comments on Labeling of Antitussive Drug Products

22. One comment contended that manufacturers should be able to include in the labeling of antitussive drug products terms that are included in the Panel's definition of an "antitussive" in § 341.3(f). The comment pointed out that of the three verbs in the definition—"inhibits," "controls," and "suppresses"—no form of "inhibits" is allowed in the indications labeling for antitussives.

The agency agrees that manufacturers should have the option to use the verbs "controls" and "suppresses" in addition to the terms "alleviates," "decreases," "relieves," "quiets," "calms," and "reduces," and the phrase "helps you cough less" in the indications for antitussives when they are appropriate and has included them in the proposed monograph. However, the agency believes that the term "inhibits" may imply to consumers that an OTC antitussive has the ability to eliminate cough completely and is therefore not including the term "inhibits" in the indications section of the proposed monograph.

The agency is also simplifying the definition of "antitussive drug" in the monograph to include definitions for "oral antitussive" and "topical antitussive" respectively, to read as follows: "A drug that is taken by mouth and acts systemically to relieve cough" and "a drug that relieves cough when applied topically to the throat or chest in the form of an ointment or dissolved in the mouth in the form of a lozenge or compressed tablet." The agency believes that the simplification and separation of definitions for oral and topical antitussives provides clearer and more concise definitions for these drug products.

23. One comment quoted the Panel's statement on cough as follows:

"Medications which suppress the act of coughing by reducing * * * the intensity of coughing are known as antitussive drugs (41 FR 38321)," and complained that the Panel's recommended monograph stated that a manufacturer may not make a labeling claim that refers to a reduction "in the intensity of coughing" although the Panel used this phrase in its discussion of cough.

The agency agrees that a phrase referring to the reduction of the intensity of coughing is appropriate in the labeling of antitussive drug products and has therefore added a statement including this phrase in the indications section of the proposed monograph.

24. One comment stated that the Panel allowed a claim for "cooling" to be made for topical nasal decongestants for which the effect can be substantiated, e.g., menthol or other volatile oils (41 FR 38422). The comment contended that if the "cooling" claim is allowed for methol used as a topical nasal decongestant, it should also be allowed for methol used as an antitussive. The comment recommended that this claim be added to the monograph.

The agency has no objection to the use of terms, such as "cooling," that describe certain physical and chemical qualities of a drug, as long as these terms do not imply that any therapeutic effect might occur, are true and not misleading, and are distinctly separated from labeling indications. Terms describing product characteristics (e.g., color, odor, flavor, and feel) appear in the labeling for consumers' information. The agency concludes that it is not necessary to include terms such as these in the antitussive or nasal decongestant monographs. Accordingly, § 341.80(a)(13) of the Panel's proposed monograph which refers to the cooling sensation demonstrated by topical nasal decongestants will not be included in the tentative final monograph for nasal decongestant drug products which will be published in a future issue of the **Federal Register**.

25. One comment objected to the Panel's classification of the following statement as Category III in its labeling discussion (41 FR 38354): "Terms relating to sleep such as 'quiets annoying coughs and lets you sleep.' An antitussive is capable of quieting annoying coughs, but has not been demonstrated to be directly related to sleep." The comment stated that, on first inspection, a Category III classification of this claim is inconsistent with the Panel's statement that treatment of cough symptoms is likely to allow normal sleep. However, the comment concluded that this sleep-related claim suggests that the antitussive drug is also a sedative and contended that such claims are unjustified for these drug products at antitussive doses. The comment stated that products containing antitussives and other active ingredients which are not generally recognized as effective sedatives at the recommended doses should not be labeled with a sedative claim.

The Panel stated that terms relating to sleep such as "Quiets annoying cough and lets you sleep" are Category III, and that "An antitussive is capable of quieting annoying cough, but has not been demonstrated to be directly related to sleep" (41 FR 38354). The agency does not believe that the direct relationship between an ingredient and sleep that is required for Category I nighttime sleep-aid claims is necessary to permit this type of useful information to appear in the labeling of OTC antitussive drug products. A statement that clearly relates the ability of an antitussive to quiet an annoying cough that prevents an individual from falling asleep, thereby helping the individual to fall asleep, is reasonable. The agency is therefore proposing the following statement in this tentative final monograph under "Other allowable statements": (Select one of the following: "Alleviates," "Decreases," "Relieves," "Reduces," "Controls," or "Suppresses") (select one of the following: "cough," "the impulse to cough," or "your cough") "to help you get to sleep."

The agency recognizes that there might be a secondary pharmacological action of an antitussive, tantamount to a sedative effect, that helps an individual to sleep. The scientific literature describes slight drowsiness as a side effect for both codeine and dextromethorphan preparations (Refs. 1 through 7). However, the Panel stated that the drowsiness caused by a 20-mg oral dose of codeine, which it placed in Category I as an antitussive, is not significantly greater than that of a placebo (41 FR 38339). The Panel made no mention of drowsiness in its discussion of dextromethorphan, also a Category I antitussive (41 FR 38340). The agency is not aware of data demonstrating that the antitussive ingredients codeine and dextromethorphan could be classified as Category I nighttime sleep-aids or that they require a drowsiness warning. Therefore, sleep-aid claims directly related to the ability of an antitussive ingredient to cause drowsiness, e.g., "For relief of occasional sleeplessness." will remain in Category III.

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(3) Blacow, N. W., and A. Wade, editors, "Martindale: The Extra Pharmacopoeia," 26th Ed., The Pharmaceutical Press, London, pp. 1107–1109 and 1495, 1972.

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(6) Swinyard, E. A., "Analgesics and Antipyretics," *in* "Remington's Pharmaceutical Sciences," 16th Ed., edited by A. Osol et al., Mack Publishing Co., Easton, PA, pp. 1046–1047, 1980.

(7) Swinyard, E. A., "Respiratory Drugs," *in* "Remington's Pharmaceutical Sciences," 16th Ed., edited by A. Osol et al., Mack Publishing Co., Easton, PA, pp. 808–809, 1980.

26. One comment was opposed to the Panel's recommended restriction of OTC antitussives to nonproductive cough when the underlying disease stimulating the cough is a cold. The comment stated that it was not aware of any "evidence that productive cough due to a cold will become debilitating if treated with an antitussive, nor that the recommended OTC doses of the antitussives considered by the Panel restrict the physiological cough stimulated by such mucous secretions."

The agency agrees with the Panel's recommendations. The purpose of a productive cough is to remove irritants, such as mucus, or foreign material from the respiratory tract. The agency's primary concern in limiting the use of antitussives to nonproductive cough is to decrease the possibility that OTC cough suppressants will be used in the presence of serious diseases such as asthma, emphysema, chronic bronchitis, and cystic fibrosis. In diseases such as these, there is an over-production of secretions which accumulate in the airway. The suppression of cough in these circumstances would impair clearing of the airway and could be harmful.

Furthermore, the symptoms of the common cold in its early stages are very similar to the early stages of diseases such as pneumonia, tuberculosis, pertussis, or measles. It is not possible for the consumer to recognize the cause of a productive cough, and the agency believes that, in the interest of safety, a generalized warning against the use of

VOL 48 ISS 203 OCT 19 1983 UMI

antitussives in cough accompanied by excessive phlegm (mucus) is warranted.

The Panel recommended the following warning in § 341.74(b)(2) for antitussive drug products: "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, or emphysema, or where cough is accompanied by excessive secretions except under the advice and supervision of a physician." This warning (redesignated as § 341.74(c)(1)(i) in this tentative final monograph) has been revised for clarity and to conform to the current format of recently published tentative final monographs to read as follows: "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, emphysema, or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor." In addition, the agency recognizes that children under 12 years of age are unlikely to have a chronic cough due to smoking or emphysema and has therefore deleted the words "smoking" and "emphysema" from the above warning for drug products labeled only for children under 12 years of age.

F. Comments on Testing Guidelines

27. One comment from a research laboratory requested that FDA not accept the statement in the Panel's report that questions the accuracy and reliability of the high speed automatic electronic cough counter used in a study on the effectiveness of caramiphen edisylate as an antitussive (41 FR 38345). The comment claimed that the automatic electronic cough counter is reliable and accurate when used to assess the effectiveness of antitussives in patients with chronic, spontaneous cough and requested that this electronic cough-counting system be included as a recommended method in the final guidelines for testing the effectiveness of antitussive drug products.

The agency believes it is not appropriate for it to recommend the use of a particular instrument to evaluate the effectiveness of OCT antitussive drug products. As stated in the **Federal Register** notice of May 13, 1980 (45 FR 31423), tentative final and final monographs will no longer contain recommended testing guidelines. The Panel's testing criteria are considered to be recommendations to the agency; however, studies submitted in support of the effectiveness and safety of a Category III condition are evaluated on their own merits rather than on how well they meet the Panel's requirements. For example, two studies designed to demonstrate the effectiveness of menthol as an antitussive active ingredient were submitted in response to the advance notice of proposed rulemaking. (See Comment Nos. C0018, SUP009, SUP011, and SUP012, Docket No. 78N–0052, Dockets Management Branch.) The agency has reviewed these studies, which included the use of automatic cough-counting systems, and accepted them as demonstrating the effectiveness of menthol as an OTC antitussive active ingredient. The agency emphasizes that each study submitted to support a request for reclassification of a Category III condition to Category I status must substantiate the reclassification whether or not the Panel's recommended guidelines are followed. It is an individual decision of a manufacturer or sponsor of the test whether or not to use an automatic cough-counting system to test antitussives for effectiveness. Before utilizing an electronic high speed automatic counter to test antitussive drug products, the sponsor of such testing may discuss the use of the counter with the agency.

28. One comment pointed out that the Panel indicated that antitussives are best assessed by objective cough-counting techniques and that these drugs can be tested by decreasing induced cough or by decreasing the cough in patients with chronic cough (41 FR 38336). However, in its testing guidelines (41 FR 38355), the Panel described procedures for testing antitussives in patients with a cough due to an acute self-limiting illness, as well as in patients with a cough due to chronic lung disease. The comment recommended that patients with "acute" cough be included in both discussions of the patient populations that the Panel considered appropriate for testing antitussives.

The agency has reviewed the Panel's statement regarding objective cough-counting techniques and notes that it was provided as one of the examples of the different types of studies used by the Panel to assess different drug groups and was merely a statement of fact. The agency believes that the Panel did not intend that this statement should apply to its recommendations concerning the selection of patients for further study of antitussive active ingredients. The agency believes that it is not necessary to relate this statement to the description of patients to be selected for testing the effectiveness of antitussives in the Panel's recommended testing guidelines. Therefore, there is no need to add the term "acute" to the Panel's statement in the testing guidelines. As noted in comment 27 above, and in part II. paragraph A.2. below, the Panel's testing guidelines are considered recommendations to the agency, and manufacturers are not restricted to these guidelines in testing Category II or Category III conditions.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Catetory II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and is proposing to reclassify two antitussive active ingredients from Category III to Category I. In addition, two antitussive active ingredients (benzonatate and chlophedianol hydrochloride), previously marketed as prescription drugs, that were not reviewed by the Panel are being proposed as Category I ingredients. (See agency change 2 below and comment 4 above.) For the convenience of the reader, the following table is included as a summary of the categorization of antitussive active ingredients by the Panel and the proposed classification by the agency.

Antitussive active ingredients	Panel	Agency
Beechwood creosote	III	NL
Benzonatate	(1)	I.
Camphor (topical inhalant):		
Ointment	III	I.
Lozenge	III	NL
Steam inhalation	III	NL
Caramiphen edisylate	III	NL
Carbetapentane citrate	III	NL
Chlophedianol hydrochloride	(1)	I.
Cod liver oil	III	NL
Codeine	I	I.
Codeine phosphate		
Codeine sulfate		
Dextromethorphan	I	I.
Dextromethorphan hydorbromide		
Diphenhydramine hydrochloride	I	NL
Elm bark	III	NL
Ethylmorphine hydrochloride	III	NL
Eucalyptol/eucalyptus oil:		
Topical/inhalant		
Ointment	III	NL
Lozenge	III	NL
Mouthwash	III	NL
Steam inhalation	III	NL
Horehound (horehound fluid extract)	III	NL
Hydrocodone bitartrate	II	II.
Menthol/peppermint oil (topical/inhalant):		
Ointment	III	I.
Lozenge or compressed tablets:		
(a) 5 to 10 mg	III	I.
(b) less than 5 mg, greater than 10 mg.	III	NL
Mouthwash	III	NL
Steam inhalation	III	NL
Noscapine	III	NL
Noscapine hydrochloride		
Thymol (topical/inhalant):		
Ointment	III	NL
Lozenge	III	NL
Room spray	III	NL
Mouthwash	III	NL
Steam inhalation	III	NL
Turpentine oil (spirits of turpentine):		
(a) Oral	II	II.
(b) Topical/inhalant:		
Ointment	III	NL
Steam inhalation	III	NL

[1] Not reviewed.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for antitussive drug products (41 FR 38329 and 38355). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any antitussive ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740) and clarified April 1, 1983 (48 FR 14050). This clarified policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the antitussive section of the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made by the agency follows.

1. The agency has modified the Panel's definition of "antitussive drug" in § 341.3(f) (redesignated as § 341.3(j) and (k)) to include a definition of an "oral antitussive drug" and a "topical antitussive drug." (See comment 22 above.) Also, the agency is modifying the required statement of identity for labeling of oral and topical antitussive drug products from "antitussive" to "cough suppressant" or "antitussive (cough suppressant)." The agency believes that the terms "cough suppressant" or "antitussive (cough suppressant)" will be better understood by consumers than the term "antitussive."

2. Benzonatate has been marketed under an approve NDA for 24 years as a prescription antitussive drug product at a dosage for adults and children over 10 years of age of 100 mg three times daily as required. The package insert states that, if necessary, up to 600 mg daily may be given (Ref. 1). The agency has reviewed the literature concerning the safety and effectiveness of benzonatate as an antitussive ingredient. Based on this review, and the review by the Drug Efficacy Study Implementation Group (DESI) published in the **Federal Register** of April 29, 1971 (36 FR 8071), the agency is proposing that benzonatate be generally recognized as safe and effective for OCT antitussive use.

The agency has reviewed studies by Herzog (Ref. 2); Naegeli (Ref. 3); Simon (Ref. 4); Wilson, Farber, and Mandel (Ref. 5); Gregoire, Thibaudeau, and Comeau (Ref. 6); Shane, Krzyski, and Copp (Ref. 7); Bickerman and Itkin (Ref. 8); and Simon (Ref. 9) concerning the safety and effectiveness of benzonatate. Several of these studies evaluated products that are marketed under the approved NDA (Refs. 5, 6, 8, and 9). The studies were performed in patients suffering from various acute and chronic pulmonary dysfunctions, such as asthmatic bronchitis and pulmonary emphysema (Refs. 3, 4, 5, and 9), Pleural and bronchial irritation (Refs. 2 and 3), and chronic cough due to tuberculosis (Refs. 3, 5 and 6). One study was concerned with acute lower respiratory tract infections that produce an irritative cough (Ref. 3). All of the above studies showed benzonatate to be effective in reducing the frequency of cough in a significant number of patients. Three of the studies were double-blinded (Refs. 5, 6, and 8). One study using a double-blind crossover design showed that benzonatate caused a distinct diminution in cough for a group of tuberculosis patients (Ref. 6).

Three of the studies tested benzonatate against experimentally induced cough in healthy subjects (Refs 6, 7, and 8). One study used a citric acid aerosol to induce the cough and showed that 100 mg of benzonatate was more effective at reducing the frequency of induced cough than one-half grain of codeine (Ref., 7). Benzonatate reduced the frequency of induced cough by 80 percent, while codeine reduced the frequency by 50 percent. A second study using citric acid aerosol was double-blinded and compared benzonatate with 12 other drugs or placebos over a 4-hour test period (Ref. 8). The agency concludes that benzonatate was shown to be an effective antitussive ingredient.

A review of FDA adverse reaction summary reports since 1970 indicated that only a few adverse reactions have been reported in cases when benzonatate was the only drug given (Ref. 11). In only one case (anaphylactoid reaction as a result of the drug dissolving in the mouth) was enough information available to indicate a possible cause-and-effect relationship between benzonatate and the reaction. Because benzonatate has a secondary pharmacologic effect as a local anesthetic, orpharyngeal anesthesia will develop rapidly if the drug is released in the oral cavity. The drug should be marketed in an appropriate dosage form that does not release it into the oral cavity and consumers should be directed not to chew or dissolve the drug product in the mouth. Therefore, the agency is proposing the following directions: "Swallow without chewing or dissolving in the mouth. May produce temporary numbness if dissolved in the mouth."

Based on the above data and information and a record of safe and effective use of up to 600 mg daily for 24 years under an approved NDA, the agency believes that benzonatate can be generally recognized as safe and effective for OTC use as an antitussive. However, because benzonatate's effects last for 3 to 8 hours (Ref. 1), the maximum proposed OTC dose will be limited to 400 mg in 24 hours. Therefore, the agency is proposing to include this ingredient in the OTC antitussive tentative final monograph at a dose for adults and children 12 years of age and older of 100 mg in a suitable dosage form that prevents release of the drug in the mouth every 4 to 6 hours, not to exceed 400 mg in 24 hours. The labeling directions and warnings are consistent with the other Category I antitussives.

Although the agency is proposing to switch benzonatate to OTC availability from its present status as a prescription drug, OTC marketing may not begin at this time. Like chlophedianol hydrochloride (see comment 4 above), benzonatate was not considered by the advisory review panel and, therefore, does not meet the terms of the enforcement policy in § 330.13. The agency has also determined that benzonatate is not otherwise appropriate for OTC marketing at this time. FDA believes that public comments submitted in response to the proposed switch in status should be evaluated before OTC markteting is begun. Accordingly, until such comments are reviewed, benezonatate remains a prescription drug subject to the terms and conditions specified in its approved NDA.

References

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VOL
48
ISS
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3
OC
19
1983
UMI

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(11) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listings," pertinent pages for the years 1970–82, OTC Volume 04TTFM, Docket No. 76N–052T, Dockets Management Branch.

3. The agency has reclassified the antitussive active ingredient camphor from Category III to Category I for topical use in an ointment containing 4.7 to 5.3 percent camphor and added directions for this use to the tentative final monograph. The agency has also added a specific warning relevant to the topical use by adults and children of camphor in ointment preparations (§ 341.74(c)(4) (i) and (ii)). "Directions" for the antitussive use of camphor in an ointment have been added to § 341.74(d)(2)(i) in the tentative final monograph. (See comment 5 above.)

4. The agency has classified chlophedianol hydrochloride in Category I as an OTC antitussive. (See comment 4 above.)

5. The agency has deleted the labeling for OTC use of codeine-containing drug products for use in children 2 to under 6 years of age and has placed revised directions for use in children 2 to under 6 years of age in the professional labeling section of the tentative final monograph. (See comment 19 above.)

6. The agency has deleted § 341.14(c), the reference to § 341.14(c) in § 341.74(a)(7), § 341.74(b)(5) and § 341.90(c)(2) of the Panel's recommended monograph. These sections provided dosages, indications, warnings, and professional labeling for diphenhydramine hydrochloride for use as an antitussive. The agency concludes that general recognition of the effectiveness of this ingredient as an antitussive has not been adequately established. Consequently, the agency has reclassified diphenhydramine hydrochloride in Category III for antitussive use. (See comment 10 above.)

7. The agency has reclassified the antitussive active ingredient menthol from Category III to Category I for use as a lozenge or compressed tablet at a dosage of 5 to 10 mg every hour and in an ointment containing 2.6 to 2.8 percent menthol, and added directions for these uses to the tentative final monograph. The agency has also added a specific warning relevant to the topical use by adults and children of menthol in ointment preparations (§ 341.74(c)(4) (i) and (ii)). "Directions" for the antitussive use of menthol in the form of a lozenge or compressed tablet and an ointment have been added to § 341.74(d)(2) (i), (ii), and (iii) in the tentative final monograph. (See comments 15 and 16 above.)

8. The agency has added to § 341.74 a "Statement of identity" paragraph (designated as § 341.74(a)) and a "Directions" paragraph (designated as § 341.74(d)) to conform with the format of other recently published advance notices of proposed rulemaking and tentative final monographs. Inclusion of the "Statement of identity" paragraph has necessitated a redesignation of the Panel's recommended § 341.74(a) to § 341.74(b), and § 341.74(b) to § 341.74(c). The agency is also redesignating Subpart D as Subpart C and placing the labeling sections of the monograph in Subpart C.

9. Portions of the indications recommended by the Panel have been revised by the agency into statements that may be included in labeling at the manufacturer's option. These statements appear in §341.74(b)(2) in this tentative final monograph under the heading "Other allowable statements." In addition, the agency has also added to monograph under "Other allowable statements," a statement that clearly relates the ability of an antitussive to quiet an annoying cough that prevents an individual from falling asleep, thereby helping the individual to fall asleep. (See comment 25 above).

10. In § 341.74(b) (3) and (5)(iv) the Panel recommended the use of the signal word "Caution" in a section of the labeling where the heading "Warnings" is also recommended. The agency notes that historically there has not been a consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in §§ 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution" are both used. In some instances either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its use should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems. Accordingly, the signal word "Caution" has been deleted from this tentative final monograph.

11. The agency has added warnings that are appropriate for products that are labeled for children under 12 years of age. The agency acknowledges that some warnings which the Panel recommended for all antitussive drug products are inappropriate for products which are labeled for children under 12 years of age. In addition, the warnings for products labeled for children under 12 years of age have been worded to reflect the administration of the product by adults rather than self-administration.

12. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and other applicable OTC drug regulations will give manufacturers the option of using either the word "physician" or the word "doctor." This tentative final monograph proposes that option.

13. The agency has revised § 341.74(c) for clarity by listing the warnings according to ingredient and dosage form (i.e., oral or topical antitussives).

14. The agency has deleted § 341.74(b)(1) and (5)(v) of the Panel's recommended monograph. These sections provided warnings not to give antitussives to children under 2 (or 6) years of age except under the advice and supervision of a physician. The directions provided under new § 341.74(d) state clearly that a doctor should be consulted for the use of a particular antitussive drug product in children under certain ages. The agency believes that the Panel's proposed warnings are therefore repetitious and unnecessary.

The agency proposes to revoke the existing warning and caution statements in §§ 369.20 and 369.21, and exemptions for certain drugs limited by NDAs to prescription sale in § 310.201(a)(14) for antitussive drug products at the time that this monograph becomes effective. The agency proposes to revoke § 310.201(a)(20) and to delete carbetapentane citrate from bearing the warning and caution statements required by § 369.21 at the time that this monograph becomes effective if this ingredient is reclassified in Category I as an OTC antitussive in the final monograph.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the Federal Register of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC antitussive drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC antitussive drug products is not expected to pose such an impact on small business. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC antitussive drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC antitussive drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on antitussive drug products, a period of 120 days from the date of publication of this proposed rulemaking in the Federal Register will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of this proposal and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact, and the evidence supporting this finding, is contained in an environmental assessment (under 21 CFR 25.31, proposed in the Federal Register of December 11, 1979; 44 FR 71742), which may be seen in the Dockets Management Branch, Food and Drug Administration.

List of Subjects in 21 CFR Part 341

OTC drugs, Anticholinergics, Expectorants, Bronchodilators, Antitussives.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 341 (proposed in the Federal Register of July 9, 1982; 47 FR 30002) to read as follows:

PART 341—[AMENDED]

1. In Subpart A, § 341.3 is amended by adding and reserving paragraphs (d)–(i) and by adding new paragraphs (j) and (k), to read as follows:

§ 341.3 Definitions.

* * * * *

(d)–(i) [Reserved]

(j) *Oral antitussive drug.* A drug that is taken by mouth and acts systemically to relieve cough.

(k) *Topical antitussive drug.* A drug that relieves cough when applied topically to the throat or chest in the form of an ointment or dissolved in the mouth in the form of a lozenge or compressed tablet.

2. In Subpart B, new § 341.14 is added, to read as follows:

§ 341.14 Antitussive active ingredients.

The active ingredients of the product consist of any of the following when used within the dosage limits and in the dosage forms established for each ingredient in § 341.74(d):

(a) *Oral antitussives.* (1) Benzonatate.

(2) Chlophedianol hydrochloride.

(3) Codeine ingredients.

(i) The following ingredients may be used only in combination in accordance with §§ 329.20(a), 341.40, and 1308.15(b).

(*a*) Codeine.

(*b*) Codeine phosphate.

(*c*) Codeine sulfate.

(4) Dextromethorphan.

(5) Dextromethorphan hydrobromide.

(b) *Topical antitussives.* (1) Camphor.

(2) Menthol.

3. In Subpart C, new § 341.74 is added.

§ 341.74 Labeling of antitussive drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "cough suppressant" or an "antitussive (cough suppressant)."

(b) *Indications.* (1) The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the following phrase: "Temporarily" (select one of the following: "alleviates," "decreases," "relieves," "reduces," "controls," "suppresses," "quiets," or "calms") "cough due to minor throat and bronchial irritation as may occur with" (select one of the following: "the common cold" or "a cold") "or inhaled irritants."

(2) *Other allowable statements.* In addition to the required information identified in paragraph (b) (1) of this section, the labeling of the product may contain any of the following statements provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.

(i) "Cough suppressant which temporarily" [select one of the following: "alleviates," "decreases," "relieves," "reduces," "controls," or "suppresses"] "the impulse to cough."

(ii) "Temporarily helps you cough less."

(iii) "Temporarily helps to" (select one of the following: "alleviate," "decrease," "relieve," "control," "suppress," or

VOL 48 ISS 203 OCT 19 1983 UMI

"reduce") "the cough reflex that causes coughing."

(iv) "Temporarily" (select one of the following: "alleviates," "decreases," "relieves," "reduces," "controls," or "suppresses") "the intensity of coughing."

(v) (Select one of the following: "Alleviates," "Decreases," "Relieves," "Reduces," "Controls," or "Suppresses") (select one of the following: "cough," "the impluse to cough," or "your cough") "to help you get to sleep."

(vi) *For products containing chlophedianol hydrochloride, codeine ingredients, dextromethorphan, or dextromethorphan hydrobromide identified in § 341.14 (a)(2), (3), (4), and (5):* "Calms the cough control center and relieves coughing."

(vii) *For products containing benzonatate, chlophedianol hydrochloride, dextromethorphan, dextromethorphan hydrobromide, camphor, or menthol identified in § 341.14(a)(1), (2), (4), and (5) and (b)(1) and (2):*

(*a*) "Nonnarcotic cough suppressant for the temporary" (select one of the following: "relief," "alleviation," "decrease," "reduction," "suppression." or "control") "of cough."

(*b*) (Select one of the following: "Alleviates," "Decreases," "Reduces," "Controls," or "Suppresses") "cough impulses without narcotics."

(c) *Warnings.* The labeling of the product contains the following warnings, under the heading "Warnings":

(1) *For antitussives labeled for adults.* (i) "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, or emphysema, or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor."

(ii) "A persistent cough may be a sign of a serious condition. If cough persists for more than 1 week, tends to recur, or is accompanied by high fever, rash, or persistent headaches, consult a doctor."

(2) *For antitussives labeled for children under 12 years of age.* (i) "Do not give this product for persistent or chronic cough such as occurs with asthma or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor."

(ii) "A persistent cough may be a sign of a serious condition. If cough persists for more than 1 week, tends to recur, or is accompanied by high fever, rash, or persistent headaches, consult a doctor."

(3) *Oral antitussives*—(i) *For products containing codeine ingredients identified in § 341.14(a)(3) when labeled for adults*

(*a*) "May cause or aggravate constipation."

(*b*) "Do not take this product if you have a chronic pulmonary disease or shortness of breath unless directed by a doctor."

(ii) *For products containing codeine ingredients identified in § 341.14(a)(3) when labeled for children under 12 years of age.*

(*a*) "May cause or aggravate constipation."

(*b*) "Do not give this product to children who have a chronic pulmonary disease, shortness of breath, or who are taking other drugs unless directed by a doctor."

(4) *Topical antitussives*—(1) *For products containing camphor or menthol identified in § 341.14(b) (1) and (2) in a suitable ointment vehicle when labeled for odults.* "For external use only. Do not take by mouth or place in nostrils."

(ii) *For products containing camphor or menthol identified in § 341.14(b) (1) and (2) in a suitable ointment vehicle when labeled for children under 12 years of age.* "For external use only. Do not take by mouth or place in nostrils."

(5) *For antitussive products labeled for both adults and for children under 12 years of age.* The labeling of the product contains the applicable warnings identified in paragraphs (c)(1), (3) (i), and (ii)(*b*), and (4)(i) of this section.

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *Oral antitussives*—(i) *For products containing benzonatate identified in § 341.14(a)(1).* Adults: oral dosage is 100 milligrams in a suitable dosage form every 4 to 6 hours, not to exceed 400 milligrams in 24 hours, or as directed by a doctor. Swallow without chewing or dissolving in the mouth. May produce temporary numbness if dissolved in the mouth. Children under 12 years of age: consult a doctor.

(ii) *For products containing chlophedianol hydrochloride identified in § 341.14(a)(2).* Adults: oral dosage is 25 milligrams every 6 to 8 hours, not to exceed 100 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 12.5 milligrams every 6 to 8 hours, not to exceed 50 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

(iii) *For products containing codeine ingredients identified in § 341.14(a)(3)* Adults: oral dosage is 10 to 20 milligrams every 4 to 6 hours, not to exceed 120 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 5 to 10 milligrams every 4 to 6 hours, not to exceed 60 milligrams in 24 hours, or as directed by a doctor. Children under 8 years of age: consult a doctor.

(iv) *For products containing dextromethorphan or dextromethorphan hydrobromide identified in § 341.14(a) (4) and (5).* Adults: oral dosage is 10 to 20 milligrams every 4 hours or 30 milligrams every 6 to 8 hours, not to exceed 120 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 5 to 10 milligrams every 4 hours or 15 milligrams every 6 to 8 hours, not to exceed 60 milligrams in 24 hours, or as directed by a doctor. Children 2 to under 6 years of age: oral dosage is 2.5 to 5 milligrams every 4 hours or 7.5 milligrams every 6 to 8 hours, not to exceed 30 milligrams in 24 hours, or as directed by a doctor. Children under 2 years of age: consult a doctor.

(2) *Topical antitussives*—(1) *For products containing camphor identified in § 341.14(b)(1) in a suitable ointment vehicle.* The product contains 4.7 to 5.3 percent camphor. Adults and children 2 to under 12 years of age: rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

(ii) *For products containing menthol identified in § 341.14(b)(2) in a suitable ointment vehicle.* The product contains 2.6 to 2.8 percent menthol. Adults and children 2 to under 12 years of age: rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

(iii) *For products containing menthol identified in § 341.14(b)(2 in a lozenge or compressed tablet.* The product contains 5 to 10 milligrams menthol. Adults and children 2 to under 12 years of age: allow (lozenge or compressed tablet) to dissolve slowly in the mouth. May be repeated every hour as needed or as directed by a doctor. Children under 2 years of age: consult a doctor.

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

4. In § 341.90, reserve paragraphs (c)–(n) and add new paragraphs (o) and (p) to read as follows:

§ 341.90 Professional labeling.

* * * * *

(o) *For products containing chlophedianol hydrochloride identified in § 341.14(a)(2).* Children 2 to under 6 years of age: oral dosage is 12.5 milligrams every 6 to 8 hours, not to exceed 50 milligrams in 24 hours.

(p) *For products containing codeine ingredients identified in § 341.14(a)(3).*

(1) Children 2 to under 6 years of age: oral dosage is 1 milligram per kilogram body weight per day administered in four equal divided doses. The average body weight for each age may also be used to determine dosage as follows: for children 2 years of age (average body weight, 12 kilograms), the oral dosage is 3 milligrams every 4 to 6 hours, not to exceed 12 milligrams in 24 hours; for children 3 years of age (average body weight, 14 kilograms), the oral dosage is 3.5 milligrams every 4 to 6 hours, not to exceed 14 milligrams in 24 hours; for children 4 years of age (average body weight, 16 kilograms), the oral dosage is 4 milligrams every 4 to 6 hours, not to exceed 16 milligrams in 24 hours; for children 5 years of age (average body weight, 18 kilograms), the oral dosage is 4.5 milligrams every 4 to 6 hours, not to exceed 18 milligrams in 24 hours. If age is used to determine the dose, the directions must include instructions to reduce the dose for low-weight children.

(2) Parents should be instructed to use a calibrated measuring device to give the drug to the child, to use extreme care in measuring the dosage, and not to exceed the recommended daily dosage.

(3) A dispensing device (such as a dropper calibrated for age or weight) for use in children 2 to under 6 years of age must be distributed to all professionals (doctors and pharmacists) to be dispensed along with the product to prevent possible overdose due to improper measuring of the dose.

Interested persons may, on or before December 19, 1983, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before February 14, 1984. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before October 19, 1984, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before December 19, 1984. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on December 19, 1984. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register**, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: September 26, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

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VOL
48
ISS
203
OC
19
1983
UMI

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Part III

Environmental Protection Agency

Emission Standards for 1984 and Later Model-Year Light-Duty Vehicles and Light-Duty Trucks; Final Rule

VOL
48
ISS
2
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OC
19
1983
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2419-4]

Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines; Emission Standards for 1984 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This Final Rule implements or amends three previously separate, but related, rulemakings. First, this Final Rule amends the Interim Final Rulemaking (IFRM) that implemented the all-altitude emission control requirements of Section 206(f)(1) of the Clean Air Act (the Act) for 1984 model year LDVs. The amendments primarily broaden the vehicle exemption criteria which are included in the rules. Second, this Final Rule implements the proposal to establish the same all-altitude standards for 1985 and later model year LDVs. These requirements are also mandated by Section 206(f)(1) of the Act. Third, this rule amends the exemption criteria associated with the Final Rulemaking which implemented high-altitude emission standards for 1985 and later model year LDTs. These criteria were left as an open issue in the previous rulemaking.

These regulations will maximize the environmental benefits of high-altitude emission controls, while minimizing potentially adverse effects on vehicle prices and model availability at both low and high altitudes.

DATES: The 1984 model year regulations dealing with the designation of high-altitude locations (§ 86.084–30(a)(4)(iv)) and the reclassification of heavy LDVs (§§ 86.084–2, 86.084–15, and 86.084–30(a)(3)(iii)) are effective as of October 19, 1983. All remaining regulations are effective as of November 18, 1983.

ADDRESS: Copies of the material relevant to this rulemaking are contained in Public Docket No. A–80–1 for LDVs and No. A–79–14 for LDTs at the U.S. Environmental Protection Agency, Central Docket Section. These dockets are located in West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105 (313) 668–4390.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000–0390.

This final rule implements or amends three previously separate, but related, rulemakings. First, this rule amends the Interim Final Rulemaking (IFRM) that implemented the all-altitude emission control requirements of Section 206(f)(1) of the Clean Air Act (the Act) for 1984 model year LDVs (48 FR 7392). The amendments include the following changes in the interim final rules: (1) Allowing the sale of certain specially equipped vehicles in any area above 4,000 feet, (2) granting General Motors' (GM) petition to reclassify heavy LDVs temporarily to remove them from the 1984 all-altitude requirements, (3) making technical changes to improve the performance exemption criteria and reducing the number of designated high-altitude areas where exempted vehicles cannot be sold, and (4) establishing procedures by which a manufacturer could assure itself of being in compliance with the regulatory requirements regarding the sale of exempted vehicles.

Second, this rulemaking implements the proposal to establish the sale all-altitude requirements of Section 206(f)(1) of the Act for 1985 and later model year LDVs (48 FR 7399). Changes from the proposal parallel the amendments to the interim final rules discussed above. The only difference between the regulatory program for the 1984 model year and that for the 1985 model year and beyond is the absence of the special provisions for heavy passenger cars.

Third, this rule amends the Final Rulemaking (FRM) which implemented high-altitude emission standards for 1984 and later model year LDTs (48 FR 1418). The amendments consist of technical improvements in the performance exemption criteria for the 1985 and later model years.

These regulations also: (1) Amend the labeling requirements for exempted 1985 and later model year LDVs and LDTs to clarify the altitude (i.e., low or high) at which the vehicle was certified for sale, (2) update the certification procedures for small-volume manufacturers to make them consistent with the requirements for 1984 and later model year vehicles, and (3) reinstate the high-altitude standards for 1985 and later model year LDTs, which were inadvertently deleted when the diesel particulate averaging program was implemented (48 FR 33462).

Organization of this Preamble

This final rule affects LDVs beginning in the 1984 model year and LDTs beginning in the 1985 model year. Actions on both vehicle classes are combined in this single rulemaking to provide a cohesive package of changes and additions to EPA's high-altitude emission control program for 1984 and later light-duty motor vehicles. While the requirements for both classes are similar in many respects, there are also significant differences because the regulations for each class are based on different provisions of the Clean Air Act (the Act). For this reason, the regulations affecting LDVs and LDTs will be discussed separately in this preamble.

I. Background

A. 1984 and Later LDV's

Section 206(f)(1) of the Act requires that, beginning in the 1984 model year, all LDV's must meet the applicable Federal emission standards regardless of the altitude at which they are sold.[1] On February 18, 1983, EPA published an IFRM which implemented this Congressional mandate for the 1984 model year (48 FR 7392). On the same date, EPA also published an NPRM to establish identical emission control requirements for 1985 and later model years (48 FR 7399). The principal components of the 1984 IFRM and the 1985 and later NPRM (hereafter the 1985 NPRM) are summarized below.

1. Every LDV must be capable of automatically controlling emissions of hydrocarbon (HC), carbon monoxide (CO), nitrogen oxides (NOx), evaporative HC, and diesel particulate to the levels required by the national emission standards at both low and high altitudes, unless otherwise exempted.

2. Exemptions from the above requirement are available for certain low-power vehicles in order to prevent adversely affecting model availability at all altitudes. Such exempted vehicles are certified for sale at low altitude only.

3. As a condition for exempting a particular vehicle, a manufacturer must certify for sale, at both low and high altitude, at least one version of that vehicle's model type.[2] Additionally, for those model types with manual transmissions, the manufacturer must certify, at both altitudes, at least one version of each transmission configuration (excluding differences due to the presence of overdrive).[3]

4. Certification to the national emission standards are specifically required only at a single low-altitude location and a single high-altitude location (5,300 feet).

5. Compliance with emission standards at low altitude will continue to be demonstrated using the applicable Federal Test Procedure (FTP) and other existing certification protocols. At high altitude, manufacturers have the option of performing FTP tests or relying on engineering evaluations to determine compliance.

6. The Agency continued its policy, first established in the 1982–83 model years, of foregoing Selective Enforcement Auditing at high altitude.

On April 29, 1983, EPA published two Federal Register Notices to extend the comment periods for both the 1984 IFRM and the 1985 NPRM (48 FR 19369 and 48 FR 19418). These actions were taken for two reasons. First, the Agency granted a petition from the National Automobile Dealers Association (NADA) to extend the comment period on the 1984 IFRM to allow additional time for the preparation of comments.[4] Second, EPA desired additional comments on three issues relating to the 1984 IFRM. These issues are: (1) The designation of high-altitude locations where exempted vehicles (i.e., those certified only at low altitude) could not be sold, (2) the continued sale of vehicles with special axle ratios that are designed specifically for the high-altitude market, and (3) a request from GM to exclude its heaviest LDV from the all-altitude standards for 1984. Because the first two issues also concerned the 1985 NPRM, the comment period on the NPRM was also extended.

B. 1984 and Later LTD's

On January 12, 1983, EPA published a Final Rule which established high-altitude emission standards for 1984 and later model year LDTs. The standards were promulgated under the Agency's general rulemaking authority contained in Section 202(a) of the Act. The program is very similar to that which was in effect for 1982–83 model year LDTs. The principal components of the Final Rule are summarized below.

1. All LDTs must be capable of automatically meeting the high-altitude standards for HC, CO, NOx, and evaporative HC *or* be capable of being modified to do so, unless otherwise exempted.

2. The high-altitude standards generally require the same percentage reduction in baseline emissions as that achieved by the associated low-altitude standards. These standards, therefore, are termed "proportional" and generally have higher numerical values than their low-altitude counterparts.

3. Two types of exemptions from the high-altitude requirements are available for the 1984 model year. Manufacturers have the option of exempting up to 30 percent of their high-altitude sales from the certification requirements and still be allowed to sell such exempted LDTs in high-altitude areas. Or, manufacturers could use objective performance criteria to exempt low-lower vehicles, but such exempted LDTs could not be sold in high-altitude areas. For the 1985 and later model years, only the latter, performance-based exemption was promulgated.

4. Manufacturers have the option of demonstrating compliance with the high-altitude standards at 5,300 feet by performing FTP tests or relying on engineering evaluations to determine compliance.

As part of the Final Rule for 1984 and later model year LDTs, EPA solicited comments on the appropriateness of the performance exemption criteria and on the need to extend the aforementioned sales-based exemption beyond the 1984 model year.[5] Therefore, the exact form of the exemption provisions for 1985 and later LDTs was left as an open issue and is resolved in this rulemaking.

II. Contents of the Final Rule

This section describes the changes in the high-altitude program for LDVs and LDTs that are being promulgated in this Final Rule. It also briefly describes the contents of the Final Rulemaking for 1985 and later LDVs. A detailed presentation of the comments received by EPA and EPA's analysis of related issues can be found in the subsequent section entitled, "Issues: Comments and Analysis."

A. 1984 LDV's

1. *Designation of High-Altitude Locations.*

The Agency is revising the present designation of high-altitude locations, where only vehicles certified to emission standards at high-altitude can be sold, to exclude those counties in states which do not have an auto-related air quality problem at higher elevations. Specifically, all of the currently designated high-altitude counties in Arizona, Idaho, Montana, Nebraska, Oregon, Texas, and Wyoming are excluded, while all of the high-altitude counties in Colorado, Utah, New Mexico, and Nevada are retained. As a consequence of this redesignation, all of the vehicles that are certified in compliance with the standards at low altitude (i.e., vehicles certified at both altitudes and those exempted vehicles certified only at low altitude) may be sold for principal use not only in low-altitude locations (i.e., areas below 4,000 feet), but also in nondesignated high-altitude locations (i.e., nondesignated areas above 4,000 feet.).

2. *Exemption Provisions.*

Several changes are being made to the exemption provisions. First, the Agency will allow the sale of vehicles in high-altitude areas which are equipped with special high-altitude axle ratios. These axles are desired by high-altitude consumers because they have higher numerical gear ratios which are designed to counteract the deleterious effects of high altitude on vehicle performance. Specifically, the new exemption feature eliminates the low-altitude certification requirements for these specially equipped vehicles so that they are only certified in compliance with the standards at high altitude. Such an exempted vehicle can be sold for principal use in any area above 4,000 feet, but cannot be sold for principal use below this elevation.

Second, under the existing provisions, any vehicle with poorer performance (i.e., worse acceleration) at high altitude than the manufacturer's worst performing vehicle at low altitude can be exempted from the high-altitude certification requirements. One of the allowable measures of performance was the time required to accelerate from 0 to 40 miles per hour (mph). This performance measure is being broadened so that the top speed in this acceleration test can either be 40 or 50 mph. Of course, a manufacturer must consistently use the same top speed for all vehicles tested during a single model year. The acceleration test procedure is also being modified to allow the use of acceleration models (e.g., computer simulations) in lieu of actual vehicle tests. These modifications increase the number of technically satisfactory performance-measurement tools that

[1] LDV's that are only certified to meet separate California emission requirements are not bound by this requirement (see e.g., S. Rep. No. 95–127, 95th Cong., 1st Sess. 87 (1977)).

[2] As defined in 40 CFR 86.078–2, a model type is basically a unique combination of car line, basic engine, and transmission class.

[3] As defined in 40 CFR 86.078–2, and for the purposes of this regulation, a transmission configuration is basically the number of forward gears.

[4] Letter and attachment from R. J. Wade, NADA, to R. D. Wilson, U.S. EPA, March 17, 1983, available for review in EPA Docket No. A–80–01.

[5] The appropriateness of the performance exemption was questioned by Ford in a letter dated December 14, 1981, from H. O. Petrauskas, Ford, to L. Bockh, U.S. EPA, available for review in EPA Docket No. A–79–14.

VOL
48
ISS
2
0
3
OC
19
1983
UMI

can be used to identify poor performers at high altitude.

Third, the existing exemption provisions referred to the incorrect procedure, the Society of Engineers' (SAE) Test Procedure J245, for measuring the rated horsepower of a vehicle's engine. This has been changed to the correct procedure, J1349.

3. *Temporary Reclassification of 1984 Heavy LDV's.*

In response to a petition by General Motors, the Agency is reclassifying, for the 1984 model year only, certain vehicles as "heavy passenger cars." Heavy passenger cars are those vehicles which would otherwise be LDVs, but are rated at over 6,000 lbs. gross vehicle weight and have equivalent test weights of 5,000 lbs. or more. This reclassification will remove these vehicles from the 1984 LDV requirements, permitting them to be certified in compliance with the statutory standards at low altitude and proportional standards at high altitude. These standards are identical to those that were in effect for the 1983 model year, except that these vehicles will be required to meet the standards automatically, i.e., without modification. Therefore, apart from the levels of the high-altitude standards, the other requirements applicable to 1984 LVDs will apply to 1984 heavy passenger cars, as well. As described in Section III below, EPA proposed granting this petition on April 29, 1983 (48 FR 19369).

4. *Manufacturers' Liability.*

Under the current regulations, a manufacturer could be held liable if an exempted vehicle is improperly sold by one of its dealers for principal use in a prohibited location (e.g., a vehicle certified only at low altitude but sold for principal use in a designated high-altitude location). This section of the regulations is being modified to describe clearly the steps a manufacturer may take to discharge its responsibility in ensuring the proper sale of exempted vehicles.

B. 1985 and Later LDVs

The Agency is adopting an all-altitude emission control program for 1985 and later model year LDVs which is identical in all respects, except one, to the program for 1984 model year LDVs: The special provisions for 1984 model year heavy passenger cars will not extent into 1985 or beyond, as the need only exists for the 1984 model year.

C. 1985 and Later LDTs

The Agency is making three changes in the performance-based exemption criteria for LDTs beginning in the 1985 model year. Two of the changes incorporate improvements that were originally adopted for 1984 model year LDVs because these features are directly applicable to both vehicle classes. These improvements are: (1) The optional use of rated horsepower in the performance model, and (2) the optional use of a test procedure to measure vehicle acceleration directly. The amendments to these exemption features described in Section II.A.2. above are also being adopted.

The third revision substitutes the use of gross vehicle weight in the performance model instead of equivalent test weight since the former is more relevant to the performance characteristics of LDTs.

D. Revisions to the Labeling Requirement

The requisite label language that must be affixed to exempted LDVs and LDTs is being revised to indicate more clearly the altitude(s) at which the vehicles are certified. Because manufacturers have already printed labels for the 1984 model year, this labeling change will not be effective until the 1985 model year.

E. Revisions to the Certification Procedures for Small-Volume Manufacturers

The 1984 IFRM neglected to revise the existing regulations that delineate the certification procedures for small-volume manufacturers. This Final Rule amends these provisions to include the all-altitude requirements for 1984 and later LDVs. The Agency is also taking this opportunity to make several other technical changes to these regulations so that they are consistent with the other regulatory requirements for 1984 and later motor vehicles. These latter changes do not introduce new requirements or affect the stringency of the existing provisions.

III. Issues: Comments and Analysis

This section presents a discussion of the issues and a summary and analysis of the comments received concerning the IFRM for 1984 model year LDVs, the NPRM for 1985 and later LDVs, and the FRM for 1984 and later LDTs. (With regard to this last rulemaking the only issue involved the exemption provisions for 1985 and later LDTs.) The comments include written submittals to the respective dockets for the three rulemakings, and those presented at the March 22, 1983 public hearing on the 1985 NPRM, which was held in Denver, Colorado.[4] As the issues concerning the 1984 and 1985 and later LDV rulemakings are essentially the same, they will be discussed together. The discussion of the single LDT issue follows that discussion.

A. 1984 and Later LDVs

1. Designation of High-Altitude Locations

On September 14, 1983, the Agency promulgated a revised list of high-altitude locations where only those vehicles certified in compliance with standards at high altitude could be sold (48 FR 41296). While the original list of high-altitude locations was based solely on altitude, the revised list added a need for air quality improvement as a criterion for a county's inclusion, and therefore reduced the number of designated high-altitude areas to those states with automobile-related pollution problems. This "redesignation" of high-altitude locations affected 1983 LDVs and 1983 and later light-duty trucks (LDTs). The redesignation was based on Section 202(f)(2) of the Act, which contains guidelines for establishing high-altitude regulations for these motor vehicles; one of those guidelines being a consideration of air quality effects when setting such standards.

In developing the all-altitude regulations required by Section 206(f)(1) of the Act for 1984 and later LDVs, EPA found that certain exemptions from the high-altitude portion of the certification requirements were necessary for very low-power vehicles. Such exempted vehicles were only required to meet standards at low altitude. The Agency found such exemptions were not at odds with the statutory directive that all vehicles meet emission standards at the altitude where they are sold, as long as these vehicles were not available for sale at high altitude. Since the original list of designated high-altitude locations included *all* high-altitude areas, this list was not revised for 1984 and later LDVs in the redesignation rulemaking. However, in the **Federal Register** notice of April 29, 1983 (48 FR 19369), EPA solicited comments on whether the revised list of designated high-altitude areas should be applied to 1984 and later LDVs, as well, so that exempted LDVs could be sold in the high-altitude areas of states with no automobile-related pollution problems.

General Motors, Ford, and Chrysler commented that the redesignation should be applied to LDVs in 1984 and later model years. Ford stated that just because Section 206(f) does not specifically require EPA to consider air quality needs as does Section 202(f)(3), it does not necessarily follow that Section 206(f) may not be implemented in accordance with this approach. Ford reasoned that a review of the legislative history indicates that Congress designed Section 206(f) to be an equitable approach to improving air quality in high-altitude areas. The redesignation focuses the high-altitude requirements on those high-altitude areas with air quality problems. Therefore, its adoption for 1984 and later is fully consistent with Congressional intent. Ford also stated that because EPA has the authority to fashion vehicle exemptions under the Act, it is also logical that this same authority can be used to designate high-altitude locations as part of the exemption provision. All three manufacturers (i.e., Ford, GM, and Chrysler) also argued that EPA has the discretion to consider air quality needs in designating high-altitude locations because Section 206(f) does not specifically prohibit it.

Ford further argued that there is no practical reason for retaining the old list of counties. It believed that few exempted vehicles are likely to be sold in nondesignated high-altitude locations due to their unacceptable performance. Those few that are sold will not cause an air quality problem, since, according to the redesignation criteria, they will be in areas that do not currently have air quality problems nor are expected to in the future.

Finally, Ford and GM commented that failure to adopt the revised designation criteria would result in a separate list of high-altitude counties for LDVs and LDTs. Such a system, they concluded, would be more costly than necessary and would needlessly confuse consumers and dealerships.

No comments in favor of retaining the original list of designated high-altitude locations were received.

EPA agrees with the commenters that few exempted vehicles would be sold in high-altitude areas if allowed. These vehicles' performance in high-altitude areas should be so poor that their desirability will be very limited. It is also true that the formerly designated high-altitude areas do not need the air quality benefits of EPA's complete high-altitude program. They are currently in compliance with motor vehicle-related air quality standards and are fully expected to continue to be in compliance, regardless of EPA's decision on this issue. In fact, the exempted LDVs that would be sold in these areas would still emit less than the vehicles they are replacing for many years to come, further improving air quality beyond already acceptable levels. Accordingly, any effects on air quality would be *de minimis*. Concerning past precedent, exempted LDTs are already allowed for sale in these areas and will be in the future.

Finally, adopting the revised list of designated high-altitude locations would be administratively simpler. Two types of areas currently exist: (1) Designated high-altitude areas, and (2) all other areas. Applying the redesignation to 1984 and later LDVs would equate the set of designated high-altitude areas for both LDVs and LDTs. Not applying the redesignation to 1984 and later LDVs would result in different sets of designated high-altitude areas for LDVs and LDTs.

Accordingly, EPA finds sufficient cause to apply the redesignation criteria to the 1984 and later LDV program.

2. Exemption Provisions

The exemption of certain low-power, high-fuel economy LDVs from the all-altitude requirements received the most comment of any issue. These comments can be broken down into several subject areas, each of which is discussed below.

a. Model Type Requirement

As discussed previously, to exempt a particular LDV, the 1984 IFRM required that a manufacturer must certify for sale, at both low and high altitudes, at least one version of that vehicle's model type. Additionally, if the model type includes a manual transmission, then at least one version of that transmission configuration must be certified at both altitudes.

Renault suggested that EPA should relax this provision to require only that a similar engine/transmission combination of the exempted model be certified at high altitude. For example, if a manufacturer planned to offer two different sizes of the same basic engine (i.e., same number of cylinders) at low altitude, then only one of the two would need to be available at high altitude. Renault argued that this would still provide adequate model availability in high-altitude areas and be consistent with Congressional intent. The National Automobile Dealers Association (NADA) and the Colorado Automobile Dealers Association (CADA) recommended that EPA's "model type" requirement be retained to ensure adequate model availability at high altitude.

It is clear from the legislative history of Section 206(f)(1) that Congress intended to ensure that all models available at low altitude were also available at high altitude. At the time this section was drafted, Congress was fully aware that the original 1977 high-altitude program had created significant model availability problems. Therefore, the Agency believes that the resulting Congressional mandate to protect "model" availability centers upon the vehicle characteristics that most high-altitude consumers readily perceive as distinguishing one model from another.

The Agency's analysis of these problems, which was prepared as part of the 1982–83 high-altitude program, showed that many consumers and automobile dealers complained not just about the total absence of particular car lines, but also about the unavailability of engine sizes and transmission types. As a consequence, the Agency concludes that Congress' intent to ensure model availability can only be fulfilled by using what appears to be the consumers' definition of model in the exemption provision. Therefore, EPA rejects Renault's broadened interpretation of "model" and is retaining the existing "model type" requirement.

b. Performance Adjustments

General Motors and NADA commented that the 1984 IFRM precluded dealer adjustments to exempted vehicles in order to improve the performance of these vehicles when they are operated at an elevation other than the altitude for which they were originally certified and sold. They argued that such adjustments were allowed under the regulations for 1982–83 exempted vehicles and should be continued.

Because of the confusion on this issue, it is helpful to review the interaction of the performance adjustment regulations with both nonexempted and exempted vehicles. First, it is important to remember that the vast majority of 1984 and later LDVs will not be exempt from the all-altitude requirement of Section 206(f)(1). As a result, these vehicles will be originally designed to operate at all elevations. The performance adjustment regulations will not be applicable to (nor needed for) these vehicles.

Exempted LDVs, on the other hand, will be certified only at low altitude and may have performance problems at high altitude. Exempted vehicles may be operated at high altitude by people who visit or permanently move into high-altitude areas. These vehicles also may be sold in locations above 4,000 feet that are not designated high-altitude locations (see Section III.A. above). Therefore, the performance adjustment regulations do apply to exempted LDVs.

Specifically, § 86.1603(a)(2) requires the availability of high altitude adjustment instructions for exempted LDVs, unless they are equipped with

[4] EPA Docket No. A–80–01 contains comments on both LDV rulemakings and EPA Docket No. A–79–14 contains comments on the LDT rulemaking.

VOL 48 ISS 203 OCT 19 1983 UMI

fuel-metering systems that automatically compensate for changes in elevation. In this latter case, no instructions are required if the manufacturer requests an exemption from the requirement as specified in § 86.1603(b). Hence, even if an exempted vehicle is equipped with altitude-compensating hardware, performance adjustments could be made available to a high-altitude consumer if a manufacturer so chooses.

c. Exemption for Special High-Altitude Axles

The 1982–83 high-altitude LDV regulations allowed the nationwide sale of vehicles equipped with special axle ratios that were only certified in compliance with high-altitude standards. These axles had higher numerical gear ratios designed to counteract the deleterious effects of high elevations on vehicle performance. The 1984 IFRM effectively prohibited the continued sale of these specially equipped high-altitude vehicles. Under the regulations, vehicles using such higher numerical axle ratios could be sold only if they were certified in compliance with the standards at both low and high altitudes, consistent with the all-altitude requirement.

General Motors, the only manufacturer to produce such specially equipped vehicles in the 1983 model year, commented that the certification of vehicles with special high-altitude axles at low altitude would be too costly relative to their sales volume, and may also adversely affect its corporate Average Fuel Economy (CAFE) rating (the fuel economy of high-altitude vehicles is not included in the rating). For these reasons, General Motors stated it would drop its special high-altitude axle ratios from its LDV product line beginning in the 1984 model year.

Both NADA and CADA stated that the continued availability of higher numerical axle ratios was very important to dealers in high-altitude areas and that their loss would adversely affect model availability. At the public hearing, Ford concurred with these comments, stating that when the same basic vehicle was available with two axle ratios, the higher numerical ratio generally accounted for 70 percent of the sales at high altitude. In its written comments, however, Ford suggested that it had no need for a special axle ratio exemption since its product plans for 1984–85 do not include any such axles.

In the event that the axle ratio exemption was adopted, Ford requested that such specially equipped vehicles be permitted to be sold in any area above 4,000 feet and not just in designated high-altitude locations. Ford also requested that these vehicles be allowed to be sold by "fringe" area dealers (i.e., those located near the demarcation point of 4,000 feet) in order to prevent any potential economic hardship for those dealerships. This would effectively allow the sale of these specially equipped vehicles in low-altitude areas.

Renault, AMC, and Chrysler also supported the need for a special exemption from the certification requirements at low altitude that would allow the sale of these specially equipped vehicles in high-altitude areas. However, as with Ford, these manufacturers did not state that they actually planned to produce such vehicles even if allowed.

The Colorado Department of Health was the only commenter that did not support this exemption. It was concerned that such exemptions would move the LDV program even closer to a two-car strategy, which is not rigorously consistent with the requirements of Section 206(f)(1) and the intent of Congress. It also stated that there appeared to be no justification for these exemptions, unlike that for the exemption of low-power vehicles which perform poorly when used at high altitude.

From the comments on this issue, it is clear that the automotive industry as a whole considers the allowance of higher numerical axles at higher elevations as being important, especially since these axles have been available in the past. The Agency also notes that as fuel economy pressures continue to shift the market to smaller, less powerful vehicles, the need for these special axles at higher elevations may become somewhat more important.

The most important consideration in determining whether special high-altitude axles should be allowed is, of course, whether it is at odds with the statute. As discussed earlier, it was Congress' express desire to protect model availability which led to the all-altitude requirement. Because higher numerical axles have been available in the past and because they may be even more important to consumers in the future, EPA believes that it would be contrary to the intent of Congress if the high-altitude regulations resulted in the unavailability of these axles in high-altitude areas. Therefore, this Final Rule includes a provision to exempt vehicles equipped with special high-altitude axles from the low-altitude certification requirements. This allowance will have no effect on air quality, as the vehicles with special high-altitude axles will be certified to meet standards at high altitude, and will not be available for principal use at low altitude.

The provision also allows the sale of these vehicles for principal use in any area above 4,000 feet, for two reasons. First, the improved performance associated with these higher numerical axles is desirable in all high-altitude areas and not just in high-altitude locations that have been designated as needing emissions control. Second, there is no adverse environmental impact associated with this allowance since these vehicles will be certified to the standards at high altitude.

The Agency is not adopting Ford's suggestion that these specially equipped vehicles be allowed to be sold for principal use in low-altitude areas. The first problem with this is that such vehicles would not be certified at low altitude and would probably be in violation of the standards when operated in low-altitude areas. This could adversely affect air quality in low-altitude locations with air quality problems. Another principal concern is that it would be impossible to discern whether the higher numerical axle ratio was indeed specially designed for high altitude use, which is the reason for the exemption, or if it was simply a special axle designed for use at all altitudes. In the latter case, allowance of sale at low altitude would provide a loophole allowing avoidance of the all-altitude requirement solely on the basis of a manufacturer's declaration that the special axle was a high-altitude component. In the worst case, if the axle ratio became popular at low altitude, such a provision could result in a class of vehicles at low altitude that would not meet the standards in those areas. This would be in clear violation of the statute and could not be allowed.

The Agency also believes that the potential for adversely affecting dealers in "fringe" areas is minimal. The vast majority of LDVs will be available to these dealers since most vehicles will be certified for sale in all low-altitude areas and most high-altitude areas (i.e., vehicles certified only at low altitude may be sold in nondesignated high-altitude areas as discussed previously). In addition, the Agency expects that the number of special high-altitude models will never be very great because the small total sales volume at high altitude (i.e., only about 3 percent of the national total) would not support wide variety. Therefore, this Final Rule prohibits the sale of exempted vehicles with special high-altitude axles for principal use in any area below 4,000 feet (i.e., at low altitude).

d. Performance Exemption Criteria

The 1984 IFRM contained specific criteria by which a manufacturer may identify a vehicle that is likely to have unacceptable performance at higher elevation if modified to meet the high-altitude standards. At the manufacturer's discretion, any such LDV may be exempted from the high-altitude certification requirement, but as a consequence, the vehicle could not be marketed in designated high-altitude locations.

There are two general ways a manufacturer can identify exemptible vehicles. Both work on the principal that any vehicle having poorer performance at high altitude than the poorest performer at low altitude is exemptible. First, any vehicle with a longer 0–40 mph acceleration time at high altitude than the manufacturer's vehicle with the longest 0–40 mph acceleration time at low altitude can be exempted.

Second, a manufacturer can use a specified performance model to "predict" those vehicles which should have unacceptable performance and, hence, are eligible for exemption.

Ford recommended in its comments to the 1984 IFRM that the acceleration test be modified in two ways to make it less expensive and easier to use. First, it asked that the top speed be changed from 40 mph to 50 mph. Second, it asked that acceleration models (e.g., computer simulations), based on accepted engineering techniques, be allowed in addition to actual vehicle tests. Ford also stated that the test procedure for determining rated horsepower in EPA's performance model was incorrectly specified as SAE J245 and should be SAE J1349.

Since a top speed of 50 mph is as appropriate as 40 mph for the acceleration test, EPA is amending the regulations to allow either top speed to be used. However, to be consistent, a manufacturer can only use a single top speed for all vehicle tests during a single model year. Also, available acceleration models are as accurate as the general performance model already provided. Thus, EPA is also allowing their use. Finally, the test procedure for determining rated horsepower is being changed to SAE J1349.

3. Special Provisions for Heavy Passenger Cars

On April 29, 1983, EPA announced its intention to reclassify especially heavy passenger cars as other than LDVs for 1984, removing them from the all-altitude requirement (48 FR 19369). This action was in response to a petition from General Motors, which indicated that for the 1984 model year only, the application of the all-altitude requirement to its Cadillac limousine would be too closely to justify marketing this vehicle. According to GM, the 6.0-liter modulated displacement engine could not be redesigned to meet the sea level standards at high altitude for the 1984 model year and there is no suitable replacement engine.

The basis of EPA's announced intent to grant GM's petition was twofold. First, the sales volume for this type of vehicle is very low (i.e., GM projects fewer than 1,500 total sales, with about 50 of these occurring at high altitude). The environmental impact of granting the petition would clearly be negligible. Second, this vehicle has a gross vehicle weight rating (GVWR) of over 6,000 pounds and Section 202(b)(3)(C) of the Act allows vehicles in excess of 6,000 pounds GVWR to be classified as other than LDVs. Therefore, the Agency proposed to classify passenger cars rated over 6,000 pounds GVWR (with equivalent test weights of 5,000 pounds or more) as other than LDVs for the 1984 model year only. However, apart from the all-altitude requirement, other LDV standards and requirements would apply.

Few comments were received on this issue. Chrysler stated that it did not object to the reclassification. Ford commented that it is not directly affected by the proposal from either an emissions compliance or competitive viewpoint. Ford added, however, that it does sell vehicles to limousine manufacturers that may be affected because their vehicles may be under 6,000 pounds GVWR and, consequently, would be ineligible for this reclassification.

The Agency is promulgating these heavy passenger car provisions because: (1) It is consistent with the Act, (2) no comments opposing GM's petition were received, and (3) the competitive and air quality effects of the reclassification should be negligible, as evidenced by the lack of comment from other limousine manufacturers. The Agency has established emission standards to provide the greatest degree of emission control possible and retain the "one-car" strategy of the 1984 all-altitude program (i.e., the vehicles must automatically comply with the applicable low- and high-altitude standards), while at the same time providing GM with the necessary regulatory relief. Specifically, for the 1984 model year only, passenger cars rated over 6,000 pounds will be required to meet the same low-altitude standards as LDVs and the proportional standards 1982–83 LDVs were required to meet at high altitude. This was done because the GM limousine was able to meet both of these sets of standards without modification in the 1983 model year.

4. Manufacturers' Liability

On September 14, 1983, the Agency amended the high-altitude regulations for 1982–83 model year LDVs and 1982 and later model year LDTs to clarify the manufacturers' liability for the sale of certain vehicles in high-altitude areas (48 FR 41303). More specifically, a manufacturer would have been in violation of the Act if its dealer sold a vehicle which was certified only at low altitude to a customer for principal use in a designated high-altitude location. The Motor Vehicle Manufacturers Association (MVMA) challenged this portion of the regulations by claiming that it unlawfully made the manufacturers "vicariously liable" for the actions of independent dealers. The Agency's settlement with MVMA resulted in amending the regulations to include specific steps that a manufacturer could take to protect itself from being held liable if its dealer sold the wrong vehicle for principal use in a designated high-altitude location.

Because the IFRM for 1984 model year LDVs contains a similar provision regarding the sale of exempted vehicles, Ford commented that the above-referenced language also should be applied to the sale of these vehicles.

The Agency agrees with Ford's recommendation. As a result, this final rule applies the language of the previously discussed settlement to the sale of exempted 1984 LDVs. In promulgating the requirements, the Agency finds that it is unnecessary to first propose this change and receive public comment. Full notice and opportunity for public comment were provided on virtually identical provisions as part of the rulemaking action for 1982–83 model year LDVs (47 FR 47445) and no adverse comments were received. Also, this change does not add a new requirement to the regulations but rather clarifies an existing provision. Accordingly, there is "good cause" to omit notice and opportunity for public comment.

5. One-Step, Pressure-Sensing Devices

The regulations require that any one-step, pressure-sensing device automatically engage at or below 4,000 feet to ensure that high-altitude areas, such as Salt Lake City (elevation 4,260 feet), receive the benefit of the emission control program. The elevation of 4,000 feet was chosen because it is the widely accepted demarcation point between

VOL
48
ISS
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OC
19
1983
UMI

low and high altitude, and because it was consistent with the legislative history of Section 206(f).

General Motors commented that it interprets this requirement as permitting these devices to actuate at a "nominal" altitude of 4,000 feet (i.e., roughly 4,000 feet) and requested that EPA revise the regulations to clearly permit this. General Motors argued that this would not only allow for differences in barometric pressure due to changing weather conditions, but would also allow for manufacturing variability. It would also prevent having to design the device to operate at such low altitudes that driveability may be adversely affected in some cases.

Ford commented that it had also interpreted the regulations as allowing a "nominal" switch point of 4,000 feet. American Motors Corporation, Renault, and NADA also supported the "nominal" interpretation.

Ford stated that only some of its vehicles would use such devices and that these would actuate by 4,260 feet with over a 95 percent confidence level; meaning that only a very small percentage of Ford vehicles would be operating with low-altitude settings at the elevation of Salt Lake City. General Motors provided data on the operation of its pressure-sensing devices which showed that under standard atmospheric conditions, the switch from low to high altitude settings may not occur until 4,300 feet. However, General Motors also added that it believes a vehicle can not be shipped or driven to Salt Lake City without passing through an elevation of at least 5,000 feet. Therefore, General Motors concluded that it is impossible for any of its vehicles to be in a low-altitude setting while in Salt Lake City.

The Agency agrees with General Motors' comment that vehicles shipped or driven to Salt Lake City must pass through elevations of at least 5,000 feet. However, coupling the variability of General Motors' devices to the historical range in the barometric pressure of such areas shows that some vehicles may not switch to high-altitude settings until they are above this elevation. In addition, there are high-altitude areas needing emission control other than Salt Lake City that are well below 5,000 feet, such as Reno, Nevada, and Fort Collins, Colorado, which are also of concern.

General Motors did not indicate why its devices experienced such a high degree of variability, nor did Ford mention why it could not achieve a 95 percent confidence at 4,000 feet instead of 4,260 feet. At the same time, the purpose of the 4,000-foot requirement is to indicate clearly to manufacturers that, two-point certification notwithstanding, EPA intends vehicles to comply with emission standards between 4,000 feet and 5,300 feet, the high-altitude certification point. As such, EPA expects that any in-use vehicles tested by EPA at locations within this range of elevations, such as Salt Lake City, Reno, and Fort Collins, to comply with standards as they would at low altitude. If manufacturers' devices will actuate and their vehicles comply with emission standards in such cities, as they have indicated they will, then they have complied with the 4,000-foot requirement. To add the word "nominal" would remove any objective criteria from the provision. Thus, EPA does not find a need to modify this requirement.

6. Level of the Standards

The 1984 model year LDV standards are numerically identical at both low and high altitudes. Chrysler commented that the standards at high altitude are more stringent than those required by the Act. It argued that section 206(f)(1) states that these vehicles "* * * shall comply with the requirements of Section 202 * * *" and that section refers to less stringent, numerically higher proportional standards for high-altitude areas.

In reviewing this comment, the Agency finds that Chrysler has specifically focused on paragraph (f)(2) of Section 202. That paragraph refers to proportional standards as a high-altitude requirement for 1981–83 model year light-duty motor vehicles. As such, the proportional requirements clearly were not intended for LDVs beginning in the 1984 model year. Consequently, the remaining national emission requirements apply to these vehicles. EPA's interpretation is strongly supported by the legislative history of Section 206(f)(1). Therefore, this Final Rule retains the requirement that 1984 model year LDVs comply with numerically identical emission standards at both low and high altitude.

7. Legal Justification for the Control Strategy

In its comments at the public hearing, Ford took issue with EPA's interpretation of Congressional intent regarding model availability at high altitude. Ford stated that requiring the certification of every vehicle configuration at both altitudes unless exempt, is overly restrictive because Congress only desired that every "basic" model be available at higher elevations. It continued that EPA had similarly erred in the exemption provisions by requiring at least one configuration (or version) of the exempted model type to be certified at both low and high altitudes. Ford specifically requested that the exemption provision be amended to exclude the single model-type certification requirement.

In its post-hearing comments, however, Ford stated that EPA's certification strategy need not be changed because any alternative would likely result in essentially the same program for practical purposes. This reversal in Ford's position would apparently make any response unnecessary.

8. In-Use Compliance and Recall

General Motors commented that it was concerned about unknowns in regard to in-use compliance at high altitude, due to the degree of emission reduction now required. It recommended that any noncompliance remedy resulting from EPA surveillance/compliance testing at high altitude be limited to those vehicles operating in high-altitude areas.

The Agency believes that it would be premature to make any commitment regarding appropriate remedies resulting from high-altitude testing. The facts in such circumstances are relevant to the development of appropriate remedies. Hence, the Agency believes it would be best to consider each noncompliance problem on a case-by-case basis, as has been done in the past.

9. Self-Certification

The 1984 IFRM continued the practice of allowing manufacturers the choice of either conducting full FTP tests to demonstrate compliance at high altitude or using engineering evaluations to ensure the standards are met at high altitude. Because of the cost savings involved most manufacturers have chosen the latter technique which is generally referenced to as "self-certification."

Two commenters expressed concern regarding the effectiveness of the self-certification process. The Denver Regional Council of Governments stated there is no real knowledge of whether the vehicles are in compliance with the standards at high altitude unless EPA either requires FTP testing or institutes Selective Enforcement Auditing (SEA) at high altitude. The Colorado Department of Health (CDH) stated that preliminary results of an EPA-sponsored in-use emission factor test program showed that many of the vehicles exceeded one or more of the standards at high altitude. Because of this, CDH requested that EPA continue to evaluate this program carefully before making a final

commitment to retain it for future model years. However, CDH did not specifically oppose continuing self-certification for now. In their comments, Renault and AMC supported retaining the self-certification provisions.

The Agency is, of course, concerned that the preliminary results of its in-use emission factor testing program have shown some vehicles exceeding the standards at high altitude. At the same time, EPA notes that it is too soon to judge the effectiveness of the self-certification program because the number of vehicles tested so far is small. Also, in-use performance can be expected to improve as manufacturers become more accustomed to the new program. At the same time, however, the requirement that vehicles comply with the standards at high altitude will not be compromised. If EPA's current in-use testing programs indicate that manufacturers may be in violation of the standards, the Agency will consider appropriate action, which may include recall, selective enforcement auditing, and/or a reevaluation of the self-certification concept.

B. 1985 and Later LDTs

The Final Rule for 1984 and later LDTs continued the existing 30 percent sales-based exemption as an option to the performance-based exemption for the 1984 model year only. The principal advantage of the sales exemption is that exempted vehicles need only be certified at low altitude but may continue to be sold for principal use in designated high-altitude locations. (This is not true for performance-exempted vehicles which cannot be sold for principal use in designated high-altitude areas.) Also, the vehicles a manufacturer chooses to exempt are simply at its discretion.

This 1-year extension was granted to ensure that the leadtime for the new high-altitude program was adequate. The absence of the sales exemption might have jeopardized the completion of certification in time for the start of the 1984 model year, because significantly more LDTs might have required high-altitude certification if only the performance exemption was available. Another reason for the extension was that the appropriateness of the LDT performance exemption criteria had been challenged by Ford. The Agency clearly stated in the Final Rule its intention to retain only the performance exemption after the 1984 model year because the potential leadtime problem would no longer exist. At the same time, however, EPA requested comment on the need to continue the sales exemption for 1985 and beyond, and also on the appropriateness of the performance exemption criteria.

The comments on the exemption issue for 1985 and later model year LDTs can be grouped into two categories. Each category is discussed separately below.

1. Need to Extend the Sales Exemption

General Motors, Chrysler, Ford, and AMC all requested the continuation of the sales exemption option. The manufacturers stated that this exemption provision is desirable because of the cost savings involved. Chrysler, Ford, and AMC suggested that model availability at high altitude would be significantly reduced because developing the necessary high-altitude calibrations for previously sales-exempted LDTs would be too costly to justify given the small sales volume of these vehicles.

General Motors, Ford, and AMC also had additional comments. General Motors stated that the performance exemption was inequitable because smaller manufacturers could potentially exempt a larger portion of their vehicle configurations, thereby saving significantly on development costs. It continued that the only way to prevent this was by retaining the sales exemption. Ford commented that eliminating the sales exemption is not necessary from an environmental perspective because both EPA and Ford have forecasted that there will be no discernible effect on air quality. American Motors commented that EPA is incorrect in assuming that the leadtime problem is no longer an issue for 1985 and later model year LDTs. Its principal argument was that EPA's then proposed changes in the useful life of LDTs beginning in the 1985 model year would require the recertification of almost all LDT engine families. (These useful life changes were proposed on January 13, 1983 (48 FR 1406)). Hence, AMC concluded that leadtime remains a problem that could be eased by retaining the sales exemption for two years after the low- and high-altitiude emission regulations stabilize (presumably until about 1987).

The Agency does not agree that eliminating the sales exemption will result in the economic burden suggested by the automobile manufacturers. The self-certification provision will continue to provide a substantial reduction in the economic burden of the high-altitude program. Manufacturers presented no evidence to contradict this, nor did they support their contention that significant savings would result from retention of the exemption. Also, as discussed in the next section, EPA is making significant improvements in the performance exemption criteria to ease the identification of vehicles that may be exempt from high-altitude certification requirements. These changes should help reduce the total cost of high-altitude certification by more accurately identifying poor performing vehicles that otherwise would not be exempt and, consequently, would be the most expensive to certify at high-altitude.

The same arguments are relevant to the issue of reducing model availability. That is, by reducing the potential cost of developing high-altitude calibrations, manufacturers should continue to be able to offer the types of vehicles high altitude customers want.

Concerning General Motors' comment about equity, the Agency's experience with identical performance provisions for 1982–83 model year LDVs indicates that manufacturers (small and large) only chose to exempt small numbers of vehicles and that no inequity resulted. Also, as discussed above, the self-certification provision and the revisions to the performance exemption criteria should help ease any potential negative effects by significantly reducing the cost of developing high-altitude calibrations. It should also be noted that, unlike the situation with sales exemptions, LDTs exempted via the performance exemption cannot be sold in designated high-altitude areas. Any LDT manufacturer exempting large portions of its model line (EPA is not aware of any manufacturer able to do this) would exclude itself from this market. Therefore, the Agency does not agree with GM that the performance exemption represents a significant degree of inequity.

Ford has apparently misinterpreted EPA's earlier statement concerning the environmental consequences of the sales-based exemption. The remark, as referenced by Ford, was made in the Final Rule which first extended the sales exemption from the 1982 model year into the 1983 model year (47 FR 21793). The statement was that a *one* year extension of the sales exemption would not significantly impair air quality in high-altitude areas. The air-quality effect of no high-altitude standards whatsoever for up to 30 percent of all LDTs would certainly be significant, unless one would argue that these exempted vehicles would still exhibit the necessary emission reductions at high altitude even without standards. However, given self-certification, then there would be no reason not to use engineering judgment (which is not costly) to certify these vehicles.

The Agency also disagrees with AMC's comment that the recent changes

VOL
48
ISS
203
OC
19
1983
UMI

in the definition of useful life will add significantly to the leadtime requirements for 1985 and, hence, justify retaining the sales exemption. The proposed useful life changes referred to by AMC were actually a one-year deferral of the existing useful life provisions, which have been known for some time, to ease their implementation burden. Such a deferral should not affect the leadtime needed to certify to these high-altitude standards, and therefore, does not warrant a further extension of the sales exemption.

2. The Performance Exemption Criteria

The current performance exemption criteria for 1984 and later LDTs are identical to those in effect for 1982–83 model year LDVs. These criteria are based on a simple performance model which uses well-known vehicle design parameters to predict which vehicles should have unacceptable performance at high altitude and, hence, should be exempted from the high-altitude certification requirements. Ford and GM commented that while this simple model is acceptable for LDVs it is less accurate for LDTs.

Specifically, one of the design parameters in the current model is the vehicle's equivalent test weight, which represents the weight of a partially loaded vehicle. Ford and GM argued that while this is the correct measure to use in determining the performance of LDVs, because these vehicles are seldom fully loaded, it is not true for LDTs which are often fully loaded. Instead, an LDT's performance is more closely related to its gross vehicle weight (GVW) and they recommended that this parameter be used in the performance exemption for these vehicles.

Ford, GM, and AMC also requested that the performance exemption for LDTs be revised to incorporate the improvements that were made in the performance exemption criteria for 1984 and later LDVs.

The Agency agrees that the use of GVW instead of equivalent weight in the performance model would improve predictive capability of the model, since of prime interest is worst case performance and GVW is a better indicator of interia weight in that situation. Also, the improvements made to the 1984 and later LDV performance criteria are fully applicable to LDTs. Therefore, this Final Rule amends the performance exemption provisions for 1985 and later model year LDTs: (1) To change the equivalent test weight parameter to gross vehicle weight, (2) to adopt the optional use of engine rated horsepower or engine displacement in the simple performance model, and (3) to adopt the acceleration test and acceleration modeling allowance.

IV. Technical Feasibility and Leadtime

There are no feasibility or leadtime issues associated with the amendments being made to the regulations applicable to 1984 LDVs or 1985 and later LDTs. These amendments for the most part were requested by members of the regulated industry and no adverse comments to these amendments were received.

With respect to the implementation of the all-altitude and associated requirements for 1985 and later LDVs, their feasibility has already been established in the interim final rule implementing these same requirements for the 1984 model year (48 FR 7392). However, as also indicated in that rulemaking, the Act does not actually require that EPA find the requirements of Section 206(f)(1) to be technically feasible, since Congress mandated the all-altitude requirement.

V. Economic Impact

There are no significant economic impacts associated with the amendments to the regulations applicable to 1984 LDVs or 1985 and later LDTs. These amendments either increase manufacturers' flexibility or improve model availability in high-altitude areas.

With respect to the 1985 and later LDV requirements, the economic impact will be the same as that indicated for the same all-altitude requirements for 1984 LDVs (48 FR 7392). Based on the detailed analyses contained in the High-Altitude Report to Congress,[7] EPA estimates that the purchase price of the average LDV sold nationwide will increase by about $13–$16 over that under the 1982–83 high-altitude program, or 0.12–0.15 percent of the average vehicle purchase price. From a national perspective, the aggregate 5-year cost of this mandated emission control program (for 1984 and beyond) is estimated at $263–$325 million (expressed in 1981 dollars discounted at 10 percent per annum to 1984).

VI. Environmental Impact

There are no significant environmental impacts associated with the amendments to the regulations applicable to 1984 LDVs or 1985 and later LDTs.

With respect to the all-altitude program for 1985 and later LDVs, this mandated emission control program should not affect the emissions from LDVs at low altitude. An environmental benefit will occur, however, at high altitude (refer to the High-Altitude Report to Congress [7] for details). By adopting these regulations for 1985 and later LDVs, emissions of HC and CO at high altitude will be reduced by 9 percent and 31 percent, respectively, beyond that which would have resulted from a continuation of the 1982–83 program. These emission reductions will reduce ozone levels in high-altitude urban areas by up to 1.5 percent in 1990, while CO levels in these areas will be reduced by up to 4 percent in 1990. The particulate emissions from diesel-powered LDVs sold and driven at high altitude will also be reduced. However, this reduction could not be quantified due to lack of data on the particulate emissions of high-altitude vehicles.

Legal Authority

Statutory authority for these actions is provided by sections 202(a), 206(f)(1) and 301(a) of the Clean Air Act (42 U.S.C. 7521, 7525 and 7601). Section 202(a)(1) of the Act provides, in part, that "(t)he Administrator shall by regulation prescribe * * * standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles * * * which may reasonably be anticipated to endanger the public health or welfare * * *." Section 202(a)(2) of the Act provides, in part, that "(a)ny regulation prescribed under paragraph (1) * * * shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance with such period." Section 206(f)(1) of the Act provides that "(a)ll light-duty vehicles and engines manufactured during or after model year 1984 shall comply with the requirements of section 202 of this Act regardless of the altitude at which they are sold." Section 301(a) provides, in part, that "(t)he Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

Note.—The 1984 model year regulations pertaining to the designation of high-altitude locations [§ 86.084–30(a)(4)(iv)] and the reclassification of heavy LDVs (§§ 86.084–2, 86.084–15, and 86.084–30(a)(3)(iii)) are being made effective immediately. The Agency finds that good cause exists for taking this action. Manufacturers have already started production of 1984 model year vehicles and, in some cases, have already begun shipping these vehicles to their dealers. Delaying the implementation of these regulations would not only reduce the overall benefit of these provisions, but would also seriously disrupt the production and marketing plans to which manufacturers have already committed. Such a disruption could result in adverse economic affects throughout the automobile industry. In addition, the reclassification of heavy LDVs should take effect immediately because it relieves a restriction that would otherwise apply to these vehicles. Finally, the immediate implementation of these regulations will have no significant competitive or environmental effects.

[7] Available for review in EPA Docket No. A–80–1.

Judicial Review

The final actions taken today are nationally applicable. Under Section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before December 19, 1983.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it has an annual effect on the economy of less than $100 million and it involves no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB and any EPA response thereto have been placed in the dockets for this rulemaking.

Effect on Small Entities

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that EPA certify that its regulations do not have a significant impact on a substantial number of small entities. Small entities potentially affected by this regulation include the automobile dealerships selling 1985 and later LDVs throughout the nation. These dealerships could potentially be adversely affected in two ways. One, the prices of 1985 and later LDVs could increase to the point of reducing sales. Two, the availability of certain vehicle configurations could be eliminated, again reducing sales.

As has already been established with respect to the all-altitude requirement for 1984 LDVs, EPA has designed these regulations to ensure that neither situation mentioned above occurs. The cost of these regulations has already been described and should not adversely affect sales to any significant degree. Also, the existence of the performance-based exemptions and the associated requirement to certify at least one "model type" for the high-altitude market should maximize model availabiltiy at all elevations. In addition, no comments to the contrary were received in response to the proposal of this action.

The amendments to the 1984 LDV regulations and the 1984 and later LDT regulations will have no adverse effect on these dealerships. To the contrary, the majority of these amendments will increase model availability.

Therefore, I certify that these regulations do not have any significant impact on small entities.

Impacts on Reporting Requirements

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, U.S.C. 3501 et seq., and have been assigned OMB Control Number 2000–0390.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: September 19, 1983.

William D. Ruckelshaus,

Administrator.

For reasons set forth in the preamble, Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 86—[AMENDED]

1. Section 86.084–2 is amended by adding the following definition.

§ 86.084–2 Definitions.

* * * * * *

"Heavy-passenger cars" means, for the 1984 model year only, a passenger car or passenger car derivative capable of seating 12 passengers or less, rated at 6,000 pounds GVW or more and having an equivalent test weight of 5,000 pounds or more.

* * * * * *

2. Section 86.084–8 is amended by revising paragraphs (g), (h)(1) introductory text, (h)(1)(ii)(A), (h)(1)(iii) introductory text, (h)(1)(iv), and adding paragraph (i) to read as follows:

§ 86.084–8 Emission standards for 1984 and later model year light-duty vehicles.

* * * * * *

(g) Any 1984 model year light-duty vehicle that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in § 86.082–2, except as provided in paragraphs (h) and (i) or this section. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(h) * * *

(1) A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (h)(1)(i), (ii), (iii), or (iv) of this section are met.

* * * * * *

(ii) * * *

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure, J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within the test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any single model year.

* * * * * *

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 miles per hour to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

* * * * * *

(iv) In lieu of performing the test procedure of paragraphs (h)(1)(iii) (A) and (B) of this section, its acceleration time can be estimated on the basis of the manufacturer's engineering evaluation in accordance with good engineering practice, to meet the exemption criteria of paragraph (h)(1)(iii) of this section.

* * * * * *

(i)(1) The manufacturer may exempt 1984 model year vehicles from compliance with the emission standards set forth in paragraphs (a) and (b) of this section under low-altitude conditions, as specified in § 86.082–2, if the vehicles:

(i) Are not intended for sale at low altitude; and

(ii) Are equipped with a unique, higher axle ratio (rear-wheel drive vehicles) or a unique drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other configurations of that model type which are certified in compliance with the emission standards of paragraphs (a) and (b) of this section under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been

VOL 48 ISS 203 OC 19 1983 UMI

exempted as set forth in paragraph (h)(i)(1) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

3. A new § 86.084–14 is added to read as follows:

§ 86.084–14 Small-volume manufacturers certification procedures.

(a) The small-volume manufacturers certification procedures described in paragraphs (b) and (c) of this section are optional. Small-volume manufacturers may use these optional procedures to demonstrate compliance with the general standards and specific emission requirements contained in this subpart.

(b)(1) The optional small-volume manufacturers certification procedures apply to light-duty vehicles, light-duty trucks, and heavy-duty engines produced by manufacturers with U.S. sales (for the model year in which certification is sought) of fewer than 10,000 units (LDV, LDT, and HDE combined).

(2) For the purpose of determining the applicability of paragraph (b)(1) of this section, where there is more than one importer or distributor of vehicles and/or engines manufactured by the same person, the sales the Administrator shall use shall be the aggregate of the projected or actual sales of those vehicles and/or engines by all of the importers and distributors.

(c) Small-volume manufacturers shall demonstrate compliance with the applicable sections of this subpart as follows:

(1) Sections 86.084–1 through 86.084–11 are applicable.

(2) Section 86.084–12 is not applicable.

(3) Sections 86.084–13 through 86.084–20 are applicable.

(4) Small-volume manufacturers shall include in its records all of the information that EPA requires in § 86.084–21. This information will be considered part of the manufacturer's application for certification. However, the manufacturer is not required to submit the information to the Administrator unless the Administrator requests it.

(5) Section 85.084–22 is applicable except as noted below.

(i) Small-volume light-duty vehicle and light-duty truck manufacturers may satisfy the requirements of paragraph (e) of § 86.084–22 by including a statement of compliance on adjustable parameters in the application for certification. In the statement of compliance the manufacturer shall state that the limits, stops, seals, or other means used to inhibit adjustment have been designed to accomplish their intended purpose based on good engineering practice and past experience. If the vehicle parameter is adjustable the vehicle must meet emission standards with the parameter set any place within the adjustable range (reference § 86.084–21).

(ii) Paragraphs (a), (b), (c), and (d) of § 86.084–22 are not applicable.

(6) Section 86.084–23 is applicable.

(7) Section 86.084–24 is applicable except as noted below.

(i) Small-volume manufacturers may satisfy the requirements of paragraphs (b) and (c) of § 86.084–24 by:

(A) Selecting emission-data test vehicles (engines) by the worst case emissions criteria as follows:

(1) Light-duty vehicles and light-duty trucks. The test vehicle shall be selected based on the following criteria: The manufacturer shall select the heaviest (including options) vehicle within the family. Then within that vehicle it shall select, in the order listed, the largest frontal area, largest displacement, the highest numerical axle ratio with the largest tire offered in the engine family, and the maximum fuel flow calibration.

(2) Heavy-duty gasoline fueled engines. The manufacturer shall select the worst case emission-data engine first based on the largest displacement within the engine family. Then within the largest displacement the manufacturer shall select, in the order listed, highest fuel flow at the speed of maximum rated torque, the engine with the most advance spark timing, no EGR or lowest EGR flow, and no air pump or lowest actual flow air pump.

(3) Heavy-duty diesel engines. The manufacturer shall select the worst case emission data engine based on the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed.

(B) Testing light-duty vehicle or light-duty truck emission-data vehicles at any service accumulation distance less than 6,436 kilometers (4,000 miles) or heavy-duty engine emission-data engines at any service accumulation time less than 125 hours.

(C) Using assigned deterioration factors that the Administrator determines and prescribes. However, the manufacturer may, at its option, accumulate miles (hours) on a durability-data vehicle (engine) and complete emission tests for the purpose of establishing its own deterioration factor.

(ii) Paragraphs (d) and (e) of § 86.084–24 are not applicable.

(8) Section 86.084–25 is applicable to durability-data light-duty vehicles, light-duty trucks, and heavy-duty engines if the manufacturer does not use assigned deterioration factors.

(9) Sections 86–084–26 and 86.084–27 are not applicable.

(10) Sections 86.084–28 and 86.084–29 are applicable.

(11)(i) Section 86.084–30 of this subpart is applicable, except for paragraph (a)(2) and (b) of that section. In the place of these paragraphs, small-volume manufacturers shall comply with paragraphs (c)(11)(ii) through (v) of this section.

(ii) Small-volume manufacturers shall submit an application for certification containing the following:

(A) The names, addresses, and telephone numbers of the persons the manufacturer authorizes to communicate with us.

(B) A brief description of the vehicles (or engines) covered by the certificate (the manufacturers' sales data book or advertising, including specifications, may satisfy this requirement for most manufacturers). The description shall include, as a minimum, the following items as applicable:

(1) Engine families and vehicles (or engine) configurations.

(2) Vehicle or engine models to be listed on the certificate of conformity.

(3) The test weight and horsepower setting for each vehicle or engine configuration.

(4) Projected sales.

(5) Combustion cycle.

(6) Cooling mechanism.

(7) Number of cylinders.

(8) Displacement.

(9) Fuel system type.

(10) Number of catalytic converters, volume, and composition.

(11) Method of air aspiration.

(12) Thermal reactor characteristics.

(13) Suppliers' and/or manufacture's name and model number of any emission-related items identified in paragraph (c)(11)(ii)(B)*(1)* through *(12)* of this section, items if purchased from a supplier who uses the items in its own certified vehicles(s) or engine(s).

(14) A list of emission component part numbers

(15) Drawings, calibration curves, and descriptions of emission related components, including those components regulated under paragraph (e) of § 86.084–22, and schematics of hoses and other devices connecting these components.

(16) Vehicle adjustments or modifications necessary for light-duty trucks to assure that they conform to high-altitude standards.

(17) A description of the light-duty vehicles and light-duty trucks that are exempted from either the low- or high-altitude emission standards, as applicable.

(C) The results of all emission tests the manufacturer performs to demonstrate compliance with the applicable standards.

(D)*(1)* The following statement signed by the authorized representative of the manufacturer: "The vehicles (or engines) described herein have been tested in accordance with [list of the applicable Subparts A, B, D, I, N, or P] of Part 86, Title 40, United States Code of Federal Regulations, and on the basis of those tests are in conformance with that subpart. All of the data and records required by that subpart are on file and are available for inspection by the EPA Administrator. We project the total U.S. sales of vehicles (engines) subject to this subpart to be fewer than 10,000 units."

(2) A statement as required by and contained in paragraph (c)(5) of § 86.084–14 signed by the authorized representative of the manufacturer.

(3) A statement that the vehicles or engines described in the manufacturers application for certification are not equipped with auxiliary emission control devices which can be classified as a defeat device as defined in § 86.084–2.

(4) A statement of compliance with Section 206(a)(3) of the Clean Air Act.

(5) A statement that, based on the manufacturer's engineering evaluation and/or emission testing, the light-duty vehicles comply with emission standards at high altitude unless exempt under paragraph (h) of § 86.084–8.

(6) A statement that, based on the manufacturers engineering evaluation and/or emission testing, the light-duty trucks sold for principle use at designated high-altitude locations comply with the high-altitude emission requirements and that all other light-duty trucks are at least capable of being modified to meet high-altitude standards unless exempt under paragraph (g)(2) of § 86.084–9.

(iii) If the manufacturer meets requirements of this subpart, the Administrator will issue a certificate of conformity for the vehicles described in the application for certification.

(iv) The certificate will be issued for such a period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any vehicle or engine covered by the certificate will meet the requirements of the Act and of this subpart.

(v)(A) If, after a review of the statements and descriptions submitted by the manufacturer, the Administrator determines that the manufacturer has not met the applicable requirements, the Administrator shall notify the manufacturer in writing, setting forth the basis for his determination. The manufacturer may request a hearing on the Administrator's determination.

(B) If the manufacturer does not request a hearing or present the required information the Administrator will deny certification.

(12) Sections 86.084–31 and 86.084–32 are not applicable.

(13) Under § 86.084–33, small-volume manufacturers are covered by the following.

(i) Small-volume manufacturers may make production changes (running changes) without receiving the Administrator's prior approval. The manufacturer shall assure (by conducting emission tests as it deems necessary) that the affected vehicles (engines) remain in compliance with the requirements of this part.

(ii) The manufacturer shall notify the Administrator within seven days after implementing any production related change (running change) that would affect vehicle emissions. This notification shall include any changes to the information required under paragraph (c)(11)(ii) of this section. The manufacturer shall also amend as necessary its records required under paragraph (c)(4) of this section to conform with the production design change.

(14) Section 86.084–34 is not applicable.

(15) Sections 86.084–35 through 86.084–39 are applicable.

4. A new § 86.084–15 is added to read as follows:

§ 86.084–15 Emission standards for 1984 model year heavy-passenger cars.

(a)(1) Model year 1984 heavy-passenger cars shall not exceed the following exhaust emission standards when tested under low-altitude conditions.

(i) *Hydrocarbons.* 0.41 gram per vehicle mile (0.255 gram per vehicle kilometer);

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile (2.11 grams per vehicle kilometer);

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile (0.62 gram per vehicle kilometer).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part for light-duty vehicles, except as otherwise provided, and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1984 model year heavy-passenger cars shall not exceed when tested under low-altitude conditions: *Hydrocarbons.* 2.0 grams per test.

(2) The standards set forth in paragraph (b)(1) of this section refer to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part for light-duty vehicles, except as otherwise provided, and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1984 model year heavy-passenger car.

(d)(1) Model year 1984 heavy-passenger cars shall not exceed the following exhaust emission standards when tested under high-altitude conditions:

(i) *Hydrocarbons.* 0.57 grams per vehicle mile (0.35 gram per vehicle kilometer).

(ii) *Carbon monoxide.* 7.8 grams per vehicle mile (4.8 grams per vehicle kilometer).

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile (0.62 gram per vehicle kilometer).

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part for light-duty vehicles, except as otherwise provided, and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1984 model year heavy-passenger cars shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part for light-duty vehicles, except as otherwise provided, and measured in accordance with those procedures.

(f) Any 1984 model year heavy-passenger car that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in § 86.082–2, as applicable. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher that 4,000 feet above sea level.

(g) Except as otherwise provided in this part, heavy passenger cars are subject to the provisions applicable to light-duty vehicles in this part and in Part 85 of 40 CFR.

VOL
48
ISS
2
0
3
OC
19
1983
UMI

5. Section 86.084–24 is amended by revising paragraphs (b)(1)(v)(B)(*2*) and (b)(1)(viii)(B)(*2*) to read as follows:

§ 86.084–24 Test vehicles and engines.

* * * * *

(b) * * *
(1) * * *
(v) * * *
(B) * * *

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements unless exempt under § 86.084–9(g)(2), and that all light-duty trucks sold for principal use at low altitude, which are not exempt under § 86.084–9(g) (2) or (4), are capable of being modified to meet high-altitude standards.

* * * * *

(viii) * * *
(B) * * *

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements unless exempt under § 86.084–9(g)(2), and that all light-duty trucks sold for principal use at low altitude, which are not exempt under § 86.084–9(g) (2) or (4), are capable of being modified to meet high-altitude standards.

* * * * *

6. Section 86.084–26 is amended by revising the title and paragraphs (a)(3)(i)(D), (a)(3)(ii)(D), (b)(4)(i)(D), and (b)(4)(ii)(D) as follows:

§ 86.084–26 Mileage and service accumulation; emission measurements.

(a) * * *
(3) * * *
(i) * * *

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.084–24(b)(1)(i) through (iv) to be tested under high-altitude conditions or provide a statement in accordance with § 86.084–24(b)(1)(v). Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(ii) * * *

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.084–24(b)(1)(i) through (iv) to be tested under high-altitude conditions or provide a statement in accordance with § 86.084–24(b)(1)(v). Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

* * * * *

(b) * * *
(4) * * *
(i) * * *

(D) If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle selected under § 86.084.24(b)(1)(v) and (viii) (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

(ii) * * *

(D) If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle selected under § 86.084–24(b)(1)(v) and (viii) (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

* * * * *

7. Section 86.084–30 is amended by revising paragraphs (a)(3)(iii), (a)(4), and (a)(5) (iii) and (iv) to read as follows:

§ 86.084–30 Certification.

(a) * * *
(3) * * *

(iii) *Heavy Passenger Cars.* Each certificate will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards.

(4)(i) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of Section 203(a)(3) of the Clean Air Act.

(ii) A violation of Section 203(a)(1) of the Clean Air Act occurs, except as provided for in § 86.084–9(g)(3) for light-duty trucks, when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in the remainder of this paragraph.

(A) When a light-duty vehicle or light-duty truck is not configured to meet high-altitude requirements:

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(*2*) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(B) When a light-duty vehicle is not configured to meet low-altitude requirements, as provided in § 86.084–8 (i):

(*1*) At a designated low-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated low-altitude location; or

(*2*) At a location other than a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle that has been exempted from compliance with emission standards at high-altitude, or a light-duty truck which is not configured to meet high-altitude requirements, will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iii) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a state or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle which has been exempted from compliance with emission standards at low-altitude, as provided in § 86.084–8(i), will not be sold to an ultimate purchaser for principal use at a designated low-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iv) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated low-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; requiring dealers in counties contiguous to designated low-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a low-altitude location or in counties contiguous to low-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of high-altitude vehicles by low-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser for principal use at a designated low-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a state or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser residing in a designated low-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iv) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet low-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(5) * * *

(iii) For the purpose of paragraph (a) of this section, a "designated low-altitude location" is any county which has substantially all of its area located below 1,219 meters (4,000 feet).

(iv) The designated low-altitude locations so defined include all counties in the United States which are not listed in either paragraph (a)(5)(ii) of this section or in the list below:

State of Arizona

Apache
Cochise
Coconino
Navajo
Yavapai

State of Idaho

Bannock
Bear Lake
Bingham
Blaine
Bonneville
Butte
Camas
Caribou
Cassia
Clark
Custer
Franklin
Fremont
Jefferson
Lemhi
Madison
Minidoka
Oneida
Power
Teton
Valley

State of Montana

Beaverhead
Deer Lodge
Gallatin
Jefferson
Judith Basin
Madison
Meagher
Park
Powell
Silver Bow
Wheatland

State of Nebraska

Banner
Cheyenne
Kimball
Sioux

State of Oregon

Harney
Klamath
Lake

State of Texas

Jeff Davis
Hudspeth
Parmer

VOL
48
ISS
2
0
3
OC
19
1983
UMI

State of Wyoming

Albany	Natrona
Campbell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

* * * * *

8. Section 86.084–35 is amended by adding paragraph (a)(1)(iii)(G), redesignating paragraph (a)(2)(iii)(G) as (a)(2)(iii)(H), redesignating paragraph (a)(2)(iii)(H) concerning the useful life period as (a)(2)(iii)(G), redesignating the other paragraph (a)(2)(iii)(H) concerning high-altitude requirements as (a)(2)(iii)(I), redesignating paragraph (a)(2)(iii)(I) as (a)(2)(iii)(J), and redesignating paragraph (a)(2)(iii)(J) as (a)(2)(iii)(K) to read as follows:

§ 86.084–35 Labeling.

(a) * * *
(1) * * *
(iii) * * *

(G) A statement, if applicable, that the vehicle has been exempted from compliance with the emission standards at low altitude as specified in § 86.084–8(i) and, as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at low altitude.

(2) * * *
(iii) * * *

(G) For light-duty truck engine families whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2, an unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty trucks. These vehicles need not comply with the labeling requirements in paragraphs (a)(2)(iii) (E) and (F) of this section.

(H) A statement if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified.

(I) A statement, if applicable, that the high-altitude vehicle was designed or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser.

(J) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emission standards as specified in § 86.084–9(g)(4) and that its unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude.

(K) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emissions standards as specified in § 86.084–9(g)(2) and, as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude.

* * * * *

9. Section 86.085–8 is amended by adding paragraphs (d) through (i) to read as follows:

§ 86.085–8 Emission standards for 1985 and later model year light-duty vehicles.

* * * * *

(d) [Reserved]
(e) [Reserved]
(f) [Reserved]

(g) Any 1985 and later model year light-duty vehicle that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in § 86.082–2, except as provided in paragraphs (h) and (i) of this section. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(h) The manufacturer may exempt 1985 model year vehicles from compliance at high altitude with the emission standards set forth in paragraphs (a) and (b) of this section if the vehicles are not intended for sale at high altitude and if the requirements of paragraphs (h) (1) and (2) of this section are met.

(1) A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (h)(1) (i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.5}$, where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.5}$, where the constant, C is the same as that found in paragraph (h)(1)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (h)(1)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.5}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (h)(1)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (h)(1)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 miles per hour to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (h)(1)(iii)(A) of this section above.

(iv) In lieu of performing the test procedure of paragraphs (h)(1)(iii) (A) and (B) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (h)(1)(iii) of this section.

(2) A vehicle shall only be considered eligible for exemption under this paragraph if at least one configuration of its model type (and transmission configuration in the case of vehicles equipped with manual transmissions, excluding differences due to the presence of overdrive) is certified to meet emission standards under high-altitude conditions as specified in paragraphs (a) through (g) of this section. The Certificate of Conformity (the Certificate) covering any exempted configuration(s) will also apply to the corresponding non-exempt configuration(s) required under this subparagraph. As a condition to the exemption, any suspension, revocation, voiding, or withdrawal of the Certificate as it applies to a non-exempt configuration for any reason will result in a suspension of the Certificate as it applies to the corresponding exempted configuration(s) of that model type, unless there is at least one other corresponding non-exempt configuration of the same model type still covered by the Certificate. The suspension of the Certificate as it applies to the exempted configuration(s) will be terminated when any one of the following occurs:

(i) Another corresponding non-exempt configuration(s) receive(s) coverage under the Certificate; or

(ii) Suspension of the Certificate as it applies to the corresponding non-exempt configuration(s) is terminated; or

(iii) The Agency's action(s), with respect to suspension, revocation, or voiding of the Certificate as it applies to the corresponding non-exempt configuration(s), is reversed.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (h) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

(i)(1) The manufacturers may exempt 1985 and later model year vehicles from compliance at low altitude with the emission standards set forth in paragraphs (a) and (b) of this section if the vehicles:

(i) Are not intended for sale at low altitude; and

(ii) Are equipped with a unique, high-altitude axle ratio (rear-wheel drive vehicles) or a unique, high-altitude drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other configurations of that model type which are certified in compliance with the emission standards of paragraphs (a) and (b) of this section under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been exempted as set forth in paragraph (i) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

10. Section 86.085–9 is amended by adding paragraphs (d) and (e) and revising paragraph (g) to read as follows:

§ 86.085–9 Emission standards for 1985 and later model year light-duty trucks.

* * * * *

(d)(1) Model year 1985 and later light-duty trucks sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions:

(i) *Hydrocarbons.* 1.0 gram per vehicle mile (0.62 grams per vehicle kilometer);

(ii) *Carbon Monoxide.* 14.0 grams per vehicle mile (8.7 grams per vehicle kilometer);

(iii) *Oxides of Nitrogen.* 2.3 grams per vehicle mile (1.43 grams per vehicle kilometer);

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1985 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

* * * * *

(g)(1) Any light-duty truck that a manufacturer wishes to certify for sale at low altitude must be capable of meeting high-altitude emission standards (specified in paragraphs (d) through (f) of this section). The manufacturer may specify vehicle adjustments or modifications to allow the vehicle to meet high-altitude standards but these adjustments or modifications may not alter the vehicle's basic engine, inertia weight class, transmission configuration, and axle ratio.

(i) A manufacturer may certify unique configurations to meet the high-altitude standards but is not required to certify these vehicle configurations to meet the low-altitude standards.

(ii) Any adjustments or modifications that are recommended to be performed on vehicles to satisfy the requirements or paragraph (g)(1) of this section:

(A) Shall be capable of being effectively performed by commercial repair facilities.

(B) Must be included in the manufacturer's application for certification.

(2) The manufacturer may exempt 1985 and later model year vehicles from compliance with the high-altitude emission standards set forth in paragraphs (d) and (e) of this section if the vehicles are not intended for sale at high altitude and if the following requirements are met. A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (g)(2)(i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the gross vehicle weight (GVW) expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or

VOL 48 ISS 203 OCT 19 1983 UMI

the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C[D/W)^{-0.9}$, where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, C is the same as that found in paragraph (g)(2)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (g)(2)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (g)(2)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (g)(2)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 miles per hour to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (g)(2)(iii)(A) of this section.

(iv) In lieu of performing the test procedure of paragraph (g)(2)(iii) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (g)(2)(iii) of this section.

* * * * *

11. A new § 86.085–15 is added and reserved as follows:

§ 86.085–15 [Reserved]

12. Section 86.085–24 is amended by adding paragraphs (b)(1)(v)(B)(*1*) and (b)(1)(viii)(B)(*1*) and revising paragraphs (b)(1)(v)(B)(*2*) and (b)(1)(viii)(B)(*2*) to read as follows:

§ 86.085–24 Test vehicles and engines.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(B) * * *

(*1*) That all light-duty vehicles not exempt under § 86.085–8(h) comply with the emission standards at high altitude, and

(*2*) that light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low altitude, which are not exempt under § 86.085–9(g)(2), are capable of being modified to meet high-altitude standards.

* * * * *

(viii) * * *

(B) * * *

(*1*) That all light-duty vehicles not exempt under § 86.085–8(h) comply with the emission standards at high altitude, and

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low altitude, which are not exempt under § 86.085–9(g)(2), are capable of being modified to meet high-altitude standards.

* * * * *

13. Section 86.085–30 is amended by revising paragraphs (a)(4) and (a)(5) (iii) and (iv) to read as follows:

§ 86.085–30 Certification.

(a) * * *

(4)(i) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of Section 203(a)(3) of the Clean Air Act.

(ii) A violation of Section 203(a)(1) of the Clean Air Act occurs when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in the remainder of this paragraph.

(A) When a light-duty vehicle or light-duty truck is not configured to meet high-altitude requirements:

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(*2*) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(B) When a light-duty vehicle is not configured to meet low-altitude requirements, as provided in § 86.085–8(i):

(*1*) At a designated low-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated low-altitude location; or

(*2*) At a location other than a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle that has been exempted from compliance with emission standards at high-altitude, or a light-duty truck which is not configured to meet high-altitude requirements, will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iii) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle which has been exempted from compliance with emission standards to low-altitude, as provided in § 86.084–8(i), will not be sold to an ultimate purchaser for principal use at a designated low-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iv) (A) or (B), and (C) of this section.

(A) Requiring dealers in designated low-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; requiring dealers in counties contiguous to designated low-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a low-altitude location or in counties contiguous to low-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of high-altitude vehicles by low-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser for principal use at a designated low-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser residing in a designated low-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iv) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet low-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(5) * * *

(iii) For the purpose of paragraph (a) of this section, a "designated low-altitude location" is any county which has substantially all of its area located below 1,219 meters (4,000 feet).

(iv) The designated low-altitude locations so defined include all counties in the United States which are not listed in either paragraph (a)(5)(ii) of this section or in the list below:

State of Arizona

Apache, Cochise, Coconino, Navajo, Yavapai.

State of Idaho

Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Jefferson,

VOL
48
ISS
203
OC
19
1983
UMI

Lemhi, Madison, Minidoka, Oneida, Power, Teton, Valley.

State of Montana

Beaverhead, Deer Lodge, Gallatin, Jefferson, Judith Basin, Madison, Meagher, Park, Powell, Silver Bow, Wheatland.

State of Nebraska

Banner, Cheyenne, Kimball, Sioux.

State of Oregon

Harney, Klamath, Lake.

State of Texas

Jeff Davis, Hudspeth, Parmer

State of Wyoming

Albany, Campbell, Carbon, Converse, Fremont, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Park, Platte, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

* * * * *

14. Section 86.085–35 is amended by revising paragraph (a)(1)(iii)(D), adding paragraphs (a)(1)(iii)(G) and (a)(1)(iii)(H), combining and revising paragraphs (a)(2)(iii)(I) and (a)(2)(iii)(J) as (a)(2)(iii)(I), and reserving (a)(2)(iii)(J) to read as follows:

§ 86.085–35 Labeling.

(a) * * *

(1) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family particulate emission limit, as applicable), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., Idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation.

* * * * *

(G) For vehicles that have been exempted from compliance with the emission standards at high altitude, as specified in § 86.085–8(h),

(*1*) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(*2*) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(*3*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude;

(H) For vehicles that have been exempted from compliance with the emission standards at low altitude, as specified in § 86.085–8(i),

(*1*) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at high altitude only, and

(*2*) A statement that emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at low altitude.

(2) * * *

(iii) * * *

(I) For vehicles that have been exempted from compliance with the high-altitude emission standards, as specified in § 86.085–9(g)(2),

(*1*) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(*2*) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(*3*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude;

(J) [Reserved]

* * * * *

[FR Doc. 83–28312 Filed 10–18–83; 8:45 am]
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federal register

Wednesday
October 19, 1983

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

The Fishermen's Protective Act Procedures

VOL
48
ISS
203
OC
19
1983
UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

[Docket No. 309 26-195]

The Fishermen's Protective Act Procedures

AGENCY: National Oceanic and Atmospheric Administration, NOAA, Commerce.

ACTION: Final rule.

SUMMARY: The Fishermen's Protective Act requires fees from participating vessel owners. These fees are used for a vessel seizure compensation program. This amendment will establish fees for the agreement year beginning October 1, 1983.

EFFECTIVE DATE: October 1, 1983, through September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone number (202) 634-7496.

SUPPLEMENTARY INFORMATION: Section 7 of the Fishermen's Protective Act (22 U.S.C. 1971-1980) compensates certain losses caused by a foreign country's detention of a United States fishing vessel based on oceanic rights not recognized by the United States. Pre-existing agreements are required for compensation. Annual agreement fees are established by amendment of these rules.

All agreements holders for the year ending September 30, 1983, who wish their agreements extended through September 30, 1984, by amendment (rather than entering into an entirely new agreement) must submit the fees required by this rules amendment. The fees are due on October 1, 1983, but are not payable until November 15, 1983. Failure to pay the fees by November 15, 1983, will result in agreement termination retroactive to October 1, 1983.

Program fees are established in accordance with Section 7 and Administration policy. Section 7 requires fees cover program administrative costs and at least 25 percent of claims. Administration policy requires fees to fund program costs to the maximum extent possible. Fiscal year 1983 fees covered almost 100 percent of claim payments in that year. Fiscal year 1984 claims payments are expected to be at least as much as fiscal year 1983. Fiscal year 1984 fees will remain the same as fiscal year 1983 fees ($16 per gross ton).

Classification

As a "matter relating to Agency * * * contracts," this rule is exempt from the notice and comment provisions of the Administrative Procedure Act. This means analysis under the Regulatory Flexibility Act is not required.

The Administrator of the National Oceanic and Atmospheric Administration has reviewed this final rulemaking in accordance with the specifications of Executive Order 12291 and determined that it is not a major rule since it has no effect on the economy, cost or prices; no impact on regulatory impact analysis is required.

No additional information collection will be required. The information collection from applicants for guaranty agreements has been approved by the Office of Management and Budget, control number 0648-0095.

The Assistant Administrator has determined that this rulemaking does not require the preparation of an environmental impact statement under the National Environmental Policy Act.

List of Subjects on in 50 CFR Part 258

Claims, Fisheries, Fishing vessels, Indemnity payments, Insurance, Loan programs—business, Penalties.

Dated October 14, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

PART 258—[AMENDED]

Accordingly, § 258.5 of the Fishermen's Protective Act Procedures (50 CFR Part 258) is amended to read as follows:

1. The authority citation for Part 258 reads as follows:

Authority: Section 7, 82 Stat. 729; 22 U.S.C. 1977; Reorg. Plan No. 4 of 1970, unless otherwise noted.

2. Section 258.5 is revised to read as follows:

§ 258.5 Fees.

(a) Fees must pay administrative costs and a minimum of at least 25 percent of estimated claim payments. Fees are based on past and projected experience. Fees may be adjusted at any time by amending this part.

(b) Guaranty agreement fees for the agreement year October 1, 1983, through September 30, 1984, are $16 per gross vessel ton as listed on an agreement vessel's document. Fractions of a ton are excluded.

(c) No fees will be returned after a guaranty agreement is executed by the Secretary.

(d) A guaranty agreement may, with the Secretary's consent, be assigned to a new owner of an agreement vessel if the vessel is transferred during the agreement period.

(e) All holders of agreements for the agreement year ending September 30, 1983, who wish them extended through September 30, 1984, by amendment (rather than entering into an entirely new agreement) must submit their fees not later than November 15, 1983. Although the fees are due October 1, 1983, may be paid as late as November 15, 1983. Failure to submit fees by November 15, 1983, will result in agreement termination retroactive to October 1, 1983; a new agreement may be entered into, but it will be effective only from the date the fees are received.

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VOL
48
ISS
203
OC
19
1983
UMI

federal register

Wednesday
October 19, 1983

Part V

Department of Transportation

National Highway Traffic Safety Administration

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

VOL
48
ISS
2
0
3
OC
19
1983
UMI

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 32]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes several alternative actions to provide protection for an automobile's front seat occupants in case of frontal, side-impact, and roll-over accidents. This rulemaking is part of the further agency review contemplated by the recent Supreme Court decision that found the Department of Transportation's National Highway Traffic Safety Administration's (NHTSA's) October 1981 rescission of the automatic occupant restraint requirements of Federal Motor Vehicle Safety Standard 208, Occupant Crash Protection, to be arbitrary and capricious.

DATES: *Public Comments*—Comments on this notice must be received on or before December 19, 1983.

Public Meetings—Public meetings will be held on November 28–29, 1983, in Los Angeles, California; December 1–2 in Kansas City, Missouri; and December 5–6, in Washington, D.C. The exact time and location of the meetings will be announced in a subsequent notice that will be published in the Federal Register in the near future.

ADDRESS: Comments should refer to the docket and notice numbers set forth above and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are 8:00 a.m. to 4:00 p.m. (e.d.t.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Hitchcock, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–0842).

SUPPLEMENTARY INFORMATION:

I. Background

The 1981 Rescission

On October 23, 1981, NHTSA issued an order pursuant to section 103 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, amending Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208; "FMVSS 208"), by rescinding the provisions that would have required the front seating positions in all new cars to be equipped with automatic restraints (46 FR 53419; October 29, 1981).

In rescinding the automatic restraint requirement, the agency noted that the facts had changed radically since the 1977 promulgation of the requirement. In 1977, the agency had assumed that airbags would be installed in 60 percent of new cars and automatic belts in the remaining 40 percent. However, based on comments by the car manufacturers in 1981, the NHTSA Administrator found that airbags would actually be used in less than one percent of new cars. He found, further, that the type of automatic belt that the manufacturers planned to install in most of the remaining 99 percent of new cars was readily detachable and was not equipped with any device to compel reattachment.

He considered data regarding the usage rates of various types of automatic belts, ones that were either not detachable or that were equipped with an ignition interlock, and concluded that there was no relevant evidence regarding the likely usage rates of detachable automatic belts without interlocks. He concluded also that the similarity of the detachable automatic belt to the conventional manual lap and shoulder belt might lead many motorists to treat and use that type of belt in the same fashion and to the same extent as they currently do the manual belts. The Administrator, therefore, stated that he has no reliable basis on which to predict that the detachable automatic belt without an interlock would increase belt usage. Accordingly, he stated that he was unable to find that the automatic restraint requirement would meet the need for safety.

Due to the possibly minimal safety benefits and substantial compliance costs of the requirement, the Administrator said that he was also unable to find that the requirement was practicable or reasonable as required by the Act. Finally, the Administrator noted that implementation of the requirements might cause long lasting damage to the ability of the agency to gain the public's cooperation in its safety efforts.

The Court of Appeals' Opinion

In late November 1981, petitions for judicial review of the agency's rescission were filed with the U.S. Court of Appeals for the D.C. Circuit by State Farm Mutual Automobile Insurance Company and by the National Association of Independent Insurers. On June 1, 1982, the Court entered an opinion overturning the rescission as arbitrary and capricious. *State Farm* v. *DOT*, 680, F.2d 206.

The Supreme Court's Opinion

In September 1982, the agency filed a petition for certiorari with the U.S. Supreme Court seeking review of the Court of Appeals' decision. Additional petitions for certiorari were filed by the Motor Vehicle Manufacturers Association, Consumer Alert and the Pacific Legal Foundation. The Supreme Court granted these petitions on November 8, 1982. In response, the Court of Appeals entered an order recalling its mandate.

On June 24, 1983, the Supreme court held that NHTSA's rescission of the automatic restraint requirement was arbitrary and capricious. *Motor Vehicle Manufacturer's Association* v. *State Farm Mutual Automobile Insurance Co.*, 103 S. Ct. 2856. (Subsequent references to this decision will be to *"State Farm"* and a page number from the decision.) It said that the agency had failed to present an adequate basis and explanation for rescinding the requirement. The Court stated, also, that the agency must either consider the matter further or adhere to or amend the standard along the lines that its analysis supports. Specifically, the Court unanimously held that the agency has not given adequate consideration to modifying the requirement to require installation of airbags; such consideration was necessary because airbags were both a policy and technological alternative within the existing automatic restraint requirement.

The Court found that, even if the agency were correct that detachable automatic belts without interlocks would yield few benefits, that fact alone would not justify rescission. Instead, it would justify only the modification of the requirement to prohibit the compliance by means of that type of automatic belt. The Court also unanimously held that NHTSA had not given adequate consideration to requiring that automatic belts be continuous (i.e., nondetachable) instead of detachable.

By a five to four vote, the Court held that the agency had been too quick in dismissing the benefits of detachable automatic belts without interlocks. The Court stated that the agency's explanation of its rescission was not sufficient to enable the Court to conclude that the agency's action was the product of reasoned decisionmaking. The Court found that the agency had not taken account of the critical difference between detachable automatic belts without interlocks and current manual belts. "A detached passive belt does require an affirmative act to reconnect it, but—unlike a manual seatbelt—the passive belt, once reattached, will continue to function automatically unless again disconnected." *State Farm* at 2872.

Based on its rejection of the Court of Appeals' view regarding the standard of review and some of that Court's reasoning regarding the arbitrariness and capriciousness of the agency's rescission, the Supreme Court vacated the judgment of that court. It further remanded the case to the Court of Appeals with directions to remand the matter to the Department for further consideration consistent with the Supreme Court's opinion. In so doing, the Court noted that the agency had sufficient justification to suspend the automatic restraint requirement pending the further consideration required by its opinion.

The Court of Appeals remanded the matter to the Department effective September 23, 1983.

The 1983 Suspension

On September 1, 1983, the Department suspended the automatic restraint requirement for one year to ensure sufficient time was available for considering the issues raised by the Supreme Court's decision (48 FR 39908). The Department concluded that suspension was justified because compliance by that date would have been impracticable and it would have been inappropriate to require it during the review period.

The Department said that, at the completion of the rulemaking, it would establish an appropriate effective date either for the rule that was rescinded, if we decide to retain it, or for any other action that we take, including re-rescission of the rule.

The Statute

Pursuant to the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381, et seq.) ("the Act"), the Department of Transportation/National Highway Traffic Safety Administration is directed to "reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents." The Act authorizes the Secretary of Transportation to issue motor vehicle safety standards that "shall be practicable, shall meet the need for motor vehicle safety, and shall be stated in objective terms." In issuing these standards, the Secretary is directed to consider "relevant available motor vehicle data," whether the proposed standard "is reasonable, practicable and appropriate" for the particular type of motor vehicle, and the "extent to which such standards will contribute to carrying out the purposes" of the Act.

No special procedural requirements apply to the issuance of orders under the Act, except for any order that *establishes* an automatic restraint requirement. Before issuing such an order, the Secretary was required to provide a public hearing at which any Member of Congress so desiring might speak. Any such order was also subject to a two-House legislative veto. (Such legislative veto provisions were recently declared invalid categorically in *Immigration and Naturalization Service* v. *Chodha*, 103 S. Ct. 2764 (1983).)

The Safety Problem

According to data from the Department's Fatal Accident Reporting System (FARS), occupants of front seats in passenger cars account for almost half of the deaths that occur annually in motor vehicle accidents (including pedestrian fatalities). In recent years (1979–1982), an average of approximately 24,000 persons have been killed annually in the front seats of passenger cars. Almost three-quarters, or 18,000, of those front seat occupants were drivers, while one-quarter, or approximately 6,000, were passengers sitting in the front seat. For 1981, data from the Department's National Accident Sampling System (NASS) indicate that the annual number of moderate (240,000), serious (71,000), severe (15,000) and critical (4,700) injuries to front seat occupants in cars totaled about 331,000, distributed among the front seating positions in largely the same proportion as fatalities involving front seat occupants. The figures for 1982 were lower: 21,000 fatalities and a corresponding reduction in injuries. (More precise data on injuries for 1982 will not be compiled for several months.)

Approximately 55 percent of these fatalities and injuries occur in frontal impacts and another 25 percent occur in side impacts. Almost all deaths and injuries of these front seat occupants occur when they are thrown against the car's interior or thrown out of the vehicle (which increases the probability of fatality even more than the first hazard). Restraint of occupants to protect against these hazards has long been recognized as being one of the most effective means of substantially reducing the fatalities and injuries.

The Rule

FMVSS 208 (49 CFR 571.208) addresses generally the protection of vehicle occupants in case of frontal, side-impact, and roll-over accidents. Since the initial issuance of this rule, there have been approximately 60 rulemaking documents issued with respect to it. In the following discussion, only the most important of these are covered.

As originally issued in 1967, FMVSS 208 merely required manual seatbelts ("manual" meaning that they required some action by the occupant to make them effective) (32 FR 2408, 2415; February 3, 1967). (This and other technologies are described in a subsequent section entitled "Current Occupant Restraint Technology.") Since an unacceptably large percentage (80 percent) of motor vehicle occupants were not utilizing their manual belts, in 1970, the agency amended FMVSS 208 to include requirements for installation of automatic restraints (those requiring for their effectiveness no action in addition to the action required to start the vehicle itself) in cars (35 FR 16927; November 3, 1970). From July 1, 1973, to June 30, 1974, automatic restraints were to be provided for front seating positions. On or after July 1, 1974, all seating positions were to be equipped with automatic restraints. At that time, the Department believed that the primary available technology was the airbag. In 1971, when the industry developed automatic belts that met the standard, the standard was amended to permit their use.

After these requirements were adjusted slightly and the two effective dates delayed to August 15, 1973, and August 15, 1975, respectively (36 FR 4600; March 10, 1971), most passenger car manufacturers petitioned for judicial review of the automatic restraint requirements. After these petitions were filed, the Department adopted an additional option for the August 1973 to August 1975 period (37 FR 3911; February 24, 1972). It permitted compliance by means of manual lap and shoulder belts, together with an ignition interlock that prevented the starting of a car unless the belts were connected.

On review, the agency's decision to require automatic restraints was upheld. *Chrysler Corporation* v. *Department of Transportation*, 472 F.2d 659 (6th Cir., 1972). However, the Court held that the portion of FMVSS 208's testing procedures depending on an anthropomorphic test dummy did not satisfy the Act's requirement that the standard be objective. The practical effects of this decision were the invalidation of the existing automatic restraint options and the suspension of the future automatic restraint requirement.

Although the shortcomings in the automatic restraint testing procedures

were subsequently corrected, most of the industry elected to comply with FMVSS 208 in Model Years 1974 and 1975 ("MY 74 and 75;" September 1, 1973 and 1974) by installing manual belts and an ignition interlock. Public irritation with the interlock led Congress in 1974 to amend the Act to prohibit any motor vehicle safety standard from requiring or even permitting compliance by means of an ignition interlock or a continuous buzzer to indicate that safety belts are not in use.

In April 1974, the Department issued a rule requiring that automatic belts have a push buttom release mechanism to facilitate emergency egress after an accident and be wired to an ignition interlock and continuous buzzer to encourage reattachment of the belts if they were ever disconnected (39 FR 14593; April 24, 1974). In response to the 1974 amendments to the Act, the Department not only eliminated the ignition interlock provision from the option for manual belts and interlocks but also from the automatic restraint option (39 FR 38380; October 31, 1974).

In 1975, the Department deleted the suspended automatic restraint requirement and extended the three options regarding automatic and manual belts for an additional year; i.e., until MY 77 (40 FR 33977; August 13, 1975). In June 1976, then Secretary Coleman initiated a rulemaking to reissue an automatic restraint requirement or take other action regarding future occupant restraint requirements (41 FR 24070; June 14, 1976). Although he believed that automatic restraints were technologically and economically feasible, he did not reissue an automatic restraint requirement. Instead, he indefinitely extended the existing automatic and manual options (42 FR 5071; January 27, 1977).

To deal with the problem raised in the rulemaking record about possible public resistance to automatic restraints, he decided to conduct a program to demonstrate the effectiveness of those restraints and thereby reduce public misinformation and apprehension. To that end, he negotiated agreements with a number of vehicle manufacturers for the installation of airbags as options in up to one-half million passenger vehicles. The manufacturers required that the agreements include a provision freeing them from their obligation to manufacture such vehicles if the Department ever required installation of automatic restraint systems.

In 1977, then-Secretary Adams initiated another rulemaking (42 FR 15935; March 24, 1977) and issued a modified automatic restraint requirement (42 FR 34296; July 5, 1977), thereby freeing those manufacturers that had signed agreements with Secretary Coleman from their obligation to produce airbag-equipped vehicles. Secretary Adams disagreed with Secretary Coleman on the relevancy of public acceptability, although a Federal appeals court later held that public acceptability was a valid and necessary consideration under the Act (*Pacific Legal Foundation* v. *DOT*, 593 F.2d 1338, 1345–46 (D.C. Cir. 1979).) He also believed that most manufacturers would choose to use the airbag and accepted the arguments of vehicle and airbag system manufacturers about technical problems in complying. Therefore, the 1977 modified requirement provided for phased compliance—large vehicles would have to provide full automatic protection to front seat occupants beginning with MY 82, intermediate size vehicles by MY 83, and small vehicles by MY 84. The Adams requirement was submitted to Congress in accordance with the legislative mandate then in effect that any agency order establishing an automatic restraint requirement was subject to a two-House legislative veto. No veto resolution was passed.

At the time of Secretary Adams' decision in July 1977, the automatic restraint option continued to require, as it had since November 1974, that automatic belts be detachable to permit emergency release. In November 1978, however, the Department amended the Standard to allow manufacturers the option of making automatic belts either detachable or nondetachable (43 FR 52493; November 3, 1978). The Department stated that it did not believe that the alternative release mechanisms would cause serious occupant egress problems, if the manufacturers effectively instructed vehicle owners how to use those mechanisms. At the same time, the Department rejected the suggestion of some commenters that it issue requirements standardizing the new alternative mechanisms. The Department said that it was unclear which automatic belt systems would be most effective in encouraging belt use and at the same time be acceptable to the public.

In 1981, the Department examined a number of its regulations governing the automobile industry, including the automatic restraint requirement. To permit full review of the standard in order to determine whether changed circumstances warranted revision or rescission of the automatic occupant restraint requirement of FMVSS 208, the requirement's applicability to large vehicles was postponed for one year, until MY 1983 (46 FR 21172; April 9, 1981). (Among the changed circumstances to be considered was a consumer trend away from large vehicles and toward small vehicles, prompted both by their greater fuel efficiency and their generally lower costs. If, as some believed, large vehicles would soon no longer be offered by some manufacturers, it became questionable whether the manufacturers should have to incur the capital costs of compliance for these vehicles.) As part of its review, the Department also initiated a separate rulemaking to obtain public comment on whether the implementation schedule for the automatic restraint requirement should be changed and whether the requirement should be retained at all (46 FR 21205; April 9, 1981).

At the time of this latest rulemaking, it became evident that most manufacturers intended to meet the requirement by use of automatic belts; to overcome what they perceived as public opposition to continuous, non-detachable automatic restraints, the manufactures intended to provide a manual buckle on each automatic belt, which would allow the occupant to disconnect the belt. (Although once a belt was disconnected it became "active" in the sense that some action other than that needed to start the vehicle would be required to connect it, it was considered automatic because, when attached, the belt required no action by an occupant to gain its protection. At least part of the incentive to provide a means of rapid disconnect came from drivers who feared being trapped in a burning or submerged vehicle while wearing a safety belt.) At this time, given that it would be as simple to disconnect this form of automatic belt as it was to disconnect a manual belt, the Department revised sharply downward its estimate of the benefits that would result from the requirement. Since the estimate of benefits decreased drastically, the Department no longer believed that the requirement was reasonable and rescinded the rule in 1981.

Current Department of Transportation Programs

The rescission did not end the Department's efforts to promote automatic restraints. Through the Department's efforts, driver-only airbags will be installed in a number of vehicles within the next few years. At the Department's request, the General Services Administration (GSA) has asked for bids on 5,000 vehicles equipped with driver-only airbags for the Federal Government MY 85 fleet. The vehicles themselves will be purchased by GSA, with the Department paying the incremental price of the airbag. Of the major domestic automobile manufacturers, only Ford has expressed interest in furnishing such vehicles. The Department hopes that others (e.g., corporate fleet owners and large rental companies) will take advantage of the opportunity to purchase these automatic restraint systems and that the numbers in use will go well beyond 5,000.

The Department also has contracted for the development of an airbag retrofit kit by which existing police vehicles will be equipped with driver-only airbags. Police will be operating approximately 500 such vehicles in Arizona, California, Maryland, Mississippi, Ohio, and Wisconsin. (The criteria used for selecting the participating police departments included the existence of a centralized vehicle maintenance program, which would facilitate airbag installation and monitoring of the airbag vehicles, and the existence of a requirement within the departments for safety belt usage.)

In addition, since 1981, the Department has conducted a campaign to increase seatbelt usage. Through a variety of means, including advertising and education, the Department is trying to encourage more people to use their seatbelts. We have attempted to involve a broad spectrum of the population and have been working with such diverse groups as service and volunteer organizations, medical and health groups, State and local governments, corporations and the media.

By initiating these projects, the Department hoped to demonstrate the value of restraint systems and also foster their availability to, and use by, the public.

Current Requirements

At present, FMVSS 208 (with the automatic restraint requirements suspended) gives manufacturers the choice of complying with one of the following three *options* for providing protection to front seat occupants in passenger cars:

1. Meet the injury protection criteria of the standard by automatic means in frontal and front angular crash tests; also, either provide automatic crash protection in a lateral and roll-over crash test or provide a manual lap belt or a combination of a manual lap belt and shoulder belt at each seating position.

2. Meet the injury protection criteria of the standard by automatic means in a frontal crash test and provide a manual lap belt or a combination of a manual lap belt and a shoulder belt for each front seating position.

3. Provide, at each front outboard designated seating position, either a manual lap belt or a combination of a manual lap belt and a shoulder belt.

Each belt system must have a belt warning system that operates a continuous or flashing light and a buzzer, for not less than 4 seconds nor more than 8 seconds, when the car is started and the driver's belt is not used.

Compliance with the injury protection criteria included in the first two options is measured by means of an instrumented test dummy. During a crash test, the force and acceleration readings taken on the head, chest and legs of the test dummy cannot exceed certain specified levels that are designed to prevent or reduce injuries.

All belts must have an emergency release mechanism that is readily accessible to an occupant. Manual belts must be equipped with a push button release. Manufacturers can use various methods to provide emergency release for automatic belts, such as a push button release or a spool release (i.e., a design that would allow the belt to unwind from the retractor to provide sufficient slack to open the door and allow the occupant to exit).

Current Occupant Restraint Technology

Manual belts

Manual belts are safety belts that will provide protection in a crash if the occupant places the belt around himself or herself and attaches it. Manual belts come in two types, lap belts that fit around the pelvic region and combined lap and shoulder belts. Manual shoulder belts are equipped with inertia reels that allow the belt webbing to play out so that the occupant can reach forward freely in the occupant compartment under normal conditions, but lock the belt in place in a crash. To remind occupants to use their belts, FMVSS 208 requires the installation of a brief audible and visible reminder.

Automatic belts

The automatic belt is similar in many respects to manual belts but differs in that it is attached at one end between the seats in a two front seat car and at the other end to the interior of the door or, in the case of a belt with a motorized anchorage, to the door frame. The belt moves out of the way when the door is opened and automatically moves into place around the occupant when the door is closed. Thus, the occupant need take no action to gain the protective benefits of the automatic belt.

Automatic belt designs differ in the number of belts used. Some designs consist of a single diagonal shoulder belt (2-point belt) with a knee bolster to prevent the occupant from sliding forward under the belt. Other designs include both a lap and a shoulder belt (3-point belt).

The designs differ also in the features and devices included to encourage belt use by motorists and at the same time allow for emergency egress if the car door cannot be opened following a crash.

One design takes advantage of the opportunity for the manufacturer to include, on a strictly voluntary basis, an ignition interlock. The belt in that design detaches from the door, but must be reattached before the car can be started the next time. This type of automatic belt (2-point belt with knee bolster) has been installed in more than 390,000 Volkswagen (VW) Rabbits over an eight-year period beginning in 1975. It was also installed on a small number of 1978–79 GM Chevettes. It is still available as an option on Rabbits.

Another design is similar in that the belt detaches, but there is not any ignition interlock. The belt may be detached and left that way without affecting the starting of the car. This was the type of automatic belt that most manufacturers had planned to use in complying with the automatic restraint requirement before the agency issued its rescission order. It was briefly offered by General Motors as a consumer option on a Cadillac model.

A third type of automatic belt is a continuous belt that does not detach at either end. Some continuous belts use a spool release, which plays out additional webbing length. Sufficient slack is created so that the motorist can lift the belt out of his or her way and exit in an emergency. Another type of continuous belt with a spool release mechanism is the motorized belt. The belt's anchorage is not fixed to the door, but runs along a track in the interior side of the door's window frame. When the door is opened, the anchorage moves forward along the track, pulling the belt out of the occupant's way. When the door is closed, the process is reversed so that the belt is placed around the seated occupant. This type of continuous belt has been installed in all Toyota Cressidas for the last several model years.

Another type of continuous belt was installed on a small number of 1980 Chevettes. The belt consisted of a single length of webbing that passed through a ring near the occupant's inboard hip and served both as a lap and shoulder belt.

The end of the lap belt that was connected to the lower rear corner of the door could be detached from the door. However, the end could not be pulled through the ring. Thus, the effect of detaching the lap belt was to create an elongated shoulder belt. The extra slack in the belt system enabled occupants to get out of their belt in the event of an emergency.

Other variations in automatic belt designs and combinations of features are possible.

Airbags

Airbags are fabric cushions that are very rapidly filled with gas to cushion the occupants against colliding with the vehicle interior when a crash occurs that is strong enough to register on a sensor device in the vehicle. When such a crash is sensed, there is rapid generation or release of gas to inflate the bag. (Generally, the bag will inflate at an impact of slightly over a barrier equivalent speed of 10 miles per hour.) The most widely known means of generating the gas is through use of sodium azide. Although the substance is toxic, it is stored in a sealed container and is converted into harmless nitrogen gas when a crash occurs. After the crash, the bag quickly deflates to permit emergency egress.

In 1972–1976, General Motors produced approximately 11,000 full-sized Chevrolets, Buicks, Oldsmobiles and Cadillacs equipped with airbags. During the same period, Ford installed airbags in 831 Mercurys. A small number were installed in Volvos also. Today, only a single manufacturer, Mercedes Benz, has any immediate plans for offering airbags in the United States. That company will be offering airbag-equipped cars in this country beginning in the 1984 model year. Mercedes Benz began selling airbag cars in late 1980. Since then, it has sold approximately 22,000 of those cars, with most sales falling within the last year or so.

Usage of Occupant Restraint Devices

General

To determine the overall benefits from a particular type of safety belt system, NHTSA has typically considered observed or reported usage by the general motoring public together with the effectiveness of that type of restraint in preventing deaths and injuries when it is used. However, 1978–80 data from the Department's National Accident Sampling System and its National Crash Severity Study suggest that the more relevant usage rate may be that reported in accidents involving death or injury. The data indicate that there is an inverse relationship between belt usage in crashes and the severity of the crash; that is, people involved in more severe accidents use their restraint systems less often than the general driving public. Since injuries are more likely to occur in the more severe crashes, the belt usage rates in those crashes may be better for predicting expected benefits. As explained more fully in the Preliminary Regulatory Impact Analysis, the Department lacks the necessary data to develop a factor that would reduce the benefits of observed belt usage in general to account for a difference between it and reported belt usage in accidents.

Manual belts

Despite the various changes to seatbelt designs to improve the convenience of belt usage (replacing separate lap and shoulder belts and buckles with an integrated lap and shoulder belt having a single buckle and adding an inertia reel to give occupants freedom of movement) and to remind occupants to use their belts (adding brief audible and visible reminders), the rate of manual belt usage has not changed substantially over the 15-year history of FMVSS 208. Even the ignition interlock, which initially produced usage rates in the range of 60 to 70 percent in cars equipped with manual belts, lost much of its ability to induce usage after a several-year period, with usage decreasing each year.

Based on observations made in 19 cities across the United States in the spring of this year, the overall safety belt usage rate for front seat occupants is slightly above 12 percent. This information also shows that usage varies significantly by seating position—13.8 percent for drivers, 8.4 percent for passengers in the right front seat, and 5 percent for passengers in the center seat. The Department expects that these figures will rise somewhat in response to its seatbelt use campaign, but cannot currently estimate the likely extent of that increase. Overall usage has increased two percent, however, since the program started.

Departmental studies have noted other interesting statistics on usage of manual belts.

- Import cars have substantially higher seatbelt usage than domestic cars (For example: Subcompact domestic usage was 12.3 percent while subcompact import usage was 22.1 percent in 1981–82.)
- Seat belt usage increases as car size decreases. (In 1981–82, usage was 16.8 percent for subcompacts, 10.5 percent for compacts, 7.4 percent for intermediates and 5.4 percent for full-size cars.)
- Newer cars have higher usage than older cars. (In 1981–82, the usage of MY 81–83 cars was 16.0 percent; the usage in MY 79–80 cars was 13.6 percent, etc.)

Automatic belts

The agency believes that the usage rates for automatic belts could vary substantially depending on the particular design used. Departmental observations made during 1980–82 of VW Rabbits equipped with detachable automatic belts coupled with ignition interlocks showed usage rates of 86 percent. A lower usage rate was indicated by data drawn from automatic belt equipped Rabbits involved in police reported accidents. Those data indicate a usage rate of 54 percent. One explanation for the differences in rates might be that those more likely to wear a safety belt are less likely to be involved in accidents. A 1978–79 General Motors study of rental Chevettes indicates that a continuous buzzer (one that will not stop until the seatbelt is buckled) doubles occupant use of seatbelts.

A second type of automatic belt is the continuous automatic belt. A 1980 Departmental telephone survey of owners of 1980 GM Chevettes equipped with a version of that system indicated a usage rate of 70 percent. This figure in all likelihood overstates the actual usage rate in those vehicles. As surveys involving the VW Rabbits have shown, usage rates determined on the basis of telephone surveys are typically higher than rates determined for the same types of cars on the basis of roadside observations. There are insufficient data to estimate the usage of the motorized continuous belts that have been installed in Toyota Cressidas.

A third type of automatic belt is the detachable automatic belt which is not coupled with an ignition interlock. Limited data on this type belt is provided in the 1978–79 General Motors study of rental Chevettes.

Airbags

Since the provision of impact protection benefits by airbags is totally independent of the question of usage, the relevant question is one of effectiveness and technological reliability. In promulgating the automatic restraint requirement in 1977, the Department made the judgment that airbag technology was already highly reliable and by the effective date of the automatic restraint requirement (September 1981) would have reached the stage where airbags would function properly in virtually all instances. Based on available information, the Department continues to believe that they are highly reliable and would function properly.

Effectiveness of Occupant Restraint Devices

General

As used in this NPRM, "effectiveness" means the ability of a restraint system, when used, to reduce injuries or fatalities. The estimates in this section indicate the effectiveness of occupant restraints in preventing deaths and injuries by comparing the number of deaths and injuries that would occur when no restraint is used to the number that would occur if a belt or airbag were used. Thus, if 100 deaths would occur if no restraints were used and 45 would occur if a particular type of restraint were used, that restraint would be said to be 55 percent effective in reducing deaths.

The estimates on effectiveness, thus, are based on a properly buckled belt and deployed airbag. The estimates are determined independent of the differing usage rates for those types of restraints. As noted above, the usage rates are lowest for manual belts and highest for airbags, with automatic belts in between. Therefore, comparison of the benefits of those restraints requires consideration of both usage figures as well as effectiveness figures.

The effectiveness of any type of restraint depends on the conditions of the crash. No restraint can be effective if the crash is so severe that the passenger compartment is crushed or objects penetrate it. Different types of restraints may be more or less effective in frontal, side or rear collisions or in roll overs. While the effectiveness of any system can be measured separately in laboratory crash tests for any single condition, the on-the-road effectiveness of a particular restraint system depends on the frequency of the different types and severity of crashes.

Manual belts

Based on data in the 1977–79 National Crash Severity Study and rounded to the nearest 5 percent, the Department's estimates of manual lap and shoulder belt effectiveness at 50 percent for fatalities, 65 percent for moderate to critical injuries. Data from the Department's Restraint System Evaluation Project indicate that the estimated effectiveness for minor injuries is 11 5 percent.

Automatic belts

A 1981 study by the Highway Research Center at the University of North Carolina comparing the effectiveness of VW Rabbit belt systems in accidents indicated that 2-point automatic belts with a knee bolster were equally effective as manual lap and shoulder belts. However, the Department believes that the effectiveness issue for automatic belts is insettled. In June 1981, the Canadian government (Transport Canada) released a paper that included a discussion implying that automatic belts may not be as effective as manual 3-point belts.

For the 2-point automatic belt system and knee bolster, the absence of a lap belt may result in the 2-point belt being less effective in preventing ejection. Also, the door mounted belt will have little capability of restraining an occupant in the event of accidental door opening during a collision.

The Department has data on only one type of automatic belt system (a 2-point belt with a knee bolster). Based on previous submissions to the rulemaking docket on this subject, the Department expects that many manufacturers will use a 3-point automatic lap-shoulder belt design. For 3-point automatic belts, Transport Canada concluded that there is little reason to believe the effectiveness should not be essentially the same as for 3-point manual belts, except in cases where the anchorage points on the door are outside the area of the vehicle prescribed by FMVSS 210. (It should be noted that the Department has provided a waiver from FMVSS 210 if manufacturers meet the automatic protection requirements of FMVSS 208.) However, Transport Canada's testing indicated less effective control of the dummy and markedly higher chest loads with the automatic 3-point system.

Given the uncertainty regarding actual restraint usage in accidents, the Department cannot precisely estimate the effectiveness of the VW Rabbit automatic belts, compared to unrestrained occupants. The North Carolina study indicates that the VW automatic belt has about the same effectiveness as the VW manual belt—for fatalities, this effectiveness would be 50 percent. The Department's analysis of VW Rabbit occupant fatalities coupled with various estimates of automatic and manual belt usage indicates a fatality effectiveness range of 39 to 55 percent, which is basically in agreement with the North Carolina study.

Airbags

To obtain maximum protection in not only frontal, but also side and roll-over accidents, occupants must use a lap belt to supplement the airbag. In connection with the issuance of the automatic restraint requirement in 1977, the Department estimated that the airbags and lap belts were 33 percent effective in reducing moderate injuries, 45 percent in reducing severe injuries and 66 percent effective in preventing serious to fatal injuries. The comparable figures for airbags alone were 22 percent for moderate injuries, 30 percent for severe and 40 percent for fatal. Those estimates were based primarily on laboratory results and engineering judgment. Based on reassessments of previous analysis, the Department believes the previous estimates of airbag effectiveness may have been overstated. In estimating benefits for airbags, the Department has assumed that the effectiveness of the airbag plus lap belt in preventing serious to fatal injuries may fall in the range of 20 to 44 percent, has made similar modifications to the other 1977 effectiveness estimates, and has assumed that lap belt usage would be the same as currently observed seat belt usage.

Benefits of Occupant Restraint Devices

Safety

By considering the usage and effectiveness figures together, the Department can estimate the safety benefits likely to be achieved by different restraint systems. In view of the uncertainty over usage rates for some types of belt restraints and the effectiveness of airbags, the Department has developed tables showing how the amount of potential safety benefits would vary over a range of usage rates and assumed levels of effectiveness.

The severity of injuries in the tables is expressed in terms of the Abbreviated Injury Scale (AIS). The scale used is based on the following AIS definitions:

AIS injury level	
0	No injury.
1	Minor (e.g. cuts or bruises).
2	Moderate (e.g., simple fracture).
3	Serious (e.g., compound fracture or dislocated major joints).
4	Severe (e.g., amputated limbs, depressed skull fracture, survivable organ injuries).
5	Critical (e.g., major spinal cord injury, critical organ injuries).
6	Maximum, currently untreatable.

Virtually all AIS 6 injuries and over 50 percent of all AIS 5 injuries result in fatalities. (Statistically, these AIS 5 injuries are moved to AIS–6 if fatalities result.) It is, also, not unusual for an AIS

VOL 48 ISS 203 OCT 19 1983 UMI

3-4 injury to result in a fatality to an elderly person or a person with special medical problems.

Table 1 shows that 13,100 lives could be saved if everyone wore their manual seatbelts; this is equivalent to 131 lives saved for every 1 percentage point increase in usage. If everyone wore automatic belts, 10,200–14,300 lives could be saved. Airbags could save 5,200 to 11,400 fatalities.

TABLE 1 27A

ANNUAL NUMBER OF FATALITIES REDUCED+ AT FULL IMPLEMENTATION ASSUMING A MANUAL BELT WITH 50 PERCENT EFFECTIVENESS FOR DRIVER AND FRONT RIGHT PASSENGER AND 40 PERCENT FOR FRONT MIDDLE LAP BELT

USAGE	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
10%	970	20	320	1,310
Current*	1,340	10	270	1,620
20	1,940	30	640	2,610
30	2,910	50	960	3,920
40	3,880	60	1,280	5,220
50	4,850	80	1,600	6,530
60	5,820	90	1,920	7,830
70	6,790	110	2,240	9,140
80	7,760	120	2,560	10,440
90	8,730	140	2,880	11,750
100	9,700	150	3,210	13,060

ANNUAL NUMBER OF FATALITIES REDUCED+ ASSUMING AUTOMATIC BELT EFFECTIVENESS IS IN THE RANGE OF 39-55 PERCENT FOR DRIVER AND FRONT RIGHT PASSENGER AND 40 PERCENT FOR FRONT MIDDLE LAP BELT

USAGE	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
Current*	1,040- 1,470	10	210- 300	1,260- 1,780
50%	3,780- 5,330	80	1,250-1,760	5,110- 7,170
100%	7,560-10,660	150	2,500-3,530	10,210-14,340

ANNUAL NUMBER OF FATALITIES REDUCED ASSUMING VARIOUS AIR BAG EFFECTIVENESS ESTIMATES (USAGE AT 100%)

EFFECTIVENESS**	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
1977 Analysis***	8,530	160	2,690	11,380
40%	7,760	150	2,560	10,470
30%	5,820	110	1,920	7,850
20%	3,880	80	1,280	5,240

* Current usage is 13.8% Driver, 5% Front Middle and 8.4% Front Right.

** Overall effectiveness, including lap belt usage at current usage rates.

*** Overall air bag effectiveness including lap belt usage is 44 percent driver, 41 percent front middle, and 42 percent front right.

\+ The values shown for manual or automatic belts must be considered as upper limits since they do not account for the apparent lower usage of safety belts by those involved in accidents as compared to the general population.

Table 2 shows that 235,000 AIS 1 injuries would be avoided if everyone wore their seatbelts; this is equivalent to 2,350 AIS 1 injuries avoided for every 1 percentage point increase in usage. If airbag effectiveness is 10 percent, 205,000 AIS 1 injuries could be avoided. Airbag effectiveness is low for the minor AIS 1 injuries becasue the airbag is not triggered in the low speed crashes where many of the injuries occur.

TABLE 2 27B

ANNUAL NUMBER OF AIS 1 INJURIES REDUCED+ AT FULL IMPLEMENTATION ASSUMING A BELT RESTRAINT SYSTEM WITH 11.5% EFFECTIVENESS FOR DRIVER AND FRONT RIGHT PASSENGER AND 10 PERCENT FOR FRONT MIDDLE

USAGE	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
10%	16,650	300	6,570	23,520
Current*	22,980	150	5,520	28,650
20	33,300	600	13,130	47,030
30	49,960	900	19,700	70,560
40	66,610	1,210	26,270	94,090
50	83,260	1,510	32,830	117,600
60	99,910	1,810	39,400	141,120
70	116,560	2,110	45,970	164,640
80	133,220	2,410	52,530	188,160
90	149,870	2,710	59,100	211,680
100	166,520	3,020	65,670	235,210

ANNUAL NUMBER OF AIS 1 INJURIES REDUCED ASSUMING 1-10% AIR BAG EFFECTIVENESS

EFFECTIVENESS	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
1%	14,480	300	5,710	20,490
10%	144,800	3,020	57,100	204,920

* Current usage is 13.8% Driver, 5% Front Middle and 8.4% Front Right.

\+ The values shown for manual or automatic belts must be considered as upper limits since they do not account for the apparent lower usage of safety belts by those involved in accidents as compared to the general population.

Table 3 shows that 233,000 AIS 2–5 injuries would be reduced if everyone wore their seatbelts; this is equivalent to 2,330 AIS 2–5 injuries reduced for every 1 percentage point increase in usage. Airbags could reduce 72,000 to 180,000 AIS 2–5 injuries.

TABLE 3 27C

ANNUAL NUMBER OF AIS 2-5 INJURIES REDUCED AT FULL+ IMPLEMENTATION ASSUMING A BELT RESTRAINT SYSTEM WITH 65% EFFECTIVENESS FOR DRIVER AND FRONT RIGHT PASSENGER AND 45% EFFECTIVENESS FOR FRONT MIDDLE

USAGE	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
10%	18,570	230	4,470	23,270
Current*	25,620	120	3,750	29,490
20	37,130	460	8,940	46,530
30	55,700	690	13,410	69,800
40	74,260	920	17,880	93,060
50	92,830	1,150	22,340	116,320
60	111,390	1,380	26,810	139,580
70	129,960	1,610	31,280	162,850
80	148,520	1,840	35,750	186,110
90	167,090	2,070	40,210	209,370
100	185,650	2,300	44,690	232,640

ANNUAL NUMBER OF AIS 2-5 INJURIES REDUCED ASSUMING VARIOUS AIR BAG EFFECTIVENESS ESTIMATES (USAGE AT 100%)

EFFECTIVENESS	DRIVER	FRONT MIDDLE	FRONT RIGHT	TOTAL
50%	142,810	2,590	34,380	179,780
40%	114,250	2,070	27,500	143,820
30%	85,690	1,550	20,630	107,870
1977 Analysis (27%)	77,120	1,340	18,560	97,020
20%	57,120	1,030	13,750	71,900

* Current usage is 13.8% Driver, 5% Front Middle and 8.4% Front Right.

\+ The values shown for manual or automatic belts must be considered as upper limits since they do not account for the apparent lower usage of safety belts by those involved in accidents as compared to the general population.

Insurance

The potential reduction in fatalities and injuries that could result from mandated automatic restraints could produce a corresponding decrease in funeral, medical, and rehabilitation expenses. The reduction in these and other expenses associated with fatalities and injuries that are traditionally covered, at least in part, by insurance policies, would decrease insurance company payouts. Since insurance premiums are generally based on loss experience, it is assumed that consumers would also benefit through lower annual insurance premiums. Generally, three types of insurance plans provide coverage for injuries suffered in automobile accidents; automobile insurance, health insurance, and life insurance. (Life insurance savings were not included in total insurance savings in the Preliminary Regulatory Impact Analysis because payments on life insurance policies will eventually be made regardless of the time of death. Savings for this type of insurance are, therefore, only equal to the present discounted value of the difference between the cost of making payments at a later date and those of making such payments earlier. An initial examination by the Department indicates that this value will not be significant enough to warrant a full analysis.)

Table 4 summarizes the potential automobile insurance premium benefits resulting from various usage rates that might occur for automatic belt systems, as well as those associated with the range of effectiveness rates expected for airbags. Over the life of each vehicle, the discounted value of insurance savings (assuming a 10 percent discount rate and a 10 year vehicle life) would range form $72 to $215 for cars equipped with airbags. These savings would be partially offset by the costs of replacing deployed airbags. Further discussion of this point is contained in the Preliminary Regulatory Impact Analysis. Spread over the entire vehicle fleet (including uninsured vehicles) the discounted value is $53 to $160. For belt systems, the savings would depend upon usage rates but could be as high as $197 per insured car ($147 when spread over all cars) if usage rose to 80 percent.

VOL 48 ISS 203 OCT 19 1983 UMI

28A

TABLE 4

SUMMARY OF POTENTIAL AUTOMOBILE LIABILITY INSURANCE PREMIUM SAVINGS,**

AIR BAGS AND AUTOMATIC BELTS

(1982 $)

AUTOMATIC BELTS: USAGE RATE	PER INSURED VEHICLE ANNUAL SAVINGS	PER INSURED VEHICLE LIFE-TIME*	PER VEHICLE (INCLUDES UNINSURED) ANNUAL SAVINGS	PER VEHICLE (INCLUDES UNINSURED) LIFE-TIME*	TOTAL ANNUAL SAVINGS (M)
20	3	20	2	15	287
30	7	50	5	37	709
40	11	80	9	60	1,131
50	16	108	12	81	1,537
60	20	139	15	103	1,959
70	25	169	19	126	2,381
80	29	197	22	147	2,786
AIR BAGS:EFFECTIVENESS					
20	11	72	8	53	1,013
44	32	215	24	160	3,039

* Present discounted value over 10 year lifetime at 10% discount rate.

** The values shown for manual or automatic belts must be considered as upper limits since they do not account for the apparent lower usage of safety belts by those involved in accidents as compared to the general population.

The Department's Preliminary Regulatory Impact Analysis also estimated the potential reduction in health, government, and workers compensation under the various automatic restraint alternatives. The Analysis showed that between $135 million and $1.4 billion could be saved annually. Based on current projections, in 1995, the U.S. population should be roughly 260 million persons. Assuming that 85 percent of the people are covered by some form of health insurance (as is the case today), these reductions represent an annual savings of between $0.60 and $7.00 per insured individual. The discounted value of future health insurance savings (1982 dollars) expressed on a per vehicle basis (128 million vehicles) would be in the range of $7 to $75.

Public Acceptance

Public attitude toward belt usage

In response to the low rate of manual belt usage, numerous studies have been conducted to determine why people do or do not wear their belts. For example, according to a 1978 study by Tekenekron, Inc., 68 percent of the respondents who use their belts less than half the time explained their nonuse on the grounds that belt use was bothersome or inconvenient or that they simply forget to use belts. In addition, 14 percent of the group said that belts were uncomfortable. A 1977 study funded by General Motors found the following factors to have a significant effect on belt usage: overall feelings about the necessity of using belts; requests by drivers for their passengers to use belts; comfort and convenience of belt use; belt design complexity; car size; events such as adverse weather conditions; and demographic characteristics.

On the whole, available evidence indicates that there is considerable opposition in the United States to efforts through the force of law or technological means to compel the use of safety belts. Although the ignition interlocks on MY 74–75 cars were producing very substantial increases in safety belt usage at the time, the reaction of some members of the public induced Congress to enact legislation against those devices.

The letters to the agency during this period (which are contained in the public rulemaking docket on this subject) and the legislative history of that legislation indicate that the antipathy of these persons went beyond the particular technological means being used to compel motorists to use their safety belts. A basic philosophical objection was made to any direct or indirect governmental effort to reduce or remove freedom of choice regarding belt usage.

Further indication that the lack of full public acceptance of compelled belt usage extends beyond the ignition interlock is provided by the absence of State mandatory safety belt usage laws. Belt usage laws have been enacted by approximately 26 foreign countries, including most Western European nations, and by four Canadian provinces. However, in the 10 years since the Department's National Highway Traffic Safety Administration held a National Safety Belt Usage Conference and Congress enacted a program for making incentive payments to States enacting such laws (23 U.S.C. 402(j)), not a single State has done so. The only U.S. jurisdiction with such a law are Puerto Rico and Brooklyn County in Ohio, and they adopted their laws in the 1970's. Congress quickly repudiated the incentive concept in the face of the rising public sentiment against the ignition interlock. After providing funds for the first year of the program's operation, Congress declined thereafter to appropriate any additional funds.

The idea of safety belt use laws is, however, still alive. Bills were introduced in approximately 15 State legislatures last year, although none were enacted. However, public opinion polls taken in several States indicate that a majority of the public (Michigan: 67 percent, New York: 56 percent, and Delaware: 69 percent) favor safety belt usage laws.

Further, most of the States have been willing in recent years to adopt mandatory usage laws for young children. Since 1977, 40 States have passed legislation requiring the use of child restraints.

It may be argued that the purchase to date of more than 390,000 cars equipped with automatic belts could be interpreted as indicating the receptivity of the public to that form of technologically compelled belt usage. The Department is very hesitant to draw any conclusions from these purchases about the attitude of the general public. We recognize that a significant portion of the purchasers of these cars state that they did not expressly request that their cars be equipped with automatic belts and did not know that such belts would come with their cars. However, based on the experience of the interlock, we believe that for many members of the public there could be a major difference between the purchase of an automatic belt-equipped car at a time when most cars do not have such belts and the purchase of such a car at a time when most cars had automatic belts as a result of a requirement by the Federal government for automatic restraints. By comparison, the former purchase of an automatic belt-equipped car is voluntary while the latter would be involuntary. A person who did not like automatic belts would have no one to blame except himself in making the former purchase. However, if such a person made the latter purchase, he might well be hostile toward the automatic belts and might disconnect and, even worse, remove them since their presence in his car would be the result of a governmental mandate and would represent to him governmental interference in his choice of whether to use safety belts. We would like to receive public comment on this issue.

Safety benefits and convenience versus cost and other factors

Ultimately, the acceptability of particular occupant restraint systems will depend on the public's perception of their safety benefits and convenience as compared to offsetting factors such as costs and possible safety hazards. Public reaction becomes particularly important if the public fails to appreciate the safety benefits of a particular restraint system and overestimates the negative factors, to the extent that it is led to oppose and cause the rejection of that system, as in the case of the interlock/manual belt system.

Cost of Occupant Restraint Devices

General

The cost figures in this section are given in 1982 dollars and based on a production volume of one million units per year. That level was selected primarily because the Department believes it is reasonable to expect that it will be achieved for each type of restraint under one or more of the alternatives and because price is not very sensitive to volume above that level.

Manual lap and shoulder belt

Based on the Departmental analyses, the increase in a new car's price attributable to the addition of a manual lap and shoulder belt to the front outboard seating positions and a manual lap belt to the front center position is approximately $50. Industry estimates are $70. The added weight of the material installed to provide secure anchorage for the manual belt would increase fuel usage at a cost of $22 over the life of the car.

Automatic belt

For the various designs of automatic belts having a fixed anchorage on the door instead of a motorized anchorage, the increase in a new car purchase price over that for a car with manual seatbelts has been tentatively estimated at $80. Industry estimates are $90. The Department lacks sufficient information to make its own estimate for the cost of motorized automatic belts. According to industry, the consumer costs for these motorized belts are $180 more than for manual belts. The added weight of the material installed to provide secure anchorage for non-motorized automatic belts would increase fuel usage at a cost of $18 above that for a car with manual seatbelts, over the life of the car. The Department does not have a weight estimate for motorized belts.

Airbag

The Department estimates that the vehicle price increase resulting from the installation of airbags in all front seating positions of cars would be $320 over the cost of a car with manual seatbelts. The price of airbags is sensitive to volume changes. (For estimates of the consumer costs of airbags at different production levels, see Table V-4 of the Preliminary Regulatory Impact Analysis.) The Department lacks detailed, current industry estimates for a production volume of one million units. Estimates provided by Ford and General Motors in 1981 for lower production volumes (Ford: 200,000; GM: 400,000) are several times higher (Ford: $875; GM: $690–740) than the figures that the Department would estimate for those volumes. The difference between our estimates and industry's estimates is basically due to differences in design and pricing assumptions; this is more fully explained in the Preliminary Regulatory Impact Analysis. There would also be a fuel penalty of $38, above that for a car with manual seatbelts, for each car equipped with airbags, over the life of the car.

II. Timetable

In the September 1, 1983, suspension notice, we stated that we intend to expedite this rulemaking and reach a final decision as quickly as possible, well before the end of the one-year suspension. Because we recognize the importance of moving expeditiously on this matter, we are establishing a timetable for completion of Departmental action to be taken to comply with the decision of the Supreme Court. The timetable is as follows: After allowing 60 days for public comment on this NPRM and holding the public meetings scheduled between November 28 and December 6, we will take no more than 120 days to analyze and respond to that public comment and prepare a final decision on this matter. In addition, during this time, we will also obtain the necessary review by the Office of Management and Budget under E.O. 12291. We anticipate publishing the final decision document on or before April 12, 1984. It is possible that, as a result of public comment, we may narrow the alternatives to one or more that were not clearly set forth in this NPRM. In that event, we would be unable to issue a final rule under the Administrative Procedure Act unless we first provided the public with an opportunity to comment on such alternatives. In that case, we would issue a supplemental notice of proposed

VOL
48
ISS
2
0
3
OC
19
1983
UMI

rulemaking (SNPRM) on or before April 12, 1984, in lieu of the final decision document. Thirty days would be allowed for public comment on the SNPRM and another 60 days to develop the final decision document. The final decision would, therefore, be published by July 11, 1984.

In establishing a schedule, it must be recognized that some circumstances are outside our control. We can, for example, only estimate the number of public comments and the substance and detail we expect those comments to provide. If the public comments are more extensive or complex than we expect, it will take longer to analyze and respond to them. Therefore, if it is necessary to go beyond any scheduled date set forth in this document, we will publish a notice in the Federal Register providing a new expected publication date.

III. Proposals

General

This notice is being issued to aid the Department in its strong commitment to carry out its vital mission of improving motor vehicle safety. No part of that mission is more important and can provide more benefits than protecting automobile passengers against injury when they are involved in a crash. Through this rulemaking, the Department is exploring various ways for providing reasonable and effective protection for these people.

The lengthy history of this rulemaking presents conflicting problems for the Department. On the one hand, we recognize that, in light of the amount of time that has elapsed since the Department initially proposed automatic restraints to reduce the number of passenger car occupant fatalities, we cannot permit our response to the Supreme Court decision to be unduly delayed. At the same time, we recognize that one of the reasons that such an extensive amount of time has been spent on this rulemaking is the controversy that it has generated. While we understand that concensus would be impossible, we do recognize that public acceptability is a very important ingredient of any rule. Experience has also clearly taught us that for any rule to be successful, the compliance method must be effective. In this regard, we are concerned about any changes in the state of the art as well as any new data being gathered on the effectiveness and efficiency of alternative devices.

In the section that follows, we have set forth proposals for Departmental action in accordance with the Supreme Court's decision. In discussing these proposals, we ask a number of questions or make a number of requests for data to help us obtain the kind of information we believe will facilitate our analysis. For easy reference, we have numbered the questions or requests consecutively throughout the document. We would like to stress, however, that we do not wish to limit public comment to these proposals or the questions and requests that we ask. We would also like to receive any other information that will aid our decisionmaking and would like to solicit any other suggestions or alternatives for complying with the Department's statutory responsibilities and the Supreme Court decision.

In providing a comment on a particular matter or in responding to a particular question, please provide any relevant factual information to support your conclusions or opinions, including but not limited to statistical and cost data, and the source of such information. (In this regard, it is noteworthy that the Supreme Court stated that "[t]he agency is correct to look at the costs as well as the benefits of Standard 208." *State Farm* at 2873.)

Range of Proposals and Fundamental Issues.

There are three regulatory actions that the Department can take in response to the Supreme Court decision. They are as follows:

1. *Amend the automatic occupant restraint requirements of FMVSS 208:* We could amend FMVSS 208; that is, we could decide, for example, to permit compliance only with either airbags or nondetachable seatbelts.

2. *Retain the automatic occupant restraint requirements of FMVSS 208:* We could adhere to FMVSS 208; that is, we could retain the substantive requirement for an automatic occupant restraint and establish a compliance date.

3. *Rescind the automatic occupant restraint requirements of FMVSS 208:* We could rescind the existing automatic occupant restraint requirements of FMVSS 208, after we, as the Supreme Court said, "consider the matter further" and provide additional justification.

Other steps are possible in conjunction with, or as a supplement to, one or more of the basic alternative proposals. We propose three in the NPRM. They are:

1. *Conduct a demonstration program:* As a preliminary step to action on one of the regulatory alternatives, we could conduct a demonstration program to help us gather more detailed and definitive data on public acceptability.

2. *Seek mandatory state.safety belt usage laws:* We could seek legislation that would establish requirements to provide incentives for the States to adopt and enforce safety belt usage laws.

3. *Seek legislation mandating consumer option:* We could seek legislation requiring manufacturers to provide consumers with an option of selecting airbags or automatic belts, if they prefer these over manual belts.

During the course of the rulemaking on automatic occupant restraints, three fundamental issues have been raised that are interwined with the altternative proposals set forth above. These three issues are:

1. *Compliance alternatives:* This issue essentially involves the question of whether we can make the rule more flexible and reasonable.

2. *Public acceptonce:* This issue involves the willingness of the public to accept a standard; acceptability is a necessity for any standard to be fully effective.

3. *Cost and technology information:* This issue involves cost and technical matters related to the various proposals.

Amend the Automatic Occupant Restraint Requirements of FMVSS 208

As one alternative, the Court indicated that the Department could amend FMVSS 208 if such a change is warranted; that is, we are not restricted to retaining the existing rule, as written, if we decide not to rescind it.

The following excerpts from the Court's decision are important to a discussion of this alternative:

- "Given the effectiveness ascribed to airbag technology by the agency, the mandate of the Safety Act to achieve traffic safety would suggest that the logical response to the faults of detachable seatbelts would be to require the installation of airbags." *State Form* at 2869.
- ". . . NHTSA did not suggest that the emergency release mechanisms used in nondetachable belts are any less effective for emergency egress that the buckle release system used in detachable belts. In 1978, when General Motors obtained the agency's approval to install a continuous passive belt, it assured the agency that nondetachable belts with spool releases were as safe as detachable belts with buckle releases." *State Form* at 2873.
- "The agency also failed to offer any explanation why a continuous passive belt would engender the same adverse public reaction as the ignition interlock, and, as the Court of Appeals concluded, 'every indication on the record points the other way.'" *State Farm* at 2873.

As a potential amendment to the existing 208 Standard, the Department could consider one of four major sub-alternative proposals; the first three are set forth below:

1. a requirement for automatic occupant restraints that could be satisfied only by installing either an airbag or a nondetachable, continuous belt in the automobile; (installation of a *detachable* automatic belt with an ignition interlock, such as the one in the VW Rabbit, would be prohibited.); three variations are proposed:

a. A requirement for automatic occupant restraints for the driver position only; manual or automatic restraints could be permitted for the other front seat positions;

b. A requirement for automatic occupant restraints for the outboard seat positions; manual or automatic restraints could be permitted for the middle seat positions; or

c. A requirement for automatic occupant restraints for all front seat positions; or

2. A requirement for airbags in all automobiles; three variations are proposed:

a. A requirement for airbags for the driver position only; manual or automatic restraints could be premitted for the other front seat positions.

b. A requirement for airbags for the outboard seat positions; manual or automatic restraints could be permitted for the middle seat position; or

c. A requirement for airbags for all front seat positions.

3. A requirement for automatic occupant restraints in all automobiles; two variations are proposed:

a. A requirement for automatic occupant restraints for the driver position only; manual or automatic restraints could be permitted for the other front seat positions; or

b. A requirement for automatic occupant restraints for the outboard seat positions; manual or automatic restraints could be permitted for the middle seat position.

Note that for sub-alternative 3, the third variation (paragraph c) for the first two sub-alternatives would be the same as retraining the rule that had been rescinded.

With respect to this proposal, the Department requests responses to the following:

1. Are the emergency release mechanisms used in continuous, nondetachable belts any less effective for emergency egress than the buckle system used in detachable belts?

2. Are other emergency release mechanisms for use with continuous, nondetachable belts available now or expected to be available in the near future? If so, please indicate when and provide other relevant data describing each mechanism and its cost.

3. Are there possible modifications to a detachable belt that would overcome the concerns about the potential lack of usage? Are there possible modifications to the nondetachable belts that would make them more acceptable and increase their use? Please provide a description of any such modifications, including an estimate of the time when they would be available and their costs.

4. Should the Department issue a regulation mandating the installation of airbags in all automobiles? For all front seat positions? For the driver and right front seat position? For the driver only?

5. Which automatic restraint system would achieve the highest overall protection rate in frontal and side impacts and roll-overs of any occupant restraint requirement that the agency could establish?

6. Would airbags avoid the types of concerns that many motorists have about safety belts: entrapment and comfort and convenience? Would it avoid a problem of continuous automatic belts: the concern, which some persons may have, that it gives motorists too little choice about whether to wear safety belts? Would it lessen concerns about having the government attempt to determine for the individual whether he or she should buy or use automatic restraints? (Unlike the automatic belt, the airbag does not touch or even come near a motorist except in the event of a crash.)

7. If the Department issued a rule that could be complied with only through the use of airbags or nondetachable belts, which would be used by the auto industry to comply and in what numbers or percentages? It would be helpful if, in supplying this information, further detail could be given (e.g., in what types of cars might particular devices be used). Please also provide an explanation as to the choice of restraint for particular models or car sizes.

8. What effect would the inability of a motorist to detach the continuous automatic belt at either end have a belt use and therefore on safety in the short run? In the long run? What would the magnitude of the effect be? Would the effect vary by car size? Is it appropriate to use the data on increases in usage brought about by the interlock/automatic belt system to estimate nondetachable automatic belt usage?

9. Studies indicate that twenty to forty percent of all motorists are—due to their personal philosophy about safety usage, fear of entrapment or other reasons—hard core nonusers of safety belts. (This range was based on comments to the docket and various studies; e.g., "1979 Survey of Public Perceptions on Highway Safety," Teknekron Research, Inc., and "Public Attitudes toward Passive Restraint Systems," 1978, Peter D. Hart Research Associates.) Are they likely to react adversely to a belt system that attempts to force them to wear a belt? Would many of these people attempt to find ways of defeating the nondetachable automatic belt? Since the belt cannot be disconnected, would users be likely to cut it out? What percentage of cars would lack any front seat occupant restraint systems as a result in the short run? In the long run?

10. Would a continuous, nondetachable belt engender the same kind of adverse public reaction as the ignition interlock? If so, why? Was the public antipathy in 1974 toward the ignition interlock directed more toward the interference with the starting of the car or toward being compelled to use a safety belt? Please provide an explanation or support for the answer given.

11. What is the likely long run usage rate of nondetachable belts in the event that virtually all new cars are equipped with those belts? What is the likely long run usage rate of detachable belts without ignition interlocks in the event that virtually all new cars are equipped with those belts? Would manufacturers voluntarily add ignition interlocks to detachable automatic belts? What effect would such an addition have on usage rates and public acceptance?

12. If, according to the 1978–79 General Motors Chevette Study, seatbelt usage is doubled by the use of a continuous buzzer, what percent of the increase consists of users who needed the extra "reminder" (in addition to the currently required four to eight second buzzer)? What percent of the increase resulted from those who put the belts on simply to stop the buzzer? In other words, what effect would a continuous buzzer have if it could be shut off by connecting the seatbelt or pushing a button? Are there any warning systems that would accomplish the same result as a continuous buzzer and still satisfy the statutory prohibition against a "continuous buzzer"?

13. The Department's estimate of the total cost for the current manual belts is about $20 lower than the industry estimate. The agency seeks auto manufacturer or supplier comment on the current cost of manual belt systems.

14. The cost of automatic belt systems appears to be much higher than the cost of manual belts of similar design.

VOL
48
ISS
203
OC
19
1983
UMI

Although there are additional components that would be expected to raise the consumer cost, detailed data are unavailable to verify the difference in the cost of the two systems. The agency is seeking comments on the cost of current designs of automatic belt systems. Of particular interest is the consumer cost of nondetachable belt systems, for which the agency has no current cost data.

15. On what future date should an amended rule be made effective? In providing information to support a particular date, please keep in mind the availability of the necessary parts as well as the leadtime necessary for the manufacturers to make the adjustments or modifications required for the installation of those parts.

16. Should the rule be phased in as earlier planned (i.e., large cars first, then intermediate, then small) or in some other manner? In responding to this question, please particularly take into account the changes in the makeup of the automobile fleet that have occurred since the initial phase-in approach was mandated.

17. What insurance savings would result from a requirement permitting only airbags for the entire front seat? For the outboard seats only? For the driver only? Airbags and nondetachable belts for the entire front seat? For the outboard seats only? For the driver only? Automatic occupant restraints for outboard seats only? For the driver only? Any other automatic system? What savings would be passed on to the insured? If none, please explain why not. How would the answer to these questions be affected by the particular restraint systems used and the numbers of cars in which they are used?

18. What insurance premium discounts, if any, are currently being offered to insureds who purchase automatic occupant restraint systems? What is the basis for determining the amount of the discount? Does the discount vary depending on the type of restraint and, if so, how? If no discounts are offered, please explain why not.

A fourth sub-alternative for amending the automatic restraint requirements of FMVSS 208 would be to require that the steering columns and/or dashboards of all new cars be designed so that they could accommodate an airbag. In order to adopte an amendment of this nature, the Department would have to respond to the concerns raise by the Supreme Court about the benefits of requiring airbags and automatic belts.

This approach could make airbags widely available to consumers as an option from manufacturers through their dealers and perhaps from after-market vendors as well. Currently, airbags are only available on Mercedes-Benz cars. We would appreciate responses to the following questions on this alternative:

19. What issues of compatibility between vehicle and airbag components would there be and how could they be resolved?

20. How would designing the car to permit retrofit capability affect the cost of the car?

21. How much would it cost to have an airbag installed by a dealer or in the after-market if approximately one million were purchased annually? Please indicate the price sensitivity of higher and lower volumes of sales.

22. How many consumers would voluntarily have their cars retrofitted with airbags?

23. How would the effectiveness of manufacturer-installed airbags compare with that of dealer—or after-market—installed airbags?

24. What method or methods should be used in compliance testing to ensure performance of components and vehicles?

Retain the Automatic Occupant Restraint Requirements of FMVSS 208

Under this alternative, the Department would retain FMVSS 208 as it existed prior to the 1981 rescission. As the Supreme Court noted, FMVSS 208 was upheld by the United States Court of Appeals for the District of Columbia Circuit in 1979 and survived the scrutiny of Congress, which did not exercise its legislative veto authority.

With respect to this proposal, we would appreciate responses to the following:

25. Are there systems, devices or modifications other than those described in this NPRM, that are available now or expected to be available in the near future and that would comply with the automatic occupant restraint requirement? Please provide a description of such systems, devices, or modifications, including an estimate of the time when they would be available and their costs.

26. If the Department required an automatic occupant restraint system that could be complied with through the use of airbags, detachable belts, or nondetachable belts, which would be used by the automobile industry, and in what numbers or percentages, to comply with the regulation? It would be helpful if, in supplying this information, further detail could be given (e.g., in what types of cars particular devices might be used). Please also provide an explanation as to the choice of restraint for particular models or car sizes.

27. Please provide any new data on the usage, effectiveness, or acceptability of the various automatic occupant restraints. Should the Department impose only a "temporary" final rule (i.e., a final rule effective for only a limited number of model years) that would be subject to subsequent evaluation of the systems used to comply with the regulation, in order to determine whether any modifications to the rule would be necessary at a later date? How long a period would be necessary for the "temporary" rule and then for the evaluation?

28. If the manufacturers were to comply with FMVSS 208 through the use of only one method, the Department would not be able to gather data on the use and effectiveness of other alternatives. In this regard, how could the Department obtain adequate data on the various alternatives for subsequent evaluation? Are there other ways to encourage the use of different means of compliance?

29. What other means are available for determining the use and effectiveness of the various systems capable of meeting an automatic occupant restraint requirement?

30. Are there problems with the junking and scrapping of cars with undeployed airbags? If so, what are the potential solutions to the problems?

31. What insurance savings would result from retaining the automatic restraint requirements of FMVSS 208? What savings would be passed on to the insured? How would the answer to this question be affected by the particular restraint systems used and the numbers of cars in which they are used?

32. On what date could the rule be made effective? In providing information to support a particular date, please keep in mind the availability of the necessary parts as well as the lead time necessary for the manufacturers to make the adjustments or modifications required for the installation of those parts.

33. Should the rule be phased in?

Rescind the Automatic Restraint Requirements of FMVSS 208

Under this alternative, the Department would rescind the automatic occupant restraint requirements of FMVSS 208. The Supreme Court, throughout its decision, indicated that it was not foreclosing the Department from re-scinding the requirement, if it could justify its action. In particular, the Court held that the "agency must cogently explain why it has exercised its discretion in a given manner", *State Farm* at 2869, where inadequate. Thus, to rescind the requirement for an automatic occupant restraint system, the Department would have to "cogently explain" its decision, addressing the Court's concerns with the 1981 rescission, as reflected in the following excerpts's:

- "At the very least this alternative way [the installation of airbags] of achieving the objectives of the Act should have been addressed and adequate reasons given for its abandonment." *State Farm* at 2869.
- "[G]iven the judgment made in 1977 that airbags are an effective and cost-beneficial life-saving technology, the mandatory passive-restraint rule may not be abandoned without any consideration whatsoever of airbags-only requirement." *State Farm* at 2871.
- "Rescission of the passive restraint requirement would not be arbitrary and capricious simply because there was no evidence in direct support of the agency's conclusion. It is not infrequent that the available data does not settle a regulatory issue and the agency must then exercise its judgment in moving from the facts and probabilities on the record to a policy conclusion. Recognizing that policymaking in a complex society must account for uncertainty, however, does not imply that it is sufficient for an agency to merely recite the terms 'substantial uncertainty as a justification for its actions. The agency must explain the evidence which is available, and must offer a 'rational connection between the facts found and the choice made' . . . [Citations omitted] Generally, one aspect of that explanation would be a justification for rescinding the regulation before engaging in a search for further evidence." *State Farm* at 2871.
- "Since 20 to 50% of motorists currently wear seatbelts on some occasions, there would seem to be grounds to believe that seatbelts used by occasional users will be substantially increased by the detachable passive belts. Whether this is in fact the case is a matter for the agency to decide, but it must bring its expertise to bear on the question." *State Farm* at 2872.
- "When the agency reexamines its findings as to the likely increase in seatbelt usage, it must also reconsider its judgment of the reasonableness of the monetary and other costs associated with the Standard. In reaching its judgment, NHTSA sould bear in mind that Congress intended safety to be the preeminent factor under the Motor Vehicle Safety Act." *State Farm* at 2873.
- "The agency also failed to articulate a basis for not requiring nondetachable belts under Standard 208." *State Farm* at 2873.
- "While the agency is entitled to change its views on the acceptability of continuous passive belts, it is obligated to explain its reasons for doing so." *State Farm* at 2873.
- "The agency also failed to offer any explanation why a continuous passive belt would engender the same adverse public reaction as the ignition interlock, and, as the Court of Appeals concluded, 'every indication in the record points the other way.' " *State Farm* at 2873.

With respect to this proposal and the concerns the Court raises, we would appreciate receiving information or comments on the following:

34. Are airbags an effective and cost-beneficial, life-saving technology? If so, what, if any, improvements have been made over the past five to six years? Can airbags be installed in all cars?

35. Would there be an increase in the use of seatbelts by occasional users if detachable automatic belts were used to comply with FMVSS 208? How much of an increase could be expected? What would be the overall usage level of detachable belts? Would these vary by car size?

36. What manufacturer savings could result from rescinding the automatic restraint requirements of FMVSS 208? Please break these manufacturer costs into appropriate categories (e.g., capital investment, variable costs) and indicate whether figures are on an annual basis or other timeframe. How much of these manufacturere cost savings will be passed on to the consumer?

37. What effect would rescission have on insurance rates? What effect doea each one percent increase in seat belt usage—through whatever means—have on insurance company savings and to what extent are these savings passed on to the insured?

38. Please provide any other date on the reasonableness of the monetary and other costs associated with the automatic occupant restraint requirements of FMVSS 208.

Conduct a Demonstration Program

Demonstration Program

Under this proposal, the Department would conduct a demonstration program to gather additional data on which to base a decision. This would not be a final action, in itself. However, if this proposal were adopted, the Department would have to suspend the automatic restraint requirements of FMVSS 208 for a period of time sufficient to conduct the demonstration. In this regard, it should be noted that, in responding to an assertion by the Department that it was reasonable to rescind the automatic restraint requirements of FMVSS 208 to avoid forcing manufacturers to have to comply with an ineffective safety initiative, the Supreme Court said that "it would have been permissible for the agency to temporarily suspend the passive restraint requirement or to delay its implementation date while an airbags mandate was studied." *State Farm* at 2870, f.n. 15; also see 2874, f.n. 21.

Public acceptance is important to the success of Federal efforts to increase automotive safety. Temporary gains are possible with unpopular and restrictive safety regulations, but experience with the ignition interlock requirement and motorcycle helmet laws has shown that safety regulations that generate sufficient opposition are frequently overturned. (Many states repealed their helmet use laws after Congress amended the Highway Safety Act to provide that the states could not be required to have such laws.) Unfortunately, the public perception of the safety program also can become more negative. A consideration of reasonableness requires, among other things, examination of the public acceptability of a proposal. (The D.C. Court of Appeals, in the *Pacific Legal Foundation* case cited earlier, said that public acceptability is a valid and necessary consideration under the Act.)

A method for obtaining detailed data on the issue of public acceptability would be to conduct a demonstration program. As explained in the Department's Preliminary Regulatory Impact Analysis, to obtain statistically reliable data within a reasonably short period of time, a large number of automobiles would have to be included in the program. If such a program were to be conducted; the Department believes that it should include provision for producing at least one million cars per year over a two year period with airbags, detachable automatic belts without ignition interlocks, and continuous automatic belts. The three types of automatic restraints would be divided evenly the cars produced. This should provide statistically reliable results in about four years from the date the first car is sold. In addition, the program could include cars retrofitted with after-market airbags. (If the program is limited to airbags, 500,000 cars should be manufactured per year over a two year period. This would provide results in about 2½ to 3¼ years.) The program could be conducted in essentially the same fashion as envisioned by Secretary Coleman when he announced his plans in 1976 to conduct a demonstration program. At that time, the Department negotiated

VOL 48 ISS 203 OCT 19 1983 UMI

contracts with four car manufacturers for the production of up to 250,000 automatic restraint equipped cars per year for model years 1980 and 1981.

A demonstration program would serve a multiplicity of purposes. It would provide information on the relative attractiveness of the various types of automatic restraints to new car purchasers. It would enable the agency to obtain data on the relative usage rates of the differenct designs of automatic belts. The data regarding the accident experience of the cars involved in the program could be used to acquaint the public with the level of effectiveness and reliability of the devices.

One major obstacle to a demonstration program is manufacturer participation: would the manufacturers be willing to participate and, if so, would they participate in the manner deemed necessary to accomplish the program's objectives.

Another major problem with a demonstration program would be the length of time between the conclusion of agreements with manufacturers regarding the program and the collection of sufficient usage data and accident data to enable the agency to reach reliable conclusions. Sufficient time would have to be allowed for the designing, tooling, and producing of automatic restraint equipped cars and for the occurrence of a sufficient number of accidents to generate the necessary data. From beginning to end, these events would likely consume approximately six years. The duration would ultimately depend upon the rate of sales of cars equipped with automatic restraints. Further rulemaking would then be necessary to implement a regulation, if appropriate, followed by a period of time to allow manufacturers to prepare for compliance.

A major issue with respect to this proposal, then, would appear to be whether the amount of time that would be necessary would comport with the Court's concept of "temporarily suspend." *State Farm* at 2870, f.n. 15; also see 2874, f.n. 21.

With respect to this proposal, we would appreciate responses to the following:

39. Would such a demonstration program be appropriate at this time?

40. Should the program be limited to airbags? Airbags and non-detachable belts? All forms of automatic restraints? Should the program include manual belts with continuous buzzers that could be turned off by attaching the belt or pushing a button? What other devices should be included in the program?

41. For each of the possibilities described in the previous question, what would be an adequate data base for such a program, over how long a period of time should it be conducted, and how much would it cost?

42. Would the automobile manufacturers be willing to participate in such a demonstration program? What conditions would be necessary for the manufacturers' participation (e.g., number of cars, number of automobiles, costs, methods of advertising)?

43. Are there others who would be willing to participate in such a demonstration program by ordering automatic occupant restraint systems for large fleets of automobiles (as is being done with the GSA fleet)? In this regard, however, are there problems with the limited use of such fleets in terms of the number of people who would be involved, the kinds of people who would use the automobiles, and the purposes or types of use of the automobile that would not allow an appropriate extrapolation to the general population?

44. What volume of annual sales of automatic restraint equipped cars could reasonably be expected? What percentage of purchasers would be people who currently use their manual belts and how would this affect the data gathered? What steps can be taken to encourage sales?

45. How should the costs of a demonstration program be paid?

Seek Mandatory State Safety Belt Usage Laws

Under this proposal, the automatic restraint requirements of FMVSS 208 would be rescinded (or suspended while the Department sought the necessary legislation) and the manufacturers would retain the option of installing manual or automatic restraints. In addition, the Department would seek legislation amending the Highway Safety Act to establish a requirement for, or provide incentives for the States to adopt and enforce, safety belt usage laws.

This alternative has the potential for being a fast acting and cost-effective alternative. The primary advantages of this alternative are that it does not require additional expenditures for new types of occupant restraints but it would require increased enforcement costs. Another advantage is that it could be quickly applied to all cars on the road if it were enacted and enforced in all the States. Implementation of an automatic restraint requirement would affect only the approximately 10 percent of the car fleet that is replaced each year with newly-manufactured automobiles; thus, full benefits would be achieved only at the end of a 10-year period. If a 70 percent usage rate could be achieved in all States under mandatory safety belt usage laws (and if installing continuous, nondetachable automatic belts resulted in the same usage rate), the annual safety benefits in the first year of implementation of the mandatory usage laws would be essentially the same as those that could be obtained in the tenth year by installing automatic belts in new cars.

A number of analyses of seat belt use in countries that impose mandatory laws show that laws do increase usage. A study published by the American Seat Belt Council, titled "International Seat Belt and Child Restraint Use Laws" surveyed road safety officials in many of the 29 countries and provinces to have mandatory seat belt laws or ordinaces. The survey results, based on responses from officials in 21 countries, showed that when seat belt usage was required and properly enforced, it had increased dramatically and remained high. Seat belt usage generally increased from pre-law usage rates of 20–40 percent to post-law usage rates of 70–90 percent.

A March 1980 National Academy of Sciences study for the Department also supports the opinion that almost all countries with comprehensive, mandatory safety-belt-use laws experience substantial increases in rates of restraint use. Success is dependent, however, on how well the public was prepared for these laws and on the diligence of enforcement. The Insurance Institute for Highway Safety released a study in June of 1979 showing that safety belt use laws have had "some limited success in reducing occupant fatalities." According to the Institute, the reason for this is that the occupants most likely to be in serious crashes are the least likely to respond to laws. The study further noted that involuntary belt users tend to comply with use laws by wearing their belts incorrectly.

This proposal raises important questions upon which we specifically request public comment.

46. What is the political feasibility of combined Federal and State action to secure the enactment of safety belt usage laws?

47. What can we learn from the experience of countries with such mandatory laws and can the experience in these countries be applied to the United States?

48. What are the likely usage rates under such State laws?

49. What are the enforcement costs associated with such laws?

50. What effect would mandatory safety belt laws have on personal injury suits by non-users of safety belts? What effect on insurance rates?

Seek Legislation Mandating Consumer Option

Under this proposal, we would seek legislation requiring automobile manufacturers to provide consumers with the option of selecting automatic restraints—airbags or automatic belts—on some of their models. At least one model in each vehicle size class would be required to have this option to ensure the availability of automatic restraint cars to purchasers regardless of the size class in which they desired to purchase a new car. Currently, airbags are available on Mercedes-Benz automobiles only and automatic belts on a few subcompacts. This alternative would accommodate the desires of some consumers who wished to purchase automatic restraints while allowing all consumers the freedom of selecting either automatic or manual belts. This proposal also raises a number of questions on which we seek public comment.

51. Should the option include airbag and automatic seatbelts? What other devices (e.g., audible or visible reminders) should be required options?

52. What would a reasonable price for automatic restraints be? How can a reasonable price be ensured?

53. Should the option only be limited to major manufacturers?

54. Would most purchasers tend to select the cheapest restraint system?

55. Would dealers tend to order any particular type of restraint (e.g., the cheapest one)?

56. For the different alternatives suggested in response to the preceding questions, what percentage of automobiles would be equipped with automatic restraints? Which type of automatic restraint?

57. Since automatic restraints would be more expensive and installed in a minority of cars, their per unit costs would be much higher than if installation of automatic restraints in all cars were mandate. How much higher would the costs be? To what extent would this discourage the purchase of automatic restraints? Would purchasers of automatic occupant restraints receive reductions in insurance premiums and would those reductions be sufficient to offset the extra costs of the automatic restraints?

58. How aggressively have automatic restraint options been marketed by the manufacturers offering them? How would more aggressive marketing affect sales and per unit prices? How can aggressive marketing be ensured?

Compliance Alternatives

During the course of the rulemaking on this subject a variety of compliance issues and concerns have been raised. They include specific issues, such as whether manufacturers should be required to install a new restraint system in an automobile model that will only be manufactured for another year or two. Some concerns are more general, such as whether it is possible to achieve the introduction of various forms of passive restraints so that their effectiveness can be compared and, if so, how that can be achieved. In responding to the following inquiries, please indicate how your suggestions comport with the Department's statutory authority:

59. Should we, and can we, draft the rule in such a way as to encourage the use of specific means of compliance? For example, should we permit the exclusion of certain soon to be discontinued automobile models if the manufacturer will install airbags in a specified percentage of its fleet for a certain number of years? If so, what should we encourage and how should we do it?

60. Should we, and could we, grant other types of waivers or exemptions in exchange for other innovative steps by the manufacturers? If so, what?

Public Acceptance

The issue of public acceptability affects each of the alternative proposals discussed in this NPRM. The purpose of this section is to ask the following additional, more detailed questions on this subject:

61. Would public acceptance of automatic restraints, especially nondetachable automatic belts and airbags, be significantly increased if an opportunity were provided for the public to become more familiar with the system?

62. What methods are available for promoting promising safety devices that may not be immediately popular?

63. Does experience with the occupant restraint standard and differing public views on airbags indicate a possibility of rejection of any requirement? Would some be more acceptable than others (e.g., mandating just passive belts)? If so, which ones, and why?

64. Does experience with ignition interlocks indicate that the public also will not accept automatic occupant restraints?

65. Public rejection after investments are made would result in the waste of substantial resources. Would it endanger other safety measures?

66. Please provide a copy of any public opinion survey on automatic restraints not already in the docket.

Cost and Technology Information

Cost

Manufacturer

To assist the Department in its decision-making, we specifically request current information that can be used to determine total system cost, and incremental cost over the replaced restraint systems. The Department desires cost information on manual belts, automatic belts, and airbags.

Unless a question expressly requests otherwise, the cost information should be based on the long term and exclude the start-up costs amortized over the first several years of production. The cost information for a particular type of restraint system should also be based on car lines that are originally designed to be equipped with that type of system. Finally, the information should be broken down by seating position and by costs common to all positions.

Specifically, the Department seeks the following information for each system that may be installed under the proposed alternatives. Manufacturers should provide this information for each car line they intend to produce:

67. Type of restraint system (manual belt, detachable automatic belt, nondetachable automatic belt, airbag).

68. The car lines to which this system would be applied, and the number of vehicles expected to be produced with the system, on an annual basis, in that car line.

69. A brief narrative description of the system, identifying the major sub-assemblies, the location of the sub-assemblies in the vehicle, etc., including items not required by the automatic restraint requirements, such as ignition interlocks installed in conjunction with detachable automatic belts.

70. A statement of which components and sub-assemblies will be manufactured by the manufacturer and which components will be purchased, and the volume of purchased components.

71. The manufacturer's variable cost of each sub-assembly, the price of purchased components, the cost of assembly, the cost of vehicle modification, etc. Indicate the price sensitivity of higher and lower volumes of those purchased components.

72. The manufacturer's variable cost of the components of the restraint system that would be replaced. For example, if automatic belts were to be utilized in a car line, identify the

VOL 48 ISS 203 OCT 19 1983 UMI

variable cost of the manual belt system components, sub-assemblies, etc.

73. The magnitude of any future research, development, tooling, launch, etc., costs (i.e., capital costs) associated with automatic restraints.

Insurance

The agency requests comment on the precise estimates of insurance premium reductions for automatic restraints. In particular the agency seeks answers to the following questions:

74. Would *commercial* automobile liability premiums be affected by safety improvements from automatic restraints? If so, what portion of current aggregate premiums would be affected? How many vehicles are currently covered by commercial automobile liability premiums? How many of these vehicles are passenger cars?

75. How many vehicles are currently covered by private passenger automobile liability policies? How many vehicles are covered by private passenger physical damage policies? How many of these are passenger cars?

76. Would those portions of insurance premiums that exceed incurred losses (e.g., loss adjustment costs) be affected by safety improvements resulting from automatic restraints? If so, what is the ratio of these other costs to premiums earned? Would reductions in these other costs occur directly with reductions in safety, or would costs only decrease after significant levels of safety improvement?

77. What portion of aggregate insurance losses are associated with fatalities as opposed to injuries?

78. Would the increased use of automatic occupant restraints have any effect on life insurance premiums? If so, please describe the effect?

79. If all cars-in-use were equipped with airbags, how many accidents would occur annually that would result in airbag deployments? In what percentage of these accidents will airbags be replaced in the cars?

Technology

Airbag technology has evolved to where the Department has determined it to be technologically feasible. However, some questions remain on the system aspects of the installation. The agency seeks current information on the status of airbag system design. For example.

Original Equipment

80. How many sensors should there be and where should they be located?

81. How much redundancy is necessary in the electronic subsystems?

82. What is the best material for the bag?

83. What is the best approach to bag venting?

84. Is the airbag system senstive to vehicle size; that is, can one set of hardware be used in large cars as well as small cars?

85. Is an all mechanical system reliable enough for safe operation?

86. Are knee bolsters necessary in all cars?

Retrofit

87. Does the effectiveness of the airbag change for different steering wheel angles, and what is the affect of mounting such an airbag in a tilt wheel?

88. If these are serious problems, can they be solved and how much will the device then cost?

89. Can the sensor(s) be located and calibrated universally, or are there some unique requirements for each vehicle design?

90. Will there need to be a different amount of propellant for different sizes or types of vehicles?

91. Will there be a need for a skilled technician to install these devices?

IV. Analyses

The Department has considered the impacts of the proposals in this notice and determined that several of the proposals are major within the meaning of Executive Order 12291 and significant within the meaning of the DOT regulatory policies and procedures. A Preliminary Regulatory Impact Analysis (PRIA) has been prepared and placed in the public docket. The key aspects of that document are discussed above in the sections regarding usage, effectiveness, benefits and costs of occupant restraints. A free copy of the analysis may be obtained by contacting the Docket Section.

The Department has also considered the economic impacts of these proposals for the purposes of the Regulatory Flexibility Act. I certify that none of the proposals would have a significant economic impact on a substantial number of small entities. Few of the affected vehicle manufacturers would qualify as small businesses within the meaning of that Act. Similarly, few of the safety belt or airbag manufacturers are small businesses. The original equipment suppliers of belt webbing are all large and diversified firms with over 1,000 employees. Although some firms that produce replacement belts for the after-market may qualify as small businesses, none of those firms rely on belt webbing sales as a major source of income. As to airbag manufacturers, they were either primarily large firms, or subsidiaries of large firms at the time of the rescision in 1981. Small organizations and governmental jurisdictions should not be substantially affected because even under the airbag only alternative, the percentage increase in the price of a new car would be only several points. Accordingly, the Department does not expect the purchases by these small entities to be substantially affected. Similarly, the Department does not expect that sales to the general public will be significantly affected. Thus, new car dealers should not experience a substantial economic impact. Nevertheless, the Department has included in the PRIA a discussion of the proposals' impacts on small entities.

Pursuant to the National Environmental Policy Act, the Department has prepared a draft environmental impact statement concerning the proposed alternatives. A copy of that draft statement has been placed in the Docket Section under the docket and notice numbers of this notice. Availability of the document and a request for public comments will be announced in the near future by the Environmental Protection Agency.

V. Public Participation

Public Comments

Interested persons are invited to submit comments on this NPRM. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length (49 CFR Section 553.21). Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulations.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, we are proceeding under a tight, expedited schedule. Comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future action. The Department will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Public Meetings

With the wide range of alternatives to be considered in this rulemaking proceeding, the Department seeks to narrow the issues through holding three public meetings. Data presented at the meetings will be made available for evaluation by other parties, subject to the agency regulation on treatment of confidential business information.

All interested persons are invited to attend the public meetings and to present oral or written data, views, and arguments Persons making oral comments are encouraged to submit their comments in written form either at the meetings or by mail to the docket. All written comments are subject to the deadlines and page limitations stated in this notice.

Persons desiring to make an oral statement at the public meetings should contact Mr. Robert Nelson of NHTSA's Office of Vehicle Safety Standards, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2264), by November 17, 1983, so that time limitations, if necessary, and the need for any special equipment, such as projecters, can be discussed and final arrangements can be made. Persons who have arranged to speak at one of the meetings are requested to submit a written summary of the main points in their testimony to Mr. Nelson by November 23, 1983. A schedule of persons making oral presentations at a particular meeting will be available on the date of that meeting.

Persons whose presentations include slides, motion pictures, or any other visual aids should plan to submit copies of them for the record at the meeting. Persons making oral presentations are requested but not required to submit 25 written copies of the full text of their presentation to Mr. Nelson no later than the beginning of the meeting.

No opportunity will be afforded the public to directly question participants in the meetings. However, the public may submit written questions to the presiding panel of Federal officials for the panel to ask of particular participants. The presiding officials reserve the right to ask questions of all persons making oral presentations.

A transcript of the meeting will be made and will be available for examination, along with any written comments submitted, in the NHTSA Docket Section, as soon as possible after the meeting.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407))

Issued in Washington, D.C. on October 14, 1983.

Elizabeth Hanford Dole,

Secretary of Transportation.

Formal Rule Changes

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that Standard No. 208 (49 CFR 571.208) be amended in accordance with one of the following alternatives. (Specific dates have been included in these alternatives partially for illustrative purposes to aid commenters in understanding the alternatives. However, those dates are also intended to promote comment on the leadtime and any appropriate phase-in that should be afforded.)

§ 571.208 [Amended]

Editorial note: The text of S. 4.1.3 of Standard 208 was removed from the Code of Federal Regulations on October 29, 1981 (46 FR 53419). The text of S. 4.1.3 is reprinted as an editorial note to 49 CFR Chapter V, revised October 1, 1983, reflecting a document published September 1, 1983 (48 FR 39908) as a result of a Supreme Court decision.

If one of the alternatives covered in this document is chosen that involves reinstatement of, or amendment to, S. 4.1.3, that section will be formally reinstated in the Code of Federal Regulations and then amended if necessary.

Alternative I

Air Bag Only—All Front Seating Positions

1. S4.1.2 would be revised to read:

A4.1.2 *Passenger cars manufactured from September 1, 1973, to August 31, 1986.* Each passenger car manufactured from September 1, 1973, to August 31, 1986, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2 or S4.1.2.3. A protection system that meets the requirements of S4.1.2.1 and S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. S4.1.3 would be revised to read:

S4.1.3 *Passenger cars manufactured on or after September 1, 1986.* Each passenger car manufactured on or after September 1, 1986, shall—

(a) At each front designated seating position meet the frontal crash protection requirements of S5.1 by an inflatable air cushion restraint system that requires no action by vehicle occupants;

(b) At each rear designating seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7.1 and S7.2; and

(c) Either—

(1) Meet the lateral crash protection requirements of S5.2 and the roll-over crash protection requirements of S5.3 by an inflatable air cushion restraint system that requires no action by vehicle occupants; or

(2) At each front seat designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7 through S7.3, and meet the requirements of S5.1 with front test dummies as required by S5.1, restrained by the Type 1 or Type 2 seat belt assembly (or the pelvic portion of any Type 2 seat belt assembly which has a detachable upper torso belt) in addition to the inflatable air cushion restraint system that requires no action by vehicle occupants.

Air Bag Only—Drive and Right Front Seat Passenger

[The regulatory language would be similar to that for the air bag only—all front seating positions, except the requirement for any passenger car to comply with the automatic restraint requirements of S4.1.3 would be limited to the designated seating positions for the driver and right front passenger. The center seating position, if any, could be equipped with a manual belt.]

Air Bag—Driver Only

[The regulatory language for this alternative would be similar to that used for the air bag only—all front seating position alternatives, except the requirement for any passenger car to comply with the automatic restraint requirements of S4.1.3 would be limited to the designated seating position of the

driver. The seating positions for the right front and center front seat passengers could be equipped with manual belts.]

Air Bags and Nondetachable Automatic Belts—All Front Seating Positions

1. S4.1.2 would be revised to read:

S4.1.2 *Passenger cars manufactured from September 1, 1973, to August 31, 1986.* Each passenger car manufactured from September 1, 1973, to August 31, 1986, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2. or S4.1.2.3. A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2. may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. S4.1.3 would be revised to read:

S4.1.3 *Passenger cars manufactured on or after September 1, 1986. Each passenger car manufactured on or after September 1, 1986, shall—*

(a) At each front designated seating position meet the frontal crash protection requirements of S5.1 by means that require no action by vehicle occupants;

(b) At each rear designated seating position have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7.1 and S7.2; and

(c) Either—

(1) Meet the lateral crash protection requirements of S5.2 and the roll-over crash protection requirements of S5.3 by means that require no action by vehicle occupants; or

(2) At each front designated seating position have a Type I or Type 2 seat belt assembly that conforms to Standard No. 209 and S7 through S7.3, and meet the requirements of S5.1 with front test dummies as required by S5.1, restrained by the Type 1 or Type 2 seat belt assembly (or the pelvic portion of any Type 2 seat belt assembly which has a detachable upper torso belt) in addition to the means that require no action by vehicle occupants.

3. S4.5.3.3.(a) would be revised to read:

* * * * *

(a) Conform to S7.1 and have a single emergency release mechanism which has components that are readily accessible to a seated occupant and which does not permit the belt to separate.

* * * * *

4. S4.5.3.3.(b)(B) would be revised to read:

* * * * *

(B) The driver's automatic belt is not in use, as determined by the emergency release mechanism being in the release position.

* * * * *

Air Bags and Nondetachable Automatic Belts—Driver and Front Right Seat Passenger

[The regulatory language for this alternative would be similar to that used for the air bag and nondetachable automatic belts—all front seating positions, except that the requirement for any passenger car to comply with the automatic restraint requirements of S4.1.3 would be limited to the designated seating positions for the driver and the right front seat passenger. The center seating position, if any, could be equipped with a manual belt.]

Air Bags and Nondetachable Automatic Belts—Driver Only

[The regulatory language for this alternative would be similar to that used for the air bag and nondetachable automatic belts—all front seating positions, except that the requirement for any passenger car to comply with the automatic restraint requirements for S4.1.3 would be limited to the designated seating position for the driver only. The seating positions for right front seat and center front seat passengers could be equipped with a manual belt.]

Automatic Restraint Requirements—Driver and Front Right Seat Passenger

[The regulatory language for this alternative would be similar to that used for Alternative II (retention) except that the requirement for any passenger car to comply with the automatic restraint requirements of S.4.1.3 would be limited to the designated seating positions for the driver and the right front seat passenger. The center seating position, if any, could be equipped with a manual belt.]

Automatic Restraint Requirements—Driver Only

[The regulatory language for this alternative would be similar to that used for Alternative II (retention) except that the requirement for any passenger car to comply with the automatic restraint requirements of S.4.1.3 would be limited to the designated seating positions for the driver. The seating positions for the right front and center front passengers could be equipped with manual belts.]

Air Bag Retrofit Capability

[An amendment would be issued requiring that, beginning September 1, 1986, each passenger car whose front designated seating positions are not equipped with inflatable air cushion restraint systems or automatic belts shall be equipped with the necessary mechanical and electrical connections to permit the installation of an inflatable air cushion restraint system for each of those positions.]

Alternative II

Retain While Establishing New Compliance Date

1. S4.1.2 would be revised to read (a two-year phase-in is included in this alternative because one was included in the rescinded automatic restraint requirement. When that requirement was originally issued in 1977, the phase-in was for three years. However, the period was shortened to two years in early 1981. Comment is requested on whether there should be any phase-in):

S4.1.2 *Passenger cars manufactured from September 1, 1973, to August 31, 1987.* Each passenger car manufactured from September 1, 1973, to August 31, 1986, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2 or S4.1.2.3. Each passenger car manufactured from September 1, 1986, to August 31, 1987, inclusive, shall meet the requirements of S4.2.1, S4.1.2.2 or S4.1.2.3, except that a passenger car with a wheelbase or more than 100 inches shall meet the requirements of S4.1.3. A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. The title and beginning of the first sentence of S4.1.3 would be revised to read:

S4.1.3 *Passenger cars manufactured on or after September 1, 1987* Each passenger car manufactured on or after September 1, 1987, shall * * *

Alternative III

Rescission

1. S4.1.2 would be amended by revising it to read:

S4.1.2 *Passenger cars manufactured on or after September 1, 1973.* Each passenger car manufactured on or after September 1, 1973, shall meet the requirements of S4.1.2.1, S4.1.2.2 or S4.1.2.3. A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. The heading of S4.1.2.1 would be amended by revising it to read:

S4.1.2.1 *First option—Frontal/Angular Automatic protection system.*

* * * * *

3. S4.1.3 would be removed.

Postpone During Demonstration

[The regulatory language for this alternative would be similar to that used for the alternative retaining the automatic restraint requirement. The dates would vary, based upon the period necessary to conduct the demonstration.]

Postpone While Seeking Legislation

[The regulatory language for this alternative would be similar to that used for the alternative retaining the automatic restraint requirement. The dates would vary, based upon the period necessary to seek legislation.]

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VOL 48 ISS 203 OCT 19 1983 UMI

VOL
48
ISS
203
OC
19
1983
UMI

Reader Aids

Federal Register
Vol. 48, No. 203
Wednesday, October 19, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7
46005–46258.....11
46259–46486.....12
46487–46730.....13
46731–46962.....14
46963–48214.....17
48215–48438.....18
48439–48642.....19

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266, 46795
Ch. IV.....47976
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559
11459 (Superseded by EO 12445).....48441
12002 (See EO 12444).....48215
12214 (See EO 12444).....48215
12444.....48215
12445.....48441
12446.....48443

Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259
5116.....46963
5117.....46965
5118.....48217
5119.....48439

5 CFR

Ch. XIV.....45373
213.....46261
752.....45525
1255.....45373

Proposed Rules:
Ch. I.....47990
Ch. III.....47982

7 CFR

Ch. IV.....48449
2.....46261, 48449
51.....46487
247.....46731
301.....46262, 48449
319.....46732
752.....45526
906.....45374
908.....45526, 46488
910.....45374, 45755, 46961
919.....45374
929.....45374
981.....45374
991.....45374, 48219
1205.....48451
1435.....45374
1901.....45532
1951.....46967
1955.....46967
1962.....46967
1965.....46967

Proposed Rules:
Subtitle A.....47236
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
Ch. V.....47236
Ch. VI.....47236
Ch. VII.....47236
Ch. IX.....47236
Ch. X.....47236
Ch. XI.....47236
Ch. XII.....47236
Ch. XIV.....47236
Ch. XV.....47236
Ch. XVI.....47236
Ch. XVII.....47236
Ch. XVIII.....47236
Ch. XXI.....47236
Ch. XXIV.....47236
Ch. XXV.....47236
Ch. XXVI.....47236
Ch. XXVII.....47236
Ch. XXVII.....47236
Ch. XXIX.....47236
226.....45779
402.....46062
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
1065.....45117
1131.....46343
1139.....46797
1446.....48471
1701.....48472

8 CFR

103.....45093
214.....45093, 48452
238.....45093
248.....45093

Proposed Rules:
Ch. 1.....47530
103.....48242

9 CFR

Proposed Rules:
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
92.....46355
317.....45118
318.....48242
319.....45118
325.....46996
350.....45755
362.....45755
381.....45118, 46996, 48224

VOL 48 ISS 203 OCT 19 1983 UMI

10 CFR

2 46489
50 46489
55 45223
71 45381
761 45746
710 46499

Proposed Rules:

Ch. I 48156
Ch. II 47324
Ch. III 47324
Ch. X 47324
50 45787
60 48473
140 48474

12 CFR

5 48452
7 ..... 46502, 48452
29 45532
204 ..... 46005, 46262
207 ..... 45533, 48219
217 ..... 45756, 46262
220 ..... 45533, 48219
221 ..... 45533, 48219
224 45533
226 48219
561 45382
563 ..... 45382, 48455
760 46006

Proposed Rules:

Ch. I 47716
Ch. II 46996
Ch. V 48110
Ch. VI 48074
Ch. VII 48150
29 47001

13 CFR

101 45224
123 45225
133 46008

Proposed Rules:

Ch. I 48020
Ch. III 47254

14 CFR

39 ..... 45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222
71 ..... 45094, 45095, 45536, 45537, 46010, 46503
95 46504
97 45096
205 46264
248 46265
294 46265
320 45236
380 46265
389 45758

Proposed Rules:

Ch. I 46358, 47582
Ch. II 47003, 48038
Ch. V 47972
21 ..... 45214, 45565
25 ..... 46218, 46250
29 46250
39 46070
43 48364
61 45214
65 45214
71 ..... 45118, 45566, 48244
91 48364
107 45214
109 45214
121 ..... 45214, 46218, 46250, 48364
127 48364
135 ..... 45214, 48364
145 45214

15 CFR

Proposed Rules:

Subtitle A 47254
Ch. I 47254
Ch. II 47254
Ch. III 47254
Ch. IV 47254
Ch. VIII 47254
Ch. IX 47254
Ch. XXIII 47254

16 CFR

453 45537

Proposed Rules:

Ch. I 48120
Ch. II 48064
1212 45405
1500 45567
1513 45567

17 CFR

145 ..... 46010, 48223
146 ..... 46010, 48223
147 ..... 46010, 48223
229 46012
230 ..... 46012, 48736
231 ..... 46012, 46969
239 ..... 45386, 46012
240 ..... 46012, 46736
241 46012
270 46012
274 46012

Proposed Rules:

Ch. I 48056
Ch. II 48190
33 46797
230 46801
240 ..... 45119, 48245
249 48245

18 CFR

2 46012
35 ..... 46012, 46970
157 46021
270 48223
271 ..... 45097, 46266–46268, 48223
274 45097
282 45758
301 46970
385 45388

Proposed Rules:

Ch. I 48104
101 46361
104 46361
141 46361
154 ..... 46361, 47003
157 47003
159 46361
201 46361
204 46361
260 46361
271 46071
275 47003
282 45787
410 45568

19 CFR

4 ..... 46510, 46978
7 46740
10 ..... 46510, 46740
22 46740
101 45538
103 45538
113 46740
145 46740
148 46978
158 46740
191 46740
210 45544

Proposed Rules:

Ch. I 46805, 47724
4 ..... 46808, 46810
18 46812
101 45409
123 46812
144 46812

20 CFR

404 46142

Proposed Rules:

Ch. I 47538
Ch. II 48012
Ch. III 47340
Ch. IV 47538
Ch. V 47538
Ch. VI 47538
Ch. VII 47538
10 48249
422 ..... 46072, 47008

21 CFR

81 ..... 45237, 45760, 46022
109 45544
131 45545
175 48228
178 ..... 46773, 46774
179 46022
184 ..... 48456, 48457
186 ..... 48456, 48457
193 45547
211 46979
430 46270
436 46270
442 46270
520 ..... 46979, 48229
522 ..... 46023, 48229
540 45760
558 ..... 45102, 46023, 46024, 46514, 46515
700 46979
800 46979
1308 46516

Proposed Rules:

Ch. I 47340
182 45121
184 45121
211 47008
341 48576
351 46694
610 ..... 46815, 47009
620 47009
630 47009
640 47009
650 47009
660 47009
680 47009
700 47008
800 47008

22 CFR

Proposed Rules:

Ch. I 47578
Ch. II 47970

23 CFR

655 46775

Proposed Rules:

Ch. I 47582
Ch. II 47582
658 46545

24 CFR

26 46980
201 46980
215 46980
221 46980
236 46980
570 ..... 45760, 46778, 46980
841 46980
882 46980
888 ..... 45547, 46980
890 476980

Proposed Rules:

Subtitle A 47418
Subtitle B 47418
24 ..... 46072, 46817

25 CFR

71 45103

Proposed Rules:

Ch. I 47472
140 45789

26 CFR

1 ..... 45761, 46272, 46296
4 46272
31 46296
35a 45362

Proposed Rules:

Ch. I 47730
1 ..... 47010, 48255
5f 48255
31 47010

27 CFR

4 45549
5 ..... 45549, 46518
7 45549
9 ..... 45238, 45239, 46518–46524
170 46526
240 46526

Proposed Rules:

Ch. I 47708
9 46387

28 CFR

2 48230

Proposed Rules:

Ch. I 47530

29 CFR

1601 46298

Proposed Rules:

Subtitle A 47538
Ch. II 47538
Ch. IV 47538
Ch. V 47538
Ch. XII 47946
Ch. XIV 47928
Ch. XVII 47538
Ch. XXV 47538
Ch. XXVI 48004
1908 45411
1910 45956
1926 45872

30 CFR

251 46025
913 46528
917 46299
935 ..... 46027, 46301, 46530
938 45389
946 46028

Proposed Rules:

Ch. I 47538
Ch. II 47472
Ch. VII 47472
55 45336
56 45336
57 45338
58 45338
917 48255
935 45420
938 46817

31 CFR

1 48460
51 46982

Proposed Rules:

Subtitle A 47702
Ch. I 47702
Ch. II 47702

32 CFR

251 45242

Proposed Rules:

Ch. I 47302
Ch. V 47302
Ch. VI 47302
Ch. VII 47302
Ch. XVI 48018
199 45791

33 CFR

100 ..... 45244, 46531
117 ..... 45245, 46532
130 46178
131 46178
132 46178
151 45704
155 45704
157 ..... 45718, 46985
163 48230
165 ..... 46533, 46534, 46779

Proposed Rules:

Ch. I 47582
Ch. II 47302
Ch. IV 47582
146 48475
150 48475
162 45798
164 46819

34 CFR

668 45670
690 45670

Proposed Rules:

Subtitle A 47308
Ch. I 47308
Ch. II 47308
Ch. III 47308
Ch. IV 47308
Ch. V 47308
Ch. VI 47308
Ch. VII 47308
350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568

35 CFR

Proposed Rules:

Ch. I 47998

36 CFR

7 ..... 46779, 46780
60 46306

Proposed Rules:

Ch. I 47472
Ch. II 47236
Ch. III 47302
Ch. VIII 47858
Ch. IX 48002
7 48257
216 45421
1190 47860

37 CFR

Proposed Rules:

Ch. I 47254
1 45424
2 45424

38 CFR

1 46985

Proposed Rules:

Ch. I 48024
21 ..... 45123, 45268, 45572, 47011

39 CFR

111 ..... 45761, 46031
447 ..... 48230, 48231

Proposed Rules:

111 45269
3001 46545

40 CFR

52 ..... 45245, 45246, 46046, 46047, 46309, 46986
60 ..... 46535, 46536, 48328, 48368
61 46535
81 ..... 46537, 46782
86 48598
87 46481
180 46310
192 45926
256 46787
420 46942
433 45105
469 45249
717 45765

Proposed Rules:

Ch. I 47864
51 ..... 45269, 46152
52 ..... 46081, 46391–46393, 46548, 46823
60 ..... 45701, 46224, 46472
81 ..... 46082, 46085, 46393, 46549–46553
141 45502
162 46397
180 ..... 45573, 46395, 46396, 48476, 48477
228 45798
261 45210
271 46824
403 46944
420 46944
464 45573
465 45573
1502 ..... 46554, 47862
1508 46554

41 CFR

Ch 1 ..... 45392, 45557, 48462
Ch. 101 45105
9–1 46987
9–7 46987
9–4 45768
9–51 45768
101–11 46310
101–25 48231
101–41 46788
105–61 45392

Proposed Rules:

Ch. 1 47948
Ch. 4 47236
Ch. 9 47324
Ch. 12 47582
Ch. 13 47254
Ch. 14 47472
Ch. 25 47980
Ch. 29 47538
Ch. 60 47538
Ch. 101 47948
Ch. 105 47948
101–41 46554

42 CFR

51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 ..... 45766, 48467
409 48467
489 48467

Proposed Rules:

Ch. I 47340
Ch. II 47340
Ch. III 47340
Ch. IV 47340

43 CFR

Subtitle A 45664

Public Land Orders:

44 (Revoked by PLO 6478) 45401
98 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
6472 45393
6473 45393
6474 45394
6475 45394
6476 45395
6477 45395
6478 45401
6479 45559
6480 46049
6481 46049
6482 46050

Proposed Rules:

Subtitle A 47472
Ch. I 47472
Ch. II 47472
2620 48400
2880 48478

44 CFR

61 46789
62 46789
64 ..... 46988, 46989
65 ..... 46990, 48233
67 ..... 46050, 46312, 46992

Proposed Rules:

Ch. I 46934
65 48258
67 ..... 45425, 46085, 47014–47020, 48259

45 CFR

13 45251

Proposed Rules:

Subtitle A 47340
Ch. II 47340
Ch. III 47340
Ch. VI 47980
Ch. XI 47978
Ch. XII 47856
Ch. XIII 47340

46 CFR

160 45113
162 45727
380 45559
530 48469
542 46175
543 46175
544 46175

Proposed Rules:

Ch. I 47582
Ch. III 47582
Ch. IV 48114
Ch. IV 45269
7 45574
10 46556
24 45425
25 45425
26 45425
30 45425
31 45425
32 45425
35 45425
70 45425
71 45425
75 45425
77 45425
78 45425
90 45425
91 45425
94 45425
96 45425
97 45425
107 45425
108 45425
109 45425
157 46556

VOL 48 ISS 203 OCT 19 1983 UMI

163 45425
188 45425
189 45425
192 45425
195 45425
196 45425
298 46825
508 45800
524 45270
531 45270
536 45270
538 45272

47 CFR

0 45652
1 ..... 45652, 48234
2 45560
61 46791
63 46791
69 48234
73 ..... 45401–45403, 46994, 48234
81 ..... 45114, 45560
83 ..... 45114, 45560
87 45114
97 45652

Proposed Rules:

Ch. I 47020, 48080
67 ..... 46556, 47021
73 ..... 45428–45438, 47023–47031, 48264
83 45439

48 CFR

Ch. 1 46541

Proposed Rules:

Ch. 9 47324

49 CFR

350 48469
567 46994
571 ..... 46053, 46793, 48235
1033 45257
1043 45775
1162 46542
1307 ..... 46542, 46794

Proposed Rules:

Ch. X 46399
27 46399
171 48483
172 48483
173 48483
195 46589
218 45272
571 ..... 48483, 48622
1039 45137
1155 45440

Proposed Rules:

Subtitle A 47582
Ch. I 47582
Ch. II 47582
Ch. III 47582
Ch. IV 47582
Ch. V 47582
Ch. VI 47582
Ch. X 48134
571 47032

50 CFR

17 ..... 46053, 46328–46337
23 ..... 45259, 45775
258 48619
285 46995
611 ..... 45403, 46542
646 45404
654 46057
655 ..... 45403, 45404
656 45403
657 45403
658 46057
661 45263
663 48241
672 46542
681 46342

Proposed Rules:

Ch. I 47472
Ch. II 47254
Ch. III 47254
Ch. IV 47254, 47472
Ch. V 47254
17 ..... 45574, 46086, 46590
23 45575
611 ..... 45804, 45806
663 ..... 45274, 48265

List of Public Laws

Last Listing October 18, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

S. 216 / Pub. L. 98–127 Federal Anti-Tampering Act (Oct. 13, 1983; 97 Stat. 831) Price: $1.50.

H.R. 3379 / Pub. L. 98–128 To name a United States Post Office Building in the vicinity of Lancaster, Pennsylvania, the "Edwin D. Eshleman Post Office Building". (Oct. 14, 1983; 97 Stat. 834) Price: $1.50.

H.R. 2840 / Pub. L. 98–129 Fur Seal Act Amendments of 1983. (Oct. 14, 1983; 97 Stat. 835) Price: $2.00.

S.J. Res. 128 / Pub. L. 98–130 To designate the day of October 22, 1983 as "Metropolitan Opera Day". (Oct. 14, 1983; 97 Stat. 847) Price: $1.50.

VOL
48
ISS
203
OC
19
1983
UMI

VOL
48
ISS
204
OCT
20
1983
UMI

10-20-83
Vol. 48 No. 204

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VOL
48
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10-20-83
Vol. 48 No. 204
Pages 48643-48792

federal register

Thursday
October 20, 1983

Selected Subjects

Administrative Practices and Procedure
Fiscal Service
Air Pollution Control
Environmental Protection Agency
Aliens
State Department
Animal Biologics
Animal and Plant Health Inspection Service
Animal Diseases
Animal and Plant Health Inspection Service
Animal Drugs
Food and Drug Administration
Bridges
Coast Guard .
Customs Duties and Inspection
Customs Service
Elections
Federal Election Commission
Labeling
Federal Trade Commission
Manpower Training Programs
Employment and Training Administration
Marketing Agreements
Agricultural Marketing Service

CONTINUED INSIDE

Selected Subjects

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Navigation (Water)
Coast Guard

Pipeline Safety
Research and Special Programs Administration

Supplemental Security Income (SSI)
Social Security Administration

Trade Practices
Federal Trade Commission

Waste Treatment and Disposal
Environmental Protection Agency

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 48, No. 204
Thursday, October 20, 1983

Agency for International Development
NOTICES
Meetings:
48725 Research Advisory Committee; cancellation

Agricultural Marketing Service
RULES
48643 Oranges (Valencia) grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Federal Crop Insurance Corporation; Forest Service.

Air Force Department
NOTICES
Meetings:
48700, 48701 Scientific Advisory Board (2 documents)

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
48685 Clear Lake, Calif.

Animal and Plant Health Inspection Service
RULES
Swine health protection:
48643 Enforcement; State status; interim rule affirmed
PROPOSED RULES
48679 Viruses, serums, toxins, and analogous products; definitions

Army Department
NOTICES
48701 Military Traffic Management; rate tender formats

Arts and Humanities, National Foundation
NOTICES
Meetings:
48728 Humanities Advisory Panel

Centers for Disease Control
NOTICES
Meetings:
48713 Direct-reading monitoring methods development (NIOSH)

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
48693 Indiana
48694 Michigan
48693 Oregon

Coast Guard
RULES
Drawbridge operations:
48662 Hawaii
48662 New Jersey
Safety zones:
48663 Lahaina, Maui
48663 Seaboard System Railroad Swingspan Bridge near Indiantown, Martin County, Fla.
Security zones:
48664 St. Johns River, Jacksonville, Fla.
PROPOSED RULES
Drawbridge operations:
48690 New Jersey

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
48694 Civil space remote sensing; operational civil weather and land remote sensing satellites transfer to private sector; inquiry; release date correction

Customs Service
RULES
Country of origin marking:
48657 Liquidated damages payment; petitions for relief
Merchandise, imported; transportation in bond and merchandise in transit:
48655 Overcarried and prematurely discharged merchandise; special manifest procedures
Vessels in foreign and domestic trades:
48653 Licensing of certain foreign pleasure vessels

Defense Department
See Air Force Department; Army Department; Navy Department.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
48726 Ridgefield Pharmacy
48727 Wood, Raymond, H., Jr., D.D.S.

Education Department
NOTICES
Meetings:
48704 International Education Programs National Advisory Board
Postsecondary education:
48703 College work-study grant program

Employment and Training Administration
RULES
Job Training Partnership Act programs:
48744 Title IV programs; implementation

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
48669 Sulfuric acid plants; alternatives sampling procedures; correction
Air quality implementation plans; approval and promulgation; various States:
48664 New Hampshire

48665 Puerto Rico
PROPOSED RULES
Hazardous waste programs: interim authorizations; State programs:
48690 Vermont
NOTICES
Pesticide programs:
48711 Rodenticide labeling; bait stations; hearing
Toxic and hazardous substances control:
48710 Premanufacture notification requirement; test marketing exemption approvals

Equal Employment Opportunity Commission
NOTICES
48739 Meetings; Sunshine Act

Federal Aviation Administration
PROPOSED RULES
48681 Rulemaking petitions; summary and disposition
NOTICES
Meetings:
48738 Aeronautics Radio Technical Commission

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
48675 Grape

Federal Deposit Insurance Corporation
NOTICES
48739 Meetings; Sunshine Act (2 documents)

Federal Election Commission
RULES
48650 Corporate and labor organization activity; trade association solicitation authorization; transmitted to Congress

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
48704, 48705 Connecticut Light & Power Co. (3 documents)
48705 Crosby, Walter T., et al.
48705 Eastern Shore Natural Gas Co.
48706 Fairview Orchards Associates
48706 Graham-Michaelis Corp.
48706 Guercio, James G.
48706 Michigan Wisconsin Pipe Line Co.
48707 Mountain Fuel Resources, Inc.
48707 National Fuel Gas Supply Corp.
48707 Pacific Interstate Offshore Co.
48709 Transcontinental Gas Pipe Line Corp.
48710 United Gas Pipe Line Co. (2 documents)
Natural gas companies:
48708 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (Phillips petroleum Co. et al.)
Natural Gas Policy Act:
48788 Jurisdictional agency determinations

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
48712 First Federal of Michigan
48712 Hawkeye Savings & Loan Association
48712 Platte Valley Federal Savings & Loan Association
48712 Valley Federal Savings & Loan Association of Grand Junction, Colo.

Federal Reserve System
NOTICES
Applications, etc.:
48713 Angola Bancorporation, Inc., et al.
48712 First Virginia Banks, Inc.
Bank holding companies; proposed de novo nonbank activities:
48712 Corestates Financial Corp. et al.

Federal Trade Commission
RULES
Prohibited trade practices:
48651 Dairymen, Inc.
PROPOSED RULES
48683 Textile Fiber Products Identification Act
48682 Wool, fur, and textile products labeling
48682 Wool products labeling review

Fiscal Service
PROPOSED RULES
48688 Collection of claims due the United States arising from transactions in Treasury securities

Fish and Wildlife Service
NOTICES
48714 Endangered and threatened species permit applications

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
48659 Estradiol benzoate and testosterone propionate
48659 Pyrantel tartrate
NOTICES
Color additive petitions:
48714 Dow Corning Ophthalmics, Inc.
Meetings:
48714 Advisory committees, panels, etc.; cancellation

Forest Service
RULES
48661 Timber sales, national forest; required cash deposits
NOTICES
Environmental statements; availability, etc.:
48692 Shasta-Trinity National Forests, Calif.; hearing
Land and resource management plans; roadless areas review, etc.:
48692 Inyo National Forest, Calif. and Nev.
Meetings:
48693 Colville National Forest Grazing Advisory Board
48693 Deschutes National Forest Grazing Advisory Board
48693 San Jaun National Forest Grazing Advisory Board
48693 Sierra National Forest Grazing Advisory Board

Health And Human Services Department
See Centers for Disease Control; Food and Drug Administration; Social Security Administration.

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

NOTICES
Meetings:
48714 Alaska Land Use Council

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Countervailing duties:
48694 Carbon steel wire rod from Tobago and Trinidad
Export privileges, actions affecting:
48699 McVey, Charles J., Jr., et al.

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
48726 CSX Corp. et al.

Justice Department
See Drug Enforcement Administration; Parole Commission; Prisons Bureau.

Labor Department
See Employment and Training Administration.

Land Management Bureau
NOTICES
Classification of public lands:
48721 Colorado; correction
Conveyance of public lands:
48720 California
Environmental concern; designation of critical areas:
48715 Bluewater Canyon Natural Area, N.Mex.
Environmental statements; availability, etc.:
48720 Benton-Owens Valley/Bodie-Coleville wilderness study areas, Bakersfield District, Calif., et al.; extension of time
48716 Circle Cliffs special tar sand area, Garfield County, Utah
Management framework plans, review and supplement, etc.:
48719 California
Meetings:
48721 Craig District Advisory Council
48715 Eastern States Known Geologic Structure Data Base; postponement
48714 Fairbanks District Advisory Council
48720 Prineville District Advisory Council
48719 Vernal District Grazing Advisory Board
Oil and gas leases:
48720 Montana
Recreation management restrictions, etc.:
48719 McGregor Range, N. Mex.; enforce specific camping rules
Sale of public lands:
48717, 48718 Idaho (3 documents)
48720 Ohio
48715 South Dakota

Management and Budget Office
NOTICES
Privacy Act:
48729 Supplemental guidance; revised proposal; inquiry; extension of time

Merit Systems Protection Board
NOTICES
48740 Meetings; Sunshine Act

Minerals Management Service
NOTICES
Environmental statements; availability, etc:
48723 Atlantic OCS mineral exploration proposals
Outer Continental shelf; oil, gas, and sulphur operations:
48721 Mid-Atlantic; call for information

National Oceanic and Atmoshperic Administration
NOTICES
48700 Salmon and Steelhead Advisory Commission; hearings

National Park Service
NOTICES
Concessions contract negotiations:
48724 Crafts of Nine States, Inc.
Meetings:
48724 Canaveral National Seashore Advisory Commission

Navy Department
NOTICES
Environmental statements; availability, etc.:
48702 Stapleton, Staten Island, N.Y.; homeporting of surface action group
Meetings:
48703 Chief of Naval Operations Executive Panel Advisory Committee
48702 Naval Postgraduate School, Board of Advisors to Superintendent
48703 Naval Research Advisory Committee
48701 Privacy Act; systems of records

Nuclear Regulatory Commission
RULES
48644 National security information program; implementation; correction

Parole Commission
NOTICES
48740 Meetings; Sunshine Act

Personnel Management Office
NOTICES
Meetings:
48729 Federal Prevailing Rate Advisory Committee

Postal Service
NOTICES
48740 Meetings; Sunshine Act

Prisons Bureau
NOTICES
Meetings:
48728 National Institute of Corrections Advisory Board

Research and Special Programs Administration
RULES
Pipeline safety:
48669 Natural and other gas or hazardous liquid transportation; repair or removal of girth weld defects

VOL
48
ISS
204
OC
20
1983
UMI

Securities and Exchange Commission
NOTICES
Hearings, etc.:
48737 National Video Centers, Inc.
Self-regulatory organizations; proposed rule changes:
48734, 48735 American Stock Exchange, Inc. (2 documents)
48730 Chicago Board Options Exchange, Inc. (2 documents)
48731 Depository Trust Co.
48731 National Association of Securities Dealers, Inc.
48732 Pacific Clearing Corp.
48733 Pacific Securities Depository Trust Co.
Self-regulatory organizations; unlisted trading privileges:
48730 Boston Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
48737 Space Ventures Inc.
48737 VNB Capital Corp.
Meetings; regional advisory councils:
48738 Texas

Social Security Administration
PROPOSED RULES
Supplemental security income:
48684 Income and what is not income

State Department
RULES
Visas:
48660 Nonresident alien Mexican border crossing card and visitor visas; use of combination stamp for valid passport
NOTICES
Meetings:
48738 International Telegraph and Telephone Cousultative Committee

Surface Mining Reclamation and Enforcement Office
NOTICES
Environmental statements; availability, etc.:
48724 Red Rim Area, Carbon and Sweetwater Counties, Wyo.

Transportation Department
See Coast Guard; Federal Aviation Administration; Research and Special Programs Administration.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Customs Service; Fiscal Service.

Separate Parts in This Issue

Part II
48744 Department of Labor, Employment and Training Administration

Part III
48788 Department of Energy, Federal Energy Regulatory Commission

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
908 ... 48643
Proposed Rules:
411 ... 48675
9 CFR
166 ... 48643
Proposed Rules:
101 ... 48679
113 ... 48679
10 CFR
95 ... 48644
11 CFR
114 ... 48650
14 CFR
Proposed Rules:
Ch. I ... 48681
16 CFR
13 ... 48651
Proposed Rules:
300 ... 48682
301 ... 48682
303 ... 48683
19 CFR
4 ... 48653
18 ... 48655
134 ... 48657
20 CFR
626 ... 48744
632 ... 48744
633 ... 48744
634 ... 48744
636 ... 48744
684 ... 48744
Proposed Rules:
416 ... 48684
21 CFR
522 ... 48659
558 ... 48659
22 CFR
41 ... 48660
27 CFR
Proposed Rules:
9 ... 48685
30 CFR
223 ... 48661
31 CFR
Proposed Rules:
390 ... 48688
33 CFR
117 (2 documents) ... 48662
165 (3 documents) ... 48663, 48664
Proposed Rules:
117 ... 48690
40 CFR
52 (2 documents) ... 48664, 48665
60 ... 48669
Proposed Rules:
271 ... 48690
49 CFR
192 ... 48669
195 ... 48669

Rules and Regulations

Federal Register
Vol. 48, No. 204
Thursday, October 20, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 322]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period October 21–October 27, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: October 21, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on October 18, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing Agreements and Orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. § 908.622 is added as follows:

§ 908.622 Valencia Orange Regulation 322.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period October 21, 1983 through October 27, 1983, are established as follows:
(a) District 1: 440,000 cartons;
(b) District 2: 560,000 cartons;
(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 19, 1983.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-28807 Filed 10-19-83; 12:11 pm]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 83-057]

9 CFR Part 166

State Status Regarding Enforcement of the Swine Health Protection Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms amendments to the Swine Health Protection regulations which listed States that have primary enforcement responsibility under the Swine Health Protection Act and States that issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service (APHIS) but which do not have primary enforcement responsibility under that Act.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. R. D. Good, Special Diseases Staff, VS, APHIS, USDA, 6505 Belcrest Road, Federal Building, Room 825, Hyattsville, MD 20782, 301–436–8487.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Swine Health Protection Act (referred to below as the Act) are set forth in 9 CFR Part 166. Section 166.14 categorizes the various States according to whether they: (a) Prohibit the feeding of garbage to swine; (b) permit the feeding of treated garbage to swine; (c) have primary enforcement responsibility under the Act; or (d) issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but do not have primary enforcement responsibility under the Act.

On December 30, 1982, and February 10, 1983, documents were published in the **Federal Register** (47 FR 58217–58218, 48 FR 6089–6090) amending § 166.14(c) of the regulations by listing States that

VOL 48 ISS 204 OCT 20 1983 UMI

have primary enforcement responsibility under the Act and amending § 166.14(d) by listing States which issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but which do not have primary enforcement responsibility under the Act.

No comments were received in response to the documents of December 30, 1982, and February 10, 1983. The factual situation set forth in the documents of December 30, 1982, and February 10, 1983, still provides a basis for the amendments.

Accordingly, it has been determined that the amendments, published in the Federal Register on December 30, 1982, and February 10, 1983, should remain effective as published.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined not to be a "major rule." The Department has determined that this action will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

This action merely affirms amendments which list States that have primary enforcement responsibility under the Act and States that issue licenses under a cooperative agreement with the Animal and Plant Health Inspection Service but which do not have primary enforcement responsibility under the Act. Therefore, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 166

Animal diseases, Hogs, Garbage, African swine fever, Foot-and-mouth disease, Hog cholera, Swine vesicular disease, Vesicular exanthema of swine.

(Sec. 511, Pub. L. 96-592, 94 Stat. 3451 (7 U.S.C. 3802); Secs. 4, 5, 9, 10, 12, Pub. L. 96-468, 94 Stat. 2229, 2230, 2232, 2233 (7 U.S.C. 3803, 3804, 3808, 3809, 3811); 45 FR 85696, 46 FR 7266)

Done at Washington, D.C., this 14th day of October, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

FR Doc. 83-28659 Filed 10-19-83; 8:45 am]
BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 95

Access to and Protection of National Security Information and Restricted Data; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule appearing in the Federal Register on June 1, 1983 (48 FR 24318) concerning access to and protection of National Security Information and Restricted Data, that, among other amendments, updated Appendix A to Part 95 in order to comply with Executive Order 12356. This correction is necessary to restore information that was inadvertently omitted as a result of the amendments to the Classification Guidance table appearing in Appendix A.

FOR FURTHER INFORMATION CONTACT: Richard A. Dopp, Policy and Operational Support Branch, Division of Security , Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 427-4415.

SUPPLEMENTARY INFORMATION: On June 1, 1983, the Nuclear Regulatory Commission published a final rule amending its regulations pertaining to the access to and protection of National Security Information and Restricted Data (48 FR 24318). In this document, the Classification Guidance portion of Appendix A to Part 95 was amended to require a determination by the originating agency before information may be declassified in place of the previously required review at the end of seven or 20 years.

However, the amendatory instruction necessary to accomplish this change was not complete. As a result, the acronyms necessary to complete the classification level and description of material in the Classification Guidance table were inadvertantly omitted. This correction restores the omitted information. In order to avoid unnecessary confusion, the correction is accomplished by reprinting the entire Classification Guidance table.

In Appendix A to Part 95, the Classification Guidance table immediately following paragraph G is revised to read as follows (This correction supersedes amendatory instructions 22 and 23 in the June 1, 1983 final rule.):

Appendix A—Classification Guide for Safeguards Information

* * * * * *

CLASSIFICATION GUIDANCE

100 *Material Control and Accountability*	
110 SSNM quantities.	
111 Total quantities of SSNM at any given time by total plant.	U.
112 Total quantities at any given time of SSNM by designated vault and vault-type storage areas.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).

NOTE: Inventories of SSNM for classified DOE programs (e.g., production, naval reactors) will be classified in accordance with DOE guidance applicable to those programs.

120 SSNM Measurement Data.	
121 Measurement accuracy required by unclassified regulations (e.g., 10 CFR Part 70).	U.
122 Measurement uncertainties associated with bulk and analytical measurements that are typical for the nuclear industry provided information classified by other topics in this guide is not revealed.	U.
123 The Limit of Error on Inventory Difference (LEID) for individual material balance period or on a cumulative period basis.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
130 Material Control and Accounting Plans.	
131 Plans submitted in accordance with 10 CFR Part 70 which contains details of the licensee plan for the material control and accounting programs.	U.

CLASSIFICATION GUIDANCE—Continued

These include frequency and schedule of SSNM inventories, and measurement control, including equipment, methodology, quality assurance, destructive and nondestructive analyses, audit and organization.	
140 Quantitative SSNM Balance Data.	
The classification guidance in these topics applies to SSNM balance information not classified by other guides, e.g., production of naval reactors; classified topics in such guides take precedence where applicable.	
141 Receipts	U.
142 Shipments	U.
But see Topic 312.	
143 Other removals: measured discards, decay losses, and losses due to fission and transmutation and ID.	
143.1 Total "other removals".	U.
143.2 Itemized "other removals" for a reporting period.	U-CNSI—See declassification note for Topic 144.
U when ID is unclassified. See Topic 144	
144 Inventory Difference in any amount.	CNSI.[1]
150 Other Items Pertaining to Material Control and Accounting.	
151 Any computer output displays or printouts which provide itemized "other removals" or inventory difference data.	CNSI—See 143.2 or Topic 144 for applicable declassification marking.
200 *Physical Protection at Fixed Sites*	
201 The physical security plan for a nuclear facility or site. Plans may be SNSI in accordance with other applicable classification guidance.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret if significant vulnerability is revealed, e.g., degree of seriousness, or explicit means of penetrating existing security defenses are disclosed. See, for example, Section 400 of this guide.	

CLASSIFICATION GUIDANCE—Continued

210 Site and Facility Description.	
211 Only the general layout that can be seen from uncontrolled areas and which does not identify a vulnerability. This general layout may include: buildings parking areas, access roads, fences, outside storage areas, natural terrain, landscaped areas, tunnels, storm and waste sewers, water intake and discharge conduits, culverts, creeks, canals, and any other physical characteristics such as features of buildings, barriers, fences, guard stations, etc.	U.
212 Site specific "as built" drawings, diagrams, sketches, maps, etc., showing identity together with location and/or description of facility features of special interest because of their relationship to the physical security system that if revealed could facilitate theft or diversion of SSNM, or sabotage of a facility.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
But see Topics 211, 213 and 221.	
213 Scope, conceptual design, and construction drawings showing construction characteristics of buildings and associated fencing, electrical and other utility system layouts.	U.
But see Topic 212.	
214 Government sponsored or required evaluations of site-specific construction features or physical security barriers revealing vulnerabilities or limitations which could facilitate penetrating or by-passing physical security barriers.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

Secret if significant vulnerability, e.g., degree of seriousness, or explicit means of defeating these systems is revealed.	
220 Intrusion and Detection Alarm Systems.	
Includes Manually Activated Duress Alarms	
221 Scope, conceptual design, and construction plann.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
See Topic 222.	
222 As installed details of alarms system layout location, and electrical design that if disclosed could facilitate gaining unauthorized access to SSNM, nuclear facilities, or classified information.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
223 Vendor hardware performance specifications. Specifications for vendor custom design equipment may be classified.	U.
224 Information, including the effect of specific modifications, revealing in-place operating capability that if disclosed facilitates bypassing such systems.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
225 Security-related vulnerability or weakness.	C-SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret if significant vulnerability is revealed, e.g., degree of seriousness or explicit means of defeating these systems.	
225.1 Vulnerability information directly available from vendor specifications.	U.
226 Sensitivity levels or limits to which installed systems have been set.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

230 Plant Radio and Telephone Communication Systems.	
231 Government sponsored or required evaluations of site-specific existing plant radio and telephone communications systems revealing vulnerabilities or limitations in operating capability or procedures.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret if significant vulnerability is revealed, e.g., degree of seriousness or explicit means of defeating these systems.	
240 Tamper Indicating Seals.	
241 Information revealing ways of successfully circumventing seals which are used to protect SSNM.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret if explicit means of successfully bypassing seals are disclosed.	
242 Methodology of manufacture.	U.
243 Methodology of application.	U.
250 Keys, Locks, and Combinations.	
251 Generic types and models of keys and locks used.	U.
252 Mechanical key design, e.g., key cut depths coding systems which are used to protect areas of a security interest.	C–SNSI.
Classify consistent with the level and duration of classification of information being protected, may be RD.	
253 Combinations and codes.	C–SNSI.
Classify consistent with the level and duration of classification of information being protected, may be RD.	
254 Site-specific evaluation of lock or door locking systems that reveals vulnerability.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

Secret if explicit means of surreptitiously gaining access are disclosed.	
260 Threat Response Capability and Procedures.	
See also Section 400, Safeguards Analyses and Plans.	
261 Number of security personnel.	
261.1 Information available by visual access from uncontrolled areas to routine guard patrol activities.	U.
261.2 Total security personnel available onsite at a particular time for a site or particular activity including number and type of weapons, other than standard sidearm.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
261.3 Guard force deployment plan or scheme.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
261.4 Size and armament of inhouse reserve forces.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
262 Contingency Plans.	
262.1 Response to a specific threat, e.g., disposition, amament or planned response of security forces including number of personnel responding to specific incidents.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret when revealing increased degree of vulnerability of a site as a result of a specific action.	
262.2 Arrangements with local, state, and federal law enforcement units.	U.
See Topic 262.1.	
262.3 Numerical threat level for contingency planning.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

263 Response Time of Guards and Back-Up Force.	
263.1 Response time required.	U–CNSI—Declassify on: Originating Agency's Determination Required (OADR).
Unclassified if stated in unclassified NRC manual chapters or regulations.	
263.2 Actual response time capabilities.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).
Secret when revealing increased degree of vulnerability of a site as a result of a specific action.	
264 Security Patrols.	
264.1 Procedures, schedules and frequency for routine security tours.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
264.2 Actual prearranged schedule including the specific times and locations.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
270 Personal Verification (Emergency or Duress) Codes and/or How They Are Used.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
280 Audit and Assessment Information.	
281 General methods for auditing of physical security measures or assessing of these measures.	U.
282 General procedures for routine inspection and testing of equipment (e.g., barriers, alarms, communications).	U.
283 Government sponsored or required evaluations of security systems revealing vulnerabilities or limitations in physical security measures, operating procedures or personnel capabilities.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR).

CLASSIFICATION GUIDANCE—Continued

Secret if significant vulnerabilities are revealed, e.g., degree of seriousness or explicit means of penetrating security defenses.	
290 Miscellaneous.	
291 Detailed reports of attempted or successful penetration of nuclear facilities and attempted or successful diversion or theft of special nuclear material within or from a nuclear facility.	CNSI—Declassify on: Originating Agency's Determination Required (OADR).
Reports of facts of attempted or successful penetration or diversions, without further elaboration, are unclassified. Information covered by this topic is declassified when operationally necessary to repel attacks or recover stolen SSNM.	
292 Reports of other unusual or abnormal occurrences or incidents, the release of which would not reveal security-related vulnerabilities.	U.
293 Administrative control procedures.	U.
294 Complete emergency plans such as fire, safety and radiological emergency plans provided they do not reveal information classified by other topics of this guide.	
300 In-Transit Protection of SSNM.	
Topics in this section apply only to shipments of formula or greater quantities of SSNM. Certain classification guidance in the area of In-Transit protection is classified.	
301 Fact that SSNM shipments are protected by various unspecified means.	U.
302 Information regarding operations, shipments, routing and protection available as a result of uncontrolled visual access to the shipment when it is in progress.	U.
303 Fact of use of any shipment mode, e.g., air, rail, truck, ship, etc.	U.

CLASSIFICATION GUIDANCE—Continued

310 Shipment Contents.	
The classification guidance in this section applies to shipment composition information not classified by other guides, e.g., those relating to production, weapons, or naval reactors; classified topics in such guides take precedence where applicable. Shipment contents information for a specific shipment is declassified when it is determined to be necessary to release such information in the event of an operational exigency, e.g., vehicle accident.	
311 Fact that a specific shipment contains radioactive material.	U.
311.1 Any further elaboration as to identity or composition of the material, e.g., fact that it is SSNM, fact that it is PU or U.	CNSI—May be declassified after arrival of shipment at final destination provided neither classified shipping patterns nor other information classified by this guide is revealed.
312 Quantity of SSNM in a particular shipment.	CNSI—May be declassified after arrival of shipment at final destination provided neither classified shipping patterns nor other information classified by this guide is revealed.
312.1 Number and size of packages provided that the information classified by other topics of this or other applicable guides is not revealed.	U.

CLASSIFICATION GUIDANCE—Continued

320 Schedules and itinerary for Specific Shipment	
A. Total itinerary is declassified when it is determined to be necessary to release such information.	CNSI—May be declassified after arrival of shipment at final destination provided neither classified shipping patterns nor other information classified by this guide is revealed
1. To uncleared commercial carrier(s) selected to move a shipment(s)	
2. In the process of filing flight plans with FAA	
B. Individual items of schedule information, less than the total itinerary are declassified when it is determined to be necessary to release such information.	
1. In the event of an operational exigency, e.g., vehicle accident or communications failure, when cleared communications facilities are unavailable	
2. In those cases when it is determined to be necessary to advise state or local law enforcement agencies regarding the movement of the shipment through areas under their jurisdiction	
330 SECOM (Secure Communications) Operations	
331 The fact of existence of SECOM System and a general description of the operation.	U.
332 A general description of the SECOM equipment and SECOM Control Center.	U.

VOL 48 ISS 204 OCT 20 1983 UMI

CLASSIFICATION GUIDANCE—Continued

But See Topics 334 and 337	
333 Operating procedures	
333.1 Base Station Operating Procedures.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
333.2 General Mobile Operating Procedures.	U.
But See Topics 333.3 and 334	
333.3 Appendices to General Operating Procedures that concern the security/safeguards of shipments.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
334 Detailed description of.	
334.1 Operation and equipment.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
334.2 Checkpoint System.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
334.3 Authentication System.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
335 Emergency Response Procedures.	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
336 Authenticator Lists ...	CNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
336.1 Before use.	
336.2 After use, if information relevant to subsequent use is not revealed.	U.

CLASSIFICATION GUIDANCE—Continued

337 Maps showing in-transit locations of shipments.	CNSI—Maps become declassified after removal of in-transit locations
338 Records	
338.1 Voice Recordings..	U.
338.2 SECOM station logs.	U–SNSI.
Classification of the station log depends upon the level and duration of classification of the information entered in the log.	
339 Software and Software Documentation (guidance for specific program to be identified as developed)	
Classification level and duration depends upon what information, covered by other topics in this guide, is revealed.	
340 Inter-Vehicle Communications	
341 Fact of radio communications and the radio frequencies used between SSNM vehicle and escort vehicles.	U.
Elaboration may be classified	
342 Communications procedures and system information not revealing information classified by other topics of this guide.	
350 Communications Equipment Per Se.	U.
360 Information Concerning Communications Systems Procedures and Equipment which *Must* be exchanged with Local Law Enforcement Agencies Providing it Does not Reveal Information Contained in the Physical Security Plan.	U.
370 Guard Organization And Capabilities	
371 The fact that armed guards accompany special nuclear material shipment.	U.

CLASSIFICATION GUIDANCE—Continued

372 The total number of guards that accompany a particular shipment.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
373 Contingency plans for safeguarding enroute shipments, e.g., disposition, armament or planned response of security forces.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
374 Arrangements with local law enforcement agencies.	U
380 Secure Transport Vehicles.	
381 Fact of existence of such vehicles, e.g., Safe Secure ATMX Car, and Special Nuclear Material Vehicles (SNMVs) and commercial vehicles designed to carry and safeguard SSNM.	U.
382 General description of purpose and function, e.g., to reduce the vulnerability of shipment to diversion and to deter unauthorized access to transported cargo.	U.
383 Visual access to vehicle exterior.	U.
384 Visual access to vehicle cargo compartment, provided information classified by other topics of this guide is not revealed.	U.
385 Fact of use of specific passive or active protection features.	U–CNSI—Declassify on: Originating Agency's Determination Required (OADR)
Fact of use of armor plate, bullet resistant glass, foam, and brake locking is unclassified.	
386 Design details of passive or active protection.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)

CLASSIFICATION GUIDANCE—Continued

400 Safeguards Analyses and Plans	
410 Diversion or Sabotage Vulnerability Studies.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR)
411 Site-specific route specific scenarios for theft, diversion or sabotage.	C–SNSI [2]—Declassify on: Originating Agency's Determination Required (OADR)
Secret if signficiant vulnerability is revealed, e.g., degree of seriousness or explicit means of penetrating security defenses are disclosed.	
412 Evaluations scenarios for theft, diversion or sabotage.	C–SNSI [2]—Declassify on: Originating Agency's Determination Required (OADR)
Secret if signficiant vulnerability is revealed, e.g., degree of seriousness or explicit means of penetrating security defenses are disclosed.	
413 Site-specific or route specific diversion path or vulnerability anaylsis.	C–SNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
Secret if significant vulnerability is revealed, e.g., degree of seriousness or explicit means of penetrating security defenses is disclosed.	
414 Diversion path or vulnerability analysis methodology, e.g., general techniques (fault tree, event tree, systems analysis, etc.).	U.
Secret if significant vulnerability is revealed, e.g., degree of seriousness or explicit means of penetrating security defenses is disclosed.	
420 Plans for response to threats.	C–SNSI [2]—Declassify on: Originating Agency's Determination Required (OADR)
421 Fact that current NRC regulations are intended to cover a threat of several people.	U.

CLASSIFICATION GUIDANCE—Continued

422 Vulnerabilities of specific facilities.	C–SNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
Secret if significant vulnerability is revealed, e.g., degree of seriousness or explict means of penetrating security defenses.	
423 Threat Levels.	
423.1 Specific threat levels against which the NRC licensees can or cannot protect.	C–SNSI[2]—Declassify on: Originating Agency's Determination Required (OADR)
423.2 Threat levels against which NRC licensees intend to protect in the future.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR)
423.3 External and internal threat levels which are used as part of a sensitivity analysis of a security system to threats in that system.	C–SNSI—Declassify on: Originating Agency's Determination Required (OADR)
500 *Safeguards Research, Development, Test, and Evaluation (RDT&E).*	
510 Generic Functions, General Performance Characteristics, and General Applications Materials, Equipment, Processes, and Conceptual Studies in RDT&E for New or Improved Safeguards, Provided Information Classified by Other Topics in This Guide is Not Revealed.	U.
520 Conceptual Studies for a Generic Facility or Site. The Objectives, Capabilities, and Applications for an Entire Site Security System.	U.
530 Evaluations of Commercial or Commercially Developed Equipment Which has Undergone or is Undergoing Laboratory Testing.	U.

CLASSIFICATION GUIDANCE—Continued

But see Topics 214, 222, 224, 231, 241, 410.	
540 Specific Performance Capabilities or Vulnerabilities of Systems, Subsystems, Materials, Equipment, or Processes in RDT&E for New or Improved Safeguards.	
541 Information revealing a vulnerability which would significantly assist the bypass or defeat of the integrated safeguards system actually installed (or planned to be installed) at a specific facility or in the transportation system.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
542 Information about a characteristic or feature that meets all of the following criteria (1) it would significantly delay the bypass or defeat of an operational application, and (2) its presence in an operation configuration and application would not be reasonably expected or predicted.	CNSI—Declassify on: Originating Agency's Determination Required (OADR)
550 Hardware is Classified in Accordance With Information it Reveals.	

[1] May be declassified after a period of six months from date of inventory assessment, provided (a) any resulting investigation is completed, and (b) the initial classification determination was not due to extenuating circumstances. ID data remains classified for the duration of an investigation.

[2] Individual items of information not revealing (1) significant information concerning the (a) security protection, (b) the disposition, armament, or planned response of security forces or (2) information classified under other topics of this guide or other applicable guides should be submitted through channels to the NRC Division of Security, for possible declassification.

Dated at Bethesda, Maryland this 30th day of September 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-28197 Filed 10-19-83; 8:45 am]

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VOL
48
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FEDERAL ELECTION COMMISSION

[Notice 1983-26]

11 CFR Part 114

Trade Association Solicitation Authorization

AGENCY: Federal Election Commission.

ACTION: Transmittal of regulations to Congress.

SUMMARY: The Commission's regulations at 11 CFR 114.8(c)(2), (d)(2) and (d)(4) have been revised and transmitted to Congress pursuant to 2 U.S.C. 438(d). These regulations govern the request and receipt of solicitation authorizations that a trade association must obtain prior to soliciting its corporate members' stockholders and executive or administrative personnel. The revisions would permit trade associations to request and receive the authorizations prior to the calendar year in which the solicitation is to occur. Further information on the revised regulations is provided in the supplementary information which follows.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463. (202) 523-4143 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission published a Notice of Proposed Rulemaking on these regulations on November 26, 1982. (47 FR 53396) The revised regulations are based in part upon the comments received in response to that Notice.

2 U.S C.S. 438(d) requires that any rule or regulation prescribed by the Commission to implement Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate. The Commission may prescribe the regulations in question after they have been before both Houses of Congress for 30 legislative days. The following regulations were transmitted to Congress on October 17, 1983.

Explanation and Justification

The Commission's Notice of Proposed Rulemaking on these regulations posed the following question: does 2 U.S.C. 441b(b)(4)(D) require trade associations to obtain the requisite solicitation authorization from their corporate members in the same year for which it is to be applicable, or may it be obtained prior to that calendar year?

Of the 80 comments received, all but one favored the Commission's proposal to permit trade associations to request and receive authorizations prior to the year for which they are designated.

Many of these favorable comments spoke of the difficulties trade associations encountered when trying to comply with the requirements of the current regulations. They complained of the months lost each year trying to get corporate members to return the solicitation approval before solicitation could begin. Since it is most economic for a trade association to solicit its members' employees at one time, some associations cited a loss of up to four months a year waiting for the approvals to come in. They also stated that corporate members were annoyed by the repeated requests for approvals and that these members would have preferred to submit more than one year's approval at a time.

The revisions to 11 CFR 114.8(c)(2) and (d)(4) should resolve many of the problems raised by the comments. The revised regulations permit trade associations to obtain solicitation approval from their members for several years at a time if they so choose. The approvals must still be obtained in accordance with 2 U.S.C. 441b(b)(4)(D), which requires that the solicitation be "separately and specifically approved" by the member corporation and that the member approve solicitations by no more than one trade association in any calendar year. This means that, for each year that a member corporation gives its approval to solicit, a separate authorization must be prepared even if several authorizations are prepared and transmitted to the trade association at one time. It should also be noted that the member corporation continues to have the right to withdraw its authorization at any time. If, however, any solicitation has been made for the trade association's separate segregated fund during that calendar year, the corporation may not approve solicitation by another trade association for that calendar year but it may give approval for future years.

Since these regulations allow corporate members to approve solicitation for several years at a time, the retention requirements of 11 CFR 114.8(d)(2) needed to be altered accordingly. Therefore, the Commission has also revised that section to require that each authorization be kept for three years from the year to which it applies rather than three years from the time it was approved. Otherwise, authorizations might be discarded before they even went into effect.

The negative comment was submitted by the National Association of Casualty and Surety Agents, which was concerned that the proposed changes would result in increased competition among trade associations in the same industry to obtain corporate approval earlier. While this may be an unfortunate result in some cases, the benefits to be gained by relaxing the requirement to obtain approval in the same year that the solicitation occurs, as noted by the majority of the comments, would seem to outweigh any such adverse effects.

List of Subjects in 11 CFR Part 114

Business and industry, Elections.

PART 114—[AMENDED]

11 CFR 114.8 is amended by revising paragraphs (c)(2), (d)(2) and (d)(4) as follows:

§ 114.8 Trade Associations

* * * * *

(c) * * *

(2) The member corporation has not approved a solicitation by any other trade association for the same calendar year.

* * * * *

(d) * * *

(2) A copy of each approved request received by a trade association or its separate segregated fund shall be maintained by the trade association or its fund for three years from the year for which the approval is given.

* * * * *

(4) A separate authorization specifically allowing a trade association to solicit its corporate member's stockholders, and executive or administrative personnel applies through the calendar year for which it is designated. A separate authorization by the corporate member must be designated for each year during which the solicitation is to occur. This authorization may be requested and may also be received prior to the calendar year in which the solicitation is to occur.

* * * * *

(2 U.S.C. 441b, 437d(a)(8))

Dated: October 17, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-28551 Filed 10-19-83; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9143]

Dairymen, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: The Commission has issued a Final Order returning this matter to adjudication and dismissing the complaint issued against one of the nation's largest raw milk processors, holding that the record did not support a finding that Dairymen's 1978 acquisition of Farmbest Foods, Inc., violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

DATES: Complaint issued July 31, 1980.* Final Order issued Sept. 20, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CS-6, Steven A. Rothman, Washington, D.C. 20580. (202) 724-1239.

SUPPLEMENTARY INFORMATION: In the Matter of Dairymen, Inc., a corporation.

List of Subjects in 16 CFR Part 13

Milk processors, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

[Docket No. 9143]

Final Order Returning Matter to Adjudication and Dismissing Complaint

In the Matter of Dairymen, Inc., a corporation.

On July 31, 1980, the Commission issued an administrative complaint alleging that Dairymen, Inc. ("Dairymen") and Munford, Inc. ("Munford") violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission when Dairymen acquired Farmbest Foods, Inc. ("Farmbest") from Munford in 1978. On November 4, 1982, this matter was withdrawn from adjudication so that the Commission could consider a proposed consent. On March 25, 1983, the staff of the Bureau of Competition and the Bureau of Economics forwarded their analyses and recommendations to the Commission regarding the proposed consent.

At the time this action was filed, the Commission had been monitoring the Class I milk processing industry for more than twenty-five years. In the first ten years of its corporate existence, Dairymen acquired over thirty-one Class I milk processing plants in the southern United States. None of these individual acquisitions were challenged either by the Commission or by the Department of Justice ("Department") under Section 7 of the Clayton Act; however, in 1973, the Department brought a civil action against Dairymen alleging that it violated Section 2 of the Sherman Act and Section 3 of the Clayton Act by various acts affecting the upstream raw milk industry.[1] This matter was in litigation throughout the development of the Commission's case concerning the Farmbest acquisition.

The Commission's complaint alleged that the Farmbest acquisition substantially lessened competition in the sale of Class I milk products in five standard metropolitan statistical areas ("SMSAs"): Johnson City-Kinsport-Bristol, Tennessee-Virginia; Knoxville, Tennessee; Birmingham, Alabama; Montgomery, Alabama; and Columbus, Georgia-Alabama. The evidence adduced in discovery to date, however, tends to support geographic markets of broader scope. For example, products were shipped 135 miles from the Bristol plant, 200 miles from the Montgomery plant, 140 miles from the Columbus, Georgia, plant and 195 miles from the Knoxville plant. The recent findings by the District Court on remand in *U.S. v. Dairymen, supra,* also suggest broader geographic markets at the processing level. In that case the evidence showed that raw milk handlers in the five southeastern states market have purchased milk outside of that territory—sometimes from as far away as Wisconsin and Minnesota.[2] On the other hand, our record does not conclusively rebut the plausibility of more confined markets. Shipments data are incomplete; thus, we are unsure of the frequency of or reason for the longer shipments. The proposed testimony of trial witnesses uniformly perceives the relevant geographic markets to be "local", although the scope of that definition is unclear.

The fact that the contours of the relevent geographic markets in milk processing are unclear raises the concern that the Farmbest acquisition has not had anticompetitive effects. Other factors strengthen that concern. The record indicates that entry barriers into milk processing are not high. A steady and substantial decline in the number of dairy processors for well over a decade has made numerous physical facilities available. Brand loyalty appears to be an insignificant competitive factor: Witnesses do not emphasize it and Flav-O-Rich has not used the Farmbest name since the acquisition. Thus, the apparent lack of entry into the market appears to be due to increasing scale economies, rather than to any market power exercised by Dairymen Inc.[3] These factors, coupled with the lack of other evidence of anticompetitive effects, have dissipated our initial concern about this acquisition. Therefore, because the record does not support a finding that the acquisition is likely to injure competition, the Commission no longer has reason to believe that respondent violated Section 7 of the Clayton Act or Section 5 of the Federal Trade Commission Act. Therefore,

It is ordered that this matter be returned to adjudication and

It is further ordered that the complaint issued in the matter be, and it hereby is, dismissed.

By the Commission. Chairman Miller did not participate in the decision of the

* Copies of the Complaint filed with the original document.

[1] As part of the complaint, the Government alleged that eighteen of these acquisitions evidenced Dairymen's intent to monopolize the market in Grade A milk in the southeastern United States by foreclosing raw milk competitors from access to processing facilities and thereby forcing non-member producers either to join Dairymen's cooperative or to exit the raw milk market. The Government, however, did not seek to ban Dairymen from making future acquisitions in the relevant market. The District Court entered a supplemental judgment dismissing the attempted monopolization portion of the Government's complaint. The Sixth Circuit Court of Appeals in a *per curiam* opinion reversed the District Court's attempted monopolization holding, instructing the District Court in the correct legal standard and directing it to determine relevant geographic submarkets for evaluating the attempted monopolization allegation on the basis of "commercially significant areas in which [Dairymen's] customers could turn to other suppliers." *United States v. Dairymen, Inc.*, 660 F.2d 92 (6th Cir. 1981).

On remand, the District Court found that the Government had met its burden of showing that Dairymen had the requisite specific intent to monopolize a relevant submarket of five southeastern states (Kentucky, Tennessee, Georgia, Louisiana and Mississippi), but that the Government had failed to show a dangerous probability of success. The District Court held the evidence was insufficient to show that Dairymen had the power to control prices or exclude competitors in the relevant five-state market. *United States v. Dairymen, Inc.*, Civil Action No. C 7634A (W.D. Ky. June 9, 1983, slip op. at 14-15).

[2] *United States v. Dairymen, Inc., supra,* slip op. at 5.

[3] The District Court decision on remand in *Dairymen* also supports this view. The Court there held that Dairymen did not have the power to raise or fix prices or exclude competitors in the five Southeastern states market. *Dairymen, supra,* slip op. at 14-15.

Commission. Commissioner Pertschuk voted in the negative.

Emily H. Rock,

Secretary.

Dissenting Statement of Commissioner Michael Pertschuk Concerning Dairymen, Inc., Docket No. 9143

September 16, 1983.

I dissent from the Commission's decision to reject a proposed settlement and dismiss the complaint in this matter. The settlement that the Bureau of Competition has recommended was reached between complaint counsel and respondents shortly before trial was to begin, and consequently, we are not presented with a complete trial record. However, we have ample evidence showing there is reasonable support for the allegations in the 1980 complaint. Moreover, the relief in the proposed consent agreement provides for a reasonable resolution of this litigation by requiring Dairymen, which has been a prolific acquirer of smaller dairy processors, to obtain prior approval for future acquisitions for a limited period.[4] Therefore, the proper course is to accept the agreement for public comment.

The principal objection of the majority to accepting this agreement is the argument that the geographic markets may be substantially larger than the SMSA markets alleged in the complaint. The majority does not know what the appropriate market is but suggests indirectly that it may be a five-state area, in order to include points to which processed milk was shipped from the five SMSA's—points that are in some instances 200 miles away.[5]

The problem with the majority's theorizing that the market must be at least large enough to accommodate any shipping is that this reasoning leads to a market for milk processing that is likely to be the North American continent. If we examined the processed milk shipping patterns from the hypothetical five-state market (which we have not), I have little doubt we would find that milk is shipped outside the area. If we expanded the circle to include those shipments, we would find more shipments outside that area, and so on. In short, the majority has created an impossible-to-meet standard for geographic markets. Furthermore, it has ignored evidence more than adequate to support the result of this proposed settlement.

The point is not to draw a market that captures all shipping, but one that captures enough of it to reflect the basic dynamics of price competition. Thus, Professors Elzinga and Hogarty have argued in influential articles that the relevant questions are: (1) Whether the great majority of products sold in the area were produced there, and (2) whether most production in the area was sold there.[6] At the time of trial preparation, the staff did not have complete evidence on shipments, but they did have information showing that in four of the five markets more than 80% of milk sold in the SMSA was processed there in the year before the acquisition. In addition, several industry officials were prepared to testify that, notwithstanding the distances across which processed milk is shipped, prices in each SMSA varied independently from prices in the others and that from a business perspective they felt the individual SMSA's were separate markets. One processor told the staff that a Dairymen executive had tried to get him to fix prices in Knoxville and, further, had told him that the Nashville processors had been able to raise the prices of wholesale milk in that SMSA by an agreement. If these cities were both in one large, multi-state market, such differences in pricing dynamics could not occur.

Commissioner Douglas argues that Farmbest and Flav-O-Rich cannot be part of an SMSA market if their plants are not located within the SMSA. This proposition is equivalent to stating that no geographic area can be a relevant market if there are shipments in from the outside or, alternatively, that sales of companies with shipments into a relevant geographic market from an outside plant cannot be considered as in the market. Neither of these conclusions is correct (otherwise, for example, no foreign manufacturer's imports into the U.S. would be considered as part of a U.S. market).

Commissioner Douglas further argues that more than 50% of the production of Flav-O-Rich and Farmbest in any SMSA is shipped outside the SMSA (except in the case of Birmingham). Assuming this observation to be true (since, again, we have no trial record), the percentage shipped outside the SMSA's by these two companies does not tell us about shipments outside the SMSA's by all companies producing there. In addition, the "little out from inside" half of the Elzinga-Hogarty test is less dispositive than the "little in from the outside" half, because it turns on factual assumptions that may not hold true. The significance of shipments outside the area is that they might be diverted inside the area if prices are increased as a result of interdependent or collusive pricing. However, this theoretical market self-correction requires disrupting existing supply contracts and customer relationships, and therefore may not occur or occur only after substantial delay. Moreover, the possibility of diverting production into the area gives even less comfort when the major "exporter" is the (now merged) dominant firm, which stands to benefit from higher prices and reduced output.

If the SMSA's (or SMSA's plus the immediate surrounding areas) are relevant markets, the acquisition substantially increased market concentration levels. The table below shows how market shares increased after the acquisition:

HERFINDAHL INDEX

City	Preacquisition	Post acquisition	Change
Columbus	3763	3986	223
Montgomery	2815	2918	112
Birmingham	2615	2824	210
Knoxville	1843	2296	454
Tri-Cities	3322	4107	785

All these market share figures meet the Justice Department's "likely to challenge" standards.

The majority also argues that entry barriers are not high because there are unused plants available. Yet the majority also says that lack of entry is due to economies of scale, suggesting that the unused facilities are inefficient and that the requirement of sufficient scale is itself a barrier. Moreover, I do not believe that we should insist on proof of substantial barriers to entry here, because such large increases in market share resulted from the acquisition.[7]

[4] Dairymen, one of the largest Class I milk processors in the southeast U.S., acquired thirty-one Class I milk plants in the southeast between its formation in 1968 and the acquisition of Farmbest in 1978. Since then, it has acquired eight more processing facilities.

[5] The majority makes an extensive reference to separate litigation involving the raw milk market, but the court's analysis of different allegations and a different product market is of limited use in deciding upon market definition here.

[6] *See* Elzinga and Hogarty, "The Problem of Geographic Market Delineation in Antimerger Suits," 18 *The Antitrust Bulletin* 45–81 (1973) and "The Problem of Geographic Market Delineation Revisited: The Case of Coal," 23 *The Antitrust Bulletin* 1–18 (1978). The first article suggests a 75% standard for both factors; the second suggests 90% might be more appropriate.

[7] The majority's conclusion that entry barriers are low is based, in part, upon the belief that "[b]rand loyalty appears to be an insignificant competitive factor," as shown by Dairymen's abandonment of the Farmbest trade name. The majority has demonstrated the danger of deciding issues such as this without the benefit of an adjudicative record: Dairymen is presently using the Farmbest trade name on its aseptically packaged, shelf-stable milk, a new product in which Dairymen has invested millions of dollars in research, development, new production facilities and advertising.

Whenever issues are complex and the results of litigation are difficult to predict, the parties often have heightened incentives to compromise and settle their differences. Complaint counsel and Dairymen followed that course here. Yet it is precisely because of the complexity of the issues and inability to predict a certain outcome that the majority now reasons that the settlement must be rejected. Their principal mistake is to introduce a proof standard that will often be impossible to meet and is likely to doom many settlements that are in the public interest. This consent agreement should be accepted as a reasonable end to this litigation.

Concurring Statement of Commissioner George W. Douglas in the Matter of Dairymen, Inc., Docket No. 9143

I fully endorse the analysis in the Commission Order in this matter. However, I would like to provide some additional analysis of the geographic market issues that Commissioner Pertschuk raises in his dissenting statement.

Commissioner Pertschuk supports treating five separate SMSAs—Columbus, Georgia; Montgomery, Alabama; Birmingham, Alabama; Knoxville, Tennessee; and Bristol, Tennessee (Tri-City)—as separate geographic markets in this case. However, this approach would not be consistent with treating Farmbest and Flav-O-Rich, the Dairymen processor subsidiary, as actual horizontal competitors, and would therefore logically require dismissing the complaint altogether.[8] Phillip Areeda and Donald Turner, among others, have noted that different areas can be treated as separate markets when the price of the relevant product differs from one area to another and price movements among those areas are relatively uncorrelated.[9] In its Merger Guidelines, the Justice Department has applied that approach to merger analysis, pointing out that—

> The purpose of geographic market definition is to establish a geographic boundary that roughly separates firms that are important factors in the competitive analysis of a merger from those that are not.[10]

This implies that if each SMSA is treated as a separate market, then two firms that produce and sell the relevant product only in different SMSAs do not compete to a significant degree with one another, because the price that each firm charges does not significantly affect the price that the other firm charges. A merger between two such firms would be unlikely to substantially lessen actual horizontal competition.

At the time of the acquisition, Farmbest operated processing plants in Bristol and Montgomery, while Flav-O-Rich operated processing plants in Columbus, Knoxville, and Birmingham. None of the five SMSAs included both a Farmbest and a Flav-O-Rich plant. These facts mean that Commissioner Pertschuk's approach requires accepting two conflicting hypotheses about each SMSA; the Knoxville SMSA, where Farmbest does not have a processing plant, provides an example. On the one hand, Commissioner Pertschuk suggests that the Knoxville SMSA should be treated as a separate geographic market. This means by definition that shipments by firms such as Farmbest into the Knoxville SMSA are so inconsequential that they will not significantly affect prices and price movements within the SMSA. On the other hand, Commissioner Pertschuk suggests that shipments by Farmbest into the Knoxville area are so substantial that Flav-O-Rich's acquisition of Farmbest may substantially lessen competition within the Knoxville SMSA. These conflicting hypotheses cannot be reconciled, and accepting the first therefore logically requires rejecting the second and dismissing the complaint.[11]

Commissioner Pertschuk also suggests that the test developed by Professors Elzinga and Hogarty supports treating each SMSA as a separate geographic market. However, that test requires considering both (1) the percentage of the relevant product *sold* in a postulated market that is also produced there *and* (2) the percentage of product *produced* in a postulated market that is also sold there. Commissioner Pertschuk notes that substantial percentages of the processed milk that is sold in the five SMSAs are also produced there.

However, the record evidence also shows that both Farmbest and Flav-O-Rich sold large percentages of the milk they processed in each SMSA—well over fifty percent in four of the five SMSAs in 1977—in areas outside the SMSAs in which the milk was processed.[12] These data strongly suggest that the relevant geographic markets are substantially larger than the SMSAs upon which Commissioner Pertschuk relies.

Finally, the Commissioner's experience in *Southland Corp.* supports relying upon larger geographic markets. After the Commission sued to enjoin the acquisition at issue in that case, the District Court rejected its effort to define the relevant geographic market as the San Antonio SMSA. The Court noted that processing plants in areas as much as 345 miles away sold milk in San Antonio, and that plants located in San Antonio sold milk in areas as far away as Austin (77 miles), Laredo (153 miles), Waco (178 miles), and Houston (197 miles).[13]

In conjunction with the other evidence that the Commission Order discusses, these factors support the Commission determination that the complaint in this matter should be dismissed.

[FR Doc. 83-28578 Filed 10-19-83; 8:45 am]

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[8] The complaint alleges only that the acquisition might eliminate actual competition between Farmbest and Flav-O-Rich in the five cited SMSAs. *Dairymen, Inc.*, Docket No. 9143 (Complaint), at 8–9.

[9] P. Areeda & D. Turner, II *Antitrust Law* 335 (1978).

[10] *Justice Department Merger Guidelines* (June 14, 1982), *reprinted in* 42 ATRR Special Supplement (June 17, 1982), at S–5.

[11] Commissioner Pertschuk suggests that this argument implies that no geographic area could be treated as a separate market if shipments from outside its boundaries were made into the area. That implication should not be drawn from the argument. The key question is not whether *any* shipments are made into a given area, but rather whether the shipments from outside are or could be substantial enough to significantly influence prices and price movements within the SMSA. If they are—and they certainly seem to be in this case—then larger areas should be treated as the relevant geographic markets.

[12] Commissioner Pertschuk suggests that the "little out from inside" half of the Elzinga-Hogarty test is "less dispositive" than the "little in from outside" half. However, Professors Elzinga and Hogarty have not taken that position; they consider both halves of their test to be equally important. Moreover, it seems unlikely that "existing supply contracts and customer relationships" would make it any more difficult to change the magnitude of shipments *to* other areas than to change the magnitude of shipments *from* other areas.

[13] *FTC* v. *Southland Corp.*, 471 F. Supp. 1, 2–4 (D.D.C. 1979).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 83-216]

Customs Regulations Amendment Relating to Licensing of Certain Foreign Pleasure Vessels

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to cruising licenses. Cruising licenses exempt pleasure vessels from certain countries from formal entry and clearance procedures at all but the first port of

VOL
48
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entry in the United States. The document: (1) Extends the duration of cruising licenses for pleasure boats from six months to one year; and (2) adds a warning statement on cruising licenses to apprise license-holders under what conditions their vessels may be dutiable. These changes will save considerable time for vessel owners and Customs personnel and facilitate compliance with the applicable regulation.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Harold M. Singer, Carriers, Drawback and Bonds Division (202–566–5706), U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Section 4.94(a), Customs Regulations (19 CFR 4.94(a)), provides that U.S. vessels documented as yachts, used exclusively for pleasure, not engaged in any trade, and not violating the Customs or navigation laws of the United States, may proceed from port to port in the United States or to foreign ports without entering and clearing, as long as they have not visited hovering vessels.

Generally, foreign-flag yachts entering the United States are required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the United States. However, as provided in § 4.94(b), Customs Regulations (19 CFR 4.94(b)), pleasure vessels from certain countries may be issued cruising licenses which exempt them from formal entry and clearance procedures (e.g., filing manifests, obtaining permits to proceed and exemptions from the payment of tonnage tax and clearance fees) at all but the first port of entry. Cruising licenses are available to pleasure vessels of countries which extend reciprocal privileges to U.S. pleasure vessels. A list of these countries also is set forth in § 4.94(b).

Cruising licenses may be issued for six-month periods by any district director of Customs in accordance with requirements set forth in § 4.94(c), Customs Regulations (19 CFR 4.94(c)).

Presently, when a cruising license expires at the end of six months, a successive cruising license for an additional period of time may be granted at the discretion of the district director. However, in a decision abstracted as T.D. 55216(1) (September 6, 1960), Customs discouraged this practice by stating that successive cruising licenses shall not be issued for extended periods of time as they are not intended as a form of permanent license. In some regions the yachting season extends beyond the six-month limitation, making it necessary for masters of vessels to seek successive licenses. Extension of the duration of cruising licenses to one year will result in fewer requests for renewal of licenses, thereby saving considerable time for both vessel owners and Customs personnel.

The "warning" added to cruising licenses is intended to apprise license-holders of the law concerning dutiabilty and the consequences of selling, chartering, or offering to sell or charter a vessel at the time of, or within one year of the vessel's arrival, as appropriate. There have been instances when vessels owner's unfamiliarity with the provisions of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) and Customs long-standing policy on this subject has resulted in the forfeiture of a vessel when it was sold or chartered, or offered for sale or charter, at the time of, or within one year of, arrival without first paying the required duty.

Accordingly, by notice published in the **Federal Register** on October 19, 1982 (47 FR 46534), Customs proposed to amend § 4.94 (c) and (d) to: (1) Extend the duration of cruising licenses from six months to one year, and (2) amend the wording of cruising licenses to apprise license-holders under what conditions their vessels may be dutiable. Comments on the proposal were to have been received on or before December 20, 1982.

Discussion of Comments

Four comments were received in response to the proposal; two comments favored the proposal as published. One comment suggested further changes in the cruising license procedures and an examination of the warning language. The fourth concerned reciprocity between Canada and the United States regarding such licenses.

The changes suggested in the cruising license procedures are that reciprocity between different countries and the United States should not be required, and the renewal of cruising licenses should be permitted at the pleasure boat's next port of entry after the license expires.

A foreign country must allow pleasure vessels belonging to a resident of the United States to arrive at and depart from its waters and cruise in its waters without entering or clearing and without the payment of dues, duty per ton, tonnage taxes or charges for cruising licenses, or the United States will not extend the same privileges to that country's vessels in United States waters, pursuant to 46 U.S.C. 104. This is a statutory requirement. Accordingly, the only method by which Customs could allow all foreign vessels to have these privileges without reciprocity would be by legislative action.

Cruising licenses are not to be routinely renewed. They are not normally extended, but may be renewed in the discretion of a district director for cause. Pursuant to Treasury Decision 55218(1), cruising licenses are not intended as a form of permanent license to permit any vessel to remain indefinitely in U.S. waters. Consequently, they may not be routinely renewed at the next port of entry after the original license expires.

The comment concerning the warning language outlines various situations under which a yacht may or may not be dutiable and takes issue with the statement that a foreign-built yacht becomes dutiable when listed for sale. The warning language set forth in the proposal is meant as a general statement and does not cover every contingency. As the warning statement accurately reflects Customs position, we see no reason to change it.

The comment concerning reciprocity between Canada and the United States suggests that reciprocity does not exist between Canadian and U.S. pleasure vessels, that section 4.94 fails to provide any enforcement mechanism, and that Canadian vessels should not be permitted to remain indefinitely in United States waters as United States vessels are not permitted to remain indefinitely in Canadian waters. As an example of the lack of reciprocity, the commenter states that Canadian Customs rules specify that in the event a U.S. boater fails to remove the vessel from Canadian jurisdiction "within the period in respect to which the permit was issued or renewed, the pleasure craft should be deemed to have been unlawfully imported into Canada and is liable to seizure and forfeiture in the manner set out in the Customs Act."

The reciprocity that Canada extends to the United States applies, pursuant to 46 U.S.C. 104, to allowing U.S. vessels to arrive at and depart from its waters without entry or clearing, dues, duty per ton or tonnage taxes when they are temporarily entered by nonresidents for their personal use. Canada does not issue crusing licenses, but has no requirement necessitating reporting after the initial entry of a pleasure vessel by a non-resident. Further, a nonresident may retain a pleasure vessel in Canada for up to twelve months. While it is generally true that Canadian Customs duties and taxes will apply if a pleasure vessel brought into Canada by a nonresident is not re-exported from Canada at the earlier of the end of the nonresident's visit or twelve months, and a foreign vessel may remain in the United States once its cruising license expires, the reciprocity discussed in 46 U.S.C. 104 is addressed to the initial treatment a United States yacht receives in a foreign country.

Concerning lack of an enforcement mechanism, it is true that a Canadian vessel, as well as any other foreign pleasure vessel, is permitted to remain in the United States once its license expires. However, at that time the Canadian vessel would become subject to U.S. vessel entry and clearance requirements, and failure to enter and clear when required, would subject the vessel to certain penalties.

Finally, whether a foreign vessel has a cruising license has no effect on whether the vessel is dutiable. Pursuant to Schedule 6, Part 6, Subpart D, Headnote 1(i), TSUS, there are no duty consequences for a yacht or pleasure boat brought into the United States by a nonresident for his own use in pleasure cruising. This would apply regardless of whether the vessel possesses a cruising license.

After consideration of the comments and further review of the matter, it has been determined to adopt the proposal.

Executive Order 12291

This document does not contain a "major rule" requiring preparation of a regulatory impact analysis under Executive Order 12291.

Regulatory Flexibility Act

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service (202–566–8237). However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs inspection and duties, Imports, Vessels, Yachts.

Amendment to the Regulations

Part 4, Customs Regulations (19 CFR Part 4), is amended as set forth below.

William von Raab,
Commissioner of Customs.

Approved: October 3, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.94, Customs Regulations (19 CFR 4.94), is amended in the following manner:

1. The third sentence in § 4.94(c) is revised to read as follows:

§ 4.94 Yacht privileges and obligations.

* * * * *

(c) * * * Upon approval of the application, the district director will issue a cruising license in the form prescribed by paragraph (d) of this section permitting the yacht, for a stated period not to exceed one year, to arrive and depart from the United States and to cruise in specified waters of the United States without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entrance and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money. * * *

* * * * *

2. Paragraph (d) of § 4.94 is amended by adding the following "warning" at the end of the form:

* * * * *

(d) * * *

Warning: This vessel is dutiable:

(1) If owned by a resident of the United States (including Puerto Rico), or brought into the United States (including Puerto Rico), for sale or charter to a resident thereof, or

(2) If brought into the United States (including Puerto Rico) by a nonresident free of duty as part of personal effects and sold or chartered within one year from date of entry.

Any offer to sell or charter (for example, a listing with yacht brokers or agents) is considered evidence that the vessel was brought in for sale or charter to a resident or, if made within one year of entry of a vessel brought in free of duty as personal effects, that the vessel no longer is for the personal use of the non-resident.

If the vessel is sold or chartered, or offered for sale or charter, in the circumstances described, without the owner first having filed a consumption entry and having paid duty, the vessel may be subject to seizure or to a monetary claim equal to the value of the vessel. See Schedule 8, Part 2, Subpart A, headnote 1(b), Tariff Schedules of the United States ("TSUS"), Items 696.05 and 696.10, TSUS, and 19 U.S.C. 1592.

* * * * *

(R.S. 251, as amended, section 3, 23 Stat. 119, as amended, section 5, 35 Stat. 425, as amended 46 Stat. 759, 60 Stat. 379, (5 U.S.C. 301, 19 U.S.C. 66, 624, 46 U.S.C. 3, 104))

[FR Doc. 83-28774 Filed 10-19-83; 8:45 am]
BILLING CODE 4820-02-M

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19 CFR Part 18

[T.D. 83-218]

Customs Regulations Amendments Relating To Special Manifest Procedures for Overcarried and Prematurely Discharged Merchandise

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide detailed special manifest procedures for overcarried and prematurely discharged merchandise (merchandise which is unladen or discharged by the carrier at a Customs port other than the port for which the merchandise was manifested or destined) and other such types of movements whereby the normal transportation-in-bond procedures are not applicable. The special manifest procedures authorize district directors of Customs at ports where such merchandise has been unladen or discharged to permit it to be returned as a bonded shipment under a special manifest to the destination shown on the importing carrier's manifest (manifested port). The use of these manifest procedures, which apply primarily to overland shipments, allows the importer or carrier to include the returned merchandise in the original entry summary previously filed at the manifested port and obtain the rate of duty applicable to that entry.

DATE: Effective November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

Overcarried and prematurely discharged merchandise is imported merchandise which is unladen or discharged by the carrier at a Customs port other than the port for which the merchandise was manifested or destined.

For example, in the case of overcarried merchandise, a consumption entry is filed in New York (port of destination on manifest) to cover an entire shipment, but a portion of the shipment is inadvertently diverted to

VOL
48
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Miami where it is unladen or discharged. Prematurely discharged merchandise is where a consumption entry is filed in Miami (port of destination on manifest) to cover an entire shipment, but a portion of the shipment is inadvertently discharged in New York (port of entry). In each case, the importer wishes to return the overcarried or prematurely discharged merchandise to the manifested port and have it included in the original entry summary filed there and obtain the rate of duty applicable to that entry. This is significant because under section 315, Tariff Act of 1930, as amended (19 U.S.C. 1315), except as otherwise specially provided for, the rate of duty imposed on articles entered for consumption or withdrawn from warehouse is the rate in effect when the document comprising the entry for consumption or withdrawal for consumption and any estimated duties then required to be paid have been deposited with Customs at the manifested port.

The regulations now provide two different manifest procedures whereby prematurely discharged or overcarried merchandise may be returned to the manifested port.

(1) Under § 4.34 (a) and (b), Customs Regulations (19 CFR 4.34 (a) and (b)), which relate specifically to vessel shipments, upon receipt of a satisfactory written application from the owner or agent of the vessel establishing either that cargo was prematurely landed and left behind by the importing vessel through error or emergency or was not landed at its destination and was overcarried to another domestic port through error or emergency, the district director may permit the cargo to be returned in the importing vessel, or in another vessel owned or chartered by the owner of the importing vessel, to the destination shown on the Cargo Declaration, Customs Form 1302, of the importing vessel, provided the importing vessel actually entered the port of destination.

(2) Under section 18.10a, Customs Regulations (19 CFR 18.10a), which relates primarily to overland shipments, merchandise for which no other type of bonded movement is appropriate may be shipped in bond from one port to another when such shipment is authorized by the district director having custody of the merchandise. For this purpose, Customs Form 7512 is to be used as a special manifest. The manifest procedures are set forth in detail in Customs Circular TRA–7–EV, dated September 17, 1963.

Section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), requires that a separate entry be filed for each shipment arriving in the United States. When an immediate transportation entry (I.T.) is separately filed for a portion of the original shipment, that portion is considered a separate shipment, and thus a separate consumption entry must be made for the portion of the merchandise even though a consumption entry was filed previously at the manifested port covering the entire shipment.

It has come to Customs attention that some overland freight carriers have been returning overcarried and prematurely discharged merchandise to the manifested port under an I.T. entry instead of using the special manifest procedures referred to in section 18.10a. In some cases, this has resulted in a rate of duty and/or date of importation different from that applied to the merchandise which was timely delivered to the manifested port and covered under the original entry summary. To solve this problem, Customs Headquarters issued Ruling No. 711164, dated October 18, 1978, which held that merchandise, whether overcarried or prematurely discharged, may be included in an entry summary for consumption already filed at the manifested port and subject to the rates of duty applicable to that entry summary, if returned under one of the two special manifest procedures discussed above. The ruling also held that if, instead of the special manifest procedure, overcarried or prematurely discharged merchandise is returned to the manifested port under an I.T. entry, the returned merchandise would be accorded the same status as any other arrival of merchandise under an I.T. entry, unless the district director is satisfied that the filing of the I.T. entry was done because of a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)). Under these circumstances, the district director may permit the substitution of a special manifest for the I.T. entry.

Before issuance of Ruling No. 711164, *supra*, Customs Headquarters conducted an informal survey of its field offices to ascertain views on requiring the use of one of the two special manifest procedures for returning overcarried or prematurely discharged merchandise to the manifested port. While the ruling was favorably received, it was revealed that in many cases, an I.T. entry was being filed and accepted for the returned merchandise because some Customs personnel and carriers were simply unfamiliar with the special manifest procedures referred to in § 18.10a, Customs Regulations.

Accordingly, to clarify this situation, on January 25, 1983, Customs published a notice in the **Federal Register** (48 FR 3379) proposing to amend § 18.10a, Customs Regulations, to provide detailed manifest procedures for returning overcarried and prematurely discharged merchandise to the manifested port. These procedures would apply also to other types of movements whereby the normal in-bond procedures are not applicable.

Interested parties had until March 28, 1983, to submit comments on the proposal. After consideration of the four comments received, the amendments to Part 18 are being adopted as proposed with two minor technical clarifications being made.

Discussion of Comments

One commenter observes that there is an ambiguity in § 18.10a(b)(2) in that the first sentence requires the date and entry number of an entry made at the manifested port, whereas the second sentence of that section provides an alternative time frame when no entry is identified. To clarify this matter, the phrase "if known" is being added at the end of the first sentence of § 18.10a(b)(2).

Another commenter notes that the procedure discussed in § 18.10a is not acceptable to an airline because merchandise overcarried by an airline is returned to the intended destination on the same day, if possible, and in any event, within 24 hours.

Customs appreciates the concern of the commenter. However, as noted in the proposal, § 18.10a relates primarily to overland shipments, rather than shipments by aircraft, and is for the benefit of the importer.

The third commenter requests clarification that when this procedure is used, Customs Form 7512 is treated as a special manifest. Customs notes that the second sentence of proposed § 18.10a(a) states * * * "For this purpose, Customs Form 7512 prepared in quadruplicate shall be used as a special manifest."

The fourth commenter observes that there is a misunderstanding relating to the use of the special manifest procedure when the port of discharge has been changed under the diversion procedures in § 4.33, Customs Regulations (19 CFR 4.33). To clarify this point, Customs is adding at the end of § 18.10a(b)(1) the phrase * * * "including to the port of diversion (see § 4.33), when different from the original manifest port."

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–353, 5 U.S.C. 601, *et seq.*), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Charles Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 18

Customs duties and inspection, Imports, Common carriers, Freight forwarders, Motor carriers, and Freight.

Amendments to the Customs Regulations

Section 18.10a, Customs Regulations (19 CFR 18.10a), is amended as set forth below.

Alfred R. De Angelus,
Acting Commissioner of Customs.

Approved: October 3, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Section 13.10a, Customs Regulations (19 CFR 18.10a), is revised to read as follows:

§ 18.10a Special manifest.

(a) *General.* Merchandise for which no other type of bonded movement is appropriate (e.g., prematurely discharged or overcarried merchandise and other such types of movements whereby the normal transportation-in-bond procedures are not applicable) may be shipped in bond from the port of unlading to the destination shown on the importing carrier's manifest (manifested port) when authorized by the district director having custody of the merchandise. For this purpose, Custom's Form 7512 prepared in quadruplicate shall be used as a special manifest.

(b) *Manifest procedures.* (1) Written application shall be made to the district director where the merchandise is being held for permission to return it as a bonded shipment under a special manifest to the manifested port, including to the port of diversion (see section 4.33 of this chapter), when different from the original manifested port.

(2) The application and accompanying completed Customs Form 7512 shall identify the prematurely discharged or overcarried merchandise on the inward manifest of the importing carrier; and also identify the date and entry number of any entry made at the manifested port covering the merchandise to be returned, if known. If the district director is satisfied that the merchandise will be delivered to Customs custody at the manifest port before expiration of 90 days from the date of the entry identified, or 90 days from the date of the importing carrier's arrival at the manifested port when arrival at the manifested port when no entry is identified, the district director may approve the shipment under a special manifest.

(R.S. 251, as amended, sections 315, 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1315, 1484, 1498, 1624))

[FR Doc. 83–28596 Filed 10–19–83; 8:45 am]
BILLING CODE 4820–02–M

19 CFR Part 134

[T.D. 83–217]

Customs Regulations Amendment Relating to Liquidated Damages and Country of Origin Marking

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by modifying the negligence or bad faith requirement to one of bad faith before the district director may grant relief from the payment of liquidated damages incurred for failure to (a) properly mark imported articles (or their containers) with the country of origin, or (b) redeliver all released articles to Customs custody for marking, exportation, or destruction. This change gives district directors the same discretion in handling petitions relating to relief from liquidated damages incurred for other types of violations.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Kathryn C. Peterson, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5746).

SUPPLEMENTARY INFORMATION:

Background

Under section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the article or container will permit, in such manner as to indicate to an ultimate purchaser, the English name of the country of origin of the article. Section 304(c) provides that any articles not marked as required, shall be subject to a duty of 10 percent ad valorem, in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary Customs duties, unless the article is exported, destroyed, or marked under Customs supervision. These marking duties cannot be remitted, wholly or in part.

In addition to the requirement for marking duties under section 304(c) for a country of origin marking violation, civil penalties may be incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for importing merchandise by means of false documents. Further, criminal sanctions may be assessed under 18 U.S.C. 1001 for presenting false and misrepresented documents to the Government in connection with an entry. If merchandise released from Customs custody under a bond is found not to be legally marked, liquidated damages also may be assessed for breach of the bond conditions.

In some instances, the total amount of liabilities which may be assessed for articles found not legally marked can far exceed the dutiable value of the imported merchandise.

Part 134, Customs Regulations (19 CFR Part 134), sets forth the country of origin marking requirements and exceptions from 19 U.S.C. 1304, as well as the consequences of violation and procedures to be followed if imported articles are not legally marked.

Under § 134.51(a), Customs Regulations (19 CFR 134.51(a)), if merchandise is found upon examination not to be legally marked, the district director shall notify the importer to arrange with the district director's office to properly mark the articles or containers, or to return all released articles to Customs custody for marking, exportation, or destruction. If the importer does not properly mark or redeliver all merchandise previously released to him, as provided in § 134.54(a), the district director shall

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demand payment of liquidated damages incurred under the importer's bond in an amount equal to the entered value of the articles not properly marked or redelivered, plus any estimated duty determined at the time of entry. Section 134.54(b), Customs Regulations (19 CFR 134.54(b)), states that a petition for relief from the payment of liquidated damages may be filed with the district director in accordance with Part 172, Customs Regulations (19 CFR Part 172). However, § 134.54(c) provides that any relief from the payment of full liquidated damages incurred will be contingent upon the deposit of the marking duties required by 19 U.S.C. 1304(c).

Section 134.54(c) further provides that the district director may grant relief from the payment of full liquidated damages only if he is satisfied that the importer: (1) Was not guilty of negligence or bad faith in permitting the illegally marked articles to be distributed; (2) has been diligent in attempting to secure compliance with the marking requirements; and (3) has attempted by all reasonable means to effect redelivery of the articles to Customs custody.

Under the provisions of § 172.21, Customs Regulations (19 CFR 172.21), the district director may cancel any claim for liquidated damages incurred under such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate when the claim is $50,000 or less. Guidelines for the cancellation of bond charges are set out in Appendix AA, Section 6.11, Customs Fines, Penalties and Forfeitures Handbook (HB 4400, March 1979 Revision).

These guidelines pertain to situations involving negligent, but unintentional failures to redeliver merchandise. The guidelines, which are in line with present Customs policy regarding the remission and mitigation of assessed liabilities, are not rigid rules. If circumstances indicate, the district director may deviate from them.

The provisions of § 134.54(c) generally conflict with Part 172 in that they are contrary to the discretionary provisions in Part 172. They also contradict the guidelines set out in the Customs Fines, Penalties and Forfeitures Handbook. Further, the requirements in § 134.54(c) work a hardship on petitioners where the violation is caused by ordinary negligence or where the violation resulted from an unintentional mistake.

Accordingly, to afford district directors the same discretion in handling petitions for relief from liquidated damages resulting from improperly marked merchandise as they have in handling petitions filed under the provisions of Part 172, by notice published in the **Federal Register** on August 27, 1982 (47 FR 37926), Customs proposed to amend § 134.54(c) to modify the negligence or bad faith requirement to one of bad faith. The requirement that the district director be satisfied that the importer was not guilty of negligence in permitting the illegally marked items to be distributed was deleted.

Discussion of Comments

Seven comments were received in response to the notice of proposed rulemaking (NPRM). Three of the comments received were favorable and four were opposed. Basically, domestic interests opposed the modification and importers favored the change.

Those opposing stressed the importance of the marking requirements, the threat to domestic industry by lax enforcement, and the perception that the proposed change would create. One commenter said it would oppose a "proposal [which would] further weaken the potential penalties an importer faces for distributing illegally marked imported articles."

The proposed change would amend the negligence standard as it is applied in consideration of petitions for relief from liquidated damages demanded for failure to redeliver merchandise recalled because of improper marking. One commenter seemed to believe that the proposed change would mean full relief for importers entering improperly marked goods.

This is not true. The provisions of § 134.54(c) currently prohibit any relief if the importer is simply negligent, not that he acts intentionally but that he acts negligently. The standard therein is simply too harsh. Sanctions will not be completely removed by the modification. Importers will continue to be subject to liability, just not the full amount of the bond (which is written in the amount of the value of the merchandise).

One commenter suggests that Customs should maintain the present standards because of Congress's express intent that goods be clearly marked in order to insure that domestic purchasers may make an informed choice when selecting between domestic and foreign manufactured goods. The modification made by this document will not abandon or undermine this objective. This modification relates simply to liquidated damages for failure to redeliver merchandise in a narrow sense, not failure to mark the merchandise. Section 1304 provides the sanction for not marking which is a 10 percent marking duty. The bond contract provides another sanction for failing to meet the conditions of the bond. It is the bond obligation that we are dealing with in this case. The commenter would have one infer the worst of motives to all offending importers and to treat all importers alike. Customs has through experience found, however, that not all importers are alike, in motive or deed, and that there is a need for flexibility to deal with and sanction different importers differently. This is the purpose to be served by the amendment.

After consideration of the comments, and further review of the matter, it has been decided to adopt the change as proposed. However, rather than set forth the entire section, the amendment is being made by removing the words "negligence or" from § 134.54(c).

Executive Order 12291

This document will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis has not been prepared.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this amendment because the rule will not have a significant impact on a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This document is not subject to the Paperwork Reduction Act.

Drafting Information

The principal authors of this document were Jesse V. Vitello and John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 134

Containers, Customs duties and inspection, Importers, Imports, Labeling, Packaging.

Amendment to the Regulations

Part 134, Customs Regulations (19 CFR Part 134), is amended as set forth below.

Dated: August 24, 1983.

William von Raab,

Commissioner of Customs.

Approved: October 3, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 134—COUNTRY OF ORIGIN MARKING

§ 134.54 [Amended]

Section 134.54, Customs Regulations (19 CFR 134.54), is amended by removing the words "negligence or" from paragraph (c).

(R.S. 251, as amended, sections 304, 624, 46 Stat. 687, as amended, 759, 77A Stat. 14; (19 U.S.C. 66, 1202 (General Headnote 11), 1304, 1624))

[FR Doc. 83-28595 Filed 10-19-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Estradiol Benzoate and Testosterone Propionate, Progesterone and Estradiol Benzoate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Syntex Agribusiness Inc., providing for deletion of the slaughter withdrawal period for use of estradiol benzoate and testosterone propionate in combination and for progesterone and estradiol benzoate in combination in subcutaneous ear implants for cattle for growth promotion and feed efficiency.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, filed supplemental NADA's 9–576 and 11–427, providing for deletion of the withdrawal period for use of two products as ear implants in cattle. NADA 9–576 is for use of Synovex®S (estradiol benzoate and progesterone) as an ear implant in steers for growth promotion and feed efficiency. NADA 11–427 is for use of Synovex® H (estradiol benzoate and testosterone propionate) as an ear implant in heifers for growth promotion and feed efficiency. The supplements are approved and the regulations are amended to reflect the approvals. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.842 [Amended]

1. In § 522.842 *Estradiol benzoate and testosterone propionate in combination* in paragraph (d)(3) by removing the phrase "not to be used within 60 days of slaughter."

§ 522.1940 [Amended]

2. In § 522.1940 *Progesterone and estradiol benzoate in combination* in paragraph (d)(2)(iii) by removing the phrase "not to be used within 60 days of slaughter."

Effective date. October 20, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 14, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-28531 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Southern Micro-Blenders, Inc., providing for use of a 48-gram-per-pound pyrantel tartrate premix to make 9.6- and 19.2-gram-per-pound pyrantel tartrate intermediate premixes for making complete swine feeds.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406, is sponsor of NADA 135–243 submitted on its behalf by Pfizer, Inc. The NADA provides for use of a 48-gram-per-pound pyrantel tartrate premix to make 9.6- and 19.2-gram-per-pound pyrantel tartrate intermediate premixes for making complete swine feeds used for aid in prevention of migration and establishment of large roundworm (*Ascaris suum*) infections, for aid in prevention of establishment, removal, and control of nodular worm (*Oesophagostomum*) infections, and for removal and control of large roundworm (*Ascaris suum*) infections.

The basis for approval of this NADA is discussed in the freedom of information summary. The NADA is approved and the regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.485 by adding new paragraph (a)(15) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.485 Pyrantel tartrate.

(a) * * *

(15) To No. 049685: 9.6 and 19.2 grams per pound, paragraph (e)(1) through (3) of this section.

* * * * *

Effective date. October 20, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 13, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-28533 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Dept. Reg. 108.835]

Nonresident Alien Mexican Border Crossing Card

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends § 41.128 to combine the use of border crossing cards and B–1/B–2 visitor visas in the form of a stamp affixed to a valid Mexican Federal passport. The rule also terminates the provisions in § 41.128 relating to the issuance of border crossing cards on Forms I–186 by consular officers stationed at interior consular posts in Mexico and adds the United States consulate at Hermosillo, Mexico, to the list of consular posts where consular officers are authorized to issue border crossing cards, during a trial period, to qualified applicants who are citizens and residents of Mexico. Public Notice 797 of March 12, 1982 and Public Notice 831 of October 29, 1982 are superseded by the incorporation into this rule of designated consular posts listed in those Notices.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Chief Legislation and Regulations Division, Visa Services, (202) 632–1900.

SUPPLEMENTARY INFORMATION: The new border crossing card and B–1/B–2 visitor visa stamp will be easier to obtain at any United States consular office in Mexico, longer lasting and immediately available to qualified applicants. The stamp will be placed on a page in a valid Mexican Federal passport and is expected to facilitate travel for certain classes of Mexican nationals who are traveling through the United States from points other than contiguous territory. In such cases bearers of combined stamps will not be compelled to carry two documents, i.e. a border crossing card and a valid Mexican Federal passport when entering the United States at non-border ports. The stamp will be used in place of the present indefinite B–1/B–2 visitor visa and in place of the laminated border crossing card. Use of the combination stamp will have considerable time saving impact over the border crossing card lamination procedure currently in use at interior U.S. consular offices in Mexico.

Compliance with the provisions of the Administrative Procedure Act, 5 U.S.C. 553, relative to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because this rule establishes new procedures which confer a benefit upon the affected persons by relieving certain restrictions and considerably reducing time presently required for issuance of duplicate documents.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrant visas, Border Crossing Identification Cards

PART 41—[AMENDED]

Accordingly, § 41.128 is revised as follows:

§ 41.128 Nonresident alien Mexican border crossing identification cards.

(a)(1) *Aliens eligible to apply.* Under the conditions prescribed by this section consular officers assigned to consular offices located in Ciudad Juarez, Hermosillo, Nuevo Laredo, Matamoros, and Tijuana, may issue border crossing identification cards, as that term is defined in section 101(a)(6) of the Act, to nonimmigrant aliens who satisfactorily establish that they are:

(i) Citizens and residents of Mexico; and

(ii) Bona fide temporary visitors who, if applying for temporary visitor visas for business or pleasure, would be eligible to receive such visas.

(2) *Application for nonresident alien Mexican border crossing identification card.* A citizen of Mexico shall apply for a nonresident alien border crossing identification card on Form OF–156, supporting the application with evidence of Mexican citizenship and residence, a valid or expired Mexican passport and one photograph, 1 and ½ inches square. Each applicant applying at a consular office shall appear in person before a consular officer and be interviewed regarding his eligibility for a temporary visitor visa. The personal appearance may be waived in the discretion of the consular officer.

(3) *Issuance and format of border crossing identification cards.* A nonresident alien Mexican border crossing identification card shall consist of a stamp placed in the alien's Federal passport document by consular officers stationed at posts designated in paragraph (a)(1). The stamps shall be numbered serially by each consular office beginning with the number 1 on each October 1 and shall be in the format prescribed by the Department and contain the following data:

(i) The post symbol;

(ii) The number of the card;

(iii) The title and location of the issuing office;

(iv) The date of issuance;

(v) The name(s) of the person(s) to whom issued; and

(vi) The signature and title of the issuing officer.

(b) *Nonresident alien Mexican border crossing identification card and B–1/B–2 nonimmigrant visitor visa.*

(1) *Aliens eligible to apply.* Under the conditions prescribed in this section, consular officers assigned to any consular office in Mexico may issue a nonresident alien border crossing identification card, as that term is defined in section 101(a)(6) of the Act, in combination with a B–1/B–2 nonimmigrant visitor visa, to a nonimmigrant alien who satisfactorily establishes that he:

(i) Is a citizen of Mexico;

(ii) Seeks to enter the United States as a bona fide temporary visitor for business or pleasure as defined in section 101(a)(15)(B) of the Act for periods of stay not exceeding 6 months; and

(iii) Is otherwise eligible to receive a temporary visitor visa or is the beneficiary of a waiver under section 212(d)(3)(A) of the Act of a ground of ineligibility which is valid for multiple applications for admission into the United States and for an indefinite period of time and which contains no restrictions as to extensions of temporary stay or itinerary.

(2) *Application.* Application for a combined border crossing identification card and B–1/B–2 visitor visa may be made by a Mexican applicant at any United States consular office in Mexico on Form OF–156, supported by: (i) a valid Mexican Federal passport showing applicant's origin, identity, and nationality, and containing a photograph of the bearer if over the age of 14; and (ii) one photograph 1½ inches square unless the applicant is under the age of 16.

Each applicant shall appear in person before a consular officer in Mexico and be interviewed regarding his eligibility for a temporary visitor visa. This personal appearance may be waived in the discretion of the consular officer.

(3) *Issuance and format of border crossing identification cards and B–1/B–2 visitor visas.* A nonresident alien Mexican border crossing identification card and B–1/B–2 visitor visa shall consist of a numbered stamp placed in the alien's valid Mexican Federal passport by a consular officer in Mexico. Each stamp shall be numbered serially by each consular office beginning with the number 1 on the first of October of each year, shall be in the format prescribed by the Department and contain the following data:

(i) The post symbol;

(ii) The number of the card;

(iii) The title and location of the issuing office;

(iv) The indicia "Mexican Border Crossing Identification Card and B–1/B–2 Nonimmigrant Visa";

(v) The date of issuance;

(vi) The caption "Valid indefinitely for multiple applications for admission to the United States as a temporary visitor for business or pleasure" in the middle portion of the stamp; and

(vii) The signature and title of the issuing officer.

(c) *Waiver of certain grounds of ineligibility.* The excluding provisions of section 212(a) (16) and (17) of the Act are waived pursuant to section 212(d)(3) for a citizen of Mexico filing an application under the provisions of paragraphs (a) or (b) of this section who establishes that he is ineligible only by reason of his removal or deportation prior to November 1, 1956, because of entry without inspection or lack of required documents.

(d) *Validity.* A nonresident alien Mexican border crossing identification card issued solely or in combination with a B–1/B–2 visitor visa pursuant to the provisions of this section shall be valid until invalidated under the same conditions as provided in § 41.122(e) for the termination of nonimmigrant visas or revoked under the same conditions and procedures as provided in § 41.134 for the revocation of nonimmigrant visas. A nonresident alien Mexican border crossing identification card previously issued by a consular officer in Mexico on Form I–186 or Form I–586 shall be valid until revoked or voided regardless of any expiration date on the card.

(e) *Invalidation or revocation.* A nonresident alien Mexican border crossing identification card issued solely or in combination with a B–1/B–2 visitor visa pursuant to the provisions of paragraph (a) or (b) of this section may be invalidated pursuant to the provisions of § 41.122(e) or revoked pursuant to the provisions of § 41.134. Upon invalidation or revocation of such a card, the consular or immigration officer shall cancel the card by writing or stamping the word "canceled" plainly across the face of the card and indicating the location of the consular or immigration office at which the card was invalidated or revoked.

(f) *Voidance of Mexican border crossing cards issued in Mexico on Form I–186 or Form I–586.* A consular officer in Mexico may declare void, without notice, a nonresident alien Mexican border crossing card previously issued in Mexico on Form I–186 or Form I–586, upon a finding that the holder is ineligible to receive a nonimmigrant visa. The card shall be surrendered immediately upon voidance.

(g) *Replacement.* When a nonresident alien Mexican border crossing identification card issued solely or in combination with a B–1/B–2 visitor visa under the provisions of this section has been lost, mutilated or destroyed, the person to whom such card was issued may apply for a new card under the applicable provisions of this section. A nonresident alien whose border crossing identification card previously issued on Form I–186 or Form I–586 by a consular officer in Mexico has been lost, mutilated or destroyed, may apply for a combined border crossing identification card and B–1/B–2 visitor visa at any consular office in Mexico, provided the alien qualifies under the provisions of paragraph (b) of this section.

(Sec. 101, 66 Stat. 116, 8 U.S.C. 1101; Sec. 109(b), 91 Stat. 847)

Dated: October 14, 1983.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 83-28590 Filed 10-19-83; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF AGRICULTURE

Forest Service

30 CFR Part 223

National Forest Timber Sales; Change in Required Cash Deposits

AGENCY: Forest Service, USDA.

ACTION: Change in policy.

SUMMARY: Forest Service policy on initial cash deposits on timber sales is hereby revised. Instead of a cash deposit of 5 percent, a high bidder now will be required to deposit in cash an amount equal to 10 percent of the total bid value of the sale. This change is necessary to help stabilize bidding on National Forest timber sales.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Wendall Jones, Timber Management Staff Forest Service, USDA, P.O. Box 2417, Washington, DC 20013 (202) 447–4051.

SUPPLEMENTARY INFORMATION: In late 1981 and in 1982 the Forest Service considered a number of changes in timber sale procedures designed to put the sale of National Forest timber on a more business-like basis. Proposals were discussed with timber purchasers, county and State officials, and other interested individuals. Meetings and work sessions were held. Approximately 450 purchasers and governmental officials were contacted. Proposed changes were published in the **Federal Register** on January 20, 1982 (47 FR 2886) and following consideration of comments, a revised policy was published on April 15, 1982 (47 FR 16178).

Among the changes in timber sale procedures considered in 1982 was the amount of "up-front" required to be deposited at the time of award of a contract. Because of the severely depressed market conditions which existed at that time, it was determined that a cash deposit of 5 percent of the bid value was appropriate and would be effective in reducing excessive bidding and encouraging early harvest without providing a deterrent to bidding by small business firms.

Since adoption of the 5 percent deposit requirement in the spring of 1982, there has been a substantial recovery of wood product markets. Higher prices for lumber and plywood have been followed by increases in bid rates. While overall bid rates in highly competitive areas seem closely tied to current lumber and plywood markets, a significant number of sales are being bid

to higher levels than appear to be prudent given current market conditions. In order to stabilize bidding on National Forest timber sales, it is appropriate to increase the amount of advance cash payment required at the time of award. Given the improved economic conditions, this increase should not reduce participation in the timber sale program by responsible small business firms.

Under the new policy, the high bidder will be required within 30 days of sale award to deposit in cash an amount equalling 10 percent of the total bid value rounded up to the nearest $100. On sales where the bidder has elected goverment construction of specified roads, the high bidder will be required to make the 10 percent deposit within 30 days of notification of having the high bid. This change will be issued as part of the Forest Service Manual, Chapter 2430. The present policy on use of this deposit as payment for timber remains unchanged.

Dated: October 13, 1983.

F. Dale Robertson,

Associate Chief.

[FR Doc. 83-28343 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD14 83-01]

Drawbridge Operation Regulations; Kalihi Channel, Honolulu Harbor, Hawaii

AGENCY: Coast Guard, DOT.

ACTION: Final rule, revocation.

SUMMARY: This amendment revokes the regulations for the John H. Slattery drawbridge over Kalihi Channel, Honolulu Harbor, because a permit to convert the bridge to a fixed bridge was issued on June 29, 1983. Notice and public procedure have been omitted from this action due to the change to a fixed bridge.

EFFECTIVE DATE: This rule becomes effective on December 2, 1983.

FOR FURTHER INFORMATION CONTACT: LT(jg) C. J. CONKLIN at (808) 546-7130.

DRAFTING INFORMATION: The drafters of this rule are LTJG C. J. CONKLIN, project officer, and LCDR T. J. DONLON, project attorney.

SUPPLEMENTARY INFORMATION: The State of Hawaii, Department of Transportation submitted applications to construct a two lane fixed bridge across the Kalihi Channel and to convert the existing John H. Slattery Bascule Bridge to a fixed bridge. This is in conjunction with a project to widen and improve Sand Island Access Road (FAP Route 64) from Nimitz Highway to Sand Island Park. After distribution of a public notice to solicit and evaluate comments on the proposed project, a review of documentation provided by the applicant, and an investigation of the needs of maritime navigation on the Kalihi Channel, the Commandant of the U.S. Coast Guard issued a permit approving the locations and plans of bridges across the Kalihi Channel on June 29, 1983. The applicant has requested to convert the existing bascule bridge to a fixed bridge effective December 2, 1983.

This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge which has been converted to a fixed bridge. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-2-80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In Consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by removing § 117.900.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: September 14, 1983.

A. C. Tingley,

Captain, U.S. Coast Guard, Commander, 14th Coast Guard District (Acting).

[FR Doc. 83-28581 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[OGD3 82-020]

Drawbridge Operation Regulations; Passaic River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Consolidated Rail Corporation, the Coast Guard is changing the regulations governing the Lyndhurst railroad drawbridge at Lyndhurst, NJ to provide that the draw need not open between 4 p.m. and 8 a.m. and by requiring six hours advance notice at all other times. This change is being made because of the limited number of requests for bridge openings. This action will continue to relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on November 21, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: On November 12, 1982, the Coast Guard published a proposed rule (47 FR 51170) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as a Public Notice dated December 6, 1982. In each notice interested persons were given until December 27, 1982 and January 6, 1983, respectively, to submit comments.

Drafting Information

The drafters of this rule are Ernest J. Feemster, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of Comments

One response was received on the public notice and it did not object to the regulations but suggested a slight change in the effective hours. The suggestion was made to allow the bridge to close from 4 p.m. until 8 a.m. (instead of from 4 p.m. to 7 a.m.). The reasoning was that several drawbridges to the south have requested regulations utilizing 8:30 a.m. as a limiting time for regulations and one drawbridge to the north has regulations using 8 a.m. as a limiting time for regulations. The respondent felt that use of yet another hour (7 a.m.) as a limiting time might be confusing to the mariner. The Coast Guard agrees with the suggestion. Additionally, the bridge presently uses 8 a.m. as a limiting time in existing special regulations. Use of bridge hours in multiples of eight hours (8 a.m.– 4 p.m) would be less confusing and would not greatly affect or inconvenience any mariner. The hours of permitted closure, therefore, are changed in this final rule to 4 p.m until 8 a.m.

The requirement to open the draw as soon as possible for a vessel of the United States is added in this final rule.

This will not substantially affect the substance of the rule.

No economic evaluation has been prepared because of minimal economic impact. This is because no known detrimental effects will result due to existing clearance of the bridge in the closed position and the requirement for few openings.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities because no known entities will be affected.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.200(a)(4)(iii) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges.

(a) * * *

(4) * * *

(iii) Conrail Bridge (Lyndhurst), mile 11.7, Passaic River. The draw shall open on signal between 8 a.m. and 4 p.m. if at least six hours advance notice is given. The draw shall not be required to open at any other time except it shall open at all times as soon as possible for passage of a public vessel of the United States.

* * * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: October 7, 1983.

J. L. Fear,

Captain, U.S. Coast Guard Acting Commander, Third Coast Guard District.

[FR Doc. 83-28580 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Honolulu Reg. 83-4]

Safety Zone Regulations; Lahaina, Maui

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around position 20-51-15N and 156-41-00W. The zone is needed to protect vessels and personnel engaged in the salvage operations raising a submerged submarine (former USS Bluegill) from the hazards created by other vessels entering the area. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 0600, on October 7, 1983. It terminates at 2400 on October 31, 1983 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Captain Bobby G. Burns (808) 546-7146.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to hazards to the water areas involved.

Drafting Information

The drafters of this regulation are Lt S. P. Purvine, project officer for the Captain of the Port, and LCDR Richard B. Cole, project attorney, 14th Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation are the efforts of the US Navy to raise the wreck of the USS Bluegill to permit it to be disposed of in a safer area.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended by adding a new section to read as follows:

PART 165—[AMENDED]

§ 165.143 Safety zone: Lahaina, Maui.

(a) *Location.* The following area is a safety zone: The waters encompassed by a circle of 1,000 yards radius around postion 20-51-15N, -156-41-00W.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: October 6, 1983.

B. G. Burns,

Captain, USCG, Captain of the Port, Honolulu, Hi.

[FR Doc. 83-28579 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Miami, FL, Regulation CGD7-83-11]

Safety Zone Regulations; South Channel St. Lucie Canal, Mile 28.2 Vicinity of Seaboard System Railroad Swingspan Bridge Near Indiantown, Martin County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around Seaboard System Railroad swingspan bridge over the St. Lucie Canal, mile 28.2. The zone is needed to close the South Channel so the south rest pier No. 5, of the bridge can be reconstructed. Entry into this area is prohibited, except for vessels associated with the reconstruction of pier No. 5, unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on October 10, 1983. It terminates on April 10, 1984 unless completion of the bridge repair occurs first.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. D. Pittenger, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, Miami, Fl. 33130, Tel: (305) 350-5691.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential hazard(s) to the equipment involved and vessels transiting the St. Lucie Canal.

Drafting Information

The drafters of this regulation are LCDR H. D. Pittenger, project officer for the Captain of the Port, and LCDR R. G.

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Blythe project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will begin on October 10, 1983. For approximately six months the South Channel, St. Lucie Canal in the vicinity of the Seaboard System Railroad swingspan bridge will be closed during reconstruction of the south rest pier No. 5. The closure will result from the obstruction of the channel by construction equipment. Advance notice of passage may be directed to the Roadmaster at West Palm Beach, Florida, Tel (904) 832–3724. The north channel, which provides a horizontal clearance of 51.6 feet, will remain open for passage of navigation.

List of Subjects in 33 CFR Part 165

Harbors, Navigation (water), and waterways.

Regulation

In consideration of the foregoing, Part 165 of title 33 Code of Federal Regulations, is amended by adding a new § 165. TO711 to read as follows:

PART 165—[AMENDED]

§ 165. TO711 Safety Zone: South Channel, St. Lucie Canal, mile 28.2, vicinity of Seaboard System Railroad swingspan bridge near Indiantown, Martin County, Florida.

(a) *Location.* The following area is a safety zone: South Channel, St. Lucie Canal, mile 28.2, extending 100 feet east and west of the Seaboard System Railroad swingspan bridge.

(b) Regulations:

(1) In accordance with the general regulations in S165.23 of this part, entry into this zone is prohibited, with the exception of vessels associated with the reconstruction of pier No. 5, unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231: 49 CFR 1.46: 33 CFR 165.3)

Dated: October 3, 1983.

R. N. Roussel,

Commander, U.S. Coost Guard, Captain of the Port, Miami, Florido.

[FR Doc. 83–28582 Filed 10–19–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Jacksonville, Florida Reg. 83–10]

Security Zone Regulations: St. Johns River, Jacksonville, Florida

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on and within 200 yards of Quarantine Island, on the St. Johns River in Jacksonville, Florida.

The zone is needed to safeguard vessels against damage from accidents, or other causes of a similar nature and to prevent interference with a military exercise.

Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 6:00 p.m., November 18, 1983. It terminates at 12:00 a.m., November 20, 1983 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander B. K. Klimek, c/o Commanding Officer, USCG Marine Safety Office, 2831 Talleyrand Avenue, Jacksonville, FL 32206, Tel: 904–791–2648.

Drafting Information

The drafters of this regulation are Commander M. E. Payne, Project Officer for the Captain of the Port, and Lieutenant Commander K. E. Gray, Project Attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin at 6:00 p.m. on November 18, 1983. It is a joint military exercise involving personnel and vessels from several services.

List of Subjects in 33 CFR Part 165

Harbors, Navigation (water), and Waterways.

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new 165.T to read as follows:

PART 165—[AMENDED]

§ 165.T7 83–10 Security Zone: St. Johns River, Jacksonville, Florida.

(a) *Location.* The following area is a security zone: The area on and within 200 yards of Quarantine Island in the St. Johns River, Jacksonville, Florida from 6:00 p.m. on November 18, 1983 until 12:00 a.m. on November 20, 1983.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port. Section 165.33 also contains other general requirements.

(50 U.S.C. 191: E.O. 10173; and 33 CFR 6.04–6)

Dated: October 11, 1983.

M. Woods,

Captain, U.S. Coost Guard, Captain of the Port, Jacksonville, Florido.

[FR Doc. 83–28583 Filed 10–19–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. NH–1250; A–1–FRL 24551]

Approval and Promulgation of Implementation Plans; New Hampshire; VOC Source Compliance Schedules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions will reduce air pollutant emissions from major sources of volatile organic compounds (VOC) in the State. The intended effect of this action is to satisfy conditions for Part D plan requirements for nonattainment areas under Section 172(b)(2) of the Clean Air Act.

EFFECTIVE DATE: November 21, 1983.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408 and the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, (617) 223–5130.

SUPPLEMENTARY INFORMATION: On May 16, 1983 (48 FR 21975), EPA published a Notice of Proposed Rulemaking (NPR) for approval of emission limits and compliance schedules for five stationary sources of volatile organic compounds (VOC). These sources are Oak Materials Group, Ideal Tape Co., Markem Corp., Essex Group, and Nashua Corp.'s Merrimack Facility. These revisions were necessary to fulfill a condition for approval of New Hampshire's 1979 SIP for ozone, which requires the submittal of permits with compliance schedules for specified major VOC sources. In the May 16 notice, EPA also proposed that inclusion in the SIP of a regulation regarding miscellaneous metal parts coaters was not necessary because the state certified it has no major sources in this source category.

The revisions and the rationale for EPA's proposed action are explained in the NPR cited above and will not be restated here. No public comments were received on the NPR.

Final Action

EPA is approving the emission limits and compliance schedules for the five sources identified above. Consequently, the remaining condition for approval of the 1979 ozone attainment plan is satisfied. EPA also notes that the federal requirement for regulation of miscellaneous metal parts coaters does not apply in New Hampshire because the State has no major sources of this type.

As a result of today's action, the bases for sanctions proposed by EPA at 48 FR 4972 (February 3, 1983) concerning the Southern New Hampshire Air Quality Control Region no longer apply.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 19, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations, Incorporation by reference.

Authority: Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 14, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520 paragraph (c) is amended by adding paragraph (25) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(25) Revisions to the State Implementation Plan for ozone, consisting of emission limits and compliance schedules for Oak Materials Group, Ideal Tape Co., Markem Corp., Essex Group, and Nashua Corp.'s Merrimack Facility, were submitted on December 23, 1982, December 30, 1982, January 19, 1983, and March 18, 1983.

§ 52.1527 [Amended]

2. Section 52.1527(a), *Part D—conditionol approval,* is removed and reserved.

3. Section 52.1527(c), *Part D—no action,* is removed and reserved.

[FR Doc. 83–28588 Filed 10–19–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[Region II, Docket No. 12; A–2–FRL 2454–8]

Approval and Promulgation of Implementation Plans; Revision to the Commonwealth of Puerto Rico Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule announces that the Environmental Protection Agency (EPA) is approving, in part, a request from the Commonwealth of Puerto Rico to revise its Implementation Plan. This approval has the effect of establishing EPA-approved fuel oil sulfur content limitations for 78 sources in Puerto Rico for national ambient air quality standards for sulfur dioxide. EPA is taking no action, at this time, with regard to eight additional sources whose sulfur assignments require additional justification.

EFFECTIVE DATES: The action is effective on October 20, 1983 for all the affected sources except for the Peerless facility. For the Peerless facility this action will be effective December 19, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: A copy of the Commonwealth of Puerto Rico's submittal, EPA's review of this material and comments received during EPA's public comment period are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408

All comments dealing with the sulfur assignment for the Peerless facility should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1981 the Commonwealth of Puerto Rico's Environmental Quality Board (EQB) submitted to the Environmental Protection Agency (EPA) a proposed revision to its Implementation Plan. This revision concerns fuel oil sulfur content limitations (known as "sulfur assignments") applicable to 110 sources in Puerto Rico. During the spring and summer of 1982, EQB supplemented this original submittal with several additional submittals of technical information.

Sulfur assignments are regulated by the EQB in accordance with Rules 209 and 410 of the Commonwealth of Puerto Rico's "Regulation for the Control of Atmospheric Pollution." Appendix IX to this regulation (formerly called "Appendix B") lists the source-by-source sulfur assignments. This Appendix was originally approved by EPA on September 11, 1975 (40 FR 42191); however, since that time, changes have been made to certain of the assignments and certain omissions to the originally approved list were discovered. Today's **Federal Register** notice addresses these changes and omissions.

As previously noted, the March 3, 1981 Puerto Rico submittal identified sulfur assignments for 110 sources; however, only 95 of these were determined to be subject to EPA review and approval. Because the sulfur assignments for the remaining 15 sources were not revised from those previously approved by EPA on September 11, 1975, they are not subject to further EPA review.

A notice of proposed rulemaking on Puerto Rico's March 3, 1981 plan revision request was published in the **Federal Register** on February 28, 1983

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(48 FR 8307). The reader is referred to this February 28, 1983 notice for a detailed description of Puerto Rico's proposal. In its February 28, 1983 notice EPA identified 85 sources whose specific sulfur assignments were being proposed for approval. For the 10 remaining sources EPA indicated that it intended to take no action at this time because of a number of unresolved questions concerning the potential of their assignments to violate the national ambient air quality standards for sulfur dioxide. EPA also advised the public that comments would be accepted as to whether the proposed revision to the Puerto Rico Implementation Plan should be approved or disapproved. During the comment period, which ended on March 30, 1983, EPA received eight comments.

Discussion of Comments Received

None of the comments received opposed EPA's proposed approval of the sulfur assignments for the 85 sources. Comments received from Yabucoa Sun Oil and Upjohn Manufacturing Company identified inaccuracies in Puerto Rico's data which were reflected by EPA in Table 1, "Approvable Sulfur-In-Fuel Assignment," of the February 28, 1983 proposal. Specifically Yabucoa Sun Oil's Hydrogen Plant Heater unit was listed with a proposed sulfur assignment of 0.50 percent, by weight. The company pointed out that it had been given approval by EQB to burn fuel oil with a sulfur content of 2.50 percent, by weight. The Upjohn Manufacturing Company noted that three boilers are in operation at its facility instead of two boilers as listed in Table 1.

The Puerto Rico EQB has confirmed to EPA that the sulfur assignment for Yabucoa Sun Oil's Hydrogen Plant Heater is, in fact, 2.50 percent, by weight, and that the Upjohn Manufacturing Company has been issued permits for three boilers. Since the air quality modeling analysis performed by EPA assumed the correct sulfur dioxide emission rates for these units, demonstration of attainment of standards is not affected by these two inaccurate entries. These two errors have been corrected in the listing of the sources and sulfur assignments appearing at the end of today's notice.

The State of Connecticut Department of Environmental Protection inquired as to why EPA used the COMPLEX II model in assessing the air quality impacts resulting from this plan revision. The COMPLEX II model was chosen by EPA because it is a model developed by EPA for use in areas with terrain features such as are found in Puerto Rico. Connecticut also questioned whether the air quality impact of the proposed plan revision on total suspended particulate concentrations was analyzed. Puerto Rico's requested revision only affects sulfur dioxide emission limitations, and does not alter existing approved particulate matter emissions limits. Since these particulate matter limitations have been demonstrated to provide for attainment of air quality standards, no additional analysis was conducted by EQB or EPA.

In comments submitted on January 18, 1983 EQB urged EPA to approve its 0.20 percent fuel oil sulfur assignment for the Peerless facility. Peerless was one of the ten sources listed in Table 2, "Sulfur-In-Fuel Assignments Requiring Additional Technical Justification," of EPA's February 28, 1983 proposed rulemaking notice.

EPA has conducted an analysis of the air quality impact of this facility using an EPA-approved model. This analysis indicated that the predicted maximum air quality impact from the use of 0.20 sulfur content fuel oil at Peerless is 7.9 $\mu g/m^3$ on a 3-hour basis, 1.7 $\mu g/m^3$ on a 24-hour basis and 0.2 $\mu g/m^3$ on an annual basis. These concentrations are below the significance levels contained in Title 40 Code of Regulations Part 51, Appendix S—Emission Offset Interpretative Ruling. The significance levels for sulfur dioxide are 25 $\mu g/m^3$ on a 3-hour basis, 5 $\mu g/m^3$ on a 24-hour basis and 1.0 $\mu g/m^3$ on an annual basis. Based on this analysis, EPA has determined that the use of 0.20 sulfur content fuel oil will not cause or contribute to violations of the national ambient air quality standards. As a result, EPA is approving the requested sulfur assignment for the Peerless facility.

Because in its February 28, 1983 proposed rulemaking notice, EPA advised the public that the Peerless facility was one of the ten sources on which no action was being taken, the public should be advised that today's approval of the Peerless sulfur assignment will not be effective until 60 days from the date of this **Federal Register** notice. If notice is received within 30 days that someone wishes to submit adverse or critical comments, this action to approve Peerless's sulfur assignment will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. This course of action is being followed because approval of Peerless's sulfur assignment is viewed as noncontroversial and it is anticipated that no adverse comments will be received.

In its January 18, 1983 letter EQB also informed EPA that it had revoked permits for several sources that were included by EQB in its implementation plan revision request. Since these sources are unable to operate, they are no longer being considered as part of today's action. Specifically, EQB has revoked the permits for eight facilities which were listed by EPA in Table 1, "Approvable Sulfur-In-Fuel Assignments," of the February 28, 1983 proposed rulemaking notice. The affected sources are as follows:

Arroyo Dye Works
Arroyo Pharmaceutical
Inter Hosiery
January Industries
Mecelo Caguas
Manhattan Hospital
Univis Optical
Vanity Paper Company

In addition, permits were revoked for emission points at the following facilities listed in Table 1 of the February 28, 1983 proposed rulemaking notice:

Central Guanica—Number 3
Puerto Rico Distillers—Numbers 2 & 3 Inc.—Arecibo
Puerto Rico Electric Power Authority—Units 1 & 4—San Juan

Based on these changes the number of sources with approvable sulfur-in-fuel assignments has been reduced from 85 to 77. However, as noted previously, the Peerless facility has been added to this list resulting in a total of 78 sources with approvable sulfur-in-fuel assignments.

In its January 18, 1983 letter EQB also informed EPA that it has revoked permits for the Oxochem facility and 29 of the 56 units at the Commonwealth Oil Refinery Corporation (CORCO) facility. These two facilities are also part of the ten listed in Table 2, "Sulfur-in-Fuel Assignments Requiring Additional Technical Justification," of the February 28, 1983 proposed rulemaking notice.

As a result of EQB's comments regarding Peerless, Oxochem and CORCO, the number of sources that EPA is not taking action on at this time has been reduced from ten to eight (27 units at CORCO are still affected). The revised list is as follows:

SULFUR-IN-FUEL ASSIGNMENTS REQUIRING ADDITIONAL TECHNICAL JUSTIFICATION

Source name	Description	Old percentage standards	Proposed percentage standards
Betteroads Asphalt Aguada	Oil Burner		2.50
Cartonera Nacional	2 Boilers		2.30
Commonwealth Oil Refining Corp.	HCC CO BA-154		1.00
	HCC CO BA-2-154		1.00
	Boiler B-803	1.00	1.00
	Boiler B-804	1.00	1.00
	Vaccum BA-15B	1.00	1.00
	Aux. Crude BA-102	1.00	1.00
	Crude Vac BA101-151A	1.00	1.50
	Lt. Crude BA 402-4	1.00	1.00
	Hot Belt BA-201	1.00	1.00
	Crude-Vac BA-101-151	1.00	1.50
	Visbreaker BA-1101-2	1.00	1.00
	Unif. Stripv BA-1302	1.00	1.00
	Crude Charge BA-1302	1.00	1.00
	Plat. Rerun AH-700	1.00	1.00
	Prefact. DH-107	1.00	1.00
	Xylene Splitter H-901	0.01	0.01
	Detol H-801	0.01	0.01
	Xylene Splitter H-902		1.00
	Platfor. AH-100-102	0.01	0.01
	Unit Depent. HT AH-20	1.00	1.00
	Unif. Charger AH-200	1.00	1.00
	Plat. Depent. AH-103	1.00	1.00
	Boiler B-501-2	1.00	1.00
	Boiler 503-4		1.00
	Fractioner H-1202	1.00	1.00
	Stabilizer H-1201	1.00	1.00
	Octafiner H-1200	1.00	1.00
Dupont Puerto Rico Inc	2 boilers		2.50
Ponce Asphalt-Humacao	Dryer	3.10	1.00
Ponce Cement [1]	Kiln #1—114	3.10	2.50
	Kiln #2—114	3.10	2.50
	Kiln #3—114	3.10	2.50
	Kiln #4—176	3.10	2.50
	Kiln #5—233		2.50
	Kiln #6—518	3.10	2.50
	Lime Kiln	3.10	2.50
	3 Boilers	3.10	2.50
Puerto Rico Electric Power Authority-Guayanilla.	Units 1, 2, 3, 4	1.00	1.50
	Units 5-1, 5-2, 6-1, 6-2	1.00	1.50
	GT PBK 1-1 & 1-2	0.50	0.50
Union Carbide Caribe	23 Furnaces S5-1	0.01	0.01
	Steam SPHEATER S5-2	0.01	0.01
	Steam SPHEATER S5-3	0.01	0.01
	RECYC SPHEATER S5-4	0.01	0.01
	Turbine GEN S3-4	0.05	0.05
	Boiler I S3-3	0.50	1.00
	Boiler II S3-3	0.50	1.00
	Boiler III S3-3	0.50	1.00
	Hidrotreater S5-5	0.01	0.01
	Oxide II IGT S6-20		0.50
	Tetralin HET. S6-13		0.01
	Pack Boiler [2]		0.50
	Waste Boiler [2]		0.50

[1] The description of the Kilns at this source has been changed based on comments submitted to EPA by EQB in a January 18, 1983 letter.
[2] The sulfur assignment for this emission point is not subject to EPA review and approval since it was developed by EQB pursuant to to EPA's previously approved new source review procedures. This emission point is listed for public information purposes only.

EQB also noted in its January 18, 1983 letter that permits were revoked for four sources from Table 3, "Sulfur-In-Fuel Assignments Previously Approved by EPA," of the February 28, 1983 proposed rulemaking notice. The affected sources are as follows:

Diazlite Inc.
Puerto Rico Olefins
Central Fajardo
Puerto Rico Distillers-Camay

Also, permits for units "GR PBK 1-1 and 1-2" from the Puerto Rico Electric Power Authority's Aguirre plant were revoked by EQB. These sources are not subject to EPA review and are included for informational purposes only.

One final comment contained in the January 18, 1983 letter was a request that the sulfur-in-fuel-oil assignment for Casera Foods be changed from the 1.2 percent contained in the SIP revision submitted to EPA, to 2.25 percent. Since this change in sulfur assignment requires an additional air quality modeling demonstration and must be subject to public comment, EPA is unable at this time to approve this revised sulfur assignment. However, EPA will address the revised sulfur assignment for Casera Foods in a future **Federal Register.**

EPA also received comments in letters dated March 25, March 30 and May 27, 1983 from the Puerto Rico Manufacturers Association (PRMA). The PRMA requested additional time to provide information and comments on that portion of the proposed rulemaking action related to the ten sources (as just noted, based on today's action the number of affected sources has been reduced to eight) for which EPA intended to take no action. EPA agrees to receive and consider any further information and comments PRMA may have on the eight sources prior to taking final action with respect to their sulfur assignments. Since final action on these sources will have to be preceded by an additional proposal and opportunity for public comment, any additional information or comments can be accommodated without difficulty.

PRMA also noted that the proposed sulfur assignment for five units of Union Carbide Caribe, Inc. (one of the sources on which EPA is not taking action) have not changed from earlier EPA-approved sulfur limits. The fact that EPA is taking no action at this time on the sulfur assignments for the eight sources listed earlier in no way affects the applicable SIP sulfur assignment for any individual emission point whose sulfur assignment had been previously approved by EPA.

In its February 28, 1983 proposed rulemaking notice, EPA listed for purposes of public information the sulfur assignments for 35 sources developed by EQB pursuant to EPA's previously approved new source review procedures and for 15 sources whose sulfur assignments were not revised from those previously approved by EPA on September 11, 1975. During the comment period, the SK&F Company questioned why the sulfur assignments established for its facilities at Guayama and Cidra were not listed in the proposed rulemaking notice. The sulfur assignments for both facilities were established by EPA and EQB pursuant to the federal Prevention of Significant Deterioration (PSD) permit program. Since the federally implemented PSD permit program is part of the Puerto Rico Implementation Plan (Title 40 Code of Federal Regulations Part 52.2729) the sulfur assignments for both facilities are federally approved. PSD affected sources were not listed in the February 28, 1983 **Federal Register** notice.

In addition, EPA stated in its February 28, 1983 **Federal Register** notice that 80 of the 85 sources are included in the PSD baseline. In fact, all 85 of the sources are included in the baseline. EPA presumed in its determination that actual emissions are equivalent to allowable emission levels. No information was presented to EPA during the comment period to indicate that emissions differed substantially from the

allowable limits. However, if in the future it can be shown that actual emissions were significantly less than allowable emissions at the time the baseline was triggered, the actual emission levels will be used in calculating PSD increment consumption. This procedure is consistent with EPA's PSD regulations.

Finally, the Caribbean Gulf Refining Corporation noted that in Table 3 of the proposed rulemaking notice, "Sulfur-In-Fuel Assignments Previously Approved by EPA," emission unit CH–3 is no longer in operation and N–2 has been replaced by YB–1 and Yb–2. As noted previously, the sulfur assignments for these units were provided for public information purposes only and are not affected by today's notice.

Final Determination

Based on EPA's analysis of the Puerto Rico submittal and a review of the comments received, EPA has concluded that sulfur assignments for 78 of the 86 (as noted earlier, nine sources have shut-down since the original EQB submittal and the number of sources subject to EPA review and approval has been reduced from 95 to 86) sources can be approved as not causing a violation of the national ambient air quality standards for sulfur dioxide. Therefore, the sulfur assignments for the 78 sources meet the requirements of Section 110 of the Clean Air Act and are approved. These sources and sulfur assignments are as follows:

Source name	Description	Approved sulfur assignment [1]
Condado Holiday Inn	2 boilers	2.50
Consolidated Cigar	2 boilers	2.50
Destileria Serralles	Boiler	2.50
Dunlo Corp	Boiler	2.50
Eli Lilly Co.—Carolina.	3 boilers	2.50
Eli Lilly Co.—Mayaguez.	2boilers	2.50
	Incinerator	2.50
Glamourette Fashions.	6 boilers	2.00
Goya De PR	Boiler 600 HP	1.50
	Boiler 300 HP	1.50
	Boiler 1200 HP	1.50
Hanes Textiles	2 boilers	2.50
Hospital Regional of Bayamon.	2 boilers	2.50
Inabon Asphalt Inc	Dryer	2.50
Industrial Siderurgica	2 boilers	2.00
Industria Lechera Puerto Rico.	2 boilers	2.50
Inland Chemicals	Steam boiler	0.20
Inland Paper Co	2 boilers	2.50
La Concha Hotel	2 boilers	2.50
Merck, Sharp & Dohme.	4 boilers	2.50
Molinos De Puerto Rico.	Boiler	2.50
National Packing	3 boilers	2.50
	Boiler[3]	2.50
Neptune Packing	2 boilers	2.50
Olympic Mills	Boiler	2.50
	Oiler heater[4]	2.50
	Boiler[3]	2.50
Peerless [3]	Heater	0.20
Pfizer Inc	2 boilers	2.01
	Incinerator[4]	2.01
Phillips Corp	66–950–0070	0.10
	66–950–0080	0.10
	51–000–0010	2.50
	3.4–360–4010	2.50
	3.2–360–2010	0.15
	3.1–360–1020	0.15
	3.1–360–1030	2.00
	1.1–360–1010	0.15
	1.3–360–3050	2.50
	1.3–360–3020–30–40	2.50
	1.3–360–3010	2.50
	1.2–360–2050	0.15
	1.2–360–2040	0.15
	1.2–360–2030	2.50
	1.2–360–2020	2.50
	1.2–360–2010	0.15
	1.1–360–1020	2.50
	2.4–360–4050	0.15
	2.4–360–4040	2.50
	2.4–360–4030	0.15
	2.4–360–4020	2.50
	2.4–360–4010	2.50
	2.1–360–1020	0.15
	2.1–360–1010	0.15
	51–000–0020	2.45
	51–000–0030	2.45
	51–000–0040	2.45
Placco Company	Boiler	1.00
	Tube boiler	1.00
	Oil heater	1.00
	Oil heater	1.00
	2 ASP heaters	1.00
Ponce Asphalt-Ponce.	Dryer	0.81
Ponce Candy	2 boilers	2.50
	Boiler[3]	2.50
Pittsburgh Plate & Glass Industries.	2 boilers	1.00
	2 boilers	0.01
Puerto Rico Asphalt—Aguadilla.	Burner	2.50
Puerto Rico Asphalt—Arecibo.	Burner	1.90
Puerto Rico Asphalt—Bayamon.	Burner	1.90
Puerto Rico Asphalt—Carolina.	Burner	2.50
Puerto Rico Asphalt—Salinas.	Burner	2.50
Puerto Rico Dairy Inc.	2 boilers	2.50
Puerto Rico Distillers Inc.—Arecibo.	3 burners	2.50
Puerto Rico Glass	Numbers 1–3	2.00
	Number 4	1.50
	Number 5	0.50
Puerto Rico Electric Power Authority—Aguadilla.	Jet PPK 1–1 & 1–2	0.50
Puerto Rico Electric Power Authority—Caiba.	GT PBK 1–1 & 1–2	0.50
	Jet	0.50
Puerto Rico Electric Power Authority—Covadonaga.	Jet PPK 1–1 & 1–2	0.50
Puerto Rico Electric Power Authority—Jobos.	GT PBK 1–1 & 1–2	2.50
	Jet PPK 1–1 & 1–2	2.50
Puerto Rico Electric Power Authority—Palo Seco.	Units 1 & 2	2.50
	Units 3/1 & 3/2	2.50
	Units 4/1 & 4/2	2.50
	GT PBK 1–1	0.50
	GT PBK 1–2	0.50
	GT PBK 2–1	0.50
	GT PBK 2–2	0.50
	GT PBK 3–1	0.50
	GT PBK 3–2	0.50
	Jet PPK 1 & 2	0.50
	Jet 1	0.50
Puerto Rico Electric Power Authority—San Juan.	Units 5 & 6	2.00
	Units 7–1 & 7–2	2.00
	Units 8–1 & 8–2	2.00
	Units 9–1 & 9–2	2.00
	Units 10–1 & 10–2	2.00
	Jet PPK 1	0.50
	Jet 1	0.50
Puerto Rico Electric Power Authority—Vega Baja.	GT PBK 1–1 & 1–2	0.50
Puerto Rico Electric Power Authority-Yabucoa.	GT PBK 1–1 & 1–2	0.50
RCA Del Caribe	3 boilers	2.00
Rexach Asphalt—San Juan.	Burner	1.75
San Juan Cement	Kilns #1–3	2.50
	3 boilers	2.50
Schering	3 boilers	2.50
Squibb Manufacturing Inc.	2 boilers	2.48
	Brule incinerator	2.48
	Garver & Davis	2.48
	Waste heat boiler	2.48
	Incinerator [3]	0.50
	Boiler [3]	2.48
Star-Kist Tuna	4 boilers	2.50
	Boiler [3]	2.50
Sun Harbor	2 fire tube boilers	2.40
To-Rico Inc.	Boiler	2.50
Travenol Labs	Boiler	2.50
Union Carbide Films	2 boilers	2.50
Union Carbide Grafito.	36 furnaces	0.20
	Boiler	0.20
	Boiler	0.20
	C1S–1, 2 and 3 [3]	0.20
	2 pre-heaters [3]	0.20
	Hot water heater [3]	0.20
	Incinerator [3]	0.20
Upjohn Manufacturing Corp.	3 boilers	2.50
V. Soske Shops Inc	Boiler	2.50
Winthrop Labs	2 boilers	2.00
Yabucoa Sun Oil	Boilers	2.50
	Crude heaters	2.50
	Heaters	2.00
	Hydrotreater	2.50
	Hydrogen plant heater	2.50
	Desulf. heater	2.50
	Solar generator	2.50

[1] Percent sulfur, by weight.
[2] The sulfur assignments for these emission points are not subject to EPA review and approval since they were developed by EQB pursuant to EPA's previously approved new source review procedures. These emission points are listed for public information purposes only.
[3] The sulfur assignment for this source is effective December 19, 1983.

As previously noted, EPA intends to take no action at this time on the fuel oil sulfur assignments for the eight remaining sources listed earlier because of a number of unresolved questions concerning their potential to violate the national ambient air quality standards for sulfur dioxide. EQB and EPA have agreed to reevaluate in the near future the sulfur assignments for these sources using a more refined air quality impact analysis.

With the exception of the approval of a 0.20 percent sulfur assignment for the Peerless facility discussed earlier, this action is being made immediately effective because it imposes no hardship on the affected sources, and no purpose would be served by delaying its effective date.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provision of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). The attached rule constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves an action by the Commonwealth of Puerto Rico. It imposes no requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Secs. 110 and 301, Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Dated: October 14, 1983.

Note.—Incorporation by reference of the Implementation Plan for the Commonwealth of Puerto Rico was approved by the Director of the Federal Register on July 1, 1982.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by adding new paragraph (c)(30) as follows:

§ 52.2720 **Identification of plan.**

* * * * *

(c) * * *

(30) Revision submitted on March 3, 1981 by the Commonwealth of Puerto Rico's Environmental Quality Board which establishes fuel oil sulfur content limitations (known as "sulfur assignments") applicable to the 110 sources. On October 20, 1983, 78 of these 110 sources had their sulfur assignments approved by EPA.

[FR Doc. 83–28589 Filed 10–19–83; 8:45 am]

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40 CFR Part 60

[AD–FRL 2387–5]

Standards of Performance for New Stationary Sources; Alternative Sampling Procedures for Sulfuric Acid Plants

Correction

In FR Doc. 83–26378 beginning on page 44700 in the issue of Thursday, September 29, 1983, make the following corrections:

§ 60.84 [Corrected]

1. On page 44701, first column, § 60.84(d), lines six and seven from the bottom, the formula should be corrected to read as follows:

$$E_{SO_2} = C_{SO_2} S \frac{1}{0.265 - 0.0126(O_2) - A(CO_2)}$$

2. On the same page, column two, § 60.84 (d), column three of the table, line three "2,660×10^{-6}" should read "2.660×10^{-6}" and line four "2,660×10^{-7}" should read "1.660×10^{-7}."

§ 60.85 [Corrected]

3. On the same page, column three, § 60.85 (e), last line "C_{SO2}" should read "C_{SO_2}".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Amdts. 192–46 and 195–29; Docket No. PS–74]

Transportation of Natural and Other Gas and Hazardous Liquids by Pipeline; Repair or Removal of Girth Weld Defects

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: These amendments change the pipeline construction requirements of Parts 192 and 195 by modifying the present regulations on the repair or removal of defective girth welds utilizing performance standards for weld repair. The revised requirements permit the more cost effective repair of a weld crack as well as the repair of any weld defect in a previously repaired area provided that qualified weld repair procedures are followed. The procedures must assure that the soundness and mechanical properties of a repaired weld will be equal to an acceptable original weld.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: William A. Gloe, 202–426–2082, regarding the content of these amendments, or the Dockets Branch, 202–426–3148, regarding copies of the amendments or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

The requirements of 49 CFR Parts 192 and 195 governing the repair or removal of girth weld defects were derived from editions of industry codes that were in effect at the time of issuance of the original Federal pipeline safety regulations. As derived from American National Standards Institute (ANSI) B31.8 for gas pipelines, and from ANSI B31.4 for liquid pipelines, Part 192 and Part 195 treat weld repair and removal differently. Part 192 requires that "a weld must be removed if it has a crack that is more than 2 inches long or that penetrates either the root or second bead." By this language, and by a previous statement that unacceptable welds must be removed or repaired, Part 192 permits the repair of certain cracks that are up to 2 inches long. The 1968 edition of ANSI B31.8 specified that:

VOL
48
ISS
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OC
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1983
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Minor cracks in the surface and filler beads may be repaired when so authorized by the company, but any crack penetrating the root bead or the second bead shall be cause for complete rejection of the weld. The entire weld shall then be cut from the pipeline and replaced. Minor cracks shall be defined as cracks visible in the surface bead and not over 2 inches in length.

Part 195 requires that "a weld that is found unacceptable under § 195.228 may not be repaired unless . . . [T]here are no cracks in the weld." Further, it defines removal by stating: "a cylinder of the pipe containing the weld must be removed and the ends rebeveled whenever . . . [T]he weld contains one or more cracks." The 1966 edition of ANSI B31.4, from which Part 195 was derived, stated that "Authorization for repair of welds, removal and repair of weld defects, and testing of weld repairs shall be in accordance with API Standard 1104." ANSI B31.4 at the time referenced the 9th edition of API Standard 1104 (1965), which edition did not permit the repair of weld cracks.

Parts 192 and 195 are in agreement on the need for weld removal if "the repair is not acceptable" (§ 192.245(b)) or "the weld was repaired and the repair did not meet the requirements of § 195.228."

Amendments 192–27 and 195–11 were issued in 1976 to make the regulations more compatible with offshore pipeline construction. Effective with those amendments, the repair of weld cracks, regardless of length, and the multiple repair of all weld defects have been permitted for gas and hazardous liquid pipelines being laid from a pipelay vessel. The DOT has received no reports to indicate that the revised weld repair requirements for offshore pipeline construction has posed a safety problem in any way.

In 1973, API Standard 1104, the industry standard for field welding, was revised to include procedures for the repair of girth weld cracks that are less than 8 percent of the weld length, and for the mutiple repairs of all weld defects. The prohibitions in the Federal regulations against repair of cracks and multiple repairs in onshore pipelines have become a much greater economic problem with the increase in diameter of pipelines constructed in recent years. Using today's welding technology, the 2-inch crack length weld repair limitation on gas pipelines and "no cracks" rule for weld repair on liquid pipelines are unreasonably restrictive, particularly for these larger diameter pipelines. These past limitations and multiple repair prohibitions have no proven safety benefit. Requirements that cause removal of a cylindrical section of large pipe, including the girth weld, can be vexatious when only a small part of a weld may be defective, especially if the weld is made to a fitting. Moreover, available information indicates that a girth weld replaced by a new section of pipe and two new girth welds may be no more safe than a weld repaired in accordance with qualified written repair procedures because of the problems associated with removal of a weld and rewelding under field conditions.

Since 1975, waivers from the weld repair and removal requirements of §§ 192.245, 195.230, and 194.232 have been granted by the MTB, based on substantial evidence that the repair procedures employed did assure the same weld soundness and mechanical properties after the repairs were completed as would have been obtained in an acceptable new weld. The petitions, facts about these waivers, and the supporting test data developed are in the docket file for those waiver proceedings. (Docket Nos. 76–4W, 77–6, 80–10W, and 82–3W)

Review

In recognition of the questionable safety value and economic burden of the restrictive weld repair and removal regulations, MTB initiated a regulatory review to examine various approaches toward changing the requirements. During the MTB review, consideration was given to alternative ways of reaching the objective, including simply deleting mandatory removal requirements, leaving weld repair to operator discretion. Deletion might be justified on the basis that other sections of the regulations on welding would still require qualified welding procedures and qualified welders, and that the provisions would be applicable to repair welding. Historical accident data were reviewed to determine the need for specific weld repair rules if removal were no longer required. MTB found that although no definite hazard could be attributed to faulty repairs of girth welds, a number of girth weld failures have occurred, and the remaining regulations would not address questions of possible failure cause, such as inadequate verification of crack removal, the lack of requirements for nondestructive testing of repairs, and degradation of weld heat-affected zones as a result of permissible multiple repairs. Because the reasons for the weld failures are, in general, unknown, it was concluded that there is a need to address the above areas in the form of weld repair procedures or performance standards.

The review did not take into account the experience of the offshore industry since 1976 under the relaxed weld removal requirements for offshore pipelines because offshore pipeline welds are required to be nondestructively tested 100 percent if practicable, but not less than 90 percent, and the fact that bending of the pipeline off the lay vessel until it is in place on the ocean bottom stresses the welds to an extreme degree such that construction operations themselves provide proof of weld integrity. MTB does not believe that offshore operators would risk the hazards of pipeline installation without requiring that all weld repairs are made in accordance with tested and proven procedures, such that the welds are of the highest quality even without a specific weld repair regulation.

During the review, the MTB received a June 2, 1981, petition from the American Petroleum Institute (API) for the replacement of relevant sections of the regulations with the requirements of Section 7.0, "Repair or Removal of Defects," of API Standard 1104. The MTB found that the API petition would overcome objections to the existing weld removal requirements but still would retain a requirement for crack length limitation. Section 7.0 specifies that a weld crack may be repaired only if "it is less than 8 percent of the weld length."

The MTB concluded that a new rule combining a performance requirement for weld soundness, ductility, and mechanical properties and incorporating by reference Section 7.0 of API Standard 1104 would accomplish the objective. This approach was recommended in the Regulatory Review Report in support of a draft Notice of Proposed Rulemaking, a copy of which was appended to the Report. However, MTB questioned the appropriateness of the 8 percent limitation on crack repair and sought public comments.

Notice of Proposed Rulemaking (NPRM)

An NPRM was published on January 24, 1983 (48 FR 2984), proposing to amend the regulations on the repair or removal of defective girth welds based upon information contained in petitions MTB has received and other information discussed in the Notice. The objective of the NPRM was to reduce excessive costs of pipeline construction resulting from the unnecessarily restrictive weld repair or removal requirements of §§ 192.245, 195.230, and 195.232 while at the same time assuring sound, ductile welds essential for pipeline safety. The NPRM proposed incorporating by reference the procedural requirements of Section 7.0 of API Standard 1104, the pipeline industry "Standard for Welding Pipelines and Related Facilities," the 15th (1980) edition, with requirements added related to multiple repair.

Discussion of Comments

Comments were received from 35 sources, including pipeline system operators, utility companies, the American Society of Mechanical Engineers (ASME), the American Gas Association (AGA), the New England Gas Association, the Interstate Natural Gas Association of America (INGAA), the New York Department of Public Service, the American Petroleum Institute (API), and the National Transportation Safety Board (NTSB). With the exception of the NTSB, all commenters agreed with the objective and with the need for change.

Two commenters suggested that performance language alone would meet the regulatory objective without the need to refer to Section 7.0 of API Standard 1104. One suggested wording for § 192.245 and the other for § 195.230 (deleting § 195.232). MTB agrees that performance language alone would meet the regulatory objective. Therefore, though editorially different from the commenters' suggestions, the Final rule is written in performance language, retaining elements of the present rules other than the prohibitions against the repair of weld cracks and the repair of previously repaired areas.

Three commenters suggested a clarification to assure that testing for mechanical properties is interpreted to be required as a part of the welding procedures development and not as a part of field welding. The change recommended is that the phrase ". . . mechanical properties specified in the welding procedure for the original weld" as stated in the NPRM should be ". . . mechanical properties specified for the welding procedure used to make the original weld." MTB agrees that this change is a helpful clarification of the intended meaning, and this wording is incorporated into the Final rule.

The API fully supported the DOT proposal but pointed out that the two failure examples given in the NPRM (NTSB Reports NTSB–PAR–73–4 and NTSB–PAR–76–4) were not failures attributable to pipeline girth weld repairs and are therefore not relevant to this rulemaking. The MTB recognizes that the failures were not attributable to girth weld repairs but believes them to be relevant since they involve failures of welds, has included them in the information base, and concluded from them and from other information available that a justification does not exist for discontinuation of all weld repair regulation. From the many supportive comments received in response to the NPRM, including those from industry, this remains a valid conclusion.

NTSB made two major points: (1) Repair should be limited to specific cases, since welds cannot be repaired consistently to the quality level of a proper original weld, and (2) instead of lowering the present welding standards, MTB should look for ways to improve the quality of production welds. The NTSB observation that "welds cannot be repaired consistently to the quality level of a proper original weld" was unsubstantiated and, moreover, does not recognize the problems associated with field cutouts and rewelding. One operator's comments describe several practical problems and make an opposing statement with regard to quality level:

> * * * cutting out a cracked weld and replacing it in the field is not desirable from a workmanship standard. A production bevel that is inspected in the factory under controlled conditions and according to Engineering Specifications, is readily welded in the field. On the other hand, Company and contractor welders state that a full replacement weld of a cut-out resulting from the removal of cracks or multiple defects rarely, if ever, meets the quality of the original weld, less the defective areas. This results primarily from the fact that a field bevel is substantially inferior in dimensional tolerances and finish to a machined, production factory bevel. Therefore, by rewelding only those defective areas deemed repairable by the standards set forth in Section 7.0 of API Standard 1104, while maintaining the maximum length of the original weld on the production bevel, can result in a high quality, mechanically sound girth weld.

Without presenting supporting data, the NTSB suggested that the present weld removal or repair regulations be left alone and that MTB focus on "better control of present qualified welding procedures" and "poor quality control". The NTSB suggestion sidesteps the primary question raised by the NPRM of whether or not it is necessary to remove a weld which contains a defect or, whether it is an equally safe practice to repair the defect. The enforcement of quality control for production welds is outside the scope of this rulemaking.

In closing, the NTSB stated that "the Safety Board would strongly object to a final rule which would result in weakening of the present standards." In the view of the stated positions of 34 other commenters, the views of the two Technical Advisory Committees and the MTB experience, including regulatory review, the welding standards of the DOT regulations are actually strengthened by this Final rule and brought in line with present welding technology. There will be no adverse effect on either the present standards or pipeline safety in general.

Crack Length Limitation

The MTB sought comment in the NPRM as to the needs for a specific limit on the length of a crack that may be repaired. As stated before, Part 195 now disallows crack repair regardless of length, while Part 192 permits the repair of weld cracks that are less than 2-inches long and do not penetrate the root or the second bead. Section 7.0 of API Standard 1104 limits authorization for the repair of cracks to those that are "less than 8 percent of the weld length."

By acquiescing to the incorporation of Section 7.0 without comment, it may be said that most commenters did not object to the 8 percent limit. Four commenters, the ASME, Northern Natural Gas Company, Northern Plains Natural Gas, and Panhandle Eastern Pipe Line Company stated that the limitation of 8 percent has no technical basis and is unnecessary for safety. The API commented:

> This limit was selected by the API-AGA Joint Committee on Oil and Gas Pipeline Field Welding Practices in order to be consistent with the workmanship provisions of Paragraph 6.8, 'Accumulation of Discontinuities,' of API Standard 1104. The eight percent criterion is considered very conservative with respect to a maximum repair length for cracks in a girth weld, which after a repair has been made has properties equivalent ot the original weld. In actuality, the length of the crack does not affect the quality of the repair, so long as the crack has been completely removed.

The Michigan Wisconsin Pipe Line Company commented that, "The consensus of the group was to maintain the 8 percent crack limitation based on Michigan Wisconsin's substantial pipeline construction experience that concludes the occurrence of a crack exceeding 8 percent is also very rare." In a similary cautious vein, the New York Department of Public Service commented:

> The 8 percent limit should not be relaxed unless by experience, research study, or other suitable means this limit can be shown to be unnecessary. The lack of any definitive evidence that repairs to cracks greater than 8% of the pipe circumference would not adversely affect safety should not be a basis for relaxation of this limit. It would be more

VOL
48
ISS
2
0
4
OC
20
1983
UMI

prudent to retain this limit as proposed until it can be shown, by experience or study, to be overly restrictive or not restrictive enough. The retention of this limit would at worst err on the safe side at this point in time.

The Conoco Maintenance Department stated:

> * * * 8 percent of the weld length as stated in API 1104 seems to be an arbitrary number and arguments could be made for extending it. However, it does appear reasonable and if crack lengths in excess of this are found, there may be other problems (material, welding procedure, welder skill, etc.).

MTB does acknowledge that a crack length limitation for onshore pipelines would call attention to the fact that other problems may exist if cracks longer than 8 percent of the weld length occur, and that other corrective action may be necessary. Also, in comparison with the present 2-inch limit of Part 192 (which is approximately equivalent with the 8 percent limit for an 8-inch pipe diameter), the 8 percent limit permits longer crack repairs on larger diameter pipe, which is consistent with both the objective of this rulemaking, and with the probability that nondestructive testing would be conducted more frequently on larger diameter pipelines because of the higher costs of construction and the need for intensive quality control.

Other than statements that the limitation appears to be useful and reasonable, no commenter provided a supportable technical or safety basis for adopting the 8 percent limit in the Federal regulations. Further, there has been no restriction on the length of a crack that may be repaired for offshore pipelines being installed from a pipelay vessel since Amendments 192–27 and 195–11 were issued in 1976, and there has been no reported pipeline safety problem resulting from this change offshore.

There are no pipeline safety data available to MTB to make a convincing argument at this time for reducing or extending the 8 percent crack length limitation. This limit has been established by the industry as consistent with other provisions of Section 6.0 of API Standard 1104 and imposes no additional burden on the industry. For the reasons given above, MTB believes that the 8 percent crack length limitation is a prudent requirement and accordingly incorporates it in the Final rule. The exception for repairs on an offshore pipeline installed from a pipelay vessel is unaffected.

Repair of a Defect in a Previously Repaired Area (Multiple Repair)

The present rules for both gas and liquid pipelines onshore require that if a weld is repaired and if the repair does not meet the standards of acceptability, the entire weld must be removed. Because of the severe hardship this can impose in the construction of large diameter pipelines, the NPRM proposed that multiple repairs be permitted for all pipelines as is now done on offshore lines installed from a pipelay vessel. Multiple repair would be permitted for onshore pipelines provided the final repaired weld has the same mechanical properties as specified for the original weld, with testing performed in the qualification of weld repair procedures. The NPRM also requested commenters to provide any data that may be available on the possible adverse effects of the repair of previously repaired areas, especially on high strength grades of steel. Experience in the repair of welds on modern line pipe steels indicates that with qualified repair procedures little or no degradation of the weld area will occur, and that the need for multiple repairs will be so infrequent that there is no practical basis for the present prohibition against multiple repairs. Experience with the offshore weld repair rule supports this conclusion.

Again, though the issue was addressed in a general way by several commenters, no substantive data relating to the effects of multiple repairs was provided. The New York Department of Public Service generally described the problem that may be encountered, and expressed concern by stating:

> This [multiple repairs] should be allowed in the DOT regulations only if the welding repair procedures have been developed and demonstrated by destructive testing that for the same number of weld repairs being made, there is no degradation of the final weld metal or HAZ [heat affected zone] physical and mechanical properties.

An industry commenter argued that the number of repairs should be limited, stating as follows:

> It is unreasonable to allow an unlimited number of repair attempts because there may be more time involved than in making a new weld. Also, the worst effect of multiple repairs is the resulting residual stress.

MTB agrees with this commenter that there could be situations where a cutout may save time and that certain types of repair are not desirable, but does not share the view that the revised regulations should specify either the type or a limiting number of repairs. The ultimate test of acceptability of a repaired weld, including the absence of residual stress, as far as the Federal regulations are concerned is in meeting the mechanical properties requirements that can be tested as a part of qualification testing for the weld repair procedures and weld inspection and testing requirements.

By the language in subparagraph (c) of the Final rule, "Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair," MTB specifies the basis for each weld crack repair or multiple repair in performance terms. The operator must have test data recorded to show that the repair if properly repeated on the pipeline will be successful. The Final rule will require such weld repair procedure qualification testing for onshore multiple repairs as is now done generally in offshore written welding procedure qualifications. Repair of previously repaired areas will be qualified as a part of the repair welding procedure by testing of welds repaired in an identical manner and for the same number of times that weld repair is to be repeated.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), requires that each proposed amendment to a safety standard established under that statute be submitted to a 15-member advisory committee for its consideration. The committee, composed of persons knowledgeable about transportation of gas by pipeline, considered the proposed amendment to § 192.245 at a meeting in Washington, D.C., on November 16–17, 1982.

In its report dated January 14, 1983 (a copy of which is in the docket), the Technical Pipeline Safety Standards Committee (TPSSC) found the proposed amendment, as set forth in a draft NPRM, to be technically feasible, reasonable, and practical provided that the words "additionally contain provisions to" are inserted between the words "procedures" and "assure" in subparagraph (b). Although the Final rule has been restated as a performance standard rather than incorporating Section 7.0 of API Standard 1104 by reference, the substance of this recommendation is in subparagraph (c) which supplanted subparagraph (b) in the NPRM.

Similarly, Section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) requires that the proposed amendment to §§ 195.230 and 195.232 be submitted for consideration by a 15-member advisory committee composed of persons knowledgeable about the transportation of hazardous liquids by pipeline. The committee considered the proposed amendment, as set forth in a draft NPRM at a meeting in Washington, D.C., on December 17–18, 1981. In its report, dated April 10, 1982 (a copy of which is in the docket), the committee states:

> "The Committee agrees that the deletion of Paragraph 195.232—'Welds: Removal of Defects' is reasonable, feasible and practical. The proposed revision of Paragraph 195.230—'Welds: Repair of Defects' to provide that repair of weld defects and the testing of weld repairs be in accordance with Section 7.0 of API Standard 1104 was viewed as acceptable, but with the reservation that there is concern as to the degree of assurance as to the quality of the repair procedures which would be developed and the number of repair attempts which would be reasonable. The proposed omission of Section 7.0 limitation—'Such weld cracks may be repaired provided: (a) The crack is less than 8 percent of the weld length' was found to be unacceptable."

The MTB again presented the draft proposed amendment before the Technical Hazardous Liquids Pipeline Safety Standards Committee (THLPSSC) at a meeting in Washington, D.C., on December 7–8, 1982, with both the MTB staff and the Secretary of the API 1104 Committee providing additional technical data on the proposed amendment. The language of the proposed amendment presented to the committee was the same as that published in the **Federal Register** on January 24, 1983 (48 FR 2984). The report of the committee dated March 9, 1983, states that: "In a unanimous vote in favor, the 12 committee members present (2 absent) found the Notice of Proposed Rulemaking as drafted by the MTB staff to be technically feasible, reasonable, and acceptable."

Both committees expressed concerns about the effects of multiple repairs and objected to any omission of the 8 percent crack limitation of Section 7.0 of API Standard 1104. The Final rule is written to acknowledge the advice of the committees and to incorporate the 8 percent crack length limitation for onshore pipelines. The exception for offshore piplines being installed from a pipelay vessel was inadvertently omitted from the NPRM and was not considered by the committees on the assumption that the rules as proposed would apply to both onshore and offshore pipelines. The MTB has reconsidered, however, finds that there is no justification to apply the limitation to offshore pipelines being installed from a pipelay vessel, and continues the existing exception for offshore pipelines. Because this decision makes no change in the treatment of offshore pipelines from that in the present regulations, further committee review is unnecessary.

The Final Rule

In view of information developed in the DOT priority review together with other information and data contained in the API petition, the NPRM, responses to the NPRM, and the advice of the THLPSSC and the TPSSC, the MTB has determined that the present requirements for the repair or removal of defective girth welds are unnecessarily restrictive and impose a cost burden disproportionate to any safety benefit, and thus should be amended. This Final rule removes both the restrictiveness and the burdensome cost effect of the regulations while assuring pipeline safety.

The Final rule accomplishes this by retaining several elements of the present rules and incorporating in performance language the essential elements of Section 7.0 of API Standard 1104. The incorporation by reference of Section 7.0 of API Standard 1104 proposed for §§ 192.245 and 195.230 has not been adopted because the MTB has determined that incorporating that Standard by reference is unnecessary to accomplish the goals of this rulemaking, would add unnecessary and unintended requirements to the existing regulations, and would be contrary to the established policy of the MTB to use performance standards where feasible. The goal of this rulemaking is to relieve, consistent with safety, the undue cost burdens imposed by the current prohibitions on the repair of weld cracks and on multiple weld repairs. Section 7.0 was developed by the industry to provide guidelines rather than restrictions on weld repair. If adopted as a rule, however, Section 7.0 would impose certain requirements that are not intended by the MTB and may create future regulatory difficulties. For example, the incorporation of Section 7.0 would add requirements relative to all "injurious defects" where the term "injurious defects" is not defined by the regulations and is not otherwise used in discussion of weld acceptability.

In the amendment to the liquid pipeline safety standards, § 195.230 will incorporate requirements for removal of defects, now contained in § 195.232, as well as for the repair of defects. Section 195.232 has been eliminated. Based on the advice of the committees, and as proposed in the NPRM, the standards for repair and removal of defective welds have been made consistent with those for gas pipelines. The burden of the present prohibitions against repair of cracks and multiple repair is eliminated with the adoption of performance standards conditionally permitting such repair. With present weld repair technology, requiring the removal of a cylinder of pipe containing a defective weld (present § 195.232) is not justified on the basis of safety.

Based largely on advice of the committees, the limitation for the repair of weld cracks has been incorporated from API Standard 1104 in the Final rule. Weld cracks that are not longer than 8 percent of the weld length may be repaired in onshore pipelines, if qualified weld repair procedures are followed. No change is made in the requirements for offshore pipelines installed from a pipelay vessel as these lines have been excepted from crack length limitation on repairs since 1976. The written qualified procedures now required for all multiple repairs on offshore pipelines have been retained. New provisions allowing multiple repair of welds onshore eliminate the outright prohibition and are consistent with existing offshore requirements.

Conditions imposed on the repair of cracks, including the requirement of written weld repair procedures that are qualified under § 192.225 or § 195.214 and designed to ensure that the mechanical properties of the original weld are met, adequately compensate for any relaxation of the restrictions on weld repairs. These conditions are substantially the same as proposed in the NPRM, but are now stated in performance language. The existing requirements for removal of defects down to "clean" metal are clarified. Technical clarification is provided by use of the wording "sound" metal and by a requirement for preheating if conditions exist which would adversely affect the quality of the weld repair. This retains a preheat provision of § 192.245 but acknowledges that preheating may not be required for all weld repairs, consistent with Section 7.0 of API Standard 1104 and preheating requirements in § 192.237. Similarly, mandating use of the magnetic particle or dye penetrant test included in Section 7.0 to ascertain removal of defects is not needed where the rule requires removal down to sound metal. As that term is understood in the industry, either one of those tests or their equivalent would be required.

MTB encourages the incorporation of the requirements of Section 7.0 of API Standard 1104 into the written weld repair procedures that must be qualified

VOL
48
ISS
204
OC
20
1983
UMI

under § 192.225 or § 195.214 to meet this Final rule.

Classification

This Final rule is not a "major rule" under Executive Order 12291. The order defines a major rule as one which would have an annual effect on the economy of $100 million or more, a major increase in costs, or a significant adverse effect on the economy. As shown by the Regulatory Review Report and the Regulatory Evaluation for this proceeding, this Final rule does not have such an impact. This Final rule is also not a "significant" rule as defined by the Department of Transportation Policies and Procedures (DOT Order 2100.5).

The Regulatory Flexibility Act (5 USC 601 et seq.) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations, and governmental bodies. I certify that this Final rule will not have a significant economic impact on a substantial number of small entities because there will be no direct or indirect costs of compliance or other adverse effects.

List of Subjects

49 CFR Part 192

Pipeline safety, Girth welds.

49 CFR Part 195

Ammonia, Petroleum, Pipeline safety, Girth welds.

Based on the foregoing, MTB amends Title 49, Code of Federal Regulations, Parts 192 and 195 as follows:

PART 192—[AMENDED]

1. By revising § 192.245 to read:

§ 192.245 Repair or removal of defects.

(a) Each weld that is unacceptable under § 192.241(c) must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipeline vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length.

(b) Each weld that is repaired must have the defect removed down to sound metal and the segment to be repaired must be preheated if conditions exist which would adversely affect the quality of the weld repair. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability.

(c) Repair of a crack, or of any defect in a previously repaired area must be in accordance with written weld repair procedures that have been qualified under § 192.225. Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair.

PART 195—[AMENDED]

§ 195.232 [Removed]

2. By removing § 195.232 and by revising § 195.230 to read:

§ 195.230 Welds: Repair or removal of defects.

(a) Each weld that is unacceptable under § 195.228 must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipelay vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length.

(b) Each weld that is repaired must have the defect removed down to sound metal and the segment to be repaired must be preheated if conditions exist which would adversely affect the quality of the weld repair. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability.

(c) Repair of a crack, or of any defect in a previously repaired area must be in accordance with written weld repair procedures that have been qualified under § 195.214. Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair.

Authority citation for Part 192 is: 49 U.S.C. 1672 and 1804; 49 CFR 1.53; and Appendix A of Part 1.

Authority citation for Part 194 is: 49 U.S.C. 2002; 49 CFR 1.53; and Appendix A of Part 1.

Issued in Washington, D.C., on October 14, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-28490 Filed 10-19-83; 8:45 am]

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Proposed Rules

Federal Register
Vol. 48, No. 204
Thursday, October 20, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 411

[Amendment No. 3]

Grape Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Grape Crop Insurance Regulations (7 CFR Part 411), effective for the 1984 and succeeding crop years, by (1) Changing the policy to make it easier to read; (2) providing for insurance on grapes grown for processing as wine or juice; (3) adding a provision which permits determination of indemnities based on the acreage report rather than at loss adjustment time; (4) requiring a report of a stand if it is less than 90 percent of the original stand; (5) providing a coverage level if the insured does not select one; (6) adding a provision regarding the end of the insurance period of unharvested acreage as the date harvest should have started on the unit; (7) adding a 60-day claim for indemnity provision; (8) adding a section which allows for quality adjustment for grapes which do not meet the minimum requirements for processing of wine or juice and have a value of less than 75 percent of the market price; (9) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (10) adding a hail/fire provision for appraisals of uninsured causes; (11) changing the cancellation/termination dates to conform to farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition of "service office;" (14) providing for unit determination when the acreage report is filed; and (15) adding a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the grape crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring grapes in accordance with the Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

COMMENT DATE: Written comments on this proposed rule must be submitted not later than December 19, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 411

Crop insurance, Grape.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposed to amend the Grape Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

PART 411—[AMENDED]

1. The Authority citation for 7 CFR Part 411 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, 77 as amended (1506, 1516).

2. 7 CFR Part 411 is amended in the Table of Contents thereof by removing the word "Reserved" from § 411.3 and inserting, in its place, the words "OMB control numbers.

§ 411.3 [Added]

3. 7 CFR 411.3 is amended by removing the word "Reserved" in the title thereof and inserting, in its place, the following:

§ 411.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 411) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

4. 7 CFR 411.7(d) is amended by removing the Grape Crop Insurance

Policy therein and inserting the following:

Department of Agriculture—Federal Crop Insurance Corporation

Grape Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of Loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period.

(1) Adverse weather conditions;
(2) Fire;
(3) Wildlife;
(4) Earthquake;
(5) Volcanic eruption; or
(6) Direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6). Direct Mediterranean Fruit Fly damage shall be actual physical damage to the grapes on the unit which, as determined by us, causes such grapes to be unmarketable and shall not include unmarketability of such grapes as a direct result of a quarantine, boycott, or refusal to accept the grapes by any entity without regard to actual physical damage to such grapes.

b. We shall not insure against any loss of production due to:

(1) the neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) the failure to follow recognized good grape management practices;

(3) damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) any cause not specified in section 1a as an insured loss.

2. *Crop, Acreage, and Share Insured.* a. The crop insured shall be any insurable variety of grapes which are grown for wine, juice, raisins, or canning and which are grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be grapes grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured grapes at the time insurance attaches.

d. We do not insure any acreage:

(1) which the vines, after being set out, have not reached the number of growing seasons designated in the actuarial table;

(2) which has not produced an average of 2 tons of grapes per acre; or

(3) with less than 90 percent of a stand of bearing vines based on the original planting, unless inspected by us and we agree in writing to insure such acreage, (the actuarial table may provide exceptions to this clause).

e. Where insurance is provided for an irrigated practice:

(1) you shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good grape irrigation practice at the time insurance attaches; and

(2) any loss of production caused by failure to carry out a good grape irrigation practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to time insurance attaches.

3. *Report of Acreage, Share, Yield, and Where Applicable, Practice.* You shall report on our form:

a. all the acreage of grapes in the county in which you have a share;

b. the practice;

c. your share at the time insurance attaches;

d. the number of bearing vines (if less than 90 percent of a stand based on the original planting pattern); and

e. the most recent year's production records for insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any grapes grown in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.* a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual Premium.*

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	106	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	126	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	280	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) the contract of your estate or surviving spouse in case of your death;

(2) the contract of the person who succeeds you if such person had previously participated in the vineyard operation; or

(3) your contract if you stop vineyard operations in one county and start vineyard operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for Debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance Period.*

a. Insurance attaches each crop year on:

(1) February 1 in California;

(2) November 11 in Washington; and

(3) December 11 in all other states.

b. Insurance ends at the earliest of:

(1) total destruction of the grapes on the unit;

(2) the date harvest should have started on the unit, on any acreage which is not harvested;

(3) harvest;

(4) final adjustment of a loss; or

(5) December 10 (November 10 in Washington and California) of the calendar year in which the grapes are normally harvested.

c. In New York, Pennsylvania and Ohio, if you purchase any insurable acreage on or before January 5 of any crop year, and if we inspect, consider acceptable, and agree in writing to insure such acreage, insurance will be considered to have attached to such acreage on the preceding December 11.

8. *Notice of Damage or Loss.*

a. In case of damage or probable loss:

(1) You must give us written notice if during the period before harvest, the grapes on any unit are damaged and you decide not to further care for or harvest any part of them.

(2) You must give us notice:

(a) at least 15 days before the beginning of harvest if you anticipate a loss on any unit; or

(b) immediately, if damage occurs within 15 days prior to harvest or during harvest.

(3) If you are going to claim an indemnity on any unit, notice shall be given not later than 48 hours:

(a) after total destruction of the grapes on the unit;

(b) after discontinuance of harvest on the unit; or

(c) before harvest would normally start if any acreage on the unit is not to be harvested.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) total destruction of the grapes on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the grapes which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Cloim for Indemnity.*

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) total destruction of the grapes on the unit;

(2) harvest of the unit; or

(3) the calendar date for the end of the insurance period.

B. We shall not pay any indemnity unless you:

(1) establish the total production of grapes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) multiplying the insured acreage by the production guarantee;

(2) subtracting therefrom the total production of grapes to be counted (see section 9e);

(3) multiplying the remainder by the price election; and

(4) multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production:

(1) Grape production:

(a) which, due to insurable causes, does not meet the minimum sugar solids and/or quality requirements of the receiving processor and have a value of less than 75 percent of the market price for grapes meeting the minimum requirements or would not meet these requirements if properly handled, shall be adjusted by:

(i) dividing the value per ton of such grapes by the highest price election available for such grapes; and

(ii) multiplying the result by the number of tons of such grapes.

(2) Appraised production to be counted shall include:

(a) unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good grape management practices;

(b) not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an unisured cause; and

(c) any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) is not put to another use before harvest of grapes becomes general in the county;

(b) is harvested; or

(c) is further damaged by an insured cause before the acreage is put to another use.

(4) If any grapes are harvested before normal maturity, the production of such grapes shall be increased by the factor obtained by dividing the price per ton

received for such grapes by the price per ton for fully matured grapes.

(5) We may determine the amount of production of any unharvested grapes on the basis of field appraisals conducted after harvest was discontinued.

(6) When you have elected to exclude hail and fire as insured causes of loss and the grapes are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(7) The comingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event sill we be liable for interest or damage in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any idemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) the amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) the amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or Fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Shore.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogotion.* (Recovery of loss from a third party.) Because you may able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all grapes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of Contract: Cancellation and Termination.*

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemnity claim shall be the date you sign such claim; or

(2) if deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
California	January 31.
Washington	November 20.
All other states	December 10.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* If such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract Changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by August 31 preceding the cancellation date for counties with a November 20 or December 10 cancellation date, and by September 30 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of Terms.* For the purposes of grape crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding grade insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches and extending through normal harvest time and shall be designated by the calendar year in which the grapes are normally harvested.

e "Harvest" means picking the grapes from the vines.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the grapes or a share of the proceeds therefrom.

k. "Ton" means 2000 pounds.

l. "Unit" means all insurable acreage of grapes in the county, located on contiguous land, on the date insurance attaches for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the grapes on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive Headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on May 24, 1983.

Edward D. Hews,

Acting Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: October 14, 1983.

[FR Doc. 83–28593 Filed 10–19–83; 8:45 am]

BILLING CODE 3410–08–M

Animal and Plant Health Inspection Service

9 CFR Parts 101 and 113

[Docket No. 82–041]

Viruses, Serums, Toxins, and Analogous Products; Revision of Definitions, Titrations in Lieu of Animal Tests for Immunogenicity, and Inactivated Bacterial Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: These proposed revisions of the "Definitions" would delete references to obsolete terms and amend the definitions to more clearly conform to current products and practices. The proposed revision of the "Standard Requirements" for titrations in lieu of animal tests for immunogenicity and inactivated bacterial products would provide for broader use of cell lines and master seeds, and increase the use of *in vitro* procedures in place of animals for serial release testing. The net effect of these changes would be to reduce the cost of product testing without increasing the risk of substandard products teaching the public.

DATE: Comments must be received on or before December 19, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 829, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VA, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8245.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This proposed rule contains no new or amended applications, recordkeeping, reporting, or information collecting subject to the Paperwork Reduction Act.

Executive Order 12291

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed rule would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Certification under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this proposed action would not result in a significant economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing. This action would result in no increase in regulatory requirements.

Alternatives

The alternatives considered are:

1. Do not amend the present regulations. This would result in continued reference to obsolete terms, restriction of cell line use for vaccine preparation and restriction of the master seed concept for virus preparation. No provision would be made for allowing the use of new bacterial extracts in addition to the present inactivated bacterial products.

2. Amend the regulations to delete the obsolete references, amend the definitions, provide for use of new products, increase use of cell lines, and broaden the application of the master seed principle. This would result in product improvement, reduced use of test animals, and substantial savings to the biologics industry and the general public. Therefore, this alternative proposal is adopted.

Background

All reference to Special Licenses in the regulations should have been deleted when provisions for such licenses were removed in an October 6, 1976, revision. Inadvertently, a reference was left in § 101.2(r). This rulemaking would delete this reference.

The present definition of "Master Cell Stock (MCS)" in § 101.6(d) of the regulations limits its application to the production of vaccines. This amendment would delete the limiting language and would thereby allow for preparation of other products made from cell lines such as diagnostic test kits. Such proposed change would relieve restrictions and reflect the present day state of the art more accurately.

Present § 101.7 is applicable only to seed viruses. Advances in manufacturing and testing methods have resulted in development of systems for handling other organisms, such as bacteria and chlamydia, which can be stored for use over long periods. This proposed revision would allow for the introduction of these changes by removing the word "virus" from the title and the definitions and substituting the term "organism."

In vitro potency tests for evaluating live virus vaccines have been in use for many years as a substitute for animal tests. Recent advances have made this approach feasible for potency tests of other products, such as chlamydial and bacterial vaccines. This proposed revision would provide for the broader application of the master seed concept by including other methods of *in vitro* evaluation. The title and the text of § 113.8 has been revised to reflect the broadened application. Fewer animals would be required for serial release testing and substantial reduction in test costs would result.

At the time the current regulations were published, inactivated bacterial

VOL 48 ISS 204 OCT 20 1983 UMI

products consisted of bacterins, toxoids, and bacterin-toxoids. Subsequently, methods of production were developed which resulted in products which cannot be properly categorized in any of these classes. In general, these are the products of cell growth which are measured but cannot be considered as toxoids. This revision would add bacterial extracts to the Standard Requirements in § 113.85 for the benefit of licensees and the general public.

The current regulations provide a list of bacterins authorized for use as diluents for desiccated fractions in combination packages (§ 113.85(d)). Additional fractions have been shown to be needed to produce logical combinations, making this list outdated and unduly restrictive. Combinations currently licensed on the basis of data and described in filed Outlines of Production include other bacterins, bacterin-toxoids, toxoids, and vaccines as diluents, making this list obsolete and unnecessary. This revision would therefore delete the list of authorized bacterins presently contained in the regulations.

List of Subjects in 9 CFR Parts 101 and 113

Animal biologics.

Accordingly, parts 101 and 113, subchapter E, of title 9 of the Code of Federal Regulations are proposed to be amended as follows:

PART 101—DEFINITIONS

Section 101.2(r) is revised to read:

§ 101.2 Administrative terminology.

* * * * *

(r) *U.S. Veterinary Biologics Establishment License.* A document referred to as an establishment license, which is issued pursuant to Part 102 of this subchapter, authorizing the use of designated premises for production of biological products specified in one or more unexpired, unsuspended, and unrevoked product license(s).

* * * * *

Section 101.6(d) is revised to read:

§ 101.6 Cell cultures.

* * * * *

(d) *Master Cell Stock (MCS).* The supply of cells of a specific passage level from which cells for production of biologics originate.

Section 101.7 is revised to read:

§ 101.7 Seed organisms.

When used in conjunction with or in reference to seed organisms, the following shall mean:

(a) *Master Seed.* An organism at a specific passage level which has been selected and permanently stored by the producer from which all other seed passages are derived within permitted levels.

(b) *Working Seed.* An organism at a passage level between Master seed and Production Seed.

(c) *Production Seed.* An organism at a specified passage level which is used without further propagation for initiating preparation of a fraction.

PART 113—STANDARD REQUIREMENTS

Section 113.8 is revised to read:

§ 113.8 In vitro tests in lieu of animal tests for immunogenicity.

(a) Master Seed which has been established as pure, safe, and immunogenic shall be used for preparing seed for production when specified in the Standard Requirements or in a filed Outline of Production. The Deputy Administrator may exempt a product from a required animal test for release when an evaluation can with reasonable certainty be made by:

(1) Subjecting the Master Seed to the applicable requirements prescribed in § 113.135 or § 113.64;

(2) Testing the Master Seed for immunogenicity in a manner acceptable to Veterinary Services;

(3) Establishing a satisfactory count or titer based on a predetermined protective dose plus an adequate overage allowance for adverse conditions and test error; and

(4) Conducting counts or titrations on each serial and subserial in an accepted test system.

(b) Each serial and subserial derived from an approved Master Seed shall be evaluated by a test procedure acceptable to Veterinary Services and either released to the firm for marketing or withheld from the market on the basis of the results of the test when compared with the required minimum. The evaluation of such products shall be made in accordance with this paragraph.

(1) If the initial test shows the count or titer to equal or exceed the required minimum, the serial or subserial is satisfactory without additional testing.

(2) If the initial test shows the count or titer to be lower than the required minimum, the serial or subserial may be retested, using two new samples. The average counts or titers obtained in the retests shall be determined. If the average is less than the required minimum, the serial or subserial is unsatisfactory without further consideration.

(3) If the average is more than the required minimum, the following shall apply to live virus vaccines:

(i) If the difference between the average titer obtained in the retests and the titer obtained in the initial test is $10^{0.7}$ or greater, the initial titer may be considered a result of test system error and the serial or subserial considered satisfactory for virus titer.

(ii) If the difference between the average titer obtained in the retests and the titer obtained in the initial test is less than $10^{0.7}$, a new average shall be determined using the titers obtained in all tests. If the new average is below the required minimum, the serial or subserial is unsatisfactory.

(4) If the average is equal to or greater than the required minimum, the following shall apply to bacterial vaccines:

(i) If the average count obtained in the retests is at least three times the count obtained in the initial test, the initial count may be considered a result of test system error and the serial or subserial considered satisfactory for bacterial count.

(ii) If the average count obtained in the retests is less than three times the count obtained in the initial test, a new average shall be determined using the counts obtained in all tests. If the new average count is below the required minimum, the serial or subserial is unsatisfactory.

(5) *Exceptions.* When a product is evaluated in terms other than virus titer or organism count, a range shall be established to substitute for use in paragraphs (b)(3) or (4) of this section and specified in the Outline of Production.

(c) Final container samples of completed product derived from Master Seed found immunogenic in accordance with paragraph (a) of this section and found satisfactory in accordance with paragraph (b) of this section may also be subjected to an animal potency test by Veterinary Services as provided in this paragraph. Products shall be used according to label directions including dose(s) and route of administration.

(1) A one stage test using 20 vaccinates and 5 controls or a two stage test using 10 vaccinates and 5 controls for each stage shall be used. The criteria used for judging the specific response in the controls and vaccinates shall be conducted in accordance with the test protocol used in the Master Seed immunogenicity test.

(2) If at least 80 percent of the controls do not show specific responses to challenge, the test is inconclusive and may be repeated. If a vaccinate shows the specific responses to challenge expected in the controls, the vaccinate shall be listed as a failure.

(3) The results of the testing shall be evaluated according to the following table:

CUMULATIVE TOTALS

Stage	Number of animals	Failures for satisfactory serials	Failures for unsatisfactory serials
1	10	1 or less	3 or more.
2 (or 1)	20	4 or less	5 or more.

(4) When a serial has been found unsatisfactory for potency by the test provided in paragraphs (c)(1), (2), and (3) of this section, the serial shall be withheld from the market and the following actions taken:

(i) The Deputy Administrator shall require that at least two additional serials prepared with the same Master Seed be subjected to similar animal potency tests by Veterinary Services or the licensee or both.

(ii) If another serial is found unsatisfactory for potency, the product shall be removed from the market while a reevaluation of the product is made and the problem is resolved.

In § 113.85 the heading, introductory text, and paragraph (d) are revised to read:

§ 113.85 Bacterins, toxoids, bacterin-toxoids, and bacterial extracts.

Basic requirements for bacterins, toxoids, bacterin-toxoids, and bacterial extracts are provided in this section.

* * * * * * *

(d) A *bacterial extract* shall be the sterile, nontoxic, antigenic derivative extracted from bacterial organisms or from culture medium in which bacterial organisms have grown.

* * * * * * *

(37 Stat. 832–833 (21 U.S.C. 151–158)

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 14th day of October 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-28560 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-83-9]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before December 19, 1983.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——— 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administation, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on October 13, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
23744	Air Line Pilots Association	*Description of Petition:* To delete 14 CFR 121.357(d) thereby requiring approved airborne weather radar aboard all transport category airplanes engaged in Part 121 operations regardless of their locale. Currently those aircraft used solely within Hawaii, Alaska, and part of Canada are allowed to operate without approved airborne weather radar according to 14 CFR 121.347(d). *Regulations Affected:* 14 CFR 121.357(d). *Petitioner's Reason for Rule:* According to meteorological records, thunderstorms occur in Hawaii and Alaska with the same frequency as in major portions of Washington, Oregon, and California. Injuries to occupants of non-radar equipped aircraft have occurred in Hawaii, and based upon their experience pilots have indicated the need for airborne weather radar equipment to detect and avoid thunderstorms and other hazards such as hail, heavy rain, severe turbulence, etc. Besides avoidance of weather hazards, weather radar in the ground mapping mode is useful for cross-checking aircraft position based on other navigation systems. Airborne weather radar is also useful for terrain avoidance, especially in Alaska where mountain peaks exceed 20,000 feet in height. Except for one, all airlines in Hawaii that operate turbojet aircraft have already equipped their aircraft with airborne weather radar. Deletion of CFR 121.357(d) would, therefore, establish a minimum standard of safety in those areas which would best serve the public interest.
23762	Merle A. Finley	*Description of Petition:* To include in Section 91.163 the following statement: no person may operate an airplane unless the current empty weight and center of gravity are calculated from the values established by actual certified weighing of the airplane within the preceding 36 calendar months. *Regulations Affected:* 14 CFR Section 91.163. *Petitioner's Reason for Rule:* Implementing this as a rule will be in the public interest due to the increased accuracy of the weight and balance computation for each flight. Whether the aircraft is single or multi-engine, for private, air taxi, or airline use the people in it are all entitled to the same safe flight.

VOL
48
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1983
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PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the Rule Requested
23062	Corporate Flight Inc.	*Description of Petition.* To amend § 135.225 to permit air taxi pilots to conduct instrument approaches into airports not having approved weather reporting facilities. The air taxi aircraft would use 100 ft. higher minimums during these approaches and would contain two pilot crews with the pilot in command being airline transport rated. Both pilots will demonstrate these procedures to the Administrator every six months. *Denied 10/3/83*

[FR Doc. 83-28912 Filed 10-19-83; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 300

Regulatory Flexibility Act Review of Rules and Regulations Under the Wool Products Labeling Act of 1939

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and a published Plan for Periodic Review of Commission Rules, (46 FR 35118 (1981)), the Federal Trade Commission is soliciting comments and data on whether the rules issued to implement the Wool Products Labeling Act of 1939, (15 U.S.C. 68) have had a significant economic impact on a substantial number of small entities and if they have, whether the rules should be amended to minimize any significant economic impact on small entities.

DATES: Comments and data must be received on or before December 19, 1983.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, D.C. 20580. Submissions should be marked "Wool-RFA comments".

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202) 376–2891.

However, the objective of this periodic review is to determine whether any of these rules have had a significant economic impact on a substantial number of small entities and, if so, whether any such impact can be reduced consistent with the objectives of the Act.

For the purposes of this review the Commission poses the following questions for public comment. It is requested that the factual data, (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with these comments.

(1) Have the rules had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for all of the rules?

(3) What burdens, if any, does compliance with any specific rule place on small entities?

(4) What changes, if any, should be made to the rules which would minimize the economic impact on small entities?

(5) To what extent do the rules overlap, duplicate, or conflict with other federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the area affected by the rules since their promulgation in 1941 and, if so, what effect do these changes have on the rules or those covered by them?

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities.

The Wool Products Labeling Act of 1939 was enacted on October 14, 1940; the Act and the Commission's accompanying regulations became effective on July 15, 1941. The Act requires all wool products to bear a label showing the percentage of wool, recycled wool, and non-wool fibers contained in the product and the name of the manufacturer or other distributor. The Act prohibits the misbranding of wool products and is administered by the Commission, whose regulations establish the manner and format in which the information required by the Act is to be disclosed.

The Act and accompanying rules are designed to protect producers, manufacturers, distributors and consumers from the unrevealed presence of substitutes and mixtures of fibers in manufactured wool products. Consumers are able to make more informed purchasing decisions and to avoid unwanted or unnecessary items. Competition is enhanced since each manufacturer must accurately label its products as to content.

Since the Commission's rules primarily implement directives which are statutorily imposed, the costs imposed on affected industry members are not necessarily attributable to the rules.

List of Subjects in 16 CFR Part 300

Labeling, Textiles, Trade practices, Warranties, Wool.

Dated: October 3, 1983.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-28578 Filed 10-19-83; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 301

Regulatory Flexibility Act Review of Rules and Regulations Under the Fur Products Labeling Act

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and a published Plan for Periodic Review of Commission Rules, (46 FR 35118 (1981)), the Federal Trade Commission is soliciting comments and data on whether the rules issued to implement the Fur Products Labeling Act, (15 U.S.C. 69) have had a significant economic impact on a substantial number of small entities and if they have, whether the rules should be amended to minimize any significant economic impact on small entities.

DATES: Comments and data must be received on or before December 19, 1983.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, D.C. 20580: Submissions should be marked "Fur-RFA comments".

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202) 376–2891.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities.

The Fur Products Labeling Act was enacted on August 8, 1951. The Act and the Commission's accompanying rules became effective on August 9, 1952. The Act and rules contain requirements for the labeling, invoicing, and advertising of fur products. The Act requires fur products to be labeled with the name of the animal which produced the fur; the country of origin; whether the furs are natural, dyed or otherwise artificially colored; and certain other characteristics of the fur product used. To ascertain compliance with the Act, fur products marketers must maintain records for each product sold. The Act prohibits the misbranding, false and deceptive invoicing, and false and deceptive advertising of fur products and requires that animal names used conform to the Fur Products Name Guide established by the Commission, which is charged with administering the Act.

The Act and accompanying rules are designed to protect producers, and consumers against misbranding, false advertising, and false invoicing of furs and fur products. Consumers are able to make more informed purchasing decisions and to avoid unwanted or unnecessary items. Competition is enhanced since each manufacturer must accurately label its product as to content.

Since the Commission's rules primarily implement directives which are statutorily imposed, the costs imposed on affected industry members are not necessarily attributable to the rules. However, the objective of this periodic review is to determine whether any of these rules have had a significant economic impact on a substantial number of small entities and, if so, whether any such impact can be reduced consistent with the objectives of the Act.

For the purposes of this review the Commission poses the following questions for public comment. It is requested that the factual data, (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with these comments.

(1) Have the rules had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for all of the rules?

(3) What burdens, if any, does compliance with any specific rule place on small entities?

(4) What changes, if any, should be made to the rules which would minimize the economic impact on small entities?

(5) To what extent do the rules overlap, duplicate, or conflict with other federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the area affected by the rules since their promulgation in 1952 and, if so, what effect do these changes have on the rules or those covered by them?

List of Subjects in 16 CFR Part 301

Labeling, Furs, Trade practices, Warranties, Sheep.

Dated: October 3, 1983.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-28577 Filed 10-19-83; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 303

Regulatory Flexibility Act Review of Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and a published Plan for Periodic Review of Commission Rules (46 FR 35118 (1981)), the Federal Trade Commission is soliciting comments and data on whether the rules issued to implement the Textile Fiber Products Identification Act, (15 U.S.C. 70) have had a significant economic impact on a substantial number of small entities and if they have, whether the rules should be amended to minimize any significant economic impact on small entities.

DATES: Comments and data must be received on or before December 19, 1983.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, D.C. 20580. Submissions should be marked "Textile-RFA comments".

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202) 376–2891.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities.

The Textile Fiber Products Identification Act was enacted on September 2, 1958; the Act and the Commission's accompanying regulations became effective on March 3, 1960. The Act requires each household textile product to bear a label containing the percentage of each fiber contained in the product, the name of the manufacturer or distributor, and the country of origin if the product was principally manufactured in a foreign country. The Act prohibits misbranding and false advertising of the fiber content of textile products and requires that the appropriate generic name must be used for all fibers. Generic names and definitions for manufactured fibers are established by the Commission, which is charged with administering the Act.

The Act and accompanying rules are designed to protect producers and consumers against misbranding and false advertising of the fiber content of textile products. Consumers are able to make more informed purchasing decisions and to avoid unwanted or unnecessary items. Competition is enhanced since each manufacturer must accurately label its product as to content.

Since the Commission's rules primarily implement directives which are statutorily imposed, the costs imposed on affected industry members are not necessarily attributable to the rules.

However, the objective of this periodic review is to determine whether any of these rules have had a significant economic impact on a substantial number of small entities and, if so, whether any such impact can be reduced consistent with the objectives of the Act.

For the purposes of this review the Commission poses the following questions for public comment. It is requested that the factual data (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.), upon which submitted comments are based be included with these comments.

(1) Have the rules had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of

VOL
48
ISS
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any such significant negative and/or positive economic impact.

(2) Is there a continued need for all of the rules?

(3) What burdens, if any, does compliance with any specific rule place on small entities?

(4) What changes, if any, should be made to the rules which would minimize the economic impact on small entities?

(5) To what extent do the rules overlap, duplicate, or conflict with other federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the area affected by the rules since their promulgation in 1960 and, if so, what effect do these changes have on the rules or those covered by them?

List of Subjects in 16 CFR Part 303

Labeling, Textiles, Trade practices.

Dated: October 3, 1983.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-28579 filed 10-19-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regs. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Income, What Is Not Income

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: Current regulations for the Supplemental Security Income (SSI) program define income as the receipt of anything in cash or in kind that can be used to meet an individual's needs for food, clothing, or shelter. The receipt of countable income will cause SSI benefits to be reduced or terminated. Current regulations (§ 416.1103) also provide a list of some items the receipt of which is not income because these items cannot be used as food, clothing, or shelter. However, this list does not encompass the receipt of certain other items which are not food, clothing, or shelter and which, if retained into the month following the month of receipt, will be excluded nonliquid resources. (Excluded nonliquid resources are, for example, household goods and personal effects or an automobile subject to limitations described in Subpart L of these same regulations.)

The proposed revision would expand the list of items that are not income to encompass the receipt of items (other than food, clothing, or shelter) which, if retained into the month following the month of receipt, will be excluded nonliquid resources. Thus, an individual who receives such an item will not be compelled to sell or trade it to obtain food, clothing, or shelter in order to compensate for the reduction or loss of SSI benefits due to its treatment as income when received.

DATES: We are inviting public comments on this Notice of Proposed Rulemaking (NPRM). If we receive your comments no later than November 21, 1983, they will be considered in developing the final regulations.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7414.

SUPPLEMENTARY INFORMATION: Section 1611(a) of the Social Security Act (the Act) establishes the income and resources limits for SSI eligibility. The Act also specifies what types or amounts of income and resources are to be excluded (sections 1612 and 1613) from counting against the statutory limits. However, the Act does not define the terms "income" and "resources." Therefore, the Secretary of Health and Human Services (HHS) has provided definitions of these terms in regulations (20 CFR 416.1102 and 416.1201 respectively).

Current regulations also provide a list of items the receipt of which is not income (20 CFR 416.1103) because an individual cannot use them as food, clothing, or shelter. However, the current list of what is not income does not encompass the receipt of certain other items which are not food, clothing, or shelter and which, if retained into the month following the month of receipt, would be excluded nonliquid resources. Thus, despite the fact that the Act permits such items to be excluded in considering whether an individual meets the resources limit, the regulations require their consideration as income. The result is that receipt of an item such as a van specially equipped for a handicapped individual can cause a substantial reduction in SSI benefits for a month or make a person ineligible for benefits in the month of receipt, even though it will have no effect on either eligibility or payment amount for the following month. Because counting such items as income may cause an individual to dispose of them in order to replace the food, clothing, or shelter that would otherwise have been provided through SSI benefits, the proposed change would be consistent with the statutory intent that certain kinds of property not be taken into consideration when determining eligibility for SSI benefits.

Under the proposed policy change, the receipt of any item (other than food, clothing, or shelter) which, if retained, would be an excluded nonliquid resource will be considered solely under the resources rules (Subpart L of 20 CFR Part 416). It will not be considered at all under the income rules. The change will provide more equitable treatment for those who receive such items and will resolve an apparent conflict stemming from the application of income rules to items which would be excluded as nonliquid resources if retained beyond the month of receipt.

We considered excluding from the definition of income all items which would meet the definition of an excluded nonliquid resource (for example, a home which is a person's principal place of residence). However, the rational for defining certain items as not being income is that the recipient cannot use them as food, clothing, or shelter. Therefore, we have decided not to expand the definition of what is not income to cover food, clothing, or shelter even if such food, clothing, or shelter would become an excluded nonliquid resource if retained into the month following the month of receipt because to do so would cause us to duplicate that portion of the SSI benefit that is paid to provide for the basic needs of food, clothing, or shelter.

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and do not met any of the criteria for a major regulation. Based on the best available information, costs would be negligible. We estimate program costs of less than $1 million and administrative savings of less than $1 million annually. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no additional reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these rules affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: May 12, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: July 12, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

Subpart K of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation of Subpart K of Part 416 reads as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act, as amended; sec. 211 of Pub. L. 93–66; 49 Stat. 647, as amended, 86 Stat. 1468, 86 Stat. 1470, 86 Stat. 1471, 86 Stat. 1475, 87 Stat. 154 (42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383.)

2. Section 416.1103 is amended by adding paragraph (j) to read as follows:

§ 416.1103 What is not income.

Some things you receive are not income because you cannot use them as food, clothing, or shelter, or use them to obtain food, clothing, or shelter. In addition, what you receive from the sale or exchange of your own property is not income; it remains a resource. The following are some items that are not income:

* * * * *

(j) *Receipt of certain noncash items.* Any item you receive (except shelter as defined in § 416.1130, food, or clothing) which would be an excluded nonliquid resource (as described in Subpart L of this Part) if you kept it, is not income.

Example 1: A community takes up a collection to buy you a specially equipped van which is your only vehicle. The value of this gift *is not* income because the van would be an excluded nonliquid resource under § 416.1218 in the month following the month of receipt.

Example 2: If you inherit a house which is your principal place of residence, the value of the house *is* income because this is an item which you are using as your shelter and to not consider this item income would cause us to duplicate the portion of your SSI benefit that is paid to provide for you shelter needs.

[FR Doc. 83-28564 Filed 10-19-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 490]

Clear Lake Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in southwest Lake County, California, to be known as "Clear Lake." This proposal is the result of a petition submitted by Mr. Paul Hessinger of the Mt. Konocti Winery, Mr. Jess S. Jackson of Chateau du Lac, Inc., and Ms. Signe Bengard.

The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help wineries better designate the specific grape-growing areas where their wines come from and will enable wine consumers to better identify the wine they purchase.

DATE: Written comments must be received by December 5, 1983.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, Attn.: Notice No. 490.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ed Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR providing for the listing of approved American viticultural areas.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area surrounding the watershed of Clear Lake in southwestern Lake County, California, as a viticultural area. The proposed viticultural area is to be known as "Clear Lake." The petition was submitted by three of several grape-growers and winery owners located in the proposed viticultural area. The proposed viticultural area is located entirely within Lake County between the Mayacamas Mountains to the southwest and the Mendocino National Forest to the northeast. It extends to the southeast

VOL 48 ISS 204 OCT 20 1983 UMI

to just north of the "Guenoc Valley" viticultural area which is also located in Lake County. The proposed "Clear Lake" viticultural area is located entirely within the boundaries of a larger viticultural area known as "North Coast."

The area encompassed by the proposed boundaries consists of 168,960 acres or 264 square miles of valley and upland terrain surrounding Clear Lake. Prominent among the growing areas contiguous to Clear Lake, and which fall within the proposed viticultural area designation, are Big Valley, Scotts Valley, Upper Lake, Clearlake Oaks, and Lower Lake.

Evidence provided by the petitioner states that there are over 3,000 acres planted to vines, and the proposed viticultural area now has three commercial wineries, two located in the Big Valley area, a third in Lower Lake, and others being planned.

The boundaries of the proposed viticultural area may be found on four (4) U.S.G.S. quadrangle (Topographic) maps, 15 minute series, scale 1:62,500—Lower Lake, Clearlake Oaks, Lakeport and Kelseyville. The specific boundaries proposed for the viticultural area are detailed in the regulation portion of this document at § 9.99(c).

Geographical Features

The petitioner claims the proposed viticultural area is distinguished from the surrounding areas on the basis of elevation, soil, watershed and climate. The petitioner bases these claims on the following evidence:

(a) *Elevation and Soils* The Mendocino National Forest on the northeastern boundary and the Mayacamas Mountain Range on the southwestern boundary geographically isolate the Clear Lake area from surrounding areas. Both of these mountain areas have heavily forested rugged terrains. In addition, because it is Federally controlled land, the Mendocino National Forest is unavailable for cultivation. The proposed viticultural area is rimmed by steep surrounding mountains ranging in heights to over 4,000 feet. The prominent inactive volcanic mountain, Mt. Konocti (elevation 4,300 feet) rises from the western edge of Clear Lake and dominates the countryside. The soil around the vicinity of Mt. Konocti consists of hillsides of rich volcanic alluvial types that are well suited for grape-growing. The lake itself, which is centrally located within the proposed viticultural area is 1,300 feet above sea level and the largest natural body of fresh water in California (70.5 square miles). Because of its size and location, Clear Lake has a demonstrable influence on the grape-growing areas immediately surrounding it. The 3,000 acres currently planted to vineyards around the lake are located at altitudes of 1,300 to 1,800 feet and are mostly flat or gently rolling benchlands of uniform deep sandy loam and clay loam soils. In comparision, the vineyard areas of Mendocino County located to the west of Clear Lake have average altitudes of less than 700 feet. The vineyard areas of Napa and Sonoma Counties located to the south of Clear Lake are less than 100 feet in altitude.

(b) *Climate and Watershed.* Clear Lake has a unique "Transitional" climate pattern, different than the other surrounding north coastal areas. The area is unique because it is close enought to the Pacific Ocean to be influenced by the maritime coastal air that flows through the gaps in the mountains located to the west. This coastal air flows gently across Clear Lake, cooling the area surrounding it in the summer. This coastal air does not penetrate the high mountains to the east of Clear Lake. On the east side of that mountain area the climate is much warmer, with little air flow.

The basic feature distinguishing Clear Lake from the surrounding areas is the unique geography of the Clear Lake watershed. Clear Lake serves to moderate the temperatures in the proposed viticultural area throughout the year by creating both a favorable warming temperature influence in the winter and a cooling influence in the summer.

The climate of the proposed Clear Lake viticultural area includes Region II and Region III as classified by the University of California at Davis' system of heat summation by degree days. A table of cumulative degree-days, published by the University of California Agricultural Extension Service Office in Lake, Mendocino and Sonoma Counties, shows the area around Upper Lake is relatively cool and consequently is classified as Region II. the area around Scotts Valley and Kelseyville is warmer and consequently is classified as Region III. These figures do not take into account Clear Lake's cold nights, uniformly cooler than anywhere else in the surrounding coastal counties which offsets the daytime heat and absence of adverse wind and fog conditions. In comparison, the climate in the Middletown area of Lake County located to the south of the proposed Clear Lake viticultural area is warmer and is classified as Region IV.

Mr. Charles Hemstreet, the Agricultural Advisor for Lake County (University of California-Cooperative Extension) stated that although the surrounding counties of Napa, Sonoma and Mendocino also have areas that are classified as Region III, Clear Lake's Region III is as different as it is the same as those counties. The Clear Lake Region III seasonal summation curve is somewhat differently shaped than those other coastal county curves. He stated that Clear Lake is without fog during the growing season, yet it has cooler nights (and often days) than those other north coastal counties at the time when fruit ripening occurs.

According to Mr. Hemstreet the Clear Lake area has less humidity during the growing season than the other surrounding north coastal counties because there are less periods of morning fog. He emphasized that Clear Lake as a moderating influence on the contiguous vineyard areas is a central issue in distinguishing the proposed viticultural area of Clear Lake from other grape growing areas within Lake County and other north coastal counties nearby.

According to the publication entitled "Climatography of the United States No. 81–4, Decennial Census of U.S. Climate," the growing season in Clear Lake is 223 days which is shorter than the surrounding areas. The beginning of the growing season is cooler in Clear Lake than Sonoma County, with a more rapid drop (comparatively) to winter temperatures. The growing season in Sonoma and Mendocino Counties is 308 and 268 days, respectively.

The average rainfall per year for the Clear Lake area is about 37 inches. The average rainfall at the Middletown area of Lake County located to the south of the proposed viticultural area is about 62 inches per year. The surrounding counties of Sonoma and Mendocino have rainfalls averaging 32 and 39 inches per year, respectively.

To summarize, the petitioner states that the basic features distinguishing Clear Lake from adjacent areas are the unique geography of the Clear Lake watershed, the warm days and cool nights during the growing season, the absence of adverse wind and fog conditions and the uniform deep sandy loam and clay loam soils.

Evidence Relating to Name and Boundaries

The petitioner claims the proposed viticultural area is locally/nationally known by the name "Clear Lake" and the boundaries are as specified in the petition. The petitioner submitted historical and current evidence consisting of the following to support these claims:

(a) Clear Lake, the largest natural fresh water lake located entirely within the boundaries of California, identifies the principal inhabited region of Lake County For over a hundred years the Clear Lake region has been a popular resort and agricultural center.

(b) Mr. Ernest P. Penninov the author of "A History of the Lake County Early Grape and Wine Industry," documented events about the people that first settled around the Clear Lake area and their relationship to the development of the local wine industry He said, that in 1865 a group of San Francisco capitalists organized the Clear Lake Water Company with the purpose of impounding water from Clear Lake for use in San Francisco.

(c) Several wineries that have been selling wines on a local and national level have used the name Clear Lake on their bottle labels to further identify their products.

(d) Some localities within the proposed viticultural area that use the name Clear Lake in their heritage are Clearlake Oaks, Clearlake Park, Clearlake Highlands and Clear Lake State Park. United States Geographical Survey maps document this information.

General Information

The first man to plant vines and make wine near Clear Lake was David Voight, who in 1872 settled a mile east of Lower Lake. Although Lake County claimed 600 acres of grapes in 1884, his was as yet the only commercial winery in the county. However, soon after that many of the winegrowers became winemakers as well. By the turn of the century, newspaper stories of the period told of groups of people ferrying around Clear Lake stopping at various wineries for drinks. At the 1893 Worlds Columbian Exposition in Chicago, Lake County wines were recognized by receiving awards. At the height of this era, a total of 36 wineries flourished in Lake County. Later, Prohibition brought a halt to all of this activity. The past 15 years have seen a significant return of vineyard development in the area.

Discussion

ATF feels the evidence submitted by the petitioner indicates establishment of "Clear Lake" as a viticultural area may be warranted. Accordingly, the establishment of this grape-growing region as a viticultural area is proposed in this document.

The petitioner states, "The basic features distinguishing Clear Lake from adjacent areas are the unique geography of the Clear Lake watershed, the warm days and cool nights during the growing season, the absence of adverse wind and fog conditions, and the uniform sandy loam and clay loam soils."

Public Participation—Comments

All interested persons are invited to participate in this proposed rulemaking by submitting written comments. Comments should be specific, pertain to the issues in this proposed rulemaking, and provide the factual basis supporting the data, views, or recommendations presented. Comments received before the closing date will be carefully considered prior to a final decision by ATF on this proposal. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

We are particularly interested in receiving comments which provide historical or current evidence as to whether the proposed viticultural area boundaries are as specified in the petition. In addition, comments are invited on alternative boundaries. These comments should include data on the geographical and viticultural characteristics which distinguish the area encompassed from the surrounding areas.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. All materials and comments received will be available for public inspection during normal business hours.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request in writing, to the Director, within the comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

ATF reserves the option to determine on the basis of written comments, our own research, and in light of any other circumstances, whether this viticulturaal area should be established. In addition, ATF may modify, through the rulemaking process, the viticultural area which may be established as a result of this proposed rulemaking when in the judgment of the Director such action is determined to be warranted.

Paper Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial regulatory flexibility analysis (5 U.S.C. 603) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioners and other persons to use an appellation of origin, "Clear Lake," on wine labels and in wine advertising. ATF has determied that this rule neither imposes new requirements on the public nor removes privileges available to the public. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance with Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a "major rule" since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Ed Reisman, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

VOL
48
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List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.99. As amended, the table of section reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.99 Clear Lake.

Par. 2. Subpart C is amended by adding § 9.99 as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.99 Clear Lake.

(a) *Name.* The name of the viticultural area described in this section is "Clear Lake."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Clear Lake viticultural area are four U.S.G.S. maps. The maps are titled as follows:

(1) "Lower Lake Quadrangle, California," 15 minute series, 1958;

(2) "Clearlake Oaks Quadrangle, California," 15 minute series, 1960;

(3) "Lakeport Quadrangle, California," 15 minute series, 1958;

(4) "Kelseyville Quadrangle, California," 15 minute series, 1959.

(c) *Boundaries.* The Clear Lake viticultural area is located in southwestern Lake County, California.

The descriptive boundaries of the proposed viticultural area, using landmarks and points of reference on the applicable U.S.G.S. maps, are as follows:

Lower Lake Quadrangle Map (15 minute series) From the beginning point on Mt. Hannah in Section 16, Township 12 North (T12N), Range 8 West (R8W), identified as having an elevation of 3,978 feet, the boundary runs—

(1) East-southeasterly in a straight line to the point on Seigler Mountain in Section 23, T12N/R8W. identified as having an elevation of 3,692 feet;

(2) Then east-southeasterly in a straight line to the point on Childers Peak in Section 34, T12N/R7W, identified as having an elevation of 2,188 feet;

(3) Then east-northeasterly in a straight line to the point on the southeast corner of Section 25, T12N/R7W;

(4) Then northeasterly in a straight line to the point in Section 16, T12N/R6W, identified as being the "Baker Mine";

(5) Then northwesterly in a straight line to the point at the southeast corner of Section 23, T13N/R7W;

(6) Then northerly along the east line of Scetions 23, 14, 11, and 2, to the point at the northeast corner of Section 2, T13N/R7W, on the Clearlake Oaks Quadrangle map;

Clearlake Oaks Quadrangle Map (15 minute series) Continuing from the northeast corner of Section 2, T13N/R7W, the boundary runs—

(7) Then northwesterly in a straight line to the point in Section 21, T14N/R7W, called Round Mountain at an elevation of 2,400 feet;

(8) Then northwesterly in a straight line to the southeast corner of Section 4, T14N/R8W;

Lakeport Quadrangle Map (15 minute series) Continuing from the southeast corner of Section 4, T14N/R8W, on the Clearlake Oaks Quadrangle map—

(9) Then northwesterly on the Lakeport Quadrangle in a straight line to a piont on Charlie Alley Peak in Section 28, T16N/R9W, identified as having an elevation of 3,482 feet;

(10) Then westerly in a straight line to a point on Hells Peak in Section 29, T16N/R10W, identified as having an elevation of 2,325 feet;

(11) Then southeasterly in a straight line to a point on Griner Peak in Section 23, T15N/R10W, identified as having an elevation of 2,132 feet;

(12) Then southwesterly in a straight line to a point on Scotts Mountain in Section 8, T14N/R10W, identified as having an elevation of 2,380 feet;

(13) Then southeasterly in a straight line to a point on Lakeport Peak in Section 35, T14N/R10W, identified as having an elevation of 2,180 feet;

Kelseyville Quadrangle Map (15 minute series) Continuing from Lakeport Peak in Section 35, T14N/R10W, on the Lakeport Quadrangle Map—

(14) Then southeasterly in a straight line to a point at the southwest corner of Section 1, T13N/R10W;

(15) Then south by southeast in a straight line to to the point at the southeast corner of Section 36, T13N/R10W;

(16) Then south by southeasterly in a straight line to the point at the southwest corner of Section 18, T12N/R8W;

(17) Then east by northeast in a straight line to the beginning point at Mount Hannah, Section 16, T12N/R8W, on the Lower Lake Quadrangle Map.

Signed: October 4, 1983.

W. T. Drake,

Acting Director.

[FR Doc. 83-28556 Filed 10-19-83; 8:45 am]

BILLING CODE 4810-31-M

Fiscal Service

31 CFR Part 390

Administrative Offset of Claims

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth procedures for the collection of claims due the United States arising from transactions in Treasury securities, as administered by the Bureau of the Public Debt. The rule is needed to implement the administrative offset provisions of section 10 of the Debt Collection Act of 1982, Pub. L. 97-365, 96 Stat. 1749 (31 U.S.C. 3716).

DATE: Comments are due by December 19, 1983.

ADDRESS: Send comments to the Office of the Chief Counsel, Bureau of the Public Debt, 1435 G Street, NW., Room 309, Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT: Paul Dalton or Mary Lou Dasburg, Attorney-Advisers, Bureau of the Public Debt, Office of the Chief Counsel, Divisions Office (202) 447-9859.

SUPPLEMENTARY INFORMATION: Prior to the Debt Collection Act of 1982, the Bureau of the Public Debt relied on the common law right of offset as a tool to administratively collect claims owed to the United States. The Act, while providing statutory authority for administrative offset, also requires specific procedures and safeguards to ensure that alleged debtors will be afforded due process protections. One of the requirements of the Act is that Federal agencies issue regulations consistent with the Act and the Federal Claims Collection Standards (4 CFR, Chapter II) before collecting claims by administrative offset.

Executive Order 12291

The proposed rule is not a "major rule," as defined in Executive Order 12291, dated February 17, 1981, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The Paperwork Reduction Act, Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. Chapter 35) does not apply to this rule because it does not contain information collection requirements which necessitate approval by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1167, does not apply to this proposed rule. The Commissioner of the Public Debt certifies under the provisions of 5 U.S.C. 605(b) that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities or impose significant reporting or compliance burdens on a substantial number of small entities.

List of Subjects in 31 CFR Part 390

Administrative practice and procedure, Claims.

Accordingly, it is proposed to add Part 390 to Subchapter B of 31 CFR, Chapter II, to read as follows:

PART 390—COLLECTION BY ADMINISTRATIVE OFFSET

Sec.

390.0 Scope of regulations.
390.1 General.
390.2 Notification procedure.
390.3 Agency review.
390.4 Written agreement for repayment.
390.5 Administrative Offset.

Authority: 31 U.S.C. 3701; 31 U.S.C. 3711; 31 U.S.C. 3716.

§ 390.0 Scope of regulations.

These regulations apply to the collection by the Bureau of the Public Debt of claims by administrative offset under section 5 of the Federal Claims Collection Act of 1966, as added by the Debt Collection Act of 1982 (31 U.S.C. 3716). They are consistent with the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the General Accounting Office, as set out in 4 CFR 102.3. The term "administrative offset," as defined in 31 U.S.C. 3701(a)(1), means "withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government."

§ 390.1 General.

(a) The Commissioner of the Public Debt, or designee, after attempting to collect a claim from a person under section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the claim by administrative offset if the claim is certain in amount. The Commissioner has determined that it is in the best interests of the United States to collect claims by administrative offset because of the decreased costs of collection and the acceleration in the payment of claims.

(b) If the six-year period for bringing an action on a claim provided in section 2415 of Title 28, United States Code, has expired, the claim may be collected by administrative offset only if the costs that would have been incurred in bringing such action were likely more than the amount of the claim. No collection by administrative offset shall be made on any claim that has been outstanding for more than 10 years unless facts material to the Government's right to collect the claim were not known and reasonably could not have been known by the official or officials responsible for discovering and collecting such claim.

(c) These regulations do not apply to any case in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute, nor do they apply to debts owed by other agencies of the United States or by any State or local government.

§ 390.2 Notification procedures.

Before collecting any claim through administrative offset, a notice shall be sent to the debtor by certified mail, return receipt requested, providing:

(a) written notification of the nature and amount of the claim, the intention of the agency to collect the claim through administrative offset, and an explanation of rights under section 10 of the Debt Collection Act of 1982 (31 U.S.C. 3716);

(b) an opportunity to inspect and copy the records of the agency with respect to the claim;

(c) an opportunity for review within the Bureau of the Public Debt of the determination of the Bureau with respect to the claim; and

(d) an opportunity to enter into a written agreement with the head of the agency, or designee, for the repayment of the amount of the claim.

In the case of an agent qualified under 31 CFR Part 317 or 31 CFR Part 321, the notice need not be sent by certified mail.

§ 390.3 Agency review

(a) A debtor may dispute the existence of the debt, the amount of the debt, or the terms of repayment. A request to review a disputed claim may be submitted to the Bureau within 30 calendar days of the receipt of the written notice described in § 390.2

(b) If the debtor requests an opportunity to inspect or copy the Bureau's records concerning the claim, 10 business days will be granted for the review. The time period will be measured from the time the request for inspection is granted or from the time the copy of the records is received by the debtor.

(c) Pending the resolution of a dispute by the debtor, transactions in any account(s) of the debtor maintained at the Bureau of the Public Debt may be temporarily suspended. Depending on the type of security, the suspension could preclude its payment, removal, or transfer, as well as prevent the payment of interest due thereon. Should the dispute be resolved in the debtor's favor, the suspension will be immediately lifted.

(d) During the review period, interest, penalties, and administrative costs authorized under the Federal Claims Collection Act of 1966, as amended, will continue to accure.

§ 390.4 Written agreement for repayment.

A debtor who admits liability, but elects not to have the debt collected by administrative offset, will be permitted to negotiate with the Commissioner of the Public Debt, or designee, concerning a written agreement for the repayment of the debt. If the financial condition of the debtor does not support the ability to pay in one lump-sum, reasonable installments may be considered. No installment arrangement will be considered unless the debtor submits a financial statement, executed under penalty of perjury, reflecting the debtor's assets, liabilities, income, and expenses. The financial statement must be submitted within 10 business days of its request by the Bureau. At the Bureau's option, a confess-judgment note or bond of indemnity with surety may be required for installment agreements. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 4 CFR Part 103 and 31 CFR 5.3.

§ 390.5 Administrative offset

If the debtor does not exercise the right to request a review within the time specified in § 390.3, or if, as a result of the review, it is determined that the debt is due and no written agreement is executed, then administrative offset shall be ordered in accordance with these regulations without further notice.

Dated: September 13, 1983.

W. M. Gregg,

Commissioner of the Public Debt.

[FR Doc. 83-28535 Filed 10-19-83; 8:45 am]

BILLING CODE 4810-40-M

VOL 48 ISS 204 OCT 20 1983 UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 83-038]

Drawbridge Operation Regulations; Great Channel, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Cape May County Bridge Commission, the Coast Guard is considering a change to the regulations governing the Stone Harbor Bridge between Nummy Island and Stone Harbor, New Jersey to require that advance notice of opening be given May 15 through October 15 from 10 p.m. to 6 a.m., and by extending the current period when advance notice is required. This proposal is being made because of a steady decrease in requests for openings of the draw. This action should continue to relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before November 21, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m., Monday through Friday, except holidays, at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District, (212) 668-7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ernest J. Feemster, project manager, and LCDR Frank E. Couper, project attorney.

Discussion of the Proposed Regulations

The Stone Harbor Bridge connects Nummy Island and the barrier beach at Stone Harbor and is most heavily used during the summer months. Due to shoaling throughout most of the oceanward approach to the bridge, navigation through the area is hazardous without local knowledge of Hereford Inlet. Consequently, the majority of the larger vessels generally enter and leave the inlet through the Ocean Drive Bridge located a little over a mile southward. The Stone Harbor Bridge has a 15 foot minimum vertical clearance when in the closed position.

The basis for this request is an overall reduction in number of bridge openings from May to October, averaging about 32 per month during 1982. No openings were requested from 10 p.m. to 6 a.m. (May–October) in 1981 and 1982. The extension of the requirement for 24 hour advance notice was recommended due to the substantial reduction in requests for openings during May and October over the last 3 years.

No draft economic evaluation has been prepared because of minimal, if any, economic impact these changes are expected to have on waterway users. This is based on the limited number of openings outside the prime boating period.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations by revising § 117.225(f)(11) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(11) Great Channel; Cape May County Bridge Commission bridge between Stone Harbor and Nummy Island, mile 0.7. The draw shall open on signal from May 15 through October 15 between 6 a.m. and 10 p.m., and from 10 p.m. to 6 a.m. if at least four hours notice is given. From October 16 through May 14, the draw shall open on signal upon 24 hours advance notice. The draw shall open as soon as possible upon request of a public vessel of the United States at all times.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: October 4, 1983.

J. L. Fear,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 83-28584 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-2-FRL 2455-2]

Hazardous Waste Management Program; Vermont: Amended Application for Interim Authorization, Phase II, Components A, B, and C

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public comment period and notice of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Vermont amended application for Phase II, Components A, B, and C, Interim Authorization, Hazardous Waste Management Program, Inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

40 CFR 271.123 (formerly § 123.123(c)) requires the formal review period to recommence upon receipt of a revised submission of the State's application, if the State's submission is "materially changed". EPA today reopens Vermont's Phase II, Components A, B, and C, application for public review because Vermont has made material changes to its regulations to correspond to federal Part 270 and Part 264 regulations in response to EPA comments on the state's earlier submission. EPA's review of the State's revised application began on September 27, 1983, the date EPA received the amended application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for Tuesday, November 22, 1983 at 9:00 a.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by November 14, 1983. EPA will determine by November 15, 1983, whether there is significant public interest to hold a hearing. All written comments on the amended Vermont Interim Authorization application must be received by the close of business on November 22, 1983.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on Vermont's application for Interim Authorization on Tuesday, November 22, 1983 at 9:00 a.m. at the Pavillion Auditorium—Pavillion Building, 109 State Street, Montpelier, Vermont 05602.

Written comments on the application and written or telephoned communications of interest in holding a public hearing on the Vermont application must be sent to: Mary Jane O'Donnell, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, telephone (617) 223-4448.

If you wish to find out whether or not EPA will hold a public hearing on the Vermont application based upon EPA's determination that there was significant public interest in such a hearing, write or telephone the EPA contact, the person listed above, after November 15, 1983. This procedure is being used to expedite consideration of the Vermont application. As a result no additional **Federal Register** notice will be published concerning this hearing.

Copies of the amended Vermont Phase II Interim Authorization application are available during normal business hours for inspection and copying by the public at the following addresses:

Agency of Environmental Conservation, Division of Water Resources and Environmental Engineering, Air and Solid Waste Program, Heritage II, 79 River Street, Montpelier, Vermont 05602, Telephone (802) 828-3395.

Environmental Protection Agency, Region I Office Library, Room 2100B, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223-5791

EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mary Jane O'Donnell, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223-4448.

SUPPLEMENTARY INFORMATION: The State of Vermont received Interim Authorization for Phase I on January 8, 1981. Its Phase II application for Components A, B, and C was submitted to EPA on September 7, 1982. In the October 1, 1982 **Federal Register**, 47 FR 43405, a notice was published concerning a public hearing to be held on Vermont's Phase II Components A, B, and C Application for Interim Authorization. The notice also announced the availability of the application for public review and invited public comment on the application. A public hearing on the application was held on November 9, 1982 at which 1 party presented comments.

On May 5, 1983, EPA determined that the absence of state regulations corresponding to the federal 40 CFR Part 270 regulations (formerly 40 CFR Part 122) precluded EPA from granting Interim Authorization to Vermont. In addition, uncertainty about the legal status of the state's regulations analogous to the federal 40 CFR Part 264 regulations made it impossible to determine whether the Vermont program was substantially equivalent to Part 264.

On September 17, 1983, Vermont adopted regulations that were intended to clarify the legal status of the portion of the Vermont program that corresponded to the federal Part 270 and Part 264 regulations. On September 27, 1983, Vermont submitted a revised application reflecting the newly adopted regulations and the other associated changes to the Vermont program. It is this revised application that is being presented for public comment in this Notice. Within 90 days of this notice in the **Federal Register**, EPA will give notice again in the **Federal Register** as to the denial or issuance of Interim Authorization.

Lists of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: October 13, 1983.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 83-28586 Filed 10-19-83; 8:45 am]

BILLING CODE 6560-50-M

VOL 48 ISS 204 OCT 20 1983 UMI

Notices

Federal Register
Vol. 48, No. 204
Thursday, October 20, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Land and Resource Management Plan; Inyo National Forest, Inyo, Mono, Fresno, Madera, and Tulare Counties, California, Mineral and Esmeralda Counties, Nevada; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a national enviornmental impact statement in January 1979. That environmental impact statement documented the results of a review of 62 million acres of roadless and undeveloped lands within the 190 million acre National Forest System. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for wilderness and which should be used for other purposes.

In the Pacific Southwest Region, RARE II dealt with more than six million acres located in California and Nevada. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979, the State of California challenged the adequacy of the national RARE II Environmental Impact Statement as the basis for decisions to manage 46 areas in California for other than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically only to the 46 roadless areas in California, it set binding precedent for any Federal District Court in the Ninth Circuit.

Because of the October 1982 court decision, National Forest roadless areas studied for wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II recommended wilderness and nonwilderness areas during the Forest planning process.

The reevaluation of areas on the Inyo National Forest will be done as part of the Forest's land and resource management planning, and will be documented in the Forest Plan environmental impact statement.

During the reevaluation process, current management and protection policies and activities in roadless areas will continue. Wilderness values will be protected in areas recommended by RARE II for wilderness, while management for other uses will continue in areas recommended for nonwilderness.

On the Inyo National Forest, 13 roadless areas containing 184,970 acres were recommended for wilderness, and 11 areas containing 292,700 acres were recommended for nonwilderness. These areas, which will now be reevaluated, are listed below.

Name	Gross acres	Net national forest acres
South Sierra	107,500	106,570
S. Joaquin W	6,600	
Wonoga Peak	11,380	
S. Joaquin N&F	29,000	
Independence Cr.	14,400	
Grant Lake	1,830	
Tinemaha	29,380	29,220
Mt. Olsen	2,800	2,700
Coyote North	11,500	10,500
Mono Craters	6,900	
North Lake	2,730	
Dexter Canyon	18,100	
Horton Creek	7,800	6,500
Glass Mountain	59,200	58,600
Nessie	1,310	
Watterson	7,700	
Rock Creek W.	3,040	
Deep Wells	7,600	
Whisky Creek	1,210	
Excelsior	54,670	54,590
Nevahbe Ridge	620	
Boundary Peak	50,200	
Sherwin	3,800	
Soldier Canyon	38,400	38,300

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, open houses will be held on December 6, 1983, at the Forest Supervisor's Office in Bishop, from 9 a.m. to 4 p.m.; and on December 7 at the Mammoth Ranger Station in Mammoth Lakes, from 9 a.m. to 4 p.m. These open houses will provide us with the opportunity to further explain, discuss, and gather information about the roadless areas and the reevaluation process.

For further information about the proposed reevaluation, contact: Oliver F. A. Sapousek, Planning Officer, 873 N. Main Street, Bishop, CA 93514, (619) 873–5841.

Dated: October 13, 1983.

Leon R. Silberberger,

Acting Forest Supervisor, Inyo National Forest.

[FR Doc. 83-28544 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

Vegetative Management Environmental Assessment; Shasta-Trinity National Forests, Humboldt, Modoc, Shasta, Siskiyou, Tehama, and Trinity Counties, California; Public Hearing

Notice is hereby given that a public hearing will be held on Tuesday, December 6, 1983, 2:00–5:00 p.m. and 6:00–9:00 p.m. in Room 116 of the Redding Civic Auditorium, Redding, California. Its purpose will be to receive oral testimony and/or written comments identifying the public issues, concerns, and management opportunities to be addressed in a vegetation management environmental assessment that the USDA Forest Service will prepare for the Shasta-Trinity National Forests. This hearing is part of the overall scoping process for the environmental assessment.

Individuals and organizations may express their views at this hearing or by submitting written comments for inclusion in the official record to the Forest Supervisor, Shasta-Trinity National Forests, 2400 Washington Avenue, Redding, California 96001. To be included in the official record, written comments must be postmarked by December 16, 1983.

For further information about the preparation of the environmental assessment, or the availability of other documents relevant to the environmental assessment, contact: Douglas Schleusner, Environmental Coordinator, Shasta-Trinity National Forests, 2400 Washington Avenue, Redding, California 96001, Telephone (916)246–5377.

Dated: October 14, 1983.

Barney Coster,

Forest Supervisor, Shasta-Trinity National Forests.

[FR Doc. 83-28546 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on Thursday, November 17, 1983, at 1:00 p.m. at the San Juan National Forest Office, Conference Room, 701 Camino del Rio, Durango, Colorado. The Board was established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) Recommendations for the utilization of range betterment funds; (2) recommendations for the development of allotment management plans; (3) discussion of effects of the San Juan National Forest Land and Resource Plan on allotment management plans and utilization of range betterment funds; (4) discussion of procedures for requesting refunds and/or credits of grazing fees.

The meeting will be open to the public. Persons who wish to attend and participate should notify David W. Cook, San Juan National Forest (303–247–4874) prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: October 11, 1983.

P. C. Sweetland,

Forest Supervisor.

[FR Doc. 83-28613 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

Colville National Forest, Grazing Advisory Board Meeting; Meeting

The Colville National Forest Grazing Advisory Board will meet at 1 p.m. on November 2, 1983 at the Federal Building Conference Room, 695 South Main, Colville, WA 99114. The purpose of this meeting is to discuss range allotment management planning and to review the projects which will receive funding from the Range Betterment Fund monies in 1984.

The meeting is open to the public. Persons who wish to attend should notify Gary Oliverson, Colville National Forest, at the above address. Written statements may be filed with the committee before or after the meeting.

Dated: October 7, 1983.

William D. Shenk,

Forest Supervisor.

[FR Doc. 83-28691 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

Deschutes National Forest Grazing Advisory Board; Meeting

The Deschutes National Forest Grazing Advisory Board will meet at 10 a.m. on November 14, 1983, at the Cascade Natural Gas Community Service Rom, 4th and Hawthorne Streets, Bend, Oregon 97701. The purpose of this meeting is:

1. Review the results of the Deschutes National Forest Range Improvement Activity Review.
2. Review Allotment Management Plans and Range Betterment Funds for 1984.
3. Review new Deschutes National Forest base property requirements.
4. Open discussion of topics of interest to the Advisory Board.

This meeting will be open to the public. Persons who wish to attend should contact Will Griffin, 211 NE Revere, Bend, Oregon 97701, telephone 382–6922, extension 362.

Lee F. Coonce,

Deputy Forest Supervisor.

October 14, 1983.

[FR Doc. 83-28617 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

Sierra National Forest Grazing Advisory Board Meeting

The Sierra National Forest Grazing Advisory Board will meet at 10:00 a.m. November 9 in Room 3208 of the Federal Building, 1130 O Street, Fresno, California.

Agenda

1. Status and opportunities for County level cattle theft reduction programs.
2. Criteria for selecting permittees for future forage that may be developed.
3. Revision of allotment management plans and their signifance to land management objectives.
4. Projects accomplished during FY 1983 with Range Betterment Funds and projects proposed for FY 1984.
5. Other items presented by members of Board.

The meeting will be open to the public.

The committee has established the following rules for public participation: Matters identified by the public will be considered by the Board at the close of the planned agenda.

Dated: October 6, 1983.

Richard L. Stauber,

Forest Supervisor.

[FR Doc. 83-28508 Filed 10-19-83; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting and press conference of the Indiana Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 10:00 p.m., on November 3–4, 1983, at the Sheraton Hotel Gary, 465 Broadway Street, Gary, IN 46401. The purposes of the meetings are to discuss the status of a proposed block grants project; to hear a report by the Administration of Justice Sub. Committee on the status of the Indiana prison project; and to release a report on housing discrimination.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Joseph J. Russell, 4165 Gran Haven Drive, Bloomington, IN 47401 (811) 337–9832; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, IL 60604 (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 14, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-28510 Filed 10-19-83; 8:45 am]

BILLING CODE 6335-01-M

Oregon Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Oregon Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 3:00 p.m., on November 18, 1983, at the Federal Building, 1220 S.W. Third, Portland, Oregon 97204. The purposes of the meeting is to discuss: Southeast Asian civil rights issues; housing; government assistance; education; and employment.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Thomas J. Sloan, 215

VOL
48
ISS
2
0
4
OC
2 0
1983
UMI

North West Orchard Drive, Portland, OR 97229, (503) 627–8162; or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, WA 98174, (206) 442–1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 13, 1983

John I. Binkley

Advisory Committee Management Officer.

[FR Doc. 83-28509 Filed 10-19-83; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 10:00 p.m., on November 10, 1983, at the Howard Johnson, 231 Michigan Avenue, Detroit, MI 48226. The purposes of the meeting are to discuss the tuition tax credits project and to plan activities for the coming year.

Persons desiring additional information on planning a presentation to the Committee, should contact the Chairperson, Dr. M. H. Rienstra, 1225 Thomas South East, Grand Rapids, MI 49506, (616) 949–4000; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, IL 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 13, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-28511 Filed 10-19-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Release of Draft Request for Proposals for the U.S. Civil Space Remote Sensing Satellite Systems Correction

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of release of Draft Request for Proposals for the U.S. Civil Space Remote Sensing Satellite Systems; Correction.

SUMMARY: This document corrects the release date for the draft Request for Proposals (RFP) which was published September 20, 1983, (48 FR 42843). Accordingly, the Source Evaluation Board for Civil Space Remote Sensing (SEB/CSRS) is correcting the release date for the draft RFP to read as follows:

The draft RFP will be released for comment on October 21, 1983. Following release, comments will be accepted for thirty (30) days. Current plans call for formal release of the RFP to the private sector approximately December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Sheila C. Frye, Source Evaluation Board, 11420 Rockville Pike, NBOC 1, Room 300, Rockville, Maryland 20852. Telephone: (301) 443–3925. (This is not a toll free number.)

Dated: October 17, 1983.

Raymond G. Kammer, Jr.,

Chairman, Source Evaluation Board for Civil Space Remote Sensing.

[FR Doc. 83-28628 Filed 10-19-83; 8:45 am]

BILLING CODE 3510-12-M

International Trade Administration

[C-274-002]

Carbon Steel Wire Rod From Trinidad and Tobago Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determined that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers or exporters in Trinidad and Tobago of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the merchandise subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this merchandise in an amount equal to 12.29 percent of the *ad valorem* value of the subject merchandise. If this investigation proceeds normally, we will make our final determination by December 27, 1983.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Andrew Debicke, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–5403.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Trinidad and Tobago of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice.

For purposes of this investigation, we preliminarily determine that government guaranteed loans confer a benefit to manufacturers, producers, or exporters in Trinidad and Tobago of wire rod. The estimated bounty or grant is 12.29 percent *ad valorem*.

Case History

On May 16, 1983, we received a petition from counsel for Atlanic Steel Company, Continental Steel Corporation, Georgetown Steel Corportion, Georgetown Texas Steel Corporation and Raritan River Steel Company on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that producers, manufacturers, or exporters in Trinidad and Tobago of steel wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and, on June 6, 1983, we initiated a countervailing duty investigation (48 FR. 27415). We stated that we would issue a preliminary determination on or before August 9, 1983. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(C) or the Act, and postponed our preliminary determination until October 13, 1983 (48 FR 43206).

Trinidad and Tobago is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and, therefore, section 303 of the Act applies to this investigation. Under this section, since the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

On April 18, 1983, we presented questionnaires concerning the allegations in the petition to the government of Trinidad and Tobago and to counsel for the Iron and Steel Company of Trinidad and Tobago (ISCOTT) in Washington, D.C. On August 12, 1983, we received the responses to our questionnaire from the government of Trinidad and Tobago and ISCOTT.

Scope of Investigation

The product covered by this investigation is carbon steel wire rod, a coiled semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. The merchandise is currently classified under item number 607.17 of the Tariff Schedules of the United States.

ISCOTT is the sole producer and exporter of carbon steel wire rod from Trinidad and Tobago.

The period for which we are measuring subsidization is January 1, 1982 to April 30, 1983.

Analysis of Programs

In their responses, the government of Trinidad and Tobago and ISCOTT provided data for the applicable period. Based upon our analysis of the petition, the response to our questionnaire, and legal briefs submitted by counsel for the ISCOTT and the petitioners, we determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that a bounty or grant is provided to manufacturers, producers, or exporters in Trinidad and Tobago of carbon steel wire rod under the program listed below.

A. Government Guarantees of Debt Service

Section 401, article I of the Completion and Cash Deficiency Agreement (CCDA), a financing contract entered into by the Government of Trinidad and Tobago (GOTT), ISCOTT and several external private and government-sponsored lenders, states "if, for any reason whatsoever, ISCOTT shall fail to pay or to pay in full any debt service amount on any debt service date with respect thereto, the Government, in consideration for the loans made by the lenders to ISCOTT, shall, and hereby covenants and agrees with each of the lenders to, pay to the lenders or the lender entitled to such debt service amount the cash deficiency in respect thereof . . . within 10 days after the applicable debt service date, unless prior thereto ISCOTT shall have paid such cash deficiency in full."

During the period 1978–1981, ISCOTT obtained several medium-term loans from private lenders and other government loan agencies in the United States and elsewhere. Petitioners allege that the guarantees provided for in Article IV of the CCDA enabled ISCOTT to obtain these loans at interest rates several points below those charged for comparable commercial loans. They contend that ISCOTT would have had to pay a substantial premium over the commercial rate charged (estimated by petitioner as 5 percent) if the loan financing had not been backed by a government guarantee.

Regarding the inclusion of a risk premium in the calculation of the benchmarks for measuring potential benefits to ISCOTT resulting from the GOTT's guarantees, the Department generally avoids such adjustments. Without substantial evidence on the record to support the use of a specific primium amount, we run the risk of substituting speculative and debatable assumptions as to the value of a guarantee for the recorded, independent judgment of the financial marketplace. In the absence of a sound basis upon which to fix the value of a risk premium, we have calculated the benefit to ISCOTT of the GOTT's guarantees by estimating the value of its not having to pay loan guarantee fees otherwise payable by a borrower in a comparable commercial transaction.

Similarly, we have made no adjustment in the rates paid by ISCOTT to reflect the company's payment of withholding taxes on foreign loans. Respondents contend that these tax liabilities result in a higher effective rate on such loans. The Department's long-standing administrative practice has been to consider the entire bounty or grant. Under section 771(6) of the Act the tax consequencies of countervailable benefits do not constitute an allowable offset.

On the basis of our understanding of standard commercial banking practice in comparable transactions, we have determined the normal guarantee fees payable in this situation. To calculate the subsidy value we compared the interest rates actually paid by ISCOTT with an adjusted rate reflecting the additional value of a government guarantee. After calculating the payment differential in each year of the loan, we then calculated the present value of this stream of benfits using the risk free rate, the secondary market rate of interest for long-term government debt in Trinidad and Tobago, as the discount rate. This amount was then allocated evenly over the life of the appropriate loan to yield the annual subsidy amount. The estimated net bounty or grant is 12.29 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs have not been used by producers or exporters in Trinidad and Tobago of carbon steel wire rod.

A. Tax Benefits

Petitioners allege that ISCOTT benefits from preferential tax treatment accorded under the Fiscal Incentives Act and other provisions of the tax laws of Trinidad and Tobago.

The responses of both ISCOTT and the GOTT indicate that ISCOTT has not received any benefits or allowances available under the Fiscal Incentives Act or other provisions of the tax laws of Trinidad and Tobago. We will, however, seek additional information regarding the possibility that potential tax benefits arising out these provisions may be carried forward to later years.

B. Worker Training

Petitioners allege ISCOTT has benefitted from worker training subsidies provided through the Industrial Development Corporation.

The responses of both ISCOTT and the GOTT indicate the company has received no assistance for employee training under this program during the period of investigation. The responses do indicate, however, that some ISCOTT employees received training from the Management Development Centre (MDC). The MDC is a statutory body governed by a board of directors composed of individuals from both the public and private sectors. Courses offered and fees charged are approved by the board. Fees for the training of ISCOTT workers under this program were paid by the company. We will seek additional information regarding the MDC during verification.

C. Marketing Assistance

Petitioners allege ISCOTT has benefitted from marketing assistance provided by the GOTT through the International Marketing Organization Fund. The responses of both the GOTT and ISCOTT indicate ISCOTT has received no assistance under this program.

D. Preferential Export Insurance

Petitioners allege ISCOTT has benefitted from preferential export insurance provided through the Export Insurance Company, Ltd. The responses

VOL
48
ISS
204
OC
20
1983
UMI

of both ISCOTT and the GOTT indicate ISCOTT did not purchase any export credit insurance during the period for which we are measuring subsidization.

E. Export Shipping Rates

Petitioners allege ISCOTT has benefitted from preferential shipping rates provided at government direction or with government financial assistance.

The Shipping Corporation of Trinidad and Tobago (SCOTT) acts as a broker for ISCOTT in locating private vessel owners and negotiating shipping fees. As such, SCOTT is not responsible for setting rates, nor does it own any vessels. It is reimbursed for its services on a commission basis.

During the period of investigation, ISCOTT has used both SCOTT and a private concern based in New York as its agents for locating vessels and negotiating shipping rates. Rates have varied with each shipment, and ISCOTT has received no direct assistance from the GOTT for purposes of paying export freight charges. We have no evidence to indicate ISCOTT has benefitted from preferential shipping rates as the result of direct or indirect action by the GOTT.

F. Preferential Loans

In our initiation notice, we stated that we would investigate the allegation that ISCOTT received loans from the GOTT at preferential interest rates. Information now available to the Department indicates that private lending institutions served as the sources of ISCOTT's debt financing. Therefore, we preliminarily determine that no countervailable benefit exists with respect to this allegation. Regarding the GOTT guarantees of ISCOTT's debt financing, see the section of this notice entitled "Government Guarantees of Debt Service."

III. Programs for Which Additional Information Is Needed

A. Government Equity Participation in ISCOTT

The Iron and Steel Company of Trinidad and Tobago was incorporated June 20, 1975 to serve as the vehicle for a joint venture between the Government of Trinidad and Tobago and three private investors—Hoogovens Igmuiden, B.V.; Kawasaki Steel Corporation and Mitsui & Company. As originally conceived, the venture would involve the parties in the ownership and construction of a greenfield steel mill dedicated primarily to billet production. In 1976–77, changing market conditions led to reevaluation of the project. The GOTT purchased the equity interests of its partners and redefined the project to envisage construction of a scaled down mini-mill oriented primarily towards finished products. Specifically wire rod. After additional feasibility study, the GOTT determined to proceed with the redefined project. A financing package put together by a private concern was proposed and, on December 1, 1978, ISCOTT the GOTT, Barclays Bank, Ltd. (as Trustee) and several external private and government-sponsored lenders entered into a financing contract, the Completion and Cash Deficiency Agreement. Under the terms of the CCDA, the lenders committed to a total of approximately U.S. $243 million in capital financing. For its part, the GOTT agreed to provide equity investment in ISCOTT at a level which maintained a 60/40 debt to equity ratio for the company. Construction commenced on this basis, and ISCOTT began commercial wire rod production in August 1981. Completion of construction, as defined in the CCDA, is now scheduled for November 1983. Throughout this period the GOTT has made equity contributions to ISCOTT in accordance with its obligations under the CCDA.

It is well established that government equity participation in a commercial enterprise is not a subsidy *per se*. In assessing whether such participation gives rise to subsidies within the meaning of the countervailing duty law, the Department applies the standard of whether a government's investment is not inconsistent with commercial considerations. The issue is whether the investment, analyzed in terms of objective business or investment criteria operative *at the time the investment was made*, , may be deemed commercially reasonable in that, from the perspective of a commercial investor making the same decision in the same circumstance, there is a reasonable expectation of return within an acceptable period of time.

The test whether a particular investment is not inconsistent with commercial considerations is based on a case-by-case analysis of the commercial context in which the investment decision is made. In the case of ISCOTT, an assessment of commercial reasonableness must take into account the special circumstances of a start-up project in a developing country.

Factors ordinarily applied in the case of investment in an established industry or enterprise in a developed country may require adjustment or prove inappropriate. For example, investments in developing countries pose a variety of special problems which may include scarcity of capital, lack of complementary infrastructure, shortages of skilled labor, insufficient managerial experience and other "learning curve" costs. While these may, in some senses, increase the element of risk in such investments, the increased risk which may be present does not of itself become dispositive of the issue of whether a particular investment in a developing economy may be viewed as inconsistent with commercial considerations.

On the basis of preliminary analysis, the GOTT's decision to proceed with the ISCOTT project and its subsequent actions to maintain its commitment to it do not appear to contradict the requirements of commercial reasonableness. First, as originally conceived and later redefined, the ISCOTT mill was designed to make use of certain natural advantages. Trinidad and Tobago has ample natural gas reserves. The direct reduction of iron (DRI) process employed in ISCOTT's mill is particularly well suited to capitalize on the availability of natural gas. Trinidad and Tobago also enjoys a strategic geographic location close to plentiful sources of iron ore and to potential Caribbean, North American and South American markets. Second, the decision to install state of the art technology such as DRI, electric arc furnaces, continuous casters and high speed rolling equipment builds upon natural advantages by providing long-term cost efficiencies and producing consistent qualities of steel. Third, at the time the ISCOTT venture was initially conceived, the consensus among steel industry analysts was that projected demand would require installation of considerable new worldwide capacity by 1985. Moreover, as market conditions changed, the scope and purpose of the project were altered in response.

GOTT's commitments to the ISCOTT project were undertaken on the basis of at least three independent feasibility studies prepared by private consultants. The original concept of an integrated mini-mill emerged from both engineering and economic studies. The subsequent adaptation of the project to emphasize wire rod production was also based on a study which assessed the potential viability of the redefined project in a changed market. Finally, preparation of the financing package which formed the basis of the CCDA entailed a third, independent assessment of the project's financial prospects. All these studies drew tentative conclusions that the project was feasible and would be profitable. In our view, the GOTT's decision to supplement its own evaluation of the commercial viability of the ISCOTT project with independent

analyses by private consultants indicates a careful approach consistent with a prudent investment policy.

Independent confirmation of favorable projections made in the studies noted may be discerned from the decisions of several private commercial lenders to participate in the debt financing of the ISCOTT project. Participants include private lenders in the U.S., Japan, Canada and the Federal Republic of Germany. In addition to reviewing the feasibility studies commissioned by the GOTT, these lenders were also in a position to draw on their own internal resources and experience to assess the project's viability. That they chose to lend to the project is further indication of its commercial reasonableness. Moreover, while we do not question that guarantees provided by the GOTT served as an inducement to private lenders to finance the ISCOTT project, it is our understanding of commercial banking practice that any decision to lend would also have been based on additional consideration of the underlying project's viability and potential apart from the presence of governmental guarantees or backing. In these circumstances, the participation of private lenders should not be discounted as having no bearing on the central issue of whether investment in ISCOTT is consistent with commercial considerations.

If the GOTT's decision to commence the ISCOTT project appears to have been carried out on a sound commercial basis, its continued commitment through the period of construction and beginning of commerical production poses somewhat different questions. In this stage, fundamental assumptions supporting the commercial reasonableness of the decision to initiate the project must be measured against actual development and operating experience. The issue is whether that experience raises fundamental questions about the commercial reasonableness of the GOTT's maintaining its commitment to the ISCOTT project.

As noted *supra*, the terms of the CCDA included a commitment by the GOTT to maintain a 60/40 debt-to-equity ratio for ISCOTT. In addition, under Article III of the CCDA, the GOTT may provide funds necessary to achieve completion of the project. The GOTT's equity investments in ISCOTT are triggered by either a report or request by the company. The amount of capital sought is determined by deducting the cash surplus on hand or projected and available loan capital from total cash liabilities. The amount of the difference is invested by the GOTT in either working or fixed asset capital. In return for its payments, the GOTT is issued stock at the established price of TT $100 per share. Funds received in this manner are charged against ISCOTT's authorized share capital.

The GOTT has continued to make heavy equity investments in ISCOTT during a period in which the company has encountered significant difficulties associated with construction, start-up and initial commercial operation. Unanticipated construction delays have resulted in substantially higher than projected costs which have been compounded by the effects of inflation. Breakdowns in key plant components and delays in obtaining replacements have also hampered the project. Shortages of adequately trained operations, maintenance and management personnel present continuing problems. The plant has yet to approach full rated capacity, an engineering performance tests for all production units have not been completed. As a consequence, ISCOTT has not begun to achieve significant production levels or earnings on its products. It cash flow per-ton of capactiy figures remain negative. All of this has occurred against the bankground of a severely deteriorated world market for steel.

The fact construction delays and other difficulties have occurred during the course of ISCOTT's start-up phase does not, however, necessarily lead to the conclusion that the assumptions and expectations which arguably supported to GOTT's decision to embark upon the project are no longer tenable. First, natural advantages such as reliable and plentiful sources of basic inputs and location appear to continue to support ISCOTT's long-term prospects. Second, particularly in a developing country, the learning curve costs associated with the installation of a technologically advanced industrial facility may reasonably be expected to be higher than those in a more developed economy. Similarly, shortages of adequately trained manpower needed for the construction and maintenance of a major industrial plant make it more likely there will be delays in both construction and the achievement of fully operational status. In this respect it is significant that the CCDA made specific allowance for the possibility of delay, and that its final deadline for the certification of completion has not, as yet, been exceeded. Third, while ISCOTT's cash flow per-ton of capacity figures are negative, they nevertheless compare favorably with available estimates of expected per-ton development costs for new steel mills in both developing and developed countries. Fourth, while ISCOTT is not profitable, it has been conducting limited commercial operations for a period of only 24 months. Regardless of location in a developed or developing country, the Department has preliminarily found no indication in any of the sources available to it that a new industrial facility requiring large capital investment should be expected to show a positive rate of return within so short a time from the commencement of production. To the contrary, it appears the reasonable commercial expectation is that the project would normally be expected to operate at a loss for several years before beginning to earn a positive return on the initial investment. Fifth, lenders who participated in ISCOTT's debt financing arrangement do not appear to have withdrawn their support and have continued to make funds available to the company. Sixth, despite problems with start-up, ISCOTT has made some shipments to unrelated buyers, thereby demonstrating the existence of at least a potential market for its products.

In sum, while ISCOTT may not yet have unquestionably proven itself as a viable, self-sustaining venture, nothing in its experience to date establishes a compelling argument that the considerations or expectations which led the GOTT to begin the project have, in light of subsequent developments, lost all measure of commercial reasonableness. Though difficulties encountered during start-up have led to substantial cost increases not contemplated in the original projections, the GOTT's continuing commitment to the project, a commitment seconded by independent lenders, does not at this juncture appear wholly inconsistent with commerical considerations as we perceive them to operate within the context of establishing a technologically advanced greenfield industrial facility in a developing country.

Nevertheless, we are not unmindful of petitioner's contention that the withdrawal of Dutch and Japanese co-venturers at an early stage of the project raises questions as to its feasibility. We note, however, that the project underwent a basic alteration in concept following this withdrawal. The original plan had been for a mill to produce over a million metric tons of billets annually. A substantial portion of this capacity was to be committed to "off-take" by the co-venturers. Changing market conditions led to a reorientation of the

VOL 48 ISS 204 OCT 20 1983 UMI

project towards the production of a specific finished product, wire rod. In addition to raising the possibility of direct competition with the co-venturers, this reorientation substantially removed their interest indications that, in at least one case, the co-venturers' own financial difficulties may have been an element in the decision to withdraw.

Finally, we also note the Mitsui resurfaced as a lender to the project.

As evidenced by its continuing and expanding equity commitment to ISCOTT, the GOTT has chosen to stay with the project in the apparent belief that, start-up problems notwithstanding, the company's long-term prospects justify continued support which will eventually pay off. On the basis of the information currently available to us, we are not in a position to preliminarily determine that assessment is not consistent with commercial considerations. We will, however, seek additional information regarding this program.

B. Loss Coverage or Absorption

Petitioners allege that at least a portion of the funds which the GOTT has committed to the ISCOTT project since the commencement of commercial operations should be treated as loss coverage or absorption. In effect, they maintain that ISCOTT has been the beneficiary of substantial operating studies without which the company could not remain viable.

As discussed in the section of this notice titled "Equity Participation by the Government", the GOTT's continued commitment to getting ISCOTT off the ground does not appear to represent an investment inconsistent with commercial considerations as we view then within the context of the start-up of a new industry in a developing country. While ISCOTT has begun to market its products on an intermittent basis, it is not yet a fully operational enterprise. From this perspective, equity infusions by the GOTT which may in some instances serve to offset initial operating losses may still be viewed primarily as investments in the capitalization and establishment of ISCOTT rather than as operating subsidies. As such, they remain within the realm of commercial reasonableness which governs with respect to investment in the start-up of an enterprise. We will seek additional information regarding this issue during verification.

C. Point Lisas Development Zone

Petitioners allege the Point Lisas Development Zone, in which ISCOTT's steel mill is located, represents the GOTT's effort to establish an infrastruture specifically designed to support the company's operations. They allege that ISCOTT is the beneficiary of preferential rental or lease terms, that the Zone's Marine Bulk and Export Terminal was specially designed for use by ISCOTT and that roads, power lines and a natural gas pipeline have been provided to ISCOTT on terms which do not reflect their true cost.

The responses state that services similar to those provided in the zone do not exist in any other part of Trinidad and Tobago. Information currently available indicates rates paid by ISCOTT for the use of developed land within the Point Lisas Development Zone are paid according to a formula applied to all lessees in the area. The presence of other lessees within the Zone is also an indication that its facilities are not dedicated to sole use by ISCOTT. We will seek additional information regarding the Point Lisas Development Zone during verification to determine whether a specific or regional bounty or grant is being provided.

D. Import Duty Exemptions

Under the laws of Trinidad & Tobago imports may or may not be subject to duties under any one of three tariff schedules. Products on the First Schedule are assigned duties ranging from zero to some precentage of value. Those on the Second Schedule benefit from a general exemption. The Third Schedule establishes conditional exemptions for approved industries.

The First and Second Schedules are general enactments apparently applicable to all industries in Trinidad and Tobago. Section 49A of the Customs Act of 1973 empowers the Government to grant duty exemptions on any merchandise imported by a company which is within the approved industry list of the Third Schedule. ISCOTT has applied for and received exemptions under this provision.

On its face, the grant of duty exemptions to "approved industries" listed in the Third Schedule appears to establish a countervailable element of preferentiality. Examination of the Third Schedule, however, shows that approximately 76 industries in Trinidad and Tobago are apparently able to qualify for a Third Schedule exemption. In addition, a substantial portion of the items subject to a conditional exemption under the Third Schedule already qualify for a general Second Schedule exemption. Other items are assessed a duty free rate under the First Schedule. Finally, in a number of instances, individual construction contractors on the ISCOTT project have sought Third Schedule exemptions on their own behalf, and the direct or indirect benefit to ISCOTT cannot be calculated with any reasonable degree of certitude. Consequently, we will seek additional information regarding this program during verification.

E. Preferential Prices for Natural Gas

The petitioners allege that ISCOTT benefits from the provision of natural gas through government owned entities at preferential prices.

On the basis of information currently available, it appears that the price paid by ISCOTT for natural gas is established through negotiations between ISCOTT and the National Gas Company and/or the National Energy Company. There is no evidence on the record to indicate that these negotiations are not conducted at arm's length. Typical contracts between ISCOTT and its suppliers provide for a base price MMBTU with per annum escalator clauses and pass-through provisions to cover increases in the prices charged ISCOTT's suppliers by the AMCO Trinidad Oil Company, and independent, non-government owned entity. Since the prices ISCOTT pays for natural gas are negotiated at arm's length and ultimately based on the prices paid by its suppliers to an independent producer, we preliminarily determine ISCOTT receives no benefits from the provision of natural gas at perferential prices. We will, however, seek additional information regarding this program during verification.

F. Short Term Loans

ISCOTT indicates the receipt of several short-term loans from private sources during the period of investigation. Some of these loans have been repaid and others have been rolled-over. At this time, we have no evidence to indicate that these loans were made on a preferential basis, nor whether a guarantee fee was levied. We will seek additional information on these short-term loans.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation on all entries of Carbon steel wire rod from Trinidad and Tobago which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or the posting of a bond for each such entry of the merchandise in an amount equal to 12.29 percent of the *ad valorem* value of the subject merchandise.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 14, 1983, Room 3078 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by November 7, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.46 within 30 days of this notice's publication, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

October 13, 1983.

[FR Doc. 83-28563 Filed 10-19-83; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. 644]

Charles J. McVey, Jr. et al.; Order Temporarily Denying Export Privileges

The Department of Commerce (the "Department"), pursuant to the provisions of Section 388.19 of the Export Administarion Regulations [15 CFR 368, *et seq.* (1982)] (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Charles J. McVey, Jr., 1140 North Armando, Anaheim, California 92806; Rolf Lienhard, c/o Frank AG, International Transporte Franchthof West, Postfach 236, 8058 Zurich-Flughafen, Switzerland; and Yuri Boyarinov, c/o Electronorgtechnika, G-200, Smolenskaja pl. 32/34, Moscow, U.S.S.R.

The Department states that administrative proceedings have been initiated against the individual respondents by the Department's Office of Export Enforcement. The Department also states that its investigation gives it reason to believe: (i) That McVey, Lienhard and Boyarinov conspired and acted in concert to divert U.S.-origin electronic equipment, some of which was originally approved for export to Switzerland, by reexporting such equipment to the Union of Soviet Socialist Republics (U.S.S.R.), in violation of the Regulations; (ii) that McVey exported or attempted to export U.S.-origin equipment from the United States to Switzerland without the required validated export licenses; (iii) that McVey filed Shipper's Export Declarations representing that the destination for this equipment was Zurich, Switzerland, knowing, however, that the actual destination was the U.S.S.R.; (iv) that Lienhard reexported or caused to the reexported U.S.-origin electronic equipment from Switzerland to the U.S.S.R. without having first obtained the required reexport authorization from the Office of Export Administration; (v) that Yuri Boyarinov caused, aided, abetted, counseled, commanded, induced, procured, or permitted the reexport of U.S.-origin electronic equipment from Switzerland to the U.S.S.R. without having first obtained the required reexport authorization from the Office of Export Administration; and (vi) that these respondents may attempt future exports contrary to the Regulations, either directly or through one or more of the known related parties, unless appropriate action is taken to preclude such attempts.

The Department states further that on March 9, 1983, a federal grand jury: (1) Charged McVey, Lienhard and Boyarinov with conspiring to export U.S.-origin electronic equipment from the United States to the U.S.S.R. without having first obtained the required validated export licenses from the Department; (2) charged McVey with knowingly exporting and causing to be exported from the United States to the U.S.S.R. electronic equipment without having first obtained to required validated export license from the Department and charged Lienhard with aiding and abetting such exports; and (3) charged McVey, doing business as Facilities Management, Ltd., with knowingly and willfully making false statements and representations to a government agency (the Department).

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to Charles J. McVey, Jr., Rolf Lienhard and Yuri Boyarinov is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. Sections 2401-2420 (Supp. V 1981)) and the Regulations, and to avoid circumvention of the administrative proceedings.

Anyone who is now or may in the future be dealing with the above-named respndents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby Ordered—

I. All outstanding validated export licenses in which respondents or any related party appear or participate, in anyt manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors, or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly, or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application, (b) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith, (c) in obtaining from the Department or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States, and subject to the Regulations; and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents

are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Business organizations and individuals now known to be owned by or affiliated with the named respondents, and which are accordingly subject to the provisions of this order, are:

Vanguard International, Ltd., Apartado Postal P.O. Box 1824 Panama 1, Panama
and
1116 North Armando, Anaheim, California 92806
Facilities Management, Ltd., 1140 North Armando, Anaheim, California 92806
Land Resources Management, Inc., 1114 and 1116 North Armando, Anaheim California 92806
Societe Anonyme Technologie Spatiale aka: SATs, aka: Space Technologies, Inc., Les Maladiers, 2022 Bevaix, Switzerland
Frank AG aka: Frankair Frank AG, Zurich, Switzerland aka: Frankair, Postfach 236, 8058 Zurich-Flughafen Switzerland
Janice McVey, 18331 Jacotal, Villa Park, California 92667
Charles Julius McVey, III, 18331 Jacotal, Villa Park, California 92667
Michael McVey, 18331 Jacotal, Villa Park, California 92667
ICOHAGE International, Handelesgesellschaft, Weylenstrasse 440, Zurich, Switzerland
Interprojekt Gesellschaft, Rosenberg 345, Zurich, Switzerland

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of Section 388.19(b) of the Regulations, the respondents or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of the administrative proceedings initiated against the respondents. A copy of this order and Parts 387 and 388 of the Regulations shall be provided to the respondents and the above-designated related parties under the notification procedures set forth in § 388.19(c) of the Regulations.

Date: October 13, 1983.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 83-28606 Filed 10-19-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Salmon and Steelhead Advisory Commission; Public Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Salmon and Steelhead Advisory Commission will hold public hearings for the purpose of obtaining public comments on a report to the Secretary of Commerce which considers alternatives for coordinating management of salmon and steelhead in offshore waters, the State of Washington and in the Columbia River and its tributaries.

DATES: Comments must be received by November 10. Individuals or organizations wishing to comment may do so at public hearings to be held as follows:

November 2, 1983—National Marine Fisheries Service, Northwest and Alaska Fisheries Center (Auditorium), 2725 Montlake Boulevard East, Seattle, Washington
November 3, 1983—Oregon Department of Fish and Wildlife, 506 S.W. Mill St., Portland, Oregon

Both public hearings will start at 7:00 p.m. and adjourn at or about 10:00 p.m., or when all public testimony has been received.

Written comments on the secretarial report should be sent to the following address by November 10: Dr. Peter Bergman, Salmon and Steelhead Advisory Commission, 2401 Bristol Court S.W., Olympia, WA 98502.

SUPPLEMENTARY INFORMATION: The subject of the hearings will be a proposed report on salmon and steelhead management prepared for the Secretary of Commerce. The public review report contains alternatives for management structures and for resolving contentious issues facing salmon managers, i.e., state fishery agencies, Indian tribes, and Federal fishery agencies, in the Washington and Columbia River Conservation areas. The report has been prepared at the direction of the Salmon and Steelhead Advisory Commission established by Public Law 96-561. Issues treated include a coordinated management structure, management objectives, enforcement, and a dispute resolution mechanism.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Regional Director, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115, Telephone (206) 527-6150.

Dated: October 14, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28574 Filed 10-19-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 13, 1983.

The USAF Scientific Advisory Board Arnold Engineering Center Advisory Group will hold meetings on November 15, 1983, from 8:00 am to 4:00 pm and on November 16, 1983, from 8:00 am to 2:30 pm Central Standard time, at Arnold Air Force Station, TN, in the A&E Building Conference Room. The purpose of the meeting will be to receive classified briefings and hold classified discussions on selected Air Force Ground Test Facilities Requirements and Programs.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697-4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-28549 Filed 10-19-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

October 13, 1983.

The USAF Scientific Advisory Board Aeronautics Panel will meet at NASA Langley Research Center, Hampton, VA, December 6, 1983. The purpose of the meeting will be to review current aeronautical research efforts being pursued by NASA Langley scientists. The meeting will convene at 9:00 am and adjourn at 5:00 pm.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697-4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-28550 Filed 10-19-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Changes in Section 10721 Rate Tender Format

AGENCY: Military Traffic Management Command, Army Department, DOD.

ACTION: Notice of Format Revision.

SUMMARY: Effective November 1, 1983, with the concurrence of the General Services Administration, Optional Form 280 (Uniform Tender of Rates and/or Charges for Transportation Services), and the tender preparation instructions will be revised. Tender format changes are: (1) Changing Block 16 to read: "GOVERNING PUBLICATIONS. The rates, charges, or services shown herein are subject to the publications listed below. If there are no governing publications, enter 'None'."; and (2) Changing Block 17B. To read only: "Description of Service." All carriers may continue to use existing supplies of Optional Form 280, but will be required to modify the form to conform to these revisions.

Additional Information

Effective November 1, 1983, carriers submitting Optional Form 280 to the Military Traffic Management Command are also required to enter the following information on the form: (1) To assure currentness of all tenders, all carriers must now specify an expiration date in Block 6 of the tender form. The date of expiration will not be less than ninety days nor more than two years from the effective date. As required, the Military Traffic Management Command may negotiate with carriers for exceptions to this requirement; and (2) To facilitate contacting carriers, the words "For pickup call" and telephone number, will be added in Block 14 of the tender form.

FOR FURTHER INFORMATION CONTACT: Mr. Julian Jolkovsky, Headquarters, Military Traffic Management Command, ATTN: MT-INNT, 5611 Columbia Pike, Falls Church, Virginia 22041. Telephone: (202) 756-1149/1567.

SUPPLEMENTARY INFORMATION: In 48 FR 40788, dated August 12, 1981, Military Traffic Management Command with the concurrence of General Services Administration issued a notice to require use of a revised tender format (Optional Form 280). Since the Military Traffic Management Command requires all tender filings to observe this format, this is not an optional form for the submission of transportation rates and service to the Department of Defense.

John O. Roach, II,

Army Liaison Officer With the Federal Register.

[FR Doc. 83-28548 Filed 10-19-83; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Privacy Act of 1974; Proposed New System of Records

AGENCY: Department of the Navy (U.S. Marine Corps), DOD.

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Marine Corps proposes to add a system of records to its inventory of systems of records subject to the Privacy Act of 1974. The proposed new record system notice is set forth below.

DATE: The proposed action will be effective without further notice on November 21, 1983, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: (202) 694-1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the **Federal Register** as follows:

FR Doc. 83-6317 (48 FR 10422) March 11, 1983
FR Doc. 83-6992 (48 FR 11312) March 17, 1983
FR Doc. 83-8688 (48 FR 14432) April 4, 1983
FR Doc. 83-12048 (48 FR 25964) June 6, 1983

A new system report as required by Title 5 of the United States Code section 552a(0) was submitted on September 7, 1983.

October 17, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

MMC00010

SYSTEM NAME:

Marine Corps Marathon Automated Support System (MCMASS).

SYSTEM LOCATION:

Marine Corps Marathon Office, Quantico, VA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All participants in the Marine Corps Marathon.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains information as provided on the Marine Corps Marathon Liability and Publicity Release form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947 as amended by DoD Reorganization Act of 1958, 10 U.S. Code 136; 10 U.S. Code 133; 32 CFR Part 237 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the Blanket Routine Uses at the head of the published Marine Corps systems notices in the **Federal Register**. Additionally, the following routine uses apply:

Electronic and print media—To provide publicity on the marathon event.

VOL 48 ISS 204 OCT 20 1983 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape and disks as well as in paper files.

RETRIEVABILITY:

Records are retrieved by name, runner number, or telephone number.

SAFEGUARDS:

Records are maintained in an area accessible only to authorized personnel. The terminals are in a room with windows protected by bars and the room is locked when not being used by authorized personnel. User identification codes and passwords known only by the data input operators and their supervisors are required for access to the terminals.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Marathon Coordinator, Marine Corps Marathon, P.O. Box 188, Quantico, VA 22134.

NOTIFICATION PROCEDURES:

Requests from individuals should be addressed to the system manager. Written requests for information should contain the full name, runner number, and telephone number. For personal visits, the individual should be able to provide identification bearing picture and signature or sufficient verbal data to ensure that the individual is the subject of inquiry.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-28621 Filed 10-19-83; 8:45 am]
BILLING CODE 3810-01-M

Intent To Prepare a Draft Environmental Impact Statement and Implementation of the Scoping Process for the Proposed Homeporting of a Surface Action Group (SAG) in Stapleton, Staten Island, New York, as the Preferred Alternative

Pursuant to regulations implementing the procedural provisions of the National Environmental Policy Act, Title 40, *Code of Federal Regulations*, and the requirements of Executive Order 12382, Intergovernmental Review of Federal Programs and the Department of the Navy policy for intergovernmental coordination of land and facility plans, programs and projects, the Navy hereby announces its intention to prepare a Draft Environmental Impact Statement (DEIS) for the proposed homeporting of a Surface Action Group in Stapleton, Staten Island, New York. A Surface Action Group consists of a battleship, a cruiser, two guided missile destroyers and a destroyer. In addition, two Naval Reserve frigates will be homeported with the Surface Action Group.

The primary impacts of the proposed action would be the development of a new major Naval installation in the New York City area. Approximately 40 acres of New York City-owned vacant land would be leased or sold to the U.S. Navy for waterfront facilities together with portions of Fort Wadsworth, an existing, though under-utilized U.S. Army installation, would be transferred to the U.S. Navy for redevelopment as a Surface Action Group support facility. New piers, dredging, and other construction is proposed to provide suitable homeport requirements.

Approximately 3,500 Naval personnel, including 2,200 families would relocate to the area. Area impacts would include: (1) Increased demand on community services, (2) increase in school enrollments, (3) increased traffic, (4) possible reduction in available rental properties, (5) increased chance of oil spills, and (6) air quality modifications from steam generating facilities and increased vehicular traffic.

Proceedings are underway to retain an unaffiliated consulting firm to prepare the Draft Environmental Impact Statement. Work on the DEIS is expected to commence on or about January 1, 1984, and publication of the completed document for public review is planned for October 1984.

Local and regional concerns over the Navy's proposal to develop a new homeport installation will be carefully considered in the preparation of the Scope of Work under which the DEIS will be developed. Comments and concerns should be forwarded to:

Commanding Officer, Northern Division, Naval Facilities Engineering Command, Building 77L, U.S. Naval Base, Philadelphia, Pennsylvania 19112. Attn: Code 09P.

Additionally, to affect the scoping process, the U.S. Navy will conduct a public meeting to solicit comments/concerns to be considered in the Draft Environmental Impact Statement for the proposed Surface Action Group Homeport Facility in Stapleton, Staten Island, New York. The meeting is scheduled for 7:00 p.m. Thursday evening, November 3, 1983, at the Post Chapel, Building 203, Fort Wadsworth, Staten Island, New York.

The meeting will be conducted by Commander T. W. Bone, CEC, U.S. Navy, assigned to the staff of the Commanding Officer, Northern Division, Naval Facilities Engineering Command. The meeting will be informal. Individual speakers will be requested to limit their statement to approximately five minutes. Written statements will be accepted at the meeting or they may be mailed to the address noted above. Comments will be received until November 15, 1983.

If further information/assistance is required in regard to this notice of intent, please contact Mr. Robert Ostermueller at Northern Division, Naval Facilities Engineering Command, telephone (215) 897-6357.

Dated: October 18, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28669 Filed 10-19-83; 8:45 am]
BILLING CODE 3810-AE-M

Board of Advisors to the Superintendent, Naval Postgraduate School; Monterey, California; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C App. I), notice is hereby given that the Board of Advisors to the superintendent, Naval Postgraduate School, Monterey, California, will meet on November 17–18, 1983, at Herrmann Hall at the School. On both days the first session of the meeting will commence at 8:15 a.m. and terminate at 12:00 noon and the second session will commence at 1:15 p.m. and terminate at 5:00 p.m. All sessions will be open to the public.

The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the Effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end the board will inquire into the curricula, instruction, physical equipment, administration, state of morale of student body, faculty and staff, fiscal affairs, and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

For further information concerning this meeting contact: Commander Robert V. Foley, USN (Code 007), Naval Postgraduate School, Monterey, California 93940, Telephone: (408) 646-2514.

Dated: October 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28562 Filed 10-19-83; 8:45 am]
BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee, Pacific Basin Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Pacific Basin Task Force will meet on November 8–10, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to United States national security interests and naval strategies in the Pacific and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone (202) 694-8422.

Dated: October 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28552 Filed 10-19-83; 8:45 am]
BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on November 14–15, 1983, onboard an aircraft carrier at sea. The November 14 session the meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. The November 15 session will commence at 8:30 a.m. and terminate at 1:00 p.m. Both sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to the tactical command, control and communications facilities onboard an aircraft carrier. The orientation will include tours and briefs on the Tactical Support Center (TSC), strike operations, Tactical Force Command Center (TFCC), air operations, Combat Information Center (CIC) and communications capabilities. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelly, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, Virginia 22217, Telephone number: (202) 696-4870.

Dated: October 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-28553 Filed 10-19-83; 8:45 am]
BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

College Work-Study Program

AGENCY: Office of Postsecondary Education.

ACTION: Notice closing date for filing the Fiscal-Operations Report (FISOP) for the College Work-Study/Soma and Trust Territories (CWS /STT) Program.

SUMMARY: The Secretary gives notice of the deadline date for submitting a 1982–83 award year FISOP for those institutions of postsecondary education that participated in the College Work-Study/Samoa-Trust Territories program. A FISOP must be filed if an institution participated in the program during that year, regardless of its intent to apply for 1984-85 funds. Under the CWA/STT program, the Secretary reserves an amount of money in accordance with Section 442(f) of the Higher Education Act to make awards to eligible institutions of higher education that are located outside of American Samoa and the Trust Territories of the Pacific Islands. From its award under Section 442(f), an institution may use its funds to provide College Work-Study employment only to students who reside in either American Samoa or the Trust Territories of the Pacific Islands and who attend eligible institutions outside or those dominions. Under the College Work-Study program, the Secretary provides financial aid to needy students to meet their costs of attendance. the CWS program is authorized under Part C of title IV of the Higher Education Act of 1964,

(42 U.S.C. 2751–2756b)

Closing Date for FISOP

An institution must submit its FISOP for the College Work-Study/Samoa and Trust Territories Program by November 21, 1983.

Reports Delivered by Mail: A FISOP sent by mail must be addressed to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grants Branch, 400 Maryland Avenue, S.W., (Room 4621, Regional Office Building 3), Washington, D.C. 20202.

An institution must show proof of mailing its FISOP. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, or (3) any other proof of mailing acceptable to the Secretary of Education.

If a FISOP is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

Reports Delivered by Hond: A FISOP that is hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grants Branch, 7th and D Streets SW., Room 4621, Regional Office Building 3, Washington, D.C. The Campus and State Grants Branch will accept hand-delivered FISOPs between

8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sunday and Federal holidays. This document will not be accepted after 4:30 p.m. November 21, 1983.

FISOP Information: FISOP has been mailed to the institutions by the program office. An institution shall prepare and submit its FISOP in accordance with the instructions included in the package.

Noting in the program information package is intended to impose any paperwork, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: The following regulations are applicable to these programs:

College Work-Study—34 CFR Parts 675 and 668.

The final regulations governing the awarding of funds under this program were published in the Federal Register August 2, 1982 (47 FR 33398).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Coates, Chief, campus and State Grant Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB–3), Washington, D.C. 20202, Telephone (202) 245–2320.

(Catalog of Federal Domestic Assistance No. 84.033, College Work-Study Program)

Dated: October 17, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–28604 Filed 10–19–83; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Board on International Education Programs; Meeting

AGENCY: Department of Education.

ACTION: Rescheduling of meeting.

SUMMARY: This notice sets forth the rescheduling of the forthcoming meeting of the Subcommittee on Critical Needs in International Education as delegated by the National Advisory Board on International Education Programs. This meeting announcement was originally published in the Federal Register on September 15, 1983, page 41482. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend.

DATE: November 9, 1983.

ADDRESS: ROB–3, Office of Postsecondary Education Conference Room, Room 4905.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Whitehead or Marguerite A. Follett, International Education Programs Office, ROB–3, Room 3916, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202) 245–9691.

SUPPLEMENTARY INFORMATION: This is a notice regarding the second meeting of Subcommittee on Critical Needs in International Education. This meeting, originally scheduled for October 25, 1983, has been rescheduled to November 9, 1983. The purpose of this Subcommittee is to assess critical needs in international education and to make recommendations to the full Board which in turn will make recommendations to the Secretary.

Signed at Washington, D.C., on October 17, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–28605 Filed 10–19–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER84–15–000]

Connecticut Light & Power Co.; Filing

October 14, 1983.

Take notice that on October 6, 1983, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated June 20, 1983 between (1) CL&P and Western Massachusetts Electric Company (WMECO and together with CL&P, the NU Companies) and (2) Braintree Electric Department (Braintree).

CL&P states that the Transmission Agreement provides for transmission services to Braintree for the wheeling of Braintree's purchase of an entitlement in pumped storage capacity obtained from Connecticut Municipal Electric Energy Cooperative during the period commencing June 20, 1983 and terminating July 11, 1983.

CL&P further states that the transmission charge rate is a weekly cost-of-service rate equal to one fifty-second of the annual average cost of transmission service on the electric transmission system of the NU Companies and is determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The weekly transmission charge is determined by the product of: (i) The weekly transmission charge rate ($/kW-week), and (ii) the number of kilowatts that Braintree is entitled to receive during each such week. The weekly transmission charge is reduced by up to 50% to give due recognition for related transmission payments made by Braintree to the Boston Edison Company.

CL&P requests an effective date of June 20, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to WMECO and Braintree.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28515 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–20–000]

Connecticut Light & Power Co.; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 7, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and Commonwealth Electric Company (Commonwealth). The Agreement, dated as of May 6, 1983, provides for the NU Companies to sell to Commonwealth power from the systems of the Northeast Utilities Companies (system power) that may be available on a daily or weekly basis (a transaction). CL&P states that the timing of transactions cannot be accurately estimated but the NU Companies would offer to sell such system power to Commonwealth only when it was economical to do so. Commonwealth would only accept such offer if it was economical to do so.

Commonwealth will pay a capacity charge to the NU Companies for each transaction in an amount equal to the megawatts of system capacity reserved for Commonwealth by the NU Companies during each hour of a transaction multiplied by the capacity charge rate which is negotiated prior to each transaction. Commonwealth will pay an energy charge to the NU Companies for each transaction in an amount equal to the megawatt hours delivered by the NU Companies during such transaction multiplied by the energy charge rate. The energy charge rate is based on the heat rate and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide energy at the time of a transaction.

CL&P requests an effective date of September 11, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to WMECO and Commonwealth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28516 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–16–000]

Connecticut Light & Power Co.; Filing

October 14, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertianing to a Northfield Mountain Purchase Agreement between CL&P, Western Massachusetts Electric Company ((WMECO) and together with CL&P, the Licensees) and Braintree Electric Light Department (Braintree) dated as of July 25, 1983.

CL&P states that the Purchase Agreement provides for the sale to Braintree of specified percentages of capacity and related pondage from the Licensees Northfield Mountain Pumped Storage Hydro Electric Project (Project) together with related transmission service during the period July 25, 1983 through October 31, 1983.

CL&P further states that the capacity charge rate for the Project is a rate determined on a cost-of-service basis for the entire Project. The weekly transmission charge is equal to one-fifty second of the average annual cost of transmission service on the transmission system of the Licensees and their affiliated Notheast Utilities companies and is determined in accordance with Schedule B to the Purchase Agreement, multiplied by the number of kilowatts of winter capability which Braintree is entitled to receive pursuant to the Purchase Agreement during such week. The station service charge is equal to the average cost of oil-fired generation on the system of the Licensees and their affiliated Northeast Utilities companies for the prior month, multiplied by Braintree's share of the Project's station service energy requirements.

CL&P indicates that the services to be provided under the Purchase Agreement are the same as services provided by the Licensees relating to a prior sale of capacity from the Project to Baintree Electric Light Department pursuant to a purchase agreement dated as of May 1, 1982. (Rate Schedule FERC Nos. CL&P 272 and WMECO 206).

CL&P requests an effective date of July 25, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28530 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6703–001]

Walter T. Crosby and Thomas J. Baker; Surrender of Preliminary Permit

October 14, 1983.

Take notice that Walter T. Crosby and Thomas J. Baker, Permittee for the proposed Fishtrap Project No. 6703, has requested that its preliminary permit be terminated. The preliminary permit was issued on February 9, 1983, and would have expired on July 30, 1984. The proposed project would have been located at the U.S. Army Corps of Engineers Fishtrap Dam and Reservoir in Pike County, Kentucky.

The Permittee filed its request on September 19, 1983, and the surrender of the permit for Project No. 6703 will be deemed effective 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28530 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–1–23–000]

Eastern Shore Natural Gas Co.; Tariff Filing

October 14, 1983

Take notice that on October 11, 1983, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

To Be Effective November 1, 1983

Twenty-fourth Revised Sheet No. 5
Twenty-fourth Revised Sheet No. 6
Ninth Revised Sheet No. 7
Twenty-fourth Revised Sheet No. 10
Twenty-fourth Revised Sheet No. 11
Twenty-fourth Revised Sheet No. 12

Eastern Shore states that the purpose of the filing is to reflect a Purchase Gas Cost Current Adjustment, to reflect a Demand Charge Adjustment, to reflect a Deferred Gas Cost Adjustment, to report the Projected Incremental Pricing Surcharges, and to reflect a Transportation Surcharge Adjustment. This filing is being made in accordance with section 20, 21 and 23 of Eastern Shore's FERC Gas Tariff and provisions of the Stipulation and Agreement

approved by letter order issued March 27, 1981 in Docket No. RP80–84.

Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28518 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6076–002]

Fairview Orchards Associates; Surrender of Preliminary Permit

October 14, 1983.

Take notice that Fairview Orchards Associates, Permittee for the Rock Creek Project No. 6076 has requested that the preliminary permit be terminated. The preliminary permit for Project No. 6076 was issued on July 11, 1983, and would have expired on December 31, 1984. The project would have been located on Rock Creek in Nevada County, California.

Fairview Orchards Associates filed the request on September 15, 1983, and the surrender of the preliminary permit for Project No. 6076 is deemed accepted as of September 15, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28519 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA83–19–000]

Graham-Michaelis Corp.; Petition for Adjustment Relief for Waiver of Filing Requirement

October 14, 1983.

On September 19, 1983, the Graham-Michaelis Corporation (Graham-Michaelis) 211 North Broadway, P.O. Box 247, Wichita Kansas 67201, the operator of the Weidner No. 1 Well, Haskell County, Kansas filed with the Federal Energy Regulatory Commission (Commission) a petition for adjustment relief under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) 15 U.S.C. 3301–3432 (Supp. V 1981). Graham-Michaelis seeks an adjustment of the 150-day filing deadline set forth in § 271.805(c) to make the effectice date of the seasonally affected well designation for the Weidner No. 1 Well retroactive to October 1, 1981. In the alternative, Graham-Michaelis seeks waiver of said 150-day requirement to allow it to file a new petition for seasonally affected status for the subject well for earlier periods of disqualification and such other relief as the Commission deems proper.

Section 271.805(a) of the Commission's regulations specifies that if a stripper well's production averages more than 60 Mcf per production day during any 90-day production period, then both the purchaser and the operator are required to file a written notice of disqualification with the Commissioner, the appropriate jurisdictional agency, and each other. Section 271.805(c) provides that the right to collect a maximum lawful price under NGPA section 108 terminates on the last day of the 90-day disqualification period unless, within 150 days of the last day of such period, the operator files a petition for determination that such increase in production was the result of the application of an enhanced recovery technique. Section 271.805(d) provides that if this petition is filed later than the 150 day period, then sales from the well are not qualified for the ceiling price under Section 108 from the last day of the disqualifying period until the petition is filed.

The Weidner No. 1 well was designated as a stripper well under section 108 of the NGPA by order of the Kansas Corporation Commission, Docket No. NGPA—79–0939, dated November 30, 1979. For the period of Jyly 1, 1981, thru September 30, 1981, the average per-day production was 64.3 Mcf per day. The average per-day production for the period of August 1, 1981, through October 30, 1981, was 63.8 Mcf per day. Petitioner states that Graham-Michaelis was unaware that the subject well disqualified as a stripper well during the above stated periods of overproduction. However Graham-Michaelis did file a Notice of Disqualification for overproduction pursuant to § 271.805(a) on November 15, 1982 for the period May 1, 1982 through July 31, 1982. Petitioner also filed a petition under § 271.805(c) for a determination that the well was seasonally affected. The Kansas Corporation Commission approved this petition and entered an Order on February 5, 1983, designating the subject well as seasonally affected. However, the Commission's staff discovered that the subject well had become disqualified in the above-mentioned 1981 period, and notified petitioner of this fact, petitioner then filed a Notice of Disqualification concerning this earlier 1981 period.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28520 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6693–001]

James G. Guercio; Surrender of Preliminary Permit

October 14, 1983.

Take notice that James W. Guercio, Permittee, for the proposed Caribou Ranch Hydro Project No. 6693, has requested that its preliminary permit be terminated. The permit was issued on February 15, 1983, and would have expired July 31, 1984. The project would have been located on the North Boulder Creek in Boulder County, Colorado.

The Permittee filed its request on September 20, 1983, and the surrender of the preliminary permit for Project No. 6693 is deemed accepted 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28521 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–1–48–000]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 14, 1983.

Take notice that on October 7, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, twentieth Revised Sheet No. 7, which reflects decreases in Michigan Wisconsin's one-part rate and the commodity component of its two-part rate of 9.65 cents per dekatherm.

Michigan Wisconsin has also filed Ninth Revised Sheet No. 7a which reflects the fact that since there were zero MSAC's reported by Michigan Wisconsin customers, there is no PGA reduction.

Copies of this filing were served upon the Michigan Wisconsin's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28522 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–6–000]

Mountain Fuel Resources, Inc.; Filing

October 14, 1983.

Take notice that on October 7, 1983, Mountain Fuel Resources, Inc. (Resources) submitted a filing for acceptance of Original Sheet No. 31 to its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1983. The tariff change would establish a Gas Research Institute (GRI) charge adjustment provision.

Resources states it will collect from Mountain Fuel Supply Company (Mountain Fuel), through its Rate Schedule No. 1, the GRI charge adjustment on volumes of gas sold for resale to Mountain Fuel. The Public Service Commission of Utah, in its Case No. 82–057–15, ordered that these charges, previously included in Mountain Fuel's general retail rates, would not be allowed after January 1, 1984, except as Mountain Fuel indirectly would pay the GRI charge adjustment in the cost of gas purchased from Resources under Resources' FERC Tariff. Resources proposes to begin collecting the GRI charge adjustment effective January 1, 1984.

Resources states that a copy of the filing has been served on the Public Service Commission of Utah, the Public Service Commission of Wyoming and Mountain Fuel Supply Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28523 Filed 10–19–83 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–522–000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

October 17, 1983.

Take notice that on September 26, 1983, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP83–522–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate tap facilities necessary to provide an additional point of delivery to its affilitate, National Fuel Gas Distribution Corporation (Distribution), in Sandy Township, Clearfield County, Pennsylvania, under the authorization issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that it proposes to deliver up to 43 Mcf of natural gas per day through the proposed tap, pursuant to its Rate Schedule RQ. Applicant indicates that the subject volumes are within its currently authorized level of sales and will have no major impact on its peak day and annual sales. It is indicated that authorization to provide service to Distribution was granted in a certificate issued May 10, 1974, in Docket Nos. CP73–294 and CP74–211. Applicant states that Distribution will bear the entire cost for construction of the proposed facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28524 Filed 10–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–5–000]

Pacific Interstate Offshore Co.; Filing of Initial Rate in FERC Gas Tariff

October 14, 1983

Take notice that on October 7, 1983, Pacific Interstate Offshore Company (PIOC) tendered for filing its initial rate in its FERC Gas Tariff, Volume No. 1, for the Pitas Point Project as certificated in Docket No. CP82–194.

The reason for submittal of the initial rate filing is that gas is expected to commence flowing from the production platform on or after November 9, 1983, and the project facilities will commence operations upon the flow of gas. Under Commission order dated June 21, 1983, PIOC is required to file its FERC Gas Tariff no more than 60 days and no less than 30 days prior to the commencement of gas sales, reflecting an initial rate based upon an up-to-date cost computation consistent with the Stipulation and Agreement approved by the Commission. This tariff is submitted in compliance therewith.

Copies of the filing were served upon the company's sole purchaser under the FERC Gas Tariff, Pacific Lighting Gas Supply Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28525 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3895-002, et al.]

Phillips Petroleum Co. (Successor in Interest to Phillips Oil Company), et al.; Applications for Certificate, Abandonment of Service and Petitions To Amend Certificates [1]

October 14, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-3895-002, E, Sept. 21, 1983	Phillips Petroleum Company (successor in interest to Phillips Oil Company), 336 Home Savings and Loan Building, Bartlesville, Okla. 74004.	Kansas Nebraska Natural Gas Company, Hugoton Field, Texas County, Oklahoma.	(1)	14.73
G-4283-004, E, Sept. 22, 1983	Mitchell Energy Corporation (successor in interest to Crown Central Petroleum Corporation), P.O. Box 4000, The Woodlands, Texas 77380.	Natural Gas Pipeline Company of America, R.S. Dearing Gas Unit #1, R.R. Crawford Gas Unit #1, Farth and Boydston Gas Unit #1, and R.M. Thompson Gas Unit #1, Wise County, Texas.	(2)	14.65
G-17461-001, D, Sept. 30, 1983	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	United Gas Pipe Line Company, N.W. Corpus Channel Field, Nueces and San Patricio Counties, Texas.	(3)	
C161-152-000, D, Sept. 29, 1983	CNG Producing Company, One Canal Place, Suite 3100, New Orleans, Louisiana 70130.	Texas Gas Transmission Corporation, Parish Pass Wilson & Bay Round Fields, Terrebonne Parish, Louisiana.	(4)	
C168-621-001, D, Sept. 23, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, West Cameron Block 179, Offshore Louisiana.	(5)	
C169-919-000, Sept. 23, 1983	Cabot Petroleum Corporation, 921 Main Street, Suite 900, Houston, Texas 77002.	Transcontinental Gas Pipe Line Corporation, Block 238, Ship Shoal Area, Offshore Louisiana.	(6)	15.025
C177-24-002, D, Sept. 20, 1983	Champlin Petroleum Company, P.O. Box 1257, Englewood, Colorado 80150.	Panhandle Pipe Line Company, Weld County, Colorado.	(7)	
C177-210-001, C, Sept. 1, 1983	ARCO Oil and Gas Corporation, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	High Island Block 111 Field, Offshore Texas	(8)	14.65
			(9)	
C183-435-000, A, Sept. 20, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, High Island Area Block A-418 "A", Offshore, Texas.	(10)	14.73
C183-436-000 (C166-436), B, Sept. 27, 1983.	Union Oil Company of California, Union Oil Center, Box 7600, Los Angeles, California 90051.	Michigan Wisconsin Pipe Line Company, Buck Point Field, Vermilion Parish, Louisiana.	(11)	
C183-437-000 (C171-872), B, Sept. 21, 1983.	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, Lovedale Field, Woodward County, Oklahoma.	(12)	
C183-438-000, B, Sept. 21, 1983	Phillips Oil Company (successor in interest to General American Oil Company of Texas), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Aminoil USA, Inc. (Successor in interest to Fox Gasoline Company), NE/4 NE/4 Section 24-2S-4W, Stephens County, Oklahoma.	(13)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
C183-439-000, B, Sept. 21, 1983	....do	Aminoil USA, Inc. (Successor in interest to Fox Gasoline Company), NE, NE, NW, Section 24-2S-4W and SE, NE, SW, E/2 SE, SW, and S/2 SW, SE, Section 13-2S-4W, Stephens County, Oklahoma.	(13)	
C183-440-000 (C170-234), B, Sept. 22, 1983.	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	Breckenridge Gasoline Company, Miller County, Arkansas and Caddo Parish, Louisiana.	(14)	
C183-441-000, B, Sept. 26, 1983	Phillips Oil Company (successor in interest to General American Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Cabot Carbon Company, Section 24, Block B-5, Public School, Lands, Winkler County, Texas.	(15)	
C183-442-000, A, Sept. 26, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Florida Gas Transmission Company, Sabine Pass Block 11, Offshore Louisiana.	(16)	15.025
C183-443-000, A, Sept. 26, 1983	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	Transcontinental Gas Pipe Line Corporation, Brazos Area Block A-39, Offshore Texas.	(17)	14.73
C183-444-000, E, Sept. 26, 1983	Phillips Petroleum Company (successor in interest to Phillips Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Arkansas Louisiana Gas Company, North Ruston Field, Lincoln Parish, Louisiana.	(18)	15.025
C183-445-000 (C161-1535), B, Sept. 26, 1983.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Northwest Central Pipeline Corp., S.E. Eureka Field, Grant and Alfalfa Counties, Oklahoma.	(19)	
C183-446-000, B, Sept. 27, 1983	Northern Pump Company, 1915 57th Avenue North, Minneapolis, Minnesota 55430.	Tennessee Gas Pipeline Company, South Riverside Field, Nueces County, Texas.	(20)	
C183-448-000, A, Sept. 28, 1983	McMoRan Offshore Exploration Co., P.O. Box 6800, Metairie, Louisiana 70009.	Texas Eastern Transmission Corporation, Vermilion Block 146 "A" Platform, Offshore Louisiana.	(21)	15.025
C183-449-000, D, Sept. 29, 1983	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	Getty Oil Company, NE Section 65, Block 4, I&GN RV, Company Survey, Carson County, Texas.	(22)	
C183-450-000, B, Sept. 29, 1983	....do	Atlantic Richfield Company, Section 72 & 73, Block H, GH and SA, Railroad Survey, Schleicher County, Texas.	(23)	
C183-451-000, A, Sept. 30, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, South Marsh Island Block 160 "A", Offshore Louisiana.	(24)	14.73
C184-1-000 (C181-154-000), B, Oct. 3, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Arkansas Louisiana Gas Company, Calhoun Field, Ouachita Parish, Louisiana.	(25)	
C184-2-000 (C181-254-000), B, Oct. 3, 1983.	....do	Texas Eastern Transmission, East Melrose Field, Goliad County, Texas.	(26)	

[1] Effective August 1, 1983, Phillips Oil Company assigned to Applicant its interest in the Banks Unit, Hugoton Field, Texas County, Oklahoma.
[2] On July 1, 1983, Mitchell succeeded to the Small Producer interest of Crown Central in the R.S. Dearing Gas Unit #1, R.R. Crawford Gas Unit #1, Farth and Boydston Gas Unit #1, and The R.R. Thompson Gas Unit #1 wells located in Wise County, Texas.
[3] Sun released rights to the lease because all economically recoverable reserves had been depleted.
[4] Depletion of reserves prior to a rollover gas purchase contract.
[5] Economic depletion of reserves.
[6] Applicant is filing under Gas Purchase Contract dated March 17, 1969, amended by Amendment dated February 7, 1983.
[7] Pannandle has released from the gas sales contract gas production from the #1 Ranchero 31-33 and #2 Ranchero 41-33 wells, Spindle Field, Weld County, Colorado.
[8] Applicant is filing to add additional acreage.
[9] Not Used.
[10] Applicant is filing under Gas Purchase and Sales Agreement dated August 11, 1983.
[11] The leases were released to the lessors due to noneconomic production.
[12] Due to depletion of gas reserves, the unit well was plugged and abandoned and the leases were released to the landowner.
[13] Termination of contract. Last gas sales December, 1975.
[14] Uneconomical.
[15] No gas taken by purchaser since 1956 and contract has expired.
[16] Applicant is filing under Gas Purchase Contract dated September 15, 1983.
[17] Applicant is filing under Gas Sales and Purchase Agreement dated September 9, 1983.
[18] Effective August 1, 1983, Phillips Oil Company assigned to Phillips Petroleum Company its interest in the Mathewes D Sand Unit located in Lincoln Parish, Louisiana.
[19] Conoco has no leasehold interest committed to Rate Schedule No. 188.
[20] The last well on the only lease still in effect is not capable of producing any more gas and the reservoirs of gas under our leases in the South Riverside Field have been completely depleted.
[21] Applicant is filing under Gas Purchase Contract dated August 2, 1983.
[22] The oil and gas lease was released.
[23] All wells on the lease have been plugged and abandoned and the lease is no longer active.
[24] Applicant is filing under Gas Purchase and Sales Agreement dated September 12, 1983.
[25] Property dedicated to this contract was sold effective January 1, 1983.
[26] Property dedicated by this contract has been released by Getty.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-28526 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-11-000 and RP83-30-000]

Transcontinental Gas Pipe Line Corp.; Amendment to Settlement Agreement as to Rates of Transcontinental Gas Pipe Line Corp.

October 13, 1983.

On October 7, 1983, in the above-docketed proceeding, Transcontinental Gas Pipe Line Corporation (Transco) filed an Amendment to Settlement Agreement as to Rates of Transcontinental Gas Pipe Line Corporation. In this filing, Transco seeks waiver of the Commission's regulations to permit it to amortize its deferred purchase gas amount over a 12 month period instead of the 6 month period specified in 18 CFR 154.38. Transco will also amend its settlement approved on April 28, 1983, to adjust several eligibility quantities relevant to participation in Transco's Industrial Sales Program (ISP). Transco also proposes to amend its settlement so as to provide a preference to gas released from its producer-suppliers when scheduling transportation under its Contract Carriage Program (CCP). Certificate authority for the extension of the ISP and CCP programs is the subject of separate applications filed on October 11, 1983. Transco also seeks authority to file, on behalf of its producer-suppliers, amendments to their rate schedules to reflect price reductions.

Anyone desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, protests or comments should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28527 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT84-1-000]

United Gas Pipe Line Co.; Filing of Tariff Sheets

October 14, 1983.

Take notice that on October 5, 1983, United Gas Pipe Line Company (United) tendered for filing with the Federal Energy Regulatory Commission (Commission) Third Revised Sheet No. 1-B, and First Revised Sheet No. 1-D to its FERC Gas Tariff, Original Volume No. 1, being an update to the Table of Contents. It is proposed that these tariff sheets become effective on November 10, 1983.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28528 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT84-2-000]

United Gas Pipe Line Co.; Filing of Tariff Sheets

October 14, 1983.

Take notice that on October 5, 1983, United Gas Pipe Line Company (United) tendered for filing with the Federal Energy Regulatory Commission (Commission) Tenth Revised Sheet No. 1-A, and Second Revised Sheet No. 1-C to its FERC Gas Tariff, Original Volume No. 2, being an update to the Table of Contents. It is proposed that these tariff sheets become effective on November 10, 1983.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28529 Filed 10-19-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59135B TSH-FRL 2454-5]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-80, and TM-83-81, two applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-205, 401 M St. SW., Washington DC. 20460 (202-382-3736).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-80

Date of Receipt: August 29, 1983.
Notice of Receipt: September 9. 1983 (48 FR 40781).
Applicant: Confidential.
Chemical: (Generic) Polyether acid phosphate.
Use: (Generic) Additive for cutting fluids.
Production Volume: 7500 kg.
Number of Customers: 1.
Exposure Information: Confidential.
Test Marketing Period: 1 year.
Commencing on: October 7, 1983.
Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure to the test market substance is expected to be low. Due to expected low releases, the test market substance should not pose an unreasonable environmental risk.
Public Comments: None.

TME 83-81

Date of Receipt: August 29, 1983.
Notice of Receipt: September 9, 1983 (48 FR 40781).
Applicant: Confidential.
Chemical: Amine salt of a substituted organic acid (generic).
Use: Corrosion inhibitor (generic).
Production Volume: 4000 kg.
Number of Customers: 1.
Worker Exposure: Confidential.
Test Marketing Period: 1 year.
Commencing on: October 7, 1983.
Risk Assessment: Based on test data, the test market substance is a moderate eye and skin irritant. However, workers are expected to wear appropriate protective equipment, including rubber gloves, apron and safety glasses. Releases to the environment are expected to be insignificant. No other significant health or environmental effect concerns were identified.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: October 7, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-28567 Filed 10-19-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-210014; OPP-FRAL-2456-4]

Rodenticide Bait Stations; Hearings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearings.

SUMMARY: In PR Notice 83-5, EPA announced its intention to hold hearings regarding the use of bait stations, as required by rodenticide labeling, when baits are placed in locations accessible to children, pets, domestic animals, or wildlife. This notice announces the schedule for the hearings. Through these hearings EPA hopes to provide interim guidance to rodenticide users and to determine whether there is need for future action.

DATE: The hearings will be held in two sessions, the first session will be held on Friday, November 4, 1983, in Arlington VA, at 9:30 a.m. and will adjourn by 3:00 p.m.; the second session will be held on Monday, March 5, 1984, in Sacramento, CA, at 9:30 a.m. and will adjourn by 4:00 p.m. Persons intending to participate in the meetings must notify the Agency's contact person by October 25, 1983, for the first session or by Janurary 31, 1984, for the second session.

ADDRESSES: The hearings are scheduled as follows:

1. Rm. 1112, Crystal Mall CM #2, 1921 Jefferson Davis Highway, Arlington, VA
2. California Department of Food and Agriculture, North Building, 1220 N St., Sacramento, CA.

FOR FURTHER INFORMATION CONTACT: By mail:

William W. Jacobs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington D.C. 20460.

Office location and telephone number: Rm. 225, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2783).

SUPPLEMENTARY INFORMATION: On July 21, 1983, EPA issued PR Notice 83-5 which dealt with a variety of issues relating to the use of rodenticides in bait stations. The notice, which was amended August 16, 1983, outlined the history of required label language regarding bait stations, the Agency's criteria for "tamper-proof bait stations," EPA's concerns for protecting baits used in sensitive areas, and EPA's intent to hold public hearings to gather information pertinent to the use of bait stations. These hearings are being held under the authority of section 21(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136s(b)).

PR Notice 83-5, p. 4, also identified certain bait stations which EPA had examined and for which the Agency had reviewed performance data. These stations were judged to be the units examined which

> • • • would appear to provide adequate protection when used properly and in a manner consistent with rodenticide labeling.

PR Notice 83-5 also described in general terms the types of bait stations which the Agency believes provide inadequate protection for use in sensitive areas.

Since the mid 1960's, marketers of federally registered commensal redenticides have been required to include in their use directions a statement such as:

> Treated baits should be placed in locations not accessible to children, pets, wildlife and domestic animals, or in tamper-proof bait boxes.

In response to requests for clarification of the term, EPA developed a set of "Proposed Criteria" for tamper-proof bait boxes. These criteria, listed in PR Notice 83-5, indentified the performance features felt by EPA to be essential to a truly "tamper-proof" bait station.

Recently, concerns have been expressed to the Agency that these criteria are to restrictive and that none of the stations now on the market satisfies these criteria fully. At the same time, the Agency has become aware that a number of stations that are available do not provide an adequate degree of protection for use in areas accessible to children, pets, domestic animals, or wildlife. EPA issued PR Notice 83-5 to offer an immediate clarification of its position regarding the use of bait stations.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) does not give EPA direct regulatory authority over bait stations, unless they are sold with a pesticide product in them. EPA's authority concerning the use of bait stations is, therefore, limited to establishing whether baits are used according to label instructions. Accordingly, EPA has determined that use of inadequate bait protection in sensitive areas (i.e., places accessible to children, pets, domestic animals, and wildlife) constitutes misuse of a pesticide.

At the same time, EPA cannot develop standards for market entry for bait stations. The degree of bait protection needed in particular use situations must be determined by the applicator.

While PR Notice 83-5 was issued to give interim guidance to rodenticide users, EPA recognized that more detailed guidance is needed in the future. Therefore, the Agency has scheduled public meetings to obtain additional information on bait station use and to determine needs for future action by EPA or other parties. EPA is seeking information in the following areas:

1. Practices and problems with the use of bait stations.

2. Attitudes regarding EPA's "Proposed Criteria" for tamper-proof bait boxes, including any suggested changes in the criteria, terminology, and/or rodenticide label language pertaining to bait stations.

3. Ideas for developing standards and test protocols through existing standards-setting institutions.

4. Accidents, illnesses, deaths, or nontarget exposures resulting from the use of commensal rodenticides.

Persons interseted in participating in Session I must notify the Agency no later than October 25, 1983. Those wishing to participate in Session II must inform EPA by January 31, 1984. Interested parties should contact Dr. William Jacobs at the address or telephone number listed above. Telephone contacts regarding participation must be confirmed in writing.

Participants will testify before a hearing panel convened to help the Agency in its determination. Comments will be limited to ten minutes per individual, with five additional minutes allowed for questioning by the panel. EPA must receive paraticipants' written comments by November 2, 1983, for Session I or by February 20, 1984, for Session II.

The Agency will issue a report of its findings within 180 days after the conclusion of Session II. This report will include the panel's conclusions and recommendations for future actions regarding bait stations. All comments and other relevant information obtained by the Agency will be weighed by the

panel before its final conclusions are drawn.

Dated: October 17, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-28716 Filed 10-19-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-282]

Final Action, Approval of Conversion Application; First Federal of Michigan

October 5, 1983.

Notice is hereby given that on September 22, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal of Michigan, Detroit, Michigan, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, 115 West Washington Street, Indianapolis, Indiana, 46206.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-28536 Filed 10-19-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-284]

Final Action, Approval of Conversion Application; Hawkeye Savings & Loan Association

October 5, 1983.

Notice is hereby given that on September 6, 1983, the Office of General Counsel of the Fedreal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Hawkeye Savings and Loan Association, Boone, Iowa, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-28538 Filed 10-19-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC 285]

Final Action, Approval of Conversion Applications; Platte Valley Federal Savings & Loan Association

October 5, 1983.

Notice is hereby given that on September 7, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Platte Valley Federal Savings and Loan Association, Gering, Nebraska, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, Post Office Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-28539 Filed 10-19-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC—283]

Final Action, Approval of Conversion Application; Valley Federal Savings & Loan Association of Grand Junction

October 5, 1983.

Notice is hereby given that on September 1, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Valley Federal Savings and Loan Association of Grand Junction, Grand Junction, Colorado, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-28537 Filed 10-19-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; First Virginia Banks, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to acquire 100 percent of the voting shares or assets of First Virginia Bank of the Peninsula, Grafton, Virginia. Comments on this application must be received not later than November 14, 1983.

Board of Governors of the Federal Reserve System, October 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28556 Filed 10-19-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed de Novo Nonbank Activities; Corestates Financial Corp., et al

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo*, (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Fedeal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Corestates Financial Corp*, Philadelphia, Pennsylvania (mortgage financing activities; California): To engage through its indirect subsidiary, Colonial Mortgage Service Company Associates, Inc., in the origination of FHA, VA and conventional residential mortgage loans and second mortgage loans at a proposed new office of Colonial Mortgage Service Company Associates, Inc. located in Riverside, California serving the State of California. Comments on this application must be received not later than November 14, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad Banking Company of Georgia*, Augusta, Georgia (financing activities; Georgia): To engage, through its subsidiary, CMC Group Inc. and CMC's subsidiary Capitol Premium Plan, Inc., Charlotte, North Carolina, in the making or acquiring for its own account or for the account of others, loans and extensions of credit consisting of the financing of fire and casualty premiums primarily on automobile liability and collision insurance issued by insurance companies and written by insurance agencies. These activities would be conducted from an office located in Charlotte, North Carolina, serving the State of New Jersey. Comments on this application must be received not late than November 14, 1983.

Board of Governors of the Federal Reserve System, October 14,1983

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28557 Filed 10-19-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Angola Bancorporation, Inc., et al.

The companies in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Angola Bancorporation, Inc.*, Angola, Indiana; to become a bank holding company by acquiring 80.25 percent of the voting shares of First National Bank of Angola, Angola, Indiana. Comments on this application must be received not later than November 14, 1983.

2. *Fox Lake Bankshares, Inc.*, Fox Lake, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of State Bank of Fox Lake, Fox Lake, Wisconsin. Comments on this application must be received not later that November 14, 1983.

B. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Twin City Bancshares, Inc.*, North Little Rock, Arkansas; to become a bank holding company by acquiring at least 92.54 percent of the voting shares of Twin City Bank, North Little Rock, Arkansas. Comments on this application must be received not later than November 14, 1983.

C. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Citizens State Bank* and *Citizens Holding Corporation Employee Stock Ownership Plan*, Keenesburg, Colorado to become a bank holding company by increasing its ownership from 24.9 to 41.46 percent of the voting shares of Citizens Holding Corporation, Keenesbury, Colorado and indirectly to acquire control of its subsidiary the Citizens State Bank, Keenesbury, Colorado. Comments on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28555 Filed 10-19-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Development of Direct-Reading Monitoring Methods; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: October 24, 1983.

Time: 9:00 to 11:30 a.m.

Place: Conference Room B, NIOSH, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To peer review a project entitled, "Development of Direct-Reading Monitoring Methods." These methods will be used to monitor environmental contaminants in the workplace.

Additional information may be obtained from: Mary Lynn Woebkenberg, Division of Physical Sciences and Engineering, National Institute for Occupational Safety and Health Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684-4266; Commercial: 513/684-4266.

VOL
48
ISS
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Dated: October 13, 1983.

Donald R. Hopkins,

Acting Director, Centers For Disease Control.

[FR Doc. 83-28609 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the meeting of the Subcommittees of the Arthritis Advisory Committee scheduled for October 24 and 25, 1983. The meeting was announced by notice in the **Federal Register** of September 16, 1983 (48 FR 41649).

FOR FURTHER INFORMATION CONTACT: Dotti Moore, National Center for Drugs and Biologics (HFN-150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5197.

Dated: October 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-28532 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83C-0321]

Dow Corning Ophthalmics, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Dow Corning Ophthalmics, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione in coloring contact lenses.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399-402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition (CAP 3C0177) has been filed by Dow Corning Ophthalmics, Inc., P.O. Box 1767, Midland, MI 48640, proposing that the color additive regulations be amended to provide for the safe use of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione in coloring contact lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 11, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-28534 Filed 10-19-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Alaska Land Use Council; Meeting

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96-487, dated December 2, 1980, Section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Friday, December 9, 1983, at 1689 C Street, Room 107, in the South Kaloa Building, Anchorage, Alaska. The agenda will include status reports on the Bristol Bay Cooperative Management Plan, the Kantishna Hills/Dunkle Mine Study, Title XI Regulations (transportation and utility systems), and a review of Cooperative Planning zones for Alaska.

For further information contact: Alaska Land Use Council, P.O. Box 100120, Anchorage, Alaska 99510, (907) 272-4322, (907) 271-5485 (FTS).

October 14, 1983.

William P. Horn,

Deputy Under Secretary.

[FR Doc. 83-28614 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-10-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Detroit Zoological Park, Royal Oak, MI—PRT 2-11149

The applicant requests a permit to import one captive-born female Brazilian tapir *(Topirus terrestris)* from Metropolitan Toronto Zoo, Canada, for enhancement of propagation.

Applicant: Steven C. Christenson, Denton TX—PRT 2-11194

The applicant requests a permit to import one bontebok *(Damaliscus dorcas dorcas)* trophy taken from the ranch of Victor Pringle, Bedford, Cape, S. Africa, for enhancement of survival of the species.

Applicant: San Antonio Zoological Gardens, San Antonio, TX—PRT 2-11183

The applicant requests a permit to import a pair of captive-born cheetahs *(Acinonyx jubatus)* from the Cheetah Research and Breeding Center, De Wildt, Pretoria, S. Africa, for enhancement of propagation.

Applicant: Sedgwick County Zoological Society, Wichita, KS—PRT 2-11094

The applicant requests a permit to export 12 captive-born Siamese crocodiles *(Corcodylus siamensis)* to the Herpetological Station, Olsova, Czechoslovakia, for enhancement of propagation.

Document and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these application within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: October 17, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-28627 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Fairbanks District Advisory Council; Meeting

The Advisory Council for the Fairbanks District of the Bureau of Land Management will have a general meeting on November 22, 1983. The location of the meeting will be the second floor training room at the BLM offices at Fort Wainwright, Gaffney and Marks Road. The meeting will convene at 8:30 a.m. and conclude at 5:00 p.m. Public comments will be received by the council from 1:00 p.m. to 3:00 p.m.

Topics to be included in the meeting are:

1. Briefing on the planning progress for the Steese National Conservation Area and the White Mountain National Recreation Area.
2. Briefing on the reogranization of the Fortymile Resource Area.
3. Discussion of the Fairbanks District mineral management policy.
4. Discussion of reindeer permits for BLM administered land.
5. Exchanges.

All meetings and activities of the Council are open to the public.

Carl D. Johnson,

District Manager.

[FR Doc. 83-28592 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Known Geologic Structure Data Base; Postponement of Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Postponement of public meeting.

SUMMARY: The Eastern States Office of the Bureau of Land Management hereby gives notice that the Public Meeting on the Known Geologic Structure Data Base published in the October 7, 1983, **Federal Register** is (48 FR 45851) postponed indefinitely.

FOR FURTHER INFORMATION CONTACT: Bob Hall, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 235-2846; or Wink Hastings, Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 220, Milwaukee, Wisconsin 53203, (414) 291-4421.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 83-28400 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-GJ-M

Designation of Bluewater Canyon Natural Area as an Area of Critical Environmental Concern; New Mexico

AGENCY: New Mexico, Bureau of Land Management, Interior.

ACTION: Pursuant to the authority of the Federal Land Policy and Management Act of 1976 (43 USC 1701, 1711 and 1712), I hereby designate the following public lands as the Bluewater Canyon Area of Critical Environmental Concern (ACEC): T. 12 N., R. 11 W., Section 6 N½ SW¼, NW¼SE¼, N½SW¼SE¼ (within).

SUMMARY: The ACEC lies within the area described aggregating 89 acres in Cibola County, New Mexico.

The subject lands have been determined to meet the criteria for being described as an ACEC. The subject lands contain resource values, identified in the Bureau's land use planning process, as requiring special management attention. These lands contain representative natural system, scenic values, wildlife resources and cultural values. These lands include the only perennial stream on public lands in the area. This perennial stream represents a unique opportunity to preserve an important riparian ecosystem in a remote, unspoiled setting. The management actions prescribed in the interim ACEC plan element will protect the quality resource of the canyon from adverse change and prevent irreparable damage. These actions include restrictions on mineral development, closure to grazing, off-road vehicle use and surface disturbance. This ACEC was addressed in the West Socorro Grazing Environmental Impact Statement and the Divide Management Framework Plan which was approved on February 1, 1983.

Management actions called for upon designation are outlined in an interim ACEC plan element and environmental assessment. The document is available for inspection at the Rio Puerco Resource Area Office, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Area Manager, Rio Puerco Resource Area, 3550 Pan American Freeway, N.E., Albuquerque, New Mexico 87107, Telephone (505) 766-3114.

Charles W. Luscher,

State Director.

[FR Doc. 83-28543 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[M-58031 (SD); M-58032 (SD); M-58033 (SD); M-58034 (SD); M-58035 (SD)]

Realty Action; Competitive Sales of Five Parcels of Public Land in Lyman County, South Dakota

AGENCY: Bureau of Land Management, Miles City District, South Dakota Resource Area Office, Department of the Interior.

ACTION: Notice of realty action M-58031 (SD); M-58032 (SD); M-58033 (SD); M-58034 (SD); and M-58035 (SD) competitive sales of public land in Lyman County, South Dakota.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976) at no less than fair market value:

5th Principal Meridian

M-58031 (SD)

T. 103 N., R. 75 W.,
Section 22, lot 4, containing 28.70 acres.

M-58032 (SD)

T. 103 N., R. 73 W.,
Section 5: S½NE¼, containing 80.00 acres.

M-58033 (SD)

T. 103 N., R. 73 W.,
Section 5: NE¼NE¼.
T. 104 N., R. 73 W.,
Section 32: SE¼SE¼, containing 80.00 acres.

M-58034 (SD)

T. 103 N., R. 78 W.,
Section 29, Lot 1, containing 2.60 acres.

M-58035 (SD)

T. 103 N., R. 74 W.,
Section 2, Lot 1, containing 1.05 acres.

The land will be offered for sale by sealed bid only, utilizing competitive bidding procedures on December 31, 1983, at 1:30 pm M.S.T., at Montana State Office, Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107. A separate bid must be submitted for each parcel. The parcels are described as follows:

M-58031 (SD) This land parcel is located approximately 13 miles southeast of Kennebec, South Dakota in Lyman County. These lands are along the Big White River with some being rolling grasslands (White River Breaks) with shale slide banks near the river.

M-58032 (SD) This parcel is located approximately 8 miles south of Reliance, South Dakota in Lyman County. The parcel is rolling grasslands with some brush draws (White River Breaks) about one-half mile west of Big White River.

M-58033 (SD) This parcel is located approximately 8 miles south of Reliance, South Dakota in Lyman County. The parcel is rolling grassland with brushy draws (White River Breaks) about one-half mile west of the Big White River.

M-58034 (SD) This parcel is located approximately 16 miles southwest of Presho, South Dakota in Lyman County. The parcel is along the Big White River with cottonwoods, ash trees, and shrub undergrowth.

M-58035 (SD) This parcel is located approximately 8 miles southwest of Reliance, South Dakota in Lyman County. The parcel is along the Big White River and consists mainly of shale slide bank.

All of the above parcels have section line access and are being offered for sale because each is isolated from other blocks of public land and they are difficult and uneconomical to manage.

VOL 48 ISS 204 OCT 20 1983 UMI

The proposed sale is consistent with the Bureau's planning system and Lyman County government officials have been notified of the sale. The transfer of the tract into private ownership will benefit the public interest and provide for better land management.

Terms and conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States, together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

4. Access to the parcel must be in compliance with County and State regulations.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including environmental assessment, and the record of public discussions is available for review at the Mile City District Office, Miles City, Montana, or the South Dakota Resource Area Office, Belle Fourche, South Dakota.

SUPPLEMENTARY INFORMATION: *Bidder Qualifications:* The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state of the U.S. A state, state instrumentality or political subdivision submitting a bid must be authorized to hold porperty. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of South Dakota. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value which will not be disclosed, and bids must be individually submitted for each parcel in this notice.

Method of Bidding: The land will be sold by sealed bid only. Each bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the U.S. Department of Interior, Bureau of Land Management, for not less than one-fifth (20%) of the amount bid.

Sealed bids will be received at the Montana State Office, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107, until 1 pm, M.S.T., December 21, 1983. Sealed bids will be opened in the Montana State Office, 222 North 32nd Street, Billings, Montana.

The sealed bid envelope must be marked in the lower left-hand corner, as follows:

Public Land Sales: M–58031(SD); or M–58032(SD); or M–58033(SD); or M–58034(SD); or M–58035(SD). (Whichever applies to bid). Date: December 21, 1983.

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Sale Continuation: In the event any of these parcels are not sold at the initial sale offering, the unsold parcels will then be available for sale over the counter on a first come, first served basis, at the Montana State Office, Bureau of Land Management, 222 North 32nd Street, Billings, Montana.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited. All bids will be either returned, accepted or rejected within 60 days of the sale date.

Dated: October 14, 1983.

Ray Brubaker,

District Manager for the State Director.

[FR Doc. 83–28542 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–84–M

Utah; Circle Cliffs Combined Hydrocarbon Lease Conversion EIS and Scoping

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement and conduct scoping.

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM), will prepare an environmental impact statement (EIS) covering the proposed conversion of existing oil and gas leases within the Circle Cliffs Special Tar Sand Area (Garfield County, Utah) to hydrocarbon leases, under the Combined Hydrocarbon Leasing Act of 1981.

The BLM Division of EIS Services, Denver, Colorado, will assist the Cedar City District Office in preparing the Circle Cliffs Lease Conversion EIS. The statement will analyze the impacts of the lease conversions and proposed in-situ development. The Circle Cliffs Lease Conversion EIS will be tiered to the Tar Sand Leasing Regional EIS, which analyzes the broader issues related to a combined hydrocarbon leasing program for eleven Special Tar Sand Areas in Utah including the Circle Cliffs area.

A public scoping meeting to assist in determining the scope of the Circle Cliffs Lease Conversion EIS will be held in Salt Lake City, Utah, on November 9, 1983. The meeting will be held in the 13th floor conference room of the BLM, Utah State Office, University Club Building, 136 East South Temple, from 7 p.m. to 9 p.m. Interested parties may also submit comments to the BLM Escalante Resource Area in Escalante, Utah or the BLM Cedar City District Office in Cedar City, Utah.

The purpose of scoping is threefold: (1) To inform the public of the nature of the combined hydrocarbon leasing program and the lease conversions proposed for the Circle Cliffs Special Tar Sand Area; (2) to gather resource information from the public; and (3) to consider concerns, problems, and/or issues important to the public, including possible alternatives, for possible inclusion in the Circle Cliffs Lease Conversion EIS.

A summary of the proposed Circle Cliffs Special Tar Sand Area lease conversions and the resulting tar sand project to be addressed in the Lease Conversion EIS can be obtained from Morgan Jensen, District Manager, Bureau of Land Management, Cedar City District Office, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720; telephone: (801) 586–2401. For persons who may not be able to attend the public meeting or contact the Area Manager, Escalante Resource Area, letters of comment regarding the EIS scoping may be sent to the Cedar City District Office at the address given above.

Dated: October 14, 1983.

Morgan S. Jensen,

District Manager.

[FR Doc. 83–28541 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–84–M

[I–19967]

Realty Action; Modified Competitive Sale of Public Lands in Gem County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described land has been examined, and through land use planning, which included public imput, it has been determined that the sale of the tract is consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will be offered for sale at public auction for no less than appraised fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted.

Boise Meridian, Idaho

T. 6 N., R. 1 E.,
Sec. 18, SW¼NE¼.
Containing 40 acres.

The patent when issued, will contain the following reservations to the United States and convenant:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. Oil and gas, with the right to explore and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

3. Subject to all existing rights and reservations of record.

4. Pursuant to authority contained in Section (4) of Executive Order 11990 of May 24, 1977, and Section 203 of the Federal Land Policy and Management Act of 1976, this patent is subject to a restriction which constitutes an covenant running with the land, that the portion of the land lying within SW¼NE¼, sec. 18, T. 6 N., R. 1 E., Boise Meridian, Idaho, containing a developed spring must be managed to protect and maintain the wetland-riparian habitat and the spring development on a continuing basis.

In addition, the patent is subject to the following conditions:

The successful bidder agrees that he/she takes the real estate subject to the existing grazing use of Little Cattle Company, holder of grazing record #1296. The rights of Little Cattle Company to graze domestic livestock on the real estate according to the conditions and terms of grazing record #1296 shall cease on February 28, 1986. The successful bidder is entitled to receive annual grazing fees from Little Cattle Company in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

Except for oil and gas, the Federally owned mineral interests will be offered for conveyance in the sale. It has been determined that the mineral interests being offered for conveyance have no know mineral value. It is agreed that a bid will constitute an application for conveyance of those mineral interests being offered. The declared high bidder will be required to deposit a $50 nonreturnable filing fee (43 CFR 2720.1–2(c)) and one-fifth of the full bid price (43 CFR 2711.3–1(d)), immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market, or reoffer them for sale at a later date.

DATES: The public auction will be held on December 27, 1983, at 10:00 a.m. If no acceptable bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the 4th Tuesday of January at the same hour and place and continued the 4th Tuesday of each succeeding month until the lands are sold as specified in this notice or the sale is otherwise terminated.

ADDRESSES: The public auction will be held at the Boise District Office 3948 Development Avenue, Boise, Idaho 83705. Additional information concerning these lands, terms, and conditions of the sale and bidding instructions may be obtained for Mike Berch, Realty Specialist, at the above address or by calling (208) 334–1582.

SUPPLEMENTARY INFORMATION: The land will be sold at public auction by modified competitive bidding. Warren J. Davis, Valparaiso, Indiana 46383, the adjoining landowner, will be the designated bidder to have a preference right to purchase the parcel at the highest bid price. The preference right is offered because Mr. Davis' deeded property adjoins the parcel on four sides and there is no legal access. For a period of forty-five (45) days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

Dated: October 14, 1983.

Martin J. Zimmer,

District Manager.

[FR Doc. 83–28569 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–84–M

[I–19969]

Realty Action; Modified Competitive Sale of Public Lands in Gem County, Idaho

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following described land has been examined, and through land use planning, which included public input, it has been determined that the sale of the tract is consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will be offered for sale at public auction for no less than appraised fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted.

Boise Meridian, Idaho

T. 6 N., R. 1 E.,
Sec. 21, SE¼SW¼, S½SE¼;
Sec. 22, SW¼SW¼;
Sec. 27, W½NW¼;
Sec. 28, N½NE¼.
Containing 320 acres.

The patent when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals, including oil and gas, with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

3. Reservation of right-of-way for Power Project 1971 withdrawn by Federal Power Commission order dated September 5, 1958, under authority of Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended, (16 U.S.C. 818).

4. Subject to all existing rights and reservations of record.

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In addition, the patent is subject to the following condition:

The successful bidder agrees that he/she takes the real estate subject to the existing grazing use of Highland Livestock and Land Co. and Spring Valley Livestock Co., holders of grazing record numbers 1129 and 1455, respectively. The rights of Highland Livestock and Land Co. and Spring Valley Livestock Co. to graze domestic livestock on the real estate according to the conditions and terms of grazing record numbers 1129 and 1455, shall cease on February 28, 1989, and February 28, 1986, respectively. The successful bidder is entitled to receive annual grazing fees from Highland Livestock and Land Co. and Spring Valley Livestock Co. in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the Federal Register.

DATES: The public auction will be held on December 27, 1983, at 10:00 a.m. If no acceptable bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the 4th Tuesday of January at the same hour and place and continued the 4th Tuesday of each succeeding month until the lands are sold as specified in this notice or the sale is otherwise terminated.

ADDRESSES: The public auction will be held at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Additional information concerning these lands, terms, and conditions of the sale and bidding instructions may be obtained from Mike Berch, Realty Specialist, at the above address or by calling (208) 334–1582.

SUPPLEMENTARY INFORMATION: The land will be sold at public auction by modified competitive bidding. Jessie Little Naylor, Emmett, Idaho 83617, and Colin McLeod, Jr., Caldwell, Idaho 83605, the adjoining landowners, will be the designated bidders to have a preference right to purchase the parcel at the highest bid price. The preference right is offered because Mrs. Naylor and Mr. McLeod, Jr., are the historical grazing users, their deeded property adjoins the parcel on three sides and there is no legal access. For a period of forty-five (45) days from the date of this notice, interested parties may subnit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

Dated: October 14, 1983.

Martin J. Zimmer,

District Manager.

[FR Doc. 83–28600 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–84–M

[I–19970]

Realty Action; Modified Competitive Sale of Public Lands in Gem County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described land has been examined, and through land use planning, which included public input, it has been determined that the sale of that tract is consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will be offered for sale at public auction for no less than appraised fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted.

Boise Meridian, Idaho

T. 6 N., R. 1 E.,
Sec. 32, NW¼NE¼, N½NW¼.
Containing 120 acres.

The patent when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C 945.

2. Oil and gas, with the right to explore and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

3. Subject to all existing rights and reservations of record.

In addition, the patent is subject to the following conditions:

The successful bidder agrees that he/she takes the real estate subject to the existing grazing use of Highland Livestock and Land Co., holder of grazing record #1129. The rights of Highland Livestock and Land Co. to graze domestic livestock on the real estate according to the conditions and terms of grazing record #1129 shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from Highland Livestock and Land Co. in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the Federal Register.

Except for oil and gas, the Federally owned mineral interests will be offered for conveyance in the sale. It has been determined that the mineral interests being offered for conveyance have no known mineral value. It is agreed that a bid will constitute an application for conveyance of those mineral interests being offered. The declared high bidder will be required to deposit a $50 nonreturnable filing fee (43 CFR 2720.1–2(c)) and one-fifth of the full bid price (43 CFR 2711.3–1(d)), immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market, or reoffer them for sale at a later date.

DATES: The public auction will be held on December 27, 1983, at 10:00 a.m. If no acceptable bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the 4th Tuesday of January at the same hour and place and continued the 4th Tuesday of each succeeding month until the lands are sold as specified in this notice or the sale is otherwise terminated.

ADDRESSES: The public auction will be held at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Additional information concerning these lands, terms, and conditions of the sale and bidding instructions may be obtained from Mike Berch, Realty Specialist, at the above address or by calling (208) 334–1582.

SUPPLEMENTARY INFORMATION: The land will be sold at public auction by modified competitive bidding. Jessie Little Naylor, Emmett, Idaho 83617, the adjoining landowner, will be the designated bidder to have preference right to purchase the parcel at the highest bid price. The preference right is offered because Mrs. Naylor is the historical grazing user, her deeded property adjoins the parcel on four sides and there is no legal access. For a period of forty-five (45) days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and by the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

Dated: October 14, 1983.

Martin J. Zimmer,

District Manager.

[FR Doc. 83–28601 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–84–M

Intent To Enforce Specific Rules for Camping in Designated Campsites on McGregor Range, New Mexico

AGENCY: Bureau of Land Management, Las Cruces District; New Mexico, Interior.

ACTION: Notice of intent to enforce specific rules for camping in designated campsite on McGregor Range.

SUMMARY: Notice is hereby given that the Bureau of Land Management will enforce specific rules relating to recreational occupancy on use of the public land in accordance with the authority of the regulations contained in 43 CFR 8383.3 to protect the public health and safety, protect the lands from fire, prevent soil erosion, and to utilize and protect outdoor recreation and other resource values of the public lands.

On those public lands in southcentral Otero County, New Mexico, known as the McGregor Range, under joint administration of the Bureau of Land Management and the Department of the Army, the user, as a condition of use, shall: (a) Pitch tents or park trailers or place other camping equipment only in places provided for such purposes; (b) before departure, remove equipment and clean any rubbish from the place occupied for recreation purposes and (c) camp overnight only in places provides or posted for such purposes. This supplemental rule shall be in effect only on the day before and the dates of the McGregor Range Special Deer Entry Permits Hunts as published in the annual Proclamation of the New Mexico Department of Game and Fish. At all other times and on these dates, access will be limited to the dates and times specifically authorized by the United States Army Air Defense Center, Fort Bliss, Texas.

A Map of the subject area is available for inspection at the Bureau of Land Management, Las, Cruces District Office, Las Cruces, New Mexico.

DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel C.B. Rathbun, District Manager, Las Cruces District Office, P.O. Box 1420, Las Cruces, New Mexico 88004, Telephone: (505) 524–8551, FTS 571–8312

SUPPLEMENTARY INFORMATION: McGregor Range was withdrawn by the Army for use as a missile and artillery firing range. The Bureau of land Management was given the administration of livestock forage, livestock grazing, and wildlife habitat. New Mexico Department of Game and fish was given the administration of wildlife and the U.S. Fish and Wildlife Service was given the administration of animal damage control through Memoranda of Understanding written after the original withdrawal.

Nine designated campsites were established on McGregor Range to be used by hunters during the deer entry hunts allowed by the Army on specific weekends. The specific rules apply to these campsites.

Notice to the public will be given by posting the rulemaking at the check station during the hunt and by sending, prior to its start, a narrative description of the rulemaking to persons successfully drawing a hunt permit.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332[2][C]) is required.

Charles W. Luscher,

New Mexico State Director.

[FR Doc. 83–28603 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–84–M

Utah; Vernal District Grazing Advisory Board; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Vernal District Grazing Advisory Board will be held on November 15, 1983.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office, 170 South 500 East, Vernal, Utah.

The agenda for the meeting will include: (1) Review of last year's minutes (2) Status of Ashley-Duchesne and Three Corners Range Program Summaries and the Bookcliffs Resource Management Plan (3) The status of FY 83/84 range betterment work (4) BLM–SCS ranch management plans (5) Utah Division of Wildlife range-wildlife related programs (6) Report of progress maintenance coop agreements (7) Review of proposed range betterment work FY 84 (8) Predator and pest control (9) District allotment evaluation program.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah by November 14, 1983.

Depending on the number of persons wishing to make statements, the District Manager may establish a per person time limit. Oral statements will be taken beginning at 10:30 a.m., November 15, 1983.

Summary minutes of the Board meeting will be maintained at the District Office and will be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 83–28602 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–84–M

Intent To Amend the Scattered Blocks and East Mendocino Management Framework Plans, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to 43 CFR 1610.2(c), notice is hereby given that the Arcata Resource Area, Ukiah District, California, will prepare an amendment to the Management Framework Plans (MFPs) for the Scattered Blocks and East Mendocino Planning Units. These amendments are being done in response to an exchange proposal by Louisiana-Pacific Coporation.

DATE: The exchange is anticipated to be completed in April 1984.

FOR FURTHER INFORMATION CONTACT: Jack Lahr, Area Manager, Arcata Reasource Area, 1585 "J" Street, P.O. Box II, Arcata, California 95521, Telephone (707) 822–7648.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management is considering an exchange proposal by Louisiana-Pacific Corporation, and three tracts of land identified for disposal involve planning amemdments.

Parcel 4 is in Section 3 of T. 11 N., R. 15 W., M.D.M. and totals 40 acres. Parcel 5 is in Section 1 of T. 11 N., R. 15 W., and Section 35 of T. 12 N., R. 15 W., M.D.M. and totals 123.16 acres. Parcel 11 is in Section 18 of T. 20 N., R. 12 W.,

M.D.M. and totals 114.44 acres. Parcels 4 and 5 were identified in the Scattered Blocks MFP for retention and multiple-use management; parcel 11 is a finger of a large tract of land identified in East Mendocino MFP for multiple-use management. These parcels would be exchanged for privately owned land north of the King Range National Conservation Area to consolidate BLM administered land in that area. The public is invited to participate in the comment on the preparation of these planning amendments. General comments should be submitted to the Arcata Resource Area Manager within 30 days of the date of this notice. Other opportunities for public comment will be announced through the median, a mailing list, and the Federal Register.

Dated: October 12, 1983.

Van W. Manning,

District Manager.

[FR Doc. 83-28610 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

California Preliminary Recommendations for Benton-Owens Valley/Bodie-Coleville Wilderness Study Areas and Availability of the Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to the notice of availability extending the public comment period on the Draft EIS.

SUMMARY: On September 16, 1983, a Notice of Availability for the Draft Benton-Owens Valley/Bodie-Coleville Wilderness Environmental Impact Statement (EIS) was published in the **Federal Register** (48 FR 41651, September 16, 1983). That notice is hereby amended as follows: In the section entitled **"DATE,"** the first sentence should read; "The public comment period is open for 90 days through December 21, 1983."

This change is due to the EIS being filed by the Environmental Protection Agency on September 23, 1983.

DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald McGee, BLM, Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, CA 93301, telephone: (805) 861-4191; or Bill Payne, BLM, California State Office, 2800 Cottage Way, Sacramento, CA 95825, telephone: (916) 484-4541.

Dated: October 11, 1983.

Ed Hastey,

California State Director.

[FR Doc. 83-28607 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[CA-13219]

Conveyance of Public Land; Riverside County, California

October 12, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713, 1719), Joseph L. Chiriaco, Inc., Chiriaco Summit, California 92201, has purchased by competitive sale public land in Riverside County, California, described as:

San Bernardino Meridian, California

T. 6 S., R. 12 E.,
Sec. 10, Lots 1, 3, 4, 6, 8, 10, and 12.
Containing 173.71 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Joseph L. Chiriaco, Inc.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 83-28611 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease M 45934 Acquired, Hill County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination, August 1, 1983.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16-⅔ percent respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this notice.

Dated: October 13, 1983.

Cynthia L. Embretson,

Chief, Fluids Adjudication Section.

[FR Doc. 83-28615 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Prineville District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Prineville District Council will be held in the district conference room. The public and news media is welcome to attend any segment of the council meeting.

The agenda will consist of discussion of (1) the district wilderness program; (2) public land sale program and; (3) development of a resource management plan (RMP) on the Two Rivers Planning Area.

DATE: The meeting will be held on November 22, 1983, at 10:00 A.M. Persons wishing to address the Council either orally or in writing are requested to contact the District Manager at the address below by November 18, 1983.

ADDRESS: Bureau of Land Management, 185 E. 4th Street, Prineville.

Summary minutes of the meeting will be maintained in the District office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

Dated: October 12, 1983.

Gerald E. Magnuson,

District Manager.

[FR Doc. 83-28612 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32195]

Realty Action Competitive Sale of Public Land in Seneca County, Ohio

This will amend the Notice of Realty Action for public land sale ES 32195 published in the May 27, 1983, **Federal Register**, which announced the proposed sale of two federally owned parcels under Bureau of Land Management jurisdiction in Seneca County, Ohio. The date of the proposed sale has been postponed indefinitely.

Further details concerning the proposed sale are available from Robert Gausman, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virgina 22304.

Lane Bouman,

Acting Eastern States Director.

[FR Doc. 83-28616 Filed 10-19-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Craig District Advisory Council Meeting

In accordance with Public Law 94-579, notice is hereby given that there will be a field trip for the Craig District Advisory Council on November 2, 1983. The Council will tour the Cross Mountain Wilderness Study Area by helicopter.

Council Members will meet at 9:30 a.m. at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado.

The tour will be open to the public; however, the public must provide their own transportation.

Dated: October 11, 1983.

Gene R. Keith,

Acting District Manager.

[FR Doc. 83-28779 Filed 10-19-83; 11:01 am]

BILLING CODE 4310-84-M

[C-076707 et al.]

Colorado; Termination of Classifications

Correction

In FR Doc. 83-27235 beginning on page 45608 in the issue of Thursday, October 6, 1983, make the following corrections:

1. On page 45609, the first column, under **"Clay Creek to Beaver Creek Site"**, T. 45 N., R. 12 W., in Sec. 18, the second line should read "SW¼, and SE¼NE¼SW¼ excluding".

2. In the second column, the eleventh and twelfth lines, the date "December 30, 1965" should read "December 30, 1964".

3. In the third column, under **"Willow Creek Site"**, T. 9 N., R. 85 W., Sec. 5 should read "Sec. 5, lots 5, and 8, and Tracts 42A, B, C, D, and E;".

4. In the same column, under **"Black Canyon Site"**, T. 50 N., R. 8 W., in "Sec. 11", "NW¼" should read "NE¼".

5. On page 45610, the third column, under **"Idaho Springs Site"** T. 3 S., R. 72 W., in Sec. 34, the second line should read "SW¼SW¼, and SE¼SW¼."

BILLING CODE 1505-01-M

Minerals Management Service

Mid-Atlantic Lease Offering (June 1985); Call for Information

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and regulations appearing at 30 CFR 256.23. Potential bidders are requested to outline areas where they believe hydrocarbon potential is sufficient to warrant offering there areas in the Mid-Atlantic planning area. The Secretary is also requesting comments from all interested parties—Federal, State, and local governments, environmental groups, the general public, and potential bidders—on possible environmental effects and use conflicts in the Call area.

Use of Information From Call

Information submitted in response to this Call will be considered in the area identification which selects the areas of hydrocarbon potential to be proposed for leasing and analyzed in the environmental impact statement as the proposed Federal action. This information will also be used to identify alternatives to the proposed action. Comments received on possible environmental effects and use conflicts may be used in the analysis of local environmental conditions within the Call area so that the potential effects of oil and gas exploration and development, other than the benefits accruing to the Nation as a result of inventorying and producing oil and gas, can be assessed. These comments may also be useful in developing special lease terms and conditions designed to assure safe offshore operations.

Description of Area

The general area of this Call is offshore the States of Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina. It lies approximately between 35° and 41° N Latitude and extends from approximately 76° to 66° W Longitude at the easternmost point. Indications of interest and comments may be considered for all Federal acreage within the boundaries of the Call. The Call area is shown on the map at the end of this Call. The Call area is depicted in detail on the standard Call for Information Map available free from the Regional Manager, Atlantic OCS Region, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

The following list identifies the Official Protraction Diagrams in this Call. The diagrams may be purchased for $2.00 each from the Regional Manager, Atlantic OCS Region.

NI 18-2 Manteo (Approved Oct. 31, 1974) All Federal Blocks.

NI 18-3 (Approved Oct. 31, 1974) All Federal Blocks.

NI 19-1 (Approved June 4, 1981) All Federal Blocks.

NJ 18-11 Currituck Sound (Approved April 25, 1978) All Federal Blocks.

NJ 18-12 (Approved April 18, 1979) All Federal Blocks.

NJ 19-10 (Approved May 21, 1980) All Federal Blocks.

NJ 18-8 Chincoteague (Approved Dec. 2, 1976) All Federal Blocks.

NJ 18-9 Baltimore Rise (Approved Dec. 6, 1976) All Federal Blocks.

NJ 19-7 (Approved May 21, 1980) All Federal Blocks.

NJ 19-8 (Approved May 21, 1980) All Federal Blocks.

NJ 18-5 Salisbury (Approved Oct. 31, 1974) All Federal Blocks.

NJ 18-6 Wilmington Canyon (Approved Oct. 31, 1974) All Federal Blocks.

NJ 19-4 (Approved Oct. 31, 1974) All Federal Blocks.

NJ 19-5 (Approved June 2, 1980) All Federal Blocks.

NJ 19-6 (Approved May 21, 1980) All Federal Blocks.

NJ 18-2 Wilmington (Approved Oct. 31, 1974) All Federal Blocks.

NJ 18-3 Hudson Canyon (Approved Oct. 31, 1974) All Federal Blocks.

NJ 19-1 Block Canyon (Approved June 22, 1977) The following Federal Blocks: 10-28, 54-72, 98-116, 142-160, 186-204, 230-248, 274-292, 318-336, 362-380, 406-424, 450-468, 494-512, 538-556, 582-600, 628-644, 670-688, 714-732, 757-776, 801-820, 845-864, 889-908, 933-952, 977-996.

NKK 18-12 New York (Approved Oct. 31, 1974) All Federal Blocks.

NK 19-10 Block Island Shelf (Approved June 22, 1977) The following Federal Blocks: 10-27, 54-71, 98-115, 142-159, 186-203, 230-247, 274-291, 318-335, 362-379, 406-423, 450-467, 493-511, 537-555, 581-599, 625-643, 669-687, 713-731, 757-775, 801-819, 845-863, 889-907, 933-951, 977-995.

NK 18-9 Hartford (Approved Oct. 31, 1974) All Federal Blocks.

NK 19-7 Providence (Approved Oct. 31, 1974) The following Federal Blocks: 504, 546-549, 587-593, 626-637, 666-681, 708-714, 717-725, 752-758, 761-769, 796-802, 805-813, 843-857, 887-901, 929-945, 972-989.

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Instructions on Call

Indictions of interest from potential bidders should be limited to the Federal acreage included in the Call area described above. Respondents are requested to indicate areas within the Call area that they are interested in having included in the lease offering. Those indicating interest are requested to do so on the standard Call for Information Map, available free from the Regional Manager, Atlantic OCS Region, at the address stated in the first paragraph under "Description of Area," telephone (703) 285–2165. Interest should be shown by outlining the area(s) along block lines.

The standard Call map shows the Call area and highlights the area identified by the Minerals Management Service (MMS) as having potential for the discovery of oil and gas. Although individual indications of interest are considered to be privileged and confidential information, the names of persons or entities indicating interest or submitting comments will be of public record.

Respondents are encouraged to broadly rank areas according to priority of interest (e.g., priority 1 (high), 2, or 3). Priority information submitted by companies will be held confidential and may be used as a criterion in determining the area to be analyzed in the environmental impact statement.

In addition to indications of interest, we are seeking comments from all interested parties about particular geological, environmental, biological, archeological, or socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular areas. Comments should preferably address broad areas but may be restricted to designated blocks of particular concern. Those submitting comments are requested to outline the subject area on the standard Call map.

Indications of interest and comments must be submitted no later than 30 days following publication of this document in the **Federal Register** in envelopes labeled "Indications of Interest for Leasing in the Outer Continental Shelf, MidAtlantic" or "Comments on Leasing in the Outer Continental Shelf, Mid-Altantic" as appropriate. The map (original) and indications of interest or comments must be submitted to the Regional Supervisor for Leasing and Environment, Atlantic OCS Region, at the address stated in the first paragraph under "Description of Area". One copy of the map and indications of interest or comments are also to be sent to the Chief, Offshore Resource Evaluation Division, Minerals Management Service, Mail Stop 643, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

Final delineation of the area for competitive bidding will be made only at a later date after compliance with established departmental procedures, all requirements of the National Environmental Policy Act of 1969, and the OCS Lands Act, as amended. A final Notice of Lease Offering, detailing areas to be offered for competitive bidding, will be published in the **Federal Register** stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Dated: October 7, 1983.

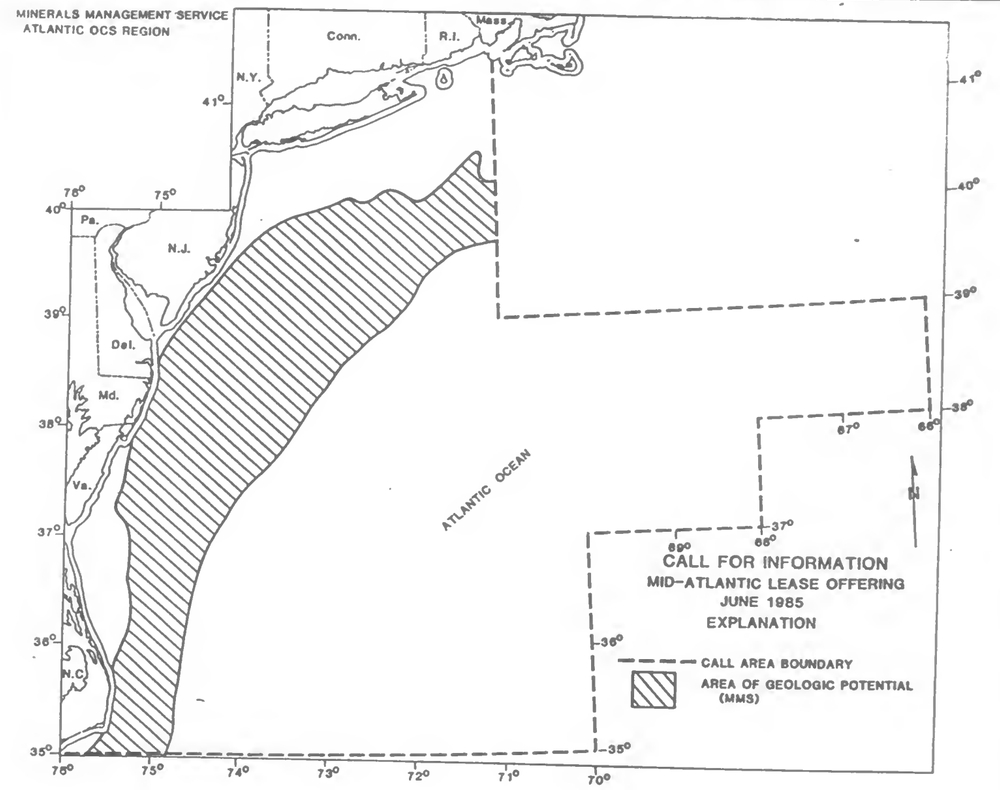
David C. Russell,

Acting Director, Minerals Management Service.

Approved October 12, 1983.

William P. Pendley,

Deputy Assistant Secretary of the Interior.



[FR Doc. 83–28565 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–MR–M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Atlantic Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Atlantic OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and Findings Of No Significant Impact (FONSI's) prepared by the MMS for the following oil and gas exploration activities proposed on the Atlantic OCS. This listing includes all proposals for lease operations for which environmental documents were prepared by the Atlantic OCS Region in the 3-month period preceding this Notice.

Operator/activity	Location	FONSI date
Shell Offshore Incorporated/ Exploration Plan.	OCS Block 586 (NJ 18–6) (95 statute miles Southeast of Atlantic City, N.J./ Wilmington Canyon area).	7/22/83
Shell Offshore Incorporated/ Exploration Plan.	OCS Block 372 (NJ 18–6) (98 statute miles Southeast of Atlantic City, N.J./ Wilmington Canyon area).	7/22/83

Persons interested in reviewing environmental documents for the proposal listed above or obtaining

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information about EA's and FONSI's prepared for activities on the Atlantic OCS are encouraged to contact the appropriate offices in the Atlantic OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Leasing and Environment, Atlantic OCS Region, Minerals Management Service, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285–2165, FTS–8–285–2165.

For copies contact: Records Management Section, Minerals Management Service, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285–2191, FTS–8–285–2191.

There will be a charge for the reproduction of these documents.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Atlantic OCS. The EA's examine the potential environmental effects of activites described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Bruce G. Weetman,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 83–28644 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Canaveral National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 2:00 p.m. on Thursday, November 17, 1983, in the Southeast Bank Building, DeBerry Room, 200 Canal Street, New Smyrna Beach, Florida.

The purpose of the Canaveral National Seashore Advisory Commission is to consult an advise with the Secretary of the Interior or his designee on matters of planning, development and operation of the Canaveral National Seashore. The agenda will include: North Access Road contract; alternate access study (Playalinda Beach); preservation of the ElDora House.

The members of the Advisory Commission are as follows:

Mr. James Reinman, Chairman
Mr. James Powell
Mr. Ney C. Landrum
Ms. Doris Leeper
Mr. Sion Faulk
Mr. Peter E. Cardiff
Mr. T. C. Wilder

The meeting will be open to the public: however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matter to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Donald Guiton, Superintendent, Canaveral National Seashore, Post Office Box 6447, Titusville, Florida 32782, Telephone 305/867–4675. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: October 11, 1983.

Neal G. Cuse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 83–28623 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–70–M

Intention To Extend Concession Contract; Moses H. Cone Memorial Park

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to extend a concession contract with Crafts of Nine States, Inc., authorizing it to continue the operation of a crafts center within the Moses H. Cone Memorial Park on the Blue Ridge Parkway for a period of one year from January 1, 1984, through December 31, 1984.

This contract extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1983, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the negotiation of a new contract. This provision, in effect, grants Crafts of Nine States, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by Crafts of Nine States, Inc. If Crafts of Nine States, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Crafts of Nine States, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, GA 30303, for information as to the requirements of the proposed contract.

Dated: September 27, 1983.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 83–28622 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Availability of Draft Combined Petition Evaluation Document/Environmental Impact Statement and Notice of Public Hearing for National Wildlife Federation/Wyoming Wildlife Federation's Petition To Designate Certain Lands, Known as the Red Rim Area, in Carbon and Sweetwater Counties, Wyoming, as Unsuitable for Surface Coal Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of the draft combined petition evaluation document/environmental impact statement that evaluates whether certain lands on Red Rim should be designated as unsuitable for surface coal mining operations and notice of public hearing to receive comments on the petition and draft document.

SUMMARY: OSM and the Wyoming Department of Environmental Quality (DEQ) have jointly prepared an evaluation of National Wildlife Federation/Wyoming Wildlife Federation's petition to designate certain lands in Carbon and Sweetwater Counties, Wyoming, as unsuitable for all or certain types of surface coal mining operations. The petition alleges that the mining of lands on the area known as Red Rim would adversely affect fragile land which is valuable habitat for pronghorn antelope and that reclamation of this land is not technologically and economically feasible under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Copies of the draft combined petition evaluation document/environmental impact statement are being made available today. OSM and Wyoming DEQ have arranged delivery to assure that known interested parties have a full 60 days for review and comment. A joint OSM and Wyoming Environmental Quality Council public hearing to receive comments on the petition and draft document will be held starting at 9 a.m. on December 6, 1983, and will continue, if necessary, on subsequent days until all who desire to speak have been heard. Parties to the proceeding will be allowed to cross examine expert witnesses. General comments from the public, which will not be subject to cross examination, will be heard beginning at 10:30 a.m., 3:30 p.m., and 7:00 p.m. on December 6, 1983, and at 10:30 a.m. and 3:30 p.m. on subsequent days until the hearing is concluded. Additional information on the mailing addresses for comments and the location of the public hearing is given below.

DATES: Written comments on the draft document must be received by 5:00 p.m., December 23, 1983, at the addresses given below. A public hearing will be held starting at 9 a.m. on December 6, 1983, at the address given below, and will continue, if necessary, on subsequent days until all who desire to speak have been heard.

ADDRESSES: Written comments on the draft document may be mailed or hand-carried, and must be received by the date and time given above, to Mr. Allen Klein, Administrator, Western Technical Center, Office of Surface Mining, 1020 15th Street, Denver, Colorado 80202 or Mr. Patrick Boles, Wyoming Department of Environmental Quality, Equality State Bank Building, 401 West 19th Street, Cheyenne, Wyoming 82002.

Copies of the draft document are available at OSM and Wyoming DEQ at the addresses listed above and at the following two locations:

Bureau of Land Management, 1300 North 3rd Street, Rawlins, Wyoming 82301, Telephone: (307) 343–7171

Office of the County Clerk, Carbon County Courthouse, Fifth and Spruce Streets, Rawlins, Wyoming 82301, Telephone: (307) 328–2668

The public hearing will be held at the Jeffrey Memorial Community Center, East Room, Third and Spruce, Rawlins, Wyoming.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, OSM, Western Technical Center, 1020 15th Street, Denver, Colorado 80202 (telephone (303) 837–5421) or Patrick Boles, Wyoming DEQ (telephone (307) 777–7756) at the addresses listed above.

SUPPLEMENTARY INFORMATION: The draft combined petition evaluation document/environmental impact statement was prepared jointly by OSM and Wyoming DEQ; it presents their analyses of the potential coal resources of the petition area, of the demand for coal resources, and of the impact of an unsuitability designation on the economy and the supply of coal; of the impact of mining on the critical winter habitats of pronghorn; of the impact of mining on other resources; of the reclaimability of the site should it be mined; and of the impacts of adopting the various State and Federal alternatives.

A public hearing is scheduled at the time and place indicated under "**DATES**" and "**ADDRESS**" above. Parties to the proceeding will be allowed to cross examine expert witnesses. General comments from the public, which will not be subject to cross examination, will be heard beginning at 10:30 a.m., 3:30 p.m., and 7:00 p.m. on December 6, 1983, and at 10:30 a.m. and 3:30 p.m. on subsequent days until the hearing is concluded. These general public comments will be limited to 10 minutes of oral testimony. Anyone who wishes to comment will be given the opportunity to do so. Persons wishing to present testimony should contact OSM, Western Technical Center, or Wyoming DEQ at the addresses given above, and should register to speak at the hearing. All persons giving oral testimony at the hearing are strongly encouraged to bring three copies of written statements for presentation to the hearing panel. Submission of written statements to the OSM and Wyoming DEQ addresses given above, in advance of the hearing date, would be helpful by giving OMS and Wyoming Environmental Quality Council officials an opportunity to consider appropriate questions, which could be asked to clarify or to elicit more specific information from the person commenting.

All written comments may be mailed or hand-carried to OSM, Western Technical Center, or to Wyoming DEQ at the addresses listed above, but must be received no later than the time indicated under "**DATES**" in order to be considered.

Until December 2, 1983, at 5:00 p.m., any person may file an application for intervention in the proceedings at the above OSM and Wyoming DEQ addresses. Such application must contain allegations of fact, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the inervenor's name, address, and telephone number.

For further information on the petition allegations, petition events, location of the petition area, and locations of the public record on the petition, see the notice of complete petition in the **Federal Register** on January 5, 1983 (48 FR 523). For further information on the draft combined petition evaluation document/environmental impact statement's compliance with Section 522 of SMCRA and Section 102(2)(C) of the National Environmental Policy Act, see the notice of intent to prepare a combined unsuitability petition evaluation document/environmental impact statement in the **Federal Register** on June 29, 1983 (48 FR 29961).

Dated: October 14, 1983.

Dean Hunt,

Assistant Director, Technical Services and Research.

[FR Doc. 83–28624 Filed 10–19–83; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Meeting Cancellation

Notice is hereby given in accordance with the Federal Advisory Committee Act that the A.I.D. Research Advisory Committee meeting scheduled for October 27–28, 1983 at the Pan American Health Organization Building, 525–23rd Street, NW., Washington, D.C., Conference Room 'C' has been cancelled. Notice of alternate meeting dates will be published in the **Federal Register.** It is suggested that those desiring more specific information contact Mr. Floyd O'Quinn, 1601 N. Kent St., Arlington, Va. 22209 or call area code (703) 235–8929.

Dated: October 18, 1983.

Erven J. Long,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 83-28771 Filed 10-19-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30300]

CSX Corp., Control, Purchase, and Tariff Filing Exemptions; Control, American Commercial Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Decision to waive or to clarify certain filing requirements and to require applicants to file additional information.

SUMMARY: The Commission grants substantially all of applicants' requests for waivers and clarifications of certain filing requirements under railroad consolidation regulations, 49 CFR Part 1180 and environmental and energy regulations, 49 CFR Parts 1105 and 1106. The Commission also requires applicants to submit additional information regarding their operations and the competitive impacts of the proposed transaction.

DATES: The supplemental information must either be included in the application or be filed separately no later than 21 days after the filing date of the application. The application will not be accepted as complete until the supplemental information is received. All statutory deadlines under 49 U.S.C. 11345 shall, however, be computed with reference to the filing date of the application, not the date of submission of the supplemental information.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: October 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28561 Filed 10-19-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-33]

Joseph D. Lehmberg d.b.a. Ridgefield Pharmacy; Denial of Application

On October 14, 1982, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Joseph D. Lehmberg, d.b.a. Ridgefield Pharmacy (Respondent), an Order to Show Cause proposing to deny the Respondent's application for registration. By letter dated November 8, 1982, the Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause. Respondent was represented by counsel throughout the prehearing stages of the proceeding, which included two telephone conferences.

The hearing was held in Portland, Oregon on May 12, 1983. Administrative Law Judge Francis L. Young presided. At the hearing, Respondent appeared without counsel and represented himself. After the hearing, proposed findings and conclusions and a supporting brief were filed on Respondent's behalf by an attorney other than the one who had previously represented him. The Government also filed proposed findings of fact, conclusions of law and a supporting argument. On July 26, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the Administrative Law Judge's opinion were served on the Respondent and on Government counsel. No exceptions were filed and, on August 23, 1983, Judge Young transmitted the record of these proceedings to the Acting Administrator. The Acting Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

An investigation of Respondent by Trooper James Gleason of the Washington State Patrol commenced on August 9, 1981. Respondent is the owner of Ridgefield Pharmacy in Ridgefield, Washington, a town of about 1,000 people. At the time of the investigation, Respondent was also Ridgefield Pharmacy's managing pharmacist.

Trooper Gleason, acting in an undercover capacity, went to Respondent's pharmacy on many occasions between April 9, 1981 and June 11, 1981. On several occasions, Gleason asked for Terpin Hydrate, an over-the-counter Schedule V cough suppressant. Each time, an employee at the pharmacy entered information about Trooper Gleason in the Schedule V register book that Washington law required the pharmacy to maintain. However, Trooper Gleason observed that the space for the pharmacist's initials was left blank regarding numerous purchases. Washingon, law required the pharmacist to initial this space.

On other visits to the pharmacy, Trooper Gleason brought prescriptions from a cooperating physician for various quantities of Tussionex, Valium and Percodan. Each prescription was marked nonrefillable and stated that it required a label. Respondent would fill these prescriptions. When Trooper Gleason would return and ask for a refill without bringing a new prescription, Respondent would give him more of the controlled substances even though the prescriptions had been marked nonrefillable. Respondent, however, would not give Trooper Gleason a refill of the Percodan prescription, feeling that is was "to risky" since Percodan is a Schedule II controlled substance. It is a known fact though, that Tussionex is a heavily abused controlled substance in Washington State that is valued by drug users. At no point did Respondent call the cooperating physician who issued the prescriptions for a refill authorization.

On June 1, 1981, Respondent sold to Trooper Gleason and 8-ounce bottle of Tussionex, a vial of Valium, and 25 tablets of diethylpropion or Tepanil Tentabs. Trooper Gleason did not give Respondent a prescription for any of these controlled substances.

On January 27, 1982, Respondent was convicted of three counts of a nine-count Information following his plea of guilty to each of those three counts. The instances of unlawful distribution of controlled substances of which Respondent was convicted were the three deliveries to Trooper Gleason on June 1, 1981. Therefore, a lawful or statutory basis exists to deny Respondent's application for registration. *Serling Drug Company*, Docket No. 74-12, 40 FR 11918 (1975); *Raphael C. Cilento, M.D.*, Docket No. 79-2, 44 FR 30466 (1979); and *Thomas W. Moore, Jr., M.D.*, Docket No. 79-13, 45 FR 40743 (1980).

The Administrative Law Judge's opinion illustrates other indications of Respondent's disregard of his professional duty as a pharmacist to protect the public health. On June 10 and 11, 1981, Trooper Gleason had a series of conversations with Respondent in which Gleason led Respondent to understand that Gleason wanted to purchase large quantities of controlled substances without prescriptions and for no legitimate medical purpose. Gleason told Respondent that he had a connection in Mexico willing to trade marijuana and cocaine for good pharmaceutical drugs. Respondent expressed a willingness to participate in such activities

On June 15, 1981, Investigator Richard D. Morrison of the Washington State Board of Pharmacy along with other officers began an audit of Ridgefield Pharmacy's controlled substances. Respondent was unable to produce a controlled substance inventory Prescriptions and patient profile cards were the pharmacy's sole source of distribution records of controlled substances.

During the audit, it was observed that Respondent refilled controlled substance prescriptions from his patient profile cards, not from the prescription itself. This is unacceptable procedure since the patient profile cards do not include the prescribing physician's directions regarding refills.

The results of the audit showed that Respondent could not account for at least 895 ounces of Tussionex suspension; 1,987 Valium 5 mg. tablets; 800 Valium 10 mg. tablets; and 2,102 Vicodin tablets. The only reasonable inference regarding these shortages is that these quantities were sold illegally by Respondent.

Judge Young, in his opinion, stated that, "this is one of the most difficult cases to come before this administrative tribunal." Respondent is highly respected as a citizen and as a professional by members of the two communities in which he has owned pharmacies. The fact is evidenced by witness testimony and by the numerous letters submitted in Respondent's behalf but that is not at issue here. Instead, the Acting Administrator must determine Respondent's ability to effectively and legally dispense controlled substances.

It is true that while this investigation was underway, Respondent notified the police of several attempts to obtain Schedule II drugs with forged prescriptions. However, Respondent never reported to local police or to any law enforcement or regulatory authority any of Trooper Gleason's actions or suggestions or proposals.

Judge Young observed that the Respondent seemed unaware of the harm that his indifferent attitude towards controlled substances could create. Without a real awareness of the importance of pharmacists adhering closely to the laws and regulations, Judge Young concluded that Mr. Lehmberg could not be entrusted to retain a registration and carry out the responsibilities of such registration. In a postscript to the opinion directed to Respondent's many character witnesses, Judge Young cited a recent ABC radio network broadcast. It included statistics regarding the abuse of "soft" (prescription) drugs:

> 75% of all drug overdose deaths are from prescription drugs; 15 out of 20 drugs combatted in emergency room crises by abusers come from prescription drugs; three out of four drugs involved in death or emergency treatment are prescription drugs. "Perspective," July 3, 1983.

Not only was Respondent involved in the diversion of these legitimate drugs into the illegitimate market, but he was also willing to participate in a scheme to market cocaine and marijuana. The facts clearly show that Respondent is willing to ignore his professional responsibility to protect the public health in order to attempt to rectify his personal financial difficulties. The Administrative Law Judge has recommended that the Respondent's application for registration be denied. The Acting Administrator adopts the recommended ruling, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. The application must be denied.

Therefore, having concluded that there is a lawful basis for the denial of the Respondent's application for registration, and having further concluded that under the facts and circumstances presented in this case, the application should be denied, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. sections 823 and 824 and 28 CFR 0.100(b), hereby orders that the application of Joseph D. Lehmberg, for the registration of Ridgefield Pharmacy under the Controlled Substances Act, be and it hereby is, denied effective November 21, 1983.

Dated: October 12, 1983.

Frank V. Manastero,

Acting Administrator.

[FR Doc. 83-28597 Filed 10-19-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 82-32]

Raymond H. Wood, Jr., D.D.S., Revocation of Registration; Denial of Application

October 14, 1982, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued to Raymond H. Wood, Jr., D.D.S. (Respondent), of Ocala, Florida, and Order to Show Cause proposing to revoke the Respondent's DEA Certificate of Registration, AW0106535, and to deny the Respondent's application, dated April 15, 1982, for renewal of that registration.

On November 12, 1982, Respondent, through his counsel, requested a hearing on the issues raised by the Order to Show Cause. this matter was placed on the docket of Administrative Law Judge Francis L. Young. Judge Young ordered that counsel for the Government and for the Respondent file and exchange written prehearing statements. On January 5, 1983, the Administrative Law Judge issued his Prehearing Ruling and the case was set for hearing.

The hearing is this matter was held in Tampa, Florida, on February 16, 1983. Both the Government and the Respondent were represented by counsel. Respondent, himself, was not present as he was at the time of the hearing incarcerated at Eglin Air Force Base, Florida. On June 3, 1983, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the administrative Law Judge's opinion were served on both the counsel for the Government and for the Respondent. No exceptions were filed, and on June 29, 1983, Judge Young transmitted the record of these proceedings to the Acting Administrator. The Acting Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

Based on an investigation conducted prior to October 1980, norcotic agents had grounds to believe that Respondent was predisposed to participate in schemes for the unlawful importation and distribution of marijuana. Subsequently, an investigation began in late October 1980.

During the hearing regarding the

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instant proceeding, DEA Special Agent Allen Lively, who participated in the investigation of Respondent testified. Agent Lively stated that Respondent lined up buyers for marijuana that was available for purchase in Florida; made a downpayment of $55,000 for marijuana that was to be purchased in Columbia; secured an airstrip in Columbia on two separate occasions to be used in the deal; obtained "front money," approximately $3,500, for gasoline and expenses for the flight; and attempted to secure legal fees for co-conspirators who had been arrested, to ensure that they would not talk.

On February 17, 1982, Respondent was arrested. Dr. Wood pled quilty to one count of a ten-count indictment. On March 22, 1982, Respondent was adjudged convicted of unlawfully, intentionally and knowingly combining, conspiring, confederating and agreeing with others unlawfully to possess with intent to distribute more than 1,000 pounds of marijuana, a Schedule I controlled substance, which is a felony offense. He was sentenced to six years imprisonment.

There is, therefore, lawful or statutory grounds for the revocation of Respondent's DEA Certification of Registration, and for the denial of his application for renewal of such registration under 21 U.S.C. 824(a)(2). Respondent, however, argues that his conviction arose out of dealings involving marijuana, and had nothing to do with his manner of administering or dispensing controlled substances used in the course of his dental practice. Judge Young agreed with Respondent's assertion, but noted that this does not necessarily mean that Respondent must be permitted to retain that registration. Section 824(a) of Title 21 provides that a registration may be revoked upon a finding that the registrant has been convicted of a felony relating to *any* controlled substance. Marijuana is a Schedule I controlled substance.

Respondent's conviction illustrates that he is willing to disregard not only the law, but also his professional responsibility to preserve the public health in exchange for large amounts of money. The Administrative Law Judge has recommended that the Respondent's Certificate of Registration, AW0106535, be revoked and his pending application for renewal of said Certificate of Registration be denied. Judge Young cites as precedent for revocation, *In re Aaron Moss, D.D.S.*, Docket No. 80–2, 45 F.R. 72850 (1980), where a dentist was denied DEA registration after acting as a courier to smuggle cocaine into the country posing as a tourist returning home from pleasure trips.

The Acting Administrator adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. Having concluded that there is a lawful basis for revocation of Respondent's Certificate of Registration and for denial of his pending application for renewal thereof, and having further concluded that under the facts presented in this case, the Certificate of Registration should be denied, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AW0106535, previously issued to Raymond H. Wood, Jr., D.D.S., be, and it hereby is, revoked. Respondent's pending application for renewal of DEA Certificate of Registration AW0106535 must be, and it hereby is denied.

Dated: October 14, 1983.

Frank V. Monastero,

Acting Administrator.

[FR Doc. 83–28589 Filed 10–19–83; 8:45 am]

BILLING CODE 4410–09–M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board will meet on November 21, 1983, starting at 9:00 a.m., at the Concord Hilton, 1970 Diamond Boulevard, Concord, California, 94520. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Larry Solomon

Acting Director.

[FR Doc. 83–28545 Filed 10–19–83; 8:45 am]

BILLING CODE 4410–05–M

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

1. Date: November 7, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Materials Translations Program: Romance Panel, Division of Research Programs, for projects beginning after April 1, 1984.

2. Date: November 7, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted to Research Resources: History and Criticism of Art & Architecture Panel, Division of Research Programs, for projects beginning after April 1, 1984.

3. Date: November 14, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Materials Translations Program: Near Eastern Panel, Division of Research Programs, for projects beginning after April 1, 1984.

4. Date: November 14–15, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted to Research Resources: American Studies Panel II, Division of Research Programs, for projects beginning after April 1, 1984.

5. Date: November 21, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Materials Translations Program: Asian Panel, Division of Research Programs, for projects beginning after April 1, 1984.

6. Date: November 21–22, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted to Research Resources: World Studies Panel, Division of Research Programs, for projects beginning after April 1, 1984.

7. Date: November 28, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Materials Translations Program: Germanic Panel, Division of Research Programs, for projects beginning after April 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial of financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6)(9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 83–28573 Filed 10–19–83; 8:45 am]

BILLING CODE 7536–01–M

OFFICE OF MANAGEMENT AND BUDGET

Proposed Revised Supplemental Guidance on Implementation of the Privacy Act of 1974

AGENCY: Office of Management and Budget.

ACTION: Request for comments on proposal to revise guidance on implementation of the Privacy Act of 1974.

SUMMARY: This document extends the period for public comment on a proposal to revise certain Privacy Act implementation guidance. The proposal was published in the **Federal Register** on August 11, 1983 (48 FR 36359).

FOR FURTHER INFORMATION CONTACT: Robert N. Veeder, Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3235, New Executive Office Building, Washington, D.C. 20503; telephone (202) 395–4814.

SUPPLEMENTARY INFORMATION: On August 11, 1983, OMB published a notice in the **Federal Register** soliciting public comment on a proposal to revise guidance on the relationship of the Freedom of Information Act and the Privacy Act of 1974. Interested parties were invited to provide comments on or before October 1, 1983. Because of recent judicial activity in this area, OMB is extending the comment period until December 1, 1983. Comments should be sent to the Office of Information and Regulatory Affairs, Washington, D.C. 20503. For the convenience of those who may wish to comment or to revise comments already provided, the text of the proposal is reproduced below.

The Office of Management and Budget proposes to revise its "Inplementation of the Privacy Act of 1974 Supplementary Guidance" **Federal Register**, Volume 40, No. 234, dated December 4, 1975, 56741) as follows:

"The first and last paragraphs of section 8, 'Relationship to the Freedom of Information Act (subsection (q)' are deleted. The following is added to the end of the section 8:

The Privacy Act and the FOIA should be read together to permit an agency to deny access to records sought by the subject individual under the FOIA on the basis of exemption (b)(3) if those records are exempted from release to the individual under the Privacy Act. This interpretation is supported by the majority of courts that have reviewed the question of the relationship between the two laws. They have held that the Privacy Act is a (b)(3) statute for purposes of the FOIA. (Note that the D.C. Circuit created a split in the circuits when it held that the two laws must be read independently.)

FOIA exemption (b)(3) provides that access under the FOIA is not required if the material sought is specifically barred from disclosure by statute (other than by the FOIA itself), provided that such statute (a) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (b) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Records may be withheld from the individual under the Privacy Act if they are maintained in exempt systems of records as provided by sections (j) or (k) of the Act or if the records were compiled in reasonable anticipation of civil action or proceedings as provided in subsection (d)(5). (Note, however, that for certain exempt systems, substantial portions of the covered records may be required to be released. For example, see the requirements of (k)(5).)"

Christopher DeMuth,

Administrator for Information and Regulatory Affairs.

[FR Doc. 83–28585 Filed 10–19–83; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, November 3, 1983
Thursday, November 10, 1983
Thursday, November 17, 1983

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public,

VOL
48
ISS
2
0
4
OC
20
1983
UMI

upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415, (202) 632–9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

October 12, 1983.

[FR Doc. 83–28554 Filed 10–19–83; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 14, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Newport Electric Corporation

Common Stock, No Par Value (File No. 7–7163)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 7, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28633 Filed 10–19–83; 8:45 am]

BILLING CODE 8010–01–M

[SR–CBOE–83–29; Rel. No. 20284]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

October 14, 1983.

On September 2, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, IL 60604, filed with the Securities and Exchange Commission (the "Commission") a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 under the Act. The proposed rule change would amend CBOE Rule 24.9 to provide that CBOE broad-based stock index options [1] may expire either at three-month intervals or in consecutive months. Currently, CBOE's individual stock, debt and index options expire at three-month intervals only. The proposal would allow CBOE to maintain no more than four different expirations when an index option expires in consecutive months. CBOE is also proposing to permit the opening of a new series of stock index options that have 30 days or more remaining to expiration on their first day of trading; currently CBOE does not allow a new series of options to open if there is less than 45 days remaining to expiration on their first day of trading.

The CBOE proposal is virtually identical to an American stock Exchange, Inc. ("Amex") proposal approved by the Commission on September 20, 1983.[2] The only difference between the Amex and CBOE proposals is that Amex provided that all Amex's broad-based index options would expire in consecutive months, while under CBOE's proposal CBOE may choose whether each of its broad-based index options will expire in three-month intervals or in consecutive months.[3]

Notice of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20156, September 9, 1983) and by publication in the Federal Register (48 FR 41123, September 13, 1983). No comments were received with respect to the proposed rule filing.[4]

The Commission finds that the CBOE proposal is in all material respects identical to the Amex proposal regarding monthly expiration that we recently approved.[5] For the reasons set forth in the Amex Release, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the act, that the proposed rule change is approved, effective as of December 1, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28636 Filed 10–19–83; 8:45 am]

BILLING CODE 8010–01–M

[SR–CBOE–83–36; Re. No. 20285]

Chicago Board Options Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change

October 14, 1983.

On October 7, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL 60604, filed with the Securities and Exchange Commission (the "Commission") a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and

[1] In its initial filing CBOE proposed allowing all its index options—broad or narrow-based—to expire in consecutive months. CBOE subsequently amended the proposed rule change to limit its applicailon to broad-based index options. *See* Amendment No. 2, filed with the Commission on October 7, 1983. CBOE currently lists and trades two broad-based index options—The standard and Poor's 100 Index ("SP 100") Option and the Standard and Poor's 500 Index ("S&P 500") Option.

[2] Securities Exchange Act Release No. 20201, September 20, 1983; 48 FR 43747, September 26, 1983 (the "Amex Release"). The Amex proposal was approved effective as of December 1, 1983.

[3] The Commission notes that, because of the choice CBOE leaves itself under its proposal, it is required to submit a separate filing under Rule 19b–4 designating which of its broad-based index options it wishes to trade with expirations in consecutive months. The CBOE has submitted and the Commission has approved a CBOE proposal to trade its S&P 100 option contract with monthly expirations; this leaves the CBOE's S&P 500 option contract on its current March quarterly expiration cycle. Securities Exchange Act Release No. 20285, October 14, 1983.

[4] The Commission has previously received and considered substantial comment on monthly expirations. *See* the Amex Release.

[5] *See* note 2, *supra.*

Rule 19b–4 under the Act. We are publishing this notice to solicit your comments on this proposed rule change, which is described below.

CBOE proposes to list option contracts which expire in consecutive months on CBOE's Standard and Poor's ("S&P") 100 index options contract. In a parallel proposal approved by the Commission today, CBOE changed its rules to allow the listing and trading of broad-based index options which expire either in three-month intervals or in consecutive months, such approval will be effective on December 1, 1983.[1] By this filing, CBOE would trade S&P 100 Index Options with monthly expirations; the other CBOE broad-based index option, the S&P 500 Index Option, would continue to expire at three-month intervals. The CBOE states that the statutory basis of the proposed rule change is Section 6(b)(5) of the Act.

You are invited to submit written data and views concerning the submission within 21 days from the date of publication in the **Federal Register.** If you desire to submit written data and views, please file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Please refer to File No. SR–CBOE–83–36.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

Because the Commission's approval of CBOE's rule change alowing either quarterly or monthly expirations does not become effective until December 1, 1983, the effective date of approval of this proposal also will be December 1, 1983. Subject to that condition, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date notice of the filing was published. As noted above, notice of the possibility that CBOE might seek to trade one or more broad-based index options contracts on a monthly expiration cycle previously was published. Hence, this proposal, which simply implements the authority CBOE already has sought, is largely technical and administrative in nature. Prior notice of the proposed rule change is, therefore, unnecessary to provide the public an adequate opportunity to comment or to protect investors and the public interest. Furthermore, approval of the proposed rule change at this time will provide broker-dealers and the public the maximum amount of time possible to prepare for the establishment of monthly expirations in the S&P 100 Index Options.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change is approved, effective as of December 1, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28637 Filed 10–19–83; 8:45 am]

BILLING CODE 8010–01–M

[File. No. SR–DTC–83–7; Rel. No. 20291]

Depository Trust Co.; Filing and Immediate Effectiveness of Proposed Rule Change

October 14, 1983.

On September 23, 1983, the Depository Trust Company (DTC) filed with the Securities and Exchange Commission a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends DTC's fee to participants for DTC's Payment Order Service to a charge of $0.45 for paper instructions and $0.34 for instructions via the Participant Terminal System ("PTS"). DTC's Payment Order Service provides participants with a convenient method for setting certain money payments related to securities transactions. DTC asserts that efficiencies and other benefits associated with the use of PTS, as well as DTC's policy of encouraging such use, warrant the reduced fees for payment orders processed through PTS. DTC believes the proposed rule change is consistent with section 17A(b)(3)(D) of the Act which authorizes DTC to adopt reasonable fees for the services which it provides to participants.

This rule change has become effecitve, under Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days after September 23, 1983, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You are invited to submit written data and views concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** If you decide to comment on this rule change, please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Please refer to File No. SR–DTC–83–7.

DTC's proposed rule change and all related documents (other than those which may be withheld form the public in accordance with the provisions of 5 U.S.C. § 552) will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of DTC's submission and any subsequent amendments also will be available for inspection and copying at the principal office of DTC.

For the Commission, by the Division of Market Regulation Pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28634 Filed 10–19–83; 8:45 am]

BILLING CODE 8010–01–M

[SR–NASD–83–6; Release No. 20288]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

October 14, 1983.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, submitted on May 31, 1983, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend the NASD Uniform Practice Code ("Code"). The principal modification made by the proposed rule change is the application of the Code to unit investment trust ("UIT") securities. A number of

[1] Securities Exchange Act Release No. 20284, October 14, 1983.

VOL
48
ISS
2
0
4
OC
20
1983
UMI

amendments to the existing language of the Code also are proposed which conform various sections with the inclusion of UIT's in the Code's coverage. A new Section 50(c)(ii) is added to provide a buy-in procedure for UIT's similar to the provisions of the Municipal Securities Rulemaking Board's Rule G–12.

The NASD states that the inclusion of UIT's under the Code will provide industry-wide uniformity for the trading and trade-processing of UIT's. In addition, the proposed rule change clarifies that the Code applies only to secondary market transactions and excludes both redeemable securities registered under the Investment Company Act of 1940 other than UIT's and direct participation program securities from the Code's coverage. These provisions will codify current NASD practice.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 20060, August 5, 1983) and by publication in the Federal Register (48 FR 36718, August 12, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28635 Filed 10–19–83; 8:45 am]

BILLING CODE 8010–01–M

[File Nos. SR–PCC–82–7, SR–PCC–83–3 and SR–PCC–83–4; Release No. 20286]

Pacific Clearing Corp.; Order Approving Proposed Rule Changes

October 14, 1983.

On September 27, 1982, July 14, 1983, and August 16, 1983, Pacific Clearing Corporation ("PCC") submitted to the Commission proposed rule changes [1] pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b–4 thereunder. The proposals were filed to update and to conform PCC's rules to the Act and the Division of Market Regulation's Standards concerning full registration of clearing agencies.[2] No comments were received by the Commission.

File No. SR–PCC–82–7 consolidates into a single rule: (i) Minimum standards for admission to PCC and continuing participation in PCC; (ii) PCC's authority to discipline participants; and (iii) the rights and obligations of PCC and its applicants and participants if PCC limits, denies or conditions their access to PCC. The filing also sets forth PCC's Standards of Financial Responsibility and Operational Capability ("Standards"), which PCC would apply to its members and applicants for membership. These largely separate Standards for broker-dealers and banks provide: (i) Minimum financial and operational requirements for members and applicants; (ii) criteria for closer surveillance of certain securities issues and financially or operationally troubled members; (iii) guidelines for requiring members to provide PCC specified further assurances of financial responsibility and operational capability; and (iv) requirements for members to report to PCC capability; and (iv) requirements for members to report to PCC on a regular basis and upon the occurrence of specified events.

File No. SR–PCC–83–3 modifies existing rules or adds new rules regarding: (a) The operation of PCC's continuous net settlement ("CNS") system; (b) members' payment of daily money settlement obligations; (c) "good delivery" requirements for physical securities deliveries into the CNS system; (d) calculation and collection of members' mark-to-the-market requirements; (e) PCC's buy-in procedures; (f) PCC's reclamation procedures; and (g) PCC's dividend and interest payment procedures. The filing also includes significant enhancements to PCC's safeguarding systems by modifying existing rules or adding new rules regarding: (a) PCC's liens on members' valued positions; (b) PCC's authority to levy and collect from members further assurances of financial responsibility and operational capacity; (c) PCC's rights to suspend summarily members in certain circumstances and to close out their securities positions; (d) PCC's insolvency procedures, including authority to reverse certain securities deliveries and to buy-in and sell-out the insolvent's securities positions; (e) PCC's rights to decline to act for financially solvent members; (f) PCC's authority to institute financial responsibility and operational capability standards for applicants and members; (g) PCC's rights to discipline members; and (h) PCC's hearing and appeal rights and procedures for aggrieved applicants and members. The proposal also includes a new rule requiring PCC to have an audit of its system of internal accounting controls by an independent public accountant and to furnish to members copies of the accountant's report. In addition, the filing adds new procedures for nominating and electing individuals to PCC's board of directors.

Finally, File No. SR–PCC–83–4 would amend both PCC's authority regarding its clearing fund and the clearing fund's structure. First, PCC would maintain a clearing fund separate from the participants fund of its affiliated registered securities depository, Pacific Securities Depository Trust Company ("PSDTC"). Second, PCC would be authorized to invest clearing fund cash in United States Government securities. Third, PCC's authority to use clearing fund assets would be narrowed. PCC would use clearing fund assets to meet losses or liabilities incident to clearance and settlement activities.

The proposal also would change individual member and aggregate clearing fund contribution levels. First, a member's minimum contribution would be increased to $5,000. Second, PCC would calculate a member's required clearing fund contribution on the basis of the member's aggregate clearance activity in all of its accounts at PCC (the $5,000 minimum contribution also would be applied to the member once and not to each of its accounts). Third, PCC's formula by which individual member's clearing fund requirements are calculated (other than the minimum deposit requirement) would be changed substantially. PCC would calculate a member's contribution requirement by: (a) Totalling all of the member's net debits and credits settling through PCC's and CNS system during each calendar quarter (or lesser period of time, as PCC determines in its discretion), (b) dividing that total by the number of business days in the quarter (or such lesser period) to arrive at the member's average daily CNS debits and credits, and (c) multiplying the member's average daily CNS debits and credits by 2½ percent.[3]

The proposal makes additional changes in the types of collateral that members can use to secure their clearing fund "open account indebtedness," *i.e.*, clearing fund assets over and above the member's minimum cash deposit. PCC members would be able to secure their open account indebtedness with irrevocable letters of credit issued in favor of PCC by PCC-approved financial institutions.[4] PCC will control closely participant letter of credit usage through a number of safeguarding mechanisms, such as PCC's approval of financial institutions as letter of credit issuers and PCC's general authority to prevent or to deter an undue concentration of letters of credit from one or more approved letter of credit issuers. The proposal contains no specific concentration requirements other than the stated limitation that no single letter of credit issuer can issue letters of credit aggregating more than 25 percent of the total participants fund (or such other percentage as determined by PCC's board of directors). PCC has undertaken, however, to design and receive Commission approval of all appropriate concentration requirements prior to implementing its letter of credit program. Also, members no longer could secure their open account indebtedness with high-grade bearer municipal bonds. Finally, the proposed rule changes contain technical or non-substantive revisions to PCC's rules and by-laws.

During the course of the full registration review process, these proposed rule changes were specifically considered by the Commission and were found to be consistent with the provisions of the Act and the Standards. For the reasons discussed in the Full Registration Order,[5] the Commission finds that the proposed rule changes are consistent with the Act and the rules thereunder applicable to registered clearing agencies and, in particular, Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–28632 Filed 10–19–83; 8:45 am]

BILLING CODE 8010–01–M

[File Nos. SR–PSDTC–83–7 and SR–PSDTC–83–8]

Pacific Securities Depository Trust Co.; Order Approving Proposed Rule Changes

October 14, 1983.

On August 16, 1983, Pacific Securities Depository Trust Company ("PSDTC") filed with the Commission proposed rule changes,[1] pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b–4 thereunder. The proposals were filed to improve generally various portions of PSDTC's rules and to conform them to the Division of Market Regulation's Standards for the Registration of Clearing Agencies that concern Sections 17A(b)(3)(A)–(I) of the Act.[2] No comments were received by the Commission.

File No. SR–PSDTC–83–7 would, among other things, modify existing rules or add new rules regarding: (i) The types of entities that are eligible to participate in PSDTC; (ii) the standards that applicants must satisfy to participate in PSDTC; (iii) background information that applicants must furnish PSDTC; (iv) standards of financial responsibility and operational capacity that participants must satisfy continuously; (v) PSDTC's rights to discipline participants; (vi) PSDTC's rights to suspend summarily participants in certain circumstances and to close-out their positions; (vii) PSDTC's liens on deposited funds and securities; (viii) PSDTC's insolvency procedures, including rights to reverse certain securities deliveries or payments for securities; (ix) hearing and appeal rights and procedures for aggrieved applicants and participants; (x) PSDTC's obligation to provide periodically to its participants copies of internal accounting control reports prepared by PSDTC's independent public accounts; (xi) procedures for nominating and electing individuals to PSDTC's board of directors; and (xii) additional non-substantive or technical amendments to PSDTC's rules.

File No. SR–PSDTC–83–8 would amend both PSDTC's authority regarding the participants fund and the participants fund's structure. First, PSDTC would maintain a participants fund separate from the participants fund of its affiliated registered clearing corporation, Pacific Clearing Corporation ("PCC"). Second, PSDTC would be authorized to invest participants fund cash in United States Government securities. Third, PSDCT's authority to use participants fund assets would be narrowed. PSDTC would use those assets to meet losses or liabilities incident to the operation of a securities depository which holds and transfers securities on behalf of members and on behalf of banks to whom securities have been pledged by members. Fourth, members using PSDTC's soon-to-be-implemented Municipal Bearer Bond Service would be required to contribute to a new, separate participants fund (the "municipal fund contribution") related to that service.[3]

In addition, File No. SR–PSDTC–83–8 would change individual member and aggregate participants fund contribution levels. First, a member's minimum contribution would be increased to $5000. A member's minimum municipal fund contribution also would be $5000. Second, PSDTC's formula by which individual member's participants fund requirements are calculated (other than the minimum deposit requirement) would be changed substantially. PSDTC would calculate a member's contribution requirement by: (a) Totalling all of the member's valued securities deliveries (both physical and book-entry deliveries) during each calendar quarter (or lesser period of time, as PSDTC determines in its discretion), (b) dividing that total by the number of business days in the quarter (or such lesser period) to arrive at the member's average daily valued deliveries, and (c)

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[1] File No. SR–PCC–82–7, notice of which was given in Securities Exchange Act Release No. 19198 (November 1, 1982), 47 FR 50792 (November 9, 1982); File No. SR–PCC–83–3, notice of which was given in Securities Exchange Act Release No. 20126 (August 29, 1983), 48 FR 40335 (September 6, 1983); and File No. SR–PCC–83–4, notice of which was given in Securities Exchange Act Release No. 20115 (August 25, 1983), 48 FR 39550 (August 31, 1983). An amendment to File No. SR–PSDTC–82–7 was filed on August 16, 1983, and was published for notice in Securities Exchange Act Release No. 20149 (September 2, 1983), 48 FR 40590 (September 8, 1983).

[2] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

[3] To ease implementation of the larger clearing fund requirements, PCC will calculate and will advise each member of its new clearing fund requirement based on its fourth calendar quarter activity. At year end, the new requirements will become effective, and members will be required to meet the new, increased clearing fund levels.

[4] PCC has undertaken not to implement its letter of credit program until the clearing fund increases become effective. *See* note 3 *supra*. PCC also has undertaken to receive Commission approval of appropriate criteria for qualifying financial institutions as letter of credit issuers prior to the program's implementation.

[5] *See* Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (October 3, 1983).

[1] File No. SR–PSDTC–83–7, notice of which was given in Securities Exchange Act Release No. 20113 (August 25, 1983), 48 FR 39551 (August 31, 1983); File No. SR–PSDTC–83–8, notice of which was given in Securities Exchange Act Release No. 20129 (August 29, 1983), 48 FR 40331 (September 6, 1983).

[2] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

[3] PSDTC recently filed with the Commission a proposed rule change designed to implement PSDTC's Municipal Bearer Bond Service. PSDTC has not yet proposed a formula for calculating a member's municipal fund contribution. PSDTC stated that the formula will be based upon the member's use of the Municipal Bearer Bond Service and PSDTC's analysis of the Service's potential financial risks. The Commission expects that PSDTC will file that formula with the Commission in accordance with Section 19(b) of the Act.

multiplying the member's average daily valued deliveries by one percent. Third, the ceiling for each member's participants fund contribution would be raised significantly. The maximum contribution now would be $100,000.[4]

Finally, File No. SR–PSDTC–83–8 would change the types of collateral that members can use to secure their participants fund "open account indebtedness," *i.e.*, participants fund assets over and above the member's minimum cash deposit. The proposal would enable PSDTC members to secure their open account indebtedness with irrevocable letters of credit issued in favor of PSDTC by PSDTC-approved financial institutions.[5] The proposal contemplates that PSDTC will control closely participant letter of credit usage through a number of safeguarding mechanisms, such as PSDTC's approval of financial institutions as letter of credit issuers and PSDTC's general authority to prevent or to deter an undue concentration of letters of credit from one or more approved letter of credit issuers. The proposals contain no specific concentration requirements other than the stated limitation that no single letter of credit issuer can issue letters of credit aggregating more than 25% of the total participants fund (or such other percentage as determined by PSDTC's board of directors). PSDTC has undertaken, however, to design and receive Commission approval of all appropriate concentration requirements prior to implementing its letter of credit program. In addition, members no longer could secure their open account indebtedness with high-grade bearer municipal bonds.

During the course of the full registration review process, these rule changes specifically were considered by the Commission and were found to be consistent with the provisions of the Act and the Division's Standards concerning full registration of clearing agencies. For the reasons discussed in the Full Registration Order,[6] the Commission believes that the proposed rule changes are consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28638 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[4] To ease implementation of the larger participants fund requirements, PSDTC will calculate and advise each member of its new participants fund requirement based on its fourth calendar quarter activity. At year end, the new requirements wil become effective, and members will be required to meet the new, increased participants fund levels.

[5] PSDTC has undertaken not to implement its letter of credit program until the participants fund increases become effective. *See* note 4 *supra*. PSDTC also has undertaken to receive Commission approval of appropriate criteria for qualifying financial institutions as letter of credit issuers prior to the program's implementation.

[6] *See* Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (October 3, 1983).

[Release No. 34–20283; File No. SR–AMEX–83–23]

Self-Regulatory Organizations; Proposed Rule Change; American Stock Exchange, Inc., Requirement To Deliver Stock Index Options Disclosure Documents

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 6, 1983 the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or the "Exchange") proposes to amend Rule 926, as set forth below. *Italics* indicates material proposed to be added; brackets [ ] indicate material proposed to be deleted.

Rule 926 Delivery of Options Disclosure Document and Prospectus

(a) Options Disclosure Document.

Every member and member organization shall deliver [a current Options Disclosure Document] to each customer: [at or prior to the time such customer's account is approved for options trading, relating to options on the category or categories of underlying securities covered by such approval.]

(i) a current Options Disclosure Document relating to stock options at or prior to the time such customer's account is approved for any category or categories of options trading;

(ii) a current Options Disclosure Document relating to stock index options at or prior to the time a customer's account engages in a stock index option transaction;

(iii) a current Options Disclosure Document relating to options on any other category or categories of underlying securities (e.g., interest rate securities) at or prior to the time a customer's account is approved for such category or categories of options trading.

Thereafter, each amended Options Disclosure Document shall be distributed to every customer having an account approved for options trading, or, in the alternative, shall be distributed not later than the time a confirmation of a transaction is delivered to each customer who enters into an option transaction. The term "current Options Disclosure Document" means, as to any category of underlying security, the most recent edition of such Document which meets the requirements of Rule 9b–1 promulgated under the Securities Exchange Act of 1934.

(b)—No change

. . . Commentary—No change

II. Self-Regulatory Organization's Statement of the Burden of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has in prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In November 1982, the SEC approved proposed rule changes by the AMEX to accommodate the listing and trading of standardized put and call option contracts on various stock indices (see SR–AMEX–82–8; approved SEC Release No. 19264). A supplement to the basic disclosure document was developed dealing with stock index options. It was intended by the Exchange (see SR–AMEX–82–8, Amendment No. 1) and the SEC (see approval order SEC Release No. 19264) that a stock index disclosure document be furnished to a customer at or prior to the time a customer engages in a stock index option transaction.

However, Exchange Rule 926 (Delivery of Options Disclosure Document and Prospectus) only requires member organizations to furnish customers with a current Options Disclosure Document(s) at or prior to the time a customer's account is approved for a particular category of options trading. Since Exchange rules do not require any separate approval for stock index options beyond the initial approval for stock option transactions, there is a gap between Rule 926 and the intent of the Exchange and the SEC. Under the current rule, a customer may not receive a disclosure document pertaining to stock index options at or prior to commencement of trading in such options.

Therefore, it is proposed that Rule 926 be amended to require member organizations to furnish customers with the disclosure document pertaining to stock index options (*Listed Options on Stock Indices*) at, or prior to the time a customer engages in a stock index option transaction. The proposed change clarifies Exchange rules to reflect its intent as expressed in previous filings relating to stock index options which is in keeping with the Commission's approval order.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that it will insure that stock index option customers receive the stock index options disclosure document which should assist in their understanding of the unique risks and uses of stock index options.

Therefore, the proposed rule change is consistent with Section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 13, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28639 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–20282; File No. SR–AMEX–83–24]

Self-Regulatory Organizations; Proposed Rule Change; American Stock Exchange, Inc., Stock Index Option Expiration Months

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 7, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or the "Exchange") proposes to amend Exchange Rule 903C as set forth below. *Italics* indicates words proposed to be added, and brackets [ ] indicate words proposed to be deleted.

Rule 903C. Series of Stock Index Options

(a) After a particular class of stock index options has been approved for listing and trading on the Exchange, the Exchange shall from time to time open for trading series of options therein. *Within each approved class of stock index options, the Exchange may open for trading series of options expiring in consecutive calendar months ("consecutive month series"), as provided in subparagraph (i) of this paragraph (a), and/or series of options expiring at three-month intervals ("cycle month series"), as provided in subparagraph (ii) of this paragraph (a).* Prior to the opening of trading in any series of stock index options, the Exchange shall fix the expiration month and exercise price of option contracts included in each such series.

[(b) If a class of options relates to a broad stock index group,]

(i) Consecutive Month Series

With respect to each class of stock index options, series of options [therein] having up to four [different] *consecutive* expiration months [will] *may* be opened for trading [initially] *simultaneously*, with the shortest-term series *initially* having no more than two months to expiration [and all of the expiration months being consecutive calendar months]. Additional *consecutive month* series [of options] of the same class may be opened for trading on the Exchange at or about the time a prior *consecutive month* series expires, and the expiration month of each such new series shall normally be the month immediately succeeding the expiration month of the then outstanding [option] *consecutive month* series of the same class of options having the longest remaining time to expiration.

(ii) Cycle Month Series

The Exchange may designate one expiration cycle for each class of stock index options. An expiration cycle shall consist of four calendar months ("cycle

months") occurring at three-month intervals.

With respect to any particular class of stock index options, series of options expiring in up to three of the four cycle months designated by the Exchange for that class may be opened for trading simultaneously, with the shortest-term series initially having approximately three months to expiration. Additional cycle month series of the same class may be opened for trading on the Exchange at or about the time a prior cycle month series expires, and the expiration month of each such new series shall normally be approximately three months after the expiration month of the then outstanding cycle month series of the same class of options having the longest remaining time to expiration.

[If a class of options relates to a stock index industry group, the expiration months of series of options therein shall be fixed in accordance with the provisions of Rule 903.]

(Paragraphs (c) and (d) are proposed to be redesignated as paragraphs (b) and (c), respectively.)

* * * * *

In connection with the proposed amendment of Rule 903C the Exchange is also proposing to reduce, from 45 to 30, the minimum number of days to expiration which a new industry-based index option must have on its first day of trading.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in Sections (A), (B), and (C), below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed change of paragraph (b) of Rule 903C (which is proposed to be redesignated as subparagraph (i) of paragraph (a) of the same rule) is to permit the Exchange to establish monthly expirations for industry-based stock index options. The Exchange's proposal to adopt a policy under which it would be authorized to open new series of industry-based index options which have at least 30 days to expiration on their first day of trading (in lieu of the current policy calling for a minimum of 45 days) corresponds with the proposal to establish monthly expirations for such options.

The monthly expiration system proposed for industry-based index options, including the application of a so-called "30-day rule" to the opening of new series of options, would be identical to the system which the Commission has approved for broad-based index options (Securities Exchange Act Release No. 20201; September 20, 1983). The Exchange believes that the reasons supporting the establishment of consecutive expiration months for broad-based index options also support the establishment of consecutive expiration months for industry-based index options.

The purpose of proposed new subparagraph (ii) of paragraph (a) of Rule 903C is to permit the Exchange to establish expiration months for its stock index options in accordance with the existing pattern of expiration cycles. That is, with respect to each class of stock index options, the Exchange would select one of the three available expiration cycles (*e.g.*, the "January cycle", consisting of the months of January, April, July, and October), and it would be authorized to conduct trading in options expiring in up to three of the cycle months at a time. Option series of a particular class expiring in a new cycle month would be opened for trading as older option series of the same class expired in an earlier cycle month.

This new subparagraph would apply to both broad-based and industry-based index options. The Exchange is proposing it in order to retain flexibility to introduce six-month and nine-month index options in the event that customer demand for such options develops. The Exchange believes it is important to have the flexibility to introduce such option series in addition to the series expiring in nearer-term consecutive months so that it can be responsive to changing investor preferences should they occur. The exchange is aware of no regulatory concerns that are likely to arise from its retention of authority to list cycle month series as well as consecutive month series. It should be noted that the New York Stock Exchange has proposed to establish both consecutive expiration months and cycle expiration months for its stock index options (File No. SR-NYSE-83-43).

If the Exchange introduces cycle month expirations for its stock index options, it would use their existing cycles—the January cycle for Major Market Index options, and the March cycle for options on the Amex Market Value Index, the Computer Technology Index and the Oil and Gas Index.

In order to maintain maximum flexibility to respond to investors' preferences, the Exchange is proposing to amend paragraph (a) of Rule 903C to permit it to establish either consecutive expiration months, or cycle expiration months, or both, with respect to each class of stock index options. Although the proposed rule would, on its face, authorize the Exchange to maintain option series having up to six different expiration months open at a time with respect to each class of index options (four consecutive months and three cycle months, with at least one of the consecutive months and one of the cycle months being the same month), it is unlikely that the Exchange would do so. The Exchange is aware that adding series of options in which there is little investor interest could possibly produce operational burdens for member firms and market markers without resulting in any corresponding benefits. It therefore intends to make judgements as to the number of expiration months to maintain for trading with respect to each class of options on the basis of the trading characteristics of each individual class. At the present time, the Exchange does not foresee the likelihood of establishing more than four expiration months for any class of stock index options, and it believes that investor interest will continue to be centered on the near-term expirations.

The Exchange believes that the rule changes proposed herein are consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange, and, in particular, Section 6(b)(5) of the Act, in that they would help to increase the utility of stock index options to market participants and would promote fair competition among exchanges, thereby serving to protect investors and to further the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others.

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth St., N.W., Judiciary Plaza, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 13, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28640 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. NY-5518]

Supplemental Order Designating Additional Officer(s); National Video Centers, Inc.

October 13, 1983.

IT IS ORDERED that the order of the Commission adopted on August 17, 1983, authorizing a private investigation of the above-captioned matter, based upon possible violations of the provisions of the Federal securities laws, be and it is hereby amended by designating as additional officer(s) of the Commission Joel A. Crepea.

For the Commission (pursuant to delegate authority), by the Division of Enforcement.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28641 Filed 10-19-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5176]

Space Ventures Inc.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1983)), to transfer control of Space Ventures Incorporated, (Space) 3931 MacArthur Boulevard, Suite 212, Newport Beach, California 92660, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act).

Space was licensed on November 1, 1974, and has private capital of $1,010,000. The proposed transfer of control will be accomplished by the purchase of 51 percent of the then outstanding stock of First California Business Industrial Development Corporation, First Cal (Bidco), owner of all the outstanding stock of Space Ventures, Inc. (SVI) by UF Service Corporation (UFSC). UFSC is the wholly owned subsidiary of United Federal Savings and Loan Association.

The proposed officers, directors and stockholders will be:

James Roosevelt, 1901 Yacht Resolute, Newport Beach, Ca 92660—Chairman of The Board
Leslie R. Brewer, 10072 Merrimac Drive, Huntington Beach, Ca 92646—President, Director
Claire Faller, 7562 Ellis Avenue, #E-17, Huntington Beach, Ca 92648—Secretary
C. Dean Olson, 521 North Arden Drive, Beverly Hills, Ca 90210—Director—More than 10% indirectly
John J. Tuttle, 200 Via Lido Nord, Newport Beach, Ca 92660—Director
First Cal BIDCO—100% Direct
U.F. Service Corporation, 130 Montgomery Street, San Francisco, Ca 94104—More than 51% indirectly
United Federal Savings and Loan Association, 130 Montgomery Street, San Francisco, Ca 94104—More than 51% indirectly
Ben L. Hom, 1 Villa Terrace, San Francisco, Ca 94114—Director—More than 10% indirectly
Harold S. Charney, 1436 Vallejo Street, San Francisco, Ca 94109—Director
Winfred Tom, 2632 La Honda Avenue, El Cerrito, Ca 94530—Director
Kin-Wai M. Ngai, 580 Crestlake Drive, San Francisco, Ca 94132—Director
Jeffery L. Green, 43 Cameron Court, Danville, Ca 94526—Director
Joseph R. Marcinczyk, 306 Second Avenue, San Francisco, Ca 94118—Director

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in Newport Beach, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-28630 Filed 10-19-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-0337]

VNB Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.)*, and the Rules and Regulations promulgated thereunder.

VOL
48
ISS
204
OC
20
1983
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Applicant: VNB Capital Corporation
Address: 241 North Central Avenue, Phoenix, Arizona 85073

The proposed officers, directors and stockholder of the Applicant are as follows:

James G. Gardner, President and Director, 725 East Eric Drive, Temple, Arizona 85282
Ronald C. McLaughlin, Vice President and Director, 12207 N 59 Street, Scottsdale, Arizona 85245
J. Wilson Barrett, Director, 122 E San Miguel, Phoenix, Arizona 85012
Howard C. McCrady, Director, 8201 Gold Drive, Paradise Valley, Arizona 85306
Leonard W. Huck, Director, 4854 Calle Del Medio, Phoenix, Arizona 85018
The Valley National Bank, 214 N. Central Avenue, Phoenix, Arizona 85073

The Applicant, a Arizona corporation, with its principal place of business at 241 North Central Avenue, Phoenix, Arizona 85073, will begin operations with $15,000,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Arizona.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Phoenix, Arizona area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-28629 Filed 10-19-83; 8:45 am]

BILLING CODE 8025-01-M

Region VI—Advisory Council; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Corpus Christi, will hold a public meeting at 2:00 p.m. on Tuesday, October 25, 1983, at the Republic Building, First Floor, 3105 Leopard Street, Corpus Christi, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Miguel A. Cavazos, Jr., Branch Manager, U.S. Small Business Administration, Republic Building, 3105 Leopard Street, Corpus Christi, Texas 78408 (512) 888-3301.

Dated: October 17, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83-28631 Filed 10-19-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-9/675]

Study Group C of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 17, 1983 at 9:30 a.m. in Room 1205 of the Department of State, 2201 C Street, NW., Washington, D.C.

The Study Group meeting will discuss the status of the international agreement concerning 32 kilobits-per-second voice coding and CCITT Study Group XVIII and its international team of experts.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to the meeting, all persons planning to attend the meeting should contact Mr. Dexter Anderson, Department of State, Washington, D.C. 20520, telephone 202 632-6583. All attendees must use the C Street entrance to the building. Entrance will be facilitated 15 minutes before and after the meeting begins.

Dated: October 11, 1983.

Earl S. Barbely,

Director, Office of International Communications Policy.

[FR Doc. 83-28608 Filed 10-19-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 152—Digital Avionics Software; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 152 on Digital Avionics Software to be held on November 7-9, 1983, in Conference Rooms 7A-B-C, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. commencing at 1:00 p.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the First Meeting Held on August 3-5, 1983; (3) Report of the System Design Working Group; (4) Report of the Software Design and Testing Working Group; (5) Report of the Full Flight Regime Systems Working Group; (6) Report of the Configuration Management and Documentation Working Group; (7) Working Groups Meet in Separate Sessions; (8) Special Committee Plenary Session; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on October 12, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-28513 Filed 10-19-83; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 204
Thursday, October 20, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Deposit Insurance Corporation	2, 3
Merit Systems Protection Board	4
Parole Commission	5
Postal Service	6

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, October 25, 1983, 9:30 AM (Eastern Time).

PLACE: Commission Conference Room No. 200 on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-8-FOIA-1-AT, concerning a request for a copy of Title VII case file.
4. Freedom of Information Act Appeal No. 83-8-FOIA-118-SL, concerning a request for Title VII investigative files.
5. Freedom of Information Act Appeal No. 83-8-FOIA-165-NY, concerning a request for a closed ADEA file.
6. Freedom of Information Act Appeal No. 83-8-FOIA-143-HQ, concerning a request for a copy of part of a memorandum from an attorney on the General Counsel's staff to the General Counsel re the Pregnancy Discrimination Act.
7. Proposed Sec. 631, Employment Agencies, Vol. II of the Compliance Manual.
8. Proposed Sec. 618, Segregating, Limiting and Classifying Employees, Vol. II of the Compliance Manual.

Closed

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued October 18, 1983.

[S-1479-83 Filed 10-18-83; 3:25 pm]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Monday, October 24, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish three branches:

First State Bank, Gulfport, Mississippi, an insured State nonmember bank, for consent to merge, under its charter and title, with The Metropolitan National Bank, Biloxi, Mississippi, and for consent to establish the three offices of The Metropolitan National Bank as branches of the resultant bank.

Applications for consent to purchase assets and assume liabilities and establish branches:

The Chancellor State Bank, Chancellor, South Dakota, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Brandon Branch, Brandon, South Dakota, and the Vally Springs Branch, Valley Springs, South Dakota of United National Bank, Sioux Falls, South Dakota, and to establish those two offices as branch as of The Chancellor State Bank.

Farmers and Merchants Bank and Trust of Watertown, Watertown, South Dakota, for consent to purchase the assets of and assume the liability to pay deposits made in the Rosholt Branch of United National Bank, Sioux Falls, South Dakota, and to establish that office as a branch of Farmers and Merchants Bank and Trust of Watertown.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1476-83 Filed 10-18-83; 11:39 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that

the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Monday October 24, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to establish a branch:

Woonsocket Institution for Savings, Woonsocket, Rhode Island, and Woonsocket Institution Trust Company, Woonsocket, Rhode Island, for consent to establish a branch to be jointly occupied at 1000 Park Avenue, Cranston, Rhode Island.

Application for consent to establish two remote service facilities:

Cheshire County Savings Bank, Keene, New Hampshire, for consent to establish two remote service facilities at PAKS Convenience Store, 152 Winchester Street, and at Greens and Things, Colony Mill Marketplace, West Street, both locations in Keene, New Hampshire.

Application for consent to relocate the main office:

Jeffrey City State Bank, Jeffrey City, Wyoming, for consent to relocate its main office from Jeffrey City, Wyoming, to 40 South Curtis Street, Evansville, Wyoming.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: The Des Plaines Bank, Des Plaines, Illinois
Memorandum and Resolution re: Fidelity Bank, Utica, Mississippi

Reports of committees and officers:

Minutes of action approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.
Report of the Directors, Office of Corporate Audits and Internal Investigations:
Audit Report re: Post-Implementation Audit of the Remote Entry Examination Processing System, dated September 26, 1983.

Discussion Agenda:

Memorandum and Resolution re: Semiannual Agenda of Regulations.

Memorandum and resolution re: Advance notice of proposed rulemaking in connection with Parts 330 and 337 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage" and "Unsafe and Unsound Banking Practices," respectively, to solicit comment on (1) the extent to which brokered or brokered-type deposits are being placed with FDIC-insured banks without adequate analysis of the managerial practices and financial stability of the banks; (2) whether the Corporation, in order to encourage market and bank analysis in the placement of such deposits, should limit the insurance coverage of, or restrict the receipt of, such funds by insured banks; and (3) whether the current "multiple" insurance coverage afforded to pension funds and other custodial-type deposits, under which each beneficial owner of such deposits is insured to $100,000, should be limited.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1475–83 Filed 10–18–83; 11:39 am]

BILLING CODE 6714–01–M

4

MERIT SYSTEMS PROTECTION BOARD

Sunshine Act Meeting

TIME AND DATE: 10:30 a.m., Monday, October 31, 1983.

PLACE: Eighth Floor, 1120 Vermont Avenue, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *Barbara Abbott, et al.* v. *Department of Commerce, Bureau of the Census,* MSPB Docket No. DC03518210884.
2. *Stanley Wilson* v. *Defense Contract Audit Agency,* MSPB Docket No. DC07528310367.
3. *Gaston Powell, Jr., et al.* v. *Treasury,* MSPB Docket No. DC07527990039 ADD.
4. *Alfred T. Poyer* v. *Army,* MSPB Docket No. NY04328110344.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Secretary, (202) 653–7200.

For the Board.

Dated: October 17, 1983, Washington, D.C.

Herbert E. Ellingwood,

Chairman.

[S–1474–83 Filed 10–18–83; 9:19 am]

BILLING CODE 7400–01–M

5

PAROLE COMMISSION

[4P0401]

Public Announcement Pursuant To The Government In The Sunshine Act Pub. L. 94–409 (5 U.S.C. Section 552b)

AGENCY HOLDING MEETING: U.S. Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters).

TIME AND DATE: 10 a.m., Monday, October 24, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 6 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

[S–1477–83 Filed 10–18–83; 2:25 pm]

BILLING CODE 4410–01–M

6

POSTAL SERVICE (BOARD OF GOVERNORS)

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 1:00 p.m. on Monday, October 31, 1983, in Washington, D.C., and at 8:30 a.m. on Tuesday, November 1, 1983, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, D.C. As indicated in the following paragraph, the October 31 meeting is closed to public observation. The November 1 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245–3734.

At its meetings on October 3–4, 1983, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for October 31. (See 48 FR 46469, October 12, 1983.)

Note.—Place of meeting changed from New York). The agenda items of the meeting to be closed concern 1) consideration of the Postal Rate Commission Recommended Decision on third-class bulk rates for nonprofit mail (Docket R80–1); and 2) strategic planning in connection with future rate adjustments.

Agenda

Monday Session, October 31 (Closed)

1:00 p.m.:
1. Consideration of Postal Rate Commission Recommended Decision of August 26, 1983, on Third-Class Bulk Rates for Nonprofit Mail (Docket R80–1).
2. Strategic Planning—Future Rate Adjustments.

Tuesday Session, November 1 (Open)

8:30 a.m.:
1. Minutes of the Previous Meeting, October 3–4, 1983.
2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the Members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)

3. Quarterly Report on Operations:
a. Service Performance.
b. Automation.

(Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will present the quarterly summary on service performance and report on automation.)

4. Report on Employee and Labor Relations.

(Mr. Morris, Senior Assistant Postmaster General, Employee and Labor Relations Group, will present the annual report to the Board on developments in the Employee and Labor Relations area.)

5. Policy on *Ex-Parte* Communications.

(The Governors will consider proposed guidelines on *ex-parte* communications to the Governors on issues in rate and classification proceedings that are subject to Chapter 36 of title 39, United States Code.)

6. Capital Investment Projects:
a. Construction of a New General Mail Facility and Vehicle Maintenance Facility at Las Vegas, NV
b. Mechanization Modifications at Bulk Mail Centers in:
1. Dallas, TX
2. Los Angeles, CA
3. Springfield, MA
4. Washington, DC

(Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will present the proposal for the Las Vegas General Mail Facility/Vehicle Maintenance Facility and Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will present the proposal for the Bulk Mail Centers' mechanization modifications.)

7 Consideration of a Tentative Agenda for the December 5–6, 1983, Meetings of the Board in Washington, D.C.

David F. Harris,

Secretary.

S–1478–83 Filing 10–18–83; 3:03 pm]

BILLING CODE 7710–12–M

VOL
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Thursday
October 20, 1983

Part II

Department of Labor

Employment and Training Administration

Implementing Regulations for Title IV-A, B and E of the Job Training Partnership Act

VOL
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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626, 632, 633, 634, 636 and 684

Implementing Regulations for Title IV-A, B and E of the Job Training Partnership Act (Pub. L. 97-300)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations to implement programs under Titles IV-A, IV-B and IV-E of the Job Training Partnership Act (JTPA) relating to Indian and Native American Programs, Migrant and Seasonal Farmworker Programs, Job Corps, and Labor Market Information. These regulations provide the necessary guidance and direction to fully implement the programs. The information and authority needed by program operators and others affected by these parts are contained in these regulations.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone: (202) 376-6600.

SUPPLEMENTARY INFORMATION: Proposed rulemaking governing Title IV-A, B and E of the Job Training Partnership Act was published in the **Federal Register** on July 20, 1983 (48 FR 33182) for the purpose of soliciting public comment. The Department received more than 370 written comments on the proposal. Following is a summary by part of the comments received on each of the major issues and the Department's response. In addition to the identification of comments and changes by part, various organizational, technical and editorial changes were made througout the regulations for purposes of clarity and consistency in the final rules.

A comprehensive reading of the Act, and in particular the provisions of Section 181 (f)(4) shows that Congress intended that the regulations implementing these programs take effect no later than October 1, 1983. The Indian and Native American, Migrant and Seasonal Farmworker, and Job Corps programs are "ongoing" programs which have been affected by statutory changes which repeal the old statutory authority and provide new statutory authority for their continued operation. The Fiscal 1984 grantees for these programs have been selected and the grants were executed and funded on or about October 1, 1983. A time difference between the September 30, 1983, effective repeal of CETA authority and the date of the regulations implementing the commencement of the JTPA funded programs will result in operating confusion with possible disruption of services to the public. Therefore, for good cause found, the effective date of these final regulations has been established as October 1, 1983.

A change affecting both Parts 632 and 633 has been made regarding "Complaints, Investigations and Hearings." To eliminate duplication and ensure consistency, the various proposed complaint, investigation and hearing provisions have been consolidated in a new Part 636 of the JTPA regulations, made applicable to the Title IV Indian and Native American and migrant and seasonal farmworker training programs. Part 636 describes procedures for local participant and subrecipient grievances, Federal level complaints and investigations, and hearings before the Administrative Law Judges. Sanction and audit resolution provisions are separately addressed in the administrative provisions for the various programs.

Several commentators suggested that local grievance procedures be simplified to save expense. The Department accepted this comment with respect to employer level grievance procedures relating to terms and conditions of employment and has therefore dropped from the final regulations the requirement for certain minimum procedures. Section 636.4 merely requires employers to establish or maintain such procedures and to extend to employed JTPA participants any procedures available to other employees. With respect to grantee grievance procedures, however, the Department believes the minimum requirements of § 636.3 are necessary to ensure the development of an adequate record for review.

A number of comments concerned discrepancies between the Federal complaints and hearings procedures for the basic JTPA programs and those for Title IV programs. The final regulations have been revised for greater consistency in the Federal level procedures for the various programs, bearing in mind the distinction that in Title IV programs the Department deals directly with program administrators whereas, under the basic JTPA programs this is the role of the Governors. The final complaint and hearing regulations also reflect a number of editorial and technical changes made for purposes of clarity and understandability. Unnecessary or repetitive provisions have been dropped, and the newly promulgated Rules of Practice and Procedure of the Office of Administrative Law Judges in 29 CFR Part 18 (48 FR 32538, July 15, 1983) are now cross-referenced in place of the detailed proposed procedures.

Part 632—Indian and Native American Employment and Training Programs

Definitions

The proposed regulation at § 632.4 contained numerous definitions which supplement those in the legislation. The definitions are needed to insure uniform application in the administration and management of a national program. A number of comments were received to alter certain definitions to take into consideration the special circumstances of Native American program operators. A number of these suggestions dealt with detailed procedures for eligibility determinations, an area which will be handled administratively. Changes have been made to several definitions to further clarify the original intent. Generally, changes which would have made the definition inconsistent with the Act or Congressional intent were not accepted.

Eligibility Requirements for Designation as a Grantee

Several commentators wanted language added to § 632.10 which would have given greater weight to previous experience and thereby avoid the possibility of competition. While the Department does not encourage competition for the Indian program, we believe a system should permit the possibility of new organizations entering the field. Therefore, language has been added to § 632.11 which specifically deals with instances where more than one organization applies for program responsibility for the same geographic area.

Numerous comments addressed the two factors at § 632.10(b)(4) which would preclude an organization from being designated as a grantee. The commentators felt that the two factors do not adequately consider positive corrective action by the grantee. The two factors are straight forward and clearly worded such that adequate positive corrective action would remove the risk of non-designation. Therefore, no change has been made to this section.

Several comments suggested that consortia grantees be allowed to submit their consortium agreement after designation. The Department will not finally designate any organization until full compliance with applicable

designation requirements is achieved. While no change has been made, conditional designation pending the receipt of consortium documents is clearly allowed.

The provisions at § 632.10(c)(5)(iii) requiring that signatories to a consortium agreement be liable jointly or separately for claims were the subject of several comments. As with provisions throughout these regulations, this provision is consistent with the overall priority on financial responsibility by grantees and has not been changed. When handling federal funds, organizations must be responsible and the Department must be able to recover established claims.

Commentators pointed out and objected to the fact that the § 632.10(e) requirement to establish a formal Native American Employment and Training Planning Council and comply with Section 7(b) of the Indian Self-Determination and Education Act was directed only to private nonprofit organizations and not public bodies such as governors. The intent of this provision is to inform organizations which may not be familiar with government grants and contracts of appropriate planning requirements and applicable laws. Public agencies operating JTPA programs are otherwise required to establish formal planning councils and are sufficiently familiar with other federal procurement requirements. Therefore, no change has been made to this section.

A comment as received objecting to the requirement that a new grantee have an Indian or Native American population of at least 1,000 within its service delivery area. This requirement is less restrictive than a similar CETA requirement but is intended to insure that any new grantees be of adequate size to realistically operate a comprehensive employment and training program and, therefore, no change has been made.

Designation of Native American Grantees

Numerous comments were received on the "Responsibility Review" contained at § 632.11(d). Objections were raised to both the opening description regarding application of the responsibility review and several of the individual responsibility factors. The commentators did not object to the concept of a responsibility review, but expressed concerns that it may be applied in such a manner as to deny a designation for inconsequential problems. Since the intent of this section is to establish overall responsibility for federal funds, the language has been altered to make it clear that the standard will be whether there is a substantial or persistent record of failures. A change has been made to the individual factors to clarify the existence of and use of performance standards.

Appeal to an Administrative Law Judge for Nondesignation

The proposed regulations at § 632.12 limited the remedy available to an ALJ in the event of a successful appeal of nondesignation. This limitation could have prevented a successful appellant from being designated as a grantee for up to two years. The limit is necessary to allow the Department to assure that services are provided to the client population as quickly and efficiently as possible. The Department agrees, however, that the waiting period for instatement as a grantee may cause undue harm and the language has been changed to make the remedy effective within 90 days, so long as there is sufficient time remaining in the designation period to make a new grantee's operation practical.

Employer Involvement in Planning

Numerous commentators objected to the last sentence at § 632.17(a) believing that it created the impression that only certain types of employer involvement would be acceptable. No such impression was intended and the sentence has been dropped.

Grant Application Content

Based on several comments requesting greater clarity, § 632.19 has been changed to delete any discussion of modifications which are discussed at § 632.22. The dates and procedures for implementation of the Master Plan and Comprehensive Annual Plan system have also been clarified.

Submission of Grant Applications

Commentators requested additional provisions at § 632.20 concerning the preparation, submission, review and approval of Master Plans. General clarifying language has been added to the section. Detailed instructions will be issued administratively.

Numerous comments requested a detailed timetable which the Department should follow for the funding process. Since any funding process is subject to factors beyond the Department's direct control, these regulations do not contain a fixed schedule. An annual schedule will be developed and released administratively which will assist the public in planning.

Application Disapproval

Commentators requested additional provisions at § 632.21 detailing application approval as well as disapproval. This section is intended to describe exceptions to the rule rather than a description of the normal process. Applications will be approved so long as consistent with these regulations, applicable law and formal administrative guidance.

Grant Modifications

The proposed regulations at § 632.22 simply referenced the requirements at 41 CFR Part 29-70 except as provided in special instructions issued by the Department. Commentators objected to the potential for cumbersome and confusing modification requirements which would result in an increased paperwork burden. This section has been rewritten to clarify the Department's general intent to reduce unnecessary administrative requirements particularly with respect to modifications. It is intended that full implementation of the Master Plan will result in substantially fewer modifications since the Master Plan will include approved administrative procedures for altering program activities, participant levels and internal funding levels.

Modifications to performance standards are not mentioned in the regulations. As a general rule, performance standards should not be modified during the program year. A grantee may request a performance standard modification but must be able to demonstrate a major change in either economic conditions or service population characteristics. During the trial period, performance standards modifications will be considered individually. Once the performance standard system is finalized, standardized modification procedures will be issued administratively.

Grant Termination

A number of concerns were raised by commentators regarding § 632.23. One thrust of these comments was a concern that there were inadequate provisions for notice and a hearing. In the instance of emergency termination, the authority, notice and hearing provisions are clearly defined in section 164(f) of the Act. Section 632.23 further amplifies instances of termination and the Department's action. No change has been made for "emergency terminations."

Commentators were also concerned that grants could be terminated for trivial problems with respect to

VOL 48 ISS 204 OCT 20 1983 UMI

"termination for cause". It is intended that only serious problems result in termination. Language has been added to § 632.23(b) making the Department's intent more clear. No change has been made to the factors to be considered for termination for cause other than citing OMB Circular A–87 from which the factors are derived.

General Administrative Standards

The regulation at § 632.31(b) refers to 41 CFR Part 29–70 for general grant administrative requirements. Commentators have requested more specificity by including the relevant sections in Part 632. They further commented that whenever the provisions of Part 29–70 conflict with Part 632, the provisions of Part 632 should prevail. Any clarification needed to Part 29–70 for Indian grantees will be handled administratively. The regulation has been changed to address any conflicts between Part 29–70 and Part 632.

Financial Management Systems

Section 632.32 has been altered by eliminating (d) which required an auditor to submit a letter to the grant officer in cases where records were unauditable. This change is technical and reflects the increasing use of unified or single audits and the fact that the Department of Labor is usually not the cognizant agency for such audits.

Contracts Past the Expiration Date of the Grant

The regulations for Indian programs under CETA allowed grantees to enter into contracts or grants which extended 12 months beyond the expiration date of the grant. The proposed regulations limited such an extension to six months. Several commentators requested a return to the 12-month allowance. The Department's intent with this provision is to encourage obligations and expenditures during the period for which the funds were made available while still allowing adequate flexibility. The six month limit is retained consistent with this position.

Housing Improvement Costs

Based on comments received, § 632.37 has been revised to reflect the previously corrected definition of "low income housing."

Cost Classification

Based on comments received, language has been added to § 632.38 allowing unemployment compensation coverage for work experience when required by State law.

Administrative Cost Plan

Based on comments received, § 632.39 has been changed to allow either an administrative cost pool or direct charging.

Reporting Requirement

Commentators expressed concern that the data elements listed in § 632.41 would be mandated and could not be revised when information needs changed. This section has been rewritten simply to authorize quarterly financial and program reporting without identifying all the data elements. Once approved by the Office of Management and Budget, required planning and reporting forms will be issued administratively.

Carryover Funds

The proposed regulations allowed but did not guarantee retention of carryover funds. A number of commentators requested an addition to § 632.43 which would more clearly permit grantees to retain excess funds as carryover from one fiscal year to the next. No change has been made to this provision. While carryover is and will generally be permitted, it will be the result of an administrative decision following an annual review of each grant.

Participant Eligibility

The proposed regulations did not specifically address the issue of services to aliens legally able to work in the United States. Commentators requested a provision on this issue. In order to clarify alien eligibility, § 632.77 includes a new paragraph which clearly defines an alien's status with respect to eligibility for the Indian program and is consistent with past practice. Also based on comments, the allowability of transfers from one JTPA program to another has been clarified.

Training Activities

The proposed regulation at § 632.78 provides guidance on the basic types of training activities. This provision is not intended as an exhaustive inventory of every possible activity or every possible name given an activity. Many commentators requested that the description be expanded. Since this section is illustrative and is not intended as a glossary, no change has been made.

Dependents' Allowances

The proposed regulations at § 632.81 were silent on the issue of dependents' allowances. Commentators requested assurance that grantees could pay dependent allowances as an option in their allowance payment system. Although dependents' allowances are no longer required as in the past under CETA the final regulations state that they may be paid pursuant to an allowance payment system developed by a grantee. The system must clearly identify the use of dependents' allowances and must be approved by the Department as part of the Master Plan review.

Nondiscrimination

As a result of several comments, § 632.86 has been altered to state clearly that only Indians and Native Americans will be served by the JTPA, Title IV, Section 401 program.

General Departmental Responsibilities

Section 632.88 generally, with minor amplification, restates responsibilities contained in the Act. Comments on this section ranged from a recommendation to use the Act's exact language to suggestions for a great many additional responsibilities including a timetable for all Departmental actions. Since this section is consistent with the Act, no change has been made for the final regulations.

Performance Standards

Numerous comments were received objecting to the provision at § 632.89 which authorized the Department to use up to six percent of the section 401 allocation for performance bonuses. Commentators requested that any performance bonus set aside be deferred until performance standards are more fully developed. Since the Department did not intend this bonus pool to be used until 1987, at the earliest, the final regulation is silent on performance bonuses.

Complaints, Investigations and Sanctions

As described in another part of this preamble, this subpart has been replaced by a new Part 636. In addition a new § 632.44 regarding sanctions has been added to Part 632 and the Audit provisions at § 632.33 have been expanded.

Allocation of Funds

The proposed regulations at § 632.171 authorized the Department to reserve up to 6 percent of the Section 401 funds. This reserve account was to be used for incentive bonuses and other activities to improve grantee performance. Numerous commentators objected to a set-aside as harmful to the client since it results in fewer funds being available for direct services. Based on these comments the six percent has been reduced to one

percent and there is no mention of performance incentives.

Commentators also suggested adding a provision to this section authorizing a hold harmless factor for any formula allocation. Such a paragraph has been added.

Allowable Program Activities

The proposed regulations at § 632.173 limit "community service employment" to 10 percent or an official unemployment rate, whichever is higher, and establishes a guideline for "other activities" at 25 percent. These provisions were established to encourage as much activity as possible be directed to job training and placement. A comment was received that there be no limit on community service employment (CSE) and several on adding additional examples of official unemployment data. No change has been made to the CSE provision since it is consistent with the training thrust of JTPA while providing adequate flexibility for special circumstances. The CSE provision is also sufficiently broad in describing unemployment data which may be used.

Numerous other comments on § 632.173 dealt in a variety of ways with the 25 percent guideline on other activities. A number of commentators agreed in principle to limiting other activities but wanted an expanded waiver description and elimination of Tribal Employment Rights Office activities from the guideline. Other commentators recommended complete elimination of the guideline. Since this is a guideline as opposed to an absolute ceiling and waivers are clearly allowed, no change has been made to this section other than expanding the waiver description. The Department agreed in principle with many of the examples provided in the comments which would support a waiver. Extensive Tribal Employment Rights Office activity was mentioned often and, as stated in the final regulation, would be a good reason to support the granting of a waiver.

Administrative Costs

Numerous commentators proposed a flat 20 percent administrative cost allowance for both the Section 401 and summer programs rather than the 15 percent with a waiver to 20 percent. Based on the comments, it was apparent that waivers would be given in nearly all cases. Sections 632.174 and 632.263 have therefore been changed to authorize a flat 20 percent for administrative costs.

Regulatory Changes by Section

In § 632.4 the following changes have been made to definitions: "Economically Disadvantaged" the words "(e) in cases permitted by regulations of the Secretary, is an adult handicapped" have been eliminated, the words "(e) is a handicapped" have been inserted.

"Family" the word "adult" in paragraph (b)(2) has been eliminated, the word "individual" has been inserted. The words "an older worker as defined in this section whether living in residence or not, or" have been added to the beginning of paragraph (b)(3).

"Family Income" the words "Gross wages" in paragraph (a)(1) have been eliminated; the words "Gross wages paid from JTPA funds" have been inserted.

"Low Income Housing" the words "stablization, those" in paragraph (b) have been eliminated; the words "stabilization, housing built or improved with the assistance of Federal, State or Tribal programs, and those" have been inserted.

"Program Year" the sentence "The first program year will begin July 1, 1984, and end June 30, 1985, to be followed by subsequent program years" has been eliminated.

"Subgrantee" the words "entity which" have been eliminated; the words "entity, excluding private for profit concerns, which" have been inserted.

In § 632.10 the words "shall specify" in paragraph (c)(5)(iii) have been eliminated; the words "shall be signed by an official or officials of each member of the consortium authorized to enter into a binding consortium and shall specify" have been inserted.

In § 632.11 the words "and the total square mileage" in paragraph (a)(2) have been eliminated. This is a technical correction because the information is not needed. The words "and a consortium agreement as specified in § 632.10(c)(5)(iii)." have been added at the end of the sentence in paragraph (a)(7).

The words "conditionally designated" have been added to the first sentence in paragraph (c). The sentence "With the exception of items (c)(1) and (c)(3) of this section, the failure to meet any one of the following responsibility factors would not establish that the organization is irresponsible unless the failure is substantial and persistent." has been added to § 632.11(c). The phrase "to meet performance standards requirements as provided for and developed pursuant to § 632.89." has been added to the end of § 632.11(c)(5). In addition a new paragraph has been added to this section which authorizes a special process when more than one organization submits a Notice of Intent for the same geographic area.

In §§ 632.12 the requirements at § 632.10 and 632.11 have been referenced. The words "in the succeeding designation periods." have been eliminated; the words "and fund the successful appellant within 90 days of the ALJ decision unless the end of the 90 day period is within six months of the end of the funding period. Any organization designated and/or funded for the area in question would be affected by this action and nondesignated. All parties must agree to this arrangement prior to funding." have been inserted.

In § 632.17 the last sentence in paragraph (a) has been eliminated.

In § 632.19 the second sentence has been eliminated and replaced with "The Master Plan and CAP system will be implemented for 1985 or the first designation period following FY 1984 designations."

Section 632.20 has been changed to describe more clearly the submission of both the Master Plan and Comprehensive Annual Plan.

Section 632.21 has been clarified to include the Master Plan as well as the CAP and to eliminate conditional approval from paragraph (c) since formal notice for appeal purposes is only appropriate for disapproval.

Section 632.22 has been substantially rewritten to clarify modification requirements rather than refer to 41 CFR 29–70.

In § 632.23 the opening phrase in paragraph (b) has been changed to read "termination for cause can occur whenever there is a substantial or persistent violation of the governing rules and regulations and failure to comply with the grant terms and conditions. The following factors will be considered for termination." In addition a citation to OMB Circular A–87 is added for clarification.

In § 632.31 a sentence has been added to paragraph (b) stating "Whenever the provisions of 41 CFR Part 29–70 conflict with the provisions of Part 632, the provisions of Part 632 shall prevail."

In § 632.32 paragraph (d) has been eliminated.

In § 632.33 language has been added clarifying the difference between grantees under unified or single audit requirements and those not. This is a technical clarification.

In § 632.37 a technical reference to 41 CFR 1–15.7 has been inserted. Paragraphs (c)(1), (c)(2), and (c)(3) have been eliminated; the words "on low

VOL 48 ISS 204 OCT 20 1983 UMI

income housing as defined in § 632.4" have been inserted.

In § 632.38(c) the words "unemployment compensation costs are allowed for work experience only where required by State law." have been inserted.

Section 632.39 has been altered to give grantees the option of using an administrative cost pool.

Section 632.41 has been substantially modified by eliminating all data elements but retaining the authority to require quarterly financial and program reports pursuant to administrative instructions issued by the Department as approved by OMB.

In § 632.77 clarifying language has been added to paragraph (g) allowing transfers from one JTPA program to another. A new paragraph (i) has been added to this section regarding legal alien eligibility.

In § 632.86 the words "subject to the restrictions that services under section 401 of JTPA are legally available only to Indian and Native American persons" have been added to the beginning of paragraph (a).

In § 632.89 the last two sentences have been eliminated.

Subpart G—Complaints, Investigations and Sanctions has been eliminated and replaced by Part 636.

In § 632.171(c) the words "as incentives based on performance and for other activities" have been eliminated and the word "six" has been replaced by the word "one." In addition a paragraph (d) has been added to § 632.171 which authorizes the Secretary to employ a hold harmless factor in any formula allocation.

In § 632.173 language has been added which expands and further clarifies instances supporting a waiver to the 25 percent guideline for "Other Activities."

In § 632.174 and § 632.263 the existing language has been eliminated and replaced with the sentence "Administrative costs for this subpart are limited to and shall not exceed 20 percent of the funds available."

Part 633—Migrant and Seasonal Farmworker Program (MSFW)

Definitions

The proposed regulations for the Section 402 program at § 633.104 contain several definitions which are supplemental to those contained in the legislation. The definitions are needed to ensure uniform application of a national program. Numerous comments suggested deletions and revisions to this section. Many of these suggestions dealt with reporting requirements which will now be handled administratively. Others dealt with eligibility requirements for the program and were generally accepted by the Department. Changes which would have made the definitions inconsistent with the Act or congressional intent were not accepted.

Comments were received to review the definition of "family" to indicate that family units under common law marriage are included. The Department did not accept this suggestion since the term marriage, which is included in the definition, encompasses legally-recognized common law marriages. Further, for the purposes of the Section 402 program, the definition for the term "family" used in an applicant's State of legal residence shall be the one germane for such applicant, regardless of where the applicant is applying for the program.

Performance Standards

Commentators suggested that language be added requiring that the performance standards for the Section 402 program be published in the **Federal Register** for comments. The Department did not accept this suggestion because the performance standards will be used on an experimental basis through the 1986 program year. The Department intends to publish performance standards in the **Federal Register** for comments prior to their application on a fully operational basis.

Precondition for Grant Application

Section 633.201 establishes two preconditions where the Department will not consider an application for funding when these preconditions are not met. Comments were received suggesting that any assessment of an applicant relevant to the preconditions be a Federal agency-wide review. The Department did not accept these suggestions because a Federal agency-wide review would be impractical given the limited time in the funding cycle and the Department's inability to control other agencies' actions.

Responsibility Review

Numerous comments were received on the "Responsibility Review" contained at § 633.204. Objections were raised to both the opening description regarding application of the responsibility review and several of the individual responsibility factors. The commentators did not object to the concept of a responsibility review, but expressed concerns that it may be applied in such a manner as to deny selection as a potential grantee for inconsequential problems. Since the intent of this section is to establish overall responsibility for federal funds, the language has been altered to make it clear that the standard will be whether there is a substantial or persistent record of failures. A change has been made to the individual factors to clarify the existence of and use of performance standards.

Allocation of Funds

Section 633.105 provides for the distribution of Section 402 funds. Numerous comments were received concerning the various provisions of this section.

It was suggested that in paragraph (a)(2) of this section private profitmaking organizations be eliminated as eligible entities for the National Account set-aside funds since the commentators believe that such organizations are not identified by the legislation as being eligible. The Department did not accept this comment because the congressional intent is that the Section 402 program is to be basically the same as the CETA, Section 303 program, under which private profitmaking organizations were used to provide only technical assistance, and not services to eligible applicants with funds from the National Account.

The Department accepted comments that language be added to paragraph (b)(1) requiring that the formula used to determine State allocations be published in the **Federal Register** for review and comment, along with the rationale for such formula and proposed allocations, no later than 30 days prior to the publication of the final allocations of available funds in the **Federal Register**.

Numerous comments suggested that paragraph (b)(2)(i) be changed to eliminate the threshold level and require funds to be allocated to all States regardless of the funding level determined by the allocation formula. This would allow States contiguous to those receiving amounts insufficient to conduct an effective program to serve those States. The Department did not accept this comment because it believes that funds below a certain level are insufficient to conduct an effective program in a State, regardless of who is administering the program. The proposed language allows sufficient flexibility to adjust the threshold level from year-to-year to meet changes in appropriation levels or other needs. For example, the Department for the Fiscal Year 1984 program has lowered the threshold level to $60,000, allowing more States to participate, but providing that those States whose formula allocation falls between $60,000 and $120,000 will receive a minimum allocation of $120,000.

The Department accepted comments that a "hold harmless" provision be added to this section. Paragraph (b)(3) has been added which provides for an allocation adjustment. Where the Department determines that the formula allocation will result in severe disruption of the funding levels from one year to the next, a hold harmless or other factor may be used.

The Department did not accept comments that language be added to paragraph (b)(3) that would provide a specific timetable for completion of the Department's responsibilities in the funding cycle. Such a timetable would be impractical since the fulfillment of many of the Department's responsibilities is dependent upon congressional and other Federal agencies' actions.

Eligibility for Allocable Funds

Numerous comments were received that the reference to "units of government" as public agencies be eliminated from § 633.106 since the legislation does not specify a unit of government as being an eligible entity for Section 402 funds. The Department did not accept this comment since public agencies are under the direction and control of units of government.

Participant Eligibility

Section 633.107 limits the eligibility determination period for participation in the program to the consecutive 12-month period preceding application for enrollment. Numerous comments were received to change the period to "any consecutive 12-month period within the 24-month period preceding application for enrollment" as it was under CETA to meet the broad special circumstances unique to migrant and seasonal farmworkers. The Department accepts the comment and § 633.107 has been changed accordingly.

The Department also accepts comments suggesting that a paragraph (f) be added to this section stating that Section 181(k) of the Act, which provides for the eligibility in JTPA of participants who are in CETA programs on September 30, 1983, is applicable to Section 402 programs.

The Department did not accept comments to provide an eligibility window which would exempt up to 10 percent of a program's participants from the income eligibility requirements if such participants are in an agricultural skills upgrading activity. The Department believes that the resources of the program should be directed toward those farmworkers most in need.

Solicitation for Grant Application (SGA)

Section 633.202 provides for publication in the **Federal Register** of an SGA for all areas open to competition for Section 402 funds. Numerous comments were received that the SGA should be published as part of the regulations rather than as a separate **Federal Register** notice in order to meet the requirement that procedures to select grantees shall be consistent with standard competitive procurement policies. The Department did not accept these comments since standard competitive procurement policies do not require the publication of an SGA in program regulations, and the use of a **Federal Register** notice provides needed flexibility to meet changes in program needs.

Notification of Selection

Numerous comments were received concerning two of the provisions of § 633.205 concerning the selection procedures for potential grantees.

Commentators objected to the provisions of paragraph (b) which state that the Department may give the Governor first right to submit an acceptable application should the SGA process not result in the selection of a grantee within that State. The commentators believe this violates the requirement to use standard competitive procurement policies in the selection of a grantee. The Department did not accept this comment because it believes that after a standard competitive procurement procedure has been used which did not result in the selection of a grantee for the area in question, the Department has the obligation to select expeditiously a grantee to provide services to farmworkers in that area. In addition, the provision simply formalizes past practice.

Commentators objected to the provision of paragraph (e) which states that the available remedy for a successful appeal to the ALJ of nonselection will be the right to be designated in the succeeding funding period rather than relief during the funding period in question. This limitation could have prevented a successful appellant from being the grantee for up to two years. A limit is necessary to allow the Department to responsibly ensure services are provided to farmworkers. The Department agrees, however, that the waiting period as provided may cause undue harm, and the language has been changed to make the remedy effective within 90 days so long as there is sufficient time remaining in the funding period to make a new grantee's operation practical.

Training Activities and Services

Comments were received objecting to the limitation imposed upon tryout employment in paragraph (c) of § 633.302. The commentators believe that adults as well as youth are eligible for tryout employment. The Department did not accept this comment because Section 141(k) of the JTPA clearly limits subsidized employment in private profitmaking firms to youths aged 16–21 and in accordance with section 205(d)(3)(B) of JTPA.

Comments were received objecting to the requirement of paragraph (d) of § 633.302 which requires work experience programs to be combined with classroom or other training. The commentators state this is not required by JTPA nor was it a requirement under CETA. The Department accepts the comment and this restriction has been removed from the final regulation.

Allowable Costs

Numerous comments were received concerning the allowable costs provisions of § 633.303.

The commentators objected to the requirement imposed in paragraph (d) that the prior approval of the Department is needed before building repairs or maintenance could be performed since this is not a requirement of OMB Circular A–122. The Department accepts this comment and the restriction is removed from the final regulation with the proviso that the requirements of OMB Circular A–122 apply.

The Department accepted the comment that unemployment insurance for program staff be included as an allowable cost in paragraph (e).

The Department also accepted the comment that any individual serving on boards and advisory councils who meets the income requirements shall be eligible for allowances and reimbursement for loss of wages. The proposed regulation limited such payments to only farmworkers who meet the income requirements. The term "individual" has been substituted for the term "farmworker" in the final regulation.

Section 402 Cost Allocation

Numerous comments were received concerning the cost allocation requirements at § 633.304.

The Department did not accept comments that Training-related supportive services should be eliminated as a cost category and the

VOL
48
ISS
2
0
4
OC
20
1983
UMI

costs associated with this category be allocated to the Training category. The Department believes that maximum resources should be devoted to training; therefore, costs that are supportive in nature should not be charged to the training category.

Commentators objected to the 15 percent with waiver to 20 percent limitation imposed on administrative costs in paragraph (b). A 20-percent limitation with a waiver provision to 25 percent for this cost category was suggested because most Section 402 grantees have statewide programs concentrated in rural areas, a factor which could increase administrative costs. The Department accepts the comment to the degree that the final regulation provides for a 20-percent limitation on administrative costs, but with no provision for a waiver above this amount.

The commentators objected to the 15-percent limitation on each of the supportive services categories as provided in paragraph (b). A limitation of 30 percent for both categories combined was suggested which would allow increased flexibility between the two categories. The Department believes that maximum resources should be devoted to participant training; therefore, the final regulation retains the 15-percent limitation on nontraining-related supportive services but provides no limitation on training-related supportive services other than those imposed by the 50-percent floor on training costs and the amounts the grantee chooses to devote to administrative and nontraining-related supportive services.

The commentators suggested that the examples given for costs assignable to the Training category in paragraph (c) should be expanded. The Department does not accept this comment since the list was not meant to be, and could not practicably be, all-inclusive.

The commentators objected to the inclusion of "Direct placement services" in the nontraining-related supportive services category in paragraph (c) since this is inconsistent with the treatment of these services in the basic JTPA regulations. The Department accepts this comment and § 633.304(c)(4)(ii) is eliminated from the final regulation.

The Department also accepts the comment that a Services Only (no referral to employment) program activity be included in paragraph (d).

In anticipation of administrative instructions for reporting, a Training Assistance program activity has been added to paragraph (d).

General Benefits for Participants

The Department accepts the comment pertaining to work experience participants in paragraph (b) of § 633.305 that the phrase "Subject to provisions of Section 108 of the Act" should be deleted. The Department agrees that Section 108 does not apply to Section 402 programs, and the phrase is deleted in the final regulation.

The Department also accepts the comment that § 633.305–4 *Termination conditions* should be deleted since it is almost impossible to provide written termination notices to migrant farmworkers as required by this section. This section is deleted from the final regulation.

Administrative Staff and Personnel Standards

Numerous comments were received concerning paragraph (f) of § 633.310 which requires Section 402 grantees to provide employee benefits at the same level and to the same extent as those positions in public or private nonprofit agencies in the area where the program is carried out. The commentators argued that Section 402 grantees would find it very difficult to provide fringe benefits at the same level as public agencies. The Department does not accept the comment since this was the standard applicable to the program under CETA, and it should not be lowered under JTPA.

Reports Required

Comments were received concerning the data elements to be reported as proposed at § 633.311. The Department has removed the data elements from the final regulation, retaining the authority to require quarterly and final financial and program reports pursuant to administrative instructions to be issued by the Department.

Replacement, Corrective Action, Termination

Numerous comments were received objecting to some of the replacement and termination conditions proposed at § 633.312 (in these final regulations § 633.315).

In paragraph (a) the commentators objected to the Governor being given the first opportunity to submit an application to replace any grantee which has been terminated during the grant period since they believe that the JTPA requires a standard competitive procurement process be used to replace the terminated grantee. The Department does not accept the comment because to avoid serious disruption of services in the area affected, the Department would have to act expeditiously. This provision also simply formalizes past practice.

The commentators suggested that paragraph (d) be made more definitive. The Department does not accept the comment since it would be impractical to attempt to make the paragraph all-inclusive.

The commentators objected to the inclusion of proposed § 633.312(f)(i) in the regulations and suggested that it should be deleted since they believe it goes beyond the provisions of Section 164(f) of the JTPA. The Department believes the examples given are legitimate reasons for the emergency termination of a grant and, therefore, retains this provision.

Reallocation of Funds

Numerous comments were received that proposed § 633.314 (in these final regulations § 633.317), which authorizes the Department to recapture funds from a grant in a limited number of circumstances, be deleted. The commentators cite that the Department could be arbitrary in any decision based on actual expenditures being behind those planned, and it is arbitrary to deny the right to appeal such decisions. The Department does not accept the comment to delete the section in its entirety. Instead, the phrase "planned vs. actual expenditures are significantly behind schedule" has been modified, and the phrase "is not appealable" has been deleted.

Complaints, Investigations and Sanctions

As discussed in a preceding part of this preamble, Subpart D is rewritten as a consolidated procedure to be used for programs under Sections 401, 402, and 441 of the Act and is published at 20 CFR Part 636. In addition, a new § 633.322 regarding sanctions has been added to Part 633.

Regulatory Changes by Section

In § 633.104 the following changes have been made to definitions:

The terms "Average earnings (pre-application)," "Average earnings for the first ninety (90) days following termination," "Average hourly wage at termination (no preapplication hourly wage)," "Average hourly wage in last job (preapplication)," "Average hourly wage at termination (with preapplication hourly wage)," "Earnings," "Education status," "Individuals with earnings," "Individuals entering employment with preapplication hourly wage," "Limited English proficiency " "Race/ethnic group," "Welfare recipient," and "Total

employed 13 weeks following termination" have been deleted because reporting requirements, of which these terms are a part, will be provided through administrative procedures rather than in the final regulation.

The terms "Contracts made" and "Followup period" have been deleted because followup of participants will not be a program requirement. The term "direct placement services" has been deleted.

The definition for "Entered employment" has been modified to indicate that seasonal agricultural placements will not be considered as unsubsidized employment unless it represents an upgraded position within agriculture and will not result in the continued underemployment of the individual.

"Family." The word "individual" has been substituted for the word "adult" in paragraph (b)(2).

"Earned family income" has been changed to "Family income" and "52-week period" has been changed to "eligibility determination period."

The definition of "Farmwork" has been modified by adding the words "for eligibility purposes" after "Farmwork shall mean."

The definitions of "Migrant farmworker" and "Seasonal farmworker" have been modified to indicate that the eligibility determination period is now any consecutive 12-month period within the 24-month period preceding application for enrollment.

In § 633.105 paragraph (b)(1) has been modified to indicate that the formula used to determine State allocations will not be published in the SGA but will be published in the **Federal Register** for review and comment, along with the rationale for such formula and proposed allocations, no later than 30 days prior to the publication of the final allocations of available funds in the **Federal Register**. A new paragraph (b)(3) has been added to provide for the use of a hold harmless or other factor as an allocation adjustment where the Department determines that the formula allocation will result in severe disruption of funding levels from one year to the next. The former paragraph (b)(3) becomes (b)(4) because of the inclusion of the hold harmless provision.

In § 633.107 paragraphs (a) and (b) have been modified to indicate that the eligibility determination period has been changed to "any consecutive 12-month period within the 24-month period preceding their application for enrollment." A new paragraph (f) has been added to indicate the provisions of Section 181(k) of the JTPA are applicable to Section 402 programs.

In § 633.202 a paragraph (d) has been added to comply with the requirements of 30 CFR Part 46 which implements Executive Order 12372, "Intergovernmental Review of Federal Programs." It provides that in those States where a consultation process has been established which expressly covers the Section 402 program, applications shall be provided to the State for comment upon the deadline for submission of the application to the Department.

In § 633.204 the last sentence of paragraph (a) has been changed to read "With the exceptions of paragraphs (a)(1) and (a)(3) of this section, the failure to meet any one of the following responsibility tests would not establish that the organization is irresponsible unless the failure is substantial or persistent." A phrase has been added to paragraph (b)(5) stating "or to meet performance standard requirements as provided at § 633.318 of this subpart."

In § 633.205 paragraph (e) has been modified to indicate that the available remedy to a successful appellant has been changed from selection in the succeeding funding period to selection and funding within 90 days of the ALJ's decision unless the end of the 90-day period is within 6 months of the end of the funding period. Clarification has been provided in this paragraph by adding the phrase "during the appeal period" to the end of the second sentence and substituting the phrase "the requirements of this Part" for "minimum standards" in the last sentence.

In § 663.301 the phrase "and OMB Circulars A–110 and A–122" has been added to the end of paragraph (a) as a technical clarification.

In § 633.302 the phrase "and Section 141(k) of the Act" has been added to paragraph (c) as a technical clarification. Paragraph (d) has been changed to read "A participant's enrollment in work experience shall not exceed 1,000 hours in a one-year period" to indicate that it is no longer required to combine work experience with classroom or other training.

In § 633.303 the phrase "and OMB Circular A–122" has been added to the end of paragraph (b) as a technical clarification. In paragraph (d) the phrase "building repairs, maintenance, and" has been deleted, and the parenthetical phrase "(as defined in OMB Circular A–122, Attachment B, Sections 13 and 22)" has been added after "capital improvements." In paragraph (e) the words "and program" have been added after the word "administrative." In paragraphs (i)(2), (i)(2)(i), and (i)(3)(ii) the word "farmworker" has been changed to "individual."

In § 633.304 paragraph (b)(1) has been changed to indicate that administrative costs shall not exceed 20 percent of the total amount of the grant with no provision for a waiver above this amount. Paragraph (b)(3) has been deleted and paragraph (b)(4) becomes (b)(3). The letter (i) has been deleted from paragraph (c)(4)(i) and paragraph (c)(4)(ii) has been deleted in its entirety. The cost category "administration" has been deleted in paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) since administration will now be reported as a total amount. As a technical clarification a "Training assistance" activity has been added as paragraph (d)(5) and a "Services only (no referral to employment)" activity has been added as paragraph (d)(6).

In § 633.305 the phrase "Subject to provisions of Section 108 of the Act" has been deleted from paragraph (b).

Section 633.305–4 has been deleted.

In § 633.311 paragraph (b) has been deleted in its entirety.

In § 633.314 the phrase "when it can be reasonably projected that the funds will not be used during the grant performance period or that they will not be used for DOL authorized carryover purposes" replaces the phrase "because planned versus actual expenditures are significantly behind schedule," and the phrase "is not appealable and" is deleted.

In § 633.317 the cite (Sec. 123(g)) is deleted from paragraph (b) as a technical correction.

In § 633.318 the phrase for the first program year has been deleted from paragraph (a) as a technical correction.

In § 633.319, paragraphs (c) and (d) have been added to incorporate the statutory restrictions on political activities and the assistance, promotion, and deterence of union organizing.

Sections 633.305–1 through 633.318 have been renumbered 633.306 through 633.321 to eliminate the numbers –1, –2, and –3 from Section 633.305.

Subpart D—*Complaints, Investigations and Sanctions* is deleted. It is rewritten as a consolidated procedure to be used for programs under Sections 401, 402, and 441 of the Act and is published at 20 CFR Part 636. A new § 633.322 regarding sanctions has been added to Part 633.

Part 634—Labor Market Information Programs Under Title IV, Part E of the Job Training Partnership Act

Commentators on the proposed regulations governing labor market information (LMI) programs suggested

VOL
48
ISS
204
OC
20
1983
UMI

changes in three general areas: The funding process, program activity and eligible recipients. In terms of funding, some confusion was caused by § 634.4. This section has been eliminated because it described an LMI funding process no longer in use. Other commentators sought more specific information on how State LMI funds are to be distributed. Such decisions are to be made within the States and, accordingly, additional regulatory specification by the Department is unnecessary.

With regard to program activity, commentators sought more information on such LMI activities as the *Dictionary of Occupational Titles*, and expected standards of performance for each activity. The information sought varies by LMI component and program objectives, therefore the information will be provided through a series of administrative issuances.

With regard to eligible recipients, it was pointed out that Section 4(22) of JTPA, 29 U.S.C. 1503(22), defines the term "state" to include all U.S. territories, while the definition of "state" contained in the 1982 Wagner-Payser amendments is narrower. Section 634.3 has been modified to take account of the differences in the definitions of "state" and to qualify as eligible recipients of LMI funds those entities that meet the definition of "state" under the statute that authorizes the appropriation of LMI monies.

Regulatory Changes by Section

Section 634.3 has been amended to include all U.S. territories, as specified in Section 4(22), 29 U.S.C. 1503(22), for funds appropriated pursuant to JTPA Title IV, Part E. For funds appropriated pursuant to the Wagner-Peyser amendments (e.g., the BLS cooperative labor market information programs), the definition of eligible recipients contained in the proposed regulations is retained.

Section 634.4 has been eliminated. The funding process is described in § 634.2.

Part 684—Job Corps Programs Under Title IV–B of the Job Training Partnership Act

Funding Procedures

The proposed regulations at § 684.22(b) state the program emphasis and places greater weight on past performance and fiscal integrity of contractors consistent with a new model RFP. The commentator, Department of Interior, suggested that the language should be limited to contract centers since federal centers are not selected on the basis of proposals received. The Department concurs with the comment and has clarified this point by adding the word contract to center operators.

Disclosure

The proposed regulation states at § 684.95 require centers to respond to requests for information under either the Freedom of Information and or the Privacy Act of 1974, as appropriate. All centers are required to treat the results of such requests in accordance with the Privacy Act; Federally operated civilian Conservation Centers must also address such requests in accordance with the Freedom of Information Act. The commentator suggested that this provision not apply to the Department of Interior centers. The Department believes that since the centers are more knowledgeable of the corpsmembers than the regional offices of the Department and they maintain the information on the corpsmembers, therefore, it is most practical for all centers to respond to such requests including the Department of Interior's centers.

Corpsmember Records

The proposed regulations at § 684.123 place responsibility on the centers for maintaining corpsmember records consistent with a pilot project conducted in one region to test feasibility of handling in this manner. The commentator suggested that this provision not apply to Department of Interior centers. The Department believes that issues raised by the Department of Interior on space and security of records are incorrect and that records are being maintained at those centers at present on a limited basis. Therefore, no exception will be provided to Department of Interior centers solely.

Also, with regard to this section, two questions were raised by advanced training contractors. Comments were made by two commentators to the effect that corpsmembers' folders be maintained by the original center of record. No change is contemplated by this proposal that would alter that procedure. Thus, no further changes to the proposed language will be made.

Additional Regulation

In addition to the comments on the proposed regulations, there were three comments which requested additional regulations. Since the intent was not to extend the regulations at this time, no additional regulations are being added.

Rulemaking Certifications

These proposed regulations are procedural in character and give direction on the implementation of the programs under Title IV of the Job Training Partnership Act.

Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100,000 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the paperwork requirements that are included in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 1205–0213.

Regulatory Flexibility Act:

The Department has certified that these rules will not have a "significant economic impact on a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). Although these rules apply to some organizations which are within the statutory definition of "small entity," they do not apply to a substantial number of such entities. Thus, a regulatory flexibility analysis was not required.

List of Subjects

20 CFR Part 632

Administrative practice and procedures, Aged, Alaska, Aliens, Civil rights, Education, Employment, Equal employment opportunity, Fraud, Grant programs—labor, Handicapped, Indians, Labor, Political activities, Political affiliation discrimination, Public assistance programs, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Veterans, Vocational education, Wages, Women, Youth.

20 CFR Part 633

Agriculture, Education, Employment, Equal employment opportunity, Fraud, Grant programs—labor, Labor, Migrant labor, Relocation assistance, Reporting and recordkeeping requirements, Vocational education, Wages.

20 CFR Part 634

Grant programs—labor, Manpower training programs.

20 CFR Part 636

Administrative practice and procedure, Grant programs—labor.

20 CFR Part 684

Community development, Employment, Grant programs—labor, Job Corps, Labor, Manpower training programs, Religious discrimination, Reporting and recordkeeping requirements, Tort claims, Unemployment, Vocational rehabilitation, Youth.

Accordingly, Chapter V of Title 20 of the Code of Federal Regulations is amended by adding Parts 632, 633, 634 and 636, and by amending Parts 626 and 684 as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

§ 626.3 [Amended]

In § 626.3, the consolidated table of contents is amended by adding the following tables of contents for Parts 632, 633, 634, and 636:

PART 632— INDIAN AND NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

Subpart A—Introduction

Sec.
632.1 [Reserved]
632.2 Scope and purpose.
632.3 Format for these regulations.
632.4 Definitions.

Subpart B—Designation Procedures for the Native American grantees

632.10 Eligibility requirements for designation as a Native American Grantee.
632.11 Designation of Native American grantees.
632.12 Alternative arrangements for the provision of services, nondesignation.
632.13 Review of denial of designation as a Native American grantee, or rejection of a comprehensive annual plan.

Subpart C—Program Planning, Application and Modification Procedures

632.17 Planning process.
632.18 Regional and national planning meetings.
632.19 Grant application content.
632.20 Submission of grant applications.
632.21 Application disapproval.
632.22 Modification of a Comprehensive Annual Plan (CAP) and/or Master Plan.
632.23 Termination and corrective action of a CAP and/or Master Plan.

Subpart D—Administrative Standards and Procedures

632.31 General.
632.32 Financial management systems.
632.33 Audits.
632.34 Program income.
632.35 Native American grantee contracts and subgrants.
632.36 Procurement standards.
632.37 Allowable costs.
632.38 Classification of costs.
632.39 Administrative cost plan.
632.40 Administrative staff and personnel standards.
632.41 Reporting requirements.
632.42 Grant closeout procedures.
632.43 Reallocation of funds.
632.44 Sanctions for violations of the Act.

Subpart E—Program Design and Management

632.75 General responsibilities of Native American grantees.
632.76 Program management systems.
632.77 Participant eligibility determination.
632.78 Training activities.
632.79 Employment activities.
632.80 Other activities.
632.81 Payments to participants.
632.82 Benefits and working conditions for participants.
632.83 FICA.
632.84 Non-Federal status of participants.
632.85 Participant limitations.
632.86 Nondiscrimination and nonsectarian activities.
632.87 Equitable provision of services to the eligible population and significant segments.
632.88 General responsibilities of the Department.
632.89 Performance standards

Subpart F—Prevention of Fraud and Program Abuse

632.115 General.
632.116 Conflict of interest.
632.117 Kickbacks.
632.118 Nepotism.
632.119 Political patronage.
632.120 Political activities.
632.121 Lobbying activities.
632.122 Unionization and antiunionization activities; work stoppages.
632.123 Maintenance of effort.
632.124 Theft or embezzelement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.
632.125 Responsibilities of Native American grantees, subgrantees and contractors for preventing fraud and program abuse and for general program management.

Subpart G—[Reserved]

Subpart H—Job Training Partnership Act Programs Under Title IV, Section 401

632.170 Eligibility for funds.
632.171 Allocation of funds.
632.172 Eligibility for participation in Title IV, Section 401.
632.173 Allowable program activities.
632.174 Administrative costs.

Subpart I—Summer Youth Employment and Training Programs

632.250 General.
632.251 Eligibility for funds.
632.252 Allocation of funds.
632.253 Special operating provision.
632.254 Program startup.
632.255 Program planning.
632.256 Submission of applications.
632.257 Eligibility for participation.
632.258 Allowable activities.
632.259 Vocational exploration program.
632.260 Worksite standards.
632.261 Reporting requirements.
632.262 Termination date for the summer program.
632.263 Administrative costs.

PART 633—MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Subpart A—Introductory Provisions

633.102 Scope and purpose of Title IV, Section 402 programs.
633.103 Format for these regulations.
633.104 Definitions.
633.105 Allocation of funds.
633.106 Eligibility for allocable funds.
633.107 Eligibility for participation in Section 402 programs.

Subpart B—Grant Planning and Application Procedures

633.201 Grant planning and application procedures in general.
633.202 Announcement of State planning estimates and invitation to submit a grant application.
633.203 Review of funding request.
633.204 Responsibility review.
633.205 Notification of selection.

Subpart C—Program Design and Administrative Procedures

633.301 General responsibilities.
633.302 Training activities and services.
633.303 Allowable costs.
633.304 Section 402 cost allocation.
633.305 General benefits and working conditions for program participants.
633.306 Retirement benefits.
633.307 Packages of benefits.
633.308 Non-federal status of participants.
633.309 Recordkeeping requirements.
633.310 Bonding.
633.311 Management information systems.
633.312 Grantee contracts and subgrants.
633.313 Administrative staff and personnel standards.
633.314 Reports required.
633.315 Replacement, corrective action, termination.
633.316 Closeout procedures.
633.317 Reallocation of funds.
633.318 Nondiscrimination and nonsectarian activities.
633.319 Lobbying, political activities and unionization.
633.320 Nepotism.

Sec.
633.321 Performance standards for Section 402 programs.
636.322 Sanctions for violation of the Act.

PART 634—LABOR MARKET INFORMATION PROGRAMS UNDER TITLE IV, PART E OF THE JOB TRAINING PARTNERSHIP ACT

Comprehensive Labor Market Information System

634.1 General.
634.2 Availability of funds.
634.3 Eligible recipients.
634.4 Statistical standards.
634.5 Federal oversight.

PART 636—COMPLAINTS, INVESTIGATIONS AND HEARINGS

636.1 Scope and purpose.
636.2 Protection of informants.
636.3 Complaint and hearing procedures at the grantee level.
636.4 Grievance procedures at the employer level.
636.5 Exhaustion of grantee level procedure.
636.6 Complaints and investigations at the Federal level.
636.7 Subpoenas.
636.8 Initial and final determination; request for hearing at the Federal level.
636.9 Opportunity for informal review.
636.10 Hearings before the Office of Administrative Law Judges.
636.11 Final action.

2. Chapter V, Title 20 of the Code of Federal Regulations is amended by adding new Parts 632, 633, 634 and 636 to read as follows:

PART 632—INDIAN AND NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

Subpart A—Introduction

Sec.
632.1 Reserved.
632.2 Scope and purpose.
632.3 Format for these regulations.
632.4 Definitions.

Subpart B—Designation Procedures for the Native American Grantees

632.10 Eligibility requirements for designation as a Native American grantee.
632.11 Designation of Native American grantees.
632.12 Alternative arrangements for the provision of services, nondesignation.
632.13 Review of denial of designation as a Native American grantee, or rejection of a comprehensive annual plan.

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632.33 Audits.
632.34 Program income.
632.35 Native American grantee contracts and subgrants.
632.36 Procurement standards.
632.37 Allowable costs.
632.38 Classification of costs.
632.39 Administrative cost plan.
632.40 Administrative staff and personnel standards.
632.41 Reporting requirements.
632.42 Grant closeout procedures.
632.43 Reallocation of funds.
632.44 Sanctions for violations of the Act.

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632.75 General responsibilities of Native American grantees.
632.76 Program management systems.
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632.78 Training activities.
632.79 Employment activities.
632.80 Other activities.
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632.82 Benefits and working conditions for participants.
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632.89 Performance standards.

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632.117 Kickbacks.
632.118 Nepotism.
632.119 Political patronage.
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632.254 Program startup.
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632.257 Eligibility for participation.
632.258 Allowable activities.
632.259 Vocational exploration program.
632.260 Worksite standards.
632.261 Reporting requirements.
632.262 Termination date for the summer program.
632.263 Administrative costs.

Authority: Job Training Partnership Act, Sec. 169 (29 U.S.C. 1501 *et seq.*, Pub. L. 97-300, 96 Stat. 1322), unless otherwise noted.

Subpart A—Introduction

§ 632.1 [Reserved]

§ 632.2 Scope and purpose.

It is the purpose of Native American programs to provide job training and employment activities consistent with the intent of Title IV, Part A, Section 401. Such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this Section including furtherance of the policy of Indian Self-Determination.

§ 632.3 Format for these regulations.

Regulations promulgated by the Department of Labor to implement the provisions of Title IV, Section 401 and Indian programs under Title II-B of the Act are set forth in 20 CFR Part 632. This part in conjunction with Part 636 contains all the regulations under the Act applicable to Indian and Native American programs.

§ 632.4 Definitions.

Act—means the Job Training Partnership Act (29 U.S.C. section 1501 et seq.).

Capital Improvement—means any modification, addition, restoration or other improvement:

(a) Which increases the usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment;

(b) Which is classified for accounting purposes as a "fixed asset;" and

(c) The cost of which increases the recorded value of the existing building, structure, or major item of equipment and is subject to depreciation.

Community Based Organization—means a private nonprofit organization which is representative of the Indian and Native American community or significant segments of the community and which provides employment and training services or activities.

Comprehensive Annual Plan (CAP)—means the annual update to the Master Plan. The CAP will identify the work plan and budget for the annual 401 and Title II, Part B funding allocations.

Construction—means the erection, installation, assembly or painting of a new structure or a major addition, expansion or extension of an existing structure and the related site preparation, excavation, filling and landscaping or other land improvements.

Contract—means a procurement instrument, other than a grant, by which the Department, a Native American grantee or a subgrantee acquires and pays for property, services, supplies, materials or equipment.

Contractor—means any person, corporation, partnership, public agency, or other entity which enters into a contract with the DOL, a Native American grantee or subgrantee under the Act.

Department—means the United States Department of Labor (DOL) including its agencies and organizational units.

Dependent—means any person for whom, both currently and during the previous 12 months, the participant has assumed 50 percent of the person's support.

DINAP—means the Division of Indian and Native American Programs of the Department of Labor.

DOL—means the U.S. Department of Labor.

Economically Disadvantaged—means an individual who (a) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (b) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (1) the poverty level determined in accordance with criteria established by the Department of Health and Human Services, or (2) 70 percent of the lower living standard income level; (c) is receiving food stamps pursuant to the Food Stamp Act of 1977; (d) is a foster child on behalf of whom State or local government payments are made; or (e) is a handicapped individual whose own income meets the requirements of paragraph (a) or (b) of this definition, but who is a member of a family whose income does not meet such requirements.

Entered Employment—means the act of securing unsubsidized employment for or by a participant.

Entry Level—means the lowest position in any promotional line, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules.

Family—(a) means one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step-child or a step-parent is considered to be related by marriage.

(b) (1) For purposes of paragraph (a) of this definition, one or more persons not living in the single residence but who are claimed as a dependent on another person's Federal Income Tax return for the previous year is presumed, unless otherwise demonstrated, to be part of the other person's family.

(2) A handicapped individual may be considered a family of one when applying for programs under the Act.

(3) An individual 18 years of age or older, except as provided in (b) (1) or (2) of this definition, who receives less than 50 percent of support from the family, and who is not the principal earner nor the spouse of the principal earner shall not be considered a member of the family. Such an individual shall be considered a family of one.

Family Income—means all income actually received from all sources by all members of the family for the six-month period prior to application. Family size is the maximum number of family members during the six-month period prior to application. When computing family income, income of a spouse and other family members is counted for the portion of the six-month period prior to application that the person was actually a part of the family unit.

(a) For the purposes of determining participant eligibility (and not for grantee allocations), family income includes:

(1) Gross wages, including CSE, Work Experience and OJT paid from JTPA funds, and salaries (before deductions);

(2) Net self-employment income (gross receipts minus operating expenses); and

(3) Other money income received from sources such as interest, net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, and periodic income from insurance policy annuities, and other sources of income.

(b) Family income does not include:

(1) Non-cash income such as food stamps, or compensation received in the form of food or housing;

(2) Imputed value of owner-occupied property, i.e., rental value;

(3) Public assistance payments;

(4) Cash payments received pursuant to a State plan approved under Titles I, IV, X or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(5) Federal, State or local unemployment benefits;

(6) Capital gains and losses;

(7) One time unearned income, such as, but not limited to:

(i) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(ii) One-time or fixed-term scholarship and fellowship grants;

(iii) Accident, health, and casualty insurance proceeds;

(iv) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits;

(v) One-time awards and gifts;

(vi) Inheritance, including fixed term annuities;

(vii) Fixed term workers' compensation awards;

(viii) Terminal leave pay;

(ix) Soil bank payments; and

(x) Agriculture crop stabilization payments;

(8) Pay or allowances which were previously received by any veteran while serving on active duty in the Armed Forces;

(9) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36, of Title 38, United States Code;

(10) Payments received under the Trade Act of 1974;

(11) Black Lung payments received under the Benefits Reform Act of 1977, Pub. L. 95-239, 30 U.S.C. 901;

(12) Child support payments; and

(13) Any income directly or indirectly derived from, or arising out of, any property held by the United States in trust for any Indian tribe, band or group or any individual; per capita payments; and services, compensation or funds provided by the United States in accordance with, or generated by, the exercise of any right guaranteed or protected by treaty; and any property distributed or income derived therefrom, or any amounts paid to or for any individual member, or distributed to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim.

Financial Assistance—means any grant, loan, or any other arrangement by

which the Department or Native American grantee provides or otherwise makes available assistance in the form of:

(a) Funds;

(b) Services of Federal or Native American grantee personnel; or

(c) Real and personal property or any interest in or use of such property, including:

(1) Transfers or leases of such property for less than fair market value or for reduced consideration and

(2) Proceeds from a subsequent transfer or lease of such property if the Federal or Native American grantee share of its fair market value is not returned to the Federal Government or Native American grantee.

Governing Body—means a body consisting of duly elected or designated representatives, a body appointed by duly elected officials, or a body selected in accordance with traditional tribal means which has the authority to provide services to, and to enter into contracts, agreements and grants under this part on behalf of the organization or individuals who elected or designated them, elected the appointing official, or recognize the body selected in accordance with traditional tribal means.

Governor—means the chief executive of any State.

Handicapped Individual—means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

Hawaiian Native—means any individual, any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii (Sec. 3(12)).

JTPA—means the Job Training Partnership Act.

Local Educational Agency (LEA)—means such an agency as defined in Section 195(10) of the Vocational Educational Act of 1963. It shall further mean the governing bodies of any Bureau of Indian Affairs, tribal or reservation run agencies or school districts, or any nonprofit agency or tribally chartered entity providing educational services to Indian and Native American persons as determined by the Native American grantee.

Low Income Housing—means: (a) For weatherization or winterization projects, those dwellings occupied by persons whose family income does not exceed 125 percent of the poverty level and which are:

(1) Owned by the occupant;

(2) Publicly owned;

(3) Owned by a private nonprofit organization;

(4) Cooperatively owned; or

(5) For projects funded and approved by the Federal Energy Administration, privately owned rental housing.

(b) For rehabilitation as part of community revitalization or stabilization, housing built or improved with the assistance of Federal, State or tribal programs, and those dwellings occupied by persons whose family income does not exceed 80 percent of the median income for the area, in accordance with Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f) and which are:

(1) Owned by the occupant;

(2) Publicly owned;

(3) Owned by a private nonprofit organization; or

(4) Cooperatively owned.

Lower Living Standard Income Level—means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent "lower living family budget" issued by the Secretary.

Master Plan—means the basic long term agreement between the Department and the Native American grantee. The master plan contains all basic eligibility determination and administrative information.

Native American Community Benefit—means the outcome of allowable activities undertaken for the advancement of economic and social development in the Indian, Alaskan Native, and Hawaiian Native communities consistent with their goals and life styles as determined by representatives of the community.

Offender—means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom services under this Part may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

Older Worker—means a person who is 55 years of age or older.

Participant—means an individual who has:

(a) Been determined eligible for participation; and

(b) Started receiving employment, training or services (except post-termination services) funded under the Act, within 45 days of such determination.

Poverty Level—means the annual income level at or below which families are considered to live in poverty, as annually determined by the Department of Health and Human Services.

Program Income—means net income earned from grant or agreement supported activities. Such earnings include but are not limited to: income from service fees, sale of commodities, usage or rental fees, and royalities on patents or copyrights.

Program year—means that 12-month period of time during which job training activities and services and provided to participants.

Public Assistance—means Federal, State, tribal, or local government cash payments for which eligibility is determined by a need or income test.

Secretary—means the Secretary of Labor.

Similarly Employed—means that status of a person who is working for the same employer as the JTPA participant, is doing the same type of work, and is similarly classified with respect to employment status (e.g., full-time, permanent, or termporary).

State—means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Marianas Islands, American Samoa, and the Trust Territory of the Pacific Islands.

State Employment Security Agency (SESA)—means the State agency which exercises control over the Unemployment Insurance Service and the Employment Service.

Subgrantee—means any person, corporation, partnership, public agency, or other entity, excluding private for profits concerns, which enters into a grant with the Native American Grantee.

Underemployed Persons—means:

(a) Persons who are working part-time but seeking full-time work; or

(b) Persons who are working full-time but whose current annualized wage rate (for a family of one), or whose family's current annualized income, is not in excess of:

(1) The poverty level, or

(2) 70 percent of the lower living standard income level.

Unemployed Persons—means individuals who are without jobs and who want and are available for work. The determination of whether individuals are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

Subpart B—Designation Procedures for Native American Grantees

§ 632.10 Eligibility requirements for designation as a Native American grantee.

(a) All funds specifically identified in the Act as reserved for the benefit of Indian and Native American participants shall be disbursed by the Department only to Native American grantees designated pursuant to this subpart. Except for FY 1984, designation will be for a period of two years.

(b) To be designated as a Native American grantee, an applicant must have:

(1) A governing body;

(2) For new grantees, an Indian or Native American population within its designated service area of at least 1,000 persons;

(3) The capability to administer an Indian and Native American employment and training program. For purposes of this paragraph, "capability to administer" means that the applicant can demonstrate that it possesses, or can acquire the managerial, technical, or administrative staff with the ability to properly administer government funds, develop employment and training opportunities, evaluate program performance and comply with the provisions of the Act and the regulations. In judging the applicant's request for designation, consideration shall be given to factors such as:

(i) Previous experience in operating an effective employment and training program serving Indians or Native Americans;

(ii) The number and kind of activities of similar magnitude and complexity that the applicant has successfully completed;

(iii) Information from other Federal agencies regarding program performance or financial and management capability.

(c) The Department will not designate an organization in cases where it is established that:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or

(2) Fraud or criminal activity has been proven to exist within the organization, or

(3) The amount under the funding formulas will not total at least $120,000 in all JTPA funds for the first year of the two-year designation period. In the event that this amount cannot be determined at the time of the Department's decision on the request for designation, the amount shall be estimated in part by reference to the funding levels for Native American programs for the prior fiscal or program year. An applicant for designation shall be designated notwithstanding the limitation in this paragraph of this subsection if it demonstrates that:

(i) It has or expects to receive a combined total of $120,000 in funds or services for the first year of the 2-year designation period from JTPA and other human resource development programs, including but not limited to those providing for employment, education, vocational education, health, social or similar services; or

(ii) It is recognized and directly funded by Federal agencies, such as the Indian-serving agencies within the Departments of the Interior, Health and Human Services or Education as the primary service delivery organization for the provision of human resource development services to Indians or Native Americans within the organization's customary service area. This provision shall be interpreted consistent with the Federal policy established in Pub. L. 96-638, the Indian Self-Determination Act; or

(iii) It has demonstrated successful operation of an employment and training program at a level below $120,000 within the previous two years. For this purpose, success is the ability to adequately meet planned goals and stay within the grant's cost limits.

(4) For a consortium to be designated, it must submit the consortium agreement which meets the requirements of this subpart.

(d) Types of eligible Native American grantees:

(1) *Indian tribe, band or group.* The Department shall designate as a Native American grantee an Indian tribe, band or group which meets the requirements in paragraphs (b) and (c) of this section.

(2) *Alaskan Native entity.* The Department shall designate as a Native American grantee an Alaskan Native entity as defined in the Alaskan Native Claims Settlement Act which meets the requirements in paragraphs (b) and (c) of this section.

(3) *Hawaiian Native grantee.* The Department may designate as a Native American grantee any private nonprofit organization or public agency representative of the Native Hawaiian community which meets the requirements in paragraphs (b) and (c) of this section and which the Department determines will best meet the needs of Native Hawaiians.

(4) *Public or private agencies.* The Department may designate as a Section 401 grantee a private nonprofit organization or public agency which meets the requirements in paragraphs (b) and (c) of this section to serve areas where there are significant numbers of Indians or Native Americans, but where there are no Indian tribes, bands or groups, Alaskan Native entities or Hawaiian sponsors or consortia of such sponsors eligible for designation.

(5) *Consortium grantees.* The Department may designate as a Native American grantee a consortium of any of the types of grantees described in paragraphs (c), (1), (2), (3), and (4) of this section which may or may not be independently eligible. All such consortia shall meet the following requirements, in addition to the requirements in paragraphs (b) and (c) of this section:

(i) All the members shall be in geographic proximity to one another. A consortium may operate in more than one State.

(ii) An administrative unit shall be designated for operating the program, which may be a member of the consortium or an agency formed by the members. The administrative unit shall be delegated all powers necessary to administer the program effectively, including the power to enter into contracts and subgrants and other necessary agreements, to receive and expend funds, to employ personnel, to organize and train staff, to develop procedures for program planning, to monitor financial and program performance, and to modify the grant agreement through agreement with the Secretary. The right of reallocating funds within the consortium area shall be reserved to the consortium's members.

(iii) The consortium shall be the Native American grantee. The consortium agreement shall be signed by an official or officials of each member of the consortium authorized to enter into a binding consortium and shall specify that each member shall be liable jointly or separately for claims established against the grantee. Additional standardized requirements for consortium agreements will be communicated to grantees under separate order.

(e) In the situation where the Department does not designate Indian tribes, bands or groups or Alaska Native groups to serve such groups, the Department shall, to the maximum extent feasible, enter into arrangements for the provision of services to such groups with other types of Section 401 grantees which meet with the approval of the Indian tribes, bands, groups or Alaska Native groups to be served (Section 401(d)). In such cases, the Department shall consult with the governing body of such Indian tribes, bands, groups or Alaska Native groups prior to the designation of a Native American grantee.

(f) In designating Native American grantees to serve groups other than those in paragraph (e) of this section,

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such as nonreservation Indians and Native Hawaiians, the Department shall, whenever feasible, designate grantees which are directly controlled by Indian or Native American people. Where it is not feasible to designate such types of grantees, DINAP shall consult with Indian or Native American-controlled organizations in the area with respect to the designation of a Native American grantee. Where a private nonprofit organization is designated, DINAP shall require any such grantees not directly controlled by Indian or Native American people to establish a Native American Employment and Training Planning Council and to implement an Indian preference policy with respect to hiring of staff and contracting for services with regard to all funds provided pursuant to this Part (Sec. 7(b) of the Indian Self-Determination and Education Assistance Act).

§ 632.11 Designation of Native American grantees.

(a) When designations are required and the potential grantee is not under a Master Plan agreement, an applicant for designation as a Native American grantee shall submit a notice of intent to apply for funds. Such notices of intent shall be postmarked by January 1 and be submitted to the Division of Indian and Native American Programs (DINAP), Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213. Notices of intent may also be delivered to that office in person not later than the close of business on January 2 or the first business day of the designation year. Such notices of intent to apply shall be submitted on Standard Form 424 as a preapplication for Federal assistance. For applicants not under an active Master Plan agreement or the Master Plan agreement is due to expire during the year of designation, the following information shall be included in the notice of intent:

(1) Evidence that the applicant meets the requirements for a Native American grantee contained in § 632.10.

(2) A description of the geographic area or areas which the applicant proposes to serve, together with the Indian and Native American population in such areas, to the extent known. The description must include a list of States (if more than one), in alphabetical order, and under each State, a list of counties in alphabetical order, followed by a list of tribes, bands or groups (if any) in alphabetical order. If the applicant was a Native American grantee for the period prior to the one which is being applied for, the applicant must also list any counties and tribes, bands or groups which are being added to, or deleted from, the previous fiscal year's service area;

(3) A description of the applicant's organization, including the legal status of the applicant, the process of selection of the governing body, the duties and responsibilities of the governing body, and in the case of private nonprofit organizations, a copy of the articles of incorporation;

(4) Evidence of the applicant's capability to operate an Indian or Native American employment and training program, including a statement of the applicant's past successes in operating programs for Indians or other Native Americans and a statement of the applicant's experience in managing the types of programs and activities allowable under the Act;

(5) A description of the planning process including employer involvement which the applicant proposes to undertake in developing a plan for the use of funds;

(6) Information related to a grantee's administrative responsibility. The DOL will conduct an independent review to determine whether each applicant is currently delinquent in repaying any DOL claims or has any outstanding administrative problems. Applicants are, therefore, encouraged to submit any documents related to these factors including documents and correspondence previously submitted to DOL. Submittal of such materials will enable DOL to move rapidly to complete the Notice of Intent and grantee designation review process.

(7) If the applicant is applying as a consortium, evidence that the consortium meets the requirements for a consortium in this part and a consortium agreement as specified in § 632.10(d)(5)(iii).

(b) If more than one organization submits a Notice of Intent for a geographic area, the Department will notify the organizations involved and conduct a special review for the area in question. The notice to the organizations will indicate any additional information needed and the review process to be followed.

(c) If the applicant for designation is a current grantee, under a master plan agreement, and there is no change in the service area requested, only the Standard Form 424 and a statement(s) indicating that to the best of the applicant's knowledge, it meets the requirements of § 632.10(c)(4) will be necessary and shall be submitted within the timeframe established in § 632.11(a).

(d) *Responsibility Review.* Prior to finally designating, conditionally designating or nondesignating the Department will conduct a review of the available records to determine whether or not the organization has failed any responsibility test. This review is intended to establish overall responsibility to administer Federal funds. With the exception of § 632.11 (c)(1) and (c)(3), the failure to meet any one of the following responsibility test factors would not establish that the organization is irresponsible unless the failure is substantial or persistent. The responsibility tests are as follows:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or failure to comply with an approved repayment plan.

(2) Serious administrative deficiencies have been identified in final findings and determination—such as failure to maintain a financial management system as required by Federal regulations.

(3) Established fraud or criminal activity exists within the organization.

(4) Wilfull obstruction of the audit process.

(5) Substantial failure to provide services to applicants as agreed to in a current or recent grant or to meet performance standards requirements as provided for and developed pursuant to § 632.89.

(6) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, etc.

(7) Failure to return a grant closeout package on outstanding advances within 90 days of expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun.

(8) Failure to submit required reports.

(9) Failure to properly report and dispose of government property as instructed by DOL.

(10) Failure to have maintained cost controls resulting in excess cash on hand.

(11) Failure to procure or arrange for audit coverage for any two year period when required by DOL.

(12) Failure to audit subrecipient within the required period when applicable.

(13) Final disallowed costs in excess of five percent of the grant or contract award.

(14) Failure to establish a mechanism to resolve subrecipient's audit within established time frames.

(e) On March 1 of each designation year, the Department shall designate or conditionally designate Native American grantees for the coming two program years. Each applicant shall be notified in writing of the determination. Those applicants that are not designated in whole or in part as Native American grantees may appeal under the complaint procedures available for this Part. Conditional designations will include the nature of the conditions and the actions required to be finally designated.

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§ 632.12 Alternative arrangements for the provision of services, nondesignation.

(a) If no application for Native American grantee designation for an area is filed, or if the Department has denied such application for that area, the Department may designate and fund an entity to serve that area, pending the final resolution of any Petitions for Reconsideration or other actions taken pursuant to § 632.13. An organization not designated in whole or in part may also appeal to an ALJ under the provisions of Part 636. This further appeal will not in any way interfere with the Department's designation and funding of another organization to serve the area in question. The available remedy under such an appeal will be the right to be designated in the future rather than a retroactive or immediately effective designation status. Therefore, in the event the ALJ rules that the organization should have been designated and the organization continues to meet the requirements at §§ 632.10 and 632.11, the Department will designate the successful appellant organization and fund within 90 days of the ALJ decision unless the end of the 90 day period is within six months of the end of the two year designation period. Any organization designated or funded for the area in question would be affected by this remedial action and undesignated. All parties must agree to this arrangement prior to funding. The alternate organization which loses its designation as a result of the application of this remedy may not appeal the undesignation.

(b) If the grant officer finally disapproves a CAP pursuant to § 632.21 he/she may withdraw the Native American grantee's designation and immediately designate another entity to serve the area, pending the final resolution of any Petitions for Reconsideration or other actions taken pursuant to Part 636.

(c) If a Native American grantee's CAP is terminated or suspended in whole or in part, the Department (after an opportunity for a hearing except in emergency situations as described in Section 164(f) of the Act) may designate another entity to serve the area.

(d) If it is not feasible for the Department to designate another entity to serve the area under the conditions described in paragraphs (a), (b), and (c) of this section, the funds involved may be distributed at the Secretary's discretion to Native American grantees serving other areas.

§ 632.13 Review of denial of designation as a Native American grantee, or rejection of a Comprehensive Annual Plan.

(a) An applicant for designation as a Native American grantee which is refused such designation in whole or in part may file a Petition for Reconsideration with the Grant Officer within 14 days of receipt of a letter from the Department indicating its failure to be designated as a Native American grantee.

(1) A Petition for Reconsideration shall be in writing, shall be signed by a responsible official of the applicant entity, and shall enumerate the factors which the applicant entity asserts should be reviewed by the Grant Officer in reconsidering the denial of its application.

(2) Upon receipt of the Petition for Reconsideration, the Grant Officer shall, within 30 days, make one of the following determinations:

(i) That based on the available information from the original request for designation and information supplied in the Petition for Reconsideration, the applicant entity should be designated as a Native American grantee;

(ii) That the original determination made was correct; or

(iii) That an informal conference between representatives of the applicant entity and the Grant Officer shall be held at a specified time and place to discuss the Petition for Reconsideration.

(3) If an informal conference is held, the applicant entity shall have the opportunity to present any pertinent information which may further substantiate its petition. The Grant Officer shall notify the applicant entity of its final decision within 14 days after the informal conference is held.

(4) All final determinations of the Grant Officer, which deny a Petition for Reconsideration, shall be in writing, shall state the reasons for the denial, shall be sent to the applicant by certified mail, return receipt requested, and shall notify the applicant entity that, within 21 days of its receipt of the notice, it may request a hearing pursuant to Part 636.

(b) A designated Native American grantee whose CAP has been rejected may file a Petition for Reconsideration pursuant to paragraph (a) of this section. Such petitions shall be handled under the procedures described in paragraph (a) of this section.

Subpart C—Program Planning, Application and Modification Procedures

§ 632.17 Planning process.

(a) Each Native American grantee shall establish a planning process for the development of its Master Plan and Comprehensive Annual Plan. This planning process shall involve consideration of the need for job training and employment services, appropriate means of providing needed services and methods of monitoring and assessing the services provided. Recognizing the importance of employer involvement in designing and implementing programs, each Native American grantee shall involve employers in program planning.

(b) (1) Each Native American grantee's planning process shall involve consultation with major employers or organizations representing employers inside the grantee's designated service or surrounding labor market area. Such consultation shall include consideration of the opportunities for placement of program participants and the design of training activities and related services.

(2) A description of the procedures used for this consultation shall be included in the grantee's Master Plan. The results of the consultation shall be described in the grantee's Comprehensive Annual Plan.

(3) Native American grantees are encouraged to establish or to use existing formal advisory councils, such as Private Industry Councils, as vehicles for such consultation. Grantees are also encouraged to use all appropriate mechanisms, including Tribal Employment Rights Offices (TEROs), to insure maximum opportunity for the placement of participants in unsubsidized employment.

(4) A Native American grantee will not be held responsible for the refusal of any employer or organization representing employers to engage in the consultation process described in this Section.

(c) In addition to the requirement in paragraph (b) of this Section, the planning process shall provide the opportunity for the involvement of the client community, service providers

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48
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(such as appropriate community-based organizations) and educational agencies, tribal agencies or other Indian and Native American organizations whose programs are relevant to the provision of job training services within the grantee's service area.

§ 632.18 Regional and national planning meetings.

Grant funds may be used for holding regional and national planning meetings, subject to restrictions of allowable costs.

§ 632.19 Grant application content.

The basic document will be a four year Master Plan which will be supplemented each fiscal year by submission and approval of a Comprehensive Annual Plan (CAP). The Master Plan and CAP system will be implemented for 1985 or the first designation period following the FY 1984 designations. Each designated grantee will be informed of and provided the necessary documents and requirements in sufficient time to complete grant actions without interrupting services to participants.

§ 632.20 Submission of grant application.

(a) Beginning with 1985 or the first designation period after 1984, a Master Plan must be submitted by a date and pursuant to instructions issued by the Department. The approved Master Plan will remain in effect for four years unless terminated. During the fourth year of the Master Plan a new Master Plan must be submitted by a date and pursuant to instructions issued by the Department.

(b) Each year a completed CAP is to be submitted for approval by registered mail to the Chief, DINAP by a date and pursuant to instructions announced by the Department. The CAP will be approved by DINAP if it is consistent with the basic provisions or the Master Plan and applicable regulations and formal directives.

§ 632.21 Application disapproval.

(a) A CAP shall be disapproved by the Grant Officer if it fails to meet the requirements of the Act or the regulations.

(b) No CAP shall be finally disapproved until the designated Native American grantee is provided with a description by the Chief, DINAP in writing of the CAP's defects and has been provided with at least 30 days to remedy such defect(s), but has failed to do so.

(c) When a CAP is finally disapproved a notice of disapproval shall be transmitted by certified mail, return receipt requested, to the applicant, accompanied by a statement of the grounds of the disapproval and a statement that the applicant may file a Petition for Reconsideration with respect to the disapproval.

§ 632.22 Modification of a Comprehensive Annual Plan (CAP) and/or Master Plan.

(a) The requirements for modifying a Master Plan and/or CAP will be included in administrative instructions issued by the Grant Officer upon final implementation of the Master Plan/CAP system.

(b) Prior to implementing the Master Plan/CAP system, a formal modification will be required when:

(1) There is a change of at least 25 percent or $25,000 (whichever is greater) in any cost category; or

(2) There is a change of at least 25 percent or 25 individuals (whichever is greater) in the number of individuals to be served in any category of program activity.

(c) The documentation to be submitted to the DINAP Federal Representative requesting such a modification shall consist of a letter explaining the need for the change and four copies of the proposed modification.

(d) The Grant Officer should notify the Native American grantee of tentative approval or disapproval within 10 calendar days of receipt of the proposed modifications. The Grant Officer should notify the Native American grantee in writing of final approval or disapproval within 30 calendar days of the receipt of the proposed modification.

(e) A Native American grantee may make any change in its Program Planning Summary and Budget Information Summary without prior approval, except as provided in this section.

(f) Native American grantees shall notify DINAP by submitting a modification whenever there is a change in a name, address, or other similar information.

(g) The Department will unilaterally modify a grant when a simple funding or performance period increase is required and it is consistent with the approved plan.

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632.23 Termination and corrective action of a CAP and/or Master Plan.

(a) *Emergency Termination.* The Department may terminate or suspend a CAP designation or Master Plan under emergency termination procedures in accordance with Section 164(f) of the Act. The provisions in Part 636 shall not apply in instances of emergency termination.

(1) Instances under which emergency termination can occur include but are not limited to: Audit reports identifying numerous adverse findings in the area of financial control and management; information gathered through onsite monitoring which substantiates serious management, fiscal and/or performance problems, information from the Inspector General or gained through incident reports of poor performance, serious administrative problems and/or inability to protect and account for Federal funds.

(2) Within 30 days of written termination notification to a grantee, the Department will secure applicable documents onsite, seize bank accounts relating to the program, arrange for the payment of legitimate bills and debts and arrange, to the degree feasible, for the continued provision of services to program enrollees.

(b) *Termination for Cause.* Termination for cause can occur whenever there is a substantial or persistent violation of the governing rules and regulations or failure to comply with the grant terms and conditions. The following factors will be considered for termination:

(1) Poor performance and inability to meet Federal standards related to such debt collection requirements as:

(i) Failure to respond to demand letters from DOL for repayment of debts within the stated timeframe;

(ii) Failure to comply with an approved repayment agreement revealed through monitoring or subsequent audit;

(iii) Failure to take necessary corrective action to improve underperformance and to plan for more effective subsequent operations.

(2) Nonperformance related to such requirements as:

(i) Failure to submit required quarterly financial reports for two successive periods within 45 days after they are due;

(ii) Failure to submit required quarterly performance reports for two successive periods within 45 days after they are due;

(iii) Failure to develop a plan of action to correct deficiencies identified in an audit report or by an onsite monitoring review.

(3) Nonperformance related to such requirements as:

(i) Failure to comply with formal corrective action after due notice;

(ii) Failure to comply with the requirements of the Act related to a grievance procedure and other requirements;

(iii) Failure to submit a required modification within 10 days to adjust the grant award due to reduction in available funds, reductions due to debt collection action, etc.

(c) In addition, the Department, by written notice, may terminate a grant in whole or in part in the event of a reduction in the funds available or a change in provisions for JTPA Title IV, Section 401 programs by reason of congressional action.

Subpart D—Administrative Standards and Procedures

§ 632.31 General.

(a) This subpart describes requirements relating to the administration of grants by Native American grantees. Administrative requirements found in this subpart apply to all programs under the Act unless stated to the contrary for any specific program.

(b) As referenced in this subpart, the requirements set forth in 41 CFR Parts 29–70, "Administrative requirements governing all grants and agreements by which Department of Labor agencies award funds to State and local governments, Indian and Native American entities, public and private institutions of higher education and hospitals, and other quasi-public and private nonprofit organizations," shall apply to grants under JTPA. Whenever the provisions of 41 CFR Part 29–70 conflict with the provisions of Part 632, the provisions of Part 632 shall prevail.

(1) The requirements in 41 CFR 29–70.1 set forth the policies which apply to all basic grants and agreements.

(2) The requirements in 41 CFR 29–70.2 implement OMB Circular Nos. A–102 and A–110, and apply to all JTPA grants and agreements unless otherwise indicated in these regulations.

§ 632.32 Financial management systems.

(a) Each Native American grantee, subgrantee and contractor shall maintain a financial management system which will provide accurate, current and complete disclosure of the financial transactions under each grant, subgrant or contract activity, and will enable each Native American grantee, subgrantee or contractor to evaluate the effectiveness of program activities and meet the reporting requirements of this Subpart.

(b) Each Native American grantee, subgrantee and contractor shall maintain its financial accounts so that the reports required by the Department may be prepared therefrom.

(c) To be acceptable for audit under this subpart, a Financial Status Report shall be:

(1) Current as of the cut-off date of the audit;

(2) Taken directly from or linked by worksheet to the Native American grantee's books of original entry; and

(3) Traceable to source documentation of the unit transaction.

§ 632.33 Audits.

(a) *General.* The audit provisions of 41 CFR Part 29–70 shall apply to Native American grantees. Until unified or single audit procedures are promulgated and implemented for nonprofit entities, the Office of the Inspector General shall be responsible for arranging and conducting audits of Native American grantees that are not Indian tribal governments.

(b) *Audit reports.* Upon receipt of a final audit report the Inspector General will promptly transmit the audit report to the grantee for a comment period not to exceed 30 days.

(c) *Initial Determination.* After the conclusion of the comment period for audits provided the grantee, the Grant Officer shall make an initial determination of the allowability of questioned costs or activities. Such determination should be based on the Act, regulations grants or other agreements under the Act.

(d) *Informal resolution.* Except as provided in Section 164(f) of the Act, the Grant Officer shall not revoke a grant, in whole or in part, nor institute corrective action or sanctions against a grantee without first providing the grantee with an opportunity to informally resolve those matters contained in the Grant Officer's initial determination. If the matters are informally resolved the Grant Officer shall notify the parties in writing of the nature of the resolution, which shall constitute the final determination, and may close the file.

(e) *Final determination.* The Grant Officer shall, not later than 180 days from the time the Inspector General issues the final approved audit report, issue a final determination that:

(1) Indicates that efforts to informally resolve matters contained in the initial determination pursuant to paragraph (a) of the section have been unsuccessful.

(2) Lists those matters upon which the parties continue to disagree.

(3) Lists any modifications to the factual findings and conclusions set forth in the initial determination.

(4) Lists any sanctions, and required corrective actions, including any other alteration or modification of the plan, grant, agreement or program intended by the Grant Officer.

(5) Sets forth any appeal rights.

§ 632.34 Program income.

(a) *General.* The provisions of 41 CFR 29–70.205, program income and interest earned, shall apply to Native American grantee programs.

(b) Income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of DOL financial assistance for that program.

(c) *Special provisions.* Income earned as a result of activities of JTPA participants by an income generating enterprise, which is owned by an Indian tribe, band or group or an Alaskan native entity, and the profits of which are used exclusively for governmental, charitable, educational, civic, social or other similar purposes, may be retained by such enterprise and used in the same manner as other income of such enterprise.

§ 632.35 Native American grantee contracts and subgrants.

(a) Contracts may be entered into between the Native American grantee and any party, public or private, for purposes set forth in the JTPA.

(b) Subgrants may be entered into between the Native American grantee and units of State and local general government, Indian tribal government, public agencies or nonprofit organizations.

(c) The Native American grantee is responsible for the development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, the regulations under the Act, and other applicable law. It shall also require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(d) Each Native American grantee shall take action against its contractors and subgrantees to prevent or eliminate violations of the regulations, and to prevent misuse of JTPA funds.

(e) Subgrantees are entitled to funding for administrative costs. The amount of such funding will be determined during the development of subgrants subject to the overall administrative costs of the grant.

(f) If a contract or subgrant is cancelled in whole or in part, the Native American grantee shall develop procedures for ensuring continuity of service to affected participants to the extent feasible.

(g) The Native American grantee may enter into contracts or subgrants which extend past the expiration date of the CAP but such extension shall not exceed 6 months. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants.

(h) To the extent feasible, Native American Indian grantees shall give preference in the award of contracts and subgrants to Indian organizations and to Indian-owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). Any contract or subgrant made by a Native American grantee shall require that, to the greatest extent feasible, preference and opportunities for training and employment in connection with such contract or subgrant shall be given to qualified Indians regardless of age, religion or sex and that the contractor or subgrantee shall comply with any Indian preference requirements established by the Native American grantee. All grantees, subgrantees and contractors shall include the requirements of this paragraph in all subcontracts and subgrants made by them (Sec. 7(b) of the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638 (25 U.S.C. 450 et seq)).

(i) The Native American grantee shall ensure that contractors and subgrantees maintain and make available for review by the grantee and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants consistent with the maintenance and retention of record requirements in 41 CFR Parts 29–70.

§ 632.36 Procurement standards.

(a) Native American grantees shall comply with the procurement systems and procedures found in 41 CFR 29–70.216, Procurement standards.

(b) Subject to the Indian preference provisions of § 632.35(h), small and minority-owned businesses, including small businesses owned by women, within the service area of the Native American grantee, shall be provided maximum reasonable opportunity to compete for contracts for supplies and services. One means to provide for this is the use of set-asides.

(c) No funds shall be paid by the Native American grantee to any organization for the conduct of programs under the Act unless:

(1) It has submitted an acceptable proposal;

(2) Selection is performed on a merit basis;

(3) It has not been seriously deficient in its conduct of, or participation in, any Department of Labor program in the past, or is not a successor organization to one that was seriously deficient in the past, unless the organization statisfactorily demonstrates that the deficiency has been or will be corrected and performance substantially improved; and

(4) It has the administrative capability to perform effectively.

§ 632.37 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the grantee's program, be allocable thereto under these principles, and, except as provided herein, not be a general expense required to carry out the overall responsibilities of the grantee. Costs charged to the program shall be consistent with those normally allowed in like circumstances and, with applicable State and local law, rules or regulations as determined by the Native American grantee.

(b) Unless otherwise indicated below, direct and indirect costs shall be charged in accordance with 41 CFR 29–70 and 41 CFR 1–15.7.

(c) Costs associated with repairs, maintenance, and capital improvements of existing facilities used primarily for programs under the Act are allowable. Additionally, the costs of home repair, weatherization and rehabilitation are allowable when the work is performed on low income housing as defined in § 632.4.

(d) Section 401 funds may be used to pay the cost of incorporating a PIC, other planning body or consortium administrative entity for the purpose of carrying out programs under the Act. These costs are chargeable to administration.

(e) Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:

(1) Is for classroom training;

(2) Is fixed unit price; and

(3) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement.

§ 632.38 Classification of costs.

Allowable costs shall be charged against the following four cost categories: Administration; training, employment and other (including supportive services).

(a) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(b) The Native American grantee is required to plan, control and charge expenditures against the aforementioned cost categories.

(c) The Native American grantee is responsible for ensuring that, at a minimum, subgrant or subcontract recipients plan, control, and charge expenditures against the aforementioned cost categories.

(d) Administrative costs consist of all direct and indirect costs associated with the management of the grantee's program. These costs include but are not limited to: the salaries and fringe benefits of personnel engaged in executive, fiscal, data collection, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions; and related materials, supplies, equipment, office space costs, and staff training. Also included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all costs of clerical personnel, materials, supplies, equipment, space, utilities, and travel which are identifiable with these program administration positions are charged to administration.

(e) Training costs consist of goods and services which directly affect program participants in a training activity. Training costs include, but are not limited to, the following: the costs associated with on-the-job training, salaries, fringe benefits, equipment and supplies of personnel engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utility costs; employability assessment; job related counseling for participants; job search assistance and labor market orientation; participant allowances, and tuition and entrance fees which represent instructional costs which have a direct and immediate impact on participants. In addition, 250 hours of youth try-out employment is considered an allowable training cost. Youth try-out employment is that which meets the requirements of § 632.78.

(f) The compensation of individuals who both instruct participants and supervise other instructors must be prorated among the training and administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees, and the costs of supplies used in the course of both participant instruction and other activities should be prorated among the benefitting uses.

(g) Employment costs consist of those costs associated with community service employment and work experience as described in § 632.79.

(h) Other costs include supportive services, services which are necessary to enable an individual to participate in training and assistance under this Part, and those described in § 632.80.

(i) Costs which are not readily assignable to the training or employment cost category should be charged to either the administration or other category as appropriate.

(j) Unemployment compensation costs are allowable for administrative staff hired in accordance with the administrative provisions of this Part, and for CSE participants. Unemployment compensation costs are allowed for work experience only where required by State law.

(k) *Travel costs.* (1) The cost of participant travel and staff travel necessary for the administration of programs under the Act are allowable costs, chargeable to the proper cost category, and must follow standard Federal travel requirements.

(2) Travel costs of Native American grantee officials, including staff, board members, and advisory council members are allowable if the travel and costs specifically relate to programs under the Act. These costs will be charged to administration. Travel costs for officials of tribes or organizations belonging to a consortium require advance written approval from the Chief, DINAP, unless they are also officials of the Native American grantee organization.

(3) Travel costs for participants using their personal vehicles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this way. These costs shall be charged to supportive services.

(4) Travel costs to enable participants to obtain employment or to participate in programs under the Act are allowable as supportive services.

(l) *Allocation of fixed unit charge.* (1) When contractors or subgrantees bill the Native American grantee with a single unit charge containing costs which are chargeable to more than one cost category, the Native American grantee shall charge these costs to the cost categories in § 632.38. For unit charges such as tuition fees for which the necessary detail cannot be provided, a reasonable estimate of the breakdown of the single unit charge among cost categories in § 632.38 will be sufficient, including for audit purposes. When such unit charges are normally billed as a single charge and the cumulative amount of such charges to a service provider does not exceed $25,000 within the grant year, proration will not be required. These costs may be charged to the category receiving the most benefit.

(2) The provisions of this section shall not apply to vendors selling or leasing equipment and attendant service at a commercially established rate to Native American grantees or subgrantees.

(3) In the case of multiuse equipment there must be a proration of costs or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(4) Any single cost, such as staff salaries or fringe benefits, which is properly chargeable to more than one cost category shall be prorated among the affected categories.

§ 632.39 Administrative cost plan.

(a) All administrative funds for all programs operated under separate Sections of the Act by a Native American grantee may be accounted for separately and be allocated by title and program activity or may be pooled into one fund. Planned expenditures from the fund shall be described in a separate section of the CAP.

(b) The administrative cost plan may be modified during the program year.

§ 632.40 Administrative staff and personnel standards.

(a) *Staffing.* Members of the population to be served shall be provided maximum employment opportunities at all levels of the JTPA grantee administration. Native American grantees shall establish systems to enhance the recruitment and hiring of qualified Indian and Native Americans and to provide opportunities for their further occupational training and career advancement.

(b) *Compensation.* Compensation for administrative staff shall be at levels consistent with generally accepted business practices in the area. Such administrative wages, salaries, and fringe benefits are allowable administrative costs under JTPA.

(c) *Basic personnel standards.* All grantee employees, including participants, engaged in the administration of programs under the Act shall be subject to the policies and methods of personnel administration as formally established by the Native American grantee.

(d) *Bonding.* Native American grantees shall comply with the bonding requirements at 41 CFR 29–70.202b.

§ 632.41 Reporting requirements.

Within 45 days of the end of each quarter, a Native American grantee shall submit to the Chief, DINAP by registered mail, financial and program reports. Accuracy of all reports must be verified by the chief executive officer or financial officer. When estimates are used the verification statement will so state. The exact reports to be submitted and reporting instructions as approved by the Office of Management and Budget will be announced to Native American grantees under separate order.

§ 632.42 Grant closeout procedures.

Grant closeout will conform to the requirements at 41 CFR Part 29–70. As necessary, the Secretary shall issue supplementary closeout requirements.

§ 632.43 Reallocation of funds.

When the DINAP determines that reallocation is appropriate, it shall give the Native American grantee 30-day notice of proposed action to remove funds from the grant. Such notice shall include specific reasons for the action being taken, and shall give the Native American grantee the opportunity to submit comments on the proposed reallocation of funds. These comments shall be submitted to DINAP within 30 days from the date of the notice. DINAP shall notify affected Native American grantees on any decision to reallocate funds. The Grant Officer shall finally reallocate by modifying the CAP.

§ 632.44 Sanctions for violation of the Act.

(a) Pursuant to Sections 164 (d), (e), (f), (g), and (h) of the Act, the Secretary may impose appropriate sanctions and corrective actions for violations of the Act, Regulations, or grant terms and conditions. Additionally, sanctions may include the following:

(1) Offsetting debts, arising from misexpenditure of grant funds, against amounts to which the grantee is or may be entitled under the Act, except as provided in Section 164(e)(1) of the Act. The debt shall be fully satisfied when the Secretary reduces amounts allotted to the grantee by the amount of the misexpenditure; and

(2) Determining the amount of Federal cash maintained by the grantee or its subgrantee or contract or in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt.

(b) Except for actions under Section 164(f) and 167 of the Act, to establish a debt or violation subject to sanction and/or corrective action, the Secretary shall utilize initial and final

VOL 48 ISS 204 OCT 20 1983 UMI

VOL
48
ISS
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20
1983
UMI

determination procedures outlined in Part 636.

(c) To impose a sanction or corrective action regarding a violation of Section 167 of the Act, the Secretary shall utilize the procedures of 29 CFR Part 31.

(d) (1) The Secretary shall hold the grantee responsible for all funds under the grant. The grantee shall hold its subgrantees and contractors responsible for JTPA funds received through the grant.

(2) The Secretary shall determine the liability of the grantee for misexpenditures of grant funds in accordance with Section 164(e) of the Act, including the requirement that the grantee shall have taken prompt and appropriate corrective actions for misexpenditures by a subgrantee or contractor.

(3) Prompt, appropriate, and aggressive debt collection action to recover any funds misspent by subgrantees or contractors ordinarily shall be considered a part of the corrective action required by Section 164(e)(2)(D) of the Act.

(4) In making the determination required by Section 164(e)(2) of the Act, the Secretary may determine, based on a request from the grantee, that the grantee may forego certain collection actions against a subgrantee or contractor where that subgrantee or contractor was not at fault with respect to the liability criteria set forth in Section 164(e)(2)(A) through Section 164(e)(2)(D) of the Act. The Secretary shall consider such requests in assessing whether the grantee's corrective action was appropriate in light of Section 164(e)(2)(D) of the Act.

(5) The grantee shall not be released from liability for misspent funds under the determination required by Section 164(e) of the Act until the Secretary determines that further collection action, either by the grantee or subgrantee or contractor, would be inappropriate or would prove futile.

(e) Nothing in this section shall preclude the Secretary from imposing a sanction directly against a subgrantee or contractor as authorized in Section 164(e)(3) of the Act. In such a case, the Secretary shall inform the grantee of the Secretary's action.

Subpart E—Program Design and Management

§ 632.75 General responsibilities of Native American grantees.

This subpart sets out program operation requirements for Native American grantees including program management, linkages, coordination and consultation, allowable activities, participant benefits and duration of participation provisions. It also sets forth the responsibilities of Native American grantees with respect to nondiscrimination and equitable provision of services.

§ 632.76 Program management systems.

(a) All Native American grantees shall establish management information systems to control and assess all programs. Native American grantees must institute and maintain effective systems for the overall management of all programs including:

(1) Eligibility verification systems as described in § 632.77;

(2) Complaint and hearing procedures as described in Part 636; and

(3) Mechanisms for taking immediate corrective action where problems have been identified and for restitution of JTPA funds for improper expenditures.

(b) All Native American grantees shall establish and maintain financial management and participant tracking systems in accordance with § 632.32 and § 632.77. The principal objectives of such systems shall be to provide the Native American grantee with systems necessary to effectively manage its program and to provide information necessary to design program activities and delivery mechanisms and complete Federal required reports.

(c) Each Native American grantee shall establish and use procedures for the continuous, systematic assessment of program performance in relation to the performance standards and goals contained in its CAP.

(d) Native American grantees shall establish and use procedures whereby the information collected and assessments conducted shall be considered in subsequent program planning and in the selection of service deliverers.

§ 632.77 Participant eligibility determination.

(a) Each Native American grantee, and any subgrantees or contractors assigned responsibility for the determination of participant eligibility, shall be responsible for developing and maintaining a system which reasonably ensures an accurate determination and subsequent verification of eligibility based on the information presented at the time of application.

(b) The ultimate responsibility for the selection of participants and the maintenance of participant records rests with the Native American grantee. However, the Native American grantee may assign the administration of this responsibility to subgrantees of contractors. The selected agency must provide adequate documentation of each participant's eligibility and retain in the participant's folder the information on which this determination is based.

(c) The eligibility determination shall be based upon a signed, completed, application form which records all information necessary to determine eligibility, which attests that the information on the application is true to the best of the applicant's knowledge and acknowledging that such information is subject to verification and that falsification of the application shall be grounds for the participant's termination and may subject the applicant to prosecution under law. In the case of an applicant who is a minor (except minors who are emancipated or heads of households), the signature of the parent, responsibile adult or guardian is also required.

(d) Native American grantees shall maintain documentation to ensure the credibility of the eligibility determination, which shall at a minimum:

(1) Include a completed application for participation;

(2) Include records of all actions taken to correct deficiencies in the eligibility determination procedures; and

(3) Show compliance with Section 504 of the Act.

(e) A participant determined to be ineligible shall immediately be terminated.

(f) A Native American grantee may enter into an agreement with a State employment security agency (SESA) or other independent agency or organization as may be approved by the Department, for the verification of applicant eligibility within 45 days of enrollment. The Native American grantee shall monitor such verification procedures to ensure that erroneous verifications are not made deliberately or with insufficient care.

(g) Participants may be transferred from one JTPA program to another, from one Native American grantee to another, from a Native American grantee to a SDA grant recipient, from a SDA grant recipient to a Native American grantee, or concurrently enrolled in programs sponsored by Native American grantees or SDA grant recipients, provided, except for age requirements, they were eligible for the subsequent or concurrent program when they were first enrolled.

(h) Eligibility determinations for each program shall be made at the time of application. Applicants determined eligible may be enrolled as participants within 45 days of the date of the application without an update of the information on the application provided they did not obtain full-time permanent unsubsidized employment in the interim. This provision does not appy to the Title II-B program.

(i) Aliens described in Section 167(a)(5) of the Act and who otherwise meet the eligibility requirements for programs under this Part, may participate in a program if this is permitted by Indian law or the Native American grantee.

§ 632.78 Training activities.

Native American grantees shall design and operate programs funded under the Act which support growth and development as determined by representatives of the Indian and Native American communities and groups served (Sec. 401(a)). Training shall be only for occupations for which there is a demand in the area served or in another area to which the participant is willing to relocate, and consideration in the selection of training programs may be given to training in occupations determined to be in sectors of the economy which have a potential for sustained demand or growth. The CAP will provide evidence based on local labor market information that occupational demand exists for planned training. The basic types of training activities available to Native American grantees, subgrantees and contractors include, but are not limited, to the following:

(a) *Classroom training.* This program activity is any training of the type normally conducted in an institutional setting, including vocational education, and designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may be coupled with other employment and training activities and may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education, GED, training in the primary language of persons with limited English-speaking proficiency, or English-as-a-second-language training.

(b) *On-the-job training.* (1) On-the-job training (OJT) is training in the private or public sector given to a participant, who has been hired first by the employer, and which occurs while the participant is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job. This does not preclude a participant who has been hired by and received OJT from one employer from being ultimately placed with another employer. Innovative approaches to financing, particularly involving the sharing of training costs by the private sector are to be encouraged.

(2) OJT may be coupled with other JTPA employment and training activities. As needed, OJT participants may receive any of the employment and training services or supportive services through the system, through community resources, or through employer resources.

(3) *Reimbursement.* Payments to employers for OJT which shall not, during the period of such training, average more than 50 percent of the wages excluding fringe benefits paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with the training costs and lower productivity of such participants. No direct wage payments will be made to OJT participants by the Native American Grantee.

(4) *OJT agreements.* Employers will be held responsible with respect to JTPA costs only in accordance with the provisions of their OJT agreements. At a minimum, the OJT agreement shall contain the elements listed below. Native American grantees may place additional provisions in the OJT agreement only after a careful assessment is made of the additional burdens imposed on participating employers. Agreements may be entered into only with employers which have not been seriously deficient in their conduct of or participation in any DOL program. Each OJT agreement shall contain:

(i) A brief training outline, including the length of training and the nature of the training;

(ii) The method and maximum amount of reimbursement for OJT training costs;

(iii) The number of participants to be trained;

(iv) Job descriptions and specification of participant wage rates;

(v) Reporting requirements;

(vi) An assurance that payroll records, time and attendance records, job duties and documentation of classroom training, employment and training services, or supportive services, costs for which the employer is being reimbursed will be subject to review;

(vii) A termination clause for nonperformance; and

(viii) An assurance that the employer will comply with the Act and regulations.

(c) *Tryout employment.* Tryout employment in private-for-profit worksites may be conducted in accordance with Section 205(d)(3)(B) of the Act (Sec. 141(K)).

(d) *Training assistance.* Such assistance includes:

(1) Orientation to the world of work;

(2) Counseling. This includes employment and training related counseling and testing;

(3) Job development;

(4) Job search assistance. This includes transition services, such as job seeking skills instruction, individualized job search plan, labor market information, and other special activities for transition to unsubsidized employment;

(5) Job referral and placement; and

(6) Vocational Exploration Program (VEP). A Native American grantee may conduct a VEP program to expose participants to jobs available in the private sector through observation of such jobs, instruction, and, if appropriate, limited practical experience.

(e) *Combined activities.* (1) A participant may be simultaneously or sequentially enrolled in two or more activities.

(2) (i) Reimbursement may be up to 100 percent to employers, including private-for-profit employers, for expenditures for the costs of classroom training, employment and training assistance or supportive services for participants in combined activities including the costs of participants' wages paid by the employer for time spent in these activities during working hours.

(ii) Reimbursement may be made on a cost reimbursement or fixed cost basis and shall be supported by business receipts, payroll, or other records normally kept by the employer.

(iii) Nothing in this paragraph (b)(1) shall allow reimbursement to private-for-profit employers for the costs of OJT to exceed the amounts allowable in § 632.78.

§ 632.79 Employment activities.

(a) *Community service employment (CSE).* Community Service Employment is the type of work normally provided by government and includes, but is not limited to, work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community

VOL
48
ISS
2
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4
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2 0
1983
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improvement. It includes work performed by tribally sponsored or owned income generating enterprises owned by Indian tribes, bands, or groups, or Native Alaskan entities, provided the profits from such enterprises are used exclusively for functions normally performed by the governing body of such entities.

(b) *Work experience.* (1) Work experience is a short-term or part-time work assignment with an employing agency or an organization authorized to employ CSE participants. It is otherwise prohibited in the private-for-profit sector.

(2) Participation in work experience shall be for a reasonable length of time, based on the needs of the participant, and subject to the restrictions set forth in § 632.85.

§ 632.80 Other activities.

(a) *General.* Native American grantees may conduct employment and training activities not described in this subpart. The CAP shall describe the basic design of activities undertaken as "other activities" and their objectives. These activities may include, but are not limited to:

(1) Removal of artificial barriers to employment;

(2) Job restructuring;

(3) Revision or establishment of merit systems;

(4) Development and implementation of affirmative action plans, including Indian preference plans and Tribal Employment Rights Office (TERO) programs.

(5) Post termination services in § 632.80 for up to 30 days following termination; and

(6) Employment generating services.

(b) *Supportive services.* Supportive services are those which are necessary to enable an individual eligible under this Part, but who cannot afford to pay for such services, participate in the program. Such supportive services may include but are not limited to transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance.

§ 632.81 Payments to participants.

(a) *General.* Each participant paid wages for employment activities, allowances for classroom training or reimbursed for OJT or tryout employment will be provided such benefits pursuant to Section 142 of the Act.

(b) *Maximum wage rates for CSE.* (1) The wages (including those received from overtime work and leave taken during the period of employment) paid to any CSE participant from funds under the Act shall be limited to a full-time rate of $10,000 per year (or the hourly, weekly, or monthly rate which, if full-time and annualized, would equal a rate of $10,000 per year). Approved rates above $10,000 are fixed at the CETA approved rate as of September 30, 1982, unless adjusted by the Secretary.

(2) Fringe benefits payable from funds under the Act to any CSE participant may not exceed those regularly afforded to similarly employed non-JTPA workers.

(3) *Davis-Bacon wages.* All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordnace with the Act of March 3, 1931, popularly known as the Davis-Bacon Act, and the implementing regulations in 29 CFR Parts 1, 3, 5, and 7.

(c) *Payment of allowances.* (1) A basic hourly allowance for regularly enrolled classroom training or services participants shall not exceed the higher of the State or Federal minimum hourly wage.

(2) Native American grantees are encouraged to submit allowance payment designs which are less than (c)(1) above. Through innovative reimbursement systems the number of participants should be maximized. The allowance payment system will be described in the Master Plan and as an option may include dependent allowances.

(3) *Repayments.* Native American grantees shall require participants to repay the amount of any overpayment of allowances under this part, except if the overpayment was made in the absence of fault on the part of the participant. Where the Native American grantee requires repayment, any overpayment not repaid may be set off against any future allowance or other payments under the Act to which the participant may become entitled.

(d) *Combined activities.* A primary activity is one in which a participant is enrolled for more than 50 percent of scheduled time. Participants enrolled in a primary activity for which wages are payable and simultaneously in an activity for which allowances are payable may, at the Native American grantee's option, be paid wages for all hours of participation. A participant enrolled in a primary activity for which allowances are payable may, at the Native American grantee's option, be paid allowances for all hours of participation, except when OJT is the non-primary component. However, in the latter case, before placing an individual in such an activity, the Native American grantee shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable.

§ 632.82 Benefits and working conditions for participants.

The provisions of Sections 142 and 143 of the Act shall apply to benefits and working conditions.

§ 632.83 FICA.

Expenditures may be made from JTPA funds for taxes under the Federal Insurance Contribution Act (FICA), 26 USC 3101, et seq.

§ 632.84 Non-Federal status of participants.

Participants shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment.

§ 632.85 Participant limitations.

(a) Except as provided in paragraph (c) of this section and for participants in programs that have other statutory limits, participation in work experience shall be limited to a maximum of 1,000 hours during any one year beginning with the day of enrollment in either CETA or JTPA.

(b) No participant may receive wages for CSE for more than 78 weeks during a 2-year period from the participant's initial enrollment in either JTPA or in a program supported by the Comprehensive Employment and Training Act.

(c) The limitation on work experience participation in JTPA set forth in paragraph (a) of this section:

(1) Shall not apply to time spent by in-school youth or Title II–B participants enrolled in a work experience program under the Act, nor shall such time be included in determining if an individual has reached such limitations; and

(2) May be waived by the Chief, DINAP and the waiver justification described in the Master Plan or CAP.

§ 632.86 Nondiscrimination and nonsectarian activities.

Pursuant to Section 167(a) of the Act:

(a) Subject to the restriction that services under Section 401 of JTPA are legally available only to Indian and Native American persons,

nondiscrimination and equal opportunity requirements and procedures, including complaint processing compliance reviews, will be governed by the provisions of 29 CFR Parts 31 and 32 and will be administered by the Office of Civil Rights.

(b) The employment or training of participants in sectarian activities is prohibited.

§ 632.87 Equitable provision of services to the eligible population and significant segments.

Native American grantees shall ensure and provide evidence in the Master Plan that a system is in place to afford all members of the eligible population within the service area for which the grantee was designated are afforded an equitable opportunity for employment and training activities and services.

§ 632.88 General responsibilities of the Department.

The Department of Labor shall be responsible for:

(a) Providing prompt notification to all Native American grantees of allocations of funds, proposed and final rules and program directives and procedures.

(b) The development, after consultation with Native American grantees, of regulations, performance standards and program policies governing Native American programs. Such regulations and program policies shall take into account the special circumstances under which Native American programs operate (Sec. 401(h)(1)).

(c) Providing Native American grantees with technical assistance, as the Secretary deems necessary, related to the administration and operation of JTPA programs (Sec. 401(i)).

(d) Taking appropriate action to establish administrative procedures and machinery within the Department, including the retention of personnel having particular competence in the field of Indian and Native American employment and training programs, for the selection, administration, monitoring and evaluation of such programs (Sec. 401(e)).

§ 632.89 Performance standards.

The Department of Labor shall establish performance standards for all Native American grantees (Section 401(h)(1)). Performance results, as judged against these standards, will not be used for grantee designation purposes for the Program Years 1985–1986. Performance results will be a factor in grantee designations for Program Years 1987–1988, and beyond.

Subpart F—Prevention of Fraud and Program Abuse

§ 632.115 General.

(a) To ensure the integrity of the JTPA programs special efforts by grantees are necessary to prevent fraud and other program abuses. While any violation of the Act or regulations may constitute fraud or program abuse, this Subpart F identifies and addresses those specific program problems of most concern to the Department.

(b) This subpart sets forth specific responsibilities of Native American grantees, subgrantees and contractors and of the Secretary to prevent fraud and program abuse in JTPA programs.

§ 632.116 Conflict of interest.

(a) No member of any advisory, planning, private industry council or governing body under the Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member or any organization which such member directly represents or on any matter which would financially benefit such member or any organization such member represents.

(b) Each Native American grantee, subgrantee or contractor shall avoid personal and organizational conflict of interest in awarding financial assistance and in the conduct of procurement activities involving funds under the Act in accordance with the code of conduct requirements set forth in 41 CFR 29–70.216–4.

(c) Neither the Secretary nor any Native American grantee, subgrantee or contractor shall pay funds under the Act to any nongovernmental individual, institution or organization to conduct an evaluation of any program under the Act if such individual, institution or organization is associated with that program as a consultant or technical advisor.

§ 632.117. Kickbacks.

No officer, employee or agent of any Native American grantee, subgrantee of contractor shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential subgrantee, contractor or supplier.

§ 632.118 Nepotism.

(a) No Native American grantee, subgrantee, contractor or employing agency shall permit the hiring of any person in a staff position or as a participant if that person or a member of that person's immediate family is employed in an administrative capacity by the Native American grantee, subgrantee or contractor. The Native American grantee may waive this requirement if adequate justification is documented. The following are examples where the nepotism provision may be waived:

(1) If there are no other persons eligible and available for participation or employment by the Native American grantee;

(2) Where the Native American grantee's total service population is 2,000 or less, or where the geographical situation of an Indian or Native American community is rural and isolated from other communities within the designated service area; or

(3) Where the potential participant has a history of unemployment or dependence on public assistance.

(b) A Native American grantee may develop its own nepotism policy in lieu of the policy in paragraph (a) of this section. The Chief, DINAP, shall review any such policy before its implementation and shall approve or disapprove it. Any such policy shall be described in the Master Plan and have adequate safeguards to prevent persons employed in an administrative capacity for the Native American grantee, its subgrantees or contractors from using such position to secure JTPA services or other benefits for a member of his or her immediate family. A satisfactory policy shall include the following minimum criteria:

(1) All formal personnel procedures shall be followed;

(2) There shall be full written disclosure to the governing body describing all advantages, conflicts and/or disadvantages which may result from the specific personnel action; and

(3) No member of the immediate family of the applicant shall participate in the applicant's selection.

(c) For purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all JTPA staff positions funded under the Act such as instructors, counselors, and other staff involved in administrative, training or service activities. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program including: All elected and appointed officials who have any responsibility for the obtaining of or approval of any grant funded under this Part as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement or

VOL 48 ISS 204 OCT 20 1983 UMI

supervisory responsibilities for participants in a Native American employment and training program. The term excludes officials of entities belonging to a consortium who are not at the same time officials of the consortium. Persons serving on a Native American grantee's advisory councils or PIC shall not be considered to be in an administrative capacity.

§ 632.119 Political patronage.

(a) No Native American grantee, subgrantee or contractor may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advance of employees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is prohibited.

(b) There shall be no selection of subgrantees or contractors based on political affiliation.

§ 632.120 Political activities.

(a) No program under the Act may involve political activities.

(b) No participant may engage in partisan or nonpartisan political activities during hours for which the participant is paid with JTPA funds.

(c) No participant may, at any time, engage in partisan or nonpartisan political activities in which such participant represents himself or herself as a spokesperson for the JTPA program.

§ 632.121 Lobbying activities.

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislative or appropriation by Congress; or

(b) To attempt to influence in any manner State or local legislators to favor or oppose any legislation or appropriation by such legislators.

§ 632.122 Unionization and antiunionization activities; work stoppages.

(a) No funds under the Act shall be used in any way to either promote or oppose unionization (Sec. 143(c)(1)).

(b) No participant in work experience or community service employment may be placed into, or remain working in, any position which is affected by labor disputes involving a work stoppage. If such a work stoppage occurs during the grant period, participants in affected positions must:

(1) Be relocated to positions not affected by the dispute; or

(2) Be suspended through administrative leave or other means; or

(3) Where participants belong to the labor union involved in the work stoppage, they shall be treated in the same manner as other members of the union except that they may not remain in the affected positions. The grantee shall make every effort to relocate participants who wish to remain working into suitable positions unaffected by the work stoppage.

(c) No person shall be referred to or placed in an on-the-job training position affected by a labor dispute involving a work stoppage and no payments may be made to employers for the training and employment of participants in on-the-job training during the periods of work stoppage.

§ 632.123 Maintenance of effort.

(a) Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds.

(b) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the plan establishes that alternative services or facilities would be more effective or more likely to achieve performance goals.

§ 632.124 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.

The criminal provision of 18 U.S.C. 665 states:

(a) Whoever, being an officer, director, agent or employee of, or connected in any capacity with, any agency receiving financial assistance under the JTPA knowingly hires an ineligible individual or individuals; embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

(b) Any person whoever willfully obstructs or impedes, or endeavors to obstruct or impede, an investigation or inquiry under the JTPA or the regulations thereunder, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(c) In addition to the criminal provisions set forth in paragraphs (a) and (b) of this section, individuals may be held criminally liable under other Federal laws. For example, 18 U.S.C. Sections 600 and 601 hold them liable if they:

(1) Directly or indirectly promise any employment position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by funds under the Act, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or regard for any political activity or for the support of, or opposition to, any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office (18 U.S.C. 600); or

(2) Directly or indirectly knowingly cause or attempt to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of any employment or benefits funded under the Act (18 U.S.C. 601).

§ 632.125 Responsibilities of Native American grantees, subgrantees and contractors for preventing fraud and program abuse and for general program management.

(a) Each Native American grantee shall establish and use internal program management procedures sufficient to prevent fraud and program abuse, including subgrantee and contractor fraud and abuse. The procedures to be used shall be identified in the Native American grantee's Master Plan.

(b) Each Native American grantee, subgrantee and contractor shall ensure that sufficient, auditable, and otherwise adequate records are maintained which support the expenditure of all funds under the Act. Such records shall be sufficient to allow the Secretary to audit and monitor the Native American grantees', subgrantees', and contractors' programs and shall include the maintenance of a management information system in accordance with the requirements of § 632.32.

(c) Any person having knowledge of fraud, criminal activity or other abuse shall report such information directly and immediately to the Secretary. Similarly, all complaints involving such matters should also be reported to the Secretary directly and immediately.

Subpart G—[Reserved]

Subpart H—Job Training Partnership Act Programs Under Title IV, Section 401.

§ 632.170 Eligibility for funds.

The Department shall provide funds under Section 401 of the Act only to Native American grantees designated in accordance with § 632.10.

§ 632.171 Allocation of funds.

(a) One hundred percent, except as provided in § 632.171(c), of the amount available for Section 401 will be distributed by formula as follows:

(1) Twenty-five percent of the available funds shall be allocated on the basis of the relative number of unemployed Indians and other Native Americans within the Native American grantee's geographic service area compared to the total number of unemployed Indians and other Native Americans in the United States.

(2) Seventy-five percent of the available funds shall be allocated on the basis of the relative number of members of Indian and other Native Americans households, whose income is at or below the poverty level, within the Native American grantee's geographic service area compared to the total number of members of Indians and Native American households in poverty in the United States.

(b) Commencing with Program Year 1985 and after consultation with Indian groups, the Department may reserve up to one percent of Section 401 funds. These funds may be used for technical assistance to improve the program's overall performance.

(c) In situations when the Department determines that the formula allocation will result in severe disruption from one year to the next, a hold harmless or other factor to minimize such disruptions may be used.

§ 632.172 Eligibility for participation in Title IV, Section 401.

(a) An Indian, Native Alaskan, or Native Hawaiian, as determined by the Native American Grantee, who is economically disadvantaged, or unemployed or underemployed is eligible to participate in a program under this subpart. For income eligibility purposes, the NAG may use either 6-months annualized or 12-months actual income.

(b) Indians and other persons of Native American descent who meet the requirements of subsection (a) of this section and who are identified by the Federal or State government as "landless" or "terminated" or "non-federally recognized" are included among those eligible to participate. These terms shall be broadly construed for the specific purpose of including, among others, terminated, State-recognized, or other groups or individuals previously determined to be eligible for Indian services under the Comprehensive Employment and Training Act.

(c) A Native American grantee may enroll Indian and Native American participants in upgrading and retraining programs who are not unemployed, underemployed or economically disadvantaged where such participants meet the following eligibility requirements:

(1) For upgrading, a person must be operating at less than full skill potential, and working for at least the prior 6 months with the same employer in either an entry level, unskilled or semiskilled position or a paid position with little or no advancement opportunity in a normal promotional line. Priority consideration shall be given to the workers who have been in entry level positions for the longest time.

(2) For retraining a person must have received a bona fide notice of impending layoff and have been determined by the grantee as having little opportunity to be reemployed in the same or equivalent occupation or skill level within the labor market area.

§ 632.173 Allowable program activities.

(a) Native American grantees may undertake programs and activities consistent with the purposes of the Act including, but not limited to, programs and activities described in §§ 632.78 through 632.81.

(b) Native American grantees are encouraged to develop innovative means of addressing the needs of unemployed, underemployed and economically disadvantaged members of their communities and of contributing to the permanent economic self-sufficiency of such communities.

(c) Training and placement in the private sector will be emphasized. CSE and work experience are permitted when consistent over the long term with increasing earnings in unsubsidized employment. Expenditures for CSE are limited to 10 percent or the unemployment rate, based on data collected by an appropriate Federal or State agency including BIA, of a NAG's total Section 401 allocation. For nonreservation grantees, the official BLS unemployment rate or State job service rate for the area will be used.

(d) Wages and allowances are to be kept to a minimum to maximize funds to be used for training.

(e) Innovative approaches to the private sector are encouraged.

(f) Other activities described in § 632.80 should use no more than 25 percent of the funds. This limitation may be increased to accommodate the extraordinary costs associated with special training projects where it is clear the benefits support the additional cost. An increase to this limitation shall be approved in instances such as, but not limited to, rural participants needing relocation for training, when the costs of housing, transportation, etc., for training participants cannot be met within a 25 percent limitation, and for TERO activities.

§ 632.174 Administrative costs.

Administrative costs for this subpart are limited to and shall not exceed 20 percent of the funds available.

Subpart I—Summer Youth Employment and Training Programs

§ 632.250 General.

This subpart contains the policies, rules, and regulations of the Department in implementing and administering a Summer Youth Employment and Training Program for Indians and other Native Americans authorized by Title II, Part B of the Act.

§ 632.251 Eligibility for funds.

Only Native American grantees described in Section 401(c)(1) of the Act are eligible for summer youth program funds.

§ 632.252 Allocation of funds.

(a) For this program the Secretary shall reserve the same percentage of JTPA 3(b) funds as were available in the CETA, IV–C Fiscal Year 1983 program.

(b) Allocations shall be made to eligible Native American grantees on the basis of a formula using the best available data as determined by the Department in consultation with Native American groups and shall be published by the Secretary.

§ 632.253 Special operating provisions.

Native American grantees shall:

(a) Provide services to youths most in need;

(b) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantage youth population, especially school dropouts, youth not likely to return to school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other such factors;

VOL
48
ISS
2
0
4
OC
20
1983
UMI

(c) Provide labor market orientation to participants. This orientation may include, as appropriate: vocational exposure, counseling, testing, resume preparation, job interview preparation, providing labor market information, providing information about other training programs available in the area, including apprenticeship programs, and similar activities. It may be provided on a group or individual basis. In providing labor market orientation, skill training and remedial education, each grantee shall make maximum efforts to develop cooperative relationships with other community resources so that these activities are provided in the summer program at no cost, or at minimum cost, to the summer program;

(d) Assure that adequate supervision from skilled supervisors is provided to participants at each worksite;

(e) Make appropriate efforts to encourage educational agencies and post-secondary institutions to award academic credit for the competencies participants gain from their participation in the summer program;

(f) Ensure that appropriate efforts are made to closely monitor the performance of the summer program and measure program results against established goals;

(g) Ensure that enrollee applications are widely available and that jobs are awarded among individuals most severely disadvantaged in an equitable fashion. Enrollment applications shall require the signature of the applicant or (in the case of minors) the parent or guardian attesting to the accuracy of the information, including income data, provided on the application; and

(h) Provide participants with an orientation to the program which shall include, but not be limited to: purposes of the program and the conditions and standards (including such items as hours of work, pay provisions and complaint procedures) for such activities in the program.

§ 632.254 Program startup.

During the planning and design phase of the program and prior to the close of the school year, only those activities outlined in § 632.255(b) are permissible. These activities shall be charged as administrative costs. Individuals may not begin participation in the program before the close of school.

§ 632.255 Program planning.

(a)(1) In developing the summer program, the Native American grantee shall coordinate the summer plan with its Title IV program.

(2) Native American grantees shall use the planning process described in § 632.17.

(b) The following planning and design activities shall be allowable beginning October 1 of each year;

(1) Hiring of staff (planners, worksite developers, intake specialists, etc.), provided, prior to the close of school all staff salaries and benefits shall be charged as administrative expenses, except that 45 days prior to the beginning of the summer program and 45 days after the summer program, all staff costs and other program development costs may be charged pursuant to § 632.38;

(2) Development of the summer plan;

(3) Worksite development;

(4) Recruitment, intake and selection of participants;

(5) Arrangements for supportive services;

(6) Dissemination of program information;

(7) Development of coordination between schools and other services;

(8) Staff training; and

(9) Other activities that may be characterized as planning and design but not program operation.

(c) Expenses incurred in such planning and design activities may, pursuant to § 632.38, be paid from administrative funds received under other titles of the Act.

§ 632.256 Submission of applications.

To the extent possible, Native American grantees will be notified of their summer youth allocation at the same time Section 401 allocations are announced. The summer plan will be a separate part of the CAP and follow the same format as the CAP.

§ 632.257 Eligibility for participation.

(a) An individual shall be eligible for participation if, at time of application, he or she is an Indian or Native American youth who is:

(1) At the time of application, economically disadvantaged;

(2) At the time of enrollment, age 14 through 21 inclusive; and

(3) For income eligibility purposes, the NAG may use either six months annualized or 12 months actual income.

(b) The nepotism provisions of this Part shall not apply to this program.

§ 632.258 Allowable activities.

Allowable activities are those listed in § 632.78–80 except that community service employment is not permitted.

§ 632.259 Vocational exploration program.

A Native American grantee may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs and instruction including, where appropriate, limited and short term practical experience.

§ 632.260 Worksite standards.

(a)(1) Each Native American grantee shall develop a written agreement with worksite employers which complies with Sections 142 and 143 of the Act and which assures:

(i) Adequate supervision of each participant;

(ii) Adequate accountability for participant time and attendance; and

(iii) Adherence to the rules and regulations governig the summer program.

(2) Such written agreements may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions governing the program at the worksite.

(b) Each Native American grantee shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(c) No participant shall be required to work, or be compensated for work with JTPA funds, for more than 40 hours of work per week.

§ 632.261 Reporting requirements.

(a) Each Native American grantee shall submit an end of summer report which will include both financial and characteristics information. The report format will be issued to grantees under separate instructions.

(b) The report in this section is to be submitted to Chief, DINAP by registered mail no later than 45 days after the end of the summer program.

§ 632.262 Termination date for the summer program.

Participants may not be enrolled in the summer program beyond September 30, or beyond the date they resume school full-time, whichever occurs earlier. Allowable activities after September 30 include report and record preparation and submittal, completion of evaluations and assessments of worksite employers and the overall program or other elements of the summer program.

§ 632.263 Administrative costs.

Administrative costs for this subpart are limited to and shall not exceed 20 percent of the funds available.

PART 633—MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Subpart A—Introductory Provisions

Sec.
633.102 Scope and purpose of Title IV, Section 402 programs.
633.103 Format for these regulations.
633.104 Definitions.
633.105 Allocation of funds.
633.106 Eligibility for allocable funds.
633.107 Eligibility for participation in Section 402 programs.

Subpart B—Grant Planning and Application Procedures

633.201 Grant planning and application procedures in general.
633.202 Announcement of State planning estimates and invitation to submit a grant application.
633.203 Review of funding request.
633.204 Responsibility review.
633.205 Notification of selection.

Subpart C—Program Design and Administrative Procedures

633.301 General responsibilities.
633.302 Training activities and services.
633.303 Allowable costs.
633.304 Section 402 cost allocation.
633.305 General benefits and working conditions for program participants.
633.306 Retirement benefits.
633.307 Packages of benefits.
633.308 Non-federal status of participants.
633.309 Recordkeeping requirements.
633.310 Bonding.
633.311 Management information systems.
633.312 Grantee contracts and subgrants.
633.313 Administrative staff and personnel standards.
633.314 Reports required.
633.315 Replacement, corrective action, termination.
633.316 Closeout procedures.
633.317 Reallocation of funds.
633.318 Nondiscrimination and nonsectarian activities.
633.319 Lobbying, political activities and unionization.
633.320 Nepotism.
633.321 Performance standards for Section 402 programs.
633.322 Sanctions for violation of the Act.

Authority: Job Training Partnership Act, Sec.169 (29 U.S.C. 1501 *et seq.*, Pub. L. 97–300, 96 Stat. 1322), unless otherwise noted.

Subpart A—Introductory Provisions

§ 633.102 Scope and purpose of Title IV, Section 402 programs.

(a) It is the purpose of Title IV, Section 402, of the Act to provide job training, employment opportunities, and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization resulting in displacement and contribute significantly to the Nation's rural employment problem. These factors substantially affect the entire national economy.

(b) Because of farmworker employment and training problems, such programs shall be centrally administered at the national level. Programs and activities supported under this section shall in accordance with Section 402(c)(3) of the Act:

(1) Enable farmworkers and their dependents to obtain or retain employment;

(2) Allow participation in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment;

(3) Allow activities leading to stabilization in agricultural employment; and

(4) Include related assistance and supportive services.

§ 633.103 Format for these regulations.

(a) Regulations promulgated by the Department to implement the provisions of Title IV Section 402 of the Act are set forth in 20 CFR Part 633 and Part 636. These Parts contain all the regulations under the Act applicable to migrant and other seasonally employed farmworker programs.

(b) Should the regulations at this part conflict with regulations at other parts of this title of the Code of Federal Regulations, the regulations at this part shall prevail with respect to programs and activities governed by this Part.

§ 633.104 Definitions.

The following definitions are applicable to Section 402 programs.

Accrued expenditures shall mean total costs incurred during the reporting period for: (a) Goods and other tangible property received; (b) services performed by employees, contractors, subgrantees and other payees; and (c) other amounts becoming owed under programs for which no current services or performance is required such as annuities, insurance claims, and other benefit payments.

Act shall mean the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*).

Allocation shall mean the amount of funds calculated in accordance with § 633.105(b)(1) for Section 402 programs in each State and distributed in accordance with the requirements of this part.

Chief, DFREP shall mean the Chief of the Division of Farmworker and Rural Employment Programs in the Employment and Training Administration, Department of Labor.

Construction shall mean the erection, installation, assembly, or painting of a new structure or a major addition, expansion, or extension of an existing structure, and the related site preparation, excavation, filling and landscaping or other land improvements.

Department shall mean the United States Department of Labor (DOL), including its agencies and organizational units.

DOL shall mean the United States Department of Labor.

Employment shall mean the situation wherein a person(s) provides work or services for an employer for wages or salary. This includes self-employment. The satisfaction of workfare requirements does not constitute employment.

Entered employment shall mean the act of securing unsubsidized employment for or by a participant. Seasonal agricultural placements will not be considered as unsubsidized employment secured for or by a participant for purposes of this definition unless it can be substantiated that the placement represents an upgraded position within agriculture and will not result in the continued underemployment of the individual.

Entered employment, direct shall mean unsubsidized employment secured for or by a participant after receiving direct placement services not associated with training or subsidized employment.

Entered employment, indirect shall mean unsubsidized employment secured for or by a participant after participation in training or subsidized employment.

Family (a) shall mean one or more persons related by blood, marriage, or adoption. A step-child or a step-parent is considered to be related by marriage.

(b) (1) For purposes of paragraph (a) of this definition, a person claimed as a dependent on another person's Federal Income Tax return for the previous year is presumed to be part of the other person's family.

(2) A handicapped individual may be considered a family of one when applying for programs under the Act.

(3) An individual 18 years of age or older, except as provided in (a) or (b) above, who receives less than 50 percent of support from the family, and who is not the principal earner nor the spouse of the principal earner, is not considered a member of the family. Such an individual is considered a family of one.

Family income shall mean all income received from all sources for the eligibility determination period by persons who are family members at the time of eligibility determination.

VOL
48
ISS
2
0
4
OC
2 0
1983
UMI

(a) For the purpose of determining eligibility (and not for allocations), family income includes:

(1) Gross wages and salaries (before deductions);

(2) Net self-employment income (gross receipts minus operating expenses); and

(3) Other money income received from sources such as net rents, Old Age and Survivors Insurance, Social Security benefits, pensions, alimony, periodic income from insurance policy annuities, and other sources of income.

(b) Earned family income does not include:

(1) Non-cash income such as food stamps, or compensation received in the form of food or housing;

(2) Rental value of owner-occupied property;

(3) Public assistance payments;

(4) Cash payments received pursuant to a State plan approved under Titles I, IV, X or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(5) Federal, State or local unemployment benefits;

(6) Payments made to participants in employment and training programs;

(7) Capital gains and losses;

(8) One-time unearned income, such as, but not limited to:

(i) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(ii) One-time or fixed-term scholarship and fellowship grants;

(iii) Accident, health, and casualty insurance proceeds;

(iv) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits;

(v) One-time awards and gifts;

(vi) Inheritance, including fixed term annuities;

(vii) Fixed-term workers' compensation awards;

(viii) Terminal leave pay;

(ix) Soil bank payments; and

(x) Agriculture crop stabilization payments.

(9) Pay or allowances received by any veteran while he/she was serving on active duty in the Armed Forces;

(10) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36 of Title 38, United States Code;

(11) Payments received under the Trade Act of 1974 as amended;

(12) Black Lung payments received under the Benefits Reform Act of 1977, Pub. L. 95-239, 30 USC 901; and

(13) Child support payments.

Farmwork shall mean, for eligibility purposes, work performed for wages in agricultural production or agricultural services as defined in the most recent edition of the Standard Industrial Classification (SIC) Code definitions included in industries 01—Agricultural Production—Crops; 02—Agricultural Production—Livestock excluding 027—Animal Specialties; 07—Agricultural Services excluding 074—Veterinary Services, 0752—Animal Speciality Services, and 078—Landscape and Horticultural Services.

Grantee shall mean any person, organization or other entity which receives JTPA funds directly from the Department.

JTPA shall mean the Job Training Partnership Act.

Migrant farmworker shall mean a seasonal farmworker who performs or has performed farmwork during the eligibility determination period (any consecutive 12-month period within the 24-month period preceding application for enrollment) which requires travel such that the worker is unable to return to his/her domicile (permanent place of residence) within the same day.

Participant shall mean an individual who is:

(a) Eligible for participation; and

(b) Enrolled within 45 days of eligibility determination; and

(c) Enrolled and receiving employment, training or services (except post-termination services) funded under the Act.

Planning estimates shall mean the preliminary allocations announced for the purpose of providing target funding levels for each State.

Program income shall mean net income earned from grant or agreement supported activities. Such earnings include, but are not limited to: income from service fees, sale of commodities, usage or rental fees, and royalties on patents or copyrights.

Poverty level shall mean the annual income level at, or below which families are considered to live in poverty, as annually determined by HHS.

Seasonal farmworker shall mean a person who during the eligibility determination period (any consecutive 12-month period within the 24-month period preceding application for enrollment) was employed at least 25 days in farmwork or earned at least $400 in farmwork; and who has been primarily employed in farmwork on a seasonal basis, without a constant year round salary.

Section 402 programs shall mean the Migrant and Seasonal Farmworker Program, under Section 402 of Title IV of the Job Training Partnership Act.

The term *subsidized employment* shall mean employment created in the private or public sector and in private nonprofit agencies financed by the recipient's program funds or by other DOL funded programs, e.g., work experience and tryout employment.

Supplemental funds shall mean any funds allocated in excess of that amount announced as a "planning estimate."

Target area shall mean a geographic area to be served by a Section 402 grantee. Such an area may be a county, multicounty area, a State, or a multistate area.

Target population shall mean farmworkers and their dependents who meet the requirements of § 633.107.

Underemployed persons shall mean:

(a) Persons who are working part-time but seeking full-time work; or

(b) Persons who are working full-time but whose current annualized wage rate (for a family of one), or whose family's current annualized income, is not in excess of:

(1) The poverty level, or

(2) 70 percent of the lower living standard income level.

Unemployed individuals shall mean individuals who are without jobs and who want and are available for work. The determination of whether individuals are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department in defining individuals as unemployed.

§ 633.105 Allocation of funds.

(a) *National Account.* (1) Up to 6 percent of the statutory reserves for Section 402 activities may be set aside for the National Account to be used for technical assistance and for special projects funded at the discretion of the Department.

(2) Funds from the National Account may be obligated by the Department by means of either contracts or grants to private nonprofit agencies, to private profitmaking organizations, to States and local units of government, or public agencies.

(b) *State allocations (allocable funds).* (1) No less than 94 percent of the funds received for Section 402 activities shall be allocated for farmworker programs in individual States in an equitable manner using the best data available as to the farmworker population as determined by the Department. The formula used to determine State allocations will be published in the Federal Register for review and comment, along with the rationale for such formula and proposed allocations, no later than 30 days prior to the publication of the final allocations of available funds in the Federal Register.

(2) *Allocation Exceptions.* (i) The Department reserves the right not to allocate any funds for use in a State whose allocation is less than $120,000.

(ii) Those funds not allocated will be available for technical assistance and special projects funded at the discretion of the Department.

(iii) Current grantees which are unsuccessful applicants for new grant funds shall be given notice that funds will expire and that a reasonable period will be given to phase out their operations. Such notice will not bind the Department to obligate additional funds. The notification of nonselection shall be the notice of termination of funds and departmental closeout requirements are to be followed.

(3) *Allocation Adjustment.* In situations where the Department determines that the formula allocation will result in severe disruption of funding levels from one year to the next, a hold harmless or other factor to minimize such disruption may be used.

(4) *Funding cycle.* Projects will be funded in accordance with a schedule to be specified by the Department in the Federal Register:

(i) Announcement of State planning estimates and an invitation to submit applications for State(s) or area(s) open for competition as provided in the Solicitation for Grant Application (SGA).

(ii) Deadline for submission of Preapplication for Federal Assistance Forms.

(iii) Deadline for submission of applications.

§ 633.106 Eligibility for allocable funds.

The following organizations and units of government shall be eligible to receive funds under Section 402.

(a) A public agency;

(b) A private nonprofit organization authorized by its charter or articles of incorporation to provide employment and training or such other services as are permitted by this Subpart.

§ 633.107 Eligibility for participation in Section 402 programs.

(a) Eligibility for participation in Section 402 programs is limited to those individuals who have, during any consecutive 12-month period within the 24-month period preceding their application for enrollment:

(1) Been a seasonal farmworker or migrant farmworker as defined in § 633.104; and,

(2) Received at least 50 percent of their total earned income or been employed at least 50 percent of their total work time in farmwork; and,

(3) Been identified as a member of a family which receives public assistance or whose annual family income does not exceed the higher of either the proverty level or 70 percent of the lower living standard income level.

(4) Dependents of the above individuals are also eligible.

(b) The 24-month period preceding application for enrollment shall be extended for persons who have been in the armed forces, incarcerated, hospitalized, or physically or mentally disabled. The extended period of time shall be not more than 24 months plus the amount of time the person was in the armed forces, incarcerated, detained at any Federal or State facility, hospitalized, or physically or mentally disabled. Such conditions shall be positively demonstrated by the applicant. This can be done by producing documentary evidence satisfactory to the grantee.

(c) To be eligible for participation, individuals shall meet the requirements of Sections 167(a)(5) and 504 of the Act.

(d) A participant in another program or title under JTPA who met the eligibility criteria for Section 402 at the time of enrollment into such other program or title may be transferred into, or enrolled concurrently, in the Section 402 program. A Section 402 participant who met the eligibility criteria for another program or title under JTPA at the time of enrollment into the Section 402 program may also be transferred into or enrolled concurrently in such other program or title.

(e) The grantee shall establish the necessary procedures for identifying and selecting participants and for eligibility determination and verification.

(f) The provisions of Section 181(k) of the Act are applicable to Section 402 programs.

Subpart B—Grant Planning and Application Procedures

§ 633.201 Grant planning and application procedures in general.

Precondition for grant application: The Department will not consider an application for funding from any applicant in cases where it is established that:

(a) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful; or

(b) Fraud or criminal activity has been proven to exist within the organization.

§ 633.202 Announcement of State planning estimates and invitation to submit a grant application.

(a) *Announcements.* The Department, through a notice in the Federal Register, will announce State Planning estimates of Section 402 funds and will publish an SGA for all areas open to competition. The SGA will contain all information needed by an applicant to apply for funding; i.e., general program description, rating criteria, and dates for submission of applications.

(b) *Intention to apply.* Any eligible applicant intending to apply for funds shall submit a Preapplication for Federal Assistance to DOL by a specified date as announced in the Federal Register.

(c) Applications for statewide programs are encouraged; however, the Department reserves the right to award grant funds to less than statewide areas.

(d) Executive Order 12372, "Intergovernmental Review of Federal Programs," and the implementing regulations at 30 CFR Part 46 generally apply to this program. Pursuant to these requirements, in States which have established a consultation process expressly covering this program, applications shall be provided to the State for comment. Since States may also participate as competitors for this program, applications shall be submitted to the State upon the deadline for submission to the Department, instead of the usual 30-day period for review.

§ 633.203 Review of funding request.

The SGA will identify all review standards including:

(a) An understanding of the problems of migrant and seasonal farmworkers;

(b) A familiarity with the area to be served;

(c) A previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers.

(d) General administrative and financial management capability.

(e) Prior performance with respect to financial management, audit and program outcomes.

§ 633.204 Responsibility review.

(a) Prior to final selection as a potential grantee the Department will conduct a review of the available records to determine whether or not the organization has failed any responsibility test. This review is intended to establish overall responsibility to administer Federal funds. With the exceptions of paragraphs (a)(1) and (a)(3) of this section, the failure to meet any one of

VOL
48
ISS
2
0
4
OC
20
1983
UMI

the tests would not establish that the organization is irresponsible unless the failure is substantial or persistent. The responsibility tests are as follows:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or failure to comply with an approved repayment plan.

(2) Serious administrative deficiencies identified in final findings and determinations—such as failure to maintain a financial management system as required by Federal regulations.

(3) Established fraud or criminal activity within the organization.

(4) Wilfull obstruction of the audit process.

(5) Substantial failure to provide services to applicants as agreed to in a current or recent grant or to meet performance standard requirements as provided at § 633.321 of this subpart.

(6) Failure to correct deficiencies brought to the grantees' attention in writing as a result of monitoring activities, reviews, assessments, etc.

(7) Failure to return a grant closeout package or outstanding advances within 90 days of expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun.

(8) Failure to submit required reports.

(9) Failure to properly report and dispose of government property as instructed by DOL.

(10) Failure to have maintained cost controls resulting in excess cash on hand.

(11) Failure to procure or arrange for audit coverage for any two year period when required by DOL.

(12) Failure to audit a subrecipient within the required period when applicable.

(13) Final disallowed costs in excess of five percent of the grant or contract award.

(14) Failure to establish a mechanism to resolve subrecipient's audit within established time frames.

(b) This responsibility review is independent of the competitive process. Applicants failing to meet the requirements of this section will not be selected as potential grantees irrespective of their standing in the competition.

§ 633.205 Notification of selection.

(a) Respondents to the SGA which are selected as potential grantees shall be so notified by the Department. The notification shall invite each potential grantee to negotiate the final terms and conditions of the grant, shall establish a reasonable time and place for the negotiation, and shall indicate the State or area to be covered by the grant. Funds may be awarded for two program years.

(b) In the event that no grant applications are received for a specific State or area or that those received are deemed to be unacceptable, or where a grant agreement is not successfully negotiated, the Department may give the Governor first right to submit an acceptable application pursuant to § 633.201. Should the Governor not accept the offer within fifteen days, the Department may then (1) designate another organization or organizations, (2) reopen the area for competitive bidding, or (3) use the funds for national-account activities.

(c) An applicant whose grant application is not selected by the Department to receive Section 402 funds shall be notified in writing.

(d) Applicants who submit grant applications which have been rejected may not resubmit a new grant application for the State(s) or area(s) in which they are interested in providing services until the area(s) is announced by the Department as reopened for competition.

(e) Any applicant whose grant application is denied in whole or in part by the Department may request an administrative review as provided in Part 636, with respect to whether there is a basis in the record to support the Department's decision. This appeal will not in any way interfere with the Department's designation and funding of another organization to service the area in question during the appeal period. The available remedy under such an appeal will be the right to be designated in the future rather than a retroactive or immediately effective selection status. Therefore, in the event the ALJ rules that the organization should have been selected and the organization continues to meet the requirements of this Part, the Department will select and fund the organization within 90 days of the ALJ's decision unless the end of the 90-day period is within 6 months of the end of the funding period. Any organization selected and/or funded prior to the ALJ's decision will be affected in a manner prescribed by the Department. All parties will agree to the provisions of this paragraph as a condition for funding.

Subpart C—Program Design and Administrative Procedures

§ 633.301 General responsibilities.

(a) This subpart sets forth the program operation requirements for grantees under Section 402, including program and fiscal management, coordination and consultation, allowable activities, participant benefits, and duration of participation. Unless otherwise indicated, grantees shall follow procedures as prescribed in DOL administrative regulations a 41 CFR Part 29–70 and OMB Circular A–122.

(b) *Basic program design responsibilities of grantees.* A grantee shall be responsible for:

(1) Designing training which, to the maximum extent feasible, is consistent with every participant's fullest capabilites and will lead to employment opportunities enabling every participant to become economically self-sufficient.

(2) Designing program activities which will, to the maximum extent feasible, contribute to the occupational development and upward mobility of every participant;

(3) Providing training only to participants who are legally able to accept gainful employment in the occupation for which training is being provided; and

(4) Making maximum efforts to achieve the goals and the performance standards set forth in the grant.

§ 633.302 Training activities and services.

(a) A grantee may provide assistance to eligible individuals to obtain or retain employment, to participate in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment, and to participate in activities leading to stabilization in agricultural employment through training and supportive services which may include, but are not limited to:

(1) Job search assistance, including job clubs;

(2) Job development;

(3) Training, such as classroom, on-the-job, work experience, and tryout employment, in jobs skills for which demand exceeds supply;

(4) Training related and non-training related supportive services, including commuting assistance and financial and personal counseling;

(5) Relocation assistance; and

(6) Programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of the disruption of employment opportunities.

(b) Public service employment is not an allowable activity under Section 402 programs.

(c) Tryout employment shall conform to Section 205(d)(3)(B) and Section 141(k) of the Act.

(d) A participant's enrollment in work experience shall not exceed 1,000 hours in a one-year period.

§ 633.303 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of the recipient.

(b) Unless otherwise indicated below, direct and indirect costs shall be charged in accordance with 41 CFR Part 29–70 and OMB Circular A–122.

(c) Funds may be used for construction activities only to:

(1) Provide compensation to participants employed by public or private nonprofit agencies;

(2) Reimburse OJT costs to private-for-profit employers;

(3) Purchase equipment, materials, and supplies for use in the training of such participants; and

(4) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and needs-based payments and compensation to participants.

(d) Costs associated with capital improvements (as defined in OMB Circular A–122, Attachment B, Sections 13 and 22) of existing facilities used primarily for programs under the Act are allowable with prior approval of the Department.

(e) Unemployment compensation costs are allowable for administrative and program staff hired in accordance with the administrative provisions of the regulations, and for participants required by State law to be covered for unemployment compensation purposes.

(f) Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:

(1) Is for classroom training;

(2) Is fixed unit price; and

(3) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement.

(g) *Travel costs.* (1) The cost of participant and staff travel necessary for the operation or administration of programs under the Act is allowable as provided herein.

(2) Travel costs of section 402 administrative staff or members of governing boards of grantee organizations are allowable without the prior approval of the Department if the travel specifically relates to programs under Section 402. All other travel to be charged to JTPA Section 402 grants shall require the prior approval of the Department. These costs shall be charged to administration.

(3) Travel costs of other grantee officials of multifunded programs changed with overall grantee responsibilities are allowable only if costs specifically relate to programs under Section 402.

(4) Travel costs to enable participants to obtain or retain employment, access other services or to participate in programs under this Act are allowable as direct costs but shall be limited to the grantee's jurisdiction or within daily commuting distance, unless part of an approved component of the grantee's program. These costs shall be charged to training-related supportive services.

(5) Travel costs for participants in administrative or programmatic positions using their personal or other forms of transportation in the performance of their jobs are allowable and shall be charged appropriately.

(6) Travel policies of all grantees, subgrantees and contractors shall be generally consistent with those set forth in the Department's Travel and Transportation Manual.

(h) *Association membership.* Grantees are permitted to use grant funds to join those associations which provide technical and administrative services in support of Section 402 program efforts. The activities of such associations must be designed to contribute to the enhancement of professional and technical program knowledge. No financial assistance in the form of membership dues or other membership-related costs can involve political or lobbying activities.

(1) The cost shall be for a Section 402 grantee's membership rather than an individual person's membership.

(2) The cost of a membership shall be reasonably related to the value of the services or benefits received and shall not exceed $850 annually.

(3) Association-related costs shall be incorporated in the grantee's Section 402 grant budget, charged to the administrative category, and as such, shall be subject to the overall administrative cost ceiling.

(i) *Allowances and reimbursements for board and advisory council members*—(1) *General.* A reasonable allowance to members who attend meetings of any board, council, or committee for Section 402 program purposes, and reimbursement of actual expenses connected with those meetings, are allowable costs, and may be paid for attendance at no more than six meeting days per grantee per quarter.

(2) *Allowances and loss of wages.* Any individual or family member who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council is eligible to be paid and allowance provided:

(i) such individual's family income does not exceed either 70 percent of the lower living standard income level or the poverty level as established by HHS

(ii) Allowances may not be paid for attendance in excess of ten dollars per meeting, unless approved in advance by the Department.

(3) *Reimbursement for expenses.* (i) All board members shall be eligible for receiving reimbursement for actual expenses of travel, meals, and lodging incurred in attending board meetings, or a per diem in lieu of actual expenses.

(ii) Any individual or family member where family income does not exceed 70 percent of the lower living standard income level and who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council shall also be eligible for reimbursement of actual wages lost, if supported by a statement from the employer.

(iii) The grantee shall define which expenses may be reimbursed, whether incurred as the result of actual meeting attendances or in performance of other official duties and responsibilities in connection with the program, and shall establish procedures for the reimbursement of such expenses.

§ 633.304 Section 402 cost allocation.

(a) *General.* Allowable costs for Section 402 programs shall be charged against the following four cost categories: Administration; training; training-related supportive services; and nontraining-related supportive services.

(1) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(2) All grantees are required to plan, control, and report expenditures against the aforementioned cost categories.

(3) All grantees are responsible for ensuring that subgrantees and

VOL
48
ISS
2
0
4
OC
20
1983
UMI

contractors plan, control, and report expenditures against the aforementioned cost categories.

(b) *Limitation on certain costs.* (1) Costs for administration of the grant shall not exceed 20 percent of the total amount of the grant.

(2) Costs for nontraining-related supportive services shall not exceed 15 percent of the total amount of the grant.

(3) Costs for training shall be no less than 50 percent of the total amount of the grant.

(c) *Classification of costs by category.* All grant costs shall be charged to the four cost categories listed above. Within each category costs shall be assigned and accounted for as follows:

(1) *Administration.* Administration costs consist of all direct and indirect costs associated with the management of the program. Administrative costs shall be limited to those necessary to effectively operate the program. These costs include but are not limited to: the salaries and fringe benefits of personnel engaged in executive, fiscal, data collection, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions; and related materials, supplies, equipment, office-space costs, and staff training.

(i) Also included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all costs of clerical personnel, materials, supplies, equipment, space, utilities, and travel that are identifiable with these program-administration positions are charged to administration.

(ii) Allowances and reimbursement costs for governing boards and advisory councils shall be prorated wherever applicable as administrative costs among all the grants, from whatever source, administered by the grantee.

(2) *Training.* (i) Instruction and related costs consist of goods and services which affect those program participants who are in either a work environment, or classroom setting (including classroom training in conjunction with Vocational Exploration or Job Readiness or tryout employment) and shall be charged to training, i.e., salaries, fringe benefits, space, utility, travel and equipment. Training costs include, but are not limited to, the following: The costs associated with on-the-job training services; employer outreach necessary to obtain job listings or job-training opportunities, salaries; fringe benefits; equipment and supplies of personnel engaged in providing training, including remedial education; job-related counseling for participants; employability assessment and job development; tuition fees, books and other teaching aids; equipment and materials used in providing training to participants, classroom space and utility costs; job search assistance, labor market orientation, and job referral costs. In addition:

(ii) Wages and fringe benefits for participants in work experience, tryout employment, classroom training, shall be charged to training. Cost-of-living increases are considered wages.

(iii) Allowances shall be charged to training.

(iv) Any single cost which is properly chargeable to training and to one or more other categories shall be prorated among training and other appropriate cost categories.

(3) *Training-related supportive services.* Costs of services which are necessary to enable an eligible individual to participate in training or subsidized employment under section 402 and to obtain subsequent unsubsidized employment shall be charged to training-related supportive services. Such supportive services may include but are not limited to transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the program and may be provided in-kind or through cash assistance. Training-related supportive services costs and related costs shall be charged to this cost category.

(4) *Nontraining-related supportive services.* "Services only" are the costs of the goods and services provided to participants who are not engaged in work experience, tryout employment or training activities, including but not limited to such goods and services as: transportation, health care, temporary shelter, meals and other nutritional assistance, legal or paralegal assistance and emergency assistance.

(d) *Cost categories assignable to program activities.* (1) Classroom training. Cost categories are: Training and training-related supportive services.

(2) On-the-job training. Cost categories are: Training and training-related supportive services.

(3) Work Experience: Cost categories are: Training and training-related supportive services.

(4) Tryout employment: Cost categories are: Training and training-related supportive services.

(5) Training assistance: Cost categories are: Training and training-related supportive services.

(6) Services only (no referral to employment): Cost category is: Nontraining-related supportive services.

§ 633.305 General benefits and working conditions for program participants.

(a) Payments for on-the-job training (OJT) shall be made in accordance with Sections 141(g) and 142(a)(2) of the Act.

(b) Participants employed in work experience activities shall be paid wages in accordance with Section 142(a)(3) of the Act.

(c) Payments to individuals participating in programs under Section 402 shall conform to the provisions of Section 142(b) of the Act.

(d) Section 402 grantees shall not assist any activity under the Act unless the activity conforms to provisions of Sections 142 and 143 of the Act.

(e) A basic hourly allowance for regularly enrolled classroom training participants shall not exceed the higher of the State or Federal minimum hourly wage.

§ 633.306 Retirement benefits.

No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans (Sec. 143(a)(5)).

§ 633.307 Packages of benefits.

(a) Where non-JTPA, similarly employed employees are covered under a benefits package which includes retirement, JTPA participants shall receive the non-retirement benefits (e.g., health, death, and disability-benefit coverage), at the same level and to the same extent as other employees. JTPA funds may be used to pay for those benefits.

(b) JTPA funds may be used to purchase a package of benefits including retirement, provided the retirement portion of the package can be factored out of the package and adjusted accordingly.

§ 633.308 Non-Federal status of participants.

Except where specifically provided to the contrary, participants in a program under the Act shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those related to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

§ 633.309 Recordkeeping requirements.

(a) Each grantee shall ensure maintenance of systems whose financial management and participant data components provide federally-required

records and reports that are accurate, uniform in definition, accessible to authorized Federal staff, and verifiable for monitoring, reporting, and evaluation purposes.

(b) The grantee shall ensure that systems:

(1) Maintain data elements used in required Federal reports in accordance with established program definitions contained in the Act and these regulations;

(2) Follow consistent rules for aggregation of detailed data to summary levels;

(3) Are able to track data from detailed records to summary reports;

(4) Maintain procedures to ensure that information is current, complete, consistent, and accurate;

(5) Meet generally accepted accounting principles as prescribed in 41 CFR Part 29–70;

(6) Provide for adequate control of Federal funds and other assets;

(7) Trace the funds to a level of expenditures adequate to demonstrate that funds have been spent lawfully;

(8) Maintain internal controls to avoid conflict-of-interest situations and prevent irregular transactions or activities;

(9) Support accounting records with source documentation such as cancelled checks, paid bills, contracts, grants, and agreements; and

(10) Establish procedures that will minimize the time elapsing between the receipt of advanced funds and their disbursement.

§ 633.310 Bonding.

The grantee and all subgrantees shall ensure that every officer, director, agent, or employee authorized to act on their behalf in receiving or depositing funds into program accounts or in issuing financial documents, checks, or other instruments of payment for program costs shall be bonded to provide protection against loss. Those costs are chargeable to administration.

§ 633.311 Management information systems.

All grantees shall establish and maintain a program and financial management system which meets Departmental standards and the requirements of § 633.314.

§ 633.312 Grantees contracts and subgrants.

(a) *Grantee responsibility.* (1) The grantee is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable laws as required by DOL.

(2) The grantee shall require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(3) Each grantee, subgrantee and contractor shall establish and use internal program management procedures sufficient to prevent fraud and abuse.

(4) The grantee shall ensure that contractors and subgrantees maintain and make available for review by the grantee and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants, consistent with the maintenance and retention of record requirements.

(5) Subgrantees are entitled to funding for administrative costs. The amount of such funding will be determined during the development of subgrants.

(b) In the event an agreement or subgrant is cancelled, in whole or in part, the grantee may be required to develop procedures for ensuring continuity of service to participants.

(c) Grantees are authorized to enter into classroom training or on-the-job training contracts or subgrants which extend past the expiration date of the grant, but such extension shall not exceed six months. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants, unless, should the grant be terminated, such contract or subgrant is transferred to a successor grantee.

§ 633.313 Administrative staff and personnel standards.

The following provisions shall be applicable only to private nonprofit grantees and to private nonprofit subgrantees receiving Section 402 funds:

(a) Personnel policies of grantees and subgrantees shall be stated in written form and available to the Department upon request.

(b) Each grantee and subgrantee shall insure that its staff recruiting procedures afford adequate opportunity for the hiring and promotion of persons in the target population.

(c) Grantees and subgrantees shall include the following provisions in their published personnel policies relating to outside employment of their employees in Section 402 programs.

(1) Such employment shall not interfere with the efficient performance of the employee's duties in the DOL-assisted programs;

(2) Such employment shall not involve conflict of interest or conflict with the employee's duties in the DOL-assisted program;

(3) Such employment shall not involve the performance of duties which the employee should perform as part of employment in the DOL-assisted program; and

(4) Such employment shall not occur during the employee's regular or assigned working hours in the DOL-assisted program, unless the employee during the entire day on which such employment occurs is on annual leave, compensatory leave, or leave without pay.

(d) *Salaries and wages.* (1) Administrative and staff employees in Section 402 programs shall be paid at a rate no lower than the applicable Federal, State, or local minimum wage rate, whichever is highest. The salary for each position shall be justified and documented by the grantee to the satisfaction of the Department.

(2) Notwithstanding paragraph(d)(1) of this section, where a grantee or subgrantee has an established system, it may compensate its Section 402 program employees at existing rates in effect for comparable positions under such merit system. However, in order to use this methodology, the Section 402 program employees must be filling types of positions in existence before the grantee or subgrantee received financial assistance under the Section 402 program, and the salary scale must not have been changed as a result of such financial assistance.

(e) *Prorating salaries.* Where an individual performs functions under several grants, his or her time shall be prorated among the different grants and the portion of the salary charged to the Section 402 grant shall not exceed the percentage of time spent performing Section 402 functions.

(f) *Employee benefits.* Employee benefits shall be at the same level and to the same extent as those positions in public or private nonprofit agencies in the area where the program is carried out.

(g) *Position responsibilities.* (1) Each grantee and subgrantee shall maintain a written detailed job description identifying job functions and responsibilities for each administrative and staff position under its Section 402 program.

(2) Each position shall have specific hiring qualifications. Positions requiring higher salaries or wages shall include higher level of responsibilities commensurate with the salary.

(h) *Personnel procedures.* (1) Each grantee and subgrantee shall maintain a personnel manual containing detailed

VOL
48
ISS
2
0
4
OC
20
1983
UMI

procedures for hiring new employees, promoting present employees and granting salary increases.

(2) Each grantee and subgrantee shall maintain documentation as to any personnel action (including hiring, promotion, and salary increases) involving its Section 402 program employees.

§ 633.314 Reports required.

Grantees shall report pursuant to instructions issued by the Department. Reports shall be submitted quarterly within 45 days after the end of the report period (Sec. 165(a)(2)). Accuracy of all reports must be verified by the chief executive officer or financial officer. When estimates are used, the verification statement will so state.

§ 633.315 Replacement, corrective action, termination.

(a) The Department may replace any grantee who during the grant period has been terminated by first offering the Governor the opportunity to submit an acceptable application. When such an offer is made and should the Governor decline, within 15 days, or should the Governor or his agent have been the terminated grantee, the Department may replace the grantee by (1) designating another organization or organizations, or (2) opening the area for competitive bidding.

(b) The Department may also require appropriate corrective action as a condition of continued funding of a grantee whose performance has been found deficient, but not sufficient to warrant termination for cause or emergency treatment. Such appropriate corrective actions may include but are not limited to termination of subrecipient agreements, development of and compliance with corrective action plans, etc.

(c) In cases where deficiencies are identified and efforts at corrective action have failed, the Department may apply sanctions, e.g., suspension of Letter of Credit, incremental funding, etc.

(d) Termination for cause can occur whenever there is a violation of the governing rules and regulations, failure to comply with the grant terms and conditions and in such cases as:

(1) Inability to meet Federal standards related to such debt collection requirements as:

(i) Failure to respond to demand letters from DOL for repayment of debts within the stated timeframe;

(ii) Failure to comply with approved repayment agreement;

(2) Nonperformance related to such requirements as:

(i) Failure to submit required quarterly financial reports for two successive periods within 30 days after they are due;

(ii) Failure to submit required quarterly performance report for two successive periods within 30 days after they are due;

(iii) Failure to develop a plan of action to correct deficiencies identified in a final audit finding and determination or by an onsite monitoring review;

(3) Nonperformance related to such requirements as:

(i) Failure to comply with formal corrective action after due notice;

(ii) Failure to comply with the requirements of the Act related to a grievance procedure and other requirements;

(e) In addition, the Department, by written notice, may terminate a grant in whole or in part in the event of reduction in the funds available for JTPA Title IV, Section 402 programs by reason of congressional action, whether by authorization, appropriation, deferral, rescission or otherwise, or by reason of other legislative action, such as changes in service deliverers, program content or services to be provided, which makes it impracticable to continue the agreement under its original terms. In the event of a congressional reduction in funds, the reduction shall be apportioned on an equitable basis among Section 402 grantees. In the case of termination pursuant to this provision, the Department shall be liable for payment, in accordance with the payment provisions of this agreement, for services rendered and noncancellable obligations properly incurred prior to the effective date of termination.

(f) Notwithstanding the provisions of Part 636 the Department may terminate a grantee under emergency termination procedures in accordance with Section 164(f) of the Act.

(i) Instances under which emergency termination can occur include but are not limited to: Final audit findings and determinations identifying numerous adverse findings in the area of financial management; information gathered through onsite monitoring which substantiates serious management, fiscal and/or performance problems; documented information from the Inspector General or gained through incident reports of poor performance, serious administrative problems and/or inability to protect and account for Federal funds.

(ii) Within 30 days of written termination notification to a grantee, the Department will secure applicable documents onsite, seize bank accounts relating to the program, arrange for the payment of legitimate bills and debts and arrange, to the degree feasible, for the continued provision of services to program enrollees.

§ 633.316 Closeout procedures.

Grant closeout will conform to the requirements at 41 CFR Part 29–70. As necessary, the Department shall issue supplementary closeout requirements.

§ 633.317 Reallocation of funds.

(a) In a limited number of circumstances, the Department may reduce a portion of a grant when it can be reasonably projected that the funds will not be used during the grant performance period or that they will not be used for DOL authorized carryover purposes. Such reduction of funds will only be undertaken after 30-days advance notice to the grantee.

(b) Funds recaptured as a result of these grant reductions will be available for technical assistance or special projects funded at the discretion of the Department .

§ 633.318 Nondiscrimination and nonsectarian activities.

Pursuant to Section 167(a) of the Act:

(a) Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, will be governed by the provisions of 29 CFR Parts 31 and 32 and will be administered by the Office of Civil Rights.

(b) The employment or training of participants in sectarian activities is prohibited.

§ 633.319 Lobbying, political activities and unionization.

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress.

(b) To attempt to influence in any manner State or local legislators to favor or oppose any legislation or appropriation by such legislators.

(c) Which involves political activities (Sec. 141(a)).

(d) Which will assist, promote, or deter union organizing (Sec. 143(c)(1)).

§ 633.320 Nepotism.

(a) No grantee, subgrantee, or employing agency may hire a person in an administrative capacity, staff position, or on-the-job training position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity for that grantee, subgrantee, or employing agency.

(b) No subgrantee or employing agency may hire a person in an administrative capacity, staff position or on-the-job training position funded under the Act, if a member of that person's immediate family is engaged in an administrative capacity for the grantee from which that subgrantee or employing agency obtains its funds. To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed.

(c) For purposes of this section the term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

§ 633.321 Performance standards for Section 402 programs.

(a) The Secretary shall issue performance standards for Section 402 programs.

(b) To issue performance standards, the Secretary shall:

(1) Select the measures against which the standards will be set.

(2) Prescribe the pre- and post-program measurement periods.

(3) Determine standards for each of the measures, from which specific grantee standards can be determined in accordance with the parameters established by the Secretary.

(c) No grantee shall be penalized for not meeting performance standards for the program years 1984–1986.

§ 633.322 Sanctions for violation of the Act.

(a) Pursuant to Sections 164 (d), (e), (f), (g), and (h) of the Act, the Secretary may impose appropriate sanctions and corrective actions for violations of the Act, regulations, or grant terms and conditions. Additionally, sanctions may include the following:

(1) Offsetting debts, arising from misexpenditure of grant funds, against amounts to which the grantee is or may be entitled under the Act, except as provided in Section (e)(1) of the Act. The debt shall be fully satisfied when the Secretary reduces amounts allotted to the grantee by the amount of the misexpenditure; and

(2) Determining the amount of Federal cash maintained by the grantee or its subgrantee or contractor in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt.

(b) Except for actions under Section 164(f) and 167 of the Act, to establish a debt or violation subject to sanction and/or corrective action, the Secretary shall utilize initial and final determination procedures outlined in 20 CFR Part 636.

(c) To impose a sanction or corrective action regarding a violation of section 167 of the Act, the Secretary shall utilize the procedures of 29 CFR Part 31.

(d) (1) The Secretary shall hold the grantee responsible for all funds under the grant. The grantee shall hold its subgrantees and contractors responsible for JTPA funds received through the grant.

(2) The Secretary shall determine the liability of the grantee for misexpenditures of grant funds in accordance with Section 164(e) of the Act, including the requirement that the grantee shall have taken prompt and appropriate corrective actions for misexpenditures by a subgrantee or contractor.

(3) Prompt, appropriate, and aggressive debt collection action to recover any funds misspent by subgrantees or contractors ordinarily shall be considered a part of the corrective action required by Section 164(e)(2)(D) of the Act.

(4) In making the determination required by Section 164(e)(2) of the Act, the Secretary may determine, based on a request from the grantee, that the grantee may forego certain collection actions against a subgrantee or contractor where that subgrantee or contractor was not at fault with respect to the liability criteria set forth in Section 164(e)(2)(A) through Section 164(e)(2)(D) of the Act. The Secretary shall consider such requests in assessing whether the grantee's corrective action was appropriate in light of Section 164(e)(2)(D) of the Act.

(5) The grantee shall not be released from liability for misspent funds under the determination required by Section 164(e) of the Act until the Secretary determines that further collection action, either by the grantee or subgrantee or contractor, would be inappropriate or would prove futile.

(e) Nothing in this section shall preclude the Secretary from imposing a sanction directly against a subgrantee or contractor as authorized in Section 164(e)(3) of the Act. In such a case, the Secretary shall inform the grantee of the Secretary's action.

PART 634—LABOR MARKET INFORMATION PROGRAMS UNDER TITLE IV, PART E OF THE JOB TRAINING PARTNERSHIP ACT

Comprehensive Labor Market Information System

Sec.

634.1 General.
634.2 Availability of funds.
634.3 Eligible recipients.
634.4 Statistical standards.
634.5 Federal oversight.

Authority: Job Training Partnership Act, Sec. 169, (29 U.S.C. 1510 *et seq.*, Pub. L. 97–300, 96 Stat. 1322), unless otherwise noted.

Comprehensive Labor Market Information System

§ 634.1 General.

Pursuant to Title IV, Part E of the Job Training Partnership Act, the Secretary, in cooperation with the States, shall maintain a comprehensive system of Labor Market Information (LMI). This subpart contains regulations governing the comprehensive LMI system.

§ 634.2 Availability of funds.

(a) The Secretary shall make available, from the amounts appropriated pursuant to Section 461(a) of the Act and Sections 3(a) and 14 of the Wagner-Peyser Act, funds to support LMI activities and Federal-State cooperative statistical programs.

(b) LMI programs may be funded through reimbursable agreements between the Secretary and the States.

§ 634.3 Eligible recipients.

(a) For funds appropriated pursuant to JTPA Title IV, Part E, eligible recipients shall be the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) For funds appropriated pursuant to the Wagner-Peyser Act, as amended, eligible recipients shall be the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

§ 634.4 Statistical standards.

Recipients shall agree to provide required data following the statistical standards prescribed by the Bureau of Labor Statistics for cooperative statistical programs.

§ 634.5 Federal oversight.

The Secretary shall take such action as necessary to ensure satisfactory recipient performance.

VOL 48 ISS 204 OCT 20 1983 UMI

PART 636—COMPLAINTS, INVESTIGATIONS AND HEARINGS

Sec.
636.1 Scope and purpose.
636.2 Protection of informants.
636.3 Complaint and hearing procedures at the grantee level.
636.4 Grievance procedures at the employer level.
636.5 Exhaustion of grantee level procedure.
636.6 Complaints and investigations at the Federal level.
636.7 Subpoenas.
636.8 Initial and final determination; request for hearing at the Federal level.
636.9 Opportunity for informal review.
636.10 Hearings before the Office of Administrative Law Judges.
636.11 Final action.

Authority: Job Training Partnership Act, Sec. 169 (29 U.S.C. 1501 *et seq.*, Pub. L. 97–300, 96 Stat. 1322), unless otherwise noted.

§ 636.1 Scope and purpose.

(a) *General.* This part establishes the procedures to receive, investigate and resolve complaints, and conduct hearings to adjudicate disputes under Title IV of the Act. It governs grievance procedures at the recipient or subrecipient level, the receipt and investigation of complaints at the Federal level, the procedures for resolving investigative findings, the rules of practice for adjudicative hearings, and the rendering of decisions pursuant to the Act. Judicial review of final action of the Department after opportunity for an administrative hearing has been exclusively established in the United States Courts of Appeals for the Circuits in which the affected parties reside or transact business.

(b) *Initiation of investigations.* JTPA investigations may be initiated upon the request of any person or organization or by the Department on its own initiative.

(c) *Non-JTPA remedies.* Whenever any person, organization or agency believes that a recipient or subrecipient has engaged in conduct that violates the Act and that such conduct also violates a Federal statute other than JTPA, or a State or local law, that person, organization or agency may, with respect to the non-JTPA cause of action, institute a civil action or pursue other remedies authorized under other Federal, State, or local law against the recipient or subrecipient without first exhausting the remedies in this subpart. For example, if a subrecipient believes that a grantee has breached the subgrant agreement between the grantee and itself, the subrecipient may institute a civil action for breach of contract in a State court if so authorized by State law. Nothing in the Act or this paragraph, shall:

(1) Allow any person or organization to join or sue the Secretary with respect to his or her responsibilities under JTPA except after exhausting the remedies in this subpart.

(2) Allow any person or organization to file a suit which alleges a violation of JTPA or these regulations without first exhausting the administrative remedies described in this subpart, or

(3) Be construed to create a private right of action with respect to alleged violations of JTPA or the regulations.

(d) Complaints of discrimination pursuant to Section 167(a) of the Act will be handled under 29 CFR Parts 31 and 32.

§ 636.2 Protection of informants.

(a) *Informants.* Where possible the identity of any person who has furnished information relating to, or assisted in an investigation of a possible violation of the Act will be held in confidence. Where disclosure of the person's identity is essential to assure a fair determination of the issues, or where necessary to effectively accomplish responsibilities under the Act, the Department may disclose such identity upon such conditions as will promote the continued receipt of confidential information by the Department and effectuate the protections and policies stated in paragraph (b) of this section. Any such disclosure shall be consistent with the Freedom of Information Act, the Privacy Act and other applicable law.

(b) *Retaliation prohibited.* No person or agency may discharge, or in any other manner discriminate or retaliate against any person, or deny to any person a benefit to which that person is entitled under the provisions of the Act or the regulations because such person has filed any complaint, instituted or caused to be instituted any proceeding under or related to the Act, has testified or is about to testify in any such proceeding or investigation, or has provided information or assisted in an investigation.,

§ 636.3 Complaint and hearing procedures at the grantee level.

(a) *Policy.* (1) Each grantee shall establish and maintain a procedure for resolving any complaint alleging a violation of the Act, regulations, grant or other agreements under the Act, including any complaint arising in connection with the JTPA programs operated by the grantee or its subrecipients. Such complaint procedures must meet the requirements of this section. The complaint procedure shall provide for final resolution of complaints within 60 days after filing the complaint. Where existing complaints or grievance procedures include the elements set forth in this section, grantees may adopt such mechanism as, or as part of, their JTPA procedure.

(2) Participants shall be provided, upon enrollment into employment or training, with a written description of the complaint procedures including notification of their right to file a complaint and instructions on how to do so. Grantees should designate an individual to monitor the operation of the complaint procedures, to ensure that complaints and related correspondence are logged and filed, to ensure that assistance is available for properly filling complaints, and to ensure the availability, coordination, and promptness of all elements of the procedures. Upon filing a complaint, and at each stage thereafter, each complaint shall be notified in writing of the next step in the procedure.

(3) Complaints may be brought by any individual or organization including, but not limited to, program participants, subrecipients, contractors, staff of the grantee or subrecipient, applicants for participation or financial assistance, labor unions, and community-based organizations.

(4) With the exception of complaints alleging fraud or criminal activity, the filing of a complaint pursuant to this section must be made within one year of the alleged occurrence.

(5) The grantee may delegate the authority to operate and maintain the complaint and hearing procedure to its subrecipients except for complaints between the grantee and its subrecipients (e.g., audit disallowances), complaints involving more than one of its subrecipients, or complaints directly involving the operations or responsibilities of the grantee. Where the procedure is delegated, the grantee may provide for an appeal to itself from the decision of the subrecipient or the grantee may provide that the subrecipient's decision is the final decision of the grantee. Where the procedure is delegated, the grantee shall ensure that the procedures specified in this section are followed and a decision issued promptly within 60 days after a complaint is filed.

(6) When a participant is an employee of a grantee or subrecipient and alleges that an occurrence constitutes a violation of the Act, regulations, grant, or other agreements under the Act, as well as a violation of the terms and conditions of employment under a State or local law or a collective bargaining agreement, the participant may pursue the complaint and hearing procedures under the State or local law or the collective bargaining agreement, pursuant to § 636.4. A participant who selects the procedures provided in this section is not precluded from filing a complaint under § 636.4, unless otherwise prohibited by State or local law, or applicable collective bargaining agreement.

(b) *Complaint procedures.* The complaint resolution procedure shall include:

(1) Opportunity to file a complaint. All complaints shall be in writing.

(2) Opportunity for informal resolution of the complaint.

(3) Written notification of an opportunity for a hearing when an informal resolution has not been accomplished. The notice shall state the procedures for requesting a hearing and shall describe the elements in the hearing procedures including those set forth in paragraph (c) of this section.

(4) Opportunity to amend the complaint prior to a hearing.

(5) Opportunity for a hearing pursuant to paragraph (c) of this section within 30 days of filing the complaint.

(6) A final written decision to the complainant which shall be made within 60 days of the filing of the complaint and provided to the parties by certified or registered mail, return receipt requested. The decision shall include:

(i) A statement of facts and reason(s) for the decision.

(ii) A statement that the procedures delineated in this section have been completed.

(iii) A statement of any remedies to be applied.

(iv) Notice of the right to file a complaint with the Grant Officer pursuant to § 636.6 where any party disagrees with the decision.

(c) *Hearing procedure.* A hearing shall be provided within 30 days after filing a complaint. The hearing procedure shall include:

(1) Written notice of the date, time and place of the hearing, the manner in which it will be conducted, and the issues to be decided. Other interested parties may apply for notice. Such other interested party is a person or organization potentially affected by the outcome. The notice to other interested parties shall include the same information furnished to the complainant and shall further state whether such interested parties may participate in the hearing and if applicable, the method by which they may request such participation.

(2) Opportunity to withdraw the request for hearing in writing before the hearing.

(3) Opportunity to request rescheduling of the hearing for good cause.

(4) Opportunity to be represented by an attorney or other representative of the complainant's choice.

(5) Opportunity to call witnesses and introduce documentary evidence. Recipients or subrecipients shall cooperate in making available any persons under their control or employ to testify, if such persons are requested to testify by the complainant.

(6) Opportunity to have records or documents relevant to the issues produced by their custodian when such records or documents are kept by or for the grantee or its subrecipient in the ordinary course of business.

(7) Opportunity to question any witnesses or parties.

(8) The right to an impartial hearing officer.

(9) A verbatim record of the proceeding.

(10) A written decision from the hearing officer to the complainant(s) and any other interested parties within 60 days of the filing of the complaint. This period may be extended with the written consent of all of the parties for good cause. The written decision shall include a statement of facts, a statement of reasons for the decision and a statement of any remedies to be applied. Where the hearing officer's decision is the grantee's final decision it shall be provided to the parties by certified or registered mail, return receipt requested.

(11) Where a complaint procedure provides for a grantee's review of the hearing officer's decision, the grantee shall complete its review and provide a final written decision to the complainant(s), and any other parties, by certified or registered mail, return receipt requested, as provided in paragraph (c)(10) of this section within 60 days after the complaint is filed.

(12) Where local law, personnel rules or other applicable requirements specify procedures in addition to those specified above, similarly employed JTPA participants shall be notified of their right to use the same procedures.

§ 636.4 Grievance procedures at the employer level.

(a) *Policy.* (1) Whenever the grantee or subrecipient is an employer, it shall continue to operate or shall establish and maintain for its participants a grievance procedure relating to the terms and conditions of JTPA employment. The employer who does not have a grievance procedure may use the complaint procedure established under § 636.3. Employers shall inform participants of the procedures they are to follow.

(2) A participant who elects the grievance procedure in this section, may also pursue a complaint under § 636.3 where there is an alleged violation of the Act, regulations, grant or other agreement under the Act.

(b) *Equal benefits.* Where local law, personnel rules, or other applicable requirements specify procedures (including procedures for any adverse action or for termination of employment), similarly employed JTPA participants shall be notified of their right to use the same procedures, as well as JTPA procedures.

§ 636.5 Exhaustion of grantee level procedure.

(a) *Exhaustion required.* No complainant may file a complaint with the Department until the grantee level procedures specified in § 636.3 have been exhausted.

(b) *Exhaustion exceptions.* Complainants who have not exhausted the procedures at the grantee level may file the complaint at the Federal level, and the Department may accept such complaint if it determines that:

(1) The grantee or subrecipient has not acted within the time frames specified in § 636.3; or

(2) The grantee's or subrecipient's procedures are not in compliance with § 636.3; or

(3) An emergency situation exists.

§ 636.6 Complaints and investigations at the Federal level.

(a) *General; final determination of reliable and probative evidence.* Where local administrative remedies have been exhausted, Section 144(c) of the Act requires that a final determination of the complaint shall be made within 120 days after the Department receives the complaint. The Department's resolution of non-criminal matters pursuant to Section 144(c) of the Act consists of the final determination under § 636.8(e) of whether there is reliable and probative evidence to support the allegation or belief that a grantee or subrecipient is failing to comply with the requirements of the Act, regulations, grant or other agreement under the Act.

(b) *Complaints.* (1) Every complaint shall be filed in writing before the commencement of any investigation or corrective action shall be required. Complaints alleging discrimination under Section 167, will be filed with the Regional Director, Office of Civil Rights (OCR). All other JTPA complaints will be filed with the appropriate Grant Officer. However, a complaint timely

VOL
48
ISS
2
0
4
OC
20
1983
UMI

filed with either the Grant Officer or the Regional OCR Director shall be deemed properly filed and shall be referred (as necessary) to the appropriate office. The complaint shall be filed only after the grantee level procedures in § 636.3 have been exhausted and no later than 30 days from the date of receipt of the written decision or notice required by § 636.3. The complaint should contain the following:

(i) The full name, telephone number (if any), and address of the person making the complaint.

(ii) The full name and address of the respondent (the grantee or subrecipient or person against whom the complaint is made).

(iii) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

(iv) Where known, the provisions of the Act, regulations, grant or other agreements under the Act believed to have been violated.

(v) A statement disclosing whether proceedings involving the subject of the complaint have been commenced or concluded before any Federal, State or local authority, and, if so, the date of such commencement or conclusion, the name and address of the authority and the style of the case.

(vi) A copy of the final decision of the recipient or subrecipient issued pursuant to § 636.3.

(2) A complaint will be considered to have been received upon receipt by the appropriate Grant Officer. To be acceptable, the complaint must be a written statement sufficiently precise to both identify those against whom the allegations are made and to fairly afford the respondent an opportunity to prepare a defense. A complaint may be amended to cure defects or omissions, or to clarify and amplify allegations made therein, and such amendments relate back to the original filing date for purposes of timely filing.

(3) A complaint once filed may be withdrawn only with the consent of the Grant Officer. If the complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the complainant.

(c) *Investigation of complaints.* Whenever the Grant Officer receives a complaint filed in accordance with paragraphs (a) and (b) of this section, the complaint shall be investigated if it alleges that any person, grantee or subrecipient has failed to comply with the requirements of the Act, regulations, grant or other agreements under the Act. The Grant Officer shall promptly issue a notice to the grantee or subrecipient which shall include a copy or summary of the complaint and which shall direct the grantee or subrecipient to forward a copy of the complete administrative file, including a copy of the certified verbatim transcript of the hearing, within 15 days of receipt of such notice to the Grant Officer. Such investigation shall be completed and a conclusion made pursuant to § 636.8(e) within 120 days of the filing of the complaint, except that the time may be extended with the written consent of all the parties.

(d) *Onsite review and other bases for investigation.* If after an onsite review, monitoring visit, review of reports, data or other information, the Grant Officer has reason to believe that a grantee or subrecipient is failing to comply with the requirements of the Act, regulations, grant or other agreements under the Act, the Grant Officer or other designated authority shall inquire into the matter.

(e) *Utilizing other services.* With the consent and cooperation of State agencies charged with the administration or enforcement of State laws, the Secretary may elect for the purpose of carrying out this part, to utilize the services of State, local and Tribal agencies and their employees, and notwithstanding any other provision of law, may reimburse, in whole or in part, such State and local agencies and their employees for services rendered for such purposes.

(f) *Criminal investigation.* Notwithstanding any other provision of this part, investigation by the Department of any matter concerning a potential Federal criminal violation shall be conducted as the Inspector General shall direct pursuant to the powers granted by the Inspector General Act of 1978, Pub. L. 95–452, 92 Stat. 1101.

§ 636.7 Subpoenas.

(a) *Subpoenas in non-Inspector General investigations.* (1) The Department, through the appropriate Assistant Secretary, may issue a subpoena directing the person named therein to appear before a designated representative at a designated time and place to verify or to produce documentary evidence, or both, relating to any matter arising under the Act being investigated. The Assistant Secretary, Solicitor or the Associate Solicitor for Employment and Training Legal Services, for good cause shown, may extend the time prescribed for compliance with such subpoenas.

(2) Any motion to limit or quash any investigational subpoena shall be filed with the Chief Administrative Law Judge within 10 days after service of the subpoena, or, if the return date is less than 10 days after service of the subpoena, within such other time as may be allowed by the assigned Administrative Law Judge.

(3) The timely filing of a motion to limit or quash an investigational subpoena shall stay the requirement of a return on the portion challenged. If the Administrative Law Judge rules subsequent to the return date, and the ruling denies the motion in whole or in part, the Administrative Law Judge shall specify a new return date.

(4) All motions to limit or quash subpoenas, and the responses thereto, shall be part of the public record of the Office of the Administrative Law Judges except as otherwise ordered or provided under these regulations.

(b) *Noncomplionce.* (1) In cases of failure to comply with compulsory processes, appropriate action may be initiated including actions for enforcement, forfeiture, penalties or criminal actions.

(2) The Solicitor of Labor, with the consent of the Attorney General, may:

(i) Institute in the appropriate district court on behalf of the Department an enforcement proceeding in connection with the failure or refusal of a person, partnership, corporation, recipient or other entity to comply with or to obey a subpoena if the return date or any extension thereof has passed; or

(ii) Request on behalf of the Department the institution of civil actions, as appropriate, if the return date or any extension thereof has passed including seeking civil contempt in cases where a court order enforcing compulsory process has been violated.

§ 636.8 Initial and final determination; request for hearing at the Federal level.

(a) *Initial determination.* Upon the conclusion of a review of the entire administrative record of an investigation conducted pursuant to § 636.6 or after the conclusion of the comment period for audits, the Grant Officer shall make an initial determination of the matter in controversy including the allowability of questioned costs or activities. Such determination shall be based upon the requirements of the Act, regulations, grants or other agreements, under the Act. The determination may conclude either:

(1) That based upon the entire record there is no violation of the Act, regulations, grants or other agreements under the Act; or

(2) That there is evidence to support the allegation, or finding of questioned costs or activities.

(b) *Contents of initial determination.* (1) In the event that the Grant Officer makes a finding that there is evidence to support the allegation of a violation the initial determination shall:

(i) Be in writing;

(ii) State the basis of the determination, including factual findings and conclusions;

(iii) Specify the costs or activities disallowed;

(iv) Specify the corrective actions required and/or that sanctions may be imposed; and

(v) Give notice of an opportunity for informal resolution of the matters as necessary to the appropriate parties, which should include all interested parties specified by the Grant Officer.

(2) In the event that the Grant Officer makes a finding of no violation the initial determination shall:

(i) Be in writing;

(ii) State the bases of the determination (factual findings and conclusions); and

(iii) Give notice of the opportunity to present additional information within 30 days of receipt of the initial determination.

(3) The initial determination shall be mailed by certified mail return receipt requested to the parties and interested parties.

(c) *Allowability of certain questioned casts.* In any case in which the Grant Officer determines that the recipient meets the requirements of Section 164(e)(2)(A)–(D) of the Act, the Grant Officer may waive the imposition of sanctions (Sec. 164(e)(3)). It is the responsibility of the grantee to request such waiver by the Grant Officer and to submit the evidence to be used to make the finding.

(d) *Informal resolution.* Except as provided by Section 164(f) of the Act, the Grant Officer shall not revoke a grant, in whole or in part, nor institute corrective action or sanctions against a grantee without first providing the grantee with an opportunity to informally resolve those matters contained in the Grant Officer's initial determination. If all matters are informally resolved, the Grant Officer shall notify the parties in writing of the nature of the resolution, which shall constitute final agency action, not subject to appeal, and shall close the file.

(e) *Final determination.* (1) If all the parties and the Grant Officer cannot informally resolve any matter pursuant to paragraph (d) of this section, the Grant Officer shall provide each party with a final written determination by certified mail, return receipt requested. In the case of audits, the final determination shall be issued not later than 180 days after the receipt by the Grant Officer of the final approved audit report.

(2) The final determination shall:

(i) Indicate that efforts to informally resolve matters contained in the initial determination pursuant to paragraph (a) of this section have been unsuccessful;

(ii) List those matters upon which the parties continue to disagree;

(iii) List any modifications to the factual findings and conclusions set in the initial determination;

(iv) List any sanctions, and required corrective actions, including any other alteration or modification of the plan, grant, agreement or program ordered by the Grant Officer; and

(v) Inform the parties of their opportunity to request a hearing pursuant to these regulations.

(3) If it is determined in the final notice that the complaint does not allege and/or the evidence does not indicate that there is reason to believe there may have been a violation of the Act, regulations, grants or other agreements under the Act, the Grant Officer shall dismiss the complaint without an offer of a hearing. Such dismissal shall constitute final agency action.

§ 636.9 Opportunity for informal review.

(a) Parties to a complaint under § 636.10 may choose to waive their rights to an administrative hearing before the Office of Administrative Law Judges (OALJ) by choosing to transfer the settlement of their dispute to an individual acceptable to all parties for the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process shall be treated as a final decision of an Administrative Law Judge pursuant to Section 166(b) of the Act.

§ 636.10 Hearings before the Office of Administrative Law Judges.

(a) *Jurisdiction.* (1) Within 21 days of receipt of the Grant Officer's final determination, except for determinations under § 636.8(e)(3) dismissing the complaint without an opportunity to request a hearing, or on the expiration of 120 days of the filing of a complaint with the Grant Officer upon which no extensions have been mutually agreed, any affected grantee, subrecipient of complainant may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20036, with a copy to the Grant Officer.

(2) The request for hearing shall be accompanied by a copy of the Grant Officer's final determination, if issued, and shall specifically state those issues of the determination upon which review is requested. Those provisions of the determination not specified for review, or the entire determination when no hearing has been requested, shall be considered resolved and not subject to further review.

(3) Except as otherwise provided by these regulations, only alleged violations of the Act, regulations, grants or other agreements under the Act fairly raised in grantee level proceedings under § 636.3, alleged violations of recipient level procedures fairly raised before the Grant Officer, or complaints identified in Sections 164(f) and 166(a) of the Act are subject to review.

(4) The same procedure set forth in paragraphs (a) (1) through (3) of this section applies in the case of a complainant who has not had a dispute adjudicated by the informal review process of § 636.9 within the 60 days, except that the request for hearing before the OALJ must be filed within 15 days of the conclusion of the 60-day period. In addition to including the determination upon which review is requested, the complainant must include a copy of any Stipulation of Facts and a brief summary of proceedings.

(5) *Discretionary hearing.* An opportunity for a hearing may also be extended when the appropriate Assistant Secretary determines that fairness and the effective operation of JTPA programs would be furthered.

(b) *Service and filing.* Copies of all papers required to be served on a party or filed with the OALJ shall be filed simultaneously with the OALJ and served upon the parties of record or their representatives, and shall contain proof of such service.

(c) *Rules of Procedure.* The rules of practice and procedure promulgated by the OALJ shall govern the conduct of hearings under this section.

(d) *Prehearing procedures.* In all cases, the OALJ should encourage the use of prehearing procedures to simplify and clarify facts and issues.

(e) *Subpoenas.* Subpoenas necessary to secure the attendance of witnesses and the production of documents or things at hearings shall be obtained from the OALJ and shall be issued

VOL
48
ISS
2
0
4
OC
20
1983
UMI

pursuant to the authority contained in Section 163(b) of the Act, incorporating 15 U.S.C. Section 49.

(f) *Timely submission of evidence.* The OALJ shall not permit the introduction at the hearing of documentation relating to the allowability of costs if such documentation has not been made available for review either at the time ordered for any prehearing conference, or, in the absence of such an order, at least three weeks prior to the hearing date.

(g) *Burden of production.* The Department shall have the burden of production to support the Grant Officer's decision. To this end, the Grant Officer shall prepare and file an administrative file in support of the decision. Thereafter, the party or parties seeking to overturn the Grant Officer's decision shall have the burden of persuasion.

(h) *Review.* (1) In all cases proceeding under § 636.6, the Administrative Law Judge shall review the Administrative File and the request for hearing and shall determine whether there has been a full and fair hearing at the grantee level and whether there are no material factual issues unresolved. If the Administrative Law Judge determines that these two conditions are met, the case shall be decided upon the record and upon such briefs as the parties may submit. The Administrative Law Judge shall determine from the record whether there exists reliable and probative evidence to uphold the decision of the Grant Officer and shall, as appropriate, either affirm or remand the decision.

(2) If the Administrative Law Judge determines that either of the two conditions is not met, he or she shall hold a hearing. In such cases, the Office of Administrative Law Judges shall have the full authority of the Secretary under Section 164 of the Act, except with respect to the provisions of subsection (e) of that section.

(3) Nothing in this subsection shall be construed to limit the right of the parties to seek a dismissal of the request for hearing or to seek summary judgment.

(i) *Termination of grant.* When the decision terminates the grant in whole or in part after hearing pursuant to this subpart, the decision shall specify the extent of termination and the date upon which such termination becomes effective. Upon receipt of this notice, the grantee shall:

(1) Discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the grant.

(2) Promptly cancel all subgrants, agreements and contracts utilizing funds under this grant to the extent that they relate to the terminated portion of the grant.

(3) Settle, with the approval of the Secretary, all outstanding claims arising from such termination.

(4) Submit, within a reasonable period of time, after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant.

(j) *Alternative provision of services.* If the final decision specifies suspension or termination of the grant, the Grant Officer shall determine how services shall be maintained in the grantee's area. As part of the determination, the Grant Officer shall determine whether any funds shall be reallocated to another recipient to serve the area formerly served by the terminated or suspended grant. The Grant Officer may also consider the desirability of providing direct Federal services to the area through appropriate means.

(k) *Timing of decisions.* The Office of Administrative Law Judges should render a written decision not later than 90 days after the closing of the record.

§ 636.11 Final action.

The final decision of the Secretary pursuant to Section 166(b) of the Act in cases heard by the Administrative Law Judges or decided by an informal reviewer, or the Grant Officer's final determination where there has been no such hearing, constitutes final agency action within the meaning of the Act and the Administrative Procedure Act, 5 U.S.C. 704.

PART 684—JOB CORPS PROGRAM UNDER TITLE IV-B OF THE JOB TRAINING PARTNERSHIP ACT

20 CFR Part 684 is amended as follows:

1. The authority citation for Part 684 is revised to read as follows:

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et. seq.) unless otherwise noted.

2. Part 684 is amended by removing the words "Comprehensive Employment and Training Act" and inserting in their places "Job Training Partnership Act," whereever they appear in the part. The heading of this part is revised to read as set forth above.

3. Section 684.22 is amended by removing paragraph (b)(11) and by revising paragraphs (b)(2) and (b)(5) through (b)(10) to read as follows:

§ 684.22 Funding procedures.

* * * * *

(b) * * *

(2) The quality of proposed outreach/screening and placement support and direct placement;

* * * * *

(5) The quality of proposed corpsmember support;

(6) The quality of proposed health services;

(7) The quality of proposed residential living and support;

(8) The quality of proposed administration and financial management;

(9) Past program and financial performance; and

(10) Reasonableness of cost.

4. Section 684.34 revised to read as follows:

§ 684.34 Extensions of enrollment.

(a) The Center Director shall see that the total length of enrollment of a corpsmember does not exceed 2 years (Section 428(a)) except that the Regional Office may approve an extension:

(1) When a course of instruction to qualify a corpsmember for placement, including one provided through an extension program, can be completed in 4 months or less, or

(2) For a period not to exceed one additional year when required to allow a corpsmember who is progressing satisfactorily to complete an advanced career training program.

(b) In extraordinary circumstances, the Regional Office may request approval of a longer extension from the National Office:

(1) For such time as a corpsmember is under pending criminal charges; or

(2) For such time as it takes to stabilize a health condition pending medical termination and referral.

(c) The Center Director shall note the date and reason for approval of such extensions in writing and make the written approval a part of the corpsmembers' personnel record.

5. Section 684.95 is amended by revising paragraph (a) to read as follows:

§ 684.95 Disclosure of information.

(a) The Center Director shall respond to all requests for information or records during a corpsmember's enrollment. After termination, the Center Director or the Regional Office, whichever is the custodian of the corpsmembers' personnel record, shall respond. Center Directors shall treat the requests in accordance with the Privacy Act of 1974. Civilian Conservation Center Directors shall handle such requests in accordance with the Freedom of Information Act and the Privacy Act of 1974.

* * * * *

6. Section 684.123 is amended by revising paragraph (e) to read as follows:

§ 684.123 Corpsmember records management.

* * * * *

(e) Except in the event of a corpsmember's death, when the entire terminated Corpsmember Personnel Record shall be sent to the national health office within 10 days, the Center Director shall be the custodian of the official records unless otherwise notified by the Regional Director.

Signed at Washington, D.C. this 13th day of October 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-28419 Filed 10-19-83; 8:45 am]

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VOL
48
ISS
204
OC
20
1983
UMI

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Thursday
October 20, 1983

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 985]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 14, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED OCTOBER 14, 1983
VOLUME 985

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-MONTANA PACIFIC OIL & GAS CO				RECEIVED:	09/27/83	JA: MT			
8357152	6-83-96	2510100000		102	4	BARGER #6 - T34N - R1W	KEVIN SUNBURST	90.0	OIL INTERNATIONAL
-S & J OPERATING CO				RECEIVED:	09/27/83	JA: MT			
8357154	7-83-97	2507121164		108		MIAMI-STATE 617-16 1652-2	EAST LORING (BOWDOIN)	6.7	KN ENERGY INC
8357153	7-83-98	2507121789		108		MILTON OLSEN 1-2 0242-2	BOWDOIN AREA	13.0	KN ENERGY INC
WEST VIRGINIA DEPARTMENT OF MINES									
-ASHLAND EXPLORATION INC				RECEIVED:	09/26/83	JA: WV			
8356983		4700500958		108		CASEY #1 - 155860	TASA	4.0	ROARING FORK GAS
8356986		4700500968		108		CASEY #4 - 155850	TASA	2.0	ROARING FORK GAS
8356982		4700501397		103		F W PRICHARD #4 - 095011	COAL RIVER	16.0	CONSOLIDATED GAS
8356985		4701900504		103		J E B PEYTON #6 - 095241	PAINT CREEK	10.0	COLUMBIA GAS TRAN
8356981		4704700882		103		LON B ROBERS #23 - 94931	VIRGINIA	190.0	CONSOLIDATED GAS
8356984		4700501412		103		PARDEE LAND CO #73 - 096311	LOGAN/WYOMING	14.0	CONSOLIDATED GAS
8356987		4700503263		103		SOUTHERN LAND CO #13 - 093681	LOGAN WYOMING	8.0	
-DEVON ENERGY CORP				RECEIVED:	09/26/83	JA: WV			
8357003		4707901103		107-DV		A R BAILEY #1035	EAST MIDWAY	16.0	ROARING FORK GAS
8357013		4701703170		103		ALBERS #1 #2328	SAINT CLARA	48.0	CONSOLIDATED GAS
8357015		4701703187		103		ALBERS #2 #2327	SAINT CLARA	36.0	CONSOLIDATED GAS
8357006		4707901107		107-DV		BOYD MCDANIEL #1039	EAST MIDWAY	21.0	ROARING FORK GAS
8357000		4709901765		107-DV		C C CZOMPO #1026	GRAGSTON CREEK	5.0	TENNESSEE GAS PIP
8357004		4707901104		107-DV		ETHEL HILL #1036	EAST MIDWAY	20.0	ROARING FORK GAS
8357002		4707901082		107-DV		F L GARNES #1 #1024	EAST MIDWAY	16.0	ROARING FORK GAS
8357018		4704102964		108		G BUTLER #28	LITTLE COVE	20.6	CONSOLIDATED GAS
8357005		4707901186		107-DV		GARNES #2 #1037	EAST MIDWAY	10.5	ROARING FORK GAS
8357021		4701700779		108		GRAHAM-DOAK #1P	FALLEN TIMBER	3.0	CONSOLIDATED GAS
8357008		4701703160		103		I R SCHMIDT #1 #2322	SAINT CLARA	17.0	CONSOLIDATED GAS
8357009		4701703161		103		I R SCHMIDT #2 #2323	SAINT CLARA	94.0	CONSOLIDATED GAS
8357014		4701703172		103		I R SCHMIDT #3 #2336	SAINT CLARA	17.0	CONSOLIDATED GAS
8357007		4707901109		107-DV		JOHNSON #1038	EAST MIDWAY	20.0	ROARING FORK GAS
8357022		4701702961		108		KREEN #3	ST CLAIR	10.0	CONSOLIDATED GAS
8357011		4701703167		103		KRENN #4 #2325	SAINT CLARA	17.0	CONSOLIDATED GAS
8357012		4701703168		103		KRENN #5 #2326	SAINT CLARA	60.0	CONSOLIDATED GAS
8357017		4704102968		108		L L D PETERS #2A	INDIAN FORK	20.0	CONSOLIDATED GAS
8357001		4707901096		107-DV		L M BOWLING #2 #1034	EAST MIDWAY	16.0	ROARING FORK GAS
8357010		4701703162		103		M SPRAY #1 #2324	SAINT CLARA	3.0	CONSOLIDATED GAS
8357016		4701702956		108		SCHULTE #2	ST CLAIR	5.0	COLUMBIA GAS TRAN
8357019		4701702955		108		VANWERTH #1	ST CLAIR	17.6	CONSOLIDATED GAS
8357020		4701702890		108		WYSONG #4	ST CLAIR	18.5	CONSOLIDATED GAS
-FRANKLIN ADKINS				RECEIVED:	09/26/83	JA: WV			
8357053		4709902168		108		PERRY #2	LINCOLN DISTRICT	6.0	COLUMBIA GAS TRAN
8357052		4709921711		108		SMITH #1	LINCOLN DISTRICT	15.0	COLUMBIA GAS TRAN
8356980		4709921698		108		WATTS #1	LINCOLN DISTRICT	15.0	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED:	09/26/83	JA: WV			
8357023		4701900483		107-DV		LESLIE MCINTYRE SW-406	VALLEY	0.2	ROARING FORK GAS

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PENNZOIL COMPANY				RECEIVED:	09/26/83	JA: WV			
8357043		4704301623		108		A C BELCHER #2	GRIFFITHSVILLE WE	1.8	CONSOLIDATED GAS
8357036		4704302321		108		A E SMITH #6	GRIFFITHSVILLE WE	2.2	CONSOLIDATED GAS
8356976		4704301570		108		ARTIE WITHROW #1	GRIFFITHSVILLE WE	1.5	COLUMBIA GAS TRAN
8357035		4704302470		108		B P MCKINNEY #4	GRIFFITHSVILLE WE	1.7	CONSOLIDATED GAS
8357039		4704302471		108		B P MCKINNEY #5	GRIFFITHSVILLE WE	1.7	CONSOLIDATED GAS
8357029		4704302149		108		C O WAGGONER #1	GRIFFITHSVILLE WE	1.3	CONSOLIDATED GAS
8357026		4704301596		108		DOLIVER HILL #4	GRIFFITHSVILLE WE	1.2	COLUMBIA GAS TRAN
8357027		4704301641		108		E I TYREE #2	GRIFFITHSVILLE WE	0.6	COLUMBIA GAS TRAN
8357038		4704302472		108		E S ALFORD #4	GRIFFITHSVILLE WE	1.5	CONSOLIDATED GAS
8357032		4704301489		108		E T SPURLOCK #10	GRIFFITHSVILLE WE	8.8	CONSOLIDATED GAS
8357047		4708701994		108		ELMORE-SHODGRASS #2	TARIFF	2.5	CONSOLIDATED GAS
8357048		4704302300		108		GORDON R CRAGO #1	GRIFFITHSVILLE WE	4.7	CONSOLIDATED GAS
8357049		4704301778		108		HAMLIN-01AS #1	GRIFFITHSVILLE WE	1.3	CONSOLIDATED GAS
8356990		4704301806		108		HILBERT ESTATE #1	GRIFFITHSVILLE WE	2.8	COLUMBIA GAS TRAN
8356989		4704301807		108		HILBERT ESTATE #2	GRIFFITHSVILLE WE	2.6	COLUMBIA GAS TRAN
8356997		4704301735		108		HORSE CREEK TR "C" #1	GRIFFITHSVILLE WE	1.7	COLUMBIA GAS TRAN
8356964		4704301734		108		HORSE CREEK TR "C" #2	GRIFFITHSVILLE WE	1.7	COLUMBIA GAS TRAN
8356996		4704301736		108		HORSE CREEK TR "C" #3	GRIFFITHSVILLE WE	1.7	COLUMBIA GAS TRAN
8356995		4704301767		108		HORSE CREEK TR "C" #4	GRIFFITHSVILLE WE	1.7	COLUMBIA GAS TRAN
8356993		4704301766		108		HORSE CREEK TR "C" #6	GRIFFITHSVILLE WE	1.7	COLUMBIA GAS TRAN
8356992		4704301770		108		HORSE CREEK TR "C" #7	GRIFFITHSVILLE WE	1.7	COLUMBIA GAS TRAN
8357044		4704301601		108		J A PAULEY #3	GRIFFITHSVILLE WE	2.4	CONSOLIDATED GAS
8357034		4704301783		108		J R CHANEY #1	GRIFFITHSVILLE WE	1.2	CONSOLIDATED GAS
8356967		4708702568		108		JOHN HUNT CTR #1) #2565	GRANNYS CREEK	8.7	CONSOLIDATED GAS
8357038		4704301840		108		JOSEPH E MARTIN #2	GRIFFITHSVILLE WE	3.4	CONSOLIDATED GAS
8356966		4708702674		108		KATE H NIXON #1	GRANNYS CREEK	2.2	CONSOLIDATED GAS
8356973		4708702675		108		KATE H NIXON #2	GRANNYS CREEK	0.5	CONSOLIDATED GAS
8356968		4708702676		108		KATE H NIXON #3	GRANNYS CREEK	2.3	CONSOLIDATED GAS
8356969		4708702677		108		KATE H NIXON #4	GRANNYS CREEK	2.3	CONSOLIDATED GAS
8356970		4708702681		108		KATE H NIXON #9	GRANNYS CREEK	0.8	CONSOLIDATED GAS
8356991		4704301805		108		KYLE DUNLAP #1	GRIFFITHSVILLE WE	4.7	COLUMBIA GAS TRAN
8356994		4704301705		108		LAURA HILL #1	GRIFFITHSVILLE WE	4.1	COLUMBIA GAS TRAN
8357045		4708700443		108		M J SHODGRASS #23	TARIFF	17.2	CONSOLIDATED GAS
8357033		4704301786		108		MITCHELL HEIRS #4 (BEREA)	GRIFFITHSVILLE WE	8.9	CONSOLIDATED GAS
8356972		4708702935		108		O D STOCKLEY #108	GRANNYS CREEK	1.3	CONSOLIDATED GAS
8357025		4708702936		108		O D STOCKLEY #101	GRANNY'S CREEK	1.3	CONSOLIDATED GAS
8357046		4708702073		108		O D STOCKLEY #62	GRANNY'S CREEK	1.8	CONSOLIDATED GAS
8356971		4708702933		108		O D STOCKLEY #89	GRANNYS CREEK	1.1	CONSOLIDATED GAS
8356965		4708702096		108		O D STOCKLEY #90	GRANNYS CREEK	1.1	CONSOLIDATED GAS
8356975		4708703185		108		P A TALLMAN #35	TARIFF	2.4	CONSOLIDATED GAS
8357042		4704301627		108		R A ESCUE #1	GRIFFITHSVILLE WE	1.9	CONSOLIDATED GAS
8357041		4704301642		108		R A ESCUE #3	GRIFFITHSVILLE WE	1.9	CONSOLIDATED GAS
8357031		4704301766		108		R H ADKINS #5	GRIFFITHSVILLE WE	9.1	CONSOLIDATED GAS
8357037		4708700196		108		SHODGRASS F P #1	TARIFF	7.1	CONSOLIDATED GAS
8357028		4704301670		108		SWEETLAND L & M #12	GRIFFITHSVILLE WE	1.3	COLUMBIA GAS TRAN
8356988		4704301712		108		SWEETLAND L & M #15	GRIFFITHSVILLE WE	1.2	COLUMBIA GAS TRAN
8356998		4704301582		108		SWEETLAND L & M #3	GRIFFITHSVILLE WE	1.3	COLUMBIA GAS TRAN
8356974		4708703083		108		W M LOONEY #14	TARIFF	2.7	CONSOLIDATED GAS
8357040		4704301647		108		W T HARRIS #7	GRIFFITHSVILLE WE	0.7	CONSOLIDATED GAS
8356977		4704301689		108		WOODRUM-DANIELS #1	GRIFFITHSVILLE WE	1.5	COLUMBIA GAS TRAN
8357024		4704301690		108		WOODRUM-DANIELS #2	GRIFFITHSVILLE WE	1.5	COLUMBIA GAS TRAN
-PREMCO				RECEIVED:	09/26/83	JA: WV			
8356979		4708585814		103		HODGE P-8	FLANAGAN	12.0	CONSOLIDATED GAS
-R & B PETROLEUM INC				RECEIVED:	09/26/83	JA: WV			
8356978		4700101292		107-DV		O MATHAMAY #1	VALLEY DISTRICT	18.0	PARTNERSHIP PROPE
-SWIFT ENERGY CO				RECEIVED:	09/26/83	JA: WV			
8356999		4704103073		103		GARTON #1	FINSTER-ASPINALL	50.0	
-UNITED PETRO LTD				RECEIVED:	09/26/83	JA: WV			
8357050		4701303333		108		DENVER-CHENOWETH #1 - UPL	MINNORA GAS	14.0	CONSOLIDATED GAS
8357051		4701303308		108		SARAH TAYLOR #1	MINNORA GAS	6.0	CONSOLIDATED GAS
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
-AMOCO PRODUCTION CO				RECEIVED:	09/27/83	JA: LA 3			
8357192	G2-3139	1771040890		102-S		OCS-G-8987 WELL #C-1	EUGENE ISLAND	1825.0	COLUMBIA GAS TRAN
-CHEVRON U S A INC				RECEIVED:	09/27/83	JA: LA 3			
8357209	G2-3488	1770940508		102-S		OCS-G-3148 NO 5	EUGENE ISLAND	2190.0	
-CNG PRODUCING COMPANY				RECEIVED:	09/27/83	JA: LA 3			
8357167	G3-3445	1770240635		102-S		A-852	WEST CAMERON	736.0	COLUMBIA GAS TRAN
-CONOCO INC				RECEIVED:	09/27/83	JA: LA 3			
8357165	G2-3248	1770840384		102-S		S MARSH ISLAND 136 B-1 SIDETRACK #1	SOUTH MARSH ISLAND	536.0	MICHIGAN WISCONSI
8357215	G2-3250	1770840403		102-S		SOUTH MARSH ISLAND 136 B-3	SOUTH MARSH ISLAND	456.0	MICHIGAN WISCONSI
8357207	G2-3251	1770840409		102-S		S MARSH ISLAND 136 B-4 SIDETRACK #1	SOUTH MARSH ISLAND	1481.0	MICHIGAN WISCONSI
8357213	G2-3253	1770840452		102-S		SOUTH MARSH ISLAND 136 B-6	SOUTH MARSH ISLAND	684.0	MICHIGAN WISCONSI
8357173	G2-3256	1770840465		102-S		SOUTH MARSH ISLAND 136 B-7	SOUTH MARSH ISLAND	1652.0	MICHIGAN WISCONSI
8357196	G2-3255	1770840492		102-S		SOUTH MARSH ISLAND 136 B-9	SOUTH MARSH ISLAND	1139.0	MICHIGAN WISCONSI
-EXXON CORPORATION				RECEIVED:	09/27/83	JA: LA 3			
8357193	G2-3213	1771540495		102-S		OCS-G 819 0G-2	SOUTH TIMBALIER	165.0	TENNESSEE GAS PIP
8357225	G2-3367	1770940372		102-S		OCS-G 3331 0A-3	EUGENE ISLAND	4800.0	COLUMBIA GAS TRAN
8357175	G2-3318	1771540507		102-S		OCS-819 0G-1	SOUTH TIMBALIER	48.0	TENNESSEE GAS PIP
8357204	G2-3363	1771540514		102-S		OCS-819 0G-11	SOUTH TIMBALIER	1035.0	TENNESSEE GAS PIP
8357223	G2-3316	1771540509		102-S		OCS-819 0G-13	SOUTH TIMBALIER	78.0	TENNESSEE GAS PIP
8357211	G3-3538	1771540520		102-S		OCS-819 0G-14	SOUTH TIMBALIER	118.0	TENNESSEE GAS PIP
8357168	G3-3648	1771540528		102-S		OCS-819 0G-18	SOUTH TIMBALIER	73.0	TENNESSEE GAS PIP
8357198	G3-3759	1771540525		102-S		OCS-819 0G-7	SOUTH TIMBALIER	16.2	TENNESSEE GAS PIP
8357183	G3-3436	1771540518		102-S		OCS-819 0G-8	SOUTH TIMBALIER	30.0	TENNESSEE GAS PIP
8357191	G3-3572	1771540508		102-S		OCS-820 0G-3	SOUTH TIMBALIER	36.0	TENNESSEE GAS PIP
8357156	G3-3679	1771540522		102-S		OCS-820 0G-6	SOUTH TIMBALIER	44.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION				RECEIVED:	09/27/83	JA: LA 3			
8357227	G3-3840	1770440572		102-1		E CAMERON BLK 338 FIELD OCS-G 3540	EAST CAMERON	68.0	TEXAS EASTERN TRA
8357184	G3-3647	1770940432		102-S		EUGENE ISL BLK 252 OCS-G 0983 0G-14	EUGENE ISLAND	3096.0	SEA ROBIN PIPELIN
8357187	G3-3614	1770940543		102-S		EUGENE ISL BLK 252 OCS-G 0983 0I-20	EUGENE ISLAND	2920.0	SEA ROBIN PIPELIN
8357169	G2-3323	1770940326		102-S		EUGENE ISL BLK 252 OCS-G 0983 0G-5	EUGENE ISLAND	1825.0	SEA ROBIN PIPELIN
8357195	G5-3517	1771540462		102-S		OCS-G 1256 0C-4	SOUTH TIMBALIER	64.0	TEXAS EASTERN TRA
-HUNT OIL COMPANY				RECEIVED:	09/27/83	JA: LA 3			
8357172	G3-3810	1770940562		107-DP		WELL #5	EUGENE ISLAND	1674.0	MICHIGAN WISCONSI
-MESA PETROLEUM CO				RECEIVED:	09/27/83	JA: LA 3			
8357180	G2-3178	1770640424		102-S		VERMILION BLOCK 397 0A-8	VERMILION	808.0	MICHIGAN WISCONSI
8357216	G2-2929	1770640440		102-S		VERMILION BLOCK 397 WELL 0A-10	VERMILION	2920.0	MICHIGAN WISCONSI
8357174	G2-3133	1770640478		102-S		VERMILION BLOCK 397 WELL 0A-13	VERMILION	1825.0	MICHIGAN WISCONSI
8357170	G2-3109	1770660361		102-S		VERMILION BLOCK 397 WELL 0A-3	VERMILION	2920.0	MICHIGAN WISCONSI
-MOBIL OIL EXPLORATION & PRODUCING S				RECEIVED:	09/27/83	JA: LA 3			
8357176	G3-3446	1770140117		102-S		OCS-G-3275 0A-4A WEST CAMERON 331	WEST CAMERON	930.0	UNITED GAS PIPE L

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ODECO OIL & GAS CO				RECEIVED:	09/27/83	JA: LA 3			
8357178	83-3467	1771140652		102-S		OCS-864 #46A	SHIP SHOWL 113 FIELD	182.0	TRANSCONTINENTAL
-SHELL OFFSHORE INC				RECEIVED:	09/27/83	JA: LA 3			
8357208	G2-3430	1781740125		1C2-S		MC 194 FLD OCS-G 2638 0A-26	MISSISSIPPI CANYON	22.0	SOUTHERN NATURAL
8357212	G2-3096	1781740149		102-S		MC 194 FLD OCS-G 2639 0A-48	MISSISSIPPI CANYON	220.0	SOUTHERN NATURAL
8357163	G3-3822	1771640033		102-1		ST 300 OCS-G 4240 0A-12 S/T2	SOUTH TIMBALIER	0.0	TRANSCONTINENTAL
8357164	G3-3823	1771640032		102-1		ST 301 OCS-G 3594 0A-10	SOUTH TIMBALIER	0.0	TRANSCONTINENTAL
8357160	G2-3559	1771901024		102-4		WD 105 FLD OCS 0841 BC-11-B	WEST DELTA	60.0	SOUTHERN NATURAL
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	09/27/83	JA: LA 3			
8357222	G3-3872	1770240687		102-1		OCS-G-4268 0A-1	WEST CAMERON	8.0	TEXAS EASTERN TRA
8357229	G3-3875	1770240708		102-1		OCS-G-4268 0A-11	WEST CAMERON	363.0	TEXAS EASTERN TRA
8357221	G3-3876	1770240709		102-1		OCS-G-4268 0A-12	WEST CAMERON	1885.0	TEXAS EASTERN TRA
8357226	G3-3877	1770240713		102-1		OCS-G-4268 0A-13	WEST CAMERON	1909.0	TEXAS EASTERN TRA
8357159	G3-3868	1770240659		102-1		OCS-G-4268 0A-5	WEST CAMERON	439.0	TEXAS EASTERN TRA
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/27/83	JA: LA 3			
8357220	G3-3866	1770240646		102-1		OCS-G-4268 0A-1	WEST CAMERON	1636.0	TEXAS EASTERN TRA
8357166	G3-3874	1770240705		102-1		OCS-G-4268 0A-10	WEST CAMERON	1870.0	TEXAS EASTERN TRA
8357155	B3-3878	1770240710		102-1		OCS-G-4268 0A-14	WEST CAMERON	1882.0	TEXAS EASTERN TRA
8357158	G3-3867	1770240656		102-1		OCS-G-4268 0A-2	WEST CAMERON	357.0	TEXAS EASTERN TRA
8357189	G3-3869	1770240662		102-1		OCS-G-4268 0A-4	WEST CAMERON	2157.0	TEXAS EASTERN TRA
8357161	G3-3870	1770240665		102-1		OCS-G-4268 0A-5	WEST CAMERON	1919.0	TEXAS EASTERN TRA
8357162	G3-3871	1770240677		102-1		OCS-G-4268 0A-6	WEST CAMERON	317.0	TEXAS EASTERN TRA
8357194	G3-3873	1770240698		102-1		OCS-G-4268 0A-8	WEST CAMERON	2924.0	TEXAS EASTERN TRA
-TENNECO OIL COMPANY				RECEIVED:	09/27/83	JA: LA 3			
8357185	G2-3113	1770640421		102-S		EAST CAMERON 280 0C-2	EAST CAMERON	0.0	TENNESSEE GAS PIP
8357181	G3-3768	1773140030		102-1		SABINE PASS 13 0B-2	SABINE PASS	410.0	TENNESSEE GAS PIP
8357177	G3-3779	1770640518		102-1		VERMILION 253 0E-2	VERMILION	3530.0	CAJUN NATURAL GAS
8357157	G3-3750	1770540445		107-DP		VERMILION 75 0A-1	VERMILION	1825.0	TEXAS EASTERN TRA
-TEXACO INC				RECEIVED:	09/27/83	JA: LA 3			
8357216	G5-3815	1770740388		102-1		OCS-G-4437 S MARSH ISL 236 01	SOUTH MARSH ISLAND	119.0	NATURAL GAS PIPEL
-TRANSCO EXPLORATION COMPANY				RECEIVED:	09/27/83	JA: LA 3			
8357205	G3-3828	1770940418		102-1		01	EUGENE ISLAND	2920.0	TRANSCONTINENTAL
8357209	G3-3844	1770040419		102-1		WEST CAMERON BLOCK 215 0A-1	WEST CAMERON	182.5	TRANSCONTINENTAL
8357201	G3-3845	1770040423		102-1		WEST CAMERON BLOCK 215 0A-2 S/T	WEST CAMERON	219.0	TRANSCONTINENTAL
8357202	G3-3846	1770040424		102-1		WEST CAMERON BLOCK 215 0A-3	WEST CAMERON	200.0	TRANSCONTINENTAL
8357203	G3-3847	1770040555		102-1		WEST CAMERON BLOCK 215 0A-4	WEST CAMERON	210.0	TRANSCONTINENTAL
8357214	G3-3848	1770040565		102-1		WEST CAMERON BLOCK 215 0A-6	WEST CAMERON	155.5	TRANSCONTINENTAL
8357224	G3-3849	1770040512		102-1		WEST CAMERON BLOCK 215 0A-7	WEST CAMERON	219.0	TRANSCONTINENTAL
8357182	G3-3850	1770040516		102-1		WEST CAMERON BLOCK 215 0A-8	WEST CAMERON	821.3	TRANSCONTINENTAL
8357219	G5-3851	1770040526		102-1		WEST CAMERON BLOCK 215 0A-11	WEST CAMERON	1277.5	TRANSCONTINENTAL
8357197	G5-3852	1770040596		102-1		WEST CAMERON BLOCK 215 0A-12	WEST CAMERON	365.0	TRANSCONTINENTAL
-UNION OIL COMPANY OF CALIF				RECEIVED:	09/27/83	JA: LA 3			
8357108	G2-3327	1770540245		102-S		OCS 0549 09	VERMILION	500.0	TRANSCONTINENTAL
8357198	G3-3645	1770540421		102-S		OCS-G-1357 0A-1	VERMILION	5400.0	
8357199	G3-3646	1770540423		102-S		OCS-G-1357 0A-2	VERMILION	5400.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/27/83	JA: TX 3			
8357171	G3-3709	4270540056		107-DP		OCS G-2664 BRAZOS A-132 0A-1	BRAZOS	5000.0	TRANSCO GAS SUPPL
8357218	G3-3751	4270540073		107-DP		OCS G-2664 BRAZOS A-132 0A-2	BRAZOS	4000.0	TRANSCO GAS SUPPL
-MESA PETROLEUM CO				RECEIVED:	09/27/83	JA: TX 3			
8357218	G2-5136	4271140524		102-S		HIGH ISLAND BLOCK A-515 WELL 0A-3	HIGH ISLAND	1825.0	MICHIGAN WISCONSI
8357217	G2-5137	4271140538		102-S		HIGH ISLAND BLOCK A-515 WELL 0A-8	HIGH ISLAND	1825.0	MICHIGAN WISCONSI
8357186	G2-5343	4271140538		102-S		HIGH ISLAMD BLOCK A-315 WELL A-8	HIGH ISLAND BLOCK A-5	1950.0	MICHIGAN WISCONSI
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/27/83	JA: TX 3			
8357179	G2-5187	4271140172		102-S		OCS-G-2418 0A-8Z	EAST HIGH ISLAND	167.0	TRUNKLINE GAS CO
8357228	G2-3188	4271140174		102-S		OCS-G-2418 A-5Z	EAST HIGH ISLAND	29.0	TRUNKLINE GAS CO

DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM

-AMOCO PRODUCTION CO				RECEIVED:	09/26/83	JA: NM 4			
8357074	NM-0244-83	3004507832		108		GALLEGOS CANYON UNIT COM "D" 0160	BASIN DAKOTA	19.0	EL PASO NATURAL G
8357133	NM 0356-83	3004524886		105		GALLEGOS CANYON UNIT COM "E" 0161E	BASIN DAKOTA	30.0	EL PASO NATURAL G
8357071	NM 0503-83	3003923106		103		JICARILLA APACHE 118A 87	GAVILAN-PICTURED CLIF	25.0	EL PASO NATURAL G
8357134	NM-0256-83	3003906112		108		JICARILLA CONTRACT 146 03	SOUTH BLANCO PICTURED	15.0	NORTHWEST PIPELIN
8357069	NM 0502-83-A	3003922578		103		JICARILLA CONTRACT 155 030	GONZALES MESAVERDE	32.0	
8357068	NM 0502-83-B	3003922578		103		JICARILLA CONTRACT 155 038	OTERO-CHACRA	0.0	EL PASO NATURAL G
8357136	NM 0329-83-A	3003922553		103		JICARILLA GAS COM 155A 01	GONZALES MESAVERDE	29.0	
8357137	NM-0329-83-B	3003922553		103		JICARILLA GAS COM 155A 01	OTERO-CHACRA	29.0	EL PASO NATURAL G
8357088	NM-0248-83	3004520392		108		L C KELLY 06	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8357079	NM-0247-83	3004524339		108		SHANE GAS COM "A" 01	BLANCO PICTURED CLIFF	20.0	EL PASO NATURAL G
8357078	NM-0245-83	3004522564		108		UTE MTN TRIBAL "L" 01	UTE DOME PARADOX	19.0	EL PASO NATURAL G
-BEARTOOTH OIL & GAS CO				RECEIVED:	09/26/83	JA: NM 4			
8357133	NM-0234-83	3004524834		108		ELLEDGE FEDERAL 36 011	AZTEC FRUITLAND-UNDES	0.0	GAS CO OF NEW MEX
-CONSOLIDATED OIL & GAS INC				RECEIVED:	09/26/83	JA: NM 4			
8357146	NM-0327-83	3004500000		108		LANGENDORF	BASIN-DAKOTA	17.0	SOUTHERN UNION GA
8357145	NM-0352B3105	3004525514		105		PAYNE 04	NORTHWEST BLANCO AREA	56.0	SOUTHERN UNION GA
-DOME PETROLEUM CORP				RECEIVED:	09/26/83	JA: NM 4			
8357117	NM-0119-83	3004320665		107-TF		DOME NAVAJO 33-22-6 01	RUSTY CHACRA	40.1	SOUTHWEST GAS COR
8357116	NM-0118-83	3004320664		107-TF		DOME NAVAJO 33-22-6 02	RUSTY CHACRA	55.0	SOUTHWEST GAS COR
-DUGAN PRODUCTION CORP				RECEIVED:	09/26/83	JA: NM 4			
8357119	NM-0171-83	3004525255		103	107-TF	GREEK'S FETE 02	BASIN DAKOTA	54.0	NORTHWEST PIPELIN
8357084	NM-0269-83	3004524346		107-TF		HORACE SMITH 01-R	BASIN DAKOTA	36.0	NORTHWEST PIPELIN
8357085	NM-0268-83	3004523942		107-TF		JACOBS 02	BASIN DAKOTA	22.0	EL PASO NATURAL G
-EL PASO EXPLORATION CO				RECEIVED:	09/26/83	JA: NM 4			
8357145	NM-0329-83	3004506478		108		SAN JUAN 27-8 A 01	SOUTH BLANCO-PICTURED	20.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	09/26/83	JA: NM 4			
8357097	NM-0296-83	30C3920790		108		CANYON LARGO UNIT 0228	SOUTH BLANCO - PICTUR	23.0	EL PASO NATURAL G
8357086	NM 0270-83	3003922083		107-TF		CARSON 02	BASIN DAKOTA	80.0	EL PASO NATURAL G
8357096	NM-0293-83	3004520907		108		DAY A 014	BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
8357094	NM-0290-83	3003906851		108		HARRINGTON 02	SOUTH BLANCO - PICTUR	19.0	EL PASO NATURAL G
8357093	NM-0289-83	3004511748		108		LACKEY B 020	AZTEC - PICTURED CLIF	20.0	EL PASO NATURAL G
8357095	NM-0291-83	3004513259		108		LACKEY B 03	AZTEC - PICTURED CLIF	18.0	EL PASO NATURAL G
8357106	NM-0318-83	3004509266		108		LUDWICK 017	BASIN-DAKOTA	18.0	EL PASO NATURAL G
8357110	NM-031583	3004512168		108		OMLEE 08	FULCHER KUTZ-PICTURED	24.0	EL PASO NATURAL G
8357112	NM-0324-83	3003906985		108		RINCON UNIT 0113	BLANCO-MESA VERDE	17.0	EL PASO NATURAL G
8357111	NM-0323-83	3003921720		108		RINCON UNIT 097 A	BLANCO-MESA VERDE	14.0	EL PASO NATURAL G
8357087	NM-0271-83	3003907442		108		SAN JUAN 28-5 UNIT 027	BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
8357090	NM-0284-83	3003920106		108		SAN JUAN 28-5 UNIT 077	BASIN DAKOTA	17.0	EL PASO NATURAL G
8357091	NM-0287-83	3003920038		108		SAN JUAN 28-6 UNIT 0136	BASIN - DAKOTA	16.0	EL PASO NATURAL G
8357059	NM-0373-83	3003907291		108		SAN JUAN 28-7 UNIT 027	BLANCO - MESA VERDE	21.0	EL PASO NATURAL G
8357100	NM-0297-83	3003907451		108		SAN JUAN 28-7 UNIT 08	BLANCO - MESA VERDE	19.0	EL PASO NATURAL G
8357109	NM-0322-83	3003907869		108		SAN JUAN 30-6 UNIT 033	BLANCO-MESA VERDE	16.0	EL PASO NATURAL G
8357104	NM-0308-83	3004505668		108		SHEETS C 02	BALLARD - PICTURED CL	16.0	EL PASO NATURAL G
8357105	NM-0309-83	3004506962		108		STOREY C 010 MV & PC	BLANCO -MESAVERDE/SOU	22.0	EL PASO NATURAL G
8357107	NM-0311-83	3004505660		108		WHAN JONES 01	BALLARD-PICTURED CLIF	19.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8357092	NM-0288-83	3004520489		108		WOODRIVER 03			
-INTEGRATED ENERGY INC				RECEIVED:	09/26/83	JA: NM 4			
8357147	NM-1452-82	3004320282		108		NAVAJO 21 01			
8357149	NM-1449-82	3004320319		108		RUSTY 28-22-7 01			
-JEROME P MCHUGH				RECEIVED:	09/26/83	JA: NM 4			
8357077	NM-0761-83PB	3004520685		108-PB		NASSAU 01			
8357140	NM-0760-83PB	3003920348		108-PB		TIGER 01			
-KEN BLACKFORD				RECEIVED:	09/26/83	JA: NM 4			
8357151	NM-1781-82	3003922504		108		WELL 13 03 LEASE NO 09-000813			
-KIMBARK OIL & GAS CO				RECEIVED:	09/26/83	JA: NM 4			
8357062	NM 0420-83	3004525257		105		GOTUR 01			
-MERRION OIL & GAS CORP				RECEIVED:	09/26/83	JA: NM 4			
8357067	NM 0467-83	3004525134		105		CHACO LIMITED 81-J			
8357139	NM 0341-83	3003923136		105		OLD ROCK COM 03			
8357855	NM-0363-83	3004523886		108		SOUTHLAND 07			
-MESA PETROLEUM CO				RECEIVED:	09/26/83	JA: NM 4			
8357122	NM-0196-83	3004524495		107-RT		TWIN MOUNDS FEDERAL 33 01			
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	09/26/83	JA: NM 4			
8357082	NM-0266-83	3003907857		108		JICARILLA 'E' 02			
8357089	NM-0272-83	3003921811		108		JICARILLA 'E' 02A			
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	09/26/83	JA: NM 4			
8357121	NM-0183-83	3004320608		102-2	107-TF	NATANI 025			
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	09/26/83	JA: NM 4			
8357115	NM-1906-82	3004506768		108		BLANCO 05			
8357140	NM-0144-83	3004521163		108		COX CANYON UNIT 11			
8357141	NM 0344-83	3003922919		105		JICARILLA 92 011			
8357114	NM-1907-82	3003922467		108		SAN JUAN 29-5 UNIT 0103			
8357081	NM-0254-83	3003907567		108		SAN JUAN 29-5 UNIT 16			
8357140	NM 0345-83	3003922995		105		SAN JUAN 29-6 UNIT 114			
8357144	NM-0147-83	3003907492		108		SAN JUAN 30-5 UNIT 27			
8357083	NM-0256-83	3003907756		108		SAN JUAN 30-5 UNIT 7			
8357138	NM-0343-83	3004568243		108		SAN JUAN 32-7 017			
8357065	NM 0436-83-A	3004525393		103		SAN JUAN 32-7 UNIT 46 MV			
8357066	NM 0436-838	3004525393		103		SAN JUAN 32-7 UNIT 46 PC			
8357063	NM 0435-83-A	3004525394		103		SAN JUAN 32-8 UNIT 49 MV			
8357064	NM 0435-83-8	3004525394		103		SAN JUAN 32-8 UNIT 49 PC			
-OXOCO PRODUCTION CORP				RECEIVED:	09/26/83	JA: NM 4			
8357142	NM-0353-83	3004526622		107-TF		TRAIL CANYON 05			
-SHERMAN F WAGENSELLER				RECEIVED:	09/26/83	JA: NM 4			
8357098	NM 0300-83	3003922288		107-TF		MOBIL APACHE 015			
8357099	NM-0301-83	3003922201		107-TF		MOBIL APACHE 016			
8357101	NM-0302-83	3003922863		107-TF		MOBIL APACHE 017			
8357102	NM-0303-83	3003922862		107-TF		MOBIL APACHE 18 01			
8357108	NM-0304-83	3003923107		107-TF		MOBIL APACHE 18 02			
8357103	NM-0305-83	3003923106		107-TF		MOBILE APACHE 019			
8357054	NM-0306-83	3004320665		107-TF		MOBIL APACHE 21 01			
-SOUTHLAND ROYALTY CO				RECEIVED:	09/26/83	JA: NM 4			
8357131	NM 0227-83	3003905756		108		ARIZONA JICARILLA 04			
8357130	NM-0223-83	3003905699		108		ARIZONA JICARILLA 06			
8357127	NM-0215-83	3003905905		108		ARIZONA JICARILLA A 01			
8357128	NM-0214-83	3003905957		108		ARIZONA JICARILLA A 02			
8357072	NM 0570-83	3003925056		103		CAPULIN MESA 01			
8357058	NM-0367-83	3004520548		108		CRANDELL 05			
8357129	NM-0226-83	3004523981		108		DAVIS 01LE			
8357056	NM0366 83	3004523372		108		DAVIS 01B			
8357125	NM-0204-83	3004520348		108		GRENIER B 06			
8357074	NM-0759-83PB	3004508787		108-PB		MARE 01			
8357057	NM-0368-83	3004507279		108		MCCLANAHAN 08			
8357060	NM-0369-83	3004507430		108		MCCLANAHAN 09			
8357126	NM-0203-83	3004507440		108		REID 016			
8357075	NM-0758-83PB	3004507292		108-PB		REID 08			
8357088	NM-0274-83	3004510185		108		THOMPSON 05			
-TENNECO OIL COMPANY				RECEIVED:	09/26/83	JA: NM 4			
8357124	NM 0193-83	3004525191		103		HUGHES 2E			
8357123	NM-0198-83	3004525264		103		HUGHES 4E			
8357070	NM 0567-83	3004525550		103		LODEWICK 4E			
8357120	NM-0189-83	3004525185		103		TAPP 1E			
8357061	NM 0367-83	3004525555		103		WARREN COM 1R			
8357073	NM 0568-83	3004525567		103		WARREN COM 2E			
-TURNER PRODUCTION CO				RECEIVED:	09/26/83	JA: NM 4			
8357151	NM-022B83103	3003923119		103	107-TF	TURNER 21 01			
-UNICON PRODUCING CO				RECEIVED:	09/26/83	JA: NM 4			
8357150	NM-0092-83	3004524023		107-TF		USA 01			
8357113	NM-0090-83	3004534503		107-TF		USA 02			

FIELD NAME	PROD	PURCHASER
BLANCO - PICTURED CLI	19.0	EL PASO NATURAL G
RUSTY CHACRA EXTENSIO	171.6	SOUTHWEST GAS COR
RUSTY CHACRA EXTENSIO	175.9	SOUTHWEST GAS COR
BASIN DAKOTA	0.0	EL PASO NATURAL G
TAPACITO	0.0	NORTHWEST PIPELIN
BALLARD PICTURED CLIF	6.0	EL PASO NATURAL G
UTE DOME	87.5	EL PASO NATURAL G
WAW FRUITLAND/PICTURE	4.0	EL PASO NATURAL G
DEVILS FORK GALLUP	61.0	
WAW FRUITLAND/PICTURE	6.6	EL PASO NATURAL G
BASIN DAKOTA	15.0	EL PASO NATURAL G
BLANCO MESAVERDE GAS	10.2	NORTHWEST PIPELIN
BLANCO MESAVERDE GAS	10.2	NORTHWEST PIPELIN
UNDESIGNATED RUSTY CH	13.5	NORTHWEST PIPELIN
BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
BLANCO PICTURED CLIFF	21.5	NORTHWEST PIPELIN
TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
GOBERNADOR PICTURED C	0.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	22.0	NORTHWEST PIPELIN
BASIN DAKOTA	44.7	NORTHWEST PIPELIN
BLANCO/MESAVERDE BASI	0.0	EL PASO NATURAL G
BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	17.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	83.4	NORTHWEST PIPELIN
LOS PINOS PICTURED CL	313.2	NORTHWEST PIPELIN
BLANCO MESAVERDE	48.5	NORTHWEST PIPELIN
UNDESIGNATED PICTURED	233.6	NORTHWEST PIPELIN
BASIN DAKOTA	26.0	NORTHWEST PIPE LI
SOUTH BLANCO PC	13.8	EL PASO NATURAL G
SOUTH BLANCO PC	21.5	EL PASO NATURAL G
SOUTH BLANCO PC	32.5	EL PASO NATURAL G
SOUTH BLANCO PC	24.9	EL PASO NATURAL G
SOUTH BLANCO PC	51.8	EL PASO NATURAL G
SOUTH BLANCO PC	39.4	EL PASO NATURAL G
SOUTH BLANCO PC	52.9	EL PASO NATURAL G
BLANCO	13.6	GAS CO OF NEW MEX
BLANCO	10.0	GAS CO OF NEW MEX
BLANCO	10.9	GAS CO OF NEW MEX
BLANCO	10.7	GAS CO OF NEW MEX
GAVILAN	92.0	NORTHWEST PIPELIN
BLANCO	18.0	SOUTHERN UNION GA
BASIN	6.5	SOUTHERN UNION GA
BLANCO	19.0	SOUTHERN UNION GA
AZTEC	16.0	SOUTHERN UNION GA
AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
FULCHER KUTZ	12.0	SOUTHERN UNION GA
AZTEC	9.8	SOUTHERN UNION GA
AZTEC	8.0	SOUTHERN UNION GA
AZTEC PICTURED CLIFFS	9.0	EL PASO NATURAL G
BASIN AND BLANCO	17.0	SOUTHERN UNION GA
BASIN DAKOTA	126.0	EL PASO NATURAL G
BASIN DAKOTA	116.0	EL PASO NATURAL G
BASIN DAKOTA	71.0	GAS CO OF NEW MEX
BASIN DAKOTA	180.0	EL PASO NATURAL G
BASIN DAKOTA	56.0	NORTHWEST PIPELIN
BASIN DAKOTA	66.0	EL PASO NATURAL G
SOUTH BLANCO-PICTURED	22.0	EL PASO NATURAL G
BASIN DAKOTA	370.0	SOUTHERN UNION GA
BASIN DAKOTA	147.0	SOUTHERN UNION GA

[FR Doc. 83-28514 Filed 10-19-83; 8:45 am]
BILLING CODE 6717-01-C

VOL
48
ISS
204
OC
20
1983
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Reader Aids

Federal Register
Vol. 48, No. 204
Thursday, October 20, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders-(GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7
46005–46258.....11
46259–46486.....12
46487–46730.....13
46731–46962.....14
46963–48214.....17
48215–48438.....18
48439–48642.....19
48643–48792.....20

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266, 46795
Ch. IV.....47978
305.....45266

3 CFR

Executive Orders:
July 15, 1875
(Revoked in part by PLO 6479).....45559
11459 (Superseded by EO 12445).....48441
12002 (See EO 12444).....48215
12214 (See EO 12444).....48215
12444.....48215
12445.....48441
12446.....48443

Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259
5116.....46963
5117.....46965
5118.....48217
5119.....48439

5 CFR

Ch. XIV.....45373
213.....46261
752.....45525
1255.....45373

Proposed Rules:
Ch. I.....47990
Ch. III.....47982

7 CFR

Ch. IV.....48449
2.....46261, 48449
51.....46487
247.....46731
301.....46262, 48449
319.....46732
752.....45526
906.....45374,
908.....45526, 46488, 48643
910.....45374, 45755, 46961
919.....45374
929.....45374
981.....45374
991.....45374, 48219
1205.....48451
1435.....45374
1901.....45532
1951.....46967
1955.....46967
1962.....46967
1965.....46967

Proposed Rules:
Subtitle A.....47236
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
Ch. V.....47236
Ch. VI.....47236
Ch. VII.....47236
Ch. IX.....47236
Ch. X.....47236
Ch. XI.....47236
Ch. XII.....47236
Ch. XIV.....47236
Ch. XV.....47236
Ch. XVI.....47236
Ch. XVII.....47236
Ch. XVIII.....47236
Ch. XXI.....47236
Ch. XXIV.....47236
Ch. XXV.....47236
Ch. XXVI.....47236
Ch. XXVII.....47236
Ch. XXVII.....47236
Ch. XXIX.....47236
226.....45779
402.....46062
411.....48675
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
1065.....45117
1131.....46343
1139.....46797
1446.....48471
1701.....48472

8 CFR

103.....45093
214.....45093, 48452
238.....45093
248.....45093

Proposed Rules:
Ch. 1.....47530
103.....48242

9 CFR

166.....48643

Proposed Rules:
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
92.....46355
101.....48679
113.....48679
317.....45118
318.....48242
319.....45118

VOL 48 ISS 204 OCT 20 1983 UMI

325 46996
350 45755
362 45755
381 ..... 45118, 46996, 48224

10 CFR

2 46489
50 46489
55 45223
71 45381
95 48644
761 45746
710 46499

Proposed Rules:

Ch. I 48156
Ch. II 47324
Ch. III 47324
Ch. X 47324
50 45787
60 48473
140 48474

11 CFR

114 48650

12 CFR

5 48452
7 ..... 46502, 48452
29 45532
204 ..... 46005, 46262
207 ..... 45533, 48219
217 ..... 45756, 46262
220 ..... 45533, 48219
221 ..... 45533, 48219
224 45533
226 48219
561 45382
563 ..... 45382, 48455
760 46006

Proposed Rules:

Ch. I 47716
Ch. II 46996
Ch. V 48110
Ch. VI 48074
Ch. VII 48150
29 47001

13 CFR

101 45224
123 45225
133 46008

Proposed Rules:

Ch. I 48020
Ch. III 47254

14 CFR

39 ..... 45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222
71 ..... 45094, 45095, 45536, 45537, 46010, 46503
95 46504
97 45096
205 46264
248 46265
294 46265
320 45236
380 46265
389 45758

Proposed Rules:

Ch. I 46358, 47582, 48681
Ch. II 47003, 48038
Ch. V 47972
21 ..... 45214, 45565
25 ..... 46218, 46250
29 46250
39 46070
43 48364
61 45214
65 45214
71 ..... 45118, 45566, 48244
91 48364
107 45214
109 45214
121 ..... 45214, 46218, 46250, 48364
127 48364
135 ..... 45214, 48364
145 45214

15 CFR

Proposed Rules:

Subtitle A 47254
Ch. I 47254
Ch. II 47254
Ch. III 47254
Ch. IV 47254
Ch. VIII 47254
Ch. IX 47254
Ch. XXIII 47254

16 CFR

13 48651
453 45537

Proposed Rules:

Ch. I 48120
Ch. II 48064
300 48682
301 48682
303 48683
1212 45405
1500 45567
1513 45567

17 CFR

145 ..... 46010, 48223
146 ..... 46010, 48223
147 ..... 46010, 48223
229 46012
230 ..... 46012, 46736
231 ..... 46012, 46969
239 ..... 45386, 46012
240 ..... 46012, 46736
241 46012
270 46012
274 46012

Proposed Rules:

Ch. I 48056
Ch. II 48190
33 46797
230 46801
240 ..... 45119, 48245
249 48245

18 CFR

2 46012
35 ..... 46012, 46970
157 46021
270 48223
271 ..... 45097, 46266–46268, 48223
274 45097
282 45758
301 46970
385 45388

Proposed Rules:

Ch. I 48104
101 46361
104 46361
141 46361
154 ..... 46361, 47003
157 47003
159 46361
201 46361
204 46361
260 46361
271 46071
275 47003
282 45787
410 45568

19 CFR

4 ..... 46510, 46978, 48653
7 46740
10 ..... 46510, 46740
18 48655
22 46740
101 45538
103 45538
113 46740
134 48657
145 46740
148 46978
158 46740
191 46740
210 45544

Proposed Rules:

Ch. I 46805, 47724
4 ..... 46808, 46810
18 46812
101 45409
123 46812
144 46812

20 CFR

404 46142
626 48744
632 48744
633 48744
634 48744
636 48744
684 48744

Proposed Rules:

Ch. I 47538
Ch. II 48012
Ch. III 47340
Ch. IV 47538
Ch. V 47538
Ch. VI 47538
Ch. VII 47538
10 48249
416 48684
422 ..... 46072, 47008

21 CFR

81 ..... 45237, 45760, 46022
109 45544
131 45545
175 48228
178 ..... 46773, 46774
179 46022
184 ..... 48456, 48457
186 ..... 48456, 48457
193 45547
211 46979
430 46270
436 46270
442 46270
520 ..... 46979, 48229
522 ..... 46023, 48229, 48659
540 45760
558 ..... 45102, 46023, 46024, 46514, 46515, 48659
700 46979
800 46979
1308 46516

Proposed Rules:

Ch. I 47340
182 45121
184 45121
211 47008
341 48576
351 46694
610 ..... 46815, 47009
620 47009
630 47009
640 47009
650 47009
660 47009
680 47009
700 47008
800 47008

22 CFR

41 48660

Proposed Rules:

Ch. I 47578
Ch. II 47970

23 CFR

655 46775

Proposed Rules:

Ch. I 47582
Ch. II 47582
658 46545

24 CFR

26 46980
201 46980
215 46980
221 46980
236 46980
570 ..... 45760, 46778, 46980
841 46980
882 46980
888 ..... 45547, 46980
890 476980

Proposed Rules:

Subtitle A 47418
Subtitle B 47418
24 ..... 46072, 46817

25 CFR

71 45103

Proposed Rules:

Ch. I 47472
140 45789

26 CFR

1 ..... 45761, 46272, 46296
4 46272
31 46296
35a 45362

Proposed Rules:

Ch. I 47730
1 ..... 47010, 48255
5f 48255
31 47010

27 CFR

4 45549
5 ..... 45549, 46518
7 45549
9 ..... 45238, 45239, 46518–46524
170 46526
240 46526

Proposed Rules:

Ch. I 47708

9 ..... 46387, 48685

28 CFR

2 48230

Proposed Rules:

Ch. I 47530

29 CFR

1601 46298

Proposed Rules:

Subtitle A 47538
Ch. II 47538
Ch. IV 47538
Ch. V 47538
Ch. XII 47946
Ch. XIV 47928
Ch. XVII 47538
Ch. XXV 47538
Ch. XXVI 48004
1908 45411
1910 45956
1926 45872

30 CFR

223 48661
251 46025
913 46528
917 46299
935 ..... 46027, 46301, 46530
938 45389
946 46028

Proposed Rules:

Ch. I 47538
Ch. II 47472
Ch. VII 47472
55 45336
56 45336
57 45336
58 45336
917 48255
935 45420
938 46817

31 CFR

1 48460
51 46982

Proposed Rules:

Subtitle A 47702
Ch. I 47702
Ch. II 47702
390 48688

32 CFR

251 45242

Proposed Rules:

Ch. I 47302
Ch. V 47302
Ch. VI 47302
Ch. VII 47302
Ch. XVI 48018
199 45791

33 CFR

100 ..... 45244, 46531
117 ..... 45245, 46532, 48662
130 46178
131 46178
132 46178
151 45704
155 45704
157 ..... 45718, 46985
163 48230
165 ..... 46533, 46534, 46779, 48663, 48664

Proposed Rules:

Ch. I 47582
Ch. II 47302
Ch. IV 47582
117 48690
146 48475
150 48475
162 45798
164 46819

34 CFR

668 45670
690 45670

Proposed Rules:

Subtitle A 47308
Ch. I 47308
Ch. II 47308
Ch. III 47308
Ch. IV 47308
Ch. V 47308
Ch. VI 47308
Ch. VII 47308
350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568

35 CFR

Proposed Rules:

Ch. I 47998

36 CFR

7 ..... 46779, 46780
60 46306

Proposed Rules:

Ch. I 47472
Ch. II 47236
Ch. III 47302
Ch. VIII 47858
Ch. IX 48002
7 48257
216 45421
1190 47860

37 CFR

Proposed Rules:

Ch. I 47254
1 45424
2 45424

38 CFR

1 46985

Proposed Rules:

Ch. I 48024
21 ..... 45123, 45268, 45572, 47011

39 CFR

111 ..... 45761, 46031
447 ..... 48230, 48231

Proposed Rules:

111 45269
3001 46545

40 CFR

52 ..... 45245, 45246, 46046, 46047, 46309, 46986, 48664, 48665
60 ..... 46535, 46536, 48328, 48368, 48669
61 46535
81 ..... 46537, 46782
86 48598
87 46481
180 46310
192 45926
256 46787
420 46942
433 45105
469 45249
717 45765

Proposed Rules:

Ch. I 47864
51 ..... 45269, 46152
52 ..... 46081, 46391–46393, 46548, 46823
60 ..... 45701, 46224, 46472
81 ..... 46082, 46085, 46393, 46549–46553
141 45502
162 46397
180 ..... 45573, 46395, 46396, 48476, 48477
228 45798
261 45210
271 ..... 46824, 48690
403 46944
420 46944
464 45573
465 45573
1502 ..... 46554, 47862
1508 46554

41 CFR

Ch 1 ..... 45392, 45557, 48462
Ch. 101 45105
9–1 46987
9–7 46987
9–4 45766
9–51 45766
101–11 46310
101–25 48231
101–41 46788
105–61 45392

Proposed Rules:

Ch. 1 47948
Ch. 4 47236
Ch. 9 47324
Ch. 12 47582
Ch. 13 47254
Ch. 14 47472
Ch. 25 47980
Ch. 29 47538
Ch. 60 47538
Ch. 101 47948
Ch. 105 47948
101–41 46554

42 CFR

51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 ..... 45766, 48467
409 48467
489 48467

Proposed Rules:

Ch. I 47340
Ch. II 47340
Ch. III 47340
Ch. IV 47340

43 CFR

Subtitle A 45664

Public Land Orders:

44 (Revoked by PLO 6478) 45401
96 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
6472 45393
6473 45393
6474 45394
6475 45394
6478 45395
6477 45395
6478 45401
6479 45559
6480 46049
6481 46049
6482 46050

Proposed Rules:

Subtitle A 47472
Ch. I 47472
Ch. II 47472
2620 48400
2880 48478

44 CFR

61 46789
62 46789
64 ..... 46988, 46989
65 ..... 46990, 48233
67 ..... 46050, 46312, 46992

Proposed Rules:

Ch. I 46934
65 48258
67 ..... 45425, 46085, 47014–47020, 48259

45 CFR

13 45251

Proposed Rules:

Subtitle A 47340
Ch. II 47340
Ch. III 47340
Ch. VI 47980
Ch. XI 47978
Ch. XII 47856
Ch. XIII 47340

46 CFR

160 45113
162 45727
380 45559
530 48469
542 46175
543 46175
544 46175

Proposed Rules:
Ch. I..... 47582
Ch. III..... 47582
Ch. IV..... 48114
Ch. IV..... 45269
7..... 45574
10..... 46556
24..... 45425
25..... 45425
26..... 45425
30..... 45425
31..... 45425
32..... 45425
35..... 45425
70..... 45425
71..... 45425
75..... 45425
77..... 45425
78..... 45425
90..... 45425
91..... 45425
94..... 45425
96..... 45425
97..... 45425
107..... 45425
108..... 45425
109..... 45425
157..... 46556
163..... 45425
188..... 45425
189..... 45425
192..... 45425
195..... 45425
196..... 45425
298..... 46825
508..... 45800
524..... 45270
531..... 45270
536..... 45270
538..... 45272

47 CFR
0..... 45652
1..... 45652, 48234
2..... 45560
61..... 46791
63..... 46791
69..... 48234
73..... 45401–45403, 46994, 48234
81..... 45114, 45560
83..... 45114, 45560
87..... 45114
97..... 45652

Proposed Rules:
Ch. I..... 47020, 48080
67..... 46556, 47021
73..... 45428–45438, 47023–47031, 48264
83..... 45439

48 CFR
Ch. 1..... 46541

Proposed Rules:
Ch. 9..... 47324

49 CFR
192..... 48669
195..... 48669
350..... 48469
567..... 46994
571..... 46053, 46793, 48235
1033..... 45257
1043..... 45775
1162..... 46542
1307..... 46542, 46794

Proposed Rules:
Ch. X..... 46399
27..... 46399
171..... 48483
172..... 48483
173..... 48483
195..... 46589
218..... 45272
571..... 48483, 48622
1039..... 45137
1155..... 45440

Proposed Rules:
Subtitle A..... 47582
Ch. I..... 47582
Ch. II..... 47582
Ch. III..... 47582
Ch. IV..... 47582
Ch. V..... 47582
Ch. VI..... 47582
Ch. X..... 48134
571..... 47032

50 CFR
17..... 46053, 46328–46337
23..... 45259, 45775
258..... 48619
285..... 46995
611..... 45403, 46542
646..... 45404
654..... 46057
655..... 45403, 45404
656..... 45403
657..... 45403
658..... 46057
661..... 45263
663..... 48241
672..... 46542
681..... 46342

Proposed Rules:
Ch. I..... 47472
Ch. II..... 47254
Ch. III..... 47254
Ch. IV..... 47254, 47472
Ch. V..... 47254
17..... 45574, 46086, 46590
23..... 45575
611..... 45804, 45806
663..... 45274, 48265

LIST OF PUBLIC LAWS

Last Listing October 19, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 3835/Pub. L. 98–131 To designate the United States Post Office Building in Oshkosh, Wisconsin, as the "William A. Steiger Post Office Building". (Oct. 17, 1983; 97 Stat. 848) Price: $1.50.

S. 1894/Pub. L. 98–132 To designate the Foundation for the Advancement of Military Medicine as the "Henry M. Jackson Foundation for the Advancement of Military Medicine", and for other purposes. (Oct. 17, 1983; 97 Stat. 849) Price: $1.50.

VOL 48 ISS 204 OC 20 1983 UMI

VOL
48
ISS
2
0
4
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2 0
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48
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October 21, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency
Aircraft
Federal Aviation Administration
Airworthiness Directives
Federal Aviation Administration
Aviation Safety
Federal Aviation Administration
Charter Flights
Civil Aeronautics Board
Credit Unions
National Credit Union Administration
Environmental Protection
Internal Revenue Service
Estate and Gift Taxes
Internal Revenue Service
Fish
Food and Drug Administration
Fisheries
National Oceanic and Atmospheric Administration
Generally Recognized as Safe (GRAS) Food Ingredient
Food and Drug Administration
Government Contracts
Immigration and Naturalization Service

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Hazardous Materials
Environmental Protection Agency

Indians—Business and Finance
Indian Affairs Bureau

Loan Programs—Energy
Rural Electrification Administration

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Mineral Resources
Defense Department

Occupational Safety and Health
Occupational Safety and Health Administration

Oil and Gas Exploration
Land Management Bureau

Organization and Functions (Government Agencies)
Immigration and Naturalization Service

Postal Service
Postal Service

Prisoners
Prisons Bureau

Vegetables
Food and Drug Administration

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 48, No. 205
Friday, October 21, 1983

Agricultural Marketing Service
RULES
48793 Lemons grown in Ariz. and Calif.
Milk marketing orders:
48793 Nebraska-Western Iowa
NOTICES
Tobacco inspection and price supports:
48855 Stephenson, David T., III, et al.; hearing on application

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Rural Electrification Administration.

Air Force Department
NOTICES
48860 Agency information collection activities under OMB review
Meetings:
48860 Historical Program Advisory Committee

Alcohol, Tobacco, and Firearms Bureau
RULES
Alcohol; viticultural area designations:
48810 Chalk Hill, Calif.
48820 Grand River Valley, Ohio
48814 Knights Valley, Calif.
48817 Lake Erie, N.Y., Ohio, and Pa.
48812 Russian River Valley, Calif.

Army Department
NOTICES
Meetings:
48860–48861 Science Board (9 documents)

Arts and Humanities, National Foundation
NOTICES
Meetings:
48881 Music Advisory Panel

Civil Aeronautics Board
PROPOSED RULES
Procedural regulations:
48832 Japanese charter authorizations, awarding procedures
NOTICES
48857 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications (2 documents)
Hearings, etc.:
48858 Bicoastal Air Service, Inc.
48858 British American Air, Inc.
48858 Key Airlines, Inc.
48856 Southern Air Transport, Inc.
48858 Unicorn Air, LTD.

Commerce Department
See also National Oceanic and Atmospheric Administration.

NOTICES
48859 Aerospace Sector Committee Metriciation Plan; proposed metric transition plan; inquiry

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
48855 Honey

Defense Department
See also Air Force Department; Army Department; Navy Department.
RULES
48824 Mineral exploration and extraction on DOD lands

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
48875 Schedules I and II, 1983 aggregate

Employment and Training Administration
NOTICES
Adjustment assistance:
48876 Dana Corp.
Unemployment compensation; extended benefit periods:
48877 Louisiana

Employment Standards Administration
NOTICES
48898 Minimum wages from Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ark., D.C., La, N.J., N. Mex., N. Dak., Okla., Pa., Tex., and Utah)

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
48978 Missouri
Hazardous waste programs; interim authorizations; State programs:
48826 Tennessee; extension of time
Water pollution control; national pollutant discharge elimination system; applications:
48826 Virginia; authority transfer
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
48960 Fossil-fuel-fired steam generators
48932 Synthetic organic chemicals manufacturing industry, volatile organic compounds (VOC) from air oxidation unit processes
Air quality implementation plans; approval and promulgation; various States:
48981, 48982 Missouri (2 documents)
NOTICES
Environmental statements: availability, etc.:
48863 Agency statements; weekly receipts

Meetings:
48866 Science Advisory Board
Toxic and hazardous substances control:
48863 Premanufacture notices receipts
Waste management, solid:
48986 Ocean dumping permit program; application receipts, etc.

Federal Aviation Administration
RULES
Aircraft products and parts, certification:
48798 DeHavilland Aircraft of Canada Ltd.
Airworthiness directives:
48801 Airbus Industrie
48804 AMI Industries, Inc.
48802 Boeing
48803 DeHavilland
48803 Embraer
48805 Control zones and transition areas
PROPOSED RULES
48831 Transition areas (2 documents)
NOTICES
Meetings:
48893 Aeronautics Radio Technical Commission

Federal Communications Commission
NOTICES
48894 Meetings; Sunshine Act (2 documents)

Federal Election Commission
NOTICES
48894 Meetings; Sunshine Act

Federal Home Loan Mortgage Corporation
NOTICES
48894 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
Complaints filed:
48866 Alaska Maritime Agencies, Inc., et al.
48867 Galin Ataei

Federal Reserve System
RULES
Credit banks for purchase or carrying margin stocks (Regulation U):
48797 Comparison chart of old and new regulation U sections
Securities credit by persons other than banks, brokers, or dealers (Regulation G):
48796 Comparison chart of old and new regulation G sections
NOTICES
48867 Agency information collection activities under OMB review
Applications, etc.:
48868 Peoples Security Bancorp, Inc., et al.
48867 SouthTrust Corp., et al.
Bank holding companies; proposed de novo nonbank activities:
48868 One American Corp. et al.
48894 Meetings; Sunshine Act (2 documents)

Fish and Wildlife Service
NOTICES
Marine mammals:
48872 Annual report; availability

Food and Drug Administration
RULES
GRAS or prior-sanctioned ingredients:
48805 Papain
PROPOSED RULES
Food for human consumption:
48836 Canned vegetables; identity standards, amendment
48836 Smoked and smoke-flavored fish; current good manufacturing practice
Radiological health:
48837 Sunlamp products; performance standards; correction
NOTICES
Color additive petitions:
48870 Paragon Optical, Inc.

General Services Administration
RULES
Procurement:
48827 Telecommunications equipment; emergency acquisition of new customer premise equipment; temporary

Health and Human Services Department
See also Food and Drug Administration.
NOTICES
48869 Agency information collection activities under OMB review
Senior Executive Service:
48870 Performance Review Board; membership

Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
48794 St. Albans, Vt., district office: designation change to suboffice, etc.
Transportation line contracts:
48796 American Trans Air, Inc.

Indian Affairs Bureau
RULES
Financial activities:
48806 Special deposits
NOTICES
48870 Agency information collection activities under OMB review

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

Internal Revenue Service
PROPOSED RULES
Estate and gift taxes:
48837 Copyrighted works of art, contributions; treatment
Excise taxes:
48839 Hazardous waste, petroleum and certain chemicals; environmental taxes collection

Interstate Commerce Commission
NOTICES
48872 Agency information collection activites under OMB review
Motor carriers:
48872 Compensated intercorporate hauling operations; intent to engage in

48873 Finance applications
Petitions filed:
48873 Used pallet, container, and shipping devices exemption; interpretation; final decision

Justice Department
See also Drug Enforcement Administration; Immigration and Naturalization Service; National Institute of Justice; Prisons Bureau.
NOTICES
Pollution control; consent judgments:
48874 Martell, Steve, et al.

Labor Department
See Employment and Training Administration; Employment Standards Administration; Labor Statistics Bureau; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Labor Statistics Bureau
NOTICES
Meetings:
48876 Business Research Advisory Council
48875 Business Research Advisory Council Committees

Land Management Bureau
RULES
Oil and gas operating regulations:
48916 Onshore Federal and Indian oil and gas leases: approval of operations (Order No. 1)
NOTICES
Conveyance of public lands:
48872 Nevada (2 documents)
Leasing of public lands:
48871 Alaska
Sale of public lands:
48870 Idaho
48871 Utah

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
48877 Bethlehem Mines Corp.
48880 Emerald Mines Corp.
48877 Inland Steel Coal Co.
48878 Latrobe Construction Co.
48878 Pearl Coal Co.
48878 Red River Fuels, Inc.
48879 Rolen Coal Co., Inc.
48879 Sewell Coal Co.
48879 Thac West Mining, Inc.

National Credit Union Administration
PROPOSED RULES
48830 Organization and operation; Federal Credit Union services for retired persons; policy statement
NOTICES
48881 Agency information collection activities under OMB review

National Highway Traffic Safety Administration
NOTICES
Meetings:
48893 Human kinematics modeling and vehicle structural responses; workshop

National Institute of Justice
NOTICES
Grants, competitive solicitation:
48875 Performance and productivity measurement, etc.

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
48853 Spiny lobster fisheries, Western Pacific
NOTICES
Meetings:
48859 Civil Operational Remote Sensing Satellite Advisory Committee
48859 Sea Grant Review Panel

Navy Department
NOTICES
48863 Agency information collection activities under OMB review
Environmental statements; availability, etc.:
48862 Michigan Transmitter Facility, ELF Communications System, Marquette and Dickinson Counties, Mich.

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
48881 Cleveland Electric Illuminating Co. et al.
48882 Duke Power Co.
48882 Florida Power & Light Co.
48883 Perforating Services, Inc.
48885 Roof Auditing Services
48886 Washington Public Power Supply System
Meetings:
48886 Reactor Safeguards Advisory Committee
Safety analysis and evaluation reports; availability, etc.:
48882 Consumers Power Co.

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
48822 Virginia

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
48880 Lee Investment Co. et al.

Postal Rate Commission
NOTICES
Post office closing; petitions for appeal:
48886 Wendell, N.H.

Postal Service
PROPOSED RULES
48850 Electronic computer originated mail; designation of serving Post Offices for acceptance

Prisons Bureau
RULES
Inmate control, custody, and care, etc.:
48968 D.C. women offenders, designations and transfers; searches of housing units, inmates, and inmate work areas; and definitions revisions
48970 Fines and costs; confinement until paid

48972 Prison overcrowding, relief; interim
NOTICES
Environmental statements; availability, etc.:
48874 Rochester, Minn.; former State Hospital for use as Federal Medical Center
48975 Prison institutions; list modification

Rural Electrification Administration
PROPOSED RULES
Electric borrowers:
48830 New loans and advances; general fund criteria; advance notice

Securities and Exchange Commission
NOTICES
48895 Meetings; Sunshine Act

Small Business Administration
NOTICES
Applications, etc.:
48887 Lehigh Valley Ventures, Ltd.

Trade Representative, Office of United States
NOTICES
Generalized System of Preferences:
48887 Articles eligible for duty-free treatment, etc.
48888 Specialty steel import relief, implementation of modifications

Transportation Department
See Federal Aviation Administration; National Highway Traffic Safety Administration.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.

Separate Parts in This Issue

Part II
48896 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
48916 Department of the Interior, Bureau of Land Management

Part IV
48932 Environmental Protection Agency

Part V
48960 Environmental Protection Agency

Part VI
48968 Department of Justice, Bureau of Prisons

Part VII
48978 Environmental Protection Agency

Part VIII
48986 Environmental Protection Agency

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
910 48793
1065 48793
Proposed Rules:
1700 48830
8 CFR
100 48794
238 48796
12 CFR
207 48796
221 48797
Proposed Rules:
701 48830
14 CFR
21 48798
39 (5 documents) 48801–48804
71 48805
Proposed Rules:
71 (2 documents) 48831
320 48832
21 CFR
182 48805
184 48805
Proposed Rules:
122 48836
155 48836
1040 48837
25 CFR
114 48806
26 CFR
Proposed Rules:
20 48837
25 48837
52 48839
27 CFR
9 (5 documents) 48810–48820
28 CFR
500 48968
527 48968
552 48968
571 48970
572 48972
29 CFR
1952 48822
32 CFR
235 48824
39 CFR
Proposed Rules:
111 48850
40 CFR
51 48978
52 48978
123 48826
271 48826
Proposed Rules:
52 (2 documents) 48981, 48982
60 (2 documents) 48932, 48960
41 CFR
1–4 48827
101–37 48827
43 CFR
3160 48916
50 CFR
Proposed Rules:
681 48853

VOL
48
ISS
205
OC
21
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 205
Friday, October 21, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 434]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 190,000 cartons during the period October 23–29, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 23, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on October 18, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.734 is added as follows:

§ 910.734 Lemon regulation 434.

The quantity of lemons grown in California and Arizona which may be handled during the period October 23, 1983, through October 29, 1983, is established at 190,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 20, 1983.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–28920 Filed 10–20–83; 11:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Pool Supply Plant Shipping and Diversion Limitation Percentages

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily relaxes for the months of October 1983 through March 1984 the shipping requirements for pool supply plants and the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the Nebraska-Western Iowa order. The revisions are made in response to a request by a cooperative association representing a substantial number of producers supplying the market in order to prevent uneconomic movements of milk.

EFFECTIVE DATE: October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Temporary Revision of Pool Supply Plant Shipping and Diversion Limitation Percentages: Issued September 27, 1983; published October 3, 1983 (48 FR 45117).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the

VOL 48 ISS 205 OCT 21 1983 UMI

precedure in time to give interested parties timely notice that the shipping requirements for pool supply plants and the limits on the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for October 1983 would be modified. The initial request for this action was received on September 2, 1983. Public comments on the proposed action were due October 11.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regualtory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4) of the Nebraska-Western Iowa milk order.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 45117) concerning a proposed decrease in the shipping requirements for pool supply plants and an increase in the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for the months of October 1983 through March 1984. Interested parties were afforded the opportunity to comment on the proposal by submitting written data, views, and arguments. No comments in opposition to the proposal were received.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of October 1983 through March 1984 the supply plant shipping percentage of 40 percent as set forth in § 1065.7(b) should be decreased to 30 percent and the diversion limitation percentage as set forth in § 1065.13(d) should be increased from the present 40 percent to 50 percent.

Pursuant to the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4), the supply plant shipping percentage as set forth in § 1065.7(b), and the diversion limitation percentages as set forth in § 1065.13(d) (2) and (3), respectively, may be increased or decreased up to 20 percentage points during any month. Such changes may be made to encourage additional needed milk shipments to pool distributing plants or to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Associated Milk Producers, Inc., a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that during the period of October 1983 through March 1984 the pool supply plant shipping percentage be reduced 10 points. Also, the cooperative requested that for the same period the percentage of allowable diversions be increased 10 percentage points.

The basis of the cooperative's request is that beginning in October 1983 the pooling provisions in question will not accommodate the efficient pooling of the milk of some of its members who regularly are associated with the market. The cooperative indicates that it is requesting the revision because of the present buildup in the market's milk supplies due to a substantial increase in producer deliveries and a decline in Class I sales. In that regard, the cooperative noted that producer deliveries for the first seven months of 1983 were up 6.7 percent from the already high levels of the same period a year ago while Class I sales were down 1.8 percent. The cooperative believes that the temporary revision of both the supply plant shipping standard and the diversion limits will be necessary for the months of October 1983 through March 1984. Because of the market's present supply situation, the cooperative contends that the temporarily relaxed pool supply plant shipping requirement and diversion limits will be adequate to supply the needs of the Class I market without causing unnecessary and uneconomic shipments to pool plants simply to meet order requirements.

In view of this development in the supply situation, and without the temporary revision, some milk not needed for bottling use would have to be shipped first to distributing and then to nonpool manufacturing plants merely to qualify some supply plants for pooling under the order during the coming winter months. Likewise, milk of some dairy farmers would first have to be received at a pool plant to qualify it for pooling rather than being shipped directly from the farm to nonpool manufacturing plants for surplus use. These requirements would result in costly and inefficient movements of milk.

Under these supply-demand conditions, it is concluded that a reduction in the required shipments of a supply plant by 10 percentage points for October 1983 through March 1984 will prevent uneconomic movements of milk merely for purposes of maintaining pool plant status. Moreover, the relaxation of the diversion limits by 10 percentage points for such months will prevent uneconomic movements of milk through pool plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that thirty days' notice of the effective date is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing in the marketing area for the months of October 1983 through March 1984;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective for the months of October 1983 through March 1984.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in §§ 1065.7(b) and 1065.13(d)(2) and (3) of the order are hereby revised for the months of October 1983 through March 1984.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C. on October 18, 1983.

Joel L. Blum,

Acting Director Dairy Division.

[FR Doc. 83-28700 Filed 10-20-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Service organizational statement to reflect the recent change in designation of the St. Albans, Vermont office from a district office to a suboffice. This change is made for more efficient management.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: Service management has reviewed the jurisdictional responsibilities, workloads, and types of work under the jurisdiction of the St. Albans office. It has been determined that the responsibilities and variety of work do not justify the continued classification of St. Albans as an independent district office. St. Albans has become a suboffice as part of the Portland, Maine District; the immigration office at Montreal, Quebec, Canada is transferred under the Buffalo District Office to combine all Eastern Region Canadian preinspection operations under one district; and the Pittsburg, New Hampshire port of entry will shift to the Portland District to consolidate all northern border ports of entry for the states of Vermont, New Hampshire and Maine under one district.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not required as this rule deals solely with agency management and organization.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have significant impact on a substantial number of small entities. This rule is not a major rule as defined in section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 100

Administrative practice and procedure, Organization and functions (Government agencies), Authority delegation (Government agencies), Jurisdictions, Ports of entry (both aircraft and vessels).

Accordingly, Title 8, Chapter I of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

1. In § 100.4, paragraph (a) is revised to read as follows:

§ 100.4 Field service.

* * * * *

(a) *Regional offices.* The Eastern Regional Office, located in Burlington, Vermont, has jurisdiction over districts 2, 3, 4, 5, 7, 21, 22, 23, 25, and 27 and Border Patrol sectors 1, 2, 3, and 4. The Southern Regional Office, located in Dallas, Texas, has jurisdiction over districts 6, 14, 15, 20, 26, 28, 38, and 40, and Border Patrol sectors 15, 16, 17, 18, 19, 20, and 21. The Northern Regional Office, located in Fort Snelling, Twin Cities, Minnesota, has jurisdiction over districts 8, 9, 10, 11, 12, 19, 24, 29, 30, 31, and 32 and Border Patrol sectors 5, 6, 7, 8, and 9. The Western Regional Office, located in San Pedro, California, has jurisdiction over districts 13, 16, 17, 18, and 39 and Border Patrol sectors 10, 11, 12, 13, and 14.

* * * * *

2. In § 100.4, paragraph (b)(1) is removed and paragraphs (b)(2), (b)(7), and (b)(22) are revised to read as follows:

* * * * *

(b) *District offices.*

* * * * *

1. [Reserved]

2. *Boston, Massachusetts.* The district office in Boston, Massachusetts, has jurisdiction over the States of New Hampshire (except the port of entry at Pittsburg, New Hampshire), Massachusetts, and Rhode Island.

* * * * *

7. *Buffalo, New York.* The district office in Buffalo, New York, has jurisdiction over the State of New York except that part within the jurisdiction of District No. 3; also, over the United States immigration office at Toronto, Ontario, Canada; and office located at Montreal, Quebec, Canada.

* * * * *

22. *Portland, Maine.* The district office in Portland, Maine has jurisdiction over the States of Maine, Vermont, and the port of entry at Pittsburg, New Hampshire.

* * * * *

3. In § 100.4, paragraphs (c)(2) introductory text and districts 2 and 22 and (c)(3) introductory text and district 22 are revised and district 1 of paragraph (c)(2) and district 1 of (c)(3) are removed as follows:

* * * * *

(c) * * *

(2) *Ports of entry for aliens arriving by vessel or by land transportation.* Subject to the limitations prescribed in this subparagraph, the following places are hereby designated as ports of entry for aliens arriving by any means of travel other than aircraft. The designation of such a port of entry may be withdrawn whenever, in the judgment of the Commissioner, such action is warranted. The ports are listed according to location by districts and are designated either Class A, Class B, or Class C. Class A means that the port is a designated port of entry for all aliens. Class B means that the port is a designated port of entry for aliens who at the time of applying for admission are lawfully in possession of valid resident aliens' border-crossing identification cards or are admissible without documents under the documentary waivers contained in Part 212 of this chapter. Class C means that the port is a designated port of entry only for aliens who are arriving in the United States as crewmen as that term is defined in section 101(a)(10) of the Act with respect to vessels.

District No. 1—[Reserved]

DISTRICT NO. 2—BOSTON, MASS.

Class A

Boston, Mass. (the port of Boston includes, among others, the port facilities at Beverly, Braintree, Chelsea, Everett, Hingham, Lynn, Manchester, Marblehead, Milton, Quincy, Revere, Salem, Saugus, and Weymouth, Mass.).
Gloucester, Mass.
* Providence, R.I. (the port of Providence includes, among others, the port facilities at Davisville, Melville, Newport, Portsmouth, Quonset Point, Saunderstown, Tiverton, and Warwick, R.I.; and at Fall River, New Bedford, and Somerset, Mass.)

Class C

Newburyport, Mass.
Plymouth, Mass.
Provincetown, Mass.
Sandwich, Mass.
Woods Hole, Mass.
Portsmouth, N.H.

DISTRICT NO. 22—PORTLAND, MAINE

Class A

* Alburg, Vt.
* Alburg Springs, Vt.
* Bangor, Maine (the port of Bangor includes, among others, the port facilities at Bar Harbor, Belfast, Brewer, Buckaport, Jonesport, Northeast Harbor, Prospect Harbor, Sandypoint, Seal Harbor, Searsport, and South West Harbor, Maine).
* Beebe Plain, Vt.
* Beecher Falls, Vt.
* Bridgewater Maine
* Calais, Maine (includes Ferry Point, and Milltown Bridges).
* Canaan, Vt.
* Coburn Gore, Maine
* Derby Line, Vt.
* Eastport, Maine
* East Richford, Vt.
* Fort Fairfield, Maine
* Fort Kent, Maine
* Hamlin, Maine
* Highgate Springs, Vt.
* Houlton, Maine
* Jackman, Maine
* Limestone, Maine
Lubec, Maine
* Madawaska, Maine
Morses Line, Vt.
* Newport, Vt.
* North Troy, Vt.
* Norton, Vt.
Pittsburg, N.H.
Portland, Maine
* Richford, Vt. (includes the Pinnacle port of entry)
* St. Albans, Vt.
* St. Aurelie, Maine
* Van Buren, Maine
* Vanceboro, Maine
* West Berkshire, Vt.

Class B

Desquam, Maine
Easton, Maine
Estcourt, Maine
Forest City, Maine
Knoxford Line Road (Mars Hill), Maine.
Monticello, Maine.
Orient, Maine
Robbinston, Maine
St. Juste, Maine
St. Pamphile, Maine

Class C

Bath, Maine
Boothbay Harbor, Maine
Kittery, Maine
Rockland, Maine
Wiscasset, Maine

(3) *Ports of entry for aliens arriving by aircraft.* In addition to the following international airports which are hereby designated as ports of entry for aliens arriving by aircraft, other places where permission for certain aircraft to land officially has been given and places where emergency or forced landings are made under Part 239 of this chapter shall be regarded as designated for the entry of aliens arriving by such aircraft:

District No. 1—[Reserved]

* * * * *

District No. 22—Portland, Maine

Burlington, Vt., Burlington Municipal Airport
Caribou, Maine, Caribou Municipal Airport
Highgate Springs, Vt., Franklin County Regional Airport
Newport, Vt., Newport State Airport

* * * * *

(Sec. 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103)

Dated: October 17, 1983

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 83-28777 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 238

Contracts With Transportation Lines; Addition of American Trans Air, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds American Trans Air, Inc. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: September 27, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with American Trans Air, Inc. on September 27, 1983 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "American Trans Air, Inc."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: October 17, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-28664 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 207

Securities Credit by Persons Other Than Banks, Brokers, or Dealers; Comparison Chart of Old and New Regulation G Sections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Regulation G comparison chart.

SUMMARY: On July 27, 1983, the Board approved a completely revised and simplified Regulation G. The new regulation is effective as of August 31, 1983. To facilitate an understanding of the new regulation, this chart provides a cross-reference of section numbers in the old Regulation G to their corresponding section numbers in the new regulation and vice versa. This chart will serve as an aid to persons tracing the regulatory treatment of specific issues addressed in Regulation G.

FOR FURTHER INFORMATION CONTACT: Douglas Blass, Attorney, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2781.

SUPPLEMENTARY INFORMATION: The following comparison chart is being published as an aid to understanding the completely revised Regulation G.

COMPARISON CHART

Comparison of old with new section numbers—

Old	New
207.1:	
(a)	207.3(a)(1) (with modification).
(b)	207.3(a)(2) (with modification).
(c)	207.1(b), 207.2 (e), (h), (i), 207.3(b), 207.7 (a) and (b).
(d)(1)	207.2(i), 207.3(b) and 207.7(a).
(2)	Deleted.
(3)	207.3(c).
(4)	Deleted.
(e)(1)	207.3 (e), (f), and 207.2(e)(2).
(2)	Deleted.
(f)(1)	207.4 (first sentence) (partially deleted).
(2)	Deleted.
(3)	207.4(b).
(g)	207.3(g)(1).
(h)(1)	207.3 (g) and (h).
(2)	207.3(g)(4) and 207.2(e)(1)
(i)	207.3(h) and 207.7(b).
(j)(1)	207.3(i)(1).
(i)	207.3(i)(1)(i).
(ii)	Deleted.
(2)	207.3(i) (partially deleted).
207.2:	
(a)	207.2 (first sentence).
(b)	207.2(g).
(c)(1)	207.2(i).
(2)	207.2(b).
(3)	207.2(l).
(d)(1)	207.2(i)(1).
(2)	207.2(i)(2).
(3)(i)	207.2(i)(3).
(ii)	207.2(i)(3)
(4)	207.2(h)(4).
(5)	207.2(i)(5).
(e)	207.2(l).
(f)(1)	207.2(k).
(2)	207.2(k).
(3)	207.5(c).
(i)	207.5(c)(1).
(ii)	207.5(c)(2).
(4)	207.5(d).
(5)	207.5(e).
(g)(1)	Deleted.
(2)	Deleted.
(h)	207.2(d).
(i)	207.2(f)(1).
(1)	207.2(f)(2)(i).
(2)	207.2(f)(2)(ii).
(3)	207.2(f)(2)(iii) and (i)(2)(iv).
(j)	Deleted.
(k)	Deleted.
207.3:	
(a)	207.3 (o), (p).
(b)	Deleted.
207.4:	
(a)	207.5(a).
(1)	Deleted.
(2)	207.5(b) and 207.3(b).
(i)	207.5(b)(2)
(ii)	Deleted.
(iii)	Deleted.
(iv)	Deleted
(3)	Deleted
(b)	207.3(k).
(c)	207.3(j).
(d)	207.3(n).
(e)	207.3(d)
(f)	Deleted.
(g)	207.3(1).
207.5:	
(a)	207.7 (a), (c), and 207.2(c).
(b)	207.7(a).

COMPARISON CHART—Continued

Comparison of old with new section numbers—

Old	New
(c)	Deleted.
(d)	207.6(a).
(1)	207.6(a)(3).
(2)	207.6(a)(1).
(3)	207.6(a)(8).
(4)	207.6(a)(9).
(5)	207.6(a)(5).
(6)	207.6(a)(4).
(7)	207.6(a)(7).
(8)	207.6(a)(2).
(9)	207.6(a)(6).
(e)	207.6(b).
(1)	207.6(b)(3).
(2)	207.6(b)(1).
(3)	207.6(b)(7)
(4)	207.6(b)(4).
(5)	207.6(b)(6).
(6)	207.6(b)(2).
(7)	207.6(b)(5).
(f)	Deleted.

COMPARISON CHART

Comparison of new with old section numbers

New	Old
207.1:	
(a)	Added.
(b)	207.1(c).
207.2:	
First sentence	207.2(a).
(a)	Added.
(b)	207.2(c)(2).
(c)(1)(i)	Added.
(ii)	Added.
(iii)	Added.
(2)	207.1(i).
(d)	207.2(h).
(e)(1)	207.1(h)(2) (Modified).
(2)	207.1(e).
(f)(1)	207.2(i).
(2)(i)	207.2(i)(1).
(ii)	207.2(i)(2).
(iii)	207.2(i)(3).
(iv)	207.2(i)(3).
(g)	207.2(b).
(h)	207.1(c).
(i)(1)	207.2(d)(1), 207.2(e) (1) and (2).
(2)	207.2(d)(2).
(3)	207.2(d)(3) (i) and (ii).
(4)	207.2(d)(4).
(5)	207.2(d)(5).
(j)	207.5 (a) and (b).
(k)	207.2(f) (1) and (2).
(l)	207.1(c), and 207.2(c)(1).
207.3:	
(a)(1)	207.1(a) (Modified).
(2)	207.1(b) (Modified).
(b)	207.1(c).
(c)	Added.
(i)	Added.
(ii)	Added.
(iii)	Added.
(d)	207.4(e).
(e)	207.1(e)(1) (Modified).
(f)(1)	Added.
(2)	Added.
(g)(1)	207.1(g).
(2)	207.1(g).
(3)	Added.
(4)	207.1(h) (1) and (2).
(h)	207.1(i).
(i)(1)	207.1(j)(1).
(i)	207.1(j)(1)(i).
(ii)	207.1(j)(1)(ii).
(2)	Added.
(j)	207.4(c) (Modified).
(k)	207.4(b).
(l)	207.4(g).
(m)	Added.
(n)	207.4(d).
(o)	207.3(a).
(p)	207.3(a).
207.4:	
First sentence	207.1(f)(1).
(a)	Added.

COMPARISON CHART—Continued

Comparison of new with old section numbers—

New	Old
(b)	207.1(f)(3).
207.5:	
(a)(1)	207.4(a).
(2)	207.4(a).
(b)(1)	207.4(a)(2) and 207.1(c).
(2)	207.4(a)(2)(i) and 207.1(c).
207.6:	
(a)	207.5(d).
(1)	207.5(d)(2).
(2)	207.5(d)(8).
(3)	207.5(d)(1).
(4)	207.5(d)(6).
(5)	207.5(d)(5).
(6)	207.5(d)(9).
(7)	207.5(d)(7).
(8)	207.5(d)(3).
(9)	207.5(d)(4).
(b)	207.5(e).
(1)	207.5(e)(2).
(2)	207.5(e)(6).
(3)	207.5(e)(1).
(4)	207.5(e)(4).
(5)	207.5(e)(7).
(6)	207.5(e)(5).
(7)	207.5(e)(3).
(c)	207.2(f)(3).
(1)	207.2(f)(3)(i).
(2)	207.2(f)(3)(ii).
(d)	207.2(f)(4).
(e)	207.2(f)(5).
207.7:	
(a)	207.5(a).
(b)	207.1(l).
(c)	207.5(a).

Board of Governors of the Federal Reserve System, October 17, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-28667 Filed 10-20-83; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 221

Credit by Banks for the Purpose of Purchasing or Carrying Margin Stock; Comparison Chart of Old and New Regulation U Sections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Regulation U comparison chart.

SUMMARY: On July 27, 1983, the Board approved a completely revised and simplified Regulation U. The new regulation is effective as of August 31, 1983. To facilitate an understanding of the new regulation, this chart provides a cross-reference of section numbers in the old Regulation U to their corresponding section numbers in the new regulation and vice versa. This chart will serve as an aid to persons tracing the regulatory treatment of specific issues addressed in Regulation U.

FOR FURTHER INFORMATION CONTACT: Douglas Blass, Attorney, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202) 452-2781.

SUPPLEMENTARY INFORMATION: The following comparison chart is being published as an aid to understanding the completely revised Regulation U.

COMPARISON CHART

Comparison of old with new section numbers—

Old	New
221.1:	
(a)(1)	221.1(b), 221.3(a) and 221.6(b).
(2)	Deleted.
(b)	221.2(f) (partially deleted).
(c)(1)	Deleted.
(2)	Deleted.
(d)	221.3(d)(1).
221.2:	
First sentence	221.5(a) and 221.6 (first sentence).
(a)	221.6 (a) and (b).
(b)	221.6(e).
(c)	221.5(c)(9) (partially deleted)
(d)	221.5(b) and 221.5(c)(8).
(e)	221.5(c)(1).
(f)	221.5(c)(2) and 221.6(f).
(g)	221.5(c)(3) and 221.6(g).
(h)	221.5(c)(4).
(i)	221.6(c).
(j)	221.5(c)(5).
(1)	221.5(c)(5)(i).
(2)	221.5(c)(5)(ii).
(k)	221.5(c)(7).
(l)	221.5(c)(9)(i).
(m)	221.5(c)(9)(ii).
221.3:	
(a)	221.3 (b) and (c) (with modification) and 221.2(f)(2).
(b)(1)	221.2(k).
(2)	221.2(c).
(3)	Deleted.
(c)	221.2(g)(1).
(1)	221.2(g)(2)(i).
(2)	221.2(g)(2)(ii).
(3)	221.2(g)(2) (iii) and (iv).
(d)(1)	221.2(j).
(2)	221.2(j).
(3)	221.7(c).
(i)	221.7(c)(1).
(ii)	221.7(c)(2).
(4)	221.7(d).
(5)	221.7(e).
(e)	221.3(h).
(f)(1)	221.3(i) (1) and (2).
(2)	221.3(i) (1) and (3).
(g)	221.3(g) (with modification)
(h)	221.3(k).
(i)	221.3(j).
(j)	Deleted.
(k)	221.2 (first sentence) and 221.2(b)(2)(iv).
(l)	Deleted.
(m)	221.3(a)(1).
(n)(1)	221.3 (g) and (h).
(2)	Deleted.
(3)	221.3(a)(4) and 221.2(f)(1).
(4)	221.3(i), 221.6(h), 221.5(c)(6) and 221.2(f)(2).
(o)	221.5(c)(10) and 221.2(f)(1).
(p)	Deleted.
(1)	Deleted.
(2)	Deleted.
(3)	Deleted.
(q)	Deleted (see regulation G, 12 CFR 207).
(r)	221.2(h), 221.3(a) and 221.5(a).
(s)	221.5(b) and 221.2(f)(1).
(t)(1)	221.2(h) and 221.3(a).
(2)	221.3(d)(1) and 221.6(a) (partially deleted).
(3)	221.3(a)(2).
(4)	Deleted.
(u)	221.3(a)(3).
(v)(1)	221.2(h)(1).
(2)	221.2(h)(2).
(3)	221.2(h)(3).
(4)	221.2(h)(4).
(5)	221.2(h)(5).
(w)	221.5(c)(11) and 221.2(f)(1) (partially deleted).
(x)	Deleted.
(y)	221.5(c)(12) and 221.2(f)(1) (partially deleted).

VOL 48 ISS 205 OCT 21 1983 UMI

COMPARISON CHART—Continued

Comparison of old with new section numbers—

Old	New
(z)	221.5(c)(13) and 221.2(f)(1) (partially deleted).
221.4:	
(a)	221.8 (a) and (c)
(b)	221.8(a).
(c)	Deleted.
(d)	221.7(a).
(1)	221.7(a)(3).
(2)	221.7(a)(1).
(3)	221.7(a)(8).
(4)	221.7(a)(9).
(5)	221.7(a)(5).
(6)	221.7(a)(4).
(7)	221.7(a)(7).
(8)	221.7(a)(2).
(9)	221.7(a)(6)
(e)	221.7(b).
(1)	221.7(b)(3).
(2)	221.7(b)(1).
(3)	221.7(b)(7).
(4)	221.7(b)(4)
(5)	221.7(b)(6).
(6)	221.7(b)(2).
(7)	221.7(b)(5).
(f)	Deleted.

COMPARISON CHART

Comparison of new with old section numbers

New	Old
221.1:	
(a)	Added
(b)	221.1(a), 221.3 (r) and (t).
221.2:	
(a)(1)	Added.
(2)	Added.
(3)	Added.
(b)(1)	Added.
(2)(i)	Added.
(ii)	Added.
(iii)	Added.
(iv)	221.3(k)
(c)	221.3(b)(2).
(d)(1)	Added.
(2)	221.1(a) and 221.3(s).
(e)	221.3(a).
(f)(1)	221.3(n)(3) (modified).
(2)	221.3(a).
(g)(1)	221.3(c).
(2)(i)	221.3(c)(1).
(ii)	221.3(c)(2)
(iii)	221.3(c)(3).
(iv)	221.3(c)(3).
(h)(1)	221.3(v)(1).
(2)	221.3(v)(2).
(3)	221.3(v)(3) (i) and (ii).
(4)	221.3(v)(4).
(5)	221.3(v)(5).
(i)	221.4 (a), (b) and 221.3(s).
(j)	221.3(d) (1) and (2).
(k)	221.3(b)(1).
221.3:	
(a)(1)	221 1(a), 221.3(m) and 221.3(s).
(2)	221.3(t) (3) and (4) (modified).
(3)	221.3(u).
(b)	221.3(a).
(c)(i)	Added.
(ii)	Added.
(d)(1)	221 1(d) and 221.3(n)(1).
(2)	221.1(d) and 221.3(n)(1).
(3)	Added.
(4)	221.3(n)(3).
(e)	221.3(n)(1).
(f)(1)	221 1(b).
(i)	221.1(b)(1).
(ii)	221.1(b)(1).
(2)	Added.
(g)	221.3(g).
(h)	221.3(e).
(i)(1)	221.3(f)(2).
(2)	221.3(f)(1).
(3)	221.3(f)(2).
(j)	221.3(l) and 221.3(n)(4).
(k)	221.3(h).
221.4:	
(a)	Added.
(b)	Added.
221.5:	
(a)	221.2 (first sentence).
(b)	221.2(e) (modified).

COMPARISON CHART—Continued

Comparison of new with old section numbers—

New	Old
(c)(1)	221.2(e).
(2)	221.2(f).
(3)	221.2(g).
(4)	221.2(h).
(5)	221.2(i).
(i)	221.2(i)(1).
(ii)	221.2(i)(2).
(6)	221.2(c) (modified).
(7)	221.2(k).
(8)	221.2(d).
(9)(i)	221.2(l).
(ii)	221.2(m).
(10)	221.3(o) (modified).
(11)	221.3(w) (modified).
(12)	221.3(y) (modified).
(13)	221.3(z) (modified).
221.6:	
(a)	221.2(a).
(b)	221.2(a).
(c)	221.2(j).
(d)	Added.
(e)	221.2(b).
(f)	221.2(f).
(g)	221.2(g).
(h)	221.3(n)(4).
221.7	
(a)	221.4(d).
(1)	221.4(d)(2).
(2)	221.4(d)(8).
(3)	221.4(d)(1).
(4)	221.4(d)(6).
(5)	221.4(d)(5).
(6)	221.4(d)(3).
(7)	221.4(d)(7).
(8)	221.4(d)(3).
(9)	221.4(d)(4).
(b)	221.4(e).
(1)	221.4(e)(2).
(2)	221.4(e)(6).
(3)	221.4(e)(1).
(4)	221.4(e)(4).
(5)	221.4(e)(7).
(6)	221.4(e)(5).
(7)	221.4(e)(3).
(c)	221.4(d)(3).
(1)	221.3(d)(3)(i)
(2)	221.3(d)(3)(ii).
(d)	221.3(d)(4).
(e)	221.3(d)(5).
221.8:	
(a)	221.4 (a) and (b).
(b)	221.3(s) and 221 1(a).
(c)	221.4(a).

Board of Governors of the Federal Reserve System, October 17, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-28676 Filed 10-20-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM-7; Special Conditions No. 25-ANM-3]

Special Conditions: De Havilland Aircraft of Canada Ltd., Model DHC-8 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.17 of the Federal Aviation Regulations (FAR) to De Havilland Aircraft of Canada Ltd. for a type certificate for the DHC-8 series airplane. The DHC-8 airplane will have novel or unusual design features associated with an automatic takeoff power control system (ATPCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. The ATPCS will allow the airplane to take off with less than maximum takeoff thrust approved for the airplane; and, if an engine fails, the system will automatically provide maximum takeoff thrust on the operating engine. These special conditions contain safety standards which the Administrator finds necessary to establish a level of safety equivalent to that provided by the regulations applicable to the De Havilland DHC-8 series airplane because of the novel or unusual features.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Walker, Regulations and Policy Office, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1980, De Havilland Aircraft of Canada Ltd., Downsview, Ontario, M3K 1Y5, Canada, filed an application for a type certificate to include an ATPCS installation for approval under that type certificate covering the DHC-8 series airplane.

The DHC-8 is a high wing, twin-engine, pressurized transport category airplane having a maximum takeoff weight of 30,500 pounds. The airplane is equipped with two Pratt & Whitney PW-120 turboprop engines, each rated at 2,000 shaft horsepower with 13-foot diameter, 4-bladed, Hamilton-Standard propellers (HS 14SF-1). The airplane has a maximum permissible altitude of 25,000 feet and a passenger capacity of 36 persons.

The design covered under the type certificate is the installation of an ATPCS. Automatic takeoff power control system special conditions issued to date for other airplanes require the ATPCS be designed to permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of power levers. The ATPCS system installed on the engines of the DHC-8 airplane contains an electronic fuel controller (EFC), which provides an automatic fixed speed increment increase in the event of an engine failure during takeoff. In the event of an engine failure, a signal from the ATPCS is transmitted to the EFC which up-trims the operating engine to the approved takeoff power. In the event of an ATPCS failure with engine failure, the crew would be required to advance the power lever to obtain the maximum power.

The type design of the DHC-8 series airplane with the automatic system installed contains a number of novel or unusual design features for which the applicable airworthiness requirements do not contain adequate or appropriate safety standards. Special conditions are necessary to provide a level of safety equal to that generally intended by the established certification basis and to support a finding by the Administrator that no feature or characteristics of the airplane with the automatic system installed makes it unsafe for the category in which certification is requested. These special conditions specify limits on the maximum power increment which may be applied to the operating engines by the ATPCS, prescribe system reliability and status monitoring requirements, require provisions for manual selection of the maximum takeoff power approved for the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of approved maximum takeoff power would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide a clear warning to the crew.

Discussion of Comments

Notice of proposed special conditions No. SC-83-4-NM was published in the **Federal Register** on June 23, 1983 (48 FR 28663). The following comments were received.

One commenter expressed the opinion that the system reliability requirements are too severe and the power setting limits are overly restrictive. As noted in the preamble of the notice of proposed special conditions, the FAA in 1977 initiated development of special conditions for the current turbine-powered transport category airplanes, coordinating the proposals world-wide with all interested groups. This effort was continued until early 1979 when a final version was completed. The same special conditions were subsequently applied to all applicants. The FAA has determined that the special conditions provide the level of safety necessary to satisfy an equivalent safety finding on the issue of trading airplane performance for a calculated ATPCS reliability and to assure a minimum safety standard intended by the applicable regulations. The FAA notes the arguments put forth by this commenter; however, it has been determined that the special conditions, as issued, are necessary for acceptance of a system that automatically increases power or thrust on operating engines when one engine fails during takeoff.

One other comment concerned wording in paragraphs D1 and E2(a) of the proposal about maximum takeoff power versus selected takeoff power as set by the ATPCS. The language in both paragraphs is meant to be the same as the purpose is to obtain the approved maximum power for the day.

Another commenter noted that the applicable amendments to Part 36 of the FAR and Special Federal Aviation Regulations (SFAR) No. 27 which were mentioned in the notice are somewhat different from those established in a meeting with the cognizant Aircraft Certification Office on June 10, 1980. This is true because the latest amendments to Part 36 and SFAR No. 27 on the date of type certification approvals must be complied with, regardless of date of application for a type certificate and/or supplemental type certificate. In this instance, Amendments 36-11 and 36-12 do not affect the applicant's airplane noise requirements. Therefore, this is not considered a burden. However, SFAR No. 27, Amendment 4, and a pending amendment may affect the manufacturer's engine installation.

On commenter questioned the accuracy of the background description of the fuel control operation as outlined in the NPRM. The preamble has been changed to reflect the proper operation of the fuel control and its function relative to the ATPCS.

One commenter pointed out what appears to be an inconsistency in the definition of Critical Time Interval and the associated graph relative to the wording "gross flight path" and § 25.115(b) of the FAR, which refers to "net takeoff flight path." The material was presented in this manner to clarify the application of § 25.115(b) since the effect of this rule is to define the gross and net flight paths. "Actual takeoff flight path" as used in § 25.115(b) is the same as the "gross flight path" defined in the special conditions.

The same commenter stated that use of the word "power" instead of "thrust" penalizes airplane performance. The FAA does not agree with this interpretation since airplane performance and gross takeoff weight allowed are a function of the thrust developed by the propellor and the thrust is affected by the characteristics of the propeller efficiency during takeoff. The takeoff thrust developed and obtained from the propellor when the ATPCS actuates is to be used to determine compliance with applicable regulations and the special conditions.

Type Certification Basis

The proposed type certification basis for the DHC-8 series airplane with the ATPCS installed is Part 25 of the Federal Aviation Regulations (FAR) effective February 1, 1965, as amended by Amendments 25-1 through 25-51; Part 36 of the FAR, including Amendments 36-1 through 36-12; SFAR No. 27 dated December 12, 1973, including Amendments 27-1 through current amendment; and the special conditions for an ATPCS contained herein.

Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis in accordance with § 21.16.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued for the De Havilland DHC-8 series airplane equipped with an automatic takeoff power control system (ATPCS):

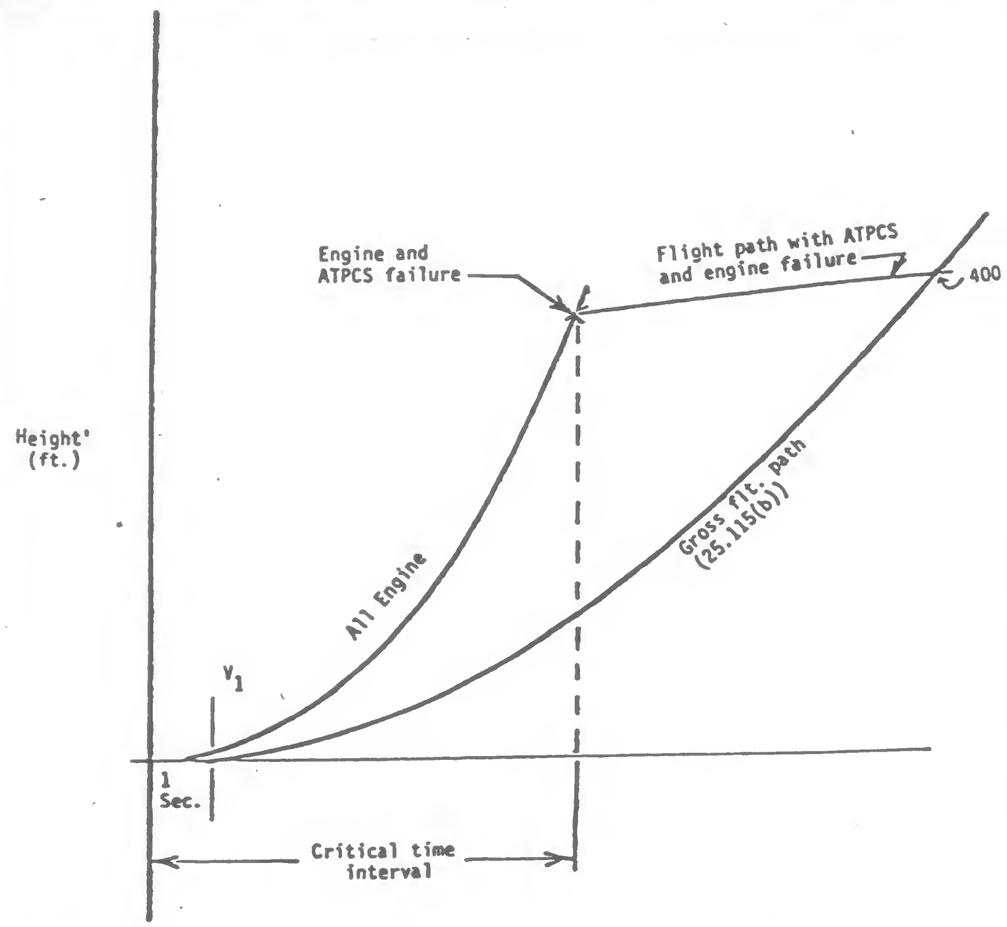
A. *General.* With the ATPCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in these special conditions, must be met without requiring any action by the crew to increase power.

B. *Definitions.*

1. Automatic Takeoff Power Control System (ATPCS). An ATPCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled power increase, and furnish cockpit information on system operation.

2. Critical Time Interval. When conducting an ATPCS takeoff, the critical time interval between V1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous engine and ATPCS failure, the resulting minimum flight path thereafter intersects the Part 25 required gross flight path at no less than 400 feet from the takeoff surface. This definition is shown in the following graph:

VOL 48 ISS 205 OC 21 1983 UMI



3. Takeoff Power. Notwithstanding the definition of "takeoff power" in Part 1 of the Federal Aviation Regulations (FAR), "takeoff power" means the horsepower obtained from each initial power setting approved for takeoff under these special conditions.

C. *Performance Requirements.* The applicant must comply with these performance and reliability requirements:

1. An ATPCS system failure during the critical time interval must be shown to be improbable.

2. The concurrent existence of an ATPCS failure and engine failure during the critical time interval must be shown to be extremely improbable.

3. All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATPCS system functioning.

D. *Power Setting.* The initial takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

1. Ninety (90) percent of the power level set by the ATPCS (the maximum takeoff power approved for the airplane under existing conditions);

2. That required to permit normal operation of all safety-related systems and equipment dependent upon engine power or power level position; or

3. That shown to be free of hazardous engine response characteristics when power is advanced from the initial takeoff power level to the maximum approved takeoff power.

E. *Powerplant Controls.*

1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATPCS system, including associated systems, may cause the failure of any powerplant function necessary for safety.

2. The ATPCS must be designed to:

a. Apply power on the operating engine, following an engine failure during takeoff, to achieve the selected takeoff power without exceeding engine operating limits;

b. Permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of the power lever, except that for aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of power controlled by the power levers in the event of an ATPCS failure, provided the means is located on or forward of the power levers, is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and meets the requirements of § 25.777, paragraphs (a), (b), and (c);

c. Provide a means to verify to the flightcrew prior to takeoff that the ATPCS is in a condition to operate; and

d. Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

F. *Powerplant Instruments.* In addition to the requirements of § 25.1305:

1. A means must be provided to indicate when the ATPCS is in the armed or ready condition; and

2. If the inherent flight characteristics of the airplane do no provide adequate warning that an engine has failed, a warning system that is independent of the ATPCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.28 and 11.29(b))

Note.—This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manfacturer who applied to the FAA for approval of these features on the airplane.

Issued in Seattle, Washington, on October 6, 1983.

Frederick M. Issac,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28683 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NW-62-AD; Amdt. 39-4749]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Airbus Industrie Model A300 series airplanes which requires modification of the ground/flight detection circuit that supplies electrical power to the pitot probe heaters. This action is necessary to prevent the failure of pitot probe heaters which could result in a loss of all airspeed indications.

EFFECTIVE DATE: November 28, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Generale de l'Aviation Civile (DGAC) has declared Airbus Industrie Service Bulletin A300-30-026 as mandatory. One incident has been reported wherein a model A300 airplane experienced a complete loss of the Captain's, First Officer's, and the standby airspeed indicators. This condition lasted for approximately 15 minutes in heavy icing conditions and affected all systems dependent upon airspeed, including pitch trim and autopilot. The problem was determined to have resulted from a failure of the ground/flight detection circuit which provides electrical power to all three pitot probe heaters. In the present configuration, a single failure may result in insufficient electical power to all pitot probe heaters. The service bulletin prescribes a modification to prevent the problem from reoccurring.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the incorporation of a modification to ensure that the pitot probes are properly heated was published in the Federal Register on July 27, 1981 (46 FR 38376).

The comment period closed on August 28, 1981, and interested parties have been afforded an opportunity to participate in the making of this amendment. Only one comment was received and it stated no objection to the proposal.

In the interim, Airbus Industrie issued a new revision to Service Bulletin A300-30-026. The latest revision of the service bulletin introduces minor changes which do not create an additional burden to the operators. The AD will make reference to the latest revision.

The sole operator of U.S. registered Model A300 airplanes has estimated that the total cost impact of this action will be approximately $32,500. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act are affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with the change mentioned above.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to all model A300 series airplanes listed in Airbus Industrie Service Bulletin A300-30-026, certificated in all categories. To prevent loss of all airspeed indications, accomplish the following within the next 1800 flight hours after the effective date of this AD, unless already accomplished:

A. Modify the pitot probe heater in accordance with Airbus Industrie Service Bulletin A300-30-026, Revision 6, dated April, 9, 1982.

VOL 48 ISS 205 OCT 21 1983 UMI

B. Alternate means of compliance which porvide an equivalent level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 28, 1983.

(Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on October 12, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28698 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-55-AD; Amdt. 39-4750]

Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection and rework of the cabin pressure control valve on Boeing 757 and 767 airplanes. During ground testing, two separate types of failures of the valve assembly occurred. This action is necessary because in either case, a similar failure in flight may result in rapid cabin decompression.

EFFECTIVE DATE: November 28, 1983.

ADDRESSES: The applicable service bulletins may be obtained from: Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the address listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2947. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt an airworthiness directive which requires inspection and rework of the cabin pressure control valve on Boeing 757 and 767 airplanes was published in the **Federal Register** on July 11, 1983 (48 FR 31663). This action is necessary to inspect and rework defective outflow valves, as necessary, to minimize the likelihood of outflow valve failures.

The comment period for the NPRM, which ended August 26, 1983, afforded interested persons an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. One industry group, representing operators of Boeing 757 and 767 airplanes, suggested that the compliance period for inspection and rework of the outflow valve be extended from 500 hours time in service to a longer time which would allow for possible delays in obtaining kits from the vendor. A check with the outflow valve supplier indicates that an extension would assure that no delay in compliance would result if the airplane operators placed orders promptly. An increase of the compliance period to 750 hours is appropriate and the rule has been changed accordingly.

In an additional comment, it was noted that the stop striker which can fracture is only subjected to impact when the pressurization is under manual control and is driven to the full open position. Discussions with the airplane manufacturer, however, indicate that this condition can occur while under automatic control. Therefore, the inspection is still considered necessary.

After a careful review of all available data, including the comments above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with a change in the compliance period as previously noted. Approximately 33 U.S. registered airplanes will be affected by this AD. It is estimated that 5 manhours per airplane will be required to complete the procedures required by this AD and that average labor cost is $40 per manhour. Based on these figures, the total cost to U.S. operators is estimated at $6,600. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the regulatory Flexibility Act will be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Acordingly, pursuant to the authority, delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 767 and 757 series airplanes identified in the Boeing Service Bulletins listed in paragraph A., below. To prevent the loss of pressurization control due to failure of the cabin pressure control, accomplish the following within 750 hours time in service after the effective date of this AD, unless already accomplished:

A. Inspect and rework outflow valve actuators per Boeing Service Bulletins 757-21-9 or 767-21-13 dated May 23, 1983, and March 31, 1983, respectively as applicable, or later FAA approved revisions.

B. Rework the outflow valve assemblies per Boeing Service Bulletins 757-21-9 or 767-21-15, Rev. 1, dated May 23, 1983, and March 31, 1983, respectively, as applicable, or later FAA approved revisions.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the service bulletin(s) may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 28, 1983.

(Secs. 313(a), 314(a), and 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)]

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting

the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on October 12, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28694 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CE-7-AD; Amendment 39-4747]

Airworthiness Directives; EMBRAER Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directives (AD) 82-05-01, Amendments 39-4325 and 39-4455, applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. It changes the repetitive inspection interval of the wing flap actuators from 500 hours and 1500 landings or 12 months time-in-service, whichever occurs first. The manufacturer has established that the existing inspection interval can be extended without compromising safety in the operation of the affected airplanes. The revision makes the AD consistent with the manufacturer's current recommendations.

DATES: Effective Date: October 26, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletin No. 110-27-043, Revision 02, dated July 13, 1983, may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343-CEP 12.200, Sao Jose dos Campos—S. P., Brasil. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: George Carver, Systems Branch, ACE-130A, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337, Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: The FAA issued AD 82-05-01, Amendment 39-4325 (47 FR 8155, 8156) applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes which required installation of improved design wing flap actuators on or before September 30, 1982, and imposed continuing special inspection and adjustment procedures on both the improved and replaced actuators. Amendment 39-4455 (47 FR 39135) revised AD 82-05-01 by increasing the 250 hours time-in-service interval for the repetitive inspection to 500 hours time-in-service. Subsequent to the issuance of this amendment, the manufacturer has conducted extensive endurance testing on the improved actuator which substantiates that these inspection intervals could be increased to 1500 landings or 12 months without adversely affecting safety. Accordingly, it issued Revision 02, dated July 13, 1983, to EMBRAER Service Bulletin No. 110-27-043 which updated the time-in-service between recommended inspections for 500 hours to 1500 landings or 12 months, whichever occurs first. Based on the foregoing, the FAA is again revising AD 82-05-01 by changing the repetitive inspection interval specified in paragraph (A) to correspond to the revised Service Bulletin and by referencing said revised Service Bulletin. This revision makes the AD consistent with (1) the existing manufacturer's recommendations on the subject and (2) information available to the FAA subsequent to the issuance of the original AD and revisions. The FAA finds that it will not reduce the levels of safety established by the present AD as revised. Accordingly, since it is in interest of safety and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

List of Subject in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, AD 82-05-01, Amendments 39-4325 (47 FR 8155, 8156) and 39-4455 (47 FR 39135), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

(1) Restate paragraph (A) to read as follows:

"A) Within the next 50 hours time-in-service after March 1, 1982, and thereafter at intervals not to exceed 1500 landings or 12 months time-in-service, whichever occurs first."

(2) Restate subparagraph A)7) to read as follows:

"7. If any of the items inspected in Section 5 and 6 above are not satisfactory, repair or overhaul the actuator in accordance with EEMC, document 27-55-02, or replace, as necessary."

(3) Restate the sentence following paragraph (D) to read as follows:

EMBRAER Service Bulletin No. 110-27-043, Revision 02, dated July 13, 1983, covers the subject matter of this AD."

This amendment becomes effective on October 26, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

Note.—As discussed earlier in the preamble, the FAA has determined that this document involves an amendment which updates existing rulemaking action to make it consistent with current available information on the subject without any reduction in the level of safety in the operation of these airplanes. Further, it does not impose any additional burden on any person. Therefore, (1) it is not a major rule under Executive Order 12291, and (2) it is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on October 11, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-28697 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-89-AD; Amdt. 39-4753]

Airworthiness Directives; DeHavilland Aircraft of Canada, Ltd. Model DHC-7 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directivce (AD) applicable to DeHavilland Aircraft of Canada, Ltd. Model DHC-7 airplanes which requires periodic functional checks of the ground spoiler system. It has been found that a possible dormant failure mode exists which would not be detected by normal flight operations. This condition could lead to uncommanded ground spoiler deployment during flight compromising controllability of the airplane.

EFFECTIVE DATE: November 2, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to DeHavilland Aircraft of Canada, Ltd., Garratt Blvd., Downsview, Ontario M3K 1Y5, Canada, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA,

VOL
48
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Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an airworthiness directive mandating compliance with DeHavilland Aircraft of Canada, Ltd. Alert Service Bulletin A7–27–56.

Investigation has shown that the pilot valve of ground spoiler valve No. 2, introduced by modification No. 7/1732, may fail in the open position. A subsequent failure of the selector valve No. 1 in the open position may result in an uncommanded ground spoiler deployment during flight. The service bulletin prescribes periodic functional checks of the ground spoiler system and corrective action, if needed.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires periodic checks of the ground spoiler system and corrective action, if necessary.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

DeHavilland Aircraft of Canada, Ltd.: Applies to DeHavilland model DHC–7 airplanes, certificated in all categories, which are equipped with ground spoiler valves installed in accordance with DeHavilland modification No. 7/1732. To detect failures of the pilot valve of the ground spoiler valve No. 2, accomplish the following, unless previously accomplished:

A. Within 25 flight hours from the effective date of this AD, perform an operational check of the ground spoiler system, and take appropriate corrective action, if necessary, in accordance with the Accomplishment Instructions of DeHavilland Aircraft of Canada, Ltd., Alert Service Bulletin A7–27–56, dated June 28, 1983.

B. Repeat the functional checks of paragraph A. at intervals not to exceed 800 flight hours.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 2, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of E.O. 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on October 13, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–28689 Filed 10–20–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–NM–34–AD; Amdt. 39–4752]

Airworthiness Directives; AMI Industries, Inc., Seat Model 716 and 865

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires installation of seat frame braces on certain crew seats. This AD is required to preclude seat failure which could result in injuries under forward loading conditions less than those required by TSO–C39.

EFFECTIVE DATE: November 28, 1983.

ADDRESSES: The applicable service information may be obtained from AMI Industries, Inc., P.O. Box 370, Colorado Springs, Colorado 80901. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Denver Aircraft Certification Office, 10455 East 25th Avenue, Suite 307, Aurora, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Woodford R. Boyce, Manager, Denver Aircraft Certification Office, FAA, Northwest Mountain Region, 10455 East 25th Avenue, Suite 307, Aurora, Colorado 80010; telephone (303) 340–5575.

SUPPLEMENTARY INFORMATION: There has been an occurrence in which the crew seats manufactured by AMI Industries failed during a survivable emergency landing in which occupants were injured. Additionally, TSO tests have been conducted verifying failure of the seat frame assembly at loads below the 9g. forward requirement. Investigation revealed that the seat frame assemblies were inadequately heat treated. This condition, if uncorrected, could contribute to additional occupant injury.

The crew seats initially were acquired by Beech Aircraft Corporation for installation on Model 18 series and Model 65/90 series airplanes, but may be installed in other airplanes.

Since this condition is likely to exist in other seats of the same type design, an AD is being issued that requires installation of the seat frame braces on all applicable AMI crew seat Models 716 and 865 in accordance with AMI Service Bulletin No. 25–10–865–01. Accomplishment of this modification will correct the unsafe condition and retain the TSO authorization.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring reinforcement of the crew seat frames was published in the **Federal Register** on May 9, 1983 (48 FR 20727). The comment period closed on June 24, 1983.

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

The costs associated with this AD are estimated to be $140 for each of 1,000 units in service. The total is estimated at $140,000. For these reasons, the AD is not considered to be a major rule under the critieria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

AMI Industries, Inc.: Applies to AMI crew seats Model 716–1, –2, –11, –12, –21 and –22 and Model 865–1 through –9 and –11 typically found on but not limited to Beech Aircraft Corporation Model 18 series and Model 65/90 series airplanes certificated in all categories.

Compliance required within 90 days after the effective date of this AD unless previously accomplished.

To prevent the possible failure of crew seats, reinforce the crew seat frame assembly P/N 865J10005–1 by installation of AMI Industries, Inc. seat frame brace kit P/N 865K90000–1 in accordance with AMI Industries, Inc. Service Bulletin No. 25–10–865–01, dated January 31, 1983.

An alternate means of compliance which provides an equivalent level of safety may be used when approved by the Manager, Denver Aircraft Certification Office, FAA, Northwest Mountain Region.

Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 28, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on October 13, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–28688 Filed 10–20–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–ASW–32]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area and Control Zone; Laredo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and control zone at Laredo, TX. The intended effect of the amendment is to provide controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Laredo International Airport. This amendment is necessary at Laredo, TX, since a review of the designated airspace revealed that the airspace is inadequate for the protection of aircraft and is improperly described.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

On August 23, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 38246) stating that the Federal Aviation Administration proposed to alter the Laredo, TX, transition area and control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70–3A dated January 3, 1983, are amended, effective 0901, G.m.t., January 19, 1984, as follows:

Subpart F, § 71.171

Laredo, TX [Revised]

Within a 5-mile radius of the Laredo International Airport (latitude 27°32'40" N., longitude 99°27'40" W.), that airspace within Mexico being excluded. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Subpart G, § 71.181

Laredo, TX [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Laredo International Airport (latitude 27°32'40" N., longitude 99°27'40" W.); and within 5 miles each side of 003° bearing of the airport, extending from the 8.5-mile radius area to 15 miles north; and within 5 miles each side of the Laredo VORTAC 141° and 328° radials, extending from the 8.5-mile radius area to 10 miles southeast and 20 miles northwest of the VORTAC. That airspace within Mexico is excluded.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on October 14, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83–28690 Filed 10–20–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N–0018]

GRAS Status of Papain

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that papain is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Effective November 21, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1585 effective on November 21, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 21, 1978 (43 FR 31349), FDA published a proposal to affirm that papain is GRAS for use as a direct human food ingredient. FDA published this proposal in accordance with its announced review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, the agency published a tentative final rule in the **Federal Register** of August 31, 1982 (47 FR 38347), in which FDA proposed not to include the levels of use or food categories that appeared in the proposal and to change the specifications for papain. The agency provided an opportunity for public comment on these proposed changes. In addition, the preamble to the tentative final rule contained a discussion of several new studies that had been submitted for the agency's review.

One comment was received in response to the tentative final rule on papain. A trade association of food enzyme manufacturers generally endorsed the conclusions of the tentative final rule.

Therefore, the agency is adopting this final rule with no changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the tentative final rule, the agency has determined that the rule is not a major rule as determined by the Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1585 [Removed]

1. Part 182 is amended by removing § 182.1585 *Papain.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new §184.1585, to read as follows:

§ 184.1585 Papain.

(a) Papain (CAS Reg. No. 9001–73–4) is a proteolytic enzyme derived from *Carica papaya* L. Crude latex containing the enzyme is collected from slashed unripe papaya. The food-grade product is obtained by repeated filtration of the crude latex or an aqueous solution of latex or by precipitation from an aqueous solution of latex. The resulting enzyme preparation may be used in a liquid or dry form.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 107–110, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter; processing aid as defined in § 170.3(o)(24) of this chapter; and texturizer as defined in § 170.3(o)(32) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date: This regulation shall be effective November 21, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 7, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs..

[FR Doc. 83–28655 Filed 10–20–83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 114

Special Deposits

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule document which will provide procedures required to determine final ownership of funds which are on deposit in account 14X6703 "Indian Moneys, Proceeds of Labor Escrow Account—Pending Determination of Ownership." These funds are balances as of September 30, 1982, and interest accrued prior to that date, which have been transferred from account 14X8500 "Indian Moneys, Proceeds of Labor" pursuant to the Interior Department's FY 1982 Supplemental Appropriation Act. These rules will set forth procedures for the final determination of ownership of the funds and their eventual distribution to the rightful individual Indians and/or tribes.

EFFECTIVE DATE: This rule document will become effective November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas A. Stangl, Chief, Division of Program Development and Implementation, Bureau of Indian Affairs, Room 4606, 1951 Constitution Avenue, NW., Washington, D.C. 20245, telephone number (202) 343–2128.

SUPPLEMENTARY INFORMATION: This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

"Indian Moneys, Proceeds of Labor" (IMPL, account 14X8500), are miscellaneous receipts collected by the Bureau of Indian Affairs (BIA) at BIA agencies and schools. Under authority found in 25 U.S.C. 162a, IMPL funds were included as a part of the BIA investment program. Prior to publication of 25 CFR 114 (formerly numbered 25 CFR 103b), interest earned from the investment of "special deposits" was deposited into the IMPL accounts.

Subsequent to publication of 25 CFR Part 114, interest earned on "special deposits" for the period beginning April 1, 1981, has been credited to the particular "special deposit" account on which the interest was earned. These final regulations were developed to prescribe the procedures to be followed to determine ownership of the funds in account 14X8500 "Indian Moneys, Proceeds of Labor" as of September 30, 1982, which represents interest earned on "special deposits" and deposited into the IMPL accounts prior to the period ending March 31, 1981.

The following Acts have been passed leading to these regulations: (1) Pub. L. 97–100, dated December 23, 1981, 95 Stat. 1391 (the Fiscal Year 1982 Interior Department Appropriations Act); and (2) Pub. L. 97–257, dated September 10, 1982, 96 Stat. 83 (the Fiscal Year 1982 Interior Department Supplemental Appropriations Act).

Public Law 97–257 amended Pub. L. 97–100 and directs that: "No funds shall be deposited in such "Indian money, proceeds of labor' (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested * * * and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians), the extent to which the funds held in such escrow accounts represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians * * *." The Act authorizes the utilization of up to 10 percent of the funds transferred for costs of legal or other representation relating to claims for such funds; and up to 2 percent to reimburse the BIA for administrative expenses incurred in determining ownership of the funds. The Act further authorizes the expenditure during the period of October 1, 1985 through September 30, 1987, of the funds remaining in such escrow accounts, "* * * subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained." (The funds may be expended before October 1, 1985 if a Secretarial determination on ownership and appropriate fund transfers have been completed.) The Act finally provides that any unobligated balances in the escrow accounts as of the close of business on September 30, 1987 shall be deposited into miscellaneous receipts of the U.S.Treasury.

These regulations are being published to set forth the procedures governing the determination of ownership and final distribution of funds which were on deposit in account 14X8500 "Indian Moneys, Proceeds of Labor" as of September 30, 1982 (including interest accrued prior to that date) and which have been transferred to account 14X6703 "Indian Moneys, Proceeds of Labor Escrow Account—Pending Determination of Ownership" at the same locations where they are on deposit. Publication of these procedures as final regulations constitutes part of the consultation with interested tribes and individual Indians required by Pub. L. 97–257.

On March 24, 1983 there was published in the **Federal Register** (48 FR 12392) proposed regulations for *Special Deposits.*

Written comments were received from four tribes and one law firm on behalf of the Indian Tribes it represents. All comments timely received with respect to the proposed rules were carefully considered. Most of the comments received addressed Section 114.5, Distribution of the IMPL Escrow Account.

One tribe commented on paragraph (a)(5), Determination of Potential Beneficiaries of Section 114.5, and expressed opposition to the proposed formula for distributing the funds. Their suggestion was that separate and independent audits of the IMPL Escrow Account be conducted at each individual agency to have an equitable distribution of all income earned from investment of special deposits. Conducting full audits at each agency is not required and would be too costly. Therefore, distributions will be made utilizing the formula provided in § 114.5(a)(5). However, if clear documented records exist at agencies to identify specific amounts, then the agencies may use them providing that the records be made available for public review upon request. Paragraph (a) of § 114.5 has been amended to include a new subparagraph (7) which states this.

Comments from another tribe addressed paragraph (b)(4), *Notification of determination of potential beneficiaries* of § 114.5, and expressed concern that the potential owners would be required to complete acceptance forms prior to receiving any funds. Their particular concern was that notifying potential owners would be a difficult task. They suggested that the Superintendent be given the authority to complete acceptance forms on behalf of allottees who could not be contacted. Having the Superintendent sign the acceptance forms for an absentee potential beneficiary would merely establish another account from which funds could not be distributed. The agencies will continue to utilize every means possible (i.e., media, bulletin boards, newspapers, etc.) to notify potential owners.

Another tribe commented on paragraph (f)(2), Distribution of Residual Funds of § 114.5, and requested that the regulations be revised to state that any residual funds remaining after September 30, 1987, be transferred into the appropriate Tribal Treasury account instead of the United States Treasury. This request cannot be honored as the law specifically states that any

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remaining funds will be deposited into the United States Treasury. However, the law does provide authority (specified in the Supplementary Information section) that funds which have not been claimed by potential beneficiaries, may be expended during the period of October 1, 1985, through September 30, 1987, at the locations where such accounts are maintained upon request by the respective governing bodies of the tribes.

Another tribe commented that the funds should be allocated to the same purpose that generated them and should be allocated proportionally to the tribes that generated the funds. The regulations set forth procedures to make a distribution of the present IMPL Escrow Account which will be distributed to the potential beneficiaries on a formula basis. The formula takes into account the relative interest of recipients (tribe or individual) of the principal which earned the interest which was deposited in the IMPL account.

The comments received from a law firm were received after the due date set forth in the proposed regulations. However, the letter was reviewed and acknowledged in paragraph (d)(4), Distribution, of § 114.5. The firm proposed a clarification of the regulations to leave no doubt that it is the tribes and individuals (and not the United States) that may use up to ten percent of their IMPL funds for payment of legal and other related costs. As no change but only a clarification is involved, the words "by the beneficiary" have been inserted in paragraph (d)(4) of § 114.5. The paragraph now reads: "Not more than ten percent (10%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the beneficiary to pay for legal or other representation relating to claims for such funds."

The primary author of this rule is Thomas A. Stangl, Bureau of Indian Affairs, telephone number (202) 343–2128.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and certifies that it does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act. It is estimated that it involves the disposition of less than $20 million which will be distributed among some 200,000 individual Indians, as well as a number of Indian tribes.

This final rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.*

The Department of Interior has determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

List of Subjects in 25 CFR Part 114

Accounting, Indian—business and finance.

Part 114 of Chapter I of Title 25 of the Code of Federal Regulations is hereby revised to reas as follows:

PART 114—SPECIAL DEPOSITS

Sec.

114.1 Purpose and scope.
114.2 Definitions.
114.3 Investment of special deposit funds.
114.4 Payment and distribution of interest on special deposit funds.
114.5 Distribution of IMPL Escrow Account.

Authority: 25 U.S.C. 2; 25 U.S.C. 9; Pub. L. 97–100; and Pub. L. 97–257.

§ 114.1 Purpose and scope.

The purpose of these regulations is to set forth the conditions governing the deposit, investment, and distribution of interest on funds held by the Bureau in special deposits; and to provide procedures required for determination of ownership and distribution of funds which are on deposit in account 14X6703 "Indian Moneys Proceeds of Labor Escrow Account—Pending Determination of Ownership".

§ 114.2 Definitions.

(a) "Agency" means any field office of the Bureau officially designated as an Indian agency and which provides direct services at the local level to Indians and Indian tribes, who are recognized by the Bureau as eligible for federal services to Indians because of their status as Indians.

(b) "Agency IMPL Escrow Account" means that portion of the funds in 14X6703 identifiable to that agency.

(c) "Beneficiary" means a potential beneficiary who has signed an acceptance.

(d) "Bureau" or "BIA" means the Bureau of Indian Affairs, Department of the Interior.

(e) "Claimant" means an individual (or a tribe) who asserts an entitlement to a share of the IMPL Escrow Account but has not been determined as a potential beneficiary.

(f) "IMPL Escrow Account" means account 14X6703, Indian Moneys, Proceeds of Labor Escrow Account—Pending Determination of Beneficiaries, U.S. Treasury.

(g) "Potential Beneficiary" means an individual or tribe determined eligible to share in the IMPL Escrow Account provided a proper acceptance is received on behalf of the individual or tribe involved.

(h) "Principal account" means each separate payment or deposit of money to the Bureau which is held as a special deposit.

(i) "Special deposit" means any suspense account used for the temporary deposit of funds which cannot be credited to specific accounts or readily distributed, including, but not limited to:

(1) Advance deposits;

(2) Advance deposits on other leases and permits for such Indian lands;

(3) Advance payments and advance deposits required on sales of timber and other natural resources from such Indian lands;

(4) Deposits for rights of way over such Indian lands and anticipated right-of-way damages held until such damages are determined; and

(5) Deposits for grazing fees on such Indian lands.

(j) "Special deposit funds" means those funds held in special deposits.

(k) "Superintendent" means the Bureau official in charge of a Bureau agency.

§ 114.3 Investment of special deposit funds.

It is the policy of the Bureau to invest all special deposit funds which have been paid to the Bureau on behalf of Indians or Indian tribes pending the eventual payment for the sale, lease, or other transfer of tribal or individual Indian property and funds which are deposited solely for the purpose of guaranteeing performance.

§ 114.4 Payment and distribution of interest on special deposit funds.

(a) It is the general policy of the Bureau that interest and earnings from the investment of special deposit funds be credited to the principal accounts upon which the interest was earned.

(b) At the time that a withdrawal is made from a special deposit account, the interest earned by the principal account being withdrawn will be computed and withdrawn from the account as a part of the same transaction. The interest earned by the subject principal amount will be computed into two parts:

(1) The portion of interest credited during the prior interest period which was attributable to this principal, and

(2) The portion of interest which has been earned by this principal amount but has not yet been credited to the account because the interest period is not complete. This will be computed by using the month-end balances since the last interest period times the last period's factor.

(c) No interest will be distributed to accounts which have less than the minimum average month-end balances as determined by the Division of Accounting Management. Any such interest not distributed would remain in the undistributed interest account at the Bureau level to be included in determining the next six month interest factor.

§ 114.5 Distribution of IMPL Escrow Account.

(a) *Determination of potential beneficiaries.* Each agency will determine the potential beneficiaries and their respective shares of the IMPL Escrow Account at that agency by the following method:

(1) Identify the unobligated balance in the agency IMPL account as of September 30, 1982, and interest accrued for the period ending September 30, 1982, which has subsequently been transferred into account 14X6703 IMPL Escrow Account Pending Determination of Ownership. This amount will be called the agency IMPL Escrow Account balance.

(2)(i) Identify the length of time which has been required to accumulate actual income into the former IMPL account to equal the current agency IMPL escrow account balance.

(ii) To determine the beginning date for ownership computations, subtract the length of time identified in paragraph (a)(2)(i) of this section from April 1, 1981. (Subsequent to April 1, 1981, interest earned on special deposits has been credited directly to each special deposit account rather than to an IMPL account.)

(3) Examine the Individual Indian Money (IIM) accounts to determine the total dollars transferred to each account from the principal in special deposit accounts during the period identified in paragraph (a)(2) of this section.

(4) Examine tribal treasury account records to determine the total dollars transferred to each tribal trust account from the principal in special deposit accounts during the period identified in paragraph (a)(2) of this section.

(5) Determine the percentage of the principal transferred from special deposit accounts into each IIM and tribal trust account. This is done by dividing the total amount of principal transferred from special deposit accounts into all accounts at the agency into the total computed for each IIM and tribal trust account pursuant to paragraphs (a)(3) and (a)(4) of this section. The formula is as follows:

$$\frac{\text{Dollars transferred into an account}}{\text{Total dollars transferred by agency into all accounts}} = \text{Percent share for that account}$$

(6) Multiply this percentage by the agency IMPL Escrow Account balance to determine each potential beneficiary's share of that balance. Should this determined share be less than ten dollars ($10.00) no transfer of funds will be made.

(7) The formula identified in paragraph (a)(5) of this section will be used in determining potential shares unless there are clear and available records at the agency level to identify specific amounts. If the records are used by the agencies they must be made available for public review upon request.

(b) *Notification of Determination of Potential Beneficiaries.* Upon completion of the determination of all potential beneficiaries of an agency IMPL Escrow Account, the Superintendent shall publish a general notice which shall contain the following:

(1) Brief history of agency IMPL Escrow account;

(2) Explanation of method of determination of potential beneficiaries;

(3) Information on availability of specific data;

(4) Instruction to potential beneficiaries on completion of acceptance forms, explaining that only those who complete the acceptance forms can receive any funds; and

(5) Establishment of deadline date by which potential beneficiaries must complete the acceptance forms to receive the funds. This deadline will be 180 days from the date of the general notice. This general notice shall be published in the usual and customary manner for making public such documents. If such usual and customary publication does not include posting on the agency bulletin board and publication in at least one local newspaper of general distribution, the posting on the bulletin board and local newspaper publication shall be done in addition to the usual and customary manner of publication.

(c) *Acceptance by potential beneficiary.* Before the funds identified in paragraph (a) of this section as transferable to a potential individual or tribal beneficiary can be deposited into that potential beneficiary's account the following must be completed:

(1) The potential beneficiary must sign an acceptance of the determination by the Secretary which shall constitute a complete release and waiver of any and all claims by the potential beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982.

(2) The acceptance must be signed during the 180 days between the date of the general notice provided for in paragraph (b) of this section and the deadline date established therein.

(3) In the case of a potential tribal beneficiary, the acceptance must be accompanied by a resolution of the appropriate tribal entity approving the acceptance and authorizing the designated tribal representative(s) to sign the acceptance. An acceptance on behalf of an estate account may be signed by the Superintendent if the determination of heirs has not become final and may be signed on behalf of individual inherited shares by each heir if the probate determination has become final. An acceptance on behalf of a minor may be signed by a parent, guardian or a person acting *in loco parentis*. An acceptance on behalf of an adult who has been determined legally incompetent or in need of assistance in managing his/her affairs pursuant to 25 CFR 115.9 may be signed by his/her authorized representative.

(d) *Distribution.* (1) After the expiration of the deadline established in paragraph (b) of this section, funds of individual beneficiaries who have completed the acceptance forms will be transferred from the IMPL Escrow Account into each beneficiary's IIM account. Funds derived from beneficiary estate accounts for which the heirs have been determined will be transferred into the heirs' accounts. Funds derived from beneficiary estate accounts for which the heirs have not been determined will be transferred into the estate account.

(2) Interest accrued for any period after October 1, 1982 will be credited to the beneficiary accounts on the same percentage basis as the original share.

(3) After the expiration of the deadline established in paragraph (b) of this section, funds of a tribal beneficiary and interest earned thereon since October 1, 1982 will be transferred into the appropriate tribal treasury account.

(4) Not more than ten percent (10%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the beneficiary to pay for

legal or other representation relating to claims for such funds.

(5) Not more than two percent (2%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the BIA to reimburse the BIA for administrative expenses incurred in determining ownership of the funds.

(e) *Appeals.* (1) Any potential beneficiary or claimant may appeal any decision made or action taken by a Superintendent under this section. Such appeal shall be made in writing and submitted as provided in 25 CFR Part 2.

(2) As provided in Part 2, the appeal must be received within 30 days after receipt of the written notice advising the potential beneficiary of his/her share of the IMPL Escrow account or advising the claimant that no share has been determined for him/her. No appeals will be accepted under this section after September 30, 1985.

(f) *Distribution of residual funds.* (1) After final administrative determination of ownership, including final determination of all appeals, and the completion of all appropriate fund transfers, but not later than October 1, 1985, any funds remaining in an agency IMPL escrow account may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the governing body(s) of the tribe(s) at the location(s) where such agency IMPL escrow account is maintained. This authority to expend the escrow account funds ends September 30, 1987.

(2) The unobligated balances of all IMPL escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the U.S. Treasury.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-28671 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-155; Ref: Notice No. 411]

Chalk Hill Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury (ATF).

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Sonoma County, California, approximately eight miles north of Santa Rosa, to be known as "Chalk Hill." This final rule results from a petition originally submitted by seven wine/grape industry members in the area for the name "Sonoma Chalk Hill." ATF believes that the establishment of this viticultural area and the subsequent use of the name "Chalk Hill" as an appellation of origin in wine labeling and advertising will allow wineries to designate more precisely the area in which the grapes used in the production of wines were grown and will enable consumers to identify more clearly wines offered at retail.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in Part 4 of Title 27, Code of Federal Regulations. These regulations provide recognition of definite viticultural areas within the United States and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 6692) which amended Title 27, Code of Federal Regulations, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used as appellations of origin on wine labels and in wine advertisements.

Section 4.25a(e)(1) of Title 27, Code of Federal Regulations, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. In accordance with the procedure prescribed in 27 CFR 4.25a(e)(2) for proposing a viticultural area, a petitioner must submit:

(a) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the application;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the application,

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) The specific boundaries of the viticultural area, based on features which can be found on U.S.G.S. maps of the largest applicable scale; and,

(e) Copies of the appropriate maps with the boundaries prominently marked.

After evaluation of the petition, ATF published in the **Federal Register** of May 12, 1982, a notice of proposed rulemaking (Notice No. 411, 47 FR 20321) concerning the establishment of this viticultural area and solicited written comments from the public.

Comments

ATF received four written comments in response to the notice of proposed rulemaking. One comment was generally supportive of designating "Chalk Hill" as a viticultural area. Three comments favored extension of the boundary of the proposed viticultural area. One of these three comments, a comment bearing the signatures of eight local wine/grape industry members, six of whom had been signators to the original petition, was submitted as an " amended petition" to include the premises of two bonded wineries as well as additional acreage devoted to grape growing.

Sonoma-Cutrer Vineyards submitted the fourth comment which was a request for extension of the southwestern portion of the boundary to include 300 acres of vineyards. In conjuction with this request, ATF received a letter of agreement signed by seven of the eight signators to the "amended petition."

The commenters were supportive of ATF's proposal to delete the county name "Sonoma" from the originally proposed appellation "Sonoma Chalk Hill." The comment submitted by six of the seven original petitioners stated that the primary purpose for including the name of the county in the viticultural area was to inform consumers that the Chalk Hill area is in Sonoma County. However, the commenters agreed with ATF that this information can be conveyed by placing "Sonoma County" elsewhere on the label.

Name

The area within the boundary of the proposed viticultural area is known locally as "Chalk Hill" and takes its name from the hill of the same name located within the proposed area. Cultivation of grapes in Sonoma County began in 1824. By 1855, grapes were being cultivated at Windsor, the principal town closest to the proposed area. By the mid-1890's there were a half dozen wineries located in the Windsor area and 43 vineyards. Since 1978, the name "Chalk Hill" has appeared on the labels of wines produced by a winery in the Windsor area.

Boundary

ATF noted in the notice of proposed rulemaking that the originally proposed boundary line, depicted in § 9.52(c)(9) and (10) in the notice, overlapped into the proposed Alexander Valley viticultural area. In addition, the proposed Russian River Valley viticultural area encompasses all of the proposed Chalk Hill area except for that area which overlaps into the Alexander Valley viticultural area. In the notice of proposed rulemaking, ATF had requested specific comment. In light of the fact that no commenter addressed this question, ATF concludes that the overlapping of boundaries does not present an issue. In consideration of the comments received from wine/grape industry members, ATF has amended in this final rule the boundary proposed in the notice of proposed rulemaking to include the additional wineries and grape growing acreage.

The viticultural area comprises approximately 33 square miles and is located in Sonoma County eight miles north of Santa Rosa. There are approximately 1,600 acres of producing vineyards and four bonded wineries within the boundary of the area.

The boundary of the proposed Chalk Hill viticultural area may be found on two U.S.G.S. 7.5 minute series (topographic) maps, the Mark West Springs Quadrangle and the Healdsburg Quadrangle.

The boundary, as approved by ATF, is described in new section 9.52.

Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2)(iii), a viticultural area should possess geographical features which distinguish its viticultural features from the surrounding areas. ATF has determined that the proposed area is distinguished from the surrounding areas on the bases of climate, soil type, and other geographical features.

The proposed area is distinguished by a micro-climate with a marine influence. Based on the University of California's heat summation scale, temperatures range from Region I, less than 2,500 degree days, to Region II, 2,501 to 3,000 degree days. Most of the area's vineyards lie within a zone comprised of thermal belts which provide protection from damaging spring frosts.

The climate of the proposed area is influenced by the location of Mount St. Helena in relation to the mouth of the Russian River and San Pablo Bay. The atmospheric conditions created by the relationship of these physical features results in a "September" vineyard area. This means that the harvests are usually completed by the end of September even for late-ripening grape varieties which are not normally harvested until October in surrounding areas. The proposed area is warmer than the greater Russian River Valley and cooler than Alexander Valley and Dry Creek Valley.

The average annual rainfall in the proposed area is approximately 36 inches, almost all of which occurs between November 1 and March 31.

The proposed Chalk Hill area is different from the surrounding areas of Alexander Valley, Dry Creek Valley and the Russian River Valley. The vineyards of the Chalk Hill area are planted on lands which are gently rolling to steep and can be described as bench-lands, table-lands and hills. Many vineyards planted on the steeper slopes are contoured and terraced.

The proposed area is distinguished by "white" soil, i.e., volcanic ash. The soils range from sandy to silt loam, clay and quartzite and are high in volcanic ash deposited as a result of the volcanic activity of Mount St. Helena. The vineyards in the area are planted in soils which are deep but lower in fertility than the soils in surrounding areas. This "white" soil contributes to the high quality of the fruit produced by those vineyards.

The elevation of over 90% of the land in the proposed area ranges from 200 feet to about 1,330 feet compared with elevations on the floor of the Russian River Valley of only 100 feet. The predominant vineyard plantings in the area, however, are at elevations ranging from 200 feet to 800 feet.

Miscellaneous

ATF does not wish to give the impression by approving the Chalk Hill viticultural area that it is approving or endorsing the quality of the wine produced in this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. ATF's approval of the area will allow wine producers to claim a distinction on labels and advertisements as to the origin of grapes used in the production of wine. Any commerical advantage gained can only come from consumer acceptance of Chalk Hill wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small wineries. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

The Bureau has determined that this final rule is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Drafting Information

The principal author of this document is Michael J. Breen, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), the Director is amending Title 27, Code of Federal Regulations, Part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in Subpart C is amended by adding the heading of § 9.52 as follows:

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Subpart C—Approved American Viticultural Areas

Sec.

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9.52 Chalk Hill

Par. 2. Subpart C is amended by adding § 9.52 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.52 Chalk Hill.

(a) *Name.* The name of the viticultural area described in this section is "Chalk Hill."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Chalk Hill viticultural area are the U.S.G.S. topographic maps titled:

"Mark West Springs Quadrangle, California", 7.5 minute series, 1958; and,

"Healdsburg Quadrangle, California", 7.5 minute series, 1955 (Photorevised 1980).

(c) *Boundary.* The Chalk Hill viticultural area is located near the town of Windsor in Sonoma County, California. From the beginning point on the south line of Section 2, Township 8 North (T. 8 N.), Range 9 West (R. 9 W.) at the intersection of Arata Lane and Redwood Highway (a.k.a. Old Highway 101), on the "Healdsburg Quadrangle" map, the boundary proceeds—

(1) Southeasterly along Redwood Highway through Section 11, T. 8 N., R. 9 W., to the point of intersection with Windsor River Road;

(2) Then westerly along Windsor River Road on the south boundary of Section 11, T. 8 N., R. 9 W., to the point of intersection with Starr Road;

(3) The southerly along Starr Road to the point of intersection with the south line of Section 14, T. 8 N., R. 9 W.;

(4) Then easterly along the south line of Sections 14 and 13, T. 8 N., R. 9 W. and Section 18, T. 8 N., R. 8 W., to the point of intersection with the Redwood Highway;

(5) Then southeasterly along the Redwood Highway to the intersection with an unnamed road that intersects the Redwood Highway at a right angle from the northeast near the southwest corner of Section 28 near Mark West Creek, T. 8 N., R. 8 W.;

(6) Then northeast approximately 500 feet along the unnamed road to its intersection with the Pacific Gas and Electric power transmission line;

(7) Then northeast approximately 1,000 feet along the power transmission line (parelleling the unnamed road) to the point where the power transmission line turns in a northerly direction;

(8) Then in a northerly direction along the power transmission line to the point of its intersection with the south line of Section 17, T. 8 N., R. 8 W.;

(9) Then east along the south line of Sections 17, 16 and 15, T. 8 N., R. 8 W. to the point of intersection with Mark West Road on the "Mark West Quadrangle Map";

(10) Then northerly for approximately 1.3 miles along Mark West Road (which becomes Porter Creek Road), then northeasterly for approximately 1.7 miles on Porter Creek Road to its intersection with the unnamed medium duty road that parallels Porter Creek in Section 12, T. 8 N., R. 8 W.; then northeasterly on the Franz Valley Road over the Tarwater Grade and continuing along the Franz Valley Road for approximately 3 miles to its intersection with Franz Creek (approximately 2,000 feet west of the range line common to R. 7 W. and R. 8 W. in T. 9 N. and approximately 1,150 feet north of the north line of Section 25, T. 9 N., R. 8 W.);

(11) Then westerly along Franz Creek to its point of intersection with the east line of Section 21, T. 9 N., R. 8 W.;

(12) Then southerly along the east line of section 21 to the southeast corner thereof;

(13) Then westerly along the south line of Section 21 to the point of intersection with longitude line 122 degrees 45 minutes, near Bell Mountain;

(14) Then southwesterly in a straight line on the "Healdsburg Quadrangle" map to the point at the center of a hill identified as "Chalk Hill";

(15) Then west-northwesterly in a straight line to the confluence of Brooks Creek and the Russian River;

(16) Then westerly along the Russian River to the point of intersection with the range line common to R. 8 W. and R. 9 W. in T. 9 N.;

(17) Then southwesterly in a straight line to the point of a hill identified as having an elevation of 737 feet;

(18) Then south-southwesterly in a straight line to the point at the easterly terminus of Reiman Road;

(19) Then southwesterly in a straight line to the point at the intersection of the township line common to T. 8 N. and T. 9 N. in R. 9 W. and the frontage road (a.k.a. Los Amigos Road) for U.S. Highway 101;

(20) Then west approximately 3,000 feet along the township line common to T. 8 N. and T. 9 N. in R. 9 W.;

(21) Then southerly for approximately 2,000 feet in a straight line to the point of intersection with an unnamed stream drainage;

(22) Then east in a straight line to the point of intersection with Eastside Road;

(23) Then northeasterly along Eastside Road to the point of intersection with Redwood Highway;

(24) Then southeasterly along Redwood Highway to the point of beginning.

Signed: September 23, 1983.

Stephen E. Higgins,

Director.

Approved: October 13, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations)

[FR Doc. 83-28768 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-159; Re: Notice No. 450]

Russian River Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Sonoma County, California, to be known as the "Russian River Valley." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "Russian River Valley" as a viticultural area and subsequent use as an appellation of origin on wine labels and in wine advertisement will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they may purchase.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing the establishment of definite American viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

ATF received a petition from "The Appellation Committee" proposing a large area of approximately 150 square miles located in Sonoma County, California, as a viticultural area to be known as "Russian River Valley." In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 450, in the **Federal Register** on February 4, 1983 (48 FR 5280), on the establishment of Russian River Valley as a viticultural area. Only one comment was received and it favored the Russian River viticultural area.

Historical and Current Evidence of the Name

In a "History of Sonoma County, California," published in 1880, mention is made of the four "great valleys" comprising Sonoma, Petaluma, Santa Rosa, and the Russian River. The use of the name "Russian River Valley" on wine labels began in 1970 and is now used by four wineries in the viticultural area.

Geographical Features

The Russian River viticultural area includes those areas through which flow the Russian River or some of its tributaries and where there is a significant climate effect from coastal fogs. The specific growing climate is the principal distinctive characteristic of the Russian River Valley viticultural area. The area designated is a cool growing coastal area because of fog intruding up the Russian River and its tributaries during the early morning hours. The results of these coastal fog intrusions give growing temperatures that are normally Region I or cooler. This area therefore is distinguished from the warmer neighboring valleys such as Dry Creek Valley, Alexander Valley and Sonoma Valley.

The petitioner submitted detailed information on how the climate in the Russian River Valley viticultural area is different from surrounding areas. The data was mostly compiled by the Office of the Sonoma County Farm Adviser. The neighboring Alexander Valley is termed "coastal warm" with a range of accumulated heat units between 2800 and 3500 as calculated according to the Winkler and Amerine formula for degree days. The Russian River Valley viticultural area is termed "coastal cool" with a range of 2000 and 2800 accumulated heat units.

Change in the Boundary

F. Korbel and Bros, a winery in Guerneville, California, requested an extension in the Russian River Valley viticultural area boundary to the west of Guerneville to include their 105 acre vineyard inadvertently excluded from the original petition. Korbel stated the geographical features described for the Russian River Valley are the same for their 105 acre vineyard. ATF has accepted this minor extension requested by F. Korbel and Bros. and the boundary description in 27 CFR 9.66 reflects this change.

Miscellaneous

ATF does not wish to give the impression by approving Russian River Valley as a viticultural area that it is approving or endorsing the quality of the wine from the area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Russian River Valley wines.

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not expected to apply to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Rm. 4405, Office of Public Affairs and Disclosure, 12th and Pennsylvania Ave. NW, Washington, DC.

Drafting Information

The principal author of this document is Janes A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, and Wine.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to include the title of § 9.66 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.66 Russian River Valley.

Par. 2. Subpart C is amended by adding § 9.66 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.66 Russian River Valley.

(a) *Name.* The name of the viticultural area described in this section is "Russian River Valley."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Russian River Valley viticultural area are the 1954 U.S.G.S. 7.5 minute series maps titled:

"Healdsburg Quadrangle, California"
"Guerneville Quadrangle, California"
"Cazadero Quadrangle, California"
"Duncans Mills Quadrangle, California"
"Camp Meeker Quadrangle, California"
"Valley Ford Quadrangle, California"
"Sebastopol Quadrangle, California"
"Santa Rosa Quadrangle, California"
"Mark West Springs Quadrangle, California"
"Jimtown Quadrangle, California"

VOL
48
ISS
2
0
5
OC
21
1983
UMI

(c) *Boundaries.* The Russian River Valley viticultural area is located in Sonoma County, California.

(1) *Starting point Healdsburg map*—Healdsburg Avenue Bridge over the Russian River at Healdsburg. Proceed south along Russian River to where Foreman Lane meets the river at mouth of Dry Creek.

(2) Proceed west along Foreman Lane to where it crosses Westside Road and becomes Felta School Road.

(3) Proceed west on Felta School Road to the point where it crosses Felta Creek.

(4) Proceed 18000' up Felta Creek to its headwaters as shown on the *Guerneville, map* as "Springs."

(5) Proceed southwest in a straight line 58 degrees W 27000' to an intersection with Hulbert Creek on the Cazadero map.

(6) Proceed south and southeast along Hulbert Creek to the point where it intersects California Hwy 116 on the Duncan Mills map.

(7) Proceed west along California Hwy 116 to Monte Rio where it intersects the Bohemian Hwy.

(8) Proceed south along the Bohemian Hwy onto the *Camp Meeker map* and then the *Valley Ford map* to the town of Freestone where it intersects the Bodega Road.

(9) Proceed east along the Bodega Road onto the *Sebastopol map* to the city of Sebastopol where it becomes California Hwy 12 then along California Hwy 12 to its intersection with Wright Road.

(10) Proceed north along Wright Road to where it becomes Fulton Road and into the town Fulton to where in intersects River Road.

(11) Proceed east along River Road to its intersection with Mark West Springs Road.

(12) Proceed north east along Mark West Springs Road through the *Santa Rosa map* and onto the *Mark West map* to where it becomes Porter Creek Road and onto its intersection with Franz Valley Road.

(13) Proceed north along Franz Valley Road to the northerly most crossing of Franz Creek.

(14) Proceed west along Franz Creek until it intersects the line separating Section 21 and Section 22.

(15) Proceed south on this line separating Section 21 and 22 to the corner common to Section 21 and 22 and Section 27 and 28.

(16) Proceed west from the common corner of Section 21 and 22 and 27 and 28 and in a straight line to the peak of Chalk Hill on the *Healdsburg map.*

(17) Proceed west from the peak of Chalk Hill in a straight line to the point where Brooks Creek joins the Russian River.

(18) Proceed north west in a straight line 8000' to a peak marked 772' elv. on the *Jimtown map.*

(19) Proceed north west in a straight line from hill top 772' elv. to hill top 596' elv.

(20) Proceed north west in a straight line from hill top 596' elv. to hill top 516' elv.

(21) Proceed north west in a straight line from hill top 516' elv. to hill top 530' elv.

(22) Proceed west in a straight line from hill top 530' elv. to hill top 447' elv.

(23) Proceed west in a straight line from hill top 447' elv. to the point where Alexander Valley Road meets Healdsburg Avenue.

(24) Proceed south along Healdsburg Avenue through the city of Healdsburg on the *Healdsburg map* to the point where it crosses the Russian River at the point of beginning.

Signed: September 23, 1983.

Stephen E. Higgins,

Director.

Approved: October 13, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-28765 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T. D. ATF-158; Ref: Notice No. 454]

Knights Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule. Treasury decision.

SUMMARY: This final rule establishes a viticultural area in northeastern Sonoma County, California, to be known as "Knights Valley." This final rule is the result of a petition submitted by the Knights Valley Wine-Growers Committee, an organization of grape-wine industry members in the viticultural area. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes that the establishment of this viticultural area and the subsequent use of the name "Knights Valley" as an appellation of origin will allow wineries to designate precisely the area in which the grapes are grown and will enable consumers to identify more clearly and to differentiate between wines offered commercially.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in Part 4 of Title 27, Code of Federal Regulations. These regulations provide recognition of definite viticultural areas within the United States and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which amended Title 27, Code of Federal Regulations, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used as appellations of origin on wine labels and in wine advertisements.

Section 4.25a(e)(1) of Title 27, Code of Federal Regulations, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. In accordance with the procedure prescribed in 27 CFR 4.25a(e)(2) for proposing a viticultural area, a petitioner must submit:

(a) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the application;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the application;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) The specific boundaries of the viticultural area, based on features which can be found on U.S.G.S. maps of the largest applicable scale; and,

(e) Copies of the appropriate maps with the boundaries prominently marked.

The Knights Valley Wine-Growers Committee, an organization of grape/wine industry members, filed a petition, signed by 16 persons, to establish a viticultural area in northeastern Sonoma County, California, under the name "Knights Valley." In response to the petition, ATF published in the Federal Register of February 9, 1983, a notice of proposed rulemaking (Notice No. 454, 48 FR 5961) concerning the establishment of this viticultural area and solicited written comments from the public.

Comments

In response to the notice of proposed rulemaking, Johnson Turnball Vineyards, a bonded winery in Oakville, California, submitted a comment supporting the establishment of the viticultural area as proposed in the notice.

ATF received no other comment and no information from any source indicating opposition to the establishment of the "Knights Valley" viticultural area as proposed in the notice.

Name

The land area encompassed by the boundary of the "Knights Valley" viticultural area consists of a valley known and indentified on maps as Knights Valley.

Boundary

The viticultural area is located entirely within Sonoma County, California, between the Alexander Valley and the Napa Valley. The northernmost section of the boundary line runs slightly to the north of Pine Mountain; the southernmost section of the boundary line borders the petrified forest area immediately to the north of Porter Creek. The Sonoma County line bordering Lake County and Napa County forms the eastern section of the boundary of the viticultural area. The westernmost section of the boundary line abuts the proposed boundaries for the "Alexander Valley" and "Chalk Hill" viticultural areas. The land area encompassed by the boundary of the "Knights Valley" viticultural area consists of a valley known as Knights Valley and an area known as Franz Valley and the hillsides immediately surrounding and to the north of these areas. According to evidence submitted by the petitioners, the area called Franz Valley is not a valley, the name being a misnomer, since no clear separation exists between this area and the Knights Valley. The central valley area is approximately 5.3 miles long and 1.8 miles wide at the widest point. The areas immediately surrounding and to the north of the valley area form the upland areas. The viticultural area encompasses approximately 36,240 acres or 57 square miles.

There are currently over 1,000 acres devoted to viticulture in the proposed viticultural area. This acreage is situated primarily in the valley area with some acreage in the upland areas being developed into producing vineyards. Presently, there are no wineries established in the viticultural area although there were at least five wineries in operation in Knights Valley prior to the era of National Prohibition.

The boundary of the viticultural area may be found on four (4) U.S.G.S. quadrangle maps, 7.5 minute series (topographic), scale 1:24,000—Mount St. Helena, Jimtown, Mark West Springs, and Detert Reservoir. The boundary of the viticultural area is specified in the regulation portion of this document at § 9.76(c).

Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2)(iii), a viticultural area should possess geographical features which distinguish its viticultural features from surrounding areas. ATF has determined that the proposed area is distinguished from the surrounding areas on the bases of elevation, soil, climate, and other geographical features.

The proposed viticultural area ranges in elevation from 360 feet to slightly over 4,300 feet. The valley area encompasses ranges in elevation from 360 feet to 600 feet. The upland areas contain fairly rugged peaks that are over 3,500 feet in elevation, e.g., Pine Mountain—3,614 feet, Red Hill—3,527 feet, and Mount St. Helena—4,343 feet. The areas currently used for grape production are consistently higher in elevation than the grape-growing areas in the adjacent Alexander Valley, Chalk Hill, Russian River Valley, and Napa Valley areas. The differences in elevation between this area and the surrounding areas will become significantly more evident when the many hill "islands" and peninsulas in the upper elevations capable of quality grape production are fully developed into producing vineyards.

The soils in the valley and mountainous upland areas of the proposed viticultural area are distinct from each other. This is due to the different parent material from which the soils were formed, i.e., alluvial in the valley and indurated rock in the uplands. The valley soils are derived from parent material of a relatively young geologic age, while the upland soils are derived from older parent material. The upland soils in the areas north and south of the valley area are derived from different types of parent material. The soils in the northen area are derived from "Franciscan Formation" parent material laid down in the Jura-Cretaceous period, while the soils in the southern area are derived from parent material known as "Sonoma Volcanics" laid down in the late Pliocene to early Pleistocene epoch. The contrast in soils derived from these parent materials allows for an easy distinction between the valley area and the northern and southern upland areas.

Adjacent areas are also characterized by soils derived from alluvial material and indurated rock. However, there are differences in the parent materials from which the soils were formed. The Napa Valley area to the southeast is primarily surrounded by uplands with soils derived from "Pleistocene Volcanic" formations whereas the Alexander and Dry Creek areas to the northwest are surrounded by uplands with soils derived from both "Franciscan Formation" and "Dry Creek Conglomerate" parent materials.

The valley soils in the proposed viticultural area are primarily of the Yolo-Cortina-Pleasanton association. The soils in the northern and southern upland areas are primarily of the Yorkville-Suther and Goulding-Toomes-Guenoc associations, respectively. However, the eastern portion of these areas, along the Sonoma County line, is characterized by soils of the Kidd-Forward-Cohasset association. Much of the Dry Creek and Alexander Valley areas are characterized by the same type of soil associations; however, the soils adjacent to the Russian River in the Alexander Valley area are deep, fertile soils not generally represented in the proposed viticultural area. The Sonoma Valley which lies to the south along the eastern Sonoma County line and the Napa Valley viticultural area are also characterized by highly fertile soils. The soils used for grape production in the proposed viticultural area are generally characterized by low fertility; many are rocky and gravelly and others exhibit a low pH.

The climate in the proposed viticultural area is typically Mediterranean, i.e., characterized by warm, dry summers and mild, cool, moist winters. The climate is moderated by the proximity of the viticultural area to the Pacific Ocean, isolation from large valleys and low mountain elevation.

The valley area has an average annual rainfall of 44 inches, temperature of 58-60 degrees F., and a frostfree season of 220-270 days. The upland areas are generally wetter, cooler, and have shorter frostfree seasons than the valley area. Rainfall in the valley area is similar, but slightly higher than the Alexander Valley area. The Sonoma Valley area and portions of the Napa Valley area receive significantly less rainfall.

The proposed viticultural area exemplifies the general temperature trend of Sonoma County, i.e., rising from south to north. Temperatures in the valley area are similar to those in the

VOL
48
ISS
205
OC
21
1983
UMI

lower portion of the Alexander Valley area, but average slightly less due to the higher elevation. The growing season is usually shorter than the growing season in adjacent viticultural areas.

Under the climatic region concept developed by Amerine and Winkler, the proposed viticultural area is classified as Region III, i.e., the sum of the mean daily temperature above 50 degrees F., expressed in temperature-time values of degree days for each day in the period April–October of any given year, is generally 3,001–3,500 for the proposed viticultural area. The northern portions of the Napa Valley and Alexander Valley areas are also classified as Region III, while the Chalk Hill (Russian River Valley), area is classified as Region II, i.e., 2,500–3,000 degree days.

In the notice of proposed rulemaking, ATF has questioned whether the proposed boundaries are the most appropriate. Since a relatively high percentage of the acreage proposed for the viticultural area is either unsuitable for planting or currently used for purposes other than viticulture, ATF expressed the concern that a boundary based primarily on watershed criteria may be inappropriate for portions of the viticultural area, e.g., the northern upland area. Since no comments were received regarding this issue, ATF has established the boundary line as proposed by the petitioners.

Miscellaneous

ATF does not wish to give the impression by approving the Knights Valley viticultural area that it is approving or endorsing the quality of the wines produced in this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. ATF's approval of the area will allow wine producers to claim a distinction on labels and in advertisements as to the origin of the grapes used in the production of wine. Any commercial advantage gained can only come from consumer acceptance of Knights Valley wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

The Bureau has determined that this final rule is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect of the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementary regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Michael J. Breen, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director is amending Title 27, Code of Federal Regulations, Part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in Subpart C is amended by adding the heading of § 9.76 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.76 Knights Valley.

Par. 2. Subpart C is amended by adding § 9.76. As added, § 9.76 reads as follows:

Subpart C—Approved American Viticultural Areas

§ 9.76 Knights Valley.

(a) *Name.* The name of the viticultural area described in this section is "Knights Valley."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Knights Valley viticultural area are four U.S.G.S. maps. They are—

(1) "Mount St. Helena Quadrangle, California," 7.5 minute series, 1959 (Photoinspected 1973);

(2) "Jimtown Quadrangle, California," 7.5 minute series, 1955 (Photorevised 1975);

(3) "Mark West Springs Quadrangle, California," 7.5 minute series, 1958; and

(4) "Detert Reservoir Quadrangle, California," 7.5 minute series, 1958 (Photorevised 1980).

(c) *Boundary.* The Knights Valley viticultural area is located in northeastern Sonoma County, California. From the beginning point lying at the intersection of the Sonoma/Lake County line and the north line of Section 11, Township 10 North (T. 10 N.), Range 8 West (R. 8 W.) on the "Mount St. Helena Quadrangle" map, the boundary runs—

(1) Westerly along the north line of Sections 11, 10, and 9, T. 10 N., R. 8 W. to the northwest corner of Section 9 on the "Jimtown Quadrangle" map;

(2) Then southerly along the west line of Sections 9, 16, 21, 28, and 33, T. 10 N., R. 8 W., continuing along the west line of Section 4, T. 9 N., R. 8 W. to the southwest corner thereof;

(3) Then easterly along the south line of Section 4 to the southeast corner thereof on the "Mount St. Helena Quadrangle" map;

(4) Then southerly along the west line of Sections 10, 15, and 22, T. 9 N., R. 8 W. to the point of intersection with Franz Creek in Section 22 on the "Mark West Springs Quadrangle" map;

(5) Then easterly along Franz Creek approximately 14,000 feet to the centerline of Franz Valley Road;

(6) Then southerly along the centerline of Franz Valley Road to the point of intersection with the west line of Section 6, T. 8 N., R. 7 W.;

(7) Then southerly along the west line of Section 6 to the southwest corner thereof;

(8) Then easterly along the south line of Sections 6, 5, and 4, T. 8 N., R. 7 W. to the southeast corner of Section 4;

(9) Then northerly along the east line of Section 4 to the point of intersection with the Sonoma/Napa County line;

(10) Then northerly along the meanders of the Sonoma/Napa County line on the "Mark West Springs Quadrangle," "Detert Reservoir Quadrangle," and "Mount St. Helena Quadrangle" maps to the point of intersection with the Lake County line on the "Mount St. Helena Quadrangle" map;

(11) Then northerly along the meanders of the Sonoma/Lake County line on the "Mount St. Helena Quadrangle" and "Detert Reservoir Quadrangle" maps to the point of beginning.

Signed: October 3, 1983.

W. T. Drake,

Acting Director.

Approved: October 13, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-28764 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[T.D. ATF-156; Ref: Notice No. 460]

Lake Erie Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in the States of New York, Pennsylvania, and Ohio to be known as "Lake Erie." The Bureau of Alcohol, Tobacco and Firearms, (ATF) believes the establishment of Lake Erie as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate where their wines come from and will enable consumers to better identify the wines from this area.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–566–7531).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. William A. Gulvin, Secretary of the Ad Hoc Committee for the Lake Erie viticultural area, petitioned ATF to establish a viticultural area in the States of New York, Pennsylvania, and Ohio to be known as "Lake Erie." In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 460, in the **Federal Register** on April 4, 1983 (48 FR 14390), proposing the establishment of the Lake Erie viticultural area.

Comments

Three comments were received during the comment period. One was from the Governor of the State of Ohio. The other two comments were from the Director of the Ohio Department of Natural Resources and the Director of the Ohio Department of Development. All three commenters stated that they fully support the Lake Erie viticultural area petition. ATF has received no information from any source indicating opposition to the petition.

General Information

The Lake Erie viticultural area has a 150 year history of grape growing and winemaking according to Leon D. Adams in his book *The Wines of America* (1978). Trial and error over the years has proven viticulture, in areas bordering the Lake Erie area, to be generally uneconomical.

The petition and attached documents show that the Lake Erie area is a distinct and contiguous viticultural district. Current orchard and vineyard surveys conducted by the States of New York (1976), Pennsylvania (1978), and Ohio (1976) report that, except where interrupted by urban development, there are approximately 40,000 acres of commercial vineyards scattered throughout the Lake Erie area. Very little or no commercial viticulture is indicated in surrounding inland counties.

Likewise, there are more than 30 commercial wineries, some dating from well before the turn of the century, distributed rather evenly throughout the Lake Erie area. None of these wineries are located more than ten miles inland from the Lake.

The petition and attached documents also show that the boundaries of the Lake Erie area reflect the extent of the area that contains sites which can justifiably be said to be suitable for viticulture within the beneficial climatic influence of Lake Erie.

Evidence of the Name

The name of the area, Lake Erie, was well documented by the petitioner. Lake Erie is the geographical feature that defines this viticultural area. Its name dates from the earliest written history of this continent, and Lake Erie is universally known as such. After evaluating the petition and the comments received, ATF believes that the Lake Erie viticultural area has a unique historical identity and that the name "Lake Erie" is the most appropriate name for the area.

Geographical Features

In accordance with 27 CFR 4.25a(e)(2), a viticultural area should possess geographical features which distinguish the viticultural features of the area from surrounding areas. The petition and attached documents show that the Lake Erie viticultural area is distinguished from surrounding areas by its proximity to Lake Erie which exerts a moderating influence on the area. This proximity to Lake Erie and the influence that Lake Erie exerts on the local climate is the fundamental factor that permits viticulture in this area. Soils, elevations, and other physiographic features within the area are diverse and, through most of the area, do not directly form the basis of the Lake Erie area's viticultural distinction.

Authorities agree that temperature, in terms of length of frost-free growing season, freeze hazard at a given site (F. G. Haskins, "A Study of Fruit Sites in Northeastern Ohio from Standpoint of Frost Damage," 1950), and especially winter minimums, is the determining consideration with regard to the viability of a vineyard in the northeast. T. D. Jordan et al. in their bulletin on "Cultural Practices for Commercial Vineyards" (1981) state that: "Temperature is the first consideration in selecting the location of a vineyard. It involves length of growing season, as well as magnitude and frequency of winter minimums. Temperature requirements must be satisfied for a site to be considered." They go on to note that for commercial viticulture in this region a growing season of 165 days is considered minimal and 180 plus days is preferable, and that winter minimum temperature should infrequently fall below minus 10 degrees Fahrenheit and almost never below minus 15 degrees Fahrenheit.

Stephen S. Visher, in his book *Climatic Atlas of the United States*

VOL 48 ISS 205 OCT 21 1983 UMI

(1954), well summarizes the general climatic effect of the Great Lakes on their surroundings.

Although the effect of a lake is chiefly to the leeward, in the Great lakes region winds are so varied in direction that effects are evident on all sides. On the average, the (Great) Lakes raise the January average temperature of their surroundings about 5 degrees, the absolute minimum temperatures about 10 degrees, and the annual minima about 15 degrees . . . They increase the average length of the frost-free season about 30 to 40 days on their eastern and southern sides. They have a slight negative total influence upon precipitation, decreasing it appreciably in summer, largely by reducing convectional thunderstorms, * * * The Lakes produce an average decrease of about five thunderstorms per year, and decrease the violence of many of those which do occur * * * The south shore of Lake Erie, with only five dense-fog days a year, has less fog than any other coastal area except southern Florida.

Visher's comments concerning Lake Erie's effect on the summer moisture regime are very significant. The area surrounding Lake Erie usually gets significantly greater isolation in the summer months than areas further away from the Lake. The reduced summer rainfall and few fog days (which typically occur only in late winter and early spring), combined with almost continuous lake breezes, distinguish the Lake Erie area from surrounding areas. Also, the Lake Erie area is sheltered to some degree from the potential devastation of hail due to the inhibiting influence that Lake Erie has on thunderstorm vigor and activity.

Most important, though are the temperature effects of Lake Erie. The Lake Erie area enjoys what has been termed a "lacustrine climate" lacing the temperature extremes otherwise inherent in a continental location according to Richard E. Dahlberg in an article in *Economic Geography* (1961) entitled "The Concord Grape Industry of the Chautauqua-Erie Area." The region benefits generally by being lower in latitude than and downwind from the other Great Lakes. The great stretches of Lakes Superior and Huron to the northwest considerably moderate arctic air masses moving across these lakes to the Lake Erie area. This effect is then locally enhanced by Lake Erie, thereby producing a climate adjacent to the Lake that has a lower mean daily range of temperatures. This results both in less growth-stimulating high temperatures and tissue-freezing low temperatures. These temperature effects are then diluted and gradually diminish as one proceeds inland from the Lake.

Lake Erie has by far the largest surface to volume ratio of any of the Great Lakes, with an average depth of only 58 feet and one-thirtieth of the volume of Lake Superior against a surface area of nearly 10,000 square miles. As a result, Lake Erie experiences by far the greatest annual temperature variation of any of the Great Lakes. It ranges from an average surface temperature of 72 degrees Fahrenheit in the late summer to 90 percent or more ice cover in the late winter—far more ice than typically develops on any other of the Great Lakes.

This wide and rapid seasonal fluctuation of the lake water temperature, and this fluctuation's lag with respect to seasonal air temperature variation, serves a very beneficial climatologic effect throughout the year. In the early spring, the accumulated ice and the very cold water of the Lake serve to cool the climate of the adjacent land against early spring warm spells. In mid to late April, the Lake commences to warm rapidly and then buffers the area against late spring frost. In the summer, the water temperature is warmer than in any other of the Great Lakes. The summer's high temperature is then carried over into fall, warming the air adjacent to the Lake and keeping fall frosts at bay within the Lake Erie viticultural area for a month or more longer than surrounding areas. This results in an average frost-free period of approximately 170 to 175 days with a 200 day frost-free period to be found in some portions of the Lake Erie area, the longest frost-free period in the Great Lakes region. Likewise, proximity to the Lake in winter affords considerable protection against extreme minimum temperatures, with winter minimum temperatures of less than minus ten degrees Fahrenheit being uncommon across most of the Lake Erie viticultural area while inland areas often experience temperatures 10 to 15 degrees lower.

In many portions of the Lake Erie viticultural area, the air drainage of a given site greatly affects its microclimate with respect to freeze and low temperature damage. In this regard, the sloping areas found further inland within the Lake Erie viticultural area have rather an advantage over the more level areas often found closer to the Lake, and Lake Erie, by being at the lowest elevation, serves as a vast sink for cold air to drain into.

The only portion of the Lake Erie viticultural area in which elevation and physical features play an important role in distinguishing this area from surrounding areas is in Chautauqua County, New York, and Erie County, Pennsylvania. In these areas, the high-elevation Allegheny Plateau with its too short frost-free period and too long winter temperatures clearly limits the "lake effect" to a width of as little as three miles inland.

Evidence of the Boundaries

The following outlines the considerations employed in selecting the specific boundaries for the Lake Erie area:

(1) Cazenovia Creek has been chosen as the northeastern boundary of the viticultural area. The area beyond the northeastern boundary is generally flat and consequently has poor drainage of air.

(2) A line 12 miles inland from Lake Erie running from Cazenovia Creek near Colden, New York, to the 1,300-foot contour line near Dayton, New York, marks the general limit of the "lake effect" in Erie County, New York. The "lake effect" does not extend further inland because of the highlands of the "Boston Hills."

(3) From near Dayton, New York, to Godard, Pennsylvania, the 1300-foot contour line has been chosen as the boundary. This contour is the highest contiguous line that follows the crest of the escarpment of the Allegheny Plateau in this section. The are a above this elevation is generally cooler.

(4) From Godard, Pennsylvania, west to the intersection of Ohio Route 45 and Interstate 90, a line six miles inland from Lake Erie is used as the boundary. Areas further inland in this section are generally too high and too level to enjoy good air or water drainage.

(5) The boundary then proceeds south along Ohio Route 45 to a point about a mile north of Rock Creek, Ohio, 14 miles inland from Lake Erie, and then west along a line 14 miles inland from the Lake to the Ohio-Michigan border. In this area, the "lake effect" extends further inland first, in northeastern Ohio through Cleveland, due to the broken topography. Then from Cleveland to the west, the climatic moderation of Lake Erie extends further inland across the flat lowlands of north central and northwestern Ohio.

(6) The boundary of the viticultural area then follows the Ohio-Michigan border to the shoreline of Lake Erie. Thence in a generally southeasterly direction along the shoreline of Lake Erie to Port Clinton. Then due north in a straight line to the United States-Canada border. Then in a southeasterly and then an easterly direction along the United States-Canada border until a point is reached which is due north of the easternmost point of Kelleys Island. The boundary then proceeds due south until it reaches the shoreline of Lake Erie. The boundary was drawn in this way to encompass several islands in Lake Erie, including the Lake Erie (or Bass) Islands, upon which the climatic influence of Lake Erie is self-evident.

(7) The boundary of the viticultural area then follows the lakeshore in a generally northeasterly direction back to the starting point.

Boundaries

The boundaries of the Lake Erie viticultural area as proposed in Notice No. 460 are adopted with some minor modifications. The Lake Erie viticultural area as described in the notice included approximately 775 square miles of water (Lake Erie). In this final rule, the boundaries have been changed to eliminate approximately 580 square miles of water. Consequently, the Lake Erie viticultural area, as delineated in this final rule, consists of approximately 3,300 square miles of land area and approximately 195 square miles (statute) of Lake Erie for a total of 3,495 square miles. ATF believes that these boundaries delineate an area with distinguishable physical and climatic features.

Currently, there is one approved viticultural area located within the boundaries of the Lake Erie viticultural area. This viticultural area is named the Isle St. George (North Bass Island) viticultural area and is located in Ottawa County, Ohio, about 16 nautical miles north-northwest of Sandusky.

Miscellaneous

ATF does not wish to give the impression by approving the Lake Erie viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Lake Erie wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Disclosure

A copy of the petition and comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Robert L. White, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.83. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.83 Lake Erie.

Par. 2. Subpart C is amended by adding § 9.83. As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

§ 9.83 Lake Erie.

(a) *Name.* The name of the viticultural area described in this section is "Lake Erie."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lake Erie viticultural area are four U.S.G.S. maps. They are titled:

(1) "Toledo," scale 1:250,000 (1956, revised 1978);

(2) "Cleveland," scale 1:250,000 (1956, revised 1972);

(3) "Erie," scale 1:250,000 (1959, revised 1972); and

(4) "Buffalo," scale 1:250,000 (1962).

(c) *Boundaries.* The Lake Erie viticultural area is located along the shore and on the islands of Lake Erie across the States of New York, Pennsylvania, and Ohio. The beginning point is where Buffalo Creek empties into Lake Erie at Buffalo Harbor.

(1) From the beginning point the boundary proceeds up Buffalo Creek to the confluence of Cazenovia Creek.

(2) The boundary proceeds up Cazenovia Creek and thence up the west branch of Cazenovia Creek to a point approximately one mile north of Colden, New York, exactly 12 statute miles inland from any point on the shore of Lake Erie.

(3) The boundary proceeds southwestward and along a line exactly 12 statute miles inland from any point on the shore of Lake Erie to a point approximately one mile north of Dayton, New York, where it intersects the 1,300-foot contour line.

(4) The boundary proceeds generally southwestward along the 1,300-foot contour line to a point almost two miles north-northwest of Godard, Pennsylvania, exactly six statute miles inland from any point on the shore of Lake Erie.

(5) The boundary proceeds southwestward along a line exactly six statute miles inland from any point on the shore of Lake Erie to the point where it intersects Ohio Route 45 near the intersection with Interstate 90.

VOL
48
ISS
205
OCT
21
1983
UMI

(6) The boundary proceeds southward along Ohio Route 45 to a point exactly 14 statute miles inland from any point on the shore of Lake Erie approximately one mile north of Rock Creek, Ohio.

(7) The boundary proceeds southwestward, then westward, then northwestward along a line 14 statute miles inland from any point on the shore of Lake Erie to the point where it intersects the Ohio-Michigan boundary just north of Centennial, Ohio.

(8) The boundary then follows the Ohio-Michigan border in an easterly direction to the shoreline of Lake Erie. Thence in a generally southeasterly direction along the shoreline of Lake Erie to the mouth of the Portage River just north of Port Clinton. Thence due north in a straight line to the United States-Canada border. Thence in a southeasterly and then an easterly direction along the United States-Canada border until a point is reached which is due north of the easternmost point of Kelleys Island.

(9) The boundary then proceeds due south until it reaches the shoreline of Lake Erie. Thence the boundary follows the lakeshore in a generally northeasterly direction to the beginning point at the mouth of Buffalo Creek.

Signed: October 1, 1983.

W. T. Drake,

Acting Director.

Approved: October 13, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-28767 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-157; Re: Notice No. 462]

Establishment of the Grand River Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Ohio known as "Grand River Valley." The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7602).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the name of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. Anthony P. Debevec, President of Chalet Debonne Vineyards, Inc., a winery located in Madison, Ohio, petitioned ATF for the establishment of a viticultural area in northeastern Ohio to be known as "grand River Valley." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 462) in the **Federal Register** on April 4, 1983 (48 FR 14396) proposing the establishment of the Grand River Valley viticultural area.

Notice of Proposed Rulemaking

Notice No. 462 proposed two alternative boundaries for the Grand River Valley viticultural area. The petitioner's boundary encompassed an area of approximately 125,000 acres and consisted of all of the land within 2 statute miles, in any direction, of the Grand River from its origin to the point at which it flows into Lake Erie.

Based on data contained in the petition for the establishment of the Lake Erie viticultural area, ATF proposed an alternative to the petitioner's boundary. About one-third of the entire valley of the Grand River is inside the Lake Erie viticultural area, established in a final rule published in today's **Federal Register**. ATF believes that the lake's effect on climate is the overriding geographical feature affecting viticulture in northeastern Ohio. Therefore, ATF proposed, as an alternative to the petitioner's boundary, that the Grand River Valley viticultural area be confined to that portion of the valley located within the Lake Erie viticultural area.

Evidence of Name

The name "Grand River" was assigned by early explorers and settlers to the river called "Sheauga" or "Geauga" by the natives. This Indian world actually means "raccoon" but was so widely misinterpreted that the name "Grand River" has applied to the river since the early nineteenth century.

Evidence of Geographical Features Which Affect Viticultural Features

The petition states, "With Lake Erie helping to provide an overall longer growing season (circa 175 days) the Grand River Valley itself contributes in fulfilling the air drainage requirements for prime viticultural lands." ATF agrees that the moderating effect of Lake Erie distinguishes part of the proposed area from its surroundings. Further, the air drainage provided by the Grand River Valley distinguishes the area from the Lake Erie viticultural area which surrounds it. However, the natural boundary of the lake's effect on climate divides the Grand River Valley into a climate area which is strongly influenced by the lake and a climate area which is weakly influenced or not influenced by the lake.

Lake Erie's moderating influence on the climate affects viticulture within a short distance inland from the shore. The lake freeezes in the winter and the late spring thaw prevents unseasonal warm spells in late winter and early spring. Otherwise, premature bud development during these unseasonal warm spells would leave the grapevines vulnerable to damage during a freeze in late spring. In autumn, the warm water of the lake delays the first freeze a month or longer in comparison to areas farther inland from the lake shore. The lake's protection against spring frost damage and the delay of the first autumn frost result in a growing season between 170 and 185 days, depending on the distance inland from the lake shore.

In *Cultural Practices for Commercial Vineyards*, Miscellaneous Bulletin 111, published by the New York State College of Agriculture and Life Sciences, in January 1980, the authors state: "Temperature is the first consideration in selecting the location of a vineyard. It involves length of growing season, as well as magnitude and frequency of winter minimums. Temperature requirements must be satisfied for a site to be considered." The authors also note that for commercial viticulture in this region, a growing season of 165 days is considered minimal and 180 days is preferable, and that the winter minimum temperature should infrequently fall below minus 10 degrees Fahrenheit and almost never below minus 15 degrees Fahrenheit.

Location of the Natural Inland Boundary of the Lake's Effect

In *The occurrence of Freezing Temperatures in late spring and early fall*, Special Circular 94, published by the Ohio Agricultural Experimental Station (now the Ohio Agricultural Research and Development Center, or O.A.R.D.C.), in October 1959, the isobar for the 180 day growing season passes lengthwise through the middle of Lake County. The isobar for the 170 day growing season passes through the intersection of the 3 county lines of Ashtabula, Lake and Geauga Counties (at a distance about 9 miles inland from the lake shore) and the intersection of the 3 county lines of Cuyahoga, Lake and Geauga Counties (at a distance about 7 miles inland from the lake shore). The isobar for the 160 day growing season is no closer than 20 miles from the lake shore anywhere in Geauga County, and much farther from the lake shore throughout Ashtabula County.

In *Extreme Monthly and Annual Temperatures in Ohio*, Research Bulletin 1041, published by O.A.R.D.C., in November 1970, the isobar for the annual low temperature of −5 to −10 degrees Fahrenheit corresponds closely with the isobar for the 170 day growing season previously discussed; the isobar for annual low temperature of −10 to −15 degrees Fahrenheit corresponds approximately with the isobar for the 160 day growing season previously discussed. The isobar for average annual lowest temperature of 0 to −5 degrees Fahrenheit is between 10 and 15 miles from the lake shore; the average annual lowest temperature of −5 to −10 degrees Fahrenheit covers most of the State of Ohio.

These data help identify the natural inland boundary of the lake's moderating effect on the climate. Based on these data, the Lake Erie viticultural area boundary in northeastern Ohio has been established as any point which is 8 miles inland from the shore east of Ohio Route 45, and 14 miles inland from the shore west of Ohio Route 45. This boundary is also established as the inland boundary of the Grand River Valley viticultural area, the approximate point where the lake's effect is dissipated.

Air Drainage

Air drainage is a geographical feature affecting viticulture which is found in any river valley. It is manifested by the tendency of cool air to sink along the surrounding topography and drain to the surface of the water. This phenomenon draws warmer air closer to the ground and reduces the incidence of frost damage. Air drainage distinguishes the Grand River Valley viticultural area from the Lake Erie viticultural area which surrounds it on all sides except, as discussed above, at the inland boundary of the lake's climate influence. The boundary of the Grand River Valley viticultural area is established as any point which is two miles, in any direction, from the river, the approximate point where the air drainage feature is dissipated.

Public Comments

In response to Notice No. 462, ATF received three comments, all from officials of the state government. All of the comments were in favor of establishment of the Grand River Valley viticultural area. None of the comments discussed the boundary issue presented in the notice.

Alternative Boundary Adopted as Proposed

Based on the data discussed above, ATF is establishing the Grand River Valley viticultural area confined to the portion of the valley within the approved Lake Erie viticultural area.

The boundary proposed as an alternative by ATF (proposed § 9.87b) is established as the approved boundary, described in § 9.87.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 the Bureau has determined that this final rule is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.87. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.87 Grand River Valley.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.87 to read as follows:

§ 9.87 Grand River Valley.

(a) *Name.* The name of the viticultural area described in this section is "Grand River Valley."

(b) *Approved map.* The approved map for determining the boundary of the

VOL
48
ISS
205
OC
21
1983
UMI

Grand River Valley viticultural area is the U.S.G.S. topographic map in the scale of 1:250,000, entitled Cleveland, number NK 17–8, dated 1956, revised 1972.

(c) *Boundary.* The Grand River Valley viticultural area is located in the following Ohio counties: Lake, Geauga, and Ashtabula. The viticultural area consists of all of the land within the Lake Erie viticultural area, described in § 9.83, which is also within 2 statute miles, in any direction, of the Grand River. Specifically, the Grand River Valley viticultural area consists of all of the land west of Ohio Route 45 which is within 2 statute miles, in any direction, of the Grand River, and which is also within 14 statute miles inland from any point on the shore of Lake Erie.

Signed: September 22, 1983.

Stephen E. Higgins,

Director.

Approved: October 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-28766 Filed 10-20-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to the Virginia State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves various supplements to the Virginia State plan for occupational safety and health. These supplements, representing completion of several of the State's developmental steps, concern: promulgation of safety and health standards identical to the Federal standards; adoption of the Federal standards for explosives; staffing of both the safety and health compliance programs; institution of a reporting system for cases contested under the State's judicial review system; revision of job specifications for both safety and health personnel; and development of health and safety inspection scheduling systems.

EFFECTIVE DATE: October 21, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N–3637, U.S. Department of Labor, Washington, D.C. 20210, (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. The Virginia plan was approved by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary) as a developmental plan on September 23, 1976. On September 28, 1976, a notice was published in the Federal Register (41 FR 42655) containing the approval decision, description of the plan, and schedule of the State's major developmental commitments. By a letter dated March 23, 1977, from Edmond M. Boggs, Commissioner of the Virginia Department of Labor and Industry, by letters dated October 5 and November 2, 1977, August 11 and November 11, 1978, September 17, 1980, and May 27 and October 9, 1981, from Robert F. Beard, Jr., Commissioner of the Virginia Department of Labor and Industry, by letters dated September 7, 1977, and May 9, 1979, from Robert S. Jackson, Assistant Commissioner of the Virginia Department of Health, by letters dated December 11, 1980, and October 30, 1981, from Clayton P. Deane, Assistant Commissioner of the Virginia Department of Labor and Industry, and by a letter dated May 28, 1982, from Janice L. Thomas, Chief Administrator for Occupational Safety, Virginia Department of Labor and Industry, to David H. Rhone, Regional Administrator, the State of Virginia submitted developmental plan change supplements addressing the completion of a number of the developmental steps set forth in the initial approval decision. Following regional review, the supplements were forwarded to the Assistant Secretary for determination as to whether they should be approved. The supplements are described below.

Description of the Supplements

1. *Standards Promulgation.* In accordance with the requirement of the developmental step set forth in 29 CFR 1953.373(a), the State was to have adopted occupational safety and health standards identical to the Federal standards by January 1, 1978. On March 23, 1977, the State submitted standards which were identical to 29 CFR Parts 1910 for General Industry and 1926 for Construction, as published in the Federal Register on December 21, 1976, including all additions, revisions, amendments and corrections thereto, with the exception of the State standard for ionizing radiation, which was determined to be at least as effective as the comparable Federal standard (29 CFR 1910.96). The State's submission was approved by the Regional Administrator in the Federal Register of March 17, 1978 (43 FR 11274). By a letter dated November 11, 1978, the State submitted standards identical to 29 CFR Part 1928 for Agriculture. The State's submission was approved by the Regional Administrator in the Federal Register of June 12, 1979 (44 FR 33751). By a letter dated September 17, 1980, the State reported that the Virginia Safety and Health Codes Commission had revoked the State's ionizing radiation standard and adopted standards identical to 29 CFR 1910.96 and 1926.53 for exposure to ionizing radiation in general industry and construction, respectively, and were approved in the Federal Register of August 20, 1982 (47 FR 36485). In addition, Virginia occupational safety and health standards identical to the Federal standards have been promulgated, subsequently amended to reflect changes in and additions to Federal standards, and approved by the Regional Administrator in the Federal Register of July 15, 1980 (45 FR 47548) and August 18, 1981 (46 FR 41886).

2. *Explosives Standard.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(j), the State was to amend the State explosives code to contain only standards identical to the Federal standards. Included in the State's standards submission of March 23, 1977, were standards indentical to the Federal standards for explosives and blasting agents in general industry and contruction, respectively (29 CFR 1910.109, 29 CFR 1926.860 and 29 CFR Part 1926, Subpart U). The State's submission was approved by the Regional Administrator in the Federal Register of March 17, 1978 (43 FR 11274).

3. *Compliance Staffing Requirements.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(e), both safety and health compliance programs were to be fully staffed by Fiscal Year 1979. At the time of plan approval, this developmental step contemplated a minimum compliance staff of 32 safety and health compliance officers. On August 11, 1978, the State submitted a grant application for Fiscal Year 1979 which included allocation positions for 38 safety and 18 health compliance officers. The number of allocated positions for safety and health has remained the same through Fiscal Year 1983 and substantially conforms with the requirements of this developmental step. In light of current budgetary restraints and the available supply of trained professionals, the State has not, however, achieved the staffing benchmarks necessary for final plan approval, as established by the U.S. District Court in "AFL–CIO v. Marshall," 570 F.2d 1030 (D.C. Cir. 1978).

4. *Court Reporting System.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(g), the State was to have developed and implemented a system for the reporting of court decisions resulting from the State's judicial system for the review of contested cases. By a letter dated May 27, 1981, the State submitted the first annual compilation of Final Orders of the Virginia General District Courts and the Virginia Circuit Courts in Contested Cases Arising Under the Virginia Occupational Safety and Health Act, with the first publication covering the period of July 1, 1979 through June 30, 1980. The State has published a second compilation, covering the period of July 1, 1980 through June 30, 1981, and a third publication is under preparation. These publications have been determined to fulfill the State's developmental step regarding its court reporting system. The State's automated Management Information System, also included in 29 CFR 1952.373(g), was previously approved as a completed developmental step on November 21, 1980 (45 FR 77001). Virginia has been a participant in the Federal Unified Management Information System since July 1, 1982.

5. *Review of Job Qualifications.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(k), the State was to review and revise job specifications for both safety and health personnel to accurately reflect job functions within 12 months of plan approval. By a letter dated October 5, 1977, the State submitted revised job specifications for personnel of the Virginia Department of Labor and Industry and the Virginia Department of Health. The U.S. Office of Personnel Management reviewed the submissions and by letters dated January 10 and March 6, 1979, confirmed that the Department of Labor and Industry and Department of Health were in substantial conformity with the Intergovernmental Merit System Standards. The State has continued to update its job specifications by letters dated September 17, 1980, and October 9, 1981. In addition, by a letter dated March 23, 1977, the U.S. Civil Service Commission confirmed that both the Department of Labor and Industry and Department of Health were in conformance with the Intergovernmental Merit System Standards applicable to the OSHA program and that both agencies had implemented Affirmative Action programs.

6. *Inspection Scheduling System.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(m), Virginia was to develop inspection scheduling systems for both the safety and health programs. By a letter dated September 7, 1977, the State submitted a health standards enforcement plan which included a health inspection scheduling system. The health scheduling system was found to be comparable to the Federal system with the exception that there was no provision for priority being given to the enforcement of new health standards. By a letter dated May 9, 1979, the State amended its health scheduling system to include such a provision. By a letter dated November 2, 1977, the State submitted an industry inspection planning guide for safety which was found to be consistent with the Federal inspection scheduling system. The State has subsequently adopted revisions identical to revisions to the Federal scheduling systems for safety as well as health inspections by letters dated December 11, 1980, October 30, 1981, and May 28, 1982.

Location of the Plan and its Supplements for Inspection and Copying

A copy of the State's plan and the supplements may be inspected and copied during normal business hours at the following locations: Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N–3700, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Room 2100, Gateway Center, 3535 Market Street, Philadelphia, Pennsylvania 19104; and Office of the Commissioner, Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia 23241.

Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that all of the Virginia plan supplements described above are consistent with commitments contained in the approved plan, which was previously made available for public comment, and that a number of the plan supplements are substantially in agreement with requirements of comparable Federal program changes. Accordingly, it is found that further public comment and notice is unnecessary.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

PART 1952—[AMENDED]

After careful consideration, the Virginia plan supplements outlined above are approved under Part 1953. In addition, Subpart EE of 29 CFR Part 1952 is amended to reflect the completion of six developmental steps by adding paragraphs (g), (h), (i), (j), (k), and (l) to §1952.374 as follows:

§ 1952.374 Completed developmental steps.

* * * * *

(g) In accordance with 29 CFR 1952.373(a), Virginia was to completely adopt standards identical to the Federal standards by January 1, 1978. State standards identical to the Federal standards of 29 CFR Part 1910 (General Industry) and Part 1926 (Construction) and as effective as the Federal standards for ionizing radiation exposure became effective on April 15, 1977, and were approved by the Regional Administrator in the Federal Register of March 17, 1978 (43 FR 11274). State standards identical to the Federal standards in 29 CFR Part 1928 (Agriculture) became effective on April 1, 1978, and were approved by the Regional Administrator in the Federal Register of June 12, 1979 (44 FR 3375). The State's subsequent adoption of standards identical to the Federal standards for ionizing radiation exposure was approved on August 20, 1982 (47 FR 36485). The State has continued to adopt standards, amendments and corrections identical to the Federal, as noted in separate standards approval notices.

(h) In accordance with 29 CFR 1952.373(e), the State met its developmental commitment for the staffing of its compliance program by

Fiscal Year 1979 with the submission of its Fiscal Year 1979 grant application on August 11, 1978, which allocated 38 safety and 18 health compliance officer positions. This supplement was approved by the Assistant Secretary on October 14, 1983.

(i) In accordance with 29 CFR 1952.373(g), Virginia met its developmental commitment for the development and implementation of a system for the reporting of court decisions resulting from the State's system for the judicial review of contested cases with the submission of a publication on May 27, 1981, which compiled final orders and decisions regarding cases contested to the Virginia General District and Circuit Courts. The State has subsequently submitted other compilations which are to be published annually. This amendment was approved by the Assistant Secretary on October 14, 1983.

(j) In accordance with 29 CFR 1952.373(j), Virginia submitted revised standards for explosives and blasting agents on March 23, 1977, which were found to be identical to the Federal standards and were approved by the Regional Administrator in the Federal Register of March 17, 1978 (43 FR 11274).

(k) In accordance with 29 CFR 1952.373(k), the State met its developmental commitment of reviewing and revising job descriptions for both safety and health personnel with the submission of revised job specifications on October 5, 1977. This supplement was approved by the Assistant Secretary on October 14, 1983.

(l) In accordance with 29 CFR 1952.373(m), Virginia submitted inspection scheduling systems for its health and safety programs on September 7 and November 2, 1977, and a revised health scheduling system on May 9, 1979. The State has subsequently adopted revisions identical to revisions to the Federal scheduling system for safety as well as health inspections with submissions dated December 11, 1980, October 30, 1981, and May 28, 1982. These amendments were approved by the Assistant Secretary on October 14, 1983.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 14th day of October, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-28709 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 235

[DoD Directive 4700.3]

Mineral Exploration and Extraction on DoD Lands

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule establishes DoD policy concerning mineral exploration and extraction on DoD lands, that is that DoD lands may be made available for mineral exploration and extraction to the maximum extent possible consistent with military operations, national defense activities, and Department of the Army civil works activities. The Department of Defense favors development of an overall mineral leasing policy on DoD lands with the view to increasing on-shore oil and gas exploration. This rule is hereby published to advise the public of this policy and to express certain relationships between the DoD and the Department of the Interior, the federal mineral leasing agency.

DATE: This rule was approved and signed by the Deputy Secretary of Defense on September 28, 1983, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Edgar F. Rummel, Chairman, Department of Defense Mineral Leasing Committee, Room 5138, Pulaski Building, 20 Massachusetts Avenue, NW, Washington, DC 20314, telephone: 202-272-0511.

SUPPLEMENTARY INFORMATION:

1. *Executive Order 12291.* The Department of Defense has determined that this rule is not a major rule because it is not likely to result in an annual effect on the economy of $100 million or more.

2. *Paperwork Reduction Act.* This rule does not impose a burden under the Paperwork Reduction Act of 1980, U.S.C. 3501 et seq.

3. *Regulatory Flexibility Act.* The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) certifies that this rule shall be exempt from the requirements under 5 U.S.C. 601-612.

List of Subjects in 32 CFR Part 235

Mineral exploration, Mineral extraction, Government property.

Accordingly, 32 CFR is amended by adding a new Part 235, reading as follows:

PART 235—MINERAL EXPLORATION AND EXTRACTION ON DoD LANDS

Sec.

235.1 Purpose.
235.2 Applicability and Scope.
235.3 Definitions.
235.4 Policy.
235.5 Responsibilities.
235.6 Procedures.
235.7 Summary of Leasing Authorities.

Authority: 30 U.S.C. 21a, 22, 181 *et seq.*, 351 *et seq.*, 601 *et seq.*, 1001 *et seq.*, 1601 *et seq.* 40 U.S.C. 471, 43 U.S.C. 155 *et seq.*

§ 235.1 Purpose.

Under 30 U.S.C. 21a, 22, 181 *et seq.*, 351 *et seq.*, 601 *et seq.*, 1001 *et seq.*, and 1601 *et seq.*, 40 U.S.C. 471, and 43 U.S.C. 155 *et seq.*, this rule establishes policy, assigns responsibilities, and provides procedures for making DoD lands available for mineral exploration and extraction.

§ 235.2 Applicability and scope.

(a) This Directive applies to the Office of the Secretary of Defense and the Military Departments (including their National Guard and reserve components).

(b) It applies to DoD-controlled lands acquired or withdrawn from the public domain (including Army civil works lands) within the United States and its territories and possessions for which the mineral rights are owned by the United States, with the following exceptions:

(1) Mineral leasing of lands situated within incorporated cities, towns, and villages (30 U.S.C. 351 *et seq.* and 181 *et seq.*).

(2) Mineral leasing of tidelands or submerged lands (30 U.S.C. 351).

(3) Certain hardrock minerals known as locatables (30 U.S.C. 22).

(4) A class of minerals composed of sand and gravel known as saleables (30 U.S.C. 601 *et seq.* and 41 CFR 101-47.302-2).

§ 235.3 Definitions.

(a) *Leasable Minerals.* Minerals, such as oil and gas, that are owned by the United States and that have been authorized under statute as potential minerals for extraction under a mineral lease (30 U.S.C. *et seq.*, 181 *et seq.*, and 1001 *et seq.*

(b) *Locatable Minerals.* Minerals, such as gold and silver, that are owned by the United States, that are on public domain lands, that are subject to discovery and claim, and that are not leasable or saleable (30 U.S.C. 22).

(c) *Mineral Lease.* A grant of a right to explore for and extract leasable minerals. No surface occupancy, drilling, or other mineral extraction is permitted until an operations plan is approved by the DoI in consultation with the Military Department concerned.

(d) *Multiple-Use Principle.* The integrated management of all resources, each with the other, to achieve their optimum use and enjoyment while maintaining environmental and other qualities in balance.

(e) *Permit.* Temporary permission to conduct seismic or other geological and geopohysical tests before requesting a mineral lease.

(f) *Saleable Minerals.* Common variety minerals, such as sand, clay, and gravel, that are sold under certain statutory authorities (30 U.S.C. *et seq.* and 41 CFR 101-47.302-2

§ 235.4 Policy.

In accordance with established DoD policy to promote optimal use of real property under the multiple-use principle (DoD Directive 4700.1), DoD lands shall be made available for mineral exploration and extraction to the maximum extent possible consistent with military operations, national defense activities, and Army civil works activities.

§ 235.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall:

(1) Have primary responsibility for developing DoD policy for mineral exploration and extraction on DoD lands.

(2) Ensure that the Military Departments issue regulatory documents implementing this Directive.

(b) The *Secretaries of the Military Departments* shall:

(1) Review and approve or disapprove requests from the Department of the Interior (DoI), the federal mineral leasing agency, to lease DoD lands under 43 U.S.C. 155 *et seq.* and DoD Directive 5160.63.

(2) Issue regulatory documents implementing this Directive to prescribe procedures relating to the issuance of permits and leases and the approval of plans of operations for mineral exploration and extraction.

(3) Formulate a system for maintaining records of land status to assist the DoI in mineral leasing. This system shall be established in accordance with DoD Directive 5000.11 and shall use existing standard data elements from DoD 5000.12-M, whenever possible.

§ 235.6 Procedures.

(a) If a Military Department cannot consent to exploration or extraction, it also may not approve testing or leasing. Exclusion of lands from exploration and extraction shall be justified and supported. Availability of lands is subject to certain conditions and stipulations that also shall be justified. Granting approval for leasing usually shall be construed as consent ultimately to allow drilling or other forms of mineral extraction. Accordingly, initial approval clearly shall indicate the conditions, if known, under which further exploration or extraction shall be allowed. For example, classified operations, ammunition and explosives operational storage requirements, and contaminated lands may restrict or exclude leasing or may require no surface disturbance stipulations (DoD 5154.4-S).

(b) The Military Departments may issue permits to parties interested in conducting seismic or other geophysical tests on DoD lands. In unusual circumstances, the Military Departments may refer permit applications to the DoI for issuance. Permits are subject to the approval of, and conditions imposed by, the Military Department concerned. The issuing agency shall make any required environmental and cultural studies. For permits issued by the DoI, the Military Department concerned shall provide, upon request, environmental and cultural information held by the Department.

(c) *Leases.* The DoI receives and processes all mineral lease requests and then forwards such lease offers and title report requests to the Military Department concerned. The Military Department then shall decide whether and under what conditions its land may be made available for leasing.

(1) *Environmental and Cultural Considerations for Leases.* As the lead agency, the DoI obtains all environmental and cultural documentation before deciding to lease. The responsibilities of the Military Department concerned, when acting as a cooperating agency, shall be limited to providing to the DoI, upon request, any available environmental and cultural information.

(2) *Title Search.* The Military Department concerned shall furnish to the DoI available information for acquired lands. DoI title records shall be relied upon for withdrawn public domain lands, except that the Military Departments shall identify all outstanding interests, such as easements and licenses. When title information is incomplete, the Military Department shall so advise the DoI.

(3) *Plans of Operations.* After the lease is executed, the lessee submits a plan of operations (Application for Permit to Drill for oil and gas or Mining Plan for other minerals) to the DoI for technical review and coordination with the Military Department concerned. As a cooperating agency, the Military Department shall supply appropriate stipulations; available environmental, endangered species, and cultural information; and concurrence with the plan. The DoI then formalizes the environmental considerations and approves the plan with the stipulations supplied by the Military Department. Stipulations shall be tied directly to the details of the proposed plan of operations, and each stipulation shall be objectively justifiable.

(4) The DoI has the responsibility for the collection and disposition of proceeds derived from mineral leasing.

§ 235.7 Summary of mineral leasing authorities.

(a) 30 U.S.C. 351 *et seq.* authorizes leasing of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfer within acquired DoD lands. 30 U.S.C. 181 *et seq.* authorizes leasing of coal, phosphate, sodium, oil, oil shale, native asphalt, solid or semi-solid bitumen, and bituminous rock or gas within DoD-withdrawn public domain lands under certain conditions and in certain places. Under the leasing statutes, the Secretary of the Interior is responsible for granting and administering such leases. 30 U.S.C. 101 *et seq.* authorizes the Secretary of the Interior to issue leases for development of geothermal steam and associated resources on public lands. This includes public lands withdrawn for use by the Military Departments.

(b) 30 U.S.C. 351 *et seq.* specifically provides for consent of the head of the executive department having jurisdiction over the lands containing the mineral deposit before leasing. For public domain lands withdrawn for use of the Department of Defense 43 U.S.C. 155 *et seq.* provides that there will be no disposition of or exploration for minerals on public domain lands when the Secretary of Defense, in consultation with the Secretary of the Interior, determines that such disposition or exploration is inconsistent with the military use of the land.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 18, 1983.

[FR Doc. 83-28726 Filed 10-20-83; 8:45 am]

BILLING CODE 3810-01-M

VOL 48 ISS 205 OCT 21 1983 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[WH-FRL 2456-2]

Water Pollution Control; National Pollutant Discharge Elimination System; Transfer of Authority Over Coal Mining and Reclamation Facilities Between State Agencies; Virginia

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rule.

SUMMARY: This rule approves the transfer of certain water discharge regulatory responsibilities from one Virginia State Agency to another without any change in the substance of those responsibilities. Currently the Virginia State Water Control Board (SWCB) administers the National Pollutant Discharge Elimination System (NPDES) permitting program for regulating all discharges of pollutants to waters within Virginia. This rule will approve transfer of the NPDES authority for regulating pollutant discharges from coal mining and reclamation facilities from the SWCB to the Virginia Department of Conservation and Economic Development, Division of Mined Land Reclamation (DMLR), which is already charged with other regulatory responsibilities for these facilities.

DATE: This rule will become effective October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Marilyn Goode, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, 202-426-7010.

SUPPLEMENTARY INFORMATION: On March 31, 1975, the Commonwealth of Virginia was given approval by the Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program for regulating discharges of pollutants to waters within its boundaries. On December 15, 1981, the Commonwealth was conditionally approved to implement and administer the Surface Mining Control and Reclamation Act of 1977 (SMCRA) for coal mining and reclamation operations within the Commonwealth. In Virginia, the NPDES permit program is administered by the State Water Control Board (SWCB) and the SMCRA permit program is administered by the Department of Conservation and Economic Development, Division of Mined Land Reclamation (DMLR).

For coal mining and reclamation facilities, the requirements of the NPDES and SMCRA permit programs are overlapping and duplicative. To reduce confusion and duplication of effort, as well as to provide the coal industry with "onestop" permitting, Virginia has requested that EPA approve a modification of its NPDES program to permit DMLR to assume NPDES responsibilities related to coal mining currently performed by the SWCB. DMLR will then issue to each qualifying coal mining or reclamation facility a single permit incorporating the requirements of both the SMCRA and NPDES programs and will administer both Acts. SWCB will have the opportunity to review the permits in order to concur in the effluent limitations or to impose any more stringent limitations necessary to maintain water quality standards.

On September 21, 1982, EPA published a Notice of Proposed Rulemaking (47 FR 41599) which proposed to transfer NPDES responsibilities for coal mines to DMLR. No public comments were received.

Based on the foregoing, it is the decision of the Administrator of EPA to modify the Commonwealth of Virginia's NPDES authorization to allow implementation of the portion of the program described above by the DMLR instead of by the SWCB. No substantive rights or obligations of any person will be affected by this amendment. The Administrator's decision to approve the proposed amendment has been based on the apparent need for such a revision, the lack of public comments received, and on a determination that the amendment meets the requirement of the Clean Water Act and 40 CFR 123.62.

This notice incorporates by reference the Memorandum of Agreement signed on July 17, 1981 by Mr. Fred Walker (Director of the Department of Conservation and Economic Development) and Mr. R. V. Davis (Executive Secretary, SWCB). The Memorandum sets forth the joint permitting plan described above.

Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this action from the OMB review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

Pursuant to Section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), I certify that this State program revision will not have a significant impact on a substantial number of small entities. Revision of the Virginia NPDES program establishes no new substantive requirements, but merely transfers responsibilities for administration of the program from one State agency to another.

Dated: September 28, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-28709 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-4-FRL 2455-3]

Hazardous Waste Management Program; Tennessee; Request for Extension of Application Deadline for Interim Authorization

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of application submission and interim authorization period.

SUMMARY: On September 15, 1983, the State of Tennessee requested a further extension beyond the September 15, 1983 deadline previously granted for submission of their application for Phase II of Interim Authorization under the Resource Conservation and Recovery Act (RCRA) of 1976 as amended (48 FR 34954, August 2, 1983).

Tennessee must continue to pursue legislative and regulatory changes to resolve several issues necessary for approval of Phase II interim and final authorization. Anticipating enactment of the necessary legislation and regulations, Tennessee would like to proceed directly toward Final Authorization. EPA is granting an extension to April 1, 1984, for submission of a draft application for Final Authorization. This extension allows Tennessee to retain Phase I interim authorization pending submission of draft and complete applications for final authorization.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia, 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any but not all Phases/Components of interim authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 32378, July 26, 1982) further provides that on July 26, 1983, interim authorizations terminate except where the State has submitted by that date an application for all Phases/Components of interim authorization.

Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in those States. However, the Regional Administrator extended the July 26, 1983 deadline for termination of the approval of the State program to allow Tennessee time to make regulatory changes and administrative changes necessary to qualify for Phase II, Interim Authorization. The most significant issues include: The Tennessee Hazardous Waste Management Act T.C.A. section 68-46-103(1) and (2) allows exemptions for air emissions and water discharges; T.C.A. section 68-46-106(a)(3) does not subject owners of treatment, storage, and disposal facilities to utilization of the manifest system; 68-46-108(b) limits the transporter requirements to the reporting of information; and the State of Tennessee does not provide for citizen intervention in state civil enforcement actions as a matter of right.

Note.—40 CFR Part 123, including the July 26, 1982 amendments (47 FR 32373), was recodified on April 1, 1983 as 40 CFR Part 271 (48 FR 14248).

Anticipating enactment of the necessary legislation and regulations, Tennessee has committed to the following schedule for applying for final authorization:

April 1, 1984—Submit draft application for Final Authorization.

July 31, 1984—Submit a complete application for Final Authorization.

Decision

Considering the above schedule, immediate reversion of Phase I due to failure to meet the previous deadline was not in the best interest of the State, this Agency, the regulated community, or the citizens of Tennessee. I found there was good cause to grant the State's request for a further extension beyond the September 15, 1983 deadline previously granted for applying for interim authorization. Therefore, Tennessee must officially submit a draft application for Final Authorization on or before April 1, 1984, and a complete application for Final Authorization on or before July 31, 1984. If the State fails to submit draft and complete applications by the above respective dates, approval of the State program will terminate and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: September 30, 1983.

John A. Little,

Acting Regional Administrator.

[FR Doc. 83-28587 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-4 and 101-37

[FPR Temp. Reg. 72; FPMR Temp. Reg. F-501]

Emergency Acquisition of New Customer Premise Equipment

AGENCY: General Services Administration.

ACTION: Temporary regulation—dual issuance—Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR).

SUMMARY: This regulation implements the Federal Communications Commission (FCC) Memorandum, Opinion and Order of April 12, 1983, to enable the Bell Operating Companies (BOCs) and the Long Lines Department (LL) of the American Telephone and Telegraph Company (AT&T) to provide limited amounts of new customer premises equipment (CPE) to Government agencies when necessary to meet certain critical communications requirements.

DATES: Effective date: April 12, 1983.

Expiration date: This regulation expires on the date of divestiture of the BOCs pursuant to the Modification of Final Judgment (MFJ) or April 12, 1985, whichever is earlier.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Office of Information Resources Management Policy (KMPP), 202-566-0194.

SUPPLEMENTARY INFORMATION: 1. In order to reach both government telecommunications management and procurement activities this temporary regulation is being distributed in looseleaf format to FPMR Subchapter F and FPR addresses.

2. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been structured to maximize the benefits to Federal agencies. This is a government-wide management regulation that will have little or no effect on society.

Authority: Sec 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

In 41 CFR Chapter 1, the following FPR temporary regulation 72 is added to the appendix at the end of the chapter. In 41 CFR Chapter 101, the identical temporary regulation identified as FPMR temporary regulation F-501 is added to the appendix at the end of Subchapter F.

General Services Administration

Washington, DC 20405

September 6, 1983.

Federal Procurement Regulations Temporary Regulation 72

To: Heads of Federal agencies

Subject: Emergency acquisition of new customer premise equipment (CPE)

1. *Purpose.* This regulation implements the Federal Communications Commission (FCC) Memorandum, Opinion and Order of April 12, 1983, to enable the Bell Operating Companies (BOCs) and the Long Lines Department (LL) Of the American Telephone and Telegraph Company (AT&T) to provide limited amounts of new customer premises equipment (CPE) to Government agencies when necessary to meet certain critical communications requirements.

2. *Effective date.* This regulation is effective April 12, 1983.

3. *Expiration date.* This regulation expires on the date of divestiture of the BOCs under the Modification of Final Judgment (MFJ) or April 12, 1985, whichever is earlier.

4. *Background*

a. On January 5, 1983, AT&T petitioned the FCC to waive Computer II rules for the purpose stated in paragraph 1. The petition was supported by the Department of Defense (DoD) and other specified agencies (see paragraph 5). The basis for the request was to permit the BOCs and LL to respond as a single point of contact to Government requests for service within BOCs franchised

VOL 48 ISS 205 OCT 21 1983 UMI

areas in emergencies in which new CPE may be required. (For this purpose new CPE is CPE not on a customer's premises or in a BOCs or LL inventory as of January 1, 1983.) In emergencies it can be critical that a single point of contact is responsible for providing, without delay, and managing all necessary communication facilities and CPE on an end-to-end basis. Only a small amount of new CPE would be anticipated to be provided because embedded inventory would be used until depleted. Since competitive acquisition programs would be available for most Government needs, the waiver is intended to cover extremely limited situations.

Note.—The information in this regulation is identical to the information in FPMR Temporary Regulation F–501.

b. The Department of Justice (DoJ) has stated that it does not oppose a waiver for Presidentially declared emergencies or for other genuine crises as defined in paragraph 6.

c. The FCC adopted the waiver on April 7, 1983, in their Memorandum, Opinion and Order in Docket ENF 83–13.

d. The FCC has determined that any new CPE obtained under the waiver must be accounted for separately from embedded CPE; i.e., the new CPE may not be provided under tariff. Title to any new CPE provided according to the waiver may reside in the Government, in the BOC, in LL, or in the third party CPE supplier.

e. DoD described two fundamental needs. First, in emergencies the Government must be able to obtain end-to-end communication services, including necessary CPE from a single supplier. Second, DoD must ensure the continued availability of new CPE for critical national security systems. The second need is not addressed in this regulation. For nonemergencies, DoJ suggested and the FCC accepted certain conditions and procedures in selection of new CPE providers including notification by the BOC or LL when CPE is not available from inventory and identification of one or more suppliers (including at least one supplier other than an affiliate, when known, which could supply the needed CPE) who might be able to provide the CPE. The BOC or LL may then obtain the new CPE from the supplier selected by the Government. This notification procedure is not required for the emergency need situation.

f. The FCC action provides that after the date of divestiture of the BOCs pursuant to the modification of Final Judgment, any provision of new CPE included in the waiver must be in compliance with the requirements of Computer II and any FCC decision which may affect the structure under which the divested BOCs provide new CPE. An FCC decision on CC Docket 81–893 (Policies for detariffing embedded CPE held by BOCs and other carriers) will be pertinent to this future situation.

g. GSA Bulletin FPMR F–143, dated June 8, 1982, provides additional information regarding emergency telecommunications services.

5. *Applicability.* This temporary regulation applies to agencies as provided in FPMR § 101–37.101. At the request of, and on behalf of agencies specified by AT&T in their petition for FCC waiver to provide new CPE are DoD; the Departments of Energy, Interior, Transportation/FAA/Coast Guard; the General Services Administration (GSA); the Central Intelligence Agency; the National Aeronautics and Space Administration; the U.S. Information Agency; the Nuclear Regulatory Commission; and the Federal Emergency Management Agency (FEMA).

6. *Definitions.* As used in this temporary regulation, the following terms mean:

a. "Emergency situations" means submission of communications requirements for emergency services in connection with (1) a Presidentially declared emergency or (2) other crisis situation.

b. "Other crisis situation" means communications requirements resulting from any of the below circumstances may be submitted as emergency requirements and afforded special handling:

(1) State of crisis declared by the national command authorities;

(2) Efforts to protect endangered U.S. personnel or property;

(3) Enemy action, civil disturbance, national disaster, or any other unpredictable occurrence that has damaged facilities whose uninterrupted operation is essential to national security or other ongoing crisis; or

(4) The director of a Federal agency, commander of a unified/specified command, head of a MILDEP, or commander of a major command; e.g., TAC, COM, 2ND FLT, etc. (CINCEUR ONLY IN THE EUROPEAN AREA), has certified that a communications requirement is so critical to protection of life and property or to the national defense that it must be processed immediately.

7. *Explanation of changes.*

a. FPMR § 101–37.203 is amended to provide that telecommunication requirements for emergency situations shall be satisfied in accordance with new § 101–37.606.

b. FPR § 1–4.1302 is amended to provide that in emergency situations BOCs and LL may provide new customer premise equipment in accordance with new FPMR § 101–37.606.

c. A new FPMR § 101–37.606 is added to provide for management of the FCC waiver to allow BOC's and LL to provide new CPE in emergency situations in BOCs franchise areas, as follows:

§ 101–37.606 Furnishing of new customer premises equipment (CPE) by Bell operating companies (BOCs) or AT&T Long Lines (LL) for use in emergency situations.

(a) *Determining applicability of waiver.* (1) Before requesting CPE, or service including circuits and CPE, from LL or a BOC, the Federal agency must determine:

(i) Whether the new CPE is to be employed on an existing service or circuit that has been assigned Restoration Priority (RP) 1–4, or

(ii) Whether the new CPE is to be employed on a new service or circuit that is eligible for assignment of RP 1–4, or

(iii) Whether the communications requirement justifies sole source acquisition of CPE alone or service involving circuits and CPE.

(2) If none of the conditions in paragraph (a)(1) above applies, the waiver provided by the FCC in this case is not applicable and normal acquisition procedures apply. (See also § 101–37.203 for requirement for reporting National Communications System (NCS) circuit restoration priority assignments.)

(3) If the conditions in paragraph (a)(1) above apply and an emergency situation requires submission of communication requirements for emergency services in connection with a Presidentially declared emergency or other crisis, the FCC waiver may be used in accordance with paragraph (b) below.

(b) *Coordination with GSA and FEMA on use of the waiver.*

(1) Federal agencies shall coordinate their emergency telecommunications requirements with the GSA Federal Emergency Communications Coordinator (FECC) serving the FEMA Regional Director. FECCs are located at GSA regional offices. (See the attachment for a list of offices and FECC telephone numbers.) These GSA offices will coordinate telecommunications services with FEMA to ensure that emergency needs are met. In a disaster or emergency, GSA provides telecommunication services according to the National Plan for Communications Support in Emergencies and Major Disasters (dated October 1980). Those services are available through FEMA to help Federal agencies in responding to the State and local government needs. Under the direction of FEMA, GSA will also provide emergency telecommunications to State and local governments for specific relief and recovery operations. Emergency communications are provided in accordance with the Disaster Relief Act of 1974, P.L. 93–288.

(2) When Federal agencies request service from a BOC or LL, the BOC or LL will determine whether embedded CPE is available. If so, the CPE or service including CPE may be provided under tariff as it was before January 1, 1983. If not, LL or the BOC may provide or be responsible for new CPE, or end-to-end service involving new CPE, as they did before January 1, 1983, except:

(i) The Government entity ordering the CPE, or the service including circuits and CPE, must provide LL or the BOC with a written service order, or other signed document, stating:

"This service is ordered under the provisions of the FCC's NS/EP Waiver of Computer II."

(ii) The new CPE may not be provided under tariff by LL or the BOC involved.

(iii) The Government and LL or the BOC must negotiate a suitable contract for the new CPE. (Note.—The FCC Order specifically indicates that Government agencies, LL, the BOCs, and any CPE suppliers are free to make any suitable arrangements for obtaining the new CPE, as long as it is not added to the embedded base). The FECC shall act as a technical representative for the agency contracting officer. Some FECCs are warranted contracting officers for these purposes.

(c) *Reporting use of the waiver.* The Federal agency using the waiver shall notify the FECC in the region where the emergency exists when it uses the waiver. The FECC shall consolidate the agency reports for the emergency and submit the consolidated report as early as practicable to Headquarters, Defense Communications Agency, Code 105, Washington, D.C. 20305.

8. *Agency action.* Agencies shall follow this temporary regulation prior to the date of divestiture of the BOCs.

9. *Information and assistance.* For assistance in developing emergency communications plans or for information concerning emergency telecommunications services, contact the GSA regional office serving your State as listed in the attachment.

Ray Kline,

Acting Administrator of General Services.

September 6, 1983.

GSA REGIONAL OFFICES

Region	States served	City	FTS telephone
1	ME, VT, NH, MA, RI, and CT.	Boston	223–5685
2	NY, NJ, PR, and VI.	New York City	264–1257
3	PA, DE, MD, WV, and VA.	Philadelphia	597–4901
4	GA, AL, MS, FL, SC, NC, TN, and KY.	Atlanta	242–3216
5	WI, MN, MI, IN, OH, and IL.	Chicago	886–6610
6	KS, MO, IA, and NB.	Kansas City	926–7235
7	TX, NM, OK, AR, and LA.	Ft. Worth	334–4640
8	CO, UT, WY, MT, SD, and ND.	Denver	234–2301
9	CA, NV, AZ, and HI.	San Francisco	454–7602
10	WA, OR, ID, and AK.	Auburn	396–7500
W	District of Columbia.	Washington, DC	472–1600

FEDERAL EMERGENCY COMMUNICATIONS COORDINATOR

Region	FTS telephone
1	233–5685
2	264–4061
3	597–1096
4	242–3251
5	886–8632
6	926–5190
7	334–4640
8	234–2301
9	454–7585
10	396–7522
W	472–1800

[FR Doc. 83–28711 Filed 10–20–83; 8:45 am]
BILLING CODE 6820–25–M

VOL 48 ISS 205 OCT 21 1983 UMI

Proposed Rules

Federal Register
Vol. 48, No. 205
Friday, October 21, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1700

General Fund Criteria for New Loans and Advances

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Electrification Administration (REA) is reviewing for possible revision its existing procedures and controls regarding the adequacy of a borrower's general funds as related to qualifying for new loans and advance of loan funds. Concerns have been raised by REA, many of the borrowers, and an agency audit with the adequacy of these present REA policies, so suggestions are now being requested.

DATE: Public comments must be received by REA no later than November 30, 1983.

ADDRESS: Persons interested in suggesting possible changes to such REA policies, procedures and controls may submit written data, views, suggestions or comments to Charles R. Weaver, Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this action will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Weaver, Director, Electric Borrowers' Management Division, at the above address, telephone number (202) 382–1900.

SUPPLEMENTARY INFORMATION: REA and many of the borrowers have had concern with the adequacy of present REA policies, procedures and controls used in determining borrowers' general fund levels as related to the development of loan needs and the subsequent advance of funds from approved loans. This concern was also raised in the U.S. Department of Agriculture's Office of Inspector General (OIG) audit of the REA loan-making policies and procedures for electric distribution cooperatives.

In response to the concerns, REA has begun a review of its existing policies, procedures and controls to identify possible actions that may be proposed. Persons interested in suggesting possible revisions are asked to submit them in writing to REA by November 30, 1983. Further public comment will be solicited when specific proposed rules are published.

List of Subjects in 7 CFR Part 1700

Electric power, Loan programs—energy, Rural areas.

(7 U.S.C. 901–950(b), 7 U.S.C. 1921 et seq., and 44 FR 30313, May 25, 1979)

Dated: October 17, 1983.

Joe S. Zoller,

Acting Administrator.

[FR Doc. 83–28626 Filed 10–20–83; 8:45 am]

BILLING CODE 3410–15–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Services for Retired Persons; Second Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed policy statement; request for comments.

SUMMARY: On March 30, 1983, the NCUA Board requested comments on whether or not it should enable Federal credit unions to include within their fields of membership retired persons residing in the credit union's locale. Although the majority of those who submitted comments were in favor of the proposal, several issues were raised that warrant this second request for comments.

DATE: Comments must be received by April 30, 1984.

ADDRESS: Send comments to Secretary of the NCUA Board, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Director, Department of Legal Services, or Hattie Ulan, Attorney Advisor, 1776 G Street, NW., Washington, D.C. 20456, Telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: On March 30, 1983, the NCUA Board requested comments on whether it should revise its policies with respect to membership in Federal credit unions in order to provide Federal credit unions the ability to offer membership to retired persons in the credit union's locale, 48 FR 13194. Eighty-three comment letters were received, the majority of which were in favor of expansion of the field of membership to provide service to retired persons. The March 30, 1983, proposal sought comments on expansion of credit union service to *all* retired persons residing in a credit union's locale, not merely to those retirees with prior credit union membership. It was apparent from the comment letters received that there was some confusion as to whether the proposal applied to all retired persons or only to those with prior credit union membership. The commenters addressed several other issues that also warrant further clarification. Hence, the following questions are presented for further comment:

1. If a retiree proposal is approved, should expansion of credit union service to retired persons apply (a) to all retirees; (b) only to those retirees with prior credit union membership in any credit union; or (c) only to those retirees with prior credit union membership or prior eligibility for membership in a "like sponsor" credit union, that is, one that they were members of or eligible for membership in prior to retirement?

2. If a retiree proposal is approved, should an exclusion clause be utilized? That is, should individuals who are already eligible for membership in a credit union in the locale on a basis other a general "retired persons" policy be excluded from retiree-based membership in other credit unions in the locale?

3. The March 30, 1983 proposal defined retiree as someone receiving retirement benefits or anyone over the age of 60. Should there be a minimum age in the definition of retiree? If so, should it be a mandatory or an optional minimum age? If there should be a minimum age, is 60 appropriate?

4. For purposes of the retiree proposal, how should a credit union's service area be defined? Should the definition of service area be based on field of membership? Should the definition of service area be based on a certain geographic area? Should a credit union's branch offices be included in either definition?

The NCUA Board encourages all Federal credit unions to respond to these questions. The April 30, 1984, deadline for responses is designed to coincide with a comprehensive study of chartering policies that the NCUA Board recently decided to undertake. It is estimated that this study will be completed in approximately six months. Public comment on other issues may be requested as the study progresses.

List of Subjcts in 12 CFR Part 701

Credit unions.

(12 U.S.C. 1759)

By the National Credit Union Administration Board on October 17, 1983.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 83–28665 Filed 10–20–83; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83–ANE–26]

Amendment of Description of the Willimantic, Connecticut 700-foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the description of the 700-foot transition area at Willimantic, Connecticut. The Very High Frequency Omnidirection Range-A (VOR–A) instrument approach procedure to the Windham Airport, Willimantic, Connecticut is being changed and, as a result, an alteration of the 700-foot transition area is needed to contain Instrument Flight Rules (IFR) arrival procedures.

DATES: Comments must be received on or before November 30, 1983.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE–7, Attention: Rules Docket Clerk, Docket No. 83–ANE–26.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Chief, Operations, Procedures and Airspace Branch, ANE–530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before November 30, 1983, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to change the description of the 700-foot transition area at Willimantic, Connecticut. This amendment is necessary due to a change in the VOR–A instrument approach procedure to the Windham Airport, Willimantic, Connecticut.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administation proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Willimantic, Connecticut

Insert after the line that reads, "That airspace * * * the end of the runway" the following "within 4.5 miles each side of the Norwich VOR 324° radial extended from the 8-mile radius area to one mile northwest of the VOR and within two miles each side of the centerline of Runway 27 extended from the 8-mile radius area to 9 miles W of the end of the runway."

(Secs. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983)), and 14 CFR 11.69).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) if promulgated will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on October 11, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83–28691 Filed 10–20–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–ASO–35]

Proposed Designation of Transition Area, Okolona, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Okolona, Mississippi, transition area in the vicinity of Okolona Municipal-Richard Stovall Field. This action, which will lower the base of controlled airspace from 1,200 to 700 feet above the surface, will provide controlled airspace for Instrument Flight Rule (IFR) operations in the vicinity of the airport. An instrument approach procedure, predicated on the Tupelo VOR/DME facility, has been developed to serve the airport and additional

VOL
48
ISS
205
OC
21
1983
UMI

controlled airspace is required for protection of IFR operations.

DATES: Comments must be received on or before: December 5, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn.: Manager, Airspace and Procedures Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airpspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will designate the Okolona, Mississippi, transition area to provide controlled airspace for protection of IFR operations in the vicinity of Okolona Municipal-Richard Stovall Field. If the proposed designation is found acceptable, the operating status of the airport will be changed to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to designate the Okolona, Mississippi, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Okolona, MS—[New]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Okolona Municipal-Richard Stovall Field (Lat. 34°00'57" N., Long. 88°43'34" W.); excluding that portion that coincides with the Tupelo, Mississippi, transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g), (Revised, Pub. L. 97–449, January 12, 1983))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulaged, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on October 6, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83–28698 Filed 10–20–83; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[Docket 41723 PDR–86]

Procedures for Awarding Japanese Charter Authorizations

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to amend its procedures for awarding Japanese charter authorizations, by setting up a regular turn-in period at the beginning of the allocation year and allowing carriers to request authorizations on a first-come-first-served basis. The change is needed because of the unexpectedly low demand for such charters, which would cause unjustified penalties in future years for carriers who cannot use their allocated authorizations. The proposed amendment is at the Board's initiative, after reviewing the first year's operations under the rule.

DATE: Comments by: November 21, 1983. Reply comments by: November 28, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: October 31, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41723, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patricia A. DePuy, Assistant Chief, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5878.

SUPPLEMENTARY INFORMATION: In this notice of proposed rulemaking the Board requests comment on a proposal to amend 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations*. The proposal would allow those carriers holding authorizations under the rule to return them unused without penalty early in the allocation year for which they are valid, and would provide for the redistribution of the turned-in authorizations on an on-demand, first-come-first-serve basis. This proposal is at the Board's own initiative, pursuant to the review procedures established in section 320.4 of the Japan charter rule.

Background

By PR–251 (47 FR 43352, October 1, 1982) the Board adopted 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations*. That rule established procedures for allocating among U.S. carriers the charter authorizations available in the United States-Japan market under the September 7, 1982 Memorandum of Understanding (MOU) between the two countries. Under the MOU, U.S. carriers may operate 300 one-way charters annually for the duration of the agreement. Part 320 provided for a one-time allocation of the 300 available charters for a 3-year period. It gave to certificated carriers with a recent history of charter operations in the Japan market a certain number of "grandfather" allocations based upon the level of their recent operations. It awarded the remaining flights by a lottery open to all U.S. carriers holding authority in the market and having the operational capability to serve Japan. The authorizations were formally allocated by Order 82–10–46.

To assure that the authorizations are used efficiently and not wasted, Part 320 allows for the intercarrier transfer of authorizations. It imposes a penalty, however, on excessive transfers of grandfather authorizations, requiring carriers that transfer more than 10 percent of their grandfather authorizations in any year to forfeit one flight in each future year for each transferred flight above the 10 percent threshold. The rule also places a penalty on the non-use of any authorization, requiring a forfeiture of two flights in each future year for every flight not used.

The allocation system and the transfer and penalty provisions were included in the rule because the Board anticipated that there would be considerable demand for Japan charters. There had been reasonably high levels of charter operations in the past by U.S. carriers in the U.S.-Japan market and persistent efforts by charter carriers to reopen the market after Japanese restrictions severely curtailed their activities. After the MOU was signed, the interest expressed by many U.S. carriers in the market and in the proposed rule suggested considerably excess demand.

In adopting the rule, the Board stated that it might be modified if abuse or undesirable consequences resulted from it. The rule also provided for a Board review of operations conducted under it at the midpoint of the 3-year period, with changes to be made as necessary. The rule is currently under judicial review in the U.S. Court of Appeals for the D.C. Circuit (*Arrow Airways et al v. CAB*, D.C. Cir. Nos. 82–2188 and 82–2392, filed Oct. 4, 1982).

By PR–260, adopted June 16, 1983, Part 320 was amended to allow a brief period during which carriers holding Japan charter authorizations could return them to the Board for the allotment year beginning October 1, 1982, for redistribution to other carriers interested in using them. The amendment provided that carriers returning authorizations, as provided by the amendment, would be relieved from any penalties they would otherwise have incurred by transferring or not using these unneeded authorizations. Redistribution would be on a first-come-first-served basis (unless demand for the returned authorizations was unexpectedly larger than supply).

The amendment was a response to a petition by Flying Tiger. The turn-back period was found justified by the unanticipated low use of authorizations by the holders of Japan charter authorizations, and the resultant likelihood that a large number would expire unused at the end of the allotment year. The Board considered that in this period of low demand, the transfer and penalty provisions of the initial rule might be inhibiting optimum use of the authorizations, and that the amended reallocation process would help to ease the transfer of authorizations to carriers that could use them in the remaining months of the allotment year.

The Board also found that the need to amend the rule so soon after its adoption warranted advancement of the mid-term date for review of the rule.

Operations Under the Rule

Carrier activities to date during the first allocation year, ending September 30, 1983, have been as follows:

—The authorizations were given out to the following carriers:

	Grandfather	Lottery	Total
The Flying Tigar Line	80	8	88
World Airways	57	10	67
Transamerica Airlines	50		50
Pan American World Airways	4	10	14
Northwest Airlines	1	10	11
United Air Carriers d/b/a Overseas National Airways		20	20
Challenge Air Transport		10	10
Continental Airlines		10	10
Arrow Airways/Capitol Air		10	10
Jet Charter Service		10	10
Northeastern International Airways		10	10
Total	192	108	300

—As of September 13, 1983, a total of 38 charter authorizations have been reported used: 28 by Flying Tiger; 7 by Northwest; 2 by Transamerica; and 1 by Alaska International Air.

—Of the original 11 carrier recipients of Japan charter authorizations, only three have used any of them.

—Except for two one-way passenger flights (one round trip) flown by Transamerica, all authorizations were used for cargo flights.

—A total of four authorizations were transferred between carriers.

—All carriers except two returned all of their outstanding charter authorizations for the first allocation year, pursuant to the procedures established by PR–260 and Order 83–6–91; those two carriers each retained 10 authorizations (a request by one to return its charter authorizations late was denied).

—Two carriers have requested a total of five charter authorizations from the pool of those turned back.

—Four carriers are currently holding one or more charter authorizations for this allocation year, which if not used by them by September 30, 1983, will subject the carriers to penalties.

Proposed Changes

The Board has tentatively decided that changes in the Part 320 procedures are warranted. The premise of the initial procedures, that the demand by U.S. carriers for Japanese charter flights would outstrip supply, was not borne out by events. In particular, the expected demand for Japanese passenger charters did not materialize. It therefore appears that adjustments to the procedures are called for to achieve better redistribution and use of the charter rights in light of this first-year experience.

The basic need is to provide an effective incentive for carriers to use the authorizations they have been given—not to needlessly let the rights expire unused—while at the same time not unduly penalizing them for non-use that is the result of low demand for charters

VOL
48
ISS
2
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OC
21
1983
UMI

in this market. The incentive in the current rule is the two-for-one penalty, in future years, for authorizations that are unused at the end of a given year. Even in times when the demand is less than the total number of authorizations, this penalty may be important, because (1) all the authorizations have been given out, and the penalty provides an incentive for authorized carriers to transfer them to carriers who wish to enter the market; and (2) one or a few carriers potentially could acquire and hard the majority of the authorizations, thereby having the power to artificially inflate the value of the authorizations or to severely restrict charter competition.

One possible action is to eliminate the prior authorizations altogether, and let any carrier that wishes to fly charters to Japan receive the rights on an as-needed basis as long as they last. The Board reserved the right to do that in PR–251. In response to United's argument that the allocations should only be for 1 year at a time, the Board conditioned its decision to make 3-year allocations by providing for this mid-term review, stating, "We reserve the right [at mid-term] to change the allocation process if necessary." Such a course would eliminate the possibility of hoarding by grandfather carriers, although it would still necessitate some rationing method at least as a reserve measure if carriers requested large blocks of authorizations.

The Board has decided, however, to allow the prior authorizations to stand. We believe that the allocation system initially used was justified considering conditions at the time, and remains equitable and consistent with the U.S. delegation's undertakings with respect to incumbent U.S. carriers assumed at the time the charter agreement was reached. While most incumbent carriers did not reach their previous years' charter activities (on which their grandfather allocations were based) we are not prepared to eliminate or reduce their allotted levels based on this first year's experience. Moreover, only the last 2 years of a 3-year period are at issue. The demand appears to be low relative to the supply of the authorizations, and the present distribution system, considering both the grandfather and the lottery allocations, does not appear to have disserved the public interest. Since a revocation of the allocations would probably not result in a materially superior distribution, there is little justification for upsetting the assumptions and expectations of the carriers presently holding them, and instituting an entirely new system of allocation. Furthermore a turn-back system would appear to solve the reallocation problem at least as well.

For a turn-back system to work efficiently, however, it is important that the unwanted authorizations be turned in as early in the year as possible, so that any carriers that wish to mount charter programs to Japan will have the months that are often needed (by them and by tour operators) to market such programs effectively. The Board is therefore proposing to establish a 1-month turn-in period at the beginning of the allocation year, immediately after these amendments go into effect for the 1983–84 season, and during October of each subsequent allocation year covered by the rule. During that period any authorizations could be turned in without penalty. No further turn-ins would be allowed (although holders still could later transfer authorizations privately), and any unused authorizations at the end of the allocation year would, as now, bring down a two-for-one penalty. The penalty would thus gain the added function of inducing carriers to plan ahead and turn back all authorizations that they do not intent to use. While the penalty would on its face have no effect on third-year behavior of the carriers, the Board would reserve the right to effectuate third-year penalties in administering any extended or subsequent system that might prove to be necessary.

The Board considers it important to avoid, if possible, the arbitrariness of a lottery allocation, and to allow carriers to request turn-in authorizations on a first-come-first-served basis, as they did this year. At the same time, the artificial monopoly that could be obtained by a carrier taking the entire block of turned-in authorizations must also be avoided. The Board therefore proposes to allow qualified carriers to request turned-in authorizations in blocks of any size up to 30 flights (15 round trips) per request. The requests could be made at any time, but a carrier could only make one request per month (regardless of when the charters would be flown). Any request made before October 1 of a given year would be treated as the "October request" for that carrier, with no further request permitted until November 1. While the figure of 30 is of course somewhat arbitrary, it is tentatively chosen as a number large enough to consititue a significant program in this market, but small enough to prevent an immediate "cornering" of the market by one carrier. Any requests would be granted in the order received. Whenever request exceeded available authorizations, they would be placed on a stand-by list. The final rule would establish the date on which requests for authorizations could first be submitted. It would be shortly after the end of the first turn-in period. To avoid first-in-line disorder problems, all requests for authorizations received on the first day would be considered as simultaneously submitted. If they exceeded the number of returned authorizations, their order would be determined by random selection, either by a method agreed to by all the requestors, or (if no agreement were reached) by a method prescribed by Board order.

To prevent carriers from nullifying previously-imposed penalties by achieving a high place on the request list, any carrier that had been assessed a penalty for a given year would not be permitted to make a request for the subsequent year (and any request already received would be nullified) until April 1 of the subsequent year. this provision would not apply to penalties assessed for the year beginning October 1, 1982.

The Board recognizes that various other possibilities for unpenalized abuse of the system might exist. A carrier might, for example, avoid penalties for unused authorizations by transferring them to a "straw" carrier (one that is qualified but uninterested in using them). The low demand level indicates, however, that any abuse that has economic significance is unlikely, and more complex regulation is unjustified. To cover these situations, the Board reserves the right to assess, on its own motion, a penalty on a carrier, and/or bar the carrier's authorization requests for a specified period, if it finds that the carrier has unreasonably requested and received authorizations without using them, or has transferred authorizations to another carrier that had no intention of using them.

These provisions would replace the provisions of § 320.16 for secondary lotteries to dispose of any forfeited authorizations. Any forfeited authorizations would be added to those voluntarily turned in by carriers. By PR–215B, 48 FR 45236, October 4, 1983, the Board has suspended the provisions of § 320.16 for a secondary lottery to be held on November 1, 1983, to dispose of forfeited authorizations, pending the outcome of this rulemaking proceeding.

For editorial consistency, the phrase "charter flight authorization" defined in § 320.3 would be changed to "authorization."

Smith, and McConnell, Members, Concurring

While this allocation scheme is basically first-come-first-served allowing for a give-back period and a penalty provision for unused slots, it continues to rely on an initial allocation involving grandfather rights and a lottery. The demand for Japan charters has shown the grandfather and lottery provisions to be both unnecessary and inappropriate. Given this fact, the initial allocation should also be based on need and allocated on a first-come-first-served basis until the time that an administrative allocation is necessary and appropriate.

We would be interested in carriers' comments on such a proposal.

/s/James R. Smith

/s/Barbara E. McConnell

Schaffer, Member, Concurring in Part and Dissenting in Part

I am concerned that the Board, in granting only a one month, penalty free "turn-back" period, has failed to draw an effective balance between the differing needs of cargo and passenger charter operators, The Board has recognized the necessity for sufficent lead time in the marketing of passenger charters by insisting that unneeded charter authorizations be returned by the initial recipient in sufficient time to allow their use by other airlines.

However, the Board's requirement that those authorizations be returned within 30 days fails to take into account the need of cargo charter operators to be able to sell charters on short notice. This is obviously a situation where the needs of all potential charter operations cannot be fully accommodated. However, I believe that a three or four month "turn back" period would strike a more reasonable and equitable balance between the needs of different kinds of charter services, all of whom must draw their authorizations from the same negotiated quota.

/s/Gloria Schaffer

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 95–354, the Board certifies that these amendments would not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. The limitation on charters to Japan is the result of the underlying Memorandum of Understanding with that country. Since qualified direct carriers must posses large aircraft, they would by definition not be small businesses. Some charters are sold by tour operators and agents that are small businesses. The effect of these amendments would, however, only affect the way in which direct air carriers dispose of unneeded Japan charter authorizations. They would most probably not have a significant effect on the availability or cost of these charters to the small businesses that market them. If anything, the effect would be to make charter life capability more readily available.

List of Subjects in 14 CFR Part 320

Charter flights, Reporting requirements, Treaties.

Proposed Rule

PART 320—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations*, as follows:

1. In § 320.3(a), the defined phrase "charter flight authorization" would be changed to "authorization."

2. Section 320.4(b)(2) would be amended to read:

§ 320.4 Charter authorizations.

* * * * *

(b) * * *

(2) A charter flight authorization obtained by request under § 320.15 shall be for one allocation year;

* * * * *

3. In § 320.14(b), the words "or secondary" would be removed.

4. In § 320.14(c), the closing phrase, "and the carrier may not participate in any following secondary lotteries" would be removed.

5. In § 320.15(b), paragraph (b) would be revised, and a new paragraph (c) added, to read:

§ 320.15 Unused charter authorizations.

* * * * *

(b) Notwithstanding paragraph (a) of this section, any carrier may without penalty return any of its allocated authorizations to the Board, during the following periods:

(1) For the year beginning October 1, 1983, until

[approximately 30 days after publication of this amendment in the Federal Register].

(2) For any subsequent year covered by this rule, until October 31 of that year.

(c) Returns shall be made by written notice to the Board's Regulatory Affairs Division, Bureau of International Aviation, Washington, D.C. 20428, and shall be considered made as of the date the notice is received by the Regulatory Affairs Division. The notice shall identify the air carrier and the number of authorizations returned, and shall be labeled "Return of Japan Charter Authorizations."

(d) The Board reserves the right, on its own motion, to assess a forfeiture of authorizations on a carrier, and/or bar the carrier's requests for authorizations for a specified period, if it finds that the carrier has unreasonably requested and received authorizations without using them, or has transferred authorizations to another carrier that had no intention of operating under them.

6. Section 320.16 would be amended to read:

§ 320.16 Reallocation of authorizations.

(a) Any authorizations forfeited under § 320.14 or § 320.15, or returned to the Board under § 320.15(b), shall be reallocated according to the procedures of this section.

(b) The Board will maintain an up-to-date list of authorizations outstanding, authorizations returned, and the number currently available on request. This information will be available from the Board's Regulatory Affairs Division, Bureau of International Aviation, (telephone 202–673–5878).

(c) A qualified carrier may request authorizations from the Regulatory Affairs Division. A single request shall be for not more than 30 authorizations, and each authorization shall be for one allocation year. The request shall be in writing, and labeled, "Request for Japan Charter Authorizations."

(d) Except as provided in this paragraph and paragraph (e) of this section, a request for authorizations may be made at any time. A particular carrier may make only one request during any calendar month. A request made before October 1 for the allocation year beginning on that date, or a year after that date, shall constitute that carrier's "October request," and that carrier may not make another such request until November 1.

(e) A carrier that has been assessed a penalty under § 320.14 or § 320.15 with respect to a given allocation year (beginning on or after October 1, 1983) shall not make a request for authorizations for a subsequent year until April 1 of the subsequent year.

(f) The Board will accept requests for authorizations continuously during business hours, beginning at 9:00 a.m. on [Date will be shortly after the end of the 1983 turn-back period]. Requests will be filled from the pool of returned authorizations in the order they are received by the Regulatory Affairs Division. If the requests at any time exceed the number of returned authorizations, a stand-by list will be

established. However, all requests received on [above opening date] will be considered as having been received simultaneously, and if they exceed the number of returned authorizations, their order will be established by random selection under procedures agreed to by the requestors or set forth in a Board order.

(Secs. 204, 401, 407, 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766, 797; 49 U.S.C. 1324, 1371, 1377, 1502)

Dated: September 28, 1983.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28762 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 122

[Docket No. 82N-0285]

Smoked and Smoke-Flavored Fish; Current Good Manufacturing Practice

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to revoke the current good manufacturing practice regulation for smoked and smoke-flavored fish. The action is taken because the United States Court of Appeals for the Second Circuit held that, with respect to smoked whitefish, the regulation was promulgated in an arbitrary manner and is invalid.

DATE: Comments by December 20, 1983.

ADDRESS: Written comments, data, or information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 13, 1970 (35 Fr 17401), FDA issued a final rule establishing a current good manufacturing practice (CGMP) regulation for smoked and smoke-flavored fish, now codified as 21 CFR Part 122.

In 1976, the United States sought and received an injunction against Nova Scotia Food Products Corp. (NSFPC) to bar it from processing smoked fish until its manufacturing practices conformed to the CGMP regulation. *United States* v. *Nova Scotia Food Products*, 417 F. Supp. 13674 (E.D.N.Y. 1976). NSFPC (appellants) appealed.

Upon appeal, the court, of appeals reversed the grant of the injunction and directed that the complaint be dismissed. *United States* v. *Nova Scotia Food Products Corp.*, 568 F. 2d 240 (1977). In so ruling, the court of appeals said in part:

> Government inspection of appellants' plant established without question that the minimum T-T-S [time-temperature-salinity] requirements were not being met. There is no substantial claim that the plant was processing whitefish under "insanitary conditions" in any other material respect. Appellants, on their part, do not defend on the ground that they were in compliance, but rather that the requirements could not be met if a marketplace whitefish was to be produced. They defend upon the grounds that the regulation is invalid (1) because it is beyond the authority delegated by the statute; (2) because the FDA improperly relied upon undisclosed evidence in promulgating the reguiation and because it is not supported by the administrative record; and (3) because there was no adequate statement setting forth the basis of the regulation. We reject the contention that the regulation is beyond the authority delegated by the statute, but we find serious inadequacies in the procedure followed in the promulgation of the regulation and hold it to be invalid as applied to the appellants herein.

Since the 1977 appellate court ruling, FDA has not enforced 21 CFR Part 122. Although FDA now is developing data to support minimum T-T-S requirements that will produce a safe and acceptable product, this project will take considerable time to complete. In view of the court ruling and the time needed to develop the necessary dat, FDA believes it should propose revocation of 21 CFR Part 122. When adequate data are available to support minimum T-T-S requirements, FDA will consider the need to propose an appropriate regulation.

Because the regulations have not been enforced since the 1977 court ruling, the revocation of the regulations will have little or no economic impact. Therefore, FDA has determined that this proposal to revoke the regulations, if promulgated, has no economic effects and therefore is not a major rule under Executive Order 12291. For the same reason, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act of 1980, that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 122

Fish, Good manufacturing practices, Smoked fish.

PART 122—[AMENDED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a)(4), 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), is is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by removing Part 122—Smoked and Smoke-Flavored Fish.

Interested persons may, on or before December 20, 1983 submit to the Dockets Management Branch (HFA-305) (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 22, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-28657 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 155

[Docket No. 83N-0327]

Certain Other Canned Vegetables; Amendment of Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the standards of indentity for canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes to permit the use of safe and suitable calcium salts. This action will promote honesty and fair dealing in the interest of consumers.

DATE: Comments by December 20, 1982.

ADDRESS: Written comments, data, or information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: FDA is proposing to amend the standards of identity for canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes in § 155.220 (21 CFR 155.200) to provide for the use of safe and suitable calcium salts as optional firming or crisping agents.

In the **Federal Register** of August 9, 1983 (48 FR 36200), FDA gave notice that a temporary permit had been issued covering interstate marketing tests of experimental packs of canned bean sprouts to provide for the use of calcium chloride, in lieu of calcium lactate as is presently prescribed, as a crisping agent. Justification for the request was that the optional use of this additional calcium salt will provide flexibility in maintaining ingredient supplies and assistance in controlling product costs. The standards of identity for canned lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes similarly list the specific calcium salts including calcium chloride which may be used as firming agents. In view of the interest shown in providing for an additional firming agent for use in canned bean sprouts and consistent with the agency's policy to provide for the use of safe and suitable optional ingredients whenever it is appropriate to do so, FDA believes that this is an opportune time to propose to update the appropriate standards of identity for canned vegetables in § 155.200 to provide for the use of safe and suitable firming agents. Providing for the use of safe and suitable ingredients allows a food processor the flexibility to use different ingredients in response to seasonal changes, economic conditions, or the availability of new ingredients without the need for lengthy and expensive administrative proceedings to amend the food standard each time the food processor wants to use a new or different ingredient. As a result, this flexibility can be translated into savings for consumers. For these reasons, FDA is proposing to amend the standards of identity for canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes in § 155.200 to provide for the use of safe and suitable calcium salts as firming agents.

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354), FDA has reviewed this proposed rule to determine its impact on small entities including small businesses. Because this proposal would increase the number of optional food ingredients permitted for use in canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes, and would impose no new requirements on food manufacturers, FDA therefore certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

List of Subjects in 21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.10) and redelegated to the Director, Bureau of Foods (21 CFR 5.61), it is proposed that § 155.200 be amended by revising paragraph (c)(6) to read as follows:

PART 155—CANNED VEGETABLES

§ 155.200 Certain other canned vegetables.

* * * * *

(c) * * *

(6) In the case of bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes, any safe and suitable calcium salts may be added as a firming agent.

* * * * *

Interested persons may, on or before December 20, 1983, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October, 14, 1983.

Richard J. Ronk,

Acting Director for Bureau of Foods.

[FR Doc. 83-28656 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 1040

[Docket No. 82N-0188]

Sunlamp Products; Performance Standard; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that proposed to amend the performance standard for sunlamp products and ultraviolet lamps intended for use in these products. This document corrects errors that inadvertently referred to compliance with the proposed rule when it should only have referred to the final rule.

FOR FURTHER INFORMATION CONTACT: Glenn Conklin, National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-13449 appearing at page 22886 in the issue of Friday, May 20, 1983, the following corrections are made:

1. On page 22886 in the first column, under "**DATE**", the last sentence is revised to read "The agency will not object to manufacturers complying voluntarily with any final rule based on this proposal prior to the effective date of the final rule promulgating the amended standard."

2. On page 22890 in the first column, the paragraph under the heading, "Effective Date," is revised to read "FDA intends that any final rule based on this proposal would become effective 1 year after the date of publication of the final rule in the **Federal Register**. The agency will not object to manufacturers complying with the final rule promulgating amended standard, after the final rule is published but prior to its effective date, provided that the manufacturer specifies on the certification label that the product complies with that amended standard and provided that the manufacturer complies with the recordkeeping and reporting requirements of 21 CFR Part 1002. Manufacturers of products that are not now subject to the standard because of lack of radiation emission at wavelengths less than 320 nanometers who voluntarily certify compliance prior to the effective date of the amended standard will also be considered subject to the reporting and recordkeeping requirements."

Dated: October 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-28653 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20 and 25

Treatment of Certain Contributions of Works of Art, etc.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the

VOL
48
ISS
2
0
5
OC
21
1983
UMI

estate and gift tax treatment of contributions of copyrighted works of art. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981. These regulations will provide guidance to taxpayers who make charitable contributions of copyrighted tangible personal property.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 20, 1983. The regulations are proposed to be effective for estates of decedents dying after December 31, 1981 and charitable transfers after such date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue; Attention: CC:LR:T [LR–210–81], Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert B. Coplan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Estate and Gift Tax Regulations (CFR Parts 20 and 25) under sections 2055 and 2522 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 423 of the Economic Recovery Tax Act of 1981 (Pub. L. 97–34, 95 Stat. 316), and are to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805).

In General

This document contains proposed amendments to the regulations relating to the estate and gift tax treatment of charitable contributions of copyrighted tangible personal property. Existing regulations do not allow a gift tax deduction under section 2522 or an estate tax deduction under section 2055 if interests in the same property are transferred for both charitable and noncharitable purposes, unless the charitable interest is in certain specified forms. In applying this rule, the existing regulations treat an original work of art and a copyright interest relating to that work of art as two interests in the same property. Therefore, no charitable deduction would be allowed under section 2055 or 2522 if an individual gave the original of an art work to charity but retained the copyright attributable to that art work.

The proposed regulations provide in §§ 20.2055–2(e)(1)(ii) and 25.2522(c)–3(c)(1)(ii) that for purposes of the estate and gift tax charitable deductions, a work of art and its copyright are treated as separate properties if a donor or decedent makes a qualified contribution of the work of art to a qualified organization. Thus, with respect to gifts made after December 31, 1981, and estates of decedents dying after that date, a charitable deduction will generally be allowable for the transfer to charity of a work of art, whether or not the related copyright is simultaneously transferred to the charitable organization. This provision is not applicable to the income tax charitable deduction under section 170.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Robert B. Coplan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 20

Estate taxes.

26 CFR Part 25

Gift taxes.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 20 and 25 are as follows:

PART 20—[AMENDED]

Paragraph 1. (a) Paragraph (e)(1) of § 20.2055–2 is amended by redesignating paragraph (e)(1) as paragraph (e)(1)(i) and adding a heading thereto, by removing the words "In general," from the first sentence of newly designated paragraph (e)(1)(i), by substituting the words "this paragraph (e)(1)(i)" for the words "this subparagraph" in the second and fourth sentences and Examples (1), (2), (3), and (6) of new paragraph (e)(1)(i), and by adding a new paragraph (e)(1)(ii) to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(e) *Limitation applicable to decedents dying after December 31, 1969*—(1) *Disallowance of deduction*—(i) *In general.* In the case of decedents dying after December 31, 1969,* * *

(ii) *Works of art and copyrights treated as separate properties*—(*a*) *In general.* For purposes of paragraphs (e)(1)(i) and (e)(2) of this section, in the case of decedents dying after December 31, 1981, if a decedent makes a qualified contribution of a work of art, the work of art and the copyright on such work of art shall be treated as separate properties. Thus, a deduction is allowable under section 2055 for a qualified contribution of a work of art, whether or not the related copyright is simultaneously transferred to a charitable organization.

(*b*) *Work of art defined.* For purposes of paragraph (e)(1)(ii)(*a*) of this section, the term "work of art" means any tangible personal property with respect to which a copyright exists under Federal law.

(*c*) *Qualified contribution defined.* For purposes of paragraph (e)(1)(ii)(*a*) of this section, the term "qualified contribution" means any transfer of property to a qualified organization (as defined in paragraph (e)(1)(ii)(*d*) of this section) if the use of the property by the organization is related to the purpose or function constituting the basis for its exemption under section 501.

(*d*) *Qualified organization defined.* For purposes of paragraph (e)(1)(ii)(*c*) of this section, the term "qualified organization" means any organization described in section 501(c)(3) other than a private foundation (as defined in section 509). A private operating foundation (as defined in section 4942(j)(3)) shall be considered a qualified organization under this paragraph.

§ 20.2055–2 [Amended]

(b) Paragraph (e)(2)(i) of § 20.2055–2 is amended by removing the seventh sentence thereof.

PART 25—[AMENDED]

Par. 2. (a) Paragraph (c)(1) of § 25.2522 (c)–3 is amended by redesignating paragraph (c)(1) as paragraph (c)(1)(i) and adding a heading thereto, by substituting the words "this paragraph (c)(1)(i)" for the words "this subparagraph" in the second and fourth sentences and Examples (1), (2), and (3) of newly designated paragraph (c)(1)(i), and by adding a new paragraph (c)(1)(ii) to read as follows:

§ 25.2522(c)–3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(c) *Transfers of partial interest in property*—(1) *Disallowance of deduction*—(i) *In general.* * * *

(ii) *Works of art and copyright treated as separate properties.* For purposes of paragraphs (c)(1)(i) and (c)(2) of this section, rules similar to the rules in § 20.2055–2(e)(1)(ii) shall apply in the case of transfers made after December 31, 1981.

(b) Paragraph (c)(2)(i) of § 25.2522(c)–3 is amended by removing the seventh sentence thereof.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–28757 Filed 10–20–83; 8:45 am]

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26 CFR Part 52

Environmental Taxes on Petroleum and Certain Chemicals; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the imposition of taxes on petroleum and certain chemicals. Changes to the applicable tax law were made by the Hazardous Substance Response Revenue Act of 1980. The regulations would provide the public with the guidance needed to comply with that Act and would affect certain persons in the petroleum and chemicals industries.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 21, 1983. The amendments are generally proposed to be effective on April 1, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue,. NW., Attention: CC:LR:T (LR–16–81) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Clark of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 Attention: CC:LR:T:LR–16–81, 202–566–3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the regulations on Environmental Exicse Taxes on Petroleum, Certain Chemicals, and Hazardous Waste (26 CFR Part 52) under sections 4611, 4612, 4661, and 4662 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 211 of the Hazardous Substance Response Revenue Act of 1980 (94 Stat. 2797) (Act) and are to be issued under the authority contained in sections 4662(b), 4662(d), and 7805 of the Internal Revenue Code of 1954 (94 Stat. 2800, 26 U.S.C. 4662 (b) and (d); 68A Stat. 917, 26 U.S.C. 7805).

The Petroleum Tax

The Act imposes a tax under section 4611 (the petroleum tax) on crude oil received at a United States refinery, domestic crude oil used or exported before it is received at a United States refinery, and petroleum products (including crude oil) entered into the United States for consumption, use, or warehousing. The proposed regulations provide rules for determining when crude oil is received at a United States refinery and when petroleum products are entered into the United States. In general, crude oil is received at a United States refinery when it is charged to the distillation units of a refinery. Petroleum products are entered in the United States for consumption or use when an entry summary for consumption (Customs Form 7501) is filed and are entered for warehousing when an entry summary for warehouse (Customs Form 7502) is filed.

Section 4611(c) identifies the persons liable for the petroleum tax. The tax on crude oil received at a United States refinery will be paid by the operator of the refinery. The tax on petroleum products entered into the United States will be paid by the person making the entry. In general, the regulations treat the consignee filing the entry summary for the petroleum products as the person entering the petroleum products. However, if the consignee filing the entry summary has no beneficial interest in the petroleum products, then the regulations treat the person with the beneficial interest in the petroleum products as the consignee and make that person liable for the tax. The tax on domestic crude oil used or exported before it is received at a United States refinery will be paid by the user or exporter.

Section 4612(b) provides that the petroleum tax is imposed only once with respect to any petroleum product (including crude oil). Anyone who is otherwise liable for the tax on a petroleum product may establish that the tax already has been imposed with respect to that product. The regulations provide that proof of the imposition of a prior tax may be established by a bill of lading or invoice saying that the tax has been paid on the petroleum product covered by the bill of lading or invoice, or, in the case of imported crude oil received at a United States refinery, by Customs documents or a statement by the importer saying the crude oil is imported crude oil.

The proposed regulations provide rules for claiming a refund or credit of an overpayment of the petroleum tax. A taxpayer claiming a refund or credit of the petroleum tax, unlike a taxpayer claiming a refund or credit of the manufacturers excise tax under section 6416, is not required to demonstrate that the taxpayer has not included the amount of the tax in the price of the petroleum product sold. Moreover, if the taxpayer has in fact included the amount of the tax in the price of a petroleum product and collected the tax from the purchaser of the product, the taxpayer may claim a refund or credit without repaying the tax to the ultimate purchaser or obtaining the consent of the ultimate purchaser to the allowance of refund or credit.

The Chemical Tax

The Act also imposes a tax under section 4661 (the chemical tax) on taxable chemicals sold or used by the manufacturer, producer, or importer of the chemicals. The regulations provide rules for determining when a chemical listed in section 4661(b) will be treated as a taxable chemical. Chemicals listed in section 4661(b) that are present in a hydrocarbon stream and that are never isolated from that stream, but are blended with other products and sold as gasoline, are treated as taxable chemicals. A metal will be treated as a taxable chemical only when it has been

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processed to the stage at which it is commercially known or sold as a metal.

Computation of the Chemical Tax

The amount of the chemical tax is computed by multiplying the rate of the tax specified for the taxable chemical in section 4661(b) by the number of tons of the taxable chemical sold or used. The regulations provide rules for determining the number of tons of a taxable chemical. In general, the tonnage of a taxable chemical sold or used is computed on a contained weight basis. The regulations provide several different methods of measuring the number of pounds of a taxable chemical used by a manufacturer, producer, or importer. If the number of pounds used is a measured quantity, then the manufacturer, producer, or importer must use the measured quantity to compute the chemical tax. However, if the number of pounds used is not a measured quantity, the manufacturer, producer, or importer may elect to use one of the following methods to determine the number of pounds used: (1) Average quarterly quantities derived from engineering data, (2) normal periodic testing programs, or (3) consumption formulas based on the ratio of the number of pounds of taxable chemical required to produce a substance to the measured number of pounds of the substance produced.

Exemptions From the Chemical Tax

Section 4662 provides four exemptions from the chemical tax. The first applies to methane and butane. Methane and butane are treated as taxable chemicals only if they are used otherwise than as a fuel, and the person so using the methane or butane will be treated as its manufacturer and will be liable for the chemical tax on it.

The second exemption is for certain chemicals that are used to produce fertilizer or that are directly applied to crops or cropland as fertilizer. These chemicals are nitric acid, sulfuric acid, ammonia, and methane used to produce ammonia. The exemption applies if the manufacturer, producer, or importer of the chemicals uses them for fertilizer or sells them to a purchaser who either uses them for fertilizer or sells them to a second purchaser who uses them for fertilizer. In the case of a sale for use, the regulations require the manufacturer, producer, or importer to obtain a certificate in which the purchaser agrees to use the chemicals for fertilizer and to notify the manufacturer, etc., if the chemicals are sold or are not used for fertilizer. In the case of a sale for resale, the regulations require the manufacturer, producer, or importer to obtain a certificate in which the purchaser agrees to resell the chemicals to a second purchaser only for use by the second purchaser as fertilizer, and to obtain proof from the purchaser that the chemicals have been resold for fertilizer. In both cases, the manufacturer, producer, or importer remains liable for the tax if the use for which the chemicals were sold is not made.

The third exemption is for sulfuric acid. No chemical tax will be imposed on sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment. The regulations define air pollution control equipment as any equipment used to comply with the Clean Air Act.

The last exemption is for chemicals derived from coal. The term "taxable chemical" does not include any substance to the extent derived from coal.

The regulations do not provide for any exemptions from the chemical tax other than the four described above. Thus, there is no exemption for sales of taxable chemicals to a state or local government or to any agency of the federal government. In addition, there is no exemption for taxable chemicals sold to nonprofit educational organizations, for use as supplies for vessels or aircraft, or for export.

The Hazardous Wastes Tax

The Act imposes a tax under section 4681 on hazardous waste received after September 30, 1983, at a qualified hazardous waste disposal facility. This document, however, does not provide proposed regulations with respect to that tax. Proposed regulations addressing matters related to the hazardous wastes tax are expected to be provided by another regulation project.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Cynthia L. Clark of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 52

Environmental protection, Taxes Petroleum, Chemicals, and Hazardous waste.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Subchapter D are as follows:

Paragraph. A new part 52, Environmental Taxes on Petroleum and Certain Chemicals and Hazardous Waste, is added to Subchapter D of Title 26 of the Code of Federal Regulations as follows:

PART 52—ENVIRONMENTAL TAXES ON PETROLEUM AND CERTAIN CHEMICALS AND HAZARDOUS WASTE

Sec.

52.4611–1 Imposition of petroleum tax.
52.4612–1 Definitions and special rules.
52.4612–2 Refund or credit of tax under section 4611.
52.4661–1 Imposition of chemical tax.

Sec.

52.4662–1 Definitions.
52.4662–2 Exemptions.
52.4662–3 Refund or credit of tax under section 4661.
52.4662–4 Disposition of revenue from Puerto Rico and the Virgin Islands.

Authority: Secs. 4662(b) (94 Stat. 2800, 26 U.S.C. 4662(b)), 4662(d) (94 Stat. 2800, 26 U.S.C. 4662(d)), and 7805 (68A Stat. 917, 26 U.S.C. 7805) Internal Revenue Code of 1954.

§ 52.4611–1 Imposition of petroleum tax.

(a) *In general*—(1) *Crude oil.* Section 4611(a)(1) imposes a tax on crude oil received at a United States refinery after March 31, 1981. For the purposes of this section, crude oil is considered to be received at a United States refinery when it is charged to the distillation units of the refinery. See § 52.4612–1(a)(9) for special rules relating to natural gasoline. See § 52.4611–1(d)(1) for the treatment of crude oil received at a United States refinery under a processing agreement or an exchange agreement.

(2) *Petroleum products*—(i) *In general.* Section 4611(a)(2) imposes a tax on petroleum products entered into the United States after March 31, 1981, for consumption, use, or warehousing. For the purposes of this section, petroleum products will generally be considered to be entered into the United States for consumption or use when an entry summary for consumption (Customs Form 7501 or 3311) is filed with Customs, in proper form, with estimated duties attached, and will be considered to be entered into the United States for warehousing when an entry summary for warehouse (Customs Form 7502) is filed with Customs, in proper form. If a petroleum product is entered into the United States for warehousing and, by the last day of the calendar quarter in which the product is entered, the product is withdrawn for exportation or for transportation and exportation from the United States, no tax will be imposed on the petroleum product under section 4611. If the petroleum product is not withdrawn for exportation or for transportation and exportation from the United States by the last day of the calendar quarter, tax will be imposed on the product under section 4611, but a credit or refund may be claimed when the product is so withdrawn. See § 52.4612–2 for rules relating to credit or refund of overpayments. Petroleum products entered into the United States for transportation and exportation are not subject to tax under section 4611. Petroleum products are entered into the United States for transportation and exportation when a carrier's receipt is given to the lading inspector on a Customs in-bond document (the appropriate Customs Form 7512 or 7520 or a TIR carnet) covering the petroleum products to be transported and exported. If petroleum products entered into the United States for transportation and exportation are not exported from the United States by the last day of the calendar quarter they will be taxed under section 4611, but a credit or refund may be claimed when the product is exported. In the case of areas not subject to the general United States Customs laws (for example, foreign trade zones) an entry will be considered to have occurred at any time such an event would have occurred if the Customs laws were applicable to that area. An entry is not deemed to have occurred in the case of fuel stores on a ship or the casual use of items such as fuel in an automobile gas tank.

(ii) *Examples.* The provisions of paragraph (a)(2)(i) of this section may be illustrated by the following examples:

Example (1). X operates a refinery in a foreign trade zone in Hawaii. The foreign trade zone is treated as part of the United States, as provided in § 52.4612–1(a)(6). X imports crude oil into the trade zone for processing at X's refinery. Had X imported the crude oil into some part of the United States other than a foreign trade zone for the purposes of processing the oil at a refinery, X would have entered the crude oil into the United States for consumption. Thus, X will be treated as entering the crude oil into the foreing trade zone for consumption and will be liable for the section 4611 tax on each barrel of crude oil imported into the foreign trade zone for refining.

Example (2). Assume the same facts as in example (1) except that X will not be processing all the crude oil at X's refinery. Instead X will place 500,000 barrels of the crude oil in storage at its tank farm in the foreign trade zone before transporting it into California. Had X imported the 500,000 barrels of oil into some part of the United States other than a foreign trade zone, X would have had to enter it into the United States for warehouse. Thus, X will be treated as entering the 500,000 barrels of oil into the United States for warehouse and will be liable for the section 4611 tax on the 500,000 barrels.

(b) *Uses and exemptions*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, if domestic crude oil (as defined in paragraph (a)(4) of § 52.4612–1) is used in or exported from, the United States before it is received at a United States refinery, the crude oil will be subject to tax under section 4611(b)(1). Domestic crude oil is used when it is consumed, it is used as a catalyst, or its characteristics are changed. However, domestic crude oil is not used when its characteristics are changed by operations such as passing the crude oil through separators to remove gas, placing the crude oil in settling tanks to remove basic sediment and water, or dehydrating, cleaning, purifying, or storing the crude oil. For these purposes, the term "use" does not include storage for resale, or storage for the purpose of being processed, refined, or manufactured. Moreover, domestic crude oil lost or destroyed through shrinkage, spellage, fire, or otherwise is not considered to have been "used" and, accordingly, no tax will be imposed on it under section 4611(b)(1). The mere injection of a lightweight crude oil into a crude oil or heavier weight to improve the ability of the heavy crude oil to flow through pipelines is not a taxable use of the light crude oil.

(2) *Domestic crude oil used for extraction purposes.* Domestic crude oil used for extraction purposes on the premises where produced is not taxable under section 4611(b)(1). Thus, for example, domestic crude oil used on the premises where it is produced for powerhouse fuel or for injection as part of the recovery process is not taxable crude oil. See paragraph (a)(10) of § 52.4612–1 for the definition of "premises."

(3) *Exemptions inapplicable.* There is no exemption from the petroleum tax for domestic crude oil exported or sold for export, or for crude oil and other petroleum products sold for use as supplies' for vessels or aircraft, sold to a state or local government for the exclusive use of the state or local government, or sold to a nonprofit eductional organization for its exclusive use. In addition, the Secretary does not have discretion to exempt the federal government from the petroleum tax.

(c) *Rate of tax.* The rate of tax on crude oil received at a refinery, petroleum products entered into the United States for consumption, use, or warehousing, and domestic crude oil used or exported before it is received at a refinery, is $.0079 a barrel. Thus, the tax on 500,000 barrels of crude oil is 3,950. In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(d) *Persons liable for tax*—(1) *Crude oil received at refinery.* The tax on crude oil received at a United States refinery shall be paid by the operator of the refinery. The tax on crude oil received at a United States refinery under an exchange agreement will also be paid by the operator of the refinery. An exchange means a transaction in which two or more persons reciprocally give up and receive crude oil or other substances. The term "exchange" includes exchanges in which one person

may make a payment in cash or other property to compensate the other person involved for costs incurred (e.g., freight costs) pursuant to the transaction. In the case of a business entity, the operator of a United States refinery is the entity and not its employee or owner. If a person refines crude oil under an agreement whereby another person furnishes the crude oil and retains title to it and to the finished products made from it, the person who refines the crude oil, and not the person who furnishes the crude oil, will be subject to the tax.

(2) *Imported petroleum products.* The tax on petroleum products entered into the United States for consumption, use, or warehousing shall be paid by the person so entering the petroleum products. The person entering a petroleum product for consumption, use, or warehousing is the consignee who filed the entry summary for consumption or warehouse, as the case may be, with respect to that petroleum product. However, if the consignee is not the beneficial owner of the petroleum product (for example, the consignee is a Customs broker engaged by the beneficial owner), then the beneficial owner will be deemed to be the consignee who filed the entry summary for consumption or warehouse and will be liable for the tax on the petroleum product.

(3) *Tax on certain uses or exports.* The tax under section 4611(b)(1) on domestic crude oil used or exported before a tax is imposed by section 4611(a) shall be paid by the user or exporter of the oil.

(e) *Termination*—(1) *In general.* Except as provided in paragraphs (e) (2) and (3) of this section, the taxes imposed by section 4611 shall cease to apply after September 30, 1985.

(2) *Calendar year 1984.* No tax shall be imposed under section 4611 during calendar year 1984 if—

(i) On September 30, 1983, the unobligated balance in the Hazardous Substance Response Trust Fund (Fund) exceeds $900,000,000, and

(ii) The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, determines that the unobligated balance of the Fund will exceed $500,000,000 on September 30, 1984, if no tax is imposed under section 4611 or 4661 during calendar year 1984.

(3) *Calendar year 1985.* No tax shall be imposed under section 4611 during calendar year 1985 if—

(i) On September 30, 1984, the unobligated balance in the Fund exceeds $900,000,000, and

(ii) The Secretary of the Treasury after consultation with the Administrator of the Environmental Protection Agency, determines that the unobligated balance of the Fund will exceed $500,000,000 on September 30, 1985, if no tax is imposed under section 4611 or 4661 during calendar year 1985.

(f) *Effective date.* The provisions of this section are effective after March 31, 1981.

§ 52.4612-1 Definitions and special rules.

(a) *Definitions.* For the purposes of this part and subchapter A of Chapter 38 of the Code—

(1) *Crude oil.* "Crude oil" includes crude oil condensate and natural gasoline, but not other natural gas liquids. Thus, the term "crude oil" does not include methane, butane, ethane, or propane. In addition, the term "crude oil" does not include refined oil or synthetic petroleum such as shale oil or liquids from coal, tar sands, or biomass. See § 52.4662-2(a) for the chemical tax on methane and butane. See § 52.4611-1(b)(2) for the treatment of crude oil used for extraction purposes on the premises where produced.

(2) *Crude oil condensate.* "Crude oil condensate" means the liquid hydrocarbons that result when petroleum hydrocarbons existing in a gaseous phase in a reservoir condense because of changes in temperature or pressure, and that are recovered by a separator or at a natural gas processing plant.

(3) *Natural gasoline.* "Natural gasoline" means a light, volatile hydrocarbon mixture (generally containing butane, pentane, hexane, and heptane) that is recovered from natural gas and that has a Reid vapor pressure of 10–34 pounds determined by ASTMD—323–72 test method.

(4) *Domestic crude oil.* "Domestic crude oil" means any crude oil produced from a well located in the United States.

(5) *Petroleum product*—(i) *In general.* "Petroleum product" includes crude oil, crude oil condensate, natural and refined gasoline, refined and residual oil, and any other hydrocarbon product derived from crude oil or natural gasoline entered into the United States in liquid form. The term "petroleum product" does not include methane, butane, ethane or propane. See § 52.4662-2(a) for the chemical tax on methane and butane.

(ii) *Example.* The provisions of paragraph (a)(5)(i) of this section may be illustrated by the following example:

Example. Liquid styrene (a hydrocarbon) is entered into the United States for consumption. The styrene was produced in Europe by combining benzene and ethylene, both of which were made from crude oil. The styrene is a petroleum product because it is a hydrocarbon made from crude oil and entered into the United States in liquid form.

(6) *United States.* The term "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any possession of the United States. The term "United States" also includes those areas considered to be a part of the United States or a possession of the United States under section 638 (relating to continental shelf areas) and any foreign trade zone of the United States.

(7) *United States refinery.* "United States refinery" means any facility in the United States at which crude oil is refined. A facility includes all the equipment (including a natural gas processing plant) on the site at which crude oil is refined. A site means a contiguous property unit; property divided only by a public right-of-way shall be considered to be one site.

(8) *Refining.* "Refining" is any operation by which the physical or chemical characteristics of crude oil products are changed, exclusive of such operations as passing crude oil through separators to remove gas, placing crude oil in settling tanks to remove basic sediment and water, and dehydrating crude oil. The stripping of natural gasoline from natural gas liquids (NGL's) is not refining.

(9) *Refineries that produce natural gasoline*—(i) *In general.* In the case of a United States refinery that produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced. However, if natural gasoline is not produced at a United States refinery, the natural gasoline will be taxed when it is received at a United States refinery, used, or exported.

(ii) *Examples.* The provisions of paragraph (a) (9) (i) of this section may be illustrated by the following examples:

Example (1). M owns a 10 acre tract of land bisected by a highway. On one half of the tract is equipment for refining crude oil. On the other half of the tract is a crude processing plant. The equipment for refining crude oil shares a common power plant with the gas processing plant. There is no other physical connection between the refining equipment and the gas processing plant. Natural gasoline produced from natural gas liquids at the natural gas processing plant is considered received at a United States refinery, and thus subject to the tax under section 4611, as soon as it is produced.

Example (2). N operates a natural gas processing plant at which natural gas liquids are recovered by a process of refrigeration and absorption. N strips natural gasoline from the natural gas liquids. The natural gasoline will be taxed when it is received at a United States refinery, used, or exported.

(10) *Premises.* "Premises" has the same meaning as when used for purposes of determining gross income from property under section 613A (relating to percentage depletion).

(11) *Barrel.* "Barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(b) *Only one tax imposed with respect to any product.* No tax shall be imposed by section 4611 with respect to any petroleum product (including crude oil) if the person who would be liable for such tax establishes that a prior tax under section 4611 has been imposed with respect to such product. For this purpose, a statement on the bill of lading or invoice that the tax imposed by section 4611 has been paid with respect to the petroleum product covered by the bill of lading or invoice will be sufficient to establish that a prior tax has been imposed. In the case of imported crude oil received at a United States refinery, proof that the crude oil is imported is sufficient to demonstrate that the tax under section 4611 has been imposed once on that crude oil, and a second tax will not be imposed when that crude oil is received at the refinery. Such proof may consist of Customs documents, a written statement given by the person entering the crude oil to the operator of the refinery saying that the crude oil is imported, or any other form of documentation that will show to the satisfaction of the district director that the crude oil is not domestic crude oil.

(c) *Disposition of revenues from Puerto Rico and the Virgin Islands.* The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4611. Thus, no amount of the tax imposed by section 4611 shall be covered into the Treasury of Puerto Rico, and no amount of the tax shall be transferred and paid over to the Government of the Virgin Islands.

(d) *Effective date.* The provisions of this section are effective after March 31, 1981.

§ 52.4612-2 Refund or credit of tax under section 4611.

Any claim for refund or credit of an overpayment of tax under section 4611 (the petroleum tax) shall be made in accordance with the applicable provisions of this section and the applicable provisions of § 301.6402-2 (Regulations on Procedure and Administration). A claim on Form 843 is not required in the case of a claim for credit, but the amount of the credit shall be claimed by entering such amount as a credit on a return of tax under chapter 38 (environmental taxes) filed by the person making the claim. The provisions of this section are effective after March 31, 1981.

§ 52.4661-1 Imposition of chemical tax.

(a) *Imposition of tax*—(1) *In general.* Section 4661(a) imposes a tax on the sale or use after March 31, 1981, of a taxable chemical by the manufacturer, producer, or importer thereof. See § 52.4611-1(a)(2)(i) for the imposition of the petroleum tax on taxable chemicals that are also petroleum products. See § 52.4661-1(d)(2) for the definition of "manufacturer or producer," § 52.4661-1(d)(3) for the definition of "importer," § 52.4661(e) for the definition of "sale," § 52.4661-1(f) for definition of "use," and § 52.4662-1(a) for the definition of "taxable chemical."

(2) *Examples.* The provisions of paragraph (a)(1) of this section may be illustrated by the following examples:

Example (1). X manufactures a taxable chemical and sells it to Y. Y resells the taxable chemical to Z. X is liable for the tax imposed by section 4661 because X has manufactured and sold a taxable chemical. Although Y has sold a taxable chemical, Y is not liable for the tax imposed by section 4661 because Y is not the manufacturer, producer, or importer of the taxable chemical Y sold.

Example (2). X manufactures a taxable chemical on March 15, 1981, prior to the effective date of section 4661. On April 1, 1981, X sells the taxable chemical. X is liable for the chemical tax on the taxable chemical it sold on April 1, 1981.

Example (3). On March 30, 1981, Y, a United States corporation with a foundry in Pennsylvania, enters into a contract with Z, a British corporation. Under the terms of the contract, Y will buy 100,000 tons of a taxable chemical from Z. Z will transport the taxable chemical in 20 ton lots from Europe, where it is produced, to Canada. From Canada, the taxable chemical will be transported to Y's foundry. On June 1, 1981, 20 tons of the taxable chemical are delivered to Y's foundry. As of June 30, 1981, Y has used only 15 tons of the chemical. Thus, for the calendar quarter ending June 30, 1981, Y is liable for the chemical tax on the 15 tons of the taxable chemical it used in June. The remaining 5 tons of taxable chemical that Y imported during the quarter ending June 30 will be taxed when Y uses it or sells it.

(b) *Rates of tax.*

	The tax is the following amount per ton
In the case of:	
Acetylene	$4.87
Benzene	4.87
Butane	4.87
Butylene	4.87
Butadiene	4.87
Ethylene	4.87
Methane	3.44
Naphthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	4.87
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromium	4.45
Chromite	1.52
Potassium dichromate	1.89
Sodium dichromate	1.87
Cobalt	4.45
Cupric sulfate	1.87
Cupric oxide	3.59
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorous	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	0.22
Sodium hydroxide	0.28
Sulfuric acid	0.26
Nitric acid	0.24

(c) *Computation of tax*—(1) *In general.* The tax is computed by multiplying the number of tons of the taxable chemical sold or used by the rate applicable to the chemical as set out in paragraph (b) of this section. The term "ton" means 2000 pounds. In the case of any taxable chemical that is a gas, the term "ton" means the amount of such gas in cubic feet which is the equivalent of 2000 pounds on a molecular weight basis. The volume of a gas shall be measured using standard conditions of 14.78 psia and 60° F. In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton. For the purposes of this section, only the amount of the taxable chemical contained in the substance sold or used, shall be taken into account. Thus, for example, if one pound of a substance contains 50 percent by weight of a taxable chemical, there is one-half pound of that taxable chemical.

(2) *Measurement.* In the case of sales at arm's length of a taxable chemical, the tonnage shall be determined by the number of pounds of taxable chemical invoiced to the purchaser. In the case of uses of a taxable chemical, the tonnage shall be determined by the measured number of pounds used when this is a measured quantity. When the number of pounds of a taxable chemical used is not a measured quantity, the taxpayer need not install a meter or other measuring device to determine the tonnage. Instead, if reasonable under the circumstances, the taxpayer may elect

to determine the number of pounds used on the basis of—

(i) Average quarterly quantities derived from engineering data,

(ii) Normal periodic testing programs, or

(iii) Consumption formulas based on the ratio of the number of pounds of a taxable chemical used to produce a substance to the measured number of pounds of the substance produced. Once the taxpayer elects to use one of these methods of measurement with respect to a taxable chemical, the taxpayer must continue to use the same method for that chemical. However, the taxpayer need not elect the same method for all the taxable chemicals the taxpayer uses. The election is made by writing, on the back of Form 6627 (Environmental Taxes) or on a sheet attached to Form 6627, the method the taxpayer used to determine the tonnage of each chemical reported on Form 6627.

(3) *Examples.* The provisions of paragraph (c)(1) and (c)(2) of this section may be illustrated by the following examples:

Example (1). M produces sodium hydroxide, which M mixes with water to form a solution. M sells this solution in an arm's-length transaction to N. M's tax liability on the sale is to be measured by the number of pounds of sodium hydroxide invoiced to N. According to the invoice, M sold 10 tons of 50 percent sodium hydroxide solution. Thus, M's tax liability is $1.40 ($0.28 x 50 percent of 10 tons).

Example (2). X uses taxable chemical T to make plastic. X does not actually measure the T used. However, X establishes that 1.25 pounds of taxable chemical T are required to make 1 pound of plastic. Thus, the ratio of T used to plastic produced is 1.25/1 or 1.25. X elects to use this ratio to determine its tax liability for T. Assuming X produces 40,000 pounds of plastic during the calendar quarter ending June 30, 1981, X used 50,000 pounds (40,000 x 1.25), or 25 tons, of T. Assuming further that the tax on T is $4.87 a ton, X's tax liability for the T is $121.75 ($.87 x 25).

(d) *Persons liable for tax*—(1) *In general.* The tax imposed by section 4661 is payable by the manufacturer, producer, or importer of the taxable chemical that sells or uses the taxable chemical.

(2) *Manufacturer or producer*—(i) *In general.* The terms "manufacturer" and "producer" include any person that produces a taxable chemical from new or raw substances or from scrap, salvage, waste or recycled substances. However, a person that uses a taxable chemical and subsequently reuses that chemical will not be considered a manufacturer or producer with respect to the amount of the taxable chemical the person reuses. If, as the result of any manufacturing, mining, or other operation, a person produces a waste material contaning any taxable chemical, that person will not be treated as the manufacturer or producer of the taxable chemical contained in the waste material, unless the person removes the taxable chemical from the waste material. If the person sells the waste material with the taxable chemical still in it, then the person that buys the waste material and removes the taxable chemical from it will be treated as the manufacturer or producer of the taxable chemical. If a person manufactures or produces a taxable chemical for another person who furnishes substances, under an agreement whereby the person that furnishes the substances retains title to them and to the finished substances, the person for whom the taxable chemical is manufactured or produced and not the person that actually manufactures or produces it will be considered the manufacturer. See section 4662)(b)(1) and paragraph (a) of § 52.4662–2 for rules relating to the manufacturer of methane and butane.

(ii) *Example.* the provisions of paragraph (d)(2)(i) of this section may be illustrated by the following example:

Example. X manufacturers sulfuric acid and uses it as a catalyst in one of its refining processes. The process requires 1000 pounds of sulfuric acid. At the beginning of the first processing run, X adds 1000 pounds of new sulfuric acid to the container in which the process takes place. X must pay tax on this 1000 pounds of new sulfuric acid. During the process, the sulfuric acid becomes contaminated. At the end of the process, X draws off the contaminated sulfuric acid, cleans it, and returns it to the container to be used again. The cleaning process is such, however, that only 900 pounds of the sulfuric acid are recovered. As a result, X must add 100 pounds of new sulfuric acid at the start of the next processing run. X will not be considered a manufacturer or producer of the 900 pounds of sulfuric acid it reuses. X must, of course, pay tax on the 100 pounds of new sulfuric acid added at the beginning of the second processing run.

(3) *Importer.* The term "importer" means the person entering the taxable chemical into the United States (as defined in § 52.4612–1(a)(6)) for consumption, use, or warehousing. The person entering the taxable chemical for consumption, use, or warehousing is the consignee who filed the entry summary for consumption or warehouse, as the case may be, with respect to that taxable chemical. However, it the consignee is not the beneficial owner of the taxable chemical (for example, the consignee is a Customs broker engaged by the beneficial owner), then the beneficial owner will be deemed to be the consignee who filed the entry summary for consumption or warehouse and will be liable for the tax under section 4661 when that beneficial owner sells or uses the taxable chemical.

(e) *Sale*—(1) *In general.* The term "sale" means an agreement whereby the seller transfers the property (that is, the title or the substantial incidents of ownership, in goods) to the buyer of consideration, called the price, which may consist of money, services, or other things.

(2) *Exchanges.* As exchange of a taxable chemical is a sale of that taxable chemical for the purposes of section 4661. "Exchange" includes a transaction in which two or more persons reciprocally give up and receive taxable chemicals or other substances. The term "exchange" includes exchanges in which one person may make a payment in cash or other property to compensate the other person involved for costs incurred (e.g., freight costs) pursuant to the transaction.

(3) *Examples.* The provisions of paragraphs (e)(1) and (e)(2) of this section may be illustrated by the following examples:

Example (1). M manufacturers and sells a taxable chemical. Occasionally, M enters into a contract to sell more of the taxable chemical than it can manufacture in time to satisfy the terms of the contract. Consequently, M has an exchange agreement with Z, also a manufacturer of the taxable chemical, whereby Z will supply the taxable chemical to M so that M can make timely deliveries to its customers, and M will pay back to Z an equivalent amount of the taxable chemical within 30 days after the end of the calendar quarter in which M obtains the taxable chemical from Z. Pursuant to the agreement, title to and risk of loss of the taxable chemical Z supplies M passes to M when Z delivers it to M. The title to and risk of loss of the taxable chemical M pays back to Z passes to Z when M delivers it to Z. Z is liable for the chemical tax on the taxable chemical is supplies to M. M is liable for the chemical tax on the taxable chemical it returns to Z.

Example (2). M manufacturers a taxable chemical at its plant in New Jersey. X manufacturers the same taxable chemical at its plant in California. Some of M's customers are in California, and some of X's customers are in New Jersey. To avoid unnecessary transportation expenses, M and X enter into an exchange agreement. Under the terms of the agreement, M will deliver taxable chemical to X's New Jersey customers, and X will deliver an equivalent amount of taxable chemical to M's California customers. Title to and risk of loss of the taxable chemical that M delivers will pass at delivery. Thus, M is liable for the chemical tax on the amount of the taxable chemical it delivers to X's customers. Title to and risk of loss of the taxable chemical that X delivers also will pass at delivery. Thus, X is liable for the chemical tax on the amount of the taxable chemical it delivers to M's customers.

(f) *Use*—(1) *In general.* The term "use" includes a broad range of activities carried on by the manufacturer, producer, or importer with respect to a taxable chemical. The mere manufacture or production of a taxable chemical is not a use of that chemical. Thus, for example, if a taxable chemical is produced as a by-product of a chemical reaction, the taxable chemical so produced will not be taxed unless it is used or sold. If, however, a taxable chemical is produced as a by-product of a chemical reaction and the taxable chemical is wasted rather than sold or used, the taxable chemical is not treated as having been used. For the purpose of determining whether a taxable chemical has been used, the origin or destination of the taxable chemical is immaterial. Thus, a taxable chemical produced and then used in a process that is designed for the production of another product is subject to the tax imposed by section 4661. Taxable chemicals lost or destroyed through spillage, fire, or other casualty are not considered to have been used for the purposes of the tax imposed by section 4661. A taxable chemical will be considered used when—

(i) It is consumed;

(ii) Its chemical composition is changed; or

(iii) Its chemical composition remains unchanged, but the chemical reaction in which it plays a role would not have occurred without it.

(2) *Examples.* The provisions of paragraph (f)(1) of this section may be illustrated by the following examples:

Example (1). X produces zinc chloride and zinc sulfate and uses them to produce zinc metal. X is liable for the chemical tax on the zinc chloride and zinc sulfate so used.

Example (2). Y produces cupric sulfate cupric oxide, and cuprous oxide and uses them to produce copper metal. Y is liable for the chemical tax on the cupric sulfate, cupric oxide, and cuprous oxide so used.

Example (3). Z produces lead oxide and uses it to produce lead metal. Z is liable for the chemical tax on the lead oxide so used.

Example (4). M operates an oil refinery. During the refining process, ammonia is produced as a by-product. The ammonia is not recovered for sale or use; instead, it is flared off. The heat from the ammonia is not used in any way. The incineration of the ammonia results in no economic benefit to M. Thus, no tax under section 4661 is imposed on the ammonia produced as a by-product and flared off.

Example (5). N operates a petrochemical plant. N uses propane to make ethylene. N pumps the ethylene from the tubes in which it was made to another part of the plant, where the ethylene is used to make plastics. N must pay the chemical tax on the ethylene N uses for plastics. This is so even though the ethylene was produced as an intermediate product betwen the propane and the plastic, and even though the ethylene was never removed from the plant equipment before it was used.

Example (6). O produces a mixed stream of light hydrocarbons containing benzene, xylene, and toluene. O uses the mixed stream (without isolating the benzene, xylene, or toluene) to make gasoline. O is liable for the chemical tax on the benzene, xylene, and toluene so used.

(g) *Termination.* No tax shall be imposed under section 4661 during any period in which no tax is imposed under section 4611. See § 52.4611–1(e) for rules relating to when tax is not imposed under section 4611.

(h) *Effective date.* The provisions of this paragraph are effective after March 31, 1981.

§ 52.4662–1 Definitions.

(a) *Taxable chemical*—(1) *In general.* Except as provided in paragraphs (a) through (d) of § 52.4662–2, the term "taxable chemical" means any substance that is listed in section 4661(b) and paragraph (a)(2) of this section (listed substance), and that is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing. (See § 52.4612–(a)(6) for the definition of "United States.") A listed substance will generally be considered to be entered into the United States for consumption or use when an entry summary for consumption (Customs Form 7501 or 3311) is filed with Customs in proper form, with estimated duties attached, and will be considered to be entered into the United Sttes for warehousing when an entry summary for warehouse (Customs Form 7502) is filed with Customs, in proper form. A listed substance entered into the United States for transportation and exportation is not a taxable chemical. A listed substance is entered into the United States for transportation and exportation when a carrier's receipt is given to the lading inspector on a Customs in-bond document (the appropriate Customs Form 7512 or 7520 or the TIR carnet) covering the chemical to be transported and exported. If the listed substance is entered into the United States for transportation and exportation but is not exported from the United States, it will be treated as a taxable chemical and will be taxed under section 4661 when it is sold or used. In the case of areas not subject to the general United States Custom laws (for example, foreign trade zones), an entry will be considered to have occurred at any time such an event would have occurred if the Customs laws were applicable to that area. An entry is not deemed to have occurred in the case of fuel stores on a ship or the casual use of items such as fuel in an automobile gas tank.

(2) *Special Rules*—(i) *Ores.* Chromite is the only ore subject to tax under section 4661. See paragraph (a) (2) (ii) of this section for the treatment of other ores used to produce the metals listed in section 4661(b) and in paragraph (b) of this section.

(ii) *Metals.* A metal will be treated as a taxable chemical only when it has been processed to the stage at which it is commercially known or sold as the metal. Consequently, ores (other than chromite), concentrates, alloys, and scrap of the metals listed are not considered taxable chemicals.

(iii) *Trace amounts.* If a listed substance is present in a mixture only in commercially insignificant amounts, the substance will not be treated as a taxable chemical. For example, a liquid natural gas feedstock contains small quantities of methane (2.4 percent), butane (4.4 percent), and ethylene (0.3 percent). However, these quantities are so small that the methane, butane, and ethylene cannot be commercially used without further processing. Therefore, the methane, butane, and ethylene contained the in liquid natural gas feedstock will not be treated as taxable chemicals.

(b) *Listed substances.*

(1) *Acetylene.* Acetylene is a hydrocarbon of the general formula HC≡CH. Acetylene is also called ethyne or ethine.

(2) *Benzene.* Benzene is an aromatic hydrocarbon of the general formula C_6H_6. Benzene is also called benzol.

(3) *Butane.* Butane is a hydrocarbon of the general formula C_4H_{10}. Butane includes normal butane and isobutane. Butane is also called diethyl and trimethyl-methane.

(4) *Butylene.* Butylene is a hydrocarbon of the general formula C_4H_8. Butylene includes normal butylene and isobutene. Butylene is also called butene-1, cis-butene-2, transbutene-2, and 2-methyl propane.

(5) *Butadiene.* Butadiene is a hydrocarbon of the general formula C_4H_6. Butadiene is also called methyl-allene and erythrene.

(6) *Ethylene.* Ethylene is a hydrocarbon of the general formula C_2H_4. Ethylene is also called ethene.

(7) *Methane.* Methane is a hydrocarbon of the general formula CH_4. Methane is also called marsh gas.

(8) *Naphthalene* Naphthalene is a hydrocarbon of the general formula $C_{10}H_8$.

(9) *Propylene.* Propylene is a hydrocarbon of the general formula C_3H_6. Propylene is also called propene.

(10) *Toluene.* Toluene is an aromatic hydrocarbon of the general formula C_7H_8. Toluene is also called methylbenzene.

(11) *Xylene.* Xylene is an aromatic hydrocarbon of the general formula C_8H_{10}. Xylene includes mixed xylene, metaxylene, orthoxylene and paraxylene. Xylene is also called dimethyl benzene.

(12) *Ammonia.* Ammonia is an inorganic compound of the general formula NH_3.

(13) *Antimony.* Antimony is a metal.

(14) *Antimony trioxide.* Antimony trioxide is an inorganic compound of the general formula Sb_2O_3.

(15) *Arsenic.* Arsenic is a metalloid element of atomic number 33.

(16) *Arsenic trioxide.* Arsenic trioxide is an inorganic compound of the general formula As_2O_3.

(17) *Barium sulfide.* Barium sulfide is an inorganic compound of the general formula BaS.

(18) *Bromine.* Bromine is a nonmetallic halogen element of atomic number 35.

(19) *Cadmium.* Cadmium is a metal.

(20) *Chlorine.* Chlorine is a nonmetallic halogen element of atomic number 17.

(21) *Chromium.* Chromium is a metal.

(22) *Chromite.* Chromite is an ore of the general formula (Mg, Fe2+) (Cr, Al, Fe3+)2 04.

(23) *Potassium dichromate.* Potassium dichromate is an inorganic compound of the general formula $K_2Cr_2O_7$.

(24) *Sodium dichromate*—Sodium dichromate is an inorganic compound of the general formula $NaCr_2O_7$.

(25) *Cobalt.* Cobalt is a metal.

(26) *Cupric sulfate.* Cupric sulfate is an inorganic compound of the general formula $CuSO_4$.

(27) *Cupric oxide.* Cupric oxide is an inorganic compound of the general formula CuO.

(28) *Cuprous oxide.* Cuprous oxide is an inorganic compound of the general formula Cu_2O.

(29) *Hydrochloric acid.* Hydrochloric acid is an inorganic compound of the general formula HCL.

(30) *Hydrogen fluoride.* Hydrogen fluoride is an inorganic compound of the general formula HF. Hydrogen fluoride is also called hydrofloric acid.

(31) *Lead oxide.* Lead oxide is an inorganic compound of the general formula PbO.

(32) *Mercury.* Mercury is a metal.

(33) *Nickel.* Nickel is a metal.

(34) *Phosphorus.* Phosphorus is a nonmetallic element of atomic number 15.

(35) *Stannous Chloride.* Stannous chloride is a inorganic compound of the general formula $SnCl_2$.

(36) *Stannic Chloride.* Stannic chloride is an inorganic compound of the general formula $SnCl_4$.

(37) *Zinc chloride.* Zinc chloride is an inorganic compound of the general formula $ZnCl_2$.

(38) *Zinc sulfate.* Zinc sulfate is an inorganic compound of the general formula $ZnSo_4$.

(39) *Potassium hydroxide.* Potassium hydroxide is an inorganic compound of the general formula KQH.

(40) *Sodium hydroxide.* Sodium hydroxide is an inorganic compound of the general formula NaOH.

(41) *Sulfuric acid.* Sulfuric acid is an inorganic compound of the general formula H_2SO_4.

(42) *Nitric acid.* Nitric acid is an inorganic compound of the general formula HNO_3.

(c) *Effective date.* The provisions of this section are effective after March 31, 1981.

§ 52.4662-2 Exemptions.

(a) *Methane or butane used as a fuel*—(1) *In general.* Methane or butane shall be treated as a taxable chemical only if it is used otherwise than as a fuel. If methane or butane is not used as a fuel, the person using the methane or butane will be treated as its manufacturer.

(2) *Use as a fuel.* Methane or butane is used as a fuel when it is used as a source of heat or when it is dissolved or mixed (without any change in its chemical composition) in gasoline to enhance the overall performance of the gasoline. If, however, butane is repeatedly mixed with other substances in an extended sequence of mixtures or its chemical composition is changed, then it is not used as a fuel and is not exempt from the tax imposed by section 4661.

(3) *Examples.* The provisions of paragraphs (a)(1) and (a)(2) of this section may be illustrated by the following examples:

Example (1). M imports methane and sells it to N, who uses it otherwise than as a fuel. N is treated as the manufacturer of the methane and must pay the tax imposed on it by section 4661(a). Although M is the importer of the methane and M sold the methane, M is not liable for the tax because M did not use the methane otherwise than as a fuel. Moreover, M is not liable for the petroleum tax because methane is not a petroleum product. See § 52.4612-1(a)(5)(i).

Example (2). N Produces methane and uses it to fire the process furnances at N's refinery. N uses the methane as a fuel, and the methane will not be treated as a taxable chemical.

Example (3). O produces isobutane and uses the isobutane to produce alkylate, which O adds to gasoline to improve the octane rating of the gasoline. In the alkylation process, the chemical composition of the isobutane is changed by mixing the isobutane with a propane/propylene stream in the presence of a catalyst, usually sulfuric acid. The isobutane O uses to produce alkylate is considered used otherwise than as a fuel and will be treated as a taxable chemical.

Example (4). P produces normal butane, which P adds to gasoline to pressure the gasoline. P does not change the chemical composition of the normal butane in any way. The normal butane P uses to pressure gasoline is used as a fuel and will not be treated as a taxable chemical.

Example (5). X is a natural gas company. X separates isobutane from natural gas and sells the isobutane to Y. Y, in turn, sells the isobutane to Z, a producer of aerosol cans. Y delivers the isobutane to Z's factory, where Y pumps it into Z's storage tanks. Z adds the isobutane to aerosol cans as a propellant to force the contents from the cans when a button on top of the cans is pressed. The isobutane Z uses as a propellant in its aerosol cans is not used as a fuel. Therefore, Z will be treated as the manufacturer of the isobutane and will have to pay the chemical tax on it.

(b) *Substances used in the production of fertilizer*—(1) *General rule.* If nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia is a qualified substance, no tax will be imposed under section 4661(a) on such nitric acid, sulfuric acid, ammonia and methane used to produce ammonia. A qualified substance is any substance—

(i) Used by the manufacturer, producer, or importer thereof in a qualified use;

(ii) Sold for use by the purchaser in a qualified use; or

(iii) Sold resale by the purchaser to a second purchaser for use by the second purchaser in a qualified use.

A qualified use is any use in the manufacture or production of fertilizer. The term "qualified use" includes the normal field application of fertilizer, which is the act of putting fertilizer on crops or croplands. The term "fertilizer" does not include pesticides, insecticides, or fungicides. Taxable chemicals other than nitric acid, ammonia, sulfuric acid, or methane used to produce ammonia may be equlified substances. Nevertheless, the section 4662(b)(2) exemption does not apply to them. Thus, for example, zinc sulfate used by the manufacturer thereof to produce fertilizer is not exempt from the tax imposed by section 4661(a).

(2) *Qualified use by manufacturer, producer, or importer*—(i) *In general.* If a manufacturer, producer, or importer of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, uses such chemicals in a qualified use, the manufacturer, producer, or importer shall not be liable for tax under section 4661(a). When a manufacturer, producer, or importer of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, regularly uses such chemicals in qualified and nonqualified uses to produce chemical substances or mixtures, the determination of whether a use constitutes a qualified use shall be made at the time such manufacturer, producer, or importer sells the derivative chemical substances or mixtures produced. In the case of a taxable sale of such chemical substances or mixtures, the tax shall be imposed on the amount of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia that was used to produce the chemical substances or mixtures sold.

(ii) *Example.* The provisions of paragraph (b)(2)(i) of this section may be illustrated by the following example:

Example. A company manufactures ammonia and carbon dioxide. The manufacturer combines the ammonia and carbon dioxide to produce urea. Subsequently, 90 percent of the urea so produced is sold for use as a fertilizer. Ten percent of the urea is sold for other purposes. Pursuant to sections 4661 and 4662(b), a tax is imposed on that portion of the ammonia used for purposes other than the production of urea as a fertilizer. The tax due on the ammonia will be determined at the time of the sale of the urea. In this example, a tax is due on 10 percent of the ammonia used in the production of urea because 10 percent of the urea was sold for uses other than fertilizer uses.

(3) *Tax-free sale of nitric acid, sulfuric acid, or ammonia.* No tax is imposed on the sale of nitric acid, sulfuric acid, or ammonia when sold—

(i) for use by the purchaser in a qualified use; or

(ii) For resale by the purchaser to a second purchaser for use in a qualified use.

No nitric acid, sulfuric acid, or ammonia may be sold tax free after [Insert the date that these regulations are published in the **Federal Register** as a T.D.] unless the requirements of paragraph (b)(4) or (b)(5), as the case may be, are satisfied.

(4) *Nitric acid, etc., sold for use by the purchaser*— (i) *In general.* To establish the right to exemption with respect to nitric acid, sulfuric acid, or ammonia sold for use by the purchaser in a qualified use, the manufacturer, producer or importer must obtain from the purchaser, prior to or at the time of sale, a certificate as outlined in paragraph (b)(4)(ii) of this section. The manufacturer, producer, or importer must keep the certificate in its possession. If the manufacturer, producer, or importer does not obtain a certificate by the time of the sale, the manufacturer, producer, or importer must pay the tax involved. However, if the purchaser subsequently uses the nitric acid, etc., in a qualified use, the purchaser may file for refund or credit under § 52.4662-3(c).

(ii) *Form of certificate.* Following is the form of exemption certificate that will be acceptable for purposes of paragraph (b)(4)(i) of this section and that must be adhered to in substance:

Exemption Certificate

(Purchases of nitric acid, sulfuric acid, or ammonia for use in a qualified use under section 4662(b)(2) of the Internal Revenue Code of 1954)

(Date) ———————, 19——

The undersigned hereby certifies that he/she is the

(owner/authorized officer) ———————

of (name of company)———————

and that: (check applicable type of certificate)

——— the nitric acid, sulfuric acid, or ammonia specified in the accompanying order, or on the reverse side hereof, or

——— all orders for nitric acid, sulfuric acid, or ammonia placed by the purchaser for the period beginning (date) ——— and ending (date) ——— (period not to exceed 12 calendar quarters) will be (A) used in the manufacture or production of fertilizer or (B) directly applied as a fertilizer.

It is understood that the exemption from tax in the case of sales of nitric acid, etc., under this exemption certificate is limited to the sale of such nitric acid, etc., for use in the manufacture or production of fertilizer or for direct application as a fertilizer, and it is agreed that if the nitric acid, etc., purchased tax free under this exemption certificate is used otherwise, or is sold, the undersigned will report such fact to the manufacturer, producer, or importer of the nitric acid, etc., covered by this certificate. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

Signature ———————

(Title of officer)

(5) *Nitric acid, etc. sold for resale*—(i) *In general.* To establish the right to exemption from tax with respect to nitric acid, sulfuric acid, or ammonia sold by the manufacturer, producer, or importer to a purchaser for resale direct to a second purchaser for use by the second purchaser in a qualified use, it is necessary that:

(A) The manufacturer, producer, or importer obtain from the purchaser, prior to or at the time of the sale, a certificate as outlined in paragraph (b)(5)(iv)(A) of this section, showing that the purchaser will resell the nitric acid, etc., to a second purchaser only for use by the second purchaser in a qualified use, and

(B) The manufacturer, producer, or importer obtain from the purchaser proof that the nitric acid, etc., has been so resold. Such proof of sale may be either a certificate (as outlined in paragraph (b)(5)(iv)(B) of this section) obtained by the purchaser from the second purchaser showing that such second purchaser bought the nitric acid, etc., for use in a qualified use and not for resale, or a statement by the purchaser that the purchaser has obtained and has in its possession such a certificate from the second purchaser.

(ii) *Cessation of exemption.* The certificate required by paragraph (b)(5)(i)(A) of this section suspends liability for the payment of tax by the manufacturer, producer, or importer on the sale of the nitric acid, etc., for a two-month period which begins on the date of sale or the date of shipment, whichever is earlier. If on the first day following the close of the two-month period, the manufacturer, producer, or importer has not received the proof required by paragraph (b)(5)(i)(B) of this section, then the temporary suspension of liability for the payment of the tax ceases and the manufacturer, producer, or importer shall include the tax on the sale of such chemical in the return for the quarter in which such two-month period expires. If such proof later becomes available, a claim for refund of tax may be filed or a credit taken upon a subsequent return. The payment of this tax by the manufacturer, producer, or importer is considered an overpayment for the purposes of section 4662(d)(2). Nevertheless, only the manufacturer, producer, or importer that actually paid the tax will be allowed a refund or credit under section 4662(d)(2) for the overpayment.

(iii) *Only one intervening sale.* The exemption applies only where there is not more than one intervening sale between the manufacturer, producer, or importer of the nitric acid, etc., and the purchaser who buys the nitric acid, etc., for use in a qualified use.

(iv) *Form of certificate.* (A) Following is the form of exemption certificate that will be acceptable for purposes of paragraph (b)(5)(i)(A) of this section and that must be adhered to in substance:

Exemption Certificate

(Purchasers of nitric acid, sulfuric acid, or ammonia for resale to a purchaser for a qualified use under section 4662(b)(2) of the Internal Revenue Code of 1954)

(Date)———————, 19——

The undersigned hereby certifies that he/she is the
(owner/authorized officer) _____
of (name of company)_____
and that (check applicable type of certificate)
_____the nitric acid, sulfuric acid, or ammonia specified in the accompanying order, or on the reverse side hereof, or
_____all orders for nitric acid, sulfuric acid, or ammonia placed by the purchaser for the period beginning (date)_____and ending (date)_____(period not to exceed 12 calendar quarters) will be resold by the undersigned to a purchaser only (A) for use by that purchaser in the manufacture or production of a fertilizer or (B) for the direct application by that purchaser as a fertilizer.

It is understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution.
Name _____
Address _____

(B) Following is the form of exemption certificate that will be acceptable for purposes of paragraph (b)(5)(i)(B) of this section and that must be adhered to in substance:

Exemption Certificate

(Purchases of nitric acid, sulfuric acid, or ammonia for use in a qualified use under section 4662 (b)(2) of the Internal Revenue Code of 1954)
(Date) _____, 19—.
The undersigned hereby certifies that he/she is the
(owner/authorized officer) _____
of (name of company)_____
and that: (check applicable type of certificate)
_____ the nitric acid, sulfuric acid, or ammonia specified in the accompanying order, or on the reverse side hereof, or
_____ all orders for nitric acid, sulfuric acid, or ammonia placed by the purchaser for the period beginning (date) _____ and ending (date) _____ (period not to exceed 12 calendar quarters) will be (A) used in he manufacture or production of fertilizer or (B) directly applied as a fertilizer.

It is understood that the exemption from tax in the case of sales of nitric acid, etc., under this exemption certificate is limited to the sale of such nitric acid, etc., for use in the manufacture or production of fertilizer or for direct application as a fertilizer, and it is agreed that if the nitric acid, etc., purchased tax free under this exemption certificate is used otherwise, or is sold, the undersigned will report such fact to the seller of the nitric acid, etc., covered by this certificate. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.
Name _____
Address _____

(c) *Sulfuric acid produced as a byproduct of air pollution control*—(1) *General rule.* Section 4662(b)(3) provides that no tax shall be imposed under section 4661 on sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment. Air pollution control equipment is any equipment used to comply with the Clean Air Act.

(2) *Example.* The provisions of paragraph (c)(1) of this section may be illustrated by the following example:

Example. To comply with emissions standards for sulphur dioxide gas under the Clean Air Act, X, a smelter of copper, builds an acid plant. X uses the plant to convert sulphur dioxide gas into concentrated sulfuric acid, which X sells. The sulfuric acid is produced solely as a byproduct of and on the same site as air pollution control equipment. Therefore, its sale is not taxable under section 4661.

(d) *Substances derived from coal*—(1) *In general.* Under section 4662(b)(4), the term "taxable chemical" does not include any substance to the extent derived from coal. For the purposes of section 4662(b)(4), any substance that contains a coal-derived product and does not contain any product derived from crude oil or a petroleum product will be considered to be derived wholly from coal and will be exempt from the section 4661 tax. Any substance that contains a product derived from crude oil or from a petroleum product as well as a coal-derived product, will be considered to be derived from coal, and thus exempt from the section 4661 tax, only to the extent of the coal-derived product, determined on a contained weight basis. A product will not be considered to be derived from coal merely because coal served as the source of energy for the process furnaces or units in which the product was produced. For the definition of "crude oil" and "petroleum product," see § 52.4612–1(a)(1) and § 52.4612–1(a)(5), respectively.

(2) *Coal.* As used in section 4662(b)(4) the term "coal" includes lignite, bituminous coal, and anthracite.

(3) *Examples.* The provisions of paragraph (d)(1) of this section may be illustrated by the following examples:

Example (1). Z uses a high-temperature carbonization process to convert coal to coke and several volatile products, one of which is coal tar. Z then cracks the coal tar to produce napthalene. The napthalene so produced is derived from coal and thus is exempt from the tax under section 4661.

Example (2). Z manufactures acetylene from calcium carbide and water. The calcium carbide is produced when coke derived from coal is heated in an electric furnace with lime. The carbon in the acetylene is supplied by the calcium carbide, which is made indirectly from coal. None of the hydrogen in the acetylene is from crude oil or a petroleum product. Consequently, the acetylene will be considered to be derived wholly from coal and exempt from the tax under section 4661.

(e) *Other exemptions not applicable.* There is no exemption from the chemical tax for chemicals exported or sold for export, sold for use as supplies for vessels or aircraft, sold to a state or local government for the exclusive use of the state or local government, or sold to a nonprofit educational organization for its exclusive use. The Secretary does not have discretion to exempt from the chemical tax sales of taxable chemicals for use by the United States. In addition, the use or sale by the United States of a taxable chemical manufactured or entered by the United States is not exempt from the chemical tax.

(f) *Effective date.* The provisions of this section are effective after March 31, 1981, except as provided in paragraph (b)(3) of this section.

§ 52.4662–3 Refund or credit of tax under section 4661.

(a) *In general.* A manufacturer, producer, or importer who pays more than the correct amount of tax imposed under section 4661 (the chemical tax) for a calendar quarter may file a claim for refund or credit of the overpayment. Any claim for refund or credit of an overpayment of the chemical tax shall be made in accordance with the applicable provisions of this section and the applicable provisions of § 301.6402–2 (Regulations on Procedure and Administration). A claim on Form 843 is not required in the case of a claim for credit, but the amount of the credit shall be claimed by entering such amount as a credit on a return of tax under chapter 38 (environmental taxes) filed by the person making the claim. See § 52.4662–3(c) for refund or credit of tax on tax-paid chemicals used to produce taxable chemicals. See § 52.4662–3(d) for refund or credit of tax on certain tax-paid chemicals used, or resold for use, as a qualified substance.

(b) *Tax-paid chemicals used to make taxable chemicals*—(1) *In general.* Section 4662(d)(1) and paragraph (b)(2) of this section provide that tax under section 4661 paid to the United States on the sale or use of a taxable chemical that is used by any person (hereinafter the subsequent manufacturer) in the manufacture or production of a taxable chemical shall be deemed to be an overpayment. Any overpayment of tax within the meaning of section 4662(d)(1) and paragraph (b)(2) of this section is deemed to have been made by the subsequent manufacturer, and such subsequent manufacturer may file claim for refund of any such overpayment or may claim credit for the overpayment on any return of tax under chapter 38 that the subsequent manufacturer files. Any such caim for refund shall be filed with the service center serving the internal revenue district in which the subsequent manufacturer files returns of tax under chapter 38, or would file such returns if required. No interest shall be allowed on any refund or credit of an overpayment determined under section 4662(d)(1) and paragraph (b)(2) of this section. For provisions relating to the evidence required in support of a claim for refund or credit of such overpayment, see § 301.6402–2 (Regulations on Procedure and Administration) and paragrah (b)(3) of this section.

(2) *Overpayment*—(i) *In general.* If a tax under section 4661 was paid with respect to any taxable chemical and such chemical is used by a subsequent manufacturer in the manufacture or production of a chemical the sale or use of which would be taxable under section 4661, then an amount equal to the tax so paid shall be treated as an overpayment of tax under section 4661. For the purposes of the preceding sentence, the taxable chemical manufactured or produced by the subsequent manufacturer need not be a different chemical from the tax-paid chemical, so long as the subsequent manufacturer can demonstrate that the tax on the chemical used by the subsequent manufacturer was in fact paid. In no case may the amount of the credit or refund exceed the amount of tax imposed by section 4661 on the taxable chemical manufactured or produced by the subsequent manufacturer. If the tax-paid chemical is used to manufacture or produce more than one taxable chemical or a taxable chemical and a non-taxable chemical, then the subsequent manufacturer must allocate the tax on the tax-paid chemical among the chemicals manufactured or produced. The tax shall be allocated on the basis of the ratio of the weight of each chemical manufactured or produced to the total weight of all chemicals produced. Thus, if a tax-paid chemical is used to produce ½ ton of taxable chemical A and 1½ tons of taxable chemical B, the tax on the tax-paid chemical is allocated ¼ to A and ¾ to B. Section 52.4661–1(c)(2), relating to measurement, applies to the determination of the amount of tax to be allocated to the taxable chemicals manufactured or produced.

(ii) *Example.* The provisions of paragraph (b)(2)(i) of this section are illustrated by the following example:

Example. Z manufactures lead acid storage batteries. During one stage in the manufacturing process, Z prepares a paste of lead oxide, sulfuric acid, and water. This paste is applied to grids which are placed inside the battery. Z produces the lead oxide used in the paste from materials recovered from old acid storage batteries, all of which batteries were produced using a lead oxide paste like the one Z uses. Z cannot establish whether the tax under section 4661 was paid with respect to any of the lead oxide used to produce the paste applied to the grids of the old batteries. Therefore, Z cannot claim a credit or refund with respect to the lead oxide in the old batteries.

(3) *Supporting evidence.* Each claim for credit or refund in respect of tax-paid taxable chemicals used to produce or manufacture a substance taxable under section 4661 shall include a statement showing—

(i) The total number of tons of each tax-paid taxable chemical used during the period covered by the claim to produce or manufacture a substance taxable under section 4661, multiplied by the rate of tax imposed on that chemical under section 4661(b),

(ii) The total number of tons of each substance taxable under section 4661 so manufactured or produced during the period covered by the claim, multiplied by the rate of tax that would be imposed on that substance under section 4661(b), and

(iii) In the case of a tax-paid taxable chemical used to produce more than one substance taxable under section 4661 or a substance taxable under section 4661 and a nontaxable substance, a computation showing the allocation of the tax required by paragraph (b)(2) of this section to the various substances.

(4) *Records to be kept in substantiation of credits or refunds.* (i) *In general.* Every person making a claim for credit or refund under section 4662 (d)(1) must keep records sufficient to enable the district director to determine whether the person is entitled to credit or refund under section 4662(d)(1) and, if so, the amount of the credit or refund. No particular form is prescribed for keeping the records, but the records should include a copy of the excise tax return or claim and a copy of any statement or document submitted with the return or claim. The records must show, with respect to the period covered by the claim, information as necessary to establish the correctness of the claim.

(ii) *Acceptable records.* Evidence of purchases of tax-paid taxable chemicals, and the purpose for which they were used, to substantiate claims may include paid duplicate sales invoices or tickets from the dealer or the vendor, and detailed records of all tax-paid taxable chemicals used which show the amount used for the prescribed purpose and the amount used for other purposes. Records maintained for Federal or State pollution control purposes may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit or refund under section 4662 (d)(1).

(iii) *Place and period for keeping records.* All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. Records required to substantiate a claim for credit or refund under section 4662(d)(1) must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or refund.

(c) *Use as a fertilizer*—(1) *In general.* Section 4662(d)(2) provides that tax under section 4661 paid to the United States with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, that any person uses or sells for use as a qualified substance shall be deemed to be an overpayment. Any overpayment within the meaning of section 4662(d)(2) is deemed to have been made by the person so using or selling the nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, and that person may file claim for refund of any overpayment or may claim credit for the overpayment on any return of tax under chapter 38 that the person files. Any such claim for refund shall be filed with the service center serving the internal revenue district in which the person files returns of tax under chapter 38, or would file such return if required. The amount of the credit or refund shall be the excess of the tax paid with respect to the nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia without regard to section 4662(b)(2) over the tax determined with regard to section 4662(b)(2). No interest shall be allowed on any refund or credit of an overpayment determined under section 4662(d)(2).

(2) *Supporting evidence.* Each claim for credit or refund in respect of tax-paid nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia used or sold for use as a qualified substance shall include a statement showing—

VOL 48 ISS 205 OCT 21 1983 UMI

(i) The total number of tons of nitric acid, etc., purchase tax paid and used or sold for use during the period covered by the claim in the manufacture or production of fertilizer or for direct application as a fertilizer, and

(ii) The total number of tons in (i) multiplied by the rate of tax imposed on the nitric acid, etc., under section 4661(b).

(3) *Records to be kept in substantiation of credits or refunds*—(i) *In general.* Every person making a claim for credit or refund under section 4662(d)(2) must keep records sufficient to enable the district director to determine whether the person is entitled to credit or payment under section 4662(d)(2) and, if so, the amount of the credit or payment. No particular form is prescribed for keeping the records, but the records should include a copy of the excise tax return or claim and a copy of any statement or document submitted with the return or claim. The records must show, with respect to the period covered by the claim, information as necessary to establish the correctness of the claim.

(ii) *Acceptable records.* Evidence of purchases of tax-paid nitric acid, etc., and the purpose for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the dealer or the vendor, and detailed records of all tax-paid nitric acid, etc., used which show the amount used for the prescribed purpose and the amount used for other purposes. Records maintained for Federal or State pollution control purposes may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit or refund under section 4662(d)(2).

(iii) *Place and period for keeping records.* All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. Records required to substantiate a claim for credit or refund under section 4662(d)(2) must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or payment.

(d) *Effective date.* The provisions of this section are effective after March 31, 1981.

§ 52.4662-4 Disposition of revenue from Puerto Rico and the Virgin Islands.

The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4661. Thus, no amount of the tax imposed by section 4661 shall be covered into the Treasury of Puerto Rico, and no amount of the tax shall be transferred and paid over to the Government of the Virgin Islands. The provisions of this section are effective after March 31, 1981.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-28756 Filed 10-20-83; 8:45 am]

BILLING CODE 4830-01-M

POSTAL SERVICE

39 CFR Part 111

Designating of Serving Post Offices for Acceptance of Electronic Computer Originated Mail (E—COM)

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the interim regulations designating the Serving Post Offices (SPOs) at which E—COM messages may be deposited. The Postal Service does not presently require that E—COM users deposit their messages at any specified SPO: they are permitted to use any E—COM SPO.

This proposed rule would require, with two exceptions, that all E—COM messages must be deposited at the SPO primarily responsible for serving the area to which the material is addressed. The first exception would provide for larger service areas by clustering several SPOs. An E—COM user would have to deposit all messages destined for delivery in this enlarged area at one or more of the SPOs within the cluster area. The Postal Service proposes to establish nationally eight clusters of E—COM SPOs based upon a finding that messages sent to any one of the SPOs in each cluster by 5:00 p.m. could (with minor exceptions we believe are tolerable) be delivered by the Postal Service to addresses within the cluster within two business days.

The second exception would permit an E—COM user to send, over the course of a day, up to 199 messages which are addressed to locations within an SPO's primary service area by depositing the messages at an SPO outside of the cluster area of the addresses. This exception is designed to avoid undue hardship on users which would result, in the absence of such an exception, from the application of the current 200 message per transmission minimum requirement.

DATE: Comments must be received on or before November 21, 1983.

ADDRESS: Written comments should be addressed to the Director, E—COM Operations Office, Mail Processing Department, U.S. Postal Service, Washington, D.C. 20260-7140. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 6624, U.S. Postal Servicxe Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ed Senft, E—COM Operations Office, 202/245-5780.

SUPPLEMENTARY INFORMATION: On April 28, 1983, the Postal Service published a solicitation of comments in advance of proposed rulemaking addressing the question of whether the Postal service should restrict the deposit of E—COM messages at an SPO which were not addressed to points inside the SPO's primary service area (48 FR 19187). That solicitation noted that some users of E—COM service were depositing large numbers of E—COM messages at a single SPO even though many of the messages were addressed to points outside the SPO's primary service area. The Postal service stated that it was exploring possible methods of accomplishing the goal of getting E—COM users to deposit their mail at the SPO primarily serving the delivery address in order to preserve the concept of E—COM service as a high-speed, reliable service with delivery of messages in two days or less.

The solicitation indicated that the Postal Service was concerned that an outright ban on the deposit of an E—COM message at any SPO other than the one primarily responsible for serving the address of the message could impose an undue hardship on some users of E—COM service. For that reason and to solicit ideas on how an acceptable restriction could be designed, the Postal Service requested comments and suggestions on the treatment of messages that are deposited at an SPO other than the SPO primarily responsible for serving the delivery address.

In response to this solicitation, the Postal Service received 35 comments. These comments confirmed the fears of the Postal Service that an absolute ban on inter-SPO messages—requiring users on E—COM service to transmit their messages to up to 25 different SPOs—would work an extreme hardship on smaller volume E—COM users.

Six commenters supported the idea of a full restriction on the entry of inter-SPO messages. They did so for two primary reasons. Three commenters felt that messages that are sent to a SPO other than the SPO of delivery cause an increase in postal costs that will eventually be reflected in the rates charged for E—COM service. They expressed the opinion that such a result would be unfair to those users who transmit their messages to the appropriate SPO.

The second reason given by three commenters favoring a ban on inter-SPO messages was the belief that the present authorization for E—COM service requires that messages be deposited only at the SPO primarily responsible for serving the addresses of the messages. The Postal Service disagrees with this interpretation. The provisions of the E—Com classification schedule do not prohibit the Postal Service from allowing E—COM users to tender messages to an SPO other than the SPO primarily responsible for serving the delivery address. Those provisions leave to the Postal Service the decision of how many SPOs there will be and the designation of the SPO or SPOs at which messages can be deposited.

Twenty-three commenters opposed the idea of restricting the deposit of E—COM messages to the SPO primarily responsible for serving the delivery addresses of the messages. Seven commenters stated that their use of such a restricted E—COM service would be more labor intensive, prone to error and costly. Four commenters felt that the task of transmitting to each SPO primarily responsible for serving the addresses of their messages would become too complicated in view of the limited training their personnel had received. Two commenters indicated that a total restriction would put small users at an extreme price disadvantage in their use of E—COM service. In addition, one commenter believed that requiring the routing of messages to the SPO primarily responsible for serving the delivery addresses would hamper the growth of E—COM service and those companies offering connection to E—COM service.

Many commenters offered alternatives to the idea of an absolute ban on inter-SPO messages. Seven urged the creation of a surcharge for messages not entered at the SPO primarily responsible for serving the delivery addresses. Eight commenters stated that the most efficient solution would be for the Postal Service to provide for electronic interconnection of all SPOs so that the user could deposit all E—COM messages at the most convenient SPO for processing and transmission by the Postal Service for printing and output at the SPO primarily responsible for serving the delivery address. Four commenters felt that the Postal Service should establish larger service areas for each SPO. Such areas would overlap with the service areas of other SPOs, giving E—COM users some choice of which SPOs to use. Two commenters felt that the present system was satisfactory and said that speed of delivery was not a major concern to them. One commenter urged the Postal Service to regulate only the message deposit of very large E—COM mailings. One commenter recommended the establishment of regional SPOs for use by small voluume E—COM users. One commenter proposed a ban on inter-SPO messages except for those messages sent to addresses in the service area of a contiguous SPO.

In addition to the above noted comments, six persons submitted written documents in response to the solicitation which, while expressing various views on E—COM service, did not specifically comment on the issue of how the Postal Service should treat inter-SPO messages.

Upon a thorough review of all the comments received in response to our solicitation of comments, the Postal Service has decided to publish, for notice and comment, a proposed amendment to the E—COM regulations which will, if adopted, resolve the problems presented by the current unrestricted deposit of inter-SPO messages while reducing the impact as much as practicable on smaller volume E—COM users.

This proposed rule would require, with two exceptions, that all E—COM messages must be deposited at the SPO primarily responsible for serving the delivery addresses of the messages. (The current primary service areas for each SPO would be retained.) The first exception would provide for larger service areas for clusters of several SPOs. These areas would be referred to as cluster service areas and messages sent to a cluster SPO for delivery within that SPO's cluster service area would be classified as intra-cluster messages. An E—COM user would have to deposit all messages destined for delivery in the enlarged cluster service area at one or more of the SPOs within that cluster area. The Postal Service proposes to establish nationally eight clusters of E—COM SPOs based upon a finding that messages sent to any of the SPOs in each cluster by 5:00 p.m. could, with minor exceptions we believe are tolerable, be delivered by the Postal Service to addresses within the cluster within two business days.

The second exception to the prohibition on inter-SPO messages would permit an E—COM user to deposit, over the course of a day, up to 199 messages which are addressed to locations within an SPO's primary service area by depositing the messages at an SPO outside of the cluster area of the addresses. This exception is designed to avoid undue hardship on users which would result, in the absence of such an exception, from the application of the current 200 message per transmission minimum requirement. This exception would be reevaluated in the future if the Postal Service's pending classification proposal before the Postal Rate Commission to eliminate the minimum entirely is adopted.

The result of these two exceptions is that E—COM user, who has 200 or more messages over the course of a day addressed to locations within the primary service area of an SPO, must, at a minimum, deposit those messages at an SPO within the cluster service area of the delivery addresses.

Two examples will illustrate how the proposed system is intended to work. An E—COM mailer has 50,000 messages to send to customers who are mainly located in the East and Midwest. There are, however, 250 customers in Los Angeles and 50 in San Francisco. The mailer, of course, can and is encouraged by the Postal Service to transmit all the messages to the SPOs primarily responsible for serving each delivery address. If the mailer did so, 50 messages would be sent to San Francisco, but the mailer would be charged for 200 messages to San Francisco because of the current message minimum. Under the rule proposed in this notice, the mailer may transmit to as few as seven SPO and comply with the proposed input restriction. In the East and Midwest there would be more than enough messages per cluster service area to separately deposit messages at at least one SPO per cluster. Because there were more than 200 messages for the Los Angeles SPO's primary service area, those messages would have to be deposited in one of the SPOs in the cluster area serving the Los Angeles addresses. The 50 messages to San Francisco could be combined with the Los Angeles messages, even though the Los Angeles SPO is not in the San Francisco cluster, because there are fewer than 200 messages to San Francisco addresses.

In the second example, an E—COM carrier, located in Charlottesville, Virgina, has 300 messages at the end of the day to send for clients: 100 for the

Pittsburgh service area, 50 for Richmond service area, 75 for the Washington service area and 75 for the Charlotte service area. Under an absolute ban on inter-SPO messages, four separate transmissions would be needed and the Postal Service would be paid for 500 messages not sent. Under the proposed rule, all the messages could be deposited at any SPO in the East cluster—Philadelphia, Washington, Pittsburgh or Richmond. The 75 messages for Charlotte, which is located in the Southeast cluster, would come within the exception that permits up to 200 messages that are addressed to the primary service area of one SPO to be deposited at another SPO. Therefore, as a result of the proposed rule, this small E—COM carrier would not have to incur multiple transmission costs or pay for more E—COM messages than actually sent.

Although exempt by 39 U.S.C. 410(a) from the requirements of the Administrative Procedure Act, 5 U.S.C. 553 (b), (c), regarding proposed rulemaking, the Postal Service invites public comment on the following proposed revisions of interim Part 570 of the Domestic Mail Manual, which is incorporated by reference in the Federal Register. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 570—MAILING [OF E—COM MESSAGES]

1. Revise 570 to read as follows:

570 Mailing

571 Time of Mailing

Mailers may transmit messages to E—COM SPOs 24 hours a day, seven days a week.

572 General Mailing Requirement

Except as permitted by 573 and 574, all E—COM messages must be transmitted to the SPO identified in Exhibit 572 as primarily responsible for serving the delivery addresses of the messages. Acceptable transmissions received at the specified SPO prior to 11:59 p.m. are processed and delivered according to the E—COM service objectives in 530.

573 Alternative Mailing to Cluster Service Areas

The primary service areas of the 25 SPOs listed in Exhibit 572 are also part of eight larger cluster service areas which may be used by E—COM mailers as an alternative mailing scheme to that required by 572. Except as permitted 574, an E—COM user must deposit all messages destined for delivery to addresses within a cluster service area at at least one of the SPOs within that cluster service area. With the exceptions noted in Exhibit 573, messages properly deposited prior to 5:00 p.m. at any SPO designated to serve a SPO cluster area are processed and delivered according to the E—COM service objectives in 530.

574 Permissible Inter-Cluster Messages

Without regard to the requirements of 572 and 573, an E—COM user is permitted to deposit, over the course of a day, up to 199 messages which are addressed to locations within an SPO's primary service area at an SPO outside of the cluster area in which the addresses are located.

2. Change the title of Exhibit 570 to Exhibit 572.

3. Add a new Exhibit 573 to read as follows:

EXHIBIT 573

SPO locations cluster service area (states and ZIP codes)	Exceptions to service standard (states and ZIP codes) [1]
NORTHEAST CLUSTER	
1. Boston, MA: MA(010–027), RI(028–029), NH(030–039), ME(040–049), VT(050–059), CT(060–067).	PR and VI (006–009) [2]
2. New York, NY: CT(068–069), NJ(070–079, 086–089), NY(004–006, 090–096, 100–129).	
EAST CLUSTER	
1. Philadelphia, PA: NJ(080–087), PA(169–196), DE(197–199).	MD(214, 219), WV(267)
2. Washington, DC: DC(200, 202–205), MD(206–212, 214–219) VA(220–223, 226–227) WV(254, 267).	
3. Pittsburg, PA: NY(130–149), PA(150–168), WV(250–253, 255–266, 268), OH(439).	MD(214, 219), WV(267)
4. Richmond, VA: VA(224–225, 228–245), WV(246–249).	MD(214, 219), WV(267)
SOUTHEAST CLUSTER	
1. Charlotte, NC: NC(270–289), SC(290–297).	GA(298–299, 307, 368) FL(342), TN(386), AR(723)
2. Atlanta, GA: SC(298–299), GA(300–307, 308–319), AL(350–351, 359–364, 367–368).	GA(307), FL(342), TN(386), AR(723)
3. Nashville, TN: GA(307), AL(356–358), TN(370–386), MS(388), KY(420–422), AR(723).	SC(297), GA(298–299, 368), FL(330–333, 342), AL(355)
4. Orlando, FL: FL(320, 322–331, 333–340, 342).	SC(297), GA(298–299, 307, 368), AL(355), TN(386), AR(723)
SOUTHWEST CLUSTER	
1. Dallas, TX: AR(716–722, 724–729), OK(730–731, 734–738, 740–741, 743–749), TX(750–767, 790–794).	AL(369), TX(733, 789 795)
2. New Orleans, LA: AL(365–366, 369), MS(387, 389–397), LA(700–701, 703–708, 710–714).	TX(733, 789, 795)

EXHIBIT 573—Continued

SPO locations cluster service area (states and ZIP codes)	Exceptions to service standard (states and ZIP codes) [1]
3. San Antonio, TX: TX(733, 788–789, 795–799).	LA(385–386, 387–389), AL(369), GA(367–368), MS(390–397)
MIDEAST CLUSTER	
1. Cincinnati, OH: KY(400–418, 423–427), OH(430–433, 437–438), OH(440–459), IN(470–471).	WI(534)
2. Chicago, IL: IN(460–469, 472–479), IL(600–606, 609–611, 613–619).	OH(459), IN(470–471), WI(534)
3. Detroit, MI: OH(434–436), MI(480–482, 484–497).	OH(459), IN(470–471), WI(534)
4. Milwaukee, WI: MI(498–499), WI(530–532, 534–535, 537–539, 541–545, 549).	OH(459), IN(470–471)
WEST CLUSTER	
1. Denver, CO: CO(800–816), WY(820, 822–831), UT(840–847), NM(870–875, 877–884), NV(893, 898).	AZ(865)
2. Los Angeles, CA: CA(900, 902–908, 910–918, 920–928, 930–935).	AZ(865)
3. Phoenix, AZ: AZ(850, 852–853, 855–857, 859–860, 863–865), NV(890–891)	
NORTHWEST CLUSTER	
1. Seattle, WA: MT(590–599), WY(821), ID(832–838), OR(970–979), WA(980–994).	NV(894–895, 897), CA(961), AK(995–999) [3]
2. San Francisco, CA: NV(894–895, 897), CA(936–941, 943–966).	HI(967–969) [3]
MIDWEST CLUSTER	
1. Kansas City, MO: IA(500–508, 510–516, 520–528), IL(612), MO(640–641, 644–649, 653, 656–658), KS(660–662, 664–679), NE(680–681, 683–693), OK(739).	WI(540), MO(620, 622)
2. Minneapolis, MN: WI(540, 546–548), MN(550–551, 553–554, 556–567, SD(570–577), ND(580–588).	IA(516, 528), MO(620, 622, 649), KS(662), OK(739)
3. St. Louis, MO: IL(620, 622–629), MO(630–631, 633–639, 650–652, 654–655). [3]	IA(516, 528), WI(540), MN(567), ND(580–588), MO(649), KS(662), OK(739)

[1] Messages destined for delivery in these three-digit ZIP Code areas may not receive delivery in accordance with the service objectives in 530 unless they are deposited at the SPO opposite which they are listed. Note that messages addressed for delivery in some ZIP Code areas may be reached within the service objectives from more than one SPO in a given cluster, but not all.

[2] Messages destined for delivery in these three-digit ZIP Code areas, which are outside of the continental United States, do not receive delivery in accordance with the service objectives in 530.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if this proposal is adopted.

(39 U.S.C. 401(a), 403)

Fred Eggleston,

Assistant General Counsel, Office of General Law and Administration.

[FR Doc. 83-28721 Filed 10-20-83; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 31014-202]

Western Pacific Spiny Lobster Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule for Amendment 2 to the Fishery Management Plan (FMP) for the Spiny Lobster Fisheries of the Western Pacific Region. After reviewing the problem that new traps not meeting the requirements of current law had been brought into the fishery during the several years required to develop and implement this FMP, the Western Pacific Fishery Management Council (Council) concluded that trap entryway requirements should be changed. The intended effect of this action is to allow the use of a wider variety of lobster traps in the spiny lobster fishery in the Northwestern Hawaiian Islands (NWHI) while still affording protection for the Hawaiian monk seal.

DATE: Comments are invited until December 2, 1983..

ADDRESSES: Comments should be addressed to Floyd S. Anders, Jr., Acting Regional Director, National Marine Fisheries Service (NMFS), Southwest Region, 300 South Ferry Street, Room 2016, Terminal Island, California 90731. Copies of the amendment, environmental assessment, and regulatory impact review are available by writing to either Floyd S. Anders or Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813.

FOR FURTHER INFORMATION CONTACT: James J. Morgan (NMFS, Southwest Region), 213–548–2518.

SUPPLEMENTARY INFORMATION: On February 7, 1983, regulations implementing the FMP were published in the **Federal Register** (48 FR 5560) with an effective date of March 9, 1983. The FMP was approved on April 12, 1982.

To protect the monk seal, the entryway measurements of existing traps were adopted and specified by the regulations implementing the FMP. This was done because (1) the existing traps were being used in the fishery with no documented monk seal problems and (2) the opening was small enough (6½ inches) that, based upon cranial measurements of monk seals, most could not get their heads inside the trap. The Council adopted the trap entryway measurements in the FMP because they concluded that the restriction would not disrupt the fishery and that it would prevent the future use of traps with larger openings which might be dangerous to the seals. Soon after the publication of the final regulations, NMFS determined that many of the lobster traps in use in the spiny lobster fishery in the NWHI did not meet the entryway requirements. During the period between FMP development and implementation, new traps had been brought into the fishery.

After reviewing the problems associated with trap entryways, the Council concluded that monk seals could still be protected from becoming caught in the entryways of traps, and that the fishermen's ability to use a greater variety of traps could be enhanced and their financial hardships minimized, by changing the entryway regulation. The Council voted unanimously on May 24, 1983, at a Council meeting in Honolulu to change the entryways regulation and to request the Secretary of Congress (Secretary) to implement emergency regulations to make the change. An emergency interim regulation was approved on June 27, 1983, and published in the **Federal Register** (48 FR 31655) on July 11, 1983. The regulation was effective for 90 days, from July 6, 1983, to October 11, 1983.

The **Federal Register** rule of July 11, 1983, that changed the trap entryway requirement, provided background information on how the original trap entryways were established in the spiny lobster fishery to prevent the possible entrapment of monk seals. Section 681.24(b) of the regulation that implemented the FMP required that "an entryway in a spiny lobster trap may measure no greater than 10½ inches in its greatest diagonal or diameter at the larger end, and no greater than 6½ inches in its greatest diagonal or diameter at the smaller end." The emergency rule changed § 681.24(b) to read "the smallest opening of an entryway of any spiny lobster trap may not allow any sphere or cylinder greater than 6.5 inches in diameter to pass from outside the trap to inside the trap."

Approval of Amendment 2 will make the emergency regulation permanent. Because the public review period of the amendment will extend beyond October 11, the emergency interim rule has been extended an additional 90 days, from October 11, 1983, to January 9, 1984, under § 305(e)(3)(B) of the Magnuson Fishery Conservation and Management Act (48 FR 46342, October 12, 1983).

Options, Costs, and Benefits

Amendment 2 presents the economic and environmental costs and benefits of four alternatives to manage the lobster trap problem: (1) take no action and enforce the regulations as they stand; (2) allow lobster traps to have inner openings larger than 6.5 inches; (3) exempt lobster traps in use as of March 9, 1983, from entryway restrictions but require that traps brought into the fishery after that date have the specified entrance measurements; and (4) amend § 681.24(b) of the regulations to eliminate the outer opening requirement and change the method of measuring the inner opening.

Alternative 4 is the preferred option; it will continue to protect the monk seal while preventing economic loss to the fishermen by allowing the continued use of existing traps and by allowing a wider variety of traps in the fishery. Alternative 1 protects monk seals, but results in the elimination of existing gear and an economic loss to the fishermen. Alternative 2 is the most economical and allows maximum flexibility for the fishermen but it may have a detrimental effect on monk seals. Alternative 3 will protect monk seals and minimize costs to the fishermen in the short term, but it will not protect them as much as alternative 4. It imposes long-term costs on the fishermen and it will require higher enforcement costs.

The change in the trap entryway requirements proposed by alternative 4 will maintain a 6.5 inch measurement to prevent the possible entrapment of monk seals, while allowing the use of a wider variety of traps in the lobster fishery of the NWHI. Enforcement costs and costs to the fishermen are minimized by this approach.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended by Pub. L. 97–453, requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of an EMP amendment and regulations. At this time, the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

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The Council prepared an environmental assessment for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. You may obtain a copy of the environmental assessment, which is included in the amendment, from the Council at the address listed above.

The Administrator of NOAA has determined that the regulations implementing this amendment are not major under Executive Order 12291 and that they do not require a regulatory impact analysis. Since the action proposed by this amendment is essentially a clarification of existing regulations, a negative economic impact of no greater than $2,000.00 is projected, with the possibility of increasing the economic benefits from the fishery up to $180,000.00 per year. The Council prepared a regulatory impact review which concludes that this rule will have the following economic benefits:

1. Economic benefits will improve for the commercial fishermen because a wider variety of traps can be used in the fishery. Also, fishing with some of the traps may be more efficient.

2. Enforcement costs will be lowered because the measuring of the traps will be simpler under the new rule.

3. The employment impacts will be negligible.

You may obtain a copy of this regulatory impact review, which is included in the amendment, from the Council at the address listed above.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the amendment allows greater flexibility in the use of fishing gear which results in savings to individual fishermen. As a result, a regulatory flexibility analysis was not prepared.

Although the proposed regulations modify the existing regulations there is no requirement for any new "collection of information" as defined in the Paperwork Reduction Act (44 U.S.C. 4501 *et seq.*).

In response to a letter from the Council stating that this proposed rule will be implemented in a manner consistent to the maximum extent practicable with the approved coastal zone management programs of Hawaii, in accordance with § 307 of the Coastal Zone Management Act, the Hawaii Department of Planning and Economic Development on August 17, 1983, informed the Council that Amendment 2 is consistent with the Hawaii Coastal Zone Management Plan.

List of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: October 18, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 681—WESTERN PACIFIC SPINY LOBSTER FISHERIES

For reasons set out in the preamble, 50 CFR Part 681 is proposed to be amended as follows:

1. The authority citation for Part 681 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 681.24 paragraph (b) is revised to read as follows:

§ 681.24 Gear restriction.

* * * * *

(b) The smallest opening of an entryway of any spiny lobster trap may not allow any sphere or cylinder greater than 6.5 inches in diameter to pass from outside the trap to inside the trap.

[FR Doc. 83-28770 Filed 10-18-83; 4:50 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 205
Friday, October 21, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Tobacco Inspection; David T. Stephenson III, and Joseph L. Boyett; Public Hearing Regarding Application

Notice is hereby given of a public hearing to be held in the Main Courtroom, Ware County Courthouse, corner of Albany Avenue and Church Street, Waycross, Georgia, beginning at 10:00 a.m., e.s.t. on November 1, 1983, upon the application of Mr. David T. Stephenson, III, Waycross Tobacco Warehouse, Inc., Waycross, Georgia, and Mr. Joseph L. Boyett, Big Z Tobacco Warehouse, Inc., Blackshear, Georgia, for tobacco inspection and price support services to a new market which would be a consolidation of the currently designated markets of Waycross and Blackshear, Georgia. Such public hearings will be conducted and evidence received governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR Part 29, Subpart A, §§ 29.1–29.3).

Dated: October 19, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-28802 Filed 10-20-83; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

1983-Crop Honey Loan and Purchase Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1983-crop honey loan and purchase rates.

SUMMARY: This notice affirms determinations made by the Secretary of Agriculture on April 7, 1983 with respect to the level of price support and loan and purchase rates for the 1983 crop of honey.

These determinations have been made in order to make price support available with respect to eligible producers of 1983-crop honey in accordance with section 201 of the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act").

EFFECTIVE DATE: April 7, 1983.

ADDRESS: Director, Cotton, Grain and Rice Price Support Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: W. W. Beesley, (202) 447–7935.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with Secretary's Memoradum 1512–1 and Executive Order 12291 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this notice applies are: Title: Commodity Loan and Purchases: Number: 10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Price support for honey is made available each year by CCC through county Agricultural Stabilization and Conservation Service (ASCS) offices. In accordance with section 201 of the Act, loans or purchases are required to be made available to producers of 1983-crop honey at a level not in excess of 90 percentum nor less than 60 percentum of the parity price therefor. Section 401(b) of the Act sets forth certain factors to be taken into consideration in determining the level of support in excess of the specified minimum. In addition, section 403 of the Act provides that appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined under the Act.

On February 11, 1983, a notice of proposed determinations was published in the Federal Register (48 FR 6375) requesting comments with respect to certain determinations for the 1983 crop of honey. Such determinations included price support rates based on color, differentials, class, grade, and the program availability period. Comments were received for a period of 30 days.

There were seven responses received through March 14, 1983, all of which favored the continuation of loans on, and purchases of, honey. Five of the responses dealt with the impact of restrictions on the importation of honey into the United States on the domestic honey market and on program operations. Three commenters favored import controls while two others objected to any type of import restrictions. These comments were not considered since they were not responsive to the request for comments involving the determinations which were to be made with respect to the 1983 Honey Price Support Program.

Two of those commenting favored implementation of a deficiency payment program because they claim it would reduce costs and allow domestic producers to effectively compete for the domestic honey market. These comments were not adopted because there is no current statutory authority to implement a deficiency-type payment program for honey. One other commenter recommended establishing the level of price support for honey at 53 percent of parity rather than 60 percent. Current legislation requires, however, that honey must be supported at a level not in excess of 90 percent nor less than 60 percent of the parity price.

Other comments concerned: (1) The retention of containers by the Commodity Credit Corporation (CCC) when honey is delivered in satisfaction

for a loan: and (2) the establishment of price support loan and purchase rates for dark table honey and nontable noney at the same rate regardless of color and class. The suggestions made by these commenters have not been adopted. CCC take title to *both* the honey and the container because it would be too costly and time-consuming to empty, clean and return the containers to the producer. Also, the determination to increase the rate for the 1983-crop of "white and lighter", "extra light amber", and "light amber" honey by 2 cents per pound was made to account for the increase in market differentials now existing between such grades and "other table honey" and "nontable honey."

The determinations set forth herein to establish the loan and purchase rate for the 1983 crop of honey at the minimum statutory level of 60 percent of parity (i.e., 62.5 cents per pound) was reached after taking into consideration the responses received, statutory considerations, and other factors. Establishing the loan and purchase rate for the 1983 crop of honey at the minimum statutory level should provide beekeepers reasonable price and income protection and should also provide them with interim financing to permit the orderly marketing of their honey. The loan and purchase rates determined herein reflect the level of support determined for the 1983 crop of honey.

This notice of determination also sets forth the discounts applicable to the 1983 crop of honey.

Since the only purpose of this notice is to affirm determinations which were announced by the Secretary with respect to the 1983 crop of honey in a press release issued on April 7, 1983, it has been determined no further public rulemaking is required with respect to the following determinations:

Determinations

(a) *Level of support.* The level of price support for the 1983 crop of honey has been established at 60 percent of parity. The loan and purchase rate for the 1983 crop has been determined to be 62.2 cents per pound.

(b) *Loan and Purchase Rates.* (1) *Table and nontable honey.* The rate for the quantity of 1983-crop honey pledged as price support loan collateral or acquired by the Commodity Credit Corporation under its purchase program shall be the rate for the respective class and color set forth below:

	Cents/pound
(1) Table honey:	
(A) White and lighter	64.4
(B) Extra light amber	61.4
(C) Light amber	58.4
(D) Other table honey	54.4
(2) Notable Honey	54.4

(2) *Objectionable flavor, fermentation, or caramelization.* The settlement value for a lot of honey delivered in satisfaction of a loan or under a purchase agreement which grades substandard on account of objectionable flavor, fermentation, or caramelization shall be the lower of its market value as determined by CCC or a value determined on the basis of the loan and purchase rate for nontable honey.

(3) *Grade not certified.* The settlement value for a lot of honey, delivered in satisfaction of a loan or under a purchase agreement for which the grade cannot be certified shall be the lower of its market value as determined by CCC or a value as determined on the basis of the loan and purchase rate for nontable honey.

(4) *Substandard.* The rate for a lot of honey delivered in satisfaction of a loan or under a purchase agreement which grades substandard on account of defects or moisture or a combination of the defects and moisture shall be adjusted by the discounts in (c) below.

(c) *Discounts.* (1) *Defects.* The loan and purchase rate for a lot of honey delivered in satisfaction of a loan or under a purchase agreement which grades substandard on account of defects shall be adjusted by the following discount:

	Discount (cents per lb)
Substandard on account of defects	2

(2) *Moisture.* (1) The loan and purchase rate for a lot of honey delivered in satisfaction of a loan or under a purchase agreement shall be adjusted by the following discounts for the moisture content indicated, which shall be in addition to the discount for defects:

Moisture percent	Discount (cents per pound)
(i) 0 to 18.5	0
(ii) 18.6 to 19.0	3
(iii) 19.1 to 19.5	6
(iv) 19.6 to 20.0	9

(ii) The loan and purchase rates for a lot of honey delivered in satisfaction of a loan or under a purchase agreement which contains moisture in excess of 20.0 percent shall be the lower of the market price as determined by CCC or the support rate for nontable honey. This rate may be further discounted for defects.

(Secs. 4 and 5, 62 Stat. 1070, 1072, as amended (15 U.S.C. 714 b and c); secs. 201, 401, 63 Stat. 1052, 1054 (7 U.S.C. 1446, 1421))

Signed at Washington, D.C. on October 18, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-28699 Filed 10-20-83; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Order 83-10-54]

Application of Southern Air Transport, Inc. for Unused Authority Under Section 401(d)(5)

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause Order (83-10-54).

SUMMARY: The Board is proposing to find Southern Air Transport, Inc. fit, willing and able to operate unused authority under section 401(d)(5) in the San Juan, Puerto Rico-St. Croix, Virgin Islands and San Juan-St. Thomas, Virgin Islands markets, and to approve various control and interlocking relationships involving Southern, Caribbean Air Services, Inc., CASI Holding, Inc., and Mr. Howard Bastian.

DATES: Objections: All interested persons having objections to the Board's tentative fitness determination shall file, and serve upon all persons listed below no later than November 2, 1983, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Responses shall be filed in docket 41280 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon Southern Air Transport, the mayors and airport managers of San Juan, Puerto Rico, St. Croix and St. Thomas, U.S. Virgin Islands, the Department of Justice, the Department of Transportation, the Federal Aviation Administration, and the U.S. Postal Service.

FOR FURTHER INFORMATION CONTACT: Phyllis Solomon, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-54 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-10-54 to that address.

By the Civil Aeronautics Board: October 14, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28746 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended October 7, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Oct. 4, 1983	41736	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Application of Eastern Air Lines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 59 so as to authorize service between the terminal point San Juan, Puerto Rico, and the terminal point Caracas, Venezuela. Conforming Applications, Motions to Modify Scope and Answers may be filed by October 18, 1983.
Do	41737	Arrow Air, Inc., c/o Lawrence D. Wasko, Seamon, Wasko & Ozment, 1211 Connecticut Ave., NW., Suite 300, Washington, D.C. 20036. Conforming Application of Arrow Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property and mail as follows: Between San Juan, Puerto Rico, and Caracas, Venezuela. Answers may be filed by October 18, 1983.
Oct 5, 1983	41741	Airmark Corporation, c/o Aidan D. Jones, Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey, 1120 Connecticut Avenue, NW., Washington, D.C. 20036. Application of Airmark Corporation pursuant to Section 401 and Subpart Q of the Board's Procedural Regulations requests charter service in foreign air transportation of passengers and their property as follows: (a) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Carribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America, on the other hand; (e) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and American Samoa, Guam, Johnson Island, the Marshall Islands, Okinawa, Wake Island, and points in Australia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing, on the other hand; and (f) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand. Conforming Applications, Motions to Modify Scope and Answers may be filed by November 2, 1983.
Do	41742	Airmark Corporation, c/o Aidan D. Jones, Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey, 1120 Connecticut Ave., NW., Washington, D.C. 20036. Application of Airmark Corporation pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a determination of fitness and certificate of public convenience and necessity to provide charter interstate and overseas air transportation. Conforming Applications, Motions to Modify Scope and Answers may be filed by November 2, 1983.
Oct. 7, 1983	41748	Pan Aero International, c/o Harry A. Bowen, Bowen and Atkin, Suite 350, 2020 K Street, NW., Washington, D.C. 20006. Application of Pan Aero International pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate authorizing Pan Aero to engage in scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories, and possessions. Conforming Applications, Motions to Modify Scope and Answers may be filed by November 4, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-28745 Filed 10-20-83; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See 14 CFR 302.1701 et seq.); Week Ended October 14, 1983

Subpart Q Applications

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Oct. 13, 1983	41755	Rainbow Air, Inc., c/o Harry A. Bowen, Bowen & Atkin, 2020 K Street, NW., Suite 350, Washington, Washington, D.C. 20006 Application of Raibow Air, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in foreign charter air transportation of persons and property as follows: Between any point in any state of the United States or the District of Columbia, or any United States territory or possession and (a) points in Canada;

VOL 48 ISS 205 OC 21 1983 UMI

Date filed	Docket No.	Description
Do	41756	(b) points in Mexico; (c) points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea; (d) points in Central and South America; (e) points in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing; and (f) points in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. Conforming Applications, Motions to Modify Scope and Answers may be filed by November 10, 1983. Rainbow Air, Inc., c/o Harry A. Bowen, Bowen & Atkin, 2020 K Street, NW., Suite 350, Washington, D.C. 20006. Application of Rainbow Air, Inc., pursuant to Section 401 at the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate and overseas air transportation of persons, property and mail as follows: Between any point in any state of the United States, or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States, or the District of Columbia, or any territory or possession of the United States. Conforming Applications, Motions of Modify Scope and Answers may be filed by November 10, 1983

Phyllis T. Kaylor,
Secretary.
[FR Doc. 83-28748 Filed 10-20-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 41321; Order 83-10-67]

British American Air Inc. Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *British American Air, Inc. Fitness Investigation:* Order 83-10-67, Docket 41321.

SUMMARY: The Board is instituting the *British American Air, Inc. Fitness Investigation* (1) to determine the fitness of the applicant to operate foreign scheduled air transportation of persons, property, and mail between the United States and Belgium, The Netherlands, Luxembourg and Hong Kong and to comply with the Act and our rules, regulations and requirements; and (2) to approve, exempt, or disclaim jurisdiction over any interlocking or control relationships which may exist under sections 408 and 409 of the Act. The complete text of Order 83-10-67 is available as noted below.

DATES: Requests for additional evidence and petitions for leave to intervene shall be filed by November 10, 1983.

ADDRESS: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41321 and on: British American Air, Inc.; Northwest Airlines, Inc.; Transamerica Airlines, Inc.; the Departments of Transportation of California and Hawaii; The Mayors and airport managers of Burbank, Los Angeles, Long Beach, Ontario, and San Francisco, and Honolulu, Hawaii; the U.S. Departments of State and Transportation; the U.S. Attorney General; the Ambassadors of the United Kingdom, the Netherlands, Belgium, and Luxembourg in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-67 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-10-67 to that address.

By the Civil Aeronautics Board: October 17, 1983.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 83-28747 Filed 10-20-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41679; Order 83-10-56]

Fitness Investigation of Bicoastal Air Service, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Bicoastal Air Service Fitness Investigation,* Order 83-10-56, Docket 41679.

SUMMARY: The Board is instituting an investigation to determine the fitness of Bicoastal Air Service to engage in interstate and overseas scheduled air transportation.

DATES: Persons wishing to intervene or proposing to request additional evidence in the *Bicoastal Air Service Fitness Investigation* shall file their petitions in Docket 41679 by October 28, 1983.

ADDRESSES: Petitions to intervene and requests for additional evidence should be filed in Docket 41679 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: John F. Brennan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-56 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-10-56 to that address.

By the Bureau of Domestic Aviation: October 14, 1983.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 83-28742 Filed 10-20-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41526]

Key Airlines, Inc., Fitness Investigation; Resumption of Hearing

Notice is hereby given that a resumption hearing in the above-entitled matter is assigned to be held on October 26, 1983, at 9:30 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. before the undersigned Administrative Law Judge.

Dated at Washington, D.C., October 17, 1983.

Ronnie A. Yoder,
Administrative Law Judge.
[FR Doc. 83-28744 Filed 10-20-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41306]

Unicorn Air, Ltd., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on November 29, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave. NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., October 13, 1983.

Elias C. Rodriguez,
Chief Administrative Law Judge.
[FR Doc. 83-28743 Filed 10-20-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

American National Metric Counsel Proposed Metrication Plan Guideline With the Office of Metric Programs

ACTION: Solicitation of comments.

SUMMARY: In cooperation with the Office of Metric Programs, Department of Commerce, the American National Metric Council's Aerospace Sector Committee seeks comments on its *Aerospace Sector Committee Metrication Plan.*

DATE: All comments should be submitted no later than November 30, 1983.

ADDRESS: Mr. Philip M. Gulak, Program Manager, Aerospace Sector Committee, American National Metric Council, 5410 Grosvenor Lane, Bethesda, Maryland 20814. Telephone: Area Code 301-530-8333.

SUPPLEMENTARY INFORMATION: The Department of Commerce has been assigned certain responsibilities under the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007, 15 USC 205a-205k) and other legal authorities principally to perform metric coordination among Federal agencies and between the Federal and State Government as well as the private sectors.

The American National Metric Council is a private, non-profit organization which acts as a representative of the private sector in formulating and coordinating industrywide metric conversion plans. The Council's Aerospace Sector Committee seeks comments on its proposed metric transition plan entitled *Aerospace Sector Committee Metrication Plan.* The plan is intended to serve as a guide to generate future aerospace sector metric transition planning and activity.

Comments are being sought from industry, interested trade associations, State Governments, and Federal agencies, and any other interested parties. The plan has been under development since December 1975 and incorporates comments received from circulation of prior draft plans. Interested parties are urged to review the proposed plan and submit their comments.

Copies of the proposed plan are available by contracting Mr. Philip M. Gulak at the above cited address or telephone number.

Dated: October 14, 1983.

D. Bruce Merrifield,
Assistant Secretary for Productivity, Technology and Innovation.
[FR Doc. 83-28752 Filed 10-20-83; 8:45 am]
BILLING CODE 3510-18-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel; Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice set forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The main purpose of the meeting is to discuss four panel subgroup reports on: (1) Accountability and responsibility, (2) research, (3) education, and (4) advisory service of the Sea Grant Program.

DATE: The announced meeting is scheduled for November 29, 1983, from 8:30 a.m. to 2 p.m.

ADDRESS: The meeting will be held at: Herbert Hoover Building (Main Commerce Building), 14th and Constitution Avenues, NW., Room 4830, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur G. Alexiou, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443-8894.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in accordance with the Sea Grant Program Improvement Act of 1976, Pub. L. 94-461. This Act, signed into law on October 8, 1976, requires the Secretary of Commerce to establish and maintain a Sea Grant Review Panel to advise the Secretary, the Administrator of NOAA, and the Director of the Program on the conduct of this Program.

The agenda for the meeting is:

8:30-12:00

Discussion of four panel subgroup reports on:
(1) Accountability and Responsibility
(2) Research
(3) Education
(4) Advisory Services

1:00-2:00

"Post mortem" of University of Washington Recertification review

The meeting will be open to the public.

Dated: October 12, 1983.

Samuel A. Lawrence,
Director, Office of Administrative and Technical Services.
[FR Doc. 83-28648 Filed 10-20-83; 8:45 am]
BILLING CODE 3510-12-M

Civil Operational Remote Sensing Satellite Advisory Committee; Meetings

AGENCY: National Environmental Satellite, Data, and Information Service, NOAA.

ACTION: Notice of Two Partially Closed Meetings.

SUMMARY: The Civil Operational Remote Sensing Satellite Advisory Committee (formerly the Land Remote Sensing Satellite Advisory Committee) was established on September 6, 1983, to advise the Secretary of Commerce on the Department's responsibilities for the civil operational land and weather satellites. The Advisory Committee's subcommittee, the Working Group on Commercialization, consists of members appointed by the Chairman from the parent Committee.

Agenda

The Working Group will evaluate the draft Request for Proposals (RFP) for the civil operational land and weather satellite systems from the perspective of non-Federal views and requirements. The Working Group's report will be considered by the parent Committee in formulating recommendations to the Secretary of Commerce. The Working Group and the full Committee plan closed sessions of up to three hours duration to evaluate the RFP's classified annex covering national security. All other parts of both meetings will be open to the public.

Location and Date

The partially closed meeting of the Working Group on Commercialization will be held at the Mackay School of Mines, University of Nevada-Reno,

VOL 48 ISS 205 OCT 21 1983 UMI

Reno, Nevada 89557, from 9:00 a.m. on Wednesday, October 26, 1983, to about 4:30 p.m. on Friday, October 28, 1983. The closed session for the Working Group meeting will occur on Thursday, October 27, from 9:00 a.m. to 12:00 p.m. The partially closed meeting of the Civil Operational Remote Sensing Satellite Advisory Committee will be held in Conference Room 4830, Herbert C. Hoover Building, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, from 9:00 a.m. on Thursday, November 17, 1983, to about 3:30 p.m. on Friday, November 18, 1983. The morning session on Friday, November 18, 1983, will be closed from 9:00 to 10:00 a.m. All other parts of the November meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Contact the Committee's Executive Secretary, Dr. Richard J. Keating, (301) 763–5904, or the Committee Staff Officer, Ms. Peggy Harwood, (301) 763–7821, External Relations Staff, NOOA/NESDIS (E/ER), Washington, D.C. 20233.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce with the concurrence of the General Counsel, formally determined on October 19, 1983 pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed sessions should be exempt from the provisions of the Act relating to open meetings and public participation because the discussions are likely to disclose classified information within the purview of 5 U.S.C. 552b(c)(1). A copy of the determination is available for public inspection and copying in the Public Reading Room Central Reference and Record Inspection Facility, Room 6628, Department of Commerce.

Dated: October 19, 1983.

Samuel A. Lawrence,

Director, Office of Administration and Technical Services.

[FR Doc. 83–28847 Filed 10–20–83; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Advisory Committee on the Air Force Historical Program; Meeting

October 7, 1983.

The Advisory Committee on the Air Force Historical Program will hold a meeting on November 30, 1983 from 8:30 a.m. to 4:00 p.m. and December 1, 1983 from 8:00 a.m. to 12:00 noon at Bolling Air Force Base (AFB), D.C., Building 5681, Office of Air Force History's 4th Floor Conference Room. The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force.

The meeting will be open to the public. Topics to be discussed include: organization and personnel, current status of historical projects, and status of the field history program.

For further information, contact Lt Col Elliott Converse, Executive, Office of Air Force History, Bolling AFB, D.C., telephone (202) 767–5764.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–28646 Filed 10–20–83; 8:45 am]

BILLING CODE 3910–01–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Existing Collection in Use Without an OMB Control Number

Chaplain Candidate Training Record (ARPC Form 0–5).

The information collection is necessary to identify chaplain candidates and to schedule tours of active duty training. It is also used to readily identify trained candidates awaiting reappointment.

All individuals who apply for appointment as chaplain candidates or chaplains: 90 responses, 30 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from Ms. Sandy Mosley, HQ ARPC/HC, Denver, Colorado 80280, telephone (303) 370–4901.

Dated: October 18, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–28725 Filed 10–20–83; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Science Board; Meeting Change

October 17, 1983.

The following change has occurred for the meeting of the Army Science Board Ad Hoc Subgroup on Army Utilization of Space, which was announced in the Federal Register issue of 14 October 1983 (48 FR 46835):

DATES OF MEETING: Monday and Tuesday, 14 and 15 November 1983 (instead of Thursday and Friday, 3 and 4 November 1983).

Sally A. Warner,

Administrative Officer.

[FR Doc. 83–28720 Filed 10–20–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Meeting Change

October 17, 1983.

The following change has occurred for the meeting of the Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense, which was announced in the Federal Register issue of 22 September 1,983 (48 FR 43214):

DATES OF MEETING: Thursday and Friday, 17 and 18 November 1983 (instead of Wednesday and Thursday, 9 and 10 November 1983).

Sally A. Warner,

Administrative Officer.

[FR Doc. 83–28719 Filed 10–20–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of meeting: Wednesday & Thursday, November 16 and 17, 1983.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Updating Old Equipment will meet for classified briefings and discussions on various currently fielded equipment and systems and for status reports from panel members on their assigned topics. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5 U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, Subsection 10(d). The classified and nonclassified matters to be discussed are so inextricable interwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner

Administrative Officer.

[FR Doc. 83–28727 Filed 10–20–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Monday, November 21, 1983.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: After a series of preparatory classified briefing and discussion sessions, the Army Science Board Ad Hoc Subgroup on Near Term Implementation of "How to Fight" will meet for an executive report writing session. The subgroup's task is to determine necessary procurement adjustments in the 1985 budget to bring off fully-integrated Airland Battle capabilities by the end of 1986. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Adminstrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83–28728 Filed 10–20–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of Meeting: Tuesday, November 22, 1983.

Times: 0830–1700 hours (Closed).

Place: HQS III Corps, Ft. Hood, Texas.

Agenda: The Army Science Board Ad Hoc Subgroup on Combat Medical Support will meet for classified briefings and discussions on operational deterioration of personnel in military operational protective posture dress. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83–28729 Filed 10–20–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday, Wednesday, Thursday, November 29 and 30, and December 1, 1983.

Place: 29&30 Nov., Ft. Benning, GA; 1 Dec., Ft. Leavenworth, KS (Open).

Agenda: The ASB Ad Hoc Subgroup on Army Leadership will meet for briefings and discussions addressing the following: (1) What are the quantitative measures between leadership performance and unit performance in the Army?; (2) How can the Army best determine which officers have cognitive capability for integrative thought and appropriate levels of mental abstraction for long term strategic time spans?; (3) Explore mechanisms and processes necessary to firmly link leader development programs to the future; (4) Explore new ways of developing individual systems thinking skills; and (5) Are there cost-effective leadership assessment techniques that the Army has not, but should explore? This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information please contact Sally Warner, the ASB Administrative Officer, at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83–28730 Filed 10–20–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Thursday and Friday, December 1 and 2, 1983.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: After a series of preparatory classified briefing and discussion sessions, the Army Science Board Ad Hoc Subgroup on the Army Decontamination Program will meet for an executive report writing session. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83–28731 Filed 10–20–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Thursday, 1 December 1983.

Times: 0830–1700 hours (Closed).

Place: U.S. Army Training & Doctrine Command, Fort Monroe, Virginia

Agenda

The Army Science Board Ad Hoc Subgroup on Combat Medical Support will meet for classified briefings and discussions on the following: Medical Support Systems in the Combat Zone; Impact of Conventional/Chemical Warfare on Medical Support; Medical Force Structure; Aidman Training; Lessons Learned in Recent Conflicts; Self-Aid/Buddy Aid; and Auxiliary Aidman. An executive session will wind up the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C. specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contracted for further

VOL
48
ISS
205
OC
21
1983
UMI

information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28732 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Tuesday, 8 November 1983.

Times: 0630–1700 hours (Closed).

Place: Hughes Aircraft Company, Fullerton, California

Agenda

The Army Science Board Ad Hoc Subgroup on Acquiring Army Software will meet for finalization of the written report. Much proprietary information was briefed to the subgroup for deliberation and therefore, this meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1 and 4) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The proprietary and nonproprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 83-28733 Filed 10-20-83; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Construction of the Michigan Transmitter Facility, Elf Communications System; Marquette and Dickinson Counties, Michigan

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act (§ 1508.13 of Title 40, Code of Federal Regulations), the Department of the Navy gives notice that an environmental impact statement is not being prepared for the construction of the Michigan Transmitter Facility, ELF Communications System, Marquette and Dickinson Counties, Michigan.

Land acquisition for the proposed facility will be limited to approximately 7 acres of state-owned forest land. All remaining land requirements for the antenna right-of-way, with an approximate effective length of 56 miles, grounding areas and access roads will be obtained by grant-of-easements with respective property owners.

Major aspects of the proposed action include construction of a transmitter building and ancillary support buildings, an access road, vehicle parking areas, fuel storage tanks, fencing around this approximately six-acre complex plus the construction of an overhead single-line antenna system (56 mi), associated grounding system and the provisioning of various utilities associated with the transmitter site facilities. The transmitter facility site is located approximately equal distance from the towns of Republic and Witch Lake in southern Marquette County with a portion of the north-south antenna line extending into northern Dickinson County.

The environmental assessment of the proposed construction deals primarily with the installation of the antenna lines themselves, as the principal effect on the environment, and not with operation of the communications system as that subject has been thoroughly addressed in previous environmental documentation. The Navy has, continuously since the publication in 1977 of its Environmental Impact Statement, reviewed new scientific information on extremely low frequency propagation with the conclusion that there is no credible evidence of adverse effect to human health or the environment. In addition the Navy has established new initiatives in Michigan for ecological monitoring in order to confirm the absence of adverse effects by the communications system.

The loss of approximately 675 acres of native vegetation to create the antenna corridors is the greatest effect associated with the proposed construction. The project area is generally covered by stands of second-growth hardwoods. The area once supported abundant stands of white pine, which were devastated by heavy commercial logging in the mid-to-late 1800s. Some pine stands, which remain today, are still being logged. The loss of what is estimated to be less than 1% of vegetation within the project area is not considered a significant alteration of the local environment, and should not place a significant burden on the forest ecosystem or affect productivity.

In the grounds area (to be constructed at the end of each antenna cable), clearing of trees and other vegetation will be limited. The grounds cable will be plowed into the ground to a minimum depth of 6 feet.

Extensive pre-planning efforts have sited the antenna systems away from sensitive wildlife areas as well as recreation areas. Wetlands were also avoided where possible. Some of these areas included heron rookeries, forest management areas, quiet areas, field trial areas, osprey and eagle (protected species) nesting areas and deer yards. Additionally, development of new wildlife/recreation areas should not be hindered by the proposed ELF construction.

Upon completion of the antenna and grounds systems, the corridors will be revegetated with appropriate grasses and low-growing shrubs. A corridor maintenance plan will be developed for the Navy in consultation with Michigan Department of Natural Resources. Construction roads will be restored and the areas returned to original conditions.

The Navy has conducted a Threatened and Endangered Plant Species Survey along the proposed antenna and grounds corridors. Should any significant species be identified, appropriate mitigative measures (relocation, avoidance, etc.) will be taken. The survey is not yet complete as a plant species survey must be conducted over two seasons (Spring and Fall) and only the Fall survey has been completed.

Finally, the completed grounding system will include approximately twelve (12) vertical wells to the bedrock. The primary effects will be temporary disturbance of the soil environment and related erosion although control measures will minimize the effects. There are no impacts associated with other wildlife or impacts associated with archaeological or cultural resources.

The completed system should not significantly detract from the natural scenic quality of the area. The antenna system will appear as an ordinary utility power line. Right-of-ways (ROW) and grounding areas will appear as common fire breaks through the forested area. Both access roads and ROW's have been designed with bends to avoid extended non-vegetated lines-of-site. Vegetation will be maintained at road and stream crossings to allow for natural views/appearances at these crossing points. ROW's will not be fenced through public lands and hiker and hunter access will be permitted. Likewise, fenced ROW's through private lands will be the option of the landowner. Electromagnetic interference mitigation, if needed, will be provided by the Navy. The transmitter site itself will be fenced and access will be restricted.

The Environmental Assessment of this action, completed in close cooperation with the Michigan Department of Natural Resources, indicates that construction and operation will not cause significant impacts on the environment. Alternatives included: no action, or the choice of alternate means to fulfill the Navy mission. It is the Navy's belief that the system selected for radio communications significantly enhances the credibility of Fleet Ballistic missile submarines as an effective deterrent and as such has no equivalent alternative. The Environmental Assessment prepared by the Navy addressing this action is on file and may be reviewed by interested parties at both the point of origin, Commander, Naval Electronic Systems Command, Washington, D.C. 20363 [Attn.: Capt. R. L. Koontz, PME 110E, telephone (202) 692–8871)], or at the Environmental Protection, Safety and Occupational Health Division (NOP–45), Office of the Chief of Naval Operations, Room BD766, Pentagon, Washington, D.C. 20350, telephone (202) 697–3639. Additionally, a limited number of copies of the Environmental Assessment are available to fill single-copy requests.

Dated: October 18, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy; Alternate Federal Register Liaison Officer.

[FR Doc. 83-28670 Filed 10-20-83; 8:45 am]

BILLING CODE 3810-AE-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of the Navy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total numbers of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

EXTENSION

Unit Price Analysis and Unit Price Analysis Summary

The Commander, Naval Sea Systems Command as the coordinator of Shipbuilding, Conversion and Repair is responsible for the design, development, acquisition, modernization, and conversion of Navy Ships. As such, the Commander, has a direct interest in the total naval Shipbuilding Budget. The Unit Price Analysis and Unit Price Analysis Summary are required from all Shipbuilders bidding on New Construction, conversions and small craft. The information from these forms is used by NAVSEA to validate the bidders price. The unit price analysis sheets are used after contract award to help in preparing budget estimates for awards of like or similar ships.

Respondents are private shipyards and other contractors bidding on naval construction and conversion. The Naval shipbuilding budget includes approximately 15 ships per year and an equal amount of small craft and approximately six bidders bid on each procurement for a total of 180 responses. Estimated hours needed to provide the information on NAVSEA 4280/2 is 600 and on NAVSEA 4280/2A is 800.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from Commander, Naval Sea Systems Command (SEA 017), Department of the Navy, Washington, D.C. 20362, telephone (202) 692–0720.

Dated: October 18, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-28724 Filed 10-20-83; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2455-8]

Availability of Environmental Impact Statements Filed October 10 Through October 14, 1983 Pursuant to 46 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382–5075 or (202) 382–5076.

EIS No. 830554, Final, HUD, OH, Beckett Ridge Residential Development, Mortgage Insurance, Butler, Co., Due: Nov. 21, 1983.

EIS No. 830555, Final, FHW, CA, I–80 Improvement, Auburn Ravine Undercrossing to E. Auburn Overhead, Due: Nov. 21, 1983.

EIS No. 830556, Final, FHW, OR, Umatilla-Stanfield Highway/US 395 Improvement, Umatilla County, Due: Nov. 21, 1983.

EIS No. 830557, Final, COE, VA, Willoughby Spit/Vicinity Hurricane Protection & Beach Erosion Control, Due: Nov. 21, 1983.

EIS No. 830558, Draft, FHW, WA, Mildred Street Improvement, 6th Ave. to North 17th St., Pierce County, Due: Dec. 5, 1983

EIS No. 830559, Final, FHW, NY, I–508 (I–88/I–81 Connector) Completion, Broome County, Due: Nov. 21, 1983.

EIS No. 830560, Final, BLM, SEV, UT CO Uinta-SW Utah Coal Region Development, Round Two Leasing, Due: Nov. 21, 1983.

EIS No. 830561, Draft, FHW, NC, Benjamin Parkway Ext., Benjamin Pkwy to Airport Pkwy, Guilford County, Due: Dec. 5, 1983.

EIS No. 830562, Draft, COE, GU, Merizo Small Boat Harbor Construction, Merizo, Territory of Guam, Due: Dec. 5, 1983.

Amended Notices:

EIS No. 820389, Draft, FHW, GA, Lakewood Freeway/I–420 Ext., I–75/I–85 to I–20, Fulton & DeKalb Cos., published Federal Register June 18, 1982—Officially withdrawn.

EIS No. 830458, Draft, UAF, SEV, UT NV Gandy Range Supersonic Flight Training Area, Hill AFB, Published Federal Register Aug. 26, 1983—Review extended, Due: Oct. 14, 1983.

Dated: October 18, 1983.

Allan Hirsch,

Director, Office of Federal Activities

[FR Doc. 83-28780 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51489; TSH-FRL 2455-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-eight PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84–14 and 84–15, January 4, 1984.
PMN 84–16, 84–17, 84–18, 84–19, 84–20, 84–21, 84–22, 84–23 and 84–24, January 8, 1984.
PMN 84–25, 84–26, 84–27, 84–28, 84–29, 84–30, 84–31, 84–32, 84–33, 84–34, 84–35 and 84–41, January 9, 1984.
PMN 84–36, 84–37, 84–38, 84–39 and 84–40, January 10, 1984.

Written comments by:

PMN 84–14 and 84–15, December 5, 1983.
PMN 84–16, 84–17, 84–18, 84–19, 84–20, 84–21, 84–22, 84–23 and 84–24, December 9, 1983.
PMN 84–25, 84–26, 84–27, 84–28, 84–29, 84–30, 84–31, 84–32, 84–33, 84–34, 84–35, and 84–41, December 10, 1983.
PMN 84–36, 84–37, 84–38, 84–39 and 84–40, December 11, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51489]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–14

Manufacturer. Spencer Kellogg Division of Textron Inc.
Chemical. (G) Polyurethane prepolymer resin.
Use/Production. (G) A coating to be used in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposol. No data submitted.

PMN 84–15

Importer. Confidential.
Chemical. (G) Substituted heterocyclic metal complex.
Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; TOC: 50–100%; LC_{50} 48 hrs (Rainbow trout): 10–100 mg/l; IC_{50} bacteria: >100 mg/1.
Exposure. No data submitted.
Environmental Release/Disposol. No data submitted. Disposal by on site biological treatment sytstem.

PMN 84–16

Manufacturer. Confidential.
Chemicol. (G) Epoxy urethane
Use/Production. (G) Adhesive. Prod. range: Confidential.
Toxicity Dato. No data submitted.
Exposure. Confidential.
Environmentol Release/Disposal. Confidential.

PMN 84–17

Importer. Confidential.
Chemical. (G) Substituted heterocyclic metal complex.
Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; TOC: 50–100%; LC_{50} 48 hrs (Rainbow trout): 10–100 mg/l; IC_{50} bacteria: >100 mg/l.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted. Disposal by on site biological treatment system.

PMN 84–18

Manufacturer. ARCO Chemical Company.
Chemical. (S) 1(1,1 dimethylethoxy)-propan-2-o1.
Use/Production. (S) Commercial and consumer solvent for cleaners and coatings. Prod. range: 2,000,000–10,000,000 kg/yr.
Toxicity Dato. Acute oral: 3.7 gm/kg; Acute dermal: 2.0 gm/kg; Irritation: Skin—Slight, Eye—Severe; Inhalation LC_{50} 4 hr: 485 parts per million (ppm).
Exposure. Manufacture: Dermal, a total of 7 workers, up to 4 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Disposal by publicily owned treatment works (POTW).

PMN 84–19

Manufacturer. International Energy and Resource Corporation.
Chemical. (G) Tolylene diisocyanate polymer with acrylated glycols.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: 4 gm/kg; irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manfacture and disposal: dermal, a total of 7 workers, up to 4 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–20

Manufacturer. International Energy and Resource Corporation.
Chemical. (G) Methylene bis (4-isocyanatocyclohexane) po!ymer with acrylated glycols.
Use/Production. (S) Industrial coating. Prod. range: 0–40,000 kg/yr.
Toxicity Data. Acute oral: 5 gm/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 4 hrs/da, up to 50 da/yr.
Environmental Release Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–21

Manufacturer. Fairad Technology, Inc.
Chemical. (G) Polybutanediol acrylate.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Mild, Eye—Minimal.
Exposure. Manufacture, processing, and disposal: dermal, a total of 6 workers, up to 2 hrs/da, up to 150 da/yr.
Environmental Release Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–22

Monufacturer. Fairad Technology, Inc.
Chemical. (G) Isophorone diisocyanate polymer with acrylated diols.
Use/Production. (S) Component of industrial coating for fiber optics. Prod. range: 0–400,000 kg/yr.
Toxicity Data. Acute oral: 4.5 gm/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant.
Exposure. Manufacture, processing, and disposal: dermal, a total of 8 workers, up to 2 hrs/da, up to 150 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–23

Manufacturer. Fairad Technology, Inc.
Chemical. (G) 1,4-cyclohexylene diisocyanate polymer with acrylated diols.
Use/Production. (S) Component of industrial coating. Prod. range 0–200,000 kg/yr.
Toxicity Dota. Acute oral: 4.0 gm/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant.

Exposure. Manufacture, processing and use: dermal, a total of 8 workers, up to 2 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–24

Manufacturer. Fairad Technology, Inc.
Chemical. (G) Methylene-bis (cyclohexyl isocyanate) polymer with acrylated diols.
Use/Production. (S) Component of industrial and fiber optic coating. Prod. range: 0–500,000 kg/yr.
Toxicity Data. Acute oral: 5.0 gm/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant.
Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 2 hrs/da, up to 175 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–25

Manufacturer. Confidential.
Chemical. (G) Titanium alcohol complex.
Use/Production. (G) Destructive use. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Slight, Eye—Severe; Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–26

Manufacturer. Confidential.
Chemical. (G) Alkoxy functional polydimethylsiloxane.
Use/Production. (G) Open non-dispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non irritant, Eye—Non irritant; Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–27

Manufacturer. Confidential.
Chemicol. (G) Polyol carboxylate ester.
Use/Production. (G) Destructive use. Prod. range: Confidential.
Toxicity Data. Acute oral: 3.1 g/kg; Acute dermal: >5.0 g/kg; irritation: Skin—Slight, eye—Substantial; Ames Test: Not mutagenic; Skin sensitization: Positive.
Exposure. Manufacture, processing, use and disposal: dermal and ocular, a total of 33 workers, up to 6 hrs/da, up to 150 da/yr.
Environmental Release/Disposal. 10–1,000 kg/yr released to water with less than 10 to 1,000 kg/yr to land. Disposal by POTW, incineration and approved landfill.

PMN 84–28

Manufacturer. Confidential.
Chemical. (G) Flexibilized dicyclopentadiene modified unsaturated polyester resin.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Minimal release. Disposal by incineration and landfill.

PMN 84–29

Manufacturer. Confidential.
Chemical. (G) Ethylene terpolymer.
Use/Production. (S) Film, blow molding, extrusions, rotational moldings, injection moldings, and sheeting. Prod. range: Confidential.
Toxicity Data. No date submitted.
Exposure. Manufacture and use: dermal, a total of 1,100 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill or recycling.

PMN 84–30

Manufacurer. Confidential.
Chemical. (G) Modified polyethylene ionomer.
Use/Production. (S) Injection, rotational, blow molding, film and sheet extrusion. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 500 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposol. No release. Disposal by incineration, landfill or recycling.

PMN 84–31

Manufacturer. Confidential.
Chemical. (G) Modified polyethylene ionomer.
Use/Production. (S) Injection, rotational, blow molding, film and sheet extrusion. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 500 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. No realease. Disposal by incineration, landfill or recycling.

PMN 84–32

Manufacturer. Confidential.
Chemical. (G) Aminomethylene phosphonic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: 2,000–4,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Slight, Eye—Severe.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by waste water treatment facility.

PMN 84–33

Manufacturer. Confidential.
Chemical. (G) Phosphorus containing aminosilane.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. **Acute oral: >4,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Moderate; Inhalation LC_{50}: >28.7 mg/1; LC_{50} (Daphnia magna): 2,000 mg/L; LC_{50} (Fathead minnow): 3,500 mg/L; BOD Day 5: 14–16% Th OD.**
Exposure. **Confidential.**
Environmental Release/Disposal. No release. Disposal by waste water treatment facility.

PMN 84–34

Manufacturer. Confidential.
Chemical. (G) Aliphatic polycarbonate diol.
Use/Production. (S) Industrial and commercial intermediate for synthesizing polyurethane and polyester polymers. Prod. range: 8,000–30,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 workers, up to 2 hrs/da, up to 4 da/yr.
Environmental Release/Disposal. No release.

PMN 84–35

Importer. Confidential.
Chemical. (G) (Substitutedphenyl) (heterocyclesubstituted alkyl) ketone.
Use/Import. (G) Non-dispersive use. Import range: Confidential.
Toxicity Data. Acute oral: 1,800 mg/kg; Acute dermal: >12,000 mg/kg; Irritation: Skin—Minimal, Eye Minimal; Ames Test: Postitve with activation, negative without activation; Skin sensitization: Not a sensitizer; COD: 1,946 mg O_2/g; Biodegradability: Not readily biodegradable; LC_{50} 96 hr (Zebra fish): 9.8 ppm; EC_{50}24 hr (Daphnia magna): 18.0 ppm; Nucleus anomaly test negative; Sister chromatid exchange: Negative; L5178Y/TK$^+$: Negative.
Exposure. Import: dermal and inhalation, up to 2–4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. Up to 100 kg/yr released to air. Disposal by incineration and landfill.

VOL 48 ISS 205 OCT 21 1983 UMI

PMN 84-36

Importer. Confidential.
Chemical. (G) Substitute heterocyclic metal complex.
Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Nonirritant; TOC: 50–100%; LC_{50} 48 hr (Rainbow trouts): 10–100 mg/L; IC_{50} bacteria: >100 mg/l.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted. Disposal by on-site biological treatment system.

PMN 84-37

Manufacturer. Texaco Chemical Company.
Chemical. (S) Poly[oxy(methyl-1m2-ethanediyl)], alpha-hydroomega-(2-amino-2-methyl)ethoxy-, ether with 1,2,3-propanetriol (3:1).
Use/Production. (S) Industrial and commercial urethanes and epoxy. Prod. range: Confidential.
Toxicity Data. Acute oral: 2,690 mg/kg; Acute dermal: >12.5 gm/kg; Irritation: Skin—Slight, Eye—Non-irritant.
Exposure. Manufacture: dermal, a total of 6 workers, up to 4 hrs/da, up to 75 da/yr.
Environmental Release/Disposal. No release.

PMN 84-38

Manufacturer. Superior Varnish and Drier Company.
Chemical. (G) Oil modified polyester.
Use/Production. (S) Industrial printing ink vehicle. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 4 da/yr.
Environmental Release/Disposal. No release.

PMN 84-39

Manufacturer. Superior Varnish and Drier Company.
Chemical. (G) Oil free polyester.
Use/Production. (S) Industrial printing ink vehicle. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 4 da/yr
Environmental Release/Disposal. No release.

PMN 84-40

Manufacturer. Superior Varnish and Drier Company.
Chemical. (G) Oil modified polyester.
Use/Production. (S) Industrial printing ink vehicle. Prod. range: Confidential
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 4 da/yr
Environmental Release/Disposal. No release.

PMN 84-41

Manufacturer. Confidential.
Chemical. (G) Metal complex with amine fatty acid salt.
Use/Production. (S) Elastomer additive, open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral; >4,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant; LC_{50} 48 hr (Daphnia magna): 267 mg/L; LC_{50} 96 hr (Fathead minnow): 3,200 mg/L.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted. Disposal by industrial waste treatment facility.

Dated: October 14, 1983.

Linda A. Travers,
Acting Director, Management Support Division.

[FR Doc. 83-28706 Filed 10-20-83; 8:45 am]
BILLING CODE 6560-50-M

Science Advisory Board

[OPP-FRL-2456-3]

Environmental Health Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a one-day meeting of the Environmental Health Committee of the Science Advisory Board will be held on November 10, 1983, in Conference Room 3906–3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. and adjourn no later than 4:30 p.m.

A principal purpose of the meeting will be to review and comment on the scientific adequacy of two draft health assessment documents prepared by the Office of Health and Environmental Assessment of EPA's Office of Research and Development. The titles and publication numbers of the two documents are:

Title	EPA No
Health Assessment Document for Chromium.	EPA-600/8-83-014A, July 1983.
Health Assessment Document for Manganese.	EPA-600/8-83-013, June 1983.

The draft documents are available in single copy quantity from EPA at the following address: ORD Publications Office, Center for Environmental Research Information, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, telephone: (513) 684-7562. Requestors should be sure to cite the EPA number assigned to the document.

The agenda will also include discussion of suggested upcoming issues for Environmental Health Committee review, brief reports, and informational items of current interest to the Members.

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a paper, or wishing further information should contact the Executive Secretary, Environmental Health Committee, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. November 2, 1983. Please ask for Mrs. Patti Howard or Mr. Ernst Linde. The telephone number is (202) 382-2552.

Dated: October 17, 1983.

Terry F. Yosie,
Staff Director, Science Advisory Board.

[FR Doc. 83-28707 Filed 10-20-83; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-48]

Alaska Maritime Agencies, Inc., et al. v. Port of Anacortes, et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Alaska Maritime Agencies, Inc., and 23 other steamship agencies against the Port of Anacortes and 31 other west coast port or terminal facilities was served October 11, 1983. Complainants allege that respondents have violated sections 15, 16 First, and 17 of the Shipping Act, 1916, in connection with the establishment of tariff rules and practices which hold agents liable, as principals, for various port and terminal charges.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[FR Doc. 83-28754 Filed 10-20-83; 8:45 am]
BILLING CODE 6730-01-M

[Docket No. 83-49]

Galin Ataei v. Barber Blue Sea Line, et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Galin Ataei against the Barber Blue Sea Line joint service and its members was served October 11, 1983. Complainant alleges that respondents have violated sections 14 Fourth, 16 First, 17, 18(b)(1), and 18(b)(3) of the Shipping Act, 1916, in connection with various charges assessed against a particular shipment of complainant.

This proceeding has been assigned to Administrative Law Judge Seymour Glanzer. Hearing is this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[FR Doc. 83-28753 Filed 10-20-83; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review by OMB

October 17, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Deletion of a Report

1. Report title: Report of Ownership of the Reporting Bank and on Indebtedness of its Executive Officers and Principal Shareholders to the Reporting Bank and to its Correspondent
Agency form number: FFIEC 003
Frequency: Annual
Reporters: State member banks
Small businesses are affected.
General description of report:
Respondent's obligation to reply is mandatory (12 U.S.C. 1972); a pledge of confidentiality is not promised.

Each state member bank of the Federal Reserve System is required to file annually a form FFIEC 003 which discloses information on ownership of the bank and loan involving the bank's executive officer and principal shareholders. State member banks are required to make copies of the report available to the public upon request.

Board of Governors of the Federal Reserve System, October 17, 1983.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 83-28675 Filed 10-20-83; 8:45 am]
BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; SouthTrust Corp. and TCBankshares, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *SouthTrust Corporation,* Birmingham, Alabama; to acquire 75 percent of the voting shares or assets of Citibank Group, Inc., Alexander City, Alabama. Comments on this application must be received not later than November 16, 1983.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *TCBankshares, Inc.,* North Little Rock, Arkansas; to acquire at least 97.3 percent of the voting shares of Citizens Bank and Trust Company, Flippin, Arkansas. Comments on this application must be received not later than November 16, 1983.

VOL 48 ISS 205 OCT 21 1983 UMI

Board of Governors of the Federal Reserve System, October 17, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83-28678 Filed 10-20-83; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; One American Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo*, (or continue to engage in an activity earlier commencded *de novo*), *directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.*

With respect to these aplications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *One American Corporation*, Vacherie, Louisiana (insurance agency activities; Louisiana): To engage, through its *de novo* subsidiary, One American Agency, Inc., in selling life, accident and health, and involuntary unemployment insurance directly related to its extensions of credit. There activities would be conducted from its office in Vacherie, Louisiana, serving Louisiana. Comments on this application must be received not later than November 16, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; Utah): To continue to engage through its subsidiary, Norwest Financial Utah, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks. These activities would be conducted from a relocated office in Salt Lake City, Utah, serving Salt Lake City, Utah, and other nearby communities. Comments on this application must be received not later than November 14, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado National Bankshares, Inc.*, Denver, Colorado (credit related insurance activities; Colorado): To act through its subsidiary, Colorado National Insurance Agency, as insurance agent or broker for life, disability and hazard insurance coverages directly related to extensions of credit of three newly acquired banking subsidiaries, Colorado National Bank—Southwest, Littleton, Colorado; Colorado National Bank—East Boulder, Boulder, Colorado; and Colorado Natonal Bank—Fort Collins, Fort Collins, Colorado. The respective geographic scopes for these activities will be the cities of Boulder and Fort Collins, Colorado and the southwest quadrant of Littleton, Colorado. Colorado National Bankshares earlier secured approval to engage in insurance activities by Board Order of July 1, 1974.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California (discount securities brokerage and incidental activities; *de novo* offices; all fifty (50) states and the District of Columbia): To engage, through its indirect subsidiary, Charles Schwab & Co., Inc., in the activities of discount securities solely upon the order and for the account of customers, and of extending margin credit in conformity with Regulation T. The activities will be conducted from five *de novo* offices located in Carmel and Laguna Hills, California; Hartford and Stamford, Connecticut; and Princeton, New Jersey; each of the five proposed offices will be serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than November 16, 1983.

2. *Frontier Bancorp*, Vista, California (lending and servicing activities; California): To engage, through its wholly-owned subsidiary, Vista Frontier Financial Services, Inc. in servicing and selling loans in the secondary market permitted by the California Personal Property Brokers' Law. These activities would be conducted from an office in Vista, California, serving the State of California. Comment on this application must be received not later than November 8, 1983.

Board of Governors of the Federal Reserve System, October 17, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83-28679 Filed 10-20-83; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Peoples Security Bancorp; Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Peoples Security Bancorp, Inc.*, Louisa, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Security Bank of Louisa, Louisa, Kentucky. Comments on this application must be received not later than November 16, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hills Bancorporation*, Hills, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Hills Bank and Trust Company, Hills, Iowa. Comments on this application must be received not later than November 15, 1983.

2. *Westmont Corporation*, West Union, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers Savings Bank, West Union, Iowa. Comments on this application must be received not later than November 16, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *B. B. Bancshares, Inc.*, Shell Knob, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Table Rock Bancshares, Inc., Shell Knob, Missouri and thereby, indirectly acquiring Community Bank of Shell Knob, Shell Knob, Missouri. Comments on this application must be received not later than November 14, 1983.

2. *First Perry Bancorp, Inc.*, Pinckneyville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to First National Bank in Pinckneyville, Pinckneyville, Illinois. Comments on this application must be received not later than November 16, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Plainville Bancshares, Inc.*, Plainville, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Plainville State Bank, Plainville, Kansas. Comments on this application must be received not later than November 16, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *First Community Financial Corp.*, Lufkin, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Community State Bank, Lufkin, Texas. Comments on this application must be received not later than November 16, 1983.

F. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), **Washington, D.C. 20551:**

1. *ASB Bank Holding Company*, Pierre, South Dakota; to become a bank holding company by acquiring 81.4 percent of the voting shares of American State Bank of Pierre, Pierre, South Dakota. This Application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than November 16, 1983.

2. *H. S. Holding Company, Ltd.*, Tel Aviv, Israel; Corporation for International Agricultural Production Limited, Ramat-Gan, Israel; and S. H. Resources and Development Corporation, Los Angeles, California; to become a bank holding company by acquiring at least 80 percent of the voting shares of Empire State Bank of Layton, Layton, Utah. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than November 16, 1983.

3. *Urban Bancshares, Inc.*, Kansas City, Missouri; to become a bank holding company by acquiring 81 percent of the voting shares of Missouri Bank and Trust Company of Kansas City, Kansas City, Missouri. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than November 16, 1983.

Board of Governors of the Federal Reserve System, October 17, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83-28677 Filed 10-20-83; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 14.

Public Health Service

Food and Drug Administration

Subject: Petitions for Affirmation of Generally Recognized as Safe (GRAS) Substances (0910-0132)—Extension/No Change
Respondents: Businesses, small businesses, and other for profit organizations
Subject: Food Additive Petitions (0910-0016)—Extension/No Change
Respondents: Businesses, small businesses, and other for profit organizations
Subject: Hepatitis Requirements to Permit Shipment Before Completion of Hepatitis B Surface Antigen Testing—New
Respondents: Businesses, small businesses, and other for profit organizations
OMB Desk Officer: Richard Eisinger

Health Resources and Services Administration

Subject: Indian Health Service Scholarship Application and Progress Reports—New
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Office of the Assistant Secretary for Health

Subject: National Ambulatory Medical Care Survey (0937-0017)—New
Respondents: Businesses, small businesses, and other for profit organizations
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn. (name of OMB Desk Officer).

Dated: October 17, 1983.
Robert F. Sermier,
Deputy Assistant Secretary for Management Analysis and Systems.
[FR Doc. 83-28702 Filed 10-20-83; 8:45 am]
BILLING CODE 4150-04-M

Senior Executive Service Performance Review Board Membership

Title 5, U.S.C. 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95-454, requires that the appointment of Performance Review Board members be published in the **Federal Register.**

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services:

Federal Performance Review Board Members

Richard H. Adamson	Ruth L. Kirschstein
Clifford Allen	Irwin J. Kopin
Loran D. Archer	Jeffrey P. Koplan
William H. Aspden, Jr.	Richard M. Krause
Calvin B. Baldwin, Jr.	Richard P. Kusserow
Albert Balows	Louis C. LaMotte, Jr.
Francisco R. Bayo	James D. Lawrence
David D. Bayse	Claude J. Lenfant
Edwin D. Becker	Joseph R. Leone
Peter J. Bersano	Rose M. Lepore
Joseph H. Boutwell, Jr.	Arthur S. Levine
Gerald L. Boyd	Bryan R. Luce
Gerald H. Britten	Michael W. Maher
Everett F. Bryant	Thomas E. Malone
Charles E. Carter	Jaime L. Manzano
Bruce A. Chabner	F. Lynn May
Philip S. Chen, Jr.	Robert F. McClernan
Sandy Crank	Thomas S. McFee
Lester M. Crawford	Edward E. McManus
Glenna M. Crooks	Marjory E. Mecklenburg
John L. Decker	Gerald F. Meyer
Vincent T. DeVita, Jr.	Richard A. Millstein
Philip J. DiBenedetto	Bryan B. Mitchell
Carl D. Douglass	Joseph A. Mottola
Walter R. Dowdle	Thomas P. Murphy
Jack Durell	Stuart L. Nightingale
John C. Eberhart	A. Mark Novitch
Jean K. Elder	Marie U. Nylen
Joyce D. K. Essien	Jack Orloff
Marion J. Finkel	John J. O'Shaughnessy
Bartlett S. Fleming	Arnold W. Pratt
Carl A. Fretts	Alan S. Rabson
Barbara J. Gagel	Joseph E. Rall
Michael I. Goldberg	William F. Raub
Murray F. Goldstein	Darrel A. Regier
Frederick K. Goodwin	Youn B. Rhee
Robert A. Goyer	Everett R. Rhoades
R. Alexander Grant	Jo Anne B. Ross
Jerome C. Green	Jesse Roth
Richard C. Greulich	Robert J. Rubin
Darrel J. Grinstead	Jay T. Sanford
Elizabeth J. Haglund	Thomas Scarlett
Milton G. Handelsman	Fred Schutzman
George E. Hardy, Jr.	James L. Scott
Lowell T. Harmison	Kenneth W. Sell
Elliott S. Harris	Robert F. Sermier
Ronald W. Hart	Frank H. Seubold
Joe R. Held	Clay E. Simpson, Jr.
Robert A. Israel	Vivian L. Smith
James S. Jeffers	DeWitt Stetten, Jr.
Julian Jurand	Frank J. Sullivan
Irving G. Kagan	Robert L. Trachtenberg
Martin L. Kappert	James A. Walsh
Ronald C. Kaufman	William C. Watson, Jr.
John H. Kelso	Robert C. Wetherell, Jr.
Roland E. King	Storm H. Whaley
Jin H. Kinoshita	Frances L. White
Henry G. Kirschenmann, Jr.	Will L. Williams

Dated: October 17, 1983.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

Summary Statement

Department of Health and Human Services

Action: Listing of members of this Department's Senior Executive Service Performance Review Boards

Date: Performance Review Boards effective October 17, 1983.

For further information contact: Merle G. Forney, 202: 426-2753

[FR Doc. 83-28701 Filed 10-20-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83C-0310]

Paragon Optical, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Paragon Optical, Inc., has filed a color additive petition proposing that the color additive regulations be amended to provide for the safe use of D&C Red No. 17 for coloring contact lenses.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402-403 (21 U.S.C. 376(d))), notice is given that a color additive petition (CAP 3C0162) has been filed by Paragon Optical, Inc. 2442 East McKellips Rd., P.O. Box 988, Mesa, AZ 85201, proposing that the color additive regulations be amended to provide for the safe use of D&C Red No. 17 for coloring contact lenses.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 11, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-28654 Filed 10-20-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer, at (202) 395-7340.

Title: Application for Sioux Benefits

Bureau Form Number: BIA-4210

Frequency: nonrecurring

Description of Respondents: Eligible Cheyenne River Sioux Indians of the Cheyenne River Reservation, South Dakota

Annual Responses: 260 Annual Burden Hours: 130

Bureau Clearance Office: Diana Loper (202) 343-3574

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83-28643 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Realty Action; Competitive Sale of Public Lands; Camas County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action for I-19636, I-20329 and I-20330, competitive sales of public lands in Camas County, Idaho.

SUMMARY: The following described public land has been examined, and through land use planning, which included public input, it has been determined that the sales of these tracts are consistent with Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The lands will be offered for sale at public auction for no less than the appraised fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted on the following described lands:

	Acres
I-19636: T. 1N., R. 14E., B.M.:	
Sec. 14:	
SE¼NE¼	40
NE¼SE¼	40
Total	80
I-20329: T. 1N., R. 14E., B.M.:	
Sec. 14: S½NE¼	80
Sec. 15: SE¼NE¼	40
Total	120
I-20330: T. 1N., R. 14E., B.M.:	
Sec. 14:	
S½SW¼	80
SW¼SE¼	40
Total	120

The patents, when issued, shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States. Act of August 30, 1980, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals, including oil and gas, with the right to explore, prospect for, mine and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

In addition, the patents are subject to the following conditions:

1. All valid existing rights and reservations of record.

2. The successful bidder agrees that he takes the real estate subject to the existing grazing use of States Investment Corporation, holder of grazing authorization No. 5625. The rights of States Investment Corporation to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. 5625 shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from States Investment Corporation in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

3. Pursuant to the authority contained in Section 3(d) of Executive Order 11988 of May 24, 1977 and Section 203(a)(1) of Pub. L. 94-579, FLPMA, this patent is subject to a restriction which constitutes a convenant running with the land, that any portion of the land lying within the 100-year floodplain may be used only for agricultural purposes or for park and nonintensive open space recreation purposes, but not for dwellings or buildings.

4. Pursuant to the authority contained in Section 4 of Executive Order 11990 of May 24, 1977 and Section 203(a)(1) of Pub. L. 94-579, FLPMA, this patent is subject to a restriction which constitutes a convenant running with the land, that the portion of the land lying within SW¼NW¼ and SW¼SE¼ of Section 14, T. 1N., R. 14E., B.M., containing wetland-riparian habitat must be managed to protect and maintain the wetland-riparian habitat on a continuing basis. This pertains to only the public lands identified under case file numbers I-20329 and I-20330.

DATE: The public auction will be held on December 23, 1983 at 10:00 a.m. If the lands are not sold by close of business on December 23, 1883, the sale will be adjourned until Friday, January 13, 1984 at the same hour and place and continued on an interval every four weeks until the lands are sold, as specified in this notice, or the sale is otherwise terminated.

ADDRESS: The public auction will be held at the Shoshone District Office, 400 West F Street, Shoshone, Idaho 83352. Additional information concerning these lands, terms and conditions of the sale and bidding instructions may be obtained from Joe Aitken, Bennett Hills Realty Specialist, at the above address or by calling (208) 886-2206.

Supplementary Information: For a period of forty-five (45) days from the date of this Notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the District Manager, this action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Sec. 203(g) of the FLPMA or other applicable laws.

FOR FURTHER INFORMATION CONTACT: Charles J. Haszier, District Manager, Shoshone.

Dated: October 12, 1983.

Charles J. Haszier,

District Manager, Shoshone.

[FR Doc. 83-28645 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

[U-47388]

Realty Action; Proposed Public Land Sale; Washington County, Utah

Under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) public land within the Bloomington 5 Ranches Subdivision described as Lot 9 (.89 acres) and Lot 10 (.66 acres), Section 13, T 43 S, R 16 W, SLB&M, Utah will be offered for sale at 2 p.m. on December 22, 1983, at the BLM Dixie Resource Area Office, 24 East St. George Boulevard, St. George, Utah.

Each lot will be offered for sale individually at public auction through competitive bidding. BLM will reject any bid for less than fair market value as determined by BLM through appraisal.

Bids may be made by a principal or a duly qualified agent pursuant to 43 CFR subpart 2711.1.

Persons desiring more information concerning the Land Report/Environmental Assessment or in making a bid should contact the Dixie Resource Area Office, 24 East St. George Boulevard, St. George, Utah 84770 (telephone 801-673-4654).

For a period of 45 days from the date of this notice, interested parties may submit comments to the Area Manager at the above address. Comments will be evaluated, and the District Manager may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 12, 1983.

Morgan S. Jensen,

District Manager.

[FR Doc. 83-28649 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

[F-80743]

Leasing of Public Lands at Skiland/Cleary Summit, Alaska; Corrected Notice of Realty Action

Under authority of Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732), the Bureau of Land Management intends to offer certain lands under its administration in the Skiland/Cleary Summit area for lease for residential purposes. The approximately 60-acres affected are within Section 31 of T. 3 N., R 2 E., Fairbanks Meridian.

The purpose of the 10 proposed renewable 10-year leases is to authorize a long-standing occupancy. For this reason, they are being offered on a non-competitive basis to present occupants. Fair market rental will be charged.

Detailed information concerning the leases is available for review at the Fairbanks District Office.

Within 30 days of the final publication of this Notice, in accordance with 43 CFR 2920.5-2, the prospective lessees

must submit an application which shall include the name and legal mailing address of the applicant, a reference to the serial number shown above, and a $250.00 non-returnable payment for processing costs. Applications should be submitted to the Fairbanks District Office, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

For a period of 30 days following the final publication of this Notice, interested parties may submit comments to the Fairbanks District Office.

Carl D. Johnson,

District Manager.

[FR Doc. 83-28716 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

[N-35376]

Nevada; Conveyance

October 14, 1983.

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2750, 2757; 43 U.S.C. 1713, 1719), Gertrude L. Buffington, Mina, Nevada, has purchased, by non-competitive sale, public lands in Mineral County described as:

Mount Diablo Meridian, Nevada

T. 7 N., R. 34 E.,
Sec. 25, SW¼SE¼NW¼NE¼.
Containing 2.5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to Gertrude L. Buffington.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-28714 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

[N-37154]

Nevada; Conveyance

October 14, 1983.

Notice is hereby given that, pursuant to the Act of October 21, 1976, (90 Stat. 2750; 43 U.S.C. 1713), Wilfred H. Florence, Etta Mae Florence and Diane Marie Kountapanya, Las Vegas, have purchased, by noncompetitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,
Sec. 30, W½NW¼NE¼NE¼NW¼.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to the above named parties.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-28717 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Marine Mammal Annual Report; Availability

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of marine mammal annual report.

SUMMARY: The Director, U.S. Fish and Wildlife Service, on June 20, 1983, signed the annual report on the Service's administration of the marine mammals under its jurisdiction, as required by section 103(f) of the Marine Mammal Protection Act of 1982. The report covers the period January 1, 1982, to December 31, 1972, and was submitted to the Congress on September 16, 1983. By this notice, the Director informs the public that the report is available and that any interested individual may secure a single copy by requesting same in writing from the Service.

ADDRESS: Write for a copy to Director (PUB), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Reffalt, Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Mail Code 355, Department of the Interior, Washington, D.C. 20240, 202/632-2202.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service is responsible for eight species of marine mammals under the jurisdiction of the Department of the Interior, as assigned by the Marine Mammal Protection Act of 1972 (MMPA). These species are polar bears, sea and marine otters, walruses, manatees (three species) and dugongs. The report reviews the Service's marine mammal-related activities during the report period. Administrative actions discussed include MMPA appropriations, marine mammals in Alaska, endangered and threatened marine mammal species (specifically the West Indian manatee and the sea otter in California), law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies and international activities.

This notice was prepared by Jeffrey L. Horwath, Wildlife Biologist, Division of Wildlife Management, Branch of Wildlife Assistance, 202/632-2202.

Dated: October 7, 1983.

Robert A. Jantzen,

Director, Fish and Wildlife Service.

[FR Doc. 83-28712 Filed 10-20-83; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395-7313.

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Designation of Agents—Motor Carrier of brokers
OMB Form No.: 3120-0008
Agency Form No.: BOC-3
Frequency: On occasion
Respondents: Motor Carrier—Brokers
No. of Respondents: 6,000
Total Burden Hrs.: 1,500

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28683 Filed 10-20-83; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

Allegheny Beverage Corporation, One Macke Circle, Cheverly, Maryland 20781

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Allegheny Pepsi-Cola Bottling Co.—Maryland, 2216 N. Charles Street, Baltimore, Maryland 21218
(ii) Desks & Furnishings, Inc.—Maryland, 8610 Cherry Lane, Laurel, Maryland 20707

1. Parent corporation and address of principal office:

Roundy's, Inc., 11300 West Burleigh Street, Wauwatosa, Wisconsin 53222

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Jondex Corporation (Wisconsin)
(ii) Ropak, Inc. (Wisconsin)
(iii) W-Marketing, Inc. (Wisconsin)
(iv) Villard Ave. Shop-Rite, Inc. (Wisconsin)
(v) Shop-Rite, Inc. (Wisconsin)
(vi) Pick 'N Save Warehouse Foods, Inc. (Wisconsin)
(vii) Kee Wholesale, Inc. (Wisconsin)
(viii) Cedarburg Dairy, Inc. (Wisconsin)
(ix) Super Market Investors, Inc. (Wisconsin)
(x) Lila's Supermarket, Inc. (Wisconsin)
(xi) United Foods of Hartford, Inc. (Wisconsin)
(xii) United Foods of West Bend, Inc. (Wisconsin)
(xiii) Insurance Planners, Inc. (Wisconsin)
(xiv) B. D. Marketing, Inc. (Wisconsin)
(xv) Wayco Foods Corporation of Illinois, Inc. (Illinois)

1. Parent corporation and address of principal office:

The Southland Corporation, 2828 North Haskell, P.O. Box 719, Dallas, TX 75221.

2. Wholly-owned subsidiaries which will participate in the operations, and state of incorporation:

(i) CITGO Petroleum Corporation (Delaware)
(ii) Foremost Petroleum Company (Texas)
(iii) 7-Eleven Stores Division of the Southland Corporation (Texas)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28680 Filed 10-20-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-C-10800 (Sub-No. 1)]

Petition for Declaratory Order—Interpretation of Used Pallet, Container, and Shipping Devices Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final decision.

SUMMARY: The Commission has interpreted the statutory exemption at 49 U.S.C. 10526(a)(11) to embrace bogies, chassis, trailers, vehicles or vans, whether detached or attached, used electric cable reels, and used empty beverage bottles. Tariff provisions allowing for the free return of pallets as incidental to the outbound movement are not subject to regulation. Tariff rules may provide for inclusion of exempt commodities in determining the applicable weight on the regulated commodity in a mixed shipment.

EFFECTIVE DATE: This decision is effective on October 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Nancy Hurley, (202) 275-7893;

or

Mary Kelly, (202) 275-7292.

SUPPLEMENTARY INFORMATION: Notice of this declaratory order proceeding was published at 46 FR 43114, August 26, 1981. The Commission has issued a final decision in this embraced petition for declaratory order. This decision interprets the statutory exemption at 49 U.S.C. 10526(a)(11) concerning "used shipping devices" to include any item used in the shipping process. The statutory exemption includes not only items which are the products or by-products of articles whose function it is to facilitate the transportation of other commodities but those which may have multi-purpose uses as well. In specific response to the questions raised by petitioners, the Commission found that bogies, chassis, trailers, vehicles or vans, whether detached or attached, used electric cable reels, and used empty beverage bottles are exempt.

In addition, the Commission stated that tariff provisions allowing for the free return of pallets [and other items named in section 10526(a)(11)] are not subject to Commission regulation. Once a determination of exempt status is made, it extends to all aspects of the commodity's movement. Finally, the Commission decided that tariff rules may provide for inclusion of exempt commodities in determining the applicable weight on the regulated commodity in a mixed shipment.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. Infosystems, Inc., Room 2227, Washington, DC 20424, or call 289-4357 in the DC Metropolitan area or toll free (800) 424-5403.

Decided: October 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28681 Filed 10-20-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2 A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that

VOL 48 ISS 205 OCT 21 1983 UMI

the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Agatha L. Mergenovich,

Secretary.

MC–F–15466 filed: September 26, 1983. CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077—CONTROL—TUCKER FREIGHT LINES, INC., 1415 South Olive St., South Bend, IN 46619. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603.

Central Transport, Inc. (Central), a motor carrier, seeks authority for the acquisition of control of Tucker Freight Lines, Inc. (Tucker), through purchase of all the outstanding capital stock (1,000 shares) of Tucker; and for acquisition by CenTra, Inc., a noncarrier but sole stockholder of Central, and T. J. Moroun and M. J. Moroun, individuals who control CenTra, Inc. through majority stock ownership and management, of control of the operating rights and property through the transaction.

Tucker, a common and contract carrier pursuant to certificates and permits in No. MC–30504, is authorized, generally, to transport: general commodities, over regular routes and irregular routes, principally in IL, IN, IA, KY, MO, MN; OH, TN, WI, MI, and part of Pennsylvania; and specific named commodities, between named points in IN, MO, WI, and IL, on the one hand, and, on the other, points in the United States; and, as a contract carrier, general commodities, between points in the United States, under contract(s) with a named shipper.

Central holds certificates and permits in No. MC–19311 and subnumbers thereunder, and its wholly-owned subsidiary, Bancroft Trucking Company, is a Michigan intrastate carrier.

Notes.—(1) Authority is also sought by Central to temporarily control through management the operating rights and property of Tucker, pending determination of the control application. (2) Central Transport, Inc. is part of a carrier system, ultimately controlled by CenTra, Inc. and T. J. Moroun and M. J. Moroun, that includes C. T. Transport, Inc. (MC–141609), Port Side Transport, Inc. (MC–161151), McKinlay Transport Ltd. (MC–123282), Superior Forwarding Company, Inc. (MC–75406), and U.S. Truck Company, Inc. (MC–59336).

[FR Doc. 83–28682 Filed 10–20–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Proposed Partial Consent Decree; Cleanup of Ninth Avenue Dump Site, Gary, Indiana

In accordance with the policy of the Department of Justice, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on September 29, 1983, the proposed partial consent decree in *United States of America* v. *Steve Martell et al.*, Civil No. H–80–483, was lodged with the United States District Court for the Northern District of Indiana.

The proposed consent decree requires Steve Martell to undertake a full contamination investigation and cleanup of the Ninth Avenue Dump site at Gary, Indiana, and commits the defendant to full reimbursement of approximately $15,000 in EPA response and government enforcement costs.

The proposed consent decree may be examined at the Office of the United States Attorney, 312 Federal Building, 507 State Street, Hammond, Indiana 46320; at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the office of the Environmental Enforcement Section, U.S. Department of Justice, Room 1521, Tenth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty days from the date of this notice. Comments should be directed to the Acting Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, N.W., Washington, DC., 20530, and should refer to *United States of America* v. *Steve Martell* et al., D.J. Ref. 90–7–1–162.

F. Henry Habicht, II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–28650 Filing 10–20–83; 8:45 am]

BILLING CODE 4410–01–M

Bureau of Prisons

Intent To Prepare an Environmental Impact Statement (EIS) for the Proposed Activation of the Former State Hospital at Rochester, Minnesota, for Use as a Federal Medical Center

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY:

1. *Proposed Action:* The Bureau of Prisons proposes to acquire and activate the former State Hospital in Rochester, Minnesota for use as a Federal Medical Center for the housing of persons in federal custody. The proposed site consists of 6 structures containing approximately 440,000 square feet.

The Bureau of Prisons has been, and continues to be, actively investigating ways to increase the housing capacity for medical and mental health patients incarcerated in Federal facilities. Also, the Bureau of Prisons is committed to using existing facilities whenever possible to avoid costly new construction.

The proposed Federal Medical Center would be used to house 488 inmates, and approximately 275 full-time staff who would provide 24-hour supervision.

2. *Alternatives:* Alternative courses of action considered would include but not be limited to (1) contracting for services with other State, local, or commercial agencies, (2) activating other surplus facilities for a Federal Medical Center, (3) constructing a new facility for use as a Medical Center, and (4) taking no action.

3. *Scoping Process:* On the week of August 22, 1983, the Bureau of Prisons sponsored a tour of two Federal facilities with operations similar to the Rochester proposal. Twenty-one private citizens and local elected officials from Rochester participated in the tour, which was funded by the Bureau of Prisons.

On August 30, 1983, the Bureau of Prisons participated in a public meeting in Rochester and obtained comments from local citizens.

4. *Availability:* The Draft EIS is currently scheduled to be available in November 1983. This schedule is subject to change without notice.

5. *Responsible Official:* Loy S. Hayes, Chief, Facilities Development and Operations, Bureau of Prisons, 320 First St., NW., Washington, D.C. 20534.

Dated: October 18, 1983.

Loy Hayes,

Chief, Facilities Development and Operations.

[FR Doc. 83–28772 Filed 10–20–83; 8:45 am]

BILLING CODE 4410–05–M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1983 aggregate production quotas.

SUMMARY: This notice establishes 1983 aggregate production quotas for controlled substances in Schedules I and II, as required under the Controlled Substances Act of 1970.

EFFECTIVE DATE: This order is effective October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration in accordance with Section 0.100 of Title 28 of the Code of Federal Regulations.

On July 28, 1983, a notice of the proposed revised 1983 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (48 FR 33942). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before August 25, 1983.

One comment was received from Eli Lilly and Company of Indianapolis, Indiana. Regarding dextropropoxyphene, Eli Lilly commented that the proposed revised quota for this substance was insufficient. After a review of all currently available information, DEA is changing the 1983 aggregate production quota for dextropropoxyphene to 69,102 kilograms.

DEA has received information concerning the increased need for thebaine (for conversion) for the production of certain noncontrolled substances derived from this substance. Based on this information, DEA is changing the aggregate production quota for thebaine (for conversion) to 2,500 kilograms. No other comments or objections were received.

Pursuant to Sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Acting Administrator of the Drug Enforcement Administration by Section 0.100 of Title 28 of the Code of Federal Regulations, the Acting Administrator hereby orders that the 1983 revised aggregate production quotas be established as follows:

Basic class	Production quota [1]
Schedule I:	
2,5-Dimethoxyamphetamine	10,300,000
Schedule II:	
Amobarbital	1,646,000
Amphetamine	610,000
Codeine (for sale)	61,018,000
Desoxyephedrine	[2] 1,553,000
Dextropropoxyphene	69,102,000
Dihydrocodeine	1,489,000
Fentanyl	1,100
Hydrocodone	1,339,000
Hydromorphone	162,000
Meperidine	11,245,000
Methadone	1,675,000
Methadone Intermediate	2,094,000
Methylphenidate	1,221,000
Morphine (for sale)	1,062,000
Morphine (for conversion)	69,183,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	2,173,000
Oxycodone (for sale)	1,637,000
Oxycodone (for conversion)	1,012,000
Oxymorphone	6,000
Phenmetrazine	0
Phenylacetone	231,000
Secobarbital	3,292,000
Thebaine (for sale)	2,911,000
Thebaine (for conversion)	2,500,000

[1] Established revised 1983 aggregate production quota, expressed in grams of anhydrous acid or base.

[2] 1,253,000 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product and 200,000 grams for the production of methamphetamine

Dated: September 22, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83–28755 Filed 10–20–83; 8:45 am]

BILLING CODE 4410–09–M

National Institute of Justice

Solicitations

The National Institute of Justice is soliciting proposals for applied research grants in the following areas:

Program and Due Date

Performance and Productivity Measurement, November 23

Crime Control Theory and Policy, December 9

Classification, Prediction, and Methodology, December 12

Multiple awards are planned in each area. Descriptions of the programs and the application processes may be obtained from the National Criminal Justice Reference Service. Interested organizations should write to: NCJRS, P.O. Box 6000, Rockville, MD 20850, ATTN: Program Solicitations.

James K. Stewart,

Director.

[FR Doc. 83–28751 Filed 10–20–83; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committees; Meetings and Agenda

The regular fall meetings of committees of the Business Research Advisory Council will be held on November 7 and 8, 1983.

The committees will meet in the following locations:

Price Indexes, Productivity/Foreign Labor and Wages and Industrial Relations committees, Room N–3437, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C., and the Committee on Employment and Unemployment, Room 2740, General Accounting Office

VOL
48
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Building, 441 G Street, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Monday, November 7

10:00 a.m.—Committee on Price Indexes
1. Extension of CPI–U, X–1
2. Area Sample for the Revised CPI
3. Status Report on Consumer Expenditure Survey
4. Finding Solutions to Problems That May Arise from the Changeover to Rental Equivalency with the January 1985 CPI–W
5. Other Business

Monday, November 7

1:30 p.m.—Committee on Productivity/Foreign Labor
1. Mulifactor Productivity Measures
a. New Directions
b. Status of Measures for the Motor Vehicle and Steel Industries
2. Developments in Foreign Labor Statistics Work
3. Other Business

Tuesday, November 8

10:00 a.m.—Committee on Wages and Industrial Relations
1. Finding Solutions to Labor/Management Problems That May Arise from the Changeover to Rental Equivalency with the January 1985 CPI–W
2. Deciding on new areas for the Area Wage Surveys
3. Determining Employers' Cost Levels for Employee Benefit Data: What is Available and What is Needed
4. Review of WIR Work in Progress
5. Other Business

Tuesday, November 8

10:00 a.m.—Committee on Employment and Unemployment
1. Status of the Employment and Unemployment Statistics Programs
a. Report on Transfer of LMI Funding from the Employment and Training Administration
b. Progress and Future Plans for the 790 Modernization
c. Progress and Plans for the Current Population Survey Redesign
d. Committee Discussion of Priorities and Shortfalls
2. Examination of Discrepancy Between the CPS and 790 Estimates
3. Review of Findings of the Employer Response Analysis Survey
4. Uses of Employment Data for Productivity Measurement: Assessment
5. Status of Occupational Employment Survey Program and Matrix Development
6. Report on Quality Control in Survey Operations
7. Other Business

The meeings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523–1347.

Signed at Washington, D.C. this 17th day of October 1983.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 83–28749 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–24–M

Business Research Advisory Council; Meeting

The regular fall meeting of the Business Research Advisory Council will be held at 1:00 p.m., November 8, 1983, in Room N–3437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—Warren H. Bacon
2. Commissioner's Remarks—Janet L. Norwood
3. Committee Reports:
(a) Wages and Industrial Relations
(b) Productivity/Foreign Labor
(c) Price Indexes
(d) Employment and Unemployment
4. Other Business
5. Chairman's Closing Remarks

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523–1347.

Signed at Washington, D.C. this 17th day of October 1983.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 83–28750 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

[TA–W–7,258]

Dana Corporation, Marion, Indiana; A Further Determination

Pursuant to the U.S. Court of International Trade remand in *Abbott* v. *Secretary of Labor*, (USCIT No. 81–1–00028) concerning service workers at Dana Corporation, Marion, Indiana, the Department makes the following further determination.

After examining the issues: (1) Concerning the possibility that services are not distributed evenly throughout the Marion, Indiana plant, and (2) whether there was substantial evidence in the administrative record to support the Department's determination not to certify service workers providing ancillary and support services to the Bearing Race and Journal Cross Departments (Departments 225 and 230, respectively), the Department re-investigated the matter and found that its initial decision was correct.

The Department in some instances has certified service workers in the past; however, in order to make such a determination the Department must find that the service workers devoted a substantial amount of their activity to servicing a worker group which is already independently certified and that there was an important causal nexus between increased imports and the layoff of service workers. The Department has for six years used a 25 percent standard to define the expression, "substantial amount of their activity", namely that at least that proportion of the supporting workers' activity was directly related to the production of the import affected article(s). On further investigation, the new findings confirm the Department's initial determination that the contribution of the service workers to Departments 225 and 230 accounted for significantly less than 25 percent of their contribution to all products produced in the Marion plant. Not one of the 33 service departments at Dana contributed 25 percent or more of their activity to supporting the trade impacted articles produced in Departments 225 and 230. Further, no one individual from those service departments was employed 25 percent or more of a typical work week in providing services to Departments 225 and 230. These support activities are not substantially integrated into the production of the two import-impacted articles; consequently, increased imports did not "contribute importantly" to layoffs among workers in the service departments.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to service workers providing ancillary and support activities to Departments 225 and 230 at the Marion, Indiana plant of Dana Corporation.

Signed at Washington, D.C., this October 14, 1983.

Robert A. Schaerfl,

Director, Office of Program Management, UIS.

[FR Doc. 83–28659 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of Louisiana

This notice announces the ending of the Extended Benefit Period in the State of Louisiana, effective on October 8, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Louisiana on January 23, 1983 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on September 17, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on October 8, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on October 12, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83–28658 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–83–120–C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Room 1871, Martin Tower, Bethlehem, Pennsylvania 18016 has filed a petition to modify the application of 30 CFR 75.321 (stoppage of fans; plans) to its Mine No. 51 (I.D. No. 36–00959) located in Washington County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator adopt a specific plan which provides for appropriate action when any mine fan stops.

2. The mine is ventilated by 3 fans moving a total of 590,000 cfm of air. Petitioner plans to install a small "bleeder assist" ventilation fan to help ventilate the mined out area of its 3 Northeast section, called the Hustava Borehole. The Hustava Borehole will move a total of approximately 5,000 cfm of air and will affect the ventilation of the 3 Northeast section only.

3. As an alternate method, petitioner proposes that:

a. If Hustava Borehole fan is inoperable for more than 15 minutes, all power to 3 Northeast will be deenergized and employees working in that area will be removed to other areas of the mine not affected by Hustava Borehole;

b. Appropriate MSHA officials will be notified if Hustava Borehole fan remains inoperable longer than 24 hours;

c. The remainder of the mine not affected by Hustava Borehole fan be allowed to continue operating in a normal manner.

4. Petitioner states that Hustava Borehole will be equipped with a dual system of blowers and motors to assure as much as practicable that this area remains operable at all times.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83–28664 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–105–C]

Inland Steel Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Inland Steel Coal Co., R.R. #5, McLeansboro, Illinois 62859 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mine No.

VOL 48 ISS 205 OCT 21 1983 UMI

2 (I.D. No. 11–02387) located in Hamilton County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statements follows:

1. The petition concerns the use of keyed locks inserted through brackets to secure the battery nips of the mine's scoops.

2. Petitioner states that these locks have proven hard to keep on the scoops.

3. As an alternate method, petitioner proposes to put a bracket on the battery with a set screw-type arrangement to lock it down.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comment. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83–28667 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–22–M]

Latrobe Construction Co.; Petition for Modification of Application of Mandatory Safety Standard

Latrobe Construction Company, P.O. Box 150, Latrobe, Pennsylvania 15650 has filed a petition to modify the application of 30 CFR 57.4–53 (liquefied petroleum gas) to its Blue Stone Quarry (I.D. No. 36–00131) located in Westmoreland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the use of liquefied petroleum gas be limited to maintenance work.

2. Petitioner states that manual scaling of loose stone by means of a basket at the mine has resulted in several accidents and numerous injuries to mining personnel. Petitioner uses two gradall scaling machines but needs additional lights for the miners on these machines.

3. Petitioner proposes to use propane to operate two generators to power 2,000 watt lights which are installed on pickup trucks to accompany the gradall machines. Each motor generator holds a maximum of eight gallons of propane. These light-equipped pickup trucks are used to provide sufficient lighting for the safe operation of the two gradall machines. During the scaling operation, two employees work as a team, one person on the gradall scaling machine and one on the light truck.

4. Petitioner further states that both pickup trucks are maintained by mechanics at the mine. The light generators are regularly overhauled and kept tuned. The tanks and lines are checked daily for leaks when brought out of the mine for refueling.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances

[FR Doc. 83–28663 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–97–C]

Pearl Coal Company; Petition for Modification of Application of Mandatory Safety Standard

Pearl Coal Company, P.O. Box 268, Turkey Creek, Kentucky 41570 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15–13803) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height ranges from 41½ to 46 inches, with an average of 43.75 inches. The main roof is sandstone and the immediate roof is four to ten feet of shale with draw rock ranging from zero to three inches. The bottom is soft shale with numerous undulations, dips and rolls.

3. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the roof supports and damage suspended cables, increasing fire and shock hazards. In addition, the canopies restrict the equipment operator's visibility and cause a cramped operating compartment, forcing the operator to lean out from the canopy, exposing body parts to potential injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83–28660 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–100–C]

Red River Fuels, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Red River Fuels, Inc. Box 1018, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 1 Mine (I.D. No. 15–14102) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Lower Elkhorn No. 2 seam and ranges from 38 to 48 inches in height, with consistent ascending and descending grades creating dips in the coalbed.

3. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the mine's roof support system. The canopies also hamper the equipment operator's visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83–28665 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–112–C]

Rolen Coal Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Rolen Coal Company, Inc., Box 79, Inez, Kentucky 41224 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15–12304) located in Martin County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopy knocks out the roof support. In addition, the canopy limits the equipment operator's visibility, forcing him or her to lean out from under the canopy, exposing body parts to potential injury. The canopy also damages suspended electrical cables, increasing the chances of electrical shock or injury.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83–28661 Filing 10–20–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–93–C]

Sewell Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Sewell Coal Company, Route 3, Box 125, Nettie, West Virginia 26681 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Sewell No. 1–A Mine (I.D. No. 46–03859) located in Nicholas County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statement follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries.

2. A six-entry system is being developed in the four developing sections. Unstable and uncontrollable roof conditions resulting in massive roof falls have restricted the flow of air in many main entry airways. The present approved ventilation plan for each section requires curtain stoppings to be erected forming a "box" arrangement to force all air on the section to travel behind the line curtains of each entry in a sweep-type system. When each line curtain is fully extended, prior to cutting the crosscuts through, they will be about 110 feet long. With a six-entry system, a total of 660 feet of line curtain would be extended at one time, which creates tremendous air friction.

3. As an alternate method, petitioner proposes to use belt and track air for ventilating active working places. In support of this request, petitioner proposes to install an automatic fire detection system with sensors on the underground belt conveyors with specific safeguards and protective measures. The location of the sensors will be submitted for approval in the ventilation system and methane and dust control plan. In addition, petitoner proposes to construct the stoppings separating the belt haulage entry from the intake escapeway out of concrete blocks, cinder blocks, brick or tile with mortared joints. Petitioner proposes that the blocks may be stacked, providing the stoppings are plastered on both sides with a material having the same strength as mortared joints.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that affored by the standards.

Request of Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83–28666 Filed 10–20–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–99–C]

Thac West Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Thac West Mining, Inc., Box 3011, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 1 Mine (I.D. No. 15–12472) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Lower Cedar Grove seam and ranges from 36 to 48 inches in height, with consistent ascending and descending grades creating dips in the coal bed.

3. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies strike and dislodge the roof

supports. The canopies also restrict the equipment operator's visibility and hamper the operator's seating position, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28866 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-110-C]

Petition for Modification of Application of Mandatory Safety Standard; Emerald Mines Corp.

Emerald Mines Corporation, c/o Amoco Minerals Company, 7000 South Yosemite Street, P.O. Box 3299, Englewood, Colorado 80155 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mine No. 1 (I.D. No. 36-05466) located in Greene County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the use of a locked padlock to secure screw caps in place on battery operated scoops and on tractors.

2. Petitioner states that there is an element of danger in having the plugs locked on such equipment in the event of a fire on such equipment. The lock could impede or diminish the petitioner's ability to combat the fire, resulting in a diminution of safety for the miners affected.

3. As an alternate method, petitioner proposes that a spring-loaded locking mechanism be used on all such equipment, present and future. This device will prevent loosening of the threaded ring and serve the same purpose as a padlock; it will not fall out of place but can easily and quickly be removed in the event of an emergency.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 21, 1983. Copies of the petition are available for inspection at that address.

Dated: October 11, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-28862 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs

Grant of Individual Exemptions

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pedency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Lee Investment Co., Money Purchase Pension Plan and Trust Agreement (the Plan) Located in San Diego, California

[Exemption Application No. D-3745; Prohibited Transaction Exemption 83-171]

Exemption

The restrictions of section 406 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the proposed loan of money by the directed individual account in the Plan of Marvin L. Krichman, a party in interest with respect to the Plan, to a purchaser of a certain parcel of real property of which Marvin L. Krichman and his wife, Rosalie Krichman are the sellers.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36694.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523-8973. (This is not a toll-free number.)

Bangs, McCullen, Butler and Foye Employees' Profit Sharing Retirement Plan (the Plan) Located in Rapid City, South Dakota

[Exemption Application No. D-3755 Prohibited Transaction Exemption 83-172]

Exemption

The restrictions of section 406(a) and 406(b)(1) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the continuation past June 30, 1984 of a lease by the Plan of certain improved real property to Bangs, McCullen, Butler, Foye and Simmons, the sponsor of the Plan, provided that the terms of such lease are at least as favorable to the Plan as the Plan could obtain in a lease with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on Friday, August 12, 1983 at 48 FR 36695.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

J.L. Kislak, Inc. Employee Profit-Sharing Plan (the plan) Located in Springfield, Massachusetts

[Exemption Application No. D-4378 Prohibited Transaction Exemption 83-173]

Exemption

The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a parcel of real property (the Property) by the Plan to J.L. Kislak, Inc. for a cash purchase price of $140,777.51 or the fair market value of the Property on the date of sale, whichever is higher.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33571.

For further Information Contact: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-fee number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fidiciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogration of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 18th day of October, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services, Administration, U.S. Department of Labor.

[FR Doc. 83-28761 Filed 10-20-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Form Submitted to the Office of Management and Budget for Clearance

The following are packages submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Federal Credit Union Examination Process Review.

Respondents: Federal Credit Union Managers.

Subject: Application and Agreements for Insurance of Accounts.

Respondents: Federal Credit Unions.

Copies of the above information collection clearance package can be obtained by calling the Natonal Credit Union Administration, Special Projects Officer, on 202-357-1080.

Written comments and recommendations for the listed information collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503 Attn: Judith McIntosh.

Dated: October 14, 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83-28686 Filed 10-20-83; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Opera-Musical Theater Section Prescreening) to the National Council on the Arts will be held on October 24-28, 1983, from 9:00 a.m.-5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW. Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call (202) 682-5433.

Dated: October 19, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-28852 Filed 10-20-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440]

Cleveland Electric Illuminating Co., et al. (Perry Nuclear Power Plant, Unit 1); Request for Action

Notice is hereby given that by petition dated September 27, 1983, Terry Lodge requested on behalf of Steven Sass and the Sunflower Alliance that the Director, Office of Inspection and Enforcement, appoint an independent consultant to investigate the circumstances

VOL
48
ISS
205
OC
21
1983
UMI

surrounding a crane accident at Unit 1 of the Perry Nuclear Power Plant, open the plant to inspection by the general public, and initiate proceedings to determine whether the construction permit for the plant should be revoked in light of the independent consultant's findings. The petition is being considered pursuant to 10 CFR 2.206 and, accordingly, appropriate action will be taken on the petition within a reasonable time.

Copies of the petition are available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room for the Perry plant at the Perry Public Library, 3753 Main Street, Perry, Ohio, 44081.

Dated at Bethesda, Maryland, this 14th day of October 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-28738 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Availability of Draft Integrated Plant Safety Assessment Report for the Big Rock Point Nuclear Power Plant

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (NRR) has published its Draft Integrated Plant Safety Assessment Report related to Consumers Power Company's Big Rock Point Nuclear Power Plant, located in Charlevoix County, Michigan.

The report documents the review completed under the Systematic Evaluation Program (SEP). The SEP was initiated by the NRC to review the design of older operating nuclear reactor plants to reconfirm and document their safety. In addition to the 137 SEP topics, this report addresses a majority of pending licensing actions for the Big Rock Point Plant, at the licensee's request, which include TMI Action Plan requirements and implementation criteria for resolved generic issues. The review has provided for (1) an assessment of the significance of differences between current technical positions on selected safety issues and those that existed when Big Rock Point was licensed, (2) a basis for deciding on how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety. Equipment and procedural changes have been identified as a result of the review.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the NRC's Public Document Room 1717 H Street, NW., Washington, D.C. 20555 and at the Charlevoix Library, 107 Clinton Street, Charlevoix, Michigan 49720 for inspection and copying. Single copies of this report (Document No. NUREG-0828) may be requested from the U.S. Nuclear Regulatory Commission, Director, Division of Technical Information and Document Control, Washington, D.C. 20555, Attention: Publications Unit.

Dated at Bethesda, Maryland this 6th day of October 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-28734 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413 and 50-414]

Duke Power Company; (Catawba Nuclear Station, Units 1 and 2) Receipt of Request for Action

Notice is hereby given that by letter dated September 14, 1983, the Government Accountability Project has requested on behalf of the Palmetto Alliance that, *inter alia*, the Commission take action to require a management audit of the Duke Power Company and an independent review of the as-built condition of the Catawba Nuclear Station, alleged design deficiencies and the quality assurance program. The letter is being treated by the Office of Inspection and Enforcement as a request for action under 10 CFR 2.206 which requires evaluation and a decision relative to that request. Accordingly, appropriate action will be taken on the request within a reasonable time.

Copies of the letter are avaiable for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room for the Catawba Nuclear Station at the York County Library, 325 South Oakland Avenue, Rockhill, South Carolina 29730.

Dated at Bethesda, Maryland, this 14th day of October, 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-28735 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Company; (Turkey Point Plant Unit Nos. 3 and 4) Order for Modification of License

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR-31 and DPR-41 which authorize the operation of the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) at steady-state power levels not in excess of 2200 megawatts thermal. The facilities are pressurized water reactors (PWRs) located at the licensee's site in Dade County, Florida.

II

By letter dated October 12, 1983, supplemented on October 13, 1983, the licensee requested relief from its existing technical specifications requirement to go to cold shutdown because only one residual heat removal (RHR) loop is operable.

The 4B RHR pump motor failed during routine testing at Turkey Point Unit 4 at 11:35 a.m., October 11, 1983. The failure was such that a major repair effort of the motor is required. The licensee contacted the motor vendor, and other utilities utilizing similar equipment and has determined that due to the unique design, and age of the component, no replacements or spares are available. The motor vendor has service people on-site and repairs are in progress.

The current technical specifications require that the unit be placed in hot shutdown within 24 hours of the RHR pump being out of service, and in cold shutdown within an additional 48 hours. The plant has been placed in hot shutdown as required. At issue is the subsequent requirement to go to cold shutdown. The licensee has requested emergency relief from the Turkey Point Technical Specifications, to permit extended operation in mode 4 (hot shutdown) on a one time basis while the inoperable Unit 4 RHR pump is being repaired. The requested relief is an interim requirement to allow operation with the reactor shutdown and Tavg between 350° F and 200° F for a period up to 30 days with one residual heat removal pump out of service. The staff has considered the consequences of going to cold shutdown and the potential loss of the remaining RHR loop. We have concluded that operation in hot shutdown with the reactor coolant system (RCS) average termperature less than 350° F while the inoperable pump is being repaired would be more prudent. The basis for our conclusion is

contained in our attached Safety Evaluation.

In view of the foregoing, I have determined that a temporary change in the licensee's technical specifications to require the licensee to maintain the reactor coolant system Tavg between 350° F and 200° F when one residual heat removal pump is inoperable for a period up to 30 days is required in the interest of public health and safety and, therefore, should be made effective immediately.

III

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately: Technical Specification 3.4.lb is modified as set forth in Attachment 2 of this Order.

IV

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section III of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of March, 1983.

Note.—1. Safety Evaluation Report-Turkey Point Units 3 and 4, One Residual Heat Removal Loop Inoperable, and

2. Revised Technical Specification, Section 3.4.lb, Page 3.4-2 are available at the NRC's Public Document Room and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

For the Nuclear Regulatory Commission:

Robert A. Purple,

Deputy Director, Division of Licensing.

[FR Doc. 83-28736 Filed 10-20-83; 8:45 am]

BILLING CODE 7590-01-M

[License No. 49-19585-01 EA 83-110]

Perforating Services, Inc.; Order to Show Cause and Order Temporarily Suspending License (Effective Immediately)

I

Perforating Services, Inc., P.O. Box 912, Casper, Wyoming 82601 (the "licensee") is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "Commisison") pursuant to 10 CFR Part 30. The license, issued on June 4, 1981, and due to expire on June 30, 1986, authorizes the use, storage, and transfer of byproduct material as described in the licensee's application dated October 28, 1980, and letter dated May 10, 1981.

II

During an NRC inspection of the licensee on September 28 and 30, 1983, the NRC inspector was informed by the President and Vice President that since receipt and use of licensed on or about November 1981, they had not done the following: (1) Had not obtained personnel monitoring devices (film badges or TLD's); (2) had not obtained a survey meter to perform radiation surveys to assure compliance with 10 CFR Part 20 and had not conducted the surveys required in the licensee's procedures; (3) had not leak tested the sealed source; (4) had not set up a radioactive materials storage area as described in the license application; (5) had not posted documents per 10 CFR 19.11; (6) had not provided instruction to personnel per 10 CFR 19.12; (7) had not maintained any receipt records at the place of use to identify what material the licensee possessed; (8) had not complied with various requiremetns for transporting radioactive materials; and (9) had not conducted an audit to assure compliance with NRC requirements. Although the licensee's officers apparently understood NRC requirements, they had neglected to take action to ensure compliance with these requirements.

The results of this inspection indicated that the licensee had been conducting licensed activities in violation of Commission requirements since receipt and use of material as enumerated below:

1. License Condition 15 requires, in part, that sealed sources shall be tested for leakage or contamination at intervals not to exceed 6 months and that leak test records shall be maintained.

Contrary to this requirement, the sealed source used for well-logging had not been leak tested since receipt of material on or about November 1981 to September 30, 1983.

2. License Condition 17 requires, in part, that licensed activities be conducted in accordance with statements, representations, and procedures contained in the application dated October 28, 1980.

a. Contrary to Item 10 of the application, radiation survey instruments were not obtained by the licensee to perform required radiation surveys.

b. Contrary to Item 11 of the application, personnel monitoring devices were not provided to individuals working with licensed material.

c. Contrary to Item 15 of the application, the radiation protection officer did not fulfill his duties, such as to conduct audits, to assure licensed activities were being conducted in compliance with NRC requirements.

d. Contrary to Appendix A, Item 6.a, of the application, the licensee did not maintain a utilization log for the use of licensed material.

e. Contrary to Appendix A, Item 6.e, of the application, the licensee did not conduct quarterly surveys of an area where licensed material was stored.

f. Contrary to Appendix A, Item 6.g, of the application, the licensee did not conduct radiation surveys at the customer well sites where licensed material was used.

g. Contrary to Appendix B, Item 8.a, of the application, the licensee did not have a storage area for licensed material as described in the application.

3. 10 CFR 20.105(b)(2) states, in part, that no licensee shall possess, use, or transfer licensed material in such a manner as to create in any unrestricted area radiation levels which, if an individual were continuously present in the area, could result in his receiving a dose in excess of 100 millirem in any 7 consecutive days.

Contrary to this requirement, on September 28, 1983, radiation levels existed in an unrestricted area adjacent to a radioactive materials storage location of such magnitude that if an individual were continuously present in this area, he could have received a dose of 200 millirem in 7 consecutive days.

4. 10 CFR 20.201(b) requires that each licensee make or cause to be made surveys as: (a) May be necessary for the licensee to comply with the regulations in 10 CFR Part 20, and (b) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present.

Contrary to this requirement, as of September 30, 1983, radiation surveys had not been conducted of an

VOL 48 ISS 205 OCT 21 1983 UMI

unrestricted area adjacent to where curie quantities of licensed material were stored.

5. License Condition 16 requires, in part, that the licensee shall transport licensed material in accordance with Title 10, Code of Federal Regulations, Part 71, "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material under Certain Conditions."

10 CFR 71.5(a) requires, in part, that no licensee shall transport any licensed material outside the confines of his plant or other place of use, or deliver any licensed material to a carrier for transport, unless the licensee complies with applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation in 49 CFR Parts 170–189.

a. Contrary to 49 CFR 172.200(a), shipping papers were not provided for packages containing Type A quantities of radioactive material when transported on public highways in Wyoming.

b. Contrary to 49 CFR 172.403, the licensee stated that the shipping container used for transporting a well-logging source was not labeled with an appropriate radioactive yellow-III label when being transported on public highways in Wyoming.

c. Contrary to 49 CFR 173.425(a), the licensee did not possess the Specification 7A package certification for Type A quantities of licensed material transported on public highways in Wyoming.

d. Contrary to 49 CFR 173.476(a), the licensee did not possess the certification for Special Form Material transported on public highways in Wyoming.

e. Contrary to 49 CFR 178.350–3, the package used to transport Type A quantities of radioactive material did not have the required markings ("USA DOT 7A Type A").

6. 10 CFR 19.11 (a) and (b) requires, in part, that each licensee shall post current copies of specified regulations and the license, or a notice specifying where such documents may be examined.

Contrary to this requirement, neither the documents nor a notice were posted on September 28, 1983.

7. 10 CFR 19.12 requires, in part, that each licensee shall instruct individuals working in restricted areas of the precautions and procedures to minimize exposures to radiation and radioactive materials and in the applicable provisions of the Commission's regulations and licenses.

Contrary to this requirement, the licensee had not provided such instructions to an individual who performed as an operator where licensed material was used and stored.

8. 10 CFR 20.203(e)(1) requires that each area or room in which licensed material is used or stored and which contains any radioactive material in an amount exceeding 10 times the quantity of such material specified in Appendix C of Part 20, shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words: CAUTION (or DANGER) RADIOACTIVE MATERIAL.

Contrary to this requirement, on September 28, 1983, an area used for the storage of a package containing curie quantities of americium-241 was not posted with such a sign.

9. 10 CFR 30.51(a) requires each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, and disposal of such byproduct material.

Contrary to this requirement, on September 28 and 30, 1983, records for receipt of licensed material were not available at the licensee's place of use for a well-logging source containing curie quantities of americium-241, and the licensee did not know if it possessed a 3-curie or a 5-curie source.

Under section 186 of the Atomic Energy Act of 1954, as amended, a license may be suspended or revoked for, among other things, conditions which would warrant the Commission to refuse to grant a license on an initial application or for failure to observe the terms of the license, Commission regulations, or the Atomic Energy Act. As indicated above, the licensee's action evinced a complete and careless disregard of NRC requirements and a lack of control over its licensed operation. Had the Commission known at the time the license application was received that the licensee would not adhere to the requirements of its license and NRC regulations, no license would have been issued. The Commission can no longer rely on this licensee to comply with NRC requirements.

In sum, the licensee's actions demonstrate that it is unable and unwilling to comply with NRC requirements, including those associated with basic radiation safety. Accordingly, public health and safety require issuance of an order to show cause why the license should not be revoked.

In view of the licensee's willful disregard of the Commission's requirements and lack of control of its licensed operation, the Director, Office of Inspection and Enforcement, has determined that no prior notice is required and pursuant to 10 CFR 2.202(a)(1), License Number 49–19585–01 should be suspended effective immediately pending further order.

III

Accordingly, pursuant to sections 81, 161b and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 30, it is hereby ordered that:

1. Effective immediately, the licensee's authorization under License Number 49–19585–01 to receive or use byproduct material is suspended, except as permitted in Condition 2 below;

2. Effective immediately, the licensee shall place all byproduct material in its possession in licked storage or transfer such material to a person authorized to receive the material; and

3. The licensee shall show cause, in the manner hereinafter provided, why its authorization under License Number 49–19585–01 to receive, possess and use byproduct material should not be revoked.

IV

The licensee may show cause, within 25 days after issuance of this Order, as required by Section III.C, above, by filing a written answer under oath or affirmation setting forth the matters of fact and law on which the licensee relies. The licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of an Order in substantially the form proposed in this Order to Show Cause. Upon failure of the licensee to file an answer within the specified time, the Director, Office of Inspection and Enforcement, may issue without further notice an Order revoking the license as described in Section III, above.

V

The licensee may request a hearing within 25 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director. Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76100. A request for hearing shall not stay the immediate effectiveness of section III of this order.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether, on the basis of the matters set forth in section II of this Order,

License No. 49–19585–01 should be revoked.

Dated at Bethesda, Maryland this 13 day of October 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83–28739 Filed 10–20–83; 8:45 am]

BILLING CODE 7590–01–M

[License No. 37–21014–01 EA 83–112]

Roof Auditing Services; Order to Show Cause and Order Temporarily Suspending License Effective Immediately

I

Roof Auditing Services, P.O. Box 22, Oreland, Pennsylvania, 19075 (the "Licensee") is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "Commission") pursuant to 10 CFR Part 30. The license, issued on June 4, 1982, and due to expire on June 30, 1987, authorizes the use, storage, and transfer of byproduct material as stated in the Licensee's application dated March 22, 1982 and letter supplementing that application dated May 27, 1982.

II

In a byproduct application dated March 22, 1982, the Licensee requested a license to possess a moisture gauge containing americium-241. By letter dated May 20, 1982, the Licensee was informed that the license could not be issued unless additional commitments and descriptions were submitted in support of the application. In a letter dated May 27, 1982, the Licensee provided the requested information. Specifically, the Licensee stated that a named individual would be the designated user of byproduct material, the named individual had completed a manufacturer's training course in the use of moisture gauges containing byproduct material, film badges would be obtained and exchanged monthly, the moisture gauge would be stored and secured in a cinder block and concrete garage located about 500 feet from where people work, and every six months leak testing of the sealed source would be accomplished by using a commercial leak test kit. License Number 37–21014–01 was subsequently issued on June 4, 1982 and incorporated these commitments as requirements by Condition 17 of the license.

In a letter dated September 9, 1983, the sole individual named on the license as authorized to use the gauge containing byproduct material informed the Commission that he was no longer employed by the Licensee. The named individual requested that his name be deleted from License Number 37–21014–01.

III

As a result of this disclosure, an NRC inspector visited the Licensee's facility at 4 Red Oak, Oreland, Pennsylvania, on October 6, 1983. An individual at this address informed the NRC inspector that the Licensee's president was not at the facility. The NRC inspector requested admittance to inspect the gauge. The individual denied the inspector admittance and stated that the moisture gauge was not at the location but was being used at a job site.

Contact with the Licensee's president was made at approximately 6:30 p.m. on October 6, 1983. Arrangements were made during a return call at 8:15 a.m. on October 7, 1983 for an inspection of the gauge and review of records at 10:30 a.m. on October 7, 1983.

The results of this inspection indicated that the moisture gauge had been in use since the departure of the sole named individual authorized to use the source. Based on an initial review of the inspection findings, the following violations have been identified:

1. License Condition 12, requires that licensed material be used by, or under the supervision and in the physical presence of, a single named individual.

Contrary to this requirement, from September 9, 1983 to October 6, 1983 licensed material was used by individuals not named on the license and the named user was not physically present and had left the employment of the licensee.

2. License Condition 17 requires, in part, that licensed material be stored in a cinder block and concrete garage located 500 feet from where people work.

Contrary to this requirement, as of October 7, 1983, the licensed material was stored in a garage that is an integral part of the residence. There is no cinder block and concrete garage located away from the facility at the storage address listed on the license.

3. License Condition 17 requires, in part, that the Licensee use film badges supplied by a specific film badge supplier.

Contrary to this requirement, as of October 7, 1983, the Licensee has not used film badges supplied by the specified supplier nor could the Licensee produce any evidence that film badges had ever been procured or used.

During the inspection, the inspector also found that the Licensee did not currently have any employees who had completed training given by the manufacturer of the gauge. The Licensee's president also stated that the cinder block and concrete garage described in the May 27, 1983 letter referenced in the license is located at a different location. Although the Licensee's president apparently understood NRC requirements, he had neglected to take action to ensure compliance with these requirements.

IV

Under Section 186 of the Atomic Energy Act of 1954, as amended, a license may be suspended or revoked for a finding which would warrant the Commission to refuse to grant a license on initial application. As stated above, on October 7, 1983, the Licensee had neither the personnel nor the storage facilities described in a letter dated May 27, 1982. Had the Commission known at the time the license was applied for that the moisture gauge would be used by persons not authorized by the license and that the Licensee would not implement its license conditions, no license would have been issued. The Commission can no longer rely on this Licensee to comply with Commission requirements.

In sum, the Licensee's actions demonstrate that it is unable or unwilling to comply with Commission requirements, including those associated with basic radiation safety. Accordingly, the public health and safety requires issuance of an Order to Show Cause why the Licensee's specific license to use byproduct material should not be revoked. NRC Enforcement Policy, 10 CFR Part 2, Appendix C, IV.C.

In view of the Licensee's willful noncompliance with the Commission's requirements and current inability to come into compliance, I have determined that no prior notice is required and, pursuant to 10 CFR 2.202(f), License No. 37–21014–01 should be suspended effective immediately pending further order.

V

Accordingly, pursuant to Sections 81, 161b and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 30, it is hereby ordered that:

A. Effective immediately, the Licensee's authorization under License No. 37–21014–01 to receive or use byproduct material is suspended, except as permitted in Condition B below;

B. Effective immediately, the Licensee shall place all byproduct material in its possession in locked storage or transfer

VOL 48 ISS 205 OCT 21 1983 UMI

such material to a person authorized to receive the material; and

C. The Licensee shall show cause, in the manner hereinafter provided, why License No. 37–21014–01 should not be revoked.

VI

The Licensee may show cause, within 25 days after issuance of this Order, as required by Section V.C., above, by filing a written answer under oath or affirmation setting forth the matters of fact and law on which the Licensee relies. The Licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of an order in substantially the form proposed in this Order to Show Cause. Upon failure of the Licensee to file an answer within the specified time, the Director, Office of Inspection and Enforcement, may issue without further notice an order revoking the license.

VII

The Licensee may request a hearing within 25 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406. A request for hearing shall not stay the immediate effectiveness of sections V.A and V.B of this order.

If a hearing is requested by the Licensee, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in this Order, License No. 37–21014–01 should be revoked.

Dated at Bethesda, Maryland this 13th day of October 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83–28740 Filed 10–20–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–506–OL]

Washington Public Power Supply System (WPPSS Nuclear Project No. 3); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Alan S. Rosenthal, Chairman
Gary J. Edles
Howard A. Wilber.

Dated: October 14, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83–28737 Filed 10–20–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Systematic Evaluation Program; Meeting

The ACRS Subcommittee on the Systematic Evaluation Program (Big Rock Point) will hold a meeting on November 7, 1983, Room 1046, 1717 H Street, NW., Washington, D.C.

In accordance with the procedures outlined in the Federal Register on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Monday, November 7, 1983—8:30 a.m. Until the Conclusion of Business

The Subcommittee will continue discussion of the Systematic Evaluation Program and other outstanding regulatory issues pertinent to Big Rock Point with representatives of Consumers Power Company and the NRC Staff.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Subcommittee Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 14, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–28741 Filed 10–20–83; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Order No. 528; Docket No. A83–29]

Wendell, New Hampshire 03783 (Vivian E. Duling, Petitioner); Accepting Appeal and Establishing Procedural Schedule

Issued: October 13, 1983.

Before Commissioners: Janet D. Steiger, Chairman, John W. Crutcher, Vice-Chairman; Simeon M. Bright; James H. Duffy; Henry R. Folsom.

Docket number: A83–29.

Name of affected post office: Wendell, New Hampshire, 03783.

Name(s) of petitioner(s): Vivian E. Duling.

Type of determination: Closing.

Date of filing of appeal papers: September 29, 1983.

Categories of issues apparently raised:

1. Effect on community served by office [39 U.S.C. 404(b)(2)(A)].

2. Effective and Regular Postal Services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before October 14, 1983.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

APPENDIX

Sept. 29, 1983	Filing of Petition.
Oct. 13, 1983	Notice and Order of Filing of Appeal.
Oct. 24, 1983	Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)].
Nov. 3, 1983	Petitioner's Participant Statement or Initial Brief [see 39 CFR 3001.115(a) and (b)].
Nov. 24, 1983	Postal Service Answering Brief [see 39 CFR 3001.115(c)].
Dec. 12, 1983	Petitioner's Reply Brief should Petitioner choose to file one [see 39 CFR 3001.115(d)].
Dec. 19, 1983	Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument. [see 39 CFR 3001.116].
Jan. 17, 1983	Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 83–28647 Filed 10–20–83; 8:45 am]

BILLING CODE 7715–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 03/03–0167]

Lehigh Valley Ventures, Ltd., Application for License To Operate as a Small Business Investment Company

An Application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Lehigh Valley Ventures, Ltd., a limited partnership, located at 211 South Broad Street, Philadelphia, Pennsylvania 19107, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983).

Limited partnership units are being offered through a private placement offering to investors. The limited partners are not yet known. The total net partnership capital has been estimated to be $2,000,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns whose needs might not be met by traditional funding sources.

The following general partners will contribute $100,000 to the partnership capital:

Mr. James B. Hovis, Avenue of the Arts Building, Broad & Chestnut Streets, Suite 914, Philadelphia, PA 19107

Mr. Joseph P. Nolan, Avenue of the Arts Building, Broad & Chestnut Streets, Suite 914, Philadelphia, PA 19107

Mr. Aman M. Barber, Jr., 515 Linden Street, P.O. Box 1728, Allentown, PA 18105.

Lehigh Valley Venture Corporation, Avenue of the Arts Building, Broad & Chestnut Streets, Suite 914, Philadelphia, PA 19107

Lehigh Valley Venture Corporation is owned by the following individuals:

	Percentage
Mr. Jack I. Greenblat	24.5
Mr. Irving W. Coleman	24.5
Mr. Aman M. Barber, Jr.	51.0

The applicant intends to conduct its operations principally in the State of Pennsylvania.

Matters involved in SBA's considerations of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may (not later than 15 days from the publication of this Notice) submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Philadelphia, Pennsylvania.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 13, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–28759 Filed 10–20–83; 8:45 am]

BILLING CODE 8025–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee Review; Review and Solicitation of Public Comment; Proposed Modification of the List of Articles Eligible for Duty-Free Treatment Under the U.S. Generalized System of Preferences To Remove Imports of Certain Cellulose Film From Mexico From Duty-Free Eligibility

Notice is hereby given that the Trade Policy Staff Committee (TPSC) has initiated a review of the removal of films, strips and sheets of cellulose plastic material not over 0.003 inches in thickness classified under TSUS 771.30 of the Tariff Schedules of the United States Annotated, when imported from Mexico, from the list of products eligible for duty-free treatment under the U.S. Generalized System of Preferences (19 U.S.C. 2461–2465). The review is initiated pursuant to a petition filed by E. I. Du Pont de Nemours and Company. Interested parties are requested to provide written comments to the TPSC regarding the Du Pont request not later than November 30, 1983. A public hearing on the proposed modification will not be scheduled unless specifically requested by an interested party no later than November 1, 1983.

All submissions should conform to 15 CFR Part 2007 and be submitted in twenty copies, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee. Information submitted in connection with the proposed modification will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2007.7. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and each page within the document, where appropriate, that the confidential materials are included. Non-confidential summaries of all confidential material must be submitted in twenty copies in English, at the same time that confidential submissions are filed.

All communications with regard to the proposed modification should be addressed to the GSP Subcommittee, Office of the United States Trade Representative, 60 17th Street NW, Room 316, Washington, D.C. 20506. The telephone number of the GSP Subcommittee is (202) 395–6971.

VOL
48
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Questions may also be directed to any member of the staff of the GSP Information Center.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.

[FR Doc. 83-28674 Filed 10-20-83; 8:45 am]
BILLING CODE 3190-01-M

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice establishes country allocations of the quotas presently applicable to imports of certain specialty steel and makes modifications in the Tariff Schedules of the United States to implement changes in the import relief.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Catherine Curtiss, United States Trade Representative (202) 395-4946.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provided for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States, pursuant to section 203 of the Trade Act of 1974. Specified steels not produced in the United States or produced in small quantities were exempted from the import relief.

Proclamation 5074 authorizes the U.S. Trade Representative to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief, including negotiating orderly marketing agreements and allocating quota quantities on a country-by-country basis. The U.S. Trade Representative is also authorized to make modifications in the Tariff Schedules of the United States (TSUS) headnote or items proclaimed by the President in order to implement such actions.

Accordingly, the U.S. Trade Representative has determined that the quota quantities should be allocated on a country-by-country basis and that additional articles should be exempted from the application of the import relief. These articles are not produced in the United States or are produced in such small quantities that their exemption would not have an adverse impact on the U.S. industry. These changes are being made as a result of negotiations with Argentina, Austria, Canada, Japan, Poland, Spain and Sweden.

In conformity with the above, paragraph (a) of headnote 10, subpart A, part 2 of the Appendix to the TSUS is modified by deleting the period at the end thereof and substituting a semicolon therefor, and by inserting in numerical sequence the following new subparagraphs:

"(v) The term *"stainless steel of the type described in headnote 10(a)(v)"* refers to the stainless steel grades described in either subparagraph (A) or (B) below which contain, in addition to iron, each of the following elements by weight in the amounts specified:

(A)

Carbon: Not more than 0.02 percent;
Silicon: Not less than 0.2 percent nor more than 0.8 percent;
Manganese: Not less than 0.2 percent nor more than 1.0 percent;
Chromium: Not less than 19.5 percent nor more than 20.5 percent;
Nickel: Not less than 17.5 percent nor more than 18.5 percent;
Molybdenum: Not less than 6.0 percent nor more than 6.5 percent;
Nitrogen: Not less than 0.18 percent nor more than 0.22 percent;
Copper: Not less than 0.5 percent nor more than 1.0 percent;
Sulfur: Not more than 0.03 percent;
Phosphorus: Not more than 0.04 percent; or

(B)

Carbon: Not less than 0.05 percent nor more than 0.10 percent;
Silicon: Not less than 1.4 percent nor more than 2.0 percent;
Manganese: Not less than 0.2 percent nor more than 0.8 percent;
Chromium: Not less than 20.0 percent nor more than 22.0 percent;
Nickel: Not less than 10.0 percent nor more than 12.0 percent;
Nitrogen: Not less than 0.14 percent nor more than 0.20 percent;
Cerium: Not less than 0.03 percent nor more than 0.08 percent;
Sulfur: Not more than 0.03 percent;
Phosphorus: Not more than 0.04 percent;

(vi) The term *"flapper valve steel"* refers to stainless steel strip not over 0.05 inch in thickness, certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of stainless steel flapper valves for compressors;

(vii) The term *"rotor steel for hysteresis motors"* refers to tool steel strip not over 0.05 inch in thickness containing by weight not less than 0.5 percent carbon and not less than 5.5 percent tungsten, certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of rotor rings or cups for hysteresis motors;

(viii) The term *"tool steel of the type described in headnote 10(a)(viii)"* refers to the alloy tool steel grades described in any one of the subparagraphs (A) through (F) below which contain, in addition to iron, each of the following elements by weight in the amount specified:

(A)

Carbon: Not less than 0.85 percent nor more than 1.05 percent;
Manganese: Not less than 0.95 percent nor more than 1.75 percent;
Sulfur: Not less than 0.03 percent;
Phosphorus: Less than 0.03 percent;
Silicon: Not less than 0.45 percent nor more than 0.90 percent;
Chromium: Not less than 0.90 percent nor more than 1.80 percent;
Nickel: Less than 0.35 percent;
Copper: Less than 0.35 percent;
Molybdenum: Less than 0.10 percent;

(B)

Carbon: Not less than 0.95 percent; nor more than 1.05 percent;
Manganese: Not less than 0.95 percent; nor more than 1.25 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.45 percent; nor more than 0.75 percent;
Chromium: Not less than 0.90 percent; nor more than 1.20 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not more than 0.08 percent;

(C)

Carbon: Not less than 0.85 percent; nor more than 1.00 percent;
Manganese: Not less than 1.40 percent; nor more than 1.70 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.50 percent; nor more than 0.80 percent;
Chromium: Not less than 1.40 percent; nor more than 1.80 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not more than 0.08 percent;

(D)

Carbon: Not less than 0.95 percent; nor more than 1.10 percent;
Manganese: Not less than 0.65 percent; nor more than 0.90 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.20 percent nor more than 0.35 percent;
Chromium: Not less than 1.10 percent nor more than 1.50 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not less than 0.20 percent nor more than 0.30 percent;

(E)

Carbon: Not less than 0.95 percent nor more than 1.10 percent;
Manganese: Not less than 1.05 percent nor more than 1.35 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.20 percent nor more than 0.35 percent;
Chromium: Not less than 1.10 percent nor more than 1.50 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not less than 0.45 percent nor more than 0.60 percent; or

(F)

Carbon: Not less than 0.92 percent nor more than 1.02 percent;
Manganese: Not less than 0.25 percent nor more than 0.40 percent;
Sulfur: Not more than 0.025 percent;
Phosphorus: Not more than 0.025 percent;
Silicon: Not less than 0.25 percent nor more than 0.40 percent;
Chromium: Not less than 1.65 percent nor more than 1.95 percent;
Nickel: Not more than 0.25 percent;
Copper: Not more than 0.35 percent;
Molybdenum: Not less than 0.18 percent nor more than 0.40 percent;
Aluminum: Not more than 0.05 percent;

Certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of ball or roller bearings."

In addition, paragraphs (c) and (d) of headnote 10, subpart A, part 2 of the Appendix to the TSUS are modified to read as follows:

(c) *Carryover.*—Whenever the quota quantity specified for any of the individually named countries for an item has not been entered during any restraint period, entry may be made during the subsequent restraint period of an amount up to 20 percent (10 percent in the case of shortfalls occurring in the restraint period April 20 through July 19 of any year) of the base limit for the restraint period in which the shortfall occurs, but not to exceed the difference between the quota quantity specified for such restraint period and the amount entered during that period; and such amount shall not be counted against the quota quantity therefor.

(d) *Exceeding restraint levels.*—The restraint level for any quota quantity allocated to any of the individually named countries may be exceeded by not more than 10 percent during any restraint period, except that the restraint levels for the period April 20 through July 19 for 1984, 1985, or 1986 may be exceeded by not more than 3 percent, and shall not be exceeded for that period in 1987. If a quota quantity is exceeded during a restraint period, a downward adjustment of the corresponding quota quantity for the next restraint period in the absolute amount the preceding restraint level was exceeded shall be made.

The article description in TSUS item 926.00 is modified by deleting "and" from the parenthetical phrase and by inserting after "sheet" the following:

, cold-rolled sheets of stainless steel, over 71 inches in width, stainless steel of the type described in headnote 10(a)(v), and flapper valve steel.

The article description in TSUS item 926.05 is modified by inserting after "steel" the following: "(except stainless steel of the type described in headnote 10(a)(v))".

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VOL 48 NO 205 OCT 21 1983 UMI

TSUS items 926.10 through 926.23 and the superior headings pertaining thereto are modified to read as follows:

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period-- July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	"Whenever the respective aggregate quantity of articles the product of a foreign country specified below for items 926.10 through 926.23, inclusive, has been entered in any restraint period (whether, for tariff purposes, in schedule 6 or in item 832.00 of schedule 8), an article in such item the product of such country may be entered during the remainder of such restraint period, except as provided in headnote 10:				
	Bars of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in item 608.90, part 2B, schedule 6:				
926.10	If entered during the period from July 20, 1983, through July 19, 1984, inclusive:				
	Argentina	1/	66	66	67
	Canada	1/	244	292	389
	Japan	1/	3,856	3,125	3,125
	Spain	1/	967	967	966
	Sweden	1/	353	353	352
	Other	1/	1,209	1,947	1,851
926.11	If entered during the period from July 20, 1984, through July 19, 1985, inclusive:				
	Argentina	52	51	51	51
	Canada	251	251	251	251
	Japan	3,219	3,219	3,219	3,218
	Spain	1,000	999	999	999
	Sweden	309	309	309	309
	Other	2,119	2,121	2,121	2,121

1/ No individual country quota allocations were made for this quota period.

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period-- July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whenever the respective aggregate quantity, etc. (con.):				
	Bars of stainless steel, etc. (con.):				
926.12	If entered during the period from July 20, 1985, through July 19, 1986, inclusive:				
	Argentina	53	53	53	52
	Canada	259	259	258	258
	Japan	3,316	3,315	3,313	3,313
	Spain	1,030	1,030	1,029	1,028
	Sweden	319	318	318	318
	Other	2,173	2,173	2,127	2,178
926.13	If entered during the period from July 20, 1986, through July 19, 1987, inclusive:				
	Argentina	55	54	54	54
	Canada	267	266	266	266
	Japan	3,413	3,413	3,413	3,414
	Spain	1,061	1,061	1,060	1,060
	Sweden	328	326	328	327
	Other	2,249	2,251	2,252	2,234
	Wire rod of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in items 607.26 and 607.43, part 2B, schedule 6:				
926.15	If entered during the period from July 20, 1983, through July 19, 1984, inclusive:				
	Japan	1/	1,713	1,400	1,400
	Spain	1/	402	401	401
	Sweden	1/	933	933	935
	Other	1/	1,723	2,039	2,039

1/ No individual country quota allocations were made for this quota period.

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period-- July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whenever the respective aggregate quantity, etc. (con.):				
	Wire rod of stainless steel, etc. (con.):				
926.16	If entered during the period from July 20, 1984, through July 19, 1985, inclusive:				
	Japan	1,442	1,442	1,442	1,442
	Spain	423	423	423	422
	Sweden	902	901	901	901
	Other	2,158	2,159	2,159	2,160
926.17	If entered during the period from July 20, 1985, through July 19, 1986, inclusive:				
	Japan	1,486	1,485	1,485	1,485
	Spain	436	436	435	435
	Sweden	929	928	928	928
	Other	2,224	2,228	2,227	2,227
926.18	If entered during the period from July 20, 1986, through July 19, 1987, inclusive:				
	Japan	1,330	1,330	1,330	1,329
	Spain	449	449	448	448
	Sweden	957	956	956	956
	Other	2,289	2,290	2,291	2,292

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period-- July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whenever the respective aggregate quantity, etc. (con.):				
	Bars, wire rods, plates, sheets, and strip, all the foregoing of alloy tool steel (except chipper knife steel, band saw steel, razor steel for hysteresis motors, and tool steel of the type described in headnote 10(a)(viii)), provided for in items 606.95, 607.28, 607.34, 607.48, 607.54, 607.72, 607.88, 608.34, 608.49, and 608.64, and round wire of high speed tool steel, provided for in item 809.45, part 2B, schedule 6:				
926.20	If entered during the period from July 20, 1983, through July 19, 1984, inclusive:				
	Argentina	1/	67	67	68
	Austria	1/	701	702	702
	Canada	1/	350	474	537
	Japan	1/	1,190	1,020	1,020
	Poland	1/	79	79	79
	Spain	1/	54	54	54
	Sweden	1/	2,148	2,148	2,148
	Other	1/	1,009	1,038	992
926.21	If entered during the period from July 20, 1984, through July 19, 1985, inclusive:				
	Argentina	52	52	52	52
	Austria	618	618	618	618
	Canada	361	361	360	360
	Japan	1,051	1,051	1,050	1,050
	Poland	64	64	65	65
	Spain	42	42	42	41
	Sweden	1,983	1,983	1,983	1,982
	Other	1,804	1,604	1,603	1,607

1/ No individual country quota allocations were made for this quota period.

Item	Articles	Quota Quantity (in short tons) Entered during the restraint period-- July 20 through October 19	October 20 through January 19	January 20 through April 19	April 20 through July 19
	Whatever the respective aggregate quantity, etc. (con.):				
	Bars, wire rods, etc. (con.):				
926.22	If entered during the period from July 20, 1983, through July 19, 1986, inclusive:				
	Argentina	54	54	33	33
	Austria	636	636	637	637
	Canada	372	371	371	371
	Japan	1,082	1,082	1,082	1,082
	Poland	66	66	66	67
	Spain	45	45	45	45
	Sweden	2,043	2,042	2,042	2,042
	Other	1,634	1,636	1,636	1,635
926.23	If entered during the period from July 20, 1986, through July 19, 1987, inclusive:				
	Argentina	56	53	53	55
	Austria	655	656	656	656
	Canada	383	383	382	382
	Japan	1,115	1,114	1,114	1,115
	Poland	69	66	66	66
	Spain	45	44	44	44
	Sweden	2,104	2,103	2,103	2,103
	Other	1,698	1,700	1,703	1,703"

BILLING CODE 3190-01-C

I have determined that the above allocations and other changes in the import relief are appropriate to carry out the authority granted by the President to the U.S. Trade Representative and the obligations of the United States, with due consideration to the interests of the domestic producers of such specialty steel. This action is subject to further modification.

Dated: October 19, 1983.

William E. Brock,

United States Trade Representative.

[FR Doc. 83-28850 Filed 10-20-83; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on November 14, 1983, in salons E and D, Marriott Crystal Gateway Hotel, 1700 Jefferson Davis Highway, Arlington, Virginia commencing at 2:00 p.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting Held on September 23, 1983; (2) Chairman's Report on RTCA Administration and Activities; (3) Special Committee Activities Report for September and October, 1983; (4) Review of the Future Planning Group Report; (5) Consideration of Establishing New Special Committees; (6) Review of European Organization for Civil Aviation Electronics (EUROCAE) Activities; (7) Comments and Reports by Representatives from International Associates; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, NW., Suite 500, Washington, D.C. 20005, (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on October 14, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-28695 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Workshop for Modeling Human Kinematics and Vehicle Structural Responses; Public Meetings

The NHTSA intends to hold a workshop for modeling human kinematics and vehicle structural responses. The program will be structured to permit professionals from government, industry and academia to make informal presentations of their modeling activities in the area of human motions and impacts during vehicle crashes.

The workshop intends to address modeling techniques and the use of models with emphasis on the following topics:

1. Human kinematic simulations, such as single and multiple mass models, 2-D and 3-D lumped mass simulations, etc., employed to assess human responses in a dynamic crash environment.

2. Mathematical simulations of human body segments and vehicle components which are employed in the study of impact responses of specific body areas.

3. Mathematical simulations of vehicle crash events.

4. Data collection, display methods, and visual aids.

The presentations will be informal and structured to encourage a free exchange of current scientific knowledge. The session format will depend on the number of presentations. Due to anticipated large participation and to keep the workshop to a most constructive format, only those who have advised NHTSA in writing of their desire to participate will be invited to comment. The printed proceedings of the workshop will include papers of only those authors who provide a prepared manuscript at the time of the meeting and request in writing its printing.

The workshop is planned to be held in Washington, D.C., on January 11-13, 1984. The workshop will convene at 2:30 p.m., Wednesday, January 11, 1984, following the regular NHTSA/Industry quarterly meeting. Those interested in participating in these proceedings should send their names, institutional affiliations, address, title(s) and abstract(s) of their presentations(s) on or before November 15, 1983, to S. Backaitis, NRM-12, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590. Each registrant subsequently will be notified of the precise location of the meeting.

Issued in Washington, D.C. on October 17, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-28673 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-59-M

VOL
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Sunshine Act Meetings

Federal Register
Vol. 48, No. 205
Friday, October 21, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission	1, 2
Federal Elections Commission	3
Federal Home Loan Mortgage Corporation	4
Federal Reserve System	5, 6
Securities and Exchange Commission	7

1

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From October 19th Closed Meeting.

October 18, 1983.

The following item has been deleted from the list of agenda items scheduled for consideration at the October 19, 1983, Closed Meeting and previously listed in the Commission's Notice of October 12, 1983.

Agenda, Item No, and Subject

General—1—Administrative Federal Tort Claim of the estate of Conrad B. Lahser, III.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1484-83 Filed 10-19-83; 12:29 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From October 19th Open Meeting

October 18, 1983.

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the October 19, 1983, Open Meeting and previously listed in the Commission's Notice of October 12, 1983.

Agenda, Item No. and Subject

Video—1—Petition for Expedited Special Relief and Declaratory Ruling (CSR-2347) filed on May 18, 1983, by Earth Satellite Communications, Inc. (ESC).

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1483-83 Filed 10-19-83; 12:29 pm]

BILLING CODE 6712-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, October 27, 1983, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion 1983-26: J. Curtis Berge on behalf of NCPAC
Routine Administrative matters

* * * * *

DATE AND TIME: Thursday, October 27, 1983 immediately following close of open session.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

PERSON TO CONTACT FOR MORE INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1482-83 Filed 10-19-83; 10:13 am]

BILLING CODE 6715-01-M

4

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: October 25, 1983, 2:30 p.m.

PLACE: 1776 G Street NW., Washington, D.C., Conference Room 4-G.

STATUS: Open/closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street NW., P.O. Box 37248, Washington, D.C. 20013; (202) 789-4763.

MATTERS TO BE CONSIDERED:

Open: Adoption of Corporate Logo and Insignia
Closed: Minutes of September 21, 1983, Board of Directors' Meeting Minute Entry
Closed: President's Report
Closed: Financial Report Minute Entry

Dated: October 18, 1983.

[S-1480-83 Filed 10-19-83; 4:25 pm]

BILLING CODE 6720-01-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m. Wednesday, October 26, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, asignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Conte, Assistant to the Board (202) 452-3204.

Dated: October 18, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1481-83 Filed 10-19-83 10:10 am]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, October 26, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: October 18, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1487-83 Filed 10-19-83; 4:34 pm]

BILLING CODE 6210-01-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 24, 1983, at 450 5th Street NW., Washington, D.C.

Closed meetings will be held on Tuesday, October 25, 1983, at 1 p.m. and on Thursday, October 27, 1983, at 9 a.m. Open meetings will be held on October 27, 1983, at 10 a.m., 2:30 p.m. and 3 p.m. in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 25, 1983, at 1 p.m., will be:

Settlement of administrative proceedings of an enforcement nature
Institution of administrative proceedings of an enforcement nature
Institution of injunctive actions
Litigation matter

The subject matter of the closed meeting scheduled for Thursday, October 27, 1983, at 9 a.m. will be:

Regulatory matter regarding financial institutions

The subject matter of the open meeting scheduled for Thursday, October 27, 1983, at 10 a.m. will be:

1. Consideration of: (i) Whether the broker-dealer registration requirements of Section 15(a) of the Securities Exchange Act of 1934 (the "Exchange Act") are applicable to banks that engage in certain securities activities, and (ii) whether banks and savings and loan associations that enter into "networking" arrangements with registered broker-dealers should be required to register separately as broker-dealers. For further information, please contact Ardith Eymann at (202) 272-2844.

2. Consideration of whether the Division of Investment Management should decline to respond to a request for interpretive or no-action advice made on behalf of certain savings and loan associations ("S&L") which argue that they are "banks" as that term is used or defined in certain provisions of the federal securities laws and, instead, prepares an advance notice of proposed Commission action which would seek public comment on whether the Commission should propose: (a) To adopt rules that would exempt: (i) Certain S&Ls from the definition of investment adviser in the Investment Advisers Act of 1940 and (ii) common and collective trust funds maintained by an S&L from the registration requirements of the Investment Company Act of 1940, the Securities Act of 1933 (the "1933 Act"), and the registration, reporting and proxy requirements of the Securities Exchange Act of 1934 (the "1934 Act"); (b) to adopt rules defining the term "bank" in the Investment Company Act of 1940 and the Investment Advisers Act of 1940 (the "1940 Acts") and Section 3(a)(12) and 12(g)(2)(H) of the 1934 Act to include S&Ls which perform specified functions which are substantially equivalent to those performed by banks; (c) to adopt an interpretation of the term "bank" for purposes of the 1940 Acts and the 1933 Act and 1934 Act that would include S&Ls which perform certain functions; and (d) to develop a legislative proposal to amend the 1934 and 1940 Acts to include, for certain purposes, S&Ls that perform functions substantially similar to those of banks within the definitions of "bank" contained in those Acts. For further information, please contact Jeffrey Steele, at (202) 272-2039 or Kathleen A. Jackson at (202) 272-2751.

3. Consideration of a release proposing amendments to Rule 134a under the Securities Act of 1933. The rule provides a safe harbor from registration under the Securities Act for certain written communications describing the nature of options and options trading. The rule presently applies only to instructional or educational materials. The proposed amendments would extend the rule's coverage to options products and would modify the conditions to the rule's availability. For further information, please contact Alan L. Dye at (202) 272-2573.

The subject matter of the open meeting scheduled for Thursday, October 27, 1983, at 2:30 p.m. will be:

Oral argument on an appeal by Thomas J. Furnari, who was associated with the broker-dealer firms of Blyth, Eastman, Dillon and Company, and its successor, Paine, Webber, Jackson and Curtis, Inc., from the decision of an administrative law judge.

The subject matter of the open meeting scheduled for Thursday, October 27, 1983 at 3:00 p.m. will be:

Oral argument on an appeal by Jesse Rosemblum, doing business as Harbine Financial Service, a registered investment adviser, from the initial decision of an administrative law judge.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Robert Lipsher at (202) 272-3195.

October 18, 1983.

[S-1485-83 Filed 10-19-83; 1:00 pm]

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205
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Friday
October 21, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8758). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication to the **Federal Register** are listed with each State.

Arkansas: AR83–4069	Sept. 16, 1983.
District of Columbia: DC82–3031	Nov. 12, 1982.
North Dakota: ND81–5131	July 6, 1981.
New Jersey:	
NJ83–3015	June 17, 1983.
NJ83–3016	Do.
NJ83–3026	July 29, 1983.
Pennsylvania:	
PA83–3001	Aug. 19, 1983.
PA82–3028	Sept. 10, 1982.
Texas:	
TX83–4005	Jan. 7, 1983.
TX83–4061	Aug. 26, 1983.
Utah: UT 83–5120	Sept. 30, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision number are in parentheses following the numbers of the decisions being superseded.

Louisiana: LA83–4001 (LA83–4076)	Jan. 7, 1983.
Oklahoma:	
OK79–4016 (OK83–4072)	Feb. 23, 1979.
OK79–4058 (OK83–4073)	Mar. 30, 1979.
New Mexico: NM83–4036 (NM83–4074)	May 13, 1983.
Texas:	
TX81–4007 (TX83–4075)	Jan. 6, 1981.
TX83–4004 (TX83–4077)	Jan. 7, 1983.
TX83–4002 (TX83–4078)	Do.
TX82–4042 (TX83–4079)	Aug. 20, 1982.
TX82–4025 (TX83–4080)	June 18, 1982.
TX83–4006 (TX83–4081)	Jan. 7, 1983.
TX83–4026 (TX83–4082)	Apr. 6, 1983.

Signed in Washington, D.C. this 14th day of October 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510–27–M

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits
DC82-3031 Mod. #16 cont't		
TOOL ROOM CLERK & ALL LABORERS NOT OTHERWISE CLASSIFIED	$9.50	1.73
SEMI-SKILLED LABORERS & SKILLED LABORER:POTMAN, POWER TOOL OP.,SHALL MACHINE OP.,CONCRETE LABOR, SIGNALMEN,LASER BEAM OP., TEST PIT,UNDERPINNING, PIER HOLE & DITCHES,LAGGERS & OVERHEAD STRIPPERS, OPERATOR OF H & DERRICKS,VIBRATOR OP.,PIPELAYERS, OR TILE LAYERS,JACKHAMMERS, OR ANY MACHINE THAT DOES THE SAME GENERAL TYPE OF WORK, SCAFFORD BUILDERS,OP. OF TOWMASTERS,SCOOTERS,BUGGYMOBILES & OTHER MACHINES OF SIMILAR CHARACTER,OP. OF TAMPERS & RAMMERS & OTHER MACHINES THAT DO THE SAME GENERAL TYPE OF WORK, WHETHER POWERED BY AIR, ELECTRIC OR GASOLINE,BUILDERS OF TRESTLE SCAFFORDS OVER ONE TIER HIGH & SAND BLASTERS,POWER CHAIN SAW OPERATORS USED IN CLEARING, INSTALLERS OF WELL POINTS, MASON DRILL OP.,ACETYLENE BURNERS & LICENSED POWDERMEN & LICENSED ALL CONSTRUCTION(EXCLUDING HEAVY)	10.50	1.73
WASHINGTON D.C., PRINCE GEORGES & MONTGOMERY CTYS. MARYLAND & ARLINGTON & FAIRFAX CTYS. VIRGINIA	11.60 11.04	1.73 1.73
PLUMBER'S LABORERS		
PLASTERERS TENDERS		
OPERATORS OF SCOOPCRETES, BUGGYMOBILES, & MIXER OPERATORS NOT IN CONJUNCTION WITH PLASTERING MACHINE	11.35	1.73
PLASTERERS WORK IN CONJUNCTION WITH PLASTERING MACHINE MIXER OPERATOR IN CONJUNCTION WITH PLASTERING MACHINE	11.66	1.73
DEMOLITION LABORERS:		
BOBCAT	8.00	1.73
BURNER'S WORK	7.50	1.73
POWER TOOL OPERATORS	7.35	1.73
OTHER DEMOLITION WORK	7.00	1.73

DECISION #AR83-4069 — Mod. #1 (46 FR 41695 - Sept. 16, 1983)

Pulaski and Jefferson Counties, Arkansas

Changes:

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Electricians	$14.70	3%+ 2.90
Cable Splicers	14.82	3%+ 2.90

DECISION NO. ND81-5131 - Mod. #6 (46 FR 35008 - July 6, 1981)

Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward Counties, North Dakota

Change:

	Basic Hourly Rates	Fringe Benefits
Sheet Metal Workers: Area 2	$14.88	$1.90

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits
DECISION NO. DC82-3031- MOD. 15 (47 FR 51304-NOVEMBER 12, 1982)		
District of Columbia;Maryland Montgomery & Prince Georges Counties;DC Training & School;Virginia:Fairfax & Arlington & Fairfax Ctys.		
OMIT:		
ALL LABORERS (EXCEPT HEAVY CONSTRUCTION)		
ADD:		
LABORERS (EXCLUDING HEAVY CONSTRUCTION)		
LIGHT COMMERCIAL MASONRY WORK:		
(NEW BUILDINGS & ADDITIONS LIMITED TO 30,000 SQ. FT. IN FLOOR SPACE & NOT TO EXCEED FOUR STORIES IN HEIGHT, SUCH AS GARDEN HOUSES,SHOPPING MALLS EXCLUDING ALL STORES OVER 50,000 SQ. FT. IN FLOOR SPACE;		
WASHINGTON D.C. & PRINCE GEORGES & MONTGOMERY, MD. & ARLINGTON & FAIRFAX, VA.	$9.00	1.73
MASON TENDER	9.50	1.73
SCAFFORD BUILDER,MORTARMAN & SMALL EQUIPMENT OP.	10.42	1.73
COMMERCIAL MASONRY WORK: WASHINGTON D.C. & PRINCE GEORGES & MONTGOMERY MD:		
MORTAR TENDER	11.00	1.73
SCAFFORD BUILDER,MORTARMAN & SMALL EQUIPMENT OPERATOR	9.50	1.73
ARLINGTON & FAIRFAX CTYS. MASON TENDER	10.50	1.73
SCAFFORD BUILDER,MORTARMAN & SMALL EQUIPMENT OP.		
ALL CONSTRUCTION (EXCLUDING HEAVY)		
WASHINGTON D.C. & PRINCE GEORGES,MONTGOMERY MD.	8.50	1.73
TRUCKCHECKER		
GENERAL LABORERS-MATERIAL HANDLERS,CLEAN-UP (INCLUDING CONCRETE CLEANUP); SWEEPERS,WATER PERSON & LABORERS MAINTENANCE		
CLEANUP,CARPET LAYER	9.25	1.73

	Basic Hourly Rates	Fringe Benefits
CONSTRUCTION LABORERS-CARPENTER TENDER,CEMENT MASONS TENDER,WATER SPRINKLER,CURING & CURING), TOOL ROOM CLERK & ALL LABORERS NOT OTHERWISE CLASSIFIED	10.42	1.73
SEMI-SKILLED LABORERS & SKILLED LABORER-POTMAN, POWER TOOL OPERATOR, SHALL MACHINE OP.,SIGNALMAN,LASER BEAM OP.WATERPROOFER, UNDERPINNING,PIER HOLE & DITCHES,LAGGERS & OVERHEAD STRIPPERS,OPERATOR OF H & DERICKS,VIBRATOR OP.,PIPELAYERS,TILE LAYERS,JACKHAMMERS,PAVING BREAKERS,SPADERS OR ANY MACHINE THAT DOES THE SAME GENERAL TYPE OF WORK,SCAFFORD BUILDERS, OP. OF TOWMASTERS,SCOOTCRETES,BUGGYMOBILES & OTHER MACHINES OF SIMILAR CHARACTER,OP. OF TAMPERS & RAMMERS, & OTHER MACHINES THAT DO THE SAME GENERAL TYPE OF WORK,WHETHER POWERED BY AIR,ELECTRIC OR GASOLINE,BUILDERS OF TRESTLE SCAFFORDS OVER ONE TIER HIGH & SAND BLASTERS, POWER & CHAIN SAW OPERATORS USED IN CLEARING, INSTALLERS OF WELL POINTS MASON DRILL OP.,ACETYLENE BURNERS & LICENSED POWDERMEN & FAIRFAX ARLINGTON &	10.50	1.73
TRUCKCHECKER	11.53	1.73
GENERAL LABORERS-MATERIAL HANDLERS,CLEAN-UP(INCLUDING CONCRETE CLEANUP); SWEEPERS,WATER PERSON & LABORERS MAINTENANCE CLEANUP,CARPET LAYER	7.80	1.73
TENDER	8.50	1.73
CONSTRUCTION LABORERS-CARPENTER TENDER,CEMENT MASONS TENDER,WATER SPRINKLING (CURING)		

UMI 1983 OCT 21 2005 ISS VOL 48

MODIFICAITONS P. 3

DECISION NO. NJ83-3015 - MOD. #8 (48 FR 27991 - June 17, 1983) BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION, AND WARREN COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, CEMENT MASONS, PLASTERERS & STONEMASONS:		
ZONE 5	15.16	3.25
ZONE 6	15.67	2.84
ZONE 10	15.78	2.84
ZONE 11	15.85	2.67
CARPENTERS, INSULATORS AND MILLWRIGHTS:		
ZONE 6		
Carpenters & Insulators	16.63	15.5%
Millwights	17.13	15.5%
IRONWORKERS:		
ZONE 1	18.45	3.70
ROOFERS:		
ZONE 1		
Composition	17.30	3.90
PAINTERS:		
ZONE 3		
Group 1	13.80	2.43
Group 2	12.70	2.43
Group 3	13.30	2.43
Group 4	13.95	2.43
Group 5	12.85	2.43
Group 6	14.40	2.43
ADD:		
PAINTERS:		
ZONE 3		
Group 7	14.30	2.43
PAINTERS, AREA, GROUP & ZONE DESCRIPTIONS:		
ZONE 3		
Group 7		
Paperhangers		

DECISION NO. NJ83-3016 - MOD. #9 (48 FR 28003 - June 17, 1983) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
MOD. #7 dated 9-30-83 in 48 FR 44988 to read MOD. #8		
ASBESTOS WORKERS:		
ZONE 1	18.06	4.12
PAINTERS:		
ZONE 1		
New Construction & Major Alterations	13.80	2.43
Repaint-New-Construction & Major Alterations	12.70	2.43
Exterior over stories and steel	13.95	2.43
Repaint Steel	12.85	2.43
Bridges, TV Towers	14.40	2.43
Paperhangers	14.30	2.43

MODIFICATIONS P. 4

DECISION NO. NJ83-3026 - MOD. #3 (48 FR 34624 - July 29, 1983) Bergen, Essex, Hudson, and Passaic Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS:		
ZONE 1	18.06	4.12
PAINTERS:		
ZONE 2:		
(West half of County) Counties:		
Group 1	13.80	2.43
Group 2	12.70	2.43
Group 3	13.30	2.43
Group 4	13.95	2.43
Group 5	12.85	2.43
Group 6	14.40	2.43
ADD:		
PAINTERS:		
ZONE 3		
GROUP 7	14.30	2.43
PAINTERS, AREA, GROUP & ZONE DESCRIPTIONS:		
ZONE 3		
GROUP 7		
PAPERHANGERS		

MODIFICATIONS P. 5

DECISION NO. PA83-3001 - MOD. #3 (48 FR 37805 - August 19, 1983) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION		
Group 1	13.57	25.6%
Group 2	12.73	25.6%
Group 3	12.22	25.6%
Group 4	11.78	25.6%
Group 5	11.23	25.6%
Group 6	13.82	25.6%
Group 6-A	14.07	25.6%
Group 6-B	14.32	25.6%

DECISION NO. PA82-3028 - MOD. #6 (47 FR 39972 - Sept. 10, 1982) Elk, Forest, McKean & Warren County, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, CEMENT MASONS & STONEMASONS:		
Elk, McKean and Warren Coe.	15.34	2.60
Forest County	16.80	2.35
CARPENTERS & SOFT FLOOR LAYERS:		
Elk, Forest, all of McKean County Except Kane and Bradford	15.00	25%
McKean County: Townships of Kane & Bradford: Warren County In Its Entirety	13.83	27½%

DECISION NO. PA82-3028 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Common laborers, carpenters tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and mover, scaffold and runways, building materials handlers (Loading and Unloading), concrete pitman, puddler, mason tender	13.00	20%
Mechanical tampers (power) powered wheelbarrows and work worklifts, sweepers and similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (Includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burner-cutting torch, carryayable pumps, chain saw op., pipe layers all materiel conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plasterer tender, form cleaning machine operator, plasterer applicating and/or pump machine		

MODIFICATIONS P. 6

DECISION NO. PA82-3028 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
operator, paving breaker, asphalt raker, lancer, barfix cutting tool, gunnite potman, blacksmith, tool dresser (cable tool)	13.25	20%
Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and tamper, welder, driller (cable tools)	13.80	20%
Wrecking Laborers	13.00	20%
Low Burner	13.25	20%
Jackhammer Operator	13.25	20%
High Surner	14.05	20%
High Burner Helper	13.75	20%
LINE CONSTRUCTION:		
Linemen, dynamite man, heavy equipment operators	15.64	.65+ 3 3/8%
Winch truck operators	10.94	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
POWER EQUIPMENT OPERATORS:		
CLASS 1	15.795	3.47
CLASS 1-A	16.045	3.47
CLASS 1-B	16.295	3.47
CLASS 1-C	16.545	3.47
CLASS 1-D	17.795	3.47
CLASS 2	15.645	3.47
CLASS 3	13.37	3.47
CLASS 3-A	13.87	3.47
CLASS 4	12.67	3.47
CLASS 5	11.62	3.47
CLASS 6	11.92	3.47
CLASS 6-A	12.02	3.47
CLASS 6-B	12.17	3.47
CLASS 6-C	12.98	3.47

DECISION NO. TX83-4005 - MOD. #6 (48 FR 934 - 1/7/83) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefit
CHANGE:		
Ironworkers:		
Structural, ornamental & reinforcing	$13.50	2.95
All ironworkers on jobs 30 miles or more from the city of Lubbock	13.625	2.95

DECISION NO. TX83-4061 - MOD. #1 (48 FR 38966 - 8/26/83) El Paso County, Texas		
CHANGE:		
Ironworkers	12.75	2.95

UMI
1983
OCT 21
2005
ISSN
VOL 48

MODIFICATIONS P. 7

DECISION NO. UT83-5120 - Mod. #2 (48 FR 44992 - September 30, 1983) Statewide, Utah

Change:

	Basic Hourly Rates	Fringe Benefits
Power Equipment Operators:		
Heavy and Highway Construction:		
Group 1	15.72	18.72
Group 2	16.07	19.07
Group 3	16.25	19.25
Group 4	16.36	19.36
Group 5	16.82	19.82
Group 6	16.97	19.97
Group 6-A	17.08	20.08
Group 7	17.38	20.38
Group 7-A	17.44	20.44
Group 8	17.50	20.50
Group 9	17.66	20.66
Group 10	18.10	21.10
Group 10-A	19.06	22.06
Group 10-B	19.51	22.51
Group 11	19.67	22.67
FRINGE BENEFITS: 35.37		

SUPERSEDEAS DECISION

STATE: Louisiana PARISHES: ZONE 1-Jefferson & Orleans; ZONE 2-Bossier & Caddo; ZONE 3-Calcasieu; ZONE 4-Beauregard, Cameron, & Jefferson Davis; ZONE 5-Allen; ZONE 6-Plaquemines; ZONE 7-St. Bernard; ZONE 8-St. Charles

DECISION NO. LA83-4076 DATE: Date of Publication

Supersedes Decision No. LA83-4001, dated 1/7/83 in 48 FR 928.

DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONE-MASONS:		
ZONES 1, 6, 7 & 8	14.50	2.04
ZONE 2	12.30	1.70
ZONES 3, 4 & 5	16.10	2.32
CARPENTERS & PILE-DRIVERMEN:		
ZONE 1	14.51	2.36
ZONE 2	13.02	1.78
ZONE 3	14.56	1.75
ZONE 4	9.11	1.60
ZONE 5	11.19	1.60
ZONE 6	11.19	2.40
ZONES 7 & 8	12.48	2.16
CEMENT MASONS:		
ZONE 1	13.22	1.68
ZONE 2	12.65	.85
ZONE 3	14.94	
ZONE 4	8.07	
ZONE 5	10.15	
ZONE 6	10.15	1.68
ZONES 7 & 8	11.42	1.68
ELECTRICIANS:		
ZONES 1, 6, 7 & 8:		
Electricians	15.65	1.58 +9%
Cable Splicers	15.65	1.58 +9%
ZONE 2:		
Electricians	15.25	2.40 +4%
Cable Splicers	15.75	2.40 +4%
ZONES 3, 4 & 5:		
Electricians	17.70	2.00+3-5/10%
Cable Splicers	18.20	"
IRONWORKERS:		
ZONE 1	14.89	2.08
ZONE 2	13.15	2.36
ZONE 3	15.10	1.62
ZONE 4	9.11	2.22
ZONE 5	11.19	2.22
ZONE 6	11.19	2.08
ZONES 7 & 8	12.48	2.08

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
ZONE 1 - GROUP 1	9.57	1.08
GROUP 2	9.77	1.08
GROUP 3	10.17	1.08
GROUP 4	10.42	1.08
ZONE 2 - GROUP 1	8.68	.80
GROUP 2	8.78	.80
GROUP 3	9.23	.80
GROUP 4	9.48	.80
ZONE 3 - GROUP 1	10.29	.94
GROUP 2	10.49	.94
GROUP 3	10.84	.94
GROUP 4	11.09	.94
ZONE 4 - GROUP 1	5.99	.94
GROUP 2	6.19	.94
GROUP 3	6.59	.94
GROUP 4	6.74	.94
ZONE 5 - GROUP 1	7.55	.94
GROUP 2	7.75	.94
GROUP 3	8.15	.94
GROUP 4	8.40	.94
ZONES 6 & 8 - GROUP 1	7.55	1.08
GROUP 2	7.65	1.08
GROUP 3	8.10	1.08
GROUP 4	8.30	1.08
ZONE 7 - GROUP 1	8.24	1.08
GROUP 2	8.44	1.08
GROUP 3	8.84	1.08
GROUP 4	9.09	1.08
LINE CONSTRUCTION:		
ZONES 1, 6, 7 & 8:		
GROUP 1 - Linemen	15.65	1.58 +9%
GROUP 2 Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derricks working hot lines	75%JR	1.58 +9%
GROUP 3 Op. using hole truck & trailer or pole hauling & setting truck not in energized lines	65%JR	1.58 +9%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Cont'd):		
GROUP 4 - Op. Using truck without winch	45%JR	1.58 +9%
GROUP 5 - Groundmen	50%JR	1.58 +9%
ZONE 2:		
GROUP 1 - Linemen; ops.	15.25	2.40+3-3/4%
GROUP 2 - Cable Splicer	15.75	"
GROUP 3 - Groundmen	12.65	"
ZONES 3, 4 & 5:		
GROUP 1 - Linemen; ops.	17.70	2.00+3-1/10%
GROUP 2 - Cable Splicer	18.20	"
GROUP 3 - Groundmen	15.70	"
PAINTERS:		
ZONE 1, 6, 7 & 8:		
GROUP 1 - Painters	13.235	2.115
GROUP 2 - Spray	13.61	2.115
GROUP 3 - Industrial	15.535	2.115
ZONE 2 - All Painters	11.25	1.25
ZONES 3, 4 & 5 (Allen Par. except northeast corner):		
GROUP 1 - New Work	16.01	.55
GROUP 2 - Repaint	14.50	.55
GROUP 3 - Bridges	18.30	.55
Allen Par. (northeast most corner, north of Rt. 10):		
GROUP 1 - Painters	10.75	
GROUP 2 - Spray	11.60	
GROUP 3 - Industrial	12.10	
PLUMBERS & PIPEFITTERS:		
ZONES 1, 6, 7 & 8	16.80	2.43
ZONE 2	15.19	3.09
ZONES 3, 4 & 5	16.98	2.00
POWER EQUIPMENT OPERATORS:		
ZONE 1:		
Asphalt or overlay projects:		
GROUP 1	12.98	2.35
GROUP 2	13.23	2.35
GROUP 3	12.73	2.35
GROUP 4	10.61	2.35
GROUP 5	9.55	2.35
GROUP 6	7.96	2.35
GROUP 7	10.61	2.35
GROUP 8	10.86	2.35
GROUP 9	8.21	2.35

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Cont'd):		
Other Work:		
GROUP 1	14.71	2.35
GROUP 2	14.96	2.35
GROUP 3	14.46	2.35
GROUP 4	11.59	2.35
GROUP 5	10.16	2.35
GROUP 6	8.53	2.35
GROUP 7	11.64	2.35
GROUP 8	11.89	2.35
GROUP 9	8.78	2.35
ZONE 2 - GROUP 1	13.33	2.20
GROUP 2	13.58	2.20
GROUP 3	13.08	2.20
GROUP 4	10.87	2.20
GROUP 5	9.49	2.20
GROUP 6	8.47	2.20
GROUP 7	11.25	2.20
GROUP 8	11.50	2.20
GROUP 9	8.72	2.20
ZONE 3 - GROUP 1	14.91	2.35
GROUP 2	15.16	2.35
GROUP 3	14.66	2.35
GROUP 4	12.08	2.35
GROUP 5	10.60	2.35
GROUP 6	8.37	2.35
GROUP 7	12.44	2.35
GROUP 8	12.69	2.35
GROUP 9	8.62	2.35
ZONE 4 - GROUP 1	9.38	2.35
GROUP 2	9.63	2.35
GROUP 3	9.11	2.35
GROUP 4	7.76	2.35
GROUP 5	6.88	2.35
GROUP 6	5.89	2.35
GROUP 7	7.82	2.35
GROUP 8	8.07	2.35
GROUP 9	6.15	2.35
ZONES 5 & 6		
GROUP 1	11.46	2.35
GROUP 2	11.71	2.35
GROUP 3	11.19	2.35
GROUP 4	9.58	2.35
GROUP 5	8.49	2.35
GROUP 6	7.24	2.35
GROUP 7	9.63	2.35
GROUP 8	9.90	2.35
GROUP 9	7.50	2.35
ZONE 7:		
Asphalt or overlay projects:		
GROUP 1	12.98	2.35
GROUP 2	13.23	2.35
GROUP 3	12.73	2.35

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPS. (Cont'd):		
ZONE 7 (cont'd):		
Asphalt or overlay projects:		
GROUP 4	10.61	2.35
GROUP 5	9.55	2.35
GROUP 6	7.96	2.35
GROUP 7	10.61	2.35
GROUP 8	10.86	2.35
GROUP 9	8.21	2.35
Other Work:		
GROUP 1	12.75	2.35
GROUP 2	13.02	2.35
GROUP 3	12.48	2.35
GROUP 4	10.68	2.35
GROUP 5	9.45	2.35
GROUP 6	8.08	2.35
GROUP 7	10.73	2.35
GROUP 8	11.00	2.35
GROUP 9	8.34	2.35
ZONE 8:		
GROUP 1	12.75	2.35
GROUP 2	13.02	2.35
GROUP 3	12.48	2.35
GROUP 4	10.68	2.35
GROUP 5	9.45	2.35
GROUP 6	8.08	2.35
GROUP 7	10.73	2.35
GROUP 8	11.00	2.35
GROUP 9	8.34	2.35
SHEET METAL WORKERS:		
ZONES 1, 6, 7 & 8	14.25	2.32+3%
ZONE 2	13.72	1.78+3%
ZONES 3, 4 & 5	17.28	3.12+3%
TRUCK DRIVERS:		
ZONE 1:		
Asphalt or overlay projects:		
GROUP 1	8.34	1.20
GROUP 2	8.47	1.20
GROUP 3	8.53	1.20
GROUP 4	8.65	1.20
GROUP 5	8.84	1.20
Other Work:		
GROUP 1	10.13	.70
GROUP 2	10.26	.70
GROUP 3	10.32	.70
GROUP 4	10.40	.70
GROUP 5	10.59	.70

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (Cont'd):		
ZONE 2 - GROUP 1	10.14	
GROUP 2	10.19	
GROUP 3	10.43	
GROUPS 4 & 5	11.05	
ZONE 3 - GROUP 1	10.85	.70
GROUPS 2,3, 4 & 5	11.37	.70
ZONE 4	7.03	.70
ZONES 5 & 6	9.11	.70
ZONE 7:		
Asphalt or overlay projects:		
GROUP 1	8.34	1.20
GROUP 2	8.47	1.20
GROUP 3	8.53	1.20
GROUP 4	8.65	1.20
GROUP 5	8.84	1.20
Other Work	10.36	.70
ZONE 8	10.36	.70

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

UMI 1983 OC 21 2005 ISS 2 0 0 5 VOL 48

DECISION NO.: LA83-4076 PAGE 4

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - Laborers, including but not limited to foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer op., jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stonemason tenders, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - 60 ton crane & over, crane with 125 ft. boom
GROUP 2 - Crane with 175 ft. boom
GROUP 3 - Crane all types; derricks; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point system; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubbertired or track other than farmtype; scoopmobiles; motor patrol; gradall, rollers on hot mix; asphalt paving machines, front end loaders, other than farmtype, 1 cu. yd. or over; shovels & backhoes, all types & equivalent equipment; piledrivers; sideboom cats
GROUP 4 - 2 drums & single drum stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; 2 tractor (crawler type); 1 drum hoist under 40 vertical ft.; firemen; concrete spreader; pugmill, bituminous distributor on surface treatment & equivalent equipment; bullfloats & equivalent equipment; job grease man; unit op.; work boats not requiring licensed ops.; inboard-outboard motored crew boats; concrete mixer under 1 yd.; spray curing machines; roller on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher op.; concrete jointing machines; concrete saw; tack machines & equivalent equipment;pumpcrete; electric elevator (inside); oiler-driver; farmtype rubber tired tractor, with attachment, except backhoes; kolum buff & similar equipment; fork lifts 10 ton capacity & under
GROUP 5 - Batch plant operator
GROUP 6 - Oiler
GROUP 7 - Fireman
GROUP 8 - Fireman operating steam valve
GROUP 9 - Oiler on crane using air to drive piles

TRUCK DRIVERS CLASSIFICATION DEFINITIONS
GROUP 1 - 1 ton & under; warehousemen, material checker, receiving clerk, sporter & dumper
GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks)
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A).

SUPERSEDEAS DECISION

STATE: Oklahoma
COUNTIES: Creek,Hughes,McIntosh,Okmulgee, Pawnee,Seminole,Okfuskee and Osage
DECISION NO. OK83-4072
DATE: Date of Publication
Supersedes Decision No. OK79-4015 dated February 23, 1979 in 44 FR 10933.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$10.35	
BRICKLAYERS	10.31	
CARPENTERS	7.02	
CEMENT MASONS	8.73	
DRYWALL INSTALLERS/FINISHERS	8.08	
ELECTRICIANS	8.31	
INSULATION INSTALLERS	5.82	
IRONWORKERS	7.50	
LABORERS	5.04	
PAINTERS	6.77	
PLUMBERS & PIPEFITTERS	8.88	
ROOFERS	7.28	
SHEET METAL WORKERS	7.76	
SOFT FLOOR LAYERS	9.28	
TILE SETTERS	5.50	
TRUCK DRIVERS	6.50	
POWER EQUIPMENT OPERATORS:		
Backhoe Operator	8.31	
Bulldozers	8.23	
Trencher Operator	5.75	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Oklahoma
COUNTIES: Lincoln,Payne and Pottawatomie
DECISION NO. OK83-4073
DATE: Date of Publication
Supersedes Decision No. OK79-4058 dated March 30, 1979 44 FR 19099
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$8.00	
CARPENTERS	6.35	
CEMENT MASONS	8.73	
DRYWALL INSTALLERS	10.00	
ELECTRICIANS	8.61	
INSULATION INSTALLERS	5.58	
IRONWORKERS (Reinforcing)	7.50	
LABORERS:		
Laborers, General	4.88	
Mason Tenders	6.00	
PAINTERS, BRUSH	6.95	
PLUMBERS & PIPEFITTERS	7.90	
ROOFERS	7.00	
SHEET METAL WORKERS	5.80	
SOFT FLOOR LAYERS	5.50	
TILE SETTERS	5.50	
TRUCK DRIVERS	6.50	
POWER EQUIPMENT OPERATORS:		
Backhoe Operator	6.36	
Blade Operator	5.95	
Bulldozer Operator	5.95	
Scraper	5.95	
Trenching Machine Operator	5.75	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR,5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NEW MEXICO
COUNTY: STATEWIDE
DECISION NO. NM83-4074
DATE: Date of Publication
SUPERSEDES DECISION NO. NM83-4036 dated May 13, 1983 in 48 FR 21788
DESCRIPTION OF WORK: STREETS, HIGHWAY, UTILITY AND LIGHT ENGINEERING CONSTRUCTION shall include the construction, alteration, repair and demolition of roads, streets, highways, alleys, sidewalks, curbs, gutters, guard rails, fences, parkways, parking areas, airports (other than buildings thereon), bridle paths, athletic fields, highway bridges, median channels and grade separations involving highways; parks, golf courses; viaducts; uncovered reservoirs and uncovered sewage and water treatment facilities; canals, ditches and channels (including linings other than concrete linings); earth dams under one million (1,000,000) cubic yards; well drilling telephone and electrical transmission lines and site preparations which are part of streets, highway, utility and light engineering projects; and shall include construction, alteration, repair, and demolition of utilities such as sanitary sewers, storm sewers, water lines, gas lines, including appurtenances thereto such as ligt stations, inlets, manholes, sewer lagoons, septic tanks and service outlets (stubouts), providing such utility construction is outside the property line or more than five (5) feet from a building or heavy engineering structure, including the Navajo Indian Reservation.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$ 7.74	.44
CEMENT MASONS	7.08	.26
IRONWORKERS:		
Reinforcing	7.48	.50
Structural	8.00	1.29
LABORERS:		
Group I	4.82	.35
Group II	5.22	.35
Group III	5.22	.35
Group IV	5.82	.35
COMMERCIAL LINE WORK-AREA A		
LINEMEN-TECHNICIANS		
Zone I	16.45	P
Zone II	17.93	P
Zone III	18.92	P
Zone IV	20.73	P
CABLE SPLICERS		
Zone I	18.10	P
Zone II	19.58	P
Zone III	20.57	P
Zone IV	22.38	P
EQUIPMENT OPRS. (includes Helicopter operator)		
Zone I	15.62	P
Zone II	17.10	P
Zone III	18.09	P
Zone IV	19.90	P
EQUIPMENT MECHANIC (includes Helicopter Mechanic & POWDMAN		
Zone I	14.31	P
Zone II	15.79	P
Zone III	16.78	P
Zone IV	18.59	P

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK-AREA A		
GROUNDMAN & JACKHAMMER OPRS.		
Zone I	$11.68	P
Zone II	13.16	P
Zone III	14.15	P
Zone IV	15.96	P
P--3-1/2% + $2.00		
COMMERCIAL LINE WORK-AREA B		
LINEMEN-TECHNICIAS		
Zone I	10.15	3%+.60
Zone II	11.60	3%+.60
CABLE SPLICERS		
Zone I	10.40	3%+.60
Zone II	11.88	3%+.60
EQUIPMENT OP.(Includes Helicopter operators		
Zone I	9.66	3%+.60
Zone II	11.02	3%+.60
EQUIPMENT MECHANIC (Includes Helicopter Mechanic and FOREMAN		
Zone I	8.93	3%+.60
Zone II	10.21	3%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	7.21	3%+.60
Zone II	8.24	3%+.60
COMMERCIAL LINE WORK-AREA C		
LINEMEN-TECHNICIANS		
Zone I	14.70	3%+.60
Zone II	15.18	3%+.60
Zone III	15.30	3%+.60
Zone IV	15.55	3%+.60

UMI 1983 OCT 21 ISSN 2005 VOL 48

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK--AREA C (CONT'D)		
CABLE SPLICERS		
Zone I	$15.05	3%+.60
Zone II	15.50	3%+.60
Zone III	15.65	3%+.60
Zone IV	15.90	3%+.60
EQUIPMENT OPRS. (Includes Helicopter Operator)		
Zone I	13.28	3%+.60
Zone II	13.68	3%+.60
Zone III	13.83	3%+.60
Zone IV	14.08	3%+.60
EQUIPMENT MECHANIC (Includes Helicopter mechanic)		
Zone I	13.68	3%+.60
Zone II	13.68	3%+.60
Zone III	13.83	3%+.60
Zone IV	13.62	3%+.60
POWDERMAN		
Zone I	13.23	3%+.60
Zone II	13.23	3%+.60
Zone III	13.38	3%+.60
Zone IV	13.62	3%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3%+.60
Zone II	10.89	3%+.60
Zone III	11.04	3%+.60
Zone IV	11.29	3%+.60
LINE CONSTRUCTION-UTILITY FOR ELECTRIC AND TELEPHONE UTILITIES NEA CO-OPS, RAILROADS AND MUNICIPALITIES		
Linemen-Technician	13.90	3%+1.30
Cable splicers	14.87	3%+1.30
Equipment op. (includes helicopter operator)	12.10	3%+1.30
Equipment mechanic (includes helicopter mech.)	12.10	3%+1.30
Powderman	11.68	3%+1.30
Groundman-Jackhammer op.	9.50	3%+1.30
PAINTERS:		
Brush	7.96	.44
Spray	7.74	.20
POWER EQUIPMENT OPERATORS:		
Group I	7.13	.26
Group II	7.33	.26
Group III	7.91	.26
Group IV	7.93	.26
Group V	7.93	.26
Group VI	8.08	.26
Group VII	8.13	.26
Group VIII	8.28	.26
Group IX	8.78	.26
Group X	9.58	.26
TRUCK DRIVERS:		
Distributor (asphalt)	$6.21	.26
Dump or batch trucks:		
Under 8 CY	5.81	.26
8 CY and under 16 CY	6.01	.26
Diesel-powered transport	6.41	.26
Flat bed, 1½ton	5.81	.26
Flat bed, over 1½ ton	6.01	.26
Lowboy, heavy equipment	6.41	.26
Lowboy, light equipment	6.21	.26
Off-highway hauler	6.21	.26
Pick-up truck 3/4 ton or under	5.81	.26
Trailer or semi-trailer dump and transit-mix and warehousemen	5.81	.26

WELDERS---receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

CLASSIFICATION AREA AND ZONE DEFINITIONS

LABORERS:

GROUP I - Common laborer; carpenter tender; concrete buggy operator (hand); concrete workers

GROUP II - Wagon, air track, drill and diamond drillers' tender (outside)

GROUP III - Air and power tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasters); chain saw man; concrete touch-up man; concrete saw man; curbing machine; asphalt or cement; cutting torchman; metal form setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman; scaler; vibrator compactor (hand type); vibrator man (hand type); concrete power buggyman, wagon, air track drill and diamond drillers (outside)

GROUP IV - Gunite pumpcreteman and nozzleman; multiplate setter; pipelayer; manhole builder; powderman-blaster-make-up

COMMERCIAL LINE WORK

AREA A - Bernalillo, Catron, Chaves, Cibola, Colfax, Curry, Debaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Sante Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia, White Sands Missile Range, and that portion of Fort Bliss in New Mexico

ZONE I

Cities and Towns Basing Points and Miles from Main Post Office	
*Albuquerque - 25 miles	Roswell - 12 miles
Santa Fe - 10 miles	Ruidoso - 12 miles
Las Vegas - 8 miles	Portales - 12 miles
Farmington - 6 miles	Carrizozo - 12 miles
Raton - 6 miles	Clovis - 12 miles
Tucumcari - 6 miles	Gallup - 10 miles
Aztec - 6 miles	**Pojoaque - 2 miles

*The eastern edge of the Albuquerque Zone extends no further than the western boundary of the Village of Tijeras.

**All areas adjacent to Pojoaque that are over two (2) miles distance from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 9 percent of the journeyman rate of Zone 1.

ZONE III - Extending up to 30 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 15 percent of the journeyman rate for Zone 1.

ZONE IV - Anything beyond 30 miles from Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 26 percent of the journeyman rate for Zone 1.

FOR ESTABLISHING the outlying free zones from the Albuquerque free zone only, Zone 2 shall extend up to 10 miles beyond zone 1, zone 3 shall extend up to 20 miles beyond Zone 1, and Zone 4 any thing beyond 20 miles from Zone 1

FOR WORK IN LOS ALAMOS COUNTY, USE THE ZONE THREE (3) RATE.

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

COMMERCIAL LINE WORK (cont'd)

AREA B - Applies to switching stations and sub-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Cos., exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I - That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the Post Office in Alamogordo, New Mexico.

ZONE II - All other areas of the jurisdiction except those specified in one (1).

AREA C - Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from the main Post Office of Artesia, Carlsbad, Hobbs and Lovington.

ZONE I - 0 to 12 miles
ZONE II - 12 to 22 miles
ZONE III - 22 to 40 miles
ZONE IV - 40 miles and beyond

POWER EQUIPMENT OPERATORS:

GROUP I - Concrete paving curing machine

GROUP II - Belt type conveyors (material and concrete); broom (self-propelled; fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); Industrial locomotive brake-man; front end loader (2 CY or less); fireman; oiler screedmen; roller (pull type); mulching machine; roller (self-propelled)

GROUP III - Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub-grader; tractor with backhoe attachment; subgrade or base finisher; power plant (electric general or welding machine)

GROUP IV - Bulldozer (including self-propelled roller with dozer attachment); batch or continuous mix plant (concrete soil-cement or asphalt); roller (steel wheel); front end loader (2 CY thru 10 CY); scraper operator; motor grader

GROUP V - Asphalt distributor; asphalt paving or laydown machine; asphalt retort header; mixer, heavy duty; asphalt or soil cement; trenching; clam type shaft sucker; backhoe, clamshell, dragline, gradall, shovel (under 3/4 CY); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM and over); crushing screening washing plants; drilling machine (cable core or rotary); mixer, concrete (1 CY and less); pump (6" intake or over); winch truck; hoist (50 drawbar HP or over)

GROUP VI - Concrete paver mixer; hoist (2 drum and over); side boom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 CY to 3 CY), cranes (crawler or mobile) 20 tons to 40 cons; front-end loader (over 10 CY); mixer, concrete (over 1 CY); mechanic and/or welder)

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

POWER EQUIPMENT OPERATORS (cont'd)

GROUP VII - Concrete slip-form paving machine; concrete paving finishing machine; concrete paving logitudinal float; gunite machine; refrigerator; jumbo former drilling stage; slusher; concrete paving spreader; pumpcrete machine; grout pump operator

GROUP VIII - Mine hoist; bulldozer (multiple units); scraper (multiple units); mucking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 CY); cranes (crawler or mobile) over 40 tons

GROUP IX - Belt loader (CNI types) operator; derrick cableway

GROUP X - Pipemobile operator; mole operator

WELDERS---receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Ector & Midland
DECISION NO.: TX83-4075
DATE: Date of Publication
Supersedes Decision No. TX81-4007, dated 1/6/81 in 46 FR 1548.
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy and highway general wage determination for Paving & Utilities Incidental to Building Construction.)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONEMASONS	$13.67	$ .33
CARPENTERS	14.30	.15
CEMENT MASONS	8.00	
ELECTRICIANS	14.90	.80+3-1/10%
GLAZIERS	11.51	1.55
IRONWORKERS:		
Ironworkers	13.50	2.95
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	13.625	2.95
LABORERS:		
Unskilled	5.41	
Mason Tenders	6.00	
LATHERS	13.75	
PAINTERS	10.78	
PLASTERERS	13.00	
PLUMBERS & PIPEFITTERS	14.40	1.34
ROOFERS	8.29	
SHEET METAL WORKERS	13.25	1.86
TILE SETTERS	12.00	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A).

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Galveston & Harris
DECISION NO.: TX83-4077
DATE: Date of Publication
Supersedes Decision No. TX83-4004, dated 1-7-83 in 48 FR 936.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current highway general wage determination for Paving & Utilities Incidental to Building Construction for Galveston (excluding Galveston Island) & Harris Cos.) (DOES NOT APPLY TO ANY WORK ON TREATMENT PLANT SITES IN HARRIS CO.)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.19	3.23
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	16.45	2.25
CARPENTERS:		
Carpenters	16.25	2.27
Piledrivermen	16.25	2.27
Millwrights	16.635	2.27
CEMENT MASONS:		
Galveston County	15.85	2.05
Harris County	15.80	2.18
ELECTRICIANS:		
Galveston County:		
Electricians	18.38	1.10 + 12%
Cable splicers	19.38	"
Harris County	17.98	1.60+ 12%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.755	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.39	1.575
IRONWORKERS	15.46	3.50
LABORERS:		
GROUP 1 - Laborers	11.91	1.81
GROUP 2 -All laborers wrapping pipe or handling creosoted or treated material, liquid acid or like material when injurious to health	12.085	1.81
LATHERS(Harris Co. only)	15.62	1.08
LINE CONSTRUCTION:		
ZONE 1-Galveston Co. & that part of Harris Co. from Loop 610 east to State Hwy. 59,north on State Hwy. 59,Hwy. 1960 west on Hwy 1960 to Hwy. 6,south on Hwy. 6 to State Hwy. 59, southeast on State Hwy. 59 to Loop 610 around Loop 610 to State Hwy. 59 North:		
Lineman & cable splicer	$18.88	.80+3½%
Groundman	10.96	.80+3½%
ZONE 2 - Remainder of Harris Co.:		
Lineman & cable splicer	18.48	.80+3½%
Groundman	10.72	.80+3½%
MARBLE, TILE & TERRAZZO WORKERS: Galveston Co.	15.41	
" Harris Co.	16.42	1.75
MARBLE, TILE & TERRAZZO FINISHERS	9.70	1.05
PAINTERS:		
EAST HARRIS COUNTY:		
GROUP 1-All brush,hand rolling & all other work other than that below	18.33	
GROUP 2-All pneumatic & elec. tools & steam cleaning	18.685	
GROUP 3-All tape & float on drywall	18.425	
GROUP 4-All paper & vinyl hanging	18.58	
GROUP 5 - All spray, sandblasting & waterblasting	18.725	
GROUP 6-Steeple jack work,hot materials	18.99	
REMAINDER OF HARRIS CO.:		
GROUP 1-All brush,hand roller,steam cleaning all pneumatic tools	15.535	2.725
GROUP 2-All spray,sandblasting,waterblasting	15.91	2.725
GROUP 3-Tape,float & drywall	15.66	2.725
GROUP 4-Steeple jack work,hot materials	16.16	2.725

ECISION NO. TX83-4077

PAGE 2

	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
GALVESTON COUNTY:		
GROUP 1 - Painters on new work	$14.945	3.06
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	15.245	3.06
GROUP 3 - Painters on rework & repaint	14.19	3.06
PIPEFITTERS	18.25	2.53
PLASTERERS	15.20	1.69
PLUMBERS	19.72	1.75
ROOFERS:		
Composition	13.86	2.08
Slate & tile	14.61	2.08
Kettlemen	12.90	2.08
SHEET METAL WORKERS	17.44	2.09+3%
SOFT FLOOR LAYERS	14.90	2.06
SPRINKLER FITTERS	16.17	3.23
TRUCK DRIVERS:		
GROUP 1 - Under 14 tons	$10.79	
GROUP 2 - 14 thru 24 tons;dump less 7 yds.	11.21	
GROUP 3 - Over 24 tons	11.61	
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.39	2.39
GROUP 2	14.53	2.39
GROUP 3	13.90	2.39
GROUP 4	13.69	3.39

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)(A)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate. Also Seven Paid Holidays A thru G

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic;blade grader,self-propelled;bull clam;back filler;derrick-powered(all types);clamshell;draglines;push cat;bulldozer & all types cat tractors;cableway;backhoe;shovel,power operated;crane,power operated(all types);elevating grader,self-propelled;hoist,motor-driven,two drums or more;mixmobile;water well drilling machines, used on construction; building elevator, used on construction;tug boat op.,assigned to construction; winch truck;locomotive crane;concrete mixer, 14 cu. ft. or more;paving mixer(all types);piledriver;scraper,heavy type,over 3 cu. yds.; trenching machine(all sizes);gradall;high-lift;foundation boring machine;gasoline or diesel-driven welding machines,7 or more;pumpcrete machine;turnspulls; DW-10 Caterpillar,8-18 euclid & similar tractors;asphalt plant mixer on job;crusher op. on job;scoopmobiles;forklift used on construction (not including warehousing);well point pump;concrete batch plant;pneumatic rollers, self-propelled
GROUP 2 - Air compressors;blade grader,towed;flex plane;form grader;concrete mixer,less than 14 cu. ft.;pumps;pulsometer;truck crane driver;gasoline or diesel driven welding machines(on 3 or more, up to 6 machines);hoist,single drum;scraper,3 cu. yd. or less;wagon drill;conveyor;generator gasoline or diesel driven, over 1500 watts;rubber tired farm tractor with attachment; a light equipment op. may run 1 or 2 150 cfm compressors
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler
DECISION NO.: TX83-4078
DATE: Date of Publication
Supersedes Decision No. TX83-4002, dated 1/7/83, in 48 FR 931.
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2,37
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	11.00	1.00
CARPENTERS:		
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Carpenters	14.45	.81
Millwrights	14.80	.81
ZONE 2 - Childress Co.:		
Carpenters	13.45	2.08
Millwrights	13.95	2.08
CEMENT MASONS	14.60	
ELECTRICIANS:		
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Electricians	14.48	1.90+ 3-1/2%
Cable Splicers	15.93	1.90+ 3-1/2%
ZONE 2 - Childress Co.:		
Electricians	14.30	.80 + 3-1/10%
Cable splicers	14.55	.80 + 3-1/10%
IRONWORKERS:		
ZONE 1 - Armstrong, Carson, Castro, Childress (excluding southeastern 1/4), Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchison, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.	$13.90	3.00
ZONE 2 - Childress Co. (southeastern 1/4)	12.625	2.95
LABORERS:		
GROUP 1 - General or construction laborers	8.25	1.35
GROUP 2 - Air or electric tool ops., jackhammers, vibrator tampers, chipping hammers, pipe wrappers, asphalt rakers, sand blasterers, riprap stone pavers, cutting torch op. (demolition), mortar mixer (hand or machine), mason tenders, plasterer tenders, hod carriers, loader & placer, chuck tenders, timberman, collapsible form setters, concrete buggy ops.; carpenter tenders, pipe layers; main, sewer & drainage; make-up man, powderman & blasters; gunite op or concrete operators	8.40	1.35
LATHERS	16.35	

UMI 1983 OC 21 2005 ISS VOL 48

DECISION NO. TX83-4078

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
ZONE 1-Childress Co.:		
Lineman; Operators	$14.30	.80+3½%
Cable splicers	14.55	.80+3½%
Groundman	70%JR	.80+3½%
ZONE 2 - Armstrong,Carson, Castro,Collingsworth, Dallam,Deaf Smith,Donley,Gray,Hansford,Hartley,Hemphill,Hutchinson Lipscomb,Moore,Ochiltree,Oldham,Potter,Randell,Roberts,Rherman, Swieher & Wheeler Cos.:		
Linemen	14.48	1.90+3½%
Cable splicers	15.93	"
Groundmen	9.57	1.70+3½%
Operator-hole digger, line truck	11.15	1.76+3½%
Flat bed truck driver	8.40	1.65+3½%
MARBLE MASONS (EXTERIOR)	$11.00	1.00
PAINTERS:		
GROUP 1 - Brush & roller, paperhanger;perfa-taper	12.75	.50
GROUP 2 - Structural steel;swinging stage or chair below 60 ft.	12.87	.50
GROUP 3 - Spray & sandblasters	13.50	.50
PLASTERERS	16.35	.01
PLUMBERS & PIPEFITTERS	14.80	2.91
POWER EQUIPMENT OPERATORS:		
GROUP 1	13.85	1.30
GROUP 2	13.35	1.30
GROUP 3	11.40	1.30
ROOFERS	8.00	
SHEET METAL WORKERS	15.20	1.84+3%
SPRINKLER FITTERS	16.17	3.23

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade grader, self-propelled; Clam shells; Cable ways; Cranes, power operated (all types); Air compressors, pumps, welding machines & light plants (7 to 12 machines); Derricks, power operated (all types); Draglines; Elevating graders, self-propelled; Hoist, 2 drums or more; Locomotive; Mixermobiles; Paving mixers, all types; Piledrivers; Scrapers; Bulldozers; Side booms; Cherry pickers - 12-1/2 tons & over; Shovels; Heavy duty mechanic; All welders; All tractors with power attachments; Ditching machines - crawler type; Farm-type tractor (loader, 1 yd. & over) with backhoe

GROUP 2 - Air compressors, pumps, welding machines, throttle valves, light plants (3 to 6 machines); Cherry pickers - under 12-1/2 tons; Ditch witch - J30 & under; Farm-type tractor (loader under 1 yd.) with backhoe; Go-devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air compressor and one tugger Boilers, 2 or more; Winch trucks; Front end scoopmobile, loader, payloader; Blade grader, towed; Elevators, building; Fork lifts; Hoist, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu ft.; Rollers; Screening plants; Crushing plants; Tractors - wheel type except when hauling material

GROUP 3 - Oiler

Unlisted classifications needed fer work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX83-4079
COUNTY: Bowie
DATE: Date of Publication

Supersedes Decision No.TX82-4042, dated 8/20/82 in 47 FR 36522.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for paving & utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.71	2.935
BOILERMAKERS	16.40	2.645
BRICKLAYERS	6.15	.79
CARPENTERS:		
Carpenters	12.20	.05
Millwrights	15.15	.05
Piledrivermen	13.25	.05
CEMENT MASONS	6.82	
ELECTRICIANS	14.52	1.30+3½%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.025	2.69+a
Helpers -	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS	5.30	
IRONWORKERS	13.60	2.36
LABORERS, UNSKILLED	3.70	
LINE CONSTRUCTION:		
Linemen	15.20	3.5%
Cable splicers	15.66	3.5%
Hole digger op.,heavy equip. ops. (or pole cat equivalent); powderman	13.83	3.5%
Line truck driver (winch op.)	12.46	3.5%
Jackhammer man	11.40	3.5%
Groundman	10.18	3.5%
Truck driver (flat bed, ton & half & under)	10.79	3.5%
PAINTERS	$ 5.50	
PLUMBERS & PIPEFITTERS:	14.60	1.85
ROOFERS	5.71	
SHEET METAL WORKERS	5.99	
SOFT FLOOR LAYERS	7.50	
SPRINKLER FITTERS	16.17	3.23
TRUCK DRIVERS	5.00	
POWER EQUIPMENT OPERATORS:		
GROUP 1	7.265	2.30
GROUP 2	15.17	2.30
GROUP 3	15.57	2.30

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE FOR ELEVATOR CONSTRUCTORS

a - 1st 6 mos. - none; 6 mos. to 5 yrs - 6%; over 5 yrs. - 8% of basic hourly rate. Also following 7 Paid Holidays: New Years' Day,Memorial Day; Independence Day;Labor Day;Thanksgiving Day;the Friday after Thanksgiving Day;Christmas Day

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air compressor,Pumps,Welding Machines,Throttle Valves,Light Plants;Conveyor;Wagon Drill,Elevators Building;Form Graders;Hoist,Single Drum;Ford Tractor including blade & mower on rear;Mixers,less than 14 cu. ft.;Screening Plants;Crushing Plants;Fork Lifts(short under 25 ft.);Concrete Pumps(all types);Bobcat type equipment

GROUP 3 - Ford Tractor or like with any attachment(except blade & mower on rear);Drilling Machine(all types);Scoopmobile;Hoist,two drums or more;Forklifts(over 25 ft.);Winch truck; Six Wheel Truck, when used continuously for 5 days;Mixermobile;Locomotives;Mixer,14 cu. ft. or over;Blade Graders,self-propelled;Cableways;Crane-power operated to 100 ft.;Derricks, power operated(all types);Gradall;Hy-Ho;Hop-To;Paving Mixers(all types);Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.;Bulldozers;Loaders,Tractovators;Scrapers & Pulls; Welders;Trenching Machines;Roller,ten tons or over;Air Compressors & Air Tugger;Boilers, two or more fired by one man

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX83-4080
COUNTY: Brazos
DATE: Date of Publication

Supersedes Decision No. TX82-4025, dated 6/18/82 in 47 FR 26550.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.19	3.23
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	16.45	2.25
CARPENTERS:		
Carpenters	12.80	
Millwrights	15.285	
CEMENT MASONS	15.80	2.18
ELECTRICIANS	16.18	1.60+12%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.755	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.39	1.575
IRONWORKERS	15.46	3.30
LABORERS:		
GROUP 1	6.30	1.00
GROUP 2	6.40	1.00
GROUP 3	6.50	1.00
GROUP 4	6.45	1.00
GROUP 5	6.55	1.00
GROUP 6	6.70	1.00
LINE CONSTRUCTION:		
Linemen & cable splicers	16.91	.80+3½%
Groundmen	9.81	.80+3½%
MARBLE, TILE & TERRAZZO WORKERS	16.42	1.75
PAINTERS:		
GROUP 1 - All brush, hand roller, steam cleaning, all pneumatic tools	15.535	2.725
GROUP 2 - All spray, sandblasting, waterblasting	15.91	2.725
GROUP 3 - Tape, float & drywall	15.66	2.725
GROUP 4 - Steeple jack work, hot materials	16.16	2.725
PIPEFITTERS	18.25	2.53
PLASTERERS	15.20	1.69
PLUMBERS	19.72	1.75
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.38	2.39
GROUP 2	14.53	2.39
GROUP 3	13.90	2.39
GROUP 4	13.69	2.39
SHEET METAL WORKERS	$17.44	2.09+3%
SOFT FLOOR LAYERS	14.90	2.06

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs - 6%; over 5 yrs. - 8% of basic hourly rate; Seven Paid Holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

DECISION NO. TX83-4080

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler & wheeler (stock pile), asphalt ironer & raker, pipe layer (non-metallic), pump crete pipe (handling & laying) & all building construction labor excepting that hereinafter classified;carpenters tender, cement masons tender, vibrator operator, other mechanic tender (except as otherwise classified); dumper & spotter

GROUP 2 - Air tool operator

GROUP 3 - Well driller

GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling from first stock pile; concrete pipe (handling & laying); sand blaster; power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender

GROUP 5 - Tool room tender; mortar mixer (hoe or otherwise); blaster, powder man; gunnite worker

GROUP 6 - Gunnite nozzleman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader, self-propelled; bull clam; back filler; derrick - power operated (all types); clam shell; dragline; push cat; bulldozer & all types cat tractor; cable-way; backhoe; shovel, power operated; crane, power operated (all types); elevating grader, self-propelled; hoist, motor-driven, two drums or more; mix mobile; water well drilling machines, used on construction; building elevator, used on construction; tug boat operator, assigned to construction; winch truck; locomotive crane; concrete mixer, 14 cu. ft. or more; paving mixer (all types); pile driver; scraper, heavy type, over 3 cu. yds.; trenching machine (all sizes); gradall; high-lift; foundation boring machine; gasoline or diesel-driven welding machines, 7 or more; pumpcrete machine; turnapulls; DW-10 Caterpillar, S-18 euclid & similar tractors; asphalt plant mixer operator on job; crusher operator on job; scoopmobiles; forklift used on construction (not including warehousing); well point pump; concrete batch plant; pneumatic rollers, self-propelled

GROUP 2 - Air compressors; blade grader, towed; flex plane; form grader; concrete mixer, less than 14 cu. ft.; pumps; pulsometer; truck crane driver; gasoline or diesel drivan welding machinee (on 3 or more, up to 6 machines); hoist, single drum; scraper, 3 cu. yds. or less; wagon drill operator; conveyor; generator, gasoline or diesel driven, over 1500 watts; rubber tired farm tractor with attachments; a light equipment operator may run 1 or 2 105 cfm compressors

GROUP 3 - Fireman

GROUP 4 - Oiler

UMI 1983 OCT 21 ISSN 2005 VOL 48

SUPERSEDEAS DECISION

STATE: Texas — COUNTY: Travis
DECISION NO: TX83-4081 — DATE: Date of Publication
Supersedes Decision No. TX83-4006, dated 1/7/83 in 48 FR 933.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.60	3.24
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	15.04	2.21
CARPENTERS:		
Carpenters	14.36	2.08
Millwrights	14.61	2.08
CEMENT MASONS	13.94	1.30
ELECTRICIANS & CABLE SPLICERS	15.60	.80+ 8-8/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.74	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.06	1.37
IRONWORKERS	15.00	2.97
LABORERS:		
GROUP 1 - General laborer & pier hole men	9.18	.75
GROUP 2 - Mason tender; Pipelayer (conc. & clay); Cement finisher tender; Scaffold builder; Gunnite & cement work mixer & power tool op.	9.33	.75
GROUP 3 - Plaster tender; hod carrier; Mortar mixer; lather tender	9.505	.75
GROUP 4 - Gunnite over 1 - 1/2" thick; Nozzlemen; Machine op.; Powderman, Sandblaster, & Blaster	9.58	.75
LATHERS	14.36	2.08
LINE CONSTRUCTION:		
Linemen	16.39	.80 + 3-1/2%
Groundmen	9.01	"
MARBLE, TILE & TERRAZZO WORKERS	12.75	1.35
MARBLE, TILE & TERRAZZO FINISHERS:		
Marble, tile, terrazzo	8.62	.67
Floor machine operator	8.82	.67
Base machine operator	8.97	.67
PAINTERS:		
GROUP 1 - Journeyman painters, taping & floating of Sheetrock	$13.55	"
GROUP 2 - Spray; sand-blasting swing stage	14.05	
PLASTERERS	14.79	1.61
PLUMBERS & PIPEFITTERS	17.40	1.27
ROOFERS:		
Roofers; deckmen	9.24	.50
Kettlemen	8.19	.50
Waterproofers	8.69	.50
SHEET METAL WORKERS	15.95	2.31+ 3%
SOFT FLOOR LAYERS	14.90	2.06
SPRINKLER FITTERS	16.17	3.23
POWER EQUIPMENT OPERATORS:		
GROUP 1	14.75	.95
GROUP 2	13.50	.95
GROUP 3	12.15	.95
GROUP 4	12.05	.95
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. - 8% of basic hourly rate. Also 7 paid holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A

DECISION NO. TX83-4081 — PAGE 2

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader - self-propelled; Crawler dozers or loaders; derricks, power operated (all types); Dragline; cableway; backhoe; crane, power operated (all types); elevating grader, self-propelled; hoist, motor driven, two drums or more; mix mobile; high-lifts and loaders, over 1/3 cu. yd. capacity; winch truck; locomotive; mixer, 14 cu. ft. or over; paving mixer (all sizes); scraper; trenching machines (all sizes); gradall; foundation boring machine; scoopmobile; shovel power operated; pump crete machine; rock crusher operated on job; well points including installations; riding compactor; forklift over 1500 lbs. capacity; flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)

GROUP 2 - Blade grader, towed; flex plane; form grader; mixer, less than 14 cu. ft.; pulsometer; conventional truck crane driver and oiler; combination man; hoist, single drum; pneumatic roller; high-lifts and loaders, 1/3 cu. yd. or less; forklift 1500 lbs. capacity or less

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: TEXAS — COUNTIES: Jefferson & Orange
DECISION NO.: TX83-4082 — DATE: Date of Publication
Supersedes Decision No. TX83-4026, dated 4/8/83 in 48 FR 15425.
DESCRIPTION OF WORK: Building (including Residential) Projects.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers:		
Jefferson County	$18.19	3.23
Orange County	17.28	3.12+3%
Boilermakers	16.40	2.645
Bricklayers & Stonemasons	19.08	2.20
Carpenters:		
Carpenters - Commercial Carpenters - Residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	16.97	2.615
Millwrights	17.325	2.615
Piledrivermen	17.21	2.50
Cement Masons	18.02	2.45
Electricians	19.63	1.135 +3%
Elevator Constructors:		
Mechanics	16.755	2.69 +a
Helpers	70%JR	2.69 +a
Helpers (Prob.)	50%JR	
Glaziers:		
Northern 1/2 Jefferson Co.	15.53	1.29
Southern 1/2 Jefferson & all of Orange Co.:		
Commercial	16.89	1.29
Residential	11.95	.65
Ironworkers	16.95	2.95
Laborers:		
Group 1	10.66	1.50
Group 2	10.86	1.50
Group 3	10.96	1.50
Group 4	11.11	1.50
Lathers	16.97	2.615
Line Construction:		
Linemen & cable splicers	21.77	.80+ 3-1/2%
Groundmen	15.89	.80+ 3-1/2%
Painters:		
Southern 1/2 of Jefferson Co. & all of Orange Co.:		
Commercial:		
Group 1 - Brush, steel wood & wallpaperhanger	$16.89	1.29
Group 2 - Spray, roller, sandblaster, power cleaning, all time spent rigging; hot paint or creosote brush	17.34	1.29
Group 3 - Hot paint or creosote spray or roller	17.69	1.19
Residential:		
Brush	11.95	.65
Paperhanger	12.20	.65
Spray	12.47	.65
Sandblaster, power cleaning	12.21	.65
North 1/2 Jefferson Co.:		
Brush	15.53	1.29
Drywall	15.53	1.29
Spray	15.95	1.29
Paper & vinyl	15.78	1.29
Sign	15.95	1.29
Hand cleaning operation	15.53	1.29
Power tool operations	15.95	1.29
$.25 per hour above the prevailing wage rate when working on window sills or ledge, swing stage, bosun chair, cat walks, spider & skates in all classifications		
Pipefitters	18.32	2.02
Plasterers	15.20	1.69
Plumbers	18.71	1.09
Power Equipment Operators:		
Group 1	17.985	1.65
Group 2	15.21	1.65
Group 3	13.99	1.65
Group 4	13.74	1.65
Roofers:		
Composition	13.86	2.08
Slate & tile	14.61	2.08
Kettlemen	12.90	2.08
Sheet Metal Workers:		
Commercial	17.43	2.96+3%
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apt. is individually conditioned by a separate & independent unit or system	11.33	2.96+3%
Sprinkler Fitters	16.17	3.23
Tile Setters	17.57	2.20
Truck Drivers:		
Group 1 - Under 1-1/2 ton	13.99	1.25
Group 2 - 1-1/2 tons thru 2-1/2 tons	14.78	1.25
Group 3 - Dump truck less than 7 yds.	15.07	1.25
Group 4 - Over 2-1/2 tons; euclids (not self-loading)	15.25	1.25

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

DECISION NO. TX83-4082 — PAGE 2

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - the Friday after Thanksgiving Day; G - Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Also seven paid holidays A thru G

LABORERS CLASSIFICATION DEFINITIONS

Group 1 - All hand digging & dirt work; backfilling; loading & unloading of material to & from hoist or cages; loading & unloading of tools & equip.; handling of lumber, steel, cement; distribution of materials; wracking & raxing of bldgs. & struc.; storing materials & tools in & out of receiving lots & sheds; dumper; spotter; carpenter tender & all construction work not hereinafter classified

Group 2 - Air power tool op.; cutting torch op.; gunnite rebound man; machine ops.; power buggy; sandblaster (potmen); drill tenders; concrete grademen; wagon drill op.; metal pan & steel form men

Group 3 - Conc. burner; cement mason tender; hod carrier, mortar mixers, plaster tenders & brick mason tenders; pipelayer, pumporete nozzlemen; scaffold builder; water pump op.; tank cleaning; all pipe cleaning & wrapping; mortar & plaster mixing machines, grout machines; pumpcrete machines; gunnite mixing machines, incl. placing & cleaning of all pipe & conduits used in placing of conc.

Group 4 - Powdermen & blasters; sandblaster; gunnite workers; terrazzo grinders

PAGE 3

DECISION NO. TX83-4082

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Heavy duty mechanical; Blade grade-towed; Bulldozer; Crane; Dragline; Pile driver; Push cat; Bulldozer; All types of shovel; Crane; power operated; all types; Derrick, power operated, all types; Dragline; Hoist-motor driven, two drum or more; Mixer, 14 cu. ft. or more; Paving mixer, all types; Crane; Mixer, 14 cu. ft. or more; Paving mixer, heavy type, over 3 cu. yds.; Trench machine, all operation boring machine; Gasoline or diesel engine; Pumpcrete machine; Drill op. - all machines; Pumpcrete machine; Rotary drill op.; Elevator when used to handle men or material on const. work; Well point system & operation of similar dewatering devices

Group 2 - Air compressor; Blade grade-towed; Flex plane; Formgrader; Mixer, less than 14 cu. ft.; Pump; Pulsometer; Truck crane driver; Gasoline or diesel welding machine, up to 6 machs.; Hoist, single drum; Scraper, 3 cu. yds. or less; Conveyors, power op.

Group 3 - Fireman

Group 4 - Oiler

[FR Doc. 83-28489 Filed 10-20-83; 8:45 am]

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Friday
October 21, 1983

Part III

Department of the Interior

Bureau of Land Management

Onshore Oil and Gas Order No. 1; Approval of Operations on Onshore Federal and Indian Oil and Gas Lease; Final Rule

VOL
48
ISS
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1983
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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[Circular No. 2538]

Onshore Oil and Gas Order No. 1; Approval of Operations on Onshore Federal and Indian Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking revises Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases No. 6 (NTL–6) and redesignates it as Onshore Oil and Gas Order No. 1 under 43 CFR 3164.1. The Order supplements requirements of 43 CFR Part 3160 relating to the approval of oil and gas well operations. The rulemaking will lessen the regulatory burden by eliminating or modifying the provisions of NTL–6, thereby minimizing costs and delays in the processing of applications for permit to drill without adversely affecting the ability of the Federal Government to protect the environment. The final Order also reflects changes resulting from the consolidation of all onshore mineral leasing and operational functions in the Bureau of Land Management.

DATE: Effective November 21, 1983.

ADDRESS: Director (500), Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels (202) 653–2134, or Mr. Stephen H. Spector (202) 653–2147.

SUPPLEMENTARY INFORMATION: The Minerals Management Service (MMS) published the Order as proposed rulemaking on December 3, 1982 (47 FR 54462). Comments were invited for 60 days, ending February 1, 1983. There were over 40 separate comments received, including 19 from oil and gas operators, 2 from oil and gas associations, 1 from a State government, 1 from an organization representing several Indian tribes, 1 from an environmental interest group on behalf of 7 environmental groups, and the remainder from various Federal Agencies and from other offices within the Department of the Interior.

The Secretary of the Interior has transferred to the Bureau of Land Management (BLM) all duties related to Federal and Indian mineral leases formerly exercised by MMS, except for those related to revenue accountability (see Secretarial Order No. 3087, December 3, 1982, as amended February 7, 1983, and published in the **Federal Register** of March 2, 1983, 48 FR 8983). As part of the implementation of S. O. 3087, the applicable portions of the operating regulations formerly in Title 30 have been transferred to Title 43 of the Code of Federal Regulations (48 FR 36582).

This rulemaking is to convert the current NTL–6, which was issued in 1976 (41 FR 18116), to an Order promulgated under the authority of 43 CFR 3164.1 formerly 30 CFR 221.14 and, at the same time, to redefine and to describe more clearly the requirements for filing and processing applications for permits to drill (APD). The major changes include some modifications in the previously required content of the supporting documentation to accompany the APD, the inclusion of alternative procedures by which industry may initiate the APD process, and a reduction in the processing and review time now required in most instances. The result will be to minimize costs and delays in the processing of most APD's for both the Government and industry through the elimination of unnecessary, burdensome, and counterproductive portions of NTL–6, while assuring that the objectives of the National Environmental Policy Act of 1969 and other applicable laws and regulations are met. To this end, the comments received as a result of the proposed rulemaking and the Notice of Intent, published April 16, 1982 (47 FR 16426), as well as several studies made of the existing APD processing procedures over the past 2 years have been analyzed.

It should be noted that the basic requirements for approval and the time frame for processing are not established by this Order. The factors which must be addressed by the applicant and the safety, health, and environmental concerns to be considered by the Government, as established by NTL–6, basically remain unchanged. The time frame for APD processing was established by 43 CFR 3162.3–1, formerly 30 CFR 221.23, which became effective November 26, 1982 (47 FR 47758). The purpose of this Order is to supplement established requirements and to provide lessees and operators with sufficient guidance to enable preparation of APD's. This will also enable the Bureau of Land Management to consider the APD's more expeditiously.

The comments received as a result of the publication of the proposed rulemaking ranged from overall support for the proposed modifications of NTL–6 to basic disagreement with changes included in the proposed rule as well as with the earlier final rulemaking covering 30 CFR Part 221 in its entirety, redesignated as 43 CFR Part 3160. A number of commenters proposed several additional modifications, and, where these suggestions improved clarity while not adversely affecting the intended result, the recommendations were adopted.

Two commenters requested that the Order be republished as proposed rulemaking to reflect the merger of all onshore minerals operational responsibilities into BLM. In reviewing these requests, the Department weighed the extent to which the proposed Order required modification due to the merger against the need for completion of the rulemaking process. It was concluded that these operational responsiblilities, although now residing in a different organizational entity, remain basically unchanged by the merger and, moreover, that the merger will enhance the opportunity of fulfilling the objective of streamlining the procedures for the processing of APD's. Therefore, delaying final implementation by republication is considered unnecessary.

A second general comment concerned the publication of this and subsequent Orders in the annual Code of Federal Regulations (CFR). In the effort to design a system to replace the existing NTL's, one option considered when the operating regulations were revised last year was to expand the regulations to include all instructions that the NTL's currently provide. This approach was rejected because the basic policy guidelines are contained in the regulations, while the nature and complexity of supplemental instructive material contained in NTL's must be revised from time to time to reflect changed circumstances. A decision was also made at that tme to convert all nationwide NTL's to Orders. However, it was recognized that a complete listing of all such Orders should be available to lessees and operators for convenient reference. Therefore, it was determined to include in the operating regulations at 43 CFR 3164.1(b) a table of all onshore Orders with information as to the subject matter, effective date, **Federal Register** reference, and the predecessor document(s). This provides easy reference, while not making the operating regulations unduly cumbersome. The table will be updated as each final Order is issued.

A third general comment concerned the failure to provide specific procedures for review and approval of APD's by both State agencies and Indian lessors. With regard to the various States, it is common practice for most to require the filing and approval

of APD's, without regard to mineral ownership status. However, where appropriate, the States also will be given an opportunity for input into the Federal APD process. With regard to exploration and development of Indian tribal and allotted lands, the leasing regulations contained in Title 25 of the CFR provide for approval by the "supervisor," who is the predecessor of the authorized officer contained in this Order. Any requirement for additional approval of operations by or on behalf of the Indian lessor will be addressed by the Bureau of Indian Affairs (BIA) as a part of the APD review process. In addition, the proposed Order contained a provision under section VII which called for the operator to obtain agreement from an Indian or other private surface owner as to surface protection and rehabilitation and/or damages. That provision is retained in the final Order. A provision is inserted which allows approval of operations upon the posting of a bond when surface owner agreement cannot be obtained. In response to the comments received, a change has been made to the Surveying and Staking section (III. A.) to also require the lessee/operator to make arrangements with BIA and the Indian owner prior to entry upon the land for the purpose of surveying and staking.

The following specific comments and responses thereto are listed under the section of the proposed Order to which they relate. Sections which received no comments or only editorial suggestions are not listed.

Accountability (Section I)

The State, which provided comments on behalf of several of its agencies, recommended that this section be modified to include conformance with applicable State laws. The section is modified to include conformance with State and local laws, where applicable. In addition, a sentence has been added to clearly indicate that the lessee and operator are responsible for obtaining any other Federal, State, or Indian approval which may be required prior to commencing operations.

Special Situations (Section II)

A few commenters thought that the exceptions to the prior approval requirement for surveying and staking well locations were too limited. They argued that nonsurface disturbing activities such as "archaeological surveys" should be permitted prior to approval. This concept has been accepted. However, instead of the recommended language the phrase "cultural resource inventories" has been used because it more correctly describes the excepted activity. Several commenters also stated that the requirement for a surface use plan, in those cases where Federal or Indian lands are to be crossed by access roads, appeared to be too broad. They suggested that plans submitted should cover only the Federal or Indian portion of the access road and be provided only in the case of new construction, or reconstruction. As proposed, the provision could have been interpreted as broadly as the commenters suggested; therefore, it has been revised.

Drilling Operations (Section III)—Surveying and Staking (A)

In response to comments by the Department of Defense Task Force for Development of Mineral Leasing Policy on Defense Lands, this section has been modified to exclude lands under Defense jurisdiction from those that may be surveyed and staked without advance approval. This change is made primarily for safety and security reasons. In addition, language has been added to strongly encourage applicants to notify the appropriate office of the involved surface managing agency in advance of surveying and staking; specific examples are cited of conditions that could delay the process if early notification does not occur.

One industry commenter suggested that BIA should be included as a party to be contacted for access arrangements on Indian lands. This change has been made. Commenters thought that the surveying and staking provisions required either too much or too little detail. One operator considered the specifics required to be burdensome. However, this comment was not prevalent. The Order provides the minimum staking requirements necessary to permit a proper evaluation of potential impacts of subsequent surface disturbing activities without being unduly burdensome. In contrast, some of the Government commenters thought operators should be required to stake all potential cuts and fills along access roads. The proposed Order required only that the center line of new access roads be staked. No change was made, since it was concluded that the potential cuts and fills should be evident during the onsite inspection. The final Order does require, however, that cuts and fills on the proposed location be staked.

A few commenters expressed concern that the present practice of using a Preliminary Environmental Review (PER) had not been included in the proposed Order. While the PER is not retained by name as a separate and distinct process, the concept has been utilized in designing the Notice of Staking (NOS) option. This process should prove more efficient for both industry and the Government while utilizing significant features of the prior PER procedure. Operators are strongly encouraged to notify surface managers at the earliest possible stage, and no significant surface disturbing activities will be allowed prior to appropriate authorization.

Material To Be Filed (B)—Notice of Staking (1)

The NOS option was developed from an industry proposal. Thus, there was considerable support for its use. Some commenters suggested it should be used to the exclusion of the existing APD process. However, because the Order provides for two alternative procedures for submission of the required information, operators can utilize the process best suited to their needs.

Several commenters recommended that the provision concerning surface access for surveying and staking should be expanded to include archeological surveys. This concern is addressed under "Special Situations" above. To avoid confusion and duplication, it has been removed from this section. Another commenter recommended incorporating the issuance of rights-of-way not a part of the APD and other special use permits into the Order No. 1 process. The regulations governing the issuance of these other permits are contained in different parts of the rules of the various surface management agencies (SMA). They are beyond the scope of this rulemaking. However, with regard to BLM-administered lands, every effort will continue to be made to coordinate processing and to issue all needed approvals and permits concurrently.

One commenter suggested the inclusion of specific language prohibiting motorized vehicles from sensitive areas. This suggestion has not been adopted, since the use of motorized vehicles would be the appropriate, preferred method of entry in most instances. The language of the Order provides the authorized officer with the necessary authority to take all appropriate steps to protect resource values.

Application for Permit To Drill (2)

The majority of the commenters addressing this provision expressed support for the process. One commenter did express concern that the 30-day time period was insufficient to allow "* * * adequate consideration of environmental values or the public's right to participate in the permitting

VOL 48 ISS 205 OCT 21 1983 UMI

decisions." This is not the fact. Public participation begins during the planning process when the initial decision to consider leasing for mineral development and the inclusion of developmental controls are made. In addition, the Order and controlling regulations (43 CFR 3162.3–1 and 3162.5–1, formerly 30 CFR 221.23 and 221.30) require processing in 30 days but do not require the approval of all APD's in that time frame. In fact, the Order cites examples of circumstances where a decision within 30 days is unlikely. In all probability the vast majority of APD's can be processed within 30 days while assuring adequate consideration of environmental values and public participation.

Commenters offered both strong support and opposition for the inclusion of language relating to APD's filed just prior to the lease expiration date. These so-called "eleventh-hour filings" have been and remain a fairly common occurrence. The specific language proposed in this regard (see the last full paragraph of 47 FR 54467) has been deleted, since it apparently caused confusion and could have been interpreted as actually encouraging late filings. The BLM will attempt to accommodate requests for expedited processing due to factors such as an imminent lease expiration date, availability of drilling equipment, or other reasonable factors, but operators must realize that applications normally will be processed in the order received. The primary controlling consideration in determining whether a late-filed application can be accorded a higher priority is, generally, whether the current workload of the involved office will permit the processing to occur within the remaining time available. The extent of the review required to ensure that all technical, administrative, and environmental concerns have been satisfied may preclude a final decision on an application prior to the end of a lease term if the operator fails to allow sufficient lead time for that purpose. The operator has the burden of showing why the filing could not have been made within the normal time frame and thus should be processed prior to previously filed applications.

Conferences and Inspection (C)

The majority of the comments concerning this item addressed the timing of the onsite inspection and the participants. Several commenters, representing "other interested parties," requested specific modification of the Order to include their notification and invitation to the onsite inspection. The Order has been modified to require that operators furnish the name, address, and phone number of all private surface owners and to require that BLM notify such owners and provide an opportunity to participate in the onsite inspection. This includes BIA, if the involved lands are held in trust for Indians. The Order was not modified to make notification of State agencies mandatory; however, State agencies will be notified, when appropriate. No change was made in the requirement that the operator's principal dirt and drilling contractors attend these onsite inspections. While the operator is responsible for all actions of such contractors, past experience has shown that inadvertent miscommunication of requirements can occur when information in that regard is passed on second and third hand. Generally, once actions such as the construction of drill pads or access roads have been improperly executed, the correction thereof can result in the delays of actual drilling operations and additional expenditures to correct the identified errors. BLM seeks to avoid these occurrences by requiring that the operator's principal contractors participate in the onsite inspections. With regard to scheduling and conducting onsite inspections within 15 days, one commenter did not believe enough time was provided to allow for proper public participation. In the vast majority of instances, an onsite inspection that includes all interested parties can be accomplished within 15 days. Moreover, in order to meet the total 30-day processing time frame, the onsite inspection must be held within 15 days. It should be noted that the section of the Order on "Processing Time Frames" does clearly indicate that a processing time longer than 30 days generally will be required in sensitive areas (see item D. below).

The provision relating to in-fill wells received numerous comments of both support and concern. While some commenters thought no inspection should be performed for such wells, others stated that all proposed in-fill wells should be inspected. As finalized, the Order provides the needed flexibility to inspect any in-fill well location where there are site specific concerns that have not been addressed previously by an appropriate environmental assessment. Where the identified concerns have been addressed previously, it is expected that a joint inspection with the involved surface management agency will not be required.

Processing Time Frames (D)

A significant number of commenters expressed support for this section as written and thought that it would greatly enhance the effort to streamline the processing of APD's. One commenter believed that the 30-day processing time frame would cause areas of special environmental concern to be ignored. While the proposed rule, as written, indicated that approval of APD's would not always occur within 30 days and enumerated specific areas in which additional time generally would be required, editorial changes have been made in the provision for clarity. In addition, the list of sensitive areas likely to require more than 30 days of necessary time has been expanded from six to nine, while continuing to indicate that others may be identified later. A few commenters stated that some of the past processing delays occurred because of administrative problems in coordination between involved agencies. This problem was one of the main reasons for the Secretary's decision to merge all onshore mineral leasing and regulatory functions of the Department into BLM. Since the majority of the drilling applications are for wells on lands under BLM's jurisdiction, the number of administrative delays should be greatly reduced in the future.

Cultural Resources Clearance (E)

Several commenters stated that this provision was unclear in several respects. In response to these comments, the entire provision has been rewritten for clarity. The Order now provides a separate cultural resources clearance requirement for privately owned surface. It also has been modified to encourage the lessee or operator to contact other involved Federal SMA's prior to submission of any material to BLM. These early contacts will allow quicker identification of potential problems involving cultural resources and the determination of whether a cultural resources inventory and report will be required. No change was made with regard to the cultural resources clearance requirement for in-fill wells, since surface conditions may vary greatly on various portions of the same leased area. However, if a previous report covered the proposed new well location and is referenced in the application, no new report will be required.

Threatened and Endangered Species Clearance and Other Critical Environmental Concerns (F)

One commenter interpreted the provision as allowing drilling sites to be located in areas of special environmental concern, without appropriate consideration of those concerns. This interpretation is not correct. BLM or other surface managing agencies will identify and consider all significant environmental concerns during the review process. BLM will ensure that all other appropriate organizational entities are consulted, as required by applicable law and regulation. However, it is neither necessary nor appropriate to detail all such existing consultation procedures in the Order.

Components of a Complete Application for Permit To Drill (G)—Complete Application (1)

Although no comments were received on this provision, it has been modified to recognize the authority of the Environmental Protection Agency (EPA) and the States which gain primacy from EPA in relation to those wells which a lessee or operator proposes to drill for injection purposes (disposal or production enhancement) on Federal or Indian lands. The language added advises that, in these circumstances, the lessee or operator must also obtain an underground injection permit from EPA or the involved State, where the State has achieved primacy. In addition, language has been added to advise lessees and operators that any information supplied to the State or EPA in support of obtaining the injection permit will be accepted by BLM to the extent that it satisfies the information submittal requirements of this Order. Similar language has been added in section IV. (Subsequent Operations) to address those situations where a lessee or operator proposes to convert an existing well on Federal or Indian lands for injection purposes.

Commenters requested clarification of the meaning intended by the use of the term "certified plat" in provision 3.a. The provision has been modified to clearly state that the plat must be prepared by a registered surveyor and that the surveyor must certify on the plat that the site has been staked as shown. An additional sentence also has been added, for clarity, to provision 3.e. (cementing).

Form 3160–3, Formerly 9–331 C (3)

Lessees and operators are advised that all forms referenced in the Order will be revised slightly and will be renumbered in accordance with the BLM system of numbering forms. BLM form numbers correspond to the number of the controlling regulations. This form conversion process has just begun since the nonroyalty portions of the operating regulations (formerly 30 CFR Part 221) have been transferred to Title 43 CFR Part 3160. In addition, the agency and approving official's title will be changed. Until this occurs, however, all approved forms currently in use will remain valid.

Drilling Plan (4)

One commenter requested that the provision relating to the protection of proprietary data be modified to more closely parallel the procedures followed for wells drilled offshore. While the specific change requested has not been adopted, the language has been modified to indicate clearly that any information identified by the applicant as proprietary, pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, will be deleted from all informational copies that BLM supplies to other parties.

Another commenter requested a modification to indicate that pertinent data will be provided to the involved surface managing agency. This suggestion has been adopted. Language also has been added to provide applicants with information regarding the standards that BLM and other involved agencies utilize in evaluating the technical competency of the proposed drilling and surface use programs. In addition, a provision has been added to clarify the Department's position on reclamation of privately owned surface, which is, basically, that reclamation on such lands is a matter to be resolved between the lessee or operator and the private surface owner. However, BLM may require that information about such arrangements be submitted when it is determined that Federal or Indian surface could be significantly affected by a proposed well site or access road on nearby private surface (see section VII., Privately Owned Surface.).

Guidelines for Preparing Drilling Program (a)

One commenter stated that item (6), on testing, logging, and coring, was confusing. In response to that comment, the language has been modified for clarity.

Guidelines for Preparing Surface Use Program (b)

These guidelines received extensive comment and are discussed by individual item. Some of the BLM field office commenters thought the Order should strictly require a standard map size. This suggestion has not been adopted, as it would be unduly burdensome not to provide some flexibility. Item (1) has been modified to require the maintenance of existing roads pursuant to SMA standards. One commenter objected to the requirement in item (3) that all wells within a 1-mile radius of the proposed location be listed. This provision has not been modified because the information is needed for the proper evaluation of each proposal. It should be noted that the existing NTL–6 requires such information for a 2-mile radius around proposed exploratory wells.

Item (4), relating to the location of existing and proposed facilities should a well be productive, elicited considerable comment. One commenter suggested that specific information in this regard may not be known when an exploratory well is first proposed. Thus, precise information, such as the nature and placement of storage and treating facilities, can only be determined after a discovery has occurred and the nature and extent thereof is known. The provision has been modified to allow the filing of a request for the subsequent approval of any production facility not known or contemplated at the time an APD is initially filed. However, the requirement that such information, to the extent known or contemplated, shall be included in the initial filing, has been retained. This information is necessary for planning purposes and could expedite the approval of new or modified facilities at a later date.

In addition, matters other than surface disturbance (e.g., other authorized uses of the surface) can be affected by the siting and areal extent of production facility layouts and thus must be considered as early as possible by the involved SMA. This item was also modified by removing certain informational requirements relating to subsequent operations and placing those in section IV. of the Order. Item (6) was clarified to conform to recent amendments to the controlling regulations.

Some commenters thought item (9) should be deleted, since most drilling rig layouts are similar. However, others stated that the provision should be expanded to include additional detail so that potential impacts could be fully evaluated. The provision has not been revised because it provides for the receipt of all essential information without being unnecessarily burdensome.

One commenter observed that the information required by item (10) duplicated other items of the Order. BLM concurs in this observation and has consolidated, to the maximum extent practicable, all references to surface reclamation plans in this provision. Additionally, the words "rehabilitation" and "restoration" have been replaced with the more comprehensive term of "reclamation."

VOL 48 ISS 205 OCT 21 1983 UMI

Item (11) was revised and the title changed in response to the comments received. It now specifically requires the submission of information on the surface ownership at the well site and for all roads to be constructed or reconstructed. If privately owned surface is involved, the name, address and phone number of such person is to be provided also. To encourage lessees and operators to submit other useful data, a new item (12) has been added, and item (12), as proposed, has been renumbered as (13).

Subsequent Operations (Section IV)

Eleven commenters specifically addressed this section of the proposed Order. A few of the comments were directed to the controlling regulation (43 CFR 3162.3–2, formerly 30 CFR 221.27) and thus were beyond the scope of the rulemaking. Most of the other commenters found the proposed item unclear. The entire provision has been rewritten for clarity and to conform the language to that of the controlling regulations. As stated in both the regulation and the Order, routine operations will require prior approval only if additional surface disturbance is involved. Additionally, language has been added to recognize the authority of EPA or a primacy State with respect to underground injection control. Thus, lessees and operators are advised that a permit must also be obtained from EPA or the State whenever it is proposed to convert an existing well on Federal or Indian lands for injection purposes. Information submitted to EPA or the State in support of obtaining such a permit will be accepted by BLM to the extent that it satisfies the information submission requirements of the Order.

Well Abandonment (Section V)

In response to the comments received, this section has been revised specifically to provide that, when appropriate, additional reclamation requirements may be imposed upon abandonment of an operational site on Federal or Indian surface.

Privately Owned Surface (Section VII)

Several commenters questioned both this section, as proposed, and references to operations on privately owned surface contained elsewhere in the proposed Order. This section has been rewritten to consolidate these references under this provision and to clarify, with respect to privately owned surface, surface protection, cultural resources, surface reclamation, and/or payment in lieu thereof, that all are matters to be settled between the lessee/operator and the private surface owner. The BLM will only become involved in these arrangements if it is determined that adjacent Federal or Indian surface could be adversely affected by construction or operational activities on the privately owned surface or if an agreement cannot be reached. Commenters generally favored the concept that a copy of any such agreement need not be submitted if such adjacent Federal and Indian surface will not be affected adversely.

Reports and Activities Required After Well Completion (Section VIII)

Several operators commenting on this provision found the references to required submissions either unnecessary, in light of the controlling regulations, or inconsistent with the recently enacted Federal Oil and Gas Royalty Management Act of 1982. In response to this comment the section has been rewritten to conform to the regulations and the Act.

The only substantive comment relating to the attachments to the Order was that the operator's phone number should be provided on the optional NOS This change has been made. The attachments are provided to expedite the review and processing of the application. However, approved form 3160–3, formerly 9–331C, and the attachments thereto constitute the basic filing requirement specified by this Order.

The principal authors of this final rulemaking are Mr. Lynn Rust, Cheyenne, Wyoming; Mr. Raymond W. Vinyard, Tulsa, Oklahoma; Messrs. Paul Petty and Gregory P. Shoop, Division of Fluid Mineral Leasing; and Messrs. Sie Ling Chiang, Frederick S. Crafts, Gerald R. Daniels, Gerald J. Richard, Stephen H. Spector, William J. Weber, and Eddie R. Wyatt, Division of Fluid Mineral Operations, assisted by staff members of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management. Significant guidance and input also was provided by personnel of the Office of the Solicitor, the Department of the Interior, and the Forest Service, Department of Agriculture.

Executive Order 12291

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because its net effect is estimated to be a 5 percent cost reduction in the processing of operational proposals.

Regulatory Flexibility Act

The Department has also determined that the rulemaking will not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act because its net effect is estimated to be a 5 percent cost reduction in the processing of operational proposals.

National Environmental Policy Act of 1969

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act of 1980

The optional Notice of Staking (NOS) is an industry proposal for expediting the review and processing of the approved Application for Permit to Drill form (3160–3), and when this optional notice is used, it will always be followed by the required, approved form. The information that may be supplied in the notice is identical to information that is required by the Application for Permit to Drill, which information collection requirement has already been cleared. Any supporting documents accompanying the notice need not be resubmitted with the application form unless a significant change has occurred since the submission of the notice. The sample format is provided to assist applicants in the preparation of the notice. This method of collecting information does not impose any additional burden on the affected public and as such, the Office of Management and Budget has agreed to incorporate the NOS into the clearance for the Application for Permit to Drill, 1004–0136. The collection of all information required by this Order has been approved by OMB under 44 U.S.C. 3507 and assigned the following clearance numbers: 1004–0134—The specific provisions of the regulations in 43 CFR Part 3160, formerly 30 CFR Part 221, 1004–0135—Sundry Notice and Report of Wells (3160–5, formerly 9–331), 1004–0136—Application for Permit to Drill, Deepen, or Plug Back (3160–3, formerly 9–331C), and 1004–0137—Well Completion or Recompletion Report and Log (3160–4, formerly 9–330).

List of Subjects in 43 CFR Part 3160

Government contracts, Oil and gas exploration, Public lands, Mineral resources, Reporting requirements.

Under the authority of the Act of February 25, 1920, as amended and supplemented (30 U.S.C. 189, 226), and Executive Order 12291 (46 FR 13193), Part 3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: September 21, 1983.

Harold W. Furman II,

Acting Assistant Secretary of the Interior.

PART 3160—ONSHORE OIL AND GAS OPERATIONS

Section 3164.1(b) is amended by adding the following table:

§ 3164.1 Onshore Oil and Gas Orders.

* * * * *

(b) * * *

Order No.	Subject	Effective date	Federal Register reference	Supersedes
1	Approval of Operations	Nov 21, 1983	48 FR—	NTL-6

Appendix—Text of Oil and Gas Order

Note.—This appendix will not appear in the Code of Federal Regulations.

Contents

Onshore Order

Introduction

I. Accountability
II. Special Situations
III. Drilling Operations
  A. Surveying and Staking
  B. Material to be Filed
    1. Notice of Staking
    2. Application for Permit to Drill
  C. Conferences and Inspections
  D. Processing Time Frames
  E. Cultural Resources Clearance
  F. Threatened and Endangered Species Clearance and Other Critical Environmental Concerns
  G. Components of a Complete Application for Permit to Drill
IV. Subsequent Operations
  A. Production Facilities
  B. Other Operations
  C. Emergency Repairs
  D. Environmental Review
V. Well-Abandonment
VI. Water Well Conversion
VII. Privately Owned Surface
VIII. Reports and Activities Required After Well Completion

Onshore Oil and Gas Order

Federal and Indian Oil and Gas Leases

Order No. 1

Effective: November 21, 1983.

Approval of Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR Part 3160, formerly 30 CFR 221. Approval of all proposed exploratory, development, and service wells, and all required approvals of subsequent well operations and other lease operations, shall be obtained in accordance with 43 CFR 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4 and 3162.5–1, formerly 30 CFR 221.23, 221.27, 221.28, 221.29, or 221.30, as appropriate.

All wells approved for drilling under the provisions of this Order shall have been included in a drilling plan, as required under 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d).

A drilling plan may be submitted for a single well, or for several wells that are proposed to be drilled to the same zone within a field or area of geological and environmental similarity. Plans for additional development of the leasehold should be considered in the submittal.

However, approval of Form 3160–3, formerly 9–331C (Application for Permit to Drill, Deepen, or Plug Back) is required for each well, and in order to be complete an Application for Permit to Drill (APD) shall include all information required under 43 CFR 3162.3–1 (d) and (e). A technically and administratively complete APD includes, in addition to Form 3160–3, a drilling plan, evidence of bond coverage, a designation of operator, when appropriate, and such other information as may be required by applicable Order or Notice to evaluate the proposal. Refer to section III.G. for more detailed guidance on complete APD's.

Certain subsequent well operations and other lease operations involving additional surface disturbance shall be included in a plan submitted on Form 3160–5, formerly 9–331 (Sundry Notices and Reports On Wells), and approved under the provisions of this Order pursuant to 43 CFR 3162.3–2 or 3162.3–3, formerly 30 CFR 221.27 or 221.28, respectively.

A report on all subsequent well operations shall be filed on Form 3160–5, as prescribed in 43 CFR 3162.3–2. A notice of intention to abandon a well and a subsequent report of abandonment shall also be filed on Form 3160–5, as required by 43 CFR 3162.3–4.

All applications for approval under the provisions of this Order shall be submitted to the appropriate authorized officer of the Bureau of Land Management (BLM). "Authorized Officer" means any person authorized to perform the duties prescribed. To be advised of the proper BLM official and office with which to file an application, the lessee/operator may contact the appropriate District Manager of BLM having jurisdiction over lease operations in a particular area.

The lessee/operator shall comply with the following requirements:

I. *Accountability.* Lessees and operators have the responsibility to see that their exploration, development, production, and construction operations are conducted in a manner which (1) conforms with applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to operations on Federal or Indian leases; (2) conforms with the lease terms, lease stipulations, and conditions of approval; (3) results in diligent development and efficient resource recovery; (4) protects the lease from drainage; (5) affords adequate safeguards for the environment; (6) results in the proper reclamation of disturbed lands; (7) conforms with current available technology and practice; (8) assures that underground sources of fresh water will not be endangered by any fluid injection operation; and (9) otherwise assures the protection of the public health and safety. Lessees and operators shall be held fully accountable for their contractors' and subcontractors' compliance with the requirements of the approved permit and/or plan. Drilling/construction and associated operations shall not be conducted without prior approval of the authorized officer of BLM. BLM approval of the APD does not relieve the lessee and operator from obtaining and other authorizations required for operations on Federal and Indian lands.

II. *Special Situations.* Lessees and operators, as well as their contractors and subcontractors, shall not commence any operation or construction activity on a lease, other than cultural resource inventories and surveying and staking well locations on Federal and Indian lands, without the prior approval of the authorized officer of BLM, except for certain subsequent operations (see Section IV. of this Order). The terms and conditions of an approved permit and drilling plan, or other plan, shall not be

VOL 48 ISS 205 OCT 21 1983 UMI

altered unless BLM first has approved an amended or supplemental permit and/or plan covering any such modifications.

For proposed operations on a committed State of fee tract in a Federally supervised unit or communitized tract, the operator shall furnish a copy of the approved State permit to the authorized officer of BLM which will be accepted for record purposes. In addition, in cases where an access road to a non-Federal or non-Indian drillsite will cross leased Federal or Indian lands, the operator shall submit a surface use plan only for those portions of the access road on Federal or Indian lands where new construction or reconstruction will occur. Such plans shall be submitted to the authorized officer of BLM or appropriate Federal Surface Management Agency (SMA) and approval obtained prior to commencement of construction operations on the Federal or Indian surface. For privately owned surface, refer to section VII.

III. *Drilling Operations.*

A. *Surveying and Staking.* Surveying and staking may be done without advance approval from the authorized officer of BLM or other appropriate SMA and prior to the conduct of any required cultural resource inventory, except for lands administered by the Department of Defense or other lands used for military purposes, or where significant surface disturbance is likely to occur.

Lessees and operators are strongly encouraged to notify the appropriate SMA prior to entry upon the lands for the purposes of surveying and staking. Early notification will allow the SMA to apprise the lessees and operators of any existing conditions, knowledge of which could result in saving of time and money by both industry and Government. These include but are not limited to:

—Whether a cultural resource inventory is required;
—Presence of threatened or endangered species and/or critical habitats;
—Vehicle access restrictions; and/or
—Permitting requirements applicable to affected lands outside the leasehold boundary.

Where the surface is privately owned or held in trust of Indian benefit, the lessee/operator is responsible for making access arrangements with the private surface owner or the Bureau of Indian Affairs (BIA) and Indian tribe or Indian allottee(s) prior to entry upon the lands for the purpose of surveying and staking.

Staking shall include the well location, two 200-foot directional reference stakes, the exterior dimensions of the drill pad, reserve pit and other areas of surface disturbance, cuts and fills, and centerline flagging of new roads with road stakes being visible from one to the next. Cut and fill staking applies only to the wellsite, reserve pit, and, if off-location, and ancillary facilities.

B. *Material to be Filed.*

1. *Notice of Staking.* Prior to filing a complete APD, the lessee or operator may, at its option, file a Notice of Staking (Attachment A) with the authorized officer of BLM and appropriate office of any other involved SMA. In Alaska, a copy of the Notice shall also be sent to the appropriate Borough when a subsistence stipulation is part of the lease.

The information contained in the Notice of Staking (NOS) will aid in identifying the need for associated rights-of-way and special use permits. If all required information is not included, the NOS shall be returned to the operator for modification.

2. *Application for Permit to Drill (APD).* Regardless of whether an NOS is filed, the lessee or operator shall file an APD. This application shall be administratively and technically complete prior to approval. The authorized officer of BLM shall advise the lessee or operator, within 7 working days of receipt of the application, as to whether or not the application is complete. If the application is complete, oral notification will suffice. If the application is not complete, notification to that effect shall be made in writing even though the lessee or operator may have already received oral notification. For purposes of written notification, Attachment B, Checklist For Applicant Notification, shall be mailed to the applicant within the 7-day period. The notification shall advise the lessee or operator of any defects that need correcting and of any additional information required. If the deficiencies are not corrected and/or the additional required information is not submitted within 45 days of the date of any oral or written notice (if no prior oral notice), the application shall be returned to the proponent.

Upon initiation of the APD process, the authorized officer of BLM shall consult with any other involved SMA and with other appropriate interested parties, and shall take one of the following actions within 30 days: (1) Approve the application as submitted or with appropriate modifications or stipulations; (2) return the application and advise the lessee or operator of the reasons for disapproval; or (3) advise the lessee or operator, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed and the date such final action is expected.

When the NOS option is followed, BLM shall strive to process the subsequent related APD within 10 days of the APD's receipt. However, in either situation, the process of reviewing the APD and advising the lessee or operator as to whether it is technically and administratively complete shall be considered a part of the overall APD processing time, i.e., 30 days in case of the APD option and 10 days if the NOS process is utilized. Operators are cautioned that with respect to any particular well, the option selected initially, of either filing both an NOS and a subsequent APD or only an APD, is to be followed and there shall be no shifting between the two options. If operators fail to maintain a consistent approach in this regard, the processing time already expended shall not be counted as part of the above 30-day period.

The processing of applications shall be given a high priority, and individual applications shall be processed according to the date the application is received by the appropriate BLM office. If it is not possible for BLM actions to be taken prior to lease expiration, the lessee or operator shall be advised, at least orally, prior to the lease expiration date, with all such notifications confirmed in writing. Said advice shall detail the reasons for delay so that the lessee or operator may take such appeal or other recourse to preserve the lease as is allowed by law and/or regulation. The appropriate BLM office telephone number and address shall be furnished to the lessee or operator with the earliest notification or advice.

C. *Conferences and Inspections.* An onsite predrill inspection shall be scheduled and conducted by the appropriate BLM office within 15 days of receiving the applicant's initially-filed document, i.e., either an NOS or a complete APD. In special circumstances, the authorized officer of BLM may require the filing of a complete APD prior to the scheduling of an onsite predrill inspection. Representatives of the appropriate BLM office, the operator and other interested parties, such as any other involved SMA, the appropriate Alaska Borough (when a subsistence stipulation is part of the lease), and the operator's principal dirt and drilling contractors shall attend the predrill inspection. When appropriate, the operator's surveyor and archeologist should also participate in the inspection. If any other involved SMA is not able to participate at the desired time, the inspection may be rescheduled provided it can be conducted within the 15-day period. When private surface is involved, the lessee or operator shall furnish the name, address and telephone number of the private surface owner on the NOS form or, in the surface use program, such information shall be attached to the APD. The BLM shall invite the surface owner to participate in the onsite inspection. This invitation will be extended as early as possible. However, a surface owner's inability to attend shall not delay the scheduled inspection unless BLM can conveniently reschedule the inspection within the 15-day time period. Joint inspections, i.e., those involving any other SMA, normally shall not be held for proposed in-fill well locations in developed fields if an appropriate environmental assessment (EA) already has been completed by BLM for the field or that area of the field. However, if staffing permits, a representative of BLM shall inspect those proposed locations where a joint predrill inspection is not held. At the time of onsite inspection, staking of the location shall have occurred, as specified in part A of this section. The surface use and reclamation stipulations shall be developed during the onsite inspection and provided to the operator either at the location or within 5 working days from the date of the onsite inspection, barring unusual circumstances. These requirements shall be incorporated into the complete application, when filed, if the proponent is following the NOS option. Otherwise, these requirements shall be incorporated as conditions of the APD approval if an NOS is not filed. However, this does not preclude the possibility of additional conditions being imposed as a result of the review of the complete application.

D. *Processing Time Frames.* The following table summarizes the major time frames involved in processing most APD's:

APD OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the APD.
Requirements to be imposed when APD is approved.	Developed onsite or within 5 working days thereafter.
Complete processing of APD.	Within 30 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 30-day period (includes the above 15-day and 5-day periods).

NOS OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the NOS.
Requirements for inclusion in APD.	Furnished onsite or within 5 working days thereafter.
Complete processing of APD.	Within 10 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 10-day period.

The above timeframes together comprise the total period during which BLM anticipates it will be able to process approximately 90 percent of all APD's. However, the 30 days may not run consecutively even when APD's are filed immediately after onsite inspections. For example, any time used by lessees or operators to correct deficiencies, or to prepare and submit information initially omitted from the application and which causes delays in processing beyond BLM's control, shall not be counted as part of the 30-day period. However, BLM shall continue to process applications up to the point where any missing piece of information or an uncorrected deficiency renders further processing impractical or impossible. Processing delays which extend the 30-day processing time are expected to occur in less than 5 percent of the cases. In addition, delays in conducting onsite inspections within 15 days of receiving an NOS (or an APD if an NOS is not filed), or delays in providing all stipulations to the operator within 5 working days of an onsite inspection may occur in less than 5 percent of the cases during periods of severe weather conditions and in areas where certain environmental concerns or jurisdictional conflicts exist.

Such areas include, but are not limited to:

1. Certain tribally or individually owned Indian trust or restricted lands.
2. Lands withdrawn for Federal reservoirs and Federal lands surrounding such reservoirs.
3. Lands in formally designated wilderness areas, lands formally proposed for such designation, lands within BLM Wilderness Study Areas or lands within Forest Service Further Planning Areas.
4. National Recreation Areas.
5. Wildife Refuges.
6. Certain Federal lands in Alaska.
7. Lands under jurisdiction of the Department of Defense.
8. Lands where a major problem exists with respect to cultural resources.
9. Lands known to contain threatened or endangered species and/or critical habitats.

The 30-day time frame for completion of the APD process also may be exceeded in most cases where it is necessary to prepare an EA, and in all cases where it is necessary to prepare an environmental impact statement (EIS).

Lessees and operators are also cautioned that if the NOS/APD process begins less than 30 days prior to the desired date of commencement of drilling operations, the process may not be completed within the time desired.

E. *Cultural Resources Clearance.* Because consultation with the involved SMA and the State Historic Preservation Officer on matters that relate to the protection of historic and cultural resources is provided in BLM (36 CFR 800.4(a)(1)), lessees and operators should contact the involved SMA at least 15 days prior to the submission of an NOS or APD to determine whether any actions are necessary to locate and identify historic and cultural resources. If such actions are necessary, lessees and operators are encouraged to complete the work and report prior to the submission of any other material to the authorized officer of BLM but, in any event, no later than the time the complete APD is submitted. Survey work and a related report shall be required only if the involved SMA has reason to believe that properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) are present in the area of potential effect. Historic and cultural resources work on privately owned surface shall be undertaken only with the consent of the private surface owner. If the private surface owner refuses entry for that purpose, the lessee or operator shall use its best efforts to conduct its approved operations in a manner that avoids adverse effects on any properties which are listed, or may be eligible for listing, in the NRHP.

F. *Threatened and Endangered Species Clearance and Other Critical Environmental Concerns.* The involved SMA shall identify any threatened and endangered species and/or critical habitat problems and other environmental concerns, e.g., wilderness and wilderness study areas, wild and scenic rivers, etc., to minimize the possibility of drill site relocation. Should the SMA, if that agency is not BLM, be unable to carry out this responsibility, BLM shall do so. BLM shall identify any known or potential surface geological hazards. If any of these concerns exist, information in that regard shall be conveyed to the lessee/operator by BLM no later than when the surface use and reclamation stipulations are provided;

however, the lessee/operator can ensure earlier identification of potential conflict in these areas of concern by contacting the involved SMA prior to the submittal of an NOS or APD. The authorized officer of BLM should be timely apprised of any contacts with any other involved SMA.

G. *Components of a Complete Application for Permit to Drill.*

1. *Complete Application.* If an NOS is filed, the lessee/operator shall prepare and submit a complete APD within 45 days of the onsite inspection pursuant to the requirements of this subsection. Failure to timely submit an APD within this time frame may result in the lessee/operator having to repeat the entire process. The complete APD shall be submitted in triplicate to BLM, together with any additional copies required by the authorized officer. As provided in 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d), a complete application consists of:

(a) Form 3160–3, (b) a drilling plan (or reference thereto) containing information required by section G.4., below, (c) evidence of bond coverage as required by Department of the Interior regulations, (d) designation of operator, where necessary, and (e) such other information as may be required by applicable Orders and Notices, including a cultural resource report (if required and not already filed). The APD shall be signed by the lessee/operator official having the responsibility and authority to supervise and direct all activities related to the permit and who can be contacted in the event of a problem. The authorized officer may require additional information in unusual circumstances. However, where the proposed well is to be completed for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from the Environmental Protection Agency (EPA) or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submission requirements of this Order.

2. *Designation of Operator.* The lessee may authorize the actual conduct of operations in its behalf by designating another party as operator in a manner and form acceptable to the authorized officer. Lessees shall notify the authorized officer in writing whenever an existing designation of operator is cancelled. A designated operator cannot designate a different party as operator.

3. *Form 3160–3, formerly 9–331C, (Application for Permit to Drill, Deepen, or Plug Back).* This Form shall be completed in full and submitted to the authorized officer together with all necessary information referred to under section G.1. above. The following points a. through f. are specific as to appropriate information requirements of the Form and shall be stated thereon, or as an attachment thereto, for each proposed well:

a. A well location plat shall be attached depicting the proposed location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the authorized officer. The plat shall be signed by the surveyor, certifying that the location has, in fact, been staked on the grounds as shown on the plat.

b. The elevation given shall be the above-sea-level datum of the unprepared ground.

c. The type of drilling tools and associated equipment to be utilized shall be stated.

d. The proposed casing program shall include the size, grade, weight, type of thread and coupling, and setting depth of each string, and whether it is new or used.

e. The amount and type of cement, including additives to be used in setting each casing string, shall be described. If stage-cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, to be used in each stage shall be given. The expected linear fill-up of each cemented string or each stage, when utilizing stage-cementing techniques, shall be provided.

f. The anticipated duration of the total operation shall be given in addition to the anticipated starting date. A copy of the approved Form 3160–3 and the pertinent drilling plan, along with any conditions of approval, shall be available at the drillsite to authorized or delegated representatives of the United States whenever active construction, drilling, or completion operations are under way.

4. *Drilling Plan.* A drilling plan in sufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project shall be prepared and either submitted with each copy of Form 3160–3, or referenced thereon if it is already on file with BLM or is being submitted for more than one well. The plan shall be developed in conformity with the provisions of the lease, including attached stipulations, and the guidelines provided by this Order or other land use documents. Each drilling plan shall contain a description of the drilling program and surface use program. The BLM shall send a copy of appropriate parts of the plan to any other involved SMA and may send a copy of the plan to other interested Federal, State, and local agencies. All information identified as proprietary by the applicant pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, shall first be deleted. The drilling program shall include a description of the pressure control system and circulation mediums, the testing, logging and coring program, pertinent geologic data, and information on expected problems and hazards. The drilling program shall be reviewed for adequacy by BLM. The criteria/standards set forth in the operational manual section (currently designated CDM 643.1.3E, Technical Considerations), or in effect at the time of submission of the APD, generally will be utilized in evaluating the technical adequacy of a proposed drilling plan. If the program is considered adequate, BLM shall require modification of the drilling program.

The surface use program shall contain a description of the road and drill pad location and construction methods for containment and disposal of waste material, and other pertinent data as the authorized officer may require. The surface use program shall provide for safe operations, adequate protection of surface resources and uses and other environmental components, and shall, for Federal and Indian surface, include adequate measures for reclamation of disturbed lands no longer needed for either drilling or other subsequent operations. Where the surface is privately owned, the authorized officer may require the submission of the reclamation plan between the lessee or operator and landowner in order to determine if it is adequate to protect nearby Federal and Indian surface from significant impacts generated by the operation. In developing the surface use program, the lessee or operator shall make use of such information as is available from the involved SMA concernng the surface resources and uses, environmental considerations, and local reclamation procedures. The surface use program shall be reviewed for adequacy by BLM and by any other involved SMA. The criteria/standards set forth in the Surface Operating Standards for Oil and Gas Exploration and Development Handbook, Second Edition, August 1978, or as subsequently revised, generally shall be utilized in evaluating the adequacy of a proposed surface use plan. If the surface use program is considered inadequate, BLM shall, in consultation with any other involved SMA, require modifications or amendment of the program or otherwise set forth stipulations or conditions of approval as are necessary for the protection of surface resources/uses and the environment, and for the reclamation of the areas to be disturbed when no longer needed for operational purposes.

a. *Guidelines for Preparing Drilling Program.* The following information shall be included as part of the drilling plan but shall be made specific to each well if the plan covers more than one well:

(1) Estimated tops of important geologic markers.

(2) Estimated depths at which the top and the bottom of anticipated water (particularly fresh water), oil, gas or other mineral-bearing formations are expected to be encountered and the lessee's or operator's plans for protecting such resources.

(3) Lessee's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency.

(4) Any supplementary information more completely describing the drilling equipment and casing program as set forth on Form 3160–3.

(5) Type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

(6) The anticipated type and amount of testing, logging, and coring.

(7) The expected bottom hole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

(8) Any other facets of the proposed operation which the lessee or operator wishes to point out for BLM's consideration of the application.

(b) *Guidelines for Preparing Surface Use Program.* In preparing this program, the lessee or operator shall submit maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads.* A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of an SMA shall be maintained in accordance with the standards of the SMA.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed.* All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cut and/or cattleguards, and type of surfacing material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be requird during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

(3) *Location of Existing Wells.* It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well Is Productive.*

(a) *On well pad*—A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(b) *Off well pad*—A map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to be installed if the well is successfully completed for production. If new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV. of this Order.

(5) *Location and Type of Water Supply (Rivers, Creeks, Springs, Lakes, Ponds, and Wells).* This information may be shown by quarter-quarter section on a map or plat, or may be a written description. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of BLM may require the filing of a separate APD.

(6) *Construction Materials.* The lessee or operator shall state the character and intended use of all construction materials, such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description. The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2–3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of SMA other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate SMA office shall be contacted to determine the appropriate procedure for use of the materials.

(7) *Methods for Handling Waste Disposal.* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities.* The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the

VOL
48
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21
1983
UMI

methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout.* A plat of suitable scale (not less than 1 inch=50 feet) showing the proposed drill pad and its location with respect to topographic features is required. Cross section diagrams of the drill pad showing any cuts and fills and the relation to topography are also required. The plat shall also include the proposed location of the reserve and burn pits, access roads onto the pad, turnaround areas, parking areas, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any, to line the reserve pit shall be detailed.

(10) *Plans for Reclamation of the Surface.* The program for surface reclamation upon completion of the operation, such as configuration of the reshaped topography, drainage system, segregation of spoils materials, surface manipulations, waste disposal, revegetation methods, and soil treatments, plus other practices necessary to reclaim all disturbed areas, including any access roads or portions of well pads when no longer needed, shall be stated. An estimate of the time for commencement and completion of reclamation operations, dependent on weather conditions and other local uses of the area, shall be provided.

(11) *Surface Ownership.* The surface ownership (Federal, Indian, State or private) at the well location, and for all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the well site is privately owned, the operator shall provide the name, address and telephone number of the surface owner, unless previously provided.

(12) *Other Information.* The lessee or operator is encouraged to submit any additional information that may be helpful in processing the application.

(13) *Lessee's or Operator's Representative and Certification.* The name, address and telephone number of the lessee's or operator's field representative shall be included. The lessee or operator submitting the APD shall certify as follows:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by ———— and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Date ————.
Name and Title ————.

5. *Environmental Review Requirements.*

When an onsite inspection is conducted, it shall be made by representatives of the authorized officer and the operator, and other interested parties such as the involved SMA, the appropriate Alaska Borough (when a subsistence stipulation is part of the lease), and the operator's principal (construction and drilling) contractors. It is recommended that, when appropriate, the operator's surveyor and archeologist should also participate in the inspection. The purpose of this inspection shall be to ensure the staked location, access roads and other areas proposed for surface disturbance are geologically and environmentally acceptable, giving appropriate consideration to all applicable Federal laws and regulations. Lessees and operators are encouraged to designate their future drilling sites so that several locations may be inspected at one time.

a. *Federal Responsibilities.* When an inspection is made, the information obtained shall be utilized by BLM in appraising the environmental effects associated with the proposed action and in preparing pertinent portions of the required environmental documentation. As the approving agency, BLM has the lead responsibility for completing the environmental review process and establishing the terms and conditions under which the proposed action may be approved. The conduct of the environmental review process, under the Department of the Interior's implementing procedures pursuant to the National Environmental Policy Act, will result in the preparation of a Record of Review (ROR) and/or an EA, consistent with pertinent regulations and procedures. This review shall identify the probable and potential environmental impacts associated with the proposal and methods for mitigating these impacts and shall be the basis of the approving official's determination as to whether approval of the proposed activity would or would not constitute a major Federal action significantly affecting the quality of the human environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969. A "would constitute" determination shall necessitate the preparation of an EIS. In that case, final action on the APD shall not be taken until the EIS and Record of Decision are completed.

b. *Other Considerations.* Lessees and operators are strongly encouraged to file their NOS and/or complete APD at least 30 days in advance of the time when they wish to commence operations and to consult with the involved SMA as early as possible to identify potential areas of concern (see sections III. E. and F.).

IV. *Subsequent Operations.* Subsequent operations shall be conducted in accordance with 43 CFR Part 3160, formerly 30 CFR 221. However, where the proposed subsequent operation will result in the well being converted for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from EPA or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer of BLM to the extent that it satifies the information submittal requirements of this Order.

A. *Well and Production Operations.* Before conducting further well operations that involve change in the original plan, a detailed written statement of the work shall be filed on Form 3160–5 or 3160–3 , as appropriate, with the authorized officer and approval obtained before the work is started. These operations include redrilling, deepening, performing casing repairs, plugging-back, altering casing, performing nonroutine fracturing jobs, recompleting in a different interval, performing water shut-off, and converting to injection or disposal. Within 30 days of the completion of such operations, a subsequent report shall be filed on Form 3160–5 and, if the well is recompleted, a recompletion report on Form 3160–4, pursuant to 43 CFR 3162.3–2 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Unless additional surface disturbance is involved and so long as the operations conform to the standard of prudent operating practice, no prior approval is required for routine fracturing or acidizing jobs, or recompletion in the same interval, but a subsequent report of these operations shall be filed on Form 3160–5, formerly 9–331, within 30 days of completion, pursuant to 43 CFR 3162–2.3 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Neither prior approval nor a subsequent report is required for well clean-out work, routine well maintenance (such as pump, rods, and tubing work), or for repair, replacement, or modification of surface production equipment, provided no additional surface disturbance is involved. However, the modification of any production, treating, and measurement facilities shall require the submission of a revised schematic diagram within 30 days of the completion of such operations, pursuant to 43 CFR 3162.7–2, formerly 30 CFR 221.34.

B. *Surface Disturbing Operations.* Pursuant to 43 CFR 3162.3–2 and 3162.3–3, formerly 30 CFR 221.27 and 221.28, lessees and operators shall submit, for the approval of the authorized officer, a proposed plan of operations on Form 3160–5 prior to undertaking any subsequent new construction, reconstruction, or alteration of existing facilities including, but not limited to, roads, emergency pits, firewalls, flowlines, or other production facilities on any lease when additional surface disturbance will result. If, at the time the original APD was filed, the lessee or operator elected to defer submitting information for item III.G.4.b.(4), "Location of Existing and/or Proposed Facilities if Well is Productive," the lessee or operator shall supply this information for approval prior to construction and installation of the facilities. The authorized officer, in consultation with any other involved SMA, may require a field inspection before approving the proposal.

C. *Emergency Repairs.* Emergency repairs may be conducted without prior approval provided that the authorized officer is promptly notified. Sufficient information shall be submitted to permit a proper evaluation of any resultant surface disturbing activities as well as any planned accommodations necessary to mitigate potential adverse environmental effects.

D. *Environmental Review.* The environmental review procedures discussed in section III.G.5. of this Order shall also apply to subsequent operations which involve additional surface disturbance.

V. *Well Abandonment.* No well abandonment operations may be commenced without the prior approval of the authorized officer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval may be obtained from the authorized officer subject to prompt written confirmation. For old wells not having an approved abandonment plan, a sketch showing the disturbed area and roads to be abandoned, along with the proposed reclamation measures, shall be submitted with Form 3160–5. On Federal and Indian surface, the appropriate SMA may request additional reclamation measures at abandonment, which normally shall be made a part of BLM's approval of abandonment. Within 30 days following completion of the well abandonment, the lessee or operator shall file with the authorized officer of BLM a Subsequent Report of Abandonment on Form 3160–5, in accordance with 43 CFR Part 3160, formerly 30 CFR Part 221. Upon completion of reclamation operations, the lessee or operator shall notify the authorized officer when the location is ready for inspection, via an additional Form 3160–5. Final abandonment shall not be approved until the surface reclamation work required by the approved drilling permit or approved abandonment notice has been completed to the satisfaction of the involved SMA.

VI. *Water Well Conversion.* The complete abandonment of a well which has encountered usable fresh water shall not be approved if the SMA or surface owner wants to acquire the well. If, at abandonment, the SMA or surface owner elects to assume further responsibility for the well, the SMA or surface owner, as appropriate, shall reimburse the lessee or operator for the cost of any recoverable casing or wellhead equipment which is to be left in or on the hole solely because it is to be completed as a water well. The lessee or operator shall abandon the well to the base of the deepest fresh water zone of interest, as required by the authorized officer, and shall complete the surface cleanup and reclamation, as required by the approved drilling permit or approved abandonment notice, immediately upon completion of the conversion operations.

VII. *Privately Owned Surface.*—A. *Federal oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for Indian benefit, the lessee or operator is responsible for reaching an agreement with BIA or the private surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish a copy of any existing agreement between the lessee or operator and the surface owner to the authorized officer. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian lands. In the event there is no agreement between the surface owner and the operator, the operator may comply with the provisions of the law or the regulations governing the Federal or Indian right of reentry to the surface (See Subpart 3814 of this title) and the authorized officer may then proceed to issue the permit.

B. *Indian oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for an Indian or Indian tribe other than the owner of the oil and gas rights, the lessee or operator is responsible for reaching an agreement with the surface owner (or the BIA if the surface is held in trust for numerous or unlocatable Indian owners) as to the requirement for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of

Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish the authorized officer a copy of any existing agreement between the lessee or operator and the surface owner. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian-owned lands. In the event there is no agreement between the surface owner and the operator, the authorized officer may permit the operator to conduct operations if he/she determines that: (1) a good faith effort has been made by the operator to reach agreement with the surface owner; (2) adequate security is posted, in the form of a bond, escrow account or by other means, to compensate the surface owner for any damages; and (3) there is no legal obstacle to conducting operations in the absence of surface owner consent.

VIII. *Reports and Activities Required After Well Completion.* Within 30 days after the well completion, the lessee or operator shall furnish 2 copies of Form 3160-4, formerly 9-330 (Well Completion or Recompletion Report and Log) to the authorized officer. However, no later than the fifth business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well that has been off production for more than 90 days, the lessee or operator shall notify the authorized officer of the date on which production has begun or resumed.

The notification may be provided orally if promptly confirmed in writing.

Dated: August 9, 1983.

Jeffrey F. Zabler,

Acting Assistant Director for Fluid Leasable Minerals.

Approved:

Dated: August 17, 1983.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

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Attachment A

SAMPLE FORMAT

NOTICE OF STAKING (Not to be used in place of Application for Permit to Drill Form 3160-3)	6. Lease Number
1. Oil Well ☐ Gas Well ☐ Other (Specify)	7. If Indian, Allottee or Tribe Name
2. Name of Operator:	8. Unit Agreement Name
3. Name of Specific Contact Person:	9. Farm or Lease Name
4. Address & Phone No. of Operator or Agent	10. Well No.
5. Surface Location of Well Attach: a) Sketch showing road entry onto pad, pad dimensions, and reserve pit. b) Topographical or other acceptable map showing location, access road, and lease boundaries.	11. Field or Wildcat Name 12. Sec., T., R., M., or Blk and Survey or Area

15. Formation Objective(s)	16. Estimated Well Depth	13. County, Parish or Borough	14. State

17. Additional Information (as appropriate; must include surface owner's name, address, and telephone number)

18. Signed_____ Title_____ Date_____

Note: Upon receipt of this Notice, the Bureau of Land Management (BLM) will schedule the date of the onsite predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite.

Operators must consider the following prior to the onsite:
a) H_2S Potential
b) Cultural Resources (Archeology)
c) Federal Right of Way or Special Use Permit

IMPORTANT: SEE REVERSE SIDE FOR INSTRUCTIONS

BILLING CODE 4310-84-C

VOL
48
ISS
205
OC
21
1983
UMI

Instructions for Preparation of Attachment A

General: This provides notice to the Bureau of Land Management (BLM) that staking has been (or will be) completed for well locations on Federal or Indian leases and serves as a request to schedule an onsite inspection. The original and one copy of this notice, together with a map and sketch, should be submitted to the appropriate BLM office.

Any item not completed may be justification for not promptly scheduling the onsite inspection.

Specific Considerations: Items included herein should be reviewed and evaluated thoroughly prior to the onsite. These items affect placement of location, road, and facilities. Failure to be prepared with complete, accurate information at the onsite may necessitate later re-evaluation of the site and an additional onsite inspection.

a. H_2S Potential: Prevailing winds, escape routes, and placement of living quarters must be considered.

b. Cultural Resources: Archeological surveys, if required, should be done prior to, during or immediately following the onsite. Changes in location due to subsequent archeological findings may require an additional onsite. Contact involved Surface Management Agency (SMA) for detailed site specific requirements.

c. Federal Right-of-Way or Special Use Permit: Access roads outside the leasehold boundary which cross Federal lands will require a right-of-way grant or special use permit and should be discussed with the BLM or other involved SMA at the time of filing the Notice of Staking.

Supplemental Checklist: The following items, if applicable, should be submitted with or prior to the Application For Permit to Drill (APD) to ensure timely approval of the application. Contact the BLM regarding specific requirements relating to each item.

a. Bonding.

b. Designation of Operator.

c. Report of Cultural Resources/ Archeology.

d. H_2S Contingency Plan.

e. Status of Plan of Development and Designation of Agent for wells in Federal units.

f. Federal Right-of-Way (BLM) or Special Use Permit (Forest Service).

Timetable: The onsite inspection will be scheduled and conducted by the BLM within 15 days after receipt of this notice. Surface protection and rehabilitation requirements will be made known to the operator by the BLM during the onsite or no later than 5 working days from the date of inspection, barring unusual circumstances. These requirements are to be incorporated into the complete APD. However, this does not exclude the possibility of additional conditions of approval being imposed.

Attachment B

Date:— _____

Bureau of Land Management

Checklist for Applicant Notification

Receipt and Acceptability of Application for Permit To Drill (APD)

Lease No.—————
Well No.—————
Lessee—————
Operator—————
Date APD Received—————

1.—APD complete as submitted.

2.—APD is deficient in the following area(s) *and* (see items 3, 4, or 5 below):

—Designation of Operator
—Designation of Agent under—————unit agreement
—Bonding
—Cultural Resources Report (depends on Federal Surface Management Agency's Requirements
—Form 9–331C
—Drilling Plan
—Other

(Refer to attachment(s) for any specifics)

3.—APD is retained; to be processed upon receipt of further information as noted above.

4.—APD is being processed; final action pending receipt of further information as noted above.

5.—APD is returned for the following reasons:—————

Note:— A returned APD herewith may be resubmitted when convenient at which time it will be reviewed again for technical and administrative completeness.

A retained but deficient APD must be brought to a technically and administratively acceptable level of completion within 45 days of the date of this notice or the application will be returned unapproved.

[FR Doc. 83–28642 Filed 10–20–83; 8:45 am]

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federal register

Friday
October 21, 1983

Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; VOC Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

VOL
48
ISS
2
0
5
OC
21
1983
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL 2258–8]

Standards of Performance for New Stationary Sources; VOC Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standard would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed air oxidation facilities. These proposed standards would require, for each air oxidation process vent stream, either use of a combustion device which reduces total organic compound emissions (minus methane and ethane) by 98 weight percent or to 20 ppm by volume, whichever is less stringent, or maintenance of a total resource-effectiveness (TRE) index value greater than 2.2.

The proposed standard implements Section 111 of the Clean Air Act and is based on the Administrator's determination that the synthetic organic chemical manufacturing industry (SOCMI) contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed SOCMI air oxidation facilities to control emissions to the level achievable through use of the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: Comments. Comments must be received on or before January 3, 1984.

Public Hearing: If anyone contacts EPA requesting to speak at a public hearing by November 15, 1983, a public hearing will be held on December 1, 1983 beginning at 10 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at the telephone number listed under **FOR FURTHER INFORMATION CONTACT** to verify that a hearing will occur.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Central Docket Section (A–130), Attention: Docket Number A–81–22, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. If anyone requests a public hearing, it will be held at the Environmental Research Center Auditorium, corner of highway 54 and Alexandria Drive, Research Triangle Park, North Carolina.

Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 17711, telephone number (919) 541–5578.

Background Information Document. The background information document (BID) for the proposed standard may be obtained from the U.S. EPA Library (MD–35) , Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "SOCMI Air Oxidation Processes—Background Information for Proposed Standards," EPA–450/3–82–001a.

Docket. Docket Number A–81–22, containing supporting information used in developing the proposed standard, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel, (919) 541–5596, concerning technical aspects of the industry and control technologies, and Mr. Gilbert H. Wood, (919) 541–5578, concerning regulatory decisions. The address for both parties is Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711. As indicated above, please call the U.S. EPA Library for background information documents.

Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541–5578 to verify that a hearing will occur.

SUPPLEMENTARY INFORMATION:

Proposed Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> • • • application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated Section 111(a)(1).

For convenience, this will be referred to as "best demonstrated technology" or BDT.

The Administrator has determined that for most air oxidation facilities BDT for VOC reduction is incineration, which can reduce total organic emissions (minus methane and ethane) by 98 percent by weight or to 20 ppm, by volume. Due to variations in factors such as flowrate and organics concentration, the total costs for incineration per unit VOC emission reduction would vary considerably among the different types of air oxidation facilities. The Administrator has also determined, therefore, that for some air oxidation facilities, the cost of incineration per unit of VOC reduced is unreasonably high and BDT is no control. To distinguish between those facilities for which BDT is incineration and those facilities for which BDT is no control, a means of measuring the total cost of control VOC emissions from air oxidation facilities by incineration was developed. This means of measuring the cost of control is called the total resource-effectiveness (TRE) index and is explained more fully in the section entitled "Selection of the Basis of the Proposed Standard."

The proposed standard would require each owner or operator of an affected facility to either reduce process vent stream emissions by 98 weight percent or to 20 parts per million by volume, whichever is less stringent, or to maintain a TRE index value greater than 2.2 The affected facility is designated as any individual product recovery system along with all air oxidation reactors feedings offgas into this system. Each air oxidation reactor not feeding offgas into a product recovery system would constitute a separate affected facility.

An equation is included in the regulation for determining the TRE index value of each vent stream. The process vent stream flowrate, total organic compound (minus methane and ethane) emission rate, net heating value and corrosion properties (whether or not chlorinated compounds are present) would be required to be measured according to the specified Reference Methods in order to calculate the TRE index value. These vent stream characteristics would be measured following the last product recovery device (e.g. condensers, absorbers, carbon adsorbers). The structure of the proposed standard allows an affected facility with a TRE index value of less than 2.2 to add a product recovery device or improve an existing product recovery device to change the vent stream characteristics used for calculating the TRE index value so that the TRE index value will be above 2.2 and incineration would not be required. An owner or operator might choose to improve product recovery rather than incinerate in some cases due to the lower cost of improved product recovery. Increased product recovery would also have the advantage over incineration of less energy usage and increased retention of product.

Each owner or operator complying with the proposed standard by using an incinerator or stream generating unit (such as a boiler or process heater) with a design heat input capacity of less than 44 MW (150 million Btu/hr) would be required to continuously monitor and record the firebox operating temperature (or, if a catalytic oxidizer were used, the temperature before and after the catalyst bed). If this emission reduction requirement were achieved by use of a steam generating unit with a design capacity of 44 MW or greater, no continuous monitoring would be required. However, records (such as steam production records) would be required which would verify the periods of operation of the steam generating unit. If the VOC reduction requirement were achieved by any other means, the owner or operator would be required to provide information describing the operation of the control device and the process parameter(s) which would indicate proper operation and maintenance of the device so that the enforcing agency could specify appropriate monitoring requirements.

Each owner or operator who seeks to demonstrate compliance with the proposed standard by maintaining a vent stream TRE index value above 2.2 would be required to maintain records of any change in the design or operation of the facility which could affect the TRE index value. Such records would include changes in the production capacity, feedstock type, or catalyst type, as well as the replacement, removal, or addition of product recovery equipment. When any such change takes place, the owner or operator of the facility is required to demonstrate that he is in compliance with the standard; that is, he is to recalculate the TRE index value to document that the facility continues to have a TRE index value above 2.2. Such recalculation can be based on test data reflecting the changes in the system, or best engineering estimates of the effects of the changes. If the recalculated TRE index value for the facility is less than 2.2, the owner or operator shall demonstrate compliance with the 98 percent or 20 ppmv emission limits. Prior notice of any performance testing shall be given to EPA as required by the General Provisions. Performance testing may also be required on a case-by-case basis by the Administrator following any change to the product recovery system in order to verify the TRE index value for the facility.

In addition to maintaining records of certain operating parameters to ensure the proper operation and maintenance of combustion control equipment or product recovery devices, records of instances where the monitored values exceed allowable limitations must be maintained. In addition to maintaining these records, an owner or operator must submit a semi-annual report of the recorded exceedances, of periods when the TRE index value is recalculated and of periods when a steam generating unit is not operating. The requirement of semi-annual reporting may be waived for affected facilities in States that have been delegated authority for enforcement, provided EPA approves the reporting requirements or alternative means of compliance surveillance adopted by the State and the affected facilities comply with the requirements established by the State.

In addition to this proposed standard Reference Methods 1A, 2C, and 2D are being proposed in today's **Federal Register**.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts associated with the proposed standard were projected by using a national statistical profile of offgas characteristics at existing plants. The offgas parameters included were offgas flowrate, net heating value, total organics (minus methane and ethane) emission rate, and corrosion properties (presence or absence of halogenated compounds). It was assumed that the national distribution of these offgas parameters for new sources would be the same as the distribution for existing sources. Determination of these impacts was based on the use of a single VOC control technique, thermal oxidation. Thermal oxidation is the only VOC control technique universally applicable to SOCMI air oxidation processes. Some processes would employ product recovery equipment to achieve a TRE index value higher than the exemption cutoff, and, in fact, the proposed standards are structured in such a way that encourages this. Such equipment generally has lower associated costs, energy use, and emission reduction. Therefore, the environmental, energy, and economic impacts associated with the proposed standard are somewhat overstated. However, the degree of overstatement of the impacts cannot be quantified.

Under the proposed standard, approximately 19 percent of all new, modified, or reconstructed air oxidation facilities would be under the TRE cutoff. If all of these facilities used incineration to meet the standard, the projected 1986 national VOC emissions from new air oxidation process and product recovery vents would be reduced by an estimated 12,500 megagrams per year (Mg/yr). This national VOC reduction would be approximately 57 percent beyond the 22,000 Mg/yr level that would be expected under typical State implementation plans (SIP's).

Any increase in emissions of other air pollutants as a result of controlling VOC emissions would be negligible. There would be no direct solid waste impacts under the proposed standards, and impacts on noise, space requirements, and availability of resources would be negligible.

No increase in total plant wastewater is projected under the proposed standard. There is no organic wastewater effluent associated with incineration. Therefore, the only facilities which could have an associated water pollution impact are those which might use additional product recovery to achieve a total resource-effectiveness (TRE) value above the proposed 2.2 cutoff. Carbon adsorption is the only product recovery technique currently in use in the industry which has an associated organic wastewater effluent. Based on past industry experience, only three air oxidation chemical manufacturing processes are expected to employ carbon adsorption. Of these three processes only the maleic anhydride from benzene feedstock process might have a TRE value below the proposed 2.2 cutoff. However, if any new maleic anhydride facilities are built, it is projected they will utilize butane feedstock rather than benzene. The maleic anhydride from butane feedstock process would not use carbon adsorption for product recovery and therefore would have no additional wastewater.

If an existing benzene-feedstock maleic anhydride facility were modified or reconstructed (which is unlikely), such a facility might have a TRE value below the proposed cutoff. in such an event, an if additional carbon adsorption were employed in lieu of incineration or some other type of product recovery, the adsorption unit of a typical maleic anhydride facility would generate approximately 500 Mg/yr of VOC which would be sent to

VOL 48 ISS 205 OCT 21 1983 UMI

wastewater treatment. The organic load of the wastewater from carbon adsorption would be less than 10 percent of the total liquid waste from such a facility. This wastewater stream could be treated along with the other plant effluent or recycled to the process. No new wastewater treatment plant or additional sewer capacity would be necessary.

The fifth year energy requirements due to VOC control under the proposed standard would be 0.77 billion megajoules per year (MJ/yr), (360 bbl oil/day). The projected national and individual plant energy impacts are considered reasonable.

The fifth year cost impacts of the proposed standards also would be reasonable. The 1986 national annualized cost for VOC control would be $10 million. The fifth year national capital cost for VOC control would be $18 million.

An economic analysis indicated that the costs of VOC control due to the proposed standard could be passed on with little or no effect on the profitability of the air oxidation chemical producing industry. Projections made by employing process-specific assumptions indicate that all air oxidation chemicals would have product cost increases due to the proposed standard of less than 5 percent of the projected product price. The price changes for the 36 chemicals that are currently produced using the air oxidation process, assuming control costs would be passed through totally, would range from 0 to a 3.1 percent increase, except for maleic anhydride produced by the benzene process, which showed an estimated 4.2 percent increase. New maleic anhydride plants are expected to employ the butane process (which showed an estimated 3.1 percent increase), instead of the benzene process, even in the absence of the proposed standard. Finally, there would be no adverse effects on employment because the proposed standard would not affect demand for the air oxidation chemicals.

It is projected that, in the absence of the proposed standards, uncontrolled VOC emissions would be reduced an average of 72 percent by State regulations. Seventy-two percent represents a weighted average of the regulations in States where new sources are projected to be built. The actual control required would vary considerably from State to State. Therefore, the impacts for individual plants would vary depending on the State where the affected facility is located. A typical air oxidation facility located in a State with a relatively stringent standard would reduce VOC emissions 1200 Mg/year beyond what the SIP would require at an incremental annualized cost of $1.4 million under the recommended standard. A typical air oxidation facility in a State with no State requirement would reduce VOC emissions by about 7400 Mg/yr at an estimated annualized cost of $2.1 million under the recommended standard.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical State implementation plan (SIP). They provide documentation which reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies (if any), development of associated costs, an evaluation and verification of applicable emission test methods, identification of specific emission limits achievable with alternate technologies and an economic analysis that reveals the affordability of controls.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government, and the public affected by that industry's emissions. The resultant regulation represents a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

Moreover, this industry is rapidly evolving and growing, and the emissions include a wide range of organic compounds, some of which are currently being studied as potentially being toxic. The continuing evolution of this industry, as well as the difficulties and time required to determine with certainty adverse health effects associated with these chemical emissions, will continue to make chemical-by-chemical control of toxic emissions a costly and uncertain process. Accordingly, an effective NSPS offers benefits beyond that associated with the reduction of VOC's as oxidant precursors.

Rationale Selection of Source and Pollutant

The EPA priorty list, 40 CFR 60.16 (44 FR 49222, August 21, 1979), ranks major source categories for which NSPS are to be promulgated. This list implements the Clean Air Act and reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution. The synthetic organic chemical manufacturing industry (SOCMI) was ranked highest priority for NSPS development on the final priority list of 59 major source categories. Organic chemical plants are a major source of VOC emissions which contribute to ozone formation.

VOC is emitted from four major subcategories within SOCMI: process vents, fugitive, storage, and secondary emission sources. Standards have already been proposed for SOCMI fugitive sources, and are being developed for storage sources.

Process vent emissions of VOC are estimated to be 50 to 55 percent of the total VOC emissions from SOCMI, according to the EPA "1978 Survey and Ranking of VOC Emission Sources in SOCMI" (EPA–450/3–80–023). Process vent emissions are emissions from any of the process or associated product recovery vents in a SOCMI chemical manufacturing process. Process vent emission sources include pressure relief valves, evacuation of equipment for vacuum processing, and venting of VOC-containing inert gases. Among those sources which vent VOC-containing inert or reaction gases are air oxidation processes. An air oxidation unit process is one that uses air, or a combination of air and oxygen, as an oxygen source in combination with one or more organic reactants to produce one or more SOCMI chemicals.

Air oxidation process vent emissions are estimated to be about 110,000 Mg/yr. Air oxidation chemical-producing plants are located in 30 States and Puerto Rico, with some existing near urban population centers. An overall growth rate projection for air oxidation chemicals using a weighted-by-capacity average is 4.7 percent. Approximately 49 new air oxidation facilities are projected to be built between 1981 and 1986.

Thermal oxidation is a VOC control technology applicable to all SOCMI air oxidation processes. Therefore, because the Agency can establish standards of performance based on a control technology which is available to reduce these emissions, the Administrator is proposing such standards.

The standards cover only processes which emit any VOC's include all organic compounds except those which the Administrator has determined do not participate in atmospheric photochemical reactions. The Administrator has determined that the following organic compounds are not photochemically reactive: methane; ethane; 1,1,1-trichloroethane; methylene chloride; trichlorofluoromethane, dichlorodifluoromethane; trifluoromethane; trichlorotrifluoroethane; dichlorotetrafluoroethane; chloropentafluoroethane. Even though the standards cover only those processes which emit VOC, the emission limits for processes which emit VOC are expressed in terms of total organic compounds (minus methane and ethane) rather than VOC. This is a reflection of the technology, data, and test method upon which the standards are based. This is discussed in greater detail in a later section of this preamble entitled *Compounds Used in Determining Compliance.*

Oxychlorination and ammoxidation processes have reaction, emission, and control system design characteristics sufficiently similar to the other air oxidation processes that all of these may be grouped together. For this reason, all oxidation unit processes, including ammoxidation and oxychlorination processes, that use air (or a combination of air and oxygen) have been chosen as the source for control by the proposed standard.

In addition to VOC emissions, other pollutants emitted from SOCMI air oxidation sources included carbon monoxide (CO), nitrogen oxides (NO_x) and sulfur oxides (SO_x). These other pollutants are emitted in much lower quantities than the estimated VOC emissions. VOC is the only pollutant covered by the proposed standard. Due to the size of this source category, covering other smaller pollutants at this time would have been an unmanageable task. The Agency will examine these other pollutants independently.

Selection of Regulatory Approach and Affected Facilities

Two general regulatory approaches could be used in developing standards for SOCMI. The first approach involves the chemical-by-chemical development of standards, which has historically been the most commonly used approach in developing standards of performance for new stationary sources. This approach would involve establishing standards for each specific chemical manufacturing process.

The second approach involves the development of standards on the basis of similar types of emission sources and applicable emission control techniques. The second approach is more resource-efficient than the first approach because a large number of specific chemical processes can be covered by one regulation. In addition, because of the similarity of processes regulated by a particular standard and the similarity of applicable controls, the energy and cost impacts can be adequately addressed as required by the Clean Air Act.

Air oxidation facilities currently use 36 specific reaction and equipment configurations to manufacture 36 different organic chemicals. Because of the many types of facilities and processes in the air oxidation industry, a chemical-by-chemical development of standards would require large amounts of time. Therefore, compared to the unit process approach, a chemical-by-chemical approach would result in a long delay in achieving a significant emission reduction from air oxidation processes.

Despite the large variation in reaction types used to produce air oxidation chemicals, air oxidation processes can be grouped together because they have several similar characteristics, including the need to vent to the atmosphere large quantities of VOC-containing nitrogen from the process air, the VOC content of which is too low to be further recovered with a cost savings. Therefore, air oxidation process vent streams typically have high flowrates and low VOC contents. Although further VOC recovery does not result in cost savings due to the low VOC content, technology does exist for control of these VOC emissions from all air oxidation processes. This technology is thermal oxidation. The design characteristics and, therefore, costs for thermal oxidizer control systems would be similar among air oxidation facilities and different from a typical design for control of other SOCMI process emissions such as oxygen oxidation unit processes or distillation unit operations. These similar design characteristics would be large equipment sizes, due to the relatively high air oxidation vent stream flowrates, and high supplemental fuel requirements, due to the relatively low vent stream VOC contents and heating values. Therefore, because control techniques are available for the entire industry group and because regulating the entire group would be more resource-efficient, a single regulation is being proposed for controlling process VOC emissions from all SOCMI air oxidation facilities.

The choice of the affected facility for these standards is based on the Agency's interpretation of Section 111 of the Clean Air Act and on the judicial construction of its meaning [ASARCO, Inc v. EPA, 578 F.2d 319 (D.C. Cir. 1978)]. Under Section 111, the standards of performance for new stationary sources must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment which emit air pollutants, and which may be viewed as "sources." EPA therefore uses the term "affected facility" to designate the equipment, within a particular kind of plant, which is chosen as the "source" covered by a given standard.

In designating the affected facility, EPA must decide which piece or group of equipment is the appropriate unit (the source) for separate emission standards in the particular industrial context involved. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower designation results in bringing replacement equipment under standards of performance sooner. If, for example, an entire plant is designated as the affected facility, no part of the plant would be covered by the standard unless the replacement causes the plant as a whole to be "modified" or "reconstructed." The plant as a whole could be considered modified only if the replacement results in an increase in the aggregate emissions from the entire plant. The Agency would consider the plant as a whole to have been reconstructed only if the cost of the replacement exceeds 50 percent of the cost of an entire plant. If, on the other hand, each piece of equipment is designated as the affected facility, then as each piece is replaced, the replacement piece will be a new source subject to the standard. Since the purpose of Section 111 is to minimize emissions by application of the best demonstrated control technology at all new and modified sources (considering cost, other health and environmental effects, and energy requirements), there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes either that: (a) A broader designation of the affected facility would result in greater emissions reduction than would a narrow designation; or (b) the other relevant statutory factors (technical feasibility, cost, energy, and other environmental impacts) point to a broader designation.

Several air oxidation reactors may feed offgases into a common product recovery train. The characteristics of the

VOL 48 ISS 205 OCT 21 1983 UMI

emissions vented into the atmosphere from the product recovery train are determined by the offgases from each of the reactors, as well as by the product recovery process from each of the reactors, as well as by the product recovery process itself. The contribution of each reactor to these emissions cannot be determined precisely. Consequently, designating each of several reactors connected to a common product recovery train as a separate affected facility was judged to be technically infeasible. Since all the reactors and their common product recovery train operating in conjunction determine the emissions from the air oxidation process, the narrowest feasible affected facility is that defined as the combination of those reactors and their common product recovery train.

It is feasible, although uncommon, for emissions from a reactor to be vented directly to the atmosphere. Since the characteristics of emissions from reactors not feeding offgases into a common product recovery train can be determined for each reactor separately, each such reactor has been designated as a separate affected facility.

Therefore, the Administrator designated the individual reactor-product recovery train consisting of an individual product recovery system (series of product recovery units) along with all air oxidation reactors feeding offgas into this system as the affected facility. Each air oxidation reactor not feeding offgas to a product recovery system would be designated as a separate affected facility. The affected facility would end at the vent at which the air oxidation reactor offgas is emitted to the atmosphere.

If two or more series of product recovery equipment units were arranged in parallel such that they shared an ultimate vent to the atmosphere, each train of recovery equipment, with its associated air oxidation reactors, would be considered a separate affected facility, as long as each reactor was piped to only one of the series of recovery equipment. Also, if a new reactor were added to an existing facility such that a modification resulted, the affected facility would include the new reactor, all recovery equipment into which the new reactor was piped, and any other reactors also piped to the same recovery equipment. Any nonair oxidation reactors feeding offgas into an affected facility's equipment train would not be considered part of that affected facility. If any or all of the air oxidation reactor offgas at any point were conducted through the equipment of any other process in the plant (other than the air oxidation product recovery train), the intervening nonair oxidation equipment would not be included as part of the affected facility. Such a diversion of air oxidation offgas might be done to provide an inert blanket for another type of reactor. Such a diversion might result in the air oxidation reactor offgas being emitted from more than one atmospheric vent. In this case, each vent, along with any product recovery equipment through which the vented air oxidation offgas would have passed, and any associated air oxidation reactors, would constitute an affected facility.

Selection of Regulatory Alternatives

Control Techniques. A variety of control devices, including condensers, absorbers, adsorbers, and incinerators, can be used to reduce VOC emissions from air oxidation unit processes. However, selecting the most applicable VOC control device for a particular chemical manufacturing process and determining the degree of control achievable would depend on the chemical composition of the waste stream and other process characteristics. The specificity and effectiveness of devices such as condensers, absorbers, adsorbers, and catalytic incinerators may be greatly affected by the vent stream flowrate and VOC concentration, the chemical and physical properties of the VOC and other contaminants, and the vent stream water content and temperature. As a result, none of these potential control devices would be universally applicable for reduction of VOC emissions from all air oxidation processes.

Air oxidation processes use a combination of absorption devices, condensers, or carbon adsorption units for product recovery (or for recovery of unreacted raw material). These devices are usually designed to recover only as much of the VOC as results in a cost savings and, therefore, would not be considered control devices. However, in some plants these devices are designed to remove more than that amount which results in cost savings. In this case, the devices operate both for product recovery and as control devices for emission reduction or to reduce the pollutant load on some other final control device.

Thermal oxidation is a control technique in which a mixture of gases, including a vent stream, excess combustion air, and/or fuel, is held at a sufficiently high temperature for a sufficiently long period of time to insure complete combustion of the VOC to carbon dioxide and water. If the VOC stream has a sufficiently high heating value, part of it is passed through the burner in place of part or all of the fuel. The thermal oxidizer operating temperature, chamber residence time, combustion gas mixing, and several other factors related to individual waste stream characteristics determine the exact efficiency of this reaction. Operation of a thermal oxidizer is much less dependent on process and vent stream characteristics than are other VOC control and/or product recovery devices and, consequently, is the only demonstrated VOC control technology universally applicable to SOCMI air oxidation processes. Also, data show that thermal oxidation can achieve the highest feasible VOC control level of all currently demonstrated technologies. All new incinerators can achieve at least a 98 percent VOC reduction or 20 ppmv exit concentration. This control level can be achieved for all air oxidation reaction processes by incinerator operation at conditions which include a maximum of 870°C (1600°F) and 0.75 second residence time.

Tests were performed on the destruction efficiency of incinerators operating at various temperatues [700°C (1300°F) to 800°C (1500°F)] and residence times (0.5 to 1.5 seconds). These tests showed a destruction efficiency of 98 percent to be achievable. In addition, kinetics calculations were performed which compared the tested conditions with the destruction efficiency of an incinerator operated with a residence time of 0.75 second at 870°C. This temperature is known to be achievable in existing incinerators. These calculations show that these conditions are more conductive to complete destruction than the tested conditions.

Therefore, 870°C and 0.75 second were determined to represent the achievable operating conditions which might be necessary to achieve 98 percent total organics (minus methane and ethane) destuction under the worst case conditions.

Kinetics calculations describing complex combustion reaction mechnisms point to much slower reaction rates at very low total organics concentrations. Because of these slower combustion reaction rates, maximum achievable organic compounds destruction efficiency decreases as inlet concentration decreases. Available data show that the lowest concentration achievable by combustion of inlet streams below approximately 2000 ppmv is 20 ppmv. (For air oxidation vent stream with a concentration of 2000 ppm, the incinerator combustion air introduces a dilution factor of about 2, so that the actual incinerator inlet concentration is about 1000 ppm.) The Agency has therefore selected 20 ppmv as the limit that allows fully for the drop in achievable destruction efficiency with decreasing inlet concentration.

The data also show that the effect of compound identity on destruction efficiency increases at incineration temperatures lower than 760°C (1400°F), although precise quantitative relations could not be determined. However, at temperatues above 760°C, the identity of nonhalogenated compounds has little effect on the destruction efficiency of thermal oxidizers. Because organic compounds which contain halogens undergo complete combustion more slowly, at any given temperature, more stringent conditions are required to achieve 98 percent destruction when incinerating halogenated vent streams. The impacts of emission control were projected assuming a combustion temperature of 1100°C (2000°F) and 1.0 second residence time for halogenated vent streams. Because the incinerator outlet stream for such facilities would contain corrosive hydrogen halide, a flue gas quencher and scrubber were included in the incineration system design and considered in the projection of cost impacts.

At temperatures over 760°C (1400°F), the oxidation reaction rate is much faster than the rate at which mixing takes place. Therefore, organic compound destruction becomes more dependent upon the fluid mechnics within the oxidation chamber. Chamber design and burner and baffle configurations provide for turbulent flow for improved mixing. One practical manner of achieving good mixing and efficiency is to adjust the newly installed equipment (e.g. by changing baffle configurations) to improve performance.

Although the emission test data cited above would also support the achievability of 95 percent reduction at a thermal oxidizer operating temperature of 760°C (1400°F), this reduction efficiency was not considered as an alternative control technique. This 95 percent alternative was not considered because the additional emission reduction associated with 98 percent control at 870°C relative to 95 percent control at 760°C was judged to be large when compared to the small incremental cost and energy impacts associated with the two control levels.

In summary, thermal oxidation is the only VOC control device that is universally applicable to SOCMI air oxidation processes. Thermal oxidation can achieve a greater degree of VOC control than any other device, and requires only a limited amount of vent stream data (flowrate, heating value, and whether chlorinated compounds are present) to determine control costs.

Selection of Format for Proposed Standard and Emission Limits. Several formats could be used to implement the proposed standard. Section 111 of the Clean Air Act requires that standards of performance be prescribed unless, in the judgment of the Administrator, it is not feasible to prescribe or enforce such standards. Because emission from air oxidation process or product recovery vents, as well as emissions from any type of combustion control equipment, can be measured, it was determined that an emission limitation (performance) standard would be appropriate. A mass emission standard, a percent reduction standard, and a concentration standard were considered.

Because of the variety in offgas flowrates and VOC contents for the many chemical reaction processes and facilities in the air oxidation source category, mass emission rates from sources using 98 percent efficient incinerators would vary considerably. Consequently, a mass emission limit based on an average source would require more than 98 percent control demonstrated technology (BDT) at some facilities and less at others. Therefore, a mass emission standard was considered inappropriate, because it would not require best demonstrated technology (BDT) at each source.

Air oxidation process vent streams have as much variation in volume percent VOC concentration as in mass emission rates. Any standard based solely on a concentration limit would require more than BDT at some facilities and less than BDT at others. Therefore, a standard based solely upon concentration was considered inappropriate. However, a concentration limit might be used in combination with another type of emission limit. If the applicability of the concentration limit were restricted to facilities with a limited range of offgas organics content.

A weight percent reduction standard would be feasible because the control device inlet and outlet emission rates can be measured. Furthermore, a given set of incinerator operating conditions tends to result in a given weight percent organics reduction, rather than in an absolute outlet organics concentration or emission rate. As discussed above in the section entitled *Control Techniques*, all new incinerators can achieve at least a 98 weight percent reduction in total organics (minus methane and ethane), provided that the total organic (minus methane and ethane) concentration of the process vent stream is greater than approximately 2000 ppm (volume, by compound). Therefore, a weight percentage reduction standard, based on the mass rate of organics exiting the control device versus the mass rate of organics entering the device, would be appropriate for vent streams with total organics (minus methane and ethane) concentrations above approximately 2000 ppm. For vent streams with organics concentrations below approximately 2000 ppm, it has been determined that an incinerator outlet concentration of 20 ppm (volume, by compound), or lower, is achievable by all new thermal oxidizers. Therefore, EPA concluded that the format of the proposed standard for air oxidation process vent emissions should include a combination of weight percent reduction and a volume concentration standard. The proposed emission limits would be a 98 percent total organics (minus methane and ethane) reduction, or total organics (minus methane and ethane) reduction to 20 ppm (volume, by compound), whichever would be less stringent for a given facility. The concentration limit of 20 ppmv would be based on a vent stream oxygen concentration, at the control device outlet, of 3 percent by volume.

Regulatory Analysis. As explained above, thermal oxidation is clearly the most effective control technology and is demonstrated for application at all facilities. For this reason, the Agency concluded that any regulatory alternative under the Administrator's consideration would necessarily incorporate the use of thermal oxidation. (This contrasts with the development of most other NSPS's where the Agency has examined regulatory alternatives distinguished from each other by control device.) Accordingly, each alternative would require a control efficiency of 98 weight percent or reduction to 20 ppmv exit concentration, whichever is less stringent, for those affected facilities required to control emissions.

However, because this standard would cover a variety of types of SOCMI plants, the offgas parameters which would affect the cost and energy impacts of VOC control by thermal oxidation would vary. These parameters include volume flowrate (which affects equipment size) and heating value (which affects the amount of supplemental fuel required to achieve complete combustion). Other varying offgas parameters include organics content and corrosion properties (such as the presence of chlorinated compounds, which affect control equipment structural properties). Because of this variety, control costs per weight unit emission reduction would

VOL 48 ISS 205 OCT 21 1983 UMI

also vary considerably from plant to plant. Therefore, the Agency needed to decide whether thermal oxidation is the "best demonstrated technology" for all, or only a portion, of the projected affected facilities. This depends on the impacts associated with thermal oxidation control at facilities with different vent stream characteristics. Thus, as discussed in the section entitled *Identification of Regulatory Alternatives,* under each additional alternative an additional percentage of sources would be required to meet the proposed standards. (For example, under the first alternative, 7 percent of the projected affected facilities would be required to meet the standards. Under the second alternative, those 7 percent plus an additional 7 percent of projected facilities would be required to meet the standards, and so on.)

The Agency structured the regulatory alternatives so that those facilities with the lowest projected annualized cost of control, per unit of VOC destroyed, would be controlled first (i.e., under the first and all other alternatives) and those with higher costs would be controlled last (i.e., under only the latter alternatives). This method of choosing which facilities would be required to control emissions ensures that for any given regulatory alternative, the greatest national VOC emission reduction is obtained for the amount of money spent.

The following discussion and the section entitled *National Emissions Profile* describe how the Agency calculated theoretical control costs for each vent stream in order to rank vent streams by cost per unit of VOC destroyed. All new incinerators, if properly installed, adjusted, maintained, and operated, can achieve 98 percent emission control of nonhalogenated streams when operated at conditions no more stringent than a combustion chamber temperature of 870°C and residence time of 0.75 second. The impacts of each regulatory alternative were therefore projected based on the use, by each facility with nonhalogenated vent stream required to reduce emissions, of a thermal oxidizer operated at 870°C and a 0.75 second residence time. For halogenated vent streams, operating conditions of 1100°C and 1.0 second residence time were assumed. It was assumed that adjustments of the thermal oxidizer unit after start-up, in order to optimize combustion gas mixing, would be necessary. The costs of such optimization were considered in projecting the costs of control.

In order to avoid an overly conservative estimate of the cost impact of thermal incineration, it was assumed that heat recovery would be employed in all intances in which it was technically feasible, met safety requirements, and would tend to lower the projected annualized cost of control. Such employment of heat recovery equipment is standard industry practice. Use of heat recovery equipment results in lower projected energy use and energy costs, but higher projected capital costs.

The contributing factors to annualized costs include capital charges, supplemental fuel, electricity, operating labor, and maintenance labor. For offgas containing chlorinated compounds, scrubbing water, quench water, and caustic soda, as well as additional capital charges for a flue-gas scrubber, also contribute to annualized cost. Facilities with higher VOC emission rates would tend to have a lower cost, per unit of VOC destroyed, since the achievable emission reduction would be higher than for other vent streams. Under each regulatory alternative, therefore, such facilities would tend to be controlled before other streams. Vent streams with higher net heating values would tend to have lower supplemental energy requirements than other streams, and would, therefore, tend to be controlled before other streams under each regulatory alternative. Facilities with lower offgas flowrates would have relatively higher capital costs, per unit of VOC destroyed, than would streams with similar VOC concentrations and heating values, but higher flowrates. This is true because achievable emission reduction is proportional to flowrate for vent streams with similar VOC concentrations and heating values, whereas capital costs increase less rapidly as flowrate increases, due to economies of scale. Under each regulatory alternative, therefore, facilities with higher offgas flowrates would tend to be controlled before streams with similar emission rates and heating values, but lower flowrates.

National Emissions Profile. One model plant would not have been sufficient for an accurate projection of the impacts associated with each regulatory alternative. Because of the number and diversity of facilities and manufacturing processes in the air oxidation industry, a large number of model plants would have been required. If the use of many model plants had been necessary, the prospective regulatory alternative analysis would have been predicted to take so much time that the unit process approch to regulation would have had little or no advantage over a chemical-by-chemical approach. However, only a limited amount of vent stream data is required to determine incinerator costs and efficiency. The required data include offgas flowrate, net heating value, and total organics (minus methane and ethane) mass emission rate. It must also be known whether the offgas contains halogenated compounds. Therefore, although data from many types of processes are still required in order to adequately represent the air oxidation industry, the data need not consist of fully designed model plants. Rather, a national statistical profile of air oxidation processes was constructed. The national profile characterizes air oxidation processes according to national distributions of the three critical offgas parameters for halogenated and nonhalogenated vent streams. The impacts of each regulatory alternative are therefore evaluated as impacts upon the entire population of affected facilities, as represented by the national profile. The emission and production factors used to construct the data base for the statistical procedure and national profile are from existing air oxidation plants that represent about 36 percent of the total air oxidation plant population. Because there is no recognizable bias involving the four offgas parameters in this data sampling, this percentage of plants provides an adequate sample size to allow construction of a profile that is representative of the entire air oxidation segment of SOCMI. In addition, it is assumed that the overall distribution of key vent stream variables for the new air oxidation plants would be the same as that for the existing population.

The actual use of the national statistical profile assumes that the distribution of offgas flow, VOC emission rate, and stream heating value is chemical independent. Chemical identifies are not considered in the profile, nor is there claimed to be a one-to-one correspondence between any one data point of three offgas parameters and an existing or new offgas stream. It is assumed, however, that the overall proportions and distributions of the parameter values and data points are similar to those of the new population of air oxidation facilities. Thus, since the national statistical profile contains 59 data points, each data point represents 1/59 of the new population. Each data point represents a hypothetical vent stream. Therefore, the impacts of a given regulatory alternative, such as annualized cost of control. VOC emission reduction, and facility cost-effectiveness, can be associated with each data point. It is not assumed that such individual impacts on a data point would represent impacts on any given new facility, nor are the data points used as individual impact models. Instead, each data point represents 1/59 of the overall projected new population of facilities. Therefore, the impacts of each regulatory alternative represent impacts on the projected new source population. Due to the wide variation in processes used and in the types of control devices present across the air oxidation industry, only uncontrolled emission factors and vent stream characteristics are included in the data set. Since uncontrolled emissions are subject to great uncertainty because of the difficulty in defining what is a pollution control device, all process stream data represent hypothetical uncontrolled emissions, which are considered, in this analysis, to be the process stream exiting the primary (first) product recovery device.

The hypothetical uncontrolled VOC emissions from affected facilities in the fifth year after proposal of the standards were projected to be 78,000 Mg/yr. Actual uncontrolled emissions, in the absence of SIP's, would probably be lower, because some additional degree of product or integrated energy recovery would often result in a cost savings for a facility. An average baseline emission control level was estimated as described below in the section entitled *Baseline Emission Control.*

Baseline Emission Control. The regulatory baseline was estimated as a weighted average of current SIP's except for the assumption that modified SIP's would be in force in ozone NAAQS nonattainment areas requesting extension beyond 1982. EPA assumes that modified SIP's would reflect the reasonably available control technology recommended in the SOCMI air oxidation draft control techniques guideline document. For the purpose of structuring the regulatory alternatives, the Agency estimated the baseline to be 72 percent reduction from hypothetical uncontrolled VOC emissions. However, the actual control required would vary considerably from State to State. If SIP's in ozone NAAQS nonattainment areas requesting extension beyond 1982 are not modified to reflect the reasonably available control technology recommended in the SOCMI air oxidation draft control techniques guideline document, the estimated regulatory baseline would be 66 percent reduction from uncontrolled VOC emission.

Identification of Regulatory Alternatives. Under each successive regulatory alternative, an additional percentage of projected affected facilities would be subject to the 98 percent or 20 ppmv standard. Each successive increment of sources required to meet the standards would have higher per unit control cost than the increment of sources added under the previous alternative. To develop the regulatory alternatives, the Agency ranked the data points in the national profile in order of increasing cost-effectiveness of VOC emission control by thermal oxidation. Sixty regulatory alternatives could be analyzed, one for no VOC emission control at all, plus 59 additional alternatives based upon inclusion of each successive data point. The Agency chose, however, to group the 59 data points into 6 alternatives for the purpose of analysis.

Alternative 0 represents the baseline level of control. Under Alternatives I through VI, the percentages of all projected facilities required to reduce emissions 98 percent to 20 ppmv would be 7, 14, 19, 27, 47, and 100, respectively. This would result in corresponding national VOC emission reductions of approximately 31, 46, 57, 66, 81, and 98 percent from the baseline level. As stated before, these alternatives are based on the use of a thermal oxidizer operated at 870°C (1600°F) with a chamber residence time of 0.75 second to achieve 98 percent emission control.

Environmental Impacts. Assuming a 72 percent baseline of control, VOC emissions in the fifth year after proposal of the standards were projected to be 22,000 Mg/yr. Table 1 shows the incremental national VOC emissions and percent emissions reductions from the baseline level for each regulatory alternative. Alternative I (31 percent national VOC reduction from baseline) would reduce national VOC emissions to 15,000 Mg/yr. The most stringent regulatory alternative, Alternative VI, would reduce national VOC emissions by 98 percent from the baseline level to 440 Mg/yr.

The generation of NO_x by the combustion process could have a negative impact on ambient air quality by contributing to ozone formation. The principal factors affecting the rate of NO_x formation are the amount of excess air available, the peak flame temperature, the length of time that the combustion gases are at peak temperature, and the rate of cooling of the combustion products. Because of the relatively low combustion temperatures and relatively short residence times associated with control of VOC using thermal incinerators, the rate of NO_x formation is expected to be low.

VOL 48 ISS 205 OCT 21 1983 UMI

TABLE 1. SUMMARY OF ENVIRONMENTAL, ENERGY, AND ECONOMIC IMPACTS OF EACH REGULATORY ALTERNATIVE

Regulatory Alternative	Cutoff TRE Index	Range of Facility Cost Effectiveness Values ($/Mg)[a]	Percent of Sources Affected	National Emissions (1000 Mg/yr)	Percent Emissions Reduction from Baseline	National Annualized Cost (Million $/yr)	Average Cost Effectiveness ($/Mg)[b]	Average Cost Effectiveness ($/Mg)[c]	Average Cost Effectiveness (for Facilities Not Covered by Previous Alternative ($/Mg)[c]	National Capital Cost (Million $)
Baseline	-	-	0	21.8	0	0	-	-	-	0
I	.74	270 -660	7	15.2	31	3.0	130	450	450	6.1
II	1.5	1,100 -1,300	14	11.9	46	7.0	190	680	1,200	13
III	2.2	1,400 -1,900	19	9.4	57	10.3	230	830	1,400	18
IV	3.1	1,900 -2,700	27	7.5	66	14.7	280	1,000	2,200	26
V	6.2	2,700 -5,500	47	4.3	81	27.6	440	1,600	4,000	42
VI	6,000	5,700 -5,400,000	100	0.44	98	66.5	860	3,100	10,000	87

[a]Lowest and highest project cost-effectiveness values for facilities reducing emissions by 98 percent under the given regulatory alternative, but not reducing under the previous alternative. These cost-effectiveness values calculated with respect to baseline emissions.

[b]Calculated with respect to uncontrolled emissions.

[c]Calculated with respect to baseline emisisons.

Uncontrolled Emissions = 78,000 Mg/yr

Baseline Emissions = 22,000 Mg/yr

Thermal oxidizer outlet concentrations of NO_x were measured in seven sets of thermal oxidizer tests conducted at three air oxidation plants. The test results indicate that NO_x outlet concentrations range from 8 to 200 ppmv (0.015 to 0.37 g/scm).

Although there are conflicting data, some studies report that incineration of vent streams containing high levels of nitrogen-containing compounds also may cause increases in NO_x emissions. The maximum outlet NO_x concentration of 200 ppmv was measured at an acrylonitrile plant. The vent stream of this plant does not contain nitrogenous compounds. The NO_x outlet concentrations measured at the other two plants, whose vent streams do not contain nitrogenous compounds, range from 8 to 30 ppm (0.015 to 0.056 g/scm).

Acrylonitrile manufacture is the only air oxidation process expected to have NO_x emissions much higher that the detectable limit if controlled by thermal oxidation. However, according to the national profile, the achievable VOC emission reduction for acrylonitrile facilities would be about one to two orders of magnitude greater than the increase in NO_x emissions due to control. For this reason, the Administrator determined that the acrylonitrile process should not be exempt from the proposed standard. Control of the acrylonitrile process has one of the lowest costs per unit VOC reduction of any air oxidation process. Therefore, acrylonitrile facilities would be controlled under each of the six regulatory alternatives more stringent than the baseline alternative. There is, therefore, no significant incremental increase in NO_x emissions associated with the various regulatory alternatives.

In addition to generation of NO_x, the control of VOC emissions from halogenated vent streams by thermal oxidation may result in the release of chlorinated combustion products to the environment. However, flue gas quenching and scrubbing could be used to remove these compounds from the incinerator outlet stream. Current industry practice among air oxidation facilities with chlorinated vent streams which employ combustion devices is to employ flue gas scrubbing. The capital and operation costs associated with flue gas quenching and scrubbing were taken into account in projecting the cost impacts.

Control of VOC emissions using thermal oxidation would not result in any significant increase in waste water discharge by air oxidation unit processes. No water effluents are generated by thermal oxidizers themselves.

Use of an incinerator/scrubber system for control of VOC emissions from oxychlorination vent streams would result in increased water consumption. The increase in total plant waste water would be relatively small and would not affect plant waste treatment or sewer capacity. However, if the scrubbed hydrochloric acid is not recovered, it may be necessary to adjust the pH of the scrubber effluent by treatment with caustic (NaOH) before it is released into the plant waste water system. The salt (NaCl) formed by the caustic treatment must be purged from the system and properly disposed of. Acceptable methods of disposal include direct waste water discharge or deep well disposal. The increased water consumption and caustic (NaOH) costs were included in the projected operating costs for those data vectors in the national profile representing halogenated vent streams. Costs associated with disposal of NaCl were not believed to be significant and, therefore, were not included in the projected impacts.

There are not expected to be any differences among the regulatory alternatives in cost and energy impacts due to the special additional control equipment and resource use associated with control of chlorinated vent streams. Only one air oxidation process, ethylene dichloride manufacture, has offgas containing chlorinated compounds. This process has a new negative total resource use (net total resource credit) per unit VOC destroyed, associated with the use of incineration. Therefore, the ethylene dichloride process would be controlled under even the least stringent regulatory alternative.

Energy Impacts. The projection of energy impacts for each regulatory alternative was based on the use of thermal oxidation to control VOC emissions from air oxidation process vents. Maintenance of the required thermal oxidizer operating conditions requires supplemental fuel, commonly in the form of natural gas. The amount of supplemental fuel needed depends on vent stream temperature and net heating value, flowrate, incineration temperature, and type of heat recovery used. Due to the use of heat recovery techniques, combustion of some air oxidation waste streams would result in a net production of energy even though supplemental fuel would be necessary for flame stability. Up to 70 percent waste heat recovery could be expected using techniques currently in wide use in the air oxidation industry. In addition to supplemental fuel, electricity requirements for equipment such as pumps, blowers, and instrumentation contribute to the total energy use for VOC control. Total electrical needs are relatively small compared to energy requirements in the form of supplemental fuel for thermal oxidation. The fifth year national energy use would increase from 0.23 billion MJ/yr (110 bbl oil/day) for Alternative I (31 percent national VOC reduction from baseline) to 6.0 billion MJ/yr (2,800 bbl oil/day) for Alternative VI (98 percent national VOC reduction from baseline).

Economic Feasibility and Costs. Both capital and annualized operating costs were used to determine total national costs for each regulatory alternative. These national impacts are summarized in Table 1. The fifth year total national annualized cost would increase from $3 million per year for Alternative I to $87 million per year for Alternative VI. The fifth year total national installed capital cost would increase from $6.1 million for Alternative I to $87 million for Alternative VI.

An economic analysis was performed to determine if control of VOC emissions from individual air oxidation processes would be economically feasible. Control by thermal oxidation was considered to be economically feasible if the following criteria were met: (1) The projected product cost increase due to control remains below 5 percent of the projected product price, (2) the net present value of new plants does not become negative (indicating that they have become an unprofitable investment), (3) the capital costs for control do not exceed 20 percent of the uncontrolled plant fixed investment costs, and (4) new plants do not experience substantial adverse impacts due to foreign competition.

The first step in the economic analysis was performed using a worst-case set of assumptions. One worst-case assumption was that the vent stream contained no oxygen, which led to maximum projected equipment sizes and larger supplemental fuel requirements. A second worst-case assumption was that no waste-heat boiler would be used for any stream not containing halogenated compounds, which led to maximum projected supplemental fuel requirements. A third worst-case assumption was that the lowest capacity and lowest flowrate of any plant using a given manufacturing process was assumed in projecting product percent price increases due to control. This assumption led to higher estimates of percent price increase, due to economies of scale in control equipment capital costs for facilities with higher capacities and flowrates. In addition, as analysis was conducted of the sensitivity of percent product price increase to fluctuations in discount rates, natural gas prices, and offgas flowrates around expected values. Those specific chemical production processes which exceeded any of the economic feasibility criteria under the worst-case assumptions or under the sensitivity analysis were reanalyzed using a set of assumptions more representative of the characteristics of those processes. The results of the final economic analysis were that for each of the regulatory alternatives, none of the chemical production processes exceeded any of the economic feasibility criteria. No chemicals are expected to have a price increase which in the worst-case would exceed 5 percent. The price changes of the 36 chemicals, assuming control costs would be passed through totally, would range from 0 to a 3.1 percent increase except for maleic anhydride (benzene process), which showed an estimated 4.2 percent increase. New maleic anhydride plants are expected to employ the butane process (which showed an estimated 3.1 percent increase), instead of the benzene process, even in the absence of the proposed standard. Therefore, regardless of which alternative was selected as the basis for the proposed standard, it was determined that the costs of controls would be economically feasible for all chemicals covered by the proposed standard.

Selection of Basis for the Proposed Standard

The Clean Air Act requires that standards of performance be based on the best system of continuous emission reduction, considering costs, energy usage, and nonair health and environmental impacts ("best demonstrated technology" or BDT). As stated above, each regulatory alternative represents a distinct percentage of sources that would be required to reduce total organic (minus methane and ethane) emissions by 98 percentage or to 20 ppmv (limits reflecting use of thermal oxidation). By selecting one alternative, the Administrator selects the portion of projected new sources for which control by thermal incineration (under the conditions explained above) is BDT. For the remaining portion of projected new sources it is the Administrator's determination that BDT is no organic emission reduction from the baseline emission level.

As explained previously, none of these regulatory alternatives would either result in unreasonable energy or nonair environmental impacts or cause any of the chemical production processes to exceed any of the economic feasibility criteria. However, because the emission reduction achievable by applying incineration to sources is different under each of the alternatives, the Administrator undertook further analysis before selecting an alternative. This further analysis was undertaken to assure that the cost of the alternative

VOL 48 ISS 205 OCT 21 1983 UMI

selected as the basis for the standard is reasonable, not only in terms of economic impacts, but also in terms of the emission reduction which would result. In this further analysis, the data presented in Table 1 were first considered. As shown in the table, those air oxidation facilities required to reduce VOC emissions under Alternative VI that would not have been controlled under Alternative V had a control cost per megagram of VOC reduced ranging from $5700 to $5,400,000. Those facilities controlled by Alternatives V and IV were also examined in a similar manner and showed control costs per megagram of VOC reduced in the ranges of $2700 to $5500 and $1900 to $2700, respectively. (These costs do not represent the actual amounts of money spent for any particular air oxidation facility. Rather, the costs are estimates which represent facilities likely to be built. The cost of VOC emission reduction systems will vary according to the chemical being produced, production equipment, plant layout, geographic location, and company preferences and policies.) However, the Administrator concluded that the cost of requiring control of any facility above the $1,900/Mg cutoff shown in Table 1 is unreasonably high compared to the emission reduction achieved. In the past, the maximum estimated cost per megagram of pollutant material removed (VOC, particulate matter, SO_2) has ranged from somewhat less than $1000 to more than $2000. This package has a maximum estimated cost per megagram of $1900. In prior source categories for which NSPS have been developed, VOC maximum estimated control costs have generally not exceeded $1000 per megagram. In this case, because of the presence of potentially toxic constituents in the discharge streams and the "worst case" character of the cost calculations, EPA believes the proposed standards are reasonable.

The maximum estimated cost in this package will not be viewed as a precedent for future actions. Instead, in the future, EPA will continue to evaluate each package on an individual basis.

Those air oxidation facilities required to reduce VOC emissions by 98 percent under Alternative III, that would not have been controlled under Alternative II, had a control cost per megagram of VOC reduced ranging from $1,400 to $1,900. Alternatives I and II would be less expensive than Alternative III, but would result in less emission reduction. Since the costs per unit emission reduction of Alternative III were judged to be reasonable, and since there were no other statutory factors, such as adverse economic impacts or adverse environmental impacts, for rejecting Alternative III, there was no reason to select Alternative I or II, either of which would result in less emission reduction.

In selecting Alternative III, the Agency noted that its average cost is only about $830 per megagram of VOC reduced. The Agency also considered that SOCMI is the largest stationary emission source of VOC and air oxidation is a major VOC emitting segment of SOCMI. Also, as detailed in the section entitled *TRE Index*, the costs shown in Table 1 do not take into account the ability of facilities to control emissions through adding product recovery and, in certain cases, to thereby avoid incineration costs. Due to this ability, the upper end of the cost per Mg emission reduction of Alternative III could be overstated by as much as $600/Mg. It is unlikely, therefore, that any air oxidation facility would have to spend the maximum cutoff cost per megagram of $1,900/Mg.

The Chemical Manufacturers' Association (CMA) presented, at a meeting of the National Air Pollution Control Techniques Advisory Committee on September 23, 1981, an analysis of the impacts of Alternative III, based on a set of assumptions concerning the rate of growth in the number of air oxidation sources which differs from those used by EPA. In projecting the number of new sources, CMA assumed that the number of affected facilities in the fifth year would be only those facilities for which construction or expansion had already been publicly announced. In general, CMA's projection leads to fewer new facilities, but with larger capacities and larger uncontrolled VOC emission rates. All other assumptions used in the CMA analysis (concerning the costs of equipment, operation and maintenance requirements, and related factors) were essentially the same as those used in the EPA evaluation of regulatory alternatives. The Agency examined CMA's analysis to determine if their results would alter the regulatory alternative selected as the basis for the standard. The annualized cost estimated by CMA's analysis of $22 million is greater than the $10 million annualized cost estimated by EPA. However, the projected emission reduction of 23,000 Mg/yr according to CMA's analysis is also larger than the 12,500 Mg/yr projected by the Agency. The economic impacts, such as price increases and impact of foreign competition, projected by EPA are independent of the alternative selected and would not be impacted by CMA's assumptions. CMA's analysis shows the average cost of incineration per unit of VOC destroyed to be $900/Mg, which is essentially the same as the average cost of incineration per unit of VOC destroyed estimated by EPA ($830/Mg). The highest cost to incinerate per Mg VOC destroyed for either analysis would be $1,900. The selection of Alternative III was not directly influenced by the number of sources which may be affected. Rather, the selection was based on the concept that there is a range of source characteristics within which costs, emission reductions, and other factors lead to the conclusion that control is reasonable. In other words, the CMA analysis would not have altered the selection of Alternative III as the basis for the proposed standard. The impacts of the proposed standard are judged to be reasonable based on either set of assumptions.

TRE Index. After selecting Alternative III as the basis of the proposed standard, it was necessary to develop a method for identifying those facilities covered by Alternative III which would be required to reduce emissions by 98 percent or to 20 ppmv, and those facilities not included in Alternative III, for which no emission reduction beyond product recovery would be required. The Agency, therefore, has included an equation in the regulation to calculate an index which is used to determine which affected facilities are required to reduce emissions by 98 percent or 20 ppmv. This index is termed total resource effectiveness (TRE). The equation includes the parameters used in calculating the costs considered in selecting Alternative III. These parameters are the offgas characteristics of flowrate, net heating value, total organics (minus methane and ethane) emission rate and corrosion properties (presence of chlorinated compounds). These parameters can be easily and objectively measured. The TRE value calculation allows the owner or operator of an affected facility to determine if that facility would be required to reduce emissions 98 percent or to 20 ppmv. The standardized calculation allows objective enforcement since all TRE values would be calculated based on the same parameters and calculated by the same method.

The TRE index of a process vent stream is calculated according to the following equation:

$$TRE = \frac{1}{E_{TOC}} \times [a + b(Q_s)^{0.88} + c(Q_s) + d(Q_s)(H_T) + e(Q_s)^{0.88}(H_T)^{0.88} + f(H_T)^{0.88}]$$

where:

TRE = Total resource-effectiveness index value.

Q_s = Vent stream flowrate (scm/min), at a standard temperature of 20°C.

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy of per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C, as in the definition of Q_s.

E_{TOC} = Hourly emissions of total organic compounds (minus methane and ethane) reported in kg/hr measured at full operating flowrate.

a, b, c, d, e, and f are coefficients.

The set of coefficients which apply to a process vent stream can be obtained from Table 1 of the regulation. These coefficients were derived directly from the cost and emission reduction equations associated with control of VOC emissions from air oxidation facilities by thermal oxidation. Table 1 of the regulation is divided into the five design categories for control equipment. These design categories differ in the amount of heat recovery achieved, in the type of heat recovery equipment used, and in the use of flue gas scrubbing for offgas containing chlorinated compounds. The amount and type of heat recovery used depends upon the offgas heating value.

The vent stream of an affected facility is considered "chlorinated" under the proposed standard if it is determined to contain a concentration of 20 ppmv (by compound) or greater of chlorinated compounds. This low 20 ppmv chlorination cutoff was chosen to avoid control cost and TRE underestimates. Even small amounts of chlorinated compounds may be corrosive, as well as difficult enough to incinerate that a temperature greater than 870°C is necessary to achieve 98 percent control. Therefore, it was judged essential to set a low cutoff, so that control cost and TRE would not be underestimated for any facility. The ethylene dichloride process is the only current air oxidation process with chlorinated vent streams. Because this process may have affected facilities subject to the proposed standards, the Administrator decided to set the chlorination cutoff at 10 percent of the lowest known total chlorinated compound concentration for any existing ethylene dichloride facility, or 20 ppmv.

Under each design category listed in Table 1 of the regulation, there are several intervals of offgas flowrate. Each flowrate interval is associated with a different set of coefficients. The first flowrate smaller than that corresponding to the smallest control equipment system easily available without special custom design. The remaining flowrate interval in each design category applies to vent streams with a flowrate intervals in each design category apply to vent streams which would be expected to use one, two, three, four, or five sets of control equipment, respectively. These flowrate intervals are distinguished from one another because of limits to prefabricated equipment sizes.

The TRE index cutoff value associated with Alternative III as calculated by the above equation is 2.2. Affected air oxidation facilities with a TRE index of less than or equal to 2.2 would be required to reduce emissions by 98 percent or to 20 ppmv, while affected facilities with a TRE index above 2.2 would not be required to combust VOC emissions.

The use of a TRE index cutoff value will also encourge the use of product recovery techniques or process modification in an effort to raise the TRE index value above the 2.2 cutoff. The parameters used to calculate the TRE index are measured at the outlet of the final piece of product recovery equipment. Additional product recovery can be used to change the values of the parameters (e.g., decrease the emission rate) and increase the TRE index value. The total cost to a facility of improved product recovery to exceed the TRE index cutoff would probably be much lower than the total cost of thermal oxidation to achieve 98 percent reduction. It would, therefore, be economically advantageous for such a facility to choose to improve product recovery. However, the necessary reduction in emission rate to exceed the TRE index cutoff might also be less than 98 percent. Therefore, the actual cost per metric ton for some facilities choosing to improve product recovery might exceed the projected cost per metric ton of thermal oxidation. Nevertheless, such a facility would probably choose to improve product recovery rather than incinerate due to the lower costs.

Compounds Used in Determining Compliance. The proposed standards are intended to reduce emissions of VOC through the application of best demonstrated technology (BDT) (considering costs and other impacts), and the emission limits in the standards are designed to reflect the performance of BDT. The best demonstrated technologies applicable to air oxidation processes do not selectively control VOC (that is, the proportion of the organics that is regarded as photochemically reactive), but rather these technologies control all organic compounds.

Moreover, the test methods applicable for determining compliance with standards based on those technologies measure total organic compounds, minus methane and ethane. Also, the Agency derived the emission limits for distillation operations from data gathered using test procedures that measure total organic compounds, minus methane and ethane.

To reflect accurately the performance of the technologies selected as BDT and to make the emission limits consistent with the data and test methods from which the limits were derived, the Agency has expressed the standards in terms of total organic compounds, minus methane and ethane. For the same reason, the test procedure in the proposed standards prescribes measurement of total organic compounds, excluding methane and ethane. In short, EPA is relying on control of total organic compounds, minus methane and ethane, as the best demonstrated surrogate for controlling volatile organic compounds, which react to form ozone in the atmosphere.

Modification/Reconstruction Consideration

The proposed standard would apply to all affected facilities, which commenced construction, reconstruction, or modification after the date of proposal of the NSPS. Modification is defined in 40 CFR 60.14 as "any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility, or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted." (Section 60.14 lists a few cases which would not be considered modifications even if emissions increased.) Reconstruction, as defined in 40 CFR 60.15, occurs when components of an existing facility are replaced to such an extent that: (1) The fixed capital cost of the new components exceeds 50 percent of the

VOL 48 ISS 205 OCT 21 1983 UMI

fixed capital cost that would be required to construct a comparable entirely new facility, and (2) it is technologically and economically feasible to meet the applicable standards.

Potential modifications involving SOCMI air oxidation processes include catalyst substitution, process equipment changes, and combinations of these changes.

Catalyst substitutions can be made to improve product mix, reduce operating costs, or increase conversion rates. A change in catalysts may cause significant changes in the quantity of VOC emissions. In addition, these changes could require major modifications in the reactor system and auxiliary process equipment.

Changes in air oxidation process equipment could result in increased VOC emissions and, if so, could constitute a modification. Examples include an increase in the size of the reactor, addition of a reactor, and a change in the product recovery system from an absorber to a condenser. However, any changes in product recovery equipment would be intended to increase product recovery, and, therefore, VOC emissions would be expected to decrease.

In many cases, a combination of changes would be chosen based on the most advantageous economics. One example of such a modification would be the simultaneous change of the reactor conditions and catalyst.

These type of changes are real alternatives for many air oxidation chemical manufacturing industries. However, they generally involve substantial changes in catalyst, reactor conditions, or product separation/purification equipment. Because the expected type of changes would be so substantial, potential modifications would probably be infeasible due to the costs involved. Although much effort will be directed toward identifying cheaper, more readily available feedstocks, chemical manufacturers probably would choose to build new facilities to use the cheaper feeds rather than go to the expense of radically modifying existing facilities. Therefore, there would probably be very few air oxidation facilities which would become subject to the proposed standard as a result of the types of changes discussed above.

No existing facility is expected to undergo sufficient replacement of components to be considered a reconstructed facility. Reactors and pieces of product recovery equipment within an affected facility would, in general, have different ages as well as different lifetimes. Moreover, such types of equipment are rarely replaced. Therefore, it is likely that a considerable interval of time would separate replacements of individual reactors or product recovery devices. For reasons stated in the preamble to the proposed standard for metallic minerals which was proposed on August 24, 1982 (47 FR 36867), if the cumulative fixed capital cost of replacements commenced within any 2-year period exceeded 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, such replacements could constitute reconstruction, as defined in that section (see § 60.616(a) of this proposed standard).

Selection of Monitoring Requirements and Test Methods

98 percent/20 ppmv Emission Limit. Numerous methods exist for the measurement of organic emissions. Among these methods are gas chromatography (GC), direct flame ionization detection (FID), and EPA Reference Method 25 (EPA 25)—Determination of Total Gaseous Non-Methane Organic Emissions as Carbon. Each method has advantages and disadvantages. Of the three procedures, GC has the distinct advantage of identifying and quantifying the individual compounds present in the emissions. The major disadvantages with this procedure are that GC systems are expensive and determination of the column required and analysis of samples can be time consuming.

The direct FID technique is the simplest procedure. However, the FID alone responds differently to various organic compounds and can yield highly biased results depending upon the compounds involved. Another disadvantage of the FID alone is that a separate methane measurement is required to determine nonmethane organics. The direct FID procedure alone does not identify or quantify individual compounds.

Method 25 sampling and analysis provides a single nonmethane organic measurement on a carbon basis: this is convenient for establishing control device efficiencies on a consistent basis. However, this method does not provide any qualitative or quantitative information on individual compounds present. For this reason, Method 25 was rejected as the Reference Method for determining compliance with the proposed standard.

The combined GC/FID is the proposed required test procedure for determining thermal or catalytic oxidizer control efficiency for air oxidation processes. A general GC/FID procedure (Method 18) is being promulgated with the SOCMI fugitive NSPS. Methane and ethane are measured separately by Method 18. Details concerning the use of this methodology, including sampling, analysis, preparation of standards, calibration procedures, and reporting of results are discussed in Method 18, Measurement of Gaseous Organic Compound Emissions by Gas Chromatography.

The owner or operator of a facility, using any combustion device (other than steam generating units, such as boilers or process heaters, with a design capacity of 44MW or greater) to comply with the proposed emission limit would be required to determine compliance according to Reference Method 18 during any performance test. Reference Method 1 or 1A would be required as appropriate to be used for selection of the sampling site. The control device inlet sampling site for determination of reduction efficiency would be required to be prior to the inlet of any combustion device and after all product recovery units.

If any nonair-oxidation offgas steam were normally routed through the product recovery train or directly to the control device of the affected facility, the proposed standards would permit such a stream to be routed normally during any performance test to determine compliance with the proposed reduction requirement. The Agency considered requiring such streams to be rerouted or turned off, in order to assure that 98 percent reduction, or reduction to 20 ppmv, would be achieved for the air oxidation stream itself. However, the Agency determined that if a performance test conducted on such a facility while routing its nonair-oxidation offgas normally showed compliance with the proposed emission limit, that limit would also be achieved by the combustion device when only the air oxidation process stream is routed through it, provided that the combustion device operating parameters, such as temperature, remained unchanged. Therefore, the Agency concluded that requiring the nonair-oxidation stream to be rerouted or turned off during a performance test would be unnecessary.

The air oxidation offgas stream of an affected facility might be normally routed through nonair-oxidation process equipment, as a result of which its composition or flowrate might be altered. In such a case, the proposed standards would permit the air oxidation stream to be routed normally during any performance test to determine compliance with the proposed emission limit. The Agency considered

requiring that such equipment be bypassed during a performance test, in order to assure that the proposed emission limit would be achieved for the unaltered air oxidation stream itself. However, the Agency determined that if a performance test conducted on such a facility while routing its air oxidation offgas normally showed compliance with the proposed emission limit, that limit would also be achieved by the combustion deviced if the nonair-oxidation equipment were bypassed, provided that the combustion device operating parameters, such as temperature, remained unchanged. Therefore, the Agency concluded that such a requirement would be unnecessary.

Steam generating units, such as boilers, or process heaters might be used for combustion of the VOC in an air oxidation process stream. The Agency believes that steam generating units with a design heat input capacity of 44 MW or greater achieve a reduction efficiency of 98 percent or reduction to 20 ppmv. Therefore, the Agency believes that an initial measurement of control efficiency would not be necessary. As explained previously in the discussion of combustion kinetics given in the section entitled *Control Techniques*, a firebox temperature of 1100°C and 1 second residence time represent the conditions that might in the worst case be necessary to achieve 98 percent reduction, even if the VOC were chlorinated. Steam generating units with a design capacity of 44 MW or greater are operated at temperatures and residence times greater than 1100°C and 1 second, respectively. Other than an adequately high temperature and residence time, the two primary conditions necessary for high combustion device control efficiency are stable flow rate and adequate mixing of gases. It is to the economic advantage of the owners of facilities using such large steam generating units to design and operate them with stable flowrates to avoid upsets. For the same reason, such devices would be designed and operated with adequate mixing of gases to maximize the amount of combustion, thereby maximizing the steam generation rate. For these reasons, the Administrator has decided that installing a steam generating unit, with a design heat input capacity of 44 MW or greater, to control VOC emissions from an air oxidation process, is an acceptable means of demonstrating compliance with the proposed standards. Therefore, in accordance with § 60.8(b), the Administrator has waived the requirement for a performance test on such devices.

The control equipment used to comply with the proposed emission limit needs to be properly maintained and operated if 98 percent reduction, or reduction to 20 ppm are to be achieved on a lasting basis. Monitoring requirements are generally used to ensure such proper operation and maintenance. Three methods of monitoring to ensure such proper operation and maintenance of control equipment used to comply with the proposed VOC emission limit were considered. These methods were continuous emission monitoring, a combination of biannual performance testing and biannual inspection and maintenance, and continuous measurement of important combustion control device parameters, such as combustion temperature or vent stream flowrate.

Continuous combustion control device inlet and outlet emission monitoring would be the preferred method of monitoring, because it would be a continuous, direct measure of actual emissions. However, since this would require two monitors, it would be relatively expensive.

Biannual performance testing would provide a periodic, direct measure of actual emissions. The associated biannual inspection and maintenance program would catch drops in combustion device performance due to existing or impending equipment failures. However, repeated, biannual performance testing with biannual equipment inspection and maintenance would be expensive with an estimated cost of $25,000 per test. Therefore, the Administrator has decided not to require biannual performance testing with an associated biannual inspection and maintenance program.

Provided that combustion parameters which accurately reflect the level of combustion device efficiency can be identified and continuously monitored, monitoring of such parameters alone would have several advantages, such as low cost and high reliability. However, a disadvantage of combustion parameter monitoring alone is that the correlation of the parameters with the numerical emission limit is not exact. However, exact correlation is not necessary if the parameter monitored would demonstrate proper operation and maintenance of the control device.

The combustion device operating parameters that affect incinerator performance were analyzed. These variables are temperature, mixing, type of compound, residence time, inlet concentration, and flow regime. Of these variables, the last two were judged to have only a small impact on incinerator performance. Residence time is essentially set after oxidizer construction unless the vent stream flowrate is changed. At temperatures above 760°C, the compound type has little effect on combustion efficiency. The two remaining variables were then analyzed in more detail to define their impact on performance and the ability to monitor them.

Temperature was analyzed first. Test results and theoretical calculations show that lower temperatures can cause significant decreases in control device efficiency. Test results also indicate that temperature increases can also adversely affect control device efficiency, apparently by decreasing the thoroughness of mixing of offgas, burner gases and combustion air. In terms of cost, temperature monitors are inexpensive, costing less than $5,000 installed with strip charts, and are easily and cheaply operated. Given the large effect of temperature on efficiency and the low cost of temperature monitors, this variable is clearly an effective parameter to monitor.

Mixing of process offgas, combustion air, and hot exhaust products from the burner was the next combustion control device parameter to be analyzed. The most likely item to affect mixing, given a constant temperature and an already constructed incinerator, would be flow. No direct field data is available on the effect of flow on mixing efficiency. However, it is recognized that the flow rate of vent streams will vary with process conditions, from zero, when the process is down, to some maximum value. The Agency considered requiring process records be kept which would relate vent stream flow rates to acceptable combustion device parameters. However, the Agency was unable to identify a meaningful relationship between flow rate and VOC destruction efficiency. Furthermore, based on engineering judgment, flow rate would not be expected to have much affect on the large combustion devices likely to be encountered in air-oxidation processes.

Because of the resource burden associated with the other two alternatives (comtinuous VOC monitoring and biannual performance testing), and since temperature was identified as a combustion parameter which can be cheaply and reliably monitored, this third alternative was chosen. Temperature would be required to be measured during the original (or most recent) performance test. Temperature would then be monitored

VOL
48
ISS
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UMI

to determine if it deviated from the values measured during the performance test. The proposed standard would, therefore, require the owner or operator of an affected facility using a combuation device (except for a stream generating unit with a design heat capacity of 44 MW or greater) to comply with the proposed VOC emission limit to install, calibrate, maintain, and operate according to manufacturer's specifications a temperature measurement device. This device would be required to be equipped with a continuous recorder and have an accuracy of one percent of the temperature being measured, expressed in degrees Celsius, or ±2.5°C, whichever is greater. If a thermal incinerator or stream generating unit were used, the device would be required to be installed in the firebox. If a catalytic oxidizer were used, the temperature measuring device would be required to installed in the gas stream immediately before and after the catalyst bed.

Monitoring of temperature would not be required for steam generating units with a design heat capacity of 44 MW or greater. These devices always operate at high temperatures (<1100°C) and stable flowrates to avoid upsets and to maximize the steam generation rate. The maintenance of records would be required, however, which would indicate the periods of operation of the steam generating unit. The nature of the records to be kept to comply with this requirement are left to the discretion of the owner or operator of the facility, but they must be readily available for inspection.

TRE Cutoff. Calculation of the total resource-effectiveness (TRE) index value for an affected facility is dependent upon measurement of the offgas volumetric flowrate, net heating value, total organic (minus methane and ethane) emission rate, and corrosion properties (presence or absence of chlorinated compounds). These measured values are used to select the corresponding coefficients and then inserted into an equation specified in the proposed standard for calculation of the TRE index. Reference Method 1 or 1A would be required as appropriate to be used for selection of the site for measuring the offgas flowrate and molar composition. The sampling site would be required to be prior to any post-reactor dilution of the stream with air, prior to any post-reactor introduction of chlorinated compounds into the stream, and also prior to the inlet of any combustion device. Subject to the requirements just mentioned, the sampling site would also be required to be dowstream of all product recovery equipment. The volumetric flowrate would be required to be determined according to Reference Method 2, 2A, 2C, or 2D as appropriate. The molar composition of the offgas stream, including the total molar concentration of chlorinated compounds, would be required to be calculated according to Method 18, Measurement of Gaseous Organic Compound Emission by Gas Chromatography. Reference Method 10 would be required to be used for measurement of carbon monoxide concentration. This measured carbon monoxide concentration would be required to be converted from a dry basis to a wet basis by use of an equation specified in the proposed regulation. The water vapor concentration of the vent stream would be required to be calculated according to Reference Method 4 for inclusion in the carbon monoxide concentration correction equation.

The net heating value of the process vent stream (25°C, 760 mm Hg) would be required to be calculated according to an equation specified in the regulation. This equation would make use of the molar composition of the offgas stream, as measured by Method 4, Method 10, and Method 18. The net heat of combustion of each offgas component would be required to be determined using ASTM D2382–76 if published values are not available or cannot be calculated. This method of determining net heating value was chosen because it would not require a separate test procedure from that required for determination of VOC reduction efficiency and offgas chlorination. Moreover, the Agency believes that the proposed method for determining net heating value would be more accurate than any available direct experimental measure, such as bomb calorimetry.

The total organic (minus methane and ethane) mass emission rate of the process vent stream would also be required to be calculated according to an equation specified in the regulation. This equation would make use of the molar composition of the offgas stream, as measured by Method 18, and of the volumetric flowrate, as measured by Method 2. The reasons for the choice of Method 18 for determination of organic compounds emission rate are discussed above in the section entitled *98 Percent 20 ppmv Emission Limit.*

A nonair-oxidation offgas stream might be normally routed through the product recovery train of the affected facility, Such a stream would be required by the proposed standards to be rerouted or turned off during any performance test conducted to determine compliance with the TRE cutoff requirement, until the measurements for determining offgas flowrate and molar composition had been made. This requirement is included in the proposed standards to assure that the TRE index value of the air oxidation stream only is calculated. The equation for calculating the TRE index value has been developed based on air oxidation streams and the 2.2 TRE index value cutoff included in the standards was selected based on air oxidation streams. Using flowrates and molar compositions of nonair-oxidation streams would distort the calculated TRE index value.

The air oxidation offgas stream of an affected facility might be normally routed through nonair-oxidation process equipment. In such a case, the proposed standards would require that such monair-oxidation process equipment be bypased by the air oxidation vent stream during any performance test conducted to determine compliance with the TRE cutoff requirement, until the measurements for determining offgas flowrate and molar composition had been made. This requirement has been included in the proposed standards to assure that the TRE index value is calculated for an air oxidation stream that has not been altered by routing it through nonair-oxidation process equipment. As discussed previously, the TRE equation for calculating the TRE index value has been developed based on air oxidation streams and the 2.2 TRE index value cutoff included in the proposed standards was selected based on air oxidation streams. Using flowrates and molar compositions that have been altered by nonair-oxidation process equipment would distort the calculated TRE index value.

After an initial performance test is conducted to determine compliance with the proposed TRE cutoff value, process modifications or improper operation or maintenance of product recovery equipment could lead to higher emissions and a true TRE value not in compliance with the cutoff. Therefore, three methods of monitoring for facilities using product recovery to meet the proposed standards were considered. These methods were continuous vent stream molar composition and flowrate monitoring, a combination of biannual performance testing of the TRE index value of the facility with continuous monitoring of selected operating parameters of the final piece of product recovery equipment in the affected facility train , and continuous monitoring of operating parameters only.

Continuous monitoring of the vent stream flowrate and molar composition would be the preferred method if feasible, because it would be a continuous, direct measure of proper operation of the product recovery device. However, because of the many different VOC compounds in air oxidation vent streams, no continuous offgas molar composition monitor has been demonstrated. Current offgas molar composition monitoring systems are not simple and automated, but extremely complex and labor-intensive. Therefore, the EPA has determined that continuous monitoring of offgas molar composition and flowrate for determination of proper operation and maintenance is infeasible.

Biannual performance testing would provide a periodic, direct measure of compliance with the TRE cutoff provision of the prosposed standard. However, biannual testing, particularly the offgas molar composition monitoring measurement, would be expensive, with an estimated cost of $25,000 per test. Therefore, the Administrator has determined that the cost of biannual performance testing is not reasonable, considering other reliable options which are less expensive.

Provided that product recovery equipment operating parameters which accurately reflect the level of product recovery device efficiency and, therefore, the offgas molar composition could be identified and continuously monitored, monitoring of such parameters alone would be preferable.

Therefore, the operating parameters of the three types of product recovery equipment commonly used in air oxidation processes were analyzed for correlation with product recovery device efficiency. The three commonly used types of product recovery equipment are absorbers, condensers, and carbon adsorbers.

For an absorber, two operating parameters were identified as the primary determinants of product recovery efficiency: absorbing liquid temperature and specific gravity (or some other parameter used by a facility to measure absorbing liquid saturation). In the absence of the proposed standard, facilities employing an absorber for product recovery would, in general, continuously monitor some parameter related to the degree of saturation of absorbing liquid with recovered material. Specific gravity is one such parameter which is frequently monitored. Absorbing liquid temperature monitors and specific gravity measurement devices are available at a reasonable cost. The estimated one-time combined capital investment for such equipment is $8,000. These absorption parameters would be required to be measured during each performance test. (If approved by the enforcing Agency, an alternative parameter which would indicate the degree of absorbing liquid saturation could be measured during each performance test.) These absorption parameters would then be monitored to determine if any value had changed since the performance test. This monitoring would indicate whether the absorber were being properly operated and maintained. Therefore, an operator of an affected facility for which an absorber was the final unit in the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specification an absorbing liquid temperature monitor and specific gravity measurement device (or an alternate device which would measure the degree of absorbing liquid saturation, if approved by the enforcing agency), each equipped with a continuous recorder.

For a condenser, the exit (product side) temperature was identified as the primary determinant of product recovery efficiency. Condenser temperature monitors are available at a reasonable cost. The estimated one-time capital investment for such equipment is $3,000. The condenser exit (product side) temperature would be required to be measured during each performance test. The temperature would then be monitored to determine if the value had changed since the most recent performance test. This monitoring would indicate whether the condenser were being properly operated and maintained. Therefore, an operator of an affected facility for which a condenser were the final unit in the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specifications a condenser temperature monitor equipped with a continuous recorder.

For a carbon adsorber the carbon bed, temperature (after regeneration and completion of any cooling cycles), as well as the amount of steam used to regenerate the adsorption bed, were identified as indicators of product recovery efficiency. Steam flow meters which indicate the quantity of steam used over a period of time, and bed temperature monitors are available at a reasonable cost. The estimated one-time capital investment for such equipment is $10,000. These adsorption parameters would be required to be measured during each performance test. These adsorption parameters would then be monitored to determine if either value had changed since the most recent performance test. This monitoring would indicate whether the carbon adsorption unit were being properly operated and maintained. Therefore, an operator of an affected facility for which a carbon adsorber is the final unit of the product recovery train would be required to install, calibrate, maintain, and operate according to manufacturer's specifications an integrating steam flow meter, and a carbon bed temperature measurement device, each equipped with a continuous recorder. Some new carbon adsorbers may include vent stream VOC concentration monitors in order to guide operators in maximizing recovery of raw material or products. No widely accepted performance specifications have been developed for such organics concentration monitors and therefore these devices are not being required at the present time. However, such devices may be approved by the Administrator on a case-by-case basis. If an organics concentration measuring device is used, but a recording device is not installed so that a permanent time record of the measurement is produced, then the vent stream must be sampled at the end of the adsorption cycle (at least once during every four hours of operation) and the concentration recorded.

Certain facilities, as discussed previously, would be required to reroute or turn off nonair-oxidation streams before measuring the appropriate parameters for calculating the TRE index value. However, the value of the parameter(s) to be monitored could vary significantly depending on whether the nonair-oxidation streams are routed through the product recovery device. Therefore, the facility would be required to return to normal routing of these nonair-oxidation streams after the parameter(s) for calculating the TRE index value have been measured but before making the performance test measurement of the parameter(s) to be monitored continuously. The value(s) of the parameter(s) to be monitored continuously would be indicative of proper operation and maintenance during normal operation of the product recovery device. It is therefore the most appropriate reference value against which to compare results of post-performance test continuous parameter monitoring.

The same procedure would be followed for facilities that are required to bypass nonair/oxidation process equipment during the performance test. Before making the initial measurement of the parameter(s) to be monitored, the facility would be required to return to normal routing of the air oxidation

VOL
48
ISS
205
OC
21
1983
UMI

stream through any nonair/oxidation process equipment. This value of the parameter(s) to be monitored would be indicative of proper operation and maintenance during normal operation of the product recovery device.

The enforcement agency would specify on a case by case basis appropriate monitoring procedures or requirements where the owner or operator of an affected facility uses emission control or product recovery techniques other than those specified to comply with the proposed standard.

Selection of Reporting and Recordkeeping Requirements

The General Provisions of Part 60 require submittal of several one-time notifications for occurrences such as construction, modification, reconstruction, scheduled dates for performance tests, and performance test results. Owners and operators of steam generating units with a design heat capacity of 44 MW or greater would not report performance test results, since the proposed standard would waive the requirement of such a test. Instead, operators would be required to file an initial report stating the design heat input capacity of the steam generating unit to be used.

The proposed standards exempt air oxidation facilities from the quarterly reports required by the General Provisions. However, records of startup, shutdown, and malfunction would still be required. Also, records indicating whether control equipment is being properly operated and maintained would be required.

Records indicating proper operation and maintenance would be based on the monitoring of control device or product recovery device parameters discussed in the previous section. Two types of records would be required. The first would be the monitoring results themselves. This information can be automatically recorded, and, therefore, essentially the only labor necessary for keeping these records would consist of filing automatically recorded parameters. The second type of record would be a tabulation of periods when the measurements of these automatically recorded parameters significantly deviated from measurements of the same parameters during the most recent performance test. Although this requires more effort, it is a necessary step for both the owner or operator and enforcement agency to ensure that the control equipment is being properly operated and maintained. This information would be necessary for the owner or operstor to know when to make necessary corrections to the control equipment. For this second type of record, it would be necessary for the owner or operator to record control device or recovery equipment operating parameters, as appropriate, during all performance tests and keep these records for purposes of comparison. The owner or operator would not be required to record all deviations from these measurements, but only the deviations listed below for the different types of control devices.

Where a combustion system is used to comply with the proposed numerical emission limit, the proposed standards would require recording of the following information regarding periods of operation during which the parameter boundaries established during the most recent performance test are exceeded: (1) For a thermal oxidizer or steam generation unit with a design heat input capacity of less than 44 MW, all 3-hour periods during which the average firebox temperature was more than 28°C (50°F) below the average firebox temperature measured during the most recent performance test; (2) for a catalytic oxidizer, all 3-hour periods of operation during which the average temperature before the catalyst bed was more than 28°C (50°F— below the average temperature of the device during the most recent performance test, and all 3-hour periods of operation during which the average temperature difference across the catalyst bed was less than 80 percent of the average temperature difference measured during the most recent performance test; and (3) for steam generating units with a design heat input capacity greater than 44 NW, all periods of operation of the stream generating unit. All records would be required to be kept up to date, and in readily accessible files for 2 years. The parameter boundaries discussed above would allow for normal fluctuations in operation of the equipment monitored. The reduction efficiency of the control device would not be affected by such normal fluctuations.

Where a product recovery system is used to comply with the proposed TRE index value, the proposed standards would require recording of two types of information. The first requirement would be to maintain records of any change in production capacity, feedstock type or catalyst type, or of the replacement, removal, of addition of product recovery equipment. When any such change occurs, the TRE index value would be recalculated based on the best engineering estimates of the effects of the change or on emission test data. A record shall be maintained of the recalculated TRE index value. If the recalculated TRE index value for the facility is less than 2.2, the owner or operator shall demonstrate compliance with the 98 percent or 20 ppmv emission limits. Notice of any performance test shall be given to EPA as required by the General Provisions.

The second provision would require recording of the following information regarding periods of operation during which the operating parameter boundaries established during the most recent performance test for the final product recovery unit are exceeded: (1) Where an absorber was the final unit in the product recovery system, all 3-hour periods of operation during which the average absorbing liquid termperature was more than 11°C (20°F) above that measured in the most recent performance test, and all 3-hour periods of operation in which the absorbing liquid specific gravity was more than 0.1 unit above or below that measured in the most recent performance test (if the enforcing agency approves an alternative parameter to specific gravity for monitoring by a facility, that agency shall define appropriate parameter boundaries and periods of operation during which they are exceeded); (2) where a condenser was the final unit in the product recovery system, all 3-hour periods of operation during which the average temperature of the recovered liquid was more than 3°C (5°F) above the average operating temperature during the most recent performance test; (3) where a carbon absorber was the final unit in a product recovery system all carbon bed regeneration cycles during which the total mass of steam used was less than the total mass of steam used in most recent performance test, and all carbon bed regeneration cycles during which the temperature of the carbon bed (after regeneration and all cooling cycles) was more than 10 percent greater than that measured in the most recent performance test. If the Administrator approves the use of an organics monitor, all 3-hour periods of operation during which the average concentration of VOC in the carbon adsorber exhaust gases indicated by the continuous monitoring system is more than 50 parts per million by volume and more than 20 percent greater than the exhaust gas concentration measured by the monitoring system during the most recent performance test shall be recorded. (Such a discrepancy would indicate improper operation of the carbon adsorption system.) All records would be required to be kept up to date, and in readily accessible files for 2 years. The parameter boundaries discussed above would allow for normal fluctuations in operation of the equipment monitored. The TRE value for the facility would not be affected by such normal fluctuations.

In addition to the one-time notifications and performance test reports discussed above, semi-annual reporting of recorded data would be required for instances where monitored parameters exceed the allowable limitations set forth in the standards. These data include the operating parameters cited above for combustion devices and for product recovery systems. Other instances that would be reported semi-annually are periods when steam generating units used for thermal oxidation are not operating and when changes in a product recovery system cause the TRE index value to be recalculated. The requirement for semi-annual reporting is waived for affected facilities in States where the program has been delegated if EPA, in the course of delegation, approves reporting requirements or an alternative means of source surveillance adopted by the State. Such affected facilities would be required to comply with the requirements adopted by the State.

Impacts of Reporting and Recordkeeping Requirements

The information provisions associated with this proposed rule (40 CFR 60.7 and 40 CFR 60.615) have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection provisions. During the first 2 years of this regulation the average annual burden of the reporting and recordkeeping requirements would be 3.5 person-years, based on an average of 10 respondents per year.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of the preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of the preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to readily identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review [except as noted in Section 307(d)(7)(A)].

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for SOCMI air oxidation processes was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that SOCMI sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods.

This regulation will be reviewed within 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceablity, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standards total less than $100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets. As explained in the section entitled "Selection of Basis for the Proposed Standard," cost per megagram of emission reduction was the primary factor considered in selecting the alternative upon which the proposed standard is based.

This regulations was submitted to the Office of Management and Budget (OMB) for review as requird by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are included in Docket Number A–81–22. The docket is available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to current Small Business Administration guidelines, a small business in the air oxidation industry is one that has 1000 employees or less. Currently only 4 percent of existing air oxidation companies (three companies) employ less than 1000 people. Since Section 111 standards apply only to newly constructed, modified, and reconstructed facilities, and no modified or reconstructed facilities are expected, nor are any of these small air oxidation companies likely to expand by adding new units, none of these small companies are expected to be subjected to the proposed standards. The economies of scale that exist in this industry hinder the entrance of small businesses. Furthermore, if a company has the capital available to enter the industry, the NSPS will require only a small percentage increase in the capital required for the project. No new, modified, or reconstructed small air oxidation facilities will be adversely

VOL
48
ISS
205
OC
21
1983
UMI

affected. This conclusion is based on the fact that, in doing the economic analysis for this proposal, the price increase and profitability impacts have been estimated from the perspective of the smaller air oxidation facilities in operation.

Therefore, the finding that producers of air oxidation chemicals, under a worst-case scenario, would be able to pass through NSPS compliance costs to their customers while keeping the price increase of their product under 5 percent accurately reflects the impacts for small air oxidation companies.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners.

Dated: October 11, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended as follows:

1. A new Subpart III is added as follows:

Subpart III—Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

Sec.

60.610 Applicability and designation of affected facility.
60.611 Definitions.
60.612 Standards.
60.613 Monitoring of emissions and operations.
60.614 Test methods and procedures.
60.615 Reporting and recordkeeping requirements.
60.616 Reconstruction.

Authority: Secs. 111 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7411, 7601(a), and additional authority as noted below.

Subpart III—Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

§ 60.610 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to affected air oxidation facilities. An affected facility is any individual reactor-product recovery train consisting of an individual product recovery system receiving offgas from at least one air oxidation reactor, along with all air oxidation reactors feeding offgas into this system. Each air oxidation reactor not feeding offgas into a product recovery system would constitute a separate affected facility.

(b) Any facility under paragraph (a) of this section that commences construction, modification, or reconstruction after October 21, 1983, would be subject to the requirements of this subpart.

Note.—The intent of these standards is to minimize the emissions of VOC through the application of best demonstrated technology (BDT). The numerical emission limits in these standards are expressed in terms of total organic compounds, measured as total organic compounds less methane and ethane. This emission limit reflects the performance of BDT.

§60.611 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in Subpart A of Part 60, and the following terms shall have the specific meanings given them.

Air Oxidation Process means a unit process, including ammoxidation and oxychlorination unit process, that uses air, or a combination of air and oxygen, as an oxygen source in combination with one or more organic reactants to produce one or more organic compounds.

Air Oxidation Reactor-Product Recovery Train means an individual product recovery system receiving offgas from at least one air oxidation reactor, along with all air oxidation reactors feeding offgas into this system.

Air Oxidation Reactor means any device or process vessel in which one or more organic reactants are combined with air, or a combination of air and oxygen, to produce one or more organic compounds. Ammoxidation and oxychlorination reactions are included in this definition.

By Compound means by individual stream components, not carbon equivalents.

Chlorinated Process Vent Stream means any process vent stream determined to have a total concentration (by volume) of compounds containing chlorine of 20 ppmv (by compound) or greater.

Process Vent Stream means any gas stream, containing nitrogen which was introduced as air to the air oxidation reactor, released to the atmosphere directly from any air oxidation reactor-product recovery train or indirectly, after diversion through other process equipment.

Product Recovery System means an individual unit or series of material recovery units, such as absorbers, condensers, and carbon adsorbers, which recovers total organic compounds (less methane and ethane) from a process vent stream for commercial or industrial use or reuse.

Steam Generating Unit means any furnace, boiler, process heater, or other device used for combusting fuel for the purpose of producing steam or process heat (including fossil-fuel-fired steam generators associated with combined cycle gas turbines; waste-heat boilers are not included).

Total Organic Compounds means those compounds measured according to the procedures in § 60.614.

Total Resource-Effectiveness (TRE) Index Value means a measure of the supplemental total resource requirement per unit reduction of total organic compounds (excluding methane and ethane) associated with an individual air oxidation process vent stream, based on offgas flowrate, emission rate and total organic compounds (excluding ethane and methane), net heating value, and corrosion properties (whether or not the vent stream is halogenated), as quantified by the equation given under § 60.614(b)(5).

§ 60.612 Standards.

On or after the date on which the performance test is required by § 60.8, each owner or operator subject to the provisions of this subpart shall comply with one or the other of the following for each process vent stream:

(a) Reduce emissions of total organic compounds (less methan and ethane) by 98 weight percent, or to a total organic compound (less methane and ethane) concentration of 20 ppmv (by compound) on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this paragraph, then the vent stream shall be introduced into the flame zone of the boiler or process heater.

(b) Maintain a total resource-effectiveness (TRE) index value greater than 2.2 without use of combustion devices.

§ 60.613 Monitoring of emissions and operations.

(a) The owner or operator of an affected facility that uses a combustion device [except for a steam generating unit with a design heat input capacity of 44 MW (150 Btu/hr) or greater] to seek to comply with the total organic compound emission limit specified under § 60.612(a) shall install, calibrate, maintain, and operate according to manufacturer's specifications a temperature measurement device equipped with a continuous recorder and having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater.

(1) Where a combustion device other than a catalytic oxidizer is used, a temperature measurement device shall be installed in the firebox.

(2) Where a catalytic oxidizer is used, temperature measurement devices shall be installed in the gas stream immediately before and after the catalyst bed.

(b) The owner or operator of an affected facility that seeks to demonstrate compliance with the TRE index value limit specified under § 60.612(b) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator:

(1) Where an absorber is the final unit in a system, a scrubbing liquid temperature monitor having an accuracy of 1 percent of the termperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater, and a specific gravity measurement device having an accuracy of ±0.02 specific gravity unit, each equipped with a continuous recorder.

(2) Where a condenser is the final unit in a system, a condenser exit (product side) temperature monitor equipped with a continuous recorder and having an accuracy of 1 percent of the temperature being measured expressd in degrees Celsius or ±2.5°C, whichever is greater.

(3) Where a carbon adsorber is the final unit in a system, an integrating steam flow meter having an accuracy of ±10 percent, and a carbon bed temperature monitor having an accuracy of 1 percent of the temperature being measured expressed in degrees Celsius or ±2.5°C, whichever is greater, both equipped with a continuous recorder.

(c) An owner or operator of an affected facility seeking to demonstrate compliance with the standards specified under § 60.612 other than an incinerator, boiler, process heater, absorber, condensor or carbon adsorber shall provide to the Administrator information describing the operation of the control device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c–9))

§ 60.614 Test methods and procedures.

(a) The following test methods and procedures, except as provided under § 60.8(b), shall be used to determine compliance with the emission limit specified under § 60.612(a).

(1) Reference Method 1 or 1A, as appropriate, for selection of the sampling site. The control device inlet sampling site for determination of offgas molar composition or total organic compound reduction efficiency shall be prior to the inlet of any combustion device and after all product recovery units.

(2) Reference Method 2, 2A, 2C, or 2D as appropriate, for determination of the volumetric flowrate.

(3) Reference Method 3 for air dilution correction, based on 3 percent oxygen in the emission sample.

(4) Reference Method 18 and ASTM D2504–67 (reapproved 1977) to determine hourly emission rate of total organic compounds (minus methane and ethane) in the combustion device outlet and total organic compound reduction efficiency of the combustion device.

(5) Where a steam generating unit with a design heat unput capacity of 44 MW (150 million Btu/hour) or greater is used to seek to comply with § 60.612(a), the requirement for an initial performance test is waived, in accordance with § 60.8(b). However, the Administrator reserves the option to require testing at such other times as may be required, as provided for in section 114 of the Act.

(b) The following test methods and precedures, except as provided under § 60.8(b), shall be used for determining the process vent stream TRE index value to determine compliance under § 60.612(b).

(1) Reference Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream flowrate and molar composition determination prescribed in § 60.614(b)(2) and (3) shall be prior to the inlet of any combustion device, prior to any post-reactor dilution of the stream with air, and prior to any post-reactor introduction of chlorinated compounds into the process vent stream. Subject to the preceding restrictions on the sampling site, it shall be after the final products recovery unit. If any gas stream other than the air oxidation process vent stream is normally conducted through the product recovery system of the affected facility, such stream shall be rerouted or turned off while the vent stream is sampled, but shall be routed normally prior to the measuring of the initial value of the parameter(s) to be monitored as specified in § 60.613(b). If the air oxidation process vent stream is normally routed through any equipment which is not a part of the affected facility as defined under § 60.610 and § 60.611, such equipment shall be bypassed by the process vent stream while the vent stream is sampled, but shall not be bypassed during the measurement of the initial value of the parameter(s) to be monitored as specified in § 60.613(b).

(2) The molar composition of the process vent stream shall be determined as follows:

(i) Reference Method 18 and ASTM D2504–67 (reapproved 1977) to measure VOC concentration, concentration of each compound containing chlorine, and concentration of all other compounds present except water vapor and carbon monoxide.

(ii) Reference Method 4 to measure the content of water vapor.

(iii) Reference Method 10 to measure carbon monoxide concentration. The process vent stream carbon monoxide concentration shall be calculated on a wet basis using the following equation:

$$C_{wco} = C_{co}(1 - B_w)$$

where:

C_{wco} = Concentration of carbon monoxide, wet basis, ppm.

C_{co} = Cencentration of carbon monoxide as determined using the recommended test method, ppm, dry.

B_w = Water vapor in the gas sample, proportion by volume.

(3) The volumetric flowrate shall be detemined using Reference Methods 2, 2A, 2C, or 2D, as appropriate.

(4) The net heating value of the process vent stream shall be calculated using the following equation:

$$H_T = K\left(\sum_{i=1}^{n} C_i H_i\right) + C_{wco} H_{co}$$

Where:

H_T = Net heating value of the sample, MJ/scm, where the net enthalpy per mole of offgas is based of combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C, as in the definition of Q_s (offgas flowrate).

$$K = \text{Constant, } 1.740 \times 10^{-7}\left(\frac{1}{\text{ppm}}\right)\left(\frac{\text{g mole}}{\text{scm}}\right)\left(\frac{\text{MJ}}{\text{kcal}}\right)$$

where standard temperature for $\left(\frac{\text{g-mole}}{\text{scm}}\right)$ is 20°C.

C_i = Concentration of sample component i, ppm.

H_i = Net heat of combustion of sample component i, kcal/g-mole. The heats of combustion of process vent stream components would be required to be determined using ASTM D2382–76 if published values are not available or cannot be calculated.

C_{wco} = Concentration of carbon monoxide, wet basis, ppm.

H_{co} = Net heat of combustion of carbon monoxide, kcal/g-mole.

(5) The emission rate of total organic compounds (minus ethane and methane) in the process vent stream shall be calculated using the following equation:

$$E_{TOC} = K\left(\sum_{i=1}^{n} C_i M_i\right) \quad Q_s$$

where: emission rate of total organic compounds (minus methane and ethane) in the sample, kg/hr.

K = Constant, 2.494×10^{-6} (1/ppm)(g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20°C.

M_i = Molecular weight of sample component i, g/g-mole.

Q_s = Vent stream flowrate (scm/min), at a standard temperature of 20°C.

(6) The total process vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Reference Method 18.

(7) The TRE index value of the process vent stream shall be calculated using the following equation:

$$TRE = \frac{1}{E_{TOC}}\left[a + b\,(Q_s)^{0.88} + c\,(Q_s) + d\,(Q_s)\,(H_T) + e\,(Q_s)^{0.88}\,(H_T)^{0.88} + f\,(H_T)^{0.88}\right]$$

where:

TRE = Total resource-effectiveness index value.

Q_s = Vent stream flowrate (scm/min), at a standard temperature of 20°C.

H_T = Vent stream net heating value (MJ/scm), as calculated in § 60.614(b)(4), where the net enthalpy of combustion per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°C, as in the definition of Q_s.

E_{TOC} = Hourly emissions of total organic compounds (minus methane and ethane) reported in kg/hr measured at full operating flowrate.

a,b,c,d,e, and f are coefficients.

The set of coefficients which apply to a process vent stream shall be obtained from Table 1.

(c) Each owner or operator of an affected facility shall recalculate the TRE index value for that affected facility whenever changes are made in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of product recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change to the product recovery system. In any instance where the recalculated TRE index value is less than 2.2, the owner or operator shall conduct a performance tests as required by § 60.614(a) in order to determine compliance with § 60.612(a).

TABLE 1. COEFFICIENTS OF THE TOTAL RESOURCE EFFECTIVENESS (TRE) INDEX EQUATION

A1. FOR CHLORINATED PROCESS VENT STREAMS, IF 0≤NET HEATING VALUE (MJ/scm)≤3.3:

Q_s = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	46.21	0	0.763	-0.325	0	0
$15 < Q_s \leq 790$	38.98	0.754	0.763	-0.325	0	0
$790 < Q_s \leq 1590$	77.96	0.819	0.763	-0.325	0	0
$1590 < Q_s \leq 2380$	116.9	0.860	0.763	-0.325	0	0
$2380 < Q_s \leq 3160$	155.9	0.890	0.763	-0.325	0	0
$3160 < Q_s \leq 3960$	194.9	0.915	0.763	-0.325	0	0

A2. FOR CHLORINATED PROCESS VENT STREAMS, IF 3.3< NET HEATING VALUE (MJ/scm):

Q_s = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	46.21	0	-0.822	0	0	0
$15 < Q_s \leq 790$	38.98	0.754	-0.822	0	0	0
$790 < Q_s \leq 1590$	77.96	0.819	-0.822	0	0	0
$1590 < Q_s \leq 2380$	116.9	0.860	-0.822	0	0	0
$2380 < Q_s \leq 3160$	155.9	0.890	-0.822	0	0	0
$3160 < Q_s \leq 3960$	194.9	0.915	-0.822	0	0	0

B. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 0≤NET HEATING VALUE (MJ/scm) ≤ 0.45:

Q_s = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	18.03	0	0.257	-0.426	0	0
$15 < Q_s \leq 1520$	15.83	0.229	0.257	-0.426	0	0
$1520 < Q_s \leq 3050$	31.66	0.248	0.257	-0.426	0	0
$3050 < Q_s \leq 4570$	47.49	0.262	0.257	-0.426	0	0

C. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 0.45< NET HEATING VALUE (MJ/scm)≤1.8:

Q_s = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	18.05	0	0.912	-0.403	0	0
$15 < Q_s \leq 1520$	16.86	0.123	0.912	-0.403	0	0
$1520 < Q_s \leq 3050$	33.72	0.134	0.912	-0.403	0	0
$3050 < Q_s \leq 4570$	50.58	0.279	0.912	-0.403	0	0

D. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 1.8 < NET HEATING VALUE (MJ/scm)≤3.4:

Q_s = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q_s < 15$	14.31	0	0.073	0	0	0
$15 < Q_s \leq 1340$	12.83	0.154	0.073	0	0	0
$1340 < Q_s \leq 2680$	25.66	0.167	0.073	0	0	0
$2680 < Q_s \leq 4020$	38.49	0.176	0.073	0	0	0

E. FOR NONCHLORINATED PROCESS VENT STREAMS, IF 3.4<NET HEATING VALUE (MJ/scm):

Q_s = Standard Flowrate (scm/min)	a	b	c	d	e	f
$Q < 15$	14.31	0	0	0.0019	0	0.450
$15 < Q_s \leq 1340$	12.83	0	0	0.0019	0.047	0
$1340 < Q_s \leq 2680$	25.66	0	0	0.0019	0.051	0
$2680 < Q_s \leq 4020$	38.49	0	0	0.0019	0.054	0

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(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9))]

§ 60.615 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to § 60.612 shall notify the Administrator of the specific provisions of § 60.612 [§ 60.612 (a) or (b)] with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial startup required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.612 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.614.

(b) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily-accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under § 60.8, except when a steam generating unit with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.612(a), in which case an initial report containing the data specified in (b)(2) of this section shall be submitted at the startup of the facility. The same data specified in paragraph (b) (1) or (3) of this section, as appropriate, shall be submitted in the reports of all subsequently required performance tests where either the total organic compound emission control efficiency of a combustion device or the TRE index value of a process vent stream from a product recovery system is determined.

(1) Where an owner or operator subject to this subpart seeks to demonstrate compliance with § 60.612(a) through use of a combustion device (except for a steam generating unit with a design heat input capacity of 44 MW or greater):

(i) The average firebox temperature of the thermal oxidizer or steam generation unit with a design heat input capacity of less than 44 MW (or the average temperature upstream and downstream of the catalyst bed), every 15 minutes and averaged over a 3-hour period, and

(ii) The percent reduction of total organic compounds (minus methane and ethane) achieved by the combustion device, or the concentration (ppmv, by compound) of total organic compounds (less methane and ethane) at the outlet of the control device on a dry basis corrected to 3 percent oxygen.

(2) Where an owner or operator subject to this subpart seeks to demonstrate compliance with § 60.612(a) through use of a steam generating unit with a design heat input capacity of 44 MW or greater, the initial report will contain a statement of the design heat input capacity of the steam generating unit to be used.

(3) Where an owner or operator seeks to demonstrate compliance with § 60.612(b):

(i) The specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Administrator), and average temperature, measured every 15 minutes and averaged over a 3-hour period, of the absorbing liquid (both measured while the vent stream is normally routed and constituted), where an absorber is the final unit in a system, or

(ii) The average exit (product side) temperature, measured every 15 minutes and averaged over a 3-hour period while the vent stream is normally routed and constituted, where a condenser is the final unit in a system, or

(iii) The manifold steam pressure measured every 15 minutes and averaged over the period of the performance test (full carbon bed cycle), temperature of the carbon bed after regeneration [and within 15 minutes of completion of any cooling cycle(s)], and duration of the carbon bed steaming cycle where a carbon adsorber is the final unit in a system (all measured while the vent stream is normally routed and constituted), and

(iv) All measurements and calculations performed to determine the TRE index value of the process vent stream.

(c) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily-accessible continuous records of the equipment operating parameters specified to be monitored under § 60.613(a), as well as up-to-date, readily-accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report ot these data. Where a combustion device is used by an owner or operator seeking to demonstrate compliance with § 60.612(a), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) For thermal incineration or combustion in a steam generating unit with a design heat input capacity of less than 44 MW (150 million Btu/hour), all 3-hour periods of operation during which the average combustion the, temperature was more than 28°C (50°F) below the average combustion temperature during the most recent performance test at which compliance with § 60.612(a) was determined.

(2) For catalytic incineration, all 3-hour periods of operation during which the average temperature of the device immediately before the catalyst bed is more than 28°C (50°F) below the average temperature of the device during the most recent performance test at which compliance with § 60.612(a) was determined. The owner or operator also shall record all 3-hour periods of operation during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference of the device during the most recent performance test at which compliance with § 60.612(a) was determined.

(d) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily-accessible continuous records of the equipment operating parameters specified to be monitored under § 60.613(b) as well as up-to-date, readily-accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where the owner or operator seeks to demonstrate compliance with § 60.612(b), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) Where an absorber is the final unit in a system,

(i) All 3-hour periods of operation during which the average absorbing liquid temperature was more than 11°C (20°F) above the average absorbing liquid temperature during the most recent performance test, or

(ii) All 3-hour periods of operation during which the average absorbing liquid specific gravity was more than 0.1 unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Administrator, in which case he or she will define appropriate parameter boundaries and periods of operation during which they are exceeded).

(2) Where a condenser is the final unit in a syatem, all 3-hour periods of operation during which the average condenser operating temperature was more than 6°C (10°F) above the average operating temperature during the most recent performance test.

(3) Where a carbon adsorber is the final unit in a system,

(i) All carbon bed regeneration cycles during which the total mass steam flow was below the total mass steam flow pressure during the most recent performance test, and

(ii) All carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration [and after completion of any cooling cycle(s)] was more than 10 percent greater than the carbon bed temperature (in degrees centigrade) during the most recent performance test.

(4) Where a carbon adsorber is the final unit in the recovery system and a total organic compound monitor approved by the Administrator is used, all 3-hour periods of operation during which the average concentration of total organic compounds (less methane and ethane) in the carbon adsorber gases is more than 50 parts per million by volume and more than 20 percent greater than the exhaust gas concentration measured by the monitoring system during the most recent performance test.

(e) Each owner or operator subject to the provisons of this subpart who uses a steam generating unit with a design heat input capacity of 44 MW (150 million Btu/hour) or greater and seeking to demonstrate compliance with § 60.612(a) shall keep an up-to-date, readily accessible record of all periods of operation of the steam generating unit. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other State or Federal regulatory requirements.)

(f) Each owner or operator subject to the provisions of this subpart and seeking to demonstrate compliance with § 60.612(b) shall keep up-to-date, readily accessible records of:

(1) Any changes in production capacity, feedstock type, or catalyst type, or of any replacement, removal or addition of product recovery equipment;

(2) Any recalculation of the TRE index value performed pursuant to § 60.614(c);

(3) The results of any performance test performed pursuant to § 60.614(c).

(g) Each owner and operator subject to the provisions of this subpart is exempt from § 60.7(c) of the General Provisions.

(h) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.612 shall submit to the Administrator semi-annual reports of the information recorded under §§ 60.615 (c), (d), and (f). In addition, when a steam generating unit with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.612(a), the owner or operator of the affected facility shall submit to the Administrator semi-annual reports of all periods during which the steam generating unit is not operating, as recorded under § 60.615(e). The initial report shall be submitted within 6 months after the initial start-up date.

(i) The requirements of § 60.615(h) remain in force until and unless EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.615(h), provided that they comply with the requirements established by the State.

(j) The Administrator will specify appropriate reporting and recordkeeping requirements where the owner or operator of an affected facility seeks to demonstrate compliance with the standards specified under § 60.612 other than as provided under § 60.613 (a) and (b).

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9))

§ 60.616 Reconstruction.

(a) For purposes of this subpart "fixed capital cost of the new components", as used in § 60.15, includes the fixed capital cost of all depreciable components which are or will be replaced pursuant to all continuous programs of component replacement which are commenced within any 2-year period following (date of proposal). For purposes of this paragraph, "commenced" means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

It is proposed that Appendix A of 40 CFR Part 60 be amended as follows:

2. Reference Method 1A is added to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 1A—Sample and Velocity Traverses for Stationary Sources with Small Stacks or Ducts

1. *Applicability and Principle*

The applicability and principle of this method are identical to Method 1, except its applicability is limited to stacks or ducts less than about 0.30 meter (12 in.) in diameter, or 0.071 m^2 (113 $in.^2$) in cross-sectional area, but equal to or greater than about 0.10 meter (4 in.) in diameter, or 0.0081 m^2 (12.57 $in.^2$) in cross-sectional area.

In these small diameter stacks or ducts the conventional pitot assembly (consisting of a Type S pitot tube attached to a sampling probe, equipped with a nozzle and thermocouple) blocks a significant cross-section of the duct and prevents a true traverse. Therefore, for particulate sampling in small stacks or ducts, the gas velocity is measured using a standard pitot tube downstream of the actual emission testing site. The straight run of duct between the sampling and velocity measurement sites allows the flow profile, temporarily disturbed by the presence of the sampling probe, to redevelop and stabilize.

The cross-sectional layout and location of traverse points and the verification of the absence of cyclonic flow are the same as in Method 1, Sections 2.3 and 2.4, respectively. Differences from Method 1, except as noted, are given below.

2. *Procedure*

2.1 **Selection of Measurement Site.**

2.1.1 **Particulate Measurements—Steady or Unsteady Flow.** Select a particulate measurement site located preferably at least eight equivalent stack or duct diameters downstream and 10 equivalent diameters upstream from any flow disturbances such as a bends, expansions, or contractions in the stack, or from a visible flame. Next, locate the velocity measurement site eight equivalent diameters downstream of the particulate measurement site. See Figure 1A–1. If such locations are not available, select an alternative particulate measurement location at least two equivalent stack or duct diameters downstream and two and one-half diameters upstream from any flow disturbance. Then, locate the velocity measurement site two equivalent diameters downstream from the particulate measurement site. (See Section 2.1 of Method 1 for calculating equivalent diameters for a rectangular cross-section.)

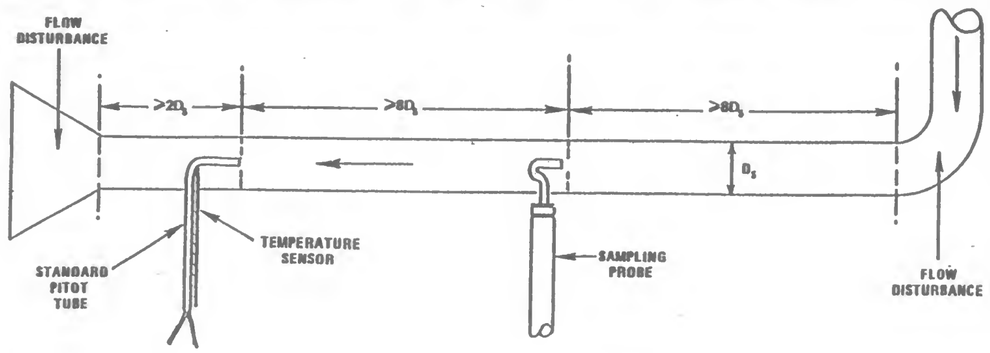


Figure 1A-1. Recommended sampling arrangement for small ducts.

2.1.2 Particulate (Steady Flow) or Velocity (Steady or Unsteady Flow) Measurements. If the average total volumetric flow rate in a duct is constant with respect to time or if only velocity measurements are required use the same criterion as in Section 2.1 of Method 1.

2.2 Determining the Number of Traverse Points.

2.2.1 Particulate Measurements (Steady or Unsteady Flow). Use Figure 1–1 of Method 1 to determine the number of traverse points. Before referring to the figure, however, determine the distance between the velocity and sampling sites and the distances to the nearest upstream and downstream disturbances and divide each distance by the stack diameter or equivalent diameter to determine the distances in terms of the number of duct diameters. Then, determine the number of traverse points from Figure 1–1 of Method 1 corresponding to each of these three distances. Choose the highest of the three numbers of traverse points (or a greater number) so that for circular ducts the number is a multiple of four; for rectangular ducts use one of those numbers shown in Table 1.1 of Method 1.

2.2.2 Particulate (Steady Flow) and Velocity (Non-Particulate) Measurements. Use Figure 1A–3 to determine number of traverse points, following the same procedure used for particulate traverses as described in Section 2.2.1 of Method 1.

3. *Bibliography*

1. Same as Method 1, Section 3, Citations 1 through 6.

2. Vollaro, Robert F. Recommended Procedure for Sample Traverses in Ducts Smaller Than 12 Inches in Diameter. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, North Carolina. January 1977.

3. Reference Method 2C is added to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 2C—Determination of Stack Gas Velocity and Volumetric Flow Rate From Small Stacks or Ducts (Standard Pitot Tube)

1. *Aplicability and Principle*

1.1 Applicability. The applicability of this method is identical to Method 2, except it is limited to stationary source stacks or ducts less than about 0.30 meter (12 in.) in diameter, or 0.071 m^2 (113 in.^{2}) in cross-sectional area, but equal to or greater than about 0.10 meter (4 in,) in diameter or 0.0081 m^2 (12.57 in.^{2}) in cross-sectional area.

The apparatus, procedure, calibration, calculations, and bibliography are the same as in Method 2, Sections 2, 3, 4, 5, and 6, except as noted in the following sections.

1.2 Principle. The average gas velocity in a stack or duct is determined from the gas density and from measurement of velocity heads with a standard pitot tube.

2. *Apparatus*

2.1 Standard Pitot Tube (instead of Type S). A standard pitot tube which meets the specifications of Section 2.7 of Method 2. Use a coefficient of 0.99 unless it is calibrated against another standard pitot tube with an NBS-traceable coefficient.

2.2 Alternative Pitot Tube. A modified hemispherical-nosed pitot tube (see Figure 2C–1), which features a shortened stem and enlarged impact and static pressure holes. Use a coefficient of 0.99 unless it is calibrated as mentioned in Section 2.1 above. This pitot tube is useful in particulate liquid droplet laden gas streams when a "back purge" is ineffective.

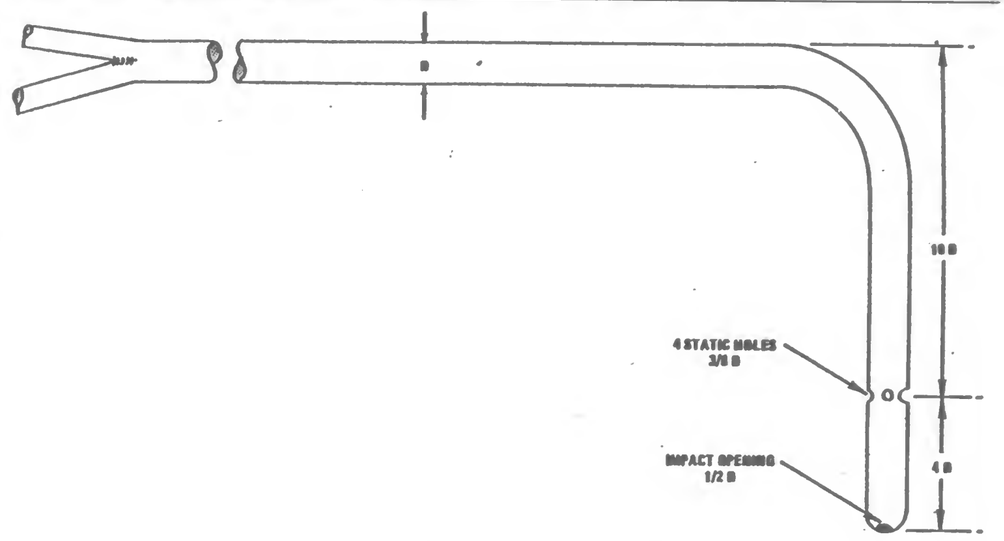


Figure 2C-1. Modified hemispherical-nosed pitot tube.

3. *Procedure*

Follow the general procedures in Section 3 of Method 2, except conduct the measurements at thetraverse points specified in Method 1A. The static and impact pressure holes of standard pitot tubes are susceptible to plugging in particulate-laden gas streams. Therefore, the tester must furnish adequate proof that the openings of the pitot tube have not plugged during the traverse period; this can be done by taking the velocity head (Δp) heading at the final traverse point, cleaning out the impact and static holes of the standard pitot tube by "back-purging" with pressurized air, and then taking another Δp reading. If the Δ readings made before and after the air purge are the same (± 5 percent) the traverse is acceptable. Otherwise, reject the run. Note that if the ΔP at the final traverse point is unsuitably low, another point may be selected. If "back purging" at regular intervals is part of the procedure, then take comparative Δp readings, as above, for the last two back purges at which suitably high Δp readings are observed.

4. Reference Method 2D is added to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 2D—Measurement of Gas Volume Flow Rates in Small Pipes and Ducts

1. *Applicability and Principle*

1.1 Applicability. This method applies to the measurement of gas flow rates in small pipes and ducts. It can only be applied to intermittent or variable gas flows with particular caution.

1.2 Principle. All the gas flow in the pipe or duct is directed through a rotameter, orifice plate or similar device to measure flow rate or pressure drop. The device has been previously calibrated in a manner that insures its proper calibration for the gas being measured. Absolute temperature and pressure measurements are made to adjust volume flow rates to standard conditions.

2. *Apparatus.*

Specifications for the apparatus are given below. Any other apparatus that has been demonstrated (subject to approval of the Administrator) to be capable of meeting the specifications will be considered acceptable.

2.1 Gas Metering Rate or Flow Element Device. A rotameter, orifice plate, or other volume rate or pressure drop measuring device capable of measuring the stack flow rate to within 5 percent. The metering device shall be equipped with a temperature gauge accurate to within 2 percent of the minimum absolute stack temperature and a pressure gauge (accurate to within 5 mm Hg). The capacity of the metering device shall be sufficient for the expected maximum and minimum flow rates at the stack gas conditions. The magnitude and variability of stack gas flow rate, molecular weight, temperature, pressure, dewpoint, and corrosive characteristics, and pipe or duct size are factors to consider in choosing a suitable metering device.

2.2 Barometer. Same as Method 2, Section 2.5.

2.3 Stopwatch. Capable of measurement to within 1 second.

3. *Procedure*

3.1 Installation. Use the procedure in Method 2A, Section 3.1.

3.2 Leak Check. Use the procedure in Method 2A, Section 3.2.

3.3 Volume Rate Measurement.

3.3.1 Continuous, Steady Flow. At least once an hour, record the metering device flow rate or pressure drop reading, and the metering device temperature and pressure. Make a minimum of 12 equally spaced readings of each parameter during the test period. Record the barometric pressure at the

VOL 48 ISS 205 OCT 21 1983 UMI

beginning and end of the test period. Record the data on a table similar to Figure 2D–1.

3.3.2 Noncontinuous and Nonsteady Flow. Use volume rate devices with particular caution. Calibration will be affected by variation in stack gas temperature, pressure and molecular weight. Use the procedure in Section 3.3.1 with the addition of the following: Record all the metering device parameters on a time interval frequency sufficient to adequately profile each process cyclical or noncontinuous event. A multichannel continous recorder may be used.

Plant _____
Flow meter location _____
Calibration date _____ Calibration run number _____
Operators _____
Metering device type _____
Metering device number _____
Calibration coefficient _____
Calibration gas _____ Date to recalibrate _____
Barometric pressure (mm Hg) Start _____ Finish _____

Time run/clock	Volume rate or pressure drop reading	Static pressure (mm Hg)	Temperature	
			°C	°K
Average				

Figure 2D–1. Volume flow rate measurement data.

4. *Calibration*

4.1 Gas Metering Device. Use the procedure in Method 2A, Section 4, and apply the same performance standards. Calibrate the metering device with the principle stack gas to be measured (examples: air, nitrogen) against a standard reference meter. A calibrated dry gas meter is an acceptable reference meter. Ideally, calibrate the metering device in the field with the actual gas to be metered. For metering devices that have a volume rate readout, calculate the test metering device calibration coefficient, Y_m, for each run as follows:

$$Y_m = \frac{(V_r)(T_r)}{(V_m)(T_m)} \frac{P_{bar}}{(P_{bar}+P_g)} \quad \text{Eq. 2D–1}$$

Where:

V_r = Reference meter volume rate reading, m³/min.
V_m = Test meter volume rate reading, m³/min.
T_r = Absolute reference meter average temperature, °K.
T_m = Absolute test meter average temperature, °K.
P_{bar} = Barometric pressure, mm Hg.
P_g = Test meter average static pressure, mm Hg.

For metering devices that do not have a volume rate readout, refer to the manufacturer's instructions to calculate the V_m corresponding to each V_r.

4.2 Temperature Gauge. Use the procedure and specifications in Method 2A, Section 4.2. Perform the calibration at a temperature that approximates field test conditions.

4.3 Barometer. Calibrate the barometer to be used in the field test with a mercury barometer prior to the field test.

5. *Gas Flow Rate Calculation*

Use the equations in Method 2A, Section 5, except time is already factored in.

6. *Bibliography*

1. United States Environmental Protection Agency. Standards of Performance for New Stationary Sources, Revisions to Methods 1–8. Title 40, Part 60. Washington, D.C. **Federal Register** Vol. 42, No. 160. August 18, 1977.

2. United States Environmental Protection Agency. Standards of Performance for New Stationary Sources, Proposed Method 2A. Title 40, Part 60. Washington, D.C. **Federal Register** Vol. 45, No. 244. December 17, 1980.

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Friday,
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Part V

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Steam Generators; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2328-3]

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Steam Generators

AGENCY: Environmental Protection Agency.

ACTION: Proposed revision of rule.

SUMMARY: On December 23, 1971, the Environmental Protection Agency promulgated standards of performance for large fossil-fuel-fired steam generating units constructed after August 17, 1971 (40 CFR Part 60, Subpart D). The changes to Subpart D being proposed today would establish sulfur dioxide compliance, emission monitoring, and reporting requirements on a 30-day rolling average basis. Electric utility steam generating units constructed after September 18, 1978, would not be affected by the proposal since they are subject to Subpart Da. For steam generators firing low-sulfur compliance fuels, the proposal would allow sulfur dioxide compliance testing by continuous emission monitoring, stack testing, or fuel sampling and analysis. For steam generators equipped with flue gas desulfurization systems, compliance testing could be conducted by either continuous emission monitoring or stack testing. The proposed revisions would become effective 1 year after promulgation. The proposal includes a new sulfur dioxide compliance test method (Reference Method 19A) which incorporates the revised test methods and data reduction procedures.

DATES: Comments on the proposed revisions are requested by December 20, 1983. The revision would become effective 1 year after promulgation.

ADDRESS: Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Docket No. A–81–15.

Docket. Docket No. A–81–15, containing supporting information used in developing the proposed revision, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred L. Porter, or Mr. Walter H. Stevenson, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5624.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1971, EPA promulgated standards of performance for large fossil-fuel-fired steam generating units (36 FR 24876; 40 CFR Part 60, Subpart D). The standards limit emissions of sulfur dioxide (SO_2), particulate matter, and oxides of nitrogen. The SO_2, emission standard for coal is 520 ng/J (1.2 lb SO_2), per million Btu) heat input and for fuel oil is 340 ng/J 0.8 lb SO_2, per million Btu) heat input. The SO_2, standard can be met by the use of low-sulfur fuels, flue gas desulfurization (FGD), or a combination of the two.

When the SO_2 standards were promulgated in 1971, there were little data available on short-term variability of SO_2 emissions; it was expected that short-term stack tests would be satisfactory for assessing compliance with the SO_2 standard at facilities using either low-sulfur compliance fuel or FGD. Compliance demonstration was required through the use of EPA Reference Method 6 (minimum 3-hour test period).

Subpart D also required that continuous SO_2 emission monitors be installed and operated. For facilities using compliance fuel, continuous SO_2 monitors were not required, provided that fuel sampling and analysis were conducted. Continuous SO_2 emission monitoring systems has not been extensively evaluated by EPA in 1971 and, because of this, performance specifications (including data reduction and reporting requirements) were not included in the 1971 regulation. Therefore, the monitoring requirements proposed in August 1971 indicated that a review of continuous emission monitoring systems would be conducted and additional guidance provided at a later date (36 FR 15704).

The guidance on continuous monitoring systems was provided on October 6, 1975, when EPA promulgated a number of changes to Subpart D (proposal at 39 FR 32852 and promulgation at 40 FR 46250). Included were performance specifications for continuous emission monitoring systems and emission reporting requirements for FGD-equipped steam generators. For FGD-equipped units, the revision required that the data collected by the SO_2 monitor be used to prepare quarterly reports of excess emissions. A 3-hour averaging period, consistent with the Method 6 stack test, was specified for data reduction purposes.

In the proposal to the 1975 changes, EPA had included SO_2 excess emissions reporting requirements for both FGD and non-FGD-equipped steam generators. However, comments received on the proposed monitoring requirements pointed to a number of problems with the proposed fuel analysis option and the impact of coal sulfur variability on reporting excess emissions. Comments and discussions with coal suppliers and electric utility companies led the Agency to conclude that the proposed requirements for fuel analysis were inadequate and inconsistent with the existing fuel supply situation. Recognizing that additional study would be necessary before meaningful provisions could be developed, the fuel analysis provisions of Subpart D were reserved in the regulation.

Since 1975, EPA has conducted a number of studies to assess both the sulfur variability in coal and the variation in FGD performance. Today's proposel is based on these studies and completes the SO_2 emission monitoring requirements for steam generators using compliance fuels and revises the provisions for FGD-equipped units.

Rationale for Proposal

When EPA proposed emission standards for large fossil-fuel-fired steam generating units in 1971, EPA indicated that the 520 ng/J (1.2 lb SO_2 per million Btu) emission limit for coal-fired units could be complied with by using either flue gas desulfurization or low-sulfur coal. In developing the standard, EPA reviewed U.S. coal reserve data to determine the potential impacts of the standard on compliance coal reserves. As indicated in the background document for the 1971 standard, a high grade coal with a sulfur content of 0.7 percent or less was judged capable of complying with the standard (II–A–001 p. 5). In selecting a 0.7 percent sulfur compliance coal as one basis of the standard, EPA estimated that about one-fourth of the U.S. recoverable coal reserves could be expected to comply (II–B–001). In arriving at this estimate, the Agency considered the average sulfur content of the fuel reserves but did not consider sulfur content variability or the effect of averaging time.

Many facilities subject to Subpart D have elected to use compliance fuel. A survey conducted by EPA in 1978

indicated that approximately 200 coal-fired electric utility boilers subject to Subpart D will have begun operation by 1983. Of these, approximately one-half plan to use compliance coal. The other half plan to use FGD systems (II–A–003).

The issue of averaging time for the SO_2 standard relates to both the variability of sulfur content of the coal and FGD performance. In relation to compliance coals, the variability of sulfur has been addressed in various EPA studies since 1975 and studies continue (II–A). From the studies completed to date, it is clear that coal is not homogeneous and the sulfur content of coal used in a steam generator can vary, even when the coal is supplied from the same mine. In addition to geological properties, some of the factors that affect coal sulfur content variability include mining practices, coal preparation procedures, on-site coal handling procedures (including the on-site mixing of coal from various suppliers), and chemical characteristics of the coal. These factors can interact and result in complex sulfur variability patterns which are difficult for boiler operators to predict or manage on a short-term basis.

The record shows that this variability and these effects were largely not recognized by EPA or by commenters when the standard was adopted in 1971. Because the sulfur content of coal supplied to a steam generator varies with time, the averaging time associated with an SO_2 emission limit can affect the supply of coals that can comply with the standard without the use of FGD. As the averaging period associated with an emission standard is shortened, coals with a lower mean sulfur content are required to assure compliance. Table 1 shows the estimated range of mean sulfru levels required to meet a 520 ng/J (1.2 lb per million Btu) heat input standard for different averaging times. Table 2 shows the estimated U.S. low-sulfur coal reserves that would be expected to comply with various mean sulfur levels listed in Table 1.

Combined, Tables 1 and 2 show that interpretation of the SO_2 standard on a short-term basis severely limits supplies of compliance coals. The tables show that about 10 percent, or less, of the U.S. coal reserves would be expected to comply with the SO_2 standard on a 3-hour basis. However, on a 30-day rolling average basis, about 25 percent of the coal reserves could comply with Subpart D and this is consistent with the intended effects when the standard was adopted in 1971.

Proposed Averaging Time and Monitoring Requirements

Based on these analyses (II–B–002), EPA believes that a 30-day period is an appropriate averaging period for evaluating compliance fuels and makes the standard conform to the original intent. The rolling average allows for daily enforcement. Averaging periods longer than 30 days were judged to be unnecessary. Longer averaging periods would have relatively little additional effect on mitigating the effect of coal sulfur variability compared to the 30-day rolling average. Shorter averaging periods would severely limit compliance coal supplies for plants subject to the standard and could lead to the use of costly coal blending facilities.

TABLE 1.—ESTIMATED MEAN SO_2 EMISSION LEVELS REQUIRED TO COMPLY WITH A 520 NG/J (1.2 LB/MILLION BTU) EMISSION LIMIT AT DIFFERENT AVERAGING BASIS

Averaging periods (rolling average)	Required mean SO_2 Emissions [1]	
	ng/J	Lb SO_2/10^6 Btu
90-days	450	1.04
30-days	410	0.95
3-hour	285	0.63

SOURCE: Docket A–81–15, II–B–002.

[1] Based upon 24-hour relative standard deviation and autocorrelation values of 0.20 and 0.70, respectively.

TABLE 2.—ESTIMATED NATIONAL LOW-SULFUR COAL RESERVES [1]

Required mean SO_2 emission		Estimated recoverable U.S. coal reserves (percent)
ng/J	Lb SO_2/10^6 Btu	
260	0.6	5 to 7.
300	0.7	10 to 15.
345	0.8	15 to 20.
385	0.9	20 to 25.
430	1.0	25 to 30.
470	1.1	30 to 40.

SOURCE: Docket A–81–15, II–B–002.

[1] Based upon a ±20 percent accuracy level of estimated coal reserves.

In addition, EPA also proposes to apply the 30-day rolling average to FGD-equipped units. Similar to the short-term fluctuations in SO_2 emissions experienced when combusting compliance fuels, FGD performance and associated SO_2 emissions from FGD equipped units also experience short-term fluctuations. The short-term variation in FGD performance was not well understood when Subpart D was adopted in 1971 and is not appropriately addressed by a short-term 3-hour compliance test. Based on a thorough review of FGD performance data, which was conducted in conjunction with the revised NSPS for utility steam generating units (Subpart Da; 44 FR 33580), EPA has concluded that a 30-day rolling average best typifies the performance of a well-designed and properly operated FGD system. At promulgation of Subpart Da, EPA concluded that a 30-day average allows adequate time for owners or operators to respond to operating problems affecting FGD efficiency, permits greater flexibility in procedures necessary to operate FGD systems in compliance with the standard, and can reduce the effects of coal sulfur variability on maintaining compliance (44 FR 33595). These same considerations are applicable to evaluating the performance of FGD-equipped units subject to Subpart D and a 30-day rolling average is included in this proposal.

The proposed revision would make Subpart D consistent with the intent and the anticipated effect at the time it was adopted and does not make it a more stringent regulation with which to comply. By determining compliance through continuous methods, it will better ensure that sources continuously comply with the standard. Finally, the proposal provides an averaging time that is consistent with the capability of the control technology. If adopted, the revisions would become effective 1 year after promulgation. This lag time provides the necessary time for planning, procurement, installation, and start-up of monitoring systems and data processing equipment which will be required.

A number of factors contribute to the need for allowing a 1-year period to implement the revisions. Sources that now have continuous emission monitors for determining excess SO_2 emissions would have to develop data retrieval and reduction capabilities for determining the 30-day rolling average. Most sources would opt to install electronic data storage and processing systems which are presently available but have delivery periods of several months. Development of data reduction procedures for individual sources would add to the time needed for installation and initiation of the data gathering.

Sources that do not have SO_2 monitoring systems installed would have to order equipment, prepare the measurement sites, install the monitors, conduct the performance specification tests, and develop a quality assurance/quality control program to maintain the quality of the data. The time required to complete these tasks could take 1 year. Most of the above tasks would also have to be done by sources that would use fuel sampling and analysis procedures in lieu of continuous monitors. Not all of the sources which now perform fuel sampling and analysis

VOL
48
ISS
205
OC
21
1983
UMI

follow the procedures specified in Method 19A. In some cases, modification of existing sampling or analysis procedures may be necessary.

A new SO_2 stack testing method (Method 6B), was promulgated in the Federal Register on December 1, 1982 (47 FR 56073) and is included in this proposal as an optional SO_2 measurement procedure. Use of Method 6B to determine SO_2 emissions would suggest that less than a 1-year lead time would be necessary for implementing the proposal; however, Method 6B was only recently promulgated and at present, no manufacturers commercially market a Method 6B sampling system.

Based on these factors, EPA has concluded that a 1-year lead time for complying with the revised monitoring requirements would be reasonable. Owners or operators of facilities that wish to implement the revision prior to the 1-year period may apply to the Administrator for approval. Until the revision is implemented, Subpart D would remain in effect in its present form and compliance would continue to be determined through the use of Method 6.

Compliance Methods

The proposed SO_2 compliance provisions would replace Method 6 with Method 19A. Under the proposal, a source employing a continuous emission monitoring system to determine SO_2 emissions would use hourly data averaged for the past 30 boiler operating days to determine a 30-day average emission rate. This procedure is repeated for each day and results in the calculation of a 30-day rolling average emission rate. SO_2 emissions data collected during startup, shutdown, or system malfunction are not included in calculation of the 30-day rolling average emission rate. However, such periods must be identified in the quarterly SO_2emissions report. If SO_2 emissions are measured through the use of Method 6B or by fuel sampling and analysis, as allowed under proposed Method 19A, SO_2 emissions report. If SO_2 emissions a daily basis and the SO_2 emission rate for the past 30 boiler operating days would be averaged to determine a 30-day average emission rate.

In calculating SO_2 emission rates, all valid SO_2 emissions data are used. It is recognized, however, that data may not be available for 100 percent of the time. Under the proposal, minimum data requirements are included and supplemental sampling would be required, if necessary, to assure that the data requirements are met. For SO_2 continuous emission monitoring systems, the minimum SO_2 data availability requirements would be 22 days of SO_2 emissions data for each 30 days of boiler operation and for fuel sampling and analysis systems and Method 6B stack testing procedures would be 27 days of SO_2 emissions data for each 30 days of boiler operations.

In announcing the use of continuous emission monitors for compliance determinations in Subpart Da in June 11, 1979, EPA indicated that quality assurance procedures were being developed (44 FR 33611). During 1980 and 1981, EPA distributed draft quality assurance procedures for continuous monitoring systems for technical review. When these procedures complete review and are adopted, they will be applicable to SO_2 continuous emission monitors used under today's proposal and Subpart Da. The procedures would require daily instrument drift measurement and quarterly accuracy audits. Additionally, EPA recently promulgated changes in Performance Specification 2 and 3 (Appendix B) which will simplify the continuous emission monitoring system performance evaluation required under § 60.13

Method 6B may be used to determine daily SO_2 stack emission rates instead of continuous emission monitors. Method 6B uses an SO_2 collection system, based upon Reference Method 6, with an on/off timer to collect an integrated SO_2 sample over a 24-hour period. Analysis of the Method 6B sample provides a 24-hour integrated SO_2 emission rate.

If fuel sampling is selected for determining the daily SO_2 emission rate, sampling systems meeting the minimum requirements of the specific portion of ASTM Method D–2234 (coal) and ASTM Method D–270 (oil) included in Method 19A would be used. These are the same sampling methods included in Method 19 for new electric utility steam generating units subject to Subpart Da. For coal-fired steam generators, sampling on a daily "as-fired" basis in proposed. This would mean that coal would be sampled as the coal silos (bunkers) that supply coal to the coal pulverizers are filled. The coal sample would be analyzed for sulfur content and specific heat, the potential SO_2 emission level (ng/J, lb per million Btu) would be calculated, and used as the 24-hour SO_2 emission rate for the day the coal was bunkered. For fuel oil, a "drip type" sample would be collected at the burner while oil is being fired. Fuel samples would be analyzed using ASTM procedures (included in Method 19A).

For coal-fired steam generators, the proposal assumes that 95 percent of the sulfur in the coal is discharged to the atmosphere as SO_2 This assumption is based upon studies which indicate that about 5 percent of the sulfur in the coal is retained in the pulverizer rejects, bottom ash, and fly ash, The owner or operator of a steam generator may petition the Administrator to permit use of a lower value for the sulfur in the coal discharged to the atmosphere, provided data are made available to substantiate a lower value.

Under the proposal, the fuel sampling and analysis procedures contained in Method 19A are included as an EPA approved "alternative test method." As defined under § 60.2 and discussed under § 60.8(b), the fuel sampling option under Method 19A could be selected by an owner or operator to determine SO_2 emissions; however, since it is an alternative test method, EPA or the implementing State air pollution control agency retains the authority to require periodical SO_2 testing by Method 6B or continuous emission monitors to demonstrate the adequacy of the alternative test method.

Proposal of the fuel sampling and analysis procedures as alternative test methods is based on the Administrator's judgment that these procedures are sufficiently accurate to be used as a basis for determining compliance with the standard. Under section 307(b)(2) of the Act, the owner will be precluded from challenging these procedures in any enforcement proceeding. Of course, use of these procedures is optional; any owner that wishes not to use them to determine compliance is free to choose either of the other two methods. Finally, as with any alternative method, the Administrator retains the authority to withdraw approval for its use at a particular facility if, in his judgement, it would not be sufficiently accuate to determine compliance at that facility.

Under the proposal, ASTM D–2234 Type I, Conditions A, B, or C, and Systematic Spacing would be used for coal sampling. This approach would allow both automated and manual coal sampling methods to be used; however, automated sampling is expected to predominate. For units not using automated coal sampling systems or for supplemental sampling due to failure of the primary system, manual sampling would be done in accordance with ASTM requirements, including proper sampling device geometry, number of sample increments, and increments taken evenly spaced in time or position.

In cases where more than one steam generator subject to Subpart D is installed at a site, a single fuel sampling system may be used to sample the coal as it is bunkered to individual units. A daily "as fired" coal sample would be collected for each unit and would be analyzed to determine the daily SO_2 emission rate for each unit.

Because of the wide variation in design and operation of steam generation facilities, there may be alternative SO_2 monitoring sites, fuel sampling locations, or procedures that may be appropriate for specific steam generators. In such cases, the owner or operator of a facility may petition the Administrator to approve other alternate monitoring procedures.

Miscellaneous

Under Executive Order 12291, EPA is required to judge whether this action would be a "major rule" and, therefore, subject to certain requirements of the Order. The Agency has made a preliminary determination that the revision would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a "major rule." While this action is primarily a clarification of an earlier rule, there are some additional monitoring and reporting requirements. However, the additional costs are far less than the $100 million specified in the Order as defining a "major rule." Moreover, the revision will not result in a major increase in costs or prices and will not disrupt market competition. The Agency has, therefore, concluded that this revision would not be a "major rule" under Executive Order 12291.

Additionally, under Section 317 of the Clean Air Act, the Administrator is required to prepare an economic impact assessment for revisions determined by the Administrator to be substantial. The Administrator has determined that these revisions are not substantial and has not prepared an economic impact assessment.

The reporting and recordkeeping provisions of the regulation that this rulemaking revises have previously been cleared by OMB (OMB clearances 2000–0207 and 2000–0142). A clearance package reflecting the reporting requirements contained in this proposal has been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act of 1980. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on information collection requirements.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that these revisions do not have a significant impact on a substantial number of small entities. The proposed revision will not affect a substantial number of small entities since the standard only applies to steam generators larger than 73 MW (250 million Btu per hr) heat input and well over 90 percent of these facilities will be large electric utility and industrial manufacturing companies. If the standards does not apply to any small entities, the impacts are insignificant as the emission monitoring costs would be less than 1 percent of the annualized boiler costs.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners.

(Sec. 111, 301(a) of the Clean Air Act, as amended; 42 U.S.C. 7411, 7601(a))

Dated: October 13, 1983.

Alvin L. Alm,

Acting Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

In 40 CFR Part 60, §§ 60.41, 60.43, 60.45, and 60.46 are amended and §§ 60.48 and 60.49 are added as follows:

1. Section 60.41 is amended by adding paragraphs (g) and (h) as follows:

§ 60.41 Definitions.

* * * * *

(g) "24 hour period" means the period of time between 12:01 a.m. and 12:00 midnight. A starting time other than 12:01 a.m. may be used for the 24-hour period. If a starting time other than 12:01 a.m. is used, the starting time must be defined in the quarterly emissions report and must be constant for the entire calendar quarter.

(h) "Boiler operating day" means a 24-hour period during which any fossil fuel is combusted in the steam generator.

2. Section 60.43 is amended by adding paragraph (d) as follows:

§ 60.43 Standard for sulfur dioxide.

* * * * *

(d) Compliance with the emission limitations under this Section are determined on a 30-day rolling average basis in accordance with Method 19A (Appendix A).

3. Section 60.45 is amended by revising paragraphs (b)(2), (4), and (e); deleting paragraphs (f) and (g)(2), and adding paragraphs (b)(5), (h), (i), (j), (k), and (l) as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(b) * * *

(2) The continuous emission monitoring system for measuring sulfur dioxide required under paragraph (a) of this Section is not necessary, if Method 6B or the alternative fuel sampling and analysis procedure under Method 19A (Appendix A) is used. The fuel sampling and analysis procedures included in Method 19A are approved as alternative SO_2 test methods for steam generators subject to this subpart and a written application for approval under § 60.13(j) is not required. The fuel sampling and analysis procedures in Method 19A are alternative test methods and the Administrator retains the authority to periodically require SO_2 testing by Method 6B or continuous emission monitors or to withdraw the approval for specific facilities.

* * * * *

(4) If an owner or operator does not install any continuous monitoring systems for sulfur oxides and nitrogen oxides as provided under paragraphs (b)(1) and (b)(3) or (b)(1) and (b)(5) of this Section, a continuous monitoring system for measuring either oxygen or carbon dioxide is not required.

(5) For affected facilities that combust more than 75 percent wood or wood residue on a quarterly (calendar) heat input basis, a continuous monitoring system for measuring sulfur dioxide emissions in not required. Such facilities are required to maintain quarterly records of percent of wood or wood residue fired on a heat input basis.

* * * * *

(e) For any continuous monitoring system installed under paragraph (a) of this Section, the following conversion procedure shall be used to convert the continuous monitoring data into units of the applicable standards (ng/J, lb/million Btu):

(1) For sulfur dioxide data, procedures under Section 3 of Method 19A (Appendix A) are used.

(2) For nitrogen oxides data, procedures under Section 5 of Method 19 (Appendix A) are used.

(f) [Reserved]

(g) * * *

(2) [Reserved]

* * * * *

(h) The continuous monitoring systems under paragraph (a) of this

section are operated and data are recorded during all periods of operation of the affected facility including periods of startup, shutdown, and malfunction except for continuous monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments.

(i) When sulfur dioxide emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks and zero and span adjustments, emission data are obtained by using an alternate monitoring procedure under Method 19A or by using other monitoring systems as provided by the Administrator as necessary to provide emission data as required under paragraph (k) of this section.

(j) For continuous emission monitoring systems, the 1-hour average SO_2 emissions required under paragraph § 60.13(h) are expressed in ng/J (lbs/million Btu) heat input and used to calculate the average emission rates under § 60.48. The 1-hour averages are calculated using the data points required under § 60.13(b). At least two points must be used to calculate the 1-hour averages.

(k) The minimum data requirements for sulfur dioxide emissions data collected using Method 19A are as follows:

(1) For continuous emission monitoring systems, data from at least 75 percent of the boiler operating hours per day in at least 22 out of 30 successive boiler operating days are required.

(2) For stack testing (Method 6B), data from at least one test run per day in at least 27 out of 30 successive boiler operating days are required.

(3) For coal sampling and analysis, data from coal samples representative of the coal supplied to the steam generator or to the coal silos (bunkers) each boiler operating day in at least 27 out of 30 successive boiler operating days are required.

(4) For oil sampling and analysis, data from oil samples representative of the oil supplied to the steam generator each boiler operating day in at least 27 out of 30 successive boiler operating days are required.

(l) In meeting the data requirements under paragraph (k) of this section, a combination of the test procedures included under Reference Method 19A (Appendix A) may be used. If SO_2 emissions data from continuous emission monitoring systems under paragraph (k)(1) of this section are supplemented with SO_2 emissions data from stack testing (Method 6B) or by fuel sampling and analysis procedures contained in Method 19A, the minimum data requirements of paragraph (k)(1) of this section apply.

4. Section 60.46 is amended by revising paragraph (a)(4), (c) and (f) and removing paragraph (d) as follows:

§ 60.46 Test methods and procedures.

* * * * *

(a) * * *

(4) Method 19A for sulfur dioxide emission rate and

* * * * *

(c) For Method 7, the sample site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross Section or at a point no closer to the wall than 1 m (3.28 ft.). Removed

(d) [Reserved]

* * * * *

(f) For each run using the methods specified by paragraphs (a)(3) and (a)(5) of this section, the emissions expressed in ng/J (lb/million Btu) are determined following the procedures in Section 5 of Method 19 (Appendix A) (see § 60.47 for sulfur dioxide emissions calculations).

* * * * *

5. Sections 60.48 and 60.49 is added as follows:

§ 60.48 Sulfur dioxide compliance provisions.

(a) After the initial performance test required under § 60.8, compliance with the sulfur dioxide emission limitations under § 60.43 is based on the average emission rate for 30 successive boiler operating days [as determined following the procedures under Method 19A (Appendix A)]. Following the initial performance test, a separate performance test is completed at the end of each boiler operating day and a new 30 day average emission rate for sulfur dioxide is calculated to determine compliance with the standards.

(b) For the initial performance test required under § 60.8, compliance with the sulfur dioxide emission limitations is based on the average emission rates for sulfur dioxide for the first 30 successive boiler operating days. The initial performance test is the only test in which at least 30 days prior notice is required unless otherwise specified by the Administrator. The initial performance test is to be scheduled so that the first boiler operating day of the 30 successive boiler operating days is completed within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of the facility.

(c) In determining compliance with the standard following Method 19A, all sulfur dioxide emissions data (except sulfur dioxide emissions data obtained during startup, shutdown, or malfunction) are included in determining compliance.

(d) If an owner or operator has not obtained the minimum quantity of emission data as required under § 60.45(k), compliance with the emission requirements under § 60.43 of this Subpart for the day on which the 30-day period ends may be determined by the Administrator by following the applicable procedures in Section 6 of Reference Method 19A (Appendix A).

§ 60.49 Sulfur dioxide reporting requirements.

(a) The owner or operator of any affected facility shall submit the written reports required under paragraph (b) of this section and Subpart A to the Administrator for every calendar quarter. All quarterly reports shall be submitted by the 30th day following the end of each calendar quarter.

(b) For sulfur dioxide, the following emission data are submitted to the Administrator for each 24-hour period:

(1) Calendar Date.

(2) The average sulfur dioxide emission rate (ng/J or lb/million Btu) for each 30 successive boiler operating days ending with the last 30-day period in the quarter; reasons for noncompliance with the emission standards, and description of corrective action taken.

(3) Identification of the boiler operating days for which pollutant or diluent data have not been obtained following methods under Method 19A (Appendix A); justification for not obtaining sufficient data; and description of corrective actions taken.

(4) Identification of the times when emission data from FGD equipped steam generators have been excluded from the calculation of average emission rates because of start-up, shut-down, malfunction, or other reasons; and justification for excluding data for reasons other than start-up, shut-down, or malfunction.

(5) For facilities combusting mixtures of fossil fuel and wood or fossil fuel and wood residue, the percentage of heat input to the steam generator provided by wood or wood residue during the calendar quarter.

6. Part 60, Appendix A is amended by adding Method 19A to read as follows:

Method 19A—Determination of Sulfur Dioxide Emission Rates From Fossil-Fuel-Fired Steam Generators

1. Principle and Applicability

1.1 Principle.

1.1.1 Fuel samples are collected and analyzed for sulfur and heat content and the sulfur dioxide emission rate is determined from the analysis data. Procedures are described for coal and oil; or

1.1.2 Sulfur dioxide and oxygen or carbon dioxide concentration data are obtained using emission testing procedures and are used to determine sulfur dioxide emisston rates. Procedures are described for continuous emission monitoring systems using instrumental or manual techniques.

1.2 Applicability. This method is applicable for determining sulfur dioxide (SO_2) emission rates from fossil fuel-fired steam generators.

2. As-Fired Fuel Analysis

Collect the fuel samples from a location in the fuel handling or processing system that provides a sample representative of the fuel bunkered or consumed during a boiler operating day. For the purpose of this method, a fuel lot size is defined as the weight of fuel bunkered or consumed during each boiler operating day. For reporting and calculation purposes, the gross sample shall be identified with the calendar day on which sampling began. Alternate definitions of fuel lot sizes may be specified subject to prior approval of the Administrator.

2.1 Fuel Sampling.

2.1.1 Solid Fossil Fuel. Use coal sampling procedures meeting the requirements of ASTM D 2234 [1] Type I, Conditions A, B, or C and systematic spacing. As a minimum, determine the number and weight of increments required per gross sample according to paragraph 7.1 of ASTM D 2234[1]. As used in this method, systematic spacing is intended to include evenly spaced increments in time or increments based on equal weights of coal passing the collection area.

2.1.2 Liquid Fossil Fuel. Use the procedure for continuous sampling described in Method 19, Section 2, paragraph 2.2.1.

2.2 Fuel Analysis.

2.2.1 Solid Fossil Fuel. Determine the percent sulfur content (%S) and gross calorific value (GCV) of the solid fossil fuel on a dry basis fro each gross sample. Use ASTM D 2013[1] for sample preparation, ASTM D 3177[1] for sulfur analysis, ASTM D 3173[1] for moisture analysis and ASTM D 2015[1] for GCV determination.

2.2.2 Liquid Fossil Fuel. Determine the percent sulfur content (%S) and gross calorific value (GCV) of the liquid fossil fuel. Use ASTM D 240 [1] for GCV determination and ASTM D 129 [1] for sulfur analysis. These values can be assumed to be on a dry basis.

2.3 Calculation of Sulfur Dioxide Emission Rate Using Fuel Analysis Data.

2.3.1 Daily Emission Rate. Calculate the daily SO_2 emission rate as follows:

For Solid Fossil Fuel:

$$E_{so2} = 0.95K \times \frac{(\%S)}{GCV} \quad \text{(Equation 19A–1)}$$

For Liquid Fossil Fuel:

$$E_{so_2} = \frac{K(\%S)}{GCV} \quad \text{(Equation 19A–2)}$$

Where:

E_{so_2} = SO_2 emission rate; ng/j (lb/10^6 Btu).

%S = Sulfur content of the fuel on a dry basis; weight percent.

0.95 = Allowance for 5.0 percent sulfur removal in coal pulverizer rejects and ash.

GCV = Gross calorific value of the fuel on a dry basis; kJ/kg (Btu/lb).

K = Conversion Factor: $2.\times10^7$ for SI units; 2.0×10^4 for english units.

If more than one fuel type is bunkered or consumed during the day, use the following equation to calculate the daily sulfur content per unit of heat content as follow:

$$\frac{\%S}{GCV} = \sum_{k=1}^{n} Y_k \left(\frac{\%S_k}{GCV_k}\right) \quad \text{(Equation 19A–3}$$

Where:

Y_k = The fraction of total heat input derived from each fuel type, k.

$\%S_k$ = Sulfur content of each fuel type, k, on a dry basis; weight percent.

GCV_k = Gross calorific value for each fuel type, k, on a dry basis; kJ/kg (Btu/lb).

n = Number of different fuel types.

For the purpose of this method, fuel type is meant to differentiate between classes of fossil fuel (e.g., solid or liquid), classifications of solid fossil fuel (e.g., bituminous or sub-bituminous coal), or grades of liquid fossil fuels (e.g., crude or residual). Sampling of fuel types contributing less than one percent of the total heat input in a boiler operating day (e.g., light fuel oils used during boiler startup or for combusiton stabilization in solid fossil fuel fired boilers) is not necessary.

2.3.2 Determination of 300-Day Rolling Average. Calculate the mean 30-day SO_2 emission rate for 30 successive boiler operating days (rolling average) as follows:

$$E_{30} = \frac{1}{n} \sum_{1}^{n} E_{SO_2} \quad \text{(Equation 19A–4)}$$

E_{so} = SO_2 emission rate as a 300-day rolling average; ng/J (lb/10^6 Btu).

n = Number of daily SO_2 emission rates obtained in the 30 boiler operating day period.

3. Continuous Emission Monitoring System (CEMS)

Measurement of SO_2 concentration and oxygen (O_2) or carbon dioxide (CO_2) at the same exhaust location representative of the total emissions are required. Install and operate the CEMS in accordance with 40 CFR 60, Appendix B, Performance specifications 2 and 3 and as required in the applicable subpart.

3.1 Sampling. Use the CEMS data for SO_2 and O_2 or CO_2 concentrations obtained following the procedures in Section 3.

3.2 Determination of an F Factor. Select an applicable f factor as described in Method 19, Section 5.2.

3.3 Calculation of Emission Rate. Determine the hourly SO_2 emission rate as described in Method 19, Section 5.3.

3.4 Calculation of the 30-Day Rolling Average. Calculate the mean 30-day emission rate using all the available hourly averages in ng/J (lb/10^6 Btu) for 30 successive boiler operating days (rolling average) as follows:

$$E_{so} = \frac{1}{n} \sum_{1}^{n} E_{sos} \quad \text{(Equation 19A–5)}$$

where:

E_{so} = SO_2 emission rate as a 30-day rolling average; ng/J (lb/10^6 Btu).

n = Total number of hourly values available for calculation of the 30-boiler operating day average.

E_{sos} = Hourly SO_2 emission rate, average of at least two 15-minute measurement values and determined as in Section 3.3; ng/J (lb/10^6 Btu).

4. Manual Sampling Using Method 6B

Method 6B may be used as either an intermittent sample on a schedule of at least one increment per 2-hour interval or a continuous sample for a 24-hour composite for analysis. Measurement of SO_2 and CO_2 concentration at the same exhaust location representative of the total emissions are required. An initial stratification test is required to verify the adequacy of the sampling location. The stratification test shall consist of three paired runs of a suitable SO_2 and CO_2 measurement train installed and operated at the candidate location and a secord similar train operated using a three (or more) point traverse. Method 6B, Method 6A, or a combination of Methods 6 and 3 are suitable measurement techniques.

The minimum requirements for selecting the traverse location are as follows: Establish a "measurement line" that passes through the centroidal area and in the direction of any expected stratification. (The centroidal area is a concentric area that is geometrically similar to the stack or duct cross section and is greater that 1 percent of the stack or duct cross-sectional area.) If this line interferes with the measurement at the candidate location, displace the line up to 30 cm (or 5 percent of the equivalent diameter of the cross section, whichever, is less) from the centroidal area. Locate three traverse points at 16.7, 50.0 and 83.3 percent of the measurement line. If the measurement line is longer than 2.4 meters and pollutant stratification is not expected, the tester may choose to locate the three traverse points on the line at 0.4, 1.2, and 2.0 meters from the stack or duct wall. This option must not be

[1] Use the most recent revision or designation of the ASTM procedure specified.

VOL 48 ISS 205 OCT 21 1983 UMI

VOL 48 ISS 205 OCT 21 1983 UMI

used after wet scrubbers or a points where two streams with different pollutant concentrations are combined. The tester may select other traverse points provided that they can be shown to the satisfaction of the Administrator to provide a representative sample over the stack or duct cross section. If method 6B is used, sampling time and timer operation may be adjusted for the stratification test to collect an adequate sample volume; however, both sampling trains are to be operated similarly.

If the mean of the absolute difference between the three paired runs agree to within 10 percent, the location is adequate for the Method 6B 24-hour tests. If the agreement is not within 10 percent, choose a new location and repeat the stratification tests.

4.1 Sampling. All sample collection shall be within 3 cm of the sample location meeting the stratification test in section 4.0.

4.2 Determination of a F_c Factor. Select an applicable F_c factor as described in Method 19, Section 5.2.

4.3 Calculation of a Boiler Operating Day Emission Rate. Determine a daily SO_2 emission rate, E_{SO_2}, as described in Method 6A, Section 7.6.2 (Equation 6A–8); in ng/J (1b10^6 Btu).

4.4 Calculation of the 30-Day Rolling Average. Calculate the mean 30-day emission rate using the daily measured values in ng/J (1b10^6 Btu) for successive boiler operating days (rolling averages) as follow:

$$\overline{E}_{30} = \frac{1}{n}\sum_{1}^{n} E_{SO_2} \quad \text{(Equation 19A–6)}$$

where:

E_{30} = SO_2 emission rate 30-day rolling average, ng/J (lb/10^6 Btu).

E_{SO_2} = Daily SO_2 emission rates, ng/J (1b/10^6 Btu).

n = Number of daily SO_2 emission rates obtained in the 30 boiler operating day period.

5. Calculation of Emission Rate from Combined Cycle-Gas Turbine Systems

Determine the SO_2 emission rate from the steam generator as described in Method 19, Section 5.4

6. Calculation when Available Emission Measurement Data Are Less Than the Minimum

Perform the following calculations when the number of data values is less than the minimum required in the applicable subpart for calculation of the 30-day rolling average.

6.1 Mean Emission Rate. Calculate the mean emission rate for the reporting period using all emission measurement values (hourly averages for CEMS and daily averages for fuel sampling and Method 6B) and the following equation:

$$\overline{E} = \frac{1}{n}\sum_{1}^{n} \text{max} \quad \text{(Equation 19A–7)}$$

where:

$\overline{E}$ = Mean SO_2 emission rate for the reporting period, ng/J (1b/10^6 Btu).

n = Number of available emission rate values for the reporting period hourly averages for CEMS, daily averages for other methods.

E_{SO_2} = Measured emission rate values, ng/J (lb/10^6 Btu).

6.2 Standard Deviation of Mean. Calculate the standard deviation of the mean of the available emission rate values using the following equation:

$$S_{\overline{E}} = \left[\sqrt{\frac{1}{n} - \frac{1}{\text{max}}}\right]\left[\sqrt{\frac{\sum_{1}^{n}(\overline{E} - E_{SO_2})^2}{n-1}}\right] \quad \text{(Equation 19A–8)}$$

where:

$S_{\overline{E}}$ = Standard deviation of the mean of the emission values for the reporting period, ng/J (1b/10^6 Btu).

max = The maximum number of data values that should have been recorded during the reporting period.

n = The number of available emission rate values for the reporting period hourly averages for CEMS, daily averages for other methods.

6.3 Confidence Limit. Calculate the upper and lower confidence limit for the mean emission rate using the following equation:

$E_L = \overline{E} - t_{0.95} S_{\overline{E}}$ (Equation 19A–9)

$E_U = \overline{E} + t_{0.95} S_{\overline{E}}$ (Equation 19A–10)

where:

E_L = The lower confidence limit for the mean emission rate; ng/J (1b/10^6 Btu).

E_U = The upper confidence limit for the mean emission rate; ng/J (1b/10^6 Btu).

$t_{0.95}$ = Values shown below for the indicated number of data points (n).

Values for $t_{0.95}$

n	$t_{0.95}$	n	$t_{0.95}$	n	$t_{0.95}$
2	6.31	8	1.89	22–26	1.71
3	2.42	9	1.86	27–31	1.70
4	2.35	10	1.83	32–51	1.68
5	2.13	11	1.81	52–91	1.67
6	2.02	12–16	1.77	92–151	1.66
7	1.94	17–21	1.73	152 or more	1.65

The values of this table are corrected for n–1 degrees of freedom. Use n equal to the number of emission rate values.

[FR Doc. 83–28566 Filed 10–20–83; 8:45 am]
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Friday
October 21, 1983

Part VI

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment, and Instruction of Inmates, and Modification of List of Bureau of Prisons Institutions

VOL
48
ISS
2
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5
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21
1983
UMI

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 500, 527, and 552

Control, Custody, Care, Treatment, and Instruction of Inmates; D.C. Women Offenders, et al.

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rules.

SUMMARY: In this document, the Bureau of Prisons is publishing its final rule on Designations and Transfers of D.C. Women Offenders. The rule concerns the designation of women District of Columbia (D.C.) Code violators to the Bureau of Prisons and the transfer of women D.C. offenders in federal institutions to the District of Columbia Department of Corrections.

In this document, the Bureau of Prisons is also amending two existing rules. The Bureau is amending its rule on definitions to revise the terms "inmate" and "contraband" and to add the term "qualified health personnel". The Bureau is also amending its rule on Searches of Housing Units, Inmates, and Inmate Work Areas to refine and/or clarify the existing rule.

EFFECTIVE DATE: November 21, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is publishing final and amended rules. The new final rule is on Designations and Transfers of D.C. Women Offenders. The rule on Searches of Housing Units, Inmates, and Inmate Work Areas is amended. In addition, the term "qualified health personnel" is added and the terms "inmate" and "contraband" are amended in the definitions section of the rules. Each of these subjects has been published in the **Federal Register** as a proposed rule. The amended definitions for "inmate" and "contraband" were published in the **Federal Register** January 19, 1983 (at 48 FR 2503). The other rules were published in the **Federal Register** April 29, 1983 (at 48 FR 19576 et seq.). Interested persons were invited to submit comments on the proposed rules. Public comment was received for the rule on searches. Members of the public may submit comments concerning the final rules by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to these rules since the rules involve agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), do not have a significant impact on a substantial number of small entities.

Summary of Changes

I. Designations and Transfers of D.C. Women Offenders

1. Section 527.50—The phrases "will designate" and "will refer" are revised to read "designates" and "refers" respectively.

2. Section 527.52—Section 527.52(a) is reworded, but its intent is unchanged.

3. Section 527.53—The "Notice of Eligibility" form is retitled "Notice of Eligibility for Referral."

4. Section 527.54—Section 527.54(b) is expanded to provide the inmate with information on where to send a complaint filed under the D.C. Department of Corrections grievance procedure.

II. Seorches of Housing Units, Inmates, and Inmate Work Areas

1. Section 552.11—Comments to § 552.11(a) opposed the proposed change allowing staff of the opposite sex to perform pat searches. Commenters suggested that such a policy is an invitation to arguments, confrontations, and problems, that it will be sexually arousing, increase anxiety, and will not reinforce moral attitudes and behavior. One commenter stated that a "cross-sex" pat search serves no useful purpose except for the sexual gratification of the male staff member.

As stated in the preamble to the proposed rule, the nature and purpose of the pat search, inspection of a clothed inmate on a routine or random basis, does not warrant the requirement that the search be done by a staff member of the same sex as the inmate. The pat search is a reasonable means by which the Bureau may attempt to control contraband in a correctional institution. Bureau staff are trained to make the pat search in a detached, professional manner and to conduct the search so as to preserve the dignity of the individual. A properly performed pat search, whether done by a man or woman, ordinarily should not adversely affect the inmate, whether man or woman. Staff abuse of the search procedure subjects the staff member to disciplinary action. An inmate who believes such an abuse has occurred may file a complaint through the Administrative Remedy Procedure (Part 542, Subpart B).

A commenter notes that courts have reviewed and balanced the issues concerning the "conflict between the rights of prisoners to a modicum of privacy versus the rights of staff to equal job opportunity." We believe Bureau rules sufficiently balance these concerns within the constraints of maintaining institution security, good order, and discipline. The rule allows staff, regardless of sex, to conduct a search of a clothed inmate. To require otherwise could adversely affect staff work assignments, or necessitate a situation requiring a male staff member to leave his assigned post, thereby endangering institution security, to pat search a male inmate detained by a female staff member. While a search by a member of the same sex as the inmate is ordinarily appropriate for visual searches (§ 552.11(b)), inasmuch as it recognizes the privacy rights of an inmate, a similar procedure is not warranted for the search of a clothed inmate.

Section 552.11(c) is clarified by inserting the phrase "Acting Warden", to recognize the authorizing official in the absence of the Warden. Internal implementing instructions state that only the Warden or Acting Warden may approve a digital or simple instrument search.

List of Subjects in 28 CFR Parts 500, 527, 552

Prisons Bureau, Justice Department, Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR, Chapter V is amended as set forth below.

Dated: October 18, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

Amend Subchapter A, B, and C of 28 CFR, Chapter V as follows:

I. Subchapter A, Part 500 is amended as follows:

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 500—GENERAL DEFINITIONS

A. The authority citation for Part 500 reads as follows:

Authority: 5 U.S.C. 301, 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

B. In § 500.1, revise paragraphs (c) and (h) and add a new paragraph (i) to read as follows:

§ 500.1 Definitions.

* * * * *

(c) "Inmate" means any person who is committed to, or in the custody of, the U.S. Attorney General and who is placed in, or designated to be placed in, a Bureau of Prisons institution. "Inmate" also includes any person who is committed for civil contempt to an institution of the Bureau of Prisons.

* * * * *

(h) "Contraband" is material prohibited by law, or by regulation, or material which can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the institution.

(i) "Qualified health personnel" includes physicians, dentists, and other professional and technical workers who engage in activities within their respective levels of health care training or experience which support, complement, or supplement the administration of health care.

II. In Subchapter B, add Subpart F to Part 527.

SBUCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 527—TRANSFERS

* * * * *

Subpart F—Designations and Transfers of D.C. Women Offenders

Sec.
527.50 Purpose and scope.
527.51 Definitions.
527.52 Designation.
527.53 Transfer Referrals.
527.54 Grievance Procedures.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5003, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart F—Designations and Transfers of D.C. Women Offenders

§ 527.50 Purpose and scope.

(a) The Bureau of Prisons designates federal institutions for most female D.C. Code violators who are serving sentences of more than one year and who are not within nine months of a parole eligibility, sentence expiration, or mandatory release date.

(b) The Bureau of Prisons refers to the District of Columbia (D.C.) Department of Corrections and to the D.C. Board of Parole for transfer consideration any District of Columbia female inmate in Bureau of Prisons custody provided the inmate has made a request for transfer and is within nine months of a parole eligibility, sentence expiration, or mandatory release date.

572.51 Definitions.

For purposes of this rule, the following definitions apply.

(a) Parole eligibility date—the date on which the inmate becomes eligible for parole consideration.

(b) Sentence expiration date—the date on which the inmate is to be released by good time allowances or other statutory means, and not by parole action, and with 180 days or less remaining on the sentence.

(c) Mandatory release date—the date on which the inmate is to be released by good time allowances, and not by parole action, and with more than 180 days remaining on the sentence.

(d) Appropriate District of Columbia officials—officials of the District of Columbia Department of Corrections and/or the District of Columbia Board of Parole.

§ 527.52 Designation.

Bureau of Prisons staff shall review all requests for designation of female D.C. Code violators to a federal institution to ensure that the individual is not within nine months of a parole eligibility, sentence expiration, or mandatory release date. When staff determine that the inmate is within nine months of such a release date, the request for designation shall be held in abeyance until a determination has been made by the appropriate District of Columbia officials with respect to the inmate's suitability for community placement or parole.

(a) Bureau staff shall proceed with the designation of a federal institution for the inmate upon being notified that the appropriate District of Columbia officials have determined that the inmate is presently considered unsuitable for both community placement and for parole.

(b) Bureau staff should not proceed with the designation upon being notified that the appropriate District of Columbia officials have determined that the inmate is considered a suitable candidate for community placement and/or parole.

§ 527.53 Transfer referrals.

(a) Staff, at the time of the inmate's intitial classification, shall notify the inmate of her right to request referral to the District of Columbia and the procedures to be followed with respect to making this request. Staff shall give the inmate a copy of the "Notice of Eligibility for Referral" form to sign and ask that the inmate indicate on this form whether she wishes to be referred, at the time of her eligibility, for transfer to the District of Columbia.

(1) When an inmate requests referral to the D.C. Department of Corrections, Bureau staff shall make this referral when the inmate is within nine months of her parole eligibility, sentence expiration, or mandatory release date.

(2) The inmate may choose not to be referred to the District of Columbia Department of Corrections. Staff shall provide an inmate who, at the time of initial classification, elects not to be referred, a second opportunity for referral when she is within nine months of her parole eligibility or upon her request. A copy of all declinations for referral by the inmate shall be forwarded by Bureau staff both to the D.C. Department of Corrections and to the D.C. Board of Parole.

(b) If the D.C. Board of Parole indicates that the inmate's parole prognosis is such that they do not wish to have her returned to the District of Columbia for a hearing, and she is also denied acceptance by the D.C. Department of Corrections for community placement, Bureau staff are to use the following timetable with respect to a re-referral of the inmate to both agencies: when the inmate's sentence is less than five years, a re-referral may occur after six months; where the maximum sentence is five years or more, she is eligible for re-referral in one year.

(c) If the inmate is approved for community placement and/or parole by the appropriate District of Columbia officials, arrangements shall be coordinated between officials of the Bureau of Prisons and the District of Columbia for inmate's transfer to the District of Columbia.

§ 527.54 Grievance procedures.

District of Columbia women wishing to express a formal complaint regarding their designation or transfer may file a grievance under one of the following procedures.

(a) The Bureau of Prisons Administrative Remedy Procedure is to be used for matters under Bureau of Prisons jurisdiction.

(b) The D.C. Department of Corrections grievance procedure is to be used for matters under the D.C. Department of Corrections jurisdiction. An inmate wishing to use this procedure should send a letter to the Judicial Affairs Officer, D.C. Department of Corrections, 1923 Vermont Avenue, NW., Washington, D.C. 20001. The letter should state that the inmate is filing a

VOL
48
ISS
205
OCT
21
1983
UMI

grievance under the D.C. Department of Corrections grievance procedure.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

III. In Subchapter C, Part 552 is amended to read as follows:

PART 552—CUSTODY

Subpart B—Searches of Housing Units, Inmates, and Inmate Work Areas

1. The authority citation for Part 552, Subpart B is as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In §552.11, revise paragraph (a) and (c) to read as follows:

§ 552.11 Body searches of inmates.

(a) Pat search—an inspection of an inmate, using the hands, that does not require the inmate to remove clothing. The inspection includes a search of the inmate's clothing and personal effects. A metal detector search may be done under the same circumstances. Staff may conduct a pat search of an inmate on a routine or random basis to control contraband.

* * * * *

(c) Digital or simple instrument search—inspection for contraband or any other foreign item in a body cavity of an inmate by use of fingers or simple instruments, such as an otoscope, tongue blade, short nasal speculum, and simple forcep. A digital or simple instrument search may be conducted only by designated qualified health personnel (for example, physicians, physician assistants, and nurses) upon approval of the Warden or Acting Warden and only if the Warden or Acting Warden has reasonable belief that an inmate is concealing contraband in or on his person. If located, the contraband or foreign item may be removed immediately by medical staff if such removal can easily be effected by use of fingers or the simple instruments referred to above. Staff shall document all digital and simple instrument searches and the reasons for the searches in the inmate's central file.

* * * * *

3. In § 552.12, revise paragraph (b) to read as follows:

§ 552.12 X-ray, major instrument, fluoroscope, or surgical intrusion.

* * * * *

(b) The institution physician may authorize use of an X-ray for medical reasons and only with the consent of the inmate. When there exists no reasonable alternative, and an X-ray examination is determined necessary for the security, good order, or discipline of the institution, the Warden, upon approval of the Regional Director, may authorize the institution physician to order a non-repetitive X-ray examination for the purpose of determining if contraband is concealed in or on the inmate (for example: in a cast or body cavity). The X-ray examination may not be performed if it is determined by the institution physician that it is likely to result in serious or lasting medical injury or harm to the inmate. Staff shall place documentation of the examination and the reasons for the examination in the inmate's central file and medical file.

* * * * *

[FR Doc. 83-28773 Filed 10-20-83; 8:45 am]

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28 CFR Part 571

Control, Custody, Care, Treatment, and Instruction of Inmates; Fines and Costs; Confinement Until Paid

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: Bureau of Prisons is publishing its final rule on Fines and Costs. The rule provides that when a federal court orders an inmate confined until a fine and/or costs are paid, the Bureau of Prisons will so confine that inmate, unless the inmate qualifies for release as an indigent under 18 U.S.C. 3569. The rule is intended to discuss Bureau of Prisons procedures with respect to the inmate who is ordered committed until a fine and/or costs are paid, and who requests a discharge from imprisonment because of indigency.

EFFECTIVE DATE: November 21, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final rule on Fines and Costs. A proposed rule on this subject was published in the **Federal Register** January 19, 1983 (at 48 FR 2503 et seq.). Public comment was invited on the proposed rule. Members of the public may submit comments on the final rule by writing the previously cited address. These comments will be considered but will receive no formal response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Public Comment/Summary of Changes

1. Section 571.50 While we agree with a comment that favors increasing the $20.00 limitation for non-exempt property, the Bureau has no authority to raise this amount because the $20.00 limit is set by statute. For clarity, § 571.50(b) is rewritten to indicate that an indigent inmate may not be held past his regularly established release date solely for nonpayment of a fine. The phrase "court decision" in § 571.50(b) becomes "court decisions" in the final rule. These decisions are *Williams v. Illinois*, 399 U.S. 235 (1970), and *Tate v. Short*, 401 U.S. 395 (1971).

2. Section 571.52 The phrase, "Promptly after the inmate's commitment," is added to § 571.52(a) to identify when the inmate will be notified of the committed fine. Proposed § 571.52 (c) and (d) are relocated in a new § 571.55. As a result of this change, proposed § 571.52(e) becomes final § 571.52(c). The final rule requires staff to interview an inmate who has an unpaid committed fine at least 75 days (was 60 days) prior to the inmate's pending release date.

3. Section 571.54 Section 571.54 is retitled "Determination of indigency by U.S. Magistrate—inmates in federal institutions". Proposed § 571.54(b) is relocated in a new § 571.55. As a result of this change, proposed § 571.54(c)–(e) becomes final § 571.54(b)–(d).

4. Section 571.55 Proposed §§ 571.52(c)–(d) and 571.54(b) are now in new § 571.55, "Determination of indigency by U.S. Magistrate—inmates in contract community-based facilities or state institutions." Although slightly reworded, the general intent of these sections is unchanged.

5. Section 571.56 Based on new final § 571.55, proposed § 571.55 is renumbered final § 571.56. In publishing its proposed rule, the Bureau quoted a portion of 18 U.S.C. 3569(a). In publishing this portion, the **Federal Register** deleted the phrase "or fine". That phrase is now included within final § 571.56(b).

List of Subjects in 28 CFR Part 571

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR chapter V is amended by adding a new Subpart F to Part 571.

Dated: October 18, 1983.

Norman A. Carlson,

Director.

In Subchapter D, Part 571 is amended by adding a new Subpart F to read as follows:

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 571—RELEASE FROM CUSTODY

Subpart F—Fines and Costs

Sec.

571.50 Purpose and scope.
571.51 Definitions.
571.52 Procedures—committed fines.
571.53 Determination of indigency by Warden.
571.54 Determination of indigency by U.S. Magistrate—inmates in Federal institutions.
571.55 Determination of indigency by U.S. Magistrate—inmates in contract community-based facilities or state institutions.
571.56 Review by Regional Director.

Authority: 5 U.S.C. 301; 18 U.S.C. 3565, 3568, 3569, 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart F—Fines and Costs

§ 571.50 Purpose and scope.

When the court orders a prisoner's confinement until a fine and/or costs are paid, the Bureau of Prisons shall confine that inmate until the fine and/or costs are paid, unless the inmate qualifies for release under 18 U.S.C. 3569.

(a) An inmate who is unable to pay such fine and/or costs and whose non-exempt property does not exceed $20 may request discharge from imprisonment on the basis of indigency (see 18 U.S.C. 3569).

(b) 18 U.S.C. 3569 states that the determination of indigency may be made by the Warden of the federal institution where the inmate is confined or by the U.S. Magistrate. Where the Warden and/or U.S. Magistrate make a finding of non-indigency based on the inmate's application for a determination of his ability to pay the committed fine and/or costs, the appropriate Regional Director shall review the application for the purpose of making a final decision on the inmate's discharge under 18 U.S.C. 3569. It is to be noted that 18 U.S.C. 3569 provides for confining an inmate for thirty days for nonpayment of a committed fine. By court decisions, an indigent inmate may not be held for any time past his regularly established release date for nonpayment of a fine. Only a person who has resources and refuses to pay may be held on a committed fine under 18 U.S.C. 3569.

§ 571.51 Definitions.

(a) *Fine*—a monetary penalty associated with an offense imposed as part of a judgment and commitment. There are two types of fines.

(1) *Committed fine*—a monetary penalty imposed with a condition of imprisonment until the fine is paid.

(2) *Non-committed Fine*—a monetary penalty which has no condition of confinement imposed.

(b) *Costs of the prosecution*—monetary costs of the legal proceeding which the court may levy.

Imposition of costs is similar in legal effect to imposition of a fine. The court may also impose costs with a condition of imprisonment.

§ 571.52 Procedures—committed fines.

(a) Promptly after the inmate's commitment, staff shall inform the inmate that there is a committed fine on file against the inmate, as part of the sentence. Staff shall then impound the inmate's trust fund account until the fine is paid except—

(1) The inmate may spend money from his trust fund account for the purchase of commissary items not exceeding the maximum monthly allowance authorized for such purchases.

(2) Staff may authorize the inmate to make withdrawals from his trust fund account for emergency family or emergency personal needs or for furlough purposes.

This rule on impounding an inmate's trust fund account applies only when the inmate is confined in a federal institution. It does not apply to a federal inmate confined in a state institution or a contract community-based facility.

(b) If the inmate pays the committed fine, or if staff verifies payment prior to confinement, staff shall document payment in the appropriate file and release the inmate's trust fund account from impoundment.

(c) Staff shall interview an inmate with an unpaid committed fine at least 75 days prior to the inmate's pending release date. Staff shall explain to the inmate that to secure release without paying the committed fine in full, the inmate must make an application, on the appropriate form, to either the Warden or the U.S. Magistrate for a determination on whether the inmate is considered indigent under 18 U.S.C. 3569.

§ 571.53 Determination of indigency by Warden.

An inmate in a federal institution who has a committed fine may apply to the Warden of that institution for a determination on the inmate's ability to pay the committed fine. If application is made to the Warden and the Warden determines that the inmate is not indigent under 18 U.S.C. 3569, the inmate may elect to apply to the U.S. Magistrate for a determination on the inmate's ability to pay the committed fine.

(a) The Warden's decision as to the inmate's indigency must be made on the basis of the inmate's property and the determination as to whether such property exceeds "* * * $20.00 in value, except such as is by law exempt from being taken on execution for debt * * *" (18 U.S.C. 3569).

(b) If the Warden finds that the inmate is indigent, the Warden shall notify the inmate that the inmate may take the "Pauper's Oath" (see 18 U.S.C. 3569) on the inmate's regularly established date of release providing the inmate's indigency status does not change.

(c) If the Warden finds that the inmate is not indigent under 18 U.S.C. 3569, the Warden shall refuse to administer the oath and notify the inmate in writing as to the reasons for this refusal. The Warden shall advise the inmate that, if the inmate disagrees with the Warden's non-indigency finding, an application, if not previously made, may be submitted to the nearest U.S. Magistrate for a determination as to the inmate's indigency under 18 U.S.C. 3569. The Warden shall also advise the inmate that in the event a finding of non-indigency is made by the Warden and, if submitted, a similar finding is made by the U.S. Magistrate, the inmate's application for a determination of indigency under 18 U.S.C. 3569 shall be forwarded by staff to the Regional Director for final disposition.

§ 571.54 Determination of indigency by U.S. Magistrate—inmates in federal institutions.

(a) An inmate with a committed fine who is imprisoned in a federal institution may make application directly to the U.S. Magistrate for a determination of the inmate's indigency under 18 U.S.C. 3569.

(b) An inmate who elects to apply to the U.S. Magistrate after a finding of non-indigency by the Warden must complete a new application. Staff shall offer to forward the completed forms and any other applicable information the inmate chooses to the U.S. Magistrate.

VOL 48 ISS 205 OCT 21 1983 UMI

(c) If the U.S. Magistrate finds that the inmate is indigent, the U.S. Magistrate will administer the oath to the inmate. The inmate shall be released no earlier than the inmate's regularly established release date.

(d) If the U.S. Magistrate finds that the inmate is not indigent, Bureau staff shall forward a referral package to the Regional Director for a final determination as to the inmate's ability to pay the committed fine.

§ 571.55 Determination of indigency by U.S. Magistrate—inmates in contract community-based facilities or state institutions.

(a) Inmates with committed fines may be transferred to contract community-based facilities, to state institutions as boarders, or to state institutions for service of federal sentences concurrently with state sentences.

(b) Inmates with committed fines may be committed directly to contract community-based facilities or to state institutions as boarders or may be designated to state institutions for service of federal sentences concurrently with state sentences.

(c) An inmate with a committed fine who is imprisoned in a contract community-based facility or a state institution and who desires to make application for a determination of ability to pay the committed fine and/or costs under 18 U.S.C. 3569 must make application directly to the U.S. Magistrate.

§ 571.56 Review by Regional Director.

(a) When a finding of non-indigency is made by the Warden and/or U.S. Magistrate, staff shall forward material to the Regional Director who will make a final determination as to the inmate's ability to pay the committed fine. This authority may not be delegated below the level of acting Regional Director.

(b) If the Regional Director determines that the "* * * retention by such convict of all of such property is reasonably necessary for his support or that of his family, such convict shall be released without further imprisonment solely for the nonpayment of such fine, or fine and costs; or if he finds that the retention by such convict of any part of such property is reasonably necessary for his support or that of his family, such convict shall be released without further imprisonment solely for nonpayment of such fine or fine and costs upon payment on account of his fine and costs, of that portion of his property in excess of the amount found to be reasonably necessary for his support or that of his family." (18 U.S.C. 3569)

(c) After making a determination as to the property that the inmate possesses in excess of what is exempt by law, and what property the inmate may need in the community, the Regional Director may take one of the following three actions: (1) release the inmate without any payment toward the fine; (2) require partial payment of the fine prior to the inmate's release; or (3) require payment of the fine in full prior to the inmate's release. Regardless of the action taken, the Regional Director shall furnish the inmate with a written statement stating the action taken and the reasons for that action.

[FR Doc. 83-28774 Filed 10-20-83; 8:45 am]

BILLING CODE 4410-05-M

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28 CFR Part 572

Control, Custody, Care, Treatment, and Instruction of Inmates; Prison Overcrowding

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim rule.

SUMMARY: The Bureau of Prisons is amending its final rule on the implementation of 18 U.S.C. 4205(g). The Bureau is experiencing overcrowding within its institutions. In an effort to alleviate this situation, the Bureau is publishing an interim rule authorizing an additional reason under which the Bureau may file a motion with the sentencing court to reduce the minimun term of the inmate's sentence to time served. Specifically, in order to reduce overcrowding, a motion under 18 U.S.C. 4205(g) may be filed with the court, provided the Bureau of Prisons has reveived a written statement from the U.S. Parole Commission that the inmate could safely be released from prison under current Parole Commission standards, but that such a release is barred by a judicially imposed minimum sentence. The rule also identifies the criteria that must be met.

EFFECTIVE DATE: October 5, 1983.

Public comments on the interim rule must be received on or before December 19, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is publishing an interim rule on procedures for the implementation of 18 U.S.C. 4205(g). A final rule on this subject was published in the **Federal Register** April 4, 1980 (at 45 FR 23366). The present revision retains the rationale of "particularly meritorious or unusual circumstances which could not reasonably have been foreseen by the court at the time of sentencing." This language is now contained in § 572.40(a). Section 572.40(b) is new and authorizes the Bureau of Prisons to use 18 U.S.C. 4205(g) to relieve prison overcrowding, provided the Bureau has received a written statement from the U.S. Parole Commission that the inmate could be safely released from prison under current Parole Commission standards, but that such a release is barred by a judicially imposed minimum sentence. This modification will assist the Bureau in its efforts to relieve prison overcrowding. In conjunction with this effort, the U.S. Parole Commission published in the **Federal Register** September 29, 1983 (at 48 FR 44525 et seq.) a final rule on the subject "Relief of Prison Overcrowding". Their rule authorizes the U.S. Parole Commission to recommend to the Director, Bureau of Prisons that a motion under 18 U.S.C. 4205(g) be made on behalf of an inmate whom the Parole Commission identifies as otherwise suitable for release at or after service of the time required by the maximum of the Commission's applicable guideline range (28 CFR 2.20). The Parole Commission's proposed rule on this subject was published in the **Federal Register** May 23, 1983 (at 48 FR 22949). The Commission stated it received forty-six letters from the public commenting on the proposal, and that the "majority of them strongly support the new rule".

Section 572.41 of the Bureau's rule is clarified by referencing the phrase "meritorious or unusual circumstances" in both the title and body of this section. Interim § 572.42, "Criteria for request—to relieve prison overcrowding", is new. This section identifies the criteria to be met before the Bureau will submit a motion under 18 U.S.C. 4205(g) for the purpose of reducing prison overcrowding. This procedure may be used only to relieve overcrowding within Bureau of Prisons institutions (as distinguished from overcrowding within one or more institutions), provided the Bureau has been advised by the U.S. Parole Commission that while the inmate could be safely released from prison under current U.S. Parole Commission guidelines, such release is barred by a judicially imposed minimum sentence. In addition, the inmate ordinarily must meet the following criteria: The inmate does not require a high level of security; the inmate's "severity of offense" behavior under U.S. Parole Commission guidelines ordinarily is included within Categories 1–5; the inmate's "salient factor score" under U.S. Parole Commission guidelines ordinarily is "very good" or "good"; and the inmate has demonstrated acceptable institutional adjustment. The rule indicates that cases for reduction of sentence to reduce prison overcrowding are initiated by the Parole Commission or, on occasion, by the Bureau of Prisons. The Bureau's initiation of a request may occur when an inmate is not eligible to receive an initial hearing until ten years of the sentence is completed. The request is made to the Parole Commission, asking that an assessment be made of the inmate's status. There is no provision for an inmate to initiate such a request.

Former § 572.42 becomes interim § 572.43. Section 572.43(a)(1) is amended to include a sentence that the Warden is to promptly review a request for consideration under 18 U.S.C. 4205(g). Section 572.43(c) is amended to insert the phrase "or in the event of prison overcrowding". Final § 572.43 becomes interim § 572.44.

These amendments are not intended to place a burden on either the inmate or the public, nor to increase the risk to public safety. The rule allows the Bureau of Prisons to exercise its discretion under 18 U.S.C. 4205(g) by providing an additional basis for the Bureau to file a motion with the sentencing court to reduce an inmate's minimum sentence to time served. The court which originally imposed the sentence retains the authority to determine if the sentence is to be reduced. Through the coordinated efforts of the sentencing court, the U.S. Parole Commission, and the Bureau of Prisons, this procedure can be responsive to the serious problem of prison overcrowding and can meliorate the sentences of certain carefully selected offenders without increasing the risk to public safety. For these reasons, the Bureau of Prisons finds good cause to publish this document as an interim rule, without a prior notice of proposed rulemaking, an opportunity for public participation, and delay in effective date. To provide the public with a fuller understanding of Bureau procedures on the implementation of 18 U.S.C. 4205(g), the Bureau has decided to republish its entire rule as an interim rule. The Bureau is interested in receiving public comments on both the rule and on other concepts to alleviate prison overcrowding without endangering public safety. These comments will be considered prior to publication of the final rule.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in CFR Parts 572

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR, Chapter V is amended as set forth below.

Dated: October 18, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

In Part 572, revise Subpart E to read as follows:

PART 572—PAROLE

Subpart E—Procedures for the Implementation of 18 U.S.C. 4205(g)

Sec.

572.40 Purpose and scope.
572.41 Initiation of request—meritorious or unusual circumstances.
572.42 Criteria for request—to relieve prison overcrowding.
572.43 Approval of request.
572.44 Denial of request.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4205, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart E—Procedures for the Implementation of 18 U.S.C. 4205(g)

§ 572.40 Purpose and scope.

Under 18 U.S.C. 4205(g), a sentencing court, on motion of the Bureau of Prisons, may make an inmate immediately eligible for parole by reducing the minimum term of the sentence to time served.

(a) The Bureau uses 18 U.S.C. 4205(g) in particularly meritorious or unusual circumstances which could not reasonably have been foreseen by the court at the time of sentencing. This section may be used, for example, if there is an extraordinary change in an inmate's personal or family situation or if an inmate becomes severely ill.

(b) The Bureau may also use 18 U.S.C. 4205(g) to relieve prison overcrowding, provided the Bureau has received a written statement from the U.S. Parole Commission that the inmate safely could be released from prison under current Parole Commission standards (see 18 U.S.C. 4206 and 28 CFR 2.20), but that such a release is barred by a judicially imposed minimum sentence.

§ 572.41 Initiation of request—meritorious or unusual circumstances.

(a) An inmate may submit a written request for a motion under 18 U.S.C. 4205(g) to the Warden. An inmate may initiate a request for consideration under 18 U.S.C. 4205(g) only when there are particularly meritorious or unusual circumstances which could not reasonably have been foreseen by the court at the time of sentencing. In the request, the inmate shall relate the meritorious or unusual circumstances that the inmate believes warrant consideration. In addition, the inmate shall include the following information in the request:

(1) Offense,

(2) Plea,

(3) Length and date of sentence,

(4) Name and location of sentencing court,

(5) Date service of sentence began,

(6) Parole eligibility date, and

(7) Mandatory release date.

(b) The Bureau of Prisons processes a request made by another person on behalf of an inmate in the same manner as an inmate's request. Staff shall refer a request received at the Central Office or at a Regional Office to the Warden of the institution where the inmate is confined.

§ 572.42 Criteria for request—to relieve prison overcrowding.

To help reduce prison overcrowding, the Bureau of Prisons may, in its unreserved discretion, also make a motion under 18 U.S.C. 4205(g) to reduce the minimum term of the inmate's sentence to time served, provided the following criteria are met.

(a) The Bureau of Prisons is experiencing overcrowding within its institutions.

(b) The Bureau of Prisons has been advised by the U.S. Parole Commission that, while the inmate could safely be released from prison under current U.S. Parole Commission standards, such release is barred by a judicially imposed minimum sentence.

(c) Bureau of Prisons staff will evaluate an inmate referred by the U.S. Parole Commission for consideration under 18 U.S.C. 4205(g). Bureau staff must determine that an inmate meets the following criteria before the inmate may

VOL 48 ISS 205 OCT 21 1983 UMI

be considered, on the basis of prison overcrowding, for referral under 18 U.S.C. 4205(g).

(1) The inmate is identified by the Bureau as not requiring a high level of security.

(2) The inmate's "Severity of Offense" behavior under U.S. Parole Commission guidelines ordinarily is included within Category 1–5 (see 47 FR 56334 et seq.).

(3) The inmate's "Salient Factor Score" under U.S. Parole Commission guidelines (28 CFR 2.20) is ordinarily in the "very good" or "good" range.

(4) The inmate has demonstrated acceptable institutional adjustment.

(d) To help reduce prison overcrowding, the Bureau of Prisons may, on occasion, initiate a request to the U.S. Parole Commission. This request will ask that an inmate's status be assessed with respect to whether the Parole Commission believes the inmate could safely be released from prison under current U.S. Parole Commission standards, although such release is barred by a judicially imposed minimum sentence. This request ordinarily occurs with an inmate who has a sentence of 30 or more years, and who, under 28 CFR 2.2, is not eligible to receive an initial hearing until ten years of the sentence is completed.

(e) Under the procedures of this § 572.42, cases for reduction of sentence to reduce prison overcrowding are initiated by the Bureau of Prisons or Parole Commission staff. There is no provision for an inmate to initiate a request for a reduction of sentence for the purpose of reducing prison overcrowding.

§ 572.43 Approval of request.

(a) The Bureau of Prisons makes a motion under 18 U.S.C. 4205(g) only after review of the request by the Warden, the Regional Director, the General Counsel, the Medical Director or the Assistant Director, Correctional Programs Division, and with the approval of the Director, Bureau of Prisons.

(1) The Warden shall promptly review a request for consideration under 18 U.S.C. 4205(g). If the Warden upon an investigation of the request determines that the request warrants approval, the Warden shall refer the matter in writing with recommendation to the Regional Director.

(2) If the Regional Director determines that the request warrants approval, the Regional Director shall prepare a written recommendation and refer the matter to the Office of General Counsel.

(3) If the General Counsel determines that the request warrents approval, the General Counsel shall solicit the opinion of either the Medical Director or the Assistant Director, Correctional Programs Division depending upon the nature of the basis for the request. With this opinion, the General Counsel shall forward the entire matter to the Director, Bureau of Prisons, for final decision.

(4) If the Director, Bureau of Prisons, grants a request, the Director shall ask the U.S. Attorney in the district in which the inmate was sentenced to move the sentencing court on behalf of the Bureau of Prisons to reduce the minimum term of the inmate's sentence to time served.

(b) Upon receipt of notice that the sentencing court has entered an order granting the motion under 18 U.S.C. 4205(g), the Warden of the institution where the inmate is confined shall schedule the inmate for hearing on the earliest Parole Commission docket.

(c) In event of medical emergency certified by the physician of the institution where the inmate is confined, or in the event of prison overcrowding, staff shall expedite the request at all levels.

§ 572.44 Denial of request.

(a) When an inmate's request is denied by the Warden or Regional Director, the Warden or Regional Director shall provide the inmate with a written notice and statement of reasons for the denial. The inmate may appeal the denial through the Administrative Remedy Procedure (Part 542, Subpart B).

(b) When an inmate's request for consideration under 18 U.S.C. 4205(g) is denied by the General Counsel, the General Counsel shall provide the inmate with a written notice and statement of reasons for the denial. This denial constitutes a final administrative decision.

(c) When the Director, Bureau of Prisons, denies an inmate's request, the Director shall provide the inmate with a written notice and statement of reasons within 20 workdays after receipt of the referral from the Office of General Counsel. A denial by the Director constitutes a final administrative decision.

[FR Doc. 83-28775 Filed 10-20-83; 8:45 am]
BILLING CODE 4410-05-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Modification to List of Bureau of Prisons Institutions

AGENCY: Department of Justice, Bureau of Prisons.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646–76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 960–81, Reorganization Regulations, published in the Federal Register October 27, 1981 (at 46 FR 52339 et seq.) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(r), the authority to establish and designate Bureau of Prisons institutions. A consolidated listing of Bureau institutions was published in the Federal Register March 5, 1982 (at 47 FR 9754). The present document is intended to modify this listing by deleting Florence, Arizona as a Federal Detention Center and to recognize that the Bureau's prison camp in Montgomery, Alabama includes the use of both Maxwell Air Force Base and Gunter Air Force Station.

EFFECTIVE DATE: Federal Detention Center, Florence, Arizona—July 1, 1983; Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama—October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534 (202–724–3062).

SUPPLEMENTARY INFORMATION: This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Executive Order No. 12291, Sec. 1(a).

The Bureau's detention center in Florence, Arizona was closed earlier this year. This closing was possible because the Bureau's new Metropolitan Correctional Center in Tucson, Arizona could absorb the small Florence population and was more convenient to the court. With respect to the Federal prison camp in Montgomery, Alabama, the agreement to house Federal prisoners includes the use of both Maxwell Air Force Base and Gunter Air Force Station. To reflect this intent, this notice includes Gunter Air Force Station as a place of confinement for Federal prisoners.

By virtue of the authority vested in the Attorney General in 18 U.S.C. 4001, 4003, 4042, 4081, and 4082 and delegated to the Director, Bureau of Prisons by 28 CFR 0.96(r), the Notice on Modification to List of Bureau of Prisons Institutions as published in the Federal Register March 5, 1982, is amended as follows:

(1) In paragraph C, subsection (5) is retitled Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama.

(2) Delete paragraph E, by removing Federal Detention Center, Florence, Arizona.

(3) Redesignate existing paragraph F as new paragraph E.

Norman A. Carlson,

Director, Bureau of Prisons.

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VOL
48
ISS
205
OC
21
1983
UMI

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Friday
October 21, 1983

Part VII

Environmental Protection Agency

State Implementation Plan for Lead; Missouri

VOL
48
ISS
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1983
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[A-7-FRL 2455-4]

State Implementation Plans; Petition for Reconsideration of Lead Plan and Policy Change Regarding Attainment Date; Missouri

AGENCY: Environmental Protection Agency.

ACTION: Response to petition for reconsideration of Missouri lead plan and notice of policy change regarding attainment date for state implementation plans for lead.

SUMMARY: Three Missouri lead smelters submitted a petition for reconsideration of the Environmental Protection Agency's ("EPA") disapproval of portions of the Missouri State Implementation Plan for lead promulgated on April 27, 1981 (46 FR 23412). The smelters asked EPA to reconsider its disapproval of the plan's attainment date and dispersion modeling.

This notice announces EPA's decision to grant in full the smelters' petition concerning the attainment date for the Missouri lead SIP, to grant in part the smelters' request for recalculation of two attainment date extensions, and to find that the AMAX and St. Joe lead smelters satisfied the modeling requirements of 40 CFR 51.84 (1981). EPA has decided that the modeling issue is moot for the ASARCO smelter. This notice also announces that EPA is modifying its policy on the attainment date for all lead SIPs.

Elsewhere in today's **Federal Register**, EPA is proposing to approve the portions of the Missouri lead SIP relating to the attainment date and the dispersion modeling for the AMAX and St. Joe smelters. In a separate notice, EPA is also proposing to approve a new modeling study for the ASARCO smelter but disapprove its control strategy.

FOR FURTHER INFORMATION CONTACT: Dewayne Durst, Air Branch, U.S. EPA Region VII, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-3791 (for issues pertaining to the Missouri plan); John Ulfelder, Office of General Counsel, U.S. EPA, 401 M Street, NW., Washington, D.C. 20460, (202) 382-7615 (for issues pertaining to the attainment date policy).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Section 109 of the Clean Air Act, 42 U.S.C. 7409, EPA promulgated primary and secondary national ambient air quality standards for lead on October 5, 1978 (43 FR 46246). Under Section 110(a)(1), 42 U.S.C. 7410(a)(1), within 9 months of this promulgation each state was required to submit a State Implementation Plan ("SIP") to provide for attainment and maintenance of the lead standards.

Under Section 110(a)(2), 42 U.S.C. 7410(a)(2), each SIP must provide for attainment of a primary standard "as expeditiously as practicable, but in no case later than three years from the date of approval of such plan." Under Section 110(e), 42 U.S.C. 7410(e) a state may request a two-year extension of this three-year deadline if it demonstrates that necessary technology will not be available soon enough to provide for attainment within three years.

EPA promulgated regulations establishing specific requirements for lead SIPs on October 5, 1978 (43 FR 46264). These regulations were codified as 40 CFR 51.80–51.87. They supplement more general SIP requirements codified in 40 CFR Part 51.

They include a requirement that the attainment demonstration as it relates to significant point sources of lead be based on dispersion modeling. 40 CFR 51.84 (1981). Missouri's submittal contained control strategies for stationary and mobile sources of lead, an attainment date, an attainment demonstration, and a request for a two-year extension of the attainment date for the areas around the St. Joe and AMAX primary lead smelters.

On April 27, 1981 EPA published its final rulemaking on the Missouri lead SIP. 46 FR 23412. EPA approved all portions of the SIP except the attainment date and the modeling for the three primary lead smelters. On June 30, 1981, the AMAX, St. Joe, and ASARCO lead smelters submitted a petition for reconsideration of the disapprovals. EPA's principal reasons for granting this petition are explained below.[1]

Discussion

1. The Attainment Date Issue

Section 110(a)(2)(A), 42 U.S.C. 7410(a)(2)(A), requires all SIPs to provide for the attainment of a primary NAAQS "as expeditiously as practicable but . . . in no case later than three years for the date of approval of such plan. * * *"

When EPA promulgated the final lead NAAQS in October 1978, it announced that all lead SIPs would have to provide for attainment of the primary standard "no later than October of 1982." *See* the "Dates" section of the preamble to the lead standard, 43 FR 46248 (October 5, 1978). In making this assertion, EPA was interpreting the statutory language quoted above as requiring all SIPs to provide for attainment no later than three years from the date that EPA's approval was required to occur under the specific timetable for SIP development contained in Sections 110(a)(1) and 110(a)(2). Under that timetable, all states must submit SIPs within nine months of the promulgation of a new NAAQS. Section 110(a)(1), 42 U.S.C. 7410(a)(1). EPA must approve or disapprove each SIP within 4 months of its submittal. Section 110(a)(2), 42 U.S.C. 7410(a)(2). The plan must then provide for attainment within three years of EPA's approval. Adding together all these time intervals, EPA concluded that the Clean Air Act requires all SIPs to provide for attainment of a primary NAAQS within four years and one month of the promulgation of the standard. As the lead standard was promulgated in early October 1978, EPA calculated that the latest attainment date for lead would be the end of October 1982.[2]

Missouri's lead submittal did not provide for attainment in all areas of the State by October 1982. Instead, the submittal stated that the attainment date for lead in most areas would be three years from the actual date of EPA's approval of a Missouri lead SIP. In addition, for the areas around the St. Joe and AMAX primary lead smelters, the State asserted that it would not be possible to attain within three years. Therefore, the State requested a two-year extension of the attainment date pursuant to Section 110(e).

EPA proposed to disapprove the State's attainment date because it did not conform to the October 1982 date contained in the preamble to the lead standard. However, EPA was able to propose approval of the State's extension request because it found that the areas around the AMAX and St. Joe smelters met the requirements of Section 110(e).[3]

The AMAX and St. Joe lead smelters submitted comments arguing that the State's attainment date was supported by the literal language of Section 110(a)(2), which states simply that a plan must provide for attainment no later than three years from the date of EPA's approval. The smelters also pointed out that EPA had used a "literal" interpretation in other SIP actions involving other pollutants.

EPA decided not to modify its proposed disapproval. In its response to public comments, EPA explained that it had interpreted Section 110(a)(2) in the broader context of the timetable for attainment provided in Sections 110(a)(1) and 110(a)(2). EPA also argued that the "uniform date" interpretation was necessary for policy reasons. EPA explained that an "open" date keyed to the actual date of an EPA approval would impose a competitive disadvantage on sources located in environmentally aggressive states which submitted plans quickly. EPA also noted that the other EPA rulemakings the smelters had cited all involved EPA promulgations of federal plans rather than EPA approvals of state plans.

The petition for reconsideration submitted on June 30, 1981 repeats all of the arguments raised in the comments on EPA's proposed disapproval. However, it contains one significant item of new information. The smelters note that EPA used a literal interpretation of Section 110(a)(2) in approving an April 15, 1977 attainment date for the Ohio SIP for particulate matter ("PM"). 41 FR 2099 (January 14, 1976).[4] The smelters also directed EPA's attention to the decision of the U.S. Court of Appeals for the Sixth Circuit in *NOLA* v. *EPA*, 572 F.2d 1143 (1978). In that case a citizens group challenged EPA's approval of the 1977 date for the Ohio PM SIP, claiming that the statutory time schedule in Section 110 established a uniform attainment date. The Sixth Circuit upheld EPA's approval, finding:

> [C]ontrary to the claim of petitioner NOLA, the statutory scheme governing SIPs does not fix a calendar date for attainment. On the other hand, Congress did employ calendar dates for attainment of automobile emission standards. Therefore, Congress' failure to set a similar calendar date impresses us with its intention that the language of "three years from the date of approval" should have more flexible meaning.

Upon reconsideration, EPA has been persuaded by the Sixth Circuit's reasoning to return to the more literal interpretation of Section 110(a)(2)(A) that the Agency followed in approving the Ohio PM SIP. Elsewhere in today's **Federal Register** EPA is publishing a notice proposing to approve the attainment date in the Missouri lead SIP. Since EPA approved the SIP in April 1981, the proposed attainment date would be April 1984.

The petition for reconsideration also requested EPA to recalculate the attainment date extension granted for the AMAX and St. Joe smelters based on the date of actual EPA approval rather than the uniform attainment date. The petition asserts the extended attainment date should be April 1986, two years after the April 1984 attainment date.

EPA agrees that recalculation of the extension is appropriate in light of the change to the attainment date. EPA, however, does not believe that a full two-year extension is warranted. The Missouri lead plan demonstrates that attainment will be achieved in the areas around the AMAX and St. Joe smelters in October 1984. Since Section 110(a)(2) requires all SIPs to provide for attainment as expeditiously as practicable, and the SIP shows that an October 1984 date is practicable, EPA cannot approve an extension that would give the State more time. In the notice published elsewhere in today's **Federal Register**, EPA is proposing to approve an extension of the attainment date for the areas around these two smelters from April 1984 to October 1984.

This change in interpretation of Section 110(a)(2)(A) applies to all states. States which have not yet received EPA approval for such SIPs may be entitled to revise their attainment dates. Section 110(a)(2), however, also requires attainment to be achieved "as expeditiously as practicable". Therefore, states which have approved plans that demonstrate that it is practicable to attain the lead standard by October 1982 would not be able to obtain extensions based on this change in policy.

2. The Dispersion Modeling Issue

EPA's regulations for lead SIPs require the demonstration of attainment for each area around certain major point sources of lead to be based on "atmospheric dispersion modeling." 40 CFR 51.84 (1981). Demonstrations for other areas may be based on a proportional equation known as "rollback" modeling.[5] 40 CFR 51.83, 51.85 (1981).

Missouri's SIP submittal explained that the State had performed dispersion modeling for the AMAX and St. Joe lead smelters, but found that lead concentrations predicted by the modeling bore no correlation to the actual lead concentrations recorded by the monitors in the vicinity of the smelters. In some cases, according to the submittal, the modeling predicted concentrations much higher than the values recorded by the monitors; in other cases the predictions were much lower. Missouri attributed the problems to complex terrain and a lack of reliable estimates of emission rates for fugitive lead emissions.[6] The State's submittal did not describe any attempts to use dispersion modeling as to the ASARCO smelter, but it implied that there would have been similar problems if it had tried to do so.

Missouri concluded that it could not rely on the modeled concentrations for calculating the amount of emission reductions needed to attain the lead standards and therefore did not submit its dispersion modeling studies for EPA review. Instead, Missouri based its attainment demonstrations for the AMAX and St. Joe smelters on rollback modeling and data from monitors located near the smelters. For the ASARCO smelter, monitoring data showed that there were no violations of the lead standards. Since there were no readings above the level of the lead standard, there was no reason to perform rollback modeling to determine the amount by which the smelter's emissions should be reduced. Consequently, the State relied on the monitoring data alone for the ASARCO smelter.

In the notice of proposed rulemaking, EPA agreed that, under some circumstances, terrain problems and inaccurate or non-existent fugitive emission rates could make it difficult to perform reliable modeling. However,

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[1] The Clean Air Act does not contain criteria for a petition for reconsideration of an approval or disapproval of a SIP submitted under Section 110(a)(1). However, Section 4(e) of the Administrative Procedure Act establishes a general right to petition for "issuance, amendment or repeal" of an agency rule. 5 U.S.C. 553(e). *See* also *Oljoto Chapter of the Navojo Tribe* v. *Train*, 515 F.2d 654 (D.C. Cir. 1975). EPA is treating the smelters' petition as a petition for revision under Section 4(e).

[2] EPA's final rulemaking does not specify a uniform national date for extensions under Section 110(e). However, under the same logic, the latest attainment date for an area which received a two-year extension would have to be October 1984.

[3] Despite the problem with the attainment dates, EPA approved the plans's control strategy. EPA found that the control strategy would provide for sufficient emission reductions in all areas of the State to meet the lead standards by October 1984 (for the two extension areas) or by October 1982 (for all other areas).

[4] EPA promulgated national standards for PM in 1971. *See* 36 FR 22384. Under the uniform date theory, the Ohio SIP for PM should have provided for attainment no later than mid-1975.

[5] A "rollback" model consists of a fairly simple mathematical equation that estimates the amount of emission reductions needed in an area by comparing measured ambient pollutant concentrations to the NAAQS. Atmospheric dispersion models are much more complex mathematical "descriptions" of the dispersion of pollutants through the atmosphere. Typically, actual data on source emissions, local meteorology, local topography and background air concentrations are fed into a computer which calculates ambient pollutant concentrations in the vicinity of a source.

[6] "Fugitive" emissions are emissions that do not pass into the atmosphere through a stack or vent. Examples include emissions which escape from openings in furnaces or dust which escapes from storage piles.

VOL 48 ISS 205 OCT 21 1983 UMI

EPA explained that it could not determine whether Missouri had encountered these types of problems unless the State submitted its modeling studies to EPA for review. 45 FR 85481, 85483 (Dec. 29, 1980). Therefore, it proposed to disapprove the SIP as to all three smelters on the grounds that the State had failed to satisfy 40 CFR 51.84.

The AMAX and St. Joe lead companies and the State of Missouri submitted comments objecting to EPA's disapproval as to the AMAX and St. Joe smelters. They argued that Missouri had fulfilled the requirements of 40 CFR 51.84 by performing dispersion modeling. They also felt that disapproval was unnecessary if EPA was willing to accept the rollback modeling. However, the State did not submit its dispersion modeling to EPA for review.

EPA's final action disapproved the SIP as to all three smelters for failure to satisfy the dispersion modeling requirement because the State still had not submitted its dispersion modeling studies. 46 FR 23412, 23415 (April 27, 1981). It also requested the State to submit modeling for all three smelters within twelve months.

The smelters' petition for reconsideration correctly points out that EPA received new information concerning the State's modeling efforts after the final action on the lead SIP. On June 10, 1981, EPA personnel had an opportunity to review the modeling the State had performed for the AMAX and St. Joe lead smelters. At that meeting, the EPA reviewers agreed that the modeling studies did not produce reliable predictions of lead concentrations in the vicinity of the two smelters. As explained in a technical memorandum prepared by EPA's Region VII Office,[7] EPA attributed the problem to a lack of accurate local meteorological data and a lack of specific data relating to emission rates from the AMAX and St. Joe lead smelters.[8]

Since EPA has not found that it was not possible to perform reliable dispersion modeling for the AMAX and St. Joe lead smelters at the time the SIP was written, EPA concludes that the State used the most accurate methods available to it in performing its attainment demonstration for those smelters. Consequently, EPA believes that it should approve those demonstrations as satisfying 40 CFR 51.84. In making this determination, EPA is relying on the intent which underlies this regulatory provision. EPA wrote the regulation to insure that states would use the most reliable methods available in demonstrating attainment of the lead standard, judging that, as a general matter, dispersion modeling would be the best available technique.[9] Where, however, a state has shown that dispersion modeling would not produce reliable results, EPA believes that Section 51.84 should be read to allow the use of other techniques that do produce reasonably reliable results. In such circumstances, a literal interpretation of § 51.84 would produce the highly undesirable result of requiring a state to base a control strategy on an inaccurate attainment demonstration. The underlying goals of Section 110 of the Act—attainment and maintenance of the ambient standards—would be better served by a more flexible interpretation allowing the use of other techniques where they have been shown to be more reliable. Elsewhere in today's **Federal Register**, EPA is proposing therefore to approve the dispersion modeling portions of the lead SIP submitted by Missouri in 1980. Interested persons are invited to comment on this proposal.[10]

In the April 1981 final action, EPA confirmed that modeling had not been attempted for the ASARCO smelter prior to the submittal of the SIP. The technical memorandum described above explains that, although more specific data on meteorology and fugitive emissions were available for this smelter, the data were not in a form that could have been used in a dispersion model. Moreover, since the ASARCO smelter is located in complex terrain, it would have been necessary to make adjustments to a flat-terrain model to produce reliable results.

In any event, after EPA disapproved the SIP, ASARCO and the State made the necessary adjustments to the data and model and performed a dispersion modeling study of the smelter's emissions. The State has submitted this study to EPA as a SIP revision. Elsewhere in today's **Federal Register**, EPA is proposing to find that this modeling study meets the requirements of 40 CFR 51.84.[11] Thus, the modeling issue is moot as to the ASARCO smelter, and EPA finds it unnecessary to reconsider its disapproval for lack of modeling as it relates to this smelter.

Conclusion

For the reasons explained above, EPA is taking the following actions on the petition for reconsideration:

(1) granting the request to reconsider the attainment date;

(2) granting the request to reconsider the attainment date extensions, but proposing elsewhere to provide only a portion of the additional time requested;

(3) granting the request to reconsider the dispersion modeling determinations for the AMAX and St. Joe smelter; and

(4) finding that the reconsideration of the modeling issue is moot as to the ASARCO smelter.

In granting this petition, EPA expresses no opinion as to the feasibility of performing dispersion modeling for other lead smelters in other states. EPA notes that other states which have not completed their lead plans have now had over two years longer than Missouri had to produce its plan, which was submitted to EPA in September–December 1980.

This determination is a final action of local or regional application. It may be challenged only by filing a petition for review in the United States Court of Appeals for the Eighth Circuit within 60 days of today's date.

Dated: October 17, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-28570 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

[7] Copies of this memorandum, entitled "Modeling Performed by Missouri for Primary Lead Smelters in Conjunction with Lead SIP Preparation," October 28, 1982, may be obtained from EPA's Region VII Office at the address above.

[8] EPA notes that this statement is not intended to express an opinion about the feasibility of developing more accurate meteorological data and emission factors for any of the three lead smelters in Missouri. In fact, EPA believes that it is possible to develop better data, and continues to urge the smelters and the states to do so. EPA merely intends to recognize that such data was not available at the time the State developed and submitted its SIP.

[9] In fact, in the preamble to EPA's final rules for lead SIPs, EPA explained that monitoring generally would be more reliable than modeling in determining the ambient impact of sources which emit large quantities of fugitive emissions. However, EPA explained that it was requiring modeling because adequate monitoring networks would not be available by the time the lead SIPs were due. *See* 43 FR 46265 (October 5, 1978).

[10] It should be noted that steps are being taken to improve the data base for the control strategy for the AMAX and St. Joe lead smelters. As EPA noted in its April 1981 final action, the State and the smelters committed to install long-term monitoring networks around each of the lead smelters that comply with EPA's "Guidance for Lead Monitoring in the Vicinity of Point Sources" (January 1981). *See* 46 FR 23412, 23414 (April 27, 1981). These networks, which are not required under EPA's lead SIP regulations, should permit the State to reassess the adequacy of the attainment demonstrations and, if necessary, revise the control strategies. In fact, monitoring networks began operating at the AMAX and St. Joe lead smelters on July 1, 1982. *See* the technical memorandum described in note 7. A long-term network has not been installed at the ASARCO smelter, but, as explained below, the State has submitted dispersion modeling for this smelter which EPA is proposing to approve. EPA recommends, however, that the State and ASARCO install a long-term monitoring network to provide continuing data on lead levels in the vicinity of the ASARCO smelter.

[11] As a result of its review of the modeling EPA is also proposing to find that the current control strategy for the ASARCO smelter does not adequately provide for attainment and maintenance of the lead standard. This proposal, however, does not affect the adequacy of the dispersion modeling at issue here.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 967; A-7-FRL 2340-5]

Approval and Promulgation of Missouri State Implementation Plan (SIP) for Lead

AGENCY: Environmental Protection Agency.

ACTION: Proposal to Disapprove a Portion of the Missouri Lead SIP.

SUMMARY: On July 7, 1982, Missouri submitted a revision to their lead SIP. Corrections to the revision were submitted on January 10, 1983. The State submittal contains a re-evaluation of the adequacy of the lead control strategy for the ASARCO primary lead smelter in Glover, Missouri. The re-evaluation included dispersion modeling to predict ambient lead concentrations in the vicinity of the smelter. EPA concludes that this modeling meets the requirements for atmospheric dispersion modeling in areas around significant point sources of lead, such as lead smelters, contained in 40 CFR 51.84. Based upon the modeling results, the state concluded that the control strategy for the ASARCO smelter is adequate to show attainment and maintenance of the lead standard in the vicinity of the plant. However, based upon the information submitted by the State and supplemented by modeling performed by EPA, EPA has concluded that there are predicted violations of the lead standard near ASARCO. Therefore, EPA is proposing to disapprove the control strategy for the ASARCO primary lead smelter because it does not provide for attainment and maintenance of the ambient air quality standard for lead. No other portions of the Missouri lead SIP are affected by this proposed action.

DATE: Written comments are due on or before December 20, 1983.

ADDRESSES: Copies of the submission, and technical support material which explain EPA's actions are available for review at the following addresses:

Environmental Protection Agency, Region VII, Air Branch, Room 1415, 324 East 11th Street, Kansas City, Missouri 64106

Missouri Department of Natural Resource, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

Written comments should be sent to: Dewayne E. Durst, Environmental Protection Agency, Region VII; Air Branch, 324 East 11th Street, Kansas City Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Dewayne E. Durst at the above address or call (816) 374-3791, FTS: 758-3791.

SUPPLEMENTARY INFORMATION: On September 2, 1980, Missouri submitted a lead SIP for attainment and maintenance of the national ambient air quality standards (NAAQS) for lead in the state. On April 27, 1981, EPA took final action on the Missouri lead SIP (46 FR 23412). The SIP was approved except for two portions: (1) The attainment date for meeting the lead standard and (2) dispersion modeling at the three primary lead smelters in the state as required by § 51.84 of 40 CFR. Subsequent to the final rulemaking the owners of the three primary lead smelters submitted a petition for reconsideration of EPA's disproval of these two portions of Missouri's SIP. Elsewhere in today's **Federal Register**, EPA is granting that petition for reconsideration and is proposing to approve the attainment date and modeling portions of the Missouri lead SIP. This proposal to find the control strategy for the ASARCO smelter deficient is based upon new information which was submitted since final action was taken on the original SIP submission. This new information was developed as part of the re-evaluation of the control strategy for the ASARCO smelter. The Missouri SIP requires that the control strategies for all primary lead smelters in the state be re-evaluated to determine their adequacy after implementation of control measures at the plants. The control strategies for the other two primary smelters will be re-evaluated at a later date after at least one year of ambient monitoring data is available at those plants. The monitoring was started at those plants on July 1, 1982. ASARCO chose to perform dispersion modeling rather than ambient monitoring to determine the adequacy of the control strategy for their plant. EPA and Missouri concurred in the modeling approach.

The Modeling for ASARCO

The modeling was performed by a contractor retained by ASARCO, in accordance with a modeling plan which was submitted to the Missouri Department of Natural Resources and EPA. The modeling plan defines the models to be utilized, the emission and meteorological data input, the receptor locations and the control parameters to be used in executing the model. This information is contained in a report titled, "Proposed Procedures for SIP Compliance Lead Modeling in Glover, Missouri" dated December 1981.

The Industrial Source Complex Long Term (ISCLT) model was the principal model used in this exercise. Because the plant is located in complex terrain, the VALLEY model was also used to evaluate the impact of the elevated points sources at receptor points greater than stack height. The meteorological data used in the ISCLT modeling were collected at a tower located near the plant. The data are considered to accurately reflect wind conditions on the valley floor where the plant is located. The meteorological data base used in the VALLEY model was collected on top of Taum Sauk mountain which is the highest point in the area and located about 10 kilometers north-northwest of the ASARCO plant. The data are believed to represent the wind conditions in the moderately complex terrain extending several kilometers in all directions from the plant. Eight quarters of meteorological data were assembled for each site to be used in the modeling.

Lead emissions from 4 elevated point sources (stacks), 5 volume sources (building openings) and 10 area sources (slag piles and exposed ground surfaces) were used in the modeling. Emission rates for the point sources were based upon recent stack tests. Fugitive emission rates for the volume sources were based upon test information collected at the plant. The gravitational settling option of the ISCLT model was used with specific gravity data derived from tests conducted at the plant and in the laboratory.

The receptor array for the VALLEY model consisted of 112 points located along 16 radials at 1.65 kilometer intervals from the main stack. Receptors for the ISCLT were located around the periphery of the ASARCO property line and at discrete points of interest within the outer periphery. The outer boundary are small parcels of land not owned by ASARCO. Discrete receptor points were located at the corners of these small parcels of land so that ambient lead concentrations could be predicted at these locations.

In addition to the modeling results submitted by ASARCO and the State of Missouri, EPA performed additional modeling using a 100 meter grid system to define the 1.5 ug/m^3 lead concentration isopleth, and to identify points of maximum ambient lead concentration near the smelter.

Modeling Results

The modeling was performed by ASARCO's contractor according to the modeling plan described above. The results were submitted to the Missouri DNR in a report titled, "SIP Compliance Lead Modeling in Glover, Missouri,"

VOL 48 ISS 205 OCT 21 1983 UMI

Revised Final Report, dated April 1982. The state submitted the material as a SIP revision on July 7, 1982. The state also submitted corrections to the modeling results on January 10, 1983.

Based upon an evaluation of the results of the modeling, the state determined that the area around the ASARCO plant is attaining the national ambient air standard for lead. The state did acknowledge in their submittal that the modeling showed exceedences of the standard in three areas of uninhibited private or public lands located in the vicinity of the plant which are completely surrounded by ASARCO property. The state does not consider these exceedences to be violations of the lead standard because the lead standard has a 90-day averaging period and they believe it would be unreasonable to assume that long term exposure could occur in these areas in "the absence of permanent human residence." In addition, the state contends that it would be impractical to declare nonattainment areas of such small size. Also, the state points out that the lead emissions from the ASARCO primary lead smelter are already well controlled.

EPA does not agree with Missouri's determination that the ASARCO modeling demonstrates attainment of the ambient air quality standards. As explained below, EPA believes that the issue to be addressed by modeling is whether predicted exceedences of the lead standards would occur in the ambient air. Issues concering the existing degree of control on the modeled source, the size of the area of predicted exceedences, and the current demographic characteristics of the area, are not relevant to the issue.

Under section 110(a)(2)(A) of the Clean Air Act, states are required to submit plans which demonstrate attainment of the ambient air quality standards. The Act requires that air quality be assured by each state "within the entire geographic area" of the state. *See* section 107(a). In implementing these statutory requirements, EPA has defined the "ambient air" in which the standards must be attained as "that portion of the atmosphere, external to buildings, to which the general public has access." [40 CFR 50.1(e).]

Even though ASARCO owns approximately 4,000 acres of land surrounding their plant in Glover, the smelting operations are conducted within a much smaller security fenced area situated in the middle of their property. Also located within the outer property boundary are small parcels of land not owned by ASARCO. There is a U.S. Post Office and a union hall located on one of these parcels. A church and cemetery are located on another parcel. The public clearly has access to the areas where exceedences of the ambient lead standard are predicted. In addition to the parcels of land not owned by ASARCO in the vicinity of their plant, the public also has access to all ASARCO owned land except for the security fenced area. The primary reason for this conclusion is that a state highway cuts through the center of the ASARCO property and there is no fence or physical barrier to preclude public access from the highway onto ASARCO property.

Applying the ambient air requirements to ASARCO, EPA believes that the state must demonstrate that all areas outside the plant security fence meet the lead standard. The modeling submitted by the state does not make this demonstration. The modeling shows that the highest predicted quarterly concentration outside the fence line is approximately 10 micrograms per cubic meter. the ambient air quality standard for lead is 1.5 micrograms per cubic meter on a quarterly basis. Further information on the number and location of the predicted exceedences can be found in the technical support document prepared for this proposal.

EPA concludes that there are predicted violations of the lead standard in the vicinity of the ASARCO smelter in Glover, Missouri. Furthermore, EPA concludes that these violations are caused by lead emissions from the ASARCO smelter.

EPA's Proposed Action

EPA is proposing to approve the July 7, 1982, ASARCO modeling submittal as meeting 40 CFR 51.84. However, EPA is proposing to find that the existing control strategy for the ASARCO smelter is deficient because it is not adequate to attain and maintain the NAAQS in all areas which represent ambient air. If EPA takes final action to find the control strategy to be deficient, it will request Missouri to revise that strategy pursuant to Sections 110(a)(2)(H) and 110(c)(1)(C) of the Act.

Public Comments

Interested persons are invited to submit written comments on this proposal within 60 days of its publication.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must determine whether this regulation will have a significant economic impact on a substanctial number of small entities. EPA finds that this proposed action, if finalized, will not have a significant impact. Any new control requirements will be imposed in a separate rulemaking. In addition, since the area is not and will not be designated as nonattainment under section 107(d) of the Clean Air Act, disapproval will not trigger any moratorium on the construction of stationary sources.

This proposal was submitted to the Office of Management and Budget (OMB) for review as required by Section 3 of Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments will be available for public inspection at the Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Lists of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations.

Dated: March 29, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83-28571 Filed 10-20-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[MO 987; A-7-FRL 2340-4]

Approval and Promulgation of Missouri State Implementation Plan (SIP) for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal to approve the Missouri Lead SIP.

SUMMARY: On April 27, 1981 (46 FR 23412), EPA issued final rulemaking which approved the Missouri lead SIP with two exceptions, the attainment date and modeling of three primary lead smelters. Subsequent to the final rulemaking the three primary lead smelters submitted a petition for reconsideration of EPA's disapproval of these two portions of Missouri's plan. Elsewhere in today's **Federal Register**, EPA is granting that petition for reconsideration. This notice proposes to approve the attainment date and modeling portions of the Missouri lead SIP.

DATE: Comments on this approval must be received by December 20, 1983.

ADDRESSES: Copies of documents relevant to this proposed action are available for review at the following addresses:

Environmental Protection Agency, Region VII, Air Branch, Room 1415, 324 East 11th Street, Kansas City, Missouri 64106

Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

Written comments should be sent to: Dewayne E. Durst, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Dewayne E. Durst at the above address or call (816) 374-3791, FTS: 758-3791.

SUPPLEMENTARY INFORMATION: On September 2, 1980, Missouri submitted a lead SIP (EPA received the SIP on September 5, 1980) which was designed to provide for attainment and maintenance of the ambient air quality standards for lead in the state. On December 29, 1980, EPA proposed to approve the SIP with certain exceptions. The State of Missouri submitted additional information to EPA on February 11, 1981, and February 13, 1981, which corrected all minor deficiencies but failed to adequately address two items which were identified as major deficiencies in the proposed rulemaking: (1) The attainment date for meeting the lead standard, and (2) dispersion modeling at the three primary lead smelters in the state as required by § 51.84 of 40 CFR. Because the state did not correct the two deficiencies in the Missouri lead SIP, these items were disapproved in the April 27, 1981 final rulemaking.

Attainment Date

Disapproval of the attainment date in the Missouri SIP resulted from the fact that the state did not follow certain EPA guidance concerning the interpretation of the attainment date in Sections 110(a)(1) and 110(a)(2) of the Clean Air Act (CAA). The Missouri SIP stated that the attainment date would be five years (three years plus a two-year extension) from the date EPA approved their lead SIP. EPA's interpretation of the Act required a uniform national attainment date for all lead SIPs. Based on the statutory timetable for submission and approval of plans, EPA announced in the October 5, 1978 **Federal Register** (43 FR 46246) that all lead SIPs had to provide for attainment "no later than October of 1982" (or up to October 1984 with an approved extension).

In the April 27, 1981 rulemaking, EPA allowed 60 days for the state to submit a revision to their SIP which would set a final attainment date consistent with the one established in the October 5, 1978 **Federal Register**. If the state did not submit the revision, the rulemaking stated that EPA would promulgate the date as part of the Missouri SIP. Missouri did not submit the revised attainment date, nor has EPA promulgated the date. The reason that EPA has not taken action to promulgate the attainment date is because the three smelters filed a petition with the Administrator to reconsider the disapproval action before the 60 day deadline expired. Elsewhere in today's **Federal Register**, EPA is granting the petition for reconsideration.

The basis for the decision to grant the petition with respect to the attainment date is new information which was submitted concerning the attainment date. This information shows that EPA approved an attainment date for the Ohio SIP for total suspended particulate which was three years from the date of plan approval (41 FR 2099, January 14, 1976) rather than the uniform date based on the statutory time intervals in Sections 110(a)(1) and 110(a)(2) of the CAA. This approval was upheld by the U.S. Court of Appeals for the Sixth Circuit in *Northern Ohio Lung Association* v. *EPA* 572 F.2d 1143 (6th Cir. 1978). After reexamining the issue, EPA has concluded that Missouri's interpretation of attainment date as contained in their lead SIP is correct, i.e., that attainment must occur no later than three years from actual date of plan approval. This notice proposes to approve the attainment date portion of the Missouri lead SIP. The latest attainment date for most portions of the state is April 27, 1984.

The State of Missouri requested a two-year extension for attaining the lead standard in two areas of the state. These areas are in the vicinity of the St. Joe and AMAX smelters. EPA approved the request because it met the criteria for an attainment date extension under Section 110(e) of the CAA. The full two year extension was granted because expeditious compliance schedules for the St. Joe and AMAX smelters contained in Missouri's SIP indicated that two years beyond the October 1982 uniform attainment date would be required to complete the control measures needed to meet the standard.[1] Now that EPA is proposing to use Missouri's interpretation of attainment date, the full two year extension is not needed. Thus, EPA is proposing to modify its approval of the extension request by granting an extension for attainment of the lead standard in the vicinity of the St. Joe and AMAX smelters until October 31, 1984.[2] The attainment date for the urban areas of Missouri (St. Louis and Kansas City) will remain November 1, 1982 as is stated in the Missouri SIP submittal. The state did not request an extension for the area around the ASARCO smelter because ambient sampling at two monitors located near the main property boundary of the smelter had not registered exceedences of the lead standard. Thus, the attainment date for the area around ASARCO is April 27, 1984.

EPA's approval of the attainment date contained in Missouri's lead SIP does not change any of the dates contained in the individual consent orders for each smelter. The consent orders remain an approved portion of the Missouri lead SIP and the completion dates contained in those orders are considered expeditious as practicable for purposes of attaining the primary lead standard in the vicinity of the smelters. Any revision of the final compliance dates contained in those orders would require a revision of the approved SIP. Thus, this proposal would not result in extending the dates for compliance with the lead standards near the St. Joe and AMAX smelters.

Modeling

The Missouri lead SIP did not contain dispersion modeling for the three primary lead smelters as required by 40 CFR 51.84. The state attempted to perform dispersion modeling for two of the smelters but because of lack of on-site meteorological data and accurate emission data, the results of the modeling did not correlate with measured air quality data. Because of these deficiencies, the state contended that any dispersion modeling which could be performed within the agreed upon time frame for submission of the Missouri lead SIP would not produce reliable predictions of lead concentrations in the vicinity of the lead smelters. Because the Missouri SIP did not comply with 40 CFR 51.84, EPA disapproved that portion of the SIP and called upon the state to perform dispersion modeling for the three primary smelters within 12 months of

[1] In approving the compliance schedules, EPA found that the SIP provided for attainment of the standard in the vicinity of the two smelters by October, 1984 (46 FR 23414).

[2] Section 110(e) of the CAA authorizes an extension of not more than two years after the initial three years allowed for attainment. (Section 110(e)(1)). However, the duration of the extension can only be the time during which controls necessary for attainment are not available. The Missouri plan shows that such controls will be in place by October 31, 1984, or approximately six months after the three year attainment date. Therefore EPA believes an extension until October 31, 1984 is appropriate under Section 110(e).

VOL
48
ISS
2
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5
OC
21
1983
UMI

the date of approval of the remaining portions of the SIP. The smelters' petition also requested reconsideration of EPA's disapproval of the modeling.

The petition correctly points out that EPA received new information concerning the state's modeling effort after the final action on the lead SIP. On June 10, 1981, EPA personnel had an opportunity to review the modeling the State had performed for the AMAX and St. Joe smelters. At that meeting, the EPA reviewers agreed that the modeling studies did not produce reliable predictions of lead concentrations in the vicinity of the two smelters. The unreliable predictions resulted from a lack of on-site meteorological data and lack of fugitive emission data for the AMAX and St. Joe smelters.

Elsewhere in today's **Federal Register**, EPA is granting the petition with respect to the modeling issue. As explained in the notice granting the petition, EPA believes that the State's attainment demonstration used generally acceptable techniques and the best information available at the time the SIP was prepared. We find there would be no practical purpose in insisting on formal submittal of dispersion modeling to satisfy disapproval of the present Missouri lead SIP. Accordingly, EPA has decided that the State substantially complied with 40 CFR 51.84. Therefore, this notice proposes to approve the modeling portion of the Missouri lead SIP.

Modeling was not performed for the ASARCO smelter prior to submission of the lead SIP. Even though site specific meteorological and emission data were available for the ASARCO smelter before the SIP was submitted, it required verification to insure that it was acceptable for input to the model. After considerable time was spent reviewing and evaluating meteorological and fugitive emissions input data, modeling was commenced for the ASARCO plant in early 1982. That modeling has been completed and submitted to EPA. Elsewhere in today's **Federal Register**, EPA is proposing to approve the modeling as meeting the requirements of 40 CFR 51.84. However, based upon the results of that modeling, EPA has concluded that there are violations of the ambient air quality standard for lead in the vicinity of the ASARCO smelter in Glover, Missouri. Thus, while EPA is proposing to approve the modeling performed for the ASARCO smelter, EPA is also proposing to find the control strategy for ASARCO deficient based upon the results of the modeling.

EPA solicits comments on its proposed approval of the two previously disapproved portions of the Missouri lead SIP as identified in this notice. Comments should also be submitted on the information and issues discussed in the Response to Petition for Reconsideration of Missouri's Lead Plan and Notice of Policy Change Regarding Attainment Date for State Implementation Plans for Lead, published elsewhere in this **Federal Register**. That response contains further discussion of the rationale for the actions proposed in this notice.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

This proposal and the related notices on the petition for reconsideration, referenced above, were submitted to the Office of Management and Budget (OMB) for review as required by Section 3 of Executive Order 12291. Any comments from OMB and any EPA response to those comments will be available for public inspection at the Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

(Sec. 110 of the Act as amended (42 U.S.C. 7410))

Lists of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations.

Dated: March 29, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83-28715 Filed 10-20-83; 8:45 am]
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federal register

Friday
October 21, 1983

Part VIII

Environmental Protection Agency

Ocean Dumping Permit Programs

VOL
48
ISS
205
OC
21
1983
UMI

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2456-5]

Ocean Dumping Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice. Ocean Dumping Permit Program, notice of receipt of applications and tentative determination to issue special and research permits for the incineration of chemical wastes at sea; announcement of public hearings to receive comments.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has made a tentative determination to issue special and research permits to Chemcial Waste Management, Inc., Oak Brook, Illinois, and Ocean Combustion Service, B.V., Rotterdam, the Netherlands, (the Applicants) for the M/T VULCANUS I and the M/T VULCANUS II to transport and dispose of material as authorized by the Marine Protection, Research and Sanctuaries Act of 1972 (the Act), as amended.

The Special Permits, HQ 83–001 and HQ 83–002, would authorize the Applicants, over a three year period, to use the M/T VULCANUS I and the M/T VULCANUS II, respectively, to transport to the designated Gulf Incineration Site (in the Gulf of Mexico) and incinerate at the site a combined total of 300,000 metric tons (approximately 79.7 million U.S. gallons) of mixed liquid organic compounds. The Research Permit, HQ 83–003, would be issued for six months and would authorize the Applicants to demonstrate that the incinerators on the M/T VULCANUS II can attain a destruction efficiency of at least 99.99 percent on 10 percent dichlorodiphenyl trichloroethane (DDT), 90 percent solvent wastes. The amount of material that would be incinerated under the Research Permit is 900 metric tons (approximately 264,600 U.S. gallons).

Solicitation of Public Comments

The purpose of this Notice is to provide all interested parties an opportunity to comment on the factors considered in reaching the tentative determination to issue the permits. In addition, the Agency invites public comment on the principles used in developing these permits as a model for specific criteria regulating incineration-at-sea. The principles are:

(1) Limiting the compounds that are eligible for incineration in a waste mixture to those compounds with heats of combustion equal to or greater (i.e. easier to burn) than the heats of combustion of the principal organic hazardous waste constituents (POHCs) for which the incinerators demonstrated a destruction efficiency of at least 99.99 percent.

(2) Developing operating condition and performance standards for incineration at-sea permits equivalent to those in land-based incineration permits.

(3) Requiring independent verification of the Permittees' compliance with the conditions of the Permits.

Furthermore, the Agency would like recommendations on what constitutes an adequate demonstration of financial responsibility. The Permittees carry $350,000,000 in liability insurance. While this amount appears adequate, EPA does not necessarily endorse this specific amount and requests information on appropriate methods for determining an adequate level of liability insurance. As proposed, the permits require notification if there is any decrease in the amount of liability insurance carried.

DATES: Written public comments on this Notice should be submitted by December 8, 1983 to: Patrick M. Tobin, Director, Criteria and Standards Division (WH–585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public hearings will be held on the dates and at the times specified below:

1. November 21, 1983, from 9:00 a.m. to 10:00 p.m., Jacob Brown Auditorium, Civic Center, 600 International Blvd., Brownsville, Texas
2. November 33, 1983, from 7:00 p.m. to 10:00 p.m., November 23, 1983, from 9:00 a.m. to 1:00 p.m., Mobile Gas Service Corporation Auditorium, 2828 Dauphin Street, Mobile, Alabama

Registration will begin at 8 a.m. for day sessions and 6:00 p.m. for the Mobile evening session. A 30 minute staff presentation will open the day hearings at 9:00 a.m. and the Mobile evening session at 7:00 p.m. and if necessary, a summary of the staff presentation will be repeated at 7 p.m. for the Brownsville hearing. All speakers must register and will be heard in the order in which they have registered. Remarks should be sumarized in five minutes or less. Speakers are encouraged to submit written statements for the record:

FOR FURTHER INFORMATION CONTACT: Dr. Alan B. Rubin, Chief, Criteria Section (WH–585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202–245–3030.

SUPPLEMENTARY INFORMATION: Supplementary information, draft permits and all reports and studies used in making tentative determination to issue these permits may be examined at the following locations during normal business hours:

United States Environmental Protection Agency, Library, Room 2904 Mall (Rear), 401 M Street, SW., Washington, D.C. 20460, Attn: Ms. Gloris J. Butler, (202) 382–5928

U.S. Army Corps of Engineers, Brownsville, Room 508, Boca Chica Towers, 2100 Boca Chica Blvd., Brownsville, Texas 78520, Attn: Mr. Arthur Barrera, (512) 546–2458

State of Texas Law Library, Texas Supreme Court Building, 13th and Colorado Streets, Austin, Texas 78711, Attn: Ms. Kay Schlueter, (512) 475–3807

U.S. Corps of Engineers, Mobile, Room 5031, New Federal Building, 109 St. Josephs, Mobile, Alabama 36601, Attn: Ms. Cissy Scott, (205) 690–3182.

The Applicants submitted an application for a special permit on July 10, 1981, and an application for a research permit on November 2, 1981. Public meetings were held in Brownsville, Texas, May 25, 1982, and in Mobile, Alabama, May 27, 1982, to consider the Applicants' permit requests and to discuss the preliminary results of the trial burn on PCBs (under Research Permit HQ 81–002). On August 31, 1982, a public hearing was held in Brownsville, Texas, to receive formal comments on the Applicants' request for permits and to outline the quality assurance and quality control procedures used in monitoring the second PCB trial burn. Subsequent to the public hearing and after considering the hearing record, the Agency decided to revise its approach in developing the conditions for the proposed permits.

The Agency is making a new tentative determination to issue the permits based on the finding that the proposed incineration would not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems or economic potentialities of the ocean. The basis of this finding was the determination that the proposed permits are consistent with the criteria in the Ocean Dumping Regulations in 40 CFR Parts 220–228 and the Regulations for the Control of Incineration of Wastes and Other Matter at Sea, Addendum I to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Dumping Convention or LDC) to which the United States is a Contracting Party. The proposed permits are also consistent with the Interim Technical Guidelines on the Control of Incineration of Wastes and Other Matter at Sea, as amended by the Fourth Consultative meeting to the London Dumping Convention. With respect to the incineration of PCBs, the permits meet the requirements of the regulations in 40 CFR 761.70(a) implementing provisions of the Toxic Substances Control Act on incinerating liquid PCBs. In addition, as a matter of Agency policy, the proposed permits are consistent with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, regulations on land-based incinerator facilities in 40 CFR Part 264, Subpart O.

In this Notice, the relevant provisions of each of the above regulations are summarized and compared with the proposed permits. A Background Document has been prepared which provides a more detailed analysis of the factors used in reaching the tentative determination to issue the permits. The Background Document also includes a section-by-section analysis of the permits which provide the reasons for the selection of particular permit conditions. This Background Document may be obtained by writing or calling Dr. Alan B. Rubin, listed above under "FOR FURTHER INFORMATION CONTACT".

The remainder of this Notice is organized as follows:

I. Summary of the Major Provisions in the Permits and the Rationale for the Provisions Selected
II. Summary of the Factors Considered and the Findings Reached in Making a Tentative Determination to Issue the Permits

I. Summary of the Major Provisions of the Permits and the Rationale for the Provisions Selected

This section organizes the key permit conditions under major topic categories. Under each category, the key conditions of the permits which fall under that category are summarized, followed by a brief explanation of the rationale supporting the Agency's decisions to select these conditions. A more detailed explanation is provided in the Background Document, available from EPA.

Authorized Vessels

- HO 83–001: M/T VULCANUS I
- HO 83–002: M/T VULCANUS II
- HO 83–003: M/T VULCANUS II

Duration of the Permits

1. *Permit Condition:*

HO 83–001: 3 years
HO 83–002: 3 years
HO 83–003: 6 months

2. *Rationale.* The three year expiration date for the Special Permits, HQ 83–001 and HQ 83–002, is a regulatory requirement of 40 CFR 220.3(b). The six months expiration date for the Research Permit, HQ 83–003, is a statutory requirement of 33 U.S.C. 1412a(b).

Eligible Wastes and Quantities To Be Incinerated

1. *Permit Condition.* Eligible wastes are:

- HQ 83–001: liquid organic compounds with heats of combustion equal to or greater than 1.79 kcal/gram
- HQ 83–002: liquid organic compounds with heats of combustion equal to or greater than 0.24 kcal/gram
- HQ 83–003: liquid DDT wastes consisting of 10 percent DDT and 90 percent organic solvents with heats of combustion equal to or greater than 0.24 kcal/gram

The maximum quantities of wastes which may be incinerated are:

- HQ 83–001 and HQ–002: a combined total of 300,000 metric tons
- HQ 83–003: 900 metric tons

2. *Rationale.* The determination of which compounds are eligible for incineration under the Special Permits, HQ 83–001 and HQ 83–002, is based on trial burns which demonstrated a destruction efficiency of at least 99.99 percent on principal organic hazardous waste constituents (POHCs) and a comparison of the heats of combustion of th compounds in the waste mixture to those POHCs tested. A POHC is an organic chemical in a waste mixture that has been identified as hazardous by EPA in Appendix VIII of 40 CFR Part 261. By demonstrating that an incinerator can achieve a 99.99 percent destruction efficiency on a particular POHC, EPA can generally be assured that any less thermally stable hazardous component burned in the incinerator under comparable conditions also will be destroyed.

Compounds with lower heats of combustion have greater thermal stabilities and are therefore more difficult to burn than compounds with higher heats of combustion. The heat of combustion of each of 293 hazardous constituents is ranked on an Index of Incinerabilitly. The heat of combustion is determined empirically in the laboratory through bomb calorimetry or through calculation of chemical bond strengths. The compound on the Index of Incinerability most difficult to burn has the lowest heat of combustion and is listed first; the compound easiest to burn has the highest heat of combustion and is listed last. Compounds in a waste mixture can be compared to the Index of Incinerability to determine whether their heats of combustion are greater than, equal to, or less than that of the POHCs tested. Waste mixtures that are eligible for incineration only contain those compounds or classes of compounds, with heats of combustion equal to or greater than the compound with the lowest heat of combustion for which the incinerator demonstrated a destruction efficiency of 99.99 percent during a trial burn.

The purpose of Research Permit HQ 83–003 is to determie the destruction efficiency of the incinerators onboard the M/T VULCANUS II for DDT (and associated compounds DDE and DDD). Even though the heat of combustion of DDT, 4.51 kcal/gram, is greater than the heat of combustion of tetrachloromethane, 0.24 kcal/gram, for which the M/T VULCANUS II demonstrated a destruction efficiency of greater than 99.99 percent, Regulation 4 of the London Dumping Convention's Incineration Regulations requires a trial burn before DDT may be included in a waste mixture authorized for incineration under a special permit. This is because DDT is one of five compounds identified in the Technial Incineration guideline on which three are doubts as to its incinerability.

Prohibitions and Limitations on Contents/Materials To Be Incinerated

1. *Permit Conditions:*

- HQ 83–001 and HQ 83–002 prohibit:
  - —Quantifiable concentrations of compounds with heats of combustion less than 1.79 kcal/gram (HQ 83–001) or 0.24 kcal/gram (HQ 83–002)
  - —Quantifiable concentrations of:
    - —DDT and associated compounds DDD, DDE
    - —PCTs (polychlorinated tripenyls)
    - —BHC (lindane)
  - —TCDD (dioxin) in concentrations exceeding 2 ppm
  - —PCBs in concentrations exceeding 35 percent
  - —Chlorine in concentration exceeding 70 percent
  - —Over 100 ppm of arsenic, cadmium, chromium, copper, lead, nickel, selenium, thallium, zinc
  - —Over 9 ppm mercury
  - —Over 20 ppm silver
  - —Materials which are produced for radiological, chemical or biological warfare, high-level radioactive wastes, or materials which cannot be identified or which are presistent

VOL 48 ISS 205 OCT 21 1983 UMI

and may float or remain in suspension.

- HQ 83–9003:

—Similar to above, except TCDD and PCBs are excluded from the trial burn under the Research Permit

2. *Rationale.* The permits would prohibit or restrict the burning of wastes containing "quantifiable concentrations" of certain chemical compounds. A quantifiable concentration is defined as the minimum concentration of a discrete chemical constituent in a chemical waste mixture that can be detected, identified and quantified without confirmatory analysis. The amount of this concentration will vary depending on the chemical constituent, possible interferences of other constituents in the chemical waste, the method of sample preparation, and method of analytical detection, identification, and quantification. This means that for organics the quantifiable concentrations are most likely to be 1–2 ppm while for metals the quantifiable concentration is most likely to be 1–10 ppb.

Incineration of DDT, BHC, and PCT is prohibited because there has been no trial burn to establish the incinerability of these compounds. Incineration of these materials without a trail burn is prohibited by Regulation 4 of the London Dumping Convention's Incineration Regulation 4 because there are doubts (according to the London Dumping Convention's Incineration Guidelines) as to the incinerability of these compounds.

Trail burns were conducted on the M/T VULCANUS I for both TCDD (dioxin) and PCBs. Trial burns were not required on the M/T VULCANUS II for TCDD and PCBs based on a finding that the incinerator equipment on the M/T VULCANUS II is the same as that on the M/T VULCANUS I and on EPA's accumulate experience in the monitoring of incinerators for TCDD and PCB emissions.

Three separate trial burns were conducted for TCDD during the incineration of the U.S. Air Force's stock of Herbicide Orange in 1977 on the M/T VULCANUS I. Usually a concentration of at least 100 ppm of a compound is needed in a waste mixture to analytically measure and demonstrate an incinerator's destruction efficiency for that compound to at least 99.99 percent. In the Herbicide Orange mixture, TCDD averaged only 1.9 ppm. While an overall destructive efficiency of greater than 99.93 percent was obtained for dioxin in the three burns, EPA believes that the incinerators probably achieved at least a 99.99 percent destruction efficiency on TCDD based on the fact that during the same trial burns, the destruction efficiencies for 2,4-D and 2,4,5-T were calculate to be greater than 99.99 percent. However, to be able to demonstrate an unqualified destruction efficiency, there has to be a detectable and quantifiable amount of a compound in the stack gas samples. The inability to detect a compound does not mean that the compound is not present; the level of detection of the sampling methodology may not be adequate to measure low levels of a particular compound. At that time, the methodologies employed did not have the analytical sensitivity to measure low levels of potentially surviving dioxin in stack gas samples, particularly in mixtures with compounds having a similar chemical structure as dioxin.

Dioxin is easier to incinerate than other compounds that the vessels are authorized to include in a waste mixture. Dixoin has a heat of combustion of 2.43 kcal/gram, while hexachlorobenzene has a heat of combustion of 1.79 kcal/gram and tetrachloromethane has a heat of combustion of 0.24 kcal/gram on which the M/T VULCANUS I and M/T VULCANUS II, respectively, demonstrated greater than 99.99 percent destruction efficiency.

In addition, incinerator plume modelling and subsequent ocean dispersion modelling have demonstrated that emissions resulting from the incineration of chemical wastes containing 2 ppm of dioxin at a destruction efficiency of 99.93 percent will not exceed the limiting permissible concentration of TCDD, as defined in 40 CFR 227.27, and will not cause any adverse environmental impact. This is based on a determination that any uncombusted dioxin in the emissions would result in an ambient marine water concentration of dioxin below the marine aquatic life no-effect for this compound. Based on the foregoing, EPA has authorized the incineration of wastes containing dioxin, in concentrations not to exceed 2 ppm.

The trial burn in August, 1982 demonstrated that the M/T VULCANUS I could achieve a destruction efficiency of greater than 99.99 percent for PCBs. The concentration of PCBs in the waste mixture may not exceed 35 percent by weight to assure that at a destruction efficiency of at least 99.99 percent, any trace PCB emissions will not cause the ambient marine water quality criterion (limiting permissible concentrations) to be exceeded as required in 40 CFR 227.27. This determination is made by performing incineration plume modelling and subsequent ocean dispersion modelling.

The chlorine concentration of the wastes is limited to 70 percent because this is the maximum concentration for which both vessels have demonstrated a combustion efficiency of 99.9 percent, on the whole wastes, while also demonstrating a destruction efficiency of 99.99 percent on the POHCs tested. (A discussion of the difference between combustion efficiency and destruction efficiency is included later in this Summary of the Major Provisions in the Permits).

Limits are placed on the above-listed metals to ensure that the surviving metallic particulates will not cause the applicable marine water quality criteria or the limiting permissible concentrations defined in 40 CFR 227.27 to be exceeded.

High level radioactive wastes, or materials which are used in radiological, chemical or biological warfare, which cannot be identified, or which are persistent, inert, synthetic, or which may float or remain in suspension are prohibited by Section 102(a) of the Act and § 227.5 of the Ocean Dumping Regulations.

Analysis of the Wastes Required Before Each Incineration Cruise

1. *Permit Conditions:*

- Before each incineration cruise, an analysis of the wastes must be conducted in accordance with EPA-approved protocols (in Appendix A of the Permit), in an EPA-approved laboratory.
- Duplicate samples may be taken by EPA or an authorized EPA representative, coded, and analyzed in an EPA-approved laboratory to verify the Permittees' samples and analyses.
- Wastes from hazardous waste sites subject to a Court, State, or EPA order are to be identified.

2. *Rationale.* The Ocean Dumping Regulations at 40 CFR 227.5(c) prohibit the dumping of wastes which are insufficiently described to determine their impact on the environment. EPA is requiring the Permittees to supply information on the chemical classes of the constituents in the waste mixture. This level of detail is sufficient to determine the incinerability of these wastes and the effect of these wastes on the environment after incineration. The Permittees are to submit an analysis of the wastes from the blending/holding tanks in Emelle, Alabama to EPA before the wastes are loaded for each incineration cruise. The reason for requiring an analysis of the wastes before each incineration cruise is that

over the three year term of HQ 83–001 and HQ 83–002, the wastes will be coming from many different sources and are likely to vary in their composition.

EPA may take duplicate samples from the Permittees' blending/holding tanks in Emelle and submit them for analysis to verify the analytical results obtained by the Permittees on the original samples. Also, EPA may analyze the wastes at dockside or in the vessels' storage tanks to ensure that new wastes have not been added or other wastes substituted from the time the wastes were transported from Emelle to the Port of Mobile for loading on the vessels.

The Permittees are to report, to the best of their knowledge, whether any of the wastes to be incinerated are from hazardous waste sites which are subject to a Court, State or EPA cleanup order. This information will assist EPA and the States in verifying the location and final disposition of such wastes and may assist EPA's determination as to whether the wastes meet the permit conditions.

Authorization for Loading/ Incineration Is by the Permit Program Manager:

Permit Condition and Rationale

The Permit Program Manager is the official who will make the decisions on all aspects of the permits and who is ultimately responsible for ensuring that the incineration operations are carried out safely and efficiently. The Director, Criteria and Standards Division, Office of Water Regulations and Standards is designated as the Permit Program Manager.

The Permit Program Manager evaluates the data from the previous cruise to independently verify that the Permittees met the performance standard and operating conditions specified in the permit. Authorization of successive incineration cruises is dependent on the demonstration that the Permittees complied with all provisions and requirements of the Permit during the previous incineration operation. Although this requirement may cause a delay in incineration activities, in EPA's judgment it is essential to assure that incineration at-sea activities are carried out properly and in an environmentally acceptable manner.

The chemical analyses submitted by the Permittees will be evaluated by the Permit Program Manager to assure that the wastes do not contain chemicals with heats of combustion less than that specified in the Permit and do not contain any prohibited materials. The Permit Program Manager will verify that the analytical results obtained from the duplicate samples, if taken at Emelle, Alabama, are in agreement with the analytical results submitted by the Permittees on the original samples. If the Permit Program Manager is convinced that the wastes meet the specifications of the Permit, he will authorize the loading of the vessel. Loading of the vessel may begin with a verbal authorization, but prior to departure the specific written authorization must be onboard the vessel.

The authorization for loading is, for all practical purposes, an authorization for incineration. However, should the analyses of any samples taken by EPA from the vessels' or dockside storage tanks, or from the blending/holding tanks, demonstrate the presence of compounds that were not in, or were in concentrations greater than that indicated in the original analyses of the Permittees' samples from the blending/holding tanks, the Permit Program Manager shall terminate the incineration if the newly discovered compounds, or the concentrations of these compounds are not eligible for incineration. If these verification analyses of the mixed chemical wastes show the wastes are nevertheless eligible for incineration, the Permit Program Manager has the discretion to terminate or to continue the incineration. In any case, whether the incineration is terminated or not, any discrepancies beyond the expected range of sample variation constitute a violation of the Permit.

The U.S. Coast Guard supervises the loading of the vessels and the Captain of the Port, Mobile, supervises the passage of the vessels through Mobile Bay to the Gulf.

Port of Departure is Port of Mobile, Alabama

Permit Condition and Rationale

Section 223.1(a)(3) states that the permit shall include the port through or from which the wastes will be transported. Designation of a specific port also serves to restrict the geographic area in which the activities may take place to aid in EPA's and the U.S. Coast Guard's surveillance and enforcement functions.

Incineration Site

Permit Condition and Rationale

As provided in 40 CFR 228.12(b)(1), incineration of mixed chemical wastes may occur only at the designated site. The Gulf Incineration Site[1] lies 315 kilometers south, southest of Galveston, Texas and 350 kilometers south, southwest of Cameron, Louisiana. It is located off the continental slope and covers approximately 4900 square kilometers. The water depth at the Site's center is approximately 1,375 meters.

At this time the Gulf Site is the only site which has been designated for the incineration-at-sea of mixed chemical wastes. It was designated on September 15, 1976 (41 FR 39319) and redesignated on April 28, 1982 (47 FR 17817).

Performance Standards:

1. *Permit Conditions:*

- HQ 83–001: 99.99 percent destruction efficiency; 99.9 percent combustion efficiency
- HQ 83–002: 99.99 percent destruction efficiency; 99.9 percent combustion efficiency
- HQ 83–003: 99.99 percent destruction efficiency; 99.9 combustion efficiency

2. *Rationale.* A destruction efficiency of 99.99 percent was established as a performance standard based on extensive date indicating that such a destruction efficiency is attainable and can be routinely measured in incinerators buring a wide range of organic hazardous waste constituents in initial concentrations that are over 100 ppm. A 99.99 percent destruction efficiency ensures that any emissions from the incineration process will be rapidly rendered harmless or will be present only in trace amounts as required in 40 CFR 227.6. This determination is based on incinerator plume modeling and subsequent ocean dispersion modeling that show any emissions will result in ambient marine water concentrations below the limiting permissible concentrations as required by 40 CFR 227.27.

Based on EPA's accumulated experience and judgment in monitoring incineration, a combustion efficiency of at least 99.9 percent on the *entire* load of mixed chemical wastes corresponds to destruction efficiencies of at least 99.99 percent for all compounds in the wastes whose heats of combustion are equal to or greater than 1.79 kcal/gram (for the M/T VULCANUS I) or 0.24 kcal/gram (for the M/T VULCANUS II). The lower combustion efficiency of 99.9 percent is due to the fact that a waste mixture is not pure; it includes such elements as metals, sand and moisture which cannot be destroyed completely. Combustion efficiencies are continuously calculated on each incineration cruise.

[1] The coordinates of the Gulf Incineration Site are:
Latitude and longitude:
28°20'00"N., 93°20'00"00" W.
28°20'00"N., 94°00'00"00" W.
27°00'00"N., 93°20'00"00" W.
27°00'00"N., 94°20'00"00" W.

Destruction efficiencies are calculated for each incineration cruise under the Research Permit but not necessarily for each incineration cruise under the Special Permits. The Permit Program Manager may request that the Permittees sample and analyze the waste and emissions to verify that the operating conditions established in the Special Permits achieve the performance standard of 99.99 percent destruction efficiency.

Operating Parameters

1. *Permit Conditions:*

- HQ 83–001:
  - —Temperature: minimum-1280°C; average-1303°C; prior to waste feed initiation-1353°C
  - —Oxygen: minimum-5%; average-101%
  - —Carbon monoxide: maximum-100 ppm; average 8-ppm
- HQ 83–002:
  - —Temperature: minimum-1166°C; average-1200°C; prior to waste feed initiation-1250°C
  - —Oxygen: minimum-5%; average-10.6%
  - —Carbon monoxide: maximum 100-ppm; average-22 ppm
  - —If incinerating TCDD and PCBs, same as HQ 83–001
- HQ 83–003:
  - —Minimum temperature (1200°C) and oxygen level (5%) in the combustion gases and maximum carbon monoxide (100 ppm) in the combustion gases are the same as HQ 83–002; no averages are set since they will be established in the trial burn.

2. *Rationale.* In EPA's judgment, the operating conditions specified will ensure that the incinerators attain and maintain a combustion efficiency of at least 99.9 percent and a destruction efficiency of 99.99 percent.

The operating conditions established for the M/T VULCANUS II are lower than those for the M/T VULCANUS I (except for burning TCDD or PCBs) for two reasons. First, the BTU content of the wastes burned during the trial burn on the M/T VULCANUS II was lower than the BTU content of the wastes on the M/T VULCANUS I. Second, the thermocouples measuring the wall temperature on the M/T VULCANUS II are placed higher above the burner head and in a cooler part of the stack than on the M/T VULCANUS I.

The minimum operating conditions are based on EPA's accumulated data and best engineering judgment that complete combustion will still occur if operating conditions less stringent than the minimum established exist. Minimum operating conditions are given for temperature and oxygen, and a maximum for carbon monoxide, because these are the three key parameters that assure complete combustion of the chemical wastes.

If the temperature and oxygen levels fall below the specified minimum or carbon monoxide rises above the specified maximum, automatic devices shut off the flow of the waste to the incinerator. Prior to feeding the waste into the incinerators, a temperature 50°C higher than the average must be attained to provide a margin of safety against possible variations in the operating efficiency of the incinerator.

The average operating conditions specified are the averages that were measured on the trail burns which demonstrated that the incinerators on the M/T VULCANUS I and M/T VULCANUS II achieved a destruction efficiency of greater than 99.99 percent on the POHCs tested. The average operating parameters are to be calculated every two hours, which corresponds to the approximate time it takes to run a destruction efficiency test while recording the operating parameters during a trial burn. Buy using the same timeframe, there is greater assurance that the proper destruction will be maintained throughout the incineration.

The minimum operating conditions and the averages that must be maintained during incineration for the M-T VULCANUS II, when incinerating wastes containing TCDD and PCBs, are the same as those for the M/T VULCANUS I. The reason for this is that the waiver of trial burns for TCDD and PCBs on the M/T VULCANUS II was based, in part, on the determination that the incinerator equipment on both vessels is the same, so that identical operating conditions should yield identical performance (destruction efficieny).

In the Research Permit, HQ 83–003, only minimum (or maximum for carbon monoxide) operating conditions are specified. The Research Permit will establish average operating conditions for future incineration of DDT as a result of the trial burn.

Automatic Waste Feed Shut-off Device

1. *Permit Conditions.* Automatic devices shut off the waste feed to the incinerator whenever:

- Minimum temperature or oxygen levels in the combustion gases, or maximum carbon monoxide levels in the combustion gases are reached; or
- Monitoring devices fail for temperature, air flow, draft (negative pressure) in the combustion chambers, oxygen, carbon monoxide, carbon dioxide, waste feed and/or auxiliary fuel (if used).

2. *Rationale.* Automatic waste feed shut-off devices stop the flow of the wastes to the incinerators whenever the flame goes out, or the minimum temperature, minimum level of oxygen in the combustion gases or, the maximum level of carbon monoxide in the combustion gases are reached. These parameters were selected because temperature, oxygen, and carbon monoxide are the key parameters in determining the operating efficiency of the incinerators. In addition, whenever the devices monitoring temperature, air flow, draft (negative pressure) in the combustion chambers, oxygen, carbon monoxide, carbon dioxide and waste feed flow and/or auxiliary fuel (if used) fail, the automatic waste feed shut-off devices are activated. Continuous monitoring and recording of these parameters are required in order to calculate combustion efficiency, dwell time and to assure overall incinerator performance and safety to shipboard personnel.

Monitoring and Recording Requirements

1. *Permit Conditions:*

- Automatic, tamper proof devices are to *continuously* monitor and record temperature, air flow, oxygen, carbon monoxide, carbon dioxide, draft (negative pressure) in the combustion chamber and waste feed and/or auxiliary fuel (if used).
- At least hourly recordings of time, date, wind speed and direction and vessel position, course and speed are to be made.
- All monitoring data are to be submitted to the Permit Program Manager for evaluation of compliance with the performance standard, operating conditions and monitoring requirements of the Permit.
- All raw data resulting from the activities of this Permit shall be available for public inspection in the Office of the Permit Program Manager.

2. *Rationale.* In EPA's judgment, the readings for temperature, air flow, oxygen, carbon monoxide, carbon dioxide and waste feed and/or auxiliary fuel (if used) together with other vessel operating information listed above are needed to verify that the performance standards and operating conditions have been met, that the incineration took place at the designated site and that there were no direct discharges of wastes into the water.

Instrument Calibration

1. *Permit Conditions:*

- Calibration of the instruments measuring temperature, air flow, draft (negative pressure) in the combusion chambers, oxygen, carbon monoxide, carbon dioxide, waste feed flow and auxiliary fuel (if used) is to be performed before each cruise and in accordance with manufacturer's recommendations, or more frequently if conditions warrant.
- A permanent record is to be made of each calibration.

2. *Rationale.* Instrument calibrations are necessary to assure that the measuring devices are giving true readings. Frequent calibrations may be necessary if the vessel has been operating under unusual circumstances such as long and severe vibrations or in severe weather.

Instrument calibrations are to be done according to the manufacturer's instructions and a permanent record is to be kept of each calibration. This record will be examined as part of EPA's analysis and evaluation of the monitoring data following each burn.

Other Requirements

Permit Conditions and Rationales

- The draft (negative pressure) in the combustion chamber shall be maintained at greater than one (1) inch of water column below atmospheric pressure.

This is to ensure that: (1) The oxygen content of the stack gas results exclusively from sufficient air flow from the blowers, and (2) to protect shipboard personnel by preventing fugitive emissions from the incinerators.

- No black smoke or extension of the flame is to be above the plane of the stack.

These occurrences indicate incomplete combustion and are prohibited by the London Dumping Convetion's Incineration Regulations.

- Ammonia is to be added to the plume, if necessary, to make it visible.

This is to assure that any ships which wander off course or do not hear the "Broadcast to Mariners" will be aware of and avoid the incineration operations.

- If tanks are washed; they are to be washed with a combustible solvent and such washings and any residues or ash remaining after incineration are to be either incinerated at-sea or, upon return to port, incinerated in EPA-approved facilities, or otherwise properly disposed of in accordance with applicable EPA regulations.

This provision is in keeping with TSCA Compliance Program Policy No. 6 PCB–2—Physical Separation Techniques (August 16, 1983) to assure PCBs are disposed of in accordance with TSCA regulations (40 CFR 761.60).

- Any wash waters, ballast waters or pump room bilge water found to be contaminated with chemical waste beyond background levels are to be incinerated at-sea, or, on return to port, either incinerated in EPA-approved land-based facilities or treated in accordance with applicable EPA regulations. In no case are these contaminated waters to be discharged directly to the ocean or into the harbor.

This provision ensures that all possible measures will be taken to protect the environment.

- Vessel and incinerator certificates required as a condition of the Permit.

The permit specifies that a "Certificate of Fitness" issued by the International Maritime Organization, a "Letter of Compliance" issued by the U.S. Coast Guard and a "Survey Report" and "Form of Approval" for the incinerators issued by a Contracting Party to the London Dumping Convention be onboard the vessels and prominently displayed as required by the London Dumping Convention and U.S. laws and treaties. These certificates indicate that the vessels and the incinerators have met all international and U.S. requirements necessary for the safe operation of the vessels and that all reasonable safety precautions have been taken.

- The Permitees are to notify the Permit Program Manager of any decrease in their liability insurance.

Permittees have $350,000,000 in insurance policies which appear adequate to fully protect the United States, States and the public against any and all liability arising out of the Permittees' acts or omissions in the performance of the permits. EPA is not necessarily endorsing this specific amount. The Agency is requesting recommendations on appropriate methods for determining an adequate level of liability insurance.

- Compliance with the requirements of other laws.

The Permittees must comply with all applicable Federal or State requirements for hazardous waste generation, collection, storage, transportation, reporting, labelling and disposal, whether or not they are specifically mentioned in the permits. Particularly pertinent are Section 6(e) of the Toxic Substances Control Act and the Solid Waste Dispoal Act, as amended by the Resource Conservation and Recovery Act (RCRA). The Assistant Administrator for Pesticides and Toxic Substances must give written approval of the incinerators before any incineration of wastes containing PCBs may take place.

Verification of Permit Conditions

1. *Permit Condition. Verificotion is by:*

- automatic tamper proof monitoring devices; and
- 24 hour per day independent observation of the incineration activities by shipriders, approved by and responsible to EPA.

2. *Rationale.* EPA is requiring that shipriders be onboard the vessels during each incineration cruise to provide 24 hour per day coverage of all activities. The shipriders may be EPA employees or independent parties selected by the Permit Program Manager. If independent parties, the shipriders are paid by the Permittees but report directly to the Permit Program Manager. A Shiprider, appointed by the Permit Program Manager, has the authority to terminate the burn if, in the Shiprider's opinion, any term of the permit is not being met. Shipriders are included as a condition of the permits to provide *full* and *continuous* observation of incineration activities because the nature of incineration activities at-sea precludes unannounced spot checks.

Contingency Plan

1. *Permit Condition.* The Contingency Plan, approved by the U.S. Coast Guard and EPA, is to be followed during any accident or emergency.

2. *Rationale.* The Contingency Plan describes the safety precautions built into the vessels, and the notice, communication networks and action which would be implemented by the Permittees and the U.S. Coast Guard should an incident occur. Both vessels are classified as Type II chemical ships which means that to be certified by the International Maritime Organization and the U.S. Coast Guard there must be a significant degree of cargo containment capability. Since both vessels have double hulls and double bottoms and the wastes in both vessels are stored in several compartments in the interior of the vessels are stored in several compartments in the interior of the vessels, there is little likelihood that any collision would cause the rupture of the storage compartments. In addition, the safety equipment and its placement onboard the vessels is governed by the Safety of Life at Sea Convention (SOLAS). The Contingency Plan also covers responses to potential incidents including spills, collisions, fires, explosions, etc. EPA believes a Contingency Plan is essential to rapidly respond to emergencies and to minimize

VOL 48 ISS 205 OCT 21 1983 UMI

environmental and human health consequences of any emergency.

The permits require a full written report of any incident and any activities carried out under the Contingency Plan within 10 working days after the termination of the burn in which the incident occurs. However, if jettisoning the cargo due to life threatening incidents is contemplated or is carried out, immediate verbal notification of the U.S. Coast Guard and the Permit Program Manager is required.

In addition to the safety precautions built into the vessels and the procedures included in the Contingency Plan, the U.S. Coast Guard issues Broadcast to Mariners warning other ships of the vessels' progress to and from incineration at the site. Also, the Captain of the Port, Mobile must be notified 24 hours before sailing; the vessels are precluded from sailing if there are pending storms which would interfere with the safe passage of the vessels to the incineration site.

Modifications to or Revocation of the Permit

As provided by 40 CFR 223.3(a)(1-4), the following are grounds for modification or revocation of the Permit:

(1) The cumulative impact of the permittee's dumping activities or the aggregate impact of all dumping activities at the dump site designated in the permit should be categorized as Impact Category I, as defined in § 228.10(c)(1) of this subchapter; or

(2) There has been a change in circumstances relating to the management of the disposal site designated in the permit; or

(3) The dumping authorized by the permit would violate applicable water quality standards; or

(4) The dumping authorized by the permit can no longer be carried out consistent with the criteria set forth in Parts 227 and 228.

In addition, the permit may be modified or revoked for:

- The violation of any provision of the Permit, including any misrepresentation, inaccuracy, or failure to disclose all relevant facts in the permit application.
- A change in any condition or fact upon which the permit is based that adversely affects human health or welfare or the environment.
- Failure to meet the performance standards or operating conditions.

Penalties

The following penalties are provided in the Marine Protection, Research and Sanctuaries Act.

- Civil penalty of up to $50,000 per violation per day.
- Criminal penalty of up to $50,000 per violation per day and/or one year in prison.

Permit Issued by the Assistant Administrator for Water

The Administrator delegated the authority to issue special at-sea incineration permits to the Assistant Administrator for Water on September 16, 1983.

II. Findings

EPA is authorized by the Marine Protection, Research and Sanctuaries Act of 1972 (the Act), as amended (33 U.S.C. 1412), to issue permits for dumping of material into the ocean "where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities." The criteria for the review and evaluation of permit applications and for making the determination to issue the permits are set forth in the Ocean Dumping Regulations, 40 CFR Parts 220–228. However, EPA has not yet promulgated specific criteria for incineration at sea. Until such criteria are promulgated, the Agency will evaluate permit applications on a case-by-case basis. In making those evaluations, the Agency will apply the standards and criteria binding on the United States under the London Dumping Convention to the extent that application of such criteria do not relax the requirements of the Act.

As part of its tentative determination to issue the permits, EPA also examined:

- The regulations in 40 CFR 761.70(a) implementing the Toxic Substance Control Act (15 U.S.C. 2601, Pub. L. 94–466, Oct. 11, 1976), because the applications proposed to incinerate polycholrinated biphenyls (PCBs) in the mixed chemical wastes;
- The regulations in 40 CFR 264.340–264.351 implementing the requirements for land-based incinerators under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6905, 6912(a), 6924, 6925, and 6927), because it is Agency policy to have incineration at-sea permits at least equivalent to land-based incinerator permits, unless there is a specific reason which renders the land-based requirements unnecessary for incineration at-sea.
- The guidance of the U.S. Coast Guard on the adequacy of the Contingency Plan in implementing procedures to protect the environment, if accidents or life threatening incidents should occur in the harbor or at-sea.

A full and complete analysis of each provision in the above regulations and the guidance of the U.S. Coast Guard are provided in the Background Document referenced earlier. A summary follows:

1. Compliance with the Ocean Dumping Regulations

(a) *Section 220.3(f)—Special Permits.* The Ocean Dumping Regulations require in 40 CFR 220.3(f) that:

> "permits for incineration at-sea are to be issued only as research permits * * * until specific criteria to regulate this type of disposal are promulgated, except in those cases where studies on the waste, the incineration method and vessel, and the site have been conducted and the site has been designated for incineration-at-sea in accordance with the procedures of Section 228.4(b). In all other respects the requirements of Parts 220–228 apply."

EPA has not promulgated any specific criteria for incineration-at-sea permits. However, EPA has concluded that adequate studies have been conducted on the wastes, incineration method and vessel and the site:

- Trial burns conducted on the M/T VULCANUS I and M/T VULCANUS II have demonstrated destruction efficiencies of greater than 99.99 percent on principal organic hazardous constituents (POHCs) tested under specific operating conditions. Wastes to be incinerated will be limited to those which EPA concludes are very likely to be destroyed under the same operating conditions.
- Environmental monitoring studies conducted at the site showed no short term increases in background concentrations of organochlorines in the water, and no short term effects on water chemistry or biota exposed to the incineration plume.
- Air monitoring studies, including those by the Texas Air Quality Control Board, indicated no detectable air-borne emissions of PCBs or other organochlorine residues from the incineration process.
- EPA designated the Gulf Incineration Site on September 15, 1976 (41 FR 39319) and redesignated the Site on April 28, 1982 (47 FR 17817).

(b) *Section 227—Criteria for the Review and Evaluation of Ocean Dumping Permits.* The criteria that are used in reviewing and evaluating ocean dumping permits, as required by Section 102 of the Act, are set forth in 40 CFR Part 227. Subpart A of Part 227 states that:

> (a) If the applicant satisfactorily demonstrates that the material proposed for ocean dumping satisfies the environmental impact criteria set forth in Subpart B, a permit for ocean dumping will be issued unless:
>
> (1) There is no need for the dumping, and alternative means of disposal are available, as determined in accordance with the cirteria set forth in Subpart C; or
>
> (2) There are unacceptable adverse effects on esthetic, recreational or economic values as determined in accordance with the criteria set forth in Subpart D; or
>
> (3) There are unacceptable adverse effects on other uses of the ocean as determined in accordance with the criteria set forth in Subpart E.

In applying the criteria for incineration at-sea permits, EPA evaluated the *emissions* resulting from the incineration of mixed liquid chemical wastes as the materials to be disposed of by ocean dumping. The emissions may include: hydrochloric acid, carbon dioxide, carbon monoxide, water vapor and trace amounts of metallic oxides, silicate ash, surviving organic compounds and partially combusted organic compounds.

(1) *Subpart B—Environmental Impact.* Subpart B, Sections 227.5–227.13, sets specific environmental impact prohibitions, limits and conditions for the dumping of materials in the ocean. Section 227.4 states that "if the applicable prohibitions, limits and conditions are satisfied, it is a determination of EPA that the proposed disposal will not unduly degrade or endanger the marine environment and that the disposal will present:

- No unacceptable adverse effects on human health and no significant damage to the resources of the marine environment;
- No unacceptable adverse effect on the marine ecosystem;
- No unacceptable adverse persistent or permanent effects due to the dumping of the particular volumes or concentrations of these materials; and
- No unacceptable adverse effect on the ocean for other uses as a result of direct environmental impact.

EPA finds that the proposed permits meet these requirements because:

- Wastes, such as high level radioactive wastes or materials used for radiological, chemical, or biological warfare are prohibited from the wastes eligible for incineration;
- The stack emissions will not contain any of the prohibited constituents in § 227.6(a) except those which are "rapidly rendered harmless" as provided for under § 227.6(h). The determination that the wastes are "rapidly rendered harmless" is being made on the basis that the permits meet or exceed the incineration Regulations and Technical Guidelines of the London Dumping Convention and on the basis that incinerator plume modelling and oceanic dispersion modelling have demonstrated that any organic compounds or metals contained in emissions, resulting from incinerations which achieve destruction efficiencies of 99.99 percent, will not cause marine water quality criteria or the marine aquatic life "no effect" concentrations for these materials to be exceeded.
- The stack emissions contain only products of the incineration process which are totally soluble, sterile, rapidly neutralized by the ocean after allowance for initial mixing and which are biodegradable within the limits defined under § 227.7;
- The permits limit the quantities of metals allowed in the wastes and require performance standards such that any emission products of metals or organochlorines are below the limiting permissible levels as required in § 227.8;
- The permits are consistent with § 227.9 because the quantity of material in the emissions will not damage the ocean environment or reduce its amenities based on the monitoring conducted thus far which shows no detectable adverse environmental impact and because EPA is limiting the use of the site to one vessel at a time; [2]
- The activities conducted under the permits meet the requirements of § 227.10 because the incineration site is away from fishing areas, outside normal shipping fairways for commercial and recreational vessels, and as monitoring data has indicated, the emissions pose no threat to fishing, navigation, shorelines or beaches.

(2) *Subpart C—Need for Ocean Dumping.* Subpart C of Part 227 (40 CFR 227.14–227.16) states the basis on which an evaluation will be made of the need for ocean dumping, and alternatives to ocean dumping. Section 227.15 lists the factors to be considered in determining the need for dumping, and § 227.16 lists the determinations that must be made, after thorough evaluation of those factors. The determinations that must be made are set forth below:

(i) There are no practicable improvements in process technology or overall waste treatment to reduce the adverse impact of the waste in the total environment.

(ii) There are no practicable alternative locations and methods of disposal or recycling available, including without limitation, storage until treatment facilities are completed, which have less adverse environmental impact or potential risk to other parts of the environment than ocean dumping.

In making these determinations, EPA evaluated:

(A) The relative environmental risks, impact and cost for ocean dumping as opposed to other feasible alternatives including but not limited to:

(1) Land-fill;
(2) Well injection;
(3) Incineration;
(4) Spread of material over open ground;
(5) Recycling of material for reuse;
(6) Additional biological, chemical, or physical treatment of intermediate or final waste streams;
(7) Storage

(B) Irreversible or irretrievable consequences of the use of alternatives to ocean dumping.

EPA has determined that incineration of the mixed liquid organic wastes under the terms of this permit constitutes a very effective means of treating those wastes. The Agency is unaware of any treatment method for the wastes which would be useful, in the sense of further reducing the potential impact on the environment from the emissions of at-sea incineration. Therefore, EPA concludes that the wastes will be treated to an appropriate degree prior to their release to the environment.

There is, in fact, no "single" method of disposal which is appropriate for all hazardous wastes generated in the United States. EPA examined each of the alternatives to ocean dumping in terms of liquid hazardous wastes which are to be incinerated at sea. While balancing hypothetical pollution problems is always difficult, EPA believes that incineration at sea compared favorably with other available means of waste treatment.

The environmental risks associated with the incineration at-sea of *liquid* organic compounds are less than landfilling. Most hazardous waste constituents are persistent. Since landfilling does not result in destruction of wastes, even when precautions are observed, there remains some potential for wastes to leak out of landfills.

EPA finds that the environmental risks associated with incineration-at-sea are no greater than deepwell injection of liquid hazardous wastes into Class I wells. These wells provide a much greater degree of security than landfills.

[2] EPA is restricting, at this time, the use of the Gulf Incineration Site and any other site which is designated to one vessel at a time. This is being done for navigational safety and until the Agency evaluates the monitoring data from the site. This does not mean that only one Permittee may use a site. Rather, EPA will assure that there is an equitable distribution of the use of a site among all Permittees.

VOL 48 ISS 205 OCT 21 1983 UMI

EPA also finds that the overall environmental, human health and safety risks associated with at-sea incineration are no greater than those associated with land-based incineration. Land-based and at-sea incineration are subject to similar performance criteria and therefore result in the discharge of similar amounts of particulates and surviving and/or partially combusted organochlorines. Land-based incineration is conducted much closer to areas of human habitation, thus exposing more people to stack emissions than at-sea incineration. Also any accidents at land-based facilities would potentially affect more people than an accident at sea. However, while accidents are unlikely at either land-based facilities or at sea, an accident at sea could result in contamination of a much larger area and would be much more difficult to clean up fully than an analogous incident at a land-based facility.

EPA believes that there is a high potential for use of new processes and technology to substantially reduce the amount of hazardous waste generated in this country. However, the Agency is unaware of any generally available technological modifications which would substantially reduce those types of wastes that would be incinerated over the period of these permits.

While waste reduction technologies need to be encouraged, the timing of their implementation is a factor to be considered in evaluating the need for ocean dumping under this permit. Even if there were changes which were known and could be made in all the processes involved in generating the wastes covered by the proposed permit, these process changes, product substitutions, recovery operations, etc. take time to implement. General adoption of such changes may take years. The regulations indicate that generally EPA is supposed to take action on a permit within 180 days of a completed application. Unless public comments on the proposed permits demonstrate that there are generally available waste reduction technologies applicable to a large proportion of the wastes that are to be incinerated under this permit, EPA will not deny these permits *solely* on the premise that in the future these technologies may be available. However, as changes in technology and process design occur, EPA will reevaluate these alternatives for each new permit or renewal according to the availability of process and raw material alternatives known at that time.

Storage only postpones and delays for future generations the inevitable need to dispose of the wastes. Although the storage of hazardous wastes over 90 days requires a permit and requires precautions be taken, there is potential for leakage and adverse effects on human health and the environment. Therefore, EPA does not believe this is a viable alternative to incineration at-sea.

The irreversible consequence of land-based incineration is similar to that of ocean incineration. Only trace amounts of uncombusted materials are discharged to the environment. Land filling of wastes requires, as a practical matter, the restriction of land areas for other uses for an indefinite basis, because many of the wastes are likely to remain hazardous for a long time. Land filling of wastes also poses the potential threat of contaminating surface or ground waters at some future time. Once wastes are land filled, it becomes very difficult to excavate them and provide for an alternative disposal method. While cleanup of contaminated ground water is technically possbile, as a practical matter, the cleanup is very difficult and expensive. The advantage of either at-sea or land-based incineration is that the wastes are destroyed.

There are risks associated with both land-based and at-sea incineration alternatives. EPA does not believe that at-sea incineration has any greater irreversible or irretrievable consequences than the other alternatives.

Therefore, based on the foregoing analysis of the factors to be considered in determining a need for ocean dumping, EPA finds that:

- There are no practicable improvements which can be made in process technology or in overall waste treatment to reduce the adverse impacts of the waste released to the environment from the incineration at-sea emissions.
- There are no practicable alternative locations and methods of disposal or recycling available which have less adverse environment impact or potential risk to other parts of the environment than incinerations at-sea.

(3) *Subpart D, Part 227—Impact of the Emissions on Recreational, and Economic Values; and Subpart E, Part 227—Impact of the Proposed Ocean Dumping on Other Uses of the Ocean.* Under Subpart D, Part 227, EPA is to assess the potential for impacts on the esthetic, recreational and economic values of the ocean which might be affected by these emissions based on the characteristics of the emissions. Subpart E requires an evaluation of the impact for specific uses of the ocean rather than on overall esthetic, recreational and economic values. By their nature, Subparts D and E are dependent on the characteristics of the Gulf Incineration Site. The Gulf Incineration Site is fully described in:

U.S. EPA, *Final Environmental Impact Statement. Designation of a Site in the Gulf of Mexico for Incineration of Chemical Wastes.* Washington, D.C. July, 1976.

The Gulf Incineration Site was selected, in part, because it is far from normal shipping fairways; it is beyond the reach of most recreational vessels; it is low in marine resources of commercial or recreational value; and it is far enough from shore that trace contaminants from the emission plume would be in such minute amounts or so diluted by the ocean that on-shore or near-shore activities would not be affected. Therefore, EPA concludes that incineration at-sea would have no adverse impact on commercial or recreational activities.

Monitoring data collected at the site indicate that the incineration emissions have no impact on the quality of the water or on the biota and therefore do not present a risk to human health directly or through contamination of fisheries or shellfisheries. Nor does the emission plume, 300 kilometers from the nearest shore, pose any esthetic nuisance for recreational areas.

Therefore, based on the nature of the site and the contents of the emissions, EPA finds that incineration at-sea conducted in accordance with the proposed permits will not have an adverse impact on esthetic, recreational or economic values of the ocean according to the factors outlined in Subpart D.

According to the factors outlined in Subpart E, incineration at-sea will not have an unacceptable impact on commercial and recreational fishing in open areas, incoastal areas or in estuarine areas because the Gulf Incineration Site is located over the continental slope, 300 kilometers from the nearest shore. Available evidence indicates that consistent with its location, the water at the incineration site has a low level of biological activity and would not or could not support a viable fishery.

The site is 75 miles from the nearest commercial shipping fairway and beyond the reach of most recreational vessels and would not affect their activities. Also the site is beyond the area which would interfere with any sand or gravel operations, oil or gas exploration and/or exploitation, and beyond any known natural or cultural features which would draw scientific research or study.

(4) *Conclusion.* Based on the foregoing analyses, EPA finds that the proposed permits meet all the requirements of the Ocean Dumping Regulations applicable to incineration at-sea and Section 102 of the Act.

2. The London Dumping Convention

In establishing criteria for evaluating ocean dumping permit applications, EPA is required to apply the London Dumping Convention Regulations for the Control of Incineration of Wastes and Other Matter at Sea, and is required "to take full account of" the Technical Guidelines implementing the Regulations.

As shown in the Background Document, the proposed incineration at-sea permits meet or exceed the London Dumping Convention's Incineration Regulations and Technical Guidelines.

3. Compliance With TSCA Regulations When Incinerating PCBs.

Section 6(e)(1) (A) and (B) of the Toxic Substances Control Act [3] (TSCA), requires the Administrator "to promulgate regulations to prescribe methods for the disposal of polychlorinated biphenyls and to require polychlorinated biphenyls to be marked with clear and adequate warnings, and instructions with respect to their processing, distribution in commerce, use, or disposal or with respect to any combination of activities." Based on this mandate, EPA promulgated regulations controlling the incineration of wastes containing PCBs in 40 CFR 761.70.

Because the special permits apply only to liquid PCB wastes, for the purposes of complying with TSCA regulations for PCB incineration, EPA focused on those TSCA regulations which apply to *liquid* PCB wastes.

The PCB regulations issued under TSCA set out certain requirements which must be met for incineration, unless a waiver is obtained. These regulations include a minimum combustion efficiency,[4] in addition to specific temperature, incineration dwell time, and oxygen requirements, etc. The proposed permits incorporate the TSCA requirements for liquid PCBs, except for the TSCA regulatory requirement for dwell time.

Dwell time, the time the liquid waste and its gaseous combustion by-products are in the lower combustion chamber and upper incineration stack, is a parameter which was once believed to be of major significance. It is currently overshadowed, however, by the more important parameter of destruction efficiency. While EPA formerly believed that dwell times of 2 seconds or more were universally needed to achieve good incinerator performance for PCBs, the Agency now has an extensive data base which indicates that as little as tenths of one second may be sufficient in well designed incinerators. TSCA has a waiver provision for dwell time which relies on destruction removal efficiency as the primary measure of incinerator performance.

Compliance with the TSCA regulations is to be demonstrated by a trial burn or submission of data sufficient for a determination to be made that the incinerator facility can demonstrate compliance with the performance and operating requirements. Based on the August 1982, trial burn under Research Permit HQ 81–002, the M/T VULCANUS I demonstrated a 99.99 percent destruction efficiency on PCBs and a 99.9 percent combustion efficiency on the entire load of mixed chemical wastes. The operating conditions monitored during incineration met or surpassed the applicable requirements in 40 CFR 761.70(a). Therefore, the Office of Pesticides and Toxic Substances concluded that the proposed Special Permit HQ 83–001 meets the applicable requirements of 40 CFR 761.70(a) for the purposes of incinerating liquid PCB wastes.

The Office of Water, after recommendation from the Office of Pesticides and Toxic Substances, determined that a trial burn was not required for the M/T VULCANUS II based on: (1) A finding by EPA's Industrial Environmental Research Laboratory (IERL–CI.) that the incinerator equipment on the M/T VULCANUS II is the same as that on the M/T VULCANUS I and (2) EPA's accumulated experience in the incineration of PCBs. Since the proposed Special Permit HQ 83–002 for the M/T VULCANUS II requires that the M/T VULCANUS II must adhere to the minimum and average operating conditions specified in Special Permit HQ 83–001 for the M/T VULCANUS I when incinerating PCBs, the Office of Pesticides and Toxic Substances also concluded that HQ 83–002 would meet the applicable requirements of 40 CFR 761.70(a).

4. Consistency With Land-Based Incenerators Permitted Under RCRA

With the exception of incinerating PCBs, which are regulated under TSCA and the rules in 40 CFR 761.70, land-based incineration facilities are regulated under RCRA and the rules in 40 CFR 264.340–264.351. Although RCRA regulations do not apply to the incineration of hazardous wastes at-sea, it is EPA's policy to establish or impose requirements in at-sea incineration permits that are equivalent to the requirements in land-based permits unless there is a specific reason which renders the land-based requirements unnecessary for incineration at-sea.

Both RCRA and at-sea incineration permits are performance based; there are no generic operating conditions. Each facility's operating conditions are determined by the conditions necessary for the particular incinerator to achieve the performance standard.

Both programs require a trial burn in which the incinerators must demonstrate a destruction efficiency or a destruction removal efficiency of 99.99 percent on a principal organic hazardous constituent (POHC). Waste mixtures eligible for incineration are those that contain compounds with heats of combustion equal to or greater than that compounded with the lowest heat of combustion for which a 99.99 destruction efficiency or destruction removal efficiency was demonstrated in the trial burn.

Destruction efficiency, the term used in at-sea incineration permits, and destruction removal efficiency, the term used in connection with RCRA permits for land-based facilities, are equivalent. The formula for determining destruction removal efficiency and destruction efficiency is the same:

$$DE/DRE = \frac{W_{in} - W_{out}}{W_{in}} \times 100$$

Where:

W_{in} = Mass feed rate of one POHC in the waste stream feeding the incinerator

W_{out} = Mass emission rate the same POHC in exhaust emissions prior to release to the atmosphere.

[3] 5 U.S.C. 2601, Pub. L. 94–469, October 11, 1976, 90 Stat. 2003.

[4] For non-liquid PCBs, 40 CFR 761.70(b) establishes the following requirement: "The mass air emissions from the incinerator shall be no greater than 0.001g PCB/kg of the PCB introduced into the incinerator. (Section 761.70(b)(1)). This translates into a destruction removal efficiency of 99.9999 percent. Although the TSCA regulation does not establish such a requirement for incineration of liquid PCBs, EPA has concluded that if the land-based or at-sea incinerators meet the operating requirements, and attains the required combustion efficiency under TSCA, then the incinerators will achieve a destruction removal efficiency or destruction efficiency of 99.9999 percent.

VOL 48 ISS 205 OCT 21 1983 UMI

The difference in terminology stems from the fact that auxiliary air pollution control devices such as scrubbers, are required on land-based facilities to remove or neutralize the hydrochloric acid and to remove particulate matter. Scrubbers are not needed on at-sea incinerators because hydrochloric acid from at-sea incineration is buffered and neutralized by the ocean and particulate matter is controlled by limiting the concentration of metals that can be in a waste mixture so that the ambient water quality criterion for a specific metal or its limiting permissible concentration as defined in 40 CFR 227.27 are not exceeded.

The proposed at-sea incineration permits require that the waste feed rate be monitored but do not specify a thermal input rate as RCRA permits do. Nor do the proposed permits specify "an appropriate indicator of combustion gas velocity" as is required in RCRA permits. In lieu of these operating parameters, the proposed incineration at-sea special permits require demonstration of the performance standard of 99.9 percent combustion efficiency after each burn to control the performance of the incinerator.

While the proposed incineration at-sea permits do not require that the incinerator and associated equipment be inspected daily for leaks, spills, fugitive emissions and signs of tampering as RCRA permits do, the proposed permits provide for the maintenance, continuous monitoring, and continuous recording of a minimum draft (negative pressure) in the combustion chambers. This requirement will prevent the release of fugitive emissions, thereby protecting shipboard personnel and help to insure proper incinerator operation. In addition, shipriders will inspect for leaks, spills, signs of tampering, and provide 24 hour per day coverage of all incineration operations. This provision is included in at-sea permits because the nature of incineration activities at sea precludes unannounced spot checks of the incineration activities.

Based on the above, EPA has concluded that the proposed permit conditions are at least as stringent as the RCRA requirements.

5. U.S. Coast Guard's Findings on the Contingency Plan

As indicated elsewhere, a significant degree of cargo containment capacity is built into the vessels, and the vessels must be certified as meeting the safety requirements of international and U.S. regulations by the International Maritime Organization and the U.S. Coast Guard. In addition, the applicants were required to submit, as part of their applications, a Contingency Plan outlining the procedures to be implemented in case of accident or other emergency at sea. The Contingency Plan specifies the safety precautions and the coordination mechanisms and responses if fires, explosions, spills, collisions, etc. should occur in the harbor or at sea. A major focus of the Contingency Plan is the steps that will be taken to minimize the environmental effect of any incident.

Because of the nature of the activities, in the harbor or at sea, EPA requested the U.S. Coast Guard to review and to make recommendations on the adequacy of the Contingency Plan. Based on a preliminary review, the U.S. Coast Guard concluded that both vessels have taken the precautions to prevent incidents and that the Contingency Plan is a workable plan for responding to a wide variety of potential emergencies at sea or in the harbor. During the comment period on this Notice, the U.S. Coast Guard will make further recommendations on the Plan.

6. Conclusion

Based on the above analyses, EPA concludes that the purposed incineration under the terms and conditions of the permits will not unreasonably degrade or endanger human health or welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

Therefore, EPA has made a tentative determination to issue Special Permits to Chemical Waste Management, Inc. and Ocean Combustion Service, B.V. to incinerate on the M/T VULCANUS I and on the M/T VULCANUS II a total of 300,000 metric tons of mixed chemical wastes, including PCBs, according to the conditions and specifications in the permits. In addition, EPA has made a tentative determination to issue a Research Permit to the Applicants to incinerate 264,600 gallons of 10 percent dichlorodiphenyl trichloroethane (DDT), 90 percent solvent waste.

Dated: October 17, 1983.

Rebecca W. Hanmer,

Assistant Administrator for Water.

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Federal Register

Vol. 48, No. 205

Friday, October 21, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR Issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093-45218	3
45219-45370	4
45371-45522	5
45523-45752	6
45753-46004	7
46005-46258	11
46259-46486	12
46487-46730	13
46731-46962	14
46963-48214	17
48215-48438	18
48439-48642	19
48643-48792	20
48793-48996	21

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:

Ch. III	45286, 46795
Ch. IV	47976
305	45266

3 CFR

Executive Orders:

July 15, 1875 (Revoked in part by PLO 6479)	45559
11459 (Superseded by EO 12445)	48441
12002 (See EO 12444)	48215
12214 (See EO 12444)	48215
12444	48215
12445	48441
12446	48443

Proclamations:

5110	45219
5111	45221
5112	45371
5113	45523
5114	45753
5115	46259
5116	46963
5117	46965
5118	48217
5119	48439

5 CFR

Ch. XIV	45373
213	46261
752	45525
1255	45373

Proposed Rules:

Ch. I	47990
Ch. III	47982

7 CFR

Ch. IV	48449
2	46261, 48449
51	46487
247	46731
301	46262, 48449
319	48732
752	45526
906	45374
908	45526, 46488, 48643
910	45374, 45755, 46961, 48793
919	45374
929	45374
981	45374
991	45374, 48219
1065	48793
1205	48451
1435	45374
1901	45532
1951	46967
1955	46967
1962	46967
1965	46967

Proposed Rules:

Subtitle A	47236
Ch. I	47236
Ch. II	47236
Ch. III	47236
Ch. IV	47236
Ch. V	47236
Ch. VI	47236
Ch. VII	47236
Ch. IX	47236
Ch. X	47236
Ch. XI	47236
Ch. XII	47236
Ch. XIV	47236
Ch. XV	47236
Ch. XVI	47236
Ch. XVII	47236
Ch. XVIII	47236
Ch. XXI	47236
Ch. XXIV	47236
Ch. XXV	47236
Ch. XXVI	47236
Ch. XXVII	47236
Ch. XXVIII	47236
Ch. XXIX	47236
226	45779
402	46062
411	48675
441	45782
781	46065
904	45786
910	45565
966	46544
1065	45117
1131	46343
1139	46797
1446	48471
1700	48830
1701	48472

8 CFR

100	48794
103	45093
214	45093, 48452
238	45093, 48796
248	45093

Proposed Rules:

Ch. I	47530
103	48242

9 CFR

166	48643

Proposed Rules:

Ch. I	47236
Ch. II	47236
Ch. III	47236
Ch. IV	47236
92	46355
101	48679

113.....48679
317.....45118
318.....48242
319.....45118
325.....46996
350.....45755
362.....45755
381.....45118, 46996, 48224

10 CFR

2.....46489
50.....46489
55.....45223
71.....45381
95.....48644
761.....45746
710.....46499

Proposed Rules:

Ch. I.....48156
Ch. II.....47324
Ch. III.....47324
Ch. X.....47324
50.....45787
60.....48473
140.....48474

11 CFR

114.....48650

12 CFR

5.....48452
7.....46502, 48452
29.....45532
204.....46005, 46262
207.....45533, 48219, 48796
217.....45756, 46262
220.....45533, 48219
221.....45533, 48219, 48797
224.....45533
226.....48219
561.....45382
563.....45382, 48455
760.....46006

Proposed Rules:

Ch. I.....47716
Ch. II.....46996
Ch. V.....48110
Ch. VI.....48074
Ch. VII.....48150
29.....47001
701.....48830

13 CFR

101.....45224
123.....45225
133.....46008

Proposed Rules:

Ch. I.....48020
Ch. III.....47254

14 CFR

21.....48798
39.....45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222, 48801–48804
71.....45094, 45095, 45536, 45537, 46010, 46503, 48805
95.....46504
97.....45096
205.....46264
248.....46265
294.....46265
320.....45238
380.....46265
389.....45758

Proposed Rules:

Ch. I.....46358, 47582, 48681
Ch. II.....47003, 48038
Ch. V.....47972
21.....45214, 45565
25.....46218, 46250
29.....46250
39.....46070
43.....48364
61.....45214
65.....45214
71.....45118, 45566, 48244, 48831
91.....48364
107.....45214
109.....45214
121.....45214, 46218, 46250, 48364
127.....48364
135.....45214, 48364
145.....45214
320.....48832

15 CFR

Proposed Rules:

Subtitle A.....47254
Ch. I.....47254
Ch. II.....47254
Ch. III.....47254
Ch. IV.....47254
Ch. VIII.....47254
Ch. IX.....47254
Ch. XXIII.....47254

16 CFR

13.....48651
453.....45537

Proposed Rules:

Ch. I.....48120
Ch. II.....48064
300.....48682
301.....48682
303.....48683
1212.....45405
1500.....45567
1513.....45567

17 CFR

145.....46010, 48223
146.....46010, 48223
147.....46010, 48223
229.....46012
230.....46012, 46736
231.....46012, 46969
239.....45386, 46012
240.....46012, 46736
241.....46012
270.....46012
274.....46012

Proposed Rules:

Ch. I.....48056
Ch. II.....48190
33.....46797
230.....46801
240.....45119, 48245
249.....48245

18 CFR

2.....46012
35.....46012, 46970
157.....46021
270.....48223
271.....45097, 46266–46268, 48223
274.....45097
282.....45758
301.....46970
385.....45388

Proposed Rules:

Ch. I.....48104
101.....46361
104.....46361
141.....46361
154.....46361, 47003
157.....47003
159.....46361
201.....46361
204.....46361
260.....46361
271.....46071
275.....47003
282.....45787
410.....45568

19 CFR

4.....46510, 46978, 48653
7.....46740
10.....46510, 46740
18.....48655
22.....46740
101.....45538
103.....45538
113.....46740
134.....48657
145.....46740
148.....46978
158.....46740
191.....46740
210.....45544

Proposed Rules:

Ch. I.....46805, 47724
4.....46808, 46810
18.....46812
101.....45409
123.....46812
144.....46812

20 CFR

404.....46142
626.....48744
632.....48744
633.....48744
634.....48744
636.....48744
684.....48744

Proposed Rules:

Ch. I.....47538
Ch. II.....48012
Ch. III.....47340
Ch. IV.....47538
Ch. V.....47538
Ch. VI.....47538
Ch. VII.....47538
10.....48249
416.....48684
422.....46072, 47008

21 CFR

81.....45237, 45760, 46022
109.....45544
131.....45545
175.....48228
178.....46773, 46774
179.....46022
182.....48805
184.....48456, 48457, 48805
186.....48456, 48457
193.....45547
211.....46979
430.....46270
436.....46270
442.....46270
520.....46979, 48229
522.....46023, 48229, 48659
540.....45760
558.....45102, 46023, 46024, 46514, 46515, 48659
700.....46979
800.....46979
1308.....46516

Proposed Rules:

Ch. I.....47340
122.....48836
155.....48836
182.....45121
184.....45121
211.....47008
341.....48576
351.....46694
610.....46815, 47009
620.....47009
630.....47009
640.....47009
650.....47009
660.....47009
680.....47009
700.....47008
800.....47008
1040.....48837

22 CFR

41.....48660

Proposed Rules:

Ch. I.....47578
Ch. II.....47970

23 CFR

655.....46775

Proposed Rules:

Ch. I.....47582
Ch. II.....47582
658.....46545

24 CFR

26.....46980
201.....46980
215.....46980
221.....46980
236.....46980
570.....45760, 46778, 46980
841.....46980
882.....46980
888.....45547, 46980
890.....46980

Proposed Rules:

Subtitle A.....47418
Subtitle B.....47418
24.....46072, 46817

25 CFR

71.....45103
114.....48806

Proposed Rules:

Ch. I.....47472
140.....45789

26 CFR

1.....45761, 46272, 46296
4.....46272
31.....46296
35a.....45362

Proposed Rules:

Ch. I.....47730

1.....47010, 48255
5f.....48255
20.....48837
25.....48837
52.....48837
31.....47010

27 CFR

4.....45549
5.....45549, 46518
7.....45549
9.....45238, 45239, 46518–46524, 48810–48820
170.....46526
240.....46526

Proposed Rules:

Ch. I.....47706
9.....46387, 48685

28 CFR

2.....48230
500.....48968
527.....48968
552.....48968
571.....48970
572.....48972

Proposed Rules:

Ch. I.....47530

29 CFR

1601.....46298
1952.....48822

Proposed Rules:

Subtitle A.....47538
Ch. II.....47538
Ch. IV.....47538
Ch. V.....47538
Ch. XII.....47946
Ch. XIV.....47928
Ch. XVII.....47538
Ch. XXV.....47538
Ch. XXVI.....48004
1908.....45411
1910.....45956
1926.....45872

30 CFR

223.....48661
251.....46025
913.....46528
917.....46299
935.....46027, 46301, 46530
938.....45389
946.....46028

Proposed Rules:

Ch. I.....47538
Ch. II.....47472
Ch. VII.....47472
55.....45336
56.....45336
57.....45336
58.....45336
917.....48255
935.....45420
938.....46817

31 CFR

1.....48460
51.....46982

Proposed Rules:

Subtitle A.....47702
Ch. I.....47702
Ch. II.....47702
390.....48688

32 CFR

235.....48824
251.....45242

Proposed Rules:

Ch. I.....47302
Ch. V.....47302
Ch. VI.....47302
Ch. VII.....47302
Ch. XVI.....48018
199.....45791

33 CFR

100.....45244, 46531
117.....45245, 46532, 48662
130.....46178
131.....46178
132.....46178
151.....45704
155.....45704
157.....45718, 46985
163.....48230
165.....46533, 46534, 46779, 48663, 48664

Proposed Rules:

Ch. I.....47582
Ch. II.....47302
Ch. IV.....47582
117.....48690
146.....48475
150.....48475
162.....45798
164.....46819

34 CFR

668.....45670
690.....45670

Proposed Rules:

Subtitle A.....47308
Ch. I.....47308
Ch. II.....47308
Ch. III.....47308
Ch. IV.....47308
Ch. V.....47308
Ch. VI.....47308
Ch. VII.....47308
350.....45568
351.....45568
352.....45568
353.....45568
354.....45568
355.....45568
357.....45568

35 CFR

Proposed Rules:

Ch. I.....47998

36 CFR

7.....46779, 46780
60.....46306

Proposed Rules:

Ch. I.....47472
Ch. II.....47236
Ch. III.....47302
Ch. VIII.....47858
Ch. IX.....48002
7.....48257
216.....45421
1190.....47860

37 CFR

Proposed Rules:

Ch. I.....47254
1.....45424
2.....45424

38 CFR

1.....46985

Proposed Rules:

Ch. I.....48024
21.....45123, 45268, 45572, 47011

39 CFR

111.....45761, 48031
447.....48230, 48231

Proposed Rules:

111.....45269, 48850
3001.....46545

40 CFR

51.....48978
52.....45245, 45246, 46046, 46047, 46309, 46986, 48664, 48665, 48978
60.....46535, 46536, 48328, 48368, 48669
61.....46535
81.....46537, 46782
86.....48598
87.....46481
123.....48826
180.....46310
192.....45926
256.....46787
271.....48826
420.....46942
433.....45105
469.....45249
717.....45765

Proposed Rules:

Ch. I.....47864
51.....45269, 46152
52.....46081, 46391–46393, 46548, 46823, 48981, 48982
60.....45701, 46224, 46472, 48932, 48960
81.....46082, 46085, 46393, 46549–46553
141.....45502
162.....46397
180.....45573, 46395, 46396, 48476, 48477
228.....45798
261.....45210
271.....46824, 48690
403.....46944
420.....46944
464.....45573
465.....45573
1502.....46554, 47862
1508.....46554

41 CFR

Ch 1.....45392, 45557, 48462
Ch. 101.....45105
1–4.....48827
9–1.....46987
9–7.....46987
9–4.....45768
9–51.....45766
101–11.....46310
101–25.....48231
101–37.....48827
101–41.....46788
105–61.....45392

Proposed Rules:

Ch. 1.....47948
Ch. 4.....47236
Ch. 9.....47324
Ch. 12.....47582
Ch. 13.....47254
Ch. 14.....47472
Ch. 25.....47980
Ch. 29.....47538
Ch. 60.....47538
Ch. 101.....47948
Ch. 105.....47948
101–41.....46554

42 CFR

51c.....45558
52b.....45558
55a.....45558
56.....45556
57.....45112
110.....45250
122.....45558
405.....45766, 48467
409.....48467
489.....48467

Proposed Rules:

Ch. I.....47340
Ch. II.....47340
Ch. III.....47340
Ch. IV.....47340

43 CFR

Subtitle A.....45664
3160.....48916

Public Land Orders:

44 (Revoked by PLO 6478).....45401
98 (Revoked by PLO 6478).....45401
399 (Revoked in part by PLO 6477).....45395
698 (Revoked by PLO 6473).....45393
780 (Revoked by PLO 6478).....45401
3645 (Revoked by PLO 6472).....45393
5170 (Revoked in part by PLO 6477).....45395
5179 (Revoked in part by PLO 6477).....45395
5180 (Revoked in part by PLO 6477).....45395
5184 (Revoked in part by PLO 6477).....45395
6472.....45393
6473.....45393
6474.....45394
6475.....45394
6476.....45395
6477.....45395
6478.....45401
6479.....45559
6480.....46049
6481.....46049
6482.....46050

Proposed Rules:

Subtitle A.....47472
Ch. I.....47472
Ch. II.....47472
2620.....48400
2880.....48478

44 CFR

61.....46789
62.....46789
64.....46988, 46989
65.....46990, 48233
67.....46050, 46312, 46992
Proposed Rules:
Ch. I.....46934
65.....48258
67.....45425, 46085, 47014–47020, 48259

45 CFR

13.....45251
Proposed Rules:
Subtitle A.....47340
Ch. II.....47340
Ch. III.....47340
Ch. VI.....47960
Ch. XI.....47978
Ch. XII.....47856
Ch. XIII.....47340

46 CFR

160.....45113
162.....45727
380.....45559
530.....48469
542.....46175
543.....46175
544.....46175
Proposed Rules:
Ch. I.....47582
Ch. III.....47582
Ch. IV.....48114
Ch. IV.....45269
7.....45574
10.....46556
24.....45425
25.....45425
26.....45425
30.....45425
31.....45425
32.....45425
35.....45425
70.....45425
71.....45425
75.....45425
77.....45425
78.....45425
90.....45425
91.....45425
94.....45425
96.....45425
97.....45425
107.....45425
108.....45425
109.....45425
157.....46556
163.....45425
188.....45425
189.....45425
192.....45425
195.....45425
196.....45425
298.....46825
508.....45800
524.....45270
531.....45270
536.....45270
538.....45272

47 CFR

0.....45652
1.....45652, 48234
2.....45560
61.....46791
63.....46791
69.....48234
73.....45401–45403, 46994, 48234
81.....45114, 45560
83.....45114, 45560
87.....45114
97.....45652
Proposed Rules:
Ch. I.....47020, 48080
67.....46556, 47021
73.....45428–45438, 47023–47031, 48264
83.....45439

48 CFR

Ch. I.....46541
Proposed Rules:
Ch. 9.....47324

49 CFR

192.....48669
195.....48669
350.....48469
567.....46994
571.....46053, 46793, 48235
1033.....45257
1043.....45775
1162.....46542
1307.....46542, 46794
Proposed Rules:
Ch. X.....46399
27.....46399
171.....48483
172.....48483
173.....48483
195.....46589
218.....45272
571.....48483, 48622
1039.....45137
1155.....45440
Proposed Rules:
Subtitle A.....47582
Ch. I.....47582
Ch. II.....47582
Ch. III.....47582
Ch. IV.....47582
Ch. V.....47582
Ch. VI.....47582
Ch. X.....48134
571.....47032

50 CFR

17.....46053, 46328–46337
23.....45259, 45775
258.....48619
285.....46995
611.....45403, 46542
646.....45404
654.....46057
655.....45403, 45404
656.....45403
657.....45403
658.....46057
661.....45263
663.....48241
672.....46542
681.....46342
Proposed Rules:
Ch. I.....47472
Ch. II.....47254
Ch. III.....47254
Ch. IV.....47254, 47472
Ch. V.....47254
17.....45574, 46086, 46590
23.....45575
611.....45804, 45806
663.....45274, 48265
681.....48853

List of Public Laws

Last Listing October 20, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 1556 / Pub. L. 98–133 To authorize the conveyance of the Liberty ship John W. Brown. (Oct. 18, 1983; 97 Stat. 850) Price: $1.50

S. 1499 / Pub. L. 98–134 Mashantucket Pequot Indian Claims Settlement Act. (Oct. 18, 1983; 97 Stat. 851) Price: $1.75

VOL 48 ISS 205 OC 21 1983 UMI

VOL
48
ISS
2
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5
OC
21
1983
UMI

VOL
48
ISS
206
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24
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Vol. 48 No. 206

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48
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federal register

Monday
October 24, 1983

Selected Subjects

Administrative Practice and Procedure
Federal Communications Commission
Agricultural Research
Agricultural Marketing Service
Air Pollution Control
Environmental Protection Agency
Aliens
Immigration and Naturalization Service
Animal Diseases
Animal and Plant Health Inspection Service
Aviation Safety
Federal Aviation Administration
Banks, Banking
Fiscal Service
Commodity Futures
Commodity Futures Trading Commission
Cotton
Agricultural Marketing Service
Fisheries
National Oceanic and Atmospheric Administration
Food Grades and Standards
Food and Drug Administration
Government Employees
Personnel Management Office

CONTINUED INSIDE

VOL
48
ISS
2
0
6
OC
24
1983
UMI

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Government Procurement
Postal Service
Manpower Training Programs
Employment and Training Administration
Marine Safety
Coast Guard
Marketing Agreements
Agricultural Marketing Service
Milk Marketing Orders
Agricultural Marketing Service
Packaging and Containers
Coast Guard
Surface Mining
Surface Mining Reclamation and Enforcement Office
Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 206
Monday, October 24, 1983

Administrative Conference of the United States
NOTICES
Meetings:
49081 Regulation Committee

Agricultural Marketing Service
RULES
Cotton classing, testing, and standards:
48997 Fee increase
Milk marketing orders:
48998 Alabama-West Florida
PROPOSED RULES
49025 Pecans grown in Ala. et al.;
49026 Potato research and promotion plan; expenses and rate of assessment

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Forest Service; Packers and Stockyards Administration; Soil Conservation Service.

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
49000 Hidalgo, Tex.; addition to list special ports for pet birds; interim affirmed
NOTICES
49186 Stockyards and livestock markets; hog cholera and other swine diseases prevention; specific approval; list

Army Department
NOTICES
49086 Privacy Act; systems of records

Coast Guard
RULES
Ports and waterways safety:
49018 Shipping safety fairways; Port Hueneme, Calif.
PROPOSED RULES
49074 Cargo containers; safety approval requirementa

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
49084 Agency information collection activities under OMB review

Commodity Futures Trading Commission
RULES
49003 Contract market rule review procedures; interim

Consumer Product Safety Commission
NOTICES
49120 Meetings; Sunshine Act

Defense Department
See Army Department.

Economic Regulatory Administratin
NOTICES
Natural gas; fuel oil displacement certification applications:
49090 General Tire & Rubber Co.
49090 Union Central Life Insurance Co.
Powerplant and industrial fuel use; electric utility conservation:
49092 Plan receipts; proposed
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
49091 Indiana & Michigan Electric Co.

Employment and Training Administration
RULES
Job Training Partnership Act programs:
49198 Veterans' employment programs; implementation
NOTICES
Adjustment assistance:
49108 Abex-Denison et al.
49109 Dresser Industries et al.
49110 Park-Ohio Industries, Inc.

Energy Department
See Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Energy Information Administration
NOTICES
49202 Natural gas, highcost; alternative fuel price ceilings and incremental price threshold

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
49020 Oregon
Water pollution; effluent guidelines for point source categories:
49126 Aluminum forming
NOTICES
49096 Agency information collection activities under OMB review
Air quality implementation plans:
49097 Ozone SIP's and solvent reactivities; volatile organic compounds (VOC) control; recommended policy revision; inquiry

Farmers Home Administration
RULES
Loan and grant programs:
48999 Payment-In-Kind (PIK); emergency regulations

Federal Aviation Administration
RULES
49001 Standard instrument approach procedures

VOL 48 ISS 206 OCT 24 1983 UMI

Federal Communications Commission
PROPOSED RULES
49033 Contemporary tariffing practices; reduction of notice periods and cost support requirements
Radio broadcasting:
49069 License applications; use of random selection or lotteries
NOTICES
49098 Agency information collection activities under OMB review (2 documents)
Hearings, etc.:
49099 BA Co. et al. (2 documents)

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act
49010 Ceiling prices; "new, onshore production well," definition clarification; rehearing denied
49010 Water power projects audit reports; substitution of certified mail for registered mail
PROPOSED RULES
Natural Gas Policy Act:
49028 Coastal Zone Management Act, compliance certification, et al; petitions denied
49033 High cost natural gas; production enhancement procedures; petition denied
49032 "New onshore production well," definition; petition denied
NOTICES
Conflict of interests:
49095 Divestiture requirements; supervisory employees; waivers granted
Hearings, etc.:
49092 ARCO Oil & Gas Co.
49093 Idaho Power Co.
49094 National Fuel Gas Supply Corp.
49094 Northwest Central Pipeline Corp.
49094 Panhandle Eastern Pipe Line Co.
49094 Southwest Gas Corp.
49120 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
Complaints filed:
49099 Jacksonville Maritime Association, Inc., et al.
49121 Meetings; Sunshine Act

Fine Arts Commission
NOTICES
49086 Meetings

Fiscal Service
RULES
49014 Checks drawn on U.S. Treasury; indorsement and extension of reclamation authority; forms of endorsement

Food and Drug Administration
RULES
Food for human consumption:
49012 Cheese and cheese products; identity standards, use of antimycotics, etc.
NOTICES
Meetings:
49099 Advisory committees, panels, etc.; Presurgical Chest X-Ray Referral Criteria Panel

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
49084 Delaware
49085 New York

Forest Service
NOTICES
Environmental statements; availability, etc.:
49081 Challis National Forest, Idaho
49082 Targhee National Forest, Idaho and Wyo.; hearing date change

Health and Human Services Department
See Food and Drug Administration; National Institutes of Health.

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
49095 Cases filed (2 documents)

Immigration and Naturalization Service
RULES
48999 Nonimmigration students and schools approved for attendance; extension of time

Indian Affairs Bureau
PROPOSED RULES
Indian lands program (Editorial Note: For a document on this subject, *see* entry under Surface Mining Reclamation and Enforcement Office)

Interior Department
See also Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
49103 Privacy Act; systems of records

International Trade Administration
NOTICES
Meetings:
49085 Importers and Retailers' Textile Adivsory Committee

International Trade Commission
NOTICES
Import investigations:
49106 Single handle faucets
49122 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Energy and environmental statements; availability, etc.:
49107 Coal rate guidelines, nationwide; extension of time
Rail carriers:
49107 State intrastate rail rate authority; Ohio; correction
Railroad operation, acquisition, construction, etc.:
49107 Norfolk & Western Railway Co.
Railroad services abandonment:
49108 Seaboard System Railroad, Inc.

Justice Department
See Immigration and Naturalization Service.

Labor Department
See Employment and Training Administration; Pension and Welfare Benefit Programs Office.

Land Management Bureau
RULES
Public land orders:
49022 Idaho
49022 Washington
NOTICES
Conveyance of public lands:
49105 Montana
Withdrawal and reservation of lands, proposed, etc.:
49104 Arizona
49105 Wyoming

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
49105 Mark Producing, Inc.
49105 ODECO Oil & Gas Co.

National Highway Traffic Safety Administration
PROPOSED RULES
49076 Traffic safety trends and forecasts; accident statistics predictions through 1990

National Institutes of Health
NOTICES
Meetings:
49100 Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee
49100 Arthritis, Diabetes, and Digestive and Kidney Diseases Institute, National; Scientific Counselors Board
49101 Biomedical Library Review Committee
49102 Cancer National Institute committees (2 documents)
49101 Child Health and Human Development Institute, National; Scientific Counselors Board
49101 General Clinical Research Centers Committee
49100 Radioepidemiological Tables Development Ad Hoc Working Group

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
49077 Atlantic mackerel, squid, and butterfish
NOTICES
Marine mammal permit applications, etc.:
49086 Moclips Cetological Society

National Park Service
NOTICES
Meetings:
49106 Chesapeake and Ohio Canal National Historical Park Commission

Northern Mariana Islands Commission on Federal Laws
NOTICES
49111 Meetings

Nuclear Regulatory Commission
NOTICES
Meetings:
49111 Reactor Safeguards Advisory Committee

Packers and Stockyards Administration
NOTICES
Stockyards; posting and deposting:
49082 Madden's Livestock Market, Inc., S. Dak.

Pension and Welfare Benefit Programs Office
NOTICES
Meetings:
49110 Employee Welfare and Pension Benefit Plans Advisory Council

Personnel Management Office
PROPOSED RULES
Pay administration:
49023 Religious observances; work schedule adjustments

Postal Rate Commission
NOTICES
Complaints filings:
49111 American Newspaper Publishers Association; third-class bulk regular-rate flats sent with detached address labels

Postal Service
RULES
Procurement of property and service:
49019 Postal Contracting Manual; amendments

Securities and Exchange Commission
NOTICES
49112 Consolidated Tape Association plan; low speed consolidated tape ticker operation, proposed change; correspondence
Hearings, etc.:
49113 Anchor National Life Insurance Co., et al.
49113 Middle South Utilities, Inc., et al.
Self-regulatory organizations; proposed rule changes:
49112 American Stock Exchange, Inc.
49114 Chicago Board Options Exchange, Inc.
49115, 49117 New York Stock Exchange, Inc. (2 documents)
49118 Philadelphia Stock Exchange, Inc.
Self-regulatory organizations; unlisted trading privileges:
49118 Cincinnati Stock Exchange

Small Business Administration
NOTICES
Disaster loan areas:
49119 Arizona
Meetings; regional advisory councils:
49119 Kentucky
49119 Maine
49119 Virginia
49119 Washington; rescheduled

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
49082 Adams County Streambank RC&D Measure, Ohio

49082 Chenoweth Fork and Auerville Roads RC&D Measure, Ohio
49083 Johnson Road RC&D Measure, Ohio
49083 Raccoon Creek Park RC&D Measure, Ohio
49083 Rock Hill School District RC&D Measure, Ohio

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
49174 Indian lands program

Transportation Department
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

Treasury Department
See Fiscal Service.

Separate Parts in This Issue

Part II
49126 Environmental Protection Agency

Part III
49174 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Part IV
49186 Department of Agriculture, Animal and Plant Health Inspection Service

Part V
49198 Department of Labor, Employment and Training Administration

Part VI
49202 Department of Energy, Energy Information Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Proposed Rules:
550 ... 49023

7 CFR
28 ... 48997
1093 ... 48998
1945 ... 48999
Proposed Rules:
983 ... 49025
1207 ... 49026

8 CFR
214 ... 48999

9 CFR
92 ... 49000

14 CFR
97 ... 49001

17 CFR
1 ... 49003

18 CFR
4 ... 49010
6 ... 49010
271 ... 49010
375 ... 49010
Proposed Rules:
2 ... 49028
4 ... 49028
32 ... 49028
154 ... 49028
270 ... 49028
271 (2 documents) ... 49032, 49033
273 ... 49028
274 ... 49033
293 ... 49028

20 CFR
635 ... 49198

21 CFR
133 ... 49012

25 CFR
Proposed Rules:
216 ... 49174

30 CFR
Proposed Rules:
700 ... 49174
701 ... 49174
750 ... 49174
755 ... 49174

31 CFR
240 ... 49014

33 CFR
166 ... 49018

39 CFR
601 ... 49019

40 CFR
52 ... 49020
467 ... 49126

43 CFR
Public Land Orders:
5515 (Corrected by PLO 6483) ... 49022
6483 ... 49022
6484 ... 49022

47 CFR
Proposed Rules:
1 (2 documents) ... 49033, 49069
61 ... 49033
73 ... 49069

49 CFR
Proposed Rules:
450 ... 49074
451 ... 49074
452 ... 49074
453 ... 49074
571 ... 49076

50 CFR
Proposed Rules:
655 ... 49077

VOL 48 ISS 206 OCT 24 1983 UMI

VOL
48
ISS
206
OC
24
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 206
Monday, October 24, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Cotton Fiber and Processing Tests, Revision of Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is revising certain fees for performing cotton fiber and processing tests. This action is being taken in order to reflect increased costs of providing the testing services.

DATE: Effective October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2167.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. William T. Manley, Deputy Administrator, AMS, has certified that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) The fees in this document are not new and merely reflect minimal increases of some of the costs currently borne by those entities utilizing the testing services; (2) the amount of the increase in fees is too small to have a significant impact; (3) the elimination of minimum fees for some of the tests offered will have a salutary effect on small entities; (4) the use of the services is voluntary; and, (5) if there is any impact, the Secretary has been directed to recover the costs of such service from users of the service.

This final rule becomes effective on October 24, 1983, less than 30 days after the publication date, because in addition to the reasons stated as to the impact of this action under the Regulatory Flexibility Act current revenue does not cover the costs of providing the test items affected, and all of these services are directly related to the marketing and utilization of cotton. Therefore, it is desirable that all fee increases have an effective date as early in Fiscal Year 1984 as possible. Accordingly, under the administrative provisions of 5 U.S.C. 553, good cause is found for making this action effective upon publication.

Background

Cotton testing services are provided by a USDA laboratory in Clemson, S.C., under the authority of the cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476). The tests are available upon request to private sources on a fee basis. The Cotton Service Testing Amendment (7 U.S.C. 473d) specifies that the fees for the services shall be reasonable, and, as nearly as may be, cover the costs of rendering the services.

Fees

During FY 1983 to date, 52,000 cotton fiber and processing tests have been performed for private sources. A recently conducted in-depth analysis of the costs of providing the testing services showed that because of increased costs for materials and supplies used in conducting the tests as well as the applicable surface and air delivery rates to furnish cotton samples the costs of performing certain tests have increased since the last fee review in 1982 and general fee increase of October, 1982. As a result, the Department is increasing fees for the following fiber and processing test items listed in section 28.956: 1.0, 2.0, 3.0, 3.1, 3.2, 7.0, 19.0, 20.2, 20.3, 22.0, and 25.0. The Department is not increasing at this time the fees for the other test items because the costs of performing these tests have not increased appreciably since the last fee review.

At present, the Department conducts a micronaire test based on two samples. to reduce the costs of this service, the Department is adding a micronaire test based on one specimen per sample. In addition, the Department is adding a miniature carded cotton spinning test because the Agricultural Research Service no longer provides this service. Both of these tests will be added to the list of fiber and processing tests contained in section 28.956.

The Department is deleting from the test listing the minimum fees for the following items in section 28.956: 4.0, 4.1, 5.1, 5.2, 5.3, 7.0, 19.0, 22.0 and 25.0. Due to increased computerization and improved billing procedures, it has been determined that minimum fees are no longer necessary for the preceding test items. A minimum fee will continue to be needed for certain other tests requiring the mixing of chemical solutions for batch processing. Specifically, these are items 6.0, 27.0, and 29.0 in section 28.956. AMS will continue to review this program so as to maintain its cost effectiveness.

Minor non-substantive changes in the language describing certain tests are also being made. Specifically, revised wording is to be used in items 1.0, 2.0, 7.0 and 19.0.

Proposed rulemaking was published in the September 13, 1983 Federal Register at 48 FR 41048 and invited comments for 30 days ending October 13, 1983. No comments were received. This final rule does not differ from the proposed rule.

Lists of Subjects in 7 CFR Part 28

Cotton, Samples, Standards, Cotton linteres grades, Staples, Market news, Testing.

Accordingly, the cotton testing regulations in Subpart E, Part 28, of Chapter 1, Title 7 of the Code of Federal Regulations are amended as follows:

1. The authority citation for Part 28, Subpart E reads as follows:

Authority: Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c; sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

2. Section 28.956 would be amended by revising the entry for item numbers 1.0, 2.0, 3.0, 3.1, 3.2, 4.0, 4.1, 5.1, 5.2, 5.3, 7.0, 19.0, 20.2, 20.3, 22.0 and 25.0, and section 28.956 would be further amended by adding entries to be numbered items 7.1 and 14.1 to read as follows:

§ 28.956 Prescribed fees.

* * * * *

Item No. and kind of test	Fee per test
1.0 Furnishing USDA calibration cotton in the short, medium, long and extra long staple lengths including standard values for length by both array and Fibrograph methods, strength at ⅛-inch gage, and maturity and fineness by the Causticaire methods:	
a. By surface delivery, 1-lb. sample	$18.00
b. By air delivery within the U.S., 1-lb. sample	21.00
c. By air delivery outside the U.S., 1-lb. sample	26.00
2.0 Furnishing international calibration cotton standards with standard values for micronaire reading and fiber strength at zero and ⅛-inch gage and Fibrograph length:	
a. By surface delivery, ½-lb. sample	13.00
b. By air delivery within the U.S., ½-lb. sample	15.00
c. By air delivery outside the U.S., ½-lb. sample	19.00
3.0 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ½-inch group, average length and average length variability as based on 3 specimens from a blended sample:	
a. Ginned cotton lint, per sample	60.00
b. Cotton comber noils, per sample	90.00
c. Other cotton wastes, per sample	110.00
3.1 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ½-inch group, average length, and average length variability as based on 2 specimens from a blended sample:	
a. Ginned cotton lint, per sample	45.00
b. Cotton comber noils, per sample	65.00
c. Other cotton wastes, per sample	85.00
3.2 Fiber array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers ½-inch and longer by weight, the average of fibers shorter than ½-inch by weight, average length, an average length variability as based on 3 specimens from each sample, per sample	105.00
4.0 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and length uniformity as based on 4 specimens from a blended sample, per sample	7.00
4.1 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample, per sample	4.50
5.0 Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the average strength as based on 8 specimens from a blended sample, per sample	7.50
5.1 Pressley strength of ginned cotton lint by flat bundle method for either zero or ¼-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample	4.50
5.2 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the average strength and elongation as based on 6 specimens from a blended sample, per sample	7.50
5.3 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the strength and elongation as based on 2 specimens from each unblended sample, per sample	4.50
7.0 Micronaire readings on ginned lint. Reporting the micronaire based on 2 specimens per sample	.50
7.1 Micronaire reading based on 1 specimen per sample	.25
14.1 Miniature carded cotton spinning test. Reporting data on tenacity (centinewtons per tex) of 22's yarn. Based on the processing of 50 grams of cotton in accordance with special procedures, per sample	25.00
19.0 Color of ginned cotton lint. Reporting data on the reflectance and yellowness in terms of Rd and b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5 x 6½ inches and weigh approximately 50 grams per sample	1.00
20.2 Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Hunter Cotton Colorimeter, per box	20.00
20.3 Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box	10.00
22.0 Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley-Analyzer separation of lint and foreign matter.	
a. For samples of ginned lint or comber noils, per 100-gram specimen	7.00
b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	12.00
25.0 High Volume Instrument (HVI) Measurements. Reporting micronaire, length, length uniformity, ⅛-inch gauge strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample	1.50

Dated: October 19, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-28857 Filed 10-21-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1093

[Docket No. AO-386-A1]

Milk in the Alabama-West Florida Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Alabama-West Florida Federal milk order by providing for the indefinite continuation of the present Class I pricing provisions. The order became fully effective on May 1, 1982, and the Class I price provisions were established on a temporary basis through October 31, 1983, so that the appropriateness of the price level could be reviewed in light of market experience. The action is based on an industry proposal considered at a public hearing held on August 9, 1983.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250. (202/447-7311).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued July 15, 1983; published July 22, 1983 (48 FR 33492).

Partial Final Decision: Issued September 22, 1983, published September 29, 1983 (48 FR 44570).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Alabama-West Florida marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than November 1, 1983. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued September 22, 1983 (48 FR 44570). In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective November 1, 1983, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the Federal Register (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interest of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1093

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Alabama-West Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended as follows:

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

In § 1093.50, paragraph (a) is revised to read as follows:

§ 1093.50 Class prices.

* * * * *

(a) The Class I price shall be the basic formula price for the second preceding month plus $2.30.

* * * * *

(Sec. 1-19, 48 Stat. 31 as amended (7 U.S.C. 601-674))

Effective date: November 1, 1983.

Signed at Washington, D.C. on October 19, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-28809 Filed 10-21-83; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1945

Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Clarification of policy.

SUMMARY: The Agricultural Stabilization and Conservation Service (ASCS) Payment-In-Kind (PIK) program is designed to encourage farmers to reduce the 1983 acres of wheat, corn, sorghum, upland cotton, and rice. In return for participation in the PIK program, a producer will receive an amount of the commodity as payment for reducing planted acreage. Some of these producers will experience a natural disaster that may substantially affect their crop yields and farm income. This notice provides clarification of how to treat PIK benefits in calculating individual applicant's Emergency (EM) loss loan entitlements in designated areas (counties). The benefits received by FmHA operators through the PIK program are based on past production of the farm unit. In determining individual eligibility for EM loans as set forth in § 1945.163 of Subpart D of Part 1945, Chapter XVIII, Title 7, Code of Federal Regulations, FmHA will treat the PIK acreage (including paid diversion and set aside acreage) as if those acres had been planted in the disaster year and as if they had produced a normal year's yield.

The policy clarification in this notice applies to all disasters which may be considered under the time periods specified in Subpart A of Part 1945, Chapter XVIII, Title 7 of the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: Wilbert Campbell, Jr., Chief, Loan Processing Branch, Emergency Division, Farmers Home Administration, USDA, Room 5344-S, Washington, D.C. 20250, telephone: (202) 382-1652.

Authority: 7 U.S.C. 1989; 7 CFR 2.23 and 2.70.

Dated: October 14, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83-28763 Filed 10-21-83; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Extension of Time To File Petition for Continuation of School Approval Under the One-Time Recertification Process for Approved Schools

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Immigration and Naturalization Service is extending the time within which to file petitions for school approval under the one-time recertification process for schools

VOL
48
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approved by the Service for attendance of nonimmigrant students. This action is necessary because a large number of schools did not file petitions within the time allowed. This rule is intended to prevent the automatic withdrawal of approval of a large number of schools desiring to continue their approval.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. Telephone: (202) 633–3048

For Specific Information: Alice Strickler, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. Telephone: (202) 633–3946

SUPPLEMENTARY INFORMATION: On April 5, 1983 (48 FR 14575), the Immigration and Naturalization Service published final regulations relating to foreign students and the schools approved for their attendance. 8 CFR 214.3(h)(2) requires that, beginning on August 1, 1983, the Service notify, in writing, each school approved for attendance of nonimmigrant students that it must submit, within sixty days of receipt of that notice, a petition for continuation of its school approval. In an approved school fails to submit a petition for continuation of its approval in accordance with this regulation, its approval is automatically withdrawn.

The purpose of this one-time recertification process is to:

(1) Enable the Service to update its records;

(2) Review the approvals of all schools desiring to continue their approvals to find out whether they continue to meet the eligibility requirements of, and have complied with the reporting requirements of, Service regulations;

(3) Capture the data relating to approved schools on new and revised forms for creation of the Service's new schools data base being developed; and

(4) Determine which schools are approved for attendance of F–1 students, which schools are approved for attendance of M–1 students, and which schools are approved for attendance of both types of students.

On August 1, 1983, the Service began mailing recertification packets containing the notification required by 8 CFR 214.3(h)(2). By August 12, 1983, recertification packets has been mailed to most approved schools on the Service's master list. It is assumed that these schools received the recertification packets by August 15, 1983.

However, a large number of approved schools have not filed petitions for continuation of their approvals. Some school representatives have indicated that they need additional time to do so, while others have said that they do not know when they received their recertification packets.

It is the Service's intention to encourage all approved schools desiring to continue their approvals to file petitions and to afford them ample time to meet the regulatory requirements. The Service is therefore extending the period of time within which to file petitions for continuation of school approval under the one-time recertification process. All petitions filed under the recertification process must be filed by November 15, 1983 or ninety days after receipt of a recertification packet, whichever occurs later.

For information regarding the recertification process and school approval requirements, school representatives may call the Service's Outreach Program from 8:00 a.m. to 4:30 p.m. Eastern Time, Monday through Friday at 202–633–4123.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule relates to Service management and is beneficial to the public.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Schools, Students.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. In § 214.3, paragraph (h)(2) is revised to read as follows:

§ 214.3 Petitions for approval of schools.

* * * * *

(h) * * *

(2) *One-time recertification process*—(i) *General.* Beginning on August 1, 1983, the Service shall notify, in writing, each approved school that it must submit a petition for continuation of its school approval. By November 15, 1983 or ninety days after receipt of the notification, whichever is later, each school desiring to continue its approval must submit to the Service—

(A) Form I–17 without fee;

(B) The names, titles, and sample signatures of its designated officials as defined in paragraph (l)(1) of this section;

(C) A statement signed by each designated official certifying that the official has read the Service regulations relating to nonimmigrant students, namely §§ 214.1(b), 214.2(f), and 214.2(m); the Service regulations relating to change of nonimmigrant classification for students, namely §§ 248.1(c), 248.1(d), 248.3(b), and 248.3(d); the Service regulations relating to school approval, namely this section; and the Service regulations relating to withdrawal of school approval, namely § 214.4; and affirming the official's intent to comply with these regulations; and

(D) The supporting documents specified in paragraph (b) of this section.

* * * * *

(Secs. 101(a)(15)(F), 101(a)(15)(M), and 214 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1101(a)(15)(F), 1101(a)(15)(M), and 1184))

Dated: October 17, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83–28851 Filed 10–21–83; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 83–019]

Ports Designated for the Importation of Animals; Addition of a Special Port for Pet Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Hidalgo, Texas, to the list of special ports for the importation of pet birds. The action taken relieves restrictions that otherwise would be imposed on the owners of pet birds by adding a port of entry at Hidalgo for the importation of pet birds into the United States and by reducing expenses incurred by the Department in transporting a small number of pet birds 80 miles from the previous port of entry at Brownsville, Texas, to Mission, Texas, for quarantine.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. S. S. Richeson, Chief Staff Veterinarian, Import/Export Animals and Products, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8172.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on December 23, 1982 (47 FR 57254–57255), amended on an interim basis the regulations in 9 CFR Part 92 by adding Hidalgo, Texas, to the list in § 92.3(f) of special ports designated for the importation of pet birds not known to be affected with or exposed to communicable diseases of poultry.

The interim rule became effective on the date of publication, and written comments were solicited for 60 days after publication. No comments were received. The factual situation and the analysis of alternatives which were set forth in the document of December 23, 1982, still provide a basis for the amendment.

It should be noted that a companion document published in this issue of the **Federal Register** deletes the port of Brownsville, Texas, as a port of entry for pet birds.

Executive Order 12291

This interim rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that no more than approximately 45 pet birds will be imported annually through this port of entry. Since these are pet birds and not commercial birds, it does not appear that this action will have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Exotic Newcastle Disease, Imports, Mexico, Pet birds, Poultry and poultry products, Quarantine, Transportation.

Accordingly, it has been determined that the interim rule should remain effective as published in the **Federal Register** on December 23, 1982.

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 17th day of October 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83–28863 Filed 10–21–83; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 23797; Amdt. No. 1253]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure

VOL 48 ISS 206 OCT 24 1983 UMI

identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By Amending Part 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

** * * Effective November 24, 1983*

Willimantic, CT—Windham, VOR–A, Amdt.5
Bunnell, FL—Flagler County, VOR/DME–A, Amdt. 1
Jacksonville, FL—Craig Muni, VOR Rwy 13, Orig.
Jacksonville, FL—Craig Muni, VOR Rwy 31, Orig.
Waycross, GA—Waycross-Ware County, VOR–A,Amdt. 6
Springfield, IL—Capital, VOR Rwy 22, Amdt. 18
Peru, IN—Peru Muni, VOR Rwy 36, Amdt. 3
Spencer, IA—Spencer Muni, VOR Rwy 12, Amdt. 6
Spencer, IA—Spencer Muni, VOR Rwy 30, Amdt. 6
Aurora, MO—Aurora Memorial Muni, VOR/DME–A, Orig.
Huntsville, TX—Huntsville Muni, VOR/DME–A, Amdt. 4
Moab, UT—Canyonlands Field, VOR–A Amdt. 7
Moab, UT—Canyonlands Field, VOR/DME Rwy 33, Amdt. 2
Laramie, WY—General Brees Field, VOR Rwy 12, Amdt. 3
Laramie, WY—General Brees Field, VOR/DME Rwy 30, Amdt. 4
Rawlins, WY—Rawlins Muni, VOR Rwy 22, Orig.
Rawlins, WY—Rawlins Muni, VOR/DME Rwy 22, Amdt. 1, Cancelled

** * * Effective October 27, 1983*

Astoria, OR—Port of Astoria, VOR Rwy 8, Amdt. 10

** * * Effective September 22, 1983*

Douglas Bisbee, AZ—Bisbee Douglas Intl, VOR/DME Rwy 17, Amdt. 3

2. By amending Part 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

** * * Effective November 24, 1983*

Jacksonville, FL—Jacksonville Intl, LOC Rwy 25, Amdt. 4
Jacksonville, FL—Jacksonville Intl, LOC BC Rwy 31, Amdt. 4
Waycross, GA—Waycross-Ware County, LOC Rwy 18, Amdt. 2

** * * Effective October 27, 1983*

Concord, NH—Concord Muni, LOC Rwy 35, Amdt. 2, Cancelled

3. By amending Part 97.27 NDB and NDB/DME SIAPs identified as follows:

** * * Effective November 24, 1983*

Daytona Beach, FL—Daytona Beach Regional, NDB Rwy 6L, Amdt. 20
Gainesville, FL—Gainesville Regional, NDB Rwy 28, Amdt. 8
Jacksonville, FL—Jacksonville Intl, NDB Rwy 7, Amdt. 7
Sanford, FL—Sanford, NDB Rwy 9, Amdt. 11
Atlanta, GA—Fulton County Airport-Brown Fld, NDB Rwy 8R, Amdt. 1
Brunswick, GA—Glynco Jetport, NDB Rwy 7, Amdt. 6.
Reidsville, GA—Reidsville, NDB Rwy 11, Amdt. 4
Waycross, GA—Waycross-Ware County, NDB Rwy 18, Amdt. 3
Springfield, IL—Capital, NDB Rwy 4, Amdt. 16
Cresco, IA—Ellen Church Field, NDB Rwy 33, Orig.
Iowa City, IA—Iowa City Muni, NDB Rwy 6, Orig.
Iowa City, IA—Iowa City Muni, NDB Rwy 30, Orig.
Spencer, IA—Spencer Muni, NDB Rwy 30, Amdt. 6
Obyan, Saipan Is., Mariana Is.,—Saipan Intl, NDB Rwy 7, Amdt. 2
Obyan, Saipan Is., Mariana Is.,—Saipan Intl, NDB/DME Rwy 7, Orig.
Obyan, Saipan Is., Mariana Is.,—Saipan Intl, NDB/DME Rwy 25, Orig.
Raymond, MS—John Bell Williams, NDB Rwy 12, Orig.
Charleston, SC—Charleston Executive, NDB Rwy 9, Amdt. 4
Caddo Mills, TX—Caddo Mills Muni, NDB Rwy 35L, Orig.
Huntsville, TX—Huntsville Muni, NDB Rwy 18, Amdt. 2

** * * Effective October 27, 1983*

Concord, NH—Concord Muni, NDB Rwy 35, Amdt. 3

4. By amending Part 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

** * * Effective November 24, 1983*

Daytona Beach, FL—Daytona Beach Regional, ILS Rwy 6L, Amdt. 24
Gainesville, FL—Gainesville Regional, ILS Rwy 28, Amdt. 10
Jacksonville, FL—Jacksonville Intl, ILS Rwy 7, Amdt. 8
Jacksonville, FL—Jacksonville Intl, ILS Rwy 13, Amdt. 3
Pensacola, FL—Pensacola Regional, ILS Rwy 16, Amdt. 11
Atlanta, GA—Fulton County Airport—Brown Fld, ILS Rwy 8R, Amdt. 12
Brunswick, GA—Glynco Jetport, ILS Rwy 7, Amdt. 4
Springfield, IL—Capital, ILS Rwy 4, Amdt. 22
Springfield, IL—Capital, ILS Rwy 22, Amdt. 3
Obyan, Saipan Is., Mariana Is.,—Saipan Intl, ILS/DME Rwy 7, Amdt. 1
Columbia, SC—Columbia Metropolitan, ILS Rwy 29, Amdt. 3
Nashville, TN—Nashville Metropolitan, ILS Rwy 20R, Amdt. 3

** * * Effective October 27, 1983*

Concord, NH—Concord Muni, ILS Rwy 35, Orig.
Astoria, OR—Port of Astoria, ILS Rwy 26, Amdt. 1
Houston, TX—William P. Hobby, ILS Rwy 13R, Amdt. 7

5. By amending Part 97.31 RADAR SIAPs identified as follows:

** * * Effective November 24, 1983*

Bunnell, FL—Flagler County, RADAR–1, Amdt. 2
Daytona Beach, FL—Daytona Beach Regional, RADAR–1, Amdt. 4
Fernandina Beach, FL—Fernandina Beach Muni, RADAR–1, Amdt. 1
Jacksonville, FL—Craig Muni, RADAR–1, Amdt. 3
Jacksonville, FL—Jacksonville Intl, RADAR–1 Amdt. 5
Savannah, GA—Savannah Muni, RADAR–1, Amdt. 5
Springfield, IL—Capital, RADAR–1, Amdt. 5

6. By amending Part 97.33 RNAV SIAPs identified as follows:

** * * Effective November 24, 1983*

Brunswick, GA—Glynco Jetport, RNAV Rwy 7, Amdt. 2
Brunswick, GA—Glynco Jetport, RNAV Rwy 25, Amdt. 2
Waycross, GA—Waycross-Ware County, RNAV Rwy 18, Amdt. 2
Valparaiso, IN—Porter County Muni, RNAV Rwy 9, Amdt. 1
Charleston, SC—Charleston Executive, RNAV Rwy 9, Amdt. 2
Moab, UT—Canyonlands Field, RNAV Rwy 15, Orig., Cancelled

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on October 14, 1983.

Kenneth S. Hunt,

Director of Flight Operations.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

[FR Doc. 83–28082 Filed 10–21–83; 8:45 am]
BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Rule Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is adopting final regulations to govern the submission of contract market rules pursuant to section 5a(12) of the Commodity Exchange Act ("Act"). These regulations modify interim procedures currently in effect and further implement the rule review procedures mandated by the Futures Trading Act of 1982. Specifically, the Commission is revising its regulations to define "terms and conditions" and thereby specify which rules of a contract market must be submitted to the Commission for its approval. Through this definition, the Commission also is expanding in a limited manner the number and types of rules which will be exempt from the prior approval requirement of section 5a(12) of the Act. Additionally, in order to further expedite the process of reviewing rules for approval, the Commission is adopting a regulation which delegates to certain staff the authority to approve certain types of rules that relate to terms and conditions. The Commission is also adopting special procedures to govern the review of changes in the composition of certain stock index contracts. Finally, the Commission is adopting certain conforming amendments so that its regulations will better correspond to the language of section 5a(12) as amended and is clarifying the nature of the information which must be provided by contract markets when submitting proposed rules for Commission review under section 5a(12).

EFFECTIVE DATE: November 23, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Associate Director, or Karen Matteson, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

Prior to the enactment of the Futures Trading Act of 1982 ("1982 amendments"),[1] section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) specified that each contract market had to submit to the Commission for its approval all bylaws, rules, regulations, or resolutions, made or issued by the contract market, its governing board or any of its committees, if those rules related to "terms and conditions" or if they related to "other trading requirements" (other than the setting of actual levels of futures margin). Thus, Commission regulation 1.41, which implemented the rule review and approval processes specified in section 5a(12), then provided that only those "rules" of a contract market [2] which related to terms and conditions or to other trading requirements were "reviewable rules" subject to the prior approval requirements of section 5a(12) and § 1.41(b). Of these "reviewable rules," § 141(c) defined a further subgroup of rules which were deemed to be "operational or administrative in nature" (*e.g.*, contract market rules governing such matters as membership fees and hours of trading) and were allowed to go into effect ten days after their submission to the Commission unless the Commission notified the contract market within that ten-day period that the rule in question appeared to necessitate Commission review. 17 CFR 1.41(c), (d) (1982).[3]

The 1982 amendments significantly modified the contract market rule review procedures under section 5a(12) of the Act.[4] Specifically, the 1982 amendments revised section 5a(12) to provide that only those rules which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of a contract market must be submitted to the Commission for its prior approval. While *all* other rules of a contract market (other than those relating to the setting of levels of futures margin and those specifically exempted by Commission regulation 1.41(d)) must also be submitted to the Commission,[5] these latter rules may be made effective ten days after their receipt by the Commission unless the contract market requests Commission review or, within the ten-day period, the Commission notifies the contract market that it intends to review those rules for approval.

The Commission therefore adopted interim rules to govern the submission of contract market rules immediately following the enactment of amendments to section 5a(12) of the Act.[6] Those rules were adopted on an emergency basis in order to assure that the Commission's rule review procedures immediately would be consistent with both the public interest and the revisions to section 5a(12), and to assure that there would be no confusion, prior to the adoption of the final rules, which could delay the processing of proposed contract market

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[1] Pub. L. No. 97–444, 96 Stat. 2294 (January 11, 1983).

[2] Commission regulation 1.41(a)(1) defines the term "rule" of a contract market to mean: any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof.

[3] Rules which did not constitute either "terms and conditions" or "other trading requirements"—and thus, were not "reviewable rules"—nonetheless remained subject to the requirements of section 5a(1) of the Act (7 U.S.C. 7a(1)).

[4] Pub. L. No. 97–444, § 216(2), 96 Stat. 2306–07 (codified at 7 U.S.C. 7a(12) (1982)).

[5] This includes those rules which previously were reviewable under section 5a(12) as trading requirements as well as those rules which previously were *not* reviewable, but subject only to section 5a(1) notice requirements.

[6] 48 FR 4256 (January 28, 1983).

VOL
48
ISS
2
0
6
OC
24
1983
UMI

rule changes. Inasmuch as the interim rules were intended to be superseded by final regulations, the Commission requested public comment in order to assist it in developing appropriate rule review procedures. Four contract markets submitted comments in response to that request. The rules and rule amendments which the Commission is now adopting (and, in appropriate cases, readopting) reflect the Commission's careful consideration of those comments as well as its experience in the administration of the interim rule review procedures and the amended requirements of section 5a(12) of the Act.

II. Final Amendments

A. Definition of "terms and conditions"—§ 1.41(a)(2)

As noted above, the 1982 amendments to section 5a(12) specify that only those rules which relate to "terms and conditions" in contracts of sale must be submitted to the Commission for its prior approval. Since this phrase had not previously been defined, the Commission adopted an interim definition which it believed was not only reasonably descriptive of that phrase and implemented the legislative intent of the 1982 amendments, but also ensured that the Commission would be able effectively to carry out its oversight role in the area of contract market rule review.[7] The commenters, however, criticized that definition as being overly broad and suggested that many of the items contained in the Commission's interim rule (§1.41(a)(2) (i)–(viii)) could be deleted. In essence, the commenters asserted that the Commission's definition of "terms and conditions" included matters which could more accurately be characterized as "trading requirements," which do not necessarily require the Commission's prior approval, and were more properly subject to the more limited requirements of § 1.41(c); that the phrase "terms of trade" in § 1.41(a)(2) was unclear; and that the inclusion of exchange rules relating to the "payment or collection of commodity option premiums or margins" was inconsistent with the exclusion for rules relating to the setting of levels of margins contained in section 5a(12) of the Act.

The Commission has considered each of these comments, but continues to believe that the definition in §1.41(a)(2) reflects criteria which are reasonably descriptive of "terms and conditions" as that term is used in the Act. At the same time, the Commission believes that this definition effectively implements the legislative intent of the 1982 Act by reducing both the number and types of rules which will require prior Commission approval.[8] Contrary to the suggestion made by the commenters, rules that prior to the 1982 amendments would have been characterized as "trading requirements" (and thus, would have required the Commission's approval prior to their implementation) have not been classified by the Commission as "terms and conditions." In fact, the preponderance of these section 5a(12) submissions are now deemed by the Act to be "other rules" subject to the more limited ten-day review period under § 1.41(c), thereby eliminating one of the principal sources of delay that was formerly inherent in the rule approval process.

Nevertheless, the Commission believes that the appropriate scope of the definition of "terms and conditions" is not restricted to the items expressly included by the exchanges in their particular contracts when those contracts are first submitted to the Commission. Rather, the Commission believes that it must exercise its authority to define "terms and conditions" by the use of criteria which will allow the Commission to exercise its statutory responsibilities. The position advanced by the commenters, however, would essentially limit the prior approval provisions of section 5a(12) and § 1.41(b) to those matters which were expressly subsumed within an exchange's initial submission and would exclude subsequent rule changes, no matter how closely related to the initial terms and conditions of a contract. "Terms and conditions" includes, however, any matters which relate to the contract and which could have been considered as part of the initial designation. The Commission is, therefore, retaining the definition of "terms and conditions" currently set forth in §1.41(a)(2) with two exceptions. This determination reflects the Commission's conclusion that each of the matters enumerated in § 1.41(a)(2) are of such importance to the integrity of designated contracts traded on the contract markets and the protection of market participants that they will require review and approval prior to their implementation. The Commission agrees, however, with those commenters who suggested that the phrase "terms of trade" contained in §1.41(a)(2) may not delineate with sufficient clarity the matters the Commission would expect to review and approve under section 5a(12) and § 1.41(b); that phrase has therefore been deleted from the final rule. In addition, the Commission has clarified the scope of §1.41(a)(2)(ii) by explicitly including trading months, hours and the listing of contracts, rather than trading months "and other requirements relating to" the listing of contracts.

Finally, the Commission notes that it is retaining the phrase "payment or collection of commodity option premiums or margins" within the definition of "terms and conditions." As the Commission has previously had occasion to explain, section 5a(12) of the Act restricts only the Commission's authority to review and approve contract market rules relating to the setting of levels of margin for *futures* transactions,[9] while section 4c(c) of the Act (7 U.S.C. 6c(c)) grants the Commission plenary authority to review rules relating to the payment or collection of commodity option premiums or margins.[10] Thus, the Commission intends to continue to review rules which relate to such matters as the bases on which original margin for option grantors will be determined or the times within which margin payments must be made.

B. Delegation of Authority To Approve Certain Contract Market Rules—§ 1.41b

As previously noted, the Commission believes that § 1.41(a)(2) fairly defines the types of contract market rules that should be affirmatively reviewed for approval by the Commission during designation proceedings and thereafter. Nevertheless, that definition also unavoidably results in the inclusion of two classes of rules within the affirmative rule approval procedure of section 5a(12) of the Act and § 1.41(b) which do not relate to the integrity of the marketplace or require economic analysis:

(1) Non-material amendments to rules that relate to terms and conditions ("non-material amendments")—*i.e.*, rules that do not materially change the quantity, quality, or locational criteria previously approved by the Commission during designation proceedings (*e.g.*, minor changes in the deadline for Exchanges to notify buyers that sellers intend to deliver); and

(2) Routine material amendments to rules that relate to "terms and conditions" where such amendments are required or can be anticipated under the specific terms of a rule previously approved by the Commission ("anticipated, routine material amendments") such as the specification of delivery grades, growths or differentials, or the routine listing of trading months or the modification of trading hours.

These rules, by their nature, tend to be straightforward and are unlikely to raise significant legal or policy issues. The Commission therefore does not believe that the above-referenced classes of rules necessitate an inflexible adhesion to the procedures currently established for the affirmative rule review process. The Commission is, accordingly, modifying its regulations to facilitate implementation of these types of rules by the contract markets. Specifically, the Commission is delegating to the Directors of the Divisions of Trading and Markets and Economics and Education, to be exercised by either Director (or their designees), with the concurrence of the General Counsel, the authority to affirmatively approve certain non-material or anticipated, routine material amendments to "terms and conditions."

The Commission believes this approach is preferable to an approach which would limit the definition of "terms and conditions" since it preserves a consistent definition of that term while nonetheless facilitating the timely implementation of those contract market rules which would not significantly modify a contract's terms and conditions. Moreover, this approach permits the Commission's implementing rule to be drafted in general terms which can be further refined with experience and avoids the need to draft a specific, exclusive list of contract market rules which could qualify for this expedited treatment.[11]

C. Submission of Rules Requiring Prior Commission Approval (§ 1.41(b)) and All Other Rules Not Exempt From Review (§ 1.41(c))

All proposed contract market rules which relate to terms and conditions, as defined in regulation 1.41(a)(2), must be submitted for prior Commission approval pursuant to Commission regulation 1.41(b). In addition, a contract market may request Commission approval of other rules, which do not relate to terms and conditions, by submitting them pursuant to Commission regulation 1.41(b). All other rules which are not exempt from review under Commission regulations 1.41 (d) or (f) (exempt rules and temporary emergency rules, respectively) must be submitted pursuant to Commission regulation 1.41(c).

1. Form and Content Requirements

Regulations 1.41 (b) and (c) currently set forth certain requirements relating to the form and content of submissions made under section 5a(12) of the Act. For the reasons set forth below, the Commission has harmonized the procedures applicable to these two types of rule submissions and furthermore, has amended certain portions of the regulation in order to clarify what information must be submitted under the Commission's revised rule review procedures.

One commenter objected to retention of the requirement in § 1.41(b)(3) that each rule submission explain how the proposed rule "furthers the purposes of the Act." Specifically, this commenter asserted that the Commission's rule imposed a standard which is more stringent than that established by section 5a(12) of the Act, which states that the Commission shall approve rules of a contract market if those rules are not in violation of the Act or Commission regulations. Similarly, this commenter objected to the requirement that the contract market provide "any other information which may be beneficial to the Commission in analyzing the proposed rule" on the grounds that the Commission's staff, pursuant to its delegated authority under regulation 1.41a, could remit any submission which failed to provide the necessary information.

The Commission has carefully considered this comment in light of its experience with the section 5a(12) rule review process and its need to obtain information from the contract markets which will allow the Commission to review and approve—and where appropriate, disapprove—the contract markets' submissions as expeditiously as possible. The Commission has, therefore, modified § 1.41(b) to provide that a submission made by a contract market must explain the operation, purpose, and effect of the proposed rule. In each such submission, the contract market must, *as applicable*, describe the anticipated benefits (or potential anticompetitive effects) to market participants and others, how the rule fits into the contract market's scheme of self-regulation, and provide information which demonstrates that the rule is not inconsistent with the policies and purposes of the Act as well as any other information which may assist the Commission in its analysis of the proposed rule. The Commission wishes to emphasize that the contract markets are not required—nor are they expected—to provide rote recitations of each of the factors identified in the rule. Rather, the Commission expects that the contract markets will exercise their judgment as to which of those matters require some further explanation at the time of the rule submission. Of course, in those cases where the exchange submission does not sufficiently describe the proposed rule, the Commission (or its staff, acting pursuant to delegated authority) may remit the rule to the contract market and request a fuller explanation.

Interim regulation 1.41(c) required that the contract markets state the purpose of their proposed rules and describe any action taken or anticipated to be taken as a result of or pursuant to any such proposed rule. Two commenters objected that these requirements were too onerous and that the Commission was inappropriately establishing form and content requirements for the submission of "operational and administrative rules."[12] The Commission disagrees. Rules which are required to be submitted pursuant to regulation 1.41(c) include not only those rules of a contract market which are "operational and administrative" in nature, but all rules which are not "terms and conditions" of contracts (other than exempt or emergency rules). These "other" rules are, in many cases, of major importance to the contract market's scheme of self-regulation, the protection of customers and other market participants, and the delineation of members' rights and obligations. Indeed, disciplinary rules, trading requirements, and arbitration rules may all properly be submitted pursuant to § 1.41(c)

By specifying that a § 1.41(c) rule submission must explain the purpose of

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[7] *Id.* at 4257

[8] *See* S. Rep. No. 97-384, 97th Cong., 2d Sess. 31 (1982).

[9] 47 FR 58996, 57003 (December 22, 1982).

[10] *Id.*

[11] An exclusive list of non-material revisions to rules would be difficult to construct and would be likely to include only those rules which have been previously reviewed by the Commission's staff. Such a list might require frequent revision in that it would not include certain types of rule changes that should be granted expedited review but which could not have been anticipated by the Commission at this time.

[12] Prior to amendment of section 5a(12) by the Futures Trading Act of 1982, section 5a(12) required submission by contract markets of all rules which relate to terms and conditions in contracts of sale * * * or relate to other trading requirements except those relating to the setting of levels of margin * * * The Commission may adopt a regulation exempting certain types of contract market operational and administrative rules from the requirement that they be submitted to the Commission for its approval.

Former regulation 1.41(c) enumerated the types of reviewable rules which the Commission considered "operational and administrative." New section 5a(12), however, distinguishes between rules which relate to terms and conditions and all other rules rather than distinguishing between rules relating to terms and conditions or other trading requirements and operational and administrative rules.

VOL 48 ISS 206 OCT 24 1983 UMI

the rule and include other relevant information, the Commission hopes to ensure that its staff will be able to determine as expeditiously as possible whether it is necessary to recommend Commission review of the rule and to avoid taking review merely because of a lack of an adequate understanding of the proposed rule.[13] Indeed, without this information, the Commission has already found it necessary to review rules which might otherwise not have required review. Absent an explanation of their purpose, rules which otherwise could have become effective within ten days have been, and would otherwise continue to be, delayed pending analysis or receipt of explanatory material in response to the Commission's staff's questions. Moreover, the Commission notes that the form and content requirements now being adopted do not require elaborate explanation of minor rule amendments submitted under either rule 1.41 (b) or (c).[14]

One commenter objected to the requirement that rules submitted under interim regulation 1.41(c) which are subsequently determined by the Commission to require its approval must then be resubmitted in accordance with the form and content requirements of § 1.41(b). The Commission has determined to delete this provision from the final rule. Indeed, because § 1.41(c) submissions will now conform to the form and content requirements already established under § 1.41(b), contract markets will not have to resubmit rules which the Commission has determined to review pursuant to § 1.41(b). This change should save time and expense for both the contract markets and the Commission and reduce any unnecessary duplication of effort.

2. Delegation of Certain Rule Review Functions to the Director of the Division of Trading and Markets—§ 1.41a

Commission rule 1.41a currently provides for the delegation to the Director of the Division of Trading and Markets and to other authorized employees of the Commission of certain administrative functions related to the rule review process. That regulation is now being amended to provide that the Director of the Division of Economics and Education, as well as the Director of the Division of Trading and Markets, is authorized to exercise the administrative functions set forth in that regulation.

The Commission is making several other minor amendments to § 1.41a. Specifically, former § 1.41a (a) and (b), which permit the remittal of a rule submission to a contract market for failure to comply with the form and content requirements of § 1.41 (b) or (c), have been consolidated into one provision (§ 1.41a(a)(1)) because the form and content requirements for submissions made pursuant to § 1.41 (b) and (c) are now identical. Although some commenters suggested that remittal of submissions for failure to conform to the form and content requirements set forth in § 1.41(b) could result in unwarranted delay, other commenters noted that such remittals are entirely appropriate. The Commission continues to believe that the delegation of authority in § 1.41a(a)(1) is essential and further notes that the staff has exercised considerable restraint in exercising its authority under this provision. Rule submissions are only remitted pursuant to the delegation in circumstances where an exchange's submission is clearly deficient.

Interim rule 1.41a(c) authorized the Commission's staff to remit a rule submitted under § 1.41(c) for resubmission under § 1.41(b) if the staff determined that the rule submission in fact related to "terms and conditions" as defined in § 1.41(a)(2). Some of the commenters suggested that this delegation was inconsistent with the provisions of amended section 5a(12) of the Act which specify that the Commission may not delegate to its staff the authority to decide whether to review those rules—other than terms and conditions—which are submitted under the ten-day review provisions of section 5a(12) and § 1.41(c). The Commission believes, however, that this limited exercise of delegated authority not only does not violate, but is completely consistent with, that statutory limitation insofar as the exercise of such authority merely constitutes a determination of the proper characterization of a rule by reference to the definite of "terms and conditions" contained in § 1.41(a)(2). While such a determination will result in the Commission's review of a rule, the rule in question will be one which relates to "terms and conditions" and not to other matters for which the decision to undertake review is committed to the Commission alone. The Commission recognizes, however, that any potential ambiguity in the Commission's definition of "terms and conditions" would make more difficult the objective exercise of delegated authority. Although the Commission is readopting that rule in modified form as § 1.41a(a)(2), it is, as discussed earlier, also amending the definition of "terms and conditions" to eliminate certain potentially ambiguous terms that might not provide the objective criteria necessary to properly characterize certain rule submissions.

Because the form and content requirements for submissions made pursuant to §§ 1.41(b) and 1.41(c) have now been made identical, rules improperly submitted under § 1.41(c) will no longer need to be remitted to the exchange for resubmission pursuant to § 1.41(b). Thus, while the Commission's staff will continue to have delegated authority under § 1.41a(a)(2) to determine that a rule submitted under § 1.41(c) in fact relates to terms and conditions, the staff will now be able to simply notify the exchange of this determination and will not have to remit the submission. This procedure should allow more expeditious approval of rules submitted erroneously under § 1.41(c) than the Commission's former procedure.

The Commission also is readopting § 1.41a(a)(3) (interim rule 1.41a(d)), which authorizes the staff to determine that rules submitted under § 1.41(c) do not require prior Commission approval under section 5a(12) and § 1.41(b) and that such rules may therefore become effective prior to the expiration of the ten-day period following their receipt by the Commission. This provision has been used frequently by the Commission's staff since its adoption to expedite implementation by the exchanges of routine rule changes. None of the commenters objected to the retention of this provision, while one commenter expressly agreed with the Commission that this rule is consistent with the Congressional intention to streamline the rule review process.

D. Exempt Rules—§ 1.41(d)

The Commission is amending § 1.41(d) to expand the types of contract market rules that will be exempt from required submission under section 5a(12) of the Act. All of the commenters favored such an expansion. Three of the commenters further suggested that the Commission incorporate all of the items that were formerly enumerated in the operational and administrative exemption, formerly contained in section 5a(12)[15] and § 1.41(c).[16]

These comments, however, misconceive the intended scope of the § 1.41(d) exemption. Congress did not intend that the exemption provided in amended section 5a(12) of the Act would now merely incorporate the prior "operational and administrative" exemption. On the contrary, Congress expected that most rules which previously would have been classified as "operational and administrative" would be covered by the ten-day review period of amended section 5a(12).[17]

The Commission further notes that the exemption provided in current section 5a(12) of the Act, as amended, is different in its operation and effect than the previous "operational and administrative" exemption. Although the "operational and administrative" exemption authorized the Commission to exempt certain rules from the requirement that they be submitted to the Commission for its *approval*, it did not eliminate the requirement that such rules be submitted to the Commission for *review* (and the possibility of subsequent approval or disapproval) under section 5a(12) of the Act. In contrast, section 5a(12) of the Act currently authorizes the Commission to exempt certain rules from *submission* under that section. In this regard, Congress intended that the only rules for which such an exemption would be provided, if at all, would be rules purely of a housekeeping nature that have no economic or market significance and do not affect the public at large.[18] Finally, the Commission emphasizes that notwithstanding the provisions of amended §1.41(d), all contract market rules remain subject to the informational filing requirements of section 5a(1) of the Act.

E. Stock Index Futures—§ 1.41(h)

The Commission has recognized that certain contract market rule proposals relating to the composition or valuation of stock indices underlying futures contracts (and options on such futures) may appropriately merit treatment which is different from that which is normally afforded contract market rule changes. In particular, the Commission has previously determined that proposed contact market rules which modify the composition, computation, or method of stock selection of the stock index underlying a futures or option contract may be approved upon receipt by the Commission of notice of those changes. 46 FR 12518 (March 25, 1963). Notwithstanding this general approach, the Commission delegated to its staff the authority to determine whether any particular change proposed by a contract market appeared to require review by the Commission. *See* former Commission regulation 1.41b.

These procedures have now been further refined in order to provide both the Commission and the contract markets with substantially greater flexibility in the implementation of these rules changes which, with only the possibility of infrequent exceptions, the Commission anticipates will not require review. In particular, the Commission recognizes that its existing rule may result in unnecessary uncertainty concerning the status of even the most routine changes in the composition of a stock index.[19] The Commission has therefore revised those procedures to specify that modifications of the composition, computation, or method of stock selection of a stock index contract will be deemed to be approved by the Commission, at the time each such change is made, if that modification is consistent with a definition containing standards for substituting stocks which do not modify the character or disrupt the trading of the underlying index approved by the Commission at the time the contract is designated.[20]

New regulation 1.41(h) will continue to require that the contract markets provide notice of these changes to the Commission in a timely manner. However, unlike the existing procedure where such changes are deemed approved immediately following receipt, these rule changes will be deemed to be approved at the time they are made. The Commission will, within ten days, notify the exchange making the submission if it appears that the change is not consistent with the definition of the underlying index which has previously been approved by the Commission. Where, however, such a change would alter significantly the fundamental character of the underlying index, the contract market would be required to submit the proposed change in accordance with the procedures otherwise established by § 1.41(b) for the review and approval of terms and conditions. Furthermore, where a particular index is not compiled by a third party for commercial purposes other than for use as the basis of a futures (or option) contract or if that third party does not exercise its decision-making authority with respect to the composition or valuation of the index independent of the exchange trading futures on the index, Commission review of all changes in the index is warranted and the provisions of this rule would not, therefore, be applicable. The exchange will be required in such a case to obtain the Commission's approval of each change in its index before the change is implemented (as would be required in the absence of these special procedures for stock index contracts) or alternatively, to obtain the Commission's advance approval of individual potential substitute stocks.[21] The definition provided by a contract market which is applying for designation to trade a stock index futures contract must, therefore, be as detailed and comprehensive as possible and establish clear standards for subsequent changes in the composition or calculation of the index. The Commission is, however, requesting comment as to whether, and under what circumstances, indices which are compiled by an exchange should receive treatment similar to that accorded to indices which are compiled by third parties.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in adopting rules, consider their impact on small businesses. Analysis of the final rule amendments to §§ 1.41, 1.41a, and 1.41b is not required, however, since the Commission has previously determined that contract markets are not "small entities" for

[13] If the Commission lacks adequate information on which to base a decision to permit a rule to go into effect without prior approval, its only alternative if it is thus uncertain as to whether the rule may violate the Act or the Commission's regulations is to take review until any such uncertainties can be resolved.

[14] The Commission further notes that some contract markets have submitted minor rule changes which do not relate to terms and conditions under § 1.41(b) rather than under § 1.41(c). Unless a contract market desires Commission approval of such minor amendments, it may submit them pursuant to § 1.41(c) if it wants to ensure that they may be implemented as soon as possible. The Commission believes that the contract markets' unnecessary submission of such rule amendments pursuant to § 1.41(b) significantly undermines any arguments they may have made that the form and content requirements of § 1.41(c) are too onerous

[15] 7 U.S.C. 7a(12) (1976 & Supp. V 1981).

[16] 17 CFR 1.41(c)((1982).

[17] S. Rep. No. 97-384, 97th Cong., 2d Sess. 31 (1982).

[18] H.R. Rep. No. 97-565 (Part 1), 97th Cong., 2d Sess. 91-92 (1982).

[19] Changes in the composition or valuation of a stock index can result from such matters as the merger, bankruptcy, or delisting of any of the stocks which comprise the index.

[20] In those instances where a stock index contract is already designated, the Commission's staff will request that each exchange submit such a definitional rule for the Commission's approval by December 31, 1983. Pending approval of the exchange's rule, the Commission will deem each change to the index to be approved upon receipt unless either the Director of the Division of Trading and Markets or the Director of the Division of Economics and Education notifies the contract market that the change appears to require further review by the Commission under section 5a(12) of the Act.

[21] *See, e.g.*, Chicago Board of Trade ("CBT") regulation XX36.01 and the memorandum from the Division of Economics and Education to the Commission regarding designation of the CBT as a contract market in Industry Composite Portfolio futures, dated June 29, 1983 at 13-14 and 19-20, concerning the stock substitution procedures adopted in that rule.

VOL
48
ISS
2
0
6
OC
24
1983
UMI

purposes of the RFA.[22] Accordingly, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Acting Chairman, on behalf of the Commission, certifies that these rules will not have a significant economic impact on a substantial number of small entities.[23]

B. Paperwork Reduction Act

Commission regulations 1.41 and 1.41a have previously been issued control numbers, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) The amendments to those rules being adopted herein effect no substantive or material modification in the existing paperwork requirements established by those rules. Commission regulation 1.41b establishes no new paperwork requirements. The Office of Management and Budget has been so notified and a copy of this Federal Register notice has been provided to that agency.

List of Subjects in 17 CFR Part 1

Commodity exchanges, Contract market rules, Rule review procedures, Delegated authority, Brokers, Commodity brokers, Consumer protection.

To the extent that the regulations previously adopted by the Commission on an interim basis are not herein amended, the Commission is now readopting those regulations (48 FR 4256, 4259–60 (January 28, 1983)) without change. In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 5a and 8a thereof, 7 U.S.C. 7a and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations by revising §§ 1.41, 1.41a, and 1.41b as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.41 is amended by revising the section heading and paragraphs (a)(2), (b), (c), and (d) and by adding paragraph (h) to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

(a) * * *

(2) The words "terms and conditions" mean any definition of the trading unit or the specific commodity underlying a contract for the future delivery of a commodity or commodity option contract, specification of settlement or delivery standards and procedures, and establishment of buyers' and sellers' rights and obligations under the contract. Terms and conditions shall be deemed to include provisions relating to the following:

(i) Quality or quantity standards for a commodity and any applicable exemptions or discounts;

(ii) Trading hours, trading months and the listing of contracts;

(iii) Minimum and maximum price limits and the establishment of settlement prices;

(iv) Position limits and position reporting requirements;

(v) Delivery points and locational price differentials;

(vi) Delivery standards and procedures, including alternatives to delivery and applicable penalties or sanctions for failure to perform;

(vii) Settlement of the contract; and

(viii) Payment or collection of commodity option premiums or margins.

* * * * *

(b) *Submission of rules for prior Commission approval.* Except as provided herein and in paragraph (f) of this section, all proposed contract market rules that relate to terms and conditions and any other rules that the Commission has determined pursuant to paragraph (c) of this section require prior approval must, and any other rule may, be submitted to the Commission for approval pursuant to section 5a(12) of the Act prior to their proposed effective dates. Three copies of each such rule shall be furnished to the Commission at its Washington, D.C. headquarters, and one copy shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. Each such submission shall, in the following order:

(1) Label the submission as being submitted pursuant to Commission regulation 1.41(b);

(2) Set forth the text of the proposed rule (in the case of any change in, addition to, or deletion from any current rule of the contract market, the current rule shall be fully set forth, with brackets used to indicate words to be deleted and underscoring used to indicate words to be added);

(3) Describe the proposed effective date of the proposed rule and any action taken or anticipated to be taken to adopt the proposed rule by the contract market, or by the governing board thereof or any committee thereof, and cite the rules of the contract market which authorize the adoption of the proposed rule;

(4) Explain the operation, purpose, and the effect of the proposed rule, including, as applicable, a description of the anticipated benefits to market participants or others, any potential anticompetitive effects on market participants or others, how the rule fits into the contract market's scheme of self-regulation, information which demonstrates that the proposed rule is not inconsistent with the policies and purposes of the Act, and any other information which may be beneficial to the Commission in analyzing the proposed rule. If a proposed rule affects, directly or indirectly, the application of any other rule of the contract market, set forth the pertinent text of any such rule and describe the anticipated effect; and

(5) Note and briefly describe any substantive opposing views expressed by the members of the contract market or others with respect to the proposed rule which were not incorporated into the proposed rule prior to its submission to the Commission.

The Commission may remit to the contract market, with an appropriate explanation where practicable, and not accept for review any rule submission that does not comply with the form and content requirements of paragraphs (b)(1)–(5) of this paragraph.

(c) *Rules that do not relate to terms and conditions.* (1) Except as provided in paragraphs (d) and (f) of this section (exempt or temporary emergency rules), three copies of any rule which does not relate to terms and conditions or which a contract market proposes to place into effect without submission to the Commission for approval under section 5a(12) of the Act and paragraph (b) of this section shall be furnished to the Commission at its Washington, D.C. headquarters at least ten days prior to its proposed effective date. One copy shall also be transmitted by the contract market to the regional office of the Commission having local jurisdiction over the contract market. Each such submission shall be labeled as being submitted pursuant to Commission regulation 1.41(c) and include the information required by paragraphs (b)(2)–(b)(5) of this section.

(2) The Commission may remit to the contract market, with an appropriate explanation where practicable, and not accept pursuant to this paragraph (c) any submission that does not comply with the form and content requirements of this paragraph. Rules submitted pursuant to this paragraph (c) otherwise may become effective ten days after receipt (or at such earlier time as may be determined by the Commission) unless the Commission notifies the contract market in writing of its determination to review such rules for prior approval under section 5a(12) of the Act and paragraph (b) of this section.

(d) *Rules that are exempt from the requirements of section 5a(12) of the Act.* (1) Except as otherwise provided in this paragrph (d), contract market rules that do not relate to terms and conditions are exempt from the requirements of section 5a(12) of the Act and this section where such rules address:

(i) Standards of decorum or attire or similar provisions relating to admission to the floor, badges, visitors, but not the establishment of penalties for violations of such rules;

(ii) Requirements relating to gratuity and similar funds, but not guaranty, reserves, or similar funds;

(iii) Correction of typographical errors, renumbering, or other such non-substantive revisions of rules;

(iv) Procedures and forms for the purchase, sale or transfer of membership, but not including qualifications for membership, any right or obligation of membership, or dues or assessments;

(v) The organization and administrative procedures of a contract market's governing bodies such as a Board of Directors, Officers and Committees, but not voting requirements and procedures or requirements or procedures relating to conflicts of interest;

(vi) The declaration of holidays;

(vii) Facilities housing the contract market or physical changes in the trading floor or trading area; or

(viii) The routine, daily administration, direction and control of contract market employees.

(2) Rules that are exempt from the requirements of section 5a(12) of the Act in accordance with the provisions of this paragraph (d) shall nonetheless be submitted to the Commission pursuant to the provisions of section 5a(1) of the Act. Each such submission shall be labeled as being submitted pursuant to section 5a(1) of the Act and Commission regulation 1.41(d). One copy of each such submission shall be furnished to the Commission at its Washington, D.C. headquarters and one copy shall also be transmitted by the contract market to the regional office of the Commission having local jurisdiction over the contract market.

(3) Notwithstanding the provisions of this paragraph (d), a contract market may submit any such rule to the Commission for its approval pursuant to the provisions of section 5a(12) of the Act and paragraph (b) of this section.

(4) The Commission may remit to the contract market, with an appropriate explanation where practicable, and not accept pursuant to this paragraph any rule which the Commission determines to be a rule that is not exempt from the provisions of section 5a(12) of the Act and paragraphs (b) or (c) of this section.

* * * * *

(h) *Stock index contracts.* (1) Notwithstanding the provisions of paragraph (b) of this section, all changes in the composition, computation, or method of stock selection of a stock index in which a contract market is designated to trade futures contracts, or options on such futures contracts, shall be deemed approved by the Commission at the time such changes are adopted by a contract market if:

(i) The index is compiled for commercial purposes by an independent third party;

(ii) The change is consistent with a rule of the contract market which has been approved by the Commission for this purpose which specifically defines, or establishes standards governing, the composition of the stock index upon which the designated futures are authorized to trade; and

(iii) The contract market promptly provides the Commission with written notice of the change.

(2) The Commission will, within ten days after receipt by the Commission of notice of a change in the composition, computaton, or method of stock selection of a stock index, notify the contract market making that submission if it appears that the change is not consistent with the definition of the composition of, or standards governing, the stock index which has been approved by the Commission.

2. Section 1.41a is revised to read as follows:

§ 1.41a Delegation of authority to the Directors of the Division of Trading and Markets and the Division of Economics and Education to process certain contract market rules.

(a) The Commission hereby delegates, until the Commission orders otherwise, the following authority to the Director of the Division of Trading and Markets and to the Director of the Division of Economics and Education, to be exercised by either of such Directors or by such other employee or employees of the Commission under the supervision of such Directors as may be designated from time to time by the Directors:

(1) Pursuant to § 1.41(b) or § 1.41(c), to determine whether to remit to a contract market and not accept for review any rule submitted pursuant to section 5a(12) of the Act and § 1.41(b) or § 1.41(c), where the Director determines that such rule submission does not comply with the form and content requirements set forth in § 1.41(b);

(2) Pursuant to § 1.41(b), to notify a contract market that a rule submitted pursuant to section 5a(12) of the Act and § 1.41(c) relates to terms and conditions, as defined in § 1.41(a)(2);

(3) Pursuant to § 1.41(c), to determine that rules submitted under § 1.41(c) do not require prior Commission approval under section 5a(12) of the Act and § 1.41(b) and that such rules may become effective prior to the expiration of the ten day period following the receipt of such rules by the Commission; and

(4) Pursuant to § 1.41(d), to determine whether to remit to a contract market any rule submitted pursuant to section 5a(1) of the Act and § 1.41(d), where the Director determines that such rule submission is not exempt from the provisions of section 5a(12) of the Act and § 1.41(b) or § 1.41(c).

(b) The Director of the Division of Trading and Markets or the Director of the Division of Economics and Education may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (a) of this section.

(c) Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Trading and Markets and the Director of the Division of Economics and Education under this section.

3. Section 1.41b is revised to read as follows:

§ 1.41b Delegation of authority to the Directors of the Division of Trading and Markets and the Division of Economics and Education to process certain contract market rules.

(a) The Commission hereby delegates, until the Commission orders otherwise, to the Director of the Division of Trading and Market and to the Director of the Division of Economics and Education, with the concurrence of the General Counsel or his or her delegee, to be exercised by either of such Directors or by such other employee or employees of the Commission under the supervision of such Directors as may be designated from time to time by the Directors, the authority to approve, pursuant to section 5a(12) of the Act and § 1.41(b), contract market rules that relate to terms and conditions and that:

(1) Do not materially change the quantity, quality or other delivery specifications, procedures or obligations under a contract designated for trading by the Commission (such as, but not

[22] 47 FR 18618 (April 30, 1982).

[23] While analysis under the RFA is not required, the Commission observes that the amendments were intended to streamline rule review procedures and, in several instances, to reduce the paperwork required of a contract market.

VOL
48
ISS
206
OC
24
1983
UMI

limited to, rules affecting procedures for inspecting, grading or weighing a commodity, the costs of such procedures, notice deadlines, payment procedures, the content of delivery forms and other similar procedures); or

(2) Reflect routine modifications that are expressly required or anticipated by the specific terms of a contract market rule (such as the specification of delivery grades, growths or differentials, the listing of trading months or the modification of trading hours).

(b) The Director of the Division of Trading and Markets or the Director of the Division of Economics and Education may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (a) of this section.

(c) Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Trading and Markets and the Director of the Division of Economics and Education under this section.

Issued in Washington, D.C. on October 19, 1983, by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 83-28853 Filed 10-21-83; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4, 6 and 375

[Docket No. RM83-77-000; Order No. 344]

Substitution of Certified Mail for Registered Mail

AGENCY: Federal Energy Regulatory Commission; DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to substitute certified mail for registered mail to serve water power project audit reports and notices of probable license termination. The use of certified mail will save money without affecting the timing or quality of delivery service to licensees.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Ellen K. Schall, Office of Legal and Administration Affairs, Office of the General Counsel, 825 North Capitol Street, NE., Room 4308, Washington, D.C. 20426, (202) 357-5737.

SUPPLEMENTARY INFORMATION:

Issued: October 20, 1983.

I. Background and Summary

By this rule, the Federal Energy Regulatory Commission (Commission) is substituting a certified mail requirement for the registered mail requirement in five Commission regulations: 18 CFR 4.4, 4.12, 4.22, 6.3 and 375.308(vv)(1).

Sections 375.308(vv)(1) and 6.3 provide for service of notices of probable license termination upon licensees by registered mail. Sections 4.4, 4.12 and 4.22 provide for service by registered mail of Commission staff water power project audit reports upon licensees. The Commission is substituting certified for registered mail in these regulations because the use of certified mail will save money without diminishing service to the public.

Certified mail provides delivery and a record of delivery receipt. According to the Postal Service *Domestic Mail Manual*, registered mail should only be used for shipments of valuable, insurable merchandise and certified mail should be used where a record of delivery receipt is desired. *Domestic Mail Manual* §§ 911.11 and 912.1, incorporated by reference at 39 CFR 111.1. Replacing registered with certified mail for the delivery of items, such as notices and audit reports, which have little or no intrinsic monetary value, will not affect the timing or quality of delivery service to licensees.

II. Effective Date

The revisions prescribed in this rulemaking are minor and do not raise substantive issues concerning the Commission's regulations or notification of licensees. Accordingly, the Commission finds that notice and public procedure under 5 U.S.C. 553 are unnecessary.

The Commission also finds good cause to make this rule effective upon publication, as provided by 5 U.S.C. 553(d), because the public has no need to prepare for these changes, and because immediate implementation will allow the Commission to effect cost savings sooner.

List of Subjects

18 CFR Parts 4 and 6

Electric power.

18 CFR Part 375

Authority delegations (Government agencies).

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Federal Power Act, as amended, 16 U.S.C. 291-828 (1976 & Supp. V 1981), Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Exec. Order No. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission hereby amends Parts 4, 6 and 375, Chapter 1, Title 18, *Code of Federal Regulations*, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PARTS 4, 6, AND 375—[AMENDED]

1. 18 CFR 4.4, 4.12, 4.22, 6.3 and 375.308(vv)(1) are amended by removing the words "registered mail" and inserting, in their place, the words "certified mail."

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Federal Power Act, as amended, 16 U.S.C. 291-828 (1976 & Supp. V 1981), Department of Energy Organization Act 42 U.S.C. 7101-7352 (Supp. V 1981); Exec. Order No. 12009, 3 CFR 142 (1978))

[FR Doc. 83-28869 Filed 10-21-83; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM81-31-000]

Clarification of Regulations Regarding New, Onshore Production Wells

Issued: October 20, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: On May 28, 1981, the Federal Energy Regulatory Commission issued Order No. 149, amending § 271.303 on its regulations. The amendment clarified the definition of "new, onshore production well" as that term is used in the natural Gas Policy Act of 1978. Timely applications for rehearing of Order No. 149 were filed by J-3 Oil Company, Inc. and R. H. Engelke. The Commission hereby denies these petitions for rehearing of Order No. 149.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: A. G. Sousa, Acting Chairman; J. David Hughes and Oliver G. Richard III.

On May 28, 1981, the Federal Energy Regulatory Commission (Commission) issued Order No. 149, amending § 271.303 of its regulations. 46 FR 29,097 (June 3, 1981. The amendment clarified the definition of "new, onshore production well," as that term is used in section 103 of the Natural Gas Policy Act of 1978. 15 U.S.C. 3301-3432 (Supp. V 1981) (NGPA).

Timely applications for rehearing of Order No. 149 were filed by J-3 Oil Company, Inc. (J-3) and R. H. Engelke (Engelke). In addition, the Railroad Commission of Texas (Texas) filed comments on Order No. 149 as it applied to wells drilled in Texas. On July 29, 1981, on July 13, 1981, the Commission granted the applications for rehearing of Order No. 149 solely for purposes of further consideration. By this Order, the Commission denies the petitions for rehearing of Order No. 149.

In Order No. 149 the Commission amended § 271.303 to state clearly its intention that a determination that a well qualifies under section 103 of the NGPA as a "new, onshore production well" applies only to gas produced from the proration unit (or units) designated in the well category application. Prior to issuance of the clarification, some producers had interpreted the statute and the regulations as authorizing collection of the section 103 price for sales from all proration units in a wellbore where only one of the proration units received a section 103 determination. Because the amendment effected no substantive change in the regulations, but was necessary for proper implementation, the amendment clarifying the issue was made effective as of December 1, 1978, the date the interim regulations became effective.

As the Commission noted in Order No. 149, it would be inequitable to require refunds for deliveries which occurred prior to 60 days from issuance of the clarification in cases where the producer relied on a misinterpretation of the definition of "new, onshore production well," and where the gas from the subsequent proration unit is or was eventually determined to qualify for the section 103 price. To avoid refund obligations in such cases, an application for a section 103 determination for gas from the additional proration unit had to be filed with a jurisdictional agency no later than 60 days after issuance of the clarification. The Commission presumed that a producer relied on a misinterpretation until the producer (1) filed a section 103 application for more than one proration unit in the same wellbore; (2) filed a section 103 application for gas produced from a proration unit different from the proration unit that had previously received a section 103 determination; or (3) made refunds that indicated an awareness of the filing requirement. Once the producer filed the applications or made the refunds noted above, the Commission no longer presumed that a producer was relying on a misinterpretation of the definition. In cases where a producer was aware of the filing requirement and simply made a late filing, refunds will be required and retroactive collections will not be permitted.

In their applications for rehearing, J-3 and Engelke requested that the Commission modify Order No. 149 to apply the clarification prospectively only and simply require any remedial filings to be made within 60 days of the date of issuance of the Order. The petitioners argued that the presumption of misinterpretation would require burdensome inquiries, on a case-by-case basis, of each applicant's understanding of the regulations. Engelke further argued that the Commission failed to take into account the confusion and hardship affecting operators during the initial implementation of the regulations issued pursuant to the NGPA. Engelke argues that during that period many operators made bulk filings on a variety of wells and completion locations without fully understanding the necessity to do so. Engelke further argues that, at most, a producer should be barred from collecting the section 103 price only if the producer applied for a section 103 determination for a completion location in a specific proration unit and has reapplied for a section 103 determination for a recompletion in a different proration unit. It was Engelke's contention that "[such] a clarification would preclude the inequitable result of imposing significant financial losses on an operator who, although unaware of the necessity for subsequent determinations after recompletion of a well, made initial filings which covered more than a single producing interval."

The Commission denies these requests. In the vast majority of cases, case-by-case inquiries will be avoided since, under the Commission's rebuttable presumption, a producer will be presumed to have acted on a misinterpretation unless there is clear evidence to the contrary. Where there is such evidence, the Commission does not believe it can ignore, as a general policy, failure to follow the Act's and the Commission's requirements. However, in those few cases where a producer, who cannot meet the presumption, can demonstrate that there was reliance on a misinterpretation of the regulations, and believes the refund requirements imposed as a result of Order No. 149 will cause a special hardship, inequity, or an unfair distribution of burdens, the producer may file an application for relief under section 502(c) of the NGPA and § 385.1101 of the Commission's regulations.

The comments filed by Texas urged the Commission to reconsider the requirement that an operator must seek a new section 103 determination for each recompletion of a previously qualified well when a new proration unit is perforated that was not the basis of the original determination.[1] Texas argued that this filing requirement imposes an additional and unnecessary administrative burden on jurisdictional agencies and should be modified to require a new determination only when the recompletion is not the first well in the new proration unit. Texas suggested that the burden be placed on the operator to decide whether a particular recompletion in a new proration unit requires a new filing.

In Order No. 336, the Commission adopted regulations similar to that requested by the Texas Railroad Commission. Under these new regulations, a jurisdictional agency determination that a well is a "new, onshore production well" covers all gas produced from any completion location in a proration unit that receives a well completion permit from the appropriate regulatory agency, provided that the well is the first completion location in the proration unit and it is not a reentry of a well previously spudded before February 19, 1977. *See* Reduction in Filing Requirements for Well Category Applications under Sections 102, 103, 107, and 108 of the NGPA, 48 FR 44508 (Sept. 29, 1983) (Order No. 336).

[1] The J-3 Oil Company filed a petition for rulemaking requesting that the Commission clarify its rules to reflect an interpretation similar to that requested by the Texas Railroad Commission. Petition of the J-3 Oil Company, Inc. for Clarification and/or Amendment of the Commission's Rules and Regulations, Docket No. RM81-24, filed March 19, 1981. J-3 requested that the Commission not require additional well category filings for additional completion locations in a previously determined and qualified new, onshore production well. Order No. 149 specifically addressed this issue but, contrary to the position taken by J-3 in its petition, required a section 103 determination for each completion location in a new, onshore production well. Since Order No. 149 was issued, the Commission has revised its filing requirements so that a well category determination will cover not only the completion location named in an application, but also certain additional completion locations. Reduction in Filing Requirements for Well Category Applications under Sections 102, 103, 107, and 108 of the NGPA, 48 FR 44508 (Sept. 29, 1983) (Order No. 336). Order No. 336 essentially adopts the substantive position requested by J-3 in its petition for rulemaking. Accordingly, the Commission will, by separate order, deny J-3's petition for rulemaking as unnecessary in light of Order No. 336.

VOL
48
ISS
2
0
6
OC
24
1983
UMI

In Order No. 149, the Commission took the position that a section 103 determination was necessary for each proration unit in a well in order to ensure that the well spacing and proration unit restrictions of section 103 were met. This position is not compromised in Order No. 336. Order No. 336 is consistent with Order No. 149 in that both orders ensure that these restrictions are met, albeit using different procedures. Order No. 149 ensured that these requirements were met by requiring that a producer get a well category determination for each completion location in a new, onshore production well. In Order No. 336, on the other hand, the Commission stated that these statutory restrictions can be met by relying on the well permitting process and the requirement that the well be the first well in the proration unit. Hence, Order No. 336 is not a reversal of the position announced in Order No. 149, but only establishes a new and more efficient procedure for implementing its interpretation of the section 103 statutory requirements. As stated in Order No. 336, the amendments in Order No. 336 will be applied prospectively and will not affect the Commission's interpretation of its regulations at the time it issued Order No. 149. Prior to the date that Order No. 336 becomes effective, producers must adhere to the policy in Order No. 149 regarding section 103 applications.

For the reasons discussed above and in the preamble to Order No. 149, the Commission denies rehearing of Order No. 149.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28867 Filed 10-21-83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 79P-0349]

Cheese and Cheese Products; Amendment to Permit Use of Antimycotics on Surface of Bulk Cheeses and To Provide for Declaration of Animal, Plant, and Microbial Enzymes as "Enzymes"

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standards of identity for several cheeses to permit, during curing and storage, the use of safe and suitable antimycotics on the surface of bulk forms of the cheeses. FDA is also amending the standards to establish label declaration of ingredient requirements and to permit the label declaration of animal, plant, and microbial enzymes by the general term "enzymes," rather than by their specific common or usual name. This action is based on a petition filed by the National Cheese Institute. FDA concludes that the amendments to the standards will promote honesty and fair dealing in the interest of consumers.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date; voluntary compliance may begin December 23, 1983, objections by November 23, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 21, 1983 (48 FR 2779), FDA published a proposal, based on a petition from the National Cheese Institute, to amend the standards of identity for several cheeses to permit the use of safe and suitable antimycotics on the surface of bulk cheeses during curing and storage. FDA also proposed to establish uniform provisions for the declaration of ingredients, and to permit enzymes of animal, plant, or microbial origin to be declared by the word "enzymes," rather than by the specific common or usual name of the enzyme. The cheese standards included in the proposal were for asiago fresh and asiage soft cheese (21 CFR 133.102), caciocavallo siciliano cheese (21 CFR 133.111), hard grating cheese (21 CFR 133.148), hard cheeses (21 CFR 133.150), mozzarella cheese and scamorza cheese (21 CFR 133.155), low-moisture mozzarella and scamorza cheese (21 CFR 133.156), parmesan and reggiano cheese (21 CFR 133.165), provolone and pasta filata cheese (21 CFR 133.181), and romano cheese (21 CFR 133.183). Cross-referenced standards of identity that are also affected by the proposal include those for asiago medium cheese (21 CFR 133.103), asiago old cheese (21 CFR 133.104), part-skim mozzarella and scamorza cheese (21 CFR 133.157), and low-moisture part-skim mozzarella cheese and scamorza cheese (21 CFR 133.158). The proposal allowed for the filing of comments by March 22, 1983. Three comments were received in response to the proposal, two of which favored the proposed amendments.

The third comment asked whether cheese manufacturers are required to declare antimycotics on the label when antimycotics are used on the surface of cuts and slices of cheese in consumer-size packages.

FDA advises that the standards of identity for cheeses that permit the use of antimycotics on the surface of cuts and slices of the cheeses require that, when an antimycotic is used, it must be declared on the label by its common or usual name.

The third comment also expressed concern that consumers with allergies to certain ingredients used in foods would not be adequately informed about the ingredient content of the cheeses covered by the proposal if general terms, e.g., "enzymes," rather than specific names are permitted for use in the label statement of ingredients.

The declaration of the general term "enzymes" on the label will alert consumers that a specific enzyme to which they are allergic may be present. Admittedly, the use of the general term is not an ideal solution for those consumers with a particular interest in knowing exactly which enzymes are used in a specific product whose manufacturer elects to employ the general term. Nevertheless, the general term will provide consumers with notice sufficient to allow them to avoid consuming foods that might contain an objectionable enzyme. Moreover, the use of the general term is optional. Nothing in the standard prevents manufacturers from making an exact declaration of the enzymes used in their products should they choose to do so in response to their own marketing strategies or to consumer demand. FDA believes that the general term option provides a useful mechanism for balancing the interest of most consumers in lower food prices against the interest of other consumers in knowing precisely what enzymes are present in a given cheese.

The final rule that amended the standards of identity for nine natural cheeses completely revised the standard of identity for provolone cheese (21 CFR 133.181). The effective date of that final rule was confirmed in the **Federal Register** of May 27, 1983 (48 FR 23812). For consistency, FDA is including in current § 133.181(b)(3)(iv) the proposed amendment to § 133.181(d). The proposed amendment to § 133.181(f) was included in § 133.181(d) in the nine natural cheese final rule. Therefore, no further amendment is necessary.

In the **Federal Register** of January 25, 1983 (48 FR 3363), FDA revised the standards of identity for mozzarella and scamorza cheese (21 CFR 133.155(f)) and low-moisture mozzarella and scamorza cheese (21 CFR 133.156(f)). The effective date of that final rule was confirmed in the **Federal Register** of May 27, 1983 (48 FR 23811). Again, for consistency, FDA is including those amendments in §§ 133.155(f) and 133.156(f).

After considering the comments received, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to amend the standards of identity for the nine cheeses and the appropriate cross-referenced standards of identity as set forth below.

In the preamble to the proposal (48 FR 2780), the impact of the proposed amendments on small entities, including small businesses, was reviewed in accordance with the Regulatory Flexibility Act (Pub. L. 96-354) (5 U.S.C. 601). No comments were received on the review presented. FDA determined that the proposed action would not result in a significant economic impact on a substantial number of small entities. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

List of Subjects in 21 CFR Part 133

Cheese, Food grades and standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 133 is amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. In § 133.102 by revising paragraphs (d) and (e) to read as follows:

§ 133.102 Asiago fresh and asiago soft cheese.

* * * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

2. In § 133.111 by revising paragraphs (d) and (f) to read as follows:

§ 133.111 Caciocavallo siciliano cheese.

* * * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

3. In § 133.148 by revising paragraph (d), redesignating paragraph (f)(1) as new (e)(3), and revising paragraphs (e)(3) and (f) to read as follows:

§ 133.148 Hard grating cheeses.

* * * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) * * *

(3) When milk other than cow's milk is used, in whole or in part, the statement "made from ———", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order of predominance by weight; and

(2) Enzymes of animal, plant, or microbial origin may be declared as "enzymes".

4. In § 133.150 by revising paragraph (d), redesignating paragraph (f)(1) as new (e)(3), and revising paragraphs (e)(3) and (f) to read as follows:

§ 133.150 Hard cheeses.

* * * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) * * *

(3) When milk other than cow's milk is used, in whole or in part, the statement "made from ———", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order of predominance by weight; and

(2) Enzymes of animal, plant, or microbial origin may be declared as "enzymes".

5. In § 133.155 by revising paragraphs (d) and (f) to read as follows:

§ 133.155 Mozzarella cheese and scamorza cheese.

* * * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes". Pursuant to section 403(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(k)), artificial color need not be declared, except as required by § 101.22(c) of this chapter. Voluntary declaration of such color in cheese is recommended.

6. In § 133.156 by revising paragraphs (d) and (f) to read as follows:

§ 133.156 Low-moisture mozzarella and scamorza cheese.

* * * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the

VOL
48
ISS
2
0
6
OC
24
1983
UMI

label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes". Pursuant to section 403(k) of the Federal Food, Drugs, and Cosmetic Act (21 U.S.C. 343(k)), artificial color need not be declared, except as required by § 101.22(c) of this chapter. Voluntary declaration of such color in cheese is recommended.

7. In § 133.165 by revising paragraphs (d) and (e) to read as follows:

§ 133.165 Parmesan and reggiano cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practcve, may be added to the surface of the cheese.

(e) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

8. In § 133.181 by revising paragraph (b)(3)(iv) to read as follows:

§ 133.181 Provolone cheese.

* * * * *

(b) * * *

(3) * * *

(iv) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

9. In § 133.183 by revising paragraphs (d) and (f), to read as follows:

§ 133.183 Romano cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order of predominance by weight; and

(2) Enzymes of animal, plant, or microbial origin may be declared as "enzymes".

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 23, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions taht may be stayed by the filing of proper objections, compliance with these final regulations, including any required labeling changes, may begin December 23, 1983, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: October 18, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-28785 Filed 10-21-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

Extension of Treasury's Reclamation Authority

AGENCY: Bureau of Government Financial Operations, Treasury.

ACTION: Final rule.

SUMMARY: Under 31 CFR 240.4 and 240.5. Treasury has the right to refunds from banks and other indorsers receiving payment on Treasury checks bearing forged or unauthorized indorsements or any other material defects or alterations. The United States has the common law right to offset amounts owed to it against amounts it would otherwise owe to its debtors. *United States* v. *Munsey Trust Co.*, 332 U.S. 234, 239 (1947). Further, Treasury is authorized under the Federal Claims Collection Act of 1966, *as amended* by Pub. L. 97-365, section 10, 31 U.S.C. 3716, to issue regulations that authorize it to collect debts subject to the Act by administrative offset. Pursuant to this authority, Treasury is amending its regulations in 31 CFR Part 240 to provide for recovery of amounts of delinquent reclamations and accrued interest thereon by offsetting those amounts against amounts in the possession of the United States that are owed to presenting banks. The purpose of the final rule is more effective debt collection.

EFFECTIVE DATE: November 23, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Bland T. Brockenborough, Assistant Commissioner, Disbursement and Claims, Room 212, Treasury Annex, Pennsylvania Avenue and Madison Place NW, Washington, D.C. 20226 (202-566-2392).

SUPPLEMENTARY INFORMATION: The purpose of the final rule is more effective debt collection. Under the Federal Claims Collection Act of 1966, *as amended*, the Secretary of the Treasury has the duty to attempt to collect all claims of the United States for money or property arising out of the activities of, or referred to Treasury. *See*, 31 U.S.C. 3711 and 4 CFR 102.3. Treasury's claims against indorsers of, and banks that present for payment, Treasury checks bearing forged or unauthorized indorsements are within the scope of this duty. Historically, many presenting banks have declined to pay these legimate claims (referred to as "reclamations"), forcing Treasury either to litigate its claims, a procedure which is rarely cost-effective, or to absorb the loss.

Treasury first advised the public that it was considering collecting the amounts owed it by banks that presented for payment Treasury checks bearing forged or unauthorized indorsements in an Advance Notice of Proposed Rulemaking (ANPRM) published in the **Federal Register** on April 25, 1979 (44 FR 24306). Treasury solicited comments on a proposal to

"setoff" the amounts owed it by the presenting banks generally and to "setoff" against amounts owed those banks by Federal Reserve banks. (Although the term "setoff" was used in the ANPRM and in the Notices of Proposed Rulemaking discussed below, the term "offset" will be used uniformly here because the debt collection methods described are substantially the same.) Because of substantial questions raised by several commenters, Treasury withheld further action on the proposal pending additional consideration (44 FR 53090, Sept. 12, 1979).

After further consideration, Treasury again invited comments from the public concerning a proposed change in the regulations that would allow Treasury to recover delinquent reclamations through offset. *See*, Notice of Proposed Rulemaking published November 4, 1981 (46 FR 54762) (hereinafter referred to as NPRM-1). Unlike the ANPRM, NPRM-1 provided specific regulatory language for comment. NPRM-1 provided for recovery from presenting banks' reserve account balances. The Supplementary Information portion of NPRM-1 also referred to offset authorized by contract between Treasury and presenting banks and to offset authorized at common law. This latter type of offset is referred to by regulations implementing the Federal Claims Collection Act. 4 CFR 102.3.

Treasury received 35 comments on NPRM-1. Most of the comments focused on Treasury's lack of statutory authority to effectuate offset and on certain due process considerations raised by the procedures for offset against reserve account balances. Upon review of the comments received, Treasury determined that offset against other amounts owed debtor banks by government agencies was preferable to offset against reserve account balances. Treasury also determined that the comments that it had received on NPRM-1 were, with one exception not relevant here, equally applicable to offset by other agencies. Thus, Treasury determined that it was unnecessary to obtain further comments before taking definitive action.

In addition, Treasury found that certain facts warranted the taking of immediate action to implement offset. Therefore, Treasury issued a Temporary Rule, 48 FR 11281 (March 17, 1983), implementing its offset procedures. However, in publishing that Temporary Rule, Treasury indicated that it would request comments on whether the procedures in the Temporary Rule should be adopted as a final rule. Treasury issued a second NPRM, 48 FR 24092 (May 31, 1983) (hereinafter referred to as NPRM-2) requesting such comments.

Treasury received twenty-three (23) comments on NPRM-2. Commenters included the American Bankers Association, the California Bankers Association, Automated Clearing Houses in Pittsburgh and New York and 19 banks.

A number of commenters argued that the lack of a pre-offset oral evidentiary hearing deprives affected banks of due process. Treasury has examined the issues of (1) whether due process requires an oral or a written hearing, and (2) whether any such hearing must precede offset. As Treasury indicated in its analysis of similar comments in the Supplementary Information portion of its Temporary Rule (*see*, 48 FR at 11282), Congress, in enacting the Debt Collection Act of 1982 (Pub. L. 97-365), specifically chose not to to require that government agencies provide hearings in connection with their debt collection activities. This contrasts with the hearing requirement that Congress imposed on the collection of debts from Federal employees. *Compare*, 31 U.S.C. 3716 with 5 U.S.C. 5514, as amended. Because acts of Congress are presumed to be constitutional (*See, Buttfield* v. *Stranahan*, 192 U.S. 470, 492 (1904)], Congress' omission of a "hearing" requirement in connection with the collection of debts owed to the government supports the conclusion that Treasury does not have to afford affected banks any type of hearing in connection with its offset mechanism. Nonetheless, Treasury, in an effort to give affected banks a reasonable opportunity to present evidence in their behalf, has fashioned a pre-offset written "hearing" procedure referred to in the Final Rule as "protest." The Supreme Court has, on several occasions, held that written "hearings" satisfy the requirements of due process. See, *Federal Communications Commission* v. *WJR*, 337 U.S. 265, 275 (1949). *See also, Mathews*, v. *Eldridge*. 424 U.S. 319, 345 (1976).

A number of commenters also objected to the absence of a requirement that Treasury advise a bank of the reasons for Treasury's decision under § 240.6(c)(3) of NPRM-2 to reject the bank's protest and to hold the bank liable for the amount reclaimed. The commenters asserted that this omission could lead to arbitrary and capricious action by Treasury and might impair the ability of the bank to challenge an erroneous determination by Treasury. It is Treasury's current practice to advise banks of the reasons for rejecting their protests. It was not Treasury's intention, by being silent on this point, to effect a change in this practice. The Final Rule has been amended to include a specific requirement that Treasury give its reasons for rejecting a bank's protest.

Treasury received several other comments that are addressed in turn as follows:

(1) Eight commenters stated that the period of time that Treasury took to issue reclamation notices was too long.

Response: As Treasury indicated in its Temporary Rule, a reclamation is not initiated until a payee has made a claim against Treasury for the proceeds of his or her check or until Treasury has been notified of payee's death. Because 31 U.S.C. 3702 allows such claims against Treasury to be filed as long as six years after the check was issued, 31 U.S.C. 3712 gives Treasury up to six years and six months to issue reclamations. Treasury cannot, consistent with its responsibilities under 31 U.S.C. 3711 (formerly the Federal Claims Collection Act of 1966), adopt a policy not to pursue legally enforceable claims of the United States.

(2) Other commenters alleged that Treasury continues to experience problems with the administration of its reclamation system. Specific problems mentioned were: (a) Treasury's alleged failure to dispatch reclamations immediately upon their issuance. (2) Treasury's failure to respond timely to bank protests, and (3) Treasury's failure to provide adequate proof of a bank's liability, *i.e.*, Treasury sends poor copies of checks being reclaimed, or Treasury does not provide copies of death certificates in the case of reclamations involving deceased payees.

Response: (a) As a rule, Treasury continues to dispatch reclamations within 48 hours of their issuance. When non-timely receipt of reclamations is brought to Treasury's attention, steps have been taken in cooperation with the affected banks to alleviate the problem. (b) Many of the delays that Treasury experiences in resolving protests are occasioned by the time that the Secret Service must use to complete a thorough investigation. Treasury continues to strive to eliminate other causes of delay. (c) Regarding poor quality check copies, the present system for handling Treasury checks calls for original checks to be retained by the Federal Reserve banks. The Federal Reserve banks only send microfilm copies of the checks to Treasury. Treasury has worked with the Federal Reserve banks to improve the quality of its microfilm, but reclamations based on checks that were negotiated prior to the acquisition of improved microfilm may contain lower than

VOL
48
ISS
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24
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optimum quality copies. As to deceased payee reclamations, Treasury continues to believe that a change of the present practice so that an agency would be required to send Treasury a copy of a death certificate—at an anticipated volume of 300,000 certificates annually—when it requests a stop payment on a check payable to a deceased payee would constitute an unjustified additional paperwork burden on both Treasury and the requesting agency. It is more efficient for Treasury to continue the present practice of abandoning those relatively few reclamations that a presenting bank demonstrates are based on an erroneous date of death.

(3) Four commenters argued that Treasury should advise banks prior to offset as to the amount to be offset and the agency that Treasury has requested to effect the offset and, in some cases, the account against which the agency will take the offset.

Response: A presenting bank already knows the amount requested to be offset. This amount is the total of the items specifically annotated on the monthly interest billing statement. In many cases, Treasury will not know the amount actually offset in advance since the agency that Treasury has requested to effect the offset may only be able to effect a partial offset. Treasury will not possess advance information relating to the account against which the agency will effect the offset. Treasury recognizes that notifying a bank in advance of the identity of the agency or account involved in the offset may reduce the accounting problems that offset will create for a presenting bank, but provision of that information may also enable a bank to frustrate Treasury's attempt at offset by seeking payment through another account or agency.

(4) Four commenters suggested that Treasury pay interest on offsets that are determined to have been erroneous. Also, several commenters objected to Treasury's practice of continuing to charge interest while a protest is pending.

Response: As Treasury previously stated in the Supplementary Information portion of its Temporary Rule (*See*, 48 FR 11263), Treasury has no legal authority to pay interest on improper offsets. It has been, and will continue to be, Treasury's practice to refund such erroneous offsets as soon as Treasury is made aware thereof.

Concerning the accrual of interest during the time that a protest is pending, Treasury is denied the use of the money that is the subject of Treasury's reclamation during that time. If it is ultimately determined that the presenting bank is liable for the amount of the reclamation, it is not unjust for Treasury to seek compensation for its loss of the use of its money during the protest process. If a bank desires to avoid the accural of interest, it may pay the amount of the reclamation under protest and file a request for a refund without interest.

(5) Several commenters stated that the time provided for a presenting bank to protest is too short considering the amount of time required for the bank to coordinate its efforts with intermediary banks. It was also argued that offset is effected too soon and should not be effected sooner than six months after the reclamation date.

Response: Treasury does not agree that the time provided for protest is too short. Treasury recognizes that, in many cases, the presenting bank will not have been the bank that dealt with the forger. However, prompt attention to the disposition of reclamations should enable the depositary bank to advise the presenting bank of the quantum of proof that it possesses to enable the presenting bank to decide whether a protest would be appropriate. It should be noted that a presenting bank is already allowed a minimum of 120 days to pay a reclamation. This is two-thirds of the time that the commenters indicated that they felt was necessary (i.e., 180 days). It should also be noted that, although the general practice of the government is to begin the accural of interest on the 31st day after an assertion of indebtedness, interest under § 240.5 of this Part does not begin to accure until the 61st day after the reclamation date, partially in recognition of the extra time needed to resolve reclamations.

(6) One commenter recommended that Treasury clarify its policy on whether a presenting bank may send a payment on items that have been referred for offset.

Response: Yes, such payments may be made. Although Treasury does not object to the transmittal by a presenting bank of payment on a reclamation that has been referred for offset, such transmittal increases the possibility that there may be a double collection on the reclamation. Any bank wishing to make a payment on items referred for offset should coordinate the payment with Treasury to avoid a double collection.

Special Analyses

It has been determined that this amendment is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981. This determination is based on the fact that the rule's only purpose and effect will be to increase the efficiency and effectiveness of the United States' efforts to collect debts that arise under existing law and for the collection of which the Secretary is responsible under existing law. In addition, the only significant alternative collection device, litigation, has not been sufficiently effective.

Furthermore, it has been certified in accordance with 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, the regulatory flexibility analysis referred to by 5 U.S.C. 604 is not required and has not been conducted.

List of Subjects in 31 CFR Part 240

Banks, banking, Forgery, Treasury checks.

PART—240 ENDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Accordingly, 31 CFR Part 240 is amended as follows:

1. By revising the authority citations to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3331; 31 U.S.C. 3343; 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3717; 332 U.S. 234 (1947); 318 U.S. 363 (1943).

2. By revising § 240.1 to read as follows:

§ 240.1 Scope of regulations.

The regulations in this part prescribe the requirements for endorsement and the conditions for payment of checks drawn on the United States Treasury. These regulations also establish procedures for collection of amounts due the United States Treasury because of payments on checks bearing forged or other unauthorized endorsements or other material defects or alterations.

3. By revising § 240.2 to read as follows:

§ 240.2 Definitions.

(a) "Check" or "checks" means a check or checks drawn on the United States Treasury.

(b) "Check payment" means the amount paid to a presenting bank in accordance with §240.8(a)(3) of this part.

(c) "Days" means calendar days.

(d) "Financial organization" means any bank, savings bank, savings and loan association, Federal or State chartered credit union, or similar institution.

(e) "Item" means a reference in a monthly interest billing statement to a check for the amount of which Treasury has demanded refund from a presenting bank.

(f) "Monthly interest billing statement" means a statement prepared by Treasury and sent to a presenting bank which includes the following information regarding each outstanding demand for refund:

(1) The reclamation date;
(2) The reclamation number;
(3) Check identifying information; and
(4) The balance due, including interest.

(g) "Person" or "persons" means an individual or individuals, or an organization or organizations, including all forms of financial organizations.

(h) "Presenting bank" means (1) a financial organization which, either directly or through a correspondent banking relationship, presents checks to and receives credit from a Federal Reserve bank, or (2) a depositary which is authorized to charge checks directly to the General Account of the United States Treasury and present them directly to Treasury for payment.

(i) "Protest" means a presenting bank's written statement and any supporting documentation tending to prove that it is not liable for refund of the reclamation balance.

(j) "Reclamation" means a demand by Treasury for refund of the amount of a check payment.

(k) "Reclamation date" means the date on which a demand for refund was prepared. Normally, demands are sent to presenting banks within two working days of the reclamation date.

(l) "Treasury" means the United States Treasury.

(m) "U.S. securities" means securities of the United States and securities of Federal agencies and wholly or partially Government-owned corporations for which the Treasury acts as transfer agent.

(n) "Unauthorized indorsement" means (1) an indorsement made by a person other than the payee, except as authorized by and in accordance with § 204.4 and §§ 240.10 through 240.14 of this part, (2) an indorsement by a financial organization under circumstances in which the financial organization breaches the guaranty required of it by 31 CFR 209.10(a) (*see*, 31 CFR 209.9), or (3) a missing indorsement where the depositary bank had no authority to supply the indorsement.

4. By revising § 240.5 to read as follows:

§ 240.5 Collection of amounts of paid checks.

(a) If, after a check has been paid by Treasury, it is found to:

(1) Bear an unauthorized indorsement, or

(2) Contain any other material defect or alteration which was not discovered upon first examination,

then, upon demand by the Treasury in accordance with the procedures specified in § 240.6 of this Part, the presenting bank or other indorser shall refund the amount of the check payment.

(b) Interest on any unpaid item shall commence to accrue on the sixty-first day after the reclamation date. Interest shall be calculated at the rate set from time to time for purposes of 31 U.S.C. 323. Interest shall continue to accrue until the amount demanded is paid or the reclamation is abandoned.

(c) In addition to its right to recover interest, Treasury shall have the right to recover such other applicable charges (*e.g.*, administrative collection costs, late payment penalties) as may be authorized or required by law.

5. By redesignating §§ 240.6 through 240.12 as §§ 240.8 through 240.14, respectively, and by adding new §§ 240.6 and 240.7 as follows:

§ 240.6 Demand and protest:

(a) For all reclamations an initial demand for refund of the amount of a check payment will be made by sending a "Request for Refund (Reclamation)," to the presenting bank. This Request shall advise the presenting bank of the amount demanded and the reason for the demand. Treasury will make follow-up demands by including each unpaid item on at least three monthly interest billing statements sent to the presenting bank. Monthly interest billing statements will identify any unpaid reclamation demands and will also show the amount of any accrued interest for each outstanding reclamation. Any discrepancies should be brought to Treasury's attention immediately at the address listed in paragraph (b) of this section. Monthly interest billing statements will contain or be accompanied by notice to the bank:

(1) That Treasury intends to collect the debt throught administrative offset if the reclamation is not paid within 120 days of the reclamation date,

(2) That the bank has an opportunity to inspect and copy Treasury's records with respect to the reclamation,

(3) That the bank may, by filing a protest, request Treasury to review its decision that the bank is liable for the reclamation, and

(4) That the bank has an opportunity to enter into a written agreement with Treasury for the repayment of the amount of the reclamation. A request for a repayment agreement must be accompanied by proof that satisfies the Treasury that the requesting bank is unable to repay the entire amount owed at the time that it is due.

(b) Requests for an appointment to inspect and copy Treasury's records with respect to a reclamation and requests to enter into repayment agreements should be sent in writing to:

Department of the Treasury, Division of Check Claims, Reclamation Policy and Collection Section, 401 14th Street SW., Washington, D.C. 20227

(c)(1) If a presenting bank wishes to contest its liability for the principal amount demanded, it shall send a protest, *i.e.*, a written statement and copies of all documentary evidence (*e.g.*, affidavits, account agreements, signature cards) and other written information raising a question of law or fact which, if resolved in the bank's favor, would show that the bank is not liable, to:

Department of the Treasury, Division of Check Claims, Reclamation Policy and Collection Section, 401 14th Street SW., Washington, D.C. 20227

The Assistant Director (Support Services), Division of Check Claims, who has supervisory authority over the Reclamation Policy and Collection Section, or his authorized subordinate, shall consider and decide any protest properly submitted under this paragraph. Neither the Assistant Director (Support Services), Division of Check Claims, nor any of his subordinates, shall have any involvement in the process of making findings or demands under § 240.5(a). In order to be considered, and to be timely, a protest must be received not later than 90 days after the reclamation date. Treasury will refrain from collection in accordance with § 240.7 while a timely protest is being considered. Unresolved protested items will be appropriately annotated on the monthly interest billing statement.

(2) If Treasury accepts the protest, the presenting bank shall be notified in writing that efforts to collect the item and any accrued interest have been abandoned.

(3) If the evidence sent by the presenting bank does not satisfy Treasury that refund of the amount demanded is not required under § 240.5(a), Treasury will notify the presenting bank in writing of its decision that the bank is liable for the amount demanded and the reasons for its decision. If the presenting bank fails to send the amount demanded within 30 days of the date of Treasury's decision, Treasury shall proceed to collect the amount owed in accordance with § 240.7, provided that no offset shall be

VOL 48 ISS 206 OCT 24 1983 UMI

taken sooner than 120 days after the reclamation date.

(4) If an item, and/or accrued interest relating to that item remains unpaid for 90 days after the reclamation date and if there is no unresolved protest associated with the item, the monthly interest billing statement will be annotated with a notice that the presenting bank has until the next billing date to make payment on the item or be subject to offset thereon.

§ 240.7 Offset.

(a) If an item, and/or accrued interest relating to that item remains unpaid for 120 days after the reclamation date and the presenting bank has been sent at least one monthly interest billing statement informing it that Treasury intends to collect that item by offset, Treasury may refer the matter to any federal agency and request that agency to offset the indebtedness and other applicable charges against amounts otherwise owned by the federal agency to the presenting bank. Monthly interest billing statements will be annotated to identify those specific items that are to be referred to an agency for offset.

(b) If a bank wishes to make payment on an item referred to an agency for offset, it should contact Treasury at the address listed in § 240.6(b) of this part to reduce the possibility of a double collection. If an agency to which an indebtedness is referred in accordance with this paragraph is unable to effect offset in whole or in part, Treasury may then refer the debt to any other agency and request offset in accordance with this paragraph. Treasury designates each agency acting under this paragraph as its designee for the sole purpose of effecting offset. No such designee shall be liable to any party for any loss resulting from its action under this paragraph.

(c) If Treasury is unable to collect an amount owed by use of the offset described in paragraph (a), Treasury shall take such action against the presenting bank as may be necessary to protect the interests of the United States, including referral to the Department of Justice.

(d) The procedures provided for in §§ 240.5, 240.6(b), and this section shall apply to demands for refund bearing reclamation dates on or after May 28, 1981.

(e) If Treasury effects offset under this section and it is later determined that the presenting bank paid the amount of the reclamation and accrued interest thereon, or that a presenting bank which had timely filed a protest was not liable for the amount of the reclamation, Treasury shall promptly refund to the presenting bank the amount of its payment.

Dated: October 18, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-28758 Filed 10-21-83; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 166

[CGD 82-101]

Shipping Safety Fairway; Adoption of Corps of Engineers' Designation for Port Hueneme

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule adopts the shipping safety fairway regulations for Port Hueneme, California, which were originally promulgated by the U.S. Army Corps of Engineers (COE). There is no change in the fairway description.

The fairway in Port Hueneme was originally established by the COE to preserve the area for safe navigation. Fairways are areas where no permits for offshore structures are issued. In 1978, the Ports and Waterways Safety Act (PWSA) was amended to delegate authority for designating fairways to the department in which the Coast Guard is operating. This administrative action merely establishes the existing fairway under the PWSA.

EFFECTIVE DATE: These rules are effective October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Christopher Young, Office of Navigation (G-NSR), Room 1606, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593, (202) 245-0108.

SUPPLEMENTARY INFORMATION: The Coast Guard has determined for good cause that a notice of proposed rulemaking is unnecessary and that these rules shall be effective upon publication in accordance with 5 U.S.C. 553(b)(3)(B) and (d)(3).

These rules merely adopt rules currently in effect in 33 CFR 209.138 and places them in new 33 CFR 166.300. There have been no changes to the existing fairway description. This action was made necessary by Ports and Waterways Safety Act (PWSA) which delegates the authority for the establishement of fairways to the department in which the Coast Guard is operating.

Drafting information

The principal persons involved in drafting this rulemarking are: Mr. Christopher Young, Project Manager, Office of Navigation, and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

Discussion of regulations:

A shipping safety fairway is a designated area of a waterway where no fixed structures, either temporary or permanent, may be placed. It increases navigation safety by ensuring that an obstruction-free route is available to vessel traffic transiting the vicinity. Fairways are defined and described in 33 CFR Part 166, which was last amended on June 30, 1983 (48 FR 30110).

Almost all existing fairways are in the Gulf of Mexico. They were established by the COE between 1948 and 1968 to reduce the risk of collision between vessels and the growing number of offshore drilling structures. The only other fairway created by the COE is in southern California. It is approximately four miles long and widens from one to one and a half miles between Port Hueneme and the Santa Barbara Traffic Separation Scheme.

The existing shipping safety fairway in the approach to Port Hueneme, California, is described in 33 CFR 209.138. It was established in 1966 (31 FR 11434) by the COE under authority granted by the Outer Continental Shelf Lands Act [67 Stat 462; 43 U.S.C. 1333(e)] to issue permits for structures on the OCS. In the interest of safe navigation, the COE promulgated fairway regulations to designate specific areas in which no permits would be issued.

In 1978, the Ports and Waterways Safety Act [PWSA) [(Pub. L. 95-474; 92 Stat. 1473; 33 U.S.C. 1223(c)]] was amended to delegate authority to the department in which the Coast Guard is operating to establish vessel routing measures, including fairways. The PWSA authority to establish vessel routing measures is only to be exercised after a study into the need for designated safe access routes due to traffic density and use conflict.

The mandated study was initiated by notice on April 16, 1979 (44 FR 22543), and modified on January 31, 1980 (45 FR 7027). Study results for the coast of southern California were published on June 24, 1982 (47 FR 27430). The study concluded that the Port Hueneme Safety Fairway should be retained with a slight modification. Port Hueneme is served by commercial and naval vessels and is a major supply base for the offshore oil industry in the Santa Barbara Channel. The recommended modification would have stopped the fairway "short of its present junction with the traffic separation scheme to eliminate the appearance of a right angle turn and encourage vessel traffic to join or leave the traffic lane at a small angle to the general direction of traffic flow," as required by international navigation rules (47 FR 27432). However, on further consideration, the Coast Guard has determined that since the fairway does not directly abut the northwestbound lane, vessel traffic can be encouraged to properly enter the traffic lanes by other means, such as Local Notices to Mariners, without altering the description of the existing fairway.

In order to implement the PWSA, and the Port Access Route study recommendations, the Coast Guard has worked with the COE to coordinate the transfer of regulations establishing the safety fairway in the entrance to Port Hueneme. The COE is expected to delete its regulations in 33 CFR 209.138 as appropriate. Although it is the responsibility of the Coast Guard to designate fairways, it continues to be the responsibility of the COE to enforce the regulations by denying permits for structures in the defined areas. 33 CFR 209.138a on siting of structures in Santa Catalina is not affected by this action and will remain within the COE's regulations.

Regulatory evaluation: These regulations are considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation Policies and Procedures, for Simplification, Analysis, and Review of Regulations, (DOT Order 2100.5 of May 22, 1980. This fairway has been in place since 1966 and this action does not make changes to the fairway. There will be no new costs associated with implementation of or compliance with these adopted rules. The existence of the fairway has contributed to navigation safety by reducing the possibility of a collision between a vessel and a structure. Since the economic impact is expected to be minimal, the Coast Guard has determined that no further economic evaluation is necessary.

This rulemaking contains no information collection or record keeping requirements.

Regulatory flexibility analysis: These rules are exempted from the requirements as set forth in the Regulatory Flexibility Act [sec. 603, Pub. L. 96-354; 5 U.S.C. 603 (a)] because an NPRM is not required under 5 U.S.C. 553. This administrative action merely adopts existing regulations in 33 CFR 209.138 and places them in new section 33 CFR 166.300 without change and, as explained above, no economic impact on small entities is anticipated.

List of Subjects in 33 CFR 166

Marine safety, Shipping safety fairways, Anchorage areas.

In consideration of the foregoing, Part 166 of Title 33 of the Code of Federal Regulations is amended to read as follows:

PART 166—SHIPPING SAFETY FAIRWAYS

1. The authority citation for Part 166 reads as follows:

Authority: Sec. 4(c), Pub. L. 95-474; 92 Stat. 1473 (33 U.S.C. 1223); 49 CFR 1.46(n)(4).

2. Section 166.300 is added to read as follows:

§ 166.300 Areas along the coast of California.

(a) *Purpose.* Fairways as described in this section are established to control the erection of structures therein to provide safe vessel routes along the coast of California.

(b) *Designated Areas.*—(1) *Port Hueneme Safety Fairway.* An area one nautical mile in width centered on the alinement of Port Hueneme Entrance Channel and extending seaward from the 30-foot-depth curve for a distance of 1.5 nautical miles, thence turning southerly and widening to 1.5 nautical miles at the 3-mile limit, all between lines joining the following points:

Latitude	*Longitude*
34°06'30" N.	119°15'00" W.
34°07'37" N.	119°14'25" W.
34°08'49" N.	119°13'21" W.

thence generally along the 30-foot-depth curve to the seaward end of the west entrance jetty; seaward end of the east entrance jetty, thence generally along the 30-foot-depth curve to:

Latitude	*Longitude*
34°08'21" N.	119°12'15" W.
34°07'10" N.	119°13'20" W.
34°05'48" N.	119°13'23" W.

(2) [Reserved]

Dated: October 5, 1983.

H. H. Kothe,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 83-28722 Filed 10-21-83; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services, Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is amending the Postal Contracting Manual to expand the authority of Management Sectional Center Managers/Postmasters to approve local purchases in the amount of $2,000. The previous approval authority was limited to purchases of $1,500 or less.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245-4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Federal Register (see 39 CFR 601.100), has been amended by the issue of PCM Circular 83-7, dated September 30, 1983.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the Federal Register and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

Explanation of these amendments to the Postal Contracting Manual follows:

Explanation of Changes

On August 18, 1983, the authority of Management Sectional Center Managers/Postmasters to make local purchases was expanded to permit them to approve local purchases by offices under their management responsibility to the limits of their authority. The limit of their authority was raised from $1,500 to $2,000. This circular revises the *Postal Contracting Manual* to reflect those changes. Exhibit 1-401.1b, Local Purchasing Authority, to PCM Circular 82-1 is superseded by the following.

Exhibit 1-401.1b Local Purchasing Authority

Local Purchasing Authority

This authority must not be redelegated below the position listed.

VOL
48
ISS
206
OC
24
1983
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Purchase of	Dollar ($) level of authority	Maximums
Services and supplies not available from supply centers or other authorized sources.	Regional Chief Postal Inspectors, District Managers	$2,500
	Management Sectional Center Managers/Postmasters. (May approve local purchases by offices under their functional responsibility to the limits of this authority.).	2,000
Noncapital equipment	Inspector in Charge	1,500
Minor expensed facility repairs and improvement.	CAGs B-G Postmasters; Bulk Mail Center Managers; Managers, Fleet Operations or Vehicle Maintenance Facilities Manager; Mail Equipment Shops; Directors, Postal Data Centers; Directors, Automatic Data Processing Centers; Director, Maintenance Technical Support Center.	750
	CAGs H&J Postmaster	250
	CAG K Postmasters	100
	CAG L Postmasters	0
Post Office Box Deployment Program	Management Sectional Center Managers	2,000

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 83-28651 Filed 10-21-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 2450-6]

Approval and Promulgation of Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves miscellaneous amendments to Oregon Department of Environmental Quality (DEQ) rules as revisions to the Oregon State Implementation Plan (SIP). These amendments consist of changes to the "New Source Review," "Portable Hot Mix Asphalt Plants," and "Volatile Organic Compound" rules, the addition of a "Stack Heights and Dispersion Techniques" rule, and increases in the "Air Contaminant Discharge Permit" fees. These amended rules were submitted on May 6, 1983 and June 3, 1983 by DEQ, after adequate opportunity for public, private, and industry input, in order to satisfy requirements of Sections 110, 123, 165, and 172 of the Clean Air Act (hereinafter the Act) and to clarify the DEQ rules.

DATES: This action will be effective on December 23, 1983 unless notice is received before November 23, 1983 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal thirty-day comment period on this action.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Central Docket Section (10A-83-8), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Oregon, Department of Environmental Quality, 522 S.W. Fifth, Yeon Building, Portland, Oregon 97207.

Copy of the State's submittal may be examined at: The Office of Federal Register, 1101 L Street NW., Room 8401, Washington, D.C.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442-1960, (FTS) 399-1960.

SUPPLEMENTARY INFORMATION:

I. Background

On August 13, 1982 (47 FR 35191) EPA approved a consolidated permit and emissions trading program for the State of Oregon. However, in this approval action, EPA took no action on the definitions of the terms "Nonattainment Area," "Dispersion Technique," and "Good Engineering Practice Stack Height" in the State's "New Source Review" rule. On May 6, 1983, DEQ submitted amended definitions and a new "Stack Heights and Dispersion Techniques" rule as revisions to the SIP in order to correct the deficiencies noted by EPA in the August 13, 1982 approval and to meet EPA's requirements for stack heights and dispersion techniques which were promulgated after the DEQ definitions were adopted. The DEQ has also revised their "New Source Review," "Portable Hot Mix Asphalt Plants," and "Volatile Organic Compound" rules in order to improve and clarify the State's permit and emissions trading program.

II. Plan Revisions

On May 6, 1983 the DEQ submitted a number of revisions to three of their existing rules and a new rule. The revisions to the "New Source Review" rule (OAR 340-20-220 through 280) consisted of the following:

(1) OAR 340-20-225 "Definitions," has been amended by deleting the existing definitions of "Despersion Technique" (OAR 340-20-225(7)) and "Good Engineering Practice Stack Height" (OAR 340-20-225(11)), by renumbering the section, by revising the definition of "Nonattainment Area" (OAR 340-20-225(14)) to clarify that it includes those areas promulgated by the EPA Administrator pursuant to Section 107(d) of the Act, and by changing numerous references to coincide with the new numbering;

(2) OAR 340-20-240(7) "Growth Increments," which established specific growth allowances for volatile organic compounds for the Medford-Ashland ozone nonattainment area, has been deleted;

(3) A new section OAR 340-20-241 "Growth Increments," has been added which implements the volatile organic compound growth allowances in the Medford-Ashland and Portland-Vancouver ozone nonattainment area plans;

(4) OAR 340-20-245 "Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration)" has been amended by revising subsection OAR 340-20-245(2)(c) to exempt new sources or modifications of sources which would emit volatile organic compounds from the requirement to analyze their impact on the Salem rural ozone nonattainment area, by revising OAR 340-20-245(4) to indicate that DEQ (along with EPA), rather than the State of Oregon Environmental Quality Commission, must approve the use of any modified or substitute model, and by changing numerous references to coincide with the new numbering of the definitions in OAR 340-20-225;

(5) OAR 340-20-260 "Requirements for Net Air Quality Benefit" has been amended by revising subsection OAR 340-20-260(2) to indicate that the exemption for proposed major sources or major modifications which emit volatile organic compounds does not apply to sources or modifications locating in ozone nonattainment areas;

(6) OAR 340-20-265 has been amended by revising a reference in OAR 340-20-265(6) to coincide with the new numbering of a definition: and

(7) OAR 340-20-275 "Stack Heights" has been deleted.

These revisions are consistent with the requirements of Section 110(a)(2)(D) and parts C and D of the Act and EPA regulations (40 CFR 51.18 and 51.24) for new source review. The exemption for the Salem ozone nonattainment area is consistent with EPA's rural ozone policy.

A new "Stack Heights and Dispersion Techniques" rule (OAR 340-20-340 and 345) which establishes restrictions on the credit which can be allowed for the use of dispersion techniques and stack heights which exceed good engineering practice has been added. This rule is consistent with Section 123 of the Act and EPA's regulations in 40 CFR 51.12, 51.18 and 51.24.

The "Portable Hot Mix Asphalt Plants" rule (OAR 340-25-120) has been amended by deleting subsection OAR 340-25-120(1) which provided an exemption for portable hot mix asphalt plants which located temporarily in areas outside of special control areas and by deleting the requirement in subsection OAR 340-25-120(2) that the duration of an air contaminant discharge permit for any portable hot mix asphalt plant not exceed one calendar year. This revision is consistent with the requirements of Section 110 and Parts C and D of the Act.

The Volatile Organic Compound rule is amended by deleting OAR 340-22-108 "Applicability of Alternative Control Systems" since it has since been superseded by similar provisions in the Plant Site Emission Limit rule.

On June 3, 1983 DEQ submitted amendments to the "Air Contaminant Discharge Permit" rule which increase the fees for permits (OAR 340-20-155 Table 1 and OAR 340-20-165). This revision is consistent with the requirements of Section 110(a)(2)(K) of the Act.

III. Summary of Action

EPA views as noncontroversial and routine the approval of state agency rules which are essentially procedural in nature and are consistent with the Act and EPA regulations. EPA today is therefore approving, without prior proposal, the following as revisions to the Oregon SIP:

(1) an amended section OAR 340-20-225, specifically, the deletion of the definitions of "Dispersion Technique" (OAR 340-20-225(7)) and "Good Engineering Practice Stack Height" (OAR 340-20-225(11)), the renumbering of OAR 340-20-225, the revision of the definition of "Nonattainment Area" (OAR 340-20-225(14)), and changes to numerous references to coincide with the new numbering;

(2) the deletion of subsection OAR 340-20-240(7) "Growth Increments" and the addition of a new section OAR 340-20-241 "Growth Increments;"

(3) an amended section OAR 340-20-245, specifically, revised subsections OAR 340-20-245(2)(c) and OAR 340-20-245(4), and changes to numerous references to coincide with the new numbering of the definitions in OAR 340-20-225;

(4) an amendment to subsection OAR 340-20-260(2);

(5) a revised reference in OAR 340-20-265(6) to coincide with the new numbering of a definition;

(6) the deletion of section OAR 340-20-275 "Stack Heights" and the addition of a new "Stack Heights and Dispersion Techniques" rule (OAR 340-20-340 and 345);

(7) revisions to the "Portable Hot Mix Asphalt Plants" rule (OAR 340-25-120);

(8) the deletion of OAR 340-22-108 "Applicability of Alternative Control Systems;" and

(9) amendments to the "Air Contaminant Discharge Permit" rule which increase the fees for permits (OAR 340-20-155 Table 1 and OAR 340-20-165).

The public should be advised that this action will be effecive on December 23, 1983. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of the revisions approved herein, the action on those revisions will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action on those revisions and another will begin a new rulemaking by announcing a proposal of the action on those revisions and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act.)

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110, 161, and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 110(a), 123, 160 to 169, 171 to 173, and 301(a) of the Clean Air Act (42 U.S.C. 7410(a), 7423, 7470 to 7479, 7501 to 7503, and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide.

Dated: September 28, 1983.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Oregon was approved by the Director of the Federal Register in July 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. In § 52.1970, paragraphs (c)(63) and (c)(64) are added as set forth below:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(63) On May 6, 1983 the Oregon Department of Environmental Quality submitted revisions to its rules as follows:

(A) Revisions to the "New Source Review" rule consisting of an amended section OAR 340-20-225, specifically, the deletion of the definitions of "Dispersion Technique" (OAR 340-20-225(7)) and "Good Engineering Practice Stack Height" (OAR 340-20-225(11)), the renumbering of OAR 340-20-225, the revision of the definition of "Nonattainment Area" (OAR 340-20-225(14)), and changes to numerous references to coincide with the new numbering; the deletion of subsection OAR 340-20-240(7) "Growth Increments" and the addition of a new section OAR 340-20-241 "Growth Increments;" an amended section OAR 340-20-245, specifically, revised subsections OAR 340-20-245(2)(c) and OAR 340-20-245(4), and changes to numerous references to coincide with the new numbering of the definitions in OAR 340-20-225; and amendment to subsection OAR 340-20-260(2); a revised reference in OAR 340-20-265(6) to coincide with the new numbering of a definition; and the deletion of section OAR 340-20-275 "Stack Heights".

(B) the addition of a new "Stack Heights and Dispersion Techniques" rule (OAR 340-20-340 and 345);

(C) revisions to the "Portable Hot Mix Asphalt Plants" rule (OAR 340-25-120; and

VOL 48 ISS 206 OCT 24 1983 UMI

(D) the deletion of OAR 340–22–108 "Applicability of Alternative Control Systems."

(64) Amendments to the fees in the "Air Contaminant Discharge Permit" rule (OAR 340–20–155 Table 1 and OAR 340–20–165) submitted by the Oregon Department of Environmental Quality on June 3, 1983.

2. In § 52.1987, paragraph (a) is revised as set forth below:

§ 52.1987 Significant deterioration of air quality.

(a) The Oregon Department of Environmental Quality rules for preventing significant deterioration of air quality (OAR 340–20–220 through 270, OAR 340–20– 340 and 345, and OAR 340–31– 100, 105 subsections (12), (15) and (16), 110, 115, 120 and 130) are approved as meeting the requirements of Part C.

* * * * *

3. In § 52.1988, paragraph (a) is revised as set forth below:

§ 52.1988 Air contaminant discharge permits.

(a) Emission limitations and other provisions contained in Air Contaminant Discharge Permits issued by the State in accordance with the provisions of the Federally-approved Air Contaminant Discharge Permit Rules (OAR 340–20– 140 through 185), New Source Review Rules (OAR 340–20– 220 through 270), Stack Heights and Dispersion Techniques Rules (OAR 340–20– 340 and 345), and Plant Site Emission Limit Rules (OAR 340–20– 300 through 320), except Alternative Emission Limits (Bubble) for sulfur dioxide or total suspended particulates which involve trades where the sum of the increases in emissions exceeds 100 tons per year, shall be the applicable requirements of the Federally-approved Oregon SIP (in lieu of any other provisions) for the purposes of Section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP.

* * * * *

[FR Doc. 83–28864 Filed 10–21–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6483

[OR–9540 (WASH)]

Washington; Public Land Order No. 5515; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will correct an error in the land description and acreage in Public Land Order No. 5515 of August 27, 1975.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 5515 of August 27, 1975, in FR Doc. 75–23394 published at pages 40811 through 40814, in the issue of Thursday, September 4, 1975, is corrected as follows: In the legal description on page 40813, delete "No. 67, Dot Island, 2.5 acres, 48°32'00" N., 122°33'06" W. (T. 35 N., R. 2 E., sec. 9). Consists of one large island with a small islet immediately to the southwest." On page 40814, column 1, line 1, is corrected to read, "The areas designated aggregate 385.82 acres."

October 14, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–28846 Filed 10–21–83; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6484

[I–19117]

Idaho; Partial Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes the Secretarial Order of July 3, 1919, and General Land Office Order of February 5, 1942, as they affect 920 acres of national forest lands withdrawn for stock driveway purposes. The lands will be opened to surface entry under the national forest lands law. The lands have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: November 19, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208–334–1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of July 3, 1919, and General Land Office Order of February 5, 1942, which withdrew scattered tracts of public land and national forest lands throughout Idaho for use as Stock Driveway No. 86, are hereby revoked insofar as they affect the following described national forest lands:

Boise Meridian—Challis National Forest

T. 5 N., R. 27 E.,
Sec. 11, SE¼;
Sec. 14, E½, SE¼SW¼;
Sec. 22, SE¼SE¼;
Sec. 23, W½, NW¼.

The area described contains 920 acres in Butte County.

2. At 9 a.m. on November 19, 1983, the lands will be opened to such forms of disposition as may by law be made of national forest lands. The lands have been and will remain open to applications and offers under the mineral leasing laws and to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 14, 1983.

[FR Doc. 83–28849 Filed 10–21–83; 8:45 am]

BILLING CODE 4310–84–M

Proposed Rules

Federal Register
Vol. 48, No. 206
Monday, October 24, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Adjustment of Work Schedules for Religious Observances

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management proposes to revise its regulations on adjustment of work schedules for religious observances. The proposed regulations define certain terms contained in the law, establish specific administrative procedures for processing employee requests and for adjusting employee work schedules, and provide agencies guidance on situations that warrant denial of employee requests. The proposed regulations will provide for a more efficient administration of this provision of the law.

DATE: Comments must be submitted on or before December 23, 1983.

ADDRESS: Comments may be mailed to Jerome D. Julius, Assistant Director, Office of Pay and Benefits Policy, P.O. Box 57, Compensation Group, Office of Personnel Management, Washington, D.C. 20044, or delivered to Room 4351, Office of Personnel Management, 1900 E Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dwight W. Brown, 202–632–4634.

SUPPLEMENTARY INFORMATION: Section 5550a of title 5, United States Code, provides that an employee may elect to perform compensatory overtime work for the purpose of taking compensatory time off, in lieu of annual leave, when his or her personal religious beliefs require the abstention from work during certain periods of the workday or workweek. This section further provides that an agency shall approve an employee's request to perform compensatory overtime work and for compensatory time off for religious observance, unless the resulting adjustment of work schedule will interfere with the efficient accomplishment of the agency's mission.

The interim regulations currently in effect to administer 5 U.S.C. 5550a are very broad. They do not provide definitive instructions or guidance to agencies on what constitutes interference with the efficient accomplishment of the agency's mission or on proper processing or scheduling procedures to effectively administer this provision of law. Also, they do not define or interpret the terms "compensatory overtime work," "compensatory time off," and "personal religious beliefs," which are contained in the law and current regulations. This has resulted in confusion among agencies and uneven administration of the program.

The proposed regulations have been developed to resolve these problems. Specifically, the proposed regulations will—

(1) Define certain terms contained in the law.

(2) Establish a procedural requirement that an employee's request be in writing and, if the request is denied, that the employee be informed in writing of the denial.

(3) Provide guidance on what constitutes interference with the efficient accomplishment of an agency's mission and, accordingly, what circumstances would warrant denial of an employee's request.

(4) Establish a procedural requirement that the scheduling of compensatory overtime work and compensatory time off shall be done simultaneously—at the time an agency approves the adjustment of work schedule. This offset procedure will allow for a more efficient means of recording the earning and use of compensatory overtime work and compensatory time off, provide a more effective means of scheduling work, and prevent excessive use of compensatory time off.

(5) Specify that agencies are to use established procedures for charging absences from duty when an employee does not perform scheduled compensatory overtime work.

(6) Provide instructions for the proper payment and/or crediting of compensatory overtime work and compensatory time off.

It should be noted that these proposed regulations define the scope of an agency's duty to accommodate an employee's personal religious beliefs only as they relate to the adjustment of work schedules under 5 U.S.C. 5550a. Agencies are also subject to the requirements of the Civil Rights Act of 1964, as amended, relating to unlawful employment practices in the area of religious discrimination (42 U.S.C. 2000e(j) and 2000e–2) and the religious accommodation requirements contained in the Equal Employment Opportunity Commission's (EEOC) Guidelines on Discrimination Because of Religion (29 CFR Part 1605, 45 FR 72612 Oct. 31, 1980)). In some cases, there is a direct relationship between these requirements and the proposed regulations. If the regulations are approved as final rule, supplemental guidance discussing this interrelationship will be issued through the Federal Personnel Manual System.

Also, in developing the instructions on what constitutes interference with the efficient accomplishment of an agency's mission in the proposed regulations, examples have been drawn from the EEOC guidelines in 29 CFR 1605 and case law interpreting the provisions of 42 U.S.C. 2000e(j) and 2000–2. In part, these provisions require an employer to reasonably accommodate the religious beliefs of an employee, unless the employer can show that such accommodation would result in "undue hardship" in the conduct of business, and the EEOC guidelines and case law provide circumstances in which undue hardship would result. Since interference with the efficient accomplishment of an agency's mission as provided in 5 U.S.C. 5550a would result if, in accommodating an employee's request, the agency experienced undue hardship in the conduct of business, a linkage can be established between such "interference" and "undue hardship" under 42 U.S.C. 2000e(j). Therefore, circumstances that are considered as interference with the efficient accomplishment of an agency's mission for the purposes of 5 U.S.C. 5550a would constitute "undue hardship" as the EEOC and the courts have ruled and would, therefore, we believe, be upheld.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation concerns the pay and hours of duty of Federal employees only.

List of Subjects in 5 CFR Part 550

Government employees, Wages, Civil defense, Administrative practice and procedure.

U.S. Office of Personnel Management
Donald J. Devine,
Director.

Accordingly, OPM proposes to amend Subpart J of Part 550 of Title 5 of the Code of Federal Regulations as follows:

1. The table of contents is revised to read as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

. . . . .

Subpart J—Adjustment of Work Schedules for Religious Observances

General Provisions

Sec.
550.1001 Purpose.
550.1002 Definitions.

Processing Employee Requests

550.1011 Establishment of agency procedures.
550.1012 Employee requests for adjustment of work schedules.
550.1013 Approval of employee requests.
550.1014 Denial of employee requests.

Adjustment of Work Schedules

550.1021 Offset scheduling requirement.
550.1022 Scheduling of compensatory overtime work.
550.1023 Failure to perform compensatory overtime work.

Payment and Settlement of Accounts

550.1031 Payment for compensatory overtime work.
550.1032 Settlement of employee accounts upon separation.

Authority: 5 U.S.C. 5550a.

2. Subpart J is revised to read as follows:

Subpart J—Adjustment of Work Schedules for Religious Observances

General Provisions

§ 550.1001 Purpose.

The regulations contained in this subpart are prescribed to administer the provisions of section 5550a of title 5, United States Code, which provides that an employee may elect to engage in compensatory overtime work for the purpose of taking compensatory time off when his or her personal religious beliefs require the abstention from work during certain periods of the workday or the workweek.

§ 550.1002 Definitions.

In this subpart:

"Agency" means an executive agency as defined in section 105 of title 5, United States Code.

"Agency official" means the head of an agency, or an official of the agency who has been delegated authority to act for the head of the agency in the matter concerned.

"Compensatory overtime work" means work an employee elects to perform outside his or her regularly scheduled tour of duty for the purpose of taking time off during his or her regularly scheduled tour of duty to comply with his or her personal religious beliefs. It includes work performed by an employee on a day when he or she has been relieved from work due to occurrence of a legal holiday and work performed by a part-time employee outside his or her regularly scheduled tour of duty. It does not include overtime work for which an employee has entitlement to pay under other provisions of law.

"Compensatory time off" means time off taken by an employee during his or her regularly scheduled tour of duty for the purpose of abstaining from work to comply with his or her personal religious beliefs.

"Employee" means an employee of an agency.

"Personal religious beliefs" is to be interpreted broadly. They are personal moral or ethical beliefs of the employee as to what is right or wrong, that are religious in nature or are sincerely held with the strength of traditional religious views, and require the employee to abstain from work during a period for which he or she is scheduled to work. They do not have to be based on an established religion, nor do they necessarily have to be a recognized requirement of an established religion.

Processing Employee Requests

§ 550.1011 Establishment of agency procedures.

An agency shall establish administrative procedures for the processing of employee requests to perform compensatory overtime work and for compensatory time off. These procedures may include establishment of a time period or time limitation for the submission of employee requests, provided the time period or time limitation reflects the amount of time required to make necessary work schedule adjustments. If such a period or limitation is established, requests submitted outside the time period or after the time limit has expired shall also be accepted when the employee presents a reasonable explanation for not having made the request in accordance with agency procedures.

§ 550.1012 Employee requests for adjustment of work schedules.

An employee may request to perform compensatory overtime work and to be granted compensatory time off for any period that his or her personal religious beliefs require the abstention from work The request shall contain a clear statement of the reasons for the employee's request and the qualifying purpose thereof, and shall be in writing and in accordance with established agency procedures if such procedures are prescribed.

§ 550.1013 Approval of employee requests.

An agency official shall approve an employee's request to perform compensatory overtime work and for compensatory time off, unless the resulting adjustment of work schedules will interfere with the efficient accomplishment of the agency's mission, as provided in § 550.1014.

§ 550.1014 Denial of employee requests.

(a) An agency official may deny an employee's request to perform compensatory overtime work and for compensatory time off, if the resulting adjustment of work schedules will interfere with the efficient accomplishment of the agency's mission.

(b)(1) For the purpose of this subpart, the following circumstances shall be considered as interference with the efficient accomplishment of an agency's mission:

(i) The employee's needed work cannot be performed by another employee of substantially similar qualifications during the period of absence.

(ii) The approval of the employee's request will result in more than a nominal increase in agency operating costs or decrease in efficiency

(iii) The approval of the employee's request will result in unsafe working conditions for the employee and/or co-workers.

(iv) The adjustment of work schedules is inconsistent with an established agency procedure or a negotiated procedure for approving absences from work, provided the procedure has not been established for the purpose of denying the employee's request or provided the procedure does not prevent the agency from accommodating the employee's request.

(2) An agency official may deny an employee's request in any other situation that will result in interference with the efficient accomplishment of an agency's mission.

(c) If an agency official determines that an employee's request for an adjustment of work schedule will interfere with the efficient accomplishment of the agency's mission, and is to be denied, he or she shall notify the employee of the decision in writing.

Adjustment of Work Schedules

§ 550.1021 Offset scheduling requirement.

When an employee's request to perform compensatory overtime work or for compensatory time off is approved, the agency shall adjust the employee's work schedule at the time of approval to reflect the specific period or periods of compensatory time off needed and, at the same time, the specific period or periods that compensatory overtime work will be performed.

§ 550.1022 Scheduling of compensatory overtime work.

(a) Compensatory overtime work may be performed either before or after the compensatory time off is taken, provided it is scheduled in accordance with § 550.1021.

(b) Compensatory overtime work shall be credited to an employee on a hour-for-hour basis, or authorized fractions thereof.

(c) In scheduling compensatory overtime work, agencies shall give reasonable consideration to the time or times that the employee chooses to perform such work. If no productive overtime work is available at the time or times the employee requests, an alternative time or times shall be arranged for the performance of the work.

§ 550.1023 Failure to perform compensatory overtime work.

Compensatory overtime work, once scheduled, shall be considered as part of the employee's regularly scheduled tour of duty. If an employee fails to perform scheduled compensatory overtime work, the agency shall charge the employee for the absence in accordance with established agency leave procedures.

Payment and Settlement of Accounts

§ 550.1031 Payment for compensatory overtime work.

(a) An agency shall pay an employee for compensatory overtime work in the pay period in which the corresponding compensatory time off is taken. It shall be paid at the employee's rate of basic pay in effect at the time the compensatory time off is taken.

(b) Payment for compensatory overtime work shall not include premium pay for night work, Sunday work, or holiday work under Subpart A of this part.

(c) Compensatory overtime work shall not be considered in determining entitlement to premium pay under this part or Part 551 (Pay Administration Under the Fair Labor Standards Act) of this title.

§ 550.1032 Settlement of employee accounts upon separation.

(a)(1) When an employee separates from an agency, and the employee has performed compensatory overtime work in excess of the amount of compensatory time off taken, the agency shall pay the employee for the excess compensatory overtime work.

(2) Payment for the excess compensatory overtime work shall be made at the employee's rate(s) of basic pay at the time or times the compensatory overtime work was performed. It shall not include premium pay for night work, Sunday work, or holiday work under Subpart A of this part.

(b) When an employee separates from an agency prior to the performance of compensatory overtime work to offset a period or periods of compensatory time off already taken, the employee shall, whenever possible, be afforded the opportunity to perform the compensatory overtime work prior to separation. However, if the amount of compensatory time off has not been repaid by the date of the employee is separated, the agency shall withhold an appropriate amount of basic pay from the employee's final settlement, unless the employee has sufficient annual leave to his or her credit and chooses to have the excess compensatory time off charged as annual leave.

[FR Doc. 83-28819 Filed 10-21-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Docket No. F&V AO-79-3]

Pecans Grown in 16 States; Decision To Terminate Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proposed marketing agreement and order.

SUMMARY: This final rule terminates the proceedings on a proposed marketing agreement and order program for pecans. The program would have authorized a market research and development program, including promotion and paid advertising, for the purpose of improving the marketing, distribution, and consumption of pecans. The decision to terminate is based on a lack of evidence which would demonstrate a present necessity for such a program.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued December 16, 1982, and published December 22, 1982 (47 FR 57222); Supplemental Notice of Hearing—Issued February 7, 1983, and published February 14, 1983 (48 FR 6544); Notice of Recommended Decision—Issued August 8, 1983, and published August 10, 1983 (48 FR 36272).

Preliminary Statement

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is not subject to the requirements of Executive Order 12291.

This final rule is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900).

A public hearing was held to consider a proposed marketing agreement and order program containing authority to establish marketing research and development projects, including

VOL
48
ISS
2
0
6
OC
24
1983
UMI

promotion and paid advertising, for pecans. The proposal was submitted by the Federated Pecan Growers' Associations of the United States (FPGA). Sessions of the public hearing were held in Dallas, Texas, February 8–11, and 1983; Atlanta, Georgia, February 14–16; Mobile, Alabama, February 17–18; and Washington, D.C., February 28. Notice of the sessions in Dallas, Atlanta, and Mobile was published in the December 22, 1982, issue of the Federal Register (47 FR 57222). The notice of the Washington, D.C., session was published February 14, 1983 (48 FR 6544). These notices contained the FPGA's proposed marketing agreement and order.

The recommended decision, based on record evidence and after consideration of briefs, was filed on August 8, 1983, with the Hearing Clerk, Department of Agriculture. Notice of the filing of the recommended decision, affording opportunity through September 26, 1983, to file written exceptions, was published August 10, 1983, in the Federal Register (48 FR 36272).

Material Issues

The material issues made part of the record are as follows:

1. Is the handling of pecans in the proposed production area in the current of interstate commerce, or does it directly burden, obstruct, or affect interstate commerce;

2. Do the marketing conditions show the need for issuance of a marketing agreement and order which will tend to effectuate the declared policy of the act; and

3. The terms and provisions of the proposed marketing agreement and order.

Findings and Conclusions

Extensive hearing sessions were held at several locations throughout the United States. Numerous witnesses testified representing growers, accumulators, commercial users, consumers and others. There was a wide divergence of views regarding the various issues presented at the hearing ranging from strong support to strong opposition to the need for the proposed order program for pecans.

The record of hearing does not disclose evidence sufficient to demonstrate that a marketing agreement and order of the nature proposed is needed at the present time to effectuate the declared policy of the act. The hearing record indicates that most pecan producers have experienced little difficulty in marketing their commodity and that the industry has not had to cope with chronic surplus problems. Pecan production has been a profitable venture for most growers. While the record does indicate that growth in volume of production may occur in the years ahead, it has not been established that this production will be greater than market requirements.

Much of the proponents' basis for the need of the marketing program, as presented at the hearing and reiterated in exceptions, is speculative, based on future predictions rather than past or current conditions. Demand for nuts has been increasing and the record fails to show that the anticipated increase in pecan production is beyond the range of increases in pecan consumption which can be attained in the absence of the proposed order or be of such magnitude which will lead to disorderly marketing conditions.

The record also indicates that the area, as well as the number and diversity of persons proposed to be regulated, could very well create administrative problems of massive proportions. Exceptors disagreed with this statement, stating that the number of handlers who would be regulated under the proposed program would number less than 50. While the number of handlers alone is not a full measure of administrative difficulty, the bulk of evidence in the record indicates that there are considerably more than 50 handlers.

Therefore, in view of the aforesaid findings and conclusions, it is determined that a marketing order program for pecans should not be established.

Exceptions Filed and Rulings

Within the period provided, exceptions to the recommended decision were filed by a substantial number of proponents and opponents. However, the vast majority of the exceptions did not respond in a substantive way to the proposal to terminate. Those that were substantive, as noted above, did not provide any basis on which to reverse the recommended decision.

Each exception to the recommended decision has been considered. Upon review and careful weighing of the evidence and the recommended decision, it is hereby determined that the findings, conclusions, and rulings recommended by the Deputy Administrator in his August 8, 1983, decision (48 FR 36272) shall be those of this final decision and this proceeding. Therefore, exceptions at variance with the decision are denied.

The Department of Agriculture received a request to extend by 20 days the deadline date for filing exceptions beyond September 26, 1983, so that opponents could respond to matters raised in proponents' exceptions. The reason for the request does not provide a basis for such extension. Furthermore, the extension of time is unnecessary in view of the action taken in this decision. Therefore, the request is denied.

For the reasons heretofore stated, this proceeding is terminated.

Copies of this decision may be obtained from: Frank M. Grasberger, Romm 2525–S, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5053.

List of Subjects in 7 CFR Part 983

Marketing agreement and order, Pecans.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C., on October 19, 1983

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83–28858 Filed 10–21–83; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1207

Potato Research and Promotion Plan; Hearing on Proposed Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rule.

SUMMARY: Notice is hereby given of a public hearing to be held to consider a proposed amendment of the Potato Research and Promotion Plan (hereinafter called the "Plan"). The proposal was submitted by the Potato Board, the industry organization administering the Plan. The principal changes proposed would authorize an increase in the rate of assessment and the addition of a public member to the Board. The text of the proposals to be considered is set forth below.

DATE: The hearing is scheduled for November 8, 1983, at 9:30 a.m.

ADDRESS: The hearing will be held in the New Customhouse, Room 158, 721 19th Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250; (202) 447–2615.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in E.O. 12291 and has been classified as nonmajor in accordance with USDA guidelines. The hearing is called pursuant to the provisions of the Potato Research and Promotion Act, as amended (Title III of Pub. L. 91–670, 91st Congress, approved January 11, 1971, 84 Stat. 2041), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate a plan (7 CFR Part 1200).

It has been determined by the Secretary that fifteen days notice for this hearing is sufficient since this amendment has already been widely discussed and strongly endorsed by all known potato organizations and the proposal is well-known within the industry. Therefore, any persons directly affected by the proposal would not be prohibited from participating in the hearing because of this notice period. Further, increasing operating costs since 1972 have seriously eroded the abillty of the Potato Board to continue to conduct an effective promotion program as mandated by Congress in approving the Potato Research and Promotion Act and the amendment to it. Therefore, it is impracticable and contrary to the public interest to give additional notice.

The public hearing is for the purpose of:

(a) Receiving evidence regarding the economic and marketing conditions which relate to the proposed amendment and the program under which it would be effective;

(b) Determining whether there is a need for an amendment to the Potato Research and Promotion Plan to carry out an effective and continuous coordinated program of research, development, advertising, and promotion for potatoes;

(c) Determining whether the proposed amendment or an appropriate modification of it will tend to effectuate the declared policy of the act.

The Regulatory Flexibility Act (Pub. L. 96–354), effective January 1, 1981, seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of this action, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Under the provisions of the Potato Research and Promotion Act, potato producers who grow less than five acres of potatoes are exempt from paying assessments. Nonexempt potato producers are subject to the regulatory, recordkeeping, and reporting requirements of the law. In addition, all such nonexempt producers may receive a refund of their assessment upon demand to the National Potato Promotion Board. Interested parties are invited to present evidence at the hearing on the probable regulatory and informational impact of the proposals on small businesses.

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

The proposed amendment, set forth below, has not received the approval of the Secretary of Agriculture.

Proposal No. 1

Revise paragraphs (a) and (b) of § 1207.320 to read:

§ 1207.320 Establishment and membership.

(a) There is hereby established a National Potato Promotion Board, hereinafter called the "Board," composed of producers and the public as selected by the Secretary. The public representative to the Board shall be nominated by Board members in such manner as recommended by the Board and approved by the Secretary. Producer members shall be selected from nominations submitted by producers in the various States or groups of States pursuant to § 1207.322.

(b) Producer membership on the Board shall be determined on the basis of the potato production set forth in the latest Crop Production Annual Summary Report issued by the Crop Reporting Board, U.S. Department of Agriculture. Each of the 48 contiguous States' producer membership shall be initially determined on the basis of one member for each five million hundredweight of production, or major fraction thereof, produced within such State. Each State initially shall be entitled to at least one producer member on the Board. The public member shall have no direct financial interest in the commercial production or marketing of potatoes except as a consumer and shall not be a director, officer or employee of any firm so engaged. The basis for determining the membership of future boards shall be determined by the Secretary upon recommendation of the Board.

* * * * *

Proposal No. 2

§ 1207.320 [Amended]

Add a new paragraph (e) to § 1207.320 to read:

* * * * *

(e) In the event that producer Board members fail to select a public representative nominee the Secretary may appoint such a member.

Proposal No. 3

§ 1207.322 [Amended]

Where "members" or "nominees" appears in paragraphs (a), (b), and (c) of § 1207.322 insert "producer" before each. Also, add a new paragraph (d) to 1207.322 to read:

* * * * *

(d) The public member shall be nominated by the producer members of the Board. The Board shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and the Secretary approves.

Proposal No. 4

§ 1207.328 [Amended]

Amend paragraph (a) of § 1207.328 by adding "to nominate the public member;" after "of Board members;"

Proposal No. 5

§ 1207.342 [Amended]

Revise paragraph (a) of § 1207.342 to read:

(a) The funds to cover the Board's expenses shall be acquired by the levying of assessments upon handlers as designated in regulations issued by the Board. Such assessments shall be levied at a rate fixed by the Secretary which shall not exceed one-half of one per centum of the immediate past ten calendar year United States average price received for potatoes by growers as reported by the Department of Agriculture and not more than one such assessment may be collected on any potatoes.

Proposal No. 6

Make such changes as may be necessary to make the entire Plan conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the Plan may be obtained from Kurt J. Kimmel, Fruit and Vegetable Division, AMS, Room 2545–S, U.S. Department of Agriculture, Washington, D.C. 20250.

From the time this hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture;

Office of the Administrator, Agricultural Marketing Service;

VOL
48
ISS
2
0
6
OC
24
1983
UMI

Office of the General Counsel;
Fruit and Vegetable Division,
Agricultural Marketing Service.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

(Title III of Pub. L. 91-670; 84 Stat; 7 U.S.C. 2611-2627)

Signed at Washington, D.C., on October 18, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-28808 Filed 10-21-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 4, 32, 154, 270, 273 and 292

[Order No. 343; Docket No. RM76-38-000, etc.]

Termination of Rulemaking Dockets; Certification of Compliance With Coastal Zone Management Act, et al.

Issued: October 20, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Termination of rulemaking dockets.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is terminating fifteen rulemaking dockets. These various actions are explained below in detail by individual docket number. In its order, the Commission withdraws the Notices of Proposed Rulemaking issued in Docket Nos. 76-38-000, 77-1-000, 79-2-000, 79-28-000, 79-58-000, 79-70-000, 79-79-000, 79-80-000, 80-72-000, and 80-76-000, and denies petitions for rulemaking filed in Docket Nos. 80-79-000, 82-7-000, 82-21-000, 82-29-000, and 82-37-000.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth Withnell, Division of Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) is terminating fifteen pending rulemaking dockets. In particular, the Commission is withdrawing ten Notices of Proposed Rulemaking (NOPR) and denying five petitions for rulemaking. These various actions are explained in detail by individual docket numbers.

I. Withdrawal of Notices of Proposed Rulemakings

RM76-38-000: Certification of Compliance With Coastal Zone Management Act

In a Notice of Proposed Rulemaking issued September 23, 1976,[1] the Federal Power Commission (FPC), predecessor to this Commission, proposed procedures requiring an applicant for a license, certificate, or other Commission authorization to demonstrate compliance with a state-approved coastal zone management program. Section 307(c)(3)(A) of the Coastal Zone Management Act, 16 U.S.C. 1456(c)(3)(A) (1976), requires each applicant for a Federal license or permit to provide a certification that its proposed activities comply with any existing state-approved coastal zone management plan. This certification must be included in the application submitted to the Commission.

The Commission, where appropriate, has been receiving and reviewing certifications on a case-by-case basis to ensure compliance with the the Coastal Zone Management Act. In light of the administrative efficiency of this case-by-case approach, the Commission believes that the regulations proposed in Docket No. RM76-38-000 are not needed to meet its responsibilities under the Act and is therefore withdrawing this NOPR.

RM77-1-000: Just and Reasonable Rate of Return on Equity for Notural Gas Pipeline Companies and Public Utilities

On October 15, 1976, the FPC issued a proposed Statement of Policy[2] that would have amended Part 2 of 18 CFR to establish a new § 2.92. This new section would have codified the agency's policy with regard to the methodology for detemining the appropriate rate of return on equity capital in natural gas pipeline company and electric utility rate cases.

A major purpose of this proposed Statement of Policy was to expedite case processing at the Commission. Since it was issued, the Commission has taken a number of major steps in this regard. These steps include Order No. 32 issued June 15, 1979,[3] which revised settlement procedures and Order No. 225, issued April 28, 1982,[4] which revised the Commission's rules of practice and procedure to expedite trial-type hearings.

Comments received in this docket lauded the objective of the proposal, but were critical of its substance. Because of these views, the Commission decided that further study of the issue was warranted. Based on that additional analysis, the Commission has issued a proposal for electric utilities which differs significantly from that in Docket No. RM77-1-000.[5]

The Commission has also decided, in light of the expedition already achieved in gas rate cases and of the more pressing gas rulemaking priorities now pending, that it is unnecessary to develop and pursue a generic proposal for gas pipeline rate cases. Docket No. RM77-1-000 is therefore no longer necessary and is being terminated.

RM79-2-000: Clarification of 36-Month Purchased Gas Adjustment Cost of Service Filing Requirement

On November 13, 1978, the Commission issued a Notice of Proposed Rulemaking[6] to clarify and amend the requirements of 18 CFR 154.38(d)(4)(vi). This section requires a pipeline that has a purchased gas adjustment clause (PGA) in its gas tariff to restate its Base Tariff Rate (BTR) every 36 months. This filing must be accompanied by a cost of service study for the most recently available twelve months of actual costs.

The NOPR in this docket would have made minor technical changes ot § 154.38(d)(4)(vi) that appeared desirable following the Commission's decision in *Algonquin Gas Transmission Company*, Docket No. RP78-74.[7] In that case, Algonquin was allowed to restate its Base Tariff Rate and undergo a full cost of service review 36 months following a final settlement order of three pending rate cases, a period of time that actually extended beyond 36 months.

The Commission's experience with § 154.38(d)(4)(vi) since *Algonquin* has shown that the circumstances of that case were highly unusual and are extremely unlikely to recur. The Commission reaffirms its intention, as expressed in its current regulations, that all pipelines granted the right to maintain a PGA clause in their tariff must be subject to a full rate review of their BTR's at least once every 36 months. Since pipelines appear to be complying with this 36-month review requirement, there is no reason to continue the rulemaking in this docket.

RM79-28-000: Interchange Energy Transmission Rates for Section 202(c) Emergencies.

In Docket No. RM79-28-000,[8] the Commission proposed to amend 18 CFR Part 32 to establish a basic rate computation method for use during emergencies declared pursuant to section 202(c) of the Federal Power Act (FPA), 16 U.S.C. 824a(c) (1976). These proposed rules were prompted in large part by the possibility of a shortage of coal for electrical generation in 1979 and the prospect of future oil embargoes. The rules were intended to prescribe that utilities make any section 202(c) emergency sales at rates that reflect more closely the actual costs of generating and transmitting electricity during periods determined to constitute an emergency.

Ninety public utilities and cooperatives; six power-pooling organizations; sixteen municipal, state, and Federal entities or their representatives; and three electric trade and industry associations expressed strong reservations about the negative effect of the Commission's model rate computation method on energy marketing during an emergency. They argued that the proposal would discourage voluntary agreements between utilities for solving emergency problems. Commenters also suggested that because utilities have widely varying costs and operating circumstances, it would be difficult generically to set a suitable maximum rate.

The Commission is cognizant of the variables that could arise in section 202(c) emergency situations. As the comments suggest, a great deal of flexibility would be required to address the problems that might be presented. Especially in light of the infrequency of these declared emergencies, the Commission deems it best to consider emergency rates on a case-by-case basis.

Accordingly, the Commission has decided not to proceed with this Notice of Proposed Rulemaking.

RM79-58-000: Research, Development, and Demonstration Expenses Relating to Rate Schedules Filed by Electric Utilities

On July 5, 1979, the Commission issued a Notice of Proposed Rulemaking[9] related to one facet of wholesale electric rate schedules filed with the Commission pursuant to section 205 or the FPA, 16 U.S.C. 824d (1976 & Supp. V 1981). The NOPR proposed that contributions paid by electric utilities to research, development, and demonstration organizations or activities should not be included in wholesale cost of service filings for ratemaking purposes if three preconditions existed. These preconditions were: (1) The contributions were made by the utility on a voluntary basis; (2) the contributions were made on the basis of a contributor's retail sales; and (3) wholesale customers could themselves also make contributions to the same research, development, and demonstration efforts.

The rules proposed in this NOPR were intended to establish generically the rationale adopted by the Commission in *Carolina Power and Light Company*, Docket No. ER76-495 (Phase II).[10] In that case, the Commission disallowed as a cost of service a contribution make by the company to the Liquid Metal Fast Breeder Reactor Program. The Commission based its rationale on the fact that to permit such a contribution would be to discourage wholesale customers of the utility from making their own contributions since the wholesale customers would, in effect, be making double payments.

The Commission has considered the 35 comments received in this docket and believes that while expenditures on research and development of alternative energy sources are in the best interests of ratepayers, stockholders, and the nation as a whole, the current policy of disallowing such contributions in an electric utility's rates has not interfered with the flow of these contributions.

The Commission believes that the NOPR is no longer necessary because utilities are complying with the mandate of the case and because, through its case-by-case rate review procedures, the Commission has already implemented the policy proposed in the NOPR. The Commission is therefore withdrawing the Notice of Proposed Rulemaking.

RM79-70-000: Floodplain Management and Protection of Wetlands

The Commission is withdrawing a Notice of Proposed Rulemaking, issued August 20, 1979,[11] requiring additional data from applicants concerning the effects of their proposed actions on floodplains and wetlands. The Commission recognizes its obligation to enforce the objectives and aims of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.* (1976). It does so by requiring that applicants submit detailed environmental reports when they apply for pipeline certificates or preliminary permits and licenses for hydropower projects. These reports must include information which fully analyzes a project's impact on ecosystems and habitats, including those sensitive environmental features at issue in Docket No. RM-79-70-000. Moreover, in keeping with the intent of Executive Order Nos. 11988, "Floodplain Management," and 11990, "Protection of Wetlands," the Commission takes action to ensure that, where necessary, applicants take all appropriate means to avoid or mitigate adverse effects on wetlands and floodplains.

At the same time, the Commission is committed to reducing and eliminating burdensome and unnecessary paperwork requirements. Because the Commission believes that the environmental reports now required of applicants are sufficient to elicit the kind of data that would have been obtained under the proposed rule, and that its environmental review procedures are consonant with both the requirements of NEPA and the intent of Executive Order Nos. 11988 and 11990, the Commission believes further action in this docket is unwarranted.

RM-79-79-000 and RM79-80-000: Procedural and Substantive Rules Governing Price Squeeze in the Electric Industry

On November 19, 1979, the Commission issued companion NOPRs[12] in Dockets Nos. RM79-79-000 and RM79-80-000 proposing procedural and substantive rules governing the issue of price squeeze in the electric utility industry. The Commission has determined that its current policies and case-by-case practice for dealing with the question of price squeeze are adequate and that further regulations are unnecessary.

In an opinion in *Arkansas Power and Light Company*, Docket No. ER79-339,[13] the Commission adopted a phasing procedure for electric rate cases in which price squeeze issues are raised. Rate proceedings involving price

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[1] 41 FR 43196 (Sepember 30, 1976).

[2] 41 FR 46618 (October 22, 1976).

[3] Procedure for Submission of Settlement Agreements, Docket No. RM78-16-000, 44 FR 34936 (June 18, 1979), FERC Stats. & Regs. (Reg. Preambles 1977-1981)¶30, 061.

[4] Revision of Rules of Practice and Procedure to Expedite Trial-Type Hearings, Docket No. RM78-22-000, 47 FR 19014 (May 3, 1982), III FERC Stats. & Regs.¶30.358

[5] Generic Determination of Rate of Return on Common equity for Electric Utilities, Docket No. RM80-36-000, 47 FR 38322 (August 31, 1982); IV FERC Stats. & Regs. ¶32,242.

[6] 43 FR 53,770 (November 17, 1978), FERC Stats. & Regs. (Proposed Regs. 1977-1981) ¶ 31,998.

[7] 5 FERC ¶ 61,034 (1978).

[8] 44 FR 21,683 (April 11, 1979), FERC Stats. & Regs. (Proposed Regs. 1977-1981) ¶ 32,016.

[9] 44 FR 40,535 (July 11, 1979), FERC Stats. & Regs. (Proposed Regs. 1977-1981) ¶32,030.

[10] 4 FERC Reports ¶63,015 (1977).

[11] 44 FR 49,466 (August 23, 1979), FERC Stats. & Regs. (Proposed Regs. 1977-1981) ¶ 32,032.

[12] 44 FR 67154, 67158 (November 23, 1979), FERC Stats. & Regs. (Proposed Regs. 1977-1981) ¶¶ 32,045, 32,046.

[13] 8 FERC ¶ 61,131 (1979).

VOL 48 ISS 206 OCT 24 1983 UMI

squeeze issues are handled so that a decision is first made on cost of service, capitalization, and rate of return issues. As the Commission noted in that order, "[i]t is our hope that decisions we reach on these issues will often reduce proposed wholesale rates to the point where price squeeze concerns are eliminated, or at least substantially diminished."[14] For those cases in which the price squeeze issue remained after this initial decision, the Commission indicated that a second price squeeze phase on remedies would follow.

Based on experience with price squeeze issues since this policy was announced, the Commission has determined that no additional procedural or substantive rules are necessary. In individual rate cases where a second price squeeze phase is required, the Commission believes the current case-by-case approach is warranted because the case-specific facts are critical to a final decision. In light of the number of factual variations that may arise and the need for flexibility in establishing procedures to resolve them, it is inappropriate at this time to bind all parties to the generic procedural and substantive price squeeze rules proposed earlier in these two dockets.

RM80–72–000: Production Costs and Maximum Lawful Prices in Sales Under the Natural Gas Policy Act of 1978

In a Notice of Proposed Rulemaking issued on September 9, 1980,[15] the Commission proposed to amend 18 CFR 270.101(A) to prevent the shifting of natural gas production costs from sellers to purchasers. Under the proposal, any first sale of natural gas, other than a sale of deregulated high-cost gas, that resulted in a purchaser bearing production costs in addition to the first sale price would be considered a sale exceeding the maximum lawful price under the NGPA.

This proposed "no cost shift" rule was intended to codify the requirements of section 110 of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301 (Supp. V 1981) and the principles which have guided the Commission in implementing this section. Section 110 provides in part that:

* * * a price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas * * * if such first sale exceeds the maximum lawful price to the extent necessary to recover * * * any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order of the Commission.

Section 110 of the NGPA clearly expresses the principle that payments by purchasers of costs incurred for production of natural gas at the wellhead are not allowable. This principle is explicit in Order Nos. 94[16] and 94–A[17] and implicit in the regulations themselves.[18] Thus, the Commission believes the NOPR in RM80–72–000 is duplicative and unnecessary. The Commission's action in withdrawing this proposed rule and terminating the docket is not to be construed as implying that sellers may lawfully add on production costs, but only that the proposed regulations would merely reiterate the policy now followed by the Commission on such production costs.

RM80–76–000: Amendments to Interstate Pipeline Filing Requirements for Production-Related Costs

On September 9, 1980, the Commission issued a Notice of Proposed Rulemaking [19] that would amend 18 CFR 154.63 to require the filing of certain information by an interestate gas pipeline as part of any rate request or amendment. Specifically, the Commission proposed to require pipelines to file a new schedule that would include data on production-related activities performed by the pipeline and the costs incurred for such activities so that the Commission could make a finding as to the prudence of these activities and whether the pipeline's customers should bear the costs. The NOPR was issued to codify the Commission's Statement of Policy in Order No. 94 [20] governing costs incurred by a pipeline after the first sale of gas.

On rehearing of Order No. 94, the Commission revised its Statement of Policy in Order No. 94–A,[21] to presume as prudent any production-related activity performed by a gas-purchasing interstate pipeline, provided the gas seller was not obligated by contract to perform the activity. This revision makes unnecessary the filing requirements proposed in RM80–76–000 to the extent that the data that would have been required required was designed to enable the Commission to make a finding regarding the prudence of the activities. Moreover, because each pipeline must make a showing that its rates are just and reasonable, the pipeline currently must file sufficient information for the Commission to determine the prudence of the level of production-related costs and, thus, whether the pipeline may pass these costs along to its customers. The Commission is mindful of the need to reduce, where possible, the paperwork burdens on jurisdictional companies and believes that the proposed regulations in RM80–76–000 should be withdrawn because the data proposed to be collected is not needed for the determination that must be made by the Commission.

II. Disposition of Petitions for Rulemaking

RM80–79–000: Sun Gas Company

The Sun Gas Company (Sun Gas) filed a petition for rulemaking on September 12, 1980, requesting an amendment to 18 CFR 273.204. Petitioners asked the Commission to allow producers to collect the maximum lawful price allowed under the Natural Gas Policy Act of 1978 (NGPA) retroactively to the date of first delivery under the seller's contract. Section 273.204 currently allows a producer to collect the maximum lawful price retroactively to the date filing an application for a well category determination with a jurisdictional agency.

The Commission's rationale for establishing the time of filing as the date from which retroactive collections are allowed was explained in the preamble to rules issued to implement the interim collection provision of the NGPA, 15 U.S.C. 3413(e) (Supp. V 1981).

The Commission believes that the procedures established by the regulations are reasonable and ultimately entitle the seller to collect the full price to which he is entitled * * *. To the extent possible the rules should

[14] *Id.* at 61,510.

[15] 45 FR 61,643 (September 17, 1980), FERC Stats. & Regs. (Proposed Regs. 1977–1981) ¶ 32,080

[16] Order Amending Interim Regulations Under the Natural Gas Policy Act of 1978 and Establishing Prices Under the Natural Gas Act, Docket No. RM80–47–000, 45 FR 53,099 (August 11, 1980), FERC Stats. & Regs. (Reg. Preambles 1977–1981) ¶ 30,178.

[17] Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Policy Act, Docket No. RM80–47–002, 48 FR 5152 (February 3, 1983), III FERC Stats. & Regs. ¶ 30,419, *rehearing denied*, Docket No. 80–47–002, 48 FR 24,039 (May 31, 1983) (Order No. 94–C), III FERC Stats. & Regs. ¶ 30,454. *See* related dockets in RM80–47–003, Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act; Order Amending Regulations in Subpart B of Part 270 and Subparts E, F, and K of Part 271, and Affirming Certain Final Regulations Issued in Order No. 68, 48 FR 5190 (February 3, 1983) (Order No. 94–B), III FERC Stats. & Regs. ¶ 30,421, *rehearing denied*, Docket No. RM80–47–003, Order Denying Rehearing and Denying Stay of Order No. 94–B (Order No. 94–D), 48 FR 24,051 (May 31, 1983.

[18] 18 CFR Part 271, Subpart K (1983).

[19] 45 FR 61,641 (September 17, 1980), FERC Stats. & Regs. (Proposed Regs. 1977–1981) ¶ 32,079.

[20] *See* note 16, *supra*.

[21] *See* note 17, supra.

provide consumers with certainty regarding their financial obligations. Current procedures establish this certainty by requiring notice of the price sought and a clearly ascertainable commencement date viz., the filing of the application for a determination.[22]

The Commission believes that this rational and the current regulations are consistent with the NGPA and Congressional intent. The Sun Gas petition has provided no infromation to the contrary which convinces the Commission to revise its rules. Accordingly, this petition is being denied.

RM82–7–000: Colorado-Ute Electric Association

On December 11, 1982, the Colorado-Ute Electric Association (Colorado-Ute) filed a petition for rulemaking requesting an amendment to 18 CFR 292.303. This section implements section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 824i (Supp. V 1981) and requires all electric utilities to purchase the energy produced by qualifying facilities (QFs). Colorado-Ute's petition asked the Commission to change these regulations by requiring QFs to by-pass local distribution utilities and sell power directly to the utilities that supply wholesale power to the distribution companies.

This petition for rulemaking is the second time Colorado-Ute has raised the issue of amending § 292.303. When the Commission issued the final rule in Docket No. RM79–55–000,[23] implementing for section 210 of PURPA, it addressed the point made by Colorado-Ute and concluded that "the mandate of PURPA to encourage cogeneration and small power production requires that all obligations to purchase under this provision supersede contractual restrictions on a utility's ability to obtain energy or capacity from a qualifying factility."[24]

Moreover, section 210(a0 of PURPA directs the Commission to prescribe rules which require "electric utilities" to offer to (1) sell electrice energy to qualifying cogeneration facilities and qualifying small power production facilities and (2) purchase electric energy fron such facilities. The term "electric utility" is defined broadly in section 3(4) of PURPA and means "any person, State agency, or Federal energy, which sells electric energy." Thus, an all-requirements distribution utility which sell s energy at retail must be considered an "electric utility" for purposes of section 210 of PURPA, and is required to offer to purchase power from a QF. Since the obligation to purchase is a statutory requirement, the Commission did not waive it in the final rule implementing section 210 of PURPA.

In an effort to deal with the concerns of Colorado-Ute, however, the final rule in Docket No. RM79–55–000 allowed a distribution utility to wheel power with the agreement of the QF to the adjoining generating and transmission utility. Additionally, the Commission recognized that when a supplying utility is in an excess capacity situation, QFs may be discouraged from making sales to the supplying utility rather than to the distribution company because the supplying utility's avoided cost rate would be lower than that of the distribution company. To alleviate this problem, the Commission required that any loss in revenue to the supplying utility that might occur as a result of the QF selling to the distribution utility be allocated to the distribution company which would, in turn, deduct it from its avoided cost. By thus adjusting the avoided cost rate, the Commission reduced any economic benefit to the QF resulting from a sale to a distribution utility.

Since Colorado-Ute's petition does not indicate how the statute can be construed differently, the Commission is not convinced that it should modify § 292.303. The Commission therefore declines to amend that section and denies the petition for rulemaking.

RM82–21–000: National Association of Regulatory Utility Commissioners

On March 9, 1982, the National Association of Regulatory Utility Commissioners (NARUC) filed a petition for rulemaking requesting restrictions on the operation of take-or-pay provisions in gas purchase contracts. Specifically, NARUC asked the Commission to open a rulemaking docket to consider prohibiting the automatic pass-through of gas purchase liabilities above a contract leval of 75 percent in all future producer/pipeline contracts.

On April 28, 1982, the Commission issued a Notice of Inquiry (RM82–26–000) [25] to investigate allegations that serious economic distortions were evolving in natural gas markets. The issues of take-or-pay clauses and their effect on market ordering problems were addressed specifically in the Notice and were subjects upon which the Commission solicited views. NARUC's petition was considered in conjunction with the Notice.[26]

Following the Notice of Inquiry, the Commission issued a Policy Statement,[27] indicating that it would apply a rebuttable presumption in general rate cases under sections 4 and 5 of the Natural Gas Act that take-or-pay prepayments to producers under contracts containing such requirements in excess of 75 percent of annual deliverability from relevant wells would be inappropriate and would not be given rate base treatement.[28] This Policy Statement applies to contracts entered into on or after December 23, 1982, the effective date of the Policy Statement, and to contracts entered into prior to that time but amended on or after that date.

The Policy Statement indicated the Commission's agreement with the thrust of NARUC's request. The Commission recognizes that high take-or-pay requirements have influenced pipelines to take and sell high cost gas while cutting back takes of lower cost gas, apparently resulting in increased prices for consumers. As noted in the Policy Statement, by selecting the 75 percent limitation, the Commission has attempted to balance the need for pipeline flexibility in responding to changing market conditions against the need to ensure a cash flow to producers to cover their costs.

The Commission believes that its Policy Statement, rather than a rulemaking proceeding, is the more appropriate action at this time, particularly since its policies must be sensitive to changing market factors and a policy statement is a more flexible method of addressing this issue. Hence, NARUC's petition requesting that the Commission initiate a rulemaking proceeding is denied.

[22] Natural Gas Collection Authority; Refunds, Docket No. RM79–53–000, 44 FR 37,491, 37,495 (June 27, 1979) (Order No. 36), FERC Stats. & Regs. (Reg. Preambles 1977–1981) ¶ 30,062.

[23] Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Public Utility Regulatory Policies Act of 1978, 45 FR 12214 (February 25, 1980), 45 FR 24126 (April 9, 1980) (Order No. 69), FERC Stats. & Regs. (Reg. Preambles 1977–1981) ¶ 30,128, *rehearing denied*, 45 FR 33,956 (May 21, 1980), FERC Stats. & Regs. (Reg. Preambles 1977–1981) ¶ 30,160.

[24] 45 FR at 12219.

[25] Impact of the NGPA on Current and Projected Natural Gas Markets, Docket No. RM82–26–000, 47 FR 19157 (April 26, 1982), IV FERC Stats. & Regs. ¶ 35,512.

[26] *Id.* at 19162, IV FERC Stats. & Regs. at 35,565.

[27] Take or Pay Provisions in Gas Purchase Contracts; Statement of Policy, Docket No. PL83–1, 47 FR 57288 (December 23, 1982), III FERC Stats. & Regs. ¶ 30,410.

[28] Under current Commission regulations, prepayments made pursuant to take-or-pay contract clauses are given rate base treatment for a period of time and are not automatically flowed through as NARUC's petition implies.

VOL
48
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RM82-29-000: American Paper Institute, Inc.

On May 11, 1982, the American Paper Institutes, Inc. (API) submitted a petition for rulemaking requesting an amendment to 18 CFR 4.33. This section governs the filing and disposition of competing applications for a preliminary permit or license for a proposed water power project and establishes the criteria by which the Commission will decide between applicants. Petitioner API has asked the Commission to establish a preference for an applicant who owns all of the property interests necessary for the development of a proposed project (site owner preference).

The Commission recently addressed the question of site owner preference in an order granting a preliminary permit for a hydropower project.[28] In deciding not to grant a preference to the owner of the site, the Commission pointed out that "the possibilities for delay associated with a non-owner permittee having to gain access for study purposes to the project site, while not insignificant, are less of a concern that the loss of initiative in developing hydropower potential—a national resource—that might result from according owners of undeveloped hydro sites a preference over the non-owner competition."[29] The Commission also notes that at the licensing stage, the right of condemnation held by a licensee obviates any initial advantage for the owner of a site.

The API petition does not contain information that casts doubt on the propriety of the decision in *Franklin Falls*. The Commission believes its current case-by-case approach for deciding among competing permit or license applications comports with the requirements of section 7(a) of the Federal Power Act, 16 U.S.C. 800(a) (1976), and properly promotes the development of water power resources consistent with the public interest.

RM82-37-000: Internationaler Energie Fonds GmbH

On August 6, 1982, Internationaler Energie Fonds GmbH requested a change in Commission regulations under the Natural Gas Policy Act of 1978 governing retroactive collection of the maximum lawful price for tight formation gas after a final determination of eligibility for such price has been made. In the case of tight formation gas, 18 CFR 273.204(a)(1)(ii) permits a seller to collect retroactively to July 16, 1979, the amount by which the maximum lawful price for gas exceeds the actual price collected. The higher maximum lawful price, however, may only be collected retroactively 45 days after an eligibility determination becomes final. Petitioners request a change in these requirements to permit a seller to commence retroactive collections 45 days after filing an application for determination of eligibility with the jurisdictional agency.

Although 18 CFR 273.301 requires that all collections be made subject to refund, in adopting its rules for retroactive collection, the Commission attempted to balance a seller's interest in additional revenues with a purchaser's interest in paying no more than the maximum lawful price for gas. Permitting retroactive collection only after a well has been granted a tight formation determination achieves this balance by injecting a degree of certainty into the payment process. To permit retroactive collection as Internationaler Energie Fonds GmbH request would be to undermine this certainty and tip the balance unreasonably in favor of sellers. The Commission is not persuaded otherwise by Internationaler Energie Fonds GmbH, and is therefore denying their petition.

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Exec. Order No. 12009, 3 CFR 142 (1978); Federal Power Act, as amended, 16 U.S.C. 291-828 (1976 & Supp. V 1981), Natural Gas Act, 15 U.S.C. 717-717z (1976 & Supp. V 1981), Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp. V 1981); Public Utility Regulatory Policies Act of 1978; 16 U.S.C. 2601-2645 (Supp. V 1981))

III. Conclusion

In consideration of the foregoing, the Commission withdraws the Notices of Proposed Rulemaking in Docket Nos: RM76-38-000, RM77-1-000, RM79-2-000, RM79-28-000, RM79-58-000, RM79-70-000, RM79-79-000, RM79-80-000, RM80-72-000, and RM80-76-000, and denies the petitions for rulemaking filed in Docket Nos. RM80-79-000, RM82-7-000, RM82-21-000, RM82-29-000, and RM82-37-000. These dockets are being terminated as of the date of issuance of this Order.

By the Commission. Commissioner Hughes dissented.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28865 Filed 10-21-83; 8:45 am]

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[28] Franklin Falls Hydro Electric Corporation, *et al.*, Project Nos. 3118-000 and 3170-000 — FERC —— (September 14, 1983).

[29] *Id.* at ——.

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18 CFR Part 271

[Docket No. RM81-24-000]

J-3 Oil Company, Inc.; Order Denying Petition for Rulemaking

Issued: October 20, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Denying Petition for rulemaking.

SUMMARY: On March 19, 1981, the J-3 Oil Company requested that the Commission issue a clarification or amendment to its rules and regulations implementing section 103 in the Natural Gas Policy Act of 1978. The petition requested that the Commission amend the definition of "new, onshore production well" so that no additional filings would be required for additional completion locations in a previously determined and qualified new, onshore production well. The Commission has issued two orders (Order No. 149 and Order No. 336) that essentially resolve the issues raised in J-3's petition for rulemaking. The Commission hereby denies J-3's petition for rulemaking.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: On March 19, 1981, the J-3 Oil Company (J-3) requested that the Commission issue a clarification or amendment to its rules and regulations implementing section 103 of the Natural Gas Policy Act of 1978 (NGPA). 15 U.S.C. 3301-3437 (Supp. V 1981). J-3's petition requested that the Commission amend the definition of "new, onshore production well" so that no additional filings would be required for additional completion locations in a previously determined and qualified new, onshore production well. Petition of J-3 Oil Company, Inc. for Clarification and/or Amendment of the Commission's Rules and Regulations, Docket No. RM81-24-000, filed March 19, 1981.

In Order No. 149, the Commission clarified its regulations implementing section 103 and stated that a determination was required for each proration unit penetrated by the same wellbore in order to collect the section 103 price for gas produced for that proration unit. Clarification of Regulations regarding New, Onshore Production Wells, 46 FR 29,697 (June 3, 1981). The Commission reasoned that individual determinations were necessary for each proration unit penetrated by the same wellbore in order to insure that each completion in a proration unit did not violate the proration unit restrictions in NGPA section 103(c)(3). In Order No. 149, the Commission noted that it resolved the issues raised by J-3's petition for rulemaking.

Since Order No. 149 was issued, the Commission has issued a subsequent rulemaking amending the regulations adopted in Order No. 149. Under these amendments, a jurisdictional agency determination that a well is a "new, onshore production well" covers all gas produced from that well, provided that the gas is produced from a proration unit which has received a well completion permit or will receive in the future a well completion permit from the appropriate regulatory agency. The Commission stipulated that this rule would only apply to gas that is produced from a proration unit in which the subsequent completion is a first completion in a proration unit and which is not a reentry of a well previously spudded before February 19, 1977. Reduction in Filing Requirements for Well Category Applications under Sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978, 48 FR 44,508 (September 29, 1983).

The Commission believes that these two rulemakings resolve the issues raised in J-3's petition for rulemaking. Accordingly, the Commission believes that further consideration of J-3's petition in a separate rulemaking is unwarranted. J-3's petition for rulemaking is hereby denied by the Commission and Docket No. RM81-24 is terminated.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28866 Filed 10-21-83; 8:45 am]

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18 CFR Parts 271 and 274

[Docket No. RM80-41-000]

Petition for Rulemaking by Sun Gas Co.

Issued: October 20, 1983.

AGENCY: Federal Energy Regulatory Commission; DOE.

ACTION: Order denying petition for rulemaking.

SUMMARY: The Commission is denying Sun Gas Company's petition for rulemaking to establish an incentive price for natural gas for production enhancement work because further consideration of Sun's petition is unnecessary in light of actions taken by the Commission in a related rulemaking docket.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Rulemaking and Legislative Analysis Section, Office of the General Counsel, 825 North Capitol Street, NE., Room 8 602-A, Washington, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION: Under section 107 of the Natural Gas Policy Act (NGPA), the Commission has legal authority to set an incentive price for various categories of high-cost natural gas. 15 U.S.C. 3317 (Supp. V 1981). In light of section 107, the Sun Gas Company (Sun) filed a petition for a rulemaking on February 27, 1980, requesting that the Commission "determin[e] whether natural gas production achieved as a result of supply enhancement procedures should be classified as 'high-cost natural gas' * * *". Petition for a Rulemaking, Sun Gas Company, Docket No. RM80-41-000.

The Commission recently issued a rulemaking which granted an incentive price for natural gas produced as a result of production enhancement procedures. Docket No. RM80-50, Order Granting Rehearing in Part and Denying Rehearing in Part, High-Cost Natural Gas: Production Enhancement Procedures, issued September 26, 1983, 48 FR 45097 (October 3, 1983). The Commission believes that the result achieved by the rulemaking addresses the issues raised by Sun's petition for rulemaking and, for the most part, adopts the relief sought by Sun. Accordingly, the Commission believes that further consideration of Sun's petition in a separate rulemaking is unwarranted. Sun's petition for rulemaking is hereby denied by the Commission and Docket No. RM80-41-000 is terminated.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28867 Filed 10-21-83; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 61

[CC Docket No.83-992; FCC 83-402]

Amendment of the Commission's Rules With Regard to Tariffs

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to recodify Part 61 of its Rules, governing tariffs, which implements Section 203 of the Communications Act, 47 U.S.C. 203. the rules have not been reviewed in their entirety since their adoption in 1939, although the Commission has revised particular rules in recent years. Dramatically altered conditions in the contemporary telecommunications industry make a thorough review necessary. The proposed recodification would restate and reorganize the Rules, and amend them as appropriate to better tailor formal agency procedures to the realities of contemporary tariffing practices. Of particular note are proposals to reduce the notice periods and cost support requirements now imposed on dominant carriers.

DATES: Comments must be received on or before November 25, 1983, and Reply Comments must be received on or before December 12, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Judy Nitsche, (202) 632-5550.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 61

Communications common carriers, Radio, Tariffs, Telegraph, Telephone.

Notice of Proposed Rule Making

In the Matter of Amendment of Parts 1 and 61 of the Commission's Rules; CC Docket No. 83-992.

Adopted: September 9, 1983
Released: October 5, 1983.

By the Commission.

1. We propose here a recodification and further revision of Part 61 of the Commission's Rules, 47 CFR 61.1 *et seq.*, which governs tariffs, and a single related amendment to Part 1. of particular importance, as explained below at paras. 8-10, we are proposing to reduce from 90 to 45 days the notice period required for dominant carriers' tariff filings which would increase or restructure rates, or introduce new service offerings. Other tariff filings by dominant carriers, which presently require 70 days' notice, would be subject to a 35 day notice requirement under the recodification. In addition, we are proposing (at para. 13) to expand the exemption from the cost support requirements of § 61.38, so that dominant carriers with annual gross

VOL 48 ISS 206 OCT 24 1983 UMI

revenues less than $500,000 will not be subject to that requirement. (The present exemption cutoff is $200,000.)

2. Although particular provisions of Part 61 have recently been modified or supplemented to better reflect contemporary industry conditions,[1] our action here represents the first overall review of this part since its original adoption in 1939.[2] As discussed below, we now propose to eliminate unnecessary regulation, to adopt more flexible procedural options to ease carriers' compliance burdens, and generally to clarify and restructure the remaining regulations in Part 61 for easier comprehension.[3] These rules, as streamlined, will enable the Commission to continue to meet its statutory obligations, while allowing more efficient operation and more effective competitive responsiveness by subject carriers.[4]

3. Part 61 provides the procedural framework with which subject carriers must operate when filing tariff publications with the Commission. That framework consists of specific rules and regulations for every tariff, supplement, revised page, additional page, instrument of concurrence, notice of revocation, adoption notice and any other schedule of charges or regulations, which is filed with the Commission pursuant to Section 203 of the Communications Act of 1934. That same structure affords the Commission adequate opportunity to examine tariffs for possibly unjust, unreasonable, or unreasonably discriminatory provisions. These procedures, however, were adopted in an environment dominated by the presence of traditional monopoly telephone and telegraph service suppliers. Although that environment has since undergone radical change brought about by technological revolution, growth in telecommunications demand, and the emergence of a multiplicity of suppliers, our Rules for the most part have not changed. Thus, numerous provisions of our Rules have become outdated or confusing as service offerings and our own regulatory policies have evolved.[5] We are also concerned that certain provisions of Part 61 unnecessarily impede effective competition between carriers.[6] We believe that procedural reform can significantly improve subject carriers' ability to respond promptly and effectively to altered competitive circumstances. Thus, this proceeding seeks both to clarify and update our Part 61 rules, and to facilitate competition by reducing lead time for introducing new services and, to the extent possible, diminishing carrier exposure to the regulatory process.

4. While pursuing these goals, the Commission is aware of its statutory duty to exercise an informed and responsible regulatory oversight to protect the public interest. In our view, the rules we propose continue to provide the tools necessary to fulfill this function. Thus, Part 61 will still afford affected parties the opportunity to address perceived shortcomings in offerings by filing carriers.[7] Moreover, revised Part 61 will still contain sufficiently detailed format specifications to assure that all tariff users can readily make useful comparisons within and between tariffs. Indeed, with the simplification[8] or elimination of many Part 61 requirements that no longer are appropriate in today's environment, the user should find this process significantly less burdensome. In sum, the proposed Part 61 is intended to reform our regulations to retain only those requirements which are necessary for responsible regulatory oversight in accordance with the objectives of the Act.

5. Our proposed rule revisions divide into two categories. The first, larger "recodification" category embraces all rule changes for which we are proposing a specific revised form, including the reorganization and renumbering of Part 61 generally. As such, these changes reflect the Commission's working familiarity with the application of these rules on a day-to-day basis. Included in this category are the proposed reductions in notice periods routinely imposed on dominant carriers, and expansion of the dominant carriers' limited exemption from cost support requirements. In contrast, the second category involves provisions of Part 61 which we consider due for serious review, but for which our present level of information is inadequate to support specific rule language.

6. We believe that most of the changes in these rules may be implemented without notice and comment rulemaking procedures under the Administrative Procedures Act, and may be made effective sooner than 30 days.[9] Indeed, as part of our internal review of Part 61, we recently moderated without rulemaking the Section 61.38 cost support requirements attached to certain types of tariff filings, because they were no longer necessary or useful for effective tariff review in the context of the contemporary telecommunications marketplace.[10] Nevertheless, these rule changes involve some areas on which we particularly desire public comment before formalizing specific changes. To achieve maximum benefit from a well-coordinated procedural structure, therefore, we are offering the entire recodification for public comment. We

[1] Last fall, we eased the Section 61.38 requirement for cost support materials, originally imposed in 1970, to better comport with present industry conditions and related tariffing practices. We eliminated the backcast requirement and shortened the term of forecasts. Amendment of Section 61.38, FCC 82-436, October 8, 1982. See also Tariffs—Evidence (Docket No. 18703), 25 FCC 2d 957 (1970) [adoption of Section 61.38). Reconsideration of those revisions was denied today in a separate order, FCC 83———. In addition, we adopted in 1980 distinct procedural schemes for dominant and non-dominant carriers. Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Thereof (Docket No. 79-252), 85 FCC 2d 1 (1980), recon. pending (Competitive Carrier Rulemaking).

[2] Rules Governing the Construction, Filing and Posting of Schedules of Charges for Interstate and Foreign Communicatioo Service, 4 FR 2287 (June 7, 1939).

[3] We propose to retain many requirements which prescribe a standard format and notation for tariffs filed with the Commission. Such procedural specification is necessarily detailed; were we to permit differing tariff formats and abbreviations, the interpretation, evaluation and comparison of tariffed service offerings would become substantially more difficult and time-consuming, without any significant offsetting benefits to carriers, customers or Commission staff.

[4] The Appendixes set out the proposed recodification side-by-side with the existing text of Part 61, and include indices cross-referencing the old and new texts.

[5] For example, the rules presently set forth separate requirements for tariffs filed in loose-leaf and pamphlet form, although no pamphlet tariffs have been filed in over a decade. Similarly, the present rules (Sections 61.66 and 61.67) refer to money order services, although this is no longer a tariffed service; there is a similar archaic reference to submarine cables (Section 61.19).

[6] These provisions are discussed below at paras. 8–12.

[7] There would, however, be a shortened period in which to file petitions against filings presently submitted on 90 days notice. The shortened time schedule for these petitions would result from the reduction of that notice period to 45 days, which implicates a different filing schedule. See n. 15, below. Nevertheless, the Commission would retain the option to defer the effective date of a tariff to the full 90 day statutory period, if required, and to similarly extend the schedule for filing petitions.

[8] *E.g.*, Part 61 presently contains detailed and confusing standardized procedures enabling one carrier to concur in another carrier's tariff, and setting forth the procedures required for offerings involving more than one carrier. The proposed recodification still provides for these mechanisms, but in simplified, more easily understood form.

[9] Section 553(b)(3)(A) of the Administrative Procedures Act, 5 U.S.C. 553(b)(3)(A), exempts rules involving agency practice and procedure from that Act's notice and comment requirements. Section 553(d)(2) of the Act exempts such rules from the requirement that their effectiveness follow publication by at least 30 days.

[10] Amendment of Section 61.38, *supra* note 1. As discussed there, authority for our characterization of these rules as procedural is well established. Aeronautical Radio, Inc. v FCC, 643 F.2d 1221, 1235 (D.C. Cir. 1980); Associated Press v FCC, 448 F.2d 1095, 1104 (D.C. Cir. 1971).

believe the recodification will benefit from comments which address the interrelation of particular provisions (as well as focussing on rules of particular interest); it is precisely this element which has been slighted by past revisions of particular Rules.

7. The major proposals are summarized in the text below. In addition, all specific text changes proposed are set out in full detail in the Appendices. (The Appendices also contain a section-by-section explanation of all the proposed rules, and indices which cross-reference the old and new rule sections.)

Category I: Recodification Revisions

8. *Notice Periods.* Section 203(b) of the Act, as amend in 1976, [11] requires 90 days' notice before proposed tariffs may take effect, but preserves Commission discretion to moderate that period "either in particular circumstances or by general order applicable to special circumstances or conditions." 47 U.S.C. 203(b). That procedural flexibility has long been exercised by applying different notice periods to different types of filings by the same carrier. Thus, the statutory maximum 90-day notice is presently required only of dominant carriers making filings which involve a change in rate structure, a new service offering, or a rate increase. 47 CFR 61.58(b). All other dominant carrier filings, except for minor revisions (*e.g.*, changes in carrier name, change of coordinates, corrections) permitted as 15 day filings under § 61.58(a), must be made on 70 days' notice: 47 CFR 61.58(c).[12] For non-dominant carriers, we have established a 14-day notice period for all filings.

9. The 70 or 90 day notice requirement for effecting price changes or new service offerings proposed by dominant carriers both delays the public benefits of the innovation, and gives competitors an extended opportunity to improve their competitive position by fashioning competitive offerings or altering marketing practices. These constraints naturally tend to inhibit dominant carriers' initiatives and their competitive responsiveness, and have resulted in numerous dominant carrier requests for special permission [13] to file tariff proposals on shorter notice than would otherwise be required by the Rules. In many instances, carriers make such requests before tariff proposals are filed. This imposes the burdens of preparing and processing such requests on carriers and the Commission. In other cases, special permission is requested by the carrier only after the tariff has been filed, when no petition to suspend or reject is filed by the filing deadline. This latter situation entails the additional burden of a subsequent filing by the carrier of revised tariff pages specifying the revised effective date. In both contexts, the Bureau often grants special permission to accelerate effective dates, since as a matter of practice the staff will not delay a proposed carrier action longer than is necessary for adequate review.

10. We recognize there are competing considerations in reducing the notice required for filings by dominant carriers. On the one hand, the public would clearly be served by permitting all carriers the maximum latitude to respond quickly and decisively to competitive offerings, new technologies, and new circumstances. On the other hand, we must preserve our ability to perform the Commission's oversight responsibilities under the Act. Our experience suggests that in most cases, dominant carrier filings submitted on 35 or 45 days' notice can be adequately reviewed in these reduced time periods. The existing notice requirements were adopted when most tariff matters had to be referred to the full Commission for decision. Since then, we have substantially expanded the delegated authority of the Chief, Common Carrier Bureau to act in these cases. *Amendment of Part 0 of the Commission's Rules*, FCC 79-880, January 18, 1980. Consequently, in most cases the longer notice periods necessary to allow for the internal process of preparing agenda items are no longer required for the Bureau to effectutate expeditious tariff review.[14] Moreover, for the relatively small number of filings which may require additional review, we retain the discretion to require the carrier to extend the notice period to the full statutory maximum of 90 days.

1. *Exemption from Section 61.38 Submissions.* The second salient change in Part 61 which we propose today is the expansion of the class of dominant carriers exempt from compliance with Section 61.38. That rule specifies the cost support materials which must be submitted with certain tariff filings. Those materials currently need not be filed by carriers with annual gross revenues under $200,000. 47 CFR 61.38(f). This exemption was originally set at $100,000 and was designed to limit the number of carriers required to file this data, with an eye to moderating the review burden on limited Commission staff.[15] Our experience since then, particularly in recent years, convinces us that the burden on smaller carriers of complying with the requirements of § 61.38 outweighs the benefits to the Commission's review process in the usual case. We therefore propose to increase this exemption threshold to $500,000, primarily to ease the burden on affected carriers. Of course, the Commission retains authority to request cost support materials from any carrier where the circumstances of a particular filing warrant.[16] Thus, we expect the higher threshold will substantially mitigate the affected smaller carriers' burden of compliance, without doing violence to statutory oversight functions.

12. *Other Specific Recodification Proposals.* As noted, the recodification is intended to eliminate unnecessary regulations, to adopt more flexible procedural options better comporting with contemporary conditions, and generally to clarify and restructure Part 61 to ease comprehension. A full description of all the changes proposed to achieve these ends would burden this order unnecessarily, but we believe it helpful to describe illustrative revisions proposed as part of the recodification, following their renumbered rule designation. Appendix B cross-references these designations to the existing rules.

13. In the sub-part headed "general rules", proposed Section 61.33 would enumerate for the first time the information which must routinely be

[11] Pub. L. 94-376, 90 Stat. 1080, August 8, 1976.

[12] Part 69 of our Rules, governing access tariffs, requires those tariffs to be submitted on 90 days' notice (§ 69.3(a)). The provisions of Part 69 are not affected by today's actions.

[13] Sections 61.151–61.153 of our Rules govern special permission requests.

[14] The pleading cycle for petitions and replies addressing 70 day filings would not be affected by the proposed reduction to 35 days notice. The 25-day petition deadline for what are now 90 day filings would be reduced to the 15 day deadline presently prescribed in § 1.773 for filings made on 30 to 89 days notice. Petitioners should in our judgment be able to prepare informed petitions in 15 days. Where more time is needed, the Commission may grant an extension, and defer the tariff's effective date to permit more extended review.

[15] Tariffs-Evidence (Docket No. 18703), 25 FCC 2d 957, 966 (1970), explained the original exemption as necessary "because we envision that the Commission's staff would not be able at this time to evaulate routinely the required information and data if all carriers submitted it." The increase to $200,000 to reflect inflation since 1970 was adopted in Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Thereof (Docket No. 79-252), 85 FCC 2d 1 (1980).

[16] We note that because this rule change is simply a proposal, cariers whose annual gross revenues fall between $200,000 and $500,000 will be required to submit Section 61.38 materials with their access charge filings in October 1983. Because the submission of such data may be particularly useful in this regard, we may continue to require it of those carriers who otherwise would be exempt should the increased threshold be adopted. Commenting parties may wish to address this issue.

VOL 48 ISS 206 OCT 24 1983 UMI

submitted with tariff transmittals to aid Commission review. Because the existing rules do not adequately specify these materials, Commission staff frequently must request supplemental information from carriers. Apart from the unnecessary administrative burden on both parties which results, supplemental requests have the potential to delay the effective date of proposed tariffs as well. In addition, proposed § 61.52 would explicity authorize the carrier to use an optional form for tariff pages, at its discretion. This optional form is frequently used by carriers now through the staff's routine grant of waiver requests. Furthermore, proposed Section 61.54 would consolidate material now scattered through eight existing rule sections, in order to eliminate redundancies and clarify the specific requirements governing the composition of tariffs. Similarly, proposed § 61.58 would consolidate existing notice requirements (including the shorter notice periods) presently in six rule sections, and would establish a new three-day notice period for the correction of typographic errors.

14. Under the sub-heading "concurrences," proposed Section 61.131 would formalize the present practice of allowing a carrier to concur in another carrier's tariff, as an alternative to filing a vitually identical tariff on its own behalf. This procedure reduces the burden of tariff preparation for carriers electing it, as well as the burden of administrative review. While currently used primarily by multipoint distribution service carriers, this type of concurrence could also reduce significantly the burdens of submitting and reviewing other tariffs whose terms are suitable for a generic approach.

15. Of the remaining two sub-headings, only that governing the adoption of tariffs by successor carriers has been significantly altered. Proposed Section 61.171 would delete the present requirement that an adoption supplement be filed. This is unnecessarily duplicative of the separate requirement in Section 61.171 that an adoption notice be filed and posted. More importantly, carriers would no longer be permitted to keep original tariff pages on file when the offering carrier changes, a practice that has confused customers and created administrative burdens. Instead, under the proposed procedure, the adopting carrier would reissue the tariff in its entirety under its own name and numbering series immediately on adoption, or be permitted to file an adoption notice provided it reissues the tariff within the next 15 days. This approach would accord the adopting carrier some procedural flexibility, while still addressing the problems which have accompanied adoptions under existing rules.

16. This leaves one related matter involving our companion rules governing petitions against tariff filings. See 47 CFR 1.773. Currently the rules for petitions against tariff filings of non-dominant carriers are set forth in Part 61, while the rules for petitions against filings by all other carriers are governed by Section 1.773. We believe this creates an unnecessary fragmentation. The recodification would relocate the procedural provisions for non-dominant carriers to Section 1.773(a)(1)(ii). In addition, proposed Section 1.773(b)(1)(iv) would explicitly provide for the filing of consolidated replies by carriers where petitions have been filed on more than one date. At present in such circumstances, the carrier must apply for authority to submit a consolidated reply to all petitions. Offering the carrier this explicit alternative by formal rule will relieve both carriers and the Commission of the burden of submitting and processing such routine authority requests.

Category II: Proposals Not Yet Reduced to Rule Revisions

17. As noted, the second category of proposed rules includes particular areas which we think deserve serious review, but on which we lack sufficient information to base specific proposals. The most significant proposal in this category would diminish the burden of compliance with Section 61.58's requirement that carriers specifically notify customers of proposed rate increases or service discontinuances. This provision reflects the Commission's concern that through effective notice, sufficient time will be available for the public to comment on tariff filings proposing rate increases. *Tariffs-Evidence*, 25 FCC 2d 957, 970–971 (1970). Since adoption of the special notice requirement in 1970, however, it has become clear that different carriers warrant different regulatory treatment. The Commission has recognized that non-dominant carriers, as they lack market power, are constrained by the availability of competitive alternatives to provide service to their customers at reasonable rates, terms and conditions. *Competitive Carrier Rulemaking, supra*, note 1. Thus, tariff proposals filed by such carriers are presumed lawful. Since adopting these provisions, our experience has been that fewer than a dozen petitions asserting the unlawfulness of non-dominant carriers' filings are received each year, and all have been found meritless after review. In the much altered contemporary environment, therefore, we believe a more closely circumscribed rule, exempting carriers classified as non-dominant from any customer notification responsibilities under Section 61.58, can provide more flexibility to the carriers while fully effectuating our statutory responsibilities. Given the competitive constraints affecting non-dominant carriers, they can reasonably be expected to voluntarily provide such notice to keep their customers satisfied. Moreover, rate increases and service discontinuances are both constrained and mitigated in their consequences by the presence of alternative offerings, since customers confronted with rate increases or service discontinuances by a non-dominant carrier can reasonably be expected to consider another carrier's service offering. Accordingly, we consider reliance on the marketplace to be a reasonable and less burdensome alternative to requiring customer notification, where tariff proposals from non-dominant carriers are concerned.

18. We also propose to exempt rate increases proposed by dominant carriers from this notice requirement, where the proposed rate revisions involve an insubstantial increase over a 12-month period. We believe that the dominant carriers' filings require this more finely tuned approach rather than outright elimination of the requirement, as the prospect of substantial rate increases or service discontinuances by such carriers may not be so tempered by customer recourse to readily available marketplace alternatives. Nevertheless, existing Commission practice recognizes that notification obligations can impose considerable burdens on such carriers; thus in limited situations the Commission considers newspaper publication of proposed rate increases an appropriate method of compliance.[17] Even this flexible approach to notification, however, still imposes a burden on the carrier which often is unwarranted by the actual impact of the proposed rate increases. Accordingly, we propose to create this limited exception to the dominant carriers' customer notification obligation to distinguish between trivial and significant increase. We believe it may be feasible to designate a specific level of price increases which would not warrant the imposition of the special notification requirement, and we request comment directed to what that level

[17] This established interpretation of Section 61.58 is made explicit in the recodified text of that rule.

might be. As with any such proposal, we recognize that there are alternative approaches to carving out such an exception, and we invite comments on other ways to delineate the suggested distinction in our rules.

19. Finally, we address the tariff posting requirement (Section 61.72), which obligates subject carriers to post a schedule of rates and regulations to be available for public inspection during regular business hours. Some carriers have suggested informally that few customers currently refer to these posted tariffs. If this is indeed so, we question whether this provision should be eliminated or whether some other method of making information available might be established which would provide more flexibility to carriers while still efficiently serving the public. Because our information in this area is limited, for recodification purposes we have confined our redrafting of § 61.72 essentially to a clarification of the existing requirement. However, we urge interested carriers and customers to comment on the appropriateness of the present posting requirement to existing and anticipated operations, so that we may determine if revision is indicated.

20. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), we hereby certify that the proposed rule changes, which are largely procedural in nature, will not have a significant economic impact on a substantial number of small entities. The effect of the discrete rule amendments assembled in the recodification will in most instances be a time saving for the carrier or end user in understanding the rule, a related reduction in the risk of inadvertent noncompliance due to confusion or poorly stated regulations, and/or a lessened burden of compliance reflecting the creation of a more flexible regulatory regime. Because these changes are generally in the nature of refinements and clarifications, the restated rules will most directly benefit smaller carriers and more recent entrants, as they do not already have extended experience with tariff administration under the existing rules.

21. Accordingly, it is proposed, pursuant to Sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. 154(i) and 154(j), and Section 553 of the Administrative Procedures Act, 5 U.S.C. 553, To amend Parts 1 and 61 of the Commission's Rules and Regulations, 47 CFR Part 1 and 47 CFR Part 61, as set forth in the Appendix.

22. All interested persons are invited to file written comments on or before November 14, 1983. Reply comments should be filed on or before November 29, 1983. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

23. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231.

24. In accordance with the provisions of 47 CFR 1.419(b) an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C. 1919 M Street, NW.

Federal Communication Commission.

William J. Tricarico,

Secretary.

Appendix A

Cross Index: Existing Sections

C—Clarified by renaming, rewriting or expanding
D—Deleted as duplicative, redundant or archaic
N—New
N.C.—Nothing Dropped
R—Relocated and/or renumbered w/o substantial change
S—Substantive change including consolidation

Old section	New section	Description of action	Explanation
	Part 1		
1.773(a)(1)	1.773(a)(1)(i), 1.773(b)(1)(iv)	N	
	Part 61		
	Application		
61.1	61.1(b)	C	
	Definitions		
61.11	61.11	C	
61.12	61.14	Will be C, R	
61.13	61.16	C, R	
61.14	61.12(a)	C, R	
61.15	61.12(b)	C, R	
61.15a(a)	61.Deleted	D	
61.15a(b)	61.12(d)	C, R	
61.16	61.12(d)	C, R	
61.17	61.72(a)	C, R	
61.18	61.21	C, R	
61.19	Deleted	D	[Archaic.]
61.20	61.24	C, R	
61.21(a)	61.58(c)(1)(iii)	C, R	
61.21(b)	61.17	C, R	
61.21(c)	61.25	C, R	
61.21(d)	61.58(c)(1)(iii)	C, R	
61.21(e)	61.13	C, R	
61.21(f)	61.18	C, R	
61.21(g)	61.20	C, R	

VOL 48 ISS 206 OCT 24 1983 UMI

Old section	New section	Description of action	Explanation
		New sections	
	61.1(a)	N	[Scope.]
	61.12(f)	N	[Other Participating Carrier.]
	61.15	N	[Commercial Contractor.]
	61.19	N	[Rate.]
	61.22	N	[Supplement.]
	61.23	N	[Tariff.]
	61.26	N	[United States.]
		In General	
61.31	61.1(b)	R, S	[61.31 now deleted.]
61.32	61.32	C, S	
61.33(a)	61.33(a),(c)	C, S	
61.33(b)	61.33(d)		
61.33(c)	61.33(a)		
61.34	61.Deleted	D	[Deleted in earlier revisions.]
61.35	61.35		
61.36	61.36	S	
61.37	61.52(a)	D	[61.37 now deleted.]
61.38	61.38	S	
61.39(a)	61.33(a)	D	
61.39(b)	61.38(a)	R	
61.39(c)	1.773(a)(1)(ii)	R	
61.39(d)	61.38(a)	C, R	
		Rules, Tariffs and Supplements	
61.51	61.1(b)	R, S	[61.51 now deleted.]
61.52	61.52(a)	C	
61.53	61.53	C	
61.54(a)	61.54(b)(1)	C, S	
61.54(b)	61.54(b)(2)		
61.54(c)(1)	61.54(b)(3)		
61.54(c)(2)	Deleted	D	[Archaic.]
61.54(d)(1)	61.68(a)	C, S	
61.54(d)(2)	Deleted	D	[Not necessary.]
61.54(e)	61.54(b)(4)		
61.55	61.54	R	[61.55 now deleted.]
61.55(a)	61.54(d)	C	
61.55(b)	61.54(f)	C	
61.55(c)	61.54(g)	C	
61.55(d)	61.54(h)	C	
61.55(e)	61.54(i)(1)	C	
61.55(f)	61.2	R	
61.55(g)	61.54(j)	C, R	
61.55(h)	61.54(j)	C, R	
61.56	61.56	C	
61.57(a)	61.57(a)	C	
61.57(b)	61.57(b)		
61.57(c)(1)	61.57(c)(1)		
61.57(c)(2)	61.57(c)(2)		
61.57(c)(3)	61.57(c)(3)		
61.57(d)	61.57(d)		
61.57(e)	Deleted	D	[Archaic.]
61.57(f)	61.57(e)	R	
61.57(g)	61.57(f)	R	
61.58	61.58(a), (a)(1), (a)(4)	C, S	
	61.58(b)(2)	N	
61.58(a)	61.58(c)(1)(iii)		
61.58(b)	61.58(c)(2)		
61.58(c)	61.58(c)(3)		
61.58(d)	61.58(a)(2)		
61.58(e)	Deleted		
61.58(f)	61.58(b)		
61.59(a)	61.59	C, S	
61.59(b)	Deleted	D	[Archaic.]
61.59(c)	Deleted	D	[Archaic.]
61.60	61.58(c)(1)(i)	C, R	[61.60 now deleted.]
61.61	61.58(c)(1)(ii)	C, R	[61.61 now deleted.]
61.62	61.58(c)(1)(iii)	C, R	[61.62 now deleted.]
61.63	61.58(c)(1)(iv)	C, R	[61.63 now deleted.]
61.64	61.64	No change	
61.66(a)	61.66(a)	C, S	
61.66(b)	61.66(b)		
61.66(c)	Deleted	D	[(c) deleted because no longer a tariffed service.]
61.66(d)	61.66(c)	R	
61.67	61.67	C, S	
61.68	61.68(a)	C	
61.69(a)	61.68(a)	C	
61.69(b)	Deleted	D	[Not necessary.]
61.69(c)	61.1(b)	C	
61.70	61.68(b)	C, R	[61.70 now deleted.]
61.71	61.71	C	
61.72	61.72(a), (b)	C	
61.72(a)	61.72(a)(1)		
61.72(b)	61.72(a)(2)		
61.73	61.73	C	
61.74(a)	61.74(a)	No change	
61.74(b)	61.74(b)		
61.74(c)	61.74(c)		

Old section	New section	Description of action	Explanation
		New Sections	
	61.54(a)	N	[New scope section.]
	61.54(c)(5)	N	[Cross reference.]
	61.54(e)	N	[Optional tariff user's guide.]
	61.54(a)(3)	N	[New notice for corrections.]
		Special Rules, Book and Pamphlet Tariffs and Supplements	
61.91	61.1(b)	S	[61.91 now deleted.]
61.92	61.52(b)	S	[61.92 now deleted.]
61.93	Deleted	D	[Archaic, 61.93 now deleted.]
61.94	61.54(i)(2)	S	[61.94 now deleted.]
61.95	Deleted	D	[Archaic, 61.95 now deleted.]
61.96	Deleted	D	[Archaic, 61.96 now deleted.]
		Special Rules, Loose-Leaf Tariffs	
61.111	61.1(b)	D	[redundant, 61.111 now deleted.]
61.112	61.52(b)	R, S	[redundant, 61.112 now deleted.]
61.113(a)	61.54(c)(1)	C, R	[61.113 now deleted.]
	61.54(c)(3)	R	
61.113(b)	61.54(c)(3)	C, R	[61.113 now deleted.]
61.114	61.54(c)(4)	C, R	[61.114 now deleted.]
61.115	61.54(c)(1)	C, R	[61.115 now deleted.]
	61.54(c)(2)		
61.116	61.56	D, R	[61.116 now deleted.]
61.117	61.69(a)	R	[61.117 now deleted.]
61.118(a)	61.54(i)(2)	R	[no charge, 61.116 now deleted.]
61.118(b)	61.54(i)(3)	R, S	[61.116 now deleted.]
61.119	61.54(b)(5)	R	[61.119 now deleted.]
		Special Rules Applicable to Through Service	
61.131	61.134	C	
61.132	61.134	C	
61.133	61.1(c), 61.132	S	
61.134	61.136	R, S	
61.135	61.132	C, R	
61.136	61.133	C, R	
61.137	61.132	R	
61.138	61.137	C, R	
		Special Permissions	
61.151	61.153	C	
61.152	61.152	C	
61.153	61.152, 61.153	S	
		Adoption of Tariffs and Other Documents of Predecessor Carriers	
61.171	61.171	S	
61.172	Deleted	D	[Archaic.]
61.173	Deleted	D	[Archaic, 61.173 now deleted.]
61.174	61.172	R, C	[61.174 now deleted.]
		Suspensions	
61.191	61.191	C	
61.192	61.192	C	
61.193	61.193	C	

APPENDIX B

Cross Index: Proposed Sections

New section	Old section
	Part 1
1.773(a)(1)(i)	1.773(a)(1)
1.773(a)(1)(ii)	61.39(c)
1.773(b)(1)(iv)	N
	Part 61
	Contents
61.1(a)	N
61.1(b)	61.1, 61.31, 61.51, 61.69(c) 61.91, 61.111
61.1(c)	61.133
61.2	61.55(f)
	Definitions
61.11	61.11
61.12(a)	61.14
61.12(b)	61.15
61.12(c)	61.16
61.12(d)	61.15a(b)
61.12(e)	N
61.13	61.21(e)
61.14	61.12
61.15	N
61.16	61.13
61.17	61.21(b)
61.18	61.21(f)
61.19	N
61.20	61.21(g)
61.21	61.16

New section	Old section	
61.22	N	
61.23	N	
61.24	61.20	
61.25	61.21(c)	
61.26	N	
	General Rules	
61.31 [Deleted]	61.31	[Now in 61.1(b).]
61.32	61.32	
61.33(a)	61.33(a), 61.33(c), 61.39(a)	
61.33(b)	N	
61.33(c)	61.33(a)	
61.33(d)	61.33(b)	
61.34 [Deleted]	61.34	[Deleted in previous revisions.]
61.35	61.35	
61.36	61.36	
61.37 [Deleted]	61.37	[Now in 61.52(a).]
61.38	61.38, 61.39(b), 61.39(d)	
61.39 [Deleted]	61.39	[Now in 61.33, 6138, 1.773.]
	Specific Rules for Tariff Publications	
61.51 [Deleted]	61.51	[Now in 61.1(b).]
61.52(a)	61.37, 61.52	
61.52(b)	61.92, 61,112	
61.53	61.53	
61.54(a)	N	
61.54(b)(1)	61.54(a)	
61.54(b)(2)	61.54(b)	
61.54(b)(3)	61.54(c)(1)	
61.54(b)(4)	61.54(e)	
61.54(b)(5)	61.119	
61.54(c)(1)	61.113(a), 61,115	
61.54(c)(2)	61.115	
61.54(c)(3)	61.113(a), 61.113(b)	
61.54(c)(4)	61.114	
61.54(c)(5)	N	
61.54(d)	61.55(a)	
61.54(e)	N	
61.54(f)	61.55(b)	
61.54(g)	61.55(c)	
61.54(h)	61.55(d)	
61.54(i)(1)	61.55(e)	
61.54(i)(2)	61.94, 61.118(a)	[Deleted part as archaic.]
61.54(i)(3)	61.118(b)	
61.54(j)	61.55(g), 61.55(h)	
61.55 [Deleted]	61.55	[Now in 61.54.]
61.56	61.56, 61.116	
61.57(a)	61.57(a)	
61.57(b)	61.57(b)	
61.57(b)	61.57(b)	
61.57(c)(1)	61.57(c)(1)	
61.57(c)(2)	61.57(c)(2)	
61.57(c)(3)	61.57(c)(3)	
61.57(d)	61.57(d)	
61.57(e)	61.57(f)	
61.57(f)	61.57(g)	
61.58(a)	61.58(d)	
61.58(a)(1)	61.56	
61.58(a)(2)	61.58	
61.58(a)(3)	N	
61.58(a)(4)	61.58	
61.58(b)	61.58(f)	[Delete part of 61.3(d), 7 day req.]
61.58(c)(1)(i)	61.60	
61.58(c)(1) (ii)	61.61, 61.62, 61.63	
61.58(c)(1)(iii)	61.58(a), 61.21(a), 61.21(d)	
61.58(c)(2)	61.58(b)	
61.58(c)(3)	61.58(c)	
61.59	61.59(a)	
61.60 [Deleted]	61.60	[Now in 61.58.]
61.61 [Deleted]	61.61	Do.
61.62 [Deleted]	61.62	Do.
61.63 [Deleted]	61.63	Do.
61.64	61.64	
61.66(a)	61.66(a)	
61.66(b)	61.66(b)	
	61.66(c)	[Deleted.]
61.66(c)	61.66(d)	
61.67	61.67	
61.68(a)	61.54(d), 61.68	
61.68(b)	61.70	
61.69	61.69(a), 61.117	
61.70 [Deleted]	61.70	[Now in 61.68(b).]
61.71	61.71	
61.72(a)	61.17, 61.72	[Defn.]
61.72(a)(1)	61.72(a)	
61.72(a)(2)	61.72(b)	
61.72(b)	61.72	
61.73	61.73	
61.74(a)	61.74(a)	
61.74(b)	61.74(b)	
61.74(c)	61.74(c)	
61.91 [Deleted]	61.91	[Now in 61.1(b).]
61.92 [Deleted]	61.92	[Now in 61.52(b).]
61.93 [Deleted]	61.93	[Archaic.]

New section	Old section	
61.94 [Deleted]	61.94	[Now in 61.54(i)(2).]
61.95 [Deleted]	61.95	[Archaic.]
61.96 [Deleted]	61.96	[Archaic.]
61.111 [Deleted]	61.111	[Now in 61.1(b).]
61.112 [Deleted]	61.112	[Now in 61.52(b).]
61.113(a) [Deleted].	61.113(a)	[Now in 61.54(c)(1), 61.54(c)(3).]
61.113(b) [Deleted].	61.113(b)	[Now in 61.54(c)(3).]
61.114 [Deleted]	61.114	[Now in 61.54(c)(4).]
61.115 [Deleted]	61.115	[Now in 61.54(c)(1), 61.54(c)(2).]
61.116 [Deleted]	61.116	[Now in 61.58.]
61.117 [Deleted]	61.117	[Now in 61.69(a).]
61.118(a) [Deleted].	61.118(a)	[Now in 61.54(i)(2).]
61.118(b) [Deleted].	61.118(b)	[Now in 61.54(i)(3).]
61.119 [Deleted]	61.119	[Now in 61.54(b)(5).]
	Concurrences	
61.131	N	[New scope section.]
61.132	61.133, 61.135, 61.137	
61.133	61.136	
61.134	61.131, 61.132	
61.135	N	[Additional concurrences allowed.]
61.136	61.134	
61.137	61.136	
	Applications for Special Permission	
61.151	N	[New scope section.]
61.152	61.152, 61.153	
61.153	61.151, 61.153	
	Adoption of Tariffs and Other Documents of Predecessor Carriers	
61.171	61.171, 61.172, 61.173	[Deleted.]
61.172	61.174	
	Suspensions	
61.191	61.191	
61.192	61.192	
61.193	61.193	

Appendix C—Proposed Part 61 Rules

Contents

47 CFR is proposed to be amended by revising Part 61 to read as follows:

Sec.
61.1 Purpose and application.
61.2 Clear and explicit explanatory statements.

Definitions

61.11 Act.
61.12 Carriers.
61.13 Change in rate structure.
61.14 Charges.
61.15 Commercial Contractor.
61.16 Commission.
61.17 Corrections.
61.18 New service offering.
61.19 Rate.
61.20 Rate increase.
61.21 Regulations.
61.22 Supplement.
61.23 Tariff.
61.24 Tariff publication, or publication.
61.25 Text change.
61.26 United States.

General Rules

61.31 [Reserved]
61.32 Method of filing publications.
61.33 Letters of transmittal.
61.34 [Reserved]
61.35 Delivered free of charges.
61.36 Tariff publications not returned.
61.37 [Reserved]
61.38 Supporting information to be submitted with letters of transmittal.
61.39 [Reserved]

Specific Rules for Tariff Publications

Sec.
61.51 [Reserved]
61.52 Form, size, type, legibility, etc.
61.53 Consecutive numbering.
61.54 Composition of tariffs.
61.55 [Reserved]
61.56 Supplements.
61.57 Cancellations.
61.58 Notice requirements.
61.59 Effective period required before changes.
61.60–61.63 [Reserved]
61.64 Charges and regulations for ticker service.
61.66 Changes in message telegraph service point listings where basic schedules of rates and regulations are already effective.
61.67 New or discontinued telephone, telegraph, teletypewriter service points; mileages.
61.68 Special notations.
61.69 Rejection.
61.70 [Reserved]
61.71 Reissued matter.
61.72 Posting.
61.73 Duplication of rates or regulations.
61.74 References to other instruments.
61.91–61.96 [Reserved]
61.111–61.119 [Reserved]

Concurrences

61.131 Scope.
61.132 Method of filing concurrences.
61.133 Format of concurrences.
61.134 Concurrences for through services.
61.135 Concurrences for other purposes.
61.136 Revocation of concurrences.
61.137 Alaskan carriers and licensees of mobile radio stations.

Applications for Special Permission

61.151 Scope.
61.152 Terms of applications and grants.
61.153 Method of filing applications.

Adoption of Tariffs and Other Documents of Predecessor Carriers

61.171 Adoption notice.
61.172 Changes to be incorporated in tariffs of successor carrier.
61.173 [Reserved]
61.174 [Reserved]

Suspensions

61.191 Carrier to file supplement when notified of suspension.
61.192 Contents of supplement announcing suspension.
61.193 Vacation of suspension order; supplements announcing same; etc.

Authority: Sections 61.1 to 61.193 issued under sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

§ 61.1 Purpose and application.

(a) The purpose of this part is to prescribe the framework for the initial establishment of and subsequent revisions to tariff publications.

(b) Tariff publications filed with the Commission must conform to the rules in this part. Failure to comply with any provision of this part may be grounds for rejection of the non-complying publication.

(c) No carrier required to file tariffs may provide any interstate or foreign communication service until every tariff publication for such communication service is on file with the Commission and in effect.

§ 61.2 Clear and explicit explanatory statements.

In order to remove all doubt as to their proper application, all tariff publications must contain clear and explicit explanatory statements regarding the rates and regulations.

Definitions

§ 61.11 Act.

The Communications Act of 1934 (48 Stat. 1004; U.S.C. Chapter 5), as amended.

§ 61.12 Carriers.

(a) *Concurring carrier.* A carrier (other than a connecting carrier) subject to the act which concurs in and assents to schedules of rates and regulations filed on its behalf by an issuing carrier or carriers.

(b) *Connecting Carrier.* A Carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under

VOL 48 ISS 206 OCT 24 1983 UMI

direct or indirect common control with such carrier.

(c) *Issuing Carrier.* A carrier subject to the Act which publishes and files a tariff or tariffs with the Commission.

(d) *Non-Dominant Carrier.* A carrier found by the Commission not to have market power (i.e., power to control prices).

(e) *Other Participating Carrier.* A carrier subject to the Act which publishes a tariff containing rates and regulations applicable to the portion of through service it furnishes in conjunction with another subject carrier.

§ 61.13 Change in rate structure.

A restructuring of the rate components for an existing service.

§ 61.14 Charges.

The price for service based on tariffed rates.

§ 61.15 Commercial contractor.

The commercial firm to whom the Commission annually awards a contract to make copies of Commission records for sale to the public.

§ 61.16 Commission.

The Federal Communications Commission.

§ 61.17 Corrections.

The remedy of errors in typing, spelling, or punctuation.

§ 61.18 New service offering.

A tariff filing which provides for a class or sub-class of service not previously offered.

§ 61.19 Rate.

The tariffed price per unit of service.

§ 61.20 Rate increase.

Any change in a tariff which results in an increased rate or charge to any of the filing carrier's customers.

§ 61.21 Regulations.

The body of carrier prescribed rules in a tariff governing the offering of service in that tariff including rules, practices, classifications and definitions.

§ 61.22 Supplement.

A publication filed as part of a tariff for the purpose of revising any schedule of rates or regulations in that tariff, and numbered independently from the tariff page series.

§ 61.23 Tariff.

Schedules of rates and regulations filed by common carriers.

§ 61.24 Tariff publication, or publication.

A tariff, supplement, revised page, additional page, concurrence, notice of revocation, adoption notice, or any other schedule of rates or regulations.

§ 61.25 Text change.

A change in the text of a tariff which does not result in a change in any rate or regulation.

§ 61.26 United States.

The several States and Territories, the District of Columbia, and the possessions of the United States.

General Rules

§ 61.31 [Reserved]

§ 61.32 Method of filing publications.

Publications sent for filing must be addressed to "Secretary, Federal Comunications Commission, Washington, D.C. 20554." Two copies of tariff publications must be filed under a letter of transmittal. The date on which the publication is received by the Secretary of the Commission, or by the Mail Room where submitted by mail, is considered the official filing date. Simultaneously with the filing of the publication, and by the same means, the issuing carrier must send a copy of the publication, supporting information specified in § 61.38, and transmittal letter to (1) the commercial contractor (at its office on Commission premises) and (2) the Chief, Tariff Review Branch. The latter should be clearly labelled as the "Public Reference Copy." The copies of supporting information required here are in addition to those required by § 61.38(c).

§ 61.33 Letters of Transmittal.

(a) All publications filed with the Commission must be accompanied by a letter of transmittal, 8½ by 11 inches in size. All letters of transmittal, must (1) concisely explain the nature and purpose of the filing; (2) specify whether supporting information under Section 61.38 is required; (3) state whether copies have been delivered to the Commercial Contractor and Chief, Tariff Review Branch as required by § 61.32.

(b) In addition to the requirements set forth in (a) of this section, the letter of transmittal must specifically reference by number any facility authorization or special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication, and may not be requested in the transmittal letters.

(c) The letter of transmittal must be substantially in the following format.

(Exact name of carrier in full)

(Post Office Address)

———; 19——

(Date)

Transmittal No. ——— ———

Secretary,
Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff (or other publication) issued by ——, and bearing FCC No. ——, effective ———, 19——, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required).

(Name of issuing officer or agent)

(Title)

(d) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

Note.—If a receipt for the accompanying publication is desired, the letter of transmittal must be sent in duplicate. One copy showing the date of receipt by the Commission will then be returned to the sender.

§ 61.34 [Reserved]

§ 61.35 Delievered free of charges.

Tariff publications must be delivered to the Commission free from all charges, including claims for postage.

§ 61.36 Tariff publications not returned.

Tariff publications will not be returned.

§ 61.37 [Reserved]

§ 61.38 Supporting information to be submitted with letters of transmittal.

(a) *Scope.* This section applies to dominant carriers whose annual gross revenues exceed $500,000 for the most recent 12 month period of operations or are estimated to exceed $500,000 for a representative 12 month period. However, the Commission may require any carrier to submit such information as may be necessary for review of a tariff filing.

(b) *Explanation and data supporting either changes or new tariff offerings.* The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reason for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.

(1) For a tariff change the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A cost of service for all elements for the most recent 12 month period;

(ii) A study containing a projection of costs for a representative 12 month period; and

(iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenue. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (b)(1)(ii) of this section.

(2) For a fariff filing offering a new service, the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (b)(2)(i) of this section.

(c) *Working papers and statistical data.* (1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff Review Branch must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in § 1.363 of the Commission's Rules.

(d) *Form and content of additional material to be submitted with certain rate increases.* In the circumstances set out in (d)(1) and (2) of this section, the filing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The carrier must submit this information in suitable form to serve as the carrier's direct case in the event the rate increase is set by the Commission for investigation.

(1) Rate increases affecting single services or tariffed items.

(i) A rate increase in any service or tariffed item which results in more than $1 million in additional annual revenues, calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A single rate increase in any service or tariffed item, or successive rate increases in the same service or tariffed item within a 12 month period, either of which results in:

(A) at least a 10 per cent increase in annual revenues from that service or tariffed item, and

(B) at least $100,000 in additonal annual revenues, both calculated on the basis of existing quantities in service.

(2) Rate increases affecting more than one service or tariffed item.

(i) A general rate increase in more than one service or tariffed item occurring at one time, which results in more then $1 million in additional revenues calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A general rate increase in more then one services or tariffed item occurring at one time, or successive general rate increases in the same service or tariffed items occurring within a 12 month period, either of which results in:

(A) At least a 10 per cent increase in annual revenues from those services or tariffed items, and

(B) At least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(e) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(f) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the offering carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.

§ 61.39 [Reserved].

Specific Rules for Tariff Publications

§ 61.51 [Reserved].

§ 61.52 Form, size, type, legibility, etc.

(a) All tariff publications must be in loose-leaf form of size 8½ by 11 inches, and must be plainly printed in black print on white paper of durable quality. Less than 6-point type may not be used. Erasures or alterations in writing must not be made in any tariff publication filed with the Commission or in those copies posted for public convenience. A margin of no less than one inch in width must be allowed at the left edge of every tariff publication.

(b) Pages of tariffs must be printed on one side only, and must be numbered consecutively and designated as "Original title page," "Original page 1," "Original page 2," etc.

(1) All such pages must show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff, with the page designation directly below; in the lower left-hand corner the issued date; in the lower right-hand corner the effective date; and at the bottom, center, the street address of the issuing officer. The carrier must also specify the issuing officer's name and title either at the bottom center of all tariff pages, or on the title page and check sheet only.

(2) As an alternative, the issuing carrier may show in the upper left-hand corner the name of the issuing carrier, the name, title, and street address of the issuing officer, and the issued date; and in the upper right hand corner the FCC number of the tariff, with the page designation directly below, and the effective date. The carrier must specify the issuing officer's name and title in the upper left-hand corner of either all tariff pages, or on the title page and check sheet only. A carrier electing to place the information at the top of the page should annotate the bottom of each page to indicate the end of the material, e.g., a line, or the term "Printed in USA," or "End".

(3) Only one format may be employed in a tariff publication.

§ 61.53 Consecutive numbering.

Carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

§ 61.54 Composition of tariffs.

(a) Tariffs must contain in consecutive order: a title page; check sheet; table of contents; list of concurring connecting, and other participating carriers; explanation of symbols and abbreviations; application of tariff; general rules (including definitions), regulations, exception and conditions; and rates. If the issuing carrier elects to add a section assisting in the use of the tariff, it should be placed immediately after the table of contents.

(b) The title page of every tariff and supplement must show:

(1) *FCC number, indication of cancellations.* In the upper right-hand

VOL 48 ISS 206 OCT 24 1983 UMI

corner, the designation of the tariff or supplement as "FCC No. ——," or "Supplement No. —— to FCC No. ——," and immediately below, the FCC number or numbers of tariffs or supplements canceled thereby.

(2) *Name of carrier, class of service, geographical application, means of transmission.* The exact name of the carrier, and such other information as may be necessary to identify the carrier issuing the tariff publication; a brief statement showing each class of service provided; the geographical application; and the type of facilities used to provide service.

(3) *Expiration Date.* When the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the following manner.

Expires at the end of ——— (date) unless sooner canceled, changed or extended.

(4) *Name, title and address of issuing officer.* The name, title and street address of the officer issuing the tariff or supplement in the format specified in § 61.52.

(5) *Revised title page.* When a revised title page is issued, the following notation must be shown in connection with its effective date:

Original tariff effective ——— (here show the effective date of the original tariff).

(c)(1) The page immediately following the title page must be designated as "Original page 1" and captioned "Check Sheet." When the original tariff is filed, the check sheet must show the number of pages contained in the tariff. For example, "Page 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages are added, they must be numbered in continuing sequence, and designated as "Original page ———." For example, when the original tariff filed has 150 pages, the first page added after page 150 is to be designated as "Original page 151," and the foregoing notation must be revised to include the added pages.

(2) If pages are to be inserted between numbered pages, each such page must be designated as an original page and must bear the number of the immediately preceding page followed by an alpha or numeric suffix. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first inserted page must be designated as Original page 44A or 44.1 and the second inserted page as Original page 44B or 44.2. Issuing carriers may not utilize both the alpha and numeric systems in the same publication.

(3) When pages are revised, when new pages (including pages with letter or numeric suffix as set forth above) are added to the tariff, or when supplements are issued, the check sheet must be revised accordingly. Revised check sheets must indicate with an asterisk the specific pages added or revised. In addition to the notation in (c)(1), the check sheet must list, under the heading "The original and revised pages named below (and Supplement No. ———) contain all changes from the original tariff that are in effect on the date shown," all original pages in numerical order that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
Title	1st
1	8th *
3	5th
5A	Orig.*
10	8th *
151	Orig.

* Page issued ——— (date).

(4) Changes in, and additions to tariffs must be made by reprinting the page upon which a change or addition is made. Such changed page is to be designated as a revised page, cancelling the page which it amends. For example, "First revised page 1 cancels original page 1," or "Second revised page 2 cancels first revised page 2," etc. When a revised page omits rates or regulations previously published on the page which it cancels, but such rates or regulations are published on another page, the revised page must make specific reference to the page on which the rates or regulations will be found. This reference must be accomplished by inserting a sentence at the bottom of the revised page that states "Certain rates (or regulations) previously found on this page can now be found on page ———." In addition, the page on which the omitted material now appears must bear the appropriate symbol opposite such material, and make specific reference to the page from which the rates or regulations were transferred. This reference must be accomplished by inserting a sentence at the bottom of the other page that states "Certain rates (or regulations) on this page formerly appeared on page ——."

(5) Rejected pages must be treated as indicated in Section 61.69.

(d) *Table of contents.* The table of contents must contain a full and complete statement showing the exact location and specifying the page or section and page numbers, where information by subjects under general headings will be found. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(e) *Tariff User's guide.* At its option, a carrier may include a section explaining how to use the tariff.

(f) *List of concurring carriers.* This list must contain the exact name or names of carriers concurring in the tariff, alphabetically arranged, and the name of the city or town in which the principal office of every such carrier is located. If there are no concurring carriers, then the statement "no concurring carriers" must be made at the place where the names of the concurring carriers would otherwise appear. If the concurring carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(g) *List of connecting carriers.* This list must contain the exact name or names of connecting carriers, alphabetically arranged, for which rates or regulations are published in the tariff, and the name of the city or town in which the principal office of every such carrier is located. If there are no connecting carriers, then the statement "no connecting carriers" must be made at the place where their names would otherwise appear. If connecting carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(h) *List of other participoting carriers.* This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located. If there is no such other carrier, then the statement "no participating carriers" must be made at the place where the names of such other carriers would otherwise appear. If such other carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference must be made in the tariff at the place where such names would otherwise appear. The names of concurring and connecting carriers properly listed in a tariff published by any other participating carrier need not be repeated in this list.

(i)(1) *Symbols, reference marks, obbreviations.* The tariff must contain an explanation of symbols, reference marks, and abbreviations of technical terms used. The following symbols used in tariffs are reserved for the purposes indicated below:

R to signify reduction.
I to signify increase.
C to signify changed regulation.
T to signify a change in text but no change in rate or regulation.
S to signify reissued matter.
M to signify matter relocated without change.
N to signify new rate or regulation.
D to signify discontinued rate or regulation.
Z to signify a correction.

(2) The uniform symbols must be used as follows.

(i) When a change of the same character is made in all or in substantially all matter in a tariff, it may be indicated at the top of the title page of the tariff or at the top of each affected page, in the following manner: "All rates in this tariff are increases," or, "All rates on this page are reductions except as otherwise indicated."

(ii) When a change of the same character is made in all or substantially all matters on a page or supplement, it may be indicated at the top of the page or supplement in the following manner: "All rates on this page (or supplement) are increases," or, "All rates on this page (or supplement) are reductions except as otherwise indicated."

(3) Items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued, in the manner prescribed in § 61.54(i)(1). Items which have been in effect 30 days or more and are brought forward without change on revised pages must not be shown as reissued items.

(j) *Rates and general rules, regulotions, exceptions and conditions.* The general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the tariff must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate. Rates must be expressed in United States currency, per chargeable unit of service for all communication services, together with a list of all points of service to and from which the rates apply. They must be arranged in a simple and systematic manner. Complicated or ambiguous terminology may not be used, and no rate, rule, regulation, exception or condition shall be included which in any way attempts to substitute a rate, rule, regulation, exception or condition named in any other tariff.

§ 61.55 [Reserved]

§ 61.56 Supplements.

A carrier may not file a supplement except to suspend or cancel a tariff.

§ 61.57 Cancellations.

The following paragraphs govern the cancellation of tariffs and supplements.

(a) *By toriff or supplement.* A carrier may cancel any tariff or supplement in whole or in part by another tariff or supplement. Cancellation of a tariff automatically cancels every supplement to that tariff, except a cancelling supplement.

(b) *By expiration.* Subject to § 61.59, a carrier may cancel a tariff or supplement in whole or in part by fixing a date on which the rates or regulations will expire.

(c) *Indication of.* (1) A carrier which cancels a tariff or supplement in whole by another tariff or supplement must comply with § 61.54(b)(1). Cancellation of tariffs or supplements in whole by expiration must be indicated as provided in § 61.54(b)(3).

(2) Where a carrier issues a tariff, supplement, or revised page partially cancelling another tariff, supplement, or revised page, it must specifically state what portion of the other tariff publication is cancelled. Such other tariff or supplement must at the same time be correspondingly amended, effective on the same date.

(3) When only a part of a tariff or supplement is to expire, a carrier must show the expiration date on the same page, and associate it with the matter which is to expire. Changes in expiration date must be made pursuant to the notice requirements of Section 61.58, unless otherwise authorized by the Commission. Expirations must be indicated as follows:

Expires at the end of ——— (date) unless sooner cancelled, changed or extended.

(d) *Rates and regulations to apply.* When a carrier cancels a tariff or supplement in whole or in part by another tariff or supplement, the cancelling publication must show where all rates and regulations wil be found, or what rates and regulations will apply.

(e) *Omissions.* When a tariff or supplement cancelling a previous tariff or supplement omits points of origin or destination, rates or regulations, or routes, which were contained in such tariff or supplement, the new tariff or supplement must indicate the omission in the manner prescribed in paragraph (c) of this section. If such omissions effect changes in rates or regulations, that fact must be indicated by the use of the uniform symbols prescribed in § 61.54(i)(1).

(f) *Carriers ceasing operations.* Where a carrier ceases operations without a successor, it must cancel its tariffs pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission.

§ 61.58 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(1) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. If a tariff filing proposes changes governed by more than one of the notice periods listed below, the longest notice period will apply. In computing the notice period required, all days including Sundays and holidays must be counted.

(2) The Chief, Common Carrier Bureau may require the deferral of the effective date of any tariff filing made on less than 90 days' notice, so as to provide for a maximum total of 90 days' notice, regardless of whether petitions under § 1.773 of the Commission's rules have been filed.

(3) Tariff filings proposing corrections must be made on at least 3 days' notice, and may be filed notwithstanding the provisions of § 61.59. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material.

(4) If the tariff publication would increase any rate or charge, or would effectuate an authorized discontinuance, reduction or other impairment of service to any customer, the offering carrier must inform the affected customers of the content of the tariff publication. Such notification should be made in a form appropriate to the circumstance, and may include written notification, personal contact, or advertising in newspapers of general circulation.

VOL 48 ISS 206 OCT 24 1983 UMI

(b) *Non-Dominant Carriers.* (1) Tariff filings of non-dominant carriers must be made on at least 14 days' notice.

(c) *Other Carriers.* Tariff filings in the instances specified in (c)(1) (i), (ii) and (iii) of this section must be made on at least 15 days' notice.

(i) Tariffs filed in the first instance by new carriers.

(ii) Tariff filings involving new rates and regulations not previously filed at, from, to or via points on new lines; at, from, to or via new radio facilities; or for new points of radio communication.

(iii) Tariff filings involving a change in the name of a carrier, a change in Vertical and Horizontal coordinates (or other means used to determine airline mileage), a change in the lists of mileages, a change in the lists of connecting, concurring or other participating carriers, text changes, or the imposition of termination charge's calculated from effective tariff provisions. The imposition of termination charge does not include the initial filing of termination liability provisions.

(2) Tariff filings involving a change in rate structure, a new service offering, or a rate increase must be made on at least 45 days' notice.

(3) All tariff filings not specifically assigned a different period of public notice in this part must be made on at least 35 days' notice.

§ 61.59 Effective period required before changes.

Except as provided in § 61.58(a)(3) or except as otherwise authorized by the Commission, new rates or regulations must be effective for a least 30 days before any change may be made.

§ 61.60–61.63 [Reserved]

§ 61.64 Rates and regulations for ticker service.

Rates and regulations for individual installations of market and stock quotation and baseball ticker service may be established on not less than 15 days' notice to the public and to the Commission, when there are no rates and regulations in effect for such service at the points where installations are to be made.

§ 61.66 Changes in message telegraph service point listing where basic schedules of rates and regulations are already effective.

(a) When an effective message telegraph service point listing specifies by dates (1) that communication serivce is available to or from a service point during sporting events, military maneuvers, shipping or resort seasons, or (2) that an office or agent of a carrier is located at such service point for the receipt or delivery of communications during those specified periods, changes in the dates may be filed on not less than 15 days' notice.

(b) An effective message telegraph serivce point listing may be changed on not less than 15 days' notice to show (1) that a point at which there is neither an office nor an agent of a telegraph company for the receipt or delivery of telegrams has been changed to a point at which there is such an other or agent, or (2) that a point at which there is an agent of a telegraph company to receive or deliver messages has been changed to a point at which there is a telegraph company office.

(c) A message telegraph service point listing may be changed on not less than 15 days' notice to reflect a discontinuance, reduction or impairment of service in accordance with a certificate or authorization granted by the Commission, if the total charges to the customer for service are not increased. Every schedule containing such changes must bear a notation showing the date and number of the certificate or authorization.

§ 61.67 New or discontinued telephone, telegraph, teletypewriter service points; mileages.

Message toll telephone service points and teletypewriter exchange service points added or discontinued during a calendar month, and message telegraph service points added during a calendar month, may be filed not later than 20 days after the end of such month where the basic schedules of rates and regulations applicable to such message toll telephone, teletypewriter exchange, and message telegraph service points are effective and the effective date of each addition or discontinuance is shown.

§ 61.68 Special Notation.

(a) A tariff filing must contain a statement of the authority for any matter to be filed on less than the notice required in Section 61.58. The following format must be used: "Issued on not less than —— days' notice under authority of ——— (specific reference to the special permission, decision, order or section of these rules)." If all the matter in a tariff publication is to become effective on less than the notice required in § 61.58, specific reference to the Commission authority must be shown on the title page. If only a part of the tariff publication is to become effective on less than the notice required in § 61.58, reference to the Commission authority must appear on the same page(s), and be associated with the pertinent matter.

(b) When a portion of any tariff publication is issued in order to comply with a Commission order, the following notation must be associated with that portion of the tariff publication: "In compliance with the order of the Federal Communications Commission in —— (a specific citation to the applicable order should be made)."

§ 61.69 Rejection.

When a tariff publication is rejected by the Commission, its number may not be used again. The rejected tariff publication may not be referred to as cancelled or revised. The publication that is subsequently issued in lieu of the rejected tariff publication must bear the notation "In lieu of ——, rejected by the Federal Communications Commission."

§ 61.70 [Reserved]

§ 61.71 Reissued matter.

Matter in effect for less than 30 days and brought forward without change from another tariff publication must bear the appropriate symbol provided in § 61.54(i)(1) for reissued matter. The number and original effective date of the tariff publication in which the matter was originally published must be associated with the reissued matter.

§ 61.72 Posting.

(a) Offering carriers must post (i.e., keep accessible to the public) during the carrier's regular business hours, a schedule of rates and regulations. This schedule must include all effective and proposed rates and regulations pertaining to the services offered to and from the community or communities served, and must be the same as that on file with the Commission. This posting requirement may be satisfied by either of the following methods:

(1) First Method. Where the filing carrier has an office or offices open to the public in communities or territories of the United States, the carrier must post the schedule of rates and regulations in the main office.

(2) Second Method. The schedule of rates and regulations must be posted in each state or territory of the United States in which the carrier operates, as follows:

(i) In the main office of the filing carrier open to the public in every city with a population of 100,000 or more in that state or territory (or in the largest community served if none has a population of 100,000); and

(ii) In the main office of the carrier in the state or territorial capital.

If a carrier chooses this method, it must post a notice in each business office of the carrier open to the public in that state or territory, stating the street address of the nearest location in which the schedule of rates and regulations can be found.

(b) The posting of rates and regulations shall be considered timely if they are available for public inspection at the posting locations within 15 days of their filing with the Commission.

§ 61.73 Duplication of rates or regulations.

A carrier concurring in schedules of another carrier must not publish conflicting or duplicative rates or regulations.

§ 61.74 References to other instruments.

(a) Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.

(b) Tariffs for end-on-end through services may reference the tariffs of other carriers participating in the offering.

(c) Tariffs may reference concurrences for the purpose of stating where rates or regulations applicable to a service not governed by the tariff may be found.

§§ 61.91–6196 [Reserved]

§§ 61.111–61.119 [Reserved]

Concurrences

§ 61.131 Scope.

Sections 61.132 through 61.137 apply to a carrier which must file concurrences reflecting rates and regulations for through servive provided in conjunction with other carriers and to a carrier which has chosen, as an alternative to publishing its own tariff, to arrange concurrence in an effective tariff of another carrier. Limited or partial concurrences will not be permitted.

§ 61.132 Method of filing concurrences.

A carrier proposing to concur in another carrier's effective tariff must deliver two copies of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must submit both copies of the concurrence to the Commission. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence.

§ 61.133 Format of concurrence.

(a) Concurrences must be issued in the following format:

Concurrence

F.C.C. Concurrence No.——
F.C.C. Concurrence No. ———————
(Cancels F.C.C. Concurrence No. ——)
(Name of Carrier ———————) ——
(Post Office Address ———————)
———————, 19 ——

(Date)
Secretary,
Federal Communications Commission
Washington, D.C. 20554

This is to report that (name of concerning carrier) assents to and concurs in the tariffs described below, (name of concurring carrier) thus makes itself a party to these tariffs and obligates itself (and its connecting carriers) to observe every provision in them, until a notice of revocation is filed with the Commission and delivered to the issuing carrier.

This concurrence applies to interstate (and foreign) communication:

1. Between the different points on the concurring carrier's own system;

2. Between all points on the concurring carrier's system and the systems of its connecting carriers; and

3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one hand, and, on the other hand, all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established.

Note.—Any of the above numbered paragraphs may be ommitted or the wording modified to state the points to which the concurrece applies.)

Tariff

(Here describe the tariff or tariffs concurred in by the carrier, specifying FCC number, title, date of issuance, and date effective. Example: A.B.C. Communications Company, Tariff FCC No. 1, Interstate Telegraph Message Service, Issued January 1, 1983, Effective April 1, 1983).

Cancels FCC Concurrence No. ——, effective ———————, 19 ——.

(Name of concurring carrier)
By ———————
(Title)

(b) No material is to be included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff so described will be deemed to include all amendments and successive issues which the issuing carrier may make and file. All such amendments and successive issues will be binding between customers and carriers. Between carriers themselves, however, the filing by the issuing carrier of an amendment or successive issue with the Commission must not imply or be construed to imply an agreement to the filing by concurring carriers. Such filings do not affect the contractual rights or remedies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

§ 61.134 Concurrences for through services.

A carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in § 61.54 (f), (g) and (h). Except as provided in § 61.137, a concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

§ 61.135 Concurrences for other purposes.

When an issuing carrier permits another carrier to concur in its tariff, the issuing carrier's tariff must state the concurring carrier's rates and points of service.

§ 61.136 Revocation of concurrences.

A concurrence may be revoked by a revocation notice or cancelled by a new concurrence. A revocation notice or a new concurrence, if less broad in scope than the concurrence it cancels, must bear an effective date not less than 90 days after its receipt by the Commission. A revocation notice is not given a serial number, but must specify the number of the concurrence to be revoked and the name of the carrier in whose favor the concurrence was issued. It must be in the following format:

REVOCATION NOTICE

(Name of carrier)

(Post office address)
———————, 19. ——

(Date)
Secretary,
Federal Communications Commission
Washington, D.C. 20554

Effective ———————, 19 —— FCC Concurrence No. ——, issued by (Name of concurring carrier) in favor of (Name of

issuing carrier is hereby cancelled and revoked. Rates and regulations of (Name of concurring carrier) and its connecting carriers will thereafter be found in Tariff FCC No. —— issued by ——— (If the concurring carrier has ceased operations, the revocation notice must so indicate.)

(Name of carrier)
By ———

(Title)

§ 61.137 Alaskan carriers and licensees of mobile radio stations.

Any carrier operating by wire or radio in Alaska, and any Commission licensee of a mobile radio station operating as a common carrier which participates in service with a carrier that has on file with the Commission a tariff containing the rates and regulations of the Alaskan carrier, or of the mobile radio licensee, need not file a written concurrence. However, any such Alaskan wire or radio carrier, or mobile radio station licensee, which has not filed either a written concurrence or an effective tariff in its own name, will be considered to have assented to, adopted and concurred in the tariff applicable to the service on file with the Commission.

Applications for Special Permission

§ 61.151 Scope.

Section 61.152 and 61.153 set forth the procedures to be followed by a carrier applying for a waiver of any of the rules in this part.

§ 61.152 Terms of applications and grants.

Applications for special permission must contain (a) a detailed description of the tariff publication proposed to be put into effect; (b) a statement citing the specific rules and the grounds on which waiver is sought; and (c) a showing of good cause. If approved, the carrier must comply with all terms and use all authority specified in the grant. If a carrier elects not to use or use less than the authority granted, it must apply to the Commission for cancellation or modification of the original grant.

§ 61.153 Method of filing applications.

A carrier applying for special permission must submit two copies of the application (including illustrative tariff pages, associated amendments and exhibits) to the Secretary, Federal Communications Commission, Washington, D.C. 20554. Simultaneously, and by the same means, a carrier must furnish a separate copy with all attachments to the Chiefs, Tariff Review Branch. If a carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from the FCC tariff numbers, bear the signature of the officer or agent of the carrier, and be in the following format:

Application No. ———

(Date)
Secretary
Federal Communications Commission
Washington, D.C. 20554
Attention: Common Carrier Bureau
(here provide the statements required by § 61.152).

(Exact name of carrier)

(Name of officer or agent)

(Title of officer or agent)

Adoption of Tariffs and Other Documents of Predecessor Carriers

§ 61.171 Adoption notice.

When a carrier's name is changed, or its operating control transferred from one carrier to another in whole or in part, the successor carrier must file tariff revisions to reflect the name change. The successor carrier may either immediately reissue the entire tariff in its own name, or immediately file an adoption notice. Within 15 days of filing an adoption notice, the successor must reissue the entire tariff in its own name. The reissued tariff must be numbered in the series of the successor carrier, and must contain all original pages without changes in regulations or rates. The transmittal letter must state the tariff is being filed to show a change in the carrier's name pursuant to § 61.171 of the Commission's rules. The adoption notice, if used, must read as follows:

The (Exact name of successor carrier or receiver) ——— here adopts, ratifies and makes its own in every respect, all applicable tariffs and amendments filed with the Federal Communications Commission by (predecessor) ——— prior to (date) ———.

§ 61.172 Changes to be incorporated in tariffs of successor carrier.

When only a portion of properties is transferred to a successor carrier, that carrier must incorporate in its tariff the rates applying locally between points on the transferred portion. Moreover, the predecessor carrier must simultaneously cancel the corresponding rates from its tariffs, and reference the FCC number of the successor carrier's tariff containing the rates that will thereafter apply.

§ 61.173 [Reserved]

§ 61.174 [Reserved]

Suspensions

§ 61.191 Carrier to file supplement when notified of suspension.

If a carrier is notified by the Commission that its tariff filing has been suspended, the carrier must file immediately a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

§ 61.192 Contents of supplement announcing suspension.

(a) A supplement announcing a suspension by the Commission must specify the term of suspension imposed by the Commission.

(b) A supplement announcing a suspension of either an entire tariff or a part of a tariff publication, must specify the applicable tariff publication effective during the period of suspension.

§ 61.193 Vacation of suspension order; supplements announcing same; etc.

If the Commission vacates a suspension order, the affected carrier must issue a supplement or revised page stating the Commission's action as well as the lawful schedules.

Appendix D—Section-by-Section Analysis

Contents

Sec.
61.1 Purpose and Application.
61.2 Clear and Explicit Explanatory Statements.

Definitions

61.11 Act.
61.12 Carriers.
61.12(a) Concurring carrier.
61.12(b) Connecting carrier.
61.12(c) Issuing carrier.
61.12(d) Non-Dominant carrier.
61.12(e) Other participating carrier.
61.13 Change in rate structure.
61.14 Charges.
61.15 Commercial Contractor.
61.16 Commission.
61.17 Corrections.
61.18 New service offering.
61.19 Rate.
61.20 Rate increase.
61.21 Regulations.
61.22 Supplement.
61.23 Tariff.
61.24 Tariff publication, or publication.
61.25 Text change.
61.26 United States.

General Rules

61.31 [Removed]
61.32 Method of filing publications
61.33 Letter of transmittal
61.34 [Removed]
61.35 Delivered free of charges.

Sec.
61.36 Not returned unless rejected for cause.
61.37 [Removed]
61.38 Supporting information to be submitted with letters of transmittal.
61.39 [Removed]

Specific Rules for Tariff Publications

61.51 [Removed]
61.52 Form, size, type, legibility, etc.
61.53 Consecutive numbering.
61.54 Composition of tariffs.
61.55 [Removed]
61.56 Supplements.
61.57 Cancellations.
61.58 Notice requirements.
61.59 Effective period required before changes.
61.60 [Removed]
61.61 [Removed]
61.62 [Removed]
61.63 [Removed]
61.64 Charges and regulations for ticker service.
61.66 Changes in message telegraph service point listings where basic schedules of rates and regulations are already effective.
61.67 New or discontinued telephone, telegraph, and teletypewriter service points; mileages.
61.68 Special notations.
61.69 Rejection.
61.70 [Removed]
61.71 Reissued matter.
61.72 Posting.
61.73 Duplication of rates or regulations.
61.74 References to other instruments.
61.91–61.96 [Removed]
61.111–61.119 [Removed]

Concurrences

61.131 Scope.
61.132 Method of filing concurrences.
61.133 Format of concurrence.
61.134 Concurrences for through services.
61.135 Concurrences for other purposes.
61.136 Revocation of concurrences.
61.137 Alaskan carriers and licensees of mobile radio stations.

Applications for Special Permission

61.151 Scope.
61.152 Terms of application and grants.
61.153 Method of filing application.

Adoption of Tariffs and Other Documents of Predecessor Carriers

61.171 Adoption notice.
61.172 Changes to be incorporated in tariffs of successor carrier.
61.173 [Removed]
61.174 [Removed]

Suspensions

61.191 Carrier to file supplement when notified of suspension.
61.192 Contents of supplement announcing suspension.
61.193 Vacation of suspension order; supplements announcing same; etc.

Section 61.1 Purpose and application.

Explanation

New § 61.1(a) states the purpose of Part 61.

Section 61.1(b) consolidates old § 61.1 with repetitious restatements of that rule formerly found at §§ 61.31, 61.51, 61.91, and 61.111. § 61.1(b) also clarifies and restates former § 61.69(c), relocated here because of general applicability.

Section 61.1(c) clarifies and restates former § 61.133, and is relocated here because of general applicability.

Proposed Rule

§ 61.1 Purpose and application.

(a) The purpose of this part is to prescribe the framework for the initial establishment of and subsequent revisions to tariff publications.

(b) Tariff publications filed with the Commission must conform to the rules in this part. Failure to comply with any provision of this part may be grounds for rejection of the non-complying publication.

Existing Rule

§ 61.1 Application; effective date.

Every tariff, supplement, revised page, additional page, instrument of concurrence, notice of revocation, adoption notice and any other schedule of charges or regulations, which is filed with the Commission on and after the first day of September, 1939, pursuant to section 203 of the Communications Act of 1934, as amended, shall conform to the rules in this part.

§ 61.31 Application.

The rules contained in §§ 61.32 to 61.37 shall apply to all tariff publications.

§ 61.51 Application.

In addition to the rules contained in §§ 61.31 to 61.37, the rules contained in §§ 61.52 to 61.74 shall apply to all tariffs and supplements.

§ 61.69 Rejections.

(c) Failure of the carrier to comply with any provision of this part will be grounds for rejection of the tariff material being submitted for filing.

§ 61.91 Application.

In addition to the rules contained in §§ 61.31 to 61.37 and §§ 61.51 to 61.71, the rules published herein (§§ 61.91 to 61.96) shall apply to book and pamphlet tariffs and supplements.

§ 61.111 Application.

In addition to the rules contained in §§ 61.31 to 61.37 and §§ 61.51 to 61.71, the rules published herein (§§ 61.111 to 61.119) shall apply to loose-leaf tariffs.

Proposed Rule

(c) No carrier required to file tariffs may provide any interstate or foreign communication service until every tariff publication for such communication service is on file with the Commission and in effect.

Existing Rule

§ 61.133 Tariffs and concurrences must be filed before service may be rendered.

No carrier whatsoever may engage or participate in any interstate or foreign communication service between any points unless and until every tariff publication of every carrier containing all charges and regulations for itself and its connecting carriers, and the concurrence of every concurring carrier, for such communication service is on file with the Commission and in effect except as provided in § 61.138.

§ 61.2 Clear and explicit explanatory statements.

Explanation

Relocated from § 61.55(f) and restated for clarity.

Proposed Rule

§ 61.2 Clear and explicit explanatory statements.

In order to remove all doubt as to their proper application, all tariff publications must contain clear and explicit explanatory statements regarding the rates and regulations.

Existing Rule

§ 61.55 Composition of tariffs.

(f) *Clear and explicit explanatory statements.* Such explanatory statements in clear and explicit terms regarding the rates and regulations contained in the tariff as may be necessary to remove all doubt as to their proper application.

Definitions (§§ 61.11–61.26)

Explanation

Generally speaking, the definitions have been clarified and reorganized. Additions and deletions are as follows:

Additions

Section 61.12(b) Connecting Carrier. Definition now sets out language of Section 2(b)(2) of Act rather than cross-referencing it.

Section 61.12(e) Other participating carrier. Though used elsewhere in the Rules, this term was not explicitly defined in the previous definitions.

Section 61.15 Commercial Contractor. Long used elsewhere in Rules; here defined for first time.

Section 61.21 Rate. Used interchangeably with charge in the previous edition, this term has been defined to end that ambiguity and distinguish the two terms.

Section 61.22 Supplement. Though used elsewhere in the Rules, this term was not previously defined explicitly

Section 61.23 Tariff. Though used elsewhere in the Rules, this term was not previously defined explicitly.

Section 61.26 United States. Explicitly defined as stated in the Communications Act.

Deletions

Section 61.15a(a) Dominant/non-dominant carrier. Not necessary.

Section 61.17 Posted. Consolidated into proposed § 61.72.

Section 61.19 Submarine cable. Archaic.

Section 61.21(a) V&H Coordinates. Consolidated into proposed § 61.58(b)(2)(i).

Section 61.21(d) Imposition of Termination Charges. Consolidated into proposed § 61.58(b)(2)(i).

Proposed Rule

§ 61.11 Act.

The Communications Act of 1934 (48 Stat. 1004; 47 U.S.C. Chapter 5), as amended.

Existing Rule

§ 61.11 Act.

The term "act," whenever used in this part, means the Communications Act of 1934, (48 Stat. 1004; 47 U.S.C. Chapter 5) as amended.

Proposed Rule

§ 61.12 Carriers.

(a) *Concurring carrier.* A carrier (other than a connecting carrier) subject to the Act which concurs in and assents to schedules of rates and regulations filed on its behalf by an issuing carrier or carriers.

Existing Rule

§ 61.14 Concurring carrier.

The term "concurring carrier," whenever used in this part, means a carrier (other than a connecting carrier) subject to the act which concurs in and assents to schedules of charges and regulations filed on its behalf by an issuing carrier or carriers.

Proposed Rule

(b) *Connecting Corrier.* A carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier.

Existing Rule

§ 61.15 Connecting carrier.

The term "connecting carrier," whenever used in this part, means a carrier described in clause (2) of section2(b) of the act.

Proposed Rule

(c) *Issuing Carrier.* A carrier subject to the Act which publishes and files a tariff or tariffs with the Commission.

Existing Rule

§ 61.16 Issuing carrier.

The term "issuing carrier," whenever used in this part, means a carrier subject to the act which publishes and files a tariff or tariffs with the Commission.

Proposed Rule

(d) *Non-Dominant Carrier.* A carrier found by the Commission not to have market power (i.e., power to control prices).

Existing Rule

§ 61.15a Dominant/non-dominant carrier.

(b) The term non-dominant carrier whenever used in this part means carriers not found to be dominant. This definition shall not apply to carriers providing mobile radio service, Multipoint Distribution Service, or international record or voice service.

[Old § 61.15a(a) definition of dominant carrier deleted as not necessary]

Proposed Rule

(e) *Other Participating Carrier.* A carrier subject to the Act which publishes a tariff containing rates and regulations applicable to the portion of through service it furnishes in conjunction with another subject carrier.

(No existing rule)

Proposed Rule

§ 61.13 Charge in Rate structure.

A restructuring of the rate components for an existing service.

Existing Rule

§ 61.21 Categories of tariff filings.

(e) The term "change in rate structure" means a restructuring of the rate elements for an existing service.

Proposed Rule

§ 61.14 Charges.

The price for service based on tariffed rates.

Existing Rule

§ 61.12 Charges.

The term "charges," whenever used in this part, shall be construed to include rates.

Proposed Rule

§ 61.15 Commercial Contractor.

The commercial firm to whom the Commission annually awards a contract to make copies of Commission records for sale to the public.

(No existing rule)

Proposed Rule

§ 61.16 Commission.

The Federal Communications Commission.

Existing Rule

§ 61.13 Commission.

The term "Commission," whenever used in this part, means the Federal Communications Commission.

Proposed Rule

§ 61.17 Corrections.

The remedy of errors in typing, spelling, or punctuation.

Existing Rule

§ 61.21 Categories of tariff filings.

(b) The term "corrections" means the correction of errors in typing, spelling, punctuation, grammar or the like.

[Old § 61.17 Posted consolidated into proposed § 61.72]

Proposed Rule

§ 61.18 New Service Offering.

A tariff filing which provides for a class or sub-class of service not previously offered.

Existing Rule

§ 61.21 Categories of tariff filings.

(f) The term "new service offering" means a tariff filing which provides for classes or sub-classes of service not previously offered.

Proposed Rule

§ 61.19 Rate.

The tariffed price per unit of service.

(No existing rule)

[Old § 61.19 Submarine cable deleted as archaic]

Proposed Rule

§ 61.20 Rate Increase.

Any change in a tariff which results in an increased rate or charge to any of the filing carrier's customers.

Existing Rule

§ 61.21 Categories of tariff filings.

(g) The term "rate increase" means a change in a tariff publication which results in an increased charge to any of the carrier customers.

Proposed Rule

§ 61.21 Regulations.

The body of carrier prescribed rules in a tariff governing the offering of service in that tariff including rules, practices, classifications and definitions.

Existing Rule

§ 61.18 Regulations.

The terms "regulations," whenever used in this part, shall be construed to include rules, practices, and classifications.

[Old § 61.21(a) V&H Coordinates consolidated into proposed § 61.58(b)(2)(i)]

[Old § 61.21(d) Imposition of Termination Charges consolidated into proposed § 61.58(b)(2)(i)]

Proposed Rule

§ 61.22 Supplement.

A publication filed as part of a tariff for the purpose of revising any schedule of rates or regulations in that tariff, and numbered independently from the tariff page series.

(No existing rule)

Proposed Rule

§ 61.23 Tariff.

Schedules of rates and regulations filed by common carriers.

(No existing rule)

Proposed Rule

§ 61.24 Tariff Publication, or Publication.

A tariff, supplement, revised page, additional page, concurrence, notice of revocation, adoption notice, or any other schedule of rates or regulations.

Existing Rule

§ 61.20 Tariff publication.

The term "tariff publication," or "publication," whenever used in this part, means a tariff, supplement, revised page, additional page, instrument of concurrence, notice of revocation, adoption notice, or any other schedule of charges or regulations.

Proposed Rule

§ 61.25 Text Change.

A change in the text of a tariff which does not result in a change in any rate or regulation.

Existing Rule

§ 61.21 Categories of tariff filings.

(c) The term "text change" means a change in the text of a tariff which does not result in a change in any rate or regulation.

Proposed Rule

§ 61.26 United States

The several States and Territories, the District of Columbia, and the possessions of the United States.

General Rules

Section 61.31 [Removed]

Explanation

Now incorporated in § 61.1(b).

Section 61.32 Method of filing publications.

Explanation

Section 61.32 clarifies the former text and changes it in two respects: by requiring that an additional copy of the tariff pages be submitted to the Secretary, and by eliminating the requirement that a copy of supporting information be filed with the Secretary.

Proposed Rule

§ 61.32 Method of filing publications.

Publications sent for filing must be addressed to "Secretary, Federal Communications Commission, Washington, D.C. 20554." Two copies of tariff publications must be filed under a letter of transmittal. The date on which the publication is received by the Secretary of the Commission, or by the Mail Room where submitted by mail, is considered the official filing date. Simultaneously with the filing of the publication, and by the same means, the issuing carrier must send a copy of the publication, supporting information specified in Section 61.38, and transmittal letter to (1) the commercial contractor (at its office on Commission premises) and (2) the Chief, Tariff Review Branch. The latter should be clearly labelled as the "Public Reference Copy." The copies of supporting information required here are in addition to those required by Section 61.38(c).

Existing Rule

§ 61.32 Method of filing publications.

Tariff publications sent for filing shall be addressed to "Secretary, Federal Communications Commission, Washington, D.C. 20554." One copy of each publication, including all supporting information, shall be filed under a letter of transmittal. The date on which the tariff publication is filed with the Secretary shall be considered the official filing date. Simultaneously with the filing of the publication with the Secretary of the Commission and by the same means (hand delivery or mail), the filing carrier shall send a copy of the entire publication with all supporting information and the transmittal letter 1) to the commercial firm (at its office on the Commission's premises) to whom the Commission annually awards a contract to make copies of Commission records and offer them for sale to the public, and 2) to the Chief, Tariff Review Branch. The copy filed with the Tariff Review Branch shall be clearly labelled "Public Reference Copy."

Section 61.33 Letters of Transmittal.

Section 61.33(a) consolidates existing § 61.33 with § 61.39(a), and expands the information required with tariff transmittals. Specifically, enumerated items of information other than (1) represent newly detailed requirements.

Section 61.33(b) is clarified.

Proposed Rule

§ 61.33 Letters of Transmittal.

(a) All publications filed with the Commission must be accompanied by a letter of transmittal, 8½ by 11 inches in size. All letters of transmittal must (1) concisely explain the nature and purpose of the filing; (2) specify whether supporting information under Section 61.38 is required; (3) state whether copies have been delivered to the Commercial Contractor and Chief, Tariff Review Branch as required by Section 61.32.

(b) In addition to the requirements set forth in (a), the letter of transmittal must specifically reference by number any facility authorization or special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication, and may not be requested in the transmittal letters.

(c) The letter of transmittal must be substantially in the following format.

(Exact name of carrier in full)

(Post Office Address)

———————, 19——

(Date)

Transmittal No. ———————

Secretary,
Federal Communications Commission,
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff (or other publication) issued by ———————, and bearing FCC No. ———, Effective ———, 19——, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required).

(Name of issuing officer or agent)

(Title)

(d) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

Note.—If a receipt for the accompanying publication is desired, the letter of transmittal must be sent in duplicate. One copy showing the date of receipt by the Commission will then be returned to the sender.

Existing Rule

§ 61.33 Letters of transmittal.

(a) All publications filed with the Commission shall be accompanied by a letter of transmittal, 8½ by 11 inches in size, in form substantially as follows:

VOL
48
ISS
2
06
OC
24
1983
UMI

(Exact name of carrier in full) Tariff Department

(Post Office Address)
———————, 19——

(Date)
Transmittal No.———
Secretary,

Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff (or other publication) is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended, issued by ——— (carrier), and bearing FCC No. ———————, effective ———, 19—. (Suppl. No. —— to FCC No, ——, effective ———, 19—) (—— revised page —— of FCC No. ———, effective ———, 19—.) (FCC Concurrence No. ——, effective ———, 19—), etc. (Here give a statement describing the method of giving the additional notice required by § 61.58).

(Name of issuing officer)

(Title)

(c) A statement giving a concise explanation of the nature and purpose of the filing shall be included in the transmittal prescribed above.

§ 61.33 Tariff filings for service offerings by non-dominant carriers.

(a) Every tariff filing of a non-dominant carrier shall be accompanied with a statement (preferably in the letter of transmittal) which shall briefly summarize the filing, its purpose, and whether any prior Commission facility authorization necessary to its implementation has been obtained.

§ 61.33 Letters of transmittal.

(a) All publications filed with the Commission shall be accompanied by a letter of transmittal, 8½ by 11 inches in size, in form substantially as follows:

(Exact name of carrier in full)
Tariff Department,

(Post Office Address)
———————, 19——

(Date)
Transmittal No. ———
Secretary,

Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff (or other publication) is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended, issued by ————— (Carrier), and bearing FCC No. ——, effective ———, 19—. (Suppl. No. —— to FCC No. ——, effective ———, 19—.) (—— revised page —— of FCC No. ——, effective ———, 19—.) (FCC Concurrence No. ——, effective ———, 19——), etc. (Here give a statement describing the method of giving the additional notice required by § 61.58).

(Name of issuing officer)

(Title)

(b) A separate letter of transmittal may accompany each publication, or the foregoing form may be modified to provide for filing with one letter as many publications as can be conveniently entered.

Note. If receipt for accompanying publication is desired, the letter of transmittal must be sent in duplicate. One copy showing the date of receipt by the Commission will then be returned to the sender.

Section 61.34 [Removed]

Explanation

Deleted in an earlier revision.

§ 61.34 [Reserved]

[§ 61.34 deleted & reserved eff. 12–19–79; X(77)–3]

Section 61.35 Delivered free of charges.

Explanation

No charge.

Proposed Rule

§ 61.34 Delivered free of charges.

Tariff publications must be delivered to the Commision free from all charges, including claims for postage.

Existing Rule

§ 61.35 Delivered free of charges.

No tariff publication will be received by the Commission unless it is delivered free from all charges, including claims for postage.

Section 61.36 Tariff publications not returned.

Explanation

New § 61.36 ends the practice of returning tariffs to carriers when rejected.

Proposed Rule

§ 61.36 Tariff publications not returned.

Tariff publications will not be returned.

Existing Rule

§ 61.36 Not returned unless rejected for cause.

Tariff publications which have been tendered to the Commission for filing or which have been received by the Commission in the ordinary course of business will not be returned to carriers, unless rejected for cause.

Section 61.37 [Removed]

Explanation

Consolidated with new § 61.52(a).

Section 61.38 Supporting information to be submitted with letters of transmittal.

Explanation

Substantively unchanged since recent amendments except for the inclusion in § 61.38(a) of language now found in §§ 61.39 (b) and (d) and the proposed expansion of the exemption in 61.38(a) to $500,000. (Amendment of Section 61.38, FCC 82–436, October 8, 1982).

Proposed Rule

§ 61.38 Supporting information to be submitted with letters of transmittal.

(a) *Scope.* This section applies to dominant carriers whose annual gross revenues exceed $500,000 for the most recent 12 month period of operations or are estimated to exceed $500,000 for a representative 12 month period. However, the Commission may require any carrier to submit such information as may be necessary for review of a tariff filing.

(b) *Explanation and data supporting either changes or new tariff offerings.* The material to be submitted for a tariff change which rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.

(1) For a tariff change, the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A cost of service study for all elements for the most recent 12 month period;

(ii) A study containing a projection of costs for a representative 12 month period; and

(iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (ii) above.

(2) For a tariff filing offering a new service, the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. Estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (i) above.

(c) *Working papers and statistical data.* (1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff Review Branch must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in Section 1.363 of the Commission's Rules.

(d) *Form and content of moterial to be submitted with certain rate increases.*

In the circumstances set out in (1) and (2) below, the filing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The carrier must submit this information in suitable form to serve as the carrier's direct case in the event the rate increase is set by the Commission for investigation.

(1) Rate increases affecting single services or tariffed items.

(i) A rate increase in any service or tariffed item which results in more that $1 million in additional annual revenues, calculated on the basis of existing quantities of service, without regard to the percentage increase in such revenues; or

(ii) A single rate increase in any service or tariffed item, or successive rate increases in the same service or tariffed item within a 12 month period, either of which results in:

(a) at least a 10 per cent increase in annual revenues from that service or tariffed item, and

(b) at least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(2) Rate increases affecting more than one service or tariffed item.

(i) A general rate increase in more than one service or tariffed item occurring at one time, which results in more than $1 million in additional revenues calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A general rate increase in more than one service or tariffed item occurring within a 12 month period, either of which results in:

(a) at least a 10 per cent increase in annual revenues from those services or tariffed item, and

(b) at least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(e) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data and information required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(f) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated cost, the offering carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.

Existing Rule

§ 61.38 Material to be submitted with letters of transmittals.

(a) Explanation and data supporting changes and/or new tariff offering. The material to be submitted for a tariff change or for a tariff offering a new service must include: (1) an explanation of the changed or new matter, the reasons for the filing, and the basis of ratemaking employed; and (2) economic data and information to support the changed or new matter, including:

(i) For changed matter, a cost of service study for all elements of costs for the most recent 12-month period; and for changed and new matter, a study containing a projection of costs for at least a one-year period from the date of the filing of the tariff matter; and

(ii) Estimates of the effect of the changed or new matter upon the traffic and revenues from the service to which the changed or new matter applies; upon the traffic and revenues from the carrier's other service classifications; and upon the carrier's overall traffic and revenues. Estimates must include the projected effects on the traffic and revenue data for a one year period from the date of the filing of the changed or new matter. Complete explanations of the bases for the estimates must be provided.

(b) Working papers and statistical data. (1) The Chief, Common Carrier Bureau, upon the filing of any tariff change or tariff filing for a service not previously offered, must be provided one set of working papers for use by the staff and a second set of working papers for use by the public at the Commission's offices. Each set of working papers must contain the information underlying the data supplied in response to paragraph (a) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in Section 1.363 of this chapter.

(c) Submission of explanation and data by connecting carriers. If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data and information in paragraphs (a) and (b) of this section on the date the tariff matter is filed with the Commission by the issuing carrier.

(d) Form and content of material submitted with certain rate increases. (1) The filing carrier must submit all cost, marketing and other data on which it relies in justification of a proposed rate increase when:

(i) a rate increase in any service or tariffed item results in more than $1 million in additional annual revenues, as calculated on the basis of existing quantities of service, without regard to the percentage increase in such revenues; or

(ii) a rate increase in any service or tariff item results in (a) a 10 per cent of greater increase in annual revenues from that service or tariffed item, and (b) at least $100,000 in additional annual revenues, both calculated on the basis of existing quantities of service; or for two or more rate increases applying to the same service or tariffed item during any consecutive 12 months which, when combined, result in both conditions set forth above in (a) and (b).

(2) The data required by subparagraph (1) must be in appropriate form to serve as the carrier's direct case in the event the rate increase is set for hearing. If the rate increase is designated for hearing, the carrier must sumit any additional information on which it relies in documentary form within 45 days from the date of designation.

(3) The requirement imposed here is in addition to any requirement imposed by the other provisions of this section.

(e) Copies of explanation and data to customers. Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated cost, the offering carrier must transmit to the customer a copy of the explanation and data required by paragraphs (a) and (b) of this section.

(f) Exception. This section does not apply to non-dominant carriers, and in any event does not apply to any carrier with annual gross revenues less than $200,000. Annual gross revenues are to be calculated on the basis of gross revenues for the most recent twelve month period, or on the basis of the average of three years' estimated annual gross revenues, whichever is greater.

§ 61.39 Tariff filings for service offerings by non-dominant carriers.

(b) Except as provided in paragraph (d) of this section, tariff filings involving domestic service of carriers found by the Commission to be non-dominant need not be accompanied by the support material required by § 61.38.

(d) The Commission may, at any time, request of any carrier filing tariffs pursuant to this Section to submit any information or data necessary to determine the lawfulness of any tariff filing. In such event, the carrier shall be prepared to submit such information within seven (7) calendar days (or longer period established by the Chief of the

VOL
48
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Common Carrier Bureau) of the date it is requested.

§ 61.39 [Removed]

Explanation

Relocated existing paragraphs (a), (b), (c) and (d) to proposed §§ 61.33(a), 61.38(a), 1.773(a)(ii) and 61.36(a) respectively.

Specific Rules for Tariff Publications

§ 61.51 [Removed]

Explanation

Consolidated in 61.1(b).

§ 61.52 Form, size, type, legibility, etc.

Explantion

Section 61.52(a) consolidates old § 61.52 and § 61.37, and deletes certain archaic language.

Section 61.52(b) relocates and consolidated old § 61.92 and § 61.112 with related material in original § 61.52(b), and authorizes an alternative form for tariff pages. (The alternative form has frequently been permitted by waiver in the past.)

Proposed Rule

§ 61.52 Form, size, type, legibility, etc.

(a) All tariff publications must be in loose-leaf form of size 8½ by 11 inches, and must be plainly printed in black print on white paper of durable quality. Less than 6-point type may not be used. Erasures or alterations in writing must not be made in any tariff publication filed with the Commission or in those copies posted for public convenience. A margin of no less than one inch in width must be allowed at the left edge of every tariff publication.

Existing Rule

§ 61.37 Erasures and alterations; margins.

Erasures or alterations in writing shall not be made in any tariff publication filed with the Commission or in those posted for public convenience, and a sufficient margin without any printing thereon shall be allowed at the binding edge of every tariff and supplement so that, when the book or binder containing the tariff or supplement is open, all printed matter on each page will be clearly in view and legible, but the margin shall in no event be less than five-eights of an inch in width.

§ 61.52 Form, size, type, legibility, etc.

All tariffs and supplements shall be in book, pamphlet, or loose-leaf form of size 8½ by 11 inches, and shall be plainly printed on hard calendered, No. 1 machine-finished book or 20-pound bond paper of durable quality. Type of size not less than 6-point shall be used, except as provided in § 61.54(a). Stereotype, planograph, mimeograph, or other process equally durable may be used, provided that the copies posted and filed are clear and legible in all respects. Reproductions by hectograph, typewriter or similar process shall not be used.

Proposed Rule

(b) Pages of tariffs must be printed on one side only, and must be numbered consecutively and designated as "Original title page," "Original page 1," "Original page 2," etc.

Existing Rule

§ 61.92 Construction

The pages of each tariff or supplement shall be numbered consecutively, beginning with the title page and counting each side of a sheet as a page. Each page which is left blank shall bear the notation: "This page intentionally left blank."

Proposed Rule

(1) All such pages must show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff, with the page designation directly below; in the lower left-hand corner the issued date; in the lower right-hand corner the effective date; and at the bottom, center, the street address of the issuing officer. The carrier must also specify the issuing officer's name and title either at the bottom center of all tariff pages, or on the title page and check sheet only.

(2) As an alternative, the issuing carrier may show in the upper left-hand corner the name of the issuing carrier, the name, title, and street address of the issuing officer, and the issued date; and in the upper right-hand corner the FCC number of the tariff, with the page designation directly below, and the effective date. The carrier must specify the issuing officer's name and title in the upper left-hand corner of either all tariff pages, or on the title page and check sheet only. A carrier electing to place the information at the top of the page should annotate the bottom of each page to indicate the end of the material, e.g., a line, or the term "Printed in USA," or "End."

(3) Only one format may be employed in a tariff publication.

Existing Rule

§ 61.112 Construction.

Pages of loose-leaf tariffs shall be printed only on one side of the sheet, and they must be numbered consecutively and designated as "Original title page," "Original page 1," "Original page 2," etc. All such pages shall show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff in distinctive type, with the page designation directly thereunder; in the lower left-hand corner the date of issue; in the lower right-hand corner the date effective; and at the bottom, center, the name, title, and street address of the issuing officer.

§ 61.53 Consective numbering.

Explanation

No substantive change.

Proposed Rule

§ 61.53 Consecutive numbering.

Carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

Existing Rule

§ 61.53 Consecutive numbering.

Each carrier shall, so far as practicable, file tariffs under consecutive FCC numbers. If for any cause this cannot be done, the tariff which is filed bearing an FCC number that is not consecutive with the last number filed shall be accompanied by a memorandum containing an explanation of the missing number or numbers. Supplements to a tariff shall be numbered consecutively.

§ 61.54 . Composition of tariffs.

Explanation

New § 61.54 consolidates material from old §§ 61.54, 61.55, 61.94, 61.113, 61.114, 61.115, 61.118, and 61.119. As is set forth in more detail below, these organizational changes primarily effect greater clarity of exposition and the elimination of redundancies in formerly scattered sections. Minor substantive changes have been made as indicated.

Section 61.54(a) summarizes in a new paragraph the elements of a tariff formerly set out only as paragraph headings.

Section 61.54(b) sets out format and information required on tariff title pages (formerly contained in §§ 61.54(a), (b), (c)(1), (e), and 61.119).

Section 61.54(c) sets out procedures for original and subsequent pagination of tariffs formerly contained in §§ 61.113(a) and (b), § 61.114, and § 61.115, and adds a cross-reference to rejected pages, covered by proposed § 61.69.

Section 61.54(d) sets out requirements of the table of contents (old § 61.55(a)) without substantive change.

Section 61.54(e) is a new paragraph authorizing carriers to include optional material in tariffs to assist users.

Section 61.54(f) sets out requirements for list of concurring carriers, formerly contained in § 61.55(b).

Section 61.54(g) sets out requirements for list of connecting carriers, formerly contained in § 61.55(c).

Section 61.54(h) sets out requirement for list of other participating carriers, formerly contained in § 61.55(d).

Section 61.54(i) specifies and explains use of prescribed symbols, reference marks and abbreviations formerly contained in § 61.55(e), § 61.94, and §§ 61.118(a) and (b). Adds symbols to denote matter relocated without change (M) and corrections (Z).

Section 61.54(j) sets out requirement that carrier's regulations governing the tariff be stated clearly, formerly contained in § 61.55(g). Specifies for the first time that the general rules of the tariff include definitions, to preclude contentions that definitions are not legally part of the tariff.

Section 61.54(k) states requirement of former § 61.55(h) that rates be explicitly stated.

Proposed Rule

§ 61.54 Composition of tariffs.

(a) Tariffs must contain, in consecutive order: a title page; check sheet; table of contents; list of concurring, connecting, and other participating carriers; explanation of symbols and abbreviations; application of tariff; general rules (including definitions), regulations, exceptions and conditions; and rates. If the issuing carrier elects to add a section assisting in the use of the tariff, it should be placed immediately after the table of contents.

(b) The title page of every tariff and supplement must show:

(1) *FCC number, indication of cancellations.* In the upper right-hand corner, the designation of the tariff or supplement as "FCC No. ——," or "Supplement No. —— to FCC No. ——," and immediately below, the FCC number or numbers of tariffs or supplements cancelled thereby.

(2) *Name of carrier, class of service, geographical application, means of transmission.* The exact name of the carrier, and such other information as may be necessary to identify the carrier issuing the tariff publication; and brief statement showing each class of service provided; the geographical application; and the type of facilities used to provide service.

(3) *Expiration Date.* When the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the following manner:

Expires at the end of —— (date) unless sooner cancelled, changed or extended.

Existing Rule

§ 61.54 Title page, contents and arrangements.

The title page of every tariff and supplement shall show in the order named:

(a) *FCC number, indication of concellations.* On upper right-hand corner, the designation of the tariff or supplement as "FCC No. ——," or "Supplement No. —— to FCC No. ——," in not less than 12-point bold face type, and immediately thereunder the FCC number or numbers of tariffs or supplements canceled thereby. If the canceled issues are so numerous as to render it impracticable thus to enter the numbers thereof on the title page, the numbers thereof shall be shown immediately following the table of contents and specific reference to that fact shall be entered on the title page directly under the FCC number. Each supplement shall specify on its title page the supplement or supplements which it amends.

(b) *Nome of carrier, closs of service, geographical application, means of transmission.* The exact name of the carrier and such other information as may be necessary positively to identify such carrier, including a receiver or receivers, if any, issuing the tariff or supplement; a brief statement showing each class of service provided therein; the geographical application of the tariff or supplement; and whether such service is carried on by wire or submarine cable telegraph, wire or submarine cable telephone, radiotelegraph or radiotelephone.

(c) *Issue, effective ond expiration dates.* (1) Date of issue in lower left-hand corner, and date effective in lower right-hand corner. When the entire tariff of supplement is to expire with a fixed date, the expiration date shall be shown in connection with the effective date in the following manner:

Expires with ——————(date) unless sonner canceled, changed or extended.

Proposed Rule

(4) *Name, title and address of issuing officer.* The name, title and street address of the officer issuing the tariff or supplement in the format specified in Section 61.52.

Existing Rule

§ 61.54 Title page, contents and arrangements.

(e) *Name, title and address of issuing officer.* The name, title and street address of the officer issuing the tariff or supplement.

Proposed Rule

(5) *Revised title page.* When a revised title page is issued, the following notation must be shown in connection with its effective date:

Original tariff effective ——— (here show the effective date of the original tariff).

Existing Rule

§ 61.119 Revised title pages.

When a revised title page is issued, the following notation shall be shown in connection with its effective date:

Original tariff effective ——— (Here show the effective date of the original tariff).

Proposed Rule

(c)(1) The page immediately following the title page must be designated as "Original page 1" and captioned "Check Sheet." When the original tariff is filed, the check sheet must show the number of pages contained in the tariff. For example, "Page 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages are added, they must be numbered in continuing sequence, and designated as "Original page ———." For example, when the tariff filed has 150 pages, the first page added after page 150 is to be designated as "Original page 151," and the foregoing notation must be revised to include the added pages.

Existing Rule

§ 61.113 Check sheet.

(a) The page of every loose-leaf tariff next to the title page shall be designated as "Original page 1" and shall be known as a "Check sheet." When the original tariff is filed, the check sheet shall show the number of pages contained in the tariff. For example, "Pages 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages are added, such as pages numbered 151, 152 and so on, the foregoing notation shall be correspondingly revised to include the added pages. When pages are revised, when new pages (including pages with letter suffix) are added to the tariff, or when supplements are issued, the check sheet shall be revised accordingly, and, in addition to the above notation, shall show, under the heading "Original and revised pages as named below (and Supplement No.———) contain all changes from the original tariff that are in effect on the date hereof," in numerical order a list of all original pages that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
Title	1st
3	5th
5A	Orig.
10	6th
151	Orig.

§ 61.115 Additional pages.

If it is desired to file additional pages to a loose-leaf tariff, such pages shall be numbered beginning with the number next succeeding the number of the last page of the tariff, and shall be designated as "Original page ———." For example, when the tariff filed has 150 pages, the first page added after page 150 shall be designated as "Original page 151." If such pages are to be inserted between numbered pages, each such page shall be designated as an original page and shall bear the number of the immediately preceding page followed by the suffix A, B, C, and so on. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first page shall be designated as original page 44A and the second page as

original page 44B. No additional page can be filed except for the purpose of adding new matter which does not change the charges or regulations then in force on other pages of the tariff.

Proposed Rule

(2) If pages are to be inserted between numbered pages, each such page must be designated as an original page and must bear the number of the immediately preceding page followed by an alpha or numeric suffix. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first inserted page must be designated as Original page 44A or 44.1 and the second inserted page as Original page 44B or 44.2. Issuing carriers may not utilize both the alpha and numeric systems in the same publication.

Existing Rule

§ 61.115 Additional pages.

If it is desired to file additional pages to a loose-leaf tariff, such pages shall be numbered beginning with the number next succeeding the number of the last page of the tariff, and shall be designated as "Original page —." For example, when the tariff filed has 150 pages, the first page added after page 150 shall be designated as "Original page 151." If such pages are to be inserted between numbered pages, each such page shall be designated as an original page and shall bear the number of the immediately preceding page followed by the suffix A, B, C, and so on. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first page shall be designated as original page 44A and the second page as original page 44B. No additional page can be filed except for the purpose of adding new matter which does not change the charges or regulations then in force on other pages of the tariff.

Proposed Rule

(3) When pages are revised, when new pages (including pages with letter or numeric suffix as set forth above) are added to the tariff, or when supplements are issued, the check sheet must be revised accordingly. Revised check sheets must indicate with an asterisk the specific pages added or revised. In addition to the notation, the check sheet must list, under the heading "The original and revised pages named below (and Supplement No. ———) contain all changes from the original tariff that are in effect on the date shown," all original pages in numerical order that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
Title	1st
1	6th *
3	5th
5A	Orig. *
10	8th *
151	Orig.

* Page Issued ——— (date).

Existing Rule

§ 61.113 Check sheet.

(a) The page of every loose-leaf tariff next to the title page shall be designated as "Original page 1" and shall be known as a "Check sheet." When the original tariff is filed, the check sheet shall show the number of pages contained in the tariff. For example, "Pages 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages are added, such as pages numbered 151, 152 and so on, the foregoing notation shall be correspondingly revised to include the added pages. When pages are revised, when new pages (including pages with letter suffix) are added to the tariff, or when supplements are issued, the check sheet shall be revised accordingly, and, in addition to the above notation, shall show, under the heading "Original and revised pages as named below (and Supplement No. —) contain all changes from the original tariff that are in effect on the date thereof," in numerical order a list of all original pages that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
Title	1st
3	5th
5A	Orig.
10	8th
151	Orig.

(b) Revised check sheets listing the added or revised pages must accompany such pages when forwarded to the Commission for filing.

Proposed Rule

(4) Changes in, and additions to tariffs must be made by reprinting the page upon which a change or addition is made. Such changed page is to be designated as a revised page, cancelling the page which it amends. For example, "First revised page 1 cancels original page 1," or "Second revised page 2 cancels first revised page 2," etc. When a revised page omits rates or regulations previously published on the page which it cancels, but such rates or regulations are published on another page, the revised page must make specific reference to the page on which the rates or regulations will be found. This reference must be accomplished by inserting a sentence at the bottom of the revised page that states "Certain rates (or regulations) previously found on this page can now be found on page ———." In addition, the page on which the omitted material now appears must bear the appropriate symbol opposite such material, and make specific reference to the page from which the rates or regulations were transferred. This reference must be accomplished by inserting a sentence at the bottom of the other page that states "Certain rates (or regulations) on this page formerly appeared on page ———."

(5) Rejected pages must be treated as indicated in Section 61.69.

Existing Rule

§ 61.114 Amendments.

Changes in, and additions to, loose-leaf tariffs shall be made by reprinting the page upon which a change or addition is made, and such changed page shall be designated as a revised page and shall cancel the page which it amends. For example, "First revised page 1 cancels original page 1," or "Second revised page 2 cancels first revised page 2," etc. When a revised page is issued which omits charges or regulations theretofore published on the page which it cancels and such charges or regulations are published on a page other than the revised page, the revised page shall make specific reference to the page on which the charges or regulations will be found.

Proposed Rule

(d) *Table of contents.* The table of contents must contain a full and complete statement showing the exact location and specifying the page or section and page numbers, where information by subjects under general headings will be found. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

Existing Rule

§ 61.55 Composition of tariffs.

Tariffs shall contain, in the order named, the following:

(a) *Table of contents.* A full and complete statement showing the exact location and specifying the page or section and page numbers, where information by subjects under general headings in alphabetical order, will be found. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

Proposed Rule

(e) *Toriff User's guide.* At its option, a carrier may include a section explaining how to uwe the tariff.

(No existing rule.)

Proposed Rule

(f) *List of concurring carriers.* This list must contain the exact name or names of carriers concurring in the tariff, alphabetically arranged, and the name of the city or town in which the principal office of every such carrier is located. If there are no concurring carriers, then the statement "no concurring carriers" must be made at the place where the names of the concurring carriers would otherwise appear. If the concurring carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

Existing Rule

§ 61.55 Composition of tariffs.

(b) *List of concurring carriers.* The exact name or names of the concurring carriers, alphabetically arranged, concurring in the tariff and the name of the city or town in which the principal office of every such carrier is located. (See §§ 61.131 and 61.132.) If there are no concurring carriers, then the statement "no concurring carriers" shall be made at the place where the names of the concurring carriers would otherwise appear. If the carriers so concurring are numerous, the names thereof may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier: *Provided,* That specific reference to such separate tariff by F.C.C. number is made in the tariff at the place where such names would otherwise appear.

Proposed Rule

(g) *List of connecting carriers.* This list must contain the exact name or names or connecting carriers, alphabetically arranged, for which rates or regulations are published in the tariff, and the name of the city or town in which the principal office of every such carrier is located. If there are no connecting carriers, then the statement "no connecting carriers" must be made at the place where their names would otherwise appear. If connecting carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

Existing Rule

§ 61.55 Composition of tariffs.

(c) *List of connecting carriers.* the exact name or names, alphabetically arranged, of the connecting carriers, for which charges or regulations are published in the tariff and the name of the city or town in which the principal office of every such carrier is located. (See §§ 61.131 and 61.132.) If there are no connecting carriers, then the statement "no connecting carriers" shall be made at the place where the names of the connecting carriers would otherwise appear. If such connecting carriers are numerous, the names thereof may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier: *Provided,* That specific reference to such separate tariff by F.C.C. number is made in the tariff at the place where such names would otherwise appear.

Proposed Rule

(h) *List of other participating carriers.* This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located. If there is no such other carrier, then the statement "no participating carriers" must be made at the place where the names of such other carriers would otherwise appear. If such other carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference must be made in the tariff at the place where such names would otherwise appear. The names of concurring and connecting carriers properly listed in a tariff published by any other participating carrier need not be repeated in this list.

Existing Rule

§ 61.55 Composition of tariffs.

(d) *List of other participating carriers.* The exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located. (See § 61.132.) If there is no such other carrier, then the statement "no other participating carriers" shall be made at the place where the names of such other carriers would otherwise appear. If such other carriers are numerous, the names thereof may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier: *Provided,* That specific reference is made in the tariff at the place where such names would otherwise appear. The names of concurring and connecting carriers properly listed in a tariff published by any such other participating carrier need not be included in the aforementioned list.

Proposed Rule

(i) (1) *Symbols, reference marks, abbreviations.* The tariff must contain an explanation of symbols, reference marks, and abbreviations of technical terms used. The following symbols used in tariffs are reserved for the purposes indicated below:

R to signify reduction.

I to signify increase.

C to signify changed regulation.

T to signify a change in text but no change in rate or regulation.

S to signify reissued matter.

M to signify matter relocated without change.

N to signify new rate or regulation.

D to signify discontinued rate or regulation.

Z to signify a correction.

Existing Rule

§ 61.55 Composition of tariffs.

(e) *Symbols, reference marks, abbreviations.* Explanation of symbols, reference marks, and abbreviations of technicals terms used in tariffs. The following symbols shall be used in tariffs for the purposes indicated below and they shall not be used for any other purposes:

R to signify reduction.

I to signify increase.

C to signify changed regulation.

T to signify a change in text but no change in rate or regulation.

S to signify reissued matter.

N to signify new rate or regulation.

D to signify discontinued rate or regulation.

Proposed Rule

(2) The uniform symbols must be used as follows:

(i) When a change of the same character is made in all or in substantially all matter in a tariff, it may be indicated at the top of the title page of the tariff or at the top of each affected page, in the following manner: "All rates in this tariff are increases," or, "All rates on this page are reductions, except as otherwise indicated."

(ii) When a change of the same character is made in all or substantially all matters on a page or supplement, it may be indicated at the top of the page or supplement in the following manner: "All rates on this page (or supplement) are increases," or, "All rates on this page (or supplement) are reductions except as otherwise indicated."

Existing Rule

§ 61.94 Indication of changes.

Changes shall be indicated by the use of the uniform symbols shown in § 61.55(e): *Provided, however,* That when a change of the same character is made in all or in substantially all matter in a tariff or supplement, or on any page thereof, that fact and the nature of such change may be indicated in distinctive type at the top of the title page of the tariff or supplement, or at the top of each page whereon the change is made, in the following manner: "All charges in this tariff (or supplement) are increases," or, "All charges on this page are reductions, except as otherwise provided in connection with specific rates." Under the latter provision, an appropriate symbol shall be used to indicate a charge or regulation in which no change has been made.

VOL
48
ISS
2
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§ 61.118 Indication of changes.

(a) Changes shall be indicated by the use of the uniform symbols shown in § 61.55(e): *Provided, however,* That when a change of the same character is made in all or in substantially all schedules in a tariff, or on any page thereof, that fact and the nature of such change may be indicated in distinctive type at the top of the title page of the tariff, or at the top of each page whereon the change is made, in the following manner: "All charges in this tariff are increases," or, "All charges on this page are reductions, except as otherwise provided in connection with specific rates." Under the latter provision, an appropriate symbol shall be used to indicate a charge or regulation in which no change has been made.

Proposed Rule

(3) Items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued, in the manner prescribed in Section 961.54(i)(1). Items which have been in effect 30 days or more and are brought forward without change on revised pages must not be shown as reissued items.

Existing Rule

§ 61.118 Indication of changes.

(b) Items which have been in effect 30 days or more and are brought forward without change on revised pages shall not be shown as reissued items but shall be published as effective on 30 days' notice. Items which have not been in effect 30 days when brought forward on revised pages shall be shown as reissued in the manner prescribed in § 61.71.

Proposed Rule

(i) *Rates and general rules, regulations, exceptions and conditions.* The general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the tariff must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate. Rates must be expressed in United States currency, per chargeable unit of service for all communication services, together with a list of all points of service to and from which rates apply. They must be arranged in a simple and systematic manner. Complicated or ambiguous terminology may not be used, and no rate, rule, regulation, exception or condition shall be included which in any way attempts to substitute a rate, rule, regulation, exception or condition named in any other tariff.

Existing Rule

§ 61.55 Composition of tariffs.

(g) *General rules, regulations, exceptions, and conditions.* A clear and definite statement of the general rules, regulations, exceptions, and conditions which govern the tariff; the title or subject of each rule, regulation, exception, or condition to be shown in distinctive type. Under this head, all general rules, regulations, exceptions, or conditions which in any way affect the charges named in the tariff shall be entered. A special rule, regulation, exception or condition affecting a particular item or charge shall be specifically referred to in connection with such item or charge.

§ 61.55 Composition of tariffs.

(h) *Charges.* An explicit statement of the charges in cents or in dollars and cents of United States currency, per chargeable unit of service for all communication services, together with a list of the cities, towns, and localities to and from which message rates apply, all arranged in a simple and systematic manner. Complicated or ambiguous terms shall not be used, and no rule, regulation, exception, or condition shall be included which in any way attempts to authorize the substitution for any rate named in the tariff of a rate named in any other tariff. All charges used in making combination through rates for interstate or foreign communications, including charges used for that purpose between points in one State, shall be filed with the Commission.

§ 61.55 [Removed]

Explanation

Consolidated in other rules, primarily proposed § 61.54.

§ 61.56 Supplements.

Explanation

Consolidates material governing supplements formerly found in §§ 61.56 and 61.116.

Proposed Rule

§ 61.56 Supplements.

A carrier may not file a supplement except to suspend or cancel a tariff.

Existing Rule

§ 61.56 Composition of supplements.

Matter contained in every supplement shall be arranged in the same manner and order as in the tariff which it amends.

§ 61.116 Supplements.

Except when a tariff is suspended, adopted or cancelled, or except as specially authorized, no supplement shall be filed to a loose-leaf tariff.

§ 61.57 Cancellations.

Explanation

Preserves former § 61.57 unchanged except for deletion of § 61.57(e) as archaic.

Proposed Rule

§ 61.57 Cancellations.

The following paragraphs govern the cancellation of tariffs and suppements.

(a) *By tariff or supplement.* A carrier may cancel any tariff or supplement in whole or in part by another tariff or supplement. Cancellation of a tariff automatically cancels every supplement to that tariff, except a cancelling supplement.

(b) *By expiration.* Subject to Section 61.59, a carrier may cancel a tariff or supplement in whole or in part by fixing a date on which the rates or regulations will expire.

(c) *Indication of.* (1) A carrier which cancels a tariff or supplement in whole by another tariff or supplement must comply with Section 61.54(b)(1). Cancellation of tariffs or supplements in whole by expiration must be indicated as provided in Section 61.54 (b)(3).

(2) Where a carrier issues a tariff, supplement, or revised page partially cancelling another tariff, supplement, or revised page, it must specifically state what portion of the other tariff publication is cancelled. Such other tariff or supplement must at the same time be correspondingly amended, effective on the same date.

(3) When only a part of a tariff or supplement is to expire, a carrier must show the expiration date on the same page, and associate it with the matter which is to expire. Changes in expiration date must be made pursuant to the notice requirements of Section 61.58, unless otherwise authorized by the Commission. Expirations must be indicated as follows:

Expires at the end of ———(date) unless sooner cancelled, changed or extended.

(d) *Rates and regulations to apply.* When a carrier cancels a tariff or supplement in whole or in part by another triff or supplement, the cancelling publication must show where all rates and regulations will be found, or what rates and regulations will apply.

Existing Rule

§ 61.57 Cancellations.

Tariffs and supplements shall be cancelled in the manner set forth in the following:

(a) *By toriff or supplement.* Any tariff or supplement may be cancelled in whole or in party by another tariff or supplement. Cancellation of a tariff automatically cancels every supplement thereto, except a cancelling supplement.

(b) *By expiration.* A tariff or supplement may be cancelled in whole or in part by fixing a date with which the charges or regulations shown therein shall expire subject to the rules contained in § 61.59.

(c) *Indication of.* (1) Cancellation of tariffs or supplements in whole by tariff or supplement shall be indicated as provided in § 61.54(a). Cancellation of tariffs or supplements in whole by expiration shall be indicated as provided in § 61.54(c).

(2) If a tariff or supplement or revised page is issued which is to cancel a part of another tariff or supplement then in force and not thereby cancelled in full, the new tariff, supplement or revised page shall specifically state what portion of such other tariff or supplement is thereby cancelled and such other tariff or supplement shall at the same time be correspondingly amended, effective on the same date.

(3) When only a part of a tariff or supplement is to expire the expiration date shall be shown in connection with and on the same page as the matter which is to expire. Changes in expiration date shall be made only on statutory notice unless otherwise authorized by the Commission. Expirations shall be indicated as follows:

Expires with ———(date) unless sooner cancelled, changed or extended.

(d) *Charges and regulations to apply.* When a tariff or supplement is cancelled in whole or in part by a supplement, the supplement shall show where the charges and regulations will thereafter be found or what charges and regulations will thereafter apply. When a tariff or supplement is cancelled in whole or in part by another tariff which does not contain all the charges or regulations shown in the tariff or supplement or part to be cancelled, the cancelling tariff shall show where the charges and regulations not shown therein will thereafter be found or what charges and regulations will thereafter apply.

Proposed Rule

(e) *Omissions.* When a tariff or supplement cancelling a previous tariff or supplement omits points of origin or destination, rates or regulations, or routes, which were contained in such tariff or supplement, the new tariff or supplement must indicate the omission in the manner prescribed in paragraph (c) of this section. If such omissions effect changes in rates or regulations, that fact must be indicated by the use of the uniform symbols prescribed in section 61.54(i)(1).

[old § 61.57(e) deleted as archaic]

Existing Rule

§ 61.57 Cancellations.

(f) *Omissions.* When a tariff or supplement cancelling a previous tariff or supplement omits points of origin or destination, charges or regulations, or routes, which were contained in such tariff or supplement, the new tariff or supplement shall indicate the cancellation in the manner prescribed in paragraph (c) of this section and if such omissions effect changes in charges or regulations, that fact shall be indicated by the use of the uniform symbols prescribed in § 61.55(e).

Proposed Rule

(f) *Carriers ceasing operations.* Where a carrier ceases operations without a successor, it must cancel its tariffs pursuant to the notice requirements of Section § 61.58, unless otherwise authorized by the Commission.

Existing Rule

§ 61.57 Cancellations.

(g) *Corriers ceasing operations.* If a carrier ceases operations without having a successor its tariffs shall be regularly cancelled on statutory notice, unless otherwise authorized by the Commission.

§ 61.58 Notice requirements.

Explanation

Halves the longest notice periods now imposed on dominant carriers (61.58(c)(2) and 61.58(c)(3). Also consolidates formerly scattered notice requirements affecting different types of carriers with differing underlying authority (old §§ 61.58, 61.60, 61.61, 61.62, 61.63); adds a new paragraph establishing an abbreviated notice period for corrections (§ 61.58(a)(3)); relocated §§ 61.21 (a) and (d) to § 61.58(c)(1)(iii) to more closely associate these definitions with the only provisions employing them.

Proposed Rule

§ 61.58 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulations, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(1) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. If a tariff filing proposes changes governed by more than one of the notice periods listed below, the longest notice period will apply. In computing the notice period required, all days including Sundays and holidays must be counted.

Existing Rule

§ 61.58 Notice requirements.

Every tariff publication or filing shall bear an effective date and, except as otherwise provided by regulation, special permission, or order of the Commission, shall give at least the number of days notice to the public and to the Commission specified hereinafter. If a new or revised tariff provision fits into more than one of the categories listed below, the longest period of public notice provided for shall apply. Notice shall be given by filing with the Commission such proposed tariff publications. In addition to this notice, if the tariff publication proposes to increase any charge or to effectuate an authorized discontinuance, reduction or other impairment of service to any customer, the filing carrier shall take such steps as are appropriate under the circumstances to inform the affected customers of the content of the tariff publication. Any period of notice required herein shall begin on and shall include the date the tariff is received by the Commission, but shall not include the effective date. In computing the notice required, Sundays and holidays shall be counted.

Proposed Rule

(2) The Chief, Common Carrier Bureau may require the deferral of the effective date of any tariff filing made on less than 90 days' notice, so as to provide for a maximum total of 90 days' notice, regardless of whether petitions under Section 1.773 of the Commission's Rules have been filed.

(3) Tariff filings proposing corrections must be made on at least 3 days' notice, and may be filed notwithstanding the provisions of Section 61.59. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material.

Existing Rule

§ 61.58 Notice requirements.

(d) The Chief, Common Carrier Bureau may issue orders requiring the deferral of the effective date of any tariff filing made on less than 90 days' notice so as to provide for a maximum total of 90 days' notice to the public and to the Commission regardless of whether petitions opposing the tariff filing have been filed.

Proposed Rule

(4) If the tariff publication would increase any rate or charge, or would effectuate an authorized discontinuance, reduction or other impairment of service to any customer, the offering carrier must inform the affected customers of the content of the tariff publication. Such notification should be made in a form appropriate to the circumstance and may include written notification, personal contact, or advertising in newspapers of general circulation.

Existing Rule

§ 61.58 Notice requirements.

Every tariff publication or filing shall bear an effective date and, except as otherwise provided by regulation, special permission, or order of the Commission, shall give at least the number of days notice to the public and to the Commission specified hereinafter. If a new or revised tariff provision fits into more than one of the categories listed below, the longest period of public notice provided for shall apply. Notice shall be given by filing with the Commission such proposed tariff

VOL 48 ISS 206 OCT 24 1983 UMI

publications. In addition to this notice, if the tariff publication proposes to increase any charge or to effectuate an authorized discontinuance, reduction or other impairment of service to any customer, the filing carrier shall take such steps as are appropriate under the circumstances to inform the affected customers of the content of the tariff publication. Any period of notice required herein shall begin or and shall include the date the tariff is received by the Commission, but shall not include the effective date. In computing the notice required, Sundays and holidays shall be counted.

[old § 61.58(e) removed]

Proposed Rule

(b) *Non-Dominant Carriers.* Tariff filings of non-dominant carriers must be made on at least 14 days' notice.

Existing Rule

§ 61.58 Notice requirements.

(f) Tariff filings of carriers found by the Commission to be non-dominant may be filed on 14-days' notice to the public, notwithstanding the requirements of paragraphs (b) and (c) of this section.

Proposed Rule

(c) *Other Carriers.*

(1) Tariff filings in the instances specified in (i), (ii) and (iii) below must be made on at least 15 days' notice.

(i) Tariffs filed in the first instance by new carriers.

Existing Rule

§ 61.60 Tariffs filed in first instance by wire carriers.

Carriers which have not previously established any charges or regulations may establish charges and regulations for wire service in the first instance upon not less that 15 days' notice to the Commission and the public.

Proposed Rule

(ii) Tariff filings involving new rates and regulations not previously filed at, from, to or via points on new lines; at, from, to or via new radio facilities; or for new points of radio communications.

Existing Rule

§ 61.61 Charges and regulations for service on new lines.

Charges and regulations applicable at, from, to, or via points on new lines for which the Commission has issued a certificate of public convenience and necessity may be established on not less than 15 day's notice: *Provided*, That no charges or regulations so applicable have previously been filed and that every schedule containing such charges and regulations shall bear a notation showing the date and number of the certificate.

§ 61.62 Charges and regulations for service via new radio stations.

(a) Charges and regulations applicable at, from, to, or via new radiotelephone or radiotelegraph stations for which the Commission has issued a construction permit may be established on not less than 15 day's notice: *Provided*, That no charges or regulations so applicable have previously been filed and that every schedule containing such charges and regulations shall bear a notation showing the date and number of the license or modification of license: *And provided further*, That this section shall not apply to new points of communication which are not named either generally or specifically in the license or modification of license.

Proposed Rule

(iii) Tariff filings involving a change in the name of a carrier, a change in Vertical and Horizontal coordinates (or other means used to determine airline mileages), a change in the lists of mileages, a change in the lists of connecting, concurring or other participating carriers, text changes, or the imposition of termination charges calculated from effective tariff provisions. The imposition of termination charges does not include the initial filing of termination liability provisions.

Existing Rule

§ 61.21 Categories of tariff filings.

(a) The term "change in V&H coordinates" means a change in the vertical and horizontal coordinates or the like used in determining airline miles as well as any change in lists of mileage calculated therefrom.

(d) The term "imposition of termination charges" means the filing of termination charges calculated from previously effective tariff provisions.

§ 61.58 Notice requirements.

(a) Tariff filings involving a change in the name of a carrier, a change in V&H coordinates, corrections, a change in the lists of connecting, concurring or other participating carriers, text changes or the imposition of termination charges shall give not less than 15 day's notice to the public and to the Commission.

Proposed Rule

(2) Tariff filing involving a change in rate structure, a new service offering, or a rate increase must give at least 45 days' notice.

Existing Rule

§ 61.58 Notice requirements.

(b) Tariff filings involving a change in rate structure, a new service offering, or a rate increase shall give at least 90 day's notice to the public and to the Commission.

Proposed Rule

(3) All tariff filings not specifically assigned a different period of public notice in this part must give at least 35 days's notice.

Existing Rule

§ 61.58 Notice requirements.

(c) All tariff filings not specifically assigned a different period of public notice in this part shall give at least 70 day's notice to the public and to the Commission.

§ 61.59 Effective period required before changes.

Explanation

States former § 61.59(a) without change; adds exception for corrections.

Proposed Rule

§ 61.59 Effective period required before changes.

Except as provided in Section 61.58(a)(3), or except as otherwise authorized by the Commission, new rates or regulations must be effective for at least 30 days before any change may be made.

Existing Rule

§ 61.59 Tariffs and supplements must become effective; exceptions.

(a) Except as provided in this section, or except as otherwise specially authorized by the Commission, after notice of a change has been published and filed, the new charges or regulations must be allowed to become effective and remain so for at least 30 days from their effective date before any change can be made therein.

§ 61.60 [Removed]

Explanation

Consolidated in proposed § 61.58.

§ 61.61 [Removed]

Explanation

Consolidated in proposed § 61.58.

§ 61.62 [Removed]

Explanation

Consolidated in proposed § 61.58.

§ 61.63 [Removed]

Explanation

Consolidated in proposed § 61.58.

§ 61.64 Rates and regulations for ticker service.

Explanation

No charge.

Proposed Rule

§ 61.64 Rates and regulations for ticker service.

Rates and regulations for individual installations of market and stock quotation and baseball ticker service may be established on not less than 15 days' notice to the public and to the Commission, when there are no rates and regulations in effect for such service at the points where installations are to be made.

Existing Rule

§ 61.64 Charges and regulations for ticker service.

Charges and regulations for individual installations of market and stock quotation and baseball ticker service may be established on not less than 15 day's notice to the Commission and to the public, when there are no charges and regulations in effect for such service at the points where installations are to be made.

§ 61.66 Changes in message telegraph service point listings where basic schedules of rates and regulations are already effective.

Explanation

No change other than deletion of (c) because no longer a tariffed service.

Proposed Rule

§ 61.66 Changes in message telegraph service point listings where basic schedules of rates and regulations are already effective.

(a) When an effective message telegraph service point listing specifies by dates (1) that communication service is available to or from a service point during sporting events, military maneuvers, shipping or resort seasons, or (2) that an office or agent of a carrier is located at such service point for the receipt or delivery of communications during those specifed periods, changes in the dates may be filed on not less then 15 days' notice.

(b) An effective message telegraph service point listing may be changed on not less than 15 days' notice to show (1) that a point at which there is neither an office nor an agent of a telegraph company for the receipt or delivery of telegrams has been changed to a point at which there is such an office or agent, or (2) that a point at which there is an agent of a telegraph company to receive or deliver messages has been changed to a point at which there is a telegraph company office.

Existing Rule

§ 61.66 Changes in message telegraph and money order service point listings.

(a) When a message telegraph service point or money order service point listing that is already on file and in effect specifies by dates (1) that communication service is available to or from a service point during sporting events, military maneuvers, shipping or resort seasons, or (2) that an office or agent of a carrier is located at such service point for the receipt or delivery of communications during the aforementioned periods, changes in the dates may be published and filed on not less then 15 day's notice.

(b) A message telegraph service point listing that is already on file and in effect may be changed on not less than 15 day's notice to show (1) that such point is changed from a point at which there is neither an office nor an agent of a telegraph company for the receipt or delivery of telegrams to a point at which there is such an office or agent, or (2) that such point is changed from a point at which there is an agent of a telegraph company to receive or deliver messages to a point at which there is a telegraph company office: *Provided*, That the basic schedules of charges and regulations applicable to such message telegraph service are already on file and in effect.

Proposed Rule

(c) A message telegraph service point listing may be changed on not less than 15 days' notice to reflect a discontinuance, reduction or impairment of service in accordance with a certificate or authorization granted by the Commission, if the total charges to the customer for service are not increased. Every schedule containing such changes must bear a notation showing the date and number of the certificate or authorization.

Existing Rule

§ 61.66 Changes in message telegraph and money order service point listings.

(d) A message telegraph service point or money order service point listing may be changed on not less than 15 day's notice to reflect a discontinuance, reduction or impairment of service to accordance with a certificate or authorization granted by the Commission: *Provided*, That the total charges to the customer for service are not increased and that every schedule containing such changes shall bear a notation showing the date and number of the certificate or authorization.

[Old § 61.66(c) deleted because no longer a tariffed service]

§ 61.67 New or discontinued telephone, telegraph, teletypewriter service points; mileages.

Explanation

Adds "teletypewriter" to state rule coverage in more general terms and deletes "money order" because no longer a tariffed service.

Proposed Rule

§ 61.67 New or discontinued telephone, telegraph, teletypewriter service points; mileages.

Message toll telephone service points and teletypewriter exchange service points added or discontinued during a calendar month, and message telegraph service points added during a calendar month, may be filed not later than 20 days after the end of such month where the basic schedules of rates and regulations applicable to such message toll telephone, teletypewriter exchange, and message telegraph are effective and the effective date of each addition or discontinuance is shown.

Existing Rule

§ 61.67 New or discontinued telephone, telegraph, money order and TWX service points; mileages.

Message toll telephone service points and teletypewriter exchange service points added or discontinued during a calendar month, and message telegraph service points (including new message telegraph service points published and filed under authority of § 61.59), money order service points, and mileages for private line services added during a calendar month, may be filed not later than 20 days after the end of such month: *Provided*, That the basic schedules of charges and regulations applicable to such message toll telephone, teletypewriter exchange, message telegraph, money order and private line services are already on file and in effect: *And provided further*, That the effective date of each addition or discontinuance is shown.

§ 61.68 Special notation.

Explanation

Consolidates scattered references to special notation formerly contained in portions of §§ 61.54, 61.68, and 61.70.

Proposed Rule

§ 61.68 Special Notation.

(a) A tariff filing must contain a statement of the authority for any matter to be filed on less than the notice

required in Section 61.58. The following format must be used: "Issued on not less than ——— days' notice under authority of ——— (specific reference to the special permission, decision, order or section of these rules)." If all the matter in a tariff publication is to become effective on less than the notice required in Section 61.58, specific reference to the Commission authority must be shown on the title page. If only a part of the tariff publication is to become effective on less than the notice required in Section 61.58, reference to the Commission authority must appear on the same page(s), and be associated with the pertinent matter.

Existing Rule

§ 61.54 Title page, contents and arrangements.

(d) *Special notations.* (1) A notation that the tariff or supplement is "Issued on not less than — days' notice under authority of ——— (here give specific reference to special permission, decision, order or rule)," provided authority to publish all of the charges and regulations contained in the tariff or supplement on less than 30 days' notice has been granted by the Commission.

(2) When a entire tariff or supplement is issued in compliance with a decision or order, and regardless of whether it is made effective on statutory notice or on less than statutory notice under special authority granted in the decision or order, such tariff or supplement shall bear on its title page the notation "In compliance with decision (or order) of Federal Communications Commission in Docket No. ——— (Whenever possible, the volume and page number of the report of the Federal Communications Commission should be cited)."

§ 61.68 Authority for less than statutory notice to be shown.

A tariff or supplement shall indicate the authority for any matter therein which is to be established on less than statutory notice by a notation in the following form: "Issued on not less than ——— days' notice under authority of ——— (here give specific reference to the special permission, decision, order or section)." If all the matter in a tariff or supplement is to become effective on less than statutory notice, the regulation, special permission, or order of the Commission authorizing less than statutory notice shall be shown on the title page. If only a part of the tariff of supplement is to become effective on less than statutory notice, reference to the regulation, special permission or order of the Commission authorizing less than statutory notice shall be shown on the same page and directly in connection with the matter so published.

Proposed Rule

(b) When a portion of any tariff publication is issued in order to comply with a Commission order, the following notation must be associated with that portion of the tariff publication: "In compliance with the order of the Federal Communications Commission in ——— (a specific citation to the applicable order should be made)."

Existing Rule

§ 61.70 Special notations.

When a portion of a tariff or supplement is issued in compliance with a decision or order, and regardless of whether it is made effective on statutory notice or on less than statutory notice under special authority granted in the decision or order, the following notation shall be shown in connection with such portion of such tariff or supplement: "In compliance with decision (or order) of Federal Communications Commission in Docket No. ———. (Whenever possible, the volume and page number of the report of the Federal Communications Commission should be cited.)"

§ 61.69 Rejection.

Explanation

Consolidates provisions concerning rejection formerly found in §§ 61.69(a) and 61.117. Former § 61.69(b) has been deleted as duplicative of former § 61.69(c), which is now found in proposed § 61.1(b).

Proposed Rule

§ 61.69 Rejection.

When a tariff publication is rejected by the Commission, its number may not be used again. The rejected tariff publication may not be referred to as canceled or revised. The publication that is subsequently issued in lieu of the rejected tariff publication must bear the notation "In lieu of ———, rejected by the Federal Communications Commission."

Existing Rule

§ 61.69 Rejections.

(a) When a tariff or supplement is rejected by the Commission, the nubmer which it bears shall not be again used. Such tariff or supplement shall not thereafter be referred to as cancelled, amended, or otherwise, but the publication that is issued in lieu of such rejected tariff or supplement shall bear notation "In lieu of ———, rejected by Commission."

§ 61.117 Rejected pages.

When a page of a tariff is rejected by the Commission, the number which it bears shall not be again used. Such page shall not thereafter be referred to as cancelled, amended, or otherwise, but the revised page that is issued in lieu of such rejected page shall bear the notation "In lieu of ——— (number of page), rejected by the Commission."

§ 61.70 [Removed]

Explanation

Consolidated into proposed § 61.68.

§ 61.71 Reissued matter.

Explanation

No change.

Proposed Rule

§ 61.71 Reissued matter.

Matter in effect for less than 30 days and brought forward without change from another tariff publication must bear the appropriate symbol provided in Section 61.54(i)(1) for reissued matter; and in connection with such reissued matter the number and original effective date of the tariff publication in which the matter was originally published must be associated with the reissued matter.

Existing Rule

§ 61.71 Reissued matter.

Matter which has not been in effect for 30 days and is brought forward without change from another tariff, also matter brought forward without change from one supplement to another, shall bear the appropriate symbol provided in § 61.55(e) for reissued matter the number and original effective date of the tariff or supplement in which the matter was originally published shall be shown, unless such matter was originally made effective on a date other than the general effective date shown on the title page of the tariff or supplement in which it was originally published in which event the original effective date of such matter shall be shown.

§ 61.72 Posting.

Explanation

Incorporates the definition of posting formerly found in § 61.17 within new § 61.72(a), and alters present § 61.72 only by adding provisions which reflect the different time periods governing non dominant carriers. Posting is also now explicitly required in territories as well as states.

Proposed Rule

§ 61.72 Posting.

(a) Offering carriers must post (i.e., keep accessible to the public) during the carrier's regular business hours, a schedule of rates and regulations. This schedule must include all effective and proposed rates and regulations pertaining to the services offered to and from the community or communities served, and must be the same as that on file with the Commission. This posting requirement may be satisfied by either of the following methods:

(1) First Method. Where the filing carrier has an office or offices open to the public in communities or territories of the United States, the carrier must post the schedule of rates and regulations in the main office.

(2) Second Method. The schedule of rates and regulations must be posted in each state or territory of the United States in which the carrier operates, as follows:

(i) in the main office of the filing carrier open to the public in every city with a population of 100,000 or more in that state or territory (or in the largest community served if none has a population of 100,000); and

(ii) in the main office of the carrier in the state or territorial capital.

If a carrier chooses this method, it must post notice in each business office of the carrier open to the public in that state or territory, stating the street address of the nearest location in which the schedule of rates and regulations can be found.

(b) The posting of rates and regulations shall be considered timely if they are available for public inspection at the posting locations within 15 days of their filing with the Commission.

Existing Rule

§ 61.17 Posted.

The term "posted," whenever used in this part, means kept in a convenient place accessible to the public for public inspection.

§ 61.72 Posting.

Filing carriers are required to post a schedule of rates and regulations to be available for public inspection during regular business hours. This schedule shall include all effective and proposed rates and regulations pertaining to the services offered to and from the community or communities served and shall be the same as that on file with the Commission. This posting requirement may be satisfied by either of the following methods:

(a) *First Method.* The schedule of rates and regulations shall be posted in every community within the United States in which the filing carrier has an office open to the public in such office (in the main office in the case of a filing carrier with more than one office in a single community).

(b) *Second Method.* The schedule of rates and regulations shall be posted in each state in which the carrier operates as follows:

(1) In the main office of the filing carrier open to the public in every city with a population of 100,000 or more in that state (or in the largest community served if none has a population of 100,000); and

(2) In the main office of the carrier in the state capital.

If a carrier chooses the second method, a notice must be posted in each and every business office of the carrier open to the public in that state indicating the street address of the nearest location in which the schedule of rates and regulations can be found.

The posting of rates and regulations shall be deemed timely if the rates or regulations are available for public inspection at the posting locations within 15 days of their filing with the Commission. The carrier shall clearly indicate which rates and regulations are currently effective and which are proposed to be put into effect in the future.

§ 61.73 Duplication of rates or regulations.

Explanation

No change.

Proposed Rule

§ 61.73 Duplication of rates or regulations.

A carrier concurring in schedules of another carrier must not publish conflicting or duplicative rates or regulations.

Existing Rule

§ 61.73 Duplication of charges or regulations.

A carrier that has filed a concurrence in schedules of another carrier shall not in its own issues publish charges or regulations which duplicate or conflict with those which are published by such other carrier.

§ 61.74 References to other instruments.

Explanation

No change.

Proposed Rule

§ 61.74 References to other instruments.

(a) Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.

(b) Tariffs for end-to-end through services may reference the tariffs of other carriers participating in the offering.

(c) Tariffs may reference concurrences for the purpose of stating where rates or regulations applicable to a service not governed by the tariff may be found.

Existing Rule

§ 61.74 References to other instruments.

(a) Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.

(b) A tariff containing certain matter applicable to a particular service may refer to another tariff for other matter applicable to such service if the reference is made in behalf of a carrier which is a party to each tariff: *Provided, however,* That such reference does not result in undue complication.

(c) This section shall not prohibit a reference to a concurrence solely for the purpose of indicating where charges or regulations applicable to a service not governed by the tariff may be found. (48 Stat. 1068)

§ 61.91 [Removed]

Explanation

Consolidated into proposed § 61.1(b).

§ 61.92 [Removed]

Explanation

Consolidated into proposed § 61.52(b).

§ 61.93 [Removed]

Explanation

Archaic.

§ 61.94 [Removed]

Explanation

Consolidated into proposed § 61.54(i)(2).

§ 61.95 [Removed]

Explanation

Archaic.

§ 61.96 [Removed]

Explanation

Archaic.

§ 61.111 [Removed]

Explanation

Consolidated into proposed § 61.1(b).

§ 61.112 [Removed]

Explanation

Consolidated into proposed § 61.1(b).

§ 61.113 [Removed]

Explanation

Consolidated into proposed § 61.52(b).

§ 61.114 [Removed]

Explanation

Consolidated into proposed § 61.54(c).

§ 61.115 [Removed]

Explanation

Consolidated into proposed § 61.54(c).

§ 61.116 [Removed]

Explanation

Consolidated into proposed § 61.56.

§ 61.117 [Removed]

Explanation

Consolidated into proposed § 61.69.

§ 61.118 [Removed]

Explanation

Consolidated into proposed § 61.54(i).

§ 61.119 [Removed]

Explanation

Consolidated into proposed § 61.54(b).

Concurrences

§ 61.131 Scope.

Explanation

This sub-part has been entirely restructured. This section describes its general scope and delineates the two broad categories of concurrence.

Proposed Rule

§ 61.131 Scope.

Sections 61.131 through 61.137 apply to a carrier which must file concurrences reflecting rates and regulations for through service provided in conjunction with other carriers and to a carrier which has chosen, as an alternative to publishing its own tariff, to arrange concurrence in an effective tariff of another carrier. Limited or partial concurrences will not be permitted.

(No existing rule.)

§ 61.132 Method of filing concurrences.

Explanation

Consolidates present §§ 61.133, 61.135, and 61.137.

Proposed Rule

§ 61.132 Method of filing concurrences.

A carrier proposing to concur in another carrier's effective tariff must deliver two copies of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must submit both copies of the concurrence to the Commission. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence.

Existing Rule

§ 61.133 Tariffs and concurrences must be filed before service may be rendered.

No carrier whatsoever may engage or participate in any interstate or foreign communication service between any points unless and until every tariff publication of every carrier containing all charges and regulations for itself and its connecting carriers, and the concurrence of every concurring carrier, for such communication service is on file with the Commission and in effect except as provided in § 61.138.

§ 61.135 Concurrences in new or revised tariff publications.

Whenever an issuing carrier publishes and files a new or revised tariff, supplement or looseleaf page purporting to establish charges or regulations applicable to service for which any concurrence is required under the provisions of § 61.131 or § 61.132, and for which no such concurrence has already been properly filed with the Commission, every such issuing carrier shall obtain from every concurring carrier all required concurrences and shall submit two copies of every such concurrence to the Commission at the same time the new or revised tariff, supplement or loose-leaf page is filed. Every such concurrence shall bear an effective date which shall be the same as the effective date of the charges or regulations in which the concurrence is made.

§ 61.137 Construction, filing.

Every instrument of concurrence and notice of revocation thereof shall be prepared and plainly printed on hard-calendered No. 1 machine-finished book or 20-pound bond paper of durable quality and of size 8½ by 11 inches. Stereotype, planograph, mimeograph or other process equally durable may be used, provided that all copies are clear and legible in all respects. Reproductions by hectograph, typewriter or similar process shall not be used. Copies shall be delivered to the issuing carrier in whose favor such concurrence or notice is issued and two copies shall be filed with the Commission as provided in § 61.135. Every copy filed with the Commission shall be signed by the person, persons, or officer executing the concurrence or notice. Every carrier shall number its concurrences consecutively from No. 1, keeping such numbers in a series separate and distinct from FCC numbers of tariffs. Except as otherwise provided in §§ 61.134 and 61.135, a concurrence shall bear no effective date but shall be effective on and from the date it is filed with the Commission.

§ 61.133 Format of concurrence.

Explanation

Formerly found at § 61.136.

Proposed Rule

§ 61.133 Format of concurrence.

(a) Concurrences must be issued in the following format:

Concurrence

F.C.C. Concurrence No. ———
(Cancels F.C.C. Concurrence No. ———)
(Name of Carrier ———)
(Post Office Address ———)
(Date) ————————, 19—
Secretary,
Federal Communications Commission,
Washington D.C. 20554.

This is to report that ——— (name of concurring carrier) assets to and concurs in the tariffs described below.

——— thus makes itself a (name of concurring carrier) party to these tariffs and obligates itself (and its connecting carriers) to observe every provision in them, until a notice of revocation is filed with the Commission and delivered to the issuing carrier.

This concurrence applies to interstate (and foreign) communication:

1. Between the different points on the concurring carrier's own system;

2. Between all points on the concurring carrier's system and the systems of its connecting carriers; and

3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one hand, and, on the other hand, all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established.

Note.—Any of the above numbered paragraphs may be omitted or the wording modified to state the points to which the concurrence applies.

Tariff

(Here describe the tariff or tariffs concurred in by the carrier, specifying FCC number, title, date of issuance, and date effective. Example: A.B.C. Communications Company, Tariff FCC No. 1, Interstate Telegraph Message Service, Issued January 1, 1963, Effective April 1, 1983).

Cancels FCC Concurrence No. ———, effective ————————, 19—.
(Name of concurring carrier) ————————.
By ———————— (Title).

Existing Rule

§ 61.136 Form of concurrence.

(a) Whenever a carrier desires to concur in a tariff or tariffs issued and filed by another carrier, a concurrence, in the following form, shall be issued in favor of such other carrier:

Concurrence

F.C.C. Concurrence No. ———
(Cancels F.C.C. Concurrence No. ———)
(Name of Carrier ———)
(Post Office Address ———)
———————— (Date) 19—
To the Federal Communications Commission,
Washington, D.C.

This is to report that the ——— (name of carrier) hereinafter called the concurring carrier, assents to, adopts, and concurs in the tariffs described below, and hereby makes itself a party thereto and hereby obligates itself (and its connecting carriers) to observe each and every provision therein until this authority is revoked by formal and official notice of revocation filed with the Federal Communications Commission and delivered to the issuing carrier.

This Concurrence applies to interstate (and foreign) wire (and radio) communication:

1. Between the different points on the concurring carrier's own system;

2. Between all points on the concurring carrier's own system and the systems of its connecting carriers, as defined in Section 3(u) of the Communications Act of 1934; and

3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one hand, and all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established on the other hand.

NOTE.—Any of the above numbered paragraphs may be omitted or the wording thereof may be modified to indicate definitely the points to or from which the concurrence applies.)

Tariff.

(Here give the exact description of tariff or tariffs concurred in by carrier, F.C.C. number, title, date of issue, and date effective. Example; A.B.C. Communications Company, F.C.C. No. 1, Interstate Telegraph Message Service, Issued January 1, 1939, Effective January 31, 1939.)

Cancels F.C.C. Concurrence No. ———, effective ————————, 19—
(Name of Concurring Carrier) ————————.
By ————————
(Title) ————————

Proposed Rule

(b) No material is to be included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff so described will be deemed to include all amendments and successive issues which the issuing carrier may make and file. All such amendments and successive issues will be binding between customers and carriers. Between carriers themselves, however, the filing by the issuing carrier of an amendment or successive issue with the Commission must not imply or be construed to imply an agreement to the filing by concurring carriers. Such filings do not affect the contractual rights or remedies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

Existing Rule

§ 61.136 Form of concurrence.

(b) No material is shall included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff described therein shall be deemed to include all amendments and successive issues thereof which the issuing carrier named therein may make and file, and all such amendments and successive issues so filed shall be binding between the public and the carriers; but as between the carriers themselves, the filing by the issuing carrier of any such amendment or successive issue with the Federal Communications Commission shall not imply or be construed to imply an agreement thereto by, nor shall such filing affect the contractual rights or remedies of, any concurring carrier which has not by contract or otherwise specifically consented in advance to such amendment or successive issue.

§ 61.134 Concurrences for through services.

Explanation

Consolidates present §§ 61.131, 61.132. The approach of the existing Sections, which separately specify requirements for concurrences which contain all schedules and those which contain a portion of some schedules, was considered unnecessarily confusing.

Proposed Rule

§ 61.134 Concurrences for through services.

A carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting, or other participating carriers as provided in Sections 61.54 (f), (g) and (h). Except as provided in Section 61.137, a concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

Existing Rule

Special Rules Applicable to Through Service

§ 61.131 Schedules containing all charges or regulations.

Every issuing carrier publishing charges or regulations for all carriers applicable to communication service between points on its own system and points on the system of any other carrier or carriers, or between points on the system of any other carrier or carriers, shall show, as provided in § 61.55 (b) and (c), either as a concurring or as a connecting carrier, as the case may be, every carrier which is subject to any provisions of the act and which participates or engages in such communication service, irrespective of whether it be a terminal or intermediate carrier; and except as provided in § 61.138, authority by means of a properly executed instrument of concurrence shall be given to the issuing carrier by every concurring carrier.

§ 61.132 Schedules containing a portion of through charges or regulations.

Every issuing carrier publishing charges or regulations for one or more but not for all carriers applicable to communication service between points on its own system and points on the system of any other carrier or carriers, or between points on the system of any other carrier or carriers, shall show, as provided in § 61.55 (b), (c) and (d), respectively, every concurring carrier, every connecting carrier and every other carrier, subject to the act, engaging or participating in such communication service, irrespective of whether such carrier be a terminal or intermediate carrier; and except as provided in § 61.138, authority by means of a properly executed instrument of concurrence shall be given to the issuing carrier by every concurring carrier for which charges or regulations are published. Such issuing carrier shall specifically show by appropriate reference in the tariff published by it where the charges and regulations of every carrier, subject to the act, for which charges and regulations are not published by the issuing carrier will be found. Such reference shall contain the FCC number or numbers of the tariff publication or publications, where the charges and regulations will be found and the exact name or names of the carrier or carriers issuing such tariff publication or publications, and such other information shall be published in connection with such reference as may be necessary to show accurately and definitely how the charges and regulations in the separate publications are to be applied.

§ 61.135 Concurrences for other purposes.

Explanation

This new section requires that concurrences not involving through services be set out in the issuing carrier's tariff.

Proposed Rule

§ 61.135 Concurrences for other purposes.

When an issuing carrier permits another carrier to concur in its tariff, the issuing carrier's tariff must state the concurring carrier's rates and points of service.

(No existing rule.)

§ 61.136 Revocation of concurrences.

Explanation

Formerly found at § 61.134. The effective date requirement has been extended to 90 days to conform to the statutory amendment enacted since the last revision of § 61.136.

Proposed Rule

§ 61.136 Revocation of concurrences.

A concurrence may be revoked by a revocation notice or cancelled by a new concurrence. A revocation notice or a new concurrence, if less broad in scope than the concurrence it cancels, must bear an effective date not less than 90 days after its receipt by the Commission. A revocation notice is not given a serial number, but must specify the number of the concurrence to be revoked and the name of the carrier in

VOL 48 ISS 206 OCT 24 1983 UMI

VOL
48
ISS
206
OC
24
1983
UMI

whose favor the concurrence was issued. It must be in the following format:

Revocation Notice

(Name of carrier) ————————
(Post office address) ————————
(Date) ————————, 19—
Secretary,

Federal Communications Commission, Washington, D.C. 20554.

Effective ————————, 19—, FCC Concurrence No. ———, Issued by ———— (Name of concurring carrier) in favor of ———— (Name of issuing carrier) is hereby cancelled and revoked. Rates and regulations of ———— (Name of concurring carrier) and its connecting carriers will thereafter be found in Tariff FCC No. ——— issued by ———— (If the concurring carrier has ceased operations, the revocation notice must so indicate.)
(name of carrier) ————.
By ————.
(Title) ————.

Existing Rule§ 61.134 Revocation of concurrences.

A concurrence may be revoked by revocation notice or cancelled by a new concurrence. A revocation notice, or a new concurrence if less broad in scope than the concurrence it cancels, must bear an effective date, which must be not less than 60 days after its receipt by the Commission for filing. A revocation notice shall not be given a serial number, but shall specify the number of the concurrence to be revoked and the name of the carrier in whose favor the concurrence was issued. It shall be in the following form.

Revocation Notice

(Name of carrier) ————————
(Post-office address) ————————.
(Date) ———————— 19—.
To the **FEDERAL COMMUNICATIONS COMMISSION,** *Washington, D.C.*

Effective————————, 19—, F.C.C. Concurrence No. ———, issued by ———— (Name of concurring carrier) in favor of ———— (Name of issuing carrier) is hereby cancelled and revoked. Charges and regulations of ———— (Name of concurring carrier) and its connecting carriers will thereafter be found in Tariff F.C.C. No. ——— issued by ————. (If the concurring carrier has ceased operations the revocation notice shall so indicate).
(Name of carrier) ————.
By ————.
(Title) ————.

§ 61.137 Alaskan carriers and licensees of mobile radio stations.

Explanation

Formerly found in § 61.138.

Proposed Rule

§ 61.137 Alaskan carriers and licensees of mobile radio stations.

Any carrier operating by wire or radio in Alaska, and any Commission licensee of a mobile radio station operating as a common carrier which participates in service with a carrier that has on file with the Commission a tariff containing the rates and regulations of the Alaskan carrier, or of the mobile radio licensee, need not file a written concurrence. However, any such Alaskan wire or radio carrier, or mobile radio station licensee, which has not filed either a written concurrence or an effective tariff in its own name, will be considered to have assented to, adopted and concurred in the tariff applicable to the service on file with the Commission.

Existing Rule

§ 61.138 Alaskan carriers and licensees of mobile radio stations.

Any carrier operating by wire or radio in Alaska and any licensee of a mobile radio station operating as a common carrier for hire, participating in service with a carrier that has published and filed with the Commission a tariff or tariffs containing the charges and regulations of such carrier operating in Alaska or of such licensee applicable to such service, will not be required to file in written concurrence in such tariff or tariffs; but any such carrier operating in Alaska or any such licensee so participating in service for which it has not filed a written concurrence or for which it does not have on file with the Commission an effective tariff issued by it and in its own name, shall be deemed, to all intents and purposes, to have assented to, adopted and concurred in the tariff or tariffs applicable to the service filed by the other carrier the same as if it had filed a written concurrence in the manner and form provided in these rules.

Applications for Special Permission

§ 61.151 Scope.

Explanation

This sub-part has been entirely restructured. This section describes its general scope.

Proposed Rule

§ 61.151 Scope.

Sections 61.152 and 61.153 set forth the procedures to be followed by a carrier applying for a waiver of any of the rules in this part.

(No existing rule.)

§ 61.152 Terms of applications and grants.

Explanation

Proposed § 61.152 consolidates substantive requirements for special permission applications now set out in §§ 61.152 and 61.153.

Proposed Rule

§61.152 Terms of applications and grants.

Applications for special permission must contain (1) a detailed description of the tariff publication proposed to be put into effect; (2) a statement citing the specific rules and the grounds on which waiver is sought; and (3) a showing of good cause. If approved, the carrier must comply with all terms and use all authority specified in the grant. If a carrier elects not to to use or use less than the authority granted, it must apply to the Commission for cancellation or mofification of the original grant.

Existing Rule

§61.152 Factors considered; terms of permission.

When passing upon applications, the Commission gives consideration to all the facts and circumstances set forth in the application, including a showing of good cause why the tariff filing should be made on the shorter period of public notice proposed by the carrier rather than on the full period of public notice. If approved, the special permission is issued with the understanding that all its terms are to be complied with and that all the authority dealing with the same subject matter will be used. Therefore, if all related matter authorized by special permission will not be established, and more limited authority is desired, a new application complying with the provisions of this section in all respect and making reference to the previous authority shall be filed.

§61.153 Form and contents of application and fee required.

Applications (including amendmens thereto and exhibits made a part thereof) for permission to change charges or regulations, on less than statutory notice (for prescribed fee, see Subpart G of Part 1 of this chapter), or for waiver of any of the provisions of the rules in this part, shall be made and filed in duplicate, and addressed to the Federal Communications Commission, Washington, D.C., 20554. Such applications shall be made on paper of size 8½ by 11 inches, shall be numbered consecutively, and shall bear the signature of the proper officer of the carrier or a duly authorized attorney or agent, the title of whom shall be specified. Such applications shall give the information required in the following form:

Application No ————.
(Type of service) ————.
(Place where rendered) ————.
(Name of carrier) ————.
(Place and date) ————.
Federal Communications Commission,
Washington, D.C. 20554.
Attention: Common Carrier Bureau.

Gentlemen: Application is hereby made for permission put in force the following charges or regulations to become effective —— days after they are filed with the Federal Communications Commission:

(Here give a full description of the charges or regulations which it is desired to put into effect and statement of points of orgin and destination. If permission is sought to establish a rule or regulation, the exact working of the proposed rule or regulation shall be shown.)

(Here follow with a statement showing good cause why the tariff filing should be made on the shorter period of public notice proposed by the carrier rather than on the full period of public notice.)

(If the application requests waiver of rules, other than those relating to notice, it shall specify by section number the rule to be waived and the reasons therefor.)

(Exact name of carrier) ————,
(Name of officer) ————,
(Title of officer) ————.

§ 61.153 Method of filing applications.

Explanation

Proposed § 61.153 consolidates format requirements and filing procedures now found in §§ 61.151 and 61.153. It also formalizes existing informal practice requiring that an additional copy be filed with the Chief, Tariff Review Branch, and that illustrative tariff pages accompany the application.

Proposed Rule

§ 61.153 Method of filing applications.

A carrier applying for special permission must submit two copies of the application (including illustrative tariff pages, associated amendments and exhibits) to the Secretary, Federal Communication Commission, Washington, D.C. 20554. Simultaneously, and by the same means, a carrier must furnish a separate copy with all attachments to the Chief, Tariff Review Branch. If a carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from the FCC tariff numbers, bear the signature of the officer or agent of the carrier, and be in the following format:

Application No.————.
(Date)————.
Secretary,
Federal Communications Commission; Washington, D.C. 20554.
Attention: Common Carrier Bureau.

(Here provide the statements required by Section 61.152).

(Exact name of carrier)————
(Name of officer or agent)————
(Title of officer or agent)————

Existing Rule

§ 61.151 Application for permission; who may make.

Applications for permission to establish charges or regulations on less than statutory notice, or for waiver of any of the provisions of the rules in this part, shall be made by the carrier that has authority to file the proposed change. If a request is made in an application for permission to make changes in joint tariffs, the application must contain the statement that the application is filed for and on behalf of all carriers parties to the proposed changes.

§ 61.153 Form and contents of application and fee required.

Applications (including amendments thereto and exhibits made a part thereof) for permission to change charges or regulations, on less than statutory notice (for prescribed fee, see Subpart G of Part 1 of this chapter), or for waiver of any of the provisions of the rules in this part, shall be made and filed in duplicate, and addressed to the Federal Communications Commission, Washington, D.C., 20554. Such applications shall be made on paper of size 8½ by 11 inches, shall be numbered consecutively, and shall bear the signature of the proper officer of the carrier, or a duly authorized attorney or agent, the title of whom shall be specified. Such applications shall give the information required in the following form:

Application No————,
(Type of service)————,
(Place where rendered)————.
(Name of carrier)————,
(Place and date)————
Federal Communications Commission,
Washington, D.C. 20554.
Attention: Common Carrier Bureau.

Gentlemen: Application is hereby made for permission to put in force the following charges or regulations to become effective——days after they are filed with the Federal Communications Commission:

(Here give a full description of the charges or regulations which it is desired to put into effect and statement of points of origin and destination. If permission is sought to establish a rule or regulation, the exact wording of the proposed rule or regulation shall be shown.)

(Here follow with a statement showing good cause why the tariff filing should be made on the shorter period of public notice proposed by the carrier rather than on the full period of public notice.)

(If the application requests waiver of rules, other than those relating to notice, it shall specify by section number the rule to be waived and the reasons therefor.)

(Exact name of carrier)————
(Name of officer)————
(Title of officer)————

Adoption of Tariffs and Other Documents of Predecessor Carriers

§ 61.171 Adoption notice.

Explonation

Deletes requirement of former §§ 61.172–61.173 that an adoption supplement be filed, which was duplicative of the adoption notice requirement. More importantly, proposed § 61.171 substantially alters the procedure for adoption of tariffs by successor carriers. Former practice allowed existing tariff pages to be maintained, creating customer confusion when the offering carrier's name had changed, and similar administrative difficulty for staff. Proposed § 61.171 requires reissuance of the tariff in the name of the adopting carrier, but provides two alternative methods for adoption to suit the convenience of the adopting carrier.

Proposed Rule

§ 61.171 Adoption notice.

When a carrier's name is changed, or its operating control transferred from one carrier to another in whole or in part, the successor carrier must file tariff revisions to reflect the name change. The successor carrier may either immediately reissue the entire tariff in its own name, or immediately file an adoption notice. Within 15 days of filing an adoption notice, the successor must reissue the entire tariff in its own name. The reissued tariff must be numbered in the series of the successor carrier, and must contain all original pages without changes in regulations or rates. The transmittal letter must state the tariff is being filed to show a change in the carrier's name pursuant to Section 61.171 of the Commission's Rules. The adoption notice, if used, must read as follows:

The ———— here (exact name of successor carrier or receiver) adopts, ratifies and makes its own in every respect, all applicable tariffs and amendments filed with the Federal Communications Commission by ———— (predecessor) prior to ———— (date).

Existing Rule

§ 61.171 Adoption notice.

When the name of a carrier is changed, its operating control transferred from one carrier to another in whole or in part, or a receiver appointed for the carrier, the receiver or

carrier which will thereafter operate the properties shall immediately file and post an adoption notice, numbered in the FCC series of the receiver or successor carrier, reading as follows:

The _____ hereby (exact name of adopting carrier or receiver) adopts, ratifies and makes its own or his own in every respect, all applicable tariffs and amendments thereof filed with the Federal Communications Commission by _____ (exact name of the predecessor) prior to _____ (Date).

§61.172 Changes to be incorporated in tariffs of successor carrier.

Explanation

Formerly found at § 61.174.

Proposed Rule

§ 61.172 Changes to be incorporated in tariffs of successor carrier.

When only a portion of properties is transferred to a successor carrier, that carrier must incorporate in its tariff the rates applying locally between points on the transferred portion. Moreover, the predecessor carrier must simultaneously cancel the corresponding rates from its tariffs, and reference the FCC number of the successor carrier's tariff containing the rates that will thereafter apply.

[Old § 61.172 deleted as archaic.]

Existing Rule

§ 61.174 Changes to be incorporated in tariff of successor carrier.

When only a portion of properties is transferred, charges applying locally between points on the transferred portion shall be incorporated in tariffs or supplements of the successor carrier. In all such instances the predecessor carrier shall cancel the corresponding charges from its tariffs or supplements effective on the same date, with reference to the FCC number of the tariff or supplement of the successor carrier for charges applying thereafter.

§61.173 [Removed]

Explanation

Archaic.

§61.174 [Removed]

Explanation

Relocated to § 61.172.

Suspensions

§ 61.191 Carrier to file supplement when notified of suspension.

Explanation

No change.

Proposed Rule

§ 61.191 Carrier to file supplement when notified of suspension.

If a carrier is notified by the Commission that its tariff filing has been suspended, the carrier must file immediately a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

Existing Rule

§ 61.191 Carrier to file supplement when notified of suspension.

Whenever an order of suspension is received by a carrier against whose schedules the order of suspension is directed, it shall be the duty of such carrier to file immediately a consecutively numbered supplement which shall bear no effective date, and which shall announce the suspension of the schedules named in the order.

§ 61.192 Contents of supplement announcing suspension.

Explanation

No change.

Proposed Rule

§ 61.192 Contents of supplement announcing suspension.

(a) A supplement announcing a suspension by the Commission must specify by the term of suspension imposed by the Commission.

(b) A supplement announcing a suspension of either an entire tariff or a part of a tariff publication, must specify the applicable tariff publication effective during the period of suspension.

Existing Rule

§ 61.192 Contents of supplement announcing suspension.

(a) A supplement, announcing suspension of schedules by the Commission, shall state that such schedules are suspended until the date stated in the order of suspension, or until further ordered by the Commission.

(b) When the order of the Commission directs suspension of an entire tariff or supplement, the supplement announcing such suspension shall contain a reference to the tariff or supplement where schedules remaining in effect will be found during the period of suspension or until further ordered by the Commission.

(c) When the order of the Commission directs the suspension of a part of a tariff or supplement which, except as to such part, is allowed to become effective, the supplement announcing the suspension shall also contain, as reissued items, the charges and regulations applicable during the period of suspension, or shall make specific reference by FCC number or numbers, to the tariff or supplements where they will be found.

(d) When the Commission has suspended a supplement in whole or in part, it may occur that prior to the filing of the supplement announcing suspension, a carrier will file a later supplement bringing forward, either with or without change, the matter suspended in the previous supplement. In such instances the suspension supplement required by the rules in this part shall also specifically cancel from the later supplement such matter, and by amendment to the title page of said later supplement shall eliminate the cancellation of the suspended supplement when the latter is suspended in full, and when a supplement is suspended in part shall provide that such later supplement cancels such previous supplement except portions under suspension. Tardiness in filing supplements announcing suspension may result in the rejection by the Commission of the supplement which cancels the suspended matter.

§ 61.193 Vacation of suspension order; supplements announcing same; etc.

Explanation

No change.

Proposed Rule

§ 61.193 Vacation of suspension order; supplements announcing same; etc.

If the Commission vacates a suspension order, the affected carrier must issue a supplement or revised page stating the Commission's action as well as the lawful schedules.

Existing Rule

§ 61.193 Vacation of suspension order; supplements announcing same; etc.

If upon final determination by the Commission matter suspended is found not unlawful, and the Commission directs that the order of suspension be vacated or the case dismissed, the affected carrier or carriers shall issue a supplement or revised page announcing the vacation of the order of suspension and provide by proper publication for the application of the lawful schedules and otherwise comply with such orders of the Commission as it may make.

Appendix E

It is proposed to amend § 1.773 by revising paragraph (a)(1) and by adding paragraph (b)(1)(iv) as follows.

PART 1—PRACTICE AND PROCEDURE

§ 1.773 Petitions for suspension and investigation, or rejection of new or revised tariff filings.

(a) *Petition.*—(1) Content. (i) Petitions seeking suspension and investigation, or rejection of a new or revised tariff filing or any provision of such a publication, must specify the pertinent Federal Communications Commission tariff number and carrier transmittal number; the matters protested; and the specific reason why the tariff warrants suspension and investigation, or rejection. When a single petition asks for more than one form of relief, it must separately and distinctly plead and support each form of relief. However, no petition may ask that it also be considered a formal complaint. Formal complaints must be separately lodged, as provided in § 1.721.

(ii) For purposes of this section, tariff filings by non-dominant carriers will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition requesting suspension shows:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That the harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

(b) *Reply.*—(1) When filed. * * *

* * * * *

(iv) Where all petitions against a tariff filing have not been filed on the same day, the publishing carrier may file a consolidated reply to all the petitions. The time for filing such a consolidated reply will begin to run on the last date for timely filed petitions, as fixed by (b)(1)(i)–(iii) of this section, and the date on which the consolidated reply is due will be governed by (b)(1) (i)–(iii) of this section.

§ 1.773 Petitions for suspension and investigation, or rejection of new or revised tariff filings.

Explanation

Proposed § 1.773 consolidates present § 61.39(c) so that the requirements for petitions against tariff filings by non-dominant carriers would appear with the requirments for petitions against tariff filings by dominant carriers, which are already found in § 1.773(a).

In addition, proposed § 1.773(a)(1)(i) has been clarified to explicity recognize that petitions for suspension also seek investigation of the challenged tariff provision(s).

Finally, proposed § 1.773(b)(7)(iv) formally permits filing carriers to file a consolidated reply to petitions submitted on different days. At present, such staggered petitions trigger different reply periods, so that carrriers seeking to file a consolidated reply must request waiver of this paragraph.

Proposed Rule

§ 1.773 Petitions for suspension and investigation, or rejection of new or revised tariff filings

(a) *Petition.*—(1) Content.

(i) Petitions seeking suspension and investigation, or rejection of a new or revised tariff filing or any provision of such a publcation, must specify the pertinent Federal Communications Commission tariff number and carrier transmittal number; the matters protested; and the specific reasons why the tariff warrants suspension and investigation, or rejection. When a single petition, asks for more than one form of relief, it must separately and distinctly plead and support such form of relief. However, no petition may ask that it also be considered a formal complaint. Formal complaint must be separately lodged as provided in Section 1.721.

Existing Rule

§ 1.773 Petitions for suspension or rejection of new tariff filings

(a) *Petition.*—(1) *Content.* Petitions seeking suspension or rejection of a new tariff filing or any provision thereof shall specify its Federal Communications Commission tariff number and carrier transmittal number, the items against which protest is made, and the specific reasons why the protested tariff filing warrants suspension or rejection under the Communications Act. When more than one form of relief is sought in a single petition, arguments supporting different forms of relief shall be separately and distinctly set forth. No petition shall include a prayer that it also be considered a formal complaint. Any formal complaint shall be filed as a separate pleading as provided in § 1.721.

Proposed Rule

(ii) For purposes of this section, tariff filing by non-dominant carriers will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition requesting suspension shows:

(A) That there is a high probability the tariff would be found unlawful after an investigation;

(B) That the harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

Existing Rule

§ 61.39 Tariff filings for service offerings by non-dominant carriers.

(c) Any tariff filing complying with the requirements of this Section shall be considered to be prima facie lawful and will not be suspended unless a party requesting suspension is able to show each of the following:

(1) That there is a high probability that the tariff would be found to be unlawful after an investigation;

(2) That any harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;

(3) That irreparable injury will result if suspension does not issue; and

(4) That the suspension would not otherwise be contrary to the public interest.

Proposed Rule

(b) * * *

(1) * * *

(iv) Where all petitions against a tariff filing have not been filed on the same day, the publishing carrier may file a consolidated reply to all the petitions. The time for filing such a consolidated reply will begin to run on the last date for timely filed petitions, as fixed by (b)(1)(i)–(iii) of this section, and the date on which the consolidated reply is due will be governed by (b)(1)(i)–(iii) of this section.

(No existing rules.)

[FR Doc. 83-27755 Filed 10-21-83; 8:45 am]

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47 CFR Parts 1 and 73

[Gen. Docket No. 81-768; FCC 83-431]

Allowing Selection From Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein adopts a *Third Notice of Proposed Rule Making* in FCC Gen. Docket No. 81-768, pertaining to grant of initial licenses and construction permits by lottery in certain specified services. The *Notice* proposes establishing a preference for women applicants in the mass media services subject to lottery. The only such service at present is low power television (LPTV). The changes are being proposed to allow applicants controlled by women to receive a preference in lottery proceedings similar to the merit now awarded such applicants in traditional comparative hearings.

DATES: Comments must be received on or before December 5, 1983, and reply comments on or before December 27, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Office of General Counsel, (202) 254-6530.

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List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 73

Radio broadcast, Television.

Third Notice of Proposed Rule Making

In the matter of Amendment of the Commission's rules to allow the selection from among certain competing applications using random selection or lotteries instead of comparative hearings (Gen. Docket No. 81-768).

Adopted: September 22, 1983.
Released: October 18, 1983.

By the Commission: Chairman Fowler concurring and issuing a statement; Commissioner Rivera concurring and issuing an statement.

I. Introduction and Background

1. The Commission here recommences consideration of the inclusion of women as a group entitled to the benefit of preferences when initial licensing proceedings in the mass media services are conducted by lottery. A brief review of the record which has thus far been developed regarding this issue is pertinent to the further deliberations being initiated with this *Notice*.

2. The Commission's original grant of statutory authority to conduct licensing proceedings by lottery was contained in Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981. In providing for the use of lottery procedures, Congress also directed, in adding a new Section 309(i)(3)(A) to the Communications Act, that:

> The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection, groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties will be granted significant preferences.

3. The *Conference Report* accompanying the new lottery legislation described the purpose of the preference provision as follows:

> It is the firm intention of the conferees that ownership by minorities, such as Blacks and Hispanics, *as well as women*, and ownership by other underrepresented groups, such as labor unions and community organizations is to be encouraged through the award of significant preferences in any such random selection proceedings. These are groups which are inadequately represented in terms of nationwide telecommunications ownership, and it is the intention of the conferees in establishing a random selection process that the objective of increasing the number of media outlets owned by such persons or groups be met.[1] (Emphasis added).

4. Given this expression of Congressional intent, the Commission proposed in the first *Notice* in this proceeding [2] that women be included in the list of groups to be awarded a preference in relevant lottery proceedings. We observed that as the apparent root of the preference provision was the "underrepresented" nature of the enumerated groups in telecommunications ownership, "[s]uch a preference scheme would appear to be consistent with the view that diversifying ownership of mass media is important in promoting competition in the economic and ideologic marketplaces." However, we noted that gender-based classifications must "serve governmental objectives and must be substantially related to the achievement of those objectives," [3] adding that "[r]eduction of any disparity between men and women in telecommunications ownership as a result of discrimination against women may well be recognized as such an important governmental objective." We concluded, however, that "were the classification not enacted as compensation for past discrimination, it would be invalid."

5. In the first *Report and Order* in this proceeding, we noted that virtually all aspects of establishment and operation of the proposed preference scheme were the subject of substantial dispute among the commenters.[4] Given the complexities of implementing the lottery system within the constraints of the statute, we declined to utilize our lottery authority at that time.

6. In response to the difficulties encountered by the Commission in implementing the initial lottery statute, Congress adopted Section 115 of the Communications Amendments Act of 1982, Pub. L. 97-259. This enactment includes provisions amending Section 309(i)(3)(A) of the Communications Act to require that:

> The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection * * * used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.

The new statutory language goes on to state in Section 309(i)(3)(C)(ii) that:

> The term "minority group" includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.

7. The *Conference Report* on the new amendments [5] describes the preferences established by statute as the "media ownership preference" and the "minority ownership preference." The conferees state that "[t]he underlying policy objective of these preferences is to promote diversification of media ownership and consequent diversification of programming content." The "media ownership preference" is a diversification preference awarded to those who own no or few other media of mass communications. The "minority ownership preference" is described as designed to promote "ownership by racial and ethnic minorities—groups that traditionally have been extremely underrepresented in the ownership of telecommunications facilities and media properties." The conferees remark that "the effects of past inequities stemming from racial and ethnic discrimination have resulted in a severe underrepresentation of minorities in the media of mass communications, as it has adversely affected their participation in other sectors of the economy as well." The "minority ownership preference" is viewed as a method of "remedying the past economic disadvantage to minorities" while "promoting the primary communications policy objective of achieving a greater diversification of the media of mass communications."

8. The conferees note, however, that:

> [S]uch groups as women, labor unions, and community organizations which are mentioned in the legislative history of the lottery statute that was originally adopted * * * are all significantly underrepresented in the ownership of telecommunications facilities. Such applicant groups would, of course, be eligible for both media ownership and minority preferences if they meet the eligibility guidelines * * * The operative definition of minority group is found in section 309(i)(3)(C)(ii), as amended by this bill. It is the Conferees intention that

[1] H.R. Rep. No. 97-208, 97th Cong., 1st Sess. (1981), at 897

[2] *Amendment of Part 1 of the Commission's Rules to Allow the Selection From Among Mutually Exclusive Competing Applications Using Random Selection or Lotteries Instead of Comparative Proceedings*, 88 F.C.C. 2d 476, 484-485, (1981) (hereinafter "first *Notice*").

[3] Citing *Orr v. Orr*, 440 U.S. 268, 279 (1979); *Califano v. Webster*, 430 U.S 313, 316-317 (1977); *Craig v. Boren*, 429 U.S. 190, 197 (1976).

[4] 89 F.C.C. 2d 257, 271-282 (1982) (hereinafter "first *Report and Order*").

[5] H.R. Rep. No. 97-765, 97th Cong., 2d Sess. (1982) (hereinafter "*Conference Report II*"), at 40-45

the definitions in Office of Management and Budget Statistical Policy Directive No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting," be utilized for guidance with regard to any dispute as to individual's membership in a named group.

9. To implement our amended lottery authority, the Commission issued a *Second Notice of Proposed Rule Making* in this docket.[6] The *Second Notice* proposed use of minority and diversity ("media ownership") preferences in lotteries in the mass media services. It was silent on the matter of preferences for women. "Minority group" was defined only in the proposed rules, where the term was stated to "mean" those named groups the statutory definition describes as being "included" as minorities.[7] No comment appears to have been received in response to the *Second Notice* regarding the absence of women from the groups specifically scheduled to benefit from the preference scheme. The recently adopted *Second Report and Order* in this proceeding[8] followed the *Notice* proposal and the evident legislative intent and included only the enumerated minority groups for purposes of the minority preference. Reflecting the absence of a record and public comment on the appropriateness of including women as a class among those eligible for a special diversification preference, the *Second Report and Order* did not address the preference issue.

II. Discussion and Proposals

10. The *Conference Report* on our amended lottery authority indicates that the lottery preference scheme is to some degree intended to substitute for the "significant comparative advantages" which are provided in the Commission's comparative broadcasting licensing hearings to "minority-controlled applicants and to applicants with a low degree of ownership interest in mass communications media." [9] In comparative proceedings, merit is awarded to applicants with women as principals, this factor being considered under the integration of ownership and management criterion.[10] The policy considerations underlying this action are essentially the same as those governing the award of merit to racial and ethnic minorities, and the award for female participation has in fact been termed a credit for "minority enhancement." [11] Thus, the failure to provide a preference or other special consideration for applicants with significant female ownership involvement means that such applicants are situated substantially differently in the lottery context than would be the case in a traditional comparative proceeding.[12]

11. A question therefore arises as to the propriety of providing a lottery preference for women similar or equal to that already created by the *Second Report and Order* for designated racial and ethnic minorities. Such action would appear to be consistent with the Congressional concern that the lottery preference scheme be reflective of the status quo in the comparative process, and might further the policy objectives articulated by the Commission in support of its traditional allocation of comparative credit for female ownership and participation. In the context of the lottery legislation, two distinct avenues of conferring preferences to women are available: first, to treat women as a "minority group" for purposes of the minority ownership preference provided for under Section 309(i)(3)(A) of the statute; or, second, to accord women as a class A preference for media ownership diversification beyond the normal diversification preference,[13] finding that women as a class are entitled to such a preference through the exercise of our residual jurisdiction under the public interest standard.

12. The possible application of the minority ownership preference to women was debated at some length by the Commission in the deliberations accompanying the adoption of the *Second Report and Order*.[14] By way of general summary, the new statutory lottery authority states that the term "minority group" "includes" certain specified racial and ethnic minorities. The word "includes" is usually a term of enlargement, not of limitation. It conveys the conclusion that other things are "includable" which have not been specifically enumerated by the statute.[15] Thus, the category may be open to expansion. We have observed that the merit awarded women in the comparative process is in the nature of the awarded racial and ethnic minorities, and has even been viewed as a "minority enhancement" credit. Further, although women constitute a majority of the U.S. population, this factor would not preclude their inclusion in the category, for, as one court has stated, the word "minority" "does not have a merely numerical denotation." Rather, in the context of equal protection considerations, "it refers to an identifiable and specially disadvantaged group." [16]

13. As an ordinary matter, however, the term "minority" is not generally viewed as encompassing women, and thus inclusion of women within the class may be contrary to general principles of statutory construction.[17] This concern

[6] *Amendment of the Commission's Rules to Allow the Selection from Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings*, 91 F.C.C. 2d 911 (1982) (hereinafter *"Second Notice"*).

[7] *Id.* at 924-926, 932, 939.

[8] 48 FR 27182 (1983), *appeal docketed sub nom. National Latino Media Coalition v. FCC*, No. 83-1785 (D.C. Cir. July 26, 1983).

[9] *Conference Report II, supra*, at 40. The conferees observe that "the degree of advantage, merit, or preference heretofore awarded to such applicants need not be precisely duplicated in the administration of a random selection system." *Id*

[10] It has, however, been treated as "a merit of lesser significance" than that given for ownership and participation by racial and ethnic minorities. *Mid-Florida Television Corporation*, 69 F.C.C. 2d 607, 651-652 [70 F.C.C. 2d 281, 326-327] (Rev. Bd. 1978), *set aside on other grounds*, 87 F.C.C. 2d 203 (1981); *Radio Goithersburg, Inc.*, 72 F.C.C. 2d 820, 829 (Rev. Bd. 1979), *rev. denied*, FCC 80-734, Dec. 4, 1980, *aff'd per curiam without opinion*, No. 81-1023 (D.C. Cir. October 19, 1981). See, also, *Horne Industries, Inc.*, 54 R.R. 2d 249 (Rev. Bd. 1983); *Gilbert Broadcasting Corporation*, 91 F.C.C. 2d 450, 469 (1982); *Gainesville Media, Inc.*, 70 F.C.C. 2d 143, 149-150 (Rev. Bd. 1978), *rev. denied*, 72 F.C.C. 2d 795 (1979); *WPIX, Inc.*, 68 F.C.C. 2d 381, 411-412 (1978). It has been held that "merit for female ownership and participation is warranted upon essentially the same basis as the merit given for black ownership and participation * * * Women are a general population group which has suffered from a discriminatory attitude in various fields of activity, and one which, partly as a consequence, has certain separate needs and interests with respect to which the inclusion of women in broadcast ownership and operation can be of value." *Mid-Florida Television Corporation, supra*.

[11] *Van Buren Community Service Broadcasters, Inc.*, 87 F.C.C. 2d 1024 (I.D. 1981), *aff'd*, 87 F.C.C. 2d 1018 (Rev. Bd. 1981), *settlement approved*, 88 F.C.C. 2d 1733 (1982).

[12] The Commission has not, however, set up a special program to further women's ownership of broadcast facilities, while such a program has been established to advance minority ownership. *Wuenschel Broadcasting Co., Inc.*, 74 F.C.C. 2d 389 (1979); *Statement of Policy on Minority Ownership of Broadcast Facilities*, 68 F.C.C. 2d 979, 984 (1978).

[13] Under the terms of the lottery statute, preferences for minority and media ownership may be cumulated. *Conference Report II, supra*, at 41-47 See, also, para. 18, *infra*.

[14] The videotape of the Commission's discussion of that item is available for review and consideration by those commenting in this proceeding and is hereby incorporated into the record herein.

[15] *Argosy Limited v. Hennigan*, 404 F. 2d 14, 20 (5th Cir. 1968). "When a statute is phrased in this manner, the fact that the statute does not specifically mention a particular entity * * * does not imply that the entity falls outside of the definition." *Highway and City Freight Drivers, Dockmen and Helpers, Local Union No. 600 v. Gordon Transport, Inc.*, 576 F. 2d 1285, 1289 (8th Cir. 1978).

[16] *Graves v. Barnes*, 343 F. Supp. 704, 730 (W.D. Tex. 1972), *rev'd in part on other grounds sub nom. White v. Register*, 412 U.S. 755 (1973).

[17] *Statutes and Statutory Construction* (Sutherland, 4th ed.), at § 47.18. *But see Van Buren Community Service Broadcasters, Inc., supra* n. 11

VOL
48
ISS
2
0
6
OC
24
1983
UMI

takes on additional meaning when we turn to the *Conference Report* accompanying our initial lottery authority, and note that in discussing the "underrepresented" groups intended to benefit from the preference, the conferees specifically distinguished between minorities and women. The concern is furthered by the apparent focus on the "racial and ethnic" nature of "minorities" in the *Conference Report* on the second legislative enactment.[18] Nonetheless, neither in the statute as amended, nor in the language of the second *Conference Report*, is the Commission expressly barred from including women within the ambit of "minority groups", and sufficient discretion may exist for us to undertake this action. The Commission therefore requests comment on whether it would be permissible or appropriate to amend Section 1.1621 of its rules to include women within the category of "minority group" for lottery purposes.

14. As we have indicated above, another approach to the inclusion of women as a group within the lottery preference scheme would be the Commission's establishment of a specific diversification preference for women through the exercise of its residual authority under the public interest standard. The provisions of Section 309(i), the lottery amendments, are to be construed together with the remainder of the Communications Act,[19] under which the Commission has broad jurisdiction to act in the public interest.[20] Thus, unless the lottery amendments are found by their own terms or intent to prohibit such action, the Commission would appear to retain whatever authority it might otherwise have had to act in this regard. We solicit comment on this proposal.

15. Specific factors which must be considered in connection with creation of such a diversification preference include: (a) The legal and factual basis of the preference, together with such findings as are necessary; (b) the weighting of the preference to be awarded; and (c) whether award of a preference for women's ownership should be precluded by or considered in addition to any other preference conferred upon a given applicant. Presumably the basis for the award of a preference would be the underrepresentation of women in mass media ownership due to past discrimination, and the remedial benefit and enhancement of diversity consequently to be achieved by implementing a preference scheme. Although the conferees stated their view that women are "significantly underrepresented" in the ownership of telecommunications facilities,[21] the Commission has not as yet developed record evidence nor received responsive public comment that are the prerequisites for making an administrative determination on this issue.[22] However, the Commission has recently concluded a study designed to identify the extent of women's ownership of broadcast facilities.[23] The study indicates that women are majority owners of 8.6 percent of AM stations, 9 percent of FM stations, and 2.8 percent of television stations.[24] A copy of this study will be placed in the docket. We request comment on its findings, which appear to indicate a disproportionately low level of women's ownership.[25]

16. As indicated in para. 4, *supra*, gender-based classifications are subject to a high level of judicial scrutiny. However, such classifications, if enacted to remedy past discrimination, are constitutionally permissible. *Califano v. Webster, supra*, at 317. While the Commission has found that women have been historically discriminated against in employment,[26] we have not developed a complete record as to the nexus between past discrimination and women's ownership of broadcast facilities. We seek comment on this relationship,[27] as well as legal analysis regarding the nature of the necessary findings. Comment is particularly solicited as to whether the Commission is itself competent to make such findings, or whether Congressional action is required.[28] We also invite commenters to address the issue of whether the Commission should, or as a matter of law must, determine the type of preference to be applied based on the record of past discrimination. We request comment as to the relevance of these issues to the treatment of women as a "minority group" for purposes of the minority preference. An additional potential problem arises regarding the situation in which a husband who would otherwise apply for a construction permit in his own name submits the application in the name of his spouse in order to obtain a preference. We seek comment as to whether this possibility poses a significant potential for abuse of Commission processes.

17. In the first *Notice* in this docket, we proposed that a fixed relative preference of 2:1 be provided to all applicants receiving the diversity-type perference then under consideration, or, in the alternative, that a somewhat lower perference be provided women (and the other groups then under consideration) than minorities.[29] A somewhat reduced diversification preference for women would be consistent with the slightly weaker "merit" which has been provided women in the comparative hearing context. Since we have, in the *Second Report and Order*, adopted a fixed relative preference of 2:1 to benefit minorities, it would seem that if a lower preference is adopted for women, it might be set at 1.5:1. However, the case law in this area suggests that the magnitude of any preference be tailored to the degree of past discrimination. Should this interpretation of the law be correct, it would be difficult to determine with precision the appropriate preference ratio. We therefore request commenters to address these issues. We solicit comment on the alternative proposals, as well as suggested options.

18. The first *Notice* also proposed that "an applicant who qualifies as a member of two or more underrepresented groups (for example an individual who is Hispanic and female) will receive just a single and not a multiple preference." The preference received would be the highest one to which the applicant is entitled. It was our view that this approach would assure that the applicant received a significant but not "inappropriately disproportionate" preference.[30] In the intervening time since we first suggested this approach, we have adopted a preference scheme which allows those eligible to combine both a minority and a diversity preference. Thus, it would appear equitable to provide for combining both the special women's and general diversity preferences. However, we request comment on the merits of this resolution, and on the propriety of allowing for the combining of minority and women's preferences.

19. If at the conclusion of this proceeding the Commission determines that it will award a preference or similar benefit to women as a group in the context of mass media lotteries, that preference must be capable of being integrated into the complex lottery scheme adopted in the *Second Report and Order* with minimal disruption. Thus, we propose to treat such matters as the amount of female ownership required for an applicant to receive the preference (more than 50 percent), the consideration of various types of ownership interests—such as limited partnership shares—for preference purposes, amendments to applications to improve preference standing, and challenges to preference claims, as well as all administrative and technical requirements, in the same manner for applicants claiming the women's preference as for those claiming the minority preference.

20. In the event that the Commission determines that it does not have jurisdiction to establish preferences for women in mass media lotteries, it will forward to the Congress documents reflecting the record developed in response to this *Notice*, together with such recommendations as are appropriate.

III. Administrative Matters

21. Authority for this proposed rulemaking is contained in Section 1, 3, 4 (i) and (j), 303, 309(i) and 403 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before December 5, 1983, and reply comments on or before December 27, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

22. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts an notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, which ever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than fomal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation on the day of oral prsentation. That written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

23. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in Appendix A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice*, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 50 U.S.C. 601 es seq.) (1981).

24. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting documents. If participants want each Commissioner to receive a personal copy of their comments, an original plus eleven copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington D.C. 20554. For information on this proceeding, contact Steven A. Bookshester, Office of General Counsel, (202) 254–6530.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Commission issues the following initial regulatory flexibility analysis.

1. *Reason for Action and Objective.* The Commission believes it appropriate to consider whether the public interest would be served by provision of a preference for female applicants for initial construction permits and licenses in mass media services subject to lottery. The only such service at present is low power television (LPTV). Such preference might be awarded either through inclusion of women in the "minority groups" presently entitled to the minority preference, or by creation of a special diversity preference for women beyond the diversity preference already established. Such a remedial preference might be expected to enhance diversity of broadcast station ownership and, therefore, diversity of programming.

2. *Legal Basis.* The authority for this proposed rule making is contained in Sections 1, 3, 4 (i) and (j), 303, 309 and 403 of the Communications Act of 1934, as amended.

3. *Small entities offected.* Approximately 12, 000 applications for LPTV licenses are presently on file with the Commission, and additional applications will be submitted in the future. The Commission expects that as many as 4,000 new LPTV stations may be created by the time the LPTV service is fully licensed. Existing and potential applicants for LPTV licenses range in size from single individuals and small

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[18] See, also, *Statutes and Statutory Construction, supra*, at §§ 22.29–22.30.

[19] *Statutes and Statutory Construction, supra*, at §§ 22.34–22.35.

[20] *FCC v. WNCN Listeners Guild*, 450 U.S. 582, 594 (1981).

[21] *Conference Report II, supra*, at 44–45.

[22] *Wuenschel Broadcasting Co., Inc., supra*, at 390–391.

[23] *Female Ownership of Broadcast Stations*, ELRA Group, Inc., May 1982.

[24] The data is subject to the qualification that interests of less than one percent are generally not reported in licensees with more than 50 shareholders.

[25] As to the status of women's business ownership generally, see *Selected Characteristics of Women-Owned Businesses 1977*, Bureau of the Census, October, 1980.

[26] *Equal Employment Program*, 32 F.C.C. 2d 708, 709 (1971).

[27] In soliciting such comment, we in no way contend that women have not suffered from a history of discrimination in the United States. We seek only to develop a legally sufficient record for agency action. As to the general historical perspective, see, for example, *The Bottom Line: Unequal Enterprise in America. Report of the President's Interagency Task Force on Women Business Owners*, June, 1978, at 87–93, 147–150.

[28] As to the matter of the sufficiency of findings necessary to support a preference, see, for example, *Califano v. Webster, supra*, at 317. See, also, *Fullilove v. Klutznick*, 448 U.S. 448 (1980), at 473, 483 (Buger, C.J.), 497–498, 515 (Powell, J., concurring).

[29] *First Notice, supra*, at 492–493. We proposed a lower preference for women on the assumption that women are less "underrepresented" than minorities.

[30] *Id.*, at 492.

partnerships to large publically-traded corporations. Establishment of the preference under consideration would provide some advantage to small entities with majority female ownership seeking such licenses. Similarly, some small entities which are not majority-owned by women might be somewhat disadvantaged relative to female-controlled applicants and the relative value of a preference presently provided a small entity not majority-controlled by women would be somewhat reduced.

4. *Recording, record keeping and other compliance requirements.* The proposed change would require submission of data as to applicant ownership by women.

5. *Federal rules which overlap, duplicate or conflict with this rule.* There appear to be none.

6. *Any significant alternatives minimizing impact on small entities and consistent with the stoted objective.* There appear to be none.

Concurring Statement of Chairman Mark S. Fowler

Re: Third Notice of Proposed Rulemaking in Docket No. 81-768.

September 22, 1983.

Today's decision initiates a rulemaking proceeding to consider establishing preferences for women in mass media lotteries. I concur in the result for the reasons set forth in my Separate Statement in the *Second Report and Order in Docket No. 81-768*, 48 FR 27,182 (1983), *appeal docketed sub nom. Notional Latino Coalition* v. *FCC*, No. 83-1785 (D.C. Cir. July 26, 1983).

Concurring Statement of Commissioner Henry M. Rivera

Re: Third Notice of Proposed Rulemaking in General Docket No. 81-768.

To the extent this Notice will facilitate the development of a record on female broadcast ownership and the unique obstacles to such ownership faced by women which would warrant preferential treatment in broadcast licensing, it is an undertaking that is long overdue and I emphatically endorse it. I would be less than candid, however, if I did not express my belief that there are formidable, if not insurmountable, legal obstacles to enlarging the preference scheme set out in Section 309(i)(3)(A), as amended. Therefore, if the record developed in this proceeding confirms that it would be desirable as a policy matter to grant distinct preferences to women as a group, it may well be preferable for the Commission to present the case to Congress during the periodic legislative review of the preference scheme and to urge amendment of the statute.

[FR Doc. 83-28796 Filed 10-21-83; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Coast Guard

49 CFR Parts 450, 451, 452 and 453

[CGD 83-049]

Requirements for Safety Approval of Cargo Containers

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rules.

SUMMARY: The Coast Guard proposes to amend certain requirements of the Safety Approval of Cargo Container regulations. These proposed rules make the following amendments to the existing regulations: (1) Require all gross weight markings on the container to be consistent. (2) Modify the time period between subsequent examinations. (3) Provide for containers to be examined under a continuous examination program. These changes are being proposed to make the regulations consistent with amendments to the International Convention for Safe Containers. These changes require all gross weight markings on the container to be consistent with the safety approval plate, increase the time period between subsequent examinations and allow the owners flexibility in carrying out subsequent examinations by allowing a continuous examination program.

DATE: Comments on this proposal must be received on or before December 8, 1983.

ADDRESSES: (a) Comments should be mailed to Commandant (G-CMC), (CGD 83-049), U.S. Coast Guard Headquarters, Washington, D.C. 20593. (b) Comments received and the Draft Evaluation are available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council, Commandant (G-CMC), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington D.C. 20593 (202-426-1477). Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lt. Jeffery G. Lantz (202) 426-4431.

SUPPLEMENTARY INFORMATION: On June 2, 1980, the U.S. Coast Guard published a Final Rule, Safety Approval of Cargo Containers, Docket CGD 79-027 (45 FR 37212), that amended the existing procedure for approval of freight containers subject to the requirements of the International Convention for Safe Containers (CSC), 1972. The CSC came into force on September 6, 1977 and was ratified by the United States on January 3, 1978. On April 2, 1981, the International Maritime Organization (IMO) adopted amendments to the CSC, which were incorporated in a Final Rule by the Coast Guard on November 6, 1982 (47 FR 50494) and a Final Rule correction published on December 23, 1982 (47 FR 57287). During its 48th session held June 6-17, 1983, the Maritime Safety Committee (MSC) of IMO adopted additional amendments to the CSC. These amendments are effective January 1, 1984 unless there is official objection to the amendments by 5 contracting parties. It is anticipated there will be no objections brought forward to IMO. These amendments would: (1) Require all maximum gross weight markings on the container to be consistent with the maximum gross weight information on the CSC safety approval plate; (2) Increase the time between periodic examinations from 24 months to 30 months; and (3) Allow container owners to develop and submit to the Coast Guard for approval a program of continuous examination of their containers as an alternative to the periodic examination program presently required.

Drafting Information

The principal drafters of this document are Lt. Jeffrey G. Lantz, Project Officer, Office of Merchant Marine Safety and Michael N. Mervin, Project Counsel, Office of Chief Counsel.

Discussion of Changes

At its 48th session, held June 6-17, 1983, the MSC adopted an amendment to the CSC to require all gross weight markings on containers to be consistent with the gross weight information on the CSC safety approval plate. This requirement is effective on January 1, 1984 for those containers for which construction begins on or after January 1, 1984 and is effective January 1, 1989 for those containers for which construction begins before January 1, 1984. Inconsistent gross weight markings on the containers has led to safety problems for container handlers trying to determine the equipment capacity necessary to handle the containers. This requirement will relieve confusion and create a safer working environment by requiring the gross weight markings to be consistent. Accordingly, a new § 450.7 is proposed to incorporate the requirement for consistent gross weight markings.

The MSC also adopted an amendment to the CSC to increase the time period between periodic inspections to 30 months. When written in 1972, the CSC required containers to be examined by 5 years from the date of construction and every 24 months thereafter. A proposal

was placed before IMO to extend the time period between periodic examinations from 24 months to 30 months. The 30 month period between inspections is consistent with other international codes which some containers may also be subject to, for example the International Maritime Dangerous Goods (IMDG) code. As it presently stands, a container subject to the CSC and IMDG code is required to be inspected every 24 months by the CSC and reinspected 6 months later as required by the IMDG code. The Maritime Safety Committee felt the 6 month increase in the time period between periodic examinations would not decrease the level of safety and would facilitate the movement of containers. Accordingly it is proposed to amend § 452.1 to incorporate this change.

A third amendment to the CSC adopted by the MSC gives container owners a choice to either examine their containers under the periodic examination program set forth in § 452.1 or an approved continuous examination program. Under a continuous examination program, containers are subject to two types of examinations: (1) Routine operating examinations; and (2) thorough examinations. Routine operating examinations are those examinations which are routinely done by container owners to detect any damage or deterioration which could endanger human life, or otherwise require repair due to service needs. Thorough examinations are examinations which conform to the requirements of periodic examinations under the CSC and § 452.1 and must be conducted in connection with a major repair, refurbishment or on-hire/off-hire interchange and in no case less than once every 30 months. Additionally, the recordkeeping requirements for thorough examinations are the same as the recordkeeping requirements for periodic examinations under the CSC and § 452.1. Before a owner is allowed to examine containers under a continuous examination program, the program must be approved by the Coast Guard. The Coast Guard will assign an approval number to each continuous examination program approved. Instead of having to mark on the container the date the next examination must be performed by, as required by the periodic examination program, the owner places a mark on the container indicating the container is being examine under an approved continuous examination program. This mark must include the approval number assigned to the approved continuous examination program. Thorough examinations must be carried out by persons qualified and experienced in the detection of container structural failures.

By allowing container owners to examine their containers under a continuous examination program, they are granted more flexibility in deciding when to carry out the necessary examinations, thus facilitating the movement of containers in shipment. A continuous examination program will not decrease the level of safety assured by the periodic examination program since the requirements are the same. Accordingly, two new sections, §§ 452.7 and 452.9 are proposed to incorporate the continuous examination program. Additionally the title for Part 452 would be amended by deleting the word PERIODIC and § 452.1(a) would be amended to note that containers may be examined by either a periodic examination program under § 452.1 or a continuous examination program under proposed § 452.7.

On November 6, 1982, the Coast Guard published a Final Rule incorporating amendments to the CSC adopted by IMO on April 2, 1981 (47 FR 50494) which was corrected by a Final Rule correction published December 23, 1982 (47 FR 57287). Included in that final rule was a schedule in § 452.1 for the next examination of containers approved, examined and plated as existing containers before January 1, 1985 and containers approved and plated as new containers before January 1, 1985. In the schedule there is an error which was overlooked when the rules were published resulting in an inconsistency with the requirements of the CSC. Existing containers plated between October 1, 1981 and September 30, 1982 and new containers plated between January 1, 1979 and December 31, 1979 are required to be next examined by May 1986 instead of April 1986 as shown. Accordingly, it is proposed to amend the schedule in § 452.1 to correct this error.

Evaluation

These proposed regulations are considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of May 22, 1980). A draft evaluation has been prepared and placed in the docket. The DOT Order requires that each evaluation include an economic analysis that quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and federal, state and local governments, as well as the anticipated benefits and impact of the regulations. These proposed regulations are expected to create an economic benefit for container owners estimated at $3.75 million.

Assuming all containers would need relabeling to display consistent gross weight markings, relabeling is estimated to cost $3.75 million over the 5 year implementation period. This cost is exceeded by the benefit container owners are expected to realize from the amendment which increases the time period between examinations from 24 to 30 months. Over the average life of a container, it is estimated container owners will have to perform 1 less examination per container. This is estimated to save container owners $7.5 million, resulting in a net economic benefit of $3.75 million.

Environmental Assessment

An environmental assessment has not been prepared since these regulations are considered to be procedural and administrative. As specified by DOT Order 5610.1C and Commandant Instruction M16714.1A, regulations of this type are excluded from the requirement to prepare an environmental assessment.

Regulatory Flexibility Act Certification

Under the provisions of the Regulatory Flexibility Act these proposed rules have been evaluated and it is certified that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities, since as discussed above it is estimated they will create a net economic benefit of $3.75 million.

Paperwork Reduction Act

This proposed rulemaking contains information collection and recordkeeping requirement in §§ 450.7, 452.7 and 452.9. They have been submitted to the Office of Management and Budget (OMB) for review under Section 350(b) of the Paperwork Reduction Act. Persons wishing to comment on the information collection and recordkeeping requirements should send their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20593, Attention: Desk Officer, U.S. Coast Guard. Persons submitting comments to OMB are requested to send a copy to the Coast Guard, as indicated under "**ADDRESSES**".

VOL
48
ISS
206
OC
24
1983
UMI

List of Subjects

49 CFR Part 450

Authority delegations (Government agencies), Freight, Packaging and containers, Safety.

49 CFR Part 451

Freight, Packaging and containers, Safety.

49 CFR Part 452

Freight, Packaging and containers, Safety.

49 CFR Part 453

Administrative practice and procedure, Frieght, Packaging and containers, Safety.

In consideration of the foregoing, the Coast Guard proposes to amend 49 CFR Part 450 through 453 as follows:

PART 450—[AMENDED]

1. Section 459.7 is added to read as follows:

§ 450.7 Marking.

(a) On each container for which construction begins on or after January 1, 1984, all maximum gross weight markings on the container must be consistent with the maximum gross weight information on the safety approval plate.

(b) On each container for which construction begins before January 1, 1984, all maximum gross weight markings on the container must be consistent with the gross weight information on the safety approval plate no later than January 1, 1989.

PART 452—[AMENDED]

2. The title for Part 452 is amended by removing the word PERIODIC.

3. Section 452.1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 452.1 Periodic examination required.

(a) Except as provided for ion § 452.7, each owner of an approved container subject to this part shall examine the container or have it examined in accordance with the procedures prescribed in § 452.3 at intervals of not more than 30 months, except that for containers approved as new containers the interval from the date of manufacture to the date of the first examination must not exceed five years. For containers approved, examined and plated as existing containers before January 1, 1985 and containers approved and plated as new containers before January 1, 1985, the subsequent examination must be carried out in accordance with the following schedule:

Date of Inital Plating and Subsequent Examination

Existing containers before September 30, 1981 and New containers before December 31, 1976; before January 1986.

Existing containers between October 1, 1981 and September 30, 1982 and New containers between January 1, 1979 and December 31, 1979; before May 1986.

Existing containers between October 1, 1982 and September 30, 1983 and New containers between January 1, 1980 and December 31, 1980; before September 1986.

Existing containers between October 1, 1983 and December 31, 1984 and New containers between January 1, 1981 and December 31, 1981; before January 1987.

* * * * *

(c) The owner of containers subject to this section shall have those containers examined in accordance with the program prescribed in the section regardless of whether the examinations are performed within or outside the United States.

4. Part 452 is amended by adding §§ 452.7 and 452.9 to read as follows:

§ 452.7 Continuous examination program.

(a) In lieu of a periodic examination under § 452.1, each owner may examine the container or have it examined using a continuous examination program, provided, the owner submits, for approval, a program of continuous examination to the Commandant (G–MVI), United States Coast Guard, 2100 Second St. SW., Washington, D.C. 20593. The Commandant will approve a continuous examination program if it meets the requirements under paragraph § 452.9 and the Commandant is satisfied it provides the same level of safety as the periodic examination requirements under § 452.1.

(b) The owner must mark the container with the letters "ACEP/(approval number)" to indicate the container is being periodically examined under an approved continuous examination program. This marking must be as close as practicable to the safety approval plate as possible. This marking must be on all containers covered by a continuous examination program by January 1, 1987.

(c) The owner of containers subject to this section shall have those containers examined in accordance with the program prescribed in this section regardless of whether the examinations are performed within or outside the United States.

§ 452.9 Elements of a continuous examination program.

(a) Examinations performed under a continuous examination program consist of the following:

(1) A thorough examination which must include a detailed visual inspection for defects such as cracks, failures, corrosion, missing or deteriorated fasteners, and any other safety related deficiency or damage which could place any person in danger. Any such deficiences disclosed by the examination must be corrected by the owner before the container is continued in service. A thorough examination must be done in connection with a major repair, refurbishment or on-hire/off-hire interchange and in no case less than once every 30 months.

(2) Frequently conducted routine operating inspections consisting of a visual inspection of the container exterior and the underside.

(b) Each examination must be performed by qualified personnel, trained and experienced in the detection of container structural damage.

(c) Each examination must apply owner established or industry accepted pass/fail criteria to determine whether a container has any deficiency that must be remedied before the container is returned to service.

(d) Thorough examinations must be documented, and the records retained by the owner, until the next examination is completed and recorded. The records must include in addition to identification of the container, a record of the date of last examination and a means of identifying the examiner. The records must be maintained in an office under the control of the owner and be made available for inspection by the Coast Guard upon demand. If the original records are maintained outside the United States, its territories or possessions, supplementary records must be available in written or data processing form to be produced on demand of the Commandant or his representative.

(46 U.S.C. 1503, 49 CFR 1.46(n))

Dated: September 7, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-28723 Filed 10-21-83; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 83–16]

Traffic Safety Trends and Forecasts

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of publication and availability.

SUMMARY: The National Highway Traffic Safety Administration has prepared a forecast of motor vehicle related fatalities through 1990. This report, entitled "Traffic Safety Trends and Forecasts" replaces a forecast published in October 1981, and reflects current trends in accident statistics. The report is designed primarily as an internal working document for program planning purposes. It examines trends in numerous economic and demographic variables and, through a disaggregated analysis of these variables, predicts a range of probable highway fatalities through 1990.

ADDRESS: Interested persons may obtain a copy of the report free of charge by contacting Mr. Robert Hornickle, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, SW., Washington, DC, 20590 (202/426–0874). Comments should refer to docket number 83–16 and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (docket hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ellen A. Kranidas, Director, Office of Planning and Analysis Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, SW., Washington, D.C. 20590; (202/426–1600).

SUPPLEMENTARY INFORMATION: There are numerous economic and demographc variables which have either a direct or an indirect bearing on traffic fatalities. The size of the population, the age and sex of vehicle drivers, the number of vehicles in use, the number of miles travelled by the population, and levels of economic activity all play a role in determining the number of deaths resulting from motor vehicle accidents. As an initial step in developing this forecast, these and other factors were considered on an individual basis as a prediction of fatality rates. Subsequently, a disaggregated analysis of these variables was performed. The forecast's conclusions were then based on the results of the disaggregated analysis.

Overall, the results of this analysis indicate that, despite a sharp decline in 1982, motor vehicle fatalities will resume their long term upward trend for the remainder of the 1980 decade and reach a level of approximately 50,000 by 1990. This projection is based on a greater number of drivers and vehicles, an increase in travel, and a return to higher rates of economic growth. Although the absolute number of fatalities is expected to increase, the relative risk per unit of travel is expected to continue to drop as it has over the past half century.

Any persons or organizations wishing to comment may do so by sending their comments to the address shown above.

Issued: October 12, 1983.

Barry Felrice,

Associate Administrator, Plans and Programs.

[FR Doc. 83-28278 Filed 10-13-83; 2:31 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 301014–201]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (Amendment 1.) The revisions within this amendment are necessary to allow, (1) a mechanism to enable the Northeast Regional Director, National Marine Fisheries Service (NMFS) in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify initially and then adjust the squid optimum yields at any time during the year, and, (2) a revision of the Atlantic mackerel natural mortality rate (M) from 0.30 to 0.20 to reflect recent scientific data. The intended effect of this rule is to improve the administration and efficiency of the management measures for the Atlantic mackerel and squid fisheries.

DATE: Comments must be received on or before December 8, 1983.

ADDRESS: Comments should be sent to Salvatore A. Testaverde, NMFS, State Fish Pier, Gloucester, Massachusetts, 01930–3097. Mark the outside of the envelope, "Comments on Amendment 1." Copies of Amendment 1, the environmental assessment, and a regulatory impact review are available upon request from Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware, 19901.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde (Plan Coordinator), 617–281–3600, extension 273.

SUPPLEMENTARY INFORMATION: Final regulations implementing Amendment 3 to the Fishery Management Plans for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) were implemented on September 28, 1983 (48 FR 44834, September 30, 1983). This proposed Amendment 1 contains textual changes to the FMP which provide a mechanism for the NMFS Northeast Regional Director (RD), in consultation with the Council, to specify initially and then adjust the optimum yields (OY) for squid at any time during the fishing year. The RD will consider nine specific factors in setting and adjusting the squid OY. These factors include world import and export potential of squids, and expected U.S. production and export potential, taking into account joint ventures, directed foreign fishing for squid off the U.S. Atlantic coast, and minimum foreign incidental catch needs.

In addition, the Atlantic mackerel natural mortality rate (M) is revised from 0.30 to 0.20 to reflect recent scientific data.

Squid

The mechanism, proposed by the Mid-Atlantic Fishery Management Council and the NMFS, incorporates a squid allowable biological catch (ABC) which would be determined annually. The ABC would have as maximum OYs, 44,000 metric tons (mt) for *Loligo* and 30,000 mt for *Illex*. The RD will review yearly the most recent biological data pertaining to the stock. If the RD determines that the stock cannot support a level of harvest equal to the maximum OY, he will establish a lower ABC for that fishing year. From the ABC, the RD, in consultation with the Council, will determine the initial optimum yield (IOY) for that fishing year. The IOY represents a modification of ABC, based on economic considerations, which are set at a level that will best achieve the fishery management objective of the FMP. The IOY includes an initial estimated domestic annual harvest (DAH) and initial total allowable level of foreign fishing (TALFF). DAH includes the estimated joint venture harvest. In assessing the level of IOY, the RD will provide for a TALFF of at least a minimum incidental catch of squid that would be harvested in other directed fisheries.

VOL
48
ISS
2
0
6
OC
24
1983
UMI

The assessment of IOY will be based on nine factors including world import/export potential of squid, and expected U.S. production and export potential, taking into account joint venture catch, directed foreign fishing off the U.S. Atlantic coast, and minimum foreign incidental catch needs. The IOY may be adjusted by the RD, in consultation with the Council, at anytime during the fishing year, but is not to exceed ABC. This adjustment may be made to accommodate DAH needs or when consideration of the above factors warrants an ajustment in TALFF.

Atlantic mackerel

The final regulations implementing the FMP for Atlantic mackerel in U.S. waters incorporated a 600,000 mt minimum spawning stock biomass constraint and a ceiling on fishing mortality (M) equivalent to $F_{0.1}=0.40$. At the time the regulations were developed, the mackerel assessment was based on an M of 0.30. With the change to the M value of 0.20 by the NMFS Northeast Fisheries Center, the 600,000 mt spawning stock biomass constraint in the FMP is not consistent with the results of the 1982 Atlantic mackerel stock assessment. The consequence of this change is to reduce the estimates of total and spawning stock biomass by about 40 percent.

Based upon this information, the Council, at its meeting in January, 1983, voted to reduce the value of M used in the FMP from 0.30 to 0.20 and to accept a minimum spawning stock size of 400,000 mt as equivalent to the 600,000 mt level previously supported. Amendment 1 incorporates this revision.

Substantive Changes to Regulations as Submitted. One substantive change was made to the regulations submitted by the Council. In § 655.21(c) the phrase "in territorial waters (0–3 nautical miles)" was changed to "within State jurisdiction." This language was required to accommodate the transfer of Nantucket Sound to Massachusetts' jurisdiction by Pub. L. 97–453.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended by P.L. 97–453, requires the Secretary of Commerce (Secretary) to publish regulations proposed by the Council within 30 days of receipt of an FMP amendment and regulations. At this time the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council has prepared an environmental assessment (EA) under § 102(2)(c) of the National Environmental Policy Act of 1969. The EA describes the affected marine, coastal, and human environments and discusses the possible impacts from the preferred and alternate management measures presented in the amendment. The OY adjustment mechanism for squid will not alter impacts described in the original squid plan. The Atlantic mackerel revision of M from 0.30 to 0.20 refines the estimate of MSY from the original mackerel plan. However, this revision does not reflect a resource change of any nature, but only a mathematical refinement which will not alter impacts described in the original plans. The harvest levels of both squid, *Illex* and *Loligo*, and the Atlantic mackerel proposed in the recommended alternatives within the EA are compatible with the latest stock assessments produced by the Northeast Fisheries Center. The Assistant Administrator has found the proposed action will not have a significant effect on the human environment.

Environmental impact statements (EIS) for the original plans were filed with the Environmental Protection Agency and notices of availability published as follows: mackerel plan, January 2, 1979; and squid plan, January 22, 1979. You may obtain a copy of the environmental assessment, which is included in the amendment, from the Council at the address listed above.

The Administrator of NOAA has determined, after reviewing the squid OY adjustment mechanism and the revision of the natural mortality rate for Atlantic mackerel in Amendment 1, that the proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. Any negative economic impact on the economy would be less than $10 million, which must be discounted by the beneficial impacts of any increased exports. There should not be any major increase in costs or prices to consumers. The Council prepared a regulatory impact review which concludes that this rule will have the following economic effects: The amendment should increase the competitiveness of U.S. fishermen in the world market, increase employment opportunities and investment, increase overall fishery productivity, and promote U.S. exports. You may obtain a copy of this review, which is included in the amendment, from the Council at the address listed above.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the Order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the amendment places the burden of regulation on foreign harvesters, while enhancing the profit potential of U.S. fishing vessels and processors. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule does not directly affect the coastal zone of the following States with approved coastal zone managment programs: Pennsylvania, Florida, South Carolina, and North Carolina. The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of New Jersey, Massachusetts, New Hampshire, Maine, Maryland, Delaware, New York, Rhode Island, and Connecticut.

List of Subjects in 50 CFR Part 655

Fish, Fisheries, Fishing.

Dated: October 19, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 655—ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

For the reasons set forth in the preamble, 50 CFR Part 655 is proposed to be amended as follows:

1. The authority citation for 50 CFR Part 655 is as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 655.2 is amended by revising the definition of *"Joint venture harvest"* to read as follows:

§655.2 Definitions.

Joint venture harvest means U.S. harvested Atlantic mackerel, squid, or butterfish transferred to foreign vessels in the FCZ or in the internal waters of a State. Transfers to foreign vessels in the internal waters of a State are governed under § 306(c) of the Magnuson Act.

* * * * *

3. Section 655.21 is amended by revising paragraphs (a)(2), (b)(1) in its entirety, (b)(2) introductory text, (b)(2)(i), introductory text, (b)(2)(ii) introductory text, (b)(2)(ii)(A)(*1*), (b)(2)(ii)(B)(*1*), (b)(2)(ii)(C)(*3*), and (c), to read as follows:

§ 655.21 Allowable levels of harvest.

(a) * * *

(2) For Atlantic mackerel, the OY may not exceed 30,000 mt if the spawning stock at the end of the upcoming year is estimated, under the procedures specified in the FMP, to be less than or equal to 400,000 mt. If the spawning stock at the end of the upcoming year is estimated to exceed 400,000 mt, the maximum OY is determined in accordance with paragraph (b)(2)(ii) of this section.

(b) *Annual specifications.* Total allowable biological catch (ABC), initial optimum yield (IOY), and amounts for domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF) for each species will be determined annually by the Northeast Regional Director, in consultation with the Mid-Atlantic Fishery Management Council (Council) under the procedures specified in § 655.22, consistent with the following:

(1) *Squid.* (i) Total allowable biological catch (ABC) for any fishing year is either the maximum OY specified in paragraph (a)(1) of this section, or a lower amount determined by the Northeast Regional Director, in consultation with the Council, if stock assessments or other ecological data indicate that the potential yield is less than the maximum OY level.

(ii) The IOY consists of an initial DAH and Initial TALFF and represents a modification of ABC, based on economic factors. These factors must include the following:

(A) Total world export potential by squid-producing countries;

(B) Total world import demand by squid-consuming countries;

(C) U.S. export potential based on expected U.S. harvests, expected U.S. consumption, relative prices, exchange rates, and foreign trade barriers;

(D) Increased or decreased revenues to the U.S. from foreign fishing fees;

(E) Increased or decreased revenues to U.S. harvesters (with or without joint ventures);

(F) Increased or decreased revenues to U.S. processors and exporters;

(G) Increases or decreases in U.S. harvesting productivity due to decrease or increase in foreign harvest;

(H) Increases or decreases in U.S. processing productivity; and

(I) Potential impact of increased or decreased TALFF on foreign purchases of U.S. products and services and U.S. caught fish, changes in trade barriers, technology transfer, and other considerations.

(iii) The DAH, DAPs and JVP must be based on data from sources specified in § 655.22(e) and other relevant data including past domestic landings, the capacity and intent of U.S. processors to process U.S. harvested squid, and projected amounts of squid necessary for joint ventures during the fishing year.

(iv) IOY must be set at a level that will produce the greatest overall net benefit to the United States. In determining this amount, the Regional Director, in consultation with the Council, will provide for a TALFF of at least a minimum incidental catch in other directed fisheries. TALFF may be greater than a incidental catch level, if the IOY determined to produce the greatest overal benefit to the U.S. is sufficiently greater than DAH.

(A) *Loligo.* The incidental catch level is one percent of the allocated portion of *Illex*, mackerel (if a directed fishery is allowed), silver hake, and red hake TALFFS.

(B) *Illex.* The incidental catch level is ten percent of the allocated portion of *Loligo*, and one percent of the allocated portion of mackerel (if a directed fishery is allowed), silver hake, and red hake TALFFS.

(v) The IOY may be adjusted by the Regional Director, in consultation with the Council, at any time during the fishing year, under § 655.22(f). The basis for any adjustment may be that new information or changed circumstances indicate that U.S. fishermen will exceed the initial DAH, or that the IOY should be increased to produce maximum net benefits to the U. S. based upon an application of the factors above. The IOY may be increased by the amount that DAH or TALFF, or both, are increased, but IOY may not exceed ABC. An adjustment to IOY may not result in TALFF being reduced to a quantity less than that allocated to and accepted by foreign nations or to a quantity less than the incidental catch levels specified in paragraph (b) of this section.

(2) *Atlantic mackerel.* In all cases, initial DAP is the estimated amount of initial DAH that domestic processors will process. In estimating the domestic annual havest in the cases set forth below, the recreational catch will be predicted by the formula: $Y=(0.01)(X)+(180)$; where "X" is equal to the current spawning stock size, and "Y" is the estimated recreational catch in metric tons.

(i) *Case 1.* If the spawning stock size at the end of the upcoming fishing year, estimated in accordance with the procedures specified in the FMP, is less than or equal to 400,000 mt, then:

(A) * * *

(ii) *Case 2.* If the spawning stock size at the end of the upcoming fishing year, estimated under the procedures specified in the FMP, is more than 400,000 mt, then OY during that fishing year may not exceed the acceptable catch (AC). AC is that amount which, when taken in addition to the predicted catch in the Canadian fishery, would result in a spawning stock size of 400,000 mt at the end of the upcoming fishing year. AC plus the predicted Canadian catch may not exceed a fishing mortality rate greater than F 0.1.

(A) * * *

(*1*) TALFF equals the fixed percentages specified in paragraph (b)(2)(i)(A) of this section.

(*2*) * * *

(B) * * *

(*1*) TALFF equals the fixed percentages specified in paragraph (b)(2)(i)(A) of this section.

(*2*) * * *

(C) * * *

(*3*) *TALFF plus reserve.* If OY minus DAH is less than 10,000 mt, then TALFF equals OY minus DAH (but no less than the fixed percentages specified in paragraph (b)(2)(i)(A) of this section), and there is no Reserve. If OY minus initial DAH is greater than or equal to 10,000 mt, then the difference between OY and initial DAH is divided evely between TALFF and Reserve.

* * * * *

(c) *Allowable domestic harvest.* Fish taken within State jurisdiciton will be counted against the domestic harvests specified under this section. The allowable domestic harvest for each species is the OY (including OY as increased under paragraph (b)(1)(v) of this section) minus TALFF.

4. Section 655.22 is amended by revising paragraphs (a) and (b) and by adding a new paragraph (f) to read as follows:

§ 655.22 Procedures for determining initial annual amounts and adjustments.

(a) On or about January 15 of each year, the Mid-Atlantic Council will prepare and summit recommendations to the Regional Director of the initial annual amounts for the fishing year beginning April 1, based on information

VOL
48
ISS
2
0
6
OC
24
1983
UMI

gathered from sources specified in paragraph (e) of this section.

(b) By February 1 of each year, the Secretary will publish a notice in the **Federal Register** that specifies preliminary initial amounts of OY, DAH, DAP, JVP, TALFF, and Reserve (if any) for each species. The amounts will be based on information submitted by the Council and from the sources specified in paragraph (e) of this section; in the absence of a Council report, the amounts will be based on information gathered from sources specified in paragraph (e) of this section and other information considered appropriate by the Regional Director. The **Federal Register** notice will provided for a 30-day comment period.

* * * * *

(f) Any adjustments to the IOY for squid must be published in the **Federal Register** with the reasons for such adjustment. Any notice of adjustment may provide for a public comment period.

5. Section 655.23 is amended by removing paragraphs (a)(1)(i) through (a)(1)(iv), and paragraphs (b)(1) through (b)(1)(ii), by redesignating paragraph (a)(2) as (a)(1), and paragraphs (b)(2)(i) and (b)(2)(ii) as (b)(1)(i) and (b)(1)(ii), and revising the first sentence immediately following the title to read as follows:

§ 655.23 Reserve releases.

All or part of the Atlantic mackerel reserve may be allocated to TALFF following the procedures of this section.

* * * * *

[FR Doc. 83-28861 Filed 10-20-83; 9:14 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 206
Monday, October 24, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Siting Procedures; Exceptions Processes

AGENCY: Administrative Conference of the United States; Committee on Regulation.

ACTION: Committee meeting.

AGENDA: The Committee will meet with its consultants to discuss progress on two projects: (1) Siting procedures for large-scale industrial projects; (2) Exceptions processes in the operation of regulatory programs.

Date and time: November 4, 1983, 9:30 a.m.

Location: 2120 L Street, NW., Washington, D.C., Lower Level Hearing Room No. 1.

Public participation: Attendance at the Committee's meeting is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The Committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during, or after the meeting. Minutes of the meeting will be available on request to the contact person. This meeting is subject to the Federal Advisory Committee Act (Pub. L. 92-463).

FOR FURTHER INFORMATION CONTACT: William C. Bush, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C. 20037. Telephone: (202) 254-7065.

Subjects:

1. Siting procedures
2. Administrative practice and procedure
3. Exceptions processes

SUPPLEMENTARY INFORMATION:

1. **Siting Procedures**—The Committee's consultant, Professor Gregory Ogden of Pepperdine University School of Law, recently submitted a revised draft report on siting procedures. This topic includes the examination of federal, state, and local processes for obtaining permits to locate large-scale industrial projects such as power plants, pipelines, or port facilities. The Administrative Conference is cooperating with the Advisory Commission on Intergovernmental Relations on this project. Professor Ogden will discuss his report and suggest possible recommendations for the Committee.

2. **Exceptions Processes**—This project deals with the procedures used for the granting of exceptions (waivers, variances, exemptions, etc.) to rules of general applicability. The Committee has received a report from consultant Peter Schuck that examines in some detail the exceptions process operated by the Department of Energy's Office of Hearings and Appeals. In addition, a number of federal agencies have submitted information on the exceptions processes associated with the agencies' various regulatory programs. The Committee will consider whether to propose recommendations on this subject. (See 48 FR 20417 for a request for public comments on this topic.)

Dated: October 17, 1983.

Richard K. Berg,
General Counsel.

[FR Doc. 83-28789 Filed 10-21-83; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Sunbeam Mining Project, Challis National Forest, Custer County, Idaho; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for the development of the proposed Sunbeam Mining Project on the Yankee Fork Ranger District.

Sunbeam Mining Corporation has submitted to the U. S. Department of Agriculture, Forest Service (Challis National Forest), a proposal to mine and process gold ore at their Sunbeam mining properties in Custer County, Idaho. Their proposal is to develop an open pit mine with an indoor vat leach milling process located on site. The proposed operation would involve approximately 150 acres of land including a mine site, two or three waste dumps, a vat leach plant, a spent ore dump, and ancillary facilities.

A range of alternatives will be considered. These alternatives will include different means of mining and milling the ore, and locations for the various projects components. Federal, State, and local agencies, and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of the issues to be addressed.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service of the Department of the Interior will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the proposed project site.

The Forest Supervisor will hold a public meeting in Stanley, Idaho on December 1, 1983, 7:00 p.m. at the Community Center.

Jack E. Bills, Forest Supervisor of the Challis National Forest, is the responsible official for the document.

The draft environmental impact statement should be available for public review during March 1984.

Written comments and suggestions concerning the analysis should be sent to Barry Davis, Yankee Fork Ranger District, Challis National Forest, HC/67 Box 650, Clayton, Idaho 83227, by December 15, 1983.

Questions about the proposed action and environmental impact statement should be directed to Don Murray, Mineral Specialist, Yankee Fork Ranger District, (208) 838-2201.

Dated: October 14, 1983.
Jack E. Bills,
Forest Supervisor
[FR Doc. 83-28790 Filed 10-21-83; 8:45 am]
BILLING CODE 3410-11-M

Land and Resource Management Plan, Targhee National Forest, Bonneville, Teton, Fremont, Madison, Clark, Lemhi, Butte Counties, Idaho; Lincoln and Teton Counties, Wyoming; Revised Notice of Intent To Prepare an Environmental Impact Statement

This Notice Changes the date for an Open House on the Targhee National Forest that appeared in the Federal Register, Volume 48, No. 187, page 43702, dated September 26.

The date of the Open House is changed from November 17 to November 22, 1983, from 9:00 a.m. to 8:00 p.m. at the Palisades Ranger District Office, Beeches Corner, Idaho Falls, Idaho 83401.

The comment period deadline is extended to November 10, 1983.

Dated: October 14, 1983.
Richard K. Griswold,
Director, Planning and Budget.
[FR Doc. 83-28787 Filed 10-21-83; 8:45 am]
BILLING CODE 3410-11-M

Packers and Stockyards Administration

Proposed Posting of Stockyard; Madden's Livestock Market,Inc.

The Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock market named below is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

SD-168 Madden's Livestock Market, Inc.
Newell, South Dakota

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), proposes to designate the stockyard named above as a posted stockyard subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by November 8, 1983.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 18th day of October, 1983.
Jack W. Brinckmeyer,
Chief, Financial Protection Branch, Livestock Marketing Division.
[FR Doc. 83-28810 Filed 10-21-83; 8:45 am]
BILLING CODE 3410-02-M

Soil Conservation Service

Adams County Streambank RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Adams County Streambank RC&D Measure, Adams County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on a 1600 foot section of streambank along Churn Creek. The planned works of improvement include shaping the streambank, minor realignment of the stream channel, placement of rock riprap, and seeding of disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 14, 1983.
James H. Richardson,
State Administrative Officer.
[FR Doc. 83-28781 Filed 10-21-83; 8:45 am]
BILLING CODE 3410-16-M

Chenoweth Fork and Auerville Roads RC&D Measure; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Chenoweth Fork and Auerville Roads RC&D Measure, Pike County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment along 1500 feet of county roads. The planned works of improvement include shaping the unstable banks, lining with rock riprap, and seeding of the disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: October 14, 1983.
James H. Richardson,
State Administrative Officer.
[FR Doc. 83-28783 Filed 10-21-83; 8:45 am]
BILLING CODE 3410-16-M

Johnson Road RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement in not being prepared for the Johnson Road RC&D Measure, Jackson County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, on national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on a 300 foot section of streambank along the Little Scioto River. The planned works of improvement include minor realignment of the stream channel, shaping of the streambank, placement of rock riprap, and seeding of the disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: October 14, 1983.
James H. Richardson,
State Administrative Officer.
[FR Doc. 83-28780 Filed 10-21-83; 8:45 am]
BILLING CODE 3410-16-M

Rock Hill School District RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USAD.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rock Hill School District RC&D Measure, Lawrence County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on a 500 foot section of streambank along Storms Creek. The planned works of improvement include shaping the streambank, placement of rock riprap, installation of 600 feet of diversion terrace with a grade stabilization structure, and seeding bare areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: October 14, 1983.
James H. Richardson,
State Administrative Officer.
[FR Doc. 83-28784 Filed 10-21-83; 8:45 am]
BILLING CODE 3410-16-M

Raccoon Creek Park RC&D Measure; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U. S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Raccoon Creek Park RC&D Measure, Gallia County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist,

Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)–469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for recreational facilities. The planned works of improvement include canoe launch and interception ramps, individual and group camping sites, picnic shelters, water service, restrooms, waste-water disposal, and security systems. Conservation practices to be applied include access roads, tree planting, and critical area planting.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: October 14, 1983.

James H. Richardson,

State Administrative Officer.

[FR Doc. 83–28782 Filed 10–21–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Seafood Inspection License Application
Form Number: Agency—89–859
Type of Request: Existing Collection in use without an OMB control number
Burden: 20 respondents; 10 reporting hours
Needs and Uses: The form is used to obtain information about the education, work experience, fitness, and character of State food inspectors who wish to be cross-licensed by the National Marine Fisheries Service (NMFS) to perform inspections of fishery products under the provisions of formal agreements between NMFS and the participating State agencies
Affected Public: Individuals and households
Frequency: Nonrecurring (only apply once)
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ed Clarke, 395–4814

Agency: National Oceanic and Atmospheric Administration
Title: Coast Pilot Report Form
Form Number: Agency—NOAA 77–6; OMB—0648–0007
Type of Request: Extension
Burden: 500 respondents; 250 burden hours
Needs and Uses: Form is used by mariners and others in the marine-oriented community to report information to update and/or correct U.S. Coast Pilot publications in promoting safe navigation upon United States waters
Affected Public: Individuals or households, State or local governments, business or other for-profit, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Ed Clarke, 395–4814

Agency: National Oceanic and Atmospheric Administration
Title: Key Largo National Marine Sanctuary Permitting Requirements
Form Number: Agency—None; OMB—None
Type of Request: Existing collection in use without an OMB control number
Burden: 10 respondents; 18 reporting hours
Needs and Uses: Activities in the Key Largo National Marine Sanctuary prohibited by Federal regulation may be conducted after obtaining a permit. To obtain a permit, information on the purpose and extent of the proposed activities is required. This information is used to determine whether the proposed activity is in compliance with long-term sanctuary management goal
Affected Public: Individuals or households, State or local governments, businesses or other for-profit Federal agencies or employees, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ed Clarke, 395–4814

Agency: Office of the Secretary
Title: Merit Assignment Program Appraisal of Demonstrated Performance or Potential
Form Number: Agency—CD–362; OMB—None
Type of Request: Existing collection in use without an OMB control number
Burden: 2,000 respondents; 500 reporting hours
Needs and Uses: Information collected is used to evaluate candidates for vacancies under the procedures of the Federal Merit Promotion Program
Affected Public: Individuals or households, Federal agencies or employees
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Ed Clarke, 395–4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Ed Michals,

Departmental Clearance Officer.

[FR Doc. 83–28820 Filed 10–21–83; 8:45 am]

BILLING CODE 3510–CW–M

Foreign-Trade Zones Board

[Docket No. 38–83]

Foreign-Trade Zone, Wilmington and Kent County, Delaware; Application for Subzone at Chrysler Auto Plant in Newark, Delaware

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the State of Delaware, through the Delaware Development Office, requesting special-purpose subzone status for Chrysler Corporation's auto assembly plant in Newark, Delaware, adjacent to the Wilmington Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 17, 1983. The applicant is authorized to make this proposal under Chapter 75, Title 6 of the Delaware Code.

The State of Delaware submitted an application to the Board for a general-purpose foreign-trade zone on April 5, 1983 (Docket 9–83, 48 FR 16927, 4/20/83), and Board action on the project is expected in early 1984.

The proposed subzone for Chrysler would involve the company's auto assembly plant covering 246 acres at 550 South College Street, Newark, Delaware. Employing 6,000 persons, the facility assembles the company's K-model automobiles. Although most of the components are of domestic origin, some of the autos have optional engines which are purchased abroad, yielding an average foreign content of 3.5 percent. Some 15 percent of the finished autos is expected to be exported.

Zone procedures will exempt Chrysler from paying duties on foreign components used in exports. On its domestic sales, the company will be able to defer duty and to take advantage of the same duty rate that is available to importers of finished automobiles. The average duty rate on the foreign parts Chrysler uses at the plant is about 3.8 percent whereas the rate for automobiles is 2.8 percent. The reduction of Customs costs is part of Chrysler's effort to modernize and reduce costs at its U.S. assembly plants, making them more competitive with auto assembly facilities offshore.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer St., Boston MA 02110; and Lt. Colonel Roger L. Baldwin, District Engineer, U.S. Army Engineer District Philadelphia, 2nd and Chestnut St., Philadelphia, PA 19106.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before November 28, 1983.

A copy of the application is available for public insection at each fo the following locations:

Port Director's Office, U.S. Customs Service, New Federal Bldg., Room 1218 F, 844 King St., Wilmington, DE 19801
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: October 18, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83–28821 Filed 10–21–83; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 39–83]

Foreign-Trade Zone 1, New York, New York; Application for Expansion—John F. Kennedy International Airport

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of New York, New York, grantee of Foreign-Trade Zone 1, requesting authority to expand the City's zone project to include a site at John F. Kennedy International Airport (JFK), within the New York Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 17, 1983. The applicant is authorized to make this proposal under Chapter 396, Laws of New York, 1942.

In 1936, the City was authorized by the Board to establish a zone in the New York Harbor area (Board Order 2). Since early 1970, the zone has been located within the Brooklyn Navy Yard. It has received an annual average of $100 million in merchandise in recent years, with over 50 percent reexported.

The City now proposes to establish a zone site at JFK to supplement the services already available at the Brooklyn Navy Yard, with a focus on air-cargo related operations. The plan for the JFK zone site would involve the designation of the airport's cargo center and cargo development area, covering 1716 acres within the 5000-acre airport complex, as approved FTZ space sections of which would be activated as needed with Customs operational approval. As administrator of the zone site, the Port Authority of New York and New Jersey will make available the JFK Building 88 for initial zone operations. The application contains evidence that a number of firms have expressed interest in using zone procedures at JFK.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Anthony Liberta, JFK Airport Director, U.S. Customs Service, New York Region, Cargo Bldg. 80, JFK Airport, Jamaica, NY 11430; and Colonel F. H. Griffis, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, NY 10278.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before November 28, 1983.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Federal Office Building, Room 3718, 26 Federal Plaza, New York, NY 10278
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: October 18, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83–28822 Filed 10–21–83; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

Importers and Retailers' Textile Advisory Committee; Open Meeting

October 19, 1983.

A meeting of the Importers and Retailers' Textile Advisory Committee will be held November 17, 1983, 1:00 p.m., Room 6802, Herbert C. Hoover Building, 14th St. and Constitution Avenue, NW., Washington, D.C. 20230. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the effects on import markets of cotton, wool, and man-made fiber textile and apparel agreements.)

Agenda: Review of import trends, implementation of textile agreements, report on conditions in the domestic market, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Helen L. LeGrande, (202) 377–3737.

VOL 48 ISS 206 OCT 24 1983 UMI

Dated: October 18, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-28872 Filed 10-21-83; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Moclips Cetological Society (P311B).

b. Address: P.O. Box 945, Friday Harbor, Washington 98250.

2. Type of Permit: *Scientific Research/ Scientific Purposes.*

3. Name and Number of Animals:

Gray Whale (*Eschrichtius robustus*), Unspecified Number
Humpback Whale (*Megaptera novaeangliae*), Unspecified Number
Dall Porpoise (*Phocoenoides dallii*), Unspecified Number
Harbor Porpoise (*Phocoena phocoena*), Unspecified Number
Killer Whale (*Orcinus orca*), Unspecified Number
Minke Whales (*Balaenoptera ocutorostrata*), Unspecified Number

4. Type of Take: Potential harassment during census and indentification studies.

5. Location of Activity: State of Washington.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is fowarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C 15700, Seattle Washington 98115.

Dated: October 13, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-28842 Filed 10-21-83; 8:45 am]

BILLING CODE 3510-22-M

THE COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Wednesday, November 9, 1983 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design referred by other agencies of the government. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call 566–1066.

Dated in Washington, D.C. October 18, 1983.

Charles H. Atherton,

Secretary.

[FR Doc. 83-28843 Filed 10-21-83; 8:45 am]

BILLING CODE 6330-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Department of the Army, DoD.

ACTION: Deletion of and amendments to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete 5 and amend 3 system notices for systems of records subject to the Privacy Act of 1974. Two notices being deleted have been consolidated into a single amended system notice which has been given a new title. Following identification of changes, amended notices are set forth in their entirety below.

DATE: Actions shall be effective November 23, 1983.

ADDRESSES: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG–AMR–S, 2461 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army, at the above address; telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: The Army systems of records notices subject to the Privacy Act of 1974, as amended, Title 5, U.S.C. Section 552a, have been previously published in the **Federal Register**.

These actions do not require a report of an altered system notice pursuant to 5 U.S.C. 552a(o).

October 18, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

Deletions

AFFES0704.05

System name:

Retirement Card Files (48 FR 25533). June 6, 1983.

Reason:

Records covered by system notice AAFFAES0704.15, Individual Retirement Files.

A0201.08aDACS

System name:

Central Files, Office of the Chief of Staff (48 FR 25551). June 6, 1983.

Reason:

This system has been combined with system A0201.08cOSA and is now covered by system notice: A0241.01HQDA, HQDA Correspondence and Control/Central Files System (see below).

A0201.08cOSA

System name:

Central Files, Office, Secretary of the Army (48 FR 25552), June 6, 1983.

Reason:

This system has been combined with system A0201.08cDACS and is now covered by system notice A0241.01HQDA, HQDA Correspondence and Control/Central Files System (see below).

A0811.05aAMC

System name:

Civilian Attorney/Patent Advisor Career Files (48 FR 25704), June 6, 1983.

Reason:

Records are covered by OPM System Notice, OMP/GOVT–5, Recruiting, Examining, and Placement Records.

A0811.05bDAEN

System name:

Occupational Inventory Files (48 FR 25704). June 6, 1983.

Reason:

Records are covered by OPM System Notice, OPM/GOVT–5 Recruiting, Examining, and Placement Records.

Addition

AO241.01HQDA

SYSTEM NAME:

HQDA Correspondence and Control/ Central Files System.

SYSTEM LOCATION:

Office, Secretary of the Army; Office, Chief of Staff; Headquarters, Department of the Army Staff agencies. Addresses are listed in the appendix to the Army's inventory of system notices at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who either initiated, or are the subject of, communications with the Headquarters, Department of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inquiries,with referrals and responses, and other commuications pertaining to any function or subject involving or of interest to Headquarters, Department of the Army level. Records may include, but are not restricted to, complaints, appeals, grievances, investigations, alleged improprieties, personnel actions, medical reports, intelligence, and similar matters. They may be either specific or general in nature and may include such personal information as an individual's name, SSAN, date and/or place of birth, description of events or incidents of a sensitive or privileged nature, commendatory or unfavorable data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., 3012; 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to control correspondence, document actions taken, and located records for reference purposes.

Disclosure of information from documents or records which properly become part of another system of records will be as authorized in the "routine uses" portion of that system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and/or microfiche in Office, Secretary of the Army, Office, Chief of Staff Army, and those Army Staff (ARSTAF) agencies having primary functional responsibility for the subject matter being addressed. Selected identification data are stored in the automated index central computer facility.

RETRIEVABILITY:

Paper records are retrieved by date; microfiche is retrieved by subject (based on Alpha Numeric Filing System) and within the subject, is individually identified by cartridge number, year and sequence number and personal names if appropriate. Primary access to the automated index is accomplished through a document control number.

SAFEGUARDS:

Records are controlled; access to information from specified documents is restricted to persons who have been designated by their agency to have official need for the information in the performance of their duties. ARSTAF agencies are linked to the automated index by on-line terminals, thereby sharing a common data base, but do not have access to the record itself.

File areas within the Secretariat and the Office, Chief of Staff and certain ARSTAF file areas are protected by electronic surveillance systems with combination lock doors; all other file areas (within ARSTAF) are protected consistent with the sensitivity of Privacy Act data included therein. Users of the system receive training designed to preclude misuse or unauthorized disclosure of information.

RETENTION AND DISPOSAL:

Non-policy documents are kept 10 years. They are converted to microform and destroyed after verification that the microform is an acceptable substitute for the original document. The hard copy and microform remain in current files area for 2 years after completion of action, then are retired to the Washington National Records Conter (WNRC).

Policy action files are permanent. Original documents are converted to microform. The hard copy and microform remain in current files area for 2 years, then are retired to WNRC. The hard copy is destroyed at a future date after the microform is properly certified to meet archival standards set by General Services Administration.

Information in the automated index is kept permanently. At the beginning of each calendar year the index of all permanent documents addded to the central file that year is transferred to tape. The tape is kept in-house to support Army operations and is destroyed when no longer needed for current operations. A duplicate copy of that tape is transferred to the Machine Readable Archives, National Archives and Records Service, GSA.

SYSTEM MANAGER(S) AND ADDRESSES:

The Administrative Assistant to the Secretary of the Army: for OSA records.

The Director of the Army Staff: for communications directed to the Office of the Chief of Staff, Army.

Head of Army Staff agencies: for records in their functional areas.

All of the above officials are located in The Pentagon, Washington, DC 20310 (except for the Chief of Engineers who is located at the Pulaski Building, Washington, DC 20314).

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the System Manager having functional responsibility or interest. Inquiries should include full name, SSAN, current address, details that will assist in identifying the records sought, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records should address their inquiry as outlined in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the the individual; correspondence emanating within the

VOL 48 ISS 206 OCT 24 1983 UMI

Army Secretariat, the Office, Chief of Staff, and ARSTAF agencies; other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of the records in this system may be exempted under 5 U.S.C. section 552a (k)(1) through (k)(7) from the following provisions of Title 5 U.S.C. section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). Documents are generated by other elements of the Army or are received from other agencies and individuals. Because of the broad scope of the contents of this system and since the introduction of documents is largely unregulatable, specific portions or documents that may require an exemption cannot be predetermined. Therefore, and to the extent that such material is received and maintained, selected individual documents may be exempted from disclosure under any of the provisions of subsections (k)(1) through (k)(7), Title 5, U.S.C. 552a.

Amendments

AO715.06aDAPC

SYSTEM NAME:

Field Military Personnel Information system—SIDPERS (48 FR 25682), June 6, 1983

Changes:

SYSTEM NAME:

Delete the words "Field Military" and "Information", substitute therefore: "Standard Installation/Division * * *".

SYSTEM LOCATION:

Add the following: "Information is stored on computer media at five Regional Data Centers located in the Washington, DC area, and near Ft McPherson, GA; Ft Knox, Ky, Ft Hood, TX; and Ft Ord, CA. Access to and processing of the information is through distributed data processing centers located at installations."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

RETRIEVABILITY:

Add the following: "The automated system provides a query capability allowing users to retrieve personnel data via CRT terminal."

SAFEGUARDS:

Delete entry; and the following: "Regional Data Centers are contractor-operated under an Army approved security program. Potential contractor personnel are security screened; contractor employees receive a security briefing and participate in an ongoing security education program under the Regional Data Security Officer.

"Regional Data Centers are connected through a communications network to 44 distributed data processing centers at Army installations. Technical, physical, and administrative safeguards required by Army Regulation 380–380 are met at installation data processing centers and information is secured in locked rooms with limited/controlled access. Data are available only to installation personnel responsible for system operation and maintenance. Terminals not in the data processing center are under the supervision of a terminal area security officer at each remote location protecting them from unauthorized use. Access to information is also controlled by a system of assigned passwords for authorized users of terminals."

RETENTION AND DISPOSAL:

Delete entry; substitute therefor: "Data retained until updated or service of individual is terminated with earlier information erased. Hard copy printouts are retained in accordance with DA Pamphlet 600–8 series."

AO917.09aDAPE

SYSTEM NAME:

Alcohol and Drug Abuse Rehabilitation Files (48 FR 40306), September 6, 1983.

Changes:

SYSTEM LOCATION:

Delete information following "Secondary:"; substitute therefor: "US Army Safety Center (PESC–D), Ft Rucker, AL 36362."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

After the words "eligible for care", add: ", is referred to * * *"

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

At the end of the first paragraph, delete the period and add: "or referral (if not enrolled)."

In the second paragraph, change the closing sentence to read: "Computer data are entered on line at US Army Drug and Alcohol Technical Activity, Falls Church, VA 22041 and transferred to magnetic disk or tape at US Army Safety Center, Ft Rucker."

SAFEGUARDS:

In the second paragraph, delete "Patient Administration Systems and Biostatistics Activity"; add: "US Army Safety Center".

A0715.06aDAPC

SYSTEM NAME:

Standard Installation/Division Personnel System (SIDPERS).

SYSTEM LOCATION:

Decentralized to local installation level of the Department of the Army. Addresses are in the Department of Defense directory in the Appendix to the Department of the Army system notices (48 FR 25773, June 6, 1983). Information is stored on computer media at five Regional Data Centers located in the Washington, DC area, and near Ft McPherson, GA, Ft Knox, KY, Ft Hood, TX, and Ft Ord, CA. Access to and processing of the information is through distributed data processing centers located at installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty Army military personnel and personnel attached from the National Guard and/or Army Reserves based upon local option.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, sex, race, citizenship, status, religious denomination, marital status, number of dependents, date of birth, physical profile, ethnic group, grade and date of rank, term of service for enlisted personnel, service agreement for non-regular officers, service data and dates, unit of assignment, military occupational specialty, additional skill identifiers, civilian/military education level, languages, assignment eligibility and availability and termination date thereof, security status, special pay and bonus and suspense termination date thereof, suspension of favorable personnel action indicator, Privacy Act disputed record indicator, and similar relevant data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301; 10 U.S.C. section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to support personnel management decisions concerning the selection, distribution and utilization of all personnel in military duties, strength accounting, and manpower management.

Within the Department of Defense, information is used for interdepartmental personnel management actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, disks, diskettes, microfiche, punched cards and computer printouts.

RETRIEVABILITY:

By name, SSN, or other individually identifying characteristics. The automated system provides a query capability allowing users to retrieve personnel data via CRT terminal.

SAFEGUARDS:

Regional Data Centers are contractor-operated under an Army approved security program. Potential contractor personnel are security screened; contractor employees receive a security briefing and participate in an ongoing security education program under the Regional Data Security Officer.

Regional Data Centers are connected through a communications network to 44 distributed data processing centers at Army installations. Technical, physical, and administrative safeguards required by Army Regulation 380–380 are met at installation data processing centers and information is secured in locked rooms with limited/controlled access. Data are available only to installation personnel responsible for system operation and maintenance. Terminals not in the data processing center are under the supervision of a terminal area security officer at each remote location protecting them from unauthorized use. Access to information is also controlled by a system of assigned passwords for authorized users of terminals.

RETENTION AND DISPOSAL:

Data retained until updated or service of individual is terminated with earlier information erased. Hard copy printouts are retained in accordance with DA Pamphlet 600–8 series.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not this system of records contains information on them should inquire of their local commander.

RECORD ACCESS PROCEDURES:

Individuals desiring access to their records in this system may visit or submit a written request to the servicing military personnel office (MILPO) or headquarters of the organizaton/station of the service member. Full name, SSN, and current address must be furnished, and acceptable identification on personal visits.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, commanders, Army records and documents, other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO917.09aDAPE

SYSTEM NAME:

Alcohol and Drug Abuse Rehabilitation Files.

SYSTEM LOCATION:

Primary: Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) rehabilitation/counseling facilities (e.g., Community Counseling Centers/ADAPCP Counseling Facilities) at Army installations and activities.

Secondary: US Army Safety Center (PESC–D), Ft Rucker, AL 36362.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual (military, civilian, family member) who is eligible for care is referred to and enrolled in the ADAPCP for rehabilitation, pursuant to Army Regulation 600–85.

CATEGORIES OF RECORDS IN THE SYSTEM:

Primary: Copies of client intake records, progress reports, psychosocial histories, counselor observations and impressions of client's behavior and rehabilitation progress, copies of medical consultation and laboratory procedures performed, results of biochemical urinalysis for alcohol/drug abuse, and similar or related documents.

Secondary: Copies of client intake records, progress reports, and demographic composites thereof.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Act of September 28, 1971, Pub. L. 92–129, Title V, Section 501, 85 Stat. 381 (reprinted in 10 U.S.C. 1071 note (1976)); Section 413, Pub. L. 92–255.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Primary: To treat, counsel, and rehabilitate individuals who participate in the Army's Alcohol and Drug Abuse Prevention and Control Program.

Secondary: Client intake and progress reports are used to provide essential management information concerning the ADAPCP to measure the magnitude of alcohol and other drug abuse within the Army, to measure progress in the Army prevention program, to measure progress in the rehabilitative medical treatment aspects of the program, to provide statistical trends of support policy and procedural changes, to support and justify funding and manpower requirements for the program, and to provide statistical information in response to the public media, members of Congress, or other government agencies.

Information for this system of records is exempt from the blanket "routine uses of general applicability" identified at 48 FR 25503. Information is disclosable only to the following persons/agencies:

a. To health care components of the Veterans Administration.

b. To qualified personnel conducting scientific research, or audits or program evaluations, provided that a patient may not be identified in such reports, or his or her identity further disclosed by such personnel.

c. In response to a court order based on the showing of good cause in which the need for disclosure and the public's interest is shown to exceed the potential harm that would be incurred by the patient, the physician-patient relationship, and the Army's treatment program.

Note.—Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 21 U.S.C. 1175, as amended by 88 Stat. 137, and 42 U.S.C. 4582, as amended by 88 Stat. 131. These statutes are controlling and supersede the Privacy Act of 1974 to the extent that disclosure is more limited. However, access to the record by the individual to whom the record pertains is governed by the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Primary: Paper records maintained in file folders at Alcohol and Drug Abuse Prevention and Control Program facilities for 1 year following termination of treatment or referral (if

VOL 48 ISS 206 OCT 24 1983 UMI

not enrolled). Selected forms are transferred to individual's health record.

Secondary: Paper records (client intake and progress reports) are stored in locked file cabinets. Computer data are entered on line at US Army Drug and Alcohol Technical Activity, Falls Church, VA 22041 and transferred to magnetic disk or tape at US Army Safety Center, Ft Rucker.

RETRIEVABILITY:

Primary: Alphabetically by individual's surname.

Secondary: By client's SSN or ID code, date and installation where individual was in the Alcohol and Drug Abuse Prevention and Control Program.

SAFEGUARDS:

Primary: Records are maintained in central storage areas in locked file cabinets where access is restricted to authorized persons having an official need-to-know.

Secondary: Manual records are stored in locked file cabinets. Automated records are maintained in random access mode in controlled access areas. Primary records on magnetic disk are stored with the computer in a secure vault separated from the primary computer. Data are processed in batch mode and are subjected to standard executive and system control programs plus the audit/edit and data base management system designed by the US Army Safety Center.

RETENTION AND DISPOSAL:

Primary: Records are destroyed 1 year after termination of the patient's treatment, unless the Army Medical Department Activity/Facility commander authorized retention for an additional 6 months.

Secondary: Manual records are retained up to 18 months or until information taken therefrom and entered into computer records is transferred to the "history" file, whichever is sooner. Disposal of manual records is by burning or shredding. Computer records are retained permanently for historical and/or research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army (DAPE–HRA), The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact either the commander of the medical center/medical department activity where treatment for alcohol/drug abuse was obtained, or The Surgeon General, Headquarters, Department of the Army (DASG–PSC), The Pentagon, Washington, DC 20310. Individuals should furnish their full name, date of birth, Social Security Number, current address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their records should contact the appropriate official as specified in the "Notification procedure" section, furnishing the information required by that section.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505). Denial to amend records in this system of records can only be made by The Deputy Chief of Staff for Personnel, in coordination with The Surgeon General.

RECORD SOURCE CATEGORIES:

From the individual by interviews and history statements; abstracts or copies of pertinent medical records; abstracts from personnel records; results of tests; physicians' notes; observations of client's behavior; related notes, papers, and forms from counselor, clinical director, and/or commander.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83–28792 Filed 10–21–83; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83–CERT–310]

The General Tire And Rubber Co.; Certification of Eligible Use of Natural Gas to Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following application for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of this application, along with pertinent information contained in the application, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, Except Federal Holidays.

Applicant and facility	Date filed	Docket No.	FEDERAL REGISTER notice of application
The General Tire and Rubber Co., Manon, Ind	Sept. 6, 1983	83–CERT–310	48 FR 43075, Sept 21, 1983

The ERA has carefully reviewed the above application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted the certification to the Federal Energy Regulatory Commission.

Issued in Washington D.C., on October 14, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–28823 Filed 10–21–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–292]

Union Central Life Insurance Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following application for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of this application, along with pertinent information contained in the application, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	FEDERAL REGISTER notice of application
Union Central Life Insurance	Aug. 3, 1983	83–CERT–292	FR 43078, Sept. 21, 1983.

The ERA has carefully reviewed the above application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted the certification to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on October 14, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–28824 Filed 10–21–83; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–83–022; FC Case No. 54012–6166–01, 02,–12]

Indiana & Michigan Electric Co.; Order Granting Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting to Indiana & Michigan Electric Company an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a temporary public interest exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. § 8301 *et seq.*) (FUA of "the Act") to the Indiana & Michigan Electric Company (IMECO). The temporary exemption permits the use of peroleum as the primary energy source in two oil-fired auxiliary boilers to be used from October 1983 to December 1984 to provide start-up functions and testing during the construction of a coal-fired electric powerplant at IMECO's Rockport Plant in Rockport, Indiana. The final exemption order and detailed information on the proceeding is provided in the **SUPPLEMENTARY INFORMATION:** section below.

DATES: The order shall take effect on December 23, 1983 (section 702(a), FUA). The temporary exemption granted in the order shall extend from October 1983 through December 1984.

The public file containing a copy of the order, other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–033, 1000 Independence Avenue, SW., Washington D.C. 20685, Phone (202) 252–1316

Marya Rowan, Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–235, 1000 Independence Avenue, SW., Washington D.C. 20585, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: On August 12, 1983, IMECO petitioned ERA under section 211(c) of FUA and 10 CFR 503.25 for a temporary public interest exemption to permit the use of petroleum as the primary energy source in two 189 MM/Btu/hr. oil-fired auxiliary boilers to be used to provide heat for the turbine boiler room and start-up functions during the construction of the main coal-fired electric powerplant at its Rockport Plant, Rockport, Indiana. The temporary exemption which ERA has granted extends from October 1983 to December 1984. Following the expiration thereof, a permanent exemption will not be required as the auxiliary boilers will perform support functions for the main powerplant which are not prohibited by FUA.[1]

Basis for Temporary Exemption Order

The temporary exemption order is based upon evidence in the record including IMECO's certification to ERA, in accordance with 10 CFR § 503.25(c), that the use of oil in the two auxiliary boilers is required during the construction of the Rockport coal-fired electric powerplant (an alternate-fuel fired unit), and that the units will be operated on oil as their primary energy source only during the construction period of such unit.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of the Petition and Availability of Certification in the **Federal Register** on August 22, 1983 (48 FR 38070), Commencing a 45-day public comment period.

Copies of the petition were provided to the Environmental Protection Agency and to the Federal Trade Commission for comments as required by § 701 (f) and (g) of the Act. During the comment period, interested persons were also afforded an opportunity to request a public hearing. The comment period closed on September 17, 1983; no comments were received and no hearing was requested.

NEPA Compliance

Under section 763 of FUA, the grant of a temporary exemption to a major fuel burning installation is not deemed to be a major Federal action for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969.

[1] See: Definition of primary energy source in 10 CFR § 500.2 During the operation of the coal-fired powerplant, oil consumption of the auxiliary units when performing ignition, start-up, flame stabilization, testing and other control functions will not exceed twenty-five percent (25%) of the total annual Btu heat input of the auxiliary units and the electric powerplant. Such use will, therefore, not be prohibited by FUA. SEE also, *Associated Electric Cooperative,*et al., Interpretation 1980-42 (45 FR 82572, December 15, 1980).

VOL
48
ISS
206
OC
24
1983
UMI

Order Granting Temporary Public Interest Exemption

Based upon the entire record of this proceeding, ERA has determined that IMECO has satisfied the eligibility requierments for the requested temporary exemption, as set forth in 10 CFR § 503.25. Therefore, pursuant to section 211(c) of FUA, ERA hereby grants a temporary public interest exemption to IMECO to permit the use of petroleum as the primary energy source for its two auxiliary boilers at the Rockport Plant in Rockport, Indiana, from October 1983 through December 1984, in conjunction with the construction of an alternate fuel-fired powerplant at that site.

Pursuant to section 702(c) of the Act and 10 CFR § 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in Federal Register.

Issued in Washington, D.C. on October 13, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-28828 Filed 10-21-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-034; OFC Case No. 50099-9999-99-49]

Powerplant and Industrial Fuel Use Act of 1978: Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Receipt of Proposed Electric Utility Conservation Plan of Arizona Electric Power Cooperative Inc.

SUMMARY: On August 22, 1983, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) received a utility conservation plan developed and submitted for DOE approval by Arizona Electric Power Cooperative Inc., (AEPCO) Benson, Arizona pursuant to Section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, as amended (FUA or the Act).

The proposed plan, as originally submitted, failed to meet the requirements for approval. DOE notified AEPCO of the deficiencies in its plan and on September 28, 1983 AEPCO submitted an acceptable modified conservation plan.

Pursuant to 10 CFR 508.4(b), DOE hereby gives Notice of Receipt of Proposed Conservation Plan from AEPCO. The publication of this notice commences a thirty (30) day public comment period during which interested persons are invited to submit written comments concerning the content of AEPCO's proposed conservation plan.

The public file for AEPCO containing the proposed conservation plan and any other pertinent documents is available at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585, telephone (202) 252-6020. ERA will approve or non-approve the proposed plan within 120 days of the receipt of the modified plan. Approval or non-approval of the conservation plan will be based on the entire record of the proceeding, including any comments received during the public comment period provided herein. Notice of Approval or Non-approval of the conservation plan will be published in the Federal Register.

DATE: Written comments on the proposed conservation plan are due on or before November 23, 1983.

ADDRESS: Five copies of written comments shall be submitted to: Case Control Unit, Fuels Conversion Division, Forrestal Building, Room GA-033, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The name of the utility and the identifying case number should be printed on the outside of the envelope and on the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-8162

Marya Rowan, Office of the General Counsel, Forrestal Building, Room 6B-235, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2967

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA) amended the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act") by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981.

The plan must be fully implemented during the five year period following DOE approval.

DOE will, within 120 days of the receipt of this proposed plan, approve or non-approve the plan in accordance with the requirements of 10 CFR 508.8. That action will be published in the Federal Register. Publication of this notice of receipt of this plan does not constitute approval of the plan.

Issued in Washington, D.C. on October 14, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-28827 Filed 10-21-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CI75-78-000, CI73-639-003, CI76-586-004, and CI83-434-000]

ARCO Oil and Gas Company, Division of Atlantic Richfield Co.; Application for Limited-Term Partial Abandonment and Certificate of Public Convenience and Necessity

October 18, 1983.

Take notice that on September 8, 1983, ARCO Oil and Gas Company, Division of Atlantic Richfield Company (ARCO) of P.O. Box 2819, Dallas, Texas 75221 filed an application to amend its certificates of public convenience and necessity in Docket Nos. CI73-639, CI75-78, and CI76-586 to allow a limited term abandonment of the sale of gas to Southern Natural Gas Company (Southern) from Chandeleur Sound Block 25 Field St. Bernard Parish, Louisiana and South Pass Block 61 Field, Offshore Louisiana, so that such gas may be utilized in the EOR (Enhanced Oil Recovery) project at Chandeleur Sound Block 25 Field and/or in the EOR project at South Pass Block 61 Field. ARCO also seeks recognition that it may sell and deliver to Southern any of such gas during those periods when all or any part of the gas is not being fully utilzed in the Enhanced Oil Recovery Project (EOR) and to add delivery points for use at blowdown. ARCO further seeks certificate of public convenience and necessity in Docket No. CI83-434-000 for the sale of gas to Southern Natural Gas Company (Southern) from South Pass Block 67 Field, Offshore Louisiana, as more fully described in the letter of intent dated May 10, 1983, between ARCO and Southern.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwised advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28832 Filed 10-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-688-000]

Idaho Power Co.; Order Accepting for Filing and Suspending Rates in Part, Noting Interventions, Granting Late Intervention, Ordering Summary Disposition, and Establishing Procedures

Issued: October 18, 1983.

On August 19, 1983, Idaho Power Company (Idaho) tendered for filing increased rates for service to three wholesale customers: CP National Corporation (CP National), Sierra Pacific Power Company (Sierra), and the City of Wiser, Idaho (Weiser).[1] The proposed rates would increase revenues by approximately $5.2 million (40.12%) for the calendar year 1983 test period. The proposed rates to Sierra result from a settlement agreement between Idaho and Sierra. Idaho requests an effective date of October 19, 1983, for each of the rate changes.

Notice of the filing was published in the Federal Register with comments due on or before September 19, 1983. The Idaho Public Utilities Commission filed a timely notice of intervention and the Oregon Public Utilities Commissioner filed an untimely intervention on September 21, 1983. Neither of these intervenors has raised any substantive issues or requested specific action by this Commission.

Timely mentions to intervene were filed by Weiser, Sierra, and CP National. Weiser has identified no specific issues. Sierra states that it does not object to Idaho's proposed rate. CP National requests a five month suspension, challenging Idaho's demand allocation, direct assignment of transmission facilities, revenue credits, and energy cost estimates.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure, the timely interventions of the Idaho Commission, Sierra CP National, and Weiser serve to make them parties to this proceeding. In addition, we find that intervention by the Oregon Commissioner may be in the public interest. Given the relatively short delay in filing and the early stage of this proceeding, the late intervention should not prejudice any party or unduly delay this case. Accordingly, we shall permit the Oregon Commissioner to intervene out of time.

We note that Idaho has not utilized a synchronized interest expense for purposes of calculating its income tax allowance. Commission policy and practice require that the interest expense tax deduction be computed as the product of a utility's allocated rate base and its weighted cost of long-term debt.[2] Therefore, we shall order summary disposition as to this portion of Idaho's filing. We note, however, that the revenue effect of this decision is relatively small, and therefore we shall not require immediate refiling by Idaho.

Our preliminary review indicates that, even assuming correction of Idaho's improper tax calculation, the proposed rates to Sierra will not yield excessive revenues. In light of this and of the fact that Sierra has consented to the proposed rate change, we shall accept the proposed rate to Sierra for filing, to become effective without suspension on October 19, 1983.

However, our review further indicates that the rates applicable to Weiser and CP National have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept these rates for filing and suspend them as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed increase may be unjust and unreasonable and may produce substantially excessive revenues, as defined in *West Texas*. With respect to Idaho's proposed rates to CP National and Weiser, our review suggests that the proposed increase, net of summary disposition, may yield substantially excessive revenues. Accordingly, we shall suspend these rates for five months, to become effective on march 19, 1984, subject to refund.

The Commission orders:

(A) The Oregon Commissioner's untimely intervention is hereby granted pursuant to this Commission's Rules of Practice and Procedure.

(B) Idaho's non-synchronized computation of the interest expense deuction for tax purposes is summarily rejected. The company shall reflect this determination in its compliance cost of service at the conclusion of this proceeding for the rates applicable to Weiser and CP National.

(C) Idaho's proposed rates to Sierra are hereby accepted for filing, without suspension or hearing, to become effective on October 19, 1983.

(D) Idaho's proposed rates to CP National and Weiser are hereby accepted for filing and suspended for five months from the proposed effective date, to become effective on March 19, 1984, subject to refund.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the

[1] *See* alachment for rate schedule designations.

[2] *E.g., Gulf States Utilities Co.*, 20 FERC ¶61,039 (1982).

VOL 48 ISS 206 OCT 24 1983 UMI

Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Idaho's rates to CP National and Weiser.

(F) The Commission staff shall serve top sheets in this proceeding on or before November 2, 1983.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Idaho Power Company

RATE SCHEDULE DESIGNATIONS DOCKET NO. ER83-688-000

Designations	Descriptions
Supplement No. 8 to Rate Schedule FPC No. 57 (Supersedes Supplement No. 7).	Schedule 0-1(B) (Resale Service to CP National, Oregon Division).
Supplement No. 7 to Supplement No. 1 to Rate Schedule FPC No. 30 (Supersedes Supplement No. 6 to Supplement No. 1).	Schedule N-1(A) (Resale Service to Sierra Pacific Power Company).
Supplement No. 6 to Rate Schedule FPC No. 42 (Supersedes Supplement No. 5).	Schedule I-1(A) (Resale Service to City of Weiser, Idaho).

[FR Doc. 83-28833 Filed 10-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-16-004]

National Fuel Gas Supply Corp.; Proposed Tariff Change

October 19, 1983.

Take notice that on October 12, 1983, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fourth Substitute Forty-third Revised Sheet No. 4 proposed to effective August 1, 1983.

National Fuel states that the purpose of this revised tariff sheet is to include $17,008,355.35 of Overcollections for the months of June and July 1983 in the calculation of the unrecovered surcharge. National Fuel further states that Fourth Substitute Forty-third Revised Sheet No. 4 reflects a decrease in National Fuel's rate of 19.35 cents per Mcf.

National Fuel states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28834 Filed 10-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-75-001]

Northwest Central Pipeline Corp.; Proposed Rate Changes

October 18, 1983.

Take notice that on October 14, 1983, Northwest Central Pipeline Corporation (Northwest Central) tendered for filing Substitute Second Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1.

Northwest Central states that the purpose of this substitute sheet is to reflect certain adjustments or revisions as required by the Commission's order issued May 20, 1983, in Docket No. RP83-75-000.

Northwest Central states that copies of the filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP83-75-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28835 Filed 10-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-28-005]

Panhandle Eastern Pipe Line Co.; Compliance Filing

October 18, 1983.

Take notice that on September 30, 1983, Panhandle Eastern Pipe Line Company tendered for filing, in compliance with Ordering Paragraph (B)(3) of the Commission's August 31, 1983 order in the above-referenced proceeding, supplemental information detailing and supporting the Btu adjustments reflected in the September 1, 1983 filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28836 Filed 10-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC84-1-000]

Southwest Gas Corp.; Tariff Filing

October 19, 1983.

Take notice that on October 3, 1983, Southwest Gas Corporation (Southwest), P.O. Box 15015/5241 Spring Mountain Road, Las Vegas, Nevada 89114, tendered for filing in Docket No. TC84-1-000 revised tariff sheets to become effective November 1, 1983, pursuant to Section 281.204(b)(2) of the Commission's Regulations (18 CFR 281.204(b)(2)), which requires interstate pipelines to update their respective indices of entitlements annually to reflect changes in priority 2 entitlements (Essential Agricultural Users).

Southwest states that the only change to its index is an increase in Sierra Pacific Power Company's annual priority 1 requirements.

Any person desiring to be heard or to protest with reference to said filing should on or before October 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file amotion motion to intervene in accordance with the Commission Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28837 Filed 10-21-83; 8:45 am]

BILLING CODE 6717-01-M

Waiver from Divestiture Requirements

Section 602(c) of the Department of Energy Organization Act (Act) and § 1010.501(a) of the regulations of the Department of Energy, 10 CFR 1010.501(a), authorize the Chairman on behalf of the Federal Energy Regulatory Commission (FERC) to grant waivers from the devestiture requirements of Section 602(a) of the Act to "supervisory employees" where exceptional hardship would result or where the interest is a pension, insurance or other similarly vested interest. The terms "supervisory employee" and "energy concern" are defined in Section 601 of the Act.

It has been established to my satisfaction that the interests of the individual "supervisory employee" of the FERC whose name is listed below satisfy the requirements of Section 602(c) of the Act. The employee holds vested pension and insurance interests and stock in an energy concern. Since the FERC does not regulate this energy concern, the financial injury to the employee from divestiture would far outweigh any potential for a conflict of interest. Accordingly, I have granted him a waiver for his vested pension, insurance benefits and stockholdings from the Investiture provisions of Section 602(a) of the Act until such time as the entity in which he has an interest no longer qualifies as an "energy concern" within the meaning of the Act, or until his employment with FERC terminates, whichever first occurs.

Name and Energy Concern

Bernard B. Chew, Rockwell International

The employee named above will be directed not to participate personally and substantially, as a government employee, in any particular matter the outcome of which could have a direct and predictable effect on the energy concern in which he has a financial interest, unless the Designed Agency Ethics Official finds that the financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the government may expect of the employee.

Dated: October 18, 1983.

A. G. Sousa,

Acting Chairman, Federal Energy Regulatory Commission.

[FR Doc. 83-28838 Filed 10-21-83 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals; Cases Filed Week of September 16 Through September 23, 1983

During the week of September 16 through September 23, 1983, the applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 11, 1983.

NOTICES OF OBJECTION RECEIVED

[Week of Sept. 16-23, 1983]

Date	Name and location of applicant	Case No.
Sept. 16, 1983	U.S. Department of Interior Washington, D.C.	HEE-0070.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 16 to Sept. 23, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Sept. 19, 1983	Palo Pinto/Pennsylvania	RO5-19.
Sept. 19, 1983 through Sept. 23, 1983.	Amoco Refund Applications	RF21-12189 through RF21-12193.

[FR Doc. 83-28826 Filed 10-21-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of September 23 Through September 30, 1983

During the Week of September 23 throught September 30, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: October 17, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

VOL
48
ISS
2
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24
1983
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LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 23 through September 30, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 15, 1983	Office of Special Counsel, Washington, D C	HRZ-0168	Interlocutory Order. If granted: Texaco, Inc. would be required to respond to interrogatories and document requests, in connection with the Statement of Objections submitted in response to a Proposed Remedial Order (Case No. DRO-0199)
Sept. 23, 1983	Office of Special Counsel, Washington, D C	HRZ-0169	Interlocutory Order. If granted: The affidavit of Edwin Mampe would be stricken from the record in the Texaco Inc. Proposed Remedial Order proceeding (Case No. DRO-0199).
Sept. 23, 1983	Texaco, Inc., Washington, D C	HRZ-0170	Interlocutory Order. If granted: The Office of Special Counsel would be deemed to have admitted specified assertions in connection with the Texaco, Inc., Statement of Objections submitted in response to the May 1, 1979, Proposed Remedial Order (Case No. DRO-0199).
Sept. 23, 1983	Texaco, Inc., Washington, D. C	HRZ-0171	Interlocutory Order. If granted: The Office of Special Counsel would be deemed to have admitted specified assertions in connection with Texaco, Inc.'s Statement of Objections submitted in response to the May 1, 1979, Proposed Remedial Order (Case No. DRO-0199).
Sept. 26, 1983	Jack E. Guenther, Washington, D. C	HRR-0072	Request for Modification/Rescission. If granted: The April 18, 1983 Decision and Order (Case No. HRD-0012) issued to Jack E. Guenther would be modified regarding the firm's Motion for Discovery.
Sept. 30, 1983	Roger Brownlow, Kalamazoo, Michigan	HFA-0185	Appeal of an Information Request Denial. If granted: The September 19, 1983 Freedom of Information Request Denial issued by the Chicago Operations Office would be rescinded, and Roger Brownlow would receive access to Dr. Jerome H. Hemmye's letter dated December 10, 1981.
Sept. 22, 1983	Office of General Counsel/MGPC, Inc., Los Angeles, California.	HRR-0073	Request for Modification/Rescission. If granted: The July 23, 1983 Decision and Order (Case No. DRO-0177) issued to MGPC, Inc. would be modified with respect to the requirement that the Office of General Counsel specify remedial measures by October 1, 1983.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 23 to Sept. 30, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Sept. 26, 1983 through September 30, 1983	Amoco Refund Applications	RF21-12194 through RF21-12195.

[FR Doc. 83-28825 Filed 10-21-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2456-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Procurement Programs

• Title: Oral and Written Purchase Orders (EPA #1037).

Abstract: Federal Procurement Regulation 1-3.6 requires EPA to request pricing and delivery information from commercial suppliers prior to authorizing purchases. Oral quotations are permitted for orders $5,000.00 and under, while those for orders $5,000.01-$10,000.00 must be in writing. EPA uses this information to evaluate quotations/schedules and determine which are most advantageous to the Government.

Respondents: Businesses.

Research and Development Programs

• Title: Utility Flue Gas Desulfurization Survey (EPA #0563).

Abstract: Respondents submit to EPA quarterly design and/or performance data on operational and planned utility flue gas desulfurization systems. Agency staff enter the data onto a computer database that government and the private sector use in designing and evaluating proposed systems.

Respondents: Utilities and flue gas desulfurization system suppliers.

Agency PRA Clearance Requests Completed by OMB

EPA #0114, Annual Motor Vehicles Tampering Survey, was cleared on September 21 (OMB #2060-0010).

EPA #0138, State Concurrence on Secondary Treatment Variance, was cleared on September 30 (OMB #2000-0186).

EPA #0253, Funds Transfer Deposit, was cleared on September 29 (OMB #2030-0010).

EPA #0315, Total Exposure Assessment Methodology (TEAM) Study, was cleared on September 28 (OMB #2000-0364).

EPA #0370, Underground Injection Control Permit Application and Reporting, was cleared on October 3 (OMB #2040-0042).

EPA #0786, Blanket Clearance Request for Human and Environmental Survey and Analysis Programs, was cleared on October 11 (OMB #2000-0277).

EPA #0988, Water Quality Standards Regulation, was cleared on September 21 (OMB #2040-0049).

EPA #1060, Proposed Revisions to Standards for Performance for New Stationary Sources—Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels in Steel Mills, was cleared on October 3 (OMB #2060-0038).

EPA #1082, Small Quantity Generator Survey, was cleared on September 21 (OMB #2060-0022).

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, SW., Washington, D.C. 20460

and

Don Arbuckle, Vartkes Broussalian or Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: October 17, 1983.

Daniel J. Fiorino,

Chief, Regulation Management Staff.

[FR Doc. 83-28704 Filed 10-21-83; 8:45 am]

BILLING CODE 6560-50-M

[AD-FRL 2456-7]

Air Quality: Proposed Revision to Agency Policy Concerning Ozone SIP's and Solvent Reactivities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed revision of Agency policy.

SUMMARY: This notice proposes to revise the policy announced in EPA's "Recommended Policy on the Control of Volatile Organic Compounds," published on July 8, 1977 (42 FR 35314) and amended on June 4, 1979 (44 FR 32042), May 16, 1980 (45 FR 32424), and July 22, 1980 (45 FR 48941). Specifically, this notice proposes to add perchloroethylene to the list of organic compounds which are negligibly reactive and thus may be exempt from regulation under State Implementation Plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone.

DATES: This policy will be effective upon publication of the final policy in the **Federal Register**. The deadline for submitting written comments is December 23, 1983.

ADDRESSES: *Comments.* Comments should be sent in triplicate if possible to: Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Attention Docket No. A-83-003.

Docket. Docket No. A-83-003, containing material relevant to this proposed policy, is located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby Gallery I, 401 M St., SW, Washington, D.C. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Technical Support Document. The technical support document on which this proposed policy is based is available from the Center for Environmental Research Information, 20 West St. Clair, Cincinnati, Ohio 45268; telephone number (513) 684-7562. Please refer to Photochemical Reactivity of Perchloroethylene, EPA 600/3-83-001, January 1983.

FOR FURTHER INFORMATION CONTACT:

General Policy Issues. Mr. Kent Berry, Strategies and Air Standards Division (MD-12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541-5504 (FTS 629-5504).

Technical Issues Reloted to Support Document. Dr. Basil Dimitriades, Atmospheric Chemistry and Physics Division (MD-59), Environmental Sciences Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541-2706 (FTS 629-2706).

SUPPLEMENTARY INFORMATION: In previous policy statements concerning the control of volatile organic compounds (VOC), the EPA established a list of compounds, consisting of methane, ethane, methylene chloride (dichloromethane), methyl chloroform (1,1,1-trichloroethane) and eight additional chlorofluorocarbons, which have negligible photochemical reactivity and thus should be exempt from regulation under SIP's to attain the national ambient air quality standards for ozone. The 1977 policy statement noted that perchloroethylene (perc) was judged, based on evidence available at that time, to have low but not negligible photochemical reactivity and thus was not included in the exempt list.

Continuing questions concerning the reactivity of perc, a solvent commonly used in dry cleaning and degreasing, led the Agency to investigate this question in more detail. Although a number of studies had been conducted on the reactivity of perc, the past evidence was neither complete nor consistent. To interpret more conclusively the past evidence, and further understand perc's role in the ozone problem, a smog chamber testing program was conducted. The program's objectives were: (a) to explain the mechanism of the perc reaction in smog chamber atmospheres, and (b) to extrapolate the smog chamber findings regarding perc reactivity to the real atmosphere. Results showed that (a) in smog chambers, perc reacts and forms ozone following a chlorine (Cl)-instigated photooxidation mechanism rather than the hydroxyl radical (OH)-initiated mechanism accepted in current smog chemistry, and (b) in the real atmosphere neither the Cl-instigated nor the OH-instigated photooxidations of perc can generate substantial concentrations of ozone. It was concluded that perc contributes less to the ambient ozone problem than equal concentrations of ethane (one of the negligibly reactive organic compounds previously exempted from ozone SIP controls). The details of this investigation are contained in a report, "Photochemical Reactivity of Perchloroethylene," which may be obtained as noted under the **ADDRESSES** section of this notice.

On the basis of this study, the EPA has concluded that perc is no more photochemically reactive than compounds such as ethane that are currently on the list of negligibly reactive compounds which may be exempt from SIP's to attain the NAAQS for ozone. Thus, the EPA is proposing to add perc to this list and is soliciting comments on this proposed action. If final action is taken and perc is added to the list, the EPA would not approve or enforce controls on perc as part of a Federally enforceable ozone SIP. This would apply to regulations on perc from dry cleaning operations and organic solvent degreasers which States may have adopted using guidance provided by EPA in Control Techniques Guidelines (CTG's) for these source types.

The EPA would like to reiterate its continuing concern over the possible health effects from emissions of perc. As such, the EPA is not precluding the possible future regulation of perc under other provisions of the Clean Air Act or under other environmental legislation.

The issue of whether perc is a human carcinogen or has other toxic effects at ambient levels is under active consideration by the Agency. A health assessment document on perc was released for public reviews and comment (47 FR 17860, April 26, 1982) and was the subject of a public meeting of the Environmental Health Committee of the Science Advisory Board (SAB) on September 28 and 29, 1982. This document is being revised based on SAB comments and will be reviewed at another public meeting later this year.

Until the health effects issues are resolved, the EPA remains concerned that if perc is exempted from regulation the substitution of exempt for

VOL
48
ISS
2
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6
OC
24
1983
UMI

nonexempt solvents could result in large increases of emissions of pollutants that may have adverse health impacts. Thus, if this proposal is made final, those States and local agencies that have adopted regulations limiting perc emissions may, as a matter of prudent public health policy, wish to ensure that sources in compliance with such regulations do not increase perc emissions.

The final decision on the reactivity of perc may affect the new source performance standards (NSPS) proposed under section 111 of the Clean Air Act for VOC emissions from perc dry cleaners (45 FR 78174, November 25, 1980). This action was taken on the basis that perc is photochemically reactive.

If the EPA concludes that perc is of negligible photochemical reactivity, several options for dealing with the NSPS proposal for perc dry cleaners are possible, depending on the outcome of the health evaluation currently in progress. These options include (1) amending the NSPS proposal to be based on perc's health effects rather than photochemical reactivity, (2) replacing the NSPS proposal with a proposal under section 112 of the Act (following the listing of perc as a hazardous air pollutant), or (3) withdrawing the NSPS proposal for perc dry cleaners.

The decision on perc's reactivity would not affect EPA's proposed NSPS for organic solvent degreasers (45 FR 39766, June 11, 1980). This NSPS proposal would limit emissions of VOC and five halogenated solvents (trichloroethylene, methyl chloroform, methylene chloride, trichlorotrifluorethane and perc) from new, modified, or reconstructed organic solvent degreasers. The designation of the five halogenated compounds would involve section 111(d) of the Clean Air Act which requires States to regulate emissions of these compounds from existing solvent degreasers. The proposed solvent degreaser NSPS would limit emissions of perc and trichloroethylene not only on the basis that they were considered to be photochemically reactive but also because they are suspected carcinogens. Although methyl chloroform, methylene chloride, and trichlorotrifluorethane were considered to be negligibly reactive, they were included in the proposal because they were suspected of causing adverse health effects. The SAB is reviewing the health effects document for the five halogenated compounds and the EPA will not take final action on the proposed NSPS for degreasers until after the SAB review is complete. If perc is found to have adverse health effects, the EPA will consider regulating sources of perc emissions, including degreasers and dry cleaners. Depending on the severity of the health effects, the EPA may decide that no additional regulation is needed, or that regulation under section 111 or 112 of the Clean Air Act is warranted.

Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it relaxes current regulatory requirements rather than imposing new ones. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (U.S.C. 3501 et. seq.)

Dated: October 17, 1983.

Joseph A. Cannon,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-28831 Filed 10-21-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

Title: Section 1.1311—Environmental. Information to be Submitted with Applications for Authority to Construct Major Communications Facilities

Action: Extension

Respondents: Federal, State and Local Governments, Businesses, Non-profit Institutions

Estimated Annual Burden: 1,125 Respondents; 5,625 Hours.

Dated: October 17, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-28799 Filed 10-21-83; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. These are existing information collection requirements in use without OMB numbers. No changes are proposed.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on any of these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

Part of Section Number and Title

Section 25.390: Communication-Satellite Developmental Applications
Part 41 (Section 41.31): Franks—Records to be maintained and reports to be filed
Part 42 (Section 42.7 and 42.9): Preservation of Records of Communication common Carriers
Section 43.42: Reports on pensions and benefits
Section 43.43: Reports on proposed changes in depreciation rates
Part 43 (Sections 43.51, 43.52, 43.53, 43.54, and 43.74): Reports of Communication Common Carriers and Certain Affiliates
Section 73.1030: Notifications concerning interfernece to radio astronomy, research, and receiving installations
Section 73.1125: Station main studio location
Section 73.1207: Rebroadcasts
Section 73.1212: Sponsorship identification; list retention; related requirements
Section 73.1250: Broadcasting emergency information
Section 73.1510: Section 73.Experimental authorizations
Section 73.1515: Special field test authorizations
Section 73.1560: Operating power tolerance
Section 73.1590: Equipment performance measuremeats
Section 73.1610: Equipment tests
Section 73.1615: Operation during modification of facilities
Section 73.1620: Program tests
Section 73.1740: Minimum operating schedule
Section 73.1840: Retention of logs
Section 73.1850: Public inspection of program logs

Dated: October 17, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-28798 Filed 10-21-83; 8:45 am]

BILLING CODE 6712-01-M

Memorandum Opinion and Order; Robert A. Gordon

In reapplications of Robert A. Gordon d.b.a. the BA Company (CC Docket No. 83-815, File No. 10741-CM-P-80) and Universal Communications, Inc. (CC Docket No. 83-816, File No. 50095-CM-P-81) and Microband Corporation of America (CC Docket No. 83-817, File No. 3899-CM-P-80) for construction permits in the Multipoint Distribution Service for a new station at Melbourne, Florida.

Adopted: September 9, 1983.
Released: September 15, 1983.

By the Common Carrier Bureau.

1. On July 29, 1983, the Common Carrier Bureau adopted a Memorandum Opinion and Order, Mimeo No. 5981, released August 18, 1983, 48 FR 38298, (August 26, 1983), in the above captioned proceeding. In the Memorandum Opinion and Order, the Common Carrier Bureau found that the above captioned applications were mutually exclusive requiring comparative consideration. The Bureau also found that the applicants were legally, technically, financially, and otherwise qualified to provide the services which they proposed, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted. Accordingly, the applications were designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291.

2. On the same day the Memorandum Opinion and Order was adopted, the applicants filed an unsigned Joint Request For Approval of Settlement and an unsigned Agreement which included the above captioned applications. The settlement agreement also included mutually exclusive applications for Clewiston, Florida, Homestead, Florida and Englewood, Florida. On August 25, 1983, the applicants filed a Supplement to Joint Request For Approval of Settlement and a signed Agreement.

3. In light of the above, the action taken pursuant to delegated authority is hereby set aside pursuant to Section 1.113 of the Commission's Rules 47 CFR 1.113.

4. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-28797 Filed 10-21-83; 8:45 am]

BILLING CODE 6712-01-M

BA Co. and Microband Corp. of America; Memorandum Opinion and Order

In re Applications of Robert A. Gorden d.b.a. the BA Co. (CC Docket No. 83-869, File No. 10741-CM-P-80), and Microband Corp. of America, for construction permits in the Multipoint Distribution Service for a new station at Englewood, Florida (CC Docket No. 83-870, File No. 50095-CM-P-81).

Adopted September 9, 1983.
Released September 15, 1983.

By the Common Carrier Bureau.

Memorandum Opinion and Order

1. On August 5, 1983, the Common Carrier Bureau adopted a Memorandum Opinion and Order, Mimeo No. 6105, released August 26, 1983, 48 FR 41239, in the above captioned proceeding. In the Memorandum Opinion and Order, the Common Carrier Bureau found that the above captioned applications were mutually exclusive requiring comparative consideration. The Bureau also found that the applicants were legally, technically, financially, and otherwise qualified to provide the services which they proposed, and that a hearing would be required to determine, on a comparative basis, which of these applications should be granted. Accordingly, the applications were designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291.

2. On July 29, 1983, the applicants filed an unsigned Joint Request for Approval of Settlement and an unsigned agreement that included the above captioned applications. The settlement agreement also included mutually exclusive applications for Clewiston, Florida, Homestead, Florida and Melbourne, Florida. On August 25, 1983, the applicants filed a Supplement to Joint Request for Approval of Settlement and a signed Agreement.

3. In light of the above, the action taken pursuant to delegated authority is hereby set aside pursuant to 1.113 of the Commission's Rules 47 CFR § 1.113.

4. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Kevin J. Kelley,

Deputy Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-28795 Filed 10-21-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-50]

Jacksonville Maritime Association, Inc. et al., v. City of Jacksonville; Filing of Complaint for Declaratory Relief and Reparation and Assignment

Notice is given that a complaint filed by Jacksonville Maritime Association, Inc., Amoco Transport Company, and McGiffin & Company, Inc. against the City of Jacksonville was served October 13, 1983. Complainants allege that respondent has violated section 17 of the Shipping Act, 1916, in connection with the assessment of a user fee on ships longer than 100 feet which are anchored in storage on portions of the St. Johns River within Jacksonville's territorial limits.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28872 Filed 10-21-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83N-0260]

Presurgical Chest X-Ray Referral Criteria Panel; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a

VOL 48 ISS 206 OCT 24 1983 UMI

forthcoming meeting of the Presurgical Chest X-Ray Referral Criteria Panel. This notice gives methods for interested persons to submit written data and views to the panel, to participate in open sessions of the meeting, and to review the report of the panel.

DATES: Open sessions: October 25, 1983, 8:30 a.m. to 10 a.m., and October 26, 1983, 8:30 a.m. to 10 a.m.; closed sessions: October 25, 1983, 10:15 a.m. to 5 p.m., and October 26, 1983, 10:15 a.m. to 12 m.

ADDRESSES: This panel meeting will be held at the Holiday Inn-Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852, 301–468–1100. The panel report may be reviewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jay A. Rachlin, National Center for Devices and Radiological Health (HFX–76), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4600.

SUPPLEMENTARY INFORMATION: Through the National Center for Devices and Radiological Health, FDA conducts and supports research, training, and other activities to minimize unproductive radiation exposure from diagnostic radiological examinations. One possible source of unproductive radiation exposure is radiological examinations that are not likely to affect patient management. To minimize the number of requests for ineffective examinations, a referring physician needs to have up-to-date information about when a given radiological study is likely to provide needed diagnostic information. This information, which can take the form of decision guides based on patient signs, symptoms, or history, is termed here "referral criteria."

Under one part of a program designed to facilitate the development and testing by the medical profession of patient selection criteria for diagnostic radiological examinations, FDA is providing logistical support through a contractor for the convening of small panels of clinical an scientific experts to formulate draft patient referral criteria or statements of use. A Detailed description of the X-ray referral criteria development process was published in the **Federal Register** of June 9, 1981 (46 FR 30568).

This is the first meeting of the Presurgical Chest X-Ray Referral Criteria Panel. The meeting is being convened to assess the existing state of knowledge regarding the use of presurgical chest radiography and to discuss several approaches toward developing patient referral criteria for this examination. Persons interested in specific agenda items to be discussed in the open sessions can ascertain from the contact person listed above the approximate time of discussion. Interested persons may submit written data and views to the Panel during or prior to the meeting. Such data and views may be provided to the contact person listed above. Any interested person who wishes to request time for oral presentations during the open sessions of the meeting should inform the contact person listed above, either orally or in writing, before the meeting. Any person attending the meeting who does not request time in advance of the meeting will be permitted, at the chairperson's discretion, to make an oral presentation at the conclusion of the open sessions, conditioned upon the available time left.

A list of committee members, the meeting agenda, and the report of the panel meeting may be reviewed at the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday. The report of the panel meeting will contain minutes of the open sessions, copies of written data and views submitted to the panel in the open sessions, and summaries of the closed sessions. Materials will be filed under the docket number appearing in the heading of this notice.

Dated: October 20, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–29035 Filed 10–21–83; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Ad Hoc Working Group to Develop Radioepidemiological Tables; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Ad Hoc Working Group to Develop Radioepidemiological Tables, November 21, 1983, in Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to approximately 5:00 p.m. to develop radioepidemiological tables in response to Pub. L. 97–414. Attendance by the public will be limited to space available.

For additional program information, summaries of the meeting and roster of the Committee members, contact Dr. Victor H. Zeve, Landow Building, Room 3A10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5266.

Dated: October 17, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–28818 Filed 10–21–83; 8:45 am]

BILLING CODE 4140–01–M

Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, December 12–13, 1983, Conference Room A, 1st floor, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland 20814. The entire meeting will be open to the public from 8:30 a.m. to approximately 5:00 p.m. on Monday December 12, and Tuesday, December 13, to evaluate program support in Arteriosclerosis, Hypertension, and Liped Metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Bellicha, Chief, Public Inquiry and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. G. C. McMillan, Associate Director, Arteriosclerosis, Hypertension, and Lipid Metabolism Program, NHLBI, Room 4C–12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: October 17, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–28817 Filed 10–21–83; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institutes of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK), November 17, 18 and 19, 1983, National Institute of Health, Building 2, Room 102, Bethesda, Maryland 20205.

This meeting will be open to the public from 8:00 p.m. to 9:30 p.m. on November 17, from 9:00 a.m. to 12:05 p.m. and from 2:00 p.m. to 4:15 p.m. on November 18, from 9:00 a.m. to 11:30 a.m. on November 19. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIADDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 7:30 p.m. to 8:00 p.m. and 9:30 p.m. to 10:00 p.m. on November 17, from 12:05 p.m. to 2:00 p.m. and 4:15 p.m. to recess on November 18, and from 11:30 a.m. to adjournment on November 19, for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIADDK, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Building 31, Room 9A46, Bethesda, Maryland 20205. Further information concerning the meeting may be obtained by contacting the office of Dr. Jesse Roth, Executive Secretary, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N–222, Bethesda, Maryland 20205, (301) 496–4128.

Dated: October 7, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–28812 Filed 10–21–83; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors, NICHD; Meeting

Pursuant of Pub. L. 92–463, notice is hereby given to the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, December 2, 1983, in Building 31, Room 2A52. This meeting will be open to the public from 9:30 to 11:45 a.m. on December 2 for an annual review of the Intramural Research Program, and for scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1:00 p.m. to 4:30 p.m. on December 2 for the review, discussion, and evaluation of individual programs and projects conducted by the Endocrinology and Reproduction Research Branch, National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Roon 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Board members. Dr. Arthur S. Levine, Scientific Director, NICHD, Building 31, Room 2A50, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–2133, will furnish substantive program information.

Dated: October 7, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–28811 Filed 10–21–83; 8:45 am]

BILLING CODE 4140–01–M

Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on November 15–16, 1983, convening each day at 8:30 a.m. in the NMAC Classroom, Lister Hill Center Biulding of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on November 16, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on November 14 from 2:00 p.m. to 5:00 p.m. in the 5th-floor Conference Room of the Lister Hill Center Building.

The meeting on November 15 will be open to the public from 8:30 to 11:30 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications as follows: The regular meeting on November 15 from 11:30 a.m. to 5:00 p.m., and on November 16 from 8:30 a.m. to adjournment; and the subcommittee meeting on November 14 from 2:00 p.m. to 5:00 p.m. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301–496–4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: October 6, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–28814 Filed 10–21–83; 8:45 am]

BILLING CODE 4140–01–M

General Clinical Research Centers Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, Division of Research Resources (DRR), November 14–15, 1983, Conference Room 9, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting will be open to the public on November 14, 1983, from 9:00 a.m. to approximately 12:00 noon during which time there will be comments by the Director, DRR; an update on the GCRC Program; and reports on the Clinical Associate Physician Program, the diffusion of the CLINFO System, possible new technologies for GCRCs, and Clinical Research Data Management. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public November 14, 1983, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which

VOL
48
ISS
2
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24
1983
UMI

would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B–10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Review Committee, Bldg. 31, Room 5B51, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6595, will furnish program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institutes of Health)

Dated: October 6, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–28615 Filed 10–21–83; 8:45 am]

BILLING CODE 4140–01–M

Review of Cooperative Agreement Applications; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given for meetings of several committees of the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual cooperative agreement applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of meetings and rosters of committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee:

Cancer Clinical Investigation Review Committee

Dates: November 7–9, 1983
Place: National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20205
Times:
Open: November 7, 8:30 a.m.–9:00 a.m.
Agenda: To review administrative details.
Closed:
November 7, 9:00 a.m.—recess
November 8, 8:30 a.m.—recess
November 9, 8:00 a.m.—adjournment
Closure Reason: To review cooperative agreement applications.
Executive Secretary: Dr Richard K. Hsieh, Westwood Building, Room 819, National Institutes of Health, Bethesda, MD 20205
Phone: 301/496–7481

Name of Committee:

Cancer Regional Studies Review Committee

Dates: November 15, 1983
Place: National Institutes of Health, Building 31C, Conference Room 7, 9000 Rockville Pike, Bethesda, 20205
Times:
Open: November 15, 8:30 a.m.–9:30 a.m.
Agenda: Reports by Division Director, Branch Chief, Executive Secretary, and Chairman on committee concerns followed by open discussion and review of administrative details.
Closed:
November 15, 9:30 a.m.—adjournment
Closure Reason: To review cooperative agreement applications.
Executive Secretary: Ms. Cynthia L. Sewell, Westwood Building, Room 803, National Institutes of Health, Bethesda, MD 20205
Phone: 301/496–7721

Dated: October 6, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83–28616 Filed 10–21–83; 8:45 am]

BILLING CODE 4140–01–M

Review of Grant Applications; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given for meetings of several committees of the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of meetings and rosters of committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee:

Cancer Preclinical Program Project Review Committee

Dates: November 9–10, 1983
Place: National Institutes of Health, Building 31C, Conference Room 9, 9000 Rockville Pike, Bethesda, MD 20205
Times:
Open: November 9, 9:00 a.m.–10:00 a.m.
Agenda: Reports by Division Director, Branch Chief, and Chairman of Committee concerns followed by open discussion and review of administrative details.
Closed:
November 9, 10:00 a.m.–recess
November 10, 8:30 a.m.–adjournment
Closure Reason; To review grant applications.
Executive Secretary: Dr. Dennis Cain (Acting), Westwood Building, Room 820, National Institutes of Health, Bethesda, MD 20205
Phone: 301/496–7929

(Catalog of Federal Domestic Assistance Number 13.392, project grants in cancer construction, National Institutes of Health)

Name of Committee:

Clinical Cancer Program Project Review Committee

Dates: December 1–2, 1983
Place: National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20205
Times:
Open: December 1, 8:30 a.m.–10:00 a.m.
Agenda: Reports by Division Director, Branch Chief, Executive Secretary, and Chairman on committee concerns followed by review of administrative details.
Closed:
December 1, 10:00 a.m.–recess
December 2, 8:30 a.m.–adjournment
Closure Reason; To review grant applications.
Executive Secretary: Dr. M. Wayne Hurst, Westwood Building, Room 809, National Institutes of Health, Bethesda, MD 20205
Phone: 301/496–7924

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, construction, National Institutes of Health)

Name of Committee:

Cancer Center Support Review Committee

Dates: December 1–2, 1983
Place: Linden Hill Hotel, Wimbleton Room, 5400 Pooks Hill Road, Bethesda MD 20814
Times:
Open: December 1, 8:30 a.m.–9:30 a.m.
Agenda: Reports by Division Director, Branch Chief, Executive Secretary, and Chairman of Committee concerns followed by open discussion and review of administrative details.
Closed:
December 1, 9:30 a.m.–recess
December 2, 8:30 a.m.–adjournment
Closure Reason: To review grant applications.
Executive Secretary: Dr. John W. Abrell, Westwood Building, Room 820, National Institutes of Health, Bethesda, MD 20205
Phone: 301/496–9767

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

Dated: October 6, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–28613 Filed 10–21–83; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior, Office of Administrative Services, proposes to revise an existing system of records notice. The notice, describing records maintained by the Office of the Secretary, Office of Administrative Services, is titled "Payroll, Attendance, and Leave—Interior, Office of the Secretary-85", and was last published in the **Federal Register** on June 28, 1982 (47 FR 27980).

The notice is being revised to reflect the conversion of records to the recently established Department-wide integrated payroll system (PAY/PERS).

The notice also clarifies the routine disclosure of pertinent payroll information to insurance carriers, charitable institutions, and Federal and State agencies. Also added are compatible routine disclosures to: (1) consumer reporting agencies as authorized by 5 U.S.C. 552a(b)(12), and (2) other Federal agencies for the purpose of collecting debts owed the Federal government through administrative or salary offset. The revised notice is published in its entirety below.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on this proposed change can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before November 23, 1983, will be considered. The revised system notice shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: October 11, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

INTERIOR/OS–85

SYSTEM NAME:

Payroll, Attendance, and Leave—Interior, Office of the Secretary–85.

SYSTEM LOCATION:

(1) Office of Administrative Services, Division of Fiscal Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) Input documents supplied by all offices serviced by the Office of Administrative Services, Division of Fiscal Services. Records contained in this system are part of the Departmental integrated system (PAY/PERS) maintained for the office in a computer operated by the Bureau of Reclamation which is located in Denver, Colorado.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Office of the Secretary, Other Departmental Offices, and Independent Agencies, Councils, and Commissions who are provided administrative support.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee identification, pay rate and grade, retirement, and location data; length of service; pay, leave, time and attendance, allowances, and cost distribution records; deductions for FICA, savings bonds, insurance, union dues, taxes, allotments, quarters, charities; overtime authorizations, awards, shift schedules, pay differentials, IRS tax lien data; and related personnel data. Also included is information on debts owed to the government as a result of overpayment, refund owed, or a debt referred for collection on a transferred employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101 et seq., 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are for fiscal operations for payroll, attendance, leave, insurance, tax, retirement and cost accounting programs; and to prepare related reports to other Federal agencies including the Treasury Department and the Office of Personnel Management. Disclosure outside the Department of the Interior may be made: (1) To the Department of the Treasury for preparation of payroll checks and other checks to Federal, State, and local government agencies, non-governmental organizations, and individuals; (2) to the Internal Revenue Service and to State, local, tribal and territorial governments for tax purposes; (3) to the Office of Personnel Management in connection with programs administered by that office; (4) to another Federal agency to which an employee has transferred; (5) to the U.S. Department of Justice when related to litigation or anticipated litigation; (6) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigation, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) to a congressional office from the records of an individual in response to an inquiry from that congressional office made at the request of the individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of security clearance, contract, license, grant or other benefit;

VOL 48 ISS 206 OCT 24 1983 UMI

(10) to appropriate Federal and State agencies to provide required reports including data on unemployment insurance; (11) to the Social Security Administration to report FICA deductions; (12) to labor unions to report union dues deductions; (13) to insurance carriers to report withholdings for health insurance; (14) to charitable institutions to report contributions; (15) to a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual, microfilm, and printout form in the Payroll Office. Currently applicable records are stored in magnetic disk files at the computer processing center; historic records are stored on magnetic tape files at the computer center.

RETRIEVABILITY:

Indexed by social security number and/or employee name.

SAFEGUARDS:

Maintained in locked room when not being used; computer access secured by passwords; user code security system.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Records Schedule 2.

SYSTEM MANAGER AND ADDRESS:

Chief, Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the individual seeks information concerning his/her records is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, supervisors, timekeepers, official personnel records, previous employers, and the Internal Revenue Service.

[FR Doc. 83-28846 Filed 10-21-83; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

[A 1948, A 13418, A 16867]

San Louis Border Station Proposed Partial Revocation, Partial Modification, Partial Transfer of Jurisdiction, and Continuance of Withdrawal; Opportunity for Public Hearing

October 17, 1983.

As a result of the review made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, with the concurrrence of the U.S. Treasury Department and General Services Administration, proposes to:

1. Partially revoke Secretarial Order of August 26, 1929, which withdrew the following described land from all appropriation under the public land laws, including the mining laws, for use by the U.S. Customs Service, Department of the Treasury, as a border station:

T. 11 S., R. 25 W., GSR Mer., Arizona,
Sec. 12, part lots 3 and 4.
Containing 5 acres, more or less.

2. Modify Public Land Order 4525 of September 30, 1968, which withdrew for the General Services Administration the additional lands listed below for expansion of the Customs facility, to include part of the lands now withdrawn by Secretarial Order of August 26, 1929, and limit the term of withdrawal to 20 years rather than an infinite term:

T. 11 S., R. 25 W.,
Sec. 12, the west 660 feet of lot 3,
Containing 6.86 acres.

3. Redescribe the subject lands which will remain under withdrawal in accordance with the latest Cadastral Survey (1972), as follows:

T. 11 S., R. 25 W.,
Sec. 12, lots 11 and 12,
Containing 12.06 acres in Yuma County

4. Transfer jurisdiction of the land remaining withdrawn by Secretarial Order of August 26, 1929, from the U.S. Treasury Department to the General Services Administration.

No change in the segregative effect of the present withdrawals or use of the land is proposed.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed action. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before 90 days from date of this publication. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed action may be filed with the undersigned officer on or before the above designated date.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources, and will review the withdrawal rejustification to ensure that continuation or modification would be consistent with the statutory objectives of the program for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and the Congress, who will determine whether or not the withdrawal will be continued or modified, and if so, for how long. The final determination will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

All communications in connection with this proposed action should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-28850 Filed 10-21-83; 8:45 am]
BILLING CODE 4310-84-M

[W-34993]

Wyoming; Proposed Withdrawal—Amendment

On October 14, 1983, a petition was approved allowing the Bureau of Land Management to add the following described lands to their proposed withdrawal application W-34993, published in the **Federal Register,** June 13, 1972, Vol. 37, No. 114 on page 11735.

Sixth Principal Meridian, Wyoming

T. 46 N., R. 89 W.,
Sec. 15, S½NE¼NW¼, NE¼SE¼NW¼NW¼, S½SE¼NW¼NW¼, and N½SE¼SW¼.

The area described contains 47.50 acres in Washakie County, Wyoming.

The purpose of the withdrawal is to protect the recreational and aesthetic values of the Castle Gardens Recreation site and to protect the capital investment made at the site by the Bureau.

For a period of 2 years from the date of the publication of this notice in the **Federal Register,** the above lands will be segregated from the operation of the general public land laws including the mining laws, subject to valid existing rights, unless the application is denied or canceled, or the withdrawal is approved prior to that date.

No licenses, permits, cooperative agreements or discretionary land use authorizations of a temporary nature will be allowed on the lands without the approval of an authorized officer of the Bureau of Land Management during the segregation period of this proposed withdrawal.

All communications in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, P.O. Box 1828, Cheyenne, Wyoming 82003.

Dated: October 14, 1983.

F. Williams Eikriberry,
Associate State Director.

[FR Doc. 83-28786 Filed 10-21-83; 8:45 am]
BILLING CODE 4310-84-M

[M 57736]

Montana; Conveyance of Public Land

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Conveyance of Public Land in Choteau County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the following described land was conveyed to Talbot Corder:

Principal Meridian, Montana

T. 24 N., R. 8 E.,
Sec. 23, Tract III of Plat Number 53C and Reception Number 390060 of Block 19 of the Townsite of the Town of Fort Benton and part of Block "C" of the Reservation Addition to the Townsite of Fort Benton.

The area described contains 0.22 acre.

The purpose of this notice is to inform State and local governmental officials and other interested parties of the conveyance of the land to Talbot Corder.

Dated: October 17, 1983.

Edgar D. Stark,
Chief, Lands Adjudication Section.

[FR Doc. 83-28788 Filed 10-21-83; 8:45 am]
BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Mark Producing, Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4809, Block 161, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

Purpose

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans,* Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

Dated: October 14, 1983.

John L. Rankin,
Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-28844 Filed 10-21-83; 8:45 am]
BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3790, Block 136, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the

VOL
48
ISS
206
OC
24
1983
UMI

development and production of hydrocarbons with support activities to be conducted from an onshore base located at Dulac, Louisiana.

Purpose

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

FOR FURTHER INFORMATION CONTACT:
Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

Dated: October 18, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-28845 Filed 10-21-83; 8:45 am]
BILLING CODE 4310-MR-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, December 3, 1983, at 1:00 p.m. at the National Park Service Mather Training Center, Harpers Ferry, West Virginia.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Carrie Johnson, Chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Ms. Bonnie Troxell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Marjorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Matters to be discussed at this meeting include:

1. Old and new business;
2. Superintendent's report;
3. Park Land Protection Plan;
4. Committee Reports:

Plans and Projects Committee;
Recreation Policies and Issues Committee;
Resource Protection Committee; and
5. Public Comments.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: October 18, 1983.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 83-28829 Filed 10-21-83; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-167]

Import Investigations; Certain Single Handle Faucets

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 16, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Masco Corporation of Indiana, 55 East 111th Street, Indianapolis, Indiana 46280. A supplement was filed on October 7, 1983. The complaint and supplement allege unfair methods of competition and unfair acts in the importation of certain single handle faucets into the United States, or in their sale, by reason of alleged (1) common law trademark infringement by all proposed respondents; (2) false representation of manufacturing source by all proposed respondents; (3) palming off by all proposed respondents; (4) infringement of registered trademark No. 668,880 by proposed respondents Charles Laurel Co., Inc., Laurel International, Yi Fon Hygienic Fixture Co., Ltd., Strong Hardware Co., Ltd. and Noble General Trading Co., Ltd.; and (5) false advertising by proposed respondents Globe-Union Industrial Corporation, Charles Laurel Co., Inc., Laurel International and Yi Fon Hygienic Fixture Co., Ltd. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and grant all other necessary and proper relief.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on October 12, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain single handle faucets into the United States, or in their sale, by reason of alleged (1) common law trademark infringement by all proposed respondents; (2) false representation of manufacturing source by all proposed respondents; (3) palming off by all proposed respondents; (4) infringement of registered trademark No. 668,880 by proposed respondents Charles Laurel Co., Inc., Laurel International, Yi Fon Hygienic Fixture Co., Ltd., Strong Hardware Co., Ltd. and Noble General Trading Co., Ltd.; and (5) false advertising by proposed respondents Globe-Union Industrial Corporation, Charles Laurel Co., Inc., Laurel International and Yi Fon Hygienic Fixture Co. Ltd., the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Masco Corporation of Indiana, 55 East 111th Street, Indianapolis, Indiana 46280.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Globe-Union Industrial Corporation, 4th Floor, Room 3, No. 32 An Ho Road, Taipei, Taiwan
Yi Fon Hygienic Fixture Co., Ltd., P.O. Box 23-34, Taichung, Taichung 409, Taiwan
Strong Hardware Co., Ltd., P.O. Box 1121, Kaohsiung, Taiwan
Noble General Trading Co., Ltd., P.O. Box 1121, Kaohsiung, Taiwan
Charles Laurel Co., Inc., 5226 N. Tamiami Trail, Fort Myers, Florida 33903
Laurel International, 7887 Colonial Boulevard, Fort Myers, Florida 33907

(c) Deborah S. Strauss, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR § 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT:
Deborah S. Strauss, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-1233.

Issued: October 19, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-28871 Filed 10-21-83; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30293]

Norfolk and Western Railway Company-Trackage Rights-Consolidated Rail Corp.; Exemption

On September 20, 1983 Norfolk and Western Railway Company (N&W) filed a notice of exemption for a relocation project under 49 C.F.R. 1180.4(g). The notice involves the substitution of trackage rights over a 9.8-mile segment of Consolidated Rail Corporation (Conrail) track known as the Belt Line Branch between Buffalo and Black Rock, NY for a 9.6-mile segment Conrail track known as the Black Rock Branch between those same points. The substitution is part of Conrail's rationalization of its operations in and around Buffalo.[1]

the proposed transaction is an exempt transaction pursuant to 49 CFR 1180.2(d)(5). It is a joint project between N&W and Conrail involving relocation of a line of railroad. N&W, as in the prior trackage rights agreement is prohibited from performing local service at points along the involved Conrail line. The relocation will not disrupt any existing service to shippers or communities, particularly since use of the alternate route will not result in a diminution of N&W's control over its operations. Thus, it is an exempt transaction pursuant to 49 C.F.R. 1180.2(d)(5). *See Railriad Condolidation Procedures*, 366 I.C.C. 75, 94 (1982); and *Southern Pac. Transp. Co. & SSW Ry. C.-Exemption*, 363 I.C.C. 848, 851 (1981).

As a condition to the use of this exemption, any employees affected by the trackage rights shall be protected pursuant to *Norfolk & Western Ry. Co-Trackage Rights-BN*, 354 I.C.C. 650 (1978), as modified by *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653(1980).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28840 Filed 10-21-83; 8:45 am]
BILLING CODE 7035-01-M

[1] A separate decision will follow concerning the discontinuance of operations over the 9.6-mile segment.

VOL 48 ISS 206 OCT 24 1983 UMI

[Docket No. AB-55 (Sub-76)]

Seaboard System Railroad, Inc.—Abandonment—In Vance and Granville Counties, NC; Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc., to abandon its rail line known as the Henderson Subdivision of the Raleigh Division extending from milepost SB-114.50 near Henderson to milepost SB-139.00 near Creedmoor (including the connecting line of railroad from milepost SBA-124.0 near Dickerson to milepost SBA-126.9 near Oxford), a distance of 27.4 miles in Granville and Vance Counties, NC. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in boldface on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28841 Filed 10-21-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388; Sub-25]

Intrastate Rail Rate Authority; Ohio

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision; correction.

SUMMARY: At 48 FR 48537, October 19, 1983, the Commission extended the provisional certification of the Public Utilities Commission of Ohio under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, pending submission of standards and procedures and its modifications of Ohio statutes as noted in the full decision. The dates in that notice were incorrect. The correct dates appear below. Additional corrections are being made in the full decision which will be served again in its entirety and will be available from T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or by calling 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

DATES: The Public Utilities Commission of Ohio must submit proper standards and procedures and make necessary statutory amendments by December 20, 1983, or lose provisional certification. Railroads and other interested parties may file comments 30 days thereafter. Ohio will then have 20 days to reply.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

Decided: October 12, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor concurred in part and dissented in part with a separate expression. Commissioner Andre concurred in the result

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28930 Filed 10-21-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 347 (Sub. 1)]

Coal Rate Guidelines—Nationwide

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Extension of Comment Due Date for Draft Environmental Impace Statement.

SUMMARY: By letter dated October 12, 1983, the Environmental Protection Agency has informed the Commission that many of its regional offices received the draft environmental document for the subject proceeding only recently. Under the circumstances, we believe that an extension of the comment due date is appropriate. The comment due date for the draft environmental impact statement prepared for the subject proceeding, which was announced at 48 FR 39982, September 2, 1983, is extended from October 17, 1983, to November 14, 1983. Comments submitted on or before October 17, 1983, may be supplemented.

FOR FURTHER INFORMATION CONTACT: Carl Bausch at (202) 275-0800.

Decided: October 18, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28839 Filed 10-21-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Abex-Denison (USWA) et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 3, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 3, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 17th day of October 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Abex-Denison (USWA)	Delaware, Ohio	10/3/83	9/30/83	TA-W-15, 052	Hydraulic vane pumps & motors.
Canton Drop Forge, Plant A (Int'l Brotherhood of Boilermakers).	Canton, Ohio	10/7/83	10/3/83	TA-W-15, 053	Closed ie, hot steel forgings—parts for transporting industry.
Carr-Lowery Glass Co. (GPPAW)	Baltimore, MD	10/3/83	9/20/83	TA-W-15, 054	Glass bottles-toiltenes, cosmetic, pharmaceutical, etc.
Columbia River Lumber Corp. (IWA)	Longview, WA	10/12/83	10/7/83	TA-W-15, 055	Lumber for cedar fencing, fencing post, siding, interior & exterior pahelng.
Fostoria Glass Company (Amer. Flint Glass Union)	Moundville, WV	10/6/83	10/3/83	TA-W-15, 056	Automated glass ware.
Genstar Cement & Lime Co., Calaveras Cement Div. (LGAW).	San Andreas, CA	10/11/83	9/27/83	TA-W-15, 057	Portland cement.
Good Luck Glove Co., P.O.G. (ACTWU)	Georgienna, AL	10/5/83	9/30/83	TA-W-15, 058	Work gloves.
Ladish Company (Inter'l Brotherhood of Boilermakers)	Cudahy, Wis	10/4/83	9/29/83	TA-W-15, 059	Forgings & pipefitters.
Muirhead Northamerica, Inc. (wkrs)	Mountainside, NJ	10/11/83	9/15/83	TA-W-15, 060	Facimile equipment.
Philadelphia Steel & Wire Corp (Upholsters Inter'l Union of North Amer.).	Philadelphia, PA	10/4/83	9/30/83	TA-W-15, 061	Variety of steel products.
Ransburg Corp., Electrostatic Equipment Div. (workers)	Indianapolis, IN	10/12/83	9/30/83	TA-W-15, 062	Electrostatic spray painting equipment.
Western Electric Co., Inc. (IBEW)	Indianapolis, IN	10/5/83	9/29/83	TA-W-15, 063	Telephones & telephone apparatus.

[FR Doc. 83-28860 Filed 10-21-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Jeffrey Chain Operations, et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 10, 1983—October 14, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,371; Jeffrey Chain Operations, Dresser Industries, Morristown, TN

TA-W-14,514; Jessap Steel Co., Washington, PA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-13,822; General Motors Corp., Dayton, OH

TA-W-14,306; General Motors Corp., Flint, MI

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-14,133; Ford Motor Co., Detroit Industrial Engine Plant, Detroit, MI

Aggregate U.S. imports of internal combustion engines (not for automotive or aircraft use) did not increase as required for certification.

TA-W-14,118; Ford Motor Co., Tractor Operations Div., Highland Park Tractor, Highland Park, MI

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,120; Ford Motor Co., Tractor Operations Div., KC Supply Depot, Kansas City, MO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,121; Ford Motor Co., Tractor Operations Div., Dallas Supply Depot, Dallas, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,122; Ford Motor Co., Tractor Operations Div., Atlanta Supply Depot, Atlanta, GA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,123; Ford Motor Co., Tractor Operations Div., Memphis Supply Depot, Memphis, TN

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,124; Ford Motor Co., Tractor Operations Div., Detroit Supply Depot, Troy, MI

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,126; Ford Motor Co., Tractor Operations Div., Oakland Supply Depot, Oakland, CA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-14,419; Lake Shore, Inc., Marquette, MI

A certification was issued covering all workers separated on or after August 21, 1982.

TA-W-14,391; Tree Machine Tool Co., Inc., Racine, WI

A certification was issued covering all workers separated on or after April 1, 1982.

TA-W-14,119; Ford Motor Co., Tractor Operations Div., Romeo Tractor & Equipment, Romeo, MI

A certification was issued covering all workers separated on or after September 4, 1982.

TA-W-14,512; Clark Equipment Co., Industrial Truck Div., Battle Creek, MI

A certification was issued covering all workers separated on or after March 14, 1982.

VOL 48 ISS 206 OCT 24 1983 UMI

TA-W-14,441; Nedrick Shirt Manufacturing Co., Elizabethville, PA

A certification was issued covering all workers separated on or after February 27, 1982 and before November 29, 1982.

TA-W-14,454; X-L Manufacturing Co., Gordo, AL

A certification was issued covering all workers separated on or after February 15, 1982 and before January 1, 1983.

TA-W-14,498; Young Squire, Inc., Mount Olive, NC

A certification was issued covering all workers separated on or after January 1, 1983.

TA-W-14,632; Hulse Manufacturing Co., Geneva, NJ

A certification was issued covering all workers separated on or after April 29, 1982.

TA-W-14,299; General Motors Corp., Chevrolet Motor Div., Buffolo, NY

A certification was issued covering all workers separated on or after May 14, 1982 and before October 1, 1982.

TA-W-14,305; General Motors Corp., Chevrolet Motor Div., Flint, MI

A certification was issued covering all workers separated on or after May 14, 1982.

I hereby certify that the aforementioned determinations were issued during the period October 10, 1983—October 14, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 18, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-28868 Filed 10-21-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,999]

Park-Ohio Industries, Inc., Ohio Crankshaft Division, Cleveland, Ohio; Negative Determination on Reconsideration

On September 7, 1983, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Ohio Crankshaft Division of Park-Ohio Industries, Inc., Cleveland, Ohio. This determination was published in the **Federal Register** on September 13, 1983 (48 FR 41122).

Reconsideration was authorized to investigate allegations by the United Automobile Workers that Park-Ohio Industries lost bids to foreign crankshaft suppliers in 1982. The union also claimed that the demand for crankshafts produced at the Cleveland plant declined while its customers increased the amount of imported crankshafts.

The Department's original determination denied workers of the Ohio Crankshaft Division in Cleveland, eligibility to apply for trade adjustment assistance benefits. The findings showed that Ohio Crankshaft Division workers produce camshafts and crankshafts. The petition was denied because increased imports could not be substantiated as having contributed importantly to worker separations according to Section 222 of the Trade Act of 1974. The Department's original factfinding investigation did not take lost bids into account but only surveyed established customers who contract production annually.

In its reconsideration, the Department broadened the scope of its customer survey to include those customers to whom bids were lost. It was subsequently learned that orders obtained from new customers through the bidding process represented only a small proportion of Ohio Crankshaft Division sales in 1982. Further, the allegations concerning lost bids in 1982 to foreign crankshaft supplier could not be substantiated. There was no evidence of lost bids to foreign suppliers in 1982 or 1983 which would have affected worker separations at the Cleveland, Ohio plant. The Department's findings show that the one domestic firm mentioned in the application for reconsideration did not award crankshaft bids to any firms, foreign or domestic, in 1982. That firm did obtain bids on a large crankshaft machining order from several domestic and foreign firms including the subject firm but has not awarded the crankshaft machining order to any firm up to the time of reconsideration. Other bids lost by the subject firm in 1983 were to domestic firms.

In response to the claim that customers increased imports of crankshafts, the customer survey findings showed that only one respondent decreased purchases from Park-Ohio while increasing purchases of imported crankshafts in 1982 compared to 1981. The decline by that customer accounted for a small part of the crankshaft sales decline and an insignificant portion of overall sales decline. Such a small amount would not be sufficient to meet the "contributed importantly" test of the Act.

Conclusion

After reconsideration, I affirm the original denial of eligibility of workers and former workers of the Ohio Crankshaft Division of Park-Ohio Industries, Inc., Cleveland, Ohio to apply for adjustment assistance.

Signed at Washington, D.C. this October 14, 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 83-28869 Filed 10-21-83; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Wednesday, November 9, 1983 in Room S-4215 C, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, D.C.

The purpose of the meeting, which will begin at 9:30 a.m., is to consider Study Group reports on Forums sponsored by the Council in March, June and September, and to invite public comment thereon.

1. Advisory Council Study Group Reports: Fiduciary Liability Insurance, Social Investment, Pension Funds and Corporate Purposes.

2. Statements from the Public.

Members of the public are encouraged to file a written statement pertaining to the subjects to be considered by the Advisory Council by submitting 20 copies on or before Monday, November 7, 1983, to Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S-4522, Third and Constitution Avenue, NW., Washington, D.C. 20216

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523-8753.

Signed at Washington, D.C., this 19th day of October 1983.

John J. Walsh,

Deputy Assistant Secretary for Program Operations.

[FR Doc. 83-28854 Filed 10-21-83 8:45 am]

BILLIING CODE 4510-29-M

NORTHERN MARIANA ISLANDS COMMISSION ON FEDERAL LAWS

Meeting

The Northern Mariana Islands Commission on Federal Laws, established pursuant to Section 504 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94-241, 48 U.S.C. 1681 note), will meet on Tuesday, November 29, 1983, at 9:00 a.m., in the conference room of the Council on Foundations, Suite 1200, 1828 L Street, NW., Washington, D.C. The meeting may extend into the following day, at the same location.

The purpose of the Commission is "to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner."

The intended agenda for this meeting is a review of the Commission's work to date on its next report to Congress, and consideration of pending staff recommendations on the application of particular federal laws in the Northern Mariana Islands.

The meeting will be open to the public. Attendance by the public will be limited to space available.

For further information about this meeting contact Daniel H. MacMeekin, Executive Director, Northern Mariana Islands Commission on Federal Laws, Washington, D.C. 20240, (202) 343-5617.

Interested persons may make oral presentations to the Commission or file written statements with respect to particular federal laws. Persons desiring to make oral presentations should make arrangements with Mr. MacMeekin at least several days prior to the meeting.

Dated: October 12, 1983.

James A. Joseph,

Chair.

[FR Doc. 83-28852 Filed 10-21-83; 8:45 am]

BILLING CODE 4310-93-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on November 8 and 9, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will: (1) Continue the review of the joint NRC/B&W/EPRI integral test program; and (2) review selected NRC research programs for the ACRS Report to Congress on the FY 1985-1986 budget.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

Portions of the meeting may be closed to public attendance to ensure the security of information identified and supplied by a foreign government in confidence (SUNSHINE ACT EXEMPTION 4). In order to receive and consider this information, the ACRS must be able to engage in frank discussion with representatives of the NRC Staff. For the reason just stated, such a discussion would not be possible if held in public session.

The agenda for subject meeting shall be as follows:

Tuesday, November 8, 1983—8:30 a.m. until the conclusion of business

Wednesday, November 9, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of Babcock and Wilcox, the NRC Staff, their respective consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been calcelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to obtain information necessary in carrying out its statutory responsibilities. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: October 18, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-28855 Filed 10-21-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. C84-1]

Complaint of American Newspaper Publishers Association; Notice of Receipt of Complaint Pursuant to 39 U.S.C. § 3662

October 14, 1983.

On October 4, 1983, the American Newspaper Publishers Association filed a complaint pursuant to 39 U.S.C. 3662 that the rate charged by the United States Postal Service for third-class bulk regular-rate flats sent with detached address labels is contrary to the policies of Title 39. Further, complainant alleges that the Postal Service is failing to collect proper postage under the Domestic Mail Classification Schedule for detached address labels which contain advertising or other similar information.

Complainant requests that the Commission institute 39 U.S.C. 3624 proceedings to determine if its complaint is justified, and then recommend to the Governors of the Postal Service that the Domestic Mail Classification Schedule be amended to require address labels be affixed to third-class flats or that separate postage for detached labels be assessed.

Commission rule 84 requires that the Postal Service answer complaints within 30 days, in this case on or before November 3, 1983. The Commission will evaluate the complaint and answer in determining whether to initiate formal proceedings as requested in the complaint. In order to make this decision on the basis of all pertinent information, the Commission requests that interested persons who wish to express an opinion on whether the American Newspaper Publishers Association complaint does or does not raise issues which warrant further Commission consideration file comments comprehensively stating their point of view within 30 days of the publication of this notice. Interested persons may obtain copies of the

VOL
48
ISS
2
0
6
OC
24
1983
UMI

complaint, and the Postal Service answer when filed, from the Commission Docket Room, 2000 L Street, NW., Washington, D.C. 20268. Anyone providing comments will be added to the mailing list in this docket, and given notice of further Commission procedural actions.

Charles L. Clapp,

Secretary.

[FR Doc. 83-28830 Filed 10-21-83; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20300]

Correspondence Regarding a Change in the Low Speed Consolidated Tape Ticker

October 18, 1983.

The Securities and Exchange Commission is publishing a letter received from the Consolidated Tape Association ("CTA") describing a proposed change in the operation of the low speed consolidated tape ticker. The consolidated tape ticker line provides customers a stream of transaction prices as trades take place in listed securities on exchanges or in the over-the-counter market. At present, the ticker line includes a "Repeat Prices Omitted" display mode designed to reduce delays in the tape during heavy volume conditions. This existing mode deletes reports of transactions at the same price as the previous transaction for trades of up to 5,000 shares when the tape is running late by a specified amount. The CTA intends to expand this mode by the addition of a new mode that would delete reports of transactions of a ⅛ point from the proceeding transaction in the stock when heavy volume conditions occur. This "Minimum Price Change Omitted" mode is described in the CTA letter, below.

The Commission invites comment on the proposed display mode described below. Interested persons are invited to submit comments concerning the letter within 21 days from the date of publication in the **Federal Register**. Persons desiring to submit comments should file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. All communications should refer to File No. S7-433.

The text of the CTA letter is as follows:

September 30, 1983.

Mr. Mark Fitterman,

Deputy Associate Director, Securities and Exchange Commission,

450 Fifth Street, NW., Washington, D.C. 20549

Dear Mark: As you know, CTA approved a new ticker delete mode at its February 23, 1983 meeting. Since that time, I understand that the Commission staff and the Exchange staff have concluded that the most appropriate way to advise the Commission of this change would be a letter explaining why it is being done and how it will operate. The purpose of this letter is to fulfill that understanding.

In order to combat tape lateness during period of heavy trading activity, the present *Repeat Prices Omitted* mode will be expanded by the addition of new mode, *Minimum Price Changes Omitted*. This new mode will extend the practice of not printing repeat trades at the same price to not printing a trade unless it is more than ⅛ of a point from the preceding tape print. In the case of issues trading in smaller fractions than ⅛ (1/16 or 1/32), the actual trading fraction will be the determinant. Trades in excess of the volume delete level (usually 5,000 shares) and trades establishing openings or new daily highs or lows will not be affected by the new mode, and such trades will continue to be printed on the ticker.

The *Minimum Price Changes Omitted* mode will be activated at some predetermined amount of tape lateness. The actual amount of lateness to be used initially (probably in the range of 5–10 minutes) will be announced later and adjusted as experience may dictate.

It should be noted that vendor interrogation devices will contain complete up-to-the-minute information at all times since they access data supplied by Consolidated Tape and Consolidated Quote High Speed Lines, which are current even when the tape is later or subject to deletion procedures.

As we approach cutover for the new delete mode, presently scheduled for some time in February, 1984, announcement of the exact date will be made on the tape.

Should you have any questions, please do not hesitate to call either Carl Bolton or myself.

Sincerely yours,

Samuel A. Alward,

Chairman, Consolidated Tape Association.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28882 Filed 10-21-83; 8:45 am]
BILLING CODE 8010-01-M

[1] *See* Pub. L. No. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1); 17 CFR 200.30-3(a)(27).

[SR-Amex-82-26; Release No. 20295]

American Stock Exchange, Inc.; Amended Filing and Order Granting Accelerated Approval of Amended Proposed Rule Change

October 17, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 7, 1983, the American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, NY 10006, filed with the Securities and Exchange Commission a proposed rule change, with an amendment on October 6, 1983, as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would revise the Amex rules concerning account openings as well as those rules concerning communications to customers or to the general public. In brief, the amended rule change proposal will (1) substitute references to Options Disclosure Documents for rule references to the prospectus of the Options Clearing Corporation ("OCC") where appropriate to conform Amex rules to the simplified options disclosure system adopted by the Commission in 1982; (2) add to the rules a definition of educational materials limiting them to general explanatory materials concerning options and options strategies; (3) require such educational materials to meet the standards of content set out in Rule 134a under the Securities Act of 1933 and to meet the general standards of accuracy and balance set out in Amex's rule; and (4) require that educational materials, like advertisements, be submitted for review and approval to both the Amex and the member firm's Compliance Registered Options Principal ("CROP") prior to their dissemination.

Amex states that the purpose of the rule change proposal, besides conforming the language and requirements of its rules to the simplified options disclosure system, is to facilitiate the dissemination of educational materials meeting the standards of the Commission's Rule 134a and not, therefore, requiring an accompanying delivery of Options Disclosure Documents or OCC prospectuses. Because educational materials, like advertisements, may be disseminated in the absence of disclosure documents, they will also be required under the amended rule change proposal to be submitted for prior

review by both the exchange and the firm's CROP.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-Amex-82-26.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the Principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that similar rules for other self-regulatory organizations have previously been proposed, published for comment, considerd by the Commission and approved.[1] Because the current rule proposal raises no new issues, and to avoid confusion to Amex members while Amex rules are brought into alignment with those of the Commission and of other self-regulatory organizations, accelerated approval is appropriate.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28875 Filed 10-21-83; 8:45 am]
BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release Nos. 19156 (October 19, 1982), 47 FR 49125 (October 29, 1982) (SR-CBOE-82-14, SR-Amex-82-13, SR-Phlx-82-11); 19309 (December 8, 1982), 47 FR 56235 (December 15, 1982) (SR-CBOE-82-9); 19325 (December 10, 1982), 47 FR 56782 (December 20, 1982) (SR-Phlx-82-13); *see also* Securities Exchange Act Release No. 20038 (August 2, 1983), 48 FR 36237 (August 9, 1983) (SR-NASD-83-16).

[Release No. 13584, 812-5661]

Anchor National Life Insurance Company, et al.; Application

October 18, 1983.

Notice is hereby given that Anchor National Life Insurance Company ("Anchor National") Camelback at 22nd Street, Phoenix, Arizona, 85016, and American Pathway II Separate Account (registered under the Investment Company Act of 1940 ("Act") as a unit investment trust and established by Acacia in connection with the proposed issuance of cetain variable annuity contracts) ("Account") (collectively, "Applicants") filed an application on September 28, 1983, for an order pursuant to section 6(c) of the Act granting exemptions from the provisions of sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant provisions.

Applicants request relief from sections 26(a) and 27(c)(2) to the extent necessary to permit the Account or Anchor National, as appropriate: (1) to hold its own assets and to hold such assets not in trust; (2) to hold shares of underlying funds in open accounts in lieu of actual share certificates; (3) to deduct a mortality, expense, and distribution risk charge at the rate of 1.30% annually (.80% for mortality risks, .35% for expense risks, and .15% for distribution expense risks); (4) to deduct an annual administrative fee of $30 per contract, which will not increase; and (5) to deduct premium taxes.

With respect to (1) and (2) above, Applicants represent that Anchor National is subject to extensive supervision and control by state insurance regulatory officials. With respect to (4) above, Applicants represent that the level of the administrative fee is equal to the actual cost of the services provided and that they do not expect to profit therefrom.

With respect to (5) above, Applicants represent that the deductions will represent actual expense incurred. With respect to (3) above, Applicants represent that the charge is reasonable in amount as determined by industry practice with respect to comparable annuity products. This representation is based upon Applicants' analysis of publicly available information about similar products and the basis for this representation will be maintained at Anchor National's home office and will be available to the Commission. Anchor National represents that it has determined that the distribution financing arrangement has a reasonable likelihood of benefiting the Account and contractowners. Applicants further represent that the Account will invest only in funds which undertake to have a board of directors with a disinterested majority of directors formulate and approve any plan under rule 12b-1 to finance distribution expenses.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 10, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28880 Filed 10-21-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 23090; 70-6906]

Middle South Utilities, Inc. and Middle South Energy, Inc.; Proposed Common Stock Sales to Parent Holding Co.

October 17, 1983.

Middle South Utilities, Inc. ("MSU"), a registered holding company, and Middle South Energy, Inc. ("MSE"), 225 Baronne

VOL
48
ISS
2
0
6
OC
24
1983
UMI

Street, New Orleans, Louisiana 70112, a wholly-owned subsidiary of MSU, have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), 10, and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 43 promulgated under the Act.

MSE is authorized by its articles of incorporation to issue up to 1 million shares of common stock, no par value. By order dated November 29, 1982 (HCAR No. 22744), the Commission authorized MSE to issue and sell up to 75,000 shares to MSU through December 31, 1983, at a price of $1,000 per share. As of September 30, 1983, 40,000 shares had been issued, raising to 643,600 the total number of shares sold by MSE to MSU.

The companies now state that, based upon MSE's revised estimate of cash requirements, in addition to the 35,000 authorized shares yet to be sold, MSE may need to sell an additional 25,000 shares (at $1,000 per share) to MSU through December 31, 1984. The proceeds of such sales will be applied to costs incurred by MSE in the construction of its Grand Gulf nuclear-fired generating facility in Mississippi. Sales will be timed to coincide with MSE's cash needs with respect to the Grand Gulf project.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 10, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing and will receive a copy of any notice or order issued. After said date, the application-declaration, as then amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28678 Filed 10-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20294; SR-CBOE-83-4]

Chicago Board Options Exchange, Inc.; Filing of Amendment and Order Granting Accelerated Approval of Amended Proposed Rule Change

October 17, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 7, October 14, and October 17, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL, 60604, filed with the Securities and Exchange Commission amendments to a proposed rule change originally submitted on May 16, 1983, and noticed in Securities Exchange Act Release No. 19844 (June 3, 1983), 48 FR 26936 (June 10, 1983). The proposed rule change, as amended, is described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

As amended, the proposed rule change grants to certain combined stock/option orders bid or offered at a net credit or debit the same priority as is enjoyed by spread, straddle and combination orders over bids or offers in the trading crowd for the option component of the order. This priority will not extend, however, over bids or offers of the Board Broker or Order Book Official. Stock/option orders eligible for this priority would include orders to buy or sell a stated number of units of an underlying or a related security coupled with either (a) the purchase or sale of option contract(s) of the same series on the opposite side of the market representating the same number of units of the underlying or related security or (b) the purchase and sale of an equal number of put and call option contracts, each having the same exercise price, expiration date and number of units of the underlying or related security, on the opposite side of the market representing in aggregate twice the number of units of the underlying or related security.

The new procedure will prevent execution of the stock/option order from being blocked by the priority of an option bid or offer that satisfies, at no better price, only one component of the order. At the same time, in order to prevent exessive loss of priority for public customer orders on the limit order book (such orders are restricted to options orders only), the proposed new priority was limited, in the CBOE's amendment, to priority over the trading crowd.

The facilitation rule would require that market participants be informed of all of the securities involved in a public customer order, but not of its specific terms (e.g., whether the customer wishes to buy or sell the securities) nor of its being subject to facilitation, prior to the request for bids and offers. CBOE believes this procedure yields more favorable quotations. Specific term disclosure and identification of the order as being subject to facilitation will occur after quotations are received; the customer order then is bid or offered either above the highest bid or below the lowest offer made. Thereafter, market participants are given an opportunity to accept the bid or offer of the public customer order, and finally the order, or any remaining portion of it, may be crossed by the floor broker holding it with a member organization order, and the public customer order will have prescedence to trade immediately with that member organization's facilitating order.[1]

Provision is also made in an interpretation for adding stock/option orders, as described above, to spreads, straddles and combination orders in the list of orders that may be facilitated by the above procedure.

Related transactions that must be made in another market will be required to be effected prior to execution of the options transaction, in order to prevent stock prices from being set on the CBOE.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-CBOE-83-4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the

[1] A similar facilitation order rule was approved for the American Stock Exchange, Inc., in Securities Exchange Act Release No. 19711 (April 27, 1983), 48 FR 20186 (May 4, 1983).

above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the amended proposed rule change prior to the thirtieth day after the date of publication of notice of the amendments thereto in that the terms of the original proposed rule change, and hence a description of the subjects and issues it raises, have been available for public comment for several months. The terms of the facilitation portion of the filing are intended, in large part, to conform CBOE's facilitation procedures to those set forth in the rules of the American Stock Exchange. Moreover, the amended priority rule for stock/option orders is a modified version of the change proposed in May 1983, raising no new issues but rather eliminating one by deleting that portion of the initial rule change proposal that would have given stock/option orders priority over the limit order book as well as over orders in the trading crowd. Since the amended rule change proposal conforms to the requirements of the Act, and ample time has been allowed for public and Commission consideration of the issues it raises, no further delay in its approval is necessary.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28679 Filed 10-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20305; File No. SR-NYSE-83-49]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Consisting of Procedures for the Pricing of Standard Odd-lot Market Orders in AT&T and the Equity Issues Created as a Result of the Divestiture

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 17, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of procedures regarding the pricing of standard odd-lot market orders [1] in AT&T and the equity issues creatd as a result of the AT&T diverstiture.[2] Such procedures are proposed to be implemented on a nine-month pilot basis on the Exchange, which is anticipated to be mid-November, 1983. These procedures are intended as "interim rules" for the operation of the pilot and would supersede any other rule inconsistent therewith.

The key aspects of the procedures are:

(i) Standard odd-lot market orders to purchase or sell shares of AT&T and the equity issues created as a result of the divestiture which are received prior to the opening of trading will be processed through the Exchange's Opening Automated Report Service ("OARS") and executed at the opening price. No odd-lot differential will be charged on these orders.

(ii) Standard odd-lot market orders which are received after the opening will be routed to the Exchange's Designated order Turnaround ("DOT") System. Execution prices will be based on the prevailing New York stock Exchange ("NYSE") quotation in the stock in which the order is entered at the time the order reaches the system, i.e. buy orders will be executed on the best NYSE offer and sell orders will be executed on the best NYSE bid. No odd-lot differential will be charged on these orders.

(iii) In instances in which NYSE quotation information is not available (e.g., when the quotation is in a "non-firm" mode) standard odd-lot market orders will be executed via DOT on the last NYSE round-lot sale. No odd-lot differential will be charged on these orders.

(iv) After a trading halt in any of the issues included in the pilot, the specialist should reinstate OARS prior to resuming trading. Standard odd-lot market orders received after the halt and prior to the resumption of trading in such cases will be executed at the price at which trading resumes without an odd-lot differential.

(v) In the event of DOT System failure, standard odd-lot market orders in the AT&T issues may be routed to the Exchange's Automatic Pricing and Reporting Service ("APARS"). They will be executed at the price of the next round-lot sale which occurs after the order is received, plus or minus any differential, as per present odd-lot pricing procedures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*

The purpose of the proposed rule change is to provide a system for the execution, processing and reporting of standard odd-lot market orders to purchase or sell shares in AT&T and the equity issues created as a result of divestiture. The Exchange is filing the procedures proposed herein to process such orders when those issues start trading on the Exchange in mid-November, 1983.

The procedures proposed herein are intended as "rules" and therefore constitute a "proposed rule change" within the meaning of SEC Rule 19b-4. If approved by the Commission, they would supersede any existing rules of the Exchange inconsistent therewith, including Rule 124(A).

[1] Odd-lot orders are orders to purchase or sell a security in an amount less than the unit of trading. For purposes of the application of the proposed procedures, "standard" odd-lot market orders are odd-lot orders to purchase, sell or sell short exempt "at the market", which contain no qualifying notations. Descriptions of such qualifying notations are noted in Rule 124(B).

[2] Specifically, the following issues will be affected by the proposed procedures: American Information Technologies Corporation, American Telephone & Telegraph Co., Bell Atlantic Corporation, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group, Southwestern Bell Corporation and U S West, Inc. American Telephone & Telepraph Co. will trade both on a "regular way" and "when issued-exdistribution" basis until the "when issued" period is over. After such period, it will only trade "regular way."

VOL 48 ISS 206 OCT 24 1983 UMI

In view of the projected increase in odd-lot order traffic which is expected as a result of the AT&T divestiture, the Exchange is taking special precautions to ensure maximum capacity for odd-lot order processing. These precautions include expanding the capacity of APARS, the system presently used for the pricing and reporting of all odd-lot orders executed on the Exchange. APARS has been expanded to process limit, stop, and "non-standard" market orders in the AT&T divestiture issues. In addition, the Exchange plans to "off-load" standard odd-lot market order traffic in these issues to the DOT System.

However, processing such odd-lot market orders through DOT requires a change in the way such orders are currently priced, as specified in NYSE Rule 124(A). Currently, standard odd-lot market orders are executed at a price based on the next NYSE round-lot sale after the order has been received in the system and a differential may be charged on such orders.[3] This pricing algorithm is not available in the DOT System. DOT has two available pricing algorithms: current NYSE quotation and last NYSE sale. The Exchange has chosen the current NYSE quotation on which to base the pricing of post-opening standard odd-lot market orders in the AT&T divestiture issues because it believes that this method will be more competitive and efficient than the alternative of using the last sale pricing method. Specifically, this method is more compatible with the way off-Board market-makers price odd-lot market orders, which is based on the composite quotation. In view of the anticipated large public participation and volume in the AT&T issues, it is expected that markets will be narrow, with no material differences between the composite and NYSE quotations. In addition, narrow quotation spreads may be the basis for better execution prices for the public investor than would basing the execution price on NYSE last sale.

As noted in previous Exchange filings approved by the Commission,[4] the DOT System does not support the charging of commissions or other charges on orders entered through the system. Moreover, the addition of such a charge is foreign to any pricing algorithm available in DOT. Therefore, it will not be possible for any differential to be imposed on standard odd-lot market orders in the AT&T issues.

The proposed procedures also provide that standard odd-lot market orders in these issues which are received prior to the opening of trading will be processed through OARS and executed at the opening price, with no differential. It should be noted that such orders will be appended in the OARS status messages and odd-lot executions which occur both at the opening and during the day will become part of the specialists' normal position alarms. (Position alarms advise the specialist when he is long or short a predetermined round-lot amount (e.g. 100 shares) as a result of trading activity in his capacity as on odd-lot dealer. the round-lot amount of the position alarm is determined by each specialist).

During the nine-month duration of the pilot, the Exchange will monitor the activity in the AT&T divestiture issues, especially with respect to the effect which the procedures described herein have on the pricing of odd-lots. Prior to the expiration of the nine-month period, the Exchange expects either to submit a formal codification of the procedures, revised as appropriate based on the Exchange's experience with the pilot, or to request an extension of the time period for the pilot pending further study and evaluation. The Exchange may also terminate the experiment at any time.

The Exchange views the nine-month period as a valuable chance to study the results of the pilot pricing system under actual market conditions both during the when-issued period, when projections indicate that the volume of trading in the AT&T divestiture issues will be particularly heavy, and after the when-issued period is over.

(2) *Statutory Basis for the Proposed Rule Change*

The proposed rule change addresses the necessary systems modifications needed to process the increased volume of odd-lot traffic which is expected when trading commences in the AT&T divestiture issues. It is designed to provide more efficient executions and reporting of the odd-lot orders which are included in the pilot. It will also provide for efficient clearance and settlement of these transactions. Implementation of the pilot will be consistent with those provisions of the Securities Exchange Act of 1934 (the "Act") which encourage the use of new data processing and communications techniques which create the opportunity for more efficient and effective market operations. It will also advance the prompt and accurate clearance and settlement of securities transactions. See Sections 11A(a)(1) and 17A(a)(1) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change is necessary to accommodate the increase in odd-lot order traffic which is expected as a result of the AT&T divestiture. Thus, the proposed rule change is in the interest of the public and the member firm community. Even if the proposal imposes a burden on competition, the Exchange believes the relative benefits will provide to investors far outweigh any such burden.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited written comments on this rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the

[3] Note that Rule 124(A) does not indicate that a differential must be charged on odd-lot orders. Rather, the decision as to whether a differential may be charged and the amount of any differential is left up to the specialist.

[4] See filings SR-NYSE-82-14 and SR-NYSE-83-20 which discuss the Exchange's Registered Representative Rapid Response ("R4") Experiment and enhancements to the DOT System, respectively

Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the day of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 19, 1983

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28874 Filed 10-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20276; File No. SR-NYSE-83-46]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 30, 1983 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend NYSE Rule 104.15 to delete the restriction that a member will be permitted to register as a relief specialist for only one particular specialist or specialist group.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*

Exchange Rule 104.15 currently provides that a member may register as a relief specialist for only one particular specialist or specialist group. The Exchange notes that this restriction was adopted in a different market environment from that now existing and the Exchange is concerned that peaks in volume in today's markets may occasionally create temporary manpower shortages in some specialist units. The Exchange believes that the best way to ensure that specialist units have adequate coverage in the event of an unusual market situation is for every unit to have a registered relief arrangement with another specialist unit. In the Exchange's view, large, well-capitalized specialist units are the units most capable of providing relief arrangements, and should be permitted to enter into relief arrangements with more than one other specialist unit. Thus, the Exchange is proposing to delete the restriction in Rule 104.15 that a specialist can enter into relief arrangements with only one other specialist or specialist unit.

The Exchange emphasizes that while relief arrangements will be viewed as necessary for unusual market situations or in situations where the regular specialist is absent, such arrangements will not be viewed as a substitute for specialist units to have adequate manpower within their own units during normal periods. Should this rule change be approved, the Exchange, through its Market Performance Committee, intends to monitor all relief arrangements to ensure that adequate relief arrangements are made by all specialist units, and that no one specialist unit has over-extended itself in entering into relief arrangements.

(2) *Statutory Basis*

By facilitating specialist units entering into relief arrangement with other specialist units, thereby ensuring that adequate manpower levels are maintained under unusual market conditions, the proposed rule change can be expected to "perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest," as called for in Section 6(b)(5) of the Securities Exchange Act. The proposed rule change can also be expected to facilitate the maintenance of fair and orderly markets, as called for in Section 11A(a)(1)(C) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

VOL 48 ISS 206 OCT 24 1983 UMI

Dated: October 13, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28881 Filed 10-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20296; SR-Phlx-83-13]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

October 17, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 12, 1983, the Philadelphia Stock Exchange; Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA. 19103, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would reduce the minimum exercise price interval for Canadian dollar option contracts from two cents to one cent. The Phlx believes that a lack of volatility in the underlying currency indicates a need for narrower intervals to attract trading interest in the option.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-Phlx-83-13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for aproving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the proposal is technical and non-controversial in nature and in that the Phlx is providing at least a week's advance notice to its members to allow them to prepare for this change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28877 Filed 10-21-83; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 18, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Crutcher Resources Corporation
Common Stock, $1 Par Value (File No. 7-7154)
Best Products Co., Inc.
Common Stock, $1 Par Value (File No. 7-7155)
Chicago & North Western Transportation Co.
Class A Common Stock, $.28 Par Value (File No. 7-7156)
Cluett, Peabody & Co., Inc.
Common Stock, $1.08 ⅓ Par Value (File No. 7-7157)
Deluxe Check Printers, Inc.
Common Stock, $1 Par Value (File No. 7-7158)
Donnelley (R.R.) & Sons Company
Common Stock, $1 Par Value (File No. 7-7159)
Dover Corporation
Common Stock, $1.25 Par Value (File No. 7-7160)
Fisher Foods, Inc.
Common Stock, No Par Value (File No. 7-7161)
Gelco Corporation
Common Stock, $.50 Par Value (File No. 7-7162)
General Host Corporation
Common Stock, $1 Par Value (File No. 7-7163)
Genesco Incorporated
Common Stock, $1 Par Value (File No. 7-7164)
Gibralter Financial Corporation of California
Capital Stock, $1 Par Value (File No. 7-7165)
Golden West Financial Corporation
Common Stock, $.10 Par Value (File No. 7-7166)
Jewel Companies, Inc.
Common Stock, $1 Par Value (File No. 7-7167)
Kaufman and Broad, Inc.
Common Stock, $1 Par Value (File No. 7-7168)
KN Energy, Inc.
Common Stock, $5 Par Value (File No. 7-7169)
Lowe's Companies, Inc.
Common Stock, $.50 Par Value (File No. 7-7170)
Melville Corporation
Common Stock, $1 Par Value (File No. 7-7171)
Parsons Corporation (The)
Common Stock, $1 Par Value (File No. 7-7172)
Payless Cashways, Inc.
Common Stock, $.50 Par Value (File No. 7-7173)
Petrie Stores Corporation
Common Stock, $1 Par Value (File No. 7-7174)
PHH Group, Inc.
Common Stock, No Par Value (File No. 7-7175)
Pneumo Corporation
Common Stock, $1 Par Value (File No. 7-7176)
Revco D.S., Incorporated
Common Stock, $1 Par Value (File No. 7-7177)
Rite Aid Corporation
Common Stock, $1 Par Value (File No. 7-7178)
Rollins, Inc.
Common Stock, $1 Par Value (File No. 7-7179)
Ryan Homes, Inc.
Common Stock, No Par Value (File No. 7-7180)
Southland Corporation (The)
Common Stock, $.01 Par Value (File No. 7-7181)
Super Value Stores, Inc.
Common Stock, $1 Par Value (File No. 7-7182)
Supermarkets General Corp.
Common Stock, $1 Par Value (File No. 7-7183)
Sysco Corporation
Common Stock, $1 Par Value (File No. 7-7184)
Walgreen Co.
Common Stock, $1.25 Par Value (File No. 7-7185)
Zayre Corp.
Common Stock, $1 Par Value (File No. 7-7186)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 8, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washinton, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28876 Filed 10-21-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2105; Amdt. No. 1]

Arizona; Declaration of Disaster Loan Area

The above numbered declaration (48 FR 46907) is amended in accordance with the President's declaration of October 5, 1983, to include Cochise County in the State of Arizona as a result of damage from severe storms and flooding beginning on or about October 5, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on December 5, 1983, and for economic injury until the close of business on July 5, 1984.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 13, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 83-28883 Filed 10-21-83; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council, Maine; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine, will hold a public meeting at 12:00 noon on Monday, November 14, 1983, at the Senator Inn, Outer Western Avenue, Augusta, Maine, to discuss such matters as may be presented by members, staff of the U.S Small Business Administration, or others present.

For further information, write or call Tom McGillicuddy, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine 04330, (207) 622-8382.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 18, 1983.

[FR Doc. 83-28887 Filed 10-21-83; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council, Virginia; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting at 12:00 Noon, Monday, November 14, 1983 through Noon, on Tuesday, November 15, 1983 at the Sheraton—Red Lion Inn, Blacksburg, Virginia, by members and the staff of the Small Business Administration or others attending.

For further information, write or call M. Hawley Smith, District Director, U.S. Small Business Administration P.O. Box 10126, Richmond, Virginia 23240, (804) 771-2741.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 18, 1983.

[FR Doc. 83-28886 Filed 10-21-83; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council, Kentucky; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Kentucky, will hold a public meeting at 9:30 a.m., Thursday, November 10, 1983, at the Louisville District Office, 600 Federal Place, Room 188, Louisville, Kentucky, to discuss such matters as may be presented by members, and the staff of the U.S. Small Business Administration, or others present.

For further information, write or call B. R. Wells, District Director, U.S. Small Business Administration P.O. Box 3517, Louisville, KY 40201, (502) 582-5971.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 18, 1983.

[FR Doc. 83-28885 Filed 10-21-83; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council, Washington; Public Meeting; Correction

The Small Business Administration Region X Advisory Council, located in the geographical area of Seattle, has cancelled its public meeting for 9:30 a.m., Friday, November 18, 1983 (48 FR 48465, October 12, 1983), at the Federal Building, 915 Second Avenue, Room 2866, Seattle, Washington, and rescheduled for 9:30 a.m., Thursday, November 17, 1983, at the Board Room, Suite 3300, One Union Square Building, 600 University Street, Seattle, Washington 98101, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John J. Talerico, District Director, U.S. Small Business Administration, 1792 Federal Building, 915 Second Avenue, Seattle, Washington 98174, (206) 442-2786.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 18, 1983.

[FR Doc. 83-28884 Filed 10-21-83; 8:45 am]

BILLING CODE 8025-01-M

VOL
48
ISS
206
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Sunshine Act Meetings

Federal Register
Vol. 48, No. 206
Monday, October 24, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1
Federal Energy Regulatory Commission	2
Federal Maritime Commission	3
International Trade Commission	4

1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Thursday, October 27, 1983.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information: call 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207; 301-492-6800.

[S-1490-83 Filed 10-20-83; 3:50 pm]

BILLING CODE 6355-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION

October 19, 1983.

TIME AND DATE: 10 a.m., October 26, 1983.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—779th Meeting, October 26, 1983, Regular Meeting (10 a.m.)

CAP-1. Project No. 6740-000, Northwest Resources Generating Co.
CAP-2. Project No. 6718-000, Northwest Resources Generating Co.
CAP-3. Project No. 6720-001, Northwest Resources Generating Co.
CAP-4. Project No. 6721-000, Northwest Resources Generating Co.
CAP-5. Project No. 6722-001, Northwest Resources Generating Co.
CAP-6. Project No. 6723-000, Northwest Resources Generating Co.
CAP-7. Project No. 6738-000, Northwest Resources Generating Co.
CAP-8. Project No. 6739-000, Northwest Resources Generating Co.
CAP-9. Project No. 7052-000, City of Portland, Oregon
CAP-10. Project No. 7223-000, STS Consultants
CAP-11. Project No. 6677-000, Intermountain West, Inc.
CAP-12. Project No. 6470-001, Winooski Hydroelectric Co.
CAP-13. Project No. 3133-002, Public Service Co. of New Hamsphire and Union Water-Power Co.
CAP-14. Project No. 6399-001, Green Mountain Power Corp.
CAP-15. Project No. 7182-001, Gerald L. and Lois R. Simms
CAP-16. Project Nos. 2840-003, 2849-001 and 3295-000, East Columbia Basin Irrigation District, Quincy-Columbia Basin Irrigation District and South Columbia Basin Irrigation District
CAP-17. Project Nos. 349-000, and 2408-000, Alabama Power Co.
CAP-18. Project No. 2892-002, Friant Power Authority
CAP-19. Project No. 2947-002, Central Vermont Public Service Corp.
CAP-20. Omitted
CAP-21. Project No. 6477-001, Western Hydro Electric, Inc.
CAP-22. Project No. 1651-003, Lower Valley Power & Light, Inc.
CAP-23. Project No. 2909-001, Town of Vidalia, Louisiana
CAP-24. Docket No. ER83-652-000, Niagara Mohawk Power Corp.
CAP-25. Docket No. ER83-728-000, Boston Edison Co.
CAP-26. Docket Nos. ER83-728-000 and ER83-396-000, Northern Indiana Public Service Co.
CAP-27. Docket No. ER83-622-001, Western Massachusetts Electric Co.
CAP-28. Docket Nos. ER81-179-008, 009, 010 and 011 (Phase I), Arizona Public Service Co.
CAP-29. Docket No. ER82-318-000, Philadelphia Electric Power Co., the Susquehanna Electric Co. and the Susquehanna Power Co.
CAP-30. Docket No. ER82-257-000, Kansas Gas & Electric Co.
CAP-31. Omitted
CAP-32. Docket No. ER84-6-000, Pacific Gas & Electric Co.
CAP-33. Docket Nos. ER81-267-000 and ER81-341-000, Kentucky Utilities Co.
CAP-34. Docket No. ER82-701-000, Florida Power Corp.
CAP-35. Docket Nos. ER81-736-002, ER83-192-001 and ER83-248-002 (Phase I), Central Illinois Public Service Co.
CAP-36. Docket No. EL83-29-000, the Town of Highlands, North Carolina, Haywood Electric Membership Corp., and North Carolina Electric Membership Corp.
CAP-37. Docket No. QF83-261-000, Riverbay Corp.

Consent Miscellaneous Agenda

CAM-1. Docket No. RM79-76-158 (Texas—28), high-cost produced from tight formations
CAM-2. Docket No. GP82-15-000, State of Kentucky, Section 108 NGPA determination, Ashland Exploration, Inc., D.C. Polley No. 1 Well, FERC No. JD80-02663; Docket No. GP82-16-000, State of West Virginia, Section 108 NGPA determination, Ashland Exploration, Inc., Eastern Gas & Fuel No. 48 Well, FERC NO. JD81-45358; Docket No. GP82-17-000, State of West Virginia, Section 108 NGPA determination, Ashland Exploration, Inc., Eastern Gas & Fuel No. 36 Well, FERC No. JD81-47136
CAM-3. Docket No. GP83-4-000, State of New Mexico, Section 108 NGPA determination, Warren Petroleum Co., a Division of Gulf Oil Corp., R. E. Cole (NCT-A) No. 5 Well, FERC No. JD82-47290
CAM-4. Docket No. RA83-11-000, Dow Chemical U.S.A.; Docket No. RA83-13-000, Texas City Refining, Inc.
CAM-5. Docket No. RO81-60-000, Inexco Oil Co.
CAM-6. Docket Nos. RO81-62-000 and RA81-48-000 (Consolidated), Henry Petroleum Corp.
CAM-7. Docket No. RO83-2-001, Tom O'Neal d.b.a. O'Neal Service Center

Consent Gas Agenda

CAG-1. Docket No. RP83-100-004, El Paso Natural Gas Co.
CAG-2. Docket No. TA83-2-22-004 (PGA83-2, IPR83-2 and AP83-2) and RP83-126-002, Consolidated Gas Supply Corp.
CAG-3. Docket No. RP83-137-000, Transcontinental Gas Pipe Line Corp.
CAG-4. Docket No. RP83-138-000, Distrigas of Massachusetts Corp.
CAG-5. Docket No. RP83-139-000, El Paso Natural Gas Co.

CAG-6. Docket No. RP83-140-000, Michigan Wisconsin Pipe Line Co.
CAG-7. Docket No. TA84-1-29-000 (PGA84-1), Transcontinental Gas Pipe Line Corp.
CAG-8. Docket No. TA84-1-45-000 (PGA84-1), Inter-City Minnesota Pipelines Ltd., Inc.
CAG-9. Docket No. TA84-1-46-000 (PGA84-1), Kentucky West Virginia Gas Co.
CAG-10. Docket No. TA84-1-47-000 (PGA84-1), MIGC, Inc.
CAG-11. Docket No. TA84-1-49-000 (PGA84-1), Montana Dakota Utilities Co.
CAG-12. Docket No. TA84-1-50-000 (PGA84-1), Valley Gas Transmission, Inc.
CAG-13. Docket No. TA84-1-51-000 (PGA84-1), Great Lakes Gas Transmission Corp.
CAG-14. Docket No. RP81-38-006, Tennessee Gas Pipeline Co.
CAG-15. Docket No. RP83-39-000, Tennessee Natural Gas Lines, Inc.
CAG-16. Docket No. TA83-1-30-002, Trunkline Gas Co.
CAG-17. Docket No. RP75-25-000, Columbia Gas Transmission Corp. v. Allied Chemical Corp., et al.
CAG-18. Docket No. OR83-2-001, Coastal States Marketing, Inc. and Coastal States Trading, Inc. v. Texas-New Mexico Pipeline Co.
CAG-19. Docket Nos. RP75-114-003 and 004, et al., East Tennessee Natural Gas Co.
CAG-20. Docket No. ST83-88-001, Gas Gathering Corp.
CAG-21. Docket No. RI83-12-000, Union Texas Petroleum Corp., an Allied Co.
CAG-22. Docket No. G-3653-005, et al., Sun Exploration & Production Co., et al.
CAG-23. Docket Nos. CI77-784-002, CI78-250-002, CI78-460-002 and CI83-337-001, Kerr-McGree Corp.
CAG-24. Docket No. CI83-369-001, Samedan Oil Corp.; Docket No. CI83-373-001, Pelto Oil Corp.
CAG-25. Docket Nos. CI73-447-000 and CI73-546-000, Pogo Producing Co.
CAG-26. Docket No. CP83-144-006, et al., Natural Gas Pipeline Co. of America and Transcontinental Gas Pipe Line Corp.; Docket No. CP83-244-003, et al., Transcontinental Gas Pipe Line Corp.
CAG-27. Docket Nos. CP83-64-001, CP83-64-002, CP83-175-002, CP83-304-001, CP83-190-001 and CP83-191-001, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.
CAG-28. Docket Nos. CP81-6-000 and CP80-541-000, Texas Gas Transmission Corp.
CAG-29. Docket No. CP83-491-000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG-30. Docket No. CP81-330-002, United Gas Pipe Line Co., Columbia Gulf Transmission Co. and Southern Natural Gas Co.
CAG-31. Docket No. CP79-473-004, Alabama-Tennessee Natural Gas Co.
CAG-32. Docket No. CP76-285-002, Consolidated Gas Supply Corp.
CAG-33. Docket Nos. CP81-438-000, CP81-438-001 and CP81-438-002, Texas Sea Rim Pipeline, Inc.
CAG-34. Docket No. CP83-59-002, Lone Star Gas Co., a Division of Enserch Corp.
CAG-35. Docket No. CP83-430-000, Arkansas Louisiana Gas Co.
CAG-36. Omitted
CAG-37. Docket No. CP81-188-004, Consolidated Gas Supply Corp.
CAG-38. Docket Nos. RP79-23-010, RP79-23-011 and RP81-34-004, Distrigas of Massachusetts Corp.; Docket No. RP79-24-008, Distrigas Corp.

Power Agenda

I. Licensed Project Matters

P-1. Project No. 5965-003, Firmin O. Gotzinger
P-2. Project No. 2971-000, Allegheny Electric Cooperative, Inc.; Project No. 2988-000, Ohio Edison Co.; Project No. 3219-000, Duquesne Light Co.; Project No. 3490-002, Potter Township, Pennsylvania
P-3. Project Nos. 67-000 and 2868-000, Southern California Edison Co.; Project No. 2904-000, Cities of Anaheim & Riverside, Calif.

II. Electric Rate Matters

ER-1. Docket No. ER79-150-008, Southern California Edison Co.
ER-2. Docket Nos. EF84-2011-000 and EF84-2021-000, United States Department of Energy—Bonneville Power Administration

Miscellaneous Agenda

M-1. Docket No. RM83-9-000, exemption from, and revisions to procedures governing collection and reporting of information concerning cost of providing retail electric service
M-2. Reserved
M-3. Reserved
M-4. Docket No. RM83-73-000, format for purchased gas adjustment filings submitted by Natural Gas Pipeline Companies
M-5. Docket Nos. RM81-19-000, 010, 011, 012, 013, 014, 015, 016, 017, 018, 019, 020 and 021, interstate pipeline certificates for routine transactions; Docket Nos. RM81-29-000, 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013 and 014, sales and transportation by Interstate Pipelines and Distributors
M-6. (a) Docket No. GP82-9-000, State of West Virginia, Section 103 NGPA determination, Patrick Petroleum Corp., Jacob Daughrty No. 1 Well, FERC No. JD81-27387; (b) Docket No GP82-48-000, State of New Mexico, Section 103 NGPA determination, Warren Petroleum Co., (a Division of Gulf Oil Corp.), Mark Well No. 8, FERC Docket No. JD79-16337; (c) Docket No. GP83-12-000, Kansas Corporation Commission, Continental Energy Co., Section 103 NGPA determination, Staneley No. 1 Well, JD81-01760; (d) Docket No. GP83-33-000, State of Pennsylvania, Section 103 NGPA determination, Energy Gas & Oil Corp., Robert Patrick No. 1 Well (Ser. No. 110), JD No. 83-27096, State Docket No. 17803

Gas Agenda

I. Pipeline Rate Matters

RP-1. Docket No. TA80-2-21-002 (PGA80-3), Columbia Gas Transmission Corp. and Columbia LNG Corp.; Docket No. TA80-2-22-003 (PGA80-5) (IPR80-3) (LFUT80-2) and (RD&D80-2), Consolidated Gas Supply Corp. and Consolidated System LNG Co.; Docket No. RP80-136-000, Southern Natural Gas Co.; Docket No. RP80-129-000, State of Ohio, ex rel. William J. Brown, Attorney General
RP-2. Docket No. RP81-49-011, Natural Gas Pipeline Co. of America
RP-3. Docket No. RP83-85-000, Gas Research Institute
RP-4. Docket Nos. RP83-11-000 and RP83-30-000, Transcontinental Gas Pipe Line Co.; Docket No. CP83-279-002, Producer-Suppliers of Transco; Docket No. CP83-340-003, Producer-Suppliers of Transco Gas Supply Co.; Docket No. CP83-428-001, Producer-Suppliers of Transco Gas Supply Corp. and Transcontinental Gas Pipe Line Corp.
RP-5. Docket No. CP83-485-000, Texas Gas Transmission Corp.
RP-6. Docket No. CP83-45-000, Columbia Gas Transmission Corp. and Columbia Gulf Transmission Corp.

II. Producers Matters

CI-1. Docket No. CI83-269-000, Tenneco Oil Co., Houston Oil & Minerals Corp., Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd., and Tinco, Ltd.

III. Pipeline Certificate matters

CP-1. Omitted
CP-2. Omitted
CP-3. Docket No. CP83-439-000, Southern Natural Gas Co.; Docket No. CP83-479-000, Louisiana Intrastate Gas Corp.
CP-4. Docket No. CP83-502-000, Tennessee Gas Pipe Line Co., a Division of Tenneco Inc.
CP-5. Docket Nos. CP82-487-000 and 001, Montana-Dakota Utilities Co. and Williston Basin Interstate Pipeline Co.

Kenneth F. Plumb,
Secretary

[S-1488-83 Filed 10-20-83; 10:35 am]

BILLING CODE 6717-01-M

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FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., October 26, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Docket No. 78-32: Pacific Westbound Conference
—Equalization and Absorption Rules and Practices
—Consideration of requests for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1486-83 Filed 10-19-83; 4:23 pm]

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VOL
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[USITC SE-83-45A]

INTERNATIONAL TRADE COMMISSION
"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 46915, October 14, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, October 28, 1983.

CHANGES IN THE MEETING: Additional item added to the agenda as follows:

4. Petitions and complaints;
a. Bag closure clips (Docket No. 975)

Commissioners Eckes, Stern, Haggart, and Lodwick determined by unanimous consent that Commission business requires the change in subject matter by addition of the agenda item and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1489-83 Filed 10-20-83; 8:45 am]
BILLING CODE 7020-02-M

federal register

Monday
October 24, 1983

Part II

Environmental Protection Agency

Aluminum Forming Point Source Category; Effluent Limitations Guidelines, Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Interim Rule and Request for Comments

VOL
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 467

[WH-FRL 2440-4]

Aluminum Forming Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; interim rule and request for comment.

SUMMARY: This regulation establishes effluent limitations guidelines and standards limiting the discharge of pollutants into navigable waters and into publicly owned treatment works (POTW) by existing and new sources that conduct aluminum forming operations. The Clean Water Act and a consent decree require EPA to issue this regulation.

This regulation establishes effluent limitations guidelines based on "best practicable technology" (BPT) and "best available technology" (BAT), new source performance standards (NSPS) based on "best demonstrated technology", and pretreatment standards for existing and new indirect dischargers (PSES and PSNS, respectively).

Section 467.01(c) which applies to PSES for plants that extrude less than 1,360,000 kg (3 million pounds) of aluminum per year or draw with emulsions or soaps plants producing less than 453,333 kg (1 million pounds) of aluminum per year is promulgated as an interim rule.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on November 7, 1983. This regulation shall become effective December 7, 1983.

The compliance date for the BAT regulations is as soon as possible, but in any event, no later than July 1, 1984. The compliance date for new source performance standards (NSPS) and pretreatment standards for new sources (PSNS) is the date the new source begins operations. The compliance date for pretreatment standards for existing sources (PSES) is October 24, 1983.

The information requirements contained in 40 CFR 467.03 have not been approved by the Office of Management and Budget (OMB) and they are not effective until OMB has approved them.

Under Section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under Section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Comments on the interim rule (§ 467.01(c)) must be submitted by December 23, 1983.

ADDRESSES: Send comments on the interim final rule to Ms. Janet K. Goodwin, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention EGD Docket Clerk, Aluminum Forming Rules (WH-552). The supporting information and all comments on the interim final rule will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404, [EPA Library Rear] (PM-213). The basis for this regulation is detailed in four major documents. See Supplementary Information (under "XIV. Availability of Technical Information") for a description of each document. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-4600). Technical information may be obtained by writing Ms. Janet Goodwin, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382-7126. Additional economic information may be obtained by writing Ms. Ellen Warhit, Economic Analysis Staff (WH-586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382-5381.

The record for the final rule will be available for public review not later than December 28, 1983 in EPA's Public Information Reference Unit, Room 2904 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, (202) 382-7126.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

I. Legal Authority
II. Scope of This Rulemaking
III. Summary of Legal Background
IV. Methodology and Data Gathering Efforts
V. Control Treatment Options and Technology Basis for Final Regulations
  A. Summary of Category
  B. Control and Treatment Options
  C. Technology Basis for Final Regulations
VI. Economic Consideration
  A. Costs and Economic Impact
  B. Executive Order 12291
  C. Regulatory Flexibility Analysis
  D. SBA Loans
VII. Nonwater Quality Environmental Impacts
  A. Air Pollution
  B. Solid Waste
  C. Consumptive Water Loss
  D. Energy Requirements
VIII. Pollutants and Subcategories Not Regulated
  A. Exclusion of Pollutants
  B. Exclusion of Subcategories
IX. Public Participation and Response to Major Comments
X. Best Management Practices
XI. Upset and Bypass Provisions
XII. Variances and Modifications
XIII. Implementation of Limitations and Standards
  A. Relationship to NPDES Permits
  B. Indirect Dischargers
XIV. Availability of Technical Information
XV. List of Subjects in 40 CFR Part 468
XVI. Appendices
  A. Abbreviations, Acronyms, and Other Terms Used in This Notice
  B. Toxic Pollutants Not Detected in Aluminum Forming Wastewater
  C. Toxic Pollutants Detected Below the Analytical Quantification Limit
  D. Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources
  E. Toxic Pollutants Detected in Amounts Too Small To Be Effectively Treated
  F. Toxic Metal Pollutants Effectively Controlled by BAT, PSES, and PSNS Even Though They Are Not Specifically Regulated
  G. Toxic Organic Pollutants Which Are Not Regulated at BAT and NSPS Because They Are Effectively Controlled by Other Limitations and Standards

I. Legal Authority

This regulation is being promulgated under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub L. 95-217), also called "the Act". It is also being promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.C.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by Orders dated October 26, 1982 and August 2, 1983.

II. Scope of This Rulemaking

This regulation, which was proposed on November 22, 1982 (47 FR 52626), establishes effluent limitations guidelines and standards for existing and new aluminum forming facilities. Aluminum forming is the deformation of aluminum or aluminum alloys into specific shapes by hot or cold working such as rolling, extrusion, forging, and drawing. Also included are a number of ancillary operations such as casting, heat treatment and surface treatment that are an integral part of aluminum forming processes and that can contribute significantly to the wastewaters discharged from aluminum forming plants. The manufacture of aluminum powders and the forming of parts from aluminum or aluminum alloy powders are regulated under the nonferrous metals forming regulation.

Casting of aluminum is frequently done prior to forming at aluminum forming plants; it is also performed as the final step in the manufacture of primary and secondary aluminum. The equipment and methods of casting used at aluminum forming plants are the same as those employed by primary and secondary plants and the water requirements and waste characteristics are very similar. Casting done at a plant which manufactures aluminum and also does aluminum forming is subject to the casting limitations for the aluminum manufacturing subcategories of the nonferrous metals category if they cast the aluminum without cooling. If the aluminum is a remelted primary aluminum product and is cast at a facility also forming aluminum, then the casting subsequent to the remelting is subject to the aluminum forming limitations. (The limitations for casting in the primary and secondary aluminum subcategories of the nonferrous metals manufacturing category will be promulgated early in 1984.)

Surface treatment of aluminum is any chemical or electrochemical treatment applied to the surface of aluminum. Such surface treatment is considered to be a part of aluminum forming whenever it is performed as an integral part of aluminum forming. For the purposes of this regulation, surface treatment of aluminum is considered to be an integral part of aluminum forming whenever it is performed at the same plant site at which aluminum is formed. When surface treatment operations are covered under the aluminum forming category they are covered by the limitations and standards for cleaning or etching baths, rinses, and scrubbers, and are not subject to regulation under the provisions of 40 CFR Part 433, Metal Finishing. See 40 CFR 433.10(b), 48 FR 32485 (July 15, 1983).

EPA is promulgating BPT, BAT, NSPS, PSES, and PSNS for the aluminum forming category. EPA is promulgating as an interim final rule § 467.01(c), which applies to PSES for plants manufacturing less than 1,360,000 kilograms (3 million pounds) in the extrusion subcategory and for plants manufacturing less than 453,333 kilograms (1 million pounds) in the drawing with emulsions or soaps subcategory.

III. Summary of Legal Background

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" [Section 101(a)]. To implement the Act, EPA was to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industry dischargers.

The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the court. This Agreement required EPA to develop a program and adhere to a schedule in promulgating effluent limitations guidelines, new source performance standards, and pretreatment standards for 65 "priority" pollutants and classes pollutants for 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by Orders dated October 26, 1982 and August 2, 1983.

Many of the basic elements of the Settlement Agreement were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants, including the 65 "priority" pollutants. In addition, to strengthen the toxic control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

Under the Act, the EPA is to set a number of different kinds of effluent limitations. These are discussed in detail in the preamble to the proposed regulation and in the Development Document. They are summarized briefly below:

1. Best Practicable Control Technology (BPT)

BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the category or subcategory.

In establishing BPT limitations, EPA considers the total cost in relation to the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, and nonwater quality environmental impacts (including energy requirements). We balance the total cost of applying the technology against the effluent reduction.

2. Best Available Technology (BAT)

BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and nonwater quality environmental impacts. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

3. Best Conventional Pollutant Control Technology (BCT)

The 1977 Amendments to the Clean Water Act added Section 301(b)(2)(E), establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: BOD, TSS, fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease "conventional" on July 30, 1979 (44 FR 44501).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as

VOL 48 ISS 206 OCT 24 1983 UMI

BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct date errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA argued that a second cost test was not required.)

A revised methodology for the general development of BCT limitations was proposed on October 29, 1982 (47 FR 49176). BCT limits for this industry are accordingly deferred until promulgation of the final methodology for BCT development.

4. New Source Performance Standards (NSPS)

NSPS are based on the best available demonstrated technology (BDT). New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

5. Pretreatment Standards for Existing Sources (PSES)

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment from toxic pollutants that pass through the POTW in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that pollutants pass through POTW if the nationwide average percentage of pollutants removed by a well operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The General Pretreatment Regulations, which serve as the framework for the pretreatment regulations are found at 40 CFR Part 403.

6. Pretreatment Standards for New Sources (PSNS)

Like PSES, PSNS are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of a POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate in their plant the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

IV. Methodology and Data Gathering Efforts

The methodology and data gathering efforts used in developing the proposed regulation were summarized in the "Preamble to the Proposed Aluminum Forming Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards" (47 FR 52626, November 22, 1982), and described in detail in the *Development Document for Effluent Limitations Guidelines and Standards for the Aluminum Forming Point Source Category.*

After proposal, the Agency gathered additional data to clarify comments and to provide further support for the regulation. The Agency performed additional analysis of new and existing data. These additional data and activities are described in the "Notice of Data Availability and Request for Comment" (47 FR 34079, July 27, 1983) and are discussed briefly below. They are also described in substantial detail in the appropriate sections of the development document. The supporting information and additional data are in the public record supporting this final rule.

Under authority of Section 308 of the Clean Water Act, the Agency requested specific additional information and data from 13 commenters to clarify and support their individual comments. The Agency's request for information asked each commenter to provide specific information supporting their particular comments. Responses were received from all of the 13 commenters. The additional data and information received related primarily to wastewater sources not specifically considered by the proposed regulation; space limitations and retrofit problems involved with the installation of two-stage countercurrent rinsing; and the classification and disposal costs of solid wastes generated by model wastewater treatment. We received flow and production data for additional waste streams as well as information on treatment and characteristics of these streams. Plan view diagrams were submitted by two companies to show space availability for countercurrent cascade rinsing. We also received information regarding operating schedules for surface treatment lines. Cost information was submitted for solid waste disposal as well as copies of correspondence with disposal companies and state or local authorities. We also received new technical information on the regeneration of cleaning and etching baths.

To supplement exisiting data regarding treatment-in-place and the long-term performance of that treatment, the Agency collected discharge monitoring report (DMR) data from state or EPA Regional offices for direct dischargers. DMR data are self-monitoring data supplied by permit holders to meet state or EPA permit requirements. These data were available from 30 aluminum forming plants; however, the data vary widely in character and nature due to the dissimilar nature of the monitoring and reporting requirements place on aluminum forming plants by the NPDES permit issuing authority. These data were not used in the actual development of the final limitations but DMR data from 11 plants that have lime and settle treatment were used as a check on the achievability of the treatment effectiveness values used to establish limitations and standards. The results show the final treatment effectiveness values are being achieved consistently at these 11 plants. A discussion on these DMR data and a comparison of them to the treatment effectiveness values used in this regulation is found in the administrative record to this rulemaking.

The existing treatment effectiveness data were reviewed thoroughly following proposal. As a result of this review, minor additions, deletions and corrections were made to the Agency's treatment effectiveness data base. These changes are documented in the record along with responses to comments. Following the changes, statistical analyses performed prior to proposal were repeated. Conclusions reached prior to proposal were unchanged and little or no effect on the final limitations occurred as a result of changes in the data. Revisions to the data base and the results of re-analyzing the data are documented in the record of this rulemaking.

Additional data were obtained from 17 plants that perform anodizing and conversion coating operations as an integral part of their aluminum forming extrusion operations. These data, obtained by site visits, telephone contacts, and letter requests, were used to supplement the process configuration, production, and wastewater flow information obtained during the Agency's 1978 data collection effort with regard to plants which perform anodizing and conversion coating. These data were used to characterize wastewater flows and subsequently perform cost of compliance estimates for these plants.

Since proposal, the Agency made engineering visits to six aluminum forming plants to determine the flow characteristics of 12 wastewater streams (sawing spent lubricant, roll grinding spent lubricant, die cleaning baths, extrusion press hydraulic fluid leakage, detergent cleaning baths and rinses, anodizing baths and rinses, dye baths and rinses, and sealing baths and rinses). Additionally, we collected samples for chemical analysis at five of these plants to determine the nature of the above wastewater streams and the effectiveness of end-of-pipe treatment in removing pollutants, primarily the pollutant aluminum. In addition to the wastewater streams listed above, we sampled a variety of process wastewaters to characterize treatment effectiveness.

New data obtained by the Agency since proposal have been carefully analyzed and, where appropriate, changes have been made to the regulation. Flow allowances for a number of waste streams have been revised as discussed in Section V. The treatment effectiveness value for the pollutant aluminum and the pH range have also been revised.

In response to comments on the proposed regulation, the Agency revised the compliance costs and economic impact analyses, which resulted in revised plant closure estimates. The Agency reviewed the compliance cost estimates and recosted 12 inaccurately costed plants. Compliance costs were also estimated for an additional 27 plants that were not costed prior to proposal. The costing methodology used to estimate plant compliance costs is discussed in Section VIII of the Development Document. The economic impact analysis was also revised by reducing the return on investment for each subcategory based on comments and by revising the market rate of return to include a small risk premium. The economic methodology used to estimate economic impacts is discussed in Chapter Two and Appendix B and C of the *Economic Impact Analysis of Effluent Standards and Limitations for the Aluminum Forming Industry*, EPA (EPA 440/2–83–010).

V. Control Treatment Options and Technology Basis for Final Regulations

A. Summary of Category

The aluminum forming industry is grnerally included within SIC 3353, 3354, 3355, and 3463 of the Standard Industrial Classification Manual, prepared in 1972 and supplemented in 1977 by the Office of Management and Budget, Executive Office of the President.

There are approximately 271 aluminum forming facilities distributed throughout the United States, with the majority located east of the Mississippi River. There are 59 direct dischargers, 72 indirect dischargers, and 140 plants that do not discharge wastewater. Most of the zero discharge plants employ a combination of forming and ancillary operations which do not generate process wastewater. The aluminum forming category employs an estimated 31,200 people with a total production estimated at 5,000,000 kkg (11 billion pounds) per year, with individual production ranging from less than 10kkg (22,000 pounds) to more than 259,000 kkg (570 million pounds) per year.

Aluminum forming has become more widespread since the commercial development of aluminum in the 1880s. The demand for formed aluminum products has increased greatly in the past 30 years. Two of the larger markets for aluminum formed products are in the manufacturing of aeronautical and automobile components where aluminum reduces weight and increases fuel efficiency.

Aluminum forming is the deformation of aluminum into specific shapes by hot or cold working. Many of the products manufactured at aluminum forming facilities are sold to other manufacturers for further fabrication or incorporation into consumer goods. The aluminum forming operations covered by this regulation are rolling, extruding, forging, and drawing of aluminum. Associated operations, such as the casting of aluminum for subsequent forming, heat treatment, and all surface treatment operations performed as an integral part of aluminum forming (called cleaning or etching for the purpose of this regulation), are also included. These operations are discussed in substantial detail in the preamble to the proposed regulation (47 FR 52626).

Aluminum forming operations generate a variety of different waste streams. Lubricants consisting of neat oils, oil-water emulsions, or soap solutions are used for lubrication and cooling in rolling and drawing operations as well as sawing and casting. Contact cooling water is commonly used to quench aluminum products after casting, forming operations, or heat treatment. Wastewater is also generated by the discharge of the baths and rinses used for the cleaning and etching of aluminum products.

The most significant pollutants or pollutant parameters found in wastewater generated by aluminum forming facilities are:

(1) Toxic pollutants—Cadmium, chromium, copper, cyanide, lead, nickel, selenium, and zinc;

(2) Conventional pollutants—Oil and grease, suspended solids, and pH; and

(3) Nonconventional pollutants—aluminum.

Toxic organics were found at very significant concentrations in concentrated oily waste streams, in forging air pollution scrubber wastewater, and in other waste streams.

In developing this regulation, it was necessary to determine whether different effluent limitations guidelines and standards were appropriate for different segments (subcategories) of the industry. The major factors considered in assessing the need for subcategorization and in identifying subcategories included: waste characteristics, raw materials, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, nonwater quality characteristics, and unique plant characteristics. Section IV of the Development Document contains a detailed discussion of these factors and the rationale for subcategorization.

The aluminum forming manufacturing processes of rolling, extruding, forging, and drawing are universally recognized in the industry. They also provide a convenient basis for normalizing limitations from one plant to another based on mass of aluminum passed through the processes. EPA has subcategorized the aluminum forming industry based primarily on these manufacturing processes. The subcategories are defined as: (1) Rolling with neat oils, (2) rolling with emulsions, (3) extrusion, (4) forging, (5) drawing with neat oils, and (6) drawing with emulsions or soaps.

Each subcategory consists of two segments. The first segment is called the core and includes the specific forming operation and related operations that almost always occur in conjunction with the forming operation. The core also includes operations that are not always found in conjunction with the forming operation, but do not discharge wastewater. The effluent flow from the core for each of the subcategories is production normalized, and the limitations are based on the effluent flow and the treatment effectiveness of the model treatment technology.

The second segment of each subcategory consists of ancillary

VOL
48
ISS
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1983
UMI

operations that generate wastewater and are performed as part of the aluminum forming process. These ancillary operations, such as solution heat treatment, cleaning or etching, and casting, are performed to achieve desired characteristics or finishes on the aluminum products and are characterized by the generation of substantial volumes of wastewater. Because they are not found at every plant in a subcategory and they are not always unique to a specific subcategory, they are not included in the core. Instead, a separate limitation is established for ancillary operations based on the waste streams generated by these operations and normalized by the mass (off-kilogram) of aluminum processed through the ancillary operation. An aluminum forming plant would be permitted to discharge a mass of pollutants equivalent to the sum of the mass limitations established for the core and the individual ancillary operation(s) that are practiced at the plant.

The production normalizing parameter selected for aluminum forming is the off-kilogram (off-pound) of aluminum from an operation. The Agency has found that the generation of pollutants is most closely related to the off-kilograms of aluminum processed. Further, members of the aluminum forming category usually maintain production records in terms of the mass of aluminum produced, thus, this production normalizing parameter is most appropriate from industry's perspective.

B. Control and Treatment Technologies

Prior to proposal of the aluminum forming regulation, EPA considered a wide range of control and treatment options including both in-process changes and end-of-pipe treatment. These options are discussed in detail in the preamble to the proposed aluminum forming regulation (47 FR 52626). The Agency is promulgating limitations and standards based on the same end-of-pipe model treatment technology used as a basis for the proposed rule. The control and treatment technologies used as the basis for the final limitations and standards are described below.

In-process controls include a variety of flow reduction techniques and process changes such as recycle, countercurrent cascade rinsing, and alternate degassing methods. The regeneration technology included as part of the model treatment technology of the proposed rule has been eliminated from the model treatment technology of the final rule.

End-of-pipe treatment included: Chemical reduction of chromium, cyanide precipitation, chemical emulsion breaking, where applicable; oil skimming, chemical precipitation of metal ions using hydroxides or carbonates, removal of precipitated metals by settling (lime and settle), pH control, and filtration. These treatment technologies are described in detail in Section VII of the Development Document.

The treatment effectiveness of the above technologies has been evaluated by observing the performance of these technologies on aluminum forming and other similar wastewaters. The data base for the performance of lime and settle technology is a composite of data drawn from EPA protocol sampling and analysis of aluminum forming, copper forming, battery manufacturing, porcelain enameling, and coil coating wastewaters. These data, collectively called the combined metals data base, report influent and effluent concentrations for nine pollutants. The wastewaters are judged to be similar in all material respects for treatment because they contain a range of dissolved metals which can be removed by precipitation and solids removal.

We regard the combined metals data base as the best available measure for establishing the concentrations of pollutants attainable with lime and settle. Our determination is based on the similarity of the raw and treated wastewaters among the different categories as determined generally by engineering hypothesis and supported by statistical analysis for homogeneity (a separate study of statistical homogeneity of these wastewaters is part of the record of this rulemaking). The combined metals data base provides a larger quantity of data that are similar from both technical and statistical standpoints than would be available from any one category alone. The larger quantity of data in the combined metals data enhances the Agency's ability to estimate long-term performance and variability through statistical analysis.

The treatment effectiveness of lime and settle technology on the pollutant aluminum was derived from an analysis of the effluent concentrations of the pollutant aluminum at three aluminum forming plants and one aluminum coil coating plant with lime and settle wastewater treatment. (The wastewaters from aluminum coil coating are similar in all material respects to wastewaters from aluminum forming.) A total of 11 data points were available which were used to establish the treatment effectiveness value for the pollutant aluminum. The aluminum limitations were determined on the basis of aluminum measurements taken in wastewater with pH in the range of 7.0 to 10.0 to be consistent with pH requirements on the combined metals data base and limitations.

The Agency also examined the performance of lime, settle, and filter technology based on the performance of full-scale commercial systems treating porcelain enameling. Two aluminum forming plants reported that they are using a filter; thus, this technology is demonstrated on aluminum forming wastewaters. Since no data were available on these systems the Agency examined wastewaters from porcelain enameling and aluminum forming and determined that they are similar in all material respects based on the analysis of the raw waste values in the combined metals data set for lime and settle treatment. Therefore, the performance of lime, settle, and filter can be applied to the aluminum forming wastewaters.

Lime, settle and filter data were also obtained from a primary zinc smelter in the nonferrous metals manufacturing category. The treatment effectiveness values derived from the zinc smelter when compared with the values from the porcelain enameling plants confirmed the appropriateness of these values.

The combined metals data are discussed in more detail in Section IX, Public Participation and Response to Comments, in Section VII of the Development Document and in the document "A Statistical Analysis of the Combined Metals Industries Effluent Data" in the administrative record for this rulemaking.

Flow reduction is a significant part of the overall pollutant reduction technology for this category, ranging from 75 to 82 percent from raw waste flows. The Agency is promulgating mass-based limitations and standards which account for the significant pollutant removal achieved by flow reduction model technology. Mass-based limits ensure reduction of the total quantity of pollutant discharge. The mass-based limitations and standards established for this category are derived as the product of the regulatory flow and the overall treatment effectiveness. The regulatory flows are based on flow data, normalized to production, which were supplied by the industry.

The monitoring provisions of the final rule are the same as those contained in the proposed rule.

C. Technology Bosis for Finol Regulotion

A brief summary of the technology basis for the regulation is presented below. A more detailed discussion is presented in the "Preamble to the Proposed Aluminum Forming Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards" (47 FR 52626 (November 22, 1982)) and the *Development Document for Effluent Limitations Guidelines and Standards for the Aluminum Forming Point Source Category.*

BPT: EPA is promulgating BTP mass limitations based on end-of-pipe treatment, which consists of oil skimming and lime precipitation and settling, and, where necessary, preliminary treatment consisting of chemical emulsion breaking, and hexavalent chromium reduction. Cyanide removal, where applicable, is also included in the model BPT technology. The cyanide limitations are based on the application of cyanide precipitation technology which is transferred from the coil coating category. Section VII of the Development document contains a complete discussion of the transfer of this technology. However, the Agency recommends product substitution as the most effective means of cyanide control. The end-of-pipe treatment technology basis for the BPT limitations being promulgated is the same as that for the proposed limitations.

In developing BPT limitations, the Agency considered the amount of water used per unit of production (liters per kkg or metric ton) for each wastewater stream. The flow allowances for BPT remain the same as those proposed with the exception of the regulatory flow allowances for cleaning or etching baths, rinses, and scrubbers; miscellaneous waste streams; roll grinding spent lubricant; continuous sheet and rod casting spent lubricant; continuous rod casting contact cooling water; degassing scrubber liquor; and direct chill casting contact cooling water. In addition, we are adding a separate flow allowance for extrusion press leakage. These flow allowances are discussed briefly below and in more detail in Section IX of this preamble and in Section IX of the Development Document. The limitation presented in the final BPT regulation reflect these changes.

The cleaning or etching bath flow allowance decreased by 12 percent as a result of additional information obtained from four sampled plants and one company that submitted written information. The new data added five data points to the middle of the range of existing flow data. These flows are presented in the Development Document and the BPT regulatory flow is based on the average of all the available data including data including the pre-proposal data and is 179 1/kkg (43 gal/ton).

The cleaning or etching rinse flow allowance decreased by 17.5 percent with the addition of data obtained from four sampled plants. The rinse flows reported by these plants were in all cases less than the proposed flow allowance. These flows are presented in the Development Document and the BPT regulatory flow is based on the average of all of the available data including the pre-proposal data and is 13,912 1/kkg (3,341 gal/ton).

Additional flow data for cleaning or etching scrubbers were obtained from one sampled plant. These data were combined with the pre-proposal data to develop the BPT reguatory flow of 15,900 1/kkg (3,819 gal/ton). This flow allowance represents a 7.7 percent decrease from the proposed flow allowance.

The Agency has determined, based on comments and engineering plant visits, that the waste streams generated from extrusion press hydraulic fluid leakage are of sufficient volume to warrant a separate flow and discharge allowance. Five companies submitted data on extrusion press hydraulic fluid leakage in presses that use oil-water emulsions for hydraulic fluid instead of the more common use of pure oil hydraulic fluids. Data and information indicate that a flow allowance for this wastewater source is necessary because emulsion hydraulic fluids tend to leak thereby generating a wastewater source. The BPT reguatory flow of 1,478 1/kkg (355 gal/ton) for this waste stream is based on the average of the production normalized flow data for the three plants that did not perform recycle, and has been included as an ancillary waste stream in the extrusion subcategory.

Three companies submitted data on miscellaneous wastewater streams. The BPT regulatory allowance for miscellaneous nondescript wastewater sources has been increased to 45 1/kkg (11 gal/ton) and is based on the average of the data submitted. The miscellaneous nondescript wastewater flow allowance is production normalized to a plant's core production and covers waste streams generated by maintenance, clean-up, ultrasonic testing, roll grinding of caster rolls, ingot scalping, processing area scrubbers, and dye solution baths and seal baths (along with any other cleaning or etching bath) when not followed by a rinse.

Flow and wastewater characteristics data were obtained from two sampled plants for the roll grinding spent lubricant flow allowance. These new flow data were averaged with the flow data used to calculate the proposed flow allowance resulting in a slight decrease in the regulatory flow to 5.5 1/kkg (1.3 gal/ton).

The flow allowance for continuous sheet casting spent lubricant has been increased by 7 percent to 1.964 1/kkg (0.471 gal/ton) due to the addition of a production normalized flow for this stream submitted after proposal. A corresponding change has been made in the continous rod casting spent lubricant flow allowance.

Updated flow and production data were submitted on the continuous rod casting contact cooling water flow allowance. The BPT flow is based on this new data resulting in a 33 percent increase from that of the proposed rule and is 1,555 1/kkg.

The flow allowance for direct chill casting has been decreased by 34 percent from that of the proposed rule and is 1.329 1/kkg (298 gal/ton). This flow allowance has been changed as a result of the Agency correcting errors in transcription of direct chill casting flow data from dcp's in the primary aluminum and secondary aluminum subcategories of the nonferrous metals manufacturing category. The flow allowance for the degassing scrubber liquor has been increased to 1329 1/kkg (319 gal/ton) based on changes to the normalized flow data base of the primary aluminum subcategory of the nonferrous metals manufacturing category.

The pollutants selected for limitation at BPT are: chromium, cyanide, zinc, aluminum, oil and grease, total suspended solids (TSS), and pH. These are the same pollutants that were selected for regulation in the proposed rule. Additionally, the special monitoring provision for cyanide that allows the owner or operator of a plant to forego periodic analyses for cyanide if certain conditions are met is retained in the final rule.

On the basis of additional information collected during post-proposal sampling efforts, the treatment effectiveness value used to calculate limitations and standards for the pollutant aluminum has been changed. The Agency has also revised the regulatory pH requirements from a range of 7.5 to 10.0 in the proposed rule to 7.0 to 10.0 in the final rule.

Fifty-nine plants are direct dischargers. The Agency estimates that

VOL 48 ISS 206 OCT 24 1983 UMI

investment costs in 1982 dollars for these plants would be $84.4 million and that total annual costs would be $37.9 million. Removal of toxic pollutants over estimates of current removals would be 94,250 kg/yr (207,350 lbs/yr). In addition, BPT will result in the removal of 15.6 million kg/yr (34.3 million lbs/yr) of total pollutants including 1.73 million kg/yr (3.8 million lbs/yr) of the pollutant aluminum. The Agency has determined that the effluent reduction benefits associated with compliance with BPT limitations justify the costs.

BAT: EPA is promulgating BAT mass limitations based on the BPT model end-of-pipe common treatment plus flow reduction through the application of recycle, countercurrent cascade rinsing, and alternate degassing methods. The Agency is promulgating BAT limitations based on the same end-of-pipe treatment technology as that of the proposed limitations.

In developing BAT limitations, the Agency considered the amount of water used per unit of production (liters per metric ton or gallons per ton) for each wastewater stream. Regeneration of cleaning or etching baths has been eliminated from the model treatment technology and a discharge allowance equal to BPT is made for these baths. The Agency received numerous comments and new information indicating that regeneration technology is not a proven technology for a number of aluminum forming cleaning or etching baths and that even if the technology is applied, it cannot achieve zero discharge as proposed. Accordingly, the Agency has eliminated regeneration from the model BAT technology and is establishing a BAT regulatory flow allowance equivalent to the BPT regulatory flow allowance of 179 1/kkg (43 gal/ton) for this waste stream.

The cleaning or etching rinse final BAT regulatory flow is based on flow reduction by the application of two-stage countercurrent cascade rinsing. Application of countercurrent cascade rinsing will reduce the BPT flow by 90 percent. Thus the BAT flow is based on the reduction of the revised BPT flow and is 1,391 1/kkg (334 gal/ton).

The BAT flow allowance for continuous rod casting contact cooling water has been reevaluated to include the updated data submitted after proposal and also incorporates data from two primary aluminum plants. The BAT flow allowance based on the application of recycle is increased by 46 percent from the proposed allowance to 193.9 1/kkg (56.4 gal/ton).

The BAT flow allowances for miscellaneous nondescript waste streams, extrusion press hydraulic fluid leakage, continuous sheet or rod casting lubricant, and roll grinding are equivalent to the BPT allowances and are 45 1/kkg (11 gal/ton), 1,230 1/kkg (295 gal/ton), 1,964 1/kkg (0.471 gal/ton) and 5.5 1/kkg (1.3 gal/ton), respectively. These flow allowances are based on current reported industry practice and are not based on in-process flow reduction controls. For the extrusion press hydraulic fluid leakage, the Agency considered basing the flow allowance at BAT on the collection and recycle of hydraulic fluid leakage. However, conversion of existing presses to include recycle requires rebuilding of the entire system. These streams have low flows and will only increase the BAT flow allowance above the proposed levels by less than 15 percent. Further flow reduction would not significantly affect pollutant removal. Therefore BAT flows for these streams are equivalent to BPT. The limitations presented in the final BAT regulation reflect these changes.

The pollutants selected for regulation are: chromium, cyanide, zinc, and aluminum. These are the same pollutants that were selected for regulation in the proposed rule. Toxic organics are not regulated at BAT because the oil and grease limitation at BPT will provide effective removal (approximately 97 percent). As discussed below, the toxic metals cadmium, copper, lead, nickel, and selenium which are not specifically regulated, will be effectively controlled when the regulated toxic metals and aluminum are treated to the levels achievable by the model treatment technology.

The complexity and cost of analyses for toxic pollutants found in the aluminum forming category wastewaters has prompted EPA to develop an alternative method of controlling toxic pollutants. Instead of establishing specific effluent limitations for each of the seven toxic metals found in the category's raw wastewaters above treatability levels, the Agency is establishing effluent limitations for chromium, zinc, and aluminum as "indicator" pollutants. The data available to EPA show that control of the selected "indicator" pollutants will result in the substantial removal of cadmium, copper, lead, nickel, and selenium found in the wastewaters but not specifically limited. By establishing specific limitations and standards for only the "indicator" pollutants, the Agency will reduce the difficulty, cost, and delays of pollutant monitoring and analyses that would result if pollutant limitations were established for each toxic pollutant.

Implementation of the BAT limitations will remove annually an estimated 124,500 kg of toxic metal and organic pollutants (from estimated current discharge) at a capital cost, above equipment in place, of $48.2 million and a total annual cost of $25.1 million. BAT will remove 16,000 kg/yr of toxic pollutants (metals and organics) and 19,400 kg/yr of aluminum incrementally above BPT.

The Agency has decided not to include filtration as part of the model BAT treatment technology. EPA estimates that 29,000 kg/yr (64,000 lb/yr) of toxic metal pollutants will be discharged after the installation of BPT treatment technology; the model BAT treatment technology is estimated to remove an additional 15,000 kg/yr (33,000 lb) of toxic metals. The total removal after BAT is 91 percent of the total current discharge. The addition of filtration would remove approximately 4,300 kg/yr (9,500 lb/yr) of toxic pollutants discharged after BPT or a total removal of 94 percent of the total current discharge. This additional removal of 4,300 kg per year achieved by filtration is equal to an additional removal of approximately 1 kg (2.2 lb) of toxic pollutants per day per discharger. The incremental costs of these effluent reductions are $8.2 million in capital cost and $2.5 million in total annual costs for all direct dischargers. In addition, 18 aluminum forming plants also perform coil coating. The Agency has structured the aluminum forming regulation and coil coating regulation to allow cotreatment of wastewaters at integrated facilities. The BAT limitations for the coil coating category are based on technology not including filtration. Establishing aluminum forming limitations based on polishing filters would have the effect of requiring such integrated facilities to install polishing filters. The Agency believes that given all of these factors, the costs involved do not warrant selection of filtration as a part of the BAT model treatment technology.

NSPS: EPA is promulgating NSPS based on the same technology selected in the proposed rule. This technology consists of flow reduction and end-of-pipe treatment including oil skimming, lime precipitation, settling, and filtration, and, where necessary, preliminary treatment consisting of chemical emulsion breaking, chromium reduction, and cyanide removal. This is identical to BAT end-of-pipe treatment technology with the addition of a polishing filter.

In developing NSPS, the Agency considered the amount of water used per unit of production for each wastewater stream. All new source flow allowances are equivalent to the BAT allowance with the exception of extrusion press hydraulic fluid leakage. The NSPS flow allowance of 298 1/kkg is based on the flows reported by two plants in which the presses have been designed and built to allow for recirculation of the hydraulic press fluid leakage. The NSPS standards presented in the final regulation reflect this regulatory flow. Filtration has been retained in the NSPS model treatment technology because new plants and major modifications to existing plants have the opportunity to design the most efficient process water use and wastewater reduction within their processes, thereby reducing the size and cost of filtration equipment. Economies are available for installation in new plants and in major modifications to existing plants since they will not have to retrofit flow reduction technology and reduced flows will correspondingly allow installation of small end-of-pipe treatment systems.

The pollutants selected for regulation are: chromium, cyanide, zinc, aluminum, oil and grease, TSS, and pH. These are the same pollutants that were selected for regulation in the proposed rule. Toxic organics are not regulated at NSPS because the oil and grease limitation at NSPS will provide effective removal (approximately 97 percent). Similarly, the toxic metals cadmium, copper, lead, nickel, and selenium will be adequately controlled when the regulated toxic metals and aluminum are treated to the levels achievable by the model treatment technology.

In order to estimate pollutant removals and costs for new sources, the Agency developed a "normal" plant for each of the six subcategories. A normal plant is a theoretical plant which has the core and each ancillary operation covered by the subcategory and production that is the average level of production in the subcategory. Section VIII of the development document presents in detail the composition of the aluminum forming "normal" plants. The results of the calculations for each subcategory were combined by a production-weighting technique to produce values representative of an "total category" normal plant.

The total category normal plant described above would generate a raw waste load of 10,615 kg per year (23,300 lb/yr) of toxic metal and 236,021 kg per year (519,200 lb/yr) of aluminum. The NSPS technology is expected to reduce these pollutant levels to 150 kg per year (330 lb/yr) of toxic metal pollutants and 109 kg per year lb/yr) of aluminum. The total capital investment cost for the normal plant to install NSPS treatment technology is estimated at $1.151 million, compared with investment costs of $1.085 million for an existing plant of the same composition to install technology equivalent to BAT. Corresponding figures for total annual costs are $1.089 million for NSPS and $1.039 million for BAT. Since the NSPS costs are approximately the same as the BAT costs which would be incurred by this plant, the new source performance standards will not pose a barrier to entry.

PSES: In the aluminum forming category, the Agency has concluded that the toxic metals regulated under these standards (chromium, cyanide, and zinc) pass through the POTW The nationwide average percentage of these same toxic metals removed by a well operated POTW meeting secondary treatment requirements is about 50 percent (ranging from 20 to 65 percent), whereas the percentage that can be removed by an aluminum forming direct discharger applying the best available technology economically achievable is about 91 percent (ranging from 79 to 97 percent). Accordingly, these pollutants pass through a POTW and are being regulated at PSES.

In addition to pass through of toxic metals, the Agency has concluded that there will be pass through of toxic organic pollutants associated with oil waste streams. The BPT oil skimming technology will remove 97 percent of the toxic organics, whereas the POTW national average removal of these same toxic organics by a well operated POTW meeting secondary treatment requirements is 71 percent. Accordingly, EPA is promulgating a pretreatment standard for toxic organics.

EPA is promulgating PSES based on the application of technology equivalent to BAT, which consists of end-of-pipe treatment comprised of oil skimming and lime precipitation and settling, and preliminary treatment, where necessary, consisting on hexavalent chromium reduction, chemical emulsion breaking, and cyanide removal. In the proposed rule the Agency stated that if BAT was promulgated with filters, then PSES would include filtration to prevent "pass through." BAT model treatment technology does not include filtration for the reasons discussed earlier in this section, and, therefore PSES model treatment technology also does not include filtration.

In developing these standards, the amount of water used per unit of production is considered for each waste stream. The flow allowances established for PSES are the same as those established for BAT based on the same flow reduction technologies.

The final rule retains the approach used in the proposed rule and regulates as total toxic organics (TTO) all those toxic organics that were found to be present in sampled aluminum forming wastewaters at concentrations greater than the quantification level of 0.01 mg/l. Section 467.02 of this regulation presents a list of the toxic organics included in the TTO standard.

The analysis of wastewaters for toxic organics is costly and requires sophisticated equipment, therefore the Agency has retained in the final rule the proposed alternate monitoring parameter for TTO. Data indicate that the toxic organics are much more soluble in oil and grease than in water and that the removal of the oil and grease will substantially remove the toxic organics. The TTO standard is based on the application of oil and grease removal thus if oil and grease is monitored at the given level, compliance with the TTO standard is ensured.

The pollutants selected for regulation are: chromium, cyanide, zinc, and TTO. Aluminum is not limited because aluminum may be used by a POTW as a flocculant to aid in the settling and removal of suspended solids. Because chromium and zinc are used as indicator pollutants for the toxic pollutants cadmium, copper, lead, nickel and selenium removal credits for these toxic pollutants pursuant to 40 CFR 403.7(a)(1) may be granted.

The PSES set forth in this final rule are expressed in terms of mass per unit of production rather than concentration standards. Regulation on the basis of concentration is not appropriate for this category because flow reduction is a significant part of the model treatment technology for pretreatment. Mass-based standards are necessary to reflect the total quantity of pollutants removed by the model treatment technology. For this reason, alternative concentration standards are not being promulgated for indirect dischargers.

Implementation of the PSES will remove annually an estimated 119,500 kg/yr (263,000 lb/yr) of toxic metal and organic pollutants (from estimated current discharge) at a capital cost, above equipment in place, of $26.1 million and a total annual cost of $16.7 million. The Agency has concluded that PSES is economically achievable.

In the preamble to the proposed regulation, the Agency explained that in order to avoid adverse economic affects, it was proposing to exclude from

VOL 48 ISS 206 OCT 24 1983 UMI

compliance with these categorical pretreatment standards, plants in the extrusion subcategory that manufacture less than 1,360,000 kilograms (3 million pounds) per year and plants in the drawing with emulsions subcategory that manufacture less than 453,333 kilograms (1 million pounds) per year. In light of comments of the estimated compliance costs and economic impact analysis, the Agency reconsidered the costs and impacts of this regulation on these smaller facilities in the catetory and found that the facilities covered by the proposed exemption are no longer expected to experience disproportionate adverse economic impacts. Thus the exemption does not appear to be warranted. Therefore, these categorical pretreatment standards are applicable to extrusion and drawing plants of all sizes. However, the Agency is promulgating the categorical pretreatment standards for existing plants in the extrusion subcategory that manufacture less than 1,360,000 kilograms (3 million pounds) and plants in the drawing with emulsions or soaps subcategory less than 453,333 kilograms (1 million pounds) per year as in interim final rule. The Agency invites comments from small facilities on the appropriateness of applying these categorical pretreatment standards to them. All comments received before December 23, 1983 will be considered and the Agency will promulgate a final rule as soon as possible.

The Agency has considered the time for compliance for PSES. Few of the indirect discharge aluminum forming plants have installed and are properly operating the treatment technology for PSES. Many plants in this and other industries will be installing the treatment equipment suggested as model technologies for this regulation and this may result in delays in engineering, ordering, installing, and operating this equipment. For these reasons, the Agency has decided to establish the PSES compliance date for all facilities at three years after promulgation of this regulation.

PSNS: EPA is promulgating PSNS based on end-of-pipe treatment and in-process controls equivalent to that used as the basis for NSPS. The flow allowances for PSNS are also the same as those for NSPS. As discussed under PSES, pass through of the regulated pollutants will occur without adequate pretreatment and, therefore, pretreatment standards are required.

The pollutants regulated under PSNS are chromium, cyanide, zinc and TTO. Aluminum is not limited because aluminum may be used by a POTW as a flocculant to aid in the settling and removal of suspended solids. Monitoring for oil and grease has been established as an alternative to monitoring for TTO as discussed under PSES.

In order to estimate costs and pollutant removals for new sources, the Agency used the "normal plant" approach as discussed in this preamble under NSPS. The normal plant described above would generate a raw waste load of 10,600 kg per year (23,300 lb/yr) of toxic metals. The PSNS technology is expected to reduce these pollutant levels to 150 kg per year (330 lb/yr) of toxic pollutants.

The total capital investment cost for the normal plant to install PSNS treatment technology is estimated at $1.151 million, compared with investment costs of $1.085 million for an existing plant of this same composition to install technology equivalent to PSES. Corresponding figures for total annual costs are $1.089 million for PSNS and $1.039 million for PSNS. Since PSES costs are approximately the same as the PSES costs which would be incurred by this plant, the new source pretreatment standards will not pose a barrier to entry.

VI. Economic Consideration

A. Cost and Economic Impact

EPA's economic impact assessment is set forth in *Economic Impact Analysis of Effluent Standards and Limitations for the Aluminum Forming Industry*, EPA (EPA–440/2–83–010). This report details the investment and annual costs for the industry as a whole and for plants covered by the aluminum forming regulation. The report also estimates the probable economic effect of compliance costs in terms of plant closures, production changes, price changes, employment changes, local community impacts, and imports and exports of aluminum forming products.

EPA has identified 271 plants that perform aluminum forming. Of these 271 plants, 140 do not discharge process wastewater, 59 are direct dischargers, and 72 are indirect dischargers. Total investment for BAT and PSES is projected to be $74.3 million with annual costs of $41.8 million, including depreciation and interest. These costs are in 1982 dollars and are based on the determination that plants will build on existing treatment. There are

The costs of implementing the regulations were estimated on a plant-by-plant basis for a sample of 266 plants including 126 dischargers. The cost estimates were derived by a computerized costing program using 1977 plant data resulting in 1978 dollar estimates which have been updated to 1982. The costing program accounted for plant size and for treatment-in-place to develop an estimate of capital and annual costs, which were grouped by subcategory and summed. For purposes of measuring the economic impacts, the industry was subcategorized by the type of product. The economic impacts were estimated through a microeconomic model which projects the price and output behavior of each major industry segment. It is used, in conjunction with compliance cost estimates, to determine postcompliance price and production levels for each industry segment and for each regulatory option.

A financial profile was developed for each of the plants based on average financial ratios for the industry segment in which the plant competes. The primary variables of interest in analyzing individual plants were profitability, as measured by return on sales and return on investment; and the ability of individual plants to raise capital, as measured by the after compliance fixed charge coverage ratio. The fixed charge coverage ratio is defined as earnings before interest and taxes over interest payments. Other factors considered in judging the likelihood of closure include the degree of integration, and market characteristics such as the degree of competition and the existence of specialty markets. Given the plant-specific compliance cost estimates, the industry-segment-specific financial ratios, and other factors, the effect on industrial plants was projected.

There are five potential plant closures projected as a result of this regulation. The potential closures are spread over three different subcategories, including two direct discharging plants and three indirect discharging plants. Both small and medium sized plants are included as potential closures. The production loss for these plants range from 100,000 pounds per year to 12.8 million pounds per year. The Agency does not estimate any disproportionate impact on any specific group of plants. Price increases differ somewhat among the product groups ranging from 0 percent for foil to 0.8 percent for forging. Balance of trade effects are insignificant.

The Economic Impact Analysis assumed a reasonable rate of monitoring, varying by size of plant and flow. However, since the regulatory limits are based on monitoring 10 times a month, we performed a sensitivity analysis including costs associated with the increased monitoring activity. The results showed no significant incremental economic impacts.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology-based options. A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for standard pollutant (copper), divided by the water quality criterion for the pollutant being evaluated. The use of "pound equivalent" gives relatively more weight to removal of more toxic pollutants. Thus, for a given expenditure, the cost per pound-equivalent removed would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. This analysis is included in the record of this rulemaking, and is entitled *Cost-Effectiveness Analysis of Effluent Standards and Limitations for the Aluminum Forming Industry*

BPT: Fifty-nine plants are direct dischargers. The cost estimates are based on the regulatory flows and take into account treatment in-place.

Since the BPT regulatory flow is on the whole larger than the BAT flow, and the in-process controls tend to be relatively inexpensive, the cost of BAT was less than BPT for a number of plants. Thus, for the purpose of evaluating the economic impacts it was assumed that the plants would install the least expensive treatment to meet the requirements of BPT. Hence, in those cases where the cost of BAT was less than BPT, it was assumed that the lower BAT costs would be incurred to meet the BPT limits and no incremental cost would be incurred in meeting the BAT limits. For this reason, the costs shown here will be different than those shown in the technical section of the preamble. The BPT regulation is projected to cost $37.6 million in investment costs and $21.2 million in annual costs for these plants. The analysis of economic impact concluded that there are two potential plant closures and 221 job losses associated with the BPT treatment option. Total loss in industry production is expected to be about 0.1 percent, with the cost of production increasing about 0.3 percent. If average compliance costs incurred by the plants in the industry were passed on to consumers, price increases would range from 0 to 0.7 percent.

BAT: Compliance costs and resulting impacts discussed below are based on the total effects of going from the BPT costs to the costs incurred to install BAT. Total investment costs are estimated to be $48.2 million, with annual costs of $25.1 million, including depreciation and interest. The incremental costs over BPT are estimated to be $10.6 million in investment costs and $3.9 million in annual costs. BAT would not result in any additional closures. If the average compliance cost incurred by the plants in the industry were passed on to consumers, price increases would range from 0 to 0.8 percent; not significantly greater than the BPT increases. Thus EPA has determined that BAT is economically achievable.

PSES: Seventy-two plants are identified as indirect dischargers. The pollution control technology for the pretreatment standards is identical to the BAT treatment technology. Investment costs for the 72 indirect dischargers are estimated to be $26.1 million and annual costs are estimated at $16.7 million. The Agency's estimate of potential plant closures in indicates that there are three potential closures associated with PSES. In terms of unemployment, these potential closures could affect approximately 276 employees. Total loss in industry production is expected to be about 0.2 percent, with the cost of production increasing about one percent. Thus the Agency has determined that PSES is economically achievable.

NSPS–PSNS: Aluminum formed products have been available for many years. The versatility of the product has been responsible for its long-term growth. Recent trends in the U.S. economy, especially the increase in energy prices, have increased the use of aluminum formed products. This is especially true in the transportation business. The current recession and the downturn in the automotive industry have reduced the demand for aluminum formed products. However, aluminum's versatility and light weight makes its use desirable for cars and for transportation products in general. EPA believes that this slump in demand is a temporary condition, and that demand for aluminum formed products will continue to increase in the years ahead. This projected increase in demand should result in the opening of new plants.

EPA is promulgating NSPS and PSNS based on the same technologies as for BAT and PSES, plus filters. We analyzed a "normal" plant in each of the six technical subcategories, comparing estimated costs for the treatment technologies to expected revenues. The incremental costs over the cost estimates for the BAT and PSES technologies are less than 0.1 percent of expected revenues for the normal plant. The total costs for NSPS and PSNS range from 0.2 percent of expected revenues for rolling with neat oils to 0.9 percent of expected revenues for drawing with emulsions. EPA does not believe that NSPS and PSNS will continue a barrier to entry for new sources or, prevent major modifications to existing sources or produce other adverse economic effects.

B. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impacts analyses of major regulations. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. This regulation is not a major rule because its annualized cost of $41.8 million is less than $100 million and it meets none of the other criteria specified in Section I paragraph (b) of the Executive Order. The economic impact analysis prepared for this rulemaking meets the requirements for non-major rules.

C. Regulatory Flexibility Analysis

Pub. L. 96–354 requires EPA to prepare an Initial Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by the Agency. The economic impact analysis described above indicates that there will not be a significant impact on any segment of the regulated population, large or small. Therefore, a formal regulatory flexibility analysis is not required.

D. SBA Loans

The Agency is continuing to encourage aluminum formers to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Guaranteed Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Guarantee Program. All the SBA loan programs are only open to businesses that have: (a) net assets less than $6 million, (b) an average annual after-tax income of less than $2 million, and (c) fewer than 250 employees. The estimated economic impacts for this category do not include consideration of financing available through these programs.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. For the first time, these companies are

VOL
48
ISS
2
0
6
OC
24
1983
UMI

authorized to issue Government-backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 382–5373. For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203 (703) 235–2902.

VII. Nonwater Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the nonwater quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, we considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This regulation was circulated to and reviewed by EPA personnel responsible for nonwater quality programs. While it is difficult to balance pollution problems against each other and against energy use, we believe that this regulation will best serve often competing national goals. The following nonwater quality environmental impacts (including energy requirements) are associated with the final regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

A. Air Pollution

Imposition of BPT, BAT, NSPS, PSES, and PSNS will not create any substantial air pollution problems because the wastewater treatment technologies required to meet these limitations and standards do not cause air pollution.

B. Solid Waste

EPA estimates that aluminum forming facilities generated 79,000 kkg (87,000 tons) of solid wastes (wet basis) in 1977 due to the treatment of wastewater. These wastes were comprised of treatment system sludges containing toxic metals, including chromium, zinc, and cyanide; aluminum; and oil removed during oil skimming and chemical emulsion breaking that contains toxic organics.

EPA estimates that BPT will contribute an additional 52 kkg (57 tons) per year of solid wastes over that which is currently being generated by the aluminum forming industry. BAT and PSES will increase these wastes by approximately 77 kkg (85 tons) per year beyond BPT levels. These sludges will necessarily contain additional quantities (and concentrations) of toxic metal pollutants. The normal plant was used to estimate the sludge generated at NSPS and PSNS and is estimated to be a 3 percent increase over BAT and PSES.

The Agency considered the solid wastes that would be generated at aluminum forming plants by lime and settle treatment technologies and believes that they are not hazardous under Section 3001 of the Resource Conservation and Recovery Act (RCRA). This judgment is made based on the recommended technology of lime precipitation. By the addition of a small excess of lime during treatment, similar sludges, specifically toxic metal bearing sludges generated by other industries such as the iron and steel industry, passed the EP toxicity test. See 40 CFR 261.24 (45 FR 33084 (May 19, 1980)).

The Agency requested specific data and information in response to comments from three companies that claimed that aluminum forming lime and settle treatment sludges should be classified as hazardous. The responses did not support their comments that solid wastes generated by treatment of aluminum forming wastewater would be classified as hazardous under RCRA. The Agency believes that the proper treatment of this wastewater through the recommended lime and settle treatment technology would create a nonhazardous sludge. Since these aluminum forming solid wastes are not believed to be hazardous, no estimates were made of costs for disposing of them as hazardous wastes in accordance with RCRA requirements.

Wastes which are not hazardous must be disposed of in a manner that will not violate the open dumping prohibition of Section 4005 of RCRA. The Agency has calculated as part of the costs for wastewater treatment the cost of hauling and disposing of additional wastes generated as a result of these requirements. For more details, see Section VIII of the technical development document.

Only wastewater treatment sludge generated by cyanide precipitation technology is likely to be hazardous under the regulations implementing subtitle C of the Resource Conservation and Recovery Act (RCRA). Under those regulations generators of these wastes must test the wastes to determine if the wastes meet any of the characteristics of hazardous waste (see 40 CFR 262.11, 45 FR 33142–33143, May 19, 1980). Wastewater sludge generated by cyanide precipitation treatment of aluminum forming solution heat treatment contact cooling water may contain cyanides and may exhibit extraction procedure (EP) toxicity. Therefore, these wastes may require disposal as a hazardous waste. Wastewater treatment sludge from cyanide precipitation of a process waste stream is generated separately from lime and settle sludge and may be disposed of separately. We estimate that five plants in the category may need to have cyanide precipitation, generating an estimated 3,200 kkg of potentially hazardous sludge. The additional total annual disposal cost for this sludge is $283,200.

C. Consumptive Water Loss

Treatment and control technologies that require extensive recycling and reuse of water may require cooling mechanisms. Evaporative cooling mechanisms can cause water loss and contribute to water scarcity problems—a primary concern in arid and semi-arid regions. While this regulation assumes water reuse, the overall amount of reuse through evaporative cooling mechanisms is low and the quantity of water involved is not significant. In addition, most aluminum forming plants are located east of the Mississippi where water scarcity is not a problem. We conclude that the consumptive water loss is insignificant and that the pollution reduction benefits of recycle technologies outweigh their impact on consumptive water loss.

D. Energy Requirements

EPA estimates that the achievement of BPT effluent limitations will result in a net increase in electrical energy consumption of approximately 65 million kilowatt-hours per year. The BAT effluent technology should not substantially increase the energy requirements of BPT because reducing the flow reduces the pumping requirements, the agitation requirement for mixing wastewater, and other volume-related energy requirements. Therefore, the BAT limitations are assumed to require an equivalent energy consumption to that of the BPT limitations. To achieve the BPT and BAT effluent limitations, a typical direct discharger will increase total energy consumption by less than 1 percent of the energy consumed for production purposes.

The Agency estimates that PSES will result in a net increase in electrical energy consumption of approximately 50 million kilowatt-hours per year. To achieve PSES, a typical existing indirect discharger will increase energy consumption by less than 1 percent of the total energy consumed for production purposes.

NSPS will not significantly add to total energy consumption of the industry. A normal plant for each subcategory was used to estimate the energy requirements for new sources. A new source wastewater treatment system will add approximately 1 million kilowatt-hours per year to the total industry energy requirements. PSNS, like NSPS, will not significantly add to total energy consumption.

VIII. Pollutants and Subcategories Not Regulated

The Settlement Agreement in *NRDC v. Train, supra* contains provisions authorizing the exclusion from regulation in certain instances of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979. See *NRDC v. Costle*, 12 ERC 1833 (D.D.C. 1979).

A. Exclusion of Pollutants

The Agency has deleted the following three pollutants from the toxic pollutant list: (49) trichlorofluoromethane and (50) dichlorofluoromethane, 46 FR 79692 (January 8, 1981); and (17) bis(chloromethyl)ether, 46 FR 10723 (February 4, 1981).

Paragraph 8(a)(iii) of the Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and therefore, excluded from regulation are listed in Appendix B to this notice—first those excluded from all subcategories, then by subcategory those not excluded in all subcategories.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix C to this notice lists the toxic pollutants in each subcategory which were detected in the effluent in amounts at or below the nominal limit of analytical quantification, which are too small to be effectively reduced by technologies known to the Administrator and which, therefore, are excluded from regulation.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detectable in the effluent from only a small number of sources within the subcategory because they are uniquely related to those sources. Appendix D to this notice lists for each subcategory the toxic pollutants which were detected in the effluents of only a small number of plants, are uniquely related to those plants, and are not related to the manufacturing processes under study.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants present in amounts too small to be effectively reduced by technologies known to the administrator. Appendix E lists those toxic pollutants which are above the level of analytical quantification but not treatable using technologies considered applicable to the category. Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants which will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, or pretreatment standards. Appendix F lists those metal toxic pollutants which will be effectivley controlled by other regulated pollutants in BAT and NSPS, PSES, and PSNS, even though they are not specifically regulated. Appendix G lists those toxic organic pollutants which are not regulated at BAT because they are effectively controlled by BPT limitations and are not regulated at NSPS because they are effectively controlled by a regulated pollutant parameter.

B. Exclusion of Subcategories

Additionally, Paragraph 8(a)(iv) of the Settlement Agreement authorizes the exclusion of subcategories in which the amount and toxicity of each pollutant in the discharge do not justify developing national regulations. The forging subcategory has no direct discharging plants and therefore, meets the requirement of paragraph 8(a)(iv) for direct discharges. Accordingly, not BPT and BAT limitations are established for the forging subcategory.

IX. Public Participation and Response to Major Comments

Industry, government, and environmental groups have participated during the development of these effluent guidelines and standards. Following the publication of the proposed rule on November 22, 1982 in the **Federal Register**, we provided the development document and the economic impact analysis supporting the proposed rule to industry, government agencies, and the public sector. The public record supporting this regulation was available for public use on November 23, 1982. The comment period ended on February 8, 1983. A permit writers workshop was held on the aluminum forming rulemaking in Dallas, Texas on January 14, 1983. On January 17, 1983 in Washington, D.C., a public hearing was held on the proposed pretreatment standards at which one person presented testimony. A notice of data availability and a request for comment on data obtained after proposal was published in the **Federal Register** on July 27, 1983 with the comment period ending on August 11, 1983.

Since proposal, 24 commenters submitted approximately 1,000 individual comments on the proposed regulation. Comments were received from Reynolds Aluminum; Howmet Aluminum Corporation; the Aluminum Association; Cardinal Aluminum; General Extrusion; General Motors Corporation; County Sanitation Districts of Los Angeles County; Hoover Universal; ALCOA; Peerless of America, Inc.; Ethyl Corporation; National Steel Corporation; RJR Archer; Walgren Company; Belden Corporation; Penn Central Corporation; Kaiser Aluminum; Easco Aluminum (Carolina Aluminum Company); Village of Obetz, Ohio; ARCO Metals Company; Resource Consultants; Natural Resources Defense Council, Inc.; General Electric; and the Aluminum Extruders Council.

All comments received have been carefully considered and appropriate changes in the regulation have been made whenever data and information supported those changes. Major issues raised by the comments are addressed in this section of the preamble. All comments received and our detailed responses to these comments are included in a document entitled *Response to Public Comments, Proposed Aluminum Forming Effluent Limitations and Standards* which has been placed in the public record for this regulation.

The following is a discussion of the Agency's responses to the principal comments.

1. Combined Metals Data Base

Comment: Several commenters object to the use of data from other categories to establish the treatment effectiveness of the major technologies. Commenters argue that the primary metals being treated are different and therefore the data cannot be transferred for treatment of metals found in aluminum forming wastewaters.

VOL 48 ISS 206 OCT 24 1983 UMI

Comments specifically directed to the combined metals data base (CMDB) contend that: (1) The data is too small (2) data were included improperly (3) data not representative of lime and settle technology were included, and (4) the data used to establish the metal finishing limits should be used instead of the combined metals data base.

Response: The CMDB (revised following proposal of the aluminum forming regulation) includes 162 data points from 20 plants in five industrial categories with similar wastewaters. All plants in the data base have the recommended end-of-pipe treatment technology. Six of the plants in the data base are aluminum forming plants. These data were evaluated and analyzed to establish effluent limitations on the basis of data that represent good operation of the recommended technology. The use of comparable data from several categories enhances the estimates of treatment effectiveness and variability over those that would be obtained from data from any one category alone. The statistical methods used to assess homogeneity among the categories in the CMDB and to determine limitations are appropriate and are well known to statisticians.

(1) The methods used to analyze homogeneity are known generally as analysis of variance. Effluent limitations were determined by fitting the data to a lognormal distribution and using estimation techniques that possess desirable statistical properties. These methods are described in detail in the document entitled "A Statistical Analysis of the Combined Metals Industries Effluent Data" which includes appropriate references to statistical texts, journal articles, and monographs. Following proposal of the aluminum forming rule data were reviewed. This resulted in minor additions, deletions and corrections to the data base. The analyses performed prior to proposal were repeated with the result that the earlier conclusions regarding homogeneity were unchanged. The changes in the data base resulted in slight changes in the final limitations. The revisions to the data base and analysis are described in the record of this rulemaking.

To supplement existing data regarding treatment-in-place and the long-term Performance of the treatment, we collected discharge monitoring report (DMR) data from state or EPA Regional offices for direct discharges. DMR data are self-monitoring data supplied by permit holders to meet state or EPA permit requirements. These data were available from 30 aluminum forming plants; however, the data vary widely in character and nature due to the dissimilar nature of the monitoring and reporting requirements placed on aluminum forming plants by the NPDES permit issuing authority. These data were not used in the actual development of the final limitations but DMR data from 11 plants that have lime and settle treatment were used as a check on the achievability of the treatment effectiveness values used to establish limitations and standards. The results show the limitations values are being achieved consistently at these 11 plants. A discussion on these DMR data and a comparison of them to the treatment effectiveness values u: 'd in this regulation is in the administrative record to this rulemaking.

(2) The Agency carefully re-examined the specific data points that commenters identified as being improperly included in the combined metals data base. These data points fall into two categories, effluent points associated with low pH readings and effluent points associated with larger influent measurements made on the same day (so called "inverted values"). Detailed responses to each data point referred to by commenters are provided in the response to comments documents. In eliminating data from use in the data base, EPA used a pH editing rule which generally excludes data in cases where the pH is below 7.0 for extended periods of time (i.e. over two hours). The rationale for this rule was that low pH over a long period of time often indicates improper functioning of the treatment system. The time periods of low pH for the points in question cannot be determined from existing data; however, because large amounts of metals were removed and low effluent concentrations were being achieved, the pH at the point of precipitation necessarily had to be well above pH 7.0. The reason for the effluent pH falling below 7.0 cannot be determined from the available data, but it is resumed to be a pH rebound. This phenomenon is often encountered when a slow reacting acidic material is neutralized or reacts late in the treatment cycle. The Agency believes that the data in question are representative of a lime and settle treatment process which is being operated in an acceptable manner. Accordingly, the data have been retained in the CMDB.

The occurrence of an influent value less than an effluent value measured on the same day may be an indication of system malfunction. However, such values can also occur in the course of normal operation. In general, where there was no indication of treatment malfunction or mislabelling of the sample the values were retained in the data base.

(3) The Agency carefully re-examined the specific data points indentified in comments as being from plants without appropriate lime and settle technology. Each plant identified was reviewed carefully to ensure all data used came from plants with treatment that qualified as lime and settle technology. Detailed discussions on each plant referred to in the comments are provided in the response to comments document.

(4) The Agency at one time considered including metal finishing data in the CMDB, however, statistical analysis indicated that these data were not homogeneous with other metals industries' data including aluminum forming data. Differences between electroplating and the other categories were suspected on the basis of engineering assessment. The results of the analysis showed there were statistically discernible differences among electroplating and the other categories. Therefore, metal finishing data were removed from the CMDB. Consistent with this analysis, the use of the electroplating data alone is not an appropriate means of determining lime and settle treatment effectiveness for the aluminum forming category.

2. Anodizing Wastewaters

Comment: Several commenters contend that since anodizing is regulated under the metal finishing category and, as these effluent limitations are less stringent than the proposed aluminum forming limits, free standing facilities will have a competitive advantage over those anodizing operations integrated with aluminum forming facilities. Commenters also questioned the use of the CMDB to set anodizing limits when both electroplating data and metal finishing data which include anodizing, were eliminated from the data base used to establish aluminum forming guidelines.

Response: Wastewater discharges from aluminum forming operations are specifically excluded from the metal finishing regulation (40 CFR 433.10(b); 48 FR 32485, July 15, 1983). The aluminum forming regulation specifically includes surface treatment operations such as cleaning, etching, anodizing, and conversion coating when performed at the same plant site at which aluminum is formed.

The Clean Water Act directs EPA to establish effluent limitations guidelines and standards for specific industrial

categories of point source discharges. In several instances, particular types of discharges could fall within two or more categories, as anodizing falls within the definition of both the metal finishing and aluminum forming categories. Thus, for the purpose of regulatory coverage, the Agency must determine which discharge limits are most appropriate for each operation. The Agency has included under the aluminum forming regulation (Part 467) those anodizing operations performed as an integral part of aluminum forming. The inclusion of anodizing in Part 467 is appropriate because aluminum anodizing wastewaters display pollutant characteristics similar to other aluminum forming process wastewaters and are effectively treated by technologies found applicable to the aluminum forming category as a whole. In addition, the Agency has considered the economic and practical impacts on those anodizing facilities covered by the aluminum forming regulation as compared to those covered by the metal finishing regulation. As discussed below, the Agency concludes that no significant economic effects will be caused by this regulatory allocation of anodizing operations common to both the aluminum forming and metal finishing categories.

Although the treatment effectiveness concentrations are different for aluminum forming and metal finishing, the aluminum forming regulation, like the metal finishing regulation, is based on lime and settle end-of-pipe treatment. Since model treatment technologies with similar costs are the basis for both guidelines, EPA believes that plants regulated under the aluminum forming guidelines would not be placed at a significant competitive disadvantage. The aluminum forming model BAT-PSES technology also includes flow reduction through countercurrent rinsing. Many aluminum formers that anodize now have countercurrent cascade rinsing installed; more are planning to install this technology and, during post-proposal plant visits we observed countercurrent cascade rinse tanks awaiting installation. After a careful examination of all available data, we have concluded that the installation of this technology is technically feasible and will not cause a competitive hardship.

For new plants or plants that do not have treatment in place, the costs of the flow reduction technologies are often more than balanced by a reduced cost for smaller end-of-pipe treatment equipment. The available data clearly indicate that aluminum forming anodizers will not be at a competitive disadvantage to those anodizers covered by the metal finishing regulation.

Two aluminum forming plants that perform anodizing are included in the combined metals data base. The raw and treated wastewaters from these plants have been found to be homogeneous with the other raw and treated wastewaters in the combined metals data base. Thus it has been demonstrated that anodizing facilities can comply with the limitations and standards derived from the combined metals data base.

3. Filtration

Comment: Several commenters objected to the inclusion of filtration in the model technology used as a basis for BAT and PSES. They stated that the addition of filtration to the treatment train would not substantially reduce the metals content of the effluent and that the cost of filtration is not justified by the additional pollutant removal it provides. One commenter, however, supports the inclusion of filtration in BAT model treatment technology because it will provide additional pollutant removals and is not anticipated to inflict any significant economic hardships on the industry.

Response: The Agency is not promulgating BAT and PSES based on model treatment technology including filtration for the reasons stated earlier in Section V of this preamble.

4. Countercurrent Cascade Rinsing Space Limitations

Comment: Several comments were made on the issue of space limitations for countercurrent cascade rinsing. The commenters contend that the majority of existing facilities do not have enough space to install multiple stage countercurrent cascade rinsing which is a technology basis for the BAT flow allowances on cleaning and etching rinses. In addition to simple lack of space, severe retrofitting problems are claimed to occur due to limitations in crane height and the configurations of existing tanks. Also, installation will interrupt production as the related operations are not truly intermittent. Several commenters took the position that the Agency lacked sufficient documentation or support for the contention that space is available and that installation will not cause interruptions in production.

Response: After the close of the comment period, the Agency requested specific information from commenters as to space limitations, and made plant visits to assess particular problems asserted to be caused by space limitations. The additional information indicates that only one existing facility in the Agency's data base does not have sufficient space to install countercurrent rinsing on one etch line. However, this plant currently meets the BAT regulatory flow and will not need to install countercurrent cascade rinsing technology. On this basis and after review of all applicable data we conclude that the installation of countercurrent cascade rinse technology and the reduction of process flows to the BAT regulatory levels can be achieved by existing facilities.

For the plants that have not installed countercurrent cascade rinsing, process interruptions are primarily a matter of engineering planning and scheduling. Survey information and information solicited after receipt of comments indicates that these surface treatment lines are usually in operation one shift per day, five days per week. Thus preliminary work can be done during the regularly scheduled non-operational periods such as weekends and evenings. Final installation can be accomplished during weekends or scheduled maintenance or vacation shutdowns. Properly planned and scheduled, the installation of countercurrent cascade rinsing should not result in any serious interruptions in production.

The Agency estimated costs for the additional tanks and plumbing necessary to install two-stage countercurrent cascade rinsing. Plant layout and other site-specific factors were not addressed on a plant-by-plant basis in the estimation of compliance costs; however, the Agency's overall compliance costs include a reasonable estimate of the costs that aluminum forming plants will incur to install this technology.

5. Limitations and Standards for Cyanide

Comment: Several commenters object to the regulation of cyanide in the aluminum forming category. The commenters contend that this compound is not present at significant concentrations in aluminum forming wastewaters. Additionally, it is asserted that the complexed cyanides which are present in these waste streams are not toxic.

It is asserted that transfer of cyanide precipitation treatment data from the aluminum subcategory of the coil coating category is inappropriate because wastewater matrix differences exist between the two categories. Further commenters contend that the Agency has overestimated the

capability of cyanide precipitation technology for removing the complexed ferro/ferri cyanides found in aluminum forming wastewaters. Commenters have submitted laboratory and full-scale performance data from the coil coating category and the primary aluminum subcategory of the nonferrous metals manufacturing category in support of their contention that the cyanide limits are too stringent and unachievable by the proposed technology.

Response: Limitations and standards for cyanide are included in the aluminum forming regulation because cyanide was found in the raw wastewater of two sampled plants in significant concentrations.The Agency is regulating total cyanide because it is well known and widely demonstrated that all cyanides, even the most stable, revert to highly toxic free cyanide when exposed to sunlight.

Although cyanide was found and is known to be present, the Agency does not believe that it is a necessary process chemical in aluminum forming operations. Therefore, the Agency suggests that the most effective way to control cyanide is to employ process chemical substitution. This will eliminate the need for any preliminary treatment for cyanide.

The model treatment technology used to develop limitations on cyanide is cyanide precipitation. No aluminum forming facility currently practices cyanide removal. Thus it is necessary to transfer this technology from the aluminum subcategory of the coil coating category as described in Section VII of the development document. Wastewaters from the aluminum coil coating operations have the same pollutants and species of ions in the same concentration ranges as aluminum forming wastewaters. Since these two waste streams have similar characteristics, the Agency believes that this technology can be transferred from the coil coating category and that it will perform as indicated in the aluminum forming category.

The cyanide concentration values were derived from cyanide removal data from three coil coating plans. The coil coating data submitted by commenters to support their contention that the cyanide limits cannot be achieved were previously submitted for the coil coating regulation. These data were found to be unreliable for the reasons discussed in Section VII of the Development Document for the Coil Coating Point Source Category. The data submitted on cyanide removal from primary aluminum cannot be applied to aluminum forming wastewaters because of significant wastewater matrix differences between the two categories.

6. Treatment Effectiveness for the Pollutant Aluminum

Comment: Several comments were received objecting to the establishment of effluent limitations for the pollutant aluminum because: (1) Aluminum is not a toxic or conventional pollutant; (2) control of aluminum is assured by control of chromium and zinc; (3) the aluminum limit is unachievable by the proposed technology especially when operated for removal of the other regulated metals.

Response: (1) The Agency is regulating the pollutant aluminum because it was found in significant concentrations (ranging up to 70,000 mg/l) in nearly every aluminum forming wastewater stream. Aluminum is a nonconventional pollutant and is appropriately regulated at BAT since BAT limitations are the principal national means of controlling nonconventional pollutants. In that the Clean Water Act is a technology based statute and the model treatment technologies remove aluminum, the Agency is regulating the discharge of aluminum.

(2) Control of aluminum is not necessarily assured by the control of chromium and zinc which are the only two toxic metals specifically limited in this regulation. Nearly every aluminum forming waste stream contains aluminum in significant concentrations. However, a particular waste stream may not necessarily contain chromium and zinc at treatable levels and may contain treatable levels of the other non-regulated toxic metals. If such a waste stream is treated for aluminum removal in the pH range suggested, the other toxic metals that may be present will be effectively treated. Further, when aluminum is removed it acts as an excellent co-precipitant and increases the level of removal achievable for the other metal hydroxides.

(3) The Agency visited and sampled four aluminum forming plants since proposal which employ lime and settle treatment technology. The additional effluent concentration data for the pollutant aluminum were combined with the sampling data used at proposal to derive new treatment effectiveness values for aluminum removal. The Agency has increased the allowable discharge levels of aluminum from 4.45 μg/l to 6.43 μg/l maximum for any one day.

7. Additional Wastewater Streams

Comment: Several comments were received claiming that the Agency had failed to include flow and discharge allowances for significant wastewater sources. The commenters' position is that flow and discharge allowances should be established for the following wastewater sources:

(a) Extrusion press hydraulic system leakage;
(b) Boiler blowdown;
(c) Stormwater runoff;
(d) Noncontact cooling water;
(e) Deionized water systems;
(f) Ultrasonic testing; and
(g) Others —vulcanizing and plastics wastewaters, grinding caster rolls, etch baths when not followed by a rinse, maintenance shop wastewaters, wet scrubbers associated with bright dip anodizing, dye solution tanks and seal tanks.

The commenters indicate that uniform flow allowances cannot be established for many of these flows, particularly stormwater runoff, and hence, the Agency should identify these sources and provide for flow allowances on a case-by-case basis.

Response: After proposal the Agency collected additional information and data on some of the wastewater sources listed above. The additional data support the commenters contentions that a separate discharge allowance should be provided for extrusion press hydraulic leakage from hydraulic systems which use an oil emulsion. The flow allowance for this stream at BPT, BAT, and PSES is based on the average of all the data supplied by plants not employing recycle. The flow allowance for new sources (NSPS and PSNS) is based on the average of all the data supplied by plants employing recycle.

The Agency has decided not to regulate waste streams such as boiler blowdown, noncontact cooling water, and stormwater run-off. These wastewaters are not process wastewaters and do not have a direct relationship to the production operations. Also, they occur only intermittently and vary from plant-to-plant. Thus, the Agency believes these wastewater sources must be regulated on a case-by-case basis at the permit writing stage.

The Agency has reevaluated the flow allowance for miscellaneous wastewater sources that is included in the core allowance for each subcategory. Additional data support an increase in the discharge allowance from the proposed allowance of 3 l/kkg to 45 l/kkg. This allowance applies to discharges from maintenance and miscellaneous cleanup, ultrasonic testing bath, process area scrubber ingot scalping, roll grinding for caster rolls, and dye solution and seal baths when not followed by a rinse. These wastewater sources are charcterized by low flows and occur only intermittently at some plants in the category, thus they are appropriately grouped in a single allowance which the permit writer will include in each core allowance.

Plastics wastewaters are covered under the plastics molding and forming point source category. Vulcanizing wastewaters are covered under the Rubber Processing Category (40 CFR 428). Wet scrubbers associated with bright dip anodizing are considered to be etch line scrubbers and are covered by that allowance. Deionized water systems, when used to treat a plant's service water (fresh water coming into the plant), do not have any relation to the amount of production or to the amounts or types of pollutants generated by the forming process. Therefore, the wastewater resulting from regeneration of these systems is not covered by this regulation and may be regulated by the permit writer on a case-by-case basis.

8. Mass-Based Limitations and Standards

Comment: Several commenters oppose mass-based limitations and standards and recommend that, as it did for other industries, the Agency should establish concentration-based limits instead. It is contended that production normalized flows, necessary for mass-based limits, have not and cannot be properly established and that, the standards should therefore be based on concentration. Additionally, mass-based limits make compliance determinations unnecessarily complex, if not impossible. One commenter recommends that representative values for flow and production be used in setting permit limits with revision for major process changes only; this would alleviate the problem of noncompliance due to minor variations in production and flow. One commenter supports the mass-based limitations as the best method to ensure a total reduction of pollutants and to prevent dilution as an alternative to compliance.

For pretreatment standards, commenters contend that mass-based limits are especially inappropriate as most POTW sewer ordinances are concentration-based and as compliance determinations will depend on industry supplied data.

Response: The Agency is promulgating mass-based limitations and standards because flow reduction is an important part of the model treatment technology. In developing the aluminum forming regulation, the Agency examined the sources and amounts of water used in the various manufacturing operations. EPA found that for all process operations a significant number of plants used more waste than the process required, and further, that for a number of processes, water was being recycled by many plants in the category. Accordingly, flow reduction was incorporated as part of the model treatment technology for aluminum forming. (The total BPT flow is reduced by 60 percent at BAT.) Mass-based limitations are necessary for this category to adequately control the total discharge of pollutants and reflect the total pollutant removal achieved by the model treatment technology.

The production normalized flows are based on industry flow and production data which were then used to calculate mass-based limitations. In determining an individual plants discharge allowances, the facility will provide historical production information. The permitting or municipal authority will apply the mass limitations presented in the regulation using an average rate of production as reported by the facilities. The average rate of production should represent a reasonable measure of actual operation production.

The permit writer or control authority establishes production levels once, at the time the limitation and standards are calculated for the facility. A facility's limitations or standards may be revised if the average rate of production as reported by the facility no longer represents a reasonable measure of actual production for that operation due to substantial changes in production. The other two parameters necessary to calculate limitations, i.e. production normalized flow and treatment effectiveness concentration, are established by this regulation.

9. Classification of Solid Waste

Comment: The commenters contend that the Agency has underestimated the quantity of solid wastes generated as a result of this regulation. Additionally, the commenters challenge the assumption that solid wastes generated by the model treatment technologies are not hazardous under RCRA. The commenters's major concern is the impact that these assumptions have on compliance cost estimates.

Response: The Agency has based estimates of the quantity of sludge generation on the assumption that the sludge will be dewatered to 20 percent solids. This value is lower than what many metal processing plants are achieving, but the Agency believes it is a reasonable estimate to apply to a variety of situations. Because we have assumed that the sludge contains a large amount of water, our estimates of its volume and weight will be, if not accurate, slightly high.

As discussed in Section VII of this preamble one wastewater treatment sludge from aluminum forming might be considered hazardous under the regulations implementing subtitle C of the Resource Conservation and Recovery Act (RCRA). Wastewater sludge generated from cyanide precipitation treatment of aluminum forming solution heat treatment contact cooling water may contain cyanide and may exhibit extraction procedure (EP) toxicity. Therefore, these wastes may require disposal as a hazardous waste. We have estimated the added cost above the cost of disposing an equivalent mass of nonhazardous waste at $284,200 per year. This added cost does not change conclusions reached regarding the economic impact of this regulation.

The Agency collected additional data and information from the industry on sludges generated by lime and settle treatment. The new data and information support the Agency's determination that these solid wastes will not be considered hazardous under RCRA. Thus the disposal cost of $.40 per gallon ($1982) used by the Agency for costing this type of sludge is appropriate.

10. Limitations and Standards for pH

Comment: Several commenters have expressed concern that the regulatory range for pH and the metals limitations are incompatible. Optimum operating levels in lime and settle treatment are different for the various metals regulated. Therefore, if the system is operated within the proposed range of optimum metals removal, individual metals will not be removed to the same extent as if the system were operated for removal of a single metal uniquely. The commenters express concern that the performance data used by the Agency to establish these limits have not been documented as actually having a pH within the proposed regulatory range.

Additionally, commenters contend that a more reasonable range of pH control is within 3 units as opposed to the 2.5 units proposed. They recommend that the limits be changed to 7 to 10. Some commenters state that since most industries have a lower pH limit of 6.0 and because some facilities do not employ lime and settle technology, the pH limits should be changed to 6 to 10 or handled on a case-by-case basis.

VOL 48 ISS 206 OCT 24 1983 UMI

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Response: The Agency has revised the pH range from 7.5 to 10 to 7.0 to 10.0. Comments and additional sampling data gathered after proposal indicate that the optimum pH level for aluminum removal is lower than the regulated toxic metals. The revised pH range of 7.0 to 10.0 will facilitate meeting the aluminum limits and ensure the removal of other toxic metals. Since the limitations were derived from actual performance data at treatment plants that were operating their treatment systems within the range set forth as indicative of proper operation, we believe the limits are achievable using the recommended technology. The Agency is not establishing a pH range of 6 to 10 because data indicate that metals are present in all aluminum forming wastestreams and effective metals removal will not occur at a pH of 6.

11. Regeneration of Cleaning or Etch Baths

Comment: Several commenters object to the zero discharge limit for cleaning or etching baths based on regeneration or hauling of the wastes. It is contended that (1) Regeneration processes have not been proven or demonstrated effective for aluminum forming wastewaters and cannot be universally applied, and (2) even when regeneration processes are employed, some wastewater is generated due to the recovery process itself or to periodic dumping of the baths due to pollutant buildups.

Response: The comments and data provided concerning regeneration technology for cleaning or etching baths indicate that this technology is not at present a proven technology with which to achieve zero discharge. Therefore, the Agency is allowing a discharge from this wastewater source at BAT, PSES, PSNS, and NSPS that is equivalent to the allowance at BPT.

12. Economic Impacts

Comment: Some commenters stated that the economic analysis understated the economic impacts for the following reasons: (1) EPA overestimated baseline profits by omitting General Administration and Selling Expenses and, in particular, overestimated the profit for the extrusion subcategory which they characterized as very competitive; (2) EPA assumed a market rate of return which was too low, thus understating the return available from alternative investments; (3) EPA neglected to consider the depressed state of the industry.

Response: EPA has revised the economic analysis, using a profit estimate based on the Federal Trade Commission Line of Business reports which take full account of General Administrative and Selling Expenses. A single rate of return on assets is used for all aluminum forming product segments. This estimate is lower than the profit rates estimated in the proposal, considerably so for extrusion.

EPA revised the market rate of return in the proposal, basing it on the lower bond rates forecast for 1977 instead of forecasts for the 1983 to 1984 periods. We also included a small risk premium based on experienced returns.

In response to the comment on the depressed state of the industry in 1982, the Agency has performed a business cycle analysis. Based on the capacity utilization in the industry, 1977 appears to be a normal year for earnings and we anticipate that the industry will have recovered to a normal rate of capacity utilization and earnings by 1985 to 1986. A copy of the business cycle analysis, "Macroeconomic Conditions and Performance of Regulated Industries," is in the public record for this rulemaking.

EPA believes that the revised Economic Impact Analysis shows that both BAT and PSES are economically achievable.

X. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMP). EPA is not promulgating BMP specific to aluminum forming.

XI. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations is necessary because such upsets will inevitably occur even in properly operated control equipment. Because technology-based limitations require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through exercise of EPA's enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Wayerhoeuser Co.* v. *Costle, supra*, and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

We determined that both upset and bypass provisions should be included in NPDES permits and have promulgated permit regulations that include upset and bypass permit provisions. See 40 CFR 122.41. The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the aluminum forming industry will be entitled to upset and bypass provisions in NPDES permits, this final regulation does not address these issues.

XII. Variances and Modifications

Upon the promulgation of this regulation, the appropriate effluent limitations must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the aluminum forming industry. In addition, on promulgation, the pretreatment limitations are directly applicable to any indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont deNemours & Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. However, the economic ability of the individual operator to meet the compliance cost for BPT standards is not a consideration for granting a variance. See *National Crushed Stone Association* v. *EPA*, 449 U.S. 64 (1980). Although this variance clause was set forth in EPA's 1973 to 1976 industry regulations, it is now included in the NPDES regulations and will not be included in the aluminum forming or other industry regulations. See the NPDES regulations at 40 CFR Part 125, Subpart D.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors

variance. In addition, BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines.

The economic modification section of the Act (Section 301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants for dischargers who file a permit application after July 1, 1978, upon a showing that such modified requirements will (1) represent the maximum use of technology within the economic capability of the owner or operator and (2) result in reasonable further progress toward the elimination of the discharge of pollutants. The environmental modification section (301(g)) allows the Administrator, with the concurrence of the State, to modify BAT limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum in compliance with BPT limitations or any more stringent limitations necessary to meet water quality standards;

(b) Such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(c) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that application for modifications under Section 301 (c) or (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES Program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for a 301(c) or 301(g) modification or both.

Indirect dischargers subject to PSES and PSNS are eligible for credits for toxic pollutants removed by POTW. See 40 CFR § 403.7 48 FR 9404 (January 28, 1981). New sources subject to NSPS are not eligible for any other statutory or regulatory modifications. See, *E. I. duPont de Nemours & Co.* v. *Train*, supra.

Indirect dischargers subject to PSES have, in the past, been eligible for the "fundamentally different factors" variance. See 40 CFR 403.13. However, on September 20, 1983, the United States Court of Appeals for the Third Circuit held that "FDF variances for toxic pollutants are forbidden by the Act," and remanded § 403.13 to EPA. *NAMF et al* v. *EPA*, Nos. 79–2256 et al. (3rd Cir., September 20, 1983). EPA is considering the effect of that decision.

In a few cases, information which would affect these PSES may not have been available to EPA or affected parties in the course of this rulemaking. As a result it may be appropriate to issue specific categorical standards for such facilities, treating them as a separate subcategory with more, or less, stringent standards as appropriate. This will only be done if a different standard is appropriate because of unique aspects of the factors listed in Section 304(b)(2)(B) of the Act: the age of equipment and facilities involved, the process employed, the engineering aspects of applying control techniques, nonwater quality environmental impacts (including energy requirements) or the cost of required effluent reductions (but not of ability to pay that cost).

Indirect dischargers and other affected parties may petition the Administrator to examine those factors and determine whether these PSES are properly applicable in specific cases or should be revised. Such petitions *must* contain specific and detailed support data, documentation, and evidence indicating why the relevant factors justify a more, or less, stringent standard, and must also indicate why those factors could not have been brought to the attention of the Agency in the course of this rulemaking. The Administrator will consider such rulemaking petitions and determine whether a rulemaking should be initiated.

XIII. Implementation of Limitations and Standards

A. Relationship to NPDES Permits

The BPT/BAT limitations and NSPS in this regulation will be applied to individual aluminum forming plants through NPDES permits issued by EPA or approved state agencies, under Section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits except to the extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit issuing authority.

A second topic that warrants discussion is the operation of EPA's NDPES enforcement program, many aspects of which were considered in developing this regulation. We emphasize that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

B. Indirect Dischargers

For indirect dischargers, PSES and PSNS are implemented under National Pretreatment Program procedures outlined in 40 CFR Part 403. The table below may be of assistance in resolving questions about the operation of that program. A brief explanation of some of the submissions indicated on the table follows:

A "request for category determination" is a written request, submitted by an indirect discharger or its POTW, for a determination of which categorical pretreatment standard

applies to the indirect discharger. This assists the indirect discharger in knowing which PSES or PSNS limits it will be required to meet. See 40 CFR 403.6(a).

A "baseline monitoring report" is the first report an indirect discharger must file following promulgation of an applicable standard. The baseline report includes: an identification of the indirect discharger; a description of its operation; a report on the flows of regulated streams and the results of sampling analyses to determine levels of regulated pollutants in those streams; a statement of the discharger's compliance or noncompliance with the standard; and a description of any additional steps required to achieve compliance. See 40 CFR 403.12(b).

A "report on compliance" is required of each indirect discharger within 90 days following the date for compliance with an applicable categorical pretreatment standard. The report must indicate the concentration of all regulated pollutants in the facility's regulated process wastestreams; the average and maximum daily flows of the regulated stream; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance or pretreatment is necessary to achieve compliance. See 40 CFR 403.12(d).

A "periodic compliance report" is a report on continuing compliance with all applicable categorical pretreatment standards. It is submitted twice per year (June and December) by indirect dischargers subject to the standards. The report shall provide the concentrations of the regulated pollutants in its discharge to the POTW; the average and maximum daily flow rates of the facility; the methods used by the indirect discharger to sample and analyze the data, and a certification that these methods conform to the methods outlined in the regulations. See 40 CFR 403.12(e).

INDIRECT DISCHARGERS SCHEDULE FOR SUBMITTAL AND COMPLIANCE

Item	Applicable sources	Date or time period	Measured from	Submitted to
Request for category determination.	Existing	60 days or 60 days	From effective date of standard. From Federal Register Development Document Availability.	Director [1].
	New	Prior to commencement of discharge to POTW.		
Baseline monitoring	All	180 days	From effective date of standard of final decision or category determination.	Control authority [2].
Report on compliance	Existing	90 days	From date for final compliance	Control authority [2].
	New	90 days	From commencement of discharge to POTW.	
Periodic compliance reports	All	June and December.		Control authority [2].

[1] Director = (a) Chief Administrative Officer of a state water pollution control agency with an approved pretreatment program, or (b) EPA Regional Water Division Director, if state does not have an approved pretreatment program.
[2] Control Authority = (a) POTW if its pretreatment program has been approved, or (b) Director of state water pollution control agency with an approved pretreatment program, or (c) EPA Regional Administrator, if state does not have an approved pretreatment program.

XIV. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants." EPA's technical conclusions are detailed in the "Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Aluminum Forming Point Source Category." The Agency's economic analysis is presented in "Economic Impact Analysis of Effluent Limitations and Standards for the Aluminum Forming Industry." A summary of the public comments received on the proposed regulation is presented in a report "Responses to Public Comments, Proposed Aluminum Forming Effluent Limitations Guidelines and Standards," which is a part of the public record for this regulation. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161, (703) 487–4600. Additional information concerning the economic impact analysis may be obtained from Ms. Ellen Warhit, Economic Analysis Staff (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382–5381. Technical information may be obtained by writing to Ms. Janet Goodwin, Effluent Guidelines Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382–7126.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. The information collection requirements in this rule will be submitted for approval in the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* They are not effective until OMB approves them and a technical amendment to that effect is published in the **Federal Register.**

XV. List of Subjects in 40 CFR Part 467

Aluminum forming, water pollution control, waste treatment and disposal.

Dated: September 30, 1983.

William D. Ruckelshaus,

Administrator.

XVI. Appendices

Appendix A—Abbreviations, Acronyms, and Other Terms Used in this Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology under Section 304(b)(4) of the Act.

BMPs—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available under Section 304(b)(10) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et. seq.), as amended by the Clean Water Act of 1977 (Pub. L. 95–217).

DCP—Data collection portfolio.

Direct discharger—A facility which discharges or may discharge pollutants into waters of the United States.

Indirect discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B—Toxic Pollutants not Detected in Aluminum Forming Wastewater

(a) Subpart A—Rolling With Neat Oils Subcategory.

003 acrylonitrile
005 benzidine
008 1,2,4,-trichlorobenzene
009 hexachlorobenzene
012 hexachloroethane
013 1,1-dichloroethane
016 chloroethane
017 deleted
018 bis(chloroethyl) ether
019 2-chloroethyl vinyl ether
020 2-chloronaphthalene
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3'-dichlorobenzidene
032 1,2-dichloropropane
033 1,3-dichloropropylene
038 2,6-dinitrotoluene
040 4-chlorophenyl phenyl ether
041 -bromophenyl phenyl ether
042 bis(2-chloroisopropyl) ether
043 bis(2-chloroethoxy) methane
045 methyl chloride
046 methyl bromide
049 deleted
050 deleted.
052 hexachlorobutadiene
053 hexachlorocyclopentadiene
056 Nitrobenzene
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
063 N-nitrosodi-n-propylamine
113 toxaphene
116 asbestos
129 2,3,7,8-tetrachlorodibenzo-p-dioxin

(b) Subpart B—Rolling With Emulsions Subcategory.

003 acylonitrile
005 benzidene
008 1,2,4,-trichlorobenzene
009 hexachlorobenzene
012 hexachloroethane
013 1,1-dichloroethane
016 chloroethane
017 deleted
018 bis(chloroethyl) ether
019 2-chloroethyl vinyl ether
020 2-chloronaphthalene
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3'-dichlorobenzidene
032 1,2-dichloropropane
033 1,3-dichloropropylene
036 2,6-dinitrotoluene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 bis(2-chloroisopropyl) ether
043 bis(2-chloroethoxy) methane
045 methyl chloride
046 methyl bromide
049 deleted
050 deleted
052 hexachlorobutadiene
053 hexachlorocyclopentadiene
056 nitrobenzene
061 N-nitrosodimethylamine
063 N-nitrosodi-n-propylamine
088 vinyl chloride
113 toxaphene
116 asbestos
129 2,3,7,8,-tetrachlorodibenzo-p-dioxin.

(d) Subpart D—Forging Subcategory.

003 acrylonitrile
005 benzidine
006 carbon tetrachloride
008 1,2,4–trichlorobenzene
009 hexachlorobenzene
012 hexachloroethane
013 1,1-dichloroethane
016 chloroethane
017 deleted
018 bis(chloroethyl) ether
019 2–chloroethyl vinyl ether
020 2-chloronaphthalene
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3 '-dichlorobenzene
032 1,2-dichloropropane
033 1,3-dichloropropylene
036 2,6-dinitrotoluene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 bis(2-chloroisopropyl) ether
043 bis(2-chloroethoxy) methane
045 methyl chloride
046 methyl bromide
049 deleted
050 deleted
052 hexachlorobutadiene
053 hexachlorocyclopentadiene
056 nitrobenzene
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
063 N-nitrosodi-n-propylamine
113 toxaphene
116 asbestos
129 2,3,7,8-tetrachlorodibenzo-p-dioxin

(e) Subpart E—Drawing With Neat Oils Subcategory.

003 acrylonitrile
005 benzidine
008 1,2,4-trichlorobenzene
009 hexachlorobenzene
012 hexachloroethane
013 1,1-dichloroethane
016 chloroethane
017 deleted
018 bis(chloroethyl) ether
019 2-chloroethyl vinyl ether
020 2-chloronaphthalene
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3'-dichlorobenzidene
032 1,2-dichloropropane
033 1,3-dichloropropylene
036 2,6-dinitrotoluene
040 4-chlorophenyl phenyl ether
041 4–bromophenyl phenyl ether
042 bis(2-chloroisopropyl) ether
043 bis(2-chloroethoxy) methane
045 methyl chloride
046 methyl bromide
049 deleted
050 deleted
052 hexachlorobutadiene
053 hexachlorocyclopentadiene
056 nitrobenzene
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
063 N-nitrosodi-n-propylamine
113 toxaphene
116 asbestos
129 2,3,7,8-tetrachlorodibenzo-p-dioxin

(f) Subpart F—Drawing With Emulsions or Soaps Subcategory.

003 acrylonitrile
005 benzidine
008 1,2,4-trichlorobenzene
009 hexachlorobenzene
012 hexachloroethane
013 1,1-dichloroethane
016 chloroethane
017 deleted
018 bis(chloroethyl) ether
019 2-chloroethyl vinyl ether
020 2-chloronaphthalene
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene

028 3,3'-dichlorobenzidene
032 1,2-dichloropropane
033 1,3-dichloropropylene
036 2,6-dinitrotoluene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 bis(2-chloroisopropyl) ether
043 bis(2-chloroethoxy) methane
045 methyl chloride
046 methyl bromide
049 deleted
050 deleted
052 hexachlorobutadiene
053 hexachlorocyclopentadiene
056 nitrobenzene
061 N-nitrosodimethylamine
063 N-nitrosodi-n-propylamine
113 toxaphene
116 asbestos
129 2,3,7,8-tetrachlorodibenzo-p-dioxin

Appendix C—Toxic Pollutants Detected Below the Analytical Quantification Limit

(a) Subpart A—Rolling With Neat Oils Subcategory.

006 carbon tetrachloride
010 1,2-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
029 1,1-dichloroethylene
031 2,4-dichlorophenol
057 2-nitrophenol
072 benzo(a)anthracene (1,2-benzanthracene)
089 aldrin
090 dieldrin
092 4,4'-DDT
094 4,4'-DDD
104 gamma-BHC
105 delta-BHC
127 thallium

(b) Subpart B—Rolling With Emulsions Subcategory.

006 carbon tetrachloride
010 1,2-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
029 1,1-dichloroethylene
031 2,4-dichlorophenol
057 2-nitrophenol
072 benzo(a)anthracene (1,2-benzanthracene)
089 aldrin
090 dieldrin
092 4,4'-DDT
094 4,4'-DDD
104 gamma-BHC
105 delta-BHC
127 thallium

(c) Subpart C—Extrusion Subcategory.

006 carbon tetrachloride
010 1,2-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
029 1,1-dichloroethylene
031 2,4-dichlorophenol
037 1,2-diphenylhydrazine
057 2-nitrophenol
089 aldrin
090 dieldrin
092 4,4'-DDT
094 4,4'-DDD
104 gamma-BHC
105 delta-BHC
127 thallium

(d) Subpart D—Forging Subcategory.

006 carbon tetrachloride
010 1,2-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
029 1,1-dichloroethylene
031 2,4-dichlorophenol
057 2-nitrophenol
089 aldrin
090 dieldrin
092 4,4'-DDT
094 4,4'-DDD
104 gamma-BHC
105 delta-BHC
127 thallium

(e) Subpart E—Drawing With Neat Oils Subcategory.

006 carbon tetrachloride
010 1,2-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-trichloroethane
029 1,-dichloroethylene
031 2,4-dichlorophenol
037 1,2-diphenylhydrazine
057 2-nitrophenol
072 benzo(a)anthracene (1,2-benzanthracene)
089 aldrin
090 dieldrin
092 4,4'-DDT
094 4,4'-DDD
104 gamma-BHC
105 delta-BHC
127 thallium

(f) Subpart F—Drawing With Emulsions or Soaps Subcategory.

006 carbon tetrachloride
010 1,2-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
029 1,1-dichloroethylene
031 2,4-dichlorophenol
057 2-nitrophenol
072 benzo(a)anthracene (1,2-benzanthracene)
089 aldrin
090 dieldrin
092 4,4'-DDT
094 4,4'-DDD
104 gamma-BHC
105 delta-BHC
127 thallium

Appendix D—Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources

(a) Subpart A—Rolling With Neat Oils Subcategory

004 benzene
011 1,1,1-trichloroethane
023 chloroform
030 1,2-*trans*-dichloroethylene
047 bromoform
048 dichlorobromomethane
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
064 pentachlorophenol
067 butyl benzyl phthalatey
069 di-n-octyl phthalate
071 dimethyl phthalate
091 chlordane
093 4,4'-DDE
095 alpha-endosulfan
096 beta-endosulfan
100 heptachlor
101 heptachlor epoxide
102 alpha-BHC
103 beta-BHC
114 antimony
115 arsenic
117 beryllium
126 silver

(b) Subpart B—Rolling With Emulsions Subcategory.

004 benzene
011 1,1,1-trichloroethane
023 chloroform
030 1,2-*trans*-dichloroethylene
047 bromoform
048 dichlorobromomethane
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
064 pentachlorophenol
067 butyl benzyl phthalate
069 di-n-octyl phthalate
071 dimethyl phthalate
091 chlordane
093 4,4'-DDE
095 alpha-endosulfan
096 beta-endosulfan
100 heptachlor
101 heptachlor epoxide
102 alpha-BHC
103 beta-BHC
114 antimony
115 arsenic
117 beryllium
126 silver

(c) Subpart C—Extrusion Subcategory

004 bnezene
011 1,1,1-trichloroethane
023 chloroform
030 1,2-*trans*-dichloroethylene
047 bromoform
048 dichlorobromomethane
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
064 pentachlorophenol
067 butyl benzyl phthalate
069 dl-n-octyl phthalate
071 dimethyl phthalate
091 chlordane
093 4,4'-DDE
095 alpha-endosulfan

096 beta-endosulfan
100 heptachlor
101 heptachlor epoxide
102 alpha-BHC
103 beta-BHC
114 antimony
115 arsenic
117 beryllium
126 silver

(d) Subpart D—Forging Subcategory.

004 benzene
011 1,1,1-trichloroethane
023 chloroform
030 1,2-*trans*-dichloroethylene
047 bromoform
048 dichlorobromomethane
058 4-nitrophenol
059 2,4-dinitrophenol
064 pentachlorophenol
067 butyl benzyl phthalate
069 di-n-octyl phthalate
071 dimethyl phthalate
091 chlordane
093 4,4'-DDE
095 alpha-endosulfan
096 beta-endosulfan
100 heptachlor
101 heptachlor epoxide
102 alpha-BHC
103 beta-BHC
114 antimony
115 arsenic
117 beryllium
126 silver

Appendix E—Toxic Pollutants Detected in Amount too Small To Be Effectively Treated by Technologies Considered in Preparing This Guideline

(a) Subpart A—Rolling With Neat Oils Subcategory.

002 acrolein
007 chlorobenzene
021 2,4,6-trichlorophenol
034 2,4-dimethylphenol
044 methylene chloride
051 chlorodibromomethane
123 mercury

(b) Subpart B—Rolling With Emulsions Subcategory.

002 acrolein
007 chlorobenzene
021 2,4,6-trichlorophenol
034 2,4-dimethylphenol
044 methylene chloride
051 chlorodibromomethane
123 mercury

(c) Subpart C—Extrusion Subcategory.

002 acrolein
007 chlorobenzene
021 2,4,6-trichlorophenol
034 2,4-dimethylphenol
044 methylene chloride
051 chlorodibromomethane
123 mercury

(d) Subpart D—Forging Subcategory.

002 acrolein
007 chlorobenzene
021 2,4,6-trichlorophenol
034 2,4-dimethylphenol
044 methylene chloride
051 chlorodibromomethane
123 mercury

(e) Subpart E—Drawing With Neat Oils Subcategory.

002 acrolein
004 benzene
007 chlorobenzene
021 2,4,6-trichlorophenol
034 2,4-dimethylephenol
044 methylene chloride
051 chlorodibromomethane
123 mercury

(f) Subpart F—Drawing With Emulsions or Soaps Subcategory.

002 acrolein
007 chlorobenzene
021 2,4,6-trichlorophenol
034 2,4-dimethylphenol
044 methylene chloride
051 chlofodibromomethane
123 mercury

Appendix F—Toxic Pollutants Effectively Controlled by BAT, PSES, NSPS, and PSNS Even Though They Are Not Specifically Regulated Limitations and Guidelines

(a) Subpart A—Rolling With Neat Oils Subcategory.

118 cadmium
120 copper
122 lead
124 nickel
125 selenium

(b) Subpart B—Rolling With Emulsions Subcategory.

118 cadmium
120 copper
122 lead
124 nickel
125 selenium

(c) Subpart C—Extrusion Subcategory.

118 cadmium
120 copper
122 lead
124 nickel
125 selenium

(d) Subpart D—Forging Subcategory.

118 cadmium
120 copper
122 lead
124 nickel
125 selenium

(e) Subpart E—Drawing With Neat Oils Subcategory.

118 cadmium
120 copper
122 lead
124 nickel
125 selenium

(f) Subpart F—Drawing With Emulsions or Soaps Subcategory.

118 cadmium
120 copper
122 lead
124 nickel
125 selenium

Appendix G—Toxic Organic Pollutants Which Are Not Regulated at BAT and NSPS Because They Are Effectively Controlled by Other Limitations and Standards

(a) Subpart A—Rolling With Neat Oils Subcategory.

001 acenaphthene
022 p-chloro-m-cresol
024 2-chlorophenol
035 2,4-dinitrotoluene
037 1,2-diphenylhydrazine
038 ethylbenzene
039 fluoranthene
054 isophorone
055 naphthalene
062 N-nitrosodiphenylamine
065 phenol
066 bis(2-ethylhexyl)phthalate
068 di-n-butyl phthalate
070 diethyl phthalate
073 benzo(a)pyrene
074 3,4-benzofluoranthene
075 benzo(k)fluoranthene
076 chrysene
077 acenaphthylene
078 anthracene
079 benzo(ghi)perylene
080 fluorene
081 phenanthrene
082 dibenzo(a,h)anthracene
083 indeno(1,2,3-c,d)pyrene
084 pyrene
085 tetrachloroethylene
086 toluene
087 trichloroethylene
088 vinyl chloride
097 endosulfan sulfate
098 endrin
099 endrin aldehyde
106 PCB–1242
107 PCB–1254
108 PCB–1221
109 PCB–1232
110 PCB–1248
111 PCB–1260
112 PCB–1016

(b) Subpart B—Rolling With Emulsions.

001 acenaphthene
022 p-chloro-m-cresol
024 2-chlorophenol
035 2,4-dinitrotoluene
037 1,2-diphenylhydrazine
038 ethylbenzene
039 fluoranthene
054 isophorone
055 naphthalene
062 N-nitrosodiphenylamine
065 phenol
066 bis(2-ethylhexyl)phthalate
068 di-n-butyl phthalate
070 diethyl phthalate
072 benzo(a)pyrene
074 3,4-benzofluoranthene
075 benzo(k)fluoranthene.
076 chrysene
077 acenaphthylene
078 anthracene
079 benzo(ghi)perylene
080 fluorene
081 phenanthrene
082 dibenzo(a,h)anthracene
083 indeno(1,2,3-c,d)pyrene
084 pyrene
085 tetrachloroethylene
086 toluene
087 trichloroethylene
088 vinyl chloride
097 endosulfan sulfate
098 endrin
099 endrin aldehyde
106 PCB–1242
107 PCB–1254
108 PCB–1221
109 PCB–1232
110 PCB–1248
111 PCB–1260
112 PCB–1016

(c) Subpart C—Extrusion Subcategory.

001 acenaphthene
022 p-chloro-m-cresol
024 2-chlorophenol
035 2,4-dinitrotoluene
037 1,2-diphenylhydrazine
038 ethylbenzene
039 fluoranthene
054 isophorone
055 naphthalene
062 N-nitrosodiphenylamine
065 phenol
066 bis(2-ethylhexyl)phthalate
068 di-n-butyl phthalate
070 diethyl phthalate
072 benzo(a)pyrene
074 3,4-benzofluoranthene
075 benzo(k)fluoranthene
076 chrysene
077 acenaphthylene
078 anthracene
079 benzo(ghi)perylene
080 fluorene
081 phenanthrene
082 dibenzo(a,h)anthracene
083 indeno(1,2,3-c,d)pyrene
084 pyrene
085 tetrachloroethylene
086 toluene
087 trichloroethylene
088 vinyl chloride
097 endosulfan sulfate
098 endrin
099 endrin aldehyde
106 PCB–1242
107 PCB–1254
108 PCB–1221
109 PCB–1232
110 PCB–1248
111 PCB–1260
112 PCB–1016

(d) Subpart D—Forging Subcategory.

001 acenaphthene
022 p-chloro-m-cresol
024 2-chlorophenol
035 2,4-dinitrotoluene
037 1,2-diphenylhydrazine
038 ethylbenzene
039 fluoranthene
054 isophorone
055 naphthalene
062 N-nitrosodiphenylamine
065 phenol
066 bis(2-ethylhexyl)phthalate
068 di-n-butyl phthalate
070 diethyl phthalate
072 benzo(a)pyrene
074 3,4-benzofluoranthene
075 benzo(k)fluoranthene
076 chrysene
077 acenaphthylene
078 anthracene
079 benzo(ghi)perylene
080 fluorene
081 phenanthrene
082 dibenzo(a,h)anthracene
083 indeno(1,2,3-c,d)pyrene
084 pyrene
085 tetrachloroethylene
086 toluene
087 trichloroethylene
088 vinyl chloride

(e) Subpart E—Drawing With Neat Oils Subcategory.

001 acenaphthene
022 p-chloro-m-cresol
024 2-chlorophenol
035 2,4-dinitrotoluene
037 1,2-diphenylhydrazine
038 ethylbenzene
039 fluoranthene
054 isophorone
055 naphthalene
062 N-nitrosodiphenylamine
065 phenol
066 bis(2-ethylhexyl)phthalate
068 di-n-butyl phthalate
070 diethyl phthalate
072 benzo(a)pyrene
074 3,4-benzofluoranthene
075 benzo(k)fluoranthene
076 chrysene
077 acenaphthylene
078 anthracene
079 benzo(ghi)perylene
080 fluorene
081 phenanthrene
082 dibenzo(a,h)anthracene
083 indeno(1,2,3-c,d)pyrene
084 pyrene
085 tetrachloroethylene
086 toluene
087 trichloroethylene
088 vinyl chloride
097 endosulfan sulfate
098 endrin
099 endrin aldehyde
106 PCB–1242
107 PCB–1254
108 PCB–1221
109 PCB–1232
110 PCB–1248
111 PCB–1260
112 PCB–1016

(f) Subpart F—Drawing With Emulsions or Soaps Subcategory.

001 acenaphthene
022 p-chloro-m-cresol
024 2-chlorophenol
035 2,4-dinitrotoluene
038 ethylbenzene
039 fluoranthene
054 isophorone
055 naphthalene
062 N-nitrosodiphenylamine
065 phenol
066 bis(2-ethylhexyl)phthalate
068 di-n-butyl phthalate
070 diethyl phthalate
074 3,4-benzofluoranthene
075 benzo(k)fluoranthene
076 chrysene
077 acenaphthylene
078 anthracene
079 benzo(ghi)perylene
080 fluorene
081 phenanthrene
082 dibenzo(a,h)anthracene
083 indeno(1,2,3-c,d)pyrene
084 pyrene
085 tetrachloroethylene
086 toluene
087 trichloroethylene
088 vinyl chloride
097 endosulfan sulfate
098 endrin
099 endrin aldehyde
106 PCB–1242
107 PCB–1254
108 PCB–1221
109 PCB–1232
110 PCB–1248
111 PCB–1260
112 PCB–1016

A new Part 467 is added to 40 CFR to read as follows:

PART 467—ALUMINUM FORMING POINT SOURCE CATEGORY

General Provisions

Sec.
467.1 Applicability.
467.2 General definitions.
467.3 Monitoring and reporting requirements.
467.4 Compliance date for PSES.

Subpart A—Rolling With Neat Oils Subcategory

467.10 Applicability; description of the rolling with neat oils subcategory.
467.11 Specialized definitions.
467.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
467.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
467.14 New source performance standards.
467.15 Pretreatment standards for existing sources.
467.16 Pretreatment standards for new sources.
467.17 Effluent limitations representating the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Subpart B—Rolling With Emulsions Subcategory

467.20 Applicability; description of the rolling with emulsions subcategory.
467.21 Specialized definitions.
467.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
467.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
467.24 New source performance standards.
467.25 Pretreatment standards for existing sources.
467.26 Pretreatment standards for new sources.
467.27 Effluent limitations representing the degree of effluent reduction attainable by the applicaton of the best conventional pollutant control technology [Reserved].

Subpart C— Extrusion subcategory.

467.30 Applicability; description of the extrusion subcategory.
467.31 Specialized definitions.
467.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
467.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
467.34 New source performance standards.
467.35 Pretreatment standards for existing sources.
467.36 Pretreatment standards for new sources.
467.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Subpart D—Forging Subcategory

467.40 Applicability; description of forging subcategory.
467.41 Specialized definitions.
467.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available [Reserved].
467.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable [Reserved].
467.44 New source performance standards.
467.45 Pretreatment standards for existing sources.
467.46 Pretreatment standards for new sources.
467.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Subpart E—Drawing With Neat Oils Subcategory

467.50 Applicability; description of the drawing with neat oils subcategory.
467.51 Specialized definitions.
467.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
467.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
467.54 New source performance standards.
467.55 Pretreatment standards for existing sources.
467.56 Pretreatment standards for new sources.
467.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Subpart F—Drawing With Emulsions or Soaps Subcategory

467.60 Applicability; description of the drawing with emulsions or soaps subcategory.
467.61 Specialized definitions.
467.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
467.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
467.64 New source performance standards.
467.65 Pretreatment standards for existing sources.
467.66 Pretreatment standards for new sources.
467.67 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Authority: Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 and 501, Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, as amended by Clean Water Act of 1977 (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500, 91 Stat. 1567, Pub. L. 95–217.

General Provisions

§ 467.01 Applicability.

(a) Aluminum forming includes commonly recognized forming operations such as rolling, drawing, extruding, and forging and related operations such as heat treatment, casting, and surface treatments. Surface treatment of aluminum is any chemical

VOL 48 ISS 206 OCT 24 1983 UMI

or electrochemical treatment applied to the surface of aluminum. Such surface treatment is considered to be a part of aluminum forming whenever it is performed as an integral part of aluminum forming. For the purposes of this regulation, surface treatment of aluminum is considered to be an integral part of aluminum forming whenever it is performed at the same plant site at which aluminum is formed and such operations are not considered for regulation under the Metal Finishing provisions of 40 CFR Part 433. Casting aluminum when performed as an integral part of aluminum forming and located on-site at an aluminum forming plant is considered an aluminum forming operation and is covered under these guidelines. When aluminum forming is performed on the same site as primary aluminum reduction the casting shall be regulated by the nonferrous metals guidelines if there is no cooling of the aluminum prior to casting. If the aluminum is cooled prior to casting then the casting shall be regulated by the aluminum forming guidelines.

(b) This part applies to any aluminum forming facility, except for plants identified under paragraph (c) of this section, which discharges or may discharge pollutants to waters of the United States or which introduces or may introduce pollutants into a publicly owned treatment works.

(c) This part is applicable to indirect discharging aluminum forming plants that extrude less than 3 million pounds of product per year and draw, with emulsions or soaps, less than 1 million pounds per year.

Note.—This paragraph is promulgated as an Interim Rule.

§ 467.02 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) *Aluminum forming* is a set of manufacturing operations in which aluminum and aluminum alloys are made into semifinished products by hot or cold working.

(b) *Ancillary operation* is a manufacturing operation that has a large flow, discharges significant amounts of pollutants, and may not be present at every plant in a subcategory, but when present is an integral part of the aluminum forming process.

(c) *Contact cooling water* is any wastewater which contacts the aluminum workpiece or the raw materials used in forming aluminum.

(d) *Continuous casting* is the production of sheet, rod, or other long shapes by solidifying the metal while it is being poured through an open-ended mold using little or no contact cooling water. Continuous casting of rod and sheet generates spent lubricants and rod casting also generates contact cooling water.

(e) *Degassing* is the removal of dissolved hydrogen from the molten aluminum prior to casting. Chemicals are added and gases are bubbled through the molten aluminum. Sometimes a wet scrubber is used to remove excess chlorine gas.

(f) *Direct chill casting* is the pouring of molten aluminum into a water-cooled mold. Contact cooling water is sprayed onto the aluminum as it is dropped into the mold, and the aluminum ingot falls into a water bath at the end of the casting process.

(g) *Drawing* is the process of pulling metal through a die or succession of dies to reduce the metal's diameter or alter its shape. There are two aluminum forming subcategories based on the drawing process. In the drawing with neat oils subcategory, the drawing process uses a pure or neat oil as a lubricant. In the drawing with emulsions or soaps subcategory, the drawing process uses an emulsion or soap solution as a lubricant.

(h) *Emulsions* are stable dispersions of two immiscible liquids. In the aluminum forming category this is usually an oil and water mixture.

(i) *Cleaning or etching* is a chemical solution bath and a rinse or series of rinses designed to produce a desired surface finish on the workpiece. This term includes air pollution control scrubbers which are sometimes used to control fumes from chemical solution baths. Conversion coating and anodizing when performed as an integral part of the aluminum forming operations are considered cleaning or etching operations. When conversion coating or anodizing are covered here they are not subject to regulation under the provisions of 40 CFR Part 433, Metal Finishing.

(j) *Extrusion* is the application of pressure to a billet of aluminum, forcing the aluminum to flow through a die orifice. The extrusion subcategory is based on the extrusion process.

(k) *Forging* is the exertion of pressure on dies or rolls surrounding heated aluminum stock, forcing the stock to change shape and in the case where dies are used to take the shape of the die. The forging subcategory is based on the forging process.

(l) *Heat treatment* is the application of heat of specified temperature and duration to change the physical properties of the metal.

(m) *In-process control technology* is the conservation of chemicals and water throughout the production operations to reduce the amount of wastewater to be discharged.

(n) *Neat oil* is a pure oil with no or few impurities added. In aluminum forming its use is mostly as a lubricant.

(o) *Rolling* is the reduction in thickness or diameter of a workpiece by passing it between lubricated steel rollers. There are two subcategories based on the rolling process. In the rolling with neat oils subcategory, pure or neat oils are used as lubricants for the rolling process. In the rolling with emulsions subcategory, emulsions are used as lubricants for the rolling process.

(p) The term *Total Toxic Organics (TTO)* shall mean the sum of the masses or concentrations of each of the following toxic organic compounds which is found in the discharge at a concentration greater than 0.010 mg/1:

p-chloro-m-cresol	trichloroethylene
2-chlorophenol	vinyl chloride
2,4-dinitrotoluene	endosulfan sulfate
1,2-diphenylhydrazine	bis(2-ethyl hexyl)phthalate
ethylbenzene	diethylphthalate
fluoranthene	3,4-benzofluoranthene
isophorone	benzo(k)fluoranthene
napthalene	chrysene
N-nitrosodiphenylamine	acenaphthylene
phenol	anthracene
benzo(a)pyrene	di-n-butyl phthalate
benzo(ghi)perylene	endrin
fluorene	endrin aldehyde
phenanthrene	PCB–1242, 1254, 1221
dibenzo(a,h)anthracene	PCB–1232, 1248, 1260, 1016
indeno(1,2,3-c,d)pyrene	acenaphthene
pyrene	
tetrachloroethylene	
toluene	

(q) *Stationary casting* is the pouring of molten aluminum into molds and allowing the metal to air cool.

(r) *Wet scrubbers* are air pollution control devices used to remove particulates and fumes from air by entraining the pollutants in a water spray.

(s) *BPT* means the best practicable control technology currently available under Section 304(b)(1) of the Act.

(t) *BAT* means the best available technology economically achievable under Section 304(b)(2)(B) of the Act.

(u) *BCT* means the best conventional pollutant control technology, under Section 304(b)(4) of the Act.

(v) *NSPS* means new source performance standards under Section 306 of the Act.

(w) *PSES* means pretreatment standards for existing sources, under Section 307(b) of the Act.

(x) *PSNS* means pretreatment standards for new sources, under Section 307(c) of the Act.

(y) The production normalizing mass (/kkg) for each core or ancillary operation is the mass (off-kkg or off-lb) processed through that operation.

(z) The term *off-kilogram (off-pound)* shall mean the mass of aluminum or aluminum alloy removed from a forming or ancillary operation at the end of a process cycle for transfer to a different machine or process.

§ 467.03 Monitoring and reporting requirements.

The following special monitoring and reporting requirements apply to all facilities controlled by this regulation.

(a) Periodic analyses for cyanide as may be required under Part 122 or 403 of this chapter are not required when both of the following conditions are met:

(1) The first wastewater sample of each calender year has been analyzed and found to contain less than 0.07 mg/l cyanide.

(2) The owner or operator of the aluminum forming plant certifies in writing to the POTW authority or permit issuing authority that cyanide is not and will not be used in the aluminum process.

(b) As an alternative to monitoring procedure for pretreatment, the POTW user may measure and limit oil and grease to the levels shown in pretreatment standards in lieu of measuring and regulating total toxic organics (TTO).

(c) The "monthly average" regulatory values shall be the basis for the monthly average discharge limits in direct discharge.

§ 467.04 Compliance date for PSES.

The compliance date for Pretreatment Standards for Existing Sources (PSES) is October 24, 1983.

Subpart A—Rolling With Neat Oils Subcategory

§ 467.10 Applicability; description of the rolling with neat oils subcategory.

This subpart applies to discharges of pollutants to waters of the United States, and introductions of pollutants into publicly owned treatment works from the core and the ancillary operations of the rolling with neat oils subcategory.

§467.11 Specialized definitions

For the purpose of this subpart:

(a) The "core" of the rolling with neat oils subcategory shall include rolling using neat oils, roll grinding, sawing, annealing, stationary casting, homogenizing artificial aging, degreasing, and stamping.

(b) The term "ancillary operation" shall mean any operation not previously included in the core, performed on-site, following or preceding the rolling operation. The ancillary operations shall include continuous rod casting, continuous sheet casting, solution heat treatment, cleaning or etching.

§ 467.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations for the core operation and for the ancillary operations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

Subpart A

Core Without an Annealing Furnace Scrubber

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per/million off-pounds) of aluminum rolled with neat oils	
Chromium	0.0360	0.0147
Cyanide	0.0237	0.0088
Zinc	0.119	0.0498
Aluminum	0.525	0.257
Oil and Grease	1.634	0.980
Suspended Solids	3.348	1.593
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart A

Core With an Annealing Furnace Scrubber

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per/million off-pound) of aluminum rolled with neat oils	
Chromium	0.0244	0.010
Cyanide	0.0161	0.0067
Zinc	0.0808	0.0338
Aluminum	0.356	0.174
Oil and Grease	1.11	0.664
Suspended Solids	2.27	1.079
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart A

Continuous Sheet Casting Spent Lubricant

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per/million off-pound) of aluminum sheet cast by continuous methods	
Chromium	0.00086	0.00035
Cyanide	0.00057	0.00024
Zinc	0.0029	0.0012
Aluminum	0.0127	0.0062
Oil and Grease	0.0383	0.0236
Suspended Solids	0.0805	0.0383
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart A

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per/million off-pound) of aluminum quenched	
Chromium	3.39	1.39
Cyanide	2.24	0.93
Zinc	11.25	4.70
Aluminum	49.55	24.20
Oil and Grease	154.10	92.46
Suspended Solids	315.91	150.25
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart A

Cleaning or Etching Bath

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per/million off-pound) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.110
Aluminum	1.15	0.562
Oil and Grease	3.58	2.15
Suspended Solids	7.34	3.48
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart A

Cleaning or Etching Rinse

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	6.12	2.51
Cyanide	4.04	1.67
Zinc	20.91	8.49
Aluminum	89.46	43.69
Oil and Grease	278.24	166.95
Suspended Solids	570.39	271.29
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart A

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	7.00	2.86
Cyanide	4.61	1.91
Zinc	23.22	9.70
Aluminum	102.24	49.93
Oil and Grease	316.00	190.80
Suspended Solids	651.90	310.05
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

§ 467.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. The mass of pollutants in the core and ancillary operations' process wastewater shall not exceed the following values:

Subpart A

Core Without an Annealing Furnace Scrubber

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with neat oils	
Chromium	0.036	0.015
Cyanide	0.024	0.0098
Zinc	0.119	0.050
Aluminum	0.525	0.257

Subpart A

Core With an Annealing Furnace Scrubber

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with neat oils	
Chromium	0.025	0.010
Cyanide	0.016	0.0067
Zinc	0.081	0.034
Aluminum	0.356	0.174

Subpart A

Continuous Sheet Casting Spent Lubricant

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum sheet cast	
Chromium	0.00086	0.00035
Cyanide	0.00057	0.00024
Zinc	0.00287	0.0012
Aluminum	0.0127	0.0062

Subpart A

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	0.897	0.367
Cyanide	0.591	0.245
Zinc	2.974	1.243
Aluminum	13.10	6.398

Subpart A

Cleaning or Etching Bath

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.282	0.109
Aluminum	1.151	0.562

Subpart A

Cleaning or Etching Rinse

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.612	0.251
Cyanide	0.404	0.167
Zinc	2.031	0.849
Aluminum	6.944	4.368

Subpart A

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.851	0.348
Cyanide	0.561	0.232
Zinc	2.822	1.179
Aluminum	12.43	6.070

§ 467.14 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards. The mass of pollutants in the core and ancillary operations' process wastewater shall not exceed the following values:

Subpart A

Core Without an Annealing Furnace Scrubber

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with neat oils	
Chromium	0.030	0.0123
Cyanide	0.016	0.0065
Zinc	0.084	0.0343
Aluminum	0.499	0.221
Oil and grease	0.617	0.817
Suspended solids	1.225	0.980
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart A

Core With an Annealing Furnace Scrubber

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with neat oils	
Chromium	0.021	0.0083
Cyanide	0.011	0.0044
Zinc	0.057	0.023
Aluminum	0.338	0.150
Oil and grease	0.553	0.553
Suspended solids	0.830	0.664
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart A

Continuous Sheet Casting Spent Lubricant

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast	
Chromium	0.00073	0.00029
Cyanide	0.00039	0.00016
Zinc	0.0020	0.00082
Aluminum	0.012	0.0053
Oil and grease	0.0197	0.019
Suspended solids	0.0295	0.022
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart A

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.17
Zinc	2.08	0.86
Aluminum	12.45	5.52
Oil and grease	20.37	20.37
Suspended solids	30.56	24.45
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart A

Cleaning or Etching Bath

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.066	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
Aluminum	1.094	0.485
Oil and grease	1.79	1.79
Suspended solids	2.69	2.15
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart A

Cleaning or Etching Rinse

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
Aluminum	8.50	3.70
Oil and grease	13.91	13.91
Suspended solids	20.87	16.69
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart A

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.715	0.29
Cyanide	0.387	0.16
Zinc	1.97	0.81
Aluminum	11.81	5.24
Oil and grease	19.33	19.33
Suspended solids	29.00	23.20
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

§ 467.15 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the following values:

Subpart A

Core Without an Annealing Furnace Scrubber

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with neat oils	
Chromium	0.036	0.015
Cyanide	0.024	0.010
Zinc	0.119	0.050
TTO	0.057	
Oil and grease (alternate monitoring parameter)	1.64	0.98

Subpart A

Core With an Annealing Furnace Scrubber

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds of aluminum rolled with neat oils	
Chromium	0.025	0.010
Cyanide	0.016	0.007
Zinc	0.081	0.034
TTO	0.036	
Oil and grease (alternate monitoring parameter)	1.11	0.67

Subpart A

Continuous Sheet Casting Lubricant

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast	
Chromium	0.00086	0.00035
Cyanide	0.00057	0.00024
Zinc	0.0029	0.0012
TTO	0.0014	
Oil and grease (alternate monitoring parameter)	0.040	0.024

Subpart A

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	0.090	0.37
Cyanide	0.59	0.25
Zinc	2.98	1.25
TTO	1.41	

VOL 48 ISS 206 OCT 24 1983 UMI

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
Oil and grease (alternate monitoring parameter)	40.74	24.45

Subpart A

Cleaning or Etching Bath

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.109
TTO	0.124	
Oil and grease (alternate monitoring parameter)	3.58	2.15

Subpart A

Cleaning or Etching Rinse

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.61	0.25
Cyanide	0.41	0.17
Zinc	2.03	0.85
TTO	0.96	
Oil and grease (alternate monitoring parameter)	27.82	16.69

Subpart A

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.85	0.35
Cyanide	0.56	0.23
Zinc	2.82	1.18
TTO	1.34	
Oil and grease (alternate monitoring parameter)	38.7	23.20

§ 467.16 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the following values:

Subpart A

Core Without an Annealing Furnace Scrubber

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with neat oils	
Chromium	0.030	0.013
Cyanide	0.017	0.007
Zinc	0.084	0.035
TTO	0.057	
Oil and grease (alternate monitoring parameter)	0.817	0.817

Subpart A

Core With an Annealing Furnace Scrubber

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with neat oils	
Chromium	0.021	0.009
Cyanide	0.011	0.005
Zinc	0.057	0.024
TTO	0.038	
Oil and grease (alternate monitoring parameter)	0.54	0.54

Subpart A

Continuous Sheet Casting Lubricant

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast	
Chromium	0.00073	0.00029
Cyanide	0.00039	0.00016
Zinc	0.0020	0.00082
TTO	0.0014	
Oil and grease (alternate monitoring parameter)	0.020	0.020

Subpart A

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg pounds per million off-pounds) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.17
Zinc	2.06	0.86
TTO	1.41	
Oil and grease (alternate monitoring parameter)	20.37	20.37

Subpart A

Cleaning or Etching Bath

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.067	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
TTO	0.124	
Oil and grease (alternate monitoring parameter)	1.79	1.79

Subpart A

Cleaning or Etching Rinse

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
TTO	0.96	
Oil and grease (alternate monitoring parameter)	13.91	13.91

Subpart A

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.72	0.29
Cyanide	0.39	0.15
Zinc	1.97	0.81
TTO	1.34	
Oil and grease (alternate monitoring parameter)	19.33	19.33

§ 467.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [Reserved].

Subpart B—Rolling With Emulsions Subcategory

§ 467.20 Applicability; description of the rolling with emulsions subcategory.

This subpart applies to dischargers of pollutants to waters of the United States and introductions of pollutants into publicly owned treatment works from the core and the ancillary operations of the rolling with emulsions subcategory.

§ 467.21 Specialized definitions.

For the purpose of this subpart:

(a) The "core" of the rolling with emulsions subcategory shall include rolling using emulsions, roll grinding, stationary casting, homogenizing, artificial aging, annealing, and sawing.

(b) The term "ancillary operation" shall mean any operation not previously included in the core, performed on-site, following or preceding the rolling operation. The ancillary operations shall include direct chill casting, solution heat treatment, cleaning or etching, and degassing.

§ 467.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B

Core

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with emulsions	
Chromium	0.057	0.024
Cyanide	0.038	0.016
Zinc	0.19	0.079
Aluminum	0.84	9.408
Oil and grease	2.60	1.56
Suspended solids	5.33	2.53
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast	
Chromium	0.59	0.24
Cyanide	0.39	0.16
Zinc	1.94	0.81
Aluminum	8.55	4.16
Oil and grease	28.58	15.96
Suspended solids	54.49	25.92
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	3.39	1.39
Cyanide	2.24	0.93
Zinc	11.25	4.70
Aluminum	49.55	24.20
Oil and grease	154.10	92.46
Suspended solids	315.91	150.25
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Cleaning or Etching Bath

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.109
Aluminum	1.15	0.562
Oil and grease	3.58	2.15
Suspended solids	7.34	3.49
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Cleaning or Etching Rinse

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	6.12	2.51
Cyanide	4.04	1.67
Zinc	20.31	8.40
Aluminum	89.45	43.89
Oil and grease	278.24	166.95
Suspended solids	570.39	271.29
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	7.00	2.86
Cyanide	4.81	1.91
Zinc	23.22	9.70
Aluminum	103.24	49.89
Oil and grease	318.00	190.80
Suspended solids	651.90	310.05
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 467.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. The discharge of process wastewater pollutants from the core shall not exceed the values set forth below:

Subpart B

Core

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with emulsions	
Chromium	0.057	0.024
Cyanide	0.038	0.016
Zinc	0.19	0.079
Aluminum	0.84	0.41

Subpart B

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast	
Chromium	0.59	0.24
Cyanide	0.39	0.16
Zinc	1.94	0.81
Aluminum	8.55	4.18

Subpart B

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BAT Effluent Limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million pounds) of aluminum quenched	
Chromium	0.90	0.37
Cyanide	0.59	0.25
Zinc	2.98	1.25
Aluminum	13.10	6.40

Subpart B

Cleaning or Etching Bath

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.26	0.109
Aluminum	1.15	0.573

Subpart B

Cleaning or Etching Rinse

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.61	0.25
Cyanide	0.41	0.17
Zinc	2.03	0.85
Aluminum	8.95	4.37

Subpart B

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.85	0.35
Cyanide	0.56	0.23
Zinc	2.82	1.18
Aluminum	12.43	8.07

§ 467.24 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards. The discharge of process wastewater pollutants from the core shall not exceed the values set forth below:

Subpart B

Core

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with emulsions	
Chromium	0.048	0.020
Cyanide	0.026	0.010
Zinc	0.133	0.055
Aluminum	0.80	0.35
Oil and grease	1.30	1.30
Suspended solids	1.95	1.56
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast by semicontinuous methods	
Chromium	0.49	0.20
Cyanide	0.27	0.11
Zinc	1.36	0.56
Aluminum	6.12	3.60
Oil and grease	13.29	13.29
Suspended solids	19.94	15.95
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.17
Zinc	2.08	0.86
Aluminum	12.45	5.52
Oil and grease	20.37	20.37
Suspended solids	30.56	24.45
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Cleaning or Etching Bath

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per billion off-pounds) of aluminum cleaned or etched	
Chromium	0.067	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
Aluminum	1.094	0.485
Oil and grease	1.79	1.79
Suspended solids	2.69	2.15
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Cleaning or Etching Rinse

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
Aluminum	8.50	3.77
Oil and grease	13.91	13.91
Suspended solids	20.87	16.70
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart B

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.72	0.29
Cyanide	0.39	0.16
Zinc	1.97	0.81

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
Aluminum	11.81	5.24
Oil and grease	19.33	19.33
Suspended solids	29.00	23.20
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 467.25 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the following values:

Subpart B

Core

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with emulsions	
Chromium	0.057	0.024
Cyanide	0.038	0.016
Zinc	0.190	0.079
TTO	0.090	
Oil and grease (alternate monitoring parameter)	2.60	1.56

Subpart B

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast by semi-continuous methods	
Chromium	0.59	0.24
Cyanide	0.39	0.16
Zinc	1.94	0.81
TTO	0.92	
Oil and grease (alternate monitoring parameter)	26.58	15.95

Subpart B

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	0.90	0.37
Cyanide	0.56	0.25
Zinc	2.98	1.24
TTO	1.41	
Oil and grease (alternate monitoring parameter)	40.74	24.44

Subpart B

Cleaning or Etching Bath

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.109
TTO	0.124	
Oil and grease (alternate monitoring parameter)	3.56	2.15

Subpart B

Cleaning or Etching Rinse

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.61	0.25
Cyanide	0.41	0.17
Zinc	2.03	0.85
TTO	0.96	
Oil and grease (alternate monitoring parameter)	27.82	16.69

Subpart B

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.85	0.35
Cyanide	0.56	0.23
Zinc	2.83	1.18
TTO	1.34	
Oil and grease (alternate monitoring parameter)	38.66	23.20

§ 467.26 Pretreatment standards for new sources.

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of process wastewater pollutants from the core and ancillary operations introduced into a POTW shall not exceed the values set forth below:

Subpart B

Core

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum rolled with emulsions	
Chromium	0.048	0.020
Cyanide	0.026	0.011
Zinc	0.133	0.055
TTO	0.090	
Oil and grease (alternate monitoring parameter)	1.30	1.30

Subpart B

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast by semicontinuous methods	
Chromium	0.49	0.20
Cyanide	0.27	0.11
Zinc	1.36	0.56
TTO	0.92	
Oil and grease (alternate monitoring parameter)	13.29	13.29

Subpart B

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.17
Zinc	2.08	0.86
TTO	1.41	
Oil and grease (alternate monitoring parameter)	20.37	20.37

Subpart B

Cleaning or Etching Bath

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.067	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
TTO	0.124	
Oil and grease (alternate monitoring parameter)	1.79	1.79

Subpart B

Cleaning or Etching Rinse

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
TTO	0.96	
Oil and grease (alternate monitoring parameter)	13.91	13.91

Subpart B

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.72	0.29
Cyanide	0.39	0.16
Zinc	1.97	0.81
TTO	1.34	
Oil and grease (alternate monitoring parameter)	19.33	19.33

§ 467.27 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]

Subpart C—Extrusion Subcategory

§ 467.30 Applicability; description of the extrusion subcategory.

This subpart applies to discharges of pollutants to waters of the United States and introductions of pollutants into publicly owned treatment works from the core and the ancillary operations of the extrusion subcategory.

§ 467.31 Specialized definitions.

For the purpose of this subpart:

(a) The "core" of the extrusion subcategory shall include extrusion die cleaning, dummy block cooling, stationary casting, artificial aging, annealing, degreasing, and sawing.

(b) The term "extrusion die cleaning" shall mean the process by which the steel dies used in extrusion of aluminum are cleaned. The term includes a dip into a concentrated caustic bath to dissolve the aluminum followed by a water rinse. It also includes the use of a wet scrubber with the die cleaning operation.

(c) The term "ancillary operation" shall mean any operation not previously included in the core, performed on-site, following or preceding the extrusion operation. The ancillary operations shall include direct chill casting, press or solution heat treatment, cleaning or etching, degassing, and extrusion press hydraulic fluid leakage.

§ 467.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

Subpart C

Core

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum extruded	
Chromium	0.16	0.066
Cyanide	0.11	0.044
Zinc	0.53	0.22
Aluminum	2.34	1.16
Oil and grease	7.28	4.37
Suspended solids	14.92	7.10
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Extrusion Press Leakage

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum extruded	
Chromium	0.65	0.27
Cyanide	0.43	0.18
Zinc	2.16	0.90
Aluminum	9.51	4.64
Oil and grease	29.56	17.74
Suspended solids	60.60	28.82
pH	(1)	(1)

[1] With the range of 7.0 to 10.0 at all times.

Subpart C

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cast	
Chromium	0.59	0.27
Cyanide	0.39	0.16
Zinc	1.94	0.90
Aluminum	8.55	4.64
Oil and grease	26.58	17.74
Suspended solids	60.60	28.82
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Press Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	3.39	1.39
Cyanide	2.24	0.93
Zinc	11.25	4.70
Aluminum	49.55	24.20
Oil and grease	154.10	92.46
Suspended solids	315.91	150.25
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	3.39	1.39
Cyanide	2.24	0.93
Zinc	11.25	4.70
Aluminum	49.55	24.20
Oil and grease	154.10	92.46
Suspended solids	315.91	150.25
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Cleaning or Etching Bath

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.26	0.109
Aluminum	1.15	0.562
Oil and grease	3.58	2.15
Suspended solids	7.34	3.49
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Cleaning or Etching Rinse

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	6.12	2.51
Cyanide	4.04	1.67
Zinc	20.31	6.49
Aluminum	89.46	43.69
Oil and grease	278.24	166.95
Suspended solids	570.39	271.29
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum cleaned or etched	
Chromium	7.00	2.86
Cyanide	4.81	1.91
Zinc	23.22	9.70
Aluminum	103.24	49.93
Oil and grease	318.00	190.80
Suspended solids	651.90	310.05
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Supart C

Degassing Scrubber Liquor

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum degassed	
Chromium	1.15	0.47
Cyanide	0.76	0.32
Zinc	3.81	1.59
Aluminum	18.78	8.20
Oil and grease	52.16	31.31
Suspended solids	106.97	50.88
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 467.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Except as provided in 40 CFR §§ 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(b) There shall be no discharge of wastewater pollutants from the degassing operation.

(c) The discharge of wastewater pollutants from the core and ancillary operation except those in (b) of this section, shall not exceed the values set forth below:

Subpart C

Core

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum extruded	
Chromium	0.15	0.061
Cyanide	0.098	0.041
Zinc	0.49	0.21
Aluminum	2.18	1.08

Subpart C

Extrusion Press Leakage

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum extruded	
Chromium	0.65	0.27
Cyanide	0.43	0.18
Zinc	2.16	0.90
Aluminum	9.51	4.73

Subpart C

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cast	
Chromium	0.59	0.24
Cyanide	0.39	0.16
Zinc	1.94	0.81
Aluminum	8.55	4.18

Subpart C

Press Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.90	0.37
Cyanide	0.59	0.25
Zinc	2.98	1.25
Aluminum	13 10	6.40

Subpart C

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.90	0.37
Cyanide	0.59	0.25
Zinc	2.98	1.25
Aluminum	13.10	6.40

Subpart C

Cleaning or Etching Bath

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.109
Aluminum	1.15	0.56

VOL 48 ISS 206 OCT 24 1983 UMI

Subpart C

Cleaning or Etching Rinse

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.61	0.25
Cyanide	0.41	0.17
Zinc	2.03	0.85
Aluminum	9.95	4.37

Subpart C

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.85	0.35
Cyanide	0.56	0.23
Zinc	2.82	1.18
Aluminum	12.43	6.07

§ 467.34 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards.

(a) There shall be no discharge of wastewater pollutants from the degassing operation.

(b) The discharge of wastewater pollutants from the core shall not exceed the values set forth below:

Subpart C

Core

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum extruded	
Chromium	0.13	0.057
Cyanide	0.068	0.027
Zinc	0.35	0.14
Aluminum	2.07	0.92
Oil and grease	3.39	3.39
Suspended solids	5.08	4.07
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Extrusion Press Leakage

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum extruded	
Chromium	0.11	0.045
Cyanide	0.060	0.024
Zinc	0.31	0.126
Aluminum	1.82	0.81
Oil and grease	2.98	2.98
Suspended solids	4.47	3.58
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cast by semicontinuous methods	
Chromium	0.49	0.20
Cyanide	0.27	0.11
Zinc	1.36	0.56
Aluminum	8.12	3.60
Oil and grease	13.29	13.29
Suspended solids	19.94	15.95
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Press Heat Treatment Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.17
Zinc	2.08	0.86
Aluminum	12.45	5.52
Oil and grease	20.37	20.37
Suspended solids	30.56	24.45
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.78	0.31
Cyanide	0.41	0.17
Zinc	2.08	0.86
Aluminum	12.45	5.52
Oil and grease	20.37	20.37
Suspended solids	30.56	24.45
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Cleaning or Etching Bath

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.087	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
Aluminum	1.094	0.485
Oil and grease	1.79	1.79
Suspended solids	2.89	2.15
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Cleaning or Etching Rinse

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
Aluminum	8.50	3.77
Oil and grease	13.91	13.91
Suspended solids	20.87	16.70
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.72	0.29
Cyanide	0.39	0.16
Zinc	1.97	0.81
Aluminum	11.81	5.24
Oil and grease	19.33	19.33
Suspended solids	29.00	23.20
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times

§ 467.35 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the following values:

Subpart C

Core

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of extruded	
Chromium	0.15	0.061
Cyanide	0.098	0.041
Zinc	0.49	0.21
TTO	0.23	
Oil and grease (alternate monitoring parameter)	6.78	4.07

Subpart C

Extrusion Press Leakage

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of extruded	
Chromium	0.65	0.27
Cyanide	0.43	0.18
Zinc	2.16	0.90
TTO	1.02	
Oil and grease (alternate monitoring parameter)	29.56	17.74

Subpart C

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cast	
Chromium	0.59	0.24
Cyanide	0.39	0.16
Zinc	1.94	0.81
TTO	0.92	
Oil and grease (alternate monitoring parameter)	26.58	15.95

Subpart C

Press Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.90	0.37
Cyanide	0.59	0.25
Zinc	2.98	1.25
TTO	1.41	
Oil and grease (alternate monitoring parameter)	40.74	24.45

Subpart C

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.90	0.37
Cyanide	0.59	0.25
Zinc	2.98	1.25
TTO	1.41	
Oil and grease (alternate monitoring parameter)	40.74	24.45

Subpart C

Cleaning or Etching Bath

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.26	0.109
Aluminum	1.15	0.59
Oil and grease	3.58	2.15
Suspended solids	7.34	3.49
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart C

Cleaning or Etching Rinse

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.61	0.25
Cyanide	0.41	0.17
Zinc	2.03	0.85
TTO	0.96	
Oil and grease (alternate monitoring parameter)	27.82	16.69

Subpart C

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.85	0.35
Cyanide	0.56	0.23
Zinc	2.82	1.18
TTO	1.34	
Oil and grease (alternate monitoring parameter)	38.66	23.20

§ 467.36 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in the aluminum forming process wastewater shall not exceed the values set forth below:

Subpart C

Core

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of extruded	
Chromium	0.13	0.05
Cyanide	0.07	0.03
Zinc	0.35	0.14
TTO	0.23	
Oil and Grease (alternate monitoring parameter)	3.40	3.40

Subpart C

Extrusion Press Leakage

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of hard alloy aluminum extruded	
Chromium	0.11	0.05
Cyanide	0.06	0.03
Zinc	0.31	0.13
TTO	0.21	
Oil and Grease (alternate monitoring parameter)	2.98	2.98

Subpart C

Direct Chill Casting Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cast	
Chromium	0.49	0.20
Cyanide	0.27	0.11
Zinc	1.36	0.56
TTO	0.92	
Oil and Grease (alternate monitoring parameter)	13.29	13.29

Subpart C

Press Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.17
Zinc	2.08	0.86
TTO	1.41	
Oil and Grease (alternate monitoring parameter)	20.37	20.37

Subpart C

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million-off-lbs) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.17
Zinc	2.08	0.86
TTO	1.41	
Oil and Grease (alternate monitoring parameter)	20.37	20.37

Subpart C

Cleaning or Etching Bath

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million-off-lbs) of aluminum cleaned or etched	
Chromium	0.067	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
TTO	0.124	
Oil and Grease (alternate monitoring parameter)	1.79	1.79

Subpart C

Cleaning or Etching Rinse

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million-off-lbs) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
TTO	0.96	
Oil and Grease (alternate monitoring parameter)	139.10	139.10

Subpart C

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million-off-lbs) of aluminum cleaned or etched	
Chromium	0.72	0.29
Cyanide	0.39	0.16
Zinc	1.97	0.81
TTO	1.34	
Oil and Grease (alternate monitoring parameter)	19.33	19.33

§ 467.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]

Subpart D—Forging Subcategory

§ 467.40 Applicability; description of the forging subcategory.

This subpart applies to discharges of pollutants to waters of the United States and introductions of pollutants into publicly owned treatment works from the core of the forging subcategory and the ancillary operations.

§ 467.41 Specialized definitions

For the purpose of this subpart:

(a) The "core" of the forging subcategory shall include forging, artificial aging, annealing, degreasing, and sawing.

(b) The term "ancillary operation" shall mean any operation not previously included in the core, performed on-site, following or preceding the forging operation. The ancillary operations shall include forging air pollution scrubbers, solution heat treatment, and cleaning or etching.

§ 467.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available. [Reserved]

§ 467.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. [Reserved]

§ 467.44 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards. The discharge of wastewater pollutants from the core shall not exceed the values set forth below:

Subpart D

Core

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum forged	
Chromium	0.019	0.008
Cyanide	0.010	0.004
Zinc	0.051	0.021
Aluminum	0.305	0.135
Oil and Grease	0.50	0.50
Suspended Solids	0.75	0.60
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart D

Forging Scrubber Liquor

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum forged	
Chromium	0.035	0.014
Cyanide	0.019	0.008
Zinc	0.096	0.40
Aluminum	0.576	0.256
Oil and Grease	0.943	0.95
Suspended Solids	1.42	1.13
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart D

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.183
Zinc	2.08	0.66
Aluminum	12.45	5.52
Oil and Grease	20.37	20.37

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
Suspended Solids	30.56	24.45
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart D

Cleaning or Etching Bath

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.066	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
Aluminum	0.772	0.378
Oil and Grease	1.79	1.79
Suspended Solids		
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart D

Cleaning or Etching Rinse

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
Aluminum	8.00	2.92
Oil and grease	13.91	13.91
Suspended solids	20.87	16.69
pH	(1)	(1)

(1) Within the range of 7.0 to 10 at all times.

Subpart D

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.72	0.29
Cyanide	0.39	0.155
Zinc	1.97	0.812
Aluminum	8.33	4.06
Oil and grease	19.33	19.33
Suspended solids	29.00	23.20
pH		

(1) Within the range of 7.0 to 10 at all times.

§ 467.45 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduced pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the values set forth below:

Subpart D

Core

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum forged	
Chromium	0.022	0.009
Cyanide	0.015	0.006
Zinc	0.073	0.031
TTO	0.035	
Oil and grease (alternate monitoring parameter)	1.00	0.60

Subpart D

Forging Scrubber Liquor

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum forged	
Chromium	0.042	0.017
Cyanide	0.028	0.011
Zinc	0.14	0.056
TTO	0.065	
Oil and grease (alternate monitoring parameter)	1.89	1.13

Subpart D

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.896	0.37
Cyanide	0.591	0.25
Zinc	2.98	1.24
TTO	1.41	
Oil and grease (alternate monitoring parameter)	40.74	24.45

Subpart D

Cleaning or Etching Bath

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.26	0.11
TTO	1.23	
Oil and grease (alternate monitoring parameter)	3.56	2.15

Subpart D

Cleaning or Etching Rinse

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.61	0.25
Cyanide	0.40	0.17
Zinc	2.03	0.85
TTO	0.96	
Oil and grease (alternate monitoring parameter)	27.82	16.70

Subpart D

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.851	0.35
Cyanide	0.561	0.23
Zinc	2.82	1.18
TTO	1.34	
Oil and grease (alternate monitoring parameter)	36.66	23.20

§ 467.46 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the values set forth below:

Subpart D

Core

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum forged	
Chromium	0.019	0.008
Cyanide	0.010	0.004
Zinc	0.051	0.021
TTO	0.035	
Oil and grease (alternate monitoring parameter)	0.50	0.50

Subpart D

Forging Scrubber Liquor

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum forged	
Chromium	0.035	0.014
Cyanide	0.019	0.008
Zinc	0.096	0.040
TTO	0.065	
Oil and grease (alternate monitoring parameter)	0.95	0.95

Subpart D

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.76	0.31
Cyanide	0.41	0.18
Zinc	2.08	0.86
TTO	1.41	0.66
Oil and grease (alternate monitoring parameter)	20.37	20.37

Subpart D

Cleaning or Etching Bath

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.067	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
TTO	0.124	
Oil and grease (alternate monitoring parameter)	1.79	1.79

Subpart D

Cleaning or Etching Rinse

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
TTO	0.96	
Oil and grease (alternate monitoring parameter)	13.91	13.91

Subpart D

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.72	0.29
Cyanide	0.39	0.16
Zinc	1.97	0.812
TTO	1.34	
Oil and grease (alternate monitoring parameter)	19.33	19.33

§ 467.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]

Subpart E—Drawing With Neat Oils Subcategory

§ 467.50 Applicability; description of the drawing with neat oils subcategory.

This subpart applies to discharges of pollutants to waters of the United States and introductions of pollutants into publicly owned treatment works from the core of the drawing with neat oils subcategory and the ancillary operations.

§ 467.51 Specialized definitions

For the purpose of this subpart:

(a) The "core" of the drawing with neat oils subcategory shall include drawing using neat oils, stationary casting, artificial aging, annealing, degreasing, sawing, and swaging.

(b) The term "ancillary operation" shall mean any operation not previously included in the core, performed on-site, following or preceding the drawing operation. The ancillary operation shall include continuous rod casting, solution heat treatment, and cleaning or etching.

§ 467.52 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

Subpart E

Core

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/ per million off-lbs) of aluminum drawn with neat oils	
Chromium	0.022	0.0090
Cyanide	0.015	0.0050
Zinc	0.073	0.031
Aluminum	0.32	0.160
Oil and grease	0.97	0.598
Suspended solids	2.04	0.971
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Continuous Rod Casting Spent Lubricant

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lbs/million off-lbs) of aluminum rod cast	
Chromium	0.86	0.35
Cyanide	0.57	0.24
Zinc	2.87	1.20
Aluminum	12.63	6.28
Oil and grease	39.28	23.57
Suspended solids	80.52	38.30
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.684	0.28
Cyanide	0.451	0.187
Zinc	2.271	0.949
Aluminum	10.00	4.976
Oil and Grease	31.10	18.66
Suspended Solids	63.76	30.322
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	3.39	1.39
Cyanide	2.24	0.93
Zinc	11.25	4.70
Aluminum	49.55	24.20
Oil and Grease	154.10	92.48
Suspended Solids	315.81	150.25
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Cleaning or Etching Bath

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.26	0.11
Aluminum	1.150	0.57
Oil and Grease	3.58	2.15
Suspended Solids	7.34	3.49
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Cleaning or Etching Rinse

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	6.12	2.51
Cyanide	4.04	1.67
Zinc	20.31	8.49
Aluminum	89.46	44.52
Oil and Grease	278.24	166.95
Suspended Solids	570.38	271.29
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	7.00	2.86
Cyanide	4.61	1.91
Zinc	23.22	9.70
Aluminum	102.24	50.88
Oil and Grease	318.00	196.80
Suspended Solids	651.90	310.05
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

§ 467.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. The discharge of wastewater pollutants from the core and ancillary operations shall not exceed the values set forth below:

Subpart E

Core

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum drawn with neat oils	
Chromium	0.022	0.009
Cyanide	0.015	0.005
Zinc	0.073	0.031
Aluminum	0.321	0.16

Subpart E

Continuous Rod Casting Spent Lubricant

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs of aluminum rod cast	
Chromium	0.00086	0.0004
Cyanide	0.0006	0.0002
Zinc	0.0029	0.0012
Aluminum	0.0127	0.0063

Subpart E

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs of aluminum rod cast	
Chromium	0.086	0.035
Cyanide	0.056	0.023
Zinc	0.283	0.119
Aluminum	1.247	0.521

Subpart E

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs pounds of aluminum quenched	
Chromium	0.896	0.367
Cyanide	0.591	0.245
Zinc	2.974	1.243
Aluminum	13.10	6.519

Subpart E

Cleaning or Etching Bath

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs pounds of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.109
Aluminum	1.151	0.563

Subpart E

Cleaning or Etching Rinse

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs of aluminum cleaned or etched	
Chromium	0.612	0.251
Cyanide	0.404	0.167
Zinc	2.031	0.849
Aluminum	8.944	4.451

Subpart E

Cleaning or Etching Scrubber liquor

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs of aluminum cleaned or etched	
Chromium	0.851	0.348
Cyanide	0.561	0.232
Zinc	2.82	1.179

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
Aluminum	12.43	6.19

§ 467.54 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards. The discharge of wastewater pollutants from the core and ancillary operations shall not exceed the values set forth below:

Subpart E

Core

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs of aluminum drawn with neat oils	
Chromium	0.019	0.008
Cyanide	0.010	0.004
Zinc	0.051	0.021
Aluminum	0.304	0.135
Oil and Grease	0.498	0.498
Suspended Solids	0.747	0.598
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Continuous Rod Casting Spent Lubricant

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.0008	0.0003
Cyanide	0.0004	0.0002
Zinc	0.0002	0.0008
Aluminum	0.012	0.006
Oil and Grease	0.02	0.02
Suspended Solids	0.03	0.03
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.072	0.029
Cyanide	0.039	0.016
Zinc	0.198	0.082
Aluminum	1.185	0.526
Oil and Grease	1.939	1.939
Suspended Solids	2.909	2.327
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.754	0.306
Cyanide	0.408	0.163
Zinc	2.08	0.858
Aluminum	12.45	5.52
Oil and Grease	20.37	20.37
Suspended Solids	30.56	24.45
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Cleaning or Etching Bath

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.066	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
Aluminum	1.094	0.485
Oil and Grease	1.79	1.79
Suspended Solids	2.69	2.15
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Cleaning or Etching Rinse

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.515	0.209
Cyanide	0.278	0.111
Zinc	1.42	0.584
Aluminum	8.50	3.77
Oil and Grease	13.91	13.91
Suspended Solids	20.67	16.70
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart E

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.715	0.290
Cyanide	0.387	0.155
Zinc	1.97	0.812
Aluminum	11.81	5.24
Oil and Grease	19.33	19.33
Suspended Solids	29.00	23.20
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

§ 467.55 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the values set forth below:

Subpart E

Core

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum drawn with neat oils	
Chromium	0.022	0.009
Cyanide	0.015	0.006
Zinc	0.073	0.031
TTO	0.035	
Oil and Grease (alternate monitoring parameter)	1.00	0.60

Subpart E

Continuous Rod Casting Lubricant

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.0009	0.0004
Cyanide	0.0006	0.0003
Zinc	0.0029	0.0012
TTO	0.0014	
Oil and Grease (alternate monitoring parameter)	0.040	0.024

Subpart E

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.053	0.035
Cyanide	0.562	0.023
Zinc	0.283	0.116
TTO	0.133	
Oil and Grease (alternate monitoring parameter)	3.878	2.327

Subpart E

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.896	0.367
Cyanide	0.591	0.245
Zinc	2.98	1.24
TTO	1.41	
Oil and Grease (alternate monitoring parameter)	40.74	24.45

Subpart E

Cleaning or Etching Bath

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.079	0.033
Cyanide	0.052	0.022
Zinc	0.262	0.109
TTO	0.13	
Oil and Grease (alternate monitoring parameter)	3.58	2.15

Subpart E

Cleaning or Etching Rinse

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.612	0.251
Cyanide	0.404	0.17
Zinc	2.09	0.85
TTO	0.96	
Oil and Grease (alternate monitoring parameter)	27.82	16.70

Subpart E

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.851	0.348
Cyanide	0.561	0.232
Zinc	2.82	1.18
TTO	1.33	
Oil and Grease (alternate monitoring parameter)	38.86	23.20

§ 467.56 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the values set forth below:

Subpart E

Core

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum drawn with neat oils	
Chromium	0.019	0.008
Cyanide	0.010	0.004
Zinc	0.051	0.021
TTO	0.035	
Oil and Grease (alternate monitoring parameter)	0.50	0.50

Subpart E

Continuous Rod Casting Lubricant

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.0007	0.0003
Cyanide	0.0004	0.0002
Zinc	0.0020	0.0008
TTO	0.0014	
Oil and Grease (alternate monitoring parameter)	0.020	0.020

Subpart E

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.039	0.016
Cyanide	0.021	0.0084
Zinc	0.108	0.044
TTO	0.072	
Oil and Grease (alternate monitoring parameter)	1.04	1.04

Subpart E

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.76	0.306
Cyanide	0.41	0.163
Zinc	2.08	0.856
TTO	1.41	
Oil and Grease (alternate monitoring parameter)	20.37	20.37

Subpart E

Cleaning or Etching Bath

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.067	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
TTO	0.124	
Oil and grease (alternate monitoring parameter)	1.79	1.79

Subpart E

Cleaning or Etching Rinse

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.28	0.11
Zinc	1.42	0.59
TTO	0.96	
Oil and grease (alternate monitoring parameter)	13.91	13.91

VOL 48 ISS 206 OCT 24 1983 UMI

Subpart E

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.72	0.29
Cyanide	0.39	0.16
Zinc	1.97	0.812
TTO	1.34	
Oil and grease (alternate monitoring parameter)	19.33	19.33

§ 467.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]

Subpart F—Drawing With Emulsions or Soaps Subcategory

§ 467.60 Applicability; description of the drawing with emulsions or soaps subcategory.

This subpart applies to discharges of pollutants to waters of the United States and introduction of pollutants into publicly owned treatment works from the core and the ancillary operations of the drawing with emulsions or soaps subcategory.

§ 467.61 Specialized definitions.

For the purpose of this subpart:

(a) The "core" of the drawing with emulsions or soaps subcategory shall include drawing using emulsions or soaps, stationary casting, artificial aging, annealing, degreasing, sawing, and swaging.

(b) The term "ancillary operation" shall mean any operation not previously included in the core, performed on-site, following or preceding the drawing operation. The ancillary operations shall include continuous rod casting, solution heat treatment and cleaning or etching.

§ 467.62 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

Subpart F

Core

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum drawn with emulsions or soaps	
Chromium	0.205	0.084
Cyanide	0.135	0.056
Zinc	0.680	0.285
Aluminum	3.00	1.47
Oil and grease	9.33	5.80
Suspended solids	19.12	9.10
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart F

Continuous Rod Casting Spent Lubricant

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cast	
Chromium	0.0009	0.0004
Cyanide	0.0006	0.0002
Zinc	0.0029	0.001
Aluminum	0.013	0.006
Oil and grease	0.040	0.024
Suspended solids	0.081	0.038
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart F

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cast	
Chromium	0.684	0.28
Cyanide	0.450	0.187
Zinc	2.27	0.949
Aluminum	10.00	4.976
Oil and grease	31.10	18.66
Suspended solids	63.76	30.323
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart F

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	3.39	1.39
Cyanide	2.24	0.93
Zinc	11.25	4.70
Aluminum	49.54	24.19
Oil and grease	154.10	92.46
Suspended solids	315.91	150.25
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart F

Cleaning or Etching Bath

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.109
Aluminum	1.15	0.573
Oil and grease	3.58	2.15
Suspended solids	7.34	3.49
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart F

Cleaning or Etching Rinse

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	6.12	2.51
Cyanide	4.04	1.67
Zinc	20.31	8.49
Aluminum	89.46	44.519
Oil and grease	278.24	166.95
Suspended solids	570.39	271.29
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

Subpart F

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	7.00	2.86
Cyanide	4.61	1.91
Zinc	23.22	9.70
Aluminum	102.24	50.88
Oil and grease	318.00	190.80
Suspended solids	651.90	310.05
pH	(1)	(1)

[1] Within the range of 7.0 to 10 at all times.

§ 467.63 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. The discharge of wastewater pollutants from the core shall not exceed the volumes set forth below:

Subpart F

Core

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum drawn with emulsions or soaps	
Chromium	0.205	0.084
Cyanide	0.135	0.056
Zinc	0.681	0.285
Aluminum	3.00	1.49

Subpart F

Continuous Rod Casting Spent Lubricant

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.0009	0.0004
Cyanide	0.0006	0.0003
Zinc	0.0029	0.0012
Aluminum	0.013	0.0083

Subpart F

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.085	0.035
Cyanide	0.056	0.023
Zinc	0.283	0.116
Aluminum	1.25	0.62

Subpart F

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.898	0.37
Cyanide	0.591	0.25
Zinc	2.98	1.24
Aluminum	13.10	6.52

Subpart F

Cleaning or Etching Bath

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.11
Aluminum	1.15	0.57

Subpart F

Cleaning or Etching Rinse

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.612	0.251
Cyanide	0.404	0.167
Zinc	2.03	0.849
Aluminum	8.95	4.45

Subpart F

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.85	0.348
Cyanide	0.561	0.232
Zinc	2.82	1.18
Aluminum	12.43	6.19

§ 467.64 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards. The discharge of wastewater pollutants from the core shall not exceed the values set forth below:

Subpart F

Core

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum drawn with emulsions or soaps	
Chromium	0.173	0.070
Cyanide	0.093	0.038
Zinc	0.478	0.198
Aluminum	2.85	1.26
Oil and grease	4.87	4.87
Suspended solids	7.00	5.60
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart F

Continuous Rod Casting Spent Lubricant

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.0008	0.0003
Cyanide	0.0004	0.0002
Zinc	0.0020	0.0008
Aluminum	0.012	0.0051
Oil and grease	0.020	0.020
Suspended solids	0.030	0.024
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart F

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.072	0.029
Cyanide	0.039	0.016
Zinc	0.198	0.081
Aluminum	1.184	0.526
Oil and grease	1.940	1.940
Suspended solids	2.91	2.33
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart F

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (pounds per million off-pounds) of aluminum quenched	
Chromium	0.760	0.31
Cyanide	0.405	0.16
Zinc	2.08	0.86
Aluminum	12.450	5.52
Oil and grease	20.37	20.37
Suspended solids	20.56	24.45
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart F

Cleaning or Etching Bath

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.066	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
Aluminum	1.094	0.49
Oil and grease	1.79	1.79
Suspended solids	2.69	2.15
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart F

Cleaning or Etching Rinse

Pollutant or pollutant property	USPS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.515	0.21
Cyanide	0.278	0.11
Zinc	1.42	0.59
Aluminum	8.50	3.77
Oil and grease	13.911	13.91
Suspended solids	20.87	16.70
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

Subpart F

Cleaning or Etching Scrubber Liquor

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	mMg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.72	0.290
Cyanide	0.387	0.155
Zinc	1.97	0.612
Aluminum	1.18	5.24
Oil and grease	19.33	19.33

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
Suspended solids	29.00	23.20
pH	(1)	(1)

[1] Within the range of 7.0 to 10.0 at all times.

§ 467.65 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in aluminum forming process wastewater introduced into a POTW shall not exceed the values set forth below:

Subpart F

Core

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum drawn with emulsions or soaps	
Chromium	0.205	0.84
Cyanide	0.135	0.056
Zinc	0.681	0.285
TTO	0.32	
Oil and grease (alternate monitoring parameter)	9.33	5.60

Subpart F

Continuous Rod Casting Lubricant

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.0009	0.0004
Cyanide	0.0006	0.0003
Zinc	0.0029	0.0012
TTO	0.0014	
Oil and grease (alternate monitoring parameter)	0.040	0.024

Subpart F

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.085	0.035
Cyanide	0.056	0.023

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthly average
Zinc	0.283	0.118
TTO	0.134	
Oil and Grease (alternate monitoring parameter)	3.88	2.33

Subpart F

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.896	0.367
Cyanide	0.591	0.245
Zinc	2.98	1.24
TTO	1.41	
Oil and grease (alternate monitoring parameter)	40.74	24.44

Subpart F

Cleaning or Etching Bath

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.079	0.032
Cyanide	0.052	0.022
Zinc	0.262	0.11
TTO	0.124	
Oil and grease (alternate monitoring parameter)	3.58	2.15

Subpart F

Cleaning or Etching Rinse

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.612	0.251
Cyanide	0.404	0.187
Zinc	2.03	0.849
TTO	0.96	
Oil and grease (alternate monitoring parameter)	27.82	16.69

Subpart F

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Maximum for monthy average
	Mg/off-kg (pounds per million off-lbs) of aluminum cleaned or etched	
Chromium	0.851	0.346
Cyanide	0.581	0.232
Zinc	2.82	1.18
TTO	1.33	
Oil and grease (alternate monitoring parameter)	38.66	23.20

§ 467.66 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in aluminum forming process wastewaters introduced into a POTW shall not exceed the values set forth below:

Subpart F

Core

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum drawn with emulsions or soaps	
Chromium	0.173	0.070
Cyanide	0.094	0.038
Zinc	0.48	0.196
TTO	0.32	
Oil and Grease (alternate monitoring parameter)	4.67	4.67

Subpart F

Continuous Rod Casting Lubricant

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.0008	0.0003
Cyanide	0.0004	0.0002
Zinc	0.0020	0.0008
TTO	0.0014	
Oil and Grease (alternate monitoring parameter)	0.020	0.020

Subpart F

Continuous Rod Casting Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum rod cast	
Chromium	0.039	0.016
Cyanide	0.021	0.0084
Zinc	0.106	0.044
TTO	0.072	
Oil and Grease (alternate monitoring parameter)	1.04	1.04

Subpart F

Solution Heat Treatment Contact Cooling Water

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum quenched	
Chromium	0.76	0.306
Cyanide	0.41	0.163
Zinc	2.08	0.856
TTO	1.41	
Oil and Grease (alternate monitoring parameter)	20.37	20.37

Subpart F

Cleaning or Etching Bath

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.067	0.027
Cyanide	0.036	0.015
Zinc	0.183	0.075
TTO	0.124	
Oil and Grease (alternate monitoring parameter)	1.79	1.79

Subpart F

Cleaning or Etching Rinse

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.52	0.21
Cyanide	0.26	0.11
Zinc	1.42	0.59
TTO	0.96	
Oil and Grease (alternate monitoring parameter)	13.91	13.91

Subpart F

Cleaning or Etching Scrubber

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Maximum for monthly average
	Mg/off-kg (lb/million off-lbs) of aluminum cleaned or etched	
Chromium	0.715	0.290
Cyanide	0.387	0.155
Zinc	1.97	0.812
TTO	1.34	
Oil and Grease (alternate monitoring parameter)	19.33	19.33

§ 467.67 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]

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VOL 48 ISS 206 OCT 24 1983 UMI

VOL
48
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206
OC
24
1983
UMI

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Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Indian Lands and Tribal-Federal Agreements; Surface Mining and Reclamation Operations Federal Program

VOL 48 ISS 206 OCT 24 1983 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation And Enforcement

25 CFR Part 216

30 CFR Parts 700, 701, 750, and 755

Surface Mining and Reclamation Operations Federal Program for Indian Lands and Tribal-Federal Intergovernmental Agreements

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing rules for its permanent regulatory program which set forth the requirements for surface coal mining and reclamation operations on Indian lands and which describe the role of the Federal government in the regulation of surface coal mining and reclamation operations on Indian lands. A new subchapter, Subchapter E, would be added to 30 CFR, Chapter VII, to include the Federal Program for Indian Lands. Part 750 would be added to include requirements for mining operations on Indian lands. A new Part 755, covering Tribal-Federal Intergovernmental Agreements, would also be added to provide for the training of Indian tribes in order that, if and when Congress authorizes Indian regulation of surface mining through Indian programs, the tribes will be able to develop tribal regulatory programs.

DATES: Written comments: Accepted until 5:00 p.m. December 23, 1983.

Public hearings: Held on request only, on December 14, 1983 at 9:00 a.m. (local).

Public meetings: Scheduled on request only.

ADDRESSES: Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I–32), Room 5315, 1100 L Street, NW., Washington, D.C., or mail to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I–32) Room 5315L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW., and Denver, Colorado—Brooks Tower, 2nd Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C., and Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: H.B. Simpson, Office of Surface Mining, U.S. Department of the Interior, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: 202–343–5381.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures
II. Background
III. Discussion of Proposed Rules
IV. Procedural Matters

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see **"ADDRESSES"**). Comments received after the time indicated under **"DATES"** or at locations other than the address listed above under **ADDRESSES**, will not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Hearings

Persons wishing to testify at the pblic hearings should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business at least three working days before the date of the hearing. If no one asks to testify at a public hearing at a particular location by that date, the hearing may not be held.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will also allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to speak have been heard. The hearing will end after all persons scheduled to speak and all persons in the audience wishing to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are in the audience at the time all scheduled speakers have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at either of the OSM offices listed in **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L Street). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

The Surface Mining Control and Reclamation Act of 1977 (The Act) Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, sets out a program for the regulation of surface coal mining operations. Mining on lands within the States is subject to a two-phase regulatory scheme: First an interim regulatory program, then a permanent regulatory program where primary regulatory authority is vested in the States, or in OSM if the State does not seek or obtain primary regulatory authority. OSM is the regulatory authority on Federal lands, but under Section 523 of the Act States may become the regulatory authority over those lands by cooperative agreement.

Section 710 of the Act provides for a two-phase program for the regulation by the Secretary of mining on Indian lands. Section 710(c) of the Act establishes the first phase. On or after one hundred and thirty-five days from passage of the Act, all surface coal mining and reclamation operations on Indian lands had to comply with certain subsections of Section 515 of the Act. The Interior Department issued regulations implementing these interim performance standards under Section 710(c) on December 15, 1977. They are codified at 25 CFR 216, Subpart B (See 42 FR 63395, December 16, 1977 and 47 FR 13327, March 30, 1982) and are nearly identical to the interim program performance standards for non-Indian and non-Federal lands found in 30 CFR Part 715 (42 FR 62639). While the interim standards applicable to Indian lands differ little from those applicable to non-Indian lands, they necessarily recognize specific procedures and considerations which apply only to Indian lands. Specifically, the inspection and enforcement procedures in 25 CFR 216.112 through 216.114 differ from those in 30 CFR Parts 720 through 723 in their provision for tribal involvement in the process and their preservation of tribal remedies in the enforcement scheme.

Section 710(d) establishes the second phase for regulation of mining on Indian lands. It requires compliance with Sections 507, 508, 509, 510, 515, 516, 517 and 519 of the Act after 30 months from passage of the Act (February 1980). It also requires the Secretary to incorporate the requirements of such provisions in all existing and new leases for coal on Indian lands. This notice proposes regulations to implement those requirements, although the statutory provisions are already effective by operation of law. In the meantime, the regulations at 25 CFR 216 have continued in effect. In addition to the requirements under the Act, operators are subject to other responsibilities when mining on Indian lands. For example, operators on Indian lands may have to obtain approval of and operate in accordance with mining plans under 25 CFR 216.7. Other operators may be subject to similar mining plan requirements through the operation of lease terms or minerals agreements terms. Furthermore, operators must comply with minerals agreements terms and will typically be subject to royalty requirements.

This has resulted in confusion for some operators on Indian lands concerning what requirements are currently in effect. The regulations proposed today would clarify these responsibilities and would ensure that surface coal mining and reclamation operations on Indian lands may proceed legally and in an environmentally sound manner. These proposed regulations would not grant, endorse, or revoke any State or tribal jurisdiction over mining on Indian lands that may have existed prior to passage of the Act; rather, they would merely implement Section 710(d) of the Act.

III. Discussion of Proposed Rules

The Federal program for Indian lands is similar to the Federal programs OSM has implemented under Section 504 of the Act for States not seeking primacy in that it would implement, by cross-referencing, the permanent program on Indian lands. The proposed rules also resemble the Federal lands program (30 CFR Subchapter D) because they outline trust responsibilities the Department has to land-owning tribes with regard to trust lands and responsibilities under statutes other than the Act. Proposed § 750.20, which is discussed below and which involves requests for lease modification by Indian tribes, has no counterpart, because it is unique to Indian lands. Additional provisions unique to Indian lands are discussed below.

Cross-Referencing

OSM is proposing regulations for Indian lands which would cross-reference other sections of its permanent program. This would ensure that as technology advances, and regulatory changes are implemented, corresponding changes would be implemented on Indian lands. OSM recognizes that many regulations proposed to be cross-referenced are currently the subject of pending rulemakings. Commenters should be aware that OSM anticipates changes in a number of its existing rules, including renumbering in some instances. Because proposed Subchapter E would cross-reference applicable OSM rules, however, any such changes would become effective for Indian lands without further rulemaking being undertaken or necessary.

Authority

Section 710(d) of the Act specifies certain sections of the Act which are applicable to mining on Indian lands. The regulations proposed today would implement those portions of the Act. In addition, other sections of the Act which are not listed in Section 710 are otherwise applicable either by implication from one of the listed sections or because the section is expressly applicable to all mining. For example, the requirements of Section 506, which is not listed in Section 710, are applicable by implication from the requirements in sections 507 and 508 (which are listed) that operators submit applications and reclamation plans, and from the requirement in Section 510 (which is also listed) that applications must be approved, disapproved, or modified. Similarly, the enforcement provisions of section 518 are applicable although section 518 is not listed in section 710(d). This interpretation is consistent with the opinions of the District Court for the District of Columbia, *In Re Surface Mining Regulation Litigation*, 456 F. Supp. 1302, 1324 (1978) and of the Court of Appeals for the District of Columbia, *In Re Surface Mining Regulation Litigation*, Civ. No. 78–2190 *et seq.*, 32 (D.C. Cir. 1980).

Conversely, some sections of the Act, such as the requirements for coal exploration, or the process for petitioning to have lands designated as unsuitable for surface mining, are not listed in section 710, and OSM has not implied authority to implement such regulations.

Jurisdiction

Jurisdiction over Indian lands is an area of considerable confusion. Although the Act defines "Indian lands" as "all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe," Congress expressed the intent that it was not altering the existing jurisdictional status of Indian lands. (See Section 710(h) of the Act.)

Special Indian Lands Provisions

OSM seeks to adopt provisions on Indian lands which are sensitive to both the unique status of these lands and to the unique conditions on any individual parcel of Indian lands. Similarly, OSM has encouraged States to adopt provisions which reflect unique factors in the State as part of their State programs, and has itself adopted provisions reflecting State-specific conditions in developing and promulgating each Federal program for a State. OSM solicits comments suggesting specific provisions unique to Indian lands in general or to specific Indian lands.

Discussion of Proposed Amendments

Removal of 25 CFR Part 216, Subpart B

Subpart B of 25 CFR Part 216 was promulgated under authority of Section 710(c) of the Act and contains the performance standards applicable under the interim Indian lands program. Although the interim program for Indian lands appears in 25 CFR Chapter I which is the chapter assigned to the Bureau of Indian Affairs, authority to change 25 CFR Part 216, Subpart B resides in the Assistant Secretary for Energy and Minerals who has been delegated the responsibility to administer the Surface Mining Act. Because the regulations proposed herein would supersede the performance standards for all of the substantive areas identified in Section 710(c), OSM proposes to delete 25 CFR Part 216, Subpart B, when these new performance standards are adopted. Three provisions, providing specific protection of Indian rights, would be included in 30 CFR Part 750. These provisions are 25 CFR Sections 216.112(e)(1), 216.113(h) and 216.114(k). This rulemaking would not affect 25 CFR Part 216, Subpart A, which contains procedures for approval of exploration and mining plans.

Amendments to 30 CFR

Subchapter A of OSM's regulations in 30 CFR Chapter VII sets out general provisions applicable to all of the regulatory program. Several changes to 30 CFR Parts 700 and 701 would be required in order to make OSM's regulations applicable on Indian lands.

Section 700.1

OSM proposes to amend the "Scope" section of the introductory subchapter to show that the Federal program for Indian lands would be included in subchapter E, and that the Federal program for Indian lands would cross-

VOL
48
ISS
206
OC
24
1983
UMI

reference other parts of the permanent regulatory program.

Section 700.11

Section 700.11 limits the applicability of the regulatory program. OSM proposes to delete Indian lands from this section in order to reflect the applicability of the permanent program to Indian lands.

Section 701.1

Part 701 of the permanent regulatory program provides introductory material for the permanent regulatory program. OSM proposes to amend §701.1 to show Subchapter E, the Federal program for Indian lands, as the program applicable to such lands.

Section 701.3

Section 701.3 describes the authority of the Secretary to promulgate regulations establishing the permanent regulatory program. OSM proposes to amend it by adding subsection (b)(3) which describes the Secretary's responsibilities to include Indian lands.

Section 701.4

Existing Section 701.4 outlines the responsibilities of the Secretary and the Office. OSM proposes a new paragraph (h) to state that the Secretary's and Director's responsibilities on Indian lands are described in Subchapter E.

Section 701.11

Section 701.11 would be amended by adding a new paragraph (c). Proposed paragraph (c) parallels the requirements for lands within a State and for Federal lands in paragraphs (a) and (b), respectively, of the existing rules. It would require operators on Indian lands to have a permit issued under proposed 30 CFR Part 750 if they conduct operations beyond eight months from the effective date of the Federal program for Indian lands. Persons who have filed an application within two months after the effective date of the Federal program for Indian lands and who comply with all terms of the Act, their existing authorizations to mine, the performance standards of 30 CFR 750 and 25 CFR 216, and the requirements of all applicable minerals agreements or licenses would be allowed to continue to operate under their existing authorizations until an initial administrative decision is made to approve or deny the permit application.

Part 750

Part 750 would contain the substantive requirements for Indian lands. OSM proposes 14 sections in that part.

Section 750.1

Section 750.1 would provide a "Scope" section for the Indian lands subchapter.

Section 750.5 Definitions

Proposed § 750.5 includes several definitions which would be applicable only to operations on Indian lands. The new definitions would be applicable when used in Subchapter E or for regulating mining on Indian lands when used in a part that has been cross-referenced in Subchapter E.

"BIA" would mean the Bureau of Indian Affairs of the U.S. Department of the Interior.

"BLM" would mean the Bureau of Land Management of the U.S. Department of the Interior.

"Indian mineral owner" would mean: (a) Any individual Indian or Alaska native who owns land or mineral interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, or (b) any Indian tribe, band, native, pueblo, community, rancheria, colony, or other group which owns land or mineral interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

"Federal program" would mean the Federal program for Indian lands.

"Minerals agreement" would mean any joint venture, operating, production sharing, service, managerial, lease or other agreements, or any amendment, supplement or modification of such agreement, providing for the exploration for, or extraction, processing, or the development of coal, or providing for the sale or other disposition of the production or products of such coal resources.

"MMS" would mean the Mineral Management Service of the U.S. Department of the Interior.

"Regulatory authority" would mean OSM for Indian lands.

Section 750.6

Proposed § 750.6 would set out the current responsibilities of various bureaus of the Department. These responsibilities are described in a Memorandum of Understanding (MOU) currently in effect between the Bureau of Indian Affairs (BIA), the U.S. Geological Survey (GS), and OSM. The GS role has been transferred to the Bureau of Land Management. In addition, the Minerals Management Service now collects royalties on behalf of the tribes. The responsibilities in proposed § 750.6 would be consistent with the MOU.

Under proposed § 750.6(a), OSM would be the regulatory authority under the Act on Indian lands. It would be responsible for: after consulting with BIA, approving, conditionally approving or disapproving permit applications, permit revision or renewal applications or transfer applications for surface coal mining and reclamation operations on Indian lands; conducting inspection and enforcement activities on Indian lands; consulting with the BIA with respect to special requirements relating to protection of non-coal resources in the area affected by surface coal mining and reclamation operations and ensuring operator compliance with these special requirements; consulting with BLM concerning requirements relating to the development, production and recovery of mineral resources on Indian lands; determining environmental protection performance bond and liability insurance requirements; and ensuring compliance with the National Environmental Policy Act (NEPA) with respect to surface mining permit applications on Indian lands.

Under proposed § 750.6(b), BLM would be responsible for receiving, reviewing, and approving or disapproving coal exploration plans; administering, and conducting inspection and enforcement with regard to requirements for coal exploration on Indian lands; and administering and conducting inspection and enforcement of minerals agreement contract or lease terms and conditions, if allowed by 25 CFR Chapter I or a specific Indian mineral agreement.

Under proposed § 750.6(c), Minerals Management Service (MMS) would be responsible for administering royalties and other form of compensation to the Indian mineral owner.

Under proposed § 750.6(d), BIA would be responsible for administering the Federal trust responsibility to Indian lands and Indian mineral owners; representing Indian mineral owners and other Indian owners in matters relating to surface coal mining and reclamation operations on Indian lands; reviewing and making recommendations to OSM concerning permit applications, renewals, revisions or transfers of permits or permit rights; and reviewing mining plans pursuant to 25 CFR 216.7 and recommending the approval, disapproval or conditional approval thereof.

Mining Plan Approvals

Surface coal mining operations on Indian lands may be subject to one of two types of mining plan approval requirements in addition to being required to obtain permit under the Act.

Operators are required to obtain mining plan approvals under 25 CFR 216.7 if their lease for mining Indian coal were issued after January 18, 1969. Leases issued prior to that date may expressly require operators to comply with provision of 30 CFR Part 211 "now or hereafter in force," or comparable provisions. Since 30 CFR 211 (designated as 43 CFR 34800 requires operators to obtain mining plan approvals prior to conducting operations, that requirement would be applicable to operators under those Indian mineral agreements containing such a requirement.

The required mining plan may contain more general information about reclamation than the permit application required under Sections 507 and 508 or the Act. It may also contain information about recovery of the resource, timing of development, or other matters. Operators should consult the relevant regulations for a more complete listing. Under the MOU, mining plans for operations on Indian lands are reviewed by OSM, BIA nad BLM and must be approved by the Assistant Secretary for Indian Affairs within the U.S. Department of the Interior before it is effective.

Section 750.11 Permits

Proposed Section 750.11 would set out the permit requirements for conducting surface coal mining operations on Indian lands. Subsection 750.11(a) would provide that no person may conduct surface coal mining operations on Indian lands after eight months after the effective date of the Federal program for Indian lands in Part 750 unless that person has obtained a permit under Part 750.

All persons conducting surface coal mining ond reclamation operations would be required to comply with any terms of the permit, terms contained in any mineral agreements or mining plans issued or approved by the Department, other Federal agencies, or by the tribe or tribes; and the requirements of Subchapter E and the Act. Surface coal mining and reclamation operations authorized prior to the effective date of the Subchapter E would be permitted to continue to be conducted beyond the eight-month period if: (1) An application for a permit has been filed within two months of the implementation of the Federal program for Indian lands and no initial administrative decision on that permit has been made; and (2) the operation is conducted in compliance with all terms and conditions of the minerals agreement, the existing authorization to mine, the requirements of the Act, 30 CFR Chapter VII, Subchapter E, and 25 CFR Chapter I.

In this context, "existing authorization" would mean the approved mining plan and any special conditions thereto, the minerals agreement or lease any any special conditions thereon, and any other applicable permits and conditions.

These permitting requirements are intended to implement a permitting requirement on Indian lands comparable to those implemented on Federal lands and on lands within a State. Although Section 710(d) of the Act does not list Section 506 of the Act as being applicable on Indian lands, the authority to require permits is necessarily inferred from the inclusion in Section 710(d) of the Act of explicit reference to Sections 507 and 508, which require permit applications, and Section 510, which requires permit approval, conditional approval or denial. Inclusion of these sections in Section 710(d) would be meaningless unless operators were also required to obtain a permit before being allowed to conduct surface coal mining operations on Indian lands. The requirement to obtain a permit would be in addition to the applicable mining plan approval requirement, and to any requirements applicable through the lease or minerals agreement.

Section 750.12 Permit Applications

Section 750.12 would specify the requirements for permit applications. Each application would be required to be accompained by a fee established and published by the Director. Unless OSM specifed otherwise, seven copies of the application would be required.

Proposed § 750.12(c)(1) would make most of the substantive permitting requirements of 30 CFR Chapter VII, Subchapter G applicable on Indian lands. Generally, a permit application contains information about the applicant, a description of the environment of the mine, the proposed mining techinques and reclamation plans, the amount of minable coal and coal to be recovered, special information about hydrology, and information regarding land use in the area. Permit applications are processed according to a clearly established procedure which includes public notice and opportunity for comment.

Proposed § 750.12(c)(2) would identify parts of the permit processing rules *not* applicable on Indian lands. The proposed regulations would not require permit application information implementing the "surface owner protection" provisions of Section 714 or the Federal Lessee provisions of Section 715 of the Act because these sections are inapplicable on Indian lands. In addition, OSM would not require the permit application to contain information supporting the finding that the area is not within an area designated, or under study or petition for designation as unsuitable for surface mining, since the Act contains no provisions for either petitions or planning processes for unsuitability on Indian lands. However, areas which are unreclaimable would not meet the permitting requirements, which include a demonstration that reclamation can be achieved. Mining would not be permitted on lands which Congress designated to be unsuitable in Section 522(e) of the Act. Section 522(e) provides that no operation may be permitted in certain areas designated unsuitable by Congress. OSM proposes in § 750.14 to cross-reference 30 CFR Part 761, thereby prohibiting mining in those areas, subject to valid existing rights. These areas include national parks, wildlife and wilderness areas; national forests (with certain exceptions permitted); publicly owned parks or places listed in the National Register of Historic Places (unless certain approvals are made); within 100 feet of a public road (with certain exceptions permitted); within 300 feet of an occupied dwelling (unless a waiver is obtained), public building, school, church, community or institutional building, or public park; or within 100 feet of a cemetery.

The proposed rules also would not include permit application provisions relating to permitting anthracite mining in Pennsylvania or special bituminous coal mines in Wyoming, since these provisions would not be relevant on Indian lands.

Proposed § 750.12(c)(3) would make two additional special permit processing provisions applicable on Indian lands. First, when permits on Indian lands are proposed to be transferred, section 511(c) of the Act requires the regulatory authority to approve the sale or assignment of rights. Under the proposal, OSM's regulations governing transfers would be applicable on Indian lands. Proposed § 750.12(c)(3)(i), would make it clear that OSM's approval does not replace any other approval required by the Department.

The second additional special provision would specify the procedures to be followed for revisions of permits and provides guidance for the determination of whether a proposed permit revision is significant. For lands within a State, these procedures are required by Section 511(a)(2) of the Act and 30 CFR 788.12 to be included in the State program. Under proposed § 750.12(c)(3)(ii)(B), the determination of significance would be based or the

VOL 48 ISS 206 OCT 24 1983 UMI

environmental impacts resulting from the proposed revision; significance of production changes on recoverability of the coal resource; public interest in the operation, or likely to result from the proposed revision; adverse impacts to fish and wildlife, endangered species, or bald or golden eagles; impacts to cultural resources; or other factors. Under proposed § 750.12(c)(3)(ii)(C), significant departures from the original approval would be processed in accordance with Parts 786 and 787, which are the procedures normally followed for new permits. Others revisions would be reviewed only in order to determine if the original findings would be affected by the revision.

In addition to the requirements for permit applications required for mines on non-Federal non-Indian lands, proposed § 750.12(d) would require additional information in permit applications in order to allow the Department to fulfill statutory obligations under other Federal laws. These requirements would be comparable to those required for mining plans or permit applications approved by the Department. See the discussion of Permit Application Packages in the **Federal Register** preamble to the Federal lands rules, 48 FR 6912 (February 16, 1983). Proposed § 750.12(d)(1) would require submission of the mining plans required under 25 CFR 216 or 30 CFR 211. These plans would be required to be included for two reasons: First, permit application review would include a review to determine consistency with the mining plan. Second, OSM may need to review the plan to ensure that the maximum economic recovery requirement under Section 515(b)(1) of the Act would be met.

Proposed § 750.12(d)(2) would provide a listing of other required information. Information on employment, population impacts, impacts to revenues to public and private entities, and the ability of public and private entities to provide goods and services necessary to support coal mining operations would be required in order to allow the Department to satisfy its obligations under the National Environmental Policy Act (NEPA). Information regarding cultural resources and treatment of cultural resources would be required to enable the Department to satisfy its obligations under the National Historic Preservation Act and related laws. Information on air quality would be required in order for the Department to assure compliance with the Clean Air Act. Information would also be required which would allow the Department to determine if threatened or endangered species of bald or golden eagles would be affected by the proposed operation.

Section 750.13 Small Operator Assistance

Proposed § 750.13 would make the small operator assistance program contained in 30 CFR Subchapter H applicable on Indian lands. See 48 FR 2266 (January 18, 1983).

Section 750.14 Unsuitability

As discussed above, OSM believes that its authority to restrict mining on areas not designated unsuitable in § 522(e) is limited. Because section 710(d) of the Act does not include § 522 among those sections expressly applicable to Indian lands, the petition process and planning requirements which State or Federal regulatory authorities must provide for other lands are not applicable to Indian lands. However, because § 522(e) generally prohibits mining from being permitted in specified areas designated by Congress, those prohibitions would be applicable on Indian lands. Thus, OSM proposes in § 750.14 to make 30 CFR Part 761 applicable on Indian lands. In addition, to the extent that lands would otherwise be designated unsuitable under section 522(a)(2) because reclamation is the technologically or economically infeasible, mining could not be permitted because no finding of a suitable reclamation plan could be made. Furthermore, the Secretary has discretion to decline to approve minerals agreements in areas which are unsuitable for mining.

Section 750.15 Coal Exploration on Indian Lands

Section 710 of the Act does not include the requirement that coal exploration operations on Indian lands meet the requirements for coal exploration included in Section 512 of the Act. Accordingly, OSM proposes in § 750.15 that coal exploration on Indian lands be governed by 25 CFR Part 216.

Section 750.16 Performance Standards on Indian Lands

OSM proposes to cross-reference for Indian lands the applicable permanent program performance standards in 30 CFR Chapter VII, subchapter K. For the most part, the proposal cross-references all of the performance standards of the permanent program. These are found in Parts 816, 817, 819, 822, 823, 824, 826, 827 and 828. The performance standards generally cover all facets of surface coal mining operations, such as the removal of vegetation, topsoil and overburden removal and storage, hydrologic protection, erosion control, backfilling and grading, and revegetation. The rules would also cross-reference the special performance standards applicable to special types of mining. OSM proposes not to cross-reference the performance standards which are found in Parts 820 and 825 because these are of special applicability.

Section 750.17 Bonding

OSM proposes to cross-reference all of the permanent program bonding regulations, contained in 30 CFR Chapter VII, Subchapter J, to make them applicable on Indian lands. These set out requirements outlining the types, duration and amounts of bonds, conditions of bonds, and procedures and criteria for bond forfeiture or release.

Section 750.18 Inspection and Enforcement

OSM proposes that inspection and enforcement be conducted in accordance with 30 CFR Parts 842, 843 and 845, which comprise the requirements for inspection and enforcement under the permanent regulatory program. Part 842 sets the requirements for Federal inspections, provides for citizen requests for Federal inspections, provides for the right of entry by the authorized representative of the Secretary, provides for review of inspection and enforcement decisions and makes certain records available. Part 843 specifies when and how certain orders or notices of violation may be issued, how permits may be suspended, provides notices and hearing requirements and injunctive relief. Part 845 provides for civil penalty assessment, assessment conferences, and assessment hearings.

Section 843.12(a)(2) requires the Secretary to notify States to initiate State enforcement when a violation exists. Because Indians or Indian tribes may not be authorized to take enforcement action and States may not take such actions on Indian lands, this provision would not be applicable on Indian lands. Similarly, OSM proposes to make § 843.14(d), with regard to notifying State regulatory authorities of notices and orders issued by the Department inapplicable on Indian lands, since no State regulatory authority would have jurisdiction over Indian lands. OSM proposes in § 750.18(c), to provide copies of notices and orders to the Indian tribes on whose land the operation is located, and to provide copies to any person who has an interest in the exploration or surface coal mining operations.

Under proposed § 750.18(c), BLM would be required to furnish notices and orders to Indian tribes pertaining to coal exploration under its jurisdiction.

Proposed § 750.18 (d), (e) and (f) would include the three provisions mentioned earlier from 25 CFR Part 216 Subpart B. These provisions require the appropriate representative of the local governing Indian tribe to be notified of and invited to attend OSM inspections on Indian lands and hearings or conferences regarding civil penalties. Additionally, any other remedies available to Indian mineral owners would be preserved.

Section 750.19 Blaster Certification

OSM is not proposing a separate blaster certification program for Indian lands at this time. If necessary, OSM will promulgate a blaster certification program suitable for operations on Indian lands at a later date. Under the Blaster Certification rules effective on April 14, 1983, 48 FR 9486 (March 4, 1983), States are required to promulgate blaster certification programs. Only certified blasters are permitted to conduct blasting operations twelve months after a State blaster certification program has been approved. OSM proposes in § 750.19 to recognize State-issued blaster certifications as valid for operations on Indian lands. OSM solicits comments on the need for a separate Indian lands blaster certification program.

Section 750.20. Adoption of Lease Terms

Proposed § 750.20 would require the Secretary to incorporate certain terms and conditions in leases of coal on Indian lands. Section 710(d) of the Act requires the Secretary to incorporate into all existing and new leases the requirements cited in that section as applicable to mining on Indian lands. OSM proposes in § 750.20(a) to incorporate the requirements of Part 750 into all Indian coal leases.

Section 750.20(b) would require the Secretary to include and enforce terms requested by the tribes into leases issued after August 3, 1977. This provision is required by Section 710(e) of the Act. Coal owning tribes would be required to requests such terms in writing to OSM.

Part 755—Tribal-Federal Intergovernmental Agreements

Part 755 provides for the development, approval and administration of Tribal-Federal Intergovernmental Agreements. This part would provide for cooperative agreements between OSM and Indian tribes under which OSM could provide technical and financial assistance to allow for the training of Indian tribes and/or tribal members. This training would be in anticipation of tribal participation in a regulatory authority. OSM anticipates that at some point Congress may enact legislation providing for tribal assumption of full or partial regulatory responsibility. Should that occur, cooperative agreements would serve a vital transitional function because tribal members trained thereunder would be well suited to develop a regulatory program. Authority for cooperative agreemens may be found in the Federal Grant and Cooperative Agreement Act of 1977, 41 U.S.C 501.

Under the proposed rule, interested tribes would be able to submit written requests for cooperative agreements. The request would be accompanied by proposed terms of the agreement. At a minimum, each cooperative agreement would be required to include provisions which would allow tribes to work with OSM in reviewing permit applications; to recommend actions on permit applications, inspection and enforcement and bond release; and to provide funding for tribal employees to attend and testify at hearings.

The proposed rules would reserve to the Secretary the authority presently exercised by, or reserved to him on Indian lands.

Amendments to the cooperative agreement could be made by mutual agreement of the Secretary and officers of the tribe.

Cooperative agreements would be terminated either by the tribe or the Secretary with 90 days written notice.

IV. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. Also, DOI certifies that this rule will not have a significant economic effect on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis under Public Law 96-354.

The reasons underlying these determinations are as follows:

The Indian lands Program would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets; nor would it increase costs or prices for consumers, individual industries, Federal, State, tribal or local governmental agencies or geographic regions. There would be no significant demographic effects, direct costs, indirect costs, nonquantifiable costs, competitive effects, enforcement costs, or aggregate effects on small entities.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA) on these proposed rules and has made an interim finding that they would not significantly affect the quality of the human environment. The draft EA is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW., Washington, D.C. A final EA will be prepared and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule.

Paperwork Reduction Act of 1980

Proposed § 750.10 would codify OSM's conclusion that the information collection requirements contained in Part 750 and the remainder of these rules do not require approval of the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than ten respondents annually.

List of Subjects

25 CFR Part 216

Environmental protection, Indian lands, Mineral resources, Mines.

30 CFR Part 700

Administrative practice and procedure, Coal mining, Surface mining, Underground mining, Reporting requirements.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 750

Indian land mineral resources, Surface mining, Underground mining, Coal mining, Reporting requirements.

30 CFR Part 755

Intergovernmental relations, Reporting requirements, Indian lands mineral resources.

Drafting Information

These regulations were drafted by Joseph M. Oglander, Office of the Solicitor, and H. B. Simpson, Branch of Regulatory Programs, Office of Surface Mining.

For the reasons stated, it is proposed to amend 25 CFR Part 216 and 30 CFR Parts 700, 701, 750, and 755 as set out herein.

VOL 48 ISS 206 OCT 24 1983 UMI

Date: August 24, 1983.
William P. Pendley,
Deputy Assistant Secretary, Energy and Minerals.
Dated: October 20, 1983.
John W. Fritz,
Deputy Assistant Secretary, Indian Affairs (Operations).

25 CFR PART 216—[AMENDED]

§§ 216.100—216.114 (Subpart B) [Removed]

1. 25 CFR Part 216 is amended by removing Subpart B.

PART 700—[AMENDED]

2. 30 CFR 700.1 is amended by redesignating existing paragraphs (e) through (m) as paragraphs (f) through (n) and adding a new paragraph (e) as follows:

§ 700.1 Scope.

* * * * *

(e) Subchapter E of this chapter contains regulations that apply to surface coal mining and reclamation operations conducted on Indian lands and incorporates by reference the permit requirements of Subchapter G of this chapter, the performance standards of Subchapter K of this chapter, the inspection and enforcement requirements of Subchapter L of this chapter, and the blaster certification requirements of Subchapter M of this chapter.

* * * * *

3. 30 CFR 700.11 is amended by removing paragraph (a)(5) and by redesignating paragraph (a)(6) and (a)(5).

PART 701—[AMENDED]

4. 30 CFR 701.1 is amended by redesignating existing paragraphs (b)(3) through (b)(8) as (b)(4) through (b)(9) and by adding a new paragraph (b)(3) as follows:

§ 701.1 Scope.

* * * * *

(b) * * *

(3) Subchapter E on surface coal mining and reclamation operations on Indian lands.

* * * * *

5. 30 CFR 701.3 is proposed to be revised to read as follows:

§ 701.3 Authority.

The Secretary is required by section 501(b) of the Act to promulagate regulations which establish the permanent regulatory program; by section 523 of the Act to promulgate regulations which establish the Federal lands program; and is authorized by Section 710 of the Act to promulgate regulations which establish a Federal program for Indian lands.

* * * * *

6. 30 CFR 701.4 is proposed to be revised by adding a new paragraph (h) to read as follows:

§ 701.4 Responsibility.

* * * * *

(h) The Secretary shall have the responsibility for administration of the Federal program for Indian lands, as provided for under Subchapter E of this chapter. The Director and other Federal authorities shall have the responsibilities under the Indian lands program as are provided for under Subchapter E of this chapter.

7. 30 CFR 701.11, is amended by redesignating paragraphs (c) through (e) as (d) through (f) and adding a new paragraph (c) to read as follows:

§ 701.11 Applicability.

* * * * *

(c) Each person who conducts surface coal mining and reclamation operations on Indian lands on or after eight months from the effective date of the Federal program for Indian lands shall have a permit issued pursuant to Part 750 of this Chapter. However, a person who is authorized to conduct surface coal mining and reclamation operations may continue to conduct those operations beyond eight months from the effective date of the Federal program for Indian lands if the following conditions are met:

(1) An application for a permit to conduct those operations has been made to the Director within two months after the effective date of the Federal program for Indian lands and no initial administrative decision on that application has been issued; and

(2) Those operations are conducted in compliance with all terms and conditions of the existing authorization to mine, the requirements of the Act, Part 750 of this chapter, 25 CFR Part 216, and the requirements of all applicable minerals agreements, leases or licenses.

* * * * *

8. Subchapter E, consisting of Parts 750 and 755, is added to Title 30 as follows:

SUBCHAPTER E—INDIAN LANDS PROGRAM

PART 750 REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON INDIAN LANDS

Sec.
750.1 Scope.
750.5 Definitions.
750.6 Responsibilities.
750.10 Information collection.
750.11 Permits.
750.12 Permit applications.
750.13 Small operator assistance.
750.14 Lands designated unsuitable for mining by Act of Congress.
750.15 Coal exploration.
750.16 Performance standards.
750.17 Bonding.
750.18 Inspection and enforcement.
750.19 Blaster Certification.
750.20 Adoption of Indian coal lease terms.

Authority: 30 U.S.C. 1201 *et seq.*; 25 U.S.C. 355 NT; 25 U.S.C. 396; 25 U.S.C. 473a; 25 U.S.C. 501, 502; 25 U.S.C. 396 a–f; 5 U.S.C. 301)

§ 750.1 Scope.

This subchapter provides for the regulation of surface coal mining and reclamation operations on Indian lands and constitutes the Federal program for Indian lands.

§ 750.5 Definitions.

For purposes of regulating surface coal mining operations on Indian lands, the following terms, when used in this subchapter or in parts referenced by this subchapter, have the specified meaning:

BIA means the Bureau of Indian Affairs of the U. S. Department of the Interior.

BLM means the Bureau of Land Management of the U. S. Department of the Interior.

Federal program means the Federal program for Indian lands.

Indian mineral owner means (a) any individual Indian or Alaska native who owns land or mineral interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, or (b) any Indian tribe, band, native, pueblo, community, rancheria, colony, or other group which owns land or mineral interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Minerals agreement means any joint venture, operating, production sharing, service, managerial, lease or other agreements, or any amendment, supplement or modification of such agreement, providing for the exploration for, or extraction, processing, or the development of coal, or providing for the sale or other disposition of the production or products of such coal resources.

MMS means the Minerals Management Service of the U. S. Department of the Interior.

Regulatory authority means the Office of Surface Mining.

§ 750.6 Responsibilities

(a) OSM shall: (1) Be the regulatory authority on Indian lands;

(2) After consultation with the Bureau of Indian Affairs, approve, conditionally approve or disapprove, permit applications for surface coal mining and reclamation operations on Indian lands, or revisions or renewals thereto, and applications for the transfer, sale or assignment of such permit rights;

(3) Conduct inspection and enforcement activities with respect to surface coal mining and reclamation operations on Indian lands;

(4) Consult with the BIA with respect to special requirements relating to the protection of non-coal resources of the area affected by surface coal mining and reclamation operations, and assure operator compliance with such special requirements;

(5) Consult with the Bureau of Land Management concerning requirements relating to the development, production and recovery of mineral resources on Indian lands;

(6) Approve environmental protection performance bonds and liability insurance required for surface coal mining and reclamation operations on Indian lands but not the production royalty bond; and

(7) Ensure compliance with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, with respect to permitting actions for surface coal mining and reclamation operations on Indian lands.

(b) The Bureau of Land Management is responsible for:

(1) Receiving, reviewing, and approving or disapproving coal exploration plans;

(2) Administering, and conducting inspection and enforcement for, coal exploration operations on Indian lands;

(3) Administering, and conducting inspection and enforcement of, mining contract, lease or minerals agreement terms and conditions, if allowed by 25 CFR Chapter I, or specific Indian minerals agreements.

(c) The Minerals Management Service is responsible for collecting and accounting for royalties and other income on Indian mineral agreements except for annual rentals.

(d) The Bureau of Indian affairs is responsible for:

(1) Assisting in the representation of Indian mineral owners and other Indian owners in matters relating to surface coal mining and reclamation operations on Indian lands;

(2) Reviewing and making recommendations to OSM concerning permit applications, renewals, revisions or transfers of permits or permit rights; and

(3) Reviewing mining plans and recommending approving, conditionally approving, or disapproving the plans pursuant to 25 CFR 216.7.

§ 750.10 Information collection.

The Information collection requirements of this part do not require approval from the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than 10 respondents annually.

§ 750.11 Permits.

(a) No person shall conduct surface coal mining and reclamation operations on Indian lands after eight months after the effective date of this subchapter unless that person has first obtained a permit pursuant to this part.

(b) Every person conducting surface coal mining and reclamation operations on lands subject to this part shall comply with the terms and conditions of the permit, any terms contained in leases, mineral agreements or, licenses issued by the Department, other Federal agencies, or by the Indian tribe or tribes, the requirements of this Subchapter, and the Act.

(c) Surface coal mining and reclamation operations authorized prior to the effective date of this subchapter may be conducted beyond the eight-month period specified in paragraph (a) of this section if the following conditions are present:

(1) An application for a permit to conduct those operations under this part has been made within two months of the implementation of the Federal program for Indian lands;

(2) OSM has not yet rendered an initial administrative decision with respect to the permit application; and

(3) Those operations are conducted in compliance with all terms and conditions of the lease or minerals agreement, the existing authorization to mine, the requirements of the Act, the requirements of 25 CFR Chapter I and the requirements of this subchapter.

§ 750.12 Permit applications.

(a) Each application for a permit, or permit revision or renewal thereof to conduct surface coal mining and reclamation operations on lands subject to this part shall be accompanied by a fee made payable to the regulatory authority. The amount of the fee shall be determined and published by the Director.

(b) Unless specified otherwise by the regulatory authority, seven copies of the complete permit application package shall be filed with the regulatory authority.

(c)(1) The following requirements of Subchapter G of this chapter shall govern the processing of permit applications on Indian lands except as noted in paragraphs (c)(2) or (c)(3) of this section:

(i) Section 770.5;
(ii) Part 771;
(iii) Part 778;
(iv) Part 779;
(v) Part 780;
(vi) Part 782;
(vii) Part 783;
(viii) Part 784;
(ix) Part 785;
(x) Part 786;
(xi) Part 787; and
(xii) Part 788.

(2) The following sections and paragraphs listed in paragraph (c)(1) of this section are not applicable to permitting on Indian lands:

(i) Sections 771.11, 771.13, 771.15, 771.17, 771.19, 771.21;
(ii) Sections 778.15(b), 778.16;
(iii) Sections 782.15(b), 782.16;
(iv) Sections 785.11, 785.12; and
(v) Sections 786.19(d)(1), 786.19(d)(2), 786.19(f).

(3) *Special requirements.* (i) In addition to the requirements of § 788.18 of this chapter, approval of a transfer, assignment, or sale of rights granted under a permit shall not be construed as approval of a transfer or assignment of a leasehold interest. Leasehold interests may be transferred or assigned only in accordance with 25 CFR Parts 211 and 212.

(ii) The following is applicable to permit revisions pursuant to § 788.12 of this chapter:

(A) Applications for revisions pursuant to § 788.12(b) of this chapter shall contain sufficient information on the proposed revised operation to bring the operation and reclamation plan into compliance with the requirements for operations and reclamation plan if the revised operation had been proposed as part of the initial operation.

(B) OSM shall determine if the application for revision is complete and if the proposed revision is a significant one. OSM shall consider the following factors as well as other relevant factors in determining the significance of a proposed revision: (*1*) Significance of production changes or recoverability of the coal resource; (*2*) The environmental effects likely to result from the proposed revision; (*3*) The public interest in the operation, or interest likely to result from the proposed revision; and (*4*) Possible adverse impacts from the

VOL
48
ISS
206
OC
24
1983
UMI

proposed revision to fish or wildlife, endangered species, bald or golden eagles or cultural resources.

(C) Significant revisions to the original application shall be processed in accordance with Parts 786 and 787 of this chapter. Other revisions shall be reviewed to determine if the findings which were made in issuing the original permit are still valid.

(d) The permit application package shall also contain:

(1) The mining plan required to be submitted by 25 CFR 216.7 or Part 211 of this chapter, as applicable.

(2) The following information to assure compliance with Federal laws other than the Act:

(i) A description of the proposed surface coal mining and reclamation operation with respect to: (A) Increases in employment, population, and revenues to public and private entities; and (B) The ability of public and private entities to provide goods and services necessary to support surface coal mining and reclamation operations.

(ii) An evaluation of impacts to the scenic and aesthetic resources, including noise on the surrounding area, due to the proposed surface coal mining and reclamation operation.

(iii) A statement, including maps and ownership data as appropriate, of any cultural or historical site listed on the National Register of Historic Places within the permit and adjacent areas of the proposed surface coal mining and reclamation operation.

(iv) A statement of the classes of properties of potential significance within the disturbed area, and a plan for the identification and treatment, in accordance with 36 CFR Part 800, and of properties significant and listed or eligible for listing on the National Register of Historic Places within the permit area of the proposed surface coal mining and reclamation operation.

(v) A description of the probable changes in air quality resulting from the surface coal mining operation and any necessary measures to comply with prevention of significant deterioration limitations, State Implementation Plans, or other Federal or State laws for air quality protection.

(vi) A description of the location, acreage and condition of important habitats of selected indicator species located within the permit and adjacent areas of the proposed surface coal mining and reclamation operation.

(vii) A description of active and inactive nests and prey areas of any bald or golden eagles located within the permit and adjacent areas of the proposed surface coal mining and reclamation operations.

(viii) A description of all threatened and endangered species and their critical habitats located within the permit and adjacent areas of the proposed surface coal mining and reclamation operations.

§ 750.13 Small operator assistance.

Part 795 of this title is applicable on Indian lands.

§ 750.14 Lands designated unsuitable for mining by Act of Congress.

Part 761 of this title is applicable on Indian lands.

§ 750.15 Coal exploration.

Coal exploration operations on Indian lands shall be conducted in accordance with 25 CFR Part 216.

§ 750.16 Performance standards.

Surface coal mining operations on Indian lands shall be conducted in accordance with Parts 816; 817; 819; 822; 823; 824; 826; 827; and 828 of this chapter.

§ 750.17 Bonding.

Subchapter J of this title is applicable on Indian lands.

§ 750.18 Inspection and enforcement.

(a) Parts 842, 843, and 845 of this chapter are applicable on Indian lands except for §§ 843.12(a)(2) and 843.14(d).

(d) OSM shall furnish copies of notices and orders to mineral owners or surface owners on whose land the operation takes place. OSM may furnish copies to any person having an interest in the surface coal mining and reclamation operation, the permit area or coal exploration after commencement of mining operations within the approved permit area.

(c) BLM shall furnish copies of notices and orders to mineral owners or surface owners on whose land coal exploration operations take place prior to commencement of mining operations within an approved permit area.

(d) Whenever an authorized representative of the Secretary decides to conduct an inspection of any coal mining operations or any premises in which any records to be maintained are located, the appropriate representative of the local governing Indian tribe if time and circumstances permit, shall be notified and invited to accompany the Secretary's representative on such an inspection.

(e) No provision in this section shall be interpreted as replacing or superseding any other remedies of the Indian mineral owners as set forth in the contract or otherwise available at law.

(f) Appropriate officials of the local governing Indian tribe shall be notified of any hearings or conferences conducted regarding civil penalties and shall be invited to attend.

§ 750.19 Blaster certification.

Blasters certified under any approved State blaster certification program are deemed to be certified to conduct blasting operations on Indian lands.

§ 750.20 Adoption of Indian coal lease terms.

(a) All leases of coal on Indian lands are amended to include the following:

Lessee shall comply with all applicable requirements of the Surface Mining Control and Reclamation Act of 1977, and all regulations promulgated thereunder, including those codified at 30 CFR Part 750.

(b) With respect to leases issued after August 3, 1977, the Secretary shall include and enforce terms and conditions as are requested by the Indian tribe in such leases. Any coal owning tribe may make such a request in writing to OSM.

PART 755—TRIBAL-FEDERAL INTERGOVERNMENTAL AGREEMENTS

Sec.

755.1 Scope.
755.10 Information collection.
755.11 Application and agreement.
755.12 Terms.
755.13 Authority reserved by the Secretary.
755.14 Amendments.
755.15 Termination.

Authority: 41 U.S.C. 501; 30 U.S.C. 1201 *et seq.*

§ 755.1 Scope.

This part sets forth requirements for the development, approval and administration of Tribal-Federal Intergovernmental Agreements.

§ 755.10 Information collection.

The information collection requirements contained in this part do not require approval from the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than 10 respondents annually.

§ 755.11 Application and agreement.

(a) An Indian tribe may request that the Secretary enter into a Tribal-Federal Intergovernmental Agreement with the tribe.

(b) A request for a Tribal-Federal Intergovernmental Agreement shall be submitted in writing and shall include proposed terms of the agreement consistent with the requirements of this part.

§ 755.12 Terms.

The terms in each Tribal-Federal Intergovernmental Agreement may include:

(a) Provisions to allow the tribe to work with OSM in the review of permit applications, and to recommend appropriate action on permits, permit applications, inspection and enforcement, and bond release or forfeiture; and

(b) Provisions to provide funding for tribal employees to attend and testify at hearings.

§ 755.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any Indian tribe, nor shall any Tribal-Federal Intergovernmental Agreement be construed to delegate to any tribe, the authority exercised by or reserved to him on Indian lands.

§ 755.14 Amendments.

An agreement that has been approved pursuant to this part may be amended by mutual agreement of the Secretary and the officers of the tribe.

§ 755.15 Termination.

An agreement may be terminated by either party upon written notice to the other specifying the date upon which the agreement will be terminated. The date of termination shall be no less than 90 days from the date of the notice.

Authority: Pub. L. 95–87; 30 U.S.C. 1201 *et seq.*

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VOL
48
ISS
206
OC
24
1983
UMI

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Part IV

Department of Agriculture

Animal and Plant Health Inspection Service

List of Approved Livestock Markets

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Approved Livestock Markets; List

The regulations in 9 CFR Part 76, as amended, contain restrictions on the interstate movement of swine and swine products to prevent the spread of hog cholera and other swine diseases. This document adds certain livestock markets to the list of livestock markets approved for purposes of the regulations on the basis of a determination of their eligibility for such approval under § 76.18 of the regulations and removes from the list certain other livestock markets which have been found no longer to qualify for such approval.

The following livestock markets preceded by an asterisk are specifically approved to handle any class of swine and those livestock markets *not* preceded by an asterisk are specifically approved to handle slaughter swine only.

Alabama

*Agricultural Marketing Association of Alabama, Inc., Louisville
*Atmore Truckers Association, Inc., Atmore
Beard Livestock Market, Scottsboro
Don Bradford, Blountsville
Capital Stockyard, Montgomery
Casey's Selma Stockyard, Selma
*Central Alabama Feeder Pig Association, Clanton
*Conecuh Stockyard, Evergreen
*Cullman Stockyard, Cullman
*Dothan Livestock Auction, Inc., Dothan
Elba Custom Meat Company, d.b.a. Custom Pork Buyers, Elba
*Farmers Co-op Market, Frisco City
*Farmers Cooperative Market, Inc., Opp
*Farmers Livestock Auction, Russellville
*Farmers Livestock Co-op, Elba
Fayette Stockyards, Inc., Fayette
Florence Trading Post, Florence
H. E. Fulford Stockyard, Hartford
*Geneva Stock Yards, Inc., Geneva
*Hamilton Stockyard, Inc., Hamilton
*Henry County Livestock Association, Inc., Abbeville
Jackson County Stockyard, Inc., Scottsboro
Kennamer Livestock, Inc., Guntersville
*Limestone County Feeder Pig Association, Inc., Athens
*Louisville Livestock Company, Louisville
*Marion Stockyard, Marion
W. L. Mosley Livestock, Headland
Moulton Stockyard, Moulton
*Northeast Alabama Feeder Pig Association, Section
*Northwest Alabama Feeder Pig Association, Inc., Russellville
*Northwest Alabama Livestock Association, Russellville
*Pickens County Livestock Commission Company, Aliceville
Carl Register Stockyards, Slocomb
*Riverview Farms, Andalusia
*Robertsdale Livestock Auction, Inc., Robertsdale
*Sand Mountain Feeder Pig Association, Guntersville
Southeastern Livestock Service & Auction, Inc., Phenix City
Stokes & Brogden Stock Yard, Andalusia
*Tennessee Valley Feeder Pig Association, Huntsville
*Upper Coastal Feeder Pig Association, Inc., Fayette
David West Livestock Company, Cottonwood
*Winfield Livestock Commission Company, Winfield
*Wiregrass Feeder Pig Association, Hartford

Arkansas

*Arkansas National Stockyards, Little Rock
*Ash Flat Livestock Auction, Ash Flat
Atkins Livestock Auction, Atkins
*Batesville Livestock Auction, Inc., Batesville
*Beebe Auction, Inc., Beebe
*Bentonville Livestock Auction, Bentonville
*Carroll County Livestock Auction Company, Berryville
Central Livestock Auction, Inc., Morrilton
*Clark County Livestock Auction, Arkadelphia
Cleburne County Livestock Auction, Heber Springs
*Craighead County Auction, Inc., Jonesboro
Decatur Livestock Auction, Decatur
Drew County Auction, Monticello
Eudora Livestock Auction, Eudora
*Farmers & Ranchers Livesock Auction, Inc., Batesville
*Farmers & Ranchers Livestock Auction, Mt. View
*Bob Gordon Livestock Auction, Mena
Glover Livestock Commission Co., Pine Bluff
*Harrison Stockyards Auction, Inc., Harrison
*Hill & Nuel Livestock Auction, Batesville
Hope Livestock Auction, Hope
*Lafayette County Livestock Company, Lewisville
*Lewis Livestock Company, Inc., Conway
*Loftin Pig Farm, Fayetteville
*Magnolia Livestock Auction, Magnolia
*MFA Livestock Association, Imboden
*Meredith Livestock Auction, Inc., Pocahontas
*Mountain Home Livestock Auction, Mt. Home
*North Arkansas Livestock Auction, Green Forest
*Oak Lawn Farms, Pine Bluff
Ola Livestock Market, Ola
*Paragould Livestock Auction, Paragould
*Rector Auction Salebarn, Rector
*Richardson Livestock Commission Company, North Little Rock
Salem Livestock Auction, Salem
*Saline-Ouachita Valley Livestock Commission Co., Warren
*Scott County Livestock Auction, Waldron
*Searcy County Livestock Auction, Marshall
Siloam Springs Sale Barn, Siloam Springs
Van Buren County Auction, Clinton
*Washington County Sales, Fayetteville
White Livestock Auction, Russellville
*White County Livestock Auction, Searcy

California

*Barstow Sales Yard, Barstow
*Dixon Livestock Auction Company, Dixon
*Stockton Livestock Market, Inc., Stockton

Colorado

*Alamosa Auction, Alamosa
*Brush Livestock of Colorado, Inc., Brush
*Calhan Cash Auction Market, Calhan
*Centennial Livestock Auction Co., Fort Collins
Circe Livestock (located at Delta Sales Yard), Delta
Clougherty Packing Company, Greeley
*Cortez Livestock Auction, Inc., Cortez
*Delta Sales Yard, Delta
*Demmler Livestock Commission Company, Pueblo
East Central Colorado Pork Producers Assn., Burlington
*Fowler Auction Company, Fowler
*Greeley Producers Livestock Marketing Assn., Greeley
High Country Pork Producers, Grand Junction
*Livestock Exchange, Inc., Brush
*Monte Vista Livestock Auction Company, Monte Vista
*National Western Livestock Center, Denver
*Ranchers & Farmers Livestock Auction, Burlington
*Ranchland Livestock Commission Company, Wray
*Sterling Livestock Commission Company, Sterling
*Stratton Livestock Marketing Center, Stratton
*Tri-County Livestock Commission Company, Broomfield
*Valley Livestock Auction Company, Fruita
*Winter Livestock Commission Company, La Junta

Delaware

*Carroll's Sales Company, Felton
Goldinger Brothers, Inc., Smyrna
Charles F. Poore Livestock Market, Smyrna
Villari Buying Station, Smyrna
Floyd E. West Livestock, Frankford

Florida

*Big Bend Livestock Market, Quincy
*Chipley Livestock Market, Chipley
*Columbia Livestock Market, Lake City
*Gainesville Livestock Market, Inc., Gainesville
*Jacksonville Livestock Auction Company, Whitehouse
*Jay Livestock Auction Market, Jay
*Live Oak Stockyard, Live Oak
*Madison Stockyards, Madison
*Monticello Livestock Market, Inc., Monticello
*North Florida Farmers Co-op., Inc., Lake City
*Ocala Livestock Market, Ocala
*Tindel Livestock Market, Graceville
*West Florida Livestock Market, Marianna

Georgia

Bainbridge Auction Market, Bainbridge
*Barrett Feeder Pigs, Dublin
Charles R. Barrineau (Stockyard), Douglas
*Baxley Pig Sale, Baxley
*Blackshear Pig Sales, Inc., Blackshear
*Bleckley County Feeder Pig Sale, Cochran
Bulloch County NFO Swine Buying Station, Statesboro
*Bulloch Stockyards, Statesboro
David Burson Livestock Market (Assembly Point), Carrollton

C & S Livestock Company, Sandersville
Carroll County Livestock Sale Barn, Carrollton
Canoochee Hog Market, Hagan
Citizens Stockyard, Arlington
Coosa Valley Livestock Company, Rome
Cordele Livestock Commission Company, Cordele
*County Stock Barn, Sandersville
*CSRA Feeder Pig Association, Warrenton
Dawson Livestock Company, Dawson
*Dodge County Stock Barn, Eastman
*Dublin Livestock & Commission Co., Dublin
Eddinger Livestock, Lyons
Farmers Stockyard, Sylvania
Fitzgerald Farmers Auction, Inc., Fitzgerald
*Four County Farm Bureau Market Assn., Inc., Twin City
Franklin County Livestock Market, Inc., Carnesville
Franklin County Livestock Swine Buying Station, Carnesville
Georgia Farm Products Sales Corp., Thomaston
Georgia Farmers Livestock, Inc., Cumming
*Grady County Swine Producers Association, Cairo
Hagan Livestock Market, Inc., Hagan
H. J. Hall and Company Hog Buying Station, Sparks
B. H. Harrison Livestock Company, Bainbridge
Heinold Hog Markets, Inc., Cairo
Heinold Hog Markets, Eastman
Heinold Hog Markets, Glennville
Heinold Hog Markets, Mt. Vernon
Heinold Hog Market, Tifton
Irwin County Livestock Comapany, Ocilla
Jepeway-Craig Commission Company, Dublin
LaGrange Stockyard, LaGrange
Livestock Marketers, Inc., Douglas
Metter Livestock Market, Metter
*Milan Stockyard, Milan
Miles Stockyard, Baxley
Miller Livestock Company, Colquitt
W. L. Moseley Livestock Company, Blakely
John Moseley Livestock and Holman Auction Company, Blakely
*Moultrie Livestock Company, Moultrie
*Northeast Georgia Livestock Barn, Gainesville
North Georgia Livestock Auction, Inc., Athens
Peoples Livestock Market, Inc., Cartersville
Peoples Stockyard, Cuthbert
Pierce County Stockyard, Blackshear
Pulaski Stockyard, Hawkinsville
Seminole Livestock, Inc., Donalsonville
Seaboard Stockyard, Colquitt
Smith Brothers Stockyard, Bartow
Soperton Stockyard, Soperton
*Southeast Georgia Stockyard, Inc., Statesboro
*Sumter Livestock Association, Americus
*Sutton Livestock Company, Sylvester
Swainsboro Stockyards, Swainsboro
*Telfair-Wheeler Livestock Market, McRae
Jerry Thomas Assembly Point, Chauncey
Thomas County Stockyard, Thomasville
Tifton Stockyards, Tifton
Tison Hog Market Association, Glennville
Toomba County Stockyard, Lyons
*Tri-County Feeder Pig Sale, Braxton
Tri-County Livestock Company, Social Circle
Tri-County N.F.O. Collection Point, Inc., Blackshear
*Turner County Stockyard, Ashburn
Valdosta Livestock Co., Inc., Valdosta
Vidalia Livestock Auction, Inc., Vidalia
*Wayne County Stockyard, Jesup
Wheeler Brothers Livestock Market, Inc., Eastonolle
White Livestock Company, Quitman
Wilkes County Stockyard, Washington

Idaho

*Blackfoot Livestock Commission Co., Blackfoot
*Bonners Ferry Livestock, Inc., Bonners Ferry
Burley Livestock Commission Yards, Inc., Burley
*Cache Valley Livestock Auction, Preston
*Coeur d'Alene Livestock, Inc., Coeur d'Alene
Cottonwood Sales Yard, Cottonwood
Gooding Livestock Commission Company, Gooding
*Idaho Livestock Auction, Inc., Idaho Falls
*Nampa Livestock Markets, Inc., Napa
Producer's Jerome Livestock Marketing Assn., Jerome
*Rexburg Livestock Auction, Inc., Rexburg
Salmon River Livestock Market, Salmon
Shoshone Sale Yard, Shoshone
*Spencer Livestock Commission Co., Lewiston
Stockgrowers Commission Co., Inc., Twin Falls
*Treasure Valley Livestock Auction, Inc., Caldwell
*Twin City Salesyard, Lewiston
*Twin Falls Livestock Commission Co., Twin Falls
*Valley Livestock Commission Co., Rupert
*Weiser Livestock Commission Co., Weiser

Illinois

Albion Livestock, Albion
*Barnard Livestock Auction, Wayne City
*Bloomington Livestock Commission Co., Bloomington
*Breed's Livestock Sales, Elizabeth
Brutlag Livestock Company, Potomac
*Carthage Livestock Auction, Carthage
*Cherry, Nellis (Bros.), Shannon
Chicago Stockyard—Atkinson Market, Inc., Atkinson
Patrick Cudahy, Orangeville
*Dameron Livestock Auction, Vienna
*Danville Livestock Commission Co., Danville
*Decker's Livestock, Inc., Milford
*DeWane's Livestock Exchange, Belvidere
Edgar County Marketing Association, Paris
Emge Stockyards, Palestine
*Farmers Choice Marketing Center, Winslow
Farmers Hog Market of Ursa, Ursa
*Galesburg Livestock Sale, Galesburg
Galesburg Order Buyers, Milledgeville
*Greenville Livestock Auction Co., Greenville
Heinold Hog Market #84, Atkinson
Heinold Hog Market, Brookport
Heinold Hog Market #9, Buffalo Prairie
Heinold Hog Market #53, Cambridge
Heinold Hog Market #105, Dixon
Heinold Hog Market, Girard
Heinold Hog Market, Leland
Heinold Hog Market, Marengo
Hesselbacher Brothers, Scales Mound
*Illinois Auction Commission Co., Paris
*Interstate Producers Livestock Association, Shelbyville
Interstate Producers Livestock Association, Apple River
*Interstate Producers Livestock Association, Dongola
Interstate Producers Livestock Association, Elvaston
Interstate Producers Livestock Association, Erie
Interstate Producers Livestock Association, Fairfield
*Interstate Producers Livestock Association, Fieldon
*Interstate Producers Livestock Association, Golconda
*Interstate Producers Livestock Association, Harrisburg
*Interstate Producers Livestock Association, Pinckneyville
*Interstate Producers Livestock Association, Quincy
*Interstate Producers Livestock Association, Salem
*Jennings Sales Company, Macomb
Joliet Livestock Marketing Center, Inc., Joliet
*Kewanee Sale Barn, Kewanee
Knowles Stock Yards, Marshall
*Knoxville Sale Company, Inc., Knoxville
*Clyde Kuntz, Gridley
LaHarpe Order Buyers, LaHarpe
*Masten Feeder Pigs, Topeka
Oscar Mayer & Company #772, Cambridge
Oscar Mayer & Company #662, Carthage
Oscar Mayer & Company, Davis
Oscar Mayer & Company, German Valley
Oscar Mayer & Company, Pittsfield
Oscar Mayer & Company, Warren
Mendon Order Buyers, Mendon
*Mercer Couty Livestock Company, Viola
*Monmouth Livestock Sales Company, Monmouth
*Olney Livestock Commission Company, Olney
Peoria Union Stockyards Company, Peoria
*Rock Island Auction Sales, Inc., Rock Island
St. Louis National Stockyards, National Stockyards
*Harry Schrader Consignment, Dakota
Smith Livestock, St. Jacob
*Southeastern Livestock Association, Inc., Albion
Stanton Stock Yard, Lena
George Thompson & Son, Morrison
*Walnut Auction Company, Walnut
Winslow Stockyards, Winslow
*Marvin T. Wood, Morrison

Indiana

Attica Stockyards, Attica
*Boone County Sale Barn, Lebanon
*Boswell Livestock Commission, Boswell
*Raymond Boyce Livestock Company, Monon
Mike Brady Stockyards, Lagrange
Mike Brady Stockyards, Waterloo
Camden Hog Market, Camden
*Don Clark Feeder Pig, Brook
*Robert Elliott, Westport
Emge Packing Company, Fairmount
Emge Packing Company, Inc., Anderson
Emge Packing Company, Inc., Fort Branch
Emge Packing Company, Montpelier
*Evansville Livestock Market, Inc., Evansville
*Fountain County Livestock Commission Company, Veedersburg
*Geneva Berne Livestock Sale, Berne
*Goshen Commission Sale, Goshen

VOL 48 ISS 206 OCT 24 1983 UMI

Greencastle Livestock Center, Greencastle
Heinold Hog Market, Bluffton
Heinold Hog Market, Burlington
Heinold Hog Market, Cambridge City
Heinold Hog Market, Goodland
Heinold Market, Inc., Jasper
Heinold Hog Market, Corunna
Heinold Hog Market, Inc., Kouts
Heinold Hog Market, Liberty
Heinold Market, North Manchester
Heinold Hog Market, Portland
Heinold Hog Market, Rensselaer
Heinold Hog Market, Rushville
Heinold Hog Market, Tipton
Heinold Hog Market, Wheatland
*Henry County Livestock Auction, New Castle
*Hilltop Auction Sale, Hanover
Hoosier Stockyards, Inc., Frankfort
Hoosier Stockyards, Inc., Knightstown
Hoosier Stockyards, Inc., Lebanon
Hoosier Stockyards, Inc., Roann
Indianapolis Stockyards Corp., Indianapolis
*Johnson County Sale Pavilion, Franklin
*Knightstown Sale Barn, Knightstown
*Gordon Jones, Ridgeville
*La Fountain Livestock Sale, La Fountain
Logansport Livestock Yards, Inc., Logansport
*Lowell Livestock Auction, Lowell
*Loy's Sale Barn, Portland
M & R Livestock Company, Loogootee
*Bill Manns, Rensselaer
Mentone Stockyards, Mentone
*Mid-States Feeder Pig Company, Inc., Flora
*Jack Milhollin, Parker
*Montgomery County Sale Pavilion, Crawfordsville
Morrison Livestock, Culver
*Morton Sale Barn, Morton
Ohio Valley Livestock Corp., Williamsburg
*Parke County Sale Pavilion, Rockville
Pavy Stockyard, Greensburg
Pavy Stockyards, Milroy
*Pinkerton Farm Commodities, Warren
*Producers Livestock Association, Bath
Producers Livestock Association, Winchester
*Producers Livestock Association, Vincennes
*Producers Livestock Association of Ohio, Fort Wayne
Producers Marketing Association, Amboy
*Producers Marketing Association, Boonville
*Producers Marketing Association, Inc., Centerville
Producers Marketing Association Stockyards, Centerville
*Producers Marketing Association, Clayton
*Producers Marketing Association, Columbia City
Producers Marketing Association, Decatur
Producers Marketing Association, Frankfort
Producers Marketing Association, Greensburg
*Producers Marketing Association, Mentone
*Producers Marketing Association, Inc., Montgomery
*Producers Marketing Association, Feeder Pig, Montpelier
*Producers Marketing Association, North Vernon
Producers Marketing Association, Rensselaer
Producers Marketing Association, Rockville
*Producers Marketing Association, Salem
*Producers Marketing Association, Seymour
*Producers Marketing Association, Inc., Terre Haute
Producers Marketing Association, Terre Haute
*Producers Marketing Association, West Lafayette
Producers Marketing Association, West Lafayette
Producers Marketing Association, Inc., Worthington
*Reynolds Sale Barn, Reynolds
*Rochester Sale Barn, Rochester
*Royal Center Sale Barn, Royal Center
Rushville Community Sale, Rushville
*Russellville Feeder Pig Company, Russellville
S & W Daily Hog Market, Wakarusa
*Shipshewana Auction, Inc., Shipshewana
*Silver Lake Livestock Center, Inc., Silver Lake
*Southeastern Indiana Feeder Pig Auction Assn., Versailles
*Springville Feeder Auction Asen., Inc., Springville
P. B. Stewart Company, Berne
P. B. Stewart Company, Decatur
P. B. Stewart, Inc., Fort Wayne
P. B. Stewart Company, Fulton
P. B. Stewart Company, Plymouth
P. B. Stewart Company, South Whitley
*Stoney Pike Sale Barn, Logansport
Sullivan County Livestock Market, Sullivan
*Topeka Livestock Auction Company, Topeka
*White River Valley Feeder Auction Assn., Worthington
*White's Livestock Auction, Brookville
Wilson Food Company, Wolcott
Winner Order Buyers, Converse
*Ralph Yarling, Elwood
*Yeager and Sullivan, Inc., Camden
Zechiel Stockyards, Knox

Iowa

*Ackley Sales Pavilion, Inc., Ackley
*Adel Sales Pavilion, Adel
*Albia Sales Company, Inc., Albia
*Anamosa Livestock Auction, Anamosa
*Ankeny Sale Barn, Ankeny
*Aplington Livestock Auction, Aplington
Armour and Company, Bedford
Armour and Company, Mt. Ayr
*Audubon County Livestock Exchange, Audubon
Audubon County Livestock Exchange, Audubon
*Bedford Sale Company, Bedford
*B & H Cattle Company, Ida Grove
*Bingley Sale Company, Inc., Knoxville
*Bleil & Chapman Livestock Auction, Kingsley
*Bloomfield Livestock Market, Inc., Bloomfield
*Bradley Hog Market, Inc., Dows
*Centerville Hog Market, Centerville
*Central Iowa Stockyards, Webster City
*Clarinda Auction Company, Clarinda
Colfax Livestock Sales Company, Colfax
*Colfax Livestock Sales Company, Colfax
*Cresco Livestock Market, Cresco
Davis City Stockyards, Davis City
*D & E Livestock, Clarksville
*Decorah Sales Commission, Decorah
*DeVries Auction, Buffalo Center
*Dunlap Livestock Auction, Dunlap
*Eastern Iowa Livestock Commission, Mechanicsville
*Edgewood Livestock Auction, Inc., Edgewood
*Elkader Sale Barn, Elkader
Farmington Order Buyers, Farmington
Farmland Foods, Inc., Clarinda
*Forest City Cow Palace, Jennings Brothers, Inc., Forest City
*Gaffney Storm Lake Auction, Storm Lake
*Grassland Company, Odebolt
*Grinnell Livestock Exchange, Grinnell
*Harlan G. Habben Feeder Pig Sales, Pocahontas
Heinold Hog Market, Birmingham
Heinold Hog Market, Bloomfield
Heinold Hog Market, Donnellson
Heinold Hog Market, Mt. Ayr
Heinold Hog Market, Seymour
*Hilltop Feeder Pig Company, Aplington
Hormel Hog Market, Centerville
*Humeston Livestock Auction, Humeston
*Independence Sales Company, Inc., Independence
*Interstate Producers, Waukon
Interstate Producers, Waukon
*Kalona Sale Barn, Kalona
*Keoco Auction Company, Sigourney
*Keosauqua Sale Company, Inc., Keosauqua
*Kimballton Auction Company, Kimballton
*Lamoni Livestock Sales Co., Inc., Lamoni
*La Porte City Sale Barn, La Porte City
*Lenox Livestock Commission, Lenox
*Leon Sale, Leon
*Livestock Auction of Rock Valley, Rock Valley
Lynch Livestock, Inc., Waucoma
Mahaska Sale Company, Oskaloosa
*Manning Livestock Auction, Manning
*Mapleton Livestock Sales, Mapleton
*Maquoketa Livestock Corp., Maquoketa
*Montezuma Sale Company, Inc., Montezuma
*Monticello Sale Barn, Monticello
*Moorhead Livestock Auction, Moorhead
*Mt. Ayr Livestock Market, Mt. Ayr
Ralph Mullenback, Stacyville
*Keith Myers, Grundy Center
National Farmers Organization Collection Point, Clarinda
*New Albin Stockyard, New Albin
Noe Livestock Lime Springs
*Northwest Iowa Sales Commission, Waukon
*North Iowa Livestock Exchange, Garner
*Nothside Sales Company, Sibley
Osage NFO Collection Point, Osage
Petefish Scale Yard, Bloomfield
Porkland Hog Marketing Assn., LuVerne
*Porth & Baxter, DeWitt
*Porth & Baxter, Inc., State Center
*Producers Livestock Marketing Agency Feeder Pig Division, Creston
Quale Livestock, Chester
*Riceville Sales Pavilion, Riceville
*Norb Roecker Feeder Pigs, Denison
*Sales Company of Hawarden, Hawarden
Schmidt Livestock, Inc., Garner
*Shenanadoah Livestock Auction, Inc., Shenandoah
*Sioux City Stockyards, Sioux City
*Sioux City Stockyards Feeder Pig Auction, Sioux City
*Spirit Lake State-Federal Approved Feeder Pig Market, Spirit Lake
*Story City Auction Sales, Inc., Story City
*Tama Livestock Auction Company, Tama
*Carl S. Thurn Stockyard, Edgewood
*Traer Livestock Market, Traer
*Tri-State Livestock, Ltd., Sioux center
Troutman Hog Market, Bonaparte
Vista Pork, Newell

Walker Brothers (Livestock Market), Washington
*Walker Sales Company, Walker
*Wapello Livestock Sales, Inc., Wapello
*Waverly Sales Company, Waverly
*Wayland Livestock Auction Market, Wayland
Weerheim Livestock, Rock Rapids
Wever Hog Market, Wever
Wiechman Pig Company, Inc., Des Moins
Wilson & Company, Inc., Shenandoah
*Atchison County Auction Company, Atchison
*Atwood Sale Barn, Inc., Atwood
*Caldwell Community Sale, Caldwell
*Circle "L" Livestock Sale, Liberal
*Clay Center Livestock Company, Inc., Clay Center
Clearwater Livestock, Viola
Clougherty Packing Company, Marysville
*Coffeyville Livestock Sales Co., Inc., Coffeyville
*Coffeyville Stockyards, Inc., Coffeyville
*Colby Livestock Auction, Colby
*Coldwater Livestock Sale Co., Inc., Coldwater
*El Dorado Livestock Auction, Inc., El Dorado
Eureka Livestock, Eureka
Farmland Foods, Seneca
G & S Livestock, Kingman
*Hansen Livestock Auction, Concordia
*Hays Livestock Market Center, Inc., Hays
*Hiawatha Auction Company, Hiawatha
Hormel Hog Buying Station, Washington
*Hoxie Livestock Sale, Hoxie
Hutchinson Livestock Commission Co., Inc., Hutchinson
*J. J. Livestock Commission Company, Effingham
*Junction City Sales Company, Inc., Junction City
Kansas Hog Company, Morland
Kuhlman Hog Yards, Smith Center
Luckeroth Hog Market, Seneca
*Mankato Livestock Commission Co., Mankato
*Marysville Livestock Commission Co., Marysville
Mauer-Neuer Packing Company, Independence
*Medicine Lodge Sale Company, Medicine Lodge
*Miami County Livestock Co., Inc., Paloa
*Mid-Kansas Swine Association, Hutchinson
*Moline Auction Company, Inc., Moline
N.F.O. Buying Station, Marysville
*Oberlin Livestock Commission Company, Oberlin
Ogle Hog Company, Emmett
*Parsons Livestock Auction, Inc., Parsons
*Phillipsburg Sales Company, Phillipsburg
*Rezac Livestock Commission Company, St. Marys
*Sabetha Livestock Auction, Sabetha
*St. Francis Livestock Sales, St. Francis
Smith Center Hog Company, Smith Center
*South East Kansas Feeder Pig Association, Fredonia
*Southwestern Livestock, Inc., Dodge City
Stafford Brothers Hog Market, Fort Scott
*The Stockmans Livestock Exchange, Belleville
*Syracuse Sale Company, Inc., Syracuse
*Washington Livestock Sales, Washington
*Wichita Union Stockyard, Wichita
Wilson Certified Foods, Independence
*Winfield Livestock Auction, Inc., Winfield

Kentucky

*Albany Stockyard , Inc., Albany
R. B. Berry & Son, Clinton
*Blue Grass Stockyard, Lexington
*Bourbon Stockyard Company, Louisville
*Bowling Green Stockyard, Bowling Green
*Boyle County Stockyard, Danville
Breckinridge Livestock Center, Irvington
Brown Livestock Company, Clinton
*Bullitt County Stockyard, Shepherdsville
*Catlettsburg Livestock Market, Catlettsburg
*Central Kentucky Livestock Market, Inc., Stanford
Christian County Livestock Market, Inc., Hopkinsville
Clark County Stockyard, Winchester
*Crittenden County Livestock Auction, Marion
*Cross-Walton Livestock Market Center, Walton
*Edmonton Livestock Market, Inc., Edmonton
Elizabethtown NFO Reload, Elizabethtown
Faire stockyards, Bardwell
*Farmers Commission Co., Inc., Tompkinsville
*Farmers Livestock Feeder Pig Sale, Mayfield
*Farmers Livestock Market of Glasgow, Inc., Glasgow
*Farmers Livestock Market, London
*Farmers Stockyards, Inc., Flemingsburg
Field Packing Company, Owensboro
Franklin-Simpson Livestock Co., Inc., Franklin
Gamaliel Livestock Market, Gamaliel
*Garfield Auction Market, Garfield
*Garrard County Stockyard, Lancaster
*Glasgow Livestock Market, Glasgow
*Good Day Stockyards, Princeton
Graves County Livestock Company, Inc., Mayfield
*Grayson County Stockyards Market, Inc., Leitchfield
*Green County Stockyard, Greensburg
Green River Livestock Maket, Inc., Munfordville
Heinold Hog Markets, Inc., Fancy Farm
Heinold Hog Markets, Inc., Marion
Heinold Hog Markets, Inc., Morganfield
*Interstate Producers Livestock Assn., Fancy Farm
*Interstate Producers Livestock Assn., Morganfield
*Jolley's Feeder Pig Market, Albany
*Kentuckiana Livestock Market, Owensboro
*Kentucky Livestock Market, Inc., Bowling Green
*Kentucky-Tennessee Livestock Market, Inc., Guthrie
*King Livestock Company, Inc., Hopkinsville
*Laurel Sales Company, London
*Madison Sales Company, Richmond
*Mammoth Cave Marketing Corporation, Smith Grove
Mantle Stockyards, Bardwell
*Maysvile Stockyard, Maysville
Morganfield NFO Collection Point, Morganfield
Morganfield Stockyards, Morganfield
*New Farmers Stockyard, Inc., Mount Sterling
N.F.O Stockyards, Cynthiana
Ohio Valley Producers, Corydon
*Owsley County Stockyard, Booneville
Paducah Livestock Auction Company, Paducah
*Paintsville Livestock Market, Staffordsville
*Paris Stockyard, Paris
John M. Riley Livestock Market, Mayfield
*Russell County Stockyard, Russell Springs
*Russellville Livestock Market, Russellville
*Lee Schneider Sales Barn, Walton
*Somerset & Pulaski County Livestock Market, Inc., Somerset
*Taylor County Stockyards, Campbellsville
*Tri-County Stockyard, Smithfield
*W K 259 Livestock Market, Inc., Leitchfield
*Walton NFO Sales, c/o George Boh, Walton
*Washington County Livestock Center, Springfield
*Wayne County Feeder Pig Auction, Monticello
Wayne County Livestock Market, Inc., Monticello
*Wigwam Hog and Feeder Pig Market, Inc., Horse Cave
*Williamstown Stockyard, Inc., Williamstown

Lousiana

*Bastrop Livestock Auction, Inc., Bastrop
*Clark Livestock Auction, Inc., Bossier City
*Delhi Livestock Auction, Delhi
*DeQuincy Livestock Commission Co., DeQuincy
*DeRidder Livestock Commission Co., DeRidder
*Farmer and Stockman Auction, Inc., Clarence
*Franklinton Stockyard, Inc., Franklinton
Grand Cane Livestock Sales, Inc., Grand Cane
*Heck Livestock Sales Company, Baton Rouge
Homer Livestock Sales, Homer
Lum Brother Stockyard, Inc., Vidalia
*North Louisiana Pork Producers Assn., Oak Grove
*Southwest Stockyard, Inc., Lake Charles
*West Monroe Livestock Auction, West Monroe

Maine

*Massow's Livestock Sales, Corinna
*Ben Tilton & Sons, Corinth

Maryland

*Aberdeen Sales Company, Aberdeen
Adkin Livestock, Inc., Parsonburg
Baltimore Livestock Market, Inc., West Frindship
*Caroline Sales Company, Denton
*Cumberland Stockyards, Inc., Cumberland
Esskay Buying Station, Baltimore
Esskay Buying Station, Wye Mills
*Farmers Market and Auction, Mechanicsville
*Four State's Livestock, Sales, Inc., Hagerstown
*Frederick Livestock Auction, Inc., Frederick
*Friend's Stock Yard, Inc., Accident
*Grantsville Community Sales, Inc., Grantsville
Hatfield Packing Company Buying Station, Eden
*Hunter Sale Barn, Inc., Rising Sun
Penn Packing, Snow Hill
*Harry Rudnic & Sons, Inc., Galena
*S. & J. Villari Livestock, Snow Hill
*Western Maryland Stock Yards, Inc., Westerminster

*Woodsboro Livestock Sales, Inc., Walkersville

Massachusetts

Farmers Live Animal Market Exchange, Inc. (FLAME), Littleton
J. P. Hass and Sons, Rehoboth
New England Commission Auction, South Easton
*Northampton Cooperative Auction Market Assn., Inc., Whately

Michigan

Andy Adams Sale Barn, Hillsdale
Coldwater Livestock Auction, Coldwater
Croswell Stockyards, Croswell
Heinold Hog Markets, Inc., Burlington
Heinold Hog Markets, Inc., Jones
Lugbill Brothers, Inc., Morenci
Michigan Live Stock Exchange, Battle Creek
Michigan Live Stock Exchange, Cassopolis
Michigan Live Stock Exchange, Manchester
Napoleon Livestock Commission Company, Napoleon
Tecumseh NFO Collection Point, Britton
Westfall Stockyards, Hillsdale

Minnesota

*American Feeder Pig Co-op, Perham
*American Feeder Pig Co-op, Sauk Centre
*Anderson Feeder Pig Company, Willmar
*Arends Sale Yard, Inc., Blue Earth
Armour and Company, Browns Valley
Armour and Company, Dawson
Armour Hog Buying Station, Ortonville
B L D Livestock, Inc., Ivanhoe
*Bauman's Livestock, Ellsworth
*Benson Livestock Exchange, Inc., Benson
*Canby Livestock Sales Company, Canby
*Cottonwood Veterinary Clinic, Windom
*Ewert Livestock, Inc., Sebeka
*Farmers Livestock Auction Market, Caledonia
Farmers Livestock Company, Elmore
*Harmony Livestock Sales, Harmony
*Hebrink Feeder Pig Market, Renville
George A. Hormel & Company, Austin
George A. Hormel Livestock Buying Station, Canby
Hormel Livestock Buying Station, Blue Earth
Iowa Pork Industries, Buffalo Lake
Janesville Stockyard, Janesville
*Kasson Livestock Exchange, Kasson
Lakefield N.F.O. Collection Point, Lakefield
*Lamberton Stockyards, Inc., Lamberton
Lee and John's Livestock, Harmony
*Lewiston Livestock Market, Lewiston
*Long Prairie Livestock Auction Market, Long Prairie
*Luverne Livestock Auction, Luverne
*Minnesota Feeder Pig Market (Elysian Divn.), Elysian
*Minnesota Feeder Pig Markets, Inc., Gibbon
*Minnesota Feeder Pig Markets Inc., Pipestone
*Minnesota Feeder Pig Markets Inc. (Willmar Divn.), Willmar
*Minnesota Feeder Pig Markets, Windom
Morrell Hog Buying Station c/o Minn-Kota Transfer, Madison
John Morrell and Company, Kiester
Morris Hog Buying Station, Morris
*Northern States Feeder Pig, Inc., Sauk Centre
Pierson Livestock, Ivanhoe
*Pipestone Livestock Auction Market, Pipestone
*Pork Central, Mabel
Rath Packing Company, Prosper
Rath Packing Company, Rushford
*Rice Feeder Pig Center, Rice
Rosen Livestock, Fairmont
*Rush City Livestock Auction, Rush City
*St. Paul Union Stockyards, South St. Paul
Schmidt Livestock, Inc., Mankato
Schmidt Livestock, Inc., Madelia
*Schmidt Livestock, Sales, Inc., Truman
*Sleepy Eye Auction Market, Sleepy Eye
Smith Livestock, Granada
*Speldrich Feeder Pig Market, Belgrade
*Springfield Stockyards, Springfield
*Spring Grove Livestock Exchange, Inc., Spring Grove
*Spring Valley Sales Co., Spring Valley
*Top Livestock Auction, Edgerton
*Tri-County Livestock Auction, Inc., Motley
Welcome NFO Livestock Collection Point, Welcome
Wilson & Company, Inc., Bricelyn
Wilson Foods Corp., Albert Lea
*Windom Sale Company, Inc., Windom
Winona NFO Collection Point, Goodview
*Worthington Livestock Sales Company, Worthington
*Zumbrota Livestock Auction Market, Inc., Zumbrota

Mississippi

Max Alman's Assembly Point, Pelahatchie
*Alcorn County Stockyards, Corinth
*Amory Area Feeder Pig Sale, Amory
*Booneville Area Feeder Pig Assn., Booneville
*Booneville Commission Company, Booneville
*H. T. Branning Livestock Company, French Camp
*Bruce Area Feeder Pig Sale, Bruce
*Central Mississippi Livestock Commission Company, Carthage
*Chickasaw Livestock Auction, Inc., Houston
Delta Stockyard, Inc., Greenville
*East Mississippi Farmer's Livestock Company, Philadelphia
George County Stockyards, Inc., Lucedale
*Grenada Livestock Exchange, Grenada
*Kosciusko Stockyard, Kosciusko
*Lucedale Auction, Inc., Lucedale
*Lucedale Area Feeder Pig Assn., Lucedale
*Lum Commission Company, Vicksburg
Mattox Livestock Dealer, Inc., Beldon
*McComb Area Feeder Pig Sale, McComb
*Meridian Stockyards, Meridian
*Natchez Stockyards, Natchez
*New Albany Feeder Pig Sale, New Albany
*Port Gibson Area Feeder Pig Assn., Fort Gibson
Ranchers & Farmers Livestock Commission Co., Macon
*Glynn Robinson Stockyard, West Point
*Southeast Mississippi Feeder Pig Assn., Laurel
*Southeast Mississippi Livestock Farmers Assn., Hattiesburg
Spicer Livestock, Inc., Tupelo
Stockyard Beef Sale,Inc., Tupelo
Stringer Sale Barn, Columbia
*Walnut Sales Company, Walnut
*Wayne Area Pork Producers Assn., Waynesboro

Missouri

*Alton Sale Company, Alton
Armour & Company Buying Station, Braymer
Armour & Company, Corder
Baring Stockyards, Baring
*Benton County Producers Assn., Warsaw
*Bollinger County Livestock Producers Assn., Marble Hill
*Brookfield Livestock Auction, Inc., Brookfield
*Buffalo Livestock Center, Buffalo
*Butler Community Sale, Butler
*Callaway Livestock Auction, Fulton
Callao NFO Collection Point, Callao
*Callaway Stock Sales, Inc., Fulton
*W. R. Cantrell & Sons Sale Company, Archie
*Carrollton Livestock Auction, Carrollton
*Cassville Livestock Market, Inc., Cassville
Central Hog Buyers, Centralia
Central Hog Market, Rich Fountain
*Central Livestock Auction Market, Poplar Bluff
*Central Missouri Livestock Auction, Inc., Mexico,
*Central Missouri Sales Company, Inc., Sedalia
*Central Ozark Auction, West Plains
*Charleston Auction Company, Charleston
*Chillicothe Livestock Market, Inc., Chillicothe
*Circle S Livestock Market, Stanberry
*Clark County Sale Company, Kahoka
Clinton Hog Market, Clinton
*Columbia Livestock Auction Market, Inc., Columbia
*Concordia Livestock Auction, Inc., Concordia
County Line Hog Market, Cainsville
*Dent County Livestock Improvement Assn., Salem
*Diamond Feeder Pig and Hog Auction, Diamond
*Diamond Marketing Center, Inc., Diamond
*Downing Stockyards, Downing
*Eastern Missouri Livestock Market, Inc., Bowling Green
*Edina Auction Market, Inc., Edina
Edina NFO Collection Point, Edina
Eldon Hog Market, Olean
*El Dorado Sales Company, Inc., El Dorado Springs
*Farmers & Traders Commission Co., Inc., Palmyra
*Farmers Livestock Auction, Inc., Boonville
*Farmington Livestock Market, Inc., Farmington
Ferguson Hog Market, Sedalia
Fortuna NFO Collection Point, Fortuna
4 Corners Collection Point (NFO), Hunnewell
4 *County Feeder Pig Auction, Humansville
Four Rivers Collection Point, Labadie
*Fredericktown Auction Company, Inc., Fredericktown
*Fruitland Livestock, Inc., Jackson
*Gallatin Livestock Auction, Inc., Gallatin
*Don Ghere Sales Company, Butler
*Grant City Livestock Market, Inc., Grant City
*Green City Livestock Market, Green City
*Harkins Livestock Market, Trenton
Heinold Hog Market, Inc., Biehle
Heinold Hog Market, Inc., Bloomfield
Heinold Hog Buyers, Inc., Bowling Green
Heinold Hog Market, Inc., Clarence
Heinold Hog Market, Hawk Point
Heinold Hog Market, King City
Heinold Hog Market, Labelle

Heinold Hog Market, Maryville
Heinold Hog Market, Monroe City
Heinold Hog Market, #114, Monroe City
Heinold Hog Markets, Inc., Monticello
Heinold Hog Markets, Inc., Paris
Heinold Hog Market, Inc., Stet
Heinold Hog Market, Inc., Tarkio
Heinold Hog Market, Trenton
Heinold Hog Market, Inc., Wellsville
Howard County NFO Collection Point, Armstrong
*Interstate Producers Livestock Assn., Brookfield
*Interstate Producers Livestock Assn., Caledonia
*Interstate Producers Livestock Assn., #1, Cuba
*Interstate Producers Livestock Assn., #2, Cuba
*Interstate Producers Livestock Assn., Feeder Pig Market, Hamilton
*Interstate Producers Livestock Assn., Jackson
*Interstate Producers Livestock Assn., Perryville
*Johnson County Livestock Market, Warrensburg
*Joplin Stockyards, Joplin
*Kahoka Sale Company, Inc., Kahoka
*Kansas City Stockyards, Kansas City
*Kennett Sales Company, Inc., Kennett
Ernest Kimbrough Hog Market, Diamond
*Kingsville Livestock Auction, Kingsville
*Kirksville Community Sale, Inc., Kirksville
*Kirksville Livestock Market, Inc., Kirksville
Kleen-Leen, Inc., Alton
Harold Kornbrust Hog Buying Station, Marceline
*Laclede County Livestock Producers Assn., Lebanon
Ladwig Livestock, Memphis
*Lakeland Livestock, Inc., Lowry City
*The Lamar Cattle Auction, Lamar
*Lamar Sales, Lamar
LaMonte NFO Collection Point, LaMonte
*Lebanon Livestock Auction, Lebanon
Lewis & Son Hog Buyers, Glasgow
*Lexington Livestock Auction, Lexington
*Licking Livestock Auction Company, Licking
*Linn County Beef Producers, Inc., Brookfield
*Lockwood Livestock Auction, Lockwood
*Lolli Sales Pavilion, Macon
Mansfield Livestock Auction, Inc., Mansfield
*Marshall Livestock Auction, Marshall
Oscar Mayer & Company, Inc., Callao
Oscar Mayer & Company, Inc., Shelbina
*Maysville NFO Collection Point, Amity
*Mercer County Sale Company, Princeton
*Meta Collection Point, Inc., Meta
M.F.A. Livestock Association, Inc., Browning
*MFA Feeder Pig Market, Sedalia
*MFA Feeder Pig Tele Auction, Doniphan
*MFA Feeder Pig Yards, Rolla
*MFA Feeder Pig Yards, Stockton
*MFA Feeder Pig Market, Taneyville
*MFA Feeder Pig Yards, Westphalia
*MFA Livestock Association, Alton
*MFA Livestock Association, Cabool
*MFA Livestock Assn., Inc., Ellington
*MFA Livestock Association, Mansfield
*MFA Livestock Association, Inc., Wheaton
*Mid-West Livestock Market, Inc., Nevada
*Milan Livestock Auction, Inc., Milan
*Mo Cow Company, Lancaster
*Montgomery County Livestock Auction Company, Montgomery City
*Mountain View Livestock Auction, Mountain View
National Hog Buyers, Inc., Columbia
*Nevada Livestock Auction, Inc., Nevada
*New Cambria Livestock Auction Market, New Cambria
NFO Cameron Collection Point, Cameron
Nichols Stockyard, Bethany
*Odessa Community Sale, Odessa
*Olean Livestock Market, Inc., Eldon
Oligschlaeger Livestock Market, St. Elizabeth
Osage Hog Buyers, Inc., Linn
*Osage County Livestock Producers Assn., Linn
*Pasley Auction Company, Osceola
*Patton Junction N.F.O. Collection Point, Patton
*Poplar Bluff Sales Company, Poplar Bluff
*Potosi Livestock Market, Potosi
*Puxico Stockyards & Auction Company, Puxico
R & S Livestock, Lineville, Iowa
Rains Livestock, Inc., Poplar Bluff
Reed Livestock, Dexter
Chester Reed Livestock Market, Mountain Grove
*Rich Hill Sale Company, Rich Hill
*Roberts Brothers Livestock Commission Co., Bolivar
*Rock Port Sale, Rock Port
*Rolla Livestock Auction, Rolla
*St. Clair Auction Company, St. Clair
*St. Joseph Stockyards, South St. Joseph
*St. Joseph Stockyards Market Hog Division, South St. Joseph
Ste. Genevieve Livestock Collection Point, Ste. Genevieve
*Salem Auction Company, Salem
*Savannah Sale Company, Savannah
*Scotland County Livestock Auction, Memphis
*Sedgewickville Auction, Sedgewickville
*Shelbina Auction Company, Shelbina
*Sho-Me Feeder Pig, Inc., Ava
*Sho-Me Feeder Pig, Inc., Thayer
6-D Hog Market Center, Marshall
*South Central Livestock Market, Inc., Vienna
Southeast Missouri Stockyards Company, Oran
*Southwest Feeder Pig Market, Inc., Nixa
*Southwest Missouri Livestock Assn., Inc., Sarcoxie
*Springfield Regional Stockyards Company, Springfield
Straightway Farm Services, Inc., Jackson
*Summersville Livestock Auction, Inc., Summersville
Swift Independent Packing Company Buying Station, Burlington Junction
Swift Independent Packing Company, Eolia
Thomas Hog Market, Syracuse
Thomas/Potter Livestock, Eldon
Thompson Hog Market, Glasgow
*Tina Livestock Auction, Tina
*Trenton Livestock Market, Inc., Trenton
Troy Hog Market, Inc., Troy
*Unionville Sale Company, Unionville
Van Meter Hog Market, Kingsville
Carroll Warnock Stockyards, Lineville, Iowa
Warnock Stockyard, Trenton
*Warsaw Auction Company, Warsaw
West Plains City Scales, West Plains
*West Plains Livestock Auction, Pomona
*West Plains MFA Feeder Pig Yards, West Plains
*Wheaton Livestock Auction, Wheaton
Wilson & Company Hog Market, Chillicothe
Wilson & Company Hog Market, Palmyra
Wilson and Company, Inc., Marshall
Wilson Foods Hog Market, Lexington
Wilson Hog Buying Station, Greenfield
Wilson Hog Market, Albany
Wilson Foods Hog Market, Middletown
Wilson Hog Market, Novelty
Wilson Hog Market, Salisbury
*Windsor Livestock Auction Company, Inc., Windsor
*Wright County Livestock Auction, Inc., Mountain Grove

Montana

*Baker Livestock Auction, Inc., Baker
*Glasgow Livestock Sales Company, Glasgow
Glendive Livestock Sales Company, Glendive
*Kalispell Livestock Auction, Kalispell
*Livestock Auction, Inc., Baker
*Miles City Livestock Marketing Center, Miles City
Pierce Packing Company, Buying Station #2, Billings
*Public Auction Yards, Billings
*Sidney Livestock Market Center, Sidney

Nebraska

*Ainsworth Livestock Auction, Ainsworth
*Alma Livestock Commission Company, Alma
*Beatrice Sales Pavilion, Beatrice
*Beatrice 77 Livestock Sales Co., Beatrice
*Butte Livestock Market, Butte
*Chappell Livestock Auction, Chappell
Cougherty Packing Company, Cozad Buying Station, Cozad
Cougherty Packing Company, Gibbon Buying Station, Gibbon
*Columbus Sales Pavilion, Inc., Columbus
*Creighton Livestock Market, Inc., Creighton
*Falls City Auction Company, Falls City
*Farmers Livestock Sales, Benkelman
Farmland Foods, Inc., Hardy
Franklin Livestock Market, Franklin
Gordon NFO Collection Point, Gordon
*Hebron Livestock Commission Co., Hebron
Hogmarco, Cozad
George Hormel & Company, Falls City
*Humboldt Sale Barn and Humboldt Hog Market, Humboldt
*Huss Platte Valley Auction, Inc., Kearney
Imperial Auction Market, Inc., Imperial
*Kimball Livestock Auction, Kimball
Kleen-Leen, McCook
*Lexington Livestock Market, Lexington
McKee Livestock, Superior
*Midwest Livestock Commission Co., Inc., McCook
National Farmers Organization, Guide Rock
National Farmers Organization, Pawnee City
*Nebraska City Salebarn, Inc., Nebraska City
*Norfolk Livestock Market, Inc., Norfolk
N.F.O. Reload Point, Whitney
*Ogallala Livestock Market, Ogallala
Omaha Livestock Market, Inc., Slaughter Division, Omaha
*Omaha Livestock Market, Inc., Pig Palace, Omaha
*Oxford Livestock Market, Oxford
*Pawnee Livestock, Inc., Pawnee City
*Pender Livestock, Inc., Pender
*Platte Valley Livestock Auction, Inc., Gering
*Pork Packers International, Inc., Superior

VOL 48 ISS 206 OCT 24 1983 UMI

*Red Cloud Livestock Commission Co., Inc., Red Cloud
*Sheridan Livestock Commission Co., Rushville
*Southeast Nebraska Livestock Market, Palmyra
*Superior Livestock Commission Co., Inc., Superior
*Tecumseh Livestock Market, Tecumseh
*Tri-State Livestock Commission Co., Inc., McCook
Valley Pork, McCook
*Verdigre Livestock Market, Verdigre
Victor's Iowa Pack, Inc., Beemer
The Weichman Pig Company, Inc., Fremont
*Western Livestock Auction Company, North Platte
Whitney Livestock, Whitney
Wilson and Company, Auburn
Wilson and Company, Pawnee City
Wilson and Company, Syracuse
*Wisner Sales Company, Inc., Wisner
*York Livestock Sales Company, York

New Jersey

Jaeger's Livestock Market, Sussex
*Livestock Cooperative Action Market Assn. of North Jersey, Inc., Hackettstown

New Mexico

B & D Company, Clovis
*Clovis Hog Company, Inc., Clovis,
Clovis Hog Market, Clovis
*Five States Livestock Auction Co., Clayton
Portales Livestock Commission Company, Portales

New York

Buffalo Stockyards Company, Inc., Buffalo
*Empire Livestock Marketing Cooperative, Inc., Caledonia
Empire Livestock Marketing Cooperative, Inc., Waterloo
*Finger Lakes Livestock Sale, Canandaigua
*Luther's Livestock Commission Market, Wassaic
Millerton Livestock Auction, Hillsdale

North Carolina

*Albemarle Cooperative Assn. Feeder Pig Sale, Edenton
Ashe Stockyards, Jefferson
*Baker Hog Market, Inc., Tyner
Brite-Tatum Livestock Company, Inc., Elizabeth City
*Carolina Stockyard Company, Siler City
*Carolina-Virginia Stockyard, Windsor
Cattlemen's Livestock Market, Canton
*Chadbourn Graded Feeder Pig Sale, Chadbourn
Chadbourn Livestock Market, Chadbourn
*Dedmon's Livestock Market and Fedder Pig Sale, Shelby
*East Carolina Stockyard, Kinston
*Elizabethtown Livestock Market, Elizabethtown
Farmers Cooperative Livestock Market, Lexington
Farmers Livestock Barn, Harrisburg
Farmers Livestock Exchange, Marshville
*FCX Livestock Market, Hillsborough
Green Hill, Inc., Whiteville
Hickory Livestock Market, Hickory
Robert Hollowell Livestock Market, Sunbury
W. H Horney Livestock, Siler City
*Iredell Livestock Company, Turnersburg
G. P Kittrell & Son, Inc., Corapeake
*Lancaster Stockyard, Rocky Mount
*Lancaster Quality Feeder Pig Sale, Dunn
Laurinbury Livestock Market, Laurinburg
*Lumberton Auction Company, Lumberton
Bill Martin, Greensboro
Miller's Livestock, Inc., Winfall
Mount Airy Livestock Market, Mount Airy
Mount Olive Livestock Market (Buying Station), Mount Olive
*Mount Olive Livestock Market, Mount Olive
Mountain Livestock Auction, Murphy
*Mountin Pork Producers Assn. (Feeder Pig Sale), Murphy
New River Livestock Market, Boone
Nichols Livestock Market, Inc., Dunn
Nichols Livestock, Inc., Snow Hill
North Central Livestock, Inc., Timberlake
*Norwood Stockyard, Norwood
*Oxford Livestock, Market, Inc., Oxford
*Pates Stockyard, Inc., Pembroke
*Pates Stockyard of Whiteville, Whiteville
*Powell Livestock Company of Smithfield, Smithfield
Reaves Livestock, Inc., Rowland
Riley's Livestock, Market, North Wilkesboro
Smithfield Packing Company Hog Buying Station, Murfreesboro
Tommi Turner Livestock Market, Pink Hill
Turner's Livestock, Inc., Elizabeth City
*Union County Livestock Auction, Inc., Monroe
*Wells Livestock Market, Inc., Wallace
Wells Livestock Daily Buying Station, Wallace
Western Carolina Hog Buying Station, Murphy
*Western Carolina Livestock Market & Feeder Pig Sale, Asheville
Whedbee Livestock Market, Inc., Hertford
R. O. Whitley, Inc. (Buying Station), Como
Williamston Livestock, Williamston

North Dakota

*American Feeder Pig Coop., Lehr
*American Feeder Pig Co-op, Litchville
*Ashley Livestock Exchange, Ashley
*Carrington Livestock Sales, Inc., Carrington
Central Livestock Association, Inc., Dickinson
Cloverdale Foods Company, Minot
*Edgeley Livestock, Inc., Edgeley
*Farmers Livestock Exchange of Bismarck, Inc., Bismarck
Glen Ullin Weighing Association, Glen Ullin
*Glick Livestock Auction, Minot
Hamann Livestock Company, Dickinson
Harvey Livestock Auction, Harvey
*Homebase Auction, Inc., Bowman
*Jamestown Livestock Sales Company, Jamestown
*Kist Livestock Auction Co., Mandan
*Lake Region Auction and Livestock Market, Devils Lake
*Linton Livestock Sales, Inc., Linton
*Minot Livestock Auction Sales, Inc., Minot
*McQuade Livestock, Wahpeton
New Salem Weigh Assn., Thiele Cattle Company, New Salem
*Park River Livestock Auction Market, Park River
Pierce Packing Company Buying Station, Hettinger
*Rugby Livestock Auction, Inc., Rugby
*Sitting bull Auction, Williston
Stockmen's Livestock Exchange, Inc., Dickinson
*Stockmen's Livestock Exchange, Inc., Beulah
Swift Independent, Wahpeton
*Tri-State Auction Market, Inc., Hettinger
*Turtle Lake Sales Pavilion, Inc., Turtle Lake
*Union Stockyards Company of Fargo, West Fargo
*Watford City Livestock Auction, Watford City
*Western Livestock, Inc., Dickinson
*Wikenheiser Livestock, Strasburg

Ohio

Allart Trucking Company, Cincinnati
Bauman Stockyards, Inc., Napoleon
*Bloomfield Livestock Auction, North Bloomfield
Merle A., Bussert Livestock, Amanda
*Burkettsville N.F.O. Collection Point Burkettsville
Butler County NFO Collection Point, Hamilton
*Carrollton Livestock Auction, Carrollton
Chickasaw Stockyard, Chickasaw
Cisco Stockyard, Inc., St. Marys
*Damascus Livestock Auction, Damascus
*Dicke Stockyard, New Bremen
*William Espel Sons, Inc., Cincinnati
French City Meats, Inc., Gallipolis
Gamboe Stockyards, Pioneer
*Geauga Livestock Commission, Inc., Middlefield
Harpster Stockyards, Ashland
Harvey Livestock, Inc., Coldwater
Heinold Hog Market, Eldorado
Heinold Hog Market, Inc., Sedalia
Interstate Livestock, Inc., Oxford
E. Kahn's Sons Company, Cincinnati
Kleinhenz Brothers Stockyard, Ft. Recovery
Kleinhenz Brothers Stockyard, Celina
Kloeppel Livestock, Sidney
*Krugh's Stockyards, Wren
*Virgil Lampert Stockyards, New Bremen
Lewisburg NFO Collection Point, Lewisburg
*Lugbill Brothers, Archbold
Lugbill Brothers, Fayette
*Donald L. Hart, Jr., and James A. Kincaid d.b.a. Marietta Livestock Sale Company, Marietta
*Middendorf Stockyards, Botkins
*Middendorf Inc., Ansonia
*Middendorf Stockyards, Celina
*Middendorf Stockyard Co., Fort Laramie
*Middendorf Stockyards Company d.b.a. Kenton Farmers Market, Kenton
Middleton Stockyards, Inc., New Madison
*A. E. Miller Livestock, Delphos
Ohio Valley Livestock Company, Gallipolis
Philothea Stockyard, Coldwater
*Producers Livestock Assn., Bucyrus
*Producers Livestock Assn., Cadiz
*Producers Livestock Assn., Caldwell
*Producers Livestock Assn., Delta
*Producers Livestock Assn., Eaton
*Producers Livestock Assn., Findlay
*Producers Livestock Assn., Greenville
*Producers Livestock Assn., Hillsboro
*Producers Livestock Assn., Lancaster
Producers Livestock Assn., London
*Producers Livestock Assn., Marysville
*Producers Livestock Assn., Mt. Vernon
*Producers Livestock Assn., Orrville
*Producers Livestock Assn., Springfield
*Producers Livestock Assn., Wapakoneta
*Producers Livestock Assn., Woodville
Vic Ruhe Livestock, Ottawa

Selected Meat Company, Greenfield
Leonard B. Stemen d.b.a. L. B. Stemen Stockyard, Middle Point
P. B. Stewart, Edon
Tuente Stockyards, Saint Sebastion
Tuente Stockyards, Yorkshire
*The Union Stockyards Co., Hillsboro
Waynesfield Stockyard, Waynesfield
Werling and Sons, Inc. d.b.a. Burkettsville Stockyard, Burkettsville
*Wilson Brothers d.b.a. Peoples Livestock Exchange, Greenville
Jerome Winner Stockyard, New Weston
Robert Winner Sons, Inc., Osgood
*Joe Wood Livestock Market, New Vienna

Oklahoma

*Antlers Livestock Commission, Antlers
*Checotah Livestock Auction, Checotah
*Delaware County Livestock Auction, Inc., Grove
*Durant Stockyards Company, Durant
*Farmers and Ranchers Livestock Auction, Vinita
*Ft. Smith Stockyards Co., Inc., West Ft. Smith
*Hugo Sales Commission, Inc., Hugo
*LeFlore County Livestock Auction, Wister
*Muskogee Stockyards and Livestock Auction, Inc., Muskogee
*Newkirk Sale Company, Newkirk
*Northeast Oklahoma Feeder Pig and Livestock Market, Leach
*Oklahoma National Stockyards, Oklahoma City
Small Hog Company, Alva
*South Coffeyville Livestock Market, Inc., South Coffeyville
*Tahlequah Sale Barn, Tahlequah
*Welch Livestock Auction, Welch

Oregon

*Eastern Oregon Livestock Auction, Vale
*Hermiston Livestock Commission Co., Hermiston
*Mid-Columbia Livestock Exchange, Inc., The Dalles
*Northwestern Livestock Commission Co. Hermiston
*Ontario Livestock Commission Co., Ontario
*The Portland Livestock Market, Inc., Portland

Pennsylvania

*Belknap Livestock and Equipment Auction, Dayton
*Belleville Livestock Market, Inc., Belleville
*Carlisle Livestock Market, Inc., Carlisle
*Chambersburg Livestock Sales, Inc., Chambersburg
*Chesley's Sales, Inc., North East
*Cowanesque Valley Livestock Auction, Knoxville
Wayne F. Craig & Son, Shippensburg
*Dewart Livestock Market, Dewart
*Eighty Four Auction Sales, Inc., Eighty Four
Emery's Buying Station (located at Green Dragon Auction), Ephrata
Esskay Buying Station, Littlestown
*G & M Livestock Market, Inc., Duncansville
*Greencastle Livestock Market, Inc., Greencastle
Green Dragon Livestock Sales, Ephrata
*Hickory Auction and Sales, Inc., Hickory
*C. A. Hulshart (Swine Receiving Station), Stewartstown
*Indiana Livestock Market, Inc., Homer City
*Jersey Shore Livestock, Inc., Jersey Shore
*Keister's Middleburg Auction Sales, Inc., Middleburg
*Lancaster Stockyards, Inc., Lancaster
*Lebanon Valley Livestock Market, Inc., Fredericksburg
*Leesport Market & Auction, Inc., Leesport
*Meadville Livestock Auction, Saegertown
*Mercer Livestock Auction, Mercer
C. Robert Miller, Watsontown
*Morrison Cove Livestock Market, Martinsburg
*New Holland Sales Stables, Inc., New Holland
*New Wilmington Livestock Auction, Inc., New Wilmington
*Nicholson Sales Company, Nicholson
*Penns Valley Livestock Auction, Inc., Centre Hall
*Pennsylvania Livestock Auction, Inc., Waynesburg
*Perkiomenville Livestock and Sales, Inc., Perkiomenville
*Quakertown Livestock Sale, Quakertown
*Sechrist Sales Company, Inc., Fawn Grove
W. R. Sellers Livestock, Greencastle
*Thomasville Livestock Market, Inc., York
*Tri-County Livestock Auction, Inc., Brockway
*Troy Sales Cooperative, Troy
*Union City Livestock Auction, Union City
Valley Stockyards, Inc., Athens
*Vintage Sales Stables, Inc., Paradise
*Wayne County Auction Barn, Inc., Honesdale
*Wyalusing Livestock Market, Wyalusing

South Carolina

Central Carolina Livestock Market, Inc., Lugoff
Chesnee Livestock Company, Chesnee
Cottingham Livestock Company, Dillon
Coward-Florence County Livestock Market, Coward
*Darlington Auction Market, Darlington
Dorchester Marketing Association, St. George
*Farmers County Line Stockyards, Andrews
*Farmers Market, Estill
Farmers Livestock Market, Leesville
Florence Union Stockyards, Florence
*Hemingway Livestock Market, Hemingway
*Herndon's Stockyards, Inc., Ehrhardt
Homewood Livestock, Inc., Conway
*Hutto Stockyard, Inc., Holly Hill
*Jim's Livestock, Inc., Pig Barn, Kingstree
Kingstree Union Stockyards, Kingstree
Neeses Stockyards, Neeses
Nichols Livestock Market, Nichols
*Orangeburg Stockyard, Inc., Orangeburg
Pee Dee Livestock Association, Inc., Marion
Piedmont Livestock Center, Laurens
Rabon's Livestock, Loris
Saluda County Stockyards, Saluda
South Carolina Farm Bureau, d.b.a. Jim's Livestock, Kingstree
*Springfield Stockyard, Inc., Springfield
S & S Milling Company, Hemingway
John C. Taylor Stockyard, Anderson
Walterboro Stockyards Co., Inc., Walterboro
York County Stockyards, York

South Dakota

Armour and Company Hog Buying Station, Aberdeen
Armour Buying Station, Hudson
*Belle Fourche Livestock Exchange, Inc., Belle Fourche
*Bowdle Livestock Sales, Inc., Bowdle
*Brookings Livestock Auction, Brookings
Browns Valley Collection Point, Inc. (located in Roberts County, South Dakota), Browns Valley, Minn.
*Burke Livestock Auction, Burke
*Canton Livestock Sales Company, Canton
*Chamberlain Livestock Auction, Inc., Chamberlain
*Columbia Collection Point, Columbia
*Faith Livestock Commission Company, Inc., Faith
*Fort Pierre Livestock Auction, Inc., Fort Pierre
*Gregory Livestock Auction Company, Gregory
*Jerry Grogan Livestock, Aberdeen
*Herreid Livestock Market, Inc., Herreid
*Hub City Livestock Sales, Aberdeen
*Kramer's Livestock Auction Company, Inc., Sioux Falls
*Loken's Watertown Sales Pavilion, Inc., Watertown
*Madden's Livestock Auction Market, Inc., St. Onge
*Madison Livestock Auction Company, Madison
*Magness-Huron Livestock Exchange, Inc., Huron
*Marshall Livestock Auction Company, Britton
*Martin Auction Company, Inc., Martin
*Mitchell Livestock Auction Co., Inc., Mitchell
*McLaughlin Livestock Auction, McLaughlin
*Mobridge Livestock Auction Market, Inc., Mobridge
John Morrell & Company, Watertown
John Morrell Hog Buying Station, Aberdeen
Morrell Buying Station, Flaundreau
NFO Collection Point, Big Stone City
Old Faithful, Lebanon
Owen Livestock Company, Britton
*Philip Livestock Auction, Philip
*Sioux Falls Stockyards Company, Sioux Falls
*Sisseton Livestock Auction, Inc., Sisseton
Södak Pork, Aberdeen
*South Dakota Livestock Sales of Watertown, Watertown
*Stockman's Auction Company, Inc./dba Bales Continental Commission Company, Huron
*Stockmen's Livestock Auction Company, Yankton
*Sturgis Livestock Exchange, Inc., Sturgis
Swift and Company Buying Station, Hudson
Swift Independent Packing Company, Redfield
Swift Independent Packing Company, Aberdeen
*Thorpe Livestock, Inc./dba Aberdeen Livestock Sales Company, Aberdeen
*Wessington Springs Livestock Company, Wessington Springs
*West River Livestock Market Company, Lemmon
*Willow Lake Livestock Auction, Willow
*Winner Livestock Auction Company, Winner
*Yankton Livestock Auction Market, Yankton

Tennessee

Athens Livestock Auction Company, Athens

VOL 48 ISS 206 OCT 24 1983 UMI

* Harry Bogle Feeder Pig Barn, Murfreesboro
* Johnny Boyce Feeder Pig Barn, Unionville
* Boyce (Bobby) Livestock Company, Inc., Shelbyville
* Brownsville Feeder Sales Association, Brownsville
* C & M Livestock Market, Jamestown
* Carroll County Feeder Pig Association, Huntingdon
* Chattanooga Stockyards, Inc., Chattanooga
* Coffee County Feeder Pig Market, Manchester
* Coffee County Livestock Market, Manchester
Collierville Livestock Auction Co., Collierville
Copeland and Mitchell Livestock, Byrdstown
Covington Sale Company, Covington
* Crocket Livestock Sales Company, Inc., Maury City
Cumberland City Stockyard, Cumberland City
* Cumberland Feeder Pig Sales, Cookeville
DeKalb County Livestock Company, Alexandria
* Derryberry Pig Barn, Chesterfield
* Dickson County Feeder Pig Sale, White Bluff
* Dickson Livestock Center, Inc., Dickson
East Tennessee Livestock Center, Inc., Sweetwater
* Farmers Auction Livestock, Fayetteville
Farmers Livestock Exchange, Union City
Farmers Livestock Market, Greeneville
Harry Floyd Livestock, Waynesboro
Greeneville Livestock Company, Greeneville
* Hardin County Livestock Assn., Savannah
* Hardin County Stockyard, Savannah
Heinold Hog Market, Newbern
Heinold Hog Markets, Inc., Selmer
* J. T. Herren/dba J. T. Herron Feeder Pig Market, Baxter
Jackson County Commisson Company, Gainesboro
* Jolley Brothers, Doyle
Jonesboro Livestock Yard, Inc., Telford
Kentucky Buyers, Belvidere
Kingsport Livestock Auction Corp., Kingsport
* Feeder Pig Division of Lawrence County Livestock Association, Lawrenceburg
Lawrence County Stockyards, Lawrenceburg
* Lewisburg Feeder Pig Market, Lewisburg
* Lexington Sales Company, Lexington
Macon Livestock Market, Inc., Lafayette
Maxwell Livestock Market, Lewisburg
Middleton Sale Company, Middleton
*Mid-South Livestock Commission Co., Columbia
*Mid-State Producers Feeder Pig Sale, Woodbury
*Mid-State Producers, Inc., Woodbury
*Moody Livestock, Newbern
Morristown Stockyards, Inc., Morristown
Mullins Livestock Yard, Clinton
Murfreesboro Livestock Center, Murfreesboro
New Tazewell Livestock Market, New Tazewell
North Central Livestock Center, Cross Plains
*Paris Livestock Company of Tennesse, Inc., Paris
*People's Stockyard, Cookeville
Peoples Stockyard, Fayetteville
Plateau Livestock Exchange, Crossville
Pulaski Stockyard, Pulaski
*Robinson Feeder Pig Sales Company, Franklin
Rogerville Livestock Market, Rogersville
*Scotts Hill Auction Company, Inc., Scotts Hill
*Sells Pig Barn, Winchester
*Sevier County Livestock Association, Sevierville
Sevier County Livestock Auction Company, Seymour
Shelbyville Livestock Market, Shelbyville
*Smith County Commission Company, Carthage
*Smith County Feeder Pig Assn., Carthage
*Smotherman Feeder Pig Barn, Murfreesboro
*South Memphis Stockyards, Memphis
Southern Livestock Auction Company, Columbia
*Southwestern Stockyards, Huntingdon
Sparta Livestock Company, Inc., Sparta
Tennessee Livestock Producers, Inc., Fayetteville
Tennessee Livestock Producers, Inc., Thompson Station
Thompson Livestock Company, Obion
Trenton Livestock Sales Company, Trenton
*Tri-County Stockyards, McKenzie
Trousdale County Livestock Market, Hartsville
*Unionville Livestock Market, Unionville
*Volunteer Feeder Pig Sale, Lexington
*Warren County Livestock Association, McMinnville
Warren County Livestock Market, Inc., Morrison
West Tennessee Auction Company, Martin
Wilson County Livestock Market, Lebanon
Wilson Livestock Market, Newport

Texas

*Cattleman's Livestock Commission Company, Dalhart
*Ft. Worth Stockyards, Ft. Worth
*Gainesville Livestock Auction, Gainesville
*J & J Livestock Commission Company, Inc., Texarkana
Muenster Livestock Auction, Muenster
Plains Hog Company, Lubbock
*Southwest Hog Market, Idalou
*Texarkana Stockyards Company, Texarkana
Texas Argicultural Marketing and Development Assn., Amarillo

Utah

*Producers Livestock Marketing Assn., North Salt Lake
*Producers Salina Auction, Salina

Vermont

*East Thetford Commission Sales, East Thetford
*Morrisville Commission Sale, Inc., Morrisville

Virginia

Abingdon Livestock Exchange, Inc., T/A Tri-State Livestock Market, Abingdon
Abingdon Livestock Market, Abingdon
Amherst County Livestock Market, Inc., Amherst
*Blackstone Livestock Market, Blackstone
Charlottesville Livestock Market, Charlottesville
Christiansburg Livestock Market, Inc., Christiansburg
Emporia Hog Market, Emporia
Ewing Livestock Market, Inc., Ewing
Farmers Livestock Market, Gate City
Farmers Livestock Market, Rose Hill
*Farmers Livestock Exchange, Inc., Winchester
Farmers Livestock Market, Inc., Tazewell
Fauquire Livestock Exchange, Inc., Marshall
Fredericksburg Stockyard, Inc., Fredericksburg
Front Royal Livestock Exchange, Inc., Front Royal
Galax Livestock Market, Inc., Galax
Leonard Harrell Livestock, Chesapeake
Lawrenceville Hog Market, Lawrenceville
Lee Farmers Livestock Market, Jonesville
Lottsburg Buying Station, Lottsburg
Lynchburg Livestock Market, Inc., Lynchburg
*Madison Livestock Market, Inc., Madison Mills
Monterey Livestock Sales, Inc., Monterey
Narrows Livestock Auction Market, Narrows
*Nokesville Livestock Market, Nokesville
Orange Livestock Market, Orange
*Petersburg Livestock Market, Petersburg
Phenix Livestock Market, Phenix
Pulaski County Livestock Market, Dublin
Richmond Union Stockyards, Richmond
Roanoke-Hollins Stockyard, Hollins
Roanoke Livestock Market, Roanoke
*Rockingham Livestock Sales, Inc., Harrisonburg
J. L. Rose Hog Buying Stations, Courtland
J. L. Rose Hog Buying Stations, Wakefield
Saluda Buying Station, Glennis
Scott County Livestock Market, Gates City
Shen-Valley Buying Station, Dillwyn
Shen-Valley Buying Station, Madison Mills
*Shenandoah Valley Livestock Sales, Inc., Harrisonburg
Smithfield Livestock, Inc., Smithfield
South Boston Livestock Market, Inc., South Boston
*South Hill Livestock Market, South Hill
*Southhampton Stockyards, Inc., Courtland
*Southside Livestock Markets, Inc. Blackstone
*Southside Livestock Market, Inc. of Farmville, Blackstone
Staunton Livestock Market, Inc., Staunton
*Staunton Union Stockyards, Staunton
*Tappahannock Livestock Market, Inc., Tappahannock
Victoria Stockyard, Victoria
Virginia-Carolina Livestock and Agriculture Market, Inc., Danville
*Walker Brothers Livestock Pavilion, Seven Mile Ford
*Woodstock Livestock Market, Inc., Woodstock
Wytheville Livestock Market, Inc., Wytheville

Washington

*Prosser Commission Company, Prosser
*Stockland Livestock Exchange, Inc., Spokane
*Walla Walla Livestock Auction, Walla Walla

West Virginia

*Bluegrass Market, Inc., North Caldwell
*Blue Ridge Livestock Sales, Inc., Charles Town
*Jackson County Livestock Market, Inc., Ripley
*Moundsville Livestock Auction Company, Moundsville
*Ohio County Livestock Auction, Mt. Echo

*Terra Alta Livestock Market, Inc., Terra Alta
*Terra Alta Stockyards, Inc., Terra Alta
*United Livestock Sales Company, Parkersburg

Wisconsin

*American Feeder Pig Co-op, Boltonville
*American Feeder Pig Co-op, Francis Creek
*American Feeder Pig Co-op, Galesville
*American Feeder Pig Co-op, Lancaster
*American Feeder Pig Co-op, Waupaca
*Belmont Livestock Market, Belmont
Al Berning, Cuba City
Darlington N.F.O. Stockyards, Darlington
Dunwiddie Livestock, Brodhead
Dunwiddie Livestock, Juda
Ellsworth N.F.O. Collection Point, Ellsworth
*Equity Cooperative Livestock Sales Assn., Arlington
*Equity Cooperative Livestock Sales Assn., Johnson Creek
*Equity Cooperative Livestock Sales Assn., Bonduel
*Equity Cooperative Livestock Sales Assn., Monroe
*Equity Cooperative Livestock Sales Assn., Ripon
*Equity Cooperative Livestock Sales Assn., Sparta
Equity Cooperative Livestock Sales Assn., West Salem
*Farmers Livestock Exchange, Rice Lake
Grant County Livestock Exchange, Hazel Green
Leo Hennessey & Son, Cuba City
Leo Hennessey & Son, Shullsburg
Thomas D. Kane Market, Oconomowoc
Kuehne Livestock & Auction Sales, Seymour
*Midwest Livestock Producers Co-op., Dodgeville
*Midwest Livestock Producers Co-op., Marion
*Midwest Livestock Producers Co-op., Ettrick
*Midwest Livestock Producers Co-op., Shullsburg
*Midwest Livestock Producers Co-op., Monticello
*Midwest Livestock Producers Co-op., Fennimore
*Midwest Livestock Producers Co-op., Francis Creek
*Midwest Livestock Producers Co-op., Lomira
Milwaukee Stockyards, Milwaukee
*Gary Nieman Feeder Pig Market, Arpin
*Tim Orr Livestock Market, Weyauwega
*Peshtigo Livestock Market, Peshtigo
*Gordon Peterson, Waupaca
*Charles Pufahl Market, Waupaca
*Lawrence Richter Son, Rice Lake
Rock County Reload Market, Hanover
*Donald Schwebs Market, De Forest
*Haulis E. Simon, New Richmond
Emil Treuthardt, Juda
*Ray Wolosek, Jr., Wisconsin Rapids
*Philip C. Ziegler Livestock Market, Appleton

Wyoming

*Douglas Livestock Exchange Co., Douglas
Greybull Livestock Auction, Greybull
Powell Auction Market, Powell
*Sheridan Livestock, Inc., Sheridan
*Stockgrowers, Livestock, Inc., Worland
*Stockman's Livestock, Torrington
*Torrington Livestock, Torrington
Wyo-Braska Pork Marketing, Torrington

Effective Date: The foregoing notice shall become effective October 24, 1983.

Done at Washington, D.C. this 17th day of October 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-28660 Filed 10-19-83; 5:03 pm]
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VOL
48
ISS
206
OC
24
1983
UMI

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October 24, 1983

Part V

Department of Labor

Employment and Training Administration

Veterans' Employment Programs; Implementing Regulations

VOL
48
ISS
2
0
6
OC
24
1983
UMI

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 635

Implementing Regulations for Veterans' Employment Programs

AGENCY: Assistant Secretary for Veterans' Employment and Training, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations to implement Veterans' Employment Programs under Title IV, Part C, of the Job Training Partnership Act. This regulation will provide guidance for the proper administration and development of such programs to all eligible applicants seeking grants under this part.

EFFECTIVE DATE: November 23, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Juarez, Telephone: (202) 523–9110.

SUPPLEMENTARY INFORMATION: Proposed rulemaking for the implementation of Veterans' Employment Programs under Title IV, Part C, of the Job Training Partnership Act was published on pages 26430–26432 of the **Federal Register** of June 7, 1983, for the purpose of soliciting public comment. The Department received 25 written comments on the proposal. The following summarizes the comments, suggestions, and actions taken.

Participant Eligibility

Section 635.3(b) contains definitions of the three veteran subgroups identified in Section 441 of the Act. A number of suggestions for revising the proposed definitions of veterans, particularly that for "Veterans who are recently separated from military service" were received. The definition was changed to conform more closely with the basic definition of veteran contained in the Act.

Availability of Funds

The proposed rules at § 635.11 describe the distribution of funds under this Part. A few commenters suggested that private nonprofit organizations be included and identified as being eligible for funds at (c)(1) of the Section. The Department believes that public agencies and private nonprofit organizations should actively participate in programs developed and funded under this Part.

In the Department's view, however, these agencies and organizations would serve more effectively as subrecipients of States and Service Delivery Areas, where greater resources will be available, rather than as direct recipients of DOL funds from the National level. A new paragraph has been added to § 635.1 to clarify this intent.

A few commenters thought § 635.11(d) regarding the reallotment of funds identified for distribution under this Part was confusing. In the final regulations the December 31, 1983 date has been eliminated and the paragraph reworded for clarity.

Eligibility for Funds

Several commenters addressed the provision of § 635.12(c) regarding the requirement for a State applying for funds under this Part to "demonstrate that it will expend funds or provide in-kind services from other sources in an amount at least equal to the grant being sought for the proposed veterans employment program(s)." Some of the commenters suggested this provision be expanded to include Service Delivery Areas as well. Other commenters felt this requirement should be eliminated. The Department will maintain this requirement in the final regulations because we feel it is an appropriate means of making the most effective use of the limited resources available under this Part. The provision will not be expanded to include Service Delivery Areas since they do not have the same resources, including resources from other Federal grants, that are available at the State level. However, under § 635.14 a "preference in selection" will apply to Service Delivery Area proposals which clearly demonstrate plans to utilize resources from other sources for the proposed program(s).

Application for Funding

Section 635.13(a)(4) which required identification of the service provider(s) considered but not selected was removed because it was an unnecessary requirement imposed upon the applicants for funds.

Grievance Procedures

A new § 635.26 has been added to identify applicable procedures for handling program grievances. Under paragraph (a) of this Section, complaints alleging discrimination pursuant to section 167(a) of the Act are to be handled in accordance with 29 CFR Parts 31 and 32. Paragraph (b) of § 635.26, which has been reserved in these regulations, will contain the reference to a forthcoming, uniform grievance procedure for this and other Title IV JTPA programs.

Technical and Editorial Changes

Finally, various technical and editorial changes were made throughout the regulations for purposes of clarity and consistency in the final rules.

Rulemaking Certifications

These regulations are procedural in character and give direction for implementing Veterans' Employment Programs under Part C, Title IV, of the Job Training Partnership Act. Therefore, these rules are not classified as "major" under Executive Order 12291 on Federal Regulations, and no regulatory impact analysis is required.

The Department has determined that these rules will have "no significant impact" within the meaning of Section 3(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The vast majority of recipients of Federal funds under this regulation are the Governors of the several States and/or designated administrative entities of Service Delivery Areas generally with over 200,000 population.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the paperwork requirements that are included in this regulation have been submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

List of Subjects in 20 CFR Part 635

Employment, Grant programs—Labor, Veterans, Manpower training programs.

Accordingly, a new Part 635 of Chapter V of Title 20 of the Code of Federal Regulations is added to read as follows:

PART 635—VETERAN'S EMPLOYMENT PROGRAMS UNDER TITLE IV, PART C OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—General Provisions

Sec.
635.1 Scope and purpose.
635.2 Program administration.
635.3 Participant eligibility.

Subpart B—Program Funding

635.11 Availability of funds.
635.12 Eligibility for funds.
635.13 Application for funding.
635.14 Review of application for funding.
635.15 Approval of funding requests.

Subpart C—Program Design and Management

635.21 General.
635.22 Allowable activities.
635.23 Program management and performance standards.
635.24 Recordkeeping and reporting requirements.
635.25 Monitoring and oversight.
635.26 Grievance procedures.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 *et seq.*), unless otherwise noted.

Subpart A—General Provisions

§ 635.1 Scope and purpose.

This part contains the regulations governing Veterans' Employment Programs as authorized under Title IV, Part C of the Act. These programs are to be designed to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service. Program administration and participant eligibility are included in this subpart. Planning and application for funding are set forth in Subpart B of this part. Program design, management and reporting are covered in Subpart C.

§ 635.2 Program administration.

(a) Programs supported under this part will be administered by the Secretary through the Assistant Secretary for Veterans' Employment and Training (ASVET).

(b) All programs and activities supported under this part will be coordinated, to the maximum extent feasible, with other programs and activities under this Act, the Wagner-Peyser Act, Title 38 of the United States Code, and other employment and training programs at the State and local level.

§ 635.3 Participant eligibility.

(a) Eligibility for participation in programs supported under this part shall be determined pursuant to section 441(a)(1) of the Act.

(b) For the purpose of this part, the following definitions apply:

(1) "Service-connected disabled veteran" means the same as "disabled veteran" at section (27)(B) of the Act.

(2) "Veteran of the Vietnam era" means an eligible veteran any part of whose active military service was during the Vietnam era (i.e., August 5, 1964–May 7, 1975).

(3) "Veterans who are recently separated from military service" shall mean any eligible veteran who first applies for participation in programs under this part within twelve months after separation from military service.

Subpart B—Program Funding

§ 635.11 Availability of funds.

(a) Funds administered pursuant to section 441 of the Act are authorized in accordance the with formula described at section 3(a)(3)(A) of the Act.

(b) Not more than 20 percent of the funds available under this part may be set aside by the Secretary for research and development activities, demonstration projects, providing technical assistance and training, or to support other veterans' employment and training efforts as deemed appropriate.

(c) At least 80 percent of the funds under this part will be made available consistent with the formula contained in 38 U.S.C. 2003(A)(2), except that no State shall be eligible for less than $50,000.

(1) Funds available under this paragraph may be distributed by the Secretary, through grant or contract, to the various States and/or designated Service Delivery Area administrative entities.

(2) States and/or designated Service Delivery Area administrative entities applying for funds under this part are encouraged to utilize public agencies and private nonprofit organizations, which meet the criteria specified in section 441(a)(2) of the Act, in the development, implementation, and operation of programs funded under this part.

(3) Preliminary planning estimates will be published annually.

(d) The Secretary may reallot funds identified for distribution upon determination that no acceptable grant application has been, or will be, received from a State or designated administrative entity for a Service Delivery Area within the State, in accordance with grant planning instructions.

§ 635.12 Eligibility for funds.

(a) Programs supported under this part will comply with the provisions of section 441(a)(2) of the Act.

(b) The Department will not favorably consider an application for funding from any applicant which has failed to satisfy any major condition in a current or previous contract or grant with the Department, or has failed to satisfy Departmental conditions relating to the resolution of a final finding and determination, including repayment of debts.

(c) For a State to be considered for grants under § 635.11(c) the State must demonstrate that it will expend funds or provide in-kind services from other sources in an amount at least equal to the grant being sought for the proposed veterans' employment program(s).

§ 635.13 Application for funding.

(a) Applications for funding under § 635.11(c) of this part shall include, at a minimum, the following:

(1) Standard Form 424, Application for Federal Assistance;

(2) A completed comprehensive needs assessment of the Service Delivery Area or State to be served; and

(3) A description of proposed program(s) and associated funding plans, including identification of matching funds or in-kind services;

(b) Completed applications will be submitted by the State and/or designated Service Delivery Area administrative entity to the State Director for Veterans' Employment and Training for comment and transmittal to the Secretary in accordance with grant planning instructions.

(c) Application for funding under § 635.11(b) should be submitted in response to program specific Requests for Proposals (RFP's). All proposals and requests for information under this section should be submitted to: Director, Office of Procurement Operations, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–1521–FPB, Washington, D.C. 20210.

§ 635.14 Review of application for funding.

The Secretary will review and make a determination on all funding requests submitted under this part. Rating criteria will include but not be limited to the provisions of §§ 635.12 and 635.13. Preference in selection will be given to proposals which clearly demonstrate plans to utilize resources from other sources for the proposed program(s).

§ 635.15 Approval of funding requests.

(a) The Secretary, through the ASVET and in accordance with section 441(b) of the Act, will be responsible for the approval, awarding and distribution of funds under this part.

(b) An applicant whose grant application is not selected by the Department for funding under this part shall be notified in writing.

(c) Any applicant whose grant application is denied by the Department may request administrative review as provided in § 629.57 of this chapter. The provisions of § 629.56 of this chapter do not apply under this part.

Subpart C—Program Design and Management

§ 635.21 General.

The requirements of 41 CFR Part 29–70 implementing OMB Circular Nos. A–102

VOL
48
ISS
206
OC
24
1983
UMI

and A–110 apply to all grants and agreements under this part.

§ 635.22 Allowable activities.

Programs supported under this part shall comply with the provisions of section 441(a)(3) of the Act.

§ 635.23 Program management and performance standards.

Each recipient of funds under this part will be required to adhere to grant or contract provisions governing accountability, fiscal control and management, and specific program performance standards as established by the Secretary.

§ 635.24 Recordkeeping and reporting requirements.

(a) Required recordkeeping and reports shall be in accordance with section 165 of the Act and with the provisions contained in each grant and contract instrument.

(b) Grant and contract recipients from time to time may be required to prepare and submit additional reports which may be required by the Congress.

§ 635.25 Monitoring and oversight.

(a) The Secretary, through the Assistant Secretary for Veterans' Employment and Training, is responsible for the monitoring and oversight of veterans' employment and training programs under this Act. Regional Directors for Veterans' Employment and Training and State Directors for Veterans' Employment and Training in each State shall have access to all records necessary for program monitoring and oversight.

(b) The audit provisions contained in § 629.42 of this chapter will be made applicable to funds granted to States under this part.

(c) Private Industry Councils or other designated administrative entities in Service Delivery Areas receiving funds under this part will be required to arrange for audits to be conducted in accordance with the provisions of § 629.42 of this chapter.

(d) The provisions of § 629.44 of this chapter regarding sanctions for violations of the Act apply for all grants and agreements under this part. The Secretary shall hold all direct recipients of funds under this program responsible for misexpenditures of grant funds to the same extent and in the same manner as the Governor is held responsible under § 629.44 of this chapter.

§ 635.26 Grievance procedures.

(a) Complaints of discrimination pursuant to section 167(a) of the Act will be handled in accordance with 29 CFR Parts 31 and 32.

Signed at Washington, D.C. this 19th day of October 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83–28870 Filed 10–21–83; 8:45 am]
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Monday
October 24, 1983

Part VI

Department of Energy

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

VOL 48 ISS 206 OCT 24 1983 UMI

DEPARTMENT OF ENERGY

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Tilte II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs ofgas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(3), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling which are to be effective November 1, 1983. These prices ar based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue SW., Room BE-034, Washington, D.C. 20585, Telephone: (202) 252-6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama	4.10
Arizona [1]	4.19
Arkansas [1]	3.77
California [1]	4.19
Colorado [2]	3.99
Connecticut [1]	4.30
Delaware [1]	4.35
Florida	4.28
Georgia	4.34
Idaho [2]	3.99
Illinois [1]	4.26
Indiana	4.18
Iowa [1]	4.34
Kansas [1]	4.34
Kentucky [1]	4.28
Louisiana [1]	3.77
Maine [1]	4.30
Maryland [1]	4.35
Massachusetts	4.24
Michigan [1]	4.28
Minnesota	4.24
Mississippi	4.28
Missouri	4.34
Montana [2]	3.99
Nebraska [1]	4.34
Nevada [1]	4.19
New Hampshire [1]	4.30
New Jersey	4.31
New Mexico	3.53
New York [1]	4.35
North Carolina [1]	4.35
North Dakota [1]	4.34
Ohio	4.21
Oklahoma [1]	3.77
Oregon [1]	4.19
Pennsylvania	4.26
Rhode Island [1]	4.30
South Carolina	4.32
South Dakota [1]	4.34
Tennessee [1]	4.35
Texas	3.75
Utah [2]	3.99
Vermont [1]	4.30
Virginia [1]	4.35
Washington	4.05
West Virginia [1]	4.28
Wisconsin	4.21
Wyoming [2]	3.99

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM-79-21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during August 1983 was $34.21 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective November 1, 1983, is $7.67 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of June 1983, July 1983, and August 1983.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective November 1, 1983, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, June 1983, July 1983, and August 1983. Reported prices for sales in June 1983 were adjusted by the percent change in the nationwide volume-weighted average price from June 1983 to August 1983. Prices for July 1983 were similarly adjusted by the percent change in the nationwide volume-weighted average price from July 1983 to August 1983. The volume-weighted 3-month average of the adjusted June 1983 and July 1983, and the reported August 1983 prices were then computed for each State.

(2) *Adjustment for Price Viriation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B. (1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's.

There were insufficient sales reported in Region G for the months of June, July, and August 1983. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely informtion relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was otbained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending October 17, 1983, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of August 1983. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A	*Region B*
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	
Region C	*Region D*
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	
Region E	*Region F*
Iowa	Arkansas
Kansas	Louisiana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	
Region G	*Region H*
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, D.C., October 19, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

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[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or Local), and the military are excluded.

VOL
48
ISS
206
OC
24
1983
UMI

Reader Aids

Federal Register
Vol. 48, No. 206
Monday, October 24, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–4534
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7
46005–46258.....11
46259–46486.....12
46487–46730.....13
46731–46962.....14
46963–48214.....17
48215–48438.....18
48439–48642.....19
48643–48792.....20
48793–48996.....21
48997–49204.....24

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266, 46795
Ch. IV.....47976
305.....45266

3 CFR

Executive Orders:
July 15, 1875 (Revoked in part by PLO 6479).....45559
11459 (Superseded by EO 12445).....48441
12002 (See EO 12444).....48215
12214 (See EO 12444).....48215
12444.....48215
12445.....48441
12446.....48443

Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259
5116.....46963
5117.....46965
5118.....48217
5119.....48439

5 CFR

Ch. XIV.....45373
213.....46261
752.....45525
1255.....45373

Proposed Rules:
Ch. I.....47990
Ch. III.....47982
550.....49023

7 CFR

Ch. IV.....48449
2.....46261, 48449
28.....48997
51.....46487
247.....46731
301.....46262, 48449
319.....46732
752.....45526
906.....45374
908.....45526, 46488, 48643
910.....45374, 45755, 46961, 48793
919.....45374
929.....45374
981.....45374
991.....45374, 48219
1065.....48793
1093.....48998
1205.....48451
1435.....45374
1901.....45532
1945.....48999
1951.....46967
1955.....46967
1962.....46967
1965.....46967

Proposed Rules:
Subtitle A.....47236
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. IV.....47236
Ch. V.....47236
Ch. VI.....47236
Ch. VII.....47236
Ch. IX.....47236
Ch. X.....47236
Ch. XI.....47236
Ch. XII.....47236
Ch. XIV.....47236
Ch. XV.....47236
Ch. XVI.....47236
Ch. XVII.....47236
Ch. XVIII.....47236
Ch. XXI.....47236
Ch. XXIV.....47236
Ch. XXV.....47236
Ch. XXVI.....47236
Ch. XXVII.....47236
Ch. XXVII.....47236
Ch. XXIX.....47236
226.....45779
402.....46062
411.....48675
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
983.....49025
1065.....45117
1131.....46343
1139.....46797
1207.....49026
1446.....48471
1700.....48830
1701.....48472

8 CFR

100.....48794
103.....45093
214.....45093, 48452, 48999
238.....45093, 48796
248.....45093

Proposed Rules:
Ch. I.....47530
103.....48242

9 CFR

166.....48643

Proposed Rules:
Ch. I.....47236

VOL 48 ISS 206 OCT 24 1983 UMI

Ch. II 47236
Ch. III 47236
Ch. IV 47236
92 ..... 46355, 49000
101 48679
113 48679
317 45118
318 48242
319 45118
325 46996
350 45755
362 45755
381 ..... 45118, 46996, 48224

10 CFR

2 46489
50 46489
55 45223
71 45361
95 48644
761 45746
710 46499

Proposed Rules:

Ch. I 48156
Ch. II 47324
Ch. III 47324
Ch. X 47324
50 45787
60 48473
140 48474

11 CFR

114 48650

12 CFR

5 48452
7 ..... 46502, 48452
29 45532
204 ..... 46005, 46262
207 ..... 45533, 48219, 48796
217 ..... 45756, 46262
220 ..... 45533, 48219
221 ..... 45533, 48219, 48797
224 45533
226 48219
561 45382
563 ..... 45382, 48455
760 46006

Proposed Rules:

Ch. I 47716
Ch. II 46996
Ch. V 48110
Ch. VI 48074
Ch. VII 48150
29 47001
701 48830

13 CFR

101 45224
123 45225
133 46008

Proposed Rules:

Ch. I 48020
Ch. III 47254

14 CFR

21 48798
39 ..... 45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222, 48801–48804
71 ..... 45094, 45095, 45536, 45537, 46010, 46503, 48805
95 46504
97 ..... 45096, 49001
205 46264
248 46265
294 46265
320 45236
380 46265
389 45758

Proposed Rules:

Ch. I 46358, 47582, 48681
Ch. II 47003, 48038
Ch. V 47972
21 ..... 45214, 45565
25 ..... 46218, 46250
29 46250
39 46070
43 48364
61 45214
65 45214
71 ..... 45118, 45566, 48244, 48831
91 48364
107 45214
109 45214
121 ..... 45214, 46218, 46250, 48364
127 48364
135 ..... 45214, 48364
145 45214
320 48832

15 CFR

Proposed Rules:

Subtitle A 47254
Ch. I 47254
Ch. II 47254
Ch. III 47254
Ch. IV 47254
Ch. VIII 47254
Ch. IX 47254
Ch. XXIII 47254

16 CFR

13 48651
453 45537

Proposed Rules:

Ch. I 48120
Ch. II 48064
300 48682
301 48682
303 48683
1212 45405
1500 45567
1513 45567

17 CFR

1 49003
145 ..... 46010, 48223
146 ..... 46010, 48223
147 ..... 46010, 48223
229 46012
230 ..... 46012, 46736
231 ..... 46012, 46969
239 ..... 45386, 46012
240 ..... 46012, 46736
241 46012
270 46012
274 46012

Proposed Rules:

Ch. I 48058
Ch. II 48190
33 46797
230 46801
249 ..... 45119, 48245
249 48245

18 CFR

2 46012
4 49010
6 49010
35 ..... 46012, 46970
157 46021
270 48223
271 ..... 45097, 46266–46268, 48223, 49010
274 45097
282 45758
301 46970
375 49010
385 45388

Proposed Rules:

Ch. I 48104
2 49028
4 49028
32 49028
101 46361
104 46361
141 46361
154 ..... 46361, 47003, 49028
157 47003
159 46361
201 46361
204 46361
260 46361
270 49028
271 ..... 46071, 49032, 49033
273 49028
274 49033
275 47003
282 45787
293 49028
410 45568

19 CFR

4 ..... 46510, 46978, 48653
7 46740
10 ..... 46510, 46740
18 48655
22 46740
101 45538
103 45538
113 46740
134 48657
145 46740
148 46978
158 46740
191 46740
210 45544

Proposed Rules:

Ch. I 46805, 47724
4 ..... 46808, 46810
18 46812
101 45409
123 46812
144 46812

20 CFR

404 48142
626 48744
632 48744
633 48744
634 48744
635 49198
636 48744
684 48744

Proposed Rules:

Ch. I 47538
Ch. II 48012
Ch. III 47340
Ch. IV 47538
Ch. V 47538
Ch. VI 47538
Ch. VII 47538
10 48249
418 48684
422 ..... 46072, 47008

21 CFR

61 ..... 45237, 45760, 46022
109 45544
131 45545
133 49012
175 48228
178 ..... 46773, 46774
179 46022
182 48805
184 ..... 48456, 48457, 48805
186 ..... 48456, 48457
193 45547
211 46979
430 46270
436 46270
442 46270
520 ..... 46979, 48229
522 ..... 46023, 48229, 48659
540 45760
558 ..... 45102, 46023, 46024, 46514, 46515, 48659
700 46979
800 46979
1308 46516

Proposed Rules:

Ch. I 47340
122 48836
155 48836
182 45121
184 45121
211 47008
341 48576
351 46694
610 ..... 46815, 47009
620 47009
630 47009
640 47009
650 47009
660 47009
680 47009
700 47008
800 47008
1040 48837

22 CFR

41 48660

Proposed Rules:

Ch. I 47578
Ch. II 47970

23 CFR

655 46775

Proposed Rules:

Ch. I 47582
Ch. II 47582
658 46545

24 CFR

26 46980
201 46980
215 46980
221 46980
236 46980
570 ..... 45760, 48778, 46980
841 46980
882 46980
888 ..... 45547, 46980
890 46980

Proposed Rules:

Subtitle A 47418

Subtitle B 47418
24 ..... 46072, 46817

25 CFR

71 45103
114 48806

Proposed Rules:

Ch. I 47472
140 45789
216 49174

26 CFR

1 ..... 45761, 46272, 46296
4 46272
31 46296
35a 45362

Proposed Rules:

Ch. I 47730
1 ..... 47010, 48255
5f 48255
20 48837
25 48837
31 47010
52 48837

27 CFR

4 45549
5 ..... 45549, 46518
7 45549
9 ..... 45238, 45239, 46518–46524, 48810–48820
170 46526
240 46526

Proposed Rules:

Ch. I 47708
9 ..... 46387, 48685

28 CFR

2 48230
500 48968
527 48968
552 48968
571 48970
572 48972

Proposed Rules:

Ch. I 47530

29 CFR

1601 46298
1952 48822

Proposed Rules:

Subtitle A 47538
Ch. II 47538
Ch. IV 47538
Ch. V 47538
Ch. XII 47948
Ch. XIV 47928
Ch. XVII 47538
Ch. XXV 47538
Ch. XXVI 48004
1908 45411
1910 45956
1926 45872

30 CFR

223 48661
251 46025
913 46528
917 46299
935 ..... 46027, 46301, 46530
938 45389
946 46028

Proposed Rules:

Ch. I 47538
Ch. II 47472
Ch. VII 47472
55 45336
56 45336
57 45336
58 45336
700 49174
701 49174
750 49174
755 49174
917 48255
935 45420
938 46817

31 CFR

1 48460
51 46982
240 49014

Proposed Rules:

Subtitle A 47702
Ch. I 47702
Ch. II 47702
390 48688

32 CFR

235 48824
251 45242

Proposed Rules:

Ch. I 47302
Ch. V 47302
Ch. VI 47302
Ch. VII 47302
Ch. XVI 48018
199 45791

33 CFR

100 ..... 45244, 46531
117 ..... 45245, 46532, 48662
130 46178
131 46178
132 46178
151 45704
155 45704
157 ..... 45718, 46985
163 48230
165 ..... 46533, 46534, 46779, 48663, 48664
166 49018

Proposed Rules:

Ch. I 47582
Ch. II 47302
Ch. IV 47582
117 48690
146 48475
150 48475
162 45798
164 46819

34 CFR

668 45670
690 45670

Proposed Rules:

Subtitle A 47308
Ch. I 47308
Ch. II 47308
Ch. III 47308
Ch. IV 47308
Ch. V 47308
Ch. VI 47308
Ch. VII 47308
350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568

35 CFR

Proposed Rules:

Ch. I 47998

36 CFR

7 ..... 46779, 46780
60 46306

Proposed Rules:

Ch. I 47472
Ch. II 47236
Ch. III 47302
Ch. VIII 47858
Ch. IX 48002
7 48257
216 45421
1190 47860

37 CFR

Proposed Rules:

Ch. I 47254
1 45424
2 45424

38 CFR

1 46985

Proposed Rules:

Ch. I 48024
21 ..... 45123, 45268, 45572, 47011

39 CFR

111 ..... 45781, 46031
447 ..... 48230, 48231
601 49019

Proposed Rules:

111 ..... 45269, 48850
3001 46545

40 CFR

51 48978
52 ..... 45245, 45246, 46046, 46047, 46309, 46986, 48664, 48665, 48978, 49020
60 ..... 46535, 46536, 48328, 48368, 48669
61 46535
81 ..... 46537, 46782
86 48598
87 46481
123 48826
180 46310
192 45926
256 46787
271 48826
420 46942
433 45105
467 49126
469 45249
717 45765

Proposed Rules:

Ch. I 47864
51 ..... 45269, 46152
52 ..... 46081, 46391–46393, 46548, 46823, 48981, 48982
60 ..... 45701, 46224, 46472, 48932, 48960
81 ..... 46082, 46085, 46393, 46549–46553
141 45502
162 46397
180 ..... 45573, 46395, 46396, 48476, 48477
228 45798
261 45210
271 ..... 46824, 48690
403 46944
420 46944
464 45573
465 45573
1502 ..... 46554, 47862
1508 46554

41 CFR

Ch 1 ..... 45392, 45557, 48462
Ch. 101 45105
1–4 48827
9–1 46987
9–7 46987
9–4 45766
9–51 45766
101–11 46310
101–25 48231
101–37 48827
101–41 46788
105–61 45392

Proposed Rules:

Ch. 1 47948
Ch. 4 47236
Ch. 9 47324
Ch. 12 47582
Ch. 13 47254
Ch. 14 47472
Ch. 25 47980
Ch. 29 47538
Ch. 60 47538
Ch. 101 47948
Ch. 105 47948
101–41 46554

42 CFR

51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 ..... 45766, 48467
409 48467
489 48467

Proposed Rules:

Ch. I 47340
Ch. II 47340
Ch. III 47340
Ch. IV 47340

43 CFR

Subtitle A 45664
3160 48916

Public Land Orders:

44 (Revoked by PLO 6478) 45401
98 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395

VOL
48
ISS
2
0
6
OC
24
1983
UMI

5179 (Revoked in part by PLO 6477)..... 45395
5180 (Revoked in part by PLO 6477)..... 45395
5184 (Revoked in part by PLO 6477)..... 45395
5515 (Corrected by PLO 6483)..... 49022
6472..... 45393
6473..... 45393
6474..... 45394
6475..... 45394
6476..... 45395
6477..... 45395
6478..... 45401
6479..... 45559
6480..... 46049
6481..... 46049
6482..... 46050
6483..... 49022
6484..... 49022

Proposed Rules:
Subtitle A..... 47472
Ch. I..... 47472
Ch. II..... 47472
2620..... 48400
2880..... 48478

44 CFR

61..... 48789
62..... 46789
64..... 46988, 46989
65..... 46990, 48233
67..... 46050, 46312, 46992

Proposed Rules:
Ch. I..... 46934
65..... 48258
67..... 45425, 46085, 47014–47020, 48259

45 CFR

13..... 45251

Proposed Rules:
Subtitle A..... 47340
Ch. II..... 47340
Ch. III..... 47340
Ch. VI..... 47980
Ch. XI..... 47978
Ch. XII..... 47856
Ch. XIII..... 47340

46 CFR

160..... 45113
162..... 45727
380..... 45559
530..... 48469
542..... 46175
543..... 46175
544..... 46175

Proposed Rules:
Ch. I..... 47582
Ch. III..... 47582
Ch. IV..... 48114
Ch. IV..... 45269
7..... 45574
10..... 46556
24..... 45425
25..... 45425
26..... 45425
30..... 45425
31..... 45425
32..... 45425
35..... 45425
70..... 45425
71..... 45425
75..... 45425
77..... 45425
78..... 45425
90..... 45425
91..... 45425
94..... 45425
96..... 45425
97..... 45425
107..... 45425
108..... 45425
109..... 45425
157..... 46556
163..... 45425
188..... 45425
189..... 45425
192..... 45425
195..... 45425
196..... 45425
298..... 46825
508..... 45800
524..... 45270
531..... 45270
536..... 45270
538..... 45272

47 CFR

0..... 45652
1..... 45652, 48234
2..... 45560
61..... 46791
63..... 46791
69..... 48234
73..... 45401–45403, 46994, 48234
81..... 45114, 45560
83..... 45114, 45560
87..... 45114
97..... 45652

Proposed Rules:
Ch. I..... 47020, 48080
1..... 49033, 49069
61..... 49033
67..... 46556, 47021
73..... 45428–45438, 47023–47031, 48264, 49069
83..... 45439

48 CFR

Ch. I..... 46541

Proposed Rules:
Ch. 9..... 47324

49 CFR

192..... 48669
195..... 48669
350..... 48469
567..... 46994
571..... 46053, 46793, 48235
1033..... 45257
1043..... 45775
1162..... 46542
1307..... 46542, 46794

Proposed Rules:
Ch. X..... 46399
27..... 46399
171..... 48483
172..... 48483
173..... 48483
195..... 46589
218..... 45272
450..... 49074
451..... 49074
452..... 49074
453..... 49074
571..... 48483, 48622, 49076
1039..... 45137
1155..... 45440

Proposed Rules:
Subtitle A..... 47582
Ch. I..... 47582
Ch. II..... 47582
Ch. III..... 47582
Ch. IV..... 47582
Ch. V..... 47582
Ch. VI..... 47582
Ch. X..... 48134
571..... 47032

50 CFR

17..... 46053, 46328–46337
23..... 45259, 45775
258..... 48619
285..... 46995
611..... 45403, 46542
646..... 45404
654..... 46057
655..... 45403, 45404
656..... 45403
657..... 45403
658..... 46057
661..... 45263
663..... 48241
672..... 46542
681..... 46342

Proposed Rules:
Ch. I..... 47472
Ch. II..... 47254
Ch. III..... 47254
Ch. IV..... 47254, 47472
Ch. V..... 47254
17..... 45574, 46086, 46590
23..... 45575
611..... 45804, 45806
655..... 49077
663..... 45274, 48265
681..... 48853

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 21, 1983

CFR CHECKLIST; 1982/83 ISSUANCES

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Title	Price	Revision Date
1, 2 (2 Reserved)	$6.00	Jan. 1, 1983
3 (1982 Compilation and Parts 100 and 101)	6.00	Jan. 1, 1983
4	7.50	Jan. 1, 1983
5 Parts:		
1–1199	8.50	Jan. 1, 1983
1200–End, (6 Reserved)	6.00	Jan. 1, 1983
7 Parts:		
0–45	9.00	Jan. 1, 1983
46–51	7.50	Jan. 1, 1983
52	9.00	Jan. 1, 1983
53–209	7.50	Jan. 1, 1983
210–299	7.00	Jan. 1, 1983
300–399	5.50	Jan. 1, 1983
400–699	6.50	Jan. 1, 1983
700–899	6.50	Jan. 1, 1983
900–999	8.50	Jan. 1, 1983
1000–1059	7.50	Jan. 1, 1983
1060–1119	6.50	Jan. 1, 1983
1120–1199	7.00	Jan. 1, 1983
1200–1499	7.00	Jan. 1, 1983
1500–1899	6.50	Jan. 1, 1983
1900–1944	8.00	Jan. 1, 1983
1945–End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1–199	7.50	Jan. 1, 1983
200–End	7.50	Jan. 1, 1983
10 Parts:		
0–199	9.00	Jan. 1, 1983
200–399	7.50	Jan. 1, 1983
400–499	6.50	Jan. 1, 1983
500–End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1–199	7.00	Jan. 1, 1983
200–299	8.00	Jan. 1, 1983
300–499	7.00	Jan. 1, 1983
500–End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1–59	7.00	Jan. 1, 1983
60–139	7.00	Jan. 1, 1983
140–199	5.50	Jan. 1, 1983
200–1199	7.00	Jan. 1, 1983
1200–End	6.50	Jan. 1, 1983
15 Parts:		
0–299	6.50	Jan. 1, 1983
300–399	7.00	Jan. 1, 1983
400–End	7.50	Jan. 1, 1983
16 Parts:		
0–149	7.00	Jan. 1, 1983
150–999	7.00	Jan. 1, 1983
1000–End	7.00	Jan. 1, 1983
17 Parts:		
1–239	8.00	Apr. 1, 1983
240–End	7.00	Apr. 1, 1983
18 Parts:		
1–149	7.00	Apr. 1, 1983
150–399	8.00	Apr. 1, 1983
400–End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
20 Parts:		
1–399	5.50	Apr. 1, 1983
400–499	7.00	Apr. 1, 1983
500–End	7.50	Apr. 1, 1983
21 Parts:		
1–99	6.00	Apr. 1, 1983
100–169	6.50	Apr. 1, 1983
170–199	6.50	Apr. 1, 1983
200–299	4.75	Apr. 1, 1983
300–499	8.00	Apr. 1, 1983
500–599	6.50	Apr. 1, 1983
600–799	5.00	Apr. 1, 1983
800–1299	6.00	Apr. 1, 1983
1300–End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
0–199	6.00	Apr. 1, 1983
200–499	8.00	Apr. 1, 1983
500–799	5.00	Apr. 1, 1983
800–1699	6.50	Apr. 1, 1983
1700–End	6.00	Apr. 1, 1983
25	8.00	Apr. 1, 1983
26 Parts:		
§§ 1.0–1.169	8.00	April 1, 1983
§§ 1.170–1.300	7.50	* Apr. 1, 1982
§§ 1.301–1.400	6.00	Apr. 1, 1983
§§ 1.401–1.500	7.00	Apr. 1, 1983
§§ 1.501–1.640	6.50	Apr. 1, 1983
§§ 1.641–1.850	7.50	* Apr. 1, 1982
§§ 1.851–1.1200	8.00	Apr. 1, 1983
§§ 1.1201–End	8.50	Apr. 1, 1983
2–29	7.00	Apr. 1, 1983
30–39	6.00	Apr. 1, 1983
40–299	7.50	Apr. 1, 1983
300–499	6.00	Apr. 1, 1983
500–599	7.50	** Apr. 1, 1980
600–End	5.00	Apr. 1, 1983
27 Parts:		
1–199	6.50	Apr. 1, 1983
200–End	6.50	Apr. 1, 1983
28	8.00	July 1, 1982
29 Parts:		
0–99	9.00	July 1, 1982
100–499	5.50	July 1, 1983
500–899	8.00	July 1, 1983
900–1899	5.50	July 1, 1983
1900–1910	9.00	July 1, 1982
1911–1919	4.50	July 1, 1983
1920–End	8.50	July 1, 1982
30 Parts:		
0–199	8.00	July 1, 1982
200–End	10.00	July 1, 1982
31 Parts:		
0–199	6.00	July 1, 1983
200–End	9.00	July 1, 1982
32 Parts:		
1–39 (V.I.)	9.00	Sept. 1, 1982
(V.II)	11.00	Sept. 1, 1982
(V.III)	10.00	Sept. 1, 1982
40–399	13.00	July 1, 1982
400–699	10.00	July 1, 1982

Title	Price	Revision Date
700–799	8.50	July 1, 1982
800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
33 Parts:		
1–199	9.00	July 1, 1982
200–End	8.00	July 1, 1982
34 Parts:		
1–399	13.00	July 1, 1982
300–399	6.00	July 1, 1983
400–End	8.50	July 1, 1982
35	6.50	July 1, 1982
36 Parts:		
1–199	7.00	July 1, 1982
200–End	7.50	July 1, 1982
37	6.00	July 1, 1983
38 Parts:		
0–17	8.00	July 1, 1982
18–End	7.00	July 1, 1982
39	7.00	July 1, 1982
40 Parts:		
0–51	8.50	July 1, 1982
52	9.00	July 1, 1982
53–80	8.50	July 1, 1982
81–99	8.50	July 1, 1982
100–149	7.50	July 1, 1982
150–189	6.50	July 1, 1983
190–399	7.50	July 1, 1982
400–424	8.00	July 1, 1982
425–End	7.50	July 1, 1982
41 Chapter 1—1-1 to 1-10	7.00	July 1, 1983
Chapter 1—1-11 to Appendix	6.50	July 1, 1983
Chapter 3–6	8.50	July 1, 1982
Chapter 7	5.50	July 1, 1982
Chapter 8	4.75	July 1, 1983
Chapter 9	8.00	July 1, 1982
Chapters 10–17	6.50	July 1, 1983
Chapter 18, Vol. I, Parts 1–5	7.50	Dec. 31, 1982
Chapter 18, Vol. II, Parts 6–19	8.00	Dec. 31, 1982
Chapter 18, Vol. III, Parts 20–52	7.50	Dec. 31, 1982
Chapters 19–100	7.00	July 1, 1983
Chapter 101	9.00	July 1, 1982
Chapter 102–End	6.50	July 1, 1983
42 Parts:		
1–60	7.50	Oct. 1, 1982
61–399	7.00	Oct. 1, 1982
400–End	9.50	Oct. 1, 1982
43 Parts:		
1–999	7.00	Oct. 1, 1982
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